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PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

SENATE—*Saturday, October 14, 1978*

(Legislative day of Wednesday, October 11, 1978)

The Senate met in executive session at 9 a.m., on the expiration of the recess, and was called to order by the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplin, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

O God our help in ages past, our hope for years to come, in the march of time this hallowed Chamber soon will be silent and the judgment of history will begin. Thou knowest whether we have done Thy will or our own or neither. Thanks be to Thee for whatever good has been achieved. Help us to forget the low moments and to remember the high moments with gratitude. Preserve precious friendships. Grant us grace and wisdom for the days yet to come.

Now unto the King eternal, immortal, invisible, the only wise God, be honor and glory for ever and ever.

We pray in the name of Him who came not to be ministered unto but to minister and give His life for many. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., October 14, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order the majority is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve my time for the moment.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order the minority is recognized.

Mr. STEVENS. Mr. President, there are no requests for the minority leader's time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. STEVENS. I withhold.

ORDER RESERVING LEADERSHIP'S TIME

Mr. ROBERT C. BYRD. Mr. President, without delaying the Senator from Wisconsin, I ask unanimous consent that the time of each leader be reserved until after Mr. PROXMIRE is recognized under the order.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this is as in legislative session.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the special order the Senator from Wisconsin (Mr. PROXMIRE) is recognized.

TAXATION OF AMERICANS LIVING ABROAD—DANGER OF NO BILL

Mr. PROXMIRE. Mr. President, the House and Senate conferees are now working on the subject of the taxation of Americans living abroad.

The Senate passed an extremely generous bill. I find it difficult to accept it because of its excessive generosity and the special features and deductions it gives to Americans living abroad as compared with those at home.

A miner in West Virginia who would earn $20,000 a year under the new contract would have to pay heavy U.S. taxes. An American citizen living in London, Bonn, Berlin, Zurich, Paris, Athens, or Rome can now "exclude" $20,000 of income off the top before he even starts to pay taxes.

The House bill, however, is outrageous, combining an exclusion with overly generous deductions. For example the 1977 calendar year costs of the Treasury proposal in this area is $254 million. The Senate bill would lose about $310 million in 1977 calendar year calculations. But the House bill would lose $545 million.

We are now at the end of the session. If no bill passes the law reverts to the 1976 reform act which would cost only $180 million in revenue loss.

I have never known a better opportunity to save money for the rest of the American taxpayers. I serve notice that if a bill anything close to the House bill comes out of the conference, or if it is not substantially in the revenue area of the Treasury proposal or Senate bill, this Senator for one would rather have no bill and let the 1976 reform provisions finally go into effect.

A number of individuals and lobbying groups have overstepped themselves on this issue. There are some genuine problems for a limited number of Americans living abroad. But if a "greedy" bill sur-

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CLAIBORNE PELL, Chairman,
Joint Committee on Printing.

vives this conference I believe the odds are that there will be no final bill at all.

Mr. President the Senate conferees and the Treasury should hold firm so that we can try to resolve this problem once and for all in a moderate and responsible way.

CONDITIONS IN VIETNAM CALLED GENOCIDAL: ANOTHER REASON WHY THE UNITED STATES MUST PASS THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, according to a French report titled "A Dossier sur Les Prisons au Vietnam," there are appalling and widespread violations of human rights occurring daily in Vietnamese prisons. This study, compiled by Mr. Doan Van Toai before he escaped from Vietnam, is signed by 49 individuals, many who were also imprisoned by the South Vietnamese Government, and who remain incarcerated by the present Communist regime.

Conditions are so difficult, so desperate that these individuals call out to the world in this plea for death: "We, prisoners of Vietnam, ask the International Red Cross, the humanitarian organizations of the world, the good-willed people to send urgently to each of us one cyanide pill so that we can stop our suffering." Each person gave his precise address, thus mapping the Vietnamese "gulag."

Dare we stand silent in the face of these gross violations of human rights? Violations are so appalling and so widespread that John P. Roche of the Washington Star has termed it genocide. I think not.

Which brings me, Mr. President, to a treaty which once and for all would clearly define genocide and guide us through the semantic quagmire that for too long has engulfed that term. That treaty, of course, is the Genocide Convention.

Presented to the Senate in 1949, the Genocide Convention simply outlaws genocide. Seven Presidents and 29 years later, the treaty is still pending before this Chamber. It is as vital today, as this dossier shows, as it was in 1949 in the wake of Hitler's genocide of 6 million European Jews.

But the Genocide Convention is more than just a legal document. It is a means to end the dichotomy in our foreign policy. We must do more than merely proclaim our concern for human rights. We must support this concern by ratifying a treaty which protects the most fundamental of all human rights—the right to live. Mr. President, we must ratify the Genocide Convention.

GOLD SALES LEGISLATION

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs, which I chair, has reported favorably S. 3499, a bill to extend interest rate regulatory authority, and included in the bill a provision concerning Treasury gold sales. Section 802 of the bill would require the Secretary of the Treasury, in the first fiscal year after enactment in which the Secretary authorizes gold sales to the public, to offer not less than 10 percent of the gold offered for sale to the public in such fiscal year in the form of units containing not more than 1 troy ounce of gold. In subsequent fiscal years the proportion of gold authorized for sale to the public to be sold in units of 1 ounce or less would be adjusted to meet anticipated demand. The provision would not require the Secretary of the Treasury to sell any gold to the public in any fiscal year, but would assure that when gold sales are authorized, the public will have an opportunity to purchase gold in small quantities.

The distinguished Senator from North Carolina (Mr. HELMS) introduced a bill, S. 2843, earlier this year which would have provided for the issuance by Treasury of gold medallions bearing the great seal of the United States on one side and the words "United States of America" and other prescribed designs and insignia. S. 2843 and Treasury gold sales were the subjects of a hearing of the Banking Committee which I chaired on August 25, 1978. Most of the witnesses supported the sale by Treasury of gold in small units. Concern was expressed that the sale of medallions as proposed in S. 2843 would mislead American citizens into believing such medallions were coins or legal tender, and that the U.S. Government was endorsing a monetary role for gold or encouraging American citizens to buy and hold gold.

During the hearing I suggested the possibility that Treasury could sell one ounce or one-half ounce gold bars, known as "wafers," in order to enable ordinary citizens to buy Treasury gold if they wished to do so. Such wafers, no matter what their physical shape, would not be easily mistaken for coins.

At the committee markup of S. 3499, the distinguished Senator from Indiana (Mr. LUGAR) offered a slightly modified version of S. 2843 as an amendment to the bill. I offered a substitute provision which was adopted by the committee and appears as section 802 of S. 3499. My substitute was intended to make Treasury gold sales accessible to small purchasers, but to avoid prescribing the form of small units of gold to be sold by Treasury. In particular, my substitute was intended to preclude the issuance by Treasury of small gold items which might resemble a coin.

The committee also approved language for inclusion in the report on S. 3499 which states that: "the committee recognizes the sizable market for gold pieces in the United States and anticipates that the items produced pursuant to this section would be manufactured to compete in this market and would bear appropriate design and weight and fineness markings so as to enhance their marketability." The market gold "pieces" includes small gold bars or "wafers," medallions, and coins. The details are left to the Treasury Department, but I would expect Treasury to consult with the appropriate committees of the Congress before making a final decision on the form in which small units of gold will be sold and the manner in which they will be marketed.

Mr. President, I yield the floor.

ALLOCATION OF LEADERSHIP TIME

Mr. ROBERT C. BYRD. Mr. President, I assured Mr. HATFIELD last evening that when the Senate returned to the consideration of the nomination this morning he would be recognized. He is not here at the moment. I understand Mr. HATCH will stand in his stead, so I yield back the remainder of my time.

Mr. HATCH. What is the pending business, Mr. President?

Mr. ROBERT C. BYRD. The pending business when I give up the floor and the minority leader yields back his time will be the nomination.

Mr. STEVENS. I yield back my time.

NOMINATION OF JOHN WARREN McGARRY

The Senate continued with the consideration of the nomination.

The ACTING PRESIDENT pro tempore. The Senate is in executive session and the Senator from Utah is recognized.

Mr. HATCH. I thank the Chair.

Mr. President, on this issue I have been requested to read the minority views of Mr. GRIFFIN and Mr. BAKER on this particular problem, and to go into those in some detail.

MINORITY VIEWS OF SENATORS GRIFFIN AND BAKER

Very few responsibilities imposed upon this Committee are more important than consideration of nominees to the Federal Election Commission. We owe a duty to the Senate to scrutinize carefully all nominees to that important Commission, and we would be abrogating that responsibility if we did not make a good faith effort to resolve all questions relating to the qualifications and background of each nominee before recommending confirmation by the Senate. John Warren McGarry has undergone extensive examination by this Committee and staff.

Unfortunately, all of the inquiries made by Committee members, staff and consultants were not answered.

In view of these considerations, a question arises: by what standard are we to judge the qualifications and competency of Mr. McGarry to be a member of the Federal Election Commission?

During the 1976 campaign, President Carter described his own standard for appointment to high Federal offices. He said:

Public officials . . . ought to set a standard that is absolutely exemplary. We ought to be like Caesar's wife. We ought to be free of any criticism or allegations. We ought to be open about mistakes that we make, not try to hide from the public what is done.

In addition to the President's own standard, there are statutory qualifications for membership on the Federal Election Commission which are described as follows:

Members shall be chosen on the basis of their maturity, experience, integrity, partiality, and good judgment, and shall be chosen from among individuals who, at the time of their appointment, are not elected, or appointed officers or empolyees in the executive, legislative, or judicial branch of the Government of the United States—2 U.S.C. section 437c(a)(3).

We find the qualifications of this nominee to be seriously lacking in several respects. Ample support for this conclusion can be found in the factual record developed by this Committee. Mr. McGarry's short-comings

exist in three basic areas: his Federal income tax returns; his House Financial Disclosure statement; and his general lack of candor and forthrightness with the Committee and its staff.

BACKGROUND

John McGarry's name was first sent to the Senate on September 27, 1977, and referred immediately to the Committee on Rules and Administration. Mr. McGarry was requested to respond to a routine Committee financial data questionnaire; however, the information he supplied was not sufficient or complete enough to explain his admitted self-worth.

In November, Senator Baker wrote Senator Cannon requesting that the Committee be authorized to obtain necessary additional financial information from Mr. McGarry. Chairman Cannon acceded to that request and authorized a Committee staff interview, which took place on December 14, 1977.

Although the staff interview was extensive and lengthy a number of questions were answered inadequately by the nominee because of a need to consult his financial records and advisers. Mr. McGarry finally submitted limited written responses to those unanswered questions—weeks after the interview had taken place.

At the end of the calendar year, the nominations of Mr. McGarry and Mr. Samuel D. Zagoria to the Federal Election Commission lapsed.

In January 1978, Senator Baker wrote Chairman Cannon requesting that an anonymous allegation made against Mr. McGarry be investigated by the appropriate Federal agency. Senator Cannon agreed to that suggestion and requested the White House to initiate an investigation of the charge. In spite of information from the White House that an investigation of the charge was underway, the nominations of Mr. McGarry and Mr. Zagoria were again sent to the Senate on April 10, 1978.

However, in a letter accompanying the nominations, Mr. Robert Lipshutz, Counsel to the President, admitted that no investigation had been undertaken of Mr. McGarry. As a consequence, the Committee submitted detailed written questions to both the White House and Mr. McGarry regarding a number of his financial investments and associations.

The Committee did not receive any responses from either the White House or the nominee until July 12, 1978—three months later. The first public hearing on the McGarry nomination was held on July 27.

In order to hasten and aid its own review of the nominee's varied and complex financial background, the Committee obtained the services of an independent tax consultant from the General Accounting Office. In a three week period, the consultant drafted three separate reports on Mr. McGarry's finances, each of which continued to raise questions regarding his Federal income tax returns and the sufficiency of the IRS review of those returns. In addition to the questions raised regarding the Federal income tax returns, questions were also raised relating to his House Financial Disclosure forms and his general lack of candor with the Committee and its staff.

INCOME TAX RETURNS

With respect to his income tax returns, Mr. McGarry either took deductions that simply could not be supported by evidence available to the Committee or he improperly characterized income with the net effect of underpaying his taxes in several years.

In 1973, Mr. McGarry signed an agreement dissolving a law partnership with Mr. Irving Sheff. Pursuant to that agreement, Mr. McGarry was to be paid $100,000. Some $15,000 of that was for the capital assets of the partnership. The other $85,000 was described by Mr. McGarry as funds paid pursuant to a "covenant not to compete." However, the dissolution agreement (in paragraphs three, four and nine) specifically stated that the $85,000 was paid for the release of Mr. McGarry's right to "fees due from clients for past legal services rendered, and for unrealized receivables and uncollected fees."

By characterizing the $85,000 as funds received pursuant to a "covenant not to compete", Mr. McGarry treated the money as ordinary income and was able to avoid the payment of self-employment tax (SECA). And yet, according to Section 1402 of the Internal Revenue Code, Mr. McGarry was liable for self-employment tax on the $85,000 received. That Section of the Internal Revenue Code provides that an individual who is in business for himself, or in a profession, is subject to self-employment tax. The purpose of the tax is to provide Social Security benefits and is paid by adding an amount to the income tax computed on Form 1040.

As a member of a law partnership, Mr. McGarry's income was clearly subject to the self-employment tax. The net effect of this mischaracterization of income was to remove the $85,000 from his computation of self-employment tax liability.

There is no evidence before the Committee to indicate that Mr. McGarry's reporting of SECA tax liability was ever fully audited by the IRS.

In the same agreement, Mr. McGarry and Mr. Sheff also agreed to dissolve their partnership in Communications Distributors, Inc. Mr. McGarry took business loss deductions for his interest in that company on his 1972 and 1973 income tax returns. And yet, under the partnership dissolution agreement, it was stated ". . . that any loss from disposition of such stock is and has been reflected entirely and solely in Sheff's distributive share of the partnership."

The McGarry-Sheff covenant purports to embody "the entire agreement and understanding between McGarry and Sheff" and further states that "there are no representations, warranties, terms, covenants, or conditions made by either of them except as (therein) expressly contained."

Despite such clear language and the precise terms of his agreement with Sheff on losses accruing to Communications Distributors, the nominee testified that his claims for the losses were proper since, contrary to the covenant, Sheff did not take the losses. In a subsequent letter to Chairman Pell, Mr. Sheff indicated that he and Mr. McGarry had, in fact, split the Communications Distributors losses evenly. It is unclear from the tax audits by the IRS whether or not the same losses were claimed by both Mr. Sheff and Mr. McGarry.

Between Mr. McGarry's testimony and Mr. Sheff's letter, this much is clear: the actual situation between the partners as to Communications Distributors' losses was diametrically opposite to the understanding recited by their agreement. We find this puzzling because the agreement signed by both Mr. McGarry and Mr. Sheff claimed to encompass their entire understanding on this subject within the four corners of the document. Why, then, was there such a divergence between the text of the covenant and reality?

In testimony, Mr. McGarry indicated that the covenant language on Communications Distributors "was to give Mr. Sheff insulation and fortification down the road in the event that he had to pay out any moneys, liability, judgments. . . ." Yet, how could a document that incorrectly describes the tax loss status of Communications Distributors stock meet these objectives unless someone mistakenly relied on the covenant as a representation of the true situation between McGarry and Sheff?

The partners affixed their names to a document which misrepresented the understanding between them. In so doing, they created a situation where innocent persons who read or relied upon the document could be led astray. Indeed, several Senators who read the covenant were left totally confused about the true situation between McGarry and Sheff. As an attorney, McGarry can be charged with understanding the legal import and ramifications of the covenant language. That he did sign a document whose terms differ so completely from reality weighs heavily in our determination that he should not sit on the Federal Election Commission.

In the years 1974 through 1976, Mr. McGarry deducted a total of $26,211 on his Federal income tax returns as "employee-related travel expenses." During that period Mr. McGarry was a full-time employee of the House Administration Committee in Washington, D.C., even though he maintained his permanent residence in Boston, Massachusetts.

Under section 262 of the Internal Revenue Code, the expenses of commuting from one's tax home (permanent residence) to one's regular place of employment are not deductible. In his testimony before the Committee, Mr. McGarry relied upon the IRS review and apparent acceptance of his commuting expenses deductions. However, there is no evidence in the record to indicate that the expenses deducted in 1974 were ever reviewed by the IRS. Moreover, the adequacy of the IRS review of those expenses in 1975 through 1976 is questionable largely because it was unclear whether or not the IRS had all the pertinent facts before them. In short, the legitimacy of the $26,211 deduction claimed by Mr. McGarry for travel expenses remains in doubt.

Under Section 1348 of the Internal Revenue Code, a 50 percent ceiling is placed upon the tax that may be levied on an individual's personal service income. A single individual qualifies if he has personal service taxable income in excess of $40,200. An individual's personal service net income is his gross income from wages, salaries, professional fee and other compensation for the performance of personal services, less his trade or business expense deduction allocable to such income.

In 1972, Mr. McGarry improperly included some $35,000 of income derived from investments rather than personal services in the computation of his maximum tax. In testimony before the Committee on August 22, 1978, Mr. McGarry's attorney seemingly admitted this mistake, but sought to minimize the error by citing approval of this computation in an IRS audit. Nevertheless, there is no evidence before the Committee that the IRS reviewed and accepted that computation.

The final unresolved issue with respect to Mr. McGarry's Federal income tax returns relates to his tax treatment, or lack thereof, of his interest in the Red Boot, Inc., (a Massachusetts restaurant). According to Mr. McGarry's testimony, he owned 75 percent of that corporation which later diluted to a 50 percent share before he sold out his interest altogether. However, there is no evidence in his Federal income tax returns of the acquisition of the asset, the receipt of any income or losses from the asset, or the disposition of the asset.

HOUSE FINANCIAL DISCLOSURE FORMS

The second category of problems for Mr. McGarry stem from his House Financial Disclosure statements. According to House Rule XLIV, Members, officers, principal assistants to Members and professional staff members of committees are required to file, not later than April 30 of each year, reports disclosing certain financial interests. The House Financial Disclosure form requires individuals to disclose specifically identified income, such as capital gains, if it was received during the preceding year.

In 1973, Mr. McGarry received $15,000 in

capital gains from the dissolution of his law partnership with Mr. Irving Sheff. This $15,000 was reported by Mr. McGarry as a capital gain on his 1973 Federal income tax return.

Under question 3(b) on the House Disclosure forms, Mr. McGarry was required to report "any capital gain from any source exceeding $5,000 . . . (as reportable to the IRS)", if it was received during the previous calendar year. Mr. McGarry failed to report this income arguing that he received the money before he was a full-time employee of the House of Representatives.

However, there is no provision in the House rule which would exempt one from reporting a capital gain received in the previous calendar year simply because one was not a full-time employee of the House when the funds were actually received. Clearly, if an individual became a full-time employee of the House and received a capital gain in the preceding calendar year in excess of $5,000 he would be obligated to report that pursuant to question 3(b) of the House Disclosure form.

As we have stated previously, Mr. McGarry claimed that the funds he received from Mr. Sheff were paid pursuant to a covenant not to compete. If his characterization of these payments is accepted, then his explanation for failing to include them in his annual House disclosure forms becomes plausible. If, to the contrary, the payments were not attributable to prospective non-competition, but rather to past services rendered, then they should have been disclosed to the House in the years of their receipt. In each of the years, 1973 through 1976, John McGarry received large amounts of money from Mr. Sheff that were never disclosed to the House. During that time, the House required disclosure of any income received during the preceding calendar year from a single source for services rendered that exceeded $5.000.

Should Mr. McGarry have disclosed these funds? As we have suggested, the answer lies in understanding the reason for which they were paid. We believe the covenant speaks for itself and is crystal clear. We quote again: "The sums to be paid to McGarry, except for those sums paid for his interest in the capital assets of the partnership, are for his release of all claims to his proportionate share of contingent fees in pending litigation, fees due from clients for past services rendered, and for unrealized receivables and uncollected fees in accordance with the provisions of Sections 736(a)(2) and 751(c) of the Internal Revenue Code of 1954".

The covenant provided that McGarry would receive a total of $100,000 from Sheff. Of that amount $15,000 was attributable to McGarry's sale to Sheff of capital assets. The remaining sum, $85,000, was paid as legal consideration for McGarry's release of all claims due him for past services rendered. Irrespective of any incidental reference in the covenant to future non-competition, this fact cannot be controverted.

Accordingly, we are convinced that disclosure of the $85,000 was required and should have been made. Mr. McGarry's failure to do so constitutes repeated material omissions on his House forms and raises serious questions about his commitment to the principle and spirit of public financial disclosure. For a nominee to the Federal Election Commission, who must monitor the filing of Federal campaign reports, this indifferent attitude toward full disclosure represents a substantial drawback.

LACK OF CANDOR

The final problem, in our judgment, is Mr. McGarry's general lack of candor and forthrightness with the Committee. On countless occasions, he provided the Committee with only partial or incomplete answers to questions.

For instance, as early as last December, Mr. McGarry was asked whether he assumed or acquired his interests in the Boston Half Shell Restaurant from a member of his family. The answer, as ascertained from the FBI, was that the interest had gone from his brother, Bernard G. McGarry, Sr., to his nephew, Bernard G. McGarry, Jr., and then to himself. And yet, Mr. McGarry failed to disclose that chain of ownership as evidenced by the following question:

QUESTION. Did anyone else in your family ever have an interest in this restaurant?

MCGARRY. When you say "family," what do you——

QUESTION. Brother, sister?

MCGARRY. No; my brother did not, my sister did not.

When Mr. McGarry was subsequently confronted with a corporation form filed with the Commonwealth of Massachusetts that listed Bernard G. McGarry, Jr., as a director of the restaurant, he finally conceded that he had acquired his interest from his brother's son. Nevertheless, he never mentioned the fact that his brother had been the original investor in the restaurant.

It would have been very simple for Mr. McGarry to explain the familiar chain of ownership which led to his beneficial interest in the Boston Half Shell. Yet, Mr. McGarry chose not to do so.

A further example of Mr. McGarry's lack of candor arose during his response to questions regarding his partnership dissolution agreement with Mr. Sheff. Repeatedly, Mr. McGarry indicated that this agreement was prepared by lawyers and accountants employing an interplay of legal, accounting, and tax principles. When asked to define the principles of which he spoke, Mr. McGarry could not. Instead he stated that he relied on the advice of counsel and was merely a signer of the document. To quote Mr. McGarry directly, "I can assure you that Mr. Sheff and I had very little to do with it other than appearing for the signing. We relied on both accountants and attorneys."

Mr. McGarry's attempts to cloak himself in a nebulous mesh of legal and accounting principles reflects poorly on his integrity and judgment. It is ludicrous to assume that an attorney, such as John McGarry, could be so detached or ignorant of the terms and ramifications of a legal instrument written to yield him $100,000 in income. If he was truly as unfamiliar with the agreement as he claims, we wonder how competent an attorney he could be. Conversely, if he understood the entire agreement well, as we suspect, we think his testimony to the contrary was misleading, and wholly inappropriate.

A final example occurred when Mr. McGarry was asked by Senator Hatfield in the July 27, 1978, Committee hearing, how he was appointed. Mr. McGarry spoke vaguely of hearing conversations about being under consideration, but he never mentioned the fact that he might have been recommended by the Speaker of the House of Representatives. Only upon direct questioning by Senator Hatfield regarding any conversations that he might have had with the Speaker did Mr. McGarry respond that "he would have had some discussion with the Speaker regarding his nomination."

It is no mystery or secret that Mr. McGarry is a close associate of the Speaker. Moreover, we see no reason why he simply did not admit at the outset that he spoke to the Speaker about the job and that he had the Speaker's support.

Responses such as Mr. McGarry provided encourage the notion that he is trying to hide something—hardly an appropriate situation for one nominated to the Federal Election Commission.

Finally, we are disturbed by the fact that Mr. McGarry would not state a categorical willingness to excuse himself from the consideration of matters involving past associates or employers in the House of Representatives. We believe that such situations could easily arise and could constitute an insurmountable conflict of interest.

CONCLUSION

In short, we cannot support the confirmation of this nominee. Our inability to find intent in the underpayment of taxes or improper characterization of income is not so much dispositive of his qualifications as a nominee, but rather indicative of his possible ability to tread the thin line between income tax errors and income tax evasion. The failure to disclose adequately on his House Financial Disclosure forms flies in the face of the spirit of disclosure which he will be called upon to enforce as a member of the Federal Election Commission. And, finally, his lack of candor with this Committee and its staff leaves a clear impression that he has something to hide that might easily emerge with the passage of time.

Without losing my right to the floor, I yield for a unanimous-consent request to the Senator from Kansas.

Mr. PEARSON. Mr. President, I ask unanimous consent that Doug Buttrey, of the Commerce Committee staff, be granted the privilege of the floor for this date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRIFFIN. Will the Senator yield?

Mr. HATCH. I yield without losing my right to the floor.

Mr. METZENBAUM. Objection, Mr. President.

Mr. GRIFFIN. Will the Senator yield for a question?

Mr. HATCH. I yield, without losing my right to the floor, for a question.

Mr. GRIFFIN. Mr. President, I wish to preface my question by thanking the Senator for reading the minority views aloud. I hope all the Members of the Senate have read the minority views.

This is one of the most difficult nominations that this Senator has had to deal with as a member of the Committee on Rules. I believe a careful reading of the views filed by Senator BAKER and me will raise a number of questions that ought to be considered by Senators on both sides of the aisle.

I notice in the Washington Post this morning an editorial that is critical of the nomination of Mr. McGarry. However, the Post does not really focus on the questions that are raised in the minority views—questions that were raised in the hearings.

I think it is important to keep in mind that we are not considering the nomination of a subcabinet official in the administration who would be subject to dismissal by the President.

Appointment to the Federal Election Commission is, or ought to be, regarded as closely akin to an appointment to a court of appeals or even to the Supreme Court. The Federal Election Commission is an independent quasi-judicial body that has very high and important responsibilities; it needs and should have the confidence and respect of the public.

Those who are appointed to this commission should not only be legally qualified, but they should be persons of excellent character. Certainly, there should be no serious question about a nominee's willingness and past performance in complying with the law.

Mr. McGarry, unfortunately, does not really pass such a test. In instance after

instance, we found he was on the shady side of compliance with the law and compliance with the House Code of Ethics.

It is not the kind of record that we ought to expect from someone who is nominated for the Federal Election Commission; and who, if confirmed, would be monitoring the reports and the disclosures by others.

So, the question I have for the Senator from Utah is this: Does he believe, after reading the minority views, that there are some fundamental reasons for not approving this nomination?

Mr. HATCH. I have to confess that I have not read this minority report before.

I think the two distinguished Senators, the Senator from Michigan (Mr. GRIFFIN) and the Senator from Oregon (Mr. MARK O. HATFIELD), have raised a number of very interesting issues.

I do agree that whoever is appointed to the Federal Elections Commission by the President of the United States ought to be impeccable in character, integrity, and in disclosure.

I think it is very difficult for anybody to come in and be subject to these closed interrogations and scrutinizations that occur.

I have great empathy and sympathy for anybody who has to go through that process, and I have sympathy for Mr. McGarry.

On the other hand, this is not just a simple committee assignment. It is not one of the normal run-of-the-mill appointments in the Federal Government.

This position is a position which is heavily relied upon by all of us who are so heavily scrutinized ourselves, and I am happy to say that I think that is proper, also.

Therefore, we have to be concerned about having people of high integrity, high moral qualifications, intelligence, and ability in doing what is right as a responsible member of the Federal Election Commission.

So I not only agree with the distinguished Senator, I would have to rely very heavily upon the feelings of those in the minority who sat in on these hearings, who went through the process of listening to the testimony.

I know, because I remember at the time, that both the Senator from Michigan and the Senator from Oregon were very concerned, and had expressed it within my personal presence, that they felt that these appointments just have to be scrutinized very carefully and we have to get the highest quality people into these appointments. I am a little shocked that there should even be a question.

I think that the President of the United States should recommend only the highest qualified people, who are impeccable, to these particular positions.

I commend the two Senators who have written this minority report for their interest in seeing that we have highly qualified people approved for these positions, from both the Democratic nominee standpoint and the Republican nominee standpoint.

I do commend the Senator for that, and I have to rely very heavily upon the impressions in the minority report which the Senator has indicated.

Mr. GRIFFIN. I think it is rather sad that we have to be in the position of considering a nomination that raises questions of the kind referred to in the minority views.

When the Federal Election Commission was established by law in the wake of Watergate, there was a great deal of discussion and expectation that this would be a high-level, blue-ribbon bipartisan commission—to be composed of persons who, like judges, would be looked upon with great respect.

But, unfortunately, this nomination suggests that the Commission is being turned into a dumping ground for political patronage. There is no secret that this particular nominee, Mr. McGarry, is the personal choice of an important leader over on the other side of the Capitol. Indeed, that is the nominee's principal qualification for this job.

I believe that description of Mr. McGarry's qualifications is particularly unfortunate in light of the fact that there happens to be a very outstanding, capable, able Democratic member of the Commission now sitting who would be displaced if McGarry's nomination were to be confirmed.

Mr. HATCH. That was contemplated in the beginning.

Mr. GRIFFIN. The incumbent Commissioner of whom I speak is Mr. Neil Staebler. He happens to be from my State. I know him well, although he is a Democrat. He is an outstanding leader of the Democratic Party; he is a former National Committeeman, from Michigan, who is well schooled in the law of elections and campaigns. He is a man of principle, a man of integrity, who is an outstanding member of the Federal Elections Commission.

Frankly, I am a little surprised that the Washington Post has not written something about the qualifications of Mr. Staebler—as contrasted with the qualifications of Mr. McGarry. It seems clear to me that Mr. Staebler is the kind of person the Congress had in mind when we passed the law.

I hope that after Mr. McGarry's nomination goes down the drain, as it will here today, that the President will decide to renominate Mr. Staebler or nominate someone else who has the kind of qualifications that Neil Staebler has.

Mr. HATCH. I would like to add that we have heard all kinds of fairly ugly rumors about the various nominations which have been made by the President and that there may even have been some stipulations as to their philosophy or belief with regard to the Commission.

I do not believe that that necessarily should enter into the problem. I think the Senator is right that whoever receives the nomination, or nominations, to the Federal Election Commission, they ought to be people like the man the Senator just described who is already sitting on the Federal Election Commission.

I was here until the close of this session last night, I cannot remember the exact time, 12:20 or somewhere around there, and I listened to the distinguished Senator from Michigan and the distinguished Senator from Oregon.

I listened to the Senator's explanation that as much as we on this side of the aisle think of Max Friedersdorf, and there is no question in my mind he is one of the finest people on Earth today and a very highly qualified person to be nominated as a member of the Federal Election Commission, that the two Republicans who are leading this opposition to Mr. McGarry's nomination insist upon having as thoroughgoing an examination of Max Friedersdorf as they have insisted upon Mr. McGarry, and let the chips fall where they may, because we want these to be high-level appointments across-the-board, irrespective of the partisanship or party affiliations, or anything else for that matter.

So I want to compliment both Senators for, I think, the extremely high standards they have both put upon themselves in handling this particular difficult problem. I think they have shown a propensity to handle it in a way that is fair to both sides and not just in a way that is partisan in nature.

I think both Senators have shown a bipartisan spirit here, and I particularly appreciate that as I listened to the debate last evening. I would expect nothing less from either Senator, because I know them well enough to know their personal standards and their high qualifications.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. STONE). The hour of 10 o'clock having arrived, the Senate will now return to legislative session, and the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report on H.R. 5263, the Bicycle Parts Tariff Bill (Energy Tax).

Robert C. Byrd, Robert Morgan, Russell B. Long, Bob Dole, John Durkin, John Glenn, Harrison Williams, C. H. Percy, James B. Pearson, Alan Cranston, Wendell H. Ford, Richard (Dick) Stone, Mike Gravel, Jennings Randolph, Daniel P. Moynihan, Henry M. Jackson, Frank Church, and Warren G. Magnuson.

CALL OF THE ROLL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 18 Leg.]

Abourezk	Culver	Helms
Anderson	Curtis	Hodges
Baker	Danforth	Hollings
Bartlett	DeConcini	Humphrey
Bayh	Dole	Inouye
Bellmon	Durkin	Jackson
Bentsen	Eagleton	Javits
Biden	Ford	Johnston
Brooke	Glenn	Kennedy
Bumpers	Gravel	Laxalt
Burdick	Griffin	Leahy
Byrd, Harry F., Jr.	Hansen	Long
Byrd, Robert C.	Hart	Lugar
Cannon	Hatch	Magnuson
Case	Hatfield, Mark O.	McGovern
Chafee	Hatfield, Paul G.	McIntyre
Chiles	Hayakawa	Melcher
Church	Heinz	Metzenbaum
Clark		Morgan
		Moynihan

Muskie	Riegle	Stevenson
Nelson	Roth	Stone
Nunn	Sasser	Talmadge
Packwood	Schmitt	Thurmond
Pearson	Schweiker	Wallop
Pell	Sparkman	Weicker
Proxmire	Stafford	Williams
Randolph	Stennis	Young
Ribicoff	Stevens	Zorinsky

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report on the bill (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT F. BYRD. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES) is absent attending the funeral of Congressman Goodloe E. Byron.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. ZORINSKY). Have all Senators in the Chamber cast their vote?

The yeas and nays resulted—yeas 71, nays 13, as follows:

[Rollcall Vote No. 497 Leg.]

YEAS—71

Anderson	Hart	Muskie
Baker	Hatfield, Mark O.	Nelson
Bayh	Hatfield, Paul G.	Nunn
Bentsen	Hayakawa	Packwood
Biden	Heinz	Pearson
Bumpers	Hodges	Pell
Burdick	Hollings	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Roth
Chiles	Johnston	Sasser
Church	Kennedy	Schmitt
Clark	Laxalt	Schweiker
Culver	Leahy	Sparkman
Curtis	Long	Stafford
Danforth	Lugar	Stennis
DeConcini	Magnuson	Stevenson
Dole	McGovern	Stone
Durkin	McIntyre	Talmadge
Eagleton	Melcher	Thurmond
Ford	Morgan	Williams
Glenn	Moynihan	Young
Gravel		Zorinsky
Griffin		

NAYS—13

Abourezk	Hansen	Wallop
Bartlett	Hatch	Weicker
Bellmon	Helms	
Brooke	Metzenbaum	
Byrd, Harry F., Jr.	Stevens	
	Thurmond	

NOT VOTING—16

Allen	Haskell	Percy
Cranston	Hathaway	Sarbanes
Domenici	Huddleston	Scott
Eastland	Mathias	Tower
Garn	Matsunaga	
Goldwater	McClure	

THE PRESIDING OFFICER. On this vote the yeas are 71, the nays are 13. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5263.

Mr. TALMADGE. Mr. President, I would like to summarize the conference agreement on the energy tax bill (H.R. 5263).

Mr. ABOUREZK. Mr. President, may we have order so we can hear the Senator?

The PRESIDING OFFICER. The observation of the Senator from South Dakota is correct. The Senator is not in order. Will Senators please take their seats or take their conversations to the cloakrooms?

The Senator from Georgia.

Mr. TALMADGE. This bill is the fifth one of the five-bill package that makes up the National Energy Act.

RESIDENTIAL INSULATION AND CONSERVATION CREDITS

The conferees agreed to a 15-percent credit on expenditures up to $2,000—for a maximum $300 credit—for installation of insulation and several kinds of conservation equipment; for example, replacement burners, automatic furnace ignition systems, storm doors and windows and automatic energy-saving thermostats. The credits are available for installation on a taxpayer's principal residence—whether owned or rented. The credit is available for all installations up to a $2,000 total through December 31, 1985. Credits are available for installations after April 19, 1977, and 1977 credits may be used to reduce tax liability on 1978 tax returns.

The PRESIDING OFFICER. Will the Senator from Georgia suspend for a moment? Will Senators please take their seats or retire to the cloakrooms with their conversations? The Senator from Georgia is entitled to have the respect of the Senate and the attention of Senators while he occupies the floor.

The Senator may proceed.

Mr. TALMADGE. Credits earned in later years which exceed tax liability may be carried over to the next taxable year, and unused credits as of December 31, 1985, may be carried over for 2 more taxable years. The basis of property receiving these credits will be reduced by the amount of the credits.

RESIDENTIAL SOLAR, WIND, AND GEOTHERMAL EQUIPMENT

The House receded in this area, and accepted the provisions that were in the bill reported by the Finance Committee—the equipment, rates of credit, and amount of expenditures covered. The Senate receded to the extent that the credits are not refundable and the items added on the Senate floor are not included. The provision allows a 30-percent credit on the first $2,000 and 20 percent on the next $8,000 for a maximum credit of $2,200 on $10,000 expenditures. Eligible items include solar, wind, and geothermal equipment which can be used to heat or cool or provide hot water to a dwelling. Any of these credits earned after April 19, 1977, in 1977 will be applied against the tax liability on the 1978 return. In subsequent years, there is a 1-year carryover, and a 2-year carryover after December 31, 1985, when the credit will terminate. The same basis adjustment is required as in residential insulation credits.

Solar equipment includes so-called passive solar components so long as they do not serve a structural function.

For insulation, energy conserving equipment and solar and geothermal equipment, the Secretary of Treasury will issue regulations which specify the criteria for energy efficiency or heating, cooling or providing hot water that must be met by additional items of equipment in order to be placed on the list of eligible equipment.

TRANSPORTATION TAXES

The gas guzzler tax is the major element of the transportation tax changes, and it is the only new tax levied in this bill. The Senate receded on this provision after the House agreed to several modifications. The tax does not apply until model year 1980. The mileage standards and tax rates that would have applied to model year 1979, under the House bill, will apply to model year 1980. The same 1-year deferral of mileage standards and tax rates will apply to each subsequent model year. In addition, beginning with model year 1983 the applicable fuel efficiency standards are further reduced to 1 mile per gallon. In the conference agreement, the fuel efficiency standards generally start between 4 and 6.5 miles per gallon below the fleetwide standards under EPCA.

The lowest tax rates for each model year start at $200 for model years 1980 through 1982 and rise to $500 for model years 1986 and therafter. Maximum rates start at $550 for 1980 models and increase to $3,850 for 1986 and later models. The top rates apply to autos which get less than 12.5 to 13 miles per gallon.

Other transportation actions generally involve tax reductions. The excise taxes on buses is repealed, as of April 20, 1977, and the excise taxes on bus parts and other related equipment are repealed on enactment. The full 10-percent investment credit will be available for employers who purchase new vans—seating nine or more persons, including the driver—for vanpooling. Gasohol blends are exempted from the 4-cents-per-gallon excise tax when the alcohol is ethanol produced from grain.

The gasoline tax refund of 2 cents per gallon for motorboats, lawnmowers, and similar uses is repealed after 1978.

BUSINESS TAX CREDITS

There will be an additional 10-percent investment tax credit for investment in alternative energy property, specially defined energy property, and equipment for

recycling, producing shale oil, and producing natural gas from geopressured brine. These additional credits may be offset against 100 percent of tax liability and may be applied above the limitation for the regular investment credit after that limitation has been fully used. The additional credit for solar and wind energy equipment, however, will be refundable. Public utilities, as defined in section 46(f)(5) of the Internal Revenue Code, are not eligible for these credits. Only half of the additional credit, 5 percent, will be available to taxpayers who finance all or part of the acquisition of this property with industrial development bonds.

The Secretary of the Treasury may add eligible property to the specially defined energy property list. The principal purpose of such equipment is to be reducing the amount of energy consumed in any existing industrial, agricultural, or commercial process when the equipment is installed in connection with an existing industrial, agricultural, or commercial facility. The Secretary is expected to consult with other agencies, such as the Department of Energy and the Bureau of Standards, in determining whether other equipment should be made eligible for the additional credit.

The House receded with respect to the recycling credit which makes it available for equipment used through the production of the first marketable product, that is, paperboard or textile fibers. For recycling iron and steel, however, the House position prevailed; under it, the credit does not include equipment used to reduce iron and steel solid waste to a molten state or in any process from that point.

This credit will be available for equipment placed in service after September 30, 1978, and before January 1, 1983. For equipment under construction on the effective date, the credit is available for the construction after that date under the usual rules for the investment credit. Similarly, the usual rules apply as of the termination date for equipment under construction at that time.

ALTERNATIVE ENERGY SOURCES

Taxpayers engaged in the development and exploitation of geothermal resources will be eligible for deduction of intangible drilling expenses and for a depletion allowance: 22 percent in 1978 through 1980; 20 percent in 1981; 18 percent in 1982; 16 percent in 1983; and 15 percent in all subsequent years. A 10-percent depletion allowance will be allowed for natural gas from geopressured brine from wells drilled in the United States or its possessions within 5 years of the date of enactment.

The conference agreement accepted the House provisions which clarified certain points relating to the deduction of intangible drilling costs for oil and gas wells, including natural gas from geopressured brine.

OTHER PROVISIONS

The conference agreement includes a provision which removes the excise tax on rerefined lubricating oil. The investment credit and accelerated depreciation will be denied for various items, including oil and gas boilers, which have not been exempted under various regulatory and other provisions.

DELETED FROM THE CONFERENCE AGREEMENT

All the items in either bill which were not mentioned in the summary were deleted by the conference. Some of those items were in the bills passed by both Houses, but the unique, formal character of the conference left the conference with authority to range between no bill and the Senate-passed bill.

Thus, the business use tax on oil and gas was deleted by the conference, even though it was included in the different bills passed by each House.

The crude oil equalization tax, which was in the House-passed bill, also was deleted. Deletion of this provision meant that no revenues would be available for any of the credits that were added by each House.

Similarly, the trust fund for retirement of the national debt with the revenue from the gas guzzler tax was also deleted, because the tax is not expected to raise any meaningful amount of revenue for this purpose.

The revenue loss under this bill is $1 billion in fiscal year 1979. In the next 4 fiscal years, the fiscal year revenue loss is not substantially different: $847 million in 1980, $956 million in 1981, $1.1 billion in 1982, and $1 billion in 1983.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I voted for cloture earlier today. I voted for cloture because I regularly do, even on bills that I intend to vote against. This is a bill that I intend to vote against.

During the past several months, we have had a number of energy matters before the Senate, including the natural gas compromise. Now, the natural gas compromise, as I mentioned at that time, was not at all—Mr. President, could we have a modicum of order?

The PRESIDING OFFICER. The Senator from Vermont is correct. The Senate will be in order. Senators will please take their seats or retire from the Chamber. Senators will please refrain from conversation. The Senate will be in order.

The Senator from Vermont may proceed.

Mr. LEAHY. I appreciate the Chair's help. I expect, in the few hours left in this session, it will probably be more and more difficult for the Chair to maintain order; and I appreciate the Presiding Officer's help in that respect.

Mr. President, as I started to say, the natural gas bill certainly was not to my full liking, and I stated at the time that I suspected that each of the 100 Senators could have written a bill more to his or her liking than the bill on which we voted. But we could not be in a situation of having 100 bills, any more than the 435 Members of the House of Representatives, who could each have written a natural gas compromise more to their liking. We could not end up with 535 separate bills.

Mr. President, considering the need of this country for the natural gas compromise and the fact that none of us could ever have anything totally to our liking, the natural gas bill, by its very nature, had to be a compromise. I said that I would reluctantly vote for it and help to gain support for the bill. I did. I spoke to many Senators and sought their help on that piece of legislation. I asked them to vote for it, and a number did. The compromise was passed. Now, of course, it is before the House of Representatives.

Mr. President, the conference report which is now before us does not even meet the minimal criteria that I set for the gas bill. There are a number of things wrong with it. Again, I realize that any piece of legislation must take into consideration the needs of the whole country. Indeed, it has to take into consideration the role that the United States plays as an international figure. It is the most significant military power in the world. It is also one of the most significant economic powers in the world. Any bill must take account of all those things.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. LEAHY. If the Senator would withhold that——

Mr. ABOUREZK. I withhold that, Mr. President.

Mr. LEAHY. But, Mr. President, if we draft a bill which totally cuts off one part of the country, then I have great problems with it. The energy tax compromise seriously affects a number of parts of the country. One of the areas that I am most concerned about, obviously, is the Northeast, and most specifically Vermont.

When the bill passed, those of us from the Northeast realized that we would have to bear our share of the burden in any piece of legislation. We did. We reached a compromise that reflected the fact that our region of the country has borne some of the same burdens as the rest of the country.

But now I find that numerous pieces have been removed from the energy tax bill. The insulation credits, which have been discussed by the Congress, by the Federal Government, by the administration, and the public, have been drastically changed from what we originally accepted. The credits that would encourage the use of wood as an energy source, a matter of significance in the Northeast, again were drastically altered, emasculated, actually. And yet I come from a State where close to 70 percent of the homes are heated in part or in total by wood, which cuts down substantially on the need for imported oil. In New England virtually all of our residual oil is imported.

Mr. President, with these items taken out, realizing that we could never have something that would be acceptable to each one of us, but at least acceptable to the majority of us, I do not see how I could accept this. I have not seen other legislation that might pick up this void. Certainly, nothing in the remaining days of this session.

Mr. ABOUREZK. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that Richard Tuck be granted the privileges of the floor during the debate on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABOUREZK. I thank the Senator.

Mr. LEAHY. The Senate is finally considering the conference report on the energy tax bill, almost a full year after it was passed. I have the highest regard for the conferees on this energy bill. They have discussed and debated—bickered and compromised—the provisions of the bill that would grant American taxpayers tax credits for the installation and use of energy savings devices. Those who would benefit include rich and poor, big industry and small business, oil and gas consumers, and even those who depend on wood burning stoves.

A component of the President's national energy plan, the energy tax credits have a magnanimous goal—to provide the incentive to conserve—to help America reduce its consumption of expensive and nonrenewable energy resources. The experience of the 1973 oil embargo should still be fresh in our mind. Are we really scoffing at the necessity to cut back on our oil consumption? Certainly, we must explore and develop new gas fields and other traditional energy sources.

But, Mr. President, at the same time we must conserve the energy that we do use. Residential energy savings devices such as insulation, more efficient furnaces, thermopane windows, and even wood stoves, provide an alternative that we cannot afford to ignore.

Yet, Mr. President, it appears to me that in this energy tax compromise we are actually ignoring these alternatives.

I voted against the energy tax bill last year because I believe it was fiscally irresponsible. The tax incentives it provided accrued, not to the average American taxpayer, but to big industries and special interests. My own State of Vermont, and the rest of the New England States, need these tax incentives. It was with great reservation that I opposed the energy tax bill.

I have no such reservations in opposing the energy conference report today and I intend to vote against it.

The New England States are heavily dependent on imported heating oil. The area's residents are among the most active in seeking out alternative sources of energy. In fact, during the oil embargo, the State of Vermont conserved energy at a greater rate than virtually any other State in the country. Over the long and cold winters, when it is not unusual to see the temperature drop to 30 or 40 degrees below zero, many people rely on wood heat as either a supplement to electricity or oil or as their primary heating source.

In fact in my own State of Vermont, 18 percent of the residents used wood as the primary heating source and over 60 percent used wood as their major supplemental heating source.

The tax credits that were included in the Senate-passed bill would have meant that a large number of New Englanders could have taken advantage of those credits to insulate their homes, buy and install wood stoves, or purchase various types of solar equipment. The credits would also have provided a tax break for the development of small hydroelectric projects, an energy source that many New England communities are actively developing.

Mr. President, I am not asking for special treatment for Vermont or for New England. I am not opposing this measure simply because we didn't get everything we, as a region, needed and still need.

Vermonters and New Englanders are willing to sacrifice, even to compromise, for the good of the country. But I cannot go back to my State as winter approaches and say that this is a bill that they should support. The sacrifices are so one-sided and so unfair. I cannot ask Vermonters to give so much when it is obvious that others are giving nothing.

Mr. President, I am extremely disappointed. In fact, I am outraged at the compromise reached by the conferees.

The energy problems facing this country affect all Americans—not just one geographical section, not just one industry or special interest, nor just one income level. What are we left with in this conference report? Tax credits to encourage businesses to switch from oil and gas to coal; a tax deduction for geothermal energy production; tax relief for independent oil and gas producers; and a reduced tax on gas-guzzling cars that makes it practically ineffective.

This is a tax relief bill for the energy industry.

It is a source of embarrassment for this country that the European nations and Japan, highly industrialized areas, are doing more to encourage individual energy conservation efforts than we are. It is no wonder that the American taxpayer is skeptical about energy conservation when industry continues to waste energy and yet continues to be subsidized for that waste. Individuals are the key to energy conservation efforts and conservation must start in the home.

I believe the Senator from South Dakota would agree with that.

Mr. ABOUREZK. That is right.

Mr. LEAHY. But New Englanders without the incentive, without fiscal relief, can we really expect them to take on the increasing costs of insulating their homes, of installing heat saving windows, or of buying wood stoves,.

I am voting against the energy tax conference report for very different reasons than I did last year. Last year's effort did not go far enough to encourage energy conservation in a fiscally responsible manner, this measure turns a deaf ear to the needs of the individuals and offers a welfare system for an industry which, quite frankly, has been using the Government to rip-off the taxpayers for too long.

Mr. President, I would hope in whatever days or weeks or, as some hardy souls would hope, even hours, remaining in the session, some of these defects could be corrected.

Mr. President, how much time do I have remaining under my hour?

The PRESIDING OFFICER. The Senator has used 18 minutes. He has 42 remaining.

Mr. LEAHY. Mr. President, we are noted in Vermont for taciturnity and I do not think I have ever given an 18-minute speech before. The last thing I would want to be accused of is in any way extending the debate beyond the time that would normally be allotted. I do note that a couple of my colleagues who want to speak are momentarily absent from the floor.

Mr. President, I might be asked if I have finished speaking, and say not yet. But I shall be glad very soon to yield to some of the other Members of the Senate who might wish to speak on this.

I see the Senator from South Dakota has returned. I suspect that he may have a word or two to say on the conference report. So, Mr. President, I reserve the remainder of my time and yield to the Senator from South Dakota.

Mr. ABOUREZK. How much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. The Senator from Vermont has used 21 minutes. There remain 39 minutes.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the Senator withhold that?

Mr. LEAHY. Mr. President, I am glad to keep this on my time for the next couple of minutes if the distinguished majority leader and the Senator from South Dakota would like to confer for a moment.

I reserve the remainder of my time.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The assistant legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 19 Leg.]

Abourezk	Heinz	Randolph
Byrd, Robert C.	Leahy	Riegle
Cannon	Magnuson	Stafford
Case	Melcher	Talmadge
Dole	Metzenbaum	Thurmond
Ford	Muskie	Zorinsky
Griffin	Pearson	
Hatch	Proxmire	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HART), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Georgia (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Louisiana (Mr. LONG), and the Senator from Hawaii (Mr. MATSUNAGA), are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES), is absent attending funeral of Congressman Goodloe E. Byron.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

THE PRESIDING OFFICER. Have all Senators in the Chamber cast their votes?

The result was announced—yeas 77, nays 2, as follows:

[Rollcall Vote No. 498 Leg.]

YEAS—77

Abourezk	Ford	Muskie
Anderson	Glenn	Nelson
Baker	Griffin	Nunn
Bartlett	Hansen	Packwood
Bayh	Hatch	Pearson
Bellmon	Hatfield, Mark O.	Pell
Bentsen	Hatfield, Paul G.	Proxmire
Biden	Heinz	Randolph
Brooke	Helms	Ribicoff
Bumpers	Hollings	Riegle
Burdick	Inouye	Roth
Byrd, Harry F., Jr.	Jackson	Sasser
Byrd, Robert C.	Javits	Schmitt
Cannon	Johnston	Schweiker
Case	Kennedy	Sparkman
Chafee	Laxalt	Stafford
Church	Leahy	Stennis
Clark	Lugar	Stevens
Cranston	Magnuson	Stevenson
Culver	McGovern	Stone
Curtis	McIntyre	Talmadge
Danforth	Melcher	Thurmond
DeConcini	Metzenbaum	Wallop
Dole	Morgan	Williams
Durkin	Moynihan	Young
Eagleton		Zorinsky

NAYS—2

Hayakawa	Weicker

NOT VOTING—21

Allen	Hart	Mathias
Chiles	Haskell	Matsunaga
Domenici	Hathaway	McClure
Eastland	Hodges	Percy
Garn	Huddleston	Sarbanes
Goldwater	Humphrey	Scott
Gravel	Long	Tower

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ROBERT C. BYRD and Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senate? May I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats and cease their conversations.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the Chair.

I apologize for the votes that were required to get the Sergeant at Arms to request the attendance of absent Senators. Of course, the rollcall was requested. Otherwise, we would spend another half hour or more getting a quorum.

There is an effort on here, and I do not say this in any way to denigrate any Senator or to cast any reflection on his viewpoint with respect to the accomplishment on the energy tax conference report, but there is an effort on here to string the matter out, and it is a filibuster. There is no question about that.

Now, rule XXII, of course, can serve a good purpose and a useful purpose, and any Senator who is opposed to the conference report I can understand how he would stand on his feet and speak for an hour and speak his viewpoint and let the Senate vote up or down. I hope we would not have too many of these unnecessary and dilatory quorum calls.

That is one of the areas where I have problems with rule XXII.

Let there be no misunderstanding: this conference report is not going to be called down; 71 Senators earlier today indicated by their votes, not necessarily that they favored the conference report, but they certainly indicated by their votes that they want to see the Senate get on an orderly way, let this matter be debated, and then work its will up or down on the conference report.

Before this Congress can adjourn sine die, it is going to have to do three things:

One, the Senate is going to have to vote up or down on this energy tax conference report—up or down: take your choice.

It is going to have to pass a continuing resolution.

And it is going to have to act on the conference report on the tax bill if the conferees bring back a report.

Regardless of one's views on any one of these measures, he can be against them or for them, he may not like any of them in their entirety, but those are three things that we have to do before we adjourn sine die.

I went over and talked to the Speaker yesterday. It was the opinion of both of us that if the tax conferees can finish their work on the tax bill, we can adjourn sine die without having to go over until sometime Monday or Tuesday or having to come back after the election.

And the Senate conferees are working diligently, and I hope that they will not allow themselves to be interrupted in their work with the House conferees by these rollcall votes that are merely for the purpose of having the Sergeant at Arms assist in getting Senators in. Of course, they are for the purpose of getting a quorum so that the Senate can at least get on with talking about the matter for a while. I hope they will not allow their work to be interrupted.

Last night conferees were meeting until after the Senate recessed, until after midnight. They made good progress. They are making good progress this morning. That is the way they report to me.

And this matter of adjourning sine die is achievable. It may be 1 o'clock in the morning. It may be 2 o'clock in the morning. It may be 3 o'clock in the morning. It may even be 6 o'clock tomorrow morning. But it is achievable and it depends on the three items I have outlined.

This majority leader is not going to call this energy tax conference report down. I have heard the message that was sounded loud and clear when 71 Senators voted to invoke cloture.

Now, it is just up to Senators. If they want to engage in dilatory tactics they can do that. I hope that come next year we will find a way to put a stop to that.

This may be the thing that will help us to do it. But I say, with all respect to all Senators, that we have a duty to perform, we have a duty to act on this energy tax conference report before we go home. Vote it down or vote it up. We have a duty to pass a continuing resolution, and we have a responsibility to act on a conference report on the tax bill if the conferees agree on a conference report, and if they do, we will not adjourn until the Senate has acted on that conference report.

If we have to come back after election, we will come back. But I implore my colleagues to listen to reason. Sooner or later this Senate is going to act on the energy tax conference report; sooner or later it is going to act on a continuing resolution. If the conferees agree on a tax conference report, sooner or later action will have to be taken.

So I implore my colleagues not to engage in dilatory tactics, not to make it necessary for the Senate to kill its time and discommode the Members of the Senate who are acting in conferences by having them come to the floor and answering a rollcall vote on a matter such as we have just seen.

Being faced with that inevitability, I would hope the Senators would be reasonable, would make their positions known if they are against the conference report, and would spare their colleagues and themselves needless delay. I make that plea.

Mr. ABOUREZK. Mr. President, if I might be heard.

The PRESIDING OFFICER (Mr. SASSER). The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, if I might just be permitted to respond very briefly to the distinguished majority leader, I do not know which school of grammar he graduated from, but it is one that I offer as a classic example. I do not claim any credit for it, but the distinguished majority leader is now in a perfect position. He does not have any business to call up on the Senate floor

because he is waiting for the conference report to come over, and we are doing the work of the majority leader by trying to talk about the energy tax bill, which is one of the more noxious provisions that have come through the Senate this year.

If we decided to vote right away without fully debating it, as we hope to be able to do, the majority leader would have to recess the Senate and wait until the conference reports come in.

Mr. CANNON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. If I might just finish, please.

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. That puts him in a very good position to criticize people who are earnestly trying to debate this measure and earnestly trying to defeat it, which we have the right to do.

Now to say we should not have any interruptions of the work of the conferees, I did not call for the vote. The majority leader called for the vote. I would not have called for that vote. I might call for some votes during the day, but I want to try to keep those to a minimum, and I would hope that the majority leader himself would not try to interrupt the work of the conferees with the dilatory tactics that he has been engaged in.

When he says that there are certain items that we must do, that we have to do, before we adjourn, that is the final sword of Damocles that he has hanging over the head of the Senate. Everybody wants to go home. That 71-to-13 cloture vote this morning is not a cloture vote. It is an I-want-to-go-home vote. That is what it is.

There are not that many people who want to support that energy tax bill. In fact, if I might say, Mr. President, the energy tax bill we are talking about and acting on today is far inferior to the one that the Senate has already passed, the one authored by the distinguished Senator from Colorado (Mr. HART) that is over in the House right now, that will become a part of the energy package in the House if this one does not get over there in time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ABOUREZK. That is the tax bill the Congress ought to act on, not this one, because this one increases business tax credits. There are a lot of nice little goodies in here. They are over here unbolting the Capitol dome right now waiting for final action so they can carry it off. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, out of his tender and merciful magnanimous heart will the Senator yield for a question?

Mr. ABOUREZK. On the distinguished majority leader's time.

Mr. ROBERT C. BYRD. That is against the rules. It would be against the rules for the Senator to yield on my time to ask him a question.

Mr. ABOUREZK. Sometimes the timekeeper does not follow that rule. I just want to make it clear.

Mr. ROBERT C. BYRD. Will the Senator yield for a question? Does he not agree with me that when he says I am contributing to the dilatory tactics, that had there not been a rollcall vote a quorum would not yet have been established, and that a rollcall vote is necessary to do that?

Does he not also agree with me that the reason he did not ask for the rollcall vote was because he wanted to put the majority leader in the position of having to do it so that the distinguished Senator from South Dakota then could claim that it was the majority leader who asked for the rollcall and not he? He would not have thought of doing it. Therefore, he is playing a very classical piece, a piece of virtuosity, in this drama, and would he not also agree with me that when he says that if——

Mr. ABOUREZK. The answer to the first question is, no. [Laughter.]

Mr. ROBERT C. BYRD. That if the Senate would act on the energy tax conference, it would not have anything left to do, which is what he says, would he not agree with me that if the Senate disposes of the energy tax conference, it must immediately vote on the cloture motion on the aircraft noise bill, thus giving the Senate additional work to do?

Mr. ABOUREZK. If I might respond to that, Mr. Leader——

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. If we did proceed—I have taken that into consideration—if we proceed to the aircraft noise bill, there would be more votes on that one than there would be on this one.

Mr. ROBERT C. BYRD. Would the Senator not agree with me, as he just has, that in addition to that Senate business the Senate would have to conduct if the energy tax conference report was disposed of, there are several other conference reports, one of which the distinguished Senator from Wisconsin is patiently waiting to call up at his desk at the moment?

Mr. ABOUREZK. May I respond to that?

Mr. ROBERT C. BYRD. Yes.

Mr. ABOUREZK. I would be very happy during the pendency of this energy tax bill to not object if anybody wanted to bring up a conference report, such as the Senator from Wisconsin. In fact, I think it is the majority leader who objected to his bringing one up.

Mr. ROBERT C. BYRD. Would the Senator not also agree that to set this business aside to take up another conference report immediately upon the disposition of that conference report, the vote on the motion to invoke cloture on the next item would occur under the rule, and this item would thereby be set aside, thus pleasing the Senator from South Dakota immensely?

Mr. ABOUREZK. No; we could do it all by unanimous consent and bring this back for consideration.

Mr. ROBERT C. BYRD. But would the Senator not also agree that unanimous consent could not be gotten with one objection?

Mr. ABOUREZK. I agree with that.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. ABOUREZK. I do not know who would object.

Mr. DECONCINI. Mr. President, will the Senator from South Dakota yield?

Mr. ROBERT C. BYRD. The Senator just heard that I object to that, and I do so respecting the Senator from Arizona. If we are going to have a filibuster let us play it by the rules. It takes unanimous consent for a Senator to ask the Senator from South Dakota a question on the interrogator's time.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that the Senator from Arizona may ask a question on his own time.

Mr. ROBERT C. BYRD. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. I would urge the Senator from Arizona to ask a question on the time of the Senator from Arizona. That is the way the rule goes.

Mr. DECONCINI. A parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry?

Mr. ABOUREZK. I yield the floor.

Mr. DECONCINI. Mr. President, I would like to comment to the distinguished Senator from South Dakota. He has indicated that the last cloture vote is a vote to go home, and who knows what was in the minds of each Senator. But it certainly was in my mind to go home, as well as to cut off the debate. I think the energy bill has been debated, the energy plan and program of the administration and what Congress has done have been debated, thoroughly, and I think it is something we could do and do with great credit to this country, to go home.

I would hope the Senator from South Dakota might join me in doing a favor to the Nation and passing this legislation or defeating it, and going home. There are a lot of Senators here who need to get home for campaign purposes, and that is our democratic way, to be able to campaign and meet your adversary on the stump.

We have been here a long time, and it is not going to get easier, and to delay this matter and not have a vote on it one way or the other, I do not think is in the best interests of the Nation. I would implore the Senator from South Dakota to let us have a vote on this matter, up or down, and proceed to the rest of the issues before us, so that in fact we can adjourn today and go home, or go wherever we want to.

Mr. ABOUREZK. Will the Senator from Arizona yield for a question?

Mr. DECONCINI. On your time.

Mr. ABOUREZK. I gave up the floor.

Mr. PROXMIRE. Objection.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that no business has been transacted since the last quorum call.

Mr. ABOUREZK. Mr. President, I seek recognition.

Mr. ROBERT C. BYRD. Regular order, Mr. President.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from South Dakota will state it.

Mr. ABOUREZK. Has there not been a unanimous consent request objected to since the last quorum was established?

Mr. ROBERT C. BYRD. Mr. Prcsident, that does not constitute the transaction of business in a cloture situation.

The PRESIDING OFFICER. Under a normal situation, that would constitute the transaction of business. However, under the precedent of October 3, 1977, the Senate decided that when it is operating under cloture, an attempt to create certain business for the purpose of suggesting another quorum call is not in fact business, and a point of order will lie.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Has the Chair determined that there is quorum present in the Chamber at this point?

The PRESIDING OFFICER. A quorum has been established by the last vote.

Mr. ABOUREZK. May I ask the Chair to respond to my inquiry? Has the Chair determined by count that at this time there is a quorum present in the Chamber?

Mr. ROBERT C. BYRD. Mr. President, that is not required of the Chair.

Mr. ABOUREZK. Mr. President, I do not yield.

The PRESIDING OFFICER. The Chair will observe that it is not required that the Chair count the Senators to establish a quorum. The quorum was established by the last rollcall vote, and continues.

Mr. ABOUREZK. Will the Chair repeat that ruling? I understood it to be different than that. Is the Chair changing his ruling?

The PRESIDING OFFICER. The Chair is not changing its ruling. It is the Chair's option to count the Senators.

Mr. ABOUREZK. I appeal the ruling of the Chair, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, this was not a ruling of the Chair. It was an expression of the opinion of the Chair. No point of order was made on which the Senator can appeal.

The PRESIDING OFFICER. The Senator made a parliamentary inquiry, and the response to a parliamentary inquiry cannot be appealed.

Mr. ABOUREZK. Mr. President, I make the point of order that a quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, the Senator does not have the floor to suggest the absence of a quorum.

QUORUM CALL

Mr. ABOUREZK. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Why is the clerk calling the roll? The Chair does not have the floor to suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from South Dakota suggested the absence of a quorum.

Mr. ROBERT C. BYRD. I beg the Chair's pardon.

The call of the roll was resumed, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 20 Leg.]

Abourezk	Glenn	Muskie
Baker	Gravel	Nunn
Biden	Griffin	Pearson
Bumpers	Hatch	Proxmire
Byrd, Robert C.	Hatfield, Paul G.	Ribicoff
Cannon	Helms	Sasser
Cranston	Laxalt	Talmadge
DeConcini	McIntyre	Thurmond
Dole	Melcher	Wallop
Ford	Metzenbaum	Weicker

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Texas (Mr. BENTSEN), the Senator from Virginia (Mr. HARRY F. BYRD Jr.), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES) is absent attending the funeral of Congressman Goodloe E. Byron.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The result was announced—yeas 76, nays 1, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—76

Abourezk	Biden	Case
Anderson	Brooke	Chafee
Baker	Bumpers	Church
Bartlett	Burdick	Clark
Bayh	Byrd, Robert C.	Cranston
Belimon	Cannon	Culver
Danforth	Jackson	Randolph
DeConcini	Javits	Ribicoff
Dole	Johnston	Riegle
Durkin	Kennedy	Roth
Eagleton	Laxalt	Sasser
Ford	Leahy	Schmitt
Glenn	Lugar	Schweiker
Gravel	Magnuson	Sparkman
Griffin	McGovern	Stafford
Hansen	McIntyre	Stennis
Hart	Melcher	Stevens
Hatch	Metzenbaum	Stevenson
Hatfield, Mark O.	Morgan	Stone
Heinz	Muskie	Talmadge
Helms	Nelson	Thurmond
Hodges	Nunn	Wallop
Hollings	Packwood	Williams
Humphrey	Pearson	Young
Inouye	Pell	Zorinsky
	Proxmire	

NAYS—1

Weicker

NOT VOTING—23

Allen	Goldwater	Matsunaga
Bentsen	Haskell	McClure
Byrd, Harry F., Jr.	Hatfield, Paul G.	Moynihan
Chiles	Hathaway	Percy
Curtis	Hayakawa	Sarbanes
Domenici	Huddleston	Scott
Eastland	Long	Tower
Garn	Mathias	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is present.

Mr. ROBERT C. BYRD. Mr. President, last October, the Senate decided—may we have order in the Senate?

The PRESIDING OFFICER. May we have order, please?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, last October, the Senate decided that when it is operating under cloture, the Chair is required to take the initiative under rule XXII to rule out of order all dilatory motions, including calls for a quorum, when it has been established by a quorum call or a rollcall that a quorum is present and the Chair's count reaffirms that a quorum is present.

Mr. President, I ask that the Chair enforce that precedent.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Under that parliamentary ruling which took place last year, during the time the Vice President was in the chair and refused to recognize Senators who were seeking recognition and recognized only the distinguished majority leader——

Mr. ROBERT C. BYRD. Will the Senator yield? That ruling—this was the decision of the Senate. This was the decision of the Senate.

Mr. ABOUREZK. If I may continue, Mr. President, my question on that decision of the Senate and that ruling——

The PRESIDING OFFICER. The Chair would like to advise that the ruling was made before the incident described.

Mr. ABOUREZK. It was during the same period of time, though.

The PRESIDING OFFICER. Five days earlier.

Mr. ABOUREZK. Within a week.

The PRESIDING OFFICER. There is a precedent for such a ruling.

The Senator from South Dakota.

Mr. ABOUREZK. The precedent is that under the ruling or the decision of

the Senate, once a quorum has been established by a vote or a quorum call, how long is that good for? How long does that stick? If the Chamber empties out immediately after a vote or immediately after a quorum is established, under the rules of the Senate, we cannot conduct business unless a quorum is present. How long is that quorum good for?

The PRESIDING OFFICER. The quorum provision is in the Constitution, not under the rules.

Mr. ABOUREZK. I did not understand the Chair.

The PRESIDING OFFICER. The quorum provision is in the Constitution, not the rules.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is the time the Parliamentarian is advising the Chair charged to me?

The PRESIDING OFFICER. It is being charged to you, inasmuch as you raised the question. We will try to speed it up.

Mr. ABOUREZK. Would it be possible for the Parliamentarian to speak faster, or charge it against somebody else?

The PRESIDING OFFICER. I have two ears, but when two people are speaking, I cannot hear words.

Mr. ABOUREZK. I reserve my time.

The PRESIDING OFFICER. As long as the Chair can observe a quorum in the Chamber, the precedent is upheld.

Mr. ABOUREZK. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is the Chair the final authority on the count so far as the quorum is concerned, or is there another way to determine besides the Chair's observation, in the event the Chair might be in error?

The PRESIDING OFFICER. Under the precedent, the Chair makes that observation.

Mr. ABOUREZK. Only the Chair?

The PRESIDING OFFICER. Only the Chair.

Mr. ABOUREZK. So if there are two Senators in the Chamber and the Chair says, "Yes, we have a quorum," there is no way to contest that?

Mr. ROBERT C. BYRD. Mr. President, the Chair has already answered the question.

Mr. ABOUREZK. Mr. President, I do not yield at this point.

Mr. ROBERT C. BYRD. Mr. President, the next question will be if only one Senator is in the Chamber, and then three. The Chairman answered the question. I hope the Chair——

Mr. ABOUREZK. Mr. President, I believe the Chair will be able to make an independent decision with the help of the Parliamentarian.

The PRESIDING OFFICER. Any decision the Chair makes is subject to appeal.

Mr. ABOUREZK. I thank the Chair. I reserve the remainder of my time.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I ask unanimous consent to bring up the conference report on S. 3084, the housing bill, and I hope the majority leader will permit that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Several Senators addressed the Chair.

SEVERAL SENATORS. Reserving the right to object——

Mr. PROXMIRE. Mr. President, this bill that was approved by the Senate——

Mr. ROBERT C. BYRD. Just wait a minute.

Mr. PROXMIRE. A decision was given by the Chair.

Mr. ROBERT C. BYRD. The Senator from Wisconsin can shout until the crack of dome, but let me say this——

Mr. PROXMIRE. So can the Senator from West Virginia. The Chair gave the decision.

Mr. ROBERT C. BYRD. Who does the Chair recognize?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. PROXMIRE. Not on my time.

Mr. ROBERT C. BYRD. No; it is on my time.

Mr. President, let us quite playing games.

The Senator from Wisconsin is against this conference report, I assume, is he not?

Mr. PROXMIRE. I am for the conference report I am trying to call up.

Mr. ROBERT C. BYRD. Of course, but against the energy tax conference report?

Mr. PROXMIRE. Yes, indeed.

Mr. ROBERT C. BYRD. To set this conference report aside, the way that request was phrased, would mean that upon the disposition of that conference report, the Senate would immediately vote to invoke cloture.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. May we have order? May we have order?

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I hope I may have the attention of all Senators so that this may not be misunderstood.

If the Chair had acceded to the request by the distinguished Senator from Wisconsin, who is opposed to the energy tax conference report, it would have meant that, upon the disposition of that conference report which the distinguished Senator from Wisconsin wishes to call up, the Senate would immediately proceed to vote on the motion to invoke cloture on the aircraft noise bill, thus setting aside the energy conference report until the aircraft noise bill was disposed of, if cloture had been invoked on that motion.

So let us not be misled by the innocent-sounding unanimous-consent request.

I do not cast any reflection on the Senator from Wisconsin. His request was legitimate. But Senators must listen to the request and understand the result that would follow in its train in the event the request is acceded to.

It is for that reason I objected to the request.

Furthermore, I know that the Senator from South Dakota would gleefully accept the decision of the Senate to allow the Senator from Wisconsin to proceed with his conference report without a time limitation on it, realizing that by so doing the Senate would be accommodating the Senator from South Dakota and others who wish to unduly delay the Senate's action on the energy tax conference report.

That explains my objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. PROXMIRE addressed the Chair.

Mr. ROBERT C. BYRD. I object.

Mr. PROXMIRE. The Chair ruled. It was very clear.

The PRESIDING OFFICER. Objection is heard.

Mr. PROXMIRE. And that was it, the ruling was clear.

The PRESIDING OFFICER. The Senator from West Virginia was seeking recognition at the time I hastily acted on the request.

Objection is heard.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Well, Mr. President, I think it was pretty clear to all Senators the Chair had made a ruling.

He said, "Without objection, it is so ordered," and he said it very clearly and enunciated each syllable and we all understood what he said.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. PROXMIRE. The great majority leader also heard it and he knows the ruling was made.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. PROXMIRE. Yes.

Mr. ROBERT C. BYRD. Now, the Senator knows, the distinguished Senator from Wisconsin always knows, that the Presiding Officer we now have in that chair is one of the most efficient Presiding Officers that we have in the Senate. He knows that that Presiding Officer does not mince words and he does not take minutes——

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Is the Senator not going to allow me to continue——

Mr. PROXMIRE. On the Senator's time.

Mr. ROBERT C. BYRD (continuing). To defend the Chair?

Mr. PROXMIRE. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Well, Mr. President, the distinguished Presiding Officer who now sits in the chair is one who presides over this Senate—by the way, Plato thanked the gods for having permitted him to live with Socrates. I thank the benign hand of destiny that has permitted me to live and serve in the Senate at a time when the distinguished Senator from Minnesota, who now presides over this Senate with a degree of skill and dignity and efficiency that is so rare in these days, likewise serves in the Senate.

I think that now we have come to the report card season, I would give to the

Senator who now presides over the Senate, WENDELL ANDERSON, a grade A plus, plus, plus, on his presiding skill.

[Applause.]

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I assume that reference to Plato and benign destiny and the supreme competence of the distinguished Senator from Minnesota was on the majority leader's time?

The PRESIDING OFFICER. Yes.

Mr. PROXMIRE. I thank the Presiding Officer, and I concur wholeheartedly, he is a great Senator. He is going to be reelected. He is going to be here for a long time, and he should be. He will help not only Minnesota, but also Wisconsin.

[Laughter.]

Mr. PROXMIRE. Now, Mr. President, I voted for cloture, and I think we ought to get on with the business of the Senate. But I think we have to recognize what is behind this, if we dispose of the business before us.

The distinguished Senator from Oregon conducted one of the most skillful filibusters, and he just started. I remember after he had held the floor for 1½ hours, it was last night, he was on page 10 of a 140 page document, and that was just the first volume.

Now, it was obvious, knowing the stamina and ability of the Senators from Oregon, whether they are Morse or HATFIELD, I know he could have held us for weeks.

So there is no way, if we finish this bill that we are discussing now, this energy tax conference report, there is no way we will move ahead with other business. We will move on to the McGarry problem and then the aircraft noise problem. So it is not a matter of getting the Senate out sooner.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. PROXMIRE. I yield the floor, Mr. President.

Mr. ROBERT C. BYRD. I just wanted to correct an error the Senator made.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President. I have been listening to the colloquy back and forth. Does the distinguished majority leader have a question he would like to propound, on my time?

Mr. ROBERT C. BYRD. Yes.

Mr. President, does not the Senator agree with this: In his litany of measures and matters that would be coming up before the Senate, he indicated that the nomination of Mr. McGarry would come before the aircraft noise bill. That is an error. Upon disposition of the conference report on energy—the rule says that when cloture is invoked on a matter, that matter shall remain the business before the Senate until it is disposed of.

If the Senate were to accede to the request of the distinguished Senator from Wisconsin, that the Senate proceed to the consideration of the conference report, which he now so patiently awaits calling up at his desk, ipso facto, that would constitute a disposition of the energy tax conference report, because immediately the motion to invoke cloture on the aircraft noise bill would come before the Senate.

If that motion were invoked and debate would ensue on that measure until disposed of, it would constitute a disposition of the energy tax conference report.

Furthermore, the McGarry nomination would not again come before the Senate until both of those matters had been disposed of, one way or the other, on which cloture would have been invoked.

Does the Senator not agree with me?

Mr. LEAHY. Mr. President, it makes eminent good sense to me. I have learned two things very quickly here—or one thing that I find in matters of such intricacy. Instead of relying on my vast experience of 3½ years in this body, I rely especially on the experience of two Members of the body—the distinguished senior Senator from Vermont (Mr. STAFFORD) and our distinguished majority leader. What he says makes eminent good sense.

Mr. DURKIN. Mr. President, will the Senator from Vermont yield for a question?

Mr. LEAHY. I yield for a question.

Mr. DURKIN. Does the Senator not think that if we do not move on, the Senator who is the present occupant of the chair will never get home and not have a chance to be reelected?

Mr. LEAHY. I have stated time and time again, on the floor of the Senate, that I would much prefer that we spend far less time in session, far less time in Washington, far more time in our home States, where people have a right to expect us to be, where they have a right to see us, where we could live in a way in which we are more representative of the people who have elected us, instead of being in the heady insulation of Washington, D.C. If ever there was an area that has insulated itself from the rest of the country, this is the area.

I think that, unfortunately, the country gets all the legislation it pays for. I think they would feel a lot better off if they did not begin to get all the legislation they pay for, and we would be better off if we spent far less time here.

It is like the person who once spoke to a Senator who had bragged about having a 95-percent attendance record and only a 5-percent absentee record. He said to the Senator that with his voting record, the country would be far better off had he been present 5 percent of the time and absent 95 percent of the time. Many people in the country feel that we would serve them well if we did that.

I hope we get back soon.

I yield the floor.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, let me phrase the unanimous-consent differently. I am not sure whether this would accomplish what the majority leader would like to propose, but perhaps it would.

I ask unanimous consent that I may proceed on the conference report as in legislative session, the conference report being the housing conference report to which I refer.

Mr. ROBERT C. BYRD. No. Mr. President, I would have to object to that phrasing.

The PRESIDING OFFICER. The Senate is in legislative session.

Mr. PROXMIRE. Mr. President——

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. The point I was trying to make when I was speaking last was that the talk we are indulging in now and all the quorum calls is to get attention, so that we can have Senators on the floor when we are talking. I think that is a legitimate reason for quorum calls. This action on our part is not keeping the Senate from adjourning, is not keeping Senators from going home.

If we were not doing that—and the Senator from West Virginia is right: The aircraft noise bill would be next, and there would be a long filibuster on that. Many people feel it is a subsidy to the big airlines and is inflationary. That is the feeling of some people, and they have indicated that they would talk about it and would delay us for a while, certainly for more than a day, if that were necessary.

If that were disposed of, then on the McGarry matter, I think the majority leader is right in persisting on giving Mr. McGarry an opportunity to be appointed. But in order to achieve the end which he legitimately espouses, and which he has indicated he is going to fight hard for—and he has done a good job in doing so—it will be necessary for us to stay a long time. So he can delay the Senate.

Any action here is not keeping Senators from going home nor keeping the Senate from adjourning.

Furthermore, as we have been reminded, we cannot go home until we act on the tax bill, and that is in conference; and we are fortunate that we may have it before us in the early evening. At that time, there might be a different attitude. But so long as we are speaking now under circumstances——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield the floor.

Mr. ROBERT C. BYRD. I simply say that this conference report has to be acted on first.

Mr. PROXMIRE. Mr. President, whether this conference report has to be acted on first or has not to be acted on first is up to the majority leader and his attitude toward this conference report and how long we are going to stay here.

Mr. ROBERT C. BYRD. Mr. President——

Mr. PROXMIRE. I will not yield at the present time.

Mr. ROBERT C. BYRD. Mr. President——

Mr. PROXMIRE. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President——

Mr. PROXMIRE. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, that decision is not up to the majority

leader. The Senate invoked cloture on the energy tax conference report. If the Senator will read rule 22, he will find that the Senate can go to no other business unless by unanimous consent, until that matter has been disposed of.

Mr. PROXMIRE. Mr. President, it is perfectly obvious that if the majority leader would ask unanimous consent to void the cloture action, which he has done within the last couple of days on another bill, the Senate would give consent to that. I may be wrong about that, but I think that with his prestige, influence, and authority, he could achieve that.

Mr. President, let me get to the matter under consideration here. I am amazed that, with only a matter of hours ahead of us before the Senate hopes to adjourn sine die, we are taking up the time of Members to debate a wholly unnecessary piece of legislation.

The Senate has already passed an energy tax bill. We did so on August 23, when we amended H.R. 112, the proposal offered by Senator HART to allow tax credits for certain residential energy conservation and alternative energy source expenditures. Senator HART's amendment was a basically sound measure. It was designed to increase energy conservation in the home. It was not a perfect bill. In fact, at the time the amendment was adopted, I expressed stronge reservations about an insulation provision.

However, that was far preferable to the grab bag of giveaways, to opening up the Treasury to the big corporations and the big oil companies, far preferable to the conference report before us now.

H.R. 112 has passed the Senate. That was the one amended by Senator HART's amendment. It is already part of the omnibus energy package that shortly will be considered by the House of Representatives. H.R. 112 is substantially similar to title I of the energy tax package that is now before the Senate. It differs from the bill before us today, primarily in that it gives tax credits to the homeowners who most need it, and does not offer additional tax credits to businesses above and beyond those which are already available.

As many Members of this body know, I have serious reservations about the need in general for additional tax credits to promote energy conservation at a time when energy prices are already high enough to make conservation pay off in its own right.

I will agree wholeheartedly with respect to using the automobile, and so forth. But certainly it is high enough to make people economize and they are economizing. In industry we have substantial conservation and there is some evidence that there has been substantial conservation with respect to home heating.

Furthermore, I was willing to support the residential solar and conservation credit, since many people have counted on the credit for months now and a good case has been made that the solar credit at least may actually help encourage the installation of additional solar equipment.

But I do not feel, Mr. President, that there is any way in which I can in good conscience support the unnecessary costly tax expenditures represented in this version of the energy tax measure.

As I say, we already have an energy tax bill in the House omnibus package. That is the bill that will do the most good. That is the bill the American people want. That is the bill which the Senate has already passed the unanimous consent and will give the credit to those who need it most.

The bill before us today actually reduces the credit available to homeowners and gives the additional tax credits to businesses without providing any significant energy savings.

In fact, I think this is an appropriate point to quote the distinguished chairman of the Finance Committee, Senator LONG, on this bill. In an article published by the Washington Post a couple days ago Senator LONG is quoted as saying:

> This bill will provide some energy savings, but not much.

That was the chairman of the Finance Committee.

Here we are allowing tax credits of nearly $1 billion where the chairman of the Finance Committee has acknowledged that the energy savings will be relatively very small.

Mr. President, I think that the Senate has already made it clear that it does not want another energy tax credit giveaway in 1978.

On August 23, when the Senate passed Senator HART's amendment to reward and encourage energy conservation by homeowners it rejected an amendment that would have tacked on all sorts of additional goodies, all sorts of additional costly provisions of the sort added by the bill today. That was less costly and less of a giveaway than the one just before us.

I think that any supporter of that bill will have to concede that that is the case.

The Senate tabled this amendment by a vote of 53 to 43. So in effect the Senate has acted against what we have here previously and by a decisive vote.

As I say, those provisions were less of a giveaway than we have in the bill before us. Yet here we are again in the waning hours of the 95th Congress wasting time on this same sort of giveaway scheme to benefit a few big oil companies and other big taxpayers at the expense of the average taxpayer.

Mr. President, obviously this legislation contains a wealth of tax credits far beyond those that will be needed to promote conservation at a time when the high price of energy alone is enough to do the job effectively. We have already passed a bill that is before the House and that will do as effective a job as can be done. We do not need this bill. We are wasting our time on it. We should go with the House bill and be done with it. And, of course, the House bill will be acted on within a few hours, there is every indication, and then we can be assured that we will have the kind of energy tax bill we should have.

Mr. President, there are four Senators in the Chamber in addition to the Presiding Officer, Mr. ANDERSON. That is five Senators. Under these circumstances, I suggest the absence of a quorum; 5 is not 51.

Mr. CURTIS. Mr. President, will the Senator yield first?

Mr. PROXMIRE. No. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, why does not the Senator yield to the Senator from Nebraska for a question?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. PROXMIRE. I yield the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. The last rollcall showed that a quorum was present, and I ask the Chair to enforce the ruling of last October, to enforce the decision of the Senate.

The PRESIDING OFFICER. There is obviously not a quorum present at this time.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. All right.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. PROXMIRE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The second assistant legislative clerk resumed and completed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 21 Leg.]

Abourezk	Curtis	Nelson
Anderson	Hatch	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Melcher	Roth

The PRESIDING OFFICER. A quorum is not present. The clerk will call the roll of the absent Senators.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUM-

PHREY), the Senator from Louisiana (Mr. LONG), and the Senator from Florida (Mr. STONE) are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES), is absent attending the funeral of Congressman Goodloe E. Byron.

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BARTLETT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 79, nays 2, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—79

Abourezk	Gravel	Moynihan
Anderson	Griffin	Muskie
Baker	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Hatch	Packwood
Bentsen	Hatfield,	Pearson
Biden	Mark O.	Pell
Brooke	Hatfield,	Proxmire
Bumpers	Paul G.	Randolph
Burdick	Heinz	Ribicoff
Byrd,	Helms	Riegle
Harry F., Jr.	Hodges	Roth
Byrd, Robert C.	Hollings	Sasser
Cannon	Inouye	Schmitt
Case	Jackson	Schweiker
Chafee	Javits	Sparkman
Chiles	Johnston	Stafford
Church	Kennedy	Stennis
Clark	Laxalt	Stevens
Culver	Leahy	Stevenson
Curtis	Lugar	Talmadge
Danforth	Magnuson	Thurmond
DeConcini	Matsunaga	Wallop
Dole	McGovern	Williams
Durkin	McIntyre	Young
Eagleton	Melcher	Zorinsky
Ford	Metzenbaum	
Glenn	Morgan	

NAYS—2

Hayakawa	Weicker

NOT VOTING—19

Allen	Haskell	Percy
Bartlett	Hathaway	Sarbanes
Cranston	Huddleston	Scott
Domenici	Humphrey	Stone
Eastland	Long	Tower
Garn	Mathias	
Goldwater	McClure	

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. PROXMIRE. Mr. President, first let me say about the quorum call that we had, as many Senators have pointed out in the past, particularly I recall the distinguished Senator from Louisiana (Mr. LONG), it is perfectly proper and legitimate for a Senator at any time to ask for a quorum call because, after all, you speak here not because you want to hear your echo, but because you want to persuade your colleagues.

Some colleagues may listen on the squawk boxes back in their offices, but we are supposed to listen to each other on the floor; and when a Senator suggests the absence of a quorum because only five Senators are here—as was the case before I suggested the absence of a quorum the last time—it seems to me that is perfectly proper and legitimate. Senators ought to be heard.

That is almost true again now. I suppose if I were to suggest the absence of a quorum again, it would be dilatory, but when Senators are not present, I feel that a Senator not only has a right, he has a duty, if he believes in what he is saying, and that what he is saying is worth listening to, to attempt to persuade his colleagues, and to call for a quorum so that he has some chance of having a few more Senators present.

Mr. President, I indicated that the reason why I was opposed to this bill was because it is a billion-dollar giveaway that accomplishes no significant energy conservation. I quote the chairman of the Finance Committee to that effect. I also point out that we have already passed an energy tax bill that is now in the House of Representatives, that was voted on overwhelmingly by the Senate, supported by this body, and is up for consideration over there and will be acted on very shortly, which will provide the energy tax legislation we need.

This is the giveaway part of it, and that is what those of us who were opposed to this energy tax bill saw, and that is why we think it is proper and desirable that we try to bring our case before our colleagues.

In that connection, Mr. President, we should be aware that this is a part of what we discussed earlier this week as a tax expenditure, that is, a reduction in the taxes of some taxpayers, corporations, and individuals, in order to try to secure some kind of social action which we think is in the common good. That is the justification for it. That is, some taxpayers are taxed at a lower rate; they get a benefit, and sometimes a tremendous benefit, compared to others, because we feel this provides an incentive.

In doing that, I think we should be aware of the history and effect of incentives, and how ineffective tax expenditures are in accomplishing the goals they are designed to achieve.

A few years ago, the man who is considered the outstanding tax expert on tax policy in the country was Stanley Surrey. He was a professor of public finance at Harvard, a very distinguished and able member of the academic community, widely recognized as perhaps the preeminent tax expert in the country, and he came down and served for several years in the Treasury Department as their chief on tax policy.

I do not know of anyone who has a finer reputation for objectivity and ability and expertise than Mr. Surrey. He saved this country billions of dollars in tax giveaways by the advice he gave the Senate and the opportunity he gave us to rely on a sound, thoughtful, and fair construction of our very complicated tax code.

Mr. Surrey has written on tax incentives. He has written an article published by the Tax Institute of America, and I would like to quote from that article.

Mr. President, as I look around the room, I now see that there are no Republican Senators present, and there are four Democrats. I will not suggest the absence of a quorum, although I think that anybody who can add and subtract knows that 4 is not 51. We had a rollcall only a very few minutes ago. I think it might be construed as dilatory, but I certainly reserve my right to suggest the absence of a quorum shortly if it is clear and obvious to everyone present that there is no quorum present.

Mr. President, Mr. Surrey writes:

> We can now consider some of the virtues and defects generally claimed for tax incentives and, turning the coin over, for direct expeditures. This consideration in general will be in terms of the social programs for which incentives are generally urged. The first level of consideration relates to virtues claimed for tax incentives, but, in the light of the above background, falsely claimed.
>
> Encouragement to Private Sector to Participate in Social Programs. Frequently a particular tax incentive is urged on the ground that the particular problem to be met is great in magnitude and that the government must assist in its solution. The assistance is needed as an incentive to enlist the participation of the private sector—generally business—in the solution.

Mr. President, these are not my words or the words of somebody on my staff. These are the words of Stanley Surrey who, as I pointed out, is eminently qualified to speak on this and probably the outstanding tax expert we have had in our Government for a long time, certainly one of the outstanding ones we have had in our Government in the last 25 years.

Mr. ABOUREZK. Will the Senator yield briefly?

Mr. PROXMIRE. I yield for a question.

ORDER OF PROCEDURE

Mr. ABOUREZK. I know the Senator has a conference report that he wants to call up on the housing bill. I know the leader is concerned that it might change the parliamentary situation if the conference report is called up. Might I suggest, if the leader be agreeable, that under a unanimous consent we make the request that we allow the conference report to come up and then just revert back to the existing situation and nothing would be hurt by it. We would get the business of the Senate done, thereby helping out a great deal.

Mr. PROXMIRE. Mr. President, I yield for that request.

Mr. ABOUREZK. I suggest it to the leader. I believe it is the prerogative of the leader to do that, or the manager of the conference report, either one.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may bring up the housing conference report, with no prejudice to action on this bill which is before us now, and at the end of the action by the Senate on that conference report, that we resume the consideration of the conference report we are discussing at the present time.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, if the Senator really wants to bring up the conference report, I will propose the kind of request that will protect the Senate, and will protect the energy tax report, and allow the Senate to dispose of the matter.

Mr. PROXMIRE. I yield the floor and

ask the distinguished majority leader to proceed.

Mr. ROBERT C. BYRD. I will be delighted to.

The distinguished Senator from Kansas wants to check it.

Mr. PROXMIRE. May I say I have checked it with all the members of the committee, and the leadership on that side knows about it also.

Mr. DOLE. All right.

Mr. PROXMIRE. Mr. President, I will not suggest the absence of a quorum while we are waiting.

I do not want to impose on the Senate unnecessarily. I very much appreciate the attitude of the Senator from West Virginia because we do want to take up this conference report and dispose of it. In conference with the chairman of the Banking Committee in the House just within the last 15 minutes, or during the last rollcall, he told me how anxious they were to have us act so it can be acted upon. It is an extremely important conference report.

Mr. RIEGLE. Will the Senator yield on my time?

Mr. PROXMIRE. Mr. President, I yield.

Mr. RIEGLE. I simply wanted to take account of the housing conference report and thank the Senator from Wisconsin for his leadership early on as the chairman of our Banking, Housing, and Urban Affairs Committee, in constructing the housing bill. As I have had a chance to take a look at the bill that has come out of the conference, with money in it for the cities and the other new urban initiatives, amendments which I offered on the floor and which the Senator protected in conference, I appreciate it; also the 312 money in the bill for multifamily rehabilitation efforts in urban centers is another important new initiative.

Mr. PROXMIRE. Mr. President, I want to make sure that the timekeeper knows this is on the time of the Senator from Michigan and not the time of the Senator from Wisconsin.

Mr. RIEGLE. I indicated before starting I wanted the time charged to me.

Mr. ROBERT C. BYRD. Is the distinguished Senator from Michigan asking a question of the Senator? If he is not, I would have to object.

Mr. RIEGLE. I am about to finish. I can put it in the form of a question. I simply wanted to compliment the Senator for his efforts and to say it is a good conference report and I, for one, appreciate it.

The PRESIDING OFFICER (Mr. BUMPERS). What is the will of the Senate?

Mr. ROBERT C. BYRD. I suggest that the Chair put the question.

Mr. PROXMIRE. Mr. President, it is my understanding that the Senator from Kansas is asking the Senator from New Mexico (Mr. SCHMITT), who is very interested in this conference report, to be present. In order for him to be able to come to the floor, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, there has been no business transacted since the last call, which showed there was the presence of a quorum.

Mr. PROXMIRE. Mr. President, I make the point of order that there are only seven Senators on the floor, and no matter how you count them, I think we learned in the first, second, or third grade that the arithmetic is that seven is not 51. We do not have a quorum present. There is no way that a quorum can be present—now and eighth Senator has come into the Chamber—when we declare that eight Senators constitute a quorum. It does not.

Mr. ROBERT C. BYRD. I cite page 633 of the precedent:

> Business must intervene before a second quorum call or between calls, or a quorum call is not in order when there has been no business transacted since the previous call if a point of order is made.

The PRESIDING OFFICER. The majority leader's point is well taken. There has been no business transacted.

Mr. PROXMIRE. Mr. President, the Parliamentarian indicated to me many times in the past that there is discretion here, of course, but some time has elapsed. We have discussed the possibility of taking up the conference report. The distinguished majority leader indicated he would consider putting in a unanimous-consent agreement to that effect, or he may do so. We have discussed whether or not another Member can come to the floor. Under these circumstances, Mr. President, with the obvious fact that we have less than 10 Senators on the floor, we obviously do not have a quorum, and I once again renew my observation that a quorum is not present and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair feels that a quorum call would be dilatory since there has been no business transacted since the last quorum call.

Mr. ABOUREZK. Mr. President, I ask unanimous consent that 10 Senators constitute a quorum for the purpose of conducting business in the Senate.

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The question is on the conference report.

Mr. PROXMIRE. Mr. President, I have been informed that the distinguished Senator from New Mexico is willing to permit us to go ahead. I think there is no objection on the minority side. As I pointed out, it is a very important conference report. I hope the majority leader will bring it up.

Mr. President, I ask the majority leader if he will permit us to bring up the conference report. Because he is a master of the rules and he knows precisely what he wants to do to keep us on this particular conference report we are discussing at the moment, I ask him if he will make the unanimous-consent request that he would like to make.

Mr. ROBERT C. BYRD. Mr. President, nobody is the master of the Senate rules. Nobody has ever been a master of the Senate rules. Nobody ever will be.

Mr. President, I shall make the request a little later.

The PRESIDING OFFICER. The question is on the conference report.

Mr. PROXMIRE. Mr. President, I appreciate the cooperation of the majority leader. I know he wants to get this housing conference report out of the way. It is an absolutely vital conference report, not only for the substance it contains but also because many of the agencies which regulate housing and provide funds to permit the housing industry to operate depend upon the passage of this conference report. Without it, we would have an extremely difficult situation in the country. There could be an economic crisis in the housing industry. So I am grateful to the Senator for agreeing that he may call it up at a little later time. I am looking forward to that.

I understand that the only problem is making sure that the minority is able to check with everybody and clear it. I am happy to yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the distinguished Senator. That item is cleared on our calendar.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending energy tax conference report may be temporarily set aside for the purpose only of allowing the Senator to proceed to the consideration of the conference report on S. 3084, with the understanding that there be a time limitation on the conference report on S. 3084 of not to exceed 5 minutes overall; provided further that, at the conclusion of that 5 minutes, the Senator dispose of that conference report in its entirety, up or down, with no instructions allowed in case the conference report is rejected; provided further that the disposition of that conference report in itself would not result in the vote on the motion to invoke cloture on the aircraft noise bill; provided further that a call for the regular order at the conclusion of the 5 minutes would bring back before the Senate the energy tax conference report.

Mr. ABOUREZK. Mr. President, reserving the right to object just for the purpose of asking a question, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Under the terms of that consent request, if it were agreed to, would the parliamentary situation on the energy tax conference report change in any way? In other words, would the postcloture procedures be changed by virtue of this request, or would we return to the status quo, the existing parliamentary situation?

The PRESIDING OFFICER. The Senator has asked a far-reaching, generalized question. Could the Senator be more definitive in his question?

Mr. ABOUREZK. I do not know how to be more definitive than to ask, does the parliamentary situation that we are working under now change at all as a result of the request of the majority leader?

The PRESIDING OFFICER. The Senate, upon the expiration of the 5-minute period in the time agreement pursuant to the unanimous-consent request, would

return to the consideration of the present bill. We would refer back to the precise situation we are in now.

Mr. ABOUREZK. I thank the Chair.

Mr. PROXMIRE. Mr. President, reserving the right to object, and I do not think I will object, will the Senator permit—this is a complicated report. Would the Senator permit 10 minutes?

Mr. ROBERT C. BYRD. Oh, Mr. President, President Lincoln delivered the Gettysburg Address in 3 minutes. I should think 5 minutes is ample under the present circumstances.

I think the Senator should thank the majority leader——

Mr. PROXMIRE. I am grateful to the distinguished majority leader.

Mr. ROBERT C. BYRD. I should think he would thank the undistinguished majority leader for yielding to the compelling, persuasive plea of the Senator from Wisconsin, for allowing this conference report to come before the Senate, and to be so liberal as to suggest 5 minutes for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without, objection, it is so ordered.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS, 1978—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, I submit a report of the committee of conference on S. 3084 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. BUMPERS). The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. PROXMIRE. Mr. President, the conference committee on S. 3084, the Housing and Community Development Amendments of 1978, has completed its work.

S. 3084 was approved by the Senate on July 20 by a vote of 81 to 3. The Senate conferees were appointed on July 26; the conference committee began its work on August 15, and, after six sessions, completed its work on October 12.

The conference was marked by a sharp difference of viewpoints between the Senate and the House conferees. While I cannot report that the Senate maintained its position on all matters, I am satisfied that the Senate conferees did everything humanly possible to uphold Senate positions. The bill we are reporting is, I believe a reasonable compromise of the differences between the Senate and House bills.

The bill we are reporting preserves our basic housing and community development programs and, in a number of respects, makes significant improvements to them.

I am particularly pleased to report that this year's housing bill is not a budget buster. The bill the conferees are reporting authorizes a lower level of funding than the amount requested by the President. It also provides for less spending than did the bill the Senate carried into conference.

While I believe that we need effective and adequately funded housing programs, I believe the conferees acted in a prudent manner in providing spending authority in the Housing and Community Development Amendments of 1978.

The legislation approved by the conferees consists of eight titles covering: Community development, housing assistance, HUD program extensions, congregate services, rural housing, neighborhood reinvestment, neighborhood self-help, livable cities, and miscellaneous provisions.

Before summarizing these subjects, I would like to review very briefly several issues that delayed conference agreement.

The first of these was the House proposal for a one-House veto of regulations promulgated by the Department of Housing and Urban Development. A similar proposal was offered on the Senate floor and was rejected overwhelmingly, 65 to 29. The Senate conferees, accordingly, were strongly opposed to the House provision. In conference, the House yielded on the veto, and agreement was reached by establishing a procedure for a congressional review of HUD regulations. This, I believe, provides a reasonable compromise of a troublesome issue.

The second issue that divided the Senate and House conferees concerned the purposes of the community development program and the standard to be used by the Secretary in evaluating community applications for block grant funds.

I regard as particularly significant the revisions that the conferees made to the House proposal that would have changed the direction of the very popular CDBG program. The House amendment would have substantially altered the goal of the 1974 act, the development of viable cities through activities principally benefiting persons of low and moderate income, and would have reversed the basic policy initiated by Secretary Harris when she took office.

After considerable debate, however, the conferees decided to drop part of the House proposal and to alter the remaining part which dealt with the Secretary's authority to disapprove an application for funds in a way that supports Secretary Harris in her administration of the program.

The language finally agreed to make it clear that the Secretary, in determining whether an application should be disapproved on the basis of its proposed program, should look to the needs and objectives of the community viewed against the background of the primary objectives of the act. While communities would determine their development needs and objectives, and establish priorities for using Federal funds, the conferees agreed that the community's effort, in its CD program, must be directed toward the primary objective of the act expressed in section 101(c).

Under the new statutory language, the Secretary would be required to give careful attention to the extent to which low- and moderate-income persons will benefit from the activities proposed in a community's application.

The Secretary would review each application to determine whether the activities designated by the community in its 3-year plan are designed to achieve the overall objective of the CDBG program.

The Secretary could, according to the Statement of Managers, continue to require that all applicant communities develop a program which principally benefits low- and moderate-income persons, while meeting the community's needs and objectives.

The Secretary could also disapprove an application when she determines that the extent to which those activities benefit lower income persons is plainly inappropriate to the communities' needs and objectives.

The original House amendment would, I believe, have been a disaster. The compromise, I feel, reaffirms the primary objective of the act, and the authority of Secretary Harris to administer the program in accordance with the policies she has established.

A third issue that separated the Senate and House conferees was the amendment proposed by the House to limit the responsibility of communities seeking Federal housing and community development assistance to plan for housing needs of persons expected to reside in the community.

The House conferees felt very strongly that employment should be the sole factor in determining "expected to reside." Lengthy debate yielded the Senate a few concessions. Among these concessions was the acceptance of the principle, expressed in the amendment agreed to, that the "expected to reside" component of a community's housing assistance needs would be presumed to be met by the community being covered by HUD-approved State or regional housing opportunity plan, where such a plan has been accepted by a majority of the communities located within the plan's area of coverage. In such a case, the community's goals for housing assistance would be required to conform to the housing opportunity plan.

Additionally, the conferees reaffirmed the congressional commitment to pro-

mote fair housing opportunities, as provided for by the Fair Housing Act of 1968 and the Community Development Act of 1974.

The Senate bill also contained several provisions that were particularly troublesome for the House. A Senate provision that would have permitted cities not otherwise eligible for urban development action grants to become eligible if they contained "pockets of poverty" met sharp opposition from the House conferees. As a result, the conference report calls for a prompt study and recommendations for dealing with the problems of the cities not presently eligible for UDAG's. Another Senate provision dealing with interstate land sales exemptions also ran into trouble, with the result a compromise providing for a more limited exemption from the law's disclosure requirement. A third Senate provision that would have required HUD to roll back the reorganization it announced last year failed, despite several offers, to secure any House compromise.

A review of the housing bill will indicate why the conferees, despite the many required compromises, believe that the legislation is needed legislation. Title I of the bill, community and neighborhood development and conservation, would significantly strengthen Federal programs designed to conserve the Nation's older housing stock and upgrade its declining neighborhoods. The bill would revise FHA authority to insure rehabilitation loans, substantially expand the section 312 rehabilitation loan program, and revise it by encouraging its use in connection with multifamily housing and by targeting it more to lower income homeowners through the use of a higher interest rate for higher income borrowers, and broaden the scope of the urban homestead program.

Title II would authorize funding for the basic housing assistance programs, and for a program to increase personal security in publicly assisted projects. The title would also create a new program to improve the management of financially troubled projects, restore their financial stability, and maintain them for lower income residents.

Title III would extend and revise the basic mortgage insurance authorities of the Federal Housing Administration as well as the authority for continuing the Federal flood insurance, riot reinsurance, and crime insurance programs. Additional authorizations for various HUD programs would also be enacted under this title.

Title IV of the bill would create a new program to combine housing assistance for frail elderly persons with other services, such as meals and housekeeping, in order to assist them in maintaining substantial independence within their own residences, and thus avoid unnecessary placement in a more costly institutional setting.

Title V of the act would reauthorize a number of rural assistance programs of the Farmers Home Administration and increase authorizations for loans and/or grants for very low-income housing repairs, farm labor housing, mutual self-help housing and site acquisition, and technical, assistance and counseling. In addition, the research program is significantly expanded and its scope redefined.

Most important, the act would authorize a new program to assist low-income rural families who are unable to own a home, even with the existing interest subsidy available under the section 502 program, to own their own home. Assistance payments under this program would represent the difference between the cost of homeownership (principal, interest, taxes, insurance, utilities, and maintenance) and 25 percent of adjusted family income. The Secretary of Agriculture would be required to recapture all or a portion of the total assistance payments upon the disposition or nonoccupancy of the home.

The homeownership assistance program would serve those low-income families who are now living in woefully substandard housing in rural areas which are generally too remote from population centers to support multifamily rental housing or to attract competent sponsors of low-income housing projects. The bill would provide enough funding to assist about 16,000 of these families next year.

The bill would also significantly modify the farm labor housing program in order to make it more attractive and available to smaller farm operators.

Title VI of the act would authorize creation of the Neighborhood Reinvestment Corporation which would formalize and expand the experimental programs currently being conducted by the Urban Reinvestment Task Force, under the auspices of the Federal Home Loan Bank Board, the Department of Housing and Urban Development, and the other Federal financial regulatory agencies. The Senate Banking Committee has always recognized and applauded the neighborhood revitalization activities which the task force has undertaken in the area of sponsoring neighborhood housing services programs and support for the Neighborhood Housing Services of America, a secondary market mechanism for the purchase and pooling of home improvement loans. Authorizations for the Corporation would be $12.5 million for fiscal year 1979.

Titles VII and VIII of the act would authorize two neighborhood assistance programs which were part of the President's urban policy package. Title VII, the Neighborhood Self-Help Development Act of 1978, would assist neighborhood groups to carry out small-scale housing rehabilitation, economic development, energy conservation, and other projects related to neighborhood conservation.

Title VIII, the Livable Cities Act, would provide assistance to public and private groups to expand cultural opportunities for low- and moderate-income residents of communities and neighborhoods in need of conservation and revitalization. These cultural activities would link economic and physical development strategies.

I would also like to point out that the conference report requires applicants under both of the neighborhood programs to secure a certification from the unit of local government that the proposed activities are consistent with that local government's objectives. While the Senate conferees were reluctant to accept what some might construe as a right of a local government to exercise a veto over any neighborhood projects, we did recede because of the House insistence that the certification be a part of every application under the two programs. The Senate conferees receded with the understanding that local governments should not unreasonably withhold certifications or seek to kill neighborhood proposals by failing to act expeditiously on requests for certifications. The two programs authorized by the bill are designed to develop and strengthen the capacity of neighborhood groups to undertake a wide range of conservation and revitalization activities in accordance with a neighborhood plan. I believe it would be very unfortunate if the local government certification process were used to prevent or retard that development.

Title IX of the act would establish, for the first time, a Federal policy to minimize the involuntary displacement of persons from their homes and neighborhoods. In order to further this policy HUD would be directed to carry out an extensive study and to make recommendations. The title would also require HUD to carry a program of paperwork control, and to conduct several other studies. It would also continue the requirement for an annual report by the President on the Nation's housing goals.

Mr. President, the Housing and Community Development Amendments of 1978 is legislation that is urgently needed. It is legislation that has its origins in hearings held many months ago. It was developed through committee markups, and floor debate. And it has survived the test of Senate-House conference. I urge the Senate to approve this measure today.

I would like in closing to call to the attention of my colleagues that this will be the last report from "Mr. Housing," Senator JOHN SPARKMAN. There has not been a significant bill in the past 20 years that he has not worked on. This year's bill will, because of his impending retirement, be his last, and many members of the Banking Committee, the Senate, and the House, will miss him.

I recall in the closing moments of the conference that the House paid special tribute to JOHN SPARKMAN who has been chairman ever since it was created more than 20 years ago.

Mr. GRAVEL. Mr. President, there is one provision of the pending conference report which I would like to briefly discuss with the distinguished chairman of the Committee on Banking, Housing, and Urban Affairs. Section 904 of the Housing and Community Development Amendments of 1978 amends section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 to provide HUD with the authority to make grants and loans, on the basis of need, to the regional native housing authori-

ties of the State of Alaska for the purpose of providing planning assistance, housing rehabilitation and the maintenance of an adequate administrative structure in conjunction with the provision of housing and related facilities to Alaska residents.

The existing section 1004 was enacted in 1966 as the Alaska remote housing program. Because the program had certain limitations, only $2 million of the original $10 million which was authorized has ever been appropriated. The existing section also contained a limitation of 75 percent Federal financial participation. The proposed section 904 does not authorize any new dollars. but employs the existing unused authorization. It also provides the Secretary with authority to make grants for greater than 75 percent on a case-by-case basis in consultation with State officials.

As the author of this provision, I would like to take this opportunity to clarify the intent of this section for the purposes of program implementation by the Department of Housing and Urban Development, HUD has informed me that this provision would assist that agency in addressing some difficult and legitimate problems facing the housing development program in Alaska.

Section 904 has three purposes:

First. Development of institutional capability to deliver housing and related facilities.

The HUD housing development program is designed to be administered by an organization that has a great degree of expertise. In rural Alaska, these programs have been hindered by the lack of familiarity with traditional methods of housing acquisition and development. The Alaska Regional Housing Authorities were created in 1973 and have neither the financial resources nor the institutional capacity to operate a successful program.

As for the ongoing program, I have been informed that unless some kind of financial assistance is made available to the regional housing authorities, the entire HUD rural housing effort will be jeopardized because of an inability to meet the stringent requirements of financial feasibility.

Second. Rehabilitation of existing housing.

Recent HUD studies have shown that over 90 percent of Alaska Natives live in substandard housing. Housing constructed with Federal financial assistance in the late 1960's has been the subject of litigation because of certain design and construction defects. I believe that funds appropriated pursuant to this section should be used to assure that existing units of housing may be made decent, safe, and sanitary in accordance with the intent of Congress.

Third. Planning assistance.

In providing homes, the Federal Government is intimately involved in the community development process which has a major impact on the lifestyle in any rural Alaskan community. HUD informs me that there are several basic planning activities which cannot be met with ordinary preliminary loans, such as site selection, engineering, determination of site availability, site preparation, and special costs related to land leases and title conveyances.

Mr. President, the situation in Alaska is clearly unique, given the high costs of transportation and construction as well as the unusual climatic and geographic conditions which exist.

Mr. PROXMIRE. If the Senator will yield, I would like to confirm the intent of this provision. The Senator from Alaska submitted testimony before the committee which clearly documented the unique situation in Alaska with respect to costs and the situation with respect to the newly formed housing authorities. The testimony indicated that these authorities do not have enough units under management to be financially sound. The Senator came in with a proposal which involved no new authorizations, but merely attempted to redirect a program on the books.

The Senate committee considered the Alaskan proposal, adopted it, and the conference committee did likewise, with a few minor modifications.

As far as the committee is concerned, it is my hope that the Secretary, in developing regulations to implement this provision, will require the housing authority to submit a statement of anticipated expenditures under the program and to account for all expenditures made with such funds.

Mr. GRAVEL. I thank my colleague for his comments and would certainly echo his sentiments with regard to accountability for these funds. I would like to emphasize two additional points. First, every effort should be made to consult with the State of Alaska in developing the regulations to implement this section. The State is in the process of developing a Statewide housing assistance plan and may become involved in this program through the provision of matching funds. Therefore, it seems only proper to insure consultation and cooperation with ongoing officials to improve the housing delivery system in rural Alaska.

Second, the Secretary will be required to develop criteria to measure the relative need of each Alaska regional housing authority in the areas outlined above. Those criteria should serve as the basis for deciding whether a loan or grant should be made with available funds. If an area has a great deal of housing that requires rehabilitation and lacks repayment potential, then grants should be made available. If another area has need for planning assistance and has the ability to repay funds over time, then loans should be made available. However, I would urge the Secretary to implement this section with a view of the ultimate goal of providing decent, safe, and sanitary housing and to use flexibility and good judgment in deciding the appropriateness of grants or loans.

Mr. PROXMIRE. Again, the Senator has correctly stated the intent of the conference committee in adopting this provision and we would urge HUD to follow the guidelines outlined in the Senator's statement.

I yield to the Senator from New Jersey.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. All time on the conference report has expired.

Mr. PROXMIRE. Mr. President, I ask unanimous consent for 1 more minute.

Mr. ROBERT C. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WILLIAMS. Just to ask unanimous consent to put this in the RECORD?

Mr. ROBERT C. BYRD. I do not object to that.

Mr. WILLIAMS. Mr. President, I want to express my support for the conference committee report on S. 3048, the Housing and Community Development Amendments of 1978. In so many areas of serious disagreement, the conferees were able to work out most acceptable resolutions, and I want to applaud the distinguished chairman of the Senate Banking Committee (Mr. PROXMIRE) and the leaders of the House conferees, Congressmen REUSS and ASHLEY, for the leadership, energy, and dedication they displayed during the course of the conference discussion. I think that we have produced a most worthwhile report that deserves the Senate's approval.

Mr. President, I would like to focus my remarks on several of the most important features of the conference report. First of all, the report would provide a 4-year, $120 million authorization for the congregate housing services program which I authored this year. Congregate housing is specially designed residential housing that incorporates support services. Under this new legislation, the Department of Housing and Urban Development would be authorized to enter into 3- to 5-year contracts with public housing authorities and sponsors of housing under the section 202 program in order to fund services that these sponsors provide to their elderly and handicapped residents.

At this point, let me call attention to the invaluable contributions to the progress of this legislation by the distinguished chairman of the Senate Committee on Aging (Mr. CHURCH) and the committee's distinguished ranking minority member (Mr. DOMENICI).

It is a sad fact that today upward of a million-and-a-half elderly and handicapped citizens with modest incomes face placement in nursing homes because current housing programs are unresponsive to their particular needs. These individuals cannot perform normal daily tasks without some assistance, but round-the-clock care or supervision is not the answer for them. Rather, if basic support services such as meals or housekeeping assistance were made available to them, they could continue to enjoy substantial independence in their own households. The encouragement of independence and the avoidance of costly unnecessary placement in nursing homes and other institutions is what congregate housing is all about.

Congress has for years recognized the need for congregate housing. In 1970, we enacted legislation requiring the Secretary of HUD to encourage its development. Unfortunately, the promise of the legislation has not translated into achievement. Congregate housing for

lower income people is today virtually nonexistent. This failure is rooted in overly rigid structural requirements for congregate housing projects, the pervasive absence of long-term social service funding, and the inability of the Departments of HUD and HEW to combine their separate responsibilities for congregate housing into effective cooperative efforts.

The congregate housing services program is designed to overcome these obstacles and initiate the development of this type of housing as Congress has intended. Although the program is limited at the outset to residents of public housing and section 202 projects, it marks a major step forward in the field of congregate housing. It would locate funding for congregate housing services within one agency—HUD—and would make certain that these services are funded on a long-term basis. It would also ease structural restrictions such as the requirement that all congregate housing projects contain units without kitchens.

The program relies on the local determination of the social service needs of congregate housing residents. Local housing sponsors would develop their social service plans in conjunction with tenants, medical professionals, and local social service agencies. It should be made clear that the legislation prohibits the funding of services that are already sufficiently available within the community for people who would require a congregate housing environment. A most significant feature of the program is its ability to save the taxpayers' money. Support services provided to people in a congregate housing environment actually cost up to five times less than nursing home care.

The conference agreement establishes a program that is a year shorter and $45 million smaller than the Senate version of the legislation. However, I feel that this compromise is fully sufficient to get this new approach to congregate housing into operation. I am hopeful that as our experience in implementing this program develops we can expand its coverage beyond residents of public housing and section 202 projects.

I am also pleased that the conferees were able to agree on an expanded section 312 rehabilitation loan program that addresses the needs of both multifamily housing projects and single family nomes. The agreement involves a more than threefold increase in the program for fiscal year 1979 to $245 million which I am hopeful will prevent the kind of shortfall in section 312 funds that so many communities experienced during fiscal year 1978. Furthermore, HUD is authorized to lend up to $60 million of this total for the rehabilitation of multifamily housing projects.

At present, as many as 10 million housing units across the Nation require, and are suitable for, rehabilitation. Some 55 percent of these units are rental units and the overwhelming share of these are in multifamily housing projects. We know that housing rehabilitation is a sound investment, providing jobs, expanding the housing supply, and injecting new life into decaying neighborhoods. In cities like Newark, N.J., and Harrisburg, Pa., where more than 68 percent of the housing stock is 40 years old or more, rehabilitation is an absolutely essential ingredient in our efforts to strengthen the economc base and improve social conditions.

The conference report also contains an agreement on a new flexible interest rate for section 312 rehabilitation loans. Though they differed in detail, each House had approved provisions requiring the Secretary of HUD to set flexible interest rates on section 312 loans above the present maximum rate of 3 percent, but below the Government's cost of borrowing. In my view, the agreement represents sound and prudent public policy by ensuring that very wealthy individuals do not receive a deep Federal subsidy.

Some local officials have expressed concern that the varying interest rate would complicate administration of the program and discourage higher income people from moving back to the inner city. I feel that the conference report addresses these concerns. For one thing, the Secretary's authority in this area is discretionary, not mandatory, for the Secretary could retain for all lenders the current 3-percent rate where increases in rates could have an adverse impact on housing rehabilitation and neighborhood redevelopment. In addition, it should be pointed out that only the highest income groups would pay the maximum allowable interest rate, which is, in any case, substantially below that of conventional or FHA loans. I am also not convinced that the additional administrative requirements accompanying increases in interest rates would be anything other than negligible.

However, I think Congress should carefully monitor the implementation of flexible interest systems and be ready to respond if it appears that these systems are overburdening local officials or impeding movement back to the cities.

The Senate bill contained a provision expanding the urban development action grant program to cities and counties that are now ineligible because they fail to meet the program's distress criteria, but which contain pockets of poverty with 10,000 people or more. The House approved no similar provision. The conferees correctly agreed to delete the measure, replacing it with a study of the problems of communities that have significant distressed areas though they are presently ineligible for the program. The UDAG program was designed to target money to the neediest communities to help them attract private investment in housing and commercial or industrial enterprises.

The Senate provision, I fear, would have redirected money away from these needy cities to those which generally have stronger, healthier economies, and which should be expected to draw upon their own resources and other Federal assistance to address the problems of their distressed areas. The study adopted in place of the UDAG expansion proposed in the Senate bill will insure that we properly examine the problems that cities ineligible for UDAG now face. We can then determine whether some form of additional consideration by the Federal Government is necessary or desirable.

Other provisions of the conference report which underscore its importance and the necessity for its passage include:

First. A strengthening and reauthorization of rural housing programs:

Second. Increase mortgage limits for low- and moderate-income multifamily housing insured by FHA in order to take into account increased housing production costs since these mortgage limits were last increased;

Third. Improvement in the section 203(k) rehabilitation loan insurance program to encourage greater rehabilitation activity among homeowners;

Fourth. A new program of assistance to troubled assisted housing projects to help restore their economic stability and to protect their tenants against dramatic rent increases;

Fifth. Revisions and improvements in the management and preservation of HUD-owned multifamily projects;

Sixth. A demonstration program of public housing security; and

Seventh. New programs to enhance the ability of community based organizations and cultural or artistic groups to contribute more effectively to the revitalization of urban neighborhoods.

Although I am pleased with the conference report overall, and certainly urge its adoption, I cannot let pass without mention two provisions which I regret were approved. One is a tamer, though still distinctly unpleasant, version of the one-House, general legislative veto that the House adopted and that the Senate rejected. The conference scaled down the House proposal to a procedure for the review and deferral of HUD's regulations. This Rube Goldberg contraption requires congressional committees to examine each and every rule and regulation that HUD proposes, creating enormous potential for disruption of the legislative process.

The conference also agreed, with slight modification, to a House provision that changes the way communities now plan for the housing needs of their low- and moderate-income people. To receive community development block grants, a locality must submit a housing assistance plan (HAP), based in part on the number of people expected to reside within its limits.

Under the conference agreement, communities can base their "expected to reside" calculations, not on areawide population statistics, as HUD now requires, but on present and future employment opportunities. The agreement also calls for the measurement of the number of lower income elderly persons expected to live in a community, and allows the use of other calculation methods when prescribed by States or court orders, as is the case with New Jersey. While latter provisions are commendable, I fear that the heavy reliance on employment opportunities as the principal determinant of a community's low and moderate income housing needs will serve as a means

to deny housing opportunity in suburban areas for poor reasons.

It is reasonable to believe that lower income people will not move from inner city to suburban areas unless decent housing that they can afford awaits them, regardless of the job opportunities that may be available. The conference agreement, I believe, encourages suburban communities to lower their expectations of the number of lower income persons who will live within their boundaries, and as a result reduce their obligation to provide housing for those with modest incomes. This provision signals a step backward from a national housing opportunity policy, and I find it regrettable.

As I close, Mr. President, I would like to take a moment to express my deepest admiration and, indeed, affection for my longtime friend and colleague from Alabama, Senator JOHN SPARKMAN. With the passage of this conference report. Senator SPARKMAN's career as the premier national spokesman for decent housing draws to a close. During his time in the Senate, no one has had a greater impact on the housing policy of our Nation. Through his service on the Senate Banking Committee, both as member and as chairman, he has compiled a remarkable record of legislative accomplishment. Senator SPARKMAN's richly earned nickname of "Mr. Housing" reflects his leadership in assuring that all Americans enjoy their right to safe, decent, affordable housing. Those who have benefited, or will benefit in years to come, from his ability to translate his compassion into achievement, will miss him, as shall we all.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I join my distinguished colleague from New Mexico in opposing this conference report. In my view, this measure has a fatal flaw; namely, a failure to include the Schmitt amendment or any reasonable compromise based on that amendment.

Basically, that amendment would have halted the reorganization of HUD's field structure now in progress. In its original form, it would have required a rollback of the reorganization, however a compromise offered by the Senator from New Mexico in conference would have stopped only the reorganization of certain offices that had not already been downgraded or eliminated.

Normally, the Senator from Kansas would not feel so strongly about a plan of reorganization which had as its purpose the saving of taxpayers' dollars and the improvement of services to HUD clients. Unfortunately, HUD did not have any concrete data indicating that any of these moves would have met the stated goals of the reorganization. In fact, no cost/benefit analysis was performed to study these moves.

Based on clearly inadequate information, HUD has decided to drastically centralize their field operation, moving further away from their clients, losing large numbers of experienced employees who prefer not to move, and disrupting services throughout the Nation. As a general matter, HUD authority may need to be centralized, but that principle cannot justify the wholesale lumping together of offices—with no information to indicate that the general principle will apply in any particular case.

Frankly, Mr. President, I do not think the Senate need be too solicitous of the Department of Housing and Urban Development in this area. They failed to do their homework—and deserve the consequences. Unfortunately, this conference report allows the reorganization to go into effect everywhere, without regard for the consequences.

HUD's actions are disturbing, but even worse, the failure of the Congress to meet this mistake headon amounts to nothing less than an abdication of our oversight responsibility.

HUD's only defense is the assertion that, generally, HUD's authority needs to be centralized. They have refused to be specific; they do not know what affect their reorganization will have in specific areas.

This Senator has a strong interest in a specific area—Kansas. HUD seems not to share that specific interest.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES) is absent attending the funeral of Goodloe E. Byron.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 77, nays 8, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—77

Abourezk	Case	Hart
Anderson	Chafee	Hatfield, Mark O.
Baker	Chiles	Hatfield, Paul G.
Bartlett	Church	Hayakawa
Bayh	Clark	Heinz
Bellmon	Cranston	Helms
Bentsen	Culver	Hodges
Biden	Danforth	Hollings
Brooke	DeConcini	Humphrey
Bumpers	Durkin	Inouye
Burdick	Eagleton	Jackson
Byrd, Harry F., Jr.	Ford	Javits
Byrd, Robert C.	Glenn	Johnston
Cannon	Gravel	Kennedy
	Griffin	Leahy
	Nunn	Stafford
	Packwood	Stennis
	Pearson	Stevens
	Pell	Stevenson
	Proxmire	Stone
	Randolph	Talmadge
	Ribicoff	Thurmond
	Riegle	Weicker
	Roth	Williams
	Sasser	Young
	Schweiker	Zorinsky
	Sparkman	

NAYS—8

Curtis	Hatch	Schmitt
Dole	Laxalt	Wallop
Hansen	Lugar	

NOT VOTING—15

Allen	Haskell	McClure
Domenici	Hathaway	Percy
Eastland	Huddleston	Sarbanes
Garn	Long	Scott
Goldwater	Mathias	Tower

So the conference report on S. 3084 was agreed to.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5263.

The PRESIDING OFFICER. The question is on the energy tax conference report.

Mr. PROXMIRE. Mr. President, at the time we interrupted the discussion on the energy conference report, I was discussing the observations of Stanley Surrey, the superlative expert on tax policy, eminently qualified, and his argument that tax incentives do not constitute in many cases an effective means of achieving the social ends they are designed to, or they are enormously expensive ways of achieving these ends that could be achieved in much better ways either by direct expenditures or by other policies.

Mr. President, I want to get back to that, but before I do, I wish to point out some of the things that are in this conference report.

As I say, the fundamental argument we have here is that we have already passed a good energy tax package offered by the distinguished Senator from Colorado (Mr. HART), one that was overwhelmingly passed by the Senate with, as far as I know, no opposition, one that the House of Representatives is considering at this very time and one that should meet all the needs that we have in that particular respect.

This conference report that is before us now contains a gas guzzler tax provision, taxes cars averaging 4 to 6 miles per gallon below the fleet average, according to the model tvpe, beginning in 1980 through 1985. Now, that is just pretty ridiculous because the tax will be irrelevant since carmakers testified they would not be building cars with mileage that low.

Mr. President, the giveaway part of this conference report is that business would be provided with an additional, on top of everything they have now, an additional 10 percent investment credit for the following:

First, any new equipment using a fuel rather than oil or gas and including pollution control devices on existing boilers and furnaces;

Second, an additional 10-percent in-

vestment credit on equipment for producing synthetic gas, liquids, and solid fuels, which the major oil companies would apply to their coal gasification;

Third, on any recycling equipment, shale oil equipment, and equipment used to produce gas from brine—they get a special gas price plus extra investment credit.

And all the above can be used to offset 100 percent of tax liability.

Now, some of these seem to be for a desirable purpose. But I point out that these firms already get loan guarantees, they already get substantial research and development funds, and they already are permitted to sell synthetics at higher prices. If there is any sense of injustice in this country that is clear on the part of the people whether they be well-to-do or poor, whether they are Democrats, Republicans, conservatives, or liberals, it is the injustice of taxpayers being able to avoid any tax when their income is very high.

What this conference report does is permit the oil companies once again to do what they have done historically, which is to enjoy hundreds of millions of dollars in profits and pay virtually no income taxes.

Whenever we provide a credit that can be used to offset 100 percent of tax liability in addition to the investment credit that they have now, the opportunities for tax abuse and the assurance we will get tax abuse are evident.

We go around and talk to our constituents and they ask us, "Why don't you do something about the fact that these big boys with these enormous profits pay almost no taxes while I have to pay 20 or 25 or 30 percent or more of my income in taxes? Why don't you do something about it. Proxmire? Why don't you do something about it, whoever you may be?"

The answer is we have an opportunity to do something about it right now by voting against this conference report.

It is a redundant, unnecessary conference report which does not serve any purpose because we already have an energy tax bill that has passed the Senate and is in the House of Representatives.

Furthermore, on top of all this is an additional credit of 10 percent that applies to any other purchase of property used to reduce consumption of fossil fuel, up to 50 percent of total tax liability. So these credits raise the full investment credit up to 20 percent. So the oil companies get 20 percent while the small businessman gets 10 percent, and someone who is producing other commodities in our society gets less.

If ever there was an example of inequity in the tax structure, here it is. It is flagrant.

Mr. President, let us consider what the Hart bill already has, which already passed the Senate and will already be in the law if we do not pass this. We already will have, without this particular conference report that is before us now, residential energy credits, a credit on 20 percent of the cost of conservation improvements, a credit of 30 percent on expenditures for renewable resource equipment up to a cost of $2,000, and 20 percent of the additional cost up to $10,000. It would cover expenditures on "passive" renewable resource energy use, such as that designed into a building initially, as well as expenditures for equipment added to existing dwellings.

It also specifies hydrogen energy equipment. It covers more than the Finance Committee bill for residential users. It covers new and replacement furnaces, wood-burning stoves, a broader range of renewable options.

Mr. President, we have been talking about oil shale development for a long time. The oil companies said that the extraction of oil from shale would not be economic until the price of oil reached $3.50 per barrel. That was in the 1950's.

Let me repeat that.

The oil companies said that the extraction of oil from shale would not be economic until the price of oil reached $3.50 a barrel. That, as I say, was in the 1950's. When the price of oil did reach $3.50, the oil companies said they would not be able to produce and sell oil shale for less than $6 or $7 per barrel, in other words, twice as much. In 1973, the price of oil reached that level. In fact, it exceeded that level.

Some of us might legitimately have expected the production of oil from oil shale to get underway at that time. Certainly, according to the excuses of the oil companies, the price was right. Did it occur, in view of the fact that they said all you have to do is get the price up and we will produce oil shale, you will not have to worry about the conventional means we have now of developing petroleum, that you could get it from the shale, and we have, of course, potentially billions of barrels available in oil shale?

The companies instead came to the administration and they suggested that the energy crisis required us to set up $100 billion energy authority to provide them with cheap financing to go into oil shale and synthetic gas and synthetic liquid production.

I remember very well, Mr. President, when Nelson Rockefeller, then Vice President of the United States, came before our Banking Committee and pleaded for this. He said, "Give us only $100 billion."

I guess to a Rockefeller that is not very much money.

"But give us $100 billion and we will be able to develop the kind of projects that will prove that shale and these other methods are feasible."

Mr. President, fortunately the Banking Committee overwhelmingly rejected that, and I must say even people in the administration itself were embarrassed by it. $100 billion to be provided as a grant. That is what they asked on top of all of this.

We rejected that but slowly we have been putting piece by piece in place the same sort of incentives. This credit for oil shale equipment is simply another one.

What does the industry say about shale? Is there any reason to divert tax money into this technology that has never been worthwhile for the oil companies to develop?

Is there any reason to divert investment funds into this dubious technology which apparently will produce a fuel that is not salable even at today's exorbitant energy prices?

Now, once we get the companies hooked on this investment, you can be certain they will use this to back up further arguments for greater public subsidies.

Already the incentives the Federal Government has provided for oil shale production and development have not had the effect of alleviating our oil import situation or producing any oil from shale. But what the existing incentives have done is to produce a constituency for greater subsidies, provided bigger tax breaks, provided greater tax avoidance, provided, in effect, greater deficits for our Federal Government, and provided really, in effect, a burden on the general taxpayer that is much heavier because other taxpayers with far greater incomes are given tax shelters which are not working to achieve the social purpose they were designed to achieve, or the economic purpose they were designed to achieve.

Let me just quickly describe how incentives for oil shale production have worked so far, Mr. President.

Eighteen months after the Arab oil embargo the huge deposits of oil shale in the western United States remain a long-term promise and a short-term frustration.

As I pointed out a few moments ago, the oil companies indicated originally if they could only get the price up to $3.50 a barrel they were confident their product would be economical. It has hit $5.50 a barrel. The same companies now say even if it were $11 a barrel it would not be economic. So they are turning to the Government for financial support in the forms of loans, subsidies, capital grants, or guaranteed prices. They are getting a lot of that, and getting some of it right here in this conference report we are acting on.

The drive for subsidizing shale oil production, however, is simply an invitation to buy a white elephant. The record clearly shows present technology is not efficient enough to make extraction of oil from the stubborn rock a going proposition today. The companies are probably right when they argue that without Government money shale oil production will never make a significant contribution to oil production in the 1980s.

But if shale oil cannot pay without Government support, it will not pay without help from Washington. It will just be a continuing drag on the general taxpayer.

Moreover, if the Government makes a heavy investment in today's cumbersome recovery technology, it will weaken the incentive to find improved processes which will make shale recovery both recoverable and environmentally acceptable.

Mr. President, once again I observe there are two very distinguished Republicans in the room, but there are 38 elected Republican Senators, and that is all.

There are, I think, 6 or 7 Democrats,

and we have got 62 elected. It is obvious a quorum is not present.

Mr. President, I make the point of order that a quorum is not present. I make that as a point of order and I ask for a ruling from the Chair.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last quorum call.

Mr. PROXMIRE. I ask the Senator, there are less than 10 Senators present, and 10 do not constitute a quorum.

The PRESIDING OFFICER. Under the precedents, a quorum call is not in order since no business intervened since the last quorum call.

Mr. PROXMIRE. Mr. President, I ask the Chair to rule on my point of order.

The PRESIDING OFFICER. The Chair has observed, and has been present since the last rollcall at which a quorum was present, that no business has been transacted since that time.

Mr. PROXMIRE. Mr. President, I am making a point of order that a quorum is not present, and I ask for a ruling.

The PRESIDING OFFICER. The Chair in his discretion observes that there has been no business transacted since the last rollcall in which a quorum was established.

Mr. METZENBAUM. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Mr. President, under the Constitution does it not require a quorum to be present in order for the Senate to be able to conduct its business? Now, the Senator from Wisconsin is not proceeding under the previously discussed procedure, which was suggesting the absence of a quorum, but he is making a point of order that a quorum is not present. Is it not, therefore, the responsibility of the Chair to determine whether or not a quorum is present?

The PRESIDING OFFICER. It is not the Chair's responsibility to interpret the Constitution.

Mr. METZENBAUM. But is it not the Chair's responsibility to determine and to rule on a point of order that a quorum is not present?

The PRESIDING OFFICER. The Chair has not ruled. The Chair has simply made an observation that no business has been transacted since the last time a quorum was established under the rollcall.

Mr. METZENBAUM. But the Senator has raised a point of order.

The PRESIDING OFFICER. Under the precedents of the Senate the point of order is not well taken and may be considered dilatory if the Chair feels so.

Mr. PROXMIRE. Mr. President, I appeal to the Chair's commonsense. The Chair knows perfectly well that a quorum is not present. The Chair is an extraordinarily intelligent man; he is a thoroughly educated man, and even if he only went through third grade he knows we do not have 51 Senators on the floor, we do not have 41, we do not have 31 Senators, we do not have 21 on the floor or 15 Senators on the floor, and it is obvious, clearly evident, that we do not have a quorum present under the present circumstances.

The PRESIDING OFFICER. The presence of a quorum is not necessary for the Chair to make that ruling. The Chair simply must rule, must observe, under the precedents, and has observed, that no business has transacted since the last time a quorum was established.

Mr. PROXMIRE. Is the Chair informing the Senator from Wisconsin that a Senator has no rights at all; that no matter how arbitrary the Chair may be, I cannot even appeal the ruling of the Chair; that the Chair is sovereign and not the Senate, and that the Senate cannot have an opportunity to pass on that when it is so obvious that the Chair is in error? There is not a quorum present.

Mr. President, I have the floor and I am asking a question of the Presiding Officer.

The PRESIDING OFFICER. Is that a parliamentary inquiry?

Mr. PROXMIRE. Well, I am asking the Chair if it is not perfectly proper for a Senator to make a point of order that a quorum is not present when a quorum is not present, and the Chair knows it.

The PRESIDING OFFICER. The Chair is simply enforcing the precedents of the Senate, and that is that a quorum call at this point is not in order, the question having been raised, because no business was transacted since the last time a quorum was established. The Chair will only repeat what he has repeated five times.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the Republican Party in this country be abolished as an institution.

Mr. DOLE. I object. [Laughter.]

Mr. PROXMIRE. Mr. President, objection has been heard and business has been transacted and, therefore, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, it is a dilatory unanimous-consent request, patently dilatory, and it does not constitute business.

Mr. PROXMIRE. An objection was heard and it is clearly transacting business.

The PRESIDING OFFICER. Under the precedents, the Senator from West Virginia is correct.

Mr. PROXMIRE. The Senator from West Virginia did not have the floor. I did not yield to the Senator from West Virginia to make a comment. I did not yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Wisconsin still has the floor.

Mr. PROXMIRE. Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I share a number of the concerns about the energy package before us that the Senator from Wisconsin does. I have stated that without certain changes that I wished to be made in at least another piece of legislation I would have to vote against the energy package before us.

But, Mr. President, we have a number of Senators who, for one reason or another, for all very valid reasons, are going to be out of town today at varying times.

We have a number of Senators who are in extremely important conferences with the House of Representatives.

I would hope, Mr. President, that the Members of the Senate, no matter how they feel on this, will give the speeches they want, use their hour if they would like, but do not have a number of rollcalls unnecessarily.

I would hope, Mr. President, that we could vote up or down on whatever matters are before us, including whatever matters still remain to come up, whatever conference reports may be passed back and forth between the two bodies tonight.

I, for one, would hope that we could finish and go out sine die, whether it is 3 o'clock tomorrow morning or 5 o'clock tomorrow morning, or not. I tend to think that we will not, but I would hope we could.

But I would also hope, out of respect for those Senators on both sides of the aisle who are presently involved in lengthy or important conferences, or who, for one reason or other, have to be out of town today—and I suspect any Senator leaving town today is doing so because of extremely serious and long-standing commitments—I would hope, for their sakes and all of our sakes, that we would not have a lot of votes on unnecessary matters like calling the Sergeant at Arms and matters of that nature.

Mr. ROBERT C. BYRD. Mr. President, I wish to thank the distinguished Senator from Vermont for a reasonable, sensible, and practical suggestion.

Mr. WEICKER. Mr. President, I move that the Senate recess until the hour of 5 o'clock this afternoon, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, I make a point of order that this is obviously a dilatory motion, and under cloture dilatory motions are not in order.

The PRESIDING OFFICER. The Chair will rule that the point of order of the Senator from West Virginia is well taken, and the motion concerned will be held dilatory.

Mr. WEICKER. Mr. President, I appeal the ruling of the Chair, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, on any motion ruled by the Chair to be dilatory under cloture, any appeal from that ruling is dilatory.

The PRESIDING OFFICER. The Senator from Connecticut has the right to appeal from the ruling of the Chair.

Mr. WEICKER. I ask for the yeas and nays, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I move that the appeal be laid on the table.

Mr. WEICKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from Maryland (Mr. SARBANES) is absent attending the funeral of Goodloe E. Byron.

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. CHURCH). Are there any Senators who have not voted?

The result was announced—yeas 64, nays 21, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—64

Allen	Eagleton	Metzenbaum
Anderson	Ford	Morgan
Bayh	Glenn	Moynihan
Bentsen	Gravel	Muskie
Biden	Hart	Nelson
Bumpers	Hatfield, Paul G.	Nunn
Burdick	Hodges	Pell
Byrd, Harry F., Jr.	Hollings	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Roth
Chiles	Johnston	Sasser
Church	Kennedy	Schweiker
Clark	Leahy	Sparkman
Cranston	Long	Stafford
Culver	Lugar	Stevenson
Curtis	Magnuson	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McGovern	Thurmond
Dole	McIntyre	Williams
Durkin	Melcher	Young
		Zorinsky

NAYS—21

Abourezk	Hatch	Packwood
Baker	Hatfield, Mark O.	Pearson
Bartlett	Hayakawa	Proxmire
Belimon	Heinz	Schmitt
Brooke	Helms	Wallop
Chafee	Javits	Weicker
Griffin	Laxalt	
Hansen		

NOT VOTING—15

Domenici	Hathaway	Sarbanes
Eastland	Huddleston	Scott
Garn	Mathias	Stennis
Goldwater	McClure	Stevens
Haskell	Percy	Tower

So the motion to lay on the table was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. WEICKER. I move to lay that motion on the table and ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, both of those motions are dilatory.

The PRESIDING OFFICER (Mr. CHURCH). The point of order is well taken under the precedents of last fall. The motion is dilatory.

Mr. WEICKER. I appeal the ruling of the Chair.

Mr. METZENBAUM. Will the Parliamentarian cite us the ruling of last fall that indicated a motion to reconsider a motion to table as dilatory? I remember no such decisions.

The PRESIDING OFFICER. The Chair is informed that the Parliamentarian has sent for the precedent and as soon as it arrives, it will be furnished to the Senator.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last quorum.

The PRESIDING OFFICER. The Senator's point of order is well taken.

Mr. METZENBAUM. Mr. President, I suggest a suspension—I do not care whether you have a quorum or not—until we get the ruling of the Chair.

Mr. ROBERT C. BYRD. The Senator's motion is dilatory.

The PRESIDING OFFICER. The point of order is well taken.

Mr. ABOUREZK. I ask unanimous consent, Mr. President, that the Chair rule that precedent out of order.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. No business has been transacted.

The PRESIDING OFFICER. The point of order is well taken.

Mr. ABOUREZK. Mr. President, I make a point of order that there is no quorum present in the Chamber.

Mr. WEICKER. A parlimentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. The Chair keeps stating a point of order has been raised. I heard no point of order raised. I merely heard statements from the majority leader.

The PRESIDING OFFICER. The majority leader made the point of order that no business has been transacted and the Chair sustained it.

Mr. METZENBAUM. I have a parliamentary inquiry at the desk. The Chair has advised me that he will respond to that. Until such time as that, I have the floor.

Mr. ABOUREZK addressed the Chair.

Mr. METZENBAUM. I have the floor. I do not yield.

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. METZENBAUM. Mr. President, if a parliamentary inquiry is made and objected to, does that consist of business being transacted?

The PRESIDING OFFICER. Usually, the answer is yes but under the precedents established last fall, once cloture has been invoked, the answer is no.

Mr. ROBERT C. BYRD. Mr. President, will the Chair hear me?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. ROBERT C. BYRD. I am afraid the Chair did not hear the Senator from Ohio correctly. The Senator from Ohio said a parliamentary inquiry was made and there were objections. Mr. President, no objections can be made to a parliamentary inquiry as long as the Senator has the floor.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that, while I am awaiting a response from the Chair as to a parliamentary inquiry in order that the Parliamentarian may support the position he has taken, the time not be charged against my allotted hour.

Mr. ROBERT C. BYRD. Mr. President, I object. That is a dilatory request.

The PRESIDING OFFICER. Just a moment.

Mr. METZENBAUM. Mr. President.

The PRESIDING OFFICER. Just a moment.

The Chair stands corrected. I am informed that the making of a parliamentary inquiry does not constitute business for purposes of another quorum at any time pre- or post-cloture.

Mr. ABOUREZK. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. If a unanimous-consent request is propounded to the Chair and that is either agreed to or objected to, does that constitute transaction of business?

The PRESIDING OFFICER. The Chair advises the Senator that under the precedents of last fall, the answer to his question though ordinarily yes in a pre-cloture situation, is no in a post-cloture situation.

Mr. ABOUREZK. Will the Chair cite that precedent?

The PRESIDING OFFICER. The Chair reads from the precedent of last October 3, 1977:

> An instance where the Senate decided when it was operating under cloture that a request by a Senator to conduct business which the Senate declines to conduct—for example, the making of a motion that is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, or a request for the yeas and nays which is refused—is not the transaction of business for the purpose of calling another quorum.

The Chair would have to hold a refusal to grant unanimous consent in the same category.

Mr. ABOUREZK. Mr. President, you did not answer about the unanimous-consent request and the objection thereto. That is not in that.

The PRESIDING OFFICER. The Chair would have to hold that in the same category.

Mr. ABOUREZK. I appeal the ruling of the Chair and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, an appeal from the ruling of the Chair to the effect that a matter is dilatory is also, ipso facto, dilatory, under cloture.

Mr. ABOUREZK. I ask for the yeas and nays on my appeal.

The PRESIDING OFFICER. The Chair will sustain the point of order raised by the Senator from West Virginia.

Mr. ABOUREZK. Mr. President, I appeal that ruling of the Chair and ask for the yeas and nays on it. We are making new rules without the Senate even being able to decide.

Mr. ROBERT C. BYRD. Mr. President,

this will help in future post-cloture filibusters.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

Mr. ROBERT C. BYRD. The appeal, on the same grounds, is dilatory.

The PRESIDING OFFICER. The point is well taken. The Chair holds the appeal dilatory.

Mr. WEICKER. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. WEICKER. Under the ruling as given by the Chair, it would never be possible—never—to insure, either procedurally or in a matter of debate, consideration of any matter other than that dictated by the majority leader. That is where we have finally arrived. I suggest that this is the one motion that cannot be wiped off the books as being dilatory, because, indeed, appeals from the rulings of the Chair are the one last protection to each Member of this body. Take this away and each one of us is denuded from any protection of the rules of the Senate.

Mr. BAKER. Mr. President.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, let me make sure I understand what is happening, if I may.

If I understand the statement of the Chair a moment ago, it was to the effect that an appeal from the ruling of the Chair post-cloture, in this situation, was dilatory. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I remember very well the circumstances attendant on the motions that were made and the rulings by the Chair and the precedents that were established in October of 1977. I think those of us who were involved in it will remember that appeals from the ruling of the Chair were specifically excluded from that precedent.

The PRESIDING OFFICER. The Senator is correct; on appeal, the result was changed. The Senator is correct.

Mr. BAKER. Does the Chair reverse the advice that he gave?

The PRESIDING OFFICER. The question is on the appeal.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

Mr. ROBERT C. BYRD. Mr. President, I ask——

Mr. ABOUREZK. Objection.

Mr. METZENBAUM. Objection; appeals are not debatable.

The PRESIDING OFFICER. Appeals are not debatable. The Senator from West Virginia will be recognized. There is a request for the yeas and nays.

Mr. ABOUREZK. Will the Chair state the question?

The PRESIDING OFFICER. The Chair held a request for unanimous consent after cloture whether granted or not did not constitute business.

The question now occurs on an appeal from the ruling of the Chair on that issue.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that appeal on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, had the rollcall been ordered before the motion to table had been made?

The PRESIDING OFFICER. No response to the initial rollcall.

The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

Mr. BAKER. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 59, nays 23, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—59

Allen	Ford	Morgan
Anderson	Glenn	Moynihan
Baker	Gravel	Muskie
Bayh	Hart	Nelson
Bentsen	Hatfield, Mark O.	Nunn
Biden	Heinz	Packwood
Bumpers	Hodges	Pell
Burdick	Hollings	Randolph
Byrd, Robert C.	Humphrey	Ribicoff
Cannon	Inouye	Riegle
Case	Jackson	Sarbanes
Chiles	Javits	Sasser
Church	Johnston	Schweiker
Clark	Leahy	Sparkman
Cranston	Magnuson	Stennis
Danforth	Matsunaga	Stone
DeConcini	McGovern	Talmadge
Dole	McIntyre	Williams
Durkin	Melcher	Young
Eagleton		Zorinsky

NAYS—23

Abourezk	Hansen	Pearson
Bartlett	Hatch	Proxmire
Bellmon	Hatfield, Paul G.	Roth
Brooke	Hayakawa	Schmitt
Byrd, Harry F., Jr.	Helms	Thurmond
Chafee	Laxalt	Wallop
Curtis	Lugar	Weicker
Griffin	Metzenbaum	

NOT VOTING—18

Culver	Hathaway	Percy
Domenici	Huddleston	Scott
Eastland	Kennedy	Stafford
Garn	Long	Stevens
Goldwater	Mathias	Stevenson
Haskell	McClure	Tower

So the motion to table the appeal from the decision of the Chair was agreed to.

The PRESIDING OFFICER. The motion to table the appeal from the decision of the Chair having carried, the decision of the Chair stands as the judgment of the Senate, that after cloture has been invoked, the denial of a unanimous-consent request does not constitute the transaction of business for the purpose of another quorum call.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. WEICKER addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I now would like to address certain aspects of the legislation before the Senate. I want to make clear as to what it is that is involved here.

This is not a filibuster, in the sense of filibustering some minor matter confronting the U.S. Senate. We are talking about a billion dollars being given away retroactively, in order to compensate for certain past occurrences.

I had an amendment to the original legislation. It had to do with energy stamps, and I am going to discuss it in a moment. The amendment was thrown out in conference.

I notice that the press release from my office was dated October 1, 1977. Maybe in October of 1977, it would have been appropriate to give certain credits and rebates for people to insulate and do whatever else was necessary from the point of view of energy conservation. But 12 months later, for a supposedly thrifty U.S. Senate to retroactively give away $1 billion in tax credits is unconscionable.

I know of no one who was demanding this legislation. It is very generous of the Finance Committee to go ahead and give this credit. However, I know of no one who is asking for it, nor do I know of any good that it will now accomplish. It might have been appropriate in October of 1977. But not in October of 1978.

Now this is a $1 billion giveaway. So if there are those who get exercised as to why it is that we are here discussing this legislation, I would suggest that $1 billion is a very good reason to be here opposing this legislation.

I think it is also important to point out that even were we to vote on this matter immediately I can assure my colleagues that, from having talked to other Senators who have an interest in other legislation which is bound to come up, there will be a lot more talking on many items much less consequential than that which confronts this body at the present time.

Now as most of you know I have been against this across-the-board tax cut routine. I have been against this proposition 13 mentality, and I have been against it for the reason that the first order of business is to cut spending. After you cut spending then you cut your taxes. That is exactly why I stand on this floor in opposition to this measure so that $1 billion will not be lost.

We set all these goals. This has been the greatest exercise in mirages, illusions, and hypocrisies I have ever seen in the

closing weeks of Congress. We delude the American people into feeling they have an energy policy by telling them that we are passing an energy bill, even though there really is nothing in there that achieves measurable conservation or measurable incentives for additional production of oil and gas. But we call it an energy bill. And the people have a right to feel that we do indeed have an energy policy because the persons who are making that claim that are U.S. Senators, the supposed leaders of this country.

The other evening we went ahead once again and said that we were going to reduce unemployment in this country to certain levels. I found that so ironic, having stood in the middle of this Chamber at the time that we passed the appropriations bill on State, Justice, Commerce, and the judiciary. At that time I saw the majority of this body cut $75 million out of the EDA appropriations. EDA is an ongoing program which, operating with private enterprise, is used for the urban economic development purposes and has proven to be markedly successful. Yet it was chopped $75 million, and it is a program which would have created jobs right then and there. Despite this, we spend a great deal of time telling the American people that we are going to have goals of reducing unemployment to 3 percent or less.

Then we get to the business of spending and taxation and we loudly proclaim how we are going to go ahead and hitch in our belts and accordingly present ourselves as being for a balanced budget. Yet one billion dollars in tax credits under this bill goes out in the way of a handout for something that is not being asked for and is not necessary.

Mr. President, you know what they left out of this bill, and about which I would like to talk for a few minutes? I think I have been fairly intimately associated, as a member of the Energy Committee and a conferee over the past several years, as to what has transpired relative to the energy problem. I think I know what has not been done in terms of conservation and I think I know what has not been done in terms of production.

Mr. President, I wonder if we might have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Mr. WEICKER. I have said all along that the portion of our populace that has suffered the greatest since the inception of the energy crisis 4 years ago has been the poor, the elderly, and the middle-income persons of this Nation.

Maybe America has not conserved. Indeed it has not, and the statistics support that fact. Our payments for oil to the Saudis are up 1,000 percent in the last 4 years.

But it is the most disadvantaged elements of our society that have been forced to conserve. This is called rationing by price.

An energy bill is going to pass here which does not promote conservation, does not promote production, but instead continues rationing by price and continues to penalize the disadvantaged elements of our society. The one good part of this legislation was the provision which was agreed to on this floor between myself and the distinguished chairman of the Finance Committee that set up a pilot program of energy stamps so that, yes, these disadvantaged elements of our society would be guaranteed some sort of a buffer against the rationing by price scheme which was in effect then and which will be in effect tomorrow after the passage of this legislation.

Does anybody understand the fear and dread that literally exists on the part of our elderly citizens as they face the prospect of a winter of paying utility bills which they cannot pay? Yes, there are people who cannot afford to drive any longer or as far as was the case a while back. This applies to none of us, I am sure. We have been able to absorb the jump in the gasoline price. And I bet you when the Arabs come ahead and raise it 5 percent more, in a month's time which has been predicted, we will probably absorb that.

But there are elements of our society that are not in the position to follow along with affluent America. So what provision have we made for them in this bill? None.

Obviously, these people are a political minority. They do not count any longer. The majority is in full cry in this country. Me, me, I, I, with no thought whatsoever for those who lag behind.

That, Mr. President, was what we attempted to address in the legislation which came to this floor in October of 1977. That is what we attempted to address in the formation of a pilot program of energy stamps to pay utility bills and to make sure that those in the North would not freeze to death in the winter or that those in the South would not die of the heat of the summer.

But that just was tossed out. Never mind anything for this aspect of America. They do not have the clout in this Capitol. The home insulators do. What do we have here? Residential energy credits. Let us see if there is anything for the disadvantaged of this country in this bill. Let us go over the synopsis:

The Finance Committee conference report contains the following provisions:

Residential energy credits: 15% of the cost of energy conservation improvements up to $2,000, with a maximum credit of $300. It does not cover replacement furnaces, wood or peat burning stoves, and heat pumps. It covers certain furnace *components*, insulation, and other items. 30% of the cost of renewable resource equipment up to $2,000, and 20% of the price from $2,000 to $10,000. It does not cover renewable energy obtained through "passive" techniques (such as window orientation and type, placement of building, or other features incorporated into design).

But believe me among the homeowners, the insulation companies, and the contractors there is a bonanza, retroactive. This is not a question now of encouraging you to do anything. It is retroactive. I suggest to you that the cost of energy in this country is sufficient so that no one needs any incentives to go out and do what needs to be done.

The gas guzzler tax, which my good friend from Ohio monitored for almost 2 years and tried to make meaningful, "taxes cars averaging 4 to 6.5 mpg below the fleet average—according to model type, beginning 1980 thru 1985." In general this tax will be irrelevant since car makers testified that they would not be building cars with mileage this low.

Out the window. All Detroit is free and sailing:

3. Alcohol fuels: exempts some of these from an otherwise applicable excise tax to make them more competitive with gasoline.

4. Buses: repeals the 10% excise tax now imposed on the sale of buses, and the 8% tax on bus parts.

5. Vans: offers businesses a 20% credit against purchase of vans used to carry employees to and from work.

6. Business: provides an additional 10% investment credit (a) on any new equipment using a fuel other than oil or gas (and including pollution control devices on existing boilers and furnaces); (b) on equipment for producing synthetic gas, liquids and solid fuels (which the major oil companies would apply to their coal gasification); (c) on recycling equipment, shale oil equipment, and equipment used to produce gas from brine (they get a special gas price plus extra investment credit). All the above can be used to offset 100% of tax liability. A similar additional credit of 10% applies to any other purchase of property used to reduce consumption of fossil fuels, up to 50% of total tax liability. (These credits raise the full business investment credit to 20%.)

7. Depletion allowance and intangible drilling costs: expanded for certain things, including geothermal development (again the major oil companies) and natural gas.

Where in there is there anything for the people who have truly felt the impact of the energy crisis? Where in there is there anything for them, once you have determined you are going to continue the policy of rationing by price? This is worth dying for, insofar as the leadership is concerned, on the floor of the U.S. Senate in the closing days of the session?

I think there is one common bond between the Senator from Ohio and myself. He is a great opponent of deregulation and decontrol, and I one of its advocates, but only because we feel, each one of us, economically it is going to result in a situation which benefits the consumer.

I do not know whether he is right or not, but that is all we are interested in. I am not pleading the case for the oil companies. I just feel in the long run additional production is what is going to lower the price of oil and gas. He feels that it will not because it is going to go into the pockets of oil companies.

Fair enough. But only one thing motivates both of us: How do we get the most stable supplies at the least prices?

Well, that is not a consideration in this bill.

This bill concerns who gets their hands into the U.S. Treasury, for a $1 billion retroactive giveaway, and it just is not worth the time or the effort.

I want to see what happens when the vote comes on this, and it will. I want to see all those who have been Kemp-Roth-ing and proposition 13-ing, and pushing across-the-board tax cuts, I want to see just how careful they are with $1 billion. For sure they will affect

nothing in the future. What we are talking about is the past, the past 12 months. Could there not have been a program to really help those who needed it? I think the estimate of cost on the pilot program—originally it was the energy stamp program that was proposed for the Nation, but due to the encouragement of the chairman of the Finance Committee we agreed that that might be too big a bite and reduced it to a pilot program—was somewhere in the area of maybe $10 to $20 million. To a forgotten people. Everybody is out to get his in this country at the present time, and yet whether each one of us wants to acknowledge it or not, the reason for our own well-being and our affluence is we always have been concerned with somebody else, and that somebody has been somebody who is behind us. But no longer. Everybody is out for himself, and the devil take the hindmost.

There is no question whether you are for deregulation and decontrol or whether you are against it; the consumer in this energy legislation that is going to be passed by this body is the forgotten man or woman.

I said it on the floor in the natural gas bill: Do you know what this is? It is a special-interest piece of legislation. Oil interests get a little bit, gas interests get a little bit, producing States and producing interests get a little bit, politicians get a little bit, the Republican Party gets a little bit, the Democratic Party gets a little bit, conservatives get a little bit, liberals get a little bit—but no where in there are American interests made paramount.

So the final result is a lack of solution to what is termed an energy crisis. That might seem to be beyond the scope of individual involvement, but it is all going to come home to the individuals in this country.

(Mr. STONE assumed the chair.)

Mr. WEICKER. The price, for example, of natural gas is guaranteed now to go up—not in a free market where there is a possibility of it going the other way, but just to go up. Maybe not as much as the gas and oil companies would have liked, but it is going to go up.

Stability of supply? It is as shaky as it was during the worst years of the energy crisis.

Conservation? There is no conservation in any of this legislation.

This bill was originally the centerpiece of the President's energy program You have not heard that said on this floor. This is the bill that had the COET tax in it and the Finance Committee threw COET out, God bless them. But at least if the tax had been passed then maybe you could go ahead and pay out the money. Now that makes some fiscal sense.

But instead we are just going to pay out the money; yet we are going to have a balanced budget, because we say we are going to have a balanced budget. The only way you get a balanced budget is to go ahead and cut the spending. This is a spending bill; it is not an energy bill.

I suggest that there is no such thing as a free tax cut. Americans have been reading big banner headlines sitting there just waiting for the tax cut. The only thing to be resolved would be the small House cut or the bigger Senate cut. I mean in logic how can you achieve that cut unless you cut spending? That comes first.

I will tell you how you can achieve it because our fiscal attitudes are exactly parallel to our energy attitudes, and I will tell you how you can achieve it without cutting spending. You do not cut spending and you allow deficits to rise which, in turn, full inflation which, in turn, is the most regressive tax of all and impacts again on the most disadvantaged elements of our society. Inflation—the same thing we have done with the energy package; let it impact, but let it impact on those with the least political clout. Let the fiscal policies of this Nation impact on those with the least political clout.

As far as I am concerned, once the COET tax went out, all this became just a make-work project for the Senate Finance Committee. They had to have some sort of a bill. Well, if they have to have some sort of a bill, at least let them be gracious enough to vote for their fellow colleagues and for the American taxpayer by having their work projects cost nothing. Not $1 billion.

I would like to read to my colleagues a statement that I made on the occasion of presenting the amendment which was lost in the conference, because I think it pretty well explains the problem.

I said at the time—this was back on October 29 of 1977:

> Mr. President, I am today introducting an energy stamp amendment which is designed to provide low and fixed income households economic assistance in meeting residential energy costs. I have already introduced this amendment to previous energy legislation. I am introducing this amendment again to emphasize the serious difficulties which poor people encounter in paying their energy bills, and the need for governmental action. We are today discussing tax policy. Regardless of which type of tax plan we eventually adopt, the price of energy will rise. This price increase will inevitably have its greatest impact upon the poor people of the United States.

This statement was made a year ago. A year ago; has anybody seen the cost of energy go down in that year? It is a little difficult to stand on this floor when commonsense, in the light of the actions of this body, makes you look like an idiot.

We have been told for 4 years that controls were going to bring the price of energy down. Tell me how they have brought the price of energy down.

We have been told for 4 years about stability of supplies. Tell me about stability of supplies.

We have been told for 4 years prices were rising. What are we doing for the people it impacts on? Has there been no concern for them at all?

Do my colleagues understand that for the average elderly person in this Nation, his or her utility bill is more important than the average rise in social security payments? We hand those out freely around here.

Ask your own constituents, your elderly neighbors, "Which would you rather have, a reduction in your utility bill or an increase in social security?" I have no doubt at all what answer you would get.

But those rises are going to keep continuing. To continue the arguments I made 12 months ago:

> During the last few years, all Americans have been hard hit by the ever increasing costs of utility bills. For example, the average price of home heating oil increased by 19.2 percent in 1977 over the 1976 average price. The impact of the 1973 Arab oil embargo and subsequent OPEC price boosts have been felt in the pockets of American consumers, particularly the poor and elderly.
>
> Mr. President, we must recognize the fact that a significant number of poor people in this country have been severely affected by runaway energy costs. Based upon figures compiled by the U.S. Census, 11 percent of all families nationwide live in poverty and 23 percent of all inner-city families are poor. Added to this is the startling fact that 57 percent of elderly unrelated individuals live in poverty. What is more, according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.
>
> The amendment which I am introducing today will help alleviate the burden borne by poor and elderly citizens in meeting their fuel costs. It includes the following provisions:

Mr. President, I ask unanimous consent that my statement of October 29, 1977, be printed in the RECORD in its entirety.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR WEICKER

Mr. President, I am today introducing an energy stamp amendment which is designed to provide low and fixed income households economic assistance in meeting residential energy costs. I have already introduced this amendment to previous energy legislation. I am introducing this amendment again to emphasize the serious difficulties which poor people encounter in paying their energy bills, and the need for governmental action. We are today discussing tax policy. Regardless of which type of tax plan we eventually adopt, the price of energy will rise. This price increase will inevitably have its greatest impact upon the poor people of the United States.

During the last few years, all Americans have been hard hit by the ever-increasing costs of utility bills. For example, the average price of home heating oil increased by 19.2 percent in 1977 over the 1976 average price. The impact of the 1973 Arab oil embargo and subsequent OPEC price boosts have been felt in the pockets of American consumers, particularly the poor and elderly.

Mr. President, we must recognize the fact that a significant number of poor people in this country have been severely affected by runaway energy costs. Based upon figures compiled by the U.S. Census, 11 percent of all families nationwide live in poverty and 23 percent of all inner-city families are poor. Added to this is the startling fact that 57 percent of elderly unrelated individuals live in poverty. What is more, according to a 1973 report by the Senate Select Committee on Nutrition and Human Needs, rent or mortgage payments take up 50 percent or more of the income of our Nation's poor.

The amendment which I am introducing today will help alleviate the burden borne by poor and elderly citizens in meeting their fuel costs. It includes the following provisions:

First. The Director of the Community Services Administration, local community action agencies, and State economic oppor-

tunity offices will all be involved in the coupon program;

Second. Both homeowners and apartment dwellers are eligible for energy-stamp assistance;

Third. Any household may receive energy coupons if it is eligible for benefits under title XVI of the Social Security Act or if it is eligible for benfits under the Food Stamp Act of 1964. In addition to, or in lieu of, these criteria, local agencies may suggest eligibility guidelines;

Fourth. Energy stamps will be printed in $5 denominations and shall include explanatory words or illustrations as to their usage. In establishing standards for determining the number of coupons to be issued to eligible households, the Director shall consider household income, area climate conditions, the extent to which such households have participated in weatherization programs, and other noted factors. Each participating household must pay to the local agency 33⅓ percent of the total value of the stamps it will receive;

Fifth. Redemption of the coupons will be provided by retail fuel outlets, landlords, and the Director;

Sixth. Each local agency desiring to participate in the energy stamp program must submit to the Director a plan of operation as to how it will carry out the assistance measures. Local agencies shall be held responsible for dutifully certifying applicant households, for undertaking extensive outreach publicity action, and for keeping a strict and accurate accounting of all transactions made pursuant to this act. The Federal Government shall reimburse local agencies for the cost of administering the program and shall also finance the printing and issuing of the energy stamps; and

Seventh. This amendment authorizes $100 million to be appropriated for each of the next 3 fiscal years. For subsequent years, such sums as may be necessary for the energy stamp program are to be appropriated.

The Federal Government has been slow to respond to the needs of the elderly and the poor in coping with inflationary fuel costs. I am introducing my amendment to demonstrate to the American poor and elderly that the Congress does, indeed, have a great deal of concern for their welfare. With the implementation of an energy stamp program, which is designed to complement weatherization plans, these citizens will not be forced to freeze in their homes, as was the case with many during the winter of 1976.

Mr. President, I think it is safe to point out that, regardless of action taken here or in conference, the rise which has already been experienced in the area of energy has very clearly impacted upon the weakest elements of our society, be those elements poor in the economic sense or on fixed incomes, be they elderly—in other words, those whose income in no way has been able to match the tremendous increase in the cost of energy as it manifests itself in their utility bills, as it manifests itself in gasoline costs, et cetera.

I suppose the most amazing statement that I hear made whenever I advocate mandatory fuel conservation and rationing is that we do not want rationing—we do not want any World War II-type rationing. I have to point out to my colleagues, and, indeed, to all those in this Nation who make that statement, that we have had rationing for 4 years now, since the Arab oil embargo. The only point that remains to be argued is who is it that has been rationed? For 4 years, the poor people, the elderly, the fixed income people, the lower than moderate income people in this country have been rationed. They have been rationed by price.

We already know, in the face of what occurred last winter, that so many people in this category had to turn down their thermostats to the point where many of them actually froze to death. That is not a horror story to incite action on the floor; it actually happened. It is going to happen again.

It is not the strong elements of American society that I am concerned with. Indeed, they have not contributed anything in the sense of conservation, as witness the increased oil imports, as witness the balance-of-payments deficit. Indeed, very indication is that no matter what we raise the price of gasoline or heating oil to, a good portion of America can pay it, and no conservation will be achieved. But that is another argument for other of my colleagues as they present their amendments here today. What I am concerned about is correcting an inequity that has existed now for 4 years.

I notice that, in the previous amendment, a suggestion was made that whatever surplus would come from whatever tax was levied be plowed back into the social security fund. I will lays odds that if we gave a choice today to an elderly couple as to whether they wanted a rise in social security payments or whether they would prefer to have some sort of relief on their utility bill, they would select relief on their utility bill. That is what has been nailing them.

I do not agree with the concept of rationing by price to begin with; my colleagues know that. I have introduced and reintroduced measures for mandatory conservation—rationing—and I have been voted down every time. So it appears that we are going to continue the policy of rationing by price in some form by the legislation we pass here or the legislation that comes out of the conference.

To me, that is second best. It would have been far preferable if we had gone ahead and had gasoline station closings. That would have impacted on all of us. It would have been far preferable if each one of us would have had to choose a day of the week when we are not going to drive our car and put an identifying colored sticker on our windshields.

But never mind World War II rationing. Every rationing plan that has been going to impact on all Americans, obviously, has been very unpopular on this floor. So we are right back where we started from insofar as the previous Republican administrations are concerned. We are going to have conservation, we are going to have rationing, but we are going to have it by price.

I think it is unfortunate, very frankly, in the United States, that we have chosen that way to go, because, clearly, it means that not all are going to participate in the burden of the solution.

Mr. WEICKER. Then I went on, after reviewing the various provisions of the bill, and I said:

The Federal Government has been slow to respond to the needs of the elderly and the poor in coping with inflationary fuel costs. I am introducing my amendment to demonstrate to the American poor and elderly that the Congress does, indeed, have a great deal of concern for their welfare. With the implementation of an energy stamp program, which is designed to complement weatherization plans, these citizens will not be forced to freeze in their homes, as was the case with many during the winter of 1976.

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We already know, in the face of what occurred last winter, that so many people in this category had to turn down their thermostats to the point where many of them actually froze to death. That is not a horror story to incite action on the floor; it actually happened. It is going to happen again.

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Mr. ABOUREZK. Mr. President, will the Senator yield for just a minute?

Mr. WEICKER. I yield the floor.

The PRESIDING OFFICER (Mr. HODGES). The Senator from Connecticut has yielded the floor. Does the Senator from South Dakota seek the floor?

Mr. ABOUREZK. Yes. Mr. President, we just found another goodie in this energy tax bill, and I just want to disclose it to whatever colleagues are listening. There are not very many here now. It is on page 33 of the conference report on the Energy Tax Act of 1978, in title IV, and it provides, in highly technical language, although it has been explained to me by the committee counsel, over here, of the Finance Committee, that it makes an adjustment in the minimum tax to be paid by natural gas producers, and it allows them to write off more of the intangible drilling costs on natural gas than they have been able to write off.

On page 85 of the same report, there is a table which sets out the amount which the gas producers will be able to take out of the Federal treasury as a result of this. I would just like to read a portion of this. In the 1979 fiscal year, it will be $51 million. In the next fiscal year after that, $61 million, in the next fiscal year, $73 million, in the next fiscal year, $84 million, and in fiscal year 1983, which is the last one cited in the table, it is $97 million.

If the distinguished floor manager of this legislation is prepared to respond to that, does he find a different figure or different amount, or have a different interpretation on this particular provision?

I reserve my time and ask him to answer on his time.

Mr. TALMADGE. The amount which the Senator has related to is correct.

Mr. ROBERT C. BYRD. Mr. President, I object to the Senator from Georgia having to answer on his time.

Mr. ABOUREZK. I yield the floor.

Mr. TALMADGE. I will answer on my time.

The PRESIDING OFFICER. Is the Senator going to respond on his time?

Mr. TALMADGE. I am going to respond on my time.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. I will respond with full details in just a moment, when counsel completes his detailed statement on what the Finance Committee did in this regard.

The minimum tax on intangible drilling cost is extended permanently. It was enacted in 1977 for 1 year, in the Tax Reduction and Simplification Act of 1977. The permanent extension of the revision beyond 1977 was delayed until the Energy Tax Act when it could be appropriately considered along with other incentives to increase domestic sources of usable fuels. The amendment deals with how to offset intangible drilling costs of natural gas against the income received from other gas properties. Intangible drilling costs which are greater than the income from natural gas are included as tax preferences in the minimum tax.

The amendment reduces the amount of tax preference from intangible drilling costs.

Mr. ABOUREZK. I thank the chairman. Essentially I understand——

The PRESIDING OFFICER. Is the Senator from South Dakota seeking the floor?

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. TALMADGE. In 1977, this provision was requested by the administration, and it is included in both the Senate and the House versions of the energy tax bill.

Mr. ABOUREZK. Will the Senator yield for a question?

Mr. TALMADGE. Certainly.

Mr. ABOUREZK. The Senator does not dispute the figures I have cited as the cost of this.

Mr. TALMADGE. I do not.

Mr. ABOUREZK. The next question I would like to ask: As I understood, part of the chairman's statement was that this would assist in providing incentives for additional production of natural gas.

Mr. TALMADGE. The Senator is entirely correct. We import at the present time about $45 billion worth of energy, largely from OPEC countries. The landed price of oil now is close to $15 a barrel. It is one of the principal reasons that our dollar is declining in value day after day and month after month, year after year.

In my judgment, I do not think the administration has gone nearly far enough in developing alternative sources of energy in this country. I think we have to have a crash program on the order of what we had when we developed the atomic bomb during the Manhattan project in World War II; when we developed synthetic rubber during World War II; when we put a man on the Moon by 1970.

I think the administration, the Congress, and the American people have been extremely negligent in developing alternative sources of energy within this country. We have the resources and we can develop alternative sources of energy.

We have about one-third of the coal deposits in the known world.

We have an estimated more than 2 trillion barrels of petroleum in shale rock largely in the Rocky Mountains in the United States.

We have, according to geologists, enough natural gas deep in the salt mines of Louisiana, Texas, and the Gulf of Mexico to last this country from 150 to 200 years. We have done nothing to exploit those vast resources of energy.

That, in my judgment, is the weakness in what the administration has proposed to date.

I have talked with the Secretary of Energy, Dr. Schlesinger, time after time, pointing out we must develop alternative sources of energy. We cannot remain hostage to the OPEC nations for the delivery of petroleum to this country, whether they be friendly or unfriendly. This Nation cannot afford to have its national security and its economy placed in the hands of any foreign country, friend or foe.

I think what we must do, and what has been the tremendous shortcoming of the energy program that has been proposed to date, is to develop alternative sources of supply in this country. What the Senator has referred to is one small step in trying to develop more energy in the United States.

Mr. ABOUREZK. Will the chairman yield further?

Mr. TALMADGE. I yield.

Mr. ABOUREZK. I add this up as a total of $366 million by way of an impact on the budget. That is, it is a $366 million tax expenditure that was tucked away very cozily inside this bill. This bill is supposed to provide tax incentives for saving energy. Am I to understand the chairman correctly, then, that the natural gas deregulation bill that was so controversial here is not the sole means by which we have incentives for increased production of natural gas, but that we have high tax loopholes in the so-called energy saving tax bill to accomplish the same thing. Is that correct?

Mr. TALMADGE. What the Senator refers to, of course, is about $300 million over a 5-year period. I think that is a very small price to pay in trying to develop more energy in the United States, when we are spending about $45 billion annually for importing energy.

Mr. ABOUREZK. Will the distinguished chairman explain to me how increased tax loopholes will help in the production of natural gas? I do not understand that.

Mr. TALMADGE. The money is reinvested in drilling. I do not consider that a tax loophole if we can provide more energy in the United States. The money will remain in the United States instead of going to OPEC nations.

Mr. ABOUREZK. Are we buying natural gas from OPEC countries?

Mr. TALMADGE. Yes; we are.

Mr. ABOUREZK. How much is that?

Mr. TALMADGE. As a matter of fact, I understand that liquefied gas out of Algiers at the present time costs about $4.50 per thousand cubic feet.

Mr. ABOUREZK. What is the total amount of that purchase?

Mr. TALMADGE. I do not know.

Mr. ABOUREZK. So it could be just 1,000 cubic feet?

Mr. TALMADGE. It is more than that. Whatever we are paying that nation is far more than domestic producers are getting, far more than Canadian producers are getting, and far more than we are trying to negotiate with Mexico to pay them.

Mr. ABOUREZK. May I ask the chairmay what that has to do with this tax loophole?

Mr. TALMADGE. It is not a tax loophole. It is an incentive to try to produce more energy in the United States.

Mr. ABOUREZK. One man's loophole is another man's incentive.

Mr. TALMADGE. The Senator has his opinion and the committee has theirs.

Mr. ABOUREZK. I hope the Senate will have its opinion when we get around to voting on the measure.

Mr. TALMADGE. I am prepared to vote immediately if the Senator is.

Mr. ABOUREZK. Pardon?

Mr. TALMADGE. I am prepared to vote immediately if the Senator is.

Mr. ABOUREZK. I wonder if we might wait a little longer. We might not find more goodies in here.

Mr. President, may I ask the distinguished manager of the bill, are there other highly technical provisions——

The PRESIDING OFFICER. Is the Senator taking the floor on his own time?

Mr. ABOUREZK. No. He is yielding for a question.

The PRESIDING OFFICER. Does the Senator yield for a question?

Mr. TALMADGE. Yes.

Mr. ABOUREZK. This language is highly technical and difficult for me to understand. I would like to ask the distinguished floor manager of the bill, are there any other areas in here which provide tax expenditures that are not for what we consider to be energy-saving matters, such as tax credits on solar energy and tax credits to encourage conservation, and so on?

Mr. TALMADGE. I am sure the Senator has given careful consideration and study to this measure which he has been fighting for several months. He is thoroughly familiar with every provision of this bill. I do not want to waste the Senate's time by responding to the Senator's questions ad infinitum. Every provision of this bill is designed to do two things: One, to conserve energy in the United States of America; two, to provide the additional energy in the United States of America.

Now, if the Senator is not in favor of that, of course, that is his prerogative. What we are trying to do is to conserve energy and at the same time produce more energy. The only criticism the Senator from Georgia has of this bill is that we do not do enough to produce additional energy in this country.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. Does the Senator from Georgia yield the floor?

Mr. TALMADGE. I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I have been very impressed with the arguments which have been made by the distinguished Senator from Connecticut, the distinguished Senator from Wisconsin, the distinguished Senator from South Dakota, and the distinguished Senator from Vermont because I believe they have highlighted what this legislation is all about. This legislation is the capstone, the conclusion, the absurd conclusion of the entire administration's energy program. Since April of 1977, we have been talking about passing an energy bill. The energy bill consisted of five bills, not one. The four bills that did not have money in them as far as taxes and credits are concerned really did nothing for the American people except to raise the price of natural gas and to have some other language that urges various things to happen, such as various public utility commissions; had some direction that was not mandatory with respect to the conservation of energy. Now we come down to the great tax bill.

Let us see where we started and let us see where we end. We started off with a wellhead tax and that is gone, and God bless it, and it found its appropriate doom.

We started off with an oil and gas users' tax. That came from the House, a pretty strong measure, ostensibly to save about 6 or 7 or 800,000 barrels of oil a day. It came over to the Senate. On the floor of the Senate, we amended it. It costs a lot less to American industry—may we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will come to order.

Mr. METZENBAUM. I thank the Chair.

It came over here. We passed the oil and gas users tax in a modified form, that still would have saved 610,000 barrels of oil a day.

The matter went to the conference committee. Industry was not opposed to it. It really had more to it as far as energy savings are concerned than any other single portion of the administration program.

Poof—that is gone. Not one word of it, not one word of it in the conference committee report.

This issue came up on the floor of the Senate and we debated it. I offered an amendment to cut the figure down but to make the oil and gas users' tax applicable—not to all who use oil or natural gas, but only to those who use oil and natural gas when they could change and they refuse to change, or when they build new facilities.

Did the chairman of the Committee on Finance indicate that he was opposed to it? Not really. Let me read what he said. This is the chairman of the Finance Committee (Mr. LONG) speaking:

> Mr. President, I wish to make clear my principal objection to the Metzenbaum amendment. The Metzenbaum amendment is the kind of thing that would logically emerge from a conference between the House and the Senate. The Senate has no user tax. The House has a user tax that covers a lot of people other than those covered by the Metzenbaum amendment. Logically, you could compromise in conference with the Metzenbaum amendment, but if the Senate agrees to the Metzenbaum amendment, it means that we have at least that much agreed to already when we go to conference, and in a tough conference between the House and the Senate, we can expect the House to insist that we take half of what remains.

The Senate adopted the amendment 51 to 37. When it came back from the conference committee, was it half, was it somewhere in between what the House had and what the Senate had?

Not on your life. It had nothing in it, not one single word at all about an oil and gas users tax. I should like to discuss that subject further as the debate rolls along, but I should like to elaborate upon the comments of the Senator from Connecticut, who pointed out that there is nothing in this bill to take care of the American people.

They are the forgotten mass. The Senator from South Dakota very appropriately pointed out one of the giveaways in this bill that is not going to produce any more energy, but is going to make certain special interests a good deal richer than they presently are. Let us look at what they have in this bill.

They have a full investment credit for vans using van pooling. OK. That is not objectionable.

They have the removal of the excise tax on fuel oil and tires used in connection with intercity, local, and school buses. That is not the world's worst provision. We could live with that.

But they have a change in the business investment credit from 10 to 20 percent for energy property investments. Energy property investments are very broadly defined in this bill. They are defined in the report. They include things like solar, wind, and alternative energy improvements, equipment for recovering shale oil, geopressured gas, without any specific, tight definition but just a broad-based kind of language that permits a lot to be included therein.

(Mr. PAUL G. HATFIELD assumed the chair.)

Mr. METZENBAUM. How much are the American people going to pay for this additional 10 percent investment tax credit, which is nothing less than a tax giveway? Not a pittance. The very same people who come out here and make great speeches about the Kemp-Roth bill, who come out and tell us about other legislation that we ought to be considering, who talk to us about proposition 13, support a measure that provides for $2,163 million in giveaways in the investment tax credit over and above that which is in the law already. At the present time, there is a 10-percent investment tax credit. Under this measure, there will be a 20-percent investment tax credit.

As the distinguished Senator from Wisconsin pointed out, this is not the only thing that we do for anybody who is involved in energy. We lend them money at lower than normal rates; we give them research grants; we make it possible for them to get Federal money and then get patents out in their own name.

We do a lot for the energy industry. And the energy industry does a lot to us—not for us, to us.

This is just another indication of another giveaway; whatever they want, we take care of them and we take care of them very well.

Then there is another provision in the bill. The Senator from South Dakota talked about the deduction for intangible drilling costs for geothermal deposits. That is a small item. All we give away in a 5-year period is $366 million. So we have $2.163 billion in 5 years for investment tax credits; we have $366 million deduction for intangible drilling costs for geothermal deposits; we have another $186 million for depletion allowance in geothermal deposits and natural gas from geopressured brine—all in the name of doing something about energy. But when we get all done, we have been very energetic in taking care of the oil and gas industry, because we have reached into the American taxpayers' pockets. In the next year, we have provided them with $2.715 billion.

Mr. President, it is bad enough not to do anything for anybody as far as those who are in need in this legislation with respect to energy prices. With the soaring prices of utility bills, whether they are electric bills or whether they are gas bills, we do nothing for them whatsoever in any of the energy packages.

People talk about the Federal Government having the right to possibly intervene.

Some of the provisions in the measure when they left the Senate are gone and no longer to be found in the energy bill.

But we take care of those who are not in need. We take care of them in this energy tax credit bill.

The energy tax credit bill has another provision in it, let me say——

Mr. PROXMIRE. Will the Senator yield?

Mr. METZENBAUM. Yes.

Mr. PROXMIRE. The Senator is making an extremely interesting and important and very relevant speech on the issue. There are no Republicans on the floor. There are one, two, three, four, five Democrats on the floor, and the distinguished Presiding Officer.

We have not had a quorum determined since we had the last rollcall at 2:32, more than an hour ago.

Under those circumstances, Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last one.

Mr. PROXMIRE. It has been more than an hour, and only five Senators here.

Mr. ROBERT C. BYRD. That does not make any difference.

Mr. PROXMIRE. Six.

Mr. ROBERT C. BYRD. That does not make any difference.

The PRESIDING OFFICER. Without further business being transacted, a further quorum call is not in order.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Under the rule of the Senate now, what constitutes business being conducted?

Mr. ROBERT C. BYRD. The Chair does not have to answer that. If the Senator will look at page 634 of the book of precedents, he can read for himself, that does not necessarily hold in a cloture situation.

Mr. PROXMIRE. Mr. President, this is most unusual, 1 hour has elapsed since we had a quorum——

Mr. ABOUREZK. Would the Chair kindly respond to my question?

The PRESIDING OFFICER. The precedents do not set the time between quorum calls. Business must be transacted.

Mr. ABOUREZK. The question is, What constitutes business for that purpose?

The PRESIDING OFFICER. Precedents are listed on pages 634 and 635.

Mr. ABOUREZK. Of which book?

The PRESIDING OFFICER. Senate Procedure.

Mr. ABOUREZK. I thank the Chair.

Mr. PROXMIRE. Now, Mr. President, the ruling of the Chair seems to indicate that even if 3 hours, 4, 5, 10 hours had elapsed, there has to be some business transacted before a quorum can be ascertained.

Mr. President, I recall 1 hour and 20 minutes ago, when I asked the Parliamentarian, he made it very clear that time is an element here.

Time is an element. I submit more than an hour certainly is ample time for it to be clear this is not dilatory.

Mr. ROBERT C. BYRD. If the Senator will just read page 633, it states clearly and indubitably and unambiguously that business must intervene before a second quorum call. or between calls.

The PRESIDING OFFICER. The question is on the conference report.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I want to take just a moment out of my own time to talk about the fact, and the simple fact, that in our enthusiasm at the moment to get a piece of legislation passed, we are making a mockery of the Senate rules.

The distinguished Senator from West Virginia, for whom I have tremendous respect, in attempting to answer, I gather, what constitutes business, read language that said something like business must be conducted in the interim. But I think the Senator from South Dakota was asking what constitutes that business.

I am afraid in the Parliamentarian's enthusiasm to accede to the prevailing mood of the moment for some in this Senate, that the Parliamentarian is losing his dispassionate position and also his objectivity.

Now, I believe that when the Senator from Wisconsin stands and makes a reasonable request for a quorum call so that a Senator may address not an empty hall but some Senators, and then we use these rules in order to say, one, that the man sitting in the chair does not have to make it count, and that he has to only revert back some time, maybe an hour, or 2 hours earlier, that then the Parliamentarian is losing his objectivity, and when the Parliamentarian says 1 hour and 20 minutes is not enough and business has to be conducted, and the Senator from South Dakota says, "What constitutes business" and never gets an answer, I say the Parliamentarian's objectivity is in doubt.

I suggest that we recognize that the rules are here for 100 Senators, not for any limited number of them.

Mr. ROBERT C. BYRD. Will the Senator yield on my time?

Mr. METZENBAUM. On the Senator's time.

Mr. ROBERT C. BYRD. Mr. President, the Parliamentarian, of course, cannot speak back. The Parliamentarian cannot defend himself. But the Parliamentarian is following the precedents which, if Senators would spend a little more time, I realize it is dull reading to pour through this book of precedents, but if Senators would read, take just a little more time, read the precedents for themselves, they would not berate the Parliamentarian for rendering sage advice and wise counsel, and an honest and truthful response to questions which, in themselves, have assumed the acme of ridiculosity.

Mr. ABOUREZK addressed the Chair.

Mr. METZENBAUM. I am going to check that word.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I appreciate what the distinguished majority leader said.

Ordinarily, it would be the height of wisdom to attack someone who cannot attack back. We have tried, for example, the majorty leader, and he does speak back, and it does not work too well for us.

I just want to say, I am reading page 635 that the distinguished Presiding Officer told me to read. It says that the following precedents define the following transactions as business for the purpose of calling another quorum.

Included in a whole number of things is a unanimous-consent proposal, submission and granting or rejection thereof.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. ABOUREZK. I ask unanimous consent that a quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, is that a unanimous-consent request?

I object. It is a dilatory request to begin with. No transaction of business has occurred. So the request—the quorum call it not in order. So I object to the request.

Mr. ABOUREZK. Mr. President, was the objection heard?

Mr. ROBERT C. BYRD. Besides, Mr. President, it takes one-fifth of the Senators present to order a quorum call, not proceed down the avenue of allowing quorum calls on the basis of unanimous consent, or rollcalls, either.

Mr. ABOUREZK. Mr. President, was objection heard to my request?

The PRESIDING OFFICER. Would the Senator restate his request, please?

Mr. ABOUREZK. I will rephrase it, I ask unanimous consent that five Senators constitute a quorum for the purpose of transacting business.

Mr. ROBERT C. BYRD. Mr. President, I object.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard.

Mr. ABOUREZK. I make a point of order a quorum is not present. There are five Senators on the floor.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted since the last call. The request was obviously dilatory, and under a cloture situation should be held to be dilatory by the Chair.

The PRESIDING OFFICER. Under cloture, such unanimous-consent requests are not considered. The question is on the conference report.

Mr. ABOUREZK. Mr. President, I move to adjourn the Senate.

Mr. ROBERT C. BYRD. Mr. President, that motion is dilatory, obviously, patently on its face, and ridiculous, and under the rulings of the Chair last October, it is the Chair's responsibility to take the initiative itself in ruling such motions dilatory under cloture.

The PRESIDING OFFICER. The point is well taken.

The question is on the conference report.

Mr. ABOUREZK. Mr. President, did the Chair make a ruling that the motion was dilatory?

The PRESIDING OFFICER. The Chair did.

Mr. ABOUREZK. All right, then I appeal the ruling of the Chair.

I am doing this alphabetically, Mr. President.

[Laughter.]

Mr. ROBERT C. BYRD. Mr. President, since we are all having so much fun, I move to table the appeal.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum. There has been business transacted.

Mr. ROBERT C. BYRD. There has been no business transacted.

Mr. METZENBAUM. There has been.

Mr. PROXMIRE. Yes, indeed. Business has been transacted.

Mr. ROBERT C. BYRD. The appeal is dilatory.

Mr. PROXMIRE. It is in order. Business has been transacted.

Mr. ROBERT C. BYRD. Mr. President, I want the Senator to go ahead and see how ridiculous he is making himself by these dilatory motions and dilatory quorums, and perhaps the patience of the Senate eventually will wear itself out, even those who do not believe it is dilatory do not wear themselves out.

Mr. METZENBAUM. Mr. President——

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HODGES). Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is noted.

The assistant legislative clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 22 Leg.]

Abourezk	Curtis	Nelson
Anderson	Hatch	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Meicher	Roth

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY) and he Senator from Louisiana (Mr. LONG) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators who wish to vote?

The result was announced—yeas 80, nays 2, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—80

Abourezk	Brooke	Chiles
Allen	Bumpers	Church
Anderson	Burdick	Cranston
Baker	Byrd, Harry F., Jr.	Culver
Bartlett	Byrd, Robert C.	Danforth
Bayh	Cannon	DeConcini
Bellmon	Case	Dole
Bentsen	Chafee	Durkin
Biden	Church	Eagleton
Ford	Leahy	Ribicoff
Glenn	Lugar	Riegle
Griffin	Magnuson	Roth
Hart	Mathias	Sarbanes
Hatch	Matsunaga	Sasser
Hatfield, Mark O.	McGovern	Schmitt
	McIntyre	Schweiker
Hatfield, Paul G.	Meicher	Sparkman
	Metzenbaum	Stennis
Heinz	Morgan	Stevens
Helms	Moynihan	Stevenson
Hodges	Muskie	Stone
Hollings	Nelson	Talmadge
Humphrey	Nunn	Thurmond
Inouye	Packwood	Wallop
Jackson	Pearson	Williams
Javits	Pell	Young
Johnston	Proxmire	Zorinsky
Laxalt	Randolph	

NAYS—2

Hayakawa	Weicker

NOT VOTING—18

Clark	Gravel	Long
Curtis	Hansen	McClure
Domenici	Haskell	Percy
Eastland	Hathaway	Scott
Garn	Huddleston	Stafford
Goldwater	Kennedy	Tower

So the motion was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. A quorum is present.

The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I ask unanimous consent for permission to speak for 5 minutes.

Mr. METZENBAUM. Mr. President, what is the pending business?

Mr. PROXMIRE. Mr. President, will the Senator let us get the yeas and nays on the pending motion to table before he does that while we have Senators here?

Mr. BUMPERS. I had rather not. I was recognized in my own right, and there was no objection to my unanimous-consent request.

Mr. PROXMIRE. I reserve the right to object.

The PRESIDING OFFICER. The pending business is and the question is on agreeing to the motion to table the appeal from the ruling of the Chair.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Arkansas seek recognition?

Mr. BUMPERS. Mr. President, I ask unanimous consent to speak for 5 minutes, at the end of which time we will go to an immediate rollcall.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO SENATOR HODGES

Mr. BUMPERS. Mr. President, this is an ideal time for me to say a few things to my colleagues for the record and for history about my colleague who now sits in the Chair (Mr. HODGES).

All of you know that the Governor of my State appointed him to succeed our former distinguished colleague Senator John McClellan after his death in December 1977.

I can say in all truthfulness that the morning that my Little Rock office called me to tell me that Senator McClellan had died, it was natural that I, as well as others, would speculate about who the Governor in our State might appoint.

I told my wife that the Governor of Arkansas could not serve himself or the people of the State better than if he would appoint KANEASTER HODGES, who had been such a very able assistant to the Governor and who had been a very strong supporter and loyal friend of mine during the years.

Fortunately, Mr. President, for all of us, the Governor did exactly that.

I could not ask for a better friendship or better relationship with a colleague than I have had with Senator HODGES. I think this country, and especially my State and this body, have been served as well by his presence here as by any Senator elected or appointed during the short tenure he has had here.

We have a rather strange law in Arkansas, the constitutionality of which has not been questioned, that prohibits a Senator who is appointed from succeeding himself.

I can tell you there has been a great deal of consternation and dismay in my State because of that ruling, because Senator HODGES has distinguished himself so well. He has been courageous, and I know him well enough to know he has not been courageous simply because he knew he could not succeed himself. It is his nature. He is the son of Kaneaster, Sr., deceased, and Harrietta Hodges, two of the most outstanding people in our State. His father was one of the truly great civic leaders and outstanding lawyers in our State. His mother is a freelance writer who writes as beautifully as anybody I have ever read.

I consider it a great honor to me to have been able to serve with him during this short period of time, and I shall miss him very much. I shall miss his counsel, his advice, and his cooperation on behalf of the people of my State, and I know that all of my colleagues share those sentiments.

I thank you very much.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. BUMPERS. I would be happy to.

Mr. CHILES. I just wanted to join in the remarks of tribute by the Senator from Arkansas in regard to KANEASTER HODGES. I think it was, perhaps, the Senator from Georgia (Mr. TALMADGE) who said—and he perhaps repeated that—it is a sorry man who cannot outmarry h'mself, and I think KANEASTER HODGES certainly did that also.

I think that in his lovely wife Lindley we have all grown to care so much about here, and I have had many of the Senators and their wives in conversation remark that they had never seen a Senator or his wife come to the Senate and receive the friendship and affection and admiration of the Senate and the wives of Senators more so than in the way they had seen the Hodges, and I think that is because they are such very warm people, such very real people. They always, of course, showed such understanding to the problems of many of us.

I want to say that I have enjoyed very, very much the opportunity to serve with Senator HODGES, and I think he is a man of rare talent and great judgment, and a conscience that all of us tremendously admire in the way in which he went about his duties and the way in which

he went about making decisions in the Senate, all of which served as a great example for me and, I think, for many of us in the Senate.

I am delighted to be able to sort of second the remarks of the distinguished Senator.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. TALMADGE. I am delighted to join in the tribute to the distinguished Presiding Officer of the Senate at the present time for the diligence with which he has served on the Committee on Agriculture and Forestry.

The Senator is not only a farmer; he is also a lawyer, and he is also a minister of the Gospel.

I know of no Member of the Senate in the brief period of time he has served here who has worked so diligently in behalf of the agricultural interests of our country.

I salute you, sir. I commend you for what you have done not only for the farmers of Arkansas but the farmers throughout the United States of America.

I am sorry to see you leave our committee. I wish you could remain here in perpetuity.

I commend you for what you have done. I hope you will return to the Senate in the not too distant future.

Mr. HOLLINGS. Mr. President, I am glad you recognized me. We do not allow the Presiding Officer to speak in this body.

I think LAWTON CHILES has touched on it: the constancy, the character, and courage of our good friend from Arkansas.

It is easier to refer to just one experience rather than many. For example, when I approached the problem of tuition tax credit, I had worked in the public school field for many, many years.

I had sponsored a sales tax bill back in South Carolina in the early 1950's in order to finance public education, and I could see what I considered one of the most serious onslaughts to public education in this country, through tuition credits to the private sector. Such credits would constitute general aid to private schools, and we were not even giving the public schools that kind of assistance.

We have learned, through the Senate, to relinquish particular subjects to the Senators on the committees having jurisdiction. They have the staff, the acumen, the expertise, and the day-to-day knowledge, because they are always involved.

So I was always waiting for someone on the Education Committee to complete this particular initiative; at the time I said, "Surely someone will pick it up and handle it." But the point is that when I found no one else felt as strongly as I did, there was one exception, and that was the Senator from Arkansas, KANEASTER HODGES.

I said to myself, "Well, now, what does that fellow know about schools and education, and segregation and integration?"

But I found he had a greater knowledge and a greater keenness than most any of us. I did not know he was a minister. Frankly, when the new Senators come in, you do not read all those things right quickly, and you learn that from the intimate association which you develop. You cannot know a man until you know his situation. For instance, recently I met Ian Smith. I do not know Ian Smith well, and I could not learn about him in a day or two. But I know that political officeholders come into very critical situations, and it is not easy to keep your people behind you and learn administrative law and policy and all the rest at the same time. I found that out when I was Governor. During those critical days when I was like a cat on a hot tin roof, going from a demonstration to a sit-in, to a live-in, to a wait-in, to a bury-in, I thought I was doing a good job as Governor, but here was KANEASTER HODGES leading all those marches and all, being put in jail himself, both at Selma and other places in this country. He felt that was his duty just as a common, ordinary citizen. It was to him a matter of conviction and conscience.

And more than anything else, he has not lost that fire. You know, after we have been up here, Senator from Alaska, you and I have not lost it; we still react. We think reaction counts, but after you have been here about 10 years, you find that you win so many and lose so many, and you do not get excited about it; you lose a good bit of that conviction.

Not KANEASTER HODGES. He has shown a determination to stand as strong as any man for his particular jobs. And I think he has made a valuable contribution here in the Senate, not just on the school situation but the many issues he has involved himself in. He has not just come up here for a ride on the boat. He immediately caught the flavor of the institution. The other day, when we were talking about rules changes, he demonstrated a comprehension and appreciation for the Senate as an institution uncommon for even those who have served years. The Senate will be here long after all of us are gone, but I think we will remember KANEASTER HODGES longer than we will remember many, many others.

We speak sometimes of memorializing State legislatures, and I thought perhaps we ought to memorialize the Arkansas Legislature to change their law to permit KANEASTER HODGES to continue on. But I found I just could not do it; the legislature did not get the message.

I yield to my friend the Senator from Alaska.

Mr. STEVENS. Mr. President, in May KANEASTER HODGES and I took a journey of many days in my State. Many people may think of it as a junket, but KANEASTER HODGES knows what it is to sit in an Otter for 3 or 4 days with earplugs, and learn how big Alaska is by the seat of your pants.

We are certainly grateful that Arkansas sent a man to the Senate to study the issue that we thought until today would be before us. Unfortunately, it will not be before us. But that was a long, hard trip; and I have appreciated particularly the wit and humor of my good friend from Arkansas in terms of some of the social functions we have attended together.

Last, and I am sure the present occupant of the Chair will not mind, I would hope all of us who have a deep appreciation of Senator HODGES will not contribute to this filibuster by continuing to sing his praises, and I am sure he will understand that.

Mr. JACKSON. Mr. President, I wanted to associate myself with the remarks that have been made about KANEASTER HODGES, I would like to just add one other thought. The rest has all been said, and said very well.

I think his coming to the Senate this year has given us a new spirit, an uplift. Whether it is on the Senate floor, in the cloakroom, in the committee rooms, or in a good workout in the gym, our friend from Arkansas has demonstrated that he is a thoughtful, provocative individual who can and has contributed much to the dialog that takes place in this, the greatest deliberative body on the face of the Earth. I think we are all the richer for his having been here.

I, for one, wish him well. I know that he has a great deal more to contribute in the years to come.

Mr. RANDOLPH. Mr. President, there are 15 members on the Environment and Public Works Committee of the Senate. I do not think that I have the right to speak for them on matters of a legislative nature that come before this body. I am certain they would want me very, very much to express our tribute to KANEASTER HODGES. The Junior Senator from Arkansas is the most junior member of our committee in length of service. He is, however a knowledgeable colleague who has endeared himself to both Democrats and Republicans.

KANEASTER HODGES is a happy man. He is a man of good humor and good purpose. His career on Capitol Hill has been characterized by personal achievement and exemplary public office.

Mr. EAGLETON. Mr. President, I, too, wish to participate in this political burial of KANEASTER HODGES. I think it is perhaps unique in the annals of the Senate. Mr. President, that two Members of the Senate, Senator TALMADGE of Georgia and Senator HOLLINGS of South Carolina, took the floor wishing that Senator HODGES could stay in the Senate and Senator BUMPERS could go. [Laughter.] That shows our warm affection for Senator HODGES, and a reasonably tepid affection for the senior Senator from Arkansas (Mr. BUMPERS).

Seriously, Mr. President, I can well remember the first year or 2 or 3 that I was in the Senate. and I would say I was lost 90 percent of that time. Some might say that that is still my quota, after close to 10 years. But I have never seen an individual come into the Senate in the midst of the session, be thrust into the activities that are part of the Senate, and participate so thoroughly, so meaningfully, so beneficially, from the very first day. I have not seen an individual before who so easily adapted to the most unusual and at times bizarre and quixotic way of life that is that of being a Member of the U.S. Senate.

So I say to KANEASTER HODGES, good luck and Godspeed. You are a man of

remarkable capacity and skill, whatever may be your continued calling in the future, we can all be assured that mankind will be well served by someone like KANEASTER HODGES being just part of the human race.

Mr. HART. Mr. President——

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, a very small fraction of Americans, a tiny fraction of Americans, ever get to serve in the U.S. Senate or, for that matter, the Congress, including both Houses. Consequently, there are a lot of citizens across the country who do not seek this office. With very rare exception almost all of us are here because we did seek the office. We never get to find out how well thousands, tens of thousands, of Americans might serve if they were given that opportunity.

It seems to me that there are at least that number of Americans who could represent the interests of their States, communities, and this country, at least as well as those of us who have sought this office.

Senator KANEASTER HODGES, by virtue of appointment, I think ideally represents those tens of thousands, hundreds of thousands, of Americans across this country who are as equipped as any one of us who are here by virtue of election to serve in this body.

Those men and women across America are really the strength of this country. We try to represent them. We are supposed to be a cross section of them. But I think in every State in this Union there are literally thousands of KANEASTER HODGES who, if given the opportunity he has had, would have served as well as he has, as any of us do, and would acquit their States and their communities in the same manner that he has.

I think all of us in the U.S. Senate and in the United States itself are better for KANEASTER HODGES having been here with us.

Mr. RIEGLE. Mr. President——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I want to join my colleagues who have already spoken and, in the same spirit, talk about the gentleman in the chair, for whom I have a very particular fondness, as he knows.

The qualities in KANEASTER which struck me and the ones I would like to mention include such things as his good humor and his goodwill. I cannot think of an occasion where that has been missing, no matter the issue or the situation which has taken place. Those were constant qualities that he brought here, and which were enriching, I think, to each of us.

I think of some of the issues we have dealt with over the last 2 years—the Panama Canal issue, the equal rights extension, the question about rescission, the tuition credit issue, where he was a principal leader, and a number of others—these were occasions to see not only his independence of mind but his courage in dealing with what were difficult issues.

I also want to mention his sensitivity, his feeling for humanity, his humane impulses. Like others who have spoken, I, too, feel that KANEASTER has made a remarkable contribution in a very short time.

I know David Pryor, the Governor of Arkansas, very well. We had the pleasure of serving together as House Members for some years. Having seen Congressman Pryor work, having worked with him, I cannot think of a better decision that I ever saw him make than the one he made when he sent KANEASTER HODGES to the U.S. Senate.

I think the performance which has been achieved by Senator HODGES will stand for a very long time as a measure of the wisdom of that decision.

Before yielding the floor, if I may digress for one second, I want to say that I hope we will also have a chance today to participate in the same kind of tribute for Senator HUMPHREY, who I think in a different way but in an equally stunning way, under the most difficult of times and circumstances, has given this Senate strength, dimension, understanding, courage, and leadership, among other things, that have really been remarkable, and I think which have touched all of us. They certainly have touched me.

I know we are at this time speaking about our friend from Arkansas, but I would hope that we would find the time perhaps later in the afternoon when we can speak about the Senator from Minnesota as well.

Mr. CRANSTON. Mr. President——

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Delaware.

Mr. BIDEN. KANEASTER, we can stand here and tell you about all of your qualities, but the reason that we are standing here, if you think about it, is that there are few men and women who come along with a trait so obvious that it just sticks out. One thing that has struck me and everyone else around here is that you are a man of integrity, you look it, you show it, you just breathe it.

I wish you were not leaving. If there is anything we need today it is to convince the American people that there are a number of men and women of integrity in this body and the other body. It so clearly stands out in you that it will be a real loss.

I have not spoken to you for several hours about why you are leaving, about your view of family, about your perspective on your own life. But it seems a shame that the very qualities that make you decide to leave here and go back home are the very qualities we most need here.

I hope somehow you reach an accommodation of that and come back because you are a man of integrity and it is so crystal clear.

Sometimes one walks out on a field and they say, "There is an athlete, you can tell by the way he walks."

You walk onto this floor and everyone knows you are a man of integrity.

I feel it has been an honor to know you.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. KANEASTER, you have distinguished yourself more in 1 year in the Senate than many Members have after many years in this body. I have many other things which are in my heart, and which show my deep regard for you.

ONE YEAR IN THE SENATE

Mr. President, the 6-year term of office given every elected Senator is the longest of any public official elected in our land. It is not uncommon for a Senator to be reelected many times, serving 30 years or longer in these Chambers. I have been in the Senate 9 years, yet my seniority is not great when placed beside that of many of my colleagues.

One of us, however, was not given just a single year to make his mark. One Senator is not allowed to serve longer because a law in his State says appointed Senators cannot seek their own reelection.

Yet that one Senator, KANEASTER HODGES of Arkansas, has distinguished himself more in 1 year in the Senate than some men do in virtually a lifetime.

I became acquainted with Senator HODGES last January when I led a delegation of 10 of our colleagues to Panama. I was immediately impressed by his desire to know fully the impact, both on our country and on Latin America, of the pending Panama Canal treaties. He listened carefully to what was said by Panamanian officials, State Department speakers, and by Americans living and working in the Canal Zone. The Senator asked questions of everyone he met. And he never failed to impress people with his sincerity, his humility, and intelligence.

He approached the Panama question with an open mind. But he also saw the human side of the matter. In the end, he affirmed his support for the treaties: a decision I applaud now as I did then. Moreover, I believe the Senator reached his conclusions by combining a good lawyer's thirst for justice with the compassion of an ordained minister who has spent years working among prisoners and with the sick and elderly in hospitals.

This fortunate combination of head and heart was apparent also in Senator HODGES' approach to questions of endangered species, integrated public education, and the emancipation of American women.

KANEASTER's modest and sincere demeanor produces an insistent eloquence when he relates the issue of the moment to his own personal experience.

I remember the recent debate over extending the period for ratification of the equal rights amendment. He told us of a crisis in the life of his 7-year-old daughter. She wanted dearly to be a lawyer like her father. But she came home from school in tears one day, because her classmates said women cannot be lawyers. Earlier he had worried about the legal precedence of extension and the "fairness" of rescission. But he told us then:

> Suddenly, as I wrestled with this problem it came to me like a bolt of lightning. This is a simple matter of equality. A democracy, where one-half of the citizens by virtue of being born female, are second-class citizens under many of its laws, customs, and attitudes, is in fact thereby one-half a nation, one-half a democracy.

I also remember his defense of integrated public education during the debate over whether to extend a tuition tax credit to private elementary and secondary schools. He had fought through the bitter years in the South, as an embattled white moderate, trying to speak out for equity and harmony among black and white. He had struggled, in the wake of the confrontations at Little Rock, to stabilize public schools for the benefit for children of both races.

Ironically, he found himself in the U.S. Senate in 1978 debating members of his own party from Northern States who would pass a tuition tax credit bill that Senator HODGES knew would effectively finance white flight from integrated southern schools.

During that debate, which I will not forget, Senator HODGES told his colleagues:

> We cannot exist as a democracy if we create islands . . . This is an island-building bill. It is just the opposite of the Statue of Liberty. This says, 'Take away from me the poor. Take away from me the oppressed. Put them into the public schools.'

Mr. President, one of the deepest tenets of my own political faith is that the electoral process by which a free people choose their leaders is the best devised system of government we know.

I hope Senator HODGES will not stay long from the challenge of elective office. I hope he will bolster my trust in the wisdom of the voters by presenting himself at some future date for their endorsement.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I wish to express my high regard for KANEASTER and the great job he has done in the Senate. I have a strong friendship with KANEASTER HODGES. I agree with everything which has been said here, and I want to associate myself with the remarks of everybody. I do not think we can say enough good things about KANEASTER.

I personally have great affection and fondness, and I wish him the very best as he goes back to his home State where he will be much happier than here, but, nevertheless, I am sure he will miss us as much as we will miss him.

I know, knowing the religious man you are, and having spent some time with you in the religious breakfasts, you will be praying for us here, that we will not only do a better job for our country but for ourselves, and we will perhaps be able to stop some of the things which have been deteriorating and debilitating our country.

I wish to express my friendship for you, and wish you all the best.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Along with the distinguished Senator from Utah, Mr. President, I have enjoyed the company, the wisdom, and the humor of the soon-to-be-lost-to-us, or at least the periodically-lost-to-us, distinguished junior Senator from Arkansas.

In addition to associating myself with the remarks of all who have spoken before, I would merely add that if he decides to run for the U.S. Senate, I hope he will consider our party.

Once again, best wishes to KANEASTER HODGES. I am sure that he will do well in whatever he decides to do.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, at the end of this Congress, Senator HODGES of Arkansas will be returning to private law practice in his home State. I wish to take this opportunity, while he is still with us, to commend him for the good work he has done during his brief tenure as a U.S. Senator.

KANEASTER HODGES was appointed to the Senate on December 10 of last year to represent the State of Arkansas at a time when that State and the Nation had lost a most distinguished leader, Senator John L. McClellan. Senator McClellan's shoes were not easy ones to fill, but Senator HODGES courageously accepted the responsibility involved. Since last December, KANEASTER HODGES has earned the respect of his constituents and of his colleagues here in the Senate. He has now become, in his own right, a popular public figure in Arkansas.

Senator HODGES has gained my respect by fully and effectively representing the interests of the people of Arkansas. He has worked very hard to fulfill his responsibilities to the people of his State, even though he knew that he was only to spend a short time in Washington. He has presided over the Senate in excess of 100 hours. As a member of the Environment and Public Works Committee, he demonstrated his concern for environmental issues by managing a bill to utilize duck stamp revenues to purchase wetlands.

Perhaps Senator HODGES' greatest contribution to the work of the Senate has been the very active interest he has taken in agricultural issues. As a farmer, he has firsthand knowledge of the problems which farmers today are encountering. He is the author of S. 2626, a bill still pending in the Committee on Agriculture, Nutrition, and Forestry. The purpose of this legislation is to give farmers some income security by attempting to insure them a price which at least would cover their cost of production. S. 2626 is also directed toward getting farmers out of a boom-and-bust economic cycle and toward giving them a voice in deciding the agricultural policies of the Nation.

Mr. President, I have enjoyed serving with the distinguished Senator from Arkansas and I thank him for his work here in the Senate. I sincerely hope that he has learned from and enjoyed his experiences as a U.S. Senator. I wish him and his lovely wife good health and the very best of luck as they return to their beautiful State of Arkansas.

Mr. President, in closing, I want to say that Senator HODGES joined the Wednesday prayer breakfast group and he has been a very active, faithful, and dedicated member of that group and has made a very fine contribution to it. We shall all miss Senator HODGES when he leaves.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I just want to say that I certainly share the sentiment that we are all going to miss KANEASTER HODGES. It has been my privilege to have served on a committee with him, to have been part of a breakfast group with him, and also enjoyed a glorious trip through Alaska with him. There will not be any of us who will go through Bettles, Alaska, without thinking of KANEASTER HODGES.

I think he has really made an extraordinary contribution and had an extraordinary effect on the Senate in a very brief time. He is the kind of man that does not talk on every issue that comes up; he saves his shot and shell for those issues that he considers to be important and, indeed, they are important issues. I think he has made a tremendous contribution in connection with a couple of big matters that we had here, on which, we all recall, he and one or two other Senators singlehandedly turned the day.

So, we are going to miss him. We hope he will come back and see us. We look on him as a friend and we hope we will see more of him.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas (Mr. HODGES).

Mr. HODGES. Mr. President, first, I really think I should begin by apologizing to the Senate for contributing to the JIM ABOURZEK filibuster, but I am deeply moved by the comments of my friends. The U.S. Senate is a unique place. It is far more than the sum of the individual people who serve here. It has a wonderful and important and irreplaceable place in the history of this country. I cannot put in words how deeply I feel, having served here with you.

There were many questions when I first came as to whether or not someone who was simply coming here for 1 year would be accepted in the Senate. For those who have never been on this floor representing a State, you cannot realize how quickly you are accepted as an individual and how well respected you are simply because you are here. It was and is that openness that has made this such a wonderful year.

I am also asked regularly, What is my main impression of the U.S. Senate? I must say it is the tremendous caliber and integrity and ability and the devotion of the people that are here. If I have one impression and comment beyond that, it is this: There is far too much to do in terms of the workload and, somehow, something must be done to rectify that.

I will not belabor beyond that, except I must thank, first, my wife and my children for agreeing to come. In all candor, I was hesitant to come. I actually said I would not come at one point. I am very glad that I did, but I could not have done so without my wife and children and their many, many contributions—putting up with my coming home after midnight, not seeing them, not being able to do things with them I ordinarily did.

DALE BUMPERS is an extraordinary man and his warmth and fellowship and friendship have made it so easy. It would have been easy—he often says he

will just train me; if I will just do what he tells me, I will be all right. I am not sure he is 100 percent correct on that, but I think there is no man of whom I have a higher opinion than DALE BUMPERS.

I also would be remiss if I did not remember the man whose place I took, but whom I did not replace. That is the late Senator John McClellan. He was a man of incredible integrity and remarkable ability. He served this Nation and this body and our State well.

I love Arkansas. I cannot live without it. The fact that I am going back and I miss that life so much does not say that I do not enjoy and appreciate the U.S. Senate, because there is no higher honor I have ever had than to have served with you here, in the warmth of your fellowship and your friendship and your many kindnesses to someone who, as DALE often reminded me, is a rookie and is appointed, but it has made no difference. For that I am grateful, but, really, it says something about the integrity of this body also.

Again, I am very proud to have served here. I thank you for your kind remarks. I shall miss all of you very deeply and I am appreciative.

Mr. McGOVERN. Mr. President, I waited until after the Senator from Arkansas had spoken because I not only want to commend him, but to do something else.

Senator HODGES is my gym partner. He spoke about the hard work that we do here in the Senate, and I think all of us will agree that our schedules are heavy and the burden sometimes seemingly more than we can take. The one thing, I am frank to say, that has kept me alive for the last 15 years is that I developed a good habit when I first came here of visiting that little Senate gym three or four times a week. We have been reading about that in the press recently, about all the accommodations of the Senate. I wish every member of the press could see how small that room is that we call a gym. It is big enough so you can turn around a few times, you can take a shower over there; there is a little room where three or four people can get in at one time to work up a sweat. But for all of its limitations, its 4-foot-deep swimming pool and all the other limitations that it has, it does provide a chance to get away from the telephone and to relax for a few minutes and get a little workout.

I have had the good fortune to stumble on the same schedule that KANEASTER HODGES has, so that I occasionally have a good visit with him over there. It has been one of the most delightful and instructive experiences I have had here in the Senate.

I hope he will forgive me that for the first month he was here I called him by the wrong first name. I somehow got the syllables mixed up, but he never corrected me on it. I hope he has forgotten it.

Mr. President, I want to take just a moment to say a kind word about another Member.

Mr. ROBERT C. BYRD. Will the Senator allow me to say a few words about Senator HODGES?

Mr. McGOVERN. I certainly will. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

Mr. President:

It is not within the province of every man,
To build for himself a great shaft of granite,
Or engrave his name upon a plate of bronze.
But it is within the reach of every man
To plant an ever-blooming flower within the bosom of one he meets.

Such a man is KANEASTER HODGES.

I have many reasons to be personally grateful for the fact that this man came to the U.S. Senate. They are personal reasons.

For one thing, never has a Member of this Senate been more cooperative, more considerate of the problems that confront the leadership, than has KANEASTER HODGES.

We are told that he that is diligent in his business shall stand before kings.

Here is a man who is diligent in his busness, dedicated to his responsibilities, and attentive to his duties.

It is also said that the true test of a great man is his humility. This man stands that test, as well.

This is a public servant who puts the interests of the Nation first and who has lived up to his oath impeccably.

So I join my colleagues in their encomiums to KANEASTER HODGES.

Then when a man does a deed that you really admire,
Don't leave a kind word unsaid
For fear to do so might make him vain,
And cause him to lose his head.
But reach out your hand and tell him, "Well done!"
And see how his gratitude swells.
It isn't the flowers that we strew on the grave;
It's the word to the living that tells.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. MORGAN. Mr. President, I do not possess the eloquence of my colleagues. Just in case any of this eloquence is about to go to the head of our distinguished colleague from Arkansas, I want to tell him the story of what happened down in my State some years ago.

We had a very distinguished Governor named Luther Hodges. This is back when an attorney general was in the race for Governor to succeed him.

The attorney general went out into the countryside, walked into a store, introduced himself and told them he was running for Governor, and he wanted their vote.

One of the old fellows sitting there chewing tobacco said, "Well, I can't vote for you."

My predecessor had a knack for getting mad suddenly, and when he did the back of his neck would get red. So Malcolm got mad, turned a little red and said, "Why can't you vote for us?" He said, "Because of old Hodge."

Malcolm said, "It is not Hodge, it is Hodges." The old fellow said, "God Almighty, don't tell me there are two of them."

I would say, though, I believe I would be willing to take two of the distinguished Senator from Arkansas.

Mr. McGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

TRIBUTE TO SENATOR ABOUREZK

Mr. McGOVERN. Mr. President, if all the Senators have finished speaking about our friend from Arkansas, I would just like to say a word about another colleague here in the Senate who will be leaving at the end of this year, Senator ABOUREZK.

Senator RIEGLE has made reference to our colleague, and my long-time friend and neighbor, MURIEL HUMPHREY. I will be glad to join in that colloquy when it takes place with great pleasure and pride.

But I think, at a time when some of our colleagues may be a little bit irritated with this prolonged debate that is going on on the energy tax equalization bill, it is as appropriate time as any to think about some of the things about JIM ABOUREZK that have added so much to the color and the warmth of the Senate while he has been a Member.

He asked me if I would join with him in this effort this afternoon. I considered that course for a while and I decided that while I have a right to speak for an hour on this bill if I wished to, that I would, instead, use a few minutes to talk about the sponsor of this exercise in which we are now involved, my junior colleague, Senator ABOUREZK.

I first knew JIM ABOUREZK back in 1962 when I was running for the U.S. Senate in South Dakota.

I was told that there was a young man working at a night club out in the Black Hills that I ought to visit, a man by the name of ABOUREZK.

He said, "He is now attending law school at the University of South Dakota, but I am going to predict that this fellow will end up in the U.S. Senate someday. You are going to find he may seem a little bit rough on the exterior, but he has a great heart and a keen mind and a remarkable character, and I think that he has the qualities of great leadership."

Well, I went out to see him. I found him playing a guitar, sitting on the edge of a bar, where he was serving as a bartender and a bouncer and an entertainer, in a place called the Gay Lady in the Black Hills of South Dakota, and it turned out to be our inevitable colleague, JIM ABOUREZK.

From that day to this, he and I have been friends.

I remember in one congressional campaign in South Dakota, I think about 1958, possibly 1960, we had the late Senator Wayne Morse speaking in our State.

I scheduled him to speak before a combined meeting of all of the service clubs in Sioux Falls. We had the Rotary, the Kiwanis, the Lions, the Saratomas, and all the service clubs. There were probably 400 or 500 men in attendance at that luncheon meeting.

It was a rather conservative crowd, I might say, but at the end of the meeting, after Senator Morse had spoken considerably longer than most luncheon guests, and with his usual great eloquence, I heard one of the members of the club say,

"Well, I'm glad that every Member of the U.S. Senate is not like that one, but I'm also glad they've got at least one who is like that, because we need somebody in the Senate who is not afraid to speak out fearlessly on the issues of the day."

I related that story to Senator Morse, and he said, "Well, the truth of the matter is that there is not any Member of the Senate, myself included, who would be missed 24 hours after he left."

I argued with him. I dissented from that view. I still think it is not a correct interpretation.

But I would certainly argue in the case of JIM ABOUREZK that he is going to be missed here in the U.S. Senate in terms of the role he has played, a role that has been always dedicated to the public interest.

I told him what I was going to do at this stage of the afternoon. He said, "Well, I'm not going to stay on the floor to listen to this. I can't take it."

In any event, Mr. President, I wanted to pay this tribute to my junior colleague, and I know I speak for all the Members of the Senate when I say we are going to miss him very keenly.

TRIBUTE TO SENATOR ABOUREZK AND SENATOR HODGES

Mr. RIEGLE. Mr. President, I join the senior Senator from South Dakota in reflecting for a moment about JIM ABOUREZK.

I had the pleasure to first meet JIM in the House of Representatives and found that on issue after issue we were on the same side—which, I might say, was not always the winning side or the majority side. We were involved in a number of struggles together in the House of Representatives, and I found him to be as fearless then as he has been here in the Senate, as he has just been alluded to.

There are a couple of interesting similarities between KANEASTER HODGES and JIM ABOUREZK, and one is the fact that they both are men of exceptional good humor and goodwill. They are able to laugh at themselves and to take life in a measured way, so that while they are deadly serious about the things that count and about which they care, there is a sense of proportion and balance to their personalities that makes them the most pleasant kind of people to have as associates and as colleagues.

I think JIM ABOUREZK is going to be missed greatly, not only because he has been willing to stick his chin out at times when he feels very strongly about something but also because I think he possesses the quality of being able to separate important things from those that are less important. The times I have seen him take his stands have been on issues that really go to the heart of what life is like for people in this country—and, for that matter, around the world.

The ability to view the way issues and questions impact on people is something that I am afraid is not always easy to retain when you come to a place like the U.S. Senate—partly for reasons of the workload, which has been alluded to by our friend from Arkansas, but also the fact that we have to spend so much time here that it is difficult often to get home as much as we would like or to just have a chance to stay in close touch with the grassroots of our respective States as we might prefer to do.

JIM ABOUREZK is one of those people who is endowed with an instinctive sense of the grass roots. I think he probably could stay here nonstop for 2 years and still be as much in touch with the sense of the average citizen for what needs to be done, what needs to be fought for, what needs to be fought against, as anyone I know.

I am troubled that he is leaving. The situation is different from that of the Senator from Arkansas. I wish very much that JIM ABOUREZK had sought reelection and that he had been successful, because we are going to lose something that we are not going to get again right away, in my judgment—not just from that State but probably from any other place, at least for a while.

So that is a loss, and it is one that I do not think we can well afford. It is with a real sense of that loss that I anticipate his not being here next year. I think that reposes some additional burden on the rest of us to perhaps fill in and to pick up in various areas some of the load and some of the awareness and sensitivity that have been his strongest suit.

So, wherever he is—I do not know whether or not he is within earshot—while he apparently has chosen not to be on the floor, if he is within earshot of one of those squawk boxes we have in our offices, I hope he can hear us. Although he will have a chance to read later on what some of us think and feel about him, I hope he can hear the words as they are spoken, because they are spoken with feeling and with a depth of friendship that is too rare in life and is equally rare, I think, even here in the U.S. Senate.

So, JIM ABOUREZK, wherever you are headed, in terms of what follows this stage of your career, I am confident that you are going to continue to be a fighter for the little people on big questions, as you have been since I have been privileged to know you. Something of what you have done will remain with this Senator in the most beneficial way, and I think it will make me a better Senator in future days than what otherwise might have been the case.

Mr. METZENBAUM. Mr. President, I wish to say a few words about JIM ABOUREZK. I do not think the Senate is going to be the same without him.

A lot of people have talked about the fact that he and I, in some respects, may appear to be the "odd couple"; because he and I have not agreed on issues concerning the Middle East, but on almost every other issue that has come before the Senate we have been pretty generally in agreement.

Offhand, I cannot recall any other Member of the Senate or any other person I have met who has as strong a commitment to people, just people generally—people of all races, creeds, nationalities—as has JIM ABOUREZK.

In the kind of commitment he has, when he gets his teeth into an issue, regardless of the difficulties of it, regardless of the possible criticism or concern that others might indicate, JIM ABOURZEK has been willing to stand up for the thing he believed in. I think he is somebody the Senate and the Nation can long remember and long respect.

As I think about JIM ABOUREZK, who fights for the things he believes in, it brings to mind another great Senator, whose wife is with us this afternoon as a Member of the Senate.

JIM ABOUREZK and Jim Allen were not philosophically on the same wavelength. They did not approach problems from the same posture.

Both of them learned the Senate rules. Both of them, when they were determined that it was a position they believed in, were willing to stand up and be counted; and if the going got rough, they stood there and took their position and fought it out. Often, I remember when Jim Allen and JIM ABOUREZK were practically the only people on the floor, fighting for their convictions and their concerns. I have great respect for both of them and still do have great respect for both of them.

The Senate, as it approaches the year 1979, will not be the same without the presence of these two "big Jim's"—Jim Allen and JIM ABOUREZK. They are men of courage. I think of them in that respect. One has left us; the other is leaving us under different circumstances, of course. But in my opinion, the Senate will never be the same.

JIM ABOUREZK and Jim Allen are men this country will long remember and long honor for what they have contributed to this body and to the United States of America.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from Nevada wants to call up a conference report on airline deregulation. I wonder whether this matter can be cleared quickly on the Republican side of the aisle.

Mr. THURMOND. Mr. President, while that is being looked into, I wonder if the Senator will give me about 10 seconds.

Mr. ROBERT C. BYRD. Mr. President, the regular order before the Senate is to proceed on the motion to table. Before we proceed on the motion to table, I ask unanimous consent that I may proceed for 2 minutes, before the vote on the motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, reserving the right to object, and with the understanding that that will not in any way vitiate the rollcall.

Mr. ROBERT C. BYRD. Of course, it will not.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I can do this later. I shall do whatever is convenient to the majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I think we have to understand there is a filibuster in

progress here, and that the filibuster is against the energy tax conference report, and this filibuster has been going on now for several hours. I do not want to help those who are filibustering by taking the time of the Senate on other matters. But Mr. CANNON has been patiently waiting to see if he can call up his conference report because it is important that he do so before 6 p.m. to meet certain problems that the other body is dealing with.

Of course, every hour we take now will be that much time tomorrow morning on Sunday, whether it is 3 o'clock, 4 o'clock, 5 o'clock, or 6 o'clock, in the morning. Then we are going to begin to feel the results of this filibuster.

Mr. SCHMITT. Mr. President, will the distinguished majority leader yield for a comment?

Mr. ROBERT C. BYRD. I yield.

Mr. SCHMITT. I do not believe we will find any problem at all in bringing up this airline deregulation conference report. Once a call or two are made we will proceed immediately to it.

Mr. President, if the majority leader will allow me, I wish to compliment the distinguished chairman of the Commerce Committee, the Senator from Nevada (Mr. CANNON), for his leadership.

Mr. ROBERT C. BYRD. Mr. President, I only have 2 minutes. I wish to compliment the Senator, also, but I wish to first get on with this business and get back on the energy tax conference report.

I will make a unanimous-consent request before this conference report can be called up.

Mr. BAKER. Mr. President, I have no objection to proceeding with it except I have a request from Senator STEVENS to be present in the Chamber when we present it. We are trying to get him now.

Mr. CANNON. I have a colloquy here now with Senator STEVENS that we are prepared to file in the RECORD.

Mr. SCHMITT. Mr. President, we have a colloquy that I believe Senator STEVENS would like printed in the RECORD, and he has no objection at this time.

Mr. CANNON. I have it right here.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I make the following unanimous-consent request which I shall attempt to carefully phrase.

I ask unanimous consent that the distinguished Senator from Nevada may call up the conference report on S. 2493, provided that there be a 3-minute limitation on that conference report, that no motion, further debate, or point of order or appeal may be in order, provided further that no quorum call may be in order before the vote on that conference report, and provided further that upon the disposition of that conference report the Senate resume its consideration of the conference report on the energy tax bill and that the motion to invoke cloture on the noise control bill not be invoked by virtue of the Senate's having temporarily set aside the energy tax conference report and that if the conference report is adopted that the motion to reconsider be considered as having been laid on the table.

Mr. ABOUREZK. Mr. President, reserving the right to object, and I do not want to object, I just want to ask a question of the distinguished Senator from Nevada.

I have not seen this conference report, but am I given to understand that it contains only the airline regulation reform language?

Mr. CANNON. The Senator is correct. It only relates to the regulatory reform bill which we have been to conference on with the House.

Mr. ABOUREZK. And it contains no provisions which deal with airline noise abatement?

Mr. CANNON. The Senator is correct.

Mr. ABOUREZK. Because as the Senator knows it was tied together at one point in the House of Representatives.

Mr. CANNON. Never over here, though.

Mr. ABOUREZK. Never over here. But we are dealing with a House message, however.

Mr. CANNON. No. The message from the House does not tie the noise bill together with the Regulatory Reform Act.

Mr. ABOUREZK. Second, I wish to just make a parliamentary inquiry, if I might.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. The unanimous-consent request propounded by the distinguished majority leader, Mr. President, does it in any way alter the parliamentary situation under which we have been operating on the energy tax bill?

The PRESIDING OFFICER. No, it does not.

Mr. ABOUREZK. I thank him.

The PRESIDING OFFICER. Without objection, it is so ordered.

AIRLINE DEREGULATION ACT OF 1976—CONFERENCE REPORT

Mr. CANNON. Mr. President, I submit a report of the committee of conference on S. 2493 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CANNON. Mr. President, I have the great pleasure to file the conference report on S. 2493, which is now titled the Airline Deregulation Act of 1978.

This is a remarkable occasion. It is one of the only times in recent memory that the Congress has taken the step to eliminate a substantial amount of Federal regulation of a major industry. It represents a heartening reversal of the recent trend to move industries away from marketplace decisions by substituting Government regulation. S. 2493 sends airlines back to free enterprise.

It represents the culmination of 4 years of extremely hard work. It would take far too long to recognize the many people who made this moment possible. So I will mention only two. One is my good friend from Kansas, Senator PEARSON, with whom I have seen eye to eye on this issue as we proceeded and who has been of great support. The other, of course, is the distinguished Senator from Massachusetts, Mr. KENNEDY, whose vision and hard work on this legislation will be duly rewarded today. I thank him sincerely.

We are doing more with this legislation than just affirming that Chairman Kahn of the CAB has been going in precisely the right direction during this past year. We are setting an important precedent. When agencies of the Federal Government or portions of their regulatory authority no longer serve a useful function, we need to remove those agencies or functions and their counterproductive regulation.

The conference agreement is a fine one. It affirms that the CAB's existing program is both legal and desirable. It directs the Board to continue in the same direction and gives it the procedural tools to do so.

This bill calls for an end to the CAB's authority over route matters by 1982; over rates, mergers and acquisitions by 1983; and sunsets the Board, unless Congress extends its life, in 1985. The Board's small community and other remaining duties are transferred to other agencies after 1985 if Congress decides against continuing the CAB. Most importantly the bill includes two important protections. First, it absolutely guarantees service to all communities now receiving it for 10 years, and while it eliminates regulation of the competitive air transport system, it improves and retains regulatory controls for the small communities where air transportation is necessarily treated as a public utility. Second, it protects employees from any adverse results.

In short this is a well-balanced, comprehensive bill which is deregulation in substance as well as name. Let us act quickly to send this bill to the President, it is legislation of which we can all be proud.

● Mr. MAGNUSON. Mr. President, I congratulate my colleagues on the successful completion of several years of hard work on this important legislation. S. 2493, the Airplane Regulatory Reform Act of 1978, is a milestone in aviation law and will be the principal legislative beacon guiding commercial aviation in this country for the foreseeable future. As one who has been active in this field since the Federal Government began regulating and promoting commercial air transportation in 1938, I have

watched with great interest and have participated in helping to formulate this new legislation. It is a credit to all who have worked so long to reform the regulatory structure in this area, particularly the distinguished chairman of the Commerce Committee, Senator CANNON, and Senator KENNEDY, who have made significant contributions in the formulation of this legislation.

There are several features of this bill which I believe are particularly important to highlight. While the bill allows a great deal of freedom for the airlines to price their services competitively, it also contains some protections to assure that consumers and communities are not adversely affected by an abuse of this freedom. The upward fare flexibility, for example, is limited to 5 percent and also contains specific limitation in markets that do not possess sufficient competitive characteristics to adequately police this new pricing freedom. There are special procedures to assure that civic parties can receive an expedited hearing and determination in cases involving preference and prejudice, and the Board's current policies of multiple permissive designation are affirmed, which will help assure sufficient competitive pressure to police the pricing freedom granted in the bill.

I also am pleased that the conferees on this legislation have seen fit to rationally address the way in which the Government should address merger policy in the new deregulated climate mandated by the bill. We have agreed that there should be a two-step test by which the Board should judge merger applications and similar transactions. First, the proposed merger should be tested by the normal antitrust standards that apply to unregulated industries. If the proposed merger is not found to be in violation of those standards, it would be approved. If it fails that test, then the Board is to consider the proposed transaction by the standards of the so-called bank merger test. This will permit worthwhile proposals to move forward under reasonable tests and standards but at the same time protect the public against combination or other transactions that would have unduly anticompetitive effects.

While I have had reservations in the past concerning all the potential effects of deregulating this industry, since we have decided to do so, it seems to me that we have to change the way we judge mergers and other transactions. We have to judge that kind of transaction in the light of what we are doing to the entire regulatory framework. We have made a judgment that we want free market forces to play a much greater role in the provision of airline services; we then must also permit the firms that are attempting to do business in this field to make the kind of responses that they may need to in order to succeed in an unregulated environment.

Airline companies—both those existing now and new ones—must carefully assess their strengths and weaknesses and then do what they feel is necessary to continue to exist as effective, profitable units.

To permit them to do so, we have been very careful in explaining the import of section 408 of the new act. Mergers of airlines are to be tested under precisely the same antitrust guidelines which have been set forth by the courts in interpreting the Clayton and Sherman Acts. This places the airlines under precisely the same strictures as to mergers as any other unregulated industry. Nothing more. Each proposed merger of airlines should be judged on its own merits and the criteria to be applied by the CAB are those adopted by the courts under existing antitrust laws, not some more restrictive standard dreamed up by the Board or the Departments of Justice or Transportation. The Board is also to use the bank merger standard in appropriate cases.

Finally, I comment on the compromise that has been agreed to with respect to mutual aid pacts. As one who opposes such pacts, I would have preferred that the conferees on this legislation simply made them illegal. The compromise that was adopted does go a long way in alleviating some of the more severe effects of these arrangements, however, particularly the requirement that binding arbitration be agreed to as a condition of approval of such an agreement. We will continue to monitor the effects of mutual aid pacts, but I am hopeful that these changes will alleviate most of their bad effects.

Mr. President, I believe that this conference report is well worth the approval of the Senate, and I am pleased to recommend it to my colleagues.●

● Mr. PEARSON. Mr. President, I express my congratulations to the distinguished managers for the Senate and the House on their concluding the conference on the airline deregulation bill. The conference bill is a good bill, and I personally believe it to be superior to the bill passed by the Senate last spring by an overwhelming majority. It is better because it has struck a fatal blow to the very heart of economic regulation. In so doing, airlines will soon be free to make the most basic of business decisions—where to fly and what to charge. For over 35 years these decisions have been made by bureaucrats rather than airline managers. This legislation is long overdue, and I am pleased that I could have participated in its early development.

Mr. President, the distinguished senior Senator from Nevada and my very close friend has brought the Senate a truly landmark bill. He has worked long and hard for over 3 years to develop this legislation. I do not recall having seen more diligence, patience, and perseverance by any of my colleagues in the Senate. My friend from Nevada and his dedicated and knowledgeable staff, particularly Mr. Charles Barclay, deserve the thanks of the Senate, the industry, and the traveling public for their efforts on this bill which I fully support. I urge all my colleagues in the Senate to support the conference bill.

Mr. President, I express my very personal appreciation to the distinguished assistant minority leader, my close friend from Alaska and ranking member on the Aviation Subcommittee, for his contribution to this landmark aviation legislation. His careful attention to the particular and specialized air transportation requirements in Alaska have made this legislation a much more comprehensive effort than could have been possible without his firsthand knowledge of and experience with prevailing conditions in Alaska.

Mr. President, this bill offers the Senate a unique opportunity in this day and age in which more and more government regulation seems to be closing in on us from all sides. What is unique about this bill? It actually abolishes a Federal agency on a date certain. Moreover, it strips that agency, the Civil Aeronautics Board, during the interim period, of many of its most anticompetitive regulatory controls thereby providing a measure of transition which all concerned agree is desirable.

One of the great strengths of this legislation is the small community air service program. Exceedingly great care has been taken to assure that rural and isolated areas of the country do not suffer from a lack of reliable and frequent air service with aircraft tailored for their particular needs. To insure this result, the bill offers the opportunity for communities to qualify for new subsidized service and provides a 10-year guarantee of essential air transportation. It is a well-known fact that air service is absolutely necessary for the economic development of our small- and medium-sized communities where so many of those fleeing urban sprawl are settling. This bill assures that essential air transportation will be available to aid in their economic development.

The CAB's administration of the subsidy program for small community air service will, of course, be critical to the overall success of this legislation. It will be imperative that the CAB carefully follow the letter and spirit of this legislation. During the next 4 years, it will be essential that the current subsidy program be continued without substantive modification to assure a smooth transition. New competitors or current competitors wishing to provide subsidized service to currently subsidy eligible points during the next 4 years will continue to be subject to the requirements of section 401 and section 406 of the Federal Aviation Act of 1958. Such a requirement is essential to maintain the integrity of the transition period. In those markets where no section 401 carrier is ready, willing, and able to provide service, the CAB could authorize the payment of subsidy only under the new subsidy program established in this legislation. Once service is begun on a subsidized basis by a commuter, however, that market may not in the future receive subsidizd service by the section 401 carrier that previously served such market unless such service is required to provide essential air transportation pursuant to the 10-year service guarantee.

During consideration of this legislation, much has been said about the effect of this bill on the airline labor force. Some say that the bill may have a harmful effect upon labor while others argue to the contrary. I believe that this legislation will be good for labor, management, and the investor. Clearly, it would have been the better course to have

avoided any intrusion into labor-management issues. Since that, however, could not be avoided, the bill appears to have struck an acceptable compromise that all sides can live with. What is even more important, however, is that maybe now both airline labor and airline management can settle down and concentrate on the business of running this Nation's air transportation system as free from Government interference as possible. Only by returning this industry to the marketplace can we have any assurance that it will remain in the private sector.

Mr. President, there is much talk today about airline mergers. Indeed, several air carriers have already publicly stated their intentions to merge. Some, including the Chairman of the Civil Aeronautics Board have expressed concern about these merger plans. It naturally follows that if we are going to deregulate the airlines and let the businessmen run these companies, then we must also get out of the habit of wringing our hands when those same economic entities begin to talk about mergers. I fail to see why so many people seem to be so concerned about numbers of competitors. It is clear that the competitiveness of an industry is not necessarily affected by the number of individual competitors. The truth of the matter is that notwithstanding the fact that there are many competitors in the airline business today, the lion's share of the industry is controlled by the big three air carriers.

Certain mergers would undoubtedly produce stronger competitors among the "have nots" of the industry who would then make their presence known as competitors in the marketplace. Certain mergers would undoubtedly benefit air travelers by allowing them to stay on the same aircraft or at least on the same airline (which would eliminate in many cases the need to change terminals) from the beginning to the end of their journeys.

Certain mergers would undoubtedly result in more efficiency and operational flexibility thereby encouraging lower fares and more innovative service options. Mergers, in general, would tend to strengthen the financial base of the industry, make it more consistently profitable, and make it a more attractive investment option.

We should be concerned about real competitiveness, not just numbers of competitors in the airline industry. If we mean what we say about deregulation, let us apply that approach in an even-handed fashion and let the Justice Department worry about mergers.

Mr. President, this legislation began several years ago as an initiative of then Secretary of Transportation William Coleman, a distinguished gentleman and outstanding public servant who is now associated with a prestigious law firm here in Washington, D.C. He and John Robson, then Chairman of the CAB, deserve a great deal of credit for their efforts in generating early support for this legislation.

My distinguished colleague from Massachusetts (Mr. KENNEDY) as well has spent much time and effort in support of airline deregulation legislation and deserves recognition as well.

Mr. President, at about this time last year there was a major deregulation vote in the Senate—the vote to deregulate natural gas pricing. That vote turned out, as we all know, to be a limited victory at best. But, the conference bill before the Senate on deregulation of the airlines is a clear and convincing victory, indeed, and deserving of every Senator's support.●

● Mr. KENNEDY. Mr. President, I rise in strong support of the conference bill on airline deregulation brought to this Chamber today for a final vote. The joint conference has brought us a bill which is without a doubt the most important piece of regulatory reform legislation ever acted upon. As a chief sponsor of this bill as well as author of its predecessor, the Air Transportation Regulatory Reform Act of 1976, I know well the problems giving rise to the need for CAB reform. I am convinced this bill can solve many of those problems.

The success of this legislation is the result of a clear consensus among legislators, executive branch officials, consumer groups, airline regulators, economists, and many in the business community that rigid Federal economic regulation of the airlines tends to increase prices, foster inefficiency in operations, and perpetuate excessive Government control, bureaucracy, and redtape. This consensus cuts across political parties—President Jimmy Carter and former President Gerald Ford both made airline regulatory reform high priority items on their legislative agendas. This consensus crosses some usually quite impregnable ideological boundaries—the American Conservative Union, on the one hand, and Ralph Nader on the other, began from distant starting points yet ended up in the same place. This consensus has been built brick by brick in recent years by serious and careful nonpartisan examinations of the economics to today's airline industry and the nature of Government and competition in the 1970's.

In my 16 years in the Senate, I have seldom come across a national economic problem of such apparent complexity and political sensitivity that has been studied by so many independent and diverse sources, yet prompted sets of recommendations that are so similar. Virtually every independent study undertaken in the last 20 years has concluded that less regulation is the appropriate policy. Whether one reads the House Antitrust Subcommittee report of 1956, the exhaustive study of the industry by Prof. Richard Caves in 1965, the 1976 report of a unanimous Senate Subcommittee on Administrative Practice and Procedure, which I chaired, the unanimous recommendations of the members of the last and present CAB's, the 1977 report to Congress on airline fares issued by the General Accounting Office, President Carter's statement to the Congress in March of 1977, or the 1978 reports of the Aviation Subcommittees of both the House and Senate, the message has always been the same: namely, it is time to revitalize the airline industry with competition.

This bill will achieve that goal. It is the skillful combination of the House and Senate versions which went to conference on the crest of overwhelmingly strong votes. The mandate to the conferees was clear: There is an immediate need to loosen the reins of the CAB over civil aviation and to get the Government out of the expensive business of running the domestic airline industry.

The body owes considerable gratitude to the conferees of both sides who returned to us a bill which understands and addresses the complexities of the economic regulation of airlines and which effectively shifts the focus of regulation from protection to competition. It is a responsible and effective blue print to cut Federal redtape and bring about lower fares and more efficient service.

The bill itself is complex and technical, but the theme is simple: Open the air transportation industry to the rigors of competition and benefits will flow to the carriers, the consumer, and the taxpayer. This is achieved by creating a regulatory policy framework that relies on competitive market forces to provide lower fares and better air service, and by specifically allowing the carriers, for the first time ever, to compete in price and to gain easier entry into markets.

The existing CAB, under the aggressive leadership of Chairman Alfred Kahn, has given us a rare look into the future. Spurred by the clear logic and need for deregulation, this Board, in a display of initiative uncharacteristic to the Federal bureaucracy, set about the task of instilling new life and vigor into the air industry. The Kahn-led CAB moved quickly into those key areas crying for reform, fare competition, and route entry. The results in the area have been nothing short of historic: Never have fares been lower, planes fuller, and carrier profits higher. By instituting competition in the limited area of discount and standby fares the carriers are taking their first steps toward competing for passengers by offering different types of service at different prices. The results, which had been predicted in general by supporters of the legislation, are here for us to see. Entirely new groups of consumers previously precluded from air travel due to high costs are now in the market for airline tickets. With more passengers in the planes, operating costs are spread over a greater number of passengers. Lower costs per passenger means higher profits per flight. The bottom line of the discount fare experiment is clearly in the black: Record profits and record traffic:

The majors had their first profitable first quarter since 1968. In the first 3 months of 1978, they had total profits of $73 million, compared with aggregate losses of $27 million for the same period in 1977.

Traffic is already up 25 to 30 percent on most airlines. Some airlines are up to almost 40 percent over similar periods last year.

Load factors are all up, in some cases as high as 75 percent.

CAB figures for the first part of 1978 reveal the positive impact deregulation has had on employment in the airline industry:

Both the total employment and the growth rate of employment are the highest in history.

Employment is already up almost 3½ percent in the first 5 months of this year over the same period in 1977.

Improvement in the employment picture, which had been declining since 1973 coincided exactly with the introduction of new fares, price competition, and lessened CAB controls.

Additionally, trading in airline stocks is beginning to rally after years of depression, reflecting new confidence in their future and earning power.

Thus, the indicators are all positive, and employment will continue to increase as the carriers respond to the changes and new opportunities deregulation has brought.

The effects of this competition tonic have just begun: Airlines are profitable, and that pleases the stockholders; fares are low, and that pleases the travelers; bureaucracy is cut and that should please the taxpayer. With the passage of this legislation, fare competition will expand to other classes of seats. Threat of and actual entry by new carriers to previously closed routes will act as a chastising stick to incumbent airlines to keep their operations efficient and to offer the consumers the services they want at the best possible prices.

We should take careful note of the lesson to be learned from the airline regulatory reform experience. The restrictive price and entry provisions of the Federal Aviation Act, which loom so large in today's regulatory system, were copied directly from the Interstate Commerce Act of the 1880's governing railroads with little thought of their future effect upon an industry come of age. In the air transportation arena inefficiencies and excesses resulted from continued imposition of outmoded regulations. We need to now look beyond airlines and the corrective measures we are voting upon today and recognize the fact that the Nation needs to develop a comprehensive framework for approaching the complex issues involved in Federal regulation of our economy and society.

In the area of economic regulation where an industry is structurally competitive, heavy regulation, as illustrated by the airline industry, is not the answer. We need to place greater emphasis on free market forces and vigorous antitrust enforcement. Airlines should stand as an example and pace setter for continuing congressional scrutiny over other regulated industries.●

Mr. CANNON. Mr. President, I make a couple of clarifying comments concerning various sections of this legislation.

One item of particular misunderstanding has been the notion of which expenses would be included in the direct operating expenses of the airlines under the mutual aid pact. By directing operating expenses, the conferees were referring to the cash expenses occurred during the strike. That is why we excluded depreciation, but included interest payments. I believe the CAB terminology for what we had in mind generally is "transport expenses" as opposed to nonoperating expenses. We did not mean that direct operating expenses would only be flying expenses since during strikes most carriers do not fly. Hence there would be no flying expenses under that interpretation.

With respect to the provisions on unused authority. Under the conference substitute, the CAB is required to suspend incumbent carriers on dormant routes whenever a new carrier wants to start serving the route, except when it is not necessary to encourage continued service between the points in question. I certainly hope that the Board does not abuse its discretion to suspend carriers. In a vast majority of cases, it will clearly not be necessary to suspend in order to encourage continued service. This is, I am sure, especially true when several carriers hold dormant authority in an individual market. Since suspension of authority is clearly antithetical to the purposes of this act, it should be used sparingly.

Also, with respect to charters, the conferees agreed to delete the definition of "supplemental air transportation" and substitute the definition of "charter air transportation" contained in the Senate bill. This action should eliminate discriminatory treatment which the carriers have been subjected to by reason of being referred to as "supplemental" air carriers.

The conferees also adopted a provision which will preclude the Board from making charter rules and regulations any more restrictive than they were on October 1, 1978. This has the effect of approving all actions that the Board has taken with respect to the liberalization of charters and protects the public by restricting the Board's actions in the future.

With regard to the issue of control of domestic tour operators involved in marketing inclusive tour charters, we moved the prohibition in the existing law from title I to title IV in order to permit the Board to be able to use its exemption powers if it finds that the public interest so requires. I hope they will be diligent in assuring that U.S. carriers are, at a minimum, placed in an equal competitive position with their foreign competitors.

The conferees also adopted the Senate prohibition against part charters until the Board's authority over routes is terminated. This provision is designed to enable the charter carriers to have sufficient opportunity to become established in the new regulatory environment, with scheduled services if they so choose, before all controls on charters are lifted. The prohibition against part charters is, of course, also subject to the Board's exemption authority.

PAYMENTS DURING FIRST 30 DAYS

I want to make one item in this legislation absolutely clear to any and all involved. The members of the mutual aid pact are not permitted to receive any payments whatsoever during the first 30 days of the strike. Carriers are completely on their own for those 30 days. The expenses which they incur during that time must be completely absorbed by them. Only the expenses incurred during the 8 weeks after the first 30 days are subject to compensation, and then only up to 60 percent. Personally, I think the law is extremely clear, but I wanted to clarify this point for all concerned.

Mr. DANFORTH. I assume that the reference in paragraph 10 of the policy statement to "continued strengthening of small carriers so as to assure a more effective, competitive airline industry" is not intended to require any bias against large carriers, purely on the basis of size, in the awarding of routes or in any other exercising of authority provided under this bill. Is this correct?

Mr. CANNON. The Senator is correct.

Mr. BENTSEN. The bill establishes a new section of the Federal Aviation Act under which Federal law would preempt State regulation as soon as an intrastate airline received any interstate authority, no matter how limited those interstate activities may be.

It is my understanding that the CAB is granted broad exemption powers under this bill and would have the authority to grant exemptions to carriers from Federal regulation. This has been done in the past partially due to the limited nature of the interstate activities that an intrastate carrier is conducting and partially in deference to the fine regulatory structures in many of our States.

My question is whether, under the bill now before us, the CAB will be able to continue to use its exemption authority to exempt intrastate carriers which are conducting some interstate services from Federal regulation where the CAB deems it is appropriate.

Mr. CANNON. That is correct. Under this bill, the CAB may exempt intrastate carriers from Federal regulation where they are conducting some services, such as the use of alternate airports that take the carrier out of State and services provided within a State where the passengers are interstate, or whenever else the Board finds an exemption to be in the public interest.

Mr. BENTSEN. My understanding is correct though, is it not, that this bill does not alter the regulatory authority that States now possess over the intrastate routes?

Mr. CANNON. That is correct. This bill does nothing to change the States' jurisdiction over the operations of those intrastate carriers which continue to provide solely intrastate services.

Mr. KENNEDY. Section 105 of the conference bill states in part:

> No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

I am concerned that long recognized powers of the airport operators to deal with noise and other environmental problems at the local level may be inadvertantly curtailed by this section. Am I correct in stating that actions of the airport operators, presently accepted as valid exercises of proprietary powers, are not intended to be interpreted as "relating to * * * routes or services" of air carriers and are not intended to be preempted by the powers created by this section?

Mr. CANNON. That is correct. It was not the intent of the Senate conferees to

limit in any way the normal exercise of the existing proprietors' powers to place nondiscriminatory restrictions on the operations at an airport, subject to constitutional and statutory limitations.

Mr. STEVENS. Am I correct in my understanding that this conference bill does not contain any provisions that could be considered by any agency, department, or court as being antimerger with respect to airline mergers?

Mr. CANNON. The Senator is correct.

Mr. STEVENS. Am I correct in my understanding that the conference bill provides that the State of Alaska retains, generally, economic regulatory authority over other than scheduled passenger service by section 401 air carriers? This provision is very important to the proper conduct of transportation wholly within the State of Alaska.

Mr. CANNON. The Senator is correct.

Mr. STEVENS. Am I correct in my understanding that this conference bill provides that the factfinding board to be appointed by the President to investigate the Wein Strike is to be limited to factfinding only and not faultfinding, and that nothing in the provision would change the respective rights of either management or labor.

Mr. CANNON. The Senator is correct.

Mr. STEVENS. Is my understanding of the conference bill correct in that the bill would permit the CAB to provide subsidy under the new program established in this bill for service in Alaska by qualified carriers even though they use pure jet equipment if such equipment is necessary, because of vast distances and extreme weather conditions both of which are present in Alaska?

Mr. CANNON. The Senator is correct.

Mr. KENNEDY. The policy statement of the bill contains a new provision, of the Federal Aviation Act, section 102(a)(8), which appears to be designed to encourage the use of satellite airports at major cities. This would cover airports such as Midway at Chicago, Love Field in Dallas, and secondary facilities in California such as Oakland near San Francisco and Ontario near Los Angeles.

Like the Senator from Nevada, I am very much in favor of using these valuable satellite airports which might otherwise go to waste. However, this section of the bill was amended on the floor of the House with almost no debate, in a manner which concerns me. That amendment was interpreted in the House as possibly preventing the CAB from allowing interstate service from such airports unless the local, regional, and State authorities each give their permission and support.

I am concerned because I do not believe we should give such power to local groups. It seems inconsistent with the preemption provision. Is there any reason why we should try to tie the hands of the Federal regulators in this way? Of course, since this is only a policy statement it cannot be legally binding on the Board. But I am anxious that there be no misunderstanding of the Senate's intent on this score. Could you clarify the record on this, please?

Mr. CANNON. Section 102(a)(8) is a policy statement. It may not properly be read as compelling CAB to do—or not to do—anything inconsistent with the overall purpose of the bill. That purpose is to increase competition and lessen regulation. In other words, to increase the public's freedom of choice and the airline's freedom of action.

Our purpose in agreeing to this provision from the House bill was to encourage, not discourage, opening competition at satellite airports. Of course, we do expect the CAB to listen to the views of local interests. And I would point out that the real issue of allowing interstate or solely intrastate service from an airport is a proprietary rights issue of the airport operator. Those rights I understand allow the airport operator to restrict operations of a class of carriers in a nondiscriminatory manner. But we want to leave the ultimate decision on route authority matters to the CAB, subject to our general policy encouraging satellite airport service at major urban areas. The continuing development of our fine national air transport system requires that such matters not be subject to absolute control by local officials who may not be aware of broader concerns which should be paramount.

Mr. PEARSON. I have one concern which I want to receive some clarification about. There is no doubt that the Congress is telling the Board to do everything in its power to bring more competition into this industry. There remains, however, some ambiguity in the policy statement which future Board members who may be opposed to deregulation could latch onto in order to stop the move toward competition. How can we prevent that from happening?

Mr. CANNON. That is a very good question. We have addressed it specifically in the conference report discussion of the policy declaration. In that statement, we noted that we were aware of the substantial changes which have occurred since the early 1970's in this industry. The recent activities of the Board range from virtually total intransigence until about 3 years ago, to very healthy activism in recent months. We have built in limits throughout this legislation to prevent any backsliding to the era of strict protectionism. We have also specifically admonished any current or future Board members who may not be personally comfortable with the concept of eventual deregulation of the industry to heed the policy direction provided by the Congress, rather than their personal point of view. In short, we have enthusiastically endorsed the direction in which the Board is moving, we have directed it to escalate its efforts, and we have strongly cautioned it against slowing down its efforts without congressional approval. I hope these statements satisfy your concerns.

Mr. PEARSON. They certainly do.

Mr. STEVENS. Would the Senator please clarify another point concerning the automatic entry provision of the bill? The Senate bill, S. 2493, clearly excluded from the automatic entry provision of the bill any "segment" (pair of points) wholly within the State of Alaska. The conference substitute refers to interstate and overseas air transportation markets as being available for selection under the automatic entry provisions. Was it the intent of the conferees to open up for automatic entry a "segment" (pair of points) wholly within the State of Alaska?

Mr. CANNON. The conferees never intended to open up for automatic market entry pairs of points both of which lie within the State of Alaska. The parenthetical concerning Hawaii was added to clarify that the State of Hawaii is excluded entirely from the automatic entry provisions of the bill.

● Mr. INOUYE. I want to express my support of section 408 of the new act as clarified by the statement of the managers. At the same time, I want to express my concern over the public utterances by Federal officials concerning airline mergers.

We begin our consideration of airline reform with plans by the administration for greater freedom for the incumbents to move in and out of markets and to price their products. Slowly, we have been pushed to a bill which permits rapid deregulation of the airline industry. Frankly, I have not been one of the supporters of this movement. I have been concerned that we are likely to end up with the existing industry giants gaining more economic power and the public getting less service at higher fares.

My concerns have not been erased by the current spate of low fares encouraged by the present CAB in a regulated environment. That tells us nothing as to what will happen under deregulated conditions when the air carriers are no longer dependent on the largess of Federal officials.

However, if we are going to get rid of regulation on a fast time track, then we must let the smaller airlines make those moves which will enable them to compete effectively and break the cartel of the big carriers in the major long-haul markets. In some cases, the best answer may be merger. I am not particularly sympathetic to mergers. But, I recognize that some mergers do in fact increase rather than decrease competition. For example, two smaller trunklines may be able to join together and more effectively challenge the industry giants with new services and low fares in these longer haul markets occupied principally by the larger carriers, in a manner which neither carrier could do alone. Such a merger would in my mind have a significant beneficial effect which might well outweigh the loss of one existing, effective competitor in shorter haul or regional markets.

Our interest should be in the quality of competition and not the number of competitors. That is precisely how the courts have interpreted the Clayton Act.

What deeply disturbs me are the general statements to the press by some indicating a negative view toward all airline mergers at this time. They have accused the airlines of acting out of fear and claim the airlines are panicking. I think it is these Federal officials who are panicking. Having assured us that airlines were unlikely to merge, in their zeal to promote legislation which would permit them to deregulate the airlines, they find now that they have misjudged the situation. As a result, they

are now berating those managers who have tried to find their business solution to airline deregulation by merger.

The position of these Federal officials lacks reasoned consistency. On the one hand, they have pressed us to free the airline managers of the bonds of Federal control, so they can be free to serve whatever markets they please at whatever prices they want to charge. On the other hand, they say to the airline managers, you are not free to do those things permitted of other managers of unregulated businesses. At least, you are not free to act until you have suffered for a time under the rigors of a free marketplace. In essence, all these Federal officials are saying is that we do not want to be around when you merge; we do not want to bear the embarrassment of being proven wrong.

Fortunately, my colleagues have seen the obvious inconsistency in this position. In adopting the new section 408, which establishes the criteria for airline mergers, they have made our congressional intent clear. Airline mergers are to be permitted so long as they meet the tests of the antitrust laws as interpreted by the courts. The Board has been explicitly forewarned not to impose any more restrictive standards. And, I want to emphasize that the standards we expect the Board to apply are those applied by the courts, not those which the Department of Justice, the Federal Trade Commission, or the Civil Aeronautics Board might want the courts to apply. The congressional intent is clear. I hope the CAB understands our message.●

● Mr. STEVENSON. Mr. President, I am pleased to support the conference report on the aviation deregulation bill and to commend the distinguished senior Senator from Nevada (Mr. CANNON). As chairman of the Subcommittee on Aviation and the full Commerce Committee, he presided with patience and good humor throughout the hearings and many markup sessions required before we could report the bill early this year. And without his skill and determination during the last few days the conference committee would not have agreed so quickly on the bill now before us.

S. 2493 is a sound measure in spite of the compromises that were necessary. It reduces the burden of Federal regulation and permits, indeed, requires, air carriers to make their decisions as to rates and routes in a marketplace controlled not so much by Federal regulation as by competition within the industry. At the same time the bill provides cushions against dislocations that might be caused by this reversal of longstanding policy. Smaller communities are protected by the inducements the bill offers to local carriers and the restrictions against sudden discontinuance of service. Employees are protected, liberally I believe, by industry-wide preference in rehiring and by substantial income support in the event of job loss.

Most important, Mr. President, the bill serves the interests of the traveling public. The Civil Aeronautics Board has already loosened many of the restraints on fare and service competition and opened up routes to additional service. This bill reaffirms the Board's exercise of its authority to reduce regulation and establishes procedures for simplifying and speeding up the Board's handling of applications of carriers proposing new or additional service.

The newly permissive policies of the Civil Aeronautics Board, together with the economic recovery of the past year, have stimulated an enormous increase in air travel. Carriers which were in precarious financial straits 2 or 3 years ago are now showing substantial profits. It is a propitious time for passage of the bill.●

Mr. SCHMITT. Mr. President, will the Senator yield 30 seconds?

Mr. CANNON. I yield.

Mr. SCHMITT. Mr. President, I continue to thank the distinguished Senator from Nevada for his leadership and tenacity in this effort. There were 18 days of Commerce Committee hearings, which I believe was a record. We had outstanding participation on both sides of the aisle in those hearings. I think what we have is truly a remarkable step forward in the deregulation effort of this country, and I see nothing but bright skies ahead for the airline industry.

I compliment the Senator once again.

Mr. CANNON. Mr. President, I move the adoption of the conference report.

Mr. ABOUREZK. Yeas and nays.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. METZENBAUM. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Are there any Senators who wish to vote?

The result was announced—yeas 82, nays 4, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—82

Abourezk	Gravel	Moynihan
Allen	Griffin	Muskie
Anderson	Hansen	Nelson
Baker	Hart	Nunn
Bartlett	Hatch	Packwood
Bayh	Hatfield, Mark O.	Pearson
Bellmon	Hayakawa	Pell
Bentsen	Heinz	Percy
Biden	Helms	Proxmire
Bumpers	Hodges	Randolph
Burdick	Hollings	Ribicoff
Byrd, Harry F., Jr.	Humphrey	Riegle
Byrd, Robert C.	Inouye	Roth
Cannon	Jackson	Sarbanes
Case	Javits	Sasser
Chafee	Johnston	Schmitt
Church	Laxalt	Schweiker
Cranston	Leahy	Sparkman
Culver	Long	Stennis
Curtis	Lugar	Stevens
Danforth	Magnuson	Stevenson
DeConcini	Mathias	Talmadge
Dole	Matsunaga	Thurmond
Durkin	McGovern	Wallop
Eagleton	McIntyre	Weicker
Ford	Metzenbaum	Williams
Glenn	Morgan	Young
		Zorinsky

NAYS—4

Chiles	Melcher	Stone
Hatfield, Paul G.		

NOT VOTING—14

Brooke	Goldwater	McClure
Clark	Haskell	Scott
Domenici	Hathaway	Stafford
Eastland	Huddleston	Tower
Garn	Kennedy	

So the conference report was agreed to.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5263.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the question recurs on agreeing to the motion to lay on the table the appeal from the ruling of the Chair.

Mr. ROBERT C. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the appeal from the ruling of the Chair that after cloture was invoked, a motion to adjourn by the Senator from South Dakota was dilatory.

Mr. ROBERT C. BYRD. Mr. President, that was the motion of the majority leader.

The PRESIDING OFFICER. The motion of the majority leader to lay on the table the appeal from the ruling of the Chair.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCIN-

TYRE), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 63, nays 19, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—63

Allen	Glenn	Muskie
Anderson	Gravel	Nelson
Bayh	Hart	Nunn
Bellmon	Hatfield,	Pearson
Bentsen	Mark O.	Pell
Biden	Hatfield,	Percy
Bumpers	Paul G.	Randolph
Burdick	Hodges	Ribicoff
Byrd,	Hollings	Riegle
Harry F., Jr.	Humphrey	Roth
Byrd, Robert C.	Inouye	Sarbanes
Cannon	Jackson	Sasser
Case	Javits	Schweiker
Chiles	Johnston	Stennis
Church	Leahy	Stevens
Cranston	Long	Stevenson
Culver	Magnuson	Stone
Danforth	Matsunaga	Talmadge
DeConcini	McGovern	Thurmond
Dole	Melcher	Williams
Durkin	Morgan	Young
Ford	Moynihan	Zorinsky

NAYS—19

Abourezk	Hayakawa	Packwood
Baker	Heinz	Proxmire
Bartlett	Helms	Schmitt
Chafee	Laxalt	Wallop
Griffin	Lugar	Weicker
Hansen	Mathias	
Hatch	Metzenbaum	

NOT VOTING—18

Brooke	Garn	McClure
Clark	Goldwater	McIntyre
Curtis	Haskell	Scott
Domenici	Hathaway	Sparkman
Eagleton	Huddleston	Stafford
Eastland	Kennedy	Tower

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, why did the Chair call on the Senator from California?

The PRESIDING OFFICER. Because I thought he had asked recognition.

Mr. CRANSTON. I had indicated I was going to and I think he was looking at me. I yield the floor to the Senator from West Virginia.

Mr. ROBERT C. BYRD. No, no, I just want the Chair to be ready for recognition.

The PRESIDING OFFICER. Yes, sir.

SENATE CONCURRENT RESOLUTION 109: CONSTITUTIONALLY INVALID, POLITICALLY UNWISE, AND PRACTICALLY UNNECESSARY

Mr. CRANSTON. Mr. President, on Tuesday, October 10, 1978, Senator GOLDWATER and 24 other cosponsors submitted Senate Concurrent Resolution 109—a concurrent resolution relating to the termination of treaties. Concurrent Resolution 109 has been referred to the Committee on Foreign Relations and the Committee on the Judiciary, jointly, and will not be acted upon during this session of Congress.

However, because of my strong belief in the importance of the subject, and because of my firm commitment to the constitutional role of Congress, and the Senate in particular, in the treaty and international agreement process, I want to record now why I was not, and could not be, a cosponsor of Concurrent Resolution 109.

The Constitution provides that "the Executive Power shall be vested in a President of the United States of America," "He shall receive Ambassadors and other foreign ministers" and "he shall have the power, by and with the Advice and Consent of the Senate, to make Treaties."

There is no question that the President cannot make treaties without the advice and consent of the Senate and this advice and consent must be expressed by a two-thirds vote of ratification. As Senator GOLDWATER, and many of the cosponsors of Concurrent Resolution 109, I have resisted vigorously any attempt to evade this provision by the Executive and I have insisted on congressional approval by both Houses of those Executive agreements that do not rise to the constitutional level of a treaty.

And when the nature of an international agreement has been in doubt, I have favored the treaty process rather than the Executive agreement.

However, the Constitution clearly vests the Executive power in the President, and the President has the power to extend or deny diplomatic recognition to any nation. According to the Supreme Court, "* * * the President alone has the power to speak or listen as a representative for the Nation." *U.S.* v. *Curtis-Wright Corp.*, 299 U.S. 304, 319 (1936). The Senate Committee on Foreign Relations has recognized and defined this power:

> The President is the constitutional representative of the United States with regard to foreign nations. He manages our concerns with foreign nations and must necessarily be most competent to determine when, how and upon what subjects negotiation be urged with the greatest prospect of success. For his conduct he is responsible to the Constitution. The committee considers this responsibility the surest pledge for the faithful discharge of his duty.
>
> U.S. Senate, Reports, Committee on Foreign Relations, volume 8, page 24 (1816).

Under the constitutional power of the President to act as the Nation's representative to foreign governments, it seems clear that Congress could not require a two-thirds approval by the Senate, or majority approval by Congress, prior to Executive recognition of a foreign government. Nor, by law, could Congress command an Executive to recognize or not to recognize a particular government.

It is equally as clear that consultation between the Executive and the Senate or Congress is wise and should occur prior to the termination or granting of diplomatic recognition of a country or prior to the termination of any defense or other treaty or international agreement whether approved by the constitutional two-thirds vote of the Senate or by majority vote of Congress.

The issue is whether the Constitution or this Congress should require, in the words of Concurrent Resolution 109, that "The President should not unilaterally take any action which has the effect of abrogating or otherwise affecting the validity" * * * of certain mutual defense or security treaties "* * * without the advice and consent of the Senate, which was involved in their initial ratification, or the approval of both Houses of Congress." I submit that the language "* * * take any action which has the effect of abrogating or otherwise affecting the validity * * *" is too broad and therefore suspect as a restriction of the President's constitutional power to conduct diplomatic relations. I also submit that such broad language is unwise and not supported by the historical and constitutional arguments the cosponsors attempt to muster.

First, there is no logical reason to limit the scope of the Concurrent Resolution 109 to security or mutual defense treaties. If the constitutional, historical, and practical arguments are valid, they should be just as applicable to all treaties and international agreements where the Senate or both Houses of Congress were involved initially. But apparently even the cosponsors of Concurrent Resolution 109 recognize that such broad application would be a clear disclosure of the overreaching of the wording.

Second, Concurrent Resolution 109 really seems designed for a purpose different than that which first appears: the resolution would limit the constitutional power of the President to establish diplomatic relations with a foreign government. In particular, a requirement that the President must submit to a two-thirds vote of the Senate any action which has the effect of abrogating or otherwise affecting the validity of any of our post-World War II security treaties might prevent the President from taking action to normalize relations with the People's Republic of China.

If the President recognizes the PRC, the United States thereby would cease to recognize the Government of Taiwan as the legitimate government of all China. The legal effect of this action could be to terminate our treaties and agreements concluded with Taiwan, because they signify agreement with a government with which we have ceased to maintain normal diplomatic relations.

No precedent exists for relations with an entity such as Taiwan, upon withdrawal of diplomatic recognition. Whether recognition of the PRC would automatically terminate all treaty relations is unclear. But, if recognition of the PRC terminates our treaties with Taiwan, then under Concurrent Resolution 109, the President would be required to submit his decision to recognize the PRC to the Senate for a two-thirds vote approval. I believe that this requirement would be an unconstitutional prior restraint on the President's power to

recognize a foreign government. I also believe this requirement to be unwise. The Chinese are the most populous nation on Earth and our relations with both the PRC and Republic of China (Taiwan) are both important and fragile. The President should have the flexibility to conduct foreign relations with both the ROC and PRC so as to preserve and protect the best interests of the United States with both.

The Senate, of course, also plays a very special role in foreign policy. It is our responsibility to oversee the President's action and oppose him when we believe that he acts unwisely. And certainly prior to any action extending diplomatic recognition to the PRC, the Senate, and preferably Congress as a whole, should be consulted—but in ways short of formal advice and consent.

The Dole amendment, as passed this summer, was intended to insure consultation between the President and the Congress prior to any action affecting our mutual defense treaty with Taiwan. I support the principle involved in that amendment.

I firmly believe, however, that the administration will consult with Congress so that in the event that diplomatic relations are established with the PRC—which I favor—Congress may enact prior, concurrently or subsequently thereto appropriate legislation to preserve the essence and substance of our relations with Taiwan. I do not favor any course of diplomatic recognition of the PRC which "abandons" Taiwan.

Third, the legal and constitutional agreements advanced by the cosponsors of Concurrent Resolution 109 appear to be the distinct "minority view" in both the legal and historical academic community. The majority and better reasoned view is that the President has the power to abrogate or terminate a treaty without the two-thirds advice and consent of the Senate. Moreover, as for the specific mutual defense treaty with the ROC (Taiwan), the Senate gave the President power to terminate the treaty on 1 year's notice.

As my distinguished colleague (Mr. GOLDWATER), notes in his study entitled "China and the Abrogation of Treaties" (which I recommend to all for study) that in at least nine instances since 1927 the President has terminated treaties without the advice and consent of the Senate or the approval of Congress. In other instances, he has done so and received the subsequent approval of the Senate or Congress.

Although Senator GOLDWATER attempts to distinguish this practice, termination by Presidential notice has become an established practice for the executive branch. Congress has not previously disputed the exercise of this power and the State Department has stated its opinion that this practice is legal:

> . . . the power to denounce a treaty inheres in the President of the United States in his capacity as Chief Executive of a sovereign state. This capacity, as you are aware, is inherent in the sovereign quality of the government, and carries with it full control over the foreign relations of the nation, except as specifically limited by the Constitution. Without entering into a lengthy discussion of the general and specific arguments leading to this conclusion, it will perhaps be sufficient to quote the conclusion of Professor Willoughby (Constitutional Law of the United States, 2nd Ed. I, p. 585): "It would seem, indeed, that there is no constitutional obligation upon the part of the Executive to submit his treaty denunciations to the Congress for its approval and ratification, although, as has been seen, this has been several times done." Hackworth, V Digest of International Law, pp. 331–332.

Most international law experts support the position of the State Department, for example:

> In actual practice, the President has acted on his own to denounce treaties without any legislative authorization or approval. Such action appears justified by the constitutional position of the President as the nation's sole organ of foreign intercourse. Notice of denunciation of a treaty is a normal incident in the conduct of external relations confided to the executive." Schwartz, *The Powers of Government*, V. 1, p. 132.

Fourth, the President's power to undo a treaty without the advice and consent of the Senate is similar to his power to dismiss Government officials, even though they must be appointed only with the advice and consent of the Senate. The same considerations apply to both cases. The Senate operates as a check against the making of bad treaties or bad appointments, and it remains important for the President to be able to continue to govern when a treaty or an official becomes an obstruction to the administration of his governmental duties. In this light, the lengthy, public deliberations of the Senate might hinder the President's ability to conduct effective foreign relations, especially where immediate action is necessary.

There undoubtedly would be substantial wisdom in some form of prior consultation by the President with the Senate before removing an Executive appointee ratified by the Senate—but there is no constitutional requirement for such consultation.

The analogy to advice and consent of the Senate on appointments and in treaties is very compelling to me.

Fifth, regardless of the President's power to abrogate the mutual defense treaty without the approval of the Senate, the power to terminate the treaty is provided by its own provision that "Either Party may terminate it 1 year after notice has been given to the other Party" (Mutual Defense Treaty, Article X). Thus, rather than abrogating the treaty in an immediate manner, the President could give 1 year's notice, and terminate the treaty according to its terms. Unlike abrogation, termination of the treaty pursuant to its own terms would not breach our relation with Taiwan. This would be an act executing a statute, rather than arguably violating one. Since the President has a constitutional duty to execute the laws, the constitutional questions of treaty abrogation would not arise.

Senator Lodge, Sr., while chairman of the Senate Foreign Relations Committee, although adhering to the belief that the President should seek ratification by the Senate or Congress after termination of a treaty, stated his view that:

> . . . The termination of a treaty by notice is, of course, in no sense an abrogation or a denunciation. It is carrying out the terms of the treaty and not only is not in violation of the treaty, it is in accord with its provisions. Hackworth, *V Digest of International Law*, p. 321.

It would seem that there is no present justification for the Senate to seek to change the terms of the mutual defense treaty indirectly by asserting under Concurrent Resolution 109 that the President cannot exercise the 1-year notice provision of article X of the treaty unless he obtains a prior two-thirds approval of the Senate.

Sixth, as a practical matter, the President should and will consult with Congress before taking such a major step as terminating a treaty or granting or withdrawing diplomatic recognition.

But, if the President were to terminate the mutual defense treaty with Taiwan with or without the 1 year notice, I believe that the Senate should not, and cannot, act to override his action. Indeed, concern for the continuation of the mutual defense treaty with Taiwan seems to me a particularly inappropriate reason for negative action by Congress. The mutual defense treaty with Taiwan requires only that in the event of an attack on Taiwan, the United States would act "to meet the common danger in accordance with its constitutional processes." The treaty does not commit the United States to military action in defense of Taiwan. It merely mandates that the United States act as it necessarily would even in the absence of such a treaty. Thus, the notion that termination of the treaty would amount to "abandoning Taiwan" is unfounded. Termination of the mutual defense treaty would have no effect on the ability of the United States to defend its interest in the Pacific, even through the use of military force, if necessary.

CONCLUSION

The establishment of diplomatic relations with the People's Republic of China should be a high national priority. I believe that the Senate should support the President in those measures which he feels are necessary to opening relations with the PRC and maintaining relations with Taiwan. Any prior restraint such as an effort to require a two-thirds Senate approval of the President's efforts to establish relations with the PRC and to preserve relations with Taiwan would appear contrary to the best interests of the United States.

For these reasons, I could not join as a cosponsor of Concurrent Resolution 109, although I am a firm believer and strong participant in the Senate constitutional duty of advise and consent.

I hope—and I know—that the Committee on Foreign Relations and the Committee on the Judiciary will give this concurrent resolution the full hearings and thorough study that its importance warrants. When that process is completed, I am confident that the committees concerned and this Senate will conclude that in its present form and substance, Concurrent Resolution 109 should not be recommended for passage or passed.

HOORAY FOR HOLLYWOOD

Mr. CRANSTON. Mr. President, I would like to take this opportunity to

recognize an important anniversary of one of California's best known and best loved cities: 1978 marks Hollywood's diamond jubilee.

Hollywood has played a unique part in American history. The laughter, dreams, and romance given to us by Hollywood have helped lighten and brighten our lives for many years. And the conflicts and tragedies portrayed on film have played a large part in the continuing development of our national consciousness.

"Hollywood" conjures up images for everyone: Stars and glamour and glitter and tinsel. However, although we think of Hollywood in connection with the myth and fantasy brought to us over the years, Hollywood is also celebrating 75 years of a very real community spirit and cooperation.

Hollywood's diamond jubilee is a grand occasion, and I am pleased to join in the cheers and congratulations.

ENERGY TAX ACT OF 1978— CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5263.

Mr. ROBERT C. BYRD. Mr. President, I want to thank the distinguished majority whip for his graciousness in offering to yield to me. I did not prefer that he yield and I just want to thank him.

Mr. President, we have been observing now for several hours the conduct of a filibuster on the energy tax conference report.

As I indicated earlier, there are three major items that still confront the Senate before the Senate can adjourn sine die for the year and for the Congress, one being the energy legislation, another being the continuing resolution, and the third being the conference report on the tax bill if and when the conferees reach agreement, and I understand they are continuing to make good progress. Mr. President, I can only assume that those who have conducted the filibuster against the energy tax conference report are hopeful that at some point before the day is over, the House will proceed to consider H.R. 112, which, if enacted, those who are opposed to the energy tax conference report hope, would obviate the necessity of going forward with the energy tax conference report.

Mr. President, I have talked with the Speaker and he has assured me that he has no intention of calling up H.R. 112. That being the case, I hope that those who are opposing the energy tax conference report will relent in their opposition insofar as utilizing dilatory tactics are concerned. I certainly respect their objections to the conference report. I respect them in expressing their opposition and voting against the conference report. I would do the same if I were opposed to it. But I hope that they will not continue to resort to dilatory quorum calls, dilatory motions, and so on, in the effort to delay the Senate from completing its action on this conference report.

Earlier today, the Senate, by a vote of 71 to 13, invoked cloture on the energy tax conference report and by so doing, signified that it wanted to get on with action on the conference report in due time and vote it up or down.

I hope that Senators will obey the injunction of that cloture vote and speak their opposition if they are opposed, and then let the Senate vote up or down, because every hour that we chew up here will be an hour that will come out at the other end.

I expect to be in the Senate long past midnight tonight in the hope that the Senate can adjourn sine die. If the Senate does not complete action on this energy tax conference report by midnight, we shall be in after midnight, and as far as I am concerned, we will just stay. We will not go out, because there is just no rhyme or reason to this business of filibustering the energy tax conference report, which is one of the elements in the overall energy package.

The Senate spent several days on th s bill and worked its will thereon. It went to conference, and the conferees have brought back a conference report.

So the House is awaiting that conference report.

I would hope Senators would recognize this filibuster for what it is. It is simply an effort to delay action on this conference report, hoping that it will be called down or hoping that somehow or other it will die.

But I want to debunk that hope because, Mr. President, I think it is a responsibility of the Senate to vote on this conference report.

Mr. HART. Will the Senator yield?

Mr. ROBERT C. BYRD. On my own time, for a question, but if the Senator wants——

Mr. HART. I would like to comment.

Mr. President, I listened very carefully to what the majority leader had to say about the parliamentary situation. I have been following it on the House side, myself.

I certainly do not want to be in a position of calling into question the majority leader's analysis of the parliamentary situation, but my understanding, and I am not one of the participants in the filibuster and really have not been involved in that, but my understanding is that the rule applying to H.R. 112 is privileged and up until midnight tonight can be brought up at the insistence of the sponsor of the resolution which led to that rule.

So I am not sure that the Speaker has the control over the situation on the House side that it might seem.

I just wanted to lay that out for the benefit of our colleagues.

I think the majority leader is in a very difficult situation here. He wants to get the Congress out of session. I think all of us do, too.

But the parliamentary situation, I think, in both Houses, particularly on the House side, is a rather complex one. I am not sure it is totally in the Speaker's control.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Did the Senator yield the floor?

Mr. HART. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Colorado, I am sure, makes a good point in what he says. But the Speaker has told me he will not—he will not—recognize any Member for the purpose of calling up H.R. 112, and that power of recognition does reside in the Speaker.

He assured me he has no intention, no intention whatsoever, of calling H.R. 112 up. As far as he is concerned, it will die. The Speaker has indicated that the House is waiting on this conference report. So I say to my friends here that until the Speaker tells me differently, I am going to depend on the Speaker's word.

I am going to depend on the Speaker to have meant what he said. That being the case, I would hope my colleagues would relent and let the Senate get on with voting up or down on the conference report in due time. After they have debated it, that is fine. But I hope they will restrain themselves.

The distinguished Senator from Colorado has not participated in this, as he has said. But those who have, I say with all kindness and love to them, that I hope they will disclaim themselves from the dilatory quorum calls and the motions that the Senate has experienced today.

Several Senators addressed the Chair.

Mr. HART. Would the leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. HART. What is the practice of the House with regard to the Speaker's recognition of a member of the Rules Committee?

I understand he has great power. But it is my understanding that the individual in the House, Member of the House, who is responsible for this rule and the resolution which led to it, is a member of the Rules Committee, and the precedents in the House, as I understand it, are such the Speaker almost inevitably recognizes a member of that committee for the purpose of privileged rule.

Mr. ROBERT C. BYRD. I believe Mr. DODD is the Member to whom the distinguished Senator from Colorado has reference, and according to House Resolution 1349, he would have authority to call up that resolution. But that exclusive right of Mr. DODD extends only until midnight tonight—I think that is right. I think the 7 days expire.

Mr. HART. That was my understanding.

Mr. ROBERT C. BYRD. Yes.

The Speaker has told me he will not recognize anybody for the purpose of calling up that bill. Of course, at midnight tonight, if it comes and goes, then whatever authorization that resolution gives to Mr. DODD will expire with the clock at midnight.

So I have the Speaker's word that he does not intend to recognize any member to call up H.R. 112.

I have served in the House, and if a Member over there gets recognition, not like it is over here, a Member gets over here and he is recognized, but there, a Member can get recognition, and when the Speaker says, "I didn't recognize the gentleman from West Virginia for that purpose," he will go to somebody else.

So the Speaker says he is not going to call that up. As far as he is concerned, that will die, and he is waiting on this

part of the package. He and I are walking hand in hand in that regard.

It is not that I particularly favor this conference report. I voted for the bill, I suppose so we could have a much better conference report.

But this is what we have. We ought to vote it up or down and relent from this position of putting in dilatory quorum calls and dilatory motions, simply to delay the Senate until the clock strikes 12 tonight, because it is all going to be to no avail. It is going to cause a lot of sleepless eyes and wasted time and probably wounded feelings on tomorrow when we find we have not been home to see our families in the meantime.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. MELCHER. I thank the Chair.

Mr. President, I want to establish some colloquy on the conference report with the manager of the bill.

I have to confess I have not had the chance to review carefully and in detail and in completeness the energy tax conference report in comparison to the Senate report on the act.

I wish to ask a question of the distinguished floor manager.

The Senate report on energy taxes contained the following language in the section dealing with the specially defined energy property:

> In addition to these types of property, the Secretary is authorized to specify other similar items of energy conservation equipment eligible for this credit, including modifications which are made to existing industrial processes (such as modifications to smelters or alumina electrolytic cells) the principal purpose of which is the reduction in the amount of energy consumed or heat wasted.

Mr. President, may we have order here?

I wish to establish this colloquy for purposes of congressional intent.

I understand that the conference report language differs somewhat. What I want to know is, does the conference report language insure that modifications to smelters or alumina electrolytic cells are eligible for the investment tax credit?

Mr. BENTSEN. Yes; that language covers the kind of equipment the Senator has referred to.

Mr. MELCHER. I very much thank the distinguished floor manager of the bill.

Now, I want to point out to Members of the Senate exactly what this means.

We are having an extremely difficult time with smelters, either for aluminum or for copper.

We have three smelters in my State of Montana, two for copper and one for aluminum.

These plants, with the rising cost of energy, with rising costs in all sense of the effect inflation has had on business, must meet certain criteria in their quality and must continue improvement of their plants for that purpose. They must meet certain requirements in terms of safety and health of their employees within the plants. The effect is one of strain and stress on the smelters.

What this part of the bill would mean for the smelter plants is an additional tax credit for certain equipment purchased between now and 1982 that, in effect, would save fuel. It is a very commonsense approach.

There are some who would like to believe that plants such as these could make these improvements, which are beneficial, with money from their earnings, and for some that is possible. For many, and particularly for ours in Montana, that does not seem to be the case. They need the advantage of this tax credit to have the equipment that is necessary to reduce their consumption of energy, which not only will be reflected in conservation of energy, not only in more efficient operation for them, but also will free-up some of their other resources from their business to accomplish what we need in control of air pollution outside the plant and control air pollution and other health factors for their workers inside the plant. It is a strain and stress of the times, I believe, and it is something we want to accomplish. This is one of the reasons why the conference report before us has merit.

I point out that the advantage of adopting this conference report is distinguished by several different reasons, this being one of them.

TRIBUTE TO SENATOR PAUL G. HATFIELD

Mr. MELCHER. Mr. President, while I am discussing this, Mr. President, I wish to relate to the Senate, in a rather unusual fashion, this being the time of cloture, that the colloquy I had with the distinguished floor manager was engaged in on behalf of myself and my colleague from Montana, Senator PAUL HATFIELD.

Senator HATFIELD came to this body only a few months ago. I cannot express how saddened and shocked we were in Montana at the death of one of the great Senators from Montana, Senator Lee Metcalf. However, with the necessity of replacing Lee Metcalf, Governor Judge, the Governor of our State, in my estimate, made the finest replacement possible for Senator Metcalf in naming PAUL HATFIELD to succeed him. This perhaps is PAUL'S last day on the Senate floor, depending on when we adjourn.

The reason why I say PAUL HATFIELD was the best possible replacement for Lee Metcalf is that I cannot think of anybody with more experience and more honesty and more sincerity in the entire State of Montana. We have had a fine record of great Senators from the State of Montana, excepting the present speaker: Senator Walsh, Senator Wheeler, Senator Murray, Senator Mansfield, and Senator Metcalf. Among those Senators whom Montana will look upon as being great, all of the same vintage as those I have named—is Senator PAUL HATFIELD.

Even though he has been a Senator for only a few short months of this year, he is looked upon and respected by Montanans as a fine and a truly distinguished Senator from our State. I know that that opinion is shared here by all our colleagues in the Senate.

It is particularly appropriate that I make these remarks about Senator PAUL HATFIELD at this time, because one of the reasons why PAUL HATFIELD makes a great Senator from Montana is that his roots are great and deep in Montana. In particular, his father and others in his family have been connected with the very subject we have been discussing—smelters—in the State of Montana.

I did not mention that one of the fine characteristics of PAUL HATFIELD is compassion and understanding, and he gains that compassion and understanding for people because he is of the people. His father worked for some 40 years in a smelter, mostly in Great Falls, Mont.; some in Anaconda, Mont. It is through that heritage that PAUL HATFIELD has come in his capacity, first, as a lawyer for 16 years, a district judge on the Montana bench, and then the chief justice of the Montana Supreme Court, the last position he held prior to being appointed Senator.

Translating that compassion and that understanding and that knowledge into legislative terms and actions here on the Senate floor is truly the mark of a great Senator.

Speaking personally, my relationship with Senator HATFIELD has always been a delight. He always has been one of sincere understanding and mutual respect. I say, very humbly, that it has been my opportunity to serve with a truly honorable man, one of courage.

Mr. STENNIS. Mr. President, will the Senator yield to me, if he has concluded?

Mr. MELCHER. I am delighted to yield to the distinguished Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I consider it a real privilege to have a chance to say a word here, and I will not take much time.

The Senator has referred to his colleague from Montana, Senator PAUL HATFIELD. It is our good fortune to have had him and his influence on our Armed Services Committee during most of the time he has been here. Even though at the beginning it was entirely outside his ordinary pursuits, he showed a fine interest in every major phase of the entire program and excellent judgment on policy questions.

PAUL HATFIELD has the dignity and the charm that go with the gentleman he is. He has cooperated in every way possible and has taken willingly every assignment that I asked him to take, and he has rendered very valuable and seasoned judgment thereon.

Frankly, I am disappointed that he was not returned to be with us here. I join all our colleagues, I think, in wishing him well and in expressing appreciation for the fine service he has rendered.

Mr. MELCHER. I very much thank the distinguished Senator from Mississippi.

I yield to the Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I join with others in also expressing my feelings about Senator HATFIELD. I think a measure of Senator HATFIELD has been our chance to watch him face and deal with some very difficult issues during his time here and to deal with those in a different context than faced virtually all the rest of us. Running for reelection as he was, facing issues like the Panama Canal vote, a vote which very probably would mean the

enormous loss of votes, given the climate of that issue in his State, nonetheless, after examining that issue deciding that his conscience required him to support the Panama Canal treaties, he did, and he did at great personal cost.

Had he voted the other way, he might very well have won his nomination and been on his way back into the Senate for a full term. That measure of conscience and integrity in facing issues is rare indeed whether here in the Senate or any other place.

I think we saw those same qualities on the ERA time extension and the vote on rescission where again after long and careful personal thought and evaluation he made a decision that I very much probably would suspect might run counter to prevailing opinion at home. I do not know that for a fact, but certainly there would be many at least on the other side of that issue. Again I think we saw exactly the same behavior in dealing with that kind of difficult politicized issue that we saw earlier on the Panama Canal Treaty vote.

So, in the terms of honor, integrity, and independence of mind it seems to me that we have been able to see as much of that in Senator HATFIELD as we have in anyone who serves here.

I, too, am sorry that he will not be here in the future, but certainly my good wishes and I am sure the good wishes of all of us will go with him, and his presence here will have a continuing effect and will leave a memory at least with this Member.

Mr. MELCHER. I thank the distinguished Senator from Michigan.

Mr. President, I point out that it is typical of Paul HATFIELD. His not being present on the floor at this present time is not for any other reason except for his innate and admirable modesty.

Our friendship for PAUL, of course, will continue. I assure all of my colleagues that I shall miss him very much.

But PAUL will continue, I am sure, to serve our State in some capacity in the future. He will continue to serve our country and he will continue to be one of God's chosen individuals who through their compassion, their honesty, and their sincerity leave their mark on the world as he has left his mark here in the Senate for the short time he has been with us.

Mr. CRANSTON. Mr. President, I wish to join in paying tribute to Senator PAUL HATFIELD who has been a very great Member of this body in this brief time with us.

Mr. President, less than one year ago—on January 22, 1978—Governor Thomas Judge of Montana appointed the Chief Justice of the Montana Supreme Court PAUL HATFIELD to the U.S. Senate to replace Senator Lee Metcalf who had died unexpectedly 10 days earlier. PAUL HATFIELD was sworn in as a Senator on the following day.

Justice Hatfield came to the Senate after a distinguished career as a Montana jurist. He served 17 years as a district judge, and in 1976 was elected chief justice by more than 100,000 votes, the largest margin in Montana history for that office.

A native of Montana, PAUL HATFIELD, who is just 50 years old, has already dedicated a great portion of his adult life to public service, including 3 years of military service during the Korean War.

Even in so short a tenure in this body, PAUL HATFIELD has amply demonstrated the qualities of thoughtfulness, political courage and statesmanship that characterize all of his public life.

Perhaps the outstanding example of these traits occurred on March 16, just 53 days after his Senate service began, when, 3 hours before the Senate vote on ratification of the first Panama Canal Treaty, he announced his support for that treaty.

He thus became the 69th Senator to announce in favor of ratification—thereby providing the necessary two-thirds majority to assure ratification.

The decision to support the treaty was, Senator HATFIELD said at the time, "one of the most difficult of my life." Faced with a constituency that reportedly opposed the treaty four to one at that time, PAUL G. HATFIELD had agonized over his vote, and finally reached the conclusion that "the security interests of the United States were best served by the treaty." The decision, he said at the time, "was mine alone and I made it on my own."

No one can say with certainty to what degree PAUL G. HATFIELD'S vote on the canal treaty was a factor in his failure to win renomination in the June 6 Montana primary.

And this one vote is by no means the only evidence of his distinguished service here.

But, by this one vote, Senator HATFIELD of Montana assured that history and his colleagues will remember that though his service in the U.S. Senate was short, it was also with honor, courage, and statesmanship.

Many other of his deeds have indicated the same characteristics. It has been a wonderful pleasure to serve with him in the Senate.

I join my colleagues in wishing PAUL G. HATFIELD a very successful future.

Mr. THURMOND. Mr. President, although Senator PAUL G. HATFIELD has only been with us in the Senate for 9 months, he has made substantial contributions to the work of the Judiciary Committee, the Armed Services Committee, and the Senate.

PAUL HATFIELD came to the Senate with a long and distinguished background as a lawyer, district judge, and as the chief justice of the Montana Supreme Court. The Democratic leadership recognized the experience of PAUL G. HATFIELD in the judicial branch of Government and appointed him to the Judiciary Committee on which I serve. He was also appointed to the Armed Services Committee.

His service on the Judiciary Committee has been exemplary considering the brief period of time that he has served on it. He has held numerous hearings on legislation affecting the Nation's prisons and has successfully guided legislation through the Senate dealing with Federal prison programs. Senator HATFIELD was also instrumental in the recent adoption of an authorization bill for the Department of Justice.

Senator HATFIELD rendered distinguished service on the Armed Services Committee. He stands for a strong defense and he believes in keeping this country prepared. He took that position in the committee and he has done all he could to see that sound authorizations were acted upon in that committee.

Mr. President, in my opinion, the Senate was fortunate to have PAUL HATFIELD fill the vacancy caused by the death of our departed colleague, Lee Metcalf. The State of Montana sent one of its ablest sons to the Senate—a lawyer, a judge, and a well-respected man throughout the State—PAUL HATFIELD contributed a great deal to the Senate, the Judiciary Committee, and I am sure, to the State of Montana. I am confident that he will continue his excellent public service to the people of Montana.

It is with regret that we see him leave. We wish him and his lovely wife good health and happiness and everything good in the future.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5263.

Mr. BELLMON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The conference report on the energy tax bill.

Mr. BELLMON. Mr. President, this will be the last occasion that the Senator from Oklahoma will have to speak about energy legislation during the 95th Congress.

There are some provisions of this report before us that I truly support. For instance, I am glad to see the provision that repeals the nonproductive tax on tangible drilling costs. On balance, however, I feel the bill does far more harm than good. For instance, it spends hundreds of millions of dollars to pay the costs of conservation work that has already been done. As far as I can tell the taxpayers would get virtually nothing from the expenditure of this large sum of public funds.

Mr. President, when I think back on the provisions of the so-called energy bills, which we have passed during this session—and I want to make it clear that I opposed many if not most of them—I can find little reason to believe that Congress has helped in a substantial way to solve this energy problem.

Soon after President Carter took office, he made a speech to a joint session of Congress and he made it clear that his No. 1 concern was energy policy. He said that we did not have one and that we had better develop one right quick. I would not say that he tried to scare us, but his speech soon became known around the White House as his "Chicken Little" speech. Well, it has been about 21 months since he made that speech, 18 months since he sent us the laws he wanted enacted, and just over a year since we created for him the Department of Energy.

As we are about to complete action on the last of those legislative proposals on energy, it is worth looking back to see what has happened since the President's speech, before acting upon what has survived of the laws President Carter wanted.

The most important thing that has happened is what has not happened. The sky has not fallen. Indeed, there is every reason to believe that it never was falling. There is a glut of oil on the market, and the price has fallen (in real terms) steadily. There is surplus production capacity of natural gas not only in the unregulated market in our own country, but also in neighboring Mexico and Canada. Rail strikes and coal miner strikes and new regulations issued by the Environmental Protection Agency has cast considerable doubt upon our ability to make, anytime soon, a major shift from use of oil and gas to coal. Foreign countries have not only refused to follow President Carter's lead in deemphasizing nuclear power, they (and especially the Soviet Union) have made significant progress in extending their nuclear power marketing activities, internationally.

What has happened is that market forces have served, wherever possible, to right the wrong that existed. It is now clear that the OPEC price increase disrupted the marketplace. They presented us with a problem to solve, not with the end of the world. The sky has not fallen. When presented with such a problem, the thing to do is to sit down and figure out the best way to solve it. If there is a reasonable profit to be made by solving such a problem, Americans if left alone can be counted on to solve it.

Unfortunately, President Carter did not turn to those Americans who could be counted upon to solve the problem. He turned to those of his own staff who wanted to use the building energy crisis to solve other problems—such as the unequal distribution of wealth, for example. They fashioned solutions, all right; solutions to problems we never had and, I trust, we never will get.

The fundamental premise of the Carter energy policy was that we were rapidly running out of oil and gas. Furthermore, that there was something immoral about the speed at which we were running out, and the uses we were making of it. How else can you declare "the moral equivalent of war" against the energy problem, unless there was something immoral about the energy problem.

Americans were perceived to be sinful energy wastrels. It was the avowed duty of the Federal Government to put a stop to it. A vast bureaucracy had to be established, immediately, and given the kind of powers that no peacetime bureaucracy ever had. The Federal Government, in the guise of the Department of Energy, was to intervene heavily in local government, in commerce, and in the lives of all our citizens. We were going to be taxed and regulated right out of our sinful ways.

Well, if I am right about this country, and about the direction we were heading, the President's omnibus energy bill will be read with disbelief by future generations. They will be grateful that all those taxes and all those regulations were not imposed. They will thank the 95th Congress for the deliberate manner in which President Carter's proposals were considered. They will appreciate all the more the system of government we have, a government of checks and balances.

I would like to believe that the principal reason that President Carter so avidly embraces these bills we have finally passed, bills that bear almost no relation to the ones he sent us, is that he now realizes the true situation. I would like to believe that he is now more willing to turn the problem over to those Americans who know how to solve it. I hope that he realizes that the sky is not falling, that we are not rapidly running out of oil and gas, and that we should concentrate on producing more from our abundant domestic energy reserves.

If oil and gas producers are allowed to, they will produce oil and gas. If electric utilities are allowed to burn whatever fuel makes the most economic sense, they will convert from oil and gas to coal and nuclear. If industry wishes to continue to compete in world markets, industry will find ways to conserve energy. If Americans need spend less on their fuel bills, they will conserve energy by insulating their homes, driving less and adjusting their thermostats.

The Federal Government does not have to be the bad guy. It can be the good guy. We can undo actions already taken that have proved to be counterproductive, Congress is not finished with energy legislation. The Energy Policy and Conservation Act, contains the authority for the present entitlement program, which is now a burden to consumer and to our oil industry and which subsidizes OPEC imports into this country. That authority expires in May of next year. If we have learned anything in the past 2 years, it is that we must quit subsidizing OPEC and start, encouraging domestic production. Yet, there is the disquieting information that President Carter is readying another bureaucratic and regulatory nightmare to replace the entitlement program. Mr. President, we already have too much bureaucracy impeding domestic oil and gas development. If the implementation of the natural gas pricing bill gets to be as big a mess as the oil entitlement program has been, the Congress will have to act to undo that, too.

The other parts of the President's omnibus energy bill that we have passed, we have first gutted, and those of us who could manage it, held our nose, announced to the world that it was a bad bill, and voted for it. I agree with the distinguished chairman of the Finance Committee. Senator LONG has been quoted as saying, "never have I voted for so many bills that don't do anything."

Mr. President, I hope that all of us have learned something these last 21 months, I think those Senators who ordinarily identify with energy consumers have gained an appreciation for the plight of the producer. I know that I have argued, particularly with respect to the natural gas pricing bill, from the perspective of the consumer. We now know that it is possible to enact laws that are bad for consumers and producers. It should be possible to enact laws that will be good for both producers and consumers. Let us try to do that next session. Unfortunately the legislation before us does not meet the test.

Congress has had almost 2 years to pass meaningful and effective energy legislation. Our record thus far is not especially admirable.

I doubt that that record will improve much during the remaining days or hours of this session by the consideration of this conference report. As a matter of fact, Mr. President, I feel that the Senate is wasting its time, and I now move to table the conference report on H.R. 5263, the Energy Tax Act of 1978.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

Mr. BELLMON. Mr. President, how many does it take for a second?

The PRESIDING OFFICER. It takes one-fifth of those present.

Mr. BELLMON. What is the number?

The PRESIDING OFFICER. Eleven.

Mr. PROXMIRE. Mr. President, I renew my request for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

Mr. CANNON. Mr. President, point of order, no business has been transacted since the previous quorum call.

The PRESIDING OFFICER. The request for a quorum call is in order. The Clerk will call the roll.

Mr. FORD. No one has answered.

Mr. BUMPERS. Mr. President, point of order.

The PRESIDING OFFICER. There will be order in the Senate. The Senator from South Dakota did answer the quorum call.

The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CANNON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the roll was resumed, and the following Senators answered to their names:

[Quorum No. 23 Leg.]

Abourezk	Ford	Metzenbaum
Bellmon	Hatch	Percy
Bumpers	Hatfield,	Proxmire
Cannon	Mark O.	Schmitt
Chiles	Helms	Stone
Cranston	Hodges	Thurmond
DeConcini	Jackson	Zorinsky

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absentees.

Mr. CANNON. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Nevada that the Sergeant at Arms be directed to request the at-

tendance of absent Senators. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will please be in order. Senators will please take their seats and cease their conversations. The clerk will suspend the rollcall until the Senate is in order.

The Senate is not in order.

The clerk will continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Carolina (Mr. MORGAN), the Senator from Maryland (Mr. SARBANES), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—72

Abourezk	Griffin	Moynihan
Anderson	Hansen	Muskie
Baker	Hart	Nelson
Bartlett	Hatch	Nunn
Bayh	Hatfield, Mark O.	Packwood
Bellmon	Hatfield, Paul G.	Pearson
Bentsen	Heinz	Pell
Bumpers	Helms	Percy
Burdick	Hodges	Proxmire
Byrd, Harry F., Jr.	Hollings	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Riegle
Case	Johnston	Roth
Chafee	Laxalt	Sasser
Church	Leahy	Schmitt
Cranston	Long	Schweiker
Culver	Lugar	Stennis
Curtis	Magnuson	Stevens
Danforth	Mathias	Stevenson
Dole	Matsunaga	Stone
Durkin	McGovern	Thurmond
Ford	Melcher	Wallop
Glenn	Metzenbaum	Williams
Gravel	Morgan	Young
		Zorinsky

NAYS—3

DeConcini	Hayakawa	Weicker

NOT VOTING—25

Allen	Goldwater	Morgan
Biden	Haskell	Sarbanes
Brooke	Hathaway	Scott
Chiles	Huddleston	Sparkman
Clark	Humphrey	Stafford
Domenici	Javits	Talmadge
Eagleton	Kennedy	Tower
Eastland	McClure	
Garn	McIntyre	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

Mr. ABOUREZK. Mr. President, regular order. Mr. President, what is the regular order?

The PRESIDING OFFICER. The unanimous-consent request before the Senate by the majority leader for 1 minute. Is there objection?

Mr. ABOURZEK. Mr. President, reserving the right to object, I do not ever want to be the one to object. I have seen him react when people objected to his request to speak. But always when the majority leader does that, he talks people out of things that they ought not to be talked out of. I hesitate to object but I hesitate to let him speak, too. Can we just vote on the tabling motion, Mr. President?

Mr. ROBERT C. BYRD. Mr. President, I thank the generous Senator.

What is the question that we are about to vote on?

The PRESIDING OFFICER. The question is on agreeing to the motion to lay the conference report on the table.

Mr. ROBERT C. BYRD. I thank the Chair and I hope the Senators will vote "no."

Mr. ABOUREZK. You see?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Idaho (Mr. MCCLURE), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 22, nays 56, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—22

Abourezk	Bayh	Chafee
Anderson	Bellmon	Culver
Bartlett	Bumpers	Curtis
Dole	McGovern	Schmitt
Durkin	Metzenbaum	Wallop
Hansen	Nelson	Weicker
Hatch	Proxmire	
Leahy	Riegle	

NAYS—56

Baker	Hayakawa	Packwood
Bentsen	Heinz	Pearson
Burdick	Helms	Pell
Byrd, Harry F., Jr.	Hodges	Percy
Byrd, Robert C.	Hollings	Randolph
Cannon	Humphrey	Ribicoff
Case	Inouye	Roth
Chiles	Jackson	Sarbanes
Church	Johnston	Sasser
Cranston	Laxalt	Schweiker
Danforth	Long	Stennis
DeConcini	Lugar	Stevens
Ford	Magnuson	Stevenson
Glenn	Mathias	Stone
Gravel	Matsunaga	Thurmond
Griffin	Melcher	Williams
Hart	Morgan	Young
Hatfield, Mark O.	Moynihan	Zorinsky
	Muskie	
	Nunn	

NOT VOTING—22

Allen	Goldwater	McClure
Biden	Haskell	McIntyre
Brooke	Hatfield, Paul G.	Scott
Clark	Hathaway	Sparkman
Domenici	Huddleston	Stafford
Eagleton	Javits	Talmadge
Eastland	Kennedy	Tower
Garn		

So the motion to lay on the table was rejected.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, what was the vote? I did not hear.

The PRESIDING OFFICER. Twenty-two yeas, fifty-five nays.

Mr. ROBERT C. BYRD. Mr. President, the Senate, by a vote of 22 yeas and 55 nays, has voted against tabling the energy tax conference report. Obviously, by a vote of 2½ to 1, the Senate has expressed its opposition to tabling this fifth segment of the energy package.

Today, almost 9 hours ago, the Senate voted cloture on this conference report.

Mr. President, during those 9 hours, the Senate has been treated to quite a display of, in many instances, frivolous dilatory tactics, and for what reason? The reason being to delay the Senate from acting on this conference report in the hope that the other body would act on H.R. 112, which contains an amendment by the very distinguished Senator from Colorado (Mr. HART).

Those Senators who are opposed to this conference report are hopeful that the House will act on H.R. 112 in preference to the energy tax conference report, which is now before the Senate.

Mr. President, I respect the opposition to the tax report that is before the Senate by certain Senators. I respect them in their viewpoints. I can understand their hopes that the House would take up H.R. 112, should the Senate be of faint heart and decide to take down the energy tax report, or if it went on so long that the House then might grow faint at heart and proceed with consideration of the bill, H.R. 112.

Earlier, I believe I said I had a conversation with the Speaker. He assured me that he would not recognize any Member of the House to call up H.R. 112.

Now, a resolution was adopted over there, I believe giving to one Member of the House the sole power of recognition for a period of 7 days to call up H.R. 112.

I understand that at midnight tonight that resolution expires and that any other Member of the House can call up H.R. 112.

But the Speaker told me at least 2 hours ago, or 3, that he had no intention of ever calling up H.R. 112—ever.

I have been reassured within the last 15 minutes by the majority leader of the House, the gentleman from Texas, Mr. WRIGHT, and by Mr. ASHLEY, that the House will not, under any circumstances, call up H.R. 112—that the House will not under any circumstances call up H.R. 112.

The Speaker of the House has that power of recognition, which he can withdraw; once he has recognized a Member of the House, he can withdraw that recognition and say he did not recognize him. The House is not going to act on H.R. 112.

Mr. HART. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. HART. Mr. President, I ask unanimous consent that I respond to the leader on my time, without the leader losing his right to the floor.

Mr. ROBERT C. BYRD. In that case, will the Senator allow me to finish?

Mr. HART. All right.

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who are opposed to seeing the Senate act on the energy tax conference report will see the futility of keeping the Senate tied down on this energy tax conference report when their actions are going to be in vain.

The Speaker is not going to recognize any Member to call up H.R. 112, and the majority leader of the House and Mr. ASHLEY, within the last 15 minutes, have assured me that in no event will they allow the House to be blackmailed into calling up H.R. 112 and acting on it. That bill is down the drain, dead—d-e-a-d. We can make the choice of killing this conference and saying it is d-e-a-d.

Do we want to go home and face the people of this country and say, "Why, at the end of the session, we filibustered that energy bill to death"?

I respect any Senator for standing on his feet and using his full hour and expressing in the strongest terms his opposition to this conference report. But this business of putting in dilatory quorums, making dilatory motions, simply to run out the clock until midnight tonight, is a vain effort. It will be to no avail, except to make it hard on the Senate, difficult for every Member of the Senate, and impossible for the Senate and the House to complete their work and adjourn sine die on this day.

We are not going out after midnight. If this filibuster is still going, we will stay. If we are forced out for lack of a quorum, we will have to go home, but we will be coming back. This Senate is not going to adjourn sine die until it acts on this conference report one way or another. It can kill it, or it can vote it up. But let us vote up or down. Let us do away with this action in futility; and that is precisely what it is—an action in futility, to no avail whatsoever.

If Senators tire of staying around and want to kill the conference report, then let us stand up and vote it down and say to the people of the United States, "We witnessed its expiring agonies on this floor, and I helped to put the dagger in its back."

Let us not fool ourselves by this tactical mismaneuver of thinking that if we keep the Senate in here past midnight, the House will go home and will call up H.R. 112 before going.

The Speaker gave me his word, and the majority leader gave me his word. The majority leader is right here in this Chamber, at this moment. Mr. ASHLEY gave me his word. He is standing in this Chamber at this moment. They can hear me—and I suppose the Speaker also can hear me. (Laughter.)

They gave me their word, unequivocally. No doubts about it.

So I say to my friends, let us get off this filibuster horse, those of us who are against the conference report; speak our mind; take our hour; and then let us vote.

We have two other items besides the conference report. We have the continuing resolution. We have the conference report on the tax bill, at such time as the conferees complete their work, and I understand that they are making good progress.

There are numerous other conference reports that are backed up behind this, and they are going to stay backed up behind this—every last one of them—because no conference report, no message from the House, can be taken up except by unanimous consent while cloture has its iron grip on this conference report. I, for one, will object to taking up anything else.

We are going to have a showdown. We will vote up or down on this conference report before we adjourn sine die.

The only thing that will make me change that position is if the Speaker or the majority leader or Mr. ASHLEY, on the House side, change their minds and go back on their words, and I do not think they will. Enough is enough. I have said enough.

Mr. President, the handwriting is on the wall.

Mr. HART addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Colorado.

Mr. HART. Mr. President, I have not participated in this filibuster.

Mr. ROBERT C. BYRD. No, the Senator has not. The Senator is correct.

Mr. HART. I voted against the motion to table. But I think it is extremely important for us to understand what the situation in the House is.

I do not in any way dispute or controvert the majority leader's word or what the Speaker told him. But I point out to our colleagues that the rule which the Representative from Connecticut, Mr. DODD, has is second in privilege only to a motion to adjourn; that it is unprecedented for the Speaker of the House not to recognize a member of the Rules Committee for the purpose of calling up that rule or making that motion; that if, in fact, the Speaker has made this decision, whoever he has given his word to, he is going to break the rules of the House.

That is a very serious thing for the Speaker of the House to do, to break the rules of the House and to break those precedents.

I say that so all Members of the Senate will have an understanding that there are a lot of people in the House of Representatives who not only disagree with the Speaker on this but also disagree with the Speaker's authority on this. He may have dug his heels in and others may have dug their heels in, but that is a very serious thing for the Speaker of the House to have undertaken. There are a lot of Members of the House who feel very strongly that that would be a very serious thing for him to do.

The issue of H.R. 112 has come up here, and I think it is important that people understand what it is. That was a tax bill that came up, I believe, on August 23 in the Senate, relating to taxation of charitable foundations. To that was added an amendment which includes the tax credits for solar investments and for homeowner energy conservation investments. That amendment was almost verbatim the language that had passed the Senate as part of the energy program. It had passed the House as part of the energy program, had been adopted by the conference on energy taxation as part of the energy program, and was then added to the tax bill on charitable foundations and passed the Senate again.

That bill is awaiting in the House the determination of what will happen to this energy tax package. If this energy tax package is not adopted, the rule is there. Mr. DODD has the rule. He will call that up any time until midnight. If the Speaker chooses not to recognize him, the Speaker will break the Rules of the House of Representatives.

The PRESIDING OFFICER. The Chair will observe that the rules of the House permit the Speaker to recognize whomever he chooses. The precedents of the House——

Mr. HART. I do not remember requesting a ruling from the Chair.

Mr. WEICKER. Mr. President, a point of order——

Mr. HART. The Senator from Colorado did not request a ruling of the Chair on this issue.

The PRESIDING OFFICER. The Chair is making an observation as a Senator.

Mr. HART. A parliamentary inquiry. Will the Chair state its authority for making that observation?

The PRESIDING OFFICER. The Chair will state that the precedents of the House are that the Speaker recognizes whomever he wants.

Mr. HART. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. State the parliamentary inquiry.

Mr. HART. What is the authority of the Chair to comment on a statement made by a Member of the Senate?

The PRESIDING OFFICER. The Parliamentarian is referring to the rules. The Chair will consult the Parliamentarian. [Laughter.]

Mr. ABOUREZK. Whose time is this being charged against is the question?

The PRESIDING OFFICER. Upon ad-

vice of the Parliamentarian the Chair will state that on page 409 there is no standing rule of the Senate relating to comments upon proceedings in the House of Representatives, although such a provision is contained in Jefferson's Manual. Jefferson's Manual not having been adopted as part of the rules of the Senate, the Senator has a right to refer to proceedings in the House of Representatives provided it is done in parliamentary language.

Mr. HART. The issue, Mr. President, has nothing really to do with what we are talking about here. I only comment that——

The PRESIDING OFFICER. I am advising the Senator perhaps of the correct parliamentary language.

Mr. HART. I only comment that it is my understanding that if the Presiding Officer wishes to involve himself in the debate, the regular order is for the Presiding Officer to ask for leave and take the floor in the posture of a Senator.

But the Senator from Colorado has made the point. I just want Senators to understand that if this tax bill goes down we are not without recourse and what the House of Representatives does is, of course, up to the House of Representatives. If the Speaker chooses not to recognize a member of the Rules Committee with the rule he can do that, I presume, but the consequences are extremely grave.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I simply say this in defense of the present occupant of the Chair. The occupant served in the House, he is a Senator, and in his capacity as a Senator I suppose it is all right for him to make a comment. But may I say as one who has served in the House, one who served under Speaker Rayburn, this business of not recognizing a Member is not unprecedented even in the context of the strictures of the resolution which is agreed to over there. It is not unprecedented. Speaker Rayburn did upon occasion and I am sure it has been done since, and I know that Mr. O'NEILL is very cognizant of the rules of the House, so is the majority leader of the House who is still in this Chamber and may I say we are happy to have his presence here. He is naturally interested as is Mr. ASHLEY in the outcome of this action by the Senate.

We are holding up the action everywhere. We are not only keeping the Senate from acting, but we are going to be keeping the other body from acting. And to what avail? Nothing.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I stood here and listened to a lot of things said about what is going on today and I just wish to put my own perspective on the situation and talk about it in a reasonable manner.

This is the second time that I have been involved in an extended educational endeavor with respect to a piece of pending legislation. One had to do with the natural gas bill. The second has to do with the energy subject. In both instances we were told about the critical nature of having to pass the energy bill.

Let us be realistic about it. It is only one-fifth of the total energy package. But the fact is, what is the issue that is bothering those of us or at least some of us who are objecting to this legislation?

We are concerned about the fact that when the Senate sent this bill to conference it had some good language in it that would actually save some energy in this country—maybe as much as a billion barrels of oil a day, about 6 percent of the total consumed.

That, in the main, has been taken out. But the bill that we have before us and the objectionable feature, at least as far as the Senator from Ohio is concerned, is the fact that in order to pass this bill we have to give away in the next 5 years almost $3 billion, without any positive gains whatsoever.

When we had the natural gas bill it had to do with giving billions of dollars and taking them from the consumers and giving them to the natural gas producers. Now we have a piece of legislation that goes the other way around. It provides that we are going to dig into the Federal Treasury and give almost $3 billion in credits away.

Did the Senator from South Dakota or the Senator from Ohio or the Senator from Wisconsin or the Senator from Vermont or the Senator from Connecticut or the Senator from Michigan, did any Senator say that there was no room to work the matter out? As a matter of fact, we did not. We are told take this bill, just as we were told on the natural gas bill, take it or leave it. Vote it up or down. And the language gets more strident each time we are told that.

I understand the rules of the Senate full well and know that you cannot modify or amend a conference committee report. But I also know that there are no more brilliant men as far as parliamentary procedures are concerned in this body than are the leader of the Senate and the chairman of the Finance Committee.

Over 9 hours ago I went to the chairman of the Finance Committee's designate, the senior Senator from Georgia, and said we would like to work something out on this bill to make it less objectionable than it is. I propose that we attempt to find some means of working it out. Subsequently I indicated to the leader of the Senate that we were willing to try to find a way to work out this measure and not tie the Senate up into this lengthy debate that has taken place all day today. But in each instance I was told no. I was told no, you cannot do it. I stand corrected. Only in the first instance was I told that by the senior Senator from Georgia. I was told you cannot modify it, you cannot amend it. I said I know that there are procedures that would make it possible to add the language we want onto another bill and drop the conference committee report and achieve the same end.

But no, we were told, we have to take this bill that gives away $2.75 billion in the next 5 years and for what useful purpose?

They told us they needed this bill for another reason. They said that this bill—may I have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator is entitled to be heard. The Senator from Ohio.

Mr. METZENBAUM. We were told we needed this bill because it has the gas guzzler's tax in it. Well, at an earlier point in the debate I heard this extended educational endeavor described as being ridiculous and the height of ridiculosity. I would say that those terms are totally applicable to the gas guzzler's tax in this bill.

Let me give you my own experience. I put into the conservation measure in the Energy Committee legislation to ban any auto that did not get at least 16, 17, 18, 19, 20, or 21 miles per gallon beginning in 1980 and continuing through 1985. You could not sell a car, you could not produce a car, you could not import a car. There was an absolute ban. But the Department of Energy said, "No, we don't want that provision." They said to us, "It will only save 10,000 barrels of oil a day."

I said, "Look, the Senate wants it. They have voted up-and-down on the floor of the Senate when an effort was made to take that language out. They voted up-and-down and decided to keep it in by an overwhelming margin."

We went to the conference committee and the conferees on the Senate side were polled again, and by a vote of 9 to 2 they voted against taking it out.

Finally, in an effort to compromise in order to bring about the conservation measure, and because I was told it would only save 10,000 barrels of oil a day as compared to total consumption of 17 million barrels of oil a day, we took it out.

What is in this bill? This bill is absurd. It is ridiculous, it is an insult to our intelligence, because under the legislation that the House refused to accept, we had a total ban on autos getting less than 16 miles per gallon in 1989.

So what does this bill do? It provides that if it gets less than 16 miles a gallon, gets 15, there is no tax. If it gets 14 but less than 15 it is $200. The House cannot possibly save any gas or oil if a total ban would not have saved it, by adding $200 tax. The automakers told us in unequivocal language that they would not be manufacturing those cars by 1980, and all three automobile manufacturers were present.

In 1981 we had a figure of 17 miles per gallon, and that is where they start in this bill as far as the tax is concerned.

But if a total ban would not save any gasoline or oil, then how can a tax save any?

The same is true with respect to year 1980 right on through to 1985—actually through 1986.

Mr. President, there is room for disagreement with respect to this legislation. There are some of us who feel that it goes too far. We felt that the natural gas bill went too far. When we stand here and object to it and fight against it, it is not out of any desire to prolong the session of the Senate. I am the last one—I have never indicated to anyone living, indirectly or directly, but I am concerned about what the House

does with H.R. 112. That is the House's business. I am concerned with what the Senate does with this particular piece of legislation. That is my responsibility.

I believe even at this later hour it is not too late to figure a way out of this situation, because those of us who are opposing it are not willing to reach into the Federal Treasury for almost $3 billion in order to make some people richer, and they are not the poor people of this country, but to make some people richer who do not need it.

There is no evidence it will save any energy. It is just good evidence that the people of this country who are talking about efficiency and tax economies and savings are again being ripped off to the tune of almost $3 billion.

Mr. President, there is a way out of this dilemma. Drop the tax provisions that are in the measure, and I think a good many of us could see our way clear to going along with the measure. But, as it is, I am prepared to stand here as long as it is possible to do so under the rules of the Senate in order to indicate to the American people what kind of an energy measure we are talking about, and one that does more harm than good.

I believe it serves the purpose of the American people well to have this extended educational endeavor.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. METZENBAUM. I yield the floor.

The PRESIDING OFFICER. Who seeks time?

Mr. ROBERT C. BYRD. Vote.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. There has not been any business transacted since the last quorum call.

Mr. METZENBAUM. There has been a rollcall.

The PRESIDING OFFICER. The rollcall established the presence of a quorum.

The question is on agreeing to the conference report.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Does the Senator yield the floor or not?

Mr. METZENBAUM. No, I do not. There are other Members who wish to be heard, but I will speak.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in connection with the two bills that were between the House and the Senate there was a question in the conference committee as to which one would save more energy. Both of them would save, would have considerable savings. The House bill, according to the Congressional Research Service, would save between 730,000 and 990,000 barrels of oil a day. The Senate bill would save 610,000 barrels of oil a day.

I believe, Mr. President, that we ought to give some attention to what this CRS report from the Library of Congress said, and I would like to bring to the attention of the Members of the Senate some of the language of that report. It states as follows:

President Carter's National Energy Plan proposed a three-pronged program to increase coal use and decrease oil and gas use in industry and electricity generation. The three parts consisted of a regulatory program (expanded from existing law), a tax on business and utility use of oil and gas, and tax rebates or credits for "qualified investments" (equipment using coal or other fuels in lieu of oil or gas).

House and Senate conferees have agreed—

This was at that point—

on an expanded regulatory program (H.R. 5146) which differs modestly from the Administration's proposal. The House passed in H.R. 8444 the use tax and incentive package proposed by the Administration after modifying it to exempt certain specified oil and gas uses, to levy a smaller tax on existing facilities unable to convert, and to allow the Treasury Department to limit the total obligation of affected oil and gas users to the investment cost of qualified investments. The House-passed tax rates took into account the price impact on oil of the crude oil equalization tax also included in its tax package.

The Senate-passed version (H.R. 5263) included no crude oil equalization tax (COET) and imposed oil and gas users taxes large enough to equal the sum of the COET plus tax in the House version. Whereas the House taxed gas only up to the untaxed oil equivalent price, the Senate equalized the price of oil and gas after tax.

Mr. President, I yield the floor.

Mr. ABOUREZK. Mr. President, I have just been in receipt of a telegram sent out by the Energy Policy Task Force. This was sent to every Member of the House of Representatives today, and I want to read a copy of it:

If you oppose the Natural Gas Bill, we urge you to vote against the energy package on Saturday. This will not be the last chance Saturday to vote for the "Energy Bill", since following defeat of the package the leadership can still call up the other sections of the energy package for immediate consideration.

The fight is not over. A fair and equitable energy policy for the American public is still possible.

Lee C. White, Energy Policy Task Force.

William W. Winpisinger, International Association of Machinists and Aerospace Workers.

James Flug, Energy Action.

Jacob Clayman, Industrial Union Department, AFL–CIO.

Evelyn Dubrow, International Ladies Garment Workers Union.

Jack Sheehan, United Steelworkers of America.

Arnold Mayer, Amalgamated Meat Cutters and Butcher Workmen.

Americans for Democratic Action.

Mr. President, I just want to make a couple of remarks. With respect to what the distinguished majority leader said about the necessity of passing this particular bill, that is the same thing we heard, Mr. President, on the natural gas deregulation bill. We have heard it on other measures, but I have to ask the question why is it necessary, other than to get a steamroller or railroad train, or a freight train moving, to pass a bill that is so obnoxious to the pocketbooks of the American taxpayer?

The bill provides virtually $3 billion, over the several-year period that is in effect, in tax loopholes, most of it unneeded, most of it unnecessary. Part of it is a doubling of the investment tax credit to business. Part of it is retroactive, in fact, tax credits to business places, business firms, that have already purchased the equipment the tax credit is supposedly given for.

The second part—and we talked about it earlier today, and the manager of the legislation conceded that there was $366 million in tax writeoffs for intangible drilling costs—Mr. President, that has absolutely nothing to do with energy conservation, absolutely nothing.

Why is it in this bill? It is in this bill because this is the one that the leadership and the administration say we have to have as an energy plan. It is not an energy plan. It is a holdup. Because they say that this bill has to be passed, then the people who manage the legislation feel that they can tuck in there and hide away virtually any kind of tax loophole that is unnecessary, unneeded, and that they think they can get away with simply because all of the big guns in this town, the President, the leadership, and so on, are saying that we have to have this.

It is not fair to the American taxpayer. It is not right.

Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, there has been no transaction of business.

The PRESIDING OFFICER. There has been no transaction of business since the establishment of a quorum. The Senator from South Dakota is recognized.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Is the request for insertion of material in the CONGRESSIONAL RECORD, according to the precedents, transaction of business under this procedure?

The PRESIDING OFFICER. No, it is not when we are under cloture. If the Senator has something to say on the conference report, he may do so. Does he desire to retain the floor?

Mr. ABOUREZK. Another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Will the Chair kindly state the precedent that the insertion of something in the CONGRESSIONAL RECORD is not the transaction of business, under the precedents, for the purpose of establishment of a quorum?

The PRESIDING OFFICER. That precedent was established during cloture in 1977.

Mr. ABOUREZK. Will the Chair be kind enough to provide this Senator with that precedent? As I read the precedent, in Senate Procedure on pages 634 and 635, the precedents define the following transactions as business for the purpose of calling another quorum:

RECORD, granting consent to print article or statement in;

Reference, granting of unanimous consent to print in RECORD and reference of certain matter;

That is on page 635.

The PRESIDING OFFICER. The Chair will advise the Senator from South Dakota that the book was published before the precedent was established, which

he participated in very eloquently, during 1977.

Mr. ABOUREZK. Will the Chair kindly tell this Senator where is the precedent that overrules this precedent?

The PRESIDING OFFICER. It was established in 1977, during the cloture procedure concerning the Natural Gas Act.

Mr. ABOUREZK. Would the Chair be kind enough to read it? Because I cannot find it.

The PRESIDING OFFICER. The Chair would be delighted to read it.

Mr. ABOUREZK. I suggest the absence of a quorum while the Chair is locating the precedent.

The PRESIDING OFFICER. We are not having any absence of a quorum. There is no reason to have an absence of a quorum, and the Senator need not renew his request for it.

Mr. ABOUREZK. Mr. President, I make the point of order that there are only four Senators present on the floor. Five.

Mr. ROBERT C. BYRD. Mr. President, no business has been transacted.

Mr. ABOUREZK. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ABOUREZK. Are five Senators a quorum?

Mr. ROBERT C. BYRD. Mr. President, the Chair does not have to answer that.

The PRESIDING OFFICER. The Chair was asked, in a parliamentary inquiry, to read the precedent. The Chair will read the precedent. The Chair will respond.

On October 3, 1977, in the CONGRESSIONAL RECORD, page 31926, a point of order was made by Mr. BAKER, as follows:

Mr. BAKER. Point of order, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. BAKER. I make the point of order that when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

The VICE PRESIDENT. The point of order is not debatable.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. BAKER. Mr. President, I make the point of order that a point of order is now pending.

The VICE PRESIDENT. The Presiding Officer is now considering the point of order.

Mr. SARBANES. Mr. President, a parliamentary inquiry. Could the point of order be stated for the information of the Senate?

The VICE PRESIDENT. The clerk will state the point of order.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) made the point of order that, when the Senate is operating under cloture, a request by a Senator to conduct business which the Senate declines to conduct, for instance, the making of a motion which is ruled dilatory, the offering of an amendment which is ruled out of order or dilatory, a request for the yeas and nays which is refused, is not the transaction of business for the purpose of calling another quorum.

The VICE PRESIDENT. As in the case of the prior request, the prior point of order, the Vice President submits to the Senate the point of order made by the Senator from Tennessee as his prerogative under the rules.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. ABOUREZK. Mr. President, I submit that there was nothing in the matter that you just read that included the insertion of material in the CONGRESSIONAL RECORD under unanimous consent. I make the point of order that a quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the granting of unanimous consent to insert material in the CONGRESSIONAL RECORD does not constitute the transaction of business when operating under cloture for the purpose of calling another quorum.

The PRESIDING OFFICER. The point of order is well taken.

Mr. ABOUREZK. Mr. President, I appeal the ruling of the Chair.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the appeal on the table.

Mr. ABOUREZK. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum until we can get enough Senators present for a second for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the majority leader to lay on the table the appeal of the Senator from South Dakota (Mr. ABOUREZK) from the ruling of the Chair that the granting of unanimous consent to insert material in the CONGRESSIONAL RECORD does not constitute the transaction of business. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Utah (Mr. GARN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Wyoming (Mr. HANSEN), the Senator from Idaho (Mr. MCCLURE), the Senator from Oregon (Mr. PACKWOOD), the Senator from Kansas (Mr. PEARSON), the Senator from Delaware (Mr. ROTH), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

Mr. ROBERT C. BYRD. Are there any Senators left desiring to vote?

The result was announced—yeas 54, nays 11, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—54

Anderson	Glenn	McGovern
Baker	Hart	Melcher
Bayh	Hatfield, Mark O.	Morgan
Bellmon	Hatfield, Paul G.	Moynihan
Bentsen	Hayakawa	Muskie
Bumpers	Heinz	Nunn
Burdick	Hodges	Pell
Byrd, Robert C.	Hollings	Percy
Cannon	Humphrey	Randolph
Case	Inouye	Ribicoff
Chafee	Jackson	Riegle
Chiles	Javits	Sarbanes
Church	Johnston	Sasser
Cranston	Leahy	Schweiker
Culver	Lugar	Stennis
Danforth	Magnuson	Williams
DeConcini	Mathias	Young
Durkin		Zorinsky
Ford		

NAYS—11

Abourezk	Laxalt	Thurmond
Bartlett	Metzenbaum	Wallop
Hatch	Proxmire	Weicker
Helms	Schmitt	

NOT VOTING—35

Allen	Goldwater	Nelson
Biden	Gravel	Packwood
Brooke	Griffin	Pearson
Byrd, Harry F., Jr.	Hansen	Roth
Clark	Haskell	Scott
Curtis	Hathaway	Sparkman
Dole	Huddleston	Stafford
Domenici	Kennedy	Stevens
Eagleton	Long	Stevenson
Eastland	Matsunaga	Stone
Garn	McClure	Talmadge
	McIntyre	Tower

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, at an earlier point this evening, I was discussing the Congressional Research Service report on the House and Senate bills having to do with the gas users tax. I attempted to point out that the House bill would cost, by 1985, the cost of construction of 10,000 megawatts of capacity that would have to be built in order for the utilities to have something to show for the use taxes they would be paying.

Assuming capital costs of $800 per kilowatt for new coal-fired units, that expenditure would have been about $8 billion.

May we have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senator from Ohio is correct. The Chair asks the Senate to be in order. The Chair asks that the staff be in order and that the galleries be in order.

The Senator from Ohio may continue.

Mr. METZENBAUM. Mr. President, I ask the Parliamentarian not to charge that time against me in which I tried to get order in the Senate.

If the taxes were to be absorbed, in lieu continued construction plus accelerated retirement, that would total about $4.7 billion. Should the $8 billion investment be made, it would represent construction prior to 1985 that would, in any event, be required after 1985 as plants aged and demand increased.

The Senate bill really did not do the same thing the House did. The Senate bill only affected those boilers that could be converted to coal from oil and gas or new ones that were to be built.

The Senate version would increase construction by 4,000 megawatts, or about $3.2 billion, 25 percent of which would be recaptured by utilities as investment tax credit for a net increment of $2.4 billion.

Now, it is interesting that although both of these measures, the House and Senate version, had in it in connection with oil and gas users tax, significant billions of dollars that undoubtedly would have accrued to the utilities for building non-oil or gas-burning boilers, those provisions are no longer in the legislation.

What is left in the legislation is this $2,163,000,000 over the next 5 years as additional investment tax credit.

On that subject, Mr. President, I would like to point out to the Senate that when the investment tax credit was originally conceived as an idea, it was a short interim idea. It was not 10 percent, it was substantially less than that. Then, over a period of years, we have renewed it. We have increased it. Now in the tax bill that this Senate will be called upon to act on yet tonight, the big tax bill, the major tax bill, not this one, we will make permanent the investment tax credit.

In this bill that we are talking about, there is another investment tax credit.

We will get to the point with American industry, if we keep it up, that they will be able to file a tax return showing millions of dollars of profit, and being taxable for perhaps millions of dollars, but, by the time they get done with the investment tax credits, they will wind up paying zero and, again, we will be coming back to the rest of the American people and asking them to bear the burden.

Mr. President, back to the oil and gas users tax as passed by the Senate, that included a provision authorizing the waiver of use taxes on existing coal-capable units once they were committed to conversion.

Assuming that such commitments were made soon enough, no use taxes would be collected, or would have been rebated.

Now, what is the regional impact of these measures, had they been enacted?

The House version would have impacted most severely in the gulf coast region and the Northeast where gas and oil, respectively, are major fuels for electricity generation.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order, the staff will be in order, the galleries will be in order.

The Senator may proceed.

Mr. METZENBAUM. Mr. President, there is continued conversation all over the place.

Mr. ABOUREZK. House Members.

Mr. METZENBAUM. House Members.

The PRESIDING OFFICER. The Senator may proceed.

Mr. METZENBAUM. Initial administration estimates which were made last spring show that electricity prices would increase about 1 percent in the Northeast and over 4 percent in the gulf region, compared to a national average decline of 1½ percent.

I yield the floor.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I call up unprinted motion to recommit No. 1.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Would the Senator withhold just a moment?

Mr. ABOUREZK. I yield the floor, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I ask that the time not run against Mr. ABOUREZK at the moment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to lay on the table——

Mr. ABOUREZK. It has not been reported.

The PRESIDING OFFICER. The Chair has not seen it.

The clerk will report.

The second assistant legislative clerk read as follows:

CONFERENCE REPORT ON H.R. 5263

MOTION TO RECOMMIT WITH INSTRUCTIONS

I move that the Conference Report be recommitted to the Conference Committee with instructions that the Conferees delete Sec. 101 (a) dealing with Residential Energy Credits and replace it with the following language:

"SEC. 101. RESIDENTIAL ENERGY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. RESIDENTIAL ENERGY CREDIT.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

"(1) the qualified energy conservation expenditures, plus

"(2) the qualified renewable energy source expenditures.

"(b) QUALIFIED EXPENDITURES.—For purposes of subsection (a)—

"(1) ENERGY CONSERVATION.—In the case of any dwelling unit, the qualified renewable energy conservation expenditures are 20 percent of so much of the energy conservation expenditures made by the taxpayer during the taxable year with respect to such unit as does not exceed $2,000.

"(2) RENEWABLE ENERGY SOURCE.—In the case of any dwelling unit, the qualified renewable energy source expenditures are the following percentages of the renewable energy source expenditures made by the taxpayer during the taxable year with respect to such unit:

"(A) 30 percent of so much of such expenditures as does not exceed $2,000, plus

"(B) 20 percent of so much of such expenditures as exceeds $2,000 but does not exceed $10,000.

"(3) PRIOR EXPENDITURES BY TAXPAYER ON SAME RESIDENCE TAKEN INTO ACCOUNT.—If for any prior year a credit was allowed to the taxpayer under this section with respect to any dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, paragraph (1) or (2) (whichever is appropriate) shall be applied for the taxable year with respect to such dwelling unit by reducing each dollar amount contained in such paragraph by the prior year expenditures taken into account under such paragraph.

"(4) MINIMUM DOLLAR AMOUNT.—No credit shall be allowed under this section with respect to any return for any taxable year if the amount which would (but for this paragraph) be allowable with respect to such return is less than $10.

"(5) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(6) CARRYOVER OF UNUSED CREDIT.—

"(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by paragraph (5) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

"(B) NO CARRYOVER TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1987.—No amount may be carried under subparagraph (A) to any taxable year beginning after December 31, 1987.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ENERGY CONSERVATION EXPENDITURES.—The term 'energy conservation expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for insulation or any other energy-conserving component (or for the original installation of such insulation or other component) installed in or on a dwelling unit—

"(A) which is located in the United States,

"(B) which is used by the taxpayer as his principal residence, and

"(C) the construction of which was substantially completed before April 20, 1977.

"(2) RENEWABLE ENERGY SOURCE EXPENDITURE.—

"(A) IN GENERAL.—The term 'renewable energy source expenditure' means an expenditure made on or after April 20, 1977, by the taxpayer for renewable energy source property installed in connection with a dwelling unit—

"(i) which is located in the United States, and

"(ii) which is used by the taxpayer as his principal residence.

"(B) CERTAIN LABOR COSTS INCLUDED.—The term 'renewable energy source expenditure' includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of renewable energy source property.

"(C) SWIMMING POOL, ETC., USED AS STORAGE MEDIUM.—The term 'renewable energy source expenditure' does not include any expenditure properly allocable to a swimming pool used as an energy storage medium or to any other energy storage medium which has a primary function other than the function of such storage.

"(3) INSULATION.—The term 'insulation' means any item—

"(A) which is specifically and primarily

designed to reduce when installed in or on a dwelling (or water heater) the heat loss or gain of such dwelling (or water heater),

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(4) OTHER ENERGY-CONSERVING COMPONENT.—The term 'other energy-conserving component' means any item (other than insulation)—

"(A) which is—

"(i) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(ii) a device for modifying flue openings designed to increase the efficiency of operation of the heating system,

"(iii) an electrical or mechanical furnace ignition system which replaces a gas pilot light,

"(iv) a storm or thermal window or door for the exterior of the dwelling,

"(v) an automatic energy-saving setback thermostat,

"(vi) caulking or weatherstripping of an exterior door or window,

"(vii) a meter which displays the cost of energy usage, or

"(viii) an item of the kind which the Secretary specifies by regulations as increasing the energy efficiency of the dwelling,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 3 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been perscribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the item.

"(5) RENEWABLE ENERGY SOURCE PROPERTY.—The term 'renewable energy source property' means property—

"(A) which, when installed in connection with a dwelling, transmits or uses—

"(i) soar energy, energy derived from geothermal deposits (as defined in section 613 (e)(3)), or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water for use within such dwelling, or

"(ii) wind energy for nonbusiness residential purposes,

"(B) the original use of which begins with the taxpayer,

"(C) which can reasonably be expected to remain in operation for at least 5 years, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been perscribed by the Secretary by regulations, and

"(ii) are in effect at the time of the acquisition of the property.

"(6) REGULATIONS.—

"(A) CRITERIA; CERTIFICATION PROCEDURES.—The Secretary shall by regulations—

"(i) establish the criteria which are to be used in (I) prescribing performance and quality standards under paragraphs (3), (4), and (5), or (II) specifying any item under paragraph (4)(A)(viii) or any form of renewable energy under paragraph (5)(A)(i), and

"(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this section, as insulation, an energy-conserving component, or renewable energy source property.

"(B) CONSULTATION.—Performance and quality standards regulations and other regulations shall be prescribed by the Secretary under paragraphs (3), (4), and (5) and under this paragraph only after consultation with the Secretary of Energy, the Secretary of Housing and Urban Development, and other appropriate Federal officers.

"(7) WHEN EXPENDITURES MADE; AMOUNT OF EXPENDITURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when original installation of the item is completed.

"(B) RENEWABLE ENERGY SOURCE EXPENDITURES.—In the case of renewable energy source expenditures in connection with the construction or reconstruction of a dwelling, such expenditures shall be treated as made when the original use of the constructed or reconstructed dwelling by the taxpayer begins.

"(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

"(D) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this subparagraph, use for a swimming pool shall be treated as use which is not for residential purposes.

"(8) PRINCIPAL RESIDENCE.—The determination of whether or not a dwelling unit is a taxpayer's principal residence shall be made under principles similar to those applicable to section 1034, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the period for which a dwelling is treated as the principal residence of the taxpayer shall include the 30-day period ending on the first day on which it would (but for this subparagraph) be treated as his principal residence.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a principal residence by 2 or more individuals—

"(A) the amount of the credit allowable under subsection (a) by reason of energy conservation expenditures or by reason of renewable energy source expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as one taxpayer whose taxable year is such calendar year: and

"(B) there shall be allowable with respect to such expenditures to each of such individuals a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

"(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216 (b)(3)) of any expenditures of such corporation.

"(3) CONDOMINIUMS.—

"(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which he owns, such individual shall be treated as having made his proportionate share of any expenditures of such association.

"(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528 (c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

"(4) 1977 EXPENDITURES ALLOWED FOR 1978.—

"(A) NO CREDIT FOR TAXABLE YEARS BEGINNING BEFORE 1978.—No credit shall be allowed under this section for any taxable year beginning before January 1, 1978.

"(B) 1977 EXPENDITURES ALLOWED FOR 1978.—In the case of the taxpayer's first taxable year beginning after December 31, 1977, this section shall be applied by taking into account the period beginning April 20, 1977, and ending on the last day of such first taxable year.

"(e) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(f) TERMINATION.—This section shall not apply to expenditures made after December 31, 1985."

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, I move to table the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. ABOUREZK. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to recommit.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. McINTYRE), the Senator from Wisconsin (Mr. NELSON), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois Mr. STEVENSON) and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Nevada (Mr. LAXALT), the Senator from

Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), the Senator from Texas (Mr. TOWER), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

The PRESIDING OFFICER (Mr. SARBANES). Have all Senators in the Chamber voted? Are there any other Senators in the Chamber who desire to be recorded on this vote?

The result was announced—yeas 58, nays 16, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—58

Anderson	Griffin	Morgan
Baker	Hart	Moynihan
Bentsen	Hatfield,	Muskie
Bumpers	Mark O.	Nunn
Burdick	Hatfield,	Packwood
Byrd,	Paul G.	Pell
Harry F., Jr.	Hayakawa	Percy
Byrd, Robert C.	Heinz	Randolph
Cannon	Helms	Ribicoff
Case	Hodges	Roth
Chiles	Hollings	Sarbanes
Church	Humphrey	Sasser
Cranston	Inouye	Schweiker
Culver	Jackson	Stennis
Curtis	Javits	Talmadge
Danforth	Johnston	Thurmond
DeConcini	Long	Williams
Durkin	Lugar	Young
Ford	Magnuson	Zorinsky
Glenn	Matsunaga	
Gravel	Melcher	

NAYS—16

Abourezk	Garn	Proxmire
Bartlett	Hansen	Riegle
Bayh	Hatch	Schmitt
Bellmon	Leahy	Weicker
Chafee	McGovern	
Dole	Metzenbaum	

NOT VOTING—26

Allen	Hathaway	Scott
Biden	Huddleston	Sparkman
Brooke	Kennedy	Stafford
Clark	Laxalt	Stevens
Domenici	Mathias	Stevenson
Eagleton	McClure	Stone
Eastland	McIntyre	Tower
Goldwater	Nelson	Wallop
Haskell	Pearson	

So the motion to lay on the table the motion to recommit was agreed to.

Mr. MCGOVERN addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. MCGOVERN. Mr. President, if there is anyone in the Senate who has had less stomach for filibusters than I have, I am not aware of who it is. I almost never participate in what can be referred to as a filibuster, but I think there are times when, especially late in the session, measures need to be more closely examined than they are, and we are witnessing such a case right now.

I realize the hour is late, the Senate wants to adjourn, and I have pressing commitments, as other Senators do. But, as so many times in the past, some of the worst provisions of law slip through at the end of the session.

Mr. ABOUREZK. Mr. President, may we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order. Will Senators clear the aisles and the well? Will Senators please clear the well?

The Senator from South Dakota.

Mr. MCGOVERN. Mr. President, I serve on none of the committees in the Senate that have responsibility for energy matters. I do not consider myself an authority on the questions of energy, although I suspect that I know as much about the content of this bill that is now before us as many Members of the Senate.

In the course of the deliberations this afternoon, I for the first time tried to read the conference report and to listen to some of the discussion that took place, both here on the floor and in my office; and I have been impressed with the fact that, while this bill contains something that is attractive for almost everyone, and there are features in the bill that I very strongly endorse, it also contains several billion dollars' worth of what appear to me to be totally unjustified subsidies to the oil and energy industry; and we are going to be living with those subsidies for a long time to come.

It would be convenient if we could have adjourned several hours earlier, or if we could adjourn several hours earlier tonight. But contained in this bill, as I understand it, is some $2 billion for the doubling of the investment tax credit for various aspects of the oil and energy industries over the next 5 years, another $366 million that has been placed in this bill for intangible drilling costs, which opens that loophole again, and $186 million in depletion allowances, which has been one of the most objectionable features of our Tax Code for a long time.

Some of these tax loopholes that are opened by this conference report do not have an expiration time. Unlike the solar and conservation portions of the conference measure, which definitely run out on December 31, 1985, there are indefinite loophole concessions that are opened in this bill with no terminal period.

So I really think, Mr. President, that as painful as it is for Senators to confront this issue, we really ought to take a closer look next year when we are fresh, when we have had an opportunity to examine the implications of the measure and to understand what we are doing.

Before I complete my remarks tonight, I hope there will be somebody here who understands this conference report, who can answer a few questions that I would like to raise about it.

But for the time being let me say, Mr. President, that while this bill contains a great many features that are attractive—and it does contain measures that are appealing to those who think we ought to have an oil and gas future; it has provisions that are appealing to those in favor of converting largely to coal; it has features that will appeal to the advocates of solar energy, among whom I include myself; it has a provision for wind power; it has a limited measure for conservation. So there is a little bit in the legislation that is at least partially appealing to just about every interest group in the country, and just about every Senator. For that reason, this bill is likely to pass the Senate, as we have seen from the votes that have taken place here already today.

Yet I have the feeling that a great many Senators know there is something wrong with the legislation, that it does contain overly generous subsidies and concessions to the very powerful and very wealthy; but, because of the acceptable provisions that I have just referred to, and because of some of the public interest provisions in the bill—and no one can deny that there are some such provisions—and because of the pressure to pass some kind of comprehensive energy bill, the Senate is asked to vote for it.

I suspect that last consideration is the prevailing one. There is a great desire to be able to say that in 1978, the administration and Congress finally passed a five-point comprehensive energy bill.

Mr. JAVITS. Mr. President, will the Senator yield to me on my time at that point?

Mr. MCGOVERN. Yes.

Mr. JAVITS. I have not spoken in this debate at all. I am considered a liberal, and——

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. JAVITS. I yield my self 5 minutes.

The PRESIDING OFFICER. Is the Senator from South Dakota yielding the floor?

Mr. MCGOVERN. I am not yielding the floor. I yielded to the Senator from New York.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from South Dakota that he be allowed to yield to the Senator from New York for 5 minutes without losing his right to the floor? Without objection, it is so ordered.

Mr. JAVITS. If there are any problems with the Senator, I will be glad to undo it.

Mr. MCGOVERN. I said before the Senator came in that I hoped there was someone here more knowledgeable about this conference report than I am, that I could ask some questions. I hope later on the Senator will permit me to do that.

Mr. JAVITS. I do not consider myself knowledgeable. Senator JACKSON is here; he is that knowledgeable man. I have another point, because both the Senator from South Dakota and I serve on the Foreign Relations Committee, and that is what brought me to my feet.

Some Senators feel, as the Senator says, that we ought to pass something. I might tell the Senator why I am supporting the conference report, and perhaps that will be a case in point.

I am not a thoughtless person; I think I understand what I am doing and why I am doing it.

Mr. MCGOVERN. I certainly agree.

Mr. JAVITS. And I have gone through this modestly. I am not an expert on it. It does have the goods and the bads, as the Senator says, and I am sure it has some things for what the Senator calls the powerful and the rich; whether they are corporations owned by thousands of stockholders or not I am not going to debate about now.

But the reason why I am acting as I am is that I think one of our big problems in the world today, that is having its effect upon the dollar, it is having its effect upon our balance of payments situation, it is having its effect upon the certainty or uncertainty with which the investors of the world look not only at

the dollar, but at U.S. investments—it is really a very critical aspect, a very critical part of what is ailing the United States internationally, which is the fact that the impression is abroad, somewhat justified, that we do not know how to govern, that we cannot make up our minds, that we cannot gestate a policy.

Mr. President, it has been said here a hundred thousand times that politics is the art of the possible. We know there are those here that are insisting—I will put it in absolutely the worst case that I know how—there are those here that are insisting on making the public pay, even though it will go to special interests.

Even though that be true, the question that we have to ask ourselves, if what I say in my judgment is true internationally, is how much?

How much? And if the price is not out of the ball park, considering the issue, we may have to pay it. That is why we are a democracy. We have to learn to function somehow.

Mr. President, I think we have arrived at that point. I simply believe that whatever we have to pay in this bill, for whatever these special interests demand as their price, we have to pay. I think we have gotten to that point. We have brought it to the point where now it has simply got to be done.

Now, you know and I know and ABOUREZK knows and METZENBAUM knows that we are going to adjourn tonight or tomorrow or Monday, and you gentlemen have just 1 hour, each of you; and while you might get four or five other recruits, and we could wait it out, we will adjourn and we will pass this, because most of us realize that we have got to do something, not nothing.

This is the net of my statement, and that is why I shall support this conference report.

Mr. ABOUREZK. Will the Senator yield?

Mr. McGOVERN. I yield to the Senator on my time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from South Dakota that he be allowed to yield without losing his right to the floor? Without objection, it is so ordered.

Mr. ABOUREZK. Mr. President, I have, very sincerely, nothing but the greatest respect for my friend from New York (Mr. JAVITS). But he just made an incredible statement that I cannot allow to go unchallenged. We have talked privately on the floor about the contents of this legislation and the natural gas deregulation bill. He understands full well the contents of this legislation.

This bill, for example, has an increase of intangible drilling costs, the thing that we have had controversy about for years in this Senate and in the House, controversy for years because the oil industry managed to come in here year after year and tear off the money from the taxpayers' pocketbook without any kind of protest whatever.

There is an increase from 10 to 20 percent of investment tax credit, a large part of it to businesses that have already purchased the energy-saving equipment that it is supposed to be the incentive for them to purchase.

The natural gas bill takes billions, tens of billions, of dollars, and transfers it from one group, the consumers, to another much smaller group, the oil and gas industry.

I hear the Senator from New York, as I have heard other people who support this legislation, say, "We have to do it even if it is wrong."

What kind of legislating is that? What kind of governing is that? If we have to prove that we have the ability to govern, let us do it like Somoza in Nicaragua; Mussolini made the trains run on time. Let us govern that way. That is how we can prove we can govern. But if we are going to govern with some kind of commonsense, then for God's sake, let us do it in that manner. This talk about doing something even if it is wrong does not serve any of the constituencies that we represent very well at all. I thank the Senator for yielding.

Mr. McGOVERN. Mr. President, I would also like to comment on the statements of the Senator from New York.

I have heard the same argument, and I think it does have some appeal, that our friends in Europe, Japan, and elsewhere are anxious for us to pass this energy bill. Almost from the day the President sent the proposal here to the hill we were getting reports that every European statesman wanted this bill passed. We received the same message from Japan and elsewhere.

One thing that has puzzled me about that is this: Why would the leadership of other countries be so anxious for us to rush through to completion a bill that on its surface will result in higher costs of production in this country? There is no question about that. I do not think even the most ardent advocate of the 5-point package that the President sent to the Hill, whatever is left of it after the Congress has worked its will, would deny the fact that that energy package is going to raise energy costs. That was really the guts of the proposal, that you arrive at conservation by raising energy prices. It is clear, I think, to every Senator that the passage of this package will have that effect.

The question is why would Europeans and Japanese, who are competitors in international markets, welcome rising costs of production here in the United States?

I do not know all of their motives, but I suspect that there are some people who are shrewd enough to have figured out that rising fuel costs, rising energy costs, here in the United States are factored into the cost of everything we produce, everything we produce in agriculture, everything we produce in industry, and to whatever extent these rising costs of energy are passed on in the form of increased costs of production it diminishes our capacity to compete in world markets with the Japanese, with the Germans, and with the others who have been taking markets away from us all over the world.

One cannot be sure of what the motives of sophisticated political leaders are, but it is at least, I think, cause for some reflection on our part that we are being urged by our most intense competitors abroad to pass energy legislation that has the effect of increasing the cost on everything that we produce, thereby making us less competitive than we already are on international markets.

Mr. President, in spite of my longstanding opposition to tax credits as a means of making public policy, there are parts of this legislation that I would like to support. The people in my State, for example, need some assistance to weatherize their homes. We have severe winters in our part of the country and there will be $635 million in credits during 1979, according to the Budget Committee, in this legislation.

I also want to encourage solar energy, even if it means using the tax credit system, and there is something in this legislation for that.

But when one looks down the long list of subsidies that you have to swallow in order to get these desirable features of the bill, and when you think about the potential cost to taxpayers and consumers for years to come, when you consider the substantial change in direction which we have to make in energy policy, I think we have to take another look at this legislation.

I agree with the Senator from New York that the probability is that this measure will pass, but the fact remains that it needs to be pointed out on this floor very clearly, I think, that we have not had an opportunity to take any more than a quick look at their conference report. We have not even been able to get a copy of it until the last day and a half.

On the basis of what I have been able to learn about it just today, I am very skeptical about the public's interest being on the side of rushing this bill through to completion.

There is an alternative that we can follow in the closing hours of this session. We have an opportunity to let the House of Representatives vote on the first four sections of the bill and then to act on H.R. 112, the legislation that passed the Senate under the sponsorship of Senator HART, a bill that we passed in August which contained a better package.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. McGOVERN. I yield.

Mr. ROBERT C. BYRD. I have been informed by the Speaker that the House will not act on H.R. 112. I am informed by the Speaker that the House is going to await action on the package until it gets the fifth element of the package. I say most respectfully to the Senator that we are engaging in vain hopes if we expect the House to go ahead and act on this package which has four elements while the Senate turns this down. The House is not going to act on the four elements until it gets this fifth one. And if it does not get the fifth one, if the Senate kills this one, I am told that H.R. 112 is dead.

Mr. McGOVERN. The majority leader may be right, that it is a vain hope, a hope that maybe democracy prevails in the other body and that one man cannot control the agenda. But until I am

proved wrong, I would like to think that one man, even a very powerful Speaker, cannot dictate entirely what 435 people are going to do in the House of Representatives.

I respect the majority leader's judgment. It may turn out that that idealism of mine is wrong.

To be sure, this legislation has solar and insulation and money for buses and vans, which is a feature I support.

We know what that package would cost, approximately a billion dollars. But we do not know about the future. The bill contains a 20-percent investment tax credit for the production of synthetic gas and oil.

I say to the Members of the Senate, what that means is that when a company builds a $1 billion plant, the Government could pay as much as $200 million of that cost. Even a plant that may turn out to be highly lucrative and highly profitable to the investors and the stockholders would require the Government to put up $200 million of the construction cost in that synthetic plant. Yet that oil that is produced, that synthetic product will cost over $30 a barrel, probably more than that. That synthetic gas would cost more than any other alternative.

Mr. President, if there is anyone here on the floor who knows enough about this conference committee proposal, tell me why that is a good investment for the American people; I should be glad to take whatever time is necessary to listen to the explanation. Is there any Senator who thinks that that makes sense to the taxpayers of this country, to underwrite $200 million of the cost of a $1 billion private investment to produce synthetic energy that is going to cost us $30 a barrel, three or four times the cost of what we are presently paying for oil? If there is, I hope that sometime before I yield the floor here, we shall have an explanation of how that makes sense.

We talk about giving a subsidy to synthetic fuels and, at the same time, giving one to conservation and solar energy. That sounds like a fair tradeoff, but there are, today, virtually no subsidies for conservation or solar energy. But the conventional fuels are heavily subsidized.

Hearings indicated that utilities pay very few taxes and may even get tax subsidies in the next several years with the addition of more investment tax credits plus accelerated depreciation. Electricity is heavily subsidized.

The conferees did not even put conservation on even terms with new supply sources in this bill, let alone make up for subsidies from the past. They gave residential insulation a 15-percent subsidy and 20 percent for everyone else.

It does not just stop at synthetic fuels. There is 20 percent for shale oil. That is an additional 10 percent for Occidental Petroleum and Ashland Oil and all the other oil companies.

Then there is an additional 10 percent for geopressurized methane. You know who is going to profit from methane—the same oil and gas companies which are going to get higher prices and deregulation under the natural gas bill.

Then there is geothermal. Not only will geothermal get an additional 10 percent investment tax credit, they will now get all the benefits of the intangible drilling provisions. Geothermal is not a source that people get in their backyards.

It is not the kind of power that lends itself to a decentralized democratic energy structure. It is only available to utilities and other large corporations or to the Government.

Even in photovoltaics—a very promising source of power in the years to come—we are beginning to see the oil companies buying up all the leading photovoltaic companies, so they will be the principal beneficiaries of that provision in the years ahead of us.

Mr. President, I am not arguing against every source of energy which comes from the oil and gas industry or other large corporations, but I am arguing for the United States to stop the disproportionate subsidization of utilities and oil companies to the exclusion of individual consumers and small, local energy sources.

This is really the direction in which future energy policy ought to be moving, in the direction of renewable sources of energy that can be locally controlled, locally owned, locally directed, and not concentrated in multi-billion-dollar structures that are in the hands of the few and far removed from the consumers and the users who depend on those sources of supply.

I am arguing here for energy efficiency through conservation in addition to more production. I fear that after a year and a half of debate on the energy bill, we have left the books pretty much balanced the way they were before with the traditional fuels and the traditional suppliers on top.

A case in point is the decision of the conferees to eliminate a tax credit for inefficient furnaces. I know what this provision is all about because those furnaces burn oil in my region and the oil is extremely expensive and becoming more so. These furnaces are, in most cases, inefficient. They are wasteful. Repairing them would save enormous amounts of money and oil.

For every $200 of credit, consumers could save 20 percent, up to 40 percent maximum. Replacing 30 percent of the furnaces would save 128,000 barrels of fuel per day. It would give consumers more money to spend, thus driving the economy from the bottom up, not the top down.

But the furnace provision which was one of the more attractive features of the legislation was eliminated. So was the provision favoring wood burning stoves. Yet many people especially in New England, can only afford to burn wood and more will need to switch to this source in the next few years.

Let me tell you about just one county, Franklin County, Mass., a State that has a great many special virtues, as far as I am concerned. They recently did some calculations in Franklin County to find out what they were really paying for energy. They found out that oil—imported oil from Venezuela and the Middle East — was costing that small, rural county $24 million dollars a year. In that county, $24 million is the equivalent of the payroll of the 10 largest businesses in the country.

Then they calculated what the cost of that oil would likely be by the year 2000, some 20 years hence, and concluded that the county oil bill would be in excess of $150 million. Franklin County would have to add to its work force the work force of the 10 largest businesses every 2 years just to keep up with the cost of additional oil bills.

Yet Franklin County residents will get no credit for upgrading their furnaces or stoves and they will get only a 15-percent credit to fix up their homes against the severe winters that we experienced in that part of the country, as in my part.

Also excluded completely is passive solar energy, which is one of the most promising and constructive aspects of future energy development. Passive solar is a phrase, very simply, used to summarize all of the changes that can be made in how buildings are built and oriented to capture the Sun's heat. The American Institute of Architects estimated last year that the United States could save over four quads of energy or about 6 percent of all our energy just by adapting passive solar technology over the next 20 years.

In other words, Mr. President, by simply using a little common sense in the way we design our homes to take advantage of the energy from the Sun.

We sometimes forget, with all these exotic theories about energy, that most of all energy on this Earth that sustains life comes to us day after day from the Sun.

I know it is a difficult area to provide tax credits. I know it is hard to draw lines and it would cause problems for the Internal Revenue Service, but I still do not see how we can ignore what is really the most efficient and effective means of saving energy. Passive solar is not a mystery. It has been around for centuries, but it will remain somewhere back in history as long as we continue to pour all of our tax dollars into the same energy companies and the same fuel sources.

We talk about coal as a new energy source to be exploited. Coal is very important. If we can overcome the environmental problems we should use more coal. We should gasify it and liquefy it just as soon as the price gets within range.

We have had one of these gasification plants in the western part of my State and it may be a hopeful new source of energy.

But let us make no mistake about it, it is the oil companies which are going to control most of the future coal. They own most of the Federal leases. They are the ones who are going to turn coal into gas or oil.

Why should they be given another profit bonanza with another tax subsidy as the bill now before us pledges to do?

Why give them another jump with another subsidy? Why not wait until the price at least gets close to the market price? Right now synthetic fuels are more than double the price of oil.

The conservation technologies are not

double the price of oil. In many cases they are below the cost of oil in the energy they will produce through savings. A region like New England is not going to be any better off burning synthetic oil or gas at $30 or $40 a barrel than burning oil at $14 a barrel—no matter what the subsidy.

The same is true all across the Midwest and in the colder parts of the country.

In fact, what is happening is that as we allow the subsidies to continue flowing we simply insure that our energy costs will rise to meet the cost of the technologies. Once these plants are put in it will be the consumers or the taxpayers who have to pay for them.

And, of course, along the way we forgot those persons of low income and the elderly who cannot even afford the price of oil, let alone the prices of the future sources. And we have forgotten the middle class who are now paying just under 10 percent of their budgets for energy—and those figures are rising rapidly.

Mr. President, I realize the temptations present in this bill, as I indicated earlier. I understand there is something for everyone. There are parts of this bill that I like too, such as the credits for industrial conservation and credits for wind power. We should include those in any bill we pass.

But when the bottom line is reached I believe this bill is a mistake.

As I indicated earlier, while the majority leader tells us this is not likely to happen, there is an alternative that is open, and that is for the House to act on the first four sections of the bill plus H.R. 112, the bill we passed in August which contained a better package for conservation and solar than the one before us now. I still think that is a real possibility, open to us today. We could then come back to the matter early in the next session and pass all of the portions that deserve our support and have a full and fruitful debate.

Mr. President, before I yield the floor, if there is anyone who could give me any assurance that I do not now have about why some $3 billion that I have referred to in subsidies in this legislation, which are going to be paid by the taxpayers of this country, other people are going to have their taxes raised in order to cover these billions of dollars in tax credits that are provided for the energy industry, I would be glad on my time for an explanation of why those things are to be given an endorsement here in the Senate tonight.

Failing any such answer, Mr. President, I have no recourse except to vote against this measure.

I now yield the floor.

Mr. ROBERT C. BYRD. Vote. Vote.

SEVERAL SENATORS. Vote. Vote.

The PRESIDING OFFICER. The question before the Senate——

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The question before the Senate is on the conference report.

Mr. ABOUREZK addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. I seek recognition, Mr. President.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, the investment tax credit is a provision of the U.S. Tax Code which allows businesses a credit against tax liability for 10 percent of the cost of qualified investment. Effectively, it lowers the costs of firms' potential investment projects and therefore encourages the undertaking of some projects which would otherwise be unprofitable. The credit's supporters usually claim that it is justified on two economic grounds: First, because it stimulates investment and capital formation and, therefore, deepens our country's capital base and increases productivity, and second, because investment is a direct component of income in traditional economic theory, implying that an increase in investment will immediately provide us with more national income.

Now, the legislation we are talking about today, Mr. President, has increases in investment tax credit for business firms that have already, in many cases, purchased the equipment for which they will get credit retroactively.

It is not designed to create any kind of incentive. It is designed only to transfer money out of the U.S. Treasury into the bank accounts of those companies.

Now, Mr. President, I call up my unprinted motion to recommit with instructions No. 2 and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the motion.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. ABOUREZK) moves that the conference report be recommitted to the conference committee with instructions that the conferees report back the bill as previousy reported, with the deletion of section 404, entitled "Rerefined lubricating oil."

Mr. ROBERT C. BYRD. Mr. President, would the Senator explain his motion?

Mr. ABOUREZK. Mr. President, it is self-explanatory. I want to reserve my time.

Mr. ROBERT C. BYRD. I did not understand it. Could the Senator——

Mr. ABOUREZK. I would like the clerk to read it again.

Mr. ROBERT C. BYRD. On the Senator's time?

Mr. ABOUREZK. Not on my time.

Mr. ROBERT C. BYRD. I would like to know what the Senator's motion does.

Mr. ABOUREZK. Mr. President, I heard——

Mr. ROBERT C. BYRD. I heard the clerk read it, but I would like the Senator to explain it.

Mr. ABOUREZK. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. ROBERT C. BYRD. The Senator is not——

The PRESIDING OFFICER. There is a request for the yeas and nays.

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, the Senator is not going to explain his motion?

How can he expect Senators to vote on this motion?

Mr. ABOUREZK. I would be happy to explain it on the distinguished majority leader's time.

Mr. ROBERT C. BYRD. I only have 13 minutes left.

Mr. ABOUREZK. I can do it in about 10.

Mr. ROBERT C. BYRD. Would the Senator do that? Would the Senator do that on his own time?

Mr. ABOUREZK. No, I want to reserve mine.

Mr. ROBERT C. BYRD. The Senator has 29 minutes, or had.

Mr. President, I move to lay on the table the motion to recommit.

Mr. ABOUREZK. I ask for the yeas and nays.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. ABOUREZK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The yeas and nays——

Mr. ABOUREZK. I suggest the absence of a quorum. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senator will not bring that burden upon the Senators and the House Members who are in conference on the tax bill and force them to come all the way back to the Senate from the Longworth Building, on a quorum call. The Senator can be sure that a quorum will be established on the rollcall.

Mr. ABOUREZK. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, that is obviouslv dilatory; and under the precedents, I would hope the Chair would enforce the precedents. It is obviously dilatory, and under the precedents——

Mr. ABOUREZK. Mr. President, a motion to table is not debatable. I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. That is obviously dilatory, Mr. President.

Mr. ABOUREZK. Regular order, Mr. President.

The PRESIDING OFFICER. Is the Senator from West Virginia making a point of order to the Chair?

Mr. ROBERT C. BYRD. No. I do not really have a basis, other than that it obviously is dilatory. That is a judgmental factor, and I will not press upon the Chair to say that it is dilatory, based on my judgment.

The PRESIDING OFFICER. The clerk will call the roll on the quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. ABOUREZK. I object.

Mr. WEICKER. I object.

The assistant legislative clerk resumed the call of the roll, and the following Sen-

ators entered the Chamber and answered to their names:

[Quorum No. 24 Leg.]

Abourezk	Hart	Ribicoff
Baker	Heinz	Sarbanes
Bellmon	Inouye	Sasser
Bumpers	Jackson	Schweiker
Byrd, Robert C.	Melcher	Stone
Church	Muskie	Weicker
Garn	Nunn	Young
Griffin	Percy	

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Pending the execution of the order, the following Senators entered the Chamber and answered to their names: BURDICK, CRANSTON, and RIEGLE.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Viriginia.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to instruct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. LEAHY). Have all Senators in the Chamber voted?

The result was announced—yeas 70, nays 3, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—70

Abourezk	Glenn	Muskie
Anderson	Gravel	Nelson
Baker	Griffin	Nunn
Bartlett	Hart	Packwood
Bayh	Hatch	Pell
Bellmon	Hatfield,	Percy
Bentsen	Mark O.	Proxmire
Bumpers	Hatfield,	Randolph
Burdick	Paul G.	Ribicoff
Byrd,	Heinz	Riegle
Harry F., Jr.	Helms	Roth
Byrd, Robert C.	Hodges	Sarbanes
Cannon	Hollings	Sasser
Case	Inouye	Schmitt
Chafee	Jackson	Schweiker
Chiles	Johnston	Stennis
Church	Leahy	Stevenson
Cranston	Lugar	Stone
Culver	Magnuson	Thurmond
Danforth	Matsunaga	Wallop
DeConcini	McGovern	Williams
Dole	Melcher	Young
Durkin	Metzenbaum	Zorinsky
Ford	Morgan	
Garn	Moynihan	

NAYS—3

Hansen	Hayakawa	Weicker

NOT VOTING—27

Allen	Haskell	McClure
Biden	Hathaway	McIntyre
Brooke	Huddleston	Pearson
Clark	Humphrey	Scott
Curtis	Javits	Sparkman
Domenici	Kennedy	Stafford
Eagleton	Laxalt	Stevens
Eastland	Long	Talmadge
Goldwater	Mathias	Tower

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question recurs on agreeing to the motion to lay on the table the motion to recommit with instructions.

The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mrs. HUMPHREY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. BAKER. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. The Chair would inquire whether all Senators wanting to vote on this motion have had a chance to do so. Have all Senators voted?

The result was announced—yeas 61, nays 12, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—61

Anderson	Gravel	Morgan
Baker	Griffin	Moynihan
Bellmon	Hart	Muskie
Bentsen	Hatch	Nelson
Bumpers	Hatfield,	Nunn
Burdick	Mark O.	Packwood
Byrd,	Hatfield,	Pell
Harry F., Jr.	Paul G.	Percy
Byrd, Robert C.	Hayakawa	Randolph
Cannon	Heinz	Ribicoff
Chafee	Helms	Roth
Chiles	Hodges	Sarbanes
Church	Hollings	Sasser
Cranston	Inouye	Schweiker
Culver	Jackson	Stennis
Danforth	Javits	Stone
DeConcini	Johnston	Thurmond
Dole	Laxalt	Williams
Durkin	Lugar	Young
Ford	Magnuson	Zorinsky
Garn	Matsunaga	
Glenn	Melcher	

NAYS—12

Abourezk	Leahy	Riegle
Bartlett	McGovern	Schmitt
Bayh	Metzenbaum	Wallop
Hansen	Proxmire	Weicker

NOT VOTING—27

Allen	Goldwater	McIntyre
Biden	Haskell	Pearson
Brooke	Hathaway	Scott
Case	Huddleston	Sparkman
Clark	Humphrey	Stafford
Curtis	Kennedy	Stevens
Domenici	Long	Stevenson
Eagleton	Mathias	Talmadge
Eastland	McClure	Tower

So the motion to lay on the table the motion to recommit with instructions was agreed to.

ANNOUNCEMENT OF PROVISION FOR PUBLICATION OF STATEMENTS IN THE LAST ISSUE OF THE RECORD

Mr. ROBERT C. BYRD. Mr. President, the Joint Committee on Printing has decreed that on Mondays through Fridays, until and through the date of November 7, 1978, Senators may have between the hours of 10 a.m. and 3 p.m. to submit statements for the final RECORD after sine die adjournment, which will be printed following November 7.

A notice concerning the submission of statements for the final RECORD will be found on the front of the last daily RECORD of the 95th Congress.

TRIBUTES TO RETIRING SENATORS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all Senators may have permission to submit statements for the RECORD with respect to all of our retiring colleagues.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, there is no rule of germaneness on the pending business?

The PRESIDING OFFICER. Is that a parliamentary inquiry?

Mr. BELLMON. I make the parliamentary inquiry. Is there a rule of germaneness on the pending business?

The PRESIDING OFFICER. The conference report is not subject to amendment so as to the rule of germaneness as regarding amendments—the 3-hour Pastore rule having expired—there is no requirement of germaneness.

TRIBUTE TO SENATOR BARTLETT

Mr. BELLMON. Mr. President, within a few hours, or at worst a few days, the 95th Congress will complete its business and adjourn. While many Members are tired from long and wearing sessions, many of which have run past the hour of midnight, we approach adjournment with a certain feeling of sadness. Several Members are not candidates for reelection and thus will not be in their seats when Congress reconvenes in January.

Mr. President, among the noncandidates is my esteemed and beloved colleague from Oklahoma, DEWEY BARTLETT. Few Members have had a closer working relationship than has existed between Oklahoma's two Senators and their staffs, nor will any Member miss his colleague's presence in the Senate more than I will miss Senator DEWEY BARTLETT.

The PRESIDING OFFICER. Will the Senator suspend?

The Chamber is not in order. I wish all Members would pay special attention to maintaining order during the remarks of the Senator from Oklahoma.

Mr. BELLMON. The association between Senator BARTLETT and myself began long ago when he was a leading business executive in Tulsa and I was State Republican Chairman. I like to think I helped convince him to enter the political arena, as a candidate for the Oklahoma State Senate. That race launched his illustrious political career. I know I valued and benefited from his dedicated service in the State senate during my term as Governor, and I was overjoyed when DEWEY BARTLETT was elected to serve as Governor of Oklahoma at the conclusion of my term.

Also, as a friend and fellow Oklahoman, I was delighted at the progress our State made under the strong and steady leadership of Governor BARTLETT. Never has Oklahoma prospered more. Never has Oklahoma or any other State enjoyed a cleaner, more effective administration than the Bartlett administration.

Mr. President, I have often told crowds in Oklahoma that the greatest favor Oklahoma voters ever did for me was when they elected DEWEY BARTLETT to serve as my colleague in the U.S. Senate. He brought to the Senate an intense interest and a high level of professional expertise in energy development. He arrived in our Nation's capital at a crucial time, due to the developing energy crisis.

He has been instrumental in introducing inspired legislation which, had it been approved, would have moved this country a great distance in the direction of enhancing development of our abundant domestic energy resources and relieving our dependence upon imported crude oil.

In retrospect, Senator BARTLETT's work in energy legislation, had it met with wider acceptance by other Members, could have averted many of the problems now becoming more pressing with each passing day.

Greater domestic energy production would mean lower imports, a stronger dollar, less inflation, less waste, more jobs, and more freedom to conduct international policy.

In one small but highly significant instance my colleague from Oklahoma proposed and won passage of the stripper well amendment which exempted oil produced from these wells from price controls. This one action saved thousands of wells from abandonment and preserved millions of barrels of production annually. The value of this one action to the country is difficult to estimate.

In addition to his contribution in energy legislation, Senator BARTLETT has rendered significant service in at least two other areas—in national defense and in improving the condition of Americans of Indian descent. As a member of the Armed Services Committee, Senator BARTLETT has worked tirelessly and effectively to keep America's defenses strong. He has become a respected and well-informed authority in this vitally important field. In at least two instances during investigations abroad, first in Somalia and later in Western Europe, he has made recommendations which have had significant and salutary impact upon U.S. defense policy.

He has developed and supported numerous bills to assist American citizens of Indian descent to gain full participation in our Nation's economic and cultural life.

In his role as the ranking member of the Select Committee on Indian Affairs, he has become a knowledgeable, respected, and influential spokesman for American Indians.

Mr. President, for other Members the courageous, valiant battle Senator BARTLETT is now waging against a dread disease will long serve as an inspiration. Over recent months my colleague has faithfully and fully carried on his responsibilities and duties as a Member of the Senate, when others of less stamina would have been unable to carry the load. I am certain that every Member joins in my personal hopes and prayers that Senator BARTLETT will win this personal battle as he has won so many others.

Mr. President, there are two additional comments I would like to make concerning my distinguished colleague from Oklahoma.

First, among his many achievements I count his success in winning the hand of his beautiful and charming wife as his greatest accomplishment. Ann Bartlett graced our State as our warm, hospitable first lady and has represented Oklahoma in our Nation's Capital in keeping with the highest traditions. She is truly a great lady, one whom all Oklahomans love and admire.

In addition to his service in the political arena, DEWEY BARTLETT served his country with distinction and honor in World War II as a dive bomber pilot in the U.S. Marine Corps. As a former marine, I have the highest regard for those who served in the air wing of the Marine Corps. I can only say that the motto of the Marines, Semper Fidelis—always faithful—has marked my friend's and colleague's service in both private and public life. It is an honor to be associated with him. I wish him Godspeed in the days ahead.

I yield to the Senator from North Dakota.

Mr. YOUNG. Mr. President, I join my friend from Oklahoma, Senator BELLMON, in the well-deserved comments regarding our great friend, Senator DEWEY BARTLETT. He truly has a long and illustrious career in public life—first as a Marine dive bomber pilot, a State senator in Oklahoma, Governor of his great State, and now a U.S. Senator. DEWEY BARTLETT is recognized as one of the best, if not the best authority in the Senate on questions of business and industry, especially in the oil industry. He has had many other interests, including agriculture, which he has worked long and hard at. DEWEY BARTLETT is truly a great legislator and a wonderful friend. Pat and I wish only the best for DEWEY and his lovely wife, Ann, in all the years to come.

Mr. BAYH. Will the Senator from Oklahoma yield to the Senator from Indiana?

Mr. BELLMON. I am happy to yield to my friend from Indiana.

TRIBUTE TO DEWEY BARTLETT

MR. BAYH. Mr. President, there is a letter inscribed on an old church wall in Baltimore, Md., which admonishes the reader to "go placidly amid the noise and haste". That refers to an inner strength, quiet yet vibrant and full of confidence and purpose. Senator DEWEY BARTLETT, of Oklahoma, typifies the spirit of that epistle. In a single term of service in the U.S. Senate, DEWEY BARTLETT has tackled some of the toughest and most intractable problems associated with national security policy. He has shown a real sensitivity to the plight of the American Indian, over 90,000 of whom he has represented during the past 6 years. His committee assignments have allowed him full input in shaping a national energy policy and he has become particularly expert in those problems involving stimulating production of fossil fuels to meet a growing energy demand.

While I do not find myself voting with DEWEY BARTLETT on a great majority of issues, I do find a colleague who presents his position with characteristic fairness and a mind open to constructive criticism. Especially in the field of national defense, his tenure on the Armed Services Committee has, I believe, enhanced the work of that committee and provided us with balanced assessments by which we can more expertly determine what

programs will be in our near- and long-term national security interests.

A fundamental understanding of the physical world provided by his formal education with a degree in geological engineering as well as experience won in aerial combat during World War II with the U.S. Marine Corps have enabled DEWEY BARTLETT to make valuable contributions of service both to his constituents and his colleagues. I now join with my colleagues to offer a farewell salute to DEWEY BARTLETT, to wish him well and to thank him for the shining inspiration his courage has provided for us all.

Mr. BELLMON. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, as the term of Senator BARTLETT draws to a close in the Senate of the United States, I want to say how much the Senator from Virginia will miss him. Senator BARTLETT is voluntarily retiring from this office. While I do not know too well the politics of Oklahoma, I am convinced that had he sought reelection, he would have been overwhelmingly reelected. I, for one, am very saddened by the fact that he decided not to seek reelection. He has been a tremendous asset to the U.S. Senate. He has been an asset in so many ways.

I have had the opportunity to serve with Senator BARTLETT as a member of the Committee on Armed Services and I have seen at first hand the effective work which he has done on behalf of the defense of our Nation. He has given untiringly of his time and his talents in furthering the cause of a strong defense. I think the fact that the North Atlantic Treaty Alliance has been strengthened considerably in recent years is due much to the effective work of DEWEY BARTLETT. in that area.

As Senator BARTLETT retires, I know that not only will the Senate of the United States miss him, but I am convinced that his beloved Marine Corps will miss his presence in the Senate, also. There has been no stronger advocate of the U.S. Marines than has been DEWEY BARTLETT.

I say, as this session of the Congress comes to a close, that when the new one begins in January, it will be not quite as good as this one because of the absence of a beloved and wonderful friend, DEWEY BARTLETT.

Mr. BELLMON. I yield to my friend from Louisiana.

The PRESIDING OFFICER. The Chair advises as a matter of advice to the Senator from Oklahoma that, when yielding in cloture, the time taken by each Senator comes from the time of the Senator yielding.

Mr. BELLMON. Mr. President, I cannot think of a better way to use my time. I am happy to yield.

The PRESIDING OFFICER. The Chair highly concurs, and also highly concurs in the statement of the Senator from Oklahoma in his capacity as Senator from Vermont. I only want to make that point.

Mr. JOHNSTON. Mr. President, in a legislative body, where terms of 20 or 30 years and even more are not uncommon, it is unusual for a Senator who has served only 6 years, as Senator BARTLETT has, to have made such an indelible mark on this body—an indelible mark, first, on the legislation that has come through this Senate. I know firsthand of DEWEY BARTLETT's contribution particularly to energy legislation. He and I went to the Interior and Insular Affairs Committee, now the Committee on Energy and Natural Resources, on the same day back in 1973 in those months before the energy crisis hit.

Then, in October of 1973, the Yom Kippur war, the embargo, and all of the national emergency that followed that dropped in our laps in that committee the most severe crisis economically and energywise that this Nation has ever had, a crisis without precedent. Our committee had to write rules of very far-reaching and drastic nature: the Emergency Petroleum Allocation Act, EPCA, EPA, and all those. Mr. President, in all those days, when we were groping our way through dealing with these emergencies, a voice and a mind such as that of DEWEY BARTLETT were absolutely essential to us on that committee. Someone who had the deep knowledge of energy and the oil and gas business was essential to us, someone with DEWEY BARTLETT's keen mind and someone with DEWEY BARTLETT's ability to sit in that committee and help us sort out the facts and the issues and the difficult decisions we had to make.

DEWEY BARTLETT and I were usually on the same side of most questions in that committee. We did not always win. But I can say, Mr. President, that DEWEY BARTLETT, with his knowledge, his effectiveness, his hard work, his ability to sit through those long, difficult hearings, and his contribution at markup sessions, contributed more, perhaps, than any other member of that committee to help resolve those difficult problems of energy that arose in those far-reaching days of 1973 and 1974, and through the present time.

His contribution has been not only in the passage of legislation such as the strip well amendment, but in helping to shape the direction of other legislation that passed, legislation that he often opposed, but in helping make that legislation better he has contributed immeasurably to the energy laws of this country.

Finally, Mr. President, DEWEY BARTLETT has made a mark on this body that is even perhaps more important and more indelible than what he has done in legislation, and that is the mark he has made on the hearts and affections of each Member of this body.

DEWEY BARTLETT is a very unusual person, Mr. President. He is one who can fight hard and always does for that in which he deeply believes, the free enterprise system particularly. But in doing so, Mr. President, he is one Member of this body, I know of personal knowledge, I have never heard anyone say or think an unkind word about DEWEY BARTLETT.

That is unusual, Mr. President, because we have difficult times here where tempers are frayed, where hours are long, where passions run strong.

DEWEY BARTLETT has not failed to engage in those difficult battles. He has been at the forefront of all of them. But in doing so, he has conducted himself in a very unusual manner. I guess the term that would come to forefront in describing DEWEY BARTLETT would be the word "gentleman." There is embodied in that word almost the perfect description of DEWEY BARTLETT.

He is someone that I deeply respect and admire, and someone, along with his wife, Ann, who has my great affection.

As he leaves this body and goes home to fight more difficult battles, he has the undying respect, and affection, and admiration of every Member of this body, and particularly the junior Senator from Louisiana.

I thank the Chair.

Mr. BELLMON. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I wish I had time tonight to speak the length of time required to tell about my admiration and affection for DEWEY BARTLETT.

I have got to go over to the Longworth Building because that is where a conference is going on right now. So my remarks will be brief. They will be only a fleeting summary of my strong feelings of admiration for a great U.S. Senator but, more importantly, a great person.

DEWEY BARTLETT and I had the great pleasure and honor of representing the Armed Services Committee in a trip to NATO back in 1976. We spent an awful lot of time together before we left in trying to be prepared, as best we could, to try to determine some of the problems and opportunities the United States and our allies have in terms of protecting the security of the Western World.

DEWEY BARTLETT made an indelible contribution to the report that was filed when we got back, which has, I think, brought about many constructive changes in the protection of the United States and the NATO allies.

DEWEY BARTLETT was also the first member of the Senate Armed Services to suggest that America needed to take another look at our role in the Pacific, our military force structure in the Pacific following the Vietnam war.

We have undertaken that mission now because of DEWEY BARTLETT's leadership. We will be spending a great deal of time next year on that particular mission to determine what kind of forces we need to further our economic policy, our political policy, and to protect our national security interest in the Pacific.

Whatever comes out of that report, when it comes, will be due to the initiative taken by DEWEY BARTLETT.

DEWEY BARTLETT has always taken a keen interest in the affairs of the Manpower Subcommittee of which I am chairman.

He has been particularly interested in the U.S. Marine Corps, having been a former marine and a pilot in the Marine Corps, and his detailed knowledge of the marines and, indeed, of aviation and of the military forces, has made an immeasurable contribution to our subcommittee.

He is also interested in the future of the volunteer forces and has spent literally, tens and hundreds of hours discussing the volunteer force and all the

ramifications of it, and some of the problems that are on the horizon in terms of the volunteer force.

Senator JOHNSTON has already enumerated better than I can DEWEY BARTLETT's contribution in the field of energy. He is a knowledgeable, respected leader in that field, and, though his viewpoint does not always prevail in this body, it is always looked to in terms of wisdom, in terms of knowledge, and experience.

I have just had the privilege this month of working with DEWEY BARTLETT in trying to assist the minority businessmen of our country in really becoming a part of the free enterprise system in America. He has spent a great number of hours in the Small Business Committee trying to work on those problems, which do not and have not and probably will not attract any publicity, but which will, in large part, determine whether the minorities of our country, the people who are socially and economically disadvantaged, will really become a viable part of our free enterprise system.

He has made tremendous contributions in that regard.

I could go on and on about DEWEY BARTLETT, but more important than his legislative prowess has been his example of leadership.

I do not know of any person who has been more of a living demonstration about what a U.S. Senator should really be all about, because in spite of suffering he has gone through personally this year, he has never shirked his duty, he has never missed a committee meeting when he was here in the U.S. Senate, he has never missed a rollcall vote no matter how bad he felt.

I know that DEWEY BARTLETT is going to continue to battle. He will not be battling here on the floor of the U.S. Senate, but he will be waging an even more important battle, and I know him well enough to know that with his fortitude, with his perseverance, with his persistence, and with his dedication, he will win that battle.

We are not going to let DEWEY really retire, because we are going to continue to seek his counsel and advice, particularly on the Armed Services Committee, and particularly on the Pacific task force that we will be spending a great deal of time on next year.

So I say, as the junior Senator from Georgia, to my friend from Oklahoma, we are proud you are our friend. We are proud you have served in the U.S. Senate. We will continue to seek your counsel and your advice. We also will be closely following your future career and your activity because I know you well enough to know you are not retiring, you are just moving from this battleground to another battleground, and you will win that battle, also.

Several Senators addressed the Chair.

Mr. STENNIS. Will the Senator yield about 1 minute?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I will take just a brief moment.

Mr. STENNIS. I will only take a minute when the Senator is through.

Mr. BAKER. Mr. President, knowing DEWEY BARTLETT as I do, I rather suspect he would prefer brevity to any other approach.

I have been in the Senate almost 12 years. I have never counted the number of Senators I have had the privilege of serving with. I will do that in a more leisurely moment, when I have that moment.

Some day I hope I will have the opportunity to reflect carefully on the contribution each of them has made to the Senate. I am convinced that each, in his own way, has made a contribution to the further evolution and development of this body and to the formulation of public policy.

When I have an opportunity to collect my thoughts and insights about my service in the Senate, and to consider the contribution of my colleagues according to their own particular talent, DEWEY BARTLETT's contribution will rank among the most valuable.

This is not a gratuitous compliment to a man who is sitting here at the end of the last day of his time in the Senate but, rather, an expression of heartfelt conviction and a simple statement of personal belief.

Senator DEWEY BARTLETT has been a great Senator, and I look forward to his further service to his country and to this body. When he returns to Oklahoma I hope he will continue to have that same level of interest and deep, penetrating concern for the welfare of this country, and particularly for our national defense. I hope he will be willing at some future time to share with us his experience and his insights—possibly as a consultant on the important questions of defense and foreign policy.

Mr. President, DEWEY BARTLETT has been a great talent, and he still has much to offer. Knowing him as I do, as we all do, I know he will be generous in that offering in the months ahead. I am sorry to see him leave the Senate, but I understand the reasons, and I admire and respect his judgment.

Mr. President, I will always treasure the experience I have had in serving with a great Senator, a great friend, a man who has meant much to me personally and professionally—DEWEY BARTLETT.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. CHILES. Mr. President, I should like to take some of my time.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I concur in the views of my colleagues and associate myself with their remarks in regard to DEWEY BARTLETT.

Without being repetitious, I want to say that DEWEY serves as a great example for me. When I first came to the Senate, I used to watch him. I watched him day after day offer amendments and pursue his position. Many times, his proposals would not get too many votes, but he would be right there with the next amendment, and the next day he again would be pursuing the position he had.

I recall thinking to myself, during part of that time, "I wonder why in the world he does that. He should see that he is not getting too many votes. He should just stop that."

After you get a chance to know DEWEY, you realize what a man of conviction he is, and you realize what a rare man he is in these days, when many of us are political animals and are always concerned with being practical. We are always concerned with making sure that we compromise when we have to or that we do not continue to lose, that it might weaken us. But DEWEY never has been concerned about that. If his cause was right and he felt it was right and that it should have been pursued, he would continue to pursue it.

I think that in that way he is like the man in the impossible dream. He always has had that course. As you find out more about DEWEY, you find out that is the way he was as the Governor of Oklahoma. That is the way he always has conducted his life. If it was a cause that all of the people of his party were for or all his friends were for, if he did not think that cause was right, he would be on the other side.

As I have said, he has been a great example to me. He is a credit to being a U.S. Senator and to being in political life.

I had a chance to see how that rings with the people when I attended a dinner in Oklahoma for DEWEY. I witnessed the affection in which hundreds of people held him and heard them say they wished that everybody in political life pursued goals as DEWEY did and that everybody had his honor and integrity. So he has the love and affection of his people, as well as their respect—the great respect of his people. That serves as a tremendous example to me.

What also serves as a great example to me is the relationship DEWEY and Ann have. It is a wonderful relationship. They have a joint venture, really, in the adventure of the life they share together, and all of us who know them know how much that means.

I know what a man of faith DEWEY BARTLETT is—a man of great faith. I have watched that faith grow from month to month and week to week while he has been under a tremendous burden and tremendous stress. However, while he was under that physical burden, we saw that mental and spiritual faith grow and grow. That will always be an example to me and to all the people who know DEWEY. We know that that conviction and that faith are going to continue.

While he will be out of our sight now on a day-to-day basis, he certainly will not be out of our hearts. We will look forward to seeing his continued efforts in regard to the things he has worked on for this country. I know he still has a great contribution to make in that regard, and we will still be hearing from that contribution.

Mr. STENNIS. Mr. President, I would like to have several minutes to pay tribute to our friend, but under the present circumstances, I will take only a very brief time.

I have had a fine association with DEWEY BARTLETT on the floor and else-

where, and more particularly as a very valuable member of our Senate Armed Services Committee.

I am going to try to sum that up in a few descriptive words.

The first word I want to use is "dependability." He is a man of his word. His word is good and dependable. He is dependable when it comes to an undertaking that he has been requested to perform. You can depend on him to be thorough and exhaustive and to get results.

I can sum him up with another word: "usefulness." I do not know of a much higher tribute to pay to a man, particularly in the field of legislation, where the ups and downs are numerous. He is useful under all circumstances. He comes through.

He has made a great contribution to his State, to his country, and to the Senate. We are most grateful. I know there is work ahead for him—years of that same usefulness and dependability.

Mr. THURMOND and Mr. MARK O. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. THURMOND. South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. The real South.

The PRESIDING OFFICER. The Chair apologizes.

Mr. MORGAN. There is no need to apologize.

The PRESIDING OFFICER. The Senator from Vermont thinks of Massachusetts as being a Southern State.

Mr. THURMOND. Mr. President, in my 24 years as a U.S. Senator, I have had the good fortune to work with many Senators of various persuasions and abilities. Senator DEWEY BARTLETT, who is now retiring from the Senate, has always been among those who possess great ability, an affable personality, and outstanding courage. He is a gentleman of the highest degree. Briefly stated, DEWEY BARTLETT and I served on the Armed Services Committee and saw eye to eye on almost every issue coming before that great committee. He is a supporter of a strong national defense in the United States and overseas.

He also created a fine record on the Energy Committee because of his many years of actual experience in the energy field. Senator BARTLETT advocated that the key to solving our energy problem was to increase production of oil through the incentives provided by our free enterprise system. He has fought to keep the Federal Government out of oil and natural gas production.

His sensitivity to the problems of the American Indians throughout the United States were clearly shown in his many experiences as Governor of the State of Oklahoma, where approximately 100,000 American Indians reside.

One of his finest attributes is his dedication to pure political conservatism and at a time when being a conservative may not have been the most popular course. Our country needs more men like DEWEY BARTLETT if we are to remain the greatest Nation on Earth.

I am proud to be his friend and coworker. I join many colleagues in this salute upon his retirement from the Senate and wish him and the lovely Mrs. Bartlett the best the future holds for two fine, deserving people.

Mr. MARK O. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MARK O. HATFIELD. I am grateful to the Presiding Officer for looking in this direction.

The PRESIDING OFFICER. The Presiding Officer is always trying to look in both directions and the speaker under the table makes sounds as if they are coming from the center of the Chamber.

The Senator from Oregon.

Mr. MARK O. HATFIELD. I thank the President. I in no way imply the presence of other than an impartial and fair Presiding Officer.

Mr. President, I think it is somewhat ironical that we are paying tribute at this particular moment to a very beloved colleague and at the same time helping to perpetuate the filibuster by another departing brother, the Senator from South Dakota, Mr. ABOUREZK. I am sure it must give the Senator from Oklahoma a sense of ambivalence that this should occur at this particular time.

I have served with Senator BARTLETT on two Senate committees and I am made mindful that in these two committees I see Senator BARTLETT perhaps through two different perspectives. I am reminded of the fact that our Constitution speaks to many of the rights and protections of American citizens, and some people have categorized those rights as human rights, personal rights, and property rights.

And I suppose that on the Energy Committee there has been no stronger advocate of the right of personal property than Senator DEWEY BARTLETT. He has tenaciously pursued his beliefs and his convictions, and he has in no way permitted his ego to fuse with the issues so that he has always been able to maintain the perspective of differentiating between the issue and himself.

Therefore, even though there are differences of viewpoint on that committee it has in no way affected the deep personal relationship that we enjoy with Senator BARTLETT, whether we agree or disagree on a particular issue.

I serve on the Select Committee on Indian Affairs with Senator BARTLETT, and I see the same perserverance, the same tenacity, the same commitment to human rights that he exemplifies on the Energy Committee toward property rights.

Because I have listened to Senator BARTLETT as he has proposed legislation to relieve suffering, where he has sponsored legisiation to right wrongs and to remove inequities that have been imbedded in the U.S. Government relations to the original Americans, so it is that this is the kind of man that I feel we have as one who embodies the total perspective of our Constitution in terms of rights and the protection of rights.

I also see DEWEY BARTLETT on Wednesday morning where a group of our colleagues meet for a Wednesday morning prayer breakfast. And as we gather together for that prayer breakfast I see DEWEY BARTLETT the spiritual man, not only one who has an understanding of his faith and is able to articulate and share his faith, but also one who appropriates his faith as he lives in relation to his fellow human beings, and also as he uses his faith for the kind of sustaining power that he is able to mount in his present battle.

So it is that I consider not only DEWEY BARTLETT, a Senator of great stature and a man who has made a great contribution to this body, but I see him as a man who had a deep and abiding faith and one who I am proud to call my friend.

The PRESIDING OFFICER. The Senator from North Carolina.

TRIBUTES TO DEPARTING SENATORS

Mr. MORGAN. Mr. President, I ask to take just a few moments to say that one of the greatest privileges of serving in the U.S. Senate for me has been the opportunity and the privilege of serving with the great men and women who constitute this body, men and women who have made real contributions to the life of this country, to the lives of the people of this country. and to their States.

I join with all that my colleagues have said about our dear friend DEWEY BARTLETT, and inasmuch as our distinguished majority leader has afforded us an opportunity or opportunities to place in the RECORD our feelings for our departing colleagues, I will not take the time to express my feeling tonight except to run over the list of some of those who are leaving.

I say to my friend JIM ABOUREZK that I will be sorry to see you leave. JIM ABOUREZK has impressed me in the 4 years that I have had the privilege of serving with him as a man of great conviction, a man of courage, a man with just plain guts, and I say, JIM, it is my feeling a man has to believe in something to have that kind of courage and the kind of guts that it takes to stand up and stand alone at times for what you believe in.

There is our charming MARYON ALLEN, who will be leaving us, who not only was a source of comfort and help to our departed colleague, Jim Allen, who many times forced us on the floor of this Senate to face issues that we were not willing to face, to debate issues that sometimes we did not want to debate, but MARYON has carried on in that tradition and in a noble way.

One of the Members of the Senate who will be departing this time who has inspired me greatly is one that I have not known very intimately or personally but I have observed the great quiet dignified manner of CLIFFORD CASE, a man when he does speak on the floor of this Senate in his very calm and deliberate and quiet way carries a great influence, a sobering influence, and I will remember CLIFFORD CASE.

And I will remember CARL CURTIS as a

great articulate spokesman for the principles that he believes in. He was always able to articulate them in a way that you could understand them and appreciate them even if you did not always agree with him.

Our good friend JIM EASTLAND, who never said very much on the floor of the Senate, has spoken few times during the 4 years that I have been here, but has been a great stalwart in this body and in this country for years past.

And I will always remember my good friend Gov. CLIFF HANSEN whom I have come to love and admire, and in my State in the South if you ever are fortunate enough to achieve the title Governor or judge you never lose it. There is no title that carries more honor with it. So with CLIFF he has always been my Governor, and I will miss CLIFF in the Senate.

I think PAUL HATFIELD, even though he has been here only 9 months, has brought to us a quiet dignity that he must have carried as on the bench of the Supreme Court of Montana.

I listened to him several weeks ago, and when we were debating the extension of ERA, he gave a scholarly dissertation on constitutional law. Even though I was voting differently from the position that he took, I had to admire the logic and the reasoning that he gave. I think that is the kind of man PAUL HATFIELD is.

Last night we spoke about the lovely MURIEL HUMPHREY whom we all love so well. I think I am especially fond of MURIEL because we have adjoining offices. My daughters and my wife love her so much, and we will miss MURIEL.

We spoke earlier of KANEASTER HODGES.

JIM PEARSON has been a great source of quiet strength to me. I served on the Intelligence Committee with him. I have served for a period of time on the Ethics Committee with him. JIM was always listening, and when the crucial time came and the difficult issues had to be decided, JIM always had a certain amount of wisdom to impart to us. I will always remember JIM, and I think others will.

BILL SCOTT, another one who had the courage of his convictions, always came in prepared to give a dissertation on what he believed to be the fundamental principles upon which this country was founded. Many times I did not agree with BILL SCOTT, but I had to respect and admire the time and effort he spent to enunciate these convictions in which he believed so strongly.

Finally, Mr. President, I want to mention my dear friend JOHN SPARKMAN whom I have come to love. I first learned to love JOHN SPARKMAN long, long before I ever saw him. I think JOHN SPARKMAN and ADLAI STEVENSON were probably the first two candidates running for national office where I felt like I was a part of the campaign.

Just to come to Washington and be able to sit down and talk to JOHN SPARKMAN, with the memories that I had of that campaign, would have been worth all that it has taken to come to the Senate.

I have served with him on the Banking, Housing, and Urban Affairs Committee. Mr. President, if we worked on many of the programs of small business, the Small Business Administration, rural housing, and many of the housing programs, many of these programs were brought into being through the efforts of JOHN SPARKMAN.

So, Mr. President, I would simply say to all of these 14 departing Members that they will always carry the love and respect of the Members, and I hope to have more to say for insertion in the RECORD.

TRIBUTE TO WILLIAM McWHORTER COCHRANE, STAFF DIRECTOR, SENATE RULES COMMITTEE

Mr. MORGAN. Mr. President, just one other word while we are paying tribute to Senators.

It appears that we are now in the final hours of the 95th Congress and, I think we all would agree, that much has been accomplished during this session of the Congress.

Those Senators on this floor certainly have a right to claim much of the credit for the legislative achievements of the last 2 years, but if we pause to reflect upon it for a moment, I think we would have to conclude that the work of competent and dedicated staff persons has been a key factor in all of our accomplishments.

There is no more capable or dedicated person who serves this Senate than a distinguished native of my own State of North Carolina, William McWhorter Cochrane, Staff Director of the Senate Rules Committee, and I am pleased to rise at this time to note that his service here in Washington, for which we all are most appreciative, has been recognized back home in a most significant way by his fellow North Carolinians.

The University of North Carolina at Chapel Hill which Bill Cochrane attended and on whose staff he served prior to coming to work in the Congress some 24 years ago singled him out this week for the honor of "Distinguished Alumnus" and paid high tribute to him in a day of activities on the University campus. I commend the University for its choice.

Bill Cochrane, though an institution here on Capitol Hill, is still very much a part of the life and people of Chapel Hill and North Carolina. He maintains a home in Chapel Hill and he still moves easily among the academic community there. And that is not surprising really for you see, like so many who work here with us, he is just a "temporary" resident of the District.

Twenty-four years ago, his mentor, the Honorable Kerr Scott, one of the most beloved of North Carolina's political figures, was elected to the U.S. Senate and he set about to lure Bill Cochrane away from the university for a short visit in Washington just to help him get his office set up. Bill agreed to come to Washington with him for just a year. But his love for the Senator and his instant affection for this Institution kept him on beyond that time, and he served as the strong right arm of Senator Scott until his untimely death some 3½ years later.

Senator B. Everett Jordan, a close personal friend of mine and Bill's, then was appointed to succeed Senator Scott and Bill agreed to stay for a short while to help him get settled in, knowing of course that he certainly would soon be returning to Chapel Hill. But time raced by and when the Senator was concluding his 15 years of service here, Bill Cochrane, his administrative assistant, was still by his side, sailing the steady ship and ministering to the needs of North Carolina constituents as only Bill Cochrane can.

Now for the last 6½ years, Bill Cochrane has held the post of staff director for the Senate Rules Committee and somewhere along the line, sometime during his 24 years here and I am not sure at exactly what point, he became one of the living legends of the U.S. Senate. The lights in his office burn well into the night, no detail is ever overlooked and no one who seeks his attention ever fails to receive it. He has given generously of his time and his tremendous network of contacts in this city to help young people trying to find their niche here and rarely does a person from North Carolina come to the Capital to find his or her fortune without at least paying a "courtesy call" on Bill or asking his advice or assistance.

His interests and his energy never cease to amaze me and his knowledge of the lore of the Senate is enough to keep even those who have served here the longest spellbound. Bill Cochrane is a master of the rules by which this body lives and operates and it is a rare time, indeed, when he is not on the phone with some Member of the Senate or his staff counseling and advising.

North Carolinians active in the political processes of their State have long understood the good work that Bill Cochrane does here and appreciate the contributions he has made. But I am especially pleased that officials of the university would take time to honor him and bring to the public eye his career of public service in the U.S. Senate, albeit simply a "temporary" stay here in Washington. He is indeed a "Distinguished Alumnus" of the university and deserving of the honor bestowed upon him this week in ceremonies in Chapel Hill, N.C.

It is with pleasure that I remind you today of the great service Bill Cochrane has given to the U.S. Senate and the people of the Nation and direct your attention to the recognition which his fellow North Carolinians have given him just this week.

Mr. HANSEN addressed the Chair.

The PRESIDING OFFICER (Mr. SARBANES). The Senator from Wyoming.

TRIBUTE TO SENATOR DEWEY BARTLETT

Mr. HANSEN. Mr. President, I know the distinguished junior Senator from North Carolina has expressed sentiments that are common to all of us. I will not take time tonight to say some of the things that are so much in my

heart and on my mind about my colleagues who, together with me, will be leaving the Senate at the conclusion of this term.

However, I do want to take this occasion to speak about a very dear friend of mine, DEWEY BARTLETT, because it seems not inappropriate, since we have been engaged in a debate on energy all day, to take particular note of the role that this great man has played.

First, as a State legislator, later as a Governor, and for the last nearly 6 years as a U.S. Senator representing the State of Oklahoma, DEWEY BARTLETT has left a deep imprint upon the Congress of the United States and upon the United States. With his wife, Ann, whom we know and love, respect and admire, they have brought a particularly forceful new posture to the Senate of the United States.

DEWEY BARTLETT is a strong fighter for his beliefs. Others have mentioned how he shies away not at all from being on the losing side of an issue so long as he believes that that is the right side of the issue.

I think what he was able to achieve in persuading the Senate to pass an amendment to OSHA demonstrates precisely what I am talking about. Efforts similar to his had been tried many times and had been unsuccessful in large measure. But DEWEY BARTLETT, believing that he was right on this issue, kept right on. He kept right on fighting, and finally persuaded a majority of the Members of the Senate that these rules should be changed.

He is a strong fighter for free enterprise because he believes in free enterprise, and because he believes that free enterprise will do more for free people in a free country than any other economic system.

It seems to me that the U.S. Senate often tries to regulate complex matters that we know little about, and I would suggest that that is what we have been doing about the energy problem in this country. We have not been so concerned about trying to find out what the facts were as was our concern to make certain that we articulated what a majority of our constituents might believe or feel could be true.

We were more concerned about being one of the people wearing a white hat insofar as the typical constituent's perception went, than we were in trying to understand the issue and trying to say that we came out in a very positive manner that would result in the kind of legislation that would push this Nation forward.

DEWEY BARTLETT knows the oil and gas business intimately. He is undoubtedly the leading Senate expert in this field. If we criticized the kind of energy policy or the lack of an energy policy that the United States has, I can think of no better way to suggest that we get on with the urgent business of the Senate than to listen closely to what DEWEY BARTLETT has been saying for the last 6 years.

I would have to note that even the President's natural gas bill, bad as it is—and you certainly cannot assign any responsibility to DEWEY BARTLETT for that bill—is still a better bill because of his perceptive questions and clarifications than it would have been without his participation.

DEWEY BARTLETT has a number of personal qualities that have been indelibly etched upon the minds of all of us who have been permitted to know him. As a man of deep religious conviction he strengthens belief in all of us. His faith is a shining light to us. His example of morality and good citizenship inspires us to nobler thoughts and higher ideals.

If there is one man of whom it can actually be said that he is a great American, that man, in my judgment, is DEWEY BARTLETT. I salute him.

Mr. WILLIAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I would like to say just a few words at this time, and express my appreciation for serving with DEWEY BARTLETT in the U.S. Senate.

I recall when Senator BARTLETT first came here. I knew little of him at that time, but I remember my friend Senator CLAIBORNE PELL telling me that he and Senator BARTLETT had been at Princeton University together, and that DEWEY BARTLETT had been elected as president of his class.

Well, as a New Jerseyite, I have the deepest respect for Princeton University, and know that in the selection process of the student body the highest academic standards are demanded. And I know that the university only admits students who have exhibited academic excellence and high character, so I knew, when Senator BARTLETT arrived, that we had a new Member in the Senate who would make a great and important contribution here.

I expected great things from the Senator from Oklahoma and, of course, he has fulfilled all of my expectations.

All the Members who have spoken about Senator BARTLETT have spoken with eloquence, and have praised all those elements of his character and his ability that have made him such an outstanding Senator. But I would like to point out that he has made another, less acclaimed, contribution to the U.S. Senate which I also appreciate.

We have offices in the Russell Building, and in the courtyard of that building, there is a park. In the sixties, the staff director of the Rules Committee and I, with the cooperation of the majority leader, Senator Mike Mansfield, created that park. Everett Dirksen planted marigolds there, Mrs. Johnson had Texas rosebud trees planted, and soon the neglected courtyard was transformed into a place of beauty. We have all enjoyed it.

Besides its human admirers, the park caught the attention of a great flock of pigeons who have come to populate the windowsills and trees. To my delight, when I park my car in the courtyard every morning around 8:30, I see DEWEY BARTLETT taking sacks of birdseed from his car to feed those pigeons. I think they are good friends, the Senator and the pigeons.

I have been wondering what those birds are going to do when Senator BARTLETT leaves, and I wonder who is going to take up this pleasant habit when the distinguished Senator from Oklahoma returns to his home State.

This simple gesture—feeding the birds—is part of the spiritual, compassionate side of Senator BARTLETT that we all recognize. I know what it does for me every morning to see the Senator, in this world of ours, as difficult and demanding as it is, taking the time to care for those pigeons in the park. It starts the day right for me.

If the pigeons follow the Senator to Oklahoma, by the way, it might be all right with some of us, but I do not think the courtyard would be the same without those birds.

It has been a great pleasure in every way to serve with Senator BARTLETT, and I send my good wishes along with him to Oklahoma.

Mr. President, I do not consider myself a superstitious man, but the number 13 has always seemed ominous to me. And today, as I look around these chambers, I realize that this is the last day 13 of my distinguished colleagues will stride down these aisles to vote.

Thirteen Senators are retiring from the Congress of the United States this year, and I can assure you their presence will be sorely missed. Together they have accumulated 165 years of service in these hallowed halls, some working here for decades, others for less than 1 year.

These closing hours of the 95th Congress have been hectic, with Senators and staff rushing to complete the business at hand. But we should stop for just a moment to contemplate the fine and dedicated service our retiring colleagues have given, and acknowledge their unique and individual accomplishments.

Senators ABOUREZK, ALLEN, BARTLETT, CASE, CURTIS, EASTLAND, HANSEN, HATFIELD, HODGES, HUMPHREY, PEARSON, SCOTT, and SPARKMAN are all leaving the Senate this year.

These men and women have left their mark on the pages of history, and on the lives of all their friends and colleagues in the Senate. We have benefited from their wisdom and experience, enjoyed their wit and felt their anger, debated over intricacies of legislation and worked together on bills ranging from agriculture to space programs.

My own work here has given me a special appreciation of each of these fine colleagues. JOHN SPARKMAN, for example, has always been a trusted and wise counselor on the Banking Committee. MURIEL HUMPHREY, whom we all have had the pleasure of working with for only a few short months, has been a source of inspiration and strength during our difficult deliberations on full-employment legislation. And CLIFF CASE, my colleague from New Jersey and my friend, has been a towering figure and one that we can all look up to in many, many ways.

On their last day in the Senate of the United States, I would like to take this time to salute them, one and all. Their

efforts will not soon be forgotten, and their mark on legislation affecting every man and woman in this country will be felt for generations to come.

TRIBUTE TO DEPARTING SENATORS

Mr. JAVITS. Mr. President, I yield myself such time as I may require. We have had an opportunity, in my committee, to say goodbye to four of our Members, a rather large number, and have paid our respects to CLIFFORD CASE, JIM PEARSON, JOHN SPARKMAN, and also to CLIFFORD CASE again; but I have had no opportunity except today, when we are having a kind of a quiet moment here notwithstanding what is going on, to say a word of appreciation for my association with DEWEY BARTLETT, who has always sat rather close to me on the Senate floor.

I know we have had our differences in policy and ideological approach, but there are two things about you, DEWEY, that have affected me very deeply, and I would like to mention them; this is the night for it.

One is that DEWEY never gives up. He never gives up; no matter how many times we have voted the other way notwithstanding his requests to the contrary, he always has hopes for the backslider, and he always has extraordinarily good humor as well as persistence about it, and such sincerity and conviction in what he believes in as to make the whole thing not dispiriting nor a burden. This is the mark of a most unusual man. I have been the subject of these ministrations, and I call attention to them; and now that Senator WILLIAMS on the Human Resources Committee has called attention to DEWEY'S background at Princeton and his choice for leadership at so young an age, I begin so understand this extraordinary quality of many gifted men here, but I have found in DEWEY BARTLETT a very special feeling on that score. How you can be so persistent, notwithstanding adverse reaction, and yet find it constantly a pleasurable experience, amazes me.

The other thing, DEWEY—and, you know, I believe in being very frank—is that I think it is an absolute inspiration to us all how you have borne the burdens of life and the risks of life. Your coming back here and going to work as you have, dedicated to everything that you believed in, without any seeming evaluation of your own relation to it as a human being, is an inspiration to me and I think an inspiration to anyone who suffers these adversities to which we are all very subject.

It is most extraordinary, and marks you as a man of great character and great philosophy, and an inspiration to millions. I pay you great tribute for that. Good luck.

Mr. BARTLETT. Thank you.

TRIBUTES TO DEWEY BARTLETT

Mr. SCHWEIKER. Mr. President, I yield myself such time as I may need.

Mr. President, I too, rise to pay tribute to DEWEY BARTLETT. I come from Pennsylvania, and we have a lot of Quakers living in my State. One of the great stories about Quakers is entitled "Friendly Persuasion."

I happen to know that DEWEY BARTLETT is not a Quaker, and I am not a Quaker, but it seems to me that he inherited that great trait of friendly persuasion. I know of no Senator who more quietly and warmly talks to his colleagues about an issue or a bill that he is interested in, and goes on in his very methodical but pleasant way trying to line up support for the proposals he so strongly believes in.

So I believe friendly persuasion is rather typical of DEWEY BARTLETT, and describes the way he operates. I am proud to have worked with him, and I believe his sincerity, hard work, and dedication, and his just being a good friend, are strong qualities that we all admire.

Also, DEWEY has made me acquire new respect for what I have learned to appreciate as the characteristics of Okies. My wife received an honorary certificate as an Okie, and from DEWEY I have learned new feeling and understanding just what an Okie is.

I think we can say that DEWEY is a good Okie salesman to the Senate and the country. He has done a very effective job of conveying that Okie feeling in its truest, and warmest form. In his leadership and his interaction with other Senators, he has fought for the things he believes in, not just as an Okie but as an American.

So, Mr. President, I am proud to join my friends and colleagues in paying a very sincere and deep tribute to DEWEY BARTLETT.

Mr. SCHMITT. Mr. President, DEWEY BARTLETT and I met for the first time in 1973, when some of the astronauts from Apollo 17 came to Washington and were introduced to a number of Senators and Representatives; and I discovered two things that many of you—the fact is, I do not think any of you have mentioned tonight. One, that he was a geologist, which was very important to this Senator from New Mexico; two, he is a former fighter pilot, which, although I was not a fighter pilot, I flew that kind of airplane long enough to learn a great deal of respect for those who were in fact, in the true sense of the word, fighter pilots.

DEWEY BARTLETT, coming from Oklahoma, is close to my own native State of New Mexico in so many ways it would take all night to enumerate them. But there is a bond of feeling among southwesterners, particularly those from the four-State region of Oklahoma, Texas, New Mexico, and Colorado, which is unique; and I think that my greatest loss in the Senate, or one of my greatest losses, is of course, DEWEY'S retirement; but one of my greatest memories of the benefits of being here was not just to have a chance to know him before I came to the Senate, but to work with him and to learn about not just DEWEY BARTLETT, the Senator, but DEWEY BARTLETT, the man, the man of the prayer breakfast, the man of deep personal conviction, the man who believes in this great country and what this great country can do and in fact will do.

DEWEY, all I can say is, hurry back.

Mr. WEICKER. Mr. President——

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. DEWEY, it was just a couple of months ago that we used to beat Senators BAKER and LAXALT regularly on the tennis court.

Even though we have served on two committees together, on Small Business and on Energy, I am really not sure that you get to know anybody here in the Chamber or in the course of your duties as well as you get to know them on the tennis court and in the world outside of here.

DEWEY, I am just not going to let the moment go by without expressing my affection for you, for your wisdom, your kindness, and yes, sir, your guts.

Whenever the gout hits my big toe, I feel sorry for myself, but you just have not felt sorry for yourself in many months. I do not know what I would do if I were in a similar situation, but I have seen what you have done. You have just gone ahead and done your job, and done it with wisdom and with kindness and with courage. I will tell you, I am extremely proud to be your colleague. I am even prouder of the fact that we are friends. And I suspect in another couple of months we will be beating BAKER and LAXALT on the courts again.

Mr. RIEGLE. Mr. President——

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. If I may, Mr. President, I want to join my colleagues on the Republican side of the Chamber, to add my voice to their voices. I have been fortunate in the Congress to have served in both Republican and Democratic Parties, having served 6 years in the Republican Party in the House. One thing I learned as a result of that experience is how many truly fine legislators and people there are serving in Congress on the Republican side of the aisle.

DEWEY BARTLETT is one of them. His warmth and good will have always been unfailing. On every occasion we have had any reason to be in contact of any sort, his courtesy, his openness, his friendliness have just been a hallmark of the way he thinks and works. I am proud to have had the honor to have had the chance of spending 2 years serving in the Senate with him. I wish it had been much longer.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Robert E. Lee said that "duty" is the sublimest word in the English language. DEWEY BARTLETT'S career in public office has epitomized the word "duty," as Robert E. Lee so appropriately characterized that word.

He has, as a Senator, been supremely dedicated to duty. I, and my colleagues, have marveled day to day as he has quietly set a shining example of devotion to duty.

I have never seen a more striking and inspirational profile in courage than

that which DEWEY BARTLETT has given to all of us.

He has fought that difficult battle and continues to fight it bravely, a battle which any individual fights with a broken sword.

But DEWEY has not flung it hilt first in the dry barren sand and like a craven crept away from the field. He has fought it with faith—faith.

And with that kind of faith that William Earnest Henley exemplified when he, too, had emerged from a period of great physical pain, mental stress, and suffering and wrote the poem, Invictus.

I am limited in my time. I only have 5 or 6 minutes left, DEWEY.

If I might close these remarks with that poem it will probably be more apropos than anything else that I could say.

INVICTUS

Out of the night that covers me,
Black as the Pit from pole to pole,
I thank whatever gods may be
For my unconquerable soul.

In the fell clutch of circumstance
I have not winced nor cried aloud.
Under the bludgeonings of chance
My head is bloody, but unbowed.

Beyond this place of wrath and tears
Looms but the Horror of the shade,
And yet the menace of the years
Finds and shall find me unafraid.

It matters not how strait the gate,
How charged with punishments the scroll,
I am the master of my fate:
I am the captain of my soul.

WILLIAM ERNEST HENLEY.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, in 1974 and again during the last 2 years, I have had the privilege of working closely with DEWEY BARTLETT on the Energy Committee. In many instances he and I have not been on the same side. More recently, we have been on the same side.

I know of no Member of the Senate who is more tenacious, more determined, and better informed about the tasks that he undertakes than DEWEY BARTLETT.

His word is good and he brings to the subject the kind of background and knowledge and expertise that few of us in the Senate possess.

He is a very worthy opponent, a very staunch ally. I have such tremendous respect for this man. He has had some difficulties in recent months, but he has been unwavering in his determination to do the job, to pick up the cudgel and make the battle. He has never asked for any kind of special consideration because of his own personal situation. We are going to miss him tremendously in this body.

I personally shall miss him much. I consider him a friend, I consider him an extremely competent, able, well-respected Member of this body. I, for one, am going to be sorry to see him leaving the Senate. He has been a tremendous asset to all of us.

Mr. PELL. Mr. President, I, too, would like to express my sadness that DEWEY BARTLETT is retiring from the Senate. He has always been a leader. He was the president of his class in the college we both attended and, throughout the years since, has occupied the role in life that he has sought with integrity and vigor and with maximum use of his energies. I know that I shall miss him and I join my colleagues in wishing him well and Godspeed.

A TRIBUTE TO SENATOR DEWEY BARTLETT

Mr. MUSKIE. Mr. President, Senator DEWEY BARTLETT is completing his service as a Member of the Senate. I want to offer him thanks and warm good wishes.

DEWEY BARTLETT is a former State legislator and Governor.

I have always had a certain empathy with those of my colleagues who bring this perspective to the Senate. It carries special frustrations, but also a useful understanding of how the actions of Congress affect government at the State and local level.

DEWEY BARTLETT also brought an expertise in energy matters which has proved to be valuable to the Senate's deliberations since the crisis days of 1974. Even when we disagreed on matters of energy policy, I respected his knowledge and his understanding of an extremely complex subject.

As a small businessman, DEWEY BARTLETT also brought an enthusiasm for sound budget practices and a sympathy with the special needs of the small business community which have served us all well. As chairman of the Senate Budget Committee I appreciated his frequent support of the budget process in its formative years.

But DEWEY BARTLETT brought another special attribute to the Senate, beyond his political experience and special knowledge. He brought a friendly and warm personality, a willingness to discuss rather than argue, and a genuine affection and respect for people. I will miss him. And I wish him well.

EXPRESSION OF APPRECIATION

Mr. BARTLETT. Mr. President, I obviously appreciate very, very much the overwhelming tribute that has been paid me by many of my good friends in the Senate.

You have overdone it, of course, and I know that and, I might say, it is a little embarrassing, but I enjoyed every word that was said.

I appreciate the comments of my good friend and colleague from Oklahoma, HENRY BELLMON, of MILTON YOUNG, BIRCH BAYH, HARRY BYRD, BENNETT JOHNSTON, SAM NUNN, HOWARD BAKER, LAWTON CHILES, JOHN STENNIS, STROM THURMOND, MARK HATFIELD, BOB MORGAN, CLIFF HANSEN, PETE WILLIAMS, JAKE JAVITS, DICK SCHWEIKER, JACK SCHMITT, LOWELL WEICKER, DON RIEGLE, ROBERT BYRD, HOWARD METZENBAUM, and CLAIBORNE PELL.

You know, this body is dedicated to controversy and debate, which I strongly believe in. And I know that there are times when each of us gets, perhaps, a little bit carried away with that, and perhaps there is a little bit too much sting in a word we may use. But it is through the controversy and debate and difference of opinion that we seek the truth, that we seek the better or best way.

I do not think this body is known at all for expressing or possessing or extending love and affection. I think that that would be considered by some, if it were mentioned, a mockery. But I can assure the doubters that there is tremendous love and affection in the Senate. It has been expressed to me in so many ways by the other 99 Senators—helpful ways of prayer, of extending support and confidence, of giving me part of what makes them tick.

This has undoubtedly gone on too long already but I do, on behalf of my wife, Ann, and myself, thank you in the Senate. I want all other 99 Senators to know that I have a great admiration and love and affection for them.

I am going to miss the Senators and the Senate as an institution. I am going to miss my pigeons. I am going to miss these gentlemen down here, the guards and others who make this whole Senate tick. I am going to miss it more, and I know that, than any of you can imagine.

I would like, if my friends in the Senate do not mind, to end this on a lighter note. Certainly, it does not detract in any way from my feeling of the seriousness and the solemnity of the occasion and the expressions that have been made. I think that there are probably some in the gallery who do not know what I look like with hair. So I want to show you.

[Applause, Senators rising.]

Mr. STEVENS. Mr. President.

The PRESIDING OFFICER. The Chair recognizes the minority whip, the distinguished Senator from Alaska.

TRIBUTE TO SENATOR BARTLETT

Mr. STEVENS. Mr. President, having just caught a cold and realizing that we are going to be in all night, I sneaked off to take a nap. I was called to be told that this tribute to my good friend from Oklahoma is going on. I am glad I arrived in time to see his most unique curtain call. I shall be saying more at a later date about our good friend, DEWEY BARTLETT. But on behalf of the Senate, I think I ought to state that that indomitable attitude that he has, to hang on and come back and show his great sense of humor in the face of all adversity, is something for us all to remember.

I am grateful for the fact that I could get back in time, DEWEY.

ENERGY TAX ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered.

Mr. WEICKER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Connecticut has 29 minutes remaining.

Mr. WEICKER. Mr. President, I rise again in opposition to the conference report. Earlier this evening, the distinguished majority leader made the comment that this is an integral part of the energy package. That just is not so.

This particular legislation was drafted in response to an initiative set forth by the President of the United States to develop an oil equalization tax. That was to be the principal thrust of the Finance Committee's work. The integral part of the energy package was handled on the Senate side by the Energy Committee and the House side by their Ad Hoc Energy Committee.

I suppose the question has to be asked as to why any activity at all ensued from the Committee on Finance relative to energy.

Those parts of the energy bill that came out of the Senate Energy Committee have either been passed by this body or are about to be passed, and are to be passed by the House.

But in no sense is the legislation before us an integral part of an energy package as it relates to an energy policy for this country, unless there are certain financial concessions contained therein which were necessary to obtain the votes necessary to pass the other elements of the energy package.

I repeat again, what we are involved with here is a one billion dollar tax credit giveaway which will not achieve any conservation and which will not achieve any additional production other than that conservation and that production which has already been achieved since the Senate initially passed the bill 12 months ago.

We have a handful of Senators on this floor in opposition to the legislation. But our opposition is not some frivolous exercise, unless all of a sudden one billion dollars has become a meaningless or an insignificant sum to the Congress of the United States.

I find it incredible. We talk about tax cuts, we talk about across-the-board slashes, we talk about proposition 13, we talk about Kemp-Roth or Nunn-Bellmon, and at the same time the same people who advocate these programs are willing to give away $1 billion without achieving any policy end.

The bill is a disgrace to the Finance Committee. It is a disgrace to the Senate of the United States.

If we must, let us call it a tax rebate. But let us not call it an integral part of the energy package.

Now, Mr. President, I move to recommit the pending legislation to the Committee on Finance and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to table the motion to recommit.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I realize that business has not been transacted since the last rollcall, but I wonder if the Senator would refrain from asking for a quorum call here. That quorum will be established, of course, by the rollcall vote which is to occur, and I think that the quorum call, may I say most respectively to my friend from Ohio, is dilatory.

I would simply express the hope he would not impose on his colleagues tonight by asking for a quorum call. He will have a rollcall that will establish the presence of a quorum.

Mr. METZENBAUM. Will my good friend from West Virginia be good enough to yield for a question before we dispose of this?

Mr. ROBERT C. BYRD. Mr. President, how many minutes do I have left?

The PRESIDING OFFICER. The Senator from West Virginia has 7 minutes remaining.

Mr. METZENBAUM. On my time.

Mr. ROBERT C. BYRD. I beg the Senator's pardon?

Mr. METZENBAUM. On my time.

Would the Senator from West Virginia——

Mr. ROBERT C. BYRD. I would have to object to the Senator asking me a question on his own time.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

[Quorum No. 25 Leg.]

Baker	Hart	Sarbanes
Biden	Jackson	Sasser
Byrd, Robert C.	Metzenbaum	Schweiker
Cannon	Percy	Stone
Church	Riegle	Weicker

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN); the Senator from Iowa (Mr. CLARK), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Have all Senators in the Chamber voted?

The result was announced—yeas 72, nays 4, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—72

Abourezk	Glenn	Morgan
Anderson	Griffin	Moynihan
Baker	Hart	Muskie
Bayh	Hatch	Nelson
Bellmon	Hatfield,	Nunn
Bentsen	Mark O.	Packwood
Biden	Hatfield,	Pell
Bumpers	Paul G.	Percy
Burdick	Hayakawa	Proxmire
Byrd,	Heinz	Randolph
Harry F., Jr.	Hodges	Ribicoff
Byrd, Robert C.	Hollings	Riegle
Cannon	Humphrey	Roth
Chafee	Inouye	Sarbanes
Chiles	Jackson	Sasser
Church	Javits	Schmitt
Cranston	Johnston	Schweiker
Culver	Laxalt	Stennis
Curtis	Leahy	Stevens
Danforth	Lugar	Stevenson
DeConcini	Magnuson	Stone
Dole	Matsunaga	Thurmond
Durkin	McGovern	Williams
Ford	Melcher	Young
Garn	Metzenbaum	Zorinsky

NAYS—4

Bartlett	Wallop	Weicker
Hansen		

NOT VOTING—24

Allen	Gravel	McClure
Brooke	Haskell	McIntyre
Case	Hathaway	Pearson
Clark	Helms	Scott
Domenici	Huddleston	Sparkman
Eagleton	Kennedy	Stafford
Eastland	Long	Talmadge
Goldwater	Mathias	Tower

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The question now recurs on the motion to lay on the table the motion to recommit.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "yea."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from New Mex-

ico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Members in the Chamber who have not voted who wish to vote?

The result was announced—yeas 67, nays 11, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—67

Anderson	Glenn	Morgan
Baker	Gravel	Moynihan
Bellmon	Griffin	Muskie
Bentsen	Hart	Nelson
Biden	Hatch	Nunn
Bumpers	Hatfield, Mark O.	Packwood
Burdick	Hatfield, Paul G.	Pell
Byrd, Harry F., Jr.	Hayakawa	Percy
Byrd, Robert C.	Heinz	Randolph
Cannon	Hodges	Ribicoff
Chafee	Hollings	Roth
Chiles	Humphrey	Sarbanes
Church	Inouye	Sasser
Cranston	Jackson	Schweiker
Culver	Javits	Stennis
Curtis	Johnston	Stevens
Danforth	Laxalt	Stevenson
DeConcini	Leahy	Stone
Dole	Lugar	Thurmond
Durkin	Magnuson	Williams
Eagleton	Matsunaga	Young
Ford	Melcher	Zorinsky
Garn		

NAYS—11

Abourezk	McGovern	Schmitt
Bartlett	Metzenbaum	Wallop
Bayh	Proxmire	Weicker
Hansen	Riegle	

NOT VOTING—22

Allen	Hathaway	Pearson
Brooke	Helms	Scott
Case	Huddleston	Sparkman
Clark	Kennedy	Stafford
Domenici	Long	Talmadge
Eastland	Mathias	Tower
Goldwater	McClure	
Haskell	McIntyre	

So the motion to lay on the table the motion to recommit was agreed to.

Mr. ABOUREZK. Mr. President, when we started on this particular effort 2 or 3 days ago, we did so with one major intention in mind. That was an effort to do what we believed was in the public interest with respect to legislation of this nature, that we believe is harmful, extremely harmful, to the public interest, as I have said a number of times tonight. It contains provisions in which are tucked away benefits to oil and gas operators, benefits to business firms that do not create any kind of an incentive, but are merely giveaways out of the Treasury.

We thought we would make the effort because of the sort of precarious balance between the timing in the Senate and the attempt to package so-called energy legislation—I would call it giveaway legislation—over in the House. It is over there now. It has become obvious, after watching the efforts over in the House all night long, that they are not going to succeed in separating the energy tax bill from the rest of what they call the energy package.

We have made every parliamentary effort we know how to make, I have a few minutes left of time to speak. We could keep this going for another 2 or 3 hours, I suspect; those of us who are interested enough to get up and speak on this measure have, I suppose, that much time between us.

But if it is not going to work, if we cannot succeed in what we are doing, there is no reason, to in my mind, to continue this effort.

I want to say this as a kind of final shot: That I regret that Congress and the administration have seen fit, as one of our colleagues said earlier tonight, to prove that we can govern by passing extremely bad, noxious legislation. Whom it pleases I am not certain, but I know it will not please the people we are supposed to represent.

I do not regret having made this effort. I do not think any of my colleagues regret it, either. I do not regret it for one moment. I do regret inconveniencing my colleagues, but I do not regret trying to represent my constituency. I just want to express my thanks to all of those who have supported this effort last year, this week, today, and tonight.

That is all I have to say on this issue. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I want to congratulate the Senator from South Dakota for myself and on behalf of the Senate.

SEVERAL SENATORS. Vote. Vote.

Mr. HANSEN. Mr. President, I will take about 2 minutes.

I will not support this piece of legislation. I have not participated in an effort to try to delay a vote on it, but I do want to say that I was keenly disappointed that the conferees did not choose to include the injection well amendment that the Senator from Oklahoma (Mr. BARTLETT) had introduced. That was the one opportunity, I think, that this Congress had to make a positive contribution toward greater energy supplies.

As I have pointed out before on numerous occasions, we are talking about oil that we know the exact location of. Two-thirds of all the oil that has been discovered in the United States is still in the ground. It could be produced. It could replace oil that is going to have to be imported into this country at a cost of about $15 a barrel. At the present time this domestic oil is selling for a little over $5 a barrel; and the only reason that we are in this kind of a dilemma is the failure of the Congress of the United States and of the Department of Energy to let the price rise enough to make it possible to pump the oil that is in the ground, in American soil.

I think it is simply unbelievable that we would tie our hands behind our backs, as we have done in this instance. We have failed to take the step that could mean so much to this country, that would clearly be in the public interest any way you want to look at it, that would reduce our dependency upon foreign supplies, that would reduce our balance-of-payments problem, that would produce probably between 300,000 and 500,000 barrels of oil a day—American oil that could be ours if we simply had sense enough to recognize that it would be pumped if we made it possible for people to pump that oil.

As a consequence, I shall vote "no" when this issue comes before the Senate for a vote.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I shall speak only a couple of minutes, to concur with the distinguished and now unfortunately retiring Senator from Wyoming, and to say that the Congress has seen fit to pass the administration's, or some semblance of the administration's energy bills, but still has not dealt with an energy policy.

We have done almost nothing to increase production, the production of known energy supplies that present technology allows us to produce. We have done next to nothing to stimulate the development of new energy supplies which require advancements in technology; and if there ever was a disappointment to the consumer of this country, it has to be in the energy actions of this Congress.

The consumer has no hope for a decrease in the cost of energy, because there is no hope for an increase in the supply of energy. I think it is extremely unfortunate that we have chosen to do this.

So I also will oppose this last measure before the Senate. I hope that next year we can finally realize what has to be done in terms of energy supply and conservation simultaneously. If we do not, I am not sure what will happen to the economy of this country and the economy of the world.

Mr. DOLE. Mr. President, I will not detain the Senate, but I know we are going to be detained anyway, as a member of the tax conference; we are still several hours away on that.

I have not participated all day, though I am opposed to the conference report. I was also opposed to what turned out to be a futile effort to frustrate the will of the Senate; but I would just suggest that this is bad legislation. It will cost the taxpayers about $1 billion.

About the only thing we have proved in this conference report is, first of all, that the crude oil equalization tax is dead.

It was a bad idea whose time will never come. It was a punitive measure designed to raise about $125 billion in new taxes on the American consumer.

The so-called user's tax is dead, which is another bright spot in this legislation.

The so-called gas guzzler tax is almost dead, if this conference report passes. That was also discriminatory, punitive legislation against those who could not afford to pay the tax.

There are no energy savings in this conference report. We are giving tax credits back as far as April 1977. It goes to prove you just cannot trust the American people. They went ahead and insulated without the tax credit. "We do not need the tax credit," and they insulated. Now we are going to prove they were wrong by trying to send them money they did not expect to have in the first place. And I am not certain where the $1 billion is coming from.

I have not seen a surplus. We are talking about a $40 billion deficit this year. Maybe that is good because last year it was 50-some billion dollars. It seems to me that one way to help the President and the American taxpayer would be to kill this conference report.

The Senator from Kansas has been opposed to it from the start. It has some nice little goodies in there for everyone, including a few for the oil industry in the State of Kansas and other States, not much but a little. It just seems to me that it is a bad idea. It seems to me that even though it is going to cost $1 billion, I guess it is a little better than other legislation that we will pass between now and morning that may cost even more.

I just suggest that for all the effort on the part of those today it really did not change anything. The conference report will pass. The taxpayers will be called upon to dig up the $1 billion to pay themselves back, or probably a half billion dollars, and nothing has really changed.

I guess the one bright spot in this is it is the last piece of energy legislation. We can all celebrate that the crude oil equalization tax never passed. We can all celebrate the users tax never passed. Or at least the consumers can celebrate.

And perhaps it means that maybe next year we will have a more forward-looking energy program in the administration.

Mr. President, the energy tax bill—the last part of the national energy plan—barely resembles the original proposal submitted by the administration. It is a bill that, if enacted, will cost the Treasury hundreds of millions of dollars but will not save any energy.

Mr. President, the conference report is a mixed bag of energy tax credits and a symbolic tax on the so-called gas guzzler. The bill does not contain the centerpiece of the energy program. The crude oil equalization tax. The bill does not contain the industrial users tax.

COET IS DEAD

Mr. President, the crude oil equalization tax will finally be buried today. COET was a bad idea whose time will never come. It was a punitive measure, designed to raise $125 billion in new taxes. It was bad energy policy and the Congress wisely rejected it.

USERS TAX IS DEAD

Mr. President, the industrial users tax, which was designed to raise utility bills and force businesses to switch to alternative fuels, was also rejected. The business users tax was obviously such a poor idea that it was stricken from the bill with very little debate. The users tax, theoretically, would have raised the price of fuel used by utilities and by large industries. Under the House bill, the tax would have been rebated if the industry installed alternative energy equipment. Thus. there would be no net incentive for installing new equipment, only a drain on the company's capital, while a decision is being made. The Senate bill had a hastily drawn version of the tax which would have driven many companies out of business.

GAS GUZZLER

The conference report does contain a scaled down gas guzzler tax. I do not support the gas guzzler tax. However, the conference report did accept a proposal of mine to scale down the tax even further. Specifically deleted from the tax are the first line of taxes in years 1983–86.

EPCA

Mr. President, the Energy Policy and Conservation Act, EPCA, imposed fleet mileage standards on all cars produced in America. If the fleet average standard is not met, the auto manufacturers will pay a substantial penalty, a penalty which the Senate recently voted to double. However, if the EPCA standards are met, which all companies say will happen, the gas guzzler tax will not save any energy.

TAX CONSUMER

Mr. President, the gas guzzler tax is an onerous tax on the consumer. It is discriminatory. It allows the rich to pay the tax but denies the larger car to those who are poor or those with large families. Mr. President, the "tax guzzler" may also cause unemployment. I am concerned that this symbol will increase imports and hurt our domestic production.

RESIDENTIAL CREDITS

Finally, Mr. President, the conference report contains the insulation tax credits. This bill gives a tax credit to those who have installed insulation in their homes as far back as April of 1977. The residential tax credit is inefficient, it is a waste of money. It pays a person for doing something that was in his best interest and for something that will actually save the homeowner money.

WINDFALL PROFIT

Mr. President, the Council on Wage and Price Stability called the residential tax credits a windfall profit for the insulation companies. The demand for insulation, because people are reinsulating at record rates has caused a shortage. Prices have risen. The credit will cause prices to go even higher.

Mr. President, the energy tax bill reflects the bankrupt energy policy of the national energy plan. This bill is only a shell of the administration's original program. It does not contain the centerpiece, the crude oil equalization tax. It will not save energy. It will not lead to increased production of energy. This bill is the product of trying to take ill conceived ideas and make them work.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I rise to express my final thoughts on the subject.

First of all, I want to thank the distinguished Senators from South Dakota and Ohio for leading the valiant fight on this matter.

Second, it is my understanding that the issues relating to energy were divisible over on the House side—that the applicable procedural rule was so constructed that they could have passed just four rather than five parts of the energy bill. Thus, this legislation possibly could have been left off. If everybody had hung tough over there the energy package would have passed but not with this part tacked onto it. But apparently this body, which has been so concerned with taxes and the cutting of spending feels that one billion dollars is not all that much, especially since it is coming out of nobody's hide but the taxpayer's.

The conference report we are about to vote upon has nothing to do with energy. It does have everything in the world to do with the buying off of various interests in order to get their support for the other four elements of a purported energy package which in fact does not produce an energy policy either in the sense of conservation or in the sense of production.

I refuse to go along with any of the fever in this country relative to tax cuts until this body can prove to me that it has the courage to go ahead and cut spending, and cut it specifically so that each American knows which of his or her interests is being cut and thus will have a chance to vote up or down on each one of us as a result of our actions.

To go through the hypocrisy of the last several months relative to cutting taxes, either in the sense of national issues or of the debate on this floor, and then vote one billion dollars in tax giveaways does not, in my opinion, speak very well for the courage of the leadership in this body.

I recognize that the votes up to this point have been procedural votes on tabling or recommittal. I would hope now that the Members realize that what we have done has not delayed them 1 minute. I understand from what the Senator from Kansas has said that we will be here for 2, 3, or 4 hours more at least before we consider the tax bill. So you have not been delayed 1 minute.

You should realize that this is not a filibuster and that you have a chance to vote up or down. You can still do your thing on this bill. Our actions will not upset the House side one iota. The energy package will go through, that is, the four elements that are meaningful, or at least meaningful as interpreted by the administration and the leadership in the Congress.

This legislation does not deserve to pass. It does not deserve to pass in the sense of embodying energy policy, and it does not deserve to pass in the sense of being fiscally responsible.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. I yield myself 2 minutes. Mr. President, others have pointed out the cost of the bill for fiscal year 1979. I would like to call the attention of the Members to page 85 of the report which shows the 5-year cost of this legislation to be someplace around $5 billion.

Mr. President, if the Senate approves this report it is, in effect, spending $5 billion of tax money to pay various of our citizens to do things that they should do in their own enlightened self-interest. We will be back here 2 years from now still worrying about the energy crisis, still wondering why we do not make

headway in cutting back on the level of imports, wondering why our own production is going down. We will be $2 billion poorer and no better off. I think Members ought to think about that as they cast their votes. There are certainly better ways to use the taxpayers' money than to pay retroactively, for actions people should have taken on their own, and should have paid for with their own incomes, and then to spend an additional $3 or $4 billion in future years—to get people to do things that they know they should do, and would do, without our spending these tax dollars.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I would like to comment briefly in favor of the conference report.

The Senate has been laboring for a long time now, and the House, to create an energy package. We have enacted coal conversion; we have enacted the natural gas deregulation bill; we have enacted a conversion bill, and we have enacted utility rate reform.

This would be the fifth leg of a program that would be essential to give us a national energy policy.

It is not everything that we might have hoped for, but I think that it is a sound, effective, constructive approach to finding ways to improve and strengthen our national energy policy.

Certainly, the residential tax credits are essential, I believe, to enable us to move forward and provide to the American consumers who went ahead and provided insulation and undertook to do so in the national interest and their own self-interest, to save their own budgetary moneys, to provide a way of saving energy.

Certainly, the gas guzzler tax has been a highly controversial tax, but one in principle I would favor.

We have gone several different routes in trying to improve or increase mileage, but certainly this route, controversial as it is, I think is a signal and indication to somehow finding a way to improve on the performance of our automotive transportation.

Other ways we have found through taxation, including the relief for gasohol, exempting gasohol, any gasoline that has at least a 10-percent blend. I think the process is soundly conceived and well supported.

Many Members of Congress had opportunity to try gasohol in their own engines and I think there was no adverse report of any kind. I think the Senate would do well to approve and move forward in this area and I want to fully support this activity.

THE SENATE'S NATURAL GAS ACCOMPLISHMENT

Mr. PERCY. Mr. President, as the debate on the energy tax bill continued on into Saturday night and now into the morning hours of Sunday, I would like to remind my colleagues that we have worked our way through one extended energy debate already, and the end product is one that will help Americans all across this country. I speak of the natural gas compromise legislation.

A letter has recently come to my attention that reinforces my belief that the Senate's difficult decision to pass the gas bill was the right one. The letter is from Robert Hefner of the Independent Gas Producers Committee. I call it to the attention of all my colleagues.

In the letter, Mr. Hefner expresses his belief that the gas bill will increase natural supplies significantly, especially to the interstate market. He believes, and he has good reason to know, that the bill is not too complex for independent producers. He concludes that, by increasing the amount of gas flowing through the interstate pipeline system, the gas compromise will reduce the consumer's overall energy bill.

The Senate can be proud of its natural gas accomplishment. I hope that by the end of this session, we will have passed an energy tax bill of some consequence.

I ask unanimous consent that Mr. Hefner's letter, followed by his "Questions and Answers About the Natural Gas Compromise," be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OCTOBER 2, 1978.

MRS. MARJORIE BENTON,
President, Better Government Association of Chicago, Evanston, Ill.

DEAR MS. BENTON: As a member of the Board of Directors of the Alliance to Save Energy, you are urged to support the natural gas compromise.

After nearly a year of debate, the energy conferees have hammered out a well balanced, economically efficient compromise that accepts the best arguments from each state of this complex issue. Where consumers have shown that certain categories of gas would be produced with no additional incentives, they prevailed. Where producers have clearly demonstrated that higher prices are needed to bring forth new higher-cost gas production not available at current prices, they prevailed.

The bill ensures American consumers that the money they will pay for new domestic gas supplies is both absolutely necessary and is money that would otherwise be paying for foreign oil.

The compromise will bring forth nationally significant new gas supplies and will make this additional production available to the interstate market. We project increased gas production of one trillion cubic feet in 1979, two trillion cubic feet in 1980 and five trillion cubic feet in 1985. This increased gas production will reduce oil imports by 500,000 barrels a day next year; 1,000,000 barrels per day in 1980 and 2,500,000 barrels per day in 1985.

For independent producers actively engaged in natural gas exploration, the bill is not too complex. Most of the pricing categories apply to old, flowing gas. The explorer will either discover a new reservoir and receive the new gas price, or extend an old reservoir and get a special incentive development price. Stripper wells qualify for a higher ceiling price and high cost gas is deregulated in one year. Thus, producers' drilling dollars are focused on areas with great potential for new discoveries, ensuring the maximum supply response per drilling dollar expended.

Our country, the largest energy consumer in the world, is currently spending billions of tax dollars on various forms of energy and is in the process of making long-term energy decisions. There is no rational way those expenditures can be directed or decisions made without a national test of the magnitude of our domestic natural gas resources. The natural gas compromise will provide this test and will allow domestic gas to increase its share of the nation's energy mix.

The attached set of questions and answers provides more detailed information explaining our position.

Cordially,

ROBERT A. HEFNER, III.

QUESTIONS AND ANSWERS ABOUT THE NATURAL GAS COMPROMISE, OCTOBER 2, 1978

1. Question: How will the compromise increase domestic gas production?

Answer: Gas exploration and production in most intrastate markets are demand-limited so intrastate market prices have cleared at levels below those required to support continued development of remaining gas resources. By establishing a national market for new natural gas at prices above those prevailing in most intrastate markets, producers will have access to both stronger demand and higher prices. As the price ceiling for new gas climbs toward market levels between now and 1985, exploration plans can be made with some certainty with respect to prices and markets.

Based on our cost analysis, using actual 1978 drilling costs, we believe the compromise ceiling prices are high enough to allow major new commitments of risk capital for exploration and development of conventional natural gas.

Our cost studies also show that deep and other high cost sources of gas would remain undeveloped under a continuation of present policies. As long as federal price controls are based on average costs, gas resources whose development costs are above average will remain locked in by regulations, even though this gas can be developed at prices below those of competing fuels. Therefore, the compromise deregulates, within one year, high cost gas from (1) new wells drilled deeper than 15,000 feet; (2) Devonian shale; (3) coal seams, and (4) geopressurized brine.

The compromise increases economic incentives for exploration and development of all natural gas resources and will inevitably lead to increased production.

2. Question: How much will domestic gas production increase under this compromise.

Answer: The Department of Energy has pointed out that there is currently a gas surplus in the major intrastate markets, and production of as much as one trillion cubic feet is backed up for lack of markets. Under the compromise, this surplus intrastate gas can immediately flow into the gas starved interstate system. DOE projects a cumulative increase in gas production of 7 to 8 trillion cubic feet between 1978 and 1985.

The American Gas Association projects that under the compromise, domestic natural gas production will be higher by some 8 tcf over the period 1978 to 1985 than under either the original bill or a continuation of current policies. This would reduce foreign oil payments by $20 billion.

We believe the increase in domestic gas production will exceed the expectations of both government and the gas industry. We estimate increased gas production of one trillion cubic feet in 1979, two trillion cubic feet in 1980, and five trillion cubic feet in 1985. On a cumulative basis, this represents an additional 22 tcf of gas production.

3. Question: Why is the IGPC estimate so much higher?

Answer: Basically, because our estimate is the only one based on an analysis of resources, economics, and technology of natural gas, not oil. Other estimates have been based on the historical finding rates of the oil industry, which often found gas as a by-product of oil exploration. Only in the past few years have large amounts of risk capital

been focused on exploration for natural gas as a valuable commodity in its own right. This exploration has resulted in the surplus in intrastate markets representing over one-third of the total national gas market. Recent technological advances in drilling and completing deep gas wells add to our confidence in our response supply projections.

4. Question: Why is a national market for natural gas needed?

Answer: The two-tiered market for natural gas, in which interstate sales are subject to price controls while intrastate sales are not, penalizes interstate consumers and producers seeking larger markets. The uncontrolled intrastate pipelines are free to outbid interstate pipelines for new onshore discoveries. During recent years, most newly discovered gas has remained in the state where it was found. As a result, interstate pipelines, between 1973 and 1977, added only 22.7 trillion cubic feet of new reserves, while interstate sales totalled nearly 61 trillion cubic feet. Thus, during this five year period, gas was flowing out of the interstate sytem nearly three times as fast as reserves were being added. Between April, 1976 and March, 1977, interstate pipelines curtailed deliveries to industrial consumers with firm contracts by a total of 3.4 trillion cubic feet, the equivalent of 1.7 million barrels of oil per day! This huge unmet gas demand requires purchases of foreign oil at much higher prices.

At current production levels, reserves dedicated to interstate pipelines represent a supply of only 8.8 years. Because deliverability declines as older fields are depleted and lose pressure, the interstate production will continue its decline unless a national market is created to enable interstate pipelines to compete for new gas discoveries.

5. Question. How will the compromise affect gas consumers?

Answer: By increasing the amount of gas flowing through the interstate pipeline system, the gas compromise will reduce the consumer's overall energy bill. The compromise protects consumers from paying more for flowing gas and new, shallow gas than is needed to assure production. In addition, the compromise provides access to new domestic gas sources, unavailable under a continuation of current policies. These new gas sources can be produced at prices well below those of alternative fuels.

Consumers have a large stake in the efficient use of the nation's interstate pipeline system. Regulated utilities and pipeline companies are guaranteed an adequate rate of return on their investment; therefore, as less gas flows through these pipelines (as is inevitable under current policies), higher transportation charged per unit of gas will be required for the companies to maintain their earnings. Therefore, without the compromise gas bill, consumer costs would increase sharply but consumers would not be getting any more gas. As the distance between consumers and the producing areas increases, the consumers' interest in efficient use of the transportation system also increases. For example, for the residential consumer in Oklahoma, the wellhead price of gas represents about one half of his gas bill, but for the residential consumer in New York, the wellhead price is only about one-sixth of his bill, with the balance going for transportation and distribution charges. For this reason no compromise will increase a New Yorker's bill significantly at the same time supplies continue to decrease.

Because America's natural gas consumers have invested 100 billion dollars in natural gas pipeline networks, distribution facilities, and consuming equipment, and because the cost of all other energy sources is more than natural gas, consumers must have continued access to natural gas discovered within the major producing states, or their total energy bills will increase more than necessary.

6. Question: If the gas resources are available, why aren't they being developed for intrastate markets?

Answer: They have been, and those markets now have large surpluses. Increased drilling for major intrastate markets (Texas and Oklahoma) during the past four years has brought these markets into oversupply, causing prices to drop in these states. Gas drilling, after sharp increases in recent years, is now beginning to decline. Gas producers need access to interstate demand at higher prices if they are to continue to expand their onshore exploration programs.

In Oklahoma's Anadarko Basin, the oversupplied intrastate pipelines have been taking gas from new wells at rates far below the allowable production levels. Meanwhile, crisscrossing the same gas province are 12 interstate pipelines that curtailed deliveries to customers with firm gas contracts by 1.75 trillion cubic feet during the past year. It does not make sense for these interstate customers to switch to imported fuels, while wells connected to intrastate pipelines are produced at far below the allowable production rates. The unused capacity in just four Western Oklahoma Counties exceeds the state's entire residential demand.

The lack of a national market severely restricts gas exploration and development. Oklahoma, for example, holds proven and potential gas resources totalling 143 trillion cubic feet, but consumes only about 750 billion cubic feet per year. Thus, current and expected demand within Oklahoma's intrastate market is too small to support an all out effort to develop the state's natural gas resources. More gas in Oklahoma would only add to the surplus. Faced with reduced demand and declining prices for new intrastate gas, and with continued uncertainty over federal gas policies, producers are beginning to reduce or delay their exploration plans.

7. Question: Why is deep gas deregulation important?

Answer: Deep gas, largely unavailable today because of high drilling costs, represents a "new frontier" with potential resources of 190 trillion cubic feet. These deep gas resources nearly equal the potential gas from Alaska and the Outer Continental Shelf. But of these three frontiers only the deep frontier is accessible in the near-term, because most of the deep gas is within the major gas producing provinces where pipelines are already in place. The technology for drilling and completing deep gas wells has not been perfected but is gradually improving as the industry gains experience.

Deep gas is not associated with oil, so the economics for exploration depend entirely on the gas price at the wellhead. In 1977, wells drilled below 15,000 feet accounted for only 1% of total wells drilled. Under the natural gas compromise, deep drilling can be rapidly increased and will bring on large new supplies of deep gas at prices competitive with other fuels and foreign imports.

8. Question: What is the environmental impact of this compromise?

Answer: Extremely favorable. The conventional and unconventional gas sources coming available under this compromise can substantially increase methane's share of the domestic energy mix. This will provide a more compatible transition to a "solar economy" based on renewable energy sources.

If the gas issue remains unsettled, the uncertainty about domestic gas available will cause further "electrification" of our energy infrastructure, requiring large new commitments to nuclear and coal-fired generating plants. As more and more of the country's energy capital and resources are locked into these more expensive and environmentally less desirable projects the methane-solar option will be foreclosed.

9. Question: Is the compromise too complicated to administer?

Answer: No. The State or Federal agency with jurisdiction over the well drilling will determine which category applies to the production from a certain well. The definitions of each category are clear cut, and should not be difficult to apply.

New discoveries and new reservoirs qualify for the new gas price. A special incentive development price is available for bona fide reservoir extensions. Stripper wells qualify for a higher ceiling price, and high cost gas is deregulated in one year. Flowing gas prices are not affected significantly until existing contracts expire. Current non-price regulations on interstate sales are greatly reduced.

10. Question: Why are there so many categories of gas under the compromise?

Answer: Most of the additional categories of gas resulted from negotiations between those who wanted to extend regulations to the intrastate markets and those who wanted to lift regulations from the interstate market. The objective of those who worked out the compromise was to elicit the maximum supply response at a minimum cost to consumers. To reach this objective, categories of gas were defined and price regulations adopted with consideration given to the risks and costs associated with finding and developing each category. Although this process tended to make the bill more complicated, it also allowed the Conferees to achieve a bill that will encourage production while protecting consumers from paying unnecessarily high prices for gas that they could expect to receive at lower prices under current policies.

11. Question: Is the compromise good legislation?

Answer: Yes. The natural gas compromise has resulted from several months of difficult negotiations among conferees with strongly held and opposing views. Both sides, however, recognize that a national market for natural gas will serve the national interest. The Conferees have done a responsible job, under difficult conditions, of accepting the more reasonable arguments from both sides and this complex issue. If problems arise, they can be handled by future legislation. Meanwhile, the nation's gas consumers and producers can deal with a few imperfections in this bill much better than they can handle the uncertainty and regional economic distortions that will persist as long as this issue is unsolved.

● Mr. MUSKIE. Mr. President, I support the conference agreement on H.R. 5263 because it provides financial assistance to consumers who have heeded the President's call for energy conservation and because it does not, by itself, breach the revenue floor of the second budget resolution. These positive aspects of the agreement outweigh my reservations about certain provisions, such as those relating to intangible drilling costs.

However, I must note the impact of this bill on the conference on the Revenue Act of 1978. Enactment of the conference agreement on H.R. 5263 will reduce the potential for other tax cuts by $1 billion. That means $1 billion less than was available during Senate consideration of the Revenue Act.

I believe that Senator LONG and the other Senate conferees will insist that the total tax reductions in all bills be consistent with the second budget resolution. So I remind my colleagues that the $1 billion in tax reductions in this energy tax conference agreement means $1 billion less of other tax reductions.

With that reminder, I shall vote for the conference agreement on H.R. 5263.

Mr. President, let me also note that this conference agreement is subject to a section 303 point of order under the

Budget Act consistent with the Chair's ruling last week. In view of the Senate's vote on the appeal of that ruling, I now merely point out this violation, and reserve my right to reopen the issue at an appropriate time.●

● Mr. BAYH. Mr. President, as you are aware, the President s national energy plan consisted of five separate pieces: A conservation bill, a coal conversion bill, a utility reform bill, a national gas pricing proposal, and an energy tax bill. The House and Senate acted on all five of these proposals last year, and sent them on to House-Senate conferences to resolve outstanding differences between the two bodies. The conferees pretty much finished their work on the first three conference reports—the conservation bill, coal conversion bill, and utility reform measure—last year. Unfortunately, these conference reports—each designed to deal with a different facet of our energy problems—were held hostage for almost a year, because of controversy in the Congress over energy pricing and taxing proposals—which, in the form they passed the Senate last year, would have transferred billions and billions of dollars from the pockets of already hard-pressed consumers, and the U.S. Treasury, to oil and gas producers.

After a full year of dealing and trading, Mr. President, the Senate was permitted to vote on the first four of these conference reports. Now, in the waning moments of the session, we are being presented with a last minute energy tax conference report and being told we must take this legislation or have no energy tax credits.

Mr. President, it is unfortunate that this is the case. I would have preferred that we pass other energy tax legislation, such as that which passed the Senate this summer, then the conference report before us. In August, the Senate passed an amendment to H.R. 112, which contained the residential tax credits that the Senate passed in 1977 as part of the original energy tax bill. This amendment, retroactive to April 20, 1977, granted tax credits of 20 percent of the first $2,000 spent on conservation purchases by homeowners and renters, with a maximum credit of up to $400. The credits were to be in effect until the end of 1985. Similiar provisions were passed by the House at the time they considered the energy package in 1977.

These credits were meant to stimulate consumers to adequately insulate their homes, buy storm windows, heat pumps, furnace replacement burners, and the like, which is critical if we want to cut consumer utility bills and save oil and natural gas used by residential customers.

Unfortunately, Mr. President, the House leadership has not seen fit to permit the House to vote on H.R. 112 during the last month and a half and will not do so tonight. Instead, once again, this bill is being held up, pending a House vote on the natural gas bill. Once again, rules and procedures are being used to try and tie these two issues together—natural gas deregulation and conservation and solar tax credits—so that House Members will have to vote for the natural gas bill to get the tax credit.

As a result of these delays, the solar energy industry, small businessmen in the home insulation business, and others, have suffered. In addition, many consumers have delayed making purchases, waiting to see what our tax policy was going to be. I cannot help but observe that it is now nearly the end of October, winter is coming upon us, and we have probably already missed the opportunity to give a signal to homeowners and renters all around this country that they will be rewarded for making their homes and apartments more energy efficient. As a result, they will be paying higher utility bills this winter, and more oil and gas will be consumed for home heating purposes than necessary.

Now that we are in the last day of the session, the game is over. We must pass these tax credits before we adjourn. Everyone agrees on this. The only question has been whether we would have them by passing this energy tax conference report, or by passing H.R. 112. It is clear now that our only choice is the conference report. Faced with this reality, Mr. President, I have decided to vote for this conference report. I would, however, like to take this opportunity to explain why I would have preferred H.R. 112 over H.R. 5263, the energy tax conference report.

The conservation and solar tax credits in H.R. 5263 are smaller and cover fewer items than those in H.R. 112, just as they are smaller than those which passed both the House and Senate last year when each body considered the President's original energy tax proposal. Normally, when the House and Senate pass identical provisions, the conferees do not change them. In this case, however, they did so by lowering the residential tax credits in the bill for individual consumers. They did this in order to include tax credits and other benefits for energy producers. Mr. President, I did not agree with the conferees' decision to include these producer tax incentives in the bill at the expense of ordinary citizens trying to conserve energy and lower their utility bills by insulating their homes.

The conservation tax credits in H.R. 5263, the conference report before us, grant a credit of up to 15 percent of the first $2,000 spent, for a maximum credit of $300. Those in H.R. 112, the alternative I preferred to this bill, granted a credit of up to 20 percent, or a maximum of $400. In addition, those in H.R. 112 covered items not included in the bill before us, such as heat pumps, woodburning stoves, replacement furnaces, evaporative cooling devices, fluorescent replacement lighting, and other items which are demonstrable energy savers.

Mr. President, I favor the residential tax credits in H.R. 112 to these narrower and less generous ones, because I believe they will more effectively lead to energy conservation and because the public has been counting on them.

Mr. President, I believe there is little we would have lost by defeating this conference report and passing H.R. 112 instead. The bulk of revenue loss that will result from passing this bill, aside from the residential tax credits, will save no energy. Instead, it will divert money from the Treasury, or other worthwhile Federal programs, and turn it over to the energy industry. In particular, it extends new depletion allowances and intangible drilling deductions to independent oil, gas, and geothermal producers and grants credits to energy producers for purchases of equipment. It will cost the Treasury billions of dollars over the next few years without leading to any increase in energy supplies.

Mr. President, I opposed most of these provisions when the Senate first considered H.R. 5263 last year. The provisions of this bill that I supported last year have either been dropped by the conferees or gutted. The only bright spot in this conference report, besides the residential tax credits, is the excise tax exemption for gasohol.

Yet, Mr. President, H.R. 5263 is the only game in town. It does provide some incentives and aid to homeowners and renters who wish to conserve energy. I will, therefore, reluctantly support the conference report, with a feeling of disappointment that we could not do better.●

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, there will be other rollcall votes following this.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), the Senator from Georgia (Mr. TALMADGE), and the Senator from North Carolina (Mr. MORGAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Iowa (Mr. CLARK), and the Senator from Georgia (Mr. TALMADGE) would each vote "yea".

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona, (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "yea".

The PRESIDING OFFICER (Mr. DE-

CONCINI). Have all Senators in the Chamber voted?

The result was announced—yeas 60, nays 17, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—60

Anderson	Glenn	Melcher
Baker	Gravel	Moynihan
Bayh	Griffin	Muskie
Bentsen	Hart	Nunn
Biden	Hatfield, Mark O.	Packwood
Bumpers	Hatfield, Paul G.	Pell
Burdick	Hayakawa	Percy
Byrd, Harry F., Jr.	Heinz	Randolph
Byrd, Robert C.	Hodges	Ribicoff
Cannon	Hollings	Riegle
Chafee	Humphrey	Roth
Chiles	Inouye	Sarbanes
Church	Jackson	Sasser
Cranston	Javits	Schweiker
Culver	Johnston	Stevens
Curtis	Laxalt	Stevenson
Danforth	Long	Stone
DeConcini	Magnuson	Thurmond
Durkin	Matsunaga	Williams
Ford		Young
		Zorinsky

NAYS—17

Abourezk	Hansen	Nelson
Bartlett	Hatch	Proxmire
Bellmon	Leahy	Schmitt
Dole	Lugar	Wallop
Eagleton	McGovern	Weicker
Garn	Metzenbaum	

NOT VOTING—23

Allen	Hathaway	Pearson
Brooke	Helms	Scott
Case	Huddleston	Sparkman
Clark	Kennedy	Stafford
Domenici	Mathias	Stennis
Eastland	McClure	Talmadge
Goldwater	McIntyre	Tower
Haskell	Morgan	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, there is a cloture motion, I believe, which the Senate has to vote on immediately, am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on that cloture motion may be waived for 2 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from South Carolina for not to exceed 2 minutes.

PUBLIC TELECOMMUNICATIONS FINANCING ACT OF 1978—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 12605 and ask for its immediate consideration. It has been checked on both sides of the aisle.

Mr. BAKER. Mr. President, reserving the right to object, we have no objection to proceeding.

The PRESIDING OFFICER. Will the Senator please send the conference report to the desk?

Mr. HOLLINGS. They have it right up there, checked it earlier today, H.R. 12605.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12605) to amend the Communications Act of 1934 to extend and improve the provisions of such Act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The Senate will come to order. The Senator will suspend. Time will not be charged against the Senator.

The Senate will come to order. Senators wishing to carry on conversations will please leave the Chamber.

The Senate will please come to order. Senators will please take their seats. Staff members will please retire to their seats. The Senate is not in order.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, this conference report is the culmination of months of work in both Houses of Congress to strengthen public telecommunications, a process which began in earnest last April 12 when I, and my colleague LIONEL VAN DEERLIN, chairman of the House Communications Subcommittee, introduced companion bills. This report reflects a consensus of opinion on several key provisions—extension of the principle of multiyear advance authorization of public broadcasting, an expanded mission for the Department of Commerce to assist in construction of broadcast and nonbroadcast facilities to make public telecommunications services available to more Americans, increased public accountability for those receiving public funds, increased opportunity for public participation at the local level, stronger equal employment opportunity enforcement mechanisms, and reduction in duplication and waste.

The major agreements of the conference are as follows:

Statutory recognition of the growing facilities and program needs of public radio without unduly hampering the necessary discretion of the Secretary of Commerce and the Corporation for Public Broadcasting in providing support for all public telecommunications entities.

A clear statement that the conferees intend that fair and equitable distribution of facilities funds includes geographical considerations.

A limit on excessively high salaries paid to certain officers and employees within the public broadcasting community, and a prohibition against use of Federal funds for entertaining Government employees.

Reduction in the matching formula to provide greater incentives for non-Federal and private fund raising efforts.

An increased authorization level in fiscal year 1983.

An opportunity for local stations to receive additional Federal funding support for the efforts of local volunteers, but only after accounting difficulties are satisfactorily resolved.

A reaffirmation of the important role of the Corporation for Public Broadcasting in acquiring program rights on behalf of all public telecommunications entities disseminating educational programs to the public, in order to protect the public's investment in the production of those programs.

Avoidance of legislative involvement in the programing and management operations of independent public broadcasting stations.

Encouragement of CPB to profit from the expertise of outside programing experts in making funding decisions.

Retention of the provisions in existing law relating to editorializing, endorsement of political candidates, and certain recording requirements imposed on recipients of funds.

Mr. President, I am pleased to report on this good work by the committee of conference. I commend my fellow Senate conferees (Senators CANNON, MAGNUSON, GRIFFIN, and SCHMITT) and our colleagues from the House.

Mr. President, I urge that the Senate adopt this conference report.

● Mr. INOUYE. Mr. President, I urge adoption of the conference report on H.R. 12605, the Public Telecommunications Financing Act of 1978, and I wish to compliment the managers on the part of the Senate—Senators CANNON, HOLLINGS, MAGNUSON, GRIFFIN, and SCHMITT.

I am particularly pleased that the report has the effect of leaving decisions on access to the public broadcasting interconnection systems for entities other than licensees and for individuals with the Public Broadcasting Service's Transponder Allocation Committee.

According to information I have received, the satellite interconnection system, currently owned and operated by public television licensees, is a totally new system whose capacity—excess and otherwise—is being closely monitored by the PBS Board's Transponder Allocation Committee. The Hawaii and Alaska stations have pressed PBS and the committee to gain a special time zone delay in order to permit same day broadcasting. In Hawaii's case this same day telecast of public affairs programing, for example, is revolutionary. Many feel that the needs of current users should be met and that the entire satellite system should be further evaluated before provisions regarding use by others are mandated by Congress. Further, a new committee under the auspices of CPB, suggested in the House's language, would have been redundant. In sum, fear has been expressed that if the conference committee had supported the House position, satellite time given to "others" could have well led to the elimination of time zone delays in Hawaii.

I also wish to commend the managers on the part of the Senate for insisting that the provisions in the House bill

mandating community advisory boards to reflect their community composition be amended with a requirement that the stations make good faith efforts to achieve a diverse and responsive board.

I would have preferred the Senate provision which did not require stations to establish community advisory boards because the majority of stations already have them, and there is always the danger of potential confusion and frustration regarding the role of legally mandated community advisory boards relative to the stations' governing boards and existing advisory committees.

Nevertheless, I am encouraged by the Senate amendment in conference and the explanation of the managers that: "The conferees agree that this provision does not preclude the stations from establishing and maintaining other types of advisory bodies. Nor does this provision imply that stations with existing advisory boards that comply with this provision must establish new or additional advisory boards."●

● Mr. SCHMITT. Mr. President, I was privileged to be a member of the conference committee on the Public Telecommunications Financing Act of 1978. The bill resulting from conference will improve this country's public broadcasting system by providing for increased funding, more effective accountability for the funds expended by the system, additional opportunities for independent producers, an increased proportion of funds spent by the Corporation for Public Broadcasting on programing, and additional opportunity for the use of innovative technology in disseminating programing.

Mr. President, since the beginning of my involvement in this issue, I have been concerned with a trend that I perceived during the hearings on this bill—a desire on the part of some persons in public broadcasting to transform it into a fourth networth, fully competitive with the three commercial networks. They appear to envision national programing, distributed simultaneously throughout the Nation, at the taxpayers expense with the only measure of success or failure being performance in the national ratings. In my view if this trend continues it will severely damage the ability and desire of local public stations to serve the needs and interests of their local communities effectively. We must never lose sight of the fact that these local stations are the "bedrock" of our public broadcasting system. If their unique ability to serve their communities disappears, the raison d'etre of the system no longer exists, and we will have to consider eliminating the Federal role.

Mr. President, I was most gratified that the other conferees on this legislation shared my concern. As the report of managers indicates, the trend of "creeping networkism" must be stopped now before we transform the system into something Congress did not envision in 1967 with the passage of the Public Broadcasting Act. Nor does the passage of this legislation mean that we now concur with this trend. As a member of the Communications Subcommittee, I will be watching the activities of public broadcasting closely to determine if those responsible have gotten the message.

In conclusion, I would like to express my thanks to Chairman HOLLINGS and Senator GRIFFIN, the ranking minority member on the subcommitee, for their leadership on this important piece of legislation.●

Mr. HOLLINGS. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the cloture motion be waived 2 additional minutes while I yield to the majority whip.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' ADMINISTRATION PROGRAMS EXTENSION ACT OF 1978

Mr. CRANSTON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 5029.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 5029) entitled "An Act to amend title 38 of the United States Code in order to authorize contracts with the Republic of the Philippines for the provision of hospital care and medical services to Commonwealth Army veterans and new Philippine Scouts for service-connected disabilities; to authorize the continued maintenance of a Veterans' Administration office in the Republic of the Philippines; and for other purposes", with the following amendments:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill, insert:

That this Act may be cited as the "Veterans' Administration Programs Extension Act of 1978".

SEC. 2. Section 230(b) of title 38, United States Code, relating to the Veterans' Administration office in the Republic of the Philippines, is amended by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981".

SEC. 3. (a) Section 624(c) of title 38, United States Code, relating to the veterans medical center in the Republic of the Philippines, is amended by striking out "Veterans Memorial Hospital" and inserting in lieu thereof "Veterans Memorial Medical Center".

(b) Section 632 of such title is amended—

(1) by striking out "Veterans Memorial Hospital" each place it appears in such section and inserting in lieu thereof in each such place "Veterans Memorial Medical Center";

(2) in the matter in subsection (a) preceding clause (1)—

(A) by striking out "a contract" and inserting in lieu thereof "contracts"; and

(B) by striking out "June 30, 1978" and inserting in lieu thereof "September 30, 1981";

(3) by striking out "July 1, 1978" in subsection (b) and inserting in lieu thereof "October 1, 1981"; and

(4) by striking out "during the five years beginning July 1, 1973, and ending June 30, 1978—" in subsection (d) and inserting in lieu thereof "occurring during the period beginning July 1, 1973, and ending September 30, 1981—".

SEC. 4. Section 6(a)(2) of the Veterans' Administration Physician and Dentist Pay Comparability Act of 1975 (Public Law 94-123; 89 Stat. 669), relating to the expiration of authority to enter into special pay agreements, is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1981".

SEC. 5. Section 601(4)(C) of title 38, United States Code, relating to contract-care medical facilities, is amended by striking out "(v) hospital care" and all that follows through "December 31, 1978" and inserting in lieu thereof "(v) hospital care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the forty-eight contiguous States, except that the annually determined hospital patient load and incidence of the provision of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and private facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the provision of medical services for veterans hospitalized or treated by the Veterans' Administration within the forty-eight contiguous States, but the authority of the Administrator under this subclause (except with respect to Alaska and Hawaii) shall expire on December 31, 1981, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico and to the Virgin Islands of the restrictions in this subclause with respect to hospital patient loads and incidence of provision of medical services".

SEC. 6. (a) Section 2012(b) of title 38, United States Code, relating to veterans' employment emphasis under Federal contracts, is amended by inserting after "veterans" a comma and "or if any veteran who is entitled to disability compensation under the laws administered by the Veterans' Administration believes that any such contractor has discriminated against such veteran because such veteran is a handicapped individual within the meaning of section 7(6) of the Rehabilitation Act of 1973 (29 U.S.C. 706(6))".

(b)(1) Subsection (b) of section 2014 of such title, relating to veterans readjustment appointments within the Federal Government, is amended to read as follows:

"(b)(1) To further the policy stated in subsection (a) of this section, veterans of the Vietnam era shall be eligible, in accordance with regulations which the Civil Service Commission shall prescribe, for veterans readjustment appointments, and for subsequent career-conditional appointments, under the terms and conditions specified in Executive Order Numbered 11521 (March 26, 1970), except that—

"(A) such an appointment may be made up to and including the level GS-7 or its equivalent;

"(B) a veteran of the Vietnam era shall be eligible for such an appointment without any time limitation with respect to eligibility for such an appointment; and

"(C) a veteran of the Vietnam era who is entitled to disability compensation under the laws administered by the Veterans' Administration or whose discharge or release from active duty was for a disability incurred or aggravated in line of duty shall

be eligible for such an appointment without regard to the number of years of education completed by such veteran.

"(2) In this subsection, the term 'veteran of the Vietnam era' has the meaning given such term in section 2011(2)(A) of this title.

"(3) No veterans readjustment appointment may be made under authority of this subsection after September 30, 1981.".

(2) Subsection (d) of such section is amended (A) by striking out "thereof" in the second sentence and inserting in lieu thereof "of this section", and (B) by adding at the end of such subsection the following new sentence: "Each report under the preceding sentence shall include in the specification of the use and extent of appointments made under subsection (b) of this section the following information (shown for all veterans and separately for veterans described in subsection (b)(1)(C) of this section and other veterans):

"(1) The number of appointments made under such subsection since the last such report and the grade levels in which such appointments were made.

"(2) The number of individuals receiving appointments under such subsection whose appointments were converted to career conditional appointments, or whose employment under such an appointment has terminated, since the last such report, together with a complete listing of categories of causes of appointment terminations and the number of such individuals whose employment has terminated falling into each such category.

"(3) The number of such terminations since the last such report that were initiated by the department, agency, or instrumentality involved and the number of such terminations since the last such report that were initiated by the individual involved.

"(4) A description of the education and training programs in which individuals appointed under such subsection are participating at the time of such report.".

(3) Subsection (f) of such section is amended by inserting "subsection (a) of" after "as used in".

SEC. 7. Section 5082 of title 38, United States Code, relating to authorizations of appropriations, is amended by adding at the end thereof the following new subsection:

"(c) There is authorized to be appropriated for fiscal year 1979 to carry out the programs authorized under this chapter such sums as may be necessary (1) to make to institutions with which the Administrator has entered into agreements under subchapter I of this chapter supplemental grants for which the Administrator had, before May 1, 1978, approved applications from such institutions, and (2) to meet fully the commitments made by the Administrator before May 1, 1978, for grants and applications approved under authority of this subchapter and subchapters III and IV of this chapter, except that no funds appropriated under this subsection may be used for grants and applications approved under this subchapter and such chapters III and IV until the full amounts for which applications had been so approved have been obligated under such subchapter I.".

SEC. 8. (a) Not later than February 1, 1980, the Administrator of Veterans' Affairs shall submit a report to the Congress and to the President on the furnishing by the Veterans' Administration of hospital care and medical services in the Commonwealth of Puerto Rico and in the Virgin Islands. The Administrator shall include in such report—

(1) a comprehensive assessment of the health-care needs of veterans in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) a detailed report on the hospital care and medical services furnished or to be furnished to such veterans during fiscal years 1975 through 1981, with information in such report shown with respect to the number of veterans treated or to be treated, the facilities at which such care and services are furnished or to be furnished, and the extent to which such care and services are furnished or are to be furnished for the treatment of veterans for service-connected disabilities of any degree and of veterans with service-connected disabilities rated at 50 per centum or more; and

(3) recommendations as to how the health-care needs of such veterans can best be addressed within the existing authority of the Administrator of Veterans' Affairs and what additional authority, if any, is necessary and desirable to meet such needs.

(b) In making recommendations under subsection (a)(3), the Administrator shall take into consideration—

(1) the state of the economy in the Commonwealth of Puerto Rico and in the Virgin Islands;

(2) alternative sources of health-care services that would be available to veterans in the Commonwealth of Puerto Rico and in the Virgin Islands if the health-care services furnished by the Veterans' Administration for non-service-connected disabilities were substantially reduced;

(3) the desirability of equitable distribution of Veterans' Administration health-care resources; and

(4) the higher priority established by law for the care and treatment of service-connected disabilities.

SEC. 9. There is authorized to be appropriated for fiscal year 1979 the sum of $5,000,000 to enable the Administrator of Veterans' Affairs to implement the Veterans' and Survivors' Pension Improvement Act of 1978. Amounts appropriated pursuant to the preceding sentence shall remain available during the one-year period beginning on the date of the enactment of such Act and may be used to carry out a program of public information and advertising designed to advise fully all persons who may be affected by the provisions of such Act of the provisions of such Act, including the manner in which such Act may affect them and any rights they may have under such Act.

In lieu of the amendment of the Senate to the title of the bill, amend the title so as to read: "An Act to amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes.".

Mr. CRANSTON. Mr. President, I rise in support of H.R. 5029, the proposed Veterans' Administration Programs Extension Act of 1978. The bill was originally passed by the House on April 4, 1977. On May 15, 1978, the Senate Committee on Veterans' Affairs unanimously ordered the bill favorably reported with an amendment and a title amendment, and on May 26, 1978, the Senate passed the measure as so amended. The bill as it comes before the Senate today has been agreed to by the two Veterans' Affairs Committees and was passed by the House of Representatives yesterday.

SUMMARY OF PROVISIONS

Mr. President, the compromise agreement contains provisions that would:

First, extend for 3 years, until September 30, 1981, the VA's authority to maintain an office in the Philippines.

Second, extend for 3 years, until September 30, 1981, the VA's authority to provide reimbursement up to $2 million per year to the Veterans Memorial Medical Center in the Philippines for service-connected and non-service-connected health-care services for certain Filipino veterans of World War II who served with, but not in or as members of, the U.S. Armed Forces. In addition, the VA's authorities to make grants for the education and training of health service personnel at the center and for the replacement and upgrading of equipment in rehabilitating the physical plant and facilities of the center would also be extended for 3 years until September 30, 1981.

Third, extend for 3 years, until September 30, 1981, the VA's authority to enter into special-pay agreements with physicians and dentists; this is the date beyond which current law specifies that no special-pay agreements may extend.

Fourth, extend the VA's authority to provide contract hospital care for veterans with non-service-connected disabilities in Alaska, Hawaii, the territories and possessions of the United States, and the Commonwealth of Puerto Rico; and authorize the provision of contract medical outpatient services which would obviate the need for hospital admission for the non-service-connected disabilities of veterans in those same places. Provision of such care and services would be conditioned on the requirement that the annually determined hospital patient load and the incidence of the provision of medical services for veterans hospitalized and treated by the VA in each such State, territory, possession, or Commonwealth be consistent with the level of such care and services provided within the 48 contiguous States. This contract authority would be extended for 3 years, until December 31, 1981, with respect to the territories, possessions, and the Commonwealth of Puerto Rico, but would be made permanent with respect to Alaska and Hawaii. In addition, the Administrator would be authorized, if necessary to prevent hardship, to waive the restriction on the amount of contract hospital care and medical services which could be furnished in Puerto Rico and the Virgin Islands.

Fifth, require the VA to conduct and submit to Congress and the President by February 1, 1980, a report assessing the health-care needs of veterans in Puerto Rico and the Virgin Islands and recommending how those needs should be addressed.

Sixth, extend for 3 years, until September 30, 1981, the authority for veterans' readjustment appointments—VRA's—excepted appointments in the Federal civil service for certain educationally disadvantaged Vietnam-era veterans. The compromise would also expand the VRA program by removing all limits regarding the date on which the otherwise eligible veteran was discharged, raise the maximum civil service grade level to which an eligible veteran may be appointed from GS–5 to GS–7, make any veteran with a service-connected disability rated at 10 percent or more eligible for an appointment regardless of the number of years of education such veteran has completed, and expand and refine the reporting requirements concerning the operation of the VRA

program in order to develop more useful information about the way the appointment authority is being used.

In addition, disabled veterans would be expressly given the right to file with the Veterans' Employment Service in the Department of Labor, complaints of employment discrimination, in violation of section 7(6) of the Rehabilitation Act of 1973, against Federal contractors.

Seventh, provide additional authorization for fiscal year 1979 appropriations adequate to meet all outstanding VA commitments under the assistance to health manpower training institutions program.

Eighth, authorize the appropriation of $5 million in fiscal year 1979 for implementation of the restructured pension program under the Veterans' and Survivors' Pension Improvement Act of 1978.

COST ESTIMATE

The Congressional Budget Office estimates that the 5-year cost resulting from the enactment of H.R. 5029 would be $16.6 million in fiscal year 1979; $27.2 million in fiscal year 1980; $11.9 million in fiscal year 1981; $1.7 million in fiscal year 1982; and $1.4 million in fiscal year 1983.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks the Congressional Budget Office estimate of the costs of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

FAILURE TO ENACT NEEDED HEALTH-CARE LEGISLATION

Mr. CRANSTON. Mr. President, I am deeply disappointed that this Congress will not be enacting legislation, contained in title III of H.R. 5027 as passed by the Senate on September 9, 1977, which I have long sponsored to establish a program of readjustment counseling for Vietnam-era and recently discharged veterans, to enhance the VA's drug and alcohol treatment program, and to provide for a new program of preventive health-care services for veterans with service-connected disabilities. In three previous Congresses I have introduced legislation containing substantially similar provisions—S. 2108—92d Congress, S. 284—93d Congress, and S. 2908—94th Congress—and each time the Senate has passed the legislation but the House has not acted on it. This year again, the provisions will die in the House and the Senate Veterans' Affairs Committee's and the Senate's effort to provide these greatly needed services will once again be frustrated.

ENACTMENT NEARLY ACHIEVED

Mr. President, this year, however, the enactment of these provisions was very nearly achieved, and the need for the programs was more widely and clearly recognized than ever before.

For the first time this year, the administration supported readjustment counseling and drug and alcohol treatment legislation along the lines of—though somewhat reduced from—the Senate-passed bill. Most recently, on October 10, 1978, the President, in his message to the Congress on Vietnam-era veterans, reiterated his support and urged the Congress to enact his proposals for a program of readjustment counseling for Vietnam-era veterans—S. 3021 and H.R. 12966—and for authority to contract with community halfway houses for the treatment and rehabilitation of veterans with drug and alcohol abuse problems—S. 3101 and H.R. 12962.

Mr. President, in an effort to achieve the enactment of these two programs and the preventive health-care provisions, I entered into extensive negotiations with the chairman of the House Veterans' Affairs Committee's Subcommittee on Medical Facilities and Benefits (Mr. SATTERFIELD). As a result, we fashioned an extensive package of health-care legislation that, I believe, represented a fair and reasonable compromise of the concerns of the two bodies regarding VA health-care programs, and would have been of tremendous value and benefit to the Nation's veterans.

Unfortunately, the parliamentary logjam in the House and Senate has made it very difficult to gain all the clearances necessary to move the package in this Congress.

PROVISIONS OF THE NEGOTIATED PACKAGE

Mr. President, the major components of that package were modified versions of provisions contained in titles I and III of H.R. 5027 as passed by the Senate on September 9, 1977; title III of H.R. 5029 as passed by the Senate on May 26, 1978; and H.R. 5025, the proposed "Veterans' Administration Medical Facilities Acquisition Act of 1977," as passed by the House on May 2, 1977. The readjustment counseling and drug and alcohol abuse treatment provisions in this proposed legislation would have been a blend of the President's proposed legislation and the Senate-passed provisions.

READJUSTMENT COUNSELING AND FOLLOWUP SERVICES

Mr. President, section 301 of H.R. 5027 as passed by the Senate would provide for a program of readjustment professional counseling and followup mental-health services—including the provision of services to family members under certain circumstances—for any veteran who served on active duty in the Armed Forces after August 4, 1964, or prior thereto in the Indochina conflict and who requests such assistance within 4 years of discharge or 2 years after enactment, whichever is later. The Senate bill would also require the VA's Chief Medical Director to provide for the training of professional, paraprofessional, and lay personnel as is necessary to carry out this program effectively; and require the Administrator, in cooperation with the Secretary of Defense, to advise veterans of potential eligibility.

Our proposed agreement would have provided for the establishment of a program of readjustment counseling to any veteran who served on active duty during the Vietnam era who requests such counseling within 2 years from discharge or release or within 2 years after the date of enactment, whichever is later. The proposed legislation also would have provided that, in the event of another declaration of war, the Administrator would be required to recommend to the Congress, within 6 months of such declaration, whether the readjustment counseling program should be extended to veterans of such war. Necessary followup mental-health services were to be provided for, including services for family members of eligible veterans where essential to effective treatment and rehabilitation of the veteran.

With respect to former service personnel who are not eligible for readjustment counseling services because they were discharged or released from active-duty service under conditions other than honorable or who would otherwise be ineligible, the proposed agreement would have provided for the Administrator to advise such individuals of their right to apply for reviews of their discharges and of the availability of non-VA mental health services. Provision would also be made for the Chief Medical Director to train such professional, paraprofessional, and lay personnel as are necessary to carry out this program effectively and for the Administrator to cooperate with the Secretary of Defense in notifying veterans of potential eligibility under the program.

DRUG AND ALCOHOL DEPENDENCE OR ABUSE PROGRAMS

Mr. President, section 303 of H.R. 5027 as passed by the Senate would provide for the establishment of a special program for the treatment and rehabilitation of veterans with alcohol or drug dependence or abuse disabilities by providing for a broader range of treatment modalities and authorizing the use of private halfway-house and certain other non-VA facilities on a contract basis. The Senate bill would also: First, authorize the treatment, at VA expense, of a veteran who suffers from, and has a close family member who suffers from, an alcohol or drug dependence or abuse disability, in a community facility where the veteran and—not at VA expense—the family member can receive treatment together; second, provide the VA with discretionary authority to furnish alcohol and drug treatment services to former service personnel with administrative discharges under other than honorable conditions who abused alcohol or drugs during service; third, direct the VA, in consultation with the Secretary of Labor and the chairman of the Civil Service Commission, to carry out a program to promote the employment of recovered drug addicts and alcoholics and to cooperate with and assist the Secretary of Labor in placing these veterans with appropriate employment and training opportunities; fourth, provide procedures for the treatment of active-duty service personnel suffering from alcohol or drug dependence or abuse disabilities in VA health-care facilities during the last 30 days of service if they voluntarily, in writing, request such treatment; and fifth, provide procedures for the treatment of charged or convicted veterans when required by a court.

The proposed agreement would have provided for: First, a 5-year pilot program under which the Administrator may contract for drug and alcohol treatment for veterans in halfway houses, therapeutic communities, psychiatric

residential treatment centers, and other community-based treatment facilities; second, a report on the findings and recommendations of the Administrator with regard to 3 years of experience under the pilot program; third, cooperation with the Secretary of Labor and the Chairman of the Civil Service Commission with respect to employment opportunities for rehabilitated former addict veterans; fourth, advice to individuals who have been discharged or released under conditions less than honorable of their rights to apply for discharge review or for a character of discharge determination, and of various non-VA treatment and rehabilitative services available in the community; fifth, treatment of active-duty service personnel in VA facilities only within the last 30 days of enlistment or a tour of duty and if such treatment is requested in writing.

PREVENTIVE HEALTH-CARE SERVICES

Mr. President, section 302 of H.R. 5027 as passed by the Senate would provide for the establishment of: First, a program of certain preventive health-care services to veterans with a 50-percent-or-more-disability rating and to other veterans in connection with the treatment of a service-connected disability; and second, a program of comprehensive preventive health-care services to veterans with service-connected disabilities. The Administrator would be required to emphasize utilization of interdisciplinary health-care teams and to advise each eligible veteran, within 90 days of enactment, of the nature and likely extent of such veteran's eligibility for care.

The proposed agreement would have provided for a 5-year program providing for: First, the provision of such preventive health-care services as the Administrator may deem feasible and appropriate for veterans with a 50-percent-or-more-disability rating and for veterans receiving treatment involving a service-connected disability; second, the use of interdisciplinary health-care teams in providing such services, third, a maximum expenditure of $25,000,000 in any fiscal year to carry out this program; and fourth, inclusion of a comprehensive report on this program in the Administrator's annual report to Congress.

NON-SERVICE-CONNECTED CONTRACT CARE

Mr. President, section 101(1) of H.R. 5027 as passed by the Senate would restore limited authority to expand the circumstances under which veterans would be eligible for contract outpatient treatment—so called "fee-basis care"—for non-service-connected disabilities, by repealing certain amendments to chapter 17 of title 38 made by Public Law 94–581, the Veterans' Omnibus Health Care Act of 1976. The Senate amendment to H.R. 5027 would restore limited authority by providing that, if the general conditions on the provision of contract care are satisfied—that facilities are incapable of providing the required care or of providing the required care in an economical fashion because of geographic inaccessibility—veterans eligible for regular aid-and-attendance or housebound benefits may be provided fee-basis care if on the basis of a physical examination, it is determined that "the medical condition of such veteran precludes appropriate treatment in a VA-operated or other Government facility." The proposed agreement would have contained this provision.

Section 101(2) of H.R. 5027 as passed by the Senate would provide specific authority for contract diagnostic services necessary to make determinations of eligibility for "obviate" care at VA facilities that do not have the capability of performing such diagnostic services. The proposed agreement would have contained this provision also.

STANDARDS FOR FOREIGN ADOPTIONS

Mr. President, section 201 of H.R. 5029 as passed by the Senate would require, in order for VA benefits to be paid to or on behalf of a child who was adopted and is residing outside the United States that there be certain assurances that the adoptive parent actually assumed the parental role and responsibilities. Thus, it would require that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse. After the veterans' death, such an adoption would be recognized for VA benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for at least 1 year prior to the veteran's death.

The proposed agreement would have contained the Senate provision.

STUDY OF BENEFITS PAID OUTSIDE THE UNITED STATES

The Senate bill also included, in section 203, a provision requiring the VA to conduct a comprehensive study of the issues involved in the payment of benefits to persons residing outside the 50 States and the District of Columbia.

Mr. President, the proposed agreement would have contained the Senate provision, modified to: First, require the Administrator to consult with the Secretary of State, and second, require that the study be done in conjunction with the similar study, required by section 308 of the conference report on H.R. 10173, the Veterans' and Survivors' Pension Improvement Act of 1978, regarding the payment of pension benefits overseas and that these reports be combined for submission.

REPORT ON CONTRACT CARE

Mr. President, section 304(b) of H.R. 5029 as passed by the Senate would provide for a full report on the VA's use of its contract care authorities, to be submitted annually by March 1, 1979. The proposed agreement would have contained the Senate provision.

EXAMINATIONS FOR SERVICE-CONNECTED DISABILITIES

Mr. President, section 302 of H.R. 5029 as passed by the Senate would clarify the statutory hierarchy of outpatient treatment priorities in section 612(i) of title 38, United States Code, by providing that medical examinations for service-connected disability compensation claims be added into the third priority for outpatient care along with non-service-connected care for veterans with service-connected disability ratings.

The proposed agreement would have contained the Senate provision with a modification to make it clear that examinations for eligibility for service-connected health care would also be included in the third priority.

SERVICE-CONNECTED CARE FOR FILIPINO VETERANS IN THE UNITED STATES

Mr. President, section 303 of H.R. 5029 as passed by the Senate would provide eligibility for Commonwealth Army veterans and new Philippine Scouts to receive hospital care, nursing home care, and medical services for their service-connected disabilities at VA facilities in the United States. The anomalous situation presently exists that these Filipino veterans of World War II, while eligible for VA-financed care in the Philippines, are not eligible for any VA care in the United States, even if the care would be for service-connected disabilities and they had become citizens of this country. This provision would authorize service-connected care for these Filipino veterans in VA facilities in the United States.

The proposed agreement would have included this Senate provision.

CONVENTION HEALTH CARE

Mr. President, section 307 of the Senate version of H.R. 5029 contained a provision to authorize the Administrator to contract with veterans organizations recognized by the VA under section 3402 of title 38 to furnish emergency medical services at the national conventions of such organizations. The provision of such services would be on a reimbursable basis except that no reimbursement would be required for health-care services rendered to veterans entitled under law to such care.

The proposed agreement would have contained this provision also.

H.R. 5025, THE PROPOSED VETERANS' ADMINISTRATION MEDICAL FACILITIES ACQUISITION ACT OF 1978.

Mr. President, the major provisions of H.R. 5025 as passed by the House on May 2, 1977, would provide that "no appropriation shall be made" for the construction, alteration, or other acquisition of any medical facility, including appurtenant parking garages and facilities, costing more than $1 million, or for the lease of any medical facility at an annual rental of more than $200,000, without the House and Senate Veterans' Affairs Committees having adopted resolutions approving the project.

In order to obtain the committees' approval for a particular facility, the Administrator would submit to the committees a "prospectus" for the facility, would include a detailed description of the project, including cost estimates. Either committee could request, by resolution, "medical facility project surveys" which would contain all the information required of a prospectus. If funds were not appropriated for a facility with-

in 1 year after approval, either committee would be able to rescind approval, by resolution, before an appropriation is made.

Other provisions of H.R. 5025 would: First, provide for exemptions, under certain circumstances, from Federal Property and Administrative Services Act of 1949 provisions with respect to the acquisition and exchange of sites for VA medical facilities and of the medical facilities themselves; second, require the VA supported State veterans' home facilities comply with VA standards requiring fire, earthquake, and other natural disaster resistant construction and remodeling; third, authorize the Administrator to contract, when advantageous, for construction and alteration and to employ architectural or engineering corporations, firms, or individuals temporarily, "by contract or otherwise," without regard to civil service requirements; fourth, require the VA to submit two annual reports to the committee, a June 30 report—containing a 5-year plan for construction, replacement, and alteration of the most needed medical facilities, a priority listing of the 10, or more, hospitals most needed, and general plans for each medical facility—and a January status report of all approved but uncompleted facilities; fifth, eliminate the requirement that employees generally reimburse the VA for parking in VA garages; sixth, authorize such appropriations as may be necessary for garage and parking construction projects involving expenditures of $1 million or less, to be administered, together with income from fees, as a revolving fund; seventh, authorize without the current-law requirement of Presidential approval, the Administrator to establish and operate at least 125,000 hospital beds and establish and operate at least 10,000 nursing home care beds in fiscal year 1980 and in years thereafter.

The proposed agreement would have contained the provisions of H.R. 5025 with modifications to: first, limit the requirement of the committees' approval to those construction and acquisition projects estimated to cost more than $2 million and medical facility leases with an annual rental of more than $500,000; second, clarify that construction and equipment cost increases of more than 10 percent must be approved by a subsequent committee resolution; third, require that the committees be notified, in advance, of any proposed reprograming of funds; fourth, provide that approval of the VA's Advisory Committee on Structural Safety of Veterans' Administration Facilities would no longer be required for VA building-safety regulations and that that committee would make only recommendations to the Administrator on such regulations; fifth, provide that contracting for architectural and engineering services would be subject to civil service requirements; sixth, authorize appropriations and establish a revolving fund for garage and parking construction projects involving expenditures of $2 million or less; seventh, restore the requirement that VA employees generally be required to pay for parking in VA garages; eighth, require that the VA's maintenance and operation of at least 125,000 beds, and at least 12,000 nursing home care beds in fiscal year 1980 and in years thereafter, be subject to the approval of the President; and, ninth, specify that the amendments would take effect beginning October 1, 1979, except for the provision requiring the June 30 report, which would take effect on enactment.

The proposed agreement would also have deleted the provisions broadly exempting the VA from provisions of the Federal Property and Administrative Services Act of 1949 with respect to site and facility acquisition and exchange as well as the provision expressly authorizing either committee to require, by resolution, the conduct of medical facility project surveys.

PROCESS OF NEGOTIATIONS

Mr. President, as unfortunate as it is that this very beneficial package of legislation cannot be considered by this body today, I would like to state that, throughout the course of the negotiations, Chairman SATTERFIELD and the House Veterans' Affairs Committee have been extremely cooperative, honorable, and accommodating. We and our staffs negotiated long and hard to reach a fair and appropriate agreement.

Although I deeply regret the problems which have precluded enactment at this time of the agreement that Chairman SATTERFIELD and I worked out, I am very gratified that Chairman SATTERFIELD and the chairman of the House Veterans' Affairs Committee (Mr. ROBERTS) and I have agreed to do everything possible to achieve enactment of this legislation very early in the next Congress.

CONCLUSION

Mr. President, in closing I would like to express my gratitude to the many persons whose hard work, expertise, and cooperative efforts went into both the legislation now before us and the proposed agreement which I expect will be enacted early next year. This, of course, includes the chairman of the Subcommittee on Medical Facilities and Benefits of the House Committee on Veterans' Affairs (Mr. SATTERFIELD), and the chairman of the full committee (Mr. ROBERTS), as well as its ranking minority member (Mr. HAMMERSCHMIDT), and the ranking minority member of the Senate Committee on Veterans' Affairs, the Senator from Vermont (Mr. STAFFORD), and the ranking member of the Subcommittee on Health and Readjustment, the Senator from South Carolina (Mr. THURMOND). It also includes House staff members Mack Fleming, Ralph Casteel, and Jack McDonell, as well as members of our committee staff—Ellen Miyasato, Ed Scott, Jon Steinberg, Margaret Milligan, Garner Shriver, John Pressly, and Harold Carter.

Mr. President, the measure that is now before this body, H.R. 5029, contains the extensions for certain veterans programs that would otherwise expire, and I strongly urge its enactment.

EXHIBIT 1

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., October 14, 1978.

Hon. ALAN CRANSTON,
Chairman, Committee on Veterans Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 5029, the Veterans' Administration Programs Extension Act of 1978.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 5029.

2. Bill title: Veterans' Administration Programs Extension Act of 1978.

3. Bill status: As passed by the House of Representatives, October 13, 1978.

4. Bill purpose:

Sec. 2: Extends the authority of the V.A. to maintain a regional office in the Philippines to October 1, 1981.

Sec. 3: Extends the authority of the V.A. to enter in contracts and grants to provide hospital care, medical services, and nursing home care to Commonwealth Army veterans and New Philippine Scouts until September 30, 1981.

Sec. 4: Extends the Physician and Pay Comparability Act an additional three years until September 30, 1981.

Sec. 5: Permanently restores outpatient "obviate" care for veterans in Alaska and Hawaii.

Sec. 6: Extends eligibility for veterans readjustment appointments to veterans of the Vietnam era.

Sec. 7: Provides appropriation authority for health manpower training grants approved by the V.A. before May 1, 1978.

Sec. 8: Requires the V.A. to conduct a comprehensive study of medical care for veterans in Puerto Rico and the Virgin Islands.

Sec. 9: Authorizes the appropriation of $5 million for the year following enactment for the implementation of a new program of benefits under Chapter 15, Title 38, U.S.C.

5. Cost estimate:

[In millions of dollars]

	Fiscal year—				
	1979	1980	1981	1982	1983
Sec. 2: Estimated authorization/cost	1.4	1.4	1.5		
Sec. 3:					
Authorization level	2.1	2.1	2.1		
Estimated cost	1.6	1.6	.6	0.2	0.3
Sec. 4:					
Required budget authorization	8.1	8.1	8.1		
Outlays	7.6	8.1	8.1	.5	
Sec. 5:					
Required budget authorization	.8	.9	.9	1.0	1.1
Outlays	.8	.9	.9	1.0	1.1
Sec. 6: No cost.					
Sec. 7:					
Authorization level	16.2				
Estimated cost	.2	15.2	.8		
Sec. 8: No cost.					
Sec. 9:					
Authorization level	5.0				
Estimated cost	5.0				

The costs of this bill fall within function 700. Certain components of this bill would alter future federal liabilities through changes to existing entitlements, and therefore imply subsequent appropriation action on budget authority. The figures shown as "Required Budget Authority" represent the amounts by which budget authority could be changed from the level needed for these entitlements, in the absence of enactment of H.R. 5029. Provisions with stated authorization levels are assumed to be fully appropriated. Provisions where the authorization level is not stipulated are considered to be appropriated at the level of estimated costs.

6. Basis for estimate:

Sec. 2, 3, 4: These estimates are based on a previous CBO cost estimate. Authorizations are assumed to be fully appropriated.

Sec. 5: The cost estimate was obtained by adjusting current age sex utilization rates for veterans in Alaska and Hawaii to reflect national levels of "obviate" outpatient care. Costs in the outyears are inflated by CBO assumption about inflation in medical care costs.

Sec. 6: This provision to enlarge the scope of the Veterans Readjustment Appointments program would result in no additional federal costs, since the program does not affect federal employment levels.

Sec. 7: Authorizations were based on data provided by the V.A. on the extent of its over commitment in grant assistance programs. Outlays were based on appropriate program spendout rates. It was assumed that authorizations would be fully appropriated at the beginning of each fiscal year.

Sec. 8: The costs of conducting this study are assumed to be absorbed in the V.A. operating budget.

Sec. 9: It is assumed that the funds authorized by this section will spendout entirely in fiscal year 1979.

7. Estimate comparison: None.

8. Previous CBO estimate:

The estimate for Section 2, 3, and 4 of this bill are based on CBO's May 15, 1978 cost estimate of H.R. 5029.

9. Estimate prepared by: Steve Crane (225-7766).

10. Estimate approved by:

JAMES L. BLUM,
Assistant Diretor.

Mr. THURMOND. Mr. President, I rise in support of H.R. 5029, the Veterans' Administration Programs Extension Act of 1978.

This bill is comprised of provisions which will extend the authority of various VA programs. For instance, there will be an extension for 3 years of the Philippine health-care programs and their VA regional office. There would be an extension for special pay authority for VA physicians and dentists, and H.R. 5029 would authorize funds necessary to meet budgetary shortfalls under the health manpower training program. A 3-year extension also will be granted to the Civil Service Commission under the Veterans Readjustment Appointment Act.

Mr. President, these are merely extensions of existing law and I urge my colleagues to support H.R. 5029.

Mr. STAFFORD. Mr. President, amendments of the House of Representatives to the Senate amendments to H.R. 5029 are now before the Senate for approval. The other body passed H.R. 5029 on April 4, 1977, and with an amendment in the nature of a substitute it passed the Senate on May 26, 1978. It is regrettable the House has not accepted the Senate's proposed amendments to this bill, and the bill now before us contains no new proposals—merely some extensions of existing law.

Senate-passed legislation had contained provisions for readjustment counseling, drug and alcohol treatment, and preventive health care programs. These worthwhile programs have been dropped and are not included in H.R. 5029 as members of our Senate committee had hoped. Members of our Senate Veterans' Affairs Committee trust that next year the other body will seriously consider these programs as passed by the Senate and included in our proposed legislation sent to them.

H.R. 5029 as amended and now under consideration includes an extension for 3 years of the Philippines health care programs and the VA regional office in the Philippines. It would extend for 3 years the special pay authority for VA physicians and dentists. It would authorize appropriations necessary to meet shortfalls in the health manpower training program (Public Law 92-541).

Our Senate Veterans' Affairs Committee considers the 3-year extension in this amended bill of the veterans readjustment authority as very important. The VRA authority is a special appointing authority within the Federal Civil Service for Vietnam-era veterans who have 14 years or less of education and who have been separated from the service for 1 year or less. The VRA authority may go up to grade GS-7 or its equivalent.

On October 10, 1978, President Carter submitted to the Congress a special message to report on the progress of veterans of the Vietnam era and to describe the action he will take to respond to the special problems of these veterans. The President specifically ordered all Federal agencies to make greater use of veterans readjustment appointment (VRA) authority to bring Vietnam-era veterans, especially the disabled, into Government service. He reminded us that he has already submitted legislation to liberalize and extend the authority.

I support and urge passage of H.R. 5029 as amended and before us at this time.

● Mr. STEVENS. Mr. President, I rise in support of H.R. 5029, the Veterans' Administration Program Extension Act of 1978 that is currently under consideration. The measure contains a section which would make fee basis contract care authority for hospital care and medical services permanent for veterans in the States of Alaska and Hawaii.

Alaska and Hawaii are the only two States in the Nation that do not have Veterans' Administration hospitals. Veterans in these States rely solely on fee basis contract authority for medical attention. They obtain medical care from private physicians at private facilities. The doctors there are in turn reimbursed by the Veterans' Administration for their services. Additionally, the Veterans' Administration contracts beds at hospitals for veterans in my State and in Hawaii.

I commend the House and Senate Committees on Veterans' Affairs and both bodies of Congress for acting on this legislation to alleviate problems encountered by these veterans in obtaining medical care since the enactment of Public Law 94-581, the Veterans Omnibus Health Care Act of 1976, which revoked fee-basis care for these individuals.●

Mr. CRANSTON. Mr. President, I move that the Senate concur in the amendments of the House en bloc.

The motion was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the majority whip.

SENATE CONCURRENT RESOLUTION 114—CORRECTIONS IN ENROLLMENT OF S. 2570

Mr. CRANSTON. Mr. President, I send to the desk, for Mr. NELSON, a concurrent resolution making technical changes in the CETA conference report which the Senate adopted Saturday night, and I ask for its immediate consideration. This has been cleared on all sides.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 114) directing the Secretary of the Senate to make certain corrections in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment And Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to, as follows:

S. CON. RES. 114

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, is hereby authorized and directed to make the following corrections:

(1) In section 3(7)(B)(ii) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "but is within 6 months of no longer being eligible for such assistance".

(2) In section 3(11) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "(A)".

(3) In section 3(27)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "below" and insert "not in excess of".

(4) In section 103(a)(21) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the semicolon at the end thereof and insert a period.

(5) In section 103(b)(9) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "and" at the end thereof.

(6) In section 103(b)(15)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "each of the preceding two years" and insert "in the preceding year".

(7) In section 104(a)(2)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "designated" and insert "appropriate".

(8) In section 104 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate the second subsection (c) as subsection (e).

(9) In section 105(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "308" and insert "307".

(10) In section 106(i)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "Act" and insert "subsection".

(11) In section 122(d) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "not" before "subsidized".

(12) In section 122(h)(3) of the Comprehensive Employment and Training Act,

as proposed by section 2 of the bill, strike out "subparagraph" and insert "paragraph".

(13) In section 122(i)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "that" in the second sentence.

(14) In section 123(c)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(15) In section 123(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(1)" and insert in lieu thereof "3".

(16) In section 124(a)(3) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "part A of" before "title IV".

(17) In section 127(a) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "Act" before "Amendments".

(18) In section 127(e)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(c)" and insert "126(d)".

(19) In section 133(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "128" and insert "127".

(20) In section 202(a)(1)(A)(i) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the period at the end thereof and insert a semicolon.

(21) In section 204(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(22) In section 212(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "and section 121(i)" after "121(c)(2)".

(23) In section 233(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "pursuant to section 232" and insert "for this part".

(24) In section 233 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate subsections (e) and (f) as subsections (d) and (e), respectively.

(25) In section 301(b)(1)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "section" and insert "subsection".

(26) In sections 308(e) and 308(g) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "forty" and insert "55".

(27) In section 311(f) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "132(a)(7) of the Vocational Educational Amendments of 1976" and insert "section 134(a)(7) of the Vocational Education Act of 1963".

(28) In section 433(a)(4) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "subpart" and insert "part".

(29) In section 503(5) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "(i)" and insert "(A)".

(30) In section 602(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "proposed appropriation" and insert "estimated allocation".

(31) In section 604(a)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "pursuant to section 602" and insert "for this title".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RECLAMATION SAFETY OF DAMS ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2820.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2820) entitled "An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes," do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. (a) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal maintenance of the structure by the operating entity, shall be considered as project costs and will be allocated to the purposes for which the structure was authorized initially to be constructed and will be reimbursable as provided by existing law.

(b) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes, shall be nonreimbursable and nonreturnable under the Federal Reclamation law.

SEC. 5. There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act.

FEDERAL RECLAMATION DAMS SAFETY

SEC. 7. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 8. The Congress hereby finds that the oversight provided for in section 3 of Public Law 95-46 has been accomplished with respect to the three temporary water service contracts between the United States and the Westlands Water District, as forwarded to Congress on October 4, 1978.

SEC. 9. (a) The Secretary of the Interior, after October 1, 1979, shall make a full investigation and study to determine the feasibility of carrying out a project to rehabilitate and improve the existing Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, including—

(1) repairing and stabilizing the face of the dam;

(2) enlarging spillway capacity to insure the safety of the dam; and

(3) raising the dam to increase the storage capacity of Santa Cruz Reservoir.

(b) In carrying out the investigation and study authorized by subsection (a) the Secretary shall give full consideration to the potential for developing the Santa Cruz Dam and Reservoir as a unit or part of the San Juan-Chama project.

(c) The Secretary shall submit to the President and the Congress as soon as practicable the results of such investigation together with his recommendations.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this bill.

SEC. 10. The fourth sentence of section 201 of the Act of September 30, 1968, (Public Law 90-537) is amended by striking out "from the date of this Act" and by inserting in lieu thereof the following: "from the date of the enactment of the Reclamation Safety of Dams Act of 1978".

SEC. 11. The Secretary of the Interior is hereby directed, notwithstanding the terms of the Contract Numbers 14-06-100-7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at federal expense pursuant to the authority of Public Law 89-596 which authorized the construction, operation and maintenance of the Tualatin Reclamation Project in Oregon.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST— S. RES. 575

Mr. ROBERT C. BYRD. Mr. President, in order to vitiate the cloture motion, the vote on the cloture motion which is about to occur, the Senator from Nevada (Mr. CANNON) and the Senator from South Dakota (Mr. ABOUREZK) have worked out the following unanimous-consent agreement which, if agreed to, will result in the vitiating of the cloture vote. This has been cleared, I am told by them, on both sides of the aisle.

Mr. President, I ask unanimous consent that Senate Resolution 405 be called up as the pending business, with a time agreement thereon of not to exceed 5 minutes; that no amendments shall be in order to the resolution and no motion to table shall be in order.

Further, that the Rules Committee be discharged from further consideration of Senate Resolution 575, which shall be the pending business immediately following the vote on Senate Resolution 405, with a time agreement on Senate Resolution 575 of not to exceed 5 minutes, but no amendments on the motion to table being in order.

Further, that the Committee on Commerce be discharged from further consideration of H.R. 8729, the Airport and Aircraft Noise Reduction Act of 1978, which shall be the pending business immediately following the vote on Senate Resolution 575, with a time agreement on H.R. 8729 of not to exceed 10 minutes, with a time limit of 10 minutes on an amendment thereto in the nature of a substitute; that no amendment shall be in order, except the substitute to be offered by Mr. CANNON, to be followed immediately by a vote on the bill as amended.

Mr. President, as I say, if this agreement is acceded to by the Senate, the vote on the cloture motion to proceed to the consideration of the aircraft noise bill would then be vitiated.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. BAKER. Mr. President, reserving the right to object, I am under the impression that the distinguished Senator from South Dakota conferred with the Senator from Oregon, on our side, and that that procedure was cleared.

Mr. ABOUREZK. That is correct.

Mr. BAKER. The bill came from the Commerce Committee, and I wonder if there is any other comment on this side. I believe not.

Mr. JAVITS. Mr. President, I am on my feet, and I have a comment. What is it about? I have an amendment to the aircraft noise bill.

Mr. BAKER. Mr. President, I yield to the Senator from New York, to make his reservation on the request.

Mr. JAVITS. I object, and I would like to ask the majority leader what this is all about. Exactly what are we going to do, and with what?

Mr. CANNON. Mr. President, is the Senator concerned about the provisions of the aircraft noise bill?

Mr. JAVITS. I do not understand what was put up to us, what we are going to do, and what bill we are going to do it on.

Mr. CANNON. This unanimous-consent request relates to three separate items.

It relates, first, to the resolution extending the life of the Indian Affairs Committee for a period of 2 years.

Second, it relates to a resolution to provide for funding for the Indian Affairs Committee for the months of January and February of 1979, until the Rules Committee has the opportunity to meet on the normal funding resolutions for its committees.

Third, it relates to the noise bill, as amended, in the nature of a substitute.

I can answer any questions, I think, with relation to the provisions of it; but I may say that it has incorporated in it, in section 107, an amendment that I understood was to be proposed by the Senator from New York, which was worked out with his staff and the staff of the Commerce Committee.

Mr. JAVITS. Mr. President, if I may interrupt the Senator, obviously there is something about aircraft noise. Obviously, it concerns something in which I am interested. Therefore, I ask, with a reservation, that I may have a right to amend it and to look at it. I have no idea what this is about. It is a composite resolution with a lot of pieces. I do not know what is in it.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may temporarily withdraw the request. I do not need consent to do that, but I ask unanimous consent that the vote on the cloture motion be waived for 10 minutes, while some matters may be taken care of.

The PRESIDING OFFICER. Will the Senator from West Virginia restate his unanimous-consent request?

Mr. ROBERT C. BYRD. I ask unanimous consent that the vote on the cloture motion be waived for an additional 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Reserving the right to object, Mr. President, the request is that the cloture vote be postponed for 10 minutes, I assume, so that the Senator from New York and others interested in this matter can discuss the aircraft noise bill.

Does the majority leader withdraw his request?

Mr. ROBERT C. BYRD. If this vote is waived first.

Mr. BAKER. All right.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request momentarily. I yield to the distinguished majority whip.

HEALTH CENTERS AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2474.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting on its amendments to the bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

● Mr. HATHAWAY. Mr. President, I would like to express my support for the conference report on S. 2474, the Health Services and Centers Amendments of 1978, which I was pleased to cosponsor in the Senate. This bill extends a number of existing programs which provide health care services to the 49 million Americans living in medically underserved areas. It emphasizes primary and preventive health care services through which substantial savings in terms of costs and human suffering can be realized.

The legislation extends public health service programs designed to address hypertension, lead paint poisoning, genetic diseases, venereal disease, and hemophilia, as well as those which provide for comprehensive public health services, childhood immunizations, rodent control, home health services, emergency medical services, migrant health centers, community health centers, and the National Health Service Corps. In addition, the bill establishes a program of hospital affiliated primary care centers to address the problems created when primary care services are sought in hospital outpatient departments or emergency rooms.

Of primary importance to me is the provision authorizing projects to demonstrate new, improved, or expanded primary health and dental care delivery mechanisms for medically underserved populations. This provision is an outgrowth of S. 2780, the Rural Health Assistance Act of 1978, which I was pleased to introduce in March.

That greater Federal attention must be focused on health care in rural areas became clear during the hearings of the Senate Subcommittee on Health which I Chaired in Bangor, Maine in July 1977, and in Washington, D.C., last February. Sixty percent of the medically underserved population in this country live in rural areas. Many indicators of health status indicate a serious and growing disparity in the health of rural Americans in contrast to the Nation as a whole. Experts in rural health have indicated

that low population density creates special problems since the critical mass of people in an area is often far less than that usually required for services, resources, or facilities. There are more elderly poor people and more elderly residents in rural areas, often requiring more care than the general population, and fewer residents are covered by health insurance than their urban counterparts.

The need for services is great, yet the availability of services is sorely limited. There is still a critical shortage of physicians, dentists, and other health care professionals in rural areas. Emergency medical services are less available, and accessibility to the limited care that is available is restricted by long distances, geographic barriers, and inadequate transportation services.

Congress has been taking steps to improve the availability of health care in rural locales. For example, the Rural Health Clinics Act was recently passed to extend medicare and medicaid coverage to nurse practitioners and physician assistants in rural health clinics. I was pleased to cosponsor this measure as I believe it will make care accessible to communities which lack adequate coverage by doctors. There are 70 such communities in Maine alone.

While some progress is being made, we still have a long way to go. The level of Federal attention to the problems of rural America is still inadequate. This is particularly true where the health of our citizens is concerned. While more than one-half of the medically underserved Americans live in rural areas, they receive less than 25 percent of the available Federal funds. Testimony at the Health Subcommittee hearings revealed that HEW currently spends more than $7.50 for every medically underserved urban resident, but only about $2.25 for each rural person in a medically underserved area.

The primary care research and development provision is designed to rectify that imbalance. At the same time, it recognizes the need for research and demonstration programs to improve health care in urban areas as well. Consequently, it authorizes grants and contracts for projects to provide health and dental care to medically underserved populations in both rural and urban areas, with one authorization for projects in rural areas and a smaller authorization for those in urban areas.

This provision is intended to encourage innovative approaches to the delivery of care, drawing on existing resources as well as identifying and attracting new ones. It is intended to allow for maximum flexibility without imposing administrative requirements such as those required of community health centers, which might be difficult or impossible to meet. Furthermore, it will replace the "health of underserved rural areas" program with a permanent statutory authority.

Mr. President, the conference report before us also contains the provisions of S. 3116, the Disease Prevention and Health Promotion Act of 1978, which was reported unanimously by the Committee on Human Resources on August 25, 1978, and was adopted as an amendment to S. 2474 on the floor.

This legislation extends for fiscal years 1980 and 1981 a number of expiring programs related to disease prevention and health promotion. In addition, it complements these programs with additional authorities to improve the ability of State and localities to work toward prevention of the five leading causes of death and disability. It focuses on State and local initiative in planning and carrying out prevention programs and provides incentives for States and localities to increase their own investment in such activities. I am pleased that this measure includes provisions which I offered in committee tc insure that funds for project grants for preventive health services will be equitably distributed between rural and urban areas and that demonstrations of intensive and comprehensive community-based programs will be conducted in both rural and urban areas.

It has become increasingly clear that an expanded national commitment to disease prevention and health promotion is essential if we are to put a lid on skyrocketing health expenditures and improve our currently stagnating health indices. At present, less than 3 percent of every health care dollar is spent on disease prevention and health promotion. While we have improved access to health care in recent decades, it is no wonder that we have made relatively little progress in improving the health of our Nation.

With a concentrated effort on prevention, however, I believe we can improve our health. We must not pass up this opportunity to take the lead in disease prevention and health promotion and to provide incentive to States and localities to do the same.

Finally, Mr. President, the conference report includes the Senate provisions contained in the Adolescent Health, Services and Pregnancy Prevention and Care Act of 1978. This legislation is directed toward meeting a clear and growing need in our society. I was pleased to join my distinguished colleagues in introducing this measure on April 13 and to have participated in further improvements and refinements as it progressed through the legislative process. I am particularly pleased that the bill as reported includes my amendments to address the needs of rural areas.

Nearly 13 million of the 60 million women in the world who became mothers in 1975 became parents before they became adults. The teenage childbearing rates in the United States are the fourth highest among industrialized nations, and indeed, higher than many less developed nations. Adolescent childbearing is becoming an alarming problem, often involving serious health and socioeconomic complications in the lives of these young mothers, fathers, and their children.

This bill addresses the need of adolescents for information and education to prevent initial and subsequent pregnancies, strives to assist those who are already pregnant with both prenatal and postnatal health care and support services, to help them remain in school, and become productive and contributing members of society. Finally, it provides for education of those who choose to keep their children to assist them in becoming responsible parents.

The bill intends to fulfill these goals by authorizing grants to public and nonprofit private agencies to help communities support and coordinate services and programs relating to pregnancy.

The statistics which underscore the need for increased services are truly alarming.

Of the 21 million teenagers in the United States between the ages of 15 and 19, 11 million—a little more than half—are sexually active. Further, one-fifth of the 8 million 13- and 14-year-old youths in this country are estimated to have had sexual relations.

One million young women aged 15 to 19 and 30,000 girls under 15 become pregnant each year, resulting in over 600,000 births. The out-of-wedlock birth rate has declined among women aged 20 to 24, but has increased among women aged 14 to 19, with the result that for the first time since 1961, the birth rate among single 18- to 19-year-olds is higher than that of 20- to 24-year-olds.

For those teenage parents who marry, studies have shown that divorce or separation are two to three times higher than in marriages of people in their early twenties. The combination of the strains of adolescence itself, family responsibility, and economic instability are often too much for a young marriage to bear.

Teenage mothers do not often have the skills necessary to support themselves, or to compete in the working world. It was found in New York in 1973 that 85 percent of those who became mothers when they were 15 to 17 years old had not completed high school. Nine out of ten of those who have a child at age 15 or younger never complete high school either, and more than 4 in 10 never get beyond the eighth grade. Female teenage dropouts most often give pregnancy as the reason for leaving school. And although legislation and regulations have confirmed the right of teenage mothers to an education, teachers and counselors often encourage pregnant students to leave school.

Therefore, due primarily to a lack of skills and secondarily to a lack of infant day care centers, teenage mothers are less likely to work and more likely to be on welfare. The younger the mother, the higher the risk of poverty for her family, so just in terms of economics alone, it makes sense to prevent teenage pregnancies.

Beyond these overall educational, social and economic considerations, we must realize that, because very young women are biologically too immature for effective childbearing, there are serious hazards directly related to the health of the mother and to her child. The risk of death in the first year of life is twice as high for babies born to teenage mothers as it is for babies born to mothers in their early twenties. Also twice as high among babies born to teens is low birthweight. This is a major cause of infant mortality and birth injuries such as neu-

rological defects which may involve mental retardation.

In the course of hearings and markups on this bill, I was particularly concerned that this legislation be fully responsive to the unique needs and problems of rural, sparsely populated areas in the delivery of comprehensive services. For example, in the State of Maine over 60,000 low-income women of childbearing age are at risk of unintended pregnancies. There are over 18,000 teenaged women estimated to be sexually active and at risk of pregnancy. One of every five births is to a teenaged mother, and nearly one-tenth of all births in Maine are out of wedlock, half of these to teenaged mothers. Many of these individuals reside in outlying areas where there are no available programs or services directed toward meeting their needs. The adverse health, social, and economic consequences mentioned in section 2 of the bill are further aggravated in these areas. These include a higher percentage of pregnancy and childbirth complications, a higher incidence of low birth weight, higher frequency of developmental disabilities, infant mortality, a decreased likelihood that the mother will complete school, and an increased likelihood that an adolescent marriage will end in divorce.

Along with the tragic human costs, the resulting unemployment and increased welfare burden pose a particularly severe burden on these areas already overwhelmed with these problems.

I was, therefore, pleased to note that section 103 of the bill as introduced gave priority to outreach and the need to serve areas where the incidence of low-income families is high and where the availability of pregnancy-related services is low.

At the same time, however, I was concerned that the bill as introduced accorded priorities to comprehensive "single site programs" and to those which "will utilize existing programs and facilities such as neighborhood and primary health care centers * * *" (section 103(a) (3) and (4)).

I was concerned that these latter priorities may operate to the detriment of proposals forthcoming from rural areas which are directed toward establishing comprehensive programs where they do not currently exist and which require multiple service delivery sites to assist a widely dispersed population, while taking advantage of a centralized administrative structure. I discussed this problem with Secretary Califano at hearings on the bill, and he agreed that amendments were necessary.

In this regard, the committee adopted my proposals to insure that the needs of rural areas were met. As amended, the bill gives priority to "a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas)." The bill lists regional rural health facilities as appropriate grantees.

Also, the bill states:

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services.

All of these provisions are summarized and further emphasized in the committee report:

The Committee intends that the Secretary shall give priority to grantees that fulfill the following requirements:

(1) Serve an area where there is a high incidence of adolescent pregnancy, and

(2) Serve an area where the incidence of low income families is high and availability of pregnancy related services is low.

However, the Committee also intends that the needs of adolescents residing in rural areas be recognized and appropriately addressed by this bill. The Committee realizes that although the delivery of comprehensive services to a widely dispersed population may be difficult and that delivery system models appropriate for inner city programs may be inappropriate for rural programs; the Committee directs the Secretary to address these problems. The bill requires that in making grants the Secretary shall consider the special needs of rural areas and that, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services and the Committee directs the Secretary to exercise care to afford an equitable opportunity to program applicants from rural areas.

The evidence supporting the need for legislation to prevent unwanted teenage pregnancies is overwhelming. I cannot emphasize enough, our responsibility to recognize this problem, and to provide the help and support which our teenagers need as alternatives to abortion. We must be realistic, and as the "parents" of this Nation, do what must be done to insure the mental, physical, educational, and economic health and wellbeing of the generations who are now struggling toward adulthood, and toward the ultimate responsibility of our future society.

Mr. President, the conference report before us contains authorizations for many programs which can play a significant role in improving the health of our Nation. I urge my colleagues to adopt it without delay.●

The motion was agreed to; and the Chair appointed Mr. KENNEDY, Mr. NELSON, Mr. HATHAWAY, Mr. PELL, Mr. SCHWEIKER, Mr. JAVITS, and Mr. CHAFEE conferees on the part of the Senate.

ADDITIONAL CONFEREES—S. 2474

Mr. ROBERT C. BYRD. I ask unanimous consent that the Chair be authorized to appoint two additional conferees on S. 2474, the health bill.

There being no objection, the Presiding Officer appointed Mr. WILLIAMS and Mr. CRANSTON additional conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BARTLETT. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma will suspend until we have order in the Senate.

Senators will please cease speaking, so that the Senator from Oklahoma can be heard. Staff members will do the same. The Senate is not in order. The Senate will not proceed until the Senate is in order. If Senators will cooperate in bringing the Senate to order, it will expedite procedures this morning.

TRIBUTES TO RETIRING SENATORS

Mr. ROBERT C. BYRD. Mr. President, I say for the information of all Senators that unanimous consent has already been given for entry in the RECORD of tributes of all retiring Senators and that tributes may be turned in through November 7.

UNANIMOUS-CONSENT AGREEMENT—S. RES. 575

Mr. ROBERT C. BYRD. Mr. President, I now return to the agreement which I had propounded with the modification that Mr. JAVITS have control of 3 minutes and with the further understanding that upon the disposition of that matter, the distinguished Senator from Washington (Mr. MAGNUSON) be recognized to call up the continuing resolution on which there be a time limitation of 1 hour to be equally divided between Mr. MAGNUSON and Mr. YOUNG; that there be a time limitation on any amendment of 30 minutes, to be equally divided in accordance with the usual form; that there be a time limitation on any debatable motion or appeal or point of order if such is submitted to the Senate of 10 minutes; and that the agreement be in the usual form with respect to the division and control of time.

Mr. JAVITS. Mr. President, reserving the right to object, I understand there is an amendment to this which Senator WILLIAMS and I considered to be important. I think in order to explain it adequately to the Senate we would need a half hour for our side.

Mr. ROBERT C. BYRD. That is perfectly all right. A half hour to a side?

Mr. JAVITS. Yes.

Mr. ROBERT C. BYRD. Very well. I modify the request.

Mr. STEVENS. Mr. President, reserving the right to object, I have an amendment which I discussed with the Speaker, and with the chairman. I wish for it to be specifically referred to so there be no question about its germaneness. It deals with restoring authorization that was deleted last night by the House of Representatives. It will be within the normal time agreement. I wish to make certain.

Mr. ROBERT C. BYRD. All right.

An amendment by Mr. STEVENS on which there shall be a 30-minute time limit.

Mr. President, may I have agreement to the request insofar as the continuing resolution is concerned?

The PRESIDING OFFICER. Is there objection to the unanimous-consent request by the majority leader?

Mr. ROBERT C. BYRD. With respect to the continuing resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the majority leader please clarify for the Chair on the Javits amendment that there be 1 hour equally divided or 30 minutes?

Mr. JAVITS. Mr. President, it is not a

Javits amendment. We understand it is the Chiles amendment.

The PRESIDING OFFICER. On what we thought was the Javits amendment and is now the Chiles amendment, is it 1 hour equally divided or 30 minutes equally divided?

Mr. ROBERT C. BYRD. Yes, 1 hour equally divided.

Mr. JAVITS. That is right.

The PRESIDING OFFICER. I thank the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I renew the unanimous consent agreement which I had earlier propounded on behalf of Mr. CANNON, Mr. ABOUREZK, and now Mr. JAVITS, with understanding.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VITIATING CLOTURE VOTE ON H.R. 8729

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on the aircraft noise bill be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CANNON. Mr. President, is Senate Resolution 405 then the pending business?

The PRESIDING OFFICER. Under this agreement Senate Resolution 405 is the pending business.

The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 405) to make the Select Committee on Indian Affairs a permanent committee of the Senate.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Rules and Administration with an amendment to strike all after the resolving clause and insert the following:

That section 105(d) of S. Res. 4, Ninety-fifth Congress, agreed to February 4 (legislative day, February 1), 1977, is amended by striking out "at the close of the Ninety-fifth Congress and, effective with the commencement of the Ninety-sixth Congress," and inserting in lieu thereof "on January 2, 1981, and, effective on January 3, 1981,".

Amend the title so as to read: "A resolution extending the Select Committee on Indian Affairs through the Ninety-sixth Congress.".

Mr. CANNON. Mr. President, the amendment to that resolution provides that the committee shall be extended for a period of 2 years.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Let us vote on the resolution itself.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution, as amended, was agreed to.

The title was amended so as to read:

A resolution extending the Select Committee on Indian Affairs through the Ninety-sixth Congress.

AUTHORIZING SUPPLEMENTAL EXPENDITURES BY THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. CANNON. Mr. President, the next order is Senate Resolutions 575.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 575) authorizing supplemental expenditures by the Select Committee on Indian Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to the consideration of the resolution.

Mr. CANNON. Mr. President, that resolution provides for the funding of the committee up until the end of February 1979, which is the period of the expiration of funding of all other committees of the Senate and the following period would be considered by the Rules Committee in the regular fashion.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 575) was agreed to as follows:

Resolved, That section 1 of S. Res. 368, Ninety-fifth Congress, agreed to March 6 (legislative day, February 6), 1978, is amended by striking out "the close of the Ninety-fifth Congress to expend not to exceed $518,000 from the contingent fund of the Senate, of which amount not to exceed $12,000" and insert in lieu thereof "February 28, 1979, to expend not to exceed $621,600 from the contingent fund of the Senate, of which amount not to exceed $14,000".

AIRCRAFT AND AIRPORT NOISE REDUCTION ACT OF 1978

Mr. CANNON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8729.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

H.R. 8729, a bill to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 2113

Mr. CANNON. Mr. President, I move to strike out all after the enacting clause and substitute therefor an amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an amendment in the nature of a substitute, unprinted amendment numbered 2113.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and substitute in lieu thereof the following:

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720);

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport;

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the 12th month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the impact of noise upon individuals which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence;

(3) identify land uses which are normally compatible with various impacts of noise on individuals.

SEC. 103. (a) (1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise impact map which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise impact map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise impact map showing such new noncompatible use.

(b) (1) Section 11 of the Airport and Airways Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise impact map

and related information permitted by section 103 of the Airport and Aircraft Noise Reduction Act of 1978, including any cost associated with obtaining such information, and (B) a noise compatibility program pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713(a)) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, the Secretary may make grants of funds to sponsors of air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title for noise compatibility planning.".

(B) Section 13(b) of such Act (49 U.S.C. 1713(b)) is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) the Total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant or airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent.

"(C) No more than 10 percent of the funds made available under this paragraph in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2) For the purpose of carrying out subsection (a)(2) of this section, there is authorized to be appropriated, for fiscal years ending on or after September 30, 1979, out of the Airport and Airway Trust Fund, not to exceed $15,000,000.".

SEC. 104. (a) Any airport operator who has submitted a noise impact map and the related information permitted by section 103(a)(1) of this title may develop, in consultation with the officials of any unit of local government in the area surrounding such airport, the Federal officials having local responsibility for such airport, any air carrier using such airport, and any regional planning authority, and submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise impact map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type aircraft based on noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of single family residences, apartment buildings, and other buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce the impact of noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, such as air rights, easements, and development rights, so as to insure the continued use of property for purposes compatible with airport operations.

(b) The Secretary may disapprove any program or part thereof submitted to him pursuant to subsection (a) of this section within 180 days after it is received by him. The Secretary may disapprove such program or part thereof (1) if the measures to be undertaken in carrying out such program (A) do not provide for the continuation of safe flight operation, (B) create an undue burden on interstate or foreign commerce, and (C) are not reasonably consistent with the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses; and (2) if the program does not provide for any revision made necessary by any revised noise impact map submitted under section 103(a)(2) of this title. Failure of the Secretary to disapprove such program within such time period shall be deemed to be an approval of such program, except that the Administrator of the Federal Aviation Administration shall be required to explicitly approve or disapprove any part of such program which relates to flight procedures referred to in subsection (a)(4) of this section, within such time period.

(c)(1) The Secretary is authorized to make grants under this Act for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 and those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) There is authorized to be obligated by the Secretary, out of the Airport and Airway Trust Fund, funds not to exceed $35,000,000 for the fiscal year ending September 30, 1979, and not to exceed $35,000,000 for the fiscal year ending September 30, 1980, to be expended, at the discretion of the Secretary, for making grants under subsection (a) of this section.

(e) The Secretary is authorized to make loans under this Act in amounts as included in appropriations Acts, upon such terms and conditions as are specified in this section and any others he considers appropriate, to airport operators and to units of local government in the area surrounding such airports, if the airport operator at a given airport approves the purchase plan of the unit of local government, for the purpose of acquiring real property impacted by aircraft noise in accordance with a noise compatibility plan not disapproved under subsection (b) of this section: *Provided*, That the aggregate amount of outstanding loans at any time shall not exceed $300,000,000. Any loan made under this Act may not exceed 80 percent of the cost of the real property acquired and may not be made for a period in excess of 5 years, and shall bear interest at a rate determined by the Secretary such that the earnings are sufficient to cover the administrative costs of the program authorized by this subsection. Real property acquired with the proceeds of a loan under this subsection may be leased for uses compatible with projected noise levels, or sold, with the approval of the Secretary, if the airport operator provides assurances considered adequate by the Secretary that future uses will be compatible with such noise levels.

(f) There is established in the Treasury of the United States a revolving fund to be known as the Aircraft Noise Impacted Real Property Acquisition Revolving Loan Fund (hereinafter referred to as the "fund"). The fund shall be administered by the Secretary and shall consist of such amounts as may be transferred, appropriated, or credited to the fund as provided in this section. At the close of fiscal year 1979, $300,000,000 shall be transferred to the fund from the Airport and Airway Trust Fund. All sums received in connection with the administration of subsection (e) of this section shall be credited to the fund. There are authorized to be appropriated to the fund such additional sums as may be required to carry out subsection (e). Amounts in the fund shall be available, as provided by appropriations Acts, for making expenditures after October 1, 1979, and before October 1, 1990, to meet those obligations of the United States incurred under subsection (e) of this section and for the administrative costs of the program. Any balances remaining in the fund after 1995 shall revert to the Airport and Airway Trust Fund. The Secretary is empowered to prescribe rules and regulations consistent with the provisions of this section.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any unit of local government in the area surrounding such airport, shall prepare and publish a noise impact map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

SEC. 106. Any noise impact map submitted to, or prepared by, the Secretary under this title and the list of land uses identified by the Secretary under this title as those which are normally compatible with various impacts of noise on individuals shall not be received in evidence in any trial, hearing, or other proceeding in or before any court in the United States.

SEC. 107. No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport for which there is in effect a noise impact map submitted under section 103(a) of this title, shall be entitled to recover damages with respect to the noise attributable to such airport unless, in addition to any other elements for recovery of damages, such person had no actual or constructive knowledge of the existence of the noise impact map in effect at such airport, and such person can show—

(1) a significant change in the type or frequency of aircraft operations at the airport;

(2) a significant change in the airport layout;

(3) a significant change in flight patterns; or

(4) a significant increase in nighttime operations, occurred after the date of the acquisition of such property or interest therein.

SEC. 108. (a) The Secretary shall study the means available for achieving maximum feasible airport noise—land use compatibility, as defined in section 102(3), toward a goal of full compatibility by January 1, 2000, including but not limited to—

(1) reductions in airport noise impact as a result of more stringent aircraft noise regulations and aircraft operating procedures; nighttime and early morning curfews; airport design and airport instrumentation changes; diversion of traffic from primary to secondary and satellite airports; accelerated development of more efficient and quieter aircraft powerplants; and

(2) changes in land use by means of acoustic insulation of buildings, changes in the zoning of undeveloped land, changes in the use of developed land, or by any other acceptable means.

Such study shall determine the combination of means which will achieve maximum feasible compatibility at minimum cost.

(b) The Secretary shall also determine the most efficient and effective means for obtaining funds for achieving such maximum feasible compatibility.

(c) Not later than July 1, 1979, the Secretary shall submit to Congress an interim progress memorandum detailing how such study will be carried out.

(d) Not later than January 1, 1980, the Secretary shall submit to Congress a report setting forth the determinations made pursuant to such study together with recommendations for legislation required to implement programs designed to achieve maximum feasible compatibility toward a goal of full compatibility by January 1, 2000.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714 (a)(3)) is amended by striking out "$495,000,000 for fiscal year 1979, and $525,000,000 for fiscal year 1980." and inserting in lieu thereof "$538,000,000 for fiscal year 1979, and $655,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(4)) is amended by striking out "$80,000,000 for fiscal year 1979, and $85,000,000 for fiscal year 1980." and inserting in lieu thereof "$87,000,000 for fiscal year 1979, and $105,000,000 for fiscal year 1980.".

(c) Paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(b)(4)) is amended by striking out the last sentence therein.

(d) Subsection (f) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(f)) is amended by adding a new paragraph (4) to read as follows:

"(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to paragraph (5) of subsection 15(a), in addition to the minimum amounts authorized for that fiscal year by subsection (a)(3) and (a)(4) of this section.".

SEC. 202. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)(2)(A)) is amended by striking out "and shall be 80 per centum" and inserting in lieu thereof "may not exceed 90 per centum".

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, (ii) is registered in the United States, (iii) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)), and (iv) as determined by the Civil Aeronautics Board, is in service on the effective day of this section, and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction;

(3) the term "Secretary" means the Secretary of Transportation.

LIST OF NONCOMPLYING AIRCRAFT

SEC. 302. Not later than 60 days after the date of enactment of this title, the Secretary shall publish a list in the Federal Register setting forth the name of each operator of each noncomplying aircraft and the registration number of such aircraft.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 303. The Secretary shall provide a waiver for the operation of two- or three-engine noncomplying aircraft beyond January 1, 1985, if the operator has entered into a binding contract by January 1, 1983, for the purchase of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R., Vol. 43, No. 42, p. 8722 et seq.) and in accordance with a plan specified in section 91.305(c) of title 14, Code of Federal Regulations.

LIMITED WAIVER AUTHORITY

SEC. 304. Notwithstanding any other provision of this or any other law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations to such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case in which the failure to grant a waiver would otherwise create burdens on an individual operator which are unreasonable in comparison to the burdens imposed on other operators of noncompliant aircraft, and if the Secretary finds such waiver to be in the public interest.

TITLE IV

CHANGE IN TAXES ON TRANSPORTATION OF PERSONS AND PROPERTY BY AIR AND TRUST FUND AUTHORIZATION

SEC. 401. Section 4261 of the Internal Revenue Code of 1954 is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Reduction of Rates.

Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980—

(1) the rate of taxes imposed by subsections (a) and (b) shall be 6 percent, and

(2) the tax imposed by subsection (c) shall be $1."

SEC. 402. Section 4271 of the Internal Revenue Code of 1954 is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) Reduction of Rates.

Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980, the rate of the tax imposed by subsection (a) shall be 3 percent."

SEC. 403. AIRPORT AND AIRWAY TRUST FUND AMENDMENTS.

(a) Authorization of Appropriations To Carry Out Aircraft and Airport Noise Reduction Act of 1978.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended to read as follows:

"(A) incurred under—

"(i) title I of the Airport and Airway Development Act of 1970,

"(ii) the Airport and Airway Development Act Amendments of 1976, and

"(iii) the Airport and Aircraft Noise Reduction Act.

as such Acts were in effect on the date of enactment of the Airport and Aircraft Noise Reduction Act."

TITLE V

SEC. 501. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

Mr. CANNON. Mr. President, the Airport and Aircraft Noise Reduction Act of 1978 is an essential piece of legislation. It provides land use planning funds for airports to help keep people away from the noise-impacted areas; it provides additional safety funds for airports in fiscal years 1979 and 1980, and solves several technical problems which have severely restricted the ADAP moneys available to small airports; it provides needed flexibility for the Secretary of Transportation to provide waivers from the noise regulations for those operators who make good-faith efforts to comply; and finally this bill provides needed tax relief to users of the air transport system.

Personally, I believe the most important feature of this bill is title II, the airport safety moneys and technical changes to the ADAP mechanism. The safety funds are sorely needed. FAA testified at our hearings that there are currently over $1 billion in ADAP requests that will go unfunded this year, of which over $600 million are high-priority safety items. I want to get more of those priority needs taken care of, so that we can do the most we can to see that the

type of tragic accident which took place in San Diego does not happen again.

I disagree with those who argue that the airlines do not deserve assistance in meeting a burdensome, retroactive environmental requirement. However, I will not allow my philosophical difference on this issue to stand in the way of improving the safety of our air transportation system.

Title I is also a key provision which I believe is unexceptionable. It provides a mechanism to keep the noise problem from spreading to more airports and more communities. This provision will pay future dividends beyond anyone's expectations, by solving the noise problem before it develops rather than after a residential community has been put in place.

In short, this is a noise-relief, safety, tax-reduction bill.

My amendment is in the nature of a substitute to H.R. 8729. It takes the Senate bill S. 3279 with the following changes:

First. Funding levels in title II are reduced somewhat to meet the objections of the White House.

Second. The assistance for the airlines in title III is completely eliminated. There is no money, there are no guidelines, there is no mention of assisting the airlines financially. While I am personally disappointed about this, it is clearly the only way to get this legislation passed.

Third. We are also reducing the ticket tax, with the savings going directly to the consumers.

In short, it is a far different bill than S. 3279. Nevertheless it is important and I urge you to vote for it.

We have, in this substitute amendment, reached a compromise on the Secretary's waiver authority. I just want to make it clear that this language is not intended to modify in any way the power and discretion of the Secretary to grant or deny exemptions under the Federal Aviation Act.

STATEMENT TO CLARIFY THE INTENT OF SECTION 104

Under section 104 the airport operator, in submitting a noise compatibility program for the Secretary's approval, shall set forth the measures which the operator has taken or proposes for the reduction of existing incompatible uses and the prevention of additional incompatible uses within the area covered by the noise impact map, including "the implementation of any restriction on the use of such airport".

The airlines are concerned that restrictions on airport use will include locally imposed curfews. It is not the intent of Congress to preempt this area and prohibit locally imposed curfews; it is the intent, however, to give the Secretary authority to disapprove any locally imposed curfew which creates an undue burden on interstate and foreign commerce. If an airline is in full compliance with the Federal noise and regulations (FAR–36), airport operators should use their curfew authority sparingly and with judicious care, balancing the needs of the local citizens with the communities and citizens at large who rely on and need airline service.

CLARIFYING STATEMENT ON SECTION 102

Section 102 of the bill requires the Secretary to establish a single system of measuring noise and a single system for determining the impact of noise on individuals.

In establishing these systems, the Secretary is directed to consult with the Administrator of the EPA and other Federal, State and interstate agencies.

In recognition of the substantial interest the Department of Housing and Urban Development has in reducing the effects of noise exposure on communities and residents of housing in noise impacted areas and in recognition of the work already done by HUD in developing guidelines for land use compatibility, it is our intent that the Secretary consult with HUD in developing its regulation under this section.

Mr. FORD. Mr. President, will the Senator from Nevada yield for a question?

Mr. CANNON. Yes.

Mr. HART. Mr. President, can we have order? The Senate is not in order. This is important legislation.

The PRESIDING OFFICER. The Senate is in as much order as it has been.

Mr. HART. Mr. President, I observe that is not a very good standard.

The PRESIDING OFFICER. I have to concur with the Senator from Colorado.

Mr. FORD. Would the Senator from Nevada agree with the following analysis?

Section 304 is intended to empower the Secretary to extend the compliance dates and permit noncomplying aircraft to operate thereafter in situations where the operator has good cause for failure to comply with such regulations. For example, unreasonable burdens would include situations in which the state of the art is not sufficiently advanced either to permit: First, retrofit of an aircraft type within the time limits prescribed by FAR Part 36 without significantly reducing payload or increasing fuel consumption of an aircraft or, second, retrofit at a reasonable cost in relation to the value and remaining economic life of the aircraft.

For example, the 30 BAC 1–11 aircraft operated in the United States today provide substantial essential air service to smaller cities. To date, no economical means of retrofitting this aircraft has been certificated and it is believed such retrofit would seriously undermine the operating characteristics of the aircraft without very much improvement in the noise level. Until an economical means is developed to retrofit such aircraft without unduly decreasing payload or increasing operating costs, the FAA should have the discretion to extend the compliance dates. If the excessive installation cost or unsustainable deterioration in operating characteristics of retrofitting a small jet aircraft such as the BAC 1–11 resulted in the grounding of these aircraft on the specified compliance dates, the public would be exposed to a substantial reduction in small-city air service. There are no replacement aircraft in the 75-passenger range meeting FAR Part 36 either on the market today or being designed. The manufacturers are not directing their attention to the 75-passenger airplane which provides smaller city service but instead are concentrating on 150- to 300-seat aircraft.

In such situation, it is consistent with the intent of this section to permit an airline to continue operating such aircraft for a reasonable period beyond such compliance dates. This will enable the operator more fully to realize its reasonable expectation as to the economic life of the aircraft when acquired and will afford a more adequate period for development of suitable retrofit technology, if possible. Is that interpretation correct?

Mr. CANNON. The distinguished Senator from Kentucky is absolutely correct. The example cited is exactly the type of "unreasonable burden" referred to in section 304. We expect the Secretary to utilize his waiver authority when an individual airline is being unreasonably impacted by the noise requirements vis-a-vis other airlines operating noncompliant aircraft.

Mr. GRIFFIN. Mr. President, as we consider this legislation I would like to call to the attention of the distinguished chairman of the committee on which I am privileged to serve, the Committee on Commerce, Science, and Transportation, a problem which we have in my State and the State of my colleague, the Senator from Wisconsin (Mr. NELSON).

There is a small airport in the Upper Peninsula of Michigan which serves Menominee, Mich., and Marianette, Wis. It is the Twin County Airport. For the past 10 years this airport commission has been trying its best to keep pace with the growth and mordernization of the airline industry. It is expected that by 1980 North Central Airlines will begin jet service to this airport.

In order to accommodate this type of aircraft, the anticipated growth in passenger traffic and the abatement of certain noise pollution problems, the airport commission must construct new runways and relocate roads and utility lines.

As the chairman is aware, the ADAP program administered by the FAA was created to meet these very problems. However, this agency has placed regulations on how this money is to be spent and allocated. It is my understanding that FAA requires a three-phase dispersal of grant moneys to eligible airports. The Twin County Airport Commission was told by FAA that they would receive phase I money to purchase the necessary land but that they would have to wait at least 2 years for phase II money to relocate roadways and utility lines.

Mr. President, I am advised by the Twin County Airport manager that it would be far more efficient if phase I and phase II could be joined. There is no statutory prohibition that would prevent this. The amount involved is $1.555 million for phase II.

After reviewing the arguments presented by the Twin County Airport Com-

mission, I have to agree that joining phase I and phase II makes good sense. It would be a more efficient and economical way to provide the Twin County Airport with its ADAP grant funds.

Let me again emphasize that the citizens in these two communities have been working for over 10 years to bring their airport up to date. In my view, it would be unfortunate and unconscionable not to recognize the special circumstances at this airport, and to make every effort to see that FAA acts favorably on the request in this case to join phase I and phase II funding.

Mr. President, could the Senator from Nevada (Mr. CANNON) clarify a couple of points concerning this bill?

Am I correct in my understanding that this bill provides increases in the levels for funding air carrier airport projects?

Mr. CANNON. The Senator is correct.

Mr. GRIFFIN. Am I also correct that, in many instances, this bill leaves to the discretion of the Secretary of Transportation, acting through the Federal Aviation Administration, to decide which projects will receive funding?

Mr. CANNON. Again, the Senator is correct.

Mr. GRIFFIN. Mr. President, would the Senator from Nevada (Mr. CANNON) agree that the compelling circumstances I just described must receive very careful attention when decisions are made concerning the uses made of these increases in funding?

Mr. CANNON. Mr. President, I would agree with my distinguished colleague from Michigan (Mr. GRIFFIN) that the situation you have described at the Twin County Airport is indeed compelling, and that it should receive every consideration by the Secretary when he decides which airports will receive funding.

Furthermore, it occurs to me that the Secretary would indeed be interested in applying phase I and phase II funds in such a manner as to achieve the substantial cost savings you have pointed out.

Mr. GRIFFIN. Mr. President, I thank my able committee chairman, and add that I would hope that the Secretary of Transportation would agree with his observations and proceed accordingly.

Mr. NELSON. Mr. President, I would like to join with my distinguished colleague from Michigan (Mr. GRIFFIN) in bringing the situation at the Twin County Airport to the attention of the Senate, the Secretary of Transportation, and the FAA.

It is clear that if we do not get funding we do not get service. The service is critical to the economic development of the Twin Counties area. I would hope that the Secretary would have occasion to take notice of the observations made by the chairman of the Commerce Committee (Mr. CANNON) and seek quick resolution of this problem.

Mr. CANNON. Mr. President, I thank the Senator from Wisconsin (Mr. NELSON) for his views on this matter.

Mr. PERCY. Section 102 of this bill gives to the Secretary of Transportation the responsibility to "identify land uses which are normally compatible with various impacts of noise on individuals." Section 304 gives to the same Secretary the authority to grant extensions and waivers from airplane noise regulations "as he determines reasonable." Both these sections are not consistent with earlier legislation giving this kind of advisory responsibility and authority to the Administrator of the Environmental Protection Agency.

The Noise Control Act of 1972 gives the EPA the responsibility to determine "levels of environmental noise in defined areas requisite to protect the public health and welfare." The same bill also amended the Federal Aviation Act of 1958 such that the FAA may not grant exemptions from noise regulations without first consulting the EPA.

The reasons we vested such authority in the EPA are as valid today as they were in 1972. EPA's primary function is to protect the public health and welfare from pollution, including noise pollution while the FAA's primary function is safety. Although safety is crucial, there should be some concern for the potential health problems of homeowners and apartment dwellers living near airports such as O'Hare International Airport in Chicago. I have talked personally, Mr. President, to the mayors and managers of 22 villages in the O'Hare area about airplane noise problems.

The citizens in these villages are suffering, Mr. President; the citizens of Bensenville, Arlington Heights, Bellwood, Villa Park, Elmhurst, Itasca, Park Ridge (especially Park Ridge, Mr. President. I went to an art fair there where you could not hear yourself think!), Des Plaines, Palatine, Addison, Norridge, Niles, Franklin Park, Mount Prospect, Bridgeview, Elk Grove Village, Lincolnwood, Harwood Heights, River Grove, Glenview, Schiller Park, and Hoffman Estates, Ill. The leaders of these villages have told me personally that airplane noise poses a hazard to their townspeople, and they want to make sure someone in the Federal Government cares about their problems.

To date, the Environmental Protection Agency has been most sensitive to the citizens' problems with noise pollution. If the EPA has found that specified levels of noise at places where specified activities occur are dangerous, then those levels should be considered by FAA in measuring the impact of airplane noise. Public health and welfare should be of primary importance in airplane noise standards.

QUESTION NO. 1

Can the Senator from Nevada guarantee that under this bill, the FAA will consult with EPA in good faith, and consult the EPA-defined noise compatibility standards when it, the FAA draws up airplane noise compatibility standards?

Mr. CANNON. The Senator is correct. EPA is to be consulted.

QUESTION NO. 2

Mr. PERCY. Section 304 of this bill in effect eliminates the responsibility of the Secretary of Transportation to consult with the Administrator of the EPA before granting waivers to airplane noise regulations. Is the intent of this bill, in the opinion of the Senator from Nevada, that DOT no longer consult with the EPA on waivers, or is the intent of this bill that these agencies continue to consult with each other? Will the Commerce Committee, in its oversight of the FAA, stress such consultation?

Mr. CANNON. I would expect FAA to consult with EPA on waivers which have a more than minimal impact on the system. The Commerce Committee will certainly encourage continued cooperation between FAA and EPA.

● Mr. PERCY. Mr. President, I can now fully support S. 3279, the Aircraft and Airport Noise Reduction Act of 1978. Airplane noise is the No. 1 issue to tens of thousands of my constituents. Those constituents live with the once-every-60-seconds din of jet aircraft arriving and departing Chicago's O'Hare International Airport, the world's busiest commercial airport. The bulk of these constituents spend less than 10 hours per year in an airplane. But they spend every waking hour and many restless sleeping hours hearing the whine of jet engines.

No one can say for certain how deleterious the short and long range health effects of excessive noise are. But no one can deny that jet noise is annoying, obnoxious, and at times, painful.

Of course, the only airplane noise the vast majority of my constituents hears is the whisper of a jet already halfway across the sky. For some of my colleagues, almost all their constituents fall into this category. But citizens all across my State and every other State use the air transport system. The aircraft noise problem therefore belongs to all of us. It is up to all of us to take steps to solve it.

The biggest step was the one taken by the Federal Aviation Agency last year to mandate fleetwide compliance with airplane noise standards by 1985. Quieting noise from the source is a very effective way to ameliorate noise problems.

This bill takes some steps to help the airlines comply with these noise regulations. Cutting the ticket tax by 2 percent leaves airlines the option of raising air fare by 2 percent (thereby keeping ticket prices steady), and using this extra revenue to finance noise abatement improvements. Some airlines may well decide to reduce their fares 2 percent and use the hoped for increased profits generated by lower fares and greater sales revenue to finance quieter aircraft.

The 2 percent tax reduction has merit in its own right, as well as in its effect on noise abatement. If it does indeed result in lower air fares, it will be anti-inflationary, and it will make transportation available so additional people can be brought into the market.

There are other important parts of the bill on which I base my support.

Title I provides funds for planning and implementing programs to improve compatibility between airplane noise and the uses of land around airports. These funds are only available to airports and airport area towns who volunteer to get together and commit themselves to solving their noise problems.

Once the commitment is made, though, funds are available to study and

implement a whole range of noise control projects ranging from preferential runway systems to soundproofing buildings, to actual acquisition of noise-impacted property. With the funds as an incentive, I look to the implementation of aggressive noise compatibility programs across the country.

Title I also instructs the Secretary of Transportation to establish a sorely needed uniform system of measuring noise and noise impact. The kind of confusion that now characterizes noise control programs should cease.

Mr. President, the managers of this bill have today graciously accepted two changes to title I of S. 3279 that I requested. The first change is intended to guarantee that airports and airport area towns consider the option of using the grant money included in this bill to soundproof individual residences and apartment buildings. Too often, Federal money only goes for big projects.

I would like to see some of this money going to the homeowner whose walls shake and windows rattle every time a plane goes over. Without some explicit statement in the bill itself, I was afraid these grants would never filter down to the homeowner or apartment dweller. The list of projects qualifying for grant money in section 104(a) included "the construction of barriers and acoustical shielding, including the soundproofing of buildings." Upon my request, that language has now been changed to read "the construction of barriers and acoustical shielding, including the soundproofing of buildings, single-family residences, and apartment buildings."

The second change substitutes a study with broader dimensions for the study that had previously been called for in section 108. In March of this year, the Federal Interagency Aviation Noise Research Panel recommended the following:

> If the postulated near-term and longer-range national aviation noise abatement goals are to be achieved circa 1985 and 2000, they will not likely be achieved merely by projected individual aircraft compliance with FAR 36 Stage 2 and Stage 3 levels, nor by additional improvements in source noise reductions affecting only a limited number of aircraft making up the total fleet. Instead, noise goal achievement will require the exercise of all four noise control options (source, path, airport operations and compatible land use), ideally in an optimal systems sense, so that maximum benefits can be achieved soonest with lowest costs. Systems studies are strongly endorsed, since these can explore the nature of optimal solutions considering a range of scenarios and variables. Such studies are important for future agency planning of noise abatement RT&D as well as future regulatory and implementation requirements, and to place the relative roles and importance of the four noise control options in better perspective.

S. 3279, due to my request and the Senator from Nevada's gracious compliance, now calls for such a study.

The study instructs the Secretary of Transportation to look at all the factors involved in increasing compatibility between airport noise and land use around airports. It directs the Secretary to look toward a goal of full compatibility by January 1, 2000. And it asks him to weigh all these factors, and determine the combination that will bring us as close to the goal as is feasible, at the minimum cost to the whole system.

Since that minimum cost will entail some cost, this amendment also asks the Secretary of Transportation to determine the most efficient and effective means for obtaining the funds necessary to achieve maximum feasible compatibility.

Based on these determinations, the Secretary will make recommendations to the Congress. As the Interagency Noise Panel said, these recommendations will be invaluable in plotting the course of future airplane noise control actions.

In order to keep this study from turning out over-general, this amendment requests the Secretary to report back by July with the dimensions of the study. In that way, we will see what we are getting. If it seems unfocused, we can ask the Secretary to direct the study toward more specific questions.

Mr. President, I believe these two changes make a good bill better. I support this bill, and I urge the rest of my colleagues to do the same.●

Mr. DURKIN. It is my understanding that the FAA currently uses static testing in order to determine the crashworthiness of aircraft cabin equipment. This kind of testing may be outdated by a new type of testing known as dynamic safety testing.

Is it your intention that the FAA expedite the consideration of this kind of testing to determine whether it enhances the safety within the cabin of the aircraft for the new generation of airplanes and to study the issue and report back to Congress with its findings and recommendations as expeditiously as possible?

Mr. CANNON. Yes, the Senator is correct as there are some grounds for the belief that dynamic testing can enhance airplane safety, although there are still some questions to be answered. We hope the FAA will move on this issue quickly.

Mr. President, if anyone has any particular questions with respect to this bill I would be happy to answer them.

Mr. THURMOND. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I am pleased to support the Aircraft and Airport Noise Reduction Act of 1978, H.R. 8729. This legislation is a major step forward in implementing aircraft noise abatement programs. As noted in the report of the Committee on Commerce, Science and Transportation:

> Aircraft noise is a major problem affecting the present viability and future growth of this Nation's air transportation system. The problem of aircraft noise is not a localized problem restricted to a few initial airports—it is a National problem.

Dramatic increases in air traffic as well as utilization of larger aircraft with increasingly louder propulsion systems have raised noise emissions to intolerable levels. It has been estimated that aircraft noise costs taxpayers around airports some $3.25 billion annually in decreased property values. This is an unfair burden to place on those persons who own property and live around airports.

H.R. 8729 is a reasonable approach to resolving a difficult problem. This bill establishes programs to develop a standard method of measuring aircraft noise and to assist airports and surrounding communities to reduce noncompatible land use around airports through the acquisition of land or noise suppression equipment and the utilization of other techniques and activities to reduce the impact of noise. Incentives are provided to encourage the airlines to replace noisy aircraft with new technology aircraft which are both quieter and more fuel efficient.

These provisions are in addition to providing a flexible financing mechanism for assuring that operators are able to comply with Federal noise regulations by the currently imposed 1985 deadline. The airlines and their users, not the general taxpayer, will bear the costs of complementing the Federal noise requirements. However, consumers will not incur additional cost. Temporary reductions in the current passenger ticket tax, the freight way bill tax and the international departure tax will offset the noise surcharge which will supply the funds to be used by the airlines to bring their fleets into compliance by the 1985 deadline.

It should be noted that, as pointed out in the Commerce, Science and Transportation Committee report (No. 95-976), the FAA's noise regulations—the so-called fleet noise rule of December 1976—were amended retroactively to require previously excepted aircraft to meet higher standards on a stepped-up time schedule. Many aircraft that were purchased in good-faith reliance on the FAA's previous pronouncements have thus become noncompliant as a result of the rule. Compliance with the retroactive regulation is estimated to cost between $6 and $8 billion through a combination of retrofitting or by replacing engines or noisy aircraft. Such an immense undertaking precipitated by the Federal Government is certainly worthy of Federal assistance to accomplish. Mr. President, H.R. 8729 is an equitable solution for the ever increasing aircraft noise problem and should be enacted.

Mr. PEARSON. Mr. President, I want to express my congratulations to the distinguished managers for the Senate and House on their concluding the conference on the airline deregulation bill. The conference bill is a good bill, and I personally believe it to be superior to the bill passed by the Senate last spring by an overwhelming majority. It is better because it has struck a fatal blow to the very heart of economic regulation. In so doing, airlines will soon be free to make the most basic of business decisions—where to fly and what to charge. For over 35 years these decisions have been made by bureaucrats rather than airline managers. This legislation is long overdue, and I am pleased that I could have participated in its early development.

Mr. President, the distinguished senior Senator from Nevada and my very close friend has brought the Senate a truly landmark bill. He has worked long and

hard for over 3 years to develop this legislation. I do not recall having seen more diligence, patience, and perservance by any of my colleagues in the Senate. My friend from Nevada and his dedicated and knowledgeable staff, particularly Mr. Charles Barclay, deserve the thanks of the Senate, the industry, and the traveling public for their efforts on this bill which I fully support. I urge all my colleagues in the Senate to support the conference bill.

Mr. President, I want to express my very personal appreciation to the distinguished assistant minority leader, my close friend from Alaska and ranking member on the Aviation Subcommittee, for his contribution to this landmark aviation legislation. His careful attention to the particular and specialized air transportation requirements in Alaska have made this legislation a much more comprehensive effort than could have been possible without his first hand knowledge of and experience with prevailing conditions in Alaska.

Mr. President, this bill offers the Senate a unique opportunity in this day and age in which more and more Government regulation seems to be closing in on us from all sides. What is unique about this bill? It actually abolishes a Federal agency on a date certain. Moreover, it strips that agency, the Civil Aeronautics Board, during the interim period, of many of its most anticompetitive regulatory controls thereby providing a measure of transition which all concerned agree is desirable.

One of the great strengths of this legislation is the small community air service program. Exceedingly great care has been taken to assure that rural and isolated areas of the country do not suffer from a lack of reliable and frequent air service with aircraft tailored for their particular needs. To insure this result, the bill offers the opportunity for communities to qualify for new subsidized service and provides a 10-year guarantee of essential air transportation. It is a well known fact that air service is absolutely necessary for the economic development of our small and medium sized communities where so many of those fleeing urban sprawl are settling. This bill assures that essential air transportation will be available to aid in their economic development.

The CAB's administration of the subsidy program for small community air service will, of course, be critical to the overall success of this legislation. It will be imperative that the CAB carefully follow the letter and spirit of this legislation. During the next 4 years, it will be essential that the current subsidy program be continued without substantive modification to assure a smooth transition. New competitors or current competitors wishing to provide subsidized service to currently subsidy eligible points during the next 4 years will continue to be subject to the requirements of sections 401 and 406 of the Federal Aviation Act of 1958.

Such a requirement is essential to maintain the integrity of the transition period. In those markets where no section 401 carrier is ready, willing and able to provide service, the CAB could authorize the payment of subsidy only under the new subsidy program established in this legislation. Once service is begun on a subsidized basis by a computer, however, that market may not in the future receive subsidized service by the section 401 carrier that previously served such market unless such service is required to provide "essential air transportation" pursuant to the 10-year service guarantee.

During consideration of this legislation, much has been said about the effect of this bill on the airline labor force. Some say that the bill may have a harmful effect upon labor while others argue to the contrary. I believe that this legislation will be good for labor, management and the investor. Clearly, it would have been the better course to have avoided any intrusion into labor-management issues. Since that, however, could not be avoided, the bill appears to have struck an acceptable compromise that all sides can live with. What is even more important, however, is that maybe now both airline labor and airline management can settle down and concentrate on the business of running this Nation's air transportation system as free from Government interference as possible. Only by returning this industry to the marketplace can we have any assurance that it will remain in the private sector.

Mr. President. There is much talk today about airline mergers. Indeed, several air carriers have already publicly stated their intentions to merge. Some, including the Chairman of the Civil Aeronautics Board have expressed concern about these merger plans. It naturally follows that if we are going to deregulate the airlines and let the businessmen run these companies, then we must also get out of the habit of wringing our hands when those same economic entities begin to talk about mergers. I fail to see why so many people seem to be so concerned about numbers of competitors. It is clear that the competitiveness of an industry is not necessarily affected by the number of individual competitors. The truth of the matter is that notwithstanding the fact that there are many competitors in the airline business today, the lion's share of the industry is controlled by the big three air carriers.

Certain mergers would undoubtedly produce stronger competitors among the "have nots" of the industry who would then make their presence known as competitors in the marketplace. Certain mergers would undoubtedly benefit air travelers by allowing them to stay on the same aircraft or at least on the same airline—which would eliminate in many cases the need to change terminals—from the beginning to the end of their journeys.

Certain mergers would undoubtedly result in more efficiency and operational flexibility thereby encouraging lower fares and more innovative service options. Mergers, in general, would tend to strengthen the financial base of the industry, make it more consistently profitable, and make it a more attractive investment option.

We should be concerned about real competitiveness, not just numbers of competitors in the airline industry. If we mean what we say about deregulation, let us apply that approach in an even-handed fashion and let the Justice Department worry about mergers.

Mr. President, this legislation began several years ago as an initiative of then Secretary of Transportation William Coleman, a distinguished gentleman and outstanding public servant who is now associated with a prestigious law firm here in Washington, D.C. He and John Robson, then Chairman of the CAB deserve a great deal of credit for their efforts in generating early support for this legislation.

My distinguished colleague from Massachusetts (Mr. KENNEDY) as well has spent much time and effort in support of airline deregulation legislation and deserves recognition as well.

Mr. President, at about this time last year there was a major deregulation vote in the Senate—the vote to deregulate natural gas pricing. That vote turned out, as well all know, to be a limited victory at best. But, the conference bill before the Senate on deregulation of the airlines is a clear and convincing victory indeed, and deserving of every Senator's support.

Mr. HART. Mr. President, I commend the Senator from Nevada for the amendment in the nature of a substitute which he has introduced. The House of Representatives and the Senate Commerce Committee had approved legislation which would impose a 2 percent noise abatement charge on domestic airline passenger tickets, and earmark the proceeds for the airlines to help pay for their noise abatement efforts. The Senate Finance Committee proposed to eliminate the mandatory noise abatement charges established in both the House bill and the Senate Commerce Committee bill, and instead leave the imposition of any charges at the discretion of the Civil Aeronautics Board (CAB).

Although the Finance Committee version of this legislation was a substantial improvement over earlier proposals, I remained troubled by the funding mechanism established to be used at the discretion of the CAB. Aside from the dangerous precedent that would be set by providing funds through a tax or surcharge to help private industry meet Federal environmental standards, we should be acting to reduce Government interference in the market process, not increase it in the manner specified in this bill. When Government intervenes in the capital allocation process it runs the risk of misallocating resources. The competitive free market remains the best available mechanism for channeling capital funds into their most productive uses.

Mr. President, at my request the Federal Trade Commission's Bureau of Economics examined the implications of the funding mechanism proposed in earlier versions of this bill. The Bureau concluded:

> The entire notion of taxing airline tickets to assist in compliance with noise standards is ill-conceived. Under the current, more flexible regulatory scheme under which the

airlines operate, the companies should be left free to finance the necessary investment in the best and least costly way available. Government intervention can only raise the cost of compliance.

I ask that the Federal Trade Commission's letter in response to my request be printed in the RECORD at this point.

The material follows:

FEDERAL TRADE COMMISSION,
Washington, D.C., October 11, 1978.

Hon. GARY W. HART,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HART: You have asked for the views of the Federal Trade Commission's Bureau of Economics on the proposals in Title III of S. 3279 and Title III of H.R. 8729 which would provide funds to the airlines for the purpose of bringing their fleets into compliance with noise standards imposed by the Federal Aviation Administration. The position of the Bureau is that the funds needed to meet these standards should be obtained by the airlines operating in a free market. They can raise the necessary funds by increasing prices, going to the capital markets, or a combination of the two. Such an approach will result in the standards being met at the lowest possible cost and therefore at the lowest possible price to the flying public.

In response to Public Law 90-411, the FAA in 1969 promulgated Part 36 of the Federal Aviation Regulations, which prescribed noise levels for civil turbojet aircraft heavier than 75,000 pounds. Under this regulation, no newly designed aircraft could go into production unless it met Part 36 noise standards. As a result, the wide-bodied jets of the early 1970's are much quieter than pre-1969 aircraft. In 1973, Part 36 was amended to require that, after December 31, 1974, all newly produced aircraft of older designs (pre-1969 designs) had to meet the 1969 standards. Thus, the only aircraft which do not currently comply with FAR 36 are aircraft of a per-1969 design which were built before December 31, 1974.

In December 1976, the FAA issued a rule requiring that all U.S.-registered civil jet aircraft with maximum weights greater than 75,000 pounds that do not meet Federal Aviation Regulation Part 36 noise levels must be retired from the fleet or modified (through retrofitting or re-engining) to meet those levels according to the following schedule:

B-747, B-727, DC-9, and BAC 1-11 aircraft by January 1, 1983, with one-half to be completed by January 1, 1981;

B-720, B-707, DC-8, and CV-990 aircraft by January 1, 1985, with one-quarter to be completed by January 1, 1981, and one-half to be completed by January 1, 1983.

It is the retrofitting, re-engining, or replacement of these pre-1969 design aircraft built before December 31, 1974, which the current proposals are designed to fund.

The financing mechanism in both bills is a tax on airline tickets. Each airline operating aircraft which fail to meet the standards of FAR 36 when the law is enacted is to levy the tax. The proceeds generated by each airline are retained by or returned to the airline and used to fund its own retrofitting, re-engining, or purchasing of replacement aircraft.[1] The key difference between the two bills is the question of what happens to the tax revenues on an airline's sales once it is in full compliance with the noise standard. Under S. 3279 the revenues then become available to the airline to use for whatever purposes it chooses. Under H.R. 8729, the unused funds are to be deposited in the Airport and Airway Trust Fund. That is, unused funds go to the government rather than back to the air carrier.

Allegedly this assistance is necessary, if the airlines are to obtain the funds needed to upgrade their fleets. However, in the less regulated, more competitive environment of today, an airline could just raise its price to obtain the needed revenues. The check on this ability to raise price is that a competitor may not increase his price. This is particularly likely where several firms compete and not all of them face the same costs of meeting the standard.

Similar competitive pressures will limit the airlines' ability to raise revenue under the proposal in S. 3279. An airline whose fleet is in full compliance could use the tax revenues it collects to pay general operating expenses and then cut its price by a corresponding amount. As such it would have a lower price than a competitor who still was upgrading his fleet. The competitor with the higher price would either have to cut his price or lose sales. The situation under S. 3279 is the same as if the airline needing additional revenue to pay for the necessary improvements raised its price to pay for them. In those segments of the airline industry where effective competition exists, the enactment of Title III of S. 3279 should have no significant impact on the price of airline tickets or on the ability of airlines to raise the needed funds.

However, in those segments where competition is weak, this statutory provision may well lead to higher prices than required to meet the FAR 36 standards. In a market where aircraft are already in compliance, the tax will still cause an initial increase in the price of tickets. And, in the absence of effective competition, the excess profits which result may not be competed away. Thus where competition is lacking S. 3279 may result in higher profits for the airlines and needlessly higher prices for the flying public.

Under Title III of H.R. 8729, the economic cost would be even larger. This bill would definitely result in higher prices for the flying public and would fail to reward airlines who already have quiet planes. This arises because the excess tax revenues an airline collects go into the Airport and Airway Trust Fund.[2] Thus, an airline in full compliance could not lower its prices to reflect the lower costs it faces. The Congressional Budget Office has estimated that $100 million not needed for meeting the noise standards would be collected under the tax imposed by H.R. 8729 by the end of fiscal 1983.[3] This is $100 million which would have to be paid by the flying public. In addition, the inability of companies with fleets of quiet planes to charge lower prices to reflect their lower costs would result in more noise at airports since there would be no price incentive to fly with the airline with the quiet planes.

In conclusion, it is the position of the FTC's Bureau of Economics that the entire notion of taxing airline tickets to assist in compliance with noise standards is ill conceived. Under the current more flexible regulatory scheme in which the airlines operate, the companies should be left free to finance the necessary investment in the best and least costly way available. Government intervention can only raise the cost of compliance. However, if one version of this tax is to be enacted, it would be better to have the version embodied in S. 3279 since its costs are much smaller than those of H.R. 8729.[4]

Sincerely,

WILLIAM S. COMANOR,
Director.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the inquiry.

Mr. JAVITS. What time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mr. JAVITS. Whenever the Senator is ready I would like to claim it.

Mr. President, I reserved the time because the problem of noise is a tremendous problem in the congested area of New York City, which is a major, probably the major, transportation center in the country. Of the approximately 7 million people adversely affected by aircraft noise in this country, almost one-fourth of them live around La Guardia and John F. Kennedy Airports in New York.

I introduced on a previous occasion a bill which would have done what is being done in this bill, which is to reduce the ticket tax from 8 to 6 percent. But my bill would have gone further and permitted the CAB to levy a surcharge which would enable the airlines to retrofit and replace their aircraft and thereby very materially reduce noise.

As the matter stands now, I understand it, this bill does reduce the ticket tax to 6 percent. That is correct, Senator CANNON, is it not?

Mr. CANNON. I will say to my colleague that this substitute amendment reduces the ticket tax from 8 to 6 percent starting on October 1 of next year. It will begin with the new fiscal year for it was not included in the budget for this particular year.

The substitute amendment does not provide any funds for the air carriers. That is a separate matter.

Mr. JAVITS. As I understand it, the theory of this particular legislation is that if the airlines increased fares equal to the reduction in the tax, they could use the money to retrofit and replace noisy aircraft, or use it for whatever purpose they desire. Under the new competitive situation they may or may not pass the reduction on to the passengers.

My point is, I am disappointed that we did not proceed on the basis in the bill reported out by the Commerce Committee—that the CAB levy a surcharge equal to the 2-percent reduction in the tax. Although the airlines are generally prosperous at this time, the industry is a very cyclical one. This prosperity will not necessarily redress the long periods of losses and the future burdens of the

[1] In the Senate bill, the fund can be used to provide 100 percent of the financing needed for this purpose. In the House version, the tax revenues can only provide a percentage of the total cost. The percentage depends upon whether retrofitting, re-engining, or replacement is the strategy chosen to attain compliance. The purpose of the varying percentages is to encourage airlines to buy new aircraft which are even quieter than those which are retrofitted or re-engined.

[2] It does not appear that these funds are needed to keep the Airport and Airway Trust Fund solvent.

[3] U.S. House of Representatives, Committee on Public Works and Transportation, "Report Together With Minority and Additional Views on Airport and Aircraft Noise Reduction Act," Report No. 95-836, December 13, 1977, p. 26.

[4] Another advantage of S. 3279 is that the tax collection is mandated for only one year whereas H.R. 8729 requires the tax for five years. S. 3729 gives the CAB discretion to either retain or eliminate the tax during the next four years.

multibillion-dollar changes necessary to bring aircraft into compliance.

As I say, I express my disappointment, but I hope that the scheme, which has been adopted, will work. We will see if it does. If not, people like myself may seek to get something else done.

In the meantime, my amendment which has been included in the bill—and I thank Senator CANNON for including it—would restrict the immunity from suit to airports that have implemented noise impact maps.

Under section 107 of the bill reported by the Commerce Committte individuals were not permitted to sue for damages from aircraft noise if there has been no appreciable increase in the aircraft operations or change in the traffic pattern at the airport after they have moved into the neighborhood. My amendment would limit this restriction in their right to sue only to those individuals who live near airports that have noise impact maps and only if the individuals have actual or constructive knowledge of these maps.

Mr. President, I feel this is a balanced approach to the problem of protecting individuals from the harassment of aircraft noise while at the same time protecting airports from the harrassment of suits by individuals who have moved into the neighborhood subsequent to the presence of the aircraft noise problem.

My amendment would provide an additional incentive to airports to develop noise impact maps and thus implement plans to reduce the onerous effect of aircraft noise on the surrounding neighborhood. This incentive is important, for I feel we must attack the problem of aircraft noise in as many ways as possible, and certainly land use planning which will result from the development of these noise impact maps is an important source.

Senator CANNON—and this is my last point—may we rely upon the committee to give very tight oversight as to the results of these methods which have been chosen to proceed in relieving this extremely vexatious and damaging problem in many communities around the country as congested as the particular ones that I represent?

Mr. CANNON. Starting in reverse order, let me say to the Senator indeed the Senator can rely on the committee to give very strict oversight in this matter. It is a most serious problem, and the committee is indeed very concerned about it.

Second, with respect to the Senator's language, I think his language has improved the bill very materially because it has cleared up the intention of the committee with respect to people who move into noise impacted areas surrounding an airport with actual or constructive knowledge of the noise impact map in effect at the airport. It will preclude them from bringing suit for damages resulting from aircraft noise when they know or should have known of the noise problem.

Third, Mr. President, I will say that I agree completely with the Senator. I wish we had been able to provide the funds to assist the air carriers directly in this bill. But we were not able to do that and still get a bill this session. I considered it more important to have a bill enacted in order to improve the safety in and around these airports. So, I felt it was critical at the present time, and was finally convinced that I should accede on the other point.

Nevertheless, we retain the domestic passenger ticket tax reduction from 8 to 6 percent, the freight weight bill reduction from 5 to 3 percent and reduce the international departure tax from $3 to $1. This is a savings which can be passed directly on to the consumer that is, the fare paying passenger. He will pay 2 percent less for that ticket. No one else receives any benefit from that money except the person who is buying the ticket.

Mr. JAVITS. Or the airline may choose to keep it?

Mr. CANNON. No, no.

Mr. JAVITS. Or pass it on?

Mr. CANNON. The airline has no right to keep it at all. The passenger or shippers will simply pay less for the total cost of the service.

The airline could go to the CAB if it were able to justify a fare increase, but the air carrier cannot utilize directly any part of the benefit resulting from the passenger or freight tax reductions.

Mr. JAVITS. I thank my colleague.

Mr. CANNON. If there are no other questions on the bill or its contents, I am prepared to yield back the remainder of my time.

Mr. STEVENS. Mr. President, will the Senator yield me 30 seconds? Having met with the chairman of the Commerce Committee and others on this matter, I commend him for his work on this measure. It will mean a great deal for those of us who live in areas entirely dependent on air transportation, and will mean much to the State of Alaska.

Mr. CANNON. I thank the Senator. I want to also thank the ranking minority member of the committee (Mr. PEARSON), who was a great help in developing this legislation. We will sorely miss him on the committee next year.

I yield back the remainder of my time. Mr. President, we are ready to vote on the amendment in the nature of a substitute.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of the substitute.

The amendment in the nature of a substitute was agreed to.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 8729) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to reconsider, en bloc, the votes involved in this package, and that the motions to reconsider, en bloc, be laid on the table.

The PRESIDING OFFICER. Without objection, the motion to lay on the table is agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the disposition of the continuing resolution, which will be the next order of business, the Chair recognize the Senator from Texas (Mr. BENTSEN) to call up the Federal highway conference report; that there be a time limitation thereon, overall, of 20 minutes, to be equally divided between Mr. BENTSEN and the minority leader or his designee; and that following that the Senator from Texas be recognized to call up a message from the House of Representatives on H.R. 11545, on which there be a time limitation of 5 minutes, to be equally divided between Mr. BENTSEN and the minority leader or his designee.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. JAVITS. Mr. President, reserving the right to object, does this request concern only the conference report, or does it involve the meat import bill?

Mr. ROBERT C. BYRD. The first request involved the conference report.

Mr. JAVITS. I do not hear you, Mr. Leader.

Mr. ROBERT C. BYRD. The first request involved the conference report.

Mr. JAVITS. What about the meat import?

Mr. ROBERT C. BYRD. The second request involved the meat import bill.

Mr. JAVITS. How much times does the leader wish to allow on that?

Mr. ROBERT C. BYRD. Ten minutes to the side?

Mr. BENTSEN. That will be fine.

Mr. ROBERT C. BYRD. To be equally divided, 5 minutes to Mr. BENTSEN and 5 minutes to the minority leader or his designee.

Mr. JAVITS. Mr. President, what time is left to debate this issue? We are deeply concerned about this particular matter. How much time is left for debate? I do not know what requests for time the minority leader had.

Mr. BAKER. Mr. President, I have no requests for time. I am prepared to yield control of the time.

Mr. JAVITS. Well, control does not mean anything, with 10 minutes. Let us make it half an hour.

Mr. ROBERT C. BYRD. Thirty minutes, equally divided.

Mr. President, we will give everybody a little time to settle down, and then we can go ahead with the rest of the program in an orderly fashion.

The PRESIDING OFFICER. Without objection, the unanimous-consent request of the majority leader is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask that the continuing resolution be laid before the Senate.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that we have some order here.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Washington is recognized.

CONTINUING APPROPRIATIONS, 1979

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1230, House Joint Resolution 1139, a joint resolution for continuing appropriations for fiscal 1979.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 1139) making continuing appropriations for the fiscal year 1979, and for other purposes.

The Senate proceeded to consider the joint resolution, which had been reported from the Committee on Appropriations with amendments.

The PRESIDING OFFICER. The Senate will come to order, so that the Senator from Washington can be heard. The Senate is not in order.

The Senator from Washington might like to sit down for a minute until we get the Senate in order. The Senate is not in order.

The Senator from Washington.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the joint resolution as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments agreed to en bloc are as follows:

On page 2, line 5, strike "Department of Defense Appropriation Act and";

On page 5, beginning with line 23, insert the following:

(c) Such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1979, for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriaion Act, 1979 (H.R. 12928) as enacted by the Congress: *Provided*, That no funds shall be available for the Narrows Unit, Colorado; Bayou Bodcau and Tributaries, Louisiana; Yatesville Lake, Kentucky; Fruitland Mesa, Colorado; Savery-Pot Hook, Colorado and Wyoming; and Lukfata Lake, Oklahoma, projects: *Provided further*, That no funds shall be available for construction of the Animas-La Plata, Colorado; McGee Creek, Oklahoma; Uintah Unit and Upalco Unit of the Central Utah Project, Utah; Kaskaskia Island Drainage and Levee District, Illinois; Units L611–614, Missouri River Levee System, Iowa; Cedar River Harbor, Michigan; Milan, Illinois; Arcadia Lake, Oklahoma; Burlington Dam, North Dakota; and Big Pine Lake, Texas, projects; but funds shall be made available to continue planning of these projects: *Provided further*, That sections 201 and 305 of said Act are not applicable to the funds and authority made available by this subsection: *Provided further*, That the paragraph in said Act entitled "Office of the Secretary, water resources planning" is not applicable to the funds and authority made available by this subsection: *Provided further*, That there is hereby appropriated for the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $12,681,900, to remain available until expended, including $2,668,000, for expenses in administering the Act (42 U.S.C. 1962d(b)), $2,480,900 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $1,047,000 for preparation of plans (33 U.S.C. 1289), $2,886,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), and $3,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $600,000 for groundwater studies in the Delaware River Basin and Susquehanna River Basin.

Mr. MAGNUSON. Now, Mr. President, on this continuing resolution I will not take up too much of the time of the Senate, unless somebody has some questions.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. MAGNUSON. The hour is getting late. All right, I yield.

Mr. HATCH. I have an amendment, and it would take only about a minute.

Mr. MAGNUSON. You have what?

Mr. HATCH. I have an amendment to this, that will only take about a minute.

Mr. MAGNUSON. Well, let us wait, and you can present your amendment later on.

Mr. HATCH. All right. I will be happy to do that.

Mr. STEVENS. Mr. President, will the Senator yield for a unanimous-consent request for staff members to have the privilege of the floor?

Mr. MAGNUSON. You do not have to do that any more.

Mr. STEVENS. Yes, I do in this case. I ask unanimous consent that Mary McCullough be permitted to be on the floor.

The PRESIDING OFFICER. The Chair cannot hear the Senator's question.

Mr. STEVENS. The Chair can see the person, then, I am sure of that.

Mr. MAGNUSON. Mr. President, we have had a difficult time trying to get this bill up. It involves the problem of the veto of the public works bill, which is now included in this resolution after it has been worked out after the veto.

Then we have the problem, which is not new to the Senator from North Dakota, myself, or others, on the HEW appropriation bill of some $57 billion over a matter which is quite familiar to everyone in this Chamber.

The House did not agree, and they sent over a bill with abortion language, the so-called Hyde amendment. We sent back some different language. We asked the House to respectfully consider our language, which is last year's language and the law as it is now.

The House finally did so about 8 o'clock tonight, or 8:30 tonight. Though they had voted one way yesterday, tonight they voted by a margin of three votes to adopt last year's language, which was the Senate position. So that issue is out of the way.

That now leaves us this resolution with the parts of HEW that were not authorized by the time the House acted on the regular Labor-HEW bill. Those that were not authorized then, are mostly authorized now, and are included in this resolution. We have every assurance that the House will accept those amounts.

The Senator from Louisiana will address himself to the matters which confronted Congress since the veto by the President of the fiscal 1979 appropriation bill for energy and water developments, commonly known as the public works bill.

The resolution reflects what we think is an agreement by everybody concerned, carefully worked out by the Senator from Louisiana, with House Members, and others interested in the bill.

Mr. President, as I said, I am pleased to bring to the floor a continuing resolution for those agencies of the Federal Government that, for one reason or another, do not yet have enacted appropriation bills for fiscal year 1979. Timely enactment of the resolution will permit these agencies to continue to function in a regular manner until the Congress can agree on a regular appropriations bill for this fiscal year. In view of the pending recess, we must enact this resolution now.

The resolution addresses itself to several problems. First, it would provide for continued funding for the Department of Labor and the Department of Health, Education, and Welfare and related agencies. There are two parts to this portion of the resolution. One would continue funding authorized programs for which we do not yet have a regular appropriation bill enacted into law for fiscal year 1979, at whichever is the lower rate approved by the House or Senate. The resolution will also continue those programs for which authorizing legislation has not yet been enacted for fiscal year 1979 at the same rate of last year's expenditures. These programs are continued until September 30. The Senate version of this resolution is the same as the House with respect to funding for CETA programs, the rate for such jobs is not to be in excess of the current rate except that the level of public service jobs under title VI shall be reduced by approximately 100,000 by September 30 of 1979, which will result in a level of approximately 625,000 jobs. This will permit more concentration of CETA resources on the chronically unemployed and also reflect the lower rate of unemployment that exists today.

Mr. President, this resolution also addresses the issues that have confronted the Congress since the veto by the President of the fiscal 1979 appropriation bill for energy and water development. As my colleagues are well aware, the House sustained the President's veto, and consequently, it has become necessary to arrive at some mutually agreeable compromise between the legislative and executive branch. The resolution reflects such an agreement. It provides for funding as would have been provided in the regular bill which was vetoed, except for certain provisions which have been removed or added in order to meet the objections of the administration. The report spells this out in detail. Certain projects have been denied all funding, and some others have been given planning moneys only. Additionally, the manpower floors in the regular bill which related to the Corps of Engineers and the Bureau of Reclamation have been removed, and appropriations have been provided for the Water Resources Council. Finally, the committee has agreed to hold hearings this coming year on the administration's request

for full funding and criteria for selection of projects.

Mr. President, these provisions were approved by the full Appropriations Committee by a vote of 13 to 3 and I believe that, under the circumstances, they represent a reasonable compromise between the administration and the Congress. The administration is prepared to approve this resolution, and the House committee also finds it acceptable. For that reason, it is necessary that the committee resist amendments in order to assure that the agreement that has been worked out with the President and the House is not violated.

Mr. President, the original resolution that I have carries this over until March 31. The House and other Members, after consultation with them today and this evening suggest that we send over the bill which will extend until September 30 the unauthorized portions of the Labor-HEW bill, and they will accept it.

UP AMENDMENT NO. 2114

Mr. President, I send to the desk two amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposes an unprinted amendment numbered 2114.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, after "(a)", strike out all down through and including "(b)" on line 8, page 4.

On page 5, line 23, strike out "(c)" and insert in lieu thereof "(b)".

On page 7, line 22, delete "March 31, 1979," and insert in lieu thereof "September 30, 1979,".

Mr. MAGNUSON. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. MAGNUSON. Mr. President, I know we will be asked, "Just what does a continuing resolution do? Does it extend it at last year's level or extend it at the level of the appropriations, some of which were cut?"

With the myraid of programs in the HEW, some were cut, but one or two have been added.

The continuing resolution would extend all the programs at least within last year's level. That would keep everything going until September 30, if the House accepts that extension of time. I am sure they will. That gives us adequate time to examine the unauthorized portions of the bill during the next session of Congress.

Mr. President, the amendment that I have offered to this continuing resolution strikes the bill language that would have restricted all of the authorized programs in the Departments of Labor, Health, Education, and Welfare and related agencies to the lower rate of the House or Senate bills.

We now have a Labor-HEW Appropriations Act for fiscal 1979 on the way to the President.

I could not be more delighted with the action of the House just a few hours ago when they finally accepted the compromise abortion language on the regular Labor-HEW bill.

My only regret is that the junior Senator from Massachusetts—my friend and colleague, who has worked so diligently with all of us on the committee for all these months—could not be here tonight to share our pleasure over the final passage of that bill.

It was the Congress following the normal procedures for appropriation bills—the programs and activities standing on their own merits—the bill carrying into public law all of the independent legislative history—including reports—from the House, the Senate, and our joint conferences.

This continuing resolution also provides funding in excess of $17 billion for programs that were not considered in the regular Labor-HEW bill due to lack of authorizing legislation.

In the case of the Department of Labor's CETA programs, about $12 billion is provided and the CETA authorization was not passed by the Congress until late last night.

In the case of HEW, over 40 percent of the vital health programs were not authorized, and many of them still are not authorized.

This is very disturbing to me.

This is no way for the Congress to appropriate funds—regardless of the amounts—when we do not know what the ground rules might actually be for the expenditure of these funds.

I do not have any quarrel with the basic programs—most of them are good programs—that I personally have supported for many years. Most of them are programs that should be continued and that are greatly needed. But for the Appropriations Committee to have to address the needs of those programs from only a perspective of hindsight is bad.

We must know just how Federal programs have been working in the past—and how they are working now—in order to arrive at sound decisions about their appropriate funding levels. But without an understanding of just how those programs might be changed—how the basic ground rules might be revised—it is impossible for us to properly exercise the responsibilities that we have toward our colleagues in the Congress and most importantly, to the taxpayers.

Mr. President, I have said it repeatedly over the past 10 months—no authorization, no appropriation. I know every chairman of every authorization committee in the Senate has heard me say that, and I say it again—no authorization, no appropriation.

And if there is any Member of the Senate who does not believe that, just wait until next year.

The amendment I am offering will continue those unauthorized programs at their current levels through September 30. That would allow all these currently unauthorized programs to continue operations, and it would allow the Appropriations Committees of both the House and Senate to review those operations, allow reprogramings that will help to implement any changes in authorizations, and entertain any supplemental requests that the President and the departments might wish to submit.

The Labor-HEW appropriations bill contains funding for some of the most important programs that help to better the life of our Nation, the lives of our people, the health of our society, and the education of our children.

Just 2 days ago we learned that the Nobel Prize for medicine was being awarded to two Americans and a Swiss for their genetic discoveries.

The National Institutes of Health was contacted to learn more about those two Americans, both of them scientists at Johns Hopkins University—and it was no surprise to me to hear that they have received nearly $3 million in support from NIH. This was proof of the importance of these programs and that they are paying off with dramatic results.

Research training programs that helped both of these latest Nobel Prize winners will be funded under this continuing resolution—the biomedical research grants and contracts they have competed for will be funded under the regular Labor-HEW bill.

These are typical examples of programs in this bill that benefits everyone.

But again I am hopeful that next year, Mr. President, the authorizing committees will not come up at the last minute and expect us to appropriate money for unauthorized programs.

Mr. President, I yield to the Senator from North Dakota, who has been very active in this matter.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. YOUNG. Mr. President, it is with great reluctance that I am supporting the public works section of the continuing resolution.

By caving in to President Carter and thus limiting some very necessary and worthwhile projects, we are setting a dangerous precedent.

Congress, for as long as I have been around here, and that is over 30 years, has, working with the President, written authorizing legislation establishing criteria and standards that have to be met before water projects of any kind are eligible for authorization. With few exceptions it has been a joint venture between the President of the United States and the Congress.

This highly questionable policy of the Carter administration, whereby he and his political-environmental associates alone establish the criteria a project must meet before it can be funded, is something new and reprehensible.

Many of President Carter's staff members who make final determination on what projects we may or may not have, have used their own highly prejudiced judgment, as their criteria, in determining which new projects would be initiated, or which projects, on which huge sums of money had already been spent, should be discontinued.

Many of them are contemptuous of Congress. They are the ones who are formulating new water policy and are not even attempting in most cases to

have their new criteria and regulations authorized by Congress.

Mr. President, the distinguished chairman of the Subcommittee on Public Works Appropriations, Mr. JOHNSTON, and others have worked out a compromise, that is probably the best obtainable under the present administration and under the current circumstances.

There is a question in my mind whether we would not be better off just to have a simple continuing resolution rather than this new emasculated public works program.

While the Carter policy, which eliminated much needed projects, does violence to our highly important public works program and saves very little money, I again reluctantly state that I think the continuing resolution is the best we can do for the time being.

Mr. President, there will be another day.

Millions of people all over America deeply resent President Carter's labeling sorely needed water projects as "pork barrel projects."

There are few areas of the United States which have not benefited greatly from the great water projects that President Carter claims are unnecessary, wasteful, and the cause of inflation.

Huge expenditures have been made for navigation such as for locks and dams on rivers and the maintaining of navigation channels in our rivers, all of which have resulted in cheaper and more adequate transportation. Many commercial harbors have consistently had to have their depths increased to accommodate the huge new oil tankers.

Many cities depend entirely for adequate municipal water made possible only through retention structures on our rivers and streams.

Mr. President, there have been vast sums of money spent on reclamation in the West, which has made possible the great empire we have there. If it were not for these reclamation projects, there would not have been the opportunities for millions of people who located there to obtain jobs and for industry to flourish.

California, because of these projects, is now our most populous State. It is a great industrial State and also the first among all the States in agricultural production. Water projects made all of this possible.

Flood control structures in almost every State, too, have alleviated and in many csaes prevented the devastating floods of previous years.

The Pick-Slcan plan for the Missouri River Basin has eliminated the devastating floods of the past. It has resulted in the generation of huge amounts of hydroelectric power, water for reclamation, for municipal and industrial purposes, as well as for many other purposes. These are only a few of the advantages of these water projects, which unthinking people call "pork barrel projects."

While President Carter was proposing to eliminate many water projects which millions of people in America wanted, especially in the West, he was advocating that Congress appropriate huge sums of money for public works projects all over the world.

The Congress cut the President's foreign aid appropriations budget request of more than $10 billion to $9.1 billion. Even this represents 35-percent increase over last years appropriations for public works projects in foreign countries.

President Carter's original budget calls for an 11-percent decrease in public works projects in the United States, but at the same time urges a 54-percent increase for the International Development Association and a 70-percent increase for the Inter-American Development Bank. Both institutions fund substantial public works projects all over the world at interest rates of seven-tenths of 1 percent interest and 50 years to pay.

In most of these foreign projects in which other countries have participated, the United States still pays about 30 percent of their cost. Many of these foreign public works projects help needy people many of them can be justified. I cannot help but feel, however, that our first obligation for public works projects of this kind must be to American citizens.

One of the huge foreign projects in which we are involved is the reclamation-type project in Pakistan, the total cost of which is $1.2 billion. There are many other huge projects all over the world in which we are paying either the total cost or at least a major portion of the cost.

President Carter and many others, even in our news media, seem to think that water projects are an idea developed by politicians to help them be reelected. Quite the opposite is true. Many of these projects all over the United States have for years originated with local people themselves.

A good example is the Garrison diversion project in North Dakota, which was an idea and a dream of the people who first settled in the semiarid areas of North Dakota. In fact, the first State legislatures which met in North Dakota passed a resolution memorializing Congress to divert water from the Missouri River to stabilize agriculture by making crop production through irrigation possible even in periods of drought, which are quite common to the Great Plains area.

Mr. President, I think the readers of the CONGRESSIONAL RECORD would be interested in reading the editorials and excerpts from editorials which appeared in some of North Dakota's largest daily newspapers expressing their strong views concerning President Carter's and others' denunciation of water projects. I ask unanimous consent that they be inserted in the RECORD, including some of the many projects funded under the foreign aid appropriations bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Minot (N. Dak.) Daily News, Oct. 6, 1978]

BALANCE FEDERAL BUDGET

Some soothsayers are predicting dire consequences for the U.S. economy within a year or two. Indeed, conservative economist Antony Sutton goes so far as to push the panic buttom.

He's not sure of the timing, but figures that an economic crash is no more than 12-to-24 months away. When it comes, said he, it will be "far deeper than the panic of 1907, when credit was not available at any price, and more pervasive than the depression of 1930."

There appears to be a growing consensus that a balanced federal budget is a necessity to defend against the ugly manifestations of inflation. A recent poll showed that 70 percent of the American people want a balanced budget.

President Carter used the growing concern in Congress over inflation as an argument to sustain his veto of the public works appropriations bill. It was a politically dishonest ploy, but it worked. Certainly wealth-creating water projects should not be the whipping boy in a taken fight against inflation. We do not object to these projects taking a share of the cut if the president gets serious about across-the-board spending reduction with sacrifices fairly divided among all parts of the nation.

When we begin to read articles telling investors to get into gold, at its fantastic current price, in order to escape the weakening dollar, it becomes evident that the time for decisive action by the U.S. government is immediate.

[From the Minot (N. Dak.) Daily News, Oct. 10, 1978]

PRESIDENTIAL CHICANERY

The worn-out, 19th century term "pork barrel" is being applied in an effort to block long-planned, cost-efficient public works projects. These projects are not inflationary; they are investments in the future of this country.

Another thing about dams, waterways, locks, irrigation canals and power plants: When they are built, the country has something constructive to show for the money it spent. And much of that money is repaid to the federal treasury over the years.

This country has advanced considerably since the term "pork barrel" meant appropriations spent to produce big patronage benefits for members of Congress. Federally funded water development projects never were a patronage matter. Projects of this kind represent long years of technical planning. They must meet well-established criteria. Only then can a project earn authorization and be entitled to appropriations.

This is not a matter of members of Congress pushing for personal advantages. Instead, projects come forward on their merits, gathering support from a host of people who, step by step, have watched the possibilities unfold. Support for construction usually extends far beyond the borders of any senator's or congressman's state or district.

But now we see a president engaging in a political shellgame. He labels U.S. water projects as "pork barrel" and "inflationary." But he seeks more foreign aid funds to finance water projects in other countries! What chicanery.

[From the Bismark (N. Dak.) Tribune, Oct. 7, 1978]

EDITORIAL

President Carter seems to have convinced himself that what this country needs least of all is a Congress. 'Jes let ol' Jimmy do it, all by hissef; don' need no Congress messing' 'round heah, nohow.

Congress has not exactly distinguished itself in recent years. But, without a Congress this wouldn't be the United States of America, and so poor Jimmy is apt to have to go right on fightin' with his no-account playmates at the other end of Pennsylvania Avenue.

Right now, Jimmy and Congress are tussling over water projects. If Jimmy's for a project, it's a good project; if North Dakota's

for a project, it's a pork barrel. Jimmy's all for a project on the Potomac to provide water for Washington, D.C.; he's all against a project to help keep farmers on their land in North Dakota. Funny how everyone else can be so darned mixed up.

[From the Grand Forks (N. Dak.) Herald, Oct. 6, 1978]

EDITORIAL

The House vote sustaining President Carter's veto of the Public Works Bill may be another political "triumph" for Mr. Carter. It is a serious blow, however, to the western United States. It also is a blow to the power of Congress, which in the past has zealously guarded its right to determine what water projects are needed and justified.

PUBLIC WORKS TYPE PROJECTS FUNDED UNDER THE FOREIGN AID APPROPRIATIONS BILL FOR FISCAL YEAR 1979

Listed below are selected power or water related projects funded by the Foreign Aid Appropriations bill. These represent only a few of the many public works type projects funded through foreign assistance.

I. Selected projects funded directly by United States money through the Agency for International Development.

In Chad, $100,000 for an irrigation project to improve local agricultural production (total estimated cost $295,000).

In Afghanistan, $6.3 million for the Central Helmand drainage project—such project intended to improve agricultural production (total estimated cost—$20 million).

In Benin, $1 million for rural water supply (total estimated cost—$4 million).

In Pakistan, $900,000 for a rural water supply project (total estimated cost—$1.5 million).

In the Yemen Arab Republic, $1.5 million for small rural water projects to supply water for rural areas (total estimated cost—$3,845,000).

II. By far the largest and most costly water and power projects, which are funded in the Foreign Aid bill, are funded through the International Financial Institutions. Because each loan for such projects is considered individual throughout the fiscal year, a breakdown on individual projects or countries is not available at this time. However, listed below are selected public work's type projects which were funded in 1978 by these institutions.

The United States share in these institutions is approximately 30% of the total funds provided to the institutions. It should be pointed out that in many cases loan terms for these projects are at 0.7% over 50 years, which in effect makes these loans outright grants.

In Afghanistan, $22 million for a multifaceted rural development program which includes irrigation and drainage projects, and a feasibility study for a dam. (Total cost—$28.7 million.)

In Cameroon, $14.5 million for a project which includes dikes, irrigation and drainage systems. (Total cost—$51 million).

In India, $126 million to help complete three major irrigation systems presently under construction. (Total cost—$284.4 million).

In Laos, $8.2 million for a project helping 10,000 farm families living in the Vientiane plain which includes construction of simple irrigation facilities. (Total cost—$11.9 million).

In Malaysia, $26 million for a project to help 32,000 small holder farm families, which includes improved drainage and irrigation facilities. (Total cost—$60 million).

In Nepal, $30 million for an irrigation project in the Southeastern part of the country. (Total cost—$37.5 million).

In Pakistan, $35 million for additional works for the Tarbela Dam Project. (Total cost—$1,274,000,000).

In the Philippines, $150 million for a multipurpose project on the Magat River including work on the main dam and related structures and reservoir. (Total cost—$346 million).

In Romania, $40.5 million for a rural development project which includes irrigation. (Total cost—$153.5 million).

In Brazil, $130 million for power sub-transmission and distribution systems of 3 public power utilities. (Total cost—$2,347,000,000).

In Syrian Arab Republic, $40 million for a national rural electrification plant. ($135.8 million).

In Yugoslavia, $73 million for three gravity dams and their associated power stations and transmission links. (Total cost—$402.6 million).

In Benin, $11 million for a seaport improvement. (Total cost—$46 million).

In Sudan, $22 million for improvements on the port of Port Sudan. (Total cost—$50.7 million).

In Algeria, $82 million for a sewage and water quality project. (Total cost—$154.2 million).

This list is but a few of the public work type projects which are funded by the IFIs. It is only through funding by the United States to these institutions that enables them to lend or grant funds for these projects—almost all of which have descriptions which are similar to the descriptions applied to projects in the United States and covered in the Public Works Appropriations bill.

Mr. PROXMIRE. Will the Senator yield?

Mr. YOUNG. Mr. President, I yield 1 minute to the Senator from Wisconsin.

Mr. PROXMIRE. I thank my good friend from North Dakota.

Mr. President, I reluctantly disagree very strongly with the Senator from North Dakota. I am delighted that the Senate Appropriations Committee was able to reach an accommodation with President Carter on the public works bill. The compromise is a great victory for the President and one for which those who care about responsible water policy can be grateful.

The compromise proposal restores funding for the Water Resources Council. That means that the agency charged with responsibility for streamlining the planning and management of Federal water programs will be funded in fiscal year 1979.

I am also glad that the agreement eliminated the 2,300 additional bureaucrats that were included in the conference report that the President vetoed. That too is a great improvement.

The most important change, however, is in the water projects themselves. The compromise public works bill before the Senate now drops all six of the so-called hit list projects, the worst water resource disasters in the whole bill. If these projects are kept out in future years as well, the taxpayers will save $580 million and we will spare the environment substantial damage.

In dropping these 6 projects and 11 additional new starts, the Senate-House compromise with the administration will save nearly $1 billion of the $1.8 billion worth of projects originally opposed by the administration.

Mr. President, I believe that the committee amendment constituting the public works portion of House Joint Resolution 1139 is an enormous improvement. At the same time, I should point out that the bill still contains funding for a number of other wasteful projects that were not eliminated. I appreciate the art of compromise and I feel that the President has done an outstanding job in effecting one on this bill. But I do not believe that I can vote in good conscience for any bill that funds projects like the Tennessee-Tombigbee Waterway or the Richard B. Russell Dam. Both of these projects will be built at enormous cost to the taxpayers and at tremendous expense to our Nation's environmental quality. The administration supported both projects, so they were not included among the President's reasons for vetoing the public works appropriations conference report. Nevertheless, in my judgment and in the judgment of many of my own constituents and individuals who have written me from other States, these projects should not be funded. I have voted against the public works appropriations bill for many years now because of such projects, and this year's bill—even with the significant improvements that have been made pursuant to the President's veto—does not persuade me to change my mind.

I shall, therefore, cast my vote against House Joint Resolution 1139 in protest against the environmentally destructive and economically unsound projects remaining in the public works amendment.

Mr. MAGNUSON. Mr. President, I was going to say any more, but every time I hear someone talk about the cost of our water projects or our power projects, how much it is going to cost the Government, I just cannot sit still, because, in the first place, most of them are loans. We get it back. The taxes that come in from these projects that have a decent B-C ratio pay over and over again the cost of the project. I know that there should be some consideration made about whether a project is worthwhile and we have what we call the B-C ratio. I get a little provoked when people stand up and talk about projects that not only contribute to tax revenues, not only pay back, but contribute to the whole general welfare of the country. They have to be carefully considered, of course. Some of them are—I do not know any of them that have been particularly white elephants. There may be, but it is very rare.

You could not duplicate some of the projects in my area for 20 times what they cost and they all pay taxes back over the years, maybe 20 times in Federal taxes alone. The Senator from West Virginia knows that. I get awfully provoked when somebody stands up here and keeps talking about the cost.

The Senator from North Dakota mentioned one other thing, too. We are doing the same thing around the world, because we think it is a good thing to do and it helps people. And any time anybody stands up and talks about the cost, they never mention the benefits that come back in taxes.

I give one good example. The Senator from Arizona is in the Chair. The Salt

River project in Arizona paid back 10 times in Federal taxes alone the original cost of the project—10 times in Federal taxes. This is a study made 10 years ago, so it is now 20 times.

This is true with all these projects. You have to look at the B-C ratio. I understand that. The President does have a point, that there should be a little more local contribution to these projects, but without it, the West would not be what it is today. They would not be pouring into the Federal Treasury all this money in taxes.

The hydro projects in my State not only pay back what they cost, but they pay 3 percent interest and we are way ahead of schedule.

Mr. YOUNG. Mr. President, I have not finished my statement.

Mr. MAGNUSON. The Senator from North Dakota had not finished. I am sorry.

Mr. YOUNG. Mr. President, in answer to my friend from Wisconsin, President Carter's original budget called for an 11-percent decrease in public works projects in the United States, but at the same time, urging a 54-percent increase in International Development Association and a 70-percent increase in the Inter-American Development Bank. Both institutions substantially fund public works projects all over the world and they have 50 years to pay the money back at 0.7 of 1 percent. That is the thing that bothers me. They ask for an 11-percent cut here in the United States and increase it 50 percent or more in foreign countries.

(Mr. ZORINSKY assumed the chair.)

Mr. MAGNUSON. I yield to the Senator from West Virginia. Then I shall yield to others.

Mr. RANDOLPH. Mr. President, I am grateful to the manager of this continuing resolution (Mr. MAGNUSON) for speaking not only earnestly but correctly about the value of such projects. I continue a running battle, if we can call it that, with the able Senator from Wisconsin year after year on these matters.

Mr. President, we are considering, for the second time in a little more than 2 months, legislation to fund civil works and energy program activities for fiscal year 1979.

The only difference is that this time some of the items have been stricken from the bill and it comes to us as a rider on a continuing resolution instead of a separate bill. That is the only route by which it could be brought back at this late stage in the session after a White House veto had been sustained in the House.

I welcome the opportunity to again strongly support these projects as being in the best interests of the country and of my own State. I commend the chairman of the Senate Appropriations Subcommittee (Mr. JOHNSTON) and his associates for working out the arrangement for approving these projects so that we could act before adjournment and thus avoid delaying important and needed developments.

While I support the measure as a whole, I confine my remarks to that portion of the legislation relating to civil works. I agree with the priorities it establishes in balancing existing needs with future requirements.

From West Virginia's standpoint it addresses some very pressing needs in a total allocation of approximately $26 million in construction outlays and about $1.3 million in study funds and an estimated $7 million in operations and maintenance money.

One of the top priority items on the State's list is $10 million earmarked for snagging, clearing and channelization on branches of the Big Sandy and Cumberland Rivers in West Virginia and Kentucky.

That is designed to provide short-term flood control on the Tug Fork until more permanent measures can be taken to prevent the kind of damage resulting from the major storm of April 1977.

The construction list also includes $8 million for that final phase of work on the R. D. Bailey Dam, $6.4 million for the Stonewall Jackson Lake project and $1.2 million for the Burnsville Lake development.

Study money is being provided for the Kanawha River Basin investigation, for the Huntington area metropolitan area study, for an assessment of development needs in the Big Sandy Basin for a Guyandotte Basin review, and to further accomplish phase I advanced engineering and design on the Gallipolis Locks and Dam on the Ohio River.

The bill also provides necessary operation and maintenance money for the Kanawha River navigation project and for Summerville, Sutton, Tygart, and Bluestone Lakes.

Each of these items has a significant place in West Virginia's water resources development plans and in its growth prospects.

I recall a few days ago, the Senator from Colorado (Mr. HART) stood in this Chamber and said, in essence, when this matter was before us as legislation, that the President was mistaken about his veto of this measure. He went on to say that had there not been, through the years, this type of program the West would be a wasteland with large areas of the West as desert country. I listened as he spoke, because he was telling the truth.

All over this country, these projects should not be designated pork barrel. That is a word that is very easy to speak. It slides off the tongue. But it is not true. Of course. there are projects that, on a cost-benefit ratio, do not show the same percentage of return as other projects do. That is natural. It happens on all the legislative matters that are before us. But we do know that, basically, these programs, I say to all of my colleagues, are not expenditures of money; they are investment of funds of the American people. They return not only 100 cents on each dollar spent, but dividends as well—dividends for a better America and, frankly, a more productive people.

Mr. MAGNUSON. Mr. President, the Senator from Arizona asked for time. Then I yield time to the Senator from Louisiana.

Mr. DECONCINI. I thank the distinguished Senator from Washington.

I will only take one moment to thank him for making reference to the project in Arizona.

There is another project, about 35 percent constructed now, that is not on the hit list and will pay back entirely to the Government from the cost of the charge to the user of the water.

I think the distinguished Senator from Wisconsin fails to investigate carefully. I would invite him to visit the West and see the productivity that is derived from the projects, and the wealth that is derived from them, and the jobs derived from them.

In fact, a careful look by the Senator from Wisconsin and he will find that the Treasury is paid back. The people of this country are paid back by the people who use the water.

As the Senator from West Virginia ably points out, it is an investment.

It is easy to stand up and point the finger toward someone else's State and someone else's geographic area and call it pork barrel.

But I would like to remind the Senator from Wisconsin that nobody called it pork barrel with $25 million for additional milk for a certain part of this country because it was an investment in the children in this country. I am glad the Senate approved it.

I think it should be remembered we are a total Nation and we have to look toward this whole country being able to be productive and to invest in the people of this country.

That is what is in this continuing resolution.

I thank the Senator from Washington.

Several Senators addressed the Chair.

Mr. YOUNG. Mr. President, before we get too far away from the HEW, I yield 3 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Louisiana (Mr. JOHNSTON) had been recognized by the Senator from Washington.

Mr. MAGNUSON. If the Senator will just let the Senator from Pennsylvania have 2 minutes, I will yield the rest of my time to the Senator.

Mr. SCHWEIKER. Mr. President, I am glad to concur in the amendments to the Labor and HEW section offered by Chairman MAGNUSON. They simply remove from the continuing resolution all matters covered by the regular 1979 Labor-HEW bill which the House cleared for the President last night.

The resolution now will include continuation authority only for unauthorized items. The termination date for these Labor-HEW items will be next September 30 under the resolution.

Between now and next September 30, it is likely that a number of unauthorized programs will be renewed. There is nothing in this resolution that prevents the provision of new funding for these programs through supplemental appropriations.

The chairman's amendments are acceptable.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Congress passed H.R. 12928 after months

of hearing and the President vetoed that legislation.

Mr. President, the Senate was prepared to override that veto. Unfortunately, the House did not.

I want to associate myself with the remarks of all of the Senators here who talked about the value of water projects. That is the reason this Senate was prepared in the face of proposition 13, in the face of all that propaganda, to override, because this Senate knows the value of those projects.

However, Mr. President, once that veto was made, we did work out what I consider to be, under all the circumstances, a very reasonable compromise.

Of the 53 new starts we have in this budget, in the bill, 42 remain. Eleven new starts were taken out. But it is specifically understood that of those 11 new starts, we will come back and take a look at all of those next year.

Indeed, in the case of at least one, it has been specifically agreed by the White House that they will fund that one. That is already agreed.

With the other 10, it is expected that they will be funded. There is not only no agreement not to fund the other 10 projects, but there is a specific understanding that we will come back and look at them again next year, and that the White House will look at them in a sympathetic way.

So that leaves, really, the six so-called hit list projects, of which three were studies anyway and only three were ongoing construction.

So when we boil it all down, Mr. President, the President vetoed the bill and we have a bill here that is $1.5 million more in obligational authority than the vetoed bill.

Now, some of the projects in the outyear, if we assume they will not be funded, then there is money saved in the outyears.

If they are, in fact, funded, then the amount saved will be a matter of speculation.

So that, Mr. President, I think under all the circumstances, the agreement, the compromise that was worked out, was favorable and one we should all sign onto.

The bill, of course, also contemplates, Mr. President, energy R. & D., some $6-billion-plus for the Energy Department.

It is a good compromise to a bill which must be passed.

Mr. President, the committee has included a provision in the joint resolution (section 101(c)) making appropriations for the fiscal year ending September 30, 1979, for energy and water development, and for other purposes, as provided in H.R. 12928 with certain exceptions. The Energy and Water Development Appropriation Act, 1979 (H.R. 12928, Public Works) was vetoed by the President on October 5, 1978, and the House of Representatives, upon reconsideration of the bill, sustained the veto.

Appropriations are provided for programs, projects, and activities of the Department of Energy, the U.S. Army Corps of Engineers—Civil Works, and the Bureau of Reclamation and other agencies and commissions to the extent and in the manner provided for in H.R. 12928 as enacted by the Congress except for those additional provisions which I will explain and which are included to eliminate most of the objections of the President.

First. No funds shall be available for the following projects:

Bayou Bodcau, La.
Yatesville Lake, Ky.
Narrows Unit, Colo.
Lukfata Lake, Okla.
Fruitland Mesa, Colo.
Savery-Pot Hook, Colo. and Wyo.

Second. No funds shall be available for construction of 11 projects as follows, but funds shall be made available to continue preconstruction planning of these projects, including advanced engineering and design as appropriate:

Animas-La Plata, Colo.
McGee Creek, Okla.
Uintah Unit, Utah.
Upalco Unit, Utah.
Missouri River Levee System, Units L611–614, Iowa.
Kaskaskia Island Drainage and Levee District, Ill.
Milan, Ill.
Cedar River Harbor, Mich.
Burlington Dam, N. Dak.
Arcadia Lake, Okla.
Big Pine, Tex.

Hearings will be held in the administration's request for full funding—current estimated project costs, plus future price level increases—in the next budget cycle, and on such other matters that the administration wishes to offer, including justification of its recommendations involving water resources development programs for the Nation.

This provision of the joint resolution provides new budget—obligational—authority of $10,162,251,900 for fiscal year 1979. The 6 projects and 11 new construction start projects for which no funds shall be available have a total estimated cost of $1,566,900,000 on the full funding basis used by the administration—current estimated total cost plus an inflation factor during the construction years.

The provisions of H.R. 12928, including the House and Senate reports and the conference report—House Report 95–1490—shall have full force and effect unless negated by the provisions of this joint resolution.

Mr. President, I reserve the remainder of my time.

Several Senators addressed the Chair.

Mr. YOUNG. Mr. President, I yield such time as the Senator from Oregon may require. He is the ranking Republican on the Subcommittee on the Public Works appropriations.

Mr. MARK O. HATFIELD. Mr. President, I will support Senate Joint Resolution 1139, as ranking minority member of the Subcommittee on Public Works of the Committee on Appropriations.

Mr. President, I would like to reiterate the fact that we had very carefully considered all these projects in the initial bill that both Houses of the Congress passed, which the President vetoed. I think we could stand tonight on that same bill and adequately and appropriately defend every project in that bill.

As the Senator from Louisiana has indicated, we had to move to compromise from that point of the veto. I think we have come up with the best possible bill, considering the circumstances.

I would like to say particularly to the Senator from Wisconsin that I would like very much to feel that the President of the United States has a water policy, but I cannot agree to that proposition.

The President of the United States sent up a proposed water policy some time back, but that was not the criteria by which he measured these projects that he made and put on his hit list.

I think what this country basically needs is a comprehensive water policy, but rather than the present a disjointed policy, one that should be made into some comprehensive form so that we can measure these projects without the charge of pork barrel, or without the charge of lobbying members of the committee, each other, so that each could get his own project.

I only want to say that until we do get that comprehensive water policy in this country, we will be subjected to these unfortunate charges.

But I woud come back to the fact that the costs and the benefits of each of these projects was considered.

Unfortunately, we do not have a uniform interest rate by which we measure them all. Unfortunately, we do not use both the direct and indirect benefits on each and every project.

But in spite of all those problems, I am proud to support a bill that was basically a sound bill, to begin with.

I would also say, especially in light of the President's charge that it was a budget-busting bill, it was not that. Considering inflation this was about 12½ percent lower than last year's level of funding of the public works projects. As the distinguished Senator from Louisiana says, even the so-called compromise is now higher dollar volumewise than what the President vetoed.

I would also say that this, I felt, represented fiscal restraint or responsibility on the part of the committee.

I must say that I am extremely disappointed by the President's veto of the energy and water development appropriations bill for fiscal year 1979. And I am even more disappointed by the action of the other body to sustain that veto; I cannot understand what caused so many Members to change their votes on a measure they had previously supported.

But the fact is that both of these circumstances have occurred and we must now deal with this situation in the remaining hours of this Congress. The legislation before the Senate would provide appropriations for the Department of Energy, the Army Corps of Engineers, the Bureau of Reclamation, and the other agencies included in the bill vetoed by the President to the extent and in the manner provided for in the vetoed legislation, with the exception of 17 projects for which funding would either be deleted entirely or provided for study rather than construction. This new measure would also provide funding for the Water Resources Council, and the personnel provisions of the vetoed bill are deleted.

I hope that it is clear to my colleagues that this action is being taken due to the nearing adjournment of the Congress. There is simply not sufficient time to undertake the detailed process necessary to develop an entirely new bill.

I would also say to the administration that this action should not be seen as a willingness on the part of the Congress to turn over to the executive branch the policymaking functions with respect to water resources policy. We will be back in the 96th Congress to review this entire issue; should my constituents so chose, I will be back to be a part of this process, and I remain firmly convinced that the Congress has a primary role to play in establishing a viable and coherent water resources policy. Legislation I introduced earlier this year would establish a uniform procedure for considering water resource projects. It is my hope that similar legislation will receive favorable consideration during the next Congress.

In conclusion, Mr. President, I will support this continuing resolution because there is not much of an alternative at this point. But this is clearly not the last word insofar as water policy is concerned.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

UP AMENDMENT NO. 2115

Mr. INOUYE. Mr. President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. INOUYE) proposes an unprinted amendment numbered 2115.

At the end of the bill, insert the following new section:

"Sec. . Section 406 of Public Law 95-426 is repealed.

Mr. INOUYE. Mr. President, I yield myself 5 minutes.

Mr. President, this amendment has been considered on two separate occasions in the past 2 weeks. It would repeal a provision of the Foreign Relations Authorization Act for fiscal year 1979, which permits retirement to certain foreign service officers based on their so-called high 1 year of service.

This amendment has been cleared by both managers. It has been cleared by the House Appropriations Committee and by the House International Committee. It also has been requested by the White House.

I hope that for the third time the Senate will concur in the repeal of this provision.

Mr. SCHWEIKER. Mr. President, will the Senator yield?

Mr. INOUYE. I yield.

Mr. SCHWEIKER. Mr. President, I commend the distinguished chairman of our subcommittee, and I support this amendment.

There is no reason to give a favored group special treatment. All employees, including the House and the Senate, have a 3-year retirement policy. This would give the foreign service 1 year, and it would be unfair and would lead to a lot of ramifications if it is not repealed. I strongly support the amendment.

Mr. INOUYE. I yield back the remainder of my time.

Mr. MAGNUSON. I yield back such time as I may have.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 2116

Mr. BAYH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 2116.

Mr. BAYH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

SEC. 109. Title II of the Department of Transportation and Related Agencies Appropriation Act, 1979 (Public Law 95-335), is amended by striking out under the heading "UNITED STATES RAILWAY ASSOCIATION" "Payments for Purchase of ConRail Securities" all that follows after the last comma and inserting in lieu thereof a period.

Mr. BAYH. Mr. President, this is basically a technical amendment. It is a rather significant technicality, because if it is not agreed to, ConRail will close down in the next few days.

Before proceeding to discuss, in about 2 minutes, what the amendment does, I add my compliments to those that already have been expressed to the Senator from Washington and the Senator from North Dakota for the tremendous job they have done on this concurrent resolution.

I particularly express my appreciation to the chairman with respect to HEW, for the master stroke which made it possible for us to get HEW passed, signed, sealed, and delivered—or it will be shortly—and thus not have to cover that heart and soul bill in the continuing resolution. Without his efforts and a good deal of courage, we would not have been able to do that, and I thank him.

Mr. President, this amendment is necessary in order to make absolutely certain that ConRail has the necessary funds to continue operations for the balance of the calendar year. The fiscal 1979 appropriation in the amount of $300 million is contained in Public Law 95-335. But, at the insistence of the House, we put contingency language on the appropriation so that it would only become available if authorizing legislation is passed into law. At the time of the conference, that seemed like a very reasonable provision. Indeed, the Senate passed the ConRail authorization bill several weeks ago. But, the House has not yet taken up the bill and it appears questionable whether or not they will pass it in time for a conference with the Senate authorizing committee. As we all know, Senator LONG, the very able chairman of the Finance Committee, is deeply involved in the tax bill. He is also the chairman of the Surface Transportation Subcommittee and as such, would lead the conference for the Senate on this ConRail bill. This amendment will merely provide ConRail with the $300 million appropriation that they need to keep them going until next year. At that time, they will run out of funds and will have to have more authorized and appropriated, but, for the time during which Congress stands in recess for the balance of this year, they must have these funds. I urge the Senate to accept this amendment. I understand the House Committee on Appropriations is aware of the amendment and will likely accept it without any problem.

Mr. President, the problem is this: ConRail already has received $2.1 billion for operation; and in order to operate until we come back here, it has to have another $300 million.

This money was authorized in the bill which passed the Senate about 4 weeks ago. The House has not even taken it up.

Our distinguished and very able chairman of the Transportation Subcommittee, the Senator from Louisiana, as we all know, is chairman of the Finance Committee, and is hardly going to have time to worry about a conference on a bill that has not even been taken up by the House as yet.

So we put in the transportation appropriation bill when it passed the Senate and was signed into law on August 4—we appropriated this $300 million. But at the behest of the House, we added a contingency saying that this $300 million could not be spent until it was authorized. There is no way to get this without an additional authorization coming from the House, and the only way to keep ConRail from closing down is to take the contingency language out of the appropriation bill. This is what the amendment would do.

We understand that the Appropriations Committee in the House is favorably disposed, and I heartily suggest to my colleagues that we adopt this amendment.

Mr. MAGNUSON. Mr. President, this amendment is acceptable. The Senator from North Dakota and I know about it. It removes a provision we should have included in the 1979 bill, which provides further funds for ConRail.

As I understand it, it has the effect of removing a provision we included in the regular 1979 bill which provided for further funding for ConRail. That provision, which was added on the floor of the House, provided that none of the funds appropriated could be expended until the ConRail legislation that was pending at that time in the House and Senate Commerce Committees was enacted, and it now appears that it may not be. This amendment makes a technical change that will permit the continued operation of this vital railroad if we fail to get an agreed ConRail bill enacted prior to adjournment. It is acceptable.

Mr. YOUNG. I am willing to accept the amendment.

Mr. MAGNUSON. I yield back the remainder of my time .

Mr. BAYH. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 2117

Mr. PELL. Mr. President, I call up an amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself and Mr. CHAFEE, proposes an unprinted amendment numbered 2117.

Mr. PELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, insert the following:

RHODE ISLAND INDIAN CLAIMS SETTLEMENT FUND

SEC. 109. For payment to the Rhode Island Indian Claims Settlement Fund, as authorized by Public Law 95-395, $3,500,000, to remain available until expended.

Mr. PELL. Mr. President, this amendment would appropriate $3.5 million to implement a settlement negotiated in the Narragansett Indian land claim in my State. Authorizing legislation was signed by the President on September 30, and a supplemental funding request submitted on Thursday, October 12.

The Narragansett land claim created great economic hardship for landowners in my state unable to sell or develop their land. As in other States with similar claims, normal economic life ground to a halt while landowners faced the prospect of a 7 to 10 year court struggle and staggering legal fees, well beyond anyone's ability to pay. Governor Garrahy was instrumental in negotiating this settlement, and I introduced the necessary implementing legislation on May 25. The entire settlement depends upon the necessary appropriations, and that is why this amendment is so essential to my State. If this settlement falls apart, the State and the landowners will have to go back to court—probably later this year—and face additional claims to defend against. This settlement eliminates all claims in Rhode Island, insuring that the State will not face this costly and divisive issue again.

The governor and the entire Rhode Island congressional delegation support this amendment, as does the administration and every one of the parties involved in the land claim. It is my understanding that the House will accept this amendment, with the committees having been contacted and indicated their assent yesterday. This resolution is the only vehicle which will make the needed appropriation available this year, and I urge my colleagues to accept this amendment so that the Congress will not have to face this problem again.

Mr. MAGNUSON. Mr. President, any time we can achieve an accommodation of the Indian claims in this country, I am glad to accept it. This is unusual. I wish that would be happening in my State and some other States in the Union.

Mr. President, I am prepared to accept the amendment of the Senator from Rhode Island. It has recently been requested by the administation, and I am advised that the House will accept it as well. I understand that it is necessary to resolve a dispute in his State, and I am pleased to accommodate him in this matter.

I understand, too, that there was a sort of error in this case—not an error, but the White House wanted to put it in, and somebody did not put it in the budget.

Mr. PELL. Exactly.

Mr. YOUNG. I think it is a necessary amendment, and I understand the House will accept it.

Mr. MAGNUSON. That is my understanding.

Mr. PELL. I thank my colleagues.

I yield back the remainder of my time.

Mr. MAGNUSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 2118

Mr. MAGNUSON. I send an amendment to the desk, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. MAGNUSON) proposed an unprinted amendment numbered 2118.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the Joint Resolution insert the following new section:

"ADMINISTRATIVE PROVISION

"SEC. . Section 105(e)(3) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(e)(3)), is amended

(1) by striking out "four" in subparagraph (A) and inserting in lieu thereof "two";

(2) by striking out "two such" in subparagraph (A) and inserting in lieu thereof "four such"; and

(3) by striking out "three such" in subparagraph (B) and inserting in lieu thereof "five such"."

Mr. MAGNUSON. Mr. President, this is a technical amendment designed to correct an inequity in the amendments made by the Legislative Branch Appropriation Act to the Legislative Branch Appropriation Act, 1968. This is purely an internal, Senate housekeeping matter.

Mr. President, the amendment would revise the formula under the Legislative Branch Appropriation Act, 1968 with respect to the numbers of people permitted to be paid at various levels on the standing committee payroll. It would not raise anyone's pay. It does, however, give the chairmen of the standing committees an opportunity to adjust pay so that a pyramid structure in pay would remain in effect. The amendments adopted this summer on the Legislative Branch Appropriation Act have eliminated what previously was a series of different ceilings. This amendment restores the ceilings and allows for flexibility.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. THURMOND. Mr. President, I would like to thank the distinguished chairman of the Appropriations Committee, Mr. MAGNUSON, and the distinguished ranking member, Mr. YOUNG, and also the distinguished chairman of the Public Works Subcommittee, Mr. JOHNSTON, and the ranking member, Mr. HATFIELD for their continued support for the research and development program at the Barnwell Nuclear Fuel Plant in South Carolina. The assurance of Mr. JOHNSTON that the fiscal year 1979 R. & D. program at Barnwell will move forward under this resolution will help maintain this skillful technical team for another year.

Mr. President, I ask unanimous consent that an exchange of letters between Senator JOHNSTON and me concerning the fiscal year 1979 Barnwell program, under this resolution, be printed in the RECORD following these remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 3, 1978.

Hon. J. BENNETT JOHNSTON,
Chairman, Subcommittee on Public Works, U.S. Senate, Washington, D.C.

DEAR BENNETT: President Carter has indicated in recent press statments that he intends to veto H.R. 12928, the FY '79 Energy and Water Development Appropriations Bill.

It is possible that such a veto, if sustained, could jeopardize the FY '79 research program at Barnwell Nuclear Fuel Plant if Congress were forced to use a continuing resolution as an interim funding measure. Congress has approved a FY '79 R&D program to continue the research being conducted under the ongoing program. While this obviously is a continuing program, I would like to clarify that fact to assure that the Executive Branch does not delay the start of the FY '79 program at Barnwell. Your assurance that the research program at Barnwell should be regarded as a continuing program and should move forward under this resolution would be most helpful in maintaining this very talented technical team at Barnwell for another year.

I would like to thank you for the support which you have given this project in the past. If you wish to discuss this matter further or if I can be of assistance to you in any matter, please do not hesitate to contact me.

With kindest personal regards and best wishes,

Sincerely,

STROM THURMOND.

U.S. SENATE,
Washington, D.C., October 11, 1978.

HON. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: This is in response to your letter concerning funds for the Barnwell nuclear facility.

Section 101(c) of House Joint Resolution 1139 provides FY 1979 appropriations for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriation Act,

1979 (H.R. 12928) as enacted by the Congress with certain exceptions involving water resource projects.

The appropriations for the Department of Energy are exactly the same as were contained in the vetoed bill, including the amount and provisions for the Barnwell, S.C. nuclear facility.

I hope this responds to your questions.

Sincerely,

J. BENNETT JOHNSTON,
Chairman, Subcommittee on the Public Works.

AMENDMENT NO. 2119

Mr. CHILES. Mr. President, I send to the desk an amendment on behalf of myself and Senators BELLMON, BAKER, and JOHNSTON.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) for himself and others, proposes an unprinted amendment numbered 2119.

Mr. CHILES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, lines 11 through 14 strike: "Except that such activities shall be continued at a rate for operations not in excess of the lower of the current rate or the rate authorized by S. 2570 as passed the House of Representatives."

And insert in lieu thereof: "Except that activities under title VI of such Act shall be continued so as to reduce the number of public service jobs funded in fiscal year 1979 under such title from the current rate by 68,000 on an average annual basis."

Mr. CHILES. Mr. President, I ask unanimous consent that the names of Senator PROXMIRE and Senator GARN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is this the amendment on which the Senator has 1 hour?

Mr. CHILES. I understand there are 30 minutes to a side on the amendment.

Mr. President, this amendment is a compromise amendment that has been worked out with the cooperation of the chairman of the Appropriations Committee, Mr. MAGNUSON. This amendment requires reduction of 68,000 public service jobs——

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. MAGNUSON. We did talk about the amendment, but my position is that I would rather not have any major amendment at all on this bill, and I was going to so state, because I do not want it to be fouled up in the last hours.

The Senator and I have discussed this; and if we were to consider this amendment, let me put it this way, in the Senate Appropriations Committee, under regular hearing and regular procedures, I probably would vote for it.

I hope we do not have any CETA amendment at all on the bill; but if we are going to have one, I will put it this way: I would agree with the amendment of the Senator from Florida.

Mr. CHILES. I thank the Senator. I know he would rather not have any amendment on this bill, but there already are amendments in this bill. The Indian claims and the other amendments have been placed on it, so it does have to go back to the House.

It requires a reduction of 68,000 public service jobs in the antirecession title of CETA.

We believe that this is a responsible response to the improved employment situation since Congress provided the big buildup of public service jobs. We have clear indications that the House of Representatives will accept the compromise, so this will not delay or jeopardize the continuing resolution.

The original amendment which Senators JOHNSTON, BELLMON, BAKER, and myself introduced would have mandated a reduction of 136,000 jobs by the end of fiscal year 1979. This compromise achieves the same level of savings, but it leaves greater flexibility for Congress to reexamine the employment situation in February or March. At that time we will also have enacted the new CETA reauthorization bill which has just emerged from conference, and we can make specific funding decisions appropriate to the provisions of that act.

Mr. President, when the Budget Committee considered the CETA authorization it was our feeling that we could cut 160,000 jobs and the budget resolution so provided for that cut.

What we are talking about here we will still end up with around a cut of 136,000 jobs. So reduce that. The reason we reduce that from the figures the Budget Committee has recommended is because in the meantime the authorizing committees had come up with the compromise in the conference report on the CETA bill, and that figure would come more in line with the figure that we are now using for our jobs.

Mr. President, I supported the aims of the new CETA bill to shift the emphasis of CETA back to hiring the hard-core unemployed, the minorities and disadvantaged youth who have trouble getting jobs even when unemployment is low. This amendment is entirely consistent with that objective.

Our amendment specifies that all the reduction will come from title VI, the counter-cyclical title of CETA. That is where we have had the big problems with abuse. Since half the jobs in title VI do not have to be targeted to the disadvantaged, city officials can use the money for high-paid professionals or relatives or political patronage. By cutting down the title VI jobs we can cut down on the abuse and help reorient the program where it is most needed.

This is a moderate reduction. This particular amendment would end up saving $162 million, and that seems to be a moderate saving out of a $12 billion program. By making this reduction we can help restore credibility that when we start up a program based on there being a recession and put all the fuel to that as that recession weans off we would be able to cut down some of the dollars off of that program.

Back in 1974, before the recession started, we were only spending $3 billion on the basic CETA program that was oriented to the hard-core unemployed. In 1976, when we had 7.3 million people unemployed, Congress increased CETA funding to $11 billion. It took a while for the local programs to build up the number of enrollees, and by 1978 we are spending $12 billion even though the unemployment rate has come down to 6 percent. The Congressional Budget Office now estimates that unemployment will average 5.7 percent in 1979. We therefore believe it is necessary to start a reasonable phase down of the nontargeted portion of CETA. Our amendment will still leave $11.5 billion for the CETA program for training and employment of the disadvantaged. That is a national commitment four times as large as we made before the recession.

Mr. President, it is difficult to make choices in Federal spending. But it is becoming increasingly clear that the American public has reached the limit of how much it will pay for Federal programs. If we want to meet new needs and priorities, we are going to have to find some way to pare down old programs as they meet their particular need.

The way to start doing this is to start facing down on the jobs in the nontargeted portion of CETA.

I reserve the remainder of my time.

Mr. JOHNSTON. Mr. President, will the Senator yield me 3 minutes?

Mr. CHILES. I am delighted to yield to the Senator.

Mr. JOHNSTON. Mr. President, no Federal program epitomizes waste and inefficiency in Government as much as the CETA public service job program.

It was a countercyclical program designed to help at the height of difficult unemployment when unemployment was up around 9 percent but as unemployment began to fade, Mr. President, back in 1975 I put in an amendment in the Appropriations Committee and then again here on the floor to cut that program in half. As I recall, it was $1.6 billion at that time.

My amendment was to cut it to $875 million, if I remember correctly.

The amendment failed, but I was assured at that time that this was not to be an increasing program and a permanent program, but one only to deal with the difficult problem at the depths of the recession and the depths of the unemployment problem.

But now, Mr. President, we have seen that program not decrease from $1.6 billion but increase from $1.6 billion along about 1975 up in excess of $6 billion right now.

What has happened to unemployment? Unemployment has gone down to about 6 percent.

We are not saying with this amendment, Mr. President, to eliminate the CETA program. Far from it. We will still have almost $6 billion worth of a program left if this amendment passes.

All this amendment does is to bring the program down by about 38,000 jobs which is down to the budget committee target levels, levels that have already been approved not only by the Budget Committee but approved by this Senate.

Unless we do bring it down to that

level, then somewhere along the way another program has to give because we have already mandated those targets.

Mr. President, no one need lose their job because of this cut. It can all be handled by attrition. I say this is an excellent place to start in terms of saving money. If you want to compare real savings in money, look at this program, not the public works program, look at this program. This one amendment will save $160 million.

Mr. WILLIAMS. Mr. President, will the Senator yield ?

Mr. MAGNUSON. I yield to the Senator from New Jersey.

Mr. WILLIAMS. I thank the chairman of the committee.

Mr. President, we have not used any time in opposition to this amendment yet, I do not believe. Is that right?

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator is correct.

Mr. WILLIAMS. Mr. President, I start by referring to the report from the Appropriations Committee in regard to the CETA program and the program of public service employment. The report says:

> The committee agrees with the House langauge in the resolution specifying that the rate of operations for activities under CETA shall be in a rate for operations not in excess of the current rate except that the level of public service jobs under title VI shall be reduced by approximately 100,000 by September 30, 1979, down to a level of about 625,000 jobs.

I think it should be noted that the Budget Committee came to about the same conclusion, and the budget resolution, as I read it, called for a reduction of 100,000 jobs in this program and that is what is in this bill. The amendment would reduce the jobs substantially, beyond the Budget Committee, and the Appropriations Committee, as they report to us:

The report continues:

> Like the House-passed version of the continuing resolution, the committee intends that this reduction of 100,000 jobs be accomplished through normal attrition, not job layoffs.

That, Mr. President, is one of the major problems that we see. The layoffs. Layoffs now going into the winter when, at least in the northern parts of our country, it is the most difficult time for anybody who is out of a job to get a job. And many people who have been in the title VI program have less promise of getting a job.

This amendment cut 36,000 jobs on an annual basis, and that would be 18,000 in the deary winter ahead.

Mr. CHILES. Mr. President, if the Senator will yield, I would like to explain the way part of the compromise was made in the amendment.

After talking with the Members of the House and, I think, perhaps with your staff, too, we made it 68,000 jobs on an annualized basis, which would give the Administrator much more discretion.

If the Administrator said, "We don't want a straight cut, 36,000 jobs, then it would be so much a month on a straight line basis. By putting it on an average annualized basis it just says that at the end of the year he has got to be there. So your problem in the winter would not necessarily have to occur.

If the administrator said, "We don't want to lay anybody off in the winter, we will wait and allow attrition to take this up," we know how this attrition works, and then he would not have to lay anybody off.

Mr. WILLIAMS. How long is the continuing resolution? This money is for what period, the whole year?

Mr. MAGNUSON. Yes, the whole year.

Mr. CHILES. Again, if the Senator will yield, Mr. President, what this gives us is the ability to do by putting it on an annualized basis, it gives us the opportunity to look at it in February or March and see what is happening and see whether we are able to phase these jobs down. So I think we built a lot more flexibility into the amendment, and I think it is wise to do that so that no one would have to be laid off on this basis.

Mr. WILLIAMS. I trust that time was divided.

Mr. CHILES. I would be delighted to yield to the Senator.

Mr. WILLIAMS. There is limited time here, and I know the Senator from New York joins me in resisting this amendment to the committee bill.

Any day it would be unwise, in my judgment, and I think it is particularly unwise on this day, just 24 hours after we passed the Humphrey-Hawkins bill. I sat right here, and right behind me and to the right sits the most distinguished Senator, our beloved friend from Mississippi, Senator STENNIS, and he said in opposing Humphrey-Hawkins that what we need is training for our young people, so that they can be able to do a job and sustain themselves.

That is what this program is all about, and that is what we have put into the CETA bill that passed the Senate just yesterday.

Public service employment now is going to have the training component that the Senator from Mississippi hoped we would have.

He talked about the CCC days. Well, that was sending the young people to camps, one of the best things Roosevelt did.

We still know people today who talk about that training and what it meant in the lives of over 1 million Americans.

Well, this is not a camp program, but in their own communities, it directs people into the training that will give them a job and make them self-sustaining, good citizens. Most of them are young, some are old. This is no time to lay them off, no time to slash this way at the excellent work of the Committee on Appropriations.

Mr. JAVITS. Does the Senator want some time?

Mr. EAGLETON. Yes, 5 minutes.

Mr. JAVITS. Five minutes.

Mr. EAGLETON. I thank my colleague.

Mr. President, many years ago when I was young there was a radio broadcaster named Gabriel Heatter, long since dead, but he used to start off his radio broadcasts with, "Ah, there's good news tonight."

Indeed, according to Senators BELLMON, BAKER, CHILES, and JOHNSTON there is good news tonight. The recession is over. There are plenty of jobs out there in the private market. There is no need to be concerned about people who are unemployed.

I guess there are just people—everybody is working like crazy in Memphis, Tenn. I have been to New Orleans recently, and I think they have got a rather high unemployment rate. But according to the proponents of this amendment we do not need CETA much any more. There is just happiness in the land and the recession is behind us.

I find it bizzarre that just a few minutes ago we were shedding crocodile tears all over the Senate because we were not going to pave over half of the Missouri River and cement all over the 48 continental States, plus the two States elsewhere. How horrible that was going to be that we were not going to have cement all over the place, and what a terrible person Jimmy Carter was for trying to save some money on public works.

Now, after we get through that ordeal, when all of those tears and all of that agony is with us, now comes the bill to cut jobs from people. Here we do it a quarter of three in the morning. This is our farewell shot to the unemployed in America. We are going to cut back, and as the Senator from New Jersey just points out, in less than 24 hours after we passed the Humphrey-Hawkins bill. How callous can we be? How callous can we be to say we are going to—we have already cut 100,000 CETA jobs, so let us put the knife in a little more, another 36,000.

I mean, I think it is an insult to the human intelligence in this country to say when unemployment on a national basis is 6 percent, when black unemployment in New Orleans and in Memphis and in St. Louis and in Newark and in other big cities in this country runs triple the average, and when teenage unemployment is so horrendous and so scandalous that we do not even want to record the figures, that at that point in time in the wee hours of the morning the people with the little pencils, and the little gigs are going to take another 36,000 jobs.

I think it is one of the most heartless amendments I have seen offered even in daylight hours, and it is much worse at this awkward hour of the morning.

Mr. JAVITS. Mr. President, I yield myself 5 minutes, and I might add to Senator EAGLETON'S very eloquent argument and that of Senator WILLIAMS, not only everything they have said, but this amendment was rejected by the Appropriations Committee, which is not given to wasting money, by a vote of 7 to 3 when Senator CHILES brought it up there, and it is no compromise. It is just a cut to the bone because it also seeks to cut beyond what the House, which is supposed to be very economical about money, seeks to cut. The House cut this down to 100,000 jobs less than the 725,000 there are now.

Senator CHILES and his colleagues would cut it down so that at the end of the period there would be 589,000 jobs, cut down another big slice here.

Mr. President, an effort has been made to justify this by the letter of a group

which backs this particular proposition. I agree with Senator EAGLETON that it seems very shocking after all the protestations of last night that we would make big arguments about public work which costs $45,000 per job as against the CETA program which, at the most, costs $10,000 per job.

The group that sent out this particular amendment sought to justify its particular position by the fact that they had an estimate from the Congressional Budget Office that unemployment for the ensuing year would be 5.7 percent.

But the fact is that unemployment is 6 percent now. That is, gentleman, not just a figure, it is 6 million unemployed, 6 million unemployed people, of whom not less than 3 million are structurally unemployed, which means that you run there into the minorities, which have double the unemployment average when they are adults, generally the whites, and of the minority youths which have four times the rate of unemployment, the average in the country.

Mr. President, this program now in the conference report has been very, very much sharpened up and tightened up. The conference report has already been approved in this body and has been or will be approved in the other body tonight.

Now let us see what it does, because we are laboring long and hard to get a conference report which would do justice to this situation.

In the first place, it for the first time establishes that half—indeed, a little more than half—of these jobs should go to the underprivileged groups, the structurally unemployed, and those who need the training; and there is, for the first time, an enormous emphasis on training. Just about half of these jobs, 309,000, will go to those who need training and who are very much behind the 8-ball in unemployment.

Now, Mr. President, I am given to being very frank with the Senate. Senator MAGNUSON suggested to me, as a way out of the situation at this very late hour, as Senator WILLIAMS and Senator EAGLETON have said, if our colleagues objected and wanted some further reduction, that that reduction be made in the countercyclical part of this trenche, of this package, the CETA jobs, and by transferring to the training part, where there is no question about the fact that we are way, way short. We are dealing with about 10 percent of 3 million people, all of whom need this kind of job.

I said to them, "I'll take it; OK, if that's what is desired by the Senate, I'll do it."

But instead of doing that, you are cutting into the bone in this situation in a matter which has just been settled, only yesterday, between the Senate and the House, at a new figure, to wit, reduced 100,000, a figure which has been turned down by the Appropriations Committee itself.

Let us look at what you said about the Budget Committee. It was stated that this was the target of the Budget Committee. Well, gentlemen, it was not. The target of the Budget Committee, instead of our 50,000 jobs, which is what we did in conference, was 60,000, and I quote from page 87 of the second concurrent resolution report on this matter. You are cutting it by 68,000.

Also, the idea of a compromise is completely invalid. There is no compromise at all, because that is the only way you can phase out, unless you phase out by writeoffs. If you are going to phase out by attrition, you can only do it on an average basis, and so you pick a figure, and at the end of the year it is double that figure, which represents a reduction in average jobs.

Finally, Mr. President, I cannot resist this, because I managed the Humphrey-Hawkins bill on the floor, and we spent about 9 hours debating with the greatest depth of feeling and the greatest expression of concern that we were going to assure the American working people that at long last we would really have a goal for reducing unemployment, we would really do something to show we had an understanding of their needs; and then the very next night afterward, you make this cut; after your own Appropriations Committee decides against it, you are going to up them one.

Mr. President, if that is the way we want to operate, you can eliminate this whole program and many others, if you really want to cut. There is the old tale of the Scotsman and the horse: Cut and cut and cut to where the horse dies. We have cut it to that point already.

The PRESIDING OFFICER. The Senator's time is expired.

Mr. JAVITS. I yield myself 3 more minutes.

So, Mr. President, I hope very much the Senate will reject this amendment, as it certainly should, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. BELLMON. Just a moment, Mr. President. Will the Senator from Florida yield?

Mr. MAGNUSON. Just a second, Mr. President, I am going to vote against the amendment, because I do not think we should have it on this bill at this time. I do not want to discuss the merits of it; they have been well discussed. But I would rather the amendment was not on this bill. I am not so sure, if this bill gets over to the House in the wee hours of the morning, but that with this amendment we may have some trouble, and there are other more important things in the bill than this particular amendment.

That is my position.

Mr. CHILES. I yield the Senator from Oklahoma such time as he may require.

Mr. MAGNUSON. We voted 7 to 4 in the Appropriations Committee against the amendment, based on the fact that we did not want to open up this bill for this kind of amendment, because that would really open a Pandora's box.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. YOUNG. Ordinarily, I would be voting to cut funds but in this case I take the same position as the chairman. If this bill goes over to the House with this amendment, they may demand a conference, and we may never get this bill passed. There will be a lot of people in HEW that will not get paid, and certainly the whole public works program.

Mr. CHILES. I yield the Senator from Oklahoma such time as he may require.

Mr. BELLMON. Mr. President, let me try to put this amendment in a little better perspective.

There have been some statements that this is somehow a stingy amendment, to take jobs away from people who need them.

The fact is that if we accept this amendment, we will still have $11.5 billion in these programs. We are not proposing to cut a penny from training programs.

We are proposing to cut back on the countercyclical public jobs program. I hope that the Members will realize this is what the countercyclical was all about: When unemployment was high, we put up money to provide these jobs, and now that the employment picture is brighter, we should expect to reduce them.

I am beginning to think that there is nothing more permanent around this body than a temporary Government spending program. We put these programs in place assuring ourselves and the taxpayers that as conditions get better, we will cut back. But then as conditions get better, it is very easy for the proponents to claim we are doing an injustice to reduce spending as we originally intended to do.

What we are trying to do tonight, Mr. President, is keep the promise we made ourselves when we adopted the second concurrent resolution. If we do not make this reduction, we will find ourselves running out of room later on, when other programs come up to be funded, and will have to make the cuts in them.

To show how the CETA program has grown, in fiscal year 1974 there was $2.3 billion in this program; for 1975, $3.6 billion, in 1976, $5.3 billion; in 1977, $8 billion; in 1978, $11.5 billion, and now we are trying to hold it to that level. We are not cutting back at all; we are simply trying to start in the direction of reducing the program as conditions improve.

Mr. President, this amendment simply seeks to reaffirm the decisions the Senate has already reached, during earlier consideration of the CETA program. During our debate on the second budget resolution, and again when we voted to reauthorize CETA, the Senate stressed three themes: The fraud and abuse in the program had to be reduced or eliminated; the program had to be reoriented to serve the structurally unemployed; and countercyclical public service jobs had to be phased down, to reflect changing economic conditions.

The fraud, mismanagement, and abuse in CETA will, I believe, be reduced substantially, as a result of the safeguards included in the reauthorization. The new CETA legislation is carefully crafted to

insure a redirection of the program to meet the needs of the structurally unemployed; and there is nothing in this amendment that would result in reductions in programs for the structurally unemployed, minority youth, and welfare recipients.

The only way we can accomplish our third objective—a phase down in countercyclical jobs—however, is through the appropriations process. And if we are to use the appropriations process to that end this year, Mr. President, the continuing resolution before us is the only vehicle available. We cannot wait until the spring supplemental to send prime sponsors a clear signal that the number of job slots is to drop gradually throughout this fiscal year. If we wait until spring, Mr. President, prime sponsors will either have to lay off people; or we will have to settle for a slower phase down. If we want to accomplish our stated objective, and achieve the savings assumed in the budget without firing people, we must act now.

The opponents of this amendment, when it was introduced in the Appropriations Committee, did not argue the substance of the amendment. The distinguished chairman of the Appropriations Committee indicated he would be inclined to support its intent. The opponents argued then—and I expect they will argue now—that this amendment would cause a delay in reaching agreement with the House on this continuing resolution. If I believed the House would not agree to this amendment, Mr. President, I would not be a cosponsor. I am well aware that literally millions of people depend for their next paycheck on prompt passage of this resolution.

I am absolutely convinced, however, that the House will accept our amendment. On August 9, the other body voted 221 to 181 to reduce the funding for public service jobs by $1 billion. Let me remind the Senate, this amendment would reduce countercyclical jobs by $500 million from the President's budget request—one-half the cut the House voted for, in August.

Mr. President, I cannot imagine that the House, which voted August 9 to reduce funding for public service jobs by $1 billion would refuse to accept this cut in October. (If anything, I would expect the majority of House Members to push for an even larger cut.) I believe we can send this resolution—as amended to include the Johnston agreement on public works and as amended to include this reduction in public service jobs—to the House without a conference; and I believe the House will adopt the resolution, as amended.

Mr. President, this amendment proposes basically the same reduction in spending for countercyclical public service jobs as the Senate adopted when we considered the second budget resolution. The House agreed to that cut in conference. This amendment represents the assumption which underlies the resolution—the budget as adopted.

Mr. President, the Budget Committee is not a line item committee. I know that our assumptions about specific programs are not binding on the Congress; and I am not trying to impose such a binding ceiling on the CETA program. I would like to point out, however, that if the continuing resolution passes as reported by the Appropriations Committee, we will be appropriating at a level of $225 million in excess of our assumptions in the budget. If we do that, Mr. President, we will inevitably reach a point later in the year when we have to say that there is no room for another program for which funding was assumed in the budget.

If we spend more than we had anticipated for one program, we must spend less than anticipated for another program. Clearly that is a decision the Senate can make. I only question whether we want to make that decision now, for the purpose of funding a higher level of countercyclical jobs than we had planned on. What has changed to justify such a decision? So far as I can see—nothing. If anything, we should be even more concerned about inflation and about controlling Federal spending.

Mr. President, the Senate passed a tax bill this week. That bill which is now in conference would provide $1.7 billion in tax expenditures specifically directed to stimulating employment for the structurally unemployed in fiscal year 1979 (through jobs tax credits and the earned income tax credit).

Those tax expenditures would increase to over $4 billion, in fiscal year 1980, under the Senate-passed tax bill. My point, Mr. President, is that if anything has changed since enactment of the budget to cause us to reexamine the appropriate level of public service employment in fiscal year 1979, it would be our generous actions when we passed the tax bill. One could argue that, with all the increased emphasis on incentives to employment of the structurally unemployed in the private sector included in that bill. we need fewer public service jobs than we had estimated when we adopted the budget.

I am not arguing for a reduction from the levels assumed in the budget, however, Mr. President. I am simply arguing that there is no logical justification to accept the House-passed increases, which exceeds our budget assumptions by $225 million. Mr. President, I support the phase down assumed in the budget. I strongly support the amendment, offered by the distinguished Senator from Florida which would make the resolution before us consistent with the prior actions of the Senate. I urge my colleagues to support the amendment.

I would also like to point out that the House has already voted for a $1 billion cut in this program. That vote was taken on August 9. So I hope the Senate will adopt this amendment, and I urge its approval.

Mr. CHILES. Mr. President, I yield the Senator from Maine such time as he requires.

Mr. MAGNUSON. Just a minute. I have charge of the time.

Mr. CHILES. I do not believe you do, on my amendment.

Mr. MAGNUSON. Oh, I do not?

Mr. CHILES. I will be glad to give you charge of the floor. I mear, you can have charge of anything you want to.

Mr. MAGNUSON. Will the Senator yield me 10 seconds?

Mr. CHILES. Anything you like.

Mr. MAGNUSON. Mr. President, I hope we will not discuss this too long. I think we understand it. We have got to get this bill over to the House in the next 15 minutes; otherwise we may not have a bill at all. Let us vote.

Mr. MUSKIE. Mr. President, I assure the distinguished floor manager of the bill that I will not take more than a minute.

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Maine?

Mr. CHILES. I yield the Senator such time as he may require.

Mr. MUSKIE. One minute is all I need. I want the Senate to understand what the second budget resolution says. The second budget resolution does not say what the opponents of this amendment say it says, nor does it include the figures——

Mr. WILLIAMS. I was in error in that. I said the budget resolution said 100,000, and I was corrected; it was 120,000.

Mr. MUSKIE. Just let me give you the facts.

Mr. WILLIAMS. I am just trying to save time.

Mr. MUSKIE. I am not going to make an argument. The argument has been made. I just want it to be understood. This is what the pertinent paragraph says:

> In view of the improvement in the overall employment situation, the committee recognizes the reduced need for public service jobs for the temporarily unemployed. The committee recommendation, therefore, assumes a phasedown in the number of such countercyclical public service jobs beginning in fiscal year 1979, tied to the projected decline in the unemployment rate. Such a phasedown would result in an average reduction of 60,000 jobs in fiscal year 1979.

According to our calculations, an average reduction of 60,000 jobs over the fiscal year would result, at the end of the year, in a cut of 160,000.

That is where the 160,000 came from. The Chiles amendment changes that to 136,000. The continuing resolution says 100,000. I understand that Senator MAGNUSON contemplates a possible additional reduction in the spring supplemental, though I do not know whether he does or not.

Mr. MAGNUSON. We will take a look at it and determine whether or not to do it.

Mr. MUSKIE. I thought the Senate ought to have those facts.

Mr. WILLIAMS. Could I add one sentence?

Mr. MAGNUSON. I do not have any time remaining.

Mr. YOUNG. I yield 1 minute to the Senator.

Mr. WILLIAMS. I ask unanimous consent to have printed in the RECORD at this point a letter addressed to Chairman MAGNUSON from the Secretary of Labor, the last sentence of which reads, applying to the projection of unemployment ahead:

> Since that time, the administration has taken note of a somewhat slower economic

growth in the latter half of this year. On the basis of this slower growth, it is highly likely that the next administration forecast will show unemployment rates higher than those previously.

I ask unanimous consent that the letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
October 12, 1978.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I understand that the Appropriations Committee will specify the number of public service employment slots for the end of fiscal 1979 based upon a forecast of the unemployment rate. The Administration's latest forecast, prepared for the Midsession Review, predicted an unemployment rate of 5.8 percent for 1979. Since that time, the Administration has taken note of a somewhat slower economic growth in the latter half of this year. On the basis of this slower growth, it is highly likely that the next Administration forecast will show unemployment rates somewhat higher than those forecasted previously.

Sincerely,

RAY MARSHALL,
Secretary of Labor.

Mr. CHILES. Mr. President, I yield myself such time as I may need. I want to point out that the CBO estimates that now that the conference report has been adopted on the authorizing legislation for the new CETA authorization that the level would be 589,000 jobs by the year end. To get to that level CBO estimates that that would take a 136,000 job cut. That is where the 136,000 jobs came from. If you do not get to that level, then you are really going to be over the authorized figure. We are talking about a cut that the committees themselves have come up with. That is where we would get down to that figure.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The Office of Management and Budget estimates the unemployment at 5.8 percent, and that is what makes all the difference in the world. The CBO estimate, we understand, was simply their choice of a midpoint between the low figure and a 6-percent figure. So they split the difference and called it 5.7. That one-tenth of 1 percent is what makes all the difference in the world. In our conference report and in everything we have done we have accepted the OMB figure of 5.8 percent.

● Mr. BROOKE. Mr. President, I hope we shall sustain the Appropriations Committee's action reducing the CETA public service jobs program only by 100,000 and only through normal attrition, not through layoffs.

The currently appropriated level for public service jobs is 725,000.

In light of the fact that the overall employment situation is improved, our committee felt there was justification for making some reduction public service jobs.

Thus, the committee amendment provides that the level shall be cut from 725,000 to 625,000 by next September 30 using normal attrition—not layoffs—as the means to achieve the new level.

The 100,000 reduction is based upon an expected 5.8-percent unemployment rate for the present fiscal year. This expectation is verified by the Secretary of Labor in a recent letter to our chairman, Senator MAGNUSON. In that letter of October 12, Secretary Marshall said:

The administration's latest forecase, prepared for the mid-session review, predicted and unemployment rate of 5.8 percent for 1979. Since that time, the administration has take note of a somewhat slower economic growth in the latter half of this year. On the basis of this slower growth, it is highly likely that the next administration forecast will show unemployment rates somewhat higher than those forecasted previously.

Thus the outlook is for more—not less—unemployment.

I understand that the pending amendment may be based on an unemployment estimate of 5.7 percent provided by the Congressional Budget Office (CBO). I understand that this is only the midpoint of a CBO projection ranging between 5.2 and 6.0 percent, indicating some uncertainty by that Office.

We are told the pending amendment will make a cut of 68,000 in the average level of public service jobs, but upon closer examination we find the actual cut will be 136,000 below the currently appropriated total. Thus, the yearend level under the amendment will be 589,000. This means cutting 36,000 more jobs that the committee calls for.

I cannot be a party to such an excessive cut at a time when unemployment remains high and some 900,000 other jobless persons have given up looking for jobs and are not even counted in the unemployment rate.

Our committee amendment is based on sound data and sound reasoning and is consistent with the need to be very sensitive about the uncertain job situation in this country. For these reasons, the proposed amendment should be rejected.●

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. If all time has been yielded back, the question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Alabama (Mr. SPARKMAN), the Senator from Mississippi (Mr. STENNIS), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The PRESIDING OFFICER (Mr. STEVENSON). Are there any Members in the Chamber who have not voted and wish to do so?

The result was announced—yeas 32, nays, 44, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—32

Bartlett	Dole	Muskie
Bellmon	Garn	Nunn
Bentsen	Hansen	Packwood
Biden	Hayakawa	Proxmire
Bumpers	Hodges	Roth
Byrd, Harry F., Jr.	Hollings	Schmitt
	Johnston	Schweiker
Chiles	Laxalt	Stevenson
Church	Long	Stone
Curtis	Lugar	Thurmond
Danforth	Morgan	Wallop

NAYS—44

Abourezk	Hart	Moynihan
Baker	Hatch	Nelson
Bayh	Hatfield, Mark O.	Pell
Burdick		Percy
Byrd, Robert C.	Hatfield, Paul G.	Randolph
Cannon		Ribicoff
Chafee	Heinz	Riegle
Cranston	Humphrey	Sarbanes
Culver	Inouye	Sasser
DeConcini	Jackson	Stevens
Durkin	Javits	Weicker
Eagleton	Leahy	Williams
Ford	Magnuson	Young
Glenn	Matsunaga	Zorinsky
Gravel	Melcher	
Griffin	Metzenbaum	

NOT VOTING—24

Allen	Haskell	McIntyre
Anderson	Hathaway	Pearson
Brooke	Helms	Scott
Case	Huddleston	Sparkman
Clark	Kennedy	Stafford
Domenici	Mathias	Stennis
Eastland	McClure	Talmadge
Goldwater	McGovern	Tower

So the amendment (UP No. 2119) was rejected

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. MAGNUSON. Mr. President, I think there is only one more amendment by the Senator from Alaska and then we can send this bill over to the House. We better do it very quickly. So I hope nobody has any more amendments.

I yield to the Senator from Louisiana, how much time does he want?

Mr. LONG. Mr. President, 2 minutes.

Mr. MAGNUSON. It has to be over at 3:30 or we are in trouble. Make it a minute, all right?

TUITION TAX CREDIT ACT OF 1978—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 12050 and ask for its immediate consideration.

Mr. ABOUREZK. Mr. President, is that by unanimous consent?

The PRESIDING OFFICER. It does not require unanimous consent.

Mr. LONG. Mr. President, this is the tuition tax credit amendment. The House took this back, to the House, as a tuition tax credit, higher education.

The PRESIDING OFFICER. Will the Senator withhold until it is reported?

Mr. MAGNUSON. Mr. President, I did not mean to yield for a conference report. Let us take that up after we are through this bill. Let us get this bill over.

Mr. LONG. We can dispose of it in a hurry.

If the clerk will report it, we can vote in a hurry.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12050) to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition, having met, after full and free conference, have agreed to recommend and do recommend to their respective House this report, signed by a majority of the conferees.

(The conference report is printed in the House proceedings of the RECORD of October 3, 1978.)

Mr. MAGNUSON. Now, Mr. President, I ask for the floor.

I ask unanimous consent that the conference report be laid aside temporarily until we can finish this other bill, which will be in about 5 minutes, because I see people standing up over here and I did not mean to yield for a conference report. I have got to get this bill done.

Now, the Senator has bills and I help him.

Mr. LONG. I understand that, and I can accommodate the Senator. I would just like to ask unanimous consent, Mr. President, that when the bill has been disposed of——

Mr. MAGNUSON. I was going to do that.

When this bill is disposed of, the pending order of business——

Mr. LONG. As soon as this bill is disposed of, that this would be the pending business.

Mr. BENTSEN. Mr. President, I reserve the right to object.

Mr. ABOUREZK. I object.

Mr. HOLLINGS. Mr. President, I move to recommit the conferees with instructions, the Senate conferees, adhere to the Senate position on elementary and secondary education.

CONTINUING APPROPRIATIONS, 1979

The Senate continued with the consideration of House Joint Resolution 1139.

Mr. MAGNUSON. Wait a minute, I have a unanimous-consent request.

Mr. LONG. It was objected to.

Mr. MAGNUSON. Who objected? Do we want the continuing resolution passed or do we want to cut out all public works?

Mr. ABOUREZK. I want to proceed.

Mr. MAGNUSON. We can finish this bill in 5 minutes.

Mr. HOLLINGS. With instructions, and let us vote.

Mr. STEVENS. The 2 minutes have expired.

Mr. HODGES. Is the Senator willing to have a voice vote?

Mr. HOLLINGS. Yes.

Several Senators addressed the Chair.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Has the time of the Senator from Louisiana expired? He asked for 2 minutes.

The PRESIDING OFFICER. The Senator is correct, 2 minutes have expired.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question reverts to the continuing resolution.

UP AMENDMENT NO. 2120

(Purpose: To authorize appropriations under the Amateur Sports Act for the U.S. Olympic Committee)

Mr. STEVENS. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 2120.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, at the end of line 14, insert the following:

SEC. 109. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") is authorized to award grants to the United States Olympic Committee (hereinafter in this section referred to as "the Corporation") to assist in the development of amateur athletics in the United States. The Corporation may apply to the Secretary for funds available under this section, and shall use such funds consistent with the provisions of the Amateur Sports Act of 1978. The Secretary may approve any application which meets the requirements of this section, and award grants to the Corporation in a total sum not exceeding $16,000,000 to finance the construction, improvement, and maintenance of facilities for programs of amateur athletic activity and to defray direct operating costs of programs of amateur athletic activity, consistent with Section 104 of the Act entitled "An Act to incorporate the United States, Olympic Association", approved September 1, 1950 (36 U.S.C. 371 et seq.), as amended by the Amateur Sports Act of 1978.

(b) The Corporation shall, on or before the first day of June of each year, transmit to the Congress a report which shall include a detailed accounting of the funds made available to the Corporation by the Secretary pursuant to subsection (a) and a comprehensive description of those projects which the Corporation anticipates it will finance during the next fiscal year with funds authorized by this section.

(c) Each application for funds available under this section shall be in such form as the Secretary shall provide and shall contain provisions to assure that such funds are disbursed in accordance with the provisions of this section. For the purpose of review or audit, the Secretary shall have access to any books, documents, papers, and records which are relevant to any grant received under this section.

(d) There are authorized to be appropriated to the Secretary not to exceed $16,000,000 in fiscal year 1980, such sums to remain available until expended.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. The conference report is before the Senate. Are we not entitled to vote on the motion to recommit the conference report?

The PRESIDING OFFICER. The Senator was granted 2 minutes for whatever purpose, and the 2 minutes expired. The question reverts to the continuing resolution.

Mr. LONG. The motion was made.

Mr. MAGNUSON. The Senator made the request after the 2 minutes expired.

Let me finish this bill.

I yield to the Senator from Alaska. He has an amendment.

Mr. STEVENS. Mr. President, I am offering an amendment to House Joint Resolution 1139 which would authorize the Secretary of Commerce to award grants to the U.S. Olympic Committee (USOC) to assist in the development of amateur athletics in the United States pursuant to the Amateur Sports Act, which passed the Senate by voice vote on May 8 of this year and was approved by the House yesterday. However, while passing the Amateur Sports Act, S. 2727, with very few amendments, the House also voted to strike a $30 million authorization contained in the bill.

I am quite concerned about the loss of funds from the bill, because I believe the money is essential in making the purposes outlined in the act possible. The Senate bill authorized an appropriation of $30 million to the Olympic Committee to be used for restructuring the U.S. Olympic Committee to make it the coordinating body for amateur athletic activity in this country, for reorganizing the 32 sports national governing bodies which are members of the USOC, for sports medicine programs, and for the operation of training centers.

I listened to the House debate on those funds, and have conferred today with House Members with respect to the objection of that body to the authorization. Based upon those conversations, I have redrafted the financial assistance section originally contained in the Senate bill, and believe the amendment I offer now will be acceptable to the House.

My amendment reduces the overall authorization level from $30 to $16 million. Funds are to be expended by the Olympic Committee, pursuant to the Amateur Sports Act, to finance the construction, improvement, and mainte-

nance of facilities for programs of amateur athletic activity, and to defray direct operating costs of programs of amateur athletic activity. This tightens significantly the use of funds by earmarking them for facilities and programs. This, I believe, meets House concerns over funds being utilized for salaries, studies, and other intangibles.

Before the Olympic Committee receives funds from the Secretary of Commerce, it must submit to the Congress a comprehensive description of those projects which the USOC anticipates it will finance during the next fiscal year. This gives Congress oversight over the proposed expenditures. Additionally, the Olympic Committee is obligated to transmit to the Congress each year a report which shall include a detailed accounting of the funds made available to it by the Secretary pursuant to the Amateur Sports Act.

These latter accounting provisions were adopted in the House by voice vote in an amendment offered just prior to the motion to strike the $30 million. I share the House's very legitimate concerns that certain standards be contained in the financial assistance section.

The Secretary has discretion in disbursing the grant of $16 million and may establish standards prior to approval of the award. Additionally, the Secretary may have access to any books, documents, papers, and records for the purpose of review or audit of funds authorized under this section.

I believe the Senate, by adopting these changes, will have gone a long way toward satisfying House demands with respect to the funding of the Amateur Sports Act. I urge my Senate colleagues to join me in supporting this amendment and in sending it back to the House for their approval.

Mr. President, I ask unanimous consent that a chart showing the comparison of the two bills and the problem caused by this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2727—THE AMATEUR SPORTS ACT—PROPOSED FUNDING AUTHORIZATION FOR THE U.S. OLYMPIC COMMITTEE

(Comparison with bill as reported by the House Judiciary Committee)

	HOUSE BILL REPORTED	PROPOSED AMENDMENT
Amount Authorized	$30,000,000	$16,000,000
Purpose	Development and operation of programs consistent with U.S. Olympic Committee objects and purposes	Construction, improvement and maintenance of facilities for programs of amateur athletic activity and defraying direct operating costs of programs of amateur athletic activity
Secretary's discretion	Secretary required to approve applications meeting requirements of the section	Secretarial discretion to approve such applications
Oversight	No express provision	Requirement that U.S. Olympic Committee report to Congress proposed expenditures of authorized funds, as well as account for past expenditures of authorized funds
Appropriation Year	Fiscal year 1980	Same
Authorized Secretary	Treasury	Commerce
Audit authority of Secretary	Any books, documents, papers and records relevant to the grant	Same

Mr. STEVENS. Mr. President, I ask the chairman to accept it. Again, I cleared this with the Speaker. This is the way they would prefer to handle it rather than S. 2727 to go back.

Mr. MAGNUSON. I thank the Senator from North Dakota and I understand it and we yield back our time.

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 2120) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, the action of the Appropriations Committee to continue funding for water projects includes $10 million to alleviate flooding in the Tug Fork Valley. This action was taken on the appeal of Senators RANDOLPH and BYRD who stressed the urgent need for this money. I share a great concern that the devastation and hardship that has resulted from the flooding in the Tug Fork must be stopped. The work to be carried out with this $10 million appropriation must go forward as soon as possible. Senators BYRD and RANDOLPH stressed the urgency of the situation and I am glad to respond to their persuasive arguments.

Mr. MAGNUSON. Mr. President, I now move the adoption of the continuing resolution.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. YOUNG. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the joint resolution is to be read a third time.

The joint resolution was read the third time and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. EAGLETON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, I thank the Members of the Senate very much.

I thank them for finaly letting us get this bill through.

BUDGET ACT WAIVER

The PRESIDING OFFICER. Under the previous order, the Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I ask that the Senate proceed to the consideration of Senate Resolution 589, the waiver of the budget resolution that was reported from the Budget Committee by a vote of 11 to nothing, and I move its adoption.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 589) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to consideration of the conference report to accompany H.R. 11733, the Surface Transportation Act of 1978,

The Senate proceeded to consider the resolution.

Mr. LONG. Mr. President, will the Senator from Texas yield to me for 5 minutes?

Mr. BENTSEN. I yield for 5 minutes if, by unanimous consent, I can have the floor restored to me at the completion of the 5 minutes.

Mr. GRIFFIN. Mr. President, reserving the right to object, if there is any such right, this does not limit the debate

on the conference report to 5 minutes; does it?

Mr. LONG. I hope we can vote in short order, but I would like the Senator to yield to me.

Mr. ABOUREZK. Mr. President, reserving the right to object, may we have a ruling on that?

The PRESIDING OFFICER. Time on the conference report already has been limited to 20 minutes, to be divided between the Senator from Texas and the majority leader or his designee.

Mr. GRIFFIN. My question, Mr. President, is with respect to the conference report that the Senator from Louisiana wants to bring up.

The PRESIDING OFFICER. There is no time on that conference report.

Mr. BENTSEN. Mr. President, I am quite willing to allow the Senator from Alaska to bring up his conference report if I have the understanding that at the completion of that, by unanimous consent, I regain the right to the floor, and with the limitation of 10 minutes to be placed on it, for the consideration of the conference report being presented by the Senator from Louisiana.

Mr. ABOUREZK. I object.

Mr. HODGES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, will the Senator from Texas yield to me for 10 minutes, reserving his right to the floor?

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. I object.

Mr. BENTSEN. Mr. President, I have called for the waiver of the budget resolution to be reported.

The PRESIDING OFFICER. It has been reported.

The question is on agreeing to the resolution.

The resolution was agreed to, as follows:

Resolved, That, pursuant to section 303 (c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of the conference report to accompany H.R. 11733, the Surface Transportation Act of 1978. Such waiver is necessary for the Senate to complete action on legislation which provides spending authority for the Federal-aid highway program, and the Urban Mass Transit Act for fiscal years 1979, 1980, 1981 and 1982. The total new spending authority provided for this period by the conference report is $53,800,000,000. The spending authority for fiscal year 1979 is $9,000,000,000 for Federal-Aid Highways and $3,170,000,000 for Urban Mass Transit Assistance. This new spending authority is sufficient to allow the States to continue highway development at reasonable levels, and is consistent with projected revenues to the Highway Trust Fund.

SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978—CONFERENCE REPORT

Mr. BENTSEN. Mr. President, I submit a report of the committee of conference on H.R. 11733 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. BENTSEN. Mr. President, I rise to submit the conference report on the Surface Transportation Assistance Act of 1978 and urge its adoption by the Senate. Mr. President, before I relate the results of this report, I would like to take a few moments to credit Senator JENNINGS RANDOLPH for the unfailing leadership he has provided in the development of the Federal-aid highway system. As chairman of the Environment and Public Works Committee, Senator RANDOLPH has been the underlying influence that has molded the highway program as we now know it. His perceptiveness, his knowledge, his persuasiveness have, time and time again, focused our committee's thoughts as we structured highway legislation. The people of West Virginia can be truly proud that they have provided the Nation a leader with the capabilities of JENNINGS RANDOLPH.

Let me now turn to the conference report on H.R. 11733.

Mr. President, this report reflects the results of tenuous negotiations between the House and Senate conferees on the numerous complex issues associated with the broad range of this act—an act which authorizes funds for Federal-aid highways, highway safety, and mass transit and extends the highway trust fund. Mr. President, I want to speak to two elements of this report. First—the pivotal issue of the entire conference—funding levels. Second—title I, the Federal Aid Highway Act.

Mr. President, the Senate conferees on this bill confronted a formidable task. When we first entered the conference, we carried with us a Senate bill authorizing $12.4 billion for fiscal year 1979 for both highway and mass transit programs. The House bill that we were to negotiate against had authorized $15.5 billion for fiscal year 1979 and $61.3 billion over the 4-fiscal-year period from 1979 to 1982. Comparatively, the Senate bill—projected to 4 years—would have been $50.4 billion. Faced with a disparity of $3.1 billion in fiscal year 1979 and $10.9 billion over the life of the bill, the Senate conferees—cognizant of the budget resolution, sensitive to the inflationary pressures a large bill could generate—agreed to a compromise bill that authorizes $12.9 billion in fiscal year 1979 and $54.1 billion over the 4-year period. Mr. President, I believe we are reporting a sound, fiscally responsible bill—a bill that judiciously balances the compelling needs of surface transportation and the resources available two address them.

Let me turn now to title I of the bill—Federal-aid highways. Under this title we begin the process of moving toward completion of the Interstate System.

Completion of the Interstate System is a critical need. During the past 22 years we have spent $51.9 billion on the system; it is now 92-percent complete. The problem is the remaining 8 percent, some portions of which may not be completed until the 21st century under current projections. Given the fact that highway construction costs have risen by 216 percent over the last 10 years, completing the remaining 8 percent of the system could cost as much as we spent to build the 92 percent already in place. The longer we wait, the more expensive it is going to become.

This bill recognizes that fact. Consequently, we have increased authorizations for Interstate Highways in this bill. Moreover, we have provided for more effective use of existing interstate money by allowing money which has been apportioned, but not used, to be returned to the pool and used by States ready, willing, and able to move ahead on their interstate projects. We have cut the lapse time from 4 years to 2 years.

In another area we have initiated a system to compel States to decide whether they want their remaining interstate segments or not. We have structured a mechanism that requires withdrawals or substitutions of interstate segments by 1983. And, we require environmental impact statements on remaining segments submitted by the same date. Additionally interstate or substitution systems must be underway by 1986 or they are withdrawn. Finally, we have terminated new interstate route designations.

There are two other noteworthy provisions of this legislation, two areas in which we have tried to be responsive to problems in the program.

The first item is restoration. It makes little sense to spend over a hundred billion dollars for a highway network and then permit it to crumble for lack of repair. We have no choice but to protect this enormous investment. Since the inception of the Federal-aid highway programs, the States have been required to adequately maintain their federally funded roadways.

In recent years, however, it has become apparent that overall maintenance is beyond the financial capability of most States. In 1976, Congress responded to this problem by broadening the definition of construction so as to include the three R's of maintenance: Rehabilitation, restoration, and resurfacing; and a separate authorization was made for 3–R work on the Interstate System.

Nevertheless, 2 years later many portions of the Interstate System are in disrepair; there is a backlog of $2.3 billion of work that needs to be done. Our Interstate System, funded 90 percent with Federal tax dollars, is wearing out 50 percent faster than we are repairing it. This process cannot be permitted to continue. Our bill moves forward with the efforts to address this necessary element of the highway program.

Mr. President, the final area of concern to the transportation community addressed by this legislation is an expanded special bridge replacement program.

The current annual authorization of $180 million is clearly inadequate to reconstruct the 33,500 deficient bridges on the Federal aid system. Let us remember that when we are talking about bridges, we are talking more than highway access: We are dealing with human lives. This conference bill expands the current program some 400 percent to $900 million in fiscal year 1979.

Mr. President, when we first debated the Federal-aid highway bill on the Senate floor we produced a lean bill. We had to; we knew we were going to face a tough conference with the House. I believe we have now succeeded in negotiating a bill that continues to reflect sound, fiscally responsible programs and authorizations.

Mr. President, this bill is necessary for this country. On September 30, highway authorizations terminated. This bill is necessary to begin them again; I urge its adoption.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BENTSEN. I yield.

Mr. MUSKIE. Mr. President, the Senate has before it the conference report on H.R. 11733, the Surface Transportation Assistance Act of 1978. This bill is a 4-year reauthorization of the Federal programs for highway construction, highway safety, and mass transit, and it involves major spending commitments by the Congress.

Because the conference report provides an increase in direct spending authority for fiscal year 1980, a year for which no first budget resolution has been adopted, it requires a waiver of section 303(a) of the Budget Act. The appropriate waiver resolution, Senate Resolution 589, was referred to the Budget Committee, which reported favorably on it, and was passed by the Senate. Passage by the Senate permits the Senate's consideration of the conference report.

As I said on August 21, when the Senate highway bill was under consideration, I believe the highway legislation that the Senate sent to conference was an unusually fine piece of legislation that was the product of the extremely good judgment of the Committee on Environment and Public Works and its fine staff. Particularly significant was the effective and responsible leadership of that committee's distinguished chairman, Senator RANDOLPH, its ranking minority member, Senator STAFFORD, and its excellent Transportation Subcommittee, led by Senators BENTSEN and CHAFEE. They did an exceptionally fine job in writing the 1978 highway bill, and I was proud to support their efforts.

The Commerce Committee and the Banking Committee also should feel proud of the legislation which they sent to conference as part of this omnibus bill.

All three Senate bills were within and totally consistent with the congressionally approved budget.

Mr. President, when the Senate passed its version of the highway and mass transit legislation, I urged the conferees to stand firm behind the Senate provisions and to resist a number of questionable and budgetarily dangerous provisions contained in the House version of the legislation.

The conferees tried to do just that, and I think the Senate should be satisfied with their efforts. Although there remains room for improvement, the conference agreement should contribute significantly to satisfying the country's surface transportation needs, and should do so without pushing Federal spending to excessive levels.

Mr. President, I want to make sure that the Senate is aware of the budgetary dimensions of the conference battles in which the Senate conferees were required to engage. The spending levels proposed by the House were not just unreasonable, they were irresponsible. The House-passed bill carried a 4-year price tag of $61.3 billion, whereas the Senate-passed bill totaled only $50.4 billion. In comparison, the conference agreement before us, when scored on a comparable basis, provides for 4-year spending authorizations for highways and mass transit of $54.1 billion. This is a difference, a potential saving, of over $7 billion that was achieved by the Senate conferees. I congratulate them.

In considering the future impact of the conference agreement on the congressional budget, I find that because of the good work of the Senate conferees, expected fiscal 1979 funding for highways and mass transit is now only slightly above the assumptions of the budget resolution. Further, I believe the chances are good that with the Senate's forbearance and discipline, this slight spending excess can be accommodated. Considering the House conferees' preconference insistence upon funding that was higher by several billion dollars, I believe that this is a very creditable result indeed.

Now, I wish that this success of which I have thus far spoken could have been achieved at no price. Unfortunately, of course, it could not. In order to get favorable agreement on certain issues, the conferees had no choice but to give on others. That is the nature of the bargaining process. If good fiscal judgment alone could have determined the conference outcome. I think we can feel confident that the Senate position would have prevailed on essentially all major fiscal issues.

But because that is not the way the process works, it was predictable that the conference would produce certain outcomes with which the Senate disagrees. Speaking as a Senator who has particular budgetary responsibilities, I believe it is important to take note of six such outcomes which involved potentially serious budget implications. By bringing them to the Senate's attention now, I hope to underscore the need for continued oversight and evaluation, which hopefully will rescue us from any budgetary perils which might result.

As I mentioned, there are six budgetarily troublesome outcomes which bear watching. All were included at the insistence of the House conferees, and all were resisted by the Senate conferees.

The first budgetarily troublesome outcome of the conference agreement involves the highway authorization level for fiscal 1982, which is $1.3 billion below that for fiscal 1981. This "drop-off" in the program was an important factor in bringing the 4-year authorization totals within reasonable proximity of the congressional budget target and the President's recommendation of an acceptable total. However, one must be suspicious of the House conferees' intent in proposing this accommodation. The Senate will want to watch with interest and should be prepared to oppose any increase for fiscal 1982 authorizations which are not fully justified by firm evidence of new program needs not currently foreseen.

The second provision of major budgetary interest involves the authorizations for repair and rehabilitation of highway bridges. For fiscal 1979, the administration requested $450 million, and the Senate-passed bill provided $525 million—both representing substantial increases above the fiscal 1978 funding level of $180 million. The conference agreement provides $900 million for fiscal 1979 and further substantial increases for fiscal 1980 and fiscal 1981. The Department of Transportation has indicated that the fiscal 1979 level exceeds the maximum amounts that can be responsibly obligated by the States.

Further, I am concerned by the implications of expanding eligibility for assistance to bridges not on a Federal-aid system. The intention is not to substitute Federal responsibility for State and local responsibility in this new area, but rather to provide on a limited basis Federal assistance for high priority projects which would not otherwise qualify and which would present unacceptable safety hazards in the absence of Federal assistance. However, if we are not careful, the result could be unwarranted and excessively large funding increases in the future. To see that this is so, one need only note that the House authorizing committee originally proposed annual funding of $2 billion for this program. Clearly this program warrants continued examination to assure that it does not produce sizable undesired and unintended budget impacts.

A third provision that may have troublesome budgetary impacts provides for an increased Federal matching share for non-Interstate Highway projects. The conference agreement increases the Federal share from its current 70 to 75 percent. The House had proposed 80 percent, but the Senate conferees were able to resist an increase of that magnitude. Even so, the change provides increased leverage for State and local highway dollars and shifts more of the highway spending burden to the Federal Government, which is least able to bear it. I believe we must watch very carefully the impact of this change, and be prepared not only to resist any further increases, but to reverse this change if it proves unjustified and unwise.

A fourth troublesome provision increases the existing ceiling on fiscal 1979 Federal-aid highway obligations to what appears to be an unrealistically high level. The Appropriations Committees regularly include an obligation ceiling in the DOT appropriation bill, and the fiscal 1979 DOT appropriation bill set the

ceiling at $7.95 billion. The Senate highway bill included no ceiling provision, but the House bill provided $10.9 billion, more than $3 billion above what the Congressional Budget Office estimates is possible even with the most liberal of program assumptions. At the insistence of the House, the conference agreement provides for a fiscal 1979 ceiling of $8.5 billion, which is still nearly $1 billion above CBO's estimate.

The ceiling is of budgetary significance because it provides both a guide to expected program activity and an assurance that budget targets based on that guide will not be reached. The Senate should check closely to see if this ceiling now proposed bears any resemblance to reality. I suspect we will find it does not. And I would hope if that is the case that in future years we give more credence to the estimates of those who have the technical expertise to make quality budgetary estimates.

Mr. President, the fifth aspect of the conference agreement that troubles me involves a provision that is not there. When the Senate passed this bill, it included an amendment offered by Senator MORGAN that was intended to assure the proper financial management of the highway trust fund. It was a responsible statement of policy strongly supported not only by the Senate authorizing committee, but also by the full Senate. It was adopted by an overwhelming 86 to 0 vote. At the insistence of the House, however, this provision was excluded from the conference agreement.

I believe the Senate should be concerned by the implications of the House's intransigence on this provision. Given the size of the funding levels supported by the House, one implication could well be that the House is not concerned with the issue of responsible financial management of the trust fund. Or, alternatively, that the House is setting the stage for a future increase in gasoline and other highway taxes that cannot be avoided if the highway trust fund is not to experience difficulties similar to those of the social security trust fund. I certainly hope that neither of these are true, but the House's resistance to this policy provision, which is so clear in its intent that the Federal Government simply act as a responsible trustee of the taxpayers' funds, should give us a clear warning to stay on guard.

Finally, Mr. President, I am concerned by the inclusion of a provision in the mass transit portion of the conference agreement that appears to establish a new Federal program to provide subsidies to intercity bus operators. Again this was included at the insistence of the House conferees, as no similar provision was in the Senate bill. Indeed, a similar proposal made last year was strongly opposed by the administration and defeated by a specific vote of the Senate. I strongly question the merits of the provision, and I urge the Appropriations Committees to look this provision over very closely before starting the Federal Government down the path of providing sizable subsidies to yet another sector of the transportation industry.

To recapitulate, I am troubled by numerous provisions included in the conference agreement at the insistence of the House conferees. However, I applaud the efforts of the Senate conferees for having produced an agreement that under the circumstances must be considered acceptable. I believe the Senate should approve the conference agreement, and I encourage the President to sign it.

Mr. BENTSEN. I thank the distinguished chairman. I say to the chairman of the Budget Committee how appreciative we are of the assistance he gave us in trying to stay within the budget resolution.

As I stated earlier, our committee was faced with the rather difficult task of finding a House bill that originally started out, almost $11 billion above a 4-year expenditure for the Senate bill; and for the year 1979, the amount of money in the House bill was approximately $3 billion above that of the Senate bill. We were able to pare that down very substantially, to the point that I have been advised tonight that the President will be willing to sign this bill.

I also congratulate the distinguished Senator from Rhode Island (Mr. CHAFEE) for all the assistance he gave in seeing this matter through to its culmination.

I yield now to the distinguished chairman of the full committee, who, as I have often said, has done much in trying to develop the highway system of this Nation and has been in the forefront of building what has been the major public works project in the world, the Interstate Highway System, which is now 92 percent completed.

Mr. RANDOLPH. Mr. President, I am grateful for the continuing, productive leadership of the chairman of our Subcommittee on Transportation, of the parent Committee on Environment and Public Works (Mr. BENTSEN).

It was my privilege, before being given the responsibility of the chairmanship of that committee, to serve as the chairman of its Subcommittee on Roads.

Later, we were to change the name of the subcommittee from Roads to Transportation. It has been my opportunity and responsibility to have given attention and to have a very genuine concern through the years with respect to the development of a highway system of the United States.

I hope it is not inappropriate to indicate that in the days of the middle 1930's, in the House of Representatives, when I had the opportunity to serve in that body, I presented the initial transcontinental highway system as an idea, hoping that the Senate and the House in those days could adopt it. It is understandable that the Bureau of Public Roads at that time could not fathom the mobility and the strength of products that were to be moved from mine, field, and factory throughout America. There really was a feeling then that the road system of our country was to be circumscribed, in a sense, and was to be a State-by-State program.

Fifteen members of our committee, including the members of the Subcommittee on Transportation—and this is not just a pleasantry—have given me the opportunity, together with the Members of the Senate, to serve in the position of chairman.

I know that Senator BENTSEN gave long and arduous hours, as did others on the committee and the subcommittee, to the writing of this legislation.

Mr. President, as always, it is a pleasure to work with Senator BENTSEN, as with my friends Senators STAFFORD and CHAFEE, ranking minority members of the committee and the subcommittee. Credit for this bill also goes to other members of the conference committee from the Environment and Public Works Committee, Senators BURDICK, CULVER, MOYNIHAN, DOMENICI and MCCLURE. In fact all members, of the committee have contributed, Senators MUSKIE, GRAVEL, HART, HODGES, BAKER, and WALLOP.

The conference on the continuation of federally aided surface transportation programs was not a simple one. Six committees were involved—four from the Senate and two from the House of Representatives. Three Senate bills dealing with highways and transit were melded into one piece of comprehensive legislation. Despite the difficulties involved, the final product, H.R. 11733 is a meritorious one.

The highway programs extended in this legislation are of utmost importance to every State in this Nation. Without passage of H.R. 11733 by the Congress tonight at least 39 States would be forced to terminate various ongoing Federal-aid highway activities. In practical terms that means that the construction and repair with Federal money of interstate highways, primary routes, city streets, rural roads and unsafe bridges would come to a halt in your own States.

The conference agreement before the Senate will prevent unnecessary interruptions in these essential Federal initiatives. It authorizes $37.4 billion through fiscal 1982 for the continuation of highway construction and highway safety programs in all 50 States, the District of Columbia, Puerto Rico and the territories. The bill makes several substantive improvements in the financing of Federal highways.

For example, H.R. 11733 provides the legislative groundwork for completion of the interstate systems by reallocating Federal funds to States which can obligate them right away. Hundreds of millions of taxpayers dollars will no longer languish in the accounts of States which cannot use them.

Furthermore, the costly inflationary impacts of unnecessary project delays will be minimized. Interstate funds will be available for 2 years instead of the present 4 years. Lapsed funds, estimated at over $1 billion for fiscal year 1979, will be reallocated by the Secretary to States with ready-to-build interstate projects. This provision will allow States, like West Virginia, to reduce the overall cost of interstate completion, by receiving Federal funds in advance. The approach, adopted from the Senate version, is both simple and cost-effective.

Let me explain what this provision means for West Virginia. The priority road construction project in West Virginia is the upgrading of the turnpike. In its present form this congested two-lane road is a bottleneck on two interstate

routes, I–77 and I–64. The West Virginia Department of Highways is prepared to obligate nearly $250 million on the turnpike this year; however, West Virginia's annual apportionment is only $70 million. With the creation of the pool of lapsed funds, our State can now apply for advance allocations and accelerate completion of the turnpike.

The conference bill also addresses what I consider our greatest highway safety need, the repair and replacement of an estimated 100,000 deficient bridges around the country. In light of this tremendous, potentially tragic, problem the conferees agreed to increase the authorization for the special bridge replacement program to $900 million in the first year, and $1.1 billion, $1.3 billion, and $900 million in the following years. Additionally, for the first time these funds will be available for bridge rehabilitation, as well as reconstruction. This change in itself will result in the reduction of bridge replacement costs in the future.

As sponsor of the bridge program in 1970, I am pleased to see the program respond as America's bridge needs, both on and off the Federal-aid system, are identified.

From the bridge authorization, the bill also funds an accelerated bridge demonstration project. One bridge, across the Ohio River at Huntington, W.Va., will be eligible for $24 million from the Highway Trust Fund to expedite its completion. The east end bridge project is of crucial importance to West Virginia's largest city. This is equivalent to 90 percent Federal funding. When constructed, it will carry high volumes of traffic, including hundreds of coal trucks weekly, between our State and the Midwest.

Another feature of the legislation will benefit the Applachian region. Because of the continuing need for the completion of the Appalachian development highway system, H.R. 11733 increases the Federal share for the construction of these roadways from 70 to 80 percent. An additional 125 miles to supplement the current Appalachian corridor designations is also authorized. Any of the 13 States within the region may apply for this additional mileage, which will further advance transportation access as well as the economic growth of the region.

I could go on highlighting various provisions in the conference bill which will enhance our country's transportation. The ones I have mentioned are of particular interest to me because they will greatly benefit my State. I know that any one of the other Members in this Chamber could rise in support of H.R. 11733 for just the same reason. It serves each State individually, but more important, it serves the country as a whole.

There are some, however, who may question the authorization contained in the bill. But one must examine the dollars in perspective.

Going into conference the Senate bill authorized $49.9 billion for mass transit and highways over 4 years. The total authorization for fiscal 1979 of $10.2 billion was consistent with the budget resolution. The House bill on the other hand totaled $58.5 billion—$4.5 billion higher in the first year and $11.3 billion higher over the 4 years.

The Senate conferees prevailed on the House conferees to agree to cut $7.5 billion from their bill. It was not an easy task.

The conference agreement totals $51 billion—only a 5-percent increase over the 4-year budget recommendation, as for highways in fiscal 1979 the construction and safety programs exceed the budget mark by $289 million. Over the 4 years authorized by the bill the highway titles exceed the target provided by the Budget Committee by only $700 million. Moreover, based on information gathered by the Department of Transportation, the States could obligate over $39 billion for these programs during the same time period. The bill authorizes $37.4 billion.

I am not implying that these averages are slight, yet considering the size of the House bill, the authorizations in the conference legislation are reasonable.

These are not Federal programs which serve only one segment of our society. Transportation affects the daily lives of all Americans—whether they are commuting to and from work, taking a cross-country sightseeing vacation or simply consuming products transported from some State other than their own.

Mr. President, I would like to take this oportunity to thank the staff of the committee for its fine work on this legislation. Valuable assistance was provided by John Yago, Richard Harris, Kathy Cudlipp, Barbara Webb, Larry Roth, Lee Fuller and Mike Naeve.

I urge passage of this conference report. It is sound legislation which is the culmination of the work of 4 Senate committees and 21 Senate conferees.

Mr. NUNN. Mr. President, will the distinguished Senator from West Virginia yield for a question?

Mr. RANDOLPH. I am happy to yield to my colleague from Georgia.

Mr. NUNN. I thank the Senator. As I understand the "Buy America" provisions of the conference agreement, the use of domestic products and materials is required in Federal aid highway or mass transit projects with a value of more than $500,000. However, I also understand that the Secretary of Transportation can waive this requirement in certain instances.

Mr. RANDOLPH. The Senator is correct. The requirements of this provision shall not apply where the Secretary determines that:

First. Their application would be inconsistent with the public interest;

Second. In the case of acquisition of rolling stock, their application would result in unreasonable cost—after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

Third. Supplies of the class or kind to be used in the manufacture of articles, materials, and such supplies not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

Fourth. That inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

Mr. NUNN. Mr. President, I can appreciate the concerns of the conferees with the impact on the American economy of materials and products of foreign origin being imported into the United States. I am equally concerned, however, with the potential effects this could have on urban mass transit systems such as MARTA, the Metropolitan Atlanta Rapid Transit Authority.

As my friend from West Virginia knows, MARTA is only partially completed. I would hope, therefore, that in implementing the "Buy America" provisions and these allowable waivers, the Secretary of Transportation will act in such a manner that substantially increased costs will not be incurred, and that significant delays in the full implementation of the MARTA system will not result.

Otherwise, this would be most unfortunate, not only for the citizens of the metropolitan Atlanta area, but for our Nation's energy future as well. I believe that, if we are to begin to reduce our Nation's dangerous dependency on foreign sources of oil, urban mass transit systems must be allowed to be completed as expeditiously as possible, at the most reasonable cost to the taxpayer.

Mr. RANDOLPH. Mr. President, as I am sure my friend from Georgia understands, I cannot guarantee that any one specific waiver will be granted by the Secretary of Transportation. However, I assure my colleague that it is the conferee's belief that there is sufficient discretion with the Secretary to assure that urban mass transit systems such as MARTA are not unnecessarily delayed, or that they not incur unreasonable costs in their completion.

Mr. NUNN. I thank the Senator for his response. I would like to make one final clarification of the conferees' intent in this area.

As I read the "Buy America" provisions of the conference report, they require that the manufactured goods whose use is required in Federal aid highway or mass transit projects with a value of more than $500,000 must be goods which are "substantially all" from materials produced in the United States.

It is also my understanding that, in 1954, President Eisenhower issued Executive Order 10582 to make the Buy America Act's application uniform within the executive branch. Under this order, which is still in force, "materials shall be considered to be of foreign origin if the cost of the foreign products used in such materials constitutes 50 per centum or more of the cost of all the products used in such materials," the term "materials" including articles and supplies.

I would ask my distinguished colleague if it is the intention of the conferees that the implementation of the "Buy America" provisions of this measure by the Department of Transportation shall be consistent with this and other general procurement policies of the Federal Government.

Mr. RANDOLPH. I want to assure the Senator that the conferees do not intend that the Department of Transportation's implementation of this provision

shall be at variance with Federal procurement practices, and that the Department, in cooperation with the Office of Federal Procurement Policy, should implement this policy consistent with the existing applicable guidelines.

Mr. NUNN. I thank the Senator.

Mr. BAYH. Mr. President, will the Senator yield me 2 minutes?

Mr. BENTSEN. I yield 2 minutes to the distinguished Senator from Indiana.

Mr. BAYH. Mr. President, as a Member of this body who has the responsibility of chairing the Appropriations Subcommittee on Transportation, I just want to add my words of commendation to the distinguished Senator from Texas and to the ranking Republican member, the Senator from Rhode Island, for the masterpiece of craftsmanship and compromise that they put together with Representative HOWARD of New Jersey.

As the Senator from Texas pointed out, this is a far cry from what we started with.

Mr. President, I think this gives us on the Appropriations Committee the opportunity to review the funding needs of each of the fiscal years involved, to assure the effectiveness of these programs and set levels for the budgetary ceilings.

I again express my appreciation—and I think the entire Senate does—to the leaders who guided this program to consummation in a manner which escapes a Presidential veto. It took a good deal of persistence, and without it we would not be here tonight.

Mr. BENTSEN. I thank the distinguished Senator from Indiana.

Mr. CHAFEE. Mr. President, I join my colleagues in commenting briefly on this legislation.

First, I pay tribute to the chairman of the subcommittee, Senator BENTSEN, for whom I have the highest regard and with whom I greatly enjoyed working on this piece of legislation.

I also pay tribute to the chairman of our committee, Senator RANDOLPH, and the ranking minority member, Senator STAFFORD.

This legislation did not come in as low as I wish it had. We had a good deal of resistance from the House of Representatives. They came down from $60 to $51 billion. We wish they had come down more, but unfortunately they would not.

Also unfortunately the House of Representatives and the administration recommended the increase of the Federal share of many of our roads going from the current 70 percent to 80 percent. Our bill had it at 70 percent. We felt it was better that way, that we would get more roads. We felt the States were more able to pay for their share than the Federal Government was.

Nonetheless, we did succeed in compromising a 75 percent rather than going to the 80 percent of the administration. I think that was a good step forward.

Mr. President, I am pleased to join my committee colleagues in bringing to the Senate today the conference report for H.R. 11733. Although this legislation authorizes our highway, mass transit, and highway safety programs, I am most familiar with the highway provisions which were the responsibility of our Committee on Environment and Public Works. My regard for the work of our subcommittee chairman, Senator BENTSEN, during the long sessions on this bill, is the highest. His efforts to make this legislation a plan for good highway and budget policy were of the highest caliber. I enjoyed working with him.

Our esteemed chairman, Senator RANDOLPH and the ranking minority member, Senator STAFFORD, provided valuable guidance in reaching our goal—to keep the highway program moving in a way which is wise for our country.

Mr. President, we worked hard to make this bill responsible. This body is too conscious of inflation for us to attempt to bring anything but a budget-conscious conference report to the Senate floor. We came to conference with a Senate bill which, projected to a 4-year time length, equaled approximately $48.4 billion, not counting the interstate transfer provision. The House bill totaled in the $60 billion range for that period. Today we bring to the Senate a conference report which provides $51 billion for our highway, mass transit, and highway safety programs for the next 4 years. I wish we had been able to bring in legislation at even a lower figure. But overall, the conferees did a creditable job in carrying out the Senate mandate to stay close to the figures in the Senate bill.

There are several highwayprovisions in this legislation which will have a profound effect on our future highway program. I will not present an exhaustive list here, but will highlight a few which are of special interest, I believe, my colleagues.

Mr. President, if we had made this highway bill a total Federal giveaway program, I fear that the program, our commitment, and the ability to keep our commitments, would have all gone down the drain. I could not have come to the floor today to support this conference report if we had drastically increased the Federal share for our road programs. Highways, indeed transportation overall, should be a Federal-State partnership. The fact that a State has to make an investment, encourages the selection of fiscally sound and prudent projects. On the other hand, dangling easy Federal dollars in front of a State can lead to wasteful and unnecessary project choices.

I find it hard to understand why the administration recommended an increase in the Federal share of many of our road programs from 70 percent to 80 percent. In many ways, the States would have lost from this proposition. An increase in the Federal share at a time when dollars are limited, means that fewer projects would be done. The conference report provides that the primary, secondary, and urban highway programs will be at a 75 percent Federal share. I wish we could have stayed at 70 percent. But our Senate conferees did succeed in keeping a lid on a drastic increase. The House demanded an 80 percent share for these same programs.

Existing law provides that a State may substitute, in certain circumstances, a transit project in place of a planned interstate highway.

The current Federal share for such an "interstate transfer" project is 80 percent. Since the Federal share for interstate construction is 90 percent, there is a disincentive for such a transfer. The Senate bill had changed the transfer project share to 90 percent, to keep it consistent with the interstate share. The House originally insisted on maintaining the 10 percent discrepancy. However, after some struggle we were able at least to increase a substituted transit project share to 85 percent. Hopefully this will lead to decisions based on what is the best transportation choice, without allowing Federal shares to dictate the decisions.

Mr. President, there are provisions in this conference report, such as the Buy America provision, which give me great concern. But we have taken other steps, such as setting cutoff dates for the interstate system, which give me somewhat of a feeling of accomplishment. I would urge my colleagues to act favorably to carry on our highway, transit, and highway safety programs for the next 4 years.

● Mr. STAFFORD. Mr. President, the conference report on H.R. 11733, the Surface Transportation Act of 1978, deserves the support of the Senate. It makes several improvements in existing programs and maintains fairly reasonable funding levels, especially for fiscal year 1978.

The conference on this bill was a difficult one. Four Senate committees and two committees of the House of Representatives were involved. The report covers highway construction and safety programs and public transportation assistance.

In addition to procedural difficulties there was the great disparity in funding levels between House and Senate bills. In highway and safety programs the House version was $2.7 billion above the Senate for 1979 alone. The final level for fiscal year 1979 for these programs was only $300 million above the Senate figure.

Overall totals for the 4 years covered by the bill are higher than Senate conferees might have wished. But reductions in the House totals were dramatic.

Mr. President, I want to mention specifically one provision in title III, the public transportation title, which is of benefit to my State and to all rural and small urban communities. The nonurbanized assistance program makes Federal funds available for the first time to support the operation of transit systems in smaller communities. Until now, only capital assistance was provided.

Relatively small amounts of money can make the difference between mobility and isolation in smaller communities. I believe the provision adopted by the conferees initiates a responsible and practical program. It is one upon which we can build as we learn how best to provide for public transportation outside larger cities.

Several valuable changes in the highway program from the Senate bill are included in the conference agreement. Measures to accelerate work on the interstate system, to provide for interstate preservation, and to reduce the number of program categories are among these changes.

I must register my distress over one action taken by the conference committee, however. The Senate conferees

agreed to accept the House changes in language on compensation for billboard removal, which is part of the highway beautification program.

The effect of this provision is to slow the Federal billboard removal program while simultaneously thwarting State and local efforts to reduce the number of signs.

States and communities which hitherto could remove signs under police powers which have been upheld in numerous courts are now precluded from doing so. The penalty for this use of police power is loss of 10 percent of a State's Federal highway funds.

The proponents of the change in Federal law say the Highway Beautification Act of 1965 was intended to insure that billboards received compensation if taken down.

I agree with that statement if what we are talking about are signs removed because of Federal requirements. But that is not what is meant. It is stated that the intent was to provide payment whether or not the Federal law made signs come down.

If this was the intent of the 1965 act, I think it would more appropriately have been named the Billboard Retention and Relief Act of 1965.

As it is, the modification adopted by the conferees interferes with traditional local zoning powers, adds greatly to the cost of the Federal beautification program, and will actually result in more signs left standing.

I think it is time to admit the Highway Beautification Act is a failure and to seek its repeal.

Mr. President, in spite of my strong feelings about a particular provision and an admission that several other sections are not, in my opinion, in the overall national interest, I think the Senate should approve the conference report. I also think we should individually and collectively urge the President to sign it.

Interruption of Federal assistance for surface transportation would have adverse economic and social effects across the Nation. The ability of States and cities to carry on needed construction and to provide transportation services would be impaired. And the cost of an interrupted construction program would be high.

I believe the bill before us, on balance, is a reasonable one—one which deserves signing into law. I hope we will soon begin to see the fruits of the Surface Transportation Act of 1978.●

Mr. BENTSEN. I yield 1 minute to the Senator from New Jersey, the distinguished chairman of the committee.

Mr. WILLIAMS. Mr. President, as the sponsor in the Senate of title III of the Surface Transportation Assistance Act of 1978—the public transportation title—I rise in strong support of the conference report and move its adoption.

Before discussing the results of the conference and the success which I believe the Senate had in the conference, I just would like to mention the conference itself. First, this conference was unique for many reasons.

Of course, it was unique because of its content. This conference report contains the first serious and major effort in the Nation's history toward balanced surface transportation policy and programs. For the first time, the House and Senate have addressed at one time and in a coordinated manner the complementary nature of our great highway system and the public transportation program. With the conference report, the Congress will have redirected our highway program toward rehabilitating and maintaining our existing system and away from the construction phase which has characterized the last 20 years. For the public transportation program, the conference report would put into law fundamental changes in the Urban Mass Transportation Act of 1964 to recognize that public transit is now in a renaissance period—a marked contrast from the attitude characteristic of the post-World War II period which saw our cities decay, our suburbs sprawl, the abandonment or deterioration of extensive public transportation systems, and the emergence of the environmental problems attributable to the automobile boom. This bill recognizes the investment we already have made in public transportation and envisions an even greater role for environmentally sound and energy-efficient public transportation for the immediate future and beyond.

The conference is also unique because several committees of the Senate were involved from the start to the finish. The several Senate committees—the Banking, Public Works and Commerce Committees—had to and did work in close harmony throughout until the several bills were joined on the Senate floor for purposes of the conference several weeks ago. This process could have been difficult. It could have been unwieldy. But it was neither of these things. In fact, it was from the very outset a very cooperative and constructive exercise and I now want to state publicly my gratitude to Senators RANDOLPH, BENTSEN, CANNON, BROOKE, and my other colleagues who were involved in the enactment of this bill.

Representative JIM HOWARD, the chairman of the Subcommittee on Surface Transportation of the House Public Works Committee and also the chairman of the conference, must also be recognized for his masterful command of all the details of this omnibus bill and his persistent pursuit of a new era of transportation which ends for once and for all decades of model jealousies in favor of modal coordination.

Mr. President, title III—the Surface Transportation Act of 1978—will make major strides toward a balanced transportation program in the United States. It would reaffirm our national commitment to more effective public transportation services as a key element in our overall transportation policy, and in our efforts to develop workable environmental, energy, and urban policies.

Mr. President, let me summarize and highlight several of the major features of the conference report and the changes it would make in the Federal public transportation program.

First, the conference report would reauthorize both the section 3 discretionary grant program for the fiscal years 1979 through 1983 and the section 5 formula grant program for fiscal years 1979 through 1982. The total authorization is $15,160,000,000.

Second, the conference substitute advances the purposes of the original Senate bill by strengthening transportation planning and moving gradually in the direction of improved coordination planning between highway and public transportation programs.

Third, the conference substitute simplifies funding categories developed in the past in a piecemeal manner and at the same time allows greater flexibility in the use of available public transportation funds. It establishes predictable funding mechanisms for the most routine public transportation capital and operating needs.

In addition, the bill contains many features and provisions considered by the committee and approved by the Senate in recent years. I believe the conference report reaffirms the Federal commitment to public transportation, and will maximize the potential role that public transportation services can have on solving the problems of energy conservation, urban development and environmental preservation.

Mr. President, this legislation marks the first reauthorization and major revision of the public transportation program since passage of the landmark National Mass Transportation Assistance Act of 1974. Following a decade of experience in public transportation, that act signaled a substantial Federal commitment to the further development, improvement, and continued operation of mass transit systems in our urban areas.

Since 1975, the Senate has recognized the need for revisions and improvements to this program. This year marks the third time we have passed legislation that would accomplish needed changes. These changes have been delayed for too long, Mr. President.

In the last several years, the public transportation program has played an increasingly important and productive role in our total transportation system. Almost 30 postwar years of declining transit ridership have ended. In every year since 1973, ridership has increased. On a nationwide basis, ridership has increased 10 percent since 1973—an increase of almost 500 million riders annually.

This trend toward greater public awareness and use of transit is continuing. Recent public opinion polls indicates strong and rising support for good transit systems. According to a recent Harris poll, more than two-thirds of the American people believe it is very important to improve transit services. Another poll found that almost two-thirds of the people believe the Government should increase spending for transit. Perhaps the most significant and telling such poll is a 1977 study by the Department of Transportation that indicates that 40 percent of Americans expect to have to change their transportation habits in the next few years.

But the best evidence of the renaissance we are now experiencing in public

transportation is the patronage. The most recent statistics show impressive nationwide increases. In the first 6 months of 1978, total transit ridership increased 5.5 percent over the same period in 1977. This represents an additional 200 million passenger trips during that period. Much of this increase is due to major service improvements in many cities where Federal transit resources has been well used.

This legislation would vastly improve the framework in which the decisions which affect directly the quality of life in America will be made. The legislation will provide a more flexible program that allows our communities, regions and States to examine their transportation needs, plan a rational balanced approach to meeting these needs, and, in partnership with the Federal Government, finance the programs and projects that are decided upon.

This legislation represents a positive, carefully developed approach to meeting our public transportation needs. It is a strong reaffirmation of the national commitment to effective public transportation services. It represents a modest, but important increase in funding levels which assures our ability to make the capital investments necessary to carry out this commitment. And it recognizes the Federal responsibility to participate in operating costs, since there is an important national interest involved.

Mr. President, the enactment of this bill is of the utmost necessity if we are to continue our progress in providing efficient public transportation throughout our Nation. The Federal commitment contained in this proposed legislation will encourage development and further improvement of public transportation. If we are to reach our goals of alleviating air pollution, traffic congestion, rebuilding our inner cities and resolving the energy crisis, the Congress must assume the responsibility and the initiative to prevent any interruption of the highly successful public transportation program.

Mr. President, I urge the adoption of the conference report.

For the benefit of my colleagues, let me briefly explain the nature of the conference substitute in certain key areas.

Section 3—discretionary grant program.

The conference substitute retains the language of the Senate bill which listed the several types of projects eligible for financing with section 3 grants. The conference substitutes provides more specificity than exists at present with regard to the activities eligible under section 3 of the UMT Act.

The types of projects which could be financed with section 3 funds would include the construction of new fixed guideway systems and extensions; the acquisition, construction, reconstruction of mass transportation facilities and equipment; the introduction of new technology into public transportation service; joint development and urban initiative activities; and the mitigation of any adverse effects resulting from the implementation of the northeast corridor project. The conference substitute adopts the language of the House bill concerning joint development and urban initiative activities because it consolidates both activities into one subparagraph. This will afford local public bodies additional flexibility in fashioning local projects and ease the administrative difficulties which could have resulted from the possible overlap between the separate provisions in the Senate amendment. Explicit references to section 13(c) of the act from the Senate amendment are unnecessary in the conference substitute since the present law requires the application of section 13(c) to all projects funded under the provisions of section 3.

The conference substitute permits the use of advance land acquisition loans for facility reconstruction and renovation as provided in the House bill; deletes the designated recipient requirement from the Senate amendment; retains the Senate provisions establishing a letter of intent procedure; deletes the Senate amendments to section 3(g) of the UMT Act; and clarifies the Secretary's authority to approve applications for comprehensive programs encompassing section 3 and 5 eligible activities.

Section 5—formula grant program.

Like S. 2441, the original Senate bill, the conference substitute, broadens and significantly revises the formula grant program. Section 5 becomes the source of certain capital activities presently funded on a discretionary basis, including routine bus replacements and modernization of bus facilities and equipment. Section 5 would also be the source of funds for commuter rail operating assistance—thus eliminating the necessity for the categorical programs established in sections 17 and 18 of the existing act.

The conference decided against adopting the precise formula approach approved by the Senate. Instead, the present section 5 program would be expanded to include several addition grant activities in a manner very similar to the Senate approach. These include a "second tier" program of operating assistance and capital assistance for bus and bus-related purchases. The conference did not adopt the original Senate provision concerning the factors to be used in apportioning these grants. These two factors—bus age and bus seat miles—may be useful because they reflect the scale of bus operations in each urbanized area. Unfortunately, not enough accurate data is available on these or any other particular factors at present to permit a fair assessment of their ability to distribute these funds in a fair and equitable manner based upon actual levels of need. For these reasons, the formula to be used for 2 years will be population and population density. Since the bill authorizes funds for 4 years, a new formula will have to be developed and enacted. To assist that development, and facilitate our future deliberations, the conference substitute requires the Secretary to conduct a detailed study.

The conference substitute contains a new fixed guideway/commuter rail portion of the program to replace the current section 18 commuter rail program in the House bill. Two-thirds of the funds appropriated for this program will be apportioned on a commuter rail train mile/route mile formula, and one-third will be apportioned on a fixed guideway route mile basis. Apportioned funds may be used for any eligible capital or operating assistance project on any fixed guideway system in the urbanized area.

SMALL URBAN AND RURAL PROGRAM

The conference substitute creates a "formula grant program for areas other than urbanized areas" under which funds will be apportioned to the Governor based on nonurbanized area population. Funds will be available for projects included in a program of projects submitted to the Secretary for his approval. The Secretary must approve the program based on a finding that it provides a fair and equitable distribution within the State, including the State's Indian reservations, and provides for coordination of other federally assisted transportation projects.

Eligible recipients under the conference substitute includes public bodies, nonprofit organizations and operators of services. Private providers of service are eligible through purchase of service agreements with a local public body for the provision of public transportation services.

Up to 15 percent of the apportionment may be used for planning, administration, coordination, and technical assistance. This provision allows the Secretary to adopt guidelines for appropriate use of these funds: however, these guidelines may not be used to establish or impose a statewide planning requirement.

The conference substitute contains the House provision on local share as well as the provision of the Senate amendment allowing other unrestricted Federal funds to constitute up to 50 percent of the local match.

The Secretary is authorized to establish terms and conditions of this program which are appropriate to the special needs of public transportation in rural and small urban areas. The Secretary is instructed to develop requirements for this new program which are simplified, contain a minimum of red-tape, and which will facilitate the prompt and orderly implementation of the program. Ongoing programs receiving Federal assistance should not be adversely affected by delays resulting from the implementation of this program. It is also the intent of this provision that the Secretary's flexibility in adopting the terms and conditions of this program would allow individual modifications or waivers of the program's requirements where justified by the unique nature of the program.

However, the Secretary would not be authorized to waive or modify basic provisions of the act, such as sections 3(f) and 3(g), or is the language to be interpreted to affect or discharge the Secretary's responsibilities under other provisions of Federal law.

The purpose of the provisions granting the Secretary of Labor authority to waive application of section 13(c) in regard to particular grants of assistance

to small urban and rural areas is to eliminate bureaucratic redtape in cases and situations where it is clear that there are no employees who could potentially be affected. It is intended that the small urban and rural areas will be brought into the mass transit programs under the basic standards as set forth in section 13(c) that now apply whenever there are employees already working for the assisted carrier, or for other public transportation service providers in the vicinity of the proposed project who could potentially be affected by the grant. These employees must be accorded the full protection as set forth in section 13(c), including appropriate assurances of employment and preservation of employee rights and benefits.

Finally, the conference substitute requires a study of insurance rate escalation in rural areas.

INTERCITY BUS SERVICE

The conference substitute adopts the provisions of the House bill which create a new operating assistance program to provide Federal assistance to State and local public bodies to pay up to 50 percent of the net cost of purchase of service agreements with private intercity bus companies for service to rural areas and small urban communities. The conferees amended the House language by establishing criteria to assure that funds will not be siphoned off from profitable routes of an intercity bus company.

Moreover, in making the intercity bus industry eligible for capital or operating assistance under this bill, the conference substitute provides that such assistance will be subject to the labor standards requirements as set forth in sections 3(e)(4) and 13(c) of the Urban Mass Transportation Act. It will be the responsibility of the grantor public body or the assisted intercity carrier to provide these protections under the same standards as apply to other grants, for the benefit of the carriers employees and the employees of any other provider of transportation services eligible for assistance under the UMT Act in the vicinity of the project, whose interests may be affected by the grant.

I express my gratitude to the Senator from Texas (Mr. BENTSEN), Senators RANDOLPH, CANNON, BROOKE, and others who I joined in working with on the conference to bring this conference report in.

Mr. BENTSEN. I express my appreciation to the Senator from New Jersey and my pleasure in working with him.

Mr. RANDOLPH. Mr. President, may I just comment for 30 seconds?

Mr. BENTSEN. Yes. I yield to the Senator.

Mr. RANDOLPH. Mr. President, the chairman of the Human Resources Committee, not as the chairman of that committee but during a long period of years, has been a pioneer in the development of practical mass transit programs for this country.

Sometimes those of us who work upon the highway systems are said to be against the mass transit programs that are practical in nature.

I think my colleague from New Jersey knows that I have joined with him at the same time and against to develop that mass transportation as well as the road system of the United States. They both serve a high purpose for the American people.

Mr. BAYH. Mr. President, will the Senator yield me 30 seconds?

Mr. BENTSEN. I yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I emphasize what has been just said, that one of the top roles was the role of how the mass transit needs would be dealt with, and that is a very expensive program as we all know.

The Senator from New Jersey has been a persistent advocate of these programs, and I think as much as any Member of this body used his influence and his experience to reach a figure that we could pass in a manner that also would escape unkind treatment downtown.

The Senator from Nevada also as chairman of the Commerce Committee had a role, and the Senator from West Virginia, I must say, is someone who ends up now with responsibility, with other colleagues, of appropriating. Those in the authorizing field have done a tremendous job to make our job just a bit easier.

I wish to say thank you very much.

Mr. BENTSEN. I appreciate very much the Senator's commenting about the Senator from Nevada and the role he played in this legislation. I certainly concur with that.

Unless there are requests for time, I am prepared to yield back the remainder of my time and urge the passage of the conference report.

Mr. CULVER. Mr. President, as a member of the joint House-Senate conference committee, I want to state my support for the conference report accompanying H.R. 11733, the Surface Transportation Assistance Act of 1978. The Senate conferees, under the able leadership of the distinguished Senators from West Virginia (Mr. RANDOLPH) and Texas (Mr. BENTSEN) have, under difficult circumstances posed by the pressures of impending adjournment, fashioned a responsible bill which expands important highway and mass transit programs without "busting the budget." The 4-year authorization is $9 billion less than the House-passed measure and adheres as closely as possible to the more appropriate spending levels of the Senate highway and mass transit bills.

I am particularly pleased that the conferees significantly increased funding for the special bridge replacement program. We have a $25 billion bridge crisis that hinders transportation and threatens lives. The current $180 million annual authorization to replace deficient bridges is totally inadequate to reverse their rapid and continuing deterioration. H.R. 11733 authorizes $4.2 billion over the next 4 years for both repairing and replacing structures. These funds can be put to immediate use to reconstruct the 105,000 deficient and dangerous bridges nationwide.

This bill culminates the effort to secure adequate bridge funding that began when I introduced S. 394 to expand Federal funds for bridge work last year. S. 394 increased the authorization in the special bridge replacement program to $600 million annually and permitted funds to be spent on the repair—as well as replacement—of existing bridges. Transportation Subcommittee hearings I held in Iowa last year graphically illustrated the difficulty local officials have in rebuilding bridges that are not part of the federally aided highway system. My own State is representative of many rural and agricultural areas with substantial "off system" bridge needs. An estimated 7,000 county bridges in Iowa are unsound or obsolete, and they exact a severe economic hardship on farmers and consumers alike. My legislation required that no less than 15 percent of the Federal Government's bridge funds be spent to repair these local and county bridges.

The conference report contains a provision which requires between 15 and 35 percent of the special bridge program funds be used to rehabilitate "off system" bridges. This will be of tremendous benefit to many small towns and markets whose economic vitality and community well-being depend upon safe and efficient local bridges. For the first time, Federal dollars will assure that these bridges are kept in good condition.

We still face a $25 billion bridge crisis and no practical solution can solve this backlog overnight. But this ninefold increase in the special bridge replacement program and the availability of these funds for the extensive "off system" network mark the beginning of a sustained and coordinated Federal, State, and local effort to turn this crisis around.

Mr. President, the conference report also retains a provision of the Senate highway bill which makes a salutary change in the railroad-highway crossing safety program. Since 1973, Federal funds have been used to make safety improvements—such as installing flashing lights and automatic gates—at railroad crossing sites. Though this program has been of tremendous benefit in reducing the tragic number of deaths and injuries from collisions between motor vehicles and trains, an inequitable distribution formula has prevented some States from receiving maximum use of this program. The formula is based on a State's population, area, and mailroute mileage, but does not reflect the number of railroad crossings in a State. This discriminates against States with relatively small populations but a large number of crossings. Iowa, for example, has over 10,000 crossings, yet receives less money per crossing than almost any other State.

H.R. 11733 contains a provision I introduced in the Committee on Environment and Public Works which makes one-half of the allocation formula dependent upon the number of crossings within a State's borders. This change will make the Federal safety program more effective by directing Federal dollars where the crossings—and the safety needs—are. Iowa will receive an additional $2.5 million which will result in greater protection for our citizens.

Mr. President, H.R. 11733 makes a number of other improvements in Fed-

eral transportation policy. The conferees have fashioned a bill which assures the integrity of the highway trust fund and reflects the position embodied in the Senate-passed highway and transit bills. I commend this conference report to my colleagues and urge that it be adopted.●

● Mr. BAYH. Mr. President, as we close out this session today, I am most pleased that the 95th Congress did not end without the Congress authorizing the establishment of the National Alcohol Fuels Commission.

The Senate has spent a good deal of its time over the last 2 years considering energy-related measures. Most of these have been stimulated by growing oil imports and the possibility of depletion of our oil reserves in the not too far distant future. All of us share a concern about the need to reduce America's dependence on foreign oil and to avert a liquid fuels shortage sometime in the 1980's. Administration estimates of future world petroleum production and demand suggest there will be a gap between worldwide demand and supply of petroleum products of 3 to 8 million barrels of oil a day by 1985.

Forecasts such as these and recollections of the Arab oil embargo of 1973 and the natural gas shortages of 1977 make us all painfully aware that energy is a limited and precious commodity which is the lifeblood of our society—that it heats our homes, fuels our cars and trucks, grows our crops, and runs our factories. America must come to grips with the fact that adequate energy supplies cannot be taken for granted. We must reduce our dependence on foreign supplies, become more energy efficient, make greater use of our vast coal reserves and accelerate the development of alternative energy sources.

As we look to the future, I think it is clear to most of us that there is not going to be one answer to our energy problems, but the future supplies will come from a number of diverse sources. Those of us with responsibility for developing Government policy owe it to the Nation to explore every option available to us as thoroughly as possible. I am convinced, Mr. President, that alcohol fuels are one option that have not received the attention they merit. Although alcohol fuels were used in this country during World War II, as part of our synthetic rubber production efforts, interest in their development as a source of future energy supplies has only been revived in the last year. Neither Federal dollars nor private sector capital has been committed to their development as has been the case with some of the more capital intensive and large-scale centralized technologies for oil shale production, coal liquefaction and coal gasification. The oil companies are not interested in developing alcohol fuels. DOE has meager expertise in this area and currently employs only a handful of people in its alcohol fuels program. Last year the Federal Government spent less than $7 million on its alcohol fuels efforts, and this represented a dramatic increase over prior funding levels.

Mr. President, I believe that DOE has passed by an important opportunity by neglecting alcohol fuels. I am confident that a relatively small Federal investment and application of our best technology to this effort will yield payoffs that can be potentially momentous.

I freely acknowledge that barriers currently exist that have prevented the widespread introduction of alcohol fuels into our energy mix. Economics is a problem. Alcohol fuels are not currently competitive with petroleum-based fuels. In some cases, energy balance has been a problem. That is, some existing biomass conversion processes are sufficiently energy intensive so that they use more energy than they produce. Some have claimed that not all the environmental impacts of alcohol fuels are known, despite indications that alcohol fuels are environmentally advantageous in many respects. Some have raised the question of supply potential, claiming that America's resources are not plentiful enough to supply a national effort.

While I would be glad to discuss some of these considerations at greater length if members have questions on them, I would only point out, Mr. President, that none of these so-called barriers present major problems and I am confident they can be overcome relatively quickly if we just clarify our goals and get on with the job. This country did not grow and prosper by approaching problems timidly. As a nation, and as individual citizens, Americans have always set our goals and then looked at existing obstacles as challenges rather than insurmountable barriers. This is the kind of effort we must make today as we move to harness our abundant and renewable resources.

Technical and economic barriers exist for every synthetic fuel being seriously considered today. And it is ironic that equally, if not more, complex problems than those faced by alcohol fuels existed when the petroleum industry was in its infancy. The idea of drilling holes thousands of feet in the ground and transporting oil all around the globe struck some people as absurd. But Washington was more than generous in the supports provided the oil companies. The industry enjoyed import quotas, depletion allowances, intangible drilling deductions, and foreign tax credits. In fact, oil companies still derive some of their profits from these hidden subsidies.

Having set this context, I would like the Senate to focus, for a moment, on the advantages offered by alcohol fuels and discuss the National Alcohol Fuels Commission Act, which has been incorporated into this conference report.

Alcohol fuels work. There is no question about that. DOE, the Ford Motor Co., General Motors and VW all submitted testimony to the Senate Appropriations Committee, at hearings I chaired in January, indicating that alcohol is a versatile fuel suitable for use in automobiles, gas turbine peaking units, utility boilers, industrial heating units and fuel cells.

Alcohol fuels are a domestic energy source, made from diverse renewable resources available in meaningful quantities in every region of this country. Ethanol can be produced from such diverse sources as corn, wheat, milo, sweet sorghum, sugarbeets, sugarcane, potatoes, algae, distressed crops and crop residues, as well as numerous other "energy crops" that our plant geneticists could develop if given the go-ahead. Methanol can be produced from newsprint, forestry products, crop residues, wood and municipal wastes and coal. Using them as an energy supplement can help solve our energy supply problems while giving a boost to depressed economies and bankrupt farmers all over this Nation and relieving the drain on urban budgets caused by waste disposal problems.

Alcohol fuels can reduce our dependence on imported oil, relieving our trade deficit and pressure on the dollar while removing oil supplies as a consideration in our foreign policy decisions.

Alcohol fuels facilities are comparatively inexpensive, without serious environmental problems, and can be built quickly.

Alcohol fuels can be available in the near future, when we need them, because production technology is available and the lead time for construction of facilities is relatively short.

Alcohol production costs can be brought down in the near term. DOE currently cites a $13–17 per million Btu figure for ethanol production, which translates into $1.20 to $1.60 per gallon. This estimate is based on production of alcohol from $2.50 to $3 per bushel of corn using traditional technologies developed to compete in nonenergy markets. A process developed at Purdue University by Prof. George Tsao, uses diverse inexpensive cellulosic wastes as feedstocks—such as cornstalks, pulp and bagasse from sugar mills, sawmill wastes and small limbs and tree branches, industrial wastes and trash—and treats them with a solvent that gives a 100% yield of glucose from available cellulose at a very low cost. Estimates of the cost of ethanol produced by this process range from 40¢ per gallon to 75¢ per gallon depending on the feedstock used and the value of the by-products. This is one-third to one-half the cost that DOE and the major oil companies typically cite for ethanol at the refinery gate. Similarly, research by Battelle Labs in Ohio for the Ohio Farm Bureau indicates that ethanol from sweet sorghum costs half the amount of ethanol from corn.

Alcohol fuels can reduce the cost of farm subsidies, an irritant to city people and farmers alike, and put idle land to good use by growing energy crops on setaside acreage and marginal lands.

Mr. President, I submit to my colleagues that development of fuels from our farmlands and forests is too exciting a possibility to put off any longer. It is time for this Congress and this Nation to get off the dime and develop a comprehensive national alcohol fuels policy.

To this end, last January I introduced S. 2400, the National Alcohol Fuels Commission Act.

The provisions of this bill have been incorporated into H.R. 11773. I want to take this opportunity to thank Congressman ROE and HOWARD, as well as Senators RANDOLPH, WILLIAMS, BENTSEN, and

CHAFEE, whose consideration and cooperation were essential and greatly appreciated.

Mr. President, the provisions of S. 2400 contained in H.R. 11773 will establish a National Alcohol Fuels Commission next year, which will report back to Congress within 12 months of establishment, recommending a definite, near-term policy with respect to alcohol fuels. The Commission will be composed of 12 Members of Congress and seven public members appointed by the President from a broad spectrum of industrial, labor, agricultural, and consumer groups. The congressional delegation will be split evenly between the House and the Senate, with members drawn from the Agriculture and Appropriations Committees as well as the House Science and Technology Committee and the Senate Energy and Natural Resources Committee. The bill authorizes up to $1.5 million for the Commission, which will automatically go out of existence after it reports to Congress.

This Commission will bring elected representatives together, for the first time, with experts from industry, agriculture, labor, and consumer groups and give them the resources to undertake a concentrated, coordinated analytic effort. By bringing together members from the relevant committees of the Congress, with interested parties in the private sector and a professional staff, the commission should be able to fashion a comprehensive and internally consistent policy that can gain widespread acceptance. In addition, by holding public hearings and drawing on the talents of citizens around the country, the commission can coordinate efforts in this area, focus national attention on alcohol fuels, and foster public understanding and support for an alcohol fuels program.

Mr. President, the Commission should start its work early next year, and report back to us soon thereafter, laying the foundation for decisive action by the 96th Congress.

Mr. President, there is no question but that we are on the verge of a new era in this country, during which we must make the transition from dependence on previously cheap and plentiful fossil fuels—particularly oil and natural gas—to alternative energy sources derived from more abundant natural and renewable resources. Few of us have lived through such a transition and it is difficult to anticipate in their full complexity all the changes which will result from the new paths we will be taking. But it seems to me that we are entering this new era with a degree of self-consciousness and technological know-how that our forebears did not enjoy. We should take full advantage of that fact. Responsible planning over the next few years can avert disaster in the decades that follow them. Failure to anticipate and provide for our future needs will squander a priceless opportunity to provide a robust and healthy society for countless generations of Americans.●

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. Mr. President, this is $51 billion in 12 minutes.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. RANDOLPH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF METHODS OF ESTABLISHING QUOTAS ON IMPORTATION OF CERTAIN MEAT

Mr. BENTSEN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 11545.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11545) to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to the immediate consideration of H.R. 11545.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, do we understand that this has passed the House of Representatives?

Mr. BENTSEN. That is correct. This passed the House of Representatives by a vote of 289 to 66.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. What are the time limitations?

The PRESIDING OFFICER. There are 30 minutes to be divided between the Senator from Texas and the minority leader.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. I think under the order I was entitled to about 2½ minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. METZENBAUM. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, the House passed by the overwhelming vote of 289 to 66 the Beef Import Act of 1978. This legislation is very similar to legislation which I introduced in the Senate and which passed the Senate on May 5 of this year. I have reviewed the House-passed legislation carefully, and I believe that it is an acceptable compromise to all concerned.

Mr. President, the need for legislation such as this has become glaringly apparent during the last few years. The American housewife has been faced with sharp cyclical swings in the price of beef, especially hamburger, over the last few years. At the same time, this cycle has driven many small cattlemen out of business and has driven many others to the very edge of bankruptcy. Then, just as prices started to recover from the lows which were exacerbated by the current meat import law, action was taken under this law which dealt a severe psychological blow to the market at a critical time.

The legislation which the Senate has passed would correct the inequities in the current law. Now the House has also addressed this problem. The House-passed version of the Senate bill incorporates the countercyclical formula which is so necessary to prevent the law from worsening the already severe problems of our cattlemen. It uses the same basic formula structure, with some changes which will make it slightly more responsive to changes in the cattle supply and will allow slightly more imports over the life of the cattle cycle. The formula will, however, achieve the basic objectives of moderating the wide price swings which have so plagued both producers and consumers during recent years. In addition, the House has added a floor of 1.2 billion pounds under the annual import level. This will not interfere with the countercyclical adjuster and will protect our trading partners from being severely restricted by unusual circumstances.

The House has also addressed the problem of pressure politics which has caused the President to raise or suspend the quotas so many times, as he did this year, with an accompanying uproar among producers and consumers. They have retained the Senate language which permits suspension of the quotas during times of national emergencies or natural disasters, and they have added language which will permit the President to adjust the quota levels up or down when needed to prevent large and rapid changes in the retail price of meat which might otherwise occasionally be brought about by domestic supply factors. This authority has been spelled out exactly so that the President and the Congress will not be whipsawed under the pressure of passing market situations. This language is compatible with the intent of the Senate in its passage of the bill.

As in the Senate bill which I introduced, all fresh, chilled, or frozen beef is included under the law. Cooked meat, which is a very minor product of our U.S. industry, is not put under the quotas.

In another good addition, imported live cattle are excluded from the domestic production base for the purpose of computing quotas. This is only logical, and it is in line with the basic purposes of the act. The House has also retained the Senate-passed study on the regional impact of imports into single ports of entry.

Mr. President, we are now in the final hours of this 95th Congress. It is of vital importance that we free both our beef

producers and our beef consumers from the whiplash of the now-exaggerated cattle cycle. This act will accomplish that. It follows the guidelines and the intent of the Senate-passed version of the bill and is acceptable to those distinguished Senators who joined in cosponsorship of the Senate bill. Therefore, I would urge my distinguished colleagues to accept H.R. 11545, the Beef Import Act of 1978, in order that it may be enacted into law in this Congress. I am happy to note that this request is also made by my distinguished colleague from Nebraska, Senator CURTIS, who has long been the Senate's recognized expert on this subject and whose distinguished career has been highlighted by his work to assure that our Nation will continue to enjoy the benefits of a healthy and viable beef industry that will assure a dependable supply of reasonably priced beef.

Mr. President, the House of Representatives passed this bill by the overwhelming vote of 289 to 66, and it is the Beef Import Act of 1978.

This legislation is very similar to the legislation which I introduced in the Senate on May 5 of this year.

I had reviewed the House-passed legislation carefully. I believe it is an acceptable compromise to all concerned.

Mr. President, the need for legislation such as this has been glaringly apparent for a long time.

What you have seen in the cattle market is a boom and bust cycle. It goes with the buildup of herds and then the depletion of herds. You have seen the housewives subjected to a roller coaster effect on prices.

What we are trying to do here is to stabilize the price, to see that the rancher can make the kind of investments that brings efficiency in the market place and sees that the housewife finds a consistent price in beef.

Some may ask and say why would the rancher want to put a top on the price of beef? The reason is a very simple one. If the price gets too high, the housewife goes to substitutes. In turn, if the price gets to low the rancher goes out of business.

Who is hit the most? What you normally find is the rancher, the young rancher who has just gone into the business who does not have strong credit. He is the one who goes out at the bottom of the cycle. And those larger ranchers begin to consolidate the young rancher's business into their own and grow even larger.

This piece of legislation will say this, that when the price gets too high this formula will allow more beef to come into the country. When the price gets too low and slow down the importation of beef. It will try to bring you a stabilization that I think will be helpful.

We have learned that penalties of trying to depend on foreign oil and we should not be foolish enough to start depending on foreign beef. I believe this is something that helps the consumer and helps the producer at the same time.

Mr. President, I reserve the remainder of my time.

Mr. STEVENS. Mr. President, I yield to the Senator from New York 3 minutes.

Mr. JAVITS. Mr. President, I am sorry, but I must differ with my colleague about helping the consumer. This bill, indeed, has been analyzed as a protectionist measure in the area of food, of which is the component of the cost-of-living index which shows the greatest increase. This is especially true for beef. The bill very materially limits the President's power to suspend import quotas or to impose them when shortages cause the price of beef to go up.

In my judgment, Mr. President, it is an inflationary measure. It provides a small sop to the consumer by helping him in the first year but, thereafter as a headline in the Journal of Commerce of August 17 says, "Larger Quotas Deceptive," imports will be constricted.

Mr. President, I believe this is not a measure which is helpful to consumers, especially in the highly inflationary situation that we face today.

So, Mr. President, when we vote on this measure I shall vote "no." I realize that, as is generally the case with these agricultural price-support measures, they are often pushed through—the vote in the House shows it, and I have little doubt that the vote here will be comparable. But that does not make it a good bill, I wish to protest against it, and I hope the President looks at it very carefully in terms of his pledge to fight inflation with a view toward vetoing this patricular bill.

Mr. President, I ask unanimous consent that the following articles be included in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Journal of Commerce, Aug. 19, 1978]

REVISED MEAT IMPORT CURBS BILL APPROVED BY HOUSE COMMITTEE

(By Richard Lawrence)

WASHINGTON.—The House Ways and Means Committee approved Wednesday a sharply revised meat import controls bill, while a subcommittee readied legislation to boost sugar prices through import fees.

By a 22 to 10 vote, the full committee approved a measure that would raise meat import quotas over the next few years, but strictly limit the president's power to let in more meat in times of undersupply.

The bill, backed by U.S. cattlemen but resisted by the administration and meat importers, would establish a new formula for setting annual meat import ceilings. Imports would be allowed to rise as domestic production fell, but curtailed as production rose.

OUTPUT, IMPORTS LINKED

Under present law, production and imports move up and down together.

The administration does not necessarily oppose the socalled countercyclical formula, but it prefers that the president retain his existing discretion to suspend import quotas when demand outpaces supply.

The meat bill's backers, however, argue that nder the Ways and Means measure almost 1.7 billion pounds of meat could be imported next year, almost 500 million pounds more than projected under present law. Similarly, larger quotas are estimated over the succeeding five years.

The committee also voted an import quota floor of 1.2 billion pounds.

But the bill would bring under quota some preserved or processed items currently quota-exempt, such as chilled or frozen hamburger patties.

LARGER QUOTAS 'DECEPTIVE'

Importers counter, however, that the larger import quotas are deceptive. By severely curbing the president's authority to suspend quotas, the bill, importers argue, could instead restrict imports more than existing law.

Ways and Means voted to permit the president to raise the import quota by only 10 percent, if beef and veal prices rise more than farm cattle prices.

A similiar, yet more restrictive, meat import control measure has passed the Senate. If Congress approves a new meat import law next month, President Carter will have to decide whether to exercise a veto.

A House Ways and Means subcommittee meanwhile voted a new sugar bill, which would guarantee U.S. producers at least 15 cents a pound in the next crop year, and presumably higher amounts in subsequent years as production costs rise. Import fees, with backup import quotas, would be used to maintain the 15 cents level.

The 15 cents is a half-cent more than the administration has recommended, and 1.5 cents more than the present minimum price guarantee, but it is 1 cent less than the amount proposed in a House Agriculture Committee bill.

The Ways and Means subcommittee, like the Agriculture Committee, also approved provisions that would implement full U.S. participation in the International Sugar Agreement, which, the administration hopes, eventually will make a domestic sugar price support program unnecessary.

[From the Business Week, June 12, 1978]

INFLATIONARY TROUBLE ON THE HOOF

The announcement that the nation's consumer price index took another leap upward in April—to an annual rate of 10.8%—placed the Carter Administration in a quandary: what to do about one of the CPI's key and fastest-rising components—the cost of beef.

For weeks, the National Cattlemen's Assn. has been lobbying intensively in Washington for a hands-off policy on the ground that its members, representing 280,000 cattle producers and feeders, should be allowed to recoup their heavy losses of the past few years. As for import competition, the cattlemen are pushing for a policy that would link beef imports, in countercyclical fashion, to domestic production—permitting imports to increase when domestic output falls and cutting them back when domestic production rises. The Senate already has endorsed such a plan.

"The dilemma is that we are sympathetic to the need for recovery in the cattle business," says Agriculture Secretary Bob Bergland, "but the import-related proposals now before Congress are unacceptable to us."

IMPORT QUOTAS

The Carter Administration appears convinced that the countercyclical approach over several years would reduce the absolute level of meat imports. They are running at just over 1 billion lb. per year, or 7% of domestic production, and, because they consist largely of cheaper meat, they are used mainly for hamburger and other processed meats. This is why, in the words of the Council on Wage & Price Stability, such a scheme would "be inconsistent with the nation's anti-inflation efforts."

Administration trade strategists are also opposed to such a plan on the ground that to make it work, current voluntary restraint programs would have to be replaced by formal import quotas on beef. The plan would also involve the cumbersome and costly labeling of imports, extending to the retail level. That requirement could be construed as a nontariff trade barrier, warns Howard Hjort,

the Agriculture Dept.'s director of economics and policy analysis. It would have a "damaging effect," he says, on the U.S. trade liberalization efforts in the Tokyo round of trade negotiations (page 66).

Conceding that beef prices are rising sharply now as cattle production slides, mainly because of herd liquidations around the country, the cattle producers argue with equal vehemence that they are seeking only "profitable, not inflated prices." Says C. W. "Bill" McMillan, the NCA's Washington-based vice-president: "The import scheme is to be transitional, which would also minimize price depression when there are ample supplies—in short, greater stabilization."

Elpidio Nunez, president and owner of Northwestern Meat Inc., a large, Miami-based importer, contends that "the real loser will be the consumer, if more restrictions on meat imports are imposed." He notes that the wholesale price of hamburger has risen by 40¢ per lb. in less than five months to around $1.05 per lb. and could hit $2 per lb. if the proposed legislation is passed.

The NCA estimates that the average per-pound retail price for five choice cuts rose 11¢ in May to $1.89, up sharply from the just-under $1.40 average that prevailed from 1974 to 1977. "Even worse news is coming for beef prices and the entire CPI next month," says an NCA spokesman. "It will take into account what happened in May."

CHICKEN AND PIZZA

Some industry executives are already fearful that a consumer boycott or beef-buying slowdown, such as the one that occurred in 1973, will materialize as prices continue climbing. Worries John E. Ward, vice-chairman of the Meat Importers Council of America: "Now there are plenty of cheaper alternatives for the average housewife—chicken, pork, and even pizza—and the consumers who switch will be difficult to woo back."

Of course, pork prices are rising, too. Hog prices—contrary to earlier estimates—are running roughly 15% ahead of last year's average as hog growers cut back their production. But recent Agriculture Dept. estimates put the 1978 increase in pork production at 2% to 3%, which, along with higher poultry output, should nevertheless offset some of the reduction in beef production.

[From the Journal of Commerce, May 11, 1978]

SENATE QUICKLY, QUIETLY PASSES BILL THAT COULD PUSH U.S. MEAT PRICES HIGHER

(By Richard Lawrence)

WASHINGTON.—Quiet like a mouse, the Senate last Friday passed, without a debate, a bill that could edge meat prices yet a notch higher.

The way the legislation was approved, with nary an opposing word, suggested that the Carter administration, despite its increasing expressions of concern over inflation, was content to let the bill become law.

But, apparently, it is not, and will speak to the issue in about 10 days. Despite the quick Senate passage, the bill still must get through the House and particularly the Ways and Means Committee.

A week from Monday, the Ways and Means subcommittee on trade plans to hold a hearing on the bill, where the administration is expected to voice publicly its opposition.

CHANGE IMPORT LAW

The bill would substantively change the 1964 meat import law, which restricts imports of beef and veal—fresh, frozen or chilled—according to a formula keyed to domestic meat production. When U.S. output rises, imports are permitted to increase proportionately.

The controls have been suspended at least once, in the Nixon years, to help dampen sharply climbing meat prices. But generally, imports have been curbed, through the stratagem of bilateral restraint agreements with the major supplying countries.

BENTSEN PUSHING BILL

Under the Senate bill, championed by Sen. Lloyd Bentsen, D-Texas, the president apparently still could arrange for bilateral restrictions, without having to impose formal import quotas.

But the restrictions threaten to become more restrictive, if the bill becomes law. It would reverse the way import curbs are calculated, by more strictly limiting imports when U.S. production is expanding, and allowing more imports as domestic output falls.

This so-called counter-cyclical approach, broadly speaking, seems to make sense. The administration, for instance, does not oppose it in principle, so long as it does not further restrict meat imports.

It should be said, however, that importers argue that there is no justification for any limits on foreign meat and they cite a recent International Trade Commission report that meat imports are not "a substantial cause or threat of injury" to U.S. producers.

They insist, too, that "manufacturing grade" beef, representing the great bulk of imports, basically supplements rather than competes with U.S. "fed beef."

HAMBURGER MEAT

The President's Council on Wage and Price Stability, warning last month that the Senate bill was "inflationary," said beef imports—mainly used to make hamburgers—constitutes only 1 percent of domestic meat consumption.

But repealing the meat import law is ostensibly out of the political question. Apparently, the administration will fight only to prevent the import restrictions from getting tighter.

The Senate bill's formula, according to the Wage and Price Council, would have reduced imports over the last eight years by roughly 5 percent. Besides, the bill proposes to bring processed beef and veal—canned sausages and corned beef, for instance—under restrictions for the first time.

SEMI-ANNUAL LIMITS

The Senate also would establish semi-annual, rather than annual, limits on meat imports, possibly limiting the president's ability to act quickly against sudden and sharp price increases.

Further, the bill narrows the president's options to waive import curbs to instances of "overriding national security interests" or where "a natural disaster" precludes satisfying domestic demand at reasonable prices.

Countering arguments against the measure, the Senate Finance Committee, from which it sprang as a rider to a minor chemical tariff bill, cites estimates that the proposed formula would actually let in more imports next year than under present law.

And even if the measure reduced meat imports by a fourth, the consumer price index would rise by only about .04 percent, the panel contends.

The legislation, however, may run into more resistance in the House, where consumer interests usually find a stronger voice. It was the House of course, that recently rejected a highly controversial Senate farm bill, for its inflationary impact.

Mr. DOLE. Mr. President, will the Senator from Texas yield 3 minutes?

Mr. BENTSEN. Yes, I yield 3 minutes to the Senator from Kansas who has long been associated with this legislation and who has been in the forefront to see that producers and consumers have a fair deal.

Mr. DOLE. Mr. President, I will just take 2 minutes. I think the Senator from New York has made a point, and I respect his judgment. There has been an effort, of course, to correct some of the shortcomings and flaws many of us see in the present law.

We believe, and we hope we are accurate in suggesting, that this new measure will benefit both producers and consumers.

We do not believe it is inflationary. We believe the countercyclical formula in the bill will actually allow more imported beef in the years to come when we are anticipating higher prices and shorter supplies, as was referred to.

The vote in the House last Wednesday was 289 to 66, so there was rather widespread support for this measure. The House bill is almost identical with the Senate bill, which was sponsored by the distinguished Senator from Texas, Senator BENTSEN, and the distinguished Senator from Nebraska, Senator CURTIS. But the differences, as small as they are, do benefit consumers more than producers, because it is a more liberal formula than the House bill for determining imports.

So it seems to me that this is a step in the right direction and one that, I might add, the distinguished Senator from Oklahoma, Senator BARTLETT, worked on for a number of years, and I think it is in part due to his early efforts that we have the bill on the floor now.

I ask unanimous consent that a summary of the present law, a summary of the Bentsen-Curtis proposal, and a summary of the House Ways and Means Committee proposal, as well as a table showing how the current formula would work, and how the formula under this proposal would work, and how the formula under Bentsen-Curtis would work, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Meat import law of 1964 (Public Law 88-482)	Bentsen-Curtis, H.R. 5052, passed Senate May 5, 1978	House Ways and Means Committee, H.R. 11545
Coverage	Includes TSUS 106.10 and 106.20: Beef, veal, mutton and goat fresh, chilled or frozen.	Provides 1 formula for 106.10 and 106.20 items: Has similar formula for 107.20, 107.25, 107.40, 107.45, 107.48, 107.52, 107.55, 107.60 (all other forms of beef and veal, prepared, preserved, cooked, canned, cured, pickled, corned).	1 formula including TSUS 106.10, 106.20, 107.55, 107.60 (all forms of fresh, chilled or frozen beef and veal.).
Formula	Procyclical: Average imports, 1959-63 times 3 yr moving average domestic productiCn divided by average domestic production of base period, 1959-63 equals base quota.	Countercyclical—Adjusts formula in current law with a countercyclical ration of: 10 yr moving average of per capita supplies—of domestic cow beef divided by 2 yr moving average of per capita supplies of domestic cow beef.	Countercyclical—Average imports, 1968-77 times 3 yr moving average of domestic beef production divided by average domestic beef production 1968-77 times 5 yr average per capita supplies domestic cow beef divided by 2 yr average per capita supplies domestic cow beef. Floor-Sets minimum level of imports with countercyclical formula at 1,200,000,000.

	Meat import law of 1964 (Public Law 88-482)	Bentsen-Curtis, H.R. 5052, passed Senate May 5, 1978	House Ways and Means Committee, H.R. 11545
Presidential authority to suspend quotas.	Broad discretion	Allows President to suspend or increase quota only if there is: (1) a national emergency declared under sec. 201 of the National Emergencies Act of 1976, or (2) if he determines a shortage of supply because of a natural disaster.	Allows President to increase or decrease imports up to 10 percent based on the following ratio: Farm price of cattle index divided by beef and veal price index. If the average index ratio is above 1.1 for the 1st 2 calendar quarters of such year, he may increase imports up to 10 percent. If the ratio averages below 0.9 for the 1st 2 calendar quarters of such year, he may decrease imports up to 10 percent.
Quarterly limitations	None	Limits imports for 6-mo period beginning Jan. 1 and July 1 to no more than 54 percent of aggregate quantity most recently estimated by the Secretary of Agriculture.	None.
Other	None	Requires the Secretary of Agriculture to undertake study of the economic impact of imports into single ports of entry, i.e., impact on domestic cattle industry in the region of certain ports.	Live cattle imports slaughtered in the United States shall not be counted as domestic production for purposes of calculating the formula for imports.

COMPARISONS OF PROPOSED COUNTERCYCLICAL FORMULAS TO CURRENT LAW—ESTIMATED IMPORTS 1979–88 AT TRIGGER LEVEL (110 PERCENT OF QUOTA) IMPORTS AND IMPORTS AS A PERCENT OF DOMESTIC PRODUCTION

Year	I. Current formula[1]		II. Current formula[1] quota suspended		III. H.R. 11545 House formula[2]		IV. H.R. 5052 Bentsen-Curtis formula[2]	
	Million pounds	Percent	Million pounds	Percent	Million pounds	Percent	Million pounds	Percent
1979	1,236	7.4	1,650	9.9	1,693	10.2	1,393	8.4
1980	1,176	7.2	1,625	9.9	1,758	10.8	1,543	9.4
1981	1,140	6.9	1,675	10.1	1,548	9.4	1,507	9.0
1982	1,152	6.7	1,152	6.7	1,398	8.2	1,466	8.5
1983	1,195	6.6	1,195	6.6	1,302	7.2	1,483	8.1
1984	1,252	6.6	1,252	6.6	1,293	6.8	1,416	7.4
1985	1,325	6.5	1,325	6.5	1,220	6.0	1,285	6.2
1986	1,404	6.5	1,404	6.5	1,214	5.7	1,053	4.8
1987	1,451	6.9	1,451	6.9	1,336	6.4	1,059	4.5
1988	1,388	7.9	1,388	7.9	1,637	8.2	1,236	6.9
Total	12,719	6.9	14,117	7.7	14,399	7.9	13,441	7.3

[1] The beef and veal price index is figured by the Bureau of Labor Statistics and is a component of the Consumer Price Index.
[2] The farm price of cattle index is figured by the USDA.

NOTES

I. Average imports 1959–63 (725,400,000,000 lb) times 3-yr moving average of domestic production divided by average domestic production 1959–63 (15,703,000,000 lb) equals base quota.

II. USDA estimates that if quotas were suspended for years 1979–81, the above figures are what would be imported under current law.

III. Average imports 1968–77 (1,204,600,000,000 lb) times 3-yr moving average of domestic production divided by average domestic production 1968–77 (22,898,700,000,000 lb) times 5-yr average cowbeef divided by 2-yr average cowbeef equals base quota.

IV. Average imports 1959–63 (725,400,000,000 lb) times 3-yr moving average of domestic production divided by average domestic production 1959–63 (15,703,000,000 lb) times 10-yr average cowbeef divided by 2-yr average cowbeef equals base quota.

Year	Beef and veal price index[1]				Farm price of cattle index[2]				Ratio			
	1st quarter	2d quarter	3d quarter	4th quarter	1st quarter	2d quarter	3d quarter	4th quarter	1st quarter	2d quarter	3d quarter	4th quarter
1967	0.99	0.98	1.01	1.02	0.97	1.00	1.04	0.98	0.98	1.02	1.03	0.96
1968	1.03	1.03	1.05	1.05	1.02	1.06	1.07	1.04	.80	1.03	1.02	.99
1969	1.07	1.14	1.20	1.16	1.10	1.27	1.21	1.13	1.03	1.11	1.01	.97
1970	1.18	1.20	1.21	1.19	1.24	1.27	1.23	1.14	1.06	1.06	1.02	.96
1971	1.20	1.25	1.27	1.27	1.25	1.31	1.30	1.34	1.04	1.05	1.02	1.05
1972	1.35	1.35	1.39	1.37	1.45	1.49	1.53	1.53	1.08	1.10	1.10	1.11
1973	1.52	1.63	1.72	1.68	1.83	1.95	2.14	1.79	1.21	1.20	1.24	1.07
1974	1.76	1.67	1.68	1.64	1.92	1.63	1.57	1.29	1.09	.98	.94	.79
1975	1.56	1.66	1.82	1.76	1.23	1.55	1.52	1.48	.79	.93	.84	.84
1976	1.69	1.65	1.64	1.60	1.50	1.67	1.48	1.43	.89	1.01	.90	.90
1977	1.61	1.63	1.64	1.66	1.48	1.58	1.56	1.57	.97	.96	.95	.95
1978	1.75				1.81				1.02			

[1] The beef and veal price index is figured by the Bureau of Labor Statistics and is a component of the Consumer Price Index.
[2] The farm price of cattle index is figured by the U.S. Department of Agriculture.
Note: Farm price of cattle index divided by beef and veal price index equals ratio.

Mr. DOLE. I would say finally that the current formula would allow 1979 through 1988, one cattle cycle, 12.7 billion pounds. Under H.R. 11545, the formula would allow for the same period 14.4 billion pounds, so it is about 1.7 billion pounds more.

I know that would rebut any argument. I ask unanimous consent that a rebuttal on specific points be printed in the RECORD.

I thank the distinguished Senator from Texas for yielding.

There being no objection, the rebuttal was ordered to be printed in the RECORD, as follows:

REBUTTAL

According to U.S.D.A.—The countercyclical formula in H.R. 11545 is less restrictive than the current formula.

Current formula would allow from 1979–1988 (1 cattle cycle) 12.7 billion lbs.

H.R. 11545 formula would allow for same period 14.4 billion lbs. 1 billion 700 million lbs. more.

H.R. 11545 dampens the drastic price savings that occur when, during the cattle cycle, U.S. supply is limited.—It benefits consumers.

Since import levels over time are not expected to decline under this bill, it will not result in a loss of revenue.

Mr. METZENBAUM. Mr. President, I yield myself a half minute. I will be brief in discussing this legislation. This bill needed to have unanimous consent to come forward, and I was aware of the fact that four Members of the House said about this bill:

With the President's hands tied in this way the consumer would really suffer.

They go on to say:

Inflation Fighter Robert Strauss estimates that beef prices would be 16 or 17 cents a pound higher under the provisions of the Senate-passed beef import bill. H.R. 11545 is not significantly better than that bill.

There is an argument that has been made that the countercyclical features of the bill will work to protect the consumer. I really doubt very much that they will work in the manner described.

I have difficulty in accepting the concept that the cattlemen come forward supporting this legislation with the thought in mind that in some way it is going to protect the consumer as well as protect them, and I think we have to recognize that this is a cattlemen's bill, and I think the consumer will pay a higher price as a consequence of the measure.

I associate myself with the views of the distinguished Senator from New York in indicating my concern for the American consumer with respect to higher beef prices that will undoubtedly result from the passage of this bill.

Mr. BENTSEN. Mr. President, I yield myself 2 minutes.

Mr. President, the figures that my distinguished friend has cited from the Wage and Price Commission pertain to the bill as it was originally introduced

and not before a major modification was made to it.

After the original legislation was modified, the numbers as cited by Mr. Strauss were no longer correct. On May 5 Mr. Strauss wrote a letter stating that he was pleased to see that the 2-percent ceiling on imports under certain conditions had been deleted, and that his comments had been directed to the previous draft and not the legislation as it was corrected.

The Senator from Kansas made the very valid point that under the current law in the next 10 years 12.7 billion pounds would be imported, but under this bill it is estimated that 14.4 billion pounds will be imported over the next 10 years.

Let me say to my friend from Ohio that I have 13 million people in my State. I represent a lot more people who would be classified as consumers than cattlemen, and if I were not convinced that this helped both the consumer and the producer I would not be supporting this piece of legislation. But I believe this bill will lead us away from the roller coaster effect in beef prices, helping to build up cattle production in this country, which will provide stability and insure that the housewife is not subjected to the penalties of excessive high prices which we have seen in the past.

Frankly, over the next 2 years under this piece of legislation you will see more beef being imported than has been the case over the last 2 years.

I retain the remainder of my time.

Mr. CHURCH. Mr. President, will the Senator yield to me?

Mr. BENTSEN. I will be glad to yield.

Mr. CHURCH. First of all, I want to commend the able Senator from Texas for his leadership in bringing this bill to fruition. I think it is a great improvement over the present law, and that it will work much more efficiently and reliably.

I agree with the Senator when he says that in the long run this will serve both the interests of the producer and the consumer.

I do not quite understand some of the arguments directed against this bill when it is based upon a formula quite like that sought by the Government itself in the International Sugar Agreement. That agreement, as the Senator knows, consists of some 77 countries, producer and consumer countries alike.

The whole objective is to regulate the production of sugar in the world at large in such a way as to stabilize the prices at an acceptable level, and thus avoid the tremendous fluctuations that have seen the price of sugar go from 70 to 7 cents in the past 4 years.

Such fluctuations mean tremendous stress upon the market, and in highly inflationary periods at the top of the cycle the price paid by the housewife is way above anything that she would have to pay in a stabilized market of this kind that is contemplated in this legislation.

So I commend the Senator from Texas. I am happy to be one of those who has supported this effort, and to be associated with it. I compliment the Senator.

Mr. BENTSEN. I commend my friend from Idaho, particularly for his very substantial knowledge in foreign trade and his interest in this particular subject.

Mr. President, if there are no further requests for time, I am prepared to yield back the remainder of my time and urge the passage of the bill.

The PRESIDING OFFICER. All time is yielded back.

Mr. CHAFEE. Mr. President, if I might have a minute.

Mr. BAKER. I yield a minute to the Senator from Rhode Island.

Mr. CHAFEE. I would like to ask the sponsor of the legislation is this opposed by the administration?

Mr. BENTSEN. The administration has stated they are for the countercyclical formula. But it is also my understanding that the administration would like more authority for the President to intervene as he sees fit. But that is a very typical reaction from a chief executive, and I have never seen one throughout our history who did not attempt to expand his authority.

Mr. CHAFEE. May I ask another question? Does it not behoove a person in authority to increase the amount of imports when the availability of beef in this country is low?

Mr. BENTSEN. When the availability of beef in this country is low, that is the time when we would increase the amount of imports, and that would help stabilize the prices and help reduce the prices. It works just the opposite from the way the present situation would require.

Mr. CHAFEE. Mr. President, we have had a whole series of measures around here designed to help reduce the roller coaster effect of food prices and stabilize them at a high level. I do not think that is in the best interests of the consumers of the country.

Mr. BENTSEN. It is not in the best interests of the cattle producers when beef prices get to the top of that cycle, because the housewives tend to substitute other products. Therefore, it is not in their interest that the prices be kept at the top level.

Mr. President, unless there are furthr requests for time, I yield back the remainder of my time, and move for passage.

Mr. BAKER. Mr. President, I yield back the remainder of the time on this side.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on the third reading of the bill.

The bill (H.R. 11545) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I ask unanimous consent that, even though it was a voice vote, I be recorded on that vote as "present." I did not vote, because I do have, on that subject, a conflict.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader and I have gone over quite a number of items here, and I just had an accident and dropped about half of mine, so I am not too sure of them.

Mr. HOLLINGS. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. HOLLINGS. Is not the pending business the conference report on H.R. 12050, which the Senator from Louisiana had up?

The PRESIDING OFFICER. The question would recur on agreeing to the conference report on H.R. 12050.

Mr. ROBERT C. BYRD. Mr President, will the Senator allow us to proceed with some of this? The House needs some of this material, may I say to the Senator from North Carolina

Mr. HOLLINGS. All right.

Mr. ROBERT C. BYRD. Mr President, I yield to the distinguished Senator from Maine (Mr. MUSKIE) for not to exceed 4 minutes.

Mr. MUSKIE. Mr. President, I yield to the distinguished minority leader.

FEDERAL WATER POLLUTION CONTROL ACT AMENDMENTS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 12140, a bill to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act, and that the Senate proceed to its immediate consideration. I make this request on behalf of the Senator from Vermont (Mr. STAFFORD).

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

An act (H.R. 12140) to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to the consideration of the bill.

UP AMENDMENT NO. 2121

Mr. BAKER. Mr. President, there is an unprinted amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for himself and Mr. MUSKIE, proposes an unprinted amendment numbered 2121.

The amendment is as follows.

Strike all after the enacting clause and insert in lieu thereof the following:

"That (a) Clause (1) of section 104 (u) of the Federal Water Pollution Control Act (33 U.S.C. 1254) is amended to read as follows:

"(1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed $14,039,000 for the fiscal year ending

September 30, 1980, for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions;"

(b) (1) Section 311(a)(2) of the Federal Water Pollution Control Act is amended by inserting before the semicolon at the end thereof the following: ", but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit, and (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems".

(2) Section 311 (a) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph:

"(17) 'Otherwise subject to the jurisdiction of the United States' means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party.".

(3) Section 311(b)(2)(B) of such Act is amended to read as follows:

"(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.".

(4) Section 311(b)(3) of such Act is amended by striking out "in harmful quantities" and inserting in lieu thereof "in such quantities as may be harmful".

(5) Section 311(b)(4) of such Act is amended to read as follows:

"(4) The President shall by regulation determine for purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.".

(6) Section 311(b)(5) of the Federal Water Pollution Control Act is amended by inserting "at the time of the discharge" after the words "otherwise subject to the jurisdiction of the United States".

(7) Section 311(b)(6) of such Act is amended by inserting after "(6)" the letter "(A)" and by inserting "at the time of the discharge" after the words "otherwise subject to the jurisdiction of the United States", and by inserting four new subparagraphs as follows:

"(B) The Administrator, taking into account the gravity of the offense, and the standard of care manifested by the owner, operator, or person in charge, may commence a civil action against any such person subject to the penalty under subparagraph (A) of this paragraph to impose a penalty based on consideration of the size of the business of the owner or operator, the effect on the ability of the owner or operator to continue in business, the gravity of the violation, and the nature, extent, and degree of success of any efforts made by the owner, operator, or person in charge to minimize or mitigate the effects of such discharge. The amount of such penalty shall not exceed $50,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, such penalty shall not exceed $250,000. Each violation is a separate offense.

Any action under this subparagraph may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to assess such penalty. No action may be commenced under this clause where a penalty has been assessed under clause (A) of this paragraph.

"(C) In addition to establishing a penalty for the discharge of a hazardous substance, the Administrator may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

"(D) Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

"(E) Civil penalties shall not be assessed under both this section and section 309 for the same discharge.".

Mr. BAKER. Mr. President, this amendment represents compromise language involving section 311 of the Federal Water Pollution Control Act, and I ask for the immediate consideration of the amendment.

Mr. JAVITS. Mr. President, does this relate to commercial banks handling revenue funds?

Mr. BAKER. It does not. I yield to the chairman of the subcommittee to answer that.

Mr. MUSKIE. Mr. President, does the Senator from New York wish me to yield?

Mr. JAVITS. I take it that the measure I am concerned about, which relates to the marketing of revenue bonds, is not on this bill, it is another bill?

Mr. MUSKIE. Mr. President, the amendment before us revises the hazardous substances program under the Federal Water Pollution Control Act.

First, the proposal simplifies the determination of which discharge incidents must be reported to the Federal Government. The amendment makes it clear that the determination of harmful quantities does not require an assessment of actual harm in the variety of circumstances in which such substances might be discharged. Rather, the amendment makes the determination based on the Administrator's judgment of what quantity may be harmful as a result of its chemical properties, not the circumstances of its release.

Second, the amendment would establish two options for penalizing dischargers of hazardous substances. The first option, which already is in the statute, consists of an administratively assessed penalty of up to $5,000 for each violation. The second option would be a civil action in Federal district court for penalties not to exceed $50,000 per violation, unless the discharge was the result of willful negligence or misconduct, in which case the penalty maximum would be $250,000 per discharge. The amendment specifies the factors the court would assess in establishing the penalty.

Third, the amendment clarifies which section of the act governs discharges of oil and hazardous substances from point sources with NPDES permits. Chronic discharges from a point source permitted under section 402 which are associated with manufacturing and treatment technology are to be regulated under sections 402 and 309. "Classic spill" situations will be subject to section 311, however, regardless of whether they occur at a facility with a 402 permit. The amendment also clarifies that the costs of removal of a discharge of a hazardous substance from a point source with a 402 permit are recoverable from the owner or operator of the source under section 309(b) of the act.

Mr. President, while I have indicated that I will not oppose the passage of this so-called "quick fix" amendment to the hazardous substances program in section 311 of the Clean Water Act, I am troubled by some of the implications of it.

First, I am concerned that it has been the judicial process rather than the process of implementation of this program that has precipitated the need for making such a "fix". I still believe in the basic soundness of the hazardous substances program as written in the 1972 amendments to the Federal Water Pollution Control Act. The amendment before us incorporates the policy established in 1972 within the study required under the new subsection (b)(2)(B), and I expect that further analysis of this policy will reinforce my feeling that the penalty structure of the 1972 act would establish a standard of care on the handlers of hazardous substances.

It is this particular aspect—the standard of care issue—which is important. One of the main thrusts of the 1972 amendments was to create an incentive, which did not previously exist, upon those carriers of hazardous substances to exercise all due care in the transport and handling of those materials.

It was for this purpose that the penalty scheme, which would provide for penalties up to $5 million based on the nature of the substance spilled and spill itself, was put into place. We felt strongly that the environmental risk associated with moving such a substance should be reflected in their costs. If it proved that the environmental risks, and hence the financial risks, were too great, then perhaps that substance ought not be transported. On the other hand, that penalty scheme could also work to assure safer handling so as to reduce environmental risk and thereby reduce financial risk.

It is this aspect of the current law which will be revised by this amendment. While I understand that the judicial process; namely, a decision in a Louisiana district court, has enjoined the implementation of the program, I am not convinced that it is otherwise unworkable. The use and abuse of the judicial

system to rewrite environmental law has become more prevalent.

Litigation in the Federal courts frequently delays implementation of important environmental programs which Congress contemplated in enacting major environmental legislation. EPA is currently defending over 70 challenges to its regulations in the Federal court system. A single court decision invalidating environmental regulations can effectively halt an important national program for years—while a time-consuming (and uncertain) appeal is pursued or while the Agency attempts to develop revised regulations to meet the objections perceived by the court—again with no certainty that another court will find those changes acceptable. This is precisely the current situation with respect to the section 311 hazardous substances regulations.

We have made the decision to fix the 311 situations now rather than wait for final judicial action.

Mr. President, Senator STAFFORD's remarks adequately describe the details of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 12140) was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the Chair protect my right to the floor so we can move on some items rather quickly?

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROBERT C. BYRD. Mr. President, these are items the distinguished minority leader and I have cleared on our respective sides, which I think will not require rollcall votes. I would suggest that Senators would be safe from rollcall votes for an hour at this point.

Mr. BAYH. Mr. President, will the distinguished majority leader yield for a question?

Mr. ROBERT C. BYRD. Yes.

Mr. BAYH. Could the Senator advise the Senator from Indiana and anyone else who might be interested—I know that includes the other Senator from Indiana—whether the measures that have been agreed upon contain any matters relative to parks legislation?

Mr. ROBERT C. BYRD. The items we have here do not.

Mr. BAYH. I raise that, not to doubt anyone's integrity, but we have had some rather interesting printing experience that have transpired during the last few hours, and there are one or two sensitive items relative to an Indiana park that I would hope the majority leader will help us be prepared to protect ourselves on.

Mr. ROBERT C. BYRD. The Senator has that assurance.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Is the Senator preparing to ask unanimous consent on certain measures?

Mr. ROBERT C. BYRD. Yes, certain House measures and conference reports which we understand are not controversial.

Mr. HARRY F. BYRD, JR. Are there any park matters?

Mr. ROBERT C. BYRD. Not in any of the measures we will attempt to advance, thus far.

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of not to exceed 4 minutes on the conference report on the vocational rehabilitation amendments, to be equally divided between Mr. RANDOLPH and Mr. JAVITS.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, did the Senator from New York understand the request?

Mr. JAVITS. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RANDOLPH. Mr. President, I submit a report of the committee of conference on H.R. 12467 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. RANDOLPH. Mr. President, we are acting in the Senate prior to the action that will be taken, hopefully within the next hour, in the House of Representatives.

Mr. President, again this Congress has an opportunity to express its concern and commitment for handicapped citizens of this country. There are estimated to be from 20 to 35 million people in this Nation with disabilities; 2 million of these may be considered severely handicapped. There is no group of people in our country so disadvantaged as those with severe disabilities; those who, by act of God and nature, cannot participate in the benefits of this society without some special provisions.

For 50 years, the Federal Government and this Congress have seen the vocational Rehabilitation Act as the most important instrument for bringing needed services to the handicapped people of this Nation. For 50 years, we have nurtured this legislation to bring it to the point it is today: A powerful commitment to equal opportunities for all handicapped people.

In the 42 years since the enactment of the Randolph-Sheppard Act, I have made a deep and personal commitment to improve the quality of life for handicapped people. I expect to continue this effort until every handicapped person, adult and child, of this Nation are full participants in both the benefits and responsibilities of this society. The Rehabilitation, Comprehensive Services and Developmental Disabilities Act of 1978, as brought before this Chamber today is a vital and continuing link in this great cause.

There was a day when services to handicapped people might have been considered costly. Today, we know that it is the failure to provide adequate services which is costly. There are 2.8 million people today who receive disability payments under social security and 2.2 million disabled who are recipients under SSI. It can cost from $6,000 to $8,000 per year to keep a mentally retarded person in a sheltered workshop and yet, with appropriate rehabilitation services, such a person can be trained for productive employment and be turned into a taxpayer within as little as 8 months. The rehabilitation of handicapped persons is not a program which costs money, it is a program which makes money. It is an investment in the future of America which turns wasted lives into productive income for the person and the Treasury.

The bill before us today brings many new and potentially exciting developments into service for the handicapped. The rehabilitation research program has long been recognized as the life's blood of new ideas for improving services to the disabled. However, over the past decade this and other research programs targeted toward the handicapped have deteriorated to a sad state of disrepair. The rehabilitation research budget for fiscal year 1978 was actually less than the budget for the fiscal year 1969; in 10 years this budget dropped from $32 million to $31.5 million. This does not represent frugality on the part of Congress; this represents lack of leadership and commitment on the part of the previous administration.

I have a vision of an exciting research program actively seeking solutions to the very difficult problems encountered by handicapped people—and solving those problems. This bill gives us a new National Institute of Handicapped Research which I believe will bring substance to this vision. This research institute, with a Presidentially appointed director, will maintain the current research efforts of the Rehabilitation Services Administration. It will be responsible

for the coordination of all Federal programs and policies relating to research in rehabilitation, for the conduct of special studies as required to improve the lives of handicapped persons, for the dissemination of research findings, for the conduct of conferences, seminars and workshops to keep rehabilitation personnel informed on the latest developments in rehabilitation research and engineering, and in general, to seek out the barriers to normal living encountered by handicapped individuals and to find ways to eliminate those barriers.

This institute will provide a government-wide mechanism for planning and keeping track of all research relating to the rehabilitation and habilitation of handicapped individuals. There will be an Interagency Committee on Handicapped Research which includes representation from the Office of Education, the Veteran Administration, the National Aeronautics and Space Administration, the Department of Transportation, the National Science Foundation, and the National Institutes of Health.

I have great hopes for this new National Institute for Handicapped Research. It will have the broadest possible mandate to identify and solve the problems encountered by handicapped individuals. It will have the opportunity to attract leadership of the highest professional quality. As this leadership develops its plan, its program, and its priorities it will be turning to this Congress for the funds to carry out those plans and programs. I have every confidence that those plans will be of such a quality and those programs so important that even in days of tight budgets the money will be forthcoming.

The National Institute may be the brightest star in the future of rehabilitation services but there are other stars in this bill which demand comment. This bill includes two important new programs; one to establish model centers to create and use the best methods of developing employment potential of the handicapped and the other to develop models for preschool services.

The model employment training programs are extremely important additions to the rehabilitation research and development effort. For too many years handicapped individuals have been placed in sheltered employment without specific job training; trained only to become better workshop personnel. These training centers will seek to find ways to pull the handicapped out of sheltered workshops, provide them with needed job training, and help them find employment in the private sector. There is ample evidence that this can be done. Existing programs in Albertson, N.Y. and Seattle, Wash., both struggling under inadequate support, have brought forth important new information about the capability of handicapped individuals under conditions of optimal training which leads us to believe that this program might be one of the most important in this bill. It is expected that funding under this authorization will be used to expand and continue these two pioneering programs.

The second model program authorized under this bill is for rehabilitation services to preschool age children. We have been asked why a vocational rehabilitation agency should be concerned with preschool children and our response is that this is a rehabilitation agency and rehabilitation services are appropriate to individuals of all ages and disabilities. There are severely handicapped children in this country who require the services offered by rehabilitation specialists; physical therapists, occupational therapists, pediatric medicine, and others. These handicapped children require more than educational services and they require services outside of school hours and during the months when school is in recess.

Both of these model programs are experimental in nature, both seeking new approaches to services and new administrative structures to support those services. Because of this, these programs are to become important additions to the new National Institute of Handicapped Research.

This bill brings other new stars to the future of handicapped individuals. One of the most severe deterrents to independence for visually impaired individuals is the inability to make use of the printed page, in spite of the fact that reader services could be easily available and in spite of the fact that tremendous gains have been made in recent years in the development of electronic reading devices. This bill authorizes a new program to enable blind individuals to have access to printed material through the use of reader services, increased availability of braille, and the utilization of modern electronic devices. This bill also authorizes the establishment of programs to train interpreters for the deaf. As section 504 has opened training and employment opportunities for the deaf, we find a shortage of trained interpreters to enable the deaf to take advantage of these new opportunities. The doors to equal opportunity have begun to open, only to be closed again by the lack of trained personnel. This will begin to correct this problem and insure that the door to equal opportunity is never again closed to a person who is deaf.

One of the brightest new stars in this bill, one sought patiently by the handicapped for many years, is a provision for independent living. Many handicapped individuals can be fully contributing members of this society if only some degree of help were available to deal with the problems of every day living. This bill gives us a first step in this new direction; a new direction which should see more handicapped people employed in appropriate occupations, taxpayers rather than welfare recipients.

There are other aspects of this bill which are of continuing importance to handicapped individuals. This bill continues the highly successful State grant program which has been done so much in the past and which shows so much promise for the future. It continues the research and training centers which have brought forth so much new knowledge which has been so important to handicapped individuals. It continues the innovation and expansion grants and the rehabilitation personnel training grants. There is a section of the bill which encourages exploration of modern telecommunication systems to facilitate communication for those handicapped who have problems in this area.

We are all aware of the rapid expansion of science and technology in today's world. Much of the hope of handicapped individuals lies in the quick translation of this technology into useful form. We are also aware that the education of all handicapped children act is doing more and more to prepare our handicapped citizens for full participation in this society. With all of the advantages of this rapidly improving technology and education, there is no longer a need to think of the handicapped in terms of charity or welfare. There is no longer a need to see institutionalization as the only alternative for a handicapped individual.

This bill has been developed with great care. It represents the culmination of efforts which began on June 17, 1977 with the introduction of S. 1712. The subcommittee on the Handicapped has carefully reviewed the testimony from 201 witnesses during 18 days of hearings. Their recommendations, in addition to reports from the Department of Health, Education and Welfare and the recommendations of the White House conference on Handicapped Individuals, which was held in May 1977, have been carefully studied. The provisions in this measure represent a major thrust of our policy—equality for all handicapped Americans. With this measure we have provided the authority to the Department of Health, Education, and Welfare to give top priority to severely handicapped individuals who have been heretofore excluded from programs. This measure brings a new commitment, a new future for all handicapped individuals of our Nation.

I express my sincere gratitude to the members of subcommittee for their valuable assistance in the development of this legislation. Mr. STAFFORD, the ranking minority member; Mr. WILLIAMS, the distinguished chairman of our full Committee on Human Resources; Mr. EAGLETON and Mr. HATCH.

Mr. JAVITS. Mr. President, as the ranking minority member of the Human Resources Committee, and a conferee, I urge my colleagues to support the conference report on H.R. 12467. Issues facing our handicapped citizens have long been of paramount importance to me, and I believe that this legislation will continue the affirmative approach we have taken in the past few years toward bringing the handicapped into the mainstream of our society. H.R. 12467 will expand critical services for our disabled citizens, and provide necessary new authority for programs for severely handicapped individuals, for employment of the handicapped, and for a National Institute of Handicapped Research.

Our most severely handicapped citi-

zens, Mr. President, have frequently been overlooked in the scope of existing Federal programs serving the handicapped. These individuals often desire to, and are able to live independently, but are unable to receive necessary services which will enable them to do so. The conference agreement retains the concept of the Senate amendment to H.R. 12467 regarding independent living, and provides for assistance which will enable the severely handicapped to function effectively, with self-respect, in our society.

Within the new comprehensive services title, the conferees agreed to retain the basic provision of the Senate amendment to assist States to establish systems to protect and advocate the rights of severely handicapped individuals. While States are not mandated to establish such systems, the Secretary is directed to encourage States to provide these critical services. This protection and advocacy system for the severely handicapped is modeled upon a similar system, which I authored, in the Developmental Disabilities Assistance and Bill of Rights Act, Public Law 94–103, a system which has functioned effectively and has been expanded in that law.

The conference agreement also establishes a new National Institute of Handicapped Research, under the direct authority of the Secretary, to promote and coordinate programs of rehabilitation research and training. Our Nation's handicapped require a concerted effort of research and training of personnel to meet their special needs, and the research institute should effectively coordinate diverse existing programs nationwide and establish new programs of research and training where needed.

The conference report additionally provides for a new pilot program of community service employment sponsored by the Department of Labor for handicapped individuals with otherwise poor employment prospects. This program, to be conducted through agreements with public and private nonprofit agencies and organizations, will contribute not only to the individual well-being of handicapped persons who are employable, but to the general welfare of our communities in which, as we all know, there is much that can be done.

Mr. President, notwithstanding these, and other, major programmatic improvements which will be achieved through this conference agrement, one of the most significant aspects of this measure relates to the modification, agreed to by the conferees, of the way in which funds are allocated to States for basic rehabilitation services to handicapped individuals. The conference agreement provides that, to fiscal year 1978 funding levels, the existing Hill-Burton formula will be used for allotting funds to States for basic services. At appropriation levels in excess of those in fiscal year 1978, 50 percent of those excess funds will be allotted on the basis of Hill-Burton, and 50 percent on the basis of the Hill-Burton formula with the "square" of the relative per capital income factor removed. The "squaring" mechanism has given an extreme allocational disadvantage over the years to States with high per capita incomes, States which may nevertheless have a high cost of services. More importantly, handicapped individuals require services regardless of their State of residence, and the formula in existing law has served to limit the scope of rehabilitation services to the handicapped in the higher per capita income States.

The modification agreed to by the conferees, Mr. President, is the first change in the use of the Hill-Burton formula since the institution of that formula for the Federal vocational rehabilitation program in 1954. The actual increment in moneys for the States which are disadvantaged under the current formula is minimal—for fiscal year 1979, less than two-tenths of 1 percent of the total amount authorized. Yet this minor modification is significant in that it begins to reverse the trend in this formula, which has discriminated against the handicapped in the most populous States in our Nation.

Finally, Mr. President, I would like to express my appreciation to the chairman of the Subcommittee on the Handicapped, Senator RANDOLPH, and the subcommittee's ranking member, Senator STAFFORD, for their fine efforts in achieving this critical legislation. I also commend the fine work of Senator WILLIAMS, the chairman of the Human Resources Committee, and that of Representatives PERKINS, BRADEMAS, and QUIE. With the other conferees, they have provided legislation which will offer our Nation's handicapped citizens the opportunity to live with dignity and self-esteem.

I urge my colleagues to consider favorably the conference report on H.R. 12467.

I also refer to a slight breakthrough on a completely archaic formula for the distribution of the funds. More important is the fact of the breakthrough, for the amount is small which it will give to highly populated States with many handicapped which have been prejudiced, seriously prejudiced, by the existing formula. What we had to give for that is a 4-year bill. But, Mr. President, I made that deal and I think it was worth it in order to crack this completely archaic situation and to begin to improve it. There is some slight improvement in this bill. Thus, nonetheless, I urge the Senate to approve the conference report.

● Mr. STAFFORD. Mr. President, as the ranking member of the Subcommittee on the Handicapped and a chief cosponsor of the original Senate bill amending the Rehabilitation Act of 1973, I join with my distinguished colleague and chairman of the subcommittee, Mr. RANDOLPH of West Virginia, in giving my full support to this conference bill.

H.R. 12467 extends the vocational rehabilitation program for 4 years and the developmental disabilities program for 3 years. Also, the bill creates new programs to provide better services to severely handicapped individuals. The bill allows the rehabilitation program to grow and expand its services to more handicapped individuals, which will provide these individuals with greater opportunities to maximize their potential.

I would like to highlight a few provisions of the conference bill, which I feel will significantly enhance the opportunities for handicapped individuals.

INDIVIDUAL WRITTEN REHABILITATION PROGRAM

The conference agreement on the individualized written rehabilitation program section of law is designed to provide a formal process to protect the rights of the vocational rehabilitation client participating in the program. This agreement provides that a rehabilitation client who is dissatisfied with decision by the rehabilitation counselor may request a review of the decision by the head of the State agency. The Director of the State agency must make his decision known to the client in writing. If the handicapped individual is dissatis fied with written decision of the head of the State agency then he may request a review of the decision by the Secretary of Health, Education and Welfare or his designated Assistant Secretary. The Secretary shall review the decision on behalf of the handicapped individual and make appropriate recommendations to the Director of State agency for disposition of this matter.

A responsive State rehabilitation agency should have no problems with such a review system. The review program is supportive of the vocational rehabilitation system's desire and effort to better serve their clients. Since the decisions made by the vocational rehabilitation agency are significant and of lifelong impact, I feel that the handicapped individual's rights should be guarded by the establishment of a formal review process to protect them.

RECREATION PROGRAM

Mr. President, participation in sports and other forms of recreation are points of common interest in our country. For the handicapped individual, recreation is now available due to advances in technology and equipment and the concerns of the people in the physical education and recreation areas.

In recognition of the recreational and social needs of handicapped individuals, the House accepted the Senate passed provision that created recreation programs for handicapped individuals. This section of the conference bill authorizes the Secretary of HEW to make grants to States and public nonprofit agencies and organizations for the purpose of initiating recreation programs for handicapped individuals.

Mr. President, at the present time, recreational programs for the handicapped are limited. This provision is intended to stimulate the development of existing community-based recreation programs for use by handicapped individuals. It is Congress' intent that these programs should be coordinated with other recreational activities in the community.

It is also the Congress intent that handicapped individuals should participate to the maximum extent feasible. However, realistically speaking, the handicapped do have specialized needs that necessitate adaptive equipment and programming as well as personnel attuned to their needs. This provision of law is designed to support the handicapped in-

dividuals' desire to participate in regularly scheduled recreation programs. Simply stated, Mr. President, the goal of this section is to provide new and expanded recreational activities to handicapped individuals in all areas of the country.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Mr. President, the conference bill contains several amendments to the Architectural and Transportation Barriers Compliance Board established by section 502 of the Rehabilitation Act of 1973. These amendments make the following changes in section 502: First, add 11 public members to the Board, 8 of whom are disabled; second, add a representative of the U.S. Postal Service and the Department of Justice; third, provide for technical assistance to public and private agencies and institutions for the removal of architectural and transportation barriers to accessibility; and, fourth, provide the Board the ability to enforce its compliance orders.

Mr. President, the conferees actions to involve handicapped consumers on the Board is a result of our recognition that architectural and transportation barriers inhibit their mobility in this society. The reality of barriers may only be a passing thing to the nondisabled individual, but it's a constant concern and frustration to the handicapped individual. By placing handicapped individuals on the Board in a decisionmaking role, it is the conferees hope that the Board will approach the matter of barrier removal in a realistic manner without unnecessary delay.

With the implementation of section 504, many individuals, institutions and States are at a loss as to how they can meet the compliance standards. In taking these problems into consideration, the conference bill provides the board with a technical assistance capability to assist any public or private entity in the removal of architectural and transportation barriers which impede the mobility of handicapped individuals.

The conference bill also gives the board the right to issue compliance orders to enforce the standards of the Architectural Barriers Act of 1968. Under the conference bill, the Board must insure that all waivers and modifications of the act are based upon findings of fact. Also to provide for better enforcement of the act to strengthen the activities of the Board, the conference bill provides that the Board be represented by its own legal counsel in the courts.

This conference agreement supports the Board's need for power to enforce its orders and make sure its views are represented by its own attorneys.

The Department of Justice cannot always represent the real interest of the Board because it also must represent the Federal agency being sued.

The Board and the Justice Department should work together in several areas where there would be no conflict of interest in the Department handling the Board's case. I speak for the Congress when I say that the Board and the Department of Justice should cooperate and work jointly on litigation wherever possible. The Board and the Justice Department should work out a cooperative agreement which keeps the Justice Department fully informed of litigation undertaken by the Board and allows for their participation whenever possible.

Under conference agreement the Justice Department would be the Board's representative on all tort claims, freedom of information, privacy and other general administrative matters. The Justice Department will try all cases before the Supreme Court.

The conferees feel that these modifications of the law are necessary to assist the Board in accomplishing its goal of a barrier-free environment for handicapped individuals. Under existing law, the Board has no formal legal avenue available to enforce its judgments. Quite frankly, Mr. President, if the Board's orders are to have meaning, they must be enforceable.

STATE ALLOCATIONS

Mr. President, the conference agreement provides for an increase in the State minimum allocation to $3,000,000 or one-third of 1 percent of appropriations whichever is greater, for the basic State grant vocational rehabilitation program. This agreement will provide a needed increase for minimum States which have not received an increase since 1973 when the present law minimum figure was adopted by the Congress. The conference agreement also includes a $200,000 or one-third of 1 percent minimum whichever is greater for the comprehensive services for independent living program established by the conference bill.

DEVELOPMENT DISABILITIES

Mr. President, in keeping with the advancement of awareness and mainstreaming of handicapped individuals, the conferees agreed to extend the Developmental Disabilities Act for 3 years.

The major change in the existing law agreed on by the conferees is a new functional definition of developmental disabilities. The new functional definition is intended to cover everyone under the current definition and to add other individuals with similar characteristics.

The new definition is a functional definition and should avoid stereotyping individuals by their disability. The new definition should lead to better access and appropriate services for individuals, rather than a categorical label for people.

The conference bill provides a focus for the State developmental disabilities programs by requiring that the funds used for services to developmentally disabled individual be allocated toward specific priority areas establishd by the bill.

The conference agreement also seeks to strengthen and clarify the role of the State Developmental Disabilities Council in the development of the State plan required by the law.

I would like to mention that the State minimum allocation for the developmental disabilities program has been raised to $250,000 by the conference bill. This will help to provide increased programing for priority services to those developmentally disabled individuals living in small rural States.

COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

Mr. President, I would like to mention one more very significant new initiative in the conference bill.

The comprehensive services for independent living program establishes a new program directed to serve severely handicapped individuals.

This program in the conference bill will provide much needed independent living services to severely handicapped individuals. These services should substantially expand opportunities available to severely handicapped individuals. These severely handicapped individuals are going without the necessary support services to aid in maximizing their potential because they need additional services beyond the scope of the vocational rehabilitation program.

In the past, the severely handicapped have been shoved into the background because of the length of time and cost factors required to help them gain their maximum independence. This program should bring these individuals that are severely handicapped into rehabilitation programs which will have a major impact on their lives.

ATTORNEY'S FEES

Mr. President, section 505(b) of the conference bill provides for the allowance of attorneys' fees by a court as part of the costs to the prevailing party, other than the United States and parallels the Civil Rights Attorneys' Fees Awards Act of 1976 (P.L. 94–559). Such allowance of attorneys' fees is an important step in assisting handicapped individuals in their efforts to assure that they have the same rights and opportunities as other Americans. As my colleagues are aware, Public Law 94–559 provides that the court, in its discretion, may allow the prevailing party other than the United States, a reasonable attorney's fee as part of the costs in any action or proceeding to enforce the provisions of sections 1977, 1978, 1979, 1980, and 1981 of the Revised Statutes and Title IX of Public Law 92–318, the Education Amendments of 1972.

Mr. President, the rights currently extended to handicapped individuals under title V of the Rehabilitation Act of 1973—Federal Government employment, physical accessibility in public buildings, employment under Federal contracts, and nondiscrimination under Federal grants—are and will continue to be in need of constant vigilance by handicapped individuals to assure compliance. Private enforcement of these title V rights is an important and necessary aspect of assuring that these rights are vindicated, and the availability of attorney's fees should assist substantially in this respect. As noted in the report to accompany S. 2278, the Civil Rights Attorneys' Fee Awards Act of 1976 (S. Rept. 94–1011):

(A) 11—civil rights laws depend heavily upon private enforcement, and fee awards have proved an essential remedy if private citizens are to have a meaningful opportunity to vindicate Congressional policies which these laws contain.

Mr. President, in many, many cases arising under title V of the Rehabilitation Act of 1973, the handicapped individual has little money to hire and pay an attorney. The 1976 Committee Report—Senate Report No. 94–1011 noted:

> If private citizens are to be able to assert their civil rights, and if those who violate the Nation's fundamental laws are not to proceed with impunity, then citizens must have the opportunity to recover what it costs to vindicate these rights in court.

The amendment adopted by the committee would help assure that handicapped individuals will be able to have access to the judicial process in order to assert their rights under title V.

Mr. President, I emphasize that it is intended that interpretation of the attorney's fees provision in the conference bill be analagous to interpretations of the Civil Rights Attorney's Fees Act of 1976; Public Law 94–556. The legislative history and expressions of legislative intent with respect to Public Law 94–556 are applicable to the new section 505(b). Thus, for example, the discussion of "prevailing party" and "reasonable fees" found in the Senate committee report to accompany S. 2278, in particular, pages 4–6, and the report to accompany H.R. 15460, House Report No. 94–1558, in particular, pages 6–9, would be applicable whenever there is judicial consideration of the handicapped attorney's fees provision contained in proposed section 505 (b).

Mr. President, I would like to highlight a number of points highlighted by the author of this provision, Senator CRANSTON, at the time the Senate version of this bill was considered.

First, a party seeking to enforce the rights protected by title V, if successful, should ordinarily recover an attorney's fee unless special circumstances would render such an award unjust. An unsuccessful litigant seeking to enforce rights protected under title V should be assessed his or her opponent's attorney's fees only where it is shown that the suit was clearly frivolous, vexatious, or brought harassment purposes. Any other interpretation would have a chilling effect on the good-faith efforts of individuals seeking to enforce rights under title V.

Second, a party should be considered to have prevailed when rights are vindicated under title V through a consent judgment or, even, without the granting of formal relief.

Third, with respect to State and local bodies or State and local officials, attorneys' fees, similar to other items of cost, would be collected from the official, in his official capacity from funds of his or her agency or under his or her control; or from the State or local government—regardless of whether the such agency or Government is a named party. The authorization of attorneys' fees under proposed section 505(b) in cases brought to enforce title V is within the power of Congress under among other things, section 5 of the 14th amendment.

Thus, in accordance with Hutto against Finney. No. 77–1660, June 23, 1978, the 11th amendment should not be a bar to the recovery of attorneys' fees under proposed section 505 (b) from State and local governments as a result of an action or proceeding to enforce or charge a violation under title V of the Rehabilitation Act of 1973.

Fourth, proposed section 505 (b) is intended to apply to all cases pending on the date of enactment of the provision.

Mr. President, I believe this provision is much needed. To date we have permitted certain private enforcement of title V and, yet, we have not provided the means by which such private rights of action are meaningful. This provision—providing attorneys' fees on the same basis as attorneys' fees are provided under Public Law 94–559—will go a long way toward assisting handicapped individuals in their efforts to achieve their full and equal share of the rights to which they are entitled.

Mr. President, one final note on the conference bill, in responding to the administration concerns about the budget impact of this bill, the authorization levels in the conference bill for the rehabilitation programs for fiscal year 1979 are $100 million dollars less than the bill passed the Senate on September 21. The fiscal year 1979 authorization for rehabilitation programs are $1,052,000,000 which is only $152 million over the President's budget for fiscal year 1979. In the same fashion the conference bill provides only $96 million for the developmental disabilities program which is only $34 million above the President's budget request. I hope with this restraint on the part of the Congress that the President will not hesitate to sign this bill into law.

Mr. President, I hope that all my colleagues will join me in passing the conference report on H.R. 12467.●

● Mr. THURMOND. Mr. President, I commend to the Senate the vocational rehabilitation conference report. It provides vitally needed funds for continuation and improvement of the rehabilitation effort throughout America. The programs for which this money will pay will make fuller and more useful lives possible for hundreds of thousands of handicapped people.

Mr. President, I would like to take this opportunity to praise the work of the South Carolina Vocational Rehabilitation Department. Under the able supervision and direction of Mr. Joe Dusenbury, the South Carolina program has become the most successful in the country. It provides rehabilitation services to the extent needed and feasible to handicapped persons throughout South Carolina. Thousands of handicapped persons each year are prepared to engage in useful and remunerative occupations to the extent of their capabilities, thereby increasing their own social and economic well-being and that of their families.

Mr. President, I am very proud of our vocational rehabilitation effort and of all the dedicated employees in South Carolina who make it possible.●

● Mr. HATHAWAY. Mr. President, I would like to express my strong support for H.R. 12467, the Rehabilitation and Developmental Disabilities Act of 1978. As a long-time supporter of legislation for handicapped and developmentally disabled individuals and a cosponsor of the Senate bill, I view with great pleasure this opportunity to renew our national commitment to help these individuals help themselves.

The conference report before us revises and renews the programs under the Rehabilitation Act of 1973 and the Developmental Disabilities Act. It also authorizes new programs under the Rehabilitation Act including rehabilitation research, reader services for the blind and interpreter services for the deaf. It emphasizes independent living, establishes model centers to develop the employment potential of handicapped individuals, and authorizes model projects for preschool children.

With respect to the latter, I am pleased that the conference report includes my amendment expanding the definition of preschool children to include children up to 5 years old, rather than limiting participation to 0 to 3 year olds. This revised definition will allow model programs the flexibility to serve all preschool children. It is especially important in states such as Maine which do not have mandatory school programs for children from age 3 to 5.

The major revision to the Developmental Disabilities Act is the adoption of a functional definition of developmental disability. This means that more people will be eligible for services under this act. To insure that the expanded definition does not dilute the services to individuals covered under the existing definition, the conference report requires HEW to issue a report on the impact of the new definition. Having recommended this report during the consideration of the Senate bill in the Human Resources Committee, I am pleased to see that it was incorporated by the conferees.

I am also pleased that the conference report includes the provisions which I offered on the floor to authorize grants and contracts under both the Rehabilitation Act and the Developmental Disabilities Act to develop and demonstrate methods to attract professionals to serve handicapped and developmentally disabled individuals in rural areas.

Mr. President, While I would have preferred to retain the existing formula for State vocational rehabilitation grants, I believe that the conference report before us represents a reasonable compromise between the House and Senate bills. It reflects much thought and effort under the fine leadership of my distinguished colleague from West Virginia (Mr. RANDOLPH). The programs we are authorizing will provide the kinds of services which assist handicapped and disabled people to live full and independent lives. Our commitment to these programs is clearly a worthwhile investment, one which, I am sure, will produce a significant return in terms of the contributions which these individuals can make as productive members of our society. I urge my colleagues to approve this measure and look forward to its prompt signing by the President.●

● Mr. CRANSTON. Mr. President, as a conferee on this bill, I strongly support

the conference report reauthorizing and expanding the Rehabilitation Act of 1973 and the Developmental Disabilities Services and Facilities Construction Act. The bill before us represents a great amount of effort on the part of my colleagues on both sides of the aisle.

Mr. President, on September 20, during consideration of the Senate version of the bill (S. 2600), I highlighted a number of key provisions of the bill and discussed the significance of the measure.

I emphasized then, and will stress again, that this measure represents an important effort in assuring that handicapped individuals have the same rights and opportunities as other Americans.

Provisions in the conference bill such as attorney's fees, certain application of appropriate civil rights remedies, improvements in the Architectural Barriers Board, creation of a National Institute for Handicapped Research, and creation of the independent living programs should be important steps in our continuing efforts toward full participation in society by handicapped Americans.

Mr. President, I would like briefly to highlight, in particular, three aspects of the conference report—attorney's fees, independent living services, and the change in the formula.

ATTORNEY'S FEES

Mr. President, I am pleased that the conference bill includes the attorney's fees provisions—which I authored in committee—as it cleared the Senate, and I draw my colleagues' attention to my discussion on September 20 of the attorney's fees provision and emphasize the continued applicability of my discussion.

INDEPENDENT LIVING

Mr. President, I am very pleased by the conference bill's independent living provisions. The good experiences that we have had in California with independent living—indeed, the director of the California Department of Rehabilitation, Ed Roberts, was part of a group which established the Independent Living Center in Berkeley—indicates that implementation of this program should be very beneficial to many handicapped individuals.

FORMULA

Mr. President, after many years of hard efforts, the method by which the funds authorized for the vocational rehabilitation under title I have been changed in order to reduce the present per capita disparity in the amounts provided each State.

The change in this formula has occurred largely due to the efforts of my colleague from New York, (Mr. JAVITS), the ranking minority member of the Human Resources Committee, and my colleague from New Jersey, (Mr. WILLIAMS), the chairman of the Human Resources Committee. I congratulate them both on this very considerable achievement and applaud their hard work, perserverance, and tenacity.

Mr. President, I also wish to draw attention to the efforts of my good friend from West Virginia, (Mr. RANDOLPH), and my good friend from Vermont, (Mr. STAFFORD), who, as chairman and ranking minority member, respectively, of the Handicapped Subcommittee, have worked diligently to come up with the best possible bill.

I would also like to draw attention to the effective efforts on this bill of staff members, Mike Francis, Sue Walbridge, Betty Griffin, Helyn Eagle, Jo Ellen Hetherington, Pat Forsythe, Jan Zarro, Kathy Roy, Jack Andrews, David Morse, and Sherri Kramer, and thank particularly those on my staff who worked so very hard on the bill throughout the full legislative process—Jack Wickes, Mary Aronson, Shelley Garr, and Clara Kircher.●

Mr. WILLIAMS. Mr. President, I urge adoption of the conference report on H.R. 12467, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. This legislation will facilitate major improvements in the quality of life for our Nation's disabled individuals, and I would now like to highlight some of the major program initiatives contained in H.R. 12467.

The conferees have agreed to authorize both centers and services for independent living. Independent living programs may include such services as attendant and homemaker care, wheelchair repair, peer counseling, and other services which will enable many disabled individuals who previously have been confined to their homes or institutions to live independently and with dignity within their communities. I find the concept of independent living promising, and I believe that this new program will enable many disabled individuals to reach their full potential.

Also of significance is the establishment of a National Institute for Handicapped Research. This Institute will coordinate research related to handicapped individuals which is now being conducted throughout various segments of the Federal Government. Further, the Institute will insure that the practical products of basic research will ultimately be transferred and disseminated to the disabled themselves, thus providing great potential for improving their lives.

This legislation also establishes a National Council on Handicapped Individuals. This Council will provide a constructive forum so that the disabled, as well as representatives of other organizations concerned with the disabled, can have direct input and effect on the policies of both the Rehabilitation Services Administration and the National Institute of Handicapped Research. Authorization of this Council was a recommendation of the White House Conference on Handicapped Individuals, and the conferees intend that the Council shall play a significant role in shaping Federal policy toward handicapped individuals.

Mr. President, the conferees, after much deliberation, were able to resolve the controversy surrounding the Hill-Burton formula—the mechanism utilized to distribute the basic State grant program of the Rehabilitation Act. The conference agreement will allow 50 percent of all new moneys which are appropriated above the 1978 fiscal level—$760 million—to be allocated on the basis of the Hill-Burton formula minus the square. The net effect of this formula is a more equitable treatment of States with high per capita income.

In addition, Mr. President, significant improvements have been made in the Developmental Disabilities Act by the inclusion of a functional definition of developmental disabilities. This legislation can now serve those individuals whose disabilities are similar to, yet do not meet, the current categorical definition of developmental disabilities. Further, the conferees have focused the developmental disability program at the State level by requiring the State Councils on Developmental Disabilities to concentrate on four priority areas: Early childhood intervention and treatment, case management followthrough, nonvocational skills, and community living arrangements. These services are designed to insure that the needs of the developmentally disabled are met.

Mr. President, there is one further provision of this act which I would like to discuss at some length because of its importance and because of the misunderstanding which has surrounded the inclusion of alcoholics and drug addicts as handicapped for the purposes of sections 503 and 504 of this act.

As reported out of conference, the Rehabilitation Act is amended to provide that—

> For purposes of section 503 and 504 as they relate to employment, such term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question, or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

This amendment is designed to clear up some misunderstandings about the employment rights of alcoholics and drug addicts under the act, and to make absolutely clear that employers covered by the act must not discriminate against those persons having a history or condition of alcoholism or drug abuse who are qualified for the particular employment they seek. The amendment makes equally clear that only such qualified individuals are protected.

First, while the legislative history of the 1973 act, as authoritatively interpreted by the Attorney General, made clear that qualified individuals with conditions or histories of alcoholism or drug addiction were protected from discrimination by covered employers, this amendment codifies that intent.

This explicit protection is long overdue and well warranted. The experience of treatment professionals and major employers alike has demonstrated that many recovered alcoholics and drug abusers perform competently and reliably in the full range of tasks, skilled or unskilled, hazardous or not, that make up the job market.

Many large corporations have recognized that simply firing or refusing to hire an individual fighting an alcohol problem is not only bad social policy, but in the long run also exacerbates

their economic losses due to alcoholism. From the Federal experience with drug abuse treatment, it is abundantly clear that substantial numbers of former heroin addicts are fully capable of safe, efficient job performance and are readily identifiable. A blanket refusal to hire these individuals cannot be justified.

Second, the amendment clarifies the fact that employers covered by the act need not indiscriminately hire persons with histories or conditions of alcoholism or addiction, but are obliged to hire and retain only those who are qualified with respect to performance, behavior, and other job-related criteria. Again, the amendment in this regard simply makes explicit what prior interpreters of the act—including those of the Attorney General and the Secretary of Health, Education, and Welfare—have found: Where addiction or alcoholism prevents a person from successfully performing the job, the person need not be provided the employment opportunity in question.

Finally, the language added to the amendment by the conference committee clarifies the fact that one whose current alcohol or drug abuse poses a direct threat to the safety of human beings or to property is not protected by the act. That principal was implicit in the act's limitation and in Senator CANNON'S amendment limiting protection to persons who would perform the essential functions of the job. Nevertheless, spelling out the safety concerns was felt necessary to meet the concerns expressed by employers. At the same time, the language makes clear that an employer cannot assume that a history of alcoholism or drug addiction, including a past addiction currently treated by methadone maintenance, poses sufficient danger in and of itself to justify exclusion. Such an assumption would have no basis in fact, and the act does not permit it. Only a direct threat to the safety of individuals or property caused by current alcohol or drug abuse removes the act's protection.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. RANDOLPH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Now, Mr. President, I believe the distinguished minority leader and I have cleared these items.

I ask unanimous consent to be protected until we can dispose of these items. I also ask unanimous consent that I be authorized to pull back any items that require more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Reserving the right to object, and I do not intend to object, do I understand that we cannot ask any questions concerning these items?

Mr. ROBERT C. BYRD. No. I just want to move items we have cleared on both sides. If the Senator wants to ask a question, he may do so.

Mr. METZENBAUM. The Senator from Ohio has no particular objection since he understands there are 40 measures coming up.

Mr. ROBERT C. BYRD. That is why we feel the necessity of moving with reasonable speed, but always deliberately.

Mr. METZENBAUM. I appreciate the need for speed, but I would appreciate knowing what is going on.

Mr. ROBERT C. BYRD. If the Senator will come over here and sit by me, I will pass each item to him before I call it up.

Mr. MELCHER. Mr. President, reserving the right to object——

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

HEALTH SERVICES AND CENTERS AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2474 and ask for its immediate consideration.

THE PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes, having met, after full and free conference, have agreed to recommend and to recommend to their repective Houses this report, signed by all of the conferees.

THE PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. WILLIAMS. For the committee, Senator SCHWEIKER will lead the discussion on this bill.

Mr. SCHWEIKER. Mr. President, I will try to be very brief in keeping with the hour, and say this was a compromise of a number of different bills which were put together for continuation purposes on programs that would have expired.

I think it is safe to say that in the case of the teenage pregnancy bill the authorizations were reduced from the authorizations we had so the dollar value is less than our bill.

I think that it is also safe to say that this is a very important bill because there are so many programs of public health services and public programs which are included in it.

I understand that Senator HODGES has a question or two. I will be glad to yield.

Mr. HODGES. Mr. President, will the Senator yield for a question?

Mr. SCHWEIKER. Yes.

Mr. HODGES. It is my understanding that the bill includes, under the comprehensive public health services authorization, a minimum figure of $1 per capita and a maximum figure, for the Federal contribution, of $1.50 per capita. This was the House position. The Senate-passed minimum and maximum figures were $0.50 and $1.50, respectively. Is this correct?

Mr. SCHWEIKER. That is correct; yes.

Mr. HODGES. Considering the fact that the authorization levels are low—$103 million in fiscal year 1979, $150 million in fiscal year 1980, and $170 million in fiscal year 1981—it seems unlikely that the new State effort and need-based components which were adopted in both the Senate and House versions, will never take effect during the next 3 fiscal years.

Mr. SCHWEIKER. That is correct.

Mr. HODGES. This is a problem of grave concern to Arkansas and other rural and low-income States. Under the formula adopted in conference the funds will be allocated to the States on a population basis. It is therefore my understanding that during the next Congress, the Senate Health Subcommittee will make every attempt to change this formula to reflect the figures contained in th Senate's version of this legislation, and that the distinguished floor managers of the bill are willing to commit themselves to this goal. Is this correct?

Mr. SCHWEIKER. That is correct.

Let me compliment the Senator from Arkansas and say that he and his colleague (Mr. BUMPERS) have both been very actively interested in this program. It was their amendment that was first brought up here that let us work out a provision for this bill. We certainly paid great attention since they were the initiators of this particular part of the bill.

So the answer to the question is definitely yes.

I have been assured by the chairman of our subcommittee (Mr. KENNEDY) that that reflects his view as well.

Mr. HODGES. I thank the Senator from Pennsylvania very much for his hard work in this endeavor.

Mr. SCHWEIKER. Mr. President, I yield 1 minute to the Senator from Utah.

Mr. HATCH. Mr. President, I would like to make a few remarks to set the record straight on the Illinois Brick controversy which flared up briefly during the consideration of the tax bill. The confusion and misinformation about the Illinois Brick legislation is understandable, because the most important days of hearings went largely unattended and have curiously never been printed. Since Members of this body have no easy access to the record, I would like to summarize it for the Senate, the press, and the public as briefly as I can.

As the record would demonstrate clearly if it were ever printed, the Illinois Brick legislation has provoked remarkably broad, convincing, and strong opposition from virtually all the experts and interested groups. This opposition extends well beyond so-called big business. It vastly overshadows the bill's support both in sheer numbers and on the merits. The criticism is especially strong by small business, the academic community and, perhaps most important, the plaintiff's lawyers who make their living enforcing the antitrust laws by suing big business. There are virtually no plaintiff's lawyers or recognized academic experts who today endorse S. 1874. The leading plaintiff's proponent for overruling Illinois Brick last year, for example, has just recently vigorously opposed the legislation before the President's Antitrust Review Commission, of which I am a member.

The reason for the denunciation of the bill is simple: It is likely to cripple private antitrust enforcement, reduce deterrence and thereby subject consumers to more inflation from artificially fixed prices. As I will try to explain in more detail later, the legislation will achieve this dubious result essentially by making antitrust cases too complex to prosecute effectively. The primary beneficiaries will be the lawyers. This will in turn add to the taxpayers' burden, because they ultimately pay nearly half the legal fees deducted by those innocently caught in the litigation mess the bill will create.

In short, the opposition to this legislation is not a one-man show. The only thing I can share any credit for is sparing this body the convulsions it would inevitably undergo if this horrible legislation had any serious chance of passage and the opponents really had to go to work.

What, then, are the facts that explain the opposition to the Illinois Brich legislation? The facts are that the legislation proceeds on a fundamentally mistaken premise to produce a result that is diametrically opposed to its stated intent. The mistaken premise is that Illinois Brick cripples private antitrust enforcement by barring actions by indirect purchases who are the only people who will sue big business. The misguided intent is to protect consumers and taxpayers by making it easier for them to sue. But the facts are that direct purchasers have filed most of the cases which the legislation will jeopardize now and in the future. It is therefore the legislation, not Illinois Brick, which is likely to cripple private antitrust enforcement and therefore to deprive consumers of antitrust protection. Let me try to explain in more detail.

Illinois Brick essentially says that only those who purchase directly from a violator can sue him, because it is too difficult to trace whether the overcharge traveled throughout the chain of distribution. The case is the flip-side of an earlier decision—Hanover Shoe, also to be overruled by the bill—which held that a defendant could not reduce or eliminate his liability to a direct purchaser by arguing that he passed on the overcharge.

Now, what is the effect of those two cases? Proponents say that by limiting antitrust suits to direct purchasers, Illinois Brick has destroyed antitrust enforcement, because direct purchasers do not sue. They do not sue, it is alleged, because they have no incentive to do so, having passed on the overcharges, and because they do not want to anger their suppliers. This is a self-evident fact, is it not? I mean, the plaintiffs' lawyers who make their living suing price-fixers are begging for permission to represent indirect purchasers who will let them sue and do their thing, right? Small business is joining in this effort to lift the protection for antitrust violators, right?

Wrong on both counts. The plaintiff's lawyers are doing just the opposite. They are begging us to do nothing. And the largest and most representative small business group—the National Federation of Independent Business, with some half a million members—is flatly opposed to any legislation.

Why? Because contrary to the proponents' theories, the empirical studies demonstrated at the April hearings that direct purchasers vigorously pursue price-fixers. In fact, they account for most of the current pending cases—virtually all filed before Illinois Brick came down.

This should not be surprising to those critical of the profit motive. Treble damages are an excellent incentive to sue if defendants and indirect purchasers cannot argue that the plaintiff is not entitled to the recovery because he passed it on. These and future such cases would be hopelessly jeopardized if both defendants and indirect purchasers could raise the intractable and interminable issues of pass-on permitted by S. 1874.

No doubt there are some examples of refusals to sue by direct purchasers. We do not live in a perfect world. But S. 1874's proponents have provided precious few examples of such failure to sue to disprove the massive empirical studies presented in April.

Certainly, Kodak would be surprised to learn that direct purchasers do not sue, having just lost a $100 million trebled jury verdict to its customer Berkey, who would have to start all over again if S. 1874 were passed.

Certainly, the defendants in Illinois Brick would be equally surprised, having paid out a settlement to the direct purchasers which the indirect plaintiffs refused to deduct from their claim for relief.

Certainly, the steel companies in the Florida rebar cases are not among the lucky ones, since their supposedly pliable direct customers are suing them like crazy. To be sure, the plaintiffs' lawyers appear to have made a mistake in picking indirect purchasers as plaintiffs in the Texas rebar cases. But the judge has told the lawyers they can refile on behalf of direct purchasers in Federal court and told the State it can refile its multimillion-dollar State penalty action in State court.

A plaintiffs' lawyer summed it up best when he testified at the hearings that direct purchasers "have pursued and are pursuing their rights actively under current law." He added that if successful in current litigation, "we will have more antitrust enforcement in the next 2 years than we have had in the past 100 years." But he warned that S. 1874 would "kill off any attempt at serious antitrust enforcement in the private sphere in the guise of a bill to improve such enforcement."

I repeat that there must be some examples of failure to sue. But I have heard no complaints from the plaintiffs' lawyers that they do not have enough cases or litigous clients. And I have heard no complaints from small business that they cannot sue. To the contrary, they do sue. All I hear are requests that Congress not make it impossible to bring these present and future cases by changing the rules and introducing the endless complications of pass-on. As the Supreme Court has pointed out, the result will be to delay, complicate and reduce direct purchasers' recovery, thus virtually eliminating their incentives to sue which account for the bulk of current treble damage enforcement.

The complications would be especially onerous on small businesses, for they would have to hire lawyers and open up their books and records to "pass-on" subpenas and fishing expeditions by both defendants and plaintiffs trying to trace the overcharge through the chain of distribution. S. 1874 would thus force small businesses into costly litigation even when they are innocent, adding unexpected and, in many cases, devastating legal overhead to the price of doing business.

S. 1874's proponents, of course, concede that direct purchasers sue when they turn to their backup argument. This alternative argument is that direct purchasers obtain an unfair windfall when they recover treble the overcharge if they have passed it on. But the possibility of a windfall recovery cannot justify S. 1874 for a number of reasons. First, treble damages are by definition two-thirds windfall, designed as precisely that to encourage suit. Second, Illinois Brick in fact permits indirect purchasers to recover if they can show a clear pass-on occurring in the absence of ordinary market conditions. Third, even S. 1874 concedes that perfect compensation is impractical by preserving certain exclusionary rules which prohibit some injured persons from suing.

Finally, with respect to ultimate consumers, it is now fairly well documented that consumers rarely receive any recovery in class actions, and that the lawyers are the only ones who really benefit. The consumer expert witness at the hearings, Beverly C. Moore, has written that consumers rarely come forward to collect anything. The Hart-Scott-Rodino bill confirmed this by allowing the State to take the unclaimed consumer recovery in a parens case into its own treasury as a penalty.

This is a critical point. A principal purpose of Hart-Scott-Rodino was to emphasize that deterrence through disgorgement of ill-gotten gains was more important than trying to deliver compensation to consumers. This legislation quite explicitly sacrificed compensation in favor of deterrence. Illinois Brick does

not adversely affect parens, as I will discuss in a minute. But S. 1874 will seriously harm the antitrust laws by destroying their deterrent value and sacrificing efficient enforcement in favor of compensation to private lawyers.

This, then, is the achievement of allowing proof of pass-on by defendants or ultimate purchasers—a destruction of the direct purchasers' incentives to sue, subjection of small businesses in the chain to endless subpenas, and a gold mine for lawyers running the meter litigating pass-on, issuing and defending subpenas, and taking via private class actions risk-free cracks at extorted settlements. The only person not caught in the pass-on mess is the consumer, who never benefits from suits himself and exists only as an unknowing and invisible vehicle for large legal fee awards. The result is less enforcement and thus less real protection for consumers. Thank Heaven that no plaintiffs' or defendants' lawyers have the sense to do anything but oppose this fraud.

What about the States? They claim that Hart-Scott-Rodino has been destroyed. But Illinois Brick was not a parens case. Some of the country's foremost experts—including former Judge Harold Tyler and the Columbia and Harvard Law Review—do not believe parens is affected; and after 15 months, there is not one court decision holding that it is. I will include some materials on this point in the RECORD.

The States' real concern is, rather, with their own proprietary actions. But this concern is simply not justified. They can obtain assignments to sue from middlemen, or they can purchase directly from the manufacturer, as the Federal Government often does. Or they can seek recovery under their own State law in State court, as the Texas rebar court encouraged. In short, the States can easily protect their taxpayers from antitrust violators.

The States' pending cases, of course, present a problem. It is too late to demand assignments from direct purchasers, many of whom are themselves naturally suing. But saving these cases through S. 1874 would require retroactive legislation that would jeopardize billions of dollars of direct claims—indeed, the bulk of current treble damage enforcement. Retroactivity in itself is highly suspect from a constitutional point of view. Senator EAGLETON has expressed his concerns before this body on this very issue. I feel that the States should seek relief for these few cases in their own courts; or if their laws are inadequate, through their own legislatures.

This may be difficult, because the State legislatures may be as reluctant as the United States Congress to enact constitutionally suspect retroactive legislation. But I do not believe the States should ask us to do something that they themselves can, but might not, do for constitutional reasons. Revival of a few cases in the more visible Federal courts would undoubtedly produce good political publicity. But this would clearly set a bad precedent and make even worse law.

I do not mean by all of this to imply that our current scheme of antitrust enforcement is perfect. Some direct purchasers may not sue, and some may recover more than they were injured. But the system is the best we can devise. It is far preferable to the chaos that S. 1874 would produce.

The Supreme Court did indeed acknowledge our power to reverse Illinois Brick and Hanover Shoe. But as Professor Areeda has pointed out, we can do so only if we solve the highly complex problems of pass-on and duplicative damages that prompted those two decisions in the first place. S. 1874 makes no effort to solve these problems. An ABA Antitrust Council panel of experts representing both plaintiffs' and defendants' lawyers determined after months of study that no solutions were apparent. It would thus seem to be highly irresponsible to enact a potential disaster just for the sake of some political publicity for State attorneys general.

I, therefore, regret that some of the bill's proponents have sought to make me the object of personal attacks, apparently in an effort to avoid addressing the real problems with the legislation. I regret the harassment I have faced from proponents dogging me on airplanes and at airports, particularly since I do not believe there was any real interest in reasoned discussion. And I regret that the press has given so little attention to the record and to the grounds for opposition by myself and others, because slanted stories ultimately breed unnecessary cynicism about the validity of public debate and the legislative process.

I do not mean to imply that I am not impressed with the quality of the lobbying in favor of the bill. For an ostensibly straight news story, for example, a recent Washington Post article is an extremely well crafted brief in favor of the legislation. But like most that have been written in support, it pays no attention to the record. All I can ask is that people try to take a dispassionate view of the facts.

Let me summarize why S. 1874 has been so soundly denounced by leading legal scholars, economists, academicians, small business groups, present and former U.S. judges, top plaintiffs' antitrust lawyers who provide the backbone of our antitrust enforcement, and many others.

S. 1874 would add to inflation by undermining antitrust deterrence against price-fixing.

S. 1874 would add to the taxpayers' burden by imposing increased demands on the courts and increased legal expenses on all businesses which the taxpayer ultimately shares in paying.

S. 1874 would result in undue harassment of small business to expose its confidential pricing and other policies and tie up the time of important operating personnel over the unanswerable issues of pass-on.

S. 1874 would increase compensation for lawyers who will be the only real beneficiaries of the legislation at the expense of the consumer.

S. 1874 would benefit litigating government bureaucracies at the expense of private enforcement of the antitrust laws.

S. 1874 would set a bad precedent of enacting constitutionally suspect retroactive legislation for the principal purpose of promoting the political careers of a few State officeholders.

In short, the measure is nothing more than a retirement bill for lawyers. It is a lawyers' compensation bill which will line their pockets and jeopardize antitrust enforcement—all at the expense of every American taxpayer.

Mr. President, I wish to place in the RECORD only a few of the indications of opposition. I ask unanimous consent that various editorials on this subject be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Cincinnati Enquirer, Sept. 1, 1978]

COURT RULING BEING CHALLENGED BY LEGISLATION

Last summer, the U.S. Supreme Court, in an effort to inject a note of rationality into the class-action mania, established what became known as the "direct purchaser" rule. In simplest form, the rule is that only the first, or immediate, purchaser from a law-violating enterprise has the legal right to sue for damages.

Consider, as an illustration, a manufacturer who unlawfully charges $10 for a commodity for which he should be charging only $7.50. The Supreme Court maintained, in its direct-purchaser rule, that only those who buy directly from the manufacturer—perhaps a group of wholesalers—have the right to sue for damages (which would be allowable in the amount of three times the alleged overcharge).

What the Supreme Court sought to nullify in its ruling was the contrary notion that everyone involved with the product had a similar right to sue. An attorney might represent himself, as an illustration, as speaking for all of the retailers and all of the ultimate consumers and lay claim, in their name, to all or part of the awardable damages. Attorneys in such cases could be acting in the name of thousands of retail establishments and millions of individual consumers.

The establishment of the direct-purchaser rule by the Supreme Court should have been the end of the issue. Unfortunately, it is only the beginning.

For soon after the Labor Day recess Congress will be considering legislation (House Bill 11942 and Senate Bill 1874) that would have the effect of reversing the Supreme Court ruling and reset the stage for a further proliferation of class-action suits to clog the already overburdened courts and to impose an expensive and needless burden on an unlimited number of businesses, both small and large.

Some have categorized legislation of this type as Lawyers' Opportunities Acts, because they represent green lights for attorneys to inaugulate long, costly, bothersome legal actions in behalf of clients who do not even know they have been injured—if, in fact, they have been.

As Time magazine described the phenomenon in a cover story last spring: "After a government agency brands a particular action as illegal—an increasingly familiar story in regulation-happy Washington—a hungry group of lawyers may quickly file a lawsuit on behalf of a class of aggrieved people. Hastily preparing their case (sometimes by simply copying the government complaint) they settle as soon as they can justify a large legal fee, regardless of whether all the injured members of the class have been compensated."

What will be at stake in the congressional debate, consequently, is more such mischief.

which, though undertaken in the public's name, will ultimately constitute one more cost for the public to pay—with no real benefit to itself.

Congress should move on to the real problems that beset it.

[From the Chicago Tribune, Oct. 7, 1978]

OPENING THE CLASS-ACTION GATES

Two of Congress' best-known Democrats, Sen. Edward Kennedy of Massachusetts and Rep. Peter Rodino of New Jersey, have introduced similar bills whose fate one way or the other will have far-reaching effects on businesses in this country. Their intention, in brief, is to set aside a Supreme Court ruling that limits antitrust suits against business enterprises.

In a 1977 ruling involving the Illinois Brick Co., the court established what is known as the "direct purchaser" rule: that such actions can be brought only by those who have a direct business relationship with the alleged violator. If a manufacturer of billiard cues, say, is believed to be boosting prices for his product illegally, he can be sued only by the wholesalers of billiard cues who buy from him directly.

The Kennedy-Rodino legislation would open up these antitrust actions so that anyone, even at a remote point in the chain of distribution, could accuse a business of price fixing and seek triple damages from it in a class action.

Spokesmen for business view this prospect with horror. They say it would open the gates to a nationwide flood of nuisance suits affecting virtually all businesses, and including phony claims whose only purpose is to harass companies into making out-of-court settlements just to save the expense of fighting them.

The opponents point out that antitrust suits are complicated to begin with; turning them into a free-for-all, with everyone entitled to shoot for the prize, would multiply the problems past computing. Even when the complaint was justified and a suit succeeded, courts would face an immense task in dividing up the award among an anonymous section of the public, whose individual members might get only a meaningless token benefit. The only real gainers would be the lawyers, who would get their fees off the top. For a court system already overburdened, the threat of an open-ended flood of new litigation is appalling—especially since the bills apparently would allow earlier cases to be * * *.

In response, Kennedy-Rodino supporters (who include President Carter and the attorneys-general of all 50 states) make these points: The bill would not create a new situation, but would simply give antitrust actions the same status they had before the Illinois Brick decision.

It is meaningless, say the backers, to limit antitrust suits to those dealing directly with a suspect firm, because they may have the least incentive to sue; such purchasers often can simply pass along the inflated price to the next in line. The right to seek damages should belong to the one who is hurt, whoever that may be. State attorneys general, for example, want to right to bring class-action suits in the name of the public when they find that the state has been paying rigged prices for goods.

The Illinois Brick ruling is based not on justice, say the bills' supporters, but on "judicial convenience"; it amounts to denying people a right so as to save the courts a headache. Under the more detailed Rodino bill, defendants as well as plaintiffs could use the "pass-through" argument to show that claimants in an antitrust suit were not damaged and had not standing in court.

In our view, the dispute could be simplified, if not solved, by a change in tactics and timing.

Sen. Kennedy has just introduced another bill, drafted by the Justice Department, which is aimed at regulating procedures for class-action suits of all kinds. President Carter meantime has appointed a national commission to review antitrust laws—specifically, to look at the problem of extremely complex litigation and the confusing list of exemptions that bar the federal government from acting.

We are by no means endorsing the second Kennedy bill, which has a number of potential pitfalls. The point is that it logically should be considered first, along with whatever finds are made by the President's commission. Instead of causing a mess and then trying to straighten it out later. Congress should consider whether the mess might * * *.

[From the Indianapolis News, Sept. 12, 1978]

ONE SUIT IS ENOUGH

Congress is considering legislation which would make prevention of price fixing and successful enforcement of antitrust laws more difficult.

There is a bill in both the House and Senate which ostensibly would provide more protection for the consumer but in reality would provide less. It is known as the Illinois Brick Bill, but it has nothing to do with either Illinois or bricks.

It derives from the Brick case last summer, in which the Supreme Court said that only an immediate purchaser can sue a seller for price fixing. The rule was an attempt to bring reason into the mania for class action suits. Under the decision, for instance, a manufacturer who overcharges a wholesaler could be sued only by the wholesaler.

The Brick Bill, however, would reserve this decision and permit the wholesaler, the retailer and the ultimate consumer to sue. Under such a chaotic system, lawyers could have a field day.

Under the present law, private suits to recover triple damages from illegal overcharges are permitted. In establishing the rule that only the immediate purchaser has the right to sue, the Supreme Court hoped to simplify the procedure, provide more fairness and reduce the number of class action suits. It believes that the first purchaser rule makes for more effective private antitrust enforcement.

Passage of the pending bill would reset the stage for numerous class action suits which would clog the courts. It would place an enormous burden on small businesses, probably causing defendant firms to pay the same claim several times and always tripled.

The Brick bill has been described as being like a rotten onion which looks fine on the outside but after the outer layers are peeled away, then the real trouble is revealed. It is a bad bill and ought not be passed.

[From the Phoenix Gazette, Sept. 9, 1978]

LAWYERS' BILL

Illinois Brick vs. the State of Illinois was just another ordinary legal dispute until the Supreme Court made a common sense ruling. Suddenly the decision's implications became crystal clear: That antitrust suits would be restricted to allowing only direct buyers to recover damages from alleged anti-trust violators.

From the standpoint of those lawyers who delight in long, drawn-out, expensive, class-action suits, a simple suit isn't worth the bother.

The Supreme Court prompted bills in both houses of Congress to return to the old way of doing business. Sen. Edward Kennedy, D-Mass., in introducing this bill, invoked the name of the consumer. He said, "The purposes of antitrust laws has always been to provide the consumer with better products and lower prices. This bill will once again allow consumers the right to recover damages for antitrust violations which injure them."

The Supreme Court addressed itself to this area in ruling in the Illinois Brick case. The court argued that in practice it is not possible to distribute damages of a few dollars to vast numbers of consumers. The bulk of the damages would go for legal fees and administrative expenses, and only a fraction would reach the consumer.

What the court was saying is that under the old system, the consumers get stuck with the cost of expensive litigation and with the attendant rise in prices.

These bills should be seen for what they are: Lawyers' Opportunities Acts.

[From the Jackson (Miss.) Daily News, Oct. 2, 1978]

CLASS-ACTION ACT OFFERS LITTLE RELIEF

Millions of dollars could be involved in a proposed "class action" measure pending in Congress which would have little beneficial effect upon the public consumer but would be devastating to business, including the retail food industry.

Last summer, the Supreme Court, in an effort to inject a note of rationality into the class-action mania, established what became known as the "direct purchaser" rule in simplest form, the rule that only the first or immediate purchaser from a law-violating enterprise has the legal right to sue for damages.

Proposed legislation, such as S. 1874 and H.R. 11952, would overrule the Supreme Courts ruling in the Illinois Brick case and would permit multiple damage suits by everybody in the distribution chain, direct purchases, intermediate purchasers and ultimate consumers. In many cases, they could all sue at the same time, either as individuals or in class actions.

What the Supreme Court sought to establish in its ruling, which would be nullified if pending legislation is approved in Congress, was the contrary notion that everyone involved with the product had a similar right to sue.

The effect of such legislation would subject business, and ultimately the consumer, to untold expense and liability, and would provide no benefit to a consumer, but rather, to the lawyers pursuing the litigation.

The court's decision in the Illinois Brick case significantly limits the potential to abuse in massive antitrust cases. It precludes class and other action by functionally remote sellers and buyers who seek a windfall in antitrust damages, usually through settlement, often as "redress" for self-inflicted or at least unrelated economic rewards.

These measures, while purported to be in the consumers' best interests, do not broaden the antitrust field for relief, but will ultimately result in higher costs and greater economic stress.

Congressmen are being alerted to the dangers involved in these pending measures, and are being urged by business to avoid inflicting added problems on business.

[From the Dallas Morning News, Sept. 28, 1978]

ANTITRUST LAW: CONSUMERISM AMOK

Threats to the Republic come in all shapes and sizes. And it is not always easy to spot them when they arise. We therefore point affirming recent legal precedent, ruled that needs the spotlight of publicity playing upon it for so long as it persists, which could be awhile.

In June, 1977, the U.S. Supreme Court, affirming recent legal precedent, ruled that in antitrust suits only direct buyers could sue for damages. In other words, customers could sue retailers, retailers could sue wholesalers, wholesalers could sue producers. But retailers, for example, couldn't sue producers.

The ruling is known as the Illinois Brick Co. decision, and now Sen. Edward Kennedy

and Rep. Peter Rodino want to upset it by legislation. They claim to be speaking for the American consumer.

As Kennedy and Rodino construe the decision, it abridges the consumer's rights by barring him from striking back when he thinks that some producer, say, has ripped him off.

That is a thoroughly histrionic way of looking at things. What does the decision do, in fact? It upholds existing precedent. It protects the court system from a complicated welter of suits which Solomon could not unravel. It shields honest businessmen from having to defend frivolous suits based on actions that took place elsewhere in the production-distribution chain. It strengthens enforcement of the antitrust laws.

Lastly, by doing all these things, the decision protects the consumer, for whom the efficient working of the free market is surely a top priority.

The Illinois Brick bills, which have cleared the judiciary committees of both houses, are consumerism run amok. Numerous legal scholars say they would make the antitrust laws harder, not easier, to enforce. The courts could be awash in a sea of suits.

How to allocate, moreover, the proportion of damages to an aggrieved party when the injury he suffered was indirect? In a multimillion-dollar class action suit, against producers, how much would a consumer benefit anyway—$1.50 worth, $5 worth? No one knows.

"Pandora's box" is the most dog-tired of cliches, but that celebrated receptacle is precisely what the Congress would be opening by passing the Illinois Brick bills. Practically all that's plain about the bills is that they would benefit antitrust lawyers.

With the 95th Congress about to quit, there seems no chance the bills will pass this year. But what of next year? A major fight is surely coming, and the time to start girding for it is now.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. SCHWEIKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Connecticut (Mr. RIBICOFF) to call up a conference report on H.R. 9251 and to ask for its immediate consideration.

TAXATION OF AMERICANS LIVING ABROAD—CONFERENCE REPORT

Mr. RIBICOFF. Mr. President, I submit a report of the committee of conference on H.R. 9251 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9251) relating to extensions of time for the existing tax treatment of certain items, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. RIBICOFF. Mr. President, this conference report has to do with the taxation of income earned abroad. It was a complicated and intense conference. The Senate bill had total expenditure of $310 million. The House bill provided for over $545 million. The conferees settled for a total of $381 million. Most of the points in the Senate bill were adopted.

I take this opportunity to extend praise for the hard work and cooperation of Senators PROXMIRE, KENNEDY, BARTLETT, and MCCLURE.

EXPANSION OF THE PROVISIONS OF H.R. 9251 WITH RESPECT TO THE TAXATION OF INCOME EARNED ABROAD (SEC. 119)

Mr. President, the Senate and House bills both provided that the law in effect prior to 1976 would apply for calendar year 1977. Beginning on January 1, 1978, the new provisions agreed to in this bill would take effect.

Because these new provisions are effective January 1 of this year, each taxpayer is given the option for calendar year 1978 of using the new provisions agreed to in this bill or using the provisions of the Tax Reform Act of 1976. In that way no provision of this law will have any mandatory retroactive effect.

The new provisions with respect to the taxation of income earned abroad are a compromise between House and Senate bills which were similar in many details but very different in a few very important and expensive respects. As a result, the Senate bill had a calendar year 1977 cost of $310 million while the House bill was over $545 million. The conference report has a 1977 calendar year cost of $381 million. Calendar year 1977 cost figures are cited here, because these were the figures used during consideration of these bills. Calendar year 1978 figures are approximately 8 percent higher.

The conference report adopts the position taken in the Senate bill that the flat exclusion which existed prior to 1976 (of $20,000 off the top with a foreign tax credit) and in the 1976 Tax Reform Act ($15,000 off the bottom with no foreign tax credit) would generally be eliminated. The exclusion would be replaced by itemized deductions.

The conference report takes the excess housing deduction from the Senate bill. (The deduction is the excess of the taxpayer's reasonable housing expenses over his base housing amount (one-sixth of his net income).) The cost-of-living deduction is similar to the Senate bill although it is based upon a salary of someone earning the same as a GS–14 (instead of GS–12 in the Senate bill). The cost-of-living deduction is based on costs above the highest continental U.S. city (New York) instead of the U.S. average (essentially Washington, D.C.) as provided in the Senate bill. The education deduction is taken from the House bill which was very similar to the Senate bill. (The education deduction is generally the reasonable schooling expenses for the education of the taxpayer's dependents at the elementary and secondary levels.) The conference report provides for a deduction for a trip home each year similar to the deduction in the House bill. However, this deduction was limited to coach fare to an individual's last principal residence in the United States or the nearest port of entry into the United States. Deductions for moving expenses would be liberalized as in the House bill which was identical to the administration's proposal on that subject. (The moving deductions for a foreign job-related move would cover temporary living arrangements for up to 90 days with a ceiling of $4,500 on such costs.) The conference report also contains minor provisions taken from both the House and Senate bills.

In addition to the deductions for excess living costs, the conference agreement provides a $5,000 deduction for those who live in hardship areas (defined as areas where the State Department regulations authorize a hardship allowance of 15 percent or more). This replaces the $20,000 exclusion in the House bill which was available to all those who are working outside Western Europe or Canada. The conference report hardship area deduction has a cost of about $30 million and replaces a House exclusion with a cost of $180 million.

Finally, there is a provision which deals with those who live in substandard housing in camps in hardship areas. The Senate bill provided them a "phantom deduction" equal to the average deductions taken by those working in the same country who are not living in camps. The conference report permits those in such camps to elect a $20,000 exclusion in place of all the deductions I mentioned above. Such individuals often live in terrible conditions and do not have their family with them so they would not utilize the education deduction and their housing and cost-of-living deductions would be affected by the fact that they live in a camp. Therefore, this optional $20,000 exclusion is provided. Of course, no foreign tax credit applicable to this excluded income would be permitted.

Mr. President, I move the adoption of the conference report.

Mr. JAVITS. Mr. President, this is a longstanding problem, especially aggravated by the problems which have arisen in the foreign exchange market with the falling U.S. dollar. The decline of the dollar has very materially increased costs for those who live and work abroad. The result has been an almost wholesale movement of letting out Americans and Americans quitting when they just cannot take it. Foreigners are then hired in the top positions, in top places, which results in hiring of additional foreigners down the line.

Senator RIBICOFF has done an extraordinary job in giving attention to this particular problem. This result will be helpful. I should like to emphasize to the Senate that he has rendered a great service in this matter to our country—

to our exports, which are so critical for us today, and to our general opportunities for Americans in the world. I know that many, many are grateful to him for it.

Mr. RIBICOFF. I thank the Senator for his kind comments.

Mr. BAKER. Will the Senator yield to me?

Mr. RIBICOFF. I am pleased to yield.

Mr. BAKER. Mr. President, I am sorry, I do not have the item on our clearance list. I am sure it is cleared. I notice that Mr. LAXALT, the Senator from Nevada, who is a conferee, did not sign it. I wonder if the Senator from Connecticut can indicate the reason.

Mr. RIBICOFF. I think the distinguished Senator was not in conference and did not participate. To my knowledge, he has never expressed any dissension. All the conferees on the House side and the Senate conferees signed the report. It was not because of any objection, I am sure.

THE TAXATION OF AMERICANS LIVING ABROAD

Mr. PROXMIRE. Mr. President, compared with Americans who live and work in the United States, Americans who live and work abroad have for years enjoyed very special tax privileges.

If one lives 17 of 18 months abroad, the first $20,000 of earned income is excluded entirely from the U.S. income tax.

If one is a bona fide resident of a foreign country, one is entitled to a $25,000 earned income exclusion for U.S. income tax purposes.

The amounts are taken off the top. If an American abroad earned $40,000 a year of taxable income the $20,000 would be deducted and the American would pay taxes at the lower rates applicable to the $20,000 rather than to the rates applicable to the $40,000.

Further, income taxes paid to the foreign government, if any, can be taken as a credit against American income taxes owed.

NOT FOR WEAK AND POOR

This is not an exclusion for the weak and the poor. According to the Treasury more than half the benefits go to 10 percent of those Americans abroad who earn $50,000 a year or more. Over 90 percent go to those with incomes of $30,000 or more a year.

The total cost to the Treasury or the value of the deductions was estimated by the Treasury at $498 million for calendar year 1977.

THOSE AT HOME DO NOT GET IT

To show how generous these provisions are the new coal miners contract this year provides for an average of about $10 an hour. This was called inflationary. But that would be $20,000 a year for 50 weeks of work. In terms of hardship almost no one working abroad has hardships equal to the American coal miner. Yet those Americans merely living and working abroad could exclude $20,000 a year from their income and pay no tax at all on that amount while the American miner would pay several thousand dollars a year in American taxes on that amount.

In 1976 we "reformed" these provisions and provided a revenue loss of about $180 million, or $318 million less than the $498 million cost. But these provisions never went into effect as year after year their effective date was postponed.

But now the extension has run out and we are presented with a new bill. If it is not passed, the 1976 reforms would go into effect.

The Senator from Connecticut (Mr. RIBICOFF) authored a bill in the Senate which was a very substantial improvement over the old pre-1976 law. It is revenue loss of $310 million in calendar 1977 revenues. The Treasury also made some proposals largely constructive, whose comparative 1977 calendar year revenue loss was $254 million.

However, the House Ways and Means Committee proposed a bill which was the most generous bill anyone, anytime, has every proposed, whose cost in calendar 1977 year revenues would have been $545 million. It was an outrageous proposal, which would have provided a Christmas present for every American living everywhere abroad.

Now we have a conference report. It is far better than the House bill but it is considerably more generous than the Ribicoff bill. It is luxurious compared with the 1976 reforms which have never gone into effect. But it is also considerably better than the provisions now in effect as it would cost the Treasury about $118 million less than the present provisions under which Americans living abroad pay taxes. Mr. President, I ask unanimous consent that a comparison of calendar year 1977 tax revenue losses of these various provisions be printed at the end of my remarks. (Exhibit I.)

I cannot say that I like this bill. It is extremely generous. It is very ironic that most of the firms and many of the people who will get its benefits continually decry excessive Government spending, the size of deficit, and Government activity in general. But they and their firms are essentially asking Uncle Sam and the American taxpayer to pick up costs of doing business aboard which should properly be paid for by the firms.

If a company moves its top ranking officials from East Whistle Stop, Iowa, to New York City to work, the company pays the moving expenses, and the individual would ask for and get a higher salary from the company to pay for the higher rent and cost of living in New York City.

But if the company moves an employee from Peoria, Ill., to the south of France, Uncle Sam picks up much of the cost of moving the person, the higher cost of living he or she or the family would experience, costs of educating minor children, costs of trips back home, rental costs above minimum amounts, and other benefits.

In my view these added costs are properly costs which should be borne by the employers and paid to the employee and should not be the burden of ordinary American taxpayers whose annual family income averages less than $15,000 a year.

But as the bill will give us a solution to the problem, and as it is far better than the House bill and considerably better than existing law, although nothing like as good in my view as the original Ribicoff proposal, the Treasury proposal, or the 1976 reforms, I reluctantly will not object to its consideration and passage at this late hour in the congressional session.

However, I call upon the Treasury both to enforce its provisions effectively and to make an even greater attempt than has been the case to enforce the tax laws on those American citizens who live and earn money abroad, but who evade their duty and pay no taxes and file no return. They should be required to meet their fair and legal obligations and their responsibilities.

Mr. President, I ask that a copy of the testimony I gave to the House Ways and Means Committee when it considered this subject last February 25, also be printed in the RECORD at the end of my remarks. (Exhibit II.)

The material follows:

EXHIBIT I

Comparison of Revenue losses for calendar 1977 for various tax proposals of Americans who live and work abroad.

Provision:	*Revenue loss*
Old Section 911 provisions under which Americans living and working abroad presently pay taxes	$498 m.
The 1976 Tax Reforms (never put into effect)	$180 m.
The Ribicoff Bill passed by the Senate	$310 m.
The Treasury proposals	$254 m.
The House passed bill	$545 m.
Conference Report of October 14, 1978	$380 m.

EXHIBIT II

TESTIMONY OF SENATOR WILLIAM PROXMIRE

Mr. Chairman: My name is William Proxmire and I am a United States Senator from the State of Wisconsin.

I oppose the extension of Section 911 for another two years—i.e., for calendar 1977 and 1978 tax years as proposed by the Senate and to urge this committee to solve this problem this year. I am opposed to even a one year extension of "old 911" unless it is accompanied by a permanent law effective for the calendar 1978 tax year. The best solution would be to allow the 1976 reforms to go into effect now and then to make such minor amendments to that Act as to accommodate the very few and limited genuine problems which exist.

A continuation of Section 911 will cost almost one half billion dollars a year—or $498 million—in tax expenditures. The two year extension is thus a tax expenditure of a billion dollars.

Only about 150,000 Americans benefit from this flagrant tax loophole. What it does is to allow certain presons, merely by the fact that they live or reside abroad, to continue to pay no taxes at all on $20,000 or $25,000 of earned income.

The enormity of this special privilege can be seen from the fact that the amount of the exclusion itself is $7,000 to $12,000 a year more than the $12,686 median household income in the United States. Taxes on the latter are about $1,000 a year and the taxes which could be owed on the $20,000 to $25,000 of excluded taxable income are about $2,500 to $3,800 per year for a household of three.

To paraphrase Winston Churchill, never have so few benefited so much from the sacrifices of the many.

FACTS

Before turning to the arguments, I think

it is important, first of all, to establish a factual basis.

"OLD" OR "PRE-1975" SECTION 911

Under the 1975 law, or "old Section 911, which this Committee postponed once for calendar year 1976 and proposed be extended for yet another—or second—year and which the Finance Committee proposed extending for two more years, the following is true.

First, if one lives 17 of 18 months abroad one is entitled to exclude $20,000 of earned income from income for U.S. income tax purposes.

Second, if one is a *bona fide* resident of a foreign country—generally meaning three years of residence abroad—one is entitled to exclude $25,000 of earned income for U.S. income tax purposes.

Third, this amount is taken "off the top," that is to say if one had $40,000 of taxable income after deduction and allowances, the $20,000 exclusion would be deducted from the $40,000 and one would pay American taxes at the much lower rate applicable to the $20,000 rather than to the $40,000 of income.

In an example on page 3 of the Treasury Department publication *Taxation of Americans Working Overseas* of February 1978 a single taxpayer with $40,000 of income after personal exemptions and deductions would owe a tax of $14,390 on this income if earned at home. The tax would be $5,230 on the first 020,000 and $9,160 on the additional $20,000. The effect of the $20,000 exclusion is to reduce that tax to $5,230.

Fourth, one can take as a credit against American income tax owed the income taxes paid to the foreign government where one lives.

In the example cited above, the individual had paid $6,000 in income tax to a foreign government. This could be credited against the American income tax owed so that there would be no payment of U.S. tax and an excess foreign tax credit of $770 which could be used to offset taxes owed on other foreign income.

Fifth, until two recent Tax Court cases, the American government generally did not tax citizens on the additional payment for rent, education, travel allowances, or other "imputed" income provided by ones employer. That has recently changed.

The benefits from old Section 911 did not go to the weak and the poor. This is no "widows and orphans" loophole. According to an October 2, 1977 study by the Treasury's own Office of Tax Analysis, more than half the benefits went to 10 percent of those Americans abroad who earned $50,000 or more. Over 90 percent of the benefits of Old Section 911 went to those with incomes of $30,000 a year. As only four percent of all American taxpayers had Adjusted Gross Incomes in excess of $30,000. This was, indeed, a very good deal.

The 1976 Reforms attempted to change Old 911. On the whole these changes were very good and quite unexceptionable in principle. Here, on a factual basis, is what they did.

THE 1976 REFORMS

First, imputed income for rent, travel, education, etc., was included and "grossed" up. An individual with a $35,000 earned income after deductions and allowances, and $15,000 imputed income in rent, education allowances, travel back home, etc., would have a total income of $50,000. If either an exclusion or special deductions are to be given, grossing up is imperative. It is income. It should be included.

Second, from such an amount one could exclude $15,000.

Third, under the 1976 reforms the exclusion is taken "off the bottom" rather than off the top. The individual in the preceeding example would owe income tax on only $35,000 but at the rates which would apply to the $50,000 income. That is a correct tax principle.

Fourth, the individual could still take a credit for foreign income taxes paid against any American income taxe owed but not for the taxes paid on the "excluded income." In this case, to keep it simple, if one paid $5,000 in foreign income taxes one could take only $3,500 as a credit against the American income taxes owed, or three fifths, which is the ratio of $35,000 to $50,000. The principle, and again I assert it is a correct one, is that one can't have it both ways. One cannot both exclude income from taxation and then get a credit for the foreign income tax paid on the excluded income.

Fifth, if the effect of the exclusion were to raise ones taxes by denying one the right to take all the foreign tax credit, one could elect *NOT* to take the exclusion and *to* credit all one's foreign income tax paid against the American income tax owed.

Sixth, in addition, both under old 911 and the 1976 Reforms, one could deduct any property taxes paid abroad from income, but one is not allowed to deduct sales or value added taxes. On the other side, if one lived in almost any industrialized country and 44 percent of those taking the exclusion lived in Canada or Europe—one does not have to include as "imputed" income the value of health or other services universally supplied to residents. In most cases this would have the effect of increasing one's income or reducing one's routine costs by several thousand dollars.

And while the proposals to reform old 911—either the 1976 Reforms or the proposed Ribicoff approach—would rightly increase the taxes owed by Americans abroad. Neither approach in general would tax the American living abroad any thing like as much as the American at home would be taxed on the same income. And this is true even when consideration of the income taxes paid abroad are taken into account.

ARGUMENTS

Now let me turn to the arguments made against the 1976 Reforms and on behalf of Old Section 911.

KEEP OLD 911

First and foremost, most of those who argue against putting the 1976 Reforms into effect are really lobbying us to keep the status quo. This is the clear message I get from the hundreds of letters which the 911 lobby has showered on me in the last few weeks.

They want to keep Old Section 911. They are against any reforms. They are riding the gravy train and they want to keep their privilege and their loopholes. They make no bones about it and that's what they say.

I predict that if Congress extends 911 for another two taxable years, it will never be changed. If there is to be any reform it must be now and apply in calendar 1978.

HIGH COSTS

Then there is the argument of excessively high costs abroad. There are several answers to this.

The old 911 exclusion is unrelated to high or low cost areas. It is given indiscriminately to those in work camps in Saudi Arabia or those playing the gambling tables in Monte Carlo.

But, it is not the responsibility of the United States Government to provide a subsidy for every person either at home or abroad who moves from a low to a high cost area. If Company A moves Executive Jones from East Whistle Stop, Iowa to New York City, Executive Jones will require and the Company will have to pay him an additional salary to make the move worthwhile. So it is or should be in attracting Americans to work abroad. The business or company should be responsible for whatever additional salary or income it takes through the market mechanism, to attract the employee abroad. That is not a function of government and it is intolerable to require citizens of Wisconsin, Oregon, or New York to subsidize the American citizen working abroad by picking up the half billion dollar a year tax tab which the latter does not pay.

To further illustrate the point, I do not believe that those Georgians who moved to Washington from Atlanta a year ago should have either a $20,000 exclusion or a special deduction for the extraordinary additional housing costs imposed on them, or the drop in income which some of them took in order to serve the government or for the Thanksgiving or Christmas trip back home to visit the grandparents. They, like Americans living abroad, have choices to make. And Uncle Sam should not be required to make them whole if they move from a low to a higher cost area.

Further, I believe there has been a gross exaggeration of the "high cost" argument. With some exceptions, it doesn't exist when all the circumstances are considered.

Finally, under the 1976 Reforms, a generous $15,000 exclusion of earned income was included because of the argument that those abroad had higher costs.

What we are asked to do is to legislate on the "worst case" hypothesis, often exaggerated, and generally not the responsibility of government in any case.

I have been inundated with mail organized from abroad moaning about the high costs and including examples. Not in a single letter I can recall has anyone mentioned the generous $15,000 exclusion provided by the 1976 Reforms.

IMPORTANT FOR EXPORTS

A third argument we hear is that Old 911 is essential to keep our balance of payments and balance of trade from getting worse. The argument is, "We promote exports." There are several answers to this.

First, there is no direct link to exports. The individual in export sales gets the exclusion as well as those wholly unrelated to exports.

Second, if we want to subsidize exports, and I do not believe we should, this is indeed a most inefficient way of doing so.

Third, it is bad tax policy to subsidize exports through the tax system in any case. At the moment we are asked to subsidize almost every group in our society for almost every routine activity through the tax system. You name it, some one wants a tax write-off to do it.

Fourth, exports depend on the value of the dollar, foreign tariffs and quotas, the use of bribes as we unfortunately have found, health standards, relative costs, and a dozen or more other considerations.

I believe it is as specious to argue that continuing Old 911 will decrease our balance of payments deficit as it is to argue that during the period when Old 911 was extended our balance of payments have never been worse. Like the flowers that bloom in the spring, it has almost nothing to do with the case. Other influences are not only more important but decisive

HARDSHIP ARGUMENT

There is the "hardship" argument. But is that valid? Many places abroad—London, Rio, Monaco, the Italian Riviera, the Greek Islands, much of the Caribbean, Kashmir, New Zealand, to name only a few—are beautiful, even luxurious places to live. Life there is certainly no more harsh than living in Northern Wisconsin in the Winter, managing a dairy farm or driving 40 miles a day to labor in a foundry.

I note that the provisions for the new miners contract provides for an average of

about $10 an hour. That is $20,000 a year for 50 weeks of work. In terms of hardship, almost no one working abroad has "hardships" equal to the miners. Why not a $20,000 exclusion for any miner living 17 of 18 months in a mining community here at home?

JOBS ARGUMENT

It is argued that Old 911 is important for American jobs—that Americans abroad order goods from the U.S. which provide jobs at home. Neither the Treasury nor any one else has made any objective study of that argument. About a third of our exports are farm products, the orders for which are unrelated to Section 911. Vast amounts of our exports go to Canada and Western Europe where Section 911 has had the smallest benefits (because they are high tax countries) and where exports and jobs appear essentially unrelated to the provisions.

Of course Section 911 may in fact stimulate some jobs abroad rather than at home. If we provided that the employees of any company moving to Wisconsin or Oregon or Upstate New York could exclude the first $20,000 of their earned income from taxation, those areas would be flooded with new firms and new workers. It may well be that Section 911 exports more jobs than it provides for those at home. The assertions about jobs I have seen are almost entirely self serving and without any objective basis.

GOVERNMENT SERVICES

It is essentially argued by many who have written me that they should pay no American taxes because they are abroad and do not receive the services of this Government. Well, I am outraged at that.

Without the military and economic might of this country, and the vast sums paid in taxes by millions of American citizens, many places where Americans live and work abroad would be unsafe for them.

They receive the protection of our military might and the services of the embassies, consuls, and missions abroad.

In both Lebanon and Vietnam, thousands of American civilians were evacuated when their lives were in danger.

They probably flew abroard on airlines which receive a vast array of services from the taxpayers—from airports to weather services to mail contracts. Their household goods may have been shipped by vessels built under provisions of the shipbuilding subsidy and aided by the operating subsidy. Many of them work on projects sponsored by the American government through its AID program or through its contributions to the U.N., World Bank, Inter-American, or Asian Bank, or through American military aid or sales or funds to pay for a space tracking station. Even the exports some of them promote may be financed by the Export-Import Bank at a below market rate.

Furthermore, merely because an American citizen lives a few years of his life abroad, he cannot and should not opt out of the requirements and obligations of citizenship. Unfortunately, it costs money to run our government, and the American abroad has the same obligation as those at home to support it with their taxes—no more and no less.

The rule that should properly apply is that American citizens with essentially equal incomes and equal family circumstances should pay essentially the same taxes whether they live in Waukesha, Wisconsin, Scarsdale, New York, or Timbuktu. It is the perversion of that principle, through loopholes and truckholes, and special privileges, that has brought the tax system into disrepute and a smarting sense of injustice to tens of millions of tax payers who pay through the nose on almost every cent they earn while others get to exclude or deduct from or credit against their income tax vast amounts of money which those not so fortunately situated must fork over to Uncle Sam.

Old 911 is outrageous and should not be extended for two years. The 1976 Reforms include some of the most generous provisions in the tax code. For the few genuinely hardship cases—work camps in the Arabian Desert are the single most mentioned example—the ingenuity or good sense of the Treasury should be able to develop an answer tailored to the specific problem and not to universalize a loophole by extending to almost everybody everywhere special tax privileges justified in only the rarest of instances. To continue one of the most flagrant loopholes in the tax laws at a cost of a half billion dollars a year because some of the 5,133 persons in Saudi Arabia have rents they say are excessive is to allow the tail to wag the dog at a price which no efficient business, civilized government or oppressed domestic taxpayer should have to endure.

Mr. BAKER. Mr. President, I have no objection.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PRINT S. 555 AS SENATE DOCUMENT

Mr. RIBICOFF. Mr. President, I ask unanimous consent to have the conference report on S. 555, as corrected by Senate Concurrent Resolution 112, and the joint explanatory statement of managers printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

VICTIMS OF CRIME ACT OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 7010 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STEVENSON). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1978.)

The PRESIDING OFFICER. The desk does not have the papers.

Mr. ROBERT C. BYRD. Mr. President, I temporarily withdraw that request.

TRAFFICKING IN CONTRABAND CIGARETTES—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 1487 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

● Mr. KENNEDY. Mr. President, this bill, when enacted into law, will give Federal law enforcement agents an important new tool in their continuing fight against major organized crime groups. No longer will these groups be able to operate with impunity in this highly sophisticated criminal area.

This legislation is critically important. Cigarette bootlegging, as it is commonly referred to, has become not only a serious problem for the many States which rely on cigarette taxes for needed revenue, but also has become a major revenue source for organized crime groups. It has been estimated that the States are losing over $400 million a year, because of this activity, and that is a very conservative estimate. The only ones profiting from this activity are the major organized crime families which control between 40 to 50 percent of the activity. Cigarette bootlegging is now ranked as the sixth major revenue source for organized crime with a gross of $1.5 billion a year and profits estimated at $800 million.

Even worse than the smuggling itself is the violence that accompanies the activity—truck hijackings, armed robberies, serious assaults, extortion, murder, and corruption of public officials. The effects of this activity do not stop there. The indirect result of cigarette bootlegging is the loss of jobs and businesses of those legitimate wholesalers, vendors, and salespeople. In the past 10 years, 50 percent of the employees of wholesalers and vendors have lost their jobs, and 35 percent of the wholesalers have gone out of business, because of this.

It is time that this Congress does something about this problem. It is time that we make sure that those who are responsible for investigating and prosecuting organized crime have the tools they need. It is time that we send a clear, unequivocal message to the organized crime groups in this country that they can no longer operate with impunity in this area. This legislation accomplishes these ends.

In brief, S. 1487 accomplishes the following:

With certain exemptions, it prohibits the shipment, transportation, receipt, possession, sale, distribution, or purchase of contraband cigarettes—defined as a quantity in excess of 60,000 cigarettes—which bear no evidence of the payment of applicable State taxes;

It provides that certain information may be required to be maintained on business records kept in the normal course of business by those who ship, sell, or distribute more than 60,000 cigarettes in a single transaction. In short, a record of a transaction of 60,000 or more cigarettes would have to be kept.

It provides for penalties of up to 5 years imprisonment and/or a maximum fine of $100,000 for violations of the act, and up to 3 years imprisonment and/or a maximum fine of $5,000 for violations of rules or regulations promulgated under the act;

It allows for the seizure and forfeiture of both the contraband cigarettes and the vehicles used to smuggle them;

It amends the RICO statute to include violations of this act as one of the enumerated crimes;

It gives the Secretary of Treasury primary enforcement responsibility for the act; and

It clearly states that nothing in the act is intended to preempt State efforts in the area.

Mr. President, S. 1487 is an important piece of legislation which recognizes and seeks to correct the illegal activities of organized crime groups in this area. I would hope to impress upon you today, the need for this legislation, and would like to thank my colleagues in both the House and Senate for their tireless efforts on its behalf.●

● Mr. MORGAN. Mr. President, I would be less than candid if I indicated great enthusiasm for the bill which the Senate is taking final action on today.

The cigarette bootlegging bill was passed by the Senate with the endorsement of all its sponsors as well as the Senators from North Carolina, Kentucky, and South Carolina. It was a good bill, a better bill than had been produced by the Judiciary Committee or by the House of Representatives.

The bill which we have before us today is not the same measure, nor is it of the same quality as the original Senate compromise. To my mind, the conference on this measure has done some disservice to the Senate and to the cause of stopping cigarette bootlegging.

In the conference, it is my understanding that no mention was made of accepting the Senate version, rather discussion proceeded directly to considering a compromise with the House bill. The House measure had been passed unchanged, while the Senate bill had undergone extensive revision and improvement. Nevertheless, the House version appeared to be preferred despite the strong endorsement by the Senate.

I appreciate the efforts of all the conferees, despite my own disappointment.

As my distinguished colleague from Massachusetts has indicated, several important points emerge about the cigarette bootlegging bill which need to be repeated.

Although I feel that it is in principle wrong to have the Federal Government enforce State laws, we have produced a bill aimed at fighting organized crime. By the addition to the RICO statute of cigarette smuggling, the Federal Bureau of Investigation is giving jurisdiction over this offense along with the Bureau of Alcohol, Tobacco, and Firearms.

The penalties of this bill are severe and are aimed primarily at the organized criminal.

I welcome the language in the conference report that indicates that no reporting by cigarette dealers is required under the bill.

In addition, it is made clear that in transactions of over 60,000 cigarettes, a person who sells, ships, or distributes may be required to keep some notation of the transaction on business records. I believe that the specific list of items that the Secretary of the Treasury may require, and I might digress to note that my hope is that not all are to be required, is of such a nature to be easily included on existing business forms such as a sales slip or invoice form.

I think the bill makes it clear, as does the conference report, that the States still have a major role to play in this effort. Indeed, this bill is intended to assist the States in their efforts. In my statement on the Senate passage of S. 1487, I included a letter from Ms. Pat Wald of the Department of Justice which indicated the degree of importance placed on State action. I would urge the Department of Treasury to take heed of this fact.

In conclusion, I would restate my disappointment in the manner in which this bill was produced. But I would also state my belief that this bill, if properly enforced, should provide for a sufficient balance between the needs of law enforcement and the legitimate interest of private businesses to conduct their operations without undue Government interference.

I can assure both the people of my State and the Department of Justice and of the Treasury that I will not hesitate to act should this law be misapplied or misconstrued by the agencies. In short, I urge the strict adherence by law enforcement to the requirements and limitations of this law.●

● Mr. FORD. Mr. President, this conference report now before us is a very important piece of legislation directed at providing a solution to the serious problem of organized crime and large-scale operations of interstate cigarette bootlegging.

The primary intent of this measure is to assist the States in their law enforcement efforts in this area. After many months of careful consideration the authors of this measure have agreed upon a sound and responsible approach which provides strong penalties for those who violate this law, without imposing undue burdens on small tobacco retailers or encroaching upon the rights of States.

This measure represents a major step toward reducing a rapidly spreading problem that is a serious threat to those State and local governments which draw revenue from taxes on tobacco products.

I compliment Senator KENNEDY and Senator EASTLAND for their strong commitment and invaluable assistance in guiding this measure through conference, and I also commend Chairman RODINO of the House Judiciary Committee for his help in making enactment of this legislation a reality.●

● Mr. THURMOND. Mr. President, I rise in support of the conference report on S. 1487, the distribution of contraband cigarettes bill of 1978, which makes it a Federal crime to engage in the sale and distribution of illegal cigarettes.

This legislation is directed at the large, organized crime operations that deal in the sale and distribution of bootleg cigarettes. The trafficking in contraband cigarettes provides millions of dollars in ill-gotten gains for organized crime and robs the treasuries of those States with high excise taxes on cigarettes. This measure seeks to eliminate these losses and will help both State and Federal authorities crack down on contraband cigarette trafficking.

One provision of this legislation as passed by the House and Senate was the recordkeeping section. The Senate version prevented the Secretary of the Treasury from requiring records or reports, while the House bill gave the Secretary discretionary authority to make reporting requirements. I was opposed to the House version, as were a number of my colleagues. Therefore, during the conference, efforts were made to find compromise language. Although I have approved of the conference report, I want to be clear in saying that I am opposed to any unreasonable reporting requirements and Federal intervention by the Secretary of the Treasury. I will be watching closely the manner in which the Treasury Department carries out its authority under this legislation.

Mr. President, I urge adoption of the conference report.●

Mr. HATCH. Mr. President, I rise in support of the conference report on S. 1487 to eliminate cigarette racketeering and bootlegging. I believe that the conference has managed to produce legislation that will be effective in combating this crime, while also protecting legitimate businessmen from excessive paperwork burdens and the arbitrary discretion of regulatory authorities.

This bill would make it a Federal crime for individuals knowingly to ship, transport, receive, possess, sell, distribute, or purchase contraband cigarettes. These are cigarettes which bear no evidence of the payment of the applicable State taxes in the State where such cigarettes are found. With a threshold figure of 60,000 cigarettes (or 300 cartons) necessary to trigger the bill's provisions, it is clear that it is aimed primarily at organized criminal involvement in these activities.

I would like to clarify briefly what this bill does not do:

It does not affect the jurisdiction of States, acting individually or in coordination, to enact and enforce cigarette tax laws;

It does not permit the administering agency (the Bureau of Alcohol, Tobacco, and Firearms) to require dealers to submit reports of any sort to the agency;

It does not permit the administering agency to require dealers to keep any information or records on transactions in excess of 60,000 cigarettes beyond those

expressly referred to in the statute. This is limited to the name, address, and destination of the purchaser, the vehicle license number, the drivers' license number, the specific purpose of the receipt, and a declaration of the name and address of a principal where appropriate.

It does not permit the administering agency to require that any of this information be maintained separately where it is already maintained in the course of normal business records.

It does not permit the administering agency to enter a dealer's premises to inspect these records except upon the consent of the dealer, or upon the issuance of a search warrant.

While S. 1487 sharply circumscribes the discretionary authority of BATF, and represents an admirable assertion of congressional authority, BATF has acknowledged that its provisions are adequate to enable BATF to carry out its functions efficiently and effectively.

I feel constrained to note, however, that a solution to the problem of cigarette smuggling—and it is a problem that results in estimated revenue losses to States of $400 million annually—already lies within the purview of the victimized States. The solution, of course, is to reduce their own cigarette tax rates, thereby making it uneconomic to smuggle.

While I personally do not smoke, abhor the use of cigarettes, and am proud that the State of Utah has the lowest per capita consumption of cigarettes in the Nation, a tax rate adjustment would be a more efficient way of curbing smuggling. In addition, it would have the added benefits of limiting the growth of the BATF bureaucracy, and reducing congestion in the courts with large numbers of smuggling cases.

Many of the same States that have lost revenues as a result of high cigarette taxes (taxes in New York are nearly three times as high as Utah, and more than 10 times as high as North Carolina) are the ones that have lost revenues from businesses, because of high business taxes, and revenues from individuals, because of high income taxes. At some point, we must recognize that the Federal Government cannot indefinitely protect them from the logical consequences of their own fiscal policies.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

AUTHORIZATION OF CORRECTIONS IN ENROLLMENT OF S. 1487

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 755 which is at the desk.

The PRESIDING OFFICER. The Chair lays before the Senate House Concurrent Resolution 755, which will be stated.

The legislative clerk read as follows:

A Concurrent Resolution (H. Con. Res. 755) authorizing corrections in the enrollment of S. 1487.

Mr. ROBERT C. BYRD. Mr. President, this resolution would allow a modification in the enrollment of S. 1487. This modification is of a technical nature and more clearly reflects the intent of the conferees with respect to the recordkeeping provision of this act.

All of the Senate conferees have agreed to this modification and it has been cleared by both sides. I move that it be agreed to.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider the House concurrent resolution.

The concurrent resolution (H. Con. Res. 755) was considered and agreed to.

ORDER OF PROCEDURE

Mr. CULVER. Will the distinguished majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. CULVER. I believe there was a request that the leader made to send over to the House the list of conferees on the Endangered Species Act conference. I understand the minority leader expressed some reservation on that. I wonder if we could get that resolved, because this is not the conference report itself. It is only the designated conferees. We must move those names over there now in view of the time constraints so the House can act and return the papers. We can bring up the conference report itself later this morning.

Mr. BAKER. Mr. President, I have advised that Senator CURTIS is in the sugar conference and we cannot reach him at this time. I shall take the responsibility for clearing that. I have no objection to proceeding.

Mr. ROBERT C. BYRD. I thank the minority leader.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2899.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting on its amendments to the bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the amendments of the House, agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. CULVER, Mr. WALLOP, Mr. HODGES, Mr. MUSKIE, and Mr. CHAFEE conferees on the part of the Senate.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 7577 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. NELSON. Mr. President, I am pleased to bring before the Senate H.R. 7577, the Economic Opportunity Act Amendments of 1978. This legislation extends for 3 years—through fiscal year 1981—many of this Nation's antipoverty programs. Specifically, H.R. 7577 extends the community action programs, the Community Services Administration, the Head Start program, the Follow Through program, the special emphasis programs, the community economic development program, services to migrants and farmworkers, and the Native American programs. In addition, the bill makes administrative and operational changes in several of these programs.

On July 26, 1978, the House of Representatives voted 346 to 38 in favor of the Economic Opportunity Act Amendments of 1978.

The Senate version of this legislation passed the Senate unanimously on August 1, 1978, by voice vote.

I cite these recent votes in the House and the Senate because I believe the votes are evidence of the strong support the antipoverty programs such as community action and Head Start have earned here in the Congress. This support has been earned by the antipoverty programs as a result of the many successful antipoverty efforts carried out in local communities across the country. With limited resources the antipoverty programs have been able to assist low-income communities in marshaling their own community capabilities, involving low-income citizens in community activities and decisionmaking efforts. The antipoverty programs have also been successful in tapping State and Federal resources, recruiting professionals and volunteers, as well as providing a variety of services to low-income children, families, and elderly persons.

Mr. President, the conference agreement embodies the principal elements of the bill passed by the Senate, and also contained in the House-passed bill. I will not attempt to discuss each provision of the conference agreement, but

will, instead, highlight the major provisions of the conference agreement.

HEAD START PROGRAM

Both the House Education and Labor Committee and the Senate Human Resources Committee devoted significant effort to resolving the problems inherent in the current Head Start allocation formula. Although the allocation formula adopted in 1974 was intended to target Head Start funds to the poverty population based on relative need and to equalize the distribution of Head Start funds, the formula did not produce the desired results. The new Head Start allocation formula in the conference agreement is designed to correct the problems with the existing Head Start formula. The purpose of the new formula is to insure that the distribution of Head Start funds is equalized as rapidly as possible, to distribute as many funds as possible through the poverty formula, and to significantly reduce the discretionary resources.

The conference agreement on the allocation formula embodies the Senate formula, including its basic structure and the principles upon which it was developed. Two modifications were made in the Senate formula: the hold harmless level was established at a fiscal year 1978 level, and a provision for supplemental payments to some marginal hold-harmless States was added. Both the hold-harmless provision and the supplemental payment provision are temporary, in that as appropriations increase these provisions will phase out and eventually be eliminated.

Mr. President, I ask unanimous consent that a description of the conference agreement on the Head Start formula and a chart depicting how allocations are made to States be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONFERENCE AGREEMENT

The conference agreement provides that of the funds appropriated for Headstart:

(1) at least 78 percent shall be allotted among the States so that equal proportions are distributed on the basis of the relative number of AFDC recipients in each State as compared to all States and the relative number of children age 0 through 5 living with families below the poverty line in each State as compared to all States;

(2) the Secretary shall reserve 20 percent for use in accordance with the following order of priorities—

(A) funding shall be given with equal consideration to Indian and migrant Headstart programs and to services for handicapped children, with the additional provision that Indian and migrant programs shall receive (i) no less for any subsequent fiscal year than was obligated for use by such programs in fiscal year 1978, and (ii) cost-of-living adjustments for fiscal year 1979 and thereafter, which, at a minimum, reflect changes in the Consumer Price Index;

(B) hold harmless payments shall be made available, if necessary, to maintain each State at a level of funding equivalent to its fiscal year 1978 funding level;

(C) training and technical assistance activities, which at a minimum, are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities;

(D) the remainder in accordance with such criteria and procedures as the Secretary shall prescribe by regulation. Additional financial assistance may be provided by the Secretary to a State for purposes other than assistance to Indian and migrant programs, services for handicapped children, hold harmless payments, and training and technical assistance activities, only if a State's poverty allocation and hold harmless payment is less than 175 percent of what such State is eligible to receive as a poverty allocation; and

(3) reserve 2 percent for allotment to the Trust Territories and for supplemental payments. From this reserve, supplemental payments shall be made available to—

(A) any State receiving allotments from the poverty formula and hold harmless payments which are greater than 100 percent but less than 140 percent of what such State is eligible to receive from the poverty formula; and

(B) any State which is making the transition from receiving hold harmless payments and/or receiving supplementary assistance to receiving only poverty funds.

Supplemental payments shall be equal to 50 percent of the percentage increase in the total appropriation over the total appropriation in the previous year and shall be made to eligible States in addition to the total amount of assistance received by such State in the previous year. In fiscal year 1979, supplemental payments shall be equal to 69 percent of the percentage increase in total appropriations—up to 9 percent— or 50 percent of the percentage increase in total appropriations, whichever is greater. If in any fiscal year there is no increase in appropriations, States eligible for supplemental payments shall receive the same total allotment as they did in the preceding fiscal year.

Any funds not allotted to the Trust Territories shall be allotted under the poverty formula to those States which receive allotments under the poverty formula only. If in any fiscal year there are not enough funds available in the 2 percent reserve (subsection (a)(4), the Secretary shall transfer funds from the 20 percent reserve (subsection (a)(3)) to make supplemental payments according to the provisions of subsection (a) (4).

When appropriations are equal to or exceed $800,000,000, not more than 20 percent of $800,000,000, or 15 percent of the funds appropriated, whichever is greater, shall be reserved.

FISCAL YEAR 1979 HEAD START ALLOTMENT ESTIMATES BASED ON APPROPRIATION OF $680,000,000

[In thousands]

State	Fiscal year 1978 funding	Formula dollars	Dollars to fiscal year 1978 hold-harmless	Supplement over previous year	Total fiscal year 1979	Percent increase over fiscal year 1978
1. Alabama	13,619	10,110	3,509	827	14,446	6.07
2. Alaska	1,681	544	1,136	0	1,681	0
3. Arizona	4,813	5,341	0	0	5,341	10.97
4. Arkansas	6,804	6,196	606	413	7,217	6.07
5. California	51,971	57,672	0	0	57,672	10.97
6. Colorado	6,324	4,304	2,019	0	6,324	0
7. Connecticut	5,051	5,605	0	0	5,605	10.97
8. Deleware	1,313	1,213	101	80	1,393	6.07
9. District of Columbia	4,263	3,075	1,188	259	4,522	6.07
10. Florida	15,143	16,124	0	0	16,124	6.47
11. Georgia	13,599	15,090	0	0	15,090	10.97
12. Hawaii	2,295	2,116	179	139	2,434	6.07
13. Idaho	1,520	1,383	137	92	1,612	6.07
14. Illinois	29,711	32,970	0	0	32,970	10.97
15. Indiana	7,653	8,331	0	0	8,331	8.86
16. Iowa	4,178	4,189	0	242	4,431	6.07
17. Kansas	4,132	3,374	758	251	4,383	6.07
18. Kentucky	13,226	10,149	3,077	803	14,029	6.07
19. Louisiana	11,794	12,416	0	93	12,510	6.07
20. Maine	2,308	2,497	0	0	2,497	8.21
21. Maryland	7,423	8,238	0	0	8,238	10.97
22. Massachusetts	12,968	14,390	0	0	14,390	10.97
23. Michigan	22,585	25,062	0	0	25,062	10.97
24. Minnesota	5,869	6,194	0	32	6,226	6.07
25. Mississippi	43,585	9,899	33,686	0	43,585	0
26. Missouri	11,446	11,335	112	695	12,141	6.07
27. Montana	1,619	1,293	327	98	1,718	6.07
28. Nebraska	2,618	2,170	448	159	2,777	6.07
29. Nevada	796	883	0	0	863	10.97
30. New Hampshire	1,241	1,239	2	75	1,317	6.07
31. New Jersey	16,123	17,891	0	0,	17,891	10.97
32. New Mexico	3,545	3,572	0	188	3,760	6.07
33. New York	41,029	45,530	0	0	45,530	10.97
34. North Carolina	13,691	11,723	1,968	831	14,522	6.07
35. North Dakots	722	801	0	0	801	10.97
36. Ohio	24,057	26,696	0	0	26,696	10.97
37. Oklhoma	7,840	5,557	2,283	0	7,840	0
38. Oregon	4,497	4,991	0	0	4,991	10.97
39. Pennsylvania	23,803	26,414	0	0	26,414	10.97
40. Puerto Rico	22,668	25,155	0	0	25,155	10.97
41. Rhode Island	1,860	2,064	0	0	2,064	10.97
42. South Carolina	8,340	7,484	856	506	8,846	6.07
43. South Dakota	1,216	1,349	0	0	1,349	10.97
44. Tennessee	11,513	9,554	1,959	699	12,212	6.07
45. Texas	23,811	26,423	0	0	26,423	10.97
46. Utah	2,024	2,246	0	0	2,246	10.97
47. Vermont	1,349	1,173	176	82	1,431	6.07
48. Virginia	7,591	8,424	0	0	8,424	10.97
49. Washington	5,960	6,614	0	0	6,614	10.97
50. West Virginia	6,652	4,063	2,589	0	6,652	0
51. Wisconsin	7,910	8,778	0	0	8,778	10.97
52. Wyoming	912	494	418	0	912	0
Total	548,660	530,400	57,534	6,566	594,499	8.35

It is the intent of the Conference agreement to equalize the distribution of available Headstart funds and to target these funds to poverty populations based on relative need. The Headstart allocation formula adopted by the Conference Committee will narrow and ultimately eliminate the range in the level of Headstart funding, taken as a proportion of the poverty population, among the various States. Completion of the objective to equalize the distribution of Headstart funds and target these funds to poverty populations based on relative need is dependent upon the level of appropriations—the higher the level of appropriations, the more rapidly the range will be reduced and eliminated.

The allocation formula is based on the premise that all States should receive 100 percent of what they are eligible for according to the States' relative share of the poverty

population. The situation where a State is actually reduced below the 100 percent level of its funding eligibility in order to hold another State harmless at a specific level will not occur in the future because a hold harmless provision is not attached to the allocation formula. The hold harmless payments must be made from the 20 percent reserve. A State will, therefore, always be assured that it will receive its relative total share of Headstart funds available for distribution according to the poverty formula.

This allocation formula also reflects the intent that over time, as appropriations increase, all States should eventually receive only poverty formula funds; the need for hold harmless payments and supplemental payments will end as the distribution of allocations among the various States is equalized by application of the poverty formula. As appropriations increase, each State will be eligible for increases from the funds available for distribution under the poverty formula. This will reduce dependency on hold harmless payments, and, in fact, all States will gradually receive their complete allocation from the poverty formula. Until States reach the point where their total allocation is from the poverty formula, the Conference agreement provides for hold harmless payments, if necessary, to provide States with a funding level equivalent to their fiscal year 1978 funding level. In addition, supplemental assistance would be available to two categories of States: (1) any State receiving an allocation from the poverty formula and a hold harmless payment which, in total, is greater than 100 percent and less than 140 percent of what such State is eligible to receive from the poverty formula only; and (2) any State receiving an allotment from the poverty formula only and such allotment as compared to the total amount of assistance received by such State in the previous fiscal year, represents an increase which is less than 50 percent of the percentage increase in the appropriations for such fiscal year for which the determination is made as compared to the appropriation for the fiscal year preceding the fiscal year for which the determination is made.

Any State which falls into one of these two categories shall receive a supplemental payment sufficient to provide a total amount of assistance to such State which is equal to the total amount of assistance such State received in the previous fiscal year and an amount derived by multiplying the total amount of assistance received in the previous fiscal year by 50 percent of the percentage increase in the total appropriation for that fiscal year as compared to the total appropriation in the preceding fiscal year. In fiscal year 1979, supplemental payments shall be equal to 69 percent of the percentage increase, up to 9 percent, in the appropriation for fiscal year 1979 over the appropriation for fiscal year 1978, or 50 percent of the percentage increase in the appropriation for fiscal year 1979 over the appropriation for fiscal year 1978, whichever is greater.

The intent of this supplemental assistance is to provide hold harmless States on the margin (while receiving hold harmless payments and while making the transition to poverty formula funds only) with increases which are equal to the total appropriation in the preceding fiscal year. This will permit the equalization of distribution of funds to occur, without adversely affecting those States in the marginal category. It also enables these marginal States to actually receive expansion funding if appropriations increase at a rate which is sufficient to foster expansion in the marginal States.

With the allocation formula adopted by the conference agreement, a cost-of-living provision is not necessary because as appropriations are increased to reflect, in part, cost-of-living increases, the cost-of-living increase would be passed on automatically to the States through the poverty formula. Any appropriation increase beyond a cost-of-living increase is distributed through the poverty formula for expansion purposes to the States based on relative need. Cost-of-living increases and expansion funding are distributed to the marginal States through the supplemental payments at a rate of 50 percent of what the non-marginal and non-hold harmless States receive.

Any State with an allocation from the poverty formula and hold harmless payments which, in total, are 175 percent or greater than what such State is eligible to receive from the poverty formula only, is not eligible for any additional assistance, including any assistance from the Secretary's discretionary funds.

The Conference agreement also specifies how the 2 percent reserve and the 20 percent reserve are to be spent. This is done to insure that programs and activities which have been funded from the reserve are accorded appropriate priority for funding and are not neglected at the expense of other activities which are lower in priority.

It is the intent of the Conferees that as many funds as possible be distributed to the States under the poverty formula.

COMMUNITY ACTION AGENCIES

The community action concept, although once controversial, has proven to be an effective mechanism for delivery of services and for communities to marshal their own resources to combat poverty. Community action programs enjoy wide acceptance and support from State and local officials and civil leaders. Because community action agencies are actually located in poor communities and work with and are known by the low-income citizens in such communities, other Federal, State, and local programs have come to view community action agencies as the best means by which to reach low-income persons. In many areas the local community action agency is the only viable organization that local residents interact with on a regular basis. The most identifiable community resource in many rural areas of the country is the local community action agency.

In the 1974 conference on amendments to the Economic Opportunity Act, the Senate had to compromise with the House on Federal/local matching requirements for local initiative funds in the community action program. The Senate bill at that time would have retained the 80 percent/20 percent matching ratio. However, the 1974 conference agreement provided for the Federal match to decline to 60 percent in 1977. This requirement in current law of a 40 percent local match has had a significant negative impact on many community action agencies throughout the country.

In response to this situation both the House and Senate bills provided for a return to the 80/20 match requirement in fiscal years 1979 through 1981. The conference agreement establishes an 80 percent Federal match and a 20 percent local match requirement. In addition, the conference agreement provides for several minor administrative and operational changes in the community action programs and the Community Services Administration.

SPECIAL EMPHASIS PROGRAMS

Special Emphasis programs are designed to meet or deal with particularly critical needs or problems of various low-income groups. The Senate bill amended three different special emphasis programs in order to give organizations or agencies serving migrants, farmworkers, and Native Americans equal opportunity with community action agencies to secure special emphasis program grants. The conference agreement provides that public or private non-profit organizations or agencies serving migrants, farmworkers or Native Americans are eligible, on an equal basis with community action agencies, for Community Food and Nutrition program grants, Rural Housing Development and Rehabilitation program grants, and Emergency Energy Conservation program grants.

DEMONSTRATION EMPLOYMENT AND TRAINING OPPORTUNITIES PROGRAM

The Senate bill provided for a "Demonstrated Employment and Training Opportunities Program" in section 222 of the Act, where the other special emphasis programs are located. The purpose of this provision was to encourage the Community Services Administration and community action agencies to conduct demonstration employment and training projects.

The conference agreement adopts this Senate provision and establishes a Special Emphasis "Demonstration Employment and Training Opportunities Program." The addition of this special emphasis program will enable the Director to establish experimental employment and training programs and projects for low-income persons who are unemployed or under-employed, with special emphasis on youth, the structurally unemployed—especially those dependent on public assistance, single heads of households with dependent children, older workers and veterans. Grants under this program are to be made available to community action agencies, community development corporations and other public or private non-profit organizations and agencies for experimental programs and activities, including, but not limited to: providing innovative approaches to employment and training programs, which may include supportive services; developing linkages for low-income persons to achieve transition from unemployment or federally subsidized employment to non-subsidized employment; and developing training programs to place disadvantaged youth in the private sector, with special consideration for community development corporations.

The purpose of this program is to place increased emphasis on the Community Services Administration's role in the development of new and innovative approaches to employment and training programs. Activities under this program should not duplicate the services of other Federal, State, or local employment and training programs. Where feasible these activities should supplement and work with existing employment and training programs intended to serve low-income persons and improve the responsiveness of such programs to the employment and training needs of low-income persons.

The Supported Work statewide demonstration program now being conducted in Wisconsin is an example of the kind of experimental programs which are to be carried out under this new authority. The Community Services Administration should expand on efforts such as this.

SERVICES TO MIGRANTS AND SEASONAL FARMWORKERS

Of the 26 million people living in poverty, as defined by the Office of Management and Budget, over five million, or more than 20 percent, are migrant and seasonal farmworkers and their dependents. This group of poor persons has often been overlooked and has not received the special attention which has been needed. In recognition of this, the Senate bill reorganized the Economic Opportunity Act to create a separate title for migrant and seasonal farmworkers. Programs for migrant and seasonal farmworkers are currently carried out under Part B of title III, the rural poverty programs.

The conference agreement adopts the Senate provision and establishes a new title IV for migrant and seasonal farmworker programs. Removal of the migrant and seasonal farmworkers programs from the rural pro-

gram title to an independent title is intended to indicate the attention the Community Services Administration should give to the unique needs and characteristics of rural poverty experienced by migrant and seasonal farmworkers.

The conference agreement also provides that all programs operated under the new title IV are to be administered at the national level.

FOLLOW THROUGH PROGRAM

Both the House and Senate bills contained strong endorsements of the Follow Through Program—in terms of the authorization extension and increases in authorization levels for appropriations. The conference agreement provides for an authorization of $70,000,000 in fiscal year 1979, $85,000,000 in fiscal year 1980, and $100,000,000 in fiscal year 1981. The Follow Through program has remained at approximately the same appropriation level for several years now. The purpose of raising the authorization for appropriations level is to encourage higher appropriations thereby giving more children the opportunity to benefit from the program's services.

During review by the Senate Human Resources Subcommittee on Employment, Poverty, and Migratory Labor, testimony was received and data submitted which indicated that the Follow Through Program is successful in the communities where it operates. For example, Follow Through children achieve academic grade level averages at or above the median, are absent less, experience fewer juvenile behavior problems, and juvenile crime rates for students are lower in Follow Through classrooms. Follow Through programs were found to provide meaningful employment opportunities for parents. In fact, many local programs offer educational and training opportunities for parents. Some of these parents have earned college degrees after becoming involved with the Follow Through Program. Finally, local community support for the Follow Through Program was found to be exceptional.

Testimony received from Follow Through Program directors, supplemental information submitted to the Subcommittee, and contacts made by parents of Follow Through participants indicate that the comprehensive and preventive focuses of the Follow Through program have not been sufficiently recognized and emphasized by the Office of Education. However, most of the local programs have attempted to recognize the comprehensive nature of the programs, as well as the program's emphasis on community and parental involvement, including the education and employment of parents. Like Headstart, these unique characteristics of the Follow Through Program are responsible for making these programs so successful.

The conference agreement, like the Senate bill, specifies the comprehensive services the Follow Through Program should provide, including educational, health, nutritional, social, and other comprehensive services. Each of these services is very necessary to meet the needs of the Follow Through child. From its inception, Follow Through was intended to maintain and expand upon the gains made by Headstart and similar preschool programs. This objective should continue to be emphasized. The services provided in the Follow Through program are intended to be very similar to Headstart services, taking into account that the ages of children served differ in each of these programs.

The conference agreement also includes a provision from the Senate bill to strike section 553 of the Act entitled "Research, Demonstration, and Pilot Projects; Evaluation; and Technical Assistance Activities", and replace it with four new sections—Research, Demonstration and Pilot Projects; Announcement of Research, Demonstration and Pilot Projects Contracts; Evaluation; and Technical Assistance and Training. There is and has been substantial concern about the administering agency's failure to evaluate all the goals of the Follow Through Program. The expansion of the scope of these activities, through the establishment of separate sections devoted to each activity, is done to emphasize the importance of these activities. The new sections parallel similar responsibilities for the Headstart Program.

The conference agreement also strikes section 621 of the Act, which provides that the Director of CSA delegate the administrative responsibility for the Follow Through Program to the Secretary of HEW, where program functions are to be carried out in the Office of Education. Title V of the Act currently gives administrative responsibility for the program directly to the Secretary. The delegation of language is, therefore, obsolete.

It is intended that the Secretary determine where the Follow Through program can best be carried out within the Department of Health, Education, and Welfare. The Office of Education has not demonstrated sufficient sensitivity to the program's purposes, therefore hindering the potential of this vital program.

Since the Follow Through Program was originally intended to supplement and expand on the Headstart experience, these two programs more appropriately belong within the same administration in HEW. The Administration for Children, Youth, and Families has demonstrated its commitment to the comprehensive and preventive services provided by the Headstart Program. The Follow Through Program is in need of the same level of commitment.

COMMUNITY ECONOMIC DEVELOPMENT

The conference agreement extends the authorization for title VII of the Act for three fiscal years. Appropriations are authorized at $70,000,000 for fiscal year 1979, $85,000,000 for fiscal year 1980, and $105,000,000 for fiscal year 1981.

New conditions for receipt of financial assistance for community development corporations, as provided for in the Senate bill, were included in the Conference agreement. In order to receive funding, a community development corporation must specify in detail its development goals and development timetable. Continued funding in future years is dependent upon the extent to which the development goals and timetable have been met.

The conference agreement also provides that financial assistance to community development corporations be made available (1) for deposit to the order of a grantee having demonstrated successful program performance, within 30 days following the approval of a grantee agreement, or (2) whenever the Director deems appropriate, through a line of credit within 30 days of approval of the grantee agreement. Grantees with demonstrated successful program performance should receive their funding through full deposit to the order of the grantee. Under this type of funding it is intended that a grantee seek prior approval to use funds and that CSA indicate approval or disapproval within 15 days of the grantee's request for approval. Grantees having less than successful program performance shall be placed on the line-of-credit funding.

Although the 1972 amendments to the Economic Opportunity Act specified that the Small Business Administration should prescribe such regulations as were necessary and appropriate to insure the availability of Small Business Administration programs to community development corporations, the Small Business Administration failed to issue any regulations and refused, either directly or indirectly, to make its programs available to community development corporation enterprises.

The conference agreement also includes a Senate provision to revise the 1972 language to mandate that the SBA "promulgate regulations to insure the availability to community development corporations of such programs as shall further the purposes of this title, including programs under section 8(a) of the Small Business Act." SBA regulations enabling CDC's to participate in the procurement preference minority set-aside program should be issued immediately.

Mr. President, I believe this conference report on H.R. 7577 is a fine example of the commitment of the Senate Human Resources Committee, the House Education and Labor Committee, and the Congress to make reforms, revisions, updates, and additional improvements in the nation's anti-poverty programs. The continuation of these anti-poverty programs will reaffirm the Nation's commitment to fighting poverty through coordinated approaches at the federal, State and local levels. The provisions of H.R. 7577 will help assure the continued vitality and improvement of these essential programs.

I urge my colleagues to join me in supporting the conference report on H.R. 7577.

Mr. President, I would like to express my appreciation for the efforts of my distinguished colleague from New York, Mr. Javits. His commitment to the anti-poverty programs is outstanding. He continually demonstrates his commitment through the time, effort, and concentration he has devoted to resolving the differences in this important legislation. His support and work are deeply appreciated by me and many, many others.

I would also like to thank our distinguished chairman, Mr. Williams, for his leadership, and the rest of the members of the Subcommittee on Employment, Poverty, and Migratory Labor for their contributions to this legislation.

Mr. JAVITS. Mr. President, I urge my colleagues to support the conference report on H.R. 7577. This legislation will revise and extend for 3 additional fiscal years the Economic Opportunity Act, originally the centerpiece of President Lyndon Johnson's war on poverty.

Programs authorized under this $1.5 billion extension bill include: local community action programs, $370 million; Head Start and Follow Through, $685 million; and community economic development, $48 million.

Mr. President, the conference report before us today contains in section 222 (8) a new and important provision adopted by the conferees to establish a demonstration employment and training program to test innovative ways of remedying severe unemployment among the poor. Under this new special emphasis programs, grants can be made to local community action programs, of which there are an estimated 879 now operating in the United States, and to community development corporations, of which there are 43, to operate special employment and training projects targeted at unemployed youth, public assistance recipients, older workers and unemployed veterans. This provision was originally a part of the comprehensive manpower action program (S. 2435, title II) which I introduced in January of this year.

It is generally agreed, Mr. President, that we have not yet found the answer to severe and endemic unemployment, especially among minority youth, which

approaches 60 percent in some inner city poverty areas. We estimate that initially some 5,000 unemployed persons could be helped under this important new demonstration program.

I have great expectations for this new special emphasis program, Mr. President, and I think it will give us the insight we so desperately need into the problems of poverty-related development.

Title V of this bill will extend for an additional 3 years the Head Start and Follow Through programs, both of which provide a comprehensive range of health, nutrition, education, parental involvement and social services to young children.

The conferees were greatly concerned over the statutory distribution formula for Head Start funds. A discrepancy had been discovered last year during review of the economic opportunity amendments of 1977 by the House Education and Labor Committee over the interpretation and application of the statutory formula as outlined in section 513.

According to HEW's interpretation of the formula, the hold-harmless factor and the cost-of-living increases should have been implemented in the distribution first and for every State, and then the formula poverty factors were to be applied to whatever funds remained. Under this method, some States would have received less than the minimum amounts they were entitled to under the formula. New York, for example, would receive almost $2 million less than its entitlement.

The Congressional Research Service and the General Accounting Office, however, concluded that the agency had applied the hold-harmless factor out of proper sequence and, further, projected cost-of-living increases for each State on top of these increases.

Both the House and Senate committees concurred with the CRS–GAO interpretation of the proper sequence, to wit: the poverty formula should be applied first and then the hold-harmless and cost-of-living increases can be determined.

The Human Resources Committee determined that the formula adopted in the bill correct the serious deficiencies of the past, which had allowed some States to serve up to 40 percent of their eligible populations, while States like my own were able to serve only 12 percent. The intent of the Senate formula was that all States should be treated equitably and receive 100 percent of the amount each is entitled to receive based on its share of the poverty population. Regarding the hold-harmless issue, the Senate committee bill would have instituted a diminishing hold-harmless, to begin in fiscal year 1980.

In fiscal year 1978 all States would be eligible to receive 100 percent of their 1978 allocation if the formula would allocate less than that amount; in fiscal year 1980, States would be allowed to receive 90 percent of their fiscal year 1978 level; in fiscal year 1981 States would receive 80 percent of their fiscal year 1978 level, and so on until all hold-harmless payments would be phased out. However, no State would ever receive less than its 1974 unadjusted allocation. This provision would serve as a floor to cushion any cut backs in a program. The goal of the Senate was that in time the hold-harmless provision would not be needed and States would receive only poverty formula funds.

The formula adopted by the House also represented a move toward curbing the egregious inequities in the distribution of Head Start funds, but at a much slower pace. The House bill contained a permanent 1978 hold-harmless factor with less emphasis being placed on States receiving only poverty formula funds.

After much discussion and careful thought the conferees worked out a compromise which will narrow and ultimately eliminate the interstate disparities in the number of eligibles served in the Head Start program.

Under the conference formula at least 78 percent of the funds will be appropriated according to the poverty factors, to wit: the relative number of AFDC recipients in each State as compared to all States and the relative number of children age 0 through 5 living with families below the poverty line in each State as compared to all States. Hold-harmless payments will be made to each State at a level not less than its fiscal year 1978 payment. Mr. President, although personally I was in favor of more precipitate action in correcting the serious imbalances that currently exist, I believe we have come to a middle ground and, at least, we are on the right road toward reducing these inequities.

Title VII of the bill authorizes a 3-year extension of the $48 million community economic development program coauthored by myself and the late Senator Robert F. Kennedy in 1967. The principle behind this program is that the poor themselves can organize and mobilize local resources in order to stimulate community economic development. The idea is that local community development corporations—CDC's—will receive venture capital which will be used to leverage local resources and to save, expand or attract private businesses in heavily impacted urban and rural poverty areas.

I am very pleased that the CDC program will be authorized for another 3-year period, and hope we will see important new gains in private sector development in the poverty areas where they exist.

Mr. President, in this regard I wish also to discuss an important proposal Senator TED KENNEDY and I developed which was adopted by the conferees. Under it, a new section 704 would be established authorizing the President to appoint a National Advisory Community Investment Board, in consultation with the Director of CSA. Additionally each local community development corporation would be authorized to establish an Advisory Community Investment Board, which would be appointed by the governing body in consultation with local officials. Members would be representative of local businesses, investment, banking and others whose fields of endeavor are related to the business activities undertaken by community development corporations. Any necessary expenses for the national board would be covered within the operating budget of the Community Services Administration.

The investment boards would be responsible for advising CDC's or, at the national level, the Office of Economic Development, in business practices and policies, investment decisionmaking and coordinating improved working relationships between business, private investors, the community and the Federal Government in addressing poverty and poverty-related problems.

What has been missing from the CDC program in too many instances have been the acumen and savvy of local business leaders. The advisory board provisions of the new law will help greatly in making that advice available to CDC's and to OED at the national level. Of course, the law would require consultation with local government officials in making appointments to the local advisory boards.

Another important provision adopted by the conferees deals with the financial assistance provisions of section 714. I was pleased that the conferees agreed to allow those CDC's which have demonstrated successful program performance to have financial assistance made available through demand deposit accounts payable to the order of the program grantee as opposed to the letter of credit approach. However, it is intended by the conferees that when financial assistance is to be made available under these conditions, the grantee shall secure approval from CSA with respect to the actual drawdown of the deposit. This approach allows CDC's the flexibility they need to operate in a business-like fashion, while allowing CSA to retain the authority it needs to approve specific drawdowns. The conferees intend, Mr. President, that CSA reduce the turn-around time on applications for demand deposit drawdowns to no more than 15 days, otherwise the benefit of the CDC's or the demand deposit approach would be moot.

Mr. President, the conference report before the Senate today makes important improvements in the law and keeps intact our arsenal of antipoverty weapons. I urge my colleagues to support it and I commend it to the Senate.

● Mr. CRANSTON. Mr. President, I rise in support of the conference report on the economic opportunity amendments of 1978, reconciling the differences between S. 2090 as reported, which I was pleased to cosponsor, and H.R. 7577. The conference report provides for an extension of the authorizations of appropriations for the Community Services Administration and the antipoverty programs conducted under the Economic Opportunity Act of 1964, as amended, through fiscal year 1981, including the Head Start program and the weatherization program conducted by CSA—both of which have been of particular concern to me through the years.

HEAD START

Mr. President, I am delighted that the conference report incorporates the provisions of S. 2081, the "Head Start Ex-

tension Act of 1977," which I introduced on September 9, 1977. The provisions of the measure will allow the important mission of the Head Start program to be continued through fiscal year 1981 and make certain technical amendments to the legislation which, I believe, will further enhance the effectiveness of this extremely worthwhile initiative.

Mr. President, I am pleased that the conferees were able to reach an agreement—at the final hour—on the most difficult question with which we had to deal in conference: that is, the allocation formula for the Head Start program.

As my colleagues may be aware, Mr. President, we encountered serious problems in developing a funding formula for the program this year in light of difficulties that had arisen in the implementation of the formula in the past. I worked very hard with other members of the Human Resources Committee to develop the new formula which the Senate originally approved.

As chairman of the Subcommittee on Child and Human Development, I believe that the formula approved by the conferees is a reasonable compromise and will correct the inequitable allocations of the past while protecting the interests of poor children in every State. Basically, it provides for a fiscal year 1978 hold-harmless level and for at least some cost-of-living and expansion funds for every State if appropriations are increased.

LOCAL MATCH AND WEATHERIZATION

Mr. President, there are two additional aspects of the measure we will send to the President that, although they were not at issue in conference, are important to mention.

First, this extension legislation would restore the original 80–20 matching share for local initiative programs. I supported legislation in the 94th Congress which would have restored this match, and I am very gratified with the forthcoming enactment of this measure to accomplish this end.

Second, Mr. President, this measure does not repeal, as the administration had requested, the authority for CSA to carry out weatherization programs of old or substandard dwellings for the poor. In deciding not to repeal this authority, Congress has indicated that it believes, as do I, that there is a need to continue the authority for this program until such time as there is a truly effective unduplicative program to serve the needs of the poor.

CONCLUSION

Mr. President, I would like to express my deep appreciation to the distinguished chairman of the Subcommittee on Employment, Poverty, and Migratory Labor (Mr. NELSON), the ranking minority member of the Committee on Human Resources (Mr. JAVITS), and the chairman of the Committee on Human Resources (Mr. WILLIAMS) for their leadership and dedicated efforts in connection with this measure. They and their staffs—Lori Hansen, Scott Ginsberg, Jim O'Connell, Diane Kamino, and Pat Markey and Susanne Martinez and Bobette Polzer on my behalf—have earned our gratitude for their hard work, which has resulted in bringing this conference agreement before us today.

Mr. President, I urge the Senate to approve the conference report unanimously.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

HEALTH MAINTENANCE ORGANIZATION AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2534 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2534) to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. SCHWEIKER. Mr. President, I am delighted to present for Senate approval the conference report on S. 2534, the Schweiker-Kennedy Health Maintenance Organization Act amendments of 1978. As the ranking Republican on the Senate Subcommittee on Health and Scientific Research, I introduced this legislation on February 10 of this year along with the distinguished chairman of our subcommittee, Mr. KENNEDY. After final Senate passage on July 21, the bill went through very productive refinements during subsequent House action and action by the conference committee.

There is no question in my mind that the HMO concept merits our full support as a means of introducing positive incentives into the health care delivery system to lower costs, improve quality of health care, and enhance competition. After years of neglect, HEW has shown renewed willingness and commitment to making the Federal program what it can and should be. We will continue to hold the department to these high expectations.

As my colleagues are aware, the conference substitute calls for a 3-year extension of the Federal HMO program at levels of $31 million, $65 million, and $68 million. It also provides for a promising new management training and technical assistance authority, new assistance for expansion of HMO services and construction of ambulatory care facilities, and stringent protection against abuse of the program by health care profiteers. The agreement is not only a reasonable compromise; it is a true refinement of both the House and Senate bills.

Mr. President, I would like to express my gratitude to Senator KENNEDY and our other distinguished cosponsors on the Senate side, to Congressmen PAUL ROGERS and TIM LEE CARTER for their cooperation every step of the way in the development of this legislation, to the Department of Health, Education, and Welfare, particularly Secretary Califano and Under Secretary Champion, and to the "HMO consensus group," whose dedication to the HMO concept and commitment to high standards for the industry deserve our highest praise.

Mr. ROBERT C. BYRD. Mr. President, rising health care costs are a major concern of Americans at all income levels. It is becoming increasingly difficult for citizens to afford adequate health care services.

Adequate health care cannot be brought within the reach of all our citizens until major health care costs are contained. Senate passage today of the Health Maintenance Organization Act amendments makes this an appropriate time to review the Senate's legislative record in this area.

This year it is estimated that the Nation's expenditure for health care will approach the $200 billion mark—about one-tenth of the gross national product. As health-care costs have been rapidly escalating, the issues involved have grown more complex and many troublesome questions have come before the Congress: What proportion of a Nation's resources should health care command? Who should pay for health care and how? How can health care be made more efficient and humane—with access to quality care for all our citizens at prices which they can afford?

While all of these questions cannot be resolved in one year, the 95th Congress has devoted much time and attention to the planning and integration of the many services needed to protect the health of every American. The dramatic human and economic cost of illness mandates careful review of every Federal health-care dollar. Approximately 85 percent of every Federal health-care dollar required reauthorization this year.

Clearly, health-care costs make a deep impact on the budget. The Federal Government has become a major purchaser of health services—spending about $64 billion a year on health programs. Rising medical costs have hampered the ability of the Federal and State governments to provide for other social services. Each day $58 million goes into the financing of the medicare and medicaid programs.

Mr. President, in the final week of the 95th Congress the Senate passed one of the most anti-inflationary measures to come before us. The hospital cost containment bill would save approximately $23 billion over the next 5 years. Expenditures for hospital care are the latest component—40 percent—of total health care expenditures. Last year, the costs of hospital services rose at a rate almost double the rate of general inflation. The Senate measure would significantly reduce the rate of increase in hospital costs in an equitable manner. Its goals are those the hospital industry has set as

reachable without a reduction in the quality of services.

This year the Congress will reauthorize programs of the National Center for Health Services Research and the National Center for Health Statistics. At present we are spending less than five hundredths of 1 percent of every health care dollar on research aimed at improving the delivery of medical care. The National Center for Health Services Research is the only source of nontargeted Federal research money for the improvement of our health care delivery system. The National Center for Health Statistics provides information about health habits and needs and the costs of our health care system. Research conducted by the center shows where we can save money and where we should spend more.

The legislation reauthorizing these two agencies establishes a National Center for Health Care Technology, designed to provide information to the Secretary of HEW regarding health care technology issues. All too often information is unavailable about the consequences of new technologies at the time they are introduced. Studies have indicated that the use of new and existing technologies accounts for as much as 40 percent of the cost increase of a hospital day. Coordinated evaluation of new ways of diagnosing and treating patients is needed to determine the effetiveness and safety and to guard against overuse.

Mr. President, we cannot bring adequate health care within the reach of all citizens until all major health care costs are contained. Actions taken by the Senate have consistently supported this.

Since passage of the National Health Planning Act of 1974, significant progress has been made in establishing health planning agencies. These agencies identify areas of health care where services or access to services are inadequate. In July the Senate voted to extend and amend this act, and we hope to send this measure to the President before adjournment.

It is estimated that we have 100,000 excess hospital beds in this country. Such excesses contribute to total health care costs because higher prices must be charged to cover the fixed cost of keeping facilities operational. The Health Planning Act amendments would provide a larger role for State governments in health planning and would strengthen the linkages among local, State, and Federal planning agencies. It would encourage agencies to reduce unnecessary and duplicative medical equipment and services. By building constructively upon the existing health planning network, S. 2410 would be a positive step toward controlling health care costs.

Time and again, health maintenance organizations (HMO's) have demonstrated their ability to reduce the costs of health care delivery. In general, medical costs are 10 to 40 percent less for members of HMO's than for patients in the traditional fee-for-service organizations. These cost savings have resulted in large part from reduction in hospital utilization with a strong emphasis on ambulatory care. HMO's offer ideal settings for innovations in health care, such as the use of allied health personnel, physician extenders, and nurse practitioners.

Health maintenance organizations hold the promise of containing health care costs through competition rather than through regulation. By offering quality care at reduced prices, greater competition has been injected into the traditional health care structure. Studies by the Federal Trade Commission have shown that private health insurers in communities with HMO's have expanded benefits or reduced premiums in many cases. In recent years, both business and organized labor have paid increasing attention to these organizations.

The Health Maintenance Organization Act amendments of 1978 will promote more cost-effective management of HMO's through an administrative training program and through strong reporting and disclosure requirements designed to detect fraud and abuse. New loans and loan guarantees will further construction of ambulatory facilities. By clarifying and strengthening existing laws, this legislation will further the development of health maintenance organizations, thereby helping to control national health costs.

In June the Senate passed S. 2416, the Nurse Training Act amendments of 1978. Mr. President, support for nursing education is vital at this time. In the last few years we have seen an expanded role for nurses as practitioners, midwives, anesthetists, and in many other areas. No longer regarded merely as doctor's assistants, nurses are an integral and major part of the health care team. Nurses are largely responsible for much primary care and have, in many instances, the most direct patient contact. Yet, there are few nurses trained for supervisory or teaching responsibilities. In addition, hospitals in inner cities and rural areas are experiencing acute nursing shortages. This legislation goes a long way toward meeting these needs and should reach the President before adjournment.

The Health Services and Primary Health Care Act of 1978 passed the Senate just last month. This measure emphasizes a "preventive care" strategy, reauthorizing preventive care programs of immunizations, water fluoridation, and hypertension screening. Since 1973, when the national blood pressure education program was instituted, the number of people with hypertension receiving adequate care has doubled.

The bill, S. 2474, establishes new preventive health care programs at both the State and local level. It would fund primary and comprehensive health care centers. Studies have shown that many people tend to rely on hospital emergency and clinic services, with more than 49 million Americans still without adequate primary health services. If more timely outpatient care is available, use of more costly hospital services can be forestalled. Caring for medical problems before they become serious will more than repay Federal investment in these programs, and we expect this measure to reach the President before adjournment.

Mr. President, a discussion of the role of Congress in health care would be incomplete without mention of Labor-HEW appropriations. These appropriations provide funds for many ongoing health care programs. They appropriate funds for numerous research projects carried out by the National Institutes of Health—which is actually composed of 11 Institutes devoted to particular areas of study such as cancer, heart, lung and blood diseases, and neurological disorders. Statistics show that we have made significant progress in our fight against these devastating diseases. This progress would not have been possible without the support of the Congress for these Institutes.

We still have a long road ahead. Cardiovascular diseases account for over 50 percent of all deaths in the United States. Over 100 forms of cancer make it the second leading cause of death. Programs funded in Labor-HEW appropriations measures account for approximately half of the Nation's biomedical research into cancer and other diseases.

Funds are provided for other health institutes such as the Center for Disease Control, which investigates and identifies diseases and their causes. These appropriations support national programs to combat alcohol and drug abuse, and mental illness. These problems—as much social as health problems—affect millions of people directly or indirectly.

Mr. President, the Senate has acted responsibly to contain health care costs and to insure quality health care delivery. It has enacted legislation aimed at promoting access to preventive medicine and early diagnosis. The human and economic cost of illness requires that more must be done to improve our health care system. Having recognized this need, the Senate's record of accomplishment is sound.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NUCLEAR REGULATORY COMMISSION AUTHORIZATIONS, 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2584 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2584) to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

● Mr. HART. Mr. President, I am pleased to submit today for Senate consideration the conference report on S. 2584, authorizing appropriations for the Nuclear Regulatory Commission for fiscal year 1979.

Through the careful and cooperative deliberations between the Committee on Environment and Public Works and our colleagues on the House Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce, I believe that we have arrived at a compromise which is worthy of full Senate support.

S. 2584, as amended, authorizes $333,007,000 for the activities of the NRC in fiscal year 1979. Of this total, a number of line-item authorizations are specified for certain NRC activities. This line-item approach was adopted last year, and the committees believe it is a useful tool for insuring adequate action by the agency in those areas which Congress has identified as requiring special focus and effort.

Mr. President, I am pleased to say that this bill retains most of the initiatives specified in the Senate version; such areas as nuclear waste management, research on the health effects of low-level radiation, and equal employment opportunity activities within the Commission will receive increased effort in the coming year. I might add at this point that the House-Senate conferees wished to make certain that the Commission's equal employment opportunity program would benefit from the additional funds and personnel authorized in this conference report. While in other areas, the legislation allows NRC some reprograming authority, the EEO funds are not subject to reprograming. The agency is required to spend the full $225,000. The Subcommittee on Nuclear Regulation will be looking for considerable improvement in this area, when it reviews the NRC program and budget next year.

Mr. President, I urge the passage of the Nuclear Regulatory Commission authorization for fiscal year 1979.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NURSE TRAINING AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2416 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2416) to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HEALTH SERVICES RESEARCH, HEALTH STATISTICS, AND HEALTH CARE TECHNOLOGY ACT OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 2466 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2466) to amend the Public Health Services Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the following calendar orders on the calendar, Calendar Nos. 1235, 1244, and 1245.

Mr. President, if the distinguished minority leader has no objection, they have been cleared.

Mr. BAKER. Mr. President, those items are cleared on our calendar. We have no objection to the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY FLEXIBILITY ACT

The Senate proceeded to consider the bill (S. 1974) to amend section 553 of title 5, United States Code, to improve Federal rulemaking practice by creating procedures for regulatory issuance in two or more parts, which had been reported from the Committee on the Judiciary with an amendment to strike all after enacting clause and insert the following:

That this Act may be cited as the "Regulatory Flexibility Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds that—

(1) in numerous instances compliance with Federal regulatory and reporting requirements imposes inequitable demands and burdens on individuals of limited means, small businesses, small organizations, and small governmental jurisdictions;

(2) regulatory efforts to protect the health, safety, and economic welfare of the Nation have in many instances imposed unnecessary and burdensome legal, accounting, and consulting costs upon individuals of limited means, small businesses, small organizations, and small governmental juridictions and are adversely affecting competition in the market place;

(3) the scope and volume of rules or regulations have created high entry barriers in many industries and have discouraged potential entrepreneurs from introducing beneficial products and processes;

(4) the practice of treating all regulated individuals, businesses, organizations, and governmental jurisdictions as equivalent has led to inefficient use of regulatory agency resources, enormous enforcement problems, and, in some cases, actions inconsistent with the legislative intent of health, safety, environmental, and economic welfare legislation;

(5) in many instances reasonable alternative rules or regulations could be adopted to minimize adverse economic effects on individuals, businesses, organizations, and governmental jurisdictions subject to regulation without significant loss of regulatory efficiency;

(6) Government information collection has not adequately weighed the privacy rights of individuals and enterprises against the need of the Government for information because the design of the regulatory process has encouraged regulators to treat information as a free good; and

(7) deep public dissatisfaction with the regulatory process has stemmed in large part from a public perception that burdensome or regulations fail to correct key national problems.

(b) It is the purpose of this Act to establish as a principle of regulatory issuance that regulatory and informational requirements fit the scale of the individuals, businesses, organizations, and governmental jurisdictions being regulated and that fewer and simpler requirements be made of individuals of limited means, small organizations, small businesses, and small governmental jurisdictions. To achieve such principle, agencies are empowered and encouraged to issue rules or regulations which apply differently to different segments of the regulated population and are required to solicit and consider alternative regulatory proposals from the public prior to the adoption of final rules.

AGENCY RULEMAKING REQUIREMENTS

SEC. 3. (a) Section 553(b) of title 5, United States Code, is amended—

(1) by striking out the word "and" at the end of paragraph (2);

(2) by striking out the period at the end

of paragraph (3) and inserting a semicolon; and

(3) by adding immediately after paragraph (3) the following:

"(4) the goals and purpose of the proposed rule;

"(5) the estimated number of individuals, businesses, organizations, and governmental jurisdictions to which the proposed rule would apply;

"(6) a statement that the agency seeks and shall consider alternative proposals to the proposed rule which would accomplish the goals and purposes of the proposed rule while substantially reducing the economic impact of the rule on individuals of limited means, small businesses, small organizations, and small governmental jurisdictions affected by the rule through—

"(A) the establishment of differing compliance or reporting requirements based upon the amount of resources available to individuals of limited means, small businesses, small organizations, and small governmental jurisdictions;

"(B) an exemption from coverage of the proposed rule, or any part thereof, for such individuals, businesses, organizations, and governmental jurisdictions whose activities are of a nature which makes the inclusion of such individuals, businesses, organizations, and governmental jurisdictions of minimal value to the realization of the goals and purposes of the proposed rule;

"(C) the clarification, consolidation, or simplification of requirements of the proposed rule; or

"(D) other suitable means, including performance standards and differing timetables for compliance for such individuals, businesses, organizations, and governmental jurisdictions; and

"(7) with regard to any reporting or recordkeeping requirement which the agency anticipates requiring of 10 or more members of the public pursuant to the proposed rule—

"(A) a statement of the purpose of the requirement, its form, its length, and the type of professional skills necessary for its completion;

"(B) an estimate of the number of persons who would be required to submit or maintain reports or records;

"(C) a statement of each proposed use of the information required to be recorded;

"(D) a statement of the method to be used to store such information, the length of time such information would be maintained, and the identity of the persons who would have access to such information; and

"(E) an estimate of the amount of time necessary to comply with the requirement."

(b) Section 553(c) of such title is amended to read as follows:

"(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in rulemaking through submission of alternative proposals, written data, views, or arguments with or without opportunity for oral presentation. After consideration of all relevant matter presented, the agency shall incorporate in the rule adopted a concise general statement of its basis and purpose. In addition, the agency shall publish a description of any alternative proposals to the proposed rule which were considered and a statement of the reasons for adopting the final rule rather than any alternative proposals which would have had a lesser adverse economic impact on individuals of limited means, small businesses, small organization, or small governmental jurisdictions. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.".

(c) Section 553 of such title is amended by adding at the end thereof the following new subsection:

"(f) For the purposes of this section, the term—

"(1) 'individual of limited means' means any individual whose net assets are less than $300,000 and does not include any individual who is affected by a rule in his capacity as an officer or employee of a business, organization, or governmental jurisdiction which is not a small business, small organization, or small governmental jurisdiction;

"(2) 'small business' has the same meaning as the term 'small business concern' in section 3 of the Small Business Act (15 U.S.C. 632), and includes such additional businesses as the agency shall establish by rule;

"(3) 'small organization' includes unincorporated businesses, sheltered workshops, not-for-profit enterprises which are not dominant in their fields, and such other groups or enterprises as the agency shall establish by rule;

"(4) 'small governmental jurisdiction' includes—

"(A) governments of cities, counties, towns, villages, school districts, water districts, or special assessment districts, with a population of less than 100,000; and

"(B) other governmental jurisdictions which the agency shall establish by rule to be of limited means or resources based on factors such as location in rural or sparsely populated areas or limited revenues due to the population of such jurisdiction.".

DEFINITIONS

SEC. 4. Section 551 (4) of title 5, United States Code, is amended by inserting "recordkeeping or reporting requirements estimated to apply to 10,000 or more persons in any calendar year, and" immediately after "includes".

REVIEW OF REGULATIONS

SEC. 5. (a) Within 180 days after enactment of this Act, each agency shall publish a plan for the review of the rules or regulations of that agency. The purpose of such review shall be to determine whether the rules or regulations of the agency are achieving, in an efficient and equitable manner, the goals of the legislation under which such rules or regulations were promulgated. Each plan for the review of agency rules or regulations shall include a statement of the criteria the agency will employ to select which rules or regulations shall be reviewed in accordance with the provisions of this section. Each agency shall periodically review its rules and regulations in accordance with the schedule and criteria set forth in its published plan.

(b) In selecting and evaluating rules or regulations, the agency shall consider factors such as—

(1) the continuing need for the rule or regulation;

(2) the type and number of complaints or suggestions received concerning the rule or regulation;

(3) the burdens imposed on persons directly or indirectly affected by the rule or regulation, especially the burdens placed on individuals of limited means, small businesses, small organizations, and small governmental jurisdictions;

(4) the need to simplify or clarify language of the rule or regulation;

(5) the need to eliminate overlapping and duplicative rules or regulations; and

(6) the need to resolve conflicts between the rules or regulations of the agency and the rules, regulations, or laws administered by other agencies; and

(7) the length of time since the rule or regulation has been evaluated or the degree to which technology, economic conditions or other factors have changed in the area affected by the rule or regulation.

(c) Each year, each agency shall publish in the Federal Register a list of rules or regulations which it expects to issue during the following twelve months and a list of rules or regulations to be reviewed during the following twelve months. Such publication shall be accompanied by a brief description of the rule or regulation, the need for such rule or regulation, and the legal basis for such rule or regulation.

SEC. 6. This Act shall become effective October 1, 1979.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes.

● Mr. WALLOP. Mr. President, the overregulation syndrome affects countless numbers of individuals and businesses throughout the country on a daily basis. It has become an economic and administrative nightmare for many individuals, small businesses and other entities who often are unaware of the very regulations with which they must comply.

Congress has labored to find a way out of the thicket of regulations. While S. 1974, the Regulatory Flexibility Act, does not promise to be a panacea for excessive regulation, it does offer a partial solution to a multifaceted problem. I applaud S. 1974 for its recognition of the need to reduce Federal regulation, Federal paperwork, and to scale regulations to the size of those they regulate.

If this legislation is enacted, it will require agencies that issue regulations to seek and consider alternative proposals which would accomplish the goals of the proposed regulations while reducing the burden of compliance on small businesses, small organizations, small governmental entities and individuals of limited means. Significantly, it will require advance planning and evaluation by the agencies of the impact their regulations are likely to have.

For example, before proposing a regulation, an agency will have to carefully define the goals and purposes of the regulation. Guesswork as to the number of businesses or individuals who will be subject to the reglations will not be tolerated. Rather, when an agency publishes its general notice of proposed rulemaking in the Federal Register, it will be required to list the estimated number of individuals, businesses, organizations and governmental jurisdictions who will be subject to the proposed rules. This notice will also have to inform members of the public of the reporting and recordkeeping requirements under a proposed rule and the time and skills needed to comply with the requirements. After notice of proposed rulemaking is given, the legislation will also require the agency to give interested persons an opportunity to participate in rulemaking either in person or by inviting written submissions.

As I see it, S. 1974 should be supported because it requires regulatory agencies not only to consider the impact their actions have on society prior to the adoption of final rules, but, in addition, to minimize that impact on the segments of the population which are most heavily burdened by those regulations wherever feasible.

Mr. President, shortly after this legislation was introduced last year, I submitted it to a cross-section of my constituents who are all affected in some way by Federal regulations. This is an appropriate moment to share with my colleagues two of the valuable and instructive comments I received on S. 1974 which are representative of the responses from people in all walks of regulated life. Mr. Coy Baker of Powell, Wyo., wrote:

It seems to me that the basic answer to the whole problem is that paperwork should not be required of small businesses, *not even to prove that other forms are not required.* It boils down to government being the servant or the master. The bureaucracy at this time gallops on. It must be stopped. (emphasis added)

Mr. Dean M. Bartles, executive vice president of the First National Bank in Worland, Wyo., wrote:

I feel that S. 1974, the Regulatory Flexibility Act, has considerable merit. In the rural communities, we often find that the required regulatory requirements that pertain to large businesses and small businesses alike often discourage the starting of new businesses that may be of benefit to our community.

It is seldom that small business begins with high income and returns, but rather have to grow towards that goal. During this growth period, the high overhead cost of regulatory and reporting requirements turns this growth period into a survival period. It is much more desirable to have businesses categorized as to size and duration regarding regulations and compliance.

I have learned quite a bit about the pervasiveness and burden of Federal regulation from my constituents in Wyoming. I would guess that every Member in this body has been contacted about the need for regulatory reform. It does not take keen senses to detect the rumblings of discontent throughout the country with the regulatory requirements of the bureaucracy. We can do something about this now by enacting S. 1974. As a cosponsor of the Regulatory Reform Act, I urge my colleagues to support this legislation and to continue in our individual and collective efforts to reform the bureaucracy to make it more responsive and less burdensome to the public.●

● Mr. NELSON. Mr. President, the regulatory Flexibility Act, S. 1974, as amended, is designed to reduce the economic burden caused by reporting and compliance demands that Federal regulations impose on individuals, small organizations, and small businesses.

This legislation has evolved from a long-standing need to improve public participation in Federal rulemaking and to encourage just and efficient regulatory strategies.

Senator CULVER and I first introduced this bill last year. As a result of a year of staff investigation aided by hearings in the Senate and House and President Carter's Executive order on regulatory reform earlier this year, we introduced this past summer the Regulatory Flexibility and Reform Act, S. 3330. This new bill incorporated several improvements suggested by Federal agencies and public witnesses. It brought smaller communities and rural areas within the compass of the legislation. It offered a wider range of regulatory strategies to achieve the goal of reducing the burden on those least able to pay for it. And it imposed some much needed new paperwork requirements. These new provisions were largely adopted by the Judiciary Committee and are contained in the bill now before the Senate.

This bill would provide for the most important innovations in Federal rulemaking since the passage of the original Administrative Procedures Act a generation ago.

At the time the original act was passed Federal regulation affected primarily a few large industries. The Federal paperwork burden consisted of little more than a simple income tax form that had to be filled out once a year. Today the Government issues more than 42,000 pages of rules a year, and according to the Federal Paperwork Commission, the cost to the entire society of paperwork now exceeds $100 billion a year. As the pervasiveness of Federal regulations has increased, both specific and general impacts on smaller institutions have been felt.

In a number of specific cases, poorly designed regulations have made it difficult for smaller institutions to survive. Let us take a look at some of those instances.

The owner of a machine shop in Iowa, who was unable to complete the Census Bureau's massive MA–200 report of pollution abatement expenditures without changing his entire accounting system, filled out the report as best he could and offered to let the Bureau examine his books. The Bureau threatened punitive action if its specification were not met in full. So the machine-shop owner made the costly switchover of accounting methods, just to please the Census Bureau.

The president of a rural Indiana feed and farm supply company testified before the Federal Paperwork Commission that his firm now spends 80 bookkeeping days per year, 120 auditing hours, and 80 legal hours complying with regulations from the Departments of Agriculture, Commerce, Labor, and Transportation, as well as the FCC, the IRS, the EEOC, OSHA, the FDA, the Social Security Administration, and the Census Bureau.

He also testified that, during the height of one harvest season, the Transportation Department demanded an exhaustive record of every shipping transaction his firm had made in a previous year—and then sent out an investigator when he did not comply at once. He later learned it was a "random survey."

According to Senate Banking Committee reports, the Federal Truth-In-Lending Act was subject to 50 official Federal Reserve Board interpretations, 80 interpretations by the staff of the Board and 1,200 separate Federal Reserve Board newsletters—yet the law was in effect less than a decade. A poll by the Consumer Banking Association found that the average cost of collecting old forms and printing new ones each time there was a change in interpretation, was $12,000 per form. At a hearing last year, a Chicago businessman displayed a contract embodying all then-current interpretations of the law: the contract was 31-inches thick.

Not surprisingly, the Federal Paperwork Commission found that forms embodying every new interpretation of the law were "too long and complicated to be of any help" to the very consumers the law was designed to benefit. Moreover, the constant shifts in regulations have triggered enormous litigation—some 4,500 civil and 3,500 criminal suits per year, according to the U.S. League of Savings Associations. The ultimate impact of the law, according to many retail merchants, has been the growth of the national credit cards as more and more retailers stopped offering in-house credit. Thus, burdensome Federal reporting demands have contributed to increased economic concentration in the retail credit field.

At hearings I conducted on problems in the home building industry, a home manufacturer complained of needing 14 separate approvals before a new home could be marketed. Those same hearings also turned up regulatory delays which in some parts of the country averaged 3½ years between the initiation of a home-building projects and its groundbreaking.

This bill is designed to greatly simplify the requirements that Government makes upon individuals of limited means, small governments, and small businesses. It is designed to eliminate or greatly reduce burdensome situations like those in the examples I have just cited. Perhaps as much as half of all reporting requirements are unnecessary or redundant. But there is no way to pare them down unless we impose stringent new restrictions on paperwork—the kind this bill sets up—and force the agencies to continually reevaluate the burdens they have already imposed on the public.

Congress cannot look over the shoulder of every agency and every regulation-drafter 24 hours a day. But we can and should provide new guidance to the agencies in achieving their legislatively mandated goals in ways that create the least public burdens.

The legislation we are considering today will not usher in complete regulatory equity overnight. But it will go a long way toward assuring that the regulatory and paperwork burdens of the Government are reduced overall, and that the costs of paperwork and regulations do not fall most heavily on those least able to afford it.●

● Mr. CULVER. Mr. President, S. 1974, the Regulatory Flexibility Act, is a major step forward in creating a fairer, more efficient regulatory framework.

In recent decades this Nation has made great strides in improving our quality of life for this generation and generations to come. Legislation to assure a clean environment and to provide a safe and healthy workplace has been necessary to move us toward these goals.

Few today would argue that we should shrink from these tasks, even though they are at times difficult and costly. Yet few also would argue that we have always pursued the aims of legislation in the most equitable, most effective manner.

The Regulatory Flexibility Act, which

Senator GAYLORD NELSON and I first introduced in August 1977, is designed to encourage agencies to tailor regulations to the size and resources of those subject to the regulations. It amends the Administrative Procedure Act to require agencies to seek and consider, during the public comment period on proposed rules, alternative ways of implementing laws that would be less burdensome on small businesses, small organizations, small governmental jurisdictions and individuals of limited means. It authorizes agencies to set different requirements for large and small concerns or to grant exemptions, whole or partial, from regulations where the inclusion of small concerns would make only a minimal contribution toward the goals of the regulation. Finally, the bill requires all agencies to establish procedures for reviewing regulations that may need updating or that may no longer be necessary.

The rulemaking process must be sensitive to the needs and characteristics of those who will be affected by regulations.

In 1946 the Congress passed the Administrative Procedure Act. The purpose of this act was to establish consistent procedures for agencies to follow in writing rules. Among its most important provisions was the requirement that the public be given the opportunity to comment on proposed rules and regulations before they were made final.

In the three decades since the Administrative Procedure Act regularized the process of Federal rulemaking and gave to the public both guarantees of access to Federal agencies and procedural safeguards against harmful agency actions, the scope of regulatory activity has greatly expanded. The number of agencies and the number of Federal employees engaged in regulatory activities has increased substantially during this period and he areas under regulatory jurisdiction have proliferated dramatically.

Between 1970 and 1974, the number of pages of regulations printed in the Federal Register more than doubled, from 20,036 pages to over 42,422 pages a year. In 1977, 7,031 final rules were printed in the Federal Register; in the first 5 months of 1978, another 2,939 final rules were printed. Today Federal regulations touch almost every person and organization in the United States.

Agency rulemaking often affects small businesses and other small concerns disproportionately because of their limited size. Regulations which are reasonable when applied to large organizations can become oppressive to smaller ones. The general practice followed by many regulatory agencies of issuing uniform regulations for businesses or cities of all sizes magnifies severalfold the problems of small concerns. This often occurs even though reasonable alternatives are available which would avoid undue hardships on small organizations without substantially reducing the effectiveness of regulations.

In a number of the most dramatic cases of unnecessary regulation of small organizations, Congres has responded by establishing by statute different requirements or exemptions for small concerns. The hearings I held on the Regulatory Flexibility Act during the past 2 years, clearly demonstrated that this course is far from adequate. An even greater threat to the continued existence of small businesses and small communities than the "big cases" of overburdening regulations is the pervasive proliferation of seemingly benign requirements being imposed by agency after agency, one on top of the other.

The hearings made it evident that there is a general insensitivity among Federal agencies to the potential consequences of agency actions on these smaller concerns. I believe the procedural requirements established by the Regulatory Flexibility Act will contribute greatly to bringing about a greater awareness in Government to the real needs and capabilities of these important elements of American society.

Mr. President, the problems this bill addresses are familiar to every Member of the Congress. The solution contained in the bill is a sound, well-considered proposal. It has been endorsed by representatives of business, private organizations, colleges and universities, and local governments. It has been cosponsored by 36 Members of the Senate. It was approved unanimously by the Administrative Practice and Procedure Subcommittee and the Senate Committee on the Judiciary. The approval of this bill by the Senate today will be an important signal to millions of small businessmen and women, officials and residents of smaller towns and cities, and to the individual in society in general that this Government is responsive to their needs. The ultimate test is whether the people and the Government can work together to solve the Nation's problems. The Regulatory Flexibility Act will provide a sounder forum within which this necessary cooperation can be achieved. I urge my colleagues to approve S. 1974.●

JAN KUTINA

The bill (S. 3395) for the relief of Jan Kutina, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the periods of time Jan Kutina has resided in the United States and any State or the District of Columbia since his lawful admission for permanent residence on September 17, 1976, shall be held and considered to meet the residence and physical presence requirements of section 316 of the Immigration and Nationality Act.

JOHN L. SHANE AND BEATRICE ROSENUS OAKLAND

The resolution (S. Res. 388) to refer the bill (S. 2477) entitled "A bill for the relief of John L. Shane and Beatrice Rosenus Oakland, to the Chief Commissioners of the U.S. Court of Claims, was considered and agreed to, as follows:

Resolved, That the bill (S. 2477) entitled "A bill for the relief of John L. Shane and Beatrice Rosenus Oakland.", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims, and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, notwithstanding the bar of any statute of limitation, laches, or bar of sovereign immunity, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusion thereon as shall be sufficient to inform the Congress of the nature and character of the demand of the claim, legal or equitable, against the United States, or a gratuity in the amount, if any, legally or equitably due from the United States to the claimants.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote by which the bills and the amendments were adopted be reconsidered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I move to lay that motion on the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motions to lay on the table were agreed en bloc.

ORDER TO INDEFINITELY POSTPONE CALENDAR ORDER NO. 1203

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that calendar order no. 1203 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message frof the House of Representatives on S. 3081.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3081) entitled "An act to amend the Federal Railroad Safety Act of 1970 to provide the Secretary of Transportation a longer period within which to assess civil penalties for certain violations, to extend authorizations of appropriations for fiscal year 1979 and 1980 for the rail safety program, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. This Act may be cited as the "Federal Railroad Safety Authorization Act of 1978".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended to read as follows:

"SEC. 212. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $37,725,000 for the fiscal year ending September 30, 1979, and not to exceed $37,725,000 for the fiscal year ending September 30, 1980.

"(b) The amounts appropriated under subsection (a) of this section for a fiscal year shall be available for expenditure in such fiscal year as follows:

"(1) For the Office of Safety, including salaries and expenses for not more than (A) 600 safety inspectors, (B) 45 signal and train control inspectors, and (C) 125 clerical personnel, not to exceed $20,725,000. Such funds shall be available for travel expenses of safety inspectors for not less than 20 days per month.

"(2) To carry out the provisions of section

206(d) of this Act, relating to State safety programs, not to exceed $3,500,000.

"(3) For the Federal Railroad Administration, for salaries and expenses not otherwise provided for, not to exceed $3,500,000.

"(4) For conducting safety research and development activities under this Act, not to exceed $10,000,000. Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

LIMITATIONS ON FUNDING

SEC. 3. Not less than 50 percent of the funds appropriated to the Secretary of Transportation for any fiscal year to conduct railroad research and development programs under the Federal Railroad Safety Act of 1970 or any other Act shall be available for safety research, improved track inspection and data acquisition technology, improved rail freight service, and improved rail passenger systems.

HOURS OF SERVICE OF SIGNAL SYSTEM EMPLOYEES

SEC. 4. (a) Section 3A(a) of the Hours of Service Act (45 U.S.C. 63a(a)) is amended by adding at the end thereof, without paragraph idention, the following:

"Whenever the time on duty of an individual is broken or interrupted by any period of time off duty of less than eight consecutive hours, such individual may be on duty for not more than twelve hours during a twenty-four hour period, if such individual has had at least eight consecutive hours off duty immediately before reporting for duty, or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty immediately before so reporting. After an individual has been on duty for a total of twelve hours during a period of twenty-four hours as permitted by the foregoing sentence, or at the end of such twenty-four-hour period, whichever occurs first, such individual shall not be required or permitted to continue on duty or to go on duty until he has had at least eight consecutive hours off duty. For purposes of this subsection, a twenty-four-hour period shall begin when an individual reports for duty immediately after he has had at least eight consecutive hours off duty or, where required by paragraph (1) of this subsection, at least ten consecutive hours off duty.".

(b) Section 3A(c) of the Hours of Service Act (45 U.S.C. 63a(c)) is amended to read as follows:

"(c) For purposes of this section, time on duty shall commence when an individual reports for duty and terminate when an individual is finally released from duty, except that—

"(1) time spent in travel on return from a trouble call, whether directly to the individual's residence or by way of the individual's headquarters, shall be considered neither time on duty nor time off duty, except that up to sixty minutes of such time on return from the final trouble call of a period of continuous or broken service shall be considered time off duty;

"(2) if, at the expiration of scheduled duty hours, an individual has not completed the trip from the final outlying worksite of the duty period to the individual's headquarters or from the final outlying worksite directly to the individual's residence, then the time spent in travel outside the scheduled duty hours which is required to complete the trip to such headquarters or directly to such residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(3) if an individual is released from duty at an outlying worksite prior to the end of such individual's scheduled duty hours in order to comply with this section, the period of time required for the trip from the outlying worksite direct to the individual's residence, as the case may be, shall be considered neither time on duty nor time off duty;

"(4) all time spent in transportation on an ontrack vehicle, including time referred to in paragraphs (1), (2), and (3) of this subsection, shall be considered time on duty; and

"(5)(A) regularly scheduled meal periods and other release periods of thirty minutes or more up to sixty minutes shall be considered time off duty but shall not break an individual's continuity of service for purposes of this section, and (B) release periods of more than one hour shall be considered time off duty and shall break an individual's continuity of service for purposes of this section.".

(c) The amendments made by this section shall be effective as of July 8, 1976, except that no action or conduct which occurred during the period beginning on such date and ending on the date of enactment of this Act and which was lawful under the Hours of Service Act as in effect on July 8, 1976, shall be deemed to be unlawful under such Act as amended by this Act.

HOURS OF SERVICE ACT; INTERSTATE COMMERCE REQUIREMENT

SEC. 5. Subsection (a) of the first section of the Hours of Service Act (45 U.S.C. 61(a)) is amended to read as follows: "(a) this Act shall apply to any common carrier engaged in interstate or foreign commerce by railroad.".

DESIGNATED TERMINAL

SEC. 6. Subsection (b) of the first section of the Hours of Service Act (45 U.S.C. 61(b)) is amended by adding at the end thereof the following new paragraph:

"(4) The term 'designated terminal' means the home terminal and the away from home terminal for the assignment of a particular crew. Time on duty shall not include interim rest periods of four or more hours between designated terminals where the employee is prevented from reaching his or her designated terminal by act of God, track obstruction, casualty, derailment or major disabling equipment failure, which derailment or disabling equipment failure was the result of a cause not known to the carrier or its officer or agent in charge of the employee at the time such employee left the designated terminal, and which could not have been foreseen, and only then at a place where suitable facilities for food and lodging are available.".

ASSESSMENT OF PENALTIES

SEC. 7. (a) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation, to be".

(b) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation to be".

(c) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34) is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every such violation to be".

(d) Section 25(h) of part I of the Interstate Commerce Act (49 U.S.C. 26(h)), is amended by inserting "assessed by the Secretary of Transportation and" immediately after "shall be liable to a penalty of not less than $250 and not more than $2,500 for each and every day such violation, refusal, or neglect continues, to be".

NOTICE OF VIOLATIONS

SEC. 8. The first sentence of section 207 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436) is amended to read as follows: "In any case in which the Secretary has failed to assess the civil penalty applicable under section 209 of this title, or no civil action has been commenced to obtain injunctive relief under section 210 of this title, with respect to a violation of any railroad safety rule, regulation, order, or standard issued under this title, within 90 days after the date on which notification was received by the Secretary from a State agency participating in investigative and surveillance activities under the provisions of section 206 of this title, that State agency may apply to the district court of the United States within the jurisdiction of which the violation occurred for the enforcement of such rule, regulation, order, or standard.".

ROLE OF DEPARTMENT OF TRANSPORTATION IN RAILROAD ACCIDENT INVESTIGATIONS; LIABILITY OF DEPARTMENT OF TRANSPORTATION'S AGENTS

SEC. 9. Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437) is amended—

(1) by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively, and

(2) by amending subsection (b), as so redesignated, to read as follows:

"(b) To carry out the Secretary's responsibilities under this title, officers, employees, or agents of the Secretary are authorized to enter upon, inspect, and examine rail facilities, equipment, rolling stock, operations, and pertinent records at reasonable times and in a reasonable manner. Such officers, employees, or agents shall display proper credentials when requested, and during the course of such inspection or examination shall be considered employees of the Federal Government for purposes of chapter 171 of title 28 of the United States Code.".

RAIL TRANSPORTATION SAFETY AND EFFICIENCY STUDY

SEC. 10. (a) The Secretary of Transportation shall conduct a study and evaluation concerning the safety and efficiency of rail transportation. Such study and evaluation shall include—

(1) a determination of the relationship of the size, weight, and length of railroad cars (other than those contained in unit trains) to the safety and efficiency of rail transportation; and

(2) a determination of the effect of the exclusive ownership and control of rights-of-way by individual railroads on the safety and efficiency of rail transportation, considering, among other things, whether or not such rights-of-way might be better employed under new structures of ownership or other conditions for joint usage.

(b) Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(1) of this section.

(c) Within two years after the date of enactment of this Act, the Secretary of Transportation shall complete the portion of the study described in subsection (a)(2) of this section and submit a report to the Congress setting forth the results of such study, together with recommendations for such legislative or other action as the Secretary deems appropriate.

Amend the title so as to read: "An Act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, the motion is agreed to.

Mr. ROBERT C. BYRD. I move to

reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOCAL RAIL SERVICE ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2981.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2981) entitled "An Act to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

TITLE I—LOCAL RAIL SERVICE ASSISTANCE

SHORT TITLE

SEC. 101. This title may be cited as the "Local Rail Service Assistance Act of 1978".

EXPANSION OF ASSISTANCE

SEC. 102. Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended—

(1) in paragraph (2), by striking out "purchasing a line of railroad or other rail properties" and inserting in lieu thereof "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein,";

(2) in paragraph (3), by striking out "and" immediately after the semicolon;

(3) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail fre'ght service.".

COST SHARING

SEC. 103. Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage rights secured by the State for a common carrier by railroad; or (4) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 104. Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period beginning October 1, 1978, and ending September 30, 1979, each State which is eligible to receive rail service assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated.

"(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance wtih this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a(5)(a)), is either 'potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an applicaion for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

"(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section).

Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

"(3)(A) For purposes of subparagraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

"(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979.

"(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.".

PLANNING ASSISTANCE

SEC. 105. Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

STATE ELIGIBILITY

SEC. 106. (a) Paragraph (2) of section 5(j) of the Department of Transportation Act (49 U.S.C. 1654(j)(1)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding immediately before the semicolon at the end thereof the following: ", and (B) such State plan includes, as soon as practicable after the date of enactment of the Local Rail Service Assistance Act of 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after such date of enactment and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section".

(b) During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section, the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project.

PROJECT ELIGIBILITY

SEC. 107. Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976,

that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (i) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(C) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)), except that a line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

"(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior year;

"(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

"(C) an application for a certificate of abandonment of discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

"(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(E) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)).

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

"(4) A project is eligible for financial assistance under pragraph (4) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abondonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

"(B) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), except that a line of railroad or related project which was eligible for assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(5) On or before August 1 of each year, each common carrier by railroad subject to part I of the Interstate Commerce Act shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.".

REHABILITATION ASSISTANCE

SEC. 108. Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (o) as subsection (p), and by inserting immediately after subsection (n) the following new subsection:

"(o) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

"(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

"(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended—

(1) in subsection (g), subsection (m)(1), and the first sentence of subsection (p) (as redesignated by section 108 of this title), by striking out "(o)" each place it appears and inserting in lieu thereof "(p)"; and

(2) by amending the third sentence of subsection (p) (as so redesignated) to read as follows: "In addition, any appropriated sums ranging after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section.".

(c)(1) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

(2) The table of contents for title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out "Sec. 810. Rail bank.".

EFFECTIVE DATE

SEC. 110. The provisions of this title shall take effect on October 1, 1978.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 201. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by striking out the comma at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(2) by adding immediately after paragraph (4)(B) the following new subparagraph:

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(2)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)),"; and

(3) by adding at the end thereof the following new paragraphs:

"(7)(A) If a State (or local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

"(B) As used in this paragraph, the term 'additional rail passenger service' means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act, or (ii) any other rail properties contiguous

thereto to which a State (or local or regional transportation authority) has obtained access.

"(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 303(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self-insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

TITLE III—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976; RELATED PROVISIONS

INCREASE IN FUNDING LIMITATION ON PURCHASE OF TRUSTEE CERTIFICATES; EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

SEC. 301. (a) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (d)(3), by striking out the last sentence; and

(2) in subsection (e), by striking out "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title,".

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (7 U.S.C. 827(a) and (d)) are amended by striking out "1978" and inserting in lieu thereof "1979".

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "March 31" each place it appears and inserting in lieu thereof "September 30".

SECURITY FOR TRUSTEE CERTIFICATES

SEC. 302. Section 505(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(2)) is amended—

(1) in the last sentence of subparagraph (B), by striking out "No certificate" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, no certificate"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock, common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term 'senior debt' means—

"(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

"(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.".

FRA REVIEW

SEC. 303. The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Railroad and consider assisting such railroad with loans for roadbed and track improvement.

TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT RENEWAL

SEC. 401. (a) Section 15(8)(c) of the Interstate Commerce Act (49 U.S.C. 15(8)(c)) is amended—

(1) in clause (i), by striking out "within 2 years after the date of the enactment of this subdivision" and inserting in lieu thereof "prior to July 1, 1980";

(2) in clause (ii), by inserting "and" after the semicolon; and

(3) by striking out clauses (iii) and (iv) and inserting in lieu thereof a new clause (iii) to read as follows:

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.".

(b) The last sentence of section 15(8)(d) of the Interstate Commerce Act (49 U.S.C. 25(8)(d)) is amended by striking out "clauses (iii) or (iv)" and inserting in lieu thereof "clause (iii)".

CAR SERVICE

SEC. 402. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

Amend the title so as to read: "An Act to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.".

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

UP AMENDMENT NO. 2122

Mr. MELCHER. Mr. President, I have an amendment.

The PRESIDING OFFICER. Is the Senator moving to concur with the House amendment, with an amendment?

Mr. MELCHER. I do.

I ask for the immediate consideration of the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Montana (Mr. MELCHER) proposes an unprinted amendment numbered 2122:

At the end of the bill add the following:

AMTRAK ROUTE SYSTEM

At least 60 days prior to October 1, 1979, any train or trains or routes are not required under the Final Route Reexamination Recommendations proposed by the Secretary of Transportation, the Corporation shall formally notify the Governor and legislature of each State in which the train or route is operated, and post in every station, depot, or other facility served thereby, notice of the proposed discontinuance. If any State, region, or local agency, whether or not it loses service under the Secretary's route restructuring proposal due December 21, 1978, request continuation of the service and agrees prior to October 1, 1979, to reimburse the Corporation for a reasonable portion of any operating losses and capital costs associated with the continuation of service beyond October 1, 1979, the Corporation shall continue operations of such train, route, or service for the period covered by a contract between the Corporation and the State, regional, or local agency, under the terms of section 403(b) of the Rail Passenger Services Act.

Mr. ROBERT C. BYRD. May I ask the distinguished Senator, has this amendment been cleared with Mr. CANNON and Mr. DURKIN on my side of the aisle, and with the other side?

Mr. BAKER. If the majority leader will permit me, I do not see it cleared, we do not know a thing about the amendment. We have not cleared it on my calendar.

Mr. MELCHER. Mr. President, this is an amendment that was cleared and passed by the Senate on both sides, as an amendment to the mass transport bill, was dropped when in conference because the House conferees on the bill said they had no jurisdiction. It is a meritorious amendment dealing with Amtrak.

Mr. DURKIN. What does it do?

Mr. MELCHER. It is the amendment worked out very carefully with Mr. CANNON and the staff of the Commerce Committee and the Department of Transportation and permits, in the case of Amtrak, dropping a route, one or more States can apply for a contract with Amtrak paying a share of the operating costs to continue the Amtrak train that is canceled from the regular Amtrak route.

It is optional with the State and Amtrak. The Department of Transportation cleared it when we passed it in the House on September 28.

We are going to be faced with the problem at the end of this year, the beginning of 1979, with the Department of Transportation sending up the final Amtrak route. Congress then will have up to 10 months to reject the plan or modify it and send it back to the Secretary of Transportation.

Mr. ROBERT C. BYRD. Will the distinguished Senator allow me to temporarily withdraw this message?

I understand that Senator FORD has

an interest in it, and I would like to wait, until he reaches the floor.

Is that agreeable?

Mr. MELCHER. Perfectly agreeable.

Mr. ROBERT C. BYRD. Mr. President, I temporarily withdraw the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. RAILWAY ASSOCIATION AUTHORIZATIONS, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 10898.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, and 4 to the bill (H.R. 10898) entitled "An Act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979."

Resolved, That the House agree to the amendment of the Senate numbered 3 to the aforesaid bill with the following amendment:

In lieu of the matter inserted by said amendment, insert:

SEC. 3. (a) Section 211(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 721(d)) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, in the case of a loan made under subsection (a) of this section to a railroad in the region, the Association may, upon the request of such railroad—

"(1) continue to make advances to such railroad pursuant to such loan, up to the total principal provided, as of the date of enactment of this sentence, under the agreement between such railroad and the Association under this section, upon finding only that (A) a good faith effort has been commenced by such railroad toward the establishment of an employee stock ownership plan, and (B) such continued advances will permit the continuation of rail service determined by the Association, in the Final System Plan or under the goals of this Act, to be desirable; and

"(2) increase the principal amount of such loan to such railroad, in an amount not to exceed $2,000,000, only if the Association makes the finding referred to in paragraph (1)(B) of this subsection and such railroad has in effect an employee stock ownership plan which has been approved by the Association.

The Association may not take any action pursuant to the preceding sentence of this subsection after December 31, 1979.".

(b) Section 3(a) of the Emergency Rail Services Act of 1970 (45 U.S.C. 662(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this section, the Secretary, in guaranteeing certificates under this section, is authorized to waive the findings required by paragraphs (1), (5), and (6) of this subsection upon a finding that the guarantee of certificates is necessary in order for a railroad which has received continued loan advances, pursuant to section 211(d)(1) of the Regional Rail Reorganization Act of 1973, to maintain rail services in the region (as such term is defined in section 102(15) of such Act). The Secretary may not make any waiver under the preceding sentence after December 31, 1979."

Resolved, That the House agree to the amendment of the Senate numbered 5 to the aforesaid bill, with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(3) Senate amendment numbered 5 be, and the same is hereby, agreed to with an amendment as follows:

In lieu of the matter inserted by Senate amendment numbered 5, insert the following:

SEC. 5. Section 17(9)(f)(i) of the Interstate Commerce Act (49 U.S.C. 17(9)(f)(i)) is amended to read as follows:

"(i) a majority of the Commissioners, by public vote, agree to such further extension; and".

SEC. 6. (a) The Secretary of Transportation shall conduct an investigation and study for purposes of determining equitable rates to be charged for the rental of Alaska Railroad lands. In carrying out such investigation and study, the Secretary shall consider—

(1) the per centum increase in such rates proposed after 1977 as compared with rates in effect on January 1, 1977;

(2) the services and the quality thereof provided by the rentors of such land and the services and the quality thereof received by such rentors from such railroad;

(3) the burden on commerce which may result from such proposed rate increase; and

(4) such other factors as may be appropriate.

The Secretary shall report the results of such investigation and study to the Congress not later than one year after the date of enactment of this Act.

(b) Prior to 180 days after the date on which the Secretary's report pursuant to subsection (a) is received by the Congress, rental charges on lands rented by the Alaska Railroad shall not be increased by more than 100 per centum of the amount charged for such land on January 1, 1977.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment to the Senate amendments.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, what was the number of that House message?

The PRESIDING OFFICER. H.R. 10898.

Mr. ROBERT C. BYRD. Yes.

RURAL TRANSPORTATION ADVISORY TASK FORCE

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1835.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1835) entitled "An Act requiring the Secretary of Agriculture to conduct a study of the adequacy of the Nation's transportation system to meet the needs of American agriculture and rural development, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That the Congress hereby finds and declares that—

(1) an adequate transportation system, made up of various modes of transportation, is essential to the overall success of the Nation's agriculture programs, to a sound program of rural development, and to the economic stability of the United States;

(2) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs has been impeded by a shortage of railroad freight cars and motor trucks and by the deteriorated condition of many rail roadbeds throughout the United States;

(3) the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs is further threatened by the proposed abandonment by the railroad companies of thousands of miles of important railroad lines in the United States;

(4) the maintaining of an efficient and economical transportation system for agriculture and rural development in the United States has not received the priority attention which such system should have received; and

(5) the Secretary of Agriculture and the Secretary of Transportation have a responsibility to assume a more active role in representing the interests of agriculture and rural development in the United States in order to insure the availability of an adequate, efficient, and economical transportation system sufficient to meet the needs of agriculture and rural development in the United States.

SEC. 2. (a) There is hereby created in accordance with the provisions of this section a Rural Transportation Advisory Task Force (hereinafter referred to as the "Task Force").

(b) The Secretary of Agriculture and the Secretary of Transportation (hereinafter referred to as the Secretaries) shall serve as Cochairmen of the Task Force, which shall consist of fourteen members in addition to the Cochairmen, appointed by the Secretaries on the following basis:

(1) one to be selected from a list of qualified individuals recommended by the Secretary of Agriculture;

(2) one to be selected from a list of qualified individuals recommended by the Secretary of Transportation;

(3) one to be selected from a list of qualified individuals recommended by the chairman of the Interstate Commerce Commission

(4) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate;

(5) one to be selected from a list of qualified individuals recommended by the chairman of the Committee on Agriculture, United States House of Representatives;

(6) three to be selected from lists of qualified individuals recommended by carriers and associations of carriers, not to include more than one representative from each of the three transportation modes, rail, motor, and water;

(7) four to be selected from lists of qualified individuals recommended by the agricultural community, including agricultural shippers and associations of shippers; and

(8) two to be selected from lists of qualified individuals recommended by the academic community.

(c) Within fifteen days after the enactment of this section, the Secretaries shall solicit recommendations from the Chairman of the Interstate Commerce Commission; the Chairman of the Committee on Agriculture, Nutrition, and Forestry, United States Senate; and the Chairman of the Committee on Agriculture, United States House of Representatives. The Secretaries shall cause notice to be published in the Federal Register soliciting recommendations from which to make the selections required under subparts (6), (7), and (8) of subsection (b) of this section.

(d) Vacancies on the Task Force shall be filled in the manner prescribed for original selections.

(e) Members of the Task Force who are full-time officers or employees of the United States shall receive no additional pay on account of his service on the Task Force. While away from their homes or regular

places of business in the performance of services for the Task Force, members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) The Task Force shall be dissolved forty-five days after the publication of the final report required under section 4 of this Act.

(g) The Secretaries shall furnish such supplies and clerical, administrative, and other support as they deem necessary to enable the Task Force to carry out its responsibilities.

SEC. 3. (a) The Task Force may compile and publish an initial report which, if published, shall include recommendations for determining the essential transportation needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, and for methods of identifying impediments to a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. Such report, if published, shall also include, but shall not be limited to, maps which identify the location in the several States which the Task Force, on the basis of the importance of such locations within agricultural producing, marketing, or consuming areas, determines should receive railroad service: *Provided*, That this directive is not to be construed as requiring comprehensive line-by-line analyses of all branch lines.

(b) The report authorized in section 3(a) shall, if published, be published not later than one hundred and eighty days after the date of enactment of this Act. The Task Force shall submit copies of such report, if published, to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and shall provide for the widespread public dissemination of such report throughout the United States as soon as practicable after its publication.

(c) Within ninety days after the publication of the initial report described in section 3(a), or if such report is not published, within two hundred and seventy days after enactment of this Act, the Task Force shall announce dates for and hold public hearings at various locations throughout the United States, take such testimony and receive such evidence as it considers advisable for the purpose of obtaining the views of interested persons on such initial report or, if such report is not published, on recommendations for the final report required under this Act.

(d) Within one hundred and twenty days after the publication of the initial report described in section 3(a) or, if such report is not published, within three hundred days after enactment of this Act, the Task Force shall prepare and publish a summary of the testimony presented at such hearings, and shall provide for the widespread public dissemination of such summary as soon as possible following the publication thereof.

SEC. 4. (a) The Task Force shall prepare and publish, within four hundred and twenty days after the date of enactment of this Act, a final report including recommendations for determining the essential needs of agriculture on a continuing basis, for establishing a national agricultural transportation policy, for methods of identifying impediments to a railroad transportation adequate to meet the essential needs of the agriculture industry, and containing specific recommendations for a railroad transportation system adequate to meet the essential needs of the agriculture industry of the United States. In preparing such final report, the Task Force shall take into consideration the testimony received at the public hearing required under this Act.

(b) Copies of such final report shall be submitted to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Chairman of the Interstate Commerce Commission. The Task Force shall provide for the widespread public dissemination of such final report.

SEC. 5. The provisions of this Act shall become effective October 1, 1978.

Amend the title so as to read: "An Act to establish a Rural Transportation Advisory Task Force, and for other purposes.".

Mr. TALMADGE. Mr. President, S. 1835 requires a comprehensive study of the transportation system serving U.S. agriculture and our rural areas.

U.S. consumers today spend more than $200 million each year for food at over 200,000 grocery stores. Roughly one-third of this amount goes toward moving food from where it is produced to where it is processed and consumed.

In the aggregate, about half of all food moved is transported by rail. Most canned goods and a large share of perishables move by rail, especially over long distances.

Trucks also play a critical role in the movement of food. Because of their speed and flexibility, truck shipments are being used today far more extensively than ever before, even for long-distance intercity hauls. Trucks now transport approximately 90 percent of the Nation's fresh fruits and vegetables and practically all of the fresh and frozen meats and meat products.

There is, of course, no separate transportation system for agriculture, and the general transportation system is particularly important to agriculture because of the perishability of many foods. Fresh fruits and vegetables and meat cannot be stored awaiting processing and consumption.

The growth of rural America is largely dependent on the adequacy of our transportation system. Adequate transportation will attract business and people to rural America and serve to insure that the agricultural commodities and other products of rural America are widely distributed.

The House of Representatives amended S. 1835 by striking all after the enacting clause and inserting in lieu thereof an amendment in the nature of a substitute. The House amendment would establish a 16-member Rural Transportation Advisory Task Force, chaired by the Secretaries of Agriculture and Transportation, who will select the other members from recommendations submitted by the chairmen of the Interstate Commerce Committee and the congressional Agriculture Committees, and the transportation, agriculture, and academic sectors.

The task force would be authorized to publish an initial report containing recommendations for determining the continuing transportation needs of agriculture, for establishing a national agricultural transportation policy, and for methods of identifying impediments to an adequate railroad system for agriculture. After holding public hearings, the task force will prepare and publish, within 420 days after enactment of this bill, a final report addressing the same issues that were addressed in the initial report. The task force would be dissolved 45 days after publication of its final report.

S. 1835, as passed by the Senate, required that substantially similar activities be undertaken by the Secretary of Agriculture. The basic intent of the Senate bill—to evaluate the adequacy of the national transportation system for agriculture—is maintained in the House amendment. The involvement of the Secretary of Transportation and other knowledgeable people will result in an improved study and prevent assertions of bias within the study.

Since the House measure is somewhat broader in scope, and includes more participants than the bill adopted by the Senate, I think it is important to note that the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry fully recognize the interest of the House Committee on Interstate and Foreign Commerce and the Senate Committee on Commerce, Science, and Transportation in this measure. It is our intention that in the selection for the advisory task force the chairmen and other appropriate members of these committees be consulted. Further, we intend that all reports associated with the rural transportation study be submitted to all members of both of these committees.

Mr. President, the Senate Committee on Commerce, Science, and Transportation has primary legislative jurisdiction over the Interstate Commerce Act, as well as jurisdiction over the Commission itself, railroads, and national transportation policy in general and as affected by railroad abandonments. That committee has expressed an interest in making its views known in connection with recommending members of the task force called for in this bill. Further, it is understood that jurisdiction regarding any legislative proposals resulting from the work of this task force that relate to these transportation matters would be within the jurisdiction of the Senate Committee on Commerce, Science, and Transportation.

● Mr. McGOVERN. Mr. President, I rise in support of the conference report on H.R. 12917, the Rural Transportation Advisory Task Force Act.

Our Nation is rapidly approaching a crossroads regarding the formulation of fundamental policies and methods which shape the direction of our rail transport system. Despite enactment of the so-called 3-R and 4-R Acts, much of the Nation's rail system continues its rapid process of deterioration creating economic impacts, many times in our rural and agricultural heartland. This dilemma prevails at a time when the need for greater utilization of our rail industry, potentially our most efficient means of freight transportation, is paramount.

The severity of the Nation's continuing rail crisis is especially visible in rural America, particularly in the Upper Plains States, where the majority of railroads are either in reorganization or marginal. In a well-intentioned effort to restructure the Midwest railroads into a rational and viable rail system, the Federal Railroad Administration imple-

mented a major restructuring process. To date, however, the program has met with limited success due to the Department's use of this program as the overall answer to our rail dilemma. Although it has become increasingly apparent that some restructuring and elimination of excess plant is in order, it has become more apparent that there is no single answer to the rail problems we face in the Midwest.

Under this policy, the vast farmlands of the Midwest that feed our Nation and others stand to lose segments of their rail lines which may be crucial to a rational regional and national transportation system.

To a large extent, these circumstances prevail because Congress and the administration have historically suffered from tunnel vision regarding our transportation needs. We have invested billions upon billions of dollars to develop the interstate highway network and our waterways, thereby subsidizing the trucking and barge industries, while an alarming portion of the rail system has been allowed to sink into such a state of disrepair that it borders on uselessness.

As a result, the cost of transporting agriculture commodities has significantly increased, farm income has been reduced, and consumer food prices have gone up. Beyond this, much of the potential of rural America to create jobs and construct a stable, inflation-free economy, remains untapped.

Even though the voluminous 3–R and 4–R railroad acts are on the books, we still lack anything resembling a rational transportation policy. In effect, Government is still confining its efforts to piecemeal, stopgap, too little and too late responses to national transportation needs. Now, only 2 years after passage of the 4–R Act there is talk in Congress and in the rail industry about the need for a 5–R Act.

We cannot afford to continue our stumbling, self-defeating course of action in this vital economic area.

H.R. 12917 represents an important and long needed step to rectify this situation. The bill authorizes and directs the initiation of efforts to produce recommendations aimed at establishment of an adequate rural transportation policy following identification and evaluation of rail and other rural transportation problems.

Under the bill's provisions, a Rural Transportation Advisory Task Force will be created to function under the joint leadership of the Secretaries of Agriculture and Transportation. It will be the duty of the task force to develop recommendations for long-term solutions to the serious transportation problems jeopardizing the ability of American farmers to produce and market commodities in the most efficient manner possible. By the very nature of this task, these recommendations must reflect the transportation needs of the rural economy as a whole. The effort must not be confined to an examination of agriculture transportation requirements to the exclusion of all other major rural transportation needs. I refer particularly to the transportation elements necessary to the success of rural development programs.

By the same token, the task force approach recognizes that rural transportation problems cannot be resolved in a piecemeal fashion. Rather, it requires a joint effort by appropriate Federal, State and local government officials and representatives of the private sector to assure that the scope of the recommendations produced are thorough and comprehensive.

The task force will have the tools necessary to fulfill its duties. Although the direct power of subpena is missing, the House Agriculture Committee during its consideration of H.R. 12917, stated,

If the Task Force experiences serious difficulties in obtaining relevant information from any segment of the Transportation industry, this could be brought to the attention of the Committee at which time appropriate action could be taken.

As a member of the Senate Agriculture Committee, I will also be closely monitoring the work of the task force. If situations develop and persist hindering the achievement of their objectives, I will immediately request the full Senate committee to investigate and take such action as it deems necessary.

I urge my colleagues to support the conference report on H.R. 12917.●

Mr. ROBERT C. BYRD. I move that the Senate concur in the House amendment.

The motion was agreed to.

NATIVE LATEX RUBBER

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1816.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the amendment of the House to the bill (S. 1816) entitled "An Act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States", with the following amendment:

Page 15, after line 20 of the Senate engrossed amendment, insert:

SEC. 17. Section 320 of the Agricultural Adjustment Act of 1938 as added by the Act of September 3, 1974 (88 Stat. 1089; 7 U.S.C. 1314f) is amended by adding a new sentence at the end thereof as follows:

"Notwithstanding any other provision of law, no marketing quota penalties shall be assessed as a result of the marketing of 1975 crop Maryland tobacco (Type 32) which was determined through the application of the Federal Standards of Inspection and Identification of quota types to be Burley tobacco (Type 31) under the provisions of this section.".

● Mr. DOMENICI. Mr. President, I would like to thank the other Members for their valuable assistance in helping me guide this bill through the pitfalls of consideration both here and in the other House. I believe this bill lays the groundwork for a great economic development opportunity for the Southwest and could, in addition, substantially further our national goal of independence from foreign sources of supply.

S. 1816 will establish a program of research, development, and commercialization for rubber production and manufacture from the guayule plant. Guayule is a rubber-producing shrub which grows wild in parts of the Southwest and is ideally suited for cultivation in that arid region. Earlier in this century a guayule-based industry was being developed, but interest declined with access to inexpensive synthetics and abundant foreign rubber supplies. As world demand for rubber expands and the price of synthetic rubber continues to rise, interest has been renewed in the use of guayule as a domestic source of natural rubber. The successful commercialization of guayule could mean expanded economic opportunity and jobs in the American Southwest, particularly for the Indian people living in the area.

The average unemployment in the Southwest is about 10 percent, with levels as high as 15 to 20 percent in many places. The latest figures on per capita income illustrate the very low economic levels in the region, with the average below the national median and as low as $3,500 in some counties.

Because of the lagging economic activity of the region, two multi-State regional commissions have been established to promote economic growth. The Four Corners Regional Commission and the Southwest Border Commission serve parts of California, Texas, and all of New Mexico and Arizona.

The regional commissions have become interested in the potential economic benefits of a successful guayule program. As part of their ongoing development efforts, both commissions have initiated guayule research activities.

The potential of guayule also comes at a very important time for this chronically water short region. The Southwest has experienced years of drought and declining water resources. Guayule, which requires little rainfall or irrigation, could become a valuable new crop putting areas of marginal land back into production.

There is also a strategic and trade importance to guayule. The United States is wholly dependent on foreign sources for all the natural rubber used in this country including all strategic and defense stockpile requirements. This country is importing 800,000 metric tons of natural rubber a year. At current value, this represents a cost of $500 million a year.

The stockpile reserves of natural rubber are very low at the present time and plans are underway to replenish them. The stockpile goal is 513,000 long tons but current inventory is only about 121,000 long tons.

The bill originally passed by the Senate placed responsibility for the guayule program with the Department of Commerce, although we fully expected extensive and detailed participation by the title V regional commissions. Indeed, the commissions have been some of the prime supporters for development of guayule as an economic resource for the South-

west. As S. 1816 now lies before the Senate, however, it embodies a somewhat different approach.

Essentially, duties are divided equally between the Departments of Commerce and Agriculture, although each is reserved exclusive authorities for its special areas of expertise. The funding authorizations are also divided equally, so that undue emphasis will not be placed on any special part of the program. But to insure that a program is initiated promptly and to guarantee that neither of the Departments can effect the neglect of the other's responsibilities, we have created a joint Commission. The eight-member commission is composed of three persons appointed by the Secretary of Agriculture, three by the Secretary of Commerce, and one each from the National Science Foundation and the Bureau of Indian Affairs. At least two of the Commerce appointees must be Federal cochairmen of a title V commission, since these groups have been so active in the guayule program.

The Commission's chairmanship rotates on a 2-year cycle, with the first term assigned to an Agriculture designee. the second to a Commerce designee. Again, this helps insure that there is balance between the two Departments, but with a workable system of implementing the program.

Frankly, this question of balancing the interests of various agencies has been one of the most difficult associated with the bill. There are many persons who, rightly or wrongly, have blamed the Department of Agriculture for the neglect of guayule's potential. Others have feared encroachment by the Department of Commerce into areas traditionally reserved to the Department of Agriculture. For this reason, the bill attempts to strike a careful balance of power throughout, but still preserve a workable governmental mechanism. I believe this bill accomplishes that.

It is unfortunate that the potential of guayule has not been fully developed, although perhaps that was to be expected in the days of inexpensive energy. Now, however, those days are gone so it is to the advantage of the entire Nation, not just the Southwest, to pursue guayule's potential. I believe this bill will start us in that direction and I thank the other Members for their support.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

INDIAN CHILD WELFARE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1214.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1214) entitled "An Act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Indian Child Welfare Act of 1978".

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

(1) "child custody proceedings" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689);

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended;

(9) "parent" means any biological parent or parents of an Indian child cr any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code, and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation.

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the

absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided,* That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided,* That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided,* That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

SEC. 113. None of the provisions of this title, except sections 101(a), 108, and 109, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequently proceedings affecting the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV–B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV–B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian, child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate state standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401).

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to by such tribe.

SEC. 302. Within one hundred eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

(4) Within ten months from the date of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise

and amend any rules and regulations promulgated pursuant to this section: *Provided*, That prior to any revisions or amendments to such rules and regulations, the Secretary shall present the proposed revision or amendment to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives and shall, to the extent practicable, consult with tribes, organizations, and groups specified in subsection (a)(1) of this section, and shall publish any proposed revisions or amendments in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and to receive comments from, other interested parties.

TITLE IV—MISCELLANEOUS

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Georgia for a matter. Would he mind putting a time limit thereon?

Mr. NUNN. Four minutes.

PROHIBITION OF UNION ORGANIZATION IN ARMED FORCES

Mr. NUNN. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 274.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 274) entitled "An Act to amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the armed forces, and for other related purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. (a) The Congress makes the following findings:

(1) Members of the armed forces of the United States must be prepared to fight and, if necessary, to die to protect the welfare, security, and liberty of the United States and of their fellow citizens.

(2) Discipline and prompt obedience to lawful orders of superior officers are essential and time-honored elements of the American military tradition and have been reinforced from the earliest articles of war by laws and regulations prohibiting conduct detrimental to the military chain of command and lawful military authority.

(3) The processes of conventional collective bargaining and labor-management negotiation cannot and should not be applied to the relationships between members of the armed forces and their military and civilian superiors.

(4) Strikes, slowdowns, picketing, and other traditional forms of job action have no place in the armed forces.

(5) Unionization of the armed forces would be incompatible with the military chain of command, would undermine the role, authority, and position of the commander, and would impair the morale and readiness of the armed forces.

(6) The circumstances which could constitute a threat to the ability of the armed forces to perform their mission are not comparable to the circumstances which could constitute a threat to the ability of Federal civilian agencies to perform their functions and should be viewed in light of the need for effective performance of duty by each member of the armed forces.

(b) The purpose of this Act is to promote the readiness of the armed forces to defend the United States.

SEC. 2. (a) Chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited

"(a) In this section:

"(1) 'Member of the armed forces' means (A) a member of the armed forces who is serving on active duty, or (B) a member of a Reserve component while performing inactive-duty training.

"(2) 'Military labor organization' means any organization that engages in or attempts to engage in—

"(A) negotiating or bargainning with any civilian officer or employee, or with any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of military service of such members in the armed forces;

"(B) representing individual members of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of military service of such member in the armed forces; or

"(C) striking, picketing, marching, demonstrating, or any other similar form of concerted action which is directed against the Government of the United States and which is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(i) negotiate or bargain with any person concerning the terms or conditions of military service of any member of the armed forces,

"(ii) recognize any organization as a representative of individual members of the armed forces in connection with complaints and grievances of such members arising out of the terms or conditions of military service of such members in the armed forces, or

"(iii) make any change with respect to the terms or conditions of military service of individual members of the armed forces.

"(3) 'Civilian officer or employee' means an employee, as such term is defined in section 2105 of title 5.

"(b) It shall be unlawful for a member of the armed forces, knowing of the activities or objectives of a particular military labor organization—

"(1) to join or maintain membership in such organization; or

"(2) to attempt to enroll any other member of the armed forces as a member of such organization.

"(c) It shall be unlawful for any person—

"(1) to enroll in a military labor organization any member of the armed forces or to solicit or accept dues or fees for such an organization from any member of the armed forces; or

"(2) to negotiate or bargain, or attempt through any coercive act to negotiate or bargain, with any civilian officer or employee, or any member of the armed forces, on behalf of members of the armed forces, concerning the terms or conditions of service of such members;

"(3) to organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the armed forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the armed forces, to—

"(A) negotiate or bargain with any person concerning the terms or conditions of service of any member of the armed forces,

"(B) recognize any military labor organization as a representative of individual members of the armed forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the armed forces, or

"(C) make any change with respect to the terms or conditions of service in the armed forces of individual members of the armed forces; or

"(4) to use any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this subsection or by subsection (b) or (d).

"(d) It shall be unlawful for any military labor organization to represent, or attempt to represent, any member of the armed forces before any civilian officer or employee, or any member of the armed forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the armed forces.

"(e) No member of the armed forces, and no civilian officer or employee, may—

"(1) negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the armed forces with any person who represents or purports to represent members of the armed forces, or

"(2) permit or authorize the use of any military installation, facility, reservation, vessel, or other property of the United States for any meeting, march, picketing, demonstration, or other similar activity which is for the purpose of engaging in any activity prohibited by subsection (b), (c), or (d).

Nothing in this subsection shall prevent commanders or supervisors from giving consideration to the views of any member of the armed forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

"(f) Whoever violates subsection (b), (c), or (d) shall, in the case of an individual, be fined not more than $10,000 or imprisoned not more than five years, or both, and in the case of an organization or association, be fined not less than $25,000 and not more than $250,000.

"(g) Nothing in this section shall limit

the right of any member of the armed forces—

"(1) to join or maintain membership in any organization or association not constituting a 'military labor organization' as defined in subsection (a)(2) of this section;

"(2) to present complaints or grievances concerning the terms or conditions of the service of such member in the armed forces in accordance with established military procedures;

"(3) to seek or receive information or counseling from any source;

"(4) to be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

"(5) to petition the Congress for redress of grievances; or

"(6) to take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following new item:

"975. Membership in military unions, organizing of military unions, and recognition of military unions prohibited.".

Amend the title so as to read: "An Act to amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes.".

Mr. NUNN. Mr. President, I am recommending to the Senate this morning that it accept the House version of S. 274, the bill to outlaw unionization of the military, without the need for a conference.

This is important legislation and was the subject of extensive consideration by the Armed Services Committee earlier this year.

With one exception, the House bill maintains the same basic authorization as the Senate bill. It outlaws union membership. It prohibits collective bargaining and such activities as strikes and picketing by military members, and keeps union activity away from military installations.

The one important difference between the bills is that the Senate version would outlaw existing unions representing technicians in the National Guard and Reserve, while the House version would continue to allow these unions to exist.

Mr. President, I commend the Senator from South Carolina (Mr. THURMOND), who has taken the initiative and the lead in this matter, as he has on many other matters relating to national security. His perseverance in this matter has put us to the point that we do have the opportunity to pass a bill which, in my opinion, will greatly improve our national security and prevent the erosion of the kind of discipline that we need in the military.

I yield to the distinguished Senator from South Carolina.

Mr. THURMOND. I thank the able Senator from Georgia.

Mr. President, this is one of the most important pieces of legislation that has been enacted since I have been in Congress. I express my deep appreciation to the able Senator from Georgia for his fine leadership in this matter.

Mr. THURMOND. Mr. President, I support S. 274, the bill which prohibits unions in the armed services.

This landmark legislation, which I was pleased to first introduce on January 18, 1977, has now been concurred in by the House in an overwhelming vote of 395 to 12.

This tremendous endorsement of this legislation by the House, plus the earlier approval in a 72-to-3 vote in the Senate, indicates the wideranging and overwhelming support for the idea that unions should be prohibited in the Armed Forces of this country.

As I have often said before, I do not consider this bill an antiunion bill. Rather, it is a promilitary bill.

It has the narrow purpose of prohibiting union activity among military personnel provided that activity involves conditions of their military service.

Mr. President, I might say at this point that it is to the credit of the American union movement that, as a whole, they have not opposed this legislation; in fact, representatives of the Teamsters Union testified before the Senate hearings and stated that they considered the legislation necessary and beneficial.

Mr. President, I would like to also take a moment to commend the members of the Senate for the tremendous support they have given me in connection with my efforts on this very important legislation. When I first introduced this bill in the latter part of the 94th Congress, over 40 Senators cosponsored this legislation. Here in the Senate last year as we worked to move through the Congress S. 274, 49 Senators joined as cosponsors of this important legislation.

Therefore, I would say that the overwhelming support given it both in the Senate and the House is ample testimony to the merits of a legislative approach to this issue as opposed to the Defense Department idea that the problem can be dealt with by executive directives.

The Senate should be aware that this bill, as amended by the House, was changed essentially in two ways. First, the technician clause which would have required that civilian technicians in the reserve forces give up their unions was stricken by the House. Although these individuals are civilians, there is no doubt that they are part of the reserve program and union activity within these groups has become a serious problem. Second, the other changes from the Senate bill were various wording adjustments which the House felt would strengthen the bill should it face any constitutional challenges.

Mr. President, I want to make a special point of commending the distinguished Senator from Mississippi for his leadership in bringing this legislation to completion. Without his fine cooperation in the committee and in the Senate, this bill would not have enjoyed such success. Here on this last day it is because of his concern that this bill is before us for final approval.

I would also like to commend the able ranking minority member of our committee, Mr. TOWER of Texas, whose contributions were of great significance.

Mr. BAKER. Mr. President, the Senate now has the opportunity to consider a bill which will eliminate the threat of unionization of the military. I am confident that the Senate will act favorably on this important legislation.

I should also, Mr. President, acknowledge on behalf of the Senate a debt of gratitude for the senior Senator from South Carolina (Mr. THURMOND) for his foresight and perseverance in bringing this bill to reality. I am, of course, pleased as well to be, with many of my colleagues, a cosponsor.

The threat posed to the military of unionization is real and would represent a most insidious perversion of the spirit of the Armed Forces of the United States. By this legislation that threat will be averted.

Mr. President there is no one in this Chamber more sensitive than Senator THURMOND to the needs of the men and women who make the necessary sacrifices to serve in the defense of this country. He not only attempted to insure the timely passage of the DOD appropriations bill, he prepared for the possibility that the bill might not pass by calling every bank in South Carolina to persuade them to honor the checks of that State's numerous military personnel in the event that they were not paid.

So while it is imperative that this legislation pass, and that the defense of the country be not subject to the whim of union leadership, it is also imperative that we remember our military personnel constitute a special element of our society and that the moral and legal commitments of the United States to them must be kept.

The Senator from South Carolina knows this full well, and I commend him both for his compassion and his leadership with respect to this extremely important legislation.

Mr. STENNIS. Mr. President, I am recommending to the Senate today that it accept the House version of S. 274, the bill to outlaw unionization of the military, without the need for a conference. This legislation is important, and was the subject of extensive consideration by the Armed Services Committee earlier this session. We need to enact it in order to prevent the serious erosion of our military capability that would occur if union activity within the miltary were permitted.

With one exception, the House bill maintains the same basic thrust as the Senate bill—outlaws military union membership, prohibits collective bargaining and such activities as strikes and picketing by military members, and it keeps military union activity away from military installations. The one major difference between the bills is that the Senate version would outlaw existing unions representing dual-status civilian technicians in the National Guard and Reserve, while the House version would continue to allow these unions to exist.

Mr. President, this question of the effect of union activity among the dual-status civilian technicians is a very controversial one. Many of the National Guard officials around the country feel

unionization of these employees is a serious threat to readiness. On the other hand, questions of fairness and constitutionality have been raised. In any event the House has made it clear that a bill that includes these technicians will not be acceptable to them, and I feel we have no choice but to accede to this position. I continue to believe, however, that unionization of dual-status technicians is dangerous and unwise.

In other respects the bills are basically the same, though there are drafting differences. Many of these changes are useful clarifications of language and intent, and in some cases they may well make the bill less susceptible to constitutional challenge. I believe that we can accept these changes without fear that the purposes of the Senate-passed bill are being undermined. I would like to comment for the record on three items, however.

In describing the coverage of the bill, the Senate version defined a member of the Armed Forces simply as one who is on active duty or a member of a Reserve component. Because the House wanted to exempt the dual-status technicians, who are members of the Reserve, their definition is different. It covers members on active duty, and reservists during their inactive duty training periods. Since some confusion has arisen in other contexts about the meaning of "active duty" I simply want to make it clear that both Houses intend the bill to cover military members on any type of active duty, including active duty for training or active duty for administration of the reserve. In addition to coverage during any temporary period of active duty, as I said, a reservist would be covered during his inactive duty training periods—his weekend drills.

In defining the proscribed type of labor organization, a "military labor organization," the House bill speaks of an organization that engages in or attempts to engage in "striking, picketing, marching, demonstrating, or any other similar form of concerted action." I felt that the Senate language—"striking, picketing, or engaging in any other concerted action"—was clearer, but I want to state that both Houses intend the same result. All concerted actions to bring about the prohibited result described in the bill are included, including slowdowns, sickouts, or other such actions not specifically listed.

Finally, the House bill adds to the so-called saving clause, which clarifies those rights preserved by the bill, the right to receive counseling from any source. While we do not disagree with this clarification, I want to emphasize that we do not approve of a counselor who inserts himself between the military member and his or her superior, or in any sense plays the part of a union steward. We have gone to great lengths and appropriated large sums to make sure that our Armed Forces provide proper counseling services and it is upon those services that we ought to primarily rely. We do not wish by this bill to prevent military members from receiving advice from those outside the chain of command, but we also emphasize that the military services should seek to find and solve their own personnel management problems.

Therefore, Mr. President, I urge the Senate to accept the House version of S. 274 in lieu of a committee of conference.

Mr. NUNN. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNIFORMED HEALTH SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 13903, the Uniformed Health Services Act.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13903) to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

There being no objection, the bill was considered, ordered to be read a third time, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTIONS IN ENROLLMENT OF H.R. 6536

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House Concurent Resolution 749.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 749) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill H.R. 6536.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

URANIUM MILL TAILINGS CONTROL ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 13650.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 13650) entitled "An Act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes", with the following amendments:

(1) Strike out subsection (c) of section 107 of the Senate amendment.

(2) In subsection (b) of section 108 of the Senate amendment, insert after the fifth sentence thereof:

After payment of such share to the United States under this subsection, such person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from such recovery, as determined by the Secretary.

(3) Strike out title II of the Senate amendment, and insert:

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION DEFINITION

SEC. 201. Section 11 e. of the Atomic Energy Act of 1954, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore procesed primarily for its source material content."

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11 e. (2), shall contain such terms and conditions as the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material, as defined in section 11e.(2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) the State in which such activity occurred if such State exercises the option under subsection b.(1) to acquire land used for the disposal of byproduct material.

"Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs.

"(b)(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein, (other than land owned by the United States or by a State) which is used

for the disposal of any byproduct material, as defined by section 11e.(2), pursuant to such license shall be transferred to—

"(A) the United States, or

"(B) the State in which such land is located, at the option of such State,

"(2) unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license issued by the Commission pursuant to section 84(b) in such manner as will protect the public health, safety, and the environment.

"(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

"(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

"(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

"(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

"(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

"(6) The transfer of title to land or byproduct materials, as defined in section 11e.(2), to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

"(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

"(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11e.(2), the license shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

"c. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.".

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954, is amended by inserting the following new item after the item relating to section 82:

"SEC. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

SEC. 203. Section 161 of the Atomic Energy Act of 1954, is amended by adding the following new subsection at the end thereof:

"x. establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure—

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11e.(2), by a license to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

"(2) that—

"(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11e.(2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

"Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring, except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.".

COOPERATION WITH STATES

SEC. 204. (a) Section 274b. of the Atomic Energy Act of 1954, is amended by adding "as defined in section 11e.(1)" after the words "byproduct materials" in paragraph (1) by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11e.(2);".

(b) Section 274d.(2) of such Act is amended by inserting the following before the word "compatible": "in accordance with the requirements of subsection o. and in all other respects".

(c) Section 274n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.".

(d) Section 274j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.".

(e) (1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of byproduct material, as defined in section 11e.(2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and

"(3) procedures which—

"(A) in the case of licenses, provide procedures under State law which include

"(i) an opportunity, after public notice,

for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

"(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 11e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

"If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission."

(f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11 e. (2).".

(g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(h) (1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any authority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 274 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) of such Act, may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—

"a. The Commission shall insure that the management of any byproduct material, as defined in section 11 e. (2), is carried out in such manner as—

"(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended.

"b. In carrying out its authority under this section, the Commission is authorized to—

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

"Any violation by any person other than the the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.".

(b) The first sentence of Section 81 of the Atomic Energy Act of 1954, is amended to read as follows: "No person may transfer, or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.

(c) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"SEC. 84. Authorities of Commission respecting certain byproduct material.".

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. (a) Chapter 19 of the Atomic Energy Act of 1954, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. The Administrator may periodically revise any standard promulgated pursuant to this subsection.

"b. (1) As soon as practicable, but not later than eighteen months after the enactment of this section, the Administrator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided however,* That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11 e. (2) or any revision thereof.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comments thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United

States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material, as defined in section 11 e. (2) of this Act, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

"SEC. 275. Health and environmental standards for uranium mill tailings.".

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of the Atomic Energy Act of 1954, to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954.

● Mr. WALLOP. Mr. President, I would like to obtain a clarification from the distinguished Senator from Colorado, the chairman of the Nuclear Regulation Subcommittee, of several points regarding title II of the bill as passed by the other body. First, I understand that the other body revised the bill to permit the Nuclear Regulatory Commission to exclude a uranium mill tailings disposal site from the requirement of a license if it determines that the site will not constitute an unreasonable risk to the public health and safety. This is the same discretionary authority now possessed by the Commission for other types of byproduct material. It occurs to me that this discretionary authority to grant exemptions from licensing would be particularly appropriate in the case of the so-called solution mining projects, in which uranium is brought to the surface by means of a fluid solution and is extracted with the remaining material pumped back below the surface.

Second, the bill now before us contains a different definition for byproduct material than that approved by the Senate on August 25 as an amendment to the fiscal year 1979 NRC authorization bill. The section-by-section analysis accompanying the definition the Senate approved on August 25 stated that the definition was not intended to cover mine wastes, but rather was limited to uranium tailings. I understand that the clear intent of the definition of byproduct material before us now is the same as in the Senate bill.

Third, I understand that the other body added an amendment to section 274 of the Atomic Energy Act of 1954, as amended, which would require the agreement States to provide an opportunity for cross-examination in licensing hearings for uranium mills. As I read this provision, formal adjudicatory hearings involving the full panoply of procedures required by Federal law would not be imposed upon the agreement States. Rather, State law would govern and the State would have discretion to determine how cross-examination opportunities would be incorporated into their hearings. Furthermore, I would assume that the provision would give the appropriate State hearing officer the authority, consistent with State law, to prevent abuses of the opportunity for cross-examination.

Fourth, the other body has added a provision to the bonding authority in new section 161 x. of the Atomic Energy Act of 1954, as amended, which urges that long-term maintenance and monitoring at uranium mill tailings sites be eliminated to the maximum extent practicable. As I read this provision, the elimination of long-term maintenance and monitoring is a goal, but not an absolute requirement. Thus, this provision would not mandate the rejection of otherwise acceptable disposal sites simply because some long-term maintenance and monitoring would be required.

Mr. HART. The distinguished Senator from Wyoming is entirely correct on each of the points he has raised. The licensing exemption authority for mill tailings disposal sites could be exercised for sites where uranium mining and extraction is limited to solution techniques. In fact, the Commission may well exercise this exemption authority for other disposal sites where such an exemption would not constitute an unreasonable risk to public health and safety.

With regard to the definition of byproduct material, it is the intent that this definition does not include mine wastes. I would also endorse the Senator's comments on the cross-examination provision. Federal-type adjudicatory hearings would not be required of the agreement States, and the States would be free to fashion and implement their own requirements within the confines of State law. Regarding the bonding authority, I would expect the Commission and its licensees to pursue the goal of eliminating long-term maintenance and monitoring, taking into full account such factors as economic considerations, technical capabilities, the current state of technology, and site characteristics. I would add one other point as well. In describing the House amendments to the bill this afternoon, Congressman DINGELL stated that the processing sites to be designated for the remedial action programs at the locations named in the bill must meet the definition limitations for processing sites. I would just note that there is no intent on the part of the Senate that any legal technicality associated with the definitions would have the effect of barring any designation of these specified locations as processing sites for the purposes of the act.

Stated simply, the statute means what it says and the locations specified in the bill are all to be included in the remedial action program.

Mr. WALLOP. I believe the distinguished Senator from Colorado is absolutely correct on that point. The unequivocal intent is that a processing site will be designated at each of these locations named in the bill.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House.

The motion was agreed to.

MIDDLE INCOME STUDENT ASSISTANCE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2539.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2539) entitled "An Act to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program, and for other purposes," do pass with the following amendments:

That this Act may be cited as the "Middle Income Student Assistance Act".

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new division:

"(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.".

(b) Section 411(a)(3)(C) of the Act is amended by adding at the end thereof the following:

"In addition, such regulations shall—

"(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

"(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for de-

pendent students and for independent students who have dependents.".

(c) Section 411(b)(3)(B)(i) is amended—

(1) by redesignating subdivisions (II), (III), and (IV) as subdivision (IV), (V), and (VI), respectively; and

(2) by striking out subdivision (I) and inserting in lieu thereof the following:

"(I) the full amount in the case of any entitlement which exceeds $1,600;

"(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

"(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;".

(d) Section 411(b)(5) of the Act is amended to read as follows:

"(5) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

"(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

"(B) the appropriation for work-study payments under section 441 of this title does not at least equal $500,000,000; and

"(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.".

SEC. 3. Section 415C(b)(4) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State".

SEC. 4. Section 417B(b) of the Higher Education Act of 1965 is amended by inserting immediately after paragraph (5) the following new sentence:

"No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age."

SEC. 5. (a)(1) Section 427(a)(2)(C)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(2) Section 428(b)(1)(M)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(b)(1) Section 428(a)(2) of the Act is amended—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) sets forth such student's estimated financial assistance."; and

(B) by redesignating subparagraph (C) as subparagraph (B) and by striking out subparagraph (D).

(2) Section 425(a)(1)(A) of the Act is amended by striking out 'section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(ii)".

(3) Section 428(a)(2)(B) of the Act (as redesignated by paragraph (1)(A) of this subsection) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period and by striking out clause (iv) of such section.

(4) Section 428(a) of the Act is amended by striking out paragraph (9).

(5) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

SEC. 6. Section 491(b)(3) of the Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.".

SEC. 7. Section 497 of the Act is amended by adding after subsection (c) thereof the following new subsection:

"(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.".

SEC. 8. Part B of title IV of the Act is further amended by inserting after section 439A the following new section:

"SEC. 439B. Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A, C and E of this title, notwithstanding any other provisions of parts A, C and E."

SEC. 9. The amendments made by this Act shall take effect upon enactment, except that the amendments made by subsections (a), (b), and (c) of section 2 shall be effective with respect to periods of enrollment beginning on or after August 1, 1979.

Amend the title so as to read: "An Act to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DR. ALLAN JOSEPH CAWLEY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2687.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2687) entitled "An Act for the relief of Doctor Allan Joseph Cawley", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That, for the purposes of section 101(a)(27)(A) of the Immigration and Nationality Act, Doctor Allan Joseph Cawley shall be held and considered to have been a returning resident alien at the time of his last admission to the United States, and for the purposes of section 316 of that Act shall be held and considered to have complied with the requirements of that section as they relate to residence and physical presence in the United States.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MARGARET PERRY

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2349.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2349) entitled "An Act for the relief of Margaret Perry", do pass with the following amendment:

Line 8, after "natural", insert: parents or

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

EUGENIA CORTES

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2247.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2247) entitled "An Act for the relief of Eugenia Cortes", do pass with the following amendments:

Page 2, after line 3, insert:

That, the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence".

Amend the title so as to read: "An Act amending section 312 of the Immigration and Nationality Act."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET AND ACCOUNTING PROCEDURES ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 9701 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 9701) to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, Senator RIBICOFF and I were asked to clear this particular bill. Senator RIBICOFF said that we really did not know a great deal about it, but as I was active in the pension area, pensions if it was OK with me, it was OK with him. I at the time said I really did not know anything about it and was reluctant to let the bill go through at this late hour in the Senate without knowing about it.

Since then I have a report from my own expert on pensions out of the Human Resources Committee in which he advances, in my judgment, sound reasons for favoring the bill.

That is the situation.

Under the circumstances I do not feel that I have any right to object. In view of Senator RIBICOFF's disposition to leave the essential question to me, I shall not object.

Now that I know more about the bill, I would like to make a few remarks about it.

H.R. 9701 would make applicable to Federal governmental plans the annual reporting provisions of section 103 of the Employee Retirement Income Security Act of 1974. The annual report required for such plans would be in such form as the President, in consultation with the Comptroller General, may prescribe. The annual report would be furnished to the Congress and the Comptroller General.

The imposition of an annual reporting requirement on Federal plans is a first step toward putting the Federal pension household in order. The provisions of these plans vary greatly, and the unfunded liability of such plans is excessive. For the military, civil service, and foreign service plans, the unfunded liability in 1976 totaled $280 billion.

By obtaining updated information on the Federal plans, the Congress will be in a better position to decide what further steps, if any, should be taken to make the various Federal pension programs paragons for State and local governmental retirement programs.

Mr. STEVENS. Mr. President, I urge approval of H.R. 9701 which requires GAO audits and disclosures of the financial conditions of Government retirement plans. This bill is similar to a resolution, Senate Resolution 244 which I introduced and which passed the Senate a few months ago. As I noted in an earlier statement, the Secretary of the Treasury already reports annually on the unfunded liabilities of these systems. However, the information is often confusing and unreliable due to the use of outmoded accounting methods. Using more reliable methods such as the dynamic assumption method and then requiring annual disclosures to Congress should help to shed light on the present and future financial conditions of the Government retirement plans.

With the influx of new and reliable information we can attempt to make these plans financially sound.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 9701) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CORRECTION IN ENROLLMENT OF H.R. 8533

Mr. ROBERT C. BYRD. Mr. President, I ask that the Senate proceed to the immediate consideration of House Concurrent Resolution 754 authorizing the correction of errors in the enrollment of H.R. 8533.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Con. Res. 754) correcting the enrollment of H.R. 8533.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, Tuesday night the Senate agreed to discharge the Committee on Finance from further consideration of H.R. 8533, a bill relating to the tax status of proceeds from certain bingo games. That bill was then used as the vehicle for the compromise amendment authorizing the replacement of locks and dam 26 and establishing a system of waterway user fees.

Unfortunately, the compromise amendment was drafted in the form of a substitute amendment. The Senate in adopting it therefore inadvertently struck the text of the bingo bill. We did not intend to do so.

The pending concurrent resolution would direct that the text of the bingo bill be added back to the text of the rest of the bill when it is enrolled.

The concurrent resolution (H. Con. Res. 754) was considered and agreed to.

AMATEUR SPORTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2727.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2727) entitled "An Act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes", do pass with the following amendments:

(1) Page 2, strike out line 1 and all that follows, over to and including line 14, page 5, and insert:

OLYMPIC COMMITTEE REORGANIZATIONS

SECTION 1. (a) The Act entitled "An Act to incorporate the United States Olympic Association", approved September 21, 1950 (36 U.S.C. 371 et seq.), hereinafter in this Act referred to as "the Act", is amended in the first section—

(1) by striking out "That the following persons, to wit:" and inserting in lieu thereof the following:

"TITLE I—CORPORATION

"SEC. 101. The following persons, to wit:";

(2) in the first sentence by striking out "corporation" before the period and inserting in lieu thereof "Corporation"; and

(3) by amending the last sentence thereof to read as follows: "The Corporation shall maintain its principal offices and national headquarters in such place in the United States as is determined by the Corporation, and may hold its annual and special meetings in such places as the Corporation shall determine.".

(b) The Act is further amended by striking out sections 2 through 12 and inserting in lieu thereof the following:

"SEC. 102. A majority of the persons named in section 101 of this Act, or their successors, are hereby authorized to meet to complete the organization of the Corporation by the adoption of a constitution and bylaws, the election of officers, and by doing all things necessary to carry into effect the provisions of this Act.

(2) Page 5, line 22, strike out [are permitted to].

(3) Page 6, line 15, strike out [body.".], and insert: body.

(4) Page 6, strike out lines 16 through 18.

(5) Page 6, line 24, strike out [in order], and insert: directly relating to international amateur athletic competition, so as

(6) Page 8, line 14, strike out [and].

(7) Page 8, line 20, strike out [individuals.".], and insert: individuals; and

(8) Page 8, after line 20, insert:

"(14) encourage and provide assistance to amateur athletes of racial and ethnic minorities for the purpose of eliciting the participation of such minorities in amateur athletic activities in which they are underrepresented."

(9) Page 8, strike out lines 21 through 23.

(10) Page 9, line 2, strike out [States;], and insert: States directly relating to international amateur athletic competition;

(11) Page 9, line 19, strike out [involving], and insert: which involve any of its members and

(12) Page 9, line 21, strike out [organization;], and insert: organization and which arise in connection with their eligibility for and participation in the Olympic Games, the Pan-American, world championship competition, or other protected competition as defined in the constitution and bylaws of the Corporation;

(13) Page 10, line 23, after "States", insert: or of any State

(14) Page 10, line 25, strike out all after "publication" over to and including "Register" on page 11, line 1.

(15) Page 11, line 6, strike out [sub-].

(16) Page 11, line 11, strike out [30], and insert: 60

(17) Page 11, line 12, strike out all after "notice" down to and including "subsection:", line 20, and insert:

"SEC. 106. (a) Eligibility for membership in the Corporation shall be determined in ac-

cordance with the constitution and bylaws of the Corporation.

(18) Page 11, line 24, strike out [of:], and insert: of—

(19) Page 12, line 18, strike out [Corporation.".], and insert: Corporation.

(20) Page 12, after line 18, insert:

"SEC. 107. The Corporation shall be nonpolitical and, as an organization, shall not promote the candidacy of any person seeking public office.

"SEC. 108. The Corporation shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

"SEC. 109. The Corporation may acquire any or all of the assets of the existing unincorporated association, known as 'The United States Olympic Association', upon discharging or satisfactorily providing for the payment and discharge of all the liabilities of such unincorporated association.

(21) Page 12, strike out line 19 and all that follows, over to and including line 2, page 14, and insert:

"SEC. 110. (a) Without the consent of the Corporation, any person who uses for the purpose of trade, to induce the sale of any goods or services, or to promote any theatrical exhibition, athletic performance, or competition—

"(1) the symbol of the International Olympic Committee, consisting of five interlocking rings;

"(2) the emblem of the Corporation, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief;

"(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the Corporation; or

"(4) the words 'Olympic', 'Olympiad', 'Citius Altius Fortius', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Corporation or any Olympic activity;

(22) Page 14, line 3, strike out [liable], and insert: subject to suit

(23) Page 14, line 4, strike out [subsection (c) of this section], and insert: the Act of July 5, 1946 (60 Stat. 427; popularly known as the Trademark Act of 1946)

(24) Page 14, line 5, strike out all after "used" down to and including "1950.", line 12, and insert:

the emblem in subsection (a)(2), or the words, or any combination thereof, in subsection (a)(4) for any lawful purpose prior to September 21, 1950, shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services. In addition, any person who actually used, or whose assignor actually used, any other trademark, trade name, sign, symbol, or insignia described in subsections (a)(3) and (4) for any lawful purpose prior to enactment of this Act shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

(25) Page 14, strike out line 13 and all that follows, over to and including line 7, page 15.

(26) Page 15, line 8, strike out ["(d)], and insert: "(b)

(27) Page 15, line 10, strike out [Olympic].

(28) Page 15, line 16, strike out [members.".], and insert: members.

(29) Page 15, strike out line 17 and all that follows, over to and including line 10, page 16, and insert:

"(c) The Corporation shall have exclusive right to use the name 'United States Olympic Committee'; the symbol described in subsection (a)(1); the emblem described in subsection (a)(2); and the words 'Olympic', 'Olympaid', 'Citius Altius Fortius' or any combination thereof subject to the pre-existing rights described in subsection (a).

"SEC. 111. As a condition precedent to the exercise of any power or privilege granted or conferred under this Act, the Corporation shall file in the office of the secretary of state, or similar office, in each State the name and post-office address of an authorized agent of the Corporation in such State upon whom local process or demands against the Corporation may be served.

"SEC. 112. The right to alter, amend, or repeal this Act at any time is hereby expressly reserved."

"SEC. 113. (a) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the President and to each House of Congress a detailed report of its operations for the preceding calendar year, including a full and complete statement of its receipts and expenditures and a comprehensive description of the activities and accomplishments of the Corporation during the preceding year. Copies of the report shall be made available by the Corporation to interested persons at a reasonable cost.

"(b) The Corporation shall, on or before the first day of June in each year, transmit simultaneously to the Speaker of the House of Representatives and to the President of the Senate a detailed report of those grants authorized to the Corporation pursuant to the provisions of section 211 of the Act and a full and complete statement of the expenditures of such funds made available. The report shall be referred to the Committee on Appropriations of each House and shall include a detailed and comprehensive description of those programs which the Corporation anticipates it will finance during the next fiscal year out of such funds made available pursuant to the provisions of section 211 of the Act. The Corporation shall continue to transmit the report required under this subsection (b) until the total sums made available under section 211 of the Act have been expended."

(30) Page 16, line 13, after "involving", insert: any of its members and relating to

(31) Page 16, strike out lines 17 and 18, and insert: or other such protected competition as defined in such constitution and bylaws.".

(32) Page 16, line 20, strike out [210], and insert: 2.

(33) Page 16, line 20, after "by", insert: section 1 of

(34) Page 18, line 13, strike out [by], and insert: conducted in accordance with the commercial rules of

(35) Page 20, line 11, after "reasonable", insert: direct

(36) Page 24, line 17, after "activity", insert: , including, where feasible, the expansion of opportunities for meaningful participation by handicapped individuals in programs of athletic competition for able-bodied individuals

(37) Page 29, line 4, strike out all after "body." down to and including "States.", line 10.

(38) Page 35, strike out line 22 and all that follows, over to and including line 6, page 36.

(39) Page 36, line 7, strike out [(5)], and insert: (4)

(40) Page 36, line 10, strike out [(6)], and insert: (5)

(41) Page 36, line 13, strike out [(7)], and insert: (6)

(42) Page 36, strike out lines 21 through 23.

(43) Page 37, line 3, after "have", insert: exclusive

(44) Page 37, strike out all after line 9, over to and including line 19 on page 39.

Mr. STEVENS. Mr. President, it is with a real sense of accomplishment that I have heard the majority leader call up S. 2727, the Amateur Sports Act. This bill, which has successfully hurdled a very thorough review by the House, has been returned to the Senate with very few amendments. Changes which have been made, in most cases, reflect improvements, and I commend House Members for their thoughtful consideration of the bill.

At the beginning of 1977 I stated that passage of a bill to reform amateur athletics was a primary goal of mine for the 95th Congress. I was joined in the effort by two of my very able Senate colleagues, Senators CULVER and STONE, who shared my dedication to the project. We had all served as members of the President's Commission on Olympic Sports from 1975–77 and had become deeply acquainted with the problems in amateur sports. Factional disputes have erupted so often between competing organizations that the passage of time and the change of names and faces has, unfortunately, not erased the bitterness. The struggle for the greatest power and control over the most athletes has caused organizations to step all over each in their climb to the top. In the process, athletes and small organizations have suffered by being ill-served and shut out on policy decisions made by the national governing bodies.

More often than not, the way an organization attempts to frustrate the powers of another organization is to forbid its athletes to participate in an event sponsored by the other. Athletes, caught in the middle, often are not able to pursue athletic careers which they feel are in their own best interest. As one athlete put it,

> Athletes often literally, with the sweat off their bodies, pay the salaries of sports administrators. But these same administrators often remain insensitive and unresponsive to the athletes' needs.

Until just recently, and only as a result of the recommendations made by the President's Commission on Olympic Sports (PCOS), have athletes had any real voice in the organizations which control them. Now it is required in the Olympic Committee constitution and will become a part of their charter if this bill is passed.

The Amateur Sports Act is based upon the findings and recommendations of the President's Commission on Olympic Sports. Our analysis was in depth and we solicited and obtained information from any and all sports groups. It was important that we have a good understanding of the problems, and it was imperative that all groups have the opportunity to present their views and recommendations. We then put together a reform package on which this bill is based.

In the spring of 1977, the U.S. Olympic Committee and its members, meeting in their annual session, adopted into their constitution some of the PCOS recommendations. Further amendments were added this past spring at the annual meeting. At that same time, all members voted unanimously to support this legislation which is before us today with only a few minor changes.

The first version of the Amateur Sports Act, introduced in August 1977, by Sen-

ators CULVER STONE, and I, is much like the one we are considering today. Certainly, the basic philosophy is the same. However, as we had learned so well by experience back in the days of the PCOS, it is one thing to come to a verbal agreement and quite another to put it down in writing. Following introduction of the bill last year, 2 days of hearings were held. Some objections were raised, so a new draft was prepared incorporating the recommendations. It was our intent that no major sports organization oppose the bill. That determination called for some real negotiating and a good deal of give and take on the part of the various organizations.

The new draft was reviewed in an all-day informal meeting held here in Washington, with over 100 sports groups and persons in attendance. There were still some objections. A third draft was prepared and circulated, and a second all-day session was held. Again, over 100 persons attended. At least, we had a product and a new bill was introduced in March of this year. That bill passed the Senate by voice vote on May 8 and was sent on to the House. No major sports organizations opposed it.

The bill encountered some hard questioning in the House, but thanks to the dedicated effort of some House Members, Minority Whip BOB MICHEL, Congressmen NORM MINETA, JACK KEMP, and the late Ralph Metcalfe, all of whom served with me on the President's Council, the bill was very ably guided through the House.

The purpose of the Amateur Sports Act is to amend the Olympic Committee's Federal charter by recognizing the USOC as the coordinating body for amateur athletic activity in the United States. What this means is that the Olympic Committee will be expected to take the initiative in expanding and developing activities and programs for athletes in this country. Further, it will charge the USOC with the administration of the reorganization according to the outline of the bill, and with the power to determine the continued recognition of national governing bodies.

Second, the bill requires national governing bodies (NGB's), meaning those organizations which are recognized in this country as the coordinators and policysetters for each of the 32 sports on the Olympic and Pan-American calendars, to be democratically constituted. This means that each national governing body must agree to binding arbitration in the event of disputes, must protest the rights of athletes to compete, must accord direct reasonable representation in its governance to organizations active in the sport, must provide equitable support for women and the handicapped, must be autonomous, and must provide for at least 20 percent voting power and membership to athletes or recently active athletes.

Any national governing body which does not measure up to these standards can be placed on probation and eventually perhaps lose its recognition altogether if good faith is not shown in meeting these requirements. Any NGB may be challenged and unseated by any other sports organization which believes itself better qualified to meet up to the standards.

Late last night the House struck the financial section of the bill which would have provided a much needed $30 million authorization to the Olympic Committee to be used for the reorganization of the national governing bodies, for a sports medicine program, and for training centers. The funding makes the legislation meaningful and is central to the reorganization. However, it was the House's opinion that the legislation did not set sufficient standards for application and disbursement of funds.

The Senate's intent, in authorizing the funds on a no-strings basis but consistent with the purposes of the act, was to avoid any direct congressional regulation of amateur sports. It is my intention to pursuade the House to authorize funds for the Amateur Sports Act, but under separate legislation. With careful and intelligent distribution of the funds by the USOC, the Olympic Committee will be able to establish businesslike, effective, and responsive national governing bodies which should then be in a position to attract private funding. At the present, few sports enjoy significant outside contributions, and only those which are the best administered and organized can boast such private financial support. Swimming is one such sport. Their operation is without a doubt the best, providing programs for all age groups from toddler on up to seniors. Swimming is also a sport which has been successful in cutting across economic and geographic lines.

The training centers are available to any group, and are not limited to the so-called "elite" athlete. Once the athlete arrives he or she is a guest of the Olympic Committee, becoming the beneficiary of the most sophisticated training techniques, nutrition education, and the latest sports medicine information. Participants are selected by their national governing body.

A number of my colleagues have been concerned by this first-time, one-time Federal authorization to the Olympic Committee. One Member even suggested that it is a Federal foot-in-the-door. I hope, and think, not. I have stated time and time again that I will not support any future congressional funding for the Olympic Committee, but I do feel that this one-time authorization for the reform, for effective collation and dissemination of sports medicine information, for the training centers, and for the expansion of the Olympic Committee's authorities is worthwhile. I expect this money to be enough to accomplish the goals set out in the bill, and I believe it will be effective in eliminating the disorder in the amateur sports community. As to whether this funding now gives license to Congress to begin politicizing the Olympic Committee, or regulating amateur sports, I strongly disagree with such philosophy and will have no part of it.

The first Olympics began so that countries could lay aside their differences and vie against one another for the pure sport of it. The winner was not determined on a battlefield, but in an arena free from politics, free from military aggression, and in a sporting spirit which placed emphasis on individual and team achievement. Each competitor was, as he or she is today, an ambassador for his or her country.

It is for these unheralded ambassadors that I urge passage of this bill today. And, it is for all Americans who care about amateur athletics.

Congressman Ralph Metcalfe who, as all of us know, died last week, was once, himself, a victim of the feuds between these rival groups. In 1968 he served as a member of the Kheel Sports Arbitration Committee which attempted to resolve these disputes in amateur sports. They, regrettably, failed. Ralph Metcalfe, a two-time Olympian, also served with me on the President's Commission on Olympic Sports. He was dedicated to achieving the purposes which this legislation represents. Before he died he prepared remarks to be given on the House floor in support of this bill. His final speech ended:

> My distinguished colleagues: This is a landmark bill for the development and improvement of amateur sports in our country. For the first time in over 50 years, we are presented with the opportunity to end the bitter jurisdictional disputes among rival sports organizations. These disputes have hurt the innocent party, the amateur athlete, and have resulted in declining performances by our athletes in Olympic and other international amateur competition.
>
> Furthermore, this bill would encourage and expand athletic participation of minorities, women, the handicapped and sports novices. In other words, this bill would benefit all Americans.
>
> This is a good bill, and I urge every Member of this esteemed body to vote for its passage.

I cannot say it any better than that. This bill should serve as a memorial to Ralph Metcalfe, an athlete who never lost sight of athletes' concerns and needs.

I urge the Senate to accept the House-passed version of the Amateur Sports Act, clearing S. 2727 for the President's desk, even though it does not contain, at this time, financial assistance. It is an important piece of legislation.

I want to thank the many, hard-working and dedicated persons who have assisted with the goal of getting this bill through the 95th Congress. First, I send special thanks to the athletes who worked diligently for the bill. In particular, I thank the Athletes' Advisory Council of the Olympic Committee which made the great sacrifices in achieving a bill which was acceptable to all. I thank the U.S. Olympic Committee and my former colleagues on the President's Commission on Olympic Sports. Thanks to the chairman of the Commerce Committee, Senator CANNON, who supported me in bringing this bill before the committee and to the floor. I thank also key staffers who have helped get this bill through the Congress, Tim Lynch, of the Commerce majority staff; Donna de Varona, former Olympian, PCOS Commissioner, and consultant to the Commerce Committee; Mary McAuliffe, minority staff, Commerce Committee; Bill Pits, minority whip staff member for

Congressman MICHEL; and Jim Lauer, Bill Shattuck, and Alan Coffey, all of the House Judiciary Committee.

Mr. GRIFFIN. Mr. President, I am particularly pleased to see that this legislation, which has been labored over for so long, is finally on its way to become law.

I have had a longstanding interest in amateur sports. My original interest was prompted by a dispute between the NCAA and the AAU in 1968. At that time, I introduced a bill, S. 2836, which would have provided for an athletes' bill of rights.

Since that time I have consistently supported and sought various legislative initiatives aimed at resolving problems associated with amateur sports in this country.

This present legislation is due in no small part to the extended and dedicated efforts of the able minority whip (Mr. STEVENS). I do not believe the record will ever adequately reflect the time, effort and adroitness which the Senator from Alaska displayed in guiding this legislation through the Congress.

There is, however, one point I would like to discuss before we finally approve this bill.

In order to develop a successful sports program, the U.S. Olympic Committee has been establishing regional sports training centers throughout the United States. The USOC has already designated such training centers at Squaw Valley, Calif., Colorado Springs, Colo., and Lake Placid, N.Y.

For some time, I, and other Members have conducted extensive correspondence with the USOC about the establishment of a training center in the Midwest. There is a site located in the Upper Peninsula of Michigan, at Northern Michigan University in Marquette, which I, as do others knowledgeable in this area, believe to be an excellent site for a Midwest training center.

One thing that makes this site particularly attractive is that most of the facilities needed are either part of the existing physical plant of the university or are planned in the near future. Thus, here is a site which can be made available to the USOC without significant additional cost and which is convenient to athletes in the Midwest.

In a letter to me from Col. Don Miller, executive director of the USOC, I was assured that a training center would be developed in the Midwest. I hope the USOC will continue to consider the northern Michigan location which seems to me to be the most economical choice given the limited resources of the U.S. Olympic Committee.

Mr. PRESIDENT, I would like to have included in the RECORD at this point, several letters highlighting this matter.

The letters follow:

MARCH 31, 1978.

Mr. F. DON MILLER,
Executive Director, U.S. Olympic Committee, Park Avenue, New York, N.Y.

DEAR MR. MILLER: As you know, Northern Michigan University has offered the use of its facilities as an Olympic subtraining site. I have had an opportunity to review their proposal and believe it to be an excellent one.

The Committee on Commerce, Science and Transportation, of which I am a member, has approved S. 2727, the "Amateur Athletic Act of 1978." This legislation would provide up to $12 million for the development and support of training centers. If quality facilities are to be made available for all our amateur athletes at reasonable cost and at convenient locations, then development of truly regional training centers is essential to an overall Olympic training strategy.

I can think of no better site for a year-round Olympic Training Center in the Midwest—or for that matter, in the United States—than Northern Michigan University and the Marquette area. I am particularly impressed with the University's extensive facilities and supporting programs available at low cost to athletes and national governing boards.

I urge that Northern Michigan University's proposal be given careful and favorable consideration.

With best wishes, I am

Sincerely,

ROBERT P. GRIFFIN, *U.S. Senator.*

U.S. OLYMPIC COMMITTEE,
New York, N.Y., April 3, 1978.

Hon. ROBERT P. GRIFFIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GRIFFIN: This is in reference to your note of March 27, 1978 concerning the proposal from Northern Michigan University as a United States Olympic Committee Regional Training Center. On behalf of the United States Olympic Committee, I take this opportunity to express our appreciation for your interest and your continued support in furthering the development of amateur athletics.

Dr. Roy Heath of Northern Michigan has kept us apprised of your continued interest in this most important national effort, especially as it relates to Marquette, Michigan. The enthusiasm displayed in the Marquette area is most heartening.

The United States Olympic Committee, before endorsing any additional training centers, must complete a survey that we are conducting with the National Governing Bodies concerning programs that will be conducted at the Regional Training Centers. In addition, the United States Olympic Committee at this time is not prepared to provide additional financial support to the National Governing Bodies for the development of their programs nor to extend additional funds to the development of regional training centers. Needless to say, the importance of pending legislation Senate Bill S. 2727 is paramount to the continued development of these two most important programs.

We are most interested in Northern Michigan University's proposal and feel they could provide an excellent opportunity (especially for winter sports) for the development of amateur athletics.

Thank you again for your continued cooperation and support and should you have any questions, please feel free to get in touch with me.

With all good wishes, I remain,

Sincerely,

F. DON MILLER.

U.S. OLYMPIC COMMITTEE,
New York, N.Y., May 2, 1978.

Hon. ROBERT P. GRIFFIN,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR GRIFFIN: The United States Olympic Committee receives a number of letters from Olympic Games' fans who are interested in government support for the national Olympic effort, or even recommending direct government subsidy. Although there is direct government subsidy in the Socialist countries, it is doubtful if the International Olympic Committee would approve of similar direct subsidies by countries of the Free World. The generosity of the American public over the years has provided us a firm financial base to underwrite our total effort.

Up to this point the United States Olympic Committee has been proud that it has never asked for nor received federal funds to help underwrite the expenses of developing and forming our Olympic Team. However, as the USOC has entered a new phase of operations—through the establishment of national training centers at Squaw Valley and Colorado Springs—we strongly support S 2727 whereby there will be a one-time federal appropriation of $30 million to help expand our national training centers as well as supplying limited funds for the national sports governing bodies to get their programs off the ground.

There are a number of other programs in which the USOC seeks the support of the federal government to help expand our national effort for the development of more athletes—at all levels of ability. We are talking about a coin-of-the-realm program, a tax provision which would permit taxpayers to request certain dollars of their tax payment refunds be earmarked for the Olympic Committee, and even a discretionary air fare program to help cut our heavy transportation costs of flying athletes to the four corners of the world.

These plans have been explored with top representatives of the executive and legislative branches of the federal government. We are watching with interest and cooperating closely with the executive and legislative branches as they continue to discuss implementation of these several programs.

One of the most exciting developments in our ongoing program to develop a broader base of world class athletes has been the establishment of Regional Training Centers at Squaw Valley, California, and Colorado Springs, Colorado. We shall be able to handle up to 500 athletes at each locality this summer.

In setting up our priorities, we feel that our next Regional Training Center should be in the East. One of our major costs in our 9.2 million dollar development program for the current quadrennial period is for transportation. By establishing an Eastern Training Center we could accommodate the large number of talented athletes in this section of the country without incurring large transportation costs. We are confident that Colorado Springs will be the focal point for the training of Mid-West athletes until training centers are established in other parts of the country.

We are committed to a program of Excellence in '80 and shall continue to concentrate on preparing athletes at all levels of competition as we seek to strengthen our overall athletic teams in international competitions. We realize that a basic need for producing stronger world class teams and athletes is by starting at the grass roots level. Thus, we look to our 32 national sports governing bodies for sports on the programs for the Pan American and Olympic Games to up-date and strengthen their programs from "grass roots" to world class level. We shall strive earnestly to help them finance these expanded broad-scale efforts on behalf of the nation's youth.

We shall appreciate your communicating some of these new policies and ideas to Mr. Wooster. His interest in the success of our athletes, as well as concern for better training conditions is another indication that our citizens consider the Olympic Games a vital part of our society. If Mr. Wooster has additional questions, will you please ask him to write to us directly? We will keep you informed of any exchange of ideas with your constituent.

With all my best wishes, I remain,

Sincerely,

F. DON MILLER.

JULY 11, 1978.

Mr. F. DON MILLER,
Executive Director, U.S. Olympic Committee, Park Avenue, New York, N.Y.

DEAR MR. MILLER: Thanks for your letter concerning selection of an Eastern Training Center site.

As a co-sponsor of S. 2727, the "Amateur Sports Act of 1978", and a long-time supporter of amateur sports in this country, I am greatly disturbed by your decision to place the next training center in the East.

Of particular concern to me, and others, is your view that ". . . Colorado Springs will be the focal point for the training of Mid-West athletes. . . ." If as you say in your letter, your concern is the high cost of transporting athletes to training centers, it seems both illogical and uneconomical to believe that athletes in the Mid-West, of which there are a considerable number, could possibly go to Colorado Springs at a low cost.

Since you have already selected training centers on a geographic basis—Squaw Valley in the far West; Colorado Springs in the West and presumably Lake Placid in the East, it would appear that the next appropriate place for a training center would be in the Mid-West. Your letter is encouraging in that regard, when you speak of "establishing training centers in other parts of the country."

I again renew my strong support for the establishment of a training center at Northern Michigan University, and hope that you will give their application continued careful consideration.

With best wishes,
Sincerely,

ROBERT P. GRIFFIN,
U.S. Senator.

U.S. OLYMPIC COMMITTEE,
Colorado Springs, Colo., July 21, 1978.

Senator ROBERT P. GRIFFIN,
U.S. Senate, Committee on Commerce, Science, and Transportation, Washington, D.C.

DEAR SENATOR GRIFFIN: This is in reference to your letter concerning the selection of an Olympic Training site. On behalf of the United States Olympic Committee, I would like to take this opportunity to thank you for your continued interest in the development of amateur athletics.

At a recent United States Olympic Administrative Committee meeting, Lake Placid was given tentative approval for the development of an eastern regional training center. The utilization of the newly constructed facility for the 1980 winter games was a big factor in the committee's decision to select Lake Placid as a center training site.

We are well aware of the need of additional training centers, especially one in the midwest that could serve the states of Illinois, Indiana, Ohio, Michigan, and Wisconsin. It is our intention to proceed further with the development of a center in this area, but before doing so, we must be assured of having the necessary financial backing to support the operation of the training center, in addition to surveying the needs of the national governing body who will supply the athletes for the center. Therefore, the passage of the present legislation is paramount to the United States Olympic Committee's further development of the training centers.

Thank you again for your expression of interest in Northern Michigan University as a possible site for a regional training center. Rest assured they will be given every consideration.

If you have additional questions, please do not hesitate to get in touch with me.

With all best wishes, I remain,
Sincerely,

F. DON MILLER.

Mr. ROBERT C. BYRD. Mr. President, at the request of Mr. STEVENS, the distinguished minority leader and I have acceded to his request and without any opposition on our part and the matter is now being taken care of.

Mr. President, I move that the Senate concur in the amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3112.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3112) entitled "An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building", do pass with the following amendment:

Page 1, line 11, strike out "$133,000,000", and insert: $130,675,000.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment with the House.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR GIVING TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SPARKMAN, I send to the desk a Senate resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 594) authorizing the giving of testimony in the cases of *United States* v. *Robert Berrellez* and *United States* v. *Edward J. Gerrity, Jr.*

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. SPARKMAN. Mr. President, on June 23, 1978, the Senate approved Resolution 491, authorizing Senator FRANK CHURCH and former Senator J. William Fulbright to appear and testify in the cases of *United States* v. *Berrellez* (No. CR–78–00120) and *United States* v. *Gerrity* (No. CR–78–00121).

I recently received letters from the Deputy Assistant Attorney General, Robert L. Keuch, requesting my assistance in obtaining Senate authorization for Senators CASE and PERCY to appear and testify in these same proceedings. He also requested Senate authorization for testimony by staff members of the Committee on Foreign Relations who are responsible for the handling of certain transcripts.

I ask unanimous consent that a copy of those letters be printed in the RECORD following my remarks.

Mr. President, I have consulted with Senators CASE and PERCY and each has expressed no objection to the introduction and adoption of a resolution granting such authorization.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 594) was agreed to, as follows:

Whereas, in the cases of *United States* v. *Robert Berrellez* (No. CR–78–00120) and *United States* v. *Edward J. Gerrity, Jr.* (No. CR–78–00121), both pending in the United States District Court for the District of Columbia, the Assistant Attorney General, Criminal Division, has requested that permission be granted for Senator Charles H. Percy, Senator Clifford P. Case, David L. Evans, and Harry W. Gurkin to give testimony; Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no Senator or employee of the Senate may give testimony with respect to information secured in the performance of his official duties without the consent of the Senate.

SEC. 2. When it appears that testimony of a Senator or employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 3. Senator Charles H. Percy, Senator Clifford P. Case, David L. Evans, and Harry W. Gurkin are authorized to appear and testify in the cases of *United States* v. *Robert Berrellez* and *United States* v. *Edward J. Gerrity, Jr.*, including pretrial proceedings, with respect to information secured in the performance of their official duties.

SEC. 4. A staff member of the Committee on Foreign Relations, who is the authorized custodian of transcripts of the Committee meetings of March 21, March 22, and April 2, 1973, and those portions of the transcript of the March 24, 1972 executive session meeting previously made available to the Department of Justice by the Committee, is authorized to produce such transcripts for use in such cases and proceedings; and (2) to appear and testify in such cases and proceedings for the purpose of identifying and authenticating such transcripts.

SEC. 5. The Secretary of the Senate shall transmit copies of this resolution to the Attorney General of the United States and the United States District Court for the District of Columbia.

CHARLES A. LINDBERGH FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from the further consideration of H.R. 7296 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 7926) to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building".

The PRESIDING OFFICER. Is these objection to the request of the Senator from West Virginia.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 7296) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

FREDERICK G. PAYNE BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 13481 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13481) to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building".

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on third reading of the bill.

The bill (H.R. 12634) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMAR BURLESON FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 13808 and that the Senator proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 13808) to designate the "Omar Burleson Federal Building".

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 13808) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOE SKUBITZ SOCIAL SECURITY ADMINISTRATION CENTER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from the consideration of H.R. 12634 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12634) to designate a building in Pittsburg, Kansas, as the "Joe Skubitz Social Security Administration Center".

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 12634) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LESLIE C. ARENDS BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on H.R. 14223.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14223) to designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 14223) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LOCAL RAIL SERVICE ASSISTANCE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2981.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2981) entitled "An Act to amend the Department of Transportation Act as it relates to the local rail services assistance program, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

TITLE I—LOCAL RAIL SERVICE ASSISTANCE

SHORT TITLE

SEC. 101. This title may be cited as the "Local Rail Service Assistance Act of 1978".

EXPANSION OF ASSISTANCE

SEC. 102. Section 5(f) of the Department of Transportation Act (49 U.S.C. 1654(f)) is amended—

(1) in paragraph (2), by striking out "purchasing a line of railroad or other rail properties" and inserting in lieu thereof "acquiring, by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein,";

(2) in paragraph (3), by striking out "and" immediately after the semicolon;

(3) in paragraph (4), by striking out the period and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new paragraph:

"(5) the cost of constructing rail or rail related facilities (including new connections between two or more existing lines of railroad, inter-modal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.".

COST SHARING

SEC. 103. Section 5(g) of the Department of Transportation Act (49 U.S.C. 1654(g)) is amended to read as follows:

"(g) The Federal share of the costs of any rail service assistance program shall be 80 per centum, except that the Federal share of costs for financial assistance under paragraph (1) of subsection (f) of this section for any project described in subsection (k)(1) of this section shall be 80 per centum for the first and second years such project is conducted and 70 per centum for the third year such project is conducted. The State share of the costs may be provided in cash or through any of the following benefits, to the extent that such benefits would not otherwise be provided: (1) forgiveness of taxes imposed on a common carrier by railroad or on its properties; (2) the provision by the State or by any person or entity on behalf of such State, for use in its rail service assistance program, of real property or tangible personal property of the kind necessary for the safe and efficient operation of rail freight service; (3) trackage secured by the State for a common carrier by railroad; or (4) the cash equivalent of State salaries for State public employees working in the State rail service assistance program, but not including overhead and general administrative costs. If a State, or any person or entity on behalf of a State, provides more than such State's percentage share of the cost of its rail service assistance program during any fiscal year, the amount in excess of such share shall be applied toward such State's share of the costs of its program for subsequent fiscal years.".

FORMULA ALLOCATION

SEC. 104. Section 5(h) of the Department of Transportation Act (49 U.S.C. 1654(h)) is amended to read as follows:

"(h)(1) For the period beginning October 1, 1978, and ending September 30, 1979, each State which is eligible to receive rail service

assistance under this section is entitled to an amount equal to the total amount authorized and appropriated for such purposes, multiplied by a fraction the numerator of which is the rail mileage in such State which was eligible for rail service assistance under this section prior to October 1, 1978, and the denominator of which is the rail mileage in all of the States which was eligible for rail service assistance under this section prior to such date. Notwithstanding the provisions of the preceding sentence, the entitlement of each State shall not be less than 1 percent of the funds appropriated.

"(2) Effective October 1, 1979, each State which is eligible to receive rail service assistance under this section is entitled annually to a sum from available funds as determined pursuant to this subsection. Available funds are funds appropriated for rail service assistance for that fiscal year and any funds to be reallocated for that fiscal year in accordance wtih this subsection. Subject to the limitations set forth in paragraph (3) of this subsection, the Secretary shall calculate each State's entitlement as follows:

"(A) two-thirds of the available funds, multiplied by a fraction (i) the numerator of which is the sum of the rail mileage in the State which, in accordance with section 1a(5)(a) of the Interstate Commerce Act (49 U.S.C. 1a5(a)), is either potentially subject to abandonment' or with respect to which a carrier plans to submit, but has not yet submitted, an application for a certificate of abandonment or discontinuance, and (ii) the denominator of which is the total of such rail mileage in all the States; and

"(B) one-third of available funds, multiplied by a fraction (i) the numerator of which is the rail mileage in the State with respect to which the Interstate Commerce Commission, within 3 years prior to the first day of the fiscal year for which funds are allocated or reallocated under this section, has found that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, such rail mileage (including, until September 30, 1981, the rail mileage which was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and all rail mileage in the State which has, prior to October 1, 1978, been included for formula allocation purposes under this section); and (ii) the denominator of which is the total rail mileage in all the States eligible for rail service assistance under this section which the Interstate Commerce Commission has made such a finding (including, until September 30, 1981, the rail mileage in all the States which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), and the rail mileage in all the States which has, prior to October 1, 1978, been included for formula allocation purposes under this section).

Notwithstanding the preceding provisions of this paragraph, the entitlement of each State in a fiscal year shall not be less than 1 percent of the funds appropriated for such fiscal year.

"(3)(A) For purposes of paragraphs (1) and (2) of this subsection, rail mileage shall be measured by the Secretary as of the first day of each fiscal year. In making calculations under this subsection, no rail mileage shall be included more than once in either the numerator or the denominator of a fraction.

"(B) Entitlement funds are available to a State during the fiscal year for which the funds are appropriated. In accordance with the formula stated in this subsection, the Secretary shall reallocate, to each State which is eligible to receive rail service assistance under this section, a share of any entitlement funds which have not been the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were appropriated. Reallocated funds are available to the State for the same purpose and for the same time period as an original allocation and are subject to reallocation if not made the subject of an executed grant agreement between the Secretary and the State before the end of the fiscal year for which the funds were reallocated. Funds appropriated in fiscal year 1978 and prior years which are not the subject of an executed grant agreement as of October 1, 1978, shall remain available to the States during fiscal year 1979.

"(4) Two or more States which are eligible to receive rail service assistance under this section may, where not in violation of State law, enter into an agreement to combine any portion of their respective Federal entitlements under this subsection for purposes of conducting any project which is eligible for assistance under subsection (k) of this section and which will benefit each State which is a party to such agreement.".

PLANNING ASSISTANCE

SEC. 105. Section 5(i) of the Department of Transportation Act (49 U.S.C. 1654(i)) is amended to read as follows:

"(i) During each fiscal year, a State may expend not to exceed $100,000, or 5 percent, whichever is greater, of its annual entitlement under subsection (h) of this section to meet the cost of establishing, implementing, revising, and updating the State rail plan required by subsection (j) of this section.".

STATE ELIGIBILITY

SEC. 106. (a) Paragraph (2) of section 5 (j) of the Department of Transportation Act (49 U.S.C. 1654(j)(1)) is amended—

(1) by inserting "(A)" immediately after "(2)"; and

(2) by adding immediately before the semicolon at the end thereof the following: ", and (B) such State plan includes, as soon as practicable after the date of enactment of the Local Rail Service Assistance Act of 1978, a methodology for determining the ratio of benefits to costs of projects which are proposed to be initiated after such date of enactment and which are eligible for assistance under paragraphs (2) through (4) of subsection (k) of this section".

(b) During the period prior to the inclusion in a State rail plan of the methodology referred to in the amendment made by subsection (a) of this section, the Secretary of Transportation shall continue to fund projects on a case-by-case basis where he has determined, based upon analysis performed and documented by the State, that the public benefits associated with the project outweigh the public costs of such project.

PROJECT ELIGIBILITY

SEC. 107. Section 5(k) of the Department of Transportation Act (49 U.S.C. 1654(k)) is amended to read as follows:

"(k)(1) A project is eligible for financial assistance under paragraph (1) of subsection (f) of this section only if—

"(A)(i) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or (ii) the line of railroad or related project was eligible for assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762); and

"(B) the line of railroad or related project has not previously received financial assistance under paragraph (1) of subsection (f) of this section for more than 36 months, except that a line of railroad or related project which was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762) or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(2) A project is eligible for financial assistance under paragraph (2) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad related to the project;

"(B) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(C) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3)), except that a line of railroad or related project which was eligible for financial assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(3) A project is eligible for financial assistance under paragraphs (3) and (5) of subsection (f) of this section only if—

(A) the line of railroad related to the project is certified by the railroad as having carried 3 million gross ton miles of freight or less per mile during the prior year;

"(B) the line of railroad related to the project is certified by the railroad as having carried less than 5 million gross ton miles of freight per mile during the prior year and the Secretary has determined that the project is essential to carry out proposals made under authority of subsections (a) through (e) of this section;

"(C) an application for a certificate of abandonment or discontinuance with respect to the line of railroad related to the project has been filed with the Interstate Commerce Commission prior to January 1, 1979 (whether or not such application has been granted);

"(D) the line of railroad related to the project is listed for possible inclusion in a rail bank in part III, section C of the Final System Plan issued by the United States Railway Association under section 207 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 717); or

"(E) the line of railroad related to the project was eligible to be acquired under section 402(c)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762(c)(3).

Any project involving a line of railroad described in subparagraph (C), (D), or (E) of this paragraph shall only be eligible for financial assistance until September 30, 1981.

"(4) A project is eligible for financial assistance under paragraph (4) of subsection (f) of this section only if—

"(A) the Interstate Commerce Commission has found, since February 5, 1976, that the public convenience and necessity permit the abandonment of, or the discontinuance of rail service on, the line of railroad which is related to the project; or

"(B) the line of railroad or related project was eligible for financial assistance under section 402 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 762), except that a line of railroad or related project which was eligible for assistance under such section 402 or under this section prior to October 1, 1978, shall be eligible only until September 30, 1981.

"(5) On or before August 1 of each year, each common carrier by railroad subject to part I of the Interstate Commerce Act shall prepare, update, and submit to the Secretary a listing of those rail lines of such carrier which, based on level of usage, carried 3 million gross ton miles of freight or less per mile during the prior year.".

REHABILITATION ASSISTANCE

SEC. 108. Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended by redesignating subsection (o) as subsection (p), and by inserting immediately after subsection (n) the following new subsection.

"(o) A State shall use financial assistance provided under paragraph (3) of subsection (f) of this section in accordance with the following provisions:

"(1) The financial assistance shall be used to rehabilitate or improve rail properties in order to improve rail freight service within the State.

"(2) The State shall, in its discretion, grant or loan funds to the owner of rail properties or operator of rail service related to the project.

"(3) The State shall determine all financial terms and conditions of a grant or loan, except that the timing of all advances with respect to grants in and under this subsection shall be in accordance with Department of Treasury regulations.

"(4) The State shall place the Federal share of repaid funds in an interest-bearing account or, with the approval of the Secretary, permit any borrower to place such funds, for the benefit and use of the State, in a bank which has been designated by the Secretary of the Treasury in accordance with section 10 of the Act of June 11, 1942 (12 U.S.C. 265). The State shall use such funds and all accumulated interest to make further loans or grants under paragraph (3) of subsection (f) of this section in the same manner and under the same conditions as if they were originally granted to the State by the Secretary. The State may, at any time, pay to the Secretary the Federal share of any unused funds and accumulated interest. After the termination of a State's participation in the rail service assistance program established by this section, such State shall pay the Federal share of any unused funds and accumulated interest to the Secretary.".

TECHNICAL AMENDMENTS

SEC. 109. (a) Section 5 of the Department of Transportation Act (49 U.S.C. 1654) is amended—

(1) in subsection (g), subsection (m)(1), and the first sentence of subsection (p) (as redesignated by section 108 of this title), by striking out "(o)" each place it appears and inserting in lieu thereof "(p)"; and

(2) by amending the third sentence of subsection (p) (as so redesignated) to read as follows: "In addition, any appropriated sums ranging after the repeal of section 402 of the Regional Rail Reorganization Act of 1973 and of section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 are authorized to remain available to the Secretary for purposes of subsections (f) through (p) of this section.".

(c)(1) Section 810 of the Railroad Revitalization and Regulatory Reform Act of 1976 (49 U.S.C. 1653a) is repealed.

(2) The table of contents for title VIII of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by striking out "Sec 810. Rail bank.".

EFFECTIVE DATE

SEC. 110. The provisions of this title shall take effect on October 1, 1978.

TITLE II—AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

AMENDMENTS TO THE REGIONAL RAIL REORGANIZATION ACT OF 1973

SEC. 201. Section 304(e) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 744(e)) is amended—

(1) by striking out the comma at the end of paragraph (4)(B) and inserting in lieu thereof "; or"; and

(2) by adding immediately after paragraph (4)(B) the following new subparagraph:

"(C) offers a rail service continuation payment, pursuant to subsection (c)(2)(A) of this section and regulations issued by the Office pursuant to section 205(d)(5) of this Act, for the operation of rail passenger service provided under an agreement or lease pursuant to section 303(b)(2) of this title or subsection (c)(1)(B) of this section where such offer is made for the continuation of the service beyond the period required by such agreement or lease, except that such services shall not be eligible for assistance under section 17(a)(2) of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1613(a)(2)),"; and

(3) by adding at the end thereof the following new paragraphs:

"(7)(A) If a State (or local or regional transportation authority) in the region offers to provide payment for the provision of additional rail passenger service, the Corporation shall undertake to provide such service pursuant to this subsection (including the discontinuance provisions of paragraph (2) of this subsection). An offer to provide payment for the provision of additional rail passenger service shall be made in accordance with subsection (c)(2)(A) of this section and under regulations issued by the Office pursuant to section 205(d)(5) of this Act, and shall be designed to avoid any additional costs to the Corporation arising from the construction or modification of capital facilities or from any additional operating delays or costs arising from the absence of such construction or modification. The State (or local or regional transportation authority) shall demonstrate that it has acquired, leased, or otherwise obtained access to all rail properties, other than those designated for conveyance to the National Railroad Passenger Corporation pursuant to sections 206(c)(1)(C) and 206(c)(1)(D) of this Act and to the Corporation pursuant to section 303(b)(1) of this title, necessary to provide the additional rail passenger service and that it has completed, or will complete prior to the inception of the additional rail service, all capital improvements necessary to avoid significant costs which cannot be avoided by improved scheduling or other means on other existing rail services (including rail freight service) and to assure that the additional service will not detract from the level and quality of existing rail passenger and freight service.

"(B) As used in this paragraph, the term 'additional rail passenger service' means rail passenger service (other than rail passenger service provided pursuant to the provisions of paragraphs (2) and (4) of this subsection), including extended or expanded service and modified routings, which is to be provided over rail properties conveyed to the Corporation pursuant to section 303(b)(1) of this title, or over (i) rail properties contiguous thereto conveyed to the National Railroad Passenger Corporation pursuant to this Act, or (ii) any other rail properties contiguous thereto to which a State (or local or regional transportation authority) has obtained access.

"(C) Notwithstanding any other provision of this paragraph, the Corporation shall not be required to operate additional rail passenger service over rail properties leased or acquired from or owned or leased by a profitable railroad in the region.

"(8) The Secretary shall, in consultation with the Association, conduct a study to determine the best means of compensating the Corporation for liabilities which it may incur for damages to persons or property, resulting from the operation of rail passenger service required to be operated pursuant to this subsection or section 303(b)(2) of this title, which are not underwritten by private insurance carriers or are not indemnified by a State (or local or regional transportation authority). Such study shall identify the nature of the risks to the Corporation, the probable degree of uninsurability of such risks, and the desirability and feasibility of various indemnification programs, including subsidy offers made pursuant to this section, self insurance through a passenger tax or other mechanism, or government indemnification for such liabilities. Within one year after the date of enactment of this paragraph, the Secretary shall prepare a report with appropriate recommendations and shall submit such report to the Congress. Such report shall specify the most appropriate means of indemnifying the Corporation for such liabilities in a manner which shall prevent the cross-subsidization of passenger services with revenues from freight services operated by the Corporation.".

TITLE III—AMENDMENTS TO THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976; RELATED PROVISIONS

INCREASE IN FUNDING LIMITATION ON PURCHASE OF TRUSTEE CERTIFICATES; EXTENSION OF AUTHORITY TO ISSUE AND SELL FUND ANTICIPATION NOTES

SEC. 301. (a) Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended—

(1) in subsection (d)(3), by striking out the last sentence; and

(2) in subsection (e), by striking out "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title,".

(b) Sections 507(a) and 507(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (7 U.S.C. 827 (a) and (d)) are amended by striking out "1978" and inserting in lieu thereof "1979".

(c) Section 509 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829) is amended by striking out "March 31" each place it appears and inserting in lieu thereof "September 30".

SECURITY FOR TRUSTEE CERTIFICATES

SEC. 302. Section 505(d)(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(d)(2)) is amended—

(1) in the last sentence of subparagraph (B), by striking out "No certificate" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, no certificate"; and

(2) by adding at the end thereof the following new subparagraph:

"(C) The Secretary may purchase certificates under this section without making the finding referred to in clause (iii) of subparagraph (B) only if such certificates are senior in rights to all outstanding capital stock common and preferred, of the debtor corporation, and all unsecured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act, but subordinate to all senior debt of the debtor corporation whenever such senior debt is incurred. As used in this subparagraph, the term 'senior debt' means—

"(i) all costs of administration, incurred or to be incurred by a trustee, and secured debt assumed by a trustee, in connection with the reorganization proceedings and the operation of a debtor's business by a trustee during the pendency of such proceedings; and

"(ii) all secured debt incurred before the date of commencement of railroad reorganization proceedings pursuant to section 77 of the Bankruptcy Act and determined by the court to be a proper claim against the estate and an obligation of the debtor corporation.".

FRA REVIEW

SEC. 303. The Federal Railroad Administration shall promptly review the condition of the Chicago, Milwaukee, and Saint Paul Rail-

road and consider assisting such railroad with loans for roadbed and track improvement.

TITLE IV—AMENDMENTS TO THE INTERSTATE COMMERCE ACT

RENEWAL

SEC. 401. (a) Section 15(8)(c) of the Interstate Commerce Act (49 U.S.C. 15(8)(c)) is amended—

(1) in clause (i), by striking out "within 2 years after the date of the enactment of this subdivision" and inserting in lieu thereof "prior to July 1, 1980";

(2) in clause (ii), by inserting "and" after the semicolon; and

(3) by striking out clauses (iii) and (iv) and inserting in lieu thereof a new clause (iii) to read as follows:

"(iii) the aggregate of increases or decreases in any rate filed pursuant to clause (i) or (ii) of this subdivision during any calendar year is not greater than 7 per centum of the rate in effect on January 1 of that year.".

(b) The last sentence of section 15(8)(d) of the Interstate Commerce Act (49 U.S.C. 25(8)(d)) is amended by striking out "clauses (iii) or (iv)" and inserting in lieu thereof "clause (iii)".

CAR SERVICE

SEC. 402. Section 1(14) of the Interstate Commerce Act (49 U.S.C. 1(14)) is amended by redesignating subdivision (b) as subdivision (c), and by inserting immediately after subdivision (a) the following new subdivision:

"(b) If the Commission finds, upon the petition of an interested party and after notice and a hearing on the record, that a common carrier by railroad subject to this part has materially failed to furnish safe and adequate car service as required by paragraph (11) of this section, the Commission may require such carrier to provide itself with such facilities and equipment as may be reasonably necessary to furnish such service, if the evidence of record establishes, and the Commission affirmatively finds, that—

"(i) the provision of such facilities or equipment will not materially and adversely affect the ability of such carrier to otherwise provide safe and adequate transportation services;

"(ii) the expenditure required for such facilities or equipment, including a return which equals such carrier's current cost of capital, will be recovered; and

"(iii) the provision of such facilities or equipment will not impair the ability of such carrier to attract adequate capital.".

Amend the title so as to read: "An Act to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.".

Mr. DURKIN. Mr. President, I would like to engage the Senator in a colloquy on one particular provision in S. 2981. My understanding is that the House amendments to S. 2981, the local rail assistance bill, do not contain the provisions added to the Senate bill which would give the Interstate Commerce Commission authority to condition an abandonment upon a requirement that the owning railroad grant trackage rights to a connecting railroad or a short line railroad to allow for the provision of nonrevenue service to the abandoned line.

Mr. CANNON. The distinguished Senator from New Hampshire is correct in that the provision has not been included in the House version of this bill.

Mr. DURKIN. I believe that the Interstate Commerce Commission now in fact has the inherent authority which we reaffirm in the Senate bill. For the purposes of establishing the record, would the Senator support me in urging the Interstate Commerce Commission to use the authority that it has in a vigorous fashion.

Mr. CANNON. Yes, I understand the Senator's concern, and I support him in urging the Interstate Commerce Commission to use the authority it has under the law in this area.

Mr. DURKIN. I thank the Senator. I ask unanimous consent that a letter from the Boston and Maine Railroad be printed in the RECORD at this point. In this letter the Boston and Maine Railroad will act as if the "trackage rights" amendment had been enacted.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SEPTEMBER 14, 1978.

Hon. JOHN DURKIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DURKIN: I am writing this letter on the specific authorization of Alan Dustin as President of the Boston and Maine and it represents official Boston and Maine policy.

You will recall that a year ago, through your good offices, the Boston and Maine reached an agreement with officials of the New Hampshire Department of Transportation on acceptable wording for a "trackage rights" amendment to the local rail assistance legislation. We felt that our commitment to you, and to Frances, was firm and I have consistently indicated over the past year that the Boston and Maine had signed off on that language.

In recent weeks, it is my understanding that representatives of other railroads met with Frances in an effort to reach further compromises on the wording of an amendment. I was not a party to those meetings and have no personal knowledge as to whether an agreement was reached and what might have been in any such agreement.

Several hours after S. 2981 passed the House of Representatives yesterday, I was informed that the trackage rights agreement had been deleted from the bill. This disturbed me because I felt that the Boston and Maine had made a commitment to you on this matter. I promptly called Alan Dustin who asked me to write this letter. This will serve as a commitment to you personally and to the State of New Hampshire that, as a major carrier in the State, the Boston and Maine will work within the spirit and the letter of the agreed to amendment as though it had actually been written into the law. This is an absolute commitment to cooperate within the amendment, to make reasonable agreements with the state on trackage rights under the terms and conditions of the language which you, Frances, and the Boston and Maine developed.

There are numerous provisions in the Local Rail Assistance Act in which the Boston and Maine is directly concerned and we strongly support its passage. Although we believe the deletion of the amendment on the House side was unfortunate, we believe you will agree with us that the entire bill is vital to the rail industry. In particular, we would draw your attention to provisions in the bill which would allow the F.R.A. to waive "liquidation value" findings in the issuance of 505 funds to carriers in Section 77 reorganization. This is vitally important to the Boston and Maine. It is our understanding that it is very probable that the F.R.A. will make use of the provisions of this amendment to clear the way for releasing the total funds of the B&M $26 million in Trustee certificates.

In closing, should you desire next year to push for inclusion of the language on trackage rights to which you and the Boston and Maine have agreed, you can be assured that we will indicate publicly that that language is fully acceptable to us and that we are living within the spirit and letter of it.

Your support for legislation helpful to the nation's railroads has been very much appreciated by the Boston and Maine over the years. We applaud you for your interest and personal attention to the work of the subcommittee.

Sincerely,

RAY B. CHAMBERS,
Washington Representative.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2522.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2522) entitled "An Act to amend title X and part B of title XI of the Public Health Service Act to extend appropriations authorizations for five fiscal years for voluntary family planning and population research programs and for sudden infant death syndrome programs, and to make improvements in the provisions governing such programs and research with respect to such syndrome; and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

That (a)(1) section 1001(a) of the Public Health Service Act is amended by striking out "family planning methods (including natural family planning methods)" and inserting in lieu thereof "family planning methods and services (including natural family planning methods, infertility services, and services for adolescents)".

(3) Section 1004(b)(1) of such Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$105,000,000 for the fiscal year ending September 30, 1979, $120,800,000 for the fiscal year ending September 30, 1980, and $138,900,000 for the fiscal year ending September 30, 1981".

(4) Section 1005(b) of such Act is amended (A) by striking out "and" after "1977;" and (B) by inserting before the period a semicolon and the following: "$700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; and $926,000 for the fiscal year ending September 30, 1981".

SEC. 2. Section 1121(b)(5) of the Public Health Service Act is amended (A) by striking out "and" after "1977,", and (B) by inserting before the period a comma and the following: "$3,500,000 for the fiscal year ending September 30, 1979, $4,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981".

Amend the title so as to read: "An Act to extend the programs of assistance under title X and part B of title XI of the Public Health Service Act.".

(2) Section 1006 is amended by adding at the end thereof the following new subsection:

"(d)(1) A grant may be made or a contract entered into under section 1001 or 1005 only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this title and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

"(2) In the case of any grant or contract under section 1001, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individua's broadly representative of the population or community to which the materials are to be made available."

(b)(1) Section 1001(c) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: $200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; and $264,500,000 for the fiscal year ending September 30, 1981".

(2) Section 1003(b) of such Act is amended (A) by striking out "and" after "1977;", and (B) by inserting before the period a semicolon and the following: "$3,100,00 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; and $4,100,000 for the fiscal year ending September 30, 1981".

Mr. CRANSTON. Mr. President, as the author of the Senate measure and chairman of the Subcommittee on Child and Human Development of the Human Resources Committee, I deeply regret that the parliamentary situation on the House side has precluded our proceeding in the normal manner to conference with the House on the provisions in S. 2522, the Voluntary Family Planning Services, Population Research, and Sudden Infant Death Syndrome Amendments of 1978.

Under the circumstances, the Senate has agreed to accept the provisions with respect to these programs which passed the House last night.

These provisions will authorize continuation of these critical programs for an additional 3 years and will give them the stability that is so important to the achievement of the objectives of the programs. The increased authorizations of appropriations for the basic family planning services program and for population research should be of great value.

With respect to family planning services, I intend to continue to work on clarifying the statutory functions and duties of the Deputy Assistant Secretary for Population Affairs and the Office of Population Affairs in the next Congress in the way the Senate has agreed to in this Congress. I was pleased to have a pledge from the House to work with me next year in developing legislation to achieve these changes.

With respect to the sudden infant death syndrome programs, I intend to proceed very early next year with a separate bill embodying the basic changes which the Senate adopted this year in S. 2522. Based on my conversations with the other body, I believe that we will be able to enact early next year legislation comparable to the Senate's bill's SIDS provisions.

Mr. ROBERT C. BYRD. Mr. President, I move, on behalf of Mr. CRANSTON, that the Senate concur with the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Alaska (Mr. GRAVEL).

The PRESIDING OFFICER. The Senator from Alaska (Mr. GRAVEL).

JOE WAGGONNER FEDERAL BUILDING

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from consideration of H.R. 13514.

Mr. ABOUREZK. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Will the Senator from Alaska please repeat his request?

Mr. ABOUREZK. Can we inquire what that thick stack of papers is?

Mr. GRAVEL. What we have here——

The PRESIDING OFFICER. Will the Senator from Alaska please start over?

Mr. GRAVEL. Let me make the unanimous-consent request, and the Senator can interpose his reservation and I will go on and speak of the——

Mr. ABOUREZK. I had already reserved.

Mr. GRAVEL. The Chair had not heard my unanimous-consent request, and the Chair asked me to repeat it.

Mr. ABOUREZK. I am sorry.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from consideration of H.R. 13514, a bill naming a Federal building for Joe Waggonner.

Mr. ABOUREZK. Mr. President, reserving the right to object——

Mr. GRAVEL. What this bill is——

Mr. DURKIN. Well, reserving the right to object until we can go through reading the rest of it, I am going to be forced to object. My aide has another 35 pages or so to leaf through.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

An act (H.R. 13514) to name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building".

The Senate proceeded to consider the bill.

Mr. GRAVEL. Will my colleague make his reservation, let me explain what the bill is, and then he can have his expert read through the other 35 pages. We have got a lot of time, but I would just like to explain what the bill is so that we are all aware of it.

Every 2 years we put together a water resources package. That is a package of all projects. In this particular case we have 158 projects affecting 46 States. Normally, we go to a conference. In this particular case, because of the exigencies of time we took the bill that had passed the Senate and we took the bill that had passed the House and put together a compromise on the staff level. That is the sheaf of papers you have here. I am sure my colleague would be interested. We have already spoken to our colleague from New Hampshire. I am sure he is interested in his State. There is not very much in there for New Hampshire, unfortunately. I wish there were more. There is merely a study, a hydro study, for $135,000.

Hopefully, if the study shows there is some potential the Senator will, in a couple of years, have considerably more money because we would have something specific. I can recall a project, one of mine, that is in here, which started out that same way, started out with a study, and then it proceeded.

I am sure my friend from South Dakota will be interested. I am sure he knows some of these projects. I am not all that familiar with them. One is the Missouri River. It is a pump storage, Fort Randall. It is a project that amounts to $270 million, and we are getting him off the ground with this one for $30 million. I wish we could do better, but it is the best we could do under the circumstances at this late hour.

He also has another one that is in Springfield. It is to relocate a W.S.—that is a water service intake. I feel confident that I am correct that it is $2 million. It is not very much. I wish we could do better.

I know my colleague from Ohio has a concern——

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. GRAVEL. But my colleague from Ohio had asked about this project.

Mr. ABOUREZK. I can save the Senator a lot of trouble.

Mr. GRAVEL. He has his staffperson looking at it very closely, and I know he wants to know what is in here. I would not want to deny him that information—Cleveland Harbor, $30.43 million. Hocking River construction $7.6 million.

Mr. ABOUREZK. Mr. President, will the Senator yield? I am happy to hear about that. It is 5:30 in the morning and we have not slept since yesterday. What you have is too complicated to consider under this kind of circumstance.

Mr. President, I object to the unanimous-consent request and I thank the Senator for his courtesy.

AUTHORITY OF FEDERAL RESERVE BANKS TO BUY AND SELL CERTAIN OBLIGATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of House Joint Resolution 816, and that the Senate proceed to its immediate consideration. This extends the authority of the Federal Reserve banks to purchase U.S. Government obligations.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 816) to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

There being no objection, the Senate proceeded to the consideration of the bill.

Mr. PROXMIRE. This joint resolution would extend through April 30, 1979, the authority of the Federal Reserve banks to purchase U.S. Government obligations directly from the Treasury up to the amount of $5 billion.

The purpose of this draw authority is to provide a backstop for the Treasury's cash management operations. It insures that the Treasury will be able to raise moncy quickly in emergency situations or in order to avoid disruption of the financial markets. The authority has been in existence since 1942 and has been extended on 21 previous occasions. I understand that this authority is used very seldom, but that the Treasury Department considers it an important element in its financial operations.

Therefore, I urge the passage of House Joint Resolution 816.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

C. BASCOM SLEMP BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from the consideration of H.R. 11671 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

An act (H.R. 11671) to designate a certain Federal building in Big Stone Gap, Virginia, the "C. Bascom Slemp Building".

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SOLAR COLLECTORS IN HOUSE OFFICE BUILDINGS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 13597, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

An act (H.R. 13597) to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Numbered 2, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GEORGE MAHON FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from the consideration of H.R. 13809.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

An act (H.R. 13809) to designate the "George Mahon Federal Building."

There being no objection, the Senate proceeded to consider the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE LEGISLATIVE YEAR

Mr. ROBERT C. BYRD. Mr. President, I want to take this moment to express my gratitude to Mr. BAKER, the distinguished minority leader, and to Mr. STEVENS, the distinguished minority whip, to Mr. CRANSTON, the distinguished majority whip, and to all of my colleagues on both sides of the aisle for the splendid cooperation that they have given to me, for the many courtesies they have extended to me, and for the friendship that exists among us.

I also want to congratulate the leadership on the other side of the aisle for the good work that it has done and also my colleagues on the Democratic Policy Committee and the members of the committee, and the chairman and the members of the Steering Committee, for the excellent work that has been done in producing an outstanding record during this second session of the 95th Congress.

Many very difficult issues have confronted this Congress, and it has faced up to them with courage. To mention a few, I would cite the Panama Canal Treaties, the Middle East arms sales, the Turkish arms embargo, civil service reform, the energy legislation.

Also, considering both years of this Congress, the new Department of Education passed by the Senate, the Department of Energy, which has been created by the act of Congress, the economic stimulus package, the minimum wage legislation, the social security legislation that was required to keep the funds actuarially sound, the ERA legislation, the Humphrey-Hawkins legislation, the D.C. representation amendment, and many other pieces of legislation that, as I have already stated, are not only complex legislation, but very controversial.

Many of these measures dealt with international affairs, and I think that Congress, and especially the Senate, because of its unique role under the Constitution in dealing with foreign affairs, have left their stamp on these pieces of legislation. This Congress has not been a rubber stamp for the President; on the other hand, it has not been balky and unbending. It has made its own contributions, and they have been significant ones, both in the field of international affairs and in the field of domestic legislation. The members have worked hard, especially in this last month. The Senate has been in session every Saturday now for four Saturdays, and now one Sunday.

I feel a deep sense of pride in the record the Senate has established, and I believe that the members on both sides of the aisle can share in this pride, because without the cooperation that has existed on both sides of the aisle, such a record could not have been produced.

This is the season for holding out report cards; and so far as I am concerned, this Congress is entitled to an A-plus for effort, and also an A-plus insofar as results are concerned.

I have been in Congress now for 26 years, and I do not believe I have ever served in a Congress that has had to face up to as many deeply controversial issues as has this Congress. Those Senators on both sides of the aisle who are running this year, and who have faced up to these issues with great courage and a sense of duty, I salute them and thank them. Some of them have done so at great personal sacrifice, perhaps, in connection with their own political careers; but I have not seen any of them trim a sail. They have stood courageously, and I feel intensely proud of these Senators for the courage and sense of duty which they have demonstrated.

Mr. President, I yield to the distinguished minority leader.

Mr. BAKER. Mr. President, I thank the majority leader for his remarks, especially as they relate to the leadership on this side of the aisle, and I reciprocate. I have enjoyed and taken pleasure in the relationship between our two sides, as the leadership on both sides of the aisle. Once again it becomes my turn to pay my respects and express my appreciation to the majority leader.

While we disagree, and sometimes energetically, on major issues, and while we find it necessary to oppose in many cases, I have never found that he does less than consult, confer, order, and arrange the affairs of the Senate so as to provide an equitable opportunity for each Member.

Mr. President, I will have more to say in this respect in a prepared and formal statement that I will put in the RECORD later today, and I would hope the majority leader, then, would accept my personal expressions of appreciation for his many kindnesses and his consideration, as would the distinguished assistant majority leader.

This has been a long, difficult, and tedious year. Without good cooperation on both sides, and agreement and disagreement, it would not only have been long and tedious, but very unpleasant. It has not been that, and for his part in that, which was a major part, I express my personal appreciation.

Mr. ROBERT C. BYRD. Mr. President, the distinguished minority leader has always been kind, courteous, and pleasant. It has been a privilege to work with him.

Mr. BAKER. Mr. President, the Senator from Utah has a brief statement which he wishes to make.

The PRESIDING OFFICER. The Senator from Utah.

AEROSPACE INDUSTRIES ASSOCIATION TO HEAR THURMOND

Mr. GARN. Mr. President, the distinguished senior Senator from South Carolina (Mr. THURMOND) will be making a major defense speech next Thursday, October 19, before the Aerospace Industries Association of America in Charleston, S.C.

I have had an opportunity to read this speech and I think it is an outstanding contribution to the national defense dialog which is so necessary to insure our Nation's preparedness; therefore, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY SENATOR STROM THURMOND

Mr. Hulse, Mr. Harr, members of the Aerospace Association of America, distinguished guests:

As you perhaps know, I am in the middle of a campaign for re-election to the U.S. Senate. I have been working night and day, visiting one city after another, meeting with one group after another. However, I would like to take a few minutes out from my campaign to welcome you to our great State and this beautiful city of Charleston.

Charleston is a military minded area, as we have an outstanding shipyard operation and a number of important military installations. In addition, Charleston is the home of The Citadel, a truly great military college which has produced some of the Nation's finest military leaders.

Your program indicates this is a working Conference, but I hope you will take some time to discover the delights of this historic and beautiful area.

ARMS EXPORT POLICIES

I note that your subjects for this meeting center on NATO and U.S. policy. I favor a liberal arms export policy for our country, and I opposed various features of the Arms Export Control Act of 1975 which contained a number of objectionable sections.

Unfortunately, that Act was based on the premise that exporting implements of war was bad, and that such exports were out of control and an embarrassment to the U.S.

As you know, armaments do not cause wars, people cause wars. U.S. sales of arms is not something inherently nefarious or destabilizing, but a means to strengthen our own defense hand and that of our allies in an increasingly dangerous world.

In 1977, weapon sales produced a $7 billion net balance of trade factor for our country. While arms sales cannot be justified on this basis, this balance of payments dividend reveals one of the favorable aspects of U.S. arms sales when consistent with our national policy.

However, I would like to offer a few comments this afternoon not on export policy, but on a new challenge in NATO, and specifically a direct challenge to the U.S. which I personally find of grave concern.

This year during consideration of the Defense Procurement Bill the Senate Armed Services Committee gave special attention to what I see as our major deficiency in NATO, the lack of a credible nuclear deterrent capable of striking deep into Eastern Europe.

SOVIET DEPLOYING SS–20

Today, the Soviets are busy deploying within their borders the new 3,000 mile range SS–20, a mobile ballistic missile designed mainly for NATO theater purposes. The SS–20 is actually a shorter range version of the Soviet SS–16, the Soviets new Mobile Intercontinental Ballistic Missile (ICBM). This deployment has caused justifiable alarm throughout Western Europe.

The SS–20 can carry up to 3 Multiple Independently-Targeted Reentry Vehicle (MIRV), any one of these warheads capable of destroying Brussels, Paris, London or other major cities of the NATO Alliance. Further, the fact that it is a mobile missile significantly enhances its flexibility and its survivability.

NATO ALLIES CONCERNED

Our NATO allies are deeply concerned by the SS–20, not only because of the increased threat it poses, but because it is not subject to current arms control negotiation. It is another example of a "gray area" system, such as the Backfire bomber, which has intercontinental capabilities, but would primarily be used as a theater weapon.

The uncontrolled deployment of the SS–20 also poses at least two other problems for NATO and the U.S. other than the obvious. First, use of the SS–20 against Western Europe and China frees other Soviet missiles for targeting against the U.S. Second, it requires that the U.S. and its Allies target our limited strategic missiles against the mobile Soviet SS–20's if we can find them.

CURRENT NATO STRATEGY

An examination of our own posture in Western Europe finds that our current theater nuclear options contemplate a strategy of "flexible response." This response ranges from conventional battlefield and theater weapons to strategic weapons. Of course, the heart of NATO's theater ballistic missile force consists of the 450-mile range Pershing. We have nothing like the 3,000 mile mobile SS–20.

Thus, with deployment of the SS–20 we are faced with increasing evidence that the perception and the reality of our NATO nuclear deterrent is not credible.

To meet this threat we must first have a coherent policy for theater nuclear forces. Second, we must have the weapons systems that are necessary to carry out such policy. This policy must discourage, rather than invite, the enemy from escalating a conflict to a nuclear one. In short, our present NATO nuclear forces need modernizing to offset the present imbalance toward shorter range of battlefield nuclear weapons.

General Al Haig, the Supreme NATO Commander, has publicly recognized this problem. He recently warned that while the West was ensnarled in the indecision on the neutron warhead, the Soviets were busy deploying a weapon 2,000 times as devastating, the SS–20.

To this very day, the Senate has not had presented to it by this Administration a plan for the modernization of our theater or strategic nuclear forces. Furthermore, we have not seen evidence that the President has even decided to stockpile the neutron warhead components so we will have an option for later deployment.

U.S. POWER QUESTIONED

These NATO developments have come at a time when overall defense policies have confused the public, confounded the experts, and complicated the SALT negotiations. Our policy seems to be one of start, stop or delay. A number of key issues in the strategic area alone greatly concern me.

First, the U.S. unilaterally terminated the B–1 bomber program.

Second, despite increasing vulnerability of our stationary Minuteman ICBM's, the Administration has twice delayed, rather than accelerated, the MX mobile missile program.

Third, we are faced with a probable submarine missile decrease if our Polaris boats are retired before the Trident system comes on line.

Fourth, our apparent willingness to negotiate range limits for our new family of cruise missiles is ill-advised at the very least.

NATO ALLIES SHOW CONCERN

These events, plus the Soviet deployment of the SS–20's, have raised questions in Western Europe as to whether the U.S., perceived in a position of declining strategic nuclear strength, would have to make concessions at SALT II, thereby weakening the defense of Western Europe.

In recognition of these new problems, and others, our NATO allies recently agreed to increase their defense budgets by 3 percent. However, modernization of NATO's present surface-to-surface nuclear forces is and should remain the primary responsibility of the U.S.

Presently, there is not located in NATO any weapon, ballistic or otherwise, capable of reaching the Soviet Union other than aircraft. Our obvious counter to the expanded Soviet nuclear NATO theater threat is through development and deployment of either 1. the Ground Launched Cruise Missile (GLCM); or 2. a new intermediate range mobile ballistic missile (IRBM).

CRUISE MISSILES

Our NATO allies have expressed considerable hope that the Ground Launched Cruise Missile would offer a cheap, viable counter in the NATO theater to the Soviet SS–20.

However, at present the U.S. and the Soviets are negotiating SALT limitations on the ranges of our ground or sea-launched missiles which could last until 1982. These negotiations could limit our ground-launched cruise missile to a range of 375 miles, less than the current Pershing missile.

Obviously, the Soviets will demand that any limitation of ranges in the 3-year Protocol be carried over into future treaties.

I am opposed to cruise missile range limitations. Such limitations are totally without merit. Particularly, this is true, in view of escalating Soviet initiatives and recent and continuous U.S. failures to meet its own defense needs. First, range limits on cruise missiles may unnecessarily limit technology. Second, why should we limit our ground-launched cruise missile range while allow-

ing the much longer range SS-20 to be deployed without any restrictions whatsoever?

My belief is that we should do what is right and safe for our own security, rather than let the Soviets dictate our defense posture through SALT agreements which have been anything but beneficial to date.

INTERMEDIATE RANGE BALLISTIC MISSILES

Our other counter to the SS-20 deployment and the overall increase in Warsaw Pact capabilities, is the development and deployment of our own mobile Intermediate Range Ballistic Missile (IRBM).

This approach received particular attention at the Conference on the Military Procurement Bill about which I spoke earlier. In fact, a considerable portion of my time in the Senate-House Conference was spent on this issue.

The need for a medium or intermediate range ballistic missile system was envisioned by our military a number of years ago. However our policymakers did not want anything in NATO that could strike the Soviet homeland. This policy may have been justified when U.S. nuclear superiority was clear. Now ill-conceived policies have brought us to a position of parity or worse, and our credibility in NATO is coming into question.

CONFERENCE TAKES INITIATIVE

In recognition of this situation, the Military Conference took three significant actions:

First, a line item was established for initial design of a mobile, long range nuclear missile for our theater forces.

Second, this design effort and the Pershing II program were shifted from the Army to the Air Force on the grounds that the technology background in this area rests mainly within the latter service.

Third, the Conference called for the Defense Department to develop an overall plan involving all systems to modernize our theater surface-to-surface nuclear forces and present recommendations in the Fiscal Year 1980 budget.

While the Administration has had underway its own study of the need for theater nuclear weapons, the message from Congress should be clear. The need for consideration of a U.S. IRBM program is obvious. A new missile would be able to counter the SS-20, relieve aircraft for needed ground support missions and enable our strategic missiles to shift from targeting Soviet theater missiles.

DECISIONS REQUIRED SOON

In all probability, a major policy decision by the President will have to be made soon on this subject. In my opinion, it is likely that a mixed force of ballistic and cruise missiles will prove to be the most cost effective and viable response to the ever-increasing Soviet initiatives. In any event, we need to be much more aggressive in this area than in the past.

In closing, I would like to state that much of the expertise which needs to be brought to bear on these issues can be found in this room and throughout industry. I hope that you as individuals and the companies you represent will take some initiatives in the discussion and solutions of these and other defense problems. The nature of your conference here indicates a willingness to assume that responsibility and I commend you for it. Thank you.

THE MOUNTAIN FIDDLER—ANOTHER OUTSTANDING RECORD

Mr. STEVENS. Mr. President, we will all be making formal statements later, but I want to follow the remarks of the minority and majority leaders in thanking each of them for their courtesies to the Senator from California and myself during our service as whips. But, Mr. President, I was a bit worried as a candidate that the Senate was going to extend beyond the October 14 deadline. I set my campaign schedule to start on the 8th of October, but I really thought we could still be in after the 14th.

But I knew that we would not be in session on or after October 21 when I read in the paper that the distinguished majority leader would be autographing his new record album, "The Mountain Fiddler," on Saturday, October 21, at the Discount Record and Book Shop at Dupont Circle.

Last Monday night, after a very long session of the Senate, my good friend, the distinguished majority leader, invited me to stop by his Capitol office for a pleasant surprise.

As we walked in, the foot-stomping, hand-clapping sound of "Rye Whisky" filled the evening air and to my amazement I discovered that the fiddle player was none other than my talented friend, the junior Senator from West Virginia.

Mr. President, the song "Rye Whisky" was a cut from the new record album just recently released by County Records entitled, "U.S. Senator Robert Byrd, Mountain Fiddler." It is a delightful album including such country and bluegrass favorites as "Will the Circle be Unbroken," "More Pretty Girls than One," "Old Joe Clark," "Redbird," and "Cumberland Gap," my personal favorite.

The album is really quite good. I thank my friend for letting me hear the record before its public release, and I commend him for a job well-done. Erma has given each of the wives of the joint leadership one of these records. It is sure to be a hot seller. I just hope it does not catch too much fire or else we may lose our majority leader, but Washington's loss would certainly be Nashville's gain.

I wish the Senator from West Virginia, the Mountain Fiddler, continued success in his new endeavor.

There is no business like show business.

Mr. President, in conclusion, I point out that we do not have to change the ethics resolution to meet this particular situation. A record is treated like a book; so my good friend can earn all the money he wants off the sale of his records, and I hope he does. As a matter of fact, we heard some of the people who play with Senator BYRD, the Mountain Fiddler, when we went to the Vice President's house one night recently.

What is the name of the group that you played with on this occasion?

Mr. BAKER. The Country Gentlemen.

Mr. STEVENS. The Country Gentlemen, that is it.

Mr. ROBERT C. BYRD. The Country Gentlemen, yes.

Mr. STEVENS. It is a great record, and I want him to know, as I told him the other day, we hope he is not going to move to Nashville, because we need him here.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I hope that others of my colleagues will have the opportunity to listen to the record. It will be available to the public within a week or 10 days.

Mr. DURKIN. Will the majority leader yield for 1 minute?

Mr. ROBERT C. BYRD. I yield.

JOE WAGGONNER FEDERAL BUILDING

Mr. DURKIN. Mr. President, I would like to set the record straight. On that last exchange with respect to H.R. 13514, after having an opportunity to review it, I do not have any objection. I thank the majority leader for yielding.

Mr. GRAVEL. Will the majority leader yield?

Mr. ROBERT C. BYRD. I promised to yield earlier to the Senator from Alaska.

Mr. GRAVEL. Let me ask my friend from South Dakota a question. We have been friends for some time. This does not involve that much for my State. In fact, I think there is only a guarantee of $25 million, but it is more or less in the nature of a vested interest in this. We are talking about 2 years' work by both committees. We started from scratch. We put these project lists together based on accommodating people. The decision is not made by one person. We have criteria. Sometimes the criteria vary. But if my colleague has some specific objections, I think I have a reasoned way to approach it.

Mr. BAYH. Will the Senator Yield?

Mr. GRAVEL. I would be happy to yield.

Mr. BAYH. I do not want to inject myself into this colloquy between my friend from Alaska and my friend from South Dakota, but I just want to emphasize the truth of the statement that the Senator from Alaska just made, that this is of broad interest in the Senate.

We, in Indiana, are in a rather unique position where we happen to be bordered on one of our four sides by one of the biggest rivers in this country called the Ohio. That river lends a significant amount to us in many ways, making a major contribution to the southern part of the State.

We never quite recovered from the agreement permitting Indiana to get into the Union which gave the whole river to the State of Kentucky.

With all due respect to our colleagues from Kentucky, when the river comes up, the size of Indiana goes down.

In this bill there is a boat harbor in Spencer County, Ind. I would like for the Senator from South Dakota to at least let us get into the river if we cannot own it. That does not compare very much to the cost of the other public works projects. I am almost ashamed to ask the Senator from Alaska how much that costs, because it is not very much compared to the other projects, but it does mean quite a deal to those folks who want to get into Kentucky's river from Indiana.

I know the Senator from South Dakota has a big heart and a warm soul. I know what I have said has not impressed him a bit, but I thought I would try.

Mr. LEAHY. What is the status of this bill now?

Mr. GRAVEL. We are discussing it.

Mr. LEAHY. I wanted the Chair to answer my inquiry.

The PRESIDING OFFICER. The Senators were discussing a previous unanimous-consent request discharging the committee from H.R. 13514.

Mr. LEAHY. Is there a unanimous-consent request now pending, Mr. President?

The PRESIDING OFFICER. The unanimous-consent request has been objected to.

Mr. LEAHY. I am sorry, Mr. President, I cannot hear you. I really cannot.

The PRESIDING OFFICER. The unanimous consent has been objected to.

Mr. JOHNSTON. Will the Senator yield?

Mr. LEAHY. I just wanted to ask that question.

Mr. GRAVEL. If the majority leader will yield, I think there is some misunderstanding. I was trying to get some consensus from the body and trying to reason with my colleagues as to what was involved, both with my good friend from South Dakota and my friend from Vermont. I think this would be a good opportunity, if there is difficulty with the bill, to discuss it and reason about it. If there is no objection to doing that, it would accommodate quite a few people in the United States. We are talking about 150 projects in 46 States. It is $1.4 billion in value. It is hard to comprehend until you have gone through the hearing process and made inspections, just what this means. In many cases this means water so people will be able to grow food. In many cases this means the ability to handle floods which wreak such havoc. In many cases this is for seawalls and to protect people from hurricanes. This is what it is about. We can treat this matter lightly, but we are talking about life; we are talking about people's ability to earn a living; we are talking about substantial capital investments. Like I say, it touches States across the Union. To treat such a subject in a cavalier manner is wrong.

Mr. LEAHY. Mr. President, am I correct in my understanding that the unanimous-consent request was objected to?

The PRESIDING OFFICER. Yes.

Mr. ROBERT C. BYRD. Mr. President, the objection having been made, I would like to proceed to another matter. I yield to the distinguished Senator from Louisiana, then I yield to the distinguished Senator from South Carolina, and then I yield to the distinguished Senator from Wisconsin.

JOE WAGGONNER FEDERAL BUILDING

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 13514, a message from the House of Representatives.

Mr. LEAHY. Reserving the right to object——

Mr. ABOUREZK. Reserving the right to object.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

To name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building".

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

SEVERAL SENATORS. Reserving the right to object.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. ABOUREZK. Mr. President, I will not object, provided the unanimous-consent request limits the time to a very short time, and that no amendment to this bill be in order.

Mr. JOHNSTON. One minute, Mr. President.

Mr. BAKER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. BAKER. Mr. President, I do not know what is in it. I will reserve my right until I have a chance to look at it. It has not been cleared here and, unless the request is withdrawn, I will object.

Mr. LEAHY. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont has reserved the right to object.

Mr. JOHNSTON. Mr. President, this is only a measure to rename an existing Federal building.

Mr. LEAHY. Reserving the right to object, Mr. President, maybe I did not hear correctly and I should apologize to my colleague. The objection still stands on H.R. 13514, is that correct?

Mr. JOHNSTON. That is correct.

Mr. LEAHY. And further reserving my right to object, is it my understanding that this simply renames one building and has no effect on any project, present or anticipated, other than that one building?

Mr. JOHNSTON. That is correct.

Mr. ABOUREZK. Would the Senator from Vermont yield?

If he will modify his request to make it no amendments in order, with a very brief time limit, it is all taken care of.

Mr. BAKER. Mr. President, it is not all taken care of.

Mr. ABOUREZK. On our side, it is. Sorry about that.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, reserving the right to object, I do not know a thing about the merits of it and I would be glad to name a bill after JOE WAGGONNER, but it is simply not cleared on our side. It will take a little time to do that.

Mr. JOHNSTON. Mr. President, I withdraw my request.

NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 658.

The PRESIDING OFFICER. laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 658) entitled "An Act to designate certain lands for inclusion and potential inclusion in the National Wilderness Preservation System", do pass with the following amendments:

Strike out all after the enacting clause, and insert: That (a) in order to provide interim protection for the scenic, historic, scientific, archeological, fish and wildlife, and other natural and cultural resources of certain lands, waters, and interests therein in the State of Alaska, effective midnight, eastern standard time, on December 18, 1978, the Federal lands within the boundaries of the areas referred to in subsection (b) are, subject to valid existing rights, withdrawn from all forms of appropriation under the public land laws and from location and entry under the United States mining laws and from selection by the State of Alaska under any other provisions of law. The withdrawal made by this Act shall continue in effect with respect to such lands unless and until it is rescinded or modified by Act of Congress, but not to exceed one year from the effective date of the withdrawal.

(b) The lands subject to the withdrawal made by this Act are all Federal lands proposed to be included within—

"(1) one or more units of the national park system, national wildlife refuge system, national forest system, wild and scenic rivers system, or national wilderness preservation system, or

"(2) any national conservation area, special management area, national recreation area, wilderness study area, or the Bristol Bay Cooperative Region.

under the bill H.R. 39 as passed by the United States House of Representatives on May 19, 1978 or under the amendment to such bill as reported by the Committee on Energy and Natural Resources of the United States Senate on October 9, 1978 (Senate Report number 95–1300), or under both such bill and such amendment. Such lands shall be as depicted on the appropriate maps specified in such bill or amendment, or on a map depicting withdrawals under the Alaska Native Claims Settlement Act, as the case may be. The boundaries of the withdrawals referred to in the preceding sentence shall be determined as of the date of enactment of this Act. The foregoing maps shall be on file and available for public inspection in the Offices of the Secretary of the Interior in the District of Columbia and in Alaska.

"(c) During the period of the withdrawal made by subsection (a) of this Act, the Secretary of the Interior (or the Secretary of Agriculture where National Forest lands are involved) shall manage the lands within the boundaries depicted on the maps described in subsection (b) of this Act, and within the National Petroleum Reserve—Alaska, in such manner as will, subject to the implementation of valid existing rights as provided by law, preserve the scenic, historic, scientific, archeological, fish and wildlife, and other natural and cultural resources so as not to impair the suitability of such areas for preservation as units of the systems referred to in subsection (b).

"SEC. 2. Nothing in this Act shall be construed to enlarge or diminish the authority of the President of the United States, the Secretary of the Interior, or the Secretary of Agriculture, with respect to the withdrawal or classification of any Federal lands, waters, or interests therein in Alaska under any other provision of law, except that any such withdrawal or classification of areas depicted on the maps referred to in subsection (b) of the first section of this Act shall be consistent with the managment of such areas pursuant to subsection (c) of such section.

"SEC. 3. Nothing in this Act shall be construed to interfere with any timber harvest permitted under existing national forest timber sale contract nor reduce the total potential yield.

"SEC. 4. Except as specifically provided in this Act, nothing in this Act shall enlarge or diminish the authority of the Secretary of the Interior under the Federal Land Policy

and Management Act of 1976 or the Naval Petroleum Reserve Production Act of 1976, or of the Secretary of Agriculture under the Forest and Rangelands Renewable Resources Planning Act of 1976 or th National Forest Management Planning Act."

Amend the title so as to read: "An Act to provide, pending Congressional action, interim protection for areas recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems in the State of Alaska, and for other purposes.".

Mr. JACKSON. Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Is there objection?

Mr. BAYH. Reserving the right to object.

Mr. JACKSON. Mr. President, I would like to make a statement on this, if I may.

Mr. GRAVEL. If I may just make a reservation.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Mr. GRAVEL. I am reserving my right. I reserve the right.

The PRESIDING OFFICER. It was a motion, not a unanimous-consent request.

Mr. JACKSON. Mr. President, the purpose of the amendment is to withdraw those lands included within the boundaries of the House passed or committee reported Alaska national interest lands bill from all forms of appropriation under the public land laws and from location and entry under the mining laws for 1 year. This 1-year extension will afford necessary protection to these lands so that Congress has a chance to complete its action next year.

The amendment makes it clear that valid existing rights are protected. In this context, the language states clearly that the withdrawal is not to affect any timber harvesting carried out pursuant to existing national forest timber sale contracts nor is the withdrawal in any way to reduce the total potential timber yield of national forests in Alaska.

Mr. President, I regret that the Congress was unable to enact the Alaska national interest lands legislation this year. I know I share the view of my counterparts in the House—including Representative UDALL—that this legislation will be a top priority for the Energy and National Resources Committee next year. This amendment is essential to insure that the Congress has an adequate opportunity to consider this the Alaska lands legislation in the 96th Congress.

I urge my colleagues to join with me in support of this legislation.

I hope that we can get an agreement in support of this interim measure as a result of the failure to act on the national interest land.

I now yield to the distinguished senior Senator from Alaska.

Mr. STEVENS. Mr. President, I thank my good friend from Washington. I told the press earlier today that I feel like a father who has gone to the delivery room only to be told that his new son has been stillborn. We have worked 19 long months to get a bill that would meet the national interest and still be consistent with the Alaska interests, and protect the Alaska lifestyle. That will not be possible this year. The bill that is before us now will extend the status quo for another year.

There is a reference to a map in this bill. It is a reference to a map depicting withdrawals under the Alaska Native Land Claims Settlement Act. That reference is a cross reference to a general Alaska Native land claims settlement map. It is subject to the operative language that appears in subsections (b) (1) and (2), and should not be interpreted to reinstate withdrawals that have not been included in either the House bill or the Senate bill as reported by the Senate Energy Committee.

The bill also protects valid existing rights and, as my good friend, the chairman of the committee, the distinguished Senator from Washington, has stated, this means that valid existing rights shall continue to be implemented. This is not language to freeze into place the existing level of activity at the date of enactment. Valid existing rights imply the right to go ahead under existing law. This is especially important in connection with the Green's Creek, Borax, Inspiration and WGM mines in southeastern Alaska and other mines up North that have rights under existing law and can continue to pursue their rights under existing law. It is not intended that this bill shall affect their rights.

I know this will be a controversial matter at home, in Alaska, but it is my judgment that unless we do something to extend these withdrawals and to assure those who seek that the national interest be protected through enactment by Congress of a law in compliance with section d–2 of the Alaska Land Claims Settlement Act, we will face the arbitrary exercise of the authority of the President under the Antiquities Act of 1906. This bill that is before us now specifically states that—

Nothing in this Act shall be construed to enlarge or diminish the authority of the President of the United States, the Secretary of the Interior, or the Secretary of Agriculture, with respect to the withdrawal or classification of any Federal lands, waters, or interests therein in Alaska under any other provision of law, except that any such withdrawal or law, except that any such withdrawal or classification of areas depicted on the maps referred to in subsection (b) of the first section of this Act shall be consistent with the management of such areas pursuant to subsection (c) of such section.

That language is intended to preserve the status quo. It is my opinion that the Alaska Native Land Claims Settlement Act suspended the power of the President to exercise the Antiquities Act authority until Congress acts pursuant to the Alaska Native Land Claims Settlement Act.

There is contrary opinion within the Department of the Interior. We did not attempt to resolve that conflict through this bill, but merely sought to extend the status quo. Whatever power the President has subject to the Alaska Native Land Claims Settlement Act now he will have if this bill is passed, as it was drafted by those of us who participated in a conference. That really was not a conference; it was a meeting that had been going on for several days in an attempt to work out the provisions of this bill.

I might state that although we did not win all the arguments on the bill that was before the group that was attempting to prepare a new bill to deal with the d–2 question—we did achieve a liveable bill. That group was comprised of Congressman UDALL, the chairman of the House Interior Committee; Congressman SEIBERLING, the chairman of the House subcommittee; and our Congressman, DON YOUNG; the chairman of the Senate Energy Committee, Senator JACKSON; the ranking Republican, Senator HANSEN; Senator DURKIN of New Hampshire, who had a great interest in this matter during the whole markup sessions of the bill, and myself. We were joined by Senator GRAVEL yesterday. We reached a conclusion which, in my opinion, met in a manner that Alaskans could live with, every objection that Congressman YOUNG and I have raised over the past 19 months.

That bill is not before us today. This is merely an extension of the authority to withdraw these lands in order to preserve the status quo, as I said, and to prevent the arbitrary exercise of power under the Antiquities Act.

I hope it will pass.

Mr. DURKIN. Will the Senator yield?

Mr. STEVENS. I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator.

The hour is now early again, so I will be very brief.

I would urge my colleagues to go along with the extension for 1 year. Otherwise, as the Secretary of the Interior said sometime yesterday, if this course failed he would have no alternative but to take advantage of the power vested in the Federal Government under the Antiquities Act to set aside substantial amounts of land in Alaska as protected land, national monuments, et cetera, under the Antiquities Act.

If we do not extend the status guo, the Secretary has no alternative but to use the authority under the Antiquities Act.

I think we all would have to admit that would cause considerable economic dislocation and other problems that are not needed in Alaska.

Of course, I would have preferred a bill. We were close, very close, but it did not come to pass this year.

Therefore, I would urge my colleagues to adopt the extension. It gives us a chance to work out a solution next year without the Secretary having to use his authority in the meantime to protect the land in Alaska.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I first want to get the attention of the junior Senator from the State of Washington.

Mr. JACKSON. I am not sure that could be, but go right ahead.

Mr. GRAVEL. I would appreciate it if my colleague would sit down. He does not need to stand. I just wanted his attention because I feel personally very

grateful for the courtesy he has extended on this issue.

Earlier in the year I sent to the majority leader a letter asking that my colleague from Alaska and I be allowed to serve in some de facto fashion on the Energy and Natural Resources Committee for the treatment of this subject.

Apparently that request could not be responded to in the affirmative, because of the precedent it would set. But I want to go on record here and say that while the letter may not have been responded to in the affirmative, surely the intent was lived up to through the kindness and generosity of the junior Senator from Washington. For that, I am forever in his debt.

He displayed his generosity by inviting both Senator STEVENS and me to come forward and work with the committee in their deliberations. I chose not to do so, because I did not think it would be fair for me to sit and work with the committee members and then at the end of those deliberations engage in a filibuster to stop the bill.

I was very upfront about this and to the best of my abilities used the rules to try to impede the actions of the committee.

The senior Senator from Alaska did join in working with the committee, and the work done was substantial. This committee met and met and met—I think over some 40-odd meetings. They labored hard.

In fact, it frequently astounded me how Members could meet so much on a subject that affected someone else's State. We know the time pressures we all have.

The committee did come out with a bill. But, I do not think the committee could have satisfied me in a straightforward fashion, so I still opposed that bill.

But there did come a point when I recognized I must reconsider my position. This reconsideration came, because of my respect for the chairman of the committee. And I will say that if it depended upon him, we would have a bill here tonight that we could vote on that would settle the problems once and for all on this issue. If it depended upon Senator JACKSON, our problems would be solved.

Unfortunately, it does not depend upon Senator JACKSON. It depends on some forces much more far-reaching than that.

I would like to take a few moments of the body's time, because this is an issue that is going to be with us for some time. It is a very serious issue, not only because it affects Alaska, but because I think it truly affects the Nation, in that Alaska is the treasure house of the Nation.

With respect to my personal position, I was prepared to accept a bill if it contained one important item. I wanted to see a land use planning commission, a body made up of Federal appointees and State appointees that would adjudicate on an ongoing basis the land needs of Alaska, except those lands designated in the four conservation systems.

I also wanted this land planning commission to coordinate and discharge all of the environmental legislation we have enacted: The Clean Air Act, the Clean Water Act, the Solid Waste Act, et cetera, so that from a human being's point of view in Alaska we would have one-stop shopping.

This land use planning concept is a position essentially very much like Senator JACKSON's bill, which passed the Senate twice.

So, I was not the person pioneering this land planning process. I was only emulating and following in the footsteps of the junior Senator from Washington.

Unfortunately, he could not get his legislation past the House. So it never came into law.

But I think that is a great loss to the Nation, because until we get a land planning process, whether it is in Alaska, or anywhere else, we will never deal effectively and intelligently with the myriad of problems that face us as we use the land and air around us. We will never do it properly.

I though if we could do this in Alaska we would have for the first time a precedent where we could show it would work. We could have put a sunset provision on it. If it worked in Alaska, then we would have something to carry to the rest of the Nation.

But my view was not seriously considered. It was laid aside. Since I chose not to partake in the committee's deliberations, I do not think I can fault the committee.

But I felt that if the Senate was to reach an acceptable position, decisions would have to be made with the key leaders of the national environmental organizations, with Mr. UDALL and Mr. SEIBERLING, who were the key leaders on the House side; it would have to be with Cecil Adrus and the President of the United States, Jimmy Carter.

In the absence of an agreement with them, we would have no agreement. So what would be accepted by the Senate would not necessarily be a final result.

But in the closing days of this Congress I backed away. I figured I could not get what I wanted.

So, hoping that something could be resolved, because this is as much a travail for me as anybody else, I backed away from what I wanted, what I thought was important, the land use planning commission. This is a concept which I have advocated not just this year, but dating back to 1971 when a land use planning commission somewhat similar to what I have described today passed the Senate but was gutted in the Alaska Native Claims Settlement Act conference.

When I did give up what I wanted, I also gave up any thought of a filibuster for interminable delay on the issue.

So I went with the senior Senator from Alaska, who had labored hard on this bill. We went to a de facto conference. I think we could fairly call it that, because it was made up of the key individuals.

So, in my opinion, it was the meaningful body to try to arrive at a decision.

I sat with this group for one whole day.

As I stated to the senior Senator from Alaska, I would sign off on all the work that was done by the Senate committee and House—I would sign off on all the work he had accomplished in his negotiations, even though considerable portions were anathema to what I thought was right and in the best interests of Alaska and the Nation.

So at the end of these deliberations, at the end of the day, I suggested to my colleague that he present to his body, since I did not want to inject myself into the detailed deliberations—I asked him to raise the issue of access. I will describe the access problem.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield.

Mr. STEVENS. Did the Senator say he asked me to present the issue of access? The issue of access was addressed in the bill.

Mr. GRAVEL. Will my colleague let me finish?

I asked the senior Senator if he would present my views on access to the group, and he said that I should go ahead and present my own views. I did so, and that was at the end of yesterday's deliberations.

My views on access are simple. I was prepared to accept anything that could be agreed upon. The State of Alaska received, under the Statehood Act, which is a compact, 104 million acres. In 1971 the Congress gave to the Natives of Alaska about 44 million acres. That is land that we have been told repeatedly by the strong advocates of this legislation on the House side was given to Alaskans and that they should be happy with that land. They have stated that all the d–2 legislation deals with is Federal land. And that is so. All that d–2 technically deals with is Federal land.

However, when you look at the designations of these lands throughout the State of Alaska, you see very simply that in many areas, because of the way the land was designated, it blocks major parts of Alaska.

If you found oil in Petroleum Reserve No. 4, which now has been transferred to the Department of the Interior, and for which considerable sums of money have been appropriated to look for oil, it would do you very little good unless you had a way to get the oil out.

So now we must talk in terms of access. If you consider the entire area of PET–4, which is approximately 23 million acres, and the bordering acreage, which is about 5 or 10 million acres, you find that you cannot take anything out because of the d–2 areas that were designated to the South.

We are talking about a stretch of land that is several hundred miles wide.

It was my request that through these designated lands, we pick an access area and have an access route.

I do not know exactly where that route should go. I do know that before anybody would do anything, they obviously would have a study. It would involve the Department of the Interior; it would involve the Department of Transportation. They would find out what is the best was to have access to that area.

In the bill that came out of the Senate committee by a vote of 18 to 1, there was language that mandated ac-

cess. That means that the State of Alaska would ask for access; and after studies and after a period of time, the sovereign State of Alaska would get access.

In the "conference," in the deliberations, that mandated access was lost.

Mr. STEVENS. Mr. President, will the Senator yield at that point? That is not true.

The access that was mandated in the bill, was across an area which was a national recreation area known as the Gates of the Arctic. It gave a special status to that access.

All the access in the bill was subject to the provisions for the access. Those provisions gave the right of the Secretary of the Interior to grant or deny the rights of way. If the Secretary refused to do so, it gave us, as a State, the right to take him to court and put the burden on the Secretary to prove that there was a viable, economic, feasible, available, alternative route.

So in terms of the boot of the Gates of the Arctic, because we wanted the railroad through there, that was a special provision to deal with that one section. The rest of the access provision was the most unique of any State in the Union in terms of access across Federal lands. It gave our State the right to take the Secretary of the Interior to court and put the burden on him to prove that we should not have the right of way. Only one section mandated access, with respect to the one area, because of the conflict between the wilderness designation in the House bill and the situation with regard to the protection desired for the Gates of the Arctic.

But it was not the section that the Senator described. It was for the special section of the boot of the Gates of the Arctic that required the mandated access.

Mr. GRAVEL. The section I was speaking of was the section in the Senate committee bill that affected the boot. It was the language in that section I was asking for. I believe if it was good enough for the boot, it was good enough for all the other six access areas I was requesting.

My colleague is quite right: Under the more general access provisions in the committee bill, you ask for the access, and you must have the agreement of the Secretary of the Interior.

Now we come to the access that I was requesting. Mind you, the committee bill, in round figures, has 100 million acres that is being taken. I have no objection to that. If that is what you want, take it. It has a little over 50 million acres of wilderness. If that is what you want, take it. If you want 60 million of wilderness, take it. Take whatever you want right now; but what you leave us, leave us access to.

My colleague is quite right. The language the House wanted was to the effect that you have to get the permission of the Secretary of the Interior. If you have a Secretary who does not want to give you access, you do not have access. Then, if you do not have access, you take him to court and sue him.

We had a case of that with the Alaska pipeline, which lasted 4 years, and was finally resolved by the Congress, passing the Senate by one vote. It is the only thing that Congress has done in the last 5 years with respect to the energy crisis. By its action, the Congress brought on line 1,200,000 barrels of oil a day from Prudhoe Bay. That is the only thing that Congress has done to help solve the energy crisis. That legislation passed this body by only one vote.

Had d–2 the lands being discussed here been designated at the time, we would not have had the Alaska pipeline. You can look at the map and see one little crack in the proposed conservation system lands in the Brooks Range across northern Alaska, where the pipeline comes through. The rest is all blocked off. I assure Senators that is the last time they will get a drop of oil from the North Slope, except from Prudhoe Bay.

So we are told, "Go to court to get your access." All I was saying in my request to the "conference" participants was that since you are taking all of these lands, what you leave us, really leave it to us. Give us mandated access, which means that when the sovereign State of Alaska requests access after studies, after involvement with all the affected Federal agencies, and after a period of time, if there is interminable delays, you get mandated access.

Let us look at what the denial of that mandated access means. As I stated, there are 100 million acres in this bill, of which 50 million is designated as wilderness. By denying access to the Pet-4 area you pick up another 30 million acres. In another region of the State the State of Alaska has had a plan to provide access across the Alaska Peninsula in order to tie in western Alaska with our ferry system. That would provide access to somewhere around 50 million acres of land. I am talking about private land. I am talking about State land. I am talking about Native land. All we wanted was the chance to have access.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GRAVEL. If I could finish first.

Mr. DURKIN. Without losing his right to the floor?

Mr. GRAVEL. I do not mind losing my right. I will be willing to yield the floor to the Senator.

Mr. DURKIN. The Senator has participated longer in the debate tonight than he did in the 47 committee markups on Alaska d–2 lands, or in the meeting with the House, and administration on Alaska lands that went on the past couple days.

There may be someone asleep in the gallery who the Senator is fooling but the whole Chamber knows what the Senator is up to. He is out to torpedo this bill.

Mr. GRAVEL. I will not admit that. I chose only to yield for a question.

Mr. DURKIN. The Senator yielded.

Mr. President, who has the floor?

Mr. GRAVEL. Who has the floor, Mr. President?

Mr. DURKIN. He yielded to me, Mr. President.

Mr. GRAVEL. Mr. President, who has the floor? Mr. President, who has the floor?

Mr. DURKIN. He very graciously yielded to me, Mr. President.

Mr. GRAVEL. Mr. President, because I do not want to take——

The PRESIDING OFFICER. The Senator will suspend a moment.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. The Senator will suspend a moment while the Chair checks with the Parliamentarian.

The Parliamentarian advises me that the Senator from Alaska had the power to do one of two different things, either yield for a question to the Senator from New Hampshire or yield the floor entirely. He could either yield the floor to the Senator from New Hampshire for a question or yield the floor entirely, and then as the Senator from New Hampshire was recognized, the Senator from New Hampshire would have the floor.

Mr. GRAVEL addressed the Chair.

The PRESIDING OFFICER. And it is the recollection here that he had yielded for a question.

Mr. DURKIN. I will not appeal the ruling of the Chair at this hour.

Mr. GRAVEL. Mr. President, if my colleague wants to talk, I shall accommodate him. I do not want to engage in any quarrelsome colloquy.

Mr. DURKIN. No.

Mr. GRAVEL. I cannot let this bill pass. If my colleague will let me finish, I wish only to explain my reasons. I do not think that is asking too much.

If my colleague wants to take me to task, he can take me to task, but the majority leader has responsibility and time constraints. I am not trying to use up time. I am just trying to explain why I have taken this action.

I think it is a right of a Senator to explain his actions for the public record. That is all I am trying to do.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield for one question to my colleague without losing my right to the floor and without having it counted as a second speech.

The PRESIDING OFFICER. The Senator yields for a question.

Mr. GRAVEL. I ask unanimous consent to that effect.

The PRESIDING OFFICER. It does not take unanimous consent.

Mr. DURKIN. Did not the Senator from Alaska just say that he was not going to talk too long but he is out to kill this bill?

Mr. GRAVEL. I think it is obvious, and if my colleague is not familiar with the rules, he will find out very shortly.

Mr. DURKIN. I want the record to show who killed the bill and when the Secretary of the Interior is invoking the Antiquities Act it is the Senator's fault.

Mr. GRAVEL. Mr. President, I have the floor. I would like the Presiding Officer to enforce that.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. GRAVEL. I am taking full responsibility for what I am doing. I do not need anyone from another State to tell me of my accountability to my constituents. I wish to proceed only very

briefly to explain what I am doing and why I am doing it.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield without losing my right to the floor or without it being counted as a second speech.

Mr. ROBERT C. BYRD. I say the Senator from Alaska and I discussed this matter, and he assured me that he will be yielding the floor within a reasonable length of time, and I am very satisfied with his response at which time I want to take the bill down.

Mr. GRAVEL. I thank my colleague and I will try to be as brief as possible.

Mr. ROBERT C. BYRD. For the simple reason that it would be an act in futility to continue or to do otherwise at this point.

Mr. GRAVEL. I thank my colleague.

If I could beg the indulgence of the body. There is nothing more serious to the people of Alaska. This is a subject of great acrimony, and careers, my own included, ride on this issue. But, although it is important for us as individuals, it is considerably more important to the future of the State and the Nation. As to the point of access, the approach I took was a very simple one: If you are going to take all this land, take it. But as to the land you say you are leaving us, let us live on it, let us prosper on it, and let us do what we think right with our land.

But when you designate interlocking Federal reserves as are being proposed, you block out major parts of the subcontinent of Alaska—the western part of Alaska, the northern part of Alaska, and southeastern Alaska. By doing this without mandated access you are really not giving us our land. If you have a Secretary of Interior who does not like what you are going to do, he can stop you. You must then take him to court where you fight decade upon decade in order to realize what is supposed to be yours.

That is one of the issues that this de facto conference hung up on. I could not give in on this issue of access. It was quite interesting. The others had proposed 100 million acres with 50 million acres of wilderness, and I even offered another 15 million acres of wilderness, and I would have gone even higher. And I do not do that lightly.

We have the bill. What was set in motion was set in motion in 1971 when we had a section in the Native Claims Act called D–2. That is where D–2 came from. Mr. UDALL at the time asked that we withdraw some 120 or 150 million acres. The senior Senator from Alaska and I flew out of our chairs at this unreasonable suggestion.

The ANCSA conference negotiated down to 80 million acres to be withdrawn for study, with congressional action coming within 7 years. That withdrawal was like a memo from that Congress to this Congress saying that you had to do something within 7 years.

That memo will expire on December 18.

After December 18 there is no more D–2 "memo" to Congress because that section of ANCSA expires.

But Mr. UDALL, who had agreed with us to 80 million acres in conference, came in with a bill affecting 147 million acres a year ago January. Last May the House passed a bill designating 124 million acres of conservation system units, including 65 million acres of wilderness.

In the de facto conference we negotiated down to 100 million acres. You would think that with this deal we would have something permanent.

So I advanced a proposition in our "conference" which I colloquially characterized as "no more." Take what you want you want this year, but "no more."

When I offered the suggestion that, except for minor administrative-type withdrawals, there would be no more land withdrawals or designations in the subcontinent of Alaska, do you know what the answer was? "No."

Mr. STEVENS. No, the answer was "yes," my friend. We got that amendment agreed to today.

Mr. GRAVEL. I am sorry, my colleague, you may have gotten your amendment agreed to, but I did not get mine.

Mr. DURKIN. You changed it every time we agreed to it.

Mr. GRAVEL. My amendment was simple. We will not have any more land withdrawals. My amendment was not just to satisfy D–2, because there was a lot more to satisfy than D–2. The point is crystal clear because what others want is not just this one bill this year. We have to look forward to next year and the year until there really is nothing left. The situation is very simple. Either we dig in now or we never dig in. I would rather get shot once than be hung up to dry and twist in the wind for decades upon decades.

If they want all of Alaska, let them take it, but whatever you leave us, truly leave it to us. And that is what they were not prepared to do. That is where the conference faltered. This is obviously an interpretation as I view it. Other people will have their interpretations.

We will have obviously many, many opportunities to go over this. I was prepared to take whatever they wanted this year, but insisted that that would be all, because it was quite clear to me that that would not be all. I believe that otherwise they would come back for more next year, and then the year after and then the next generation. There is no end to this insatiable appetite for land to reserve in perpetuity.

All we have are 400,000 people in Alaska. All we need is just to preserve those 400,000. We do not need any more people. I will go on record right now as saying that. I do not care if one other soul wants to come to Alaska, I am happy with the 400,000. But let these 400,000 people make a decent living on Alaska's land. The committees' bill would not have done that.

We would have withered on the vine. I know my colleagues worked hard on this bill, and they feel deeply about it. I also feel deeply about it.

But, again, this is my interpretation of these recent actions on the D–2 legislation; it may be in error. But I want to close by just saying that I cannot fault the work that was done by the junior Senator from Washington. I would only have prayed that he would have been in command of the whole situation, because we would have had something to live with under his leadership. It was under the House's leadership that I found we could not live with a bill.

Mr. STEVENS. Mr. President, will the Senator yield?

The PRESIDING OFFICER (Mr. LEAHY). Does the Senator from Alaska yield?

Mr. GRAVEL. I yield the floor.

Mr. JACKSON. Mr. President, I must say for the record we worked very long and hard on this. We had 45 days of markup.

I must point out that we were able to put together a bill that was reported to the floor of the Senate.

Then we met the last 2 days with the chairman of the House Interior Committee, Mr. UDALL, the chairman of the subcommittee, Mr. SEIBERLING, the Secretary of Interior, Mr. Andrus, myself, Senator DURKIN, Senator STEVENS, Senator HANSEN, and Congressman YOUNG.

I think throughout most of those meetings Senator GRAVEL was present. The facts are that we reached an agreement. That is just the truth. And if there is any question about it, two or three of my colleagues are here who were present at those meetings. We reached an agreement. Then Senator GRAVEL made certain bottomline suggestions which related to transportation corridors on the North Slope, the Susitna Dam, and an authorization as high as $1 billion.

Now, Senator GRAVEL, as I recall, withdrew the latter two, the Susitna Dam and the authorization, but we could not get an agreement after those three requests were made. But we did have an agreement, and those are the facts.

I have had to struggle this last year and a half on some pretty tough bills, and I think I have a little patience. I must say that I was rather frustrated when we were in a position to have an agreement all the way around with the Secretary of the Interior, where there would have been a big dispute, with the House Members, where they disputed with the Senate, the Senate Members who were in disagreement among themselves, all came together, and I think it is regrettable that we do not have a national interest lands bill passed, because next year it is going to be more difficult.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. JACKSON. Yes.

Mr. STEVENS. I want the RECORD to show that I would not have agreed to a bill that would not have prevented further takings. The agreement with the House was that there would be no further withdrawals outside of those specified in this bill. No studies would be made, no withdrawals would be made except on the basis of a concurrent resolution previously approved by Congress, and no other State in the Union has that, but they agreed that that would be the policy in Alaska unless and until Congress gave the authority to study or withdraw Alaska lands in the future, with the exception of military lands.

Beyond this, only one thing that happened since last night when the Senator signed off on every single item in

that bill, every single item. The Senator said, "I can buy this bill but * * *." The Senator then brought up his access and other provisions. We worked all night to give him some changes so that he could have no reason to oppose the D-2 bill. The only new situation that arose was the Alaska judge's ruling that the Alaska Governor's primary election must take place again, and it appears that the Senator has preserved the D-2 issue for use in that primary election for the governor's office in Alaska. That is the only thing that has changed between Friday night and Saturday morning.

We had an absolute agreement, including the Senator, and it was the second time in this Congress that the Senator and I have had an agreement on D-2. The last time we had an agreement was with a bill that I introduced after working with Governor Hammond, Congressman YOUNG and the Senator for 6 months. Then the Senator left town.

Mr. GRAVEL. Mr. President, would the Senator yield?

Mr. STEVENS. The Senator can answer on his own time. But the Senator left town after leaving my office and after saying he had agreed to it. The Senator then went to the airport and called the Alaska AP from the airport and announced that he was not going to endorse that bill, calling it "a Republican bill."

This is the second time the Senator has done this to me, and he is not going to do it again. It is on the record now and cannot be erased. This Senator is not going to let the people back home or here in this town believe that he would agree to a bill that would sell his State down the river. That is what my colleague is implying, and he now faces a big battle from me because it is not going to happen again. As the Senator from Washington said, you said if he would have been in charge you would have agreed. The Senator did agree. He agreed last night to every single item in that bill, and he said, "I will buy off on this bill but I have a few little things I want you to consider for me first."

We considered them and agreed to one demand. I drew the solution for that, providing for no further withdrawals. The other dealt with access, and the staffs are here now. They worked all night long to get a solution which all of us felt was acceptable in terms of accessibility, and my colleague would not agree to it, and that led us to this bill here which again I spent half the day making sure that all of our rights were protected under it. Our timber people could go ahead, our mining people could go ahead, our State could get its selections, our Natives could get their selections so long as they did not conflict with this.

But the problem is that we are now going to face possible Antiquities Act withdrawals, and you will carry that burden, not me.

Several Senators addressed the Chair.

Mr. GRAVEL. Mr. President, will the Senator from Washington yield for a question? I have a very important question.

Mr. JACKSON. I yield for a question.

Mr. GRAVEL. I would like to ask the Senator from Washington, does he know at about what time Friday night that I stated by bottom line. We met. He stated earlier it was Friday night that I stated by bottom line and talked of access that night; is that not correct?

Mr. JACKSON. Yes, that is correct.

Mr. GRAVEL. Was it not correct then that I had stated the whole access issue Friday night, stated what was my bottom line? Did I not say that?

Mr. JACKSON. Yes, that is the final position.

Mr. GRAVEL. I said that Friday night.

Mr. JACKSON. You initially asked for the Susitna Dam.

Mr. GRAVEL. I realize that, but I think it is important to know the timing. My colleague is agreeing with me that when I gave him the bottom line, it was Friday night?

Mr. JACKSON. That is right. I regretted we went through all of it, and there was no objection, and then all of a sudden came this bottom line.

Mr. GRAVEL. Does my colleague recall the time we quit?

Mr. JACKSON. Well, I'm not sure, we were working all day.

Mr. GRAVEL. I do not know, but the judge——

Mr. JACKSON. Six-thirty, or sometime around there.

Mr. GRAVEL. OK. Six-thirty. Well, I want to go on record that the reference made about the gubernatorial elections and the judge's decisions took place in Alaska at 9 o'clock Washington time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. I yield to the majority leader, for a moment.

Mr. ROBERT C. BYRD. Mr. President, I am going to shortly arrange to move to something else, but before I do——

Mr. DURKIN. Mr. President, I just want 1 minute or so. I do not want to go on long. I just wish to confirm that what the chairman said was the agreement. I want to underscore that what Senator STEVENS said was the agreement, and that our friend from Alaska (Mr. GRAVEL) torpedoed it. We worked out an extension to protect Alaska, and he is torpedoing that now. I hope the press is listening as well as every village in Alaska so when the Secretary invokes the Antiquities Act there will be no ticker-tape parade. Short-term expedience is torpedoing both bills today. The people of Alaska should know that this compromise foundered on two words, after 47 markups, and those two words are "MIKE GRAVEL."

Mr. JACKSON. Mr. President, I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished majority leader for yielding to me.

Mr. President, I would like to pay my respects and express my sincere appreciation to the chairman of the National Resources Committee, the junior Senator from Washington (Mr. JACKSON). I know of no one who has given more of himself or his substance than has Senator JACKSON, in trying to make possible the drafting of a bill which would treat fairly the people of the State of Alaska and at the same time recognize the great national interest that every American has in this wonderful North Star State. Senator JACKSON presided over a great majority of the markup sessions. As a matter of fact, he was there every time I was there as nearly as I can recall, and I know for a fact that he was there many times when I was not able to be there.

We met early and we met late. We met repeatedly. I think there were 45 markup sessions if I am correctly informed.

I would like also to pay my respects to the senior Senator from Alaska. Though not a member of the Energy and Natural Resources Committee, but obviously keenly interested in what might be drafted in bill form, hopefully to become a part of the law, was the continuing presence and influence of the senior Senator from Alaska. He worked diligently, and he certainly represented the people of his State, I think, in a most commendable fashion.

I would like also to pay my respects to the staff, those persons who made more than one trip to Alaska to look at the problems on the ground, to talk with people up there, and to get the understanding that can come only from a one-on-one visitation with the people who are so keenly and directly affected.

I regret that this 95th Congress will come to a close without having enacted a law that could have moved so far in the direction of a resolution of these issues. I want to say that those persons whom I have mentioned have been most diligent and most singular in their purpose in trying to do the right thing by the State of Alaska and by the United States. I salute them and express my great appreciation to them for the tremendous job they did.

Mr. JACKSON. Mr. President, will the Senator yield briefly for a question?

Mr. HANSEN. If I may. I have my thoughts down here.

I wanted also to express, on behalf of myself and, I am certain, people everywhere, my appreciation to the Senator from New Hampshire (Mr. DURKIN) who has made a number of trips to that State, and who has become very knowledgeable. I think that, with the exception of the junior Senator from Washington and the two Senators from Alaska themselves, I doubt there are many people in this body who have learned more, and who now know more, about the State of Alaska than Senator DURKIN. He was a tough adversary. He and Senator STEVENS, time after time, presented opposite and opposing views on issues that were resolved, and he made a tremendous contribution. I must say that I appreciate his dedication, his commitment to those goals that he served, and the great purpose that he had.

I would also be derelict if I did not pay my respects to the senior Senator from Oregon and to the members on the minority side on the Energy and Natural Resources Committee for the contribution they, too, made. I just did not want to let this occasion go by without expressing my deep feeling in this respect.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. HANSEN. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I want

to express to my good friend from Wyoming (Mr. HANSEN) my deep appreciation for the bipartisan nature of this effort of ours to reach a solution on the Alaska lands issue. It really was, in every sense of the word, a bipartisan effort. All who participated did so in an effort to find an answer, to find a solution. We had our share of differences, but in the end we reported a bill and it was reported out 18 to 1 Mr. President—and we had started out hopelessly divided.

We do appreciate the leadership of the distinguished Senator from Wyoming who was ably backed up in that respect by the distinguished Senator from Oregon (Mr. MARK O. HATFIELD) and, through all of this Senator STEVENS participated with all our colleagues. As the Senator has mentiond, Senator DURKIN was there day in and day out, and he had really specialized in this effort, to master the subject matter so that we could end up with a bill.

The staffs on both sides of the aisle, headed by Tom Williams, Mike Harvey, Debbie Merrick, and Richard Stenmark on our side, and Senator HANSEN's staff person—Tony Bevinetto, did yeoman work. It is regrettable that we end up here without a bill. We will go at it next year, in the hopes of achieving that which we failed this year.

I now yield to the distinguished junior Senator from New York (Mr. MOYNIHAN).

The PRESIDING OFFICER. The Senator from New York.

TUITION TAX CREDIT ACT OF 1978—CONFERENCE REPORT

Mr. MOYNIHAN. Mr. President, I thank my dear and close friend, the Senator from Washington.

Mr. President, I send to the desk the conference report on H.R. 12050, and ask for its immediate consideration. Or I believe it is at the desk.

Mr. HOLLINGS. Mr. President, the conference report has been called up at the desk. With all respect to the distinguished Senator from New York, the motion has been made. I think that is the pending question now.

Mr. MOYNIHAN. It is the pending questions? Then, Mr. President, it falls to me to describe the three panels—does the Chair wish to have the conference report reported?

The PRESIDING OFFICER. The Senate will resume the consideration of the conference report.

The Senate resumed the consideration of the conference report on H.R. 10250.

Mr. MOYNIHAN. We will resume the consideration of the conference report. I thank the Chair.

Mr. President, this is the first opportunity the conferees will have had to report to the Senate on our experience with the House conferees on this matter.

The Senate will recall that this proposal, the tuition tax credit, was debated for 3 days on the floor of the Senate.

The decision was made by the Senate to take from the bill as reported by the Finance Committee the provision for tuition tax credit for elementary and secondary schools and send to conference a bill providing tuition tax credits for colleges and universities.

The House, in the meantime, had adopted a measure which provided tuition tax credits at all levels of education.

When the conferees met, the House naturally insisted upon its provisions, all levels of education, and the Senate conferees explained that this was not acceptable. Nonetheless, it was suggested that some small provision might be taken back that would provide the essence of one concern of the proponents of this measure, which was that which would enable a court test and decision on constitutionality.

At this point the chairman of our conference, Senator LONG, spoke to the majority leader. The majority leader suggested he speak to the distinguished junior Senator from South Carolina.

At this hour of the day, if I recall correctly, the Senator from South Carolina said that if it were brought back with any elements of elementary or secondary schools he would have to talk, and he might have to talk at least a week, a feat which would be an incredible one for the Senator from South Carolina, knowing his capacity in these matters. In the grand tradition of the body, he proposed to filibuster. At that time the equal rights amendment and other matters were before us and no one wished to interfere with them.

The Senators on the conference committee persuaded their opposite numbers, persuaded a fair majority, that no elementary-secondary provision could be brought back, and a conference committee report was agreed to only with the higher levels involved, the college and university levels.

However, the House conferees returned to their body with that report and they were overturned. They were told, "No, this is unacceptable without the elementary and secondary schools," and the conference report was in that sense rejected.

We went back to another conference and the conferees insisted that we bring to this body a compromise measure which, as between the three levels of education provided for in the House and the one in the Senate, provides for two, for higher education and for secondary education.

It seems to me an altogether reasonable proposal, one for which funds are provided in the budget, an experiment with 4 years of secondary schools. schools which have the virtue at least of being approximately equally divided between denominational and nondenominational schools.

It would provide the opportunity for a constitutional test. I will hold the Senate for 2 more minutes and not longer to say to those who have said or are saying that our measure is unconstitutional, all we have ever asked is a day in court, one appropriation, one distribution of funds, so that those who feel a large, historic injustice has been done may have their day in court and have the matter settled.

I know that will not be given us on this floor, and I expect to be back in a year, if I am here, to ask again. I do not doubt, though it may not come in my time, I expect in time it will.

It is not a very un-American thing to ask a day in court. It does not abuse our traditions to say that people can present a petition of right and ask judges to judge.

But that is not the mood of the Senate at this time, and I am aware of that. I am not angry about that. I do no more than ask, Mr. President.

Mr. President, the conference report has been called up. I move its adoption.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. When the Senator called up H.R. 12050, I at that time made the motion to recommit, as the Senator will recall, the conference report to the conferees with instructions to the Senate conferees that they adhere to the Senate position on elementary and secondary. I believe that is the pending question. I believe the Senator from New York has agreed to a voice vote.

First, let me extricate myself and make the RECORD clear and accurate with respect to being the filibusterer. Usually the filibusterer is in the minority position and, therefore, he has to talk at length.

We, after discussing this 3 days, prevailed, and then the following week the distinguished Senator from Rhode Island had his special scheme. We discussed that for a full day and then we had a 2 to 1 vote. So within 1 week's time the U.S. Senate spoke very clearly and overwhelmingly against elementary and secondary education.

The reason for my motion, as the Senate has spoken very clearly with respect to tuition and tax credits for higher education, is we feel very positively that the secondary education which is included in here is a radical departure, from an education, budget and legal point of view. Legally, I only remind my distinguished colleague from New York that the Court has had many and many an opportunity, whether it was the Warren Court or the Burger Court. They had it as recently as 1971, the Nyquist case in 1973 and as recently as 1975 in the Wolman against Walter case in June of last year. So it has not been that the Court has not had the opportunity or chance to rule on this particular score. Principlewise or policywise every Senator should turn his attention to the various decisions we in the Congress have made. We in the Congress in the Civil Rights Act of 1965 said, "You have to have equal opportunity for the poor and the underprivileged."

That does not apply to the private schools. We decided that we should have bilingual provisions within the public school system. We do and they do not apply to the private schools. The Supreme Court's law decision requires that non-English speaking children receive the benefits of a public education. If language barriers prevent this they must be removed.

Two Supreme Court decisions affecting student's rights—Goss against Lopez and Wood against Strickland—make it harder for school systems to suspend students. These pronouncements have the effect of requiring public schools to make

special arrangements for unruly students.

The effect of these laws and court decisions is to expand the quality of educational opportunity by asking the schools to do more. Tuition tax credits do not address these needs or requirements. Now, of course, the private schools just do not count when it comes to these requirements. We have a duty in Congress to leave private schools alone. We as Congress should have nothing to do with their operation. But as we exacted these overall requirements for universally, publicly supported educational systems, we did not come around and give them enough money. All you have to do is sit on the Appropriations Committee with Senator MAGNUSON and me, on Labor-HEW. I have been there for several years and we have always cut back and categorically refused to give general aid for elementary and secondary education. We said yes; we will try to give a little to the handicapped, a little over here for the underprivileged, a little for the bilingual, but only for both systems as it would apply to these specifically targeted groups. Public and private both share in it according to the number of educationally or economically deprived children enrolled. We have, under the recently passed Elementary and Secondary Education Act amendments expanded the "bypass" provisions to further insure privates get their just share of the targeted, special purpose Federal dollars. We have, however, consistently rejected general aid for education, let alone aid of this type for private schools only.

Here the Senator from New York comes on secondary education—secondary private education, if you please; not public school education. What we are saying is having exactly these mandated requirements for public education; not giving them enough money to compete; then, we are saying, you are not competitive and the way we are going to correct it and make you competitive is we are going to give more money to the private schools and help them, of course, without all of these requirements—help them compete and extend the disparity even further. There is simply no logic or reason to this approach. Our schools are at a crossroad. To help the privates at the expense is unconscionable.

Mr. MOYNIHAN. Will the Senator yield?

Mr. HOLLINGS. Wait a minute. Moneywise, we do not have enough money to support public education the way we would like to in this country, much less public and private education. We do not have enough leadership, if you please, and we are having to struggle. We do not have enough leadership for public and private education.

I certainly do not want to take the remaining leadership within the public school system and wean it off into private education by financing general assistance from Washington to private schools only and just leaving a distraught public school system in my section of the country.

Yes, I am glad to yield.

Mr. MOYNIHAN. I ask the Senator to respond to two questions. I do not mean to detain the Senate in this matter.

First, would the Senator answer this question: Has the Supreme Court of the United States ruled on the constitutionality of tuition tax credits to denominational elementary and secondary schools?

Mr. HOLLINGS. Yes, sir, clearly in the Nyquist decision. That decision was later ratified in the Wolman against Walter opinion. I would be glad to read the decisions.

Mr. MOYNIHAN. Has it done that on a Federal statute, provided that?

Mr. HOLLINGS. They have done it on a New York State tuition tax credit statute and they alluded to the Federal statute in the most recent cases involving State aid to private schools in Pennsylvania and Ohio.

Mr. MOYNIHAN. I asked the question—the Supreme Court has ruled on a Federal statute with respect to the provision of aid for the construction of facilities, they call it the Higher Education Facilities Act of 1963; has it ruled on a Federal statute providing tuition credits?

Mr. HOLLINGS. No; the law is clear with respect to Federal statutes.

Mr. MOYNIHAN. All I ask is to establish that it has not ruled on the one thing we ask a hearing on. I ask the Senator one other question——

Mr. HOLLINGS. I am completing that answer, I am alluding right to that decision. That applies to the Federal as well. Leading constitutional scholars have written opinions to this effect. Consider the letter of Professor Freund, of Harvard University, of which the distinguished Senator is familiar, has come categorically down on these decisions, saying they leave no doubt about the unconstitutionality with respect to any statutes creating a tuition tax credit plan for students of parents attending private elementary and secondary schools. This also is the opinion of the U.S. Attorney General. It is clear and convincing on this point of unconstitutionality of this proposal.

Mr. President, I ask unanimous consent that the following remarks be entered into the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ERNEST F. HOLLINGS

In August we had the opportunity to thoroughly debate the logic of tuition tax credits for the parents of students attending private elementary and secondary schools. The Senate's vote was a clear rejection of this proposal. After three days of debate in the Senate, there is little need to further state the clear and convincing case against elementary and secondary credits. The two newspaper articles from the Washington Post of Monday, August 7, my opinion article and an editorial, outline the case:

[From the Washington Post, Aug. 7, 1978]

TUITION TAX CREDIT: A COSTLY ASSAULT ON OUR "BEST INVESTMENT"

(By Ernest F. Hollings)

This week in the Senate, public education runs head on into the tuition tax credit plan. That proposal would turn our education on its head, benefit the few at the expense of the many, proliferate substandard segregation academies, add to the federal deficit, violate the First Amendment and destroy the diversity and genius of our public schools.

Tax credits for private elementary and secondary education are proposed with the assumption that government has an equal duty to both public and private schools. Let us be clear at the outset that the duty is not equal. The government's duty to the public is to provide public schools. Its duty to private or church schools is to leave them alone. Packwood-Moynihan proposes that the duty to leave the private schools alone be inverted to the duty to support them.

Federal assistance to public education is targeted, special-purpose aid such as aid to the needy and handicapped, compensatory education, guidance and testing. The average federal subsidy to the public-school student is $128. The private-school student is allowed to participate in that targeted aid, too, and the average per-pupil expenditure is $40. Ninety-eight percent of the Catholic schools participate in one or more of these federal aid programs. But now we are being asked to reverse course by providing an additional $250 for the private-school student—double that of the public-school child—and making it general assistance to boot, a windfall for private institutions rather than a helping hand for a deserving child. For Congress to authorize general aid for the private school while prohibiting it to the public would be horrendous.

As predicted, parochial school enrollment diminished between 1965 and 1975. Costs were not the major reason. The loss was due to the lowering birth rate, migration of Catholics to the suburbs and the abandonment of the inner-city schools, both public and private. It is a sad fact, but both have suffered; it is not because the public has pushed the parochial out. Now the drop-off has bottomed out, with a slight increase in parochial enrollment and a boom in private "protest schools." Nearly one of every five private schools is such a "protest school."

Packwood-Moynihan is not tax relief for Middle America. Only 3½ percent of families would be eligible for the tax credit at the elementary and secondary level. The proposal would benefit 4½ million private-school students at the expense of 44½ million public-school children. Because private-school students are predominantly upper and middle class, those families with the greatest ability to pay would reap the benefits. The millionaire would take a $250 credit for sending his son to Exeter, while families whose incomes are below $15,000 would receive only 17 percent of the benefits paid out.

Equal educational opportunity, mandated for public schools, is not required of the private—which are selective and generally choose the brightest, the advantaged, those without discipline problems and those fleeing from inner-city, integrated schools. The public school, by contrast, must take all comers. Additionally, it must abide by laws and court decisions that private institutions can ignore. The public school is bound by both law and conscience to reach out to every child as a matter of birthright. That is what public education is all about.

Far from being cost-containing, the tuition tax credit is budget-busting. The Congressional Budget Office estimates that just three years after the revised plan took effect, the elementary and secondary credit would cost $1.1 billion. If tuitions were raised, or if more children attended private schools, the cost would soar. Meanwhile, the American people would not sit idly by while their representatives opened the Treasury gates to private education at the expense of the public school. They, too, would demand an equal amount

of general assistance for the public schools, and within five years that would mean an annual cost of at least $10 billion.

The scheme is blatantly unconstitutional. Every Supreme Court decision and all the constitutional scholars agree on that score. But more than that, it is undesirable. Americans since Thomas Jefferson have always insisted on the separation of church and state. People realize that with general aid would come general control, and it would not be long before prayer were prohibited in the parochial school as it is today in the public school.

In a recent nationwide Roper survey, 64 percent of the American people opposed the tuition tax credit for private and parochial elementary and secondary education. Interestingly, only 43 percent of the Catholics surveyed favored it—while 48 percent of them were opposed.

As parent, citizen and officeholder, I am convinced that public education is the best investment a nation can make. It develops a diversity, a competitiveness, and a competence nowhere else available. Our public schools are run by 16,000 local school boards. Those who pose the straw man of a public-education monopoly have not breathed the diversity and vitality of 107,272 public schools.

[From the Washington Post, Aug. 7, 1978]

TUITION TAX CREDITS

Bad in principle from the beginning, the tuition tax credit bill is now about to come to the Senate floor by an appropriately dubious route. The single thing to be said for last week's maneuvers is that they have drawn attention to the bill's defects. Those defects are numerous, profound and far beyond the remedy of any routine amendment or fiddling with wording.

Sen. Ernest F. Hollings (D-S.C.) puts the issue accurately in the article that we print today on the opposite page. The bill proposes giving federal aid to anybody who pays tuition, with the amount of aid based not on families' need but on the size of the tuition. That's unacceptable, but, as far as college students go, it's a secondary matter. The central danger in this bill is the unrestricted federal aid that it would extend, for the first time, to every kind of private elementary and secondary school.

This legislation would let people deduct part of any tuition payment from their federal income taxes. The federal government would, in this fashion, pay part of every tuition bill. The device is known as a tax subsidy. The Senate Finance Committee, that haven for every kind of special pleading, reported a bill last winter but never took it to the floor. It was waiting for the House, which passed a similar bill in June. Under that version, the U.S. Treasury would by 1980 pay, through tax credits, one fourth of every student's tuition up to $250 in colleges and $100 for schools. The cost would be $1.1 billion a year.

What about people with incomes so meager that they pay little or no tax, and have no use for a credit? The House, to meet that objection, wrote in a refund clause giving cash to anyone whose tax is smaller than the credit. The cost is small, the importance of the refund was that, when the bill got to the Senate, it was required to go to the Appropriations and Budget committees as well as to its warm friends in the Finance Committee.

On Tuesday, the Appropriations Committee voted a negative report—a recommendation to the Senate to kill the bill. On Wednesday, the Budget Committee voted a negative report, citing not only the bill's cost but also its radical and ill-considered reversal of long-standing American values. On Thursday, the Finance Committee hastily reported out a substitute bill, dropping the refund clause to avoid the other committees. That is the bill that will come to the floor—perhaps today. The new bill evades the other committees' jurisdiction, but it does nothing to meet their objections to it.

Since President Carter has said that he will veto this bill, some senators have apparently concluded that it offers a free ride—an opportunity to please some of their constituents, while relying on Mr. Carter to save them from the consequences. That's too easy. This bill is a fundamental assault on the public schools. Any vote for it in the Senate is a threat to the public school system. Regardless of the bill's outcome, the people who support it can properly be held accountable for their votes in precisely those terms.

Now the Conferees to H.R. 12050, bring back a proposal for tax credits for secondary school students—students enrolled in grades 9–12. It would permit an allowable credit of 35% of tuition and fees with a maximum of $50 in calendar year 1978 increasing to $100 in 1979, 1980 and 1981. The cost for this secondary proposal is estimated at $92 million in fiscal year 1979; $159 million in fiscal year 1980; $164 million in fiscal year 1981 and $142 million in fiscal year 1982. This "foot-in-the-door" approach is as unacceptable today as it was on August 15 when the Senate voted 56–41 to delete any proposal for elementary and secondary tax credits. It should be rejected for the reasons stated above, clear education policy reasons, sound fiscal reasons, compelling constitutional reasons.

Review if you will congressional action on the Elementary and Secondary Education Act Amendments. Just this week we approved the conference report on this bill. It contained several provisions aimed at increasing the participation of private school students in federal programs. Specifically, it strengthens the bypass authority under Titles I and IV of ESEA and creates new bypass authority in ESEA Title VII (bilingual education), so that services can be provided directly to nonpublic school students if states or localities fail to provide them. And, the amendments require the increased participation of representatives of nonpublic schools on educational advisory committees. These are significant steps to insure that nonpublic schools share in the federal dollars designed to put a floor under the services provided by state and local governments by targeting special assistance to needy and disadvantaged students. And equally important, this assistance will meet Constitutional scrutiny while at the same time be consistent with federal education policy.

Efforts to include a secondary tuition tax credit plan should be rejected. For the reasons stated in our earlier, and much lengthier, debate as well as those outlined today, I will move to recommit the conference report to H.R. 12050 and instruct the conferees to delete any reference to elementary and secondary tuition tax credits.

Joint Tax Committee Cost Estimates: Tuition Tax Credit Conference Report (H.R. 12050

[In millions]

Fiscal year	Post-secondary cost	Secondary cost	Total cost
1979 ------	$330	$92	$442
1980 ------	539	159	698
1981 ------	968	164	1,132
1982 ------	845	142	987
Year cost:	2,682	557	3,259

Mr. MOYNIHAN. May I ask the Senator another question?

When the Senator was asked about the prospect of our returning to this body with a conference report that included some measure of elementary and secondary schools, is it the case, as I understand, that he said he would have to talk about this and his talk would take at least a week?

Mr. HOLLINGS. I think the question is moot, because I am prepared to talk a week. But I think we are ready to vote.

Mr. MOYNIHAN. I am not ready. The motion to recommit has been made, as I understand.

Mr. HOLLINGS. Yes, just on the secondary tax credit part of the conference report on H.R. 12050.

Mr. MOYNIHAN. May I conclude with a 2-minute statement?

I hope this body will understand that we have never sought to prevent a decision by the prolongation of debate of accepted votes; and second, a very large portion of the American public has asked nothing more than for the Supreme Court to rule. It is as old a tradition of Anglo-Saxon justice as exists, a petition of right. We are not being given it. It may be a generation before we are and we can wait and we will. But it is not the most seemly thing that we should be denied it, for if the persons who deny it are so confident of their position, why should they deny the opportunity for the Court to confirm it?

I have nothing to say, Mr. President. I yield the floor.

● Mr. ROTH. Mr. President, this conference report provides tax credits to help offset the rising cost of college and secondary education.

The bill provides a tax credit of 35 percent of tuition and fees for colleges, post-secondary vocational schools and secondary schools.

The maximum credit for college students is $100 in 1978, $150 in 1979, and $250 in 1980 and 1981.

The maximum credit for secondary schools is $50 in 1978 and $100 in 1979 and 1980, when it would terminate.

This conference report is a compromise version worked out with the House yesterday morning. As you know, the House voted last night to instruct its conferees to insist on the House amendment relating to elementary and secondary schools.

Because of the Senate vote against this provision, we agreed to urge the Senate to accept this compromise.

Mr. President, I want to emphasize to my colleagues that the fate of the college tax credit in this session hinges on this vote. The provision for secondary schools is of limited scope and was included in the bill in order to get a court test on this issue.

I urge my colleagues to vote for this conference to provide tax relief to the millions of parents struggling to educate their children.●

Mr. ROTH. Will the Senator from South Carolina yield for a question?

Mr. HOLLINGS. For a question, yes, sir.

Mr. ROTH. I was out at the time that he made the motion to recommit. Would he repeat what the motion was?

Mr. HOLLINGS. I moved to recommit the report to the conferees with instructions to the Senate conferees that they adhere to the Senate position on elementary and secondary education.

Mr. ROTH. I thank the Senator from South Carolina.

Mr. HOLLINGS. I ask the Chair to put the question.

Mr. MOYNIHAN. If the Chair will put the question on the motion to recommit of the Senator from South Carolina, will the Chair indulge me just 20 seconds to say that, this being——

The PRESIDING OFFICER. The motion is debatable in any event.

Mr. MOYNIHAN. But I do, nonetheless, ask his indulgence, because it is in fact a bit of an imposition. It is a quarter to 7 on a Sunday morning. A motion to recommit is, of course, a motion to kill the measure.

The PRESIDING OFFICER. The Chair points out to the Senator from New York that the Chair is paid by the year and not by the hour. He is perfectly willing to give all the time necessary to the distinguished Senator from New York.

Mr. MOYNIHAN. The Chair is generous beyond the capacity of the Senator at this point. I should be more than interested to dispense, on Sunday morning, debating this matter.

Is the majority leader at hand? I think he is not. If there is no other business for the moment, I shall be happy to talk. I should very much like to talk and I will do it until the majority leader comes forward with something else to do.

I simply would like to repeat that we have more persons listening to us at this moment than we ever had in the entire debate. What we said throughout our debate is that what we were asking is to allow the court to hear us.

Mr. HOLLINGS. Now. Mr. President——

The PRESIDING OFFICER. Does the Senator from New York yield the floor to the Senator from South Carolina?

Mr. MOYNIHAN. Mr. President, I just make the point that in all of the debate we held in 3 days, we never had this many Senators on the floor and I shall detain them only for the one more moment to say, what we have asked in this matter is something which citizens, in the tradition of Anglo-Saxon justice, have asked for many years. That is simply the right to go to court and be heard. We have not obtained it, and some day, no doubt, we shall.

Mr. President, the question is on the motion to recommit and I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit.

The motion was agreed to.

Mr. MOYNIHAN. May I ask for a division, Mr. President? It will do no harm.

The PRESIDING OFFICER. The Senator has that right.

Mr. BAYH. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. At this hour, does the division require Members of the body to stand?

The PRESIDING OFFICER. The Chair, in quick perusal of the precedents, answers that in the affirmative.

Does the Senator request a division?

Mr. MOYNIHAN. The Senator requests it in the interests of the agility and mental alertness of his colleagues.

The PRESIDING OFFICER. Senators in favor of the motion will please rise and stand until counted. The Chair will give them time to get to their feet.

[After a pause.]

Those opposed will please rise and stand until counted.

On a division, the motion to recommit was agreed to.

Mr. HOLLINGS. I move to reconsider the vote by which the motion was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL WILDERNESS PRESERVATION SYSTEM

The PRESIDING OFFICER. The question recurs on S. 658, on which there is a motion to concur.

The question is on the motion to concur.

Mr. ABOUREZK. Mr. President, what is S. 658?

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

Resolved, that the bill from the Senate (S. 658) entitled "An act to designate certain lands for inclusion and potential inclusion in the national wilderness preservation system," do pass with amendments.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The question is on the motion to concur.

Mr. MARK O. HATFIELD. Mr. President, I would like to underscore the record at this point; that number was the number assigned originally to the omnibus wilderness bill, and that we now have deleted everything following the title and we merely use that number as a dummy bill to become the vehicle for this particular action.

I just want the record to show that is the purpose of using this number.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the motion to concur in the House amendments to the bill (S. 658).

Mr. ROBERT C. BYRD. Mr. President, it is my intention that be called down.

Is the Senator from Wisconsin willing to move to proceed to the immediate consideration of the bill?

Mr. PROXMIRE. I thank the distinguished majority leader.

FINANCIAL INSTITUTIONS REGULATORY AND INTEREST RATE CONTROL ACT OF 1978

Mr. PROXMIRE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 14279.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate to the bill (H.R. 14279) entitled "An Act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions", with the following amendment:

In lieu of the matter proposed by the said amendment, insert new language, in the nature of a substitute.

Mr. PROXMIRE. Mr. President, I move that the Senate proceed to its immediate consideration.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Charles Marinaccio, Bill Weber, Lew Teffer, Gary Welch, John Collins, and Phil Sampson, of the Banking Committee staff, be granted privilege of the floor during debate and voting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, on Thursday the Senate passed a financial institutions bill providing for among other matters tougher enforcement powers for the bank regulatory agencies, an extension of the regulation Q authority and consumer protection for users of electronic funds transfers.

Both the Senate and House Banking Committees have been hard at work on this legislation for 3 years.

The House has taken our bill and amended it in ways that will strengthen the ability of our bank regulators to stop unsafe or unsound banking practices, extend the regulation Q authority and to provide consumer protection to users of electronic funds transfer.

I support this legislation with the House amendments. It is consensus legislation having the strong support of President Carter's administration, Chairman Miller of the Federal Reserve, the Treasury Department, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board and the National Credit Union Administration. Moreover, the legislation enjoys the support of the financial industries regulated by these government bodies. I commend these industries for their support of this legislation which should stop unsafe or unsound practices in the financial industry.

This bill is substantially similar to the Senate version. It will extend the regulation Q authority for 2 years and provide parity between commercial banks and thrift institutions on automatic transfer accounts and NOW accounts for the State of New York.

It will also authorize the regulatory agencies to assess civil money penalties against individuals that violate the law and provide tougher rules against insider lending which have been responsible for almost 60 percent of bank failures recently.

Mr. President, this legislation also creates a central liquidity facility for credit unions. Commercial banks and savings and loan associations already have a liquidity back-up at the Federal level. And while this facility is not designed as a funding mechanism to enable credit unions to expand their portfolios per se, in particular situations such as a plant layoff which creates a liquidity need because of a run on deposits, the facility may be used to enable the credit union to keep its loan commitments, thereby providing a measure of stability to the local economy. Inordinate expansion of loan portfolios is not expected.

Mr. President, I note that the bill sent to this body from the House does not contain the "Standby Letters of Credit" provision which was contained in title XIV of H.R. 14279, the bill sent from the Senate to the House on Thursday. This provision has twice passed the Senate, and in my opinion it is a worthwhile measure.

Our ranking minority member on the Banking Committee, Mr. BROOKE, has agreed not to press the amendment at this time, and I appreciate his restraint. However, I have agreed with Senator BROOKE that we shall jointly request a report by the Federal Reserve on the scope of the use of standby letters of credit both domestically and abroad and the risks to our banking system which may be involved in their use. This report will also contain such recommendations as the Federal Reserve may make as to their future use.

Mr. President, this is important legislation. The bill passed by the House and pending before the Senate does not give the Senate all that it wanted but it represents a reasonable compromise and one that a conference committee would likely have arrived at. I, myself, have fought for truth-in-lending simplification. It was in the bill sent to the House but the House has deleted it. We will have to work on it next year.

But the important thing is that the House has given us a good legislative package. Senator BROOKE and I had a colloquy on the floor the other evening in which we expressed our strong views that a legislative package needed to be addressed by the House this year. The House has done so and provided the Senate with legislation deserving of support and passage.

FINANCIAL RIGHT TO PRIVACY ACT

● Mr. ABOUREZK. Mr. President. I would like to speak briefly about the passage of title XI of the newly passed banking bill—the section which deals with the privacy of bank records. Prior to the passage of this legislation, there was no right of personal privacy with respect to any financial records of individuals which were maintained by banks. In the celebrated Miller case, the Supreme Court held that the fourth amendment prohibitions against search and seizure did not protect bank records which were a part of the daily business of the bank, even though such records are required to be kept by statute under the Bank Secrecy Act, or could be considered the type of records an individual would keep in his or her home. The Court did not however, rule out a legislative remedy to this very large hole in the constitutional privacy protections of individuals.

Therefore, since the rather forceful Miller decision, it has been clear that the loophole had to be closed. The confidentiality of an individual's bank records must be maintained at this time in history now as never before.

We are living in the era of rapid social and technological change. When this republic was founded in less technologically sophisticated era, the rights of the individual provided the basis upon which all of our institutions stood. The dignity of man, of the individual, was the cry, both here and abroad. Even in those days—especially in those days—people understood the need to be free from oppressive governments; and in that great experiment known as the American Revolution, a philosophy, based on a government accessible to all men and which responded to the wishes of a free people, freely expressed, triumphed.

And the American experiment has not slowed down, but has taken a new form. Rather than political movements, today we find that technology is playing an increasingly active role in the way in which social institutions are developing, and in which government responds to the needs of the people.

In 1789, a person's records were usually kept at home in a strongbox. The financial system was relatively unsophisticated. There was no national banking system, and in some instances there were different currencies. The economy was in large part based on trades and barter. As we progressed into the industrial revolution, and with the establishment of a national banking system, the financial system in this country evolved and became more sophisticated.

And finally, in the 20th century, there is no one in this immense Nation of ours who is untouched by the business of money. As small children in school, we are taught to put our money in banks and save. We use checks by the billions. We borrow money from banks—and supply them with the money they lend. Banks issue charge cards which generate even more records.

Just let me illustrate how pervasive is the influence of bank records and information on a person's life.

I get up in the morning and find that I am out of cash. I go to the money machine at my local bank and withdraw $50.

A record is created.

Then I go to the store and pick up some milk and eggs and a batch of other groceries. I write a check.

A record is created.

I decide to take my family on vacation for a weekend, so I go to the airline ticket office and write a check for the cost of the flight.

A record is created.

I go home for lunch and find my estimated quarterly tax due.

I cannot leave that one unpaid, so I whip out my checkbook and write a check. We know a record is created for that transaction.

I go into a bookstore later to buy a present for someone and decide to get myself something. Another check; another record.

At dinnertime, I decide to go out to eat with my family—it is great—but I find myself short of cash. So I charge it.

Another record.

Multiply that by 250,000,000 people give or take 20 or 30 million. Millions—probably billions of bank records and financial information are generated every day, and which are stored in financial institutions. And from those records, if there were unlimited access, someone—or something, a new high-speed computer—could track and follow a person's daily, monthly or yearly financial activities and monitor a person simply from the information generated by his or her financial transactions. Dossiers could be compiled: people could be tracked.

And all without their knowledge, and at times for no legitimate purpose.

In a democracy, what a person does with his life is his own business. The natural development of information technology with its insatiable need for paper creates circumstances which could put our basic independence in great jeopardy. No longer can we keep family legacies in a strong box.

And thousands of people representing thousands of institutions, before the passage of this bill, were able freely to request and to examine these records without a word to the individual about whom that record is kept, and for any reason at all.

The passage of the Right to Financial Privacy Act is the direct response to the potential abuse of human rights unfettered access to bank records creates.

No longer can the FBI go to a bank and request records from the manager for any reason at all—and no record of the request ever exist.

No longer can Government agencies request information for anything other than a legitimate law enforcement inquiry. The principle that an individual must be notified if an outside entity, such as a Government agency, requests his record is now firmly established in this legislation.

And the individual may challenge the request by the agency for his or her record by a procedure specifically designed to place the burden of showing the relevant need for such records on the Government.

I support and applaud the passage of this protection legislation. And we must, every year, review and strengthen all laws which protect the rights of individuals upon which this democratic Government is founded.●

Mr. PROXMIRE. Mr. President, at this late hour, I will move as quickly as I can on this matter because I know the

Senate has other matters to move to and we are all fatigued.

Mr. President, I move that the Senate agree to the House amendment, and I ask unanimous consent that the Secretary of the Senate be authorized to make technical corrections in the enrolled copy of the bill.

Mr. BAYH addressed the Chair.

The Presiding OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, I would like to ask my colleague a question.

I do not want to defeat this legislation, but the Senator from Indiana has been waiting rather patiently, and with no success, for a vehicle which could carry a rather small, but rather significant amendment which he has, which has been agreed to by the administration.

Our problem is that we have not been able to find a ship leaving the port.

The amendment which I have prepared and would like to offer to this proposal would give the Secretary of HEW the authority to establish regulations under which elderly women could get Papp smears conducted through medicare.

As I think most of us are aware, cervical cancer is No. 1 killer of elderly women. Papp tests can detect cervical cancer at a time——

Mr. PROXMIRE. May I state this to the Senator, the problem is that we worked very carefully putting this together. We have had a great deal of trouble in putting together a bill this comprehensive. I am very much afraid if we take any amendment, however good it is, or noncontroversial, that it may sink the whole bill.

I will be happy to work with the distinguished Senator from Indiana on any other bill on the calendar. We may have some that we can send over and get action on.

But on this particular bill, there is so much at stake and so much involved, we worked so long and hard on it, that I hesitate to accept any amendment.

I must do my best and, unfortunately, resist it, although I just do not know, if the Senator had come to me, to have a chance to explain and discuss it, I would have been delighted to help him.

But I want to add nothing, under that circumstance now, on this bill.

Mr. BAYH. I just learned the Senator from Wisconsin was going to bring this up a few minutes ago, since I have been looking for other vehicles, and a couple of them apparently are available and are being held, but does the Senator from Wisconsin feel that this measure could not be taken to the House, and then if it appears it is going to kill the bill, drop it from it? I certainly would not pursue it further.

Mr. PROXMIRE. My concern is that this would require a conference and that would, very likely, at this hour, under these circumstances, kill the bill.

Mr. BAYH. The Senator from Indiana would not persist in a conference and would be willing to take the judgment of the Senator from Wisconsin if he could sell to House Members the merits of this.

I would be willing to back away. I do not want to pursue this unnecessarily. If the Senator from Wisconsin is convinced there is no way he could at least present it to the House and then withdraw it, then I am prepared not to pursue it.

Mr. PROXMIRE. The reason for this, as the Senator can understand, we have 15 titles in the bill, very complicated. What concerns me is that when we go back to the House, one Member of the House could object to consideration, under those circumstances.

The staff tells me, having been working on this all night long, they tell me that might very well kill the bill, under present circumstances.

Mr. GARN. Will the Senator yield?

Mr. PROXMIRE. I am happy to.

Mr. GARN. I would like to respond to my distinguished colleague from Indiana, representing the minority on the Banking Committee on this issue.

As late as yesterday, the Wall Street Journal was saying we were simply not going to have a banking bill.

This is a very complex bill. It is the result of the Banking Committee's entire year of work. It has bounced back and forth between the House and the Senate a couple of times in the last 2 days, in order to have an opportunity to pass it. Almost literally, the whole work of the Banking Committee goes down the drain. Even Senator BROOKE, the ranking minority member, did refuse, and all of us decided we would offer no amendments, and there are several of us who normally would have had amendments, but felt it would cause the difficulties that the distinguished chairman outlined.

So, I would certainly hope that we would not have any difficulties with the bill at this point because I do think it would defeat it.

Mr. PROXMIRE. I thank my good friend from Utah. I think what he says is true. I would hope, under the present circumstances, that the Senator from Indiana would desist, and we will work very hard to see if we can send his amendment over.

But on this bill, it just seems to be something that would put extreme jeopardy on this vital bill that represents a whole year's work.

Mr. BAYH. I know that both my colleagues worked hard on this.

If this is their combined judgment, the Senator from Indiana will not persist, because I do not want to destroy their efforts.

But I would appreciate anything they might do to help us ferret out another vehicle that may be more appropriate, that we might be less apt to destroy the efforts that have been made.

Mr. PROXMIRE. I thank the Senator from Indiana. I am deeply grateful.

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. The question is on agreeing to the motion to concur.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I yield to the Senator from Washington, briefly.

JEAN LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE

Mr. JACKSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1829.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1829) entitled "An act to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SEC. 101. The Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia;"; and by inserting "The Mayor" in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act;

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of Chapter 53";

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government.";

(f) in paragraph (b) of section 8: "Redevelopment Land Agency" whenever it occurs and by inserting in lieu thereof "government."

(2) by striking in paragraph (10) of section 6 of the figure "$50,000,000" and inserting in lieu thereof "$100,000,000" and by striking in that paragraph the following sentence: "The authority of the Corporation to issue obligations hereunder shall expire June 3, 1980, except that obligations may be issued at any time after the expiration of said period to provide funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period." and inserting in lieu thereof "The authority of the Corporation to issue obligations hereunder shall remain available without fiscal year limitation.".

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereon in the development area. If the title to the street, road, highway, or alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District

of Columbia for the administrative expenses of the action. If the title to the street, road, highway or alley so closed is not in the United States, the Mayor shall convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided,* That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

Notwithstanding any other provision of law, the map in subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299) is to be that referenced as NRA-GG-80,003-J and dated May 5, 1978, and the penultimate sentence of said subsection is deleted.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer. The Director of the National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan. Notwithstanding any other provision of law, the Secretary is authorized to acquire the lands and interests generally limited and depicted in the map numbered 379-80,005-G and dated July 1978.".

(4) By striking in subsection 17(a) all after the word "Corporation" and inserting in lieu thereof "$3,000,000 for the fiscal year ending September 30, 1979; $3,200,000 for the fiscal years ending September 30, 1980, and September 30, 1981; and $3,500,000 for the fiscal years ending September 30, 1982, and September 30, 1983."; and, by adding to subsection 17(b) after the amount "$38,800,000," the following: "for fiscal year 1979, $15,000,000, for fiscal year 1980, $35,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $30,000,000, and, for fiscal 1983, $35,000,000."; and by striking the following, "to remain available without fiscal year limitation through September 3, 1980:" and, by inserting in lieu thereof: "For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding years. Any amounts appropriated under this subsection shall remain available without fiscal year limitation.".

SEC. 201. (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espoda Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section. Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided,* That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the constitutional provisions regarding the separation of church and state.

(c)(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(e)(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b)(2);

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public. The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress,

this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f)(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.

Amend the title so as to read: "An Act to continue the authorization for the Pennsylvania Avenue Development Corporation, to establish the San Antonio Missions National Historical Park in Texas, to provide for a study of the historic values of Camden, South Carolina, and for other purposes.".

UP AMENDMENT NO. 2123

Mr. JACKSON. Mr. President, I move that the Senate concur in the House amendment with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated. The second assistant legislative clerk read as follows:

The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 2123.

The amendment is as follows:

At the end of the bill, add the following new title.

The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of—

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later),

but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures, May, 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

Amend the title so as to read:

"A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes".

Mr. JACKSON. Mr. President, the purpose of this amendment is, first, to retain the Senate-passed provision extending the authorization for the Pennsylvania Avenue Corporation; second, to retain the Senate-passed provision establishing the San Antonio Missions Historical Park; third, to add the Senate-passed provision addressing the Federal responsibilities in connection with the Teton Dam facilities; fourth, the deleting of provisions expanding the Manassas National Battlefield Park; and fifth, deleting provisions acquiring certain lands at the Golden Gate National Recreation Area.

Mr. BAYH. Mr. President, I observe, in listening to the measures that were described, the important pieces of park-related legislation, which I wholeheartedly support. But I notice that there is one item that I feel is an equally important piece of legislation that is not contained in this bill.

Mr. JACKSON. I point out that one of the bills we sent over to the House on Friday contained three important items. One was the Indiana Dunes; another was the Florida Barge Canal, and a third was the Mar-a-Lago matter. They have not acted on any of these. What we are trying to do here is to agree to those amendments that the House has indicated they will agree to.

Mr. BAYH. The Senator from Indiana has an agreement to put the dunes in there, on behalf of myself and his colleague, Senator LUGAR.

Mr. President, a parliamentary inquiry.

Is an amendment appropriate at this time?

The PRESIDING OFFICER. An amendment is in order.

Mr. JACKSON. Mr. President, I respond to my good friend by saying that it would kill the bill. That is the question we have to face.

Mr. ABOUREZK. Mr. President, will the Senator yield?

Mr. BAYH. I yield.

Mr. ABOUREZK. I just want to add that we have been negotiating with the House on this particular thing for the last—I have lost track of time. It seems as though it has been several days that we did the other one.

If the Senator wants to put the Indiana Dunes on this and if he succeeds, we have learned from experience that it will be a great anchor, because it will sink it.

I know that the Senator supports the provisions that already are there and I know he feels strongly about the Indiana Dunes. But it is ill-fated, and I do not think it is going to work. The Senator will simply sink the provisions he already supports. That has been made clear to us by the House.

Mr. BAYH. I should like to make an observation, and I do not say this in any way disrespectfully toward my colleagues. There are those of us who have worked not just this year, but year after year in pursuit of common purposes in the park areas. I have sat on this floor during extended debate on one subject, and over the last 3 days I have listened to debate on several subjects.

I do not know about other Senators. I do not know whether it is the hour of 7:05 a.m. or whether it is something else, but I am getting a little tired of hearing the response that if we do this, the House will not buy it. I wonder how many times they have had debate over there tonight that says, "Fellows, if we don't go along with this, the Senate isn't going to buy it."

Forgive me for getting a little excited about this. I do not want to make the same speech I made for 4 minutes yesterday. I could speak for 40 minutes. We are talking about something we have been trying to get on the statute books for half a century.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. BAYH. I yield to the Senator from Illinois, who has a long-time interest in this matter, which he has expressed eloquently.

Mr. PERCY. I should like to ask this question: It is 7:05 a.m., and I wonder, at this bright hour, when someone should be thinking clearly and thinking well about the future of America, what the main objection of the House is against this modest expenditure. It is really an insurance policy against the future.

The Senators from Illinois and the Senators from Indiana have made unmistakably clear that it is a great tribute to one of our past colleagues, in such a way that it will preserve the heritage of the future. What is the argument against this in the House?

Mr. ABOUREZK. Mr. President, may I respond to the Senator from Illinois?

Mr. BAYH. I yield to the Senator from South Dakota for that purpose.

Mr. ABOUREZK. I respond to both Senators.

It may be speculation on a great many bills when the manager of the bill gets up and says, "I don't think the House is going to buy this." But this already has been put on a Senate bill by a vote, and it went to the House, and the House will not agree to it. They were after the Indiana Dunes. It was an empirical experience. That is how we know the House will not buy it. We do not have the time and the vehicles to send things back any more. This is our last chance that you agree with, Senator BAYH agrees and the House agrees with.

It is like an elephant sitting on a mouse: It is going to crush it.

Mr. PERCY. There is an old adage: Try, try again.

We are going to be here anyway. Is there not some way for us to get it to the House?

Mr. ABOUREZK. They would have to shoot it back here again, and we do not have much time left.

I say that if the Senator from Indiana persists in trying to put this on, I would urge our colleagues to vote it down very strongly, unless they want to kill these other projects which everybody supports, which have been voted through the Senate a couple of times and are acceptable to the House.

Mr. BAYH. Mr. President, I support the other projects. Frankly, I feel I have an obligation, as a Senator from Indiana, to try to see if we can get this Indiana project in there. It seems to me that if we give it another try and House Members are so anxious to get the three projects that were mentioned, they would be be inclined to take the Indiana Dunes project.

My colleague from Indiana, Senator LUGAR, said very eloquently last evening, as I tried, that we are talking about a park that we have been trying to get completed for about 50 years. We have had three shots at it. Two have been successful.

It is a park that is like a big donut with a little hole in it. We are trying to fill up that hole and have a whole park. It is in the center of one of America's rapidly growing industrialized areas. This means two things: One is a blessing and one is a curse.

The blessing is that we have here these beautiful towns and a beautiful lake. You can fish and swim in it and enjoy it. That beautiful creation of nature is within easy driving distance. You do not have to get on an airplane to take advantage of that. It is right there. The park is where the people are. That is the blessing.

The curse is that because this territory is not yet completed, there is private ownership in the middle of the park. It is in the process of deteriorating.

And as I said last night, what concerns me is if we do not move now by this time next year you are going to have Shakey's pizza and Kentucky fried chicken and the golden arch of McDonald's right here where you have the sand dunes and flora and the fauna of thousands of years of development.

What I ask the Senate is to let us finish this park before it becomes degraded, before it becomes commercialized. Let us keep it as a playground and a classroom of nature for subsequent generations.

One last point, and then I do not want to pursue this unnecessarily. This park is an expensive park as parks go. But it is no more expensive than parks that are similarly located.

You go out in the beautiful wild West territory of my good friend from Wyoming, or out in Colorado, and some of those places, where I have had the good fortune to visit——

Mr. MELCHER. Montana.

Mr. BAYH. Montana—out in that beautiful country, wide open space, it is beautiful, but I think we all recognize that the cost of the land out there is not nearly as high, because the alternative uses are not nearly as great.

Here we have a park where the people are, but we have a high demand and a high value on each acre of land.

It seems to me the benefits are worth the cost, and it is going to cost more next year, and it is going to cost more the year after that.

If we could have had this park completed when the Senator from Washington first introduced it 20 years ago we could have gotten it for a far smaller cost than it is ultimately going to cost the taxpayers.

I will not necessarily belabor the Senate.

UP AMENDMENT NO. 2124

(Purpose: To expand the Indiana Dunes National Lakeshore)

Mr. BAYH. Mr. President, I do send to the desk this amendment, and I will not debate it further and the Senate can decide whether we are going to finish this park or not.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 2124.

The amendment is as follows:

At an appropriate place in UP–2123, add the following new section:

SEC. ___. INDIANA DUNES NATIONAL LAKESHORE

(a) the last sentence of the first section of the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended (16 U.S.C. 460u), is amended by inserting immediately before "which map", the following: "including the areas identified on such map as 'Study Areas', except the area designated as 'II-A'."

(b) Section 4 of such Act is amended (16 U.S.C. 460 u–3) is amended to read as follows:

"SEC. 4. (a) The Secretary's authority to acquire property by condemnation shall be suspended with respect to all improved property located within the boundaries of the lakeshore during all times when an appropriate zoning agency shall have in force and applicable to such property a duly adopted, valid zoning ordinance approved by this Secretary in accordance with the provisions of section 4A of this Act.

"(b) The term 'improved property', whenever used in this Act, shall mean, in the case of improved property located within the areas identified as 'Study Areas', a detached, one family dwelling, construction of which was begun before July 1, 1977, in the case of improved property located within the boundaries delineated on a map identified as 'A Proposed Indiana Dunes National Lakeshore', dated September 1966, and bearing the number 'LNPNE–1008–ID', such a dwelling construction of which was begun before January 4, 1965, and in the case of any other improved property, located within the lakeshore, such a dwelling construction of which was begun before February 1, 1973; together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structure accessory to the dwelling which are situated on lands so designated. The amount of land so designated shall in every case be not more than three acres in area, and in making such designation the Secretary shall take into account the manner of noncommercial residential use in which the dwelling and land have customarily been enjoyed: *Provided,* That the Secretary may exclude from the land so designated any beach or waters, together with so much of the land adjoining such beach or waters, as he may deem necessary for public access thereto or public use thereof. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.

"(c) The Secretary shall be afforded the opportunity to purchase such improved property if the owner thereof desires to sell that property, before a sale to bona fide private party is consummated, except that such opportunity to so acquire shall terminate upon the expiration of the thirty-day period following the date of notification to the Secretary concerning an offer to purchase by such private party."

(c) Such Act is further amended by inserting immediately after section 4 thereof the following new section:

"SEC. 4A. (a) As soon as practicable after the enactment of this section, the Secretary shall issue regulations specifying standards for approval by him of zoning ordinances for the purposes of this Act. The Secretary may issue amended regulations specifying standards for approval by him of zoning ordinances whenever he shall consider such amended regulations to be desirable due to changed or unforeseen conditions. The Secretary shall approve any zoning ordinance and any amendment to any approved zoning ordinance submitted to him which conforms to the standards contained in the regulations in effect at the time of adoption of such ordinance or amendment by the zoning agency. Such approval shall not be withdrawn or revoked, by issuance of any amended regulations after the date of such approval, for so long as such ordinance or amendment remains in effect as approved.

"(b) The standards specified in such regulations and amended regulations for approval of any zoning ordinance or zoning ordinance amendment shall contribute to the effect of (1) prohibiting the commercial and industrial use, other than any commercial or industrial use which is permitted by the Secretary, of all property covered by the ordinance within the boundaries of the lakeshore; and (2) promoting the preservation and development, in accordance with the purposes of this Act, of the area covered by the ordinance within the lakeshore by means of acreage, frontage, and setback require-

ments and other provisions which may be required by such regulations to be included in a zoning ordinance consistent with the laws of the State of Indiana.

"(c) No zoning ordinance or amendment thereof shall be approved by the Secretary which (1) contains any provision which he may consider adverse to the preservation and development, in accordance with the purposes of this Act, of the area comprising the lakeshore, or (2) fails to have the effect of providing that the Secretary shall receive notice of any variance granted under and any exception made to the application of such ordinance or amendment.

"(d) If any improved property, with respect to which the Secretary's authority to acquire by condemnation has been suspended according to the provisions of this Act is made the subject of a variance under or exception to such zoning ordinance, or is subjected to any use, which variance, exception, or use fails to conform to or is inconsistent with any applicable standard contained in regulations issued pursuant to this section and in effect at the time of passage of such ordinance, the Secretary may, in his discretion, terminate the suspension of his authority to acquire such improved property by condemnation.

"(e) The Secretary shall furnish to any party in interest requesting the same a certificate indicating, with respect to any property located within the lakeshore as to which the Secretary's authority to acquire such property by condemnation has been suspended in accordance with provisions of this Act, that such authority has been so suspended and the reasons therefor.".

(d) The first Sentence of section 5(a) of such Act, as amended (16 U.S.C. 460u–5), is amended to read as follows: "Except for owners of property within the area on the map referred to in the first section of this Act as area II–B, any owner or owners, having attained the age of majority, of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain the rights of use and occupancy of the improved property for noncommercial residential purposes for a term ending on his or her death or the death of his or her spouse, whichever occurs last, or for a term of twenty-five years, or such lesser term as the owner or owners may elect at the time of acquisition by the Secretary. In the case of owners of property within such area II–B, such owners shall have the same right or rights as that afforded other owners in the preceding sentence, if it is determined by the Secretary, on a case-by-case basis, and in consultation with State and local officials, that water pollution problems are not likely to occur as a result of the failure on the part of the Secretary to acquire such property. All rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of this Act.".

(e) Section 9 of such Act is amended by striking out "$60,812,100" and inserting in lieu thereof "$89,812,100".

(f) Section 15 of such Act (16 U.S.C. 460u–14) is amended to read as follows:

"SEC. 15. (a) Within one year after the date of the enactment of this section, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committee on Appropriations of the United States Congress a detailed plan which shall indicate—

"(1) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of the lakeshore, and

"(2) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

"(b) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by this Act, within six years after the date of enactment of this section.".

(g) Such Act is further amended by adding the following new section:

"SEC. 21. The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of various modes of public access into and within the lakeshore, including roads, public transportation facilities, and nonmotorized access.

"(a) In carrying out the study, the Secretary shall utilize to the greatest extent practicable the resources and facilities of the organizations designated as clearinghouses under title IV of the Intergovernmental Cooperation Act of 1958 as implemented by Office of Management and Budget Circular A–95, and which have comprehensive planning responsibilities in the regions where the lakeshore is located. The Secretary shall make provision for timely and substantive consultation with the Highway Department of the State of Indiana, local elected officials, and the general public in the formulation and the implementation of the study.

"(b) This study shall be completed and presented to the Congress no later than October 1, 1979.

"(c) The study shall address the adequacy of access facilities for members of the public who desire to visit and enjoy the lakeshore. Consideration shall be given to alternatives for alleviating the dependence solely on automobile transportation and resulting congestion, environmental impacts, and management difficulties. The study shall inventory the condition or roads in and out of the lakeshore, and the condition of the public transportation rolling stock. The study of public transportation facilities shall cover the distance from cities of thirty-five thousand population or more within fifty miles of the lakeshore. It shall further include the identification of routes, available facilities, and assets of transit operators within this area, and shall discuss their increase or decrease of passengers and their financial condition over the previous five-year period.

"(d) The study shall include proposals deemed necessary to assure equitable visitor access and public enjoyment by all segments of the population, including those who are physically or economically disadvantaged. It shall provide for retention of the natural, scenic, and historic values for which the lakeshore was established, and shall propose plans and alternatives for the protection and maintenance of these values as they relate to transportation improvements.

"(e) The study shall present alternative plans to improve, construct, and/or extend access roads, public transportation, and bicycle and pedestrian trials. It shall include accurate estimates of the costs of such alternatives, to be based upon statistical data available for similar expenditures, and shall discuss existing and/or proposed sources of funding for the implementation of the recommended plan alternatives.

"(f) There is hereby authorized to be appropriated not to exceed $250,000 for this study.".

Mr. CHURCH. Mr. President, the able Senator from Indiana makes a very eloquent argument. As a member of the Energy and Natural Resources Committee, I can assure him that the committee will have this question before it when the 96th Congress begins next year. It is a question that must be faced and decided. It would, nonetheless, be a grave mistake for the Senate to adopt this amendment on this bill, because it represents the last effort in the 11th hour to put together those few remaining proposals on which it appears that the two Houses can agree.

Since it is evident that, at this time, the two Houses cannot agree to the amendment offered by the distinguished Senator from Indiana, I hope that the Senate will vote it down.

SEVERAL SENATORS: Vote.

Mr. PERCY. Mr. President, Congress created the Indiana Dunes National Lakeshore in 1966 with an initial acquisition of 8,000 acres. Its creation was due in large part to the efforts of Paul Douglas. During his long tenure of service in the Senate, Paul Douglas worked hard for the preservation of the Indiana Dunes. Because of his work, and the efforts of the Save the Dunes Council, one of the Nation's first urban parks was established.

In 1976, Congress enacted legislation to add 3,600 acres of land to the Indiana Dunes National Lakeshore. I strongly supported and worked on this measure. During the Senate's consideration of this legislation, a study was authorized to determine whether three more areas should be included in the park. Now Congress has an opportunity to add two of the three study areas to the park—the Beverly Shores Island and a strip of land along Highway 12.

An important addition to the established lakeshore is the remainder of the town of Beverly Shores. Most of the town was included in the park as originally authorized. The final step of bringing the rest of the town within the park boundaries would be valuable for two reasons—it is in accordance with the wishes of the majority of the residents and it would guard against intensified development which would have an adverse impact on the existing park.

Since Illinois is one of the few States that does not have a national park within its borders, the dunes have become a favorite recreation area for Illinois residents. The sandy beaches of the dunes are accessible by both rail and car in less than an hour from downtown Chicago.

Now is the time for Congress to complete the Indiana Dunes National Lakeshore by adding these two tracts of land. I do strongly urge that we adopt this amendment and ask our colleagues in the House to do likewise.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana. The amendment was rejected.

Mr. ABOUREZK. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CHURCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President, could we have a vote now on the amendment?

The PRESIDING OFFICER. The question is on the motion to concur in the amendment.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Is it not the motion that the Senate concur in the House amendment with an amendment which is at the desk?

The PRESIDING OFFICER. That is the motion.

Mr. JACKSON. All right.

SEVERAL SENATORS: Vote.

The motion was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—H.R. 8389

Mr. ROBERT C. BYRD. Mr. President, this request has been cleared on both sides, I am told.

I ask unanimous consent that when the Senate proceeds to the consideration of H.R. 8389 that the debate be limited to 5 minutes on the bill to be equally divided between Mr. PROXMIRE and Mr. GARN; that there be a 5-minute time limitation on an amendment by Mr. DURKIN and that it be in the usual form; that no other amendment be in order; and that there be a 5-minute limitation on my debatable motion, appeal, or point of order.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object, I am sorry but I did not hear the number. What is it?

Mr. ROBERT C. BYRD. H.R. 8389.

Mr. ABOUREZK. May I ask what it is?

Mr. PROXMIRE. The bill is to authorize the President in the name of Congress to appropriate a gold medal to Mrs. Robert F. Kennedy in recognition of the distinguished service her late husband gave to the Government and the people of the United States.

I would say to the Senator from South Dakota, the Senator from New Hampshire has an amendment that he is going to put on this bill if he can.

Mr. DURKIN. It has been cleared all the way around.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROBERT F. KENNEDY MEDAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 8389.

The PRESIDING OFFICER. The bill will be stated by title.

The second assistant legislative clerk read as follows:

A bill (H.R. 8389) authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.

There being no objection, the Senate proceeded to consider the bill.

Mr. PROXMIRE. Mr. President, I do not think it necessary to detain the Senate at all on this bill.

As I said to the Senator from South Dakota, that is what the bill does. It is simply providing an appropriate gold medal to Mrs. Robert F. Kennedy in honor of her husband, Robert F. Kennedy, who served so ably in this body a few years ago and who as we know was tragically assassinated.

Mr. President, I yield to the Senator from New Hampshire.

Mr. DURKIN. I thank the Senator from Wisconsin.

UP AMENDMENT NO. 2125

Mr. DURKIN. Mr. President, I call up my amendment which is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN) proposes an unprinted amendment numbered 2125.

Mr. DURKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843 (c)(8)) is amended by striking the period at the end of the first sentence thereof and adding the following: ", but for purposes of this subparagraph it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker under this subsection except (i) where the insurance is limited to insuring the life of a debtor pursuant to or in connection with a specific credit transaction or providing indemnity for payments due on a specific loan or other credit transaction while the debtor is disabled; or (i) any insurance sold in a community that (A) has a population not exceeding 5,000 (as shown by the last preceding decennial census), or

(B) the bank holding company, after notice and opportunity for a hearing, demonstrates that a city, town, or village has inadequate insurance agency facilities; or (iii) any insurance activity engaged in by a bank holding company or any of its subsidiaries prior to June 6, 1978; or (iv) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries which bank holding company has assets of $50 million or less."

And on page 184, line 14, delete the period and quotation marks after the word "less" and insert the following: ", provided, however, such bank holding company and its subsidiaries may not engage in the sale or underwriting of life insurance or annuities except as provided in (i) or (ii) above."

Mr. DURKIN. Mr. President, 8 years ago, Congress enacted the Bank Holding Company Act Amendments of 1970. At that time, no one foresaw the expansion of bank holding companies into many nonbanking activities or the impact of this expansion on these other commercial activities. Consequently, insufficient limits were incorporated into the 1970 legislation.

Today, independent insurance agents of America face unfair competition through the expansion of bank holding companies into the areas of retail property and casualty insurance. In fact, due to a recent Supreme Court ruling, the Federal Reserve Board may soon begin approving applications of bank holding companies desiring to enter the retail property and casualty insurance area. Any infringement on this industry by large banking institutions is unfair and contrary to the good of the Nation. Therefore, I am introducing today an amendment which helps define the activities to which bank holding companies are limited in order to keep the retail property and casualty insurance industry competitive.

It is imperative that every effort be made to prevent the erosion of competition in the sale of property and casualty insurance. This is especially so because the retail property and casualty insurance industry is one of the few areas of business left in this country where small, independent business entrepreneurs can, through initiative and perseverance, build viable businesses of their own. Unless my amendment is passed, even this industry will be barred to the entrepreneur.

My amendment does not permit bank holding companies to act as agents or brokers in the sale of property and casualty insurance, nor would the amendment permit bank holding companies to engage in the underwriting of such insurance. My amendment does not infringe on the current involvement of banks in the sale of credit life and credit disability insurance, nor does it compromise the National Bank Act that allows banks operating in communities of 5,000 inhabitants or less to sell property and casualty insurance. My amendment merely prevents the further encroachment of bank holding companies on nonbanking areas of commercial activity.

The current situation is charged with some urgency, considering a recent Supreme Court action. Until recently, pending court actions delayed approval of applications for the entrance of bank holding companies into property and casualty insurance brokerage. Then, the Supreme Court let stand the lower court holding that allowed approval of such applications. The Federal Reserve Board is expected to begin approving applications within weeks, initiating the end of competition in yet another segment of the American business community.

Mr. President, because of my great concern for preserving the strength and resources this country possesses in the form of enterprising and individualistic businessmen, I am also concerned that the power of larger financial institutions to displace these entrepreneurs be justly limited. My amendment does just that.

The substance of this amendment has already undergone thorough study in the Senate and House. I introduced a bill to achieve the objective of this amendment earlier this year, and my distinguished colleague from Massachusetts (Senator BROOKE) did the same. S. 72, which has not been reported out of the Senate Banking Committee, nevertheless contains some restrictions close to those I am proposing, indicating that the committee is aware of the problem I am raising.

In the House, the provisions of my amendment are incorporated in H.R. 13471, the Financial Institutions Regulatory Act, which is being considered on the floor, but which unfortunately is stalled there for reasons totally unrelated to my amendment.

It would be extremely unfortunate if the independent insurance agents of this country, so important to our economy, did not receive the protection they deserve because their protection has been inadvertently included in another bill.

I understand the distinguished managers of the bill are prepared to accept my amendment, so badly needed given the urgency of the situation. And I hope that when they take this bill back to the House, the Members over there, realizing my amendment is needed, and needed now, will accept it so that it can be enacted into law before serious damage is done to the independent insurance agents across this country.

Mr. President, this amendment has been cleared by Senator GARN. It is offered my myself for myself and Senator BROOKE who introduced an identical amendment, and the amendment simply incorporates the language which was accepted during the House debate on the Financial Institutions Regulatory Act, the purpose of which is to prevent any further expansion of bank holding companies and subsidiaries into the property and casualty insurance business which as the years have gone on independent businessmen have done.

The effect of the amendment is to change the Bank Holding Company Act of 1956 to allow bank holding companies to provide insurance only in cases in accordance with current law where the cities have adequate insurance facilities in cities with 5,000 population and where the bank holding company engages in insurance assets of $50 million or less.

The amendment will not affect bank holding companies that now possess an insurance license on June 6, 1978.

It is my understanding it is cleared all the way around, but I am prepared to yield back the remainder of my time.

● Mr. BROOKE. There has long existed in this country a separation between banking and other forms of commerce. This separation was developed in part because banking organizations, by virtue of their control over credit transactions, are in a position either directly or indirectly to exercise great influence over borrowers in connection with the purchase of nonbanking services. Furthermore, the pursuit of nonbanking activities would tend to divert bank resources and efforts away from their principal activity—banking.

The Bank Holding Company Act of 1956, as amended, provides a regulatory framework designed to restrict bank holding companies to those activities which are "closely related" and a "proper incident" to banking. Under this rubric, however, the Federal Reserve Board, by regulation, has permitted bank holding companies to be involved in the retail property and casualty insurance business. Whether such activity was within the contemplation of the Congress when it enacted the Bank Holding Company Act and its subsequent amendments is a matter which has been the subject of considerable litigation. In order to clarify the intent of the Congress with respect to bank holding company involvement in the insurance business, I support the adoption of the amendment proposed by Senator DURKIN, which would specify the types of insurance activities bank holding companies may engage in.

The amendment would permit holding companies to sell credit accident and health insurance which is directly related to extensions of credit within a bank holding company system and would permit general insurance activities in certain limited situations. I believe it is time that we delineate the permissible insurance activities of bank holding companies, and I urge my fellow Senators to support Senator DURKIN's amendment.●

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back my time

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. I yield to the Senator from Kansas.

LOSS IN TAX REVENUES BY GUAM AND THE VIRGIN ISLANDS

Mr. DOLE. Mr. President, I ask that H.R. 13719 be taken from the desk and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

An act (H.R. 13719) to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator, has it been cleared with the appropriate committee and the chairman on this side of the aisle?

Mr. DOLE. Yes. In fact, I have just discussed it with the distinguished Senator from Washington. He has a statement in support of the bill and I have a statement in support of the amendment.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title, and the Senate will proceed to its consideration.

UP AMENDMENT NO. 2126

Mr. DOLE. I send an amendment to the desk in the nature of a substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 2126:

The amendment is as follows:

In the nature of a substitute, at the appropriate place, insert the following: That (a) the Secretary of the Treasury is authorized to make separate payments for each of the calendar years 1978, 1979, 1980, 1981, and 1982 to the government of Guam and the government of the Virgin Islands. The payment to the government of a particular possession for any calendar year shall be in an amount equal to the loss to that possession with respect to tax returns for taxable years beginning in such calendar year by reason of the Revenue Act of 1978. Such amount shall be determined by the Secretary of the Treasury upon certification to the Secretary by the United States Government Comptrollers for Guam and the Virgin Islands.

(b) There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

Mr. ROBERT C. BYRD. Mr. President, I know the Senator will not misunderstand my question, but has the amendment been cleared with the appropriate chairman on my side of the aisle?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Who is that Senator?

Mr. DOLE. Senator Jackson. I have a statement from Senator Jackson which will be printed in the RECORD in support of the amendment.

Mr. President, Federal law requires that the Virgin Islands and Guam use the Federal income tax laws as their local tax code, except that the taxes which they collect are paid into their own treasuries rather than the U.S. Treasury. The application of the internal revenue code by these possessions is commonly known as the "mirror system."

TAX REVENUES WILL BE REDUCED

As a result of the mirror system, whenever the U.S. Income Tax Law is changed, the Internal Revenue laws of the Virgin Islands and Guam are automatically changed. The passage of the tax reduction act of 1975, for example, caused an identical change in the "mirror image" laws of these possessions. Thus, refunds and other income tax reductions under the 1975 act and subsequent tax legislation in recent years reduced the tax collections in these possessions, which could, in conjunction with restrictions placed upon their governments to issue indebtedness, has caused a financial hardship.

DOLE AMENDMENT

Mr. President, my amendment will authorize reimbursement to Guam and the Virgin Islands for revenues lost in calendar years 1979 through 1982 because of the Revenue Act of 1978. The bill authorizes the Secretary of the Treasury to make separate payments in each year. The payment to either Guam or the Virgin Islands for any taxable year is to be in an amount equal to the loss to that possession with respect to tax returns for taxable years beginning in that calendar year.

Mr. President, in the case of the Virgin Islands, the burden caused by the 1975 Tax Act was reduced by the passage of Public Law 94–392 which authorized an $8.5 million appropriation for the government of the Virgin Islands to reimburse it for the lost tax revenue. Public Law 95–134 authorized additional appropriations of $15 million to Guam and $14 million to the Virgin Islands to compensate for revenues lost under the Tax Reform Act of 1976. The amendment has the same effect.

Mr. President, my amendment would simply extend this prior principle for the next 5 years. My amendment has been agreed to by the House Ways and Means Committee and is supported by the distinguished chairman of the Senate Energy Committee, the Senator from Washington (Senator JACKSON). Mr. President, I ask unanimous consent that the statement of Senator JACKSON supporting my amendment be inserted at this point in the RECORD.

Mr. President, finally, I would simply say that my amendment is supported by precedent, and it is equitable.

● Mr. JACKSON. Mr. President, I understand that the amendment being proposed is in effect a hold harmless provision for the government of the Virgin Islands. To that extent it is similar in scope and intent to legislation which the Committee on Energy and Natural Resources has reported in the recent past to reimburse the government of the Virgin Islands for losses in revenues occasioned by the Tax Reform Act and the Tax Reduction Act.

Mr. President, on July 31 of this year the U.S. Comptroller for the Virgin Islands released his report on the financial condition of the Virgin Islands. That report presented a rather grim analysis of the fiscal situation there. It has become obvious over the past several years that the Virgin Islands, much as other insular areas, has been having increasing difficulty in matching revenues with expenditures. Since the insular areas do not receive a fixed amount of money from the Federal Government, but must rely on an amalgam of revenues generated by Federal programs and taxes, changes and alterations in the revenue sources such as the Federal income tax (which operates as a local territorial tax) can have significant adverse impacts on the local government. The magnitude of the problem in the Virgin Islands would appear to be far more serious than anyone had understood prior to the Comptroller's report. The final conclusion of the Comptroller was that "a decision must be made soon to increase revenues and/or decrease expenditures or the territorial government could become virtually insolvent."

Given the conclusion of the Comptroller, I think it is important that this amendment be adopted. Although I would have preferred to consider this amendment in committee and conducted hearings, the time limitations are readily apparent and it would be inappropriate to defer consideration until the next Congress when the impact of the Revenue Act would already have been felt in the Virgin Islands.

Mr. President, this amendment highlights one of the major problems facing the insular areas, and that is that the formula devised in the early 1950's to fund their internal operations and avoid the necessity of annual authorizations are no longer capable of producing sufficient revenue to meet the basic operations of government. In considering the omnibus territories bill earlier this session I, together with Senator JOHNSTON and Senator MCCLURE, proposed an amendment which would provide a limited multiyear authorization to cover anticipated deficits in the Virgin Islands while at the same time requiring the Secretary of the Interior to submit to the committee an analysis of the present funding mechanism for the Virgin Islands together with recommendations for improvement of the Virgin Islands collection processes and the Federal support provisions of existing law.

Mr. President, I have no objection to the amendment offered by the distinguished Senator, given the history which I have related. It is my intention to have the Committee on Energy and Natural Resources, which properly has jurisdiction over the amendment being offered, completely review the funding processes for the various insular areas during the next Congress and hopefully to propose such modifications as may be necessary to enable the Virgin Islands and other areas to plan and operate without constant fear over the impact of Federal program alterations.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the Senate amendment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. Long be recognized to submit conference reports on the sugar bill and the tax bill.

REVENUE ACT OF 1978— CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 13511 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The second assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. LONG. Mr. President, let me summarize the major provisions of the conference agreement. There are new tax cuts of $18.7 billion for calendar year 1979, compared to $16 billion in House bill and $29 billion in Senate bill. In fiscal year 1979, cuts, including extensions of existing cuts, will be $19.3 billion. This is easily accommodated within the budget resolution ceiling of $21.9 billion.

There is an individual tax cut of $13 billion. This is achieved by reducing the the existing 25 income tax brackets to 15 wider brackets and by cutting tax rates. The rate cuts are directed to those income classes which will experience tax increases in 1979 from inflation and social security taxes. The zero bracket amount, which replaced the standard deduction, is increased.

The personal exemption is increased from $750 to $1,000. This replaces the general tax credit, which is scheduled to expire at the end of this year.

The earned income credit is simplified and enlarged. The maximum credit is increased from $400 to $500, and the income range over which the credit phases out is increased from between $4,000 and $8,000 to between $6,000 and $10,000. In addition, the credit will be reflected in an employee's paycheck rather than being paid out as one lump sum at the end of the year. This provides a tax cut of $1 billion to the working poor.

The gasoline tax deduction is repealed, providing a simplification of the income tax.

The bill phases out the exclusion for unemployment compensation for single people with income over $20,000 and for married couples with income over $25,000.

The bill contains provisions to cut back the use of tax shelters, strengthening the antitax shelter provisions enacted in 1976.

The bill cuts the corporate income tax rate from 48 percent to 46 percent and provides a graduated rate structure for small businesses. The overall cut is $5 billion, of which $1 billion goes to corporations with incomes of less than $100,000.

The 10-percent investment tax credit is made permanent (along with a 3-year extension of the extra credit for matching contributions to employee stock ownership plans). In addition, the limit on the amount of tax which can be offset by the investment credit is increased from 50 percent to 90 percent. The credit is increased for pollution control facilities and is extended to farm cooperatives and to several new types of investment—rehabilitation of industrial structures and special purpose farm structures.

In place of the expiring general jobs tax credit, the bill contains a new targeted jobs credit and an expansion of the existing WIN and welfare recipient tax credits. These will encourage businesses to hire welfare recipients, needy youths, needy Vietnam veterans, and others who

often find it difficult to find jobs even when the economy is prosperous.

The bill repeals the deduction for yachts, hunting lodges, and other entertainment facilities other than club dues.

The bill increases the percentage of capital gains excluded from income from 50 percent to 60 percent.

The bill provides a once-in-a-lifetime exclusion for up to $100,000 of capital gains on the sale of a principal residence by someone age 55 or over.

Carryover of basis for estate tax purposes is deferred until the end of 1979.

The bill takes capital gains out of the add-on minimum tax and includes them, along with certain other tax preferences, in a new alternative minimum tax, with a top rate of 25 percent. In place of the existing maximum capital gains rate of 49 percent, the maximum rate will be 28 percent.

Intangible drilling costs are included in the minimum tax only to the extent that they exceed income from oil production.

The bill contains a number of miscellaneous provisions which have a widespread support in both the House and Senate.

The bill increases the ceiling on social services funding to $2.9 billion for fiscal year 1979.

Mr. President, I hope very much the Senate will agree to the conference report.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I am sure the conferees worked extraordinary hours on this bill, and I admire the chairman of the Finance Committee for his great ability and his great stamina.

However, I would like to point out that this bill is something less than a total success. I will vote for the conference report because the bill is certainly better than nothing, but it falls so far short of what many of us hoped it would be. We had hoped and, as a matter of fact, the American people had been promised, that they would have offset in this bill to the effect of inflation putting them into higher brackets and the fact of social security tax increases.

As a matter of fact, that offset will occur for 1 year but no longer. Here is a tax bill that was first worked on in the Treasury Department in 1977, it was first introduced in early 1978, it will take effect for calendar year 1979. Three years it has been in the making, and it will offset only 1 year of inflation. That is why we made a mistake, in my opinion, why the conference made a mistake in rejecting the one amendment which was strongly endorsed and not only by the Senate but by the House of Representatives, by about a two-thirds margin.

Second, Congress has had an opportunity to develop a tax bill which not only reduced taxes, but maintained some form of restraint on excessive Government spending. It could have been done either through the normal mechanism of keen outyear tax cuts to restrain Government spending, or through the Senate version, another version of the Senate bill, which provided a surtax on the income tax in the event that Government spending was excessive, or simply by the mechanism that Senator ROTH advocated so effectively; namely, a multiyear tax cut in order to force the kind of spending restrictions which hopefully would come from a multiyear tax cut.

None of those approaches were adopted, and we have a 1-year tax cut and nothing more.

Third and finally, and I think most seriously of any of the defects of this bill: We have been warned over and over again, and it was certainly true in the Finance Committee, where witness after witness who happened to be economists came before the Finance Committee and told us that the big problems of our economy have to do with capital formation and productivity. They told us our economy is not in good shape.

They told us what we should do about it, that we should address ourselves in a tax cut to those tax incentives which would provide real stimulus for investment in plant and equipment, and job opportunities for the American people for the future. Most of them prefer a corporate tax rate cut down to about 42 percent. Some of them, including Chairman Miller of the Federal Reserve, preferred an expansion of the asset depreciation range. There were various ideas of how to do it. But there was unanimity on the part of the economists who came before the Finance Committee and on the part of many other economists who were consulted by the various members of the Finance Committee that we should be doing something in order to expand our economy and the potential for the American people in the future.

Those statements, so consistent in their quality, were totally ignored by the Congress of the United States in this bill. There is almost nothing to encourage capital formation and productivity. And so I am disappointed in the results. I was hoping for something better.

I know there will be a tax bill next year; there will have to be, to keep up with inflation. We have got ourselves into a corner, so that every year now we have to have tax bill just to offset the rate of inflation, and then we call it a tax cut, and we go back to the American people and we tell them what a wonderful thing we have done in cutting their taxes, and the press goes right along with it, and says this is an income tax cut bill; $19 billion we have cut the taxes of the American people. And they do not ask, "But to what extent have you increased our taxes just by inflation alone?"

I will vote for it, because it is better than nothing, but I am disappointed in the result.

Mr. CHAFEE. Mr. President, I listened with care and tried to follow what the Senator from Louisiana was saying this bill contained. Let me see if I have it correctly, and I would appreciate it if he would be willing to answer a couple of questions, since this is an important matter.

As the Senator from Missouri said, the No. 1 requirement, suggestion, or recommendation from all of the economists was to somehow increase the ability for capital investment in this Nation.

Now, as I see it, there are three ways to do this, or really four ways: One, to increase depreciation, more rapid depreciation; two, to increase the investment tax credit; three, to reduce the corporate rate; and four, to do something really significant in capital gains.

As I followed the outline, I may not have caught it all, there is no increase in the investment tax credit, is there? It is made permanent, but I do not think anybody thought it would disappear. There is no increase except that a greater percentage can come under the investment tax credit; is that it?

Mr. LONG. The investment tax credit is made permanent. The business community wanted that, and they got it. Furthermore, they will be able to take the investment tax credit against 90 percent of their profits. Today they can only take the investment tax credit against 50 percent of their profits. Those are two very good things; also they can add a 2 point drop in their top tax rate, down from 48 percent to 46 percent. That is good news to them.

Furthermore, the people who own these corporations also benefit from the capital gains provision, and in this bill we do more in that area to encourage people to put their money into investments, even if they have to borrow money, by letting them keep more of their profits.

As the Senator knows, there are many ways people can build businesses and take bigger risks, and realize a capital gain. In all those areas, they benefit very much.

Furthermore, there is a very valuable tax cut on the small business corporations, a graduated tax, and that is what they want. They pretty well wrote their ticket in that respect, and had their own way under the leadership of some very fine Senators in this U.S. Senate, such as the Senator from Wisconsin (Mr. NELSON), who has a great interest in small business corporations that are eligible to start these new companies and new ventures.

I am going to tell you, Senator, the conference report will not solve all the world's problems; there are just a lot of things left to be done. There will still be a need for a Senate and a House of Representatives, and there will still be a need for good Senators around here fighting to pass good laws in the future. This is a good law as far as it goes, and that is about all you can say for any bill—it is a good bill insofar as it goes.

Mr. CHAFEE. I will agree that it makes some progress. The capital gains rate is not yet down to that of 1976, as I understand it. It gets down to the rate of 28 percent, rather than the 25 percent that we were hopeful of achieving, and ought to do even better, to be competitive with the other industrial nations of the world.

Mr. President, as the chairman said, it does not do everything, but it makes some progress. I certainly wish they had made more, but I suppose we have to take the best we can, and I hope we will do better in the future.

Mr. LONG. The Senator did not mention the poor; we would not want to leave out the poor folks and the middle income folks. We did something for them. We would have been delighted to do more

for people, if we had had more money to work with. But the budget process made us limit ourselves in our desire to cut taxes and help people in all endeavors, so we just have to go with the authority we have available to us. With what we had to work with, we spread the joy about as far as we could.

Mr. CHAFEE. Well, I think the joy was spread around. I am certainly glad they stuck with cutting out the deductions for yachts and hunting lodges and some of those things, and country clubs.

Mr. CHILES. Mr. President, I wonder if the chairman of the Tax Committee could tell us what happened with the coalition amendment. I did not hear that in his remarks.

Mr. LONG. The House conferees were not willing to agree to the amendment. Here is the language they proposed as a substitute, what was agreed to. This is not a firm, binding commitment, but it is a statement of national policy, and it endorses what the Nunn-Chiles coalition group proposed to the Senate. It says:

As a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed one percent per year between fiscal year 1979 and fiscal year 1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the Federal budget should be balanced in fiscal years 1982 and 1983. If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these tax reductions are justified in the light of prevailing and expected economic conditions.

This is an affirmative congressional endorsement of what is sought to be achieved by the Nunn amendment sponsored by the Senator from Florida and others.

Mr. CHILES. Am I correct in my understanding that the House conferees refused to accept the coalition language?

Mr. LONG. They did. In fairness to them, let me say this: The Secretary of Treasury testified before the committee that he did not think the President could live with the very strict limitations and the very strict conditions set down by the amendment. He endorsed what the Senator is seeking to achieve. He said that he would try to move toward those objectives, and he would urge the President to do likewise, but he said that this was drawn so strictly that he would have to urge the President to veto the bill if it went to his desk in that fashion. I suspect that the President would feel that it did not allow him the flexibility that the President felt he needed to do his job.

Mr. CHILES. As the chairman knows, that argument of the flexibility question did come up before, and the White House has said, as I understand this was one of the problems that they found with the bill, they felt it would not give them flexibility in the event there was a change in the economy.

Based on that argument, last night the Senator from Georgia, myself, and the Senator from Oklahoma had sort of a fallback position which we thought would help the President, to take him off of that spot if there was that problem of flexibility. That language, which we gave to the distinguished chairman and other members of the committee, which the chairman said he would present, would have provided that if the President in his wisdom felt the conditions had changed, the economic conditions or other conditions had changed, to the extent that he did not feel that it would be wise to have the automatic tax increase, then he could so signify that to the Congress. In effect, he could veto the tax exchange. That information would then go to the Congress. I think we proposed first that then the Congress, both Houses, within 30 days of that information, would have to override that veto of the President or there would be no tax increase, and I think we said that was not acceptable to the President, we would give him the sole veto, that he could veto the tax increase on the basis of just making a finding that economic conditions had changed.

Would you tell the Senator from Florida, the Senator from Georgia, and the Senator from Oklahoma how that position was received?

Mr. LONG. I proposed that language to the Secretary of the Treasury and I also proposed it to the House conferees. The Secretary of the Treasury took the view that that language would not be acceptable to the administration. It is possible somewhere along the line he felt simply that even so, the strict limitations on the President's discretion, which in his judgment should depend upon the facts and circumstances as they developed, and which cannot always be predicted, were such that he would have to urge the President to veto the bill if that were in it.

Mr. CHILES. Even if the language gave the right to veto after his making a finding that it should not go into effect?

Mr. LONG. Please do not ask me to make the Secretary's argument. The record is available. But he did strongly take the view that the administration could not accept this.

Let me suggest to the Senator that he and his colleagues have achieved something I would like to achieve for one of my goals in life. I would like to see a better distribution of wealth in this Nation among the people. I wish I could get the Congress to adopt something endorsing my view about how the wealth of this Nation should be spread better than it is today, parallel to what the Senator was able to achieve in a declaration of national policy favoring national growth, control of inflation, and fiscal restraint, as well as future tax reductions as is endorsed by the bill that is before us and the language I have read.

Mr. CHILES. I want to thank the distinguished chairman for presenting the Senate side of this proposition and for presenting the compromise we put forth.

Mr. LONG. When this has the endorsement of law with the President's signature on it to support what the Senator thinks these national goals should be, I would hope the Senator would persevere in this. I would hope that he would put forth his legislation both before the tax writing committees and the Appropriations Committee, and also with his responsibilities as a member of the Budget Committee, to see that these very proper goals outlined in the resolution are achieved.

Mr. CHILES. I just wanted to say I do want to thank the chairman. I think that he tried to carry the language that the Senate had, or the amendment that the Senate had.

I have to say perhaps this is a national goal which is certainly important, but I am disappointed. I think many Members of the Senate are disappointed, those who number about 65 to 20 for a proposition, not as a national goal, but which would very strongly say, "We are ready to restrain ourselves and to limit our spending to not more than 1 percent so that we can give the American people a tax cut if we hold our spending down, if we reduce the percentage of the gross national product that is going for Federal matters in a declining way, so that we can get to a balanced budget in 1982. We will sign up into this harness and we will agree that we will reduce our spending."

Then we see what happens on the House side where under a motion to instruct they come up with a two-thirds vote of the House Members who said they expected their conferees to follow that Senate language and then we found that the House conferees have not followed their body.

I think the distinguished chairman, like the Senator from Florida, has been to many of those conferences in which the House conferees marched in lockstep and said, "We have been instructed, on the basis of which we have been instructed we can never yield, we shall never yield, it is impossible for us to yield, and we shall not yield without our body releasing us from that instruction."

I have seen that happen a few times and I am sure the distinguished chairman from Louisiana has seen it happen hundreds of times, when they have said that. Then to find that the House conferees did unlock, in fact came to the conference wanting to be unlocked on the very first day, is disappointing to the Senator from Florida and I think many others in the body.

I am also disappointed, and I want to express it, that the President of the United States would not see this opportunity when we have the economic goals which are so similar to the goals that he has espoused—balancing the budget, reducing the percentage of GNP that goes for the Federal economy, giving tax cuts that could help the American people and offset any inflation that they would have—to have the Congress ready to say, "We are willing to do this," and have the President miss the opportunity to be able to get into this kind of partnership with the Congress I think is shortsighted on the part of the President.

I think he had a unique opportunity here and then to have them further say that, even in the face of language which we offered—a copy of which, Mr. President, I should like to have printed in the RECORD at this point if I might—offer him language that says that in the event you think anything is changed to where it would be unwise for us to have this tax cut, in that event, you just go ahead and

tell us that in writing. First our provision was that both houses would have to override that within 30 days. Then our provision was, just tell us in writing that is the end of the tax cut. To give us that flexibility and then find it was an unyielding attitude in the way of "We will veto this bill if that kind of language is in here," that is further disappointing, to say the least, to the Senator from Florida.

I think we had a great opportunity here, one that comes along very infrequently, in which you would find both Houses by two-thirds vote ready to limit themselves in the out years—1981 through 1983—to say we will hold this spending down, we will reduce the percentage of the gross national product that goes to the Federal Government, and we will be able to balance the budget in 1982 and give to the American people tax cuts amounting to 26 percent over that period of time. To see that opportunity lost is very disappointing.

The Senator from Louisiana is right. With a statement of national policy, I hope the Members of this body and the Members of the House, too, will consider that they have made a commitment to the American people. I hope that they will honor that promise that they made and that they will hold that spending down, that they will attempt to not have, in addition to 1 percent in new moneys that would be above the rate of inflation—but now we are talking about a policy or a resolution or a sense of the Congress as opposed to where we had a law that conditioned the tax cuts upon the actual reduction of the spending. That is very disappointing to the Senator from Florida.

Mr. BELLMON. Mr. President, will the Senator yield?

Mr. LONG. May I say to the Senator from Florida, when this bill becomes law, there is an affirmative statement in the law that, as a matter of national policy, inflation should not exceed 1 percent, that the Federal outlays as a percentage of gross national product should decline to below 21 percent in 1980 and to 20.5 percent in 1981, 20 percent in 1982, and 19.5 percent in 1983; and that the Federal budget should be balanced in fiscal years 1982 and 1983. I voted for that.

Mr. CHILES. I know the Senator did.

Mr. LONG. I voted for that because I thought that was a good idea and we should do it. I challenged the Senate to pursue those goals and I personally intend to cooperate with him in that.

That means that the more expansive spending programs that are being advocated in various departments, recommended in the Office of Management and Budget, some of them may have to be trimmed down.

Mr. CHILES. Or it means that we go look at an old program that has outlived its usefulness and is no longer carrying on its function. We would pare that down if we had a real restraint here that said we could not spend more than 1 percent. We would have to go through it and do the kind of pruning we should be doing to find those dollars. I think we can do that. But when you add to the top, that is a lot easier because you do not have a constituency that you are tampering with.

Mr. LONG. I yield to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I share the disappointment and the concern expressed by the Senator from Missouri (Mr. DANFORTH). I am concerned by the fact that this legislation before us does not represent a real tax cut for the working people of America. Instead of a tax cut, it basically represents a tax increase for most Americans.

When the bill was reported out of the Committee on Finance, I was unhappy that any family of four with an income in excess of $10,300 faced a substantial tax increase. Now, as a result of Congress working its will, we find, Mr. President, that any family of four with an income of $8,000 or more faces a substantial tax increase. The advocates of the legislation only point to 1979.

I ask unanimous consent to yield to the Senator from Oklahoma without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I intend to vote for this conference report, yet I do so with mixed feelings. The conference agreement does contain a sizable tax reduction in 1979 for the American taxpayer. Yet the conference report has rejected the 2-to-1 mandate of the Senate and the House to include a multiyear tax cut provision tied to spending restraint. I understand that laudatory language relating to the concept is mingled throughout the Report. Yet laudatory language will do little to provide the consumer with spending power sufficient to offset the ravages of inflation or rising social security tax payments in the next few years. It will do little to instill business confidence or promote capital formation.

This battle is not over. It is plain that both Houses of Congress and the American people find it desirable that fiscal restraint be tied to long term tax reduction. The objections of the administration are ultimately responsible for the deletion of the coalition provision—they indicated that they had not had time to adequately study the implications of the tax and expenditure reduction amendment. It is my hope to keep and expand our coalition in support of this provision on the Senate side and to continue to pursue the concept early in the next legislative session. By that time the administration will have had time, we hope, to study and analyze the provisions. Clearly, Mr. Carter can join in support of the plan at that time with full understanding at its necessity and feasibility. I can tell you this, Mr. President, the American people understand the need. They deserve the tax relief and relief from growing infringement of the Federal sector. In fact, they demand it.

Mr. President, I commend the conferees for keeping the total revenue loss of the bill with the fiscal year 1979 limits established by the concurrent budget resolution passed by this Congress 1 month ago. That limit was based upon sound budgetary and economic objectives. I recognize the difficult choices that had to be made to limit the overall size of fiscal year 1979 revenue loss but congratulate the conferees for making those hard choices.

The improvement and expansion of the earned income credit contained in the conference version of the tax bill will strengthen work incentives and will provide much needed support to low income wage earners. This action will also narrow the range of issues to consider in the vast array of issues inherent in welfare reform issues. It will make our still monumental task more manageable in the year ahead.

Mr. President, I also commend the conferees in their approach to the jobs tax credit. The targeting approach best meets the needs of the structurally unemployed without causing an unnecessary burden on the Budget.

The refusal of House conferees to accept the provision rectifying the injustice created by retroactive changs in law made by the 1977 tax bill is inexcusable. Treasury affirms as we had agreed that the retroactive provisions were totally unjust and that the revenue loss was insignificant compared to total receipts. The responsibility for refusing to accept this change rests with the House of Representatives.

Again, Mr. President, this conference agreement is both good news and bad news. It would be improper to hold the sizable 1979 tax reduction provided in the report hostage to provisions that I believe are lacking. I am particularly disappointed in the omission of multiyear revenue and expenditure planning. Nevertheless, Mr. President, I will vote for the tax bill conference report in hopes that this provision can be enacted next year.

Mr. ROTH. Any family of four with an income of $8,000 or more is facing a substantial tax increase because of the social security increases of 1978, and 1979, plus the increased Federal taxes resulting from inflation in both those years.

For example, the individual or the family of four that has an earned income of $8,000 will be facing a tax increase as a result of those two things of approximately $186. In the case of a family of four making $20,000, it will amount to $288. In the case of a family of four earning $30,000, they would face a tax increase as high as $446. So I do not think that this represents a tax cut for working America, particularly when one keeps in mind that as a result of this legislation, the gasoline tax is no longer deductible for many Americans; the fact that the college tuition tax seems to be on dead center and will not be available to help working America. So, as a result of Congress working its will, we find that the vast majority of Americans are not going to get the tax cut which they have been expecting.

Mr. President, I am also very disappointed that the noncoalition provision was not accepted. It is indeed remarkable to me that, by a two-thirds vote, or prac-

tically a two-thirds vote in both the House and Senate, Congress put itself on record that it favored a proposal that would cut taxes roughly 27 percent over the next 5 years, triggered on our meeting schedules in a reduction of spending or a reduction in the growth of Federal spending during the same period.

The language that was adopted, Mr. President, is nothing but a pious hope.

It has no binding commitment on the part of Congress, and for that reason I find it most objectionable. I think it would be inappropriate to allow this session to end without establishing for one last time a taxpayer's guide with respect to who is in favor of tax cuts and spending reductions—a legislative yardstick to measure from Maine to California, from Florida to Alaska, who is for a tax cut coupled with spending restraint and who is not.

The Senate and the House overwhelmingly endorsed the approach of the coalition amendment. Yet, as has been pointed out, the bill before the Senate has been gutted in conference committee. The casualties are the middle-income taxpayers.

We are in a watershed, Mr. President. We still have a chance to move the country in a new direction away from runaway spending toward a new national goal of lower taxes and lower spending, to embrace across-the-board tax rate reductions embodied by Roth-Kemp and coupled with the budgetary restraints in the Nunn coalition amendment.

This is what the tax revolt is all about, and it is going to continue and become stronger if we turn a deaf ear to the taxpayers' cry.

I, for one, do not buy the argument that a Presidential veto threat should dictate the shape and size of the legislation.

The legislative branch is entrusted with the policymaking responsibility under our Constitution. We have that mandate, not the White House.

We must pass legislation we feel is in the best interest of our Nation and not legislation designed to please 1600 Pennsylvania Avenue, irrespective of who may reside there. Otherwise, the "signable" has sunk the sensible; the passable has plowed under the profitable.

If we reject the coalition amendment, we are putting the Nation on notice that we in Congress intend to sit on our hands while middle income America faces a tax increase; that we are condoning not even making taxpayers "hold" against the massive new social security taxes and inflation.

Mr. President, I do not desire to keep the Senate waiting. For that reason, I will move to recommit the conference report on H.R. 13511, the Revenue Act of 1978, with instructions to the Senate conferees that they insist on the Nunn-Chiles-Bellmon-Roth tax and spending reduction amendment numbered 4084 to the House bill.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HANSEN and Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. MUSKIE. Mr. President, the Senator from Delaware has raised an issue which I will discuss, but from a different point of view.

This bill which has come to the floor is, as the saying goes, both good news and bad news. I suppose there was no way to avoid that conclusion, from any point of view.

A tax bill, especially one emerging from conference, which considered such a multiplicity of difficult issues, could not conceivably resolve all of those issues and appear as good news to everyone in all respects.

Since I consider it my obligation as chairman of the Budget Committee, I would like first to look at the tax bill from the numbers point of view: Whether or not it falls within not only the fiscal year 1979 revenue floor as established by the second budget resolution, but also long-range outyear costs that were of such concern to me, at least by the time the Senate had completed consideration of the bill.

So, from the numbers point of view, may I say at the outset that this bill is much improved compared to the bill which the Senate passed last Tuesday. The revenue reductions provided by this bill are consistent with the second budget resolution.

As I have said, the revenue reductions in the so-called outyears, fiscal year 1980 and the following years, have been sharply reduced below the levels approved by the Senate earlier this week.

I want to commend Senator LONG, the chairman of the Finance Committee, Congressman ULLMAN, chairman of the Ways and Means Committee, and all the other conferees for the improvements they have made to the Senate-passed bill.

There is, in my judgment, possibly a serious problem with the bill from the point of view of the Budget Act, which I will explain after I have discussed the numbers aspect of the bill.

The second resolution assumed overall revenue reductions in fiscal year 1979 of $21.9 billion. Congress already has approved miscellaneous legislation since the second resolution that will reduce revenue collections by almost $0.1 billion.

The bill passed earlier this week by the Senate would have reduced fiscal year 1979 collections by $21.7 billion, leaving approximately only $0.1 billion for all other potential major revenue bills, including the energy tax bill, tax relief for Americans living abroad, and new sugar legislation.

The tax conference agreement now before the Senate would reduce fiscal year 1979 receipts by $19.3 billion, leaving $2.6 billion available for other legislation affecting fiscal year 1979 revenue collections, including those revenue bills to which I have just referred.

The conference agreement has sharply reduced the revenue losses provided under the Senate bill for 1980 and later years. The Senate bill provided reductions in fiscal year 1980 of $52 billion rising to $79 billion in fiscal year 1983, not counting the very large contingent reductions provided under the Nunn amendment.

If the spending ceilings set in the Nunn amendment were adhered to, additional reductions would have occurred of approximately $8 billion in fiscal year 1980; rising to $66 billion annually in fiscal year 1983.

Compared to the Senate bill, the conference agreement would reduce fiscal year 1980 taxes by $37 billion and would reduce fiscal year 1983 taxes by $56 billion.

The reductions in the later year revenue costs of the conference agreement compared to the Senate bill result principally from:

Scaling back substantially the general individual rate reductions;

Scaling back the long-run corporate tax rate to 46 percent;

Scaling back the capital gains tax relief; and

Deletion of the general employment tax credit.

Agree with all of these conference decisions.

I also agree with the conference decisions to delete two Senate-approved provisions that attempted in diametrically opposed ways to establish long term budget spending policies through contingent tax mechanisms.

The Nunn amendment provided large-scale future tax reductions if Congress limited Federal spending to 1 percent plus inflation and the Federal Government share of GNP declined by specified amounts. On the other hand, a provision authored by Senator DANFORTH and approved by the Finance Committee would have imposed a stiff income tax surcharge if Federal spending grew at a rate greater than 2 percent plus inflation.

Both the Nunn and Danforth provisions, while well-intentioned, would have substituted mechanical means to set spending policies for the congressional budget process. I believe this process is clearly the best means Congress now has to restrain Federal spending and to adjust fiscal policies to meet everchanging economic developments.

After watching closely the developments of this past week, including this tax conference report, I am convinced more than ever that the congressional budget process is the best way to set fiscal and economic policy.

I hope to work with Senators NUNN and DANFORTH and their cosponsors in the future to limit Federal spending as much as is possible. However, I applaud the decisions of the conferees to delete the Nunn and Danforth provisions from the bill.

That is something different from the point of view just expressed by the chairman of the Finance Committee.

Finally, I want to make a few observations with respect to out-year revenue losses. First, as in the Senate bill, a number of provisions in the conference agreement still have effective dates intended to minimize their effects on fiscal year 1979 revenue collections.

Second, a number of provisions either

first become effective in fiscal year 1980 or are significantly expanded in fiscal year 1980. My colleagues no doubt recall the vote this Chamber took last week during consideration of the tax bill to reverse the Chair's ruling that the Budget Act barred consideration of provisions in the tax bill first effective in fiscal year 1980 without prior consideration, through the Budget Act waiver process, of the implications of such future year revenue changes.

I believe many Senators were not fully informed on the legal and fiscal policy consequences of that issue and that vote. As a consequence, I want to give the Senate notice that I may bring this matter before the Senate again at an appropriate time—and the appropriate time is certainly not now—so that last week's unfortunate vote can be reconsidered.

The decision of the Senate to overrule its parliamentarian on this important Budget Act issue puts the Senate at odds with the law and the interpretation of that law by the other House. The House Rules, contrary to the Senate vote, interpret section 303 to require a waiver of the very tax bill conference agreement now before the Senate for exactly the same reason the Senate parliamentarian ruled that the Budget Act applied. The waiver is needed in the House, just as it should have been required in the Senate, because some of its provisions first become effective in fiscal year 1980, a year for which no first budget resolution is in effect.

The pending conference agreement, while a significant improvement over the Senate bill, is still an excellent example of why we have found the lack of effective control over future year revenue losses to be more and more a major problem. This is a matter that the Budget Committees and the Congress as a whole must address and resolve in the immediate future, if we are to have meaningful restraints to minimize Federal budget deficits.

Mr. President, I now wish to raise an issue which really troubles me.

When I first learned of it during the early morning hours, I called Senator LONG without having the specific language before me and expressed my concerns. He understood my concerns, since we have been through this issue before together, and indeed I think somewhat pursuant to the same goal, although we are not in agreement. This issue has to do, Mr. President, with section 306 of the Congressional Budget Act. I know Senator LONG understands.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MUSKIE. I am not quite ready—first I would like to lay the basis for a few questions that I wish to ask the distinguished chairman.

Section 306 of the Budget Act with which Senator LONG is fully familiar reads as follows:

No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point a memorandum discussing section 306 of the Budget Act and the legislative history which has already been written by Congress in connection with it.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMORANDUM

To Senator Muskie.
From John McEvoy.
Date, October 14, 1978.
Subject: A provision in a revenue bill dealing with spending limitations is subject to a point of order under the Budget Act.

A provision contained in a Conference Report on a revenue measure concerning spending limits on future fiscal years is subject to a point of order under Section 306 of the Congressional Budget and Impoundment Control Act of 1974 (The Budget Act). Such prohibited provisions of any bill or resolution include any which purport to determine outlay limits for future fiscal years, express the sense of the Congress regarding such limits, or instruct the Budget Committee with regard to such limits.

Section 306 of the Budget Act provides as follows:

No bill or resolution, and no amendment to any bill or resolution, dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House shall be considered in that House unless it is a bill or resolution which has been reported by the Committee on the Budget of that House (or from the consideration of which such committee has been discharged) or unless it is an amendment to such a bill or resolution.

Section 306 flatly prohibits Senate consideration of any bill, resolution, or amendment (including Conference Reports) dealing with any matter within the jurisdiction of the Budget Committee.*

(r)(1) Committee on the Budget, to which committee shall be referred all concurrent resolution on the budget (as defined in section 3(a)(4) of the Congressional Budget Act of 1974) and all other matters required to be referred to that committee under Titles III and IV of that Act, and messages, petitions, memorials, and other matters relating thereto.

Title III of the Budget Act deals with the method by which Congress determines outlay, budget authority, deficit, debt and revenue levels for any fiscal year. Title III provides for at least two budget resolutions each year which are to contain, among other things, "the appropriate level of total budget outlays. . . ." (Section 301(a)). The first of these resolutions is a target resolution, expressing the sense of the Congress on the appropriate level of spending, revenue, debt and deficit for the fiscal year. The second resolution contains limits on aggregate spending and revenues and provides a point of order as to legislation which would break those limits.

LEGISLATIVE HISTORY

This provision is one of the most clearly defined in the Budget Act. It was contained in virtually its final form in every version of the Budget Act in either House.

The reports of the four Committees which considered the Budget Act in the two Houses are consistent regarding its interpretation. That interpretation was first expressed in the report of the Joint Study Committee on Budget Control, which provided the blueprint for the Budget Act. In the section of its report on "Procedures Under Which Resolutions Relating to Limitations Would be Handled," the Joint Committee recommended that:

Amendments to the limitations on budget outlays and new budget authority would only be permitted in the concurrent resolutions coming from the Budget Committees and these amendments would be subject to a point of order on any other bill. (Report of the Joint Study Committee on Budget Control, Recommendations for Improving Congressional Control over Budgetary Outlay and Receipt Totals, April 18, 1973, p. 6.)

The Senate Rules Committee explained the meaning of Section 306 as follows:

No bill or resolution dealing with any matter which is within the jurisdiction of the Budget Committees shall be considered unless it has been reported by the Budget Committees. No amendment dealing with matters within the jurisdiction of the Budget Committees shall be considered unless it is an amendment to a bill or resolution reported by the Budget Committees. It would not be in order, for example, to consider a concurrent resolution on the budget reported by the Appropriations Committee of either House. *Nor would it be in order to consider an amendment to the debt-ceiling bill which would establish the appropriate level of total outlays for the coming fiscal year.* (Senate Rules Committee Report on S. 1541, Senate Report 93-688, March 6, 1974, p. 48; emphasis supplied)

SENATE INTERPRETATION

The Senate has taken a very broad view of the meaning of Section 306. The Chair has ruled out of order legislation which, in one case, only tangentially dealt with a matter within the Budget Committee's jurisdiction.

The Chair has ruled on the application of Section 306 in two separate instances. In each case the ruling was consistent with the interpretation of the Budget Act set forth in this memorandum.

On June 18, 1976, the Chair ruled that an amendment to the Tax Reform Bill which required a spending reduction under certain circumstances was subject to a point of order under the Budget Act. The Roth Amendment provided as follows:

Congress commits itself, under the Congressional Budget Process, that, subject to such adjustments as may be required to reflect changed economic needs or other unforeseen circumstances, any continuation of the credits allowed under Section 42 beyond June 30, 1977, will be accompanied by dollar for dollar reductions in Federal spending during the fiscal year ending September 30, 1977.

Senator Muskie made a point of order against the amendment, which the Chair sustained. (CONGRESSIONAL RECORD, 19096–19097, June 18, 1976).

On June 21, 1976, the Chair ruled that the following amendment was out of order under Section 306:

Congress having adopted a First Concurrent Resolution for Fiscal Year 1977, pursuant to the Congressional Budget Act hereby determines to extend certain individual excise tax reductions for fiscal year 1977. (CONGRESSIONAL RECORD, 19403, June 21, 1976)

And on December 15, 1975, the Chair advised that an amendment dealing with "a spending limitation" was subject to Section 306, in the following dialogue:

"Mr. LONG. Right. So the Senator from Kansas would then be in a position rather than offering a motion to recommit to simply offer whatever spending limitation amendment he would like to offer as an amendment to the bill before the Senate. Is that not correct?

"The PRESIDING OFFICER. That would be

*The jurisdiction of the Budget Committee, as set forth in Rule XXV of the Standing Rules of the Senate is as follows:

correct, except for the provisions of section 306 of the budget bill which states that no bill or resolution and no amendment to any bill or resolution dealing with any matter which is in the jurisdiction of the Committee on the Budget of either House shall be considered by either House unless it is a bill or a resolution which has been reported by the Committee on the Budget of that House." (CONGRESSIONAL RECORD, December 15, 1976, page 22168)

"SENSE OF THE CONGRESS RESOLUTIONS" ARE SUBJECT TO SECTION 306

Section 306 includes all bills, resolutions and amendments "dealing with any matter which is within the jurisdiction of the Committee on the Budget of either House. Section 306 does not distinguish between operative and hortatory legislation. If the *subject matter* is within the jurisdiction of the Budget Committee, the bill or resolution is subject to a point of order under Section 306.

CONDITIONAL LANGUAGE IS SUBJECT TO SECTION 306

As noted above, if the *subject matter* of legislation is within the jurisdiction of the Budget Committee, the form of the language in the particular legislation is immaterial.

In the case of the ruling of the Chair on the Roth amendment, *supra*, the form of the amendment was expressly conditional. The amendment conditioned the availability of the tax credits provided by the amendment expressly upon "dollar for dollar reductions in federal spending during the fiscal year ending September 30, 1977."

CONFERENCE REPORTS ARE AMENDMENTS

That conference reports are amendments to the legislation in conference is well established and apparent on the face of every conference report. That conference reports are "amendments" within the meaning of the Budget Act is also well established in the precedents and practices of the Senate.

See Ruling of the Chair regarding the Emergency Agriculture Conference Report, April 10, 1978, CONGRESSIONAL RECORD, p. 9382.

SECTION 306 CANNOT BE EVADED BY INDIRECTION

Section 306 cannot be evaded by including in a larger bill a section which would be barred from consideration by Section 306 if it were considered as a separate measure. What cannot be done by direction cannot be done by indirection (advice from the Chair in response to the Majority Leader's inquiry regarding a Brooke amendment to the Humphrey/Hawkins bill, Thursday evening, October 12, 1978, CONGRESSIONAL RECORD not available).

The normal rule prescribed by the Legislative Reorganization Act of 1946 for determining jurisdiction—that a matter is to be judged by the subject matter which predominates therein—is qualified by Section 306 in the case of legislation within the jurisdiction of the Budget Commitee. If the normal rules of preponderance had been intended to apply to legislation dealing with matters within the jurisdiction of the Budget Committee, there would have been no reason for including Section 306 in the Budget Act and the normal rule of the Reorganization Act would apply.

Section 306 was intended to preclude the enactment of material appropriate to budget resolutions in other legislation. Section 306 would be largely meaningless if it could be evaded by including such limitations as a part of a larger bill dealing with other matters.

The PRESIDING OFFICER. May we have order in the Senate, please?

Mr. MUSKIE. I have sent Senator LONG a copy of that memorandum, but I would not be surprised if in the pressure of the work of the conferees he has not had an opportunity to study the material. However, I am sure he is familiar with its general thrust.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. There are a number of conversations going on. Staff is talking. Staff will please be seated and be quiet or get out of the Chamber, please. Will Senators please cooperate with the Chair in maintaining order so Senator MUSKIE may be heard?

May we have order, please? The Senator has asked for order and he deserves it.

Will staff please remove themselves from the Chamber if they are going to talk? Will staff remove themselves from the Chamber if they are going to talk, please?

Mr. MUSKIE. I thank the Chair.

Mr. President, I am not really sure I deserve to be heard.

Second, I understand it is late and it is difficult to avoid talking to discuss this complicated issue.

Mr. President, let me put section 306 of the Budget Act in this context: One month ago Congress adopted the congressional budget for fiscal year 1979. Yesterday the Senate overwhelmingly adopted the Humphrey-Hawkins bill. And I understand the House of Representatives has adopted a rule and will vote on the Humphrey-Hawkins bill shortly.

Both our congressional budget and the Full Employment Act amendments which is what Humphrey-Hawkins is, that we passed yesterday, appear to be at odds with the provisions of this tax bill conference report which deals with Federal outlays.

That language has already been read in the colloquy between Senator CHILES and Senator LONG, but let me read it again in the context of section 306 which I have already read to the Senate.

This conference report reads as follows:

As a matter of national policy the rate of outlays—clearly a budget matter—the rate of outlays, adjusted for inflation, should not exceed one percent per year between fiscal year 1979 and fiscal year 1983; federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the federal budget should be balanced in fiscal years 1982 and 1983.

Those are all budget matters.

The attainment of the GNP share outlays targets in this tax bill conference report is almost certainly inconsistent with the congressional budget and the Full Employment Act amendments which we agreed to yesterday.

Even if Congress enacts tax cuts as large as the tax cuts contemplated by the Nunn-Chiles-Bellmon amendment, the Congressional Budget Office estimates that unemployment will stay at 5.6 percent through 1983 if the GNP share and outlay targets in this conference report are mandated, and my concern is whether or not they are mandated, then surely the objectives of the Full Employment Act cannot be met as stated in that law.

If these GNP share and outlay targets are seriously meant to bind future congressional budgets we face a number of unacceptable consequences.

First, even with tax cuts in future years as large as the Nunn amendment contemplates our economic growth would slow significantly. Meeting these outlay targets would cost an average of 600,000 jobs each year over the next 5 years. These targets would leave more than 1 million extra men unemployed in 1983 compared to the targets of this year's congressional budget and the Full Employment Act for the same period of time.

I cannot believe that the distinguished chairman of the Finance Committee or the conferees on the tax bill intended to repeal the Full Employment Act we passed just yesterday. I cannot believe it is the intention of this conference report to subvert the budget process.

I know Senators are as anxious as I am to pass this bill and go home. As a matter of fact, my own conviction is that the longer we stay here the more bad policy we make. But in any case, I am equally sure they do not intend by passing this bill to repudiate their commitment to the Full Employment Act or to subvert the congressional budget process.

In order to clarify this issue I wish to put a few brief questions to the distinguished chairman, Senator LONG, and I hope that our colloquy can reassure me and, hopefully, the rest of the Senate, on these points.

Mr. CULVER. Mr. President, will the Senator yield for a question?

Mr. MUSKIE. I yield for a question.

Mr. CULVER. Just for a question. I wonder if we could just suggest the absence of a quorum.

Mr. MUSKIE. I have no objection, if I may do so without losing my right to the floor, and I will not take the floor for much more than 3 or 4 minutes more. I wish simply to put some questions to Senator LONG. May we suggest the absence of a quorum without losing my right to the floor?

Mr. BAKER. Mr. President, will the Senator withhold that for just a second?

Mr. CULVER. If the Senator will just yield for 1 minute.

Mr. MUSKIE. Yes.

Mr. CULVER. We have, after 8 hours of meeting with the House conferees, now had an agreement on the conference report on the Endangered Species Act, and it would take just 1 minute to introduce it and bring it up. It is all cleared and all agreed to, but we are concerned that if we do not get it over there ahead of the tax bill, it will not be considered this morning, and the majority leader has requested that we get it up.

Mr. BAKER. I certainly have no objection, but I have an error in the engrossment of a bill that will take 10 seconds. Will the Senator yield for that purpose?

Mr. MUSKIE. I would be happy to yield.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator from Maine may yield to me without losing his right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

JEAN LAFITTE NATIONAL HISTORICAL PARK

Mr. BAKER. Mr. President, I ask unanimous consent that the action on S. 1829 be reconsidered to add a provision which was inadvertently omitted by the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

The second assistant legislative clerk read as follows:

S. 1829. A bill to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

UP AMENDMENT NO. 2127

Mr. BAKER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The second assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), for Mr. THURMOND, proposes an unprinted amendment numbered 2127:

Add a new title at the end of the bill as follows:

"The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately 90 acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area."

Mr. BAKER. Mr. President, this has been cleared on both sides.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. BAKER. Mr. President, I thank the Senator.

Mr. MUSKIE. I had agreed to yield to Senator CULVER. I yield 2 minutes.

Mr. CULVER. I thank the distinguished Senator from Maine very much.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978—CONFERENCE REPORT

Mr. CULVER. Mr. President, I ask unanimous consent that I may bring up the conference report on S. 2899.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, as long as there is no limitation on that can we agree that we will vote on that matter within 10 minutes?

Mr. CULVER. Yes. I think we can vote on it within 5 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. We will vote on it in 5 minutes.

The PRESIDING OFFICER. Part of the agreement was that we will vote on it after 5 minutes.

Mr. CULVER. Mr. President, I submit a report of the committee of conference on S. 2899 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. CULVER. Mr. President, after nearly 2 years of review, hearings and concerted effort, House and Senate conferees early this morning agreed on a compromise bill to extend and amend the Endangered Species Act of 1973. The conference report on S. 2899, the Endangered Species Act Amendments of 1978, represents, in my opinion, a good effort by all interested members at resolving a number of very difficult issues. Though we may be less than completely happy with the final product, I do feel that it is imperative that the conference report be approved by the Senate and House before adjournment of the 95th Congress.

The agreement worked out by the conferees includes many elements of the original Senate bill, S. 2899, which passed our body by a vote of 94 to 3 on July 19, 1978. The principal feature of the bill, a cabinet-level committee which considers certain projects for exemptions from section 7 of the act, is included in the conference agreement. The committee is composed of the Secretaries of the Army, the Interior, and Agriculture, Chairman of the Council of Economic Advisors, the administrators of EPA and NOAA and a representative of the Governor of the State affected. In the event that more than one State is determined by the Secretary to be affected, each would be represented on the Endangered Species Committee, jointly casting one vote as determined among themselves. Five members would have to vote to exempt a project. Added to that provision is a lower level review board whose purpose is to screen applicants according to a set of threshold criteria which must be met prior to the time the application goes before the Endangered Species Committee.

Mr. President, the Conference Report also contains provisions that concern two specific projects of interest to several of my colleagues in the Senate and in the House.

The conferees agreed that there are unique circumstances surrounding the consideration of both of these projects and, therefore, agreed to provisions to expedite their review for an exemption or modification of design. Under the provision approved by the conferees, these projects would be reviewed by the Endangered Species Committee within 30 days to determine whether they should be exempted from compliance with section 9(a). Neither would be subjected to initial screening by the Review Board, nor would the committee be required to find that they are of regional significance. The committee would exempt these actions only if it determines that there is no reasonable and prudent alternative to them and that the benefits of the project clearly outweigh the benefits of other alternatives consistent with conserving the species. Otherwise, project modifications will have to be made or construction of the projects will not be allowed to continue.

The conference committee also adopted specific provisions which relate only to the Grayrocks Dam and Reservoir Project. These provisions would first require the Secretary of the Interior to render a biological opinion on the effect of the operation of the projects on endangered species or their critical habitats. If a species is determined to be affected, the Rural Electrification Administration, the Department of the Interior, and the Department of the Army are required to modify the design or operation of the projects to insure that these actions do not jeopardize the continued existence of the species or its habitat.

The committee firmly holds that this is the last instance is the case of Tellico Dam in Tennessee, which has received considerable attention over a period of several years. I deeply appreciate the cooperation of my distinguished colleagues, Senators BAKER and SASSER from Tennessee, who have worked closely with the Committee on Environment and Public Works. Senator BAKER of course, is a member of the committee and an original cosponsor of S. 2899.

The second project is one which deeply interests Members from Wyoming, Nebraska, North and South Dakota, and Montana. I refer to the Grayrocks Dam & Reservoir, which is under construction in Wyoming. A recent court ruling has halted further work at this project in part because of the Endangered Species Act during recent weeks.

I know that Senators BURDICK, WALLOP, MCGOVERN, ZORINSKY and CURTIS, as well as Congressman CAVANAUGH are concerned about the status of this project. I assure them that the conferees worked diligently to reach a fair and responsible resolution of the Grayrocks Dam issue.

When any Federal action should receive special consideration for an exemption. Under the new provisions, good-faith consultation will have to take place before the Endangered Species Committee agrees to consider any project for exemption or modification in case of an intractable conflict between an applicant and an endangered species.

In summary, I believe this is a very sensible solution to a very complex and controversial issue. It provides flexibility in the administration of the Endangered Species Act, and avoids ad hoc exemp-

tions or an emasculation of the act while at the same time maintaining strong protection for our endangered fish, wildlife, and plants.

Mr. President, I want to take this opportunity to express my deep appreciation for the assistance which the distinguished Senator from Maine (Mr. MUSKIE), from Arkansas (Mr. HODGES), and from Rhode Island (Mr. CHAFEE) provided as conferees. I especially want to thank the ranking minority Member of the Senate conferees, the distinguished Senator from Wyoming (Mr. WALLOP) for his invaluable contributions and his participation in the formulation of this proposal.

In addition, I want to thank Kathi Karpon, Patty McDonald, George Jacobson, Jim Range, Dick Osheo, Mimi Feller, and Phil Cummings, as staff members of the Senate conferees and the Public Works committee, for their tireless work on this legislation.

I urge my colleague to support the conference report.

I yield to the distinguished ranking minority member of the subcommittee, the distinguished Senator from Wyoming (Mr. WALLOP).

Mr. WALLOP. Mr. President, I thank my colleague. I want to compliment Senator CULVER and simply say the year has been long and hard. These negotiations between the House and Senate were long and hard. I think the result is satisfactory and responsible on all sides, and it does no violence to the integrity of the act as it left the Senate.

Mr. CULVER. I thank the distinguished Senator.

I yield to the chairman of the Committee on Environment and Public Works, the distinguished Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. Mr. President, my reason for rising, this subject matter under the committee jurisdiction came to the Environment and Public Works. It was one of the three new subjects that we undertook, endangered species. That was an assignment, very frankly, that not too many Members would want to grapple with, but the Senator from Iowa (Mr. CULVER) undertook that assignment, has chaired the subcommittee, and I commend him. I also commend Senator WALLOP of our committee and others for bringing to us a well-reasoned and always very timely solution to some of the problems in connection with endangered species.

Mr. CULVER. I thank the Senator.

I yield to the distinguished Senator from Nebraska.

Mr. ZORINSKY. Mr. President, on October 2, 1978, U.S. District Judge Warren Urbom ordered that construction of the Grayrocks Dam and Reservoir near Wheatland, Wyo., should be halted. The main plaintiffs in this case were the State of Nebraska, the National Wildlife Federation, the National Audubon Society, the Powder River Basin Council, and the Laramie River Conservation Council. The defendants were the Rural Electrification Administration, the Corps of Engineers, Basin Electric Power Cooperative and the Tri-State Generation and Transmission Association and a number of local public power districts. Briefly, the plaintiffs argued that the final environmental impact statement on the Missouri Basin Power project prepared by the Rural Electrification Administration, was not complete enough and that the Corps violated its own regulations by issuing a permit, violating the national Environmental Policy Act and the Endangered Species Act.

Mr. President, allow me to read an article by Bill Kreifel that appeared in the Lincoln Journal:

U.S. District Judge Warren Urbom Monday issued an order stopping construction of the Grayrocks Dam and Reservoir near Wheatland, Wyoming. Urbom ruled that:

The final environmental impact statement on the Missouri Basin Power project prepared by the Rural Electrification Administration is inadequate and therefore loan guarantee commitments made by the REA for that $1.6 billion project 'are unlawful and are set aside.'

The Department of Army Corps of Engineers' permit issued to allow construction of the dam and reservoir 'is unlawful and is set aside' because of the conclusions of district engineer Col. James Ray 'were arbitrary, capricious, and abuse of discretion, and otherwise not in accordance with the law. . .'

The judge's decision was based on testimony taken during a week-long trial and on his review of voluminous written evidence and briefs filed by both sides in the controversial case

The Nebraska Attorney General's Office, the National and Nebraska Wildlife Federations and the National Audubon Society had filed suit asking suspension of a Corps of Engineers permit to allow Basin to build the dam and reservoir.

The suit contended the corps violated its own regulations by issuing the permit and violated the national Environmental Policy Act and the Endangered Species Act. The dam and reservoir would be used to provide cooling water for the gigantic 1.5 megawatt coal-fired Laramie River Station Power Plant near Wheatland. The Lincoln Electric System is a 13.3 percent owner of that facility.

In his judgment, Urbom said the REA's final environmental impact statement is inadequate because it:

Failed to describe the cumulative effect of the project in light of other proposed irrigation projects in Wyoming and Colorado and predictable ground water pumping in Nebraska.

Failed to discuss the alternative of delaying the project until information of the possible impact on wildlife habitat could be obtained.

Failed to discuss the project's effect on the fisheries and the canal and reservoir system downstream from Lake McConaughy in the event Lake McConaughy went dry.

Failed to describe the project's impact on Nebraska's ground water resources and agricultural enterprises.

The judge also said the REA:

"Failed in its obligation under the Endangered Species Act to consult with the Secretary of the Interior" about the project.

Failed to take action necessary to ensure that the Missouri Basin Project does not jeopardize the continued existence of the whooping crane or result in the destruction or modification of its habitat.

Urbom therefore ordered that the REA is enjoined from approving any loan guarantee for the project until a final environmental impact statement has been supplemented or altered to correct the inadequacies that he found exist and until "such defendants have fulfilled obligations under the Endangered Species Act . . ."

Urbom likewise enjoined Ray and the Corps from issuing any permit until their obligations have been fulfilled. He said the remaining power supplier defendants "are enjoined from proceeding with the construction" until a new permit has been issued or restoration of the previous permit has been made in accordance with his judgment.

Mr. President, I ask unanimous consent that the balance of this article be placed in the RECORD.

Mr. President, I have been contacted by the Governor of Nebraska, J. James Exon and advised of the State's opposition to any amendment exempting the Grayrocks Dam and Reservoir from the Endangered Species Act.

He feels very strongly that such an amendment would undercut the State's efforts to have a thorough study of the problem and a resolution that will be acceptable not only to the power cooperatives, not only to the Rural Electrification Administration, but to the very real concerns of the State of Nebraska that this project not be hastily constructed without thorough consideration of its impact.

This amendment not only would have unpredictable impact on the Endangered Species Act but would make Congress an unstudied and unthinking participant in a dispute going on in my region of the country involving the State of Nebraska, the Corps of Engineers, a number of power cooperatives, and environmental concerns. My impression is that this amendment is intended to erode this decision and to embroil the Senate in a controversy that should be settled without hastily drafted amendments on the floor of the Senate.

The State is concerned that the project would have tragic effects downstream, possibly drying up Lake McConaughy, possibly destroying downstream fisheries, and possibly resulting in declining groundwater along the North Platte and the Platte Rivers. The impact on the habitat of the whooping crane is also a concern of the State in the suit.

Mr. President, I am not opposed to the development of our energy resources. In my State these resources are very, very precious indeed. My first experience in public office was as a member of the Omaha Public Power District and I know only too well the problems that face power cooperatives in Nebraska and the surrounding States. However, I also know that in the West, water is very precious also, so precious that wise water management policy is not served by constructing these dams senselessly, mindlessly, and without regard to the consequences for those downstream who are so vitally dependent on this water. In this case the State government itself saw fit to bring suit and I feel that before any such amendment is passed, an amendment that might have a major impact on this recent judicial decision, it should be thoroughly reviewed by the appropriate committee.

I believe the Joint House-Senate conferees on the Endangered Species Amendments of 1978 have developed a more responsible and reasonable approach than an amendment to exempt this project. Consistent with the philosophy of the Senate-passed bill, S. 2899, they have assured that full consideration be given to the Grayrocks project

before any determination is made to exempt the project from the Endangered Species Act. S. 2899 would require that the Grayrocks Dam and Reservoir will be specifically examined by the Endangered Species Committee to determine whether it should be modified, exempted, or halted under the Endangered Species Act. This action provides the necessary procedural requirements to allow for full consideration of all relevant factors.

This legislation establishes an endangered species committee to review those intractable conflicts between an endangered species and a project which have not been resolved under the current process of consultation. To exempt a project, the committee, which is composed of the Secretaries of the Army, the Interior, and Agriculture, the Administrators of EPA and NOAA, the chairman of the Council of Economic Advisors, and a representative of the Governor of the State affected by the proposed action, must review the various alternatives to the project. In this regard, the committee may not grant an exemption unless it determines that there are no reasonable and prudent alternatives, and that the benefits of the projects clearly outweigh the benefits of alternative courses of action which are consistent with conserving the species.

Mr. President, this provision maintains the integrity of the consultation process by requiring a biological opinion be issued by the Fish and Wildlife Service concerning the effect of the project on the critical habitat of the species. After the issuance of this opinion regarding the Grayrocks Dam, the REA, the Secretary of the Interior and the Secretary of the Army may require modification of its design to avoid and adverse effect on the species or its habitat.

The interest of several States are at stake here. S. 2899 assures that those interests are represented because the Governor of each State, including Nebraska, will be a member of the Endangered Species Committee. The Governors will, therefore, participate in the review of the merits of this issue. A project exemption requires the support of five of the seven members of the committee.

Mr. President, such a thorough review process will help guarantee that all relevant factors are considered. This is a much better process than having a summary exemption of Grayrocks. This review will take place within 30 days following the establishment of the Endangered Species Committee. Consequently, there will be no long delays costing taxpayers' dollars or holding up important jobs.

This action by the conferees does not overturn the court suit which has been brought against the Grayrocks project, the district court found that the project is deficient not only under the Endangered Species Act but also under the National Environmental Policy Act and section 404 of the Federal Water Pollution Control Act. The issues raised under the latter two statutes by the suit must still be resolved through judicial and administrative procedures and are not affected by this legislation. We still must assure that water supply and other environmental benefits in Nebraska are not affected adversely by Grayrocks Dam before it can be completed.

Mr. President, all factors regarding fish and wildlife effects will be closely examined before any decision is made to go forward with the Grayrocks project under S. 2899.

I ask unanimous consent to have printed in the RECORD an article from the Lincoln Journal of October 2, 1978.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

URBOM'S RULING ORDERS STOP TO GRAYROCKS DAM

(By Bill Kreifel)

U.S. District Judge Warren Urbom Monday issued an order stopping construction of the Grayrocks Dam and Reservoir near Wheatland, Wyo.

Urbom ruled that:

The final environmental impact statement on the Missouri Basin Power project prepared by the Rural Electrification Administration is inadequate and therefore loan guarantee commitments made by the REA for that $1.6 billion project "are unlawful and are set aside."

The Department of Army Corps of Engineers' permit issued to allow construction of the dam and reservoir "is unlawful and is set aside" because the conclusions of district engineer Col. James Ray "were arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law . . ."

WEEK-LONG TRIAL

The judge's decision was based on testimony taken during a week-long trial and on his review of voluminous written evidence and briefs filed by both sides in the controversial case.

The Nebraska Attorney General's office of the National and Nebraska Wildlife Federations and the National Audubon Society had filed suit asking suspension of a Corps of Engineers permit to allow Basin to build the dam and reservoir.

LES PART OWNER

The suit contended the corps violated its own regulations by issuing the permit and violated the national Environmental Policy Act and the Endangered Species Act. The dam and reservoir would be used to provide cooling water for the gigantic 1.5-megawatt coal-fired Laramie River Station Power Plant near Wheatland. The Lincoln Electric System is a 13.3 percent owner of that facility.

In his judgment, Urbom said the REA's final environmental impact statement is inadequate because it:

Failed to describe the cumulative effect of the project in light of other proposed irrigation projects in Wyoming and Colorado and predictable ground water pumping in Nebraska.

Failed to discuss the alternative of delaying the project until information of the possible impact on wildlife habitat could be obtained.

Failed to discuss the projects effect on the fisheries and the canal and reservoir system downstream from Lake McConaughy in the event Lake McConaughy went dry.

Failed to describe the project's impact on Nebraska's ground water resources and agricultural enterprises.

The judge also said the REA:

"Failed in its obligation under the Endangered Species Act to consult with the secretary of the interior" about the project.

"Failed to take action necessary to ensure that the Missouri Basin Project does not jeopardize the continued existence of the whooping crane or result in the destruction or modification of its habitat."

CORRECT INADEQUACIES

Urbom therefore ordered that the REA is enjoined from approving any loan guarantee for the project until a final environmental impact statement has been supplemented or altered to correct the inadequacies that he found exist and until "such defendants have fulfilled obligations under the Endangered Species Act . . . "

Urbom likewise enjoined Ray and the Corps from issuing any permit until their obligations have been fulfilled. He said the remaining power supplier defendants "are enjoined from proceeding with the construction" until a new permit has been issued or restoration of the previous permit has been made in accordance with his judgment.

During the Grayrocks trial in late August, some proponents said the plant is necessary to combat electrical power shortages predicted for the upper Midwest in the years ahead. James Grahl, general manager of Basin Electric Power Cooperative of Bismarck, N.D., said a study by rural electric groups in the cooperative indicates needs will outstrip power resources before 1980.

In addition, Fred Disheroon, attorney for Ray, said the Corps "has done everything possible" to ensure that the eastern Wyoming dam won't harm wildlife and habitat.

But, Urbom found otherwise.

The judge said that, while he is convinced Ray was aware of the dam's potential effects on Nebrska's Lake McConaughy, "equally clear to me is that he did not 'weigh' these effects among the other factors in arriving at his decision" to issue the construction permit.

Disheroon also claimed Nebraska officials were using the Corps permit as a battleground for a water rights dispute with Wyoming.

In a 43-page memorandum accompanying his judgment, Urbom agreed that the Corps is not authorized to resolve water right controversies. But he said it is the Corps concern as to whether the project is in the public interest in view of specific ecological impacts it would have.

"Whether the McConaughy Fishery is owned by Nebraska or some other entity makes no difference in this matter; the fact remains that the fishery may be damaged by the project. That is relevant and should have been weighed along with other factors before Col. Ray," Urbom wrote.

Concerning the inadequacy of the REA's environmental impact statement, Urbom cited various Platte River waterflow and habitat considerations that were in dispute during the trial. As an example, he noted that the REA pointed out that no witness testified that he or anyone else can say for sure the dam would have any adverse effect on whooping crane habitat.

But Urbom said, "the decision maker needs to know that narrowing of river channels, reduction of sandbars free of vegetation, and lessening of wet meadows, which might occur, would endanger the whooping cranes, sandhills cranes, and other migratory waterfowl."

Mr. CULVER. Mr. President, I yield to the distinguished Senator from Wyoming, and then I would ask for a vote on the conference report.

Mr. HANSEN. Mr. President, since the Senate last debated the issue of reauthorizing the Endangered Species Act, yet another massive project has fallen victim to the inflexibility of this law—this one located in my State of Wyoming.

We are all familiar with the Tellico controversy, and now, as a result of an October 2 ruling by a Federal district judge in Nebraska, we can add to that the Missouri Basin power project contro-

versy. I predict you will hear a great deal more about this Wyoming project than what I will say here this morning, Mr. President, because all of the repercussions of this ruling are yet to be fully perceived and they will be heatedly debated long after I have taken my leave of the Senate.

In his October 2 ruling, the judge said, among other things, that a section 404 permit issued by the Corps of Engineers pursuant to construction of a project component violated the Endangered Species Act because it failed to consider the potential impact of that component on a whooping crane nesting area located some 350 miles away in another State.

The project for which the 404 permit was issued is a dam in Wyoming that would provide water for a partially-completed, $1.6 billion, 1,500-megawatt powerplant intended to serve consumers in more than a dozen towns and cities in seven States.

The judge ordered a halt to construction of the dam, where 180 employees were working, and nullified the Federal financing for the plant, itself, where another 2,200 employees are working.

A temporary stay of the shut-down order has been granted during which there will be a clarification of the order, and the decision is being appealed, but we all know how long it can take to resolve these kinds of environmental lawsuits, and there is one certainty at this point: construction will soon be halted and will not resume for a long time, if at all, unless Congress intervenes. The ramifications of such a halt, Mr. President, will be immediate and devastating.

What is involved here if the Congress does not act are the jobs of at least 2,380 project workers, as well as many other jobs and businesses which are ancillary to and dependent upon the construction of this massive project. The economies of nearby communities, such as Wheatland, Wyo., are tied to this project. The future power supplies of a large area are a consideration. A tremendous amount of money is involved beyond just those millions of dollars that would be spent on the project, itself.

And there is also embodied in this controversy the matter of what we should and can do not only to remedy this specific situation in Wyoming, where we have a half-finished project, but to prevent in the future the use in this kind of indiscriminate and unfair way of environmental laws which obviously are too loosely drawn.

I voted for the Stennis amendment to change the Endangered Species Act in such a way as to exempt projects already authorized and underway. The Supreme Court has already made it clear that even though Congress may not have intended to stop programs and projects at midpoint, as with the Tellico fiasco and now with the Missouri Basin power project in Wyoming, it nevertheless duly enacted a law that very clearly can be used to bring about just such a consequence.

That law needs to be changed, Mr. President. I supported the amendment of my colleague in the House (Mr. RONCALIO) to exempt the half-finished Wyoming project from the Endangered Species Act, and I support the conference report on the Tellico project.

But I must say, Mr. President, that what is happening in Wyoming with this project will not be the last controversy of its kind, and the Congress next year and in future years is going to have to come to grips with the problem of extensive litigation involving environmental laws every time some sort of development is contemplated.

Mr. President, I ask unanimous consent that a series of newspaper articles concerning the Missouri Basin power plant project in Wyoming appear in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Casper Star Tribune, October 3, 1978]

JUDGE: CLOSE DOWN

LINCOLN, NEB.—A federal judge Monday issued an order stopping construction of the Laramie River Station power plant and Grayrocks Dam near Wheatland.

Builders of the $1.5 billion project said they would quickly appeal.

U.S. District Judge Warren Urbom ruled the final environmental impact statement on the Missouri Basin Power Project (MBPP) is inadequate and therefore loan guarantee commitments made by the Rural Electrification Administration (REA) for the project "are unlawful and set aside."

In Bismarck, N.D., Win Curtiss, spokesman for Basin Electric, MBPP's project manager, said his side would seek a stay on the injunction from the Eighth Circuit Court of Appeals in St. Louis, probably on Wednesday.

If that fails, he said, MBPP would shut the project down and lay off 2,100 workers at the site. The process would take some time, he said. No shutdown will be ordered until a ruling is issued on the stay requested, he said.

"We don't really have a plan because we didn't anticipate this," Curtiss said.

In his ruling, Judge Urbom invalidated the Army Corps of Engineers' permit issued to allow construction of the dam and reservoir because conclusions reached by district engineer James W. Ray "were arbitrary, capricious, an abuse of discretion, and otherwise, not in accordance with the law . . ."

Urbom's decision was based on testimony taken during a week-long trial in Lincoln and on his review of written evidence and briefs filed by both sides in the Grayrocks case.

It was the second setback for MBPP in less than a week. Last Wednesday, after the second work-related fatality in two weeks at the power plant construction site near Wheatland, the Wyoming Occupational Health and Safety Commission ordered the project to clean up the site or face closure. The project and contractors were given until Wednesday to rectify alleged safety violations.

The Nebraska Wildlife Federation and the National Audubon Society had filed suit asking a Corps of Engineers permit to allow MBPP to build the dam and reservoir be suspended.

The suit contended the corps violated its own regulations by issuing the permit and violated the national Environmental Policy Act and the Endangered Species Act.

The dam and reservoir would be used to provide cooling water for the 1.5 megawatt coal-fired Laramie River Station Power Plant.

In his ruling, Urbom said the REA's final environmental impact statement is inadequate because it failed to describe the cumulative effect of the project in light of other proposed irrigation projects in Wyoming and Colorado and predictable ground water pumping in Nebraska.

He said the statement, which was prepared by the REA, also was inadequate because it failed to discuss the alternative of delaying the project until information of the possible impact on wildlife habitat could be obtained.

He said the statement failed to discuss the project's effect on the fisheries and the canal and reservoir system down-stream from Lake McConaughy in the event Lake McConaughy went dry.

In addition, the statement failed to described the project's impact on Nebraska's groundwater resources and agricultural enterprises.

Urbom said the REA failed in its "obligation under the Endangered Species Act to consult with the secretary of the interior" about the project.

He said the REA also failed to take action necessary "to insure that the Missouri Basin Project does not jeopardize the continued existence of the whooping crane or result in the destruction or modification of its habitat."

[From the Casper Star Tribune, Oct. 4, 1978]

GRAYROCKS CONSTRUCTION MAY HALT TODAY

WHEATLAND.—Construction on the Grayrocks Dam and Reservoir portion of the Missouri Basin Power Cooperative could be halted today.

The action would affect 180 people working on the dam portion of the $1.5 billion project, said Pat Dahl, a spokesman for Basin Electric Power Cooperative, the project manager headquartered in Bismark, N.D.

Some 2,150 people are employed on the entire project.

Dahl said Tuesday the dam construction "would probably have to shut down tomorrow." If Basin Electric receives the court order Wednesday stemming from a U.S. District Court ruling that stops construction.

"When the order comes and is delivered by the federal marshal, we will shut down the dam as we know that is in the order," he said

"In the meantime work on the plant is continuing because we understand the court order permits this," he added.

That work includes preparation for a safety inspection today, another major problem facing the project.

Dahl said contingency plans are going into effect for a systematic and orderly shutdown of construction facilities at the dam and power plant at Wheatland.

"This is an incredibly costly blow not only to the thousands of people and workers with jobs on the project in Wyoming, but also to the hundreds of thousands of consumers in the region who are depending on this project to meet their future electric power requirements," said James Grahl, Basin Electric Power Cooperative general manager.

Basin Electric will file an appeal of Judge Warren Urbom's ruling and will request a stay of the injunction. The appeal will be filed today or Thursday in 8th Circuit Court in St. Louis, said Dahl.

Urbom Monday in Lincoln, Neb., ordered a halt to construction of the project, enjoining the federal Rural Electrification Administration from making loan guarantees necessary to make the project financially workable.

His order also stops work on the partially completed Laramie River Station power plant. The Grayrocks Dam is planned to cool the 1.5-megawatt power station.

The judge ruled environmental impact statements drafted for the project failed to consider adequately the full impact of the project on Nebraska, Wyoming and Colorado water supplies, migratory water fowl includ-

ing the endangered whooping crane, fish and agriculture.

Grahl said the MBPP "was attacked in court only after the project was well under way and had secured virtually all of its required governmental permits."

"The decision to halt construction on the project is a victory for the National Wildlife Federation, the Audubon Society and the governor of Nebraska who challenged the project, but it is a severe and expensive defeat for the consumers of the region," Grahl added.

[From the Caspar Star Tribune, Oct. 4, 1978]

COURT ORDER "FRIGHTENING"

(By United Press International)

A federal court order halting construction of the $1.5 billion Laramie River Power Station and Grayrocks Dam near Wheatland has been called "frightening" by Dick Cheney, Republican candidate for the U.S. House.

His Democratic opponent, William Bagley, warned the decision could result in a "raid" on agricultural water rights in the Wheatland area.

Both politicians responded Tuesday to a decision the day before the U.S. District Judge Warren Urbom of Lincoln, Neb.

Urbom ruled the environmental statement prepared for the facility was inadequate. The State of Nebraska and several environmental groups had filed suit against the project, claiming flow of the Platte River would be critically reduced by the dam.

Project officials have promised to appeal the decision and seek a stay of the order.

"The timing I find truly amazing," Cheney said in a telephone interview from Casper. "That they're this far down the road with the project and they should now try to stop it . . . seems to me not to make a lot of sense."

Construction began in July 1976 and completion of the first phase was scheduled for early 1980.

Cheney also said the ability of parties downstream to halt the project was "frightening." The overall impact has got to be harmful with the possibility of 2,100 people losing their jobs," he said.

Bagley, in a telephone interview from Theromopolis, warned that severe demands may be made "on the waters of the Wheatland irrigation districts."

"If this project is unable to get the water the way they've contemplated, they're going to be moving to buy up existing water rights in the Wheatland area," Bagley said. "It's going to be a great change in life as we know it in Wyoming.

"It's just going to be a whole new ball game . . . there's lots of beautiful agricultural land in that area that needs the water.

"When they put up a multi-billion dollar plant and get their water shut off, they're going to have to go to their next alternative—they're going to raid the valley, And I shudder at that."

[From the Wyoming (Cheyenne) Tribune]

PLANT SAID ONLY POWER SOURCE FOR SEVEN TOWNS

The executive director of the Wyoming Municipal Power Agency, one of the principals in the $1.6 billion Missouri Basin Power Project threatened by a federal court order, said today the seven communities it would have served have no other source to turn to for meeting their consumers' additional electric power needs.

George Clarke, of Lusk, said the threatened shutdown of the Grayrocks reservoir by an environmentalist lawsuit-inspired ruling by a Lincoln, Neb., federal judge a week ago "is certainly going to have a strong detrimental effect" on the seven communities in this state that are members of the Wyoming Municipal Power Agency.

The seven towns are Pine Bluffs, Wheatland, Lingle, Guernsey, Fort Laramie, Lusk and Cody, all of which operate their own power distribution systems and obtain wholesale power from sources provided by the agency which also is headquartered at Lusk.

The agency obtained authority from the 44th Leglislature a year and a half ago to invest $15 million in a 1 percent interest in the Missouri Basin Power Project, a consortium of seven public power groups in eight upper Great Plains states.

Clarke also said that fresh estimates of how much it will cost the consortium to shut down the Missouri Basin Power Project even with the prospect of resuming its building and putting it into operation at some future date, amounted to $6.5 million for a shutdown of both the power plant and dam project, plus another $5 million to "demobilize" the contractors plus, if it should be resumed, another $8 million to put them back into operation again.

It also would cost $500.00 a month merely to keep key personnel on the job at the Wheatland plant and dam sites "to preserve and protect what's there now," he said.

Clarke also criticized Democratic candidate for Congress Bill Bagley for expressing concern that as a result of the court order which was directed against the Grayrocks reservoir and dam itself rather than the power plant, then the power project would resort to utilization of agricultural water sources as an alternative.

"What he should be concerned about, if his experience in Washington has been so valuable, is the impact of this (federal court) decision on interstate water compacts and U.S. Supreme Court decisions on them," Clarke said, in reference to Bagley's service in the 1960s as administrative aide to Congressman Teno Roncalio.

"I am questioning who he (Bagley) is carrying the hatchet for," Clarke said. "The project has no plans to buy other water. Very certainly if he is knowledgeable about water rights, he knows that junior water rights must be shut down if they interfere with the use of prior water rights."

Clarke said, "I urge that he (Bagley) drop his antagonistic attitude and get together with his mentor (Roncalio) and work for an amendment to the Endangered Species Act."

Meanwhile, in Bismarck, N.D., the Basin Electric Cooperative, which is project manager for the power plant at Wheatland for itself and the other six principals in the consortium, said it had been notified that a regional meeting of rural electric cooperatives in California and six other western and Pacific Northwest states representing 102 separate such associations had urged congressional action to remove the danger to the Wheatland power plant.

The regional group, a unit of the National Rural Electric Association, said a delay at Wheatland would "unnecessarily add to the cost of power to these consumers (served by the member organizations of the Missouri Basin Power Project" and that it also could provide "a precedent for halting construction of other vitally needed power facilities throughout the nation."

It urged that Congress "promptly" re-examine the National Environmental Policy Act and the Endangered Species Act under which the federal court ruling by Judge Warren Urbom were made "in the light of this devastating court decision which impacts so drastically and adversely on availability and cost of power."

[From the Casper Star Tribune, October 5, 1978]

DAM CREWS READY FOR SHUTDOWN

(By Joan Barron)

WHEATLAND.—The project superintendent for the initial phase of construction on the Grayrocks Dam was making plans Wednesday to shut down operations.

And other construction managers began sending workers home in compliance with a federal court order.

Ronnie Nixon, superintendent for subcontractor Bencor Co., said that when his crews complete the 11th and 12th panels of the dam's slurry wall, he will order work stopped pending a decision on an appeal of a Nebraska federal court injunction halting construction of the dam and reservoir.

"I've had nothing on paper," Nixon said at mid-day Wednesday at the dam site, located 13 miles east of the Laramie River Power Station, "but I understand the court order means to stop."

A total of 180 workers are employed on the dam and reservoir project.

Nixon explained that his company is under contract to build a total of 88 slurry wall panels which are installed to keep water from moving under the proposed 94-foot-high dam to be built across the Laramie River.

At a Wednesday morning news briefing at the Laramie River Power Station located northeast of Wheatland, construction manager Wayne Rickerd said Basin Electric Power Cooperative will probably appeal the Nebraska federal court injunction today, but that meanwhile a "stopwork" order was being prepared.

"The powerplant is not included in the injunction so construction on the power plant will continue," Rickerd said.

Rickerd said 2,200 workers are building the 1,500 megawatt power station.

He said Basin Electric, manager for the Missouri Basin Power Project, a consortium of six participating rural electrification associations, is looking at alternative sources of water to operate the coal-generated powerplant if it is unable to build the Grayrocks dam and reservoir.

He estimated a ruling on an appeal of the injunction handed down by U.S. District Judge Warren Urbom of Lincoln, Neb., would take two to three months.

The Grayrocks Reservoir would be the primary source of water for the powerplant, which has been under construction for two years.

Two of the three units are each 44 percent completed, according to a spokeswoman for the project, Marilyn Clemens.

She said a total of 9,000 acre-feet of water per year is needed to operate the powerplant, or 27,800 acre-feet per year for all three units. This amounts to 2.9 billion gallons of water per year for each unit.

A second water source is the Johnson well field but the state has limited Basin Electric's allocation to 2,200 acre-feet per year.

A third source is the Boughton Ditch. Basin Electric is appealing through the courts a State Board of Control order reducing its requested appropriation from that source.

[From the Casper Star Tribune, Oct. 5, 1978]

"WE NEVER SET OUT TO STOP PROJECT"

(By Warren Wilson)

LINCOLN, NEB.—"We never set out to stop the Wheatland project," said the head of a Nebraska environmental group Wednesday.

Construction is coming to a halt on the Grayrocks dam and reservoir portion of the Missouri Basin Power Project as a result of a U.S. District Court order issued Monday.

Constance Bowen, executive director of the Nebraska Wildlife Federation, explained that from the project's inception, members of the Federation have been "completely convinced" the concerns of all the parties involved could be satisfied. She said several alternatives to the present design have been proposed, but it is "frustrating the extent to which the Basin people have been unwilling to budge."

For example, Ms. Bowen said, the cooling system presently planned is one of the "most water-consumptive" systems available. Alternatives such as a hybrid of other systems

would cut water consumption in half, Ms. Bowen said, solving much of the problem of downstream water losses.

The Nebraska Wildlife Federation and the National Audubon Society fear that flow reductions east of the Grayrocks Dam would endanger the habitats of several species of geese and ducks, which fly over the area during their seasonal migrations.

Ms. Bowen added that the data used to plan the project need to be reassessed. She said that actual power needs may be substantially lower than the estimates used to plan the project.

Tyler Dodge, chairman of the Laramie River Conservation Council, said the injunction stopping construction of the dam is a "victory for Wyoming irrigators."

"We joined the suit because the state of Nebraska was only interested in making sure that they got enough water downstream of the dam," Dodge explained. "The Missouri Basin Power Project could satisfy Nebraska's demands by squeezing upstream irrigators more, so we had to participate to make sure that Wyoming water users were properly represented."

"Since the Laramie River is partially fed by underground aquifers, groundwater pumping depletes the stream flow, leaving less water for existing appropriators to divide up."

Dodge said that the Industrial Siting Council issued permits for the project without evaluating plans for the project's total water supply. Basin Electric (Power Cooperative, project managers) went ahead with construction of the power station and only then made attempts to procure water rights. It is expected the project will consume some 60,000 acre feet of water annually, and Dodge wonders where that much water will come from in an area that has been "chronically short of water for the past 70 years."

"The blame for this shutdown falls squarely on Basin Electric," Dodge concluded. "They knew that these water supply problems existed, and just kept on going as though building the plant would make the problems go away."

[From the Casper Star Tribune, Oct. 11, 1978]

WYOMING WILL FILE BRIEF IN DAM CASE

(By Joan Barron)

CHEYENNE.—Wyoming will file a "friend of the court" brief in the court case that jeopardizes the Missouri Basin Power Project (MBPP).

In a memorandum of Gov. Ed Herschler Wednesday, Attorney General John J. Rooney said the state will attempt to persuade U.S. District Judge Warren Urbom of Lincoln, Neb., to restrict his order to water considerations, and not extend it to halt construction of the Grayrocks Dam and Reservoir near Wheatland, which is part of the project.

At the same time, Rooney said, the state will again attempt to work out a compromise with Nebraska and other parties involved in the litigation.

The attorney general's memo was critical of MBPP for not resolving problems before starting the power plant and reservoir project.

Rooney said state intervention, even if successful, could be nonproductive, only if the order were restricted to the water use, it may be ordered for MBPP to proceed with construction of the dam and reservoir, Rooney said.

Rooney said Herschler had brought all the parties together to attempt to prevent the present dilemma and worked out a compromise which Nebraska and the other parties accepted but MBPP rejected.

"Missouri Basin," the memo said, "rejected the compromise, indicating that it could arrange for the necessary water on its own."

Rooney also cautioned that the Nebraska court may have issued the extensive order in view of MBPP's "record of going ahead with construction without regard to the possibility that unresolved conditions could make construction useless."

If the judge won't change his order, Rooney said, the project may be able to change its engineering to operate the plant with a different source of energy which will not require water "which it does not have," or another contact can be made with Nebraska to see if it will accept the previous compromise MBPP rejected.

"In either event, the asnwer would lie with Missouri Basin," Rooney wrote.

[From the Casper Star Tribune, Oct. 10, 1978]

MBPP AIM: AMEND LAW FOR DAM

(By Joan Barron)

CHEYENNE.—The Missouri Basin Power Project (MBPP) has no plans to acquire additional water at this time, a spokesman said Monday.

"Our emphasis is to try to get a remedy of this problem by federal legislation by amending the Endangered Species Act," said Lloyd Ernst, Wyoming operations manager for MPBB.

"Our second emphasis is the appeals route."

Wyoming Congressman Teno Roncalio, a Democrat who is not seeking re-election, meanwhile announced that he will seek congressional consideration of an amendment to the law to void a court order halting construction of the Grayrocks Dam and Reservoir, which is part of the $1.6 billion Missouri Basin Power Project near Wheatland.

On Friday, U.S. District Judge Warren K. Urbom of Lincoln, Neb., stayed for 10 days his injunction to halt construction of the dam. In his original order, Urbom ruled that environmental impact statements for the project were insufficient because they did not fully consider the impact of reduced flows of the Platte River on a critical habitat for the whooping crane, an endangered species.

Ernst said the maximum storage capacity of the proposed Grayrocks reservoir is 104,000 acre-feet, part of which will be released to the Corn Creek Irrigation District, which has a contract with the Missouri Basin Power Project.

In the Wheatland area, rumors persisted that Basin Electric Power Cooperative managing firm for the consortium of Rural Electrification Cooperatives involved in the project, would attempt to buy agricultural water rights as an alternate source of water to operate the coal-fired generating plant.

And a Democratic candidate for the U.S. House, Bill Bagley, said last week he feared Basin Electric would attempt to obtain water from the Wheatland Irrigation District.

The attorney for the district, Ray Hawkins of Wheatland, said Monday, however, he had heard nothing of such an attempt.

About four years ago, the firm did attempt to purchase water and storage space from the irrigation district, without success.

The main source of the project's water supply is flood rights on the Laramie River. Supplemental water rights include the Johnson well field and Boughton Ditch water.

In April, the Wyoming Supreme Court upheld the decision of the state board of control limiting Basin Electric's maximum seasonal entitlement of Boughton Ditch water to 3,117 acre-feet. Basin Electric claims it was entitled to an additional 2,218 acre-feet.

Leading opposition to Basin Electric's water acquisition proposals was the Laramie River Conservation Council. Its president, Tyler Dodge, reiterated Monday his argument that there is insufficient Laramie River water available to satisfy the needs of the power plant. An estimated 9,000 acre-feet of water per year is needed for each of the three units.

[From the Casper Star Tribune, October 7, 1978]

POWER PROJECT SHUTDOWN WOULD REDUCE CITY SALES

(By Joan Barron)

CHEYENNE.—A shutdown of the entire Missouri Basin Power Project would reduce retail sales in Cheyenne alone by a couple of million dollars per year, a Chamber of Commerce official said Friday.

Lloyd Ernst, Wyoming operations manager for the Missouri Basin Power Project which includes the 1,500 megawatt Laramie River Station Power Plant and the Grayrocks Dam and Reservoir, estimated that between 250 and 300 project workers live in Cheyenne and commute daily or weekly to the job near Wheatland.

He said there are also about 26 workers at the project who commute to Casper daily, according to an Aug. 31 report.

Transposing the worker headcount into economic impact, Bashus said 100 jobs mean $872,000 in personal income, $500,000 in bank deposits and $400,000 in retail sales on the national average.

And, he continued, each 100 jobs mean a total of 245 people, counting wives and dependents.

"We're talking about more than just 300 jobs," Bashus said. "Cheyenne is the hub of services for that area. Cheyenne and Denver provide all wholesale service to Wheatland now."

The shutdown of the power plant should have a "particularly significant impact on our community," he added.

Bashus said the entire state should be concerned because the loss of more than 2,000 jobs is sizeable and, moreover, would affect other surrounding areas, not just Cheyenne and Wheatland itself.

"I'm sure some services come out of Casper," Bashus said.

Meanwhile, the Nebraska federal judge who ordered the shutdown of the Grayrocks Dam and Reservoir has issued a 10-day stay on his court order.

Work on the power plant continued, however, as project officials tried to obtain a clarification of the court order to determine its ramifications on the future of the $1.6 billion venture.

"Everything that has been said has been said. We hope Congress will do what's necessary to change, particularly the endangered species act," Ernst said.

The habitat of the endangered whooping crane along the North Platte River was given in the court order as one reason for granting the injunction. The Grayrocks Dam and Reservoir is located on the Laramie River which flows into the North Platte.

Congress, said Ernst, has moved rapidly before. He also said project officials have been in contact with Wyoming's Congressional delegation.

[From the Casper Star Tribune, October 7, 1978]

FEDERAL JUDGE LIFTS DAM STOP WORK ORDER

WHEATLAND, WYO.—The same federal judge who ordered work stopped on a Laramie River dam has lifted his order until Oct. 16.

"At the present time we do not plan to resume complete construction on the Grayrocks Reservoir," said Marilyn Clemens, spokeswoman for the Missouri Basin Power Project, the group of utility companies building the $1.6 billion power complex.

Ms. Clemens also said the 18 workers laid off from the dam project near Wheatland, Wyo., would not be reinstated. "We'll just work on the critical areas rather than a complete remobilization," she said.

At MBPP's Bismarck, N.D., headquarters, spokesman Win Curtiss said his organization was notified of the lifting of the order Friday by U.S. District Judge Warren Urbom, who

Monday issued the order in Lincoln halting work on the dam intended to store water for the 1,500-megawatt power plant nearby.

Urbom was in Kansas City for a trial, and was enroute back to Nebraska later in the day.

His order also cut off loan guarantees for the plant from the U.S. Rural Electrification Administration.

Curtiss said MBPP attorneys were given until Thursday to file motions in Urbom's court for clarifications of the order and for a permanent lifting of the work stoppage directive.

Curtiss also said MBPP officials will now request new loan guarantees from the REA to keep the organization's finances current. He said they will seek funds to keep the project going through October.

Friday, workers received their paychecks accompanied by reassuring notes signed by MBPP general manager James Grahl.

"You have done a tremendous job developing the Missouri Basin Power Project into what is regarded in the industry as a model power construction project," Grahl wrote. "We will keep you informed of developments."

At the dam site, 22 workers had been kept on the payroll although they were not working, 16 had been laid off, and 111 continued to help secure the site for the ordered shutdown.

Urbom's work stoppage order cited official failure to consider the project's effect on the endangered whooping crane, which has a habitat area downstream from the dam in Nebraska. Urbom also said officials did not consider effects on water projects in Colorado, Wyoming and Nebraska.

While project officials sought clarification from Urbom on the effects of the funding cutoff—particularly if it was retroactive—work proceeded on the plant with money "on hand," Curtiss said.

The decision to continue construction at the plant despite the order against the REA funds was reached Thursday at an MPBB management committee meeting in Denver, Curtiss said.

Curtiss said he did not know how long construction could go on without new sources of money. No search has yet started for alternate funding, he said.

However, he also said that without water, the power plant could not function.

The appeal, Curtiss said, would ask that Urbom's injunction halting the dam and reservoir be lifted permanently. It also will seek clarification on the funding issue, he said.

The management committee opted to emphasize completion of two or three units on which substantial work already has been done, Curtiss said. The group also said it would determine if negotiations with the parties who brought the suit would be useful.

The first unit is approximately 60 percent complete and the second unit is 40 percent finished, officials said. Construction has recently begun on a third unit.

The project was scheduled to begin supplying electricity in 1980. Parts of Wyoming, Colorado, Nebraska, the Dakotas, Iowa and Minnesota would be served.

[From the Casper Star Tribune, October 16, 1978]

HERSCHLER: JUDGE OVERSTEPS BOUNDS

(By Eleanore W. Field)

CHEYENNE.—Gov. Ed Herschler said Thursday he believed a Nebraska federal judge "overstepped his bounds" in halting work on the Grayrocks Dam.

"It concerns me that a federal district judge is in effect overturning decisions made by the U.S. Supreme Court" concerning use of North Platte River water, the governor told a news conference.

U.S. District Judge Warren Urbom issued an order Monday stopping construction of the dam and reservoir near Wheatland. He ruled the final environmental impact statement on the Missouri Basin Power Project is inadequate and therefore set aside loan guarantee commitments made by the Rural Electrification Administration.

Water stored in the reservoir was to be used to cool the project's power plant near Wheatland and it is feared construction on the plant, which employs some 2,150 workers, also will be stopped as a result of the order.

Herschler Thursday sent telegrams to President Carter, Commerce Secretary Juanita Kreps and George McCarthy, federal co-chairman of the Old West Regional Commission, regarding the situation.

He also has asked the state attorney general's office if it would be proper for the state to appear as a party to the appeal which is expected to be filed by Basin Electric Power Cooperative, project manager.

In his message to the president, Herschler noted that the project had received necessary federal approvals and then "was terminated by a federal court due to the ineptitude of federal agencies in meeting federal environmental standards."

Commenting that Wyoming's environmental controls had nothing to do with the problem, the governor said "our labors have been frustrated in spectacular fashion by the federal government" in Wheatland.

"I have worked diligently and patiently with your administration and that of your Republican predecessor to secure relief for the impacts of energy projects which meet national needs," Herschler told the president.

"Wyoming has received little more than kind words to date. The crisis has now arrived. Wyoming taxpayers and workers are going to bear the loss. I wish to know how you intend to help us."

Herschler asked Mrs. Kreps for assistance from the Economic Development Administration under a 1965 act to help Wheatland keep "afloat pending final judicial resolution in the federal courts" and to save the city from "severe financial shock" in case the final judgment is unfavorable to the project.

The Old West Regional Commission was asked by Herschler to "respond to potential economic catastrophe" in Wyoming. He asked that the organization's staff prepare "a plan for immediate action."

Not only would shutting down construction of the Laramie River Power Station hurt Wheatland economically, said the governor, it would affect other nearby towns where workers reside including Cheyenne where some 250 people connected with the project live.

Herschler mentioned that the suit resulting in Urbom's decision was originally filed to protect the interests of North Platte water users downstream in Nebraska, but environmental groups joined in the suit making it difficult to make a settlement with Nebraska.

Meeting in Denver, the management committee of the MBPP acted to continue construction on the three 500,000 kilowatt units of the project.

At the same time, the management group directed that contingency plans continue to be developed in the event of a shutdown on both generating units.

Shutdown of construction activities at the dam and reservoir began Thursday as 18 workers were terminated and 22 were placed on standby status. The remaining 111 workers were engaged in closure activities.

[From the Casper Star Tribune, October 6, 1978]

DAM CLOSURE ANGERS WIVES

(By Ron Wilcox)

WHEATLAND.—The wives of Laramie River Station power plant and Grayrocks Dam workers vowed to make their voices heard in Washington during a hastily called meeting Wednesday night.

Assurances from George Bartholomew, assistant manager of Wyoming operations for Basin Electric, that "our chances for a stay and appeal are very good" provided little comfort for the more than 80 persons who gathered to forge an organization to protest the project closure.

Venting their anger at environmentalists, the wives sought means to reopen the project and prevent the trend of legal closures by environmental interests from continuing.

"What's going to stop these people, if you will, from saying, 'Hey, what about other projects?" Bartholomew asked, saying that the rural electric companies involved in the project were unable to launch a protest movement, but that those gathered were free to write their congressmen and other politicians in protest.

The Grayrocks Dam and Reservoir were ordered closed down earlier this week by a Nebraska judge partly on the grounds environmental impacts on an engandered species—the whooping crane—had not been considered. Other concerns included impacts on Laramie River water supplies to humans and a trout fishery and failure to take federal environmental statutes into account.

The National Audubon Society and the Nebraska Wildlife Federation were listed as the main instigators in prompting the closure by those at the meeting.

One woman said the project was the third her husband worked on that was stopped by environmental interests.

Another suggested contacting other states experiencing power blackouts to warn them of the dangers involved in allowing environmental interests their way.

And yet another woman warned of environmentalist motives.

"In the 1930s we didn't hear anything about these groups," she said. "You'd better look deep. It's the communists trying to get their fingers into it."

"The Communists said they would win from within," said another, "and they have infiltrated the environmentalists."

One of the workers suggested organizing a group to lie on the front steps of the Capitol Building in protest.

Another worker suggested that the problem lies in Washington, saying the government hired "a lot of kids with environmental degrees" who are now "embedded" in Washington.

Bartholomew noted that the struggle for project construction had been a long one.

"We've been fighting these projects down the road, and we still got caught," he said.

Wheatland Mayor Charles Parsons voiced support for the project.

"People, we're right behind you," he told those at the meeting. "We don't exactly like the idea of a jackass in Nebraska telling us what to do. Anytime anybody tells me a bird is more important than a person, I want to talk to him."

Noting the project's effect on the town, Parsons ended his comments with determination.

"We're going to get the damn thing built, I don't care what it takes," he said.

More than once applause met those who stood to speak.

One person stood to suggest more consideration of appropriate technology—a concept of smaller and more natural energy sources.

"I think what's happening now is a long trend to redefining values," he said. "Appropriate technology is a handle on the whole thing."

He suggested smaller power plants and more research into geothermal and wind power.

Parsons said after the meeting he was pleased with the turnout.

"You're not only dealing with Wheatland,"

Parsons said of the effect on the economy. "We're not a boomtown. We're a growing town."

Another meeting has tentatively been scheduled for Oct. 13.

Mr. CULVER. Mr. President, I call for a vote on the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference was agreed to.

Mr. CULVER. I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I would like to briefly congratulate Senator CULVER and Senator WALLOP for working out a difficult problem. I was a member of the conference but could not attend because I was on the floor.

CONFERENCE REPORT

The Senate continued with the consideration of the conference report on the tax bill.

Mr. MUSKIE. I would like to briefly put some questions to the chairman of the Finance Committee.

Mr. President, this will not take long. Because of the language in the tax conference report, we must have some legislative history on the floor to clarify it. I wonder if I could have Senator Long's attention at this point.

Mr. LONG. Yes.

Mr. MUSKIE. Was it the intention of the conferees to repeal the Humphrey-Hawkins bill?

Mr. LONG. No.

Mr. MUSKIE. To the extent we may find that the outlay and GNP share figures in this tax bill are inconsistent with meeting our full employment goals, was it the intention of the conferees that we should abandon our full employment goals at the price of leaving a million or more men unemployed?

Mr. LONG. No.

Mr. MUSKIE. The congressional budget process requires Congress to set in its budget resolutions an appropriate level of outlays each year for the coming fiscal year.

Do the conferees intend that these outlay and GNP share figures should be met even if they do not seem justified in light of prevailing and expected economic conditions in future years?

Mr. LONG. No.

Mr. MUSKIE. Are these outlay and GNP shares intended to set the outlay figures for the next 5 fiscal years?

Mr. LONG. They are not.

Mr. MUSKIE. Finally, is it the intention of the conference report to repeal or interfere with the functioning of the congressional budget process as provided for in the Budget Act?

Mr. LONG. No. The statement in the conference report, and the language which we hope will be signed into law by the President, is a statement of national policy. It is not only a statement of national policy but the Humphrey-Hawkins bill is such, the Budget Act is another, and these must be reconciled each with the other, and they each have good purposes, and one must read them together and each must be administered in its own right.

This language to which we refer is not mandatory, is not binding. It is advisory, and it suggests a course of action which, as of today, we believe to be desirable and a very good approach to take.

It may be that changing circumstances might suggest that we should do otherwise, but at the moment this appears to be a very desirable course and the language so suggests.

Mr. MUSKIE. May I express my appreciation to the distinguished chairman for that understanding. Let me pose just one further point.

When I saw this language, I considered the section 306 point of order question, not as something that I would propose with pleasure—because I understand the difficulties the distinguished Senator from Louisiana has faced all night long and all day yesterday, trying to accommodate what we put into the Senate tax bill with the provisions of the House bill—but as a matter I thought was my duty to consider. But I think this legislative history is reassuring to anyone who might entertain the doubts I had.

Several Senators addressed the Chair.

Mr. MUSKIE. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I think the Senator from Louisiana has done us all a service, and done the country a service. Therefore, I shall vote for this conference report in reliance upon this colloquy which the Senator from Maine, the chairman of the Budget Committee, has just had with the Senator from Louisiana, the chairman of the Finance Committee and principal Senate conferee.

Mr. SARBANES. Mr. President, my view of the conference report is substantially affected by the colloquy which has just taken place. I join with Senator JAVITS in drawing reassurance as to the meaning of the conference report from the colloquy which has just taken place between the distinguished chairman of the Budget Committee, Senator MUSKIE, and the distinguished chairman of the Finance Committee, and the leading conferee, Senator LONG. The questions raised by the chairman of the Budget Committee as to the interrelation between the provisions of the conference report and the Humphrey-Hawkins bill and between the provisions of the conference report and the Budget Act are fundamentally over.

It is in reliance on the answers given by the very able chairman of the Finance Committee that I will support him in offering the recommittal motion and in voting for the conference report.

THE JOE WAGGONNER FEDERAL BUILDING—THE JOHN J. FLYNT JR. FEDERAL BUILDING

Mr. JOHNSTON. Mr. President, earlier in the evening I made a motion, by unanimous consent, to bring on H.R. 13514, to name an existing Federal building in Shreveport, La., after retiring Congressman Joe Waggonner.

Mr. BAKER. Mr. President, I have discussed this with the Senator from Louisiana. Can he assure me there will be no amendments offered on this measure?

Mr. JOHNSTON. That is correct; I made that request earlier in the evening. That has now been cleared with the minority. It will not be used as a vehicle to bring up the water resources bill.

Mr. BAKER. I certainly do not doubt the Senator's word at all. Will the Senator allow me to make a unanimous-consent request to that effect?

Mr. JOHNSTON. I have not made my own unanimous-consent request yet.

Mr. BAKER. I wonder if the Senator would add in his unanimous-consent request that no amendments would be in order.

Mr. JOHNSTON. Yes, I will.

Mr. GRAVEL. Mr. President, reserving the right to object, if I could ask the minority leader, he obviously has a hold on his side of the aisle; is that correct?

Mr. BAKER. It is not that I have a hold. I just do not want to amend the bill and add $15 billion to it.

Mr. GRAVEL. Reserving the right to object, I think that raises a question. If we have a hold on the bill, I would like to know if there is a hold. I would like to know as a matter of policy.

Mr. BAKER. I will tell the Senator from Alaska I cannot honor a request to add the water project bill on this one. I am perfectly willing to go forward with this main bill, with the understanding that there is no rider amendment on it.

Mr. GRAVEL. Reserving the right to object, I do not wish to be overly stringent with any Senator, because if some items were added to this bill that were particularly expensive to him, he would object. I had heard the objectors were Senator MATHIAS, on the committee, and also Senator STEVENS.

Mr. BAKER. Mr. President, reserving the right to object, I think the Senator from Alaska knows that as a matter of policy and tradition, I do not involve the confidences of Senators on this side.

Mr. GRAVEL. Reserving the right to object, I think that is a questionable policy. Maybe next year we ought to think of changing it. People can do things in the dark that they would not do in the sunshine, and I think that is a rule we ought to change.

Mr. JOHNSTON. Mr. President, I now ask unanimous consent that it be in order to call up H.R. 13514, that the Committee on Environment and Public Works be discharged from further consideration of this bill, that it be considered as having been read twice, that it not be in order to bring up any amendments to the measure, and that it be immediately considered by the Senate.

Mr. LEAHY. Mr. President, reserving the right to object, and I shall not object, I just wish to thank the Senator from Louisiana. I expressed earlier to him my concern that there were certain projects of substantial cost on that bill, as well as certain other technical assets. I think the Senator is most helpful in straightening that matter out, and I appreciate it.

Mr. NUNN. Mr. President, reserving the right to object, and I hope I will not have

to object, I have a similar bill that does exactly the same thing to an existing building in the State of Georgia, by naming it after JOHN J. FLYNT, Jr., who is retiring from Congress this year. It adds no cost. It has passed the House of Representatives. The number of the bill is H.R. 13187.

I would ask the Senator, so we may have a very clear understanding and not run into the same problem we have just discussed, that the Senator amend his unanimous-consent request so that it will be in order also to bring up H.R. 13187 under exactly the same conditions, immediately following the passage of his bill.

Mr. BAKER. Mr. President, reserving the right to object, I would be entirely agreeable to that under the same conditions, and I would be agreeable to doing it en bloc.

Mr. JOHNSTON. Mr. President, I amend my request by asking that the Flynt bill, which is——

Mr. NUNN. H.R. 13187.

Mr. JOHNSTON (continuing). Be considered en bloc, under the same terms and conditions, with H.R. 15314, and that both of those bills now be considered under the same terms.

The PRESIDING OFFICER (Mr. STONE). The Chair would observe that the Chair needs a copy of the Flynt bill in order for the Chair to operate on it.

Is there objection? Without objection, it is so ordered.

The Clerk will report the two bills.

The legislative clerk read as follows:

An act (H.R. 13514) to name a certain Federal building in Shreveport, Louisiana, the "Joe Waggonner Federal Building".

An act (H.R. 13187) to designate the United States Post Office and Federal Building in Griffin, Georgia, the "John J. Flynt, Jr. Federal Building".

The PRESIDING OFFICER. Pursuant to the order, the question is on the passage of the two bills, en bloc. Is there objection? Without objection, the two bills are considered and passed.

Mr. JOHNSTON. I move to reconsider the vote by which the bills were passed.

Mr. GRAVEL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wyoming had been seeking recognition.

REVENUE ACT OF 1978

The Senate continued with the consideration of the conference report.

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. HANSEN. I yield.

GENERAL STOCKOWNERSHIP PLANS

Mr. GRAVEL. Mr. President, I would like to take a moment to compliment the Senate on one provision of this bill. This tax bill goes far toward stimulating the much needed growth of capital in our economy. But, there is one provision in this bill, a provision which I am proud to say was added by the Senate, which addresses the question of who will own this new capital.

The Joint Economic Committee estimated in 1974 that 1 percent of our population owned 25 percent of our wealth and more than 50 percent of all corporate stock. Studies indicate that these concentrations of wealth have not changed significantly in 50 years despite all our efforts at income redistribution and amelioration of poverty. The amendment regarding general stockownership plans in this bill is a significant step toward broadening the ownership of American wealth.

Leadership on the issue of broadening capital ownership has long and ably been carried by my colleague and friend, the chairman of the Finance Committee. His work in the area of employee stock ownership plans has laid the foundation for Federal policy on expanded capital ownership. Following in his footsteps I sought to extend the concept of broadened capital ownership beyond the employer/employee relationship. The general stock ownership plan legislation contained in this bill is an important step in that direction. I would like to thank Chairman LONG for his help in seeing these provisions adopted and to thank my fellow Finance Committee members who were supportive of my efforts.

There are a number of questions which my colleagues have put to me over the past few months and I would like to include some explanation of these issues for the RECORD.

First. What is a general stockownership corporation and how is it organized?

A general stockownership corporation would be formed either by act of a State legislature or by statewide referendum and each resident would be issued a share of stock. The residents would not be charged for their stock and would receive it free and clear. The corporation would borrow money to invest in profitmaking ventures with the loan secured by the assets and, if necessary, by a State guarantee. Through this method the citizens of a State would become owners of capital. The earnings from the GSOP investments would be used to retire the loan and the balance distributed to the shareholders.

Second. What sort of technical requirements must be met in order to establish a general stock ownership corporation?

The bill authorizes States to establish privately owned GSOC's for the benefit of their citizens. A GSOC is a private corporation chartered by an act of a State legislature or by statewide referendum with a charter providing for first, the issuance of at least one share of stock to each eligible individual who does not elect within 1 year from the date of issuance not to receive such share; second, restrictions on transferability of shares (a) to nonresidents, (b) to an individual owning more than 9 shares or (c) until the earliest to occur of 5 years from issuance, death, or failure to meet the State residency requirements. The GSOC must be chartered after December 31, 1978 and before January 1, 1983 and may not own more than 20 percent of any subsidiary corporation. GSOC investments are not limited, but a GSOC may not acquire a business from an unwilling seller through the State's power of eminent domain. This limitation does not apply to the State's power to acquire a right-of-way for a particular project, but precludes the involuntary sale of a business to the GSOC.

Third. What does the legislation mean when it refers to stock being distributed to "eligible individuals?"

An eligible individual is any individual who is a resident of the chartering State as defined in the State's enabling legislation so long as the definition is consistent with constitutional principles.

Fourth. GSOC's are entitled to taxation in a unique manner. What is the special tax treatment of these corporations?

GSOC's may elect to be exempt from Federal income taxation. The shareholders of an electing GSOC will report their proportionate share of the GSOC's taxable income on their Federal individual income tax returns. The election, made in a manner to be determined by regulation, is effective for the taxable year for which made on a timely filed return. The election may be terminated with the consent of the Secretary of Treasury. It would be appropriate for the Secretary to consent to revocation for a taxable year where the tax liability of GSOC shareholders significantly exceeds cash distributions. Once the election is terminated the GSOC is subject to the normal Federal income tax and may not reelect. The taxable year of an electing GSOC shall end October 31, unless the Secretary of Treasury consents to a different taxable year.

A GSOC will compute its taxable income in the same manner as other corporations, but is not eligible for a dividends received deduction nor any tax credits. The GSOC is entitled to a 10-year carryover of any net operating losses. An audit adjustment resulting from an Internal Revenue Service final determination will be reflected in the GSOC's taxable year in which such adjustment is made and not the taxable year to which it relates. The amount of such adjustment will be subject to an interest charge in an amount computed as though the income had been taxed to a nonelecting corporation.

Fifth. The corporation itself does not pay Federal income tax, but the income of the corporation is taxed to the shareholders?

Yes, each shareholder will include in his gross income his daily prorated share of the GSOC's taxable income. The shareholder will also be entitled to his pro-rata share of the GSOC investment credit and liable for any recapture computed at the corporate level. Income, credits and recapture will be included in the shareholder's gross income and reported on his return for the taxable year in which or with which the GSOC's taxable year ends. The income will be treated as ordinary income to the shareholders and will not be eligible for either the partial dividend exclusion—section 116—or the maximum tax on earned income. The shareholders of the GSOC will not be eligible to report any portion of a GSOC net operating loss on their returns and neither the corporation nor the

shareholders will be entitled to the foreign tax credit on taxes paid by the GSOC.

Sixth. What about the shareholder's basis in his stock?

Shareholders will increase the tax basis of shares of GSOC stock to the extent they report income from the GSOC. Shareholders not required to file returns will increase the tax basis of shares to the extent they were attributed income from the GSOC. Distributions from the GSOC out of previously taxed income will decrease the tax basis of such shares.

Seventh. What about distributions of the stock itself. Will the shareholder be taxed upon receipt of the stock and will be receive a basis in his share at the time of receipt?

If the shares are distributed before any investment has been made by the GSOC, the shares will be treated as having a zero value as of the date of receipt. Therefore, no income would accrue to the shareholder upon receipt and no tax liability would be generated. If investments have been made, the valuation of the shares should be made on a net asset basis so that if the GSOC investment were 100 percent leveraged, the shares distributed would have zero value and no income would accrue. If the shareholder receives his shares free of tax, he would have a zero basis in his stock at the time of receipt.

Eighth. If the GSOC shareholders are taxed on the income of the corporation, how do they receive this income and what is the treatment of distributions?

Distributions from a GSOC's taxable income previously taxed to a shareholder will be treated as a tax-free distribution. Any distribution in excess of such previously taxed income will be taxed in the same manner as a distribution from a regular corporation—section 301(c). Such distributions will first be treated as a tax-free reduction in basis to the extent thereof with any distribution in excess of basis treated as income from the sale or exchange of a capital asset. A GSOC will be required to distribute 90 percent of its taxable income to its shareholders by January 31 of the next succeeding year. To the extent a GSOC fails to meet this distribution requirement, a tax equal to 20 percent of the difference between the required distribution and the actual distribution is imposed on the GSOC. The amount of such tax is allowed as a deduction to the GSOC for the year in which it is paid.

Ninth. Are there any special filing requirements for GSOC's?

GSOC's are required to file Federal income tax returns meeting the timing requirements of regular corporate returns and showing information reported to each shareholder. GSOC's are also required to provide each shareholder a form 1099 showing the shareholder's—first, pro-rata income from the taxable year; second, tax-free distributions for the year; third, tax treatment of other distributions; fourth, amount of any investment credit or recapture for such year; and fifth, amount withheld for Federal income tax purposes. Regulations implementing the reporting requirements and other provisions of subchapter U should be given priority in light of the limited time within which GSOC's may be chartered.

Tenth. If the GSOC distributes all of the shareholder's portion of the GSOC earnings, what is to prevent the shareholder from spending this money prior to tax time and being left with a tax liability and no cash?

GSOC's must withhold an amount equal to 25 percent of every distribution made to their shareholder except shareholders who, under regulations issued by the Treasury, certify that they are nontaxpayers. The amount of such withholding will be allowed as a refundable credit to the shareholders.

Eleventh. Will the GSOP really be a breakthrough in the battle to broaden capital ownership. If so how will we know?

GSOC's are required to file annual reports with the Treasury summarizing their operations for each year. As the primary sponsor of the GSOC provisions I intend that these reports include studies of the effect of the GSOC on distribution of income and wealth, the level of transfer payments made or required, the social and demographic profiles of GSOC shareholders, the level of economic understanding of GSOC shareholders, and possible beneficial revisions to the GSOC legislation. The bill also requires the staff of the Joint Committee on Taxation to undertake a study of the operation and effect of GSOC's on capital formation, income and capital distribution, competing businesses, integration of the corporate and personal income tax, and the workability of the dividend withholding system. Through these studies I hope we can quantify the effect of GSOC's on expanding capital ownership. I would also like to see the Joint Committee address the broader question of capital ownership in our society and suggest to the Congress a system for annual measurement of our progress in broadening the ownership of capital in America.

Mr. HANSEN. Mr. President, I know that Senators are very weary from the long stint we have all put in here. I could not help thinking, though, as I have been listening to the criticism that has been registered at this bill, and many very justifiable criticisms have been made, that it just seems to me as though we need to get this bill into perspective.

May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Chair requests that Senators and staff members conversing withdraw from the Chamber. The Senate will be in order.

The Senator from Wyoming.

Mr. HANSEN. Mr. President, I think we need to get this bill into perspective. It is not everything, by any means, that everyone would want. There are very many laudable goals and objectives that have been expressed and endorsed either by the House or by the Senate, or by both, that are not contained in the bill; but I think we would be derelict if we failed to note what has been accomplished.

I first want to salute my colleague, the chairman of the Finance Committee, for having done an almost impossible job in scheduling hearings upon the various parts of this bill, and calling into the capital city of the Nation expert witnesses, who testified on the economy, who had good, sound, advice to give as to ways in which the tax laws could be changed in order to make our tax laws more responsive to the needs of the Nation and its economic health.

The PRESIDING OFFICER. If the Senator will suspend momentarily, the Senate will be in order.

The PRESIDING OFFICER. Will the Senator suspend for a moment?

The Senator from Wyoming.

Mr. HANSEN. Overall, I think we can mark a real milestone. We turned the whole thrust of tax reform around from what it was less than 2 years ago, after having heard from experts, after having heard from former Cabinet officials, former Secretaries of the Treasury, and others. I think a lot has been accomplished.

It is easy to criticize, but let us not forget that there are some things in this bill that ought to be underscored, remembered, and spoken about as we leave here and go out following the sine die adjournment of this session.

New tax cuts of $18.7 billion for calendar year 1975 compared to $16 billion in the House bill and $29 billion in the Senate bill have been written into law, assuming that bill is signed by the President.

This is an individual tax cut of $13 billion for the American people. The personal exemption is increased from $750 to $1,000. The earned income credit is simplified and enlarged.

Unemployment compensation. This bill phases out the exclusion for unemployment compensation for single people with incomes over $20,000 and for married couples with income over $25,000. For the first time we have said we are going to blow the whistle on what couples can receive or what single people can receive in the way of overall income and still draw, without being subjected to any tax, unemployment compensation benefits.

The corporate tax rate has been cut under the terms of this bill from 48 to 46 percent. That is going to be a real help to a lot of businesses which try to generate more capital.

The investment tax credit is made permanent. The limit on the amount of tax which can be offset by the investment credit is increased from 50 to 90 percent.

The credit is increased for pollution control facilities and is expanded to farm cooperatives.

The bill contains a new targeted jobs credit and an expansion of existing WIN and welfare recipient tax credits. These will encourage businesses to hire welfare recipients, needy youths, needy Vietnam veterans, and others.

The bill increases the percentage of capital gains excluded from income from 50 to 60 percent.

The bill provides a once in a lifetime exclusion for up to $100,000 of capital gains on the sale of a principal residence by someone aged 55 or over. The carry-

over of base is deferred until the end of 1979.

The bill takes capital gains out of the minimum tax and includes them along with certain other tax preferences in a new alternative minimum tax with a top rate of 25 percent in place of the existing maximum capital gains rate of 49 percent. The maximum rate will be 28 percent.

I could go on with further details. I will not because the distinguished chairman of the Finance Committee has made a more detailed report than I feel now is necessary for me to repeat. I commend him for having done an excellent job—for having helped the business community of America and all others who want to see this country grow and prosper, who want to make more jobs available, who want to increase the productivity of America so as to fight inflation first where it needs to be fought—for having achieved these very tangible and important results which I feel certain will auger well for the economy of America in the years to come. I salute RUSSELL B. LONG.

Mr. LONG. Will the Senator yield?

Mr. HANSEN. I am happy to yield.

Mr. LONG. Mr. President, let me thank the Senator as an American, for the magnificent service he has performed for the United States in his years here.

The Senator has just concluded 24 hours of around the clock work as a Member of the Senate conference on the very important revenue bill he discussed.

Mr. President, the Senator from Wyoming has been a tower and a monument to the kind of American ideals that built this country and preserved it these two centuries. He is a true son of the rugged individualist who built the West. It has been an honor to serve with him on the Committee on Finance.

It saddens the Senator from Louisiana very much to think that this may be his last day serving here in this body. I hope very much he will come back and be with us many times and bring his lovely wife, Martha, with him when he does.

Mr. HANSEN. Mr. President, I thank my friend from Louisiana very much for those very kind words.

Mr. LONG. If the Senator will yield further, I think it appropriate that this will be one of the last statements that the Senator will make on the Senate floor. The tax bill that we are handling at this time makes the most significant progress toward making the capital gains tax a productive tax rather than a counterproductive tax. It will make it a more reasonable tax which will raise revenue and not discourage the zeal and desire of people to invest their money in ways that will benefit their families, communities, and Nation without the sort of backbreaking taxation that discourages people from doing those kinds of things that we all like to see them do for their own improvement.

The Senator has been the real leader, may I say, in bringing that about. Long before the committee went to work on the bill, the Senator from Wyoming circulated a petition and signed up more than 60 percent of his colleagues to such a proposal, that the capital gains tax rate should be cut to 25 percent. We did not quite make it but we cut it down to 28 percent.

Mr. HANSEN. I thank my colleague.

Mr. JAVITS. Will the Senator yield?

Mr. HANSEN. I will yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. JAVITS. Will the Senator yield to me for a moment?

Mr. DOLE. I yield.

Mr. JAVITS. I want to associate myself with RUSSELL LONG's fine tribute to CLIFF HANSEN. He and I do not agree on many things but there is not a finer human being in the Senate. I wanted to associate myself.

Mr. CURTIS. Mr. President, as the ranking minority member of the Committee on Finance I would like to take this opportunity to thank my distinguished chairman for the leadership, cooperation, and courtesy that he showed me and all minority members during my years of service on the committee.

Mr. President, the Revenue Act of 1978 will be the last piece of legislation in which I will participate as a Member of this body. I am proud to say that this bill is one of the first approved in many years that represents true tax reform.

Mr. President, as the chairman has indicated, this bill contains many important provisions such as individual rate reductions, corporate rate reductions, provisions for small business and an enlarged earned income credit to provide assistance to low-income families. These provisions will be beneficial to our economy and provide needed relief to taxpayers suffering from the past mistakes of our economic policies. Nevertheless, Mr. President, the centerpiece of this bill is the reduction in taxes on capital gains.

The relationship between capital investment on the one hand and productivity improvements and job creation on the other has been amply demonstrated during the consideration of the Revenue Act of 1978. Testimony presented to the Finance Committee showed no significant deviation between the rankings of major industrial countries according to rate of investment and rankings according to productivity increase and economic growth.

Thus, Mr. President, it is not a coincidence that Japan, with the highest rate of nonresidential fixed investment among major industrial nations, also is far out in front in productivity and economic growth. Conversely, the United States ranks very close to the bottom in all of these measures.

As mentioned above this bill is a step toward true tax reform and reduces the present capital gains exclusion from 50 percent to 60 percent. This spur of capital gains works in two ways. First, the expectation of returns induces saving and investment, second, since the potential gain is risk-related, the higher the prospective return, the greater the likelihood that investment capital will flow into risk investment, and that risk capital will be available to finance new technology and new needs.

Mr. President, this bill will not solve the economic problems of this Nation—it is merely a small step in the right direction. Hopefully, Mr. President, this bill is a forerunner of tax legislation to come in the future such as the elimination of the double tax on dividends, a modern cost recovery system and further corporate rate reductions.

If this Nation is to successfully compete with the major nations of the world these changes are a necessity.

For these reasons, Mr. President, I ask my colleagues to support the conference report on H.R. 13511, the Revenue Act of 1978.●

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. First, let me thank our distinguished chairman. I join him in his statement praising not only to our distinguished colleague from Wyoming but also our distinguished colleague from Nebraska.

Mr. HARRY F. BYRD, JR. May we have order, Mr. President?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order.

Mr. DOLE. There is no doubt about the impact that Senator CURTIS and Senator HANSEN have had, not just on this legislation but on tax legislation for many, many years.

These distinguished Senators have been a great source of strength to the chairman of the Finance Committee from the standpoint of support, from the standpoint of counsel, from the standpoint of cooperation. I think that is an indication of the measure of the men who are about to leave us. I believe they deserve our praise and they deserve the credit. They have brought great credit to the U.S. Senate.

I would also thank the staff of the Joint Tax Committee and our own personal staff. The staffs have been up for about 36 hours now and some maybe longer. I am not certain that they have gone to bed in the last couple of days. If Senators find a few mistakes in the bill, they may understand that the staff might have been asleep when they were writing. I would also say that as one who did not fare too well with this bill I can speak rather objectively.

The Senator from Kansas is concerned about an extra exemption for the handicapped, but I did not prevail in conference. We were concerned about an extra tax credit for the elderly pension plan deduction, but we did not prevail in conference.

We were concerned about relief for independent contractors and we only partly prevailed.

There are other items where we did not prevail, but I do not suggest that for myself as important. I want to point out something that the distinguished Senator from Wyoming has stated. There are a number of important provisions in this legislation. One of those is capital gains.

The leadership for this breakthrough was provided by our distinguished colleague from Wyoming and our distinguished colleague from the House, Representative BILL STEIGER, of the State of Wisconsin. There is no doubt they gave it the impetus.

I also commend my distinguished colleague, the Senator from Virginia (Mr. HARRY F. BYRD, JR.), who stuck to his guns on the carryover basis issue and prevailed.

I do support the motion to recommit of our colleague from Delaware. It does seem to me that we missed a great opportunity in not, somehow, coming to grips with the so-called coalition amendment sponsored by Senators NUNN, CHILES, BELLMON, ROTH, and others. I understand the budget limitations. But it does seem that they deserve more than a get-well card. That, in essence, is what the conference gave them.

It should put the rest of us on notice that they are sincere, they have the votes, and they are going to be back next year; I am certain we will have another tax bill next year. Hopefully, we will follow the leadership provided by these four colleagues.

Mr. President, I shall vote for the bill, but I shall also vote for the motion to recommit.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. HARRY F. BYRD, JR. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, I ask unanimous consent that I may call up the conference report on the amendments to the Economic Opportunity Act of 1964, which is as much of the anti-poverty program as we carry on. This was unanimously agreed to in conference by the House and Senate, but the papers seem to have been lost in the all-night session. Now there is just an hour to get them back to the House.

Mr. PERCY. Reserving the right to object, Mr. President, and I do not intend to do so, inasmuch as I must leave the floor to leave for Illinois 20 minutes after, will we have a recommittal vote by then?

Mr. JAVITS. This will just take 2 minutes.

Mr. PERCY. I thank the Senator.

ECONOMIC OPPORTUNITY AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. JAVITS. Mr. President, I submit a report of the committee of conference on H.R. 7577 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. STONE). The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7577) to amend the Economic Opportunity Act of 1964, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 11, 1978.)

Mr. JAVITS. Mr. President, I move the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REVENUE ACT OF 1978—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. HARRY F. BYRD, JR. Mr. President, I shall take only a few minutes, but I want to say a few words with regard to the chairman of the committee.

Before getting to my main subject, I want to say I think the Senator from Maine rendered an important service to the Senator from Virginia. The pending bill has in it, as a result of the Nunn-Chiles-Bellmon-Roth proposal, statements encouraging a reduction in spending.

The Senator from Maine, the chairman of the Budget Committee, says that meeting outlay targets in the bill now before the Senate would be contrary to Humphrey-Hawkins. I felt comfortable the night before last in voting against Humphrey-Hawkins, because I said it was either cosmetic or would be inflationary and very expensive to the taxpayers. From the dialog that the Senator from Maine had with the Senator from Louisiana just recently, I am more concerned than ever that that is exactly what is going to happen.

I rise not to comment on that so much, but to comment on the remarkable job that the chairman of the Committee on Finance has done in handling this very complex and difficult bill. The Finance Committee spent 4 weeks, I believe it was, marking up this bill and the chairman of the committee was there every day, presiding over those meetings constantly. Then we went to conference and we were in conference for 14 hours. The chairman of the committee had the responsibility to try to reconcile the differences among the Senate, the House, and the President. That is a tough job. I think what has emerged, while it is not totally satisfactory to the Senator from Virginia, and I assume it is not totally satisfactory to anyone in this body, is basically a reasonably good bill.

The most important aspect of that bill, in my judgment, is the necessary and reasonable reduction in the tax rate on capital gains. That would not have been possible had it not been for the long and effective work prior to the time the Committee on Finance considered this matter by the Senator from Wyoming (Mr. HANSEN). He recognized before most of us in this entire Congress that one of the most important things that the American economy needs today is additional capital formation. He recognizes the important role that capital gains plays in this. He recognized the importance of reducing the excessively high capital gains rates existing today.

Congress made a great mistake, in my judgment, though I voted for it. It made a great mistake in 1969, when it changed the capital gain rate and put it up to the very high rate that exists today. Under Senator HANSEN's leadership, along with the leadership of Senator LONG, the two working together have not gotten a proposal which, I think, will be of tremendous benefit to the people of our Nation.

I regret so very much that Senator HANSEN, some months ago, decided to voluntarily retire from the Senate of the United States. I am sure he will be greatly missed by all of us in the Senate, but he will be especially missed by the Senator from Virginia. I have never served with a finer individual or one of greater integrity, and none with a higher character or greater dedication to his duties as a Senator of the United States.

I think it is rather significant and fitting that on the last day that the Senator from Wyoming will be a Member of this body, he played such a significant and instrumental role in bringing to the Senate a vitally important piece of legislation which will beneficially affect the American economy and many Americans in regard to the change in the capital gains tax.

I also express admiration for the staff of the Joint Committee on Internal Revenue Taxation and the staff of the Senate Finance Committee for the remarkable job they have been doing. They have been working virtually around the clock. They have to know every detail of these very complex pieces of legislation that all the Senators involved throw at them almost momentarily. So I commend the staff for the tremendous job they have done on this bill.

As I mentioned earlier, this bill is not totally satisfactory to the Senator from Virginia. There is a lot in it that I would like to see taken out. Nevertheless, it is a bill which I believe is a balanced bill and one that will be generally satisfactory to the Nation as a whole and helpful to the Nation as a whole.

Mr. NUNN. Mr. President, I join my colleagues in commending the Senator from Louisiana and the Senator from Wyoming. I do not know of any other two people who worked harder on anything than they have on this. Of course, the Senator from Louisiana and the Senator from Wyoming also have had many other responsibilities in the course of this debate.

Even though this bill is certainly not what I would like to have in terms of the amendment that we fought long and hard over, I do think it leads in a positive direction for the people of our country in reducing some of the tax burden which in my opinion has stifled investment, which has helped cause our declining rate of productivity, and which has prevented our U.S. economy from fulfilling its role as one of the leading economies in the world, which is evident every day on the international money markets.

I would like to say a word about the Nunn-Chiles-Bellmon-Roth amendment.

The conferees have endorsed the principle set forth in our amendment. They have stated their intention to reduce taxes assuming the conditions set forth in our amendment are agreed to. That is the good news. The bad news is that

they have removed all of the automatic features. They have removed the teeth from this amendment. It now amounts to a declaration of principle by Congress.

They did this in spite of a two-thirds vote in both Houses of Congress demonstrating a clear mandate from both bodies for the conference to include this very strong amendment which would reduce the taxes of the American people while reducing the growth of Federal spending and without causing inflation.

The next question is: Why did they remove this strong language and substitute language without teeth? The only answer I can give is that the tax writing committees felt that the bill would be vetoed.

The Carter administration made it clear they opposed this amendment. Their reason was it did not provide the administration the flexibility it needed. They said it would place the President in a strait jacket in dealing with the economy.

Yet, last night or early this morning, we offered—and the Senator from Louisiana made the offer in the conference committee—a compromise granting the President the flexibility he said he did not have in this proposal.

The compromise would have added a third condition in each fiscal year before the tax cut would be given: The President would have the right to determine that the tax cut would not be in the economic interests of our country. If he made that determination, he would be able to certify that recommendation to Congress, and the certification would have blocked the tax cut for that year, unless both the Senate and the House voted to overturn his decision within 30 days.

That language would have had the effect of removing the so-called straitjacket. It would have also placed the burden of responsibility on the President to explain to the American people why it was not in the interest of our national economy to have a tax cut. But it was a burden that the President should be able to bear. The Secretary of the Treasury, speaking for the administration, as I understand it, rejected that proposition. I do not know what happened to his argument about the straitjacket, because it is apparent that this amendment, in the proposition that was made last night, would have removed that straitjacket. It would have given the President all the flexibility he says he needs.

I do not understand why Secretary Blumenthal could not have accepted that. He may have his own reasons, but I think he owes the reasons in terms of some kind of statement to Congress; because it is my understanding that those reasons were not given to the conference committee last night.

You simply cannot repeat the straitjacket argument if you reject this proposal. It is obvious to me that the administration—for reasons they deem to be important, I am sure—does not agree with the major objectives in the Nunn-Chiles-Bellmon-Roth amendment.

It is disappointing to me, because the goals embodied in this amendment have been repeated by the President on many occasions: Balancing the budget by 1982, reducing the overall percentage of Federal expenditures, compared to the gross national product, and reducing the real growth in Federal expenditures.

In summary, I do not think that the last has been heard of this amendment. We will see it again. Our economy today, as we talk in Washington about not doing anything that goes very far from the norm, going along with the same old habits, is still experiencing runaway inflation, large trade deficits, declining productivity, and high interest rates. But people of this country expect their Federal Government to restrain itself in both spending and tax measures. That is exactly what this amendment would have done.

I believe that the people, now that they see what could be done in terms of tax relief if we were to restrain the growth in Federal spending, will demand at some point, as I interpret the votes this year, that this type concept become law. This concept is one that emanates from the frustration of the people of this country with the Federal Government, which for a long time has conducted itself on a year-by-year basis without long-range planning, either from the tax side or the economic side.

I think the people of this country are prepared to tell us and are telling us that they are rejecting the kind of kneejerk economic planning that has gone on in Washington for many, many years.

I will support the Roth amendment to recommit. I would have preferred that the motion not be made, because I know that this vote, in all likelihood, is not going to be a vote on the merits of the Nunn-Chiles-Bellmon-Roth amendment but, rather, on the question of whether we go home. Therefore, I would prefer that the motion not have been made. However, I do support the motion, because I think when we have a situation where two-thirds of the House and two-thirds of the Senate vote in favor of a proposition and all of a sudden it comes back from a conference committee without any teeth, then I think the point needs to be made loud and clear that the overwhelming sentiment of the House and the Senate has been rejected. It has been rejected because of the threat of a veto.

So I want my support for the Roth motion to be well stated in the RECORD.

Again, I thank the Senator from Louisiana for a superb job, as he always does. I do not see how he holds out physically and mentally but he does; he keeps coming back.

I thank the Senator from Wyoming for all he has done, not only on this bill but also for being a great United States Senator and a great American.

ANALYSIS OF TAX CONFERENCE REPORT

Mr. ABOUREZK. Mr. President, the tax cuts provided in the conference report on the Revenue Act of 1978 are skewed to the benefit of the well-off. The 75 percent of taxpayers who earn under $20,000 receive less than 37 percent of the total tax cut, while the top 2 percent get 15 percent of the benefits.

Distribution of individual tax cuts
(1978 income levels)

Expanded income class	Percent of taxpayers in class	Percent of tax cut benefits
Under $15,000	63.6	23.5
$15,000–$20,000	12.9	13.3
$20,000–$30,000	14.7	26.8
$30,000–$50,000	6.6	22.1
$50,000–$100,000	1.6	10.4
$100,000–$200,000	0.3	3.0
Over $200,000	0.1	1.0

Average dollar benefits for most middle income taxpayers are inadequate to offset the effects of inflation and higher payroll taxes. Only the very top brackets receive adequate tax reductions.

Average tax benefits for family of four
(1978 income levels)

Adjusted gross income	Average tax reduction
$5,000	$100
$10,000	72
$15,000	97
$20,000	167
$25,000	249
$30,000	315
$40,000	536
$50,000	627
$100,000	1,002

The tax bill would reduce taxes on capital gains (and other sheltered income) by $2.7 billion annually. It would expand the percentage of capital gains which is tax exempt to 60 percent from the current 50 percent and would reduce the existing minimum tax on sheltered income with a new, weaker minimum tax.

The wealthiest 2 percent of taxpayers receive 75 percent of the over $2 billion of capital gains relief. Families with incomes of more than $200,000 will average cuts around $15,000 per year.

In spite of the rhetoric about high capital gains rates, this proposal would reduce the effective tax rates paid on capital gains from the present 15 percent to around 10 percent.

Distribution of capital gains cuts
(1978 income levels—not including residences)

Expanded income class	Percent of taxpayers in class	Percent of benefits	Total amount of cut (millions)
Less than $15,000	63.6	4.3	$89
$15,000–$20,000	12.9	5.0	102
$20,000–$30,000	14.7	5.6	114
$30,000–$50,000	6.6	6.7	137
$50,000–$100,000	1.6	22.6	463
$100,000–$200,000	0.3	14.3	293
Over $200,000	0.1	41.5	850

UNDOING 1976 REFORMS ON CARRYOVER BASIS

The conference report includes a provision to delay for 3 years (until 1980) the effective date of the very important carryover basis reform adopted in 1976. This reform replaced a system under which the basis of assets held at death were stepped up to fair market value, thereby washing out forever any capital gains taxes on appreciation during the decedent's lifetime. By allowing unrealized appreciation to go completely untaxed, the step-up approach treats per-

sons who hold assets until death far better than those who sell or give away property in their lifetimes or who earn their money in the form of wages. In 1972, the 1.8 million estates worth under $100,000 included an average of only $444 in untaxed appreciation (they would not be taxed under the reform), while the 4,000 estates worth more than $1,000,000 averaged almost $1,000,000 each in untaxed gains.

WEAKENING THE CURRENT MINIMUM TAX

The conference report would replace the present 15 percent add-on minimum tax on the sheltered half of capital gains income with a new, graduated, alternative minimum tax. For a few, very high income individuals, this new minimum tax would actually mean a tax increase, but overall it has about half the impact as the present minimum tax has on this sheltered income. For individuals with hundreds of thousands of dollars in income, it would set the maximum possible marginal rate at 25 percent—the marginal rate paid by a married wage earner with $15,200 of taxable earnings (not including social security taxes).

In addition, the conference report permanently exempts oil producers from paying the minimum tax on the income they shelter with artificial "intangible drilling cost" deductions. The result is a $50 million windfall for a handful of wealthy oilmen and, in documented cases, will mean a drop in taxes for oilmen with multimillion-dollar incomes from an already meager 10 percent to only 1 percent or less.

● Mr. MATSUNAGA. Mr. President, I rise in support of the conference report. The 1978 Revenue Act offers considerable relief for individuals and businesses. Altogether, it provides a tax cut of over $20 billion in fiscal year 1979. It is designed to stimulate the economy and at the same time provide tax relief for taxpayers.

Individual taxpayers benefit considerably from the increase in the personal exemption, the reduction in the individual rate schedule, the exclusion of gain from the sale of a personal residence, and the increased earned income tax credit for low income taxpayers.

The Revenue Act cuts over $7 billion from individual tax rates. It cuts another $0.9 billion in fiscal year 1979, by increasing the personal exemption from $750 to $1,000. In fiscal year 1980, the first full year of the tax cut, the individual tax reductions from these two changes will amount to over $14 billion.

This reduction, although not completely offsetting inflation and social security taxes will provide significant relief. Moreover, the reduction can more than compensate for future social security taxes, if inflation is brought under control. And the administration as well as the Congress, has every intention to curb inflation.

Additional relief is provided to elderly persons who sell their personal homes. A person 55 years of age or older can avoid tax on the sale of a home if the sale price is under $100,000. If the price is higher, then only a part of the gain is excluded equal $100,000 over the sale price. This provision focuses help on the many older taxpayers who need to use the sale proceeds as a retirement nest egg or who need the proceeds to cover medical or living expenses.

The increased earned income tax credit assists taxpayers on the low end of the scale. Payroll and income taxes often discourage a welfare recipient from entering the work force. The earned income credit of 10 percent on the first $5,000 allows a worker to earn an amount near the poverty level and not pay taxes. The credit rewards the workers for finding a job and working. Although the credit helps low income people, it also decreases Government expenses by getting people back to work.

Under the bill, business will also benefit from the corporate tax reduction, the new graduated tax rate, the reduction in the corporate capital gains rate, the enactment of a permanent 10 percent investment tax credit, the increase of the tax credit limit to 90 percent of tax liability, an investment tax credit for rehabilitation, the long-term capital gains tax cut, as well as various incentives for investment in small business ventures.

In fiscal year 1979, the corporate tax reduction and graduated rate alone will cut business taxes by $2.3 billion. In fiscal year 1980, the first full year for the tax reduction, corporate business will save $5.3 billion in taxes. The tax relief will permit a higher return on investments, encouraging business expansion.

Moreover, the graduated rate schedule will particularly benefit small corporate businesses. Present law imposes a normal tax of 20 percent on the first $25,000 of corporate income, 22 percent on income in excess of $25,000, and 48 percent on income in excess of $50,000. The present corporate rates assume that all corporations are equally able to pay the same rate of tax.

However, this overlooks the difficulties small businesses face in raising capital needed for expansion or for financing day-to-day operations. Today, the stock markets are practically closed to small business needing capital. Also, a small corporation, would have difficulty in obtaining bank financing.

Despite the problems small business encounters in obtaining capital, small business nonetheless accounts for 55 percent of private sector employment, 48 percent of business output, 43 percent of the GNP, and more than half of all new inventions.

The 85.5 percent of all U.S. corporations have less than $25,000 of taxable income and 91.9 percent have less than $50,000 of taxable income.

It is therefore fitting, that a corporate tax reduction focus on small businesses, which form the backbone of our economy. It is also appropriate that the corporate tax rate be graduated, to correspond with a corporation's taxable income. The smaller a corporation's taxable income, the more it will need to rely on self-generated capital from its earnings.

The Revenue Act establishes a new corporate rate schedule:

	Percent
$0 to $25,000	17
$25,000 to $50,000	20
$50,000 to $75,000	30
$75,000 to $100,000	40
Over $100,000	46

The lower taxes will mean higher earnings for small businesses, and these earnings can be retained to expand and grow.

The other business tax cut provisions would ease business tax burden by another $3 billion.

Business leaders would have preferred an increased accelerated depreciation range for faster asset write-offs. Small business sought a special depreciation for small business and a continuation of the existing general jobs tax credit, however budget constraints did not permit further revenue losses. To cut business taxes further would have created a greater Federal deficit and more inflation. The $6 billion tax cut provided in the Tax Cut Act offers considerable tax relief for business growth and increased business returns. In addition, the Treasury Department will study the issue of capital recovery and will submit depreciation and investment tax credit proposals next year to help business.

Mr. President, as a conferee who fully appreciates the great effort put forth by the conferees to bring back to the Senate an acceptable compromise, I urge the adoption of the conference report on the Revenue Act of 1978.●

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit with instructions.

Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. I was conferring with the distinguished Senator from Maine. Is this the tax conference report? Later I wish to make remarks for 3 minutes but for fear if something happens after my remarks that destroys all the work that has been done I will be accused of having made the speech that did it. I will withhold my remarks until after this vote.

SEVERAL SENATORS. Vote.

The PRESIDING OFFICER. The question is on agreeing to the motion to recommit with instructions.

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted in the Chamber?

Mr. NELSON. Mr. President, is the Senator from Wisconsin recorded?

The PRESIDING OFFICER. The Senator is recorded.

Mr. NELSON. In the negative?

The PRESIDING OFFICER. In the negative.

The result was announced—yeas 29, nays 46, as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—29

Baker	Hatfield, Mark O.	Percy
Bartlett	Hayakawa	Proxmire
Biden	Heinz	Roth
Chiles	Hollings	Schmitt
Danforth	Lugar	Schweiker
Dole	Melcher	Stevens
Ford	Nunn	Stone
Garn	Packwood	Thurmond
Griffin	Pell	Wallop
Hatch		Zorinsky

NAYS—46

Abourezk	Glenn	Matsunaga
Bayh	Gravel	Metzenbaum
Bentsen	Hansen	Morgan
Bumpers	Hart	Moynihan
Burdick	Hatfield, Paul G.	Muskie
Byrd, Harry F., Jr.	Hodges	Nelson
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Chafee	Jackson	Riegle
Church	Javits	Sarbanes
Cranston	Johnston	Sasser
Culver	Laxalt	Sparkman
DeConcini	Leahy	Stevenson
Durkin	Long	Talmadge
Eagleton	Magnuson	Weicker
		Williams

NOT VOTING—25

Allen	Goldwater	McIntyre
Anderson	Haskell	Pearson
Bellmon	Hathaway	Scott
Brooke	Helms	Stafford
Case	Huddleston	Stennis
Clark	Kennedy	Tower
Curtis	Mathias	Young
Domenici	McClure	
Eastland	McGovern	

So the motion was rejected.

Mr. HANSEN. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I listened with interest to the colloquy earlier this morning between the chairman of the Budget Committee, Senator MUSKIE, and the chairman of the Finance Committee, Senator LONG, concerning the relationship between the Nunn amendment, the second concurrent budget resolution, and the recently passed Humphrey-Hawkins full employment bill.

The colloquy established very clearly that the hortatory language of the tax bill conference report derived from the Nunn amendment does not supersede the employment growth targets in the second resolution and the Humphrey-Hawkins legislation.

The PRESIDING OFFICER (Mr. STONE). The question is on agreeing to the conference report.

Mr. LONG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Minnesota (Mr. ANDERSON) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from North Carolina (Mr. HELMS), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I further announce that, if present and voting, the Senator from New Mexico (Mr. DOMENICI) would vote "yea".

The PRESIDING OFFICER. Have all Senators in the Chamber recorded their votes?

The result was announced—yeas 72, nays 3, as follows:

[Rollcall Vote No. 518 Leg.]

YEAS—72

Baker	Church	Hansen
Bartlett	Cranston	Hart
Bayh	Culver	Hatch
Bentsen	Danforth	Hatfield, Paul G.
Biden	DeConcini	Hayakawa
Bumpers	Dole	Heinz
Burdick	Durkin	Hodges
Byrd, Harry F., Jr.	Eagleton	Humphrey
Byrd, Robert C.	Ford	Inouye
Cannon	Garn	Jackson
Chafee	Glenn	Javits
Chiles	Gravel	Johnston
Laxalt	Griffin	Sarbanes
Leahy	Nunn	Schweiker
Long	Packwood	Sparkman
Lugar	Pell	Stevens
Magnuson	Percy	Stevenson
Matsunaga	Proxmire	Stone
Melcher	Randolph	Talmadge
Metzenbaum	Ribicoff	Thurmond
Morgan	Riegle	Wallop
Moynihan	Roth	Weicker
Muskie	Sarbanes	Williams
Nelson	Sasser	Zorinsky
	Schmitt	

NAYS—3

Abourezk	Hatfield, Mark O.	Hollings

NOT VOTING—25

Allen	Goldwater	McIntyre
Anderson	Haskell	Pearson
Bellmon	Hathaway	Scott
Brooke	Helms	Stafford
Case	Huddleston	Stennis
Clark	Kennedy	Tower
Curtis	Mathias	Young
Domenici	McClure	
Eastland	McGovern	

So the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, without losing my right to the floor, I yield to the Senator from Wisconsin.

BANK HOLDING COMPANY ACT AMENDMENTS

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9937.

The Presiding Officer laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 9937) to amend the Bank Holding Company Act of 1970, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. PROXMIRE. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. HOLLINGS, Mr. MORGAN, and Mr. GARN conferees on the part of the Senate.

The PRESIDING OFFICER. The Senator from West Virginia.

The Senate will be in order. Will Senators who are conversing kindly withdraw? Will staff members kindly take their seats.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, when the Senate goes into executive session, it will be for the purpose only of discussing one nomination, and it will only be for 1 minute.

Before I ask to go into executive session, I will ask the distinguished majority whip to identify the nominee.

Mr. CRANSTON. Executive Calendar No. 360.

Mr. STEVENS. We have no objection.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose only to consider the nomination to which the distinguished majority whip has referred, and that the Senate, upon the disposition of the nomination, after Mr. CRANSTON has spoken and a motion to reconsider and the tabling of that motion and informing the President, the Senate will return immediately to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the nomination.

SECURITIES INVESTOR PROTECTION CORPORATION

The assistant legislative clerk read the nomination of Adolph Philip Schuman, of California, to be a director of the Securities Investor Protection Corporation.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. This is the appointment of an outstanding Californian, Mr. President, who will do great work for the people of our country in this position. I ask for the approval of the nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed, and a motion to table a motion to reconsider is agreed to.

The President will be informed.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Without objective, the Senate will return to legislative session.

The Senator from West Virginia.

The Senate will be in order for the conduct of business. Will staff members kindly take their seats or withdraw? Will Senators conversing kindly withdraw to the cloakrooms.

The Senator from West Virginia.

PRINTING OF ACHIEVEMENTS OF THE 95TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the report which I inserted in the summary of the RECORD yesterday on the achievements of the 95th Congress be printed as a Senate document.

The PRESIDING OFFICER. Without objection, so ordered.

SUSPENSION OF DUTIES ON CERTAIN FORMS OF ZINC

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 9911.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, 5, and 6 to the bill (H.R. 9911) entitled "An Act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc."

Resolved, That the House disagree to the amendment of the Senate numbered 7 to the aforesaid bill.

Resolved, That the House agree to the amendment of the Senate to the title of the bill.

Resolved, That the House agree to the amendment of the Senate numbered 8 to the aforesaid bill with an amendment as follows:

House amendment to Senate amendments:

Page 3, strike out lines 2 through 4 inclusive, and insert:

SEC. 2. SUSPENSION OF DUTY ON SOLUBLE NITROCELLULOSE

UP AMENDMENT NO. 2128

Mr. CANNON. Mr. President, I wish to offer an amendment to this bill. I say to my colleagues that the House committee did not approve the noise bill we passed earlier in the Senate this evening.

I am offering an amendment to this bill simply to put into effect the ticket tax reductions in the noise bill. Nothing else in it except it reduces from 8 percent to 6 percent on domestic, it reduces to $1 the foreign departure tax and reduces the freight tax from 5 percent to 3 percent for the period of the 1 year.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON) proposes an unprinted amendment numbered 2128.

H.R. 9911

In lieu of the language proposed to be inserted, insert the following:

SEC. 2. CERTAIN AIRLINE TAXES.

(a) Section 4261 of the Internal Revenue Code of 1954 is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) Reduction of Rates.

Effective with respect to transportation beginning after June 30, 1979, and before July 1, 1980—

(1) the rate of taxes imposed by subsections (a) and (b) shall be 6 percent, and

(2) the rate of tax imposed by subsection (c) shall be $1."

(b) Section 4271 of the Internal Revenue Code of 1954 is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) REDUCTION OF RATES.—Effective with respect to transportation beginning after June 30, 1979, and before July 1, 1980, the rate of the tax imposed by subsection (a) shall be 3 percent."

SEC. 3. SUSPENSION OF DUTY ON SOLUBLE NITROCELLULOSE

Mr. MARK O. HATFIELD. Mr. President, will the Senator yield? Did this pass the Select Committee on Indian Affairs matters?

Mr. CANNON. It did not include it, no. It goes separately. They are not affected by the House's failure to act on the noise bill.

Mr. MARK O. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to:

The PRESIDING OFFICER. Is there a motion on this conference report?

Mr. BAKER. Not yet, Mr. President.

Mr. LONG. Mr. President, we have another revenue bill. I ask that it be taken to third reading. It involves a tax amendment.

Mr. BAKER. Mr. President, we have no objection.

Mr. LONG. I hope the Senate will permit this bill to go to third reading.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. STEVENS. I move that we concur in the House amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE ADJUSTMENT ASSISTANCE AMENDMENTS

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to consider Calendar Order No. 1227, H.R. 11711.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state it.

The second assistant legislative clerk read as follows:

A bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

The Senate proceeded to consider the bill, which had been reported from the Committee on Finance with amendments as follows:

On page 2, line 3, strike "1977" and insert "1976";

On page 2, line 15, strike "1977" and insert "1976";

On page 3, line 15, strike "1977" and insert "1976";

On page 3, line 21, strike "1977" and insert "1976";

On page 6, line 5, after the comma, insert "and";

On page 6, line 6, strike "the";

On page 6, line 13, strike "Secretary" and insert "he";

On page 6, line 16, after "or" insert "an appropriate";

On page 6, line 16, after "subdivision" insert "of the firm";

On page 6, line 25, strike the semicolon and insert a comma;

On page 7, line 4, strike the semicolon and insert a comma and "and";

On page 7, line 18, strike "the" and insert "The";

On page 7, line 25, strike "form" and insert "firm";

On page 8, line 10, strike "on or after the effective date of this Act" and insert "after June 30, 1979";

On page 8, line 21, after "firm" insert "or its representative";

On page 10, line 16, strike "WORKERS FOR MORE THAN ONE ADVERSELY AFFECTED EMPLOYER" and insert "QUALIFYING EMPLOYMENT REQUIREMENTS";

On page 15, line 6, strike "1981" and insert "1982";

On page 15, line 15, strike "1979" and insert "1980";

On page 15, line 15, strike "1980" and insert "1981";

On page 19, line 12, strike the semicolon and insert a comma;

On page 19, line 17, strike the semicolon and insert a comma;

On page 20, line 15, strike the semicolon and insert a comma;

On page 21, beginning with line 23, strike through and including page 22, line 6;

On page 22, line 7, strike "(C)";

On page 22, line 7, strike "thereof" and insert "of subsection (c)";

On page 22, line 14, strike "25" and insert "50";

On page 22, beginning with line 16, strike through and including line 24, and insert the following:

import-impact firms of any article (including, but not limited to, any component part) which is essential to the production of any import-impacted article,

On page 23, line 4, strike the semicolon and insert a comma;

On page 23, line 5, strike "the sale" and insert "sales";

On page 23, line 6, strike "or threaten to decrease absolutely;";

On page 23, line 8, strike "or the threat thereof,";

On page 23, line 11, strike "or services";

On page 23, line 15, strike ", or the threat thereof,";

On page 24, line 15, after the comma, insert "their certified or recognized union, or other duly authorized representatives,";

On page 24, line 23, after the period, insert "".";

On page 24, beginning with line 24, strike through and including page 25, line 8;

On page 25, line 11, strike "on or after the effective date of this Act" and insert "after June 30, 1979";

On page 27, line 23, strike "Government" and insert "United States";

On page 28, line 10, after "borrower" insert a comma;

On page 29, line 19, strike "Trade";

On page 29, line 19, after "Representative" insert "for Trade Negotiations";

On page 32, line 4, after "appropriated" insert "for fiscal years 1980 and 1981";

On page 32, line 18, after "appropriated" insert "for fiscal years 1980 and 1981";

On page 33, beginning with line 16, strike through and including line 19;

On page 33, line 20, strike "(b)" and insert "(a)";

On page 34, line 5, strike "(c)" and insert "(b)".

The PRESIDING OFFICER. The bill contains committee amendments. Is there a motion for the committee amendments to be considered separately or en bloc?

Mr. LONG. I ask unanimous consent that the committee amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection? Without objection, it is ordered.

The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc.

UP AMENDMENT NO. 2129

Mr. ROTH. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) for himself, Mr. BUMPERS, and Mr. HEINZ proposes an unprinted amendment numbered 2129:

SEC. 101. SPECIAL TREATMENT OF CERTAIN CERTIFICATIONS AND PETITIONS.

(a)(1) This subsection applies—

(A) to any petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974—

(i) if such petition was filed with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") before November 1, 1976; and

(ii) if the Secretary, on the basis of section 223(b)(1) of the Trade Act of 1974—

(I) denied issuance of such a certification,

(II) refused to accept the petition,

(III) caused the petition to be withdrawn, or

(IV) terminated an investigation undertaken with respect to the petition; and

(B) to any worker covered by a certification issued under section 223 of the Trade Act of 1974 on the basis of a petition filed before November 1, 1976, if such worker was not eligible for adjustment assistance under such chapter 2 by reason by subsection (b)(1) of such section.

(2) The Secretary shall promptly reconsider any petition referred to in paragraph (1)(A) and the eligibility for adjustment assistance of any worker referred to in paragraph (1)(B). In undertaking such reconsideration, the provisions of chapter 2 of title II of the Trade Act of 1974 shall apply, except that—

(A) for purposes of section 223(b)(1) of such Act, an 18-month period shall be applied rather than a one-year period; and

(B) for purposes of section 231(1)(B) of such Act, the date of the determination, if an affirmative determination is made incident to reconsideration, under section 223 shall be the 60th day after the date on which the petition concerned was initially filed with the Secretary, or, in the case of any petition to which paragraph (1)(A)(ii)(I) applies, the date of the initial determination by the Secretary denying certification.

(b)(1) Any group of workers separated from employment after October 3, 1974, and before November 1, 1976, may file, or have filed on their behalf (including a filing on their behalf by the Secretary), a petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if a petition for such a certification for such group was not filed with the Secretary after April 2, 1975, and before November 1, 1976. The Secretary may not consider any petition filed under this subsection unless the petition is filed before the close of the 6-month period beginning on the effective date of this Act.

(2) The provisions of such chapter 2 shall apply with respect to any petition filed under this subsection; except that—

(A) for purposes of section 223(b)(1) of the Trade Act of 1974, an 18-month period shall be applied rather than a one-year period.

(B) the date of the petition shall be April 3, 1975, or such other date deemed appropriate by the Secretary on the basis of the information obtained during the investigation, and

(C) for purposes of section 231(1)(B) of such Act, the date of the determination, if an affirmative determination is made, under section 223 with respect to the petition shall be the 60th day after the date of the petition established under subparagraph (B).

(c) In carrying out subsections (a) and (b), the Secretary may not pay, or recompute the amount of, any program benefit under chapter 2 of title II of the Trade Act of 1974 for the same week of unemployment for which any worker received, or is eligible to receive, such a benefit pursuant to such chapter under other than the authority of this section.

(d) The Secretary shall provide full information to workers regarding the provision of this section and shall provide whatever assistance is necessary to enable workers concerned to prepare petitions or applications for benefits.

SEC. 102. FILING OF WORKER PETITIONS BY SECRETARY OF LABOR.

Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271 (a)) is amended to read as follows:

"(a) A petition for a certification of eligibility to appl" for adjustment assistance under this chapter—

"(1) may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the 'Secretary') by any group of workers or by their certified or recognized union or other duly authorized representative; or

"(2) may be filed by the Secretary on behalf of any group of workers.

Upon the filing of a petition under paragraph (1) or (2), the Secretary shall promptly publish notice in the Federal Register that the filing has been made and that the Secretary has initiated an investigation.".

SEC. 103. GROUP ELIGIBILITY REQUIREMENTS FOR ADJUSTMENT ASSISTANCE.

(a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by inserting "(a)" immediately before "The Secretary":

(2) by amending paragraph (2) to read as follows:

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, or threaten to decrease absolutely," and;

(3) by inserting ", or threat thereof" immediately before the period at the end of paragraph (3);

(4) by striking out the last sentence thereof; and

(5) by adding at the end thereof the following new subsections:

"(b)(1) The Secretary shall certify a group of workers as eligible to apply for adjustment assistance under this chapter if he determines—

"(A) that not less than 35 percent of the total sales, or not less than 35 percent of the total production, of such workers' firm or an appropriate subdivision of the firm is accounted for by the provision to import-impacted firms of—

"(i) any article (including, but not limited to, any component part) which is essential to the production of any import-impacted article,

"(ii) any service which is essential to the production, storage, or transportation of any import-impacted article, or

"(iii) any article and any service described in clauses (i) and (ii),

"(B) that a significant number or proportion of the workers in such workers' firm or subdivision have become totally or partially separated, or are threatened to become totally or partially separated,

"(C) that the sales or production, or both, of such workers' firm or subdivision have decreased absolutely, or threaten to decrease absolutely, and

"(D) that the absolute decrease, or the threat thereof, in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such workers' firm or subdivision provides articles or services referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production, or the threat thereof, referred to in subparagraph (C).

"(2) For purposes of this subsection—

"(A) The term 'import-impacted article' means any article produced by an import-impacted firm, if such article is one with respect to which a determination under subsection (a)(3) or section 251(c)(3) was made incident to the certification of the group of workers or firm concerned.

"(B) The term 'import-impacted firm' means—

"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to subsection (a), or

"(ii) any firm which has been certified pursuant to section 251(c).

"(c) For purposes of this section, the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 221(a) of the Trade Act of 1974 after June 30, 1979.

SEC. 104. DETERMINATIONS BY SECRETARY OF LABOR.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by adding immediately after subsection (c) the following new subsections:

"(d) In any case in which the Secretary of Commerce notifies the Secretary that a petition has been filed under section 251 by any firm or its representative, if a petition has been filed under section 221 regarding any group of workers of such firm, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Commerce any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Commerce in making a determination under section 251 with respect to the firm.

"(e) If any certification issued under subsection (a) is based upon a determination made pursuant to section 222 (a)(2) or (b)(1)(C) that the production or sale, or both, of the firm or subdivision concerned threaten to decrease absolutely, no adjustment assistance under this chapter shall be provided to any worker covered by such certification until after the date on which the Secretary determines pursuant to such section that the production, or sales, or both, of such firm or subdivision have decreased absolutely.".

SEC. 105. PROVISION OF INFORMATION ON BENEFITS TO WORKERS.

(a) Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended—

(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and

(2) by striking out subsection (c) thereof.

(b) Subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271–2274) is amended by adding at the end thereof the following new section:

"SEC. 225. BENEFIT INFORMATION TO WORKERS.

"The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter, and under other Federal programs, which may facilitate the adjustment of such workers to import competition. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance.".

(c) The table of contents of the Trade Act of 1974 is amended by striking out.

"Sec. 234. Study by Secretary of Labor when International Trade Commission begins investigation; action where there is affirmative finding."

and inserting in lieu thereof the following:

"Sec. 224. Study by Secretary of Labor when International Trade Commission begins investigation.

"Sec. 225. Benefit information to workers.".

SEC. 106. QUALIFYING EMPLOYMENT REQUIREMENTS.

Section 231(2) of the Trade Act of 1974 (19 U.S.C. 2291(2)) is amended to read as follows:

"(2) Such worker had—

"(A) in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week; or

"(B) in the 104 weeks immediately preceding such total or partial separation, at least 40 weeks of employment at wages of $30 or more;

in one or more firms or appropriate subdivisions thereof with respect to each of which a certification has been made under section 223 and which is in effect on the date of separation; or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.".

SEC. 107. TIME LIMITATIONS ON READJUSTMENT ALLOWANCES.

Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) by striking out "26 additional weeks" in paragraph (1) and inserting in lieu thereof "52 additional weeks";

(2) by amending paragraph (2) to read as follows:

"(2) such payments shall be made for not more than 26 additional weeks to an adversely affected worker who is not receiving payments under paragraph (1) and has attained age 60 on or before the date of total or partial separation, except that if payment is made for the 26th additional week and such worker has not attained age 62 before the close of such week, such payments shall be made for not more than the number of weeks occurring during the period beginning with the week after such 26th additional week and ending with, but including, the week in which the worker attains age 62."; and

(3) by amending the last sentence thereof by striking out "78 weeks" and inserting in lieu thereof "104 weeks".

SEC. 108. EXPERIMENTAL TRAINING PROJECTS.

(a) Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295–2296) is amended by adding at the end thereof the following new section:

"SEC. 236A. EXPERIMENTAL TRAINING PROJECTS.

"(a) The Secretary shall establish a program of experimental, developmental, demonstration, or pilot projects, through grants to, or contracts with, public agencies or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques, and demonstrating the effectiveness, of specialized methods in meeting the employment and training problems of workers displaced by import competition. One such specialized method shall be the provision of certificates or vouchers to workers entitling employers and institutions to payment for on-the-job training, institutional training, or services provided by them to workers.

"(b) The Secretary shall carry out program projects under this section only within political subdivisions of States with respect to which the Secretary finds that—

"(1) a significant number or proportion of the workers within the political subdivision have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2) increases in imports of articles like or directly competitive with articles produced by firms and subdivisions thereof located within the political subdivision have contributed importantly to the total or partial separations, or threats thereof, referred to in paragraph (1). For purposes of paragraph (2), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(c) Participation by any worker in a program project established under subsection (a) shall be on a voluntary basis; except that a worker may not be selected by the Secretary for participation unless the worker is, at the time of his application for participation—

"(1) covered by a certification issued under section 223 relating to employment or former employment within the political subdivision in which the project will be undertaken; or

"(2) if not so covered, is—

"(A) included within a group of workers for which a petition has been filed under section 221 and on which a determination under section 223 is pending, and

"(B) totally or partially separated from employment within such political subdivision.

The Secretary shall select workers for participation in a program project on such basis as the Secretary deems appropriate to carry out the purposes of this section, but such selections shall be made in a manner so as to insure that each project undertaken includes workers who represent diverse skill levels and occupations within the political subdivision concerned.

"(d) Grants made, and contracts entered into, by the Secretary under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.

"(e) Section 239(c) shall apply in the case of any individual in training under a project undertaken pursuant to this section with respect to entitlement to unemployment insurance otherwise payable to such individual. The agreement under section 239 with any State shall be modified to effect the purposes of this section, if the State deems such a modification to be necessary.

"(f) Not later than March 1, 1982, the Secretary shall submit to Congress a report setting forth a description and evaluation of the effectiveness of the projects implemented under the program established under subsection (a), together with such recommendations as the Secretary may have for implementing on a permanent basis those methods used in the program which have proven most effective.

"(g) For purposes of carrying out this section, there are authorized to be appropriated to the Department of Labor not to exceed $500,000 for each of fiscal years 1980 and 1981.".

(b) The table of contents of the Trade Act of 1974 is amended by inserting after

"236. Training."

the following:

"236A. Experimental training projects.".

(c) Section 245(b)(1) of the Trade Act of 1974 (19 U.S.C. 2317) is amended by inserting "other than section 236A" immediately before the period.

SEC. 109. INCREASED JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended as follows:

(1) Subsection (a) thereof is amended—

(A) by striking out "who has been totally separated";

(B) by striking out "80 percent of the cost of his necessary" and inserting in lieu thereof "100 percent of the cost of his reasonable and necessary"; and

(C) by striking out "$500" and inserting in lieu thereof "$600".

(2) Subsection (b) thereof is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;"; and

(B) by amending paragraph (3) to read as follows:

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation;

"(B) if such worker is age 60 or older on the date of his last total separation, the later of—

"(i) the 547th day after such date; or

"(ii) the 547th day after the date of the certification under which the worker is eligible; or

"(C) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.".

SEC. 110. INCREASED RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) by amending subsection (a)—

(A) by striking out "who has been totally separated"; and

(B) by striking out the period and inserting in lieu thereof the following:

", if such worker was, or is, entitled to trade readjustment allowances under such certification and files such applications before—

"(1) the later of—

"(A) the 425th day after the date of the certification, or

"(B) the 425th day after the date of the worker's last total separation;

"(2) if such worker is age 60 or older on the date of his last total separation, the later of—

"(A) the 547th day after such date or

"(B) the 547th day after the date of the certification; or

"(3) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.";

(2) by amending subsection (c) to read as follows:

"(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days before or after the filing of the application therefor or (in the case of worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training."; and

(3) by amending subsection (d)—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "100 percent", and

(B) by striking out "$500" in paragraph (2) and inserting in lieu thereof "$600".

SEC. 111. DEFINITIONS.

Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'adversely affected worker' means an individual who—

"(A) because of lack of work in adversely affected employment, has been totally or partially separated from such employment,

"(B) has been totally separated from other employment with a firm, in which adversely affected employment exists, within 190 days after being transferred from work in adversely affected employment in the firm because of lack of work, or

"(C) has been totally separated from other employment in a firm in which adversely affected employment exists as the result of—

"(i) the transfer of an individual from such adversely affected employment because of lack of work, or

"(ii) the reemployment of an individual who was totally separated from such adversely affected employment, if the reemployment occurs within the 190-day period beginning on the date of such separation.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by redesignating paragraphs (6) through (14) as paragraphs (8) through (16), respectively;

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) The term 'appropriate subdivision' means—

"(A) any establishment or, where appropriate, any group of establishments operating as an integrated production unit or engaging in an integrated process, which is within any multiestablishment firm, or

"(B) any distinct part or section of any establishment which is within any firm, whether or not such firm is a multiestablishment firm."; and

(4) by inserting immediately after paragraph (6) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(7) (A) The term 'firm' includes any of the following entities (regardless whether any such entity is under a trustee in bankruptcy or receivership under court decree):

"(i) Individual proprietorship.

"(ii) Partnership.

"(iii) Joint venture.

"(iv) Association.

"(v) Corporation (including any development corporation).

"(vi) Business trust.

"(vii) Cooperative.

"(B) Any firm, together with any—

"(i) predecessor in interest,

"(ii) successor in interest, or

"(iii) other affiliated firm (if both such firms are controlled or substantially beneficially owned by substantially the same persons).

may be considered to be a single firm for the purposes of this chapter.".

TITLE II—IMPROVEMENTS IN ADJUSTMENT ASSISTANCE TO FIRMS

SEC. 201. ELIGIBILITY REQUIREMENTS OF FIRMS FOR ADJUSTMENT ASSISTANCE.

(a) Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—

(1) by striking out the last sentence of subsection (c); and

(2) by striking out subsection (d) in inserting in lieu thereof the following:

"(d) (1) The Secretary shall certify a firm as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that not less than 50 percent of the total sales of such firm is accounted for by the provision to import-impacted firms of any article (including, but not limited to, any component part) which is essential to the production of any import-impacted article,

"(B) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(C) that sales or production, or both, of such firm have decreased absolutely, and

"(D) that the absolute decrease in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such firm provides articles referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production referred to in subparagraph (C).

"(2) For purposes of this subsection—

"(A) The term 'import-impacted article' means any article produced by an import-impacted firm, if such article is one with respect to which a determination under section 222 (a) (3) or subsection (c) (3) was made incident to the certification of the group of workers or firm concerned.

"(B) The term 'import-impacted firm' means—

"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to section 222(a), or

"(ii) any firm which has been certified pursuant to subsection (c).

"(e) For purposes of subsections (c) and (d) the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(f) A determination shall be made by the Secretary as soon as possible after the date on which any petition is filed under this section, but in any event not later than 60 days after that date.

"(g) In any case in which the Secretary of Labor notifies the Secretary that a petition has been filed under section 221 by any group of workers, their certified or recognized union, or other duly authorized representative, if a petition has been filed under subsection (a) regarding any firm in which such group of workers is, or was, employed, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Labor any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Labor in making a determination under section 223 with respect to the workers.".

(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 251(a) of the Trade Act of 1974 after June 30, 1979.

SEC. 202. TECHNICAL ASSISTANCE.

(a) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342(a)) is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(b) Section 253 of such Act (49 U.S.C. 2343) is amended—

(1) by amending subsection (b)—

(A) by striking out "(b) The" and inserting in lieu thereof "(b) (1) Except as provided in paragraph (2), the"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall provide technical assistance, on such terms and conditions as the Secretary determines to be appropriate, to any firm certified under section 251 for the purpose of assisting such firm in preparing a proposal for its economic adjustment, unless the Secretary determines, after consultation with the firm, that it is able to prepare such a proposal without such assistance. If technical assistance provided to a firm under this paragraph is furnished, pursuant to subsection (c), through any private individual, firm, or institution, the Secretary shall bear, subject to the 90 percent limitation in such subsection (c), that portion of the cost of such assistance which, in the judgment of the Secretary, the firm is unable to pay.".

(2) by striking out "75 percent" in subsection (c) and inserting in lieu thereof "90 percent".

SEC. 203. FINANCIAL ASSISTANCE.

(a) Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:

"(d) With respect to any loan guaranteed under this section, the Secretary may, without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665 (a)), contract to pay annually, for not more than 10 years, to or on behalf of the borrower an amount sufficient to reduce by up to 4 percentage points the interest paid by such borrower on such guaranteed loan. No payment under this subsection shall result in

the interest rate paid by a borrower on any guaranteed loan being less than the rate of interest for a direct loan made under this section. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.".

(b) The amendment made by subsection (a) shall apply with respect to loans guaranteed under section 254 of the Trade Act of 1974 on or after the effective date of this Act.

SEC. 204. CONDITIONS FOR FINANCIAL ASSISTANCE.

(a) Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended—

(1) by amending subsection (b) by striking out "(1)", and by striking out ", plus" and all that follows thereafter and inserting in lieu thereof a period; and

(2) by amending subsection (h)—

(A) by amending paragraph (1) to read as follows:

"(h)(1) The outstanding aggregate liability of the United States at any time with respect to loans guaranteed under this chapter on behalf of any one firm shall not exceed $5,000,000."; and

(B) by striking out "$1,000,000" in paragraph (2) and inserting in lieu thereof "$3,000,000".

(b)(1) The amendments made by subsection (a) (1) shall apply with respect to direct loans made under section 255 of the Trade Act of 1974 on or after the effective date of this Act.

(2) With respect to any direct loan made under such section 255 before such effective date, at the request of the borrower, the Secretary of Commerce shall take such action as may be appropriate to adjust the rate of interest on such loan consistent with the amendment made by subsection (a)(1) effective with respect to the outstanding balance of the loan existing on October 31, 1977, if the loan was entered into before that date, or (b) the total amount of the loan, if the loan was entered into on or after October 31, 1977.

SEC. 205. PROVISION OF INFORMATION ON BENEFITS TO FIRMS.

(a) Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) is amended—

(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and

(2) by striking out subsection (c) thereof.

(b) Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341–2354) is amended by adding at the end thereof the following new section:

"SEC. 265. BENEFIT INFORMATION TO FIRMS.

"The Secretary shall provide full information to firms about the technical and financial assistance available under this chapter, and under other Federal programs, which may facilitate the adjustment of such firms to import competition. The Secretary shall provide whatever assistance is necessary to enable firms to prepare petitions for certifications of eligibility.".

(c) The table of contents of the Trade Act of 1974 is amended by striking out:

"Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding."

and inserting in lieu thereof the following:

"Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation.

"Sec. 265. Benefit information to firms."

TITLE III—GENERAL PROVISIONS

SEC. 301. ADJUSTMENT ASSISTANCE COORDINATION.

Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended to read as follows:

"SEC. 281. ADJUSTMENT ASSISTANCE COORDINATION.

"(a) There is established an Adjustment Assistance Coordinating Committee to consist of a Deputy Special Representative for Trade Negotiations as Chairman and the officials charged with adjustment assistance responsibilities of the Department of Labor, the Department of Commerce, and the Small Business Administration. It shall be the function of the Adjustment Assistance Coordinating Committee to coordinate the development and review of all policies, studies, and programs of the various agencies involved pertaining to the adjustment assistance of workers firms, and communities to import competition for the purpose of insuring prompt, efficient, and effective delivery of adjustment assistance available under this title.

"(b) There is established the Commerce-Labor Adjustment Action Committee (hereinafter referred to in this subsection as the 'Committee') the members of which shall be officials charged with economic adjustment responsibilities in the Department of Commerce, the Department of Labor, and any other appropriate Federal agency. The chairmanship of the Committee shall rotate among members representing the Department of Commerce and the Department of Labor. In addition to any other function deemed appropriate by the Secretary of Commerce and the Secretary of Labor, the Committee shall facilitate the coordination between such departments in providing to trade-impacted workers, firms, and communities timely and effective assistance under this title (including, but not limited to, the implementation of sections 225 and 265) and under other appropriate programs administered by such departments. The Committee shall report quarterly on its activities to the Adjustment Assistance Coordinating Committee.".

SEC. 302. GRANT PROGRAMS AND STUDIES.

(a) Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391–2271) is amended—

(1) by redesignating section 284 as section 287; and

(2) by inserting immediately after section 283 the following new sections:

"SEC. 284. GRANTS TO LABOR ORGANIZATIONS.

"(a) The Secretary of Labor may make grants to unions, employee associations, or other appropriate organizations for the purpose of enabling such organizations to carry out research on, and the development and evaluation of, issues relating to the design of an effective program of trade adjustment assistance for workers in industries in which significant numbers of the workers have been, or will likely be, certified as eligible for adjustment assistance. Such issues shall include, but not be limited to, the impact of new technologies on workers, the design of new workplace procedures to improve efficiency, the creation of new jobs to replace those eliminated by foreign imports, and worker training and skill development. Any grant made under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate. The Secretary of Labor may not expend more than $2,000,000 in any one year for grants under this section.

"(b) There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

"SEC. 285. INDUSTRY STUDIES BY SECRETARY OF COMMERCE.

"The Secretary of Commerce may conduct studies of those industries actually or potentially threatened by import competition. The purpose of such studies shall include—

"(1) the identification of basic industry-wide characteristics contributing to the competitive weakness of domestic firms;

"(2) the analysis of all other considerations affecting the international competitiveness of industries; and

"(3) the formulation of options for assisting trade-impacted industries and member firms, including industrywide initiatives.".

(b) The table of contents of the Trade Act of 1974 is amended—

(1) by striking out

"Sec. 281. Coordination."

and inserting in lieu thereof

"Sec. 281. Adjustment assistance coordination."; and

(2) by striking out

"Sec. 284. Effective date."

and inserting in lieu thereof

"Sec. 284. Grants to labor organizations.

"Sec. 285. Industry studies by Secretary of Commerce.

"Sec. 286. Effective date.".

SEC. 303. EFFECTIVE DATES.

(a) The amendments made by sections 106, 107(2), 109, 110, and 111(1) shall take effect on the 60th day after the effective date of this Act and shall apply with respect to workers separated from employment on or after such 60th day.

(b) The amendments made by section 107 (1) and (3) shall take effect on the effective date of this Act and shall apply:

(1) with respect to workers separated from employment on or after such effective date, and,

(2) with respect to workers receiving trade readjustment allowances on the effective date to assist them in completing an approved training program as provided by section 233 (a)(1) of the Trade Act of 1974.

TITLE IV—CERTAIN WATCH MOVEMENTS FROM INSULAR POSSESSIONS

SEC. 401. (a) Paragraph (b) of headnote 6 subpart E, part 2, Schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"(b) If the requirements for free entry set forth in general headnote 3(a) are complied with, watches (provided for in item 715.05) and watch movements (provided for in items 716.08 through 719.) which are the product of the Virgin Islands, Guam, or American Samoa and which contain any foreign component may be admitted free of duty. The total quantity of such articles entered free of duty under the preceding sentence during each calendar year shall not exceed a number of equal to 1/9 of the apparent United States consumption of watch movements during the preceding calendar year (as determined by the International Trade Commission), of which total quantity—

"(i) not to exceed 87.5 percent shall be the product of the Virgin Islands,

"(ii) not to exceed 8.33 percent shall be the product of Guam, and

"(iii) not to exceed 4.17 percent shall be the product of American Samoa.

The total quantity of such articles which may enter free of duty under the 1/9 limitation during each calendar year under the preceding sentences and which contain any foreign component which is the product of any country the products of which are subject to the rates of duty in column numbered 2 shall not exceed a number equal to 15 percent of 1/9 of the apparent United States consumption of watch movements during the preceding calendar year as determined under the preceding sentence."

(b) Except as provided in the next sentence, the amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of enactment. The last sentence of such amendment shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1978, and before January 1, 1982.

(c) Before July 1, 1981, the President shall prepare, with the assistance of the Secre-

tary of Commerce, the Secretary of the Treasury, and the Secretary of the Interior, and submit to the Congress a report on—

(1) the effect of the amendment made under the first section of this Act on the economies of the insular possessions; and

(2) the effect of such amendment on the watch industry in such possessions and in the United States.

The report shall also include an evaluation of the effect on—

(A) the economies of the insular possessions,

(B) the watch industry in such possessions, and

(C) the watch industry in the United States.

of the use of watch parts in such possessions which are the product of countries the products of which are subject to the rates of duty in column numbered 2 of the Tariff Schedules of the United States.

TITLE V—COUNTERVAILING DUTY WAIVER EXTENSION

SEC. 501. Subsection (d) of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended—

(1) by striking out "the four year period beginning on January 3, 1975," and inserting in lieu thereof the following: "the period beginning on January 3, 1975, and ending on October 15, 1978,", and

(2) by adding at the end thereof the following new paragraph:

"(4)(A) That period specified in paragraph (2) shall be extended with respect to determinations in effect on October 15, 1978, and which do not apply to articles which the Commission under paragraph (b) has determined to have caused or threatened injury to a domestic industry until the date provided in subparagraph (C), if, upon the recommendation of the Special Representative for Trade Negotiations, the President determines, and notifies both Houses of Congress of his determination, or before January 2, 1979, that—

"(i) negotiations on an agreement or agreements establishing internationally agreed rules and procedures governing the use of agricultural and industrial subsidies have been concluded;

"(ii) the Multilateral Trade Negotiations as a whole, and agreements providing for the reduction or elimination of barriers to, or other distortions of, international trade, in particular, have been substantially completed;

"(iii) failure to extend such period as provided herein would be likely to seriously jeopardize the successful completion of such agreements, including the agreement or agreements on subsidies; and

"(iv) the agreement or agreements on subsidies establish (I) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests, and (II) more effective provisions on notification, consultation, and dispute settlement that will provide for timely resolution of disputes involving the use of subsidies in international trade.

"(B) The Secretary may make a determination under paragraph (2) after October 15, 1978, only if he certifies in addition to the requirements of paragraph (2) that waiving the imposition of additional duty under this section with respect to any article or merchandise is essential to the country in which such article or merchandise is produced becoming a signatory to the agreement or agreements governing the use of agricultural or industrial subsidies referred to in subparagraph 4(A). Such a certification shall be subject to the requirements of subsection (e) of this section.

"(C) Notwithstanding the October 15, 1978, date referred to in subsection (d), the period referred to in subparagraphs (A) and (B) shall be extended is the earliest possible of the following:

"(i) the date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral agreement or agreements governing the use of subsidies;

"(ii) the date of the enactment of such implementing legislation; or

"(iii) February 15, 1979.

"(D) The February 15, 1979, date specified above may be further waived by the President for a period not to exceed that ending on July 30, 1979, provided that 30 days prior to February 15, 1979, the President transmits to both Houses of Congress a report on the agreement or agreements on subsidies, which includes:

"(i) a description of the new substantive rules on the use of internal and export subsidies with a statement of the reasons why such rules improve significantly the protection of United States agricultural and industry against the adverse effects of subsidies granted by foreign governments on the commerce of the United States;

"(ii) a description of the provisions governing consultation, dispute settlement, and the reasons why these provisions constitute significantly increased availability of information and assurance that there will be timely resolution of disputes involving the use of subsidies in international trade;

"(iii) a description of the provisions governing notification, including the ways in which increased transparency will be provided with respect to subsidy practices and why such provisions constitute a substantive and significant improvement in the transparency of such practices by foreign governments.

"(E) Notwithstanding the provisions of subparagraph (D) above, no determination made under this subsection by the Secretary which is in effect on January 2, 1979, shall remain in effect after February 15, 1979, if the President determines that the foreign country or instrumentality with respect to which the original waiver determination has been made, does not intend to become a signatory to the agreement or agreements on subsidies described in this subsection.

"(F) Notwithstanding the above provisions, after receiving the report described in subparagraph (D) above, all determinations to waive duties by the Secretary shall terminate upon the adoption by both Houses of Congress by an affirmative vote of a majority of the Members of each House present and voting, under the procedures set forth in section 152 of the Trade Act of 1974 (19 U.S.C. 2192), of a concurrent resolution disapproving the waiver of the February 15, 1979, termination date by the President.

Mr. ROTH. Mr. President, I offer this amendment on behalf of myself, Senator HEINZ and Senator BUMPERS. This amendment includes changes to correct drafting errors and to reduce the cost of the program, both for the coming fiscal year and in fiscal year 1980 through fiscal year 1982. The Senator from Pennsylvania (Mr. HEINZ) played a crucial role in this legislation. It will help thousands of import-impacted workers in Pennsylvania and the Nation at large. He drafted the first bill on this subject in the Senate. Like myself, Senator HEINZ believes workers should not bear the brunt of changes in our foreign trade and this expanded program will help.

Mr. HEINZ has drafted an essential provision which provides strong bargaining leverage for our trade negotiations to try to get an international agreement on one of our most difficult foreign trade problems, foreign government subsidies. The language also provides strong safeguards for the House in the form of a two-House veto in February. The amendment also makes it clear that there can be no waiver for a foreign nation not participating in any code that is negotiated. I think this is an excellent provision, providing the bargaining tools we need while protecting the American economy.

Mr. JAVITS. Mr. President, I realize that we want to save time, but we have already been here all night and it is still early in the morning and we shall probably be here for a while yet. I would like to know a little bit more about what we are doing, because it so happens that my State, New York State alone, happily for us, receives 30 percent of the total trade adjustment assistance since the Trade Act went into effect in 1974. That is a big slug. It means we are being hit the hardest. I would like to know precisely what these two amendments contain on the two subjects of trade adjustment assistance, which I thoroughly agree is critical, and on the question of the waiver on countervailing duties. I understand that is also critical to the American effort to negotiate the multilateral trade negotiations in Geneva and will determine whether our country is going to maintain its trade posture or whether our country is going to go protectionist and really ruin itself.

Mr. President, let us understand that the President realizes our imbalance in international payments, which is one of the big factors in driving the dollar to where it is. This is a shameful condition for our country. The uncertainty regarding the dollar is jeopardizing not only the efforts of American business to move abroad, but jeopardizing investment in this country. That is a heavy contributor to our imbalance in payments.

I think we are dealing here with very critical matters and we just cannot drive it through on the basis of putting statements in the RECORD. Therefore, I should like to ask the Senator from Delaware the following:

The bill is supposed to raise the ceiling on direct loans to firms under the Trade Adjustment Act from $1 to $3 million and on loan guarantees from $3 to $5 million. What has happened to that in the amendment?

Mr. ROTH. That remains in the amendment.

Mr. JAVITS. I understand also that it was to extend assistance to workers in firms that manufacture component parts of import-impacted articles. Is that still in the amendment?

Mr. ROTH. That is still in there, but with a 50-percent requirement on the firm side and with service firms excluded.

Mr. JAVITS. In other words, that is cut materially.

Mr. ROTH. Yes; this is cut.

Mr. JAVITS. Now, can we understand which it is cut? By the 50 percent?

Mr. ROTH. It was primarily the

financial cost. The administration asked for it, and there was no objection in the hearings we held on this subject.

Mr. JAVITS. Well, what is the financial cost that makes it primarily necessary to strike that or to cut it down?

Mr. ROTH. The cost is approximately $5 million.

Mr. JAVITS. Five million dollars, so we cut it down to $2.5 million. Is that such a big deal, I ask Senator ROTH, considering what is at stake?

Mr. ROTH. It was $10 million in the beginning and it is $5 million now. To get the support of the administration, we made that modification.

Mr. JAVITS. In other words, this is an administration request.

Mr. ROTH. Yes; that is true.

Mr. JAVITS. All right. I believe the administration is also interested in expanding trade, so I shall not challenge it.

Now, what about the provisions for determining the cause of industries' competitive problems and their options in respect of adjustment?

Mr. ROTH. That has been expanded, too, but on the firm side, certification on the basis of threat was eliminated.

Mr. JAVITS. When the Senator says "expanded, too," I do not quite get what that means. Is it in, is it out?

Mr. ROTH. No; there are substantial improvements, especially on the worker side.

Mr. JAVITS. Now, is this amendment acceptable to the administration, and particularly the special trade representative, Mr. Strauss?

Mr. ROTH. The answer is, yes, I believe they will accept it.

Mr. JAVITS. Second, can we now know what the "deal" is on the countervailing duty waiver?

Mr. HEINZ. Yes; this amendment, which we discussed at length with the special trade representative and which we believe represents an improvement on what they otherwise would have had, does the following things.

First, it allows them to continue, perhaps up until February 15, depending on some conditions, and perhaps beyond that, depending on others, existing waivers.

Second, it permits no new waivers as of October 15—hopefully, the day by which we adjourn, but one. But if there is going to be any new waiver granted, it would have to be certified by the Secretary of the Treasury that such a waiver is essential to bringing the country in which such article or merchandise is produced into becoming a signatory to the agreement or agreements governing the use of agricultural or industrial subsidies.

In other words, what we have provided to the administration is something they had not previously thought of as a very strong lever. Let us say that the Brazilians, who have been subsidizing textile imports into this country—if we can get the Brazilians to sign an agreement to phase out their subsidies, in 1, 2, or 3 years, for a date certain, this is to everybody's advantage.

Then the amendment provides that the President may continue the authority I have just described on countervailing duties past February 15, only under two circumstances: First, that he makes a number of important certifications to Congress and describes the new substantive rules governing export subsidies, describes with particularity the provisions governing consultation and dispute settlement, describes with particularity the provisions governing notification—and all these things as to what they do and why they constitute a significant improvement over present foreign national government practices and policies.

If we do not like what the President has certified to, if we in our judgment do not think he has done a good job negotiating, then the further extension of the limited waiver authority that is available until February 15 is subject to a two-House veto.

Mr. JAVITS. That is, both Houses have to veto. Otherwise, the President's findings prevail. Is that correct?

Mr. HEINZ. That is correct.

Mr. JAVITS. Is this satisfactory to the administration insofar as trade negotiations are concerned?

Mr. HEINZ. Yes, with this caveat: The administration originally wanted a carte blanche through September 1. This is not everything they asked for, but I understand they would prefer this to what they otherwise would get on the Sugar Act.

Mr. JAVITS. So they have accepted, albeit because it is the best they can get, this arrangement?

Mr. HEINZ. That is right.

Mr. JAVITS. I just wanted to be sure that these two matters hang together and that as a package they are acceptable to the administration. Is that correct?

Mr. HEINZ. Yes.

Mr. JAVITS. I ask Senator LONG if that is his understanding, too.

Mr. LONG. I am not that much of an expert on that.

Mr. JAVITS. Mr. President, in saying what I have and in asking these questions, I have tried to flag a very critical matter for our country.

Right now, more millions are employed in the export industry than are employed in the industries which are impacted by imports. I am not trying to speculate, but the number employed in the export industry is a very large number in excess of those actually hurt by imports.

I realize it is the give and take which prevails in this matter and that the administration does not like all of what it is getting. But I just wanted to be sure that the administration agrees, so that if the administration fails in any major trade negotiation for the United States, it cannot lay the blame at the door of these restraints and restrictions which have been placed upon it with its consent. That is one thing I wanted to nail down.

Senator ROTH has been very persistent in an adequate trade adjustment program. I would like to comment on that and thank him for it. It is critically important, and I hope, although I do not know every detail of this, that he has not compromised his advocacy in this particular field.

Mr. ROTH. I appreciate the remarks of the Senator from New York. I think it is a sizable step forward. We have had to make some accommodations, of course.

Mr. JAVITS. I thank both of my colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

UP AMENDMENT NO. 2130

Mr. BAYH. Mr. President, I call up my amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 2130.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. (a) Section 1861(S)(3) of the Social Security Act is amended by inserting after "diagnostic laboratory testing," the words "Papanicolaou smears on a periodic basis (to the extent and under such circumstances as prescribed in regulations of the Secretary),".

(b) The amendment made by subsection (a) shall be effective with services provided on and after July 1, 1979.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me briefly? I do this to accommodate a Member who has to catch a plane.

The PRESIDING OFFICER. The Senator from West Virginia.

FISH AND WILDLIFE IMPROVEMENT ACT OF 1977—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on H.R. 2329 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 5, 1978.)

Mr. ROBERT C. BYRD. I yield to the Senator from Arkansas.

Mr. HODGES. I thank the majority leader and the manager of the conference report.

Mr. President, this is a fairly minor bill, now that the House has taken out title III. Title III was by Senator GRAVEL, to add a sea level canal study. The House has chosen to take that out. The remainder of the bill has been cleared on both sides.

The remainder of the bill is simply housekeeping by Fish and Wildlife—such

things as changing the duck stamp from June 1 so that it will coincide more nearly with the seasons.

It has a national wildlife refuge. If they have great amounts of wildlife in the refuge, they can allow hunting in it.

There is a land acquisition provision, whereas now they are restricted to fee acquisition only. This will allow them to requirement easements as well as fee.

There are only about 6 provisions. It allows them to dispose of forfeited or abandoned property.

It is a bill that is needed. It passed the Senate easily. We held hearings, and I do not think there is any difficulty with it.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HODGES. I yield.

Mr. STEVENS. The two provisions that were deleted by the Senate—one of which removed the power of the Governor and the other reduced the age from 16 to 14—are not in this bill, are they?

Mr. HODGES. That was the duck stamp bill. We removed those. It is a different bill.

Mr. HARRY F. BYRD, JR. Is this a Senate bill or a House bill?

Mr. HODGES. It was originally a House bill.

Mr. HARRY F. BYRD, JR. I would like to have the opportunity to take a look at it, if the Senator would not mind.

Mr. HODGES. I would be happy. My problem is that I have to catch a plane, but I do not mind at all. Would the Senator be able to look at it now?

Mr. STEVENS. It is a conference report.

Mr. HODGES. It is a conference report. It is not a bill.

Mr. HARRY F. BYRD, JR. Is there anything in that report dealing with a park of any type?

[Laughter.]

Mr. HODGES. I know of the Senator's interest, and I can assure him it is not in there.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HODGES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the first amendment in disagreement.

The legislative clerk read as follows:

The House recedes and concurs with an amendment to Senate amendment numbered 32.

Mr. HODGES. Mr. President, I move that the Senate concur in the House amendment to the Senate amendment No. 32.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with amendments as follows:

Page 6, line 12 of the Senate engrossed amendments, strike out "The", and insert: "(a) The";

Page 8, line 12 of the Senate engrossed amendments, strike out "Sec. 2.", and insert: "(b)".

Mr. HODGES. Mr. President, I move that the Senate recede from amendment No. 33.

The motion was agreed to.

Mr. HODGES. I thank the Chair.

PARLIAMENTARY CONFERENCES WITH JAPAN

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. GLENN, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1069.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 111) to authorize participation by the United States in parliamentary conferences with Japan.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution which had been reported from the Committee on Foreign Relations with amendments as follows:

On page 1, line 4, after "periodically" insert "and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States)";

On page 1, at the beginning of line 8, insert "Councilors";

On page 2, line 6, after "Senate", insert "upon the recommendation of the Majority and Minority Leaders,";

On page 3, beginning with line 10, insert the following:

SEC. 5. No funds shall be authorized to be appropriated under this resolution until fiscal year 1980.

So as to make the joint resolution read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That not to exceed twenty-four Members of Congress shall be appointed to meet jointly and periodically and when the Congress is not in session (except that this restriction shall not apply to meetings held in the United States) with representatives of the House of Representatives and House of Councilors of the Japanese Diet for discussion of common problems in the interests of relations between the United Staes and Japan. Of the Members of the Congress to be appointed for the purposes of this resolution (hereinafter designated as the "United States group") half shall be appointed by the Speaker of the House from the Members of the House (not less than four of whom shall be from the International Relations Commitee), and half shall be appointed by the President of the Senate upon the recommendation of the Majority and Minority Leaders from the Members of the Senate (not less than four of whom shall be from the Foreign Relations Commitee). Such appointments shall be for the period of each meeting of the Japan-United States Interparliamentary group except for the four members of the International Relations Committee, and four members of the Foreign Relations Committee, whose appointment shall be for the duration of each Congress.

SEC. 2. An appropriation of $50,000 annually is authorized, $25,000 of which shall be for the House delegation and $25,000 for the Senate delegation, or so much thereof as may be necessary to assist in meeting the expenses of the United States group of the Japan-United States Interparliamentary group for each fiscal year for which an appropriation is made, the House and Senate portions of such appropriation to be disbursed on vouchers to be approved by the Chairman of the House delegation and the Chairman of the Senate delegation, respectively.

SEC. 3. The United States group of the Japan-United States Interparliamentary group shall submit to the Congress a report for each fiscal year for which an appropriation is made including its expenditures under such appropriation.

SEC. 4. The certificate of the Chairman of the House delegation or the Senate delegation of the Japan-United States Interparliamentary group shall hereafter be final and conclusive upon the accounting officers in the auditing of the accounts of the United States group of the Japan-United States Interparliamentary group.

SEC. 5. No funds shall be authorized to be appropriated under this resolution until fiscal year 1980.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to.

UP AMENDMENT NO. 2131

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk on behalf of myself and Mr. BAKER and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. ROBERT C. BYRD), for himself and Mr. BAKER, proposes an unprinted amendment numbered 2131.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 6, insert the following after the word Senate: "upon the recommendation of the Majority and Minority Leaders".

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The amendment was agreed to.

Mr. GLENN. Mr. President I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. GLENN. Mr. President I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BANK HOLDING COMPANY ACT AMENDMENTS—CONFERENCE REPORT

Mr. HOLLINGS. Mr. President, I submit a report of the committee of conference on H.R. 9937 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9937) to amend the Bank Holding Company Act of 1970, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. STEVENS. Mr. President, is this the conference report on textiles?

Mr. HOLLINGS. It is the conference report on textiles, the exact same way the conferees agreed on the exact language of the Senate bill, and we sent it back over to the House of Representatives. It is the one that the Senate just ordered a conference with and we agreed.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HOLLINGS. I yield to the Senator from New York.

Mr. JAVITS. Mr. President, let me first thank Senator HOLLINGS for the courtesy to inform me that this matter was coming up.

Mr. President, I would be less than honest to my oath as a Senator if I did not call the attention of the Senate to this matter and point out how iniquitous it is.

The Senate amendment prohibits the reduction or limitation in trade negotiations of duties or import restrictions on certain imported textile products, pursuant to the Trade Act of 1974.

The House receded to the Senate.

Placing this inhibition upon the negotiators deprives them of a latitude of action which is indispensable to effective consummation of trade agreements and may destroy these Geneva negotiations.

Therefore, Mr. President, I realize it is late and I realize this has been hashed and rehashed, but I feel we have to be on the record for this and give a considered judgment.

So, Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, we are prepared to vote. This has been debated. The fact of the matter is emphasis should be placed on the importance of the 1974 Trade Act enacted by Congress. It said under section 203(b) when you prove injury then the President shall remove from the table of negotiations that particular article.

As a result of that particular provision, CB radios, colored TV's, and footwear have been removed. There is no collapse. This was 1974.

By 1976 we had already proved injury under the Agricultural Act of 1956, some 10 years previously. By 1976 our injury then was a $2.6 billion deficit in the balance of payments in textiles alone. By 1977 it was $3.4 billion, and this year it is running at the rate of $5.2 billion.

This does not ask for any rollback or any special consideration. It just says while we are hemorrhaging let us not cut another vein.

I am ready to vote on that particular score.

We just ask for the textiles and like the United Fund we have given more than our fair share. We are not rolling back anything but we just cannot stand it any longer.

The PRESIDING OFFICER. Is there any further debate?

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 9937, the Banking Holding Company Act amendments. I am pleased that this bill contains a provision to prohibit the reduction of tariffs on imported textile and apparel goods.

As many of my colleagues are aware. I was an original member of the Senate Commerce Subcommittee to study the textile industry. The findings and recommendations of the subcommittee were instrumental in focusing attention on the problem of textile imports.

Over the years, I have continually followed the import situation. I have watched it steadily worsen to where imports now threaten the health of the entire industry.

Mr. President, I urge my colleagues to join me in supporting this conference report. We cannot continue to lose American textile and apparel jobs to imports, while giving no benefit to the American consumer. We must have a textile and apparel trade policy that works to reduce the trade deficit and strengthen the U.S. dollar.

The Senate has passed this bill three different times. I hope it will not hesitate to pass it today.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER. Have all Senators voted?

The result was announced—yeas 48, nays 13, as follows:

[Rollcall Vote No. 519 Leg.]

YEAS—48

Abourezk	Garn	Melcher
Bartlett	Hansen	Metzenbaum
Bayh	Hatch	Morgan
Biden	Hatfield, Mark O.	Muskie
Bumpers	Hatfield, Paul G.	Nunn
Burdick	Hayakawa	Pell
Byrd, Harry F., Jr.	Heinz	Randolph
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Humphrey	Sasser
Chafee	Inouye	Schmitt
Church	Jackson	Schweiker
DeConcini	Johnston	Sparkman
Dole	Long	Stevens
Durkin	Magnuson	Thurmond
Eagleton	Matsunaga	Wallop
Ford		Williams
		Zorinsky

NAYS—13

Chiles	Hart	Proxmire
Cranston	Javits	Roth
Culver	Lugar	Stone
Glenn	Nelson	
Gravel	Packwood	

NOT VOTING—39

Allen	Griffin	Moynihan
Anderson	Haskell	Pearson
Baker	Hathaway	Percy
Bellmon	Helms	Ribicoff
Bentsen	Hodges	Riegle
Brooke	Huddleston	Scott
Case	Kennedy	Stafford
Clark	Laxalt	Stennis
Curtis	Leahy	Stevenson
Danforth	Mathias	Talmadge
Domenici	McClure	Tower
Eastland	McGovern	Weicker
Goldwater	McIntyre	Young

So the conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE ADJUSTMENT ASSISTANCE AMENDMENTS

The Senate continued with the consideration of H.R. 11711.

UP AMENDMENT NO. 2132

Mr. LONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment——

The PRESIDING OFFICER. The clerk will suspend. There is a pending amendment by the Senator from Indiana.

Mr. BAYH. Mr. President, the Senator from Indiana is trying to find a way in which he can provide that pap smear protection amendment that I withdrew.

As some of my colleagues will recall, earlier in the morning I offered an amendment to provide for a pap smear test for elderly women under medicare, and withdrew it. I was trying to see if this was an appropriate vehicle. It was offered in behalf of the able Senator from Kansas (Mr. DOLE) and myself, which I neglected to say earlier. The administration has supported it.

I do not want in any way to jeopardize this bill. The Senator from Delaware, the Senator from Arkansas, and some others are concerned about this measure. For that reason, I would like to ask unanimous consent to lay this amendment aside for no longer than 15 minutes, to see if there is not some way to resolve it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 2132:

At the end of the bill, insert the following:

SEC. . Section 455 (a) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of paragraph (2), and inserting in lieu of such semicolon a period, and

(b) by striking out all that follows paragraph (2).

Mr. LONG. Mr. President, Federal funding for child support collection efforts has been provided under temporary authority for families that are not on welfare. That temporary authority expired on October 11. This amendment would make the authority permanent.

This amendment has passed the Senate twice this year, but for some reason it seems to get sidetracked. Everyone agrees it ought to be done, but so far it has not happened. I hope that we may yet attract the attention of the House. I know of no one objecting to it; it has passed the Senate twice. I simply hope the House will consider it when it comes to them.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. LONG. Yes.

Mr. JAVITS. I have discussed with the Senator an amendment in the same field, that is, welfare. This amendment involves the prorating of the shelter portion of a welfare recipient's grants.

If the Senator is going to put that amendment on this bill, I wonder if there would be any objection to putting this other amendment on. It seems to have a lot of agreement.

Mr. LONG. Mr. President, I would hope the Senator would first let me finish with this amendment. The Senator's amendment, it seems to me, is pretty good. Of course, it is not as good as the one I have now.

Mr. JAVITS. No; I am not going to interfere with the Senator's amendment. I was just saying that we have all been waiting for some vehicle to carry this type of amendment. I am just asking the Senator whether he would have any objection to my amendment, which seems to be a comparable amendment on another subject along the same line, which also has general agreement.

Mr. LONG. I am not objecting to the Senator's amendment. I am simply saying that first we have something that was twice done; it would be a shame to see it die.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. ROTH. Mr. President, I might state to the Senator from New York that there is no time to go to a conference. We have an opportunity for this proposal to be signed into law; but if we begin adding other things, I think it is recognized that this measure will not move forward.

Mr. JAVITS. That is why I asked Senator LONG that question. He has now put a social security amendment on this bill. That is going to require either a conference or that the House accept it. What I was asking was whether another amendment of the same general character, to which there is general agreement here in the Senate, might not be carried on this same vehicle.

Mr. ROTH. I would just like to say I do not know about the amendment of the Senator from Louisiana, but I am concerned that if we begin adding other things, then this trade adjustment measure, which I think is needed now, will be derailed and cannot go through.

Mr. STEVENS. Mr. President, I understand the House has an amendment pending that the Senator from Louisiana's amendment is a substitute for.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 2133

(Purpose: To permit States to prorate AFDC grants in certain instances when noneligible grantees are in the home)

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. Riegle proposes an unprinted amendment 2133:

At the end of the bill, add the following:

Determination of benefits in certain cases where child lives—

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

DETERMINATION OF BENEFITS IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVES NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

SEC. . Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"DETERMINATION OF BENEFITS IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1) (A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives but none of such relatives is eligible for aid under the State plan because such relative is being supported by another person or under another program,

the amount of the aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are living were eligible for such aid, as the number of such children bears to the total number of such children and family members.

"(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses of he was eligible for aid.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 percent of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 percent of such standard, and des-

ignates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be * * * prescribed by the Secondary, but in no event shall such portion exceed 30 percent * * * of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

Mr. JAVITS. Mr. President, this amendment would permit a State to prorate the welfare portion of a recipient's grant when a relative not eligible for aid to dependent children is living in the house.

The amendment is a modification of provisions which were included in H.R. 7200, which went by the board when its provisions were deleted and the sugar bill added in its stead.

I have long been solicitous of the rights of welfare recipients and the need to provide adequately for those who are in need. This amendment might at first blush seem uncharacteristic, because it may tend to reduce a welfare recipient's grant. However, this is a matter of trying to adjust a situation in a household where there may be a number of people contributing to the family income who do not qualifly for welfare assistance and it will therefore permit a prorating of the shelter payment; and that, it seems to me, is a fair test in respect of what welfare amount shall be paid.

The amendment would provide that when total family income, including those of noneligible relatives, exceeds the State standard of need, a recipient's grant for shelter would be prorated in proportion to the number of ineligible persons in the household. In determining income, work expenses and mandatory payments such as child support would be deducted to reach countable income. This is the same test as is applied to applicants for welfare. In States that do not designate a separate shelter allowance, a flat 30 percent of the grant would be deemed to be shelter.

The welfare dollars in States are severely limited. By permitting prorating, the Congress would be distributing these limited funds in a more equitable manner.

Mr. PROXMIRE. Will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. Mr. President, does this amendment involve any additional expenditure?

Mr. JAVITS. No, none whatever. It is just a question of how the States administer welfare.

Mr. PROXMIRE. Is there any position by HEW on this amendment?

Mr. JAVITS. I have no information about HEW except that they have examined it technically and helped with the drafting.

Mr. PROXMIRE. Were there hearings on the amendments?

Mr. JAVITS. An amendment like this was included by the Finance Committee in H.R. 7200. To that extent, I assume they covered the situation.

Mr. PROXMIRE. Can the Senator tell the Senate what States in general are covered? I do not mean a whole list.

Mr. JAVITS. It could be any State, my own State, for example. All States would be permitted to prorate.

Mr. PROXMIRE. Would the Human Resources Committee, where the Senator is a ranking member, have jurisdiction?

Mr. JAVITS. No, it would not. It is the Finance Committee. This is strictly a welfare, AFDC, situation.

Mr. PROXMIRE. Was this ever acted upon in any way by the Ways and Means Committee or the Finance Committee?

Mr. JAVITS. No; I have just described how it was included in modified form in H.R. 7200 and sent along with that.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I call up a privileged matter.

Mr. HANSEN. Mr. President, reserving the right to object——

Mr. LONG. This is a conference report.

Mr. HANSEN. But I think Senator JAVITS was asking for a unanimous-consent——

Mr. JAVITS. We are not asking for any unanimous consent. I just hope Senator LONG might tell us what he thinks about this.

Mr. LONG. I will be glad to discuss the matter, but I have a privileged matter which I would like to call up.

INTERNATIONAL SUGAR STABILIZATION ACT—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a report of the committee of conference on H.R. 13750 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13750) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those for other purposes, for having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

Mr. LONG. This conference report on the Sugar Act sharply cuts back on the amount of help we can provide for producers of cane and beet sugar. We are doing this to meet the President's price control objectives, that is, his stabilization objectives.

It provides for a 15-cents-per-pound price for raw sugar rather than 16 cents per pound that we had in the bill that was passed a few nights ago.

In the second year the price would go to 15.8 cents per pound.

Mr. President, I have discussed this matter with the representatives of the President who have served him very loyally and efficiently—Mr. Eisenstat, Mr. Strauss, and others—and it is the feeling of the President that to go beyond this would create problems with the present stabilization program, which is to be announced in a few days.

This contemplates that for only 1 year there would be a payment of three-quarters of 1 cent. That is only a fraction of the amount of money that is raised by the fees that are collected on sugar imports coming into this Nation.

Therefore, Mr. President, there would be no increase in the price. This clearly means that next year we will be under the burden of passing the Sugar Act.

There are reasons why we could not really go far enough to provide an adequate price to sugar producers in a way that the President would be willing to sign. The reason for that is that there is a difference of opinion as to how this problem should be approached by those who make sugar sweeteners from corn, by the large producers as compared to the small producers. Some producers are against any payment whatever, although that has been traditional in this area, because of the limitations that have been imposed on payments and probably will be imposed again.

Therefore, Mr. President, this is a drastically reduced bill compared to what some of us feel is really needed. The sugar farmers will be receiving less than they should, and some, indeed, may have a very difficult time. But we would far rather settle for a limited 1-year bill and feel that some help was coming to them than to have this Congress adjourn without doing anything to provide some help in this situation.

Mr. President, the conference report would authorize the President to implement the international sugar agreement by limiting imports from countries not members of the ISA.

Mr. METZENBAUM. Mr. President, can we have order?

Mr. LONG. The President would also be permitted under certain conditions to extend the authority to waive countervailing duties from January 3, 1979, to February 15, 1979, as requested by Mr. Strauss, his Special Trade Representative.

We also retained in conference the amendment by the Senator from Idaho (Mr. CHURCH), relating to the International Tin Agreement.

The report would authorize the President to contribute 5,000 tons of tin from the GSA stockpiles to the International Tin Organization buffer stock. Thirty thousand tons of tin from GSA stock-

piles could be sold on the market. Revenues from those sales would be put in a special account for use if the Congress passes stockpile management legislation.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Will the manager yield for a question?

Mr. LONG. Yes.

Mr. METZENBAUM. Do I understand that the administration has indicated that they are prepared to accept this bill as a compromise?

Mr. LONG. Yes; as a matter of fact, one of the President's representatives who discussed this matter with the President talked about it with me and said that the President would be willing to sign such a bill. This, in effect, was an offer from the administration that the administration thought they could support, consistent with the President's cost-of-living efforts under his program which is soon to be announced.

Mr. METZENBAUM. I understand the raw sugar price would be 15 cents per pound in sugar supply year 1978 and 15.8 cents per pound in sugar supply year 1979.

Does the chairman of the Finance Committee make any representations to this body as to whether it is expected that we will be called upon to renew the subsidy again next year?

Mr. LONG. I do not know how we can handle that in the future. Here is the problem: The large producers do not like this payments program because it tends to attract limitation amendments of $50,000 or $25,000 per producer. Even though a State like Louisiana can live with that, States like Florida, Hawaii, and Texas would have difficulty living with that.

Further, the sugar corn sweeteners may be willing, and I believe they perhaps will be willing, to go along with this temporary relief or temporary payment to beet and cane producers.

They may not be willing to do so indefinitely. We would hope that next year we could take a look at this situation and perhaps work out a better arrangement. However, if we do not do something in this Congress, there are a lot of small farmers who will be hurt very badly, indeed.

This legislation, by the level of support provided, would provide a great deal of assistance to these small producers.

Mr. METZENBAUM. As I indicated the other evening when we debated this matter, I offered an amendment to bring the price down to 15 cents. I support that. But I also indicated my concern with respect to the escalator. I understand the escalator is gone except I am not clear as to the meaning of the language. The market price objective in effect for the preceding year, increased by 1 percent.

Mr. LONG. The reason that we have even a 1 percent cost-of-living adjustment is that the bill that passed both the House and the Senate did have a cost-of-living adjustment. That is in there simply to avoid a point of order; where both bills add a cost-of-living adjustment, we would be subject to a point of order, if we brought back a conference report without any cost of living. Now, the fact that there is only a 1-percent adjustment means that sugar producers, especially the small ones, are not going to be able to live on that in the future—the large ones can continue to stay in business—unless there is subsequent legislation to give them a more adequate adjustment to the rising cost of everything. We could not achieve that in this legislation, but the fact that the legislation will be inadequate in the future will dictate that Congress will have to act.

We clearly anticipate that this is a 1-year act, which we think will have to be extended in some fashion next year. What that action will be next year, I am powerless to predict, because I have seen some of the difficulties involved in trying to get agreement among all of the people who are interested in this problem—the processors, the confectioners, the bottlers, the refiners, the beet sugar people, the cane sugar people, the corn sweetener people. Trying to get all those people together, I honestly think, Senator, would challenge the wisdom of the Almighty. But at least in a year there may be some possibility of getting all the segments—the processors, the consumer elements—together, and we would have a better program than we can have at this time.

Mr. METZENBAUM. Mr. President, too often around here I find that when a bill leaves the floor of the Senate and goes to the conference committee, somehow or other the interests of the consumer seem to be forgotten. The amendment I offered the other night to bring the price down to 15 cents indicated my concern about the consumer prices and the impact on the consumer.

More particularly, I was concerned about the ecalator clause in the original bill that left the Senate which would have taken the prices up to about 21 cents in about 5 years. I am pretty pleased to see that the compromise in this movement has been to bring back down the prices. I think it is a reasonable kind of compromise and I commend the chairman of the Finance Committee for seeing the light on this particular measure and being so gracious and concerned about the consumers, as well as concerning himself at the same time about the many sugar growers in his constituency.

Mr. LONG. Mr. President, I appreciate those kind words, but I hope very much the Senator will not feel too unkindly if we live in hope of a better price next year.

Mr. METZENBAUM. That leaves something for next year.

Mr. CHURCH. Mr. President, will the Senator yield?

Mr. DOLE. Mr. President, who has time in opposition to the amendment?

Mr. LONG. We are not under a time limitation.

Mr. DOLE. Good, we have a lot of time.

Mr. CHURCH. Mr. President, first of all, the Senator knows my keen interest in this legislation. Some months ago, I introduced a bill which would have established a price level of 17 cents per pound with an adjustment clause that would have taken into account the real inflationary increases year-by-year in sugar growers cost of production. There were 33 Senators who joined in support of that legislation. But I must say, indeed, I would be remiss if I did not say that the indispensable Senator in bringing about this final conference report in the closing hours of this session is the Senator from Louisiana. I want to pay tribute to him for his leadership.

He has already made the point that this bill will be of very real help to the small sugar beet cane and corn growers during the coming year. Beyond the 1979 crop year, however, it is obvious that a price of 15.8 cents in 1980, 15.9 cents in 1981, and 16.1 cents in 1982, and 16.2 cents in 1983 is very inadequate in the light of a probable inflation rate that would run from 7 to 8 percent a year. That is why I would like to underscore the need for us to come back and revisit the whole question of an adequate, fair, and workable long-term sugar legislation early next year. But I do want the Senator from Louisiana to know that he has done the best he could do under very difficult circumstances. Given the fierce resistance of the administration to any other bill, and the lateness of the hour, I think it is remarkable that he has brought to the floor a bill which will, in fact, be of assistance to our small sugar beet and cane sugar growers in the coming year. That will give Congress an opportunity to reconsider stronger sugar legislation to be brought up in the next session of Congress.

I commend the Senator very much for the statesmanship that he has shown and for the ability that he has shown in bringing this bill to the floor.

Mr. INOUYE. Will the Senator yield?

Mr. LONG. Mr. President, I yield some time to the Senator from Kansas.

The PRESIDING OFFICER (Mr. SARBANES). Does the Senator from Louisiana seek recognition?

Mr. LONG. I yield, Mr. President.

Mr. CANNON. Mr. President, will the Senator yield to me briefly?

Mr. DOLE. Yes.

Mr. CANNON. Mr. President, in acting on H.R. 1911, it was our intention to ask that the Senate recede from our amendment No. 7. We neglected one procedural motion. I therefore ask unanimous consent that the Senate recede from its amendment No. 7 to H.R. 11911.

The PRESIDING OFFICER. Is there objection?

Mr. ABOUREZK. Mr. President, reserving the right to object and I shall not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me say at the outset that I thank my distinguished chairman, but I hope nobody is under the impression that we have a sugar bill. I hope those who consume sugar are not going to be taken in by what we are now being told is sugar legislation.

Mr. President, when the bill was discussed, it was said that 17 cents a pound would be all we needed. When Secretary Bergland said on September 18 that it costs 16 cents a pound to raise sugar, it seemed like a reasonable request to make that we might try to provide for

the marketplace a mechanism for producers of sugar beets, sugarcane, and others to make some profit—not from the Government, but in the marketplace.

What we have here is a bill, dictated by the White House. It has already been denounced by the Sugar Beet Growers Association. It has been denounced by the Corn Growers Association. I have not yet contacted the cane people, but I assume it is going to be denounced by the cane people. I am surprised that the distinguished Senator from Ohio (Mr. METZENBAUM) who has become the friend of the consumer, failed to ask the question: "How much are we paying for that subsidy? How much does that cost to the American taxpayer?"

Mr. METZENBAUM. I would be glad to tell you.

Mr. LONG. About $98 million.

Mr. METZENBAUM. I though it was $96 million.

Mr. DOLE. Somehow we were told that is not inflationary, but a price of 15½ or 16 cents could be inflationary.

It is difficult for this Senator to understand how it is not inflationary to take it out of the Treasury, but it is inflationary to take it out of the marketplace.

There was an amendment offered on the Senate floor, which was accepted, as I understand it, without objection, that indicated we would have no direct payments. Producers did not want direct payments. They do not want subsidies. They wanted a climate in which they could make a profit in the marketplace through fees and quotas. That seems to be a reasonable request.

Maybe this is the best we can do. If so, I congratulate the distinguished chairman for engineering this feat. But what we have is a 1-year bill with 4 empty years added on because if we did not put the other 4 years on, it would be subject to a point of order in the Senate.

We start off with a 15-cent market objective and a three-quarter cent per pound Federal payment; and the next year it is 15.8, with no Federal payment; and next year it is the same; the next year it is the same; the next year it is the same, the last 4 years with only a 1-percent escalator. The escalator is still there; but it is not 5.5 percent, now it is 1 percent.

I understand the reason why it is 1 percent. But we know we are not going to be able to live with that. We are going to be back in Congress next year, asking Congress again to help the sugar producer.

I would say that those who come from corn-producing areas had better take a close look at this legislation. It does not do anything for corngrowers in this country.

In fact, Secretary Bergland has recommended that those who are in the business should go out and find something else to do; they should give up production. The American beet producers are also going out of business because they cannot make a living. Maybe they should follow Secretary Bergland's advice and give it up.

It seems to me that we should be supporting the price in the marketplace, bypassing the bureaucratic process. We had that same experience after the 1977 act was passed, and they pumped out $200 million in payments. I would put a cap on the payments, for instance, three-quarters of 1 percent for 1 year, but not impose any total payment limitation.

The very thing the Senator from Ohio is complaining about—I cannot remember what day it was, a couple of days ago—is going to happen. Some producers are going to get very big payments. Maybe that is all right. Maybe they should not be penalized because they are processors who represent a lot of growers. But I hope that no one is under the impression that somehow we have gotten a good sugar bill. It is not good for consumers; it is not good for producers. I do not know anybody who likes it. I do not know why we should pass it.

It seems to me that we should go back to conference. We have lots of time. I have checked, and the House has 17 conference reports waiting. They have little games going on, on the House side, and they are asking for rollcalls on each one.

Why not give the marketplace a chance? The House said 15 cents in the marketplace. We said 16 cents and no payment. It seems to me that we could have a 15.5 cent market price objective without dipping into the Federal Treasury for a direct payment or a subsidy.

I know the work that the distinguished Senator from Idaho and the distinguished Senator from Hawaii as well as the distinguished chairman of the Finance Committee and others have done. However, I am convinced that the administration, in respect to any domestic demand for sweeteners would prefer filling that demand with low-cost imports of foreign sugar, rather than from domestic sources. That was last year's action by the administration in imposing fees or quotas, allowing more than 6 million tons of sugar to enter the United States. Such action is costly for domestic producers, of all raw sweetener materials. If you know the corn and sweetener industry, it cost the corn farmers of this Nation about $160 million last year by denying them access to this domestic demand.

As I have indicated, Secretary Bergland suggests they should find other crops to grow on the beet and cane land. He also is going to deny corn producers throughout the Nation the increased price of all corn as a result of an increased demand for domestic sweeteners.

We are told that the President said we should take this package or leave it. That is the same thing he told us on the farm bill last year. That is why we had thousands of farmers on our doorsteps in January and February, and they were concerned because they could not make a living.

I do not want to suggest that there is now a lack of concern, but I suggest that we do not have a good bill. Go out and try to sell this bill, if you vote for it. Try to explain to the beet producer and the cane producer why there is going to be a 15-cent market price objective and then a three-quarters of a cent subsidy the first year; 15.8 the next year, with no subsidy with a 1 percent escalator; and the same the next year, the next year, and the next year.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. DOLE. I will yield in a few minutes.

I know we can explain it to each other in this Chamber. We understand the motives of the 1-year program, and the following 4 years is to force the administration to give us another look at it next year. But I cannot explain it to the few beet producers left in my State. I cannot explain to them why we go downhill instead of uphill unless we are certain the inflation program is going to work. The only natural result of this program will be that we are going to be more dependent upon imports. Is that what we want? I doubt it. The better part of wisdom, as I suggested, might be to recommit the bill.

It baffles me why it is that every time you talk about farmers and try to give farmers some help, it is always inflationary. We had a meat import bill up earlier, and it was said to be inflationary. We had farm bills up earlier this year, and they were always said to be inflationary. The administration conjured up a high figure and said they were inflationary. Well, this program does not cost anything. In fact, we make money on fees and quotas. We could collect about $430 million. The program pays for itself.

If you live in Louisiana, Florida, Kansas, or any other beet producing or cane producing area, it is difficult to explain why producers cannot make a living and why our Government will not respond. It was that way in 1976, in another administration. It was that way in 1977, and it is going to be this way, again, in 1978.

Yet, while no response to the farmer is heard, the price of sugar remains low. In 1947 the retail price of sugar was 9.7 cents a pound.

I suppose it took about 5 minutes to earn that much in 1947. In 1977 the retail price of sugar was up to 21.6 cents a pound, but adjusted for inflation the real price was down to 11.9 cents a pound. At 1977 cash wage levels, only a few seconds over 2 minutes would have earned enough to buy 1 pound of sugar. So says Elliot Janeway.

In light of this historical discrepancy, it seems to me that before we rubberstamp the administration program, we take another look at the equities involved. They did not give on one thing in the conference, not one thing. It was the administration's way or nothing. Votes were there for the administration and there was little anyone concerned with farm interests could do.

Mr. President, in other crops we provide payment limitations whether they be wheat, feedgrains, or upland cotton. Why should sugar be an exception? Congressman STEIGER and I suggested compromise. We were proposing a real 5-year program with a 15.5 cent price objective and a half-cent payment per pound the first year. Then in the transition period go into a no-payment program with an escalator provision based on inflation at 5.5 percent. Such an escalator could go down if the inflation rate were less. Unfortunately, compromises were not the order of the day—or rather morning.

The corn producers association and the sugar beet producers association are opposed to the legislation. As is customary in a conference, all those producers were seated out there in the room and they had a little meeting after we finished. They could not believe what we had done.

Here is what the American Sugar Beet Growers Association said:

The conference bill is a sellout to a veto threat.

Those are not my words.

It gives the President everything he wants and nothing for the farmer. When the beet plants close this year many of them will never reopen.

That is what the American Sugar Beet Growers Association declared.

What about the National Corn Growers? If you raise any corn in your State, the corn growers received no consideration or support in the conference committee's action.

It should be defeated.

That was the statement issued by the corn growers.

We actually tried to have a bad bill after the first year to demonstrate to the administration that we planned on reworking the legislation to create a stronger program. The first year is bad enough, but the second year, the third year, fourth year, and fifth year are even worse.

I hope the White House gets the message if this bill passes because the farmers certainly won't understand it.

I do not believe the Kansas farmers are much different than those in Montana, or Idaho, or Louisiana, or Florida, or anywhere else.

Mr. DURKIN. Do not leave out New Hampshire.

Mr. DOLE. Or in New Hampshire. There are not many left there, but I know they are the same.

They are going to find it rather difficult. They are going to find it rather difficult to understand how in 1978 we are going to get 15 cents per pound and 0.75 cents per pound payment or 15.75 while we only get 15.8 the next year and the next year and the next year.

Maybe we can stand up and say, "Well, we did not really mean it because we are going to pass a better bill next year."

That is what we said last year and the year before. I would guess that nearly everyone who has sugar producers in their State complained about the way the Delagarza amendment was implemented, or rather, how it was not implemented.

How we implement an efficient yet supportive program is the question. I know the chairman struggled with the question as did other members of the committees in both Houses of Congress. But this bill is not the answer. Particularly if you consider farmers' interest, this is not the answer.

Mr. YOUNG. Mr. President, will the Senator yield?

Mr. DOLE. If we represent consumers this is not the answer.

I am happy to yield to the distinguished Senator from North Dakota.

Mr. YOUNG. Mr. President, farmers, like all consumers, would like a cheap product. We are importing increasing amounts of steel. If we can buy it cheaper from foreign countries, of course a lot of farmers would like that.

I understand the Youngstown steel mills are pretty well shut down because of too much imported cheaper steel. We are moving fast in the direction of importing most of our steel. I do not think that is in the best interests of farmers over the long pull. I do not think that is in the best interests of this Nation and especially labor. I do not think it is in the best interests of our farmers when Europeans put a floor under their price of wheat from $4 to $8 a bushel for wheat. We cannot get that price. They protect their producer. We do not.

Some want that cheap imported sugar no matter how much it ruins our producers, or how much we are dependent on the foreign production and how high the price can be as when the commodity is in short supply.

Coffee is a good example just a couple, 3 years ago when foreign countries sharply increased coffee prices to us. Of course, we cannot produce coffee, but we can produce sugar and we can help stabilize prices by having at least a halfway adequate production in this country. We import nearly half of our entire requirements.

I am sorry to hear that the bill did not turn out better than it is. I know how hard the chairman, the Senator from Louisiana, and the author of the bill, Senator CHURCH, Senator DOLE, and others worked on it.

I will be guided by their judgment whether to vote for it or to send it back to the conference again. But I do know they did the best they could. The bill does not give adequate protection to our producers.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. I yield.

Mr. METZENBAUM. I was very persuaded by the Senator's arguments. I was impressed with his pointing out the fact that it will cost something like $92 million or $96 million from the Federal Treasury, and I was concerned about the fact that the base price after the first year with the subsidy will go up to 15.8 cents.

So you make a very persuasive argument against the piece of legislation from my standpoint.

On the other hand, it has been pointed out to me by the staff of the Congressional Budget Office that this bill will only have one-quarter of the inflation impact that the Senate measure had, and that it will have a lower price objective with a smaller escalator; that the conference committee report provides adequate income support and not an undue income enhancement for sugar producers; that the conference committee report brings the sugar program more in line with other farm programs, in other words, feed grains and cotton, and of particular concern to me is that the conference committee report would have a less adverse effect on low-income consumers.

My question to my friend from Kansas is would the Senator urge those of us who have a consumer concern or those of us who are concerned with the sugar beet growers or sugar corn growers to vote against this conference committee report, because I could be persuaded to vote against it? I am not so gung ho about it, and I always try to follow the leadership of the distinguished Senator from Kansas on matters of consumer interest.

Mr. DOLE. I appreciate that. I think it might be a good policy, but I would only say that I cannot, of course, persuade Senators to vote for or against it, but I am going to vote against it. I am not certain it means anything, but I do not know any other choice. I think I have heard the distinguished Senator from Ohio say that you should not vote for every piece of bad legislation because somebody stands up and says it is the best that we can do. It did not persuade me on the gas bill. But if the Senator from Ohio says it is the best we can do for 17 cents, it is the best we can do.

We only spent 2 hours in conference. We all said how late it was and we had to rush through this. It means a lot for the farmers of America, though I do not want to delay it any more, and I will offer after the distinguished Senator from Hawaii speaks, and others, a motion to recommit, which would send it back to conference to split the difference between the House and the Senate bill, 15.5 cents.

Mr. METZENBAUM. I appreciate the remarks of the Senator from Kansas, and I hope we will get some direction from my good friend from Hawaii, the junior Senator, as well as my friend from Idaho, both of whom I know have concern about this measure.

Mr. President, at the outset I wish to congratulate and commend the Senator from Louisiana, the chairman of the Finance Committee, for the herculean effort which he made in trying to get a bill back from conference.

I, myself, as chairman of the Subcommittee on Sugar of the Finance Committee, and as one who held hearings on the sugar bill as it was originally introduced by Senator CHURCH and 33 cosponsors, including myself, I am not satisfied with the bill which the conferees have reported back to the body.

However, I, like Senator LONG and other of the conference committee, faced the realities of the situation, and what are the realities involved?

One, sine die adjournment is upon us.

Two, the President has unequivocally indicated he will not approve any support measure which calls for anything in excess of 15 cents per pound market price objective.

On the other hand, we face the possibility of nonapproval by the House of Representatives conferees who indicated the House would not approve any payment, any direct payment, from the Federal Government beyond the first year.

So the first year became the important thing. The first year, while the administration, in one of its proposals—and it made two proposals—was willing to pay, go as much as, 15 cents per pound market price objective and three-quarters of a cent per pound, making a total

of 15¾ cents per pound, the administration was unwilling to go beyond 15 cents.

Now, with a total of 15.75 cents per pound we were able to get assurance from the House conferees that they could get approval of the House provided beyond the first year we would come forth with a program calling only for market price objective and not any Federal payments.

So, Mr. President, we of the Senate conference committee plead with you and assure you that this was the best we could come forth with, and I urge approval of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. MATSUNAGA. I yield to the Senator from Louisiana.

Mr. DOLE. Mr. President, I send a motion to recommit.

The PRESIDING OFFICER. The clerk will report the motion of the Senator from Kansas.

The second assistant legislative clerk read as follows:

I move to recommit H.R. 13750, the Sugar Stabilization Act, with instructions.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

Motion to recommit H.R. 7130.

Mr. President, I move to recommit H.R. 13750, the Sugar Stabilization Act, with instruction to report back as soon as possible with a one year program including a 15¾¢ market price objective, and a prohibition of a price support to producers or processors of sugarcane or sugar beets.

Mr. DOLE. I might say I had indicated earlier that I would fall halfway between the House and Senate bill. But since we have 15.75 cents in this bill for 1 year with payments, I decided to leave it at 15.75 cents without payments for 1 year. We will have the same opportunity to rework the program only we will know exactly what the administration wants. We are not going to harass producers, taxpayers, or anyone else with payments, and I am prepared to have a rollcall vote and leave the final vote on a voice vote.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I believe I made it clear that what the industry was hoping to get was 15 cents or at least 15 and a quarter cents in the marketplace and a 0.5 cent payment. Now, that is something that the President told us he was going to veto—he did not tell us directly, but he told people who, in turn, told us more than once, that he would have to veto that bill.

There is not the slightest doubt. Mr. President does not convince me that he is a good poker player, but he is either a very poor or the best the world invented, because that man is not giving rise to any question but that he is a person sincerely telling you as a friend that he could not sign the bill.

Now, rather than supporting something that good people and very successful people in good conscience feel they ought to gamble on, they ought to take a chance that the President is not going to sign it—no, he is not going to sign it, and they would be a lot better off representing to a lot of small people who can be destroyed if they do not have a sugar program, to vote for the program that gets them the same price for this year and then try to improve the situation later on.

If we recommit, Mr. President, even if there is time to bring back what the Senator frm Kansas recommends, there is not going to be any bill. Those farmers will get no help at all. I know that. Some of my friends say that they are willing to gamble and take that chance. They are not gambling. You are not gambling when it is a sure thing. You are not gambling when you get involved in something where you do not have a chance, and that is what it would be to let those poor farmers be destroyed by relying on a program that the President would veto, and which he was kind enough to tell us he was going to veto.

Now people feel differently when it is a President of their party than they do when it is a President of another party. It has been my experience in 30 years that when a President is of one's own party you tend to regard him as part of the law-making process. When he is part of the other party you tend to feel he has no right even to advise you as to what his views are.

In this case, Mr. President, that man is doing the best he can that the good Lord gives him the light to see, and that is what we are doing.

I would hope very much that the Senate would not move to recommit.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. LONG. I yield for a question.

Mr. DOLE. I know the Senator is going to move to table. I want to make one statement. You talk about producers. I am sure the American sugar beet growers represent producers, and I am sure the sugar corn growers represent producers. One calls it a sellout and the other says it ought to be defeated. I do not represent producers the way they represent producers. They would rather not have anything.

Mr. LONG. Well, Mr. President, I have been at meetings of sugar farmers, and I can tell the difference between those who can afford to take it and to take a loss down through the years, and tend to survive the famine and come back in this feast-or-famine thing.

I have also been among hundreds of little people who cannot provide that famine part, and I hope the Senate will support a bill that will keep them going, with the firm understanding that we will support a better, permanent bill later on.

Mr. President, I move that the amendment be laid on the table.

Mr. DOLE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion of the Senator from Kansas to recommit with instructions. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Alabama (Mrs. ALLEN), the Senator from Minnesota (Mr. ANDERSON), the Senator from Texas (Mr. BENTSEN), the Senator from Delaware (Mr. BIDEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Iowa (Mr. CLARK), the Senator from Mississippi (Mr. EASTLAND), the Senator from Kentucky (Mr. FORD), the Senator from Colorado (Mr. HASKELL), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from New York (Mr. MOYNIHAN), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Michigan (Mr. RIEGLE), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

I further announce that, if present and voting, the Senator from Iowa (Mr. CLARK) would vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Jersey (Mr. CASE), the Senator from Nebraska (Mr. CURTIS), the Senator from Missouri (Mr. DANFORTH), the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from North Carolina (Mr. HELMS), the Senator from Nevada (Mr. LAXALT), the Senator from Maryland (Mr. MATHIAS), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Virginia (Mr. SCOTT), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The PRESIDING OFFICER. Is there anyone in the Chamber who has not voted and wishes to be recorded?

Mr. BAYH and Mr. DURKIN voted "nay."

The result was announced—yeas 36, nays 20, as follows:

[Rollcall Vote No. 520 Leg.]

YEAS—36

Abourezk	Hatfield, Paul G.	Metzenbaum
Burdick	Hayakawa	Morgan
Byrd, Robert C.	Heinz	Muskie
Cannon	Hollings	Nelson
Chiles	Humphrey	Nunn
Church	Inouye	Proxmire
Cranston	Jackson	Sarbanes
DeConcini	Javits	Sasser
Eagleton	Johnston	Sparkman
Glenn	Long	Stone
Gravel	Matsunaga	Williams
Hansen	Melcher	
Hart		

NAYS—20

Bartlett	Hatch	Schmitt
Bayh	Hatfield, Mark O.	Schweiker
Chafee	Lugar	Stevens
Culver	Packwood	Thurmond
Dole	Pell	Wallop
Durkin	Roth	Young
Garn		Zorinsky

NOT VOTING—44

Allen	Eastland	McGovern
Anderson	Ford	McIntyre
Baker	Go'dwater	Moynihan
Bellmon	Griffin	Pearson
Bentsen	Haskell	Percy
Biden	Hathaway	Randolph
Brooke	Helms	Ribicoff
Bumpers	Hodges	Riegle
Byrd, Harry F., Jr.	Huddleston	Scott
Case	Kennedy	Stafford
Clark	Laxalt	Stennis
Curtis	Leahy	Stevenson
Danforth	Magnuson	Talmadge
Domenici	Mathias	Tower
	McClure	Weicker

So the motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHURCH. Mr. President, I share the disappointment in this bill that has been expressed by others. I will vote for it for one reason: It is a holding action.

Our growers cannot survive on 14.65 cents per pound. That is what they are getting now.

This bill will increase that price by 1.1 cent per pound to enable the growers to survive while the Congress is given another opportunity next year to prepare a better program.

On that basis, I will vote for the bill.

Mr. DOLE. Mr. President, I am not going to ask for a rollcall vote, but I just want to say that under the present authority, the President can take care of that 14.65. He could do it this morning, he could have done it last week, last month.

It seems to me that if we come into the Congress and ask for 17 cents a pound and settle for 15, then the bill cannot be all that good. We asked for 17 cents for a good reason. Now it is depleted.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGES IN DIVISIONS WITHIN JUDICIAL DISTRICTS

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia, the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 14145 and that the Senate proceed to its immediate consideration, with the understanding that there be no amendments.

Mr. METZENBAUM. Mr. President, reserving the right to object, will the majority leader tell us what it does?

Mr. ROBERT C. BYRD. Yes; this deals with the places of holding court.

Mr. METZENBAUM. I have no objection.

The bill (H.R. 14145) to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York, was considered, ordered to a third reading, read the third time, and passed.

● Mr. DECONCINI. The Senate Judiciary Committee has not had the opportunity to hold hearings on H.R. 14145, a bill to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York. The House of Representatives, however, has held hearings and thoroughly investigated the various proposals.

I have contacted my colleagues in the Senate whose States are affected by this bill and they support its provisions. In particular, I would like to thank Senator HATHAWAY for his efforts in regard to the proposal which consolidates the judicial divisions in Maine. I therefore recommend that the Senate adopt the House bill, with an amendment to make the effective date of the section concerning Illinois consistent with the effective date of an earlier bill, S. 3375, which also changed the judicial district dividing lines in Illinois.●

● Mr. HATHAWAY. Mr. President, H.R. 14145, the District court organization bill, did not receive the benefit of a hearing before the Senate Judiciary Committee.

I wish to make it clear that there has for a long time been support from the bench and bar in the State of Maine for the provision in the bill which does away with the divisional boundary within the district of Maine.

As Maine's Federal Judge, the Honorable Edward T. Gignoux, has indicated, one-third of the civil and criminal filings occur in the courthouse for the Northern Division, at Bangor; while two-thirds are filed in the courthouse for the Southern Division, located at Portland.

Elimination of the divisions will in no way alter jurisdiction. It will enable litigants to file their cases before the U.S. District Court for the district of Maine in the courthouse of their choosing.

The Judicial Conference has long supported an end to such rigidities so as to improve flexibility and efficiency in the administration of the courts and for the more equitable distribution of judicial caseloads.

As Maine is entitled to a second Federal Judge under recent legislation, this is an appropriate time to make this change.

Accordingly, Mr. President, I can assure the Senate that this provision is needed and desired in Maine, and I urge support of the bill.●

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TRADE ADJUSTMENT ASSISTANCE AMENDMENTS

The Senate continued with consideration of the bill (H.R. 11711).

The PRESIDING OFFICER. Does the Senator from Wisconsin seek recognition?

Mr. NELSON. No. Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I beg the pardon of the Senator from Indiana.

Mr. BAYH. Mr. President, what concerns me is that we have a very important piece of legislation that I am prepared to withdraw my amendment to so we can get it sent over to the House. I am concerned about the delay.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Indiana for his indulgence.

Mr. BAYH. We put this aside here.

The PRESIDING OFFICER. The question recurs on H.R. 11711.

Mr. BAYH. I withdraw my amendment.

The amendment was withdrawn.

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, I am prepared to conclude the debate. I am going to seek a division. Just to restate the purpose of the amendment—it is to enable State welfare agencies to prorate the shelter portion of the payment for welfare if the total income of the household after deducting work expenses is above the State's minimum standard of need. The shelter grant would be reduced in the same proportion as the number of eligible grantees bears to the total related individuals in the household.

Mr. STEVENS. If the Senator will yield, I state that the minority staff has reviewed the amendment since the Senator offered it. I am authorized to state there is no objection to this amendment from this side.

Mr. ROTH. Mr. President, I point out to the Senate that the Trade Adjustment Assistance Act has only one chance of becoming law this year. That is, if we do not add any amendments. We have been assured by the House side that if it comes over basically in the form in which the substitute was introduced, the House will accept it and that it will result in trade adjustment assistance legislation which has been supported by roughly 25 Senators from both sides of the aisle in a letter to the chairman. I have great respect for the senior Senator from New York, but I ask him if it would not be possible, since his amend-

ment is not germane to the Trade Adjustment Assistance Act, to withdraw it if we got some kind of assurance from the chairman of the Finance Committee that his amendment will be given careful consideration next year.

Mr. JAVITS. Mr. President, that assurance would be helpful, but I feel it is not sufficient at this time.

I will say this, Mr. President: If the manager of the bill had not put his welfare amendment on this bill, I would not have raised the question. But since the manager of the bill saw fit to put a welfare amendment on the bill, I saw no reason why I should not do it. As I say, I am prepared to vote and I shall take a division.

Mr. HARRY F. BYRD, JR. Will the Senator from New York yield?

Mr. JAVITS. Sure.

Mr. HARRY F. BYRD, JR. The manager of the bill stepped out temporarily. I do not know what his attitude would be on this amendment. He may be concerned as to what will happen to the bill in the House if the amendment is adopted. Could it be temporarily set aside until Senator LONG gets back?

Mr. JAVITS. Gladly, except that I understand we want to get this bill over to the House and not waste any time about it. I was prepared to take a division on rollcall.

Mr. HARRY F. BYRD, JR. Senator LONG has been handling this.

Mr. JAVITS. I will happily set it aside, except that Senator ROTH wants to act on the bill.

Mr. HARRY F. BYRD, JR. I do not want to act on it fast.

Mr. ROTH. Perhaps I could make a suggestion.

PRAYER

The PRESIDING OFFICER. The Chair asks Members to suspend momentarily.

There is a standing order of the Senate that during the session of the Senate, when the body is in continuous session, the Presiding Officer shall temporarily suspend the business of the Senate at noon each day for the purpose of having the customary daily prayer by the Chaplain of the Senate.

Pursuant to the standing order, the Presiding Officer temporarily suspends the business of the Senate.

Mr. ROBERT C. BYRD. The prayer will be offered by the Chaplain.

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"This is the day which the Lord hath made; we will rejoice and be glad in it.

"God is a spirit and they that worship Him must worship Him in the spirit and in truth.

"Be still and know that I am God."

Let us pray—

Holy, Holy, Holy art Thou, O Lord of Hosts; heaven and Earth are full of Thy glory; glory to be Thee, O Lord most high.

In this day of worship, we pause in Thy presence to thank Thee for Thy goodness and mercy from generation to generation. For Thy sustaining strength in the labor of this place, we give Thee hearty thanks. For the efforts of the leadership of this body, the toil of the followership and the devotion of the supporting staff, we thank Thee. Take our weary bodies and tired minds and renew them by the bracing and fortifying power of Thy Holy Spirit.

May our work on this Thy day be our prayer, and our worship be our faithful devotion to duty.

Cover our mistakes with Thy mercy. Bless what has been done that is right and good for this Nation. And in the end may we receive the divine accolade, "Well done, good and faithful servant."

We pray in the name of the Servant-Lord who went about doing good. Amen.

TRADE ADJUSTMENT ASSISTANCE AMENDMENTS

The Senate continued with the consideration of the bill (H.R. 11711).

The PRESIDING OFFICER. The Senate will resume consideration of the conference report.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, I have no desire to extend the discussion. I just want to point out to the attention of Senators on the floor that I took up this effort to secure action on the trade adjustment program when it became clear that many Senators were interested in having action taken on this matter before the end of the year. We worked very closely with both Senators on both sides of the aisle, as well as the administration, in developing the substitute bill that is now before us.

We find ourselves in a difficult position. If amendments are added, no matter how worthy, the Trade Adjustment Assistance Act will not become law this year; because the only means we have of securing a positive action is by sending over to the House a bill they can act upon and accept without a conference.

My concern is that if we do not act favorably, many, many workers throughout this country will be the losers. It seems to me that that should be the primary, the essential, consideration in our deliberations.

It is for this reason that I have asked the Senator from New York as well as the Senator from Indiana and a number of others who, I am sure, have worthy amendments, not to attach them to this measure, because if they are, it appears inevitable that this measure will not become law this current year. As I say, that would be unfortunate, because there are hundreds, even thousands, of employees who would suffer.

Mr. JAVITS. Mr. President, I am prepared to yield back any time I have.

I ask unanimous consent that the name of the Senator from Michigan (Mr. RIEGLE) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I ask unanimous consent that a statement by Senator RIEGLE be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY MR. RIEGLE

I believe the amendment offered by the Senator from New York and myself is an essential step towards reforming our welfare system. I and my staff have been involved in negotiations concerning this amendment for a period of many months, and I firmly believe that the final version strikes an excellent balance between the needs of our lower-income citizens and the budgets of state welfare agencies, which are otherwise forbidden to pro-rate AFDC grants according to shelter and utility costs incurred on behalf of household members who are ineligible to receive direct assistance.

This is a complicated matter, but it is extremely important to our efforts to develop an efficient, waste-free welfare mechanism in states such as Michigan and New York. The Senator from New York and I are concerned both for the well-being of welfare recipients and for the need to reduce the cost of public assistance. I believe this amendment permitting pro-rating of shelter and utility costs in accordance with the number of ineligible household members meets both these tests.

The negotiations we have engaged in over the past several months have, I believe, perfected this amendment through consultation with the Department of Health, Education, and Welfare, the Center on Social Welfare Policy and Law, Michigan Legal Services, Michigan Department of Social Services, and representatives of other state governments and welfare rights organizations. I urge the amendment's adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Is my understanding correct that there are two welfare amendments now on this bill?

The PRESIDING OFFICER. Will the Senator indulge the Chair?

Mr. STEVENS. Mr. President, the answer is "yes."

Mr. BAYH. Mr. President, I do not want to take more than about 3 minutes, because everybody wants to get out of here, and I do not want to kill this bill.

I say to the Senator from Delaware that I went over there, as he knows, and I talked to Mr. KOSTMAYER and got his OK for my amendment on Pap smear. I talked to Mr. CORMAN and got his OK. I talked to Mr. VANIK and got his OK. I talked to Mr. FRENZEL, the ranking Republican Member, and I got his OK on my amendment.

I withdrew the amendment, hoping it would expedite things. Now I find it will go back over there with two amendments.

I ask this of the Senator from Delaware: Does he think the amendment of the Senator from Indiana is going to add any more weight than is already there?

Mr. ROTH. I say to my distinguished

colleague that the advice I received from the House side was what I just said: that the attachment of various amendments would jeopardize it.

The distinguished manager, Senator LONG, suggested that we take the amendment of the Senator from New York. I always follow his advice on such matters.

Under the circumstances, if the Senator from Indiana wants to add his amendment, all we can do is take it over. I am not in a position to say what will happen under the circumstances.

Mr. BAYH. Is it reasonable to suggest—I think all Senators know what I am talking about. I am talking about letting older women have the chance to deduct the costs of pap smears under medicare.

Cervical cancer is the No. 1 killer of women over age 65. The Pap test is the only cancer test we have been able to come up with that is very effective. There is a 90 percent certainty.

The administration has agreed to a formula which would permit the Secretary to establish a time frame and a cost ratio for this. Everybody has agreed to it.

Does the Senator really believe this is going to be the kiss of death for this thing? If it is, I do not want to put it on there, because I am very much in favor of this measure.

Mr. ROTH. I am not in a position to advise the Senator beyond what I have. It is my understanding that the best opportunity we have of getting this measure into law is by keeping clean of new amendments.

However, as the Senator has pointed out, he has discussed it with a number of people on the House side——

UP AMENDMENT NO. 2130

Mr. BAYH. Mr. President, The Senator has been kind. I will send this amendment to the desk. I do not want a rollcall. Everybody knows what it is. Perhaps I should have offered it in the first place.

But I must say I think the benefit to be gained is certainly worth a chance considering everything that has transpired.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. BAYH) proposes an unprinted amendment numbered 2130.

Mr. BAYH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. (a) Section 1861(S)(3) of the Social Security Act is amended by inserting after "diagnostic laboratory testing," the words "Papanicolaou smears on a periodic basis (to the extent and under such circumstances as prescribed in regulations of the Secretary),".

(b) The amendment made by subsection (a) shall be effective with services provided on and after July 1, 1979.

Mr. BAYH. Mr. President, I rise to offer an amendment to H.R. 1171. My amendment, identical to legislation I have introduced in this Congress, would provide coverage for "Pap smear" tests for the diagnosis of uterine cancer under part B of medicare.

It is estimated that nearly 55 million Americans now living will eventually have cancer. Over the years, cancer will strike in approximately two out of three families. The statistics of the National Cancer Institute show that there were 48,000 new cases of uterine cancer in 1978. Uterine cancer still remains the fourth highest cause of cancer deaths in women. The most prevalent type of uterine cancer is cancer of the cervix. Deaths from cervical cancer last year were estimated to be 7,400. The incidence of this type of cancer is higher among many low-income women and black women.

One of the truly great tragedies of uterine cancer is that it would rarely prove fatal if it were discovered early rather than later. When discovered at its earliest stage, cervical cancer is almost 95 percent curable.

Unlike other virulent types of cancer, cervical cancer which is treated and arrested at its nascent stage is highly unlikely to recur in later years. The American Cancer Society tells us that a woman who is discovered to have early cervical cancer is expected to live just about as long as women in her age group who have not had this type of cancer, provided they have undergone appropriate medical treatment. Survival rates are predominantly a reflection of the stage at which uterine cancer is found. If the cancer is not recognized until it is at a more advanced state, the survival rates of women affected with it decrease each year, even after undergoing appropriate biomedical tests and treatments.

Given a disease that has such a good prognosis at its earliest stage and is so difficult to cure later, it seems that a full-scale effort would be in effect to discover a simple diagnostic test to uncover cervical cancer as early as possible and to get every adult woman in this country to take this test as often as the medical profession thinks is necessary. If this were the case, we could insure that every single case of cervical cancer discovered will be at the earliest state where it is more easily curable.

Well, Mr. President, it is no news to announce that we have discovered such a diagnostic test.

The test I refer to is the well-known Pap smear, invented by the late Dr. George N. Papanicolau two decades ago. The test is simple, requires but a few moments of the patient's time, is painless, and inexpensive. Seventeen years ago, Dr. C. J. Lund, writing in the January 1961 issue of the Journal of the American Medical Association said:

The epitaph for cervical cancer has been inscribed. The methods and techniques are available to destroy it. The date of death remains unwritten in the hands of the practicing physicians and their patients.

Yet, since that optimistic statement was written almost 17 years ago, approximately 182,000 women in this country have died of cervical cancer. Their dates of death were written before the date of death on cervical cancer because we have not made the decision to somehow get each and every woman in this country to take this test on a semiannual basis.

Despite efforts by the American Cancer Society and public health groups there are still substantial numbers of women who have never taken a Pap test in their lives, to say nothing of taking one at the recommended interval of once a year for women under 35 and twice yearly for those over 35 or those who are presently ingesting birth control substances.

Medical researchers have identified specific groups of women who are less likely than others to have this test done. These groups are older women, undereducated women, and low-income women.

Although very little data is available on the incidence of uterine cancer by stage, according to age groupings, older women are at higher risk for all types of uterine cancer. At the same time, surveys have shown that only one-third of all women 50 years of age and older have been Pap tested. Many of these older women grew up when the Pap test was not commonly accepted and have not had regular check-ups since their child-bearing years.

Mr. President, some Senators may feel that this amendment would provide services to people who are not in financial need and who could very well afford to pay for these tests themselves. Since the Pap test is not an expensive one, at the same time not a prohibitive one for the medicare program to undertake, some may feel that it is also not prohibitive for individuals to pay for it themselves. This is not an unreasonable argument. Certainly it is a good bargain to be able to pay $17 twice a year for a test that could diagnose a cancer when it is just about 100 percent curable instead of skipping this test and taking the risk that one will not discover a cancer at that stage but that it might show up later when the chances of cure are much less.

I think that would be a bargain and I am sure that the missions of women who take this test religiously once or twice a year also think it is a great bargain. The problem, Mr. President, is not only that many of our elderly are also poor, but more importantly that many of our elderly women do not know about this test, or do not realize its importance.

Thus, they do not avail themselves of the opportunity of getting this tremendous bargain. As I mentioned before, every study that I have seen on the use of the Pap test has shown that most tests are performed on young women and that elderly women are least likely to have this test done. All this in spite of the fact that deaths from invasive uterine cancer are highest among elderly women.

Thus, Mr. President, my concern is that we find a way to encourage the use of this test, hopefully among all women, but at the very least among our aged citizens who are least likely to know about it, and to whom we have made a national commitment through medicare, of assisting with their health problems.

What I would hope is that every time a medicare recipient goes to a doctor's office, a clinic, or a hospital, regardless of the reason she is there, the doctor

who attends her, knowing that the Pap smear is covered by medicare, will inquire whether she has had this test in the last 6 months, and if not, would encourage her to have one done. For every doctor that is successful in that regard, Mr. President, and causes us to spend a few dollars from the medicare program to pay for that test, we will be saving the Federal Government and the people of this country thousands of dollars in what they would eventually have to pay out for treatment of advanced cases of cervical cancer. This is true, Mr. President, because programs for elderly diagnosis and prevention of uterine cancer are among the most cost-effective programs in the cancer area.

Furthermore, knowing that the test is covered by medicare will encourage women to go to their doctor to get it, even if they are feeling fine and would not otherwise go. This has a secondary benefit, too, Mr. President, because many doctors have noted that going for routine Pap tests is of tremendous importance in increasing discoveries of other diseases in their early stages because the patient then is likely to have a routine physical as long as she is there for the Pap test. And I do not believe there is any illness or disease that cannot be helped to a somewhat greater extent than when it goes undetected until it is far advanced. Thus, encouragement to routine administration of the Pap test would have three important advantages:

First, it would enable discovery of cervical and other uterine cancers at the earliest stage of the disease when they are much more easily curable, thus avoiding unnecessary deaths from this disease;

Second, it is a cost-effective program which would save the people of this country millions of dollars per year;

Third, it will encourage routine physical examinations during which other serious illnesses may be discovered in their early stages when cure or treatment is more effective, thus reducing deaths, incapacities, and financial costs due to those diseases.

Mr. President, in the interests of the health and welfare of every woman in this country, I hope the distinguished chairman of the committee will agree to accept my amendment.

Mr. LONG. Mr. President, I must say that each one of these amendments reduces the possibility of the bill becoming law, but if it does pass we are sure going to do a lot of good for people. I know I am right about my amendment; we will have someone helping these mothers to find those fathers who owe support for the child. The Bayh amendment will help women who have cancer by detecting it early and we will save a lot of lives. The Senator from Delaware will help a lot of families who lose their jobs because of the excess trade imports.

So I must say to the Senator from Delaware: Welcome to the club. I think the Senator now knows how it feels to have a bill that picks up amendments. I hope he does not find he has a Christmas tree bill by the time he is through because I know there is much merit in his effort to extend some additional assistance through a program that is now quite inadequate. I hope the Senator will prevail, and I hope other Senators will be tolerant if it should happen that the House just will not take these amendments.

Mr. BAYH. Mr. President, I thank the distinguished Senator from Louisiana, the chairman, and I apologize to my good friend from Kansas, Senator DOLE. He asked to be a cosponsor. I ask unanimous consent to have his name added to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question now occurs on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

Mr. ROTH. Mr. President, H.R. 11711 is designed to improve our Nation's adjustment assistance programs for workers and firms under the Trade Act of 1974.

In originally establishing trade adjustment assistance programs, the Congress recognized the fact that changes in foreign trade policies designed to enhance our overall prosperity do injure some workers, firms, and communities. Adjustment assistance helps those who are injured adjust to changing import conditions and patterns of international competitiveness. It is, of course, not the only remedy that import-impacted workers and firms have. The Trade Act of 1974 also provide other forms of import relief and protection against unfair competition. But adjustment assistance is an essential element in a balanced international trade policy.

I support strong and effective programs of adjustment assistance because those injured by changes in foreign trade policies are entitled to relief. Adjustment assistance can help maintain a strong, healthy, competitive, and productive American economy. Unfortunately, present programs are not as effective as they should be, and there have been a number of unintended inequities. H.R. 11711 will improve the effectiveness of these programs, correct inequities and extend benefits to a number of workers and firms that should be covered by trade adjustment assistance. It will also accelerate the provision of benefits, provide more realistic job search and relocation allowances, and strengthen industry-wide programs to adjust to import competition.

Title I of H.R. 11711 provides retroactive coverage to workers laid off prior to November 1976 who did not receive adjustment assistance benefits because of insufficient awareness about deadlines in the Trade Act of 1974 or who failed to file petitions in order not to prejudice other forms of import relief. This title also extends benefits to workers in firms providing articles or services essential to the production, transport, or storage of import-impacted articles. This provision removes current inequities where, for example, shoe workers may be certified, but American workers who tan leather or provide heels for the shoe factory equally impacted by shoe imports are ineligible because they do not manufacture articles affected by "like or directly competitive" imports. Title I also extends coverage to workers laid off after exercising labor union seniority rights and to workers employed in 40 of the 104 weeks preceding layoffs with one or more import-impacted firms. It extends assistance for workers over 60 years of age. These are the workers who find it most difficult to find alternative employment. It also contains various provisions to better publicize the program, expedite relief, extend job search and relocation allowances, and begin experimental training programs.

Title II of the bill extends assistance to firms which provide articles to directly impacted firms, increases technical assistance to firms, lowers the high rates of interest charged on direct loans to firms, and raises the ceilings on loans and loan guarantees to more realistic levels.

Title III establishes a new coordination mechanism between the Departments of Commerce and Labor and authorizes, in fiscal years 1980 and 1981, funds for industry-wide technical assistance and private sector studies of issues related to adjustment assistance.

This bill has strong, bipartisan support. It passed the House by a 261-to-24 margin. Senator JOHN HEINZ testified on its behalf before the Committee on Finance, while statements in support were submitted by Senator BIRCH BAYH, Congressman JOHN J. RHODES, and Congressman CHARLES A. VANIK. Senator BUMPERS is an added sponsor.

I believe the enactment of this legislation is all the more important in light of the multilateral trade negotiations now being concluded in Geneva and the possibility of additional trade liberalization. I urge my colleagues to join me in voting for this bill.

Mr. HEINZ. Mr. President, let me speak briefly on these two subjects in this bill. First, I am pleased to support H.R. 11711 which provides for a stronger, more effective adjustment assistance program for workers and firms.

My concern for this program grows out of its important role in Pennsylvania, a State with more than its share of import-impacted industries. Since 1975 more than 42,000 Pennsylvanians have been certified as eligible for adjustment assistance, more than any other State. In addition, a nearly equal number have been denied certification.

It is clear that as our trade problems—and our trade deficit—continue to grow, we are experiencing not just a cyclical downswing but a fundamental alteration in the international terms of trade that will be increasingly harmful. Particularly hurt will be workers in the impacted industries. In some sectors we are seeing management survive by diversifying into retailing and importing at the expense of their manufacturing capability in this country. In some cases they are moving their plants to lower cost labor areas abroad. In either case it is the American worker who is the primary victim.

There are many reasons for these unsettling developments. In some cases the problem is lower costs or more modern

equipment in a foreign nation. Some of our industries, frankly, have gotten old and tired and are an easy mark for foreign competition.

A more important reason, however, is the export subsidies, direct and indirect, provided to foreign manufacturers by their governments. Such subsidies, far beyond anything we provide in our own free enterprise system, destroy the free market and prevent our products from competing on an equal basis.

In either case it is the American worker who is the victim, and it is the worker that we have a responsibility to protect. Two such means of protection, of course, involve safeguard actions to provide a temporary bulwark against a surge of imports, and more aggressive enforcement of our various unfair trade statutes, not to mention amendments to those laws to make them more effective, such as Senator DANFORTH and I have proposed.

Beyond these preventive measures, however, we must also act on behalf of the workers and firms directly impacted by imports, knowing all the while that the magnitude of that task will be directly related to our success with the preventive efforts I have just described .

I do not intend to document at length the problems with the existing adjustment assistance program. There are many people who can speak to the problems from direct experience. Let me simply say, then, that I have never talked to anyone—in labor, in management, in Congress, or in the administration—who feels this program is effective and working the way it was intended to work.

The program for workers, though apparently not plagued by the inefficiencies of the program for firms, nonetheless is seriously defective because of the number of import-impacted workers it excludes, and because of its failure to provide true adjustment in the form of meaningful and effective retraining, job search, and relocation programs.

The business program is hamstrung by redtape and inefficiency in the form of a long, complicated path to be followed before actual assistance can be provided. The Commerce Department, to its credit, has made progress in improving its dialog with impacted firms so that what assistance is ultimately provided is more effectively targeted toward real adjustment in the form of improved management procedures and/or changes in product or production technique. Still, the program continues to have difficulties, most notably the restrictions and conditions on funds that are made available.

Mr. President, these problems are not new. They have been around for a long time and they are well identified. In an effort to begin action on solving these problems, I introduced in June 1977 what I believe is still the only comprehensive bill on the program that originated in the Senate this Congress.

S. 1658 would make a number of important changes. The period of time during which benefits could be received would be lengthened, and additional benefits would be provided for more senior workers. Similarly, eligibility to apply for the job search allowance is expanded.

The bill further expands eligibility by including:

First, workers separated from their jobs up to 2 years—instead of 1 year—before their petition was filed;

Second, workers and firms producing component parts of an import-impacted article or those engaged in the delivery or distribution of that article;

Third, workers who lost their jobs because they were "bumped" by more senior workers whose jobs were import-affected;

Fourth, workers laid off before the date of certification in a petition but whose continued separation is due to imports;

Fifth, workers with 20 weeks of employment—instead of 26—in the preceding year.

For firms, the process of application and certification is shortened, and the interest rate on direct loans is lowered.

In brief, Mr. President, these are the provisions of my bill. Subsequent to its introduction, Congressman VANIK and the other members of the Trade Subcommittee of the House Ways and Means Committee undertook to develop legislation along the same lines, I understand with some cooperation from the Administration. Their final product is H.R. 11711, which passed the House on September 8.

In many respects the version of H.R. 11711 that passed the House parallels my bill, particularly with regard to expansion of eligibility in the several categories I just mentioned. Of special importance is the retroactive coverage of those whose petitions were denied because of the requirement that separation take place no more than 1 year before the filing date of the petition. This provision, similar to section 2 of my bill, is of particular importance to the more than 6,000 steelworkers, among others, who fall into this category.

Beyond these similarities, however, H.R. 11711 goes beyond S. 1658 and includes provisions covering workers and firms threatened with a decrease in production in addition to those experiencing an actual decrease. The bill also expands the job search and relocation sections of the law and sets up a program of experimental training projects.

With respect to firms, in addition to the decrease in the interest rate on loans, loan and loan guarantee ceilings are raised and the Commerce Department is required to provide and pay for technical assistance to the extent the firm cannot do so.

In short, Mr. President, H.R. 11711 expands upon my earlier bill in overhauling the adjustment assistance program by streamlining it, enlarging coverage and placing its emphasis more directly on adjustment rather than maintenance. For this reason. H.R. 11711 deserves strong support.

Time is of the essence, Mr. President. The continuing growth of imports into the United States is creating an ever-increasing number of industries in trouble and workers whose jobs are threatened. Though we may disagree on the proper trade policy to deal with these problems, we all can agree that it is not the American worker who should bear the full impact of our trade deficit. An effective adjustment assistance program is essential to a just and dynamic economy, and there is no reason to delay in enacting the legislation that will make this program effective.

Adjustment assistance has often been scornfully, but accurately, called burial assistance—arriving only in time to dispose of the victim. We have an opportunity today to correct this situation in a cost-effective way by passing a bill which is the product of extensive hearings and markup in the House, albeit a more modest version. I urge the Senate to rise to this challenge, despite the lateness of the hour and approve this bill.

Second, Mr. President, the language in H.R. 11711 extending the President's authority to waive countervailing duties represents an effort to accommodate the concerns of the administration regarding the future of the multilateral trade negotiations with the very real congressional concern that it have adequate input into the policymaking process next January and February when the administration begins to develop its implementing legislation for the MTN.

In an effort to maximize that leverage I proposed and the Senate agreed last week to extend the waiver authority only to February 15, 1979. This date would keep our trade policy on a short leash and subject it to intense and meaningful congressional oversight.

The compromise embodied in this bill would maintain that date but would permit the President to extend it to July 30, subject to certain certifications and detailed explanations submitted to the Congress and subject to a two-House veto of such extension under expedited procedures.

In addition, new waivers may not be granted after October 15 except when the Secretary of the Treasury certifies that such new waiver of duty is necessary to get the country in question to become a signatory to the subsidies code now under negotiation in Geneva.

Finally, to add to the administration's leverage in obtaining worldwide concurrence with the subsidies code, the compromise contains a clause cutting off new waivers absolutely after February 15 to those countries which have not indicated their intention to sign the code.

Taken together, Mr. President, I believe these changes represent a substantial improvement both over the committee bill and the version adopted last week. By approving this compromise we increase the administration's leverage over other countries, particularly European countries that have been reluctant to subscribe to the subsidies code, and we also increase our own leverage in dealing with the Special Trade Representative and the President in insuring that the formulation of our trade policy will fully take into account the needs and concerns of the thousands and thousands of Americans impacted by imports unfairly traded in this country.

Mr. STEVENS. Third reading.

The PRESIDING OFFICER. If there

be no further amendment to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 11711), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 11711.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOUNDARY WATERS CANOE AREA WILDERNESS—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. ANDERSON, I submit a report of the committee of conference on H.R. 12250 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the proceedings of the House of Representatives.)

● Mr. ANDERSON. Mr. President, the Senate today is considering the conference report on H.R. 12250, the Boundary Waters Canoe Area Wilderness Act. The conference agreement is identical to the bill passed unanimously by the Senate on October 9, 1978.

The debate on this legislation in Minnesota has been long, emotional, and often misleading. I am pleased that Congress has exercised its will and made a decision which will end the uncertainty of how this area will be managed.

This bill will have a far-reaching affect on the economy of northeastern Minnesota. Many of the provisions of H.R. 12250 are specifically geared toward assisting local businesses in adjusting to the new management plan. Timber operators will be eligible for assistance in modifying their mill operations and $110 million will be available for timber stand improvements on Federal, State, county, and private forest land. New snowmobile trails and remote campsites will be developed outside the BWCA. New hiking and cross country ski-trails will be developed inside the wilderness near existing resorts. Any resort owner who feels that they can no longer remain in operation under the new management plan has the option of selling their property to the Government. Clearly, the USDA would be expected to make timely payments to resort owners who elect to require the purchase of their resorts.

On a lake where a resort has been purchased, the private property on that lake if offered for purchase must first be offered to the Federal Government. Within a period of 100 days, the Government must exercise its purchase option. This includes a commitment of earnest money and full payment within a reasonable time frame. If the Federal Government chooses not to exercise its option, the property can be sold on the open market. It is the intent of this legislation that private property owners would be able to accept a reasonable offer lower than the price offered to the Government in order to allow for a reasonable negotiation of price.

The State of Minnesota owns 26 percent of the surface area (land and water), in the Boundary Waters Canoe Area. There are over 1,000 bodies of water in the Boundary Water's Canoe Area. The State of Minnesota owns all of this water, as well as 10 percent of the wilderness land area. Jurisdiction over waters is a crucial matter of concern to the State of Minnesota. The State of Minnesota, since its creation has maintained jurisdiction over all the water within its boundaries. It is not the intent of this legislation to alter these jurisdictional rights which have been vested in the sovereign State of Minnesota.

Mr. President, I urge the Senate to accept this new management for this unique lakeland area and send it to the President for his signature.●

Mr. ROBERT C. BYRD. Mr. President, I move the adoption of the conference report.

Mr. STEVENS. There is no objection to the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table. The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Virginia, HARRY F. BYRD, Jr., my cousin, c-u-z-i-n.

Mr. HARRY F. BYRD, JR. I thank the majority leader.

UNANIMOUS-CONSENT AGREEMENT—MANASSAS BATTLEFIELD PARK

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that for the remainder of the current session any legislation coming before the Senate which concerns the Manassas Battlefield Park, whether it be so identified or whether it be identified by reference, that the clerk be instructed to strike that from the legislation.

Mr. STEVENS. Mr. President, there is no objection on this side to that procedure.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—ANTIQUITIES ACT

Mr. ROBERT C. BYRD. Mr. President, I make the same request on behalf of Mr. DURKIN with respect to the Antiquities Act.

Mr. STEVENS. Mr. President, reserving the right to object, in that regard I understand Senator DURKIN refers only to suspending the power of the President to use the Antiquities Act and not anything that might further its use or define its use, et cetera.

Mr. DURKIN. Mr. President, reserving the right to object, what I intended was that any powers that the President or the Secretary now have, BLM, Organic Act, Antiquities Act, whatever have you, that any reference to those powers, any deletion of those powers that he had.

Mr. STEVENS. I might say to my friend the House of Representatives does have an omnibus parks and procedures bill that deals with those. The Senator is not talking about legislation that has already cleared by the committee and passed here and might come back here for further action. He is talking about a new amendment which might inhibit the use of the President's powers under the Antiquities Act, is he not?

Mr. DURKIN. Or any others powers he may have.

Mr. STEVENS. Or any other powers he may have.

Mr. DURKIN. With respect to Alaska.

Mr. STEVENS. I understand what the Senator is doing.

I have no objection. I just do not want to invalidate these bills that might come back here with technical amendments we already passed.

Mr. DURKIN. That is not my intent.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. STEVENS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Pennsylvania.

UNANIMOUS-CONSENT REQUEST—H.R. 11711

Mr. HEINZ. Mr. President, I ask unanimous consent that if the House of Representatives does not agree to the section of H.R. 11711 that contains the waiver authority on countervailing duties as written here by the Senate that it not be in order to take up that bill.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I want to be sure that this request is cleared on this side of the aisle. Can the distin-

guished Senator indicate whether or not it has been and if so by whom?

Mr. HEINZ. I cannot indicate that it has been cleared. I think it will be all right with Senator LONG, but I cannot so indicate.

Mr. ROBERT C. BYRD. Will the Senator withdraw the request until it can be cleared?

Mr. HEINZ. Let me withhold.

Mr. ROBERT C. BYRD. I thank the Senator.

TIMING REQUIREMENTS ON REVENUE LAWS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 7320.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1, 2, 3, 4, and 5 to the bill (H.R. 7320) entitled "An Act to revise miscellaneous timing requirements of the revenue laws, and for other purposes."

Resolved, That the House agree to the amendment of the Senate numbered 6 to the aforesaid bill with the following amendment:

Page 4, strike out all after the matter after line 2, down to and including line 9, and insert:

(c) The amendments made by this section shall apply with

Resolved, That the House disagree to the amendment of the Senate numbered 8 to the aforesaid bill with the following amendment:

Page 7, line 2, strike out "SEC. 12," and insert: SEC. 11.

Resolved, That the House disagree to the amendment of the Senate numbered 7 to the aforesaid bill.

Mr. STEVENS. Mr. President, I move the Senate concur in the House amendments to this bill.

Mr. ABOUREZK. Mr. President, may we find out what this does?

Mr. STEVENS. This is a bill that was sent to the House as amended by the Senate amendments. It was held to the last frankly because no one wanted it to have amendments put on it and send it back to the House again. The bill deals with the timing requirements of the revenue laws.

Mr. ABOUREZK. What does that mean?

Mr. STEVENS. My friend, all I know is I do what I am asked to do. It has been cleared on both sides and held to the last so it would not become a Christmas tree.

Mr. ABOUREZK. I wonder if I could just take a look at it.

Mr. STEVENS. Be my guest.

I am told it adjusts the timing requirements for the Internal Revenue Service. It was cleared by all concerned.

(Later the following occurred:)

Mr. STEVENS. Mr. President, to complete the action on H.R. 7320, I move that the Senate recede from its amendment numbered 7.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I renew my request that the Senate concur in the House amendments to H.R. 7320.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendments.

The motion was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORITY TO ACQUIRE CERTAIN LANDS FOR THE MINNESOTA CHIPPEWA INDIANS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 14224, authorizing land acquisition for the Minnesota Chippewa Indians.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 14224) to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read the first and second times and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill is open to amendment. If there be no amendment to be proposed, the question is on the third reading of the bill.

The bill (H.R. 14224) was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SMALL BUSINESS COMMITTEE TO FILE A REPORT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate Small Business Committee be permitted to file a report on the role of small business in technological innovation during the forthcoming adjournment of the Congress.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAUL G. ROGERS FEDERAL BUILDING

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate H.R. 14295 which names a building in Florida after Paul Rogers.

The PRESIDING OFFICER. Without objection, the clerk will state the bill by title.

The legislative clerk read as follows:

An act (H.R. 14295) to designate the "Paul G. Rogers Federal Building".

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Rhode Island have a comment?

Mr. CHAFEE. Is this the building named after Mr. Rogers?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. Are there any other amendments to it?

Mr. ROBERT C. BYRD. I know of no amendment and I was going to ask that there be no amendments.

Mr. CHAFEE. Could the Senator make that request?

Mr. ROBERT C. BYRD. Yes. I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Could I also make a request that he was willing to name some buildings after Republicans?

Mr. ROBERT C. BYRD. Yes. May I say to the distinguished Senator that the majority leader initiated a resolution a few years ago which resulted in the naming of the so-called New Senate Office Building the Everett Dirksen Building, and the so-called Old Building the Richard B. Russell Building. So the distinguished Senator will know that I am very much in favor of being nonpartisan and bipartisan but never partisan.

Mr. CHAFEE. Will the Senator yield at that?

Mr. ROBERT C. BYRD. Yes.

Mr. MUSKIE. I reassure my good friend from Rhode Island that in the early hours this morning a public building in Maine was named for my predecessor Frederick G. Payne, who was here before I came.

Mr. CHAFEE. That is a very good draw, one named in Washington and three, including Rogers, today. How about tomorrow?

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. CHAFEE. I know what the Senator is going to say.

Mr. DURKIN. I was going to suggest the new Federal building in Providence be named the Richard Nixon Building. [Laughter.]

Mr. CHAFEE. I thought the Senator was going to say the building that was named for Norris Cotton.

Mr. ROBERT C. BYRD. Does that settle it?

Mr. CHAFEE. That causes me to regroup. On that basis I have no objection.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, on behalf of the two Senators from Florida I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE HUGH SCOTT ROOM AND HARRY FLOOD BYRD, JR., ROOM IN THE CAPITOL

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Pennsylvania wish me to yield to him?

Mr. HEINZ. Mr. President, I ask unanimous consent that it be in order to take up Calendar Order No. 247, Senate Resolution 191.

Mr. ROBERT C. BYRD. What is that?

Mr. HEINZ. That is the designating of the Hugh Scott room——

Mr. ROBERT C. BYRD. I will make a deal with the Senator. I will call that up if I can get consent on the Senator's side to call up a couple of resolutions that I have in mind.

Mr. HEINZ. The Senator asks an unreasonable pound of flesh.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate, at 12:29 p.m., took a recess, subject to the call of the Chair.

The Senate reassembled at 12:31 p.m., when called to order by the Presiding Officer (Mr. SARBANES).

The PRESIDING OFFICER. May we have order in the Senate?

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for 1 minute, for the purpose only of considering the nominations beginning on page 2 of the executive calendar with Rural Electrification Administration, Railroad Retirement Board, and National Corporation for Housing Partnerships, and, under New Reports, for the U.S. Army, Navy, Air Force, Marine Corps, and Coast Guard.

Mr. STEVENS. Mr. President, reserving the right to object, and I will not object, I understand that would confirm all of the nominations on pages 2, 3, and 4 of the executive calendar, except that we have already confirmed item No. 360.

Mr. ROBERT C. BYRD. The Senator is correct.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the first nomination.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered and confirmed en bloc, and that a motion to reconsider the vote be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered; the nominations are considered and agreed to en bloc, and a motion to reconsider the vote by which the nominations were confirmed is laid on the table.

The nominations considered and agreed to en bloc are as follows:

RURAL ELECTRIFICATION ADMINISTRATION

Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration.

RAILROAD RETIREMENT BOARD

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

Patricia K. Ritter, of Connecticut, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

Kennon V. Rothchild, of Minnesota, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

Herman J. Russell, of Georgia, to be a member of the Board of Directors of the National Corporation for Housing Partnerships.

U.S. ARMY

Maj. Gen. Pat William Crizer, to be Lieutenant general.

Lt. Gen. Charles James Simmons, to be Lieutenant General.

U.S. NAVY

Medical Corps

Almon C. Wilson, to be Rear Admiral.

J. William Cox, to be Rear Admiral.

Supply Corps

Shirley D. Frost, to be Rear Admiral.

Gerald J. Thompson, to be Rear Admiral.

Civil Engineer Corps

William M. Zobel, to be Rear Admiral.

Dental Corps

John B. Holmes, to be Rear Admiral.

Nominations placed on the Secretary's desk in the Coast Guard, Air Force, Army, Navy, and Marine Corps, as follows:

Coast Guard nominations beginning Richard B Cole, to be lieutenant commander, and ending Robert W. Renoud, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Coast Guard nominations beginning Raymond E. Womack, to be captain, and ending Donald G. Kneip, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on October 2, 1978.

Air Force nominations beginning George A. Ferre, to be lieutenant colonel, and ending James C. Kasperbauer, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Air Force nominations beginning Kenneth S. Akom, to be first lieutenant, and ending Kent M. McLean, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on October 2, 1978.

Air Force nominations beginning William E. Johns, to be captain, and ending Norman V. Blackmon, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on October 6, 1978.

Army nominations beginning Thomas J. Egan, to be colonel, and ending Phillip E. Hadley, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Army nominations beginning James W. Abbott, to be first lieutenant, and ending Donald R. Weyhrich, to be first lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Army nominations beginning Joe D. Beasley, to be colonel, and ending David Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on October 2, 1978.

Navy nominations beginning Ernesto A. Aban, to be chief warrant officer, W–2, and ending John A. Zembuch, to be chief warrant officer, W–2, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Navy nominations beginning Robert L. Black, to be lieutenant (jg.), and ending Michael F. Runyan, to be lieutenant (jg.), which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Navy nominations beginning Anthony P. Belmont, to be captain, and ending Maurice D. Bain, to be lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Navy nominations beginning James F. Wetzel, to be captain, and ending Robert E. Osmon, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on October 6, 1978.

Marine Corps nominations beginning Harry F. Barnes, to be colonel, and ending Eva G. Spelter, to be second lieutenant, which nominations were received by the Senate and appeared in the Congressional Record on September 6, 1978.

Marine Corps nominations beginning Kelly R. Alexander, to be second lieutenant, and ending John F. Sherman, to be captain, which nominations were received by the Senate and appeared in the Congressional Record on September 25, 1978.

Marine Corps nominations beginning Tommy L. Adair, to be lieutenant colonel, and ending Mary S. League, to be lieutenant colonel, which nominations were received by the Senate and appeared in the Congressional Record on October 6, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate resume the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 84–689, appoints the Senator from Maine (Mr. HATHAWAY) as an alternate delegate to attend the North Atlantic Assembly, to be held in Lisbon, Portugal, November 26–30, 1978.

ANNOUNCEMENT OF SUITE SELECTION PROCESS

Mr. ROBERT C. BYRD. Mr. President, the cooperation of all Senators who will be in the 96th Congress to expedite the suite selection process will be needed during November, December, and January after the results of the general elections in November are known.

The leadership of the Senate in both

the minority and majority join in encouraging all Senators to extend their cooperation to the Committee on Rules and Administration so that the selection process can move swifty and smoothly.

A major reason for expediting the selection program is to avoid having newly elected Senators work in crowded conditions in temporarily assigned suites any longer than is absolutely necessary.

The only way that has been found to move new Senators into their permanent suites as soon as possible is for incumbent Senators immediately to make their choice of a new suite, if they wish, as their names come up in seniority.

The staff of the Rules Committee will soon be delivering to each Senator a letter from the Rules Committee which asks that each Senator name a senior member of his staff to act on behalf of the Senator, if necessary, in making a decision involving a new suite.

When the Senator's name is reached on the roster, the Senator then has 24 hours to make his decision, unless, of course, he wants immediately to pass.

This procedure was followed 2 years ago and worked extremely well, cutting the selection process time by several weeks. If every Senator were to take his full 24 hours it would still take more than 3 months to complete the process.

If the process is to start immediately after the election, utmost cooperation is necessary to avoid undue delay and frustrations. Surely, no one wants to put this off until January or to have it begin in November and not have it move along quickly and efficiently on a 24-hour-decision basis.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess, awaiting the call of the Chair.

There being no objection, at 12:31 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 1 p.m., when called to order by the Presiding Officer (Mr. MELCHER).

RECESS UNTIL 1:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

Mr. CANNON. Mr. President, reserving the right to object, will the Senator make the order so that it might be vitiated if we can work out something on another bill?

Mr. ROBERT C. BYRD. I would like to say at the call of the Chair, which keeps everybody around here anticipating a call of the Chair.

Mr. CANNON. Will the Senator make it at 1:45?

Mr. ROBERT C. BYRD. Yes.

Mr. President, I ask unanimous consent that the Senate stand in recess until 1:45 p.m. today.

There being no objection, the Senate, at 1:01 p.m., recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CANNON).

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2:15 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 2:15 p.m. today.

There being no objection, the Senate, at 1:47 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MELCHER).

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 2:15 p.m., recessed subject to the call of the Chair.

The Senate reassembled at 2:35 p.m. when called to order by the Presiding Officer (Mr. MELCHER.).

EMERGENCY HIGHWAY AND TRANSPORTATION REPAIR ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of H.R. 10979, and that the Senate proceed to its immediate consideration.

Mr. ABOUREZK. Mr. President, reserving the right to object, I ask the majority leader, is this the bill that contains a number of water projects?

Mr. ROBERT C. BYRD. Yes, that is correct.

Mr. ABOUREZK. And, if I understand it correctly, there are two projects in that bill that deal with my State of South Dakota.

Mr. ROBERT C. BYRD. Now, I cannot answer that question. I am advised, however, that the Senator is correct.

Mr. GRAVEL. Yes, there are two projects.

Mr. ROBERT C. BYRD. Senator GRAVEL answers in the affirmative.

Mr. ABOUREZK. Mr. President, the last time that I saw that sheet of paper was about 5:30 this morning.

Mr. GRAVEL. There are two projects.

Mr. ABOUREZK. At which time it was brought out in a big hurry, and there was no time to look at it.

Since that time, I would say that I have talked with my colleague (Mr. McGOVERN) and looked it over, and I do not wish to object any further. In fact, I wish to defer to my senior colleague from South Dakota (Mr. McGOVERN).

Mr. PROXMIRE. Mr. President, reserving the right to object, I realize that at the present moment we are in a very difficult situation, that any rollcall or live quorum would greatly inconvenience the Senate and make it extremely difficult for us to finish our business, and I do not want to do that.

But I ask the distinguished Senator from West Virginia if this bill is different from the bill that has been on the calendar, and has been discussed in the past. Is this a new bill, or is it the same one?

Mr. ROBERT C. BYRD. It is rebuilt, but I defer to the distinguished Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. This is the same as what had passed the Senate at an earlier time this year, and the same as what had passed the House at an earlier time this year. As to differences from what was offered earlier today, there is no canal study involved, and one House veto has been taken out, but by and large it is the projects I think the Senator is familiar with.

Mr. PROXMIRE. Mr. President, if I may reserve my right to object just one more time, I do think under the circumstances, with probably two-thirds of the Senate gone, and with a bill that Senators have not had an opportunity to pass on, debate, discuss, or have a chance to challenge or understand what is there, I am going to make this as short as I can, and I am going to do it in reasonable time, but I do think we ought to have a full and complete discussion of this bill.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. PROXMIRE. Yes, indeed.

Mr. ROBERT C. BYRD. What does the Senator mean by "reasonable"?

Mr. PROXMIRE. Well, I think a couple of hours.

Mr. ROBERT C. BYRD. Mr. President, I am not going to argue.

Mr. PROXMIRE. Mr. President, the bill can pass. I think we ought to know what we are doing.

Mr. ROBERT C. BYRD. I do not think we will know any more in 2 hours.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

There being no objection, the Senate at 2:41 p.m. took a recess subject to the call of the Chair.

The Senate reassembled at 2:43 p.m., when called to order by the Presiding Officer (Mr. ABOUREZK).

EMERGENCY HIGHWAY AND TRANSPORTATION REPAIR ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I renew my request. I ask unanimous consent that the Committee on Environment and Public Works be discharged

from further consideration of H.R. 10979, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 10979) to provide emergency assistance for the repair of certain weather related damage to highways and urban mass transportation systems due to the winter of 1977–1978.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, it is my understanding we intend to strike everything after the enacting clause and substitute an entirely new bill. Is that bill before the Senate?

The PRESIDING OFFICER (Mr. ZORINSKY). It is before the Senate.

Mr. GRAVEL. Mr. President, what is in this bill is essentially what has already passed the Senate on two occasions, and what has passed the House on one occasion.

Of all of the elements, most have passed the Senate. When the bill passed the House these items were put all together and put in one package, and it is the package we have here.

By and large, I would say 85 to 90 percent of the items have had hearings, either in the Senate or in the House.

Mr. MAGNUSON. Will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. MAGNUSON. Every project in the bill has been thoroughly scrutinized by the Public Works Committee.

Mr. GRAVEL. Of one of the Chambers.

Mr. MAGNUSON. And there is testimony that some of the projects have been long-examined by the Army Engineers or the Bureau of Reclamation and the B–C ratios are very good.

Mr. GRAVEL. On most of the projects, I would say that is the case.

Mr. STEVENS. Mr. President, the Members of the Senate on our side of the aisle who handled this bill are en route home at this time. It is not possible for me to contact them. I have discussed the matter with the minority leader.

We have not had time to really examine this bill in detail, but the staff of the minority of the Public Works Committee has examined it.

I am informed there is no authorization of any project here that does not have the approval of the sponsor of the project.

Mr. GRAVEL. The Senator is correct.

Mr. STEVENS. I am informed that there is no authorization here for expenditure of funds in this fiscal year.

Mr. GRAVEL. The Senator is correct.

Mr. STEVENS. And I am informed that there is no project in this bill that did not pass either the Senate or the House at least once previously.

Mr. GRAVEL. That is correct.

Mr. STEVENS. When I spoke about authorization, I was speaking about fiscal year.

Mr. GRAVEL. Yes.

Mr. STEVENS. There is no authorization for fiscal year 1979.

Under the circumstances, having conferred with the majority leader, it is my feeling, in view of the conservations I have had with the leadership in the House, that the bill should move. I urge the majority leader to so move.

TENNESSEE-TOMBIGBEE HUMAN RESOURCE CENTER

● Mr. BAKER. Mr. President. as a sponsor of one provision of the bill presently under consideration, I would like to offer the following background and explanation:

I refer specifically to section 134 of the pending bill, which with a few modifications is the same as section 401 of H.R. 8309, passed on May 2, 1978, by the Senate.

This provision creates a Human Resource Center to promote minority employment in the Tennessee-Tombigbee Waterway.

I would like to note that the junior Senator from Tennessee (Mr. SASSER) joined me in sponsoring this amendment to H.R. 8309.

Mr. President, in August of 1977, the Corps of Engineers filed a report pursuant to the provisions of section 185 of the Water Resources Development Act of 1976 regarding the participation of minorities in the construction of the Tennessee-Tombigbee Waterway project. This report indicates that while the corps has undertaken to improve the utilization of minority resources on this project, their efforts have so far fallen short of their goals. Specifically, while minority employment has increased on the project, minority employees are heavily concentrated in the lowest-pay, lowest-skill jobs and minority contracts awarded on the project account for substantially less than 1 percent of project expenditures.

As you know, this project, located in the States of Tennessee, Mississippi, and Alabama, is surrounded by a substantial minority population. I believe that it is imperative that the Congress act to bolster efforts to provide for minority participation in the planning and construction of this project.

Toward that end I have drafted a proposal for the establishment of a Human Resource Center which will oversee minority employment, assist in the coordination of Federal training programs to establish adequate minority skills, provide information to minorities regarding the availability of employment and construction opportunities and report annually to Congress regarding the status of minority employment on the project and the impact of project planning upon the distribution of project benefits among the communities affected by it. The center will be under the direction of an Advisory Committee composed of representatives of the States, the Corps of Engineers, other involved Federal agencies and organizations representing minority interests.

The center will consist of a board of directors with nine members as follows:

A representative to be selected jointly by the Governors of Tennessee, Alabama, and Mississippi;

A representative of the Tennessee-Tombigbee Waterway Authority;

A representative of the Corps of Engineers:

A representative of the Department of Labor:

A representative of the Department of Commerce, Office of Minority Business Enterprise;

A representative of the Minority Peoples Council, a local organization with an office in Gainesville, Ala., which has been actively working to enhance minority participation in the Tenn-Tom project;

A representative of the NAACP;

A representative of the American Federation of Labor/Congress of Industrial Organizations; and

A representative of the Equal Employment Opportunity Commission.

The center will also have an executive staff to compile information, to assist in the preparation of an annual report, and to disseminate information to minorities regarding the availability of employment and construction opportunities.

In addition to its minority information function, the center will assist in the coordination of training programs for minority and monitor progress in three areas:

First, to assure that minorities are employed in representative numbers, and at representative levels of skill and pay;

Second, to assure that the minority set-aside programs and minority subcontract programs are effective; and

Third, to assure that planning for the location, design, and operation of project facilities will provide for an equitable distribution of project benefits among the various communities along the project.

The purpose of this amendment is to assure the full participation of minorities living within the project area in the principal benefits of the project, including the development of industrial and commercial centers and other similar benefits which will arise as a result of the construction of the waterway. This is also intended to include any ongoing studies which relate to the project, such as the corridor study. It is recognized that the waterway itself is to be built substantially in accordance with Public Law 79–525, as more fully described in House Document 486, 79th Congress 2d session. It is not the intention of this amendment to effect an annual review of the design of the project as previously authorized by Congress.

The center will submit an annual report to Congress, containing an inventory of progress in minority involvement in the construction and planning of the Tenn-Tom project, an evaluation of efforts to enhance minority participation, and the recommendations of the board of directors with regard to modifications of the programs and policies affecting minority participtiption.

This annual report will provide valuable information, and data regarding the quality of minority involvement and will focus efforts to overcome impediments to full utilization of minority resources. It will be a valuable tool to the Secretary in developing policies for project construction and planning and in the

coordination of interagency programs. The recommendations of the Board will provide guidance for congressional oversight and action.

The center will provide a broad based and independent council to assist minorities to obtain and equitable opportunity to participate in the Tenn-Tom project. It will help draw together diverse responsibilities and viewpoints, so that traditional impediments to minority participation can be more expeditiously overcome. It will, hopefully, foster an atmosphere of cooperation so that minority hiring goals will be achieved as a joint undertaking.

The center will afford a valuable resource also to the Corps of Engineers which has initially undertaken the minority resource planning, but which as an engineering and construction organization, is not suited by its basic mission to manage this complex social task.

The Minority Peoples Council was created by the Federation of Southern Cooperatives in an effort to overcome the impediments to minority hiring on the Tennessee-Tombigbee Waterway project. The Council has worked actively to increase awareness of the magnitude of the problem and to bring public and private resources to bear on it.

The membership of this organization on the board of directors will assure continuity in the effort already begun to increase minority participation in this project.

The National Association for the Advancement of Colored People has long been recognized among the leaders of civil rights organizations. Its membership on the board of directors will greatly broaden the resources and perspective of the board.

But the NAACP will additionally afford the black community the opportunity to make the center a model for future action. Minority employment programs have frequently fallen short of their goals in rural areas especially where major public works projects are involved. The problems of coordinating Federal efforts to provide training and to focus on specific impediments to minority hire are compounded in rural areas. The center concept may offer a method of supplying the coordination and focus needed to meet this problem.

The proposal I have drafted calls for consultation by the center with several organizations which have played a vital role in advancement of minorities in the Southeast region. It is my hope that the board of directors will utilize the knowledge and expertise of these groups to advance the purposes of the center.

In limiting the size of the board to nine members, it was regrettably necessary to leave off representatives of organizations which have performed valuable services to the minority communities surrounding the project. But in order to assure that the board is compact enough in point of view to be a dynamic and forceful body, its size is limited to nine members. The board consulting authority of the center will provide for involvement of all organizations who can contribute to the advancement of minority interests.

It is clear that the Minority Resource Center must maintain a focus on the programs and policies which directly relate to the construction and operation of the Tennessee-Tombigbee project if it is to be an effective force in the ultimate design of the project. It is equally clear that a substantial part of the problem and opportunity for minority participation involves the economic impacts of the project which derive from secondary project benefits such as the growth of the construction industry in the area and the establishment of industrial and private investment encouraged by the project.

For this reason the center is charged to monitor the planning and policies directly affecting the distribution of project benefits among minority communities, to evaluate the involvement of minorities in organizations which control or influence decisions regarding project design, construction, and operation and decisions which affect the distribution of secondary project benefits, and to submit to Congress its findings with regard to the adequacy and effectiveness of these programs and policies.

This range of responsibilities should assure that while the project focus of the center is maintained, the range of impacts from the project which the center considers should be comprehensive rather than narrow.

In the statutory statement of purposes of the center, the word "oversee" as used in the Senate passed H.R. 8309, has been charged to "monitor" as an accommodation to House Members who expressed concern that the Senate language might lead to unnecessary and detrimental interference in the management of project contracts. The term "monitor" is carefully chosen to indicate that the center is vested with a responsibility to review the progress of minority involvement actively through actual onsite inspections as well as through collection of contract and personal data.

In the performance of its functions, the center is encouraged to assure equitable practices affecting minority hiring and contracting through interaction with the Corps of Engineers and project contractors and subcontractors, but the center is not empowered to veto project decisions nor otherwise to interfere with the execution of contracts.

It is the hope of the sponsors of this provision that the center will be able to promote an amicable coordination of minority and project goals, acting in an advisory capacity.

While the center is not given direct authority or jurisdiction over the agencies and organizations which have charge of the construction or planning of the project, the term monitor is meant to indicate that the center should actively involve itself in influencing the course of the project through routine interaction with those agencies and organizations.

The Tombigbee project is almost 30-percent complete and is moving rapidly toward its scheduled completion date. It would be clearly inadequate were the center to view as its mission simply to review the progress of the lack of progress in the accomplishment of minority goals so that it could report findings to Congress. That is an important part of the center's function to be sure, but beyond that the center should provide immediate input and guidance where possible in an effort to influence policies and programs toward better utilization of and service to the minority community as quickly as possible.

Mr. President, the amendment provides that the costs of the center and the corps' training effort will not be charged against the costs of the project. This is done, because neither are the benefits of minority advancement and training attributed to the project. I believe that this is an indication of an inadequacy in the benefit-cost analysis of this project and others subject to such analysis. Should this matter be corrected, of course, these costs might then be properly attributed to the project.

The authorization for the center has been limited to 3 years as an accommodation to House Members who had expressed concern. Construction of the project, however, is expected to last through the middle of the next decade. I anticipate that if the center demonstrates that it is an effective mechanism for promoting minority goals on this project, its authorization will be extended through the completion of the project.

● Mr. SASSER. Mr. President, I am proud to support and to cosponsor the provision authored by my senior colleague, Mr. BAKER. It is time that Congress recognized the unique needs of the people in the area affected by the Tennessee-Tombigbee project. The Human Resources Center will fill a need which we have come to recognize clearly in the past several years. That need is to assist the residents of Tennessee, Mississippi, and Alabama in taking full advantage of the opportunities that this project offers.

To this end, I am particularly pleased that the provision calls for "such branch offices as are necessary to serve as information clearinghouses." Further than that, I wish to encourage the center, when informed, to establish one or more mobile information centers in order to bring the opportunities to those people in the most isolated parts of the project area. With an "information van," the message of the center could be affirmatively and aggressively brought to all the people of the region.

I wonder if my distinguished colleague could comment on whether or not he considers the concept of mobile information centers within the meaning of branch offices as that term is used in this amendment.

Mr. BAKER. I thank my colleague for bringing the possibility of mobile "branch offices" to my attention. Indeed, I do think that mobile information centers could be usefully deployed in the project area and I consider the language of section (d)(1) of section 134 broad enough to provide for such vehicles.

Mr. SASSER. Mr. President, mobile information centers would do several things which are not now being done.

First, they would provide visibility for the efforts of the Government to provide the opportunities which the region has not previously had. Second, they would provide accurate information about the project. Third, used effectively, they would reduce the need to establish large numbers of small permanent offices of the Human Resource Center.

I thank my colleague and I look forward to the establishment of the Human Resource Center and the good which will come from it.●

● Mr. DOMENICI. Mr. President, I wish to state my opposition to enactment of this bill, and urge its defeat. Should that not occur, I urge the President to veto this unsound bill. It is with reluctance that I take this position, for there are many sound projects and provisions in this bill, ones that meet anyone's standards of wise water policy and sound investment. For example, there are three projects in this bill of great interest to the people of New Mexico, projects that contain no significant controversy. Nevertheless, those three provisions are inadequate, in my mind, to overcome the many objectionable provisions in this bill. I do not believe it is wise to accept many unwise provisions and precedents to get a few sound and needed provisions. We can do that next year.

Let me run down several of these items that I believe merit a "nay" vote on this legislation.

First, a number of provisions in this bill lack a positive benefit-cost ratio. Nevertheless, the amendment overrides that requirement, and says "build it," even though the project is a net loss to the economy. I personally have many concerns over the adequacy of the benefit-cost process. Yet this selective preemption of the B–C ratio is not the way to repair it. These proposals include the Sacramento River bank protection work, a project at the mouth of the Colorado River in Texas, and one at Pottstown, Pa. The economic evaluations are waived on the project at Gulfport Harbor, Miss. which is designed essentially to benefit a single corporation—the DuPont Co.

Second, a number of projects in this bill are authorized, even though no Federal agency has ever studied them, or the study is so preliminary that we know next to nothing of what the taxpayer is paying for. That is a bad policy, a bad precedent.

A dock owner in Savannah, Ga., is receiving at full Federal cost, the money to build himself a brand new dock, far better than the one he now uses.

There is language on the Trinity River project in Texas to hype the benefits to include so-called regional benefits, which are essentially ones stolen from another area of the country. Benefits to the region which are new and not subtracted elsewhere are included already in the so-called national economic development benefits.

We are even spending $180,000 to refurbish six houses at Dalecarlia Reservoir in the District of Columbia so corps officers can live there at subsidized rents.

Now, let us talk about the dollars in the bill. Officially, they are somewhere around $2 billion. But that is fiction, a low fiction. A number of projects are funded for full consideration at a very low increment of their total cost, and only that increment counts in the $2 billion. The difference appears to be close to $1 billion on corps projects (for example, on the McNary powerhouse work, the bill shaves at least $473 billion off the real cost through this process) and maybe another $2 to $3 billion—water supply tunnels for New York City. There are many provisions requiring that the Federal Government assume costs now legitimately a local cost. This total cost cannot be computed quickly, but may run to the tens of millions of dollars.

And the $2 billion is an "estimated" cost, often using estimates that are 2 years old.

Mr. President, I could go on and on. But in general, I urge that this bill be defeated. I would hope that if this bill does not become public law that we can, early in the next Congress, consider a stripped down bill with sound, noncontroversial projects.●

Mr. ABOUREZK. Will the Senator yield?

Mr. GRAVEL. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAVEL. I understand the substitute has not been offered. May I offer the substitute?

Mr. ABOUREZK. Before the Senator does that, may I direct an inquiry to the Chair?

With respect to the unanimous-consent agreement entered into previously, I think this morning, there were two agreements. One dealt with Manassas Park and the other dealt with the prohibition of repeal of the Antiquities Act with respect to Alaskan lands.

Will those agreements still stand in spite of the request made by the Senator from Alaska?

Mr. GRAVEL. I have no knowledge of the Manassas situation. There is nothing about Manassas in this bill.

Mr. ABOUREZK. That is not my question. My question is will those unanimous-consent orders be affected by the request of the Senator?

Mr. STEVENS. I might state that there as a direction by unanimous consent to the clerk to delete any reference in any bill that passed this body before adjournment which further those two subjects. That still stands, it is my understanding.

The majority leader, I am sure, will affirm it.

It is my understanding, also, and I will put that into the RECORD, that there are no nongermane amendments in the bill.

Mr. ABOUREZK. Is that the Chair's understanding, that these two unanimous-consent orders will not be affected by this agreement?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Am I correct in my statement for the RECORD that there are no nongermane amendments in these bills? These bills are strictly public works projects and no nongermane amendments are in this bill.

Mr. GRAVEL. I think the Senator is correct. I personally have leafed through all the bill.

The PRESIDING OFFICER. The Chair cannot assure that there are no nongermane amendments.

Mr. GRAVEL. A parliamentary inquiry. Could the Chair enlighten the junior Senator from Alaska as to what is the unanimous-consent agreement with respect to Alaska lands?

The PRESIDING OFFICER. That the clerk be authorized to strike from any bill passed today any section dealing with that subject.

Mr. GRAVEL. I just want to say for the record that I have been a party to no language or the creation of any language that will deal with that subject in any way.

Mr. ROBERT C. BYRD. What subject?

Mr. GRAVEL. The antiquities bill.

I now offer the substitute amendment.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

The Senator from Alaska (Mr. GRAVEL) proposes unprinted amendment No. 2134.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, before I question my friend from Alaska about the bill, I would like to make a brief statement.

I very strongly oppose this bill. As I say, I am going to be as quick as I can, go through it as much as I can and get as much information as possible. On the voice vote, I shall vote against the bill. But I think I have a right to do this. In fact, I think under the circumstances, I have a duty to do it.

This is a very costly bill, costing hundreds and hundreds of millions of dollars. I think most of that money is wasted. I think I can establish that to the satisfaction of any objective observer. There are a great many projects in here that have no business being in here. I think I can explain what I mean.

Mr. President, of the 51 projects authorized for construction, 37—that is about three-quarters—have not been reviewed and approved by the Chief of Engineers. Many of these authorizations are based on no Federal study at all while others are authorized in spite of an unfavorable review by the Corps.

Think of that. The Corps says this project is no good, should not go ahead, the review is unfavorable. Yet it is authorized.

These 51 projects have an estimated cost of $550 million without allowing for inflation. I have a list of the projects that fall into that category—37 projects. I ask unanimous consent that they be listed, together with the cost of each project.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECTS AUTHORIZED FOR CONSTRUCTION WITHOUT REPORT OF CHIEF

Halstead, Kans., $5 million.
Cabin Creek, Ky., $26.9 million.
Parker Lake, Okla., $28.4 million.
Savannah Harbor, Ga., $6.6 million.
Brazos Harbor, Tex., $15.9 million.
Oakland Outer Harbor, Calif., $26.3 million.

John's Creek Tributary, Tenn., $10 million.
Ceasar Creek water supply, Ohio, $19 million.
Sacramento River bank protection, Calif., $25 million.
Saginaw River, Mich., $?
East Fork Lake, water supply, Ohio, $16.5 million.
Cherry Street and Walnut Street Bridges, Massilon, Ohio, $1.5 million.
Fort Randall Dam—Lake Francis Case pumped storage, S. Dak., $30 million (partial).
Fifteen Mile Bayou and Eight Mile Creek, Alaska, $20 million.
Sedro Wooley, Wash., $12 million.
Charleston Harbor extension, S.C., $4.5 million.
Harlan County Lake recreation facilities, Nebr., $4.8 million.
Corte Madera unit 4, Calif., $?
Niobrara Highway No. 14, Nebr., $1.6 million.
Yazoo River, Miss., $.2 million annually.
Tug Fork, W. Va., *et al* $100 million; Tug Fork., W. Va. *et al* dredging, $10 million.
Water supply intake facility, Springfield, S. Dak., $2 million.
Fort Toulouse bank protection, Ala., $2 million.
San Juan, P.R., $13.5 million.
Moundville, Ala., $?
Lake George, Ind., $3.9 million.
Cox's Park, Ky., $.65 million.
Dover Creek, $1.3 million.
Zumbro River, Minn., $48.8 million.
Cottonwood Branch road crossing, Tex., $2 million.
Cane Creek Bridge, Ark., $.35 million.
Albert Lea Lake, Minn., $4 million.
Washington Aqueduct, District of Columbia, $.18 million.
St. Thomas, VI, water supply, $4 million.
Old River, La., $?
Mississippi River Gulf Outlet, La., $94.5 million.

Mr. PROXMIRE. Mr. President, in the second place, this bill also authorizes 16 projects for Phase 1 design, of which 10 have not been reviewed and cleared by the Chief of the Corps of Engineers. Before Phase 1 design is authorized, current policy requires a feasibility study by the Chief of Engineers that establishes that the project is engineeringly feasible, economic, and environmentally acceptable.

Again, I ask unanimous consent that the list of 10 projects that fall into that category be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PROJECTS AUTHORIZED FOR PHASE I DESIGN WITHOUT A FEASIBILITY STUDY REPORT FROM THE CHIEF OF ENGINEERS

[Dollar amount for study only.]

Red Bank and Fancher Creeks, Calif., $.3 million.
Mamaroneck and Sheldrake River Basins, N.Y. and Byran River, Conn., $1.1 million.
Harrisburg, Pa., $.8 million.
Sacramento River navigation, Calif., $?.
Ashtabula Harbor, Ohio, $?.
Crescent City Harbor, Calif., $.4 million.
Kaw Lake, Okla., $1 million.
Tenkiller Ferry Lake, Okla., $1 million.
Englewood Lake, Okla., $1.1 million.
New York City water supply, N.Y., $10 million.
Total, $15.7 million.

Mr. PROXMIRE. In the third place, Mr. President, I do not believe Congress should authorize projects for which we do not know the costs involved. We do not know. We have not been told.

Usually, when we get a public works bill, we are told what the cost is. That is one of the great virtues of the bill, because many projects are excellent. But here we are not told.

There are many such cases in this bill. I ask unanimous consent to have printed eight projects which I have here, on which we have no indication of how much they are going to cost—they can cost tens of millions of dollars or hundreds of millions of dollars, we do not know.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AUTHORIZING PROJECTS WITHOUT COSTS LISTED

I do not believe that the Congress should authorize projects for which we do not know the costs involved. There are many such cases in this bill:

Section 103.—Phase I authorizations of navigation on Sacramento River; enlargement of Ashtabula Harbor.

Section 122.—Levee protection for Lake Pontchartrain in Jefferson Parish (modification of the existing authorization).

Section 143.—Modification of the authorization for the Burlington Dam and Reservoir on the Souris River in North Dakota $30 million is authorized for initiation and partial accomplishment of the modification authorized by this section but no total of the modified project is listed.

Section 151.—Actions as may be necessary to correct slope erosion along the banks of the Coosa River in Elmore, Ala.

Section 155.—Actions as may be necessary to correct slope failures and erosion along banks of Black Warrior River near Moundville, Ala.

Section 133.—Operations and maintenance of sand bypassing facility as part of a navigation facility at Santa Cruz Harbor, Calif. at 100 percent Federal cost.

Section 172.—Modification of an authorized flood control project on the lower Mississippi River which allows the corps to construct auxiliary structures or other measures to insure the stability, dependability, and safety of the Old River Control Complex in Louisiana.

Section 184.—(Added during full committee markup) Compensation to owners of wells which are damaged by corps construction on a major waterway.

Mr. PROXMIRE. Mr. President, in numerous sections of the bill, the 25-percent local match for the disposal of dredging spoil is waived, but no cost to the Federal Government is listed. There are two glaring examples of where this bill will ultimately lead to the commitment of additional millions of dollars. They are section 101, the McNary Lock and Dam on the Columbia River in Oregon, which is authorized for $75 million when the true cost, which was contained in the first draft of the bill, is $548 million.

The second is section 114, the Fort Randall Dam Lake Francis project, S. Dak., where $30 million is authorized but where the total cost will be $257.9 million.

In addition to these examples, the authorization of many phase I projects will lead to additional costs for the construction of the project.

Mr. President, probably the most cherished aspect, with many people, of public works is that we have a cost-benefit study so we can make some kind of estimate based on the most expert advice we can get as to whether the benefits will exceed the costs. If they do not exceed the costs, of course, we usually say we will not go ahead. It is very hard to justify to any taxpayer that we should go ahead with any project where we are told in advance the costs will exceed the benefits.

This is where this system has been abused in the past, because often the costs have been understated and the benefits have been overstated. Where the benefits stretch out over 50 years or longer, they have to be discounted. When you discount a benefit, everything depends on that discount rate. When it is applied, it is usually far below the opportunity cost in the private sector. That means, of course, that it is understated in terms of where our money could be best invested.

Mr. President, even allowing for the kind of cost-benefit ratio that is so often abused, this bill sets the precedent of having the Congress determine what the cost-benefit is of a project, with no evidence—not on the basis of recommendation by the Corps of Engineers, but just in a flat statement. We say that the benefits exceed the costs in some of these projects, and that is it: that it is on faith. Let me give some examples:

For the purposes of economic evaluation of this project, the benefits of open water disposal shall be deemed at least equal to the cost of such disposal.

That is the section 101 Gulfport Harbor in Mississippi.

On the section 107 Sacramento River, Calif., the bill says the evaluation and justification of the project shall be based on the overall benefits and costs of all project elements.

Then section 136, the Colorado River in Texas. The benefits attributable to diversion channel shall be deemed to be at least equal to its costs.

How do you like that? We just say it shall be deemed. It is just an edict, a statement by the committee that comes before us. Shall be deemed, no matter what they are. We could have a situation, I suspect in this case you do have a situation, in which the costs greatly exceed the benefits. Yet we make a flat statement that regardless, the benefits on this project shall be deemed to be at least equal to its costs.

Mr. President, let me just say in conclusion, before I question my friend from Alaska, that 45 percent, $557 million, have not been approved by the Chief of Engineers. Thirteen percent, $161 million, modify the cost-benefit ratio, not including the effects on two previously authorized projects; 12 percent, $143.7 million, alter local cost-sharing provisions.

Over 50 percent of the projects in this bill either have not been approved by the Chief of Engineers, alter cost-benefit ratios, or alter local cost-sharing plans, not including those plans which do not have costs listed or which the effects on previously authorized projects are not known.

Mr. President, I think this is an extremely bad bill for the taxpayer. I think if you put this to the vote by the ordinary taxpayer, 90 percent of them would vote against it. I agree many of the projects

here are good projects and should be built. They are a great thing for the country as well as the community in which they are built. But in the categories I have listed, where they have not been approved by the Chief of Engineers, yet we go ahead without a feasibility study from the Chief of Engineers. Where we authorize projects without knowing what the costs are, where we waive the cost to the locality, we waive the local match, so that there is no incentive for the locality to insist that it be an efficient project, because they do not have to put anything in it. Whatever is in it comes from the Federal Government.

All these, I submit, are extremely bad precedents, and the worst of all is the cost-benefit ratio, where Congress flatly declares that in our view this is the cost, and that is it. No study, no evidence, no finding by the Corps of Engineers, no figures. I cannot think of a worse precedent. If we permit this kind of thing in the future, this country is going to be wasting an enormous amount of money.

Now let me ask my friend from Alaska about the details of this bill, and I would like him to correct me if I am wrong.

Is it or is it not true, I ask the manager, that of the 51 projects authorized for construction, 37, or about three-quarters, have not been reviewed and approved by the Chief Engineers?

Mr. GRAVEL. I have not counted them, but I believe there are many that might fall into that category.

Mr. PROXMIRE. Would the Senator agree that on some of these 37 no Federal study at all has been made of the costs and benefits?

Mr. GRAVEL. If that is the case, I would think it is not more than one or two projects. Those projects, similarly, could not go forward without that study, since any approval here would be conditional that that would take place.

Mr. PROXMIRE. I ask the Senator from Alaska why we include any of these projects, if we do not have the first approval, the prior approval, of the experts we rely on, the only experts we rely on, the Corps of Engineers. Why should we not make that a precondition?

Mr. GRAVEL. There are various levels of corps decisionmaking. Some are meaningful to the engineering aspects of it, and some are meaningful to the political aspects of it, or the bureaucratic decisionmaking aspects of it. They fall into various categories.

Many times we could not approve a project which is very close to the chief's approval, which I feel is a criterion the Senator from Wisconsin cites. When it has passed all the technical requirements of the corps, because of a bureaucratic factor of just moving the paper from one desk to another, it does not meet the criteria.

That has happened in the past. In this bill, we reach back into the bureaucratic system, identify a project, and approve it conditionally to its traversing that entire area. That is something I tried to work against. We tried—it is the first time I know of in a decade, since I have been here—to get a bill up every year. We have not succeeded in that, and we see here an effort, the first since 1976.

What happens is that Members know that when this train leaves here, if it does leave here this year, based upon past performance, they will not see another piece of legislation like this for 2 years.

You may have only 2 months in a bureaucratic systems. So everybody says:

You have to take care of my project, because it is ready to go. It will take another 2 months.

You could refuse to approve that. It is ready in 2 months, but then it must wait 22 months, on the convenience of Congress. That is most unfortunate, because the matter the Senator is concerned with, which is cost overruns and the like, goes forward because of inflation, goes forward in the 22 months; but the only thing that has happened in the 22 months is that Congress has not acted with diligence.

Mr. PROXMIRE. I point out to the Senator that there may be a great deal of wisdom in what he says, but would he not recognize the fact that a real weakness in the Congress of the United States is the fact that Members of Congress naturally want to get projects for their State? I want to get them for my State. Every Senator does that, and we are recognized as being effective and useful in our State when we do that. There is nothing wrong with that, but we are not the most objective judges.

If every Representative and Senator were allowed to bring home everything he wanted, we would have an enormous drain on the Treasury. We do not want to do that, so we rely on the Corps of Engineers. They have a degree of objectivity and expertise. They are trained experts. They can come closest to giving us an estimate on which we can rely—certainly better than a Member of Congress.

If you ask me whether we should spend money on a project in Wisconsin, you are not going to get an objective answer. You would get it from the Corps of Engineers.

Therefore, instead of talking about the bureaucratic solution or the bureaucratic disposition not to go ahead, it seems to me we should recognize that we are going to be fair to the general taxpayer. We should recognize that while there is great competence in Congress—people who know a great deal more than I ever will know about public works—nevertheless, we all have a bias, and we should rely on the Corps of Engineers, on guidelines, and certainly on their prior approval.

Mr. GRAVEL. Will the Senator permit a slight reflection of that?

Mr. PROXMIRE. Yes.

Mr. GRAVEL. I assure the Senator, to the best of my knowledge, from examining these projects and my knowledge of what took place as a result of congressional action, that there will not be a project built that is on the list he is concerned about if it does not have corps approval. It is a question of when it comes in a chronological sequence.

Mr. PROXMIRE. If we go ahead and spend money—that is the whole purpose of this.

Mr. GRAVEL. The President——

Mr. PROXMIRE. I still cannot understand why we cannot have the approval of the corps before we go ahead. Once we do go ahead and provide authorization, there is great pressure on the corps for them to move ahead in all kinds of ways, and money has to be spent. Otherwise, the authorization does not serve any purpose.

Mr. GRAVEL. There is great pressure on the corps. The forces press forward, and the corps is more responsive. The corps function is not abrogated in any degree. If there is something that the corps, in conscience, says should not be built, it would be brought to my attention and to the Senator's attention, to the attention of other people, and to the President's attention, and it would be stopped.

Mr. PROXMIRE. Mr. President, I yield to the senior Senator from Alaska.

Mr. STEVENS. I think that perhaps many of us agree with the Senator from Wisconsin that as we broaden the scope of these projects and go beyond the concept of feasibility, we increase the number of targets that are available for the President's hit list. He can use a shotgun instead of a rifle, if the Senator is right.

I point out to my good friend that the House is waiting for this bill. If we do not get it over there, we will be here tomorrow, and we are going to have a difficult time.

Mr. PROXMIRE. I have taken only 15 minutes, and the first 20 minutes was taken by other Senators.

Mr. STEVENS. I understand. I am just exercising my duty on this side of the aisle, to see to it that something gets back over there. They still have to make a decision. Remember, the House has rejected 50 percent of this bill previously, so this bill may not see the light of day. But they have asked for it back, and we have to get it back to them if we expect an adjournment resolution.

Mr. PROXMIRE. I appreciate that, and I will move along.

I ask the junior Senator from Alaska about this statement: The bill authorizes 16 projects for phase I design, of which 10 have not been reviewed or cleared by the Chief. Before Phase I design is authorized, current policy requires a feasibility study by the Chief of Engineers that establishes that the project is engineeringly feasible, economical, and environmentally acceptable—and that requirement has not been met by 10 of the projects. I have the list of projects, beginning with Red Bank.

Mr. GRAVEL. I assure my colleague that those projects, before they go to construction, will see the proper approval he speaks of. In fact. I am the person who authored phase I. The reason why we developed a phase I was so that we could go to the engineering design and the economics and the environmental and come back to Congress before construction.

In the old days, before I became involved in it, you went to construction right off the bat many times in the condition the Senator states. We tried to develop a system to avoid that.

Mr. PROXMIRE. The point is that current policy requires a feasibility

study, and 10 of these projects have not made that requirement. Under those circumstances, why should we not take those 10 projects out of the bill? They amount to several million dollars. Why should we make an exception as to them?

Mr. GRAVEL. Because they are conditional, and they are conditional upon securing that. If you take it out, they may secure that condition in a month, and then you have successfully placed a list of projects which are ready to go and will not be realized by us in going forward for 22 or 23 months.

Mr. PROXMIRE. Yes. But here——

Mr. GRAVEL. That is the whole problem that we face. We face these interminable delays. It takes on the average about 18 years to get a project going. That is unconscionable for them to take from the point of inception 18 to 20 years.

Mr. PROXMIRE. The Senator knows perfectly well how long it takes. The real waste in the projects, the overwhelming waste is the fact we have funded many projects that cannot be justified. Many can be. Most can be, I presume.

Mr. GRAVEL. But in the old days——

Mr. PROXMIRE. But in the old days many were here and we were departing from the policy before there was any objective basis or sound more economic basis and we were much more likely to screen out the project.

Mr. GRAVEL. I have to disagree.

Mr. PROXMIRE. We were more likely to screen out the projects that were not efficient.

Mr. GRAVEL. I have to disagree with the sounder economic basis, because delay is uneconomic. These are not projects where you reinvent the wheel. The technology is there.

Mr. PROXMIRE. Look at what we are doing.

Mr. GRAVEL. The biggest cost is the interest.

Mr. PROXMIRE. What you are doing is not relying on objective authority of the Corps of Engineers. You are relying on Senators who have the power or Congressmen who have the power, interest, zeal, and desire to get their projects authorized before there is an economic feasibility study or engineering feasibility study.

Mr. GRAVEL. I think the Senator can make the statement on behalf of himself. I have spent considerable more period of time on this matter than I feel the Senator has.

Mr. PROXMIRE. I have 10 specific examples.

Mr. GRAVEL. I feel he is inaccurate. What we do is we are approving these various phases of where there is the pipeline, but in all cases it is conditional to them going through that pipeline in proper form. If they do not, then a project is not going forward. I want the Senator to understand that.

Mr. PROXMIRE. Now I wish to ask the Senator about this statement. The statement is that I do not believe Congress should authorize projects for which we do not know the cost involved. I have a series of such projects that face one authorization of navigation on the Ashtabula Harbor and levy protection for Lake Pontchartrain.

Mr. GRAVEL. Mr. President, will my colleague yield?

Mr. PROXMIRE. I will not raise them all because time is short. There are eight of them.

Mr. GRAVEL. My colleague is not authorizing one sou of construction. When phase I is completed and comes back he will know the exact cost of that project before he votes on one sou for that project.

Mr. PROXMIRE. What does authorization mean?

Mr. GRAVEL. All that I am saying for my dear friend is to study the engineering, study the economics, and to perform a very extensive and precise EIS, and then when you have all that knowledge and the approval or disapproval of the Corps of Engineers, then, if it is disapproved, it probably will never be placed in this body and if it is——

Mr. PROXMIRE. Probably. But we take the Fruitland Mesa project.

Mr. GRAVEL. You will be properly equipped to be able to say here is a project for construction the Corps of Engineers is against. You cannot say that at this point in time, not on phase I. I know I created that process.

Mr. PROXMIRE. The Senator may have created one, but once you get these projects authorized, once you get them in, once you get this kind of political influence, it is very hard to stop.

Take the Fruitland Mesa project in Colorado. There is a project in which the average landowner gets over $1 million, the average rancher, farmer, whoever owns the land has over $1 million spent on his land, and the benefit-cost ratio is a situation now we find in which the cost exceeds the benefit two to one with only a 3-percent discount factor. I do not know how we could have a worse project. Yet we go ahead with it. Once you authorize these projects, as I say, you go ahead. I think obviously if the Corps of Engineers had an opportunity first to make a study, feasibility engineering study and particularly an economic study, there is no way you would go ahead with a project like that. Once you get committed to one, you have drawn the line and that would be it.

Let me ask the Senator another question. In numerous sections of the bill—there is another statement I wish him to respond to—the 25-percent local match for disposal of dredging spoil is waived, but no cost to the Federal Government is listed. In other words, you have a situation in which the Federal Government has to pay all the costs, the total costs, although normally there would be a 25-percent match with the Federal Government only paying 75 percent so there would be an incentive to the local government, the State government, to get involved, and to make sure that the project was economical and be careful about it.

So you waive it in a number of cases here, and no cost for the Federal Government is listed. Why should not we know what we are giving up here and why should we waive it in the first place?

Mr. GRAVEL. First off, with respect to why we give it up, I think my colleague is very familiar with a lot of legislation that he has probably carried on this floor where when you have a program that the people in question at the local level do not have the capability, the economic capability——

Mr. PROXMIRE. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. SPARKMAN). The Senate will be in order.

Mr. GRAVEL. Of matching that local situation, that many times the Federal Government will waive that.

Mr. PROXMIRE. It is just a discretion on the part of the authors of the bill to put through here a situation in which in some cases the locality—it may be that in Wisconsin it is waived, and in Minnesota if they get one they have to pay 25 percent.

Mr. GRAVEL. I think that, by and large, that may well be the case. When they come to the committees and present the case, on one to be involved I think the judgments are made many times to go ahead and do it and help out these areas. It is not unlike parts of a——

Mr. PROXMIRE. I think that is right, exactly the kind of thing that concerns me.

Mr. GRAVEL. It is not unlike part of the Housing Act.

Mr. PROXMIRE. It is not unlike part of the Housing Act process.

I think we should proceed on policies in which we discipline ourselves and be as careful about this kind of abuse as possible. Obviously, when a waiver is made in 25 percent of the cases, that is a tremendous number. That means there is great pressure on every Senator to make sure that his local people do not have to pay their share.

I would like to ask the Senator if it is true or not true that there are two glaring examples of where this bill will ultimately lead to the commitment of additional millions of dollars, and that is the McNary Lock and Dam on the Colorado River that was authorized for $75 million, when the true cost which was contained in the first draft of the bill is $548 million.

How does the Senator explain that discrepancy?

Mr. GRAVEL. Will the Senator repeat the question?

Mr. PROXMIRE. Yes. The McNary lock and dam on the Colorado River in Oregon, a section 101 authorized $75 million when the true cost contained in the first draft of the bill is not $75 million but $548 million.

Mr. GRAVEL. Let me say to my colleague these are partial authorizations so that the projects can go forward and they are examined every time that we come into this process.

Mr. PROXMIRE. I am happy to get that response, because that is the trouble. The President has been calling for full funding. So we know what the full cost is. So we have our eyes open. So we are not told that a project is going to cost $75 million and many people assume it is the cost and end up with $548 million.

Mr. GRAVEL. Will my colleague most respectfully let me tell him that neither he nor the President is ever going to know the full costs of anything, because

what it is going to take, it is going to go through a process. As I said earlier, we are not inventing the wheel with these projects. Basically the cost differential is what plans and what really takes place is how long we in Congress choose to delay and let inflation and interest rates wreak havoc.

Mr. PROXMIRE. It is one thing delaying and it is something else to know what you are doing before you move in. If we are going to spend a half-billion dollars of taxpayers' money, we should have an estimate from the most expert competent people we can have to make a judgment on behalf of not only what the community might benefit but the general taxpayer.

Let me ask the Senator about the other project, the Fort Randall Dam Lake Francis project, South Dakota, where $30 million is authorized but where the total cost will be $257 million, or about eight times as much. I presume his answer would be the same.

Mr. GRAVEL. That is a partial funding.

Mr. PROXMIRE. A partial authorization again. So when we look at the bill and are told there are several hundred millions of dollars of projects in here, it could very well be with full funding several dollars worth of projects. It that a fair statement?

Mr. GRAVEL. It is possible. I do not have the tally right in front of me. The Senator has me in a very fine disadvantage since he has the sheet before him. I unfortunately do not have all my documentation with me.

Mr. PROXMIRE. I realize that. But what I am trying to do in the very brief time we have available here, and it will be less than an hour that we are going to take, because I am almost through——

Mr. GRAVEL. I will place material in the RECORD to cover what my colleague is doing right now.

Mr. PROXMIRE. I hope the Senator will. I appreciate that.

We should know in the public record before we act and fortunately the Senate will not have an opportunity for rollcall on this.

Mr. GRAVEL. I understand that.

Mr. PROXMIRE. We should know what we are doing.

Mr. GRAVEL. Sure.

Mr. PROXMIRE. That is what we are sent to Washington to do.

Mr. GRAVEL. I will put enough in the RECORD now. Everyone knows what they are here doing. Everybody here knows, because we are all here.

Mr. PROXMIRE. We are going to pass the bill in the next 15 minutes.

Mr. GRAVEL. I am waiting with bated breath.

Mr. PROXMIRE. We will not know what we are doing at that time, because the Senator will not make the information available.

Of course, there is no way right now, I would say, with 90 Senators, 95 Senators, who are not here, to know what they are doing, in many cases, at least, because they will not have this information neither.

The Senator in a week or two, when we have the full RECORD, will put that in, and by that time the money will have been authorized, and that is it. The moving finger will have writ and, having writ, moves on, and there is no way to call it back.

Mr. GRAVEL. I can only add that my colleague is involved in legislation like Regulation Q. I do not know what that is other than it is Regulation Q, and I am probably responsible for voting for it, and I am sure if the Senator took a test around here very few other people would know it. Our system works a certain way. It has great imperfections.

Mr. PROXMIRE. That is a good example. The trouble with Regulation Q is you have people on all sides of it. The commercial banks, for instance, do not want it. They want to get rid of it. The savings and loans, the builders, favor it very much. We had hearings before our committee. We have had an opportunity to determine what to do before we act on Regulation Q, hearings at great length.

Mr. GRAVEL. We did the same thing.

Mr. PROXMIRE. We have a debate and any number of Senators come and offer debate, and we have a rollcall, and we have an opportunity for Senators to be counted. We do not have it here. This is a new bill. We did not have an opportunity for Senators to debate and discuss it. It just goes through.

To be realistic and to be fair, if we had 100 Senators it would pass overwhelmingly, maybe 85-to-15 or 80-to-20. But, at the same time, as a matter of public policy we should do as much as we can to get everything as public as we can.

I will ask the Senator to comment on this:

> This bill sets the precedent of having the Congress determine what the cost-benefit ratios of a project are often with no evidence, at least to this member of the committee,

And this applies to evidence to Members of Congress and members of the public, and the examples I have here include the Sacramento River, Calif., and so forth.

Mr. GRAVEL. I can assure my colleague based on my experience and my knowledge of this bill and many other bills like it that we set no precedent here today.

Mr. PROXMIRE. I am not asking that. I am asking the Senator if it is not true that the bill "does set the precedent of having the Congress determine what the cost-benefit ratios of a project are often with no evidence." I leave out the precedents.

Mr. GRAVEL. I will say just the opposite. We set no precedent here today.

Mr. PROXMIRE. Let me ask the Senator then whether or not the bill provides that the Congress will determine what the cost-benefit ratios of a project are often with no evidence, and simply make such statements as the benefits attributable to the diversion channel shall be deemed to at least equal its costs? Is that not in the bill?

Mr. GRAVEL. I will furnish for the RECORD where this has been done at other times.

Mr. PROXMIRE. It has been done before?

Mr. GRAVEL. I will furnish it for the RECORD.

Mr. PROXMIRE. What a tragedy, and it is a great tragedy, that it has been done before. How can the Senator justify that?

Mr. GRAVEL. I am answering it to the best of my ability. The Senator has caught me without my backup information. I think you can go ahead and do what you are doing, but we will provide for the RECORD so that people may judge this on its merits.

Mr. PROXMIRE. Then the Senator would concede that this bill does simply provide in some cases such as section 136 Colorado River, Tex., the flat statement that:

> The benefits attributable to the diversion channel shall be deemed to at least equal its costs.

That is a flat statement and that is it.

Mr. GRAVEL. I would be happy to concede it if we work the will of this body to secure the passage of the bill.

Mr. PROXMIRE. Finally, and this will just take a couple of minutes before I am through, I would like the Senator to tell me if these flat statements are correct or not. This bill authorizes approximately $1.25 billion in projects; is that about right?

Mr. GRAVEL. That is about right.

Mr. PROXMIRE. Forty-five percent or $557 million have not been approved by the Chief of Engineers; is that statement correct?

Mr. GRAVEL. It may be correct.

Mr. PROXMIRE. Thirteen percent modify the benefit-cost ratios not including the effects on two previously authorized projects?

Mr. GRAVEL. That may be correct.

Mr. PROXMIRE. Twelve percent or $143 million alter local cost-sharing provisions.

Mr. GRAVEL. It is a possibility.

Mr. PROXMIRE. And 3 percent or $43.6 million provide 100 percent funding for water supply systems.

Mr. GRAVEL. It is a possibility.

Mr. PROXMIRE. Which is something new.

Well, now, Mr. President, I appreciate very much the patience of my friend from Alaska. He has been very responsive and helpful. As I indicated in the beginning, I think this is an extraordinarily bad bill. It is a terrible waste for the taxpayer on the basis of the objective facts that I have tried to list here.

Mr. President, I ask unanimous consent that an article in the Washington Post entitled "The Hill Moves to Shred Carter Water Policy," be printed in the RECORD. I ask unanimous consent that other editorials from the Washington Post and the Washington Star relating to the public works bill also be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 29, 1978]

HILL MOVES TO SHRED CARTER WATER POLICY

(By Ward Sinclair)

In a series of little-noticed votes in the weeks before its recess, Congress moved systematically to shred the new national water policy that President Carter sent it with great fanfare earlier this year.

At different levels, there were these developments:

House and Senate conferees, inviting a veto

after Carter and Congress return, agreed on a $10.1 billion public works appropriations bill that includes a number of dam projects the president thought he killed in his first water fight with the legislators last year.

In separate authorization bills, the two houses are challenging the president even further. He wanted to make state and local governments and users pay more of the cost of water projects, and the federal government less, to encourage conservation. The bills would do the opposite.

He wanted to tighten the rules for the cost-benefit studies according to which projects are said to be justified or not. The bills would loosen those rules.

The bills would kill funding for the agency Carter wanted to oversee his new policy, while directing him to hire 2,300 bureaucrats to oversee traditional projects.

Variously, the House and Senate bills increase, rather than decrease, the federal share on dredging projects, waive negative cost-benefit ratios in some cases, and authorize projects not yet studied by the Army Corps of Engineers.

A series of resolutions and hearings in the House and the Senate is seen as another gambit to reshape or flatly overturn Carter's plan to lay down a more consistent, more cost-conscious national water resources program.

Notwithstanding the supposed public revulsion toward more federal spending, waste and bureaucracy-building, Congress seems to have gone out of its way to draw a wide line in the sand in front of Carter.

This confrontation is over who—Congress, the administration or both—is going to decide how much is spent, where and by whom on dams and flood-control projects—the traditional federal pork barrel.

A veto of the appropriations bill, and possibly the authorization bill, seems certain after Congress returns from its Labor Day break.

Also certain are fireworks at least as heated as last year's when the president stunned Congress by nominating 18 dam projects for termination on the ground that they were wasteful, unneeded or environmentally damaging.

The storm that ensued after Carter attempted to trample on projects supported by influential legislators ended in a compromise of sorts.

Some projects stayed in the budget; some were removed. But the congressional uneasiness continued, abetted by growing western concerns over water needs, as the White House worked out details of the policy proposed in June.

Carter again suggested at a press conference two weeks ago that he would veto the appropriations bill, lamenting that he had not vetoed last year's version.

And for months the administration has been sending signals that the authorization bill is a veto candidate. It will emerge from Congress with lower waterway user fees than Carter wanted and full of major liberalizations of traditional project-authorizing policies.

Environmentalists, led by the National Wildlife Federation and the Environmental Policy Center, think vetoes are essential first steps if Carter is to have any success in establishing the water policy he has laid out.

"He has made the new water policy a centerpiece of his domestic legislation," said Brent Blackwelder of the EPC. "Carter will be regarded as the world's biggest pushover if he doesn't veto these bills.

"It was handled poorly last year. Carter had the reputation that he was going to take on Congress and attack the pork barrel. But he was naive—he thought he got half of the projects he opposed cut from the budget, but here they are again this year."

Blackwelder and other environmentalists see Congress engaged in a sort of political game this year—inviting a veto by passing legislation that goes far beyond the acceptable, but knowing that compromise in the end will leave intact the legislators' bottom-line wants.

The authorization bill, passed by the Senate but awaiting a final House vote, illustrates the new lengths to which the legislators have gone.

Between the two versions, more than 120 new projects are authorized—many with no knowledge of final costs. Three dozen Corps of Engineers projects have been approved without even the basic review ordinarily required of the corps.

The cost-benefit ratio, the standard but controversial measure used to determine if a project is economically sound, has been waived for some projects. Congress simply would declare them sound.

Standard cost-sharing arrangements with state and local governments on flood-control and dredging projects have been modified in some cases. The House bill would set another precedent by permitting 100 percent federal funding of water treatment and supply facilities in Ohio and Oklahoma.

Private interests also are taken care of in the House bill. For example, it would authorize a $45 million scheme to deepen and widen nine miles of Gulfport Harbor on the Gulf of Mexico in Mississippi, mostly for the benefit of E. I. duPont de Nemours & Co., which is building a plant there.

With this largess touching every state and many congressional districts—in an election year, when goodies for the home folks count for something—little criticism is heard on Capitol Hill.

Of the 44 members of the House Public Works Committee, which handled the authorization bill, only two felt strongly enough to speak against it at the time of final passage—David E. Bonior (D-Mich.) and Robert W. Edgar (D-Pa.).

Bonior noted that 45 percent of the $1.25 billion in new projects was not approved by the chief of engineers, 13 percent modified cost-benefit ratios, 12 percent altered local cost-sharing provisions and 3 percent provided full federal funding of water systems.

"Everything the president has opposed—inflationary projects, expansion of government, environmental damage—is here," said Blackwelder. "He has plenty of reason for vetoing this legislation."

[From the Washington Post, Sept. 1, 1978]

THE POLITICS OF WATER POLICY

Along with everything else, President Carter is taking a beating in Congress on the water-policy front. Despite his veto threats, Senate-House conferees have voted funds for six of the public-works projects that Mr. Carter thought had been shelved last year. Meanwhile, both houses have largely rejected the stricter standards and new planning procedures Mr. Carter has proposed. In the most outrageous move of all, the House Public Works Committee is advancing a $1.2-billion-plus grab bag of authorizations for about 120 more river and harbor projects—including dozens that don't meet the panel's own standards for executive-branch review, local cost-sharing and the like.

How can Mr. Carter salvage something, or even avoid a rout? Some officials and environmental lobbyists think he needs to "get tough." As they see it, the administration only encouraged the old-line forces by accepting a compromise in last year's water-projects fight and trimming its proposals last winter to appease the Western governors. What's needed now, according to this view, is some stern vetoes and stiff stands on principles. Mr. Carter apparently agrees; he said recently that he had been "too lenient" and "should have vetoed" last year's money bill—just as he plans to veto the one now coming along.

We see the problem differently. Far from yielding too much to politics, Mr. Carter has not been consistently political enough. Tending to oppose many projects as "pork barrel," he and some of his advisers have been slow to understand the viewpoint and ferocity of the regional and institutional forces they have taken on—or the way public-works hassles can affect all other dealings on Capitol Hill. We think it was prudent to make some accommodations last year, after the first clumsy assault on those projects had caused such an unholy row on the Hill and in the West. The real error was in assuming that the truces would last, that projects once shelved would stay on the shelf, and that entrenched congressional attitudes could be transformed by sending up some better ideas.

By now, Mr. Carter should have a better sense of what he is up against—and what kind of toughness can accomplish most. Some vetoes and stern speeches will probably be in order, starting with the public-works appropriations bill. But to have those vetoes sustained, and to defuse other confrontations, holding the high ground of environmental protection and economic prudence will not be enough. More hard-headed dealing will also be required. We hope this can be done with more finesse than in the past. We also hope the administration will get over the idea that this kind of politicking is somehow shabby, demeaning or inconsistent with its commitment to change. After all, when you're talking about public works, you ought to use the language that every member of Congress understands.

[From the Congressional Quarterly, June 10, 1978]

CARTER'S WATER POLICY TO GET CONGRESSIONAL TEST

(By Ann Pelham)

President Carter June 6 announced a national water policy designed to tighten executive branch control over federal spending for expensive dams and other water projects.

But the policy won't have an immediate effect on the size of the budget for projects or on the number built unless Congress cooperates with the president's administrative initiatives.

Two bills already are pending in Congress that flout the new policy.

How that legislation is handled will be the first indication of whether Congress plans to cooperate with Carter's policy. (*Text of message to Congress, p. 1487*).

If Congress chooses to ignore the proposal by generously authorizing and funding water projects, then Carter's reaction will provide the real test of the policy's strength.

Though key members on water policy wanted to study the policy before commenting, the carefully crafted announcement did draw words of limited praise from environmentalists, who had hoped for more changes, and from western governors, who preferred business-as-usual.

STATE FUNDING, CONSERVATION

The administration proposal placed new emphasis on water conservation as a national goal and called for more state participation in the planning and funding of water projects.

Future authorizations for projects would have to meet tougher criteria for enhancing conservation, providing national economic benefits and protecting the environment.

A new review panel would provide for the first time an independent, uniform analysis of all federal water projects that would be available to budget makers and to the public.

However, Carter did not seek legislation to raise the interest rate used to compute

benefits and costs of projects despite complaints from critics that the rate is artificially low and skews analysis in favor of constructing projects. (*Background, Weekly Report p. 565*)

The policy is expected to have little direct effect on the tremendous backlog of 500 already authorized, but not yet built projects that Congress may elect to fund.

Neither will Carter's proposal affect the current federal obligation to irrigate huge tracts of arid western land, usually at low cost to farmers. About 80 percent of all water consumed in the United States is used for irrigation in the West.

In addition, little incentive is provided in the policy for better management of groundwater supplies by western states, a concern of federal officials. Depletion of groundwater reservoirs, along with wasteful irrigation practices, are seen by conservationists as highly inconsistent with the growing demand for the West's limited water supply.

But western governors, upset at possible federal infringement on traditional state water rights, scared Carter away from anything but promises of more federal cooperation and assistance in state water management.

The mild tone of the policy also reflected the administration's desire not to prompt a response anything like the uproar from the West and Congress that greeted Carter's last major water policy proposal—a "hit list" of water projects he wanted killed. (Background, 1977 Almanac p. 650)

Carter eventually reached a compromise with Congress in 1977 that stopped or phased out construction of 10 projects that had been on his original list of 30. Carter also promised that the administration would study water problems and offer a new national policy before he tried to stop any additional projects.

To cool the West's reaction against the administration's "hit list" and pending water policy, Carter in early 1978 sent Vice President Walter F. Mondale and Interior Secretary Cecil D. Andrus on a good-will trip to the West, during which they promised that any new water policy would not impinge on the rights of states to manage and control their own water.

TEST COMING FOR CARTER

Because most reforms in the policy are administrative, not legislative, congressional action on two already pending bills—and Carter's response—will be a primary indication of how the new policy will be implemented.

A Senate-passed waterway users bill (H.R. 8309) would authorize more than 100 new navigation projects, dams and other water development projects costing more than $2 billion. Many of the projects are not expected to meet the tougher criteria set in the policy for such new authorizations. (Background, Weekly Report p. 1091)

In the House, an appropriations bill (H.R. 12928) is pending that would restore funding for eight of the 10 projects stopped in 1977. The bill would also add more than $200 million to Carter's budget request for public works projects and would begin construction of 41 new projects, none of which was requested by the administration. (Background, Weekly Report p. 1425)

The administration was to announce on June 9 its own list of new construction starts. Carter said the new starts would be the first proposed by an administration since 1975. Both Republican and Democratic presidents have resisted funding new construction, but Congress has generally funded 15 to 25 new starts each year.

STATE PARTICIPATION

The major legislative proposal in the policy was for states to share the costs of projects they want built. By providing up to 10 percent of construction costs, a state could buy a voice in the decision about which projects would be built first and in which order.

AUTHORIZATION OF CONSTRUCTION OF FLOOD CONTROL MEASURES ON THE TUG FORK RIVER

Mr. ROBERT C. BYRD. Mr. President, I urge adoption of this bill. This bill contains a section that is similar to S. 1387, which I and my colleague from West Virginia (Mr. RANDOLPH) introduced on April 24, 1977.

Mr. President, this is the third time that the Senate has considered this measure to provide flood control for the Tug Fork Valley.

S. 1387 was incorporated as section 119 of S. 1529, which in turn was incorporated in H.R. 5885, which passed the Senate on June 22, 1977.

Again on May 4, 1978, a measure similar to our original bill, S. 1387, passed the Senate as an amendment to H.R. 8309.

The House has also adopted a slightly different authorization of flood control measures for the Tug Fork in the House version of H.R. 8309, which passed the House October 8, 1978.

This vital energy producing area is highly flood-prone. In Aprl 1977, the Tug Fork Valley was devastated by a 500-year flood that caused $150 million of damage, and untold misery. It was a miracle that no lives were lost. Nine months later, on January 26, 1978, the Tug Fork again experienced flooding resulting in damage estimated by the Army Corps of Engineers at approximately $9 million. Floods are now occurring on the Tug Fork on the average of every 15 months. This area contains 5 percent of the Nation's recoverable coal. If we are to achieve some measure of energy independence, it can happen only through increased coal production, and utilization.

However, for increased production to occur in the coal rich Tug Fork Valley of West Virginia, the people who mine the coal, provide services to the miners, and the mining industry, must have a place to live that is safe from flooding.

This bill also authorizes $10 million for a program of snagging and clearing work to provide, on a stopgap basis, some reduction in the severity of flooding on the Tug Fork until the construction of flood protection measures can be completed. The funds for this snagging and clearing work are contained in the continuing resolution, House Joint Resolution 1139, which passed the Senate earlier today.

This measure, which has passed the Senate twice previously, will provide relief for the people of the Tug Fork Valley who have suffered so much.

I urge adoption of this bill. I hope the House will pass this measure and that the President will sign it into law.

SENATOR RANDOLPH SUPPORTS WATER RESOURCES PROJECTS—STRESSES URGENT NEED FOR FLOOD CONTROL IN TUG VALLEY OF WEST VIRGINIA

● Mr. RANDOLPH. Mr. President, it is a privilege to support the revised version of H.R. 8309. The provisions of this compromise measure have been worked out by the Senate Committee on Environment and Public Works, which I have the responsibility of chairing, and the House Committee on Public Works and Transportation after extensive discussions over the past week. The able majority leader (Mr. ROBERT C. BYRD) and the chairman of our Subcommittee on Water Resources, Senator GRAVEL, and I attempted to have the legislation considered in the Senate last night. There were strong objections by a number of Senators which prevented this consideration.

It is indeed gratifying that we have been able to insure that the Senate will debate and, hopefully, approve this measure today. This will be the third time that the Senate has approved a variation of this water resources-flood control bill within the past year and a half. I am hopeful that with the concurrence of the House we will send a measure to the President for signature.

The projects in this legislation are authorized for flood control, water supply, navigation, and other useful and necessary purposes. These projects respond to various local needs, yet they are purposeful in the overall benefits to the country. I am sure they will have a usefulness to the American people when they come into being.

There is one project authorization which is of special importance to those of us who serve the State of West Virginia, both the majority leader, Senator ROBERT C. BYRD, and myself, and the Members of our House delegation, especially NICK J. RAHALL, who represents the district in which the project is located.

In April of last year, severe flooding occurred in southern West Virginia, eastern Kentucky, and eastern Tennessee. The Tug Fork River flooded to such an extent that two towns in West Virginia—Williamson and Matewan—suffered unparalleled damage. Other smaller communities were adversely affected.

The population of Williamson, is approximately 9,000 persons. The entire community and all of its business places and homes were virtually destroyed. The same is true, of Matewan, with a bridge there wiped out completely—devastation which is difficult for me to understand through words spoken in the Senate.

Many of these localities had local protection projects which were breached in this severe flooding. The corps under existing authorities could repair these facilities. However, because of the potential for such severe flooding in the future, a greater level of protection is called for. This bill authorizes the corps to construct in Kentucky and West Virginia those projects which will provide protection against a flood of at least the April 1977 severity.

It contains provisions that are almost identical to the legislation I sponsored last year with the cosponsorship of Senator BYRD to provide flood protection in the Tug Valley.

The project authorization is for additional floodwalls and levees in both Kentucky and West Virginia and a cutoff on the Tug Fork which will straighten the course of the stream and reduce the

tendency toward flooding. The estimated cost of this work is $100 million.

Mr. President, the damage in southern West Virginia alone from this flooding is estimated to cost approximately $90 million. This project is a strengthening project. It is really an economic project. It is of vital importance to the area and to the production of coal in the region.

Because of the situation in the area, we have tried from time to time, in a sense, to patch it up. That has not worked and cannot work. Now we have to have, not a timid approach, but an all-out effort to do the job.

Because of the situation existing after this flooding it would have been very difficult for the corps to have developed a favorable cost-benefit ratio for this project. Therefore, the Senate and House committees have waived the cost-benefit analysis on this project. This procedure is rarely used by the committees, but was found to be necessary because of the extraordinary severity of this damage. This procedure will only be recommended by the committees in those future situations that are unique and necessary for solution of a problem similar to those in the Tug Valley.

I commend this provision and all others in this amendment containing valuable projects to the Members of the Senate. I am sure, upon careful examination, my colleagues will find these projects meritorious.

I again express genuine appreciation and commendation to the majority leader (Mr. ROBERT C. BYRD) as I conclude my remarks in reference to the Tug Fork, its valley, its people and the severe damage to a whole county like the county seat, Williamson, and to nearby Matewan. I underscore the fact that the two Senators from Kentucky (Mr. FORD and Mr. HUDDLESTON) and Representative CARL PERKINS of Kentucky have been deeply involved. Senator BYRD and I know, as do the Members of our House delegation, especially the Representative from the district in which this area is included, NICK JOE RAHALL—of the need. We believe that this is an affirmative response. The project is one of merit. I strongly urge passage of this measure.

Mr. PROXMIRE. In case there is any doubt in anybody's mind I want it to be clear that, if there is, I am against this bill and will vote against it on a voice vote which will ensue in a few moments.

Mr. GRAVEL. Mr. President, I want to thank my colleague from Wisconsin for accommodating himself for us.

I move the adoption of the bill.

Mr. STEVENS. Mr. President, let the Senator have the privilege of being called prior to advancing it to third reading. He is on his way.

The Senator is here now, Mr. President.

We are going to advance to third reading, I want to tell my colleague, if there is no objection.

Mr. ABOUREZK. No objection.

The PRESIDING OFFICER. The question is on the engrossment of the Senate amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. GRAVEL. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 10979.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HANSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President, I suggest the absence of a quorum.

JOINT TRIBUTE TO LEADERSHIP

Mr. STEVENS. Mr. President, the 95th Congress, 2d session will soon draw to a close and before we adjourn sine die let me take this opportunity to compliment the majority and minority leaders.

It has been an honor and privilege for me to represent the Members on our side of the aisle as assistant minority leader. In my capacity as whip I have had the pleasure of enjoying a unique working relationship with the very able and distinguished minority leader, Senator HOWARD BAKER of Tennessee. Senator BAKER, as minority leader, has had the difficult task of insuring that all minority interests are upheld and that responsibility he has handled with impartiality and commitment.

The minority leader has many times inconvenienced himself for the overall benefit of Republican Members and I commend him for his service to all of us on this side of the aisle.

I believe the Republican leadership has achieved what it set out to do and hope that our Members are satisfied with the job we have done.

I know I can speak for the minority leader in expressing sincere thanks to my dear friend, the distinguished majority leader, for the way in which he has successfully led the Senate to one of its most impressive legislative records ever.

Senator ROBERT BYRD has always treated our Members in an even-handed way and we appreciate all his efforts to accommodate our interests. We especially appreciate his patience in attempting to meet our demands, even when we may have pushed him to the limit. His ability to handle the pressures and demands is what makes him such a well-respected leader among both Republicans and Democrats alike.

I also want to thank the distinguished majority whip, Senator ALAN CRANSTON, for all his help during these past 2 years.

Let me finally thank the other Members of the Republican leadership Senators CURTIS, HANSEN, TOWER, and PACKWOOD for jobs well done.

Each Republican member has cooperated fully with the leadership and I appreciate having had the opportunity to represent them during this 95th Congress.

TRIBUTE TO THE STAFF

Mr. STEVENS. Mr. President, while we are waiting, I would like to take the occasion on behalf of the minority to thank all of those who have worked so long in the Senate, this Congress, particularly these last few days under very trying circumstances. I particularly thank our minority staff, Bill Hildenbrand, Howard Greene, and all those who are with him in the cloakroom and my good friend on the other side of the aisle Tom Hart for all he has done to help us.

I want to personally commend my eyes and ears on the floor, Susan Alvarado, who is the first woman to have served in that spot. I hope, if the wisdom of the people on my side of the aisle prevails, that she will be back again next year.

I will submit an additional statement for the RECORD later.

CONSUMER PRODUCT SAFETY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2796.

Mr. President, I temporarily withdraw that request.

CHILD NUTRITION AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3085.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3085) entitled "An Act to extend and amend the special supplemental food program and the child care food program, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Child Nutrition Amendments of 1978".

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to schoolchildren outside of school hours. For purposes of determining eligibility—

"(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropri-

ate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section, except that, in any fiscal year, the aggregate amount of asssistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act, and the national average payment rate for free lunches under section 11 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfast under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the national average payment rate for lunches under section 4 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f)(3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii)(I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and

"(iii)(I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection;

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii)(I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act;

"(iii)(I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

"(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i)(I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii)(I) the number of lunches and suppers served to such children by (II) the national average payment rate for lunches under section 4 of this Act; and

"(iii)(I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

"(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection (f)(4) of this section.

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

"(f) (1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c) (1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing such meals.

"(3) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on (A) the national average payment rates for lunches under section 4 of this Act; (B) the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; (C) the national average payment rates for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and (D) the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribing labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"(g) (1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting:

"(1) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

"(3) the action program the State proposes to undertake to use the Federal funds provided under this section, including the State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family or group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measures progress in achieving program goals.

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

"(k) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

"(l) (1) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels for administrative payments that reflect the costs of institutions participating in the program.

"(2) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

"(3) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"(4) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (1), (2), and (3) of this subsection. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

"(m) In any State where the State is not permitted by law or is otherwise unable to disperse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and sub-

ject to the same conditions as are required of a State.

"(n) (1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection, the allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

"(2) If any State cannot use all the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

"(3) Each State shall establish criteria for determining institutions that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within thirty days of notification by the Secretary to the State of the amount of funds available under this subsection. Such State shall notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this subsection.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all the requirements for participation under this section, except for the licensing requirements, and (B) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State and the institution sign an agreement authorizing the institution to participate in the program under this section.

"(o) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act, of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

"(p) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(q) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(r) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to six months after termination of pregnancy.

"(11) 'Pregnant women' means woman determined to have one of more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"(c) (1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program

under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

"(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced price school meals under section 9 of the National School Lunch Act.

"(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

"(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

"(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all the reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section. The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

"(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such account and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low income areas.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

"(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating

program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, requests is accompanied by documentation that other funds will be used to conduct such activities.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons serviced, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning the fiscal year ending September 30, 1980; a written report, together with its recommendations on such program operations.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.".

REDUCED-PRICE REIMBURSEMENTS

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, which ever is greater".

USING COMMODITY PRICES FOR COMMODITY INDEXES

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1966 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk" and by amending the fifth sentence thereof to read as follows: "Children who qualify for free lunches under guidelines established by the Secretary shall at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request."

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.".

(c) Section 11(a) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

(d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end thereof a new subsection (h) as follows:

"(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and

the Child Nutrition Act of 1966 to account separately for the costs incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.".

Equipment Assistance

(b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out "$40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) to read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in * * *

Especially Needy

(c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

ALTERNATE FOODS

(d) The Secretary shall not limit or prohibit, during the school year 1978–79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978–79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

"(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.".

INCOME POVERTY GUIDELINES

SEC. 8. Section 9(b)(1) of the National School Lunch Act is amended by—

(1) amending the second sentence to read as follows: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY OF MENU CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"STUDY OF MENU CHOICE

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.".

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"(7) 'School year' means the annual period from July 1 through June 30.".

(c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

(d)(1) Section 8 of the National School Lunch Act is amended by inserting after the second sentence the following new sentence:

"The terms 'child' and 'children' as used in this Act shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.".

(2) Section 13(a)(1)(D)(ii) of the National School Lunch Act is amended by inserting "or nonprofit private" after "public".

(3) Section 15 of the Child Nutrition Act of 1966 is amended by adding at the end thereof a new subsection as follows:

"(f) Except as used in section 17 of this Act, the terms 'child' and 'children' as used in this Act, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped.".

SCHOOL LUNCH PROGRAM PILOT PROJECTS

SEC. 11. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in not more than fourteen school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year, beginning July 1, 1979.

"(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection not later than six months after the conclusion of such projects.

"(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

PURCHASES OF SEAFOOD PRODUCTS FOR SCHOOL LUNCHES

SEC. 12. (a) Section 6(e) of the National School Lunch Act is amended by inserting in the second sentence "(which may include domestic seafood commodities and their products)" after "alternatives".

(b) Section 14(a)(1) of the National School Lunch Act is amended by inserting "(which may include domestic seafood commodities and their products)" after "such section".

IMPLEMENTATION

SEC. 13.(a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within one hundred and twenty days of the date of enactment of this Act.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of tihs Act.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be aavilable to carry out the provisions of sections 2 and 3 of this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective January 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979, except that the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 197º

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendment.

Mr. STEVENS. Mr. President, that is not a unanimous-consent request. It is a motion, as I understand it, and I would like to have an opportunity just to make some insertions in the RECORD, if I may.

Mr. ROBERT C. BYRD. Yes. Mr. President, I ask unanimous consent that a statement by Mr. McGOVERN be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. McGOVERN. S. 3085 as amended by the House is close to what I imagine would have been the final product if we had gone to conference on this legislation.

The House has accepted what I believe to be the most important provision in the bill, entitlement funding for the WIC program in fiscal year 1980.

The House has also decided not to mandate the school breakfast program. This was obviously a difficult decision for many of my colleagues to make. The school breakfast program currently reaches only 20 percent of those participating in the school lunch program. Yet, breakfast is perhaps the most important meal of the day.

The breakfast mandate, however, was a controversial provision. Pursuing it at this late hour, would have resulted in there being no child nutrition legislation, and no WIC entitlement. It is my hope that the Department will do everything in its power to educate local school administrators as to the benefits of a nutritional breakfast, and encourage them to make use of the financial incentives contained in this bill.

I would also like to make a comment about the substitute language that has been adopted governing the use of alternate foods in the child nutrition programs.

I strongly supported the original Senate language which in essence gave this regulatory matter back to the Secretary where it belongs. That Senate amendment sought to preserve the nutritional integrity of school meals by insisting on the use of basic meal components rather than alternate foods which substitute for more than one meal component.

Last year we enacted legislation to give schools funds for nutrition education activities. I do not believe that we should teach students the value of well-balanced meals in the classroom and serve meals that are inconsistent with the principle in the lunchroom.

Mr. President, I ask unanimous consent that there be printed in the RECORD a summary of the major provisions of S. 3085, as amended by the House.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF MAJOR PROVISIONS OF S. 3085

(1) Child care food program (section 2)

(a) Eligible institutions

Institutions eligible for participation in the child care food program must have Federal, State, and local licensing or be complying with appropriate renewal procedures. Where Federal, State, or local licensing or approval is not available, the institution must receive funds under title XX of the Social Security Act or demonstrate that it meets approval standards established by the Secretary of Agriculture after consultation with the Secretary of Health, Education, and Welfare. (Under existing law, unlicensed institutions must satisfy the Secretary that its standards are not less comprehensive than the Federal interagency day care requirements.)

The institution must also accept final administrative and financial responsibility for its food service. If the institution has been found to be seriously deficient in operating any of the programs under the National School Lunch Act or the Child Nutrition Act of 1966, it cannot be approved until necessary corrections have been made, and the institution must provide adequate supervisory and operational personnel for the monitoring and management of the food service.

(b) Funding

The bill makes the child care program permanent and authorizes the appropriation of such funds as may be necessary to carry out the program.

(c) Payment rates

(i) All participating institutions, except family and group day care homes.—The bill simplifies the child care food program by prescribing one payment rate for each category of institution, other than family or group day care home sponsoring organizations. In institutions where at least two-thirds of the children enrolled are eligible

for free or reduced-price school meals, the State will receive reimbursement for all meals at the reimbursement rates for free school meals. In institutions where between one-third and two-thirds of the children enrolled are eligible for free or reduced-price school meals, the State will receive reimbursement for all meals at the rates for reduced-price school meals. In institutions where less than one-third of the children enrolled are eligible for free or reduced-price school meals, States will be reimbursed at the rates for paid school meals. (Special rates are applicable to snacks or meal supplements.)

The bill also allows institutions to elect, in lieu of these new reimbursements procedures, to continue to be reimbursed according to the income of each child as provided under existing law.

(ii) Family or group day care homes.—A separate reimbursement schedule is established for family or group day care homes. Family or group day care homes would receive a payment for food and labor costs and payments for administrative costs up to limits prescribed by the Secretary, without a requirement for documentation of these costs. This provision is designed to simplify operation of the program in these small homes, where current rules have proved difficult to administer.

(d) Tax exempt status

The bill enacts the provision in the Department's current regulations that institutions participating in the program as a sponsoring organization for family or group day care homes, rather than the individual homes, must satisfy the requirements regarding tax-exempt status.

(e) Administrative expenses and start-up funds

Institutions that sponsor family or group day care homes will receive reimbursement for administrative expenses. Such reimbursements would include start-up payments for administrative expenses payable in accordance with procedures prescribed by the Secretary. A family or group day care home may function as its own sponsoring organization.

(f) Studies

The bill requires the Secretary to study—

(i) the administrative costs for institutions participating in the program and allows the Secretary to use the results of the study in prescribing maximum allowable levels for administrative payments;

(ii) food service operations under the program, including an evaluation of meal quality as related to costs, whether maximum reimbursement levels should be set for food service costs; and

(iii) the nature of licensing problems faced by institutions and family or group day care homes.

Up to $2 million of the fiscal year 1979 child care food program appropriations will be available to conduct these studies. The results of the studies would be reported to Congress within 18 months of the effective date of the bill.

(g) Foor service equipment assistance

The bill increases from $3 million to $6 million the amount of funds available to the Secretary for food service equipment assistance for child care institutions participating in the program.

(h) Direct disbursement to food service equipment suppliers

The bill requires the Secretary to issue regulations authorizing the State to disburse funds directly to a supplier of food service equipment, prior to approval of the institution for participation, for equipment for that institution if the institution (i) meets all the requirements for program participation except for licensing and (ii) satisfies all requirements for licensing except for food service equipment.

(2) Special supplemental food program (WIC) (section 3)

Section 3 of the bill extends the WIC program for four years.

(b) Eligibility

The bill enacts the current definitions in the Department's regulations for postpartum, pregnant, and breastfeeding women, and retains the current age limit for children eligible for the program at age five.

Program participation would be limited to pregnant, postpartum, and breastfeeding women, infants, and children who are at nutritional risk and whose incomes are below the standard for reduced-price lunches under the National School Lunch Act, 195 percent of the poverty level. There is currently no income cap on participation in the program.

Persons would not be eligible for program participation solely on the basis of their income.

(c) Definition of "nutritional risk"

The bill retains the concept of nutritional risk based on specific medical or nutritional conditions, but deletes specific examples of such conditions from the definition.

The definition is also amended to include conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

(d) Concurrent operation with the commodity supplemental food program

The bill allows the simultaneous operation of the commodity supplemental food program and the WIC program in the same area. The Secretary is required to issue regulations that would prevent dual receipt of benefits under these two programs. Existing law allows these programs to operate "side-by-side," which has been interpreted by USDA to preclude simultaneous operation in the same area.

(e) Nutrition education

The bill expands the existing authority for nutrition education in the WIC program by requiring that—

(i) the Secretary prescribe standards to ensure that adequate nutrition education services are provided and requiring that nutrition education training be provided to persons employed to provide such education;

(ii) nutrition education be provided to all pregnant, postpartum, and breastfeeding program participants and parents or caretakers of infant and child program participants. States may provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents of caretakers of infants or children who are enrolled at local agencies operating the program but who do not participate in the program;

(iii) the State agency evaluate annually the nutrition education component, including securing the views of participants, and provide nutrition education materials in languages other than English in areas with substantial non-English speaking low-income populations;

(iv) the Secretary, after submitting proposed nutrition education materials to the Secretary of HEW for comment, issue such materials for use in the program; and

(v) one-sixth of the funds provided for State and local agency administrative costs, except those funds used for evaluation and pilot projects, be used for nutrition education.

(f) Migrants

The bill requires—

(i) the Secretary to establish procedures to facilitate program participation of migrants as they move from State to State. The State agency is required to use bilingual program materials, where appropriate, in administering the program in areas with substantial numbers of non-English speaking low-income populations; and

(ii) the Secretary to prepare, by October 1 of each year, a report describing plans to ensure, to the maximum extent feasible, continuous WIC program benefits to migrants. The report is to be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

(g) Submission on monthly financial and participation reports.

The bill requires State agencies to submit to the Secretary monthly financial and participation reports.

(h) Continuing certification for participants who move.

The bill allows a person's certification of eligibility to remain valid for the period for which the individual was certified as eligible, when that person moves from one program area to another. A person would not need to have a new certification of eligibility in the new area, but the availability of a WIC program opening in the new area would not be guaranteed.

(i) Food package composition.

The bill requires the Secretary to prescribe the foods available in the program. Competent professional authorities have the responsibility for prescribing food, from the foods designated by the Secretary, for individual participants in the program. To the degree possible, the Secretary should assure that the fat, sugar, and salt content of the prescribed food is appropriate.

Commercially available products and products that are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary, designed for pregnant, postpartum and breastfeeding women, infants, or children will be available to participants, at the discretion of the Secretary.

(j) Authorization levels for appropriations for WIC.

The bill authorizes the appropriation of $550 million for fiscal year 1979, $800 million for fiscal year 1980, $900 million for fiscal year 1981, and $950 million for fiscal year 1982.

Of the sums appropriated for any fiscal year for the program, one-half of 1 percent, not to exceed $3 million, shall be available to the Secretary for the purpose of evaluating program performance, health benefits, and the administration of pilot projects. This includes projects designed to meet the special needs of migrants, Indians, and rural populations.

(k) Program level

The bill provides, subject to the authorization levels for appropriations for fiscal years 1979 and 1980, and subject to appropriations for fiscal years 1981 and 1982, that any State-approved eligible local agency that applies to operate or expand the program shall immediately be provided with the necessary funds to conduct the program.

(l) Administrative funds

The bill authorizes the Secretary to make 20 percent of the funds provided each fiscal year (exclusive of the funds provided for evaluation and pilot projects) available for State and local agency administrative costs. Current law authorizes not to exceed 20 percent of such funds for local agency administrative costs. The bill also allows the Secretary to exceed the 20 percent maximum level on administrative funds as a result of reallocation when necessary for proper, efficient program administration.

The bill changes the administrative costs reimbursement formula so that each State's administrative funds are not tied to the cost of the food it prescribes. Each State would, instead, receive an administrative budget at the start of the year, so that States would know how much administrative money they have for the year.

(m) National Advisory Council on Maternal, Infant, and Fetal Nutrition

The bill expands the membership of the National Advisory Council on Maternal, Infant, and Fetal Nutrition from 19 to 21 persons.

(n) Commodities

The bill authorizes the Secretary to donate for distribution under the WIC program, at the request of a State agency, foods (i) available under section 416 of the Agricultural Act of 1949 including, but not limited to, dry milk, or (ii) purchased under section 32 of the Act of August 24, 1935, or (iii) purchased with appropriated funds.

(3) Reduced-price lunches (section 4)

The bill reduces the Federal reimbursement rate to States for reduced-price lunches by 10 cents. Currently, the Federal reimbursement rate for reduced-price lunches is set 10 cents below the rate for free lunches. The bill provides, with one exception, that the Federal reimbursement rate for these lunches be set 20 cents below the free lunch rate. However, in States where all schools charge less than 20 cents for a reduced-price lunch, the reimbursement rate for these lunches would be set at a level where the average reimbursement per lunch, plus a charge paid by the student, would equal the free lunch reimbursement.

(4) Special milk program (section 5)

The bill provides that, at the option of the local school, children who are eligible for free lunches will also be eligible for free milk upon their request.

(5) Changes in commodity indexes (section 5).

(a) The bill changes the basis on which the reimbursement rate for milk in the special milk program is adjusted from the "food away from home" series of the Consumer Price Index to the Producer Price Index for Fresh Processed Milk.

(b) The annual adjustment in the commodity donation rate for the school lunch program would be based on changes in the Price Index for Food Used in Schools and Institutions, rather than changes in the "food away from home" series of the Consumer Price Index.

(6) School Breakfast expansion (section 6).

(a) Cost accounting practices.

The bill eliminates the requirement in existing law for schools serving both lunches and breakfasts to allocate all costs between the two programs and account for each program separately. This change will reduce bookkeeping and paperwork burdens significantly.

(b) Equipment assistance.

The bill makes equipment assistance more accessible to schools that will use equipment to institute a breakfast program by—

(i) making such schools eligible for "reserved" equipment funds;

(ii) increasing the portion of equipment funds that are "reserved" from 33⅓ percent to 40 percent; and

(iii) increasing the authorization for equipment funds from $40 million to $75 million.

(c) Additional assistance.

Assistance of up to 10 cents more per free breakfast will be made available to schools if they meet the State's definition of "especially needy" schools and those schools (having a breakfast program or deserving to initiate a breakfast program) in which, during the most recent second preceding year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at reduced price.

(7) Alternate foods (section 6).

The bill prohibits the Secretary from limiting or prohibiting the use during the 1978–79 school year of formulated grain-fruit products currently used in the school breakfast program. The Secretary is required to consult with specified persons with respect to continued use of these products. The Secretary could not issue final regulations disapproving the use of these products beyond the current school year until sixty days elapse after the Secretary notifies the appropriate congressional committees of the action.

(8) State administrative expenses (section 7)

The bill—

(a) increases funding for State administrative expenses (SAE) in operating the child nutrition programs. Presently, the total funding for SAE nationwide is set at not less than 1 percent nor more than 1½ percent of the funds spent the second previous fiscal year on school food programs, and the special milk, child care and equipment programs. The minimum funding level is increased by the bill to 1½ percent;

(b) prescribes methods for allocating funds to States and raises the minimum State allocation from $75,000 to $100,000; and

(c) provides for an increase of approximately $750,000 in State administrative expense funds for operating the summer food program. (New administrative requirements improved by P.L. 95–166 are increasing State administrative burdens. A new GAO report concludes that more State administrative expense funds are needed to manage the summer program properly.)

(9) Income poverty guidelines (section 8)

The bill—

(a) provides for the use of one uniform set of poverty guidelines for all USDA food programs; and

(b) sets a uniform national income limit for free school meals at 125 percent of the poverty guidelines. Currently, the standards may be set at 100 percent to 125 percent of the poverty guidelines.

(10) Study of menu choice (section 9)

The bill requires the Secretary to conduct a study on the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns.

(11) Outlying areas (section 10)

The bill authorizes the Secretary to make adjustments in the reimbursement rates under the school breakfast and school lunch programs for Alaska, Guam, Hawaii, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa to take into account higher costs in food service in those areas.

(12) Criminal penalties (section 10)

The bill provides criminal penalties for fraud or embezzlement in connection with the child nutrition programs.

(a) Purchases of seafood products for school lunches (section 12)

The bill authorizes the Secretary to purchase seafood commodities for donation in the school lunch program.●

● Mr. TALMADGE. Mr. President, I support the House amendment to S. 3085, the Child Nutrition Amendments of 1978.

This bill represents the best efforts of Senators McGOVERN, DOLE, and LEAHY to make needed improvements in the child care food program and the special supplemental food program. The efforts of Senators LUGAR, MELCHER, and BELLMON have made this bill responsive to recipient needs and truly responsible legislation.

Chairman PERKINS of the House Committee on Education and Labor is to be commended for his efforts on this bill.

I am pleased that the House deleted the provision in their bill that would have mandated a gradual phase-in of the school breakfast program in certain public schools serving poor populations. The breakfast program has been expanding since 1975. There is no proof that more schools would come into the program under the mandate than would due to normal program expansion. This is a delicate question of balancing the interests of local school authorities against the desires of forces from outside the community. I believe that the decision regarding whether to initiate a breakfast program should remain with the local school authorities and that is where S. 3085 leaves it.

I urge my colleagues to join me in concurring in the House amendment to S. 3085.●

Mr. STEVENS. Mr. President, I ask unanimous consent that a statement by Mr. DOLE be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. DOLE. Mr. President, I am glad to see the Child Nutrition Amendments of 1978 approach final congressional approval, during these busy final hours. Although neither the Senate nor the House has held fast to provisions originally introduced, I feel the final document is one of which we can all be proud.

I would like to give special attention to a few provisions in this bill that address matters of health promotion and disease prevention; issues the Nutrition Subcommittee has been wrestling with throughout this session of Congress. I am convinced that the Nation's Federal food programs, especially those serving children and other nutritionally vulnerable groups, address the growing concern of the Nation's health status as well as our increasing health care costs. Improved nutrition is our Nation's best preventive medicine.

CHILD CARE FOOD PROGRAM

The bill strengthens and extends the child care food program. I am pleased to note that this portion of the bill is substantially similar to a bill (S. 2809) I introduced earlier this year. The child care food program provides wholesome and nutritious meals to over 550,000 children, the majority of whom are from households with working parents.

Among the special provisions of the program extension, with which I am most proud to be associated, are the licensing and approval standards for family and group day care homes; the streamlined recordkeeping guidelines; and the pilot studies designed to provide greater insight into administrative costs, food costs, and State licensing procedures.

TRAINING AND TECHNICAL ASSISTANCE

Child care institutions participating in this program will receive sufficient training, technical assistance, and monitoring to facilitate both expansion and effective operation of the program.

I would certainly like to take this opportunity to urge State agencies to assist child care providers with improved management practices to run their meal services more efficiently, and with the development of good food habits for the young children being served.

WIC EXTENSION

Last June HEW's Center for Disease Control issued findings of its analysis of nutrition indicators for WIC participants. The report showed many benefits from the supplemental food package provided under this program to women, infants, and children. I am pleased with

the decision to authorize funding for this vital program for another 4 years.

Highlights from the Center for Disease Control Report support Congress stand to earmark a minimum of one-sixth of the funds spent by each State agency for its WIC program for nutrition education activities. A highlight of the center's report reads that—

Provision of food alone, without nutritional supervision and nutrition education cannot adequately address all of the nutritional problems of these children.

CHALLENGES TO THE PROFESSIONAL

The competent professional authority has been called upon to meet many challenges in this piece of legislation. A major challenge is identifying WIC clients at "nutritional risk," through the use of biochemical, clinical, and anthropometric and other measurements; identifying detrimental or abnormal conditions, such as, but not limited to, anemia and toxemia associated with pregnancy.

This same professional has been provided with extensive bill language which addresses nutrition education and the need for standards; standards to insure that adequate instructional services in nutrition are provided the WIC recipient. The ultimate challenge to these professionals is to improve the food buying practices and food consumption patterns of WIC families, and bring them well above the level of "nutritional risk."

BREAKFAST EXPANSION

Few would argue that breakfast is not an important meal of the day. Yet there was serious concern in both Houses over a move to tell States they must offer breakfast in schools under certain defined conditions.

Under Public Law 94–105, the child nutrition legislation enacted in 1975, Congress went on record as stating that school breakfast be made available in all schools where the need exists. A rejection of the breakfast mandate is not intended to be interpreted as a renunciation of congressional support for the breakfast program. Rather than dictating the initiation of breakfast programs, Congress has provided three incentives to schools that choose to offer the breakfast program; Combined recordkeeping for schools serving breakfast and lunch, equipment assistance for schools starting breakfast programs, and bonus funds for schools defined as especially needy.

ALTERNATE FOODS AMENDMENT

This year many representatives from the nutrition community in my home State of Kansas and from around the country expressed concern that the national $3 billion investment in the child nutrition programs might be failing to maintain the nutritional integrity of the meal pattern requirements under these programs.

In particular there was concern about the disappearance of the three basic meal components required in the school breakfast program; and the substitution of bread or cereal and fruit or vegetables or their juices for cakes, donuts, and breakfast bars. As my colleagues know, I introduced a floor amendment to the Senate bill that sought to guard against any such deterioration of school meals in the future. It was adopted in the Senate-passed bill.

The House amendment does not contain the language of alternate foods amendment introduced in the Senate passed bill last July 21. In the weeks since I have received letters of support for this amendment from dozen of organizations and concerned citizens in Kansas and from around the country. Collectively the organization memberships total several million people. They are all questioning the direction in which we are going, with meal pattern substitutions such as the one I cited above.

I hope, as this new bill language on grain-fruit products directs, that after the 1978–79 school year, the Department of Agriculture will exercise its full authority and responsibility. And with the aid of the nutrition community, assure us that the basic food components in school meals remain a requirement.

On this note, Mr. President, I would like to inform the Department of the support behind my amendment, in particular the proviso to prohibit the use of alternate foods taking the place of more than one basic meal component. The following names of organizations endorse the Dole alternate food amendment.

Before closing, Mr. President, I would like to extend a special word of appreciation to the committee chairmen and staffs who engineered this piece of legislation through Congress under such a tight schedule.

Mr. President, I urge the adoption of this bill, the Child Nutrition Amendments of 1978.

I ask unanimous consent to have printed in the RECORD a list of organizations.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING DOLE'S ALTERNATE FOODS AMENDMENT

A. From Kansas:
1. Kansas Dietetic Association, Inc.
2. Kansas Nutrition Council.
3. Kansas State Department of Education.
4. Praxis, Inc.
5. Unified School District No. 383, Manhattan.
6. Unified School District No. 267, Andale.
7. University of Kansas Medical Center.

B. From National Organizations:
1. American Dental Hygienists' Association.
2. American Dietetic Association.
3. American Home Economics Association.
4. American Nurses' Association, Inc.
5. American Parents Committee.
6. American Public Health Association.
7. American School Food Service Association.
8. Center for Science in the Public Interest.
9. Children's Defense Fund.
10. Children's Foundation.
11. Community Nutrition Institute.
12. Consumer Federation of America.
13. Food Research and Action Center.
14. Healthy America.
15. Institute of Nutrition.
16. National Child Nutrition Coalition.
17. National Education Association.
18. National Farmers Union.
19. National Medical Association.
20. National Milk Producers Federation.
21. National PTA.
22. National Urban League, Inc.
23. Operation PUSH (People United to Save Humanity).
24. Society for Nutrition Education.
25. Washington Association for Television & Children—WATCH.
26. National Council of Negro Women, Inc.
27. United Fresh Fruit and Vegetable Association.
28. National Farmers Organization.

C. From Other Organizations:
1. Alabama Dietetic Association.
2. California Dietetic Association.
3. Mayor's Commission on Food, Nutrition & Health, Washington, D.C.
4. Emory University School of Medicine, Atlanta.
5. Illinois Dietetic Association.
6. Lakeview Family Health Center, Chicago.
7. Michigan Department of Public Health.
8. State University College at Buffalo.
9. University of Maryland.

D. Plus numerous other letters from concerned individuals around the country.●

Mr. STEVENS. Mr. President, I am pleased to support the majority leader's motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the House amendment.

The motion was agreed to.

Mr. ROBERT C. BYRD. I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSUMER PRODUCT SAFETY ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2796.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2796) entitled "An Act to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes", do pass the following amendment:

Strike out all after the enacting clause, and insert:

"That section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by striking out "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner." and inserting in lieu thereof the following: "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.".

(b) Section 4(i) of the Consumer Product Safety Act (15 U.S.C. 2053(i)) is amended by striking out "before January 1, 1978," in paragraph (1)(A) thereof; and by striking

out "before January 1, 1978" in paragraph (1)(B) thereof.

SEC. 3. (a) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively;

(3) in subparagraph (C) as so redesignated in paragraph (2), by striking out "and" at the end thereof; and

(4) by striking out subparagraph (D), as so redesignated in paragraph (2), and the two sentences following subparagraph (D), and inserting in lieu thereof the following:

"(D) include—

"(i) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to submit to the Commission an existing standard as the proposed consumer product safety standard; and

"(ii)(I) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to offer to develop the proposed consumer product safety standard; or

"(II) a statement that the Commission intends to develop the proposed consumer product safety standard; and

"(E) specify the period of time in which the offeror of an accepted offer and the Commission, or the Commission acting by itself, is to develop the proposed standard.".

(b) Section 7(b) of the Consumer Product Safety Act, as amended in subsection (a) is further amended by adding at the end thereof the following new paragraph:

"(2) After consultation with such interested parties as the Commission shall deem necessary, the Commission may develop a consumer product safety standard without making any invitation specified in paragraph (1)(D)(ii)(I) and may publish such standard as a proposed consumer product safety rule whenever the Commission determines, taking into account—

"(i) the nature of the risk of injury associated with such product,

"(ii) the expertise of the Commission with respect to such risk of injury,

"(iii) the expertise of the Commission in developing consumer product safety standards, and

"(iv) the resources available to the Commission and the priorities established by the Commission,

that to develop a consumer product safety standard which would adequately protect the public from such risk of injury, it is more expeditious for the Commission to develop the standard than to proceed under paragraph (1)(D)(ii(I) for its development. The Commission shall give interested persons opportunity to submit written comments to the Commission during the thirty-day period following publication of such determination under paragraph (1).".

SEC. 4. (a)(1) Section 7(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2056 (d)(1)) is amended by inserting "subsection (b)(2) and by" after "as provided by", by striking out "subsection (b)(4)(B)" and inserting in lieu thereof "subsection (b)(1)(D)(ii)(I)", and by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)(E)".

(2) The first sentence of section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended—

(A) by inserting "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e)," after "under this subsection";

(B) by inserting "or the person's cost with respect to such participation" after "safety standard"; and

(C) by inserting "or person" after "offeror".

(3) Section 7(d) of the Consumer Product Safety Act (15 U.S.C. 2056(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission shall prescribe regulations governing the development of proposed consumer product safety rules by the Commission under subsection (b)(2) and subsection (e)(1). Such regulations shall include the requirements specified in subparagraphs (B), (C), and (D) of paragraph (3).".

(b) Section 7(e) of the Consumer Product Safety Act (15 U.S.C. 2056(e)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b)(1)(D)(ii)(I) for the development of a consumer product safety standard and if the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, then the Commission may develop a proposed consumer safety rule with respect to such product and publish such proposed rule.

"(2) If the Commission accepts an offer to develop a proposed consumer product safety standard under subsection (b)(1)(D)(ii)(I), the Commission may not develop a proposed consumer product safety rule or publish such proposed rule unless—

"(A) the development period specified in subsection (b)(1)(E) for such standard ends;

"(B) no offeror whose offer was accepted is making satisfactory progress in the development of such proposed standard; or

"(C) the sole offer accepted under subsection (b)(1)(D)(ii)(I) is that of an offeror which is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard.".

(c) Section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) and the Commission does not publish a proposed consumer product safety standard within forty-five days after the expiration of the period specified in subsection (b)(1)(E), the Commission shall—

"(1) by notice published in the Federal Register, terminate the proceedings begun by such notice published pursuant to subsection (b); or

"(2) publish in the Federal Register the reasons for not publishing the proposed standard, and specify the time period within which either such standard will be published or the proceeding begun by such notice published pursuant to subsection (b) will be terminated without publication of such proposed standard.

The reasons referred to in paragraph (2) may may include a statement that the Commission is considering other approaches (such as a voluntary consumer safety standard adopted by persons who would be subject to such proposed standard) to eliminate the unreasonable risk of injury that is the subject of such proceeding.".

(d) Paragraphs (1) and (2) of section 9(a) of the Consumer Product Safety Act (15 U.S.C. 2058(a)) are each amended by striking out "section 7(c), (e)(1), or (f) or section 8" and inserting in lieu thereof "section 7 or 8".

SEC. 5. Section 7(c) of the Consumer Product Safety Act (15 U.S.C. 2056(c)) is amended to read as follows:

"(c) If the Commission determines—

"(1) that any standard submitted to it pursuant to an invitation made under subsection (b)(1)(D)(i), or

"(2) that any standard (other than one submitted under subsection (b)(1)(D)(i)) issued, adopted, or proposed by any Federal department or agency (other than the Commission) or by any other qualified agency, organization, or institution,

if promulgated (in whole, in part, or in combination with any other standard described in paragraph (1) or (2) or any part of such a standard) as a consumer product safety rule, would eliminate or reduce an unreasonable risk of injury associated with a consumer product, the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule. In the case of a standard described in paragraph (2), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule without making an invitation under subsection (b)(1)(D)(i).".

SEC. 6. (a) Section 18 of the Consumer Product Safety Act (15 U.S.C. 2067) is amended—

(1) by inserting "(a)" after "SEC. 18.", by inserting "(A)" after "unless", and by inserting before ", and (2)" the following: ", or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States,"; and

(2) by adding at the end thereof the following new subsection:

"(b) Not less than thirty days before any person exports to a foreign country any product—

"(1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

"(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9,

such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068(a)) is amended—

(1) in paragraph (8), by striking out "or";

(2) in paragraph (9), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (9) the following new paragraph:

"(10) fail to file a statement with the Commission pursuant to section 18(b).".

(c) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended in paragraph (1) by striking out "(8), or (9)" and inserting in lieu thereof "(8), (9), or (10)".

SEC. 7. (a) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following new subsection:

"(i) The failure to notify the Consumer Product Safety Commission with respect to exports, pursuant to section 14(d).".

(b) Clause (3) of section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1262(b)) is amended—

(1) by striking out "in respect of" and inserting in lieu thereof "with respect to"; and

(2) by inserting before ", this clause" the following: "or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States".

(c) Section 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273) is amended—

(1) in the section heading by adding "AND EXPORTS" after "IMPORTS"; and

(2) by adding at the end thereof the following new subsection:

"(d) Not less than thirty days before any person exports to a foreign country and misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this Act. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date".

SEC. 8. (a) Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended—

(1) in subsection (a) by inserting before "; except that" the following "; unless the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States";

(2) in subsection (b) by inserting before "; except that" the following ", unless the Commission determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States"; and

(3) by adding at the end the following new subsection:

"(c) Not less than thirty days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard by regulation in effect under this Act, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard regulation. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such fabric, related material, or product, the country and port of destination of such fabric, related material, or product, and the quantity of such fabric, related material, or product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection expecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no way shall the Commission permit such a statement to be filed other than the tenth day before such date.".

Section 7 of the Flammable Fabrics Act (15 U.S.C. ir amended by inserting after "8(b) of this Act" the g: ",or who fails to comply with section 15(c) of....."

SEC. 9. Section 2(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261(1)) is amended to read as follows:

"(1)(1) The terms 'extremely flammable', 'flammable', and 'combustible' as applied to any substance, liquid, solid, or the content of a self-pressurized container shall be defined by regulations issued by the Commission.

"(2) The test methods found by the Commission to be generally applicable for defining the flammability or combustibility characteristics of any such substance shall also be specified in such regulations.

"(3) In establishing definitions and test methods related to flammability and combustibility, the Commission shall consider the existing definitions and test methods of other Federal agencies involved in the regulation of flammable and combustible substances in storage, transportation and use; and to the extent possible, shall establish compatible definitions and test methods.

"(4) Until such time as the Commission issues a regulation under paragraph (1) defining the term 'combustible' as applied to liquids, such term shall apply to any liquid which has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue Open Cup Tester.".

"('Commission') shall establish, in accordance with subsection — a Toxicological Advisory Board (hereinafter in this section referred to as the 'Board') to advise the Commission on precautionary labeling for hazardous substances. The Board will provide scientific and technical advice to the Commission concerning—

"(A) proper labeling under sections 2(p)(1) and 3(b), with special attention to—

"(i) the description of precautionary measures required under section 2(p)(1)(F);

"(ii) the statement describing the hazards associated with a hazardous substance as required under section 2(p)(1)(E); and

"(iii) instructions for first-aid treatment under section 2(p)(1)(G); and

"(B) the exemption of certain substances from labeling requirements under this Act as permitted under section 3(c).

"(2) In carrying out its duties under paragraph (1)(A), the Board shall review any labeling requirements or guidelines which have been established by the Commission under section 2(p)(1) or 3(b). Based upon its review the Board shall develop and submit to the Commission, within one year after the date that the Board is established, any recommendations for revisions in such labeling requirements or guidelines which the Board considers to be appropriate, including any general recommendations which may be of substance to the Commission in carrying out its responsibilities under section 2(p)(1) or section 3(b). The Board shall periodically review the labeling requirements and guidelines established by the Commission under such sections to determine whether such requirements and guidelines reflect current changes in scientific knowledge and shall revise any general recommendations submitted to the Commission under this paragraph to reflect such changes.

"(b)(1) The Board shall be composed of nine members appointed by the Commission. Each member of the Board shall be qualified by training and experience in one or more fields applicable to the duties of the Board, and at least three of the members of the Board shall be members of the American Board of Medical Toxicology. The Chairman of the Board shall be selected by the Board from among its members.

"(2) The members of the Board shall be appointed for terms of three years. Members of the Board may be reappointed.

"(3) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term.

"(4) The Board shall meet at such times and places as may be designated by the Commission in consultation with the Board Chairman, but not less than two times each year.

"(5) Members of the Board who are not officers or employees of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate fixed by tne Commission, not exceeding the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of such title. Individuals serving as members on the Board shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

"(c) The Board shall terminate on the date six years after the date it is established under this section.".

Sec. 11. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"(m)(1) For purposes of this subsection, the term 'rule' means—

"(A) any rule prescribed by the Commission pursuant to section 9;

"(B) any rule prescribed by the Commission pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(B));

"(C) any rule prescribed by the Commission under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472); and

"(D) any rule prescribed by the Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193). "(2) Within 18 months after the effective date of this subsection, the Commission shall begin a study of all the rules which the Commission has issued and which are in effect on such effective date. At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress which shall, to the extent practicable and appropriate (taking into account the resources and priorities of the Commission)—

"(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendations; and

"(B) recommend the initiation of appropriate rulemaking proceedings under this Act to make changes or modifications in particular rules or portions of rules.

"(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of the Congress of such pro-

posal at the time such proposal is published in the Federal Register.

"(4)(A) To the extent practicable and appropriate (taking into account the resources and priorities of the Commission), the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the effective date of this subsection—

"(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

"(ii) a paperwork impact analysis containing—

"(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records required to be kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(III) a description of steps being taken by the Commission to ensure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

"(iii) a judicial impact analysis showing the effect of such rule on the workload of the Federal courts; and

"(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

"(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this paragraph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

"(ii) If any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.".

Mr. ROBERT C. BYRD. I ask unanimous consent that a statement by Mr. FORD be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. FORD. Mr. President, the 3-year authorization levels for the Consumer Product Safety Commission and the critical provisions of the Senate bill, which passed the Senate on August 18, 1978, are retained in the House substitute amendment. For example, the provisions extending the Commission's authority to promulgate existing voluntary standards and providing the Commission with the limited flexibility to take the place of an outside "offeror" in developing mandatory standards are retained. Under the present statute, public participation funds may be made available under the "offeror" process. The House amendment would permit the Commission to fund public participation when the Commission takes the place of an outside "offeror."

The House amendment contains the Senate provision providing that the Chairman of the Commission serve at the pleasure of the President with Senate advice and consent and extends the provision of the act allowing an individual to bring a civil action against the Commission for a claim based upon misrepresentation, deceit, or gross negligence.

The House amendment modifies an amendment originally offered to the Senate bill by my colleague from New Mexico, Senator SCHMITT. The amendment requires that the Commission must begin a study to recodify the rules which the Commission itself has issued and promulgated and which are in effect on the date of enactment of the act. For example, standards which the Commission has issued and which are now in effect include: The architectural glazing standard, the swimming pool slide standard, and the matchbook standard. Where practicable and appropriate, the Chairman shall report on the economic, paperwork, and judicial impact of each rule proposed to be retained, deleted, or modified.

The House amendment further requires notification to an importing country of the export of any domestically banned substance that does not conform to safety standards issued by the Commission under the Consumer Product Safety Act. This provision is very similar to the notification provisions of the Toxic Substances Control Act.

Mr. President, the members of the Committee on Commerce, Science, and Transportation have worked closely with the House Interstate and Foreign Commerce Committee, and I believe we have improved the original Senate bill. I am pleased to accept the House amendment and hope that the changes in the procedural rules of the agency will help to improve the Agency's performance.●

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

Mr. STEVENS. I am happy to concur in the motion of the majority leader, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the motion to concur in the amendment of the House of Representatives.

The motion was agreed to.

ENCOMIUMS AND BENISONS

Mr. ROBERT C. BYRD. Mr. President, I want to take this occasion to express my thanks to Tom Hart, the very able chief counsel of the Democratic Policy Committee. He has been untiring in his service to me and to the Members on this side of the aisle, and very cooperative with the Members on the other side of the aisle.

I also want to commend the others on the Democratic policy staff, including Mary Jane Checchi, who I believe is the first woman ever to serve on the Democratic Policy Committee staff, and a very able and efficient young woman. All of the others on the staff are to be highly commended. I express my gratitude for my floor assistant, Mr. Joe Stuart, who is always pleasant and most courteous and cooperative with all Senators.

I thank the secretary for the majority, Mr. James Duffy, for all his services to the majority, and wish to express my gratitude to the secretary of the Senate, Mr. Stan Kimmitt, who is the epitome of efficiency and skill, and also my thanks, and I speak for my colleagues, I am sure, when I express appreciation for Nordy Hoffmann, the inimitable Sergeant at Arms, who serves all the Members of the Senate as well as our guests in the gallery at all times in such a fine way.

Mr. President, I thank also Mr. Bill Hildenbrand, the gentleman from the other side of the aisle who is of most assistance to my Democratic staff people and me, always courteous and very able, and his assistant, Howard Greene, who is likewise affable, congenial, friendly, cooperative, and courteous at all times, and Mr. Dompierre, who is in the same boat.

Mr. STEVENS. Mr. President, may I join in that? I left Mr. Dompierre out of my statement; I am sorry. I, too, join in that.

Mr. ROBERT C. BYRD. Yes. And Susan Alvarado, who is not only TED STEVENS' fine assistant, but I sometimes feel she is also an assistant of mine, and she is a bluegrass lover—a bluegrass fan.

Mr. STEVENS. A bluegrass lover; that will come out of the RECORD, I will make sure of that.

Mr. ROBERT C. BYRD. Anyone who is a bluegrass fan is a friend of mine.

Also, Mr. President, I want to express the appreciation of all Senators on both sides of the aisle to the Parliamentarian, Murray Zweben, and his chief assistant, Robert Dove, and to all the assistant parliamentarians and the journal clerks, the reading clerks, the accounting clerks, and all the other clerks, those people who, day in and day out, night in and night out—and the official reporters, who at all times serve the Senate and who do not receive enough thanks, but are nevertheless in our hearts; we know they are there and appreciate everything they do for us. And to the doorkeepers and the pages, my appreciation; they are always helpful in parliamentary matters, and make our days just a little bit brighter.

Then, Mr. President, there are the Capitol Police, who do their work well, also day and night, and stand guard when the Capitol is dark, from darkness to dawn.

To all these, Mr. President, I express gratitude for one of the finest records a Congress has ever compiled, certainly the finest since I have been in Washington, fine because it required a lot of courage and hard work to produce the kind of record that this Congress has produced. It made its contribution to inter-

national policy and domestic policy, and cooperated with the President, and he with Congress; and with that kind of cooperation, the interests of the people have been well served.

Mr. President, with that I ask unanimous consent that the Senate stand in recess for——

Mr. GRAVEL. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes. I withdraw my unanimous-consent request.

Mr. GRAVEL. I want to have the opportunity, since I might not be here on final adjournment, to add my voice and associate myself with gratitude for everything the majority leader has said.

I want to say he can be particularly proud when he considers his first 2 years as majority leader of this body. Everyone in the Senate can be proud, and when the President considers what we have brought about, I think Jimmy Carter, the President of the United States, can consider himself lucky to have this kind of leader in this body, carrying his water day in and day out. I have seen him stand here and hammer through issues with an evenness to all parties and to the President with such detail and such dedication; I am just very proud to be associated with him in this body, and I want to thank him as one Member of the body.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator and my friend very much. And I cannot find many words to express my gratitude to my colleagues on this side of the aisle. Of course, I appreciate, and always have, the leadership and the Members over there, but this is my family on this side of the aisle. Once in a while we clash, and I have had to offer a cloture on JIM ABOUREZK on occasion, but I always find him smiling and congenial; and let me say this: the Senate will never be the same without JIM ABOUREZK.

Mr. ABOUREZK. Mr. President, on a point of personal privilege, I wonder if the distinguished majority leader will yield.

Mr. ROBERT C. BYRD. Of course, I yield.

Mr. ABOUREZK. I only want to say that I am not one for giving a lot of tributes nor receiving a lot of tributes.

I do not know how this will come out. I have been awake for a long, long time, so I am not sure how it will come out.

I ask you to take this tribute. I believe that the job of majority leader is probably one of the most difficult jobs in the world. He has people harassing him from all sides. I know, I have harassed him from a number of sides during his 2-year tenure. I will say how admirably he has handled it. He has not vomited once that I know of. He has not climbed the wall like he should have. [Laughter.]

He has conducted himself, I believe with a cool and calm head. He has every right to not have a cool and calm head.

I just want to say one more thing. I think the reason the majority leader has shown such restraint when it should have been otherwise, is that he knew he only had a very short time to deal with me. [Laughter.]

There were two of us that were happy that this was approaching, me and BOB.

I have considered it a pleasure and an honor to have served with the distinguished majority leader.

Mr. ROBERT C. BYRD. My truly unflappable friend. Tennyson said, "I am a part of all I have met."

Mr. President, I think for that part of me the Senate will never be the same again after Senator ABOUREZK leaves. Here is a man who, as ROBERT MORGAN said yesterday, has backbone and courage, stands up, and is willing to stand alone.

Here is a man who is willing to stand up. JIM ABOUREZK is one of that kind. He is an inspiration in that regard to all of us in general.

We will not forget him.

AUTHORIZING THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE TO SIGN BILLS AND RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a concurrent resolution and ask that it be stated by the clerk.

The concurrent resolution (S. Con. Res. 115) was read, considered by unanimous consent, and agreed to as follows:

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the sine die adjournment of the two Houses, the Speaker of the House of Representatives and the President of the Senate, and the President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

AUTHORIZING THE PRESIDENT OF THE SENATE TO MAKE CERTAIN APPOINTMENTS AFTER THE SINE DIE ADJOURNMENT OF THE PRESENT SESSION

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 595) was read, considered by unanimous consent, and agreed to as follows:

Resolved, That notwithstanding the final adjournment of the present session of the Congress, the President of the Senate be, and he is hereby, authorized to make appointments to commissions or committees authorized by law, by concurrent action of the two Houses, or by order of the Senate.

NOTIFICATION TO THE PRESIDENT CONCERNING THE PROPOSED ADJOURNMENT OF THE SESSION

Mr. INOUYE. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legisiative clerk read as follows:

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join a similar committee of the House of Representatives to notify the President of the United States that the two Houses have completed their business of the session and are ready to adjourn unless he has some further communication to make to them.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

The PRESIDING OFFICER. Pursuant to the resolution just agreed to, the Chair appoints the majority leader and the acting minority leader as the Senate committee to join a similar committee of the House.

THANKS OF THE SENATE TO THE VICE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a resolution and ask that it be stated.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 597

Resolved, That the thanks of the Senate are hereby tendered to the Honorable WALTER F. MONDALE, Vice President of the United States and the President of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-fifth Congress.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

THANKS OF THE SENATE TO THE PRESIDENT PRO TEMPORE

Mr. STEVENS. Mr. President, I send another resolution to the desk and ask for its immediate consideration.

The resolution (S. Res. 598) was read, considered by unanimous consent, and agreed to, as follows:

S. RES. 598

Resolved, That the thanks of the Senate are hereby tendered to the Honorable James O. Eastland, President pro tempore of the Senate, for the courteous, dignified, and impartial manner in which he has presided over its deliberations during the second session of the Ninety-fifth Congress.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. The Senate will recess shortly awaiting further messages from the House, further action from the House.

Shortly after the majority leader and the acting minority leader contact the President and deliver to him the message as recommended by the resolution it adopted, the Senate will join with the House in adjourning sine die until January 15, 3 months to the day from today.

Mr. President, I ask unanimous consent for any Senator who seeks recognition at this time.

TRIBUTE TO SENATOR SPARKMAN

Mr. STEVENS. Mr. President, I think it is very much in order to thank our good friend who is also retiring. The

Senator from Alabama is the present occupant of the Chair and it is very appropriate that he be presiding at this time.

We thank him for his long and distinguished service in the Senate.

Mr. ROBERT C. BYRD. Mr. President, I am glad the distinguished acting minority leader said that. I join with Senator STEVENS in saying to our distinguished occupant of the Chair at this time that we will miss him and Mrs. Sparkman in the days to come.

I have known Mr. SPARKMAN for more than a quarter of a century. I first met him when I was running for the House of Representatives, the first time I ran for the House. He was a candidate for Vice President of the United States at that time. He came to the county seat of my home county in West Virginia and spoke from the Federal courthouse steps one cool October afternoon.

I have since come to know him very well, always to admire him, respect him, and to be happy to call him my friend.

I am sorry to see JOHN SPARKMAN retire from the Senate. JOHN and his wife have been longing to return to the beautiful rolling hills of Alabama, joining their friends there.

He will come back to Washington, of course, from time to time, to see us when he is in this area.

To JOHN SPARKMAN, I say to you and your lovely wife:

The hours are like a string of pearls,
  The days like diamonds are.
The moments are the threads of gold,
  That bind them for our wearing.
So may the years that come to you—
  Such wealth and good contain—
That every moment, hour and day—
  Be like a golden chain.

Mr. HOLLINGS. Mr. President, before the distinguished majority leader comments, when I, too, started in public service, one of the first teams I worked for was Stevenson-Sparkman. The distinguished Senator from Alabama has been a close personal friend of mine over the years, particularly in the Senate. We have been able to travel together. Many know of his astuteness with respect to our banking legislation. In addition to that, he has been the chairman of our Interparliamentary Union and represented the United States on so many, many occasions with great dignity and persuasion.

One was by becoming the chairman of the Committee on Foreign Relations. I thought he might not be active in that capacity of chairman, but on the contrary, he was demonstrating this capacity many years before he took the chairmanship itself. I am going to miss him very, very much. He has been one of my idols over many, many years.

We have been down to his backyard, been to Jacksonville, Ala., the college there. A building is named after his wife. We have seen many of his activities.

I have had a chance to visit in his home down there during the campaign. Whenever I really needed any advice or counsel on any tough issues that affected our particular section of the country, I knew I could get the truth and get the best advice from the distinguished chairman of our Committee on Foreign Relations.

I join with the many Senators here on the floor in wishing him well. He will be back visiting with us and we will be back visiting with him. We shall miss him very much.

Mr. THURMOND. Mr. President, I just want to say that it has been a delightful pleasure, and when I say "delightful" that is exactly what I mean, to have served with the able and distinguished Senator from Alabama. I have been on trips with him overseas and I have been with him on many occasions. I do not know of anyone who is more pleasant and made a trip more enjoyable than the distinguished Senator from Alabama.

I have placed a tribute in the RECORD and I shall not say more at this time, except to say to him that I wish him and his lovely wife continued good health and happiness in the future.

Mr. SPARKMAN. Let the Chair make a very few remarks in his capacity as Senator from Alabama. I have, I might as well confess, regretted from time to time that I announced my retirement. I believe if I had thought a little longer, I would have gone on for another term. But I actually arrived at the decision because of the length of time that I have been here.

I have been in Congress more than half of my life. Actually, I have been in Congress 42 years, 10 years in the House, 32 years in the Senate. And by the way, I had the unique experience of being elected to the House and the Senate both at the same time. I am told that is the only time in the history of the country that that has happened.

I was thinking when the last rollcall came today that this was my last rollcall. Then I thought, no, I will get to vote on the sine die resolution, but I do not know whether I am going to stay here all night to do that or not.

I have greatly enjoyed my service in the Congress of the United States. I have been proud to be a Member of this body and I was proud to be a Member of the House. I was elected there in 1936. I served on the Military Affairs Committee at that time. You might be interested to know that the reason I asked to be put on the Military Affairs Committee was the fact that, then, the TVA was under the jurisdiction of that committee. But I was also named chairman of the Committee on Pay and Allowances in the Military Affairs Committee. From that came about the Soldiers and Sailors Civil Relief Act of 1942, which I count as the most pleasing piece of legislation that I ever put through.

I had seen boys taken away from homes and sent to service. I believe the pay then was $15 a month when I took it over and I got it raised to $21, which was quite an accomplishment.

But I had seen the boys taken away, leaving dependents at home—wives, mothers, and children. I felt something had to be done for them. This act essentially protected them against such things as mortgage foreclosures, penalty for delay, being late in the payment of taxes and payment of debts, protecting them while their boys were away in the service. I was proud of the way that worked out.

Later, when they started coming back, I authored the GI bill of rights. also.

Those were great days. These have been great days in the Senate, and I have thoroughly enjoyed all of it. I appreciate everything that has been said here. It is so pleasing to my ears.

[Applause, Senators rising.]

TRIBUTE TO MARYON ALLEN

Mr. HOLLINGS. Mr. President, just one word. We lose our two lady Senators, also. I know our distinguished colleague, the Senator from Alabama, MARYON ALLEN, is perhaps somewhat shocked. I had a similar experience. I thought I was successful as Governor and I looked for gratitude and the next thing I knew, I got a whipping at the polls in my first attempt to come to the U.S. Senate.

I will never forget right after World War II, harking back to that particular time when Winston Churchill, at the very time of victory in Europe, just after VE Day, that November, was defeated. In the early morning after his defeat, he said the British people were a funny lot; they showed their gratitude for a job well done by promptly voting you out of office. I learned then and there that you should not look for gratitude and perhaps Senator ALLEN has learned that.

Her husband, of course, did a magnificent job in the Senate. She did a conscientious job. I think the shock of the loss, her workload in the Senate, perhaps keeping up with the campaign, was perhaps too big a burden. But she did a good job and a conscientious job.

TRIBUTE TO SENATOR MURIEL HUMPHREY

Mr. HOLLINGS. Mr. President, in tribute to our good friend from Minnesota, all I can say is she would make old Hubert proud. I can tell you now, she is right here at closing hour.

I know as well as any of us, you always speak of the woman behind the man and say courteous, complimentary, laudatory things, but it is accurate in this particular case.

I am confident that MURIEL HUMPHREY, in many, many instances was the judgment of Hubert. You could see in her vote and her keenness of feel for the issues. I thought she would get that back seat on the last point there around the aisle and not pay too much attention and be pleasant to Senator Humphrey's friends. On the contrary, she did take a vital interest and sat and listened.

There is one thing about the Senator, for example, from Mississippi. As senior as he is, talking about JOHN STENNIS, he will sit and listen to debates. That is what MURIEL HUMPHREY has been doing. She has been listening to the debate.

She has been participating. She handled her first amendment the other day in a most laudable fashion and demonstrated what I think we all felt was not only an inspiration in the spirit of Hubert Humphrey himself, but in many instances, his judgment. We are going to miss her very much, and I commend Muriel for sticking here to the finish line this afternoon.

The PRESIDING OFFICER (Mr. SPARKMAN). I agree fully with the Senator from South Carolina.

In fact, MURIEL knows that I have gotten after her a good bit for not running again; but to no avail.

I do claim the honor, however, of pressing her name before the steering committee for membership on the Foreign Relations Committee. Of course, we had no trouble with that, because I believe everybody felt that it was the only proper thing to do, to honor Hubert in that way.

The Senator from North Carolina is recognized.

Mr. MORGAN. Mr. President, I expressed my affection for the lovely Senator from Minnesota yesterday, and I just want to tell how persuasive she is.

I came in here fully determined and had my mind made up about her amendment, and even voted against it. However, after I spoke to MURIEL a minute or two, I found out I was wrong, so I had to change my mind, and I voted the other way.

Mrs. HUMPHREY. Mr. President, working with the Members of this great body has been an experience I shall never forget. There is a dedication and commitment here to solving the difficult problems facing our Nation that give me hope for the years ahead.

As always on an occasion of this type Hubert's words serve me so well. As he said, "I remain an optimist about our country. Our democracy is the most exceptional attempt at popular governance in the history of the world and to have had a hand in it, even a small voice," has been a great privilege.

Again, my thanks to all of you, and to the people of Minnesota whose support and confidence have given me the necessary courage and strength to carry out these challenging and demanding duties.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of morning business and that Senators may be authorized to make statements up to 5 minutes each during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

Routine morning business transacted today follows:

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

REPORT OF THE SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT—PM 232

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, together with accompanying reports, which was referred to the Committee on the Environment and Public Works:

To the Congress of the United States:

I hereby transmit to the Congress the annual reports of the six river basin commissions, as required under section 204(2) of the Water Resources Planning Act of 1965.

JIMMY CARTER.

THE WHITE HOUSE, *October 14, 1978.*

REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT—PM 233

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I am pleased to transmit to you the 13th Annual Report of the Department of Housing and Urban Development. It contains a narrative record of major activities under all of the programs administered by HUD during 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 14, 1978.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on October 13, 1978, he approved and signed the following act:

S. 2249. An act to prohibit discrimination in rates charged by the Southwestern Power Administration.

MESSAGES FROM THE HOUSE

At 12:20 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the amendments of the House to S. 976, an act to amend the Perishable Agricultural Commodities Act, 1930, relating to practices in the marketing of perishable agricultural commodities.

The message also announced that the House agrees to the amendments of the Senate to H.R. 11002, an act to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2534, an act to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 6536, an act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 2416, an act to amend title VIII of the Public Health Service Act to extend for 2 fiscal years the program of assistance for nurse training.

The message also announced that the House has passed S. 2474, an act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilla programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes, with amendments in which it requests the concurrence of the Senate; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. STAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. CARTER, and Mr. BROYHILL were appointed managers of the conference on the part of the House.

The message further announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2466, an act to amend the Public Health Service Act to extend and revise the assistance programs for health services research and health statistics; to establish the Office of Health Technology, and for other purposes.

The message also announced that the House has passed S. 2522, an act to amend title X and part B of title XI of the Public Health Service Act to extend appropriations authoriations for 5 fiscal years for voluntary family planning and

population research programs and for sudden infant death syndrome programs, and to make improvements in the provisions governing such programs and research with respect to such syndrome, and for other purposes, with amendments in which it requests the concurrence of the Senate; that the House insists upon its amendments and requests a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SRAGGERS, Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER, Mr. SCHEUER, Mr. CARTER, and Mr. BROYHILL were appointed managers of the conference on the part of the House.

The message further announced that the House insists upon its amendments to S. 2584, an act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. UDALL, Mr. BINGHAM, Mr. SHARP, Mr. STAGGERS, Mr. DINGELL, Mr. BAUMAN, and Mr. BROWN of Ohio were appointed managers of the conference on the part of the House.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to S. 1816, an act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of quayule rubber production and manufacture as an economic development opportunity for the Southwestern States, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 2727, an act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to House Concurrent Resolution 749, directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill (H.R. 6536), in which it requests the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

S. 1566. An act to authorize electronic surveillance to obtain foreign intelligence information; and

S. 3412. An act to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes

The enrolled bills were subsequently signed by the Acting President pro tempore (Mr. RIEGLE).

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bills, without amendment:

S. 2774: An act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes; and

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954.

The message also announced that the House has passed the following bills, each with an amendment in which it requests the concurrence of the Senate:

S. 1214. An act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes; and

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to S. 553, an act to enlarge the boundary of the Cibola National Forest.

The message also announced that the House agrees to the amendment of the Senate to H.R. 7749, an act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to H.R. 7971, an act to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co.

The message also announced that the House agrees to the amendments of the Senate to H.R. 13372, an act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to H.R. 13972, an act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana.

At 7:53 p.m., a message from the House of Representatives announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 160. A joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.

The message also announced that the House has passed H. Con. Res. 754, correcting the enrollment of H.R. 8533, in which it requests the concurrence of the Senate.

At 9:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed S. 3112, an act to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 1829, an act to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2584, an act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1424. An act for the relief of Jesus Reveles y Rivera;

H.R. 2655. An act for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza;

H.R. 9660. An act for the relief of Hermina Jormigos;

H.R. 11405. An act for the relief of Maryrose and Rosemary Evangelista;

H.R. 11672. An act for the relief of Doctor Ka Chun Wong, and his wife, Marilyn Wong;

H.R. 11953. An act for the relief of Lunette Joyce Clarke;

H.R. 14223. An act to designate a certain Federal building in Bloomington, Illinois, the "Leslie C. Arends Building"; and

H.R. 14295. An act for the relief of "Paul G. Rogers Federal Building".

The message further announced that the House agrees to the amendment of the Senate to H.R. 13650, an act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the amendment of the Senate to the amendment of the House to S. 1029, an act to authorize the Smithsonian Institution to construct museum support facilities.

The message further announced that the House recedes from its disagreement to the amendment of the Senate numbered 103 to H.R. 12929, an act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, and concurs therein.

The message also announced that the House agrees to the amendment of the Senate to H.R. 1405, an act for the relief of Jennet Junanita Miller.

The message further announced that the House agrees to the amendment of the Senate to H.R. 2756, an act for the relief of Marlene Holder.

The message also announced that the House agrees to the amendment of the

Senate to H.R. 9610, an act for the relief of Raymond Vishnu Clemons.

The message also announced that the House agrees to the amendments of the Senate to H.R. 1422, an act for the relief of Julio Ortiz-Medina.

The message further announced that the House agrees to the amendments of the Senate to H.R. 7305, an act to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building."

The message also announced that the House has passed the following bills, without amendment:

S. 142. An act for the relief of Gaspar Louis Saynoc;

S. 337. An act for the relief of Miriama Jones;

S. 391. An act for the relief of Brigitte Marie Harwood;

S. 464. An act for the relief of Sameek Keshary Ray;

S. 579. An act for the relief of Imelda C. Jayag Potter;

S. 612. An act for the relief of Timmy Lao Olavere;

S. 973. An act for the relief of Young-Shik Kim;

S. 1006. An act for the relief of Concrete Industries (Monier), Limited;

S. 1110. An act for the relief of Juanita Binabise;

S. 1154. An act for the relief of Jin Syen Suh;

S. 1165. An act for the relief of Chester Chun Ket Young (also known at Chun-Kit Yeung);

S. 1166. An act for the relief of Maria Elena Jumalon;

S. 1401. An act for the relief of Elvi Engelsmann Jensen;

S. 1403. An act to provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico;

S. 1484. An act for the relief of Michael Bruce Holland;

S. 1562. An act for the relief of Datronics Engineers, Incorporated;

S. 1563. An act for the relief of Do Sook Park;

S. 1618. An act for the relief of Sang Yun Yoon;

S. 1826. An act for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock;

S. 2079. An act for the relief of Lawrence Youngman;

S. 2248. An act for the relief of Susanna Shu-hui Jean;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley;

S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero;

S. 2446. An act for the relief of Caroline Valdez Sulfelix;

S. 2509. An act for the relief of Rodolfo N. Arriola;

S. 2671. An act for the relief of Masami Yamada;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad;

S. 3051. An act for the relief of Tsutomu Tanaka;

S. 3066. An act for the relief of Yom Chong Ok;

S. 3016. An act for the relief of Debbie Agatta Pepburn; and

S. 3109. An act for the relief of Ricardo Rosas Salazar.

The message also announced that the House has passed S. 2899, an act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions, with an amendment in which it requests a conference with the Senate on the disagreeing votes of the two Houses requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MURPHY of New York, Mr. DINGELL, Mr. LEGGETT, Mr. BOWEN, Mr. GINN, Mr. RUPPE, and Mr. FORSYTHE; and Mr. BEARD of Tennessee—soley for consideration of the amendments to sections 3 and 4 of the House amendment relating to the 18-month extension of the program and modifications thereof committed to conference—as managers of the conference on the part of the House.

At 12:50 a.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed S. 658, an act to designate certain lands for inclusion and potential inclusion in the National Wilderness Preservation System, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 2247, an act for the relief of Eugenia Cortes, with amendments in which it requests the concurrence of the Senate.

The message further announced that the House has passed S. 2349, an act for the relief of Margaret Perry, with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 2247, an act to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has passed S. 2687, an act for the relief of Dr. Allan Joseph Cawley, with an amendment in which it requests the concurrence of the Senate.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 3151, an act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 10173, an act to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican border period, World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes.

At 2:15 a.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 7010, an act to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to H.R. 13500, an act to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes.

The message further announced that the House has passed House Concurrent Resolution 755, authorizing corrections in the enrollment of S. 1487, in which it requests the concurrence of the Senate.

A 3:50 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the amendment of the Senate to H.R. 14279, an act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, with an amendment in which it requests the concurrence of the Senate.

At 8:35 a.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the amendment of the Senate to H.R. 12393, an act to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 11003, an act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 9937, an act to amend the Bank Holding Company Act Amendments of 1970, requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ST GERMAIN, Mr. NEAL, Mr. HUBBARD, Mr. DERRICK, Mr. EVANS of Indiana, Mr. BARNARD, Mr. STANTON, Mr. BROWN of Michigan, and Mr. GREEN as managers of the conference on the part of the House.

At 9:37 a.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 4018, an act to suspend until the close of June 30, 1980, the

duty on certain doxorubicin hydrochloride antibiotics.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12250, an act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 5146, an act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 5037, an act for the relief of Jack R. Misner.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 5263, an act to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 5289, an act for the relief of Joe Cortina of Tampa, Fla.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 2329, an act to improve the administration of fish and wildlife programs, and for other purposes; that the House recedes from its disagreement to the amendment of the Senate numbered 32 to the bill, and concurs therein with amendments in which it requests the concurrence of the Senate; and that the House insists on its disagreement to the amendment of the Senate numbered 33 to the bill.

At 10:35 a.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 3447, an act to strengthen the economy of the United States through increased sales abroad of American agricultural products.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2493, an act to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

At 11:20 a.m., a message from the House of Representatives announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12467, an act to amend the Rehabilitation Act fo 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 15, an act to extend and amend expiring elementary and secondary education programs, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 12250, an act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes.

At 1:50 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed S. 1104, an act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania, without amendment.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 9251, an act relating to extensions of time for the existing tax treatment of certain items.

The message further announced that the House agrees to the amendment of the Senate to H.R. 50, an act to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 7577, an act to amend the Economic Opportunity Act of 1964, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 11733, an act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 995, an act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

The message further announced that the House agrees to Senate Concurrent Resolution 114, directing the Secretary of the Senate to make certain corrections in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, without amendment.

The message also announced that the House agrees to the amendments of the Senate to the amendments of the House to S. 1829, an act to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2570, an act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorizations, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 3084, an act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs. and for other purposes.

The message further announced that the House has passed S. 3085, an act to extend and amend the special supplemental food program and the child care food program, and for other purposes, with an amendment in which it requests the concurrence of the Senate.

At 3:23 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House disagrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of

the Senate to H.R. 13750, an act to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.

At 4:45 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 13511, an act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to House Joint Resolution 1139, making continuing appropriations for the fiscal year 1979, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to H.R. 8389, an act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy.

The message also announced that the House has passed House Joint Resolution 1173, a joint resolution relative to the convening of the first session of the 96th Congress, and for other purposes, in which it requests the concurrence of the Senate.

The message further announced that the House has agreed to House Concurrent Resolution 761, a concurrent resolution to correct an omission in the conference report on H.R. 13511, in which it requests the concurrence of the Senate.

At 5:35 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to S. 2899, an act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to S. 2474, an act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs, hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes.

The message further announced that the House passed S. 2450, an act to extend the assistance programs for community mental health centers and for biomedical research, and for other purposes, with amendments in which it requests the concurrence of the Senate.

The message also announced that the House has agreed to House Concurrent Resolution 760, providing for the sine die adjournment of the 2d session, 95th Congress, in which it requests the concurrence of the Senate.

At 6:53 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed S. 2788, an act to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the corporation, and for other purposes without amendment.

The message also announced that the House agrees to the amendments of the Senate to H.R. 12112, an act designating Gathright Lake on the Jackson River, Va., as Lake Moomaw.

The message further announced that the House agrees to the amendment of the Senate to H.R. 12140, an act to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act.

The message also announced that the House agrees to the amendment of the Senate to H.R. 13719, an act to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to H.R. 9937, an act to amend the Bank Holding Company Act Amendments of 1970.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–4439. A communication from the Director, Office of Management, and Budget, Executive Office of the President, transmitting, pursuant to law, a summary listing of deferrals of budget authority contained in the President's first special message on rescissions and deferrals for fiscal year 1979; to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Human Resources, the Committee on Energy and Natural Resources, the Committee on the Judiciary, the Committee on Foreign Relations, the Committee on Finance, the Committee on Governmental Affairs, and the Committee on Banking, Housing, and Urban Affairs, jointly, pursuant to order of January 30, 1975.

EC–4440. A communication from the Secretary of Agriculture, transmitting a draft of proposed legislation to amend the Plant Variety Protection Act (7 U.S.C. 2321 et seq.) to clarify its provisions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4441. A communication from the Assistant to the Governor, Canal Zone Government, transmitting a draft of proposed legislation to amend Title 2 of the Canal Zone Code to provide for an exclusive remedy against the United States in suits based upon medical malpractice on the part of medical personnel employed by the Canal Zone Government; to the Committee on Armed Services.

EC–4442. A communication from the Chairman, National Transportation Safety Board, transmitting, pursuant to law, the Board's 1979 supplemental budget submission; to the Committee on Commerce, Science, and Transportation.

EC–4443. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1978 annual report of Mining and Minerals Policy; to the Committee on Energy and Natural Resources.

EC–4444. A communication from the Assistant Secretary for Congressional Relations, Department of State, reporting pursuant to law, on excess defense articles delivered to foreign governments for the third quarter of fiscal year 1978 and the cumulative status for the year, October 1, 1977, through June 30, 1978; to the Committee on Foreign Relations.

EC–4445. A communication from the Assistant Secretary for Congressional Relations, Department of State, reporting, pursuant to law, on excess defense articles delivered to foreign governments for the second quarter, October 1, 1977, through June 30, 1978; to the Committee on Foreign Relations.

EC–4446. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States, within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–4447. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States, within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC–4448. A communication from the Chairman, District of Columbia Armory Board, transmitting, pursuant to law, the thirteenth annual report and financial statements of the Board's operation of the District of Columbia National Guard Armory, and the twentieth annual report and financial statements of the Board's operation of the Robert F. Kennedy Memorial Stadium for the fiscal period which ended December 31, 1977; to the Committee on Governmental Affairs.

EC–4449. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a summary of responses (proposals for action or reasons for inaction) for the report on the "Fiscal 1978 Pay Increase Under the Federal Statutory Pay Systems" (Sixth Annual Report); to the Committee on Governmental Affairs.

EC–4450. A communication from the Executive Director, Board for International Broadcasting, reporting, pursuant to law, on

the number of meetings held by the Board during fiscal year 1978; to the Committee on Government Affairs.

EC–4451. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "An Executive Summary: 16 Air and Water Pollution Issues Facing the Nation," October 11, 1978; to the Committee on Governmental Affairs.

EC–4452. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Illegal Expenditure by the Army to Replace Laundry and Drycleaning Equipment," October 11, 1978; to the Committee on Governmental Affairs.

EC–4453. A communication from the Director, National Institute of Arthritis, Metabolism, and Digestive Diseases, Department of Health, Education, and Welfare, transmitting, pursuant to law, a report on the progress made by the Institute toward implementing the goals of The Arthritis Plan; to the Committee on Human Resources.

EC–4454. A communication from the Chairman, National Advisory Council on Adult Education, transmitting, pursuant to law, a report on assessing the administrative effectiveness of the Federal Adult Education Act program; to the Committee on Human Resources.

EC–4455. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, orders entered in 1,992 cases in which the authority contained in section 212(d)(3) of the Immigration and Nationality Act was exercised in behalf of such aliens; to the Committee on the Judiciary.

EC–4456. A communication from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, 544 reports covering the period of September 18 through September 29, 1978, concerning visa petitions which the Service has approved according the beneficiaries of such petitions third and sixth preference classification under the Immigration and Nationality Act; to the Committee on the Judiciary.

EC–4457. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a copy of correspondence which it has sent to the Office of Management and Budget relating to questions on the FY 1980 Budget Request; to the Committee on Rules and Administration.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM–828. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 86

"Whereas, The Oxnard Harbor District was formed in 1937 for the purpose of constructing and operating a commercial port facility known as the Port of Hueneme; and

"Whereas, The electorate of the Oxnard Harbor District has invested seven million dollars of tax moneys for the construction of terminal and wharf facilities at the Port of Hueneme; and

"Whereas, The Port of Hueneme has experienced an average annual compound growth rate of 30 percent in tonnage and revenue volume since 1972; and

"Whereas, Mazda Motors of America, Inc. and the Oxnard Harbor District have recently signed a 25-year agreement to accommodate the importation of vehicles for distribution to seven southwestern states; and

"Whereas, Existing ocean cargo traffic at the Port of Hueneme along with anticipated increases in that traffic justifies a change in status of the port from that of a customs station to a Port of Entry; and

"Whereas, Cargoes now being imported through the Port of Hueneme are estimated to generate custom duty revenue in excess of 1.5 million dollars annually which is more than adequate to support a Port of Entry designation and the assignment of at least a part-time customs inspector to accommodate the need; and

"Whereas, The Port of Hueneme generates directly and through induced expenditures, approximately 1,500 jobs and 22.9 million dollars in annual payroll; and

"Whereas, The Port of Hueneme has on several occasions been denied the services of a customs agent which has resulted in the loss of work for local longshoremen and the loss of revenue to the port and the surrounding communities; and

"Whereas, The denial of customs service relates to the Port of Hueneme's designation as a customs station rather than an official Port of Entry; and

"Whereas, The designation of the Port of Hueneme as a Port of Entry is vital and necessary to provide for the port's future growth and development, to protect the taxpayers' investment, and to provide much needed employment for local workers; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature urges the Secretary of the Treasury to approve the designation of the Port of Hueneme as a "Port of Entry"; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Treasury, and to each Senator and Representative from California in the Congress of the United States."

POM–829. A joint resolution adopted by the Legislature of the State of California; to the Committee on Human Resources:

"ASSEMBLY JOINT RESOLUTION 78

"Whereas, The State of California leads the nation in terms of the financial commitment it has made to educationally disadvantaged students and students with linguistic needs; and

"Whereas, The level of state funds provided for compensatory and bilingual education in California approaches the level of the Elementary and Secondary Education Act of 1965 (ESEA) Title I funds provided by Congress; and

"Whereas, The State of California has recently enacted a comprehensive, $4.5 billion school finance measure which contains a new formula for allocating compensatory and bilingual education funds to school districts so that school districts with the greatest need will receive additional state funds made available for compensatory and bilingual education; and

"Whereas, Funds allocated under the new state compensatory and bilingual education formula provide excess cost services for students who generally qualify for ESEA Title I funds; and

"Whereas, The new state compensatory and bilingual education formula recognizes ESEA Title I Part A funds because Title I funding levels vary among counties and school districts which have similar needs as determined under the new state formula; and

"Whereas, The new state compensatory and bilingual education formula complements ESEA Title I funding in that it recognizes the impact that concentrations of low-income students have on the ability of local school districts to support appropriate educational programs; and

"Whereas, The existing ESEA Title I statute prohibits the recognition of Title I funds for the purposes of allocating state funds, including compensatory and bilingual education funds; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memoralizes the Congress of the United States to amend the ESEA Title I stautes to allow states, such as California, which have developed their own significant compensatory and bilingual education programs, sufficient flexibility to ensure that school districts with the greatest relative need receive appropriate levels of compensatory and bilingual education funds; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Committee on Human Resources, to the Chairman of the House of Representatives Committee on Education and Labor, and to each Senator and Representative from California in the Congress of the United States."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget:

Report. Pursuant to section 301(b) of the Congressional Budget and Impoundment Control Act of 1974 (Rept. No. 95–1411).

By Mr. RANDOLPH, from the Committee on Environment and Public Works, with an amendment; and by Mr. GLENN, from the Committee on Governmental Affairs, with an amendment:

S. 1493. A bill to amend the Public Works and Economic Development Act to establish a comprehensive program to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development, and for other purposes (together with additional views) (Rept. No. 95–1412).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HART:

S. 3617. A bill to assist producers of agricultural commodities by providing an orderly means of bargaining with the handlers of such commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RANDOLPH:

S. 3618. A bill to authorize assistance for the encouragement and improvement of citizenship education, and for other purposes; to the Committee on Human Resources.

By Mr. STEVENSON:

S. 3619. A bill to establish a National Energy Corporation, and for other purposes; to the Committee on Governmental Affairs.

S. 3620. A bill to establish a Federal Energy Bank to provide supplemental financing and economic assistance for those activities with the greatest potential for assuring energy

conservation and adequate energy supplies at reasonable prices for the United States, consistent with protection of the environment, for which private sector financing is either insufficient or available only on terms which are commercially prohibitive, to provide for the development of a national energy policy and make possible its implementation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STAFFORD:

S. 3621. A bill to assure greater safety for bicycles parked at Federal office buildings; to the Committee on Environment and Public Works.

By Mr. GLENN (on behalf of himself and Mr. METZENBAUM):

S. 3622. A bill to provide for the establishment of the National Museum of Afro-American History and Culture in Wilberforce, Ohio; to the Committee on Energy and Natural Resources.

By Mr. McGOVERN:

S. 3623. A bill to amend the Consolidated Farm and Rural Development Act to authorize loans for the construction and improvement of subterminal storage and transportation facilities for certain types of agricultural commodities, to provide for the development of State plans to improve such facilities within the States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 3624. A bill to amend the Federal Reserve Act to terminate the authority of the Secretary of the Treasury to require the delivery of gold to the Treasurer of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SCHMITT:

S. 3625. An act to provide for the establishment, ownership, operation, and regulation of a commercial earth resources information service, utilizing satellites and other technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. RANDOLPH:

S. 3626. A bill to extend the Appalachian Regional Development Act and to provide for a nationwide system of multistate regional development commissions to promote balanced development in the regions of the Nation; to the Committee on Environment and Public Works.

By Mr. SCHMITT:

S. 3627. An act entitled the "Science and Technology Research and Development Utilization Policy Act"; to the Committee on Governmental Affairs.

By Mr. PELL:

S. 3628. A bill to establish the Bill of Rights Commemoration Commission, and for other purposes; to the Commission on the Judiciary.

By Mr. SCHMITT:

S. 3629. A bill to amend title 5, United States Code, to improve and systematize the procedures for the promulgation of rules and for establishing a uniform procedure for congressional review of executive branch rules which may have a harmful impact on the public, may be contrary to law, or may be inconsistent with congressional intent; to expand opportunities for public participation in Federal agency rulemaking; to establish a Joint Commission on Administrative Rules; and for other purposes; to the Committee on Governmental Affairs.

By Mr. HART:

S. 3630. A bill to amend the Internal Revenue Code of 1954 to provide a counter-inflation credit and negative credit on personal income and on business profits, and to provide indirect restraint on prices during the 7-year period beginning in 1919; to the Committee on Finance.

By Mr. ROBERT C. BYRD (for Mr. KENNEDY, for himself, Mr. CHURCH, Mr. SARBANES, Mr. ABOUREZK, Mr. ANDERSON, Mr. METZENBAUM, Mr. McGOVERN, and Mr. RIEGLE):

S. 3631. A bill to direct the Secretary of the Treasury to prepare reports on certain loans advanced by domestic banks in countries the governments of which engage in gross violations of internationally recognized human rights, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent, without prejudice when reintroduced in the 96th Congress.

By Mr. INOUYE:

S.J. Res. 169. Joint resolution establishing the Temporary Federal Intergovernmental Planning Commission for Hawaii, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HART:

S. 3617. A bill to assist producers of agricultural commodities by providing an orderly means of bargaining with the handlers of such commodities; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL AGRICULTURAL BARGAINING SYSTEMS ACT

● Mr. HART. Mr. President, the bill I introduce today provides a means for the producers of wheat, feed grains, or soybeans to initiate and establish producer designed and controlled bargaining systems. Subsequent to a referendum, the producers of a commodity will be represented in negotiations with purchasers of their products by a producer-elected bargaining committee. Appropriate subjects for negotiation include establishing a minimum price for the commodity and setting other terms and conditions relating to the handling of the commodity.

Over four decades ago, Congress recognized that farmers had unique marketing problems due to the structure of agricultural product markets, which forced farmers as individuals to market their products in a system heavily influenced by a relatively small number of purchasers. To help farmers overcome the structural deficiencies in their markets, Congress passed the Capper-Volstead Act. This landmark legislation authorized farmers to join together in cooperatives so they could try through cooperative efforts to maintain an equitable balance between farmers and the growing market influence of processing and distribution firms.

Since the enactment of the Capper-Volstead Act, cooperatives have established an exemplary record of service to their members and to the public. Through the various activities of cooperatives, such as bargaining, marketing or providing productions resources, they have played a major role in helping farmers achieve equitable prices for their commodities—particularly for those commodities which are sold in markets that are limited in one way or another, such as milk, fruits, or vegetables.

As the 62d Congress recognized that changes in food and fiber production, processing and distribution industries had already taken place and that additional changes in the future would occur, and responded by passing far-reaching and forward-looking legislation that would allow farmers to act cooperatively, so should we. The legislation I am introducing today will authorize the producers of wheat, feed grains or soybeans the opportunity to act within a new legal framework that will meet the unique marketing needs of these farmers.

Important changes have taken place in the wheat, feed grains and soybean markets in the decades since the enactment of the Capper-Volstead Act. Our farmers have increased production enough that they now provide food for our domestic needs and a major portion of the world market for these commodities.

Today, wheat farmers export around one-half of their production, soybean growers sell close to one-half of their crop abroad, and corn farmers export about one-third of their annual production. For each of these commodities, the price in the export market affects the domestic market and therefore the price to the farmer.

U.S. farmers provided enough wheat in 1977, the U.S. share of the world wheat market was about 36 percent of the total volume. Our share of the corn market was close to 42 percent and of the soybean market around 55 percent. That our farmers are capable of producing this abundance of food above our domestice needs is a tribute to their productivity, perserverance and hard work.

As our volume of grain exports increased, influences within our grain-marketing system have changed. When our producers were selling these commodities primarily in markets to meet domestic needs, the market influence of any given purchaser was minimal. But, as export volumes increased, so did the market influence of a small number of international grain-trading companies. The export market is now dominated by five major exporters who handle close to 90 percent of all the wheat, feed grains, and soybeans moving in the world trade system.

Farmers dependent on the export market for a significant portion of their income have expressed their concern about the market influence of these major exporting firms, and past Congresses have responded by initiating various programs to try to assure farmers fair treatment in the marketplace. These programs have helped, but in the long run, the best assurance of equitable treatment for farmers is to provide the means whereby farmers through a unified voice can participate in the marketing of their commodities on an equal basis with the handlers and purchasers of their commodities. Only then will farmers be cer-

tain they are receiving fair compensation for their investment and labor.

Mr. President, farmers and consumers will both benefit from the bargaining systems authorized in this legislation. I cannot in detail describe the structure of any one bargaining system farmers might establish, but I can relate the goals for which farmers strive and therefore will be the goals of the farmer-controlled bargaining process.

Over the last 5 years, I have visited with farmers from every region of Colorado. A number of goals, many times expressed in terms of needs, were commonly stated. The most common statement is that farmers take pride in being productive and able to supply an abundance of food and they want to maintain their ability to produce.

To meet the goal of maintaining our farmer's productivity equitable prices are a necessity. Farmers must receive their fair share of whatever the market price may be or consumers will pay dearly for their food while the farmers receive a pittance for their commodities. A farmer-handler bargaining process would help both farmers and consumers guard against excessive middleman charges. Farmers will bargain for their fair share of the market price and at the same time serve consumers by helping hold handling charges to a minimum. Otherwise, the farmer would lose his market if the commodity were priced too high due to excessive middleman charges.

Through the bargaining process, farmers will also be able to determine how much of a commodity will need to be produced to supply the expected demand at a price level that will provide enough income for farmers to stay in business. Unless farmers receive adequate prices, we will continue to lose farmers and to erode our production capacity. By using a production control program as authorized in this bill, farmers can better balance the supply and demand for a commodity and thereby reduce the waste of resources which accompanies overproduction.

Farmers do not support the idea, nor should we, of planting fence row to fence row, using nonrenewable resources such as petroleum and water or increasing soil erosion through overuse of land just to produce surpluses which drive prices down so low farmers will be forced to continue the same no-win process just trying to survive. This so-called "cheap food policy" just exacerbates our economic problems by encouraging the wasteful use of valuable resources and driving more and more farmers and their children away from the farm and their rural communities.

Mr. President, this bill is the product of a year-long process involving many individual farmers and farm organizations in Colorado. I appreciate all the time and thought that these people have put into helping me draft this legislation. Through their assistance, I feel we have proposed a workable bargaining process that will serve the needs of consumers and farmers alike.

Mr. President, I ask unanimous consent that the attached summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY

Section 1: provides that the bill may be cited as the "National Agricultural Bargaining Systems Act."

Section 2: states the findings which the bill is intended to redress.

a. Greater market involvement by agricultural producers is necessary to maintain the viability of the agricultural industry.

b. Agricultural producers are practically the only economic group which must sell their products in markets largely controlled by buyers.

c. Disorderly marketing and abnormally excessive supplies of agricultural commodities depress prices received by producers and thereafter the maintenance of a continuous and stable supply.

Section 3: defines the terms Secretary, commodity, purchaser, total supply and marketing year as used in the Act. The definition of "commodity" limits the provisions of the bill to wheat, feed grains and soybeans. The definition of "purchaser" includes all persons other than cooperative associations who acquire, grade, package, handle, store, process or resell argricultural commodities.

Section 4: creates a National Agricultural Relations Board composed of five members appointed by the President and confirmed by the Senate. Provides those regulations necessary for the Board to carry out its functions. Members of the Board shall not engage in any other business, vocation or employment.

Section 5:

(a) provides a method whereby producers of an eligible agricultural commodity can petition the Board to conduct a producer referendum as to whether or not they favor creation of a producer bargaining committee for the purpose of negotiating minimum prices and other terms of sale with the purchasers of such commodity. A referendum may also be initiated upon the recommendation of the Secretary of Agriculture.

(b) allows the Board to determine the appropriate geographical area to be included in the producer referendum.

(c) places full responsibility for the producer referendum with the National Agricultural Relations Board.

(d) provides for the election of members for the producer bargaining committee from names submitted by producers. Persons must earn at least 60 percent of their annual gross income from farming or ranching to be eligible to vote for or serve on any bargaining committee. Each producer is to receive equal representation on the bargaining committee.

(e) provides for the organization of the producer bargaining committee when it has been approved by a majority vote in the referendum in which at least 50 percent of the eligible producers have voted.

(f) provides that the bargaining committee shall identify which prospective purchasers they intend to engage in negotiations.

(g) allows the Board to fix the time and place for bargaining sessions.

(h) allows the Board to provide information, statistics and other assistance to the bargaining committees and to act as an arbitrator when requested by the majority of both committees.

(i) sets limits on subsequent petitions for referendums after producers have failed to approve establishment of a bargaining committee on the initial ballot.

(j) authorizes bargaining committee to adopt such procedures and regulations necessary to carry out their functions. Producer bargaining committees may establish minimum prices by size, grade or quality for agricultural commodities in accord with agreements reached with purchaser committees as provided in this Act.

Section 6: provides for binding arbitration by a joint settlement committee in the event negotiations between the producer and purchaser committees become deadlocked. The decision of the joint settlement committee may be reviewed in the appropriate Federal district court subject to certain restrictions.

Section 7: imposes a "sunset" provision which requires bargaining committees to be reauthorized by referendum each third year.

Section 8: requires that all transactions between producers and buyers of affected commodities must be at prices not lower than the minimum price in effect. Compliance by producers is a condition of eligibility for commodity price support, loans, purchases and similar commodity programs. Agreements shall allow each producer the right to market a specified amount of each commodity without regard to the terms of sale provided in the agreement.

Section 9: restricts the political activity of members and employees of producer and purchaser bargaining committees.

Section 10: authorizes the bargaining committee to impose a reasonable assessment on producers of a commodity which have elected a bargaining committee. Funds collected from this assessment shall be used to pay the expenses of the producer bargaining committee and may be refunded to the producer upon application.

Section 11: requires producers and purchasers to keep such records and furnish such reports as the bargaining committee deems necessary to carry out the provisions of the Act.

Section 12: authorizes the Board to seek injunctive proceeding and other penalties in the name of the United States.

Section 13: authorizes the Board to pay costs of producer referendums and to pay the operating costs of producer and purchaser bargaining committees during the first year of their existence.

Section 14: establishes the finality of certain Board decisions.

Section 15: authorizes such sums to be appropriated to the Board as are necessary. In addition, the Board is authorized to incur obligations in advance of appropriations and to borrow funds from the capital fund of the Commodity Credit Corporation (CCC).

Section 16: exempts the bargaining activities of the producer and purchasing committees and the price agreements into which they enter from the antitrust laws of the United States. If the Secretary believes that any price agreement increases the price of a commodity by an unreasonable amount above the parity price, the Secretary may issue a show cause order to the committee to void such agreement. On the request of either committee, or if either committee fails to obey such order, the Secretary shall petition the district court to enforce the order.

Section 17: whenever a bargaining committee has established a minimum price for any commodity and determines the total supply of such commodity will substantially exceed demand and defeat the purpose of the Act, such bargaining committee shall develop a program of marketing allotments, with or without production limitations, and submit such program to a producer referendum. Section 17 authorizes the Secretary to establish reasonable rules and regulations necessary to effectuate such program.

Section 18: describes a series of prohibited

practices intended to protect the rights of producers or members and employees of bargaining committees.

Section 19: sets the pay scale for members of the Board.

Section 20: contains the separability clause.●

By Mr. RANDOLPH:

S. 3618. A bill to authorize assistance for the encouragement and improvement of citizenship education, and for other purposes; to the Committee on Human Resources.

CITIZENSHIP EDUCATION ACT

● Mr. RANDOLPH. Mr. President, at the root of many problems facing America today are the structure of fundamental human interrelationships and the principles which guide those interrelationships. Our fellow citizens are greatly concerned by the apparent diminution of our traditional adherence and devotion to the high standards of good citizenship in our schools, and indeed, in our society. There is a growing sense of powerlessness and disaffection in civic matters. The mood of the country today reflects widespread mistrust for those who serve in public life.

The need for a revitalized "sense of place" seems evident. We have crossed the threshold of an era of scientific and technological development in this country that has altered the world we live in more sharply than any time in history, and continues to alter it. It is imperative that our increase in knowledge be accompanied by a reaffirmation of our historic values—the principles set forth in our most cherished documents—the Declaration of Independence, the Constitution, and the Bill of Rights. These documents affirm the principles which have shaped our country's destiny.

President Carter, quoting his high school teacher in his inaugural address, stated:

We must adjust to changing times and still hold to unchanging principles.

Mr. President, in response to a national sense of urgency, I am introducing a bill calling for the establishment of a national center to coordinate citizenship education efforts in our Nation's schools and communities. Our bill is directed to all citizens, of all ages, and recognizes the cultural and ethnic diversity of our society. It provides for a school/community effort aimed at a rededication of our democratic principles—an educational approach that incorporates a clear recognition that student action and behavior, not only the acquisition of skills and knowledge, are essential to good citizenship.

This legislation is founded on the conviction that citizens must be prepared to cope with current and future responsibilities in their personal and public lives, nationally and internationally, to be more effective participants in democratic society.

The National Center would foster and pursue adoption of citizenship education programs at the local level in schools and community agencies. The center would advocate a "partnership" within the community—the joining together in a cooperative structure of key groups—educational, religious, civic, and industrial—to contribute to and guide citizenship education efforts, with primary implementation coming from the States. Our proposed citizenship education program calls for collaboration between local schools and the grassroot-community forces which form its environment—parents, government, labor and industry. The center would concentrate on development of programs which would be subject to modification to reflect local impact.

Mr. President, knowledgeable, skillful, principled action is the ultimate citizenship education objective.

A wide expression of advocacy for citizenship education exists. It grows from a concern for increasingly destructive social and civic deficits in our society, and addresses them in positive terms.

Citizenship education can assist in reversing current civic alienation by equipping persons with the knowledge, skills, and principles to participate effectively in their community and society at large.

Citizenship education can assist citizens overcome feelings of powerlessness and teach them to believe in, and act on, a sense of civic efficiency and responsibility.

Citizenship education can utilize history and perspective to restore individual faith in the integrity of public servants at all levels of government.

Citizenship education can promote awareness of the global interdependence of human life and underlying transnational issues, such as energy and economic interdependence.

Citizenship education can counteract antisocial attitudes by teaching democratic principles as respect for life, liberty, and property, as integral to good citizenship.

Citizenship education can teach knowledge about our cultural and political systems and skills requisite for civic action.

The National Center for Citizenship Education will promote these goals by carrying out activities in several categories. Policy tasks will integrate support for adoption of citizenship education. Theory-building activities will generate conceptualizations of citizenship education which contribute to program development. Research projects will produce data to guide the development of effective programs. Development efforts will expedite the design of effective instructional programs. Dissemination can spread and foster adoption.

Citizenship education reaches beyond the formal curriculum concepts by drawing on the resources of the community, and involving citizens in a "total" learning experience. Citizenship education involves "the whole person."

Mr. President, let us move forward with a renewed vision of what it means to be an American, fostering citizens who will contribute to strengthening our heritage, our culture, our beliefs, our goals.●

By Mr. STEVENSON:

S. 3619. A bill to establish a National Energy Corporation, and for other purposes; to the Committee on Governmental Affairs.

S. 3620. A bill to establish a Federal Energy Bank to provide supplemental financing and economic assistance for those activities with the greatest potential for assuring energy conservation and adequate energy supplies at reasonable prices for the United States, consistent with protection of the environment, for which private sector financing is either insufficient or available only on terms which are commercially prohibitive, to provide for the development of a national energy policy and make possible its implementation, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE ENERGY PLAN: A SMALL BEGINNING

● Mr. STEVENSON. Mr. President, President Carter and the Congress have labored for 11 months to develop an energy policy for the Nation. These labors have brought forth a series of measures entitled "Energy Plan."

The world will take little comfort from the product of our exertions. The dollar continues its drift. The Nation's economy will suffer from continued uncertainty about the future. And we will remain dependent upon expensive, undependable foreign sources of energy. The unrest in Iran should remind us that the Persian Gulf region remains an uncertain source of fuel.

These labors will do nothing to increase the production of fuel in other regions of the world. We have made easy decisions for insulation of homes, more efficient automobiles, subsidies and tax credits. We have discussed hard questions of energy supply and pricing, and have taken only a short first step toward solving them. This energy plan is a small beginning.

The legislation recommended by the President was hurriedly put together and insufficient to begin with; that which the Congress patched together is the more insufficient. The conservation measures are weak; almost no mandatory action is required. Exceptions and exemptions abound. Comprehensive utility rate reforms were gutted. So were the reforms for leasing exploration and development rights in the public domain. And although the demand for gasoline is relatively elastic, and its consumption can be decreased with positive effects for the economy, the environment and the budget, we did not increase its cost to anything approaching the realistic levels imposed in most nations.

The measures agreed upon, such as conversion from oil and natural gas to coal, are not likely to have an impact in the near future. Decreased consumption of natural gas may increase oil imports. A massive increase in coal entails environmental and climatic dangers. Meantime, nuclear energy is floundering because of siting difficulties, unresolved questions about the storage of wastes and reprocessing and the President's attitude with respect to the breeder reactor.

Inaction and half-way measures will not significantly increase production or reduce consumption. If the Government wants to assure adequate energy supplies without inflation and recession it must act to do so, just as it assures the national defense—no ands, ifs, buts, subsidies or wishful thinking.

I am introducing two measures to help assure that Government and industry do act to produce adequate energy supplies.

Every other country with substantial energy resources to explore and develop has already adopted one of these measures. The creation of a Federal energy corporation, a Government entity whose concern is not self-enrichment but the production of energy for the Nation, is overdue in the United States. This corporation would, through its own ventures and joint ventures with industry, develop energy sources in the United States and abroad.

We also need an energy development bank, through which Government, in cooperation with private facilities both foreign an domestic, can assure financing for the development of energy sources too risky or costly for private enterprise alone.

In various forms these proposals have been considered before. They offer no complete solution. They are addressed only to the supply side; and conservation remains the most immediate, direct and economical way of producing energy. But they would provide us with some control of our destiny.

A Federal energy corporation would explore for, inventory and develop domestic oil, gas, uranium and coal resources in the public domain. The bulk of the Nation's proven and undiscovered energy reserves lies on Federal land, on and offshore. The American people own these resources, yet their Government knows little about their location and extent, and leaves their development and allocation to oil companies. The corporation could develop public energy resources in cooperation with private corporations, to assure supplies for the public and reduce reliance on undependable foreign sources. It would do so by methods that are environmentally sound, developing new technologies, and returning revenues to the Treasury for the benefit of the public.

This corporation would make reliable production costs available, providing a check through actual experience on the efficiency and pricing performance of the private companies.

The corporation would permit production and allocation for national security, as well as private profit. The development and production of Federal reserves could proceed rationally and systematically providing sufficient supply to meet current needs while maintaining reserves adequate to withstand the effects of a renewed boycott or other supply interdiction. The corporation could operate Strategic Petroleum Reserves.

The corporation could negotiate with foreign governments for the purchase of crude oil at stable and reasonable prices. Our economic power, in concert with other consuming nations, is the equal of the OPEC countries, but it has not been used. The corporation, free from the pressures and policies of foreign governments to which the multinational corporations are vulnerable, could reflect and not oppose U.S. policy in such negotiations. To say the least, in time of conflict and stress it would not cut off fuel to American Armed Forces.

Fourth, the corporation would spur competition in the energy industry, not through costly price controls, but through a competitive entity whose production costs and performance would be a matter of public record. In addition, through its production from Federal lands, the corporation could provide fuel supplies to independent refiners and independent marketers who compete with the major oil companies.

The corporation would be authorized to mine and produce coal and uranium, as well as oil and gas, to mill and enrich the uranium it develops and reprocess nuclear fuel. It could engage in research and development for improved methods of exploration, development, production, mining, enrichment, reprocessing, refining, storage and transport of oil, gas, coal, and uranium and products derived therefrom. As the Nation increases its dependence on alternative sources of energy, it becomes more important that the Government act to assure their availability. The growing accumulation of coal and uranium reserves by oil companies makes such action the more necessary. The coal strike reemphasizes the vulnerability of energy resources to the actions of labor unions, foreign governments, and multinational oil companies.

The corporation is an alternative to regulation and nationalization. The industry should welcome the corporation, which would supplement, not supplant, private enterprise. The experience of Canada with its national oil corporation, Petro-Canada, has been favorable, even in the view of some who opposed its creation a scant 2 years ago. The British experience also provides useful insights. Those countries, like the Dutch, the French, the Mexicans and many others, have recognized what we in this country have not; the development of energy resources and the security of their supply is too important to be left entirely to the whims and vagaries of oil companies, the largest of which are subject to foreign control.

We dare not depend solely upon the private sector to finance the development and production of energy supplies. Banks and private investors, even including the major oil companies, cannot be counted on to provide all the capital energy production and transportation require. If it is in the Nation's interest to finance housing, food supplies, and exports, surely it is in its interest to assure the financing of energy supplies upon which all else depends. Federal support for research and development is not enough. So-called "demonstration projects" are useful, but they must be replicated on a large commercial scale. Financing is needed to bridge the gap between the pilot and development programs and commercial operation. Research and development has reached the point, or will, where commercial application should be attempted in oil shale and tar sands recovery, coal gasification and liquefaction, coal seam methane, large-scale solar energy projects, solid waste utilization and transportation systems, such as the Alcan gas pipeline. The private sector by itself will not take on all the risks and large capital investments such projects require at home and abroad. A bank of last resort is needed.

The proposal I introduce differs in material respects from that put forth by former Vice President Rockefeller. First, a Federal Energy Bank should support energy developmnet overseas as well as at home. The Eximbank is supporting development of significant additions to supply in the world. What the Eximbank can do abroad this bank could do at home. And what the Eximbank can do on a relatively small scale abroad, this bank would be on a larger scale.

Energy independence for the United States is a mirage. What we must do is relieve ourselves of dependence on undependable foreign sources, by increasing domestic supply and diversifying foreign supply, and not fall prey to the drain-America-first syndrome. That is the way to put downward pressure on energy prices—by increasing supply everywhere. And that is the way to enhance our national security.

The financing of energy supply and conservation projects would be available to public as well as private entities. Municipalities in particular could benefit from access to energy project financing. The bank could finance multiple purpose projects, for example, municipal solid waste treatment plants which provide waste disposal and energy production.

This bank would only fund projects which are consistent with a long range periodically updated energy plan. It would be both the means of creating and implementing a real energy plan. It could be used to fund the "soft" approach, windmills, for example, as well as industrial, residential and small business projects.

Mr. Rockefeller proposed an energy authority with a $100 billion commitment level. No one can say how much may ultimately be needed, but we need not begin on that scale. I propose that initially $1 billion be appropriated to the bank as capital, and that the bank have authority to issue bonds backed by the full faith and credit of the U.S. Government. Total commitments by the bank could be limited to a total of $20 billion. Of course, the funds should be loaned on a basis that offered a reasonable probability that they would be repaid with revenues from successful energy projects, but it would be foolhardy to insist on early repayment or to shy away from risky projects. This bank would press on with energy projects which are too risky or large for the private sector to fund unaided.

These twin entities, working in concert with private enterprise on a global scale, would give the Nation some control of its fate. Temporary expansion of oil reserves creates the illusion of security, but real security requires assurance of investment and production. These pro-

posals offer the United States an opportunity to lead a worldwide assault on the energy crisis for the benefit of all peoples.●

By Mr. STAFFORD:

S. 3621. A bill to assure greater safety for bicycles parked at Federal office buildings; to the Committee on Environment and Public Works.

BICYCLE SAFETY

● Mr. STAFFORD. Mr. President, I am today introducing legislation designed to assure that safe bicycle parking facilities will be available at all Federal office buildings. I would anticipate that such action would act as a precedent that would encourage private industry to expand bicycle parking facilities.

A growing number of Americans are now bicycling to their jobs, despite the many existing impediments to such travel. One major inhibition is often unsafe traffic conditions. The conference report on this year's highway bill will help to improve that situation. But the lack of safe and convenient parking facilities, and absence of areas where cyclists can change from cycling clothes and wash up at the end of their journey, remains a major inhibition to cyclists.

To help overcome the lack of adequate parking facilities for bicyclists using Federal facilities, I am introducing legislation that directs the Administrator of the General Services Administration to provide, within one year, at all buildings and installations under his direction, bicycle parking facilities for use by employees and visitors. This would include buildings leased by the Federal Government, when they are under the direction of the GSA Administrator.

In the event the Administrator provides more than a simple rack for bicycle parking—a locker for example—this bill would authorize, but not require, that GSA charge a reasonable fee for the use of the facility. This means a fee proportionate to the fee charged for motor-vehicle parking in connection with such building or installation. For example, if the Administrator charged $45 a month for auto parking, a reasonable parking fee would likely be something on the order of $3 a month, since a bicycle locker is likely to take up about one-fifteenth of the space needed for an automobile.

The Administrator should keep in mind the experience of the Environmental Protection Agency, where bicycle lockers are provided employees without charge. In deciding on the number and type of bicycle parking facilities and whether there should be user charges, the Administrator should consult beforehand with interested bicyclists working at the building or installation in question.

The bill would also authorize the Administrator to provide, when suitable, facilities where cyclists and others may shower and change clothes. The Administrator would be authorized to charge a reasonable fee for the use of such facilities. Again, the Administrator would be expected to consult with interested persons in deciding upon such facilities.

The bill defines "bicycle parking facility" to make it clear that the minimum facility should be more than the standard rack, which is often inadequate for safely locking a bicycle. The Administrator should also alter the present restrictive GSA policy to permit the use of spaces such as courtyards, storage areas, or other areas where bicycle-parking could be operated without interfering with normal use of the building. The most desirable facility would be one under guard or attendant; if parking for motor vehicles is provided under the surveillance of a guard or attendant, the GSA would be expected to provide protected bicycle parking for the same building or installation.

GSA, I would note, now has a policy to provide "bicycle racks * * * where there is a demonstrated need." That appears to be a chicken-and-egg situation. Is a "demonstrated need" likely to exist if no racks are in place? Very likely not. This bill encourages these facilities so that use can develop.

To the extent that bicycling can be encouraged so that people will substitute bicycles for private motor vehicles, we will conserve energy, land, and other resources, reduce traffic congestion, lower air and noise pollution, and increase physical fitness.

Mr. President, I am introducing this bill late in this session in order to give time to obtain comment from any interested individuals and groups, as I believe this will help the Senate consider this proposal early in the 96th Congress.

To explain further the background, the GSA has informed me that bicycle locking facilities are now available at only 438 GSA buildings, a small fraction of the buildings operated by GSA. I ask unanimous consent that both a copy of this letter and a copy of this bill be printed in the RECORD.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3621

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of the General Services Administration (hereafter referred to as the "Administrator"), within one year of the enactment of this Act, shall provide, at all buildings and installations under his direction, bicycle parking facilities for use by employees and visitors. Wherever the Administrator fulfills the requirement of this Act by use of a system that is more elaborate and costly then the use of a simple metal rack, he is permitted to charge a reasonable fee for the use of such system.

(b) The Administrator is also authorized, within a reasonable period and where feasible, to provide suitable support facilities, including clothing lockers and changing facilities, and to charge a reasonable use fee.

(c) For the purpose of this Act, the term "bicycle parking facility" means a device or an enclosure, located within a building or installation, or conveniently adjacent thereto, that is easily accessible, clearly visible to guards, well-lighted, and so located as to minimize the danger of theft of bicycles. Such a device shall consist of a parking rack, locker, or other device constructed to enable the frame and both wheels of a bicycle to be secured with ease by use of a padlock in a manner that will minimize the risk of theft.

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., October 4, 1978.

HON. ROBERT T. STAFFORD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STAFFORD: This is in further reply to your letter of August 21, 1978, regarding bicycle racks.

As of September 20, 1978, there were 438 buildings where bicycle locking facilities were provided by the General Services Administration (GSA). Of this number, there are a total of 14,407 parking spaces nationwide of which 4,218 (29 percent) are indoors or otherwise protected from the weather. There are a total of 2,108 spaces (14.6 percent) which we consider to be protected from theft. Each bicyclist is responsible for providing his or her own lock and chain or cable. We are presently experimenting with several makes of secure bicycle locking devices and lockers. During the year 1977, there were 37 bicycle thefts and 703 incidents of vandalism.

Thank you for your interest in this matter. If we can provide any additional information, please let us know.

Sincerely,

JAY SOLOMON,
Administrator.

By Mr. GLENN (on behalf of himself and Mr. METZENBAUM):

S. 3622. A bill to provide for the establishment of the National Museum of Afro-American History and Culture in Wilberforce, Ohio; to the Committee on Energy and Natural Resources.

NATIONAL MUSEUM OF AFRO-AMERICAN HISTORY AND CULTURE

● Mr. GLENN. Mr. President, in late 1976 after 10 years of effort on the part of many Ohioans, we were successful in enacting Public Law 94–518, which directed the Secretary of the Interior to study the feasbility/suitability of a National Museum of Afro-American History and Culture at or near Wilberforce, Ohio.

I have been advised that the study has now been virtually completed by the U.S. Park Service, and was particularly pleased to learn that this report will undoubtedly be a positive one. The Park Service will apparently conclude that it is both feasible and suitable to establish a National Museum of Afro-American History and Culture at Wilberforce, Ohio. The study has determined that over 135 million people reside within 550 miles of the proposed museum and that the museum may attract up to 500,000 visitors per year. The study found no major problems with respect to access, land acquisition and so on, in estimated construction cost at roughly $15 million.

Mr. President, Wilberforce-area Ohioans are quite excited over the prospects of this project finally getting underway. It has the support of local government, the private sector and the university community, as well as virtually every major civic association. Congressman CLARENCE BROWN has been an ardent and longtime advocate on the House side and he has introduced authorizing legislation in the House.

So, Mr. President, while we look forward to early release of the final report, and though congressional action in 1978 is no longer possible, I believe that it is still important to introduce Senate authorizing legislation for the Wilberforce

museum in this 95th Congress. We will then have the bill printed and will use the next 3 months to circulate it, obtain comment on it and have it ready for prompt introduction and early action in the 96th Congress. I know that my distinguished colleague from Ohio, Senator METZENBAUM, who is a member of the Parks Subcommittee of the Energy Committee, will do everything in his power to expedite this bill through committee.

Mr. President, a brief background description of the great significance of the Wilberforce area and of this proposed project is in order. Wilberforce houses two predominantly black educational institutions, Central State and Wilberforce Universities. Wilberforce University is the second oldest black college in the country. The Wilberforce area was an important stop on the "underground railroad," the freedom route that many slaves followed from the South prior to the Civil War. The Wilberforce area is steeped in the cultural and educational experience of black Americans. It remains a center of educational excellence. Building this museum in such an area is most appropriate.

S. 3622 authorizes the Secretary to begin construction and operation in close consultation with the Ohio Historical Society, which has labored long and hard in preparation for this museum. The historical society represents a great source of expertise that will prove most helpful to the Secretary.

Mr. President, I ask unanimous consent that S. 3622 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 3622

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) The Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized, in consultation with the Ohio Historical Society, to construct the National Museum of Afro-American History and Culture, in accordance with such design, plans, specifications as he shall determine. The Secretary shall, in consultation with the Ohio Historical Society, construct such museum on a site selected by him at or in the immediate vicinity of Wilberforce, Ohio. In carrying out such construction, the Secretary is authorized to utilize appropriated and donated funds.

(b) The National Museum of Afro-American History and Culture shall be operated and maintained by the Secretary of the Interior subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

(c) The museum, in such manner as the Secretary may provide, shall exhibit Afro-American history and culture to casual visitors, provide research and repository services, and offer extension services to other museum professionals. In providing for exhibits, artifacts, and other items, and otherwise equipping the museum, the Secretary is authorized to accept gifts, and to use appropriated or donated funds. The Secretary shall, in the administration of this subsection, consult with the Ohio Historical Society.

(d) The Secretary is authorized to acquire, by purchase with appropriated or donated funds, exchange or otherwise, such lands, not to exceed seventy-five acres, as may be necessary for the purpose of the construction of the museum.

Sec. 2. (a) For the purpose of carrying out the provisions of subsection (a) of the first section of this Act, there is authorized to be appropriated such sum, not to exceed $, as may be necessary.

(b) For the purpose of carrying out the provision of subsection (d) of the first section of this Act, there is authorized to be appropriated such sum, not to exceed $————, as may be necessary.

(c) For the purpose of carrying out the other provisions of this Act, there are authorized to be appropriated such sums as may be necessary.●

● Mr. METZENBAUM. Mr. President, for several years, residents of the area surrounding Wilberforce, Ohio, have been working diligently to establish a museum of Afro-American culture in their community. I can think of few projects so worthy of consideration.

Since the Civil War, Wilberforce has been an important part of the history of black America. It has served as a refuge along the "underground railroad," and today it retains its importance not only to black Americans but to all of us. Wilberforce is the home of two predominantly black universities, Central State University, and Wilberforce University.

Mr. President, at this time I would like to join with my distinguished colleague from Ohio and urge the construction of a museum of Afro-American culture in Wilberforce, Ohio.●

By Mr. HELMS:

S. 3624. A bill to amend the Federal Reserve Act to terminate the authority of the Secretary of the Treasury to require the delivery of gold to the Treasurer of the United States; to the Committee on Banking, Housing, and Urban Affairs.

REPEAL GOLD CONFISCATION POWER

● Mr. HELMS. Mr. President, in the depth of the depression, Congress made a number of changes in the law which were subsequently repealed or revised.

In 1973, Congress acted to restore the freedom of Americans to own gold. At that time, Congress did not address the subject of a little-known provision of the Federal Reserve Act, 12 U.S.C. 248(n). This subsection is as follows:

(n) Exchange of gold coin, bullion, and certificates for other currency on order of Secretary of Treasury; costs; penalties.

Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise.

I believe this subsection should have been repealed when the freedom to own gold was restored.

The Treasury Department has, as we know, adopted a policy of reducing the monetary role of gold. Therefore, it seems anachronistic to keep the arbitrary authority over gold which supposedly has no monetary role. But even if we were on a gold coin standard, this extraordinary power would be unjustifiable.

Finally, some with whom I have discussed this bill feel that the Congress can again vote to confiscate gold. That is true. However, it would require an overt act of Congress before that authority could be exercised. Today all that is needed is a "judgment" undefined except as to somehow protect the "currency system."

I introduce this bill today, at the end of the 95th Congress so that opinions can be requested for appropriate agencies, businessmen, academicians, and interest citizens, so that early in the 96th Congress action can be taken on this archaic piece of law.

Mr. President, I ask unanimous consent that the brief text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3624

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11(n) of the Federal Reserve Act (12 U.S.C. 248(n)) is repealed.●

By Mr. SCHMITT:

S. 3625. An act to provide for the establishment, ownership, operation and regulation of a commercial Earth resources information service, utilizing satellites and other technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EARTH RESOURCES INFORMATION SATELLITE ACT OF 1979

● Mr. SCHMITT. Mr. President, 2 days ago I introduced S. 3599, the National Aeronautics and Space Policy Act of 1978. As part of the implementing legislation for that act, I am today introducing the Earth Resources Satellite Corporation Act of 1978. If enacted into law, this bill would provide the statutory basis for the creation of a self-sustaining, operational service for the gathering and dissemination of earth resources and information.

EARTH RESOURCES INFORMATION

The terms "earth resources" and "remote sensing" are gradually becoming a part of our everyday vocabulary, although not yet exactly household phrases.

Remote sensing as an art in science has been around for a long time; first and foremost in the form of man's eyes. Even though we are very far from duplicating with instruments and systems the capabilities of those eyes and their unbelievably sophisticated data processing

system we call the brain, we have learned over the past decade to vastly extend their reach. Satellites, high-altitude aircraft, increased knowledge about the Earth and its resources, an explosion of technology in the sensing of the response of natural materials to electromagnetic radiation, and the unbelievable expansion of data processing techniques have all contributed to making visible and useful that which was previously hidden and wasted.

It is this extension of our inherent ability to use our eyes and brain to observe, integrate, synthesize, interpret, and apply that is what we have come to know as remote sensing.

The broad scale use of the unique view of the Earth offered by satellites began in the 1960's with the development of communications and weather satellite systems. The obvious success of these efforts, culminating in Comsat, Intelsat, and the World Weather Watch, was based on the long-established need for global communications and weather information and the long existence of infrastructure to use communications and weather information.

The development of the need for Earth resources information and the infrastructure to serve those needs has been slow in spite of the obvious potential. Unlike communications and weather data, Earth resources information was not in general use prior to the space age since it was not available. With the existence and ever-broader use of information from the Landsat and Seasat systems, and the increased understanding of the techniques and value of data from such systems, the time has come to develop an operational earth resources information satellite service.

Commercial and governmental applications for the information from an operational system have been well demonstrated. The hearings of May and June 1977, of the Science, Technology and Space Subcommittee and many other recent reports support the viability of an operational Earth resources system. In particular, the following major areas for the utilization of satellite capabilities can be cited:

Improved agricultural information and production based on the identification and repetitive monitoring of crop yields, damage, and infestations.

Improved rangeland management and production based on repetitive evaluations of vegetation, soil, water, and livestock characteristics.

Improved forest products production based on identification of types and suitability of trees and on repetitive monitoring of changes due to natural and human effects.

Improved water resource management through direct and repetitive measurement and evaluation of surface water and by geologic evaluaion of soil and subsurface features.

Improved targeting of favorable localities for mineral and energy exploration and expanded production based on more rapid and higher quality geologic maps and on the sensing of various elements due to their signatures in vegetation, mineral, soil, textural, or thermal characteristics.

Improved general and specific purpose maps for development planning and evaluation.

Improved repetitive monitoring of changes in urban and rural situations due to human habitation.

Improved monitoring of natural or artificial environmental changes based on repetitive coverage using a wide variety of techniques.

Improved identification, evaluation, and monitoring of marine and coastal resources through repetitive coverage.

ENERGY INFORMATION

Energy is an area that illustrates the integrated use of earth resources information. Remote sensing in our energy future will have potential applications in two major fields; fuel production and energy conversion. In fuel production, remote sensing will be broadly applicable so long as we are dependent on the use of large amounts of fossil fuels. This applicability will continue to some degree even into a future of inexhaustible energy sources until there are alternatives to petroleum as the feedstock for the creation of fertilizer and other chemicals. In energy conversion, remote sensing will be applied so long as we must monitor and regulate the waste energy and undesirable or dangerous byproducts from the conversion of one form of energy to another.

The most clearly defined role for remote sensing in fuel production will be in the increased efficiency by which we explore for and identify potential petroleum reserves in frontier areas.

Most workers in this field would agree, I believe, that several inherent features of various types of remotely acquired data, particularly those from satellites, potentially permit the rapid assessment of possible targets for ground inspection. The inherent features to which we can refer are: First, broad area, repetitive coverage under uniform and multispectral conditions that can be used for rapid reconnaissance mapping, monitoring, and planning, second, broad and local area coverage that reduces or eliminates the effects of variations because of illumination, clouds, and vegetation, and third, comparisons of the spectral signatures of productive versus unexplored areas.

Once targets for ground inspection are identified using combinations of remote sensing techniques, then the sequential use of rock and soil alteration studies, isotope geochemistry, amplitude enhancement of geophysical data, and finally test drilling can be used to progressively confirm the nature and extent of possible reserves.

It is clear that at least portions of this ideal exploration sequence which begins with remotely sensed data for reconnaissance, are in use today within the competitive resource industry.

Remotely acquired data can be applied to other specialized problems of fuel production. Of particular interest are the identification of rock structures that can effect the mechanics of coal production and the delineation of natural oil seeps offshore. In addition, the detailed assessment of the true insolation potential of specific sites for large solar energy plants also appears feasible.

There has not yet been identified a clear utility for remotely acquired data ir the area of uranium exploration, although several interesting possibilities have been suggested. The primary use will probably be in the long term, more efficient expansion of detailed reconnaissance mapping in potentially mineralized regions. In this process, we can expect to be able to concentrate our attentions on continental and regional structures that may correlate with geochemical provinces rich in uranium. Such integrated studies that employ satellite photography are underway in the Southwestern United States.

The efficient and broad scale monitoring and predictive capabilities of remote sensing techniques have yet to be extensively applied in other potentially fertile fields related to energy production. I would mention here the monitoring of watersheds and the flood control, hydroelectric and irrigation systems that tap such watersheds. With remote and repetitive monitoring of watershed and reservoirs, and predictions based upon that monitoring, it will be possible to optimize hydroelectric energy production, irrigation and flood control. In addition, sea, air and pipeline transport of energy and goods can be optimized through continuous control and monitoring of natural impediments and hazards, pollution effects and energy efficient routes.

There is also, I believe a very clear role for remote sensing in the monitoring and regulation of waste heat and undesirable byproducts produced by energy conversion. However, we have yet to systematically exploit this potential. The list of possible new services and areas for cost savings is long, ranging from the monitoring of thermal and effluent pollution to the planning of land use by individual State and local groups. It is to be hoped that the results of many current experiments by many investigators will make this environmental role for remote sensing obvious to all who must approve and implement such efforts.

INTERNATIONAL BENEFIT

This is one more great potential benefit of remote sensing technology that is often forgotten or is considered with only short term insight. This is the bridge of long-term friendships and mutual benefit that can be built between the United States and the emerging nations of the world upon the foundation of space technology. The decade of Apollo and Skylab have convinced many peoples and their leaders that through space technology they can bring themselves into the 20th century. My travels around the world have shown me that these peoples now believe that they can participate in the future alongside the present industrialized community of nations.

The potential availability of remote sensing and communication satellite systems during the next several decades is one of the basic ingredients of rapid international advancement and the mutual interdependence the world so desperately

needs. With access to these systems, the chronic problems of resource management and education can be solved by the emerging nations. Agricultural monitoring and predictions and explorations for energy and minerals can all be considered possible with the establishment of the appropriate national and international infrastructures.

The construction of the bridge of international friendship and mutual benefit through space technology will not be easy. It will take far more foresight than that to which most of us are accustomed. On the other hand, the bonds of hope and goodwill are already there to be used. Let us pledge that we will not stand here 10 years from now and wish we had done something.

EXISTING OPERATIONAL STRUCTURES

Well-established operational programs exist in telecommunications and weather forecasting, other components of a World Information System. These are manifested, respectively, in the Comsat/Intelsat and World Weather Watch activities.

These two areas of activity illustrates several of the organizational and management options available in the development of other components of a more broadly based World Information System.

Comsat, for example, is a publicly held, regulated corporation with many of the advantages of being a part of our competitive, stockholder controlled, free enterprise system. In addition, because of its unavoidable international activities, Comsat must submit to Federal guidance in foreign policy related matters. After 16 years, this innovative commercial arrangement appears to be working very well.

Intelsat, on the other hand, is a unique user-based international management organization for global satellite telecommunications to which Comsat is our designated national representative. Intelsat's success is the result of its national members having a vested interest, as users, in the international management of truly international technical and physical resources that are the "common heritage of mankind." This model could be much more widely applied in space-related activities as well as in areas such as the management of international waterways, deep sea resources, and international nuclear wastes.

A different, noncommercial multinational management approach has been applied to the World Weather Watch. In this organization, the United States, the Soviet Union, Japan, and the European Community have or will have made available to the world the weather information gathered by their nationally controlled satellites. This arrangement is coordinated by the World Meteorological Organization and the International Council of Scientific Unions. This type of arrangement appears to work best where it is generally recognized that the information made available by technology should be generally disseminated without restriction because of its immediate value to the health and safety of large numbers of human beings.

The technology and perceived uses of earth resources information collected from space and aircraft have advanced to the point where an operational organization is warranted. Commercial, institutional, State and local government, and Federal Government users of such information all have testified to this fact on numerous occasions before committees of the Congress. The data from the developmental NASA Landsat system now in operation is in ever-increasing demand. Other nations are beginning their own developments clearly with an eye toward marketing earth resources information on a worldwide scale.

Thus, the United States must come to grips with how it will take advantage of the technology it introduced to the world. The potential advantages in the use of Earth resources information lie in both the commercial and public sectors which suggests that the operational management of an Earth resource information system should be organized as an investor-owned, regulated corporation modeled after the successful experience with COMSAT in the telecommunications field.

AN EARTH RESOURCES INFORMATION SATELLITE CORPORATION

The Earth Resources Information Satellite Act which I introduce today closely parallels the statutory structure and the successful experience of COMSAT. This bill establishes a policy to create a commercial Earth resources satellite corporation which will be made operational as soon as possible and provide the widest possible participation by private industry, on a nondiscriminatory basis. It will be a private corporation regulated by the Federal Communications Commission.

The role of the FCC will be to insure effective competition and to consult with the Small Business Administration to insure that equitable opportunities are provided for small businesses. Additionally, the FCC will insure that the opportunity to purchase Earth resources data, under just prices, will be available to all persons and organizations. Other FCC regulatory responsibilities include insuring that controls are established, prescribing accounting standards and regulations, and authorizing issue of capital stock. It is recognized that the FCC will have to expand the scope of its responsibility to encompass the regulation of Earth resources and information services.

It will be the responsibility of the National Aeronautics and Space Administration to advise the FCC on technical characteristics as well as furnishing launching services for the corporation on a reimbursable basis. NASA's experience in setting up COMSAT will also be of assistance in the operation of this system. It will be essential for NASA to continue to conduct research and development to refine the capabilities of the system.

NASA will be involved with the planning and development of the corporation. It also has the responsibility of coordinating activities of the various governmental agencies that will be involved with or benefit from the Earth Resources Information Satellite Corporation. The international aspects of the availability of data will also be under the supervision of NASA.

The Earth Resources Information Satellite Corporation will have a 17-member Board of Directors. Three of the members will be appointed by the President; the Departments of Agriculture, Commerce, and Interior, and the National Association of State Governors will each appoint one member; and 10 members will be elected by the stockholders. The corporation will be authorized to issue stocks which carry voting rights. It is the intent to this act to encourage the widest distribution to the American public.

This act would authorize the corporation to market raw and preprocessed data on Earth resources, own and operate the Earth resources satellites, own and operate ground receiving stations, and own and operate information distribution centers for the provision of raw and preprocessed data. In order for this corporation to be successful, it must, most importantly, be responsive to public needs and national objectives relating to resource information services.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3625

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE, DECLARATION OF POLICY AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Earth Resources Information Satellite Act of 1979".

DECLARATION OF POLICY AND PURPOSE

SEC. 102. (a) The Congress declares that it is the policy of the United States to establish as expeditiously as practicable a commercial earth resources information service, which will be responsive to public needs and national objectives, which will serve the earth resources information needs of the United States and other countries.

(b) The new earth resources information service is to be made operational as promptly as possible and is to disseminate timely, continuous and reliable earth resources information at the earliest practicable date.

(c) In order to facilitate this development and to provide for the widest possible participation by private enterprise the earth resources information service shall be in the form of a private corporation, subject to appropriate governmental regulation. It is the intent of Congress that all persons and organizations, domestic and foreign, shall have nondiscriminatory opportunity to purchase earth resources information; and that the activities of the corporation created under this chapter and of the persons or companies participating in the ownership of the corporation shall be consistent with Federal antitrust laws.

(d) In recognition that earth resources information is gathered and disseminated by electronic means which utilize similar technology and resources that now are utilized by systems which are regulated by the Federal Communications Commission, the area of regulatory responsibility granted to said Commission shall be expanded to encompass regulation of earth resources information services.

DEFINITIONS

SEC. 103. As used in this Act, and unless the context otherwise requires—

(a) The term "earth resources information service" refers to a system of satellites and other appropriate data collection systems capable of montoring Earth and near-Earth resources, transmitting this raw data to Earth receiving stations, the processing of this data for use by the user organizations and the distribution of the processed data to those requesting it. This is also to include such associated equipment and facilities for tracking guidance, control and command functions as are not part of the generalized launching, tracking, control and command facilities for all space purposes.

(b) The term "corporation" means the corporation authorized by Title III of this Act.

(c) The term "Administration" means the National Aeronautics and Space Administration.

(d) The term "Commission" means the Federal Communications Commission.

TITLE II—IMPLEMENTATION OF POLICY

SEC. 201. In order to achieve the objectives and to carry out the purposes of this chapter—

(a) the President shall—

(1) Aid in the planning and development and foster the execution of a national program for the establishment and operation, as expeditiously as possible, of an earth resources information service;

(2) Provide for continuous review of all phases of the development and operation of such a service, including the activities of an earth resources corporation authorized under section 301 of this chapter;

(3) Coordinate the activities of governmental agencies with responsibilities in the field of earth resources information so as to insure that there is full and effective compliance at all times with the policies set forth in this chapter;

(4) Transfer to the corporation authorized under section 301 of this chapter any functions and parts of functions of any other federal entity or officer which relates primarily to the functions of the corporation as provided by this Act; and in connection with any such transfer, the President may provide for appropriate transfers of records and property;

(5) Exercises such supervision over relationships of the corporation with foreign governments or entities or with international bodies as may be appropriate to assure that such relationships shall be consistent with the national interest and foreign policy of the United States;

(6) Insure that timely arrangements are made under which there can be foreign participation in the establishment and use of an earth resource information service; and

(7) Take all necessary steps to insure the availability of the earth resources information service for general governmental purposes and to insure that each federal entity which utilizes data and information of the kind that are provided by the corporation shall procure such data and information from the corporation except where a separate earth resources information service is required to meet unique governmental needs, or is otherwise required in the national interest; and

(8) Exercise such supervision over the corporation to insure that advances in earth imaging from space will be permitted under controls and when such needs are justified and assessed in relation to civil benefits, national security, and foreign policy; and to establish controls, as appropriate, on other forms of remote earth sensing.

(b) The National Aeronautics and Space Administration shall—

(1) Advise the Commission on technical characteristics of the earth resources information service;

(2) Cooperate with the corporation in research and development to the extent deemed appropriate by the Administration in the public interest;

(3) Assist the corporation in the conduct of its research and development program by furnishing to the corporation, when requested, on a reimbursable basis, such satellite launching and associated services as the Administration deems necessary for the most expeditious and economical development of the earth resources information service;

(4) Consult with the corporation with respect to the technical characteristics of the earth resources information service;

(5) furnish to the corporation, on request and on a reimbursable basis, satellite launching and associated services required for the establishment, operation, and maintenance of the earth resources information service satellite system; and

(6) To the extent feasible, furnish other services, on a reimbursable basis, to the corporation in connection with the establishment and operation of the system.

(c) The Federal Communications Commission shall—

(1) Insure effective competition, including the use of competitive bidding where appropriate, in the procurement by the corporation of apparatus, equipment, and services required for the establishment and operation of the earth resources information service; and the Commission shall consult with the Small Business Administration and solicit its recommendations on measures and procedures which will insure that small business concerns are given an equitable opportunity to share in the procurement program of the corporation for property and services, including but not limited to research, development, construction, maintenance, and repair;

(2) Insure that all persons and organizations. domestic and foreign, shall have nondiscriminatory opportunity to purchase earth resources information under just and reasonable prices, charges, classifications, practices, regulations and other terms and conditions; provided that provision of such information shall be subject to controls established under Section 201(8), and further provided that such prices and charges will cover the cost of the service exclusive of costs incurred by the National Aeronautics and Space Administration for research, development and testing on remote sensing systems, subsystems and components carried out under the authority of the National Aeronautics and Space Act of 1958;

(3) Insure that subject to the controls established under section 201(8) all civilian information distributed by the corporation to any person or organization, whether domestic or foreign, shall be complete and unabridged, and that no information shall be withheld from one person or organization which is given to another person or organization;

(4) Prescribe such accounting regulations and systems and engage in such ratemaking procedures as will insure that any economies made possible by an earth resources information service are appropriately reflected in charges for resources information;

(5) Prescribe standards of quality for earth resources information produced by the corporation, and set schedules for the corporations fulfillment of data requests;

(6) Approve technical characteristics of the operational earth resources information service communication and non-communication satellite systems, ground receiving stations and associated systems and insure that NASA is consulted in the approval process;

(7) Insure that the corporation allocates certain of its time and resources to the development of improvements in its services and in its products; and that activities of the Commission, NASA, and the corporation are coordinated in this regard;

(8) Require that additions be made by the corporation with respect to facilities of the earth resources information service where such additions would serve the public interest, convenience, and necessity;

(9) Insure that the corporation takes an active marketing role so that all government agencies and other users which might benefit from earth resources information are made aware of its availability and applications;

(10) Authorize the corporation to issue any share of capital stock, except the initial issue of capital stock referred to in section 304(a) of this title, or to borrow any moneys, or to assume any obligation in respect of the securities of any other person, upon finding that such issuance, borrowing, or assumption is compatible with the public interest, convenience, and necessity and is necessary or appropriate for or consistent with carrying out the purposes and objectives of this chapter by the corporation;

(11) Insure that no substantial additions are made by the corporation with respect to facilities of the earth resources information service unless such additions are required by the public interest, convenience, and necessity;

(12) Insure that the corporation maintains all levels of operation and service now performed by the Earth Resources Observation System Data Center; and

(13) Make rules and regulations to carry out the provisions of this subsection.

TITLE III—CREATION OF AN EARTH RESOURCES INFORMATION SATELLITE CORPORATION

CREATION OF CORPORATION

SEC. 301. There is authorized to be created an Earth Resources Information Satellite Corporation for profit which will not be an agency or establishment of the United States Government. The corporation shall be subject to the provisions of this Act and, to the extent consistent with this Act, to the business corporation laws of the State in which it is incorporated. The right to repeal, alter, or amend this chapter at any time is expressly reserved.

PROCESS OF ORGANIZATION

SEC. 302. The Prsident of the United States shall appoint incorporators, by and with the advice and consent of the Senate, who shall serve as the initial board of directors until the first annual meeting of stockholders or until their successors are elected and qualified. Such incorporators shall arrange for an initial stock offering and take whatever other actions are necessary to establish the corporation, including the filing of articles of incorporation, as approved by the President.

DIRECTORS AND OFFICERS

SEC. 303. (a) The corporation shall have a board of directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the board to serve as chairman. Three members of the board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, effective the date on which the other members are elected, and for terms of three years or until their successors have been appointed and qualified, except that the first three members of the board so appointed shall continue in office for terms of one, two, and three years, respectively, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the director whom he succeeds. The three members appointed by the President shall be selected from the earth resources data user community with the intent that they would provide representation of said user community on the board. One member each shall be appointed by the Department of Agriculture, the Department of

Commerce, and the Department of the Interior, to be chosen and to serve as described above with regard to members appointed by the President. One member shall be appointed by the National Association of State Governors. Ten members shall be elected by all stockholders, and other such officers as may be named and appointed by the board, at rates of compensation fixed by the board, and serving at the pleasure of the board. No individual other than a citizen of the United States may be an officer of the corporation. No officer of the corporation shall receive any salary from any source other than the corporation during the period of his employment by the corporation.

FINANCING OF THE CORPORATION

SEC. 304. (a) The corporation is authorized to issue and have outstanding, in such amounts as it shall determine, shares of capital stock, without par value, which shall carry voting rights and be eligible for dividends. The shares of such stock initially offered shall be sold at a price not in excess of $100 for each share and in a manner to encourage the widest distribution to the American public. Subject to the provisions of subsection (d) of this section, shares of stock offered under this subsection may be issued to and held by any persons.

(b) (1) Twenty per centum of the shares of stock authorized for issuance at any time by the corporation shall be reserved for purchase by the federal government and the state governments of the United States. At no time after the initial issue is completed shall the aggregate of the shares of voting stock of the corporation owned by the federal and state governments exceed 20 per centum of such shares issued and outstanding, unless the corporation is undercapitalized.

(2) At no time shall any stockholder other than the Federal Government own more than 10 per centum of the share of voting stock of the corporation issued and outstanding.

(c) The corporation is authorized to issue, in addition to the stock authorized by subsection (a) of this section, nonvoting securities, bonds, debentures, and other certificates of indebtedness as it may determine. Such nonvoting securities, bonds, debentures, or other certificates of indebtedness of the corporation as a data distributor may own shall be eligible for inclusion in the rate base of the distribution to the extent allowed by the Commission. The voting stock of the corporation shall not be eligible for inclusion in the rate base of the distributor.

(d) At no time shall more than an aggregate of 20 per centum of the voting stock of the corporation be owned by non-United States citizens.

POWERS AND DUTIES OF THE CORPORATION

SEC. 305. (a) In order to achieve the objectives and to carry out the purposes of this chapter, the corporation is authorized to—

(1) Plan, initiate, construct, own, manage, and operate itself or in conjunction with foreign governments or their designated entities a commercial earth resources information service;

(2) Receive by transfer all functions of production and operation which relate primarily to the functions of the corporation as prescribed by this Act, which are now carried out by other government agencies including those carried out by the Administration and the Earth Resources Observation System Data Center; such transfer of functions to also include appropriate transfers of records and property;

(3) Market earth resources raw and preprocessed data;

(4) Own and operate earth resources satellites, aircraft and other appropriate data collection systems;

(5) Own and operate ground receiving stations;

(6) Own and operate information distribution centers for the provision of raw and preprocessed data.

(b) Included in the activities authorized to the corporation for accomplishment of the purposes indicated in subsection (a) of this section, are, among others not specifically named—

(1) To conduct or contract for research and development related to its mission;

(2) To acquire the physical facilities, equipment and devices necessary to its operations, including satellites, aircraft and associated equipment and facilities, whether by construction, purchase, or gift;

(3) To purchase satellite launching and related services from the United States Government;

(4) To contract with authorized users, including the United States Government, for the services of the earth resources information service;

(5) To develop plans for the technical specifications of all elements of the satellite system; and

(6) To procure from the private sector, insofar as possible, the communications services needed to establish communication networks as may be necessary to transmit earth resources information to users.

(c) To market "value-added" earth resources information only through a subsidiary corporation which shall receive no preference in any way whatsoever in comparison to other entities which acquire raw and preprocessed data from the corporation.

(d) To carry out the foregoing purposes, the corporation shall have the usual powers conferred upon a stock corporation by the laws of the state in which it is incorporated.

TITLE IV—MISCELLANEOUS

FOREIGN BUSINESS NEGOTIATIONS OF THE CORPORATION

SEC. 401. Whenever the corporation shall enter into business negotiations with respect to facilities, operations, or services authorized by this chapter with any international or foreign entity, it shall notify the Department of State of the negotiations, and the Department of State shall advise the corporation of relevant foreign policy considerations. Throughout such negotiations the corporation shall keep the Department of State informed with respect to such considerations. The corporation may request the Department of State to assist in the negotiations, and that Department shall render such assistance as may be appropriate.

SANCTIONS

SEC. 402. (a) If the corporation created pursuant to this chapter shall engage in or adhere to any action, practices, or policies inconsistent with the policy and purposes declared in section 201 of this title, or if the corporation or any other person shall violate any provision of this chapter, or shall obstruct or interfere with any activities authorized by this chapter, or shall refuse, fail, or neglect to discharge his duties and responsibilities under this chapter, or shall threaten any such violation, obstruction, interference, refusal, failure, or neglect, the district court of the United States for any district in which such corporation or other person resides or may be found shall have jurisdiction, except as otherwise prohibited by law, upon petition of the Attorney General of the United States, to grant such equitable relief as may be necessary or appropriate to prevent or terminate such conduct or threat.

(b) It shall be unlawful for any person, directly or indirectly, in any manner other than through the channels of data dissemination established by the Commission and the corporation, to sell or disclose to any other person any earth resources information which is compiled by the corporation.

(c) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this chapter.

(d) It shall be the duty of the corporation to comply, insofar as applicable, with all provisions of this chapter and all rules and regulations promulgated thereunder.

REPORTS TO THE CONGRESS

SEC. 403. (a) The President shall transmit to the Congress in January of each year a report which shall include a comprehensive description of the activities and accomplishments during the preceding calendar year under the national program referred to in section 301 of this title, together with an evaluation of such activities and accomplishments in terms of the attainment of the objectives of this chapter and any recommendations for additional legislative or other action which the President may consider necessary or desirable for the attainment of such objectives.

(b) The corporation shall transmit to the President and the Congress, annually and at such other times it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under * * *

By Mr. RANDOLPH:

S. 3626. A bill to extend the Appalachian Regional Development Act and to provide for a nationwide system of Multistate Regional Development Commissions to promote balanced development in the regions of the Nation; to the Committee on Environment and Public Works.

APPALACHIAN REGIONAL DEVELOPMENT AND REGIONAL GROWTH POLICY ACT OF 1979

● Mr. RANDOLPH. Mr. President, I am sure that most Members of this body have been associated with some program or legislation which provides a very special sense of satisfaction.

I am no exception. For me, that feeling comes from the work with the Appalachian Regional Commission over the past 13 years.

When I introduced the bill in 1965 which created the Commission and set its operations in motion, I saw it as a means of forging a partnership between the Federal Government and the 13 member States in a region with unique and pressing problems. It was an approach which had not been tried before, but it was one which seemed tailored to the situation at hand.

Recognition of the need was implicit in the mission we outlined in the legislation as adopted—the monumental task of improving the economy and the quality of life in a territory which, with all of its rich resources, human and natural, was lagging behind the rest of the Nation in its rate of growth and development and in securing its rightful share of the country's prosperity.

Nowhere was that need more evident than in West Virginia.

That mission is being fulfilled in every sense of the word. The face of Appalachia has been dramatically changed by a program which has fostered new hope, inspired new initiative, and encouraged innovation and enterprise.

The nature of the Appalachian concept has contributed much to its success. Because it has provided for so much State involvement, it has been able to correctly identify needs in the order of their proper priority to a far greater degree than is ordinarily the case with federally supported activities. Because of its flexibility, it has been able to provide

assistance in many instances where under other programs it might have come more slowly or not at all.

And nowhere has that been truer than in West Virginia.

All across our State today there are health and education facilities, new public utilities and buildings, new industries and cultural centers made possible under the program. Highways now cut through the rugged mountains where once there were only trails.

The same things are true in other parts of Appalachia. I speak in detail about West Virginia because I have seen the benefits personally. I can testify to their importance and lasting value. The Appalachian program has been, and is, an ambitious one. Through the end of 1977 it had provided more than $3 billion to help finance selected activities in the 13-State area—more than $545 million of that amount in West Virginia. Half of an approved corridor highway network is already open for traffic with another 200 miles under construction

Among the program contributions are coordination of the region's energy resources, development of plans to aid agriculture and small farm operators, and further improvement of transportation facilities to assist in industrial expansion.

The results are becoming evident where it counts. Per capita income in Appalachia is now up to 83 percent of the national average. Unemployment is below that for the country as a whole but the work force is growing. Industry and farm production are on the upgrade and more people are moving into the region than are leaving.

The influence of the Appalachian programs has not been confined to that region. It has charted the course for a growing family of other regional Commissions—now up to eight—which were authorized under title V of the Public Works and Economic Development Act, which I also introduced in 1965.

In the larger sphere is the part the Appalachian Commission performed in the planning and staging of the White House Conference on Balanced Growth and Economic Development held in Washington early this year as a result of legislation I authored.

That role was further enhanced by the appointment of West Virginia's Gov. Jay Rockefeller as chairman of the Conference Advisory Committee and by the series of Appalachian resolutions developed in a preconference session held last fall in Charleston, W. Va.

I cite these developments because I think they demonstrate the viability and effectiveness of a well-conceived regional strategy, implemented with able leadership and initiative.

And they are pertinent to the primary purpose of this statement—to assure the continued life of the Appalachian Regional Commission program as the centerpiece of an expanded regional concept for economic development.

I offer for that purpose a bill extending the Appalachian program for 4 years and time providing new funding and authority for the title V regional commissions elsewhere in the country.

It is legislation to which I will give priority attention next year if I am continued in my role as chairman of the Committee on Environment and Public Works, the committee which must approve such a bill. I introduce it now to indicate my strong support for extension of the Appalachian Regional Commission's work, in the context of a national system of regional commissions and a promising regional growth policy process.

I am gratified that the White House has informed me that, in response to my request, the administration supports the extension of the Appalachian Regional Development Act. While no final administration position has been reached on the other aspects of the bill, I understand it embodies the conceptual framework of what may well become a presidentially endorsed proposal. I am pleased, however, that administration has allowed me to announce its support of the Appalachian program at this time.

The important issues of this bill need time for full and careful consideration and the presentation of views on possible refinements or modifications of its provisions. The portion of my bill dealing with expanding the regional concept and establishing a regional growth policy process is stated in general terms to allow for that possibility. I am submitting it now to insure ample time for reflection before we act on the extension. Among other matters, questions concerning the proper balance of Commerce Department and White House involvement in providing support for the regional growth policy process must be addressed.

I emphasize that I do not propose this legislation simply as a new lease on life for the programs concerned.

For the program to be truly effective, we should work toward parity among the Regional Commissions. Only in that way can the regional approach have maximum influence and assure full attention and service to the areas for which the individual Commissions speak.

A new era dawned in 1965. I hope and believe that its horizons can be broadened and brightened even further when we act next year on the legislation I now propose.●

By Mr. SCHMITT:

S. 3627. An act entitled the "Science and Technology Research and Development Utilization Policy Act"; to the Committee on Governmental Affairs.

SCIENCE AND TECHNOLOGY RESEARCH AND DEVELOPMENT UTILIZATION POLICY ACT

● Mr. SCHMITT. Mr. President, I am today introducing the Science and Technology Research and Development Utilization Policy Act that would establish a uniform Federal policy for the management and utilization of the results of federally sponsored research and development. The existing hodgepodge Federal policies governing the allocation of rights to inventions resulting from the performance of Government contracts fail to provide the sufficient incentives for innovation and delay or discourage the beneficial commercial utilization of the benefits of such inventions. The seriousness of this problem has been reflected in the Nation's declining rate of industrial innovation and economic growth, the growing international trade deficit, and the increasing threats to U.S. technological leadership.

The role of the Federal Government in the industrial innovation process cannot be overstated. For more than a decade, Federal agencies have funded an average of approximately 70 percent of the Nation's entire expenditures for science and technology research and development. During this past year, the Federal Government provided roughly $26 billion in research and development financing. As a result of this huge national investment, thousands of inventions are identified each year; the Government currently holds title to about 28,000 such inventions, of which only 5 percent have been utilized. It is essential that the United States take full advantage of the potential benefits from its investment in science and technology research and development. Unfortunately, Government policies have operated in the past to inhibit the process by which such benefits are made available to the consumer.

Mr. President, this is not a new problem. For the past 30 years debate has flourished over the appropriate Federal policy for determining ownership of the products of Government-funded research. The future of such policy remains uncertain. National Commissions, interagency committees, and two executive orders have failed to achieve a comprehensive Government policy on this issue. The nature of the problem demands a legislative solution. Individual Federal agencies operate under varying statutory directives. The executive branch has been unable to reach a consensus as to the most desirable policy to follow.

The Senate Science, Technology, and Space Subcommittee, of which I am the ranking member, has had a longstanding interest in the direction of Federal R. & D., industrial innovation, and Federal policies affecting these areas. An integral part of the subcommittee's concern relates to the Federal Government's role in promoting technology utilization and industrial innovation. The subcommittee and the International Finance Subcommittee have held numerous hearings on these issues in the past and will continue to pursue their investigation of problems associated with these concerns.

The bill I am offering today would provide a system for the effective management and utilization of the results of Federal research and development. I believe it is possible to formulate a comprehensive policy that would achieve such objectives as commercial utilization, uniformity, predictability, and administrative ease, while at the same time protecting the interest of the general public and preventing any windfall profits or undue market concentration.

The approach I am suggesting in this bill represents a middle-ground position between the traditional "title in the Government" policy and a "license" policy that would routinely assign title to the contractor. The framework for this approach is set forth in title II of my bill. Essentially, it provides that in specified situations, such as when there is a need

to protect the public health, safety, or welfare, the Government would retain title to any invention developed under a Federal contract. In all other situations, it would be presumed that the contractor would have title to any inventions made under the contract.

To assure flexibility in the implementation of the policy, the Government would have authority to waive title when it is determined to be in the public interest. In addition, the Government is given "march-in rights" to require licensing of any such invention.

This comprehensive policy would apply to all agencies which enter into Federal R. & D. contracts. A Federal Review Board is created to review, coordinate, and direct the implementation of a uniform policy.

My bill would also address the problem of effectively utilizing those inventions in which title is held by the Government. Clearly, there is a need for better coordination and direction of Federal efforts to facilitate the expeditious transfer of technology to the private sector. Title IV would direct the Secretary of Commerce to establish a Federal technology utilization program under which necessary action would be taken to promote the utilization and protection of rights in Government-owned inventions. This Government-wide program would be patterned after the highly successful National Aeronautics and Space Administration technology utilization programs. In addition, each Federal agency would be required to develop and implement a separate technology utilization program. The purpose of such programs would be to expedite the technology transfer process, including the secondary uses of technology for societal needs.

Mr. President, I am introducing this legislative proposal to initiate and encourage discussion on these issues and to provide the framework for a serious reexamination of our national policy. I plan to circulate this bill for comment during the next several months and introduce a revised version early in the 96th Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I.—POLICY

SEC. 101. FINDINGS. The Congress, recognizing the profound impact of science, engineering, and technology policy on the economic, social, political, technological well-being and the health and safety of the nation as a whole, hereby finds and declares that—

(1) The United States has recently experienced a decline in the process of industrial innovation and productivity which is integrally related to, and adversely impacts upon, domestic productivity, the rate of economic growth, the level of employment, the balance of trade, and the attainment of other national goals.

(2) The national support of scientific and technological research and development is indispensable to sustained growth and economic stability, and it is in the national interest to maximize the benefits to the general public from such investment.

(3) Scientific and technological developments and discoveries resulting from work performed with Government contracts constitute a valuable national resource which should be developed in a manner consistent with the public interest and the equities of the respective parties.

(4) Current Federal policy with respect to the allocation of rights to the results of Federally sponsored research and development deters contractor participation in government contracts, delays technological progress and stifles the innovative process.

(5) There is a need for the establishment and implementation of a flexible, uniform Government-wide policy for the management and utilization of the results of Federally-funded research and development. This uniform policy should promote the progress of science and the useful arts, encourage the efficient commercial utilization of technological developments and discoveries, guarantee the protection of the public interest, and recognize the equities of the contracting parties.

SEC. 102. PURPOSE.—It is the purpose of this Act to—

(1) Establish and maintain a uniform Federal policy for the management and use of the results of Federally sponsored science and technology research and development; and

(2) Ensure the effective implementation of the provisions of this Act, and to monitor on a continuing basis the impact of Federal science and technology policies on innovation and technology development.

SEC. 103. DEFINITIONS.—As used in this Act the term—

(1) "Federal agency" means an "executive agency" as defined by 5 U.S.C. 105, and the military departments as defined by 5 U.S.C. 102;

(2) "Federal employees" means all employees as defined in 5 U.S.C. 2105 and members of the uniformed services;

(3) "Agency head" means the head of any Federal agency, except that (a) the Secretary of Defense shall be head of the Department of Defense and of each of the military departments and (b) in the case of any independent establishment control over which is exercised by more than one individual, such term means the body exercising such control;

(4) "Contract" means any contract, grant, agreement, commitment, understanding, or other arrangement entered into between any Federal agency and any person where a purpose of the contract is the conduct of experimental, developmental, or research work. Such term includes any assignment, substitution of parties, or subcontract of any type entered into or executed for the conduct of experimental, developmental, or research work in connection with the performance of that contract.

(5) "Contractor" means any person and any public or private corporation, partnership, firm, association, institution, or other entity that is a party to the contract.

(6) "Invention" means any invention, discovery, innovation, or improvement which, without regard to the patentability thereof, falls within the classes of patentable subject matter defined in title 35, United States Code.

(7) "Inventor" means any person, other than a contractor, who has made an invention under a contract but who has not agreed to assign his rights in such invention to the contractor.

(8) "Disclosure" means a written statement sufficiently complete as to technical detail to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and as the case may be, physical, chemical, or electrical characteristics of the invention.

(9) "Made under the contract" or "made under a contract" when used in relation to any invention mean the conception or first actual reduction to practice of such invention in the course of any work under the contract or under a contract, respectively.

(10) "Person" means any individual, partnership, corporation, association, institution, or other entity.

(11) "Practical application" means to manufacture in the case of a composition or product, to practice in the case of a machine or system, and, in each case, under such conditions as to establish that the invention is being worked and that its benefits are available to the public either on reasonable terms or through reasonable licensing arrangements.

(12) "Board" means the Federal Science and Technology Research and Development Utilization Review Board established under section 501 of Title V of this Act.

(13) "Government" means the Government of the United States of America.

TITLE II.—ALLOCATION OF RIGHTS—GOVERNMENT CONTRACTORS

SEC. 201. RIGHTS OF THE GOVERNMENT.—Each agency head shall acquire on behalf of the United States, at the time of entering into a contract, title to any invention made or conceived in the course of or under any contract of an agency if the agency head determines—

(1) It is the intention of the Government to take such steps as are necessary to achieve practical applications of any inventions likely to be developed under the contract;

(2) The principal purpose of a contract is to develop or improve products, processes, or methods which are intended for use by the general public;

(3) The services of the contractor are for the operation of a Government-owned research or production facility;

(4) Retention of title by the Government is necessary to assure the adequate protection of the public health, safety or welfare;

(5) The contract is in a field of science and technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position;

(6) Retention of title is necessary because of the classified nature of the work being performed under the contract; or

(7) That the commercial interests of the contractor are not sufficiently established: *Provided*, however, the agency head may subsequently waive all or any part of the rights of the United States under this section to such invention in conformity with the provisions of section 203.

SEC. 202. RIGHTS OF THE CONTRACTOR.—In all other situations not specified in section 201, the contractor or inventor shall have the option of acquiring title to any invention made or conceived under the contract. Such rights, however, shall be subject to the limitations set forth in section 204. Said option shall be exercised at the time of disclosure of the invention or within such time thereafter as may be provided in the contract. The Government shall obtain title to any invention for which this option is not exercised.

SEC. 203. WAIVER.—An agency head may waive all or any part of the rights of the United States under this section to any invention or class of inventions made or which may be made by any person or class of persons in the performance of any work required by any contract of the agency if the agency head determines that the interests of the United States and the general public will be best served thereby. The agency shall maintain a record, which shall be made public and periodically updated, of determina-

tions made under this chapter. In making such determinations, the agency shall consider the following objectives:

(1) Encouraging the wide availability to the public of the benefits of the experimental, developmental or research programs in the shortest practicable time;

(2) Promoting the commercial utilization of such inventions;

(3) Encouraging participation by private persons in the Government-sponsored experimental, developmental or research programs; and

(4) Fostering competition and preventing undue market concentration or the creation of maintenance of other situations inconsistent with the antitrust laws.

In making such determinations, the agency head shall consider—

(1) In the case of a nonprofit educational institution, the extent to which such institution has a technology transfer capability and program, approved by the agency head as being consistent with the applicable policies of this section;

(2) The extent to which such waiver is a reasonable and necessary incentive to call forth private risk capital for the development and commercialization of the invention; and

(3) The small business status of the applicant.

SEC. 204. MARCH-IN-RIGHTS. (a) Where a contractor has acquired title to an invention under section 202 or 203 of this title, the Federal agency shall have the right, subject to the provisions of subsection (b), to require the contractor to grant a nonexclusive, partially exclusive, or exclusive license to a responsible applicant or applicants, upon terms reasonable under the circumstances if the agency head determines that such action is necessary—

(1) To alleviate a serious threat to the public health, safety, or welfare needs which is not reasonably satisfied by the contractor or its licensees;

(2) To meet requirements for public use specified by Federal regulation which are not reasonably satisfied by the contractor or its licensees;

(3) Because the exclusive rights to such subject invention held by the contractor have tended substantially to lessen competition or to result in undue market concentration in any section of the United States in any line of commerce to which the technology relates, or to create and maintain other situations inconsistent with the antitrust laws; or

(4)(a) Because the contractor has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the identified invention.

(b) The rights of the Federal agency under subsection (a) shall be subject to the prior approval of the Board which shall make its determination after a formal hearing conducted in accordance with the rules, regulations and procedures adopted by the Board.

SEC. 205. GENERAL PROVISIONS.—(a) Each contract entered into by the Government shall contain such terms and conditions as the agency head deems appropriate for the protection of the interests of the United States and the general public, including appropriate provisions to—

(1) Require periodic written reports at reasonable intervals in the commercial utilization or efforts at obtaining commercial utilization that are being made by the inventor or his licensees or assignees: *Provided*, that any such information may be treated by the Federal agency as commercial and financial and confidential and not subject to disclosure under the Freedom of Information Act;

(2) Reserve to the United States at least an irrevocable, nonexclusive, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the United States and States and domestic municipal governments, unless the agency determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments;

(3) Require the prompt disclosure by the contractor or inventor to that agency of any invention made under the contract; and

(4) Reserve to the United States and the contractor or inventor rights in each such invention in conformity with the provisions of this title.

(b) Agency determinations as to the rights to inventions under this title shall be made in an expeditious manner without unnecessary delay.

SEC. 206. BACKGROUND RIGHTS.—Nothing contained in this Act shall be construed as to deprive the owner of any background patent relating thereto or to such rights as may have thereunder.

TITLE III.—ALLOCATION OF RIGHTS—FEDERAL EMPLOYEES

SEC. 301. ALLOCATION OF RIGHTS.—(a) Except as otherwise provided in subsections (b), and (c), the Government shall obtain the entire right, title, and interest in and to all inventions made by any Federal employee if the agency head determines that—

(1) The invention was made or conceived during working hours;

(2) The invention was made or conceived with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other Government employees on official duty; or

(3)(a) The invention bears a direct relation to the duties of the Federal employee-inventor, or are made in consequence of his employment.

(b) Where the interest of the Government is insufficient to require retention of title by the Government but the invention bears an indirect relation to the duties of the Federal employee-inventor, the employee shall have the option of acquiring title to such invention, subject, however, to the reservation by the Government of a non-exclusive, irrevocable, royalty-free license in the invention with the power to grant licenses for all governmental purposes. The Government shall obtain title to any invention for which this option is not exercised.

(c) In all situations not falling within subsections (a) and (b), a Federal employee shall be entitled to retain the entire right, title and interest in and to any invention made by the employee.

SEC. 302. PRESUMPTION OF OWNERSHIP.—(a) In applying the criteria of section 301 to the facts and circumstances relating to the making of any particular invention, it shall be presumed that an invention falls within the criteria of section 301(a) when made by a Federal employee who is employed or assigned to—

(1) Invent, improve, or perfect any art, machine, manufacture, or composition of matter;

(2) Conduct or perform research or development work, or both;

(3) Supervise, direct, coordinate, or review Federally financed or conducted research or development work, or both; or

(4) Act in a liaison capacity among Federal or non-Federal agencies or individuals engaged in such work.

(b) The presumption established by subsection (a) may be rebutted by the facts or circumstances of the conditions under which any particular invention is made.

SEC. 303. REVIEW.—Federal agency determinations regarding the respective rights of the Federal Government and the Federal employee-inventor are to be reviewed by the Board in accordance with rules, regulations, and procedures adopted by that body whenever—

(1) The Federal agency fails to obtain title under the provisions of Section 301(a); or

(2) The Federal employee-inventor who claims to be aggrieved by the determination requests such a review.

SEC. 304. INCENTIVES AWARDS PROGRAM.—(a) Subject to the provisions of this section, the agency head is authorized, upon his own initiative or upon application of any person, to make a monetary award or otherwise offer recognition, in such amount and upon such terms as he shall deem appropriate, to any Federal employee-inventor for any scientific or technical invention determined by the agency head to have significant value.

(b) Awards shall be granted pursuant to the provisions of chapter 45 of title 5 and chapter 57 of title 1 of the United States Code, and in accordance with regulations issued thereunder except as modified by this Act.

(c) In granting awards under this section, due consideration shall be given to—

(1) The extent to which the invention advances the state of the art;

(2) The amount expended by the employee-inventor for development of such invention;

(3) The importance of the invention in terms of its value and benefits to the Government and the United States;

(4) The extent to which the invention has achieved utilization by the public; and

(5) The amount of any compensation previously received by the employee-inventor for or on account of the use of such invention by the United States.

(d) If more than one applicant under subsection (a) claims an interest in the same contribution, the agency head shall ascertain the respective interest of such applicants, and shall apportion any award to be made with respect to such invention among such applicants in such proportions as he shall determine to be equitable.

(e) No award may be made under subsection (a) with respect to any invention unless the applicant surrenders, by such means as the agency head shall determine to be effective, all claims which such applicant may have to receive any compensation (other than the award made under this section) for the use of such invention or any element thereof at any time by or on behalf of the United States or by or on behalf of any foreign government pursuant to any treaty or agreement with the United States, within the United States or at any other place.

(f) No award may be made under subsection (a) in any amount exceeding $100,000, unless the agency head has transmitted to the appropriate committees of the Congress a full and complete report concerning the amount and terms of, and the basis for, such proposed award, and 30 calendar days of regular session of the Congress have expired after receipt of such report by such committees.

(g) A cash award and expense for honorary recognition of a Federal employee-inventor shall be paid from the funds appropriated for the sponsoring Federal agency.

TITLE IV.—FEDERAL TECHNOLOGY UTILIZATION PROGRAM

SEC. 401. POLICY.—(a) The Congress finds and declares that the large number of inventions owned by the Government constitutes a valuable national resource which is not being effectively exploited for commercial utilization. There is a need for better coordination and direction of Federal efforts to facilitate expeditious development of the products of federally sponsored science and technology research and development.

(b) It is the purpose of this title to establish a program for the efficient utilization of the results of Federal science and technology research and development.

SEC. 402. ESTABLISHMENT.—(a) To assist in carrying out the purpose of this title, the

Secretary of Commerce, in cooperation with other Government agencies, shall establish and maintain a Federal Technology Utilization Program.

(b) The Secretary of Commerce is authorized under this Program to take such action as may be necessary to assure the utilization and protection of patents or other rights in Government-owned inventions, including but not limited to the authority to—

(1) Assist and coordinate agency efforts to promote the licensing and utilization of Government-owned patents and inventions;

(2) Accept custody and administration, in whole or in part, of Government rights in any invention for the purpose of protecting the United States interest therein and promoting the effective utilization of any such invention;

(3) Develop and manage a Government-wide program designed to stimulate the transfer of Government-owned technology to the private sector through the development, demonstration, and dissemination of information regarding potential applications;

(4) Evaluate inventions referred by Government agencies and patent applications filed thereon in order to identify those inventions with the greatest commercial potential and to insure promotion of inventions so identified;

(5) Assist the Government agencies in seeking protection and maintaining inventions in foreign countries; including the payment of fees and costs connected therewith;

(6) Make market surveys and other investigations for determining the potential of inventions and patents for domestic and foreign licensing and other utilization;

(7) To acquire technical information and engage in negotiations and other activities for promoting the licensing and other utilization of Government-owned patent applications, patents or other forms of protection obtained, and to demonstrate the practicability of the inventions for the purpose of enhancing their marketability;

(8) Consult and advise agencies as to areas of science and technology research and development with potential for commercial utilization; and

(9) Receive funds from fees, royalties, sales or other management of Government-owned inventions authorized under this Act: *Provided*, however, that such funds will be used only for the purpose of this Act.

SEC. 403. AGENCY TECHNOLOGY UTILIZATION PROGRAM.—To assist in the transfer of Government-owned innovative technology resulting from Federal research and development for application and use in industry, agriculture, medicine, transportation, and other critical sectors of the economy, each Federal agency shall develop and implement a Technology Utilization Program. Specific program objectives shall include, but not be limited to—

(1) To expedite and facilitate the application and use of technology by shortening the time between generation of advanced technologies and their use in the economy and provide greater incentives for use of socially beneficial innovations;

(2) To encourage multiple secondary uses of technology in industry, education, and government where there is a wide spectrum of technological problems and needs; and

(3) To understand more fully the technology transfer process and its impact on the economy, and to manage and optimize the process in a systematic way.

SEC. 404. PROTECTION OF RIGHTS.—Each agency head, with the assistance of the Attorney General when necessary, is authorized to take all suitable and necessary steps to protect and enforce the rights of the United States in any invention.

SEC. 405. JOINDER OF PARTIES.—The grantee of any exclusive rights in any invention covered by a United States patent owned by the United States shall have the right to bring suit for patent infringement in the United States courts to enforce such rights without joining the United States as a party in such suit.

TITLE V.—FEDERAL REVIEW BOARD

SEC. 501. (a) There is established within the Executive Branch of the Government a Federal Science and Technology Research and Development Utilization Review Board. The Board shall be composed of three members appointed by the President, with the advice and consent of the Senate. One member of the Board shall be designated Chairman by the President. The members first appointed shall continue in office for the terms of two, four, and six years, respectively, from the date of this Act, the term of each to be designated by the President. Thereafter their successors shall be appointed for terms of six years. Members of the Board shall receive compensation of the rate specified for Level V positions in the Executive Schedule. The Board shall have authority, subject to the civil service and classification laws, to appoint such personnel, including hearing examiners, as are necessary in the exercise of its functions. The Board is authorized to make such expenditures and enter into such contracts as are necessary in the exercise of its functions. The Board shall have an official seal which shall be judicially noticed.

(b) The objects and purposes of the Board shall be to coordinate, direct, and review the implementation and administration of a uniform Federal policy with respect to the ownership of inventions resulting from Federally sponsored research and development.

(c) With a view to obtaining uniform application of the policies of this Act, the Board is authorized and directed to—

(1) Consult and advise with Federal agencies concerning the effective implementation and operation of the policies, purposes, and objectives of this Act;

(2) Formulate and recommend to the President such proposed rules, regulations, and procedures necessary and desirable to assure the uniform application of the provisions of this Act;

(3) Accumulate, analyze, and disseminate data necessary to evaluate the administration and effectiveness of the policies set forth in this Act;

(4) Determine with finality any dispute between a Government agency and an aggrieved party arising under Title II or Title III of this Act; and

(5) Perform such other duties as may be prescribed by the President or by statute.

(d) The Board shall submit an annual report of its activities to Congress, including therein (1) relevant statistical data regarding the disposition of invention disclosures resulting from Federally-funded research and development; (2) any recommendation as to legislative or administrative changes necessary to achieve the policy and purposes of this Act and, (3) an analysis of the impact of Federal patent policies on the innovative process.

(e) Any Federal agency is authorized to provide for the Board such services or personnel as the Board requests on such basis, reimbursable or otherwise, as may be agreed upon between the agency and the Chairman of the Board.

(f) The Board shall establish such interagency committees as are necessary to assist in the review and formulation of uniform rules, regulations, and procedures implementing the provisions of this Act.

SEC. 502. AUTHORIZATION FOR APPROPRIATIONS. (a) There are hereby authorized to be appropriated to the Board such sums as may be necessary to carry out the provisions of this Act.

TITLE VI—MISCELLANEOUS

SEC. 601. REPEAL OF EXISTING STATUTORY AUTHORIZATIONS.—The following Acts are hereby amended as follows:

(a) Section 10(a) of the Act of June 29, 1935, as added by Title I of the Act of August 14, 1946 (7 U.S.C. 427(a); 60 Stat. 1085) is amended by striking out the following: "Any contracts made pursuant to this authority shall contain requirements making the results of research and investigations available to the public through dedication, assignment to the Government, or such other means as the Secretary shall determine.".

(b) Section 205(a) of the Act of August 14, 1946 (7 U.S.C. 1624(a); 60 Stat. 1090) is amended by striking out the following: "Any contract made pursuant to this section shall contain requirements making the result of such research and investigations available to the public by such means as the Secretary of Agriculture shall determine.".

(c) Section 501(c) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 951(c); 83 Stat. 742) is amended by striking out the following: "No research, demonstrations, or experiments shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this Act, unless all information, uses, products, processes, patents, and other developments resulting from such research, demonstrations, or experiments will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the public interest) be available to the general public.".

(d) Section 106(c) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395(c); 80 Stat. 721) is repealed.

(e) Section 12 of the National Science Foundation Act of 1950 (42 U.S.C. 1871(a); 82 Stat. 360) is repealed.

(f) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182; 68 Stat. 943) is repealed.

(g) The National Aeronautics and Space Act of 1958 (72 Stat. 426) is amended—

(1) By repealing section 305 thereof (42 U.S.C. 2457): *Provided, however*, That subsections (c), (d), and (e) of such section shall continue to be effective with respect to any application for patents in which the written statement referred to in subsection (c) of such section has been filed or requested to be filed by the Commissioner of Patents and Trademarks prior to the effective date of this Act;

(2) By inserting the following new Section 305:

"SEC. 305. INVENTIONS AND CONTRIBUTIONS BOARD.—Each proposal for any waiver of patent rights held by the Administrator shall be referred to an Inventions and Contributions Board which shall be established by the Administrator within the Administration. Such Board shall accord to each interested party an opportunity for hearing, and shall transmit to the Administrator its findings of fact with respect to such proposal and its recommendations for action to be taken with respect thereto.";

(3) By striking out section 306 thereof (42 U.S.C. 2458(a));

(4) By inserting at the end of section 203(b) thereof (42 U.S.C. 2478(a)); the following new paragraph:

"(14) to provide effective contractual provisions for reporting of the results of the activities of the Administration, including full and complete technical reporting of any innovation made in the course of or under any contract of the Administration.";

(5) By inserting at the end of section 203 thereof (42 U.S.C. 2478) the following new subsection:

"(e) For the purpose of chapter 17 of title 35 of the United States Code the Administration shall be considered a defense agency of the United States."; and

(6) By striking out the following in such section: "(including patents and rights thereunder)."

(h) Section 6 of the Coal Research and Development Act of 1960 (30 U.S.C. 666; 74 Stat. 337) is repealed.

(i) Section 4 of the Helium Act Amendments of 1960 (50 U.S.C. 167b; 74 Stat. 920) is amended by striking out the following: "Provided, however, that all research contracted for, sponsored, cosponsored, or authorized under authority of this Act shall be provided for in such a manner that all information, uses, processes, patents, and other developments resulting from such research developed by Government expenditure will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public: And provided further, that nothing contained herein shall be construed as to deprive the owner of any background patent relating thereto to such rights as he may have thereunder." and by inserting in lieu thereof a period.

(j) Section 32 of the Arms Control and Disarmament Act of 1961 (22 U.S.C. 2572; 75 Stat. 634) is repealed.

(k) Subsection (e) of section 302 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 302(e); 79 Stat. 5) is repealed.

(l) Subsection (e) of section 203 of the Solid Waste Disposal Act (42 U.S.C. 3253(c); 88 Stat. 997) is repealed.

(m) Section 216 of title 38, United States Code, is amended by striking out subsection (a)(2) thereof and by redesignating subsection (a)(3) thereof as (a)(2).

(n) Except for paragraph (1) of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901; 88 Stat. 1878) is repealed.

(o) Section 3 of the Act of June 22, 1976 (42 U.S.C. 1959d, note; 90 Stat. 694), is repealed.

(p) Section 5(i) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831d (i); 48 Stat. 61), is amended by striking both proviso clauses at the end thereof.

(q) Sections 5(d) of the Consumer Product Safety Act (15 U.S.C. 2054(d); 88 Stat. 1211) is repealed.

(r) Section 3 of the Act of April 5, 1954 (30 U.S.C. 323; 58 Stat. 191), is repealed.

(s) Section 8001 of the Solid Waste Disposal Act (42 U.S.C. 6981; 90 Stat. 2892) is repealed.

(t) Section 5 of the Act of July 3, 1952 (42 U.S.C. 1954(b)) is repealed.

(u) Section 303 of the Act of July 17, 1964 (42 U.S.C. 1961c–3) is repealed.

SEC. 602. EFFECTIVE DATE. This Act shall take effect six months after the date of enactment of this Act.

SEC. 603. AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. PELL:

S. 3628. A bill to establish the Bill of Rights Commemoration Commission, and for other purposes; to the Committee on the Judiciary.

BILL OF RIGHTS COMMEMORATION COMMISSION

● Mr. PELL. Mr. President, Ernest Cuneo, a very good and old friend, discussed with me the importance and desirability of celebrating and giving due honor to the 200th anniversary of the Bill of Rights. Spurred on by his thought, I have come to the conclusion that this should be done and this text approval would be to establish a Bill of Rights Commemoration Commission and for this reason introduces legislation for this purpose.●

By Mr. SCHMITT:

S. 3629. A bill to amend title 5. United States Code, to improve and systematize the procedures for the promulgation of rules and for establishing a uniform procedure for congressional review of executive branch rules which may have a harmful impact on the public, may be contrary to law, or may be inconsistent with congressional intent; to expand opportunities for public participation in Federal agency rulemaking; to establish a Joint Commission on Administrative Rules; and for other purposes; to the Committee on Governmental Affairs.

REGULATORY REDUCTION AND CONGRESSIONAL CONTROL ACT

● Mr. SCHMITT. Mr. President, I am reintroducing today S. 2011, the Regulatory Reduction and Congressional Control Act, which I previously introduced in 1977. This legislation is designed to return to the Congress its constitutionally mandated prerogative to control the creation of laws.

Hearings were conducted on S. 2011 on the 12th, 13th, and 20th of September, during which testimony was received from several distinguished economists, experts in constitutional law, State legislators, a former Director of the National Commission on Paperwork. the American Bar Association, representatives from consumer groups, and many others. As a result of a number of important points made in this testimony, I have made several changes in the original version of this bill.

These changes include the following:

Sunset. S. 2011 would have required the "sunset" of agency regulations after 5 years. This provision has been deleted from the new version of the bill in favor of a procedure which would allow for Congress to target individual regulations for reconsideration. The agency would then be required to repromulgate the regulation, subjecting it to congressional review and disapproval if appropriate.

While the concept of terminating all regulations at some point in time after promulgation has some merit, testimony has indicated that it would impose an unnecessarily burdensome workload on Congress, and that the "rifleshot" approach of a resolution of reconsideration is superior.

Resolution of approval. The original version of S. 2011 required that before any regulation whose impact exceeds $100 million in any year may go into effect, it must first be approved by both Houses of Congress. All other regulations would be subject to disapproval. In the interests of simplicity, so that all regulations would be handled with the same procedure and because of some possible constitutional questions, this provision has been dropped in favor of requiring all rules to be subject only to a resolution of disapproval passed by either the Senate or the House.

Legislative disapproval of proposed rules. S. 2011 provided for proposed rules to be disapproved by the action of either House of Congress. Because of the concerns expressed that this procedure might exclude one House of Congress from participating in the disapproval of a regulation, the revised version incorporates a new mechanism. Under this procedure, a regulation would not go into effect should one House approve a resolution of disapproval, provided that the resolution of disapproval is not disapproved by the other House. Not only does this procedure provide for participation by both Houses of Congress in the disapproval of a regulation, it overcomes the constitutional objections to resolution of disapproval requiring two-House approval without a Presidential role.

Economic impact statements. S. 2011 required a complete economic impact statement for all regulations promulgated by Federal Departments and agencies. Testimony from noted economists has suggested that this kind of analysis, while valuable, should not be imposed upon all regulations. Thus, the revised version of S. 2011 requires only that agencies conduct a preliminary review of economic impact for all regulations, reserving the requirements of the full economic impact statement only to those regulations whose costs to the economy exceeds $100 million. Preliminary impact statements would be required with publication of a proposed rule and final statements required with submission of the rule to Congress prior to final promulgation.

General Accounting Office. S. 2011 would have required proposed rules and accompanying impact statements to be submitted directly to Congress for referral to the appropriate standing committee. The revised version of S. 2011 provides for General Accounting Office review of the economic impact statements required under the bill to review an agency's determination that the benefits of the proposed rule exceed its costs. This procedure was developed in response to suggestions that the standing committees would not have the staff nor the expertise to handle this responsibility effectively.

Joint Committee on Administrative Rulemaking. S. 2011 would have required for proposed rules and economic impact statements to be referred to the appropriate standing committees. Testimony received from distinguished State legislators indicated that a great many States have found it more efficient, more effective and less subject to pressure from special interests to consolidate personnel and expertise in a single joint committee. The revised version S. 2011 would establish such a committee in the Congress, and would provide it with the necessary authority to review agency rules and to act on reporting resolutions of disapproval introduced against a proposed rate.

Consolidation of impact statements. S. 2011 required agencies to prepare economic, paperwork and judicial impact statements, where applicable, for each proposed rule. In response to concerns that have been expressed over the proliferation of impact statements, in the new version, these three statements have been consolidated and streamlined into a single impact statement.

This legislation, with the improvements which have been made as a re-

sult of hearings before the Committee on the Judiciary, will provide Congress with a valuable tool for insuring that executive branch rules are a true expression of Congressional intent.

Let me review for a few moments, the reason that this legislation is required. Recent years have witnessed an eruption of regulations and regulatory bureaucracies which impact on almost every facet of the lives of the citizenry.

The American citizen, the small businessman, business in general, and Government are staggering under an increasingly heavy load of regulations. There is a general perception among the people that the regulatory bureaucracy is running out of control. There is a mandate to the Congress to do something about reestablishing control of the regulatory process and to reform existing regulations.

The size of this massive burden can be appreciated by recognizing that there are 44 independent regulatory agencies at the Federal level, plus 1,240 boards, commissions, et cetera. These organizations employ over 100,000 individuals responsible for controlling the lives of our citizens. The cost to the taxpayers to finance these bureaucracies is equally large, growing from just over $2 billion in 1974 to an estimated $3,500,000,000 in 1977. The total cost to the economy is now estimated to be as much as $200 million annually.

There is little question that in recent decades Congress has increasingly given up much control over the "making of law" to the regulatory agencies. This loss of constitutional congressional authority has occurred through the passage of legislation that calls for the "promulgation" of rules and regulations that supposedly will cure some social ill. Subsequent congressional oversight over the rules and regulations so "promulgated" has been poor to nonexistent, Thus, the constitutional concept of the separation of powers between the legislative and executive branches of government have been seriously blurred and compromised.

The Senate has before it several pieces of legislation aimed at controlling the large number of regulations impacting on our citizens.

In addition to these efforts, it seems clear that a Regulatory Reduction and Congressional Control Act is required which would preserve and strengthen the constitutional separation of powers between the legislative and executive branches. This bill is intended to accomplish this task.

SUMMARY OF THIS LEGISLATION

Mr. President, this bill, if adopted would preserve and strengthen the separation of powers between the legislative and executive branches by:

First, establishing a uniform procedure for sytematic and comprehensive congressional review of proposed rules and regulations which may have serious impact on the public;

Second, expanding opportunities for public participation in the agency rulemaking process;

Third, strengthening congressional oversight over Federal regulatory agencies;

Fourth, requiring agencies, when proposing new rules and regulations, to consider carefully the impact of their proposals on the economy;

Fifth, providing more complete information to the public and the Congress about rules and regulations so that they can make informed decisions on future courses of action;

Sixth, making Federal agencies more responsive to the needs, concerns, and interests of the public;

Seventh, substantially reducing the costs of Government regulation, alleviate Federal report filing and recordkeeping requirements and eliminate regulatory excesses; and

Eighth, restoring public confidence in Government institutions.

CONGRESSIONAL REVIEW

This legislation would mandate a review period by Congress before agency rules or regulations could go into effect.

This legislation would require the agency head promulgating a new rule to publish in the Federal Register the text of the proposed rule and a cross-referenced index of all regulations pertaining to the same subject matter. This information also would be transmitted to the Congress. It also would require the agency to publish in the Federal Register a summary of the economic impact analysis of each proposed rule and any alternative approaches considered by the agency.

Mr. President, the concept of returning to the elected representatives of the people the control over governmental decisionmaking is a familiar one in recent years. Three years ago the Congress passed the Congresssional Budget and Impoundment Control Act to reassert its authority over the Federal budget process. The legislation which I am introducing today would employ a similar set of procedures to reestablish congressional control in the area of regulatory rulemaking by executive branch agencies.

As I noted a few moments ago, this legislation would require that an economic impact statement be filed with major regulatory proposals to help the public and the Congress determine the value of the proposed rule to our society. A recent article by James C. Miller in the journal Regulation analyzes the record thus far on economic impact statements, and I request that it be printed in full in the RECORD following my remarks.

In conclusion, Mr. President, I would like to thank the distinguished chairman of the Subcommittee on Administrative Practice and Procedure, Senator ABOUREZK who agreed to hold the hearings on S. 2011 and the distinguished ranking minority member of the subcommittee, Senator LAXALT, who made a great personal contribution to the success of these hearings.

Now that the Congress has moved to regain control of the budget through the Congressional Budget and Impoundment Control Act of 1974, we must act to accomplish a similar reassertion of congressional control over agency rulemaking. I will look forward to further efforts in this area in the coming year.

Mr. President, I ask unanimous consent that the text of this bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3629

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; FINDINGS AND PURPOSES

SECTION 1. (a) This Act may be cited as the "Regulatory Reduction and Congressional Control Act".

(b) It is the finding of the Congress that the steady usurpation of quasi-judicial and legislative powers by the regulatory agencies and departments of the executive branch of the Federal Government represents a clear and dangerous challenge to the constitutional provisions establishing a separation of powers among the three equal branches of the Federal Government. In so finding, the Congress has determined that:

(1) There is an urgent requirement for a legislatively approved uniform procedure to oversee the rulemaking activities of the executive branch of the Federal Government. Such a uniform procedure will preserve and protect the constitutional doctrine relating to the separation of powers among the three equal branches of the Federal Government.

(2) There is an urgent need for the legislative branch to supervise the regulatory agencies in the exercise of the limited judicial and legislative powers which have been granted by it to the executive branch. The often arbitrary exercise of these powers has seriously eroded the citizenry's confidence in the executive branch and in so doing has weakened the citzenry's confidence in our system of Federal Government.

(3) There is a need for greater participation on the part of our citizenry in the decision-making process relating to the exercise of these properly mandated regulatory activities of the executive branch. This can best be accomplished by making regulatory agencies more responsive to the citizenry's need for information and participation in these activities.

(4) The citizenry of the country, are in need of protection from the often unnecessary, arbitrary, and capricious actions of Federal departments and agencies, particularly when such actions result in significant economic, legal, or bureaucratic burdens.

(5) The legislative branch of our Federal Government, the branch closest and most responsive to the needs and will of the citizenry, must reassert on behalf of the people their constitutional right to be secure from these unreasonable, arbitrary actions of the executive branch. These actions result from the usurpation by that branch of the powers granted by the people to the judicial and legislative branches of our Federal Government.

TITLE I—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

SEC. 101. (a) Section 551 of title 5, United States Code is amended—

(1) by striking out paragraph (4) of such section and inserting in lieu thereof the following:

"(4) 'rule' means the whole or part of an agency statement of general applicability designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency and includes any amendment, revision, or repeal of such a statement;";

(2) by inserting immediately after paragraph (4) of such section the following new paragraph:

"(5) 'emergency rule' means a rule which is temporarily effective without the expiration of the otherwise specified periods of time for public notice and comment which

was duly promulgated by an agency pursuant to a finding that delay in the effective date thereof would—

"(A) seriously injure an important public interest,

"(B) substantially frustrate legislative policy and intent, or

"(C) seriously damage a person or class of persons without serving any important public interest;"; and

(3) by redesignating paragraphs (5) through (13) of such section as paragraphs (6) through (14), respectively.

(b) Section 553(b) of such title is amended—

(1) by striking out paragraph (B) and inserting in lieu thereof the following:

"(B) when the agency for good cause finds that public notice and comment are unnecessary due to the routine nature or matter or insignificant impact of the rule, or that emergency rules should be promulgated.

An agency which finds that a rule is within an exception specified in subparagraph (A) or (B) of this paragraph shall publish in the document promulgating such rule that finding and a brief statement of reasons therefor. The requirements of this subsection shall not preclude an agency from—

"(i) inviting persons representing different points of view to submit comments,

"(ii) creating on advisory committee to report, or

"(iii) using such other devices to obtain suggestions, regarding the content of proposed rules prior to notice of rulemaking."

(2) by adding immediately after paragraph (1) the following:

"(2) a summary statement of the problem requiring remedial Federal action for which the rule is being proposed and a preliminary analysis of the economic impact of the rule, prepared pursuant to section 602 (a) of this title;

"(3) in the case of a major rule as defined in section 601(3) of this title, a summary of the economic impact statement prepared pursuant to section 602(b) of this title;"; and

(3) by striking out "(2)" and inserting in lieu thereof "(4)" and by striking out "(3)" and inserting in lieu thereof "(5)".

(c) Section 553 of such title is further amendment by redesignating subsection (e) as subsection (f) and by striking out subsection (d) and inserting in lieu thereof the following new subsections:

"(d) Unless a longer period of time is required by law or provided in the rule:

"(1) a rule may become effective immediately if it—

"(A) grants or recognizes an exemption to or relieves a restriction from a rule, or

"(B) is exempt from public notice and comment under the last sentence of subsection (b) of this section;

"(2) a rule which is subject to disapproval pursuant to chapter 6 of this title shall not take effect except as provided in section 603 of such chapter.

"(e) At the time of promulgation of an emergency rule the agency shall commence rulemaking proceedings in accordance with subsections (b) and (c), except that the period for public comment shall be limited to sixty days unless the agency determines that an additional thirty days are necessary to enable diligent, interested persons to participate. Within thirty days after the close of the period for public comment, the agency shall issue a final rule to take effect as provided in subsection (d). Unless earlier withdrawn by the agency, disapproved by resolution of Congress pursuant to chapter 6 of this title, or set aside by court action, and emergency rule shall expire sixty calendar days of continuous session (calculated in accordance with section 605 of this title) after the date by which a final rule is required to be promulgated under the preceding sentence.".

SEC. 102. Section 553(c) of title 5, United States Code, is amended—

(1) by striking out "an opportunity" and inserting in lieu thereof "not less than sixty days";

(2) by inserting immediately after the first sentence the following new sentence: "The agency may extend this period of time if it appears that such period is too short to permit diligent, interested persons to prepare comments or if the agency determines that other circumstances justify an extension."; and

(3) by inserting immediately after the second sentence the following new sentence: "In any case in which a final rule is not preceded by a proposed rule, the agency shall include with the publication of the final rule a summary statement of the problem requiring remedial Federal action for which the rule is being promulgated and a preliminary analysis of the economic impact of the rule prepared pursuant to section 602(a) of this title, and in the case of a major rule, a summary of the economic impact statement required under section 602 (b) of this title.".

SEC. 103. (a) Title 5 of the United States Code is amended by inserting immediately after chapter 5 the following new chapter:

"Chapter 6—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"Sec.
"601. Definitions.
"602. Preliminary analysis of economic impact and economic impact statement.
"603. Resolution of disapproval.
"604. Resolution for reconsideration.
"605. Computation of calendar days of continuous session of Congress.
"606. Procedure for consideration of resolutions.
"607. Effect on statutory time limits.
"608. Effect on judicial review.
"609. Agency implementation.
"610. General Accounting Office.

"§ 601. Definitions

"The definitions set forth in section 551 of this title shall apply to this chapter except that—

"(1) those functions excluded from the definition of the term 'agency' by paragraph (1)(II) of such section are included in such definition for purposes of this chapter;

"(2) the terms 'rule' and 'emergency rule' shall not include—

"(A) a rule of agency organization, practice, and procedure;

"(B) a rule relating to agency management personnel;

"(C) a rule granting or recognizing an exception or relieving a restriction; or

"(D) a rule adopted without public notice and comment pursuant to a valid agency finding that such notice and comment were unnecessary due to the routine nature or insignificant public impact of the rule; and

"(3) the term 'major rule' includes any rule or regulation which the agency, based upon a preliminary review of the economic impact of all proposed rules, estimates:

"(A) will result in increased costs—

"(i) for the national economy, in excess of $100,000,000 in any one year or in excess of $150,000,000 in any two-year period, or

"(ii) for any economic sector, industry, or level of government in excess of $50,000,000 in any one year or in excess of $75,000,000 in any two-year period;

"(B) is likely to lessen substantially competition, limit market entry, restrain market information, or tend to create a monopoly or monopolistic market power in any line of commerce in any section of the country in any case in which commerce in the relevant market exceeds $100,000,000 per year;

"(C) will result in a direct change in total employment—

"(i) for the national economy, of two-tenths of 1 per centum in total employment, or

"(ii) for any specific industry, regional economy, level of government or category of employees, of ten thousand or more jobs;

"(D) will affect products or services having an annual wholesale or retail value in excess of one-twentieth of 1 per centum of the gross national product;

"(E) is likely to cause serious harm to the public health, safety, and welfare;

"(F) will provide a civil or criminal penalty or forfeiture in excess of $1,000 per offense or $100 per day; or

"(G) will require an inspection of the premises by an agency or representative thereof acting in an official capacity.

"§ 602. PRELIMINARY ANALYSES OF ECONOMIC IMPACT AND ECONOMIC IMPACT STATEMENT

"(a) For each proposed and final rule an agency promulgates, the agency shall prepare and publish—

"(1) a summary statement, written in clear English that is understandable to the lay person, of the problem requiring remedial Federal action for which the rule is being promulgated; and

"(2) a preliminary analysis of the economic impact of such rule which estimates to the extent practicable, the costs imposed upon the various sections of the economy affected by the rule, and which the agency shall use to determine whether the rule is a major rule as defined in section 601(3).

"(b) For each proposed and final major rule an agency promulgates, the agency shall, in addition to the summary statement and the preliminary analysis required under subsection (a), prepare and publish an economic impact statement which includes the following information:

"(1) estimates, to the extent practicable and appropriate, of the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments;

"(2) estimates, to the extent practicable and appropriate, of the effects on productivity, competition, supplies of important manufactured products or services, employment, the quantity of energy resource supply and demand, and the environment;

"(3) an analysis which demonstrates that the benefits of the rule are likely to exceed the costs which it imposes on the areas of the economy specified in paragraph (1);

"(4) estimates, to the extent practicable and appropriate, of the effect of the rule on the paperwork burden in the public and private sectors which show, for each occurrence of compliance, an estimate of—

"(A) the number and categories of persons that would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under the rule;

"(B) the nature and amount of the information that would be required to be filed in such reports and the frequency of such reports under the rule; and

"(C) the hours and costs that would be required to keep such records and make such reports under the rule;

"(5) estimates to the extent practicable and appropriate the effect of the rule on the operation, workload, and efficiency of the Federal courts;

"(6) a cross-referenced index of all rules pertaining to the same subject matter as the rule which lists all such rules by title and subject matter and shall include a brief summary of the content, purpose, and compliance cost of the regulations;

"(7) such other explanatory and sup-

portive statements and materials as the agency deems necessary and appropriate for congressional consideration of each rule; and

"(8) additional criteria that may be developed for executive agencies by the Office of Management and Budget and for independent regulatory agencies by the General Accounting Office;

"(c)(1) The summary statement and preliminary analysis required under subsection (a), and, if applicable, a summary of the economic impact statement required under subsection (b), shall be published—

"(A) in the case of a proposed rule, with the text of such proposed rule on the date such rule is published in the Federal Register; and

"(B) in the case of a final rule (whether or not preceded by a proposed rule), with the text of the final rule on the date such rule is published in the Federal Register.

"(2) In the case of any final rule which is preceded by a proposed rule, the agency shall include the text of, and an explanation of, any revisions in the economic impact statement which are warranted as a result of public comment received pursuant to section 553(c) of this title.

"(d) The agency head shall transmit a copy of the complete text of each final rule, the summary statement and the preliminary analysis required under subsection (a), and, if applicable, the complete text of the economic impact statement required under subsection (b), to the Senate and the House of Representatives on the same day on which the final rule is published in the Federal Register.

"(e) Whenever an agency promulgates a set of proposed or final rules on the same subject at the same time, such rules shall be considered en bloc for the purposes of determining whether a rule is a 'major rule' as defined in section 601(3), and whether an economic impact statement is required under subsection (b).

"(f) Where quantifiable data for support of the economic analyses required under paragraphs (1), (2), or (3) of subsection (b) cannot be practicably obtained by the agency by any means, including direct inquiries to businesses, consumers, and other persons or inquiries subject to the provisions of the Federal Reports Act (82 Stat. 1302), the agency shall substitute for such data its most reasoned estimate based upon the experience of such agency and other external information sources; and where impacts cannot be assessed, the agency shall include a statement of the nature and extent of nonquantifiable costs and benefits.

"(g) The Administrator of General Services shall take such steps as may be necessary to enforce prompt publication of all materials required to be published pursuant to this section.

"(h) The economic impact statement required under subsection (b) shall not be subject to judicial review.

"§ 603. Resolution of disapproval

"(a) For purposes of this title, the term 'resolution of disapproval' means a resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule promulgated by ——— dealing with the matter of ———, which rule was transmitted to the Congress on ———.', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such ——— further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress.

"(b)(1) Except as provided in paragraph (2), a rule shall not become effective if within 60 calender days of continuous session of the Congress after the date of transmittal of the rule to the Congress, one House agrees to a resolution of disapproval and at the end of 30 additional such calendar days after the date of transmittal of the resolution of disapproval to the other House of Congress, such other House has not acted to disapprove such resolution.

(2) Notwithstanding paragraph (1), if at the end of 60 calendar days of continuous session of the Congress after the date of transmittal of the rule to the Congress, neither House has agreed to a resolution of disapproval of such rule, and the Joint Committee on Administrative Rules has not reported and has not been discharged from further consideration of such a resolution, such rule shall be effective at the end of such 60-day period or such later date as may be prescribed by such rule.

§ 604. Resolution for reconsideration.

"(a) Either House of Congress may adopt a resolution directing agency reconsideration of a rule other than an emergency rule. The matter after the resolving clause of such a resolution shall be as follows: "That the ——— directs ——— to reconsider its rule dealing with the matter of ——— which rule is found at ———.' (or if a new rule 'was transmitted to Congress on ———.'), the first blank being filled with the House of Congress adopting the resolution, the second blank being filled with the name of the agency issuing the rule, the third blank being filled with the title of the rule and such further description as may be necessary to identify it, and the fourth blank being filled with the citation to the rule in the agency records or, if it is a new rule, the date on which it was transmitted to Congress.

"(b) If a resolution for reconsideration of a rule, other than an emergency rule, is adopted by either House within 90 calendar days of continuous session of Congress after the date the rule was promulgated, the rule shall not go into effect. The agency shall reconsider the rule and within 60 days either withdraw or repromulgate the rule with such changes and with such public participation as the agency determines appropriate. If the agency takes no action within 60 days such rules shall lapse. If promulgated, the rule shall be subject to congressional review and go into effect as provided in this chapter.

"(c) One hundred eighty days after passage of a resolution for reconsideration with respect to a rule which has taken effect, the rule shall lapse unless repromulgated by the agency. Unless excepted by subsection 553 (a) of this title, the agency shall, not less than 60 days prior to repromulgating such a rule, give notice of a proceeding to consider its repromulgation. The notice and proceeding shall comply with subsections (b) and (c) of section 553 of this title, except that the provisions of paragraph 553(b)(3) shall not be available to the agency and the agency shall hold a hearing for oral presentations. Rules repromulgated pursuant to this subsection within 180 days of the passage of the resolution for reconsideration shall take effect as provided in section 603, and during the period for congressional review provided in that section the reconsidered rule may remain in effect.

"(d) A ——— resolution of disapproval supersedes a resolution for reconsideration of the same rule or part thereof.

"§ 605. Computation of calendar days of continuous session of Congress

"For the purposes of this chapter—

"(1) continuity of session is broken only by an adjournment sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of calendar days of continuous session.

"§ 606. Procedure for consideration of resolutions

"(a) The provisions of this section are enacted by Congress—

"(1) as an exercise of the rule making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by sections 603 and 604 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b)(1) Resolutions of disapproval and resolutions for reconsideration of a rule shall, upon introduction, be immediately referred by the presiding officer of the Senate or of the House of Representatives to the Joint Committee on Administrative Rules (hereafter in this section referred to as the 'Joint Committee'); and such resolutions shall not be referred to any other committee.

"(2) If the Joint Committee does not report a resolution—

"(A) within 45 calendar days of continuous session of Congress after the date of transmittal of the rule to which such resolution relates, in the case of a resolution of disapproval or a resolution for reconsideration referred to in section 604(b); or

"(B) within 90 calendar days of continuous session of Congress after referral, in the case of a resolution for reconsideration referred to in section 604(c),

it shall be in order to move to discharge the Joint Committee from further consideration of such resolution.

"(3) Such motion to discharge must be supported by one-fifth of the Members of the House of Congress involved, and is highly privileged in the House and privileged in the Senate (except that it may not be made after the Joint Committee has reported a resolution of disapproval or for reconsideration with respect to the same rule); and debate thereon shall be limited to not more than 1 hour, the time to be divided in the House equally between those favoring and those opposing the motion to discharge and to be divided in the Senate equally between, and controlled by, the majority leader and the minority leader or their designees. An amendment to the motion is not in order.

"(c) (1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a resolution of disapproval or for reconsideration shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When the Joint Committee has reported or has been discharged from further consideration of a resolution with respect to a rule, it shall be in order at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. And amendment to the motion is not in order.

"(3) Debate on the resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to or motion to recommit the resolution is not in order.

"§ 607. Effect on statutory time limits

"If a resolution of Congress disapproves a rule which was being promulgated subject to a statutory time limit for rulemaking, the adoption of the resolution shall not relieve the agency of its responsibility for

adopting a rule, but any statutory time limit shall apply to such renewed rulemaking only from the date on which the resolution was adopted.

"§ 608. Effect on judicial review

"Congressional inaction on or rejection of a resolution for disapproval shall not be deemed an expression of approval of such rule.

"§ 609. Agency implementation

"The Administrator of General Services shall take such steps as may be necessary including, but not limited to, the revision of the Document Drafting Handbook published by the Office of the Federal Register, to insure that officers and employees of the United States receive information and training necessary to permit them to expeditiously prepare the statements, analyses, and other findings required by section 602 of this chapter.

"§ 610. General Accounting Office

"(a) Each preliminary analysis of the economic impact of a rule, each economic impact statement, and any other materials required under section 602 shall be sent to the General Accounting Office at the time those materials are transmitted to the Senate and the House of Representatives.

"(b) The General Accounting Office shall determine whether or not, on the basis of such materials, the benefits of the rule exceed the costs, and shall report its findings within 30 calendar days to the appropriate congressional committees.

"(c) The General Accounting Office shall make a finding as to whether data in the economic impact statement is accurate, and as to whether major omissions have been made by the agency.

"(d) The General Accounting Office shall, in conjunction with the Office of Management and Budget, develop a model format, methodology, and standards for the preparation of preliminary analysis of the economic impact of a rule and of the economic impact statement for use by each agency."

(b) The table of chapters for part I of title 5 is amended by inserting immediately after "5 Administrative Procedure---------- 501" the following:

"6 Congressional Review of Agency Rule Making---------- 601".

(c) The provisions of chapter 6 of title 5, United States Code, shall supersede any other provisions of law governing procedures for congressional review of agency rules to the extent such other provisions are inconsistent with such chapter.

EFFECTIVE DATE

SEC. 104. (a) This Act and the amendments made by this Act shall become effective at the beginning of the session of the Congress immediately following its enactment.

(b) This Act and the amendments made by this Act shall lapse at the adjournment sine die of the fifth Congress following its enactment unless renewed prior thereto.

AUTHORIZATION

SEC. 105. There are authorized to be appropriated such sums as are necessary to carry out the provisions of chapter 6 of title 5, United States Code, as added by section 104 (a) of this Act.

TITLE II—JOINT COMMITTEE ON ADMINISTRATIVE RULES ESTABLISHMENT

SEC. 201. (a) There is established a Joint Committee on Administrative Rules (hereafter in this title referred to as the "Joint Committee") which shall be composed of 18 members as follows:

(1) 9 Members of the House of Representatives appointed by the Speaker of the House of Representatives, 5 from the majority party and 4 from the minority party; and

(2) 9 Members of the Senate appointed by the President pro tempore of the Senate, 5 from the majority party and 4 from minority party, upon recommendations of the Majority Leader of the Senate and the Minority Leader of the Senate, respectively.

(b) Vacancies in the membership of the Joint Committee shall not affect the power of the remaining members to execute the functions of the Joint Committee and shall be filled in the same manner as in the case of the original appointment.

(c) The Joint Committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the Senate on the Joint Committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the House of Representatives on the Joint Committee from among their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

REVIEW OF RULES TRANSMITTED TO THE CONGRESS

SEC. 202. (a) The Joint Committee may review any rule and the accompanying data transmitted to the Senate and the House of Representatives under section 602 of title 5, United States Code, for the purpose of determining whether—

(1) the estimated costs of implementing the rule would exceed the benefits expected to be derived therefrom; or

(2) the rule contains any provision which—

(A) violates provisions of existing law;

(B) is in conflict with court decisions;

(C) goes beyond the mandate of the legislation which the rule is designed to implement;

(D) is redundant, overlapping, or inconsistent with provisions of the same or another rule;

(E) would seriously injure an important public interest; or

(F) is inconsistent with congressional intent. Each such review of a rule shall be completed within 45 days of continuous session of the Congress after the date of transmittal of such rule to the Congress.

(b) If the Joint Committee determines, with respect to a rule, that its estimated costs exceed its expected benefits or that it contains a provision described in subsection (a)(2), the chairman and vice chairman shall report to their respective Houses a resolution of disapproval of such rule (within the meaning of section 603 of title 5, United States Code).

REVIEW OF EXISTING RULES

SEC. 203. (a) The Joint Committee may also review periodically any existing rule for the purpose of determining whether—

(1) the costs of such rule exceed the benefits being derived from such rule; or

(2) such rule contains any provision described in section 202(a)(2).

(b) If the Joint Committee determines, with respect to any rule, that its costs exceed its benefits or that it contains a provision described in section 202(a)(2), the chairman and vice chairman shall report to their respective Houses a resolution for reconsideration of such rule (within the meaning of section 604 of title 5, United States Code).

REFERRAL OF RESOLUTIONS, MESSAGES, PETITION, ETC

SEC. 204. All resolutions of disapproval of a rule and resolutions for reconsideration of a rule and all messages, petitions, memorials, and other matters relating to the review of rules shall be referred to the Joint Committee.

POWERS

SEC. 205. (a) The Joint Committee, or any duly authorized subcommittee thereof, is authorized (1) to sit and act at such places and times during the sessions, recesses, and adjourned periods of Congress, (2) to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, (3) to administer such oaths and affirmations. (4) to take such testimony, (5) to procure such printing and binding, and (6) to make such expenditures, as it deems advisable. Subpenas may be issued over the signature of the chairman of the Joint Committee or of any member designated by him or by the Joint Committee, and may be served by such person or persons as may be designated by such chairman or member. The chairman of the Joint Committee or any member thereof may administer oaths or affirmations to witnesses.

(b) The Joint Committee may make such rules respecting its organization and procedures as it deems necessary.

STAFF

SEC. 206. (a) Within the limit of funds available to it, the Joint Committee is authorized to appoint and fix the compensation of such employees as it determines necessary to assist it in carrying out its duties.

(b) The Joint Committee is authorized to utilize the services, information, facilities, and personnel of the departments and establishments of the Government.

(c) The Joint Committee is authorized to procure the temporary (not to exceed one year) or intermittent services of experts or consultants or organizations thereof. Such services in the case of individuals or organizations may be procured by contract as independent contractors, or in the case of individuals by employment at daily rates of compensation not in excess of the per diem equivalent of the highest gross rate of compensation which may be paid to a regular employee of a committee of the Senate. Such contracts shall not be subject to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) or any other provision of law requiring advertising.

RECORDS

SEC. 207. The Joint Committee shall keep a complete record of all Joint Committee actions, including a record of the votes on any question on which a record vote is demanded. All records, data, charts, and files of the Joint Committee shall be the property of the Joint Committee and shall be kept in the offices of the Joint Committee or such other places as the Joint Committee may direct.

DEFINITIONS

SEC. 208. For purposes of this title (except section 205(b), the term "rule" has the meaning given to it by section 601 of title 5, United States Code.

EXPENSES

SEC. 209. The expenses of the Joint Committee shall be paid from the contingent fund of the Senate, from funds appropriated for the Joint Committee, upon vouchers approved by the chairman, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

By Mr. HART:

S. 3630. A bill to amend the Internal Revenue Code of 1954 to provide a counter-inflation credit and negative credit on personal income and on business profits, and to provide indirect restraint on prices during the 7-year period beginning in 1919; to the Committee on Finance.

COUNTERINFLATIONARY INCENTIVES PROGRAM

● Mr. HART. Mr. President, the inflation in our economy is getting worse, not better. It is time that we consider stronger measures to combat inflation. Today I am introducing legislation to establish a counter-inflationary incentives program. I hope that this proposal will further discussion toward satisfactory resolution of our No. 1 economic problem. I believe that this program is a good one, and invite my colleagues and all interested parties to make suggestions to improve it.

Unarguably, inflation is getting worse. This year consumer prices have increased at a 10.7 percent annual rate, compared to last year's average rate of 7 percent. The wholesale price index has followed the same increasing pattern. Employees, especially organized workers, are likely to bargain hard for wage increases which will help them keep ahead of advancing inflation. Similarly, fearing inflation of labor and raw materials costs, corporate managers are likely to try to increase prices even faster to avoid a profits squeeze.

Individual actions by people trying to keep ahead will be self-defeating. Everyone acting independently will result in acceleration of the inflation that nobody wants. Existing policies to curb inflation are not working. It's time to try new approaches.

Before discussing new anti-inflation measures, it is important to show how our economy is crippled by inflation. To do this, it is necessary to understand the relation between inflation, investment, and productivity. Wages are directly related to the value of the product that workers make. Under normal conditions, firms invest in capital equipment which increases the productivity or the output of each worker, whose wages can be increased a corresponding amount. While trying to catch up with inflation, if workers obtain larger wage increases than their productivity gains, firms must pass on most of the wage increases as price increases. The resulting inflation reduces the purchasing power of higher wages. In the end, the wage bargain results in no gain for the workers.

NO GAIN IN WORKER'S REAL INCOMES

Figures for the past eight years show dramatically how wage increases were eroded by inflation. While average hourly wages increased by 75 percent over the 8 years, the actual purchasing power of the higher wages—which economists call real incomes—increased only 2.9 percent. Over this same period workers' productivity increased also by exactly 2.9 percent. It is clear, then, that to increase "real incomes," there must be more investment to increase productivity. Any wage bargains exceeding productivity lead to higher prices which are counterproductive. While the average worker received a very slight gain in purchasing power over the past 8 years, some people on fixed incomes—from retirement, child support payments, et cetera—actually suffered a reduced standard of living.

Workers should not be singled out as the only inflation problem. Corporate management is equally responsible. Management tries to recoup profits lost when inflation of wages and raw materials raises costs to profit-squeezing levels. Or management may anticipate future cost increases, and thus raise prices to "protect" profits. Either way, price increases result in reduced profits again.

When one firm increases prices, this can increase the costs of materials purchased by other firms, and often results in price increases for the first firm. For example, increased steel prices result in higher truck prices, which increase the cost of trucking supplies to steel mills. Also, price increases result in higher wages—as workers demand higher salaries to keep up, which in turn increase costs for the first firm.

NO INCREASES IN PROFITS

Thus, if only one firm followed this course, it might actually achieve higher real profits. But many firms are raising prices, with the result that profits are not actually increased after adjustment for inflation. During the last 8 years, total profits increased by 45 percent. However, when adjusted for inflation, these profits really showed no increase at all. The rate of return on capital actually declined. Thus, firms can increase profits only by investing in more capital equipment to increase output. With more output, both owners of firms and workers can achieve higher "real incomes."

To make matters worse, the present resurging inflation threatens to frighten investors away. When inflation begins to increase, investors grow fearful that costs, including interest rates, will eliminate future profits. They postpone investment which prevents the purchase of new capital equipment to increase wages and profits.

To increase investment, we must reduce inflation now. This can only be done if workers refrain from trying to increase wages too fast, and if firms refrain from unjustified price increases. The current system encourages workers to try to increase wages sooner and faster than managers raise prices. The same system encourages managers to increase prices sooner and faster than wages increase. To get workers and managers to refrain, we must change the economic incentives.

Now, what are we doing about inflation? It is now generally agreed by economists that conventional monetary and fiscal policy cannot substantially improve business conditions for economic growth. Faster growth of money supply and larger Federal deficits may promote more jobs in the short run, but will lead to inflation and then recession in a year or so. Similarly, even higher interest rates and smaller Federal deficits will slow the present economic expansion, and will cause more unemployment with no guarantee that inflation will be cured.

Acknowledging that traditional monetary and fiscal policy is inadequate, President Carter is currently asking unions and large corporations to voluntarily exercise restraint. This "jawboning" by the President is not working. Unions are unwilling to sign long-term contracts with small wage increases, both because they want to make up for last year's inflation, and because they fear corporations will increase prices in the future. Similarly, corporations are unwilling to agree to limit price increases, because they fear future cost increases, either by supplier firms or by labor.

"Jawboning" is a weak form of wage and price controls. It asks the firms and the unions to act differently than their economic self-interest dictates. And it is not working.

Although "jawboning" does not work, this does not mean that the only alternative is to control wages and prices directly. Direct wage and price controls would cause the economy to stagnate. Firms would have no incentive to expand if they could not increase profits, and firms could not acquire additional skilled labor if they could not offer higher wages. Wage and price controls would eventually reduce income and employment and would create the economic hardship we are trying to avoid.

We need new ideas—ideas which will put more institutional pressure against inflation, so that our monetary and fiscal policies can stimulate the economy to full employment without inflation. I believe we should seriously consider a plan which would create a new economic incentives to reduce inflation. Eminent economists from both ends of the political spectrum have recommended various economic incentives under the designation TIP (tax-based incomes policy). I am proposing new legislation which combines and modifies several of the plans. I call this combination a "counter-inflationary incentives program."

COUNTER-INFLATIONARY INCENTIVES PROGRAM

A counter-inflationary incentives program must encourage non-inflationary behavior in a way that contains the following principles:

First. It must be fair to workers and firms alike, by reducing price increases as well as wage increases.

Second. It must be simple to administer.

Third. It must maintain a freely functioning economy so that investment and economic growth are encouraged.

It will not be easy to establish such a program. To be fair to everyone, it would be desirable to treat every employee and every firm as a special case, and to require that every firm and every worker participate in the program. However, it is simply not possible to administer a program differently for tens of millions of workers and millions of firms.

Instead, the program must set up simple guidelines which any firm and employee can understand and follow. Also, because we have many very large corporations, we can directly affect about one-half of all sales in the nation by affecting wage and price decisions in only 2,000 firms. By establishing a decentralized program for the major firms in the United States, the smaller firms will necessarily moderate wages and prices to stay in competition.

The program must allow firms to increase wages as necessary to attract new employees when expanding, and must allow firms to expect higher profits as a result of more efficient or expanded pro-

duction. These incentives are absolutely necessary in a healthy, growing economy. On the other hand, however, one economic sector, such as labor, must not fear that it might lower wage demands and later suffer from continued price increases. Thus, the program needs safeguards and freedoms at the same time.

The program I recommend will largely pay for itself, be mostly self-policing, and will continue free-market decisionmaking by individual firms. The program will pay for itself because target wage levels will be set so that the penalties imposed to dissuade inflationary wage increases will roughly equal the rewards to firms and employees for wage changes below inflationary levels. In effect, the program will pay the rewards out of revenues collected by penalty taxes. The program will be administered by the U.S. Treasury Department using existing tax laws with only slight modifications. Hence, after the rules are promulgated, the only administrative costs will be those required to conduct slightly more lengthy tax audits.

Individual firms will remain free to set whatever wages and prices they wish to maximize profits. However, because of the proposed new economic incentives, more firms on the average will find it in their own interest to moderate wage increases. Because a firm's competitors will also experience cost reductions through lower wages, competition will moderate price increases so that employees will find their purchasing power maintained, or even increased, at lower wage levels.

This legislative proposal would achieve these goals by setting appropriate national targets for wage increases, and then providing both "carrots" and "sticks" to employees and employers to encourage them to meet those targets. It would use the tax system to hold down wage increases, and it would let economic competition restrain price increases.

First, a national target for wage increases would be set by the Secretary of the Treasury. It would be based on an estimate of the likely average wage increase under the incentives program for the year. Since economists have no experience with the response to wage incentives, the wage target will have to be set at some reasonable level for the first year. Economists have suggested a rate of about 5.5 percent. After the experience of the first year, the rate can be set so there will be roughly the same number of employees receiving wage increases above the target, as those below the target. As wage and price increases moderate, the target can be reduced each year until wage increases are just equal to increases in worker productivity, which will not be inflationary.

Next, the tax system would be used to provide both "carrots" and "sticks" for employees to hold down wage increases. Workers in firms having an average wage increase below the target will get a reward—a reduction in personal income taxes—and those having an increase above the target will receive a penalty—a personal income tax increase. This will give workers greater incentive to reduce wage increase demands.

Personal income taxes would be adjusted by a set proportion of the amount that wage increases are below or above the target. Before deciding on the specific proportion, however, further hearings need to be held, business and labor should be fully consulted, and technical analyses should be made. The proportion should be set high enough so that the economic incentive will be large enough to discourage most inflationary wage increases. On the other hand, the economic incentive should not be so high that the penalty, in effect, amounts to a prohibition. In special circumstances it should be economically feasible for management and labor at a particular firm to decide to pay the penalty and exceed the wage target. For example, say last year's average wage at a firm was $10,000, and with a target wage increase of 5 percent, this year's target wage is $10,5000. If the firm gives a 10 percent wage increase so that average wages increase to $11,000, each worker receives a wage of $500 above the target wage. If the pre-set proportion is 0.5, then each individual's income taxes would be increased by $250.

Incentives—"carrots" and disincentives—"sticks" would also be provided to encourage firms to hold the line. Corporate profits taxes would be similarly adjusted to reward firms for keeping wage increases below the target. When average wage increases for an individual firm are below the target, the corporate profits tax rate would be reduced. Likewise, when average wage increases are above the target rate, the corporate tax rate would be increased.

Economists have suggested that the corporate tax rate be increased by a set multiple of the amount the wage increase exceeds the target. For example, if the wage increase—7 percent—is 2 percentage points more than the wage target—5 percent—and the pre-established multiple is 4, then the firm's corporate profits tax rate would be increased—by 8 percentage points—from, say, 48 percent to 56 percent.

The benefit of this approach is that firms can easily calculate the penalty or reward for wage changes, and the penalty is proportionate to the profit level of the firm. This way, a low profit firm will not be thrust into losses and bankruptcy by the plan, yet highly profitable firms will receive a large economic incentive to modify wage increases.

Again, the specific increase in corporate tax rates will be determined in consultation with business and labor. The rate will be high enough to change profits enough to discourage inflationary wage increases in most firms. However, management and labor at any particular firm may exceed the guidelines and stay in business if their particular circumstances warrant paying the penalty.

The benefits of this "carrot" and "stick" approach are that individual employees are free to demand higher wages based on their merit and productivity. Firms are similarly free to seek higher profits based on their efficiency. On the average, the wage and price increases will not be as high as they are now, because competitors with lower wage costs will be moderating price increases. However, because the cost of living will be moderated, a smaller wage or profit increase will be worth more.

Although economic evidence indicates that this provision would not be necessary, we can insure that firms do not use the reduction in personnel costs to reap profits at their workers' expense.

A provision on the growth of profits would apply to any large firm which received tax penalties due to high wage increases, or to any firm which voluntarily sought tax rewards due to wage growth below inflationary levels. These qualifying firms would be penalized if they increase profits faster than they increase wages. The penalty would equal the amount of profit increase, in excess of an amount which would let profits grow at the same rate as wages.

This "excess profit" penalty would control the growth of prices indirectly. In effect, prices could not grow faster than wages. Thus, employees receiving lower wage increases would be assured that the firm would pass on its savings in labor costs in lower prices.

This incentives proposal focuses only on wages and profits because they are relatively easy to measure. Prices are too difficult to measure accurately, since firms can change the quality of products in many ways. However, since wages comprise 75 percent of the costs of U.S. products, deceleration of wages will bring deceleration of prices. According to economic research, the price change will follow the wage moderation without further governmental programs. However, to insure absolutely that employees are protected, the fourth provision above will prevent total profits in the United States from increasing relative to total wage payments.

The program must be kept administratively simple. For this reason the penalty provisions for excessive wage increases will apply only to the 2,000 largest firms in the country. Moderating the rate of inflation among these firms will moderate inflation in the whole economy because these 2,000 firms produce more than half of the Nation's output.

The rewards for counterinflationary wage changes will be available to any company. This will insure that small companies can obtain the same tax benefits that large firms might obtain as part of this program.

Mr. President, the proposal I have outlined above is relatively simple to administer and is fair to all sides. Business and labor remain free to undertake any action they wish. However, these economic incentives will promote many more noninflationary wage and price decisions.

The specifics of this program are being defined. In future hearings and discussions, these ideas will be refined and modified as needed to establish a workable "counterinflationary incentives program." ●

By Mr. ROBERT C. BYRD (for Mr. KENNEDY, for himself, Mr. CHURCH, Mr. SARBANES, Mr. ABOUREZK, Mr. ANDERSON, Mr. METZENBAUM, Mr. MCGOVERN, and Mr. RIEGLE):

S. 3631. A bill to direct the Secretary of the Treasury to prepare reports on cer-

tain loans advanced by domestic banks in countries the governments of which engage in gross violations of internationally recognized human rights, and for other purposes; to the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs, jointly, by unanimous consent, without prejudice when reintroduced in the 96th Congress.

FOREIGN BANK LOANS DISCLOSURE ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, on behalf of the senior Senator from Massachusetts (Mr. KENNEDY), I introduce a bill requiring disclosure of bank loans to human rights violators, cosponsored by Senators CHURCH, SARBANES, MCGOVERN, METZENBAUM, ABOUREZK, ANDERSON, and RIEGLE.

I ask unanimous consent that the statements on this bill, by Senators KENNEDY, CHURCH, and ABOUREZK, be inserted together in the RECORD.

I ask unanimous consent that this bill be referred jointly to the Committees on Foreign Relations and on Banking, Housing, and Urban Affairs, without prejudice to decision on referral when this bill is reintroduced in the 96th Congress.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be so referred. And without objection, the statements and attachments will be printed in the RECORD.

STATEMENT BY SENATOR KENNEDY

One of the guiding principles of our foreign policy is that except in cases of humanitarian assistance, we shall give no aid to gross violators of human rights.

With regard to economic assistance, Section 116(A) of the Foreign Assistance Act of 1961 clearly prohibits "assistance . . . to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights", except in cases where such assistance meets critical human needs.

Similarly, regarding military assistance, Section 502B of this act has been amended to read that "except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights."

As a result of actions by both the Congress and the Carter Administration, these goals have been translated into concrete action: twenty countries, ranging from Cambodia to Chile, from South Africa to Uganda, have been denied our assistance primarily due to their repeated violation of fundamental freedoms and human rights.

Yet it may be that what the United States has withheld with one hand, it may replace, if not increase, with the other hand. For it is apparent that in some countries, in the wake of the termination or reduction of aid by the United States Government, private American banks are more than filling the gap with private capital.

Chile, where 168 years of democracy have been violently overthrown and where gross human rights violations are a pervasive fact of life, presents a revealing example. In response to continuing violations, the United States has now terminated all assistance to Chile for an average loss of $63 million per year.

Yet private credits to Chile expanded 500 percent in the two years following the 1974 military coup, with American loans totalling $878 million in 1977 and projected to exceed $1 billion in 1978. Just last month, Manufacturers Hanover Trust is reported to have cosponsored a $300 million loan to the Chilean Government—a loan which this bill would require to be acknowledged officially to the Congress and therefore to the American public. Massive funding, such as this, may be what enabled five Latin American governments, whose assistance had been reduced in response to human rights violations, to reject all United States aid and continue their anti-democratic practices and violations of human rights.

It must be recognized that some of these loans directly benefit the people of the recipient countries. American capital can be an essential input to the development of third world economies, the feeding of the poor, and the betterment of millions abroad.

For this reason, this bill does not in any way restrict or prohibit such lending. It simply directs the Secretary of the Treasury to report every six months the total value, distribution, source and obliger of loans to each government agency or corporation in countries whose assistance has been cut back or denied for primarily human rights reasons.

This would require very little extra paperwork on behalf of the Treasury Department or additional disclosure by banks. For already, through the bank assessment process, banks are required to divulge six-month totals of loans to foreign countries—this bill would only require such totals for each recipient. In addition, the banks would be required to divulge the distribution of each loan, as a restructuring of an existing loan can be tantamount to the advancing of a new one.

In sum, this bill represents a simple means toward an important end—giving the Congress the wherewithal to determine whether our human rights policy is being undermined.

STATEMENT BY SENATOR CHURCH

As a cosponsor of the Foreign Loan Disclosure Act of 1978, I would like to say a few words about this bill. The United States has, from time to time, discontinued military and economic grants and loans to those countries determined to be in gross violation of internationally recognized human rights. The purpose of such action by the United States is both to convey an expression of disapproval for such acts, and also to remove any official financial assistance which would continue to "prop up" these governments.

Yet, public credit appears to be only one part of the picture. As my distinguished colleague from Massachusetts has already noted, U.S. commercial banks extended private credit totalling nearly $1 billion to prop up the Chilean economy at the very time that U.S. Government and multilateral loans to Chile were stopped because of continuing human rights violations by the Chilean junta. A study submitted to the U.S. Commission on Human Rights concluded that "Chilean repression could continue only because the Chilean Government did not need to depend upon U.S. Government or international lending agencies for economic assistance.

The case of Chile is not unique. The Subcommittee for African Affairs of the Committee on Foreign Relations released a report in January of this year which concluded that, "international credit provided the margin of funds needed by South Africa in the 1974-76 period to finance its military buildup, its stockpiling of oil, and its major infrastructure projects in strategic economic sectors;" and that, "international credit filled the gap, directly supporting the South African Government in its desire for greater economic and strategic self-sufficiency, and permitting Pretoria to pursue what was a strategic investments policy, aimed at fortifying its security and defense related projects."

U.S. banks played a significant role in making credit available to the South African Government. U.S. bank loans to South Africa nearly tripled in volume between 1974 and 1976. By the end of 1976, nearly $2.2 billion, or one-third of all bank loans to South Africa were owed to U.S. banks and their foreign branches. The primary borrowers of this international credit have not been private commercial enterprises, but the South African Government and its agencies.

The circumstances of Chile and South Africa may be isolated instances. I do not know. Nor does anyone else, because, in general, much of this information is not made public in a systematic way which would permit the analysis of the extent to which credit provided by the private sector has had an impact upon U.S. foreign policy.

The Foreign Loan Disclosure Act would provide such information in a way most useful to the Congress. The intent of this bill is simply to provide information which will allow Congress to make informed decisions concerning foreign policy issues. The bill burdens neither regulatory agencies, nor banks, since most of this information is already being collected. Nor will this bill impose any new regulations of the foreign business activities of U.S. commercial banks.

I look forward to working closely with my distinguished colleague, Senator Kennedy, on this bill in the coming year.

STATEMENT BY SENATOR ABOUREZK

I am pleased to join my colleague, Senator Kennedy, and other members of the Senate in sponsoring the foreign loans disclosure bill, a piece of legislation I consider to be vitally important in formulating the foreign policy of the United States.

The fact that commercial banks continue to loan vast amounts of money to countries which have had their foreign aid but because of human rights violations makes a mockery of the United States often-repeated commitment human rights and I frankly have never understood this glaring inconsistency in our policy.

What this bill will do is to require the disclosure of all commercial bank loans to foreign countries and the recipients of those loans, information which up until now has been difficult, if not impossible, to obtain.

The facts of these transactions, which are often embarrassing to the banks, will now be available to everyone and should strengthen our human rights policy by complimenting the existing U.S. foreign aid legislation.

Chile presents a classic example of commercial bank loans to a gross human rights violator whose foreign aid has been halted by the United States. There is no better commentary on the situation there than the one prepared by Isabel Letelier and Michael Moffitt from the Institute for Policy Studies and therefore, in support of this bill, I submit their report for the Record.

HUMAN RIGHTS, ECONOMIC AID AND PRIVATE BANKS: THE CASE OF CHILE

In the five years since the military junta led by General Augusto Pinochet overthrew the democratically elected government of President Salvador Allende, the Chilean people have suffered massive violations of their fundamental human rights. Civil liberties have been trampled; political parties and trade unions banned; thousands have been tortured and murdered, or have simply disappeared; hunger and unemployment are widespread In November 1977, the United Nations General Assembly voted overwhelmingly in favor of a resolution condemning the Chilean junta:

The Chilean people continue to be subjected to constant and flagrant violations of

human rights and fundamental freedoms, to lack adequate constitutional and judicial safeguards of their rights and liberties and to suffer assaults on the freedom and integrity of their persons, in particular by methods of systematic intimidation, including torture, disappearance of persons for political reasons, arbitrary arrest, detention, exile and deprivation of Chilean nationality.

International condemnation has led many governments to reduce or eliminate their assistance to Chile in an attempt to force alterations in the junta's policies. But the repression has continued unabated. New and previously unpublished data show why: an enormous influx of *private* bank loans since 1976 has enabled the junta to thumb its nose at the international human rights campaign.

For example, in 1976 when the U.S. Congress banned future military assistance to Chile, private bank loans to Chile increased more than 500% over the previous year. By the end of 1978, Chile's loans from private multinational banks will total one billion dollars, with U.S. banks providing $927 million. In short, just as the Chilean government was reaching the point where it would have been forced to improve its human rights policies to gain needed assistance, the private banks came to the rescue.

This economic private bank bailout is particularly deplorable because the political repression and terror practiced by the Pinochet junta are not simply the products of maniacal generals, but are directly related to the junta's economic policies. The poverty, unemployment, and hunger which are now commonplace and the widespread political repression are simply different sides of the same coin. Systematic repression is an integral part of the economic plan which purposely lowered the standard of living of a majority of Chileans.

After September 11, 1973, the Chilean dictatorship of Augusto Pinochet was supported, politically and financially, by various agencies of the United States government and multilateral lending institutions.

After the 1973 coup, the Nixon and Ford Administrations restored the Chilean aid programs, which were halted under Allende. The multilateral lending institutions followed suit. As the data on bilateral economic assistance since 1973 in the following table reveals, the Chilean junta received commitments of roughly $125 million in bilateral U.S. assistance during fiscal year 1974, while the Popular Unity government received less than $25 million during its three years in office. Since 1973, the Chilean junta has received nearly $350 million in bilateral assistance from the United States and roughly another $400 million from multilateral development banks. The International Monteary Fund also provided Chile with another $380 million in short-term balance of payments help. Chile's IMF borrowing represented an extraordinary sum, far in excess of its IMF quota, against which members' borrowing is measured.* It should be added that the data in Table I does not include private short-term suppliers' credits and government-to-government loans from countries such as Brazil or Argentina. Though the proportion of the latter is small in terms of Chile's overall borrowing, these loans have been increasing. In 1976 alone, the Central Banks of Brazil and Argentina loaned the Chilean Central Bank approximately $100 million.

In addition to the balance of payments relief provided by the IMF, the United States and other major creditor countries also provided large-scale debt relief for the junta in early 1974, shortly after it came to power. During 1974 alone, the debt rescheduling effectively amounted to another $581 million in foreign assistance.

The massive flow of foreign assistance from the United States and multilateral institutions continued virtually unabated until early 1977, but it became increasingly difficult to ignore the junta's abysmal human rights record and the desperate plight of the majority of Chileans. After repeated condemnations of the junta's human rights violations by the United Nations, the International Labor Organization, the Organization of American States, Amnesty International, and individual U.S. Congressmen who visited Chile, the U.S. Congress voted to reduce direct American assistance to Chile. In 1976, over the opposition of the Ford Administration, the U.S. Congress completely banned any further military assistance to the Chilean junta and limited economic assistance to a maximum of $27.5 million for fiscal year 1977. In June 1976, under the leadership of Rep. Tom Harkin (D-Iowa), legislation was passed directing the United States' representative to the IDB to vote against further loans to Chile unless it could be demonstrated convincingly that the funds would directly benefit poor people in Chile.

That the United States had begun to reduce loans to Chile was especially damaging to the junta's image. Unlike other developed countries, such as the United Kingdom, which had already severed all assistance to Chile (with the exception of immediate relief funds which are channeled to Chile's poor through the non-governmental agencies), the United States government had remained strongly supportive of the junta until 1976.

PRIVATE BANK'S TO THE RESCUE

Beginning in mid-1976, an abrupt shift in the source of Chile's foreign borrowing occurred which had dramatic implications for international efforts to improve the human rights situation in Chile. Private multinational banks based in the United States, Canada and Western Europe, which had not loaned significant sums to Chile in 1974 or 1975, began to lend hundreds of millions to the Chilean Central Bank, various other state agencies and the private sector.

Between 1975 and 1976, when U.S. bilateral aid was drying up, and Chile's foreign debt obligations were falling due, private multinational bank lending to Chile increased 500% and soared to over $800 million in 1977. As a percentage of Chile's total borrowing, private bank loans and suppliers' credits increased from less than 25% of Chile's total foreign borrowing in 1975, to 59% in 1976, to more than 80% by 1977. Official estimates indicate that, by 1978, private sector loans will account for more than 90% of Chile's total foreign borrowing.

Large consortia of U.S.-based multinational banks have provided the Chilean military government with the bulk of its total private borrowing. As Table II illustrates, six U.S.-based banks, Citicorp, Morgan Guaranty Trust Co., Bankers Trust Co., Wells Fargo, Chemical Bank of New York and First Chicago, have managed the consortia which account for most of the loans. Together, these banks have arranged more than $800 million in loans to the Chilean government in the last two years. The leader is Morgan Guaranty Trust Co., which has managed groups which have provided the government with $230 million in loans; Wells Fargo with $155 million; Chemical Bank with $125 million; Citicorp with $102 million; and First Chicago with $77 million.

In 1977, private U.S.-based multinational banks provided $514 million in loans and credits to Chile. Since the coup, U.S. banks have loaned $927 million to Chile, though banks based in Canada, West Germany, Spain, the Netherlands and the United Kingdom have also managed sizable loans to Chile. In 1977, Japanese firms also furnished hundreds of millions of dollars of suppliers' credits to Chile.

Private multinational bank loans and suppliers' credits have replaced official bilateral and multilateral loans as Chile's principal source of external financing. The tremendous influx of private bank loans since 1976 has enabled the Pinochet regime to ignore international pressure to improve human rights. Repression in Chile can continue precisely because the military junta can rely on private sources of financing rather than governments who have attached rough human rights criteria to their foreign assistance programs.

By mid-1977, Pinochet felt confident enough about Chile's future in private credit markets to refuse the final $27.5 million in economic assistance which had been appropriated by the U.S. Congress. In other words, just when international public opinion was becoming most effective in reducing the flow of resources to the Chilean dictatorship, private banks felt confident enough in the future of the dictatorship to increase their total lending dramatically. No wonder former Chilean Ambassador to the United States Jorge Cauas, speaking in New York on February 16, 1978, told a group of bankers and businessmen that "the private sector is the key to the renaissance of relations between Chile and the United States."

While the vast majority of Chileans were flatly opposed to the junta's economic policies, the private banks were delighted. The junta had conformed perfectly to the bankers' conception of "sound economic policies." They had given top priority to meeting their debt obligations, balancing their external payments, cutting the budget, holding down wages, and allowing maximum freedom for private enterprise. Despite the tremendous internal costs of these policies, the banks began to lend the large sums needed to prop up the Chilean economy. The junta would simply have been unable to obtain these funds elsewhere unless it had been willing to demonstrate substantial moderation in its treatment of political prisoners and fundamental freedoms. Private banks, which are interested primarily in maximizing global profits and minimizing risks, do not consider human rights criteria in their lending policies.

Thus, the large multinational banks have become inextricably linked to the Chilean junta's struggle for political and economic survival. Without a continual inflow of credit from the private banks, Chile will either be forced to return to the Paris Club to seek renegotiation—where it will certainly be held accountable for its massive human rights violations—or to swallow a new dose of austerity like the one which Pinochet and Cauas introduced in April, 1975. But with the Pinochet regime under attack from both the right and the left, and with the political divisions within the military junta (especially between Leigh and Pinochet) greater than ever, it would be political suicide for Pinochet to ask a country wracked by poverty and economic austerity to endure another severe depression.

THE AGONY CONTINUES

The boom in private bank lending has continued in 1978. In January, the Wells Fargo Bank headed a consortium which granted the Central Bank a new line of credit totalling $125 million. In early April, a consortium of forty banks led by Morgan Guaranty Trust Co. loaned the Central Bank $210 million, perhaps the largest single private loan in Chile's history. ENAP, the state-owned petroleum company, recently received a new $14 million line of credit from a consortium headed by Citibank, to finance offshore oil drilling operations at Tierra del Fuego. The World Bank, which has not approved a new loan to Chile since December 1976, is currently considering a $40 million loan to offset the cost of repair work on the Chilean section of the Pan-American high-

way. Chile's largest private enterprise, the Papeles y Cartones paper monopoly, has just received the largest loan to a private enterprise without government guarantee of repayment in many years. The $24.5 million loan was provided by a consortium of 11 multinational banks, headed by the Chemical Bank of New York. A smaller loan of $14.7 million was granted to the firm by the Bank of Montreal and the Canadian government's Export Development Corporation.

HUMAN RIGHTS AND PRIVATE BANKS: SUMMARY AND CONCLUSIONS

Private multinational banks have been financing the Pinochet dictatorship since 1976. While most governments have reduced or eliminated economic and military assistance to Chile because of the junta's human rights violations, the tremendous increase in private bank loans has allowed the junta to ignore international criticism while retaining access to unlimited financial resources. Thus the lending operations of private multinational banks based in North America and Western Europe have directly circumvented the stated official policies of Chile's major public creditors.

Private multinational banks and corporations have been channeling loans and credits to the government while the junta is engaging in new widespread violations of human rights. In March 1977, when the military junta outlawed the Christian Democrats and all other remaining political parties, consortia of U.S. and Canadian banks nonetheless lent the government over $60 million. In January 1978, shortly after the infamous "referendum" in which citizens were asked to choose between the Pinochet government and "international agression" (the United Nations November 1977 resolution) against Chile, Pinochet sent twelve Christian Democrats into exile for participating in unlawful political activities. Yet the same month, the bank consortium headed by Wells Fargo lent the government $125 million and Exxon purchased approximately $100 million worth of the shares of the La Disputada mines. Obviously, this retaliation against the Christian Democrats would not have been possible if the military junta had to depend upon the U.S. government for economic assistance.

In the case of Chile, there is a direct conflict between the freedom of private enterprise and the international efforts to restore human rights to a country which enjoyed them for so long. The large private bank loans to the Chilean government have given the junta a green light to go on violating human rights. Freed from international pressure, Pinochet has acted with impunity attempting to solidify and enhance his rule.

Pinochet still runs a full-fledged police state, and consistently uses his power to maintain his rule. As Jose Zalaquette, a noted Chilean lawyer in exile, has pointed out,

The military junta has continued its suspension of union rights; it has added that the right to strike will never be reinstated and recently deprived three exiled trade union leaders of their nationality. Radio Balmaceda was closed and preventive censorship imposed on publication and/or circulation of all newly printed matter . . . Any dictatorship that could afford to use less direct means of coercion would prefer to do so. The cumulative effect of continued repression and the increased perfection of the state machinery for control and intimidation now allows the Chilean junta to turn gradually to less resounding forms of repression. To applaud this as progress is to praise a dictatorship for accomplishing its own goals.

What has changed in Chile is the business climate. For nearly three years, the junta was largely unable to attract private loans or investments. Now, however, private banks have lent Chile nearly $2 billion, suppliers' credits have soared and multinational corporations have begun to return.

The improvement in the climate for foreign investors, however, should not be confused with a return to the prosperity and freedom which Chileans once enjoyed. Some observers have asserted that the slight recovery in Gross Domestic Product which occurred in 1977 is a sign that the economy is recovering from the deflationary policies of 1975–76 and that the economic recovery will hasten a return to democratic rule. But the kinds of economic policies which are the hallmarks of the Pinochet regime in Chile can only lead to a more rigid polarization of Chilean society. A small group of firms and individuals control Chile's entire productive apparatus, while the junta tries to auction the rest of the economy to foreign corporations. In order to establish its credit-worthiness with foreign banks, the junta has sacrificed both the health of Chile's industrial structure and the welfare of the Chilean people. Only a government which represses political activity can long pursue such policies without being held accountable for the human suffering it has caused.

TABLE II.—*Selected private multinational bank loans to Chilean Government since 1974*

(*In millions of U.S. dollars*)

Date, amount, Government agency, and leader of bank group:

April, 1975, $53.4 (bonds), CORFO (Development Corp.), Salomon Brothers (U.S.).

May, 1976, $125.0, Central Bank, Bankers Trust Co. (U.S.).

June, 1976, $5.0, Central Bank, First Wisconsin (U.S.).

October, 1976, $25.0, ECA (agriculture), Libra Bank (U.K.).

December, 1976, $21.0, Central Bank, Sudamerikanish (Federal Republic of Germany).

January, 1977, $10.0, CORFO, Morgan Guaranty Trust (U.S.).

January, 1977, $2.5, Republic National Bank (U.S.).

February, 1977, $10.0, Min. Obras Pub. (Transportation), Banque Nationale de Paris (France).

March, 1977, $41.0, CORFO, Various sources.

March, 1977, $10.0, CORFO, Morgan Guaranty Trust (U.S.).

March, 1977, $10.0, CORFO, Bank of Nova Scotia (Canada).

April, 1977, $55.0, CAP (steel), Bankers Trust Co. (U.S.).

April, 1977, $21.0, Central Bank, Deutschbank (FRG).

April, 1977, $30,0, ECA, Citibank (U.S.).

May, 1977, $10.0, CORFO, Bank of Nova Scotia (Canada).

May, 1977, $2.0, Manufacturers Hanover Trust (U.S.).

June, 1977, $75.0, Central Bank, First Chicago (U.S.).

June, 1977, $30.0, ECA, Citibank (U.S.).

June, 1977, $42.0, ENAP, Various sources.

June, 1977, $2.5, CAP, First InterAmerican Corp. (U.S.).

June, 1977, $12.0, D.G. Metro (Transportation), Banque Nationale de Paris (France).

June, 1977, $100.0, CODELCO (copper), Chemical Bank (U.S.).

July, 1977, $5.0, CORFO, Marine Midland (U.S.).

July, 1977, $2.7, CAP, McKee Financial Services (U.S.).

August, 1977, $3.0, Lan Chile (airline), Bank of America (U.S.).

September, 1977, $2.5, CAP, First Inter-American Corp. (U.S.).

September, 1977, $3.0, Lan Chile, Irving Trust Co. (U.S.).

September, 1977, $42.0, ENAP (petroleum), Citicorp. (U.S.).

September, 1977, $5.0, CORFO, Marine Midland (U.S.).

December, 1977, $12.0, Disputado de las Condes (copper), Anthony Gibbs Bank (U.K.).

January, 1978, $125.0, Central Bank, Wells Fargo Bank (U.S.).

April, 1978, $210.0, Central Bank, Morgan Guaranty Trust (U.S.).

May, 1978, $90.0, CORFO Chase Manhattan (U.S.).

October, 1978, $300.0, Central Bank, Manufactureres Hanover Trust* (U.S.).

* This recent loan to the Central Bank by Manufacturers Hanover Trust was made in the midst of the accusation that the junta was responsible for terrorist murders in the United States.

By Mr. INOUYE:

S.J. Res. 169. A joint resolution establishing the Temporary Federal Intergovernmental Planning Commission for Hawaii, and for other purposes; to the Committee on Governmental Affairs.

TEMPORARY FEDERAL INTERGOVERNMENTAL PLANNING COMMISSION FOR HAWAII

● Mr. INOUYE. Mr. President, I am today introducing legislation which will demonstrate the feasibility of the Federal, State, and county administrations in a region of the U.S. planning jointly the future use of Federal lands of that region.

In many regions of our country, land holdings and operations of these three levels of Government are inextricably interlocking. Neither the county nor State nor Federal Government can undertake a major development without impacting on one or both of the others. Hawaii is such a region.

My State is suggested as the region for the first attempt at this planning process because our interfaces and interactions with other States are relatively simple, because the Federal industry is second only to the tourist industry in economic importance, and because Hawaii is becoming a planning laboratory.

The State of Hawaii was the first to enact formal land use planning for all lands and waters. Last May, the Governor approved act 100, Session Laws of Hawaii 1978, the State Planning Act, the first such plan in all of these United States. Additionally, county plans exist for each of the State's four counties. Meanwhile, each Federal agency has its own plans for the same region. We have vertical plans but no horizontal or regional plan that embraces Federal land use.

The Federal directive A–95 from the Office of Management and Budget establishing a State clearinghouse and areawide clearinghouse has limited application and does not provide for integrating medium and long range plans for land use in a region. Section 3181 of title 42 authorizes commissions for the economic development of regions but not specifically for joint land use planning.

Legislation is necessary because the proposed temporary land use planning commission will have members from both the executive and legislative branches of Federal, State, and county administrations, and because Federal executives do not normally serve on committees of local government. The commission will recommend a joint plan, to be adopted or approved by the Congress, to coordinate Federal expenditures for major projects with local government.

Most expenses of this joint planning effort are expected to be carried by the agencies concerned from their operat-

ing budgets. A very small and quite temporary staff will provide the necessary coordination and support.

The objective of this resolution is to develop a mechanism for joint and comprehensive land use planning which can be used as a model in regions throughout the United States, and to demonstrate the feasibility of that mechanism.

I am not aware of any objections at any level to this planning approach. The hearings which will be held on this resolution should confirm this.

We believe it will lead to national application in regional and community development, and to more efficient and considerate expenditure of Federal funds.●

ADDITIONAL COSPONSORS

S. 3422

At the request of Mr. WALLOP, the Senator from Wyoming (Mr. HANSEN), the Senator from Pennsylvania (Mr. SCHWEIKER), and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 3422), a bill to establish a congressional award program.

S. 3471

At the request of Mr. STEVENS, for Mr. TOWER, the Senator from Utah (Mr. GARN) was added as a cosponsor of S. 3471, a bill to postpone the minimum wage increase scheduled for January 1, 1979.

S. 3599

At the request of Mr. SCHMITT, the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of S. 3599, the National Space and Aeronautics Policy Act of 1978.

AMENDMENT NO. 3645

At the request of Mr. CHURCH, the Senator from Vermont (Mr. STAFFORD), the Senator from Oregon (Mr. MARK O. HATFIELD), the Senator from Wyoming (Mr. HANSEN), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oklahoma (Mr. BELLMON), and the Senator from Idaho (Mr. MCCLURE) were added as cosponsors of amendment No. 3645 intended to be proposed to H.R. 7700, an act to amend title 39, United States Code, to insure the continuation of public services performed by the U.S. Postal Service, and for other purposes.

SENATE RESOLUTION 571

At the request of Mr. DOLE, the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of Senate Resolution 571, condemning the violent situation in Lebanon.

AMENDMENTS SUBMITTED FOR PRINTING

MEDICAID AMENDMENTS RELATING TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM—H.R. 9434

AMENDMENT NO. 4738

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. MORGAN, Mr. ABOUREZK, Mr. BAYH, Mr. BROOKE, Mr. CLARK, Mr. HATHAWAY, Mr. HART, Mr. HEINZ, Mr. KENNEDY, Mr. PELL, Mr. RANDOLPH, Mr. RIEGLE, Mr. SPARKMAN, Mr. WEICKER, and Mr. WILLIAMS) submitted an amendment intended to be proposed by them, jointly, to H.R. 9434, an act to amend the Social Security Act to increase the dollar limitations and Federal medical assistance percentages applicable to the medicaid programs of Puerto Rico, the Virgin Islands, and Guam.

● Mr. JAVITS. Mr. President, I submit an amendment to H.R. 9434 which ends discrimination against children who have been screened and diagnosed as mentally ill under the child health assessment program. The amendment is cosponsored by Senators MORGAN, ABOUREZK, BAYH, BROOKE, CLARK, HATHAWAY, HART, HEINZ, KENNEDY, PELL, RANDOLPH, RIEGLE, SPARKMAN, WEICKER, and WILLIAMS. We have learned that HEW also recognizes the need of mentally ill children and supports our amendment.

Without such amendment, we would have the unfortunate situation in CHAP where a child could be screened and diagnosed as mentally ill, but would not necessarily receive treatment for that diagnosed illness.

The early and periodic screening, diagnosis, and treatment program, part of medicaid since 1967, was intended to provide low-income children with quality diagnostic and treatment services for identified health and mental health problems. The program today, by the administration's own estimates, reaches only 30 percent of those currently eligible children. Moreover, 22 percent of those screened and found to be in need of treatment do not receive the kind of services required to ameliorate the physical or mental problems identified.

It has been widely recognized that the EPSDT program has not been working, that data are not available about the scope, quality, and extent of the treatment provided, that programs vary in quality from State to State based upon what is in the State plan. Indeed even mandatory services are not necessarily being provided at the State level without the impetus of litigation.

The CHAP provisions before us today are a step toward improved services for physical health care, but do not take this step insofar as mental health services are concerned. The bill, as written, steps back from the limited effectiveness of EPSDT which, although not mandating Federal financial participation in the treatment of mental illness, did mandate referral for treatment services. As the present legislation reads, only treatment services presently available in the individual State's medicaid plan would be covered by CHAP. Although all other medical services are mandatory, mental health care is an option. As such, this exclusion would cast in medicaid law the first and only mandated exclusion by diagnostic category—explicit exclusion for the child diagnosed as mentally ill from receiving treatment mandated for all other medical conditions. Moreover, the legislation sets a dangerous precedent for future health legislation, third-party insurer decisionmaking, and State health plans.

The recently published report of the President's Commission on Mental Health has identified mentally ill children as one of the four major groups which are unserved, underserved, or inappropriately served within the mental health care system. It stated:

> What we need is a more comprehensive and coordinated public and private strategy for financing mental health care services where payment is based upon the need for care, not diagnosis. . . .

The Senate version of the CHAP legislation would perpetuate our currently inequitable system if my amendment is not adopted, a system which the PCMH urged be changed to include full coverage for the mentally ill child and which the comparable House Commerce Committee reported bill amended to mandate ambulatory coverage for mentally ill children.

My amendment would bring treatment requirements for the child diagnosed as mentally ill to the same level as adopted by the House Commerce Committee, to wit: All ambulatory benefits and hospitalization within general hospitals.

Such amendment is prudent both in terms of meeting the treatment needs of the low-income mentally ill child, and in terms of cost. An independent survey of mental health services provided to all children, undertaken because HEW did not have data to answer the questions about the extent and scope of mental health needs among the EPSDT population, indicated that over 90 percent of those children seen for mental health care were treated on an outpatient, less costly, basis. Moreover, over 40 percent of those children receiving outpatient treatment were terminated after 12 hours.

Such cost-effective early intervention would enable the low-income mentally ill child to grow to become a productive, contributing member of society as he or she matures. As House Commerce Health Subcommittee Chairman PAUL ROGERS pointed out at hearings on the CHAP bill before the subcommittee:

> Early detection of health problems in children and early intervention to treatment can result in a payoff of a healthier population which will justify manyfold the expenditures we make now.

The expenditures projected to bring those children not now covered for mental health care under their State plans under my amendment is approximately $25 million.

As the Joint Commission on the Mental Health of Children pointed out:

> If expenditures, both human and monetary, are not made, it will in the long run be more costly in terms of mental illness, human malfunctioning, and therefore underproductivity. In this aspect of our economy, we are far behind many countries which give highest priority to the proper shepherding of their most important resource, their children.

My amendment would make such shepherding as envisaged by the CHAP bill complete. It would bring about the realization of the proclamation of the 1930 White House Conference on Child Health and Protection which stated:

> The emotionally disturbed child has a right

to grow up in a world which does not set him apart, which looks at him not with scorn or pity or ridicule—but which welcomes him exactly as it welcomes every child, which offers him identical privileges and identical responsibilities.

It has been over 50 years in coming, this right for the mentally ill, and I urge my colleagues to support any amendment to adopt such a national policy and commitment to the children of this Nation, but more particularly to the economically and socially stigmatized low-income mentally ill child.

Mr. BAYH. Mr. President, I am pleased to join many of my colleagues in cosponsoring Senator JAVITS' amendment to the child health assessment program portion of H.R. 9434. This amendment will assure that low income medicaid-eligible children who are diagnosed as mentally ill are not denied treatment for such conditions under the child health assessment program which, if passed, will supplant the EPSDT medicaid program.

Without the Javits amendment, the legislation will single out mental illness for discriminatory, second-class coverage under medicaid. Mental health care for a low-income child diagnosed as mentally ill would remain an option for those States which have not included such under their State medicaid plan. The Javits amendment would assure that all eligible children diagnosed as mentally ill receive the necessary ambulatory and general hospital-based treatment to permit them to grow, learn, and mature without the stigma of mental illness.

Mr. President, I am greatly distressed that CHAP should be adopted with language which would put into medicaid law for the first time, an explicit exclusion from treatment for the child diagnosed as mentally ill. The House Commerce Committee-adopted CHAP program will expand services to 13.5 million low-income children now eligible for EPSDT and bring an additional 2.5 million children into the program. The Javits amendment, costing some $25 million, will assure that among those 16 million children, those in need of treatment for nervous, mental, or emotional disorder, receive the same range of treatment opportunities as provided to those children with physical ailments. The $25 million, which HEW has estimated that the amendment will cost, will eliminate arbitrary limits now imposed on the amount, duration, and scope of services provided by physicians in the care of mental illness.

Further, the amendment will permit full reimbursement to clinics which provide mental health treatment services to CHAP-eligible children diagnosed as mentally ill. Eight States today provide no clinic services at all, and many other States have specifically written exclusions for the treatment of mental disorders in clinics which otherwise provide treatment services under EPSDT for physically ill children.

It has been demonstrated in a number of studies that treatment for mental illness reduces subsequent general health care costs by as much as 50 percent. In a Blue Cross of Western Pennsylvania study, it was shown that overall medical costs were reduced by 31 percent when mental health benefits were included in a health care plan. Such reduction was inclusive of the additional costs associated with mental health care. Further, a national study noted that over 90 percent of all children receiving mental health care were treated on a low-cost outpatient basis, and over 40 percent of such children were terminated from treatment within 12 visits. The cost associated with the amendment, then, is small, when weighed against the savings in other health care costs. The cost of this amendment is further reduced when weighed against the value of a productive adult member of society, which a treated mentally ill child would become.

To diagnose and treat mental and emotional illness among children, thus, are the first lines of prevention. Experience indicates that the failure to do so has already had severe consequences and will continue to have a profound effect in future years. On the other hand, if mental and emotional illnesses are attended to as closely as possible to the time of their inception, the result will be more normal development throughout childhood, and later entry into society as productive adults.

As pointed out by the Joint Commission on Mental Health of Children, the effect of untreated mental illness is felt by many others beyond the child so diagnosed. They stated:

It should be borne in mind that for every child who has a severe mental health problem, many more are affected—those who are in association with him in his neighborhood, in his school, and especially within his family. If only families are considered, one could estimate that at least three or four other people—parents and brothers and sisters—are intimately and deeply affected by a child's mental illness or serious emotional disorder.

Thus, the amendment which I am proud to cosponsor today, will benefit not only the child diagnosed as mentally ill, but will assure that his or her family, too, is safeguarded from the effects of mental illness—the pressures which can divide families, irreparably scar its members, and destroy perhaps the most vital institution in our society.

I urge my colleagues to support this amendment.

PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT AMENDMENTS—S. 1493

AMENDMENT NO. 4739

(Ordered to be printed and referred to the Committee on Environment and Public Works and the Committee on Governmental Affairs, jointly.)

Mr. STAFFORD submitted an amendment intended to be proposed by him to S. 1493, a bill to amend the Public Works and Economic Development Act to establish a comprehensive program to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development, and for other purposes.

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATIONS—S. 2692

AMENDMENT 4740

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN (for himself, Mr. RIEGLE, Mr. CRANSTON, Mr. GRAVEL, Mr. HODGES, and Mr. LEAHY) submitted an amendment intended to be proposed by them, jointly, to S. 2692, a bill to authorize appropriations for the civilian programs of the Department of Energy for fiscal year 1979, and for other purposes.

WATER POLLUTION CONTROL ACT—H.R. 12140

AMENDMENT 4741

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. STAFFORD submitted an amendment intended to be proposed by him to H.R. 12140.

● Mr. STAFFORD. Mr. President, I am submitting an amendment which I hope can receive the Senate's attention at some point during the day. It attempts to correct deficiencies in the hazardous substances program established under section 311 of the Federal Water Pollution Control Act. It is a variation on an amendment characterized by industry, environmental and administration representatives as the "quick fix."

The best explanation of the need for this amendment is contained in a recent letter from the Assistant EPA Administrator in charge of the program, Mr. Thomas Jorling, to Sentor MUSKIE, the chairman of the Subcommittee on Environmental Pollution. If there is no objection, I would like to have that letter inserted in the record at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., September 22, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: While I know I must communicate with the Chairman and other members of the Committee, I want to share some thoughts with you first and then meet with you to seek your advice before proceeding on a very serious matter concerning the Clean Water Act.

One of the most acute frustrations I have come to experience in my role as an administrator is the immense difficulty associated with taking statutory mandates into implementation. Complexity, procedures, and shortages of resources all contribute; but there are also larger, more pervasive reasons related to institutional fears of changing or altering the system. The average time for rulemaking in EPA is now approaching four years. In addition, since I have been here all promulgations have been subject to judicial appeal.

My frustrations reached near despair recently when a federal district court enjoined the implementation of the hazardous substances spill portion of sec. 311 of the Clean Water Act. It is important that you know of this situation and I will try to summarize it in this letter, but I think further explanation is essential, especially since, as you will

see, we have a proposal which I believe is the only course of action available to us if the 311 hazardous spill program is to be in operation in the next three to five years.

When the Clean Water Act was enacted in 1972, hazardous substances were included in parallel with oil, and authority was granted to the Administrator to designate hazardous substances, to distinguish between substances on their "removal" characteristics, to remove or mitigate spilled substances, to assess liability for costs, and to impose penalties. When I assumed responsibility for the program in 1977, one of my highest priorities was to complete the rulemaking necessary to implement the hazardous spill program. In the absence of a program, EPA has had to grapple with the Hopewell kepone destruction; carbon tetrachloride emergencies on the Ohio River; a four-month closure of the Louisville sewage treatment plant because of a chemical spill; chemical contamination of primary drinking water supplies in Kernersville, North Carolina; chlorine deaths from a freight train derailment in Youngstown, Florida; and many more. Finally, in March of this year, the four key regulations for hazardous substances (designation of 271 substances, classification of removability, rate of penalty, and harmful quantities) were promulgated and EPA and the Coast Guard allocated resources for their implementation. This was the culmination of six years of activity.

Following promulgation and before the effective date of the regulations, the Federal District Court in the Western District of Louisiana, acting on a complaint filed by the Manufacturing Chemists Association, the American Waterways Operators, the American Association of Railroads, and others, enjoined the program. Three issues were brought before the Court—the harmful quantity determination, the question of removability, and the inter-relationships between sec. 311 and existing NPDES permits. The court agreed with the complainants and the specific ruling rendered the hazardous spill program inoperative.

The future of the 311 program is now in grave uncertainty, beyond the ability of the Agency to singularly control. The courts, the Agency, and a large number of interested parties all are in a position to influence the outcome, especially to cause unending delay of any amendment or judicial action if there is not substantial agreement on the basic approach.

In the face of the injunction, the Agency has three basic options to consider. I will summarize each.

First, prosecute an appeal:

The Federal District Court for the Western District of Louisiana is in the 5th Circuit (the Circuit subject to a split in the pending Judiciary Bill). In a review of this option, and in consultation with the Justice Department, we have reached the following conclusions: It would take a minimum of three but more likely five years to have the matter go through the court system and be resolved ultimately by the Supreme Court. On the merits, there is greater than 75 percent chance the lower court decision that stopped the program would be upheld.

Second, attempt a rewrite of the regulations to conform to the court's order:

On the threshold issue—the determination of harmful quantities—EPA could not write rules to meet this requirement and be in any way responsive to the 311 mandate. To do so would require us to establish actual harmful effects from specific quantities covering the range of circumstances into which such chemicals might be discharged; this would be a pre-1972 burden if there ever was one. If we tried this approach, our best estimate indicates we could determine harmful quantities at a rate of 10–15 per year, but at a very high resource cost. It would be decades before we had anything like the 271 chemicals now subject to our rules.

Moreover, since this was the decision of only one federal district court, it is unlikely we could have any certainty that satisfying this court would satisfy all of the other 91 federal district courts.

Third, legislative repair:

Two possibilities are suggested. One, a full fledged effort to repair sec. 311 and perhaps related authority; or alternatively, a quick fix addressed to the specific problems raised by the court.

I have reached the conclusion to proceed with the latter. My reasons include the belief that the basic core of sec. 311 is sound. If the provision was changed—even to make it better—it would require a new rulemaking effort. As I explained above, given our experience, it would be five years or more before we again had promulgated regulations and the capacity to implement them.

Consequently, and with acknowledged risk to all parties, I have met with the litigants over the last two weeks in an attempt to determine if there was a "noncontroversial" legislative proposal that all parties in good faith could accept and allow it to be grafted onto a simple research and development authorization bill which has passed the House and is pending in the Senate Committee (H.R. 12140). This is admittedly a very remote possibility under the best circumstances, but I believe it is worth the try. I do not see the same opportunity for quick action in the next Congress. I believe the parties are participating in this eeffort in good faith. No one has pressed for all of their preferences. As a consequence, we have reached a position that the Agency and the litigants can support. If it is enacted we can have the 311 hazardous substances program in motion inside of a few months.

In the discussions with the parties I have been guided by the assumption that Congress and the people expect to have the following basic elements of the 311 program put into operation as soon as possible:

(1). The designation of substances and quantities, the discharge of which creates a duty on the discharging owner or operator to notify the government;

(2). Response by the government to mitigate the effects of the substances and to remove the substances where appropriate;

(3). Liability imposed on the owner for costs the government incurs in removal and mitigation; and

(4). A penalty provision.

I believe that with several amendments to section 311 in this Congress we can build on the rulemaking effort the Agency has conducted for all these years and we can get this basic program to operate almost immediately after enactment.

The Agency and the Coast Guard have expended great resources in training, information dissemination, and related preparations, all premised on the 271 substances and the harmful quantities now designated. Industry, similarly, even though it has litigated, has prepared to comply with the program through training of personnel and is ready to distribute materials to employees. There is a program—a very valuable program—ready to go but it is now in suspended animation. The situation is hard for me to understand; for the public, already suspicious of our ability to govern, it is impossible to understand.

The amendments we propose basically place hazardous substances on a par with oil in how they relate to the major components of sec. 311, with one major exception. Rather than the $5,000 penalty limit on oil, the limit for hazardous discharges would be $50,000. This represents a significant reduction from the present law (up to $5 million for vessels and $500,000 for other sources.) However, with the 1977 amendments clarifying the liability for mitigation in the case of discharges of hazardous substances, we feel the reduced penalty's effect on achieving a high standard of care is offset. If experience reveals otherwise, amendments to the penalty structure could come later, but in the meantime the duty to give notice, the authority of the government to respond and act, and liability—all presently enjoined—could go into effect.

I know this is a most unusual request, and would hope I could meet with you to explain the circumstances in more detail.

I am motivated by the deepest sense of concern that if the legislation cannot be amended, we will be unsuccessful in getting any element of the hazardous substances spill program in effect for years; an inability which, when so much has been invested, does not seem to be in the public interest.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.

Mr. STAFFORD. Following the receipt of Mr. Jorling's letter and at the urging of various interested parties, the committee held a hearing on the proposed amendment. Although Mr. Jorling was the only witness, he spoke on behalf of the many groups which participated in the unusual and lengthy negotiations. The date of this hearing was October 5, less than 2 weeks ago.

Normally, a change of such fundamental and important nature would be subjected to more extensive hearings and to formal scrutiny by the membership of the committee. However, because it was so late in the session, we were required to rely on more informal discussions regarding the merits of the proposed amendment.

During the course of these discussions, several flaws in the original proposal were revealed. The amendment was changed to correct these. In addition, certain changes suggested by the Departments of State and Transportation were incorporated into the amendment.

Based on my informal discussions with other members of the committee, I believe I can safely say that my action here reflects the will of its membership. The committee considers it very important to implement one of the most significant provisions of the Clean Water Act, section 311, dealing with the discharge of hazardous substances—particularly, the Government's ability to respond to and mitigate the effects of such discharges. More than in any other environmental area, people expect quick and effective governmental response to protect public health and the environment in the event of spills of such materials. Nothing perplexes a citizen more than discovering that the Government is incapable of acting rapidly and decisively in such situations.

But, despite the fact that section 311 was enacted 6 years ago, the hazardous substances spill program is nonexistent. The concept of Government response to spills was first developed in the context of oil in the late 1960's and was incorporated in the 1970 Water Quality Improvement Act. At that time, uncertainty surrounding the appropriateness of including other hazardous materials in such a scheme led the Congress to authorize the administration to study similar response mechanisms for them.

When the Clean Water Act was enacted in 1972, hazardous substances were included in parallel with oil, and the administrator was granted authority to designate hazardous substances, to distinguish between substances based on their "removal" characteristics, to remove or mitigate the effects of spilled substances, and to assess civil penalties and clean-up costs. The Environmental Protection Agency responded to that mandate inadequately, in part for complicated technical reasons.

Recently, however, implementation of the section 311 program was designated as a high priority. EPA set out to complete the rulemaking necessary to implement the hazardous substances spill program. In this undertaking there were several uncertain elements in section 311 which led the committee to make legislative clarifications, especially regarding the inclusion of mitigation activities in the concept of removal. In December 1977, these clarifications were incorporated in amendments to the Clean Water Act.

In March of this year, the four key regulations for hazardous substances were finally promulgated. The four sets of regulations designated 271 substances, classified their removability, and established harmful quantities, units of measurement, and rates of penalty. The Environmental Protection Agency, along with the Coast Guard, allocated regional resources to the task of implementing the 311 hazardous substances program. This regulatory and programmatic effort was the culmination of 6 years of activity.

Following promulgation, but before the effective date of the regulations, the Federal District Court for the Western District of Louisiana, acting on complaints filed by the Manufacturing Chemists Association, the American Waterways Operators, the Association of American Railroads, and others, enjoined their implementation and enforcement. The principal challenges to the regulations included allegations that EPA had illegally determined the actual removability of the designated substances, that EPA's harmful quantity determinations were arbitrary and capricious, and that EPA had unlawfully applied the provisions of section 311 to facilities with NPDES permits.

The court agreed with the plaintiffs on all three issues and concluded that the regulations were "invalid, void, unenforceable, and of no legal effect." The court concluded that EPA had impermissibly ignored mitigability in determining the actual removability of substances. In addition, it held that EPA's harmful quantity determinations were unlawful because they did not consider "times, locations, circumstances, and conditions" as required by section 311(b)(4) and, therefore, were not predictive of actual harm. Finally, the court held that discharges subject to section 402 of the act should not be subject to the reporting requirements, civil penalty liabilities, and cleanup costs of section 311.

The impact of this decision on EPA's ability to prevent and respond to the discharge of hazardous substances is difficult to overstate. Invalidation of the removability regulation rendered inoperative the entire civil penalty scheme. The rejection of harmful quantity determinations—the cornerstone of the regulatory scheme—eliminated mandatory reporting of spills and relieved dischargers of responsibility for civil penalties and clean-up costs. The future of the 311 program is now in grave doubt. The courts, the EPA. and a large number of interested parties are all in a position to influence the future of the hazardous substances spill program. In the absence of substantial agreement on a basic approach, these parties could endlessly delay any amendment or litigation.

In the face of the situation created by the injunction, the committee considered three basic options:

First, an appeal could be prosecuted. But the Justice Department and EPA concluded that it would take a minimum of 3, but more likely 5, years to have the matter processed through the court system and ultimately resolved by the Supreme Court. Further, the administration believed there would be a substantial chance that the lower court decision halting the program would be upheld.

Next, the regulations could be rewritten to conform to the Court's order. On the threshold issue—the determination of harmful quantities—EPA could not write rules to satisfy the Court order and be in any way responsive to the 311 mandate. To do so would require EPA to establish before the fact actual harmful effects from specific quantities of chemicals covering the infinite range of circumstances in which they might be discharged. This would reestablish the pre-1972 burden of proving water quality impact as a precondition for environmental protection. The best EPA estimate indicated that the agency could determine harmful quantities at a rate of 10 to 15 per year, but only at a very high resource cost. It would be decades before achieving anything like the 271 chemicals designated in the enjoined regulations.

Finally, there were two legislative repair possibilities: There could be a lengthy, full-fledged effort to repair section 311 and, perhaps, related authority; or, alternatively, a more focused effort addressed to the specific problems raised by the recent Court decision. After intense review, the parties concluded that there was no recourse but to seek quick legislative repair, if section 311 were to be implemented without further unconscionable delay. The committee agreed. Our reasons include the belief that the existing section 311 is basically sound. If the provisions were greatly changed, even for the better, it would require an entirely new rulemaking effort. This would be time-consuming. Given past experience, it would take years to achieve promulgated regulations and in the meantime the discharge of these hazardous substances could continue unregulated.

The effort to define a legislative solution has forced judgments as to what elements of the program are most important and to consider altering those which, while important, would prevent a consensus. We concluded that the following basic elements of the 311 program should be put into operation as soon as possible:

First. The designation of substances and the determination of quantities, the discharge of which create a duty on the discharger to notify the Government.

Second. Governmental response to mitigate the effects of discharged substances and to remove them where appropriate.

Third. The imposition of liability on the owner for costs incurred by the Government in removal and mitigation.

Fourth. A penalty provision.

The legislative proposal I am offering retains these key elements of the 311 program.

The recommended changes involve three basic areas. First, the proposal simplifies the determination of which discharge incidents must be reported to the Federal Government. The proposal clarifies the authority of the administrator in designating hazardous pollutants and determining harmful quantities of such pollutants. The amendment makes it clear that the determination of harmful quantities does not require an assessment of actual harm in the variety of circumstances in which such substances might be discharged. Rather, the determination is based on the administrator's judgment of what quantity may be harmful as a result of its chemical properties, not the circumstances of its release. This change would resolve the district court's objections to the previously promulgated regulations and it would allow the basic elements of section 311 to be implemented right away.

Second, the changes place hazardous substances on a par with oil in their relation to the major components of section 311, except that the maximum civil penalty for their discharge would be $50,000, compared with $5,000 for oil. The administrator would enter into a memorandum of understanding with the Secretary of Transportation permitting the administrator to select either of two options available for penalizing dischargers of hazardous substances. One option is an administrative penalty up to $5,000 per violation. The second option would be commencement of a civil action in Federal district court. Penalties in such an action could not exceed $50,000 per violation, unless the discharge was the result of willful negligence or misconduct on the part of the owner, operator, or person in charge, in which case the penalty maximum would be $250,000 per discharge.

The $50,000 maximum involves a significant reduction from the existing $500,000 liability for facilities and $5,000,000 for vessels. However, in view of the 1977 amendments which make it clear that dischargers are liable for mitigation costs resulting from dischargers of a hazardous substance, we concluded that sufficient incentive for a high standard of care exists with the combination of public disclosure of who is discharging, liability for mitigation of hazardous substance discharges provided in 1977, and the penalty provisions. If experience

proves that higher penalties are necessary, the penalty structure can be modified accordingly. In the meantime, however, the key authorities of section 311—mandatory reporting, Government ability to respond and clean-up liability, all of which are now enjoined—could go into effect.

In the proposed changes the criteria for determining the size of the penalty would also be streamlined. In assessing the penalty, the Court would consider the following factors.

First. The size of the business involved;

Second. The effect of the penalty on the discharger's ability to continue in business;

Third. The gravity of the violation, which we would interpret to include the size of the discharge, the degree of danger or harm to the public health, safety, or the environment, including consideration of toxicity, degradability, and dispersal characteristics of the substance, previous spill history, if any, and violation of spill prevention regulations where appropriate, and

Fourth. The extent and degree of success of any effort by the violator to mitigate the effects of the discharge.

Particular emphasis should be placed on the extent of mitigation efforts by the discharger, in order to encourage prompt and effective cleanup. Mr. Jorling has said the agency will include these criteria and other elements governing gravity of the violation in its regulations implementing the penalty provision.

The third area of change would clarify jurisdiction over discharges of oil and hazardous substances from point sources with NPDES permits. The issue of which section of the act governs these discharges is a principal source of controversy in the litigation. This proposal only affects the jurisdiction over certain discharges permitted under section 402.

Basically, the changes make it clear that discharges, from a point source permitted under section 402 permitted source, which are associated with manufacturing and treatment, are to be regulated under sections 402 and 309.

"Spill" situations will be subject to section 311, however, regardless of whether they occur at a facility with a 402 permit. For example, on-site industrial spills such as truck or rail accidents or substantial or large-scale failures or ruptures of containers or vessels would be considered subject to section 311, unless such on-site spills were processed through a treatment system capable of eliminating or abating such spills, in which case such discharges would be regulated under sections 309 and 402. On the other hand, situations such as the following would be regulated under sections 309 and 402, not 311: System upsets caused by control problems or operator error, system failures or malfunctions, equipment or system startups or shutdowns, equipment washes, production schedule changes, noncontact cooling water contamination, storm water contamination, or treatment system upsets or failures at facilities with treatment systems capable of eliminating or abating such discharges. While most discharges from permitted point sources will, therefore, be regulated solely under the section 402 permit system, the oil spill program under section 311 will remain intact, and other classic spill situations will continue to be subject to section 311.

In the amendment adding a new definition of discharge for purposes of section 311, we are attempting to draw a line between the provisions of the act under sections 301, 304, 402 regulating chronic discharges and 311 dealing with spills. At the extremes it is relatively easy to focus on the difference but it can become complicated. The concept can be summarized by stating that those discharges of pollutants that a reasonable man would conclude are associated with permits, permit conditions, the operation of treatment technology, and permit violations would result in 402/309 sanctions; those discharges of pollutants that a reasonable man would conclude are episodic or classical spills not intended or capable of being processed through the permitted treatment system and outfall would result in the application of section 311.

While this division might be subject to theoretical abuse, for example, funneling classic spills through an outfall to avoid section 311, the availability of criminal sanctions under both sections 311 and 309 should operate to deter such avoidance schemes.

The amendment also clarifies that the costs of removal of a discharge of a hazardous substance from a point source with a 402 permit are recoverable from the owner or operator of the source under section 309(b) of the act.

I should point out that none of the changes affect the designation of 271 substances as hazardous. If the proposed legislative changes are enacted, the agency will withdraw the regulations, make the necessary adjustments, and promulgate the same 271 designations and quantities without change as soon as possible. The amendments we are proposing would allow us to build on the rulemaking effort conducted for the last few years and enable EPA to get a basic program into operation within a few months after enactment.

The EPA and the Coast Guard have already expended great resources for training, information dissemination, and related preparations premised on the 271 substances and the harmful quantities designated. Industry, notwithstanding its litigation posture, is prepared to comply with the program through personnel training and other implementing actions. In short, a very valuable program is ready to go, but it is now in a state of suspended animation. The situation is hard for the committee to accept. For the public it is impossible to understand.

I do not believe the country can be or should be without a hazardous spill response capability for another 4 or 5 years. We can build on the rulemaking effort that has been conducted; we can get the basic program to operate. Although certain adjustments must be made in the interests of getting the program moving, I believe they are worthwhile.

I am deeply concerned that if the legislation is not amended we will be unsuccessful in getting any element of the hazardous substances spill program in effect for years, a failure which would have incalculable effects on public health and safety. My request is unusual, yet given the complexity, the litigation, and the rulemaking associated with section 311, we feel strongly that it is the only way to put the hazardous spill program into effect without unconscionable further delay. I hope you will agree.●

THE ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT—H.R. 39

AMENDMENT NO. 4742

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to H.R. 39, an act to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

CALLING INTO QUESTION SALT II

Mr. BARTLETT. Mr. President, after 10 years of the "SALT process" and 6 years of negotiations, the long anticipated SALT II treaty finally seems at hand.

The timetable and style for the presentation of the new strategic arms limitation treaty to the American people and to the Senate is becoming more clear. Immediately prior to the November elections, Secretary of State Vance will be in Moscow conducting secret negotiations designed to conclude SALT II. Undoubtedly, the electorate will read and hear of "progress." Then, with Congress out of session and the elections over, President Carter and Soviet Communist Party Secretary Brezhnev will meet at a SALT II summit designed to enhance the spirit of "peace in our time."

In January, with the next elections nearly 2 years away, the new Congress will finally come face to face with this SALT agreement which will already have become a very old issue. As the new Congress organizes, shuffling its committee memberships and wrestling with the new budget, Senators and Congressmen will attempt, to evaluate this incredibly complex treaty. I assume it will be a treaty and not an "executive agreement," which would be an insult to the treaty powers of the Senate as enumerated in the Constitution.

Next year, there will be little time left to study the SALT II treaty, so I urge my colleagues who will be returning, and also those who will not, to examine the terms of this new strategic arms limitations agreement beginning now. Although the entire package has not yet been made public, most of the major provisions have been revealed. In any case, SALT has a language all its own and learning even to speak it will take some study.

To aid my colleagues, I would like to discuss some of the problems which are

associated with a SALT II treaty of the sort that has been detailed in press accounts. In general it is inherently unequal, potentially destabilizing, possibly unverifiable, clearly debilitating, certainly divisive within NATO, and also unlikely to provide the promised cost savings and improvements in Soviet-American relations. These are extremely damaging weaknesses, and I would like to explain some of them in more detail.

Public Law 92–448, originally the joint resolution which gave approval to the SALT I interim agreement on strategic offensive arms, contains the Jackson amendment which recognized that the actual provisions of SALT I were unequal because they permitted the Soviet Union to have more strategic missiles than the United States. The Jackson amendment, therefore, called upon the President to negotiate a follow-on "treaty," SALT II, which would be more equal. The administration believes that their new treaty will be equal in its provisions.

However, I believe that the alleged equality of the ceilings established in SALT II is little more than a "sleight of hand" trick. We accepted SALT I, even though it granted the Soviet Union superior numbers of intercontinental ballistic misisles (ICBM's) and submarine-launched ballistic missiles (SLBM's) because we had a superior number of heavy bombers. To provide equal ceilings, SALT II essentially does little more than count our heavy bombers. To add insult to injury, SALT II even excludes the Soviet Backfire bomber from the ceilings, and then to add injury to insult, equates cruise missile carrying bombers with MIRVed missiles thus creating special limits on our program to modernize our bomber force. In general, I believe each of the ceilings established under SALT II can be said to favor the Soviet Union. For example:

The freeze on modern large ballistic missiles (MLBM's) permits the Soviet Union to keep its existing 308 superheavy SS–9's and SS–18's which are becoming increasingly destabilizing, but a ban on any new types of modern large ballistic missiles will prohibit the United States from developing any at all. This is disturbing when we realize that the cost effectiveness of some of the stabilizing multiple aim point (MAP) systems the United States is studying might be improved by building a fairly large missile, one that could not be categorized as a light ICBM.

The sublimit of 820 MIRVed intercontinental ballistic missiles permits the Soviet Union to double the number of its ICBM's actually MIRVed and then improve that force. The United States will retain 550 MIRVed Minuteman III light ICBM's and could not and would not expand that increasingly vulnerable force, because it would have to reduce the number of its more survivable MIRVed submarine launched ballistic missiles. Thus, the Soviet Union is permitted to complete the development of a dangerous, time-urgent, hard target capability through a MIRVed ICBM throwweight advantage of approximately 6 to 1.

The sublimit of 1,200 total MIRVed intercontinental ballistic missiles (ICBM's) and submarine launched ballistic missiles approximates the number that both sides are likely to have in the early 1980's. That is, the American MIRVed force is frozen while the Soviet Union is permitted to continue the MIRVing of its advantages in numbers of missiles and throwweight.

Because of the 1,200 sublimit on MIRVed ballistic missiles, the 1,320 limit on MIRVed weapons systems serves only to limit the improvement of the American bomber force by limiting the United States to 120 air launched cruise missile (ALCM) carrying bombers unless the United States decides to replace MIRVed missiles with additional ALCM carrying bombers on a 1–for–1 basis. This limit on the number of cruise missile launchers and the 2,500–kilometer range restriction on the cruise missiles themselves serves to limit the effectiveness of this important new weapon, especially since SALT II places no restrictions on Soviet air defenses. The decision to equate ALCM equipped heavy bombers with MIRVed ICBM's and SLBM's ignores the second strike nature of cruise missiles, the lower alert rate of bombers, and the destabilizing first strike capability of the ballistic missiles.

The overall SALT II ceiling of 2,250 strategic nuclear launch vehicles is far greater than the United States could deploy during the treaty period and is well above any plans we have. To maintain the appearance of equality with the Soviet Union, the United States will be forced to retain the aging Polaris missiles it planned to retire, keep a large number of older B–52 penetrating bombers than it had hoped would be necessary, and also count mothballed and test B–52 bombers along with the three prototype B–1 bombers. In fact, the United States will probably find itself counting several hundred nonoperational weapons systems just to approach the overall ceiling, and there is little hope of correcting this situation, because the Carter Administration canceled our only new non-MIRVed system, the B–1 bomber. The Soviet Union, on the other hand, will be able to build to the full 2,250 ceiling with operational systems and then add several hundred operational Backfire bombers on top of that. This is clearly a strange form of equality.

A famous French philosopher once said that the law is equal in that it prohibits both rich men and poor men from sleeping on park benches. A similar logic applies to SALT II in that its equal ceilings are equal only on paper. That is, the United States is permitted to equal the Soviet Union only in those areas where it has no capability to do so and it is told to stand still in those areas where it is ahead.

Some of my colleagues have suggested that our lack of flexible options such as the decision to terminate the B–1 and the decision to limit the size and number of our MIRVed ICBM's and the decision to concentrate our SLBM's in a few submarines and the decision to dismantle our antiballistic missile system and the decision to delay backfitting of Trident I missiles into Poseidon submarines and many other steps we have taken which we may soon be forced to reconsider were not the result of the SALT process. Certainly there are many factors involved in such decisions, but the impact of SALT in each decision clearly can be seen.

How many times have administration witnesses, my colleagues in the Senate and opinion leaders of various sorts said that we should delay or oppose a program because it might interfere with SALT, or that SALT will solve the problem that the program is designed to alleviate. Well, SALT II is here and the problems we feared are here and SALT II does nothing to solve them. And now I hear many of my colleagues saying do not blame the "SALT process" because we made those decisions ourselves. Often we did, but we did so only because we were blinded by the "SALT process."

I would like to remind my colleagues that when the United States began to think about becoming involved in this so-called SALT process America possessed a substantial strategic nuclear superiority. Indeed, Secretary of Defense McNamara stated publicly that the Soviet Union would not even try to catch up with the United States. Undoubtedly, he thought that they believed as he did in the doctrine of mutual assured destruction and that a posture of minimal deterrence would suffice. He thought they shared his view that with respect to nuclear weapons "enough is enough" and that numerical equality was unnecessary and real strategic nuclear superiority impossible.

Contrary to Secretary McNamara's expectations, the Soviet Union has initated the largest drive in strategic forces the world has even seen. Even as we signed SALT I in 1972, they passed us in numbers of missiles and shortly thereafter in numbers of ICBM warheads and they have continued to develop a strategic force posture best suited for first strike.

All during the time the Soviet Union was engaged in this buildup, the United States officially underestimated the size and momentum of that buildup. Nevertheless, many of my colleagues who were placing so much faith in the "SALT process" said those estimates were "alarmist." They called upon us to avoid an arms race by waiting for the "SALT process" to slow down the Soviet Union.

Well, the "SALT process" did not slow the Soviet momentum and now it is the advocates of SALT II who have turned alarmist. Now they say that, if we do not accept the unequal "equal" ceilings of SALT II, the Soviet Union will quickly deploy perhaps a thousand more strategic nuclear launch vehicles than the United States plans to have or could deploy during the SALT II treaty period. And they argue that we can, if we so decide, spend billions of dollars on new technologies which will improve the situation in the distant future. These spokesmen for the "SALT process" argue that SALT II will not prohibit throughout the treaty period any of the significant weapons development programs we

have underway to compensate for the failures of the "SALT process." They argue that the protocol restrictions on cruise missiles and mobile missiles are temporary and need not be continued in SALT III. And they are right, although I suspect that the United States will come under tremendous pressure to continue restrictions on such systems and much of that pressure will come from those who want us to place more faith in the "SALT process."

But after 10 years of the "SALT process," I think we can see clearly now the impact of that "SALT process." It has served to slow down the American half of the arms race and gradually placed the United States in worse and worse negotiating positions with respect to those systems being discussed. This in turn has forced the United States to rely on more and more exotic and expensive systems such as the multiple aim point basing for its ICBM's. And now this too may become a bargaining chip to be given up in SALT III in order to slow the accelerating Soviet strategic advantage.

Perhaps it is time we increased our negotiating leverage by deploying a few of our bargaining chips rather than throwing them away or trading them cheaply.

INTERNATIONAL TRADE

Mr. HAYAKAWA. Mr. President, in the closing days of the 95th Congress, the Senate has considered several pieces of legislation dealing with international trade. I would like to take this opportunity to express my views.

WHY DOES THE UNITED STATES HAVE A TRADE PROBLEM?

There are many reasons why the United States persists in running large trade deficits year after year. Some of the problem undoubtedly results from barriers to our exports erected by our trading partners. But a large part of the blame lies with our own policies.

BUDGET DEFICITS, MONETARY POLICY AND INFLATION

Large budget deficits year after year have directly contributed to this country's trade deficit, inflation, and the falling dollar. These budget deficits have been financed in two ways—by the Federal Reserve printing more money, which causes inflation, and by selling more and more dollar assets to foreigners. As our friends overseas have watched our continuing inflation and stagnating economy, they have lost confidence in our ability to pay off, in real terms, on these dollar holdings. They have therefore become unwilling to hold the dollars and dollar assets they already have, let alone to absorb more.

This has resulted in the dollar's drastic collapse this past year.

But how has the decline of the dollar against other currencies affected our trade balance? First, our continuing domestic inflation continues to drive up the price of American goods. But also, because of this continuing inflation and the automatic inflation adjustments built into our economy, the falling value of the dollar has only contributed to our rate of inflation, driving up the price of U.S. goods even more. The decline of the dollar pushes up prices of raw materials, traded goods of all types, goods in competition with traded goods, and the cost of labor throughout the economy.

The point here is that the United States, as a whole, is running a budget deficit. Consumers, business, and the Government, as a whole spend more than they produce—the Gross Domestic Product. This excess demand or spending creates our balance-of-payments deficit. Since consumers and business are savers on net, the fault lies with the Federal Government. Businesses and consumers have provided a surplus of savings which the Federal Government can use in addition to tax revenues to finance Government spending. But the Government has persisted in running budget deficits that exceed net saving. When a government runs a deficit larger than surplus saving, it pushes national spending ahead of total national production. That means a trade deficit.

Only by bringing the Federal deficit under control can total U.S. demand be reduced to levels that equal total U.S. income and production. And only by controlling the growth of the money supply and inflation can the United States convince foreign holders of dollars and dollar assets to retain these holdings, which translate into future claims on U.S. production, instead of cashing them in now.

OUR TAX STRUCTURE AND REGULATION DESTROY OUR COMPETITIVENESS

To a large extent Federal regulatory and tax policies have contributed toward making U.S. businesses less able to compete with their foreign counterparts. Environmental and safety regulations increase the real costs of production of our firms. If foreign firms are not required to meet similar standards in their countries, this gives them a competitive edge against U.S. firms.

In addition, most of our trading partners have tax structures which are less biased than ours against savings and investment. This bias against savings and investment impacts most severely on capital-intensive industries. Some of our tax provisions, such as depreciation rules, impact more severely as the rate of inflation rises.

The U.S. tax code only allows firms to deduct the historical cost of plant and equipment. Most firms try to set aside funds to replace plant and equipment. But as inflation pushes up replacement costs, a firm finds that its tax deductible reserves for replacement are insufficient. It must therefore use a portion of its taxable income to maintain its productive capacity. This reduces the funds it has available to expand or improve productive capacity. And the higher the rate of inflation, the worse this problem becomes. Because the firm cannot deduct real depreciation, if faces higher effective tax rates on its real profits.

As inflation has increased over the last few years, the underdepreciation of inventory and equipment has reached alarming proportions. In the 9 years between 1969 and 1977, the overstatement of profits resulting from underdepreciation has increased from 2.5 percent to 25 percent of reported profits. This has drastically increased taxes and decreased rates of return on capital investment and production.

Since taxes are a real cost of doing business, these inflation induced tax increases that reduce real economic profits reduce our firms competitiveness in world markets. As inflation increases they pay more real taxes and retain less real income with which they can expand or improve their productive capacity to become more efficient.

Some of our basic industries, such as steel, utilities, communications, and transportation have actually faced effective tax rates on real profits in excess of 100 percent in recent years. The failure of our Government to allow firms to adjust depreciation for inflation has imposed taxes of several billion dollars on phantom profits in industries actually facing real losses.

We hear a lot of complaints from our steel industry, for example, about the unfair competition of Japanese steel. But it is our own Government that has made the competition unfair. Rather than throwing up protectionist barriers against Japanese steel, we would help our steel industry much more by liberalizing depreciation allowances, reducing corporate taxes, and freeing them from overly stringent Government regulations. This would put the American steel industry in a more similar position with their Japanese competitors, who face a significantly lower effective corporate tax rate and receive help from their Government in the form of low-interest credit to meet environmental regulations.

U.S. POLITICAL DECISIONS THAT INHIBIT TRADE

Often the political decisions made by our own Government inhibit American exports. Whether it be the Peoples Republic of China or the Republic of Chile, our Government often will not allow our companies to export to them for political reasons. The Finance Minister of Chile explained to groups of Americans a few weeks ago that these policies of the U.S. Government are only hurting the U.S. economy. They are not hurting Chile. Although Chilean businesses might prefer to buy the American equipment, if they are prohibited from doing so, they buy a suitable replacement from other countries. Britain, Canada, and Japan, for instance, do not impose their moral standards upon foreign customers. They do not pass judgment upon the ethics of business or government operations in other countries. But the United States does, and that cuts down our exports. The irony is that the United States has been selling to the U.S.S.R. for many years. U.S. businessmen have made a lot of money selling to Russia and our Government encourages them. Our Government

should encourage trade with other nations as well.

OTHER COUNTRIES' POLITICAL DECISIONS TO CURB U.S. EXPORTS

Political decisions in other countries do put artificial barriers in the way of some of our exports. For instance, despite all the inhibitions of our Government's tax and regulatory policies, the U.S. agriculture industry still enjoys a comparative advantage in food production over other nations. It is ironic that the Japanese, whose industrial firms are causing so much havoc in some of our domestic firms, put up such harsh barriers to our agricultural exports. In the United States, people are losing their jobs in the steel industry, the television industry, and the automobile industry as a result of Japanese competition. We do not impose tariffs on these Japanese products so as to encourage good relations and free trade. But the Japanese do not reciprocate. They put high tariffs on our agricultural products to protect their domestic farmers. And this is a political decision because the ruling party in Japan receives a substantial amount of its support from the farmers. Japan also is widely recognized for having more nontariff barriers to trade than any other nation. Our trading partners must recognize the gains from free trade that result if barriers are lifted and must realize that there is a need for reciprocity in this area.

Another part of the problem in Japan is that the agricultural wing of the Liberal Democratic Party views Japan as a poor little nation with very few natural resources. Therefore they feel the need to protect their domestic farmers and be self-sufficient in agriculture. I am afraid that U.S. foreign policy encourages this feeling of weakness by trying to keep Japan dependent on us for their national security.

I believe that our Government should encourage Japan to recognize what a significant world power it has become and to accept the responsibility that goes with it. Japan should become more involved in foreign policy and in meeting their security needs rather than continuing to depend on the United States. Perhaps this greater international role would show Japan that it should not be so protectionist in its trade policy.

EXPORT PROMOTION

Both the U.S. Government and U.S. business should do a better job of promoting U.S. exports and facilitating U.S. business abroad. Our foreign policy should be reexamined to insure that other nations do not think of the United States as a big brother who can afford to deal with them on less than equal terms. With the Japanese in particular, the U.S. Government could promote the idea that the United States can and will no longer insure the security interests of the rest of the free world for nothing in return. The Japanese are beginning to see the need to play a greater role in their own defense.

The United States could find this to be an area where the Japanese would buy U.S. equipment, such as planes, destroyers, submarines, and patrol boats to protect their sealanes and other vital interests.

The U.S. Government should also do whatever is necessary to improve export promotion services. The Government might want to consider contracting this service out to private U.S. banks, which already do a better job of assisting U.S. businessmen looking for markets in other countries. Or the Government should place more importance on the commercial sections of the U.S. Embassies abroad. Often the commercial attachés in the Embassies are little more than pro forma officials. I am pleased that the Agricultural Trade Act allows the Secretary to raise the diplomatic status of agricultural attachés in some major markets abroad to enable them to operate more effectively in competition with agricultural representatives of other governments.

For their part, U.S. businessmen should become more aggressive in pursuing foreign markets. The Japanese do intensive market research to find out what the American consumer wants in particular products and then manufacture these products to order for the American market. American enterprises have no equivalent market research for the Japanese consumer. They do not try to modify products to suit Japanese needs or tastes.

We do not take into account, for instance, a fundamental difference between Japanese and American people—size. For almost any product we want to export to Japan, be it clothing or refrigerators, or automobiles, size must be taken into consideration. But U.S. manufacturers have not done this. They say it is not worth making modifications for such a small market. But the Japanese do it and do it successfully. That may be the difference between a country that has to export to survive and a country that can survive without exporting. But the U.S. economy can no longer survive without exporting. We must take the Japanese market seriously. Our firms must adapt to the peculiar needs of different markets, send more business representatives to other countries, and have these representatives learn the language and cultures of those countries.

THE TRADE NEGOTIATIONS

The negotiating posture of Ambassador Strauss is being watched by the Senate very closely and he is certainly under pressure to bring a satisfactory treaty to Capitol Hill by February 15, 1979.

I have made many appeals to Ambassador Strauss for consideration of trade problems. I have written letters on behalf of several diverse industries which, in my opinion, rightly deserved some protection. I have made my displeasure known by several entries in the CONGRESSIONAL RECORD regarding markets for our agricultural exports, particularly specialty products. I do not believe that the Japanese or the Europeans, have been altogether fair in their use of government subsidies, quotas, tariff and nontariff barriers.

Ambassador Strauss has received other warnings. Recently, five Congressmen suggested import surcharges on certain products. In July, 20 Senators wrote Mr. Strauss of their concern with the status of steel negotiations. The problems of oranges and beef have had members of the Japanese Diet winging back and forth between our countries to plead for our indulgence.

I believe that the U.S. should promote the most free trade position it can at the trade talks. I am not basically a protectionist. Protection always means higher prices, less specialization, and a less efficient production structure throughout the world. I would therefore like our negotiators to push for gradual reductions or tariff and nontariff barriers on as many products as possible. Gradual changes should insure that no industry is drastically effected in any one country too suddenly.

Our negotiators should try to assure our trading partners that the United States will be a reliable supplier of our exports with no drastic changes in policy. This should diminish the feelings of our trading partners that they need to protect certain basic industries.

But our trading partners should also recognize that there must be reciprocity is reducing trade barriers. Our negotiators may have to use some of our industrial tariffs as bargaining chips to get other countries to reduce their barriers, such as the Japanese barriers to our agricultural exports. But perhaps the most important thing we can do is to educate the world in the benefits of free trade.

REGULATORY REFORM LEGISLATION

Mr. BENTSEN. Mr President, overregulation by Government has not always been a problem in this country. The first regulatory law was not enacted until 1889, the 100th anniversary of our Constitution—and 111 years after the Declaration of Independence was signed. That law. the act to regulate commerce, created the Interstate Commerce Commission which was the first and for 27 years the only independent regulatory agency in the Federal Government.

The Federal Trade Commission was next, established in 1914. Then came other regulatory agencies: the Federal Power Commission, 1920; the Food and Drug Administration, 1930; the Securities and Exchange Commission, 1934; the Federal Communications Commission, 1934; the Civil Aeronautics Board, 1938.

For more than 80 years, from the time of the first Federal regulatory law in 1889 until this decade, Government was concerned primarily with economic regulation.

Most of the mechanism for economic regulation was in place by the beginning of World War II.

But a wholly new type of government regulation came with the beginning of the 1970's: social regulation. Esatablishment of such agencies as the Environmental Protection Agency, 1970; the

Consumer Product Safety Commission, 1972; and the Occupational Safety and Health Administration, 1973, have made it a whole new ballgame.

The CAB, for example, has jurisdiction over a few hundred firms. The ICC over a few thousand. But EPA, CPSC, and OSHA have an impact on hundreds of thousands of firms, nonprofit organizations, and State and local governments. The result has been an explosion of Federal rules and regulations. In 1955 some 10,000 pages were published each year in the Federal Register. By 1970, 15 years later, that number had doubled to 20,000. But by 1977, the number of pages in the Federal Register had mushroomed to 70,000.

Today, Federal regulation is America's No. 1 growth industry.

Mr. President, the American people are fed up with the tendency of the Federal bureaucracy to expand and intrude upon the average citizen and to waste his money. They understand that excessive Federal regulation drives up prices and dries up the capital resources business needs to invest in plant and equipment to create jobs. That means excessive Federal regulation contributes directly to both inflation and unemployment.

During the past year, in my capacity as vice-chairman of the Joint Economic Committee, I have tried to respond to the demand of the American people for less regulation and more intelligent regulation by developing proposals to improve the regulatory process and cut the costs of Federal regulations.

Following extensive hearings before the Joint Economic Committee in April on the costs of Government regulation, in which we heard from business, academic, and Government witnesses, I introduced a number of regulatory reform bills that should, taken together, go a long way toward satisfying these demands. This comprehensive package of regulatory reform measures includes—

S. 3262, the "Regulatory Cost Reduction Act of 1978". This bill, which was introduced on June 29, 1978, establishes a mechanism to reduce the private sector compliance costs of Federal rules and regulations by a goal of 25 percent within 5 years. Fourteen Members of the Senate have cosponsored it—Senators BURDICK, CURTIS, GARN, GRAVEL, HANSEN, HATCH, PAUL HATFIELD, HAYAKAWA, HODGES, INOUYE, JOHNSTON, LONG, MCCLURE, and RANDOLPH.

S. 3263, the "Regulatory Conflicts Elimination Act of 1978." This bill, which was also introduced on June 29, 1978, sets up a process for the elimination of regulations which duplicate each other or which conflict with each other. Senators GARN, PAUL HATFIELD, HAYAKAWA, Mrs. HUMPHREY, and INOUYE were cosponsors of this legislation.

Earlier this week, on Wednesday, October 11, the Senate unanimously attached the core of this bill to S. 2, the sunset bill, as an amendment that would require the President to submit a regulatory conflicts and duplication report on each program when it comes up for congressional sunset review and reauthorization. This would apply not only to the traditional regulatory agencies, such as the Federal Trade Commission or the Interstate Commerce Commission, but to all Federal agencies that issue rules or regulations that affect the rest of us. This is a strong message from Congress to the executive branch that we want irrationality expunged from the regulatory process.

S. 3549, the "Independent Agencies Regulatory Improvements Act of 1978". This bill, introduced October 5, 1978, would require the 18 independent regulatory agencies to follow the same procedures for developing new regulations, and for reviewing existing ones, as are now required of the executive departments and agencies under Executive Order 12044, issued by President Carter on March 23, 1978. This measure has the support of the administration.

S. 3550, the "Regulatory Budget Act of 1978". This bill, also introduced on October 5, 1978, would establish an annual regulatory budget which would put a cap on the total compliance cost each department and agency could impose on on the non-Federal sector through its rules and regulations, just as the fiscal budget now limits the amount of money each department or agency can spend. The process set up in this bill for determining the annual regulatory budget closely parallels the existing budget process.

I was pleased to learn recently that the Department of Commerce plans to hold a high-level seminar Tuesday, October 17 on the regulatory budget proposal. Sixteen individuals from Government, business, and the academic community will participate in the seminar on this imaginative approach to controling regulatory costs. I hope this seminar will add impetus to the administration's regulatory reform efforts.

In addition to these four bills, Mr. President, the Senate has adopted two other measures that I introduced to reduce the regulatory burden of specific Government programs. One reduced the burden of CETA regulations on State and local government prime sponsors under that program, while the other eliminated duplicative paperwork in our FHA and VA housing programs.

All in all, Mr. President, I believe this has been an auspicious start in our effort to reduce the stultifying burden of Government regulation on our economy and our citizenry. I plan to push ahead vigorously on this effort during the 96th Congress, in my capacity as future chairman of the Joint Economic Committee.

Mr. President, my legislative efforts are not aimed at the legitimate efforts of Government to clean up our environment and to improve worker health and safety. Indeed, enactment of the legislation I have offered will make the entire regulatory process more efficient and hence more effective in carrying out the serious work of protecting our environment and improving the quality of life for all citizens. My efforts are directed at excessive, unnecessary, and unreasonable Federal regulation. They are undertaken in the Jeffersonian spirit of allowing our citizens the freedom to regulate their own lives.

Mr. President, this year I introduced six measures designed to deal with the broad scope of the problem of excessive Federal regulation. The Senate passed three of those bills. I ask unanimous consent that summaries of the three measures which the Senate has yet to enact be printed in the RECORD at this point.

There being no objection, the summaries were ordered to be printed in the RECORD, as follows:

SUMMARIES

I. "REGULATORY COST REDUCTION ACT OF 1978," S. 3262.

This bill, which was introduced on June 29, 1978, with nine cosponsors, establishes a mechanism to reduce the private sector compliance costs of Federal rules and regulations by a goal of 25 percent within five years.

The bill has the following major provisions:

It requires the President to establish a uniform methodology for determining regulatory compliance costs which would be made available to each Executive department and independent regulatory agency. The President may delegate the development of this methodology to the Director of the Office of Management and Budget.

It requires each department and independent agency to conduct an annual study of its compliance costs, using the methodology developed by the President, and to submit an annual Regulatory Cost Report to the President and Congress which would contain the agency's compliance costs for both existing and proposed rules and regulations.

It requires the President to submit recommendations to Congress annually for reducing the compliance costs of each department's rules and regulations by a goal of up to 5 percent, for each of the next five years—a total target of 25 percent for each department.

It requires the head of each independent regulatory agency to submit similar recommendations annually, for each of the next five years.

It provides that the recommendations will take effect after 60 days of continuous session of Congress unless modified by a Congressional Concurrent Resolution.

It requires agencies and departments which recommend compliance cost reductions of less than 5 percent to submit a report to Congress explaining why the 5 percent target is not attainable, including a citation and discussion of any provisions of law contributing to such failure. The General Accounting Office is required to evaluate such reports.

It contains a precise definition of compliance costs that will facilitate the development of compliance cost measurments by the departments and independent agencies.

II. "REGULATORY BUDGET ACT OF 1978" (S. 3550)

This bill, introduced October 5, 1978, would establish an annual regulatory budget which would put a cap on the total compliance cost each department and agency could impose on the non-Federal sector through its rules and regulations, just as the fiscal budget now limits the amount of money each department or agency can spend. The process set up in this bill for determining the annual regulatory budget closely parallels the existing budget process.

The bill has the following major provisions:

It requires the President to establish a uniform methodology for determining regulatory compliance costs which would be made available to each department and agency, as in the Regulatory Cost Reduction Act.

It requires each department and agency to conduct an annual study of its regulatory

compliance costs and to submit an annual Regulatory Cost Report to the President and Congress, as in the Regulatory Cost Reduction Act.

It requires that the President's budget submitted each January shall also include a regulatory budget for each agency, recommending a maximum cost of compliance that the agency can impose on the non-Federal sector during the fiscal year for which the budget is submitted.

By July 15, each Committee must submit to the Budget Committee of its House its own views and estimates concerning the regulatory budget for the agencies or departments under its jurisdiction.

By September 15, Congress must complete action on a concurrent resolution establishing a regulatory budget for each agency for the upcoming fiscal year. The process for considering the resolution in each House is similar to the current process for considering the budget resolutions.

It provides that no new legislation that would cause an agency to exceed its regulatory budget for a fiscal year could be enacted without a budget waiver.

It established a precise definition of compliance costs, as in the Regulatory Cost Reduction Act.

The Regulatory Budget Act would be added as a new Title XI to the Congressional Budget Act of 1974.

III. "INDEPENDENT AGENCIES REGULATORY IMPROVEMENTS ACT OF 1978" (S. 3549)

This bill, introduced October 5, 1978, would require the 18 independent regulatory agencies to follow the same procedures for developing new regulations, and for reviewing existing ones, as are now required of the Executive Departments and agencies under Executive Order 12044, issued by President Carter on March 23, 1978.

The bill has the following major provisions:

It requires the head of each agency to review and revise the agency's procedures for developing rules and regulations and to include in its revised procedures such elements as (1) publication of an advanced notice of proposed rulemaking; (2) holding of open hearings; (3) submission of notices to publications likely to be read by interested parties; and (4) direct notification of parties likely to be affected.

It requires each agency to publish a semi-annual agenda of significant rules or regulations under development or review by the agency.

It requires each agency head to personally review each new significant rule or regulation being developed by his agency and to give his approval prior to its publication in the Federal Register. Before approving a regulation, the agency head must determine that it is needed, that alternative approaches have been considered and the least burdensome one chosen, that public comments have been considered, that the rule is written in understandable English, that its reporting burden has been calculated, and that a plan has been developed for evaluating the regulation after its issuance.

Each agency will be required to prepare a regulatory analysis of all significant rules or regulations which will include a statement of the problem being addressed by the rule or regulation, a description of the alternatives that were considered, and a detailed explanation of the reasons for the choice of the alternative utilized in the rule or regulation.

It requires each agency to review its existing rules and regulations periodically, to determine whether they are still needed, whether they can be simplified or clarified, and whether duplications can be eliminated.

The Comptroller General will monitor agency compliance with the provisions of this bill and will report periodically to Congress.

EXIMBANK CHARTER

Mr. HEINZ. Mr. President, as my distinguished colleague from Illinois has pointed out, this amendment seems to be the most sensible and the fairest way to extend the Bank's charter and to strengthen its ability to provide assistance to U.S. exporters with so little time left in this session.

It includes all the germane amendments to the Eximbank bill reported by the Banking Committee which were adopted by the Senate in floor action last week. Furthermore, it leaves out, as requested by the Environment and Public Works Committee, the provision exempting the Bank from NEPA which was the cause of controversy, and lengthy debate on the Senate floor last week.

This amendment represents the culmination of a lot of work by the members and staff of the International Finance Subcommittee and by many others in an effort to come up with a bill that would not only extend the Bank's charter and increase its commitment authority, but would also improve its competitiveness and overall ability to assist our exporting community.

The subcommittee held extensive hearings this year on the subject of U.S. export policy and performance and the role of Export-Import Bank. It was overwhelmingly clear from the testimony that the Bank plays a vital role in facilitating and financing the export of U.S. goods and services. Its role has become increasingly important given the heightened export competition we face from our foreign trading competitors and our ever-worsening trade deficit, which may exceed $30 billion this year, and the resultant continued decline in the value of the dollar abroad which has fueled domestic inflation.

We can no longer afford to just pay lipservice to our trade problem. We need to formulate and implement a comprehensive, national export policy which vigorously promotes U.S. exports. A strong, competitive Export-Import Bank must be a key factor in that policy and thus I urge my colleagues to support this vital legislation. Failure to extend the Bank's charter and strengthen its assistance capabilities in this session will send a negative signal to our exporting community and to our foreign competitors with regard to our seriousness about promoting U.S. exports and reducing our trade deficit and restoring confidence in the dollar.

LEGISLATIVE REPORT

Mr. BAKER. Mr. President, as a legislative session draws to its close, it is customary for the Republican leader to give his assessment of the Senate's work during the year and, more particularly, of the Republican membership's contribution to that work.

This report of the Republican leader provides a welcome opportunity to commend my colleagues who have performed difficult and demanding leadership roles with an abundance of skill and diligence.

I must thank, first of all, my friend from Alaska, Mr. STEVENS, for his talented, loyal, and tireless service as assistant minority leader.

I commend, as well, the outstanding work of the gentleman from Nebraska, Mr. CURTIS, the wise and able chairman of the Rpublican conference;

The gentleman from Wyoming, Mr. HANSEN, the respected and industrious secretary of the conference;

The gentleman from Texas, Mr. TOWER, the forceful and erudite chairman of the Republican Policy Committee;

And the gentleman from Oregon, Mr. PACKWOOD, the outstanding chairman of the Republican Senatorial Committee.

I must also pay special tribute to the ranking Republican members of the standing committees of the Senate, whose generous agreement to meet with me in weekly sessions and whose faithful attendance at those meetings helped convert the Republican membership of the Senate from a loose assembly into an effective team:

Mr. DOLE, from the Committee on Agriculture, Nutrition, and Forestry;

Mr. YOUNG, of the Committee on Appropriations;

Mr. TOWER, of the Committee on Armed Services;

Mr. BROOKE, of the Committee on Banking, Housing, and Urban Affairs;

Mr. BELLMON, of the Committee on the Budget;

Mr. PEARSON, of the Committee on Commerce, Science, and Transportation;

Mr. HANSEN, of the Committee on Energy and Natural Resources;

Mr. STAFFORD, who is ranking member of both the Committee on Environment and Public Works and the Committee on Veterans Affairs; and Mr. MCCLURE, of the Environment and Public Works Committee.

Mr. CURTIS, of the Committee on Finance;

Mr. CASE, of the Committee on Foreign Relations;

Mr. PERCY, of the Committee on Governmental Affairs;

Mr. JAVITS, of the Committee on Human Resources;

Mr. THURMOND, of the Committee on the Judiciary;

Mr. HATFIELD, of the Committee on Rules and Administration.

And I would pay special commendation as well to the entire Republic membership of the Senate, whom I have often called—and who have repeatedly demonstrated themselves to be—the most effective political force in this city.

On the other side of the aisle, I have valued my cordial relationship with the distinguished majority leader, Mr. BYRD. My work with him in joint leadership endeavors has proven to be a very rewarding and always stimulating experience.

The distinguished majority whip, Mr. CRANSTON, has been a mode of courtesy and accommodation to the minority, and we appreciate his good work and his diligence.

In addition, the Senate has been especially well served by the distinguished chairman of the Budget Committee, Mr. MUSKIE, and the ranking Republican

member of that committee, Mr. BELLMON, for leading a successful effort to reduce the administration's proposed budget deficit of $60 billion to $38.8 billion—a reduction of more than one-third.

This reduction, and the major tax cut enacted this year at the initiative of Senate Republicans, represent a positive and encouraging response to the rising tide of dissatisfaction in this country with the way Government operates, with the amount of money it taxes and spends, with the power it wields over the daily lives of the American people, and with the meager results of its massive endeavors.

This monumental dissatisfaction found its most forceful expression in 1978 with the passage of California's proposition 13—on its face a sweeping rollback of property taxes but perhaps more importantly an explosion of anger among people who want to get the Government off their back and out of their pockets.

Republicans in the Senate did not simply respond to this public outcry. We anticipated it.

Nineteen months ago, in March of 1977, Senate Republicans unanimously called for an across-the-board tax cut of major proportions. This call met not only with rejection but with ridicule within the Carter administration and on the Democratic side of the Senate aisle.

Not until proposition 13 did the Democratic Party awaken to the public demand for tax relief, and it must fairly be said that the driving force behind the tax cut adopted this year was the effort of Republican Senators.

Republicans in the 95th Congress have, in truth, changed the whole direction of the Federal Government.

In the realm of domestic policy, we have proposed—and the Senate has passed—major tax cut legislation.

The Senate has passed a much-changed Humphrey-Hawkins full employment bill free of such undesirable aspects as making government the Nation's employer of last resort, but retaining the goals of reduced unemployment and inflation, together with Republican initiatives promoting a greater involvement of the private sector in the creation of new jobs, and calls for a National Employment Conference of business, labor, government and others to provide better coordination of efforts to solve the unemployment problem.

Republicans provided a bipartisan basis for submission to the States of a constitutional amendment providing full voting representation in Congress for the District of Columbia.

On the impetus of a major Ford Administration initiative, airline regulatory reform was enacted this year, providing lower fares for air passengers and greater competition among carriers.

A Republican amendment, offered by the distinguished gentleman from Arizona, Mr. GOLDWATER, increased the amount of money a social security recipient may earn without losing benefits, and lowered from 72 to 70 the age at which the earnings limit ceases to apply.

Senate Republicans formed an ad hoc committee to recommend new forms of assistance to American farmers, including a more aggressive pursuit of export opportunities and an increase in target prices, and unanimously backed a farm credit bill to permit family farms and partnerships to apply for real estate and operating loans.

Republicans also provided a valuable public service by insuring the defeat of costly or otherwise ill-conceived Democratic initiatives.

A labor law revision was defeated by Republicans who felt the bill would have had devastating consequences for thousands of small business concerns throughout the Nation.

Republicans successfully resisted adoption of a Carter administration welfare "reform" proposal which would have cost the taxpayer an additional $20 billion a year.

Foreign policy gives the Senate minority a more difficult role to play. Bipartisan cooperation in foreign affairs has been a tradition of the Republican Party for almost four decades.

But we believe it equally important to express our disapproval, with respect to administration decisions which we consider detrimental to the interest of our Nation's security.

Three major foreign policy achievements of 1978 were the culmination of policies set by Republican Presidents and skillfully implemented by a Republican Secretary of State.

The Panama Canal treaties ratified by the Senate this year represented the fruition of efforts of six consecutive Presidents, three Democrats and three Republicans. The treaty amendments adopted by the Senate this year for improved American defense of the Canal and the guaranteed rights of first passage for American ships in time of emergency were also Republician initiatives.

The resumption of arms sales to Turkey, strongly urged by President Ford to repair a dangerous debilitation in the southern flank of NATO, was approved by the Senate this year.

And the Carter administration finally made a 180 degree turn in its Middle East policy, abandoning its insistence on a comprehensive Geneva conference co-chaired by the Soviet Union and reverting instead to the step-by-step diplomacy of the last two Republican administrations.

The Camp David summit conference could not have succeeded without the groundwork laid by Presidents Nixon and Ford and Secretary of State Kissinger.

And had it not been for the decision to sell arms to the moderate states of Egypt and Saudi Arabia, as well as Israel—had the United States fallen short of a truly balanced approach to peace in the Middle East, allowing this Nation to be the honest broker in sensitive negotiations—there would have been no Camp David summit conference at all.

But none of this diminishes the great new hope for peace which the Camp David summit represents, nor the praise that is due President Carter, President Sadat, and Prime Minister Begin for their courage, their persistence, and their ultimate success.

The unfortunate fact is that the initiatives remaining from Republican administrations are almost at an end, and the new initiatives of the Carter administration have not inspired the confidence of the Nation or the world.

The administration's decisions to cancel the B–1 bomber, to defer the MX missile, to withdraw American forces from Korea, to defer the neutron warhead system, to slash the Navy's shipbuilding program, to veto the defense authorization bill—all at a time when the Soviet Union is engaged in the most massive arms buildup in the history of mankind—cannot be accepted in the context of bipartisanship.

The foreign policies which this administration can truly call its own have featured little more than visionary goals, reckless pronouncements, and a dangerous departure from the pursuit of a moderate solution and the support of moderate elements in the conflict of southern Africa.

The defense policies of this administration have emboldened our adversaries, encouraged their aggression in central Africa, endangered the fragile balance of power between East and West, and shaken the confidence of our best allies.

The energy policy of this administration has made its tortuous way through the Congress this year, but all that remains is a distant promise of deregulated prices, an impenetrable maze of new regulations, and the same heavy dependence on imported energy this policy was supposed to reduce.

The farm policies this administration has chosen to pursue have resulted in a serious decline in farm prices, a persistent failure to exploit lucrative export opportunities, a thundering outburst of frustration among the farmers of America, and the forced exodus of thousands of those farmers—our most productive citizens—from their farms and their cherished way of life.

The economic policies of this administration have generated a surge of inflation which threatens the standard of living of every American family, warps our balance of trade, and undermines the American dollar in financial centers throughout the world. And even at so great a price, the battle against high unemployment has met with bitter defeat.

What is more, the administration which came to power promising a more harmonious relationship between the executive and legislative branches now finds itself increasingly at odds with the Congress.

The Democratic Party's domination of the Congress over the past 24 years must also share the responsibility for the American people's sweeping disaffection with their own Government.

Each year seems to find the Senate at a farther remove from the deliberative, policymaking body which the framers of the Constitution envisioned, and nearer instead to an August assemblage of elected bureaucrats.

Each year finds us trying to fathom legislative bills so thick, so complex and convoluted we can scarcely claim to

understand them ourselves, bills that go far beyond policy and law to deal with the minutiae of bureaucratic rules and regulations.

As our legislative burden grows, so grows the size and influence of—and our dependence upon—congressional staff.

In the raucous din of special interest pleadings and one-issue constituencies, the true voice of the people grows fainter and more difficult to discern with certainty.

We have witnessed this year—and not for the first time—a mad rush of legislative activity at the end of the session. Important legislative measures, some involving billions of the taxpayers' dollars, have been considered in such haste in recent weeks that this might well be called the "assembly-line Senate."

My colleagues have heard me speak more than once on the need for a "citizen's Congress," but I become more certain every year that a thorough restructuring of our work here, and a drastic reduction in the time we spend here, is the most pressing business of the Senate.

We stand today at a crossroads between the politics of tradition and the politics of innovation.

For the past 45 years, since the darkest days of the Great Depression, the powers of Government have been significantly on the increase.

When economic or social problems have arisen, the American people have turned more and more habitually to Government for solutions. They have, frankly, been encouraged in that direction by five Democratic Presidents and two generations of Democratic Congresses.

This growing reliance has, in turn, given the Federal Government more and more power to dictate how each of us must live and work, and has resulted in the establishment of an extravagant and enormously expensive Federal bureaucracy.

The colossal cost of Government has seriously inflated our national economy, reducing the investment capacity of private industry and the purchasing power of every American family.

Government has also developed an insatiable appetite for paper and redtape, and it is choking the life out of free enterprise and individual initiative in America.

The inescapable fact is that Government has grown too large, too powerful, too costly, too remote, and yet too deeply involved in the daily lives of the American people.

We cannot be content with the present state of affairs. The towering discontent of the American people demands of us not only a new boldness of action but a revolution of thought.

The time has come for this generation of political leadership to create a new republic—more worthy of people's confidence, more responsive and adequate to the Nation's needs.

We must move away from the traditional policy of creating a new bureaucracy for every new Government initiative.

We must search instead for means of achieving public goals through a more creative partnership with private enterprise.

Through specifically targeted tax incentive programs, for example, we can create permanent jobs in private industry, rehabilitate housing in the central cities, and achieve a great many more public goals even as we revitalize the private enterprise system that is the source of our national wealth.

And while the Central Government provides the framework for these programs, individual projects will be adapted by local people to local needs.

In international affairs, the Nation would do well to abandon the policy of unilateral disarmament which has thus far characterized the Carter administration, and a return to a policy of reciprocity. Above all, we must insure that the United States remains so undoubtedly strong that we will never be tested by even the most powerful of enemies.

Senate Republicans this year issued a unanimous declaration on national security and foreign policy, which revealed in detail the growing imbalance of forces between East and West, and called for a national defense of sufficient strength "to deter aggression against ourselves and others, to ensure the freedom of political and economic intercourse in the world, to foster a climate in which people everywhere can aspire to self-determination and have some reasonable hope of realizing that dream."

There are indications that a new Strategic Arms Limitation Treaty may be nearing agreement and that it will be submitted for consideration by the Senate, though I suspect we will not see it before we adjourn.

While I have pledged to examine the proposed SALT agreement carefully when it is submitted, my concern will not be limited to the four corners of the agreement itself. It is possible to take a chance with a treaty, but I will not take a chance with the lives of 220 million Americans.

The consideration of this treaty will present the Senate with an excellent opportunity to debate the sufficiency of our current status of forces, and to construct a national defense policy for the last two decades of the 20th century.

It must be such major and fundamental issues which command the attention of the 96th Congress.

We must contend for the survival of a political system that has served this Nation well over the last 200 years, but which has fallen into disrepair.

We must revitalize an economic system which has made us the richest Nation on Earth, but which staggers now under the heavy weight of taxation and regulation.

We must begin in earnest to reduce the size and cost and power of Government, or we will find all too soon that Government has become our master and not our servant.

Two hundred years ago, the British historian Alexander Tytler gave this bleak forecast of the future of democracy.

A democracy, he said cannot exist as a permanent form of government. It can only exist until the voters discover that they can vote themselves largesse from the public treasury. From that moment on, the majority will always vote for the candidates promising the most benefits from the public treasury, with the result that democracy always collapses over loose fiscal policy and is always followed by a dictatorship.

We can escape that fearful destiny, but not by standing still or continuing on our present path.

The American people have been remarkably right in their judgments over the last two centures, adapting in their collective genius to changing times and circumstances.

Without forsaking the basic political framework which has made us the oldest continuous democracy on Earth.

The underlying meaning of the political events of 1978 may well be that the time has come in America for a political transition of historic proportion.

The Democratic Party is tied to the past, emotionally and philosophically. But the Republican Party is prepared to lead the American people boldly into the future. We are prepared to create with them a new Republic in which the people may reassert their sovereignty over Government, and where the policies of an age that is past will yield at last to the demands of the present and the challenge of the future.

TRIBUTES TO RETIRING SENATORS

SENATOR CLIFFORD HANSEN

Mr. YOUNG. Mr. President, there is always a certain feeling of sadness as we approach the adjournment of our session of Congress when we realize that certain of our friends will not be with us when we reconvene.

Unfortunately, our distinguished colleague from Wyoming, Mr. HANSEN, has decided to retire. The Senate will not be the same without CLIFF HANSEN with his good sense of humor and always friendly manner.

CLIFF HANSEN has become a highly respected authority on very complex legislation dealing with taxation. He is one I can always turn to for advice.

Our friend, CLIFF HANSEN, has also served with great distinction on the energy and natural resources committee, formerly known as the interior committee.

This is a committee which has jurisdiction over much of the legislation affecting the Western States. In his ranking position on this committee, our friend and colleague played a major role in writing significant and far-reaching legislation which that committee has developed in recent years.

His great intelligence, coupled with his sense of humor, make him a highly effective legislator. It is not difficult to understand how CLIFF HANSEN was elected Governor and then to the U.S. Senate by such a big vote.

Mr. President, I do not know of a couple I have served with in the Senate who are more popular or who have more friends, regardless of party, than the partnership of Martha and CLIFF HANSEN.

Pat and I wish only the best for them as they return to their bountiful State of Wyoming.

SENATOR CLIFFORD CASE

Mr. YOUNG. Mr. President, I wish to associate myself with many other Members of the Senate in their kind and well deserved comments regarding our wonderful friend, CLIFFORD CASE, who will be leaving the Senate when Congress adjourns.

CLIFF CASE has a long and outstanding record as a ember of this body. He is a very intelligent person, always well posted on major legislation, especially on questions dealing with foreign relations, the committee on which he is now ranking minority member.

Our friend, CLIFF CASE, is one of the most courteous and friendly members of the Senate. In debate, he can very effectively disagree with Senators whose opinions and views he thinks are wrong. He has always been able to do this without being disagreeable.

CLIFF CASE has not only been a highly respected and effective Member of the Senate, but has been very respected and influential over a long period of years in his own beloved State of New Jersey.

I cannot help but feel the respect and influence with which he is held in New Jersev is largely responsible for the fact that his State is one of the first to announce its election returns for Republican candidates for President.

I have enjoyed my many years in the Senate with CLIFF CASE and will miss him very much when he leaves.

Pat and I have the fond hope that Ruth and CLIFF will enjoy many years of good health and happiness together during their retirement.

SENATOR JAMES B. PEARSON

Mr. YOUNG. Mr. President, far more than the usual number of Senators are voluntarily retiring from the Senate this year, all of them among the ablest Members of the Senate. One of them is my seatmate, the senior Senator from Kansas, JAMES PEARSON.

JIM PEARSON is known in the Senate as one of its best liked and most admired Members. JIM has an unusual wit and humor, which he has sharpened on me and many others.

Mr. President, I never knew JIM PEARSON in even the most tense situation to ever utter an unkind or caustic word about anyone. The great respect he has won from all the Members of the Senate, together with his great ability, have made him very effective in handling legislation.

JIM is not one to be involved in debating numerous legislative proposals when they come before the Senate, but when he has taken a leadership role in any legislation he has been most effective.

It is unfortunate for both the U.S. Senate and this Nation that JIM PEARSON chose to retire in the prime of his highly successful Senatorial career. The Senate will miss him, and he will be sorely missed by me, his seatmate and close personal friend.

Mr. President, I wish my good friend, JIM PEARSON, every success in his new professional venture, along with health and happiness and a most enjoyable future.

SENATOR JAMES EASTLAND

Mr. YOUNG. Mr. President, it is not a happy feeling to realize that my long and pleasant association in the U.S. Senate with the President pro tempore and ranking Member of the Senate, JIM EASTLAND, will soon be ended.

The distinguished Senator from Mississippi is one of the two remaining Members who were in this body when I came to the Senate almost 34 years ago.

Fortunately for me, we became close friends soon after I came here. That friendship and cordial association has been not only enjoyable to me but also very helpful.

JIM EASTLAND is one of the ablest and most effective Members of the Senate I have ever served with.

He has always been a resourceful, determined, and formidable fighter for the philosophy of Government he believed in. He has always been highly respected, even by those with whom he had very differing views on major issues.

This is due in large measure not only to his ability but to his many outstanding fine qualities as an individual. His word has always been as good as gold.

While he could be at times outspoken, especially when he differed sharply with policies and legislation, he could hold different views without creating animosity or ill will.

Mr. President, I have been privileged to serve on the Senate Agriculture Committee with Mr. EASTLAND for most of the more than 33 years I have been in the Senate.

While we come from areas with considerably different types of agriculture, his views and mine were always much the same.

His accomplishments in many areas of legislation, and especially for agriculture, are most noteworthy.

As chairman of one of the Senate's major committees, the Senate Judiciary Committee, he won the respect of all those with whom he served, even those with whom he differed sharply on many issues.

Mr. President, with his retirement, JAMES EASTLAND will leave a void in the Senate which will be difficult to fill, and I will lose a most cherished and loyal friend.

Pat and I extend our heartfelt best wishes to JIM and Libby Eastland for all the years to come.

SENATOR CARL CURTIS

Mr. YOUNG. Mr. President, when the 96th Congress convenes next January our good friend, the distinguished senior Senator from Nebraska, Mr. CURTIS, will no longer be serving with us, having decided to retire.

I will sorely miss my good friend, CARL CURTIS. He is always extremely well posted on all legislation, but particularly any legislation involving taxation. As ranking Republican on the Senate Finance Committee, he is widely regarded as one of the outstanding authorities on taxation. Senator CURTIS is recognized as an outstanding lawyer. In addition to taxation, he has a considerable reputation as a water lawyer.

Our friend, CARL CURTIS, this year will complete 40 years of service in the Congress of the United States—16 years in the House and now 24 years in the Senate.

We in North Dakota owe CARL CURTIS a particular debt of gratitude. I believe he is the only remaining Member of Congress who served on the House committee which wrote the Flood Control Act of 1944. This was a monumental piece of legislation, which, among other things, authorized the so-called Pick-Sloan plan which authorized the Corps of Engineers to construct the mainstem multi-purpose dams on the Missouri River and also authorized the huge Missouri River Basin reclamation project, of which Garrison Diversion in North Dakota is one unit.

The Pick-Sloan plan has provided flood control to all the cities on the Missouri River. No longer are cities such as Omaha, Nebr., and St. Louis, Mo., ravaged by almost annual floods.

In addition, the Pick-Sloan plan has provided vast amounts of electric energy through the hydroelectric generating facilities which were constructed.

The plan also provides water for downstream navigation and has done much to stabilize the economy, as well as life, along the Missouri River. As I have indicated, we in North Dakota appreciate our friend, CARL CURTIS' efforts on this massive project.

Mr. President, our friend, CARL CURTIS, is a dedicated Republican, having served his party in many posts, including the position he now holds as chairman of the Republican Conference, where he has served with great distinction.

He is an excellent debater, and while from time to time he has taken sharp issue on matters where he differed with his colleagues in the other party, I am sure all will agree he has done this fairly and in a friendly manner without creating ill will or animosity.

Pat and I express the fond hope that our very special friends, Mildred and CARL CURTIS, will enjoy many happy years in their retirement.

A TRIBUTE TO SENATOR MURIEL HUMPHREY

Mr. MUSKIE. Mr. President, yesterday the Senate passed the Humphrey-Hawkins bill, legislation that bears the name of Hubert Humphrey and now his wife MURIEL.

Had Hubert been here how happy he would have been.

And MURIEL would have shared his joy from the gallery.

But that was not to be.

MURIEL HUMPHREY was sworn in on January 26 of this year.

From that day on she worked tirelessly and effectively for the Humphrey-Hawkins bill.

The Senate passage of that bill is her most notable achievement during her tenure.

An achievement, I might add, that few, if any, have realized in a similar period of time.

MURIEL HUMPHREY has spoken elo-

quently, on the Humphrey-Hawkins bill and other matters.

But MURIEL will be remembered for much that is not recorded in statute or in the proceedings of the Senate.

I have known MURIEL HUMPHREY for many years.

And I have a very special affection for her.

She has been humble when times were good, strong when times were bad, and always warm, compassionate, and wise.

Her personal qualities are perhaps her greatest legacy.

Many in this Chamber have had the privilege of serving with Hubert and now with MURIEL HUMPHREY, a privilege I consider to be among the highest I could be accorded.

Her decision to step aside is one I regret but respect.

All of us will miss her.

A TRIBUTE TO SENATOR CLIFFORD HANSEN

Mr. MUSKIE. Mr. President, my good friend from Wyoming, CLIFFORD HANSEN, is retiring after two terms in the Senate and many years of distinguished service to his State.

There have been many issues before the Senate on which CLIFF HANSEN and I have disagreed. But in 12 years I cannot recall a single bitter disagreement, or one which left us anything but friends.

CLIFF's deeply felt and continuous concern about the country's resources led him naturally into the field of energy policy before it became a front-page question. His Senate career has been marked by a dedicated effort to conserve American resources, develop America's energy potential, and set aside a portion of our country's most unusual natural resources for the enjoyment and benefit of future generations.

The Interior Committee on which CLIFF served is now the Energy Committee. To CLIFF, it was always the energy committee, and always the natural resources committee. He served all our people well by his continued work in both those fields. And I have enjoyed working with him, and occasionally at odds with him, in them both.

My enjoyment was partly based on the challenge he posed as an opponent. But for the most part, it has been based on my affection for him as an individual, my respect for him as a Senator, my appreciation of his value as an ally and my regard for his honesty and his straightforward manner.

I will miss him. The country will miss his services. I offer my hopes for an enjoyable and satisfying retirement.

TRIBUTE TO SENATOR JAMES O. EASTLAND

Mr. MUSKIE. Mr. President, in the last hours of this session, I want to make it a point to recognize the achievements of the distinguished President pro tempore of the Senate, JAMES O. EASTLAND, who did not seek reelection after 37 years in this body.

The office of President pro tempore is far from a symbolic or ceremonial office. Indeed, our distinguished colleague from Mississippi would be President tomorrow in the unfortunate event of the death of the President and Vice President. The office of President pro tempore is a recognition of JAMES EASTLAND's long experience and able work in this body for nearly four decades. It is a recognition that that kind of experience is of inestimable value not just to the Senate, but to the United States.

JAMES EASTLAND and I have disagreed from time to time, but we have also worked together on legislation to protect our fishing industry, on aid to American agriculture, and on many questions involving the rights and obligations of the Congress as a coequal branch of Government.

I have found his advice helpful, his support valuable, and when we disagreed, I have found his arguments always reasoned and deeply felt.

It has been a privilege to serve with a man who has served his constituents and his conscience with such ability, civility, and energy.

JAMES EASTLAND will be returning soon to the land which he knows so well and which he loves. I wish him every happiness.

A TRIBUTE TO SENATOR JOHN SPARKMAN

Mr. MUSKIE. Mr. President, my friend and colleague, JOHN SPARKMAN, is completing his service to his home State and to the country after 42 years in Congress.

It has been my good fortune to have worked closely with JOHN on the Senate Banking Committee, which was among my first Senate assignments, and on the Senate Foreign Relations Committee, which was an assignment I valued and enjoyed.

Together with our friend from Kansas, Senator DOLE, we also comprise a small, rather unsavory club, since we are all unsuccessful Vice Presidential candidates. I suspect JOHN feels as I do about that distinction.

To paraphrase the man who was threatened with being run out of town on a rail, if it were not for the honor of the thing, I would just as soon walk.

When I came to Washington as a freshman Senator, I determined that the best way to be a good Senator was to do my homework. To a great degree, JOHN was my teacher.

He taught me a great deal about Federal law, encouraged my work on the Banking Committee, and showed by example the value of courtesy, fairness, and grace.

He has had a hand in some of the most progressive and important economic development legislation in this country's history.

Through 42 years, he made it a point not only to remember who elected him, but why. He understood the need to bring opportunity and comfort to all Americans, and he had the legislative ability to shape the policies of Government toward those ends.

As a member of the Foreign Relations Committee, and since 1975 as its chairman, JOHN SPARKMAN has had a hand in developing an expanded role for the Congress in the shaping of American foreign policy, and it is no surprise to anyone who knows him that his view of foreign policy was a view of humanity. He dealt less with other countries than with other people.

Whether we measure JOHN SPARKMAN's remarkable career by his legislative accomplishments, by his political achievements, or by his warm humanity, we will reach the same conclusion In the best sense of the word, JOHN SPARKMAN was a distinguished representative of the people of his State, and people across America.

We owe him a great debt. We will miss his grace and expertise. And we are sorry to see him go.

A TRIBUTE TO SENATOR KANEASTER HODGES, JR.

Mr. MUSKIE. Mr. President, the Senate is an institution nominally based on the theory that men and women representing different geographical and political viewpoints ought to have a place to debate the issues which face their country, discuss those issues freely among themselves, and reach a consensus on the best way to serve the common good.

Sadly, too often the demands of Senate business, constituent service, and travel to our home States consume so much time that we Senators exchange pieces of paper, and not ideas, or worse, see each other too seldom to exchange anything but a casual greeting.

In such an atmosphere it is virtually impossible for one man in 1 year to make much of a mark on the institution and those who serve in it

It is this circumstance which makes KANEASTER HODGES such a rare man. He is one the most unusual men I have met, not for his ideas or his hopes so much as for the strength of his personality, the breadth of his understanding, and the power of his intellect.

I have enjoyed and profited from our work together on the Environment and Natural Resources Committee. I have come to regard my colleague from Arkansas as a friend. I hope that our paths will cross again, here in the Senate or elsewhere. and that the people of Arkansas will see fit to enlist his talents and ability for their benefit and the benefit of us all.

It has been a pleasure and a privilege to know and work with this talented, honest, and valuable human being.

A TRIBUTE TO SENATOR JAMES B. PEARSON

Mr. MUSKIE. Mr. President, our colleague from Kansas, JAMES B. PEARSON, is retiring after 16 years of distinguished service to the people of Kansas and to the country.

It has been my good fortune to have worked with JIM PEARSON on a variety of issues ranging from rural development to strategic arms limitation. I have found him to be a man of integrity, ability and honesty.

JIM PEARSON's legislative accomplishments are many, and literally tens of

thousands of people in my own rural State of Maine benefit today from JIM's work. He recognized that our concern for the plight of urban America can and must be matched by governmental support for the people who live and work, and want to stay, in the small towns which are the backbone of our country.

His is a philosophy I share, and his effective work in behalf of rural America will long be remembered and appreciated.

JIM's achievements in this area would be enough to remember him by. But he has also left a distinctive and important mark on the conduct of American foreign policy, from the Peace Corps to nuclear nonproliferation, and from the Voice of America to SALT.

He has understood the need for a country not only strong but compassionate, a country willing to reach mutual agreement with our adversaries in behalf of all the world's people.

He has understood that compassion and peace are the essence of America.

In addition, his expertise in the area of African affairs has been of utmost value as the people of that continent have groped for identity and independence and a greater role in world affairs.

Finally, but not least, JIM PEARSON has been a leader in the development of a new rationale for the conduct of American politics, culminating in the Federal Elections Campaign Act. I know he worked together with my friend Phil Hart on the question of access to the political arena. The changes JIM has made in the fabric of American politics will not be fully appreciated until history records our time. But I believe the changes have been good for the country, and for the political system.

I thank him for that, and for the contributions he has made to life in America and around the globe.

But beyond all these accomplishments, Mr. President, the things which make JIM PEARSON so special to me are the human qualities of decency, openness, and honesty.

These are qualities too often ignored and too little appreciated in our public servants. They are qualities I have particularly enjoyed and benefited from.

So I thank my friend from Kansas for his help, and his talent, and especially for his humanity. I know I speak for all my colleagues when I say I will miss him in the Senate.

And I wish him well.

A TRIBUTE TO SENATOR JAMES ABOUREZK

Mr. MUSKIE. Mr. President, it was not clear in the closing days of the 95th Congress that a tribute to the retiring Senator from South Dakota would be appropriate. It appeared for a time that my good friend and colleague, JIM ABOUREZK, has second thoughts about leaving us and would extend his tenure by keeping the 95th Congress in session in perpetuity.

For we who have enjoyed so much JIM's style and respected his conscience, his ability, and his dedication, it would have been a fitting response to our desires that he continue his service in the Senate. Such, of course, could not be and was not the case. JIM ABOUREZK concluded his service in the Senate—as he served for 6 years—with his own style, according to his own lights which were always clear, and without regard to the odds confronting him.

JIM's humanity and good humor make him one of the most respected and well liked Senators with whom I have served. JIM always spoke for those least able to speak for themselves in the corridors of power. The poor and the disadvantaged; the Indians whose love and respect he enjoys and has so well earned as chairman of the Select Committee on Indian Affairs; disadvantaged children and the elderly.

JIM's roots are in rural South Dakota and his understanding and love of the people and land in his State led him to champion the cause of the family farm against the myriad powerful pressures threatening that traditional agricultural institution.

JIM ABOUREZK's vision of justice led him to challenge every privilege for the powerful and wealthy he encountered. He perceived provisions in the income tax law as privileges for the wealthy few and fought for their repeal and modification.

Mr. President, JIM ABOUREZK is a young man. He served only one 6-year term with us. I do not know where his future will carry him. I do not know why he decided to leave us. I suspect that the same energy, imagination, and deep sense of justice which made him so valuable to us made the frustration with the legislative process, which we all chafe under, unbearable to JIM ABOUREZK. I do not know what the future holds for him but I am confident that he will continue to speak for and serve his people, his conscience, and his country.

A TRIBUTE TO SENATOR PAUL HATFIELD

Mr. MUSKIE. Mr. President, PAUL G. HATFIELD will complete his service in the Senate at the end of this session. I know that a man of his ability and judgment will not be gone long from the public eye.

I hope that his service as a judge, culminating in his election as chief justice of Montana, did not make him suspicious of legislatures. And I hope his service in the Senate did not confirm those suspicions.

PAUL G. HATFIELD has demonstrated talent, deep understanding, and respect for the law, a willingness to work hard, and a commitment to the people of Montana. He has served his State and country well in the past year.

I do not know whether it is the "Big Sky" or the clean air in Montana which keeps producing such good representatives, but I do know that the affection and respect I had for Lee Metcalf, and have for Mike Mansfield, I also have for PAUL G. HATFIELD.

I wish him well.

SENATOR JAMES B. PEARSON

Mr. THURMOND. Mr. President, upon the occasion of the congressional recess, I join with my colleagues in expressing our best wishes to our distinguished colleague from the State of Kansas, Senator JAMES BLACKWOOD PEARSON.

It was with deep regret that I learned my friend and colleague for the past 16 years decided not to run for reelection. We are losing a great statesman in the Senate, and the people of Kansas are losing an able Senator who has fought faithfully for their needs.

Mr. President, I shall always cherish the 16 years in which I have had the privilege and the pleasure to be associated with JIM PEARSON. He is a man of impeccable character, honesty, and integrity who selflessly dedicated himself to work relentlessly for those programs which he felt were best for Kansas and for our country.

JIM PEARSON brought to the Senate a style of humble statesmanship and leadership which has had a balancing influence on this distinguished body. His Midwestern and practical approach to problems has been a leveling and stabilizing factor on vital and difficult legislation before the Senate. He has won the respect and admiration of his colleagues.

Mr. President, our distinguished colleague from Kansas enjoyed an illustrious career of successes before his election to the Senate on November 6, 1962, after first being appointed to the Senate on January 31, 1962. JIM PEARSON was a lawyer, a Navy pilot, a judge, State senator and State Republican chairman before coming to the Senate. The people of Kansas sent JIM back to the U.S. Senate in two subsequent reelections. I am confident that the people of Kansas would send him back to Washington again, if he chose to run for reelection. I regret that JIM chose not to enter the race for reelection.

Mr. President, I salute our distinguished colleague. On the occasion of his departure, I say farewell to our good friend, Senator JAMES B. PEARSON of Kansas, and best wishes to him and his fine family for continued success, good health, and happiness.

SENATOR JOHN SPARKMAN

Mr. THURMOND. Mr. President, after a long and distinguished career on Capitol Hill, Senator JOHN SPARKMAN is retiring.

For 42 years, Senator SPARKMAN has served his country as both a Member of the House and Senate. His dedicated service to America has helped ease our country through some of its most tumultuous years, and his strength and determination have carried him through the fiercest storms.

Senator SPARKMAN has served capably through eight administrations and he was always the epitome of integrity and determination. He has a firm commitment to America and an overriding sense of responsibility for its welfare. His dedicated service to his State and his Nation has earned him the respect of people from across the Nation.

Senator SPARKMAN has long been a friend of mine and I have deeply enjoyed my association with him. Even though I did not always agree with the positions he took, I respected his convictions for

I knew he would always vote his conscience.

I have long considered Senator SPARKMAN to be an energetic and dedicated statesman. His soft-spoken manner and his gentlemanly demeanor, coupled with his keen intellect and adroit handling of legislation, have made him well respected on both sides of the aisle.

His service in the Senate has been faithful and his accomplishments have been numerous. He will be affectionately remembered by his colleagues as a "gentleman and a scholar."

SENATOR WILLIAM L. SCOTT

Mr. THURMOND. Mr. President, I rise to express my regrets over the decision of Senator WILLIAM L. SCOTT of Virginia to retire from the U.S. Senate. He is a man of character, courage, and capacity. The Senate and the Nation will miss the junior Senator from Virginia and the sound philosophy that he espoused throughout his entire Senate career.

Senator SCOTT is a lawyer who has served with the Federal Government for 25 years, practiced law in Virginia, and was in the House of Representatives for three terms. He was elected to the Senate in 1972 and was appointed to two of the most important committees in the Senate—the Armed Services Committee and the Judiciary Committee.

Mr. President, I have served on both of these committees with Mr. SCOTT. In the years of this service on these two committees, Senator SCOTT has worked diligently and with great interest on the many complex and vital national issues that come before them.

In the areas of national defense, military preparedness, and overall operation of our armed services, Senator SCOTT has exhibited a deep understanding of the needs of our country to maintain a strong military capability. He has always kept the interests of a strong defense in the forefront, but within the limitations of our national budget. For these stands, he has earned the respect of his colleagues on the Armed Services Committee, the Senate, and the American people.

I have also had the privilege of serving with Senator SCOTT on the Judiciary Committee. In every matter that has come before the committee, Senator SCOTT has always made sure that every controversial piece of legislation was discussed fully and fairly. Although many of the bills that come before the Judiciary Committee have been contrary to the beliefs of Senator SCOTT, he always articulated the opposite point of view in clear and convincing fashion. More often than not I fully agreed with him, even though our views frequently did not prevail within the committee.

Mr. President, Senator SCOTT has contributed greatly to the Senate and the Nation over the years. Nancy and I wish BILL and his lovely wife, Inez, good health and happiness and the very best of everything in their future years.

SENATOR CARL CURTIS

Mr. THURMOND. Mr. President, in these waning hours of the 95th Congress, I should like to pay tribute to one of our most eminent Members who is retiring from our midst: Senator CARL T. CURTIS of Nebraska. It would be difficult for anyone to put into adequate words the great value of his service and the esteem in which he is held.

He is a leader in this body and has stood firm over the years, with the constant goal of good laws rooted in the Constitution and in the interests of all Americans. His voice in this Chamber has commanded respect and has on so many occasions beneficially influenced the course of the Nation.

Mr. President, CARL CURTIS is a man of his time who understands this country, its traditions and its laws. He has applied this wisdom with distinction and eloquence.

On a more personal note, I can attest to the excellence of his service. We came to the Senate at the same time, but only after he had served 16 eventful years in the House. Since we became colleagues in the Senate 24 years ago, we have worked together and, I might add, voted together on many vital issues of the day.

As a Member of Congress since 1939, CARL CURTIS has seen and participated in much of our recent and current history. As he took his first congressional oath in the well of the House, the United States was just pulling itself out of the Great Depression and war clouds were looming over the horizon. Today, as he concludes his 40-year career in Congress, he removes from this Chamber his expertise and understanding of the complex issues which are regularly the subject of national debate.

Mr. President, our colleague CARL CURTIS is a particularly noted expert in the fields of taxation and agriculture and we will sorely miss his guidance in these vital fields and others as future policies are developed.

Above all, though, CARL CURTIS is a gentleman; a Senator's Senator. Although he has been a tough fighter for the issues which he supported, he has always made his mark with personal courtesy. Moreover, he is a man of integrity whose word is his bond.

My association with this outstanding Senator from Nebraska has been one of the great privileges I have enjoyed since coming to this body. We will miss his voice and his vote and we will miss him personally.

Mr. President, as Senator CARL CURTIS takes his leave from our ranks, I extend to him and his lovely wife my highest regards, with best wishes for good health, and happiness in the years ahead.

SENATOR CLIFFORD CASE

Mr. THURMOND. Mr. President, Senator CLIFFORD CASE, a long time friend and colleague, will be leaving the Senate at the conclusion of this Congress.

For the past 24 years, Senator CASE has played an integral part in the running of our Nation and has made many contributions to the Senate and the Nation. His dedicated service to the people of America and his devotion to his duties as a Senator have been exemplary, and he will long be remembered by all of us.

Senator CASE has always been an able and conscientious Senator with a firm commitment to America. His history of service to America has earned him the respect of Senators on both sides of the aisle and by people across the country.

I have had the opportunity to work with Senator CASE on numerous occasions, and he has always been an energetic and dedicated Senator. His thorough knowledge of the issues and his patience and perseverance have made him a pleasure to work with. Although we did not always see eye-to-eye, I always respected his convictions for I knew he always voted his conscience on the issues.

I shall always think of Senator CASE as a good friend, and I will always remember with pleasure our years together in the Senate. He helped ease our Nation through many of the rough periods during the past quarter of a century, and the people of his State must be proud of the many contributions he made.

A TRIBUTE TO SENATOR MURIEL HUMPHREY

Mr. THURMOND. Mr. President, among those retiring at the end of this session of Congress, is Senator MURIEL HUMPHREY. Although she has only spent a short time with us as a Senator, she has been well known and admired by many of us for the several decades that she has been in Washington.

As the wife of the late former Vice President and Senator Hubert Humphrey, she gave added strength and support to him. Many times Hubert Humphrey spoke of the great inspiration that MURIEL was to him. It was, therefore, very logical that she should be appointed to fill the vacancy upon his death.

While in Congress, MURIEL HUMPHREY has strongly advocated the positions that she and the late Senator Humphrey believed in. Although our philosophies are somewhat different, she has gained my admiration and respect as a Senator. She proved to be a capable and diligent Senator and was particularly active in the consideration and passage of the Humphrey- Hawkins legislation. Her friendly attitude and cooperative spirit have contributed to and promoted greater efficiency in operation of the Senate.

I wish her good health and happiness in the future and we shall greatly miss this lovely lady upon her retirement from the Senate.

SENATOR JAMES ABOUREZK

Mr. THURMOND. Mr. President, at the conclusion of this Congress, Senator JAMES ABOUREZK will be retiring from the Senate after a history of distinguished service.

Although Senator ABOUREZK and I have frequently disagreed on the issues, I have respected his convictions. He has been a

diligent Senator and has made many worthwhile contributions to our Nation—contributions made possible by his indefatigable service.

It has been a pleasure to have served on the Judiciary Committee with Senator ABOUREZK, and it has been because of his work on the committee that I have come to know him well. He has always been a jovial, quick-witted man whose colorful humor has enlivened many of our committee meetings.

But Senator ABOUREZK's humor did not distract from his hard work. His adroit handling of legislation and his devotion to his country made him an invaluable ally and a formidable foe.

Senator ABOUREZK has always been willing to fight for what he believed, sometimes against overwhelming odds. This tenacity by Senator ABOUREZK has made him an asset to the Senate, and the people of his State must be proud of the work he has performed for them during the past 6 years.

SENATOR MARYON ALLEN

Mr. THURMOND. Mr. President, at the end of this Congress, MARYON ALLEN will be concluding her brief tenure as a U.S. Senator from Alabama. She was appointed to the Senate in June of this year upon the death of her husband, Senator James B. Allen. At a time of great personal grief, Mrs. ALLEN courageously chose to continue her husband's battle for responsible laws—laws which are in the best interest of our Nation. I sincerely thank MARYON ALLEN for accepting that great responsibility and for fulfilling it so ably. She has proved to be a lady of integrity, ability, courage and dedication.

Mrs. ALLEN was a constant source of strength for, and an asset to, her husband during his lifetime. I think it only fitting that she was able, as a U.S. Senator, to continue to support the conservative philosophies of her late husband. I commend her for the fine contribution she has made to the work of the Senate, such as her active opposition to extending the time for ratification of the ERA, which many feel was unconstitutional.

Jim Allen was a distinguished colleague and dear friend for a number of years. I am very sorry that Mrs. ALLEN will no longer be a colleague of mine, but I am sure we will remain friends for years to come. I have the highest regard for MARYON ALLEN and wish her nothing but the very best as she returns to private life. A lady of her charm and grace will long be remembered in the Senate. Her high devotion to duty has been an inspiration to her colleagues who deeply regret her departure.

SENATOR JAMES O. EASTLAND

Mr. THURMOND. Mr. President, among the Senators leaving this distinguished body at the conclusion of this Congress is Senator JAMES O. EASTLAND.

Senator EASTLAND has admirably served in the Senate for the past 36 years, and he has always shown himself to be an able and dedicated and conscientious Senator. He has had the difficult duty of helping steer America through some rough years, but his strength and determination have enabled him to help keep the ship of state on an even keel.

JAMES EASTLAND is a man who could transcend party boundaries for the higher good of his State and his Nation. His political savvy has made him a valuable asset in the Senate whose Members have found him to be an invaluable ally and a formidable opponent. He is a man who stood his ground on all issues and never conceded victory without a fight.

It has been my privilege to work with Senator EASTLAND, and I have always considered him a close friend. I have been able to rely on him for sound advice and discreet judgment on even the most complex issues. I have enjoyed working with Senator EASTLAND on the Judiciary Committee, and his tenure as chairman is one marked by distinction.

JAMES EASTLAND has been firmly committed to American ideals, and he always stood strong against anything which might weaken our governmental system. His dedicated work for his State and his Nation will long be remembered by all Americans, and this body will long revere this distinguished gentleman.

Mr. President, our colleague JAMES EASTLAND has served this country not only faithfully but well. He has been at the center of major decisions in this country since the beginning of World War II and his wise counsel and firm leadership have been of immeasurable benefit to the welfare of the country.

As a personal observation, I can say with all conviction that his key role as chairman of the Judiciary Committee has been superb. His evenhanded guidance of that vital committee has on many occasions bridged the gap between opposing forces on some of the basic laws of the land. It has been a pleasure for me, as the ranking minority member, to work closely with him on that committee.

JAMES EASTLAND has also epitomized with grace the stature and continuity of the Senate. In his preeminent position as President pro tempore of this body, he has brought both skill and courtesy to this post of honor.

Senator EASTLAND has always made his decisions based on what he felt to be in the best interests of the country, not just for the benefit of his party. In fact, he is a man capable of rising above party and, among other occasions, he did so when he supported me for President in 1948.

I shall regret seeing him leave our ranks but he does so with my best wishes to him and his lovely wife for good health and happiness in the years ahead.

SENATOR CLIFFORD HANSEN

Mr. THURMOND. Mr. President, when CLIFFORD HANSEN came into our midst 12 years ago, fresh from the Governorship of Wyoming, he began a distinguished Senate career which he now chooses to close. Although his time in this body has been only two terms, he has accomplished much and he leaves a sizable imprint for his successor to follow.

Throughout his outstanding service in the Senate, I have always been deeply impressed with the soundness of his views and the thoroughness of his grasp. He is a good friend, a wise counselor and an eminent legislator whose departure from this body will be a great loss.

Mr. President, CLIFF HANSEN mastered the intricate fields of energy and taxation as part of his Senate service and applied both his good commonsense and expertise to these legislative matters for the benefit of everyone in the country. Furthermore, he was a great supporter of the veterans of America and contributed some of his most effective service in the formulation and passage of appropriate veterans' legislation.

It has been a real pleasure to have served with this fine man and to have had the opportunity to get the benefit of his sound views. Anytime CLIFF HANSEN has told me that a pending bill was good legislation, I have always been more inclined to support it. The reason is simple: he knows the proper limits of Government power and its fiscal capabilities. Additionally, he is a great student of our constitutional system and the scope of Federal jurisdiction it provides.

Mr. President, CLIFF HANSEN and I have stood together on many issues before this body and I know him to be a man of great intellect and vision. There is no doubt in my mind that his dedicated and patriotic service in the U.S. Senate has benefited the entire country. The laws and policies which he has shaped by his hard work on Capitol Hill will continue to aid the people of this country.

Although I regret to see him leave, he does so with my sincerest best wishes to him and his lovely wife for good health and happiness in the years ahead.

TRIBUTE TO SENATOR ABOUREZK

Mr. EAGLETON. Mr. President, call him what you want—"gadfly," "maverick," or whatever—JIM ABOUREZK is in a very important sense the most indispensable Member of the Senate.

He thinks the unthinkable. He espouses the unpopular. He champions the causes which the rest of us are too lazy or too cowardly to touch.

JIM ABOUREZK's retirement leaves the great void that will not be filled. Who amongst us will take up the burdens which JIM ABOUREZK has borne? Frankly, I do not know. The Senate is losing a magnificant conscience which it so desperately needs.

TO KANEASTER HODGES

Mr. CHURCH. Mr. President, when KANEASTER HODGES came to town, the farmers came with him. I do not remember now whether they actually accompanied him to Washington or whether they followed him here.

In any case, it was not long after KANEASTER HODGES entered the Senate that the farmers arrived at the Capitol in force. And it was not long before the new Senator from Arkansas had introduced us to the concept of 100 percent of parity, the declared goal of the American agricultural movement. Senator HODGES

proved himself a friend and champion of the farmers, and I was proud to be associated with him in that cause.

But I will remember him for other reasons as well, for his steadfast support of the unpopular Panama Canal treaties because he knew them to be right for our country, and for the affable manner in which he has always displayed his earnestness of purpose.

Most of all, I will remember KANEASTER HODGES for the gentleman he is and for the pleasure of his company.

TO JIM ABOUREZK

Mr. CHURCH. I have just been told to come to the floor. When I asked why, I was told that tributes were being paid to our departing colleague, JIM ABOUREZK.

How does one describe JIM ABOUREZK in a few words? In a book, perhaps, a thick book. But Senators have no time to write thick books. If they do, they write about themselves, not their colleagues.

So I am left to ask, how does one describe JIM ABOUREZK in a few words? It can't be done! The proposition is preposterous.

But I must try.

To say that he is a free spirit is trite, and trifling compared to the man. Better to say that he is a prairie wind, a cyclone, a tidal wave.

Another description comes to mind. JIM ABOUREZK is the most uninhibited Member of this body. But that does not begin to say enough either. For JIM ABOUREZK has been a rolling stone, an earthquate, a volcano.

When the loosest member of an uptight institution leaves, of course it will not be the same. This obstinate, exasperating, delightful, tumultuous man will be gone. This place will be quieter and duller.

But I suspect that, although JIM ABOUREZK is leaving the Senate, he will not be leaving us. He will be back among us next year, loose on the city at large, and when we encounter him, wherever it may be, we will be mighty glad to see him.

TRIBUTE TO SENATOR JOHN J. SPARKMAN

Mr. HOLLINGS. Mr. President, this session of the Senate brings to a close the congressional career of JOHN J. SPARKMAN.

The world has turned many times since that day 42 years ago when young JOHN SPARKMAN entered the House of Representatives. The ways of the Congress, of the Nation, and of the world are very different now. For a man to move with wisdom and grace through the epochal events these years have known requires uncommon ability and dedication. It requires understanding. JOHN SPARKMAN has been that kind of man. Not only has he moved with the times, he has helped lead through those times.

His service in these halls has won him the plaudits of those interested in both domestic and foreign events. As chairman of the Banking, Housing, and Urban Affairs Committee, Senator SPARKMAN was the force behind progressive legislation on housing and social betterment. As chairman of the Foreign Relations Committee, he has worked effectively to help propound a foreign policy for America in this new era we live in.

While no seeker after headlines, because JOHN SPARKMAN would rather make headway, his accomplishments brought him national attention. And in 1952 when he was our Democratic Party's running mate alongside the great Adlai Stevenson, he gained international attention and respect.

During my 12 years of service in the Senate, I have had many opportunities to work with my good friend from Alabama—and I have had that many opportunities to be thankful for his friendship and counsel.

Now we join together in wishing both our friends, JOHN and Ivo, the best of everything in the years ahead. We look forward to seeing them as often as possible, knowing that the future holds the pleasure of the company and friendship of these two warm and considerate people. The tribute they receive today is a small token of the gratitude we feel for a job well done, and a job in which they can take immeasurable satisfaction.

TRIBUTE TO SENATOR JAMES O. EASTLAND, PRESIDENT PRO TEMPORE, U.S. SENATE

Mr. HOLLINGS. Mr. President, the U.S. Senate bids a fond farewell to our distinguished President pro tempore at the close of this session.

We all hold a deep abiding affection for JIM EASTLAND and utmost respect for the service he has rendered this body for over 35 years.

The youngest man ever to be named chairman of the Senate Judiciary Committee, JIM EASTLAND set a high standard back in 1956 when he took over the mantle of leadership. And he has continued that same standard during an unparalleled tenure of service.

Half of all the legislation introduced in the Senate passes through the Judiciary Committee, a task that would overwhelm most men. But JIM EASTLAND has never been fazed by this challenge—he relishes it. With his keen mind and indefatigable knowledge of the judiciary, he has influenced every aspect of American life.

Often overlooked because of the immense power wielded by his chairmanship of Judiciary, JIM EASTLAND is a recognized authority on agricultural matters. His legislative record reflects a continuing interest in the farmer, especially the small farmers and the preservation of their valuable role in our agricultural system.

You do not have to look very far to see the contributions our good friend from Mississippi has made to his Nation and State. I have had the privilege of working with JIM EASTLAND on many occasions and I always came away the wiser from the experience.

The Senate has changed in many ways since that day in January of 1943 when JIM EASTLAND began his first full term. But one thing has remained constant—the sincerity and earnestness with which he faces every task. I know all of my colleagues wish JIM and Libby well as they return to their beloved Sunflower County.

TRIBUTE TO CARL CURTIS

Mr. BAYH. Mr. President, the closing of the 95th Congress brings to an end the illustrious legislative career of the senior Senator from Nebraska, CARL T. CURTIS. After four decades of continuous service in the Congress, with the past 23 years as a Member of the U.S. Senate, CARL CURTIS has decided not to seek reelection.

His retirement will leave a void for the Republicans in a number of key Senate assignments. Senator CURTIS is currently serving as chairman of the Republican Conference, is a member of the Senate Committee on Agriculture and Forestry and is the ranking member of the Senate Finance Committee. His responsibilities on the Finance Committee have required extreme attention to the complexities of our tax code and Senator CURTIS' mastery of these intricacies have once again been demonstrated this year as he so capably managed the Republican side of debate on the tax cut legislation.

On a personal note, I have served in the Senate with CARL CURTIS since 1962 and I believe it is safe to say that we have probably not shared similar views on most major legislation to face the Senate during that time. However, I have always found Senator CURTIS to be a worthy opponent and during this Congress, we have found a shared interest in the development of alcohol fuels from agricultural products. For a number of years, Senator CURTIS has realized the importance of finding an economically feasible method to use our renewable natural resources in the production of alcohol fuels, the most near-term option we have for extending our petroleum supplies. I hope that the progress we have made so far with the help and leadership of Senator CURTIS will be continued in the years to come.

After spending so many years as a public official, I know it must have been difficult for Senator CURTIS to decide to retire. I will miss him when the 96th Congress convenes in January but I trust that he and Mrs. Curtis will enjoy a well earned rest.

TRIBUTE TO SENATOR MURIEL HUMPHREY

Mr. BAYH. Mr. President, last January, we in the Senate lost a colleague who will probably be remembered as one of the greatest political leaders of this era. It seemed hard at that time to imagine how any person could take the place of Hubert Humphrey—but we were fortunate indeed to have MURIEL HUMPHREY appointed to serve as the Senator from Minnesota for the remainder of the 95th Congress.

Although I cannot help but feel sadness at the circumstances under which MURIEL joined this body, I feel privileged to have been able to work with her on many issues during the last several months. As the first woman to hold office as a U.S. Senator in many years, she

has, of course, worked hard on many issues of concern to women—and I am indeed grateful to her for all the work she put in during our recent struggle for extending the deadline for ratification of the equal rights amendment—but her involvement has not stopped there. Her assistance on my amendment to raise the funding level for the National Cancer Institute was invaluable. Legislation such as the Humphrey-Hawkins Full Employment Act, legislation dealing with mental retardation, education, nutrition—legislation of concern to every person in the country—has received the benefit of her efforts.

Mr. President, MURIEL HUMPHREY has chosen not to run for another term as a U.S. Senator. Although she will not be with us next year, I do want to express my great admiration and respect for this courageous, sincere, and conscientious lady.

TRIBUTE TO JAMES PEARSON

Mr. BAYH. Mr. President, I rise to pay tribute to my distinguished colleague and good friend from the State of Kansas, Senator JAMES PEARSON, who has chosen not to seek another term of office.

Mr. President, JIM PEARSON was appointed to the Senate in January 1962 and elected to the office the following November—the year of my own election. During the past 16 years, it has been a pleasure to work with him on many issues. Two areas that come to mind readily are transportation and intelligence.

JIM PEARSON and I have worked together on the Select Committee on Intelligence. As vice chairman of the Subcommittee on Secrecy and Disclosure, his efforts in dealing with the many sensitive and delicate issues have been of great help to me and to the committee.

JIM has been the ranking minority member of the Committee on Commerce, Science, and Transportation, and in that capacity he has been instrumental in producing a great deal of authorizing legislation in the transportation field, for which I have had the responsibility of appropriations. The act creating Con-Rail, and the Railroad Revitalization and Regulatory Reform Act, are just two pieces of vital legislation in which JIM PEARSON and I have had a common interest and involvement. He has been a member of the National Transportation Policy Study Commission as well.

Mr. President, JIM PEARSON and I come from different political parties, but I feel strongly that he is a perfect example of the fact that certain basic principles transcend partisanship. His involvement in civil rights issues, for example, has proven this beyond a doubt. I say again, Mr. President, that it has been a pleasure to work with JIM PEARSON, that I have treasured his friendship, and I wish him all the best in the future.

SENATOR JAMES O. EASTLAND

Mr. BAYH. Mr. President, when the Senate adjourns this year we will be losing a number of our most distinguished colleagues, but certainly few in the history of this body have had a greater impact during his service in the Senate than Senator JAMES O. EASTLAND of Mississippi. Our friend and colleague is nearing the completion of 36 years of faithful and effective service.

JIM EASTLAND was appointed to fill the vacancy caused by the death of Senator Pat Harrison in 1941. On November 3, 1942, JIM was elected to his first full term in the U.S. Senate and has been here continuously ever since. Senator EASTLAND has earned the distinction of becoming the longest serving Senator from Mississippi.

Mr. President, it is with good reason that those of us who have been fortunate enough to serve with Senator EASTLAND on the Senate Judiciary Committee have come to call him simply "The Chairman." He has now become the longest serving chairman in history on this important committee. I have been a member of the Judiciary Committee since my first election in 1962 and can affirm that JIM EASTLAND'S reputation for personal honesty and integrity are well deserved. As chairman, he was wise and decisive; never devious nor vicious. He disdained camouflage and deceit. He was straightforward and totally frank. He extended equal courtesies and equal rights to every member of the committee regardless of the member's position or views. In addition to his arduous duties as chairman, Senator EASTLAND has served as the President pro tempore of the Senate since July 28, 1974.

If promoting the interests of his or her State signifies success for a Senator, then I would say that Senator EASTLAND has written a record which includes an almost endless string of successes. One particular event stands out in my mind since I was privileged to be able to work with him on a problem which directly touched the people of his State. When Hurricane Camille smashed the southern section of Mississippi, his reaction was swift, and the results of his action are apparent to any one who sees that section of the gulf crescent which the State of Mississippi proudly calls "America's Riviera."

His contributions in many other fields such as agriculture and forestry and various facets of transportation are too numerous to detail. They are known to the membership of this body and to the people he has represented so very well. They are a living monument to his work and dedication.

One of Senator EASTLAND'S qualities for which I and many others have reason to be grateful is his kindness toward new Members of the Senate. He is famous for the wise guidance he has provided to many new arrivals in this body, including myself. He has shared unselfishly his wisdom, his experience, and the great tactical skills he has developed with the men and women who were launching their careers here. His few, but strong words, have lighted the way for many of us toward success and away from pitfalls.

When he goes home to his beloved Mississippi, he and Mrs. Eastland will take with them the best wishes of every Member of the U.S. Senate for the full measure of health and happiness they both have earned and deserve. There have been many able men and women who have served in the U.S. Senate, but I think there have been very few indeed who have served their state and their country with greater distinction than the senior Senator from Mississippi.

A TRIBUTE TO CLIFFORD CASE

Mr. BAYH. Mr. President, it is with great sadness that I rise to make the following comments regarding one of the finest individuals that it has been my pleasure to know. I am saddened because the United States is about to lose one of her greatest Senators to retirement, Senator CLIFFORD CASE of New Jersey. During this distinguished Senator's 24 years in the Senate and 6 years in the House of Representatives, he has spoken out on such major issues as human rights, integrity in Government, and economic and social equality for all Americans.

Not only has Senator CASE been concerned with the plight of his fellow man, but he has also worked to effect change when necessary. There is no doubt that this great man has touched the lives of most Americans as a result of his work in the Congress. Because of the quality of the man and the quality of his work, he has always been regarded as one of the most effective and competent Senators. The late Senator Paul H. Douglas of Illinois once made the observation that Senator CASE was one of the two best Senators he had ever met. I think most of us who have known and worked with CLIFFORD CASE would concur in this observation.

Typical of the praise and honor bestowed on this great American is the special recognition he received from Rutgers University in 1975. The Rutgers citation stated that, "During the 30 years of Senator CASE'S notable career in Washington—the people of New Jersey, regardless of political affiliation, in overwhelming numbers registered their approval of his leadership and have always had unswerving faith in his honesty and political integrity."

Just as Rutgers University and the citizens of New Jersey love and respect this fine and gentle man, so does the rest of the Nation. To Senator CASE we all are indebted for the many years of outstanding service he has rendered his country. That is a debt that we all will continue to repay with a profound admiration and warm affection for a grand statesman and outstanding human being. To Senator CASE we can never say goodbye. We can only say that he will always have a place in our hearts and will always be thought of as one of the greatest U.S. Senators to ever serve in this body.

TRIBUTE TO SENATOR MARYON ALLEN

Mr. BAYH. Mr. President, in our Nation's history only 13 women were ever elected or appointed to the Senate. All 13 women Senators were first elected or appointed to the Senate to fill the unexpired terms of Members who resigned or died in office.

It is a tragedy that our political process has chosen to exempt from public service in the U.S. Senate, one-half of our population.

Hopefully, our future generation will choose to recognize that America can no longer afford to waste the talents and energy of numerous women who are left unelected on election day.

However, we are not here today to lament our past, but to pay tribute to Senator MARYON ALLEN, our newest woman Senator, who has the privilege of being "number 100" in our prestigious body.

Mr. President, I have had the distinct privilege of serving on the Committee on the Judiciary with Senator ALLEN. She also served as a member of the Subcommittee on the Constitution, which I chair. I believe it is important to note that Senator ALLEN is the only woman to have served on the Senate Committee on the Judiciary since its establishment on December 13, 1816. She not only is the first woman to be appointed to this committee, but also, the first woman who has the distinction of chairing a subcommittee of the judiciary—the Subcommittee on Separation of Powers. Of course, the loss of Senator ALLEN's husband—Senator James Allen left us all saddened. The junior Senator from Alabama served the people of his State and of this Nation with great skill and an eager desire to do what he believed was right. He was an authentic power in the Senate, a master of the legislative and parliamentary processes.

However, those of us who knew Senator MARYON ALLEN before this untimely tragedy and know her now in a different capacity—know there is no question in our minds that she served the Judiciary Committee and the Congress well in her own right and talents.

Senator MARYON ALLEN was thrust from widowhood into the Senate, but she had her own career as a journalist and women's editor of the Sun Newspaper, where she became an award-winning columnist and editor. She continued her career as a staff feature writer for the Birmingham News. In recent years Senator ALLEN has continued her writing career, freelancing for magazines, and has been widely sought as a lecturer, prior to being appointed the junior Senator from Alabama.

Senator ALLEN is a breath of spring air; she is witty; she is intelligent; and, we will all miss her spirit and vivaciousness when we convene the 96th Congress in January.

TRIBUTE TO KANEASTER HODGES

Mr. BAYH. Mr. President, when Rudyard Kipling wrote the words: "If you can walk with crowds and keep your virtue and talk with kings yet not lose the common touch" he must have had in mind an individual with the attributes of KANEASTER HODGES. KANEASTER was called upon by the people of Arkansas to fill the shoes of a man who was a legend in his own time, the Honorable John McClellan. A man of lesser character might easily have come to the Senate and lost the qualities that had endeared him to so many people. But KANEASTER never forgot where his roots originated, so he was always able to keep the good of the people foremost in his mind. The citizens of Arkansas can be tremendously proud of his hard work and effectiveness.

During his brief term, the junior Senator from Arkansas had to tackle some of the toughest issues to come before this body in years. Yet KANEASTER studied the Panama Treaty, tuition tax credits, and other matters, and made those hard choices. He was not swayed by emotional pleas but by the facts. His courage in these instances cannot be overstated.

I had the opportunity to work closely with KANEASTER when the Senate considered the crucial issue of extending the deadline for the ratification of the equal rights amendment. The question of rescission was troubling for many of my colleagues, but KANEASTER carefully studied the proposed amendment and was able to arrive at his position in a thoughtful manner, despite all the pressure being applied from both sides of the question.

KANEASTER worked diligently to learn the parliamentary procedures and rules of the Senate. He was one of the few recipients of the Golden Gavel Award given only to those Senators who have presided over the Senate for 100 hours.

My only regret upon serving with KANEASTER is that he has spoiled us by his presence here. He leaves with the best wishes of all of us who benefited from his time in the Senate. KANEASTER HODGES is a warm and compassionate human being who will be sorely missed.

TRIBUTE TO JAMES ABOUREZK

Mr. BAYH. Mr. President, the Senate will soon lose one of its most independent and sage voices; a Senator who has had the character to always look first to his conscience and last to the convenience of compromise. The Senator from South Dakota, Mr. ABOUREZK, has served his constituents, both in his State and across the country, with his unbending devotion to principle and his clear perception of how to translate principle into wise public policy.

Since coming to the Senate from the other body almost 6 years ago, JIM ABOUREZK has personified the image of the self-reliant legislator, controlled by no faction, bowing to no cause save those he felt right. He was an early opponent of the war in Vietnam, and an active advocate of the much needed "Watergate reforms" designed to remedy the decadence of the Nixon years.

As a member of the Judiciary Committee and its Subcommittee on the Constitution, he has been steadfast in his defense of citizens' civil liberties and civil rights. He has stood for legislation for more effective antitrust laws and for limits on the power of the FBI and other Federal agencies to intrude into our privacy through wiretapping and other surveillance means. As the chairman of the Select Committee on Indian Affairs he has taken up the fight for the rights of American Indians, a truely forgotten and abused minority and called for drastic reform of the programs and agencies dealing with American Indians. JIM ABOUREZK's stands have been as wide ranging as they have been courageous. Knowing his cause was right, he can say as easily as Martin Luther did "Here I stand, I cannot do otherwise."

In the 95th Congress, JIM ABOUREZK will be remembered primarily for his intrepid battle for the American consumer against unnecessarily high energy prices. He will be remembered for his belief in the necessity of breaking up the so-called seven-sisters monopoly of the oil and gas industry, and his fight against natural gas deregulation, oil price decontrol, and tax ripoffs whose main result would be the transfer of billions of dollars from the pockets of the American citizens to oil and gas producers.

In this, as in other matters, JIM ABOUREZK stood by his guns and insisted that his colleagues face up to the tough issues. In his tenure here JIM ABOUREZK has demonstrated, as Machiavelli told his Prince:

> There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in success, than to take the lead in the introduction of a new order of things.

JIM ABOUREZK has set us on this path and it is for us remaining here to continue that work.

BAYH PAYS TRIBUTE TO SENATOR PAUL HATFIELD

Mr. BAYH. Mr. President, we on the Judiciary Committee have been privileged to know and work with Senator PAUL HATFIELD of Montana. Throughout our deliberations on the committee, Senator HATFIELD has consistently been a supporter of legislation to insure the civil rights of all of our citizens. His distinguished service as the chief justice of the Supreme Court of Montana provided him with invaluable talents and expertise in the law which benefited us all both in the committee and the Senate as a whole.

Mr. President, even on those rare occasions when the junior Senator from Montana and I disagreed on legislation within our committee, I could not help but be impressed by his sense of fair play and his willingness always to be forthcoming and cooperative. He is indeed an open and honorable adversary and more importantly, a valued ally.

Mr. President, all of us here today know of the courageous positions taken in this Chamber by the distinguished Senator from Montana. As we all know, the pressures on the Members of this body to cast their vote in one way or another on the controversial issues of our day are indeed tremendous. Senator HATFIELD's positions on these questions did not yield to these pressures but were taken after thoughtful consideration and because he believed them to be in the best interest of his State and his Nation. Such courage was not lost on his colleagues and has had a significant effect on the great issues decided by the Senate during his tenure.

Mr. President, the people of the State of Montana can be proud of the service and the character of this man and we in the Senate will miss his counsel, his wisdom, and his diligence.

TRIBUTE TO WILLIAM L. SCOTT

Mr. BAYH. Mr. President, the Senator from Virginia, (Mr. SCOTT) is ending his service to the Senate and the Nation with the close of the 95th Congress. Of the 6 years he has represented his State in this body, 4 have been as the ranking minority member of the two successive Judiciary Subcommittees I have chaired, first, the Constitutional Amendments Subcommittee and later the Subcommittee on the Constitution. In that capacity, he has demonstrated time and again those qualities and attributes that have endeared him to his fellow Virginians who, since 1966, have sent him to the Congress as their representative, first, in the House and now in the Senate.

While it should be expected that policy differences would occur between us—being that he represents the party of Lincoln and I that of Jefferson—the Senator has risen above petty party rivalries and lent his voice to the argument that debate rather than delay is the Senate's way to do the Nation's business. Without his cooperation this Congress would not have been able to consider such bills as the Civil Rights Commission Act, the equal rights amendment extension, or the District of Columbia representation resolution. On these bills and others, I appreciate the Senator's sense of fairness and compromise. While remaining steadfast in his opposition to these measures, he has been wise to see that a road to truth lay on both sides of the aisle and that as reasonable men and women the Senate would decide which path to take.

The Senator from Virginia has brought to this body a philosophy tempered by experience in government and in his native State. His absence will truly leave a void.

TRIBUTE TO CLIFFORD P. HANSEN

Mr. BAYH. Mr. President, I never find it a pleasant task to bid farewell to a colleague and dear friend after serving together for many years in the Senate. Unfortunately, that is what I must do today to my friend, CLIFFORD HANSEN, senior Senator from Wyoming, who has decided not to seek a third term in the Senate. It is unfortunate that this body will lose the accumulated wisdom and experience of a man who has spent so many years dedicating himself to the betterment of life for individuals in Wyoming and throughout the country. CLIFF HANSEN will leave behind him not only an impressive record of accomplishments, but a reputation for being one of the kindest and fairest men in the Senate.

In his capacity of ranking minority member of the Senate Energy and Environment Committee, CLIFF demonstrated his ability to balance his deep respect for the environment with the necessity to develop our natural resources. Because of his work on legislation creating many of our national parks, citizens in this country will be able to enjoy the beauty and splendor of the finest natural areas in existence for many years to come. This will be a living legacy for CLIFF HANSEN.

The country has lacked a national energy policy but it appears that success is close at hand. There were many tough decisions to be made to assure that the best interests of the country were served with this complex legislation. We were fortunate to have someone as knowledgeable and hard working as CLIFF HANSEN able to devote his energies to this legislation.

I wish CLIFF and his wife Mary my best and envy their opportunity to return to their ranch in Wyoming. We have shared a love for the land for many years, he for his ranch, me for my farm in Indiana. As he leaves the Senate for new endeavors, he should know that the Nation is a better place because of his service here.

TRIBUTE TO RETIRING SENATORS

Mr. CANNON. Mr. President, the haste with which the 95th Congress is drawing to a close prevents paying proper tribute to those of our colleagues who are ending their Senate careers. Thirteen Senators among us tonight will not be back when the 96th Congress convenes in January.

Perhaps the most remarkable career coming to an end in 1978 is that of the senior Senator from Mississippi, JAMES EASTLAND, the President pro tempore of the Senate. JIM EASTLAND has been a force in the Senate for so long it seems impossible to contemplate not having him here. When I first came to the Senate nearly 20 years ago, his keen mind and polished political skills had already marked him as one of the South's great leaders.

It will also seem strange to attend Commerce Committee meetings next year without Senator JAMES PEARSON present. I have enjoyed a close and productive relationship with JIM PEARSON for many years now and, especially this year, have appreciated his judgment and ability as Ranking Republican on the Commerce Committee. I know that I speak for all members of the committee in saying we shall miss him.

The brief amount of time they were with us they prevented me from getting to know, as well as I might, several Members of the Senate who came here as replacements for colleagues who died within the past year. MURIEL HUMPHREY, of course, does not fit that category because she was a friend of many years through my relationship with her late husband. I share the observation of many who felt that she would have made a great contribution to the Senate if she had chosen to seek a full term. But I truly would have liked to have gotten better acquainted with three other interim members who came here this year.

Senator KANEASTER HODGES of Arkansas came to the Senate with the unenviable task of filling the shoes of the deceased John McClellan, truly one of the giants of this body. And yet, Senator HODGES did not seem dwarfed by his predecessor's shadow. He distinguished himself by his intelligence, integrity, and his outspoken leadership on a wide variety of issues. It is a shame that the laws of Arkansas prevent him from seeking Senator McClellan's seat on a full-time basis, but I know he will be welcomed back warmly if he runs successfully for the Senate at a later date.

In MARYON ALLEN the Senate was blessed with another gracious wife of a beloved former colleague. Jim Allen was a fond friend from our many years together on the Senate Rules Committee. MARYON showed that she had learned a great deal from him and did an excellent job filling in for him this year. Seeing her preside over the Senate reminded me of the many hours Jim devoted to learning the Senate rules better than perhaps anyone else. I feel that she would have brought many of the fine qualities of her late husband to the Senate if fate had smiled on her and returned her for a full term.

Senator PAUL HATFIELD of Montana was also prevented by circumstance from fulfilling his promise as an excellent Senator from the West. I had the pleasure of consulting with Senator HATFIELD on many legislative matters and was impressed with his sharp mind and fine judicial temperament. These are qualities that would have proved of great benefit to the Senate and I am indeed sorry that he will not be coming back.

The Democratic side of the Senate will be further altered next year by the absence of retiring Senator JOHN SPARKMAN. Senator SPARKMAN, of course, is one of those brilliant representatives from the South who have given this body so much leadership and personality through the years. He has left an indelible mark as chairman of the Senate Foreign Relations Committee and in the many other areas in which he has excelled.

DEWEY BARTLETT and JAMES ABOUREZK are leaving the Senate of their own accord after serving only one term. Senator BARTLETT was an eminently successful public servant from Oklahoma as a State senator and Governor before coming to this body. He is respected and loved by the citizens of his State and I know they share my high admiration for his ability and courage. Despite his illness, he was a dedicated and faithful representative of the citizens of Oklahoma. He has my warmest personal wishes as he ends a too-brief career in the Senate.

Senator ABOUREZK has perhaps made a stronger impression than any first-term Senator in the recent history of the Senate—although for many of us, I suspect the impression was not always favorable. He has, indeed, prevented us from working our will on many occasions, but I know he acted out of dedication to the causes he believed in.

In addition to Senators PEARSON and BARTLETT, four other familiar Republicans are ending their Senate careers. Of these four, I have known CLIFFORD HANSEN best because he is a Western Senator like myself, CLIFF HANSEN has been a forceful voice for the farmers and ranchers who make up a large part of his Wyoming constituency and he will be an ally sorely missed as we fight Western battles in the future.

Senators CLIFFORD CASE, CARL CURTIS, and WILLIAM SCOTT will also leave large gaps for their party to fill. It has been an honor and a pleasure to serve with them all and I wish them well in their future pursuits.

TRIBUTE TO RETIRING SENATORS

Mr. STEVENSON. Mr. President, I have not always agreed with Senator ABOUREZK, but I have always respected him. He is a man of courage, independence, and ingenuity. And he is a man of great good will and congeniality. This institution will be poorer for his departure, and I will miss him.

Mr. President, Senator PEARSON has been a calm, wise voice in this body. He wastes few words. He has never let partisanship or any narrow purpose color his opinion on his vote. JIM PEARSON is a fine human and a great Senator. My life has been enriched by his friendship, the Senate will be poorer for his departure. I wish him well and will miss him.

Mr. President, DEWEY BARTLETT is a man of strong conviction and a big heart. While I haven't always agreed with him, I have always admired the strength and skill with which he defends his convictions. DEWEY BARTLETT is a man of great good will. He has fought for his beliefs in the face of severe adversity, and has won the affection and respect of all his colleagues. We shall miss him.

Mr. President, Senator SPARKMAN was my father's good friend. In 1952 when I was a second lieutenant in the Marine Corps, Senator JOHN SPARKMAN was running for Vice President of the United States on the Democratic ticket with my father. In the Senate he has been my wise and kindly friend, always the gentleman, always considerate, always a force for continuity and restraint when passions ran high. It has been an honor to serve with him in this body. I am sorry to see him leave and will always be grateful for the graciousness with which he received his friend's son in the U.S. Senate.

Mr. President, it is difficult to imagine the Senate without a Humphrey. MURIEL HUMPHREY filled some large footsteps, and now for the first time really in 30 years there will be no Humphrey in this body. Her departure fills us with sadness. Her service in the Senate filled us with gladness. She carried on in her own warm hearted, competent way, and like all my colleagues, I am sorry to see her leave.

SENATOR PAUL G. HATFIELD

Mr. DECONCINI. Mr. President, during the all too few months that PAUL HATFIELD has been in the U.S. Senate, he has won the respect and admiration of his colleagues. Each of us will miss his presence when the 96th Congress convenes.

It is amazing, Mr. President, that PAUL HATFIELD was able to assume the chairmanship of one of the major subcommittees on the Judiciary Committee within a matter of days after his swearing in. In that position, has friends on the committee are unanimous in their praise. He easily mastered the issues and the procedures of this committee. He has, in fact, authored important legislation. Unfortunately, that good work is only a small preview of what he might have accomplished had he remained in the Senate.

During the difficult weeks of the Senate debate on the Panama Canal treaties, PAUL HATFIELD showed what can only be described as extraordinary political courage. He became convinced that the treaties were in the best interests of the United States. He knew, however, that to vote for those treaties might well eliminate the possibility of his election to a full term. When the moment came, PAUL HATFIELD cast his vote for his conscience.

I can only express the hope that this Nation and the people of Montana will have the opportunity to be served by this fine man in the future. His record as a state judge and his record as a U.S. Senator are exemplary; I am confident that he will serve again, and again with distinction and honor.

SENATOR HODGES

Mr. DECONCINI. Mr. President, the 95th Congress is in its waning hours. Even though the last minute rush of business is pressing, it is nonetheless a time for reflection.

As a freshman Senator, my memories are filled with the brilliant panoply of the interplay that is the essence of this great democracy. Who can escape being impressed walking the same halls as the legendary figures of our history.

But the memories that are most dear to me are the memories of men and women—my colleagues in the Senate who serve their Nation, each one differently, but each in his or her own way, excellently. Some of these colleagues will not return to the Senate. And it is with a great deal of sadness that I contemplate this Chamber without them.

With the passing of Senator McClellan, KANEASTER HODGES was selected by Arkansas to serve out the term. In the short time he has been here, Senator HODGES has in every way distinguished himself. Because we had comparable views on the Panama Canal treaties, we had an opportunity to work closely during that intense period. Senator HODGES displayed not only courage and conviction, but an extremely insightful intellect. He was able to grasp the essence of the problems we confronted. He grasped what I believe the American people felt about that issue. During that time—a time of great personal pressures—I gained strength and solace from his wisdom and from his counsel. For that, I thank him.

I wish him the very best in his future years, and I urge him to sincerely consider serving the people of Arkansas in an elected capacity. It would be hard to imagine that Arkansas could be better served than by Senator KANEASTER HODGES.

SENATOR ABOUREZK

Mr. DECONCINI. Mr. President, as the Washington Post reported recently, they gave a small party for Senator ABOUREZK and 1,000 of his closest friends came. With Senator ABOUREZK's departure, this Chamber will lose its most strongly individualistic Member. He has also been its most consistent member in defending individual freedom against the enroachment of big government and big business, in defending the rights of the minority against the will of the majority. I have occasionally disagreed with JIM ABOUREZK on the issues. I have disagreed with him less frequently on basic principles. He has been a passionate advocate, a tireless ally, and an iron-willed foe. He has remained true to the positions he has adopted in the face of over whelming opposition. As recent events in this Chamber have proven, Senator ABOUREZK has the tenacity and parliamentary skill to force a thorough examination of the question. This is the most essential function of the legislative branch.

Senator ABOUREZK's departure will also be a great loss to an especially significant group of Americans. As chairman of the Select Committee on Indian Affairs, he has been a staunch defender of the rights and interests of native Americans. Under his leadership, the difficult issues facing the American Indian have been thoroughly examined and guided to resolution.

We will be losing a talented, articulate colleague, and a compassionate legislator with the departure of JIM ABOUREZK. I know I speak for all of my colleagues in wishing JIM the best of whatever he chooses to do upon his return to private life. I personally will miss his humor, his intelligence and his counsel.

TRIBUTE TO DEWEY BARTLETT

Mr. HATCH. Mr. President, one of the greatest men I have met in the Senate, without question, is my good friend, DEWEY BARTLETT, of Oklahoma. DEWEY has been, the past 2 years, one of the greatest examples of quiet Christianity involved in courageous daily activity. DEWEY has been a solid and demonstrable example to us all. He has had serious physical tribulations, yet has never complained or ever sought sympathy. DEWEY has always been a man of principle and integrity. He stands for something. He has fought for honest government and an honest energy system. His voice will be heard in many timeless ways as his standards and ideals are vindicated through the coming years.

I, for one, am deeply grieved that he must leave us. I will miss him, sitting directly behind me, and the calm assurance that a great man is watching over us for the betterment of all:

DEWEY BARTLETT

(By ORRIN G. HATCH)

From the blue print carpet
To the marble desk known by all,
Our giant eagle overhead,
The flag behind the President's chair,
Galleries full—observers there,
With guards—and clerks—and staffers
Yes, pages too—yes, little desks
Used by big men who move
In spite of time,
Or life itself
Into the light
Of service given,
And jobs well done.
We will miss him—.
He will miss us.
He will remember.

Great men do—you know.
He's one of them
Yes—He's one of them.

SENATOR BARTLETT

Mr. CRANSTON. Mr. President, DEWEY BARTLETT served one term in the Senate. He concentrated on his committee assignments and on the interests of Oklahoma. He pursued his legislative goals with quiet competence and unobstrusive efficiency. He never tried to be a national figure—the spotlight of world notice seldom caught him in its glare. He sought not the accolades of the mighty—his only goal seemed to be the respect of his friends and fellow farmers of Oklahoma.

And those Oklahomans let Senator BARTLETT know—according to his own account—that honesty and issues were what they looked for in a politician despite the conventional wisdom that image and charisma are what motivate the American voter.

He measured himself by that standard as his performance as a Senator demonstrated. He studied hard. He worked hard. He never let the sin of senatorial self-indulgence corrupt the virtue of that humility which should be the hallmark of all elected representatives in a democratic society.

He is a good Senator. The Senate will miss him.

SENATOR MARYON ALLEN

Mr. CRANSTON. Mr. President, the meteoric flight of MARYON ALLEN through the U.S. Senate has been all too brief.

It was not quite long enough for her to put her own mark on legislative record.

But it was long enough for her to carry on in fine fashion that which she pledged to do when she was appointed last June—continue espousing the principles of government to which her late husband dedicated his life. She has continued on Jim Allen's work, paying as much attention to the nuts and bolts of the Senate and how it works as he did.

MARYON also brought a gracious southern charm to this body and a delightful—if not at times irreverent—wit. We are glad she was here with us. We will miss her.

SENATOR JAMES O. EASTLAND

Mr. CRANSTON. Mr. President, when the 95th Congress adjourns, our colleague from Mississippi, JAMES O. EASTLAND, will have served 36 years in the U.S. Senate.

Senator EASTLAND, first in Senate seniority, was elected President pro tempore of the Senate on July 28, 1972. As holder of this office he has been third in line of succession to the Presidency. Senator EASTLAND proved worthy of this great trust serving with quiet dignity during a time of great crisis in the Presidency.

Twice during this period, Senator EASTLAND assumed the duties of the Vice President of the United States. First, upon the resignation of Spiro Agnew as Vice President on October 10, 1973, he assumed the duties of Vice President until Gerald R. Ford was sworn in on December 6, 1973. And again, he assumed the duties of the office upon the inauguration on August 9, 1974, of President Ford until Nelson A. Rockefeller was confirmed under the provisions of the 25th amendment to the Constitution.

In 1956 Senator EASTLAND became the youngest man ever to be named chairman of the Committee on the Judiciary. He has held this post longer than any other Senator.

As ranking member of the Agriculture Committee, Senator EASTLAND has long been recognized for his outstanding support for the interests of the American farmer.

Mr. President, the virtues of the traditions of the Senate—dignity, restraint, comity, and forebearance—are exemplified in the career of Senator EASTLAND. The functioning of the Senate depends almost entirely upon the commitment of Senators to these traditional virtues. All Senators owe a debt of gratitude to a colleague who has proven his devotion to the Senate as an institution as has JIM EASTLAND throughout his six terms of office.

I salute our colleague and wish him well during his years of retirement.

SENATOR CLIFFORD HANSEN

Mr. CRANSTON. Mr. President, I am very pleased to join my colleagues in wishing godspeed and goodwill to our friend CLIFF HANSEN of Wyoming.

CLIFF has served with me on the Veteran's Affairs Committee where his support and counsel have been most welcome and constructive CLIFF is ranking Republican member of the Committee on Energy and Natural Resources and a senior member of the Finance Committee. In his committee assignments, CLIFF has been known for his consideration of others and his diligent work.

Mr. President, CLIFF HANSEN certainly is one of the most likeable Members of the Senate. His courtesy, warmth, and geniality are sincere and unfailing. CLIFF's enthusiasm for the projects he undertakes is infectious and has led to his numerous successes in persuading a majority of his colleagues to adopt his views. I have valued CLIFF as an ally, respected him as an opponent and have known that I—as all Senators can—can count upon him as a friend, first and foremost.

Those of us in the Senate from the Western States, of course, recognize in CLIFF HANSEN many of the virtues of our region of the country and his home State of Wyoming. His openness, warmth, and directness are the marks of a man born and raised in the West. I value our association in the Senate and wish CLIFF and his family all of the best in his years of retirement from the Senate.

SENATOR JIM ABOUREZK

Mr. CRANSTON. Mr. President, when JIM ABOUREZK leaves the Senate, this body will lose far more than just the only Lebanese American ever to serve here.

It will lose a free spirit, a man who is independent, open, refreshingly direct, and unpretentious.

And, it will lose his never-failing sense of humor, which has often served to deflate the pomposities to which Members of a body like this one are occasionally subject.

Throughout the last 6 years, JIM and I have worked together on many projects and usually agreed on objectives.

But my friendship with and appreciation of this warm and good-hearted man were deepened greatly during our 2-week trip to the People's Republic of China in January.

JIM was not what one would call a "light traveler." He filled three suitcases with photographic equipment alone. He is an irrepressible and talented photographer, and he demonstrated the value of the instant camera as the ultimate goodwill weapon on the streets of Shanghai, where he took many pictures which he immediately gave to those whom he photographed.

Another case carried his omnipresent guitar. And one of the high moments of the trip came in the Shanghai Exhibition Hall when, viewing a display of musical instruments, he impulsively picked up a Chinese guitar and started to play and sing Western songs. This performance immediately drew a crowd of fascinated and friendly Chinese, who expressed their appreciation with warm applause.

JIM joined the majority of the delegation in supporting my recommendation for normalization of relations with the PRC.

Always impetuous and spontaneous, JIM ABOUREZK has found the institutional constraints here too confining.

He points out that his 6-year term in the Senate, plus his previous 2 years in the House, constitute by far the longest he ever held a job.

He has lived a fascinating and varied life. JIM has been a sailor, judo instructor, engineer, bartender, bouncer, rancher, farmer, grocer, car salesman, card dealer, surveyor, lawyer, and most recently, a very colorful Member of Congress.

And he may soon become a published novelist.

I am pleased to say that for a few years, he was even a constituent of mine—while working as a civil engineer in California. As State controller, I signed his pay checks then.

While in the Senate, he has often championed the causes of the hopeless and oppressed, and frequently voted as a dissenter, sometimes alone.

But during his Senate career he has also accomplished a great deal.

To name just a few examples, he is a champion of Indian rights and is responsible for the creation of both the American Indian Policy Review Commission, and the Senate Select Committee on Indian Affairs, both of which he chaired.

Through their efforts, significant legislation designed to redress the grievances and improve the quality of life for Native Americans has been passed, which I have been happy to support.

This year, JIM managed passage of S. 1976, my bill to expand the Redwoods National Park in California, to help preserve the world's tallest living things. And just now, he was tremendously helpful in carrying the omnibus parks bill that creates Santa Monica Mountains Park.

Senator JIM ABOUREZK has accomplished much and been impatient that he could not accomplish more.

And that impatience, together with a desire to spend more time with his wife, Mary, and his family, have caused him to retire.

I join my colleagues in wishing him and his loved ones the happiness that he has often brought to others.

We hope he will be in touch often, as the magnificently diverse career of this western renaissance man continues.

In announcing his retirement, he reminded us that "nobody is indispensable."

Probably, that is true—but the Senate will certainly be a drabber place without JIM ABOUREZK of South Dakota.

FAREWELL SENATOR BILL SCOTT

Mr. CRANSTON. Mr. President, when the 96th Congress convenes next January, one of our colleagues who will not be with us is Senator WILLIAM SCOTT of Virginia. After three terms in the House and one in the Senate, he has chosen to leave elective office to practice law with his sons, Bill, Jr., and Paul, in Fairfax County, Va.

On his side of the aisle BILL SCOTT is known as a workhorse Senator. His approach to the often unglamorous chores of legislation is that of a man who has spent more than half his life as a Government lawyer and in private legal practice. His is a work-style that is both diligent and methodical, paying close attention to details.

As an earnest and able spokesman for conservative causes, he soon earned a national reputation upon his arrival in the Senate. And though we were on opposing sides of many issues—but by no means all—Senator SCOTT and I never exchanged an unpleasant or bitter remark, even in the course of vigorous debate.

I know that many of our colleagues will want to join me in marking Senator SCOTT's departure from these Chambers and in wishing him well in his retirement from public office.

CLIFFORD P. CASE: A SENATOR FOR THE WHOLE NATION

Mr. CRANSTON. Mr. President, when this Senate convened in January 1955, Eisenhower was President and a freshman Senator from New Jersey sat across the aisle for the first time.

When this Senate convenes in January 1979, for the first time in 24 years that Senator, the ranking Republican member of the Foreign Relations Committee and second ranking member of the Appropriations Committee, will not be present. Much has been, and will be, said about the service and career of CLIFFORD P. CASE in the U.S. Senate—not the least accomplishment being that he is the only Senator—Democrat or Republican—currently to serve on both the Foreign Relations and Appropriations Committees.

I join in the praise and adulation of the record of the only Senator from the State of New Jersey ever to be elected four times—although that record, as Lawyer CLIFF CASE might observe, 'Speaks for itself."

As a Democrat, I am particularly impressed by the fact that CLIFFORD CASE was recognized by the late Senator Paul Douglas as "one of the two best Senators" he ever met. And CLIFF is acknowledged by most of us as one of the few of our colleagues who has that unique ability to present arguments on the Senate floor that actually change votes—both Republican and Democrat.

To me, the most significant testimonial to CLIFFORD CASE is in comparing January of 1955, when he first sat with us, with January of 1979—even though he will not be with us. That living testimonial is the difference in the relationship from 1955 and 1979 between Congress—particularly the Senate—and the President in the conduct of foreign policy.

In 1955, Congress, and this Senate, was embarked on a downward course of abdication to the President of responsibility for the conduct of foreign policy. Fortunately, President Eisenhower did not need and did not assert an arrogance of power adopted by some of his successors. But as two of those successors, a Democrat and then a Republican, asserted a near imperial aspect to the Presidency, CLIFFORD CASE was one of the first and most outspoken to arouse us to our own responsibilities and to reestablish the proper balance between the legislative and executive branch.

This effort of the senior Senator from New Jersey, of course, ultimately achieved fruition in the passage of the Case Act, which assures full congressional knowledge of and participation in and substantive agreements made with foreign countries.

Republican Senator Arthur H. Vandenberg probably was the Senator most influential in bringing responsible congressional bipartisanship to key aspects of United States foreign policy. As history records, this was no mean accomplishment.

Republican Senator CLIFFORD P. CASE probably is the Senator most influential in reestablishing the constitutional authority and responsibility of Congress—and particularly this Senate—with the Executive in the conduct of foreign policy. As history will record, this was no mean accomplishment.

The American people, and we in the Senate, are grateful beneficiaries of the 24 years the people of New Jersey have given us in CLIFFORD P. CASE—a Senator for the whole Nation.

SENATOR JAMES B. PEARSON

Mr. CRANSTON. Mr. President, Senator JAMES B. PEARSON, retires from the Senate of the United States this year after 18 years of distinguished service to the people of Kansas and to all the people of the United States. Few Senators have achieved the remarkable balance of humility and leadership, vision and practicality, courage and responsible restraint that Senator PEARSON has displayed in the midst of the political and moral turmoil that engulfed our country and his party in the years just past.

Senator PEARSON's stewardship of the interests of his Midwestern constituency is a model of senatorial responsibility for the well-being of the people who elected him to office—in 1962, 1966, and 1972—after being appointed to the Senate in January of 1962 to fill an unexpired term. His concern over America's growing urbanization, so often entailing great drains on rural economies and values, brought him to a position of unrivaled leadership in restoring and building new programs for rural health services, water and sewer facilities, economic resource development, social, cultural, and other basic services required for the quality of rural life.

Senator PEARSON's deep belief in the integrity of public service kept him active in the fields of Government ethics and campaign finance reform, issues in which I share an intense interest and in which I found reassuring partnership with a man of quiet integrity and hard work.

For 10 years, the distinguished Senator from Kansas has been my colleague and my friend. As we worked together, in a kind of bipartisan partnership, I came to have a great affection and admiration for this gentle, determined man from Kansas.

In JAMES B. PEARSON, the Senate and the people of the United States are losing a great Senator, a good and decent man, and a shining example of political courage and leadership. He leaves us, however, with a store of wisdom and moral force that is the welcome legacy of the Senate and his many colleagues who have known a man who gave public service the finest efforts of his life.

TRIBUTE TO MURIEL HUMPHREY

Mr. CRANSTON. Mr. President, it is with sincere regret that we in the Senate say "good-bye" to MURIEL HUMPHREY. This gentle, modest Senator has been a friend and an inspiration to us all, not only in terms of her efforts to carry on Hubert Humphrey's ideals and goals—a monumental undertaking—but in her own right.

With grace, honesty, and a quiet strength MURIEL HUMPHREY has upheld liberal Democratic traditions. During her 1 brief year in the Senate, Senator HUMPHREY scored a number of unpretentious, yet meaningful victories, winning the unquestioned respect of her colleagues.

I have had the opportunity and pleasure of working together with MURIEL HUMPHREY on the ERA extension and or a number of Human Resources Committee issues ranging from the veterans Upward Bound program to the recent days I particularly enjoyed and will never forget my work with her on the labor bill in Humphrey-Hawkins bill. Working

in cooperation with her, I have found her to be a seasoned professional who knows the ropes, knows the issues, and knows her own conscience and mind. The 12th woman in our history to serve in the U.S. Senate, MURIEL HUMPHREY embodies some of our finest, homespun American ideals and for this—and for her kind and helpful spirit—she will be missed.

I know I speak for us all when I say, with the greatest affection, "Farewell, good luck, and may you enjoy a well-earned happiness in your return home to Minnesota, MURIEL."

FAREWELL TO SENATOR JOHN SPARKMAN

Mr. CRANSTON. Mr. President, after 32 years in the U.S. Senate, my distinguished colleague, Senator JOHN SPARKMAN has announced his retirement from the U.S. Senate.

His political career began with his election to the House of Representatives in 1936 where he served 10 years representing northern Alabama. In 1946, he was elected U.S. Senator. During his years in the Senate he has served in many capacities, distinguishing himself in all of them—chairmanship of the Select Committee on Small Business, the Joint Committee on Defense Production, the Banking, Housing and Urban Affairs Committee, the Senate Housing Subcommittee, and the Senate Foreign Relations Committee since 1975.

I have had an enjoyable opportunity to work closely with JOHN since 1969 as a member of the Senate Banking, Housing and Urban Affairs Committee. He has been one of the most active and effective Members of the Senate and has long been recognized as a leader in housing, small business, finance, economics and foreign affairs. His concern for farmers, veterans, the aged, the unemployed, and undereducated are well known.

He is the Senate author of practically every major piece of housing legislation that has become law since World War II. He is also the author of practically every law of this decade designed to give tax relief to small business firms, to give them credit and enable them to share in government purchasing programs.

He created the Small Business Administration. Senator SPARKMAN is the author or sponsor of legislation providing for adequate health care, rural telephones, veterans benefits, better schools, improved care for the aged and adequate social security coverage.

A firm believer in the United Nations and world peace through cooperation of the nations of the world, he supported the Marshall Plan, the North Atlantic Pact and other movements for purposes of international cooperation that have led him to international prominence. Senator SPARKMAN served as one of the U.S. Delegates to the United Nations in 1950. He was one of the four U.S. signers of the Japanese Peace Treaty in 1951. It is only fitting that he should end his distinguished career in the Senate as chairman of the Foreign Relations Committee.

JOHN SPARKMAN, man of the century, born the son of an Alabama tenant farmer has risen to the top as a national and international figure. Had Adlai E. Stevenson been elected President in 1952—as many of us worked so hard to bring about—JOHN SPARKMAN would have been the Nation's Vice President. This rise has been accompanied by a Sparkman sense of humility that has endeared him to those of us who have had the good fortune to know and work with him.

JOHN SPARKMAN, affectionally known as "Mr. Housing" is truly a statesman, a great leader, and a great American. He will be missed but not forgotten for he has served our Nation well.

SENATOR CARL CURTIS

Mr. CRANSTON. Mr. President, CARL CURTIS was born on March 15, 1905—11 days after Theodore Roosevelt was sworn in for his first full term as President. He was first elected to Congress in 1938 during the Presidency of Franklin D. Roosevelt. His 40 years in Congress have spanned the birth of the nuclear age and of the television age, the advent of genetic engineering, men on the moon, and future shock, and the rise and fall of the Imperial Presidency.

Through it all, CARL CURTIS has stood solid as one of the outstanding spokesmen for traditional American conservatism. If Nebraska is the bedrock of old fashioned American values, then CARL CURTIS has not let those values wither on the Senate floor. In fact, the recent wave of tax protests has revived what CARL CURTIS has been saying for many years about deficit financing and the size of the national debt.

And lest anyone think that other of CARL CURTIS' values are not pertinent today, let me point out, Senator CURTIS has strongly supported our Nation's public education system with maximum community control of our schools. He has been an effective voice for the American farmer, a way of life more and more Americans are learning to value. He has been a staunch supporter of a fair deal for the American veteran. And he has voted for major civil rights legislation.

CARL CURTIS is a constant reminder of the bridge of good will toward all mankind, of fairness, and of basic decency which unites all Americans regardless of their disagreements on social and economic issues.

He ends a distinguished career of service to the Congress of the American people. I salute him.

SENATOR CARL CURTIS

Mr. BAKER. Mr. President, it is my pleasure today to salute my distinguished colleague from Nebraska, Mr. CURTIS, as he completes his tenure as chairman of the Senate Republican Conference for the 94th and 95th Congresses.

His stewardship has been remarkable in many aspects. But I am especially impelled to commend and review his imaginative and effective innovation in providing the conference with a continuous flow of analyses which have cast a new perspective on many contemporary legislative concerns. CARL CURTIS has, by all accounts, helped us greatly in "looking ahead" to a host of emerging national problems.

Senator CURTIS took over the helm of the conference after 36 years in Congress. This service had convinced him that a gap needed filling in the flow of fresh, relevant information to Republican Senators in the struggle to refine judgments and perspectives on emerging national issues.

CARL CURTIS felt the conference needed a locus for finding, screening, and adapting the richness of research efforts and creative thinking so abundant in our land. Five tenets were salient:

First. That is the prudent legislator who peers a bit into the future to foresee legislative demands.

Second. That the best of long-range objective perspectives should be readily available to lawmakers.

Third. That in-depth studies could be readily adapted to a format useful for political decisionmaking.

Fourth. That the jargon of the academic discipline could be translated into the language of the political community.

Fifth. That tenable national policies and Republican positions could only evolve from knowledgeable and defensible perspective.

Consequently, CARL CURTIS established a small research unit as a component of the conference staff. Its essential charge was to reach into the academic, think-tank, and research communities to see what they were doing, what they were thinking, and what they were producing. The staff would screen the materials, and adapt them for maximum readibility and utility for Republican Senators. By doing so, members of the conference could, on a small budget, enjoy the benefit of millions of dollars of research being conducted nationwide.

This has been done. And where, occasionally, vital perspectives were not found to be available, academicians were commissioned to seek direct answers and to suggest perspectives. Sometimes the staff itself prepared analyses of its own.

The results have been gratifying, attested by the nearly 50 papers distributed to Senators and Senate staffs since Senator CURTIS' tenure. Topics have been broad and varied, including taxation, fiscal policy, energy, government regulation of business, health care public opinion, minority concerns, and defense.

Permit me to list a few crucial contributions:

First. In May 1976, at the time of the great defense debate over "essential equivalency," the staff issued a review of military balances between the United States and the U.S.S.R. This comprehensive study provided extensive data within the context of a readable exposition of defense philosophies. It is noted for having foreshadowed, to a great extent, by 18 months in content and conclusion the now famous Nunn-Bartlett report on NATO readiness.

Second. In March 1977, a full month before President Carter's address to Congress and the Nation on the energy crisis, Senator CURTIS distributed a definitive forecast of energy supply/demand bal-

ances through the year 2000. This analysis originally had been developed by the Department of Commerce during the final months of the Ford administration. Although it is believed to be one of the most realistic energy supply/demand forecasts, it had not been made generally available by the Carter administration. Under the direction of Senator CURTIS, the authors made the forecast available and briefed conference members about its implications. The study was supplemented by several other energy policy critiques drawn from the academic and business communities.

Third. More recently, in August 1978, the conference staff released a working document prepared by the Department of Commerce which broke down the forecasts of energy supply/demand by States. This document may well be one of the most important energy studies yet developed. It is destined to change and sharpen the nature of the energy debate as the study's full impact hits home in States where energy will be produced and used. Again, we are among the privileged few to see the document, for the administration is still sitting on it. The conference staff has been besieged by journals for copies—as well as by House Members and Democrat Senators.

Fourth. The linchpin of President Carter's energy proposal is the doubling of coal production by 1985. The conference commissioned a former executive secretary of the Department of Transportation and other potential problem areas to the realization of this goal. The result was a report issued this year which detailed point by point the transportation, environmental, financial, labor, and related factors which make the attainment of the President's goal highly unlikely unless positive and drastic legislative and executive action is taken.

Fifth. In April 1977, President Carter proposed to terminate the Clinch River Breeder Reactor project and opposed immediate commercialization of a plutonium breeder. This February a breeder of nuclear power was described at the Fifth Energy Technology Conference in Washington, D.C. The system has become known as the CIVEX process.

The conference staff encouraged and monitored an expert study by the Atomic Industrial Forum to evaluate CIVEX. In September Senator CURTIS issued a prepublication evaluation by AIF which essentially attested to the feasibility of CIVEX. The conference staff is gathering related data on the thorium breeder process.

Sixth. As you know, the Republican Conference is committed not only to energy conservation, but also to active exploration of new energy sources. In this vein the conference staff sought expert help to explore the current state of gasohol technology. The result was a gasohol report to the conference which was acclaimed by Department of Commerce technicians as the best review extant. The report has also been acknowledged by prominent industry members.

As a follow-up procedure, the conference staff shared the study with journals and newspapers where it received wide coverage. The conference also catalyzed a televised panel public debate over gasohol. Allies were found in the agricultural community, American Automobile Association, and among prominent Senate Democrats.

Seventh. The academic community is increasingly active in exploring the pathologies of Government overregulation and Government misregulation. The conference has distributed a number of papers in this area. Senator CURTIS spearheaded this effort by introducing a paper entitled "Government Regulation of Business," at a Policy Committee luncheon early in March 1977. The paper explored the thesis that America is well into a second managerial revolution: the shift of decisionmaking in American business from professional managers to Government planners and regulators. The paper outlined a plausible framework for evaluating the statistics in subsequent articles.

Eighth. In late 1977, Senator CURTIS asked a prominent economist, Roger Freeman, to direct a study of the fiscal impact of President Carter's major legislative initiatives. He was concerned with Carter's apparent bias toward income redistribution. In a brilliant series of reports, Mr. Freeman demonstrated that the impact of Carter's proposals would be a massive and explicit redistribution of income tending toward a political economy of middle-class welfarism. Since that time, Mr. Freeman's thesis has been expanded further in the new book by former Treasury Secretary William Simon, "A Time For Truth."

Ninth. In August of this year, while the tax cut debates were heating up on the Hill, the conference staff distributed four incisive analyses of the theory behind the Hansen-Steiger and Roth-Kemp tax cut amendments. The analyses were commissioned to Mr. Jude Wanniski, former associate editor of the Wall Street Journal. They are particularly useful in that they shift the theoretical emphasis of the increasingly inadequate Keynesian economic model to a framework of supply-oriented economic theory.

Tenth. To reflect our responsibility to be sensitive to the aspirations and special concerns of black Americans, Senator CURTIS altered the conference staff to seek indepth material on this subject. In June 1977, the staff distributed an extensive analysis entitled "Management and Affirmative Action in the Late Seventies," by Prof. Theodore V. Purcell of Georgetown University.

In September 1977, the staff distributed a detailed statistical analysis of the impact of minimum wage legislation on young black males. The conference staff also prepared a compendium of resources to help Republican Senators find the means to better understand the black community. Entitled "Black Americans: A Handbook of Scoial Research Resources," it was distributed this June and to the best of my knowledge is unique in its scope.

Senator CURTIS currently has commissioned a professor at Howard University to prepare materials to develop a clearer perspective of black values in urban America.

Eleventh. The conference staff is also engaged in a systematic effort to review public opinion polls across the United States. In September of this year the staff completed and distributed "Public Affairs Polling in the United States: A Directory of Survey Research Organizations. This directory is probably the most extensive pooling directory of its kind yet compiled.

In this vein Senator CURTIS distributed a report which introduces a supplemental tool for measuring public concerns: Tracking the news content of local newspapers over time.

ASSESSMENT

Senator CURTIS has reached far and deeply across the country to assemble this material and these perspectives for the conference. Contributions have come from such disparate sources as Stanford University, Kansas State University, Howard University, Harvard University, the University of Colorado, Washington University in St. Louis, Georgetown University, and the University of Chicago.

Private research centers have also been tapped: For example, the Center for Policy Process, the Atomic Industrial Foundation, American Association of Railroads, Slurry Transport Association, The National Coal Association, American Petroleum Institute and others.

The conference staff also distributed prepublication articles from professional journals and materials from forthcoming books, as well as unpublished research material from government agencies.

The responses to Senator CURTIS from our Senate colleagues have been gratifying. Here is a sample of comments made:

The perspective you shared will certainly be useful in upcoming discussions before the Senate. (Alcohol fuel-extender studies.)

I found the article to be informative and authoritative, and I hope that the Senate can make some of the changes in the legislation as implied by this article. ("An Economic Appraisal of President Carter's Energy Program")

Through reports like this one, our nation will move closer to reducing our imports of foreign oil while helping our farmers avoid financial disaster. (Staff evaluation of alcohol researches.)

I can well appreciate what (Professor Ragan) has to say and wish that more legislators had read his paper. ("The Failure of Minimum Wage Law")

I have been particularly concerned about the potential economic effects of the President's tax proposals. This study further confirms my suspicions . . . ("Income Redistribution Effects and President Carter's Legislative Proposals")

I have been making many of those same points myself in meetings with constituents and appreciate having this additional background information. ("President Carter's Tax Reform Proposals: Where the Votes Are")

I commend these efforts by the Republican Conference to analyze some difficult yet vital matters of concern to our national energy policy. ("Large-Scale Conversion to Coal: How Likely by 1985?")

I found the specific elements of the report, as well as the nature in which it was researched, most enlightening; and I'm glad you brought it to my attention. ("Ten Major Trends Now Emerging in the United States")

I thank you again, and I remain in continual appreciation of your leadership as Chairman of the Republican Conference. ("Black Americans: A Handbook of Social Research Resources")

In further testimony of the utility of Senator CURTIS' efforts, copies of conference-generated analyses have been requested by Government agencies, private firms and industrial associations. A number of newspapers reported on several of the analyses and one T.V. panel debated the gasohol issues raised. The effort has been one of public as well as legislative interest.

The French writer Victor Hugo very aptly said that:

Nothing in this world is so powerful as an idea whose time has come.

Senator CURTIS just may have used this as his watchword when he assumed the leadership of the conference. He has engaged in what political scientists call "institution building"—by developing the kind of new discussions which have strengthened informed party perspectives in the Senate. I, for one, applaud the Senator for his achievements and would hope to find similar results from the Senate Republican Conference as we move on to a new legislative session.

OTHER RESEARCH-RELATED SERVICES

Not all of the conference staff's activities have been geared to long-range research. Senator CURTIS has also wanted to provide maximum services to meet the specific needs of his colleagues. This often involves short-term and other research-related services. For example:

First. To assist Republican Senators in carrying the public policy debates to their constituency, the conference search staff poured over a large number of Jimmy Carter's campaign position papers and other campaign statements. The lengthy analysis was distributed to the conference.

Second. In May of last year, the staff prepared the highly popular "Layman's Guide to Financing Senatorial Campaigns," and this year is issuing a report entitled "Research Use and Disposition of Senators' Papers."

Third. The conference library staff operates a full clipping service and maintains subject files of all articles of congressional interest which appear in The Washington Post, Washington Star, New York Times, and Wall Street Journal. This year the staff has responded to over 2,000 requests from Republican Senators for materials from the files. The staff also responded to requests for brief analyses of the clippings requested.

Fourth. As an additional service to Republican Senators, the conference staff was directed this year to respond to requests for short-term policy research projects, with a 48-hour response period. A large number of our colleagues have taken advantage of this service. Requests have ranged from bits of esoteric historical information to quick descriptions of the current debates over national health insurance, the Finance Committee's tax bill, the decline in productivity, the nature of saving in the economy, et cetera. Some papers generally have been of sufficient value to distribute generally.

In this regard the most prevalent requests have been for political descriptions of economic statistics. This trend may presage the need for a regular series of short issue papers on economic and tax matters.

Fifth. The polling specialist on the staff has responded to requests to help individual Senators prepare polls for their States to read the temper of their constituents on contemporary policy issues and legislation.

Sixth. The conference staff demonstrated its ability to coordinate activity or to coordinate the exchange of information around specific issues. For example, gasohol legislation required coordination of Republican and Democrat staff, outside technical experts, the press, the Department of Energy, the Environmental Protection Agency, and selected interest representatives such as the American Automobile Association and farm groups. The black studies emphasis has required staff coordination for information and comment. The polling project required staff coordination with the Congressional Research Service and outreach into the polling industry.

CONCLUSION

In concluding my report on conference activities under Senator CURTIS, I would like to reiterate my special gratitude for the comprehensive way in which he has coordinated research activities along a broad spectrum. I especially commend him for his creative initiatives in bringing us research results from around the country on a small budget and for the valuable individual research services he has performed for each of us.

SENATOR JAMES ABOUREZK

Mr. CULVER. Mr. President, during his tenure in the Senate, JIM ABOUREZK has more than once been described as a maverick. Stories about him often suggest that he is somehow different from many of his colleagues.

As is so often the case, that piece of conventional wisdom is true in one sense but superficial and profoundly misleading in another. So when an acquaintance recently remarked to me that JIM ABOUREZK was really not the sort of person one would expect to find in the Senate, I demurred.

In the 8 years we served together in the House and the Senate. I believe that I have come to know JIM ABOUREZK well. I have been privileged to sit with him on the Senate Judiciary Committee, to work with him in the Midwest Conference of Democratic Senators, and to follow his legislative leadership on a number of critical issues on the Senate floor.

That experience has convinced me that, far from being different from what one should expect of a Senator, JIM ABOURZEK embodies some of the finest qualities and gifts of an elected representative.

For 6 years, no group has been too disadvantaged to lose his earnest advocacy when he thought they needed help, no interests too powerful to intimidate his opposition when he thought they were in the wrong, and no task too arduous to undertake when he thought the cause was just.

In those battles, he fought courageously, tenaciously and yet with unfailing humanity and humor. He had many adversaries inside and outside this body, but he had no enemies.

Nor did he ever suffer the illusion that Washington—much less Capitol Hill—was somehow a special repository of wisdom or an exclusive franchise of the public interest. Such monopolistic views he fought just as hard as he did economic concentrations or other elitist claims.

The other evening there was a going away party in his honor. Such affairs can be formal and strained, efforts of obligation rather than labors of love. That reception, however, was different. There could be no doubt that the hundreds of people—Senators, staffs, constituents, and friends—who attended felt a genuine affection for him. The exuberance of the gathering mirrored the zest which he brought to his work in the Senate. We shall miss him as a colleague, but I fully expect that his voice and advocacy will be heard by us for all the terms we are here.

SENATOR JAMES PEARSON

Mr. CULVER. Mr. President, when the 95th Congress adjourns Sentor JAMES PEARSON of Kanas will bring to a close a career in public service spanning three decades. The records of the Senate will bear witness to his legislative leadership in important areas of commerce and transportation and his understanding of the role of this Nation in a troubled and interdependent world. In addition, the people of Kansas, whom he served ably and with dedication for 16 years in the U.S. Senate, will remember a man who knew them and their needs well, who articulated their values and concerns, and who worked tirelessly on their behalf.

There have been few Senators in our experience who have so well combined and balanced an interest in both domestic and international policy. And I doubt that there are many who share JIM's capacity as a negotiator and as a craftsman of legislative solutions. Without trimming his core beliefs he has been exceptionally skilled in working both within his own party and between parties to crystallize consensus and resolve issues. By his quiet persistence and by his ability to cast problems in a clear perspective he has contributed in ways that earn the appreciation of his colleagues but rarely achieve public recognition.

Those of us who had the good fortune to be his colleagues in the Senate admire him for these things but he has touched us in more personal ways, too. It is a time-honored ritual for a Senator to refer to his opponent in debate as his "friend." In the heat of argument that word tends to be used with greater frequency than sincerity. In the case of JIM PEARSON, however, I doubt if any of us ever said it without meaning it.

In my term in the Senate I learned to rely on JIM PEARSON's good humor, his balanced judgment, and his perceptive advice. I know that I was not alone in that reliance.

SENATOR KANEASTER HODGES

Mr. CULVER. Mr. President, I believe that any of us, when we first come to the Senate, must feel a sense of awe for the responsibilities we are about to undertake and for the role we have been chosen

to play. For KANEASTER HODGES that sense must have been particularly intense. The man whose term he was asked to complete had served in this body for more than three decades and had earned a national reputation for his public service. More than half of Senator HODGES' constituents literally could not remember a time when JOHN MCCLELLAN had not been their Senator. And of his new colleagues, only Senator EASTLAND of Mississippi had been sworn in before KANEASTER HODGES' distinguished predecessor.

For an ordinary man, these circumstances might have magnified the customary sense of awe to the level of intimidation. Senator HODGES, however, in his too brief tenure here has performed with distinction, integrity, diligence and uncommon courtesy. Two hundred years ago, the great British statesman Edmund Burke wrote of the obligations of a representative to his constituents.

Their wishes ought to have great weight with him; their opinions high respect; their business unremitted attention. It is his duty to sacrifice his repose, his pleasure, his satisfaction, to theirs—and above all, ever and in all cases, to prefer their interest to his own.

For almost a year, the people of Arkansas have received no less from KANEASTER HODGES. But in addition, Burke said, a representative had other obligations. These were an unbiased opinion, a mature judgement and an enlightened conscience. Those qualities he shared in no small measure with us in this last year and thus served not only his constituents but his colleagues and the Nation as well. What he has done in his tenure here should remind us that the quality of a man's service is not a function of length of time but a measure of his character and commitment.

SENATOR CLIFF HANSEN

Mr. SCHMITT. Mr. President, one of my great personal and professional privileges of my first 2 years in the Senate has been to know and work with CLIFF HANSEN, the retiring senior Senator from Wyoming. From our Senate Prayer breakfast, where he provided great spiritual insight, to the debates on energy policy, where he provided great practical insight, CLIFF has shown the value of commonsense combined with experience.

As a fellow Westerner and as a friend, I look forward to our future association here and at that beautiful spot in his home State that calls him away from us here.

A TRIBUTE TO SENATOR KANEASTER HODGES

Mr. MATSUNAGA. Mr. President, I rise to pay tribute to a man who, more than any other, in the short time that he has served in the Senate, has made a lasting impact on national legislation and won the respect and admiration of his colleagues. I speak, of course, of Senator KANEASTER HODGES of Arkansas.

Although I was denied the privilege of serving on the same committee with the distinguished Senator from Arkansas, I was privileged to occupy a seat only one away from him and came within the sphere of his magnetic personality. His keen sense of humor, his complete dedication to his task as a Senator from Arkansas, his unquestionable integrity, combined with his super personality and winning smile made it impossible for him not to achieve success as a lawmaker in the greatest legislative body in the world. In my capacity as chief deputy majority whip, I had occasion to consult him on issues pending before the Senate, and was deeply impressed by his candor and forthrightness in expressing his views.

I am proud of the fact that I found myself on the same side of the issue in most instances. My life has been made richer for having associated with KANEASTER HODGES, and I thank him for this as I bid him and Mrs. Hodges farewell and aloha.

ALOHA TO A DESKMATE, SENATOR MARYON ALLEN

Mr. MATSUNAGA. Mr. President, one of the great privileges accorded me in my first term in this greatest deliberative body in the world, was that of being the deskmate of Senator Jim and MARYON ALLEN of Alabama. For clarification, let me state that I occupy the desk next to that presently occupied by Senator MARYON ALLEN, and previously occupied by her late husband, Senator James Allen.

It has been an enriching experience for me to be associated so closely with both Jim and MARYON, and I am saddened by the thought that Jim left us so suddenly and unexpectedly, and now MARYON, who was expected to win the Democratic nomination to succeed Jim, leaves us for failure to obtain that nomination.

To my great delight, when MARYON was assigned to the desk next to mine, I found her not only lovely to look at, but also exciting to converse with. She displayed a rare quality of honesty and frankness in the expression of her views. Perhaps, it was this prized quality about her which spelled her defeat at the polls. Her constituents may not have been quite ready for her forthright and direct approach to issues. Perhaps she was ahead of her times, and given time the people of Alabama may yet decide in the future to send Senator MARYON ALLEN back to serve them in the U.S. Congress.

Until then, let me wish MARYON the best that life can give her. I for one will miss her very much and bid her a fond aloha.

RECESS UNTIL 4:45 P.M.

Mr. MORGAN. Mr. President, unless someone else seeks recognition, I ask unanimous consent that the Senate stand in recess until 4:45 p.m. today.

There being no objection, the Senate, at 4:01 p.m., recessed until 4:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ABOUREZK).

ROBERT F. KENNEDY GOLD MEDAL

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 8389.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the bill (H.R. 8389) entitled "An Act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy."

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate recede from its amendment and concur in the report.

Mr. STEVENS. Mr. President, it is my understanding that there was no additional material added by the House, that the House disagreed to the amount of the Senate, and on that basis I concur in the majority leader's motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORRECTION OF OMISSION IN CONFERENCE REPORT ON H.R. 13511

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 761.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The second assistant legislative clerk read as follows:

A concurrent resolution H. Con. Res. 760 to correct an omission in the conference report on H.R. 13511.

Mr. ROBERT C. BYRD. Mr. President, what is that bill?

The PRESIDING OFFICER. It is to correct the enrollment of the tax bill.

Mr. STEVENS. I have examined it and have no objection, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of the resolution.

The PRESIDING OFFICER. Without objection, the concurrent resolution is considered and agreed to.

CONVENING OF THE 1ST SESSION OF THE 96TH CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 1173.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The second assistant legislative clerk read as follows:

House Joint Resolution 1173 relative to the

convening of the first session of the Ninety-sixth Congress, and for other purposes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the joint resolution be considered as having been read twice and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 1173) was considered, ordered to a third reading, read the third time, and passed.

Mr. STEVENS. I have no objection. I hope the staff would put in some bulletin to the effect of what that means in terms of impact on reports that will be forthcoming and the changed dates in this document.

The joint resolution follows:

H.J. RES. 1173

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the Ninety-sixth Congress shall begin at 12 o'clock meridian on January 15, 1979.

SEC. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended, (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 22, 1979, the budget for the fiscal year 1980, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 22, 1979, the Economic Report.

SEC. 3. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the President transmits to the Congress the budget for the Fiscal Year 1980, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the report for Fiscal Year 1980 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. &1024(b) is filed with the Senate and House of Representatives.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair.

The motion was agreed to, and at 4:55 p.m., the Senate recessed subject to the call of the Chair. The Senate reassembled at 6:33 p.m. when called to order by the Presiding Officer (Mr. CANNON).

COMMUNITY MENTAL HEALTH CENTERS EXTENSION ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2450.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

TITLE I—COMMUNITY MENTAL HEALTH CENTERS EXTENSION

SHORT TITLE; REFERENCE TO ACT

SEC. 101. (a) This title may be cited as the "Community Mental Health Centers Extension Act of 1978".

(b) Whenever in this title (other than in sections 109 and 110(d)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

EXTENSIONS OF AUTHORIZATIONS

SEC. 102. (a) Section 202(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$1,500,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980".

(b)(1) Section 203(d)(1) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$34,500,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980".

(2) Section 203(d)(2) is amended (A) by striking out "1978" and inserting in lieu thereof "1980", and (B) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years".

(c) Section 204(c) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980".

(d) Section 205(c) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980".

(e) Section 212(c) is amended by striking out "three" and inserting in lieu thereof "five".

(f) Section 213 is amended by striking out "and" after "1977,", and inserting after "1978," the following "and $25,000,000 for the fiscal year ending September 30, 1979,".

(g) Section 231(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980".

USE OF UNOBLIGATED FUNDS

SEC. 103. (a)(1) Subsection (b)(1) of section 203 is amended by adding before the period a comma and the following: "except that if at the end of such period the center or entity has not obligated all the funds allotted it under a grant, the center or entity may use such unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center or entity is eligible to receive a grant under subsection (a) for such succeeding year".

(2) Subsection (c) of such section is amended by adding at the end the following: "The amount of a grant prescribed by paragraph (1) or (2) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in that year. If in a fiscal year the sum of (i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (ii) the amount of the grant received under this section, by a center or entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year. an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (I) to expand and improve its services; (II) to increase the number of persons (eligible for services from such a center or entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

(b)(1) Paragraph (1)(A) of subsection (e) of such section is amended (A) by striking out "and" at the end of clause (i), (B) by redesignating clause (ii) as clause (iii), and (C) by inserting after clause (i) the following:

"(ii) the amount prescribed for a grant under the applicable repealed section for an entity for any year shall be reduced by the amount of unobligated funds from the preceding fiscal year which the entity is authorized, nuder subparagraph (B) of this paragraph, to use in that year, and".

(2) Paragraph (1)(B) of such subsection is amended by inserting before the period a comma and the following: "except that if at the end of any period for which such a grant is made an entity has not obligated all of the funds received by it under the grant, the entity may use the unobligated funds under such grant in the succeeding * * * period for the same purposes for which such * * * but only if the entity is eligible to receive * * * for such grant period".

(3) Paragraph (1) of such subsection is amended by adding at the end of the following new sentence: "If in a fiscal year the sum of (I) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (II) the amount of the grant received under the applicable repealed section, by an entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the entity is eligible to receive a grant under such an applicable repealed section in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such an entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participtaion in program operations in future years.".

COMMUNITY MENTAL HEALTH CENTERS REQUIREMENTS

SEC. 104.(a)(1) Section 201(b)(1) is amended to read as follows:

"(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

'(A) Beginning on the date the community mental health center is established for purposes of this title, the services provided through the center shall include—

"(i) inpatient services, emergency services and outpatient services;

"(ii) assistance to courts and other public agencies in screening residents of the center's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such

persons through the center as an alternative to inpatient treatment at such a facility;

"(iii) provision of followup care for residents of its catchment area who have been discharged from inpatient treatment at a mental health facility;

"(iv) consultation and education services which—

"(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

"(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's catchment area, promote the coordination of the provision of mental health services among various entities serving the center's catchment area, increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

"(v) the services described in subparagraph (B) or, in lieu of such services, providing a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

"(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

"(i) day care and other partial hospitalization services;

"(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

"(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

"(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

"(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.".

(2) Section 204 is amended by striking out "section 201(b)(1)(D)" each place it appears and inserting in lieu thereof "section 201(b)(1)(A)(iv)".

(b) Clause (A) of section 201(b)(2) is amended by inserting after "in the center's catchment area" the following: ", or, with the approval of the Secretary, in the case of inpatient services, emergency services, and transitional half-way house services, through appropriate arrangements with health professionals and others serving the residents of the catchment area".

(c)(1) Section 201(c)(1) is amended—

(A) by striking out "The governing board of a community mental health center (other than a center described in subparagraph (B))" and inserting in lieu thereof "Except as provided in subparagraph (B), the governing board of a community mental health center"; and

(B) by amending subparagraph (B) to read as follows:

"(B) In the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of subparagraph (A), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.".

(2) Section 206(e) is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), not more than 5 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to provide grants under those sections to community mental health centers which do not meet the governing board requirements of section 201(c)(1)(A).

"(B) Subparagraph (A) shall not apply, during the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980, to any community mental health center which received a grant under this title in a fiscal year beginning before the date of the enactment of the Community Mental Health Centers Amendments of 1975.".

OPERATIONS GRANTS TECHNICAL ASSISTANCE AND MONITORING

SEC. 105. Section 206(e), as amended by section 104(c)(2) of this title, is amended by adding at the end the following new paragraph:

"(3) Not more than 1 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to enter into contracts with State mental health authorities under which the authorities (A) would monitor activities of community mental health centers (other than centers operated by such authorities) receiving grants under this title to determine if the requirements of this title applicable to the receipt of such grants are being met, and (B) would be provided funds to meet the expenses of conducting such monitoring. The authority of the Secretary to enter into contracts under this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

APPLICATIONS

SEC. 106. Section 206(c)(2) is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows: "The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application meets the requirements of paragraph (1) and, except as provided in paragraph (3)—";

(2) by inserting "the Secretary" before "determines" in subparagraphs (A) and (B); and

(3) by striking out "and" at the end of clause (iii) of subparagraph (B), by striking out the period at the end of clause (iv) of such subparagraph and inserting in lieu thereof a semicolon, and by adding after such subparagraph the following new subparagraphs:

"(C) in the case of an application for the first grant under section 203, 204, or 205, or an application for a grant under such section which requests a grant in an amount greater than the amount specified by the applicant in its plan and budget submitted in accordance with paragraph (1)(A)(i), the application is recommended for approval by the National Advisory Mental Health Council; and

"(D) in the case of an application of a community mental health center which does not meet the governing board requirements of section 201(c)(1)(A), the committee appointed pursuant to section 201(c)(1)(B) has approved the application or, if such committee has not approved the application, the Secretary determines that the committee's failure to approve the application was unreasonable.".

CATCHMENT AREAS

SEC. 107. Section 238(2) is amended by inserting "health service areas," after "political subdivisions,"

RAPE CONTROL

SEC. 108. Section 231(c) is amended by inserting after the first sentence the following: "The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee.".

STATE MENTAL HEALTH PROGRAMS

SEC. 109. Subsection (g) of section 314 of the Public Health Service Act is amended to read as follows:

"State Mental Health Programs

"(g)(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State mental health authorities to assist them in meeting the costs of carrying out their functions under title XV of this Act and under section 237 of the Community Mental Health Centers Act and, after September 30, 1979, in meeting the costs of providing mental health services.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the mental health services provided within the State under the grant applied for will be provided in accordance with the State health plan in effect for such State under section 1524(c);

"(B) funds received under the grant applied for will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

"(C) the State mental health authority will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, but not less often than annually, report to the Secretary (through a uiform national reporting system and by such categories as the Secretary may prescribe) a description of the mental health services provided in the State in the fiscal yea~ for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

"(iii) make such reports (in such form and containing such information as the Sec-

retary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(D) the State mental health authority will—

"(i) perform the duties prescribed by section 237 of the Community Mental Health Centers Act;

"(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) within the State;

"(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or, if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities; and

"(iv) establish and carry out a plan which—

"(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate, and

"(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum effort will be made to guarantee the employment of such employees.

"(3)(A) The Secretary shall review annually the activities undertaken by each State mental health authority with an approved application to determine if it complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) he cannot be assured that the State will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply substantially with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or, in his discretion, that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant, or shall limit payment under such grant to activities in which here is no such failure.

"(4) For the purpose of determining the total amount of grants that may be made to the State mental health authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

"(5)(A) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(B) The Secretary, at the request of a State mental health authority, may reduce the amount of the grant to the authority under paragraph (1) by—

"(i) the fair market value of any supplies or equipment furnished the State mental health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State mental health authority and for the purpose of carrying out any project with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State mental health authority.

"(6) In any fiscal year not less than 70 per centum of the amount of a State's grant shall be available only for the provision of mental health services and for the conduct of mental health planning activities in communities of the State.

"(7) For the purpose of making grants under this subsection there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $25,000,000 for the fiscal year ending September 30, 1981.

"(8) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State mental health authorities. The Secretary shall consult with such conference before the publication of proposals for such regulations or amendments.".

MISCELLANEOUS

SEC. 110. (a) Section 311(1)(A) is amended (1) by inserting "for compensation of personnel for its initial operation" after "1975", and (2) by inserting "for such compensation of personnel" after "under that section".

(b) Section 203(e)(1)(A)(i) is amended by striking out "unless it meets the requirements of section 201" and inserting in lieu thereof the following: "(other than section 271) unless it provides at least the comprehensive mental health services described in clauses (1) through (iv) of section 201(b)(1)(A)".

(c) Effective July 29, 1975, section 225 is amended by striking out "this part" and inserting in lieu thereof "this title".

(d) Section 504(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (2) the following: "Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable geographic distribution of Centers.".

EFFECTIVE DATE

SEC. 111. The amendments made by this title (other than by section 110(c)) to the Community Mental Health Centers Act shall apply with respect to grants made under the Community Mental Health Centers Act from appropriations for fiscal years ending after September 30, 1978.

TITLE II—BIOMEDICAL RESEARCH EXTENSION AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

SEC. 201. (a) This title may be cited as the "Biomedical Research and Research Training Amendments of 1978".

(b) Whenever in this title (other than in sections 267 and 268) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

PART A—LIBRARIES OF MEDICINE

EXTENSION OF AUTHORIZATIONS

SEC. 211. Section 390(c) is amended by striking out "and" after "1976," and by inserting before the period the following: ", $15,000,000 for the fiscal year ending September 30, 1979, $16,500,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981".

BOARD OF REGENTS' APPOINTMENTS

SEC. 212. Section 383 is amended (1) by striking out "by the President, by and with the advice and consent of the Senate" in the first sentence of subsection (a) and inserting in lieu thereof "by the Secretary", and (2) by striking out "by the President" in the first sentence of subsection (c) and inserting in lieu thereof "by the Secretary".

PART B—PROGRAMS OF THE NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

EXTENSION OF AUTHORIZATIONS

SEC. 221. (a) Section 414(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $40,000,000 for the fiscal year ending September 30, 1979, and $45,000,000 for the fiscal year ending September 30, 1980".

(b) Section 419B is amended in the first sentence by striking out "and" after "1977" and by inserting before the period the following: ", $470,000,000 for the fiscal year ending September 30, 1979, and $515,000,000 for the fiscal year ending September 30 1980".

SUBMISSION OF REPORTS

SEC. 222. (a) Section 413(b)(2) is amended by striking out "submit to the President for transmittal to the Congress a report" and inserting in lieu thereof "submit a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress.".

(b) Section 418(b)(2) is amended by inserting "by the Secretary" after "transmittal".

INFORMATION PROGRAMS

SEC. 223. (a) Section 412(5) is amended by striking out "make available" and inserting in lieu thereof "make available on a timely basis".

(b) Section 413(d) is amended (1) by striking out "to provide" in the second sentence and inserting in lieu thereof "to provide on a timely basis", and (2) by striking out "diet" in the third sentence and inserting in lieu thereof "diet and nutrition, environmental pollutants".

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

SEC. 224. Section 415(a)(2) is amended by adding after subparagraph (D) the following:

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases."

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

Subpart I—Extension of and Substantive Changes in Programs of the National Cancer Institute

EXTENSION OF AUTHORIZATIONS

SEC. 231. (a) Section 409(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $90,500,000 for the fiscal year ending September 30, 1979, and $103,000,000 for the fiscal year ending September 30, 1980".

(b) Section 410C is amended by striking out "and" after "1977;" and by inserting before the period the following: "$924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980".

NATIONAL CANCER ADVISORY BOARD

SEC. 232. (a)(1)(A) Subsection (a) of section 410B is amended by striking out "twenty-three" and inserting in lieu thereof "twenty-nine".

(B) Paragraph (1) of such subsection is amended by inserting after "Veterans' Administration" the following: ", the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission".

(2) The first sentence of subsection following paragraph (2) is amended (A) by striking out "and not more" and inserting in lieu thereof ", not more", and (B) by inserting before the period ", and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)".

(3) The second sentence of such subsection following paragraph (2) is amended by inserting before the period a comma and the following: "and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer".

(4) Such subsection is amended by adding at the end the following: "The ex officio members of the Board shall be nonvoting members.".

(5) Section 410B(g) is amended by striking out "a report to the President for transmittal to the Congress not later than January 31 of each year on the progress" and inserting in lieu thereof "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress, on the progress during the preceding fiscal year".

(b) The amendments made by subsection (a) of this section respecting the manner of appointing members of the National Cancer Advisory Board and the composition of such Board shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendments.

SUBMISSION OF REPORTS

SEC. 233. Section 410A(b) is amended (1) by striking out "end of each calendar year" and inserting in lieu thereof "end of each fiscal year", (2) by striking out "submit to the President for transmittal to the Congress" and inserting in lieu thereof "submit to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,", and (3) by striking out "the preceding calendar year" and inserting in lieu thereof "the preceding fiscal year".

FUNCTIONS OF CENTERS

SEC. 234. (a) Subsections (a) and (b) of section 408 are each amended by striking out "clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer" and inserting in lieu thereof "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer".

(b) Clause (3) of the second sentence of section 408(b) is amended by inserting after the comma the following: "continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer,".

NATIONAL CANCER PROGRAM

SEC. 235. (a) Paragraph (1) of subsection (b) of section 407 is amended by striking out ", plan and develop" and inserting in lieu thereof "(A) plan and develop", and by inserting before the period the following: "; and (B) implement an expended and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens".

(b) Paragraph (7) of such subsection is amended to read as follows:

"(7) Support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards."

(c) The first sentence of subsection (c)(3) of such section is amended by striking out "twelve times" and inserting in lieu thereof "four times".

CANCER CONTROL PROGRAMS

SEC. 236. (a) Subsection (a) of section 409 is amended to read as follows:

"(a) The Director of the National Cancer Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this subsection shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.".

Subpart II—TECHNICAL REVISION OF THE AUTHORITY OF THE NATIONAL CANCER INSTITUTE

TECHNICAL REVISION

SEC. 241. (a)(1) Part A of title IV (as amended by subpart I of this part) is amended to read as follows:

"PART A—NATIONAL CANCER INSTITUTE

"A DIVISION OF THE NATIONAL INSTITUTES OF HEALTH

"SEC. 400. The National Cancer Institute (in this part referred to as the 'Institute') is a division of the National Institutes of Health.

"CANCER RESEARCH AND OTHER ACTIVITIES

"SEC. 401. (a) In carrying out the purposes of section 301 with respect to cancer, the Secretary, through the Institute and in cooperation with the National Cancer Advisory Board, shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies and organizations and by individuals;

"(3) provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

"(4) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

"(5) cooperate with State health agencies in the prevention, control, and eradication of cancer; and

"(6) procure, use, and lend radium as provided in subsection (b).

"(b) In carrying out subsection (a), all appropriate provisions of section 301 shall be applicable to the authority of the Secretary, and the Secretary is authorized—

"(1) to purchase radium, from time to time and without regard to section 3709 of the Revised Statutes, and to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe; and

"(2) to provide the necessary facilities where training and instructions may be given in all technical matters relating to the diagnosis and treatment of cancer to persons found by the Secretary to have proper technical qualifications and designated by him for such training or instruction and to fix and pay them a per diem allowance during such training or instruction.

"NATIONAL CANCER PROGRAM

"SEC. 402. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

"CANCER CONTROL PROGRAMS

"SEC. 403. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physi-

cians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"DUTIES AND FUNCTIONS OF THE DIRECTOR

"SEC. 404. (a) The Director of the Institute in carrying out the National Cancer Program shall—

"(1) collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

"(2) establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;

"(3) support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States;

"(4) support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards;

"(5) expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise;

"(6) encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(7) provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer;

"(9)(A) prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute; and

"(10) as soon as practicable after the end of each fiscal year, prepare in consultation with the National Cancer Advisory Board and submit to the Secretary, for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress, a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding fiscal year, which shall include a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the Program, and a plan for the Program during the next five years.

"(b) The Director of the Institute (after consultation with the National Cancer Advisory Board) in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act is authorized—

"(1) to obtain (in accordance with section 3109 of title 5, United States Code and if authorized by the National Cancer Advisory Board, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions with any public agency, or with any person, firm, association, corporation, or educational institution;

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally;

"(9) to award grant for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program; and

"(10) to call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"SCIENTIFIC REVIEW

"SEC. 405. (a) The Director of the Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

"(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit, and

"(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by the National Cancer Advisory Board under section 407(b)(3).

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 406. (a) The Director of the Institute is authorized to provide for the establishment of new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 477), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professionals), continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the cost of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceeding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 472. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the Institute.

"NATIONAL CANCER ADVISORY BOARD

"SEC. 407. (a)(1) There is established in the Institute a National Cancer Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-nine members as follows:

"(A) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

"(B) Eighteen members appointed by the President. Not more than twelve of the appointed members of the Board shall be scientists or physicians, not more than eight of the appointed members shall be representatives from the general public, and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors). The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto, and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the Institute. The ex officio members of the Board shall be nonvoting members.

"(2)(A) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of four years, as designated by the Secretary at the time of appointment.

"(B) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(C) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

"(3) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(4) The Board shall meet at the call of the Director of the Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the Institute with respect to the National Cancer Program.

"(5) The Director of the Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

"(6) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

"(7) The Board shall submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and the Congress, on the progress during the preceding fiscal year of the National Cancer Program toward the accomplishment of its objectives.

"(8) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS-18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(9) The Director of the Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"(b) The Board is authorized—

"(1) to review research projects or programs conducted or authorized to be conducted under section 401 relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

"(2) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

"(3) to review applications for grants for research projects relating to cancer and to recommend to the Director for approval under section 405(b)(2) those applications which show promise of making valuable contributions to human knowledge with respect to the cause or prevention of cancer or to methods of diagnosis or treatment of cancer;

"(4) to recommend to the Secretary for acceptance conditional gifts pursuant to section 501 of this Act; and

"(5) to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"PRESIDENT'S CANCER PANEL

"SEC. 408. (a)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

"(3) The Panel shall meet at the call of the Chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

"(b) The Panel shall monitor the development and execution of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

"GIFTS

"SEC. 409. The Secretary shall recommend acceptance of conditional gifts pursuant to section 501 for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of real property or the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410. (a) For the purpose of carrying out this part (other than section 403), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30 1976; $985,000,000 for the fiscal year ending September 30, 1977; $923,590,000 for the fiscal year ending September 30, 1978; $924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980.

"(b) There are authorized to be appropriated to carry out section 403 $20,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; $53,500,000 for the fiscal year ending June 30, 1975; $68,500,000 for the fiscal year ending June 30, 1976; $88,500,000 for fiscal year ending September 30, 1977; $84,560,000 for the fiscal year ending September 30, 1978; $90,500,000 for the fiscal year ending September 30, 1979; $103,000,000 for the fiscal year ending September 30, 1980.

"(c) The authority of the Secretary to enter into any contract for the conduct of a program under section 404(a)(7) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(2) The change in the manner of appointing members of the National Cancer Advisory Board and in the composition of such Board prescribed by the amendment made by paragraph (1) shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendment.

(b) Part I of title IV is amended by adding at the end the following:

"APPROPRIATIONS

"SEC. 477. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

"OTHER AUTHORITY

"SEC. 478. This title shall not be construed as limiting (1) the functions or authority of the Secretary under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (2) the expenditure of money thereof.".

CONFORMING AMENDMENTS

SEC. 242. (a) Section 415(b)(1) is amended by striking out "section 405" and inserting in lieu thereof "section 477".

(b) Section 471 is amended by striking out "section 407(b)(9)" and inserting in lieu thereof "section 404(a)(8)".

PART D—NATIONAL RESEARCH SERVICE AWARDS EXTENSION OF AUTHORIZATIONS

SEC. 251. (a) Subsection (d) of section 472 is amended by striking out "and" after "1977," and by inserting before the period at the end of the first sentence the following: ", $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, and $222,500,000 for the fiscal year ending September 30, 1981".

(b) Subsection (d) of such section is amended (1) by striking out "25 per centum" in the second sentence and inserting in lieu thereof "15 per centum", and (2) by inserting before the period "and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards".

(c) Subsection (d) of such section is amended by adding at the end thereof the following new sentence: "In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.".

APPROVAL OF AWARDS

SEC. 252. Paragraph (2) of subsection (b) of such section is amended by striking out "The award of National Research Service Awards by the Secretary under subsection (a) and the making of grants for such Awards" and inserting in lieu thereof "The making of grants under subsection (a)(1)(B) for National Research Service Awards".

PERIOD OF AWARDS

SEC. 253. Paragraph (4) of subsection (b) of such section is amended to read as follows:

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual."

ADJUSTMENTS IN ALLOWANCES

SEC. 254. The first sentence of subsection (b)(5) of such section is amended by inserting after "dependency allowances)" the following: ", adjusted periodically to reflect increases in the cost of living".

SERVICE OBLIGATION

SEC. 255. (a) Subparagraph (B) of subsection (c)(1) of such section is amended (1) by inserting "or" in clause (i) after "Corps,", (2) by striking out clause (ii), and (3) by redesignating clause (iii) as clause (ii).

(b)(1) Paragraph (2) of subsection (c) of such section is amended to read as follows:

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of three months, such individual shall—

"(A) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(B) if authorized under paragraph (1)(B) or (1)(C), for one month serve in the individual's specialty or engage in a health-related activity."

(2) Paragraph (4)(A) of such subsection is amended by striking out

$$"A=\phi\left(\frac{t-\frac{1}{2}s}{t}\right)"$$

and inserting in lieu thereof

$$"A=\phi\left(\frac{t-s}{t}\right)".$$

(3) Paragraph (5)(B) of such subsection amended by striking out "extreme hardship" and inserting in lieu thereof "substantial hardship".

(b) The amendments made by subsection (a) shall apply only with respect to National Research Service Awards made under section 472 of the Public Health Service Act after the date of the enactment of this Act.

REPORTS ON STUDIES

SEC. 256. Section 473(c) is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "at least once every two years".

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

SEC. 261. Effective October 1, 1978, section 301 is amended by adding after and below paragraph (h) the following: "The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate."

EXPANSION OF RESEARCH AND TESTING AUTHORITY

SEC. 262. Effective October 1, 1978, section 301 (as amended by section 261 of this title) is amended (1) by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", (2) by striking out "Collect" in paragraph (a) and inserting in lieu thereof "collect", (3) by striking out "Make" in paragraphs (b), (c), and (f) and inserting in lieu thereof "make", (4) by striking out "Secure" in paragraph (d) and inserting in lieu thereof "secure", (5) by striking out "For" in paragraph (e) and inserting in lieu thereof "for", (6) by striking out "Enter" in paragraph (g) and inserting in lieu thereof "enter", (7) by striking out "Adopt" in paragraph (h) and inserting in lieu thereof "adopt", (8) by striking out "and" at the end of paragraph (f), (9) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8), respectively, and (10) by inserting "(a)" after "301." and by adding at the end the following:

"(b)(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

"(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

"(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

"(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of informtaion respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health, Education, and Welfare and shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

"(4) The Secretary shall publish an annual report which contains—

"(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

"(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

"(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

"(D) a description of (i) each request received during the year involved—

"(I) from a Federal agency outside the Department of Health, Education, and Welfare for the Secretary, or

"(II) from an entity within the Department of Health, Education, and Welfare to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

"(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or re-

view, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

NEW ARTHRITIS CENTERS

SEC. 263. Section 439(g) is amended by striking out the last sentence.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

SEC. 264. Section 475(a) is amended (1) by inserting before ", shall by regulation" the following: "and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity)", (2) by inserting after "research" in paragraph (1) the following: "(including research under programs of such Division of Nursing)", and (3) by striking out "or the" in paragraph (2) and inserting in lieu thereof "the" and by inserting before the period in that paragraph a comma and the following: "or the Division of Nursing of the Health Resources Administration (or the successor to either such entity)".

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

SEC. 265. Title IV is amended by inserting after section 478 (as added by section 241(b) of this title) the following new section:

"EXPERTS AND CONSULTANTS

"SEC. 479. (a) The Director of the National Institutes of Health may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants who have scientific or professional qualifications, for the National Institutes of Health and for each of the research institutes (other than the National Cancer Institute and the National Heart, Lung, and Blood Institute).

"(b)(1) Experts and consultants whose services are obtained under subsection (a) or under section 404(b)(1) or 413(c)(1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with section 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under this subsection, unless and until the expert or consultant agrees in writing to complete the entire period of his assignment or 1 year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for these expenses is recoverable from him as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under this subsection with respect to an expert or consultant on assignment with the Secretary.".

PUBLIC HEALTH SERVICE HOSPITALS

SEC. 266. Section 321(a) is amended by striking out ", and tobacco".

EXTENSION OF DEADLINE FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

SEC. 267. Section 301(1)(1) of the Arthritis, Diabetes, and Digestive Disease Amendments of 1976 (P.L. 94-562) is amended by striking out "Within eighteen months following its initial meeting (as prescribed by subsection (d))," and inserting in lieu thereof "Not later than February 1, 1979,".

PROGRAMS FOR FAMILIES OF ALCOHOLICS AND ALCOHOL ABUSERS

SEC. 268. (a) Section 2(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) alcohol abuse and alcoholism have a substantial impact on the families of alcohol abusers and alcoholics; and".

(b) Section 303(a)(4)(B) of such Act is amended by inserting "and for education, counseling, and treatment of the families of alcoholic abusers and alcoholics" after "under the age of eighteen".

(c) Section 501(a) of such Act is amended—

(1) by striking out "of" each place it appears in paragraphs (1) through (4) and inserting "of" before "alcohol abuse and alcoholism";

(2) by striking out "and" at the end of paragraph (3) and inserting "and" after the comma at the end of paragraph (4); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) the impact on families,".

(d) Section 501(b)(5) of such Act is amended by inserting "or those of their families" after "individuals suffering from alcoholism or alcohol abuse".

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 301. The Public Health Service Act is amended by adding after title XVII the following new title:

"TITLE XVIII—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

"ESTABLISHMENT OF COMMISSION

"SEC. 1801. (a) ESTABLISHMENT.—(1) There is established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (hereinafter in this title referred to as the 'Commission') which shall be composed of eleven members appointed by the President. The members of the Commission shall be appointed as follows:

"(A) Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research.

"(B) Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care.

"(C) Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

"(3) No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

"(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) four shall be appointed for terms of three years, and

"(B) three shall be appointed for terms of two years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, from members of the Commission.

"(d) MEETINGS.—(1) Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

"(2) The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

"(e) COMPENSATION.—(1) Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COMMISSION

"SEC. 1802. (a) STUDIES.—(1) The Commission shall undertake studies of the ethical and legal implications of—

"(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

"(B) the matter of defining death, including the advisability of developing a uniform definition of death;

"(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

"(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

"(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information contained in such records, and

"(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by that Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

"(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this title on its own initiative or at the request of the head of a Federal agency.

"(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsec-

tion, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

"(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

"(b) RECOMMENDATIONS TO AGENCIES.—(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

"(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

"(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

"(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

"(c) REPORT ON PROTECTION OF HUMAN SUBJECTS.—The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(d) ANNUAL REPORT.—Not later than December 15 of each year (beginning with 1979) the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations described in subsection (b)(1) made to Federal agencies by the Commission during the fiscal year and the actions taken, pursuant to subsection (b)(2), by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(e) PUBLICATIONS.—The Commission may at any time publish and disseminate to the public reports respecting its activities.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'Federal agency' means an authority of the government of the United States, but does not include (A) the Congress, (B) the courts of the United States, and (C) the government of the Commonwealth of Puerto Rico, the government of the District of Columbia, or the government of any territory or possession of the United States.

"(2) The term 'protection of human subjects' includes the protection of the health, safety, and privacy of individuals.

"ADMINISTRATIVE PROVISIONS

"SEC. 1803. (a) HEARINGS.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(b) STAFF.—(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(3) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(c) CONTRACTS.—The Commission, in performing its duties and functions under this title, may enter into contracts with appropriate public or nonprofit private entities. The authority of the Commission to enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) INFORMATION.—(1) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(2) The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this title.

"(3) The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support service as the Commission may request.

"AUTHORIZATION OF APPROPRIATIONS; TERMINATION OF COMMISSION

"SEC. 1804. (a) AUTHORIZATIONS.—To carry out this title there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982.

"(b) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—The Commission shall be subject to the Federal Advisory Committee Act, except that, under section 14(a)(1)(B) of such Act, the Commission shall terminate on December 31, 1982.".

MISCELLANEOUS PROVISIONS

SEC. 302. (a) The President shall initially appoint members to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (established under the amendment made by section 301) not later than 90 days after the date of the enactment of this title.

(b) Effective November 1, 1978, part A of title II of the National Research Act, section 213 of such Act, and subsection (f) of section 217 of the Public Health Service Act are repealed.

Amend the title so as to read: "An Act to amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendments of the House of Representatives.

Mr. STEVENS. Mr. President, I have had this bill checked with the minority serving on the committee. The bill as amended has been agreed to, and I join the majority leader in that motion.

The motion was agreed to.

AUTHORITY TO RECEIVE MESSAGES DURING ADJOURNMENT OF THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to receive messages from the House of Representatives during the adjournment of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE SOVIET ARMS BUILDUP

Mr. McGOVERN. Mr. President, in recent years the Soviet Union has invested heavily in military preparedness, enhancing both the numbers, and the quality of its armed forces.

The United States has not starved that sector either, of course. Indeed, both countries have continued to accumulate vast arsenals, despite the fact that the incorporation of nuclear weapons on both sides should have deflated traditional notions on the value of "superior" military might.

As part of the seminars on "The U.S.S.R. and the Sources of Soviet Policy" conducted earlier this year by the Council on Foreign Relations and the Kennan Institute for Advanced Russian Studies, Lt. Gen. W. Y. Smith of the U.S. Air Force, an assistant to the Chairman of the Joint Chiefs of Staff, supplied a sobering assessment of the Soviet side of the buildup. One of the more significant aspects of his assessment, in my view, is the question of improving technology. General Smith wrote,

It is commonly agreed that the Soviet Union lags in certain technological areas relevant to strategic nuclear force effectiveness. Nonetheless, as is to be expected, the Soviet technology is improving. The laws of physics do not respect national boundaries; if any nation has available talent and resources

which can be applied to important technological areas, in time it will improve quality and effectiveness in that area of endeavor. The Soviets are doing so now in strategic nuclear forces.

In this respect there has been an aura around the debate concerning strategic arms control that I have always found curious. It is the idea that somehow those of us who place a great stake on arms control negotiations are less concerned about national security than those who think we should concentrate on military buildups instead. A far more accurate portrayal is to say that the debate is over whether we can serve our security better by controlling arms than by building them.

I do not, for example, discount the formidable military accomplishments of the Soviet Union. Nor do I feel we should ignore the ominous trends in their force structure and military doctrines. On the contrary, I think we should fully account for those developments and then do what we can to inhibit them, through binding, verifiable arms control agreements. I cannot believe the Soviet Union enjoys squandering its scarce resources on arms any more than we do. The clear interests of both sides—security interests and economic interests as well—are served by arms limitation.

Mr. President, as part of the series of materials I have been offering for the RECORD in preparation for the SALT debates, I ask that the assessment by General Smith be printed in the RECORD.

The report follows:

SOVIET MILITARY CAPABILITIES: STATUS AND TRENDS

My task here permits me to begin with a rather straightforward analysis of Soviet military capabilities. Fortunately, I can leave to others the more difficult task of how the Soviet military establishment participates in and influences Soviet governmental decisions. Nor am I charged with doing a "net assessment" of US/NATO and USSR/Warsaw Pact capabilities, although inevitably I will make a few comments that bear on the relative balance.

Soviet uniformed personnel today total about 4.9 million. About a half million are police and security forces. Of the remaining 4.4 million, about 40 percent are in the general purpose ground forces; 7 percent in tactical and military transport aviation; about 8 percent are in the navy; the remaining 45 percent are distributed among long-range aviation, strategic rocket, homeland air defense, and general support forces. The Soviets also have over half a million civilians in their armed forces establishment. By comparison, the United States has about 2.1 million people serving in uniform, and about 1 million civilians working for the Department of Defense.

In 1968, total Soviet military manpower was 3.8 million to 3.4 million, excluding guards and others. This means that in the last ten years there has been about a 30 percent increase in the number of Soviets under arms.

This trend in manpower is but one indicator of growth. As we turn to other military trends in the USSR, you will note that a similar growth is the predominant characteristic over the last decade—growth in the size of Soviet forces, in the modernity and sophistication of military equipment, in operational effectiveness, and in the ability of project military power to points far distant from the Soviet Union.

In strategic nuclear forces, as shown on Chart 1, the Soviets have strengthened their posture in every dimension except for air defense interceptors (in which the Soviets have maintained a substantial advantage) and in strategic bombers. If Backfire were included in the bomber chart—and that weapon does possess intercontinental capabilities—it would only reinforce the pattern of growth. The recent tailing off of the missile launcher level on the chart is associated primarily with arms control. The charts indicate that the United States during this same period has increased its strategic nuclear strength along only one dimension, albeit a very important one: numbers of warheads and bombs. The Soviets have thus narrowed the gap in many prime strategic indicators, and have surpassed the United States with respect to several numerical measures.

Quality is another matter. Historically, the United States has relied heavily on technology as a substitute for manpower. The Soviet Union has done the reverse. It is commonly agreed that the Soviet Union lags in certain technological areas relevant to strategic nuclear force effectiveness. Nonetheless, as is to be expected, the Soviet technology is improving. The laws of physics do not respect national boundaries, if any nation has available talent and resources which can be applied to important technological areas, in time it will improve quality and effectiveness in that area of endeavor. The Soviets are doing so now in strategic nuclear forces. Consequently, we anticipate still further improvements in the accuracy and reliability of Soviet strategic nuclear missiles in the 1980s. The Soviet ballistic missile submarine fleet will likewise be strengthened.

In theater nuclear forces, the Soviet Union for the past decade has been increasing its inventory and upgrading sophistication and quality. The result, as General Haig has recently noted, is that the Soviets are closing the gap with the West in this area as well. Thus, the Soviet Union recently added to its operational inventory the SS-20, a sophisticated theater nuclear missile system. This system is expected to replace older, less capable medium- and intermediate-range ballistic missiles. The Soviets likewise have developed a credible family of naval nuclear weapons. Today, Soviet theater nuclear forces contain a greater variety of missile delivery systems and more launchers than those of the United States—and more launchers, too, than those possessed by NATO forces actually in the European theater. The significance of this last fact should not be overestimated, however, given the number of strategic nuclear forces the United States is able to bring to bear in defense of our allies.

Indicators of the increases in conventional Soviet armed forces are shown on Chart 2. In the past decade, the USSR has increased its tank inventory from 35,000 to about 50,000—up by more than 40 percent; its artillery (which has always been excellent) from about 12,000 to nearly 20,000 pieces—up 60 percent; its tactical aircraft from under 4,000 to over 5,000—up 25 percent. The emphasis clearly is on firepower and mobility, both characteristics essential for an offensively oriented force. The 30 percent growth in personnel noted earlier only underscores this point. Again in passing, we note the changes in US forces by most of these measures.

In the Middle East War of 1973 we saw US equipment in the hands of the Israelis pitted against Soviet equipment used by the Arabs. During and after those hostilities, we gained a new respect for the quality and sophistication of the Soviet equipment and training. This experience suggests that one cannot assume—as has sometimes been done in the past—that Soviet forces are large in size to compensate for their technological inadequacy. Soviet weapons and systems are not only more numerous than those of the US, but a great many of them are as good or better than comparable US systems. For example, current Soviet tanks and infantry fighting vehicles are superior to those the United States has in the field today. Their naval units are also impressive. Their tactical combat aircraft, while still inferior to the most modern of US systems, are improving rapidly. Continuous modernization and incremental improvements—rather than technological leaps from generation to generation—have served Soviet forces well in meeting increased technological requirements.

It is not only the numbers and quality of a country's military force that influences military planners. The disposition, that is, the positioning of these forces, is important as well. In this regard, it is said that the growth in Soviet forces reflects their increasing preoccupation with the Chinese threat, and should be of litle concern to the West.

There can be no doubt that, in Soviet eyes, the PRC poses a credible and troublesome military threat. In response to this threat, the Soviets have increased their strength along the Chinese border. Even taking this into account, however, NATO cannot be overly assured. Looking within the NATO arena, we find that Soviet military strength, as reflected in the increasing number of Pact forces deployed against NATO, has grown impressively. The 1978 British White Paper, *Statement on the Defense Estimates*—the equivalent of the US Secretary of Defense Annual Report—presents in a clear pictorial way the growth of Soviet forces in the Eastern Atlantic (Chart 3), and in Central Europe (Chart 4).

The growth of the Soviet military over the past decade has, of course, been underwritten by a considerable concentration of resources in the defense sector. As noted earlier in these seminars, the Soviet defense budget has been increasing in real terms since at least the early 1960s. In the 1970–76 period, the annual rate of real growth has been about 4 percent—roughly the rate of real growth in overall gross national product. The US intelligence community holds that 11–13 percent of Soviet current gross national product is dedicated to defense. Again as noted in our earlier discussions, the share of the Soviet budget devoted to defense is expected to remain constant for the next five years.

* * * * *

Having looked briefly at Soviet military capabilities in terms of manpower and hardware, I would like now to consider how we think the Soviets would employ those forces in combat—should war occur. I will not discuss the likelihood of war—that goes far beyond my present charter or my clairvoyance. But study of Soviet military strategy, doctrine, and field exercises gives us valuable insights into Soviet concepts of warfighting. A great deal of writing on strategy and doctrine has taken place since the landmark Soviet General staff discussions in the late 1950s, which first assessed the impact of the "nuclear revolution in military affairs."

There is little question among experts that the concept which pervades Soviet military thinking today is the offensive. This is true at the strategic level in theater warfare, and in naval operations. It is as much a part of high-level strategic thinking as it is of tactical crew and small-unit operations in the field. But Soviet doctrine is by no means simple or unrefined. It is a highly developed body of thought and practice which guides force development and employment. More important in my view, the Soviets are steadily fielding military equipment that permits them to implement their concept of the offensive. The increases in strategic nuclear missiles, tanks, and artillery are prime examples of this. A decade ago U.S. tactical fighter aircraft could carry larger payloads over longer distances than their Soviet counterparts. This was so because the Soviet air

forces were largely oriented towards defense—a situation that no longer prevails. Today, Soviet tactical fighter air capabilities are much more oriented towards offensive actions.

Among the key principles of current Soviet military doctrine are the following:

War, while no longer inevitable, remains possible.

Nuclear weapons have not changed the character of war; war continues to be fought for political objectives.

Capabilities for nuclear warfighting and war-winning are to be achieved; these include the capability to destroy enemy warfighting and warmaking capability and potential. Thus, priority targets will be enemy nuclear capabilities; armed forces; command, control, and communications; and industrial power.

War-winning also requires the protection of Soviet military capabilities and other assets needed to sustain the war and the Soviet system.

Nuclear weapons are decisive, and rockets (missiles) are the basic means of delivery. Massive ground forces, however, remain necessary.

The tremendous impact of nuclear weapons makes the initial period of war decisive; therefore, emphasis will be placed on preemption and surprise.

The desire for a capability to destroy nuclear and other military targets implies an offensive capability which includes strategic missiles with a hard-target kill capability. Soviet doctrine also calls for the development of a formidable strategic defense—to include air defense and civil defense. But for the ABM treaty, it would include missile defense as well. In short, the Soviets appear to be pursuing what is called a damage-limiting strategy, i.e., they seek the capability to destroy those enemy targets that can inflict damage on the USSR, and they pursue ways to protect the USSR in case an enemy attacks the USSR.

For theater war, Soviet doctrine stresses joint operations: intense offensive strikes—conceivably conventional, conceivably nuclear, or conceivably a combination of both—to take out key enemy military targets: airfields, air defenses, command and control centers, nuclear storage sites, etc. These strikes are to be conducted in conjunction with the coordinated employment of ground forces, combined arms operations, and tactical air in swift offensives to exploit the initial strikes. The Soviets also have an impressive capability to employ chemical weapons and to operate in a chemical warfare environment if they choose to do so. Ground force operations are to capitalize on surprise, mobility, maneuver, concentration of forces, and maintenance of the momentum of the attack.

One aspect of Soviet doctrine that reveals the seriousness of their efforts is the emphasis they place on assuring the continued operation of their own command, control, and communications while attacking that of the enemy. Their doctrine of "radio-electronic combat" indicates a strong commitment to the coordinated use of electronic and lethal means to degrade the enemy's ability to communicate. They have thus identified a critical factor in the ability of modern, highly integrated forces—such as ours—to fight, and have focused on means to reduce its effectiveness.

These Soviet doctrinal concepts call for marked force superiority in the theater, for forces with high firepower and mobility, and for forces capable of fighting in a nuclear environment. Again, Soviet emphasis on armor and motorized infantry—which not only give the Soviets firepower and mobility, but which permit ground operations in a nuclear environment—makes sense in the context of this Soviet doctrine.

Many of the doctrinal precepts such as those for rapid, high-intensity, offensive operations are being practiced in Soviet exercises.

In Exercise SEVER in June of 1976, joint ground and air forces conducted an opposing forces exercise involving long approach marches, extended defense preparations, and motorized rifle and tank attack supported by fighter bombers and helicopters. The exercise also included a helicopter-borne landing behind "enemy lines," and an assault river-crossing of a swollen, half-kilometer-wide river with steep banks and no fords.

In Exercise SHCHIT–76, in Poland during September 1976, numerous live-fire exercises punctuated a maneuver characterized by concentrated armor attacks and counter-attacks, coordinated with tactical air strikes, emphasis on air defense, a night attack (with live firing at radio-controlled targets), and a helicopter-supported river-crossing. A parachute assault, conducted in conjunction with a tank penetration, concluded the exercise with one side having completely encircled the other.

In Exercise KAVKAZ, conducted early in 1976 under severe winter conditions in mountainous terrain, motorized rifle attacks, meeting engagements, and attacks from the march were emphasized; helicopters and tanks were employed in a coordinated attack; and an armored force conducted an operation in many respects like a pursuit; a combined arms attack against an opposing rear-guard action completed the exercise.

In all these exercises, command and control, coordination of air, indirect (artillery and mortar) fires, and direct fires with maneuvering forces were demonstrated. This is not the kind of training that can reasonably be associated with a crude peasant force.

The growing Soviet capability to use airborne and air-mobile operations, their nuclear and chemical warfare capabilities; the growing sophistication of their weapons systems; their doctrinal commitment to surprise, mentioned earlier—all these combine to increase uncertainty in the minds of their opponents. If war begins—particularly during the first few critical hours of hostilities—this high uncertainty would work to the Soviets' advantage.

The Soviet Navy likewise reflects an increasingly offensive orientation. From a force designed for coastal defense and protection of the land army's seaward flanks, the Soviet Navy has been steadily acquiring oceangoing capabilities commensurate with a major global military power. Their global exercises—like OKEAN 75—are impressive undertakings. The doctrine for Soviet naval forces has been described more recently by Admiral Gorschkov in this book on naval strategy, and is reflected in continuing Soviet naval force development.

In addition to the nuclear strike role of the submarine-launched ballistic missile systems, and the traditional land force support role, the Soviet Navy is extending its capabilities and reach in other ways. New capabilities include ships designed to destroy enemy naval forces on the high seas and to protect Soviet nuclear submarines; interdiction of sea lines of communication—quite openly identified in Soviet writing as being of prime importance to NATO forces, and therefore of concern to the Soviet Union; and the emerging naval role in support of the projection of Soviet military power. Soviet naval forces are now apparently not only in the Mediterranean, but in the Indian Ocean and along the West African coast as well.

I do not want to convey an impression that the doctrine, strategy, and improving capabilities of the Soviet armed forces imply imminent war. I do not believe that. But people like myself must necessarily take into account the capabilities of these forces in our military planning. Those forces are in the field, and, given the long lifespan of military equipment, are likely to be available to the Soviets for use for some time. We see that to some extent today, with Soviet advisers and Soviet surrogate forces in Angola and Ethiopia. We saw them earlier in Egypt and other areas, some far from their borders. From the military viewpoint, the continuous growth, development, and deployment of Soviet military forces must be a central consideration for our own strategy, doctrines, and force structure.

* * * * *

I have thus far discussed the positive aspects of Soviet military power. But it would be misleading to leave this survey of status and trends without underscoring some problem areas which affect the Soviet armed forces. Like our own, Soviet armed forces are to some extent a reflection of the society—warts and all—from which their recruits are drawn. Many of the current and emerging Soviet military problems have societal roots which have been noted by others in these seminars:

The sharply declining Soviet military manpower pool in the coming years presents a major hurdle for Soviet leadership. Large Soviet forces are already a heavy drain on competent manpower, and it appears that they will require a larger proportion of eligible manpower in the relatively near future.

Further, given the growing sophistication of Soviet military equipment, it is going to take well-trained and relatively high quality people to maintain it. That the necessary quality will be available cannot be taken for granted, especially in light of the demographic shifts we have considered earlier in these seminars.

Ethnic and national differences, including linguistic diversity, could become a serious problem; in combat this problem could become particularly important.

As elsewhere in Soviet society, but perhaps more so in the armed forces, disciplinary and antisocial problems—for example, drunkenness and hooliganism—apparently are on the increase. Morale appears to be adversely affected by rigid military discipline and by living conditions that are austere even by Soviet standards. While there is no hard evidence that all this is seriously debilitating to Soviet military capabilities, the importance of these issues to Soviet leadership at even the highest levels is apparent in military literature.

In the realm of logistics—especially troop supply and the maintenance and support of weapons and equipment—Soviet procedures largely are geared to peacetime requirements. The Soviets are not unaware of the need to provide for combat-use rates and losses; however, they have little recent battle experience on which to base their logistic estimates, and their current support infrastructure appears ill-suited for sustained high-intensity hostilities as we understand them.

Training resources for some key combat skills are very limited. For example, flying time for aircrews is well below what we would call adequate. The use of aircraft simulators and other compensating techniques has not been apparent, though tank and anti-tank simulators have been used.

The initiative of junior leaders and small units is hindered by extensive controls at all levels and heavy reliance on what we would call "tactical doctrine" and they would call "the operational arts." What this means is that the junior leader's job is largely discipline and control according to norms. Successful leadership is viewed less as a matter of problem-solving, and more a matter of conforming to orders, standard procedures, and the rather rigid doctrine taught and rehearsed in training. This rigidity stands in apparent contrast to doctrinal emphasis on initiative and flexibility.

Such factors go to the heart of the effec-

tiveness of Soviet military personnel in times of stress. It is generally accepted that the Israelis today could acquit themselves well in defense of their country—but Israeli forces are numerically inferior to the forces of their potential enemies. And Andrew Marshall has more than once reminded us that by using measures by which we assess military effectiveness today, the French and British should have stopped the Germans in 1940. I mention this primarily to remind you why military people talk of the "art of war," not the science of war.

CONCLUSION

Let me conclude with a few general observations and speculations. First of all, the problem areas the Soviets face are not in all cases unique to them. So I want neither to understate nor overstate them, but rather to recognize them—just as I did the other aspects of Soviet military power. Second, the overall judgment of Soviet military power by people like me accords with General Brown's Posture Statement to the Congress early this year: "Their [the Soviet] force improvements are steady, deliberate and impressive."

My impression from the two excellent seminars of this series I have been privileged to attend is that at least some political analysts here are relatively optimistic about the future of the Soviet Union—and, by implication at least of its relations with the West. From our discussion last week, I sensed that at least some of the economists—admittedly practitioners of "the dismal science"—are less sanguine. Without taking sides, let me say that those of us in uniform hope for continued stability and a more firmly anchored peace—but we also believe such will happen only if we remain able to defend ourselves and our allies.

That brings me to several speculations:

What if the Soviets' "China problem" be the early to mid-1980s, the Soviet Union's armed forces will have been further strengthened. Will the Soviets feel an oil squeeze? Wil they need new oil fields? If so, how might they seek to acquire them?

What if the Strategic Arms Limitation Talks falter—if not at this point, then down the road a little further?

What is the Soviets' "China problem" becomes less—or greater?

I mention these questions because if I learned one thing from the oil price increase following the 1973 Middle East War it is that we should devote more time to thinking of contingencies that may not be highly probable, but which, if they occur, are of great strategic consequence.

Our discussions in this series to date in my view have given no reason for the United States to be less vigilant in the defense of our interests and of our friends. Soviet leaders historically have found their military forces—however crude we may have thought them to be at the time—effective in pursuing their policies. Given the evidence of past and projected Soviet military programs I have seen nothing that leads me to expect a change in the years immediately ahead.●

REPEAL OF THE CREDIT CONTROL ACT OF 1969

Mr. HELMS. Mr. President, in my studies of the various economic problems that beset our great Nation, I find that one of the most oppressive, one of the most intellectually stultifying, and one of the most inherently counterproductive, is the shopworn theory that Government can solve problems by treating symptoms.

Today we hear more and more people saying that wage-and-price controls can be effective to stop inflation. It is as if we say allowing no thermometer to register above 98.6° is going to stop fevers. As President Carter himself has said:

Wage and price controls, mandatory wage and price controls, would be ill-advised and also counterproductive. I don't think they would work.

We know that there is now on the books no emergency authority allowing the President to impose wage-and-price controls. I hope there will never be such controls. They could only serve to further mask the real culprit: The U.S. Government. Specifically, the culprit is inordinate Federal spending, causing Federal deficits and expansion of the money supply brought on by the Federal Reserve System's monetization of those growing Federal deficits. Without Federal deficits, we could expect more responsibility from our monetary authorities. We could expect rational, noninflationary monetary policies.

I find, however, that there remains on the books in the Federal Code an onerous piece of legislation which purports to be a means of "combating inflation." In fact, it is little more than a means of providing total Federal control of the financial system of this country. I speak of Public Law 91–151, the Credit Control Act of 1969.

In 1969, the Nation was beginning to suffer from the inflation caused by the "guns and butter" Federal deficits of the late 1960's. In S. 2577 (Public Law 91–151), the Congress approved a bill initially aimed at expanding earlier legislation relating to "disintermediation" of funds from savings and loan associations to banking institutions. The main controversy evidently centered around housing credit, and the bill provided for increased authorization for the Federal Home Loan Bank lending. Of interest is that there is almost no record of debate on one portion of the bill, title II, which provides for massive controls over all issuance of credit. Portions of 12 U.S.C. 1904 and 1905 read as follows:

§ 1904. Credit controls

(a) Whenever the President determines that such action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, the President may authorize the Board to regulate and control any or all extensions of credit.

§ 1905. Extent of control

The Board, upon being authorized by the President under section 1904 of this title and for such period of time as he may determine, may by regulation

(1) require transactions or persons or classes of either to be registered or licensed.

(2) prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents.

(5) prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase, or other extension of credit.

(7) prescribe the maximum rate of interest, maximum maturity, minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(10) prescribe maximum ratios, applicable to any class of either creditors or borrowers or both, of loans of one or more types or of all types.

(A) to deposits of one or more types or of all types.

(B) to assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

In other words, if the President declares that "such action is necessary * * * for * * * controlling inflation," he might set all kinds and varieties of restrictions on the normal utilization of credit.

It is nothing more than price controls on money. The interest rate charged on money is no more than the price charged for "renting" money.

That this bill was passed so swiftly, and evidently with such little controversy, indicates that often Congress does not give serious enough consideration to the problems it addresses.

Because of the press of many issues in the last weeks of this Congress, I have not been able to assemble all the information I want on this issue.

I do not know, for example, why this act was not modified or repealed by the "National Emergencies Act," Public Law 94–412, a proper and important piece of legislation which repealed numerous laws which gave the President vast powers under various "states of emergency" laws. I hope that the good work that was done to limit the arbitrary authority of the executive branch might be used to further trim this power now held by the President which, in my mind, is one that can be used for little, if any, good.

In addition, I want to know the attitudes of the present membership of the Federal Reserve Board. I believe we should find out what the Nation's "monetary authority" thinks of these totalitarian powers.

There is the entire question of academic opinion. I have a feeling that there would be precious few scholars and experts in the fields of finance and economics who could support such exercise of power except under the most dire of circumstances.

I would like very much to find out what the administration thinks of this bill. I would hope, of course, that the President would advocate elimination of this authority so as to be consistent with his opposition to wage-and-price controls.

Finally, I want to make it clear that I

propose this bill at this time as a means of stimulating debate and eliciting comment on this issue. It is my intention that introduction of this legislation in the 95th Congress will make it easier for the legislation—in some form—to be enacted in the 96th. I am committed to an outright repeal of this law only if it cannot be shown there there is some great national interest served by continuation of this authority.

Mr. President, I ask that the following documents be printed in the RECORD. First, a Library of Congress summary of the Credit Control Act of 1969, dated September 27, 1974; second, the full text of 20 U.S.C. 1901–09 including notes, from the United States Code annotated excerpts; and third, the text of my bill.

The material follows:

LEGISLATIVE AUTHORITIES ENACTED BY THE CONGRESS WHICH GIVE THE EXECUTIVE BRANCH POWERS TO STABILIZE THE ECONOMY AND COMBAT INFLATION

CREDIT CONTROL ACT OF 1969 [1]

Purpose. To grant *permanent* authority to the President to control the extension of credit, when necessary, to (1) lower interest rates and fight inflation; (2) help housing, small business and employment; and (3) increase the availability of mortgage credit.

Major provisions

Whenever the President determines that action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, he may authorize the Board of Governors of the Federal Reserve System to regulate and control any or all extensions of credit.

The Board, upon being authorized by the President and for such period of time as he may determine, may be regulation:

(1) Require transactions or persons or classes of either to be registered or licensed.

(2) Prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) Provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) Prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens or any relevant documents.

(5) Prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) Prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase or other extension of credit.

(7) Prescribe the maximum rate of interest, maximum maturity minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) Prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) Prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits and other adjustments or special situations.

(10) Prescribe maximum ratios applicable to any class or either creditors or borrowers or both, of loans of one or more types or of all types:

(A) To deposits of one or more types or of all types.

(B) To assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

The Act has no expiration date.

Implementation of authority

This standby authority for selective credit controls was enacted in response to concern that the unrestricted extension of particular forms of credit in excessive volume, based only on the highest interest rate creditors can obtain, not only raises the level of interest rates generally but results in a serious distortion of the whole credit picture. It was contended that short of direct lending by government itself, there was no mechanism available for channeling credit into those activities which national policy requires, such as low- and moderate-income housing, small business firms and other areas of the economy which operate at a distinct disadvantage during periods of tight money and sharply rising interest rates. To date this standby authority has not been invoked by the President. However, in this connection it should be noted that in October 1971 President Nixon, pursuant to the authority of the Economic Stabilization Act of 1970, established the Committee on Interest and Dividends (CID). The function of this committee, which was chaired by the Chairman of the Federal Reserve Board, was to administer voluntary programs for restraint of interest rates and dividends. Aside from these voluntary efforts, the President has refrained from invoking his authority to apply mandatory controls on interest rates and corporate dividends. The activities of the CID were terminated with the expiration of the Economic Stabilization Act on April 30, 1974.

In addition, it should be noted that on September 16 of this year, the Board endorsed a set of guidelines proposed by the Federal Advisory Council (an advisory body composed of leading bankers, one from each Federal Reserve district) that would encourage banks to allocate more funds to housing and other high-priority needs of the economy. The main objective would be to divert funds from highly speculative ventures and other business purposes deemed less essential to the economy at this time. In endorsing this proposal the Board made it clear that it had not adopted a formal system of credit allocation. Nonetheless, banks do take such guidance seriously, realizing that if such voluntary measures should fail to accomplish a more appropriate distribution of loanable funds, the Board might be compelled to take formal action. As noted above the authority for such action rests in the Credit Control Act of 1969.

CHAPTER 20.—CREDIT CONTROL [NEW]

Sec.
1901. Definitions.
1902. Rules and regulations by the Board of Governors of the Federal Reserve System.
1903. Interest.
1904. Credit controls.
1905. Extent of control.
1906. Reports; production of records.
1907. Injunctions for compliance.
1908. Civil penalties.
1909. Criminal penalty.

§ 1901. Definitions

(a) The definitions and rules of construction set forth in this section apply to the provisions of this chapter.

(b) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(c) The term "organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(d) The term "person" means a natural person or an organization.

(e) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(f) The term "creditor" refers to any person who extends, or arranges for the extension of, credit, whether in connection with a loan, a sale of property or services, or otherwise.

(g) The term "credit sale" refers to any sale with respect to which credit is extended or arranged by the seller. The term includes any rental-purchase contract and any contract or arrangement for the bailing or leasing of property when used as a financing device.

(h) The terms "extension of credit" and "credit transaction" include loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise participating in the offering, distribution, or acquisition of securities.

(i) The term "borrower" includes any person to whom credit is extended.

(j) The term "loan" includes any type of credit, including credit extended in connection with a credit sale.

(k) The term "State" refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(l) Any reference to any requirement imposed under this title of any provision thereof includes reference to the regulations of the Board under this chapter or the provision thereof in question.

Pub. L. 91–151, Title II, § 202, Dec. 23, 1969, 83 Stat. 376.

Short Title. Section 201 of Pub. L. 91–151 provided that: "This title [enacting this chapter] may be cited as the "Credit Control Act"."

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1902. Rules and regulations by the Board of Governors of the Federal Reserve System

The Board shall prescribe regulations to carry out the purposes of this chapter. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. Pub. L. 91–151, Title II, § 203, Dec. 23, 1969, 88 Stat. 376.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1903. Interest

Except as otherwise provided by the Board, the amount of the interest charge in connection with any credit transaction shall be determined under the regulations of the Board as the sum of all charges payable directly or indirectly to the person by whom the credit is extended in consideration of the extension of credit. Pub. L. 91–151, Title II, § 204, Dec. 23, 1969, 83 Stat. 377.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1904. Credit controls

(a) Whenever the President determines that such action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, the President may authorize the Board to regulate and control any or all extensions of credit.

(b) The Board may, in administering this Act, utilize the services of the Federal Reserve banks and any other agencies, Federal

or State, which are available and appropriate. Pub. L. 91–151, Title II, § 205, Dec. 23, 1969, 83 Stat. 377.

References in Text. This Act, referred to in subsec. (b), is Pub. L. 91–151, which, in addition to enacting this chapter, amended sections 461, 461 note, 1425b, 1431, 1724, 1727, 1728, 1813, 1817, 1821, 1823 of this title and section 2158 of Title 50 App. and enacted provisions set out as notes under sections 1724, 1727, and 1813 of this title and section 633 of Title 15, Commerce and Trade.

Delegation of Functions. Functions of the President under section 203(a)(3) of the Economic Stabilization Act of 1970, as amended [set out as a note under this section], and functions of the Chairman of the Cost of Living Council under said Act, respecting energy matters, delegated to the Administrator of the Federal Energy Office, see section 4 of Ex. Ord. No. 11748, Dec. 4, 1973, 38 F.R. 33575, set out as a note under section 754 of Title 15, Commerce and Trade.

Council on Wage and Price Stability. Pub. L. 93–387, Aug. 24, 1974, 88 Stat. 750, as amended by Pub. L. 93–449, § 4(e), Oct. 18, Aug. 9, 1975, 89 Stat. 411; Pub. L. 95–121, Oct. 1974, 88 Stat. 1367; Pub. L. 94–78, §§ 2(a), 3–7, 6, 1977, 91 Stat. 1091, provided:

"[Section 1.] That this Act may be cited as the 'Council on Wage and Price Stability Act'.

NOTE.—Annotations relating to the Council on Wage and Price Stability Act and the Economic Stabilization Act has been deleted.

§ 1905. Extent of control

The Board, upon being authorized by the President under section 1904 of this title for such period of time as he may determine, may by regulation—

(1) require transactions or persons or classes of either to be registered or licensed.

(2) prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens or any relevant documents.

(5) prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase, or other extension of credit.

(7) prescribe the maximum rate of interest, maximum maturity, minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(10) prescribe maximum ratios, applicable to any class of either creditors or borrowers or both, of loans of one or more types or of all types.

(A) to deposits of one or more types or of all types.

(B) to assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

Pub. L. 91–151, Title II, § 206, Dec. 23, 1969, 83 Stat. 377.

References in Text: This Act, referred to in pars. (3) and (5), is Pub. L. 91–151, which, in addition to enacting this chapter, amended sections 461, 461 note, 1425b, 1431, 1724, 1727, 1728, 1813, 1817, 1821, 1828 of this title and sections 2158 of Title 50 App. and enacted provisions set out as notes under sections 1724, 1727, and 1813 of this title and section 633 of Title 15, Commerce and Trade.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1906. Reports; production of records

Reports concerning the kinds, amounts, and characteristics of any extensions of credit subject to this chapter, or concerning circumstances related to such extensions of credits, shall be filed on such forms, under oath or otherwise, at such times and from time to time, and by such persons, as the Board may prescribe by regulation or order as necessary or appropriate for enabling the Board to perform its functions under this chapter. The Board may require any person to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this chapter including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

Pub. L. 91–151, Title II, § 207, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

§ 1907. Injunctions for compliance

Whenever it appears to the Board that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter, it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Board, any such court may also issue mandatory injunctions commanding any person to comply with a regulation of the Board under this chapter.

Pub. L. 91–151, Title II, § 208, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

INDEX TO NOTES

Scope of remedy, 1.
Irreparable injury, 2.
Remedies, 3.

1. Scope of remedy:

Executive order creating the construction industry stabilization committee deals only with instance in which illegal wage increase is about to be implemented; and this section providing for injunctive relief is limited to those situations in which an agency of the United States seeks such relief; and, accordingly, neither this section nor executive order authorized contractor's action to compel union to submit proposals to contractor within framework of executive order, to compel union to exhaust its available administrative remedies and to enjoin union from engaging in any work stoppage or strike. Heavy Contractors Ass'n. Inc. v. International Union of Operating Engineers, AFL–CIO, Local 571, D.C. Neb. 1971, 328 F. Supp. 897.

2. Irreparable injury:

In order to issue injunction against wage increase in excess of 5.5% without prior approval of the Pay Board, there was no need that irreparable injury be shown, and it was enough if the statutory conditions were satisfied. U.S. v. Great Atlantic & Pac. Tea Co., D.C. Md. 1972. 342 F. Supp. 272.

In view of Price Commission's order which maintained status quo and protected plaintiffs from irreparable injury by its refund and rollback provisions until final agency action, plaintiffs could not show irreparable injury required for injunctive relief against telephone company's increases in rates. Grassroots Action, Inc. v. New York Tel. Co., D.C. N.Y. 1972, 339 F. Supp. 198, affirmed 468 F. 2d 1401.

3. Remedies:

Administrative remedies provided by 1971 amendments to Economic Stabilization Act, this chapter were full and adequate to preclude injunctive relief until such administrative remedies had been exhausted. Grassroots Action, Inc. v. New York Tel. Co., D.C. N.Y. 1972, 339 F. Supp. 198, affirmed 468 F. 2d 1401.

§ 1908. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Board may assess upon any person to which the regulation applies, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Board, be brought in the name of the United States.

Pub. L. 91–151, Title II, § 209, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

INDEX TO NOTES

Amendments, 1.
Retroactive effect, 2.
Defenses, 3.

1. Amendments:

Amendment of section of Economic Stabilization Act of 1970, set out as a note under section 1904 of this title, to authorize imposition of two sanctions upon violator provides both a purely penal measure intended to obtain compliance with Act and a civil penalty denominated as such with element of scienter obviated from proof of offense, and entire section as amended allows alternative means of enforcement, one with a less exacting standard of proof. U.S. v. Futura, Inc., D.C.Fla.1972, 339 F.Supp. 162.

2. Retroactive effect:

Defendants, who violated this chapter by negotiating and paying wage increase in excess of 5.5% without prior approval of the Pay Board, were subject to civil penalties, even though amendment to this chapter providing for such penalties was added after the contract had been negotiated, where the penalty was civil in nature, and the defendants continued to be in violation of the law after the amendment became effective. U.S. v. Great Atlantic & Pac. Tea Co., D.C.Md.1972, 342 F.Supp. 272.

3. Defenses:

Contention of employer that, although it knew it was violating the law when it negotiated and paid wage increase in excess of 5.5% without prior approval of the Pay Board, it made the payments because there appeared to be no viable alternative to achieve a settlement of a strike did not entitle the employer to escape civil penalties where, upon measuring the culpability of the parties, it appeared that the course of conduct of each party was determined by economic considerations which best served that party's interest. U.S. v. Great Atlantic & Pac. Tea Co., D.C. Md.1972, 342 F.Supp. 272.

§ 1909. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more

than $1,000 or imprisoned not more than one year, or both.

Pub.L. 91–151, Title II, § 210, Dec. 23, 1969, 83 Stat. 378.

Legislative History. For legislative history and purpose of Pub. L. 91–151, see 1969 U.S. Code Cong. and Adm. News, p. 1467.

S. —

A bill to repeal the Credit Control Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Credit Control Act (12 U.S.C. 1901 et seq.) is repealed.●

SOVIET ECONOMIC PROSPECTS

● Mr. McGOVERN. Mr. President, over the past several days I have been inserting in the RECORD a series of papers on the Soviet Union prepared for the seminars on "The U.S.S.R. and the Sources of Soviet Policy" conducted last spring under the joint sponsorship of the Council on Foreign Relations and the Kennan Institute for Advanced Russian Studies.

Those papers include two very useful studies on the Soviet economy which deserve careful attention.

The first, concentrating on the domestic economy in the Soviet Union, was prepared by Gregory Grossman of the University of California in Berkeley. He sketches the reasons why there may be serious weaknesses in the Soviet economy in the years ahead. And he does not find this to be an especially encouraging outlook for the United States. Mr. Grossman writes,

Last but not least there is, of course, also the real danger that resource (especially energy) shortages and domestic political tensions will at some future point tempt the Soviet leadership to use its military might abroad in a more assertive manner.

In another paper, Herbert S. Levine of the Department of Economics at the University of Pennsylvania concentrates on the Soviet Union's economic contacts with the rest of the world. Here, again, the outlook is not promising. And Mr. Levine notes another cost to us should the Soviets prove incapable of resolving their hard currency problems:

For the West, such a development would mean the obvious loss of sales of both industrial and agricultural products. Moreover, in the event of the failure by the Soviet Union to maintain adequate oil production after 1980, there would develop an additional strain on world oil supplies.

On the basis of the forecasts of both these distinguished commentators, I hope anyone who believes we have a cause for rejoicing when there is economic trouble in the Soviet Union will think through that concept a bit more carefully. Further, I ask that the two studies I have described be printed in the RECORD.

The two studies follow:

THE DOMESTIC ECONOMY

I. The traditional strengths of the Soviet economy in good measure persist and are well known: a huge reservoir of natural, human, and man-made productive resources that is in many ways effectively though generally inefficiently utilized; continued (even if now decelerating) rise of output, productive capacity, and per capita consumption; the channelling of these strengths for a rapid and—to us—worrisome augmentation of military might and national power.

The present juncture in the Soviet economy is a very important one owing to a number of mounting serious problems that will dominate policy for at least the next ten years, and that require hard choices in both the economic and the political spheres. The choices are not necessarily made easier be the impending succession of top leadership, and indeed are probably already an integral part of succession politics. Further, these problems and the U.S.S.R.'s responses and reactions to them have major international implications, not the least for this country. It is likely that the Soviets will attempt—as they have repeatedly in the past—to use the US and the rest of the West to help solve their economic and political problems.

II. The most visible manifestation of the complex of economic problems is the slowing of growth, a process that has been going on since the fifties but which now is assuming more ominous proportions. This process is illustrated by the following figures, which have been computed and published by the CIA and Dr. Rush V. Greenslade, and which stand for average annual rates of growth in percent.

	1951–55	1956–60	1961–65	1966–70	1971–75	1976–80 plan
Total gross national product	6.0	5.8	5.0	5.5	3.8	5.0
Industrial output	11.3	8.7	7.0	6.8	6.0	6.5
Consumption	5.9	5.4	4.0	5.1	3.8	4.0
Gross fixed investment	12.6	10.3	6.8	6.4	4.5	3.5

It should be noted that the particularly poor performance of the 1971–75 period was affected by the major crop failure of the terminal year but is not entirely attributable to this cause. Moreover, the figures for 1976–80 are adapted from the Soviet official plan targets for 1980. Now that we are almost halfway into the quinquennium it is fairly evident that these targets will not be met and the trend of retardation will not be reversed during the current Five-Year Plan. The major questions, however, are: To what extent—not "whether"—will the slowing of growth of the Soviet economy continue into the near future, to 1985 and 1990? And how can and will the Soviets respond to the challenges and pressures generated by it?

Let us take up the main retarding factors one by one:

a. Labor. As Dr. Murray Feshbach has shown in the preceding seminar in this series and elsewhere, the rate of increase of the total Soviet labor force has already declined sharply and will drop further to virtually zero (0.3 percent per year) during the 1980's. It will continue to be low in the subsequent decade as well. There is additionally an important shift in its composition away from the "European" component of the population to the Central Asian and Moslem component. The reasons are primarily demographic.

b. Natural Resources, especially energy resources, in relatively accessible areas are being rapidly depleted, requiring very large and costly investment in Siberia. Specifically, it now looks as though energy supply will be an increasing constraint to Soviet growth for at least another decade, despite the enormous reserves of fossil fuel in the ground. Reasons: serious lag in exploration and development of oil fields; high cost of building pipelines, especially for natural gas (which is in more ample extractable supply than oil for the near future); similar problems with the rich coal deposits in Siberia; limited possibilities to substitute in use other sources of energy for oil, and to conserve energy generally, at reasonable cost; and a welter of related problems. There is agreement by some independent experts with the general thrust of the CIA's projections of last year, if not always with the particulars, while the latest data from the U.S.S.R. are not inconsistent with it. In other words, it seems likely that in a few years energy, and especially oil, production will start declining seriously relative to requirements. These requirements consist primarily of support for the domestic economic growth, support for the economies of Eastern Europe and Cuba, and export to gain hard currency. (It should be noted that in 1977 fuel exports, mostly petroleum, brought one half of hard currency earned by the U.S.S.R. from merchandise exports, and about one third of hard currency intake from all sources, including credits.) The energy constraint could thus be very serious indeed, politically as well as economically, with the widest international repercussions. In any case, measures to alleviate the energy "crunch" will themselves be very costly, both in domestic resources and in hard currency (for importation of equipment).

c. A similar problem exists with regard to food supply, where a very costly Soviet "Project Independence" (so to say) is aiming to increase output rapidly and to minimize its weather-conditioned annual fluctuations. Here, as with energy, the need is to keep up with rapidly rising demand both at home and in Eastern Europe and at the same time to save hard currency.

d. Despite impressive Soviet achievements in weaponry and space, the overall technological gap between the U.S.S.R. and the West does not seem to have been substantially reduced in the past 15–20 years. The over-all efficiency of resource utilization is improving only modestly.

e. The slowing of over-all growth, together with high priorities now enjoyed by consumption and defense, have brought the rate of increase of annual investment sharply down (see Table above). Since the share of gross investment in GNP is still very high, however, the annual growth of the physical capital stock is also still very high (around 7 percent); but with time it is bound to decline somewhat owing to the trend in investment. The slowing of the rate of capital formation together with the flattening of the curve of labor growth will jointly bring about a further retardation in the growth of output.

f. Lastly, while one should not underrate the importance of Western trade and credits to the Soviet Union between, say, 1972 and now (this importance, we believe, not being fully reflected in the statistics of trade and credit and their relation to the GNP), the possibility of a significant moderation of the retardatory trend through international economic activities is not too great. This is not to say, however, that Soviet interest in such activities is not likely to remain strong for economic reasons, mostly for specific purposes of high interest to the regime. However, the growing debt service ratio and the energy problem may well cool the ardor of foreign lenders.

III. These problems find the U.S.S.R. in a situation in which, for internal reasons, the possibility of maneuvering with economic resources and of improving the system as such are quite limited. Thus, one notices no significant restraint on the growth of defense outlays at a time when total resources are increasing considerably more slowly than before. At the same time, the intensity of the consuming public's expectations—buttressed by the public's very high liquidity—seems to ensure a high priority to consumption in the over-all pattern of resource use. Consequently, the third major claimant to resources, investment, has experienced a marked decline in its annual rate of growth, with the likely future effects already noted. (Short-term bottlenecks of labor and capac-

ity may have contributed to the leveling off of investment outlay at this time.)

The regime's delicate relations with the consuming public express themselves in such phenomena as rigid price stability with regard to main consumer goods (necessitating extremely large and rising subsidies from the budget), the already mentioned "Project Independence" in agriculture (chiefly to meet the very high income-elasticity of demand for meat), and large expenditure of hard currency to buy grain in years of poor harvest.

These delicate relations encompass also the public as a work force. Not only full employment but virtually absolute job security for the individual now prevail. Labor morale seems to be none too high. Attempts to increase productivity tend to be costly in terms of pay, if indeed they are effective at all. Alcohol consumption is steadily and rapidly rising. In part because of the pressure from both labor and consumers, the chronic condition of wage and price control with repressed inflation continues, which in turn contributes to inefficiency and to sluggishness in innovation. Moreover, the repressed situation has helped spawn ubiquitous black markets and corruption of officialdom.

In spite of these circumstances, significant reforms in the institutional structures run up against the vested interests of the powerful and privileged strata of society, which may favor solutions that draw on the West's help as against those that would shake up the domestic status quo.

IV. If the prospect of economic difficulties and their political consequences that have been sketched out here is not false, then the West, and particularly the U.S., would do well to think ahead to the likely Soviet responses. There is a good probability that the Soviets will once again muddle through, provided the scale of the crises are not beyond the reach of this traditional technique. There is a cerain probability of tighter political controls on the domestic scene to compensate for the inadequacy of economic resources and the rigidity of the economy, at least until such time as the demographic circumstances become more favorable and until Siberian resources become more accessible (and China less refractory?). There would at any rate seem to be strong reasons for pursuing a policy of detente, Soviet style, for continuing to obtain economic benefits from the West, which, however limited in size, may be of internal political worth to the leadership. Specifically, the help of the West may well be enlisted to render Soviet manufacturing industry more competitive in Western markets, thereby partly replacing the hard-currency losses from declining petroleum exports; at this time the Soviets seem to be pushing just this strategy in regard to their automobile industry (which has already become an appreciable factor in the West European market). Last but not least, there is, of course, also the real danger that resource (especially energy) shortages and domestic political tensions will at some future point tempt the Soviet leadership to use its military might abroad in a more assertive manner.

THE SOVIET UNION AND THE WORLD ECONOMY

(By Herbert S. Levine)

Over the next decade, concern with oil supplies will be one of the key factors shaping economic policy in the Soviet Union, just as it is in the United States. Energy sources are no less significant for economic and political decisions made in Moscow than they are for decisions that must be made in Washington. Depending on which of a number of tradeoffs the Soviets choose in relation to energy, their economy and trade with the West can move in quite different directions in the years immediately ahead.

For example, if the Soviets can maintain significant exports of oil to the West, then their trade with the West can continue to expand. However, if the Soviet Union has great difficulty in tapping its oil reserves—and this is possible in the remote areas of Siberia—then by the mid-1980s, it could become a competitor of the United States and other Western nations for OPEC oil. Such a development would have serious repercussions for both sides.

In addition to Soviet energy policy, the other key factors in Soviet economic growth into the 1980s are their continuing needs for Western machinery and technology and their potential needs to import grain. The relationships of these three factors will strongly influence future Soviet trade policies with the West, including its hard currency indebtedness and its credit rating in the calculations of Western suppliers and bankers.

The Soviet Union has substantially increased its trade with the advanced industrial nations—the U.S., Canada, Western Europe and Japan—during the past ten years in a campaign to overcome its lagging productivity and to spur growth in its domestic economy through massive imports of modern technology and machinery. In 1976 (the latest year for which full reports were available at the time this was written) total Soviet trade with the West (including Japan) was almost six times the 1968 level (three times the 1968 level, accounting for inflation). The result was a dramatic increase in the West's share of total Soviet trade—from 21 percent to 32 percent. Total U.S.-Soviet trade, although making up only one tenth of this total in 1976, grew from 115 million dollars in 1968 to over two and a half billion dollars in 1976.

TABLE 1.—SOVIET TRADE RELATIONS WITH THE WEST

[Millions of current U.S. dollars]

	1968	1969	1970	1971	1972	1973	1974	1975	1976
Total trade	4,236	4,925	5,241	4,751	7,086	11,213	16,203	21,500	25,071
Exports	2,194	2,430	2,461	2,882	2,989	5,089	8,224	8,233	10,588
Imports	2,142	2,495	2,780	2,859	4,097	6,124	6,124	13,267	14,483
Net exports	52	−65	−319	23	−1,108	−1,035	−1,035	−5,034	−3,895
Hard currency trade balance *	−109	−311	−514	−303	−1,356	−1,749	−911	−6,281	−4,316
Gold sales	12	0	0	0	300	1,000	800	1,000	1,250
Credit drawings	510	630	715	68	1,030	1,690	1,710	4,300	4,450
Hard currency [1] holdings	590	558	348	229	−432	−54	735	−1,594	−2,313
Debt outstanding [2]	951	1,316	1,721	2,029	2,608	3,641	4,461	7,468	10,036
Debt service ratio [3] (percent)	12	13	16	17	19	16	14	19	23

[1] Negative entries represent short-term debt.
[2] Medium- and long-term debt.
[3] Hard currency interest payments plus debt repayments divided by exports to the developed West.
* Including less developed countries.

Source: SRI-WEFA Soviet econometric model (SOVMOD) databank. These data are based on official Soviet data as compiled by the U.S. Government.

An important feature of this rapid rise in trade is that Soviet imports from the West have grown much faster than Soviet exports to the West. Starting from rough equality in 1968, nominal (that is, not accounting for inflation) Soviet imports from the West in 1976 were seven times their 1968 level and exports were five times their 1968 level (see Table 1). In 1976, imports from the West accounted for 37 percent of total Soviet imports, while exports to the West were 28 percent of all Soviet exports. This uneven comparative growth reflects large Soviet purchases of machinery, industrial materials and grain (in 1972–73 and 1975–76 subsequent to poor grain harvests). It contributed to a marked increase in Soviet hard currency trade deficits over the period. Those deficits (which include Soviet hard currency balances in trade with less developed countries) grew from $100 million in 1968 to $500 million in 1970 and then exploded to $6.3 billion in 1975 due largely to massive Soviet grain purchases.

The economic recession in the West—which contributed to a leveling out of 1975 Soviet exports to the West—also adversely affected this deficit. So did the inability of the USSR to rapidly reduce its imports from the West. This problem was due to several factors: limited flexibility of the centrally planned and administered foreign trade system; the existence of multi-year contracts for the purchase of machinery; and the desire of the Soviet economic leaders to meet or surpass the goals of the Ninth Five-Year Plan, which ended in 1975. Preliminary reports indicate that the Soviet Union was able to reduce its imports from the West in 1977.

One of the ways these deficits were financed was through the sale of gold. These sales have risen substantially in recent years. The current Soviet gold stock is estimated to be about 1,925 metric tons, which at an April 1978 price of about $178 per ounce is valued at approximately $12 billion.

The value of gold sales reflects, of course, both the *amount* of gold sold and the *price* of gold in world markets. In 1973, the Soviets sold more gold than they produced. But dramatic price rises for gold in 1974 and 1975 allowed them to cut the quantity they sold in 1974 to half with only a 20 percent reduction in the value of gold sales. In 1975 they sold slightly more than half of the 1973 amount, still obtaining an equal value. On the other hand, the subsequent drop in gold sold in 1975 required a 65 percent increase in the amount of gold sold in that year to achieve a 25 percent increase in the value of gold sales.

The greater increase in imports from the West also reflects a willingness on the part of the Soviet leaders, beginning in the late 1960s, to incur increasing debt. Annual Soviet credit drawings from the West doubled between 1968 and 1972 and then quadrupled between 1972 and 1976. Over that entire period Soviet medium- and long-term hard currency indebtedness rose from about $1 billion to $10 billion. At the same time, Soviet hard currency holdings shifted from a small

positive amount, $600 million, to a negative short-term monetary debt of $2.3 billion. Thus, the total Soviet hard currency debt at the end of 1976 was over $12 billion. In addition, the Soviets carried an estimated $2 billion in suppliers' credit.

Another concern of the Soviet hard currency debt position shows up in its hard currency debt service ratio, the ratio of annual debt service payments (interest plus principal repayments) to Soviet commodity exports to the developed West. This is an indicator of its ability or inability to carry debt. The ratio rose from a low of 12 percent in 1968 to a significantly higher 23 percent in 1976. (As a rule of thumb, a debt service ratio greater than 25–30 percent is widely viewed by bankers as a signal for caution and close scrutiny when lending.)

This recent record of high Soviet hard currency deficits and growing indebtedness especially when seen against the background of a marked increase in total East European hard currency debt (estimated to be approximately $40 billion at the end of 1976), has raised concerns about the future of Soviet hard currency dealings. Will the Soviet be able to continue in the future as they have in the recent past; if not, what other courses of action are open to them and what will be their consequences?

Discussions of this question usually focus on the continued willingness of Western lenders to extend credit to the Soviet Union and the possibilities of altering the patterns of Soviet imports from and exports to the West. With regard to credit, there appears to be a general consensus that Western lenders, while having little doubt about Soviet creditworthiness, currently have less desire to extend credit to the USSR. Some US banks are reaching their legal limits for single borrowers and others are reaching their own, informal, country limits based on asset portfolio allocations. Thus, banks are being more cautious with loans to the Soviet Union and are asking higher interest rates. Furthermore, the Soviets themselves may be uneasy about their increasing indebtedness and may be seeking to abate its growth. As a recent article in the British financial journal Euromoney stated (March 1977, p. 62): "It may, in the end, be Soviet concern about its own indebtedness with the West, and the damage this does to its international status, that will limit the long-term level of borrowing, rather than any more cautious approach to the risk on the part of the international banking commodity."

With regard to the import-export pattern, the main elements of Soviet import demand are machinery, other high-technology industrial productions and grain. Given the Soviet desire to raise productivity, and the crucial role that productivity increases play in the Tenth Five-Year Plan targets, they will not find it easy to cut machinery imports from the West. They may be pressed, however, by financial and political considerations, to shift some of these machinery purchases to East European suppliers. Grain imports, in the long run, could be reduced by increased agricultural productivity which might result from increased investment in agriculture and better managerial and organizational methods. In the near future, grain imports will, of course, vary with the weather, with a minimum of 6 million tons to be imported annually through the US–USSR Grain Agreement which is in effect through September, 1981.

How to increase the exports of manufactured goods to the West is an issue currently receiving considerable attention in the Soviet Union. Most Western analysts, however, discount this approach as a potentially significant source of hard currency earnings for the near future. The quality and sophistication of such goods are generally not up to the standard required in Western markets. Thus, raw materials are expected to remain the major export to the West. But most analysts also agree that continued rapid expansion of Soviet oil output and export is unlikely. Oil exports to the West are now around one million barrels a day, but a CIA report made public last July predicted a downturn in Soviet oil production after 1980, and warned that before 1985 the USSR could change from an exporter to an importer of oil—and thus perhaps come into competition with the US and Western Europe for OPEC oil.

The Soviets themselves are aware of the difficulties they face in escalating oil production. Existing fields are being depleted, but the opening of new fields in less accessible regions of Siberia and off-shore (where massive but still untapped reserves await development) will be slow and costly. As one measure to maintain output they are turning to Western technology for assistance. The Oil-Gas Expo held in Moscow last October drew sellers of oil and gas extraction and transport equipment from around the world to meet with Soviet Petroleum Ministry officials who were eager to buy. Payment for the equipment must either be in hard currency—earned largely through current Soviet oil exports—or pay-back arrangements in which future oil and gas deliveries are promised in return for the equipment needed today.

Steps are also being taken to reorient both the use of fuel in the USSR and the nature of fuel trade with the East European countries. These changes may significantly alter prospects for oil exports to the West by the early 1980s. With coal reserves that are ample but difficult to exploit quickly, and the world's largest gas reserves (over three times as great as those of the second place United States), the Soviets have embarked on a program of converting their domestic fuel use from oil to coal and gas. This conversion process will be slow, requiring the conversion of existing thermo-electric power generating plants, industrial boilers and furnaces and home heating equipment to solid and gaseous fuel. But the primary problem is the replacement of existing power equipment with new equipment.

Some slowdown in Soviet oil consumption is already evident, and more is to be expected, based partly on certain structural changes in the economy. These include a recent reduction in the growth rates of such energy intensive industries as ferrous metals and construction materials, and the greater emphasis in the Tenth Five-Year Plan on re-equipping existing plants rather than building new factories (which under Soviet weather conditions is quite energy-intensive).

Since fuel exports—oil, gas and coal—accounted for over 50 percent of total Soviet exports to the West in 1976, any decreases in oil production could have serious repercussions on Soviet hard currency positions. This development comes just at a time when Soviet imports from the West, particularly in machinery and grains, are increasingly important contributors to the growth and stability of the Soviet economy.

For example, through the Soviet grain harvest last year of 195.5 million metric tons was the third highest in Soviet history, it was substantially below the level called for in the plan, and was 28 million tons below the record breaking harvest of 1976. In the past, grain harvests, which were significantly below plan, have been accompanied by heavy slaughtering of livestock herds. But last year, herds of all types of livestock increased. It seems clear that Soviet leaders have adopted a policy of importing the feed grains necessary to maintain the growth of livestock and thus insure the steady output of their domestic meat industry. A special study that we conducted indicated that such a policy would require a total value of grain imports of $21 billion over the period of the Tenth Five-Year Plan (1976–1980). In return, it was estimated that the increase in meat production and livestock herds would be worth 82 billion rubles. The grain cost of each ruble's worth of additional meat would thus come to only 25 cents, approximately one sixth of a ruble at the official exchange rate.

In our study of Soviet hard currency problems, we made alternative projections of the Soviet economy to 1985 using an econometric model of the Soviet Union called SOVMOD. (See Appendix). We assumed that grain imports would continue at a level calculated as necessary to sustain continued expansion of meat production in the Soviet Union. Based on the simulated impact of a plausible weather cycle on the Soviet agricultural sector, and assuming that the resulting levels of grain trade would reflect recent Soviet behavior, the following possible pattern of grain imports emerged.

Projected grain imports from developed West

[In millions of current dollars]

1976 (actual)	3,000
1977 (actual)	1,200
1978	1,500
1979	1,500
1980	2,000
1981	3,000
1982	3,100
1983	2,100
1984	1,700
1985	1,700

This pattern of grain imports from the West was then combined with three alternative projections of Soviet oil and gas production: 1) the Soviets' own projections of oil output for 1980 and 1985; 2) projections by Western oil and gas specialists from articles appearing in the Oil and Gas Journal; and 3) the projection made by the CIA. For all these projections, the same output assumptions for gas were used, starting at 320 billion cubic meters in 1976 and growing at a rate of 7 percent per year to 588 billion cubic meters in 1985. The oil projections, however, differed rather markedly, as indicated below:

PROJECTED SOVIET OIL OUTPUT

[In million metric tons]

	Official Soviet	Oil specialists	CIA
1976 (actual)	520	520	520
1980	620–640	560	585
1985	750	580	500

Calculations based on the technical literature were then made for Soviet domestic consumption of oil and non-hard currency exports of oil, resulting in an estimate of oil exports to the West. This was combined with an estimate of gas exports to give the final projections of exports to the West.

With the grain import series and the three alterntive oil and gas output and export projections, three alternative scenarios were run on the econometric model. Scenario A is based on the official Soviet oil figures, Scenario B is based on projections by oil industry specialists and Scenario C is based on the CIA estimates.

What are some of the major implications of the three scenarios? If the Soviets would be able to maintain their planned rates of growth of oil production through 1985, Scenario A indicates that they could import the grain required to maintain "normal" growth of grain and meat supplies without any difficulties in their hard currency trade.

Fuel exports to the West (given the assumptions in the scenarios on limitations of domestic oil use and oil exports outside the West) would rise rapidly, as would net exports to the West and machinery imports from the West. And the Soviet hard cur-

rency debt service ratio would remain at a relatively low level, falling below 20 percent in the 1980s.

On the other hand, under the rate of growth of oil output projected by CIA, the Soviet Union would be in severe hard currency difficulties. Fuel exports would fall rapidly in the 1980s, becoming negative by 1985, i.e., the Soviet Union would be a net importer of oil and gas from the West. Machinery imports from the West, as estimated by the model, would also fall rapidly in the 1980s, implying significant negative consequences for industrial growth and modernization. And Soviet hard currency debt problems would become severe. Indeed, the hard currency debt service ratio is estimated by the model to grow from a level of 26 percent in 1980 to 53 percent in 1984 and 99 percent in 1985.

These are clearly intolerable levels, and would assuredly elicit countermeasures by Soviet authorities. One such possible measure is indicated by the precipitous rise in the estimated gold reserves-import ratio. This rise is a consequence of both a fall, in the 1980s, of Soviet hard currency imports and a rise, assumed in the model projection, of the value of Soviet gold reserves. Therefore, the Soviets could more actively sell gold. However, in scenario C, the model indicates that by 1985 the Soviet hard currency situation could be so disastrous, that even if the Soviets sold off their entire gold stock, they would still be left with a hard currency debt of $10 billion.

The results of scenario B fall in between the other two scenarios. While exports of fuels to the West begin to decrease after 1980, the model projects a continued, though slight, rise in machinery imports from the West. The trade balance with the West is negative through the entire period, and the deficit increases after 1980. This contributes to a rise in the debt service ratio to 30 percent by 1981, and just under 40 percent by 1985.

If this scenario is judged to be the "most likely" of the three, the implication is that the combined interaction of the projected grain and oil difficulties will cause the Soviet Union significant hard currency problems. A debt service ratio substantially above 30 percent would probably lead to sufficient concern in the Western banking community as to endanger the Soviet ability to borrow. Moreover, Soviet leaders themselves would be concerned about their debt position. Thus, Soviet trade behavior would have to be altered.

In terms of the trade-offs among grain imports, machinery imports and fuel exports, the probable policy implication is that the Soviets would not import as much grain over the period as assumed in the scenario. This is considered most probable because the fuel exports are already set on the highside (domestic oil consumption and oil exports to CMEA are assumed low) and machinery imports are felt to be high priority in view of their contribution to Soviet growth.

In the light of our analysis it seems that continued expansion of Soviet trade with the West over the next decade will hinge largely on the ability of the Soviet Union to maintain its exports of oil to the West (or quickly to find substitutes for their exports). An alternative strategy, which is already emerging, it for the Soviets to require that its East European partners pay for some of their oil imports from the Soviet Union in hard currency. If these do not prove sufficient, the repercussions will affect both sides.

The Soviets will be forced to make reductions in imports of Western machinery and equipment and/or grain, thus slowing the flow of new technology from the West, and endangering their plans for a more stable and balanced development of agriculture.

For the West, such a development would mean the obvious loss of sales or both industrial and agricultural products. Moreover, in the event of the failure by the Soviet Union to maintain adequate oil production after 1980, there would develop an additional strain on world oil supplies.

Projected grain imports from developed west

[millions of current $]

1976	(actual)	3,000
1977	(actual)	1,200
1978		1,512
1979		1,543
1980		1,967
1981		3,009
1982		3,069
1983		2,087
1984		1,703
1985		1,737

PROJECTED SOVIET OIL OUTPUT

[In million metric tons]

	Official Soviet	Oil specialists	CIA
1976 (actual)	520	520	520
1980	620-640	580	585
1985	750	580	500

Sources: Official Soviet: 1980: 10th 5-yr plan; 1985: according to the Times (London), July 27, 1977, this is the tentative Soviet target for 1985. Oil Specialists: "Petroleum/2000," August 1977, p. 503. CIA: "Prospects for Soviet Oil Production," April 1977, p. 1 (high estimate). ●

PRIVATE ENTERPRISE—PROBLEMS AND PROSPECTS

● Mr. BAKER. Mr. President, on October 12 the distinguished gentleman from Maryland, Mr. MATHIAS, addressed the Houston Rotary Club on the problems of and prospects for private enterprise in the United States. I wish to commend Senator MATHIAS on his perceptive insights into the economic difficulties facing every citizen today and his constructive proposals for solving them. I ask that my colleague's speech be printed in the RECORD so that others may benefit from his views.

The address follows:

PRIVATE ENTERPRISE: PROBLEMS AND PROSPECTS

(By Senator CHARLES MCC. MATHIAS, Jr.)

A couple of years ago, I was invited to Washington University in St. Louis to talk about American cities. Houston was one of the cities I mentioned in a very positive way. In fact, I think I called Houston "the shiny belt buckle of the Sunbelt." That image was a little strained, but I must say that every time I come back to Houston, the city looks brighter and shinier and better than ever.

Houston stands as living proof that a capitalist system can make things happen. This Rotary Club—the largest in the world—says a lot about the vigor of American business. It is exciting to see Houston's progress continuing. And it is especially exciting these days when so much concern is expressed about the future of our free enterprise system.

The voices of naysayers are loud in the land. And they are having an effect. Americans aren't looking forward to the future. Only Little Orphan Annie is singing, "Tomorrow, tomorrow, I love ya tomorrow." The rest of America is worried. And not without reason.

Productivity is down. So is the dollar. In five years, six million investors have dropped out of the market. Close to half of America's households owned corporate shares in the mid-sixties. Last year only one-quarter did. Ten years ago, 300 new high-technology companies were started. This year none was. Our balance of trade is negative and so is our balance of payments. It's no wonder the American people are feeling negative too.

The only element of the national picture that's up is inflation. And that's the worst news of all.

When President Carter took office, he inherited an overall 4.8 percent annual inflation rate. Last week the President's Council on Wage and Price Stability put the inflation rate for this year at "roughly" 10 percent. According to the non-profit National Center for Economic Alternatives, it is even higher. A study by this group shows that by the second quarter of this year the overall inflation rate stood at 11.2 percent, with the rate for basic necessities—food, shelter, medical care and energy—averaging out at 15 percent. For food alone, the rate was a whopping 20.9 percent.

Obviously, there is reason for concern about the future. But I have left one important element out of the grim picture I've drawn. And it is the most important element of all. I haven't mentioned the extraordinary character of America itself, of our people and of our institutions.

America is the most remarkable nation that has ever existed on the face of the earth. It is remarkable for any number of reasons, ranging from its bountiful natural endowments to the spirit and virtues of its citizens. But, ultimately, America's very special quality—its uniqueness—lies in the fact that here in this country the individual is the most important unit of society.

During the darkest days of the American revolution, when the colonial army was freezing at Valley Forge, Tom Paine told his fellow citizens, "We have it in our power to begin the world over again." And he was right.

We did begin the world over again. We made the individual citizen the center of a new political universe—not the state, not a political party, not a class of group—but the individual citizen. And when we did that, we laid the cornerstone for the freest, most creative society the world has ever known.

Out of our extraordinary freedom, we have devised institutions of government and of commerce that have made the United States the envy of the world. Last month I spoke at the largest naturalization ceremony ever held in the State of Maryland; 873 persons from 77 countries became American citizens that day. This continuing flow of immigrants to the United States proves that, no matter what misgivings we ourselves may have about the future, the rest of the world still sees America as the land of a better tomorrow.

Our private enterprise system—what we used to call "People's Capitalism" during the Eisenhower Administration—deserves much of the credit for this. It has proved to be a remarkably adaptable and durable system. Eric Ashby, the noted British scientist and educator, has written that:

"An institution is the embodiment of an ideal. In order to survive, it must fulfill two conditions. It must be sufficiently stable to sustain the ideal which gave it birth and sufficiently responsible to remain relevant to the society which supports it."

People's capitalism has proved to be such an institution. It still sustains the ideal of freedom while at the same time responding to the complexities of the 20th Century and anticipating those of the 21st Century.

It seems to me that Houston, more than any other American city, symbolizes the future of America. The incredible technological and human feats staged from this city make you the window on our world of tomorrow.

But even a city like Houston is not immune to the forces which threaten our bright future. To get from here to there, we as a nation are going to have to remove some pretty big obstacles from our path. One of them is the much-too-heavy hand of government on our economy.

The United States is a strong and viable country, but the federal government has been doing a pretty bad job lately of preserving our reservoir of strength. Business and industry are the backbone of our national prosperity, yet today they are overregulated, underfunded, frustrated and discouraged.

It's hard to get any agreement among our economists about how to get our sluggish economy moving again. Harry Truman used to say he was looking for a one-armed economist, because whenever he talked to economists they'd always say, "On the one hand this; on the other hand that. . . ."

But, we don't need economists to tell us that we've got to make America a great place to do business again. We must get back to the day when all over the world people could say "sound as a dollar."

Our tax policy, which discourage capital formation, is one place to begin. Recent U.S. performance in meeting the nation's need for capital has been poor, at best. A study by the Department of Commerce several years ago forecast that business fixed investment should average 12 percent in the 1975–80 period. In fact, we have had trouble getting the share up to 9 percent so far during this period. Failure to reach higher investment levels now means more future inflation, fewer (and less rewarding) jobs, higher imports from more efficient economies abroad, lower exports and quite probably a greater degree of dependence on foreign sources of energy.

As the Small Business Administration suggested in a report published in January 1977: "A public policy which discourages the public from investing $1 billion a year of its savings in economic innovation, growth and the creation of jobs . . . requires close examination." Indeed it does.

But the trouble with some of the economic theorists, who advise the President on tax policy, is that their basic premise is wrong. As my colleague Senator Russell Long of Louisiana says, they seem to think that ". . . all income belongs to the government, except to the extent that the government allows the taxpayer to keep some of it."

In 1940, a friend of mine joined his father's chicken business on Maryland's Eastern Shore. They had one employee back then, but some good ideas and a lot of drive. Today, the family operation employs 3,800 people and feeds millions of others tender Maryland chicken.

They claim it takes a tough man to raise a tender chicken, and I think they're right.

But my friend says that if he were starting out in business today, even with good ideas and drive, he'd never make it. Today, he says, a young farmer can't get enough capital to survive the first few lean years. The bootstrap operation never gets out of first gear before it stalls.

There is no way the federal government can spend enough money, without going into bankruptcy, to provide jobs for all of the people.

Unless we adopt a tax policy that encourages private enterprise to make jobs by creating new business or by expanding, our country will end up with a different form of economy, and a different social structure.

Former Federal Reserve Board Chairman Arthur Burns explains the businessowner's dilemma this way:

"In an inflation-ridden environment, businessmen have no good way of judging what their costs of production may turn out to be, or what prices they may be able to charge, or what profits if any, will accrue when they undertake new investments."

Think back 20 years or 30 years, to when you were just getting your start. Would you have taken the risk, would you have survived such odds?

How many of you would have risked your life's savings, if the cards had been stacked so heavily against you?

We've got to improve these odds, if the free enterprise system is to function properly.

In writing our tax laws, we've got to keep in mind the young men and women who want the same reasonable chance to be successful that all of you had.

Sound business planning requires a long lead time, People who want to start businesses have to make market surveys and often prepare environmental impact statements. They have to arrange long-term leases or build plants and offices. All of this takes time. But most important of all—before they can do anything—they need an accurate estimate of their cash flow once they're in business. If they can't get that, they can't get financing.

To help them make that estimate, the Senate Finance Committee recommended that the 10 percent investment tax credit be made permanent and this Tuesday night that provision was included in the tax cut bill passed by the Senate. So was a Committee recommendation to raise from 50 percent to 90 percent the amount of investment in excess of $25,000 the business owner can use to compute his total tax credit. The bill also allows accelerated depreciation for small businesses on the first $25,000 of capital investment, and it reduces corporate tax rates.

These are examples of an enlightened tax policy that will help business over the long haul.

In the next Congress, I intend to introduce legislation that would allow this 10 percent tax credit to flow through to the small investors as well. If an investor buys a $1,000 bond which will finance new equipment, why shouldn't he or she get the same 10 percent tax write-off the corporation can now claim? This legislation would give the little investors the same tax break industry now gets for money used for new construction. And it would be a powerful inducement for them to invest.

Some governments are offering much more attractive inducements. For example, the French government has encouraged citizen investment with a new law that allows every French taxpayer to write off all money invested in the stock market up to $1,100. Predictably, prices on the stock market have jumped and investment has increased.

We have much to learn from our friends and allies. It is striking that the nations with the highest rate of capital investment in the late 1960s and early 1970s—Japan and Germany—also had the highest economic growth rates. Japan invests 35 percent of its gross national product in fixed capital and West Germany 25 percent. The United States invests only 17.5 percent.

Among the major industrial nations, the United States and the United Kingdom invested the least and had the lowest growth rates. Capital investment also provides the means for more efficient production—greater output with no increase in human effort. And the efficiencies that result from investment in modern equipment help to hold down the costs of production and thus constitute a first line of defense against inflation.

Of course, Japan and West Germany have no capital gains tax, while the United States has the highest capital gains tax in the industrialized world. We also have the highest percentage of outmoded factories.

Until we make capital investment more attractive, people will not put their money into high risk ventures. Without such investment, new and creative ideas will never see the light of day and the economy will continue to stagnate.

The almost punitive capital gains tax enacted in the United States in 1969 practically dried up investment funds for new companies. Senator Charles Percy tells a horror story about a small Illinois computer firm with a big future. It seems they had to go to Japanese and West German investors because they couldn't find a single American investor to participate. This kind of tax policy is counterproductive. It cuts off our nose to spite our face.

Such experiences convinced me to sign on as one of the original cosponsors of Senator Clifford Hansen's bill to roll back the capital gains tax to the pre-1969 level. (You may also know it as the Steiger Amendment in the House.) The tax cut bill, which the Senate passed two days ago, does not go quite as far in lowering the capital gains tax rate as I wanted. It lowers the rate to 35 percent but that's still a big improvement.

President Carter called this adjustment in the capital gains tax, "A huge tax windfall for millionaires." Sylvia Porter shot back that the President's reaction was, "startlingly misinformed, even reckless. . . ."

I too think the Administration is way off base on this. Almost everyone, either directly or indirectly, has a stake in the success of American business. If you are not a shareholder yourself, you probably belong to a pension fund that is. Most of our major pension systems are funded largely by investment in income stocks.

In view of the President's statement, I think it's worth noting here that labor has been one of the strong advocates for tax reforms to encourage investment. Labor realizes that growth in real wages and in productivity are closely related and that capital formation and capital investment are not sufficient. The National Association for the Advancement of Colored People (NAACP) has also taken the position that the jobs and opportunity it seeks must come from growth in the economy stimulation of the private sector.

The Treasury Department opposes this reduction in the capital gains tax, claiming that it would decrease tax revenues. But the Treasury Department has been wrong about this tax before. In 1969 they thought revenues would increase, if the capital gains tax were increased. The opposite happened. Revenues fell by 40 percent the first year and they have only now returned to the 1968 level.

In a recent study of the economic impact of a capital gains tax reduction, Merrill, Lynch predicted that a roll-back to 25 percent would:

Improve the average rate of growth of real GNP to 3.5 percent as compared with the 3.3 percent rate forecast under the current tax law,

Reduce the unemployment rate from 5.7 percent through the creation of 205,000 additional jobs by 1980,

Reduce the federal budget deficit by $2.3 billion in 1980,

Prompt an additional $3.2 billion in real fixed business investment over the period.

I think those are pretty convincing figures. So convincing, that I would like to project the issue one step further. There may be certain assets that should actually belong to their owners when held long enough. By that I mean that in some cases there should be no capital gains tax at all, depending on the length of time held, the nature of the property and the taxes it has already yielded in various forms during the same ownership. I propose that a serious study of that concept be made.

Another problem for our economy is over regulation of business. I'm not going to get into a lot of detail on this—that's another whole speech. About all you really need to know is that the cost of federal, state and local regulation in 1977, according to a report of the Chase Manhattan Bank Economics Group, was over $103 billion. Bureaucracies everywhere are just spinning out regulations and tying business up the way the Lilliputians got Gulliver.

Admittedly, many regulations are necessary, but many are not. To get a handle on the problem, Congress has begun to require regulatory impact statements with all new legislation and the President has ordered the Executive Branch not only to cut down on existing regulations but to see that all regulations are written in simple, clear language.

Compliance with some of our most important regulations, as you know, is very costly. For example, the Council on Environmental Quality reports that private capital outlays for pollution control were $3.8 billion higher in 1975 than they would have been without federal regulation.

The required rate of capital investment today too is greater than it once was because of mandated investments to meet environmental, health and safety standards. Clean air and water and a healthy work environment do not come cheaply. McGraw-Hill, which has studied business investment closely in the past three decades, estimates that about 10 percent of all spending for new plants and equipment is now devoted to meeting these standards, as compared with about half that amount 10 years ago.

Now, I don't think any of us would want to turn the clock back, but it does seem to me that we should have a full investment tax credit for business outlays for pollution control. When you consider that it only costs $13,000 to create a new job, you can see how many jobs we're losing this way.

In the Senate, we are very aware of the need to economize and to get federal spending under control. In fact, as former Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

This fall we took an important step in the right direction, when we adopted the Second Concurrent Budget Resolution for 1979 which establishes new, substantially lower ceilings for Congressional spending. The new ceilings set the deficit for FY 1979 at $38.8 billion which is $21.7 billion below the deficit anticipated in the President's budget for FY 1979, and almost $30 billion below the deficit set for FY 1978. I am happy to say Congress also wound up this fiscal year $10 billion below the budget ceiling set last year. So we are moving in the right direction.

We also have before us Sunset legislation which is a logical, responsible and orderly response to public concern over rising inflation. This bill would commit Congress to reexamining every cent we now spend to make sure every federal dollar is being used as effectively and efficiently as possible.

It provides for automatic termination of federal programs unless Congress determines, through a review process, that they should be reauthorized or reenacted. The bill, which I have cosponsored, would allow us to shift resources away from programs we no longer need or from those that are not working well. We need to free-up those resources and to put them to work in new, more effective ways. If we succeed in enacting this legislation this year, I think it will eventually be regarded as the most significant accomplishment of the 95th Congress.

These are all things that need to be done and that will help get our economy moving in the right direction again. Much more needs doing, especially to strengthen our position internationally. But right now I think we should get our house in order—we should stimulate a business renaissance in the United States—so that we can confront our international trade problems with some confidence.

But, if we are to have a national business renaissance, then I think we must have uniform labor laws throughout the country. As a Marylander, I am particularly aware of pressures on industry to leave our State and to move to another in search of labor laws more favorable to business. This is an area where I think national standards would be appropriate and useful. Whether these standards are tough or weak doesn't matter as much as that they be uniform nationwide. Maryland has lost a lot of jobs because, rightly or wrongly, business executives have thought that the labor climate was better someplace else. So, if we're going to have a rising business tide, let's make sure it lifts all our boats.

Today I have been tough on government. I have criticized its regulatory encroachments; I have railed against its shortsighted tax policies; I have generally made it the scapegoat for a lot of our problems.

Now I'd like to remind you that the government didn't stick its long snout into the private sector unbidden. As long as 1911, Elbert Gary, President of U.S. Steel, testified before the Congress that he "would be very glad if we knew exactly where we stand . . . and if we had somewhere we could go, to a responsible governmental authority and to say to them, 'here are our facts and figures . . . now you tell us what we have the right to do and what prices we have the right to charge.'"

Government was invited to take a hand in the game. Economist Robert Heilbroner maintains that government has actually prolonged the life of capitalism by stepping in. He writes: "The political apparatus within capitalism is steadily growing, enhancing its power and usurping functions formerly delegated to the economic sphere—not to undo, but to preserve the economic sphere."

Mr. Heilbroner foresees a day when this political expansion will be "a major factor in the extinction of the business civilization . . ."

I am not so pessimistic. I believe the commitment to freedom which underpins our political and our economic system is so strong that we will be able to maintain a healthy balance between the economic and political forces at work in our society.

As the winds of Proposition 13 blow across the land, however, it is important also to remember that every government spending program on the books has a large vocal constituency pushing for it. So, if you want the federal government to balance the budget and to eliminate the defict, ask yourself, "Which of the federal programs that benefit me, am I willing to eliminate?"

We won't make any impression on inflation at all, until we all curb our appetites for more government services. We all must help to restrain government spending by restraining the demand for government services. We've got to face the fact that the federal government cannot singlehandedly get inflation under control. To do that, we need the active participation of corporate executives, small business owners and labor unions. And we need the participation of all other governmental units, from the states down to the smallest towns and villages from President Carter to Mayor Henry of Muleshoe Texas.

And, we must form what Arthur Burns calls a "national constituency" that will fight for the paramount interest we as a people have in a stable dollar. This will require leadership at the highest level.

President Franklin Roosevelt said that: "The greatest responsibilitity of the president is moral leadership." What he meant was that in our pluralistic, competitive society only the President could induce the people to fix their ideas and goals on the great purposes of the nation, thus requiring the subordination of purely selfish purposes not in harmony with the general welfare.

The time to subordinate our selfish purposes to the general welfare is now. We still have it in our power to begin the world over again. It is up to each one of us whether or not we will.●

PRESERVE ALASKA'S WILDERNESS

Mr. EAGLETON. Mr. President, in the Alaska lands bill, we have the opportunity to protect one of the world's most extraordinary wilderness and wildlife reserves. Alaska is a land of superlatives. The mountain ranges are the highest in North America. The shoreline is twice the length of that of the lower 48. Our Nation's largest and most healthy caribou herd inhabits the northern stretches of the State, and millions of waterfowl and songbirds nest in the Alaskan lowlands each summer. But Alaska is not an indestructable land. It is a fragile land and because it is truly our last untouched frontier we must do all we can to provide it adequate protection.

I do not believe the Energy and Natural Resources Committee's bill goes far enough in establishing needed safeguards. Too little of the unique Alaskan landscape will be afforded the sort of management protection that will guarantee its preservation for future generations. It is incumbent upon us as stewards of the land, to preserve the Alaskan wilderness. Therefore, I intend to support amendments to strengthen the Alaska lands bill when it is brought to the Senate floor.

I ask that a series of articles by Bill Wyant of the St. Louis Post Dispatch be printed in the RECORD at the conclusion of my remarks. These articles are eloquent testimony to the need for protecting these extraordinarily beautiful lands. The overwhelming support for the bill demonstrated by the residents of Missouri only confirms my belief that the Senate should act to pass the strongest protecting bill possible. I would like to announce my cosponsorship of three strengthening amendments: 4523 which is the wilderness amendment, the wildlife refuge amendment and the park amendment to the Metcalf-Durkin bill. I urge my colleagues to also support this approach to the Alaska land issue, as it most fairly and sensitively protects our national, natural wilderness frontier.

The articles follow:

[St. Louis Post-Dispatch, July 23, 1978]

ALASKA IN THE BALANCE FOR PRESERVATIONISTS

(By William K. Wyant Jr.)

KOTZEBUE, ALASKA.—Whatever else may be said of Alaska, it is a land of strange and wondrous beauty, and its people are singularly attractive.

But its scenic jewels now sit on the gemcutter's bench, waiting to be fragmented by Congress. In a few years, for better or worse, Alaska will see great change.

Kotzebue, a bleak native village on the glittering Chukchi Sea, above the Arctic Circle and far beyond the reach of Alaska's puny road net, will never match the French Riviera towns of Nice or Cannes as a resort. Life is hard, and the weather is often unkind.

"It's nice country, but it's so doggone fragile—it takes so much of it to produce anything," said Secretary of the Interior Cecil D. Andrus as he sat in a Grumman Goose, a light amphibious aircraft, en route to Kotzebue from McKinley National Park in the south-central part of the state.

Andrus was getting into the second day of a week-long inspection tour of federally owned areas that he and President Jimmy Carter are proposing for special protection as national parks, wildlife refuges, forests and wild and scenic rivers.

With him were about a dozen reporters and a like number of Interior Department officials and wildlife specialists.

Andrus not only was taking a first-hand look at some of the back country nuggets, but he was, in an "America's last chance" salesman's role, making a pitch for the federal plan to set aside about 100 million choice federal acres for what he considers the benefit of the nation at large.

Although the United States already owns the land in question, the "national interest lands" issue is controversial. Many Alaskans, and probably the great majority, want to proceed with development, and they oppose placing so much of their state under protected status.

In Washington, the House has given overwhelming approval to a bill approximating the Andrus-Carter viewpoint, which is supported by a vigorous conservationists lobby. In the Senate, the matter is in doubt because both of Alaska's senators are against it. Also unhappy are the state government and various mining, timber, oil and gas interests.

At present, Alaska's total mass of 375 million acres—an area more than three times the size of California—is largely roadless wilderness. When the smoke of this year's battle has cleared, politicians will have decided what will stay that way, more or less, and what will be opened up.

With such complexities on his mind, Andrus, who is convinced that Alaska affords a unique opportunity for avoiding past errors and doing the job right, rode northwest toward Kotzebue at low altitude. That is the way to see Alaska. Often it is the only way.

The low-flying visitors from the Lower 48—clad in a motley array of mail-order house outdoor clothing—already had spent an afternoon and night at Mount McKinley National Park, 240 miles north of the state's metropolis at Anchorage, which has a population of 167,500.

McKinley has long been accessible by rail and highway. It includes part of Mount McKinley or Denali—Indian for "the High One." This rises to 20,320 feet and is the highest mountain in North America. The Interior Department wants to expand the park from its present size of nearly 2 million acres to 5.7 million acres.

That is approximately the size of Massachusetts and might seem large relative to the nation's oldest and largest existing park, Yellowstone, which is more than 2.2 million acres. But it is small compared with two new Alaska park proposals, Gates of the Arctic (8.1 million) and Wrangell-St. Elias (12 million-plus).

The federal blueprint is gargantuan. In addition to these three parks, 10 other parks are projected for Alaska, about 12 wildlife refuges of immense size, 23 scenic rivers or river segments, and additions of 2.5 million acres to existing national forests in the heavily timbered southeastern Panhandle.

A particularly thorny point for development-minded Alaskans and others would be the official designation of up to about 70 million acres as "wilderness." Under the Wilderness Act of 1964, such areas are to remain inviolate.

Walter J. Hickel, former U.S. secretary of the interior and former Republican governor, is opposed to the plan. He is given a good chance of beating incumbent Gov. Jay Hammond, an environmentalist, in the primary Aug. 22.

Hickel is saying that the land decision should be put off for a while. In a letter to Andrus in April, he recalled that Alexander Hamilton tried to protect the elite and trust the government, whereas Thomas Jefferson's philosophy was to "trust the people."

"Now, in the holy name of the environment," Hickel told Andrus, "the proponents of placing nearly a third of this state in wilderness are resurrecting Hamilton's ghost."

Andrus and his winged entourage, on their way from Anchorage to McKinley Park, the day before they set out for Kotzebue, flew over the lake-studded Susitna flats, some of it excellent moose country and some of the lakes fringed by a cabin or two. Alaskans call this "flyin" real estate. It is becoming expensive.

Farther along toward the park, the little planes began climbing up the flanks of Mount McKinley and gave their passengers a spectacular, breathtaking and at times almost terrifying close-up. Massive rock faces loomed, with rushing torrents below, and then glaciers. Jagged black peaks, flecked with snow, punched through the clouds.

"It seems to go on forever," somebody said above the roar of the motors and the clicking of cameras as one new and unforgettable vista followed another.

A small plane beats a big commercial airliner for flirting with cloud-draped mountains, but it tends to wobble and skip around a bit, which may be disconcerting to those not used to it. The pilots seemed to know exactly what they were doing, however, and soon the planes broke out above the green meadows of the park.

By rural Alaskan standards, the McKinley Park Station scene is an enclave of civilization in the wilds. Alaska Highway 3 connects it to Anchorage and Fairbanks, the railway dedicated by President Warren G. Harding is a familiar touch, and there is a busy airstrip at the east end of an 87-mile "see the animals" park road on which free bus service is provided.

The opening of the Anchorage-Fairbanks Highway in 1972 more than doubled visits to McKinley Park. Since then, the total, about 570,600 last year, has been increasing by 10 percent annually.

Alaska has great allurement for the young. One sees them everywhere, backpacking around the park, waiting for buses, working in the dining room. At McKinley, a young Thoreau can wander a mile from the hotel after dinner and watch a moose browsing in a lake.

Park Superintendent Daniel Kuehn and Bill Trusdell, the chief naturalist, took the Andrus entourage 45 miles west into the park along the interior road, which winds through camping and viewing points. It offers a panorama of living wildlife. When animals are sighted, the bus stop and people pile out with their cameras, binoculars and spotting scopes.

Andrus and his party saw a bull moose feeding on willows, a family of willow ptarmigans, a pair of hovering predatory birds called jaegers, four grizzly bears, a lone caribou resting on an ice patch to avoid insects, and many Dall sheep on the mountainsides.

Grizzlies, of course, can be dangerous. The four that were sighted were grazing placidly on a forward slope about 1,000 yards from the road. They were silver against a green background. A National Park Service sign said bears are to a large extent herbivorous.

It was the next morning that Andrus took his leave of the somewhat structured world of McKinley Park and pushed more than 500 miles northwest across the wilderness to Kotzebue and the Eskimos. Rain was falling. The route lay across the Yukon River and three wildlife range proposals—Nowitna, Koyukuk, and Selawik.

Wildlife refuges are under the Interior Department but managed by the Fish and Wildlife Service rather than the National Park Service. They are not as rigidly protected as national parks are but are regarded as less accessible to economic intrusion than the national forests, which are under the Agriculture Department.

This part of the country is relatively flat, and the great rivers flow in a leisurely way, creating oxbows in shades of brown, purple and green. In places, the watery terrain looks like fronds of seaweed. At Galena, the refueling point on the Yukon, the weather was rainy and the plumbing was outside.

Kotzebue, with nearly 2,000 people, takes its name from a Russian naval explorer. It is an Eskimo trading and cultural center, famous for its native drums, dancing and blanket-tossings. The long, cold winters have put their mark on the place. Fish and seal meat dry in racks along the beach, and here and there are yellow-eyed huskies, wooden sleds and snowmobiles.

The Northwest Alaska Native Association, headed by John Schaeffer, runs a handsome museum and the Nul Luk Vik Hotel, a structure undergirded by metal devices that get rid of heat and avoid melting the permafrost. A comfortable room runs $53 a day, and the buffet breakfast is $5.50.

Eskimos, like many other Alaskans, are ambivalent about the federal presence. They look to Uncle Sam for help where they need it, but they are concerned, despite many assurances, that government red tape will interfere with subsistence hunting of birds, fish and animals, and their own traditional way of life.

For example, Schaeffer at Kotzebue expressed friendly support for Andrus' federal parklands blueprint. But reporters visiting the neat Kobuk River village of Kiana, about 60 miles to the east, encountered misgivings from Mayor Vincent Schuerch and his brother, Lorenz. The family runs the general store.

The brothers favored some development—if it meant jobs. They were dubious about "locking up" too much land as wilderness. Mild scorn was voiced about "little women sitting in their condominiums who don't want us to trap wolves."

Kiana, on a bluff overlooking the Kobuk, looked like a happy village. It has telephones, television and a water system. Caribou are plentiful, and one trapper took 30 lynxes last season. Children swam in the river.

Lorenz Schuerch, in hip boots and wearing a .44-caliber magnum revolver on his belt, took the visitors fishing in a big boat powered by an outboard motor. The fish were not biting, but Lornez turned into a small stream that was alive with arctic grayling. Nobody minded the mosquitoes.

On the way home, some of the guests drank soda pop from a cooler that Lorenz had brought aboard. He said he owns the tract where the grayling had been caught and hoped to set up a hunting and fishing lodge there one day.

[St. Louis Post-Dispatch, July 24, 1978]

ALASKA: A PRESSURE OF NATURAL WONDERS OR STOREHOUSE OF RESOURCES?

(By William K. Wyant, Jr.)

SELBY LAKE, ALASKA.—Here in a remote mountain valley in the Central Brooks Range, where the Interior Department wants to create Gates of the Arctic National Park, a small group of visitors stood near their helicopter, looking around them with considerable awe.

It was a wild and silent place, north of the Arctic Circle and hundreds of miles from any road. On three sides towered the jagged Arrigetch peaks—"Arrigetch" being Eskimo for "fingers extended." The intruders had coptered up from a highland lake that they had reached by amphibious aircraft.

Ray Bane, a cultural antropologist for the National Park Service, dog-sled driver and good friend of the Eskimos hereabouts, seized the occasion to preach a little sermon about the wilderness.

"I'll be very honest with you," Bane told the newspaper and magazine reporters gathered beside him. "I don't like coming in here like this. I think you have to earn it."

Such was the enchantment of the place

that some of Bane's listeners found themselves agreeing with him, even though packing into the Arrigetch on foot might take two weeks of hard walking. In fact, they had thought of it before he mentioned it.

Bane and his wife, Barbara, live at Bettles, about 100 miles east, as the crow flies. Both are from West Virginia. He trained at the University of Wisconsin. They taught school in this area for some years and fell in love with Alaska and the back country way of life.

"Let's save real parts of Alaska—not just postage stamps," Bane said, quietly but intently. "This country has a right to be—because it is."

It is only right, Bane said, to establish more readily accessible places where Mom and Dad and the old folks generally can view the scenery, but the Arrigetch peaks are at the other end of that spectrum—"this is where you come and earn it."

"I'm hoping to get in here next winter by dog sled," he said. "That means I'll snowshoe every mile of the way from Bettles."

As an anthropologist and expert on the Kobuk River Eskimos, Bane was serving as a National Park Service "resource person" for Interior Secretary Cecil D. Andrus' trip to Alaska this month. Andrus is pushing for the Alaska "national interest" lands bill, which is pending in the U.S. Senate.

The secretary and his party, which included a dozen media representatives traveling at their own expense, had flown from Kotzebue to Selby Lake for a weekend of camping and fishing in the course of their week-long tour. It was an unforgettable two days.

Bane's observations, which obviously came from the heart, illuminate one aspect of the controversy that is racking the huge and thinly populated state of Alaska—the federal plan to protect some 100 million acres of government land under terms of the Alaska Native Claims Settlement Act of 1971.

Gates of the Arctic National Park will be no "postage stamp"—to pick up Bane's phrase—if it becomes reality. The plan is to make a park of more than 8 million acres of federal land in a chain of mountains that, extending west across Alaska from Canada, has some of the most spectacular wilderness anywhere.

Bob Marshall, the explorer-forester who founded the American wilderness system, brought the area to national attention in the 1930s. The Brooks Range, through whose passes the North Slope is reached, was named for Alfred H. Brooks of the U.S. Geological Survey, who died in 1924.

The Gates of the Artic environs have been roamed by wandering Eskimos for thousands of years and are prime habitat for wildlife. They give haven to grizzly bear, Dall sheep, wolves, caribou and peregrine falcon. The lakes and streams are rich in grayling, trout, char and pike.

Once they are penetrated by roads and exposed to mining and various forms of public entry, it is reasonable to assume that such an area—without enhanced federal protection, such as park status—would quickly lose is pristine quality. Now, it is more or less untouched.

Andrus, backed by President Jimmy Carter and the conservationists, is insisting that Alaska's "crown jewels" of scenic and wildlife lands must be safeguarded. Republican Sen. Ted Stevens; his Democratic colleague, Mike Gravel; and many other Alaskans want to avoid what they see as restraints on the state's development.

Andrus, as a former governor and lumber operator in Idaho, is familiar with western attitudes toward public lands and the "feds." He also has seen some of the horrors accomplished out there under the banner of private enterprise and get-rich-quick growth.

Andrus, who comes from Norwegian stock, is an outdoorsman. He is calm, blunt and unflappable. He demonstrated on the trip that he can take care of himself in verbal bouts and that he is an enthusiastic, unapologetic, skillful fisherman.

At an Anchorage news conference as Andrus set out on his journey, a hostile questioner asked him whether, if he were still Idaho governor, he would be willing to have so much federal land turned into parks, official wilderness and the like.

He noted that in the Statehood Act of 1958 Congress gave Alaska the right to choose more than 103 million acres of federal lands—nearly 28 percent. This is far more than any other state received, in terms of both acreage and proportion. In addition, Alaska natives were granted 44 million acres.

"The state of Alaska gets four times what my state got," Andrus told the reporter firmly. "The state of Alaska is not being short-sheeted."

This was a reference to the fact that Idaho, which entered the Union in 1890, had a grant of only 4,254,448 acres from the federal public domain, or 7.96 percent of the available land within Idaho's borders.

On the Sunday that Bane and the reporters touched down at the Arrigetch peaks, Andrus made a side trip by helicopter from the Interior Department's Selby Lake camp to an Anaconda Co. mining exploration site some distance to the west.

There Andrus talked with Dave Heatwole, regional geologist for Anaconda, who spoke of $6 billion worth of confirmed deposits of copper and other minerals in the area.

Andrus opposed putting a corridor through the proposed park for getting the ore to market.

Thus the Secretary and his fishing gear were late in arriving at Walker Lake, a lovely, isolated spot northwest of Selby, for a try at the arctic graylings and lake trout. He stripped off the fire-resistant coveralls that are mandatory for helicopter rides in these parts and got into action.

Providence, Andrus proclaimed exuberantly, does not count against a man's time on earth the days spend fishing. He shook hands with Dave Brew, Don Grybeck and others at a Geological Survey station consisting of tents on the lake shore. A team is studying an area 100 by 65 miles.

It was not long before the secretary, who likes to fish with artificial flies, was happily pulling in fish, which he gently took off the hook and put back in the lake. He has an angler's disdain for the term "throwing them back," which indicates rough treatment.

Meanwhile, Mike Van Biene, helicopter pilot of the Interior Department group, and Ed Svek, pilot for the federal geologists at Walker Lake, had a reunion. They served in the Vietnam War.

Tumuk, a large and friendly malamute belonging to Bane, is a summer guest at the Geological Survey camp. Bane said Tumuk is a good dog, but would not stand a chance with a wolf if they met in the wilds and fought. There are wolves around.

Notwithstanding Jack London's "Call of the Wild," the story about a part-St. Bernard named Buck who was kidnapped in California to be a sled dog in Alaska and who finally joined the wolves, knowledgeable people in Alaska will affirm that a domesticated dog is safer at home.

It was still daylight but well into the evening when the secretary and his Walker Lake companions got back to the Selby Lake camp and its tents and sleeping bags. Thick steaks were on the fire. In these latitudes at this time of year, it never gets dark. One can read a newspaper at midnight.

The fishing hereabouts is excellent, something to write home about. Grayling, which are trout-like fish that put up a brisk struggle, can usually be had for the seeking. They run about a pound and a half.

These lakes are not stocked. In southern Alaska, one is told, the fishing has been extensive enough to make some stocking necessary. Loon and duck and all manner of wild fowl haunted the lake.

The secretary turned out to be, in the opinion of the reporters, a hearty fellow around the campfire, and so did the plainclothes Alaska state trooper, assigned to look after his security, Joseph K. Hildreth.

Bane's float plane was drawn up on the shore, Ray being a pilot in addition to his other accomplishments. Mrs. Bane helped with the cooking. She said that, if Bane went to the Arrigetch next winter by dog team, she would go with him.

The Interior Department brought along an array of persons competent to discuss the fauna and flora and natural wonders of Alaska. Some of them went beyond the call of duty to help Lower 48 visitors catch a fish or negotiate the rocks.

Clay Hardy and Bov Stevens represent the Fish and Wildlife Service; Stell Newman, Bob Belous and Roy Sanborn, the National Park Service, Jerry Gilliland and Paul Gates are along to represent the Alaska division of the Interior Department.

All in all, Selby Lake is a place where it is still possible to fleet the time carelessly, in the Shakespearean phrase, as they did in the golden days of old. There are no snakes—Alaska has none—but plenty of mosquitoes.

A naturalist told reporters that mosquitoes, although a nuisance to human beings, are a vital source of protein for the fish.

[From St. Louis Post-Dispatch, July 3, 1978]

"SEE ALASKA FIRST" WEEK—ANDRUS STARTING CONSERVATION STUDY

(By William K. Wyant, Jr.)

WASHINGTON.—The federal share of Alaska's scenic heritage is at stake in Congress as Interior Secretary Cecil D. Andrus begins an inspection tour this week that will take him into the heart of the Alaskan back country.

Both Andrus and President Jimmy Carter have said that the Alaska park lands bill, which got overwhelming House approval and is now moving through the Senate, is the most important conservation measure of our times.

At issue is a conservationist-backed move to give more protection to some 100 million federally owned acres of Alaska by turning them into national parks, national forests, wildlife refuges and wild river systems.

The bill is intensely controversial, because the state government of Alaska, various industrial and commercial interests, and probably most of the citizens up there are opposed to what some regard as an excessive "locking up" of the state's resources.

Among those opposing the legislation in the form in which it passed the House in May are the huge and thinly populated state's two senators—Ted Stevens, Republican, and Mike Gravel, Democrat. Senatorial courtesy being what it is, this is an obstacle.

As leader of the opposition. Stevens is challenging the public relations efforts of the Interior Department in support of the bill. He says it amounts to propaganda that violates a specific "no-no" handed down on Capitol Hill.

Among other things, Stevens objected to Andrus' inviting a dozen or so reporters and other media representatives to accompany the secretary, starting Wednesday, on an eight-day trip criss-crossing Alaska's mountain vastness and taking them to lakes, rivers and wildlife refuges.

The reporters will be going at their own expense—or, more explicitly, at their newspapers' expense—but Stevens charged that the secretary planned to spoonfeed the members of the press. Andrus said he was just trying to keep the public informed.

In any event, the next few days will be "See Alaska First" week. More than one party of Cheechacos, or tenderfeet, from the Lower 48 states will be wandering through the

wilds, keeping watch for grizzly bears and moose.

Some of the visitors from Washington, D.C., and elsewhere will be doing a little fishing in streams where anything under a foot long is considered a minnow. All will be swatting mosquitoes, which are abundant at this time of year.

Andrus, undaunted by Stevens' mutterings and the fact that environmentalists are not wildly popular in some parts of the state, plans to lead his group to McKinley National Park north of Anchorage on Thursday and then push farther into the bush.

Traveling with Andrus by light aircraft and sometimes by boat will be about a dozen media representatives, several senators and a clutch of Interior Department experts well-versed in just what is being included in the various park proposals, what is left out, and why.

Meanwhile, Stevens, not to be outdone, will be ramrodding his own expedition beginning Wednesday, the same day as the secretary's departure, and ending Sunday. About 10 senators will be traveling with Stevens, and the state of Alaska will be picking up the tab, the senator's office said.

Stevens had a personal invitation from Andrus to go on the secretary's trip, but declined with thanks. Andrus even paid a call at the senator's office to invite him.

Alaskan forays for the press are getting to be quite the thing. In mid-June the American Forest Institute, the Alaska Loggers Association and an industry-oriented group called Citizens for Management of Alaska Land sponsored a trip for the media that included, among others, Brock Evans of the Sierra Club.

In the more or less roadless Alaskan environment, sponsored tours make sense for groups seeking support for a viewpoint. Alaska in 1974 had less than 10,000 miles of municipal and rural roads compared to Missouri's more than 115,000. The commercial air communication network is good, but anyone who wants to see the out-of-the-way places often must charter a plane to get there. That is expensive, although bush pilots, like grizzlies, salmon and trout, do abound in the state.

Distances are great in a state that encompasses more than 586,000 square miles or 375 million acres of land and inland water. Alaska is more than twice the size of Texas. It has four time zones and boasts a coastline more than six times as long as California's.

The glories of Alaskan fishing are seldom mentioned in the official documents relating to congressional and other trips to the biggest of the states, but legends are plentiful. Stevens likes to tell about a relative who hooked two trout on the same cast.

There also are occasional tales of a grizzly attacking and consuming a camper, but apparently that does not happen often.

Andrus, who was an enthusiastic trout fisherman even before he became governor of Idaho, will fly with his party from McKinley National Park Friday to Kotzebue, on the Chuckchi Sea far to the northwest.

En route to Kotzebue, a center for Eskimo culture, the group will fly over the proposed Koyukuk, Nowitna and Selawik national wildlife refuges.

On Saturday, Andrus will take the visitors by air to the scenic Brooks Range, where the immense Gates of the Arctic National Park is proposed. That night and Sunday night will be spent at a campsite on a remote lake.

The party will proceed Monday to Anaktuvik Pass and Prudhoe Bay, lunching at the oil development there. It will then fly to Kaktovik on the Arctic Ocean, on the north slope of the Arctic National Wildlife Range. This is the haunt of a large herd of caribou.

Andrus and Carter are said to be determined to protect the range from invasion by oil developers. In many other areas, there is tension between proponents of mining and other mineral activity and environmentalists who want the wilderness left the way it is for a while.

Late next Monday the Andrus group will arrive at Fairbanks, the major city in the interior of the state. On Tuesday, the party will fly over the spectacular Wrangell mountains and stop overnight at Seward, on the southern coast.

On the final day, Wednesday, July 12, there will be an inspection by boat of the proposed Kenai Fiords National Park before returning to Anchorage, which, with a population of more than 50,000, is Alaska's metropolis.

While all this is going on, the Senate Energy Committee, under the chairmanship of Sen. Henry M. Jackson, D-Wash., will resume its markup of the Senate's version of the Alaska bill July 11. Nobody knows what will emerge.

The areas involved are of staggering immensity, and the stakes are high: a batch of beautiful new national parks dwarfing Yellowstone, new wildlife refuges, monuments, some acreage for national forests in the southeast and millions of acres of protected wilderness.

Stevens, although he opposes the administration-supported bill, has expressed confidence that differences can be resolved and favorable legislation enacted this year. He thinks Alaska would benefit by getting the matter settled.

Conservationist forces, marshaled and alert, are also confident that a good bill will emerge from Congress before the year's end.

"I think the overall climate is very good," said Charles Clusen of the Sierra Club, who heads the conservationist coalition for Alaska. He cited evidence of public awareness across the nation, with public support for saving part of what remains of the nation's last great wilderness.●

THE ALASKA LANDS BILL AND OUR INTERNATIONAL ENVIRONMENTAL RESPONSIBILITY

● Mr. PELL. Mr. President, the Alaska Lands bill ordered reported by the Senate Committee on Energy and Natural Resources has sharply reduced protection for the Arctic National Wildlife Range at a time when our Nation has an opportunity to participate in an unprecedented international undertaking: The creation of a protected Arctic wilderness that crosses our border with Canada.

I have cosponsored S. 1500/amendment 2176, the Durkin amendment, because I believe it will preserve the natural heritage in Alaska but at the same time will not deter commodity development and economic growth in the State. The Durkin amendment would increase the size of the Arctic wilderness range by 9.5 million acres and grant responsible wilderness protection to that vast and fragile area. The Arctic National Wildlife Range serves as a breeding ground for such species as the porcupine caribou herd and denning polar bears, as well as a host of other important species. We must resist the promotion of oil and gas exploration within this range. While some oil and gas reserves may be located there, fully 95 percent of the onshore "high-potential" oil lands in Alaska lie outside the fragile environment of the range's coastal plain.

Mr. President, we must act during this present session of Congress on the Alaska lands legislation. To postpone action on this issue is an act of short-sightedness. For some years now, Americans and Canadians interested in the Arctic region spanning both countries have sought to establish an international Arctic Wildlife Range in the northeastern portion of Alaska and the northwest Yukon territory in Canada. The Canadian Government recently took action toward realizing this goal by formally withdrawing 9.6 million acres for inclusion in the range, and by barring oil, gas, and mineral exploration and development in that area. The action by the Canadian Government must be met with similar measures by the United States in order to preserve the natural resources and wildlife in the area.

I urge the Senate to take the opportunity in this session to act on this vitally important and internationally significant conservation legislation in a manner consistent with the action of the House of Representatives, and to provide full wilderness protection to an expanded Arctic Wildlife Range.●

WADK-RADIO CELEBRATES 30 YEARS OF PUBLIC SERVICE IN RHODE ISLAND

Mr. PELL. Mr. President, WADK, a radio station in my home city of Newport, R.I., will celebrate its 30th anniversary of broadcasting on Monday, November 6, 1978. Throughout these 30 years, WADK had been exemplary in its service to Newport County.

The station first began broadcasting on Saturday, November 6, 1948, as WRJM and I remember taking a very personal interest in it. The present-day call letters were established in November 1953. Those call letters—ADK—are an abbreviation for Aquidneck Island, the original Rhode Island, in what is now Newport County.

Throughout its 30 years, WADK has emphasized public service and has continued to provide the Newport County area with local news and vital information. This radio station has helped residents, time and again, during times of crisis by broadcasting important information during hurricanes, blizzards, and other severe storms.

WADK has been an innovator in New England radio. It established one of the first talk shows in the country on March 1, 1954, hosted by Francis J. P. Sullivan. That pioneering show continues to this day and "Sully's" audience continues to call in and to listen to his lively show.

For a quarter of a century, WADK has encouraged and aired daily exchanges of ideas and opinions with the public. The station has given local civic organizations thousands of hours of free time to help publicize and promote worthy causes. On several occasions, the station has organized and broadcast fund-raising efforts for local groups.

WADK also has won top New England broadcast journalism awards. Recently the station received such awards for its coverage of the Tall Ships visit in 1976 and for its coverage of the America's Cup Races in 1977. WADK has provided live coverage of every America's Cup racing series off Newport since 1958.

Throughout its 30 years of public service, WADK has maintained its dedicated effort to serve Newport County by providing vital local news coverage, supporting worthwhile community activities and by offering talk shows, music shows, and a variety of programs to provide information and entertainment.

This station and its staff have earned congratulations, an enthusiastic "well done," and heartfelt wishes for continued outstanding service.●

FAIR EMPLOYMENT RESOLUTION FOR FEDERAL EMPLOYEES

● Mr. BAYH. Mr. President, I sincerely hope that the Senate will have an opportunity to act in the immediate future on the fair employment resolution for Senate employees. The Congress has made many inroads toward eliminating employment discrimination in this country. We have passed title VII of the Civil Rights Act of 1964 which prohibits employment discrimination on the basis of race, sex, religion, or national origin. In 1972, we passed the Equal Employment Opportunity Act which gave the Equal Employment Opportunity Commission the power to enforce the Civil Rights Act. We have passed the equal rights amendment, and renewed our commitment to that goal by passing an extension of time for the ratification of that amendment. Surely, the Congress must now make sure that our own employees are afforded the same protection against discrimination as those employees in the private sector.

As chairman of the Constitution Subcommittee, it has deeply troubled me that our own employees have been exempted from the Civil Rights Act. As a result of this concern, I sponsored the first effort to put the Senate on record as an equal opportunity. On September 8, 1976, the Senate passed Senate Joint Resolution 534 which read as follows:

Whereas the Senate supports the principle that each individual is entitled to the equal protection of the laws guaranteed by the Fourteenth Article of Amendment to the Constitution of the United States; and

Whereas the Senate as an employer is not compelled by law to provide to its employees the protections against discrimination established in the Equal Pay Act of 1963 or title VII of the Civil Rights Act of 1964: Now, therefore, be it

Resolved, That (a) no Member, officer or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

(1) Fail or refuse to hire an individual;

(2) Discharge an individual; or

(3) Otherwise discriminate against an individual with respect to promotion, compensation, or terms conditions, or privileges of employment on the basis of such individual's race, color, religion, sex, national origin, or state of handicap.

(b) Each Member, officer, and employee of the Senate shall encourage the hiring of women and members of the minority groups at all levels of employment on the staffs of Members, officers, and committees of the Senate.

While this Senate resolution was a first step, a much more important step remains. That step is embodied in the Brooke amendment to the Humphrey-Hawkins bill. Senator GLENN and Senator BROOKE have led the struggle to amend the Senate rules to provide for a meaningful structure in which the Senate can carry out the principles to which it agreed to September 1976.

The civil rights movement in this Nation has had many fine champions in the Congress. The senior Senator from Massachusetts, Mr. KENNEDY, has always been in the forefront of the struggle. The junior Senator from Massachusetts, Mr. BROOKE, remains one of the civil rights movements most eloquent and effective spokesperson. A recent article in the Delegate magazine reflects this view, and I would like to have it printed in the RECORD.

The article follows:

THE RECORD OF SENATOR EDWARD W. BROOKE: EFFECTIVE ADVOCACY

(By Melvin Farnsworth)

As the first session of the 95th Congress drew to its preChristmas close, Congressman Parren Mitchell, the Chairman of the Congressional Black Caucus, took pen in hand to let Senator Edward W. Brooke know just what the Congressman thought of him. Mitchell wrote in part of his deep admiration for Brooke's "forceful, courageous, and inspiring leadership on two of the most difficult issues which have come before the Congress—abortion and busing. . . ."

Mitchell went on:

". . . I cannot imagine how we could have done as well as we did without your eloquent and steadfast guidance. Your commitment to principle above conventional political wisdom on two of the most important and volatile issues facing not only Black people, but the entire nation, cannot be praised highly enough."

For Ed Brooke, the nation's first black Senator since reconstruction, the support and friendship of such trusted allies is a primary source of the strength needed to struggle without much respite for the ever-threatened rights of the black, the poor, and the neglected.

The six month debate over denying indigent women Medicaid payments for legal abortions was, in Congressman Mitchell's words, ". . . perhaps the most gruelling legislative battle I have seen while serving in Congress." Ed Brooke led the Senators who, for months, struggled to insure that low income women and girls had access to abortion medical services as they and their physicians determined to be medically necessary. It was a fight marked by intense, sometimes ugly, lobbying and political pressures on the forces supporting indigent women's right to choice. After 35 roll call votes in both Houses of Congress, Brooke had won a compromise which vastly expanded the availability of abortions to women in need. But the Senator was not elated.

"There are still women out there who are being denied their constitutional right to make their own choice simply because they cannot pay," he told his supporters. "We will have to keep fighting year after year until this unconscionable situation is eliminated."

The Senator has become sadly accustomed to leading never-ending struggles to consolidate civil rights gains and to make sometimes agonizingly slow progress.

Nationwide, he has gained recognition as a seasoned warrior to whom those who look for protection of the rights of minorities and the fulfillment of the needs of the poor always turn when the going gets tough. Ed Brooke, the black Republican elected from virtually all-white, all-Democratic Massachusetts, seems to have little conventional political caution. Those who really know him were not surprised to see him lead the fight for medicaid abortion payments, for this was the man who battled to keep the courts' right to use busing as a tool for school desegregation even as mobs ranged through the streets of Boston. This, too was the man who opposed the President of his own party and brought about the defeat of not one but two Supreme Court nominees who, said Brooke, "Did not meet the high standards required of a Supreme Court Justice." Later, Brooke was the first elected official of stature in either party to call for that President, Richard Nixon's resignation. And it was Ed Brooke who filed the legislation offering genuine amnesty to Vietnam war deserters, and Ed Brooke who ignored the clubby Senate tradition and wrote the new Ethics Reform legislation which the Senate adopted last year.

In 1972, Brooke's re-election campaign slogan billed him as "the freest man in the Senate." The question to outsiders has always been how one who is so independent of the conventional political wisdom can continue to pile up landslide support in a state which has a strong, ethnic, conservative element. In answer to this question, Brooke says pensively, "I think it is because I try to let the people know exactly where I stand and why I hold the beliefs I do. I think the country is crying out for leadership, and that, when I act on the principles I think are basic, people understand and respect it even if they disagree. I have to do this job as I believe right. The opportunity to make real contributions is too precious to waste."

The quiet assurance with which Ed Brooke uses his opportunities for leadership has sometimes deceived and confused his foes. This is a man of courtly charm; his manners are formal, impeccable, his voice is seldom raised, his words are carefully chosen. In battle, Brooke is a lawyer who resorts to facts and to the Constitution to make his points. He uses reason and reality to counter his opponents' arguments. He is known for demolishing the demagogic rhetoric of others with simple but definitive restatements of the central problems of rights or benefits being debated and the central rationale for his positions. As his second term draws to a close, there are few who have encountered him who do not come away realizing he has become a force to be reckoned with.

Ed Brooke is hoping for a chance to serve his third term. "It is getting lonelier," he says. "There are few left who want to carry on the work we began in the '60's and yet there is so much more to do." For the Senator, the job ahead means continuing advocacy for the forgotten and the oppressed. He laid out his own vision of the task of the elected officials when, in answer to President Jimmy Carter's simple assertion that "Life is unfair," he said, "But it is our job to right the wrongs, overturn life's inequities, and see that we share the riches of our nation equitably."

But Brooke foresees more difficult years ahead in attempting to achieve these goals. And he cites the fight to pass the 1975 extension of the Voting Rights Act as an example of the resistance that still remains. For even though the Voting Rights Act had been heralded throughout the nation as an outstanding success, a formidable coalition of Senators attempted to gut the important triggering mechanism which makes the Act work so effectively. Only the efforts of Brooke, along with Senators John Tunney (D–California), Jacob Javits (R–New York), and James Pearson (R–Kansas), saved the provision by managing to rally enough Senators to defeat the critical weakening amendment by a scant five votes. Shortly after this close call, Brooke explained to the Third National Institute of Black Elected Officials why the Senate vote so clearly showed that our struggle is far from over:

"We were not debating a complex civil rights issue. We were not even debating busing. We were debating voting. We were trying

to assure the most basic constitutional right for all American citizens. And yet on the floor of the United States Senate American politicians very nearly said to Black, Brown, and Red Americans: You cannot even be guaranteed your right to vote."

And there is no question that Senator Brooke is needed for this struggle. For he has been an effective advocate. And a look at his legislative career will show how effective he has been.

CIVIL RIGHTS

When someone writes the definitive biography on Senator Edward Brooke, there will be many legislative highlights, but none will shine brighter than the work he has done to assure equal educational opportunity for all our nation's school children. While he has championed this principle since his days as a young attorney for the Boston NAACP, his role in recent years has taken on added importance. For civil rights is no longer a popular cause. And as the battles for equal educational opportunity have moved northward to the large urban areas, many former allies have deserted the ranks. This is especially evident in the congressional debates over busing for the purposes of desegregation. Although Brooke himself is not wedded to any particular desegregation remedy, he firmly believes that a judge must have available to him all the appropriate tools to remedy unlawful segregation. And thus, time and time again, Brooke has led a small band of allies in rear-guard actions to withstand the congressional assaults on the constitutional rights of school children.

Unfortunately, in the fall of 1975, the Senate for the first time passed an anti-busing amendment. Brooke decried the "erosion of political leadership which raised the busing problem and is now seriously weakening the historic civil rights coalition in the United States Senate." And in a major speech following the vote, he expressed:

"How shameful it is that on the verge of our Bicentennial celebration, the United States Senate was willing to deny American school children their constitutional rights. And how hypocritical it is that the great civil rights coalition in the Senate begins to weaken in direct proportion to the number of court orders in various northern cities."

While the Senate did vote to limit the authority of the Department of Health, Education and Welfare to require busing, Brooke and his allies have been defeating harsher attempts to interfere with the independence of the Judiciary. But the work is difficult and lonely. Indeed, Brooke's role has been so courageous and so dominating that it has caused one Senator, George McGovern (D–South Dakota), to lament on the Senate floor that too many Senators were abdicating their responsibilities and letting Ed Brooke fight the tough battles all alone.

The same fervor that characterizes Brooke's commitment to equal educational opportunity to Americans in all fields of endeavor. His leadership has been instrumental in the enactment of legislation to protect the fundamental rights of women, the aged, the handicapped, and all those who have been unjustly discriminated against.

And Senator Ed Brooke is truly an urban advocate. During a Banking Committee hearing on the New York City financial crisis, he said:

"I believe that the principal problems facing our cities today are not so much fiscal problems as the problems of people themselves—the problems of poverty, aging, unemployment and a sense of helplessness about the future. And we must face the fact that these burdens cannot be met by our cities alone.

"The problems of poverty and joblessness, which weigh heavily on our cities, are really national problems, which require solution at the Federal level. And until we develop a strategy for dealing with these problems, we shall continue to engage in cruel self-delusion, and we shall only see more cities, like New York, lining up for emergency financial assistance."

The Senator serves as the ranking Republican member of the Senate Committee on Banking, Housing, and Urban Affairs, and also has become a major force in the formulation of housing and community development policy.

COMMUNITY DEVELOPMENT

Ever since the community development block grant program was created by Congress in 1974, Senator Brooke has worked to target the resources of this program toward the older, distressed cities of the Northeast and Midwest and to assure that these funds are used to principally benefit low and moderate income persons.

During the last year Brooke worked for the adoption of a new formula for allocating community development funds which recognized that existence of older housing stock and population growth lag are sensitive indicators of community development need. He proposed the so-called "impaction" amendment to the 1977 housing bill together with Senator Harrison Williams (D-New Jersey). "Impaction" would provide increased community development funding for these cities which have heavy concentrations of older housing stock and thus have the greatest need for funds for housing rehabilitation and neighborhood improvement. This amendment was included in the Senate version of the bill, but after strong opposition from the House conferees and personal intervention by the President against "impaction," it was dropped by the Conference Committee. But Brooke intends to continue to work for formula changes which seek to target our scarce federal resources at the neediest central cities.

He has strongly advocated HUD's recent efforts to require that community development funds be used principally for the benefit of low and moderate income persons. The program is widely criticized because many studies have shown that only 45 to 55% of the funds have actually reached those people who are the intended beneficiaries of the program. He says that he will continue to support efforts to assure that these funds are directed to assist those persons who are most in need and the older cities which have the most urgent needs for neighborhood revitalization.

PUBLIC HOUSING

Senator Brooke has fought for the right of lower-income Americans to decent housing and for the preservation and revitalization of communities in our older cities, and he knows that public housing has made a major contribution to housing for millions of families who would have had no other source of adequate shelter.

Brooke has sought increased funding for the construction and rehabilitation of public housing. He has responded to those critics of the program who only cite his well-publicized "failures" pointing to the continuing demand for public housing. "There are low vacancy rates and long waiting lists for public housing throughout the country," Brooke said. "The poor need homes. We can't turn our backs on them."

In 1969, he authored the so-called "Brooke Amendment" which provides that no public housing tenant may pay more than 25% of his or her income for rent. And he has beaten back challenges to the "25% of income" rule from both Congress and the Executive Branch.

The latest HUD statistics show that some 60% of the public housing units are now occupied by minority persons and 40% of the public housing units are occupied by elderly persons on relatively fixed incomes. This recent shift in occupancy toward the elderly poor and the lowest-income families, particularly minority families, has been accompanied by substantial increases in operating costs for these projects and federal operating subsidies for local housing authorities have become essential to maintain our existing housing stock.

Each year, Senator Brooke has had to fight the Administration, Republican or Democratic, and other members of Congress to secure an adequate level of funding for operating subsidies.

VENDOR PAYMENTS

In October of this year, Brooke offered an amendment to the social security bill striking the authority that let welfare departments make unlimited "voluntary" two-party checks to welfare recipients and their landlords or utility companies. Brooke knew this provision in the bill would have resulted in coercion of recipients to agree to such payments, while providing a guaranteed income for landlords with no requirement that their buildings be adequately maintained or repaired. In addition, tenants would lose whatever remedies they currently have to withhold rent or make necessary repairs and deduct them from rent to assure compliance with local housing codes.

Brooke fought Daniel Patrick Moynihan (D-New York) and Ranking Republican Carl Curtis (R-Nebraska) when they supported this provision. He forged an alliance including HUD, AFL–CIO, legal service organizations, tenant groups, welfare rights organizations, public interest groups and state public welfare administrators which resulted in an overwhelming vote in favor of the Brooke amendment. As Senator Brooke pointed out:

"In Detroit, California, Wisconsin, Virginia, and New York, as well as in Massachusetts, AFDC recipients with rare exception are making those payments. Why should we put that stigma upon them and say, "We do not believe that you are responsible enough to pay your rent?"

YOUNG FAMILIES HOUSING ACT

For the past year and a half, Senator Brooke has worked on a proposal to assist young families in buying a home—culminating in his "Young Families' Housing Act." "Young first-time homebuyers have been forgotten as housing costs have skyrocketed," he claims. These families are confronted by the full spectrum of housing cost increases—home prices, interest rates, property taxes, insurance, maintenance and repairs, and heating and utilities. And yet there is a growing proportion of families in the 25 to 34 year age group seeking to buy their first homes.

Brooke's Young Families' Housing Act provides for a new FHA-insured graduated payment mortgage which would reduce monthly payments during the early years of a mortgage and increase those payments during the later years. It will help alleviate the burden of high initial mortgage payments for families whose incomes are likely to rise over a period of time. The bill also provides assistance for first-time homebuyers in saving toward the down payment on a home by offering an income tax credit of 20% for contributions to an "individual housing account."

Brooke's graduated payment mortgage provision became part of the Housing and Community Development Act of 1977. His individual housing account bill is now awaiting consideration by the Senate Finance Committee.

INCOME AND SERVICES

Another of Senator Brooke's key assignments is as Ranking Minority Member of the Senate's Labor-HEW Appropriations Subcommittee. When trust funds for Social Security and Medicare are added in, the Labor-HEW bill totals more than $170 billion and is

the biggest money bill the Congress passes each year. More than 400 programs are covered by this measure.

But the Labor-HEW Appropriations bill is also one of the most controversial in the federal government. In addition to its size in dollar terms it regularly attracts legislative amendments on such issues as abortion, busing, affirmative action, occupational safety and health and the like.

As important as these issues are, Brooke maintains they do not belong on an appropriations bill, as they delay its passage and detract from its main purpose. In this case, he points out, that purpose is to provide funds in a timely manner to assist the jobless, attack disease, broaden and strengthen education at all levels, help the aged and the impoverished and combat discrimination, to cite only a few of the important areas that are covered by the Labor-HEW measure.

The process of developing such an enormous bill involves the Senator in public hearings that go on for months, exacting attention to detail and much behind-the-scenes bargaining over funding levels as well as policy direction regarding the use of the money. It never wins Brooke banner headlines, but it is essential to assuring that a Labor-HEW bill adequate to the nation's social needs emerges from the process.

As the top Republican on the Subcommittee, working with the Committee Chairman Senator Warren Magnuson (D–Washington) Senator Brooke is in a key position to influence the amounts of money made available for the nation's most important social programs and for the groups he feels are most often underrepresented. "It is a special responsibility," he often says, "to find the real needs and try to meet them with the limited resources we have."

Senator Brooke was instrumental in providing $693 million for summer jobs for young people in fiscal 1978 which ends September 30. The final funding level is $98 million above the House allowance and $168 million over the budget request. Some 1.1 million part-time summer jobs for low-income youth 14–21 years of age will be created as a result of this effort.

Senator Brooke sponsored the amendment to increase funds for family planning services by $11.4 million, over the budget request and the House allowance. According to HEW, the $135 million appropriated will provide family planning services for some six million patients, a 10% increase in patient load over FY 1977. Well over 75% of the additional funds Congress made available will go to low income areas to serve teen-agers thought to be at high risk of pregnancy.

In the education area, where most of the Federal funds are targeted toward the improvement of the educational opportunities for the disadvantaged, Senator Brooke has played a key role in securing increased funding for a variety of programs.

In elementary and secondary education, the Senator strongly supported the successful Senate effort to secure a sizeable increase for the Title I program of grants for disadvantaged children. This resulted in an appropriation of $2.7 billion for fiscal 1978, a $450 million increase over the previous year. He also fought for and obtained increased funding for Bilingual Education, Right to Read, Head Start and the Follow Through program.

The Senator also led the Senate effort to increase funding for handicapped education for the 1978–79 school year. He also was instrumental in securing a commitment for full funding of the key State Grant program which aids local school districts in providing newly mandated services to the handicapped.

Brooke has been the chief proponent in the Senate of increased funding for the Emergency School Aid Program which provides assistance to school districts undergoing school desegregation. He has sponsored amendments to initiate and expand the new and promising magnet schools program. Appropriations for this program, which is viewed as an important new tool in the desegregation process, will total $20 million in fiscal 1978. Senator Brooke also sponsored the amendment which resulted in an increased appropriation for targeted assistance to school districts undergoing court-ordered or voluntary desegregation. This program will serve more than 2.25 million disadvantaged students in school year 1978–79.

In the area of higher education, Senator Brooke successfully sponsored amendments to increased funding in the current school year for low-cost direct student loans and for supplemental educational opportunity grants. Together these programs total $571 million. He was instrumental in getting increases for the Basic Opportunity Grant (BOGS) program which benefits more than 2.5 million disadvantaged college students.

He supported a $1 million emergency appropriation for the School of Veterinary Medicine at Tuskegee Institute in Tuskegee, Alabama. The funds were needed for updating of facilities to permit the school to retain its accreditation. The Senator also pushed a provision relieving the Institute of a requirement that it match the federal funds made available to it.

Senator Brooke's efforts got increased "financial distress" funds to assist beleaguered Meharry Medical and Dental Schools in Nashville, Tenn. In addition as Ranking Minority Member of the Labor-HEW Subcommittee, he signed a letter permitting the reprogramming of an additional $1 million from available appropriations to help Meharry meet financial expenses for the 1976–77 academic year and thereby to maintain its accreditation and a meaningful teaching program. Indeed, the Labor-HEW Subcommittee report for FY 78 encourages HEW to give special consideration to funding disadvantaged assistance programs at Meharry.

The Senator also was successful in getting the Howard University Hospital included in both the interim and final federal End Stage Renal Disease program, pointing out that it was one of the most active kidney transplant centers in the District of Columbia and had been unfairly excluded from the program.

Senator Brooke has taken a strong interest in the development of the Howard University Cancer Research Center, fighting for the funds needed to allow construction to begin. The Senator was the key speaker at groundbreaking ceremonies for that center in March 1977.

The Labor-HEW Subcommittee also has jurisdiction over the annual budget for Howard University. In fiscal 1978, the approved budget level is $99.1 million, or $11 million more than the 1977 appropriation.

In the health area, Senator Brooke has been a strong supporter of research into sickle cell disease and screening and treatment of victims. A total of more than $21 million will be made available for these purposes through the HEW budget in fiscal 1978.

Senator Brooke led the successful effort to secure increased funding for Local Iniatiative under the Community Services Administration which administers the anti-poverty program. His amendment, co-sponsored by several other Senators, resulted in a $39 million increase in operating funds for the 900 local Community Action Agencies nation-wide, the first increase in several years. And, last spring he received an award from the Community Action Program Directors for his efforts in this field.

Senator Brooke also played the key role in the annual appropriation of $200 million for the emergency energy assistance program to aid disadvantaged families and senior citizens hard hit by last year's severe winter. And he has simultaneously tried to eliminate the need for fuel payment assistance by proposing expanded programs to weatherize the homes of the poor.

The Senator sees unemployment as one of the major issues. Senator Brooke has consistently spoken out against a national unemployment rate that hovers around 7%. And he has found the 40% unemployment rate for black youth to be particularly appalling. For as he has stated, "The dislocation, the degradation, the anxiety and the waste of human resources, which is caused by our consistently high unemployment, are tragic."

It is for this reason that the Senator has supported massive federal job creation through Public Works Jobs Programs. These federal programs have accounted for more than twenty billion dollars in job creation moneys. However, the Senator feels that this immediate response cannot obscure the need for serious, federally sanctioned incentives to encourage job creation and training in the private sector. In view of this, he voted for the congressionally enacted two-year jobs tax credit as part of the 1977 Tax Reduction and Simplification Act. Under this provision, businesses are allowed a tax credit of up to twenty one hundred dollars ($2100) for each new employee hired in 1977 and 1978. This credit will not only create jobs but also increase the amounts of internally retained funds held by business.

In addition, while Brooke was pleased that President Carter has endorsed a compromise version of the so-called Humphrey-Hawkins full employment bill, he was deeply disappointed that the proposed legislation does not require the Administration to take any specific steps to reach that goal. For as the Senator has pointed out, "Words alone will not solve our pressing unemployment problems."

And, indeed, Senator Brooke has provided more than mere words to the plight of our nation's labor force. Just last year during the consideration of the Fair Labor Standards Act ("The Minimum Wage Bill"), Senator Brooke introduced an amendment which reduced the number of hours restaurant, hotel and motel employees must work before receiving overtime compensation from 46 hours to 44 hours in 1978 and to 40 hours in 1979. Thus, this amendment, which affects an estimated 2.4 million cooks, dishwashers, waiters and waitresses, removes an unjustifiable and discriminatory exemption from the law.

And Brooke fights to go beyond employment for the disadvantaged to a policy which gives the heretofore dispossessed a true share of America. He advocates a strong and stable minority business community as essential to the growth of our nation. In 1969 he called for the establishment of the Office of Minority Business Enterprise (OMBE). And an office to coordinate minority business development did indeed become a reality, designed to be a catalyst, to stimulate and to coordinate a federal-private partnership to assure America's minorities equal access to the reward of free enterprise.

Since he understood the complexity of any endeavor to assist minority business, Senator Brooke realized that OMBE alone could not bring about the desired result. In light of this the Senator advocated the Small Business Administration's "8(a) setaside program." Under this law, the SBA is allowed to enter into procurement contracts with other Federal agencies and then subcontract the work to firms owned by socially and economically disadvantaged persons—primarily minority—in order to help such firms become competitive in the marketplace. Since its inception the 8(a) program has provided millions of dollars in federal contracts to deserving minority enterprises.

Likewise, the Senator proposed the 10%

minority business set-aside now contained in the "Local Public Works Capital Development and Investment Act of 1976." Unlike 8(a) setasides this law mandates that 10% of the $4 billion of additional grants authorized by the 1977 amendment be awarded to minority businesses. This program has been responsible for injecting sorely needed dollars into these thriving businesses.

Senator Brooke has used his access to the private sector to urge their participation in the growth of minority businesses. He has repeatedly prevailed on large corporations to provide minority businesses with more venture capital opportunities and to participate in joint ventures with minority businesses.

Brooke believes that a balanced approach of combining governmental and private initiatives is the only way that we may assure a viable minority business community. As for future initiatives, his office is presently working on a program which would allow minority businesses to expand and capture overseas markets.

FOREIGN ASSISTANCE

But Brooke's call for adequate attention to the needs and desires of the disadvantaged and suffering have not been limited to the United States. As a natural complement of his advocacy role for the poor and disadvantaged in our own country, he has been deeply involved in U.S. foreign assistance efforts designed to relieve the hardships of the third world's underprivileged and provide the hope of a better life. Through his years of service as the ranking Republican member of the Foreign Operations Subcommittee of the Senate Committee on Appropriations, he played an instrumental role in our response to the needs of the poor majorities in other lands.

Brooke's particular interest in the international realm has been the effort to achieve dramatic increases in food production. He has sponsored numerous pieces of legislation on the issue including the "Right-to-Food" Resolution and a bill to bring about a significant U.S. involvement in the establishment of a world food reserve. One of his major and most successful efforts, was his advocacy of U.S. participation in the International Fund for Agricultural Development. This Fund was established to provide monetary resources for projects specifically designed to increase food production in food-deficient countries. Brooke's successful amendment to provide a $200 million U.S. contribution to the Fund (with other countries providing the additional $550 million of the initial capitalization of $750 million), gave tangible evidence of his deep commitment to helping the world's poor.

As he has encouraged the establishment of the necessary institutional framework to deal with the problems of poverty in the world, Brooke has not lost sight of the nation's obligation to be responsive to pressing emergency needs. Such an obligation was never more evident than in the drought that afflicted the Sahelian countries of West Africa for much of the late 1960's and early 1970's. Literally millions of individuals raced the prospect of death by starvation as the rains so desperately needed by those living on the edge of the great Sahara Desert were inadequate for a number of years. Brooke was one of the first to recognize the seriousness of the situation. His efforts, along with those of his Senate and House colleagues and the Administration, resulted in a major relief effort by the United States that was instrumental in lessening the tragedy. As a follow-on to that effort, he has actively encouraged U.S. involvement in the multi-lateral Sahelian Development Program designed to bring about a long-term economic development of the area. Most recently, he was successful in convincing his colleagues on the Senate Appropriations Committee to provide $50 million as the 1977–78 U.S. contribution to that effort.

His colleagues cite more examples of his concern for the disadvantaged of the world. He has called attention to the suffering of the poor in Haiti; to the plight of the victims of two disastrous earthquakes in Italy during 1976; to the pressing needs of the innocent victims of the strife in Lebanon; to the denial of the basic human rights of many individuals throughout the world; and to the evil oppression visited up those in Southern Africa who for so long have lived under the yoke of white minority rule. As always, he takes on these causes for the long term. He has been the voice of constant and repeated insistence upon taking meaningful and realistic steps to lessen injustice and increase the reality of a decent existence for those who for so many ages have faced the future with only despair and dread.●

UTILITY COMPANY GREED

● Mr. BUMPERS. Mr. President, I would like just a few moments in which to comment on one of the most blatant examples of utility company greed I have come across in a long time. In a story on the front page of the Washington Post this morning, reporter Phil McCombs describes the plan of a major utility company to subvert its customers' efforts to conserve energy. Specifically, the Washington Gas Light Co., which enjoys a monopoly on natural gas in the District of Columbia and the vast suburbs of Maryland and Virginia, has announced that it is going to use computers to catch its customers who manage to turn down their thermostats, use alternative fuels or otherwise use less gas. This is absolutely outrageous. Here, for the better part of the entire 95th Congress, we have worked ourselves to the nub trying to come up with a program to save this Nation from an impending energy disaster. The President and the Congress have told the American people that it is their patriotic duty to save our precious fossil fuels. Millions of dollars of research have gone into seeking ways to heat homes adequately while cutting down on the consumption of oil, gas, and electricity. People are installing solar panels, heat pumps, storm windows, super insulation, and devices that make a fireplace more efficient. People are proud and pleased with their efforts to save, and Congress should commend them. But now comes the Washington Gas Light Co. with naked avarice and says to these people: You are free to buy a heat pump and cut down on your gas consumption, but we are going to punish you for that by clobbering you with an extra charge of up to $14 dollars a month. Mr. President, I submit that this is the "Catch 22" of the energy crisis. Its skyrocketing costs, a homeowner cannot afford to heat his home the old wasteful way by burning lots of fuel. So, one way or another, he manages to burn less fuel. Then the fuel company comes back at him, says that is a "no-no"—if you are not going to buy as much fuel as you used to, you are going to have to pay a service charge and make that up to us. In other words, Mr. President, the Washington Gas Light Co. intends to set up a situation that would be the envy of any pirate. That is, if you cannot make them buy something, charge them for not buying it.

Mr. President, I ask that the text of the Washington Post article be printed in the RECORD.

The article follows:

WGL SEEKS CHARGE FOR USE OF OTHER ENERGY

(By Phil McCombs)

Washington Gas Light Co. announced yesterday that it is seeking permission to impose new charges ranging from $7.80 to $14 a month or more on its District, Virginia and Maryland customers who cut their gas consumption significantly by substituting electricity or some other form of energy for gas.

If permission is granted by the regulatory commissions, WGL would use its computers to detect customers whose gas usage goes down drastically. If further investigation discloses that the customer is using an electric heat pump, electric heating panels, propane or even a wood stove for most of his heating— still using gas for the rest—then the new "standby service" charge would be imposed.

The reasoning behind the proposed charge is simple: if people begin changing the energy mix in their homes and workplaces to use gas only when the weather becomes extremely cold—a time when gas is dependable and cheap for consumers while other energy sources tend to become expensive and inefficient—then the company's revenues will drop and it will fail to earn the return expected on its fixed costs for equipment.

Critics of the proposed charge say the company is seeking to preempt the marketplace that might otherwise be available to alternative energy sources such as heat pumps. They also say the proposed charge seems to penalize consumers for conserving gas—a scarce resource.

"We believe that full use of gas is still the most efficient and economical," said Edmund Smallwood, WGL's vice president for rates and regulatory affairs. "Others are touting other [energy] combinations and we're simply saying to our customers that we'll give you the opportunity to consider combinations of energy sources, but we don't want you to impose an undue burden on other customers when you do this."

The "undue burden," Smallwood said, would be placed on regular full-use gas customers who would have to begin paying some of the fixed costs for those customers whose gas use—and therefore payments to the company—would be drastically reduced.

The company does not know how many of its 413,000 residential heating customers and 55,000 nonresidential customers—the groups that would be affected by the proposed charge—may already have changed their energy mixes in ways that would subject them to the charge, a spokesman said. The computer has not yet been set up to flag these customers, he said.

The new charge would not apply, however, if solar energy is used as a primary energy source with gas on standby.

"We don't have that [solar] as a problem yet," said Smallwood. "That's still about five years away."

The proposed charge would not affect 77,000 residential customers of WGL who use gas in small quantities for stoves and water heating but not for heating their homes. Their demand for gas is steady if small, and because they use no gas for heating, their demand will not increase dramatically in especially cold weather, according to the company.

It is a dramatic increase in demand for gas in especially cold weather from those who use gas on a standby basis that creates problems for the company. It must have large supplies of gas available for these "peak periods," and the equipment available to deliver it.

Under the proposal, residential standby

service customers in the District of Columbia and Virginia would pay a system charge of $22 a month from September through May—an increase of $14 in the District and $12.60 in Virginia.

Maryland residential customers on standby service would pay a system charge of $16 every month of the year—an increase of $7.80.

Nonresidential customers, including industrial, commercial and group-metered apartments, would pay an additional $14 in the District, $8 in Maryland and $12.60 in Virginia for each 100,000 BTU's of hourly rated input of their gas furances, plus the normal systems charges of $12 or more a month, depending on the jurisdiction and type of customer.

"I'm not sure what they're driving at here other than another device to impose anti-conservation rates on people," said Brian Lederer, the D.C. people's counsel who represents consumers in utility cases. "They don't seem to have gotten the message that people don't like the system charge, that it discourages conservation."

"It certainly doesn't let the marketplace work, does it?" said Don Gilchrist, vice president of marketing and sales for TVI Corp. of Kensington, which is selling Energy-Kote radiant heating systems that work on electricity and that Gilchrist said are competitive with gas.

A spokesman for Potomac Electric Power Co. said that the company understands that "it's important to recover costs," but that utility rates "must not impose charges which are going to be anticompetitive in their effect on the residential space-heating market."●

NEUTRON WEAPONS AND THE CREDIBILITY OF NATO DEFENSE

● Mr. HAYAKAWA. Mr. President, the Senate recently approved funding for the production of neutron weapon components as part of a $2.97 billion nuclear projects authorization bill. By the overwhelming margin of 68 to 1, this body made clear its intention to proceed with a system which would significantly strengthen NATO's military capability and offer a more credible battlefield alternative to the present generation of tactical nuclear weapons.

The bill in question calls for the immediate production and stockpiling of neutron elements in anticipation of a presidential decision to deploy neutron warheads on the Lance surface-to-surface missile and as artillery shells for 8-inch and 155mm howitzers. Unfortunately, the debate surrounding the neutron weapon last spring, culminating in President Carter's decision to defer production of the system, was often characterized by an emotionalism and lack of diplomatic finesse which impeded a thorough review and analysis of the situation. The President's decision was premised largely on the hope of a reciprocal gesture—so far not forthcoming—by the Soviet Union in restraining its own weapons deployment in Central Europe.

Given the Warsaw Pact's pronounced advantages in main battle tanks and armored vehicles, I believe it is necessary to reassess the political and military value of neutron weapon deployment, particularly as it would affect the credibility of our tactical nuclear deterrent posture and contribute to the stability of the European military balance.

The Heritage Foundation has published an excellent study which focuses on the implications of enhanced radiation/reduced blast weapons, as they are properly called, for NATO's deterrence strategy and war-fighting potential. John G. Behuncik, a congressional fellow in National Security Affairs and author of the study, provides a timely and provocative analysis of the issue in its several dimensions which merits serious and extended consideration. I recommend Mr. Behuncik's report to my colleagues and request that it be printed in the RECORD.

The report follows:

THE HERITAGE FOUNDATION,
Washington, D.C., May 4, 1978.

NEUTRON WEAPONS AND THE CREDIBILITY OF NATO DEFENSE

INTRODUCTION

Few military policy issues have engendered more sustained controversy than the United States' development of an enhanced radiation/reduced blast weapon, commonly referred to as the neutron bomb. As in any debate of the possible battlefield uses of nuclear arms, the discussion of the neutron weapon's strategic value has often been marked by an emotionalism which overshadows the political and military factors.

The neutron weapon is a miniaturized, low-yield hydrogen device, the product of fusion technology and an advanced guidance system. It derives its destructive power not from the heat and conclusive force associated with conventional thermonuclear weapons, but from intense, though limited and short-lived bursts of lethal radiation. Fitted to the short-range missiles and tactical nuclear artillery pieces currently deployed in Central Europe (the Lance missile, for example) the neutron weapon would be especially effective against a blitzkrieg-type frontal attack by the Warsaw Pact on NATO defensive positions in West Germany. Such an assault would presumably be spearheaded by massed columns of Soviet tanks and armored vehicles, where the Pact enjoys comparative numerical advantages.

Proponents argue that introduction of the neutron "bomb" into NATO's operational inventory would bolster the credibility of the Alliance's tactical deterrent posture, since collateral damage to non-combatants and urban structures adjacent to the immediate battlefield area would be minimal. Critics contend that the very "controllability" of the weapon invites its early use against conventional attack, thus lowering the nuclear threshold and heightening the specter of retaliation and devastating escalation.

President Carter's indefinite deferral of a production decision has been made conditional upon both an explicit commitment by the NATO European nations to deploy the weapon on their territories and to some unspecified reciprocal restraint by the Soviet Union in its own military programs affecting European security. Because of the apparently erratic, almost improvisational manner in which the decision to withhold production was made, significant questions have arisen about the cohesion and reliability of NATO's political consultative machinery and the efficacy of the President's own decision-making apparatus. The resultant effect on the long-term viability of Atlantic defense strategy is uncertain.

In dealing with the complex of assumptions involved, this report will analyze the neutron bomb controversy with reference to

1. the nature of the weapon system and its tactical efficiency relative to existing theater capabilities,

2. its implications for the Atlantic strategic doctrine of graduated deterrence, and

3. the concepts of political linkage and arms control.

THE NATURE OF THE ENHANCED RADIATION SYSTEM

The concept of an enhanced radiation weapon is neither of recent origin nor revolutionary in a strictly military sense. The several antecedents of the modern version of the system experienced progressive technological refinement and expanded deployment potentialities. Indeed, the principles of neutron radiation for military purposes were applied to the testing and development of the Sprint anti-ballistic missile system.

Despite presumptions about the logic of the escalatory sequence, the immediate and indiscriminate destruction inflicted by present generation theater nuclear capabilities may largely obviate the possibility of rational thought competing with battlefield exigencies. As such, and given NATO's historical inability to define a persuasive operational mission for tactical nuclear forces, Pentagon strategists have long desired deployment of a weapon which could effectively deter or, if necessary, blunt a Pact armored thrust without causing incalculable damage to the area ostensibly being protected.

The properties which characterize the enhanced radiation device result from variations in applied quantum physics. Most conventional thermonuclear weapons are based on the fission process, in which isotopes of uranium or plutonium are compressed into a "critical mass" (or fissile core) and then split by heavy, sub-atomic particles called neutrons. The energized neutrons reproduce themselves in an explosive chain reaction. Each fission neutron reaction releases an average of three neutrons, yet these account for only a minimal proportion of the weapon's total energy output. By far the largest share is transmitted through the thermal heat and blast of recoiling fragments of radioactive uranium and plutonium atoms, which comprise most of the weapon's fallout.[1]

The fusion process, by contrast, requires the combination of isotopes of the lightest element, hydrogen (composed of deuterium and tritium), into slightly heavier atoms of helium, a reaction that must nonetheless be "triggered" by the tremendous temperatures and pressures generated by a fission explosion. According to Air Vice-Marshal Steward Menaul of the Royal United Services Institute:

Fission weapons, at the instant of detonation, release about 5% of their energy in the form of prompt radiation. The rest is dispersed in the thermal pulse and blast effects. The new-type, low-yield weapons based on fusion release up to 80% of their energy in prompt radiation (high-energy neutrons and gamma rays) while blast effects are kept to a very low level. This characteristic is known as enhanced radiation, and the effect of a weapon of this kind would be approximately the same as from a fission weapon of ten times the yield.[2]

It is essentially the suppression of the blast/heat effects relative to similar or higher-yield fission weapons which magnifies the intensity of the neutron radiation emitted, a form of radiation extremely lethal to living tissue. Extensive radiobiological research has documented the damage to the mammalian central nervous system caused by variable exposure to neutron bombardment. The dosages of absorbed radiation (measured in rads) diminish in lethality as the distance from ground zero, where the confluence of destructive forces is maximized, increases. Those within a restricted "kill radius" of approximately one square mile (blast-induced structural damage would be confined to several hundred yards) would suffer either instantaneous death or phased degrees of fatal illness and functional incapacitation. The United States Army has established battlefield casualty criteria

Footnotes at end of article.

of absorbed neutron radiation levels ranging from 8,000 rads (high) to 650 rads (low) which correlate with graduated human responses. Contrary to some speculation, it seems unlikely that enemy troops so afflicted, even at the lower end of the "rad-band" spectrum, could effectively discharge combat operations.

Beyond the circumscribed radius, however, (and assuming the adoption of even moderate insulation measures) the radiation distribution is said to be negligible. Among other factors, the extent of radioactive contamination depends upon the detonation altitude of the weapon, with appropriate air bursts decreasing fallout, since the atomic fireball would probably not touch the ground. Unlike thermonuclear fission weapons, moreover, the residual neutron radiation of fusion devices dissipates within hours, further reducing unintended damage and permitting friendly forces to rapily secure the affected battlefield. In an area like West Germany, with an average population density exceeding 650 persons per square mile, this fact is of no small consequence.

While it is beyond the scope of this study to detail the anticipated physical effects of different radiation absorption levels, the following table of comparative measurements is instructive. It indicates the radii attending the prompt radiation and blast effects of a neutron weapon and two fission nuclear devices as they correspond to recognized dosage levels and blast intensity levels (measured in overpressures of pounds/square inch, or psi). The manner in which these effects vary with weapon detonation altitudes is also noted.

RADII OF EFFECTS (FEET)

Weapon	8,000 rads	3,000 rads	650 rads	6 psi	4 psi	3 psi
1. Burst height equals 500 ft:						
1 kt ER	2,500	3,000	4,000	1,400	1,800	2,500
1 kt fission	1,300	1,600	2,500	1,700	2,000	3,000
10 kt fission	2,500	3,000	4,000	3,000	4,000	5,000
2. Burst height equals 1,500 ft:						
1 kt ER	2,500	3,000	4,000	0	800	1,500
1 kt fission	0	1,000	1,900	700	1,500	2,000
10 kt fission	2,500	3,000	4,000	4,000	5,000	7,000
3. Burst height equals 3,000 ft:						
1 kt ER	1,000	2,000	3,500	0	0	0
1 kt fission	0	0	0	0	0	0
10 kt fission	1,000	2,000	3,500	1,700	3,500	5,000

Source: S. T. Cohen, "Enhanced Radiation Warheads: Setting the Record Straight," Strategic Review, winter 1978, p. 12.

Among the most vehement objections raised in connection with the neutron weapon is that its deployment would represent a moral regression in tactical nuclear warfare. Opponents assert that the weapon is "inhuman" because it kills people but leaves inanimate objects, such as buildings, intact. The same could obviously be attributed to the effects of certain conventional armaments, such as rifle bullets. It is furthermore contended that if the United States proceeds with development of enhanced radiation weapons, such action would eviscerate President Carter's declared intention to seek arms reductions and eventually, the abolition of nuclear weapons.

The crescendo of opposition has transcended partisan political boundaries, however. A worldwide propaganda campaign, orchestrated by Moscow, has sought to portray the United States as attempting to destabilize an emerging theater nuclear balance by the introduction of a weapon system which, beyond obscuring the delineation between conventional and nuclear conflict, would be novel in its lethality. To this end, Soviet leader Leonid Brezhnev dispatched a bristling letter to NATO European heads of government last January, in which he decried the neutron weapon as archtypically capitalist, and vowed that its deployment would exacerbate East-West relations and leave the U.S.S.R. with little recourse but to adopt "appropriate countermeasures."

The argument must be evaluated in its total perspective. The neutron weapon's precision for anti-tank missions and its limited kill radius contrast notably with the indiscriminate lethal effects of present tactical nuclear systems, where the distinction between military and civilian targets (and hence casualties) would be effectively blurred. Furthermore, if one posits that the desired result of a viable military operation is the attainment of specified battlefield objectives with minimum collateral loss, then a weapon which significantly decreases civilian casualties would seem to have some claim to "humaneness" (assuming that the notion retains some meaning in nuclear warfare).

It is interesting to recall in this context that, unlike their NATO counterparts, Warsaw Pact forces are trained in the use of chemical and biological weapons, whose lethal effects on living cells require little elaboration. Also, despite reported improvements in accuracy and guidance techniques, the majority of Soviet tactical nuclear systems, as well as the approximately 700 medium and intermediate-range ballistic missiles targeted on Western Europe, are countervalue (i.e. population-oriented) in nature.

Footnotes at end of article.

Regarding the propriety of the neutron weapon, the nuclear physicist S. T. Cohen, often referred to as the father of the enhanced radiation concept, offers this interpretation:

All military weapons, more correctly their employment, are immoral. The recipient of the effects in the main have been ordinary human beings who have had the misfortune to be on the other side. Regarding the choice of weapons to be used in a possible war, the immoralities having to do with differences in kill mechanisms logically must be assessed in the context of a vastly different immorality—the great obscenity of war itself.

Most Americans feel that the greatest obscenity would be nuclear war. If fighting such a war would be humanly immoral to an extreme, then taking the means to deter its outbreak can only be construed as a moral imperative. It is in this context that the development of any nuclear weapon must be judged. This includes the neutron bomb.[3]

ENHANCED RADIATION WEAPONS AND WESTERN DEFENSE: THE POLITICAL BACKGROUND

Funding authorization for the updated neutron weapon was contained in a FY 1978 public works appropriations bill, specifically that portion comprising the Energy Research and Development Administration's $1.2 billion budgetary request for weapons programs. Though the exact level of funding was classified, initial development appropriations were reliably estimated at $650 million over several years. Both the Senate and House passed their respective versions of the bill after defeating attempts to delete production funding for the enhanced radiation system. However, in addition to requiring an executive arms control impact statement (pursuant to PL 94–141) prior to releasing funds, amendments to the Senate bill included a proviso which would necessitate a concurrent resolution of Congress to block a Presidential production decision within 45 days of receiving the impact statement.[4]

The "neutron bomb" is actually designed as a tactical nuclear warhead for emplacement on the 70-mile range Lance surface-to-surface missile and as an artillery projectile for 8-inch and 155 mm howitzers (with 10–13 mile ranges). As the potentially most credible option in the United States' theater nuclear modernization program, the enhanced radiation weapon, with a one-kiloton yield, would replace a substantial fraction of the roughly 7,000 tactical nuclear devices now deployed in Central Europe, whose yields vary from ten to fifty kilotons. Projected on a ten-year basis, the estimated total cost of the replacement effort would be $2–4 billion. However, the continuing modernization of existing tactical systems will allow them to be fitted with either conventional nuclear, or neutron warheads.

The lead-time factor affecting initial deployment of the neutron weapon is anticipated to range from 18 to 30 months. Thus, the safeguard presumably represented by a production decision must account for the incremental strengthening of Soviet theater capabilities during that period.

The operational deficiencies of present tactical systems are apparent. For example, the 8-inch nuclear shells, many of which were deployed in the late 1950's, have very limited range and lack an effective internal security mechanism. Their complexity makes them slow to load and fire, thus casting doubts about their performance reliability under battle conditions. Appropriations request to upgrade tactical artillery systems were rebuffed by Congress in the early 1970's, however, pending introduction of a more innovative design concept to accommodate a changing European political and military environment.

As noted previously, modifications of theater weapons embracing the enhanced radiation system have been theoretically possible, though not perhaps strategically feasible, for some time. In 1954, a crude neutron device was planned as a suitable projectile for the Army's 280 mm howitzer. Several factors intervened subsequently, however, and the program was cancelled. Similarly, consideration was given to deployment of a neutron weapon during the latter years of the Eisenhower Administration as well as during the Kennedy Administration, though the ultimate decision affecting European theater capabilities in the aftermath of successive Berlin crises involved an expansion of conventional ground forces. A prototype of the modern neutron weapon was test-fired in Nevada in 1963, yet the program remained dormant despite the efforts of military specialists to devise cost-effective alternatives to existing tactical nuclear forces.

THE TACTICAL NUCLEAR DILEMMA

Tactical nuclear weapons have long provoked ambivalent feelings on both sides of the Atlantic, with European governments uncertain as to how they would be employed for limited strikes in repelling an invasion by Soviet forces, or what the consequences of their use might be. Moreover, the precise nature of their symbolic "linkage" to strategic nuclear weapons as the ultimate guarantor against a NATO defeat has never been satisfactorily explained. "The basic idea is that a strategic nuclear response to Soviet aggression would be intuitively more plausible if tactical nuclear weapons had already been used and had failed to halt the Soviet attack."[5] United States officials have emphasized (though often less than persuasively

to anxious Europeans) that NATO's use of tactical nuclear weapons would provide an unambiguous signal to Moscow that the Alliance was prepared to cross the qualitative "firebreak" between conventional and nuclear warfare to prevent a Soviet conquest of Western Europe.

But how could one resolve the dilemma or control the escalatory process in a rational manner, let alone anticipate the magnitude of devastation to the NATO territories being defended? Moreover, would the respective damage levels inflicted by tactical and strategic nuclear weapons actually be distinguishable to the victims?

In 1955, when nuclear deterrence was based on the precept of massive retaliation and conventional forces served a preeminently "trip-wire" function, NATO commanders conducted a simulated war exercise entitled *Carte Blanche*. According to the scenarios developed, it was assumed that 335 nuclear weapons would be used within the first 48 hours of a conflict, and that 268 of them would strike West German territory. Immediate German casualties were estimated at 1.5 million dead and 3.5 million wounded.[6] (Other Pentagon studies conducted in the 1960's reportedly estimated that casualties in Western Europe resulting from such an exchange would exceed 100 million.) Such appalling findings, observed Henry Kissinger in Nuclear Weapons and Foreign Policy in 1957—

. . . became a demonstration that the power of nuclear weapons inhibits their use unless there exists a doctrine which poses alternatives less stark than total devastation.[7]

The impetus for increasing acceptance of the enhanced radiation weapon as a realistic tactical option was provided by then-Secretary of Defense James Schlesinger's enunciation of a new strategic targeting doctrine in 1974 which entailed the notion of damage limitation. Schlesinger's thesis involved the development of a selective counterforce capability which would destroy military "point" targets while sparing urban population centers. Transposed upon the NATO environment, precision was to be substituted for the threat of mass annihilation as the most credible response to levels of aggression short of strategic thermonuclear exchange.

This revised concept was predicated upon several interrelated elements:

1. The momentum of the Soviet Union's unprecedented military growth across the spectrum of capabilities to a position of essential strategic equivalence with the United States, despite the supposed restraint induced by negotiated arms control measures.

2. The especially formidable array of Soviet conventional and theater nuclear forces opposing NATO, and the references made in Soviet military literature to the predominance of rapid, coordinated offensive attacks (the "combined arms concept") as the key to securing battlefield advantage. Based on an obviously reduced warning period, such attacks do not preclude, but rather envision, the introduction of nuclear weapons under appropriate circumstances.

MILITARY BALANCE IN CENTRAL EUROPE

	NATO	Warsaw Pact
Manpower	670,000	955,000
Main battle tanks	7 000	20,500
Tactical aircraft	2,000	2,800
Tactical nuclear missiles	7,000	3,500
Artillery pieces	2,700	10,000

Source: Newsweek, Apr. 17, 1978, p. 37.

3. The general stagnancy (or perhaps obsolescence) of the NATO defense posture, including the progressive emasculation of the doctrine of graduated deterrence. Principally because of the gross disparity in counterpoised conventional forces, it was perceived that the credibility of the West's tactical military deterrent, as well as the political utility of theater nuclear weapons as symbolic of the American security commitment, had been seriously eroded.

4. The development of new technologies which have produced a modern generation of theater nuclear systems possessing capabilities for highly-accurate and low-yield deliveries. Improvements in accuracy, coupled with reductions in warhead payload, have made available to the North Atlantic Alliance weapons of great precision in target acquisition which simultaneously minimize blast-related collateral damage.[8]

V. STRATEGIC RAMIFICATIONS OF DEPLOYMENT OF THE NEUTRON WEAPON

In requesting production funding for the neutron weapon last year, President Carter stressed that

Tactical nuclear weapons, including those for battlefield use, have strongly contributed to deterrence of conflict in Europe. I believe that we must retain the option they provide and modernize it.[9]

The deterrent credibility of a weapon is linked to the probability of its application as circumstances warrant. Limited battlefield objectives demand less than total means, at least such that a reasonable degree of certitude exists that the means in question will be exercised selectively. Whether neutron weapons augment deterrent credibility depends on the advantages they possess for strengthening tactical war-fighting capabilities, since a potential adversary may be uncertain as to what constitutes permissible battlefield actions short of eliciting a problematic nuclear response, however limited.

Since many tactical delivery systems are dual-capable, it is in NATO's strategic interest that conventional forces be upgraded in order to assure the flexibility and measured responses which graduated deterrence requires. Yet what appears to be Europe's tacit reliance on theater nuclear capabilities as the primary deterrent may reflect a corresponding downgrading of (or simply insufficient attention to) conventional forces for sustained combat during the initial stages of a conflict. The point is of more than academic interest relative to the potential deployment of the neutron weapon, since it affects the composition of military capabilities necessary for successful defense against incremental levels of aggression and determines the emphasis accorded the function of conventional units beyond that of political symbolism. Moreover, a tactical nuclear deterrent which promises indiscriminate damage becomes less credible if conventional defenses are perceived as only marginally relevant to the overall strategic concept.

The heart of Soviet military strategy in Central Europe involves multiple massed tank thrusts, supplemented by substantial firepower and with little advance warning, which would overrun NATO defenses before anything approaching ample Western mobilization could take place. Furthermore, the Soviet Union has developed tactics designed to limit the employability of U.S. theater nuclear capabilities by rapidly closing the gap between forward-stationed Pact armored units and the troops and civilian populations of NATO allies.

In the event of a Pact breakthrough which could not be contained by conventional military means, the tactical responses could only be as flexible as disposable armaments permit. A NATO decision to introduce current-generation tactical nuclear weapons would necessarily carry with it the risk of unacceptable damage to the allied infrastructure, including civilians and property. Responses and escalation beyond the nuclear threshold are thus related as much to the manner in which weapons are used as to their size and technical characteristics (though the latter are of obvious importance in determining the feasibility of certain missions).[10] If the tactical nuclear response is sufficiently "manageable" for executing selective *military* operations, then the aggressor is faced with the dilemma of whether to escalate the conflict commensurate with the values attached to his own military objectives or retreat before the specter of unwanted destruction.

It is in light of these considerations that NATO strategists, in particular the seven-nation Nuclear Planning Group, must weigh the potential military and political utility of the neutron weapon. Designed primarily to neutralize Soviet preponderance in armor, the neutron weapon would appear to have several distinct advantages over the large, less accurate tactical systems.

In the first place, Soviet-line tanks such as the latest-model T–72, have been hardened to withstand blast overpressures up to 65 psi. Tactical weapons which rely on a combination of blast and heat for their destructive impact would be less certain of registering substantial "kills" against massed tank formations, while high-energy neutrons would easily penetrate the tanks' protective steel and immobilize the armored force by incapacitating the tank crews. Data presently against troops in tanks is approximately 20–30 percent less than the effective lethal radius against troops in the open. It has been reported that the U.S.S.R. is some years away from developing an effective armored resistance to neutron radiation.

Furthermore, variations in Soviet tactical planning to reduce the vulnerability of tank crews to neutron bombardment might occasion dispersal of tank columns. The normal requirement to increase the defensive yield of nuclear forces to accommodate the change would be unnecessary, however, since the unintended effect of such a move would be to make the individual tank units easier targets for the conventional, precision-guided anti-tank weapons already stockpiled in NATO inventories. These include laser-directed smart" bombs and wire-guided missiles such as the TOW.

Considering the priority attached to effective concealment of forces in a nuclear battlefield environment, target acquisition and engagement of forward Pact armored units constitutes the principal tactical defensive problem. As such, many situations are conceivable where NATO forces, lacking accurate target information, would be unable to respond with low-yield, discriminate defensive fire.[11] The substitution of larger-yield weapons for attacking suspected enemy concentrations would increase substantially the collateral damaged produced by the attack, even if the engagement has waged at some distance from urban areas. Where the battle is proximate to a metropolitan center, enhanced radiation weapons assume an almost unique advantage. As mentioned earlier, by raising the detonation altitude to the appropriate level, it becomes possible (via bursts of radiation) to counter-attack effectively those forces occupying an area while minimizing collateral damage and radioactive wastes. According to Dr. Cohen:

"To the extent that enhanced radiation weapons can divorce the military from the collateral damage effects, a new vista for tactical warfare emerges which would seem to have a substantially more desirable image than either nuclear fission or conventional explosives can provide." [12]

Beyond the limited battlefield missions for which neutron weapons would be deployed, higher-yield fission tactical nuclear devices would be held in reserve, should an aggressor consider escalation a feasible option. The innate "controllability" of the neutron weapon represents a significant new variable in a potential adversary's strategic calculations. By so doing, and as-

Footnotes at end of article.

sessed in conjunction with existing tactical forces, the credibility of the tactical deterrent would appear to be enhanced. "The neutron," notes analyst Uwe Nehrlich of West Germany's Foundation for Science and Politics, "made conventional defense more credible and nuclear-battlefield support less suicidal." [13]

The argument over whether the neutron weapon's deployment would facilitate premature recourse to "limited" nuclear responses, with the attendant risks of uncontrolled escalation, must therefore be measured against plausible alternatives. It would appear that proponents of this argument consider the only "useful" nuclear weapons to be those which are so indiscriminately destructive that the nation possessing them will be effectively deterred from introducing them in a conflict (except under circumstances of desperation). If an adversary shares the perception that, despite rhetoric to the contrary, the concept of self-deterrence is operative, then the leverage he can exercise in light of superior conventional forces becomes more pronounced while the penalties to be anticipated beyond a certain level of conflict (now somewhat more precisely defined) correspondingly diminish in credibility.

Without the intermediate war-fighting posture potentially afforded by deployment of the neutron weapon (and its implications for tactical deterrent credibility), one is led to wonder whether an American President, upon whose authorization the use of nuclear weapons rests, would acquiesce in the face of a possible conventional defeat because of the greater fear of unleashing a devastating counter-assault. Depending on the targets envisaged, and the extent to which military intentions could be effectively communicated, the residual knowledge that the Soviets could undertake equally destructive retaliatory strikes might further inhibit the use of larger-yield tactical nuclear devices for "limited" battlefield missions.

THE NEUTRON WEAPON DECISION: THE NOTION OF POLITICAL LINKAGE

President Carter's decision to defer production of the neutron weapon appears to have temporarily moderated the trans-Atlantic political discord which accompanied it. The controversy was partly attributable to Mr. Carter's personal misgivings about the "morality" of the system, the thrust of Administration policy regarding nuclear proliferation, and the question as to whether a production authorization would have been appropriate just prior to the convening of the United Nations Special Session on Disarmament.

Though a consensus apparently existed among military advisors on both sides of the Atlantic concerning the weapon's strategic necessity, the domestic political fall-out threatening some European leaders facing sizable constituencies hostile to deployment of the weapon on their national territories was perhaps insufficiently appreciated. The disagreement over whether a production decision should precede an Allied deployment commitment, or vice versa, likewise contributed to the overall impression of vacillation, with an allegedly ambivalent compromise underscoring the absence of effective political communication on a critical issue.

Among the more intriguing aspects was the linkage established between the neutron weapon's ultimate disposition and the direction and pace of certain Soviet military programs, notably the continued deployment of the powerful SS–20 IRBM (whose target coverage includes all of Western Europe), and the increase in tank and infantry strength in Central Europe. The Soviet Union has made explicit, however, its opposition to the United States attempt to "gain concessions in other unrelated matters," indicating the nonnegotiability of "those measures (designed) to strengthen Soviet defense facilities." [14] One by-product of the propaganda campaign waged against development of the neutron weapon has been Soviet insistence on the desirability of a mutual renunciation of the system.

Prudent linkage diplomacy demands that the objective sought be proportional in value to the bargaining risk undertaken. Though its potentialities as a system for offensive strike missions have perhaps not been fully explored, the neutron weapon is principally defensive in nature. The U.S.S.R. would presumably have no compelling reason to produce the system for operational purposes. The threat to do so is predicated upon an acutely-felt need to induce the United States to unilaterally suspend development of a technologically advanced system which could partially offset certain Soviet advantages in deployed theater military power.

The Administration, already criticized for having offered "pre-emptive" concessions on promising military technologies in an effort to solicit reciprocal Soviet restraint, must consider the ramifications of what might be perceived as yet another gratuitous sacrifice, particularly if no substantive response is forthcoming. The bargaining value of a neutron production decision therefore relates both to possible Soviet arms control initiatives and the scope of current and past military deployments. Otherwise the linkage tactic is of dubious merit, and the prospects for meaningful negotiations involving a comparable *quid pro quo* are markedly reduced. (It is generally assumed that the manner in which the issue is resolved would at best "marginally" affect the atmosphere of superpower strategic arms control talks).

The current indecision, especially if seen as influenced unduly by Soviet blandishments, may occasion a further diminution of "the credibility of the American security guarantee, possibly impelling individual Allied states to undertake separate military initiatives. (The reported French test-firing of a neutron device in the South Pacific bears some relevance when analyzed from this perspective.)

Deployment of the weapon would more readily substantiate President Carter's determination, as expressed in North Carolina on March 17, to adopt such measures as are necessary to effectively counter-balance the "ominous" Soviet military build-up. A neutron weapon whose deployment is problematic would seem to retain little effective currency as a "bargaining chip." If the Soviets are as fretful of the weapon as public propaganda and private consultation would indicate, a production authorization, allowing for a fixed time frame wherein a response would be anticipated, would confront the U.S.S.R. with the opportunity to devise a credible linkage offer of its own.

CONCLUSION

In a system where issues of considerable technical complexity and emotional content are measured in terms of political impact as well as substantive value, the manner in which strategic questions are analyzed can influence the kinds of decisions reached. The case of the neutron weapon is illustrative of the duality underlying such decisions in an era when warfare has combined mass participation with sophisticated technology.

The Administration's handling of this sensitive political issue was not designed to inspire the mutual confidence and cooperation which a viable trans-Atlantic partnership must demonstrate. Abetted in part by conflicting news interpretations of President Carter's intentions, European confusion over the decision is really little more than a reflection of American domestic doubts about the internal coordination of the Administration's decision-making machinery.

The political utility of the neutron weapon for potential bargaining purposes in an arms control forum may be marginal. Indeed, the credibility of the linkage was undermined by the Soviet Union's refusal to consider proposals for reductions in those offensive force systems against which the neutron weapon would be deployed. A vacuous pledge to refrain from producing the neutron system itself could hardly be construed as a comparable counter-concession.

As such, the ultimate production decision concerning the neutron weapon should be based primarily on an assessment of the objective military realities which would justify its deployment. Given the contemporary aggregate balance of forces in Central Europe, and taking account of quanitative differentials, deploment of the neutron weapon would provide NATO with an incremental capacity for sustained combat beyond the conventional level of aggression.

Moreover, alternatives to deployment of the neutron weapon for purposes of maintaining a credible military balance in Europe are unclear. Presumably, alternatives would entail supporting an extraordinarily expensive and controversial increase in American conventional forces and equipment in Western Europe to offset the Soviet effort. With due consideration of the lead-time factor as well as the momentum of Soviet weapons deployments incorporating advanced technologies, this aspect must be soberly addressed by opponents of the neutron system who nonetheless question the adequacy of NATO's overall defense posture.

By vastly reducing the anticipated collateral damage in a nuclear battlefield environment, the neutron weapon is particularly useful for precision counterattacks against Soviet armored assaults in a way unmatched by current-generation tactical nuclear systems. Coupled with high performance reliability, the low yields and related properties of enhanced radiation weapons would permit selective applications of military power and would strengthen the credibility of theater nuclear capabilities. As such, the flexible response which ostensibly underwrites Atlantic defense strategy could more readily accommodate a specific operational role for nuclear systems designed for limited tactical missions.

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FOOTNOTES

[1] See *The Los Angeles Times*, July 13, 1977, p. 10.

[2] Cited in *Current News*, August 15, 1977, p. 11–F (*Toronto Globe and Mail*, August 8, 1977, p. 7.).

[3] Quoted in Bernard Weinraub, "What Role for the Neutron Bomb?," *The New York Times*, July 17, 1977, p. E–4.

[4] *Congressional Quarterly*, October 8, 1977, pp. 2151–52.

[5] Cited in *The St. Louis Post-Dispatch*, August 1, 1977, p. 1.

[6] *Ibid.*

[7] Cited in *The St. Louis Post-Dispatch*, August 1, 1977, p. 1.

[8] See Jacquelyn K. Davis and Robert L. Pfaltzgraff, Jr., *Soviet Theater Strategy: Implications for NATO.*, (Washington, D.C.: United States Strategic Institute; USSI Report 78–1).

[9] *The Washington Star*, July 13, 1977, p. 1.

[10] See John F. Scott, "Neutron Weapons and NATO Strategy, *"Parameters*, November 1977, cited in *Current News*, November 1, 1977, pp. 5F–8F.

[11] For an in-depth study of the battlefield applications of neutron weapons, see S. T. Cohen, "Enhanced Radiation Warheads: Setting the Record Straight," *Strategic Review*, Winter 1978, pp. 9–17.

[12] *Ibid.*, p. 13.

[13] *Newsweek*, April 17, 1978, p. 37.

[14] *Soviet World Outlook*, (Center for Advanced International Studies: University of Miami), April 15, 1978, p. 2.●

FOREIGN INTELLIGENCE SURVEILLANCE CONFERENCE REPORT

● Mr. BAYH. Mr. President, the House of Representatives today adopted the conference report on S. 1566, the Foreign Intelligence Surveillance Act of 1978. This completes congressional action on the first major intelligence reform measure and opens the way for enactment of comprehensive charter legislation for the U.S. intelligence community. Intelligence agency charters will be taken up by the Senate early in the next Congress. They will go beyond electronic surveillance to regulate all other clandestine intelligence techniques used within the United States, and to protect the rights of Americans abroad as well as at home.

The Foreign Intelligence Surveillance Act of 1978 is a landmark in the development of effective legal safeguards for constitutional rights. For nearly 40 years, the executive branch has claimed "inherent power to conduct electronic surveillance without a judicial warrant to protect national security. Several years ago we learned that this power had been abused under administrations of both parties. Newsmen, executive officials, and prominent Americans such as Dr. Martin Luther King, Jr., had been wiretapped without justification and sometimes for purely political purposes. The international communications of hundreds of Americans had been targeted for interception because of their domestic protest activities. Information about Americans obtained from surveillance of foreign officials had been passed to the White House to serve partisan interests.

Ten years ago, before these abuses came to light, Congress enacted legislation requiring a judicial warrant for electronic surveillance in criminal investigations. However, title III of the Omnibus Crime Control Act of 1968 did not address surveillance conducted for national security purposes. In 1972, the Supreme Court ruled in the Keith case that warrantless electronic surveillance for purely domestic intelligence purposes was unconstitutional. *United States* v. *United States District Court*, 407 U.S. 297. But the Supreme Court did not deal with surveillance for foreign intelligence purposes. Congress and the executive branch have had the responsibility to resolve the issues posed by foreign intelligence surveillance.

The combined efforts of Attorney General Edward H. Levi, senior members of the Judiciary Committees of both Houses, and the Select Committee on Intelligence Activities chaired by Senator CHURCH resulted in the introduction of the original version of the Foreign Intelligence Surveillance Act in 1976. Attorney General Levi undertook a thorough analysis of constitutional principles and practical foreign intelligence requirements. His proposal, submitted to Congress with the endorsement of President Ford, supplied the basic framework for the legislation that has now been passed by Congress.

The original bill contained the four basic provisions that are fundamental to the act. First, it authorized a court order procedure for electronic surveillance to obtain foreign intelligence in the United States. Second, it provided for the designation of seven U.S. district court judges to issue the orders. Third, surveillance was allowed only if there is probable cause to believe that the target is a foreign power or an agent of a foreign power. Fourth, the court must approve minimization procedures to limit the acquisition, retention, and dissemination of irrelevant information. The Senate Judiciary Committee and the Select Committee on Intelligence reported this bill with modifications in 1976, but there was insufficient time for enactment.

Attorney General Griffin B. Bell, with the full support of President Carter, carried forward this legislative effort in 1977. In consultation with members of the Judiciary and Intelligence Committees, Attorney General Bell made three major improvements in the bill. The original measure had included a narrow provision acknowledging Presidential authority to act to meet unforeseen events This provision was dropped, and the bill became the exclusive means for surveillance. President Carter broke with the past when he decided not to ask Congress to endorse inherent executive power and agreed to abide by the statutory procedures.

The second improvement made by Attorney General Bell widened the coverage of the bill to protect international communications of Americans. The original bill protected only domestic communications. The Carter administration proposal also required a court order for targeting the international communications of Americans in the United States. This provision deals specifically with the watch lists of Americans used until 1973 by the National Security Agency at the request of the FBI and other intelligence agencies.

A third important change strengthened the authority of the court to review all aspects of surveillance of American citizens and resident aliens. The original bill limited the judge to finding whether there was probable cause to believe the person was an agent of a foreign power. The actual necessity for the surveillance was to be determined solely by the certification of an executive branch official. Attorney General Bell agreed to modify this provision and allow the judge to insure that the certification is not clearly erroneous.

From the time of its reintroduction in 1977, the Foreign Intelligence Surveillance Act underwent 17 months of exhaustive congressional scrutiny. Few measures have been so thoroughly evaluated. The Intelligence Committees of both Houses consulted in depth with the affected intelligence agencies, including the FBI, CIA, and NSA, and with representatives of interested citizen groups. These consultations led to further changes that strengthened the bill both from the viewpoint of the intelligence agencies and from the perspective of civil liberties.

A major concern of the Senate was the standard for determining whether an American is an "agent of a foreign power." Attorney General Bell urged a standard that would have allowed surveillance of an American without any indication that his activities might violate the law. Working closely with the FBI, the Senate Intelligence Committee developed a criminal standard for surveillance of Americans that accommodated the FBI's counterintelligence needs. That standard allowed surveillance of an American who engages in clandestine intelligence gathering activities that "may involve" a federal crime. The Senate added another provision stating that no American could be considered an "agent of a foreign power" solely upon the basis of activities protected by the first amendment.

The Senate also revised the standards for surveillance of nonresident aliens. As introduced, S. 1566 allowed surveillance of any nonresident alien who was an officer or employee of a foreign power. This included employees of foreign governments who visited the United States in their purely private capacities, such as a schoolteacher here as a tourist. The Senate modified this standard to cover only officers or employees who "act in the United States" in that capacity.

With respect to other foreign visitors, the Senate required that they be treated the same as Americans except in particular circumstances. The foreign visitor must be acting for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the Nation's interests, and the circumstances of his presence in the United States must indicate that he may engage in such activities in this country. Thus, the law does not treat unofficial foreign visitors differently from Americans solely on the basis of their nationality. Rather, surveillance of such visitors depends on the activities of the governments for which they are acting.

In addition, the Senate tightened the minimization procedures to restrict dissemination of "positive" foreign intelligence about Americans that relates solely to broad national security or foreign affairs interests. It permitted dissemination of the identities of Americans only if such identity is "necessary to understand foreign intelligence information or assess its importance." The Senate also spelled out specifically the judge's authority to assess compliance with the minimization procedures.

Finally, the Senate added congressional oversight provisions requiring the Attorney General to fully inform the Intelligence Committees of both Houses on a semiannual basis concerning all electronic surveillance under the act, and requiring those committees to report annually to each House on the implementation of the bill.

The House of Representatives made further changes in the bill that were accepted by the Senate after conference. The most important was to authorize warrantless surveillance if the Attorney General certifies that the surveillance is solely directed at the communications or premises of "official" foreign powers—foreign governments, foreign factions, and entities openly acknowledged to be directed and controlled by foreign gov-

ernments—and that there is no substantial likelihood that the surveillance will acquire the communications of Americans. This limited exception to the court order requirement is appropriate because of the sensitive nature of these surveillances and their minimal impact upon constitutional rights.

The conference added a requirement that the Attorney General's sealed certifications be provided to the court so that they are available in the event that they must be examined in subsequent legal proceedings. The conference also clarified the techniques involved and gave the Attorney General a duty to assess compliance with minimization procedures and report his assessments to the Intelligence Committees.

As part of the accommodation made for warrantless surveillance, the House significantly increased the court's ability to evaluate surveillances that require court orders. Because of the need for tight security, the Senate had limited the information that a judge would receive about surveillance of "official" foreign powers. When the most sensitive surveillances were removed from the court order procedure, the House was able to allow the judge to receive whatever information about the surveillance he needed to assess the minimization procedures.

In other words, the changes made by the House provide better safeguards for the rights of Americans who are overheard on wiretaps or bugs aimed at foreign governments. In exchange, no court order is required for the narrow category of surveillances that are unlikely to overhear Americans at all. This is a reasonable accommodation of interests.

Other significant House modifications widened the scope for surveillance of international terrorists. They authorized surveillance of nonresident aliens who act as "members" of international terrorist groups, without requiring a criminal standard, and included domestic organizations in the category of international terrorist groups if their violent acts "transcend national boundaries" in specified ways. The House retained, however, the criminal standard for surveillance of Americans that require evidence of "preparation" for criminal terrorist acts.

Finally, the House added a provision allowing the President to waive the court order requirement in a period of war declared by Congress. The conference limited the waiver period to 15 days, which should be sufficient time for any necessary amendment of the bill in wartime.

The joint action by the House and Senate has made the Foreign Intelligence Surveillance Act of 1978 an outstanding example of constructive legislation. Every provision was studied and tested with care. The affected intelligence agencies participated fully in the deliberations. The concerns of citizen groups were heard at every stage. No single viewpoint or narrow interest dominated the process. There is wide agreement that the act will improve the law by clarifying the authority of our intelligence agencies, so that they can do the job we expect them to do with the full support of the Congress and the American people.

Above all, the act is a triumph for our constitutional system of checks and balances. It establishes that the authority to conduct foreign intelligence surveillance in this country will be shared by all three branches of the Government. It will no longer be the exclusive domain of the executive branch. The framers of the Constitution believed that the principle of checks and balances was crucial for the preservation of individual rights and free government. They divided governmental power among the three branches so that no single interest could dominate at the expense of other interests.

The Foreign Intelligence Surveillance Act restores this principle to the field of foreign intelligence, where it has been absent for decades. It places the Congress in its rightful role as the lawmaking body with authority to establish the legal standards and procedures for the exercise of surveillance powers. It insures that the judiciary can perform its vital function, under the principles of the fourth amendment, of providing prior independent review of governmental intrusions into privacy. Finally, by establishing the exclusive means for surveillance in this country, it eliminates any congressional endorsement of future claims of inherent power by Presidents who might seek to take the law into their own hands.

President Carter and Attorney General Bell deserve great credit for working with the Congress to put the claim of inherent executive power to rest through this legislation.

Nonetheless, much more has to be done before the system of checks and balances is fully restored to the conduct of foreign intelligence activities. This act deals with only one technique for intelligence gathering, and it does not apply to Americans abroad. The challenge ahead is to apply constitutional principles to the full range of clandestine intelligence techniques that may be used within the United States, or that may affect the rights of Americans abroad.

During the past year the Senate Select Committee on Intelligence has held hearings on S. 2525, the National Intelligence Reorganization and Reform Act. This measure was introduced to provide a focus for public discussion of intelligence charter issues. The committee is now engaged in consultations with the executive branch to refine and improve that bill, so it may be acted upon promptly in the next Congress.

The Foreign Intelligence Surveillance Act is only a first step toward comprehensive intelligence reform legislation. Although the issues will be different, it can serve as a model for the kind of responsible deliberation that should result in intelligence charters. The Senate Intelligence Committee looks forward to the continuation of these efforts to bring intelligence activities fully into line with constitutional principles and the rule of law.●

DEPARTMENT OF EDUCATION

● Mr. BAYH. Mr. President, recently the Senate took an important step toward recognizing the importance of education in this country. S. 991, a bill to create a Cabinet level Department of Education, passed the Senate by the wide margin of 72 to 11. I applaud the action the Senate took and am proud to have been an original cosponsor of this landmark legislation. I have supported such a move for a number of years and will continue working to see that a separate department becomes a reality.

Education shapes the future of the Nation's youth more so than any other program in the Government. Our Nation is great because of the importance our citizens have placed on educating the young, disabled, emotionally handicapped, elderly, and other groups of individuals with special educational needs.

Even though good education has been a high priority for all Americans since the beginning of this country, the administration of the necessary programs has never been adequately tended to by the structure of the Federal Government. In 1867 the first "Department of Education" was established but was then quickly made into a bureau of the Interior Department. For the next 70 years it kept its head above water as a record-keeping office for the limited number of Federal education programs then in existence.

In 1953 the Department of Education became part of the new Department of Health, Education, and Welfare. It seems likely that education was included as an afterthought since its function was so overshadowed by the health and welfare duties of the new department.

The very important obligations of the education portion of health, education, and welfare have become lost in the maze of programs administered by the current structure. This is best illustrated by the budget of HEW. The amount spent for health and welfare is 18 times as large as the $9.1 billion budget of the Education Division. Outlays for the Education Division as a percentage of HEW spending have fallen from 7.9 percent in 1970 to 5.6 percent in fiscal year 1979. In these times when everyone is concerned with Federal spending, it is easy to look at the massive HEW budget and attempt to reduce it. Unfortunately, the predominant portion of the Department's expenses which are controllable fall within the education functions. The remaining uncontrollable expenses are for such necessary and essential programs as social security and medicare. As long as education remains in HEW, it will be lost except when it comes time to focus on target cuts, when education will suddenly be front and center. By establishing a separate Department of Education, the needs in the field of education will be assessed individually, thus assuring much more equitable treatment than has existed in the past.

The Federal education offices' structure will greatly improve with the creation of a new department. In the past, responsibility for the different functions in education were spread out among

various departments in the Government. This caused much duplication of effort and left unclear to the vast number of interested persons where educational policy originated.

Once enacted, the new Department of Education would include the following programs: The present education division of HEW, health professionals and nursing loans and scholarships, selected science education programs and housing construction loans, special institutions, the Rehabilitative Services Administration, the Office for Handicapped Individuals, the Advisory Council on Educational Statistics, the Institute of Museum Services, the USDA Graduate School, the Overseas Dependents' Schools, and Law Enforcement Education Loans. I believe that by consolidating all of these educational functions into one department, we will be reducing unnecessary costs and redtape as well as reducing the duplication of efforts and confusion which now exists.

Almost one out of every three citizens in the country today is enrolled in some kind of educational endeavor. These 60 million people, in addition to the multitude of administrators running the programs, are entitled to know exactly where to go with education questions.

The creation of the post of Secretary of Education will remedy the problem which has existed within the division regarding the two seemingly equal posts of Assistant Secretary of Education and the Commissioner of Education. The individual appointed to the position of Secretary of Education will coordinate all educational activities for the Federal Government. This Secretary will be able to devote all of his or her time to the field of education and guarantee that the new Department meets the challenge of providing the best education possible for our citizens and obtain the high visibility these matters deserve.

Presently education is going through a series of crises on such matters as violence in schools, lower scholastic scores, and inability of children to read, and lack of financial assistance to schools. A Cabinet-level Department is warranted to assist local and State governments in trying to cope with these many problems. Only in a department where all efforts are focused on education will progress be made on these disturbing problems.

I would like to take this opportunity to praise the Senator from Connecticut (Mr. RIBICOFF) for his dedication to the creation of this new Department. He has studied this question extensively since the time he served as Secretary of HEW. Senator RIBICOFF held numerous days of hearings on the interaction of the various Government agencies involved in educational activities and was able to write such an excellent bill that 62 Senators cosponsored it.

I urge the House of Representatives to act expeditiously on this important legislation so that we can assure that education finally achieves its rightful place in the Government.●

THE INNOVATION RECESSION

● Mr. BAYH. Mr. President, I have been disturbed to see the increasing evidence that America is falling behind in the very field that has historically been our strong point—technological innovation.

After World War II this country underwent an unprecedented period of inventiveness and innovation that has changed the world. Yankee ingenuity has made available to millions benefits of technology that would have seemed miraculous only a few decades ago.

Mr. President, when I joined Senator DOLE and a number of our colleagues in introducing S. 3496, the University and Small Business Patent Procedures Act, on September 13, 1978, I included in my remarks a number of articles that have recently appeared chronicling the decline in technological innovation that we are experiencing at the same time that many of our foreign competitors are giving our businesses increasingly serious competition in the international market. An article in the October 2, 1978, Time magazine sheds further light on this serious problem. I would like to share with my colleagues a few facts which are mentioned in this article.

The United States suffered a $14.9 billion deficit for the first half of 1978 on manufactured goods. This deficit is topped only by the $40 billion that we will spend this year importing foreign oil. West Germany and Japan are enjoying at this same time surpluses of $49 billion and $63 billion respectively on manufactured goods.

In 1976 the number of patents granted to Americans had fallen 25 percent from its 1966 level. The number of patents granted to foreigners in this period has doubled. I would also like to add that the number of inventions reported under federally supported research has been in a steady decline.

Mr. President, there are many theories and explanations for this technological slump. One area that has been clearly identified as a problem has been the current Government practice of retaining, in most cases, patent rights on inventions arising out of federally supported research. Less than 4 percent of these Government-held patents are ever successfully licensed: The rest are gathering dust on Federal Government shelves.

The University and Small Business Patent Procedures Act which we introduced on September 13, 1978, will allow universities, small businesses, and nonprofit institutions to retain patent rights on these inventions if they will spend the additional funds necessary to move an invention from the laboratory to the marketplace. This bill will also protect the legitimate rights of the Government to enjoy the benefits of the research that it has helped to support. There is even a requirement that repayment must be made to the funding agency equal to its research investment if the invention achieves a certain level of success.

I would like to point out to my colleagues that the Time article mentions the fact that "young, high technology firms," many of which are small businesses, were cited in a study conducted by the Commerce Department for creating thousands of new jobs which resulted from their aggressive research and development policies. Our bill will insure small businesses, and the private sector at large, access to the important technological innovations and discoveries that are being made in federally supported research each year. The only way the public can enjoy the benefits that they deserve from the billions of research dollars spent every year is to assure that the resulting inventions are brought to the marketplace.

We will be reintroducing this bill early in the next Congress, and I hope that my colleagues will be able to study this very important legislation and join with us in supporting it next year.

Mr. President, I ask to have the article printed in the RECORD.

The article follows:

THE "INNOVATION RECESSION"—A NEW WORRY ABOUT THE U.S. ECONOMY: THE DECLINE IN R. AND D.

While the devaluation of the dollar may be the most dramatic measure of the U.S.'s reduced clout in world commerce, another event may ultimately have a greater impact on the nation's economic health. It is the shocking decline of good old Yankee ingenuity, otherwise known as research and development.

The U.S. has always prided itself on being the world's undisputed leader in technological innovation. Since World War II foreign demand for aircraft, computers, automated tools and other products of American labs and workshops could be relied on to provide a fat surplus in the nation's balance of trade. No more. Though the U.S. still retains an overall lead in total amounts spent on R. and D. and in numbers of new inventions, its chief economic rivals are expanding their research efforts at much faster rates. One consequence is becoming dramatically clear this year because the U.S. no longer commands such a high share of the world's high-technology market, it no longer can offset its large imports of low-technology items such as shoes and clothing. As a result, in 1978 the country will import substantially more manufactured goods than it will export. The deficit for the first half of 1978 was $14.9 billion, which will do more damage to the trade balance this year than anything but the $40 billion in oil that the U.S. will import. By contrast, West Germany and Japan are expected to run surpluses in manufactured goods of $49 billion and $63 billion respectively.

According to the National Science Foundation, in the years 1953 through 1955 the U.S. introduced 63 "major" technological innovations. West Germany, Japan, Britain and France had together only 20. But now foreign competitors are bringing out as many new products and processes as the U.S.—or more. In the category of new patents, a key measure of R. and D. vitality, American inventors were granted 45,633 patents by major trading partners in 1966, while the U.S. gave only 9,567 to non Americans that year. By 1976, however, the so-called patent balance had shifted radically. The number of U.S. inventors granted patents abroad dropped by more than 25%, to 33,181, while the number of foreigners gaining U.S. patents had almost doubled, to 18,744. Says Frank Press, the chief White House science adviser: "It is the trends that are important, and the

percentage increases in some countries are growing faster than here."

Why did the trends begin to shift? Arthur M. Bueche, senior vice president for R. and D. at General Electric, which remains the most research-oriented of big U.S. companies (862 patents won last year), is concerned about a change in the American character. Says he: "We've gone from an expansive, gung-ho attitude to a defensive, 'What's in it for me?' atittude." Faced with a challenge, Americans are now more likely to say, "Let's not risk it." Among factors behind the U.S.'s "innovation recession":

THE MONEY DROUGHT

Since the post-Sputnik days of 1964, when public and private spending on R. and D. reached a peak of 3% of the gross national product, such spending has slipped to just 2.3% of G.N.P. That is appreciably lower than West Germany's 3.1%, and uncomfortably close to Japan's 1.8% and even France's 1.5%. Furthermore, while foreign countries spend very little on military research, the U.S. dedicates almost 50% of its R. and D. expenditures to defense-related projects. At the same time, federal spending on basic research has fallen in constant dollars from $2.8 billion in 1967 to $2.6 billion in 1977. Yet industry's R. and D. investment has risen from $8.1 billion in 1967 to $19.4 billion ten years later, although inflation has eroded the impact of that increase.

BURGEONING BUREAUCRACY

Government sponsorship of R. and D. has become increasingly stultifying and counterproductive. Research scientists complain that they spend more time dealing with the red tape that goes with Government support than in the lab. The Department of Energy, to cite just one example, requires seven approvals prior to the start of a research contract. Another fear expressed by many scientists: a growing share of Government-sponsored R. and D. is not true research at all but only the quest for instant remedies satisfy the rising numbers of regulations on safety, health and environmental protection flowing from Washington.

THE QUICK-RETURN SYNDROME

Partly because more and more stock in companies is held by pension funds and other large institutions that are both conservative and concerned with ever improving bottom-line performance, managers in private industry have become more interested in merely improving existing products than going to the trouble and expense of devising new ones. Vague research projects, whose benefits may be far off, are even less likely to get boardroom backing. But in such situations, asks Lowell W. Steele, GE's manager of R. and D. planning, "how do we compete against a country like Japan, which considers ten or 15 years a perfectly acceptable lead time for development?"

RISK-CAPITAL SHORTAGE

Although many of the most successful companies in computer technology and semiconductors were founded as modest operations only a decade or so ago, the scientist with a brilliant idea is hard put to find financial backing these days in the equity markets. As recently as 1972, 104 small R. and D.-oriented firms were able to raise seed money on the stock exchanges. At last tabulation, only four had done so. One reasons for the drying up of venture capital: the maximum tax on capital gains was raised from 25% in 1969 to the present 49% rate. For investors, this had the effect of cutting, say, a 25% gain on a high-risk investment to an effective return of about 12%. Congress will roll the capital-gains rate back to about 35% this year, but the damage may take long to repair. Says Ray Stata, founder of Analog Devices Inc., a successful Massachusetts semiconductor firm: "The single most important factor retarding innovation is Government policy on investment. You can't avoid it."

In addition to throwing the U.S. balance of payments into even deeper deficits, the decline in research and development is bound to have a dampening effect on the domestic economy, especially since small companies based on new ideas tend to grow faster and create more jobs than older firms. A five-year study by the Commerce Department of six "mature" corporations (such as General Motors and Bethlehem Steel), five "innovative" companies (including Polaroid and IBM) and five "young high-technology" firms (among them, Marion Labs and Digital Equipment) turned up some telling figures. The mature firms, which had combined annual sales of $36 billion, added only 25,000 workers during the five years; the innovative companies, with a $21 billion sales total, had a net gain of 106,000 employees; the high technology outfits, with $857 million in sales, created 35,000 new jobs.

The dividends the U.S. gets from these high-technology firms extend far beyond jobs. As economic engines of astonishing vitality, they are also churning out the export sales and tax revenues that the nation urgently needs. A recent survey of high-technology companies founded in the early 1970s showed that for every $100 originally invested in them, each firm on the average now returns each year $70 in sales abroad, $15 in federal corporate tax, $15 in personal income tax and $5 in state and local revenues.

Concerned about the R. and D. retreat, President Carter has ordered a Cabinet-level task force headed by Commerce Secretary Juanita Kreps to give him some recommendations for turning it around by next June. One of the task force's main goals: to find ways to reduce the discouraging effects of Government regulation on R. and D.

One idea that has already surfaced is to copy the Japanese by establishing research institutes within the various branches of American industry that could supply information on basic research to participating companies. Thinking along that line, the Canadians, who have also been suffering from an R. and D. lag, plan to set up five innovation centers at universities, which will supply help to industry. In the U.S., such research-sharing schemes generally have been discouraged by antitrust law. But the Commerce Department is now consulting with Justice officials about devising programs that would further the cause of American R. and D. without violating the precepts of antitrust legislation.

MIDNIGHT OIL—BOOM IN HOT GEAR

At 3 o'clock one morning last April, the five-man crew of an isolated oil-drilling rig near Chickasha, Okla., was suddenly surrounded by three bandits wearing ski masks and brandishing shotguns. Without uttering a word, the gunmen removed twelve tungsten carbide drill bits worth about $27,000 from the rig's storage shed and then fled with their booty in the crew's pickup truck.

Thievery in various forms has become all too frequent over the past three years in the production fields and exploration areas of the South and Southwest that are the heart of what petroleum people call the U.S. Oil Patch. Spurred by the rise in oil prices, drilling activity has reached its highest level since the '50s, resulting in an acute shortage of pipe, drill bits and other oil-exploring and producing equipment. Orders for derricks can take as much as 18 months to fill. Buyer impatience has spawned a burgeoning subindustry: a booming black market for stolen oil equipment, the value of which may run as high as $50 million a year.

Neither the size nor the complexity of the equipment deters the thieves. Alcorn Well Service Inc. of Victoria, Texas, reports $15,000 worth of gear stolen this year; latest loss: a $1,200 pair of 60-lb. elevators used to pull pipe. Says Alcorn Vice President Jimmy Hendrix: "Just about dang near every weekend somebody gets hit. They come in after dark, strip your rig, and we never recover anything."

Police estimate that 70% of the thefts are inside jobs. Says Houston Police Lieut. J. B. ("Bill") Bradley: "It goes right down to the roustabout in the field." Identification procedures are so lax that some firms wind up buying or renting back their own equipment through various "midnight" dealers. When it is sold, the stolen gear usually goes for bargain prices—$500, say for a high-pressure valve that costs $5,000. But some thieves with business savvy have been known to make really big money. In July, Houston's special "fence detail" arrested a middle-aged veteran salesman with a major drilling-equipment manufacturer and confiscated $580,000 worth of stolen hardware. Police say the man apparently purloined the equipment from his employer and then, through a dummy rental outfit that he set up, leased it to a legitimate rental company. His take, according to police: about $150,000 every three months.●

CONSERVATION IN INDIANA

● Mr. BAYH. Mr. President, in these times of controversy over a national energy policy I feel it is important to applaud actions which display public determination to save energy and conserve our national resources. Such an example in my own State of Indiana has recently come to my attention.

Earlham College, a coeducation 4-year liberal arts institution in Richmond, decided 3 years ago to take campuswide, concerted action to lower thermostats, insulate windows, doors, and attics, and practice good conservation techniques whenever applicable. The results have been impressive. Although we have had record cold winters and increased annual degree days from school year 1975–76 to 1977–78, the college has actually used less British thermal units of fuel, less kilowatts of electricity, and saved tens of thousands of dollars over the same time.

An excerpt from a recent Earlham College faculty newsletter tells this story:

	1974–75	1975–76	1976–77	1977–78
Fuel, (Btu, millions	95,154	80,267	78,312	71,422
Cost	$187,835	$152,928	$166,499	$141,022
Electricity kilowatt-hours	8,061,600	7,231,200	5,808,000	5,246,400
Cost	$155,660	162,040	$138,853	$130,172
Degree days	5,761	5,252	6,563	6,630

I bring this, just one of many citizen success stories, to my colleagues' attention so that we all may be inspired to continue the ever demanding fight against energy waste and oil import dependence. In the end, it is concerted, specific actions by groups of citizens such as these that will make the difference in our energy conservation.●

HOOSIER INGENUITY IN VIGO COUNTY

● Mr. BAYH. Mr. President, a major source of public frustration with Government stems from a feeling that the "Federal bureaucracy" is unresponsive to

some of the unique problems facing our citizens at the State and local levels. Every Member of the House and Senate is keenly aware that his or her constituents frequently feel that national policy is being administered with little regard for the special needs of individual communities. Too often, when the citizens of a particular community question the appropriateness of an administrative decision, an attitude of confrontation prevails. One camp argues that the decision is arbitrary. The other camp points to the words of the statute and says its hands are tied. Neither benefits.

I would like to take this opportunity, Mr. President, to bring to the attention of my colleagues an example of a community which, when faced with an administrative decision with which it disagreed, developed a creative, well-thought-out alternative and took its case to Washington. Fortunately, Mr. President, this is also an example where a Federal agency displayed a willingness to work in a cooperative spirit to implement a very complicated but necessary piece of legislation, passed overwhelmingly by both Houses of the Congress.

Mr. President, the city of Terre Haute and much of Vigo County, Ind., my home community, were designated in March as "nonattainment" for particulates and sulfur dioxide, two pollutants regulated by the Environmental Protection Agency (EPA) under the new Clean Air Act Amendments of 1977. EPA based this decision on a computer model it employed after deciding that monitoring devices in Vigo County were neither "quality assured" nor sited properly. The computer model EPA used was designed for urban areas, Mr. President, a decision to which the people of Vigo County, a predominantly agricultural area, objected. EPA itself has admitted that this model is not a perfect "fit" for Vigo, but the best available. As a result, the "nonattainment" designation was finalized by EPA Administrator Douglas Costle on September 26.

Instead of rushing into court to contest the designation, Mr. President, instead of rushing to Capitol Hill seeking remedial legislation, community leaders and members of Rose-Hulman Institute and several other Hoosier centers of academic excellence sat down to develop a reasonable plan by which they could assure equitable implementation of the Clean Air Act in Vigo. The Vigo County group—comprised of engineers, plant managers, the county air pollution director, corporate executives, members of the academic community, and elected officials—decided that, in the absence of monitored air pollution data, a site specific computer model which addressed the community's unique industrial and agricultural composition should be developed. And they were willing to foot the bill for the development of that model. The next step was to see if EPA would assist in that endeavor.

This week, Mr. President, representatives from Vigo County and the EPA sat down together in a meeting room in the Capitol. The Vigo County group presented its case in a straight forward, point-by-point manner, free of accusations and acrimony. The EPA delegation, ably led by its Director of the Office of Legislation, Chuck Warren, listened and responded without defensiveness. At times, the resultant give-and-take did become lively. But at no time, Mr. President, did the participants lose sight of the purpose of the meeting: to work together in pursuit of both clean air and economic vitality for the benefit of the citizens of Vigo County.

The EPA representatives agreed fully that a computer model tailored to the needs of Vigo County was most appropriate. In fact, they praised our Hoosier ingenuity and hope to learn from this forward-looking experiment. They agreed to commit the technical expertise necessary to assist Vigo County in developing the model. Further, EPA agreed to work hand-in-hand with the local air pollution control agency to assure that future pollution monitors would be quality assured and properly sited.

Mr. President, the meeting was a model of the way the process should work: concerned citizens sitting down together with representatives of an administrative agency in a spirit of cooperation. The people of Vigo County have been well-served by its forward-looking group of responsible leaders. The Government has been well-served by a responsive group of employees.

Mr. President, I wish the citizens of Vigo County well in this endeavor and will offer whatever assistance I can to make sure this Federal/local effort succeeds.●

BUY AMERICAN PROVISIONS IN HIGHWAY-MASS TRANSIT BILL

● Mr. BAYH. Mr. President, the conferees of the House and Senate have met and agreed to a Federal highway-mass transit bill authorizing over $51 billion for the next 4 years in grants under the Urban Mass Transportation Administration and for highway expansion and improvement projects. The conferees also agreed to an important provision mandating that steel and rolling stock procured through funds available in this bill be substantially of domestic origin. This will apply to all grants already made but not yet contracted for. Appropriate flexibility is provided in the event that materials or rolling stock are not available in this country or that their cost is excessive. However, we have established a clear policy that preference will be given to domestic producers so that the Federal Government does not inadvertantly directly or indirectly subsidize the unemployment of our trading partners. I want to congratulate my colleagues of the House-Senate conference in this good and healthy step, long overdue, toward bringing Federal procurement policy into step with the realities of the 20th century international marketplace. It helps assure that U.S. tax dollars will be spent in support of U.S. workers and American industry. Importantly, it should bolster tax revenues for the Federal Government, thereby cutting into the Federal deficit and curbing inflation. I am pleased to support passage of the conference report on this important legislation.

For too long the U.S. Government has appeared indifferent to the fate of key industries in this country. Congress has now acted to rectify this situation. These industries have been forced to compete for Government contracts in this country against Japanese, British, Belgian, Canadian, German, and Italian steel and rail car makers who enjoy the extraordinary benefits of heavy export subsidies or, in some cases, outright Government ownership. The decision by the conferees is also particularly timely in light of the ongoing multilateral trade negotiations and I think it will have a positive effect on our bargaining position.

Mr. President, on April 7, shortly after hearings were held on legislation which I introduced to revise the Buy American Act—S. 2318—I wrote to the chairmen and key members of the House and Senate committees strongly recommending that a section similar to the one approved yesterday be included in order to assure that a fair preference is extended by Federal, State, and local governments to U.S. steelmakers and railcar manufacturers. It was also at that time that I asked the General Accounting Office to undertake a thorough study on the report of Gordian and Associates, Inc., showing that a majority of Federal grants awarded for the purchase of new transit railcars in the United States within the last 2 years have gone to manufacturers outside the United States. Those figures showed that 60 percent of the capital grants awarded by the U.S. Urban Mass Transportation Administration (UMTA) in 1976 went abroad. These grants, backed by 80 percent Federal funding, totaled more than $203 million in 1976, according to the Gordian study. Unless we reverse this trend toward shipping U.S. tax dollars abroad at the expense of domestic industries, American manufacturers of transit vehicles stand to lose more than $800 million, which is roughly the total amount of Federal transit grants expected to be awarded by the end of 1979 for the purchase of new railcars.

While some of my colleagues opposed an amendment in the Banking Committee which would have placed the approved provisions in the Federal Public Transportation Act of 1978, I think we ought to recall a study done by the Congressional Research Service which concluded that for every $1,000 made in domestic procurements, $552 is eventually recovered in tax receipts. This means that the $203 million in UMTA grants going out of the country 2 years ago could have meant over an extra $100 million for Federal, State and local treasuries in tax revenues in addition to greater employment and industry productivity. The $800 million in projected expenditures might, therefore mean up to $440 million in extra revenues. The $51 billion for the multi-year program would work out to over $27 billion coming back to the Government and underwrite productive private employment.

In addition to the direct and positive benefit to the American taxpayer and U.S. transit industry, the American steel industry should benefit considerably from this bill. This is especially important in light of reports that huge in-

ventories of foreign steel are being warehoused having been purchased at very near the "trigger price." The potential exists for such a stockpile of foreign origin to be released on our home market seriously depressing the demand for American steel. This could have a catastrophic effect at a time when the home industry is in the process of a steady but slow recovery. The section of the Federal highway-mass transit bill requiring that steel of domestic origin be procured in these Federal projects ought to go a long way to minimize the possibility of "steel speculation" creating havoc in the U.S. steel industry.

Finally, Mr. President, I want to thank all of the House and Senate conferees who worked so diligently and considered so carefully my views in drafting the final version of this legislation. Special thanks is also due to Senator JENNINGS RANDOLPH who understands the real positive impact which the result we have obtained will have on the economic well-being of our country and constituents. It is difficult to imagine a Senator of lesser rank being as influential and critical to the successful outcome of this issue. His seniority was decisive on this issue. I look forward to working with him in the 96th Congress.

Also, Senator HEINZ of Pennsylvania was truly instrumental in achieving the goal we both sought because of a mutual concern over the sheer illogic of denying U.S. industry and workers the enormous demand for jobs and steel contained in the Federal highway-mass transit program. His work was diligent and he mastered many details of this issue which contributed immensely to our success.

Mr. President, favorable action on the Federal highway mass transit conference report will, I think, close the circle on our efforts undertaken in the 95th Congress to extend a full and fair domestic preference to the manufacturers and basic industries who provide the raw materials and finished equipment for the transportation system in this country. In May of this year the Senate did accept my amendment to the Amtrak authorization bill identical in purpose and similar in nature to the domestic preference provisions which have been agreed to in the highway aid-mass transit legislation. When the Subcommittee on Transportation Appropriations, which I chair, reported DOT funding this year, we likewise emphasized the importance of adherence in letter and spirit of present "Buy American" statutes. Now we have achieved a comprehensive policy in a particular area heavily supported by the Federal Government. I think our decision bodes well for our economy, our key industries and the American people.

Mr. President, at this point, I ask that the letters of April 7 which I wrote to my House and Senate colleagues be printed in the RECORD at this point as well as correspondence of April 26 to the majority members of the Senate Banking Committee prior to the mark-up of UMTA legislation.

The material follows:

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., April 7, 1978.

Hon. JENNINGS RANDOLPH,
Chairman, Senate Committee on the Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR JENNINGS: In your capacity as Chairman of the Senate Committee on the Environment and Public Works, and as Chairman of the Senate Steel Caucus I know you appreciate as much as any of our colleagues the severe problems which gravely threatened the steel industry last year. With consideration of the Federal Highway Improvement Act coming to the attention of the Committee in the near future, I think it would be appropriate to consider at this time amending this legislation to provide a preference for domestic materials and other items to be used in our future highway programs.

Especially in the case of domestic manufacturers engaged in the production of fabricated steel products and in competition with foreign manufacturers who enjoy direct support and subsidy from their own governments, this problem is especially severe. This situation arises from the fact that while 90 percent of the funds utilized for state highway construction come from the federal government, the projects themselves are advertised and awarded by the state highway departments where no domestic preference for purchase need be involved. Only 14 of the states now extend some type of preference to domestic materials in public works projects such as highway and bridge construction.

Further, the American Iron and Steel Institute has presently estimated that 25 percent of all interstate highway bridges currently under construction are being fabricated outside of the United States. The Department of Transportation for Iowa has calculated that for every 100 tons of structural steel fabricated by foreign concerns, 13 domestic fabrication jobs were lost and 4 construction jobs were gained, for a net loss of 9. Also, the Congressional Research Service recently concluded that for every $1,000 in domestic procurements made, $522 comes back through tax receipts. Clearly, both in terms of preventing the export of additional jobs overseas and recovering tax revenues here at home, I believe we must act in order to extend a fair preference on behalf of our home industries and respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress is almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the Senate bill you are considering a provision such as the following.

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues).

(3) where supplies of the class or kind to be used for the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Jennings, your consideration of this correspondence is deeply appreciated. I have also advised Senator Lloyd Bentsen of my proposal in this area. As always, I look forward to working with you on this and other issues in the days ahead.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 7, 1978.

Hon. HOWARD W. CANNON,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR HOWARD: It appears likely that your Committee will be considering in the near future legislation involving rail matters including AMTRAK and CONRAIL. At this time, I would like to respectfully commend to your attention a constructive proposal which I believe deserves positive consideration with respect to the domestic preference for materials and equipment which will be procured under the programs presently being considered.

As you are aware, the domestic steel industry was gravely threatened last year in large part due to competition with foreign steel firms, often heavily subsidized by their own governments. The result was that what appeared to be a cost "savings" to the federal government and the states was in reality a real loss in terms of employment foregone and tax receipts lost. In fact, the Congressional Research Service recently completed a study showing that for every $1,000 in domestic procurement made, $552 is eventually recovered in taxes. Clearly, in terms of preventing the export of additional jobs overseas, recovering tax revenues here at home and facilitating the revitalization of the domestic rail transportation industry, we must act to extend a fair preference on behalf of our home industries in a manner which will also respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available for U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation area provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the Senate bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where supplies of the class or kind to be used for the articles, materials or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of the legislation in this area which is now before the Committee.

Howard, your consideration of this correspondence is much appreciated and I look forward to working with you in the days ahead. I have also advised Senator Russell Long of my concern in this area.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S.. SENATE,
Washington, D.C., April 7, 1978.

Hon. RUSSELL LONG,
Chairman, Subcommittee on Surface Transportation, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR RUSSELL: It appears likely that your Committee will be considering in the near future legislation involving rail matters including Amtrak and ConRail. At this time, I would like to respectfully commend to your attention a constructive proposal which I believe deserves positive consideration with respect to the domestic preference for materials and equipment which will be procured under the programs presently being considered.

As you are aware, the domestic steel industry was gravely threatened last year in large part due to competition with foreign steel firms, often heavily subsidized by their own governments. The result was that what appeared to be a cost "savings" to the federal government and the states was in reality a real loss in terms of employment foregone and tax receipts lost. In fact, the Congressional Research Service recently completed a study showing that for every $1,000 in domestic procurement made, $552 is eventually recovered in taxes. Clearly, in terms of preventing the export of additional jobs overseas, recovering tax revenues here at home and facilitating the revitalization of the domestic rail transportation industry, we must act to extend a fair preference on behalf of our home industries in a manner which will also respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the Senate bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where supplies of the class or kind to be used for the articles, materials or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quanties and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of the legislation in this area which is now before the Committee.

Russell, your consideration of this correspondence is much appreciated and I look forward to working with you in the days ahead. I have also advised Senator Howard Cannon of my concern in this area.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 7, 1978.

Hon. HARRISON WILLIAMS,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR PETE: I am aware that the Committee has held hearings on S. 2441, the Federal Public Transportation Act of 1978. I also appreciate your efforts and leadership in this area and would like to bring to your attention at this time a proposal that I feel deserves positive assessment by the Committee in your continued deliberations on this legislation.

As a fellow member of the Senate Steel Caucus, you are aware of the problems which gravely threatened the domestic steel industry last year. An especially severe situation arises from the fact that while mass transit projects should provide a growing market for domestic steel mill products, present Urban Mass Transportation Administration policy provides that no preference may be accorded to domestic materials by UMTA grantees. Only 14 of the states now extend some type of preference to domestic materials in public works projects. Your state of New Jersey is one of them. However, UMTA procedures appear to preclude any rapid transit grantee from giving any preference to domestic materials.

The Congressional Research Service recently concluded that for every $1,000 in domestic procurements made by the government, $552 is eventually recovered in tax receipts. Both in terms of promoting employment in the domestic rail car industry and recovering tax revenues here at home, I believe we must act in order to extend a fair preference to our home industries and respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the Senate bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where supplies of the class or kind to be used for the articles, materials or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of S. 2441.

Pete, your consideration of this correspondence is deeply appreciated. I look forward to working with you on this and other issues in the days ahead.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 7, 1978.

Hon. LLOYD BENTSEN,
Chairman, Subcommittee on Transportation, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR LLOYD: I appreciate the response you recently sent me concerning several matters that are presently under consideration by the Public Works Committee in connection with the federal highway aid bill. As I stated in my earlier letter to you, this is a very complex and major legislative effort that will set basic highway policy for the next four years. I certainly appreciate your efforts and

leadership in this area and look forward to working with you in the days ahead. There is an item which I would like to bring to your attention at this time that I feel deserves positive assessment by the Committee.

As a fellow-member of the Senate Steel Caucus, you are aware of the problems which gravely threatened the domestic steel industry last year. An especially severe problem arises from the fact that while 90 percent of the funds utilized for State highway construction come from the federal government, the projects themselves are advertised and awarded by state highway departments where no domestic preference for purchase need be involved. Only 14 of the states now extend some type of preference to domestic materials in public works projects such as highway and bridge construction.

Further, the American Iron and Steel Institute has presently estimated that 25 percent of all interstate highway bridges currently under construction are being fabricated outside of the United States. The Department of Transportation for Iowa has calculated that for every 100 tons of structural steel fabricated by foreign concerns, 13 domestic fabrication jobs were lost and 4 construction jobs were gained, for a net loss of 9. Also, the Congressional Research Service recently concluded that for every $1,000 in domestic procurements made, $552 comes back through tax receipts. Clearly, both in terms of preventing the export of additional jobs overseas and recovering tax revenues here at home, I believe we must act in order to extend a fair preference on behalf of our home industries and respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the Senate bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determine it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where supplies of the class or kind to be used for the articles, materials, or supplies from which they are manufacturerd are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of the Highway Improvement Act which will set federal policy in this area for the next four years at least.

Lloyd, your consideration of this correspondence is deeply appreciated.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 7, 1978.

Hon. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce of the House Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It appears likely that your Committee will be considering in the near future legislation involving rail matters including AMTRAK and CONRAIL. At this time, I would like to respectfully commend to your attention a constructive proposal which I believe deserves positive consideration with respect to the domestic preference for materials and equipment which will be procured under the programs presently being considered.

As you are aware, the domestic steel industry was gravely threatened last year in part due to competition with foreign steel firms, often heavily subsidized by their own government. The result was that what appeared to be a cost "savings" to the federal government and the states was in reality a real loss in terms of employment foregone and tax receipts lost. In fact, the Congressional Research Service recently completed a study showing that for every $1,000 in domestic procurement made, $552 is eventually recovered in taxes. Clearly, in terms of preventing the export of additional jobs overseas, recovering tax revenues here at home and facilitating the revitalization of the domestic rail transportation industry, we must act to extend a fair preference on behalf of our home industries in a manner which will also respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the House bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appropriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where supplies of the class or kind to be used for the articles, materials or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of the legislation in this area which is now being considered.

Your consideration of this correspondence is much appreciated and I look forward to working with you in the days ahead. I have also advised Congressman Harley O. Staggers of my concern in this area.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 7, 1978.

Hon. HARLEY O. STAGGERS,
Chairman, House Interstate and Foreign Commerce Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It appears likely that your Committee will be considering in the near future legislation involving rail matters including Amtrak and ConRail. At this time, I would like to respectfully commend to your attention a constructive proposal which I believe deserves positive consideration with respect to the domestic preference for materials and equipment which will be procured under the programs presently being considered.

As you are aware, the domestic steel industry was gravely threatened last year in large part due to competition with foreign steel firms, often heavily subsidized by their own governments. The results was that what appeared to be a cost "savings" to the federal government and the states was in reality a real loss in terms of employment foregone and tax receipts lost. In fact, the Congressional Research Service recently completed a study showing that for every $1,000 in the domestic procurement made, $552 is eventually recovered in taxes. Clearly, in terms of preventing the export of additional jobs overseas, recovering tax revenues here at home and facilitating the revitalization of the domestic rail transportation industry, we must act to extend a fair preference on behalf of our home industries in a manner which will also respond to the realities of the international marketplace.

As Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, I have over the past several years had occasion to question various witnesses in the area of procurement of various vessels, aircraft, rail cars, and other equipment. Often, procurement contracts have gone to foreign manufacturers. In many cases, such procurements appeared to be justified on the basis of cost savings or where similar items were not readily available from U.S. sources. Certainly, DOT followed the letter of existing "Buy American" regulations as did state and local governments. However, it seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present policy. That is why I am hopeful that you will see fit to include in the

House bill you are considering a provision such as the following:

Notwithstanding any other provision of law, no grant of more than $1,000,000 shall be made after the date of enactment of this Act under this Act, or any Act amended by this Act, any part of which is to be expended for the acquisition of any steel and rolling stock for fixed rail service, unless substantially all the steel and rolling stock to be acquired has been manufactured in the United States substantially from articles, materials and supplies mined, produced, or manufactured, as the case may be, in the United States.

This section shall not apply in any case—

(1) where the Secretary determines it to be inconsistent with the public interest,

(2) in the case of acquisition of rolling stock, where the Secretary determines the cost to be unreasonable (after granting appriate price adjustments to domestic products based on that portion of each grant likely to be returned to the United States and to the States in the form of tax revenues),

(3) where the supplies of the class or kind to be used for the articles, material or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonable available commercial quantities and of a satisfactory quality.

I would also hope the Committee could approve this provision in such a fashion as it would extend to all aspects of the legislation in this area which is now being considered.

Your consideration of this correspondence is much appreciated and I look forward to working with you in the days ahead. I have also advised Congressman Fred B. Rooney of my concern in this area.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. HARRISON WILLIAMS,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR PETE: I am sending along a copy of my letter to you of April 7 to our Democratic colleagues on the Committee. I am urging them to support an amendment which will be offered by Senator Heinz proposing a domestic preference provision to be included in the mass transportation legislation you will be considering this Monday.

Any further consideration you could give to this proposal would be appreciated.

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. ROBERT MORGAN,
Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Building, Washington, D.C.

DEAR BOB: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7 I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. Senate,
Washington, D.C., April 26, 1978.

Hon. PAUL S. SARBANES,
Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Building, Washington, D.C.

DEAR PAUL: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7 I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax reecipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. Senate,
Washington, D.C., April 26, 1978.

Hon. DONALD W. RIEGLE, JR.,
Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Building, Washington, D.C.

DEAR DON: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7 I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. ADLAI E. STEVENSON,
Committee on Banking, Housing, and Urban Affairs, Russell Senate Building, Washington, D.C.

DEAR ADLAI: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7 I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,

Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. ALAN CRANSTON,
Committee on Banking, Housing, and Urban Affairs, Russell Senate Building, Washington, D.C.

DEAR ALAN: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7, I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Mon-

day. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,
Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. THOMAS J. MCINTYRE,
Committee on Banking, Housing, and Urban Affairs, Russell Senate Building, Washington, D.C.

DEAR TOM: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7, I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,
Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. JOHN SPARKMAN,
Committee on Banking, Housing, and Urban Affairs, Dirksen Senate Building, Washington, D.C.

DEAR JOHN: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7, I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,
Sincerely,

BIRCH BAYH.

U.S. SENATE,
Washington, D.C., April 26, 1978.

Hon. WILLIAM PROXMIRE,
Chairman, Banking, Housing, and Urban Affairs, Dirksen Building, Washington, D.C.

DEAR MR. CHAIRMAN: This Monday I understand that the Committee will proceed to consideration of S. 2441, the Federal Public Transportation Act of 1978. Among the amendments to be offered will be one by Senator Heinz proposing that language be included to provide an appropriate domestic preference for steel products and rolling stock for fixed rail service and other transportation purposes. I strongly urge you to support Senator Heinz's amendment.

My concern about this aspect of our national transportation policy stems from my experience as Chairman of the Senate Appropriations Subcommittee on the Department of Transportation and Related Agencies, and my activities in the Senate Steel Caucus. On April 7, I wrote to Senator Williams outlining in detail my own recommendation that domestic preference language be written into the bill to be marked-up on Monday. I am sending along a copy of my letter to him for your study.

It seems to me that the present legislation before Congress in almost all transportation areas provides us with a rare opportunity to strengthen and improve present federal procurement policy in a way which will be of benefit through increased employment and recaptured tax receipts.

Thank you for taking the time to consider this correspondence. I do hope that after you have studied this issue you will be able to support Senator Heinz when he offers his amendment on May 1.

Best personal regards,
Sincerely,

BIRCH BAYH.●

NATIONAL SCHOOL LUNCH WEEK OBSERVANCE

● Mr. DOLE. Mr. Chairman, this past week was National School Lunch Week (NSLW), and millions of the Nation's students in 91,000 schools, about 95 percent of all schools in the country, participated in the week-long observance.

NSLW was first proclaimed by the President in 1962. Since that time 1 week every October has been set aside to observe school meal service—and pay tribute to the 26-plus million students, 68,000-plus school cafeteria workers and others who make these programs what they are today.

SCHOOL LUNCH COUNTS

In my opinion, the school lunch program has and can continue to make a significant contribution to the Nation's health. Earlier this week Federal researchers at the Office of Technology Assessment (OTA) reported that we have focused too much on such issues as undernutrition in this country and paid too little attention to evidence linking modern eating habits with fatal diseases like heart disease and cancer. This is the same message my colleagues and I on the Nutrition Subcommittee hear time and time again from Government officials, highly qualified professionals, and other expert witnesses.

The OTA report goes on to state that as a result of the failure of our nutrition research to keep up with the changes, the quality of American life may suffer for generations to come.

Few would quarrel with the idea that American food habits have significantly changed over the past few decades. However, through the school food program many youngsters get a well-balanced diet every day. And this year and next school-based nutrition education activities and personnel training workshops are being offered—all designed to improve the students' food selection practices and strengthen school cafeteria services. We are indebted to all the students, parents, and workers around the country who are committed to making school lunch count.

EAT TO LEARN . . . LEARN TO EAT

For the second time, the 5-year theme for this National School Lunch Week was "eat to learn . . . learn to eat," with special emphasis on physical fitness and general well-being through improved food habits. In fact, throughout this week school cafeteria managers, teachers, parents, and school administrators were urged to help students understand the physical benefits reaped from the nutritious breakfasts and lunches consumed in school.

We all know the food will only be consumed if high quality and well balanced meals are cooked and served. I am encouraged that the education and training funds available to States this year will help assure students of consistently high quality food in every school cafeteria.

Participants celebrated the week by promoting physical fitness and good nutrition in a variety of ways, including nutrition essay and poster contests, school cafeteria decorating, sports clinics, and nutrition film festivals. Parents, community leaders, and in some instances local politicians were also invited to eat lunch at school during the week. During this recess period more of us might have opportunities to make a visit to school cafeterias.

Yesterday, October 11, was a special day, "Universal Menu Day." Every Wednesday of NSL week is Universal Menu Day. Students in all 91,000-plus schools observing this special day were offered the same menu: Oven-fried chicken, mashed potatoes and country gravy, carrot and celery sticks, angel biscuit and honey butter, orange wedges, oatmeal raisin cookies, and milk.

ESTABLISHED IN 1962

It was a joint resolution of Congress which established this annual event we now call National School Lunch Week. By such resolution the President is requested to issue annually a proclamation

calling on the people of the United States to observe this week with appropriate ceremonies and activities. The period designated begins on the second Sunday of October each year.

Back in October 1962 Congress also enacted some very significant amendments to the 1946 National School Lunch Act: Inequities in the apportionment of Federal funds among States were corrected, and special assistance in the form of cash reimbursement for meals served free or at substantially reduced prices to needy students was initiated. At that time Federal expenditures for the child feeding program was almost $380.4 million, and over 16 million children in some 68,000 schools were served.

Today, some 26.8 million students in over 94,000 schools are reached by these programs, at an annual cost of close to $3 billion. This is a tremendous investment and we must continue to protect the nutritional integrity of this food service program designed to meet food and nutrition needs during the growing years.

Mr. President, I would like to extend the Congress appreciation and thanks to all the students, cafeteria personnel, parents, and surrounding community individuals and groups who worked to promote our Nation's school food service programs this week—and throughout the year. Indeed, school meals have and can continue to be a major cornerstone in this Nation's disease prevention and health promotion thrusts.●

REORGANIZATION PLAN NO. 4 OF 1978

● Mr. JAVITS. Mr. President, I greet the administration's ERISA reorganization plan with mixed emotons. On the one hand, the plan may reduce though not end the overlapping jurisdiction of the Labor and Treasury Departments and should hopefully improve the administration of the law. On the other hand, the plan permits the continuance of certain elements of dual jurisdiction which could make ERISA enforcement less effective than it should be.

On the whole, I view the administration's proposal as a small, first step toward better administration of ERISA. As the plan sponsors admit, the reorganization plan is only an interim measure which is to be followed by legislative recommendations for a long-term administrative structure. The administration has unequivocally committed itself to submitting its long-term recommendations to the Congress on or before January 31, 1980. This is desirable, and I hope that concern for the good of retirees will override all other concerns in the long-term plan.

I believe the best long-term solution to dual jurisdiction is the establishment of a single agency to administer ERISA. Such an agency, which Senator WILLIAMS and I have proposed in S. 3017, would result in better policy development which will transcend the limited institutional interests of the existing administering agencies. In addition, plan participants and sponsors would incur less difficulties and costs with one-stop administration.

But there is an even more important reason for the establishment of a single pension agency. Starting in about the year 2000, this country will probably be facing an unprecedented demand for retirement income. Based upon present demographic trends, there will be early in the next century a much larger number of older people and comparatively fewer younger workers. If we do not make sure that adequate resources are built up now to provide retirement income in the future, we may not be able to provide adequately for all of our older citizens.

A single pension agency will be the essential tool for developing a national retirement income policy which will deal with this slowly ticking retirement income time bomb. The President has realized the magnitude of this problem and has established a Presidential Commission on Pension Policy. I hope that this Commission will document the seriousness of the developing situation and accelerate the acceptance of the conclusion that a single pension agency is absolutely necessary as the administering arm of a retirement policy.●

THE WARNKE RESIGNATION

● Mr. DOLE. Mr. President, the White House announced on Tuesday of this week that Paul C. Warnke, Chief U.S. Negotiator at the SALT II talks and Director of the Arms Control and Disarmament Agency, will be returning to private life later this month. This announcement comes on the threshold of the expected completion of the SALT II negotiations.

I became concerned during the confirmation hearings of Mr. Paul Warnke as our SALT negotiator, that he represented an approach of complete unconcern toward the consequences of the Soviet strategic build-up. I voted against Mr. Warnke because I had high hopes that through a SALT agreement we could obtain a limitation to the Soviet arms race, but felt that Mr. Warnke's inclination toward unilateral U.S. reductions would make an equitable agreement unlikely.

His resignation now, coinciding with the virtual conclusion of a SALT II agreement confirms that those concerns were justified. After the promising beginning made by President Carter in his March 1977 proposals in seeking to stabilize the Soviet strategic build-up, the negotiations have failed to achieve an acceptable agreement.

The current draft agreements would put no serious restraint on the Soviet MIRVed ICBM force (allowing 820 MIRVed ICBM's with as many as 10 warheads each), thus insuring the vulnerability of our land-based deterrent.

The agreements would seriously limit or prohibit our ability to assure the survivability of our ICBM force through mobile-basing options.

The agreements would give up the valuable options of ground-launched and sea-launched intermediate range cruise missiles.

The agreements would leave the Soviet Backfire intermediate/strategic bomber free of any meaningful restraints.

The agreements would accept a standard of verification that would require an unacceptable amount of trust in Soviet compliance.

I believe the SALT II accords should be judged on their merits, rather than on personalities involved. It is the specific provisions of those accords that give many of us cause for concern, and which will be thoroughly scrutinized in the weeks ahead.●

NATIONAL AUTO THEFT CONFERENCE ENDORSES CHOP SHOP BILL

● Mr. PERCY. Mr. President, as an example of the concern about, and response to the automobile theft crisis which is confronting our Nation today, 273 people representing 30 States participated in the National Workshop on Auto Theft Prevention which was held in New York City October 3–6.

The participants included State and municipal legislators, prosecutors, State licensing officials, and local and State law enforcement officials. Additionally, there were representatives of the automobile manufacturers, dismantlers, and salvage yard operators, as well as officials of the National Automobile Theft Bureau. The conference was sponsored by the New York Senate Transportation Committee with the aid of a grant from the Federal Law Enforcement Assistance Administration.

The conference marked the first time that all parties concerned with the auto theft problem had been brought together to hammer out a national strategy to attack this growing problem which has increasingly been taken over by organized crime elements. The end result of 3 days of intense discussion and debate was the passage of 24 resolutions which, it is believed, can now serve as national guidelines on how to begin to curb this exceedingly costly crime.

I was extremely pleased to learn that the conferees unanimously adopted a resolution supporting S. 3531—the Motor Vehicle Theft Prevention Act of 1978. Just a few weeks ago, I joined with Senator BIDEN, (Democrat of Delaware), and Senator THURMOND (Republican of South Carolina), in introducing that measure. The need for that legislation becomes self-evident in light of the most recent auto theft statistics.

The Justice Department estimates the national cost for automobile theft today is approximately $4 billion annually. With stakes so high, it is no wonder that organized crime is viciously fighting among its own ranks for the lion's share of the profits. In Chicago alone, at least 11 persons have been murdered reportedly because of their automobile theft activities. Almost all these murders have taken place in the last 3 years and none have been solved. Earlier this week, two investigators from the Office of the Illinois Secretary of State who were investigating automobile theft cases were the victims of violent acts. One had his car set afire while the other had gunfire shot through his bedroom window.

The impact of automobile theft on consumers is overwhelming. One car is being stolen every 32 seconds in this

country. And, auto theft insurance coverage is skyrocketing. In New York City, automobile owners are now paying about nine times more than the average car owner elsewhere for comprehensive auto theft insurance coverage. And in Boston, the rates are even higher than in New York. In Chicago, rates were recently increased 16 percent.

S. 3531 aggressively attacks the multibillion dollar problem which has been largely created by the "steal-to-order" auto parts racket, whereby late-model cars are stolen and cut up in "chop shops." The presently unidentifiable body parts from these cars are then sold in the legitimate used parts market at exorbitant profits.

The bill proposes to reduce the marketability of stolen auto parts by placing vehicle identification numbers (VINs) on all principal body parts. Consequently, police will be able to easily identify stolen body parts. In addition, the bill sharply increases the penalty for trafficking in stolen automobiles and parts, tightens vehicle titling laws to restrain fraudulent titling schemes, and mandates new barriers to the illegal exporting of stolen motor vehicles.

The New York conference also passed other major resolutions urging:

Each State to develop a uniform vehicle registration and title procedure as well as stringent methods for processing and inspecting titles;

Local, State, and Federal prosecutors to increase their prosecution of car theft rings and "chop shop" operators;

States to designate one law enforcement agency to coordinate all statewide antivehicle theft action;

Legislators and State insurance commissioners to grant carowners who install antitheft devices reduced insurance rates;

Insurance companies to improve their inspection of all vehicles before issuing an insurance policy to prevent fraud;

The Attorney General of the United States, in conjunction with law enforcement personnel, to develop a comprehensive national auto theft prosecutive program;

Insurance companies to report salvaged motor vehicles to the National Automobile Theft Bureau computer;

State governments to allocate funds necessary to support the antivehicle theft efforts of its law enforcement and vehicle licensing agencies; and

The Department of Justice to increase its prosecution of interstate motor vehicle theft statute violators.

Additionally, the conferees agreed to establish a Liaison Committee to promote a nationwide coordinated effort to combat auto theft. The committee will also help establish State and regional task forces.

I authorized two staff members from the Senate Permanent Subcommittee on Investigations to attend the New York conference. They reported to me that there was strong support expressed for S. 3531. I believe that with the commitment and active support of the national automobile theft experts in attendance at the conference, this bill—backed as it is by the Carter administration—has an excellent chance for passage in the next Congress. I welcome this endorsement and urge all Government officials at the State and local level to join in support. In addition, I welcome the support of automobile dismantlers and salvage yard owners whose businesses are being jeopardized by the illicit operators. I am also encouraged by the commitment the automobile manufacturers have demonstrated through their efforts to reduce automobile theft by developing new antitheft technologies.

This problem hurts every automobile owner in the pocketbook through higher theft insurance rates. Passage of S. 3531 will signify the serious commitment the Congress is making to rid the country of this destructive crime.

Everyone who is committed to reducing the skyrocketing auto theft problem owes a great debt to the New York State Senate Transportation Committee which sponsored this outstanding conference. Special recognition should go to Senator John D. Caemmerer, its chairman, and MacNeil Mitchell, a former New York State Senator and presently Special Counsel to the Transportation Committee, who ably directed the conference when Senator Caemmerer was unexpectedly hospitalized.

In addition, Mr. President, I request that an article which appeared in the October 12, 1978 Chicago Tribune be printed with my statement in the RECORD. The article describes the brutal attacks made upon the properties of the two investigators from the Office of the Illinois Secretary of State:

REPORT NEW VIOLENCE IN PROBE OF CAR THEFTS

STATE AUTO SET AFIRE IN BERWYN

(By Monroe Anderson)

The latest of three acts of violence directed against Secretary of State auto theft investigators occurred early Wednesday in Berwyn when a state vehicle was set ablaze in front of the Berwyn home of a state investigator.

The automobile, assigned to investigator Marion Vrtik of the Chicago unit, was set afire at 2 a.m. on the street outside his Berwyn apartment, shortly after Vrtik arrived home from work.

At 11 p.m. Tuesday, three shotgun blasts were fired through the bedroom window of another investigator, Michael Cobb, at his home in East Saint Louis.

On July 8, a bomb was placed on the back doorstep of Lt. Vladimir Ivkovich, head of the Chicago auto theft unit, and was dismantled by bomb and arson police.

Secretary of State Alan Dixon viewed the attacks as a warning from organized crime elements involved in auto theft and "chop shop" operations.

"The office of the secretary of state will not be intimidated," Dixon said shortly after learning of the latest attack. "If criminal elements hope to deter our program to reduce vehicle thefts, they will find we play hard—and for keeps."

Vrtik told police that shortly after arriving home, he heard his doorbell ring. Upon answering, he saw no one there, but noticed that the state vehicle assigned to him was ablaze.

He said he grabbed a fire extinguisher and ran to the car just as Berwyn firemen, apparently summoned by neighbors, arrived at the scene. The blaze destroyed the interior of the car.

"The door lock on the driver's side of the car had been pulled," said spokesmen for the Secretary of State's office, "and that means it was a professional job."

Seven murders in the last two years have been attributed to a struggle for control of chop shop operations in Chicago and the suburbs, Dixon said.

The latest slaying linked to the auto theft and stripping operations was that of James "Jimmy the Bomber" Catuara, 72, of 9600 S. Kilbourn Av., Oak Lawn, shot to death in his red Cadillac July 28 at the corner of Ogden Avenue and Hubbard Street.

Police at the time said Catuara had been heavily involved in chop shops for the last five to seven years but recently, another mob had begun muscling him out and taking over the racket, which turns profits of hundreds of thousands of dollars annually.

Chop shops are places, usually run by the syndicate, where stolen cars are dismantled into hard to trace auto parts that are resold at a huge profit.

Pressure on them had been intensified since the attempted bombing of the home of Ivkovich, less than three weeks prior to the Catuara slaying.

Ivkovich, whose investigations have been troublesome to the mob, was awakened by his dog's barking in the early morning hours, went to the porch of his home and, in the dark, knocked over something which turned out to be a bomb.

The accidental kick defused the bomb and it did not go off. Bomb and arson police completed the job of disassembling it.●

STATEMENT ON CZECHOSLOVAKIA

● Mr. DOLE. Mr. President, the 28th of October will mark the 60th anniversary of the birth of modern Czechoslovakia. On the 18th of October in 1918, the Czechoslovak Declaration of Independence was submitted by Prof. Thomas G. Masaryk, who became the first President of the Czechoslovak Republic. This document refers to the American Declaration of Independence and was based on the principles of Abraham Lincoln. It formed the base of what was to become the first really democratic state in central Europe. It is a milestone in the proud history of the Czech and Slovak people; a great moment in their struggle for freedom from occupation. This struggle lasted from 1620 when the Czechs were badly defeated by the vastly superior forces of the Habsburg Empire at the battle of the White Mountain, to 1918, when Professor Masaryk proclaimed the new republic on October 18, here in Washington, D.C. This brief period of freedom lasted only 20 years, until Czechoslovakia was taken by the Nazi Government at Munich in 1938. After long bitter years of war and another brief period of freedom, the country again fell under foreign domination in 1948. The coup d'etat of February 1948 marked the end of the principles of the first republic, and the beginning of a long, cold struggle.

Mr. President, I have a short history of this great and tragic period of the Czechoslovak Republic. I ask unanimous consent that it be printed in the RECORD at the end of my remarks.

A HEROIC EFFORT

Fifty years after the beginning of the first republic, 10 years ago this year, the people of Czechoslovakia undertook the task of moderating their society, allow-

ing greater degrees of cultural, political, and literary freedom. This was directed by the efforts of a new generation of Communist leaders, the architects of "socialism with a human face." The names of these bold new leaders are familiar to us all: Alexandr Dubcek, Ota Sik (Shick), Eduard Goldstueker, Zdenek Mlynar, and Jiri Pelikan. Their goal was the humanization of their society, to break away from the old Stalinist mold. But tyrants dare not relax their power. Their vassals are never to be trusted with freedom. And the Soviets could not trust their Czechoslovak Communist "allies" with such freedom as was created in the spring of 1968. The spark of heroic resistance was swiftly crushed under the treads of Soviet tanks. The warmth of the Prague spring was lost in the frost of the Soviet winter.

"THE PARIAH"

Hostility in the free world against the Soviet invasion and occupation of Czechoslovakia in August 1968 is more alive today than it was 10 years ago. Czechoslovakia has become the showcase of Soviet oppression. The regime which was installed by the Soviet Union in place of the Government of the Prague spring is the pariah of Europe. Hopes for improving its image are very limited. But for Czechoslovakia and for Eastern Europe as a whole, the decade since the invasion has been a failure for Brezhnev, if intervention was meant to put an end to dissidence. Dissent is still very much alive in the Soviet Union and in Eastern Europe. Even in Prague, dissent that can not be stifled still comes forth.

"CHARTER 77"—HOPE IS STIRRED

Dissent, and the hope that spurs dissent, was encouraged by the signing of the Helsinki Final Act in 1975. This document gave people the hope that finally, the Soviet Union has shown itself willing to allow freedom. Groups to promote and monitor adherence to these principles were formed in Czechoslovakia, as well as in the Soviet Union and other countries of Eastern Europe. Charter 77 emerged, a brave testimony and plea for the Government of Czechoslovakia to implement the principles of basket III of the Helsinki Agreement. The bravery and dedication to principle of these people is exemplary. And the movement is not without its martyrs. Let no one forget the death of Prof. Jan Patocka. He died of a heart attack last year after repeated brutal interrogations and beatings. One of the main drafters of Charter 77, he stands as a symbol for those who remain, and a sign of the unwillingness of the Czechoslovak authorities to implement the principles of the Helsinki Agreement.

CZECHOSLOVAKIA FOLLOWS THE SOVIET MOLD

Within the past year, the Czechoslovak authorities have closely followed the Soviet line on suppressing dissident activity, particularly with those groups monitoring compliance with the principles of the Helsinki Agreement. Signatories of Charter 77 have been dismissed from their jobs and universities, undergone constant surveillance, been physically harassed, beaten and arrested. But the small group of individuals has continued their activity. Their names should be well known here in the West—the playwrights Vaclav Havel, Pavel Kohout, and Ludvik Vaculik, the former Minister Jiri Hajek, and the civil rights leader Frantisek Kriegel, to name a few. The current leaders of the Charter 77 group are singer Marta Kubisova, philosopher Ladislav Hejdanek, and the former regional party secretary Dr. Jaroslav Sabata. The odds against which they are working are mountainous. Their courage and dedication to principle are unquenchable.

DR. SABATA THE LATEST VICTIM

This past week, however, the Czechoslovak authorities have struck out again at the Charter 77 group. Dr. Sabata, Jiri Nemec, and Tomas Perina were picked up by the police in connection with a planned border meeting Sunday between Polish and Czechoslovak human rights groups. The meeting, which would have been the third between Czechoslovak and Polish dissidents, never took place. Nemec and Perina were interrogated and released. Dr. Sabata was beaten and held under charges of violent resistance to the state. Vaclav Havel, who also attended the planned meeting but escaped arrest, reports that the Czechoslovak police behaved roughly—even brutally.

The arrest and cruel treatment of Dr. Sabata is another example of the total disregard that the Czechoslovak authorities have for the standards of human rights which they gave their approval to at Helsinki. Our voices should be raised against this outrage, just as they were raised in support of the heroic Soviet citizens who were tried this summer. I call upon all of my colleagues to vigorously protest the arrest of Dr. Sabata and the continued persecution of these individuals—individuals dedicated to the rule of law and democratic principle, just as those of us here in Congress are.

THE HEIRS OF MASARYK

The hope of these people must not be allowed to be crushed. They carry the torch of democratic principles—the principles of Helsinki and of the constitution of the first republic. These people could be considered the heirs of Thomas Masaryk. They carry his struggle for human rights and democratic freedoms and the struggle against domination by a foreign power. This domination, emphasized by the continued presence of thousands of Soviet troops in Czechoslovakia, continues the heritage of struggle the Czech and Slovak people have labored against for many years. Let all of us take this time of year, the 60th anniversary of the Czechoslovak Republic and the Czechoslovak Declaration of Independence, to pledge our support and sympathy to the people of Czechoslovakia and to the heirs of Masaryk.

The document follows:

EARLY HISTORY

The Czechs and Slovaks have a long and proud history which goes back over a thousand years. By the ninth century, the Slavs of Central Europe had already formed the Great Moravian Empire, one of the most important Christian states of that time. After a century of greatness, the Empire was shattered by a Magyar invasion from the east. A nucleus of a new West Slav state was then formed by the sturdy and able Czech (Bohemian) tribe which managed to build a strong state in the face of great pressure from the north, east and west.

Living at the crossroads of Europe, the Czechs were in position both to receive and to contribute much to the cultural development of Central Europe. Their most important early mission was to spread Christianity among their northern and western neighbors, the Poles and Hungarians. One of the early Christian rulers was Saint Vaclav (-929), the patron saint of Bohemia, to whom the popular old English carol "Good King Wenceslaus" is dedicated.

The Czech state rose from a dukedom to a principality in the tenth century and to a kingdom in 1212, when it was recognized by the pope. The aspiration of Czech rulers to the title of Emperor of the Holy Roman Empire, the secular head of all Christendom, were finally realized in 1355. Thereafter, until the end of the Holy Roman Empire in 1806, a Roman Emperor who was not a king of Bohemia was an exception.

The steady growth of Czech power culminated under the leadership of one of the greatest figures in Central European history: King Charles IV, the first of the Bohemian kings to attain the title of Holy Roman Emperor. Under his reign (1346-1347), the Czech state prospered economically and culturally. Charles University of Prague, the first in Central Europe, was founded and soon became an international seat of learning. Literacy was widespread and interest quite naturally concentrated on the most important issue of the times: the question of religion and eternal salvation. Thus the Czechs were among the first to come to grips with the central problem of the Middle Ages, the moral decline of the Church, and to attempt its reform. The struggle became their national destiny and as the Czechs were far ahead of their time, it eventually turned into a national tragedy.

After several decades of reformatory efforts, the Czech struggle for the revival of the Church culminated in the person of Jan Hus, rector of Charles University, religious reformer and national leader, who was burned at the stake as a heretic by the Council of Constance in 1415. His death gave rise to a spontaneous explosion of national indignation which started the Hussite wars. Thus the Czech reformation actually started at the close of the fourteenth century, over a hundred years before Luther, and culminated in the fifteenth century when the Czech nation fought and won religious freedom for itself and a special position in the Christian world.

The Hussite wars combined religious and national motives, inspiring the people with religious fervor and a strong consciousness of national unity. A military genius, Jan Zigka, sometimes called the "father of modern warfare," led his poorly armed people's army to incredible military victories against vastly superior forces of armed knights.

The Hussite movement produced one of the great European political figures of the fifteenth century: internationally-minded George of Poděbrady, the Hussite King, who strove for a League of Christian nations to maintain peace in Europe and to defend Christianity against the onslaught of the Turks.

THE AGE OF DARKNESS

Reviving Catholicism found a devoted supporter in the Habsburg dynasty, which ascended in 1526 to the Czech throne. The Habsburg effort to promote Catholicism brought about a Czech rebellion in 1618. The Czechs proclaimed the Habsburg as demoted and elected another king. By this time, however, the Czechs were weakened internally by dissension and exhausted by their long struggle against numerically vastly su-

perior forces. The final battle was fought at White Mountain near Prague in 1620 and the Czechs were badly defeated. From that time on until 1918 a Habsburg, a foreign monarch, occupied the throne of Bohemian kings.

The crushing defeat at White Mountain signalized the victory of an absolute monarchy over the democratic elements of the Czech governmental structure and wiped out the special position the Czechs had held in the Christian world. The nation came under complete foreign domination: economic, social, political and religious. With the Habsburgs came three centuries of absolutism, Germanization, national suppression and persecution of non-Catholics. Freemen became serfs. The lands of Czech nobility were confiscated by the victorious kings and given to foreign adventurers who ruled the land. Those unwilling to embrace the Catholic faith had to leave the country. Among them was the last Bishop of the Czech Brethem, Jan Amos Komensky (Comenius), known to the Western world as the father of modern education. This exodus of thousands of families, the best blood of the nation, bled the country entirely of its educated strata so that the Czech language in time ceased to exist as a literary language. The nation which had formerly had a large number of literate people—according to contemporaneous testimony, even simple peasants, both men and women, could read the bible in the days of Bohemia's glory—was now reduced to illiteracy. German, the language of the court and new overlords, dominated the country.

The Czech rebellion had sparked the long religious Thirty Years War in which the Czech lands became the main battleground. By the end of the War in 1648, the population of the pillaged Bohemian Crown lands had dwindled from 4 million to 800,000.

And yet, even as a subjugated people, the Czechs contributed substantially to the defense of Central Europe against the Turkish invaders from Asia. Ever since the sixteenth century, the kings of Bohemia had carried a heavy share of the burden of Europe's defense and later, as part of the Habsburg Empire, the Czech nation bore most of the burden in men and money needed for the unending battle with the Turks.

THE MIRACLE OF REBIRTH

Such was the vitality of the nation, however, that it was only a question of time and opportunity for the Czechs to rise again. The Enlightenment movement of the eighteenth century reached the lower classes by spreading literacy and education. Within a few decades a new intelligentsia was born to the Czech nation from the mute and oppressed peasantry and a strong national revival began. With every decade of the nineteenth century, national life asserted itself more strongly as the nation rose again, creating new cultural and scientific values of its own.

Fortunately, the Czechs were not encumbered with any ties, intellectual or moral, to the feudal system, for these had long been severed by the foreign usurpers after the Battle of the White Mountain. The new Czech leaders of the reborn nation embraced wholeheartedly modern ideas of democracy and a people's right to national self-determination, which they consciously linked to their glorious past, recognizing this as "the destiny" of the nation. To fulfill this destiny, the Czechs began to assert themselves not only culturally, but in politics and the business world as well.

The struggle against Habsburg rule and the feudalism it represented produced many fine, strong minds: the historian Frantisek Palácky, the brave journalist Karl Havlícek, the authoress Bozena Nemcová and a number of others. A great resurrection of national vitality manifested itself in many ways. The Sokol movement was founded in 1862 to build a nation of men and women, physically and normally sound and politically alert.

THE TWENTIETH CENTURY

In vain the Czechs had attempted for over half century to reform and transform the decadent Habsburg empire into a modern, democratic federation of states, united under a constitutional monarchy. Feudal Austro-Hungary was incapable of such transformation, befitting the twentieth century. The Czechs realized that there was only one way left to fulfill their destiny: through independence.

When the fateful shot was fired at Sarajevo, the struggle for freedom began inside the country and also in the outside world. Czech soldiers, forced to serve in the Austrian army, deserted at the first opportunity to join the allies; for instance, an entire regiment crossed over to the Russians. By the end of the war, Czechs were fighting on all allied fronts. When the Russian front collapsed and the Bolsheviks came to terms with Germany, the Czechoslovak legions in Russia fought their way clear across Siberia with the intention of sailing from Vladivostok to France to join the Allies in the last crucial months of the war. Thus the Czechoslovak legions were the first to fight the Bolsheviks as an army and at one time were in complete control of the Trans-Siberian railway. The spiritual head of the struggle for independence abroad was Professor Thomas Garrigue Masaryk. He was very ably assisted by a young Slovak scientist, Rastislav Stefánik, who became a General in the French army, and by Dr. Eduard Benes, who escaped from Bohemia to join him.

AMERICA'S PART

From the very first day of war, Americans of Czechoslovak descent did their utmost to liberate "the old country." Working closely with Masaryk, the recognized head of the liberation movement abroad, they helped finance the revolution. Ties with America were so close that the Czechoslovak Declaration of Independence, drafted by Masaryk, was proclaimed in Washington, D.C. on October 18, 1918. It should also be mentioned that when the Constitution of the new Republic was framed, it was patterned in many respects after that of the United States.

When Austro-Hungary was finally defeated, the Czechs were free at last. Masaryk was unanimously elected the first president of Czechoslovakia. (Honoring his 110th birthday, the United States Government issued on March 7, 1960 a U.S. 4-cent and 8-cent postage stamp in the "Champions of Liberty" series).

OLD HISTORICAL STATE RENEWED

Thus the old Kingdom of Bohemia, compromising the historical lands of Bohemia, Moravia and Silesia, was renewed as an independent state. The Czechs were joined by their close kin, the Slovaks, who had originally formed with them the Great Moravian Empire, but who had fallen under Magyar rule. As a nation and as a people, the Slovaks had suffered greatly, until the dismemberment of the Austro-Hungarian Empire set them free.

The rebirth of the Slovaks had begun from grass roots in the nineteenth century and continued as part of the national revival. Their poets, writers, teachers and clergy—Jan Kollár, Pavol Hviezdoslav and Martin Kukucín, to name but a few—looked for support and found it in the Czech National Revival movement which culminated in the formation of a common state, Czechoslovakia.

Another Slav province, Subcarpathian Ruthenia, which was part of the Hungarian Empire, also voted to join Czechoslovakia and formed its eastern tip. (After World War II, the Soviet Union annexed Ruthenia and moved out a significant part of the population.)

TWENTY YEARS OF PROGRESS

Practically every American and West European authority agrees that Czechoslovakia during the twenty years of her independence proved to be a highly progressive, democratic country. Many observers consider the Czechoslovakia of that time the only real democracy in Central and Eastern Europe. In many ways, Czechoslovakia again took upon herself the function she had held before the Thirty Years War.

Under the wise leadership of Thomas Masaryk (1850–1937) Czechoslovakia showed remarkable political maturity and internal stability. Despite the rise of facism, which finally encircled her on all sides, Czechoslovakia kept her parliamentary institutions intact. Moreover, she gave refuge to many thousand political exiles; first, to Russians fleeing the Bolshevik revolution, then to the Jews escaping from Nazi Germany and finally to the democratic Germans and Austrians. Although a densely populated country, Czechoslovakia took them all in, thus becoming a haven for the persecuted of Europe.

Czechoslovakia achieved fair treatment of its minorities. For instance, Germans had their own schools, including universities; in fact, they had more schools and teachers per capita than the Czechs themselves. These were financed by the State. Germans enjoyed equal rights as citizens; there was no such thing as second-class citizen in Czechoslovakia. The Czechoslovaks "ruled with greater democratic justice," writes Vincent Sheen in Not Peace but the Sword, "than any other government in Europe except Switzerland."

Czechoslovakia proceeded without delay to solve her land problem. The centuries-old injustice perpetrated on the Czechs and Slovaks by foreign conquerors had to be undone. Immense land-holdings were redistributed, with the welfare of the small farmers in mind; owners were paid for their expropriated land. Labor's right to unionize was recognized, also the 48 hour week (including agricultural workers), paid vacations, obligatory health and accident insurance, pensions and unemployment compensation. This was indeed progressive legislation for 1918. Low-rental housing, a network of social welfare stations, modern sanitariums and hospitals were other important accomplishments of the new Republic.

Czechoslovakia was stable and prosperous, the only state east of the Rhine which did not experience inflation. It was a well-balanced economy which for two decades was able to give the Czechoslovak population one of the highest standards of living, comparing favorably with that of England, France, and Germany. Czechloslovak industry before World War II exceeded the combined industrial production capacity of Poland, Hungary, Rumania, Bulgaria, Jugoslavia, Greece, Albania and Italy.

Her people enjoyed a rich cultural and intellectual life. (Suggested reading: John Gunther, Inside Europe, prewar ed. and Prof. S. Harrison Thomson, Czechoslovakia in European History, rev. ed., Princeton University Press, 1953).

Such a thriving democracy was to Hitler what West Berlin is to Khrushchev today: a living answer to his lie. Hitler, a student of German history, took to heart Bismarck's theory: "Who so-ever is master of Bohemia, is master of Europe."

ALWAYS READY TO DEFEND DEMOCRACY

Czechoslovakia, though peace-loving, made ready to defend herself militarily against Hitler's aggression. She had 150 divisions, battle ready with the best modern equipment produced by her famous Brunn and Skoda Works; moreover, she had a line of fortifications like the Maginot line. In her foreign policy, Czechoslovakia had always been a loyal democratic ally of the West, who never wavered in her support of the League of Nations, although her firm stand incurred the

wrath of small and big dictators. She had a treaty of mutual defense with France. More than any other nation in Europe, Czechoslovakia in 1938 was ready, militarily and morally, to defend democracy.

IT DID NOT HAVE TO BE

One of the biggest blunders in modern history was Munich, the sell-out of Czechoslovakia in 1938 by her friends and allies, who ordered her to hand over to Hitler her fortifications and the border areas populated by the Sudeten Germans who wished to join Hitler. Chamberlain sacrificed Czechoslovakia in a frantic, helpless effort for "peace at any price." It only made war inevitable for it strengthened Hitler immeasurably; in fact, it was to him the green light to further conquests. The great bastion of democracy fell. The rest of the Czech lands was invaded and occupied by the Nazis in March, 1939 and incorporated into the Reich as a Protectorate.

CZECHS AND SLOVAKS SPLIT BY HITLER

Slovakia was maintained as a separate puppet "state" run by a dictatorial regime following the Nazi model. Hitler promised his Slovak stooges a Slovak State and in return, they promised, among other things, to carry out the Nuremberg laws against the Jews. To prove their loyalty to Hitler, the Quislings even declared war on the United States when he did.

In the Czech lands, the agony of Nazi occupation lasted for six years. Systematically, potential leaders were to be exterminated so that the Czech nation would never rise again. Colleges and universities were closed on November 17, 1938, nine students were executed and thousands of others, with their professors, were shipped to labor and concentration camps, many of them never to return. Three hundred thousand dead, executed and tortured was the price of Czech resistance. The greatest wave of terror swept the land after the assassination of Heydrich, the Nazi Hangman, by two Czech parachutists from England. In reprisal, the town of Lidice was wiped out. In Prague alone, more than 1,500 people were executed within two weeks in order to crush the people. (The story of the Heydrich assassination is the subject of Alan Burgess' book Seven Men at Daybreak, reprinted in the Saturday Evening Post).

In 1944, the anti-Nazi patriotic Slovaks started a national uprising in order to overthrow Hitler's stooges and to fight on the side of the allies. Although the uprising was finally put down by much stronger and well-equipped German forces, nevertheless it contributed substantially to the final defeat of Nazi Germany.

Strong anti-Nazi resistance continued to the very end throughout Czechoslovakia.

Abroad, as in World War I, thousands of Czechoslovaks served in the Czechoslovak armed forces, which were an integral part of the allied forces in the East and West: Czechoslovaks fled across the border to join the French and after the fall of France they reached England; many well-trained Czechoslovak pilots flew with the RAF in the decisive battle for Britain. Later, the Czechoslovak army also fought on the Eastern front. President Edward Benes, Masaryk's successor to the presidency, was head of the government in exile and again Americans of Czechoslovak descent gave their support toward Czechoslovakia's liberation.

When the war finally ended on May 5th for most of Europe, the citizens of Prague were engaged in a life and death struggle in the streets with the Nazi SS troops. In vain they appealed for help to the American Army standing close by. In vain Czechoslovak pilots in RAF planes asked to be permitted to fly to the rescue of Prague. In vain Churchill urged the occupation of Prague, as of Berlin and Vienna. A Soviet veto, honored by us, sealed Czechoslovakia's fate.

IT DID NOT HAVE TO BE

Prague was "liberated" instead by the Red Army three days later. Had the American Army moved in, Czechoslovakia would very likely be a free country today and her considerable industrial output, her wealth of natural resources, including uranium ore, her people's know-how would now be serving our cause, for the vast majority of her people are our allies at heart.

It was only a question of time when Moscow would stop pretending and move in for the kill. To bluff the Czechoslovak citizens, and the West as well, the Czechoslovak Government in exile was permitted to return via Moscow to Prague; Benes was again recognized as head of an independent Czechoslovakia. However, all key positions in the government were in Communist hands.

For the next three years (from May, 1945 to February, 1948), the war-weary Czechoslovaks struggled to gain control through democratic means and when it become clear that a Communist defeat was certain in the forthcoming free elections, Moscow could delay no longer. On February 26th the blow fell and Czechoslovakia ceased to be an independent state. (Suggested reading: Dana Adams Schmidt, Anatomy of a Satellite, Little, Brown and Company; Josef Korbel, The Communist Subversion of Czechoslovakia 1938–1948, Princeton University Press, 1959).

IT DID NOT HAVE TO BE

The lights of freedom went out as the free West looked on helplessly. Czechoslovakia became a grey satellite of the Soviets, a land of unhappy people. There have been occasional signs of unrest, the Pilsen uprising of 1953—read Seymour Freidin's The Forgotten People (Charles Schribner's Sons, New York)—and student demonstrations in 1948 and 1932, but the knowledge that the Western world will not take an active part, most patently demonstrated during the Hungarian revolution, has discouraged the people of Czechoslovakia. There is the lesson of Munich in 1938; the second lesson on the Prague uprisings in 1945; the third lesson of the Communist takeover in 1948. The Geneva Conference with Khrushchev, at which any mention of the captive nations was carefully omitted, and similar events such as Khrushchev's friendly visit to the United States, have served ample proof to the Czechoslovak people that, for the time being, they can not expect help.

This does not mean, by any means, that Czechoslovaks are reconciled to their lot. Quite the contrary, the great majority of the people are strongly anti-Communist and pro-American at heart. No amount of Communist hate propaganda and lies about the United States can change the warm feeling the Czechs and Slovaks have for us. Come what may, they remain our trustworthy friends. At present, they can only wait and work, as best they can, for their survival. They firmly believe that after darkness comes the dawn.

LIFE UNDER COMMUNISM

Since 1948, the situation in Czechoslovakia is in many respects similar to that after 1620. In the first wave of terror, tens of thousands were imprisoned. The bravest men and women, known for their democratic principles, were executed among them Member of Parliament Milado Horáková, who had survived five years of Nazi prison, and war hero General Helidor Pika.

The Red regime has expropriated everything without paying any compensation to the owners: shops, factories, every kind of private business, apartment houses, farm land, cattle, farm machinery. Thousands of lawyers and former business men were sent to labor camps for retraining and indoctrination. The state owns everything; it would also like to own people's souls. There is no freedom of speech, press or religion, as we know it in the West and as Czechoslovakia enjoyed in the twenty years of her independence. Churches are open for worship, but priests are under constant surveillance in the pulpit. Hundreds of nuns, priests and clergymen were imprisoned. Archbishop Joseph Beran, a patriotic hero revered by Catholics and non-Catholics alike, has been held prisoner for thirteen years and no one knows his whereabouts. Sons and daughters of church-going families are not allowed to study in higher schools of learning "because they could not possibly have the right approach to communism." Parents have nothing to say about their child's future.

While the standard of living may still be higher than in the other Red satellites, it is far below that of the Western world with which Czechoslovakia formerly successfully competed. But more than anything, the Czechs and Slovaks suffer from a loss of freedom. They bitterly resent their servitude, much against their will, to international Communist imperialism. Some day they hope to break the chains and take their rightful place among free nations. The United States of America remains the people's ideal and hope.

WE IN THE UNITED STATES

We Americans of Czech and Slovak descent—and there are hundreds of thousands of us in many states of the Union—feel close ties with the unfortunate people of Czechoslovakia. We have true affection and respect for them, but contempt for the Red regime which holds them in bondage to Communist imperialism.

We are fully aware that it is our vital obligation as loyal Americans to protect the United States against the Communist world threat. From the tragic experience of Czechoslovakia we know what communism really is and we are, therefore, opposed to any form of communism.

In World War I and again in World War II, we have worked through the Czechoslovak National Council of America, founded in Chicago almost 60 years ago by Americans of Czechoslovak descent and still an active force among us. The Council has as its goal the safeguarding of American freedom. We unmask Communist activities in the United States; their methods of penetrating our organizations; their attempts to neutralize us into inaction; their ways of misusing so called cultural exchange to serve Communist aims.

Our other goal is to liberate Czechoslovakia so that she could once again develop freely, within the framework of a free Europe. We believe there can be no peace for us in America until the captive nations are free, for the world can not be half slave and half free.

To these goals we have dedicated ourselves and in this spirit for the cause of freedom, we present to you the history of our silenced friends.●

ERA

● Mr. GARN. Mr. President, with last week's congressional resolution purporting to extend the deadline for ratification of the ERA, we have finally emerged from the dark age in which constitutions and contracts were interpreted according to the narrow, traditional definitions of their words, and into the bright sunlight of a new, enlightened approach to constitutional law.

It is true that the 35 States that ratified the ERA were told that their ratifications would expire after 7 years; but

when important national goals are at stake, how can we let small, technical matters like legislative intent stand in the way?

It is true that since 1973, only five States have ratified the ERA while four have rescinded, but what is more important—the old-fashioned notion that a contemporaneous consensus is necessary to amend the Constitution, or the congressional commitment to equality?

It is true that the Constitution requires a two-thirds vote of each House of Congress to refer an amendment to the States for ratification, but what should be more compelling: The details of a document designed 200 years ago in a small, agrarian society, or the will of a majority of the elected representatives of the people, right here and now?

Mr. President, to those who would cling to the antiquated notions of federalism, separation of powers, literal interpretation of documents, and procedural protection of minority points of view, we have said: "Welcome to the 20th century, where all things are possible."

In the spirit of the new approach to constitutional law, Mr. President, and secure in the knowledge that the law is what Congress says it is, I am introducing a bill to extend my 6-year term in the Senate for 2 additional years.

Those Senators who like me, who feel I have made important contributions to the Senate and will make more in the future, need not consider the sticky, technical problems that opponents of the Garn senatorial term extension bill will raise. There are, however, a number of sound constitutional arguments for the extension of my term in the Senate, all of them historically affirmed by our recent extension of the ERA:

First, this sort of thing was done often during the Reconstruction. In those days, when an incumbent Senator had apparently failed to win reelection, but he was a good fellow and a member of the majority party, it was not uncommon for the Senate to conduct an investigation of the election. The investigation could take years, during which the incumbent Senator could be provisionally seated. It was an excellent way to handle the unfortunate problem of reelection contests; my bill would merely extend the principle. And as we all know from the recent debate over the ERA extension, Reconstruction-era precedents are to be treated with reverence, and followed whenever possible.

Second, while the Constitution provides that Senators are to serve 6-year terms, nowhere does it explicitly prohibit the Senate from extending this period. Obviously, in the absence of an explicit provision on the subject, the power of Congress to legislate is to be presumed. Some might say that the people of Utah "relied" on the fact that I would only serve for 6 years at the time they elected me; but I defy anyone to prove this. Besides, if such reliance on the part of the States who ratified the ERA was no obstacle to a congressional extension, then it should not bar an extension of my term in the Senate.

Third, and most important, there is more interest and strong feeling about JAKE GARN's record and performance—both pro and con—than ever before. Why cut off the debate now, at some arbitrary point? Six years ago the people of Utah simply had no way to predict the conditions that would exist today. It would be tragic if all the work I have done over 6 years, and the work of my many supporters, should be put to an end so abruptly, on account of an arbitrary, traditional deadline.

Mr. President, there was no time limit on the American Revolution. There was no time limit on the Bill of Rights, no time limit on the Civil War, no time limit on the Boston Marathon, and now no time limit on congressional power to extend the ERA. We will bring forth our slogan, Mr. President, and our slogan will ring throughout the land, drowning out the somber tones of analysis and reflection. United, the sound of many voices, with tinkling bells and sounding cymbals, our clarion call will not be ignored: "No Time Limit on Incumbency."

There is a fourth argument for the extension of my term in the Senate, Mr. President. Just think of the confusion that will result if we let a State put a Senator in office one time, and remove him the next time, and then put him back in again; changing Senators like you change your shirt. Just think of the chaos that would result. It would be impossible to keep track of who was in the Senate and who was not.

I know there are some who will say that the extension of my term would set a dangerous precedent: that if you extend JAKE GARN's term, you will have to extend every Senator's term. This fear is groundless. Obviously, only those Senators who can muster a majority of their colleagues, and a majority of the Members of the other House, will get their terms extended. Who knows, perhaps some particularly unpopular Senators will even get their terms shortened. I think we should look to the example of the Senators who supported the ERA extension. They are not worried about setting any precedents.

It was suggested that the same rules that apply to the ERA will have to apply to antiabortion amendments; but, Mr. President, the dozens of antiabortion amendments that have been proposed since 1973 have been bottled up in the House and Senate Judiciary Committees, and so the pro-ERA Senators need not worry. They need not even let the amendments they do not like out for ratification or rejection by the States. The same system could work very well for senatorial term extensions. We could have a Committee on Incumbency to decide whose term should be extended and whose should be shortened. That way we would not have to worry about this powerful weapon we have created falling into the hands of our political opponents.

Mr. President, in the event I should find insufficient support for my Garn senatorial term extension bill, I am willing to settle for a compromise. Let us go ahead and hold the election in 1980 as scheduled, with one slight modification: All voters who voted for me in 1974 will automatically be counted as voting for me again in 1980. But the debate will continue among the other voters, who will be free to vote against me as they did in 1974, or to reconsider and vote for me in 1980. But the Garn votes in 1974 will remain Garn votes forever; after all, there has to be some point of finality in the process, and it might as well be after I have won.

Mr. President, those of us who believe in "No Time Limit on Incumbency" owe a debt of gratitude to the Senators and Representatives who pushed the ERA extension through, and to the constitutional experts who provided the justifications for the extension. They have taught us that the text, history, and spirit of the Constitution need not stand in the way of bold new ideas. Mr. President, in the 20th Century all things are possible if you have the votes.●

S. 2011—REGULATORY REDUCTION ACT

● Mr. LAXALT. Mr. President, the Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee, of which I am the ranking minority member, recently held hearings on S. 2011, the Regulatory Reduction and Congressional Control Act.

One of the witnesses who testified on September 12 was Barbara Keating of Consumer Alert of Darien, Conn. Consumer Alert is a new organization which has, as its aim, the protection of consumers from the excesses of big government, and which calls attention to the fact that the cost of Government regulation, which is estimated to be in excess of $100 billion a year, is ultimately paid for by the American consumer. I find it refreshing to find a consumer organization which is truly concerned with the plight of the consumer, and truly represents the public interest rather than merely representing the narrow ideology of a small group of self-proclaimed consumer activists.

I think my colleagues would profit from reading Mrs. Keating's statement and I, therefore, ask that the statement be printed in the RECORD.

The testimony follows:

STATEMENT BY BARBARA A. KEATING

Mr. Chairman, I am grateful for the opportunity to appear today in support of Senate bill S. 2011.

The value of this legislation lies in the fact that it focuses upon a vital aspect of consumer prices that has long been neglected—that is the burden federal regulation places upon the marketplace.

Aside from the public needs recognized and acted upon by our elected officials, we as consumers are affected daily by proposals urged upon regulatory agencies by public interest pressure groups. That many of these proposals intend to serve the interest of safety or make provisions for clarification of consumer information there is no doubt. But the best of intentions, no matter how pure, demand that we shall all of us, pay for regulatory consideration, for authorization, implementation and finally for vertification.

We also cannot ignore the fact that consumers bear double burdens when federal agencies do battle with industry. We pay federally incurred expenses through taxes and industry's adversary actions through increased costs of products and services. This committee through release of proposed legislation S. 2011 could be instrumental in

tackling this very real problem effectively for the first time.

Our organization, Consumer Alert, was founded for the very reason you deliberate today. We felt that most existing consumer groups and organizations were not paying enough attention to the economic effects upon those American families they seek to protect. We urge that greater attention be paid to cost/benefit factors in any and all proposed regulatory actions, and this bill seems indeed designated to bring this about. We as consumers feel somewhat distant from regulatory agencies headed by non elected agents and welcome greater participation and overview of agency generated actions, by the congress. This is particularly important in light of the fact that there is no monolithic consumer interest which can be legitimately advanced by any single consumer organization. Consumers by another name are voters. Consumer interests are as varied as voter interests.

It must be assumed that those eager to achieve a regulated society, in the name of product safety and a cleaner environment, believe somewhat naively that the profits of industry are somehow sufficient to absorb the costs of mandates and revisions legislated in the public interest. This clearly reveals a misunderstanding of how business operates, as business is quick to pass along such costs to consumers. In so much as business welcomes regulation to protect itself from competition it is guilty of greedy self interest.

Professor Murray Weidenbaum of the Center for the Study of American Business at Washington University, St. Louis, in his recent testimony before the Joint Economic Committee provided some realistic and disturbing statistics by pointing out that "the cost of operating federal regulatory agencies is rising more rapidly than the budget as a whole, the population, or the gross national product. Outlays of 41 regulatory agencies are estimated to have increased from $2.2 billion in fiscal year 1974 to $4.8 billion in fiscal 1979, a growth of 115 percent over the five year period."

Perhaps the most quoted segment of the Weidenbaum study states that federally mandated safety and environmental features can be expected to increase the price of the average passenger car by $666 in 1978. All told, Prof. Weidenbaum concludes that the "costs of complying with government regulations, inevitably passed on by business to the American consumer, can be fairly estimated to come to $62.9 billion dollars during 1976 or over $300 for each man, woman and child in the country. Applying these comparable amounts to budgets for regulatory activities in more recent years he concludes, "will show that the American consumer bore $79.1 billion in the fiscal year 1977 and can be expected to pay $96.7 billion by this year's end."

Certainly introducing of the Weidenbaum figures and reflection upon them by the members of this committee should be sufficient incentive for positive action on this proposed legislation which would introduce at least a start toward economic sanity though surely there is no simple solution for the problems facing us in over-regulation.

The Weidenbaum figures stagger the imagination of the American worker/consumer. He can hardly comprehend a figure so high but he nonetheless is painfully aware of something amiss as he labors longer and harder to earn more, which buys him less and less of today's necessities and pleasures. One can surely conclude that the American consumer is especially bewildered when in spite of all the protection he is paying for, he learns daily that some new danger has been uncovered lurking in the environment or in the marketplace to threaten his health and safety.

No one I know of has undertaken a review of the part these economic impacts might play in changing family life as more American mothers claim their return to the work force is not so much for self-fulfillment as it is an attempt to pay the family's rising bills.

With food prices climbing the American public can look to regulations as part of the reason. A National Science Foundation ordered study concluded that the retail price of ground beef costs us 8 to 11 cents a pound more because of the impact of 200 legal statutes, 41,000 regulations and 111,000 precedent setting court cases on the production and distribution of ground beef. American homemakers are shrewd and cautious shoppers by and large and this kind of added cost from regulatory overkill is unacceptable.

There is one aspect of bill S 2011 which is not clear to me. Somewhere between Sec. 602 and 604, I suspect a contradiction which might permit Congress to allow rulemaking by default simply by inaction. It seems vital to me that the Congress must be made to accept its constitutional responsibility and I would urge that our elected lawmakers be required to pass final judgment on any rules which agencies propose impacting financially on the citizenry.

The Congress has in the past chosen to avoid judgment on agency mandates that the public felt strongly about, as in the ignition interlock mandate and more recently mandated passive restraints. Consumer Alert has focused attention on the public view of passive restraint safety systems. Preliminary analysis of a survey of public opinion undertaken by our organization indicates that though there is concern for safety and a preference for safety systems requiring no action on the part of the driver the American motorist support for such restraints falls off dramatically when cost factors are introduced. We will be releasing this full study in coming weeks, however this aspect very definitely should have been debated fully in the Congress. Inaction on the part of the Congress suggests unanimous approval of the DOT mandate on airbags.

We at Consumer Alert are not convinced that the total cost for the first four years of existence of the Consumer Product Safety Commission $259 million is offset by the beneficial effects which its existence has provided.

There is no doubt that the advantageous effects of deregulation are welcomed by the major portion of the American public. Airline regulatory reform and trucking deregulation I'm convinced will prove to us that American industry is capable of providing more efficient service to consumers once freed of protective government rules. And these include everything from antiquated work rules affecting railroad costs to tariffs limiting free trade which might offer American shoppers low price goods from competitive world markets.

I also wish to see the members of this committee take a good hard look at who really pays the fines when disciplinary action is taken against a company. Serious imminent hazards endangering workers can be corrected by labor unions and local governments. The payment of heavy fines for all sorts of infractions as well as what appears to be punishment for isolated catastrophes seems an insidious way to raise general revenues for federal use. The unfair burden all the more unjust as these fines too are passed along to the consumer.

I would hope that this committee will give serious consideration to the beneficial aspects of this legislation aimed at requiring impact statements so that some of these matters I've addressed can be analized objectively. Sunset terms which will put lights out on inefficient programs and congressional participation in these areas of proposed regulation will serve to bring the rulemaking proceedings closer to the general public as legislators will need to keep constituents views in mind. Passage of this bill and perhaps other reforms still to be introduced will show a Congress reflecting the developing majority public attitudes on the cost-bearing effects of federal rules.

Reformation in all of these areas will return many dollars to the American shopper thereby enhancing his own economic condition. In so doing he nourishes the cycle which will ensure savings, and investment and create new jobs. Bill S 2011 is effective legislation capable of reversing the vicious cycle of tax-regulate, tax-regulate that has become the most pervasive cancer which threatens the real American consumer today.●

ARMS CONTROL AGREEMENTS

● Mr. MATHIAS. Mr. President, my colleague and good friend, the Senator from Massachusetts (Mr. KENNEDY) has written a very timely and informative article on the emerging SALT II agreement entitled "SALT II and the Vulnerability of Minuteman," which appeared in the October 8 issue of the Washington Star.

Senator KENNEDY begins by pointing out why a good strategic arms control agreement is in our national interest. He then notes that—

While SALT is an integral part of our national security policy, there are many security problems which SALT did not cause and which it cannot completely cure.

Specifically, he shows how the question of Minuteman "vulnerability" is not a security problem resulting from the SALT talks.

Underrating the considerable strength of our Nation does not serve any purpose. We do have an impressive strategic arsenal. We must maintain our capabilities, expanding them where necessary, but not be afraid to negotiate good arms control agreements.

Senator KENNEDY has helped all of us by making it clear in what ways arms control serves the national interests of the United States.

I ask that the text of Senator KENNEDY's article be printed in the RECORD.

The article follows:

SALT II AND THE VULNERABILITY OF MINUTEMAN

(By EDWARD M. KENNEDY)

President Carter and Secretary of State Cyrus Vance recently concluded an important and encouraging round of SALT negotiations with Foreign Minister Andrei Gromyko in Washington. Later this month, Vance will go to Moscow, and we can hope for negotiation of SALT II before the end of the year. No agreement could be more important for the security of our two countries and the world.

When I met with President Brezhnev last month, we discussed the need to conclude a strong and effective SALT II agreement in the near future. It was significant, I think, that dissidents I met in Moscow also stressed the importance of SALT. SALT II would improve U.S.-Soviet relations and actually facilitate progress in human rights, they said.

SALT II promises to enhance our security in several ways.

First, SALT will limit both sides to equal overall ceilings on strategic delivery systems, as well as on major subcategories of multiple-warhead (MIRVed) systems. It will require the Soviets to dismantle and destroy almost 300 strategic systems. Thus the SALT II ceiling will limit the Soviets to about 900 fewer strategic launchers than the number

the Department of Defense estimated they would reach in the absence of agreement.

Second, SALT II protects and enhances our ability to monitor Soviet strategic forces through our intelligence capabilities. It prohibits interference with means of verification, which enables us to know whether or not the Soviets are complying with the terms of the agreement.

Third, under the proposed agreement, our balanced deterrent, that includes land-based missiles and heavy bombers, will be preserved. The agreement will permit us to modernize and strengthen our bomber force with powerful cruise missiles, and our planned Trident submarine program will proceed unhindered by SALT.

Fourth, SALT II will permit us to maintain our technological superiority. None of our research and development programs will be restrained by this agreement.

While SALT is an integral part of our national security policy, there are many security problems which SALT did not cause and which it cannot completely cure. Serious issues continue to divide the United States and the Soviet Union. But SALT has been saddled with a heavy burden in the political debate at home. Many of those who link SALT II to Soviet actions in Africa or in the courtrooms of Moscow also link it to defense problems that, in fact, have very little to do with the emerging agreement.

Minuteman "vulnerability"—as presented by many defense theorists outside the government—is a case in point. By the mid-1980s, they say, Soviet MIRVing and accuracy improvement programs will give them the ability to destroy as much as 90 per cent of our land-based missile force using only a fraction of their MIRVed forces. Is this, the argument continues, a proper environment for arms control?

While one can theoretically compute such a "vulnerability," these calculations mean more in the paneled seminar rooms of the war gamers than in the real world of military decisions. Soviet, and American, leaders would have to take into account far more critical factors in deciding whether or not to launch a first strike.

Both sides have tested MIRVed missiles individually and have sent a few dummy warheads to a handful of targets. But neither side has tested anything resembling a true counterforce attack, which would require hundreds of missiles with thousands of live warheads to be launched against hundreds of thousands of targets on the other side of the globe. Precision timing would be required to prevent some exploding warhead from destroying others before they can reach their targets. The effects on guidance and accuracy of the untested over-the-pole trajectories required for a real-world strike are uncertain and potentially critical.

Further, the simple arithmetic formula of Minuteman "vulnerability" assumes that the president of the United States, with up to 30 minutes of advance warning, will sit still in his command post and wait to see if the Soviet strike is 90 per cent or 9 per cent effective. It assumes that the president will sit still even though a strike against our Minuteman force would immediately result in as many as 20 million American casualties.

Whatever our declared policy, the realistic Soviet strategist must ask whether the president would launch our ICBMs under attack, sending them to devastate Soviet cities and industry, and leaving only empty silos for the Soviet warheads to destroy.

Indeed, during our discussions in Moscow, President Brezhnev told me that he believed even one nuclear bomb dropped by one side on the other would lead to global nuclear war—with unacceptable consequences for the entire world.

This simple scenario ignores our surviving bomber forces and virtually invulnerable submarines at sea, to say nothing of the thousands of nuclear weapons targeted on the Soviet Union from bases in Europe.

On a day-in-day-out basis, almost one-third of our 316 operational B-52s are kept on high readiness alert, and almost one-half of our 41 nuclear-armed submarines are at sea and survivable.

One of our new Trident submarines will have enough warheads—each with 2 to 3 times the destructive power of the Hiroshima bomb—to strike every Soviet city with population of over 200,000. As Secretary of Defense Harold Brown says, "It really doesn't help the Soviets very much to knock out the Minuteman if the consequence is that they get devastated by other things."

Some critics argue that our bombers don't count, because it takes several hours for them to reach their targets. They should tell that to the people of Hiroshima or Nagasaki.

In any event, SALT did not create this theoretical Minuteman vulnerability. We have realized for a long time that land-based missiles might be more potentially vulnerable than bombers or submarines, and so we have divided our strategic forces evenly among these three components. The strength of our balanced triad is that no future attack could eliminate our ability to retaliate.

Had we not wanted to keep the MIRV option alive for ourselves at the time of SALT I, we could have tried to stop both sides from developing this new technology. We didn't want to deny it to ourselves, so we couldn't deny it to the Soviets. The result—so loudly decried by many of those who earlier refused to limit MIRVs—is a Soviet MIRVed ICBM capability which forms the basis for this theoretical potential to destroy our ICBM force.

If we approach SALT fairly on its merits, we will not accuse it of causing problems that predate it. We will not ask it to solve all of our defense problems. We will not rush into "solutions" for theoretical problems which will further diminish the security of both sides. And we will not hold SALT hostage to issues of less consequence to every American and Soviet man, woman, and child. We are now at the threshold of a responsible SALT II agreement that will enhance our national security by preserving our military deterrent and by reducing the risk of a nuclear holocaust.●

NOTRE DAME HIGH SCHOOL FOR GIRLS

● Mr. STEVENSON. Mr. President, Notre Dame High School for Girls in Chicago will be celebrating the 40th anniversary of its founding on November 21. Since 1938, Notre Dame has grown from 52 students to its present enrollment of 1,100 students of all races, religions, and ethnic backgrounds who benefit from the varied curriculum and special programs offered by the school. I would like to commend at this time the school sisters of Notre Dame de Namur, the staff, alumnae, and friends of Notre Dame High School for Girls on their continuing efforts to meeting the educational needs of their community.●

ADDRESS OF AMBASSADOR TOON BEFORE THE CONFERENCE ON U.S. SECURITY AND THE SOVIET CHALLENGE

● Mr. MATHIAS. Mr. President, our highly capable ambassador to the Soviet Union, Malcolm Toon, addressed the "Conference on U.S. Security and the Soviet Challenge" in Philadelphia, Pa., on September 15, 1978. This conference was cosponsored by the Philadelphia Council of the AFL-CIO, the Philadelphia Bar Association, the Teamsters Joint Council No. 53, the Greater Philadelphia Chamber of Commerce, the International Business Forum, the Greater Philadelphia Partnership, the World Affairs Council of Philadelphia, and the U.S. Department of State.

Ambassador Toon brings the weight of a long and distinguished career in Eastern European affairs to his current job as our senior representative in Moscow. His views on the current Soviet scene are well worth examining.

I ask that the text of Ambassador Toon's speech on September 15 be printed in the RECORD.

The speech follows:

ADDRESS BY AMBASSADOR TOON

I have been asked this morning to provide a close look at US-Soviet relations at the present time. Let me begin by sharing with you the view from our embassy in Moscow.

It will come as no surprise to you that the view in recent weeks has been somewhat somber. The crackdown on Soviet citizens who challenged their government to observe the Helsinki principles finally resulted in harsh sentences to prisons and labor camps. Soviet harassment of Western journalist culminated in convictions and fines of two American correspondents for slander, although I am happy to say that these two men—Craig Whitney of the New York Times and Hal Piper of the Baltimore Sun—are still vigorously practicing their profession in Moscow.

The American business community has not been immune to the latest Soviet outburst. An American businessman, Jay Crawford of International Harvester, was dragged from his car by Soviet authorities in early June, put in prison and intensively interrogated, released after our intervention, and finally tried. A guilty verdict was preordained as always in Soviet courts, but thanks to the strong revulsion this case caused in the American business community and to our efforts on his behalf, Mr. Crawford was given a suspended sentence and permitted to leave the Soviet Union. Why he was chosen as the target of Soviet authorities reacting to our arrest of two Soviet spies is anybody's guess. In any case, he is now free and a potentially serious irritant in our relations has been removed.

Those are some examples of unpleasantness which can be visited on individuals when it suits Soviet political purposes. But I see even more disturbing developments from my Moscow vantage point.

I see a country overly preoccupied with military preparedness, with a propensity to flex its political muscle around the world.

I see a people which is politically malleable in the hands of its leaders, apathetic but fiercely patriotic, talented and concerned but with only the most limited opportunities to influence their destiny. Thus, unlike the situation here, there is little prospect that Soviet public opinion could operate as a brake on Soviet policies and actions that might threaten world stability.

In short, I see problems ahead, especially if we do not pursue a sensible American policy which proceeds from self-interest to deal with the Soviet Union as it really is and on a realistic basis.

So, as a preface to today's discussions of arms control negotiations, I want to talk about Soviet realities and my views on how to deal with them.

We should start with some basic truths about the Soviet system. That system reflects a view of history, and of man's relation to the state, totally different from ours.

And the considerable resources of the Soviet Union are effectively mobilized in support of the Soviet leadership's very different outlook.

Furthermore, this regime does not accept and will not tolerate ideas of free expression and free individual choice. It tries to vindicate its ideology by stifling dissent at home and often by supporting abroad various repressive regimes which proclaim themselves Marxist-Leninists.

To understand the Soviet Union we must also understand the geography which has shaped it and its leaders' policies. Invasions from both East and West over the centuries have affected the outlook of the Russian people as well as their leaders, who have invested massive efforts to achieve as much security as possible on the borders. And they have sought to push the borders outward, to gain security but also in pursuit of imperialist objectives. In a word, they seek total security, and we all know that total security for one means total insecurity for others.

When the Communists came to power they brought with them an ideological predilection to exploit overwhelming military strength as a source of political power. These factors help explain why the Soviet Union has built up, and keeps adding to, a conventional military machine entirely disproportionate to what an outsider might consider appropriate to its defensive needs.

Some of the same considerations apply to strategic nuclear weapons, but here there are also more urgent contemporary factors. The Soviets lived through a period of massive strategic inferiority to the United States, and they did not like it. Their every move abroad had to take into account this imbalance. They were determined to even the balance, and poured in the resources necessary to do so. And only when they drew near to us were they prepared to talk about ending the arms race.

I suggest we step back and look at the Soviet Union as it really is. Not as some see it—260 million people who want to be just like us Americans—nor as others see it—260 million Ghenghis Khans, ready, willing and able to conquer the world. It is a unique nation traveling slowly along a course of its own, taking advantage of powerful built-in strengths, yet beset by confounding weaknesses. Its objectives and methods are different from ours. We are prone to despair, in the short term, of changing either the direction of its movement or its tendency to override individuals or powerless countries that get in its way.

But if we take the longer view, we can see that over past decades Soviet leaders, out of self interest, have modified the way they deal with the rest of the world and even the way they deal with their own people. To Americans who want to know how much progress we have made in the last 24 hours, we must say frankly—not much. But for those who have watched the Soviet Union for thirty years since the depths of the cold war, as I have, a different message comes through: Patience, persistence and headheadedness on our part could eventually bring Soviet leaders to see their self interest served less by a continual military buildup and by military adventures in distant lands, and more by a negotiated limit on arms and by restraint in other parts of the world.

But we must not expect too much, too soon. In my view, a troublesome misunderstanding about the real nature of detente and the policy identified with it developed in the early 1970's. This misunderstanding led to an extreme swing of the pendulum of our relations. Going well beyond a calculated use of forward momentum for our own purposes, we fell victim to uncritical and heedless Euphoria. Detente means precisely what it says in French, or in the direct Russian translation, Razryadka: A relaxation of tension. We should not read more into it. It does not mean that a millenium of friendship or mutual trust has arrived—which is impossible, in any case, without a basic change in Soviet philosophy and outlook. At most the concept represents a growing sense in this nuclear age of the need to cooperate on some matters, to regulate competition on others, and to agree on the means of diffusing tensions which could lead to dangerous confrontation. And that is all.

Needless to say, I do not hold with the fuzzy-headed notion that all we have to do is sit down and reason with the Soviets and everything will be all right. I believe that on any given issue we should start with the assumption that we and the Soviets are at opposite roles, and that we should assume they will take advantage of us in any way they can. At the same time, we should have enough confidence in ourselves to welcome a dialogue and to use our ingenuity to forge possible solutions which would attract the Soviets by meeting some of their interests, but which above all would be consistent with our own most important objectives.

In many cases working out a good agreement—one which the Soviets will carry out because it is in their interest, yet which serves our purposes also—can take years. In some instances it will become clear that there is no mutuality of inteersts— and when this happens we must have both the good sense to see this and the will to walk away. But above all, we have to keep our eyes on our long-range goals, set a course and stick to it, and not let our emotions play a role.

Perhaps I can give meaning to these general thoughts by taking up some specific illustrations.

What for example should we do about the dissidents in the Soviet Union, who speak out in defense of their own and others' rights despite the heavy sanctions they risk? In my view, we certainly should speak out clearly and umistakably on behalf of those ideas we treasure and on behalf of those who are persecuted because they hold with those ideas. And we should certainly try to bring our limited influence to bear behind the scenes, especially when there is a particularly gross violation of human rights, but also in order to encourage in general a more civilized Soviet approach to such basic questions as the rights of individuals to live where they choose.

But we must bear in mind that in some cases we can do more harm than good. Instead of stretching Soviet willingness to take into account our opinion, we can easily go too far and goad the Soviets into "Teaching us a lesson," as they see it. And this likely will mean that a defenseless Soviet dissident will suffer. This is one reason we should proceed carefully in this area. There is also another reason for proceeding carefully: if we tell the Soviet that some specific act by them will have specific consequences, we must be prepared decisively to follow through. To do otherwise diminishes the impact of any such warning in the future and in general undermines our authority in dealing with the Soviets.

Another specific example: The Middle East. We went more than half way in seeking to work with the Soviet Union to advance the cause of peace in the Middle East. In October 1977, in order to do everything possible to engage the Soviet Union more directly in the peace process, we joined with the Soviet Union in a joint declaration which supported the Geneva Conference as the best way to reach a comprehensive settlement. Very soon thereafter, the Sadat-Begin initiative became the focal point of peace efforts and the two parties decided that the United States was the one super-power able to play a constructive and potentially decisive role in the Middle East peace process. Either by choice or because its influence is limited in the area, the Soviet Union has not played a central role in the active diplomacy in the Middle East in recent months.

Yet another issue which has plagued our relations is Africa. The Soviets have developed a highly effective mechanism for expanding their influence there: Where there is an unstable situation, or a crossing of borders, they take up the cause of a willing regime or faction, inject large amounts of arms and advisers, and assist Cuban troops in leading the fighting. This was their tactic in Angola and the Horn, and I'm sure they will use it again when the chance arises, unless they are given cause to think twice. However, we are now making clear that the American Government, the Congress and the American people will be reluctant to pursue a full measure, of normal relations if the Soviet Union encourages military rather than peaceful solutions of these problems. At the same time, I must frankly tell you that I cannot be optimistic that we can deter them from further adventures of this sort so long as our relations are so bad that the threat of making relations worse loses its meaning. And even in the best of circumstances, any opportunity to enhance the Soviet image of omnipotence is hard for them to resist, particularly since the image has been heavily undercut in the Middle East.

As my final example, let me mention China. The Soviets profess to see something sinister in the development of US-Chinese relations. But it is both natural and necessary for major powers such as the United States and China to move away from estrangement, and the Soviets will have to get used to this evolution. As for Soviet hints that we are about to supply arms to China, that is unfounded. It would make no sense whatsoever for us to supply arms to either of the two major Communist countries.

Nor for that matter should we transfer to either of them high technology goods which have a clear military spin-off. We should treat both China and the Soviet Union for what they are: Important, powerful nations dominated by philosophies diametrically opposed to most everything we stand for and are.

In these examples I have suggested how I think we should approach our relations with the Soviet Union: Undogmatically; unafraid of matching wits, skills, ideas and wills; and without any fuzzy notion that somehow we can by being kind to the Soviets gain their goodwill.

Clear-eyed calculation of our national objectives is what is needed in conducting our relations with the Soviet Union. And that is the approach of this administration especially in arms control matters, and above all in SALT.

When President Ford met with Brezhnev at Vladivostok in 1974, guidelines were agreed upon for a new agreement to replace the 1972 interim agreement. Since that time, we have been negotiating with the Soviets to find treaty terms which will meet the security concerns of both countries, and at the same time put a cap on the numbers of strategic arms in our respective arsenals. We call these negotiations SALT II.

Domestic debate in our country has been intense on the issue of SALT, as it should be. It is essential that the American people understand the issues thoroughly, because without such understanding we will find it difficult to assess whether a treaty is in our national interest. In that respect, we can all welcome the public discussion of the issues of SALT.

Unfortunately it is difficult to have an informed discussion while a treaty is still being negotiated. We can't be completely open and negotiate successfully. But the public is entitled to be told of our general lines of nego-

tiating strategy and you will hear this later today.

We can and should ask questions, but we should do so with an open mind. And certainly it is the better part of wisdom to reserve final judgment until we have seen the agreement as it emerges from the negoiating table. Meanwhile you can be sure that President Carter, Secretary Vance and Paul Warnke are focused first and foremost on protecting our national security. And I will tell you this: If I thought that any treaty to be signed with the Soviet Union jeopardized our national security, I would resign my office and then publicly repudiate the treaty.

In conclusion, I would like to dispel a couple of illusions which have affected the thinking of a good many commentators and opinion leaders who should know better. First, there is the view—to me, naive and uninformed—that the Soviet Union is in such a parlous state that the Soviet Union must accept a SALT agreement disadvantageous to them, because they cannot afford to compete with us in an all-out arms race. In my view that is fallacious and, because it would dare Moscow to try to leapfrog us in strategic arms, the argument is dangerous. History has shown that the Soviet regime will demand any sacrifices necessary from the Soviet people to assure a strong military machine, and the Soviet people—lacking any effective means to object—must comply.

Second, there is equally naive speculation about the impact of a SALT agreement on our relations with the Soviet Union. There are some who seem to think that a successful outcome of the SALT negotiations will overnight produce a climate in which all will be sweetness and light in relations with Moscow. Nothing could be further from reality. Ours is an adversary relationship, and we will always have some measure of friction, problems, unpleasantness.

Finally, there is the complaint that the Soviets regard agreements as scraps of paper, that they cannot be relied on to comply with their obligations, and that in fact they have demonstrated this by violating SALT I. But as the Chairman of the Senate Foreign Relations Committee stated earlier this year, in connection with the Administration's report on compliance with the SALT I treaty, the record simply does not support any argument that the Soviet Union has acted in bad faith with regard to that treaty.

The point is that, if the Soviets decide that a treaty jeopardizes their vital interests, of course they will scrap it. And we would and should do the same if we reached a similar conclusion. The Soviets will comply with their obligations if they are compatible with their national interest and if they can be verified. This has been our experience with SALT I, and there is no reason to suspect that the record under SALT II will be different.

If we succeed in negotiating a SALT agreement which the President puts before the country for approval, it should be judged on its own merits. It should not be judged on the basis of its contribution to improving U.S.-Soviet relations. Nor should it be tied to Soviet behavior, either internally—for example, to improving the sad plight of the dissidents—or abroad— for example, to ending destabilizing Soviet activities in Africa.

And let me make one further point: an agreement of such great significance must not rely on trust. The concept of trust is simply not pertinent to our relations with the Soviet Union. Our agreements with the Soviet Union must be self-enforcing and independently verifiable.

It is also true, however, that a sound SALT agreement which meets all these tests and is accepted by the American people and Congress, even though it will not eliminate the abrasive elements of competition between ourselves and the Soviets, will nonetheless enhance world stability, and that clearly is in our national interest.

For all these reasons, a good SALT agreement is a national goal clearly deserving of your support.●

KEMP-WHAT?

● Mr. TALMADGE. Mr. President, the Wall Street Journal of October 12 had a very good editorial supporting Senator NUNN'S legislation calling for a 5-year tax cut tied to significant reductions in Federal spending.

The newspaper gave Senator NUNN a well-deserved commendation for his efforts "to instill a bit of discipline" in Federal spending and tax reductions. The Nunn proposal won strong support in Congress, and I am confident that the hard-pressed American people will welcome efforts to reduce taxes as well as draw the line on runaway Federal spending.

I fully support this policy. This is certainly a most important step to restore fiscal responsibility to Government and the Congressional budget process.

Mr. President, I bring the Wall Street Journal's editorial to the attention of the Senate and I ask that it be printed in the RECORD.

The editorial follows:

KEMP-WHAT?

Now that the Senate has passed the Nunn version of the Kemp-Roth tax cut, the folks who love big government are scurrying around trying to find a rationale for opposing it. The one on which they seem to be settling, floated in a speech by Sen. Moynihan on Monday night and repeated by President Carter at his press conference Tuesday, is that it is too radical a departure to take on the spur of the moment without extensive debate. Kemp-what? they ask. Never heard of it.

The intensively publicized proposal by Sen. Roth and Congressman Kemp, to be sure, would simply have cut tax rates successively in three steps over three years. It was attacked for ignoring spending and deficits, so Sen. Nunn laid out a five-year schedule of rate reductions but made them contingent on holding the growth of federal spending to the rate of inflation plus one percent. Those who argued that Mr. Roth and Mr. Kemp were irresponsible for ignoring spending now argue that Mr. Nunn is irresponsible for including spending.

As it happens, the idea of linking tax cuts to expenditure restraint has also been extensively debated this year, in the context of the budget process. It is said that the House has not had a chance to consider the Nunn proposal, but in fact for a few moments last May the House had actually passed what is in principle the same proposal. The Republican budget resolution offered by Rep. Marjorie Holt was specifically designed to accommodate the first year of the Kemp-Roth cuts, and was offered in the context of a systematic program tying the tax cuts with the spending restraint of a current-services budget—the same inflation-adjusted concept embodied in the Nunn bill.

As the rollcall ended, Mrs. Holt found herself with 202 votes for and 198 against. But Majority Leader Jim Wright started dragging Congressmen bodily into the well to change their votes, and the Holt amendment finally lost by 203 to 197. Mrs. Holt offered conceptually the same amendment again with the second budget resolution in September, and lost by 206 to 201. Considering the lopsided Democratic majorities and pull of the leadership and party loyalty, there is obviously quite considerable sentiment in the House for the principles now embodied in the Nunn amendment, which incidentally passed the Senate by 65 to 20. House Republicans are now moving to instruct the conferees to accept the Nunn amendment; it will be instructive to observe how the Democratic leadership behaves.

The political support for the principles involved is far more important than the mechanics of the Nunn amendment. In itself no gimmick or procedural device can reform government spending. The Washington Post has the fanciful notion that the Nunn mechanics would tie the hands of future Congresses, preventing them from working their wisdom when antirecession tax cuts or spending increases were needed. Yet there is no way to dictate to future Congresses. And on the record the more likely outcome, we should think, is that they would find some way to distort the Nunn amendment into a pro-spending device, an excuse for not cutting taxes.

What the Nunn mechanics would do, however, is to instill a bit of discipline in the congressional budget process, which itself has been neatly transformed into an engine of high taxes and high spending. No Senator was more effective in opposing tax reduction in this week's debate than budget czar Edmund Muskie, who refused even to let the Senate vote on the provision to repeal deduction of gasoline taxes. On the House side, we find back in May Budget Committee Chairman Giaimo deriding Mrs. Holt's lower totals as an impossible, a "wish-type amendment," though in fact outlays in the final budget resolution ultimately ended up almost exactly what she had proposed in May.

The real effect of the Nunn proposals would be to force the budget committees to take tax reduction seriously as a national goal. At present, tax levels are driven by spending desires; after the budget committees decide how much to spend, the revenue committees decide whether they can afford to cut taxes. With the political support that seems to be building in the country, plus a little luck, this can be reversed. We can decide what level of taxes we want to pay, in particular what levels are healthy for economic growth, and make the budget committees hold down spending accordingly.

This is what the budget process was supposed to have been. It is what the country seems to want. And given the Nunn vote in the Senate and the Holt votes in the House, a majority of the Congress—if given a free choice—would be ready to agree.●

INTERNATIONAL SUGAR AGREEMENT

● Mr. BAKER. Mr. President, I submit a statement for the distinguished Senator from Texas (Mr. TOWER) on the International Sugar Agreement and ask that it be printed in the RECORD.

The statement follows:

STATEMENT BY SENATOR TOWER

Mr. President, I want to express certain reservations relative to the amendment, proposed by Mr. Church and adopted by the Senate to the International Sugar Agreement. This amendment would authorize the President to contribute up to 5,000 long tons of tin metal from the national defense stockpile to the tin buffer stock and authorize the General Services Administrator to dispose of another 30,000 tons of surplus tin from the domestic strategic stockpile.

The 35,000 tons of tin proposed in the amendment is the same amount that is contained in the Strategic and Critical Mate-

rials Transaction Act of 1978. However, even though for a number of reasons it is unlikely the Senate will consider that bill in the time remaining in this particular session, I do not favor the handling of individual commodities via the amendment route to various other bills. As a member of the subcommittee which drafted the Strategic and Critical Materials Transaction Act, I can assure my colleagues that that particular bill, taken as a whole, represented a balanced approach to the dispositions and acquisitions needed by the strategic and critical materials stockpile. The requirements of the stockpile, in my opinion, should be approached on an item-by-item basis.

Nevertheless, there is a substantial quantity of tin held in the stockpile in excess of the requirements determined to be necessary to the purposes of the stockpile act and it does make sense to begin to reduce this excess stockpiled tin. However, I am concerned about the authority given to GSA to dispose of 30,000 tons of tin, which could disrupt the market of the sole producer of primary tin in the United States, the Texas City Smelter.

Texas City Smelter currently produces about 15% of the United States' consumption of newly refined tin. Texas City has developed new smelting technology which will permit the use of any tin-bearing material, thus reducing dependence on tin concentrates. This change in the use of raw materials assures an independent U.S. capacity for tin production. Due to transportation costs, the tin produced by Texas City Smelter normally is marketed only within the United States.

Therefore, disposal of U.S. stockpiled tin would compete head-on with Texas City's sales. Consequently, the very existence of Texas City Smelter is threatened by anything short of a carefully planned and monitored disposal program.

Protection against disruption of the markets of processors and producers by stockpile sales is required by law but the point bears emphasis. Also, our Committee reiterated in its report on the Strategic and Critical Materials Transaction Act the necessity to avoid market dislocation by the GSA sales program.

Therefore, should this amendment become law, the General Services Administration in a tin disposal program must be absolutely sure there is no disruption of the market of Texas City Smelter. There must be no misunderstanding as to GSA's responsibility in this matter.●

SOUTH AFRICA

● Mr. SPARKMAN. Mr. President, I ask that there be printed in the RECORD a letter to Secretary of State Cyrus Vance by me and Senator CASE expressing the concern of the members of the Committee on Foreign Relations over a decision by the South African Government to demolish a squatter community called Crossroads. I hope that the committee's position on this matter will be helpful in bringing about a reconsideration of this decision.

The letter follows:

U.S. SENATE,
Washington, D.C., October 12, 1978.

HON. CYRUS VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: A draft resolution prepared by Senator Mark Hatfield regarding Crossroads, a black community in Cape Town, South Africa, was recently considered by the Senate Foreign Relations Committee. Unfortunately, due to the press of business at the end of the session, the Committee did not have sufficient time to consider the resolution in detail. However, during a brief discussion, the Committee members felt that we should send you a letter expressing our concerns about the situation.

Crossroads is a squatter township of 20,000 black residents which the South African Government has decided to demolish by the end of the year. Under South African law, black workers are not permitted to have their wives and children live with them in the townships. The government therefore regards the majority of the Crossroads inhabitants as illegal residents. We understand that the community has nevertheless established schools, churches, recreational facilities and other social amenities in order to enable the black families to remain together. South African security forces raided Crossroads on September 5 and September 14, 1978, and arrested hundreds of persons resisting the destruction of their community.

While we do not wish to interfere in the internal affairs of any nation, we would like to express our deep concern on humanitarian grounds for the welfare of the residents of Crossroads. We hope that you will urge the Government of the Republic of South Africa to reconsider its decision to demolish this community, an act which could prove to be a flashpoint of racial conflict having possible international implications. South Africa's position on this issue may be seen by world opinion as a sign of the commitment of the South African Government to live up to its stated goals of relaxing apartheid practices and complying with internationally recognized standards of human rights.

We would be grateful if you would convey our sentiments on this issue to the South African Government during your visit to Pretoria this month.

Sincerely,

CLIFFORD P. CASE,
Ranking Member.
JOHN SPARKMAN,
Chairman.●

CLIFFORD P. CASE

● Mr. MATHIAS. Mr. President, in the tumult and shouting of the closing days of this Congress, we have been left little time for reflection. Perhaps this is a good thing. For, had we had more leisure, we would surely have dwelt with regret on the thought that our valued friend and colleague from New Jersey, CLIFFORD P. CASE, is leaving our midst.

Senator CASE's departure from the Senate diminishes it. His voice was a voice of calm. His instincts were instincts for right and justice. His heart was ample. His eye was on the sparrow.

In saying goodbye to CLIFFORD CASE, I am reminded of a line of William Wordsworth's, that there are "thoughts that do often lie too deep for tears." We all have those thoughts about our very distinguished colleague from New Jersey.

But, he would not want us to dwell on the solemn side of this occasion. In fact, Senator CASE's imminent departure has actually provided one of the social highlights in the history of Capitol Hill. The farewell party which Senator and Mrs. WILLIAMS gave in his honor Monday night in the Caucus Room may well have been the most gracious and lively social event ever held in that room. It was a glorious sendoff for a man who richly deserves one.

So that my colleagues may savor the occasion again vicariously, I ask that a description of this party by Ymelda Dixon in the Washington Star be printed in the RECORD.

The article follows:

CAUCUS ROOM CONVERTED TO A GALA PARTY SCENARIO

Last night the Caucus Room in the Russell Senate Office Building was transposed from the vast vaulted chamber which harbored the Watergate hearings into a unique and glowing party setting for a 7 to 9 p.m. "farewell" function. Sen. Harrison "Pete" Williams, D.-N.J., and Mrs. Williams were the hosts for Sen. and Mrs. Clifford Case, R-N.J. Case lost his bid for renomination in the primary.

The Senate was out in force, as was the rest of the New Jersey congressional delegation. There were friends from residential society and the diplomatic corps, including newly arrived Spanish Ambassador and Mrs. Jose Llado and another newcomer, Chief of the Liaison Mission of the People's Republic of China Chai Tse-min. It was noted Tse-min knows his senators. He headed straight for Sen. John Sparkman, retiring chairman of the Foreign Relations Committee. Mrs. Williams had decorated with New Jersey produce, artifacts, flowers, porcelains, crystal, pewter, Boehm birds and animals including the pandas (borrowed from Garfinckel's). The buffet which ran the width of the immense room, was drowned in salmon, rounds of beef, cheese, fruit, vegetables and masses of fall flowers from the Garden State. From Bartlett to Bellmon to Biden through Wallop, Young and Zorinsky they poured in leaving to respond to roll calls and telephone calls from constituents and lobbyists. Williams capsulized the scene, with the great chandeliers dimmed, "This candlelighted room looks so serene but the Senate has been anything but serene today. We had to vote cloture on the tax bill and there goes the Humphrey-Hawkins bill and half of the others that were attached to it."

Sen. Howard Metzenbaum, D-Ohio, voiced the sentiments of the partisan gathering over losing Case. "I told the Senate Campaign Committee, of which I am vice chairman, that if Case had won, I would not campaign in New Jersey for the Democrats. Case has been the conscience of the Senate." In noting that the Senate would probably be in session last night until midnight, Metzenbaum recalled that last Friday they had stayed on until midnight with Sens. Kennedy and Proxmire backing him up during the long night in which the three tried to get their own legislation through.

Senators never miss a trick and it was noticed that several of them reminded their wives that although New Jersey is a rich and productive state, their states could also provide plenty to display. "But Jeannette thought to do it," said one Senate wife whose nose was out of joint as she looked around at the splendor.

The only missing senators were those who went to the International Club where Rhodesian Prime Minister Ian Smtih was being entertained by the Kenneth Towselys who handles Rhodesian matters here in the absence of diplomatic relations between Rhodesia and the U.S.●

SUGAR STABILIZATION ACT OF 1978

● Mr. BENTSEN. Mr. President, this bill is of great and immediate importance to the sugar cane and sugar beet growers of my home State of Texas. However, I would point out in voicing my support of this bill that there are many more sugar consumers than sugar producers in my home State, and that this bill also is in the best interests of those sugar consumers.

Mr. President, the extensive record of the hearings on this bill points out the stark reality of the plight of the U.S. sugar industry today. In my home State of Texas both the sugar beet industry

of the Texas Panhandle and the sugar cane industry of the Rio Grande Valley are suffering great losses. The valley sugar cane growers lost some $8 million last year, and it was estimated that they would lose about $5 mililon dollars this year with the price of sugar at 13.5 cents per pound. The sugar producers of Texas will join the rest of the country's sugar producers in bankruptcy if this continues.

Obviously, Mr. President, S. 2990 did not attract 27 cosponsors in the Senate only because of the problems of the Texas sugar producers or of the U.S. sugar producers. This bill addresses a basic question of national policy, namely, whether or not we will continue to have a domestic sugar industry. We have seen what has happened when we have become dependent on foreign suppliers in other areas, and I seriously question whether or not it is in the best interests of our consumers to place them by default at the mercy of a world sugar market that has gyrated up to 70 cents per pound and down to 7 cents per pound just within the last few years. I think that the sugar consumers of Texas know that most of our sugar is consumed in soft drinks, candy, and other products. They can remember when the price of all these products went up in response to those 70-cent sugar prices, but I daresay that you will be hard pressed to find anyone who found cheaper soft drinks in their local vending machines after the price of sugar plummeted.

Our domestic strength in other basic food commodities has assured our consumers of an abundant supply and a dependable supply of reasonably priced food. I firmly believe that the maintenance of a viable domestic sugar industry is in the best interests of our Nation, and I will do my best and I urge my distinguished colleagues to do their best to see the Sugar Stabilization Act of 1978 enacted into law this year.●

JOBS AND TAX POLICY

● Mr. BAKER. Mr. President, the Senate passed the tax cut bill this week, and that bill represents an important milestone in tax policy. The Senate has come to grips with the sluggish economy, high unemployment, and inflation, and it has passed a bill that will help get the economy moving again.

The bill will improve the business climate in this country by cutting taxes and making more money available for new businesses. Most important of all, the bill will mean more jobs for the American worker.

In this regard, Mr. President, my distinguished colleague, the senior Senator from the State of Maryland (Mr. MATHIAS), has addressed the issues of jobs and taxes in a speech he delivered to the Houston Rotary Club. I commend his sound analysis to my colleagues, and request that his speech be printed in the RECORD.

The address follows:

PRIVATE ENTERPRISE: PROBLEMS AND PROSPECTS

A couple of years ago, I was invited to Washington University in St. Louis to talk about American cities. Houston was one of the cities I mentioned in a very positive way. In fact, I think I called Houston "the shiny belt buckle of the Sunbelt." That image was a little strained, but I must say that every time I come back to Houston, the city looks brighter and shinier and better than ever.

Houston stands as living proof that a capitalist system can make things happen. This Rotary Club—the largest in the world—says a lot about the vigor of American business. It is exciting to see Houston's progress continuing. And it is especially exciting these days when so much concern is expressed about the future of our free enterprise system.

The voices of the naysayers are loud in the land. And they are having an effect. Americans aren't looking forward to the future. Only Little Orphan Annie is singing, "Tomorrow, tomorrow, I love ya tomorrow." The rest of America is worried. And not worried without reason.

Productivity is down. So is the dollar. In five years, six million investors have dropped out of the market. Close to half of America's households owned corporate shares in the mid-sixties. Last year only one-quarter did. Ten years ago, 300 new high-technology companies were started. This year none was. Our balance of trade is negative and so is our balance of payments. It's no wonder the American people are feeling negative too.

The only element of the national picture that's up is inflation. And that's the worst news of all.

When President Carter took office, he inherited an overall 4.8 percent annual inflation rate. Last week the President's Council on Wage and Price Stability put the inflation rate for this year at "roughly" 10 percent. According to the non-profit National Center for Economic Alternatives, it is even higher. A study by this group shows that by the second quarter of this year the overall inflation rate stood at 11.2 percent, with the rate for basic necessities—food, shelter, medical care and energy—averaging out at 15 percent. For food alone, the rate was a whopping 20.9 percent.

Obviously, there is reason for concern about the future. But I have left one important element out of the grim picture I've drawn. And it is the most important element of all. I haven't mentioned the extraordinary character of America itself, of our people and of our institutions.

America is the most remarkable nation that has ever existed on the face of the Earth. It is remarkable for any number of reasons, ranging from its bountiful natural endowments to the spirit and virtues of its citizens. But, ultimately, America's very special quality—its uniqueness——lies in the fact that here in this country the individual is the most important unit of society.

During the darkest days of the American revolution, when the colonial army was freezing at Valley Forge, Tom Paine told his fellow citizens, "We have it in our power to begin the world over again." And he was right.

We did begin the world over again. We made the individual citizen the center of a new political universe—not the state, not a political party, not a class or group—but the individual citizen. And when we did that, we laid the cornerstone for the freest, most creative society the world has even known.

Out of our extraordinary freedom, we have devised institutions of government and of commerce that have made the United States the envy of the world. Last month I spoke at the largest naturalization ceremony ever held in the State of Maryland; 873 persons from 77 countries became American citizens that day. This continuing flow of immigrants to the United States proves that, no matter what misgivings we ourselves may have about the future, the rest of the world still sees America as the land of a better tomorrow.

Our private enterprise system—what we used to call "People's Capitalism" during the Eisenhower Administration—deserves much of the credit for this. It has proved to be a remarkably adaptable and durable system. Eric Ashby, the noted British scientist and educator, has written that:

"An institution is the embodiment of an ideal. In order to survive, it must fulfill two conditions. It must be sufficiently stable to sustain the ideal which gave it birth and sufficiently responsive to remain relevant to the society which supports it."

People's capitalism has proved to be such an institution. It still sustains the ideal of freedom while at the same time responding to the complexities of the 20th Century and anticipating those of the 21st Century.

It seems to me that Houston, more than any other American city, symbolizes the future of America. The incredible technological and human feats staged from this city make you the window on our world of tomorrow.

But even a city like Houston is not immune to the forces which threaten our bright future. To get from here to there, we as a nation are going to have to remove some pretty big obstacles from our path. One of them is the much-too-heavy hand of government on our economy.

The United States is a strong and viable country, but the federal government has been doing a pretty bad job lately of preserving our reservoir of strength. Business and industry are the backbone of our national prosperity, yet today they are overregulated, underfunded, frustrated and discouraged.

It's hard to get any agreement among our economists about how to get our sluggish economy moving again. Harry Truman used to say he was looking for a one-armed economist, because whenever he talked to economists they'd always say, "On the one hand this; on the other hand that . . ."

But, we don't need economists to tell us that we've got to make America a great place to do business again. We must get back to the day when all over the world people could say "sound as a dollar."

Our tax policy, which discourages capital formation, is one place to begin. Recent U.S. performance in meeting the nation's need for capital has been poor, at best. A study by the Department of Commerce several years ago forecast that business fixed investment should average 12 percent in the 1975–80 period. In fact, we have had trouble getting the share up to 9 percent so far during this period. Failure to reach higher investment levels now means more future inflation, fewer (and less rewarding) jobs, higher imports from more efficient economics abroad, lower exports and quite probably a greater degree of dependence on foreign sources of energy.

As the Small Business Administration suggested in a report published in January 1977: "A public policy which discourages the public from investing $1 billion a year of its savings in economic innovation, growth and the creation of jobs . . . requires close examination." Indeed it does.

But the trouble with some of the economic theorists, who advise the President on tax policy, is that their basic premise is wrong. As my colleague Senator Russell Long of Louisiana says, they seem to think that ". . . all income belongs to the government, except to the extent that the government allows the taxpayer to keep some of it."

In 1940, a friend of mine joined his father's chicken business on Maryland's Eastern Shore. They had one employee back then, but some good ideas and a lot of drive. Today, the family operation employs 3,800 people and feeds millions of others tender Maryland chicken.

They claim it takes a tough man to raise a tender chicken, and I think they're right.

But my friend says that if he were start-

ing out in business today, even with good ideas and drive, he'd never make it. Today, he says, a young farmer can't get enough capital to survive the first few lean years. The bootstrap operation never gets out of first gear before it stalls.

There is no way the federal government can spend enough money, without going into bankruptcy, to provide jobs for all of the people.

Unless we adopt a tax policy that encourages private enterprise to make jobs by creating new businesses or by expanding, our country will end up with a different form of economy, and a different social structure.

Former Federal Reserve Board Chairman Arthur Burns explains the businessowner's dilemma this way:

"In an inflation-ridden environment, businessmen have no good way of judging what their costs of production may turn out to be, or what prices they may be able to charge, or what profits if any, will accrue when they undertake new investments."

Think back 20 years or 30 years, to when you were just getting your start. Would you have taken the risk, would you have survived such odds?

How many of you would have risked your life's savings, if the cards had been stacked so heavily against you?

We've got to improve these odds, if the free enterprise system is to function properly.

In writing our tax laws, we've got to keep in mind the young men and women who want the same reasonable chance to be successful that all of you had.

Sound business planning requires a long lead time. People who want to start businesses have to make market surveys and often prepare environmental impact statements. They have to arrange long-term leases or build plants and offices. All of this takes time. But most important of all—before they can do anything—they need an accurate estimate of their cash flow once they're in business. If they can't get that, they can't get financing.

To help make that estimate, the Senate Finance Committee recommended that the 10 percent investment tax credit be made permanent and this Tuesday night that provision was included in the tax cut bill passed by the Senate. So was a Committee recommendation to raise from 50 percent to 90 percent the amount of investment in excess of $25,000 the business owner can use to compute his total tax credit. The bill also allows accelerated depreciation for small businesses on the first $25,000 of capital investment, and it reduces corporate tax rates.

These are examples of an enlightened tax policy that will help business over the long haul.

In the next Congress, I intend to introduce legislation that would allow this 10 percent tax credit to flow through to the small investors as well. If an investor buys a $1,000 bond which will finance new equipment, why shouldn't he or she get the same 10 percent tax write-off the corporation can now claim? This legislation would give the little investors the same tax break industry now gets for money used for new construction. And it would be a powerful inducement for them to invest.

Some governments are offering much more attractive inducements. For example, the French government has encouraged citizen investment with a new law that allows every French taxpayer to write off all money invested in the stock market up to $1,100. Predictably, prices on the stock market have jumped and investment has increased.

We have to learn from our friends and allies. It is striking that the nations with the highest rate of capital investment in the late 1960s and early 1970s—Japan and Germany—also had the highest economic growth rates. Japan invests 35 percent of its gross national product in fixed capital and West Germany 25 percent. The United States invests only 17.5 percent.

Among the major industrial nations, the United States and the United Kingdom invested the least and had the lowest growth rates. Capital investment also provides the means for more efficient production—greater output with no increase in human effort. And the efficiencies that result from investment in modern equipment help to hold down the costs of production and thus constitute a first line of defense against inflation.

Of course, Japan and West Germany have no capital gains tax, while the United States has the highest capital gains tax in the industrialized world. We also have the highest percentage of outmoded factories.

Until we make capital investment more attractive, people will not put their money into high risk ventures. Without such investment, new and creative ideas will never see the light of day and the economy will continue to stagnate.

The almost punitive capital gains tax enacted in the United States in 1969 practically dried up investment funds for new companies. Senator Charles Percy tells a horror story about a small Illinois computer firm with a big future. It seems they had to go to Japanese and West German investors because they couldn't find a single American investor to participate. This kind of tax policy is counterproductive. It cuts off our nose to spite our face.

Such experiences convinced me to sign on as one of the original cosponsors of Senator Clifford Hansen's bill to roll back the capital gains tax to the pre-1969 level. (You may also know it as the Steiger Amendment in the House.) The tax cut bill, which the Senate passed two days ago, does not go quite as far in lowering the capital gains tax rate as I wanted. It lowers the rate to 35 percent but that's still a big improvement.

President Carter called this adjustment in the capital gains tax, "A huge tax windfall for millionaires." Sylvia Porter shot back that the President's reaction was, "startlingly misinformed, even reckless. . . ."

I too think the Administration is way off base on this. Almost everyone, either directly or indirectly, has a stake in the success of American business. If you are not a shareholder yourself, you probably belong to a pension fund that is. Most of our major pension systems are funded largely by investment in income stocks.

In view of the President's statement, I think it's worth noting here that labor has been one of the strong advocates for tax reforms to encourage investment. Labor realizes that growth in real wages and in productivity are closely related and that capital formation and capital investment are not sufficient. The National Association for the Advancement of Colored People (NAACP) has also taken the position that the jobs and opportunity it seeks must come from growth in the economy through stimulation of the private sector.

The Treasury Department opposes this reduction in the capital gains tax, claiming that it would decrease tax revenues. But the Treasury Department has been wrong about this tax before. In 1969 they thought revenues would increase, if the capital gains tax were increased. The opposite happened. Revenues fell by 40 percent the first year and they have only now returned to the 1968 level.

In a recent study of the economic impact of a capital gains tax reduction, Merrill, Lynch predicted that a roll-back to 25 percent would:

Improve the average rate of growth of real GNP to 3.5 percent as compared with the 3.3 percent rate forecast under the current tax law,

Reduce the unemployment rate from 5.7 percent to 5.5 percent through the creation of 205,000 additional jobs by 1980.

Reduce the federal budget deficit by $2.3 billion in 1980,

Prompt an additional $3.2 billion in real fixed business investment over the period.

I think those are pretty convincing figures. So convincing, that I would like to project the issue one step further. There may be certain assets that should actually belong to their owners when held long enough. By that I mean that in some cases there should be no capital gains tax at all, depending on the length of time held, the nature of the property and the taxes it has already yielded in various forms during the same ownership. I propose that a serious study of that concept be made.

Another problem for our economy is overregulation of business. I'm not going to get into a lot of detail on this—that's another whole speech. About all you really need to know is that the cost of federal, state and local regulation in 1977, according to a report of the Chase Manhattan Bank Economics Group, was over $103 billion. Bureaucracies everywhere are just spinning out regulations and tying business up the way the Lilliputians got Gulliver.

Admittedly, many regulations are necessary, but many are not. To get a handle on the problem, Congress has begun to require regulatory impact statements with all new legislation and the President has ordered the Executive Branch not only to cut down on existing regulations but to see that all regulations are written in simple, clear language.

Compliance with some of our most important regulations, as you know, is very costly. For example, the Council on Environmental Quality reports that private capital outlays for pollution control were $3.8 billion higher in 1975 than they would have been without federal regulation.

The required rate of capital investment today too is greater than it once was because of mandated investments to meet environmental, health and safety standards. Clean air and water and a healthy work environment do not come cheaply. McGraw-Hill, which has studied business investment closely in the past three decades, estimates that about 10 percent of all spending for new plants and equipment is now devoted to meeting these standards, as compared with about half that amount 10 years ago.

Now, I don't think any of us would want to turn the clock back, but it does seem to me that we should have a full investment tax credit for business outlays for pollution control. When you consider that it only costs $13,000 to create a new job, you can see how many jobs we're losing this way.

In the Senate, we are very aware of the need to economize and to get federal spending under control. In fact, as former Senator Norris Cotton used to say: "The boys are in such a mood that if someone introduced the Ten Commandments, they'd cut them down to eight."

This fall we took an important step in the right direction, when we adopted the Second Concurrent Budget Resolution for 1979 which establishes new, substantially lower ceilings for Congressional spending. The new ceilings set the deficit for FY 1979 at $38.8 billion which is $21.7 billion below the deficit anticipated in the President's budget for FY 1979, and almost $30 billion below the deficit set for FY 1978. I am happy to say Congress also wound up this fiscal year $10 billion below the budget ceiling set last year. So we are moving in the right direction.

We also have before us Sunset legislation which is a logical, responsible and orderly response to public concern over rising inflation. This bill would commit Congress to reexamining every cent we now spend to make sure every federal dollar is being used as effectively and efficiently as possible.

It provides for automatic termination of federal programs unless Congress determines,

through a review process, that they should be reauthorized or reenacted. The bill, which I have cosponsored, would allow us to shift resources away from programs we no longer need or from those that are not working well. We need to free-up those resources and to put them to work in new, more effective ways. If we succeed in enacting this legislation this year, I think it will eventually be regarded as the most significant accomplishment of the 95th Congress.*

These are all things that need to be done and that will help get our economy moving in the right direction again. Much more needs doing, especially to strengthen our position internationally. But right now I think we should get our house in order—we should stimulate a business renaissance in the United States—so that we can confront our international trade problems with some confidence.

But, if we are to have a national business renaissance, then I think we must have uniform labor laws throughout the country. As a Marylander, I am particularly aware of pressures on industry to leave our State and to move to another in search of labor laws more favorable to business. This is an area where I think national standards would be appropriate and useful. Whether these standards are tough or weak doesn't matter as much as that they be uniform nationwide. Maryland has lost a lot of jobs because, rightly or wrongly, business executives have thought that the labor climate was better someplace else. So, if we're going to have a rising business tide, let's make sure it lifts all our boats.

Today I have been tough on government. I have criticized its regulatory encroachments; I have railed against its shortsighted tax policies; I have generally made it the scapegoat for a lot of our problems.

Now I'd like to remind you that the government didn't stick its long snout into the private sector unbidden. As long ago as 1911, Elbert Gary, President of U.S. Steel, testified before the Congress that he "would be very glad if we knew exactly where we stand . . . and if we had somewhere we could go, to a responsible governmental authority, and to say to them, 'here are our facts and figures . . . now you tell us what we have the right to do and what prices we have the right to charge.' "

Government was invited to take a hand in the game. Economist Robert Heilbroner maintains that government has actually prolonged the life of capitalism by stepping in. He writes: "The political apparatus within capitalism is steadily growing, enhancing its power and usurping functions formerly delegated to the economic sphere—not to undo, but to preserve the economic sphere.

Mr. Heilbroner foresees a day when this political expansion will be "a major factor in the extinction of the business civilization . . ."

I am not so pessimistic. I believe the commitment to freedom which underpins our political and our economic system is so strong that we will be able to maintain a healthy balance between the economic and political forces at work in our society.

As the winds of Proposition 13 blow across the land, however, it is important also to remember that every government spending program on the books has a large vocal constituency pushing for it. So, if you want the federal government to balance the budget and to eliminate the deficit, ask yourself, "Which of the federal programs that benefit me, am I willing to eliminate?"

We won't make any impression on inflation at all, until we all curb our appetites for more government services. We all must help to restrain government spending by restraining the demand for government services. We've got to face the fact that the federal government cannot singlehandedly get inflation under control. To do that, we need the active participation of corporate executives, small business owners and labor unions. And we need the participation of all other governmental units, from the states down to the smallest towns and villages, from President Carter to Mayor Henry of Muleshoe, Texas.

And, we must form what Arthur Burns calls a "national constituency" that will fight for the paramount interest we as a people have in a stable dollar. This will require leadership at the highest level.

President Franklin Roosevelt said that: "The greatest responsibility of the president is moral leadership." What he meant was that in our pluralistic, competitive society only the President could induce the people to fix their ideas and goals on the great purposes of the nation, thus requiring the subordination of purely selfish purposes not in harmony with the general welfare.

The time to subordinate our selfish purposes to the general welfare is now. We still have it in our power to begin the world over again. It is up to each one of us whether or not we will.●

* The Sunset bill passed the Senate at 7:00 p.m., October 11, after this speech was prepared for delivery.

WHAT THE CIA KNOWS ABOUT RUSSIA

● Mr. LAXALT. Mr. President, Commentary magazine, in its September issue, carries an article entitled, "What the CIA Knows About Russia," by Lev Navrozof which, if accurate, is a frightening portrayal of what the CIA has been able to learn about the Soviet Union. Since the subject matter of the article is something of vital interest to all Members of the Congress, I believe that the article should be read by my colleagues. Accordingly, I ask that the article be printed in full in the RECORD. The article follows:

WHAT THE CIA KNOWS ABOUT RUSSIA

(By Lev Navrozov)

It is mainly to certain American friends that I owe my interest in the CIA. Curiously enough, there is a resemblance between my friendships with a number of well-placed Americans (including CIA experts) and my friendships with a number of well-placed Russians back in Moscow. Privately, my friends both here and there share my concern over the survival of right in the face of Soviet might; publicly, however, they go along with whatever is useful to their careers at the moment. They seem to believe that there is something in the very nature of right that will somehow insure its survival without any career risk on their part.

So when I express dismay, for example, that on the sixtieth anniversary of the Soviet regime U.S. News & World Report could find no better experts on the subject than two of its own staffers (who hadn't laid eyes on a textbook of Russian history in the last sixty years), these American friends reassure me: "The mass media sell entertainment, not knowledge, you know. For knowledge there is the academy."

The trouble with the academy, however, is that for the last thirty years, the most influential, or at least the most visible, academic experts like Henry Kissinger, Zbigniew Brzezinski, George Kennan, and Marshall Shulman, have been demonstrating with equal zeal both sides of every proposition: that the Soviet regime seeks world conquest, and that the Soviet regime seeks world peace; that the sale of technology to the Soviet regime is suicidal, and that the sale of technology to the Soviet regime is beneficial; that arms-limitation agreements are impossible, and that arms-limitations agreements are possible; that containment leads to peace, and that containment leads to war.

But if the media cannot be counted on, and the academy cannot be counted on, whom can one count on? At this point, my America friends come up with their trump card: "You may rest asured that somewhere in the intelligence community—" The sentence breaks off, and the speaker wears an enigmatic smile, evoking hidden recesses where the analytic geniuses of the Western world—backed up by the most sophisticated computers ever devised—sit poring over field reports from the depths of the Soviet infrastructure.

I too might perhaps cling to this last sweet hope if I hadn't read in the New York Times back in 1974 an account of the CIA's secret testimony to Congress. According to this testimony, the CIA had calculated (on those computers, no doubt) that "Soviet defense spending" might well be as low as 6 per cent of the "Soviet gross national product," the same percentage, that is to say, which the United States allocates for defense spending.[1] My shock at the CIA's figure was comparable to what a resident of Moscow might have felt in 1941 when reading (in Joseph E. Davies's Mission to Moscow) that Stalin in the mid-30's "insisted upon liberalism of the Constitution even though it hazarded his power and party control."

The fact is that between 1967 and 1977, the Soviet war economy—talking, say, in terms of numbers of submarine-launched nuclear ballistic missiles—has moved from a 1:6 inferiority vis-à-vis the United States to a 3:12 superiority (considering only those weapons already deployed, and hence countable). Since the Soviet economy is much less efficient per worker than its American counterpart (indeed, Soviet agriculture is less than one-tenth as efficient), this giant leap to reverse the Soviet-American strategic arms ratio can only have been made by paying, say, a Soviet doctor a weekly salary which bought (as of 1974) one American umbrella (costing $1.90 in New York) or half of an Italian nylon raincoat (costing $2.40 in Rome). Contrary to countless books and reports of Western correspondents, who have been describing growing Soviet prosperity in the 70's as carefully as they described it back in the 30's, the proportion of consumption in the Soviet GNP has, even according to Soviet propaganda, been declining every year since 1929. Yet the CIA was suggesting in 1974 that the Soviet regime, allocating to civilian production only those resources which were rejected for military use, had been spending the same proportion of its GNP on military purposes as the fabulously wealthy, semi-pacifist, consumer-oriented United States of the 70's, with its dizzying avalanche of seasonal sales, its mushrooming ranch-style and neo-colonial homes, its private cars, its gourmet restaurants, its European vacations, and its volunteer army which, to those who have served in the armies of both countries, calls to mind a health resort. To make such a suggestion means, quite simply, to understand nothing about the Soviet economy or the Soviet regime, and to close one's eyes to what even an American tourist confined within Soviet Tourlandia could easily find out provided he can do elementary arithmetic.

As it happens, American delusions about "Soviet-American friendship" have subsided somewhat since 1974. Accordingly, the CIA announced in 1976 that its annual calculations of "Soviet defense spending" had been mistaken (can't the CIA make a mistake—every year for fourteen years?) and that the previously announced figures for "Soviet defense spending" should be doubled retroactively (though they could also have been halved or quadrupled with about as much

Footnotes at end of article.

scholarly justification). This was announced, moreover, with a burst of self-gratulatory enthusiasm on the part of the then director of the CIA which was even more depressing than the annual error.

A lurid (or simply lucid) thought occurred to me very early one morning after I'd read an article the night before which suggested that there might be a "mole" (a Soviet agent) "burrowing up through the ranks of the CIA." I awakened to that cataleptic sobriety that comes before dawn: if the CIA or any other such expert outfit consisted entirely of Soviet agents (I thought), it would never have dared tell Congress or the American public in 1974 that the Soviets might well be spending the same proportion of their GNP on military purposes as the Americans were. Bona-fide spies would have been prevented from telling such a fib by the fear of being instantly unmasked as impudent Soviet "disinformation agents." Why, even the Soviet propaganda machine in its wildest effusions has never dared to assert such nonsense! Only 100 per-cent American officials with clear consciences and easy hearts could have misled country and Congress so grossly and so serenely, and then declared, as the public mood began to shift despite all their efforts, that the calculations of the preceding fourteen years had been erroneous: from now on they would be correct, and sorry for the inconvenience.

Led on by a kind of grisly fascination, I decided to make a thorough study of the CIA's annual testimony before Congress, originally presented in secret sessions and later published with certain deletions to protect sources. The first thing I saw when I came to the library for this purpose was a chart of Soviet "growth in per-capita food consumption" since 1965.[2] I could easily imagine a U.S. Senator, or even the President or Secretary of State musing as he examined this chart: "No sources—you bet. They're probably those field agents Colby keeps talking about in his testimony.[3] Amazing men, those CIA spooks. They've even managed to dig out the number of eggs that have been laid in Russia every year since 1965. Must be all those electronic devices—satellites and whatnot."

As for me, I jumped to my feet and rushed down the aisle of the library and back again. A library assistant thought I was ill as I faced her with unseeing eyes. I *was* ill. That CIA chart was based on Soviet propaganda pamphlets which we had laughed at in grade school and then never looked at again (they are available in English at the Soviet bookstore in Washington for 50 cents apiece). According to these pamphlets, Soviet hens lay a certain percentage more eggs each year—let us say, 7.8 per cent—than they laid the year before, but with one biological peculiarity. The annual 7.8 per cent increase in egg laying begins only with the advent to power of the current rulers. Under the previous rulers, it subsequently turns out, the hens of Russia had hardly laid any eggs at all.

It was now clear to me how the CIA had come to the conclusion that the proportion of "Soviet defense spending" might be as low as that of American defense spending. According to Soviet propaganda, it is the laying of eggs and other such annually growing peaceful endeavors, rather than the production of weapons, that fills the Soviet economy to overflowing. Indeed, the Soviet regime could conceal *all* the weapons it produced in the 70's if it chose to, and thereby cause the CIA to conclude that "Soviet defense spending" was close to zero. But Soviet propaganda does not wish to go that far: it wants the United States to know enough about Soviet weapons to be fearful of intervening anywhere outside its own territory, but not enough to begin working for its own survival in earnest.

Does the CIA know what it is doing? I do not wish to join in the currently fashionable game of making a scapegoat of the CIA, but I have to say that the CIA in its knowledge of Russia is on the whole no better than that of other institutions in the West which deal in one way or another with the Soviet regime.

The most obvious key to the knowledge of any foreign country is its language. Everyone has experienced or observed the fact that it is extremely difficult for a foreigner to speak and understand a new language even as well as a six-year-old native speaks and understands it. By the time that six-year-old has developed into a reasonably intelligent and versatile person, it is the rare foreigner indeed who can match his mastery of the nuances of his native tongue. By this I mean not just that an expert on a country must know the language of that country, but that such an expert must be as gifted, reverent, subtle, sophisticated, and eager to learn from natives as a student striving after perfect and authentic mastery of a foreign language. Too many Westerners have been too slow in grasping this.

Harrison Salisbury, who for a quarter of a century exercised a kind of monopoly on Russian expertise in the New York *Times*, describes in his Pulitzer-prize-winning book, *American in Russia*, how an "elderly and distinguished" British expert taught himself Russian while shaving in the morning, and then imparted his secret to Mr. Salisbury. The renowned British expert "picked up an old piece of gray cardboard from a candy box," jotted down on it his summary of the basics of the Russian language, and handed it to Mr. Salisbury. " 'Prop that beside your mirror,' " said the expert, " 'and go over it every morning when you shave. In no time you'll have the language down.' "

Not only did Mr. Salisbury "have the language down" in no time at all (so that even thirty years later he still manages to mangle the commonest Russian words he uses occasionally in his books), but he also produced, in pocketbook form (not quite as succinct as a piece of cardboard, but almost) a compendium of what his publishers called the "eternal verities about Russia."[4] The first of these verities was the startling observation that much of Russia's present-day behavior is a conditioned reflex to a 700-year-old catastrophe—the Mongol invasion. This is tantamount to observing that much of the behavior of the English-speaking countries today is a conditioned reflex to the Norman conquest.

Given this general level of competence in the study of other cultures, it is not surprising to find the CIA in 1973 attempting to ascertain the scientific ability of the "Russians" as though these "Russians" (who comprise more than 100 nations, from Jews to Volga Germans) were some newly discovered remote tribe whose scientific ability had to be determined by an intelligence agency. In this connection, the CIA cites the names of four Russian men of science, as familiar to every Russian schoolboy as the names Benjamin Franklin and Thomas Edison are to every American, and manages to get two of them wrong. The world-famous chemist Mendeleyev (who is listed in Webster's Dictionary as the discoverer of the periodic table) becomes Mendelevich, and the 18th-century Enlightenment figure, Lomonosov, becomes Lomonosovskiy.[5] One wonders what an American would think of intelligence experts on the United States who would discover the scientific ability of Americans in 1973 by calling attention to Franklinstein and Edisoner.

Much of this ignorance is spontaneous, rooted in a long-standing unwillingness to understand that Russia is not some exotic primitive tribe but a vast, mortally dangerous, highly complex civilization, more sophisticated, advanced, and rational in some ways than the United States. Much of it, however, is the result of deliberate self-insulation by the government-academic establishment, guarding its own prerogatives, and tending to discriminate against talent or even ordinary knowledge when it comes from outsiders.

For example, there exists in the Soviet Union a secret statistical yearbook which is "produced in 400 copies and delivered through special couriers to selected officials"; the CIA has known about this yearbook at least since 1972 (thanks to recent Soviet émigrés)[6] but it has never said a word about it to Congress, for if it had, the reaction would have been immediate: "If a genuine statistical yearbook exists, why have you been stuffing our minds with phony statistics about egg-laying and all that? Get hold of the genuine yearbook. All those agents you say you have over there should be able to do it . . ."

This brings us to another of the CIA's secrets. Such is the level of Western intelligence work, that the CIA has obviously been unable to "maintain a human source" within the Soviet infrastucture. In his book, *The Craft of Intelligence*, Allen Dulles mentions Oleg Penkovsky as the only case of such a source being successfully maintained by Western intelligence. However, what actually happened was that Penkovsky, a high-ranking Soviet official, volunteered to work for the West. And all the top Anglo-American craftsmen of intelligence, including Mr. Dulles himself, could think of no better way for Penkovsky to pass on intelligence data than through the wife of the Second Secretary of the British Embassy in Moscow who was, along with several other Embassy residents, an agent of British intelligence.[7] The Anglo-American intelligence experts had apparently decided that if Penkovsky met the Second Secretary of the British Embassy himself, it would be too conspicuous. But if he met the Second Secretary's wife, the Soviet secret police would be flummoxed.

Accordingly, the unfortunate Penkovsky met with this "unknown woman" a total of seven times before he desisted in belated horror—for those seven meetings were the same for him as having taken, on the advice of the British-American experts, seven lethal doses of arsenic. Penkovsky had naturally been detected right from the start, and then patiently watched for more than a year. At the trial (which took place in Moscow shortly before Dulles' book came out), he was sentenced to be shot, but was instead pushed alive into the oven of a crematorium.

Some top CIA officials still regard the "clandestine" acquisition of Khrushchev's "secret speech" of February 1956 as the CIA's only real "espionage coup." Actually, the "secret speech" had been read at meetings to about half of the Soviet adult population, for which purpose the text had been printed in hundreds of thousands of copies. Yet no Western intelligence agent was able to secure a single copy of it or even hear the speech. Finally, a copy of the version specically prepared for foreign consumption was passed to the CIA outside Russia and appeared in the New York Times about half a year after Khrushchev delivered the speech.

Let us, therefore, disregard the CIA's references in its congressional testimony to its agents within the Soviet infrastructure, and ask instead whether the CIA maintains any human sources inside Russia at all? Here is an illuminating exchange between Senator Proxmire, chairman of the relevant subcommittee, and a top CIA analyst testifying about Russia:

"Chairman PROXMIRE. You mentioned in your prepared statement work slowdowns as a result of the food shortages, and also vandalism and general grumbling. Would you elaborate on this somewhat and discuss whether there have been any riots over food?

Footnotes at end of article.

"Mr. DIAMOND. These are rumors reported in the Western press. A Paris newspaper correspondent reported that riots were observed by Westerners in Kiev and Rostov. Kiev is the Ukrainian capital and Rostov is a major industrial center in the North Caucasus. These were people who found a very low supply of basic staples as well as livestock products. They allegedly broke windows, or in the case of the free peasant market, ripped off stalls. We have no confirmation of this." [8]

In other words, the CIA does not maintain a single human source in the guise of an ordinary inhabitant or tourist in the major cities of Kiev and Rostov, capable of confirming or denying so obvious an event as a street riot. And Kiev and Rostov, let us recall, are "foreign-show" cities, more or less open to Western observers. What if the event in question had occurred outside the "foreign-show" areas, where no foreigners could have seen it? In that case, judging from the following exchange concerning China among Senator Charles Percy, George Bush, the then director of the CIA (who replaced Colby), and a Mr. Field, of the CIA's Office of Economic Research, no information whatsoever would have been forthcoming. Senator Percy begins by asking the CIA chief if it is true that there is no hunger or malnutrition in continental China since he, Senator Percy, has received reports of a "great deal of malnutrition" in Tibet. Mr. Bush then replies:

"What you have said, sir, comes as a surprise to me. Maybe some of our experts can confirm it. Is anyone prepared to do that?

"(No response.)

"I didn't travel to some of the autonomous regions, but I did travel a lot in China. We were free to move around, although you never get far off the beaten track. But certainly their own theses [are] that there is a basic level of nutrition for the entire population. Can anyone here help the Senator with that, as to whether there is malnutrition in places in China?

"Mr. FIELD. No; I have no information on it." [9]

Now as it happens, Miriam London and Ivan D. London, of Brooklyn College in New York, have for years now been interviewing refugees from continental China and publishing their data on hunger there—the very subject about which the CIA has "no information." It appears that the CIA not only cannot penetrate closed societies—it cannot even penetrate Brooklyn College.

The conclusion of this particular piece of testimony boldly entitled "Absence of Hunger in China," is worth reading:

"Senator PERCY. In other words, so far as we know, the claim that they have made that they are meeting the food problems of the country, and our own observations along that line were accurate?

"Mr. BUSH. Yes.

"Senator PERCY. And I think they have been absolutely remarkable." [10]

If the CIA's claims about human sources of information within the Soviet regime are misleading, so is the impression created by the CIA and the National Security Agency as to the effectiveness of "outside" sources of intelligence data, such as surveillance by space satellite. This miracle tool is said to enable U.S. intelligence to see "even a hare scampering across a field" anywhere in Russian, but the question here is not of the proverbial hare, which may indeed be visible via satellite, but whether U.S. intelligence can, by this means, see anything the Soviet regime does not want it to see. That the silo of a Soviet fixed-site ICBM can be seen by space-satellite observation, for example, is still cited as a triumph. But what if a dummy structure were built over the site to camouflage a new ICBM? In Hamburg, for instance, during World War II, the inner basin of the Alster, measuring roughly 500 by 450 yards, was covered up in such a way that Allied aircraft took it for terrain—and this was over thirty years ago. Since then, techniques of camouflage have advanced immeasurably, so that by the 60's methods and materials had been developed for camouflage throughout the electromagnetic spectrum from the ultraviolet to radar regions.

It is usually forgotten that it is much easier for a closed society to conceal something than for an outside observer to find it. Thus, it was reported by Jack Anderson some time ago (on the basis of a sensational leak, of course) that the National Security Agency had once monitored the "radio-telephone conversations of the Kremlin leaders." If this is so, the NSA could only have heard such highly secret communications as "Let's have jellied sturgeon for dinner today," for even twenty years ago every Soviet official of any importance had two telephones on his desk; one for ordinary calls and the other an interception-proof scrambler for secret messages. Properly coded messages cannot be deciphered unless the decipherer has agents at the enemy cryptographic center (as the Soviet regime had them in the NSA). Even if the NSA did once intercept a Soviet coded message, it is unlikely that they managed to decipher it. (Not to mention the fact that top-secret Soviet information may not be transmitted, except in emergency, but must be delivered by special courier.)

To take a specific example: could the Soviet regime conceal the construction of an aircraft carrier of the Kuril class which measures 925 by 200 feet: The question is not as silly as it sounds, judging by testimony given before Congress on July 21, 1975. On that date, General Daniel Graham, the then director of the Defense Intelligence Agency, which coordinates the intelligence operations of the Defense Department and the Armed Services, was asked by Chairman Proxmire whether the DIA had "any notion of how many additional units, how many additional aircraft carriers" the Soviet regime had under construction.[11] A DIA analyst cited a figure (deleted in the testimony) but went on to qualify the figure as "just a speculation on our part." To put it bluntly, then, the U.S. intelligence community cannot detect aircraft carriers under construction in Russia.

In the course of his testimony, General Graham made an even more startling admission to the Congress:

"As a matter of fact, one of the fundamental surprises to the whole intelligence community in the 16 years that I have been in the business is the strong effort the Soviets have made to get themselves a broad ocean navy." [12]

It should be clear from admissions like these, that "agreements" such as those negotiated in the Strategic Arms Limitation Talks are *not* verifiable. Naturally, for the Soviet regime these "agreements" exist only on paper, and are regarded simply as a way to limit enemy strategic arms, at least for a while. But it is amazing that the West has already lost a decade on such crude self-deceptions—partly owing to the false impression created by U.S. intelligence as to its ability to verify Soviet compliance.

All in all, these yearly appearances of U.S. intelligence spokesmen before the Congress can best be described as annual attempts at overcoming the desperately resistive common sense of the Senators, and above all, that of Senator Proxmire, who chaired the hearings. Though uninformed by the CIA about the existence of real, as opposed to fake, Soviet statistics, the Senator is nevertheless made uneasy again and again by the CIA's use of Soviet propaganda:

"Chairman PROXMIRE. Do they not tend to exaggerate their growth, exaggerate their reserves, their progress and so forth, so that statistical material is likely to show larger rather than smaller gains than the actual case? . . . Are you able to take the published sources . . . and reconstruct a fairly consistent picture, [a] coherent picture of their whole economy so that it does square out roughly at least?" [13]

The CIA answers confidently in the affirmative—take, for example, the published Soviet figures on steel production:

"[If] they claim to have produced 125 million tons of steel, the claim is reasonably consistent with the end use of that metal in the economy. Things roughly check out in the context." [14]

But the CIA knows nothing about the "end use of that metal" in the Soviet economy except what it has learned from Soviet propaganda. For example, the Soviet regime has been building an unprecedented number of airborne amphibious "personnel-carrying combat vehicles" (BMP's). What if the scale of this activity is such that it consumes as much steel as U.S. car production does? It is easy enough for Soviet propaganda to conceal the amounts of steel going into BMP's by simply juggling the other "statistics." Surely the CIA, which cannot confirm even street riots in the "foreign-show" cities of Russia, does not maintain field agents at each construction site to monitor how much steel, if any, is *really* put into Soviet homes or roads? "Things check out in the context," says the intelligence expert, and indeed they do—in the context of Soviet propaganda.

The example of the Soviet steel output is especially interesting, because it happens to be one of those rare cases when the real figure, and the propaganda figure have so far coincided, though for reasons too specialized to go into here. (After all, even a dummy clock shows the correct time once every 12 hours.) In any case, the question which naturally occurs to Senator Proxmire is: "What are they doing with all that steel?"

It is a very good question, especially when one bears in mind that as of 1975, the Soviet production of steel (141 million tons) *surpassed* the steel output of the United States by 32 million tons. (After the war, it will be recalled, West Germany was not allowed to produce more than 11.1 million tons of steel "for reasons of peace and security.") When one bears in mind further that the Soviet imports of steel "continued to be high," according to the CIA 1976 estimate and that a country like Japan produces eleven times as many cars per capita as the Soviet regime, one becomes really curious. What *is* the Soviet regime doing with all that steel?

Contemplating the curve of steel production in other major countries, the Senator notices that the Soviet steel output, by contrast, is a continuous straight upward line: 65 million tons in 1960, 116 million tons in 1970, 141 million tons in 1975:

"Chairman PROXMIRE. It is such a straight line, is that reliable? Notice the fluctuations in the other lines. Why is their production so uninterruptably straight with no deviations to speak of?" [15]

Anyone familiar with the basics of the Soviet economy would answer this question by pointing out that anything indispensable for the manufacture of Soviet weapons, such as steel production, really *does* go up in a straight line, but anything not strictly necessary for the manufacture of weapons, such as the laying of eggs, may not actually have moved up since 1914 at all, but is made to *seem* as though it did.

Instead, Mr. Colby gives the following two-word explanation: "Chiefly planning." [16]

Yet Senator Proxmire's common sense will not be squelched quite so easily:

"Chairman PROXMIRE. Let me interrupt

Footnotes at end of article.

again to say that is what puzzled me about your statistics. One of the first questions I asked, I wondered what in the dickens that they are doing with all that steel. A lot of it is there, but even there it seems to me they do not have automobiles like we do. They do not have the highway system we have. They do not have the housing construction or anything of that kind.

"If they are producing more steel, how can they use it?" [17]

The CIA's experts tackle the still struggling Senator from all sides:

"Mr. NOREN. They have such an investment program——

"Chairman PROXMIRE. More than ours in machine tools, for instance?

"Mr. NOREN. In terms of absolute size their fixed investment approaches our[s] now.

"Chairman PROXMIRE. Thank you.

"Mr. BURTON. They are also very inefficient users of steel. Their machines are very heavy compared to ours.

"Chairman PROXMIRE. The military weapons systems are usually heavy too.

"Mr. BURTON. Yes.

"Mr. PROCTOR. One remembers Khrushchev's cursing of the manufacturers as metaleaters. He had a campaign to reduce the waste of steel, especially in the manufacture of both military and civilian hardware.

"Chairman PROXMIRE. Thank you." [18]

In other words, having produced, as of 1975, 32 million tons more steel than the United States did, and having also kept steel imports high, and having furthermore invested only small amounts of steel in cars, homes, or highways, the Soviet regime has allegedly been using all that extra steel just to make their machines and weapons heavier than those of the U.S.! Let us consider the following: in 1976 the Soviet T–72 tank, weighing 36 tons, was declared by the American military to be "faster, more powerful, and more heavily armed than anything in the U.S. arsenal"; but its U.S. rival, the XM–1, with a smaller main gun and a worse automatic loader, which was expected to come off the assembly line in 1979, was to weigh—53 tons! Let us suppose that some extra steel was wasted on the T–72. But how great is the waste? Is it 1 per cent, 2 per cent, 5 per cent? And where does the rest of the steel go?

Even more surprising than the CIA's credulity in the matter of impeccably peaceful Soviet "statistics" is its conformity down through the years to prevailing ideological winds.

In 1961, the CIA, like every other government agency and just about everyone else in a position of influence, was still giving the darkest possible interpretation to everything Soviet. Thus, a random sample from my files for that year includes a draft of the Soviet Communist party program of 1961, published in New York. This piece of empty pedantry, made up mainly of forty-year-old clichés, appeared, with a preface by Harrison Salisbury, under the title Khrushchev's "Mein Kampf," and with the subtitle "Authentic Soviet Blueprint for World Conquest." And the Time magazine review of the work carried the warning: "No chapter of Hitler's Mein Kampf ever spelled out a dictator's goal more clearly."

In the 70's, on the other hand, when the process of Soviet world conquest has become a visible global reality, both the CIA and the DIA seem desperately bent on proving, in the teeth of evidence available to any newspaper reader, that Soviet expansionism simply does not and cannot exist, not even as one among many other hypothetical motives for Soviet behavior.

Like any other newspaper reader, Senator Proxmire is puzzled by the way the Soviet rulers have been acting during the last decade. Even granting the absurd revisionist view that the Soviet arms build-up after World War II was simply a response to an American build-up, the fact is that by 1974 the United States had given up its end of the arms race. The U.S. defense budget had decreased from 10.5 per cent of the GNP in 1955 to 5.8 in 1974; American biological weapons had been scrapped, and the chemical warfare program virtually abandoned (unilaterally); all civil defense had long been discontinued (unilaterally), along with anti-ballistic-missile defense; the treasures of American (and hence German and Japanese) technology had been thrown open for the benefit of the Soviet war-economy; the covert operations of the CIA had been cut drastically; and, finally, the U.S. army—except for doctors—had become all-volunteer, which meant that while the Soviet regime would continue to produce a new army of 2 to 3 million men every two years in addition to its standing army of 4.4 million, the United States would have the same 2-million-man army all the time.

Why, then, in the face of all this—Senator Proxmire naturally enough wanted to know—has the Soviet global build-up been continuing throughout the 70's just as before, if not even more intensely, and why, too, have the Soviet rulers chosen to expand at the very moment the U.S. has chosen to withdraw all over the globe?

A remarkably vivid, if altogether fantastic answer to this question was offered by General Wilson, the director of the DIA, to Senator Proxmire's subcommittee:

"I am sure you realize that the great experience for the Soviets is the great Fatherland War, as they call it. If I may indulge in hyperbole, for a moment, the Soviet citizen gets up every morning, and he has a wide vivisectional scar from his chin to his crotch, and he scratches it until it hurts. This is World War II. Then he goes off to work, and he lives with that hurt all day, with that memory of some 22 million Soviet dead, and the German armies on the Volga and down into the Caucasus, something which he hears over his radio, sees on his television and read[s] in his newspapers every day. It is ground into his consciousness.

"Representative BROWN of Ohio. Still?

"General WILSON. Still, absolutely, and this psychological phenomenon, this syndrome, simply has an almost massive influence on the thinking of the average Russian citizen, and is reflected in their leadership, in what their leadership says to one another, what they write about in their military periodicals, and so on. It is very definitely a driving force in the Soviet consciousness." [19]

Unfortunately, no Senator went on record to ask General Wilson how he knows what the "Soviet citizen" feels as he "gets up every morning" or "goes off to work" or lives "all day," given the fact that in his capacity as American defense attaché, the only "Soviet citizens" who would talk with him were carefully rehearsed Soviet agents, or generals, admirals, and the like, with all conversations videotaped and subsequently analyzed by the Soviet secret police. Indeed, one cannot but wonder whether General Wilson has even actually seen, if only through a pair of binoculars from the Embassy window, a single "Soviet citizen" in his natural habitat. How then does he presume to know what takes place in the consciousness of the "average Russian citizen" or what does or does not influence his thinking? And last but not least, how in the world does General Wilson know what the Soviet "leadership says to one another"?

Amazingly enough, Mr. Colby, of the CIA, went on to echo the general's fantasy, perhaps because both the DIA and the CIA had been reading the same sources (could it have been the "eternal verities" of Harrison Salisbury's *Russia*?):

"The Soviets, of course, have a national historical fixation on the problem of invasion. They have been invaded and put in very dangerous situations at least twice in the last couple of centuries." [20]

So obsessive is this Soviet defense fixation, according to Mr. Colby, that the Soviet armed forces have "something like 16,000 tanks" against the 6,000 tanks maintained by NATO. In other words, the more the democracies are outnumbered in offensive weapons by the Soviets, the better it proves the Soviet defense fixation, according to Mr. Colby. Senator Proxmire tries to keep his balance watching Mr. Colby's double somersault, but to no avail:

Mr. COLBY. They are concerned about it. I remember it as something like 16,000 tanks in their armament in the NATO guidelines area as against about 6,000 on our side.

"Chairman PROXMIRE. That is exactly my point. It is hard to understand why they should be so concerned.

"Mr. COLBY. Because they went through World War II." [21]

But why has the Soviet regime been building up its navy, which now has twice as many ships as the United States—in particular twice as many nuclear-missile submarines, and three times as many attack submarines? How can the defense of Russia and Eastern Europe, the world's largest landlocked territory, benefit from Soviet naval dominance of the sea lanes to Africa, the Middle East, or Cuba? The United States and Western Europe are dependent on the natural resources of Africa and the Middle East, but the Soviet regime is not—it has all the major strategic resources it requires on the vast territory it already controls. Why then would the Soviet rules need Africa or the Middle East for defensive purposes?

General Wilson explains all, drawing on his experiences as defense attaché in Moscow:

"The Soviet navy officers say to me with some pride: 'Wilson, we have the capability to project our forces to any point in the globe that we wish.' " [22]

One might suppose, at least in theory, that the Soviet capability to project its forces to "any point in the globe" might convey, perhaps, a hint of danger, but no—General Wilson is quick to explain:

"This is sort of braggadocio, national pride, but this also is the Russian inferiority complex expressing itself." [23]

If one did not know that General Wilson is the head of the U.S. Defense Intelligence Agency, one might imagine, on the basis of his testimony, that the general is some jovial, carefree, voluble Soviet-American Friendship Club chairman, unencumbered by any knowledge of the post-1917 regime in Russia, but full of good cheer, camaraderie, and the expectation of a jolly future. Global expansion? Soviet conquest? American defense? General Wilson seems unable even to acknowledge the existence of such words or concepts where the "Russians" are concerned (good guys, those Soviet generals, especially after a couple of drinks).

Why not allow them to overcome their inferiority complex indulge their braggadocio, satisfy their national pride?

"When I ask the Soviets jestingly, what were their great naval battles in World War II, it is an embarrassing question to them. Following World War II, I think they set about [it as] a matter of national pride—there is a sense of national inferiority on the part of the Russians that drive[s] them to a lot of things—to be a leading, if not the leading, world naval power." [24]

There is a theory within Soviet ruling circles that the CIA which makes public appearances before Congress and the like is not actually the real CIA at all but a clever fake, designed to mislead the Soviet regime and the American public. Somewhere, totally concealed, there must be a *real* CIA, it is

Footnotes at end of article.

thought, for who could believe on the basis of such goings-on that this CIA is the real thing? When I offered an expanded version of the present study to a New York publisher not long ago, I was told, somewhat along the same lines, that though my evidence is "scandalous,' public hearings and statements do not necessarily represent the true thoughts of our leaders and Congressmen—just as they don't represent those in Russia." My answer is that American society *cannot* be equated with the totalitarian war-machine of Russia, and even if it is imagined that there exists a fake CIA and a real CIA, such double arrangements, perfectly natural and effective in the Soviet regime, would, in the context of American society, lead to nothing but a diastrous super-Watergate. In American society there can be only one CIA, as there can be only one Congress. And it this one and only CIA fails to become sophisticated in its understanding of closed societies, the United States will be the victim, along with the entire nontotalitarian world.

FOOTNOTES

[1] New York *Times*, July 22, 1974, p. 2.

[2] *Allocations of Resources in the Soviet Union and China*, 1975, Hearings Before the Subcommittee on Priorities and Economy in Government of the Joint Economic Committee, Congress of the United States, p. 13. All such testimonies and submissions are referred to as CIA estimates, with indication of the year, e.g., CIA estimate, 1975, p. 13.

[3] CIA estimate, 1975, pp. 59–62 (Colby testimony).

[4] *Russia*, New York Times Byline Books, 1965.

[5] CIA estimate, 1973, p. 5.

[6] CIA estimate, 1973, p. 92.

[7] *Contact on Gorky Street* by Greville Wynne, Atheneum, 1968, p. 121. See also the proceedings of the Penkovsky trial in Moscow, *Politizdat*, 1963, p. 23 and *passim*.

[8] CIA estimate, 1976, p. 36.

[9] CIA estimate, 1976, p. 39.

[10] *Ibid.*

[11] CIA estimate, 1975, p. 98.

[12] CIA estimate, 1975, p. 90.

[13] CIA estimate, 1974, p. 12.

[14] *Ibid.*

[15] CIA estimate, 1975, pp. 11, 12. All tons are metric; 1 metric ton=1.1 "regular" tons.

[16] *Ibid.*

[17] CIA estimate, 1975, pp. 49, 50.

[18] *Ibid.*

[19] CIA estimate, 1976, p. 106.

[20] CIA estimate, 1975, p. 34.

[21] *Ibid.* Colby does not mention another 25,000 tanks (by the most optimistic Western estimates) in the Soviet reserve close by.

[22] CIA estimate, 1976, p. 18.

[23] *Ibid.*

[24] CIA estimate, 1976, p. 107.●

THE USE OF ARBITRATION IN THE U.S. DISTRICT COURTS

● Mr. THURMOND. Mr. President, I would like to express my support for S. 2253 which was reported out of the Subcommittee on Improvements in Judicial Machinery on July 25 of this year. This bill provides for a 3-year experiment to explore and evaluate compulsory, but non-binding arbitration as an alternative to the conventional civil litigation process. The Chief Justice would select five to eight representative districts to participate in this experiment. Any other district may participate on a voluntary basis.

Mr. President, litigants in the Federal judicial system today face spiraling court costs and unconscionable delays in attempting to resolve their legal disputes. Members of the Federal judiciary face an increasing backlog of cases waiting for their attention. In this Congress, we have dealt with several approaches to resolving these problems. For example, the Magistrate bill would expand the role of Federal magistrates, thereby relieving Federal judges of tasks which do not require their attention. The omnibus judgeship bill would greatly increase the number of Federal judges.

I believe, however, that we must consider all approaches to improving the efficiency of our Federal judicial system. For that reason, I support S. 2253 in order to evaluate arbitration as a means of providing an inexpensive, expeditious, and fair method of resolving certain civil cases. I emphasize that S. 2253 is simply a 3-year experiment in five to eight districts. We should go forward with this experiment to see if we can reduce the costs associated with conventional litigation and halt the growing backlog of Federal cases.

Mr. President, arbitration as an alternative to conventional litigation is not a new idea. Arbitration has been used very successfully in resolution of labor and commercial disputes and in several States, involving cases with a dollar limit ranging from $4,000 to $10,000. Pennsylvania, for example, has utilized a court-annexed arbitration system for over 25 years and increased the statutory dollar limit by $9,000 during that time.

Three Federal district courts—the District of Connecticut, the Eastern District of Pennsylvania, and the Northern District of California—have been participating in a pilot program involving court-annexed arbitration under local rules. In order to thoroughly evaluate arbitration as an alternative to conventional litigation, however, Congress should give its approval to a program involving more districts for a longer period of time.

I urge my distinguished colleagues to join me in supporting S. 2253, in order that we might evaluate this promising approach to improving our Federal Judicial System.●

ALLOCATION OF PROGRAMS UNDER HOUSE CONCURRENT RESOLUTION 683

● Mr. TALMADGE. Mr. President, in compliance with section 302(b) of the Congresional Budget and Impoundment Control Act of 1974 the Senate Committee on Agriculture, Nutrition, and Forestry is herewith submitting to the Senate its allocation of programs under its jurisdiction as included in the second concurrent resolution on the budget for fiscal year 1979 (H. Con. Res. 683).

I request that the material be printed in the RECORD.

The material follows:

TABLE I.—DIRECT SPENDING JURISDICTION

[Millions of dollars]

	Function and program	Amount [1] Budget authority	Outlays
300	Natural resources and environment: Soil Conservation Service and Forest Service	117	88
350	Agriculture: Commodity Credit Corporation price support and related programs	31	6,337
	Farmers Home Administration: Agricultural credit insurance fund		−339
	Research and services	58	53
450	Community and regional development: Farmers Home Administration: Rural development insurance fund	214	133
850	General purpose fiscal assistance: Forest Service permanent appropriations	238	238
900	Interest: Subfunction 902 receipts	−42	−42
	Total	616	6,467

[1] The sum of the items may not equal the total due to rounding.

TABLE II.—ENTITLEMENTS REQUIRING APPROPRIATIONS ACTION

[Millions of dollars]

	Function and program	Amount [1] Budget authority	Outlays
350	Agriculture: Agricultural Stabilization and Conservation Service dairy and beekeeper indemnity program	3	4
600	Income security:		
	Food stamp program	5,872	6,136
	Special supplemental food programs (WIC)	560	486
	Child nutrition	2,770	2,713
	Total	9,206	9,338

[1] The sum of the items may not equal the total due to rounding.●

NOBEL PRIZE FOR MEDICINE

● Mr. MATHIAS. Mr. President, yesterday Dr. Daniel Nathans and Dr. Hamilton O. Smith of Johns Hopkins University were awarded the 1978 Nobel Prize for Medicine. The prize was given in recognition of their work in the discovery and application of restriction enzymes which are used for cutting apart and analyzing genetic material. This award should be a source of pride not only for the two recipients but for all Marylanders.

The work that Doctors Nathans and Smith have been doing and which merited such recognition will be essential to continuing study and ultimately prevention and treatment of malformations, hereditary diseases, and cancer. The enzymes can, for example, help identify certain "chemical mistakes" in genes that lead to hereditary diseases such as sickle cell anemia, cystic fibrosis and Tay-Sachs.

It was John W. Gardner who said that:

There are no better grounds on which we can meet other nations and demonstrate our own concern for peace and the betterment of mankind than in a common battle against disease.

Certainly, the accomplishments of these two men are a reflection of that philosophy.

I applaud and congratulate them on this achievement and hope that their work will continue to provide the hope that is so essential to us today.

I ask that an article from this morn-

ing's Baltimore Sun be printed in the RECORD.

The article follows:

TWO AT HOPKINS SHARE NOBEL PRIZE FOR RESEARCH WORK IN HEREDITY

By Albert Sehlstedt, Jr.

Two Johns Hopkins University microbiologists, Dr. Daniel Nathans and Dr. Hamilton O. Smith, yesterday won the Nobel prize in medicine for research that has produced a new method for studying the ways genes determine heredity.

They shared the prize with Dr. Werner Arber, of the University of Basle in Switzerland.

The Hopkins men were the second and third Americans to win Nobel prizes this year. The first was the Yiddish author, Isaac Bashevis Singer.

Dr. Nathans, who is 49 and joined the university's faculty in 1962, is Boury professor and director of the department of microbiology at the Johns Hopkins Medical Institutions in East Baltimore.

Dr. Smith, 47, is a graduate of the Hopkins Medical School, and is now professor of microbiology there.

The selection of three men, who will share a monetary award of $165,000 and the respect of their scientific colleagues around the world, was announced yesterday by the Nobel Committee of Sweden's Karolinska Institute of Medicine.

"It was a quick and easy choice this time," Professor Peter Reichard, a member of the committee, told the Associated Press in Stockholm. "The laureates were so obvious in their field."

Here, the colleagues of Dr. Nathans and Dr. Smith were elated.

"It's a bright day in Baltimore and an especially bright day at Johns Hopkins," said Dr. Richard S. Ross, dean of the Hopkins medical faculty.

Dr. Ross recalled that other Hopkins people had won the Nobel prize in past years "but always after they had gone somewhere else."

"I'm glad these two decided to stay," he added.

Dr. Richard P. Longaker, provost of the Johns Hopkins University, said it was a "magnificent occasion."

A homemade paper sign, bearing the word "Congratulations," was stretched along one of the halls of the Wood Basic Science Building on Wolfe Street where the two men work.

Cheering students and faculty members greeted Dr. Nathans and Dr. Smith as they entered a lecture hall in the Wood building for an afternoon press conference.

Though the two researchers had received word of the award yesterday morning, both still seemed awed by the honor and the inevitable excitement that followed.

Facing microphones and cameras, Dr. Nathans said he was "deeply honored" and praised Johns Hopkins for its "freedom for scientific inquiry" and the university's "tradition of excellence."

"I'm flabbergasted," was Dr. Smith's reaction when he was informed of the honor yesterday morning.

Dr. Nathans said his first reaction to the news of the Nobel prize was disbelief.

"I like to get confirmation before I invest so much emotional energy," he observed to the accompaniment of much laughter in the lecture room.

The two scientists worked in nearby laboratories at the Wood building during the course of their research and shared their findings as they went along.

In Switzerland, Dr. Arber told a reporter he was "overjoyed" and said the award was "a marvelous surprise."

Specifically, Dr. Nathans, Dr. Smith and Dr. Arber were cited by the Nobel committee for the discovery and use of "restriction enzymes" and their application to genetics.

Restriction enzymes are molecules that trigger chemical reactions and, in this particular field of research, allow scientists to separate hereditary genes in much the same way that a person would take apart the pieces of a watch to determine how it works.

"If we call this field genetic surgery, the restriction enzymes are our knives," Dr. Reichard said.

Dr. Arber, who in the past has been a visiting researcher at the University of Southern California and the University of California at Los Angeles, discovered the restriction enzymes in the late 1960's.

Dr. Smith, working at Hopkins with Dr. Kent Wilcox and Dr. Thomas J. Kelly, demonstrated in turn how a restriction enzyme could cut the DNA molecule at certain points in its complex structure for further study.

DNA, or doxyribonucleic acid, is the substance that carries the instructions for making virtually all the molecules in living things.

Dr. Nathans demonstrated "more clearly than anyone else what these enzymes could be used for," said Dr. Kelly, who is an assistant professor of microbiology at Johns Hopkins.

Dr. Kelly said Dr. Nathans realized that restriction enzymes could be used to analyze the structure of genes.

"If you know something about the structure, it can help you figure out how they work," Dr. Kelly explained.

He said the Nathans research was "a model of how to use restriction enzymes to study genes," and he expressed the personal view that this was the reason Dr. Nathans won the Nobel prize.

Dr. Kelly also said that the discovery of restriction enzymes was one of the important threads in the development of molecular cloning, which has been under way for about five years.

Molecular cloning, he explained, involves the joining of a piece of DNA that is being studied to another piece of DNA that has the ability to duplicate itself.

As a consequence, the second piece of DNA duplicates the first piece.

The procedure is a way of isolating a piece of DNA under study and, at the same time, making large quantities of the substance.

This work, Dr. Kelly continued, is important to the understanding of complicated chromosomes that are composed of many genes.

The focus of Dr. Nathan's study was a very simple monkey virus, called SV-40. A virus is a small collection of genes packaged in a sort of capsule.

Dr. Nathans pointed out at the press conference that his work was basic research and he seemed reluctant to jump to any conclusions about its immediate applications for the welfare of humankind.

He pointed out that open heart surgery was a procedure that emerged from basic research by other investigators who did not have that particular operation in mind when they did their work.

However, he looked forward to a "tremendous and very rapid advance in our understanding of gene function in higher organisms—and of cancer, and various hereditary diseases."

Although until yesterday no one at Johns Hopkins had ever received the Nobel prize for medicine, the university said that a number of Nobel laureates were either educated there or worked as members of the faculty for extended periods of time.

For example, Dr. Thomas Hunt Morgan, who studied at the Hopkins, received the Nobel prize in 1933 for his discovery concerning the function of chromosomes in the transmission of heredity.

The following year the probe in medicine and physiology went to Dr. George R. Minot, Dr. William P. Murphy and Dr. George H. Whipple for discoveries related to the treatment of anemias with liver.

Both Dr. Minot and Dr. Whipple had been affiliated with Johns Hopkins.

In 1944, Dr. Joseph Erlanger and Dr. Herbert Spencer Gasser won the Nobel prize for discoveries related to the junction of single nerve fibers.

Dr. Erlanger received his medical degree from the Hopkins and served a one-year internship at the Johns Hopkins Hospital. Dr. Gasser came to the Hopkins for clinical work and received his medical degree in 1915.●

THE STATUS OF RECOMBINANT DNA RESEARCH

● Mr. STEVENSON. Mr. President, a year ago I cautioned the Senate not to rush legislation regulating recombinant DNA research. In retrospect, perhaps my remarks were taken too seriously. On the surface, remarkably little has changed in the interim, and the job of passing needed legislation must now await the the 96th Congress.

Additional hearings by the Senate Subcommittee on Science, Technology, and Space and the House Committee on Science and Technology have brought the total to nine separate sets of congressional hearings in 3 years. The Recombinant DNA Safety Regulation Act (S. 1217), the bill introduced by Senator KENNEDY and reported by the Human Resources Committee in July 1977, is still on the Senate Calendar. Although a substitute amendment has been introduced, no further action has been taken.

Earlier in the current session, the House Commerce and Science and Technology Committees reported with minor differences the Recombinant DNA Act (H.R. 11192), introduced by Congressmen ROGERS and STAGGERS; but it has not been brought to the House floor. Secretary Califano, in the meantime, has confirmed his Department's opposition to using existing Public Health Service Act authority to apply the National Institutes of Health research standards to recombinant DNA activities in the private sector. The proposed NIH guideline revisions, originally published in September 1977, are still under consideration by HEW.

In many respects, the appearance of inactivity is misleading. In the past year a great deal of progress has been made in both the politics and the science of recombinant DNA. Although these developments have not obviated the need for congressional action, legislation must take into account the circumstances that now prevail.

The enormous power of the technology has been amply demonstrated, not only in increasing understanding of basic biological phenomena but also in producing what are likely to be useful products. The number of NIH research projects using recombinant DNA techniques has more than doubled to nearly 500, even under restrictions that many scientists consider excessive.

There have been additional experiments to assess the possible risks of recombinant DNA work to human health, as well as discussions of these and other environmental risks among a wider range of biological and health scientists. Taken

together, the results of these experiments and conferences have diminished somewhat the original concerns of scientists that led to the voluntary moratorium on certain experiments, the Asilomar Conference in 1975, and the issuance of the NIH guidelines in 1976. These new judgments are reflected in the changes in the standards proposed by NIH and now in the final stage of HEW review.

The debate over safety continues, but it is better informed and much less emotional. The serious issues are more procedural than substantive. Sponsors of the House and Senate bills seemingly remain divided over the question of Federal preemption, but there is less anxiety in the academic and industrial communities about excessive and inconsistent regulation by State and local governments.

The November 1977 hearings of the Subcommittee on Science, Technology and Space revealed a surprising degree of consensus about the elements of a regulatory system applicable to both public and private activities and commensurate with the remaining uncertainties about the safety of the research. The subcommittee has summarized this consensus in a report, "Recombinant DNA Research and Its Applications," published in August 1978. The report also includes the first systematic effort to examine the issues that are likely to arise in the regulation of large-scale commercial applications of recombinant DNA techniques. Certain commercial developments appear to be more imminent than even the subcommittee's most optimistic witnesses predicted less than a year ago.

SCIENTIFIC DEVELOPMENTS

Recombination enables researchers to isolate discrete segments of DNA and to reproduce the genetic material in pure form and sufficient quantity to permit detailed molecular analysis. It is no exaggeration to say that capability has proved invaluable in increasing understanding of genetic structure and functioning in higher organisms. The Environmental Impact Assessment accompanying the proposed revised NIH guidelines describes some of what has been learned in this regard. I ask unanimous consent that excerpts from this discussion be printed at this point in the RECORD:

The material follows:

IMPORTANT RECENT ACHIEVEMENTS IN RECOMBINANT DNA RESEARCH

It was anticipated that the ability to excise, isolate, and amplify specific segments of DNA from higher organisms would provide an unprecedented opportunity to study the structure of eukaryotic genomes and to correlate the results with concepts of how they evolved and are regulated. Recent work has yielded much more. Indeed, some of the genomic structures discovered through use of recombinant DNA techniques have occasioned a substantial reassessment of several major paradigms of molecular biology.

Many of the initial studies using recombinant DNA techniques focused on DNA sequences that are repeated in the genomes of eukaryotes. In some instances, these repeated sequences specify an RNA product, such as ribosomal RNA, or fulfill a function as yet unknown—for example, the sequences called "satellite" DNA. The organization of such sequences is being examined extensively with recombinant DNA techniques.

The genes that specify ribosomal RNA are repeated in the eukaryotic genome several hundredfold. It has been known for some years that in a variety of species, such as the frog *Xenopus laevis*, these genes are arranged as a series of tandem repeats. Each set of ribosomal genes is separated from its neighbors by regions of DNA, of varying length, that are not transcribed. Cloning of several of these nontranscribed, or "spacer," regions has allowed analysis of the manner in which they are related to one another and proposals of evolutionary mechanisms by which they may have arisen.

Moreover, the availability of these cloned DNA sequences has made it possible to localize the DNA site at which the transcription of the ribosomal genes is initiated. The exact DNA sequence at this site is being determined. Such information will further the understanding of the mechanisms that regulate gene expression and the construction of new host/vector cloning systems.

Many of the basic concepts of molecular biology have had to be based upon work on prokaryotes. These concepts have influenced the interpretation of data on the structure and possible mode of functioning of the eukaryotic genome. Recombinant DNA technology, however, has allowed the structure of the genomes of higher organisms to be examined in a manner previously restricted to studies on bacteria. Some of the results have upset earlier assumptions. For example, the cloning of eukaryotic DNA sequences that specify the proteins β globin, ovalbumin, and immunoglobulin has demonstrated that certain basic facts of DNA organization in prokaryotes are not applicable to eukarvotes. The major new finding of "intervening" sequences in these higher forms may provide an explanation for the cause of the hereditary disorder, β^+ thalassemia. It also demands a reconsideration of the basic mechanisms of differentiation and evolution.

The work on immunoglobulin has shown that the DNA sequences that encode two different regions of an immunoglobulin polypeptide are widely separated in germ-line cells. During differentiation, these DNA sequences move closer together but do not become contiguous. Detailed examination of DNA fragments has resolved one of the fundamental and longstanding puzzles of immunology. Very recent data indicate that the intervening sequences found in the gene for ovalbumin differ from individual to individual, indicating that genetic variability may occur within a species to an extent not previously imagined.

Mr. STEVENSON. Work has begun, according to NIH, on the cloning of certain nitrogen fixation genes. Introduction of these genes into food plants might reduce the dependence of world agriculture on energy-intensive fertilizer production. Researchers have already successfully introduced and cloned in bacteria the DNA sequences which code for various animal proteins including insulin and somatostatin. In at least three instances in the past year, gene expression was achieved and small quantities of the hormones were obtained. These experiments involved somatostatin, a mammalian protein that acts as an inhibitor to the production of glucagon and insulin and to the pituitary gland's release of hormones regulating body growth; rat proinsulin, the precusor of insulin; and, most importantly, human insulin.

In both the somatostatin and human insulin experiments, scientists chemically synthesized the genes that they inserted into the bacteria and thus avoided the difficulty of isolating the precise DNA sequences from the exceedingly complex mammalian genome. Efforts to locate, clone, and express the natural gene which codes for human insulin are also underway, however. Whichever method proves more efficient, extensive testing and refinement will be required before genetically engineered insulin will be available to diabetic patients; but it could turn out to be a less expensive source of the hormone in a form that eliminates allergic relations to insulin derived from animals.

In the meantime, evidence has accumulated that points to a high level of safety in the use of E. coli K–12, the weakened bacterial host cell employed in most current recombinant DNA experiments. At an NIH–sponsored meeting in Falmouth, Mass., in June 1977, a group of microbiologists and epidemiologists reviewed a variety of data bearing on the survivability of K–12 and its convertibility by laboratory manipulation into a new epidemic pathogen.

They reviewed experiments showing that K–12, when ingested, soon disappears from the human intestine, the natural environment of other E. coli strains. In addition, repeated attempts have failed to induce virulence in K–12 by inserting genes known to regulate the virulence of certain wild E. coli strains. It was the consensus of the Falmouth participants that K–12 lacks the genetic capability to become pathogenic and is easily destroyed by normal chemical activities in the intestine.

A few scientists have suggested that K–12 containing recombinant DNA may nonetheless survive long enough to transfer harmful genetic material, such as drug-resistant plasmids, to wild E. coli. As yet there is no evidence that transmission of recombinant DNA molecules would be harmful and some evidence that it does not occur. Moreover, further enfeebled K–12 variants and essentially nontransferable plasmids vectors have been developed and approved by the NIH for use in the experiments requiring higher than minimal containment levels.

Early this year a joint American-European workshop at Ascot, England, also sponsored by NIH, considered the risks of inserting the DNA of plant, animal, and insect viruses into E. coli K–12. The participants concluded that such experiments could pose no more danger of producing disease than work with the viruses themselves, provided that at least P2–EK1 containment measures and high quality microbiological techniques are followed. Indeed, the group surmised that cloning in E. coli K–12 "may provide a unique opportunity to study with greatly reduced risks the biology of extremely pathogenic and virulent viruses."

A number of agricultural scientists, convened in March by the Department of Agriculture, National Science Foundation, and NIH, reported a similar consensus that the cloning of DNA from plant pathogens in E. coli K–12 poses no special hazards to plant life and that the present NIH containment standards for such experiments are therefore unjustifiably high.

Together with the supposition that self-cloning experiments and laboratory recombinations that are known to occur regularly in nature present no new

risks, these data and judgments represent the basis of the revised standards proposed by NIH. The new guidelines would generally lower the physical and biological containment requirements for experiments with E. coli K–12, for the use of viruses as vectors and as a source of DNA for insertion into K–12, and for plant DNA recombinations in E. coli. In addition, the proposed guidelines would exempt entirely from regulation five classes of activities that are assumed to pose no risk. These include the handling of "naked" DNA outside a host organism or virus, rearrangement of or deletions from nonchromosomal or viral DNA, the insertion of DNA into its natural host (self-cloning), recombinations that are subsequently shown to be safe, and recombinations involving pairs of organisms that are known to exchange DNA in nature. An initial list of natural exchangers is included in the proposed revised guidelines and will likely be expanded as knowledge grows. In a few other respects, the standards will be tightened, for example by prohibiting mouth-pipetting at the lowest (P1) as well as higher (P2–P4) physical containment levels.

POLITICAL DEVELOPMENTS

Reactions to the proposed changes have ranged from outright opposition to any relaxation of the NIH standards to insistence that regulation, in the absence of confirmed hazards, is no longer justified. These are the extremes, however. The new guidelines appear to have the support of a large majority of scientists who believe that they will permit even more rapid progress in recombinant DNA research but under appropriate safeguards that reflect a great many unknowns about future uses of the technology and their possible health and environmental effects.

Criticisms of the changes have focused less on the research itself than on NIH procedures for revising and administering the guidelines. There is concern that NIH further clarify the standards for lowering containment requirements and granting exemptions, provide for adequate scientific and public examination of the supporting evidence and judgments, require broader representation on institutional review and Federal advisory committees, and insure the accountability of institutions and investigators conducting the research.

The reactions from both sides of the recombinant DNA debate are encouraging. Scientists engaged in the research appear prepared to accept reasonable regulation for the foreseeable future. Public interest advocates seem willing to accept reasonable relaxation of the regulations. Especially at the local level, further confrontations are unlikely.

A year ago the issue of State and local regulation of recombinant DNA research was both a major impetus and the main obstacle to Federal legislation applying the NIH standards to privately supported research activities. In testimony to our subcommittee last November, the past president of the American Society for Microbiology stated,

It is our fear that we will see a patchwork of conflicting laws regulating microorganisms which recognize no political or geographical boundaries . . . Excessive and variable restrictions would increase the cost of recombinant DNA research and could lead, in many cases, to abandonment of such research.

The president of the Pharmaceutical Manufacturers Association agreed,

A proliferation of State or local laws and regulations would probably not increase safety, but it could seriously impede the development of the potential benefits of this new technology.

Public interest group representatives were equally insistent that States and localities continue to be permitted to regulate as an avenue for public participation and outlet for suspicion and opposition.

The fact is that public opposition to the research has virtually disappeared as confidence has grown that the Federal standards afford adequate protection of health and the environment. Stanford Prof. Paul Berg proved correct when he suggested to the subcommittee that:

The worst that can happen is that a community will say that we want everything to be done under the NIH guidelines.

With few exceptions, States and communities have not directly or effectively prohibited experimentation or imposed containment requirements exceeding those of NIH. The recent New York State law, adopted in February, is typical; it requires all institutions to comply with sections II (Containment) and III (Experimental Guidelines) of the guidelines as issued in 1976 or as revised.

Since 1974, a great many scientists have come to doubt their own wisdom or that of their colleagues in questioning the safety of recombinant DNA research and making it a public issue. This attitude is both regrettable and largely unfounded. Scientists should derive a great deal of satisfaction from the recent course of events. Congress has not passed restrictive legislation of the sort once contemplated. States and communities have acted responsibly. Research proceeds at an increasingly rapid and productive pace. Most importantly, the recombinant DNA debate has been exceedingly instructive for dealing with future technologies promising significant scientific and social benefits but possible at some risk.

FUTURE LEGISLATION

The question remains whether enactment of Federal legislation is still advisable, primarily to bring privately supported research within the scope of the NIH guidelines. Let me explain why I believe that Congress should act.

First. In spite of increasing confidence in the safety of current recombinant DNA research, the cautious approach that has been taken to the use of this technology is reasonable and will continue, whether or not there is legislation. The failure in the past several years to observe any case of illness or other harm does not prove the safety of all recombinant research; it merely tends to support the consensus that permissible experiments conducted on the whole under prescribed physical and biological containment standards do not pose a significant risk. By the same token, activities under the revised guidelines must be monitored in order to determine the correctness of the judgments on which they are based. For example, NIH observes in its Environmental Impact Assessment:

Few recombinant DNA experiments have been conducted with viral DNA, since the overly stringent containment levels of the current guidelines greatly inhibited their use. Under the (proposed revised guidelines), such work would be carefully monitored to insure that any new information on safety or risk were quickly reviewed and any appropriate amendments to the guidelines were made.

And further:

The (proposed revised guidelines) focus on areas of experimentation that need special attention for the possibility of potential hazard. Work in progress that is expected to yield valuable new information will need to be monitored—for example, experiments in which "engineered" systems should permit intentional expression of genetic functions. The current revisions intend to remove as a focus of attention the type of project that does no more than mimic nature and to permit serious attention to new developments that would further the expression of new genetric functions.

Both the workshop on viruses and the workshop on agricultural pathogens noted areas of ignorance about the possible effects of certain experiments even with E. coli K–12 and for that reason urged further investigation. Results of the important risk-assessment experiments with polyoma virus being conducted at the NIH P–4 facility at Fort Detrick have yet to be published. Subject to unusual case-by-case exceptions, the proposed guidelines retain the prohibitions on certain presumably hazardous categories of experiments, the release into the environment of organisms containing recombinant DNA, and the production of certain large cultures.

Future research, moreover, will not be confined exclusively or perhaps even primarily to E. coli but may involve cloning in a variety of organisms such as soil microbes, lower eukaryotes, fungi and yeast. NIH concedes that knowledge of their characteristics is inferior to the information acquired over many years about E. coli.

It may be necessary to devise entirely new criteria in order to evaluate the safety of these new system. The Director of NIH assures us nevertheless, that the "same considerations of safety and risks associated with the use of E. coli K–12 will also apply to any new host-vector system to be certified." In other words, Federal review, approval, and monitoring of the use of new host-vector systems will be necessary for the foreseeable future, even if physical containment procedures eventually become routine practice as a result of training and habit and other requirements of the guidelines are dispensed with on the basis of new evidence.

A more thorough program of risk assessment is needed. but it cannot establish once and for all that recombinant DNA research is without risk. Such knowledge will be acquired gradually over the course of years, and it will require Federal support of a substantial research effort simply to keep pace with the development of recombinant DNA

techniques. As Dr. Frederickson observed in his introduction to the revised guidelines:

It is not the time to conclude that (the guidelines) are being altered in preparation for their early abandonment. Understanding of gene regulation is increasing inexorably and at an awesome pace. We may predict that ways will be found to achieve and control the translation of foreign genes by a variety of hosts . . . In some proportion to the harvest of positive results, a capability must be maintained for observing any capacity of these experiments to yield harmful products.

Second. In these circumstances, it is no less anomalous now than it was a year or two ago to restrict one class of researchers but no another, merely on the basis of their location and source of funds. Moreover, the alternatives to new legislation are deficient or have been rejected.

For a brief time this year there was a revival of interest in using existing statutory authority, specifically section 361 (Control of Communicable Diseases) of the public Health Service Act, to regulate research in the private as well as public sectors.

In June I joined several members of the Human Resources Committee in inquiring whether, in view of recent scientific developments and the heavy congressional agenda, HEW would reconsider its reluctance to invoke section 361. After an inordinate delay, Secretary Califano replied in September that he would do so only in the unlikely event of a demonstrated emergency. There remains some question whether the Food and Drug Administration will require a firm seeking the agency's approval of the end product of recombinant DNA research to certify that it has complied with the guidelines; but it is clear that such action, though useful, will not suffice to put all research activities on the same regulatory footing.

In the meantime, NIH proposes to extend the guidelines' coverage to privately supported research in institutions receiving NIH funds for recombinant DNA work and to establish a voluntary system under which industry can register projects and consult with NIH. Both are steps in the right direction, but voluntary registration does not invalidate the conclusions of the subcommittee's report that "a program of voluntary compliance by the monitoring of industrial research activities is insufficient." In recognition of industry's concern about the disclosure of trade secrets, the new guidelines advise firms to "consider applying for a patent before submitting information to DHEW." So long as the patentability of RDNA products is in doubt, companies may be reluctant to register even completed experiments.

Third. So far those private companies which have acknowledged that they are sponsoring or conducting recombinant DNA research have agreed informally to comply with the guidelines' prescriptions. But voluntarily adherence will become increasingly problematic as the research proliferates, more positive results are achieved, and the line between research and development is crossed.

As I noted earlier, NIH would continue to ban the production of certain cultures in excess of 10 liters and the release of recombinant DNA organisms into the environment, although specific exceptions could be made for experiments in institutions subject to the guidelines. Industry will have a greater interest than academic researchers in conducting developmental activities but may be deterred by proprietary considerations from full participation in voluntary registration. Even if a company agreed to inform NIH of all research and development projects, there is no provision in the revised guidelines for granting it an exception to the prohibitions.

The problem is not merely theoretical. In recent comments on the new guidelines, Eli Lilly Co. states:

Recombinant DNA technology is progressing rapidly from a laboratory phenomenon to developmental activities. The necessity for conducting scale-up experiments (greater than 10-liter volumes) is imminent.

Further, Lilly urges that procedures for providing NIH with information about private recombinant DNA activities not "subject the participants to a possible loss of confidential information and consequent competitive disadvantages through Freedom of Information requests." Lilly's concerns about the status of its activities under the revised guidelines are reasonable. It seems to me that the only satisfactory way to resolve these problems, as well as to insure compliance with the guidelines, is to apply the rules universally and uniformly.

Fourth. In addition to placing similar obligations on all researchers, legislation is needed to achieve effective implementation of the standards. Authority to regulate recombinant DNA research should be vested in the Secretary of HEW and responsibility for monitoring and enforcing compliance should be delegated to an appropriate agency of the Department apart from NIH. The NIH Director himself has stated repeatedly that there is "an inherent conflict of interest" in the Agency's both sponsoring research and acting as its "policeman." The NIH Office of Recombinant DNA Activities lacks adequate staff to perform this necessary oversight function.

And NIH's lack of experience in regulatory activities is indicated by the ambiguity of the guidelines' procedural provisions, by their failure to establish clearly the responsibilities of institutions, institutional committees and investigators, and by the absence of any mention of procedures to investigate and correct violations. While the proposed revisions make some improvements in administrative procedures, they retain or create a number of serious ambiguities and weaknesses. In the letter to Secretary Califano which follows this statement, I have recommended that HEW correct these problems before the new guidelines become effective. In the long run, however, the solution is to relieve the National Institutes of Health of the administrative burden and permit them to devote their considerable resources to standard setting.

For these reasons, I am pleased that Secretary Califano, according to his letter of September 12, continues to support moderate legislation. In January I will introduce a bill incorporating the elements suggested by HEW as well as other recommendations of the Subcommittee on Science, Technology and Space. These include provisions clarifying the authority of the Secretary, facilitating the issuance of administrative regulations, permitting exemptions for activities that pose no significant risk, instituting uniform national standards while allowing States and localities to take other actions to assure their citizens that the Federal regulations are being observed, and insuring the accountability of institutions and investigators conducting research.

I trust that we will have the active and sustained support of the Executive in passing such legislation early in the next session. The issue of recombinant DNA research is too important to accept an abdication of responsibility by either branch. Next year we have the obligation to conclude this important science policy debate by taking moderate, informed, and constructive action.

I ask unanimous consent that Secretary Califano's letter of September 12, my reply and recommendations for changes in the proposed guidelines be printed at this point in the RECORD.

The material follows:

THE SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., Sept. 12, 1978.

Hon. ADLAI E. STEVENSON,
Chairman, Subcommittee on Science, Technology and Space, Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C.

DEAR ADLAI: Thank you for your letter in which you have raised a number of thoughtful questions concerning the need for legislation to regulate recombinant DNA research.

As you state in your letter, new scientific information, particularly on the safety of *E. coli* K–12 (the principal organism used in these experiments), indicates that extensive regulation in this research area may be unwarranted. Indeed, there is additional evidence that many recombinant DNA manipulations in the laboratory may be similar to events that occur in nature.

In view of these scientific developments, you raise the question as to whether legislation is necessary or whether existing statutory authority would be sufficient for purposes of regulation. You cite specifically the regulatory authority of the FDA and of the Public Health Service Act (Section 361).

The Department does not intend to invoke existing statutory authorities to regulate DNA activities at this time. If an emergency were to occur before passage of legislation, the Department could reconsider this position in order to take action on an interim basis. But, we continue to support legislation if it embodies the moderate approach of H.R. 11192. The virtue of such legislation is that it may include a number of specific provisions that permit useful flexibility in implementing regulations. Such provisions include:

The promotion of uniform national standards;

Clear authority for the Secretary in relationship to other Federal laws;

Avoidance of normal administrative procedures for initial application of NIH Guidelines and waiver of the Administrative Procedures Act (APA) for issuance of administrative regulations; and

Authority for the Secretary to waive regulatory requirements for activities that pose

no significant risk to health or the environment.

In recommending legislation, the Federal Interagency Committee on Recombinant DNA Research reviewed all existing statutory authority and found that none could provide for comprehensive regulation of these activities. The Interagency Committee noted that under Section 361 "there would presumably have to be a reasonable basis for concluding that the products of all recombinant DNA research cause or may cause human disease. Such a conclusion would undoubtedly be tenuous at best, and it is unlikely that resulting requirements could be effectively imposed and enforced."

Your letter suggested that we seek a legal opinion from the Department of Justice on the use of Section 361. Justice is represented in the Interagency Committee and has participated in the review and recommendations concerning existing statutory authorities, including Section 361.

The authorities of the Food and Drug Administration (FDA) were reviewed by the Committee; but inasmuch as recombinant DNA research has not yet reached the stage where it has yielded products to be regulated by FDA, it was agreed that FDA probably does not have authority to impose requirements on such research at present.

On July 28, the Department published proposed revisions to the Guidelines on recombinant DNA research for 60 days of comment. In addition, I have asked General Counsel Peter Libassi to serve as Chairman and Dr. Donald Fredrickson as Vice Chairman of a September 15 public hearing on these proposed revisions. Analysis of written and oral comments will proceed as quickly as possible, with final issuance of the revised Guidelines expected before the first of December.

A number of proposed changes in the Guidelines would permit, on a voluntary basis, registration of activities and NIH certification of new host-vector systems from the private sector. Protection would be provided for proprietary and patent information for these private sector activities. Registration of recombinant DNA projects, irrespective of source of funding, would be required of institutions receiving NIH support for recombinant DNA research. By these means, a national registry of all Federal and private sector activities may evolve.

The Interagency Committee has been an invaluable forum for developing coherent and coordinated policies through the representation of all the relevant research and regulatory agencies, and has served to ensure a commonality of standards. This Committee should continue to provide such oversight for the development of Federal policies and to ensure institutional compliance with the NIH Guidelines. Other advisory committees, both technical and public, must continue. The Recombinant DNA Advisory Committee will have a continuing role, and as you suggest in your letter, the public Advisory Committee to the Director, NIH, should continue to consider recommendations from the technical group.

The NIH and the Center for Disease Control (CDC) will continue to work closely as they have done over the past 18 months concerning safety aspects of the Guidelines. For example, NIH, in conjunction with CDC, has been developing mechanisms for assisting institutions in managing possible laboratory emergencies and for providing direct assistance when appropriate. Indeed, NIH and CDC are collaborating in a revision of the CDC Classification of Etiologic Agents on the Basis of Hazards—a classification that underpins some of the safety requirements of the Guidelines. Also, these agencies are reviewing packaging and shipping requirements relevant to recombinant DNA activities.

Close cooperation and consultation with the Food and Drug Administration and the Environmental Protection Agency will also be essential, since the regulatory authority of these agencies will come into play when recombinant DNA research inventions are ready for commercial development. The Occupational Safety and Health Administration will exercise its regulatory authority in the workplace.

We are pleased with the progress made in the absence of legislation and believe that invocation of existing authorities, however appropriate, would not contribute materially to our objectives. Only passage of legislation embodying the features cited here would, in our opinion, justify the change from a voluntary to a regulatory approach. Should the Senate choose to act, I would strongly urge adoption of an approach similar to H.R. 11192.

Sincerely,

JOSEPH A. CALIFANO, Jr.

U.S. SENATE,
Washington, D.C., October 13, 1978.

Hon. JOSEPH A. CALIFANO,
Secretary, Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: I have received your reply of September 12 to the June 1 inquiry of several Senators regarding the use of existing statutory authorities, especially Section 361 of the Public Health Service Act, to regulate recombinant DNA research. I am writing to support your call for new legislation and to recommend several changes in the proposed revised NIH guidelines.

As you know, the Senate Subcommittee on Science, Technology and Space recently issued an oversight report, "Recombinant DNA Research and Its Applications," in which the majority observed that, in view of the nature of the concerns about recombinant DNA techniques and the history of Section 361, the absence of evidence that the products of the research can cause human disease is not a conclusive argument against the use of that authority. Neither your reply nor the March 1977 report of the Federal Interagency Committee on which you rely addresses these points. Nevertheless, I respect your desire for a specific legislative mandate and accept your decision not to invoke Section 361 except in the unlikely event of a demonstrated health emergency.

I find more puzzling your observation that the Food and Drug Administration does not have the authority to impose any requirements on recombinant DNA research since it has not yielded any products subject to FDA regulation. In your letter to me of February 27, 1978, you stated that FDA ". . . could, under existing authority, require any firm seeking approval of a product which may be the end product of recombinant DNA research to certify to the Agency that it has complied with the NIH guidelines on recombinant DNA." While FDA may not be able to monitor research in progress, such regulations as you described in your earlier letter would at least put firms on notice that noncompliance with the guidelines would be grounds for the agency's withholding approval of a product of that research.

The recent successful laboratory production of human insulin by recombinant DNA techniques, although far from commercialization, suggests that the time is appropriate to issue these regulations, as do the comments of Eli Lilly Company to Dr. Fredrickson on the proposed revised guidelines. Lilly states, "Recombinant DNA technology is progressing rapidly from a laboratory phenomenon to developmental activities. The necessary for conducting scale-up experiments (greater than 10-liter volumes) is imminent."

The fact remains, however, that FDA action will not suffice to put all recombinant DNA research on the same regulatory footing. The provision of the proposed revised guidelines which would extend their coverage to privately supported research in institutions receiving NIH funds for RDNA work is a significant step in that direction, although, as I suggest in my comments on the revisions, it should be broadened to include all recombinant DNA research at institutions receiving any NIH funds.

Presumably, this extension of the guidelines' coverage will encompass some but not all of the research supported by Federal agencies other than NIH. You state in your letter that the Interagency Committee has "served to insure a commonality of standards" among Federal agencies sponsoring recombinant DNA research, but it is my understanding that the Committee has not met in nearly a year. The Federal Register documents relating to the proposed revised NIH guidelines contain no indication that such agencies as the Departments of Energy and Agriculture, the Veterans Administration, and the National Science Foundation are prepared to adopt the revisions and require compliance with them. A survey of these agencies by the Subcommittee indicated that their procedures for monitoring compliance with the 1976 guidelines vary enormously; some have procedures comparable to those of NIH while others rely on informal assurances by investigators. In the case of the Department of Energy, responsible agency officials were not even aware when I wrote in March of recombinant DNA projects that were under way in a national laboratory under the Department's jurisdiction. Before the final revised guidelines are issued, I urge you to obtain the agreement of these agencies to follow the review procedures for NIH grantees, including requiring submission of the appropriate information to the Office of Recombinant DNA Activities.

The proposed voluntary registration system is a useful but limited addition to the guidelines. It will facilitate consultation between NIH and private sponsors of research, but apparently it does not resolve their concerns about the disclosure of proprietary information. Indeed, Section IV–C–4 of the revisions encourages private firms to "consider applying for a patent before submitting information to DHEW."

The willingness of companies to register even completed research projects may depend on further judicial or legislative clarification of the patentability of RDNA products. In general, I do not believe that the proposal invalidates the conclusion of the Subcommittee's report that "a program of voluntary compliance by and monitoring of industrial research activities is insufficient."

Primarily, for this reason, I am pleased that the Department continues to support "moderate" legislation. It is unfortunate that many in Congress drew the opposite inference from your delay in responding to our request for a prompt reply to our inquiry concerning Section 361 of the Public Health Service Act. Although some differences remain, it seems to me that there is general agreement on most of the elements of legislation enumerated in your letter. The Subcommittee's report endorses provisions clarifying the authority of the Secretary, facilitating the issuance of administrative regulations, and permitting exemptions for activities that pose no significant risk; and it advances a reasonable compromise on the issue of Federal preemption. I hope that we will have your support in passing such legislation early in the next session.

Let me explain why I believe that legislation is still advisable. It is true and, indeed, encouraging that the original concerns about possible health and environmental hazards associated with recombinant DNA techniques have diminished. This is primarily the result of recent scientific investigation and discussions among a wider range of biological and health scientists rather than failure to observe any case of illness or other harm. The latter merely tends to support the con-

sensus that permitted activities conducted on the whole under prescribed physical and biological containment standards do not pose a significant risk. Be that as it may, the cautious approach that has been taken to the use of this technology is reasonable and it will continue whether or not legislation is passed. As Dr. Fredrickson observed in his introduction to the revised guidelines:

"It is not the time to conclude that (the guidelines) are being altered in preparation for their early abandonment. Understanding of gene regulation and expression is increasing inexorably and at an awesome pace. We may predict that ways will be found to achieve and control the translation of foreign genes by a variety of hosts. . . . In some proportion to the harvest of positive results, a capability must be maintained for observing any capacity of these experiments to yield harmful products."

With adequate training of investigators and laboratory personnel, physical containment procedures may become routine practice, and other requirements of the guidelines may be dispensed with on the basis of new evidence; but some degree of Federal regulation will be necessary for the foreseeable future. I refer, for example, to the certification and monitoring of the use of host-vector systems. NIH anticipates applications for a variety of organisms other than *E. coli* K–12 and concedes that knowledge of their characteristics is inferior to the information acquired over many years about *E. coli*. It may be necessary to devise entirely new criteria in order to evaluate the safety of these new systems. Yet Dr. Fredrickson assures us that "the same considerations of safety and risk associated with the use of *E. coli* K–12 will also apply to any new host-vector system to be certified in the future." Subject to unusual case-by-case exceptions, moreover, the proposed guidelines retain the existing prohibitions on certain presumably hazardous categories of experiments, the release into the environment of organisms containing recombinant DNA, and the production of certain large cultures. In spite of suggestions that the burden of proof has shifted to those who would restrict the research, the revised guidelines are on the whole consistent with the present policy of imposing safeguards unless there is strong evidence that the activities pose no significant risk. As the Subcommittee's report points out, such evidence will be acquired gradually, over the course of several years.

In these circumstances, it is no less anomalous now than it was a year to two ago to restrict one class of researchers but not another, merely on the basis of their location and source of funds. Furthermore, voluntary adherence to the guidelines' prescriptions will become increasingly problematic as the research proliferates, more positive results are achieved, and the line between research and development is crossed. Far from obviating the need for any regulation, the progress that is being made in recombinant DNA research underscores the importance of universal standards uniformly applied.

The adoption of new NIH guidelines representing a more informed assessment of risks should facilitate action on legislation. My impression is that overall the proposed revisions represent a considerable advance in comprehensiveness and specificity over the present guidelines and that they will permit further progress in recombinant DNA research under appropriate safeguards. I commend Dr. Fredrickson, his colleagues and advisers for their efforts.

On the other hand, the proposed guidelines retain or create some ambiguities and weaknesses, particularly with respect to administrative procedures, that should be corrected. Fearful of "the heavy tax of formalism," Dr. Fredrickson has endeavored to retain as much discretion as possible in administering these regulations. Flexibility is important in a rapidly changing field of research, but the revisions reflect too little regard for accountability and predictability. I believe that the changes recommended in the attachment will further reduce public controversy and uncertainty among scientists and research institutions as well as promote compliance with the guidelines or with formal regulations if Congress acts next year.

Once your review committee has had an opportunity to examine these recommendations, I urge them to discuss any questions they may have with John Stewart and Steve Merrill of the Subcommittee staff.

Sincerely,

ADLAI E. STEVENSON,
Chairman, Subcommittee on Science, Technology and Space.

COMMENTS OF SENATOR ADLAI E. STEVENSON ON THE PROPOSED REVISED GUIDELINES FOR RECOMBINANT DNA RESEARCH

APPLICABILITY

The proposed guidelines would apply to "all recombinant DNA research within the United States or its territories conducted at or sponsored by an institution that receives any support for recombinant DNA research from NIH." This provision does not make maximum use of NIH's authority to condition the receipt of Federal monies and could create administrative difficulties. I suggest that the guidelines be extended to all recombinant DNA research conducted at or sponsored by an institution receiving *any* NIH funds, regardless of whether they are earmarked for recombinant DNA research.

Dr. Fredrickson precisely states the rationale for this recommendation in the "Decision of the Director":

The existence of guidelines for recombinant DNA research assumes their general application. Partial adherence within an institution would defeat the purpose of extending maximum protection to the community. Thus, *it would be inconsistent for NIH to provide funds for biomedical research activities to an institution that did not meet the standards of the guidelines in all of its recombinant DNA research*, regardless of the source of funding. (Emphasis added.)

According to an opinion of the American Law Division of the Congressional Research Service, it is highly unlikely that a court would overturn the broader condition, even on First Amendment grounds, so long as private funding is available for recombinant DNA experimentation and the application of the guidelines is relevant to the "overall objectives" of NIH funding. Furthermore, it would be much simpler to identify institutional recipients of NIH funds than to decide whether the guidelines should apply to an institution in which recombinant DNA activities, although not expressly supported by NIH, nonetheless benefit indirectly from NIH money used, for example, to purchase equipment or to pay the salaries of reseachers or technicians.

EXCEPTIONS

For the first time, the proposed guidelines would permit case-by-case exceptions to the existing prohibitions on certain categories of experiments, the release of recombinant DNA organisms into the environment, and the production of certain cultures in excess of ten liters. As Dr. Fredrickson correctly notes, "the widespread support for this authority reflects the realization that many important risk-assessment experiments may not be able to proceed otherwise." The House bill, H.R. 11192, endorses this principle as does the oversight report of the Senate Subcommittee on Science, Technology and however, go beyond the need for data to Space. The grounds for such exceptions, to assess the hazards of recombinant DNA research. The "Decision" document states that exceptions may be made for experiments for which there are "compelling social or scientific reasons, for example, risk assessment experiments." The guidelines merely state that weight will be given in the decisionmaking "both to scientific and social benefits and to potential risks."

It is, of course, the responsibility of NIH to judge the scientific merit and social value of research proposals submitted for grants or contracts. No one questions the legality or propriety of conditioning the receipt of Federal money upon agreement not to engage in certain activities that may be dangerous. So long as all possible precautions are taken, it is also reasonable to waive a prohibition if that is necessary to determine whether the judgments on which it is based are correct. But it is quite another matter to make an individual exception to a general prohibition for a researcher who manages to persuade the Recombinant DNA Advisory Committee and the Director of the surpassing importance of his or her work while perhaps refusing another researcher who fails to present as good a case.

I question whether NIH officials have thought through the implications of this provision. I suggest that exceptions be made solely on the basis of need for risk assessment until there is sufficient evidence to justify removing an activity from the proscribed list. At the very least, the standard by which applications for exceptions will be judged should be clarified and the procedures for considering such applications should be elaborated. NIH should immediately address the conditions under which exceptions to the ten liter limit should be granted. Judgments about the social benefits of research should not be left to the Recombinant DNA Advisory Committee, a largely technical group.

REVISIONS OF THE GUIDELINES

Much of the criticism of the guidelines has concerned NIH procedures for revising them. Time and again critics have charged that the Recombinant DNA Advisory Committee and the Director have relied on the opinions of a selected group of scientists rather than on experimental data in recommending the relaxation of containment standards, that important data and judgments have not been published in time to permit broad scientific peer review, that standards for decisions on containment requirements are vague, and that NIH has been reluctant to give the public opportunity to review and comment on proposed changes.

I believe that it is time to lay these criticisms to rest by clarifying the standards and specifying the procedures for changes in the guidelines. Otherwise, doubts will remain that the guidelines provide adequate protection to public health and the environment. This is particularly important if, as the Federal Register documents imply, future revisions will be largely on a case-by-case basis, that is, by exempting specific categories of experiments from any regulation, by reclassifying experiments on the basis of new evidence, and by assigning containment levels to entirely new experiments.

In each of these cases, the criteria for recommendations by the RAC and decisions by the Director should be consistent, clear, and where possible precisely stated. For example, exemptions should be made only on the grounds that the experiments pose no significant risks or at least no significant increase in risk over that present in nature.

Criteria should be specified in detail. The meaning of "DNA exchange by known physiological processes," referring to a category of exemptions, should also be defined. Serious consideration should be given to listing exchangers by species rather than genus.

The commitment simply to give "appropriate notice and opportunity for public comment" perpetuates the present uncertainties with regard to NIH procedures. The guidelines should provide for advance notice

in the Federal Register of proposals for exemptions, classifications, and reclassifications. All material relating to the proposal should be available to the public. A public comment period should be specified, and notice of the agency's action should also be published in the Federal Register. These recommendations regarding procedures and criteria apply with equal force to the certification of host-vector systems.

COMPLIANCE

The new guidelines would delegate greater but not altogether clear responsibility for approval of recombinant DNA projects and changes in those projects to institutional biosafety committees. The General Applicability section implies that any research project approved by the institutional committee may be initiated without prior NIH approval. Elsewhere, it is indicated that prior NIH approval is required except for initiation of non-NIH funded projects below the P4 level, changes in any ongoing projects below the P4 level, and single-step reductions in containment levels for experiments with purified DNA and characterized clones.

The Federal Register documents cite two reasons for this significant change—bureaucratic delays in NIH review of new projects and proposed changes in ongoing projects and neglect of other responsibilities of the Office of Recombinant DNA Activities. Compared to the importance of uniform application of the guidelines, both to protect the public and the environment and to establish common ground rules in a highly competitive research area, neither argument is persuasive.

In answer to a question posed by Senator Kennedy earlier this year, Dr. Fredrickson stated that ORDA review of original memoranda of understanding and agreement and modifications of ongoing research grants "generally is completed in two to five days." Longer delays have been occasioned by transmittal of protocols through the individual Institutes of NIH, a problem that would apparently be corrected by the proposal to relieve the Institutes of responsibility to review compliance with the guidelines. The argument that ORDA should devote more time to interpretation of the guidelines and communication with researchers suggests that there will not be prompt and thorough review of protocols which are required to be submitted after research has commenced.

Inconsistency in institutional interpretations of the guidelines seems inevitable. The director of ORDA recently indicated that as many as 15% of locally approved MUAs have contained substantive errors, including errors of classification. Dr. Fredrickson implies that this is a price that should be paid for institutional responsibility.

I do not suggest that authority to approve even minor changes in experiments should remain at the Federal level. I do recommend, however, that prior NIH approval be required wherever the appropriate containment levels may be subject to different interpretations. If no judgment is required to assign containment levels to particular experiments, institutional approval is appropriate. However, NIH should review such actions promptly and require correction of any errors within a specified period of time. The same procedures should be applied to both NIH-funded and privately-supported research projects subject to the guidelines.

Surprisingly, the Federal Register documents contain no indication that there have been two thoroughly investigated violations of the guidelines. One involved the use of a vector prior to its certification by NIH and continuation of the experiment for some time after discovery of the error. In the other case, research proceeded for several months without an approved MUA. In both instances, the institutional committees as well as individual investigators were at fault. The duties of IBCs in section IV are described in much too general terms. More detailed expectations must be realistic, however; part-time members of institutional committees are not likely to have sufficient time and motivation to monitor experiments frequently or to investigate violations thoroughly. I recommend that NIH conduct periodic audits of the conduct of institutional biosafety committees and have authority to suspend a committee with a record of bad performance. In such cases, the responsibilities of the committee would revert temporarily to NIH.

Non-trivial violations of the guidelines and accidents should be reported promptly to both the institutional committee and the Office of Recombinant DNA Activities. NIH should not rely solely on the institution to investigate an allegation of a serious violation. The guidelines should make clear that funds will be suspended or terminated if such a violation is found to have occurred. Institutions should be encouraged to develop procedures for disciplining individual offenders.

REPRESENTATION

It is important for the Director of NIH and the heads of institutions to have discretion in appointments to the Recombinant DNA Advisory Committee and the institutional biosafety committees. Nonetheless, I believe that NIH should make a more definite commitment to broader representation on these committees. The Subcommittee's report recommends that the RAC should be expanded to include members with expertise in regulatory procedures, safety and health regulation, and laboratory work. The number of lay members should be increased in view of the social implications of the research. Institutional committees should include scientists not engaged in recombinant DNA work, representatives of laboratory workers, and public members not affiliated with any institution conducting recombinant DNA research.

TRAINING

It is generally agreed that day-to-day compliance with the guidelines depends far more on training in microbiological techniques than, for example, external monitoring. The forthcoming report of the American Society for Microbiology should be extremely useful in developing general standards for training and curricula for Federally-sponsored training programs, which would not be limited to recombinant DNA research. In addition, there must be an assessment to whether investigators and technicians meet those standards. Institutional committees should be required to report to NIH periodically the qualifications of researchers and laboratory personnel. NIH, in cooperation with institutions, should develop procedures to ensure that they receive adequate training.●

EXIMBANK BILL

● Mr. McCLURE. Mr. President, I support the recommendation of the Environment and Public Works Committee to strike section 5 of S. 3077 because I believe that the provision is not necessary either to resolve the question of NEPA's present application to actions with foreign impacts or to insure that the Congress rather than the executive branch makes the fundamental choice between competing policy objectives which must be made before expanding NEPA's extraterritorial reach.

The issue underlying section 5 of the bill is whether, and if so to what extent, NEPA imposes requirements on Federal agency decisionmaking for major actions outside the United States which do not have significant impacts on this country. Mr. President, when the Environment and Public Works Committee considered section 5 of the bill, it was careful to remain neutral on the question of the extraterritorial reach of NEPA. The committee's position on section 5 should not be taken as supporting the view that NEPA already extends to such actions. Some have argued that it was the clear intention of the Congress in enacting NEPA in 1969 to require the consideration of environmental impacts on a foreign country for Federal activities, such as export activities, which have no impact on the United States. The consequences of such an intent are unambiguous. Federal agencies would be required to prepare an environmental impact statement if the export could have a significant impact on the foreign country and to weigh those impacts in determining whether to permit the export. Under this interpretation, the imposition of such requirements on Federal agencies would be automatic, without any consideration of determinations by the recipient country of the environmental acceptability of the export, possible U.S. foreign policy or trade considerations, or the views of other nations on alternative approaches to the worldwide consideration of environmental problems. Mr. President, for the reasons which follow, I cannot believe that the Congress intended such a result when it enacted the National Environmental Policy Act in 1969.

Those who would have us believe that NEPA extends to export activities affecting only a foreign nation typically point to such general phrases in the act and the legislative history as "man's activity", the "human environment", and the "health and welfare of man." I do not believe that such general references in the language of NEPA can fairly be read as requiring that Federal agencies must take unilateral action in considering the environmental effects of exports which only affect a foreign country. To be sure, NEPA is a generally-worded statute. Yet even the general provisions evidence a national focus. For example, the environmental goals set forth in section 101 of the act make frequent reference to America, our American surroundings, and our national heritage, avoiding express mention of impacts on other countries.

Similarly, the procedural requirements of section 102(2)(C), which call for the preparation of an environmental impact statement, contain no specific reference to the world environment or impacts in other countries. These requirements are the heart of the agencies' responsibility to consider the environmental effects in deciding whether to undertake a particular Federal action. If the Congress had intended to take the extraordinary step of giving these procedural requirements extraterritorial reach, it surely would have done so by express direction. This is particularly true given our awareness of a long line of decisions of the Supreme Court of the United States beginning 160

years ago with *United States* v. *Palmer*, 3 Wheat. 610 (1818), and continuing through *Foley Bros.* v. *Filardo*, 336 U.S. 281 (1949), which hold that the laws of the United States are presumed to apply only within the jurisdiction of the United States unless the Congress clearly directs otherwise. Adherence to this principle is evidenced in NEPA itself, for one provision of the act, section 102(2)(F), focuses specifically on the international aspects of environmental problems. When we intended a provision of NEPA to have extraterritorial reach, we stated this expressly. I would also note that section 102(2)(F), unlike the procedural provisions of section 102(2)(C), is carefully qualified by the need for consistency with the foreign policy of the United States, and directs "initiatives, resolutions, and programs designed to maximize international cooperation" rather than unilateral U.S. action.

In sum, I find absent from the language of NEPA the clear and unequivocal statutory direction which is required to give the provisions of section 102(2)(C) extraterritorial reach. Similarly, I find the legislative history of NEPA devoid of any express direction that the procedural requirements of the act be applied to actions which impact only on a foreign country.

Another instructive source on the extraterritorial reach of the statute is the consistent interpretation which has been given the act by Federal agency practice. Not a single Federal agency in the more than 8 years since NEPA was enacted has ever taken the position that impact statements are required where the impacts occur exclusively within another country. Even the Agency for International Development, which is touted as supporting some extraterritorial reach of the act, does not prepare impact statements for export activities affecting only a foreign country. Instead, AID has undertaken to prepare more cursory "environmental assessments" of its actions. Such assessments are nowhere to be found in the procedural provisions of NEPA itself and have evolved solely as a creature of agency practice. Nor has any court ever directly held that NEPA requires the assessment of environmental impacts in foreign countries.

Mr. President, my reading of the language of the act and its legislative history, the consistent agency interpretation of the statute, and the lack of any judicial interpretation to the contrary lead me to the firm conclusion that NEPA cannot be read as requiring Federal agencies to unilaterally review and consider in their decisionmaking the environmental effects in a foreign country of U.S. exports. I might add that the administration's proposed Executive order on the environmental effects abroad of major Federal actions provides the express determination that NEPA imposes no environmental impact statement requirements for Federal export actions, with the possible exception of actions affecting the global commons.

Mr. President, although I strongly endorse the position taken in the administration's proposed Executive order that NEPA's section 102(2)(C) requirements do not apply to export actions which affect only a foreign country, I have some reservations regarding other provisions of the proposed order. In that regard, I question the authority of the President to impose unilateral requirements on all Federal agencies for the consideration of the foreign environmental effects of U.S. export actions, and I share the views expressed by the Senator from Illinois in proposing section 5 of the bill that the Congress must have a major role in resolving the competing policy considerations associated with this question. In addition, I am concerned that U.S. agencies would be required to undertake environmental partners and competitors. I continue to believe that the Congress acted wisely in declaring in section 102(2)(F) of NEPA that the United States should engage in international cooperation "in anticipating and preventing a decline in the quality of mankind's world environment." This emphasis on international cooperation to protect the international environment also received express statutory recognition in section 407 of the Nuclear Non-Proliferation Act of 1978 enacted earlier this year. Mr. President, I believe that the administration's proposed Executive order might well provide a useful basis for further international cooperative efforts with our trading partners and competitors, and I would urge the administration to redirect its efforts toward that objective rather than the objective of unilateral action on the part of the United States.

Mr. President, the Office of the General Counsel of the Department of Defense has prepared a memorandum on the application of the National Environmental Policy Act to major Federal actions with environmental impacts outside the United States. Although this memorandum does not represent an official statement of the views of the General Counsel, the Department of Defense or the administration, I find it a thorough and authoritative discussion of the legal issues. Mr. President, I submit the memcrandum be printed in the RECORD and I urge the adoption of the Environment and Public Works Committee amendment to strike section 5 of the bill.

The material follows:

THE APPLICATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT TO MAJOR FEDERAL ACTIONS WITH ENVIRONMENTAL IMPACTS OUTSIDE THE UNITED STATES

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INTRODUCTION

This memorandum examines the question whether the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (hereinafter "NEPA") with respect to environmental impact statements apply when the environmental impacts expected from a major federal action are not within the United States. The question presented is not susceptible of a ready answer in the affirmative either from the face of the statute or from the legislative history. Under these circumstances, there is a heavy burden on those asserting the affirmative to demonstrate legal and policy reasons why NEPA should be applied overseas. This is particularly true in this case because one adverse effect of declaring NEPA to be applicable overseas would be a new and very restrictive limitation on the President's constitutional power to conduct the foreign affairs of the United States. The imposition of new restrictions by voluntary action in the Executive Branch to interpret a statute in which Congress made no express declaration of a restriction must be undertaken with great care and only if there is no reasonable basis for a contrary result. This is particularly true where, as here, the President can accomplish by Executive Order every procedural and substantive environmental protection that might be achieved through application of the statute. Every federal agency with major responsibilities for international programs has taken the position that section 102(2)(C) does not apply to environmental impacts outside the United States and has implemented international programs since the enactment of NEPA in 1969 in a manner consistent with that position. This memorandum sets out the legal and policy arguments supporting that position.

SUMMARY OF CONCLUSIONS

The question whether the environmental impact statement requirement of NEPA applies to federal actions that have environmental impacts outside the United States is a straightforward matter of statutory construction. If there is sufficient evidence that, at the time of enactment, Congress intended application overseas, then, as a matter of law, the statute should be construed to include the requirement. There are two sources of evidence with respect to congressional intent: the statute itself and the legislative history of the statute. There are also three ancillary sources usually considered in making judgments about questions of statutory construction: cases in which the courts have interpreted the statute and its legislative history, administrative actions in which federal agencies have interpreted the statute and its legislative history, and policy reasons why the statutory construction should or should not be adopted. Each of these sources has been examined thoroughly and each supports a conclusion that the environmental impact statement requirement in section 102(2)(C) of NEPA does not apply to federal actions in which the potential environmental impact occurs outside the United States.

First: the language of the Act. The threshold question is whether there is any language in the Act itself that mandates application of the environmental impact statement requirement to federal actions overseas. A close scrutiny of each provision of the Act supports a conclusion that there is not.

Congress dealt expressly with extending environmental protections outside the United States in section 102(2)(E) of the Act which provides that federal government agencies shall "recognize the worldwide and long-range character of environmental problems and where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

Nothing in section 102(2)(E) requires environmental impact statements; indeed, the expression of reliance on international consultation and cooperation would appear to preclude impact statements or any other form of unilateral action by the United States.

No section other than section 102(2)(E) deals expressly with matters outside the United States. The question, therefore, is whether the language of these other sections is consistent with a solely domestic application. Two groups of phrases have been isolated as having possible international implications. Section 101(a) contains the phrases "man and nature," "man's activity," "overall welfare and development of man," "harmony between man and his environment," and the "health and welfare of man;" and section 102(2) contains the phrase "human environment". There is no indication in the context, however, that these terms are used in any sense other than an ecological one—that is, in contradistinction to "nature." There is no support on the face of the statute for the proposition that these terms are jurisdictional or territorial, describing application to the world rather than just the United States.

Section 102(2)(C) refers to "all agencies" and "every recommendation" in mandating environmental impact statements of actions significantly affecting the environment. But nothing in this context requires a geographic interpretation of these terms. If the Act is limited to domestic effects, then these terms mean all agencies and every recommendation that affect the United States.

Each of the terms and phrases used in the Act is consistent with a wholly domestic application of the Act. For this reason, nothing in the Act itself mandates application of the environmental impact statement requirement outside the United States, and resolution of the issue of congressional intent must come from the legislative history.

Second: the legislative history. An assessment of the intent of Congress in enacting NEPA can be made from the legislative history created while the Congress was considering bills that ultimately became the Act. Substantial care must be taken in drawing conclusions from the legislative history, however, because it is the intent of the body of members that must be assessed, not just the intent of one or more individual members. Intent can be inferred from the information that was before the Congress when it voted—the record of Committee hearings, reports, and remarks of members on the floor—but the inferences must be weighted by the degree to which the information was called to the attention of the members or was relied upon by the sponsor or the Committee in presenting the bill on the floor. Obscure references within voluminous materials, as these are, will not suffice.

There are three levels on which the legislative history can be assessed, in declining order of persuasiveness: first, the extent to which the precise intent being attributed to the Congress was expressed; second, the extent to which the effects or implications of the interpretation being attributed to the Congress were presented and considered; and third, the extent to which the use of particular words by the participants can be interpreted as expressions of intent. The legislative history of NEPA is massive, including thousands of pages of materials covering the period from 1960 through 1969. Given the enormous size of the record, the conclusions from a detailed analysis of all of it are stark:

There is no statement by any witness, member, or staff contributor to written reports that there was an intent to apply the environmental impact statement requirement of section 102(2)(C) of the Act to the extraterritorial impacts of federal actions.

There is no discussion—in the hearings, in the reports, or on the floor of the House and Senate—of the unique problems in applying section 102(2)(C) of NEPA to federal activities that have environmental impacts outside the United States. No member of Congress or any person testifying at the hearings discussed the problem of acquiring environmental information from foreign countries, the effect of an "international" NEPA on United States foreign policy, or the difference between federal agencies making value choices for the United States and for foreign countries.

The use by participants in the legislative process of particular words, such as "man's environment" or "human environment" that introduce some arguable element of ambiguity into the statutory language, are in every case consistent with an intent to have a wholly domestic application of the environmental impact statement requirement.

There is, in addition, direct and substantial evidence in the record that Congress considered the international aspects of the environmental protection problem and chose to proceed by international cooperation rather than by unilateral action.

Third: The applicable case law. There are seven cases, including one decided June 8, 1978, that reach, tangentially, the issue of the application of the environmental impact statement requirement outside the United States. All seven of the cases leave the question open. Any inference drawn from these cases that in the future a court might apply the impact statement requirement outside the United States is made highly speculative by the rule of statutory construction that United States law applies only within the territory of the United States unless the Congress specifically provides otherwise. This rule has not been considered fully in the decided cases because the issue has not been raised in a fact situation that required it. It is evident from the face of the statute and the legislative history that Congress did not specifically provide for extraterritorial application of section 102(2)(C) and that the courts will therefore likely defer until the Congress acts definitively.

Fourth: Administrative action subsequent to enactment of NEPA. Like the courts, federal agencies also must interpret the statute when an issue of requirement for compliance is presented. These interpretations are entitled to some weight in construing the statute. Shortly after NEPA was enacted, federal agencies with programs having environmental impacts began to issue regulations implementing NEPA. Two of the major agencies that conduct programs outside the United States, the Department of Defense and the Department of State, expressly rejected application of the environmental impact statement requirement to their activities in foreign jurisdictions. Other agen-

cies promulgated regulations only for domestic programs and, in practice, did not implement NEPA overseas.

Fifth: Important policy considerations. There are important policy considerations that support an interpretation that the impact statement requirement of NEPA does not apply to impacts outside the United States. This interpretation preserves the present flexibility that the President has to conduct the foreign affairs of the nation without the delay, breach of confidentiality, and possible disruptive litigation that would result if section 102(2)(C) of NEPA were held to apply. This interpretation also voids three substantive harms: the harm to the foreign relations of the United States that likely would occur if sovereign nations believed the United States were imposing its environmental values and environmental choices on actions totally within their jurisdiction; the substantial additional costs and increased inflationary pressure that would result from an imposition of the environmental impact statement requirements across-the-board with respect to foreign programs; and the competitive disadvantage that would be suffered by American exporters who require export licenses if the impact statement requirement were applied to the issuance of those licenses. This interpretation also avoids a meaningless exercise to impose the form of a statutory requirement where its objective cannot be attained. It recognizes that useful environmental impact statements cannot be developed for actions that have environmental impacts outside the United States without information often unavailable to the United States. Finally, there is no legitimate environmental objective that cannot be achieved by the President in the exercise of his powers totally outside the NEPA context. The legislation does not make available any otherwise missing element of either procedure or substance.

For these reasons it is concluded that Congress did not intend, and the Administration should not voluntarily extend, application of section 102(2)(C) of NEPA to major federal actions that have significant environmental impacts outside the United States.

I. The statutory language is consistent with a congressional intent that the environmental impact statement requirement of NEPA applies only to actions that have impacts within the United States

There is no clear mandate on the face of the statute for application of section 102(2)(C) [1] to federal activities that have environmental impacts outside the United States. Several arguments have been constructed with respect to the use of particular words or terms in the statute as indicating a congressional intent to apply the impact statement requirement outside the United States, despite the lack of any clear mandate. Upon closer examination, however, those uses are all consistent with limiting the impact statement requirement to domestic environmental impacts.

A. References to "man" and "man's environment" do not contradict the domestic orientation of the statute.

Section 101 of the Act includes a broad statement of national policy, a slightly more specific statement of six goals of the federal government in fulfillment of the broad policy, and a recognition of individual environmental rights and responsibilities. The policy statement in section 101(a) is a complex sentence of 134 words that can be reduced to the following essentials:

The Congress . . . declares that it is the continuing policy of the Federal Government . . . to use all practical means . . .

1. to create and maintain conditions under which man and nature can exist in productive harmony, and

2. [to] fulfill the social, economic and other requirements of present and future generations of Americans.

The statute sets out a domestic policy rather than an international or foreign policy. The beneficiaries of the national environmental policy are the citizens of the Nation—present and future generations of Americans. The use of the term "man" in the first clause of the policy does not appear to have a political or jurisdictional meaning (in the sense of including Germans, Africans, Chinese, and Russians as well as Americans); rather, the term is a biological one, used in contradistinction to "nature." By creating conditions in the United States that will foster a harmonious relationship between the species of man and the rest of nature, present and future generations of Americans will be better able to fulfill their social, economic, and other needs.

Similarly, the references to "man's activity" and the "overall welfare and development of man" in section 101(a) and the references to the "harmony between man and his environment" and the "health and welfare of man" in section 2 of the Act appear not to be jurisdictional statements or statements of the territorial scope of the national policy. On the contrary, Congress appears to have given statutory recognition to the basic concern of the environmentalist movement of the 1960's: that one species in nature, in its short-sighted zeal to achieve "progress," was threatening to damage or destroy nature. Thus, the references to "man" define the nature of the enironmental problem but not the territorial scope of the solution proposed by Congress.[2]

The statement of the goals of the federal government in subsection 101(b) further supports a construction of section 101 as a statement of domestic policy. The subsection enumerates six goals to be pursued by the federal government in improving and coordinating federal plans and programs "in order to carry out the policy set forth in this Act." Two of the goals are limited explicitly to protection of the American environment:

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

* * * *

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

As in the policy statement of section 101(a), the statutory language suggests that the persons intended to benefit from the national environmental policy are not citizens of the world, but Americans. The policy was enacted to assure that Americans enjoy a safe, healthful and productive environment and to preserve all aspects of their national heritage.

The remaining four goals do not contradict a construction of the statute as having solely domestic application. The language used in each of them is "neutral" in that it does not include references either to America and Americans or to the world, man, and mankind:

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

* * * * *

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

* * * * *

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

While it might be argued that the absence of express references to the United States and its citizens is evidence of an implicit congressional intent to encompass the worldwide environment in the goals of the federal government, the more reasonable construction is that Congress was establishing national goals for protection of the national environment in order to "fulfill the social, economic, and other requirements of present and future generations of Americans."

B. The provisions for cooperation and consultation support a solely domestic application of the environmental impact statement requirement.

Further support for construing section 101(a) primarily as a statement of domestic policy to protect the environment of the Nation is found in the scheme of cooperation and consultation mandated by NEPA. Section 101(a) states that the policy of the federal government is to be pursued "in cooperation with State and local government;" section 102(2)(C) requires that the comments and views of "Federal, State, and local agencies" accompany environmental impact statements when they are made available to the President, the CEQ, and the public; section 102(2)(F) requires federal agencies to "make available to States, counties, and municipalities" advice and information concerning environmental quality; section 104 notes that the Act does not affect the obligations of a federal agency "to coordinate or consult with any other Federal or State agency or . . . to act, or refrain from acting contingent upon the recommendations or certification of any other Federal or State agency;" section 201 requires that the President's annual Environmental Quality Report include "a review of the programs and activities . . . of the Federal Government, the State and local governments;" and section 205 authorizes the CEQ to consult with representatives of state and local governments. Neither foreign governments nor international entities are mentioned in any of these provisions.[3] If Congress intended that section 102(2)(C) of NEPA be applicable to federal activities that have environmental impacts outside the United States, it seems unlikely that it would have excluded foreign governments and international organizations from the lists of groups to be included in the process of consultation and cooperation.

C. The restriction of references to the world environment to a single provision for international cooperation supports a solely domestic application of the impact statement requirement.

The only provision of NEPA that expressly addresses the problem of the environment in areas outside the United States is section 102(2)(E), which directs all federal agencies to "recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment."

Unlike subsections 101(a) and (b), the language of this subsection states a congressional intent to cover the extraterritorial aspects of environmental degradation. Thus, in this subsection, and only in this subsection, Congress dealt with the "*worldwide* . . . character of environmental problems" and the "quality of mankind's *world* environment." These terms refer to the specific problem of environmental deterioration in jurisdictions outside the United States and in the global commons. In the same manner, section 102(2)(E), unlike the rest of NEPA, directs federal agencies to participate in efforts to achieve "international cooperation"

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in halting the decline of the world environment.

Section 102(2)(E) establishes two important points concerning the application of section 102(2)(C) to environmental impacts outside the United States. First, it demonstrates that Congress considered this specific problem and included it in the statute in the clear, unambiguous terms of section 102(2)(E). It seems unlikely that Congress would have used vague references to "man's environment" in the other sections of the statute to determine the extraterritorial scope of the Act when it used specific references to the world environment in the only provision of the Act that expressly considers the environment outside the United States. Second, it suggests that Congress recognized the unique problems associated with preservation of the environment outside the United States. In section 102(2)(E) Congress rejected unilateral action by the United States and adopted an approach based on international cooperation that would include consideration of the views, goals, and values of all affected nations. Moreover, even in the context of international cooperation, Congress recognized the importance of the foreign policy of the United States and limited the 102(2)(E) directive to actions that are consistent with that foreign policy.

D. The references to "all agencies" and "every recommendation" are consistent with a purely domestic territorial effect.

Section 102(2)(E) is one of eight directives to "all agencies of the Federal Government" that make up the so-called action-forcing provisions of NEPA. Among these is section 102(2)(C), the environmental impact statement agencies[4] "include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed [environmental impact] statement by the responsible official." Section 102(2)(C) does not expressly stipulate the geographic scope of the impact statement requirement. The general introductory phrase of section 102(2) does indicate that the coverage of the subsection extends to "*all* agencies of the Federal Government," but the scope of this coverage would not be compromised if the Act was intended for domestic application only. It would mean simply that the subsection applies to all federal agencies when their actions affect the environment of the United States.

The specific language of paragraph (C) is more problematic in that it covers "*every* recommendation or report on proposals for legislation and other major Federal actions" that have significant effects on the environment.[5] Even this language, however, fits easily in a construction of the statute that the national environmental policy was enacted to protect the environment of the United States. If the Act is limited to domestic effects on the environment, then "every" refers to those actions that affect the domestic environment. The use of the general term would not expand the jurisdiction of the statute beyond that indicated in the policy and other sections of the Act.[6] Congress was concerned with the environment of Americans and therefore directed federal agencies to consider environmental consequences in "every" federal decision that would affect significantly the American environment.

The procedures mandated by section 102(2) provide additional reasons for construing the Act as not applying to environmental impacts on areas outside the United States. First, the absence of any provision for consultation with foreign governments or the consideration of the views of foreign governments, evident throughout the Act, is especially significant in paragraph (C). This paragraph requires that the views of state and local agencies authorized to enforce environmental standards accompany the proposal through the agency review process. The requirement shows a congressional concern that the government of the area affected by the federal action have an opportunity to exercise some control over the local environment and the impact of federal programs through influencing the decisionmaking of the federal agency involved. The paragraph imposes no similar requirement for consultation with foreign governments that would have jurisdiction over acts performed in their territory and special knowledge with respect to environmental impacts in local circumstances. This omission is particularly striking in view of the purpose of the environmental impact statement to promote a consideration of environmental factors in the decision of whether to conduct a federal activity.[7] The decision whether to cancel or modify a proposed government action because of its impact on the environment often involves a balancing of values. For example section 102(2)(C)(iv) requires a balancing of short-term uses against the maintenance of long-term productivity. Similarly, the relevant balance might be between degradation of the natural environment and industrial development. While the federal government can and should play a major role in striking the balance for actions that have an impact within the United States,[8] these values choices would seem to be more appropriately made by a foreign government when the impact is in a foreign country.[9] It therefore seems unlikely that Congress would require foreign impact statements but not provide for consultation with foreign governments at least to the extent that consultation is required with state and local governments for actions with domestic impacts.

Second, despite Congress' recognition, in section 102(2)(E), of the primacy of American foreign policy in activities to prevent the decline of the environment outside the United States, the impact statement paragraph makes no provision for considerations of foreign policy. Again, it seems unlikely that Congress, if it intended that impact statements be prepared for foreign activities, would not also have provided for consideration of foreign policy matters both in the decision to prepare an impact statement and in the decision about which the impact statement was prepared.

Third, the requirements of paragraph (E) overlap with those of paragraph (C) suggesting that paragraph (E) was intended to displace rather than supplement paragraph (C) when the environmental impact of the federal action is outside the United States. Paragraph (E) requires federal agencies to recognize the "long-range character of environmental problems," a requirement that is also present in the paragraph (C) requirements to consider the relationship between short-term uses of the environment and the maintenance and enhancement of long-term productivity and to determine whether the action involves irretrievable or irreversible commitments of resources. Paragraph (E) also establishes a means (international cooperation) for the United States to participate in anticipating and preventing a decline in the quality of the world environment. If paragraph (C) also applied to international activities, the impact statement requirement would serve the same purpose of anticipating and preventing a decline in world environmental quality.[10]

Without reference to the legislative history, the statutory language of NEPA suggests that section 102(2)(C) was intended to protect the domestic environment of the United States for the benefit of Americans and that Congress intended to limit the actions of federal agencies that have environmental impacts abroad only by requiring these agencies to join, when consistent with foreign policy, international cooperative efforts to preserve the world environment.

Nevertheless, it is arguable that the congressional intent is not clearly expressed in the Act. The use of broad phrases such as "man's environment" and the "human environment" create the possibility that Congress sought to consider impacts on the environment of the world. In addition, the congressional recognition, in section 101(c), that each "person," rather than each American, should enjoy a healthful environment, and the use of inclusive phrases "all federal agencies" and "every recommendation or report" in section 101(2)(C) introduce an element of ambiguity in the statutory language. It is therefore necessary to examine the legislative history of the Act to determine whether Congress intended that impact statements be prepared for activities with environmental impacts abroad or whether it sought to protect the environment outside the United States solely through the mechanism of international cooperation.

II. The legislative history of NEPA demonstrates that Congress did not intend extraterritorial application of the environmental impact statement requirement

The legislative history of NEPA is long and complex. There are thousands of pages of documents, and brief excerpts must be treated with care because the danger of unwarranted generalization is unusually great in these circumstances. This part of the memorandum examines this entire body of legislative history. Subsection A examines the legislative history from the 90th Congress when the first major hearings on national environmental policy were held. Subsection B considers H.R. 6750 and the hearings, reports, and debates on that bill in the House during the 91st Congress. This is the primary source of the general policy statement in section 101(a) of NEPA and much of Title II of the Act. Subsection C considers S. 1075 and the hearings, reports, and debates on that bill in the Senate during the 91st Congress. This bill, after amendment in committee, contained the action-forcing provisions of section 102 of NEPA and the statement of goals in section 101(b) of the Act. Subsection D examines the House-Senate Conference and related debates on the two bills. Subsection E discusses post-enactment legislative history including the treatment of the overseas application of NEPA in oversight hearings and other legislation outside the NEPA context pertinent to environmental protection outside the United States.

In all of the legislative history, there is no direct evidence of intent—*no* statement by anyone of any intent that the environmental impact statement requirement would or should be made applicable to federal actions where the impact is outside the United States. This complete lack of discussion casts substantial doubt on any interpretation of the Act that requires impact statements for foreign environmental impacts. But perhaps the most remarkable characteristic of the legislative history is that there is no indirect evidence of intent either—*no* discussion, in the hearings, in the reports, or on the floor of the House and Senate, of the consequences of requiring impact statements for federal activities that have environmental impacts outside the United States. No member of Congress or any person testifying at the hearings discussed the problem of acquiring environmental information from foreign countries, the effect of an "international" NEPA on United States foreign policy, or the difference between federal agencies making value choices for the United States and for foreign countries. The lack of any discussion of consequences makes it virtually certain that there was no congressional intent to require foreign impact statements. It is then necessary to look closely at the most re-

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mote evidence—inferences drawn from the evolutionary process that culminated in the language used in the Act. In all parts of this analysis, special attention is given to the use in the legislative history of terms such as "man's environment" or the "human environment" since those terms are the primary source of any ambiguity there may be in the Act. This section demonstrates that the primary concern of the Ninety-First Congress was the environment of the United States and that it employed the novel technique of an impact statement to assure that federal decisionmakers would consider the domestic environmental implications of their actions. It also shows that Congress considered the international aspects of environmental protection and chose international cooperation rather than unilateral action to protect that environment.

A. The legislative history created by the Joint House-Senate Colloquium in the 90th Congress demonstrates the domestic origin and continued domestic orientation of all provisions of NEPA except Section 102(2)(E).

On July 17, 1968, the Senate Committee on Interior and Insular Affairs and the House Committee on Science and Astronautics convened a Joint Colloquium to discuss a national policy on the environment. A substantial number of bills dealing with national environmental policy had been introduced during preceding Congresses,[11] but jurisdictional disputes had hampered progress. The Joint Colloquium broke that logjam. The two committees and representatives from executive agencies, environmental organizations, and academia met to explore both the need for an environmental policy and considerations that should be included in such a policy. To prepare for the Colloquium, the participants were given two reports on environmental management and environmental policy issued by the two committees. The Colloquium and its related documents establish the basis for consideration of NEPA in the Ninety-First Congress and are especially important in understanding the meaning of the Act's references to the "environment of man." [12]

1. Special Report to the Committee on Interior and Insular Affairs

The most detailed congressional consideration of a national environmental policy is contained in a special report on that subject prepared for the Senate Committee on Interior and Insular Affairs.[13] The Special Report uses a three-part approach to national environmental policy that is followed consistently throughout the legislative history of NEPA: (1) a broad definition of the environmental problem in terms of the relationship between man his total environment, (2) a primary focus on the need for attention to the specific problems with the man-environment relationship in the United States, and (3) a recognition of the need for international cooperation to solve the more general problem of man and his environment in the international context. A full appreciation of this approach is necessary to understand the relationship, in NEPA and in its legislative history, between references to "man's environment" or the "human environment" and the different mechanisms adopted by Congress to protect the environment inside and outside the United States.

The manner in which the Special Report defines the environmental issue reflects the growing awareness, in America in the 1960's, that a policy for environmental protection involves more than traditional notions of conservation such as the establishment of national parks and game reserves or the enactment of legislation to protect wildlife threatened with extinction. The Report notes that an "effective and enlightened environmental policy" must address broader issues that encompass the "multitudinous and complex" relationships between man and his environment.[14] The modern concept of the environment includes natural resources conservation, "[b]ut the total environmental needs of man—ethical, esthetic, physical, and intellectual, as well as economic—must also be taken into account:" [15]

Environmental policy, broadly construed, is concerned with the maintenance and management of those life-support systems—natural and man made—upon which the health, happiness, economic welfare, and physical survival of human beings depend.

The degradation [of the environment] is destroying the works of man as well as of nature. We are confronted simultaneously with environmental crisis in our cities and across our open lands and waters. The crisis of the cities and the crisis of the natural and rural environments have many roots in common, although they may erroneously be viewed as extraneous to one another. . . . In fact, both crises stem from an ignorance of and disregard for man's relationship to his environment.

The all-encompassing phrases in the definition of the environment and environmental policy are used in the Special Report to demonstrate that the problem of the environment should be viewed as involving every aspect of human life and as requiring solutions that consider the totality of the "multitudinous and complex" relationships between man and nature. This broad concept of the solution to the problem of the environment was a novel one in the 1960's. Although various fields of scholarships had been concerned with particular aspects of environmental relationships, "[m]an-environment relationships per se have seldom been studied comprehensively." [16] Thus, the Special Report recommends that any council or other unit of government charged with implementing environmental policy use a multidisciplinary approach and draw upon every field of science and scholarship: [17]

But neither science, nor any other field of knowledge or experience, can provide all of the criteria upon which environmental policies are based. The full range of knowledge and the contributions of all the scientific and humanistic disciplines afford the informational background against which value judgments on environmental policy may most wisely be made.

The discussion of the environmental problem and the interdisciplinary approach necessary to solve it provides some meaning for phrases such as "man's environment" and the "human environment." As used in the Special Report, these broad terms describe the *ecology* of man; that is, his relationship with his surroundings. The terms do not, however, describe any particular set of surroundings. They are territorially "neutral" in that they describe the breadth of the relationship between man and his environment but not the specifics of that relationship as it exists in any particular location. One might speak of the human environment of or man's environment in the United States, the human environment of any other nation, or the human environment of the world. The territoriality of the terms is determined only by the context in which they are used.

In the Special Report the primary focus is on the need for preserving the human environment within the United States. The preamble notes that: [18]

A challenge to the safety and welfare of the United States and of the American people has arisen. The challenge is the rapid deterioration of the environmental base, natural and manmade, which is the indispensible foundation of American security, welfare, and prosperity.

The proposed response to this challenge is a national environmental policy that meets the many needs of the Nation and at the same time defines "the intent of the American people toward the management of their environment." [19]

The specific problems of the human environment in the United States and the costs associated with solving them are discussed at the outset of the Report. The opening section, describing the "imminent need" for a national environmental policy, reviews the historical development of man's interaction with the environment in this country and the unique problems of human ecology that have arisen in our technological society.[20] The second section asserts that the environmental costs of technology can no longer be passed on to nature and that the "individual American needs to understand that environmental quality can no longer be had 'for free.' " [21]

Although most of the Special Report is devoted to discussing the general nature of the environmental problem and the specific manifestations of the problem in the United States, the international context of the human environment is also considered. In a separate section titled "National Policy and International Cooperation," the Special Report acknowledges that the United States "has a large and obvious stake in the protection and wise management of man-environment relationships everywhere." But the means discussed for protection of the environment outside the United States are those of international cooperation, not unilateral action: [22]

[E]xpressions of the willingness and intent of the United States to cooperate with other nations and with international organizations on matters of environmental policy and research reinforce the argument for a national environmental policy. Although the United States could cooperate internationally on many specific issues without a national policy, it could do so more effectively and comprehensively if its own general position on environmental policy were formally and publicly enunciated.

2. Report to the House Committee on Science and Astronautics

Another congressional examination of national environmental policy is set out in a report by the Subcommittee on Science, Research and Development of the House Committee on Science and Astronautics.[23] The Subcommittee Report follows a similar pattern in analyzing national policy for managing the environment. It discusses the basic environmental problem in terms of the relationship between man and his environment and, taking a view slightly more lofty than the Special Report, asserts that "man is the dominant species and * * * mankind's intentions of using nature to further his own well-being are correct." [24] The subcommittee goes on to review the historical attitudes toward the environment in America and to discuss specific problems concerning man's relationship with his environment and manifestations of those problems in the United States.[25] As a solution to the domestic environmental problems, the Subcommittee Report favored the use of existing institutions (primarily the Interior Department) operating under a national policy for the environment and with an expanded understanding of ecological facts and processes.[26]

For the international arena, however, the Subcommittee Report rejected unilateral action in favor of international cooperation in exchanges of information, action programs, and the setting of environmental standards.[27] The Subcommittee Report recommends that a national environmental policy include "[i]nternational agreement on projects which have widespread or long-term effects." [28]

3. Joint House-Senate Colloquium

The participants in the Joint House-Senate Colloquium [29] adopted the Reports' broad view of the environmental problem but were less charitable to the international environ-

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ment. The witnesses who delivered formal statements during the morning session of the Colloquium agreed that the problem should be defined broadly as the relationship between man and his environment or the quality of the human environment, but every one of the witnesses focused exclusively on the domestic environment of the United States.[30] It was not until late in the afternoon session that Dr. S. Dillon Ripley, Secretary of the Smithsonian Institution, accurately observed: [31]

I don't think anyone in this room has used the word "international," and to speak about environmental quality without at least referring to the fact of the international components and consequences of even our activities as Americans in considering our own acreage and our own problems with environment, appears to me to be somewhat shortsighted.

Dr. Ripley cited as an example of the international aspect of the environmental problem a proposed sea-level canal across the Isthmus of Panama and argued that the environmental implications of such a project should be explored fully before it was undertaken. He later urged in his written statement that an environmental policy include an affirmation that in "all our international relations we shall take every opportunity to encourage and assist in developing concepts and programs to achieve environmental quality." [32]

Russell Train, President of the Conservation Foundation, picked up on Dr. Ripley's point and suggested that: [33]

In the case of major national programs, such as foreign economic assistance, some of these have major environmental impacts. And these should be taken into account in determining policy.

In his brief statement at the Colloquium, Mr. Train did not suggest any particular mechanism for taking into account the environmental impacts of foreign assistance. But in a later, supplemental statement he asserted that environmental problems created by the impacts of United States' actions and the management of resources in the global commons "can only be dealt with effectively by cooperative efforts among the governments of the world." [34]

Senator Jackson, who was the primary proponent in the Ninety-First Congress of the impact statement and international cooperation requirements of NEPA, also emphasized the importance of international cooperation as the means of environmental preservation outside the United States. He noted that the United States already was a participant in the International Biological Program, was the signatory to a number of bilateral agreements, was engaged in exchanges of information with the Organization for Economic Cooperation and Development, and had proposed the creation of an International Council on the Human Environment.[35]

4. Congressional White Paper.

In October 1968, the House and Senate Committees submitted to the Congress a White Paper that summarized the Colloquium proceedings.[36] Part III of the White Paper suggested language for a statement of policy. The introduction to that statement demonstrates the import of the White Paper's defining the problem in terms of man and his environment: [37]

Activities and relationships which involve man and the physical environment (as contrasted with purely person-to-person or person-to-institution relationships) are the subject of this statement.

As in the Special Report, the broad definition of the problem is not used to indicate its territorial scope but to include the wide variety of relationships between man and his environment. The suggested policy statement did, however, include international considerations: [38]

Environmental quality and productivity shall be considered in a worldwide context, extending in time from the present to the long-term future.

The White Paper further explained the limits of this statement: [39]

Although the influence of the U.S. policy will be limited outside of its own borders, the global character of ecological relationships must be the guide for domestic activities. Ecological considerations should be infused into all international relations.

The explanation suggests that the policy statement involves two separate methods for protecting the international environment. First, in its domestic activities impacting on the American environment, the United States should be aware that the environmental effects may cross national borders and affect the environment of other countries. Second, in international relations involving activities outside the United States, ecological factors should be considered. Although the term "international relations" does not necessarily mean international cooperation, the discussion of international aspects of environmental alterations earlier in the White Paper suggests that the mechanism for infusing ecological considerations into international relations would be participation in the cooperative efforts of the world community of nations.[40]

The 1968 Joint House-Senate Colloquium related documents establish the background for consideration of environmental policy legislation in the Ninety-First Congress. As discussed in detail below, the congressmen who engineered the passage of NEPA adopted and presented to the Congress the Colloquium's view that a national environmental policy must address the broad problem of man's multitudinous and complex relationships with his environment. And when devising specific mechanisms for inducing action by the federal government to protect man's environment, they recognized the need to distinguish between unilateral action to protect the domestic environment and international cooperation to protect the environment outside the United States.

B. The legislative history in the House of Representatives does not address the "action forcing" provisions and provides no support for application of the environmental impact statement requirement to federal actions having environmental impacts outside the United States.

On February 17, 1969, Congressman Dingell introduced H.R. 6750: "A bill to amend the Fish and Wildlife Coordination Act, to provide for the establishment of a Council on Environmental Quality and for other purposes." [41] This section describes that bill, and then analyzes the hearings, report, and debate in the House.

1. House bill.

H.R. 6750 contained a policy statement nearly identical to what became section 101 (a) of NEPA [42] and provisions establishing a Council on Environmental Quality essentially the same as Title II of NEPA.[43] The action-forcing provisions of section 102(2) of NEPA were not included in the bill.

Despite the presence of the broad ecological terms ("man's activity," "overall welfare and development of man," "man and nature"), H.R. 6750 was intended as a measure to protect the domestic environment. The policy statement included the goal of fulfilling "the social, economic, and other requirements of present and future generations of Americans." [44] The subsections pertaining to the Council make no mention of the extraterritorial environment and include references to "the environmental classes of the Nation," "the social, economic, and other requirements of the Nation," and "our environmental quality," [45] as well as provision for cooperation with state and local, but not foreign, governments.[46] Moreover, the bill was drafted as an amendment to the Fish and Wildlife Coordination Act, a statute administered by the Secretary of the Interior and also intended for domestic application.[47]

2. House hearings.

Congressman Dingell's bill was referred to the Committee on Merchant Marine and Fisheries and hearings were held on the bill on May 7 and 26 and on June 13, 20, 23, 26, and 27 before the Subcommittee on Fisheries and Wildlife Conservation under the chairmanship of Congressman Dingell.[48] The House hearings clarify the use of the term "man" in relation to the environment and also indicate that reliance was placed on international cooperation as a means of dealing with environmental problems at the international level.

(a) clarification of the use of "man" and related terms.

In his opening remarks on the first day of the hearings, Congressman Dingell discussed briefly the problem of man's exploitation of the environment, Western man's economic attitude toward the environment, and the technological progress that is the source of our Nation's wealth.[49] He then described his bill in the following terms: [50]

"My bill would direct the President to submit to the Congress annual reports of the status of our natural resources, coupled with an assessment of the current and anticipated trends of their utilization and the effects of such utilization on the social, economic, and other requirements of our nation.

"* * * *

"The Council would thus be the focal point for all new and authoritative data concerning the status and trends in environmental quality. It would interpret these data, analyze their usefulness and importance, and inform the President of their impact on the national ecology as a whole.

"* * * *

"Thus the Council would provide a top level, independent body, unencumbered by the demands and politics of operating programs and individual interests, free to draw independent conclusions, and to formulate a broad policy which would be of nationwide benefit.

Congressman Dingell's introductory remarks and the language of his bill, follow the approach established by the Senate Special Report: a recognition that the problem of the environment is best defined and understood in terms of man's relationship to nature, and a primary concern with the relationship as it exists in the United States and affects the quality of the American life. Neither the Congressman's opening remarks on man's environment nor the first section of H.R. 6750 were intended to determine the territorial scope of the environment to be protected by the proposed law. The references to man and his environment are used to demonstrate that the environmental problem was not a discrete problem of air pollution or water pollution but involved the entire American environment—our lakes, rivers, cities, and rural areas and all aspects of man's interrelation with that environment. The problem is, as the Congressman stated, one of "the national ecology as a whole."

Further clarification of the meaning of "man and his environment" was provided by the first witness to testify before the subcommittee. Stewart L. Udall, former Secretary of the Interior, discussed the breadth of the environmental problem: [51]

"It used to be . . . that we . . . had the feeling that there was nature over here . . . and then there was man over here, with all of his energy and technology and that the two were somehow two separate worlds.

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". . . we recognize more and more that there is only one environment and that what has been the traditional conservation idea, we have to take right into the heart of the cities and we have to be concerned about all *activities of man* because they impinge sometimes in unexpected places on the life of man on this planet.

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"But certainly, if we talk about environment and we are as concerned about the shape and character of cities as the state of the wilderness . . . and see them as part of a single fight for an environment or to conserve resources, then the type of legislation that is before the committee this morning makes a great deal of sense.

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"Certainly when we look at the *stewardship of the resources of this country and the relationship to man,* particularly with regard to the pollution problem, *the problem of the American landscape,* our performance has been poor by most any measurement that you want to make.

"So here I see this then as the very broad area of national concern. If we think of this Council of not being concerned merely with resources, not being concerned merely with traditional conservation, but being concerned with *man and his environment* and the cities as a part of it, that such a Council might include not only a distinguished biologist or ecologists, people that are familiar with all nature's operations and nature's laws; but perhaps a distingished architect that would be nationally known and sensitive to the relationship of man and nature, and perhaps even an engineer.

• • • • •

"I think this will have an enormous influence on Congress as well, for us to develop new national priorities, new goals and new efforts to *make this country not only a rich and prosperous country, but a country that in terms of its environment is a clean country, is an attractive country, with beautiful cities that are a joy to live in and in our management for our natural estate, of our wildlife, of our park lands,* of all of these other things that go to make up *man's environment* that we would do the superior job that we obviously can do.

• • • • •

"I can't think of anything at this point that would do more than the creation of this type of Council. The President would have . . . day-to-day advice from distinguished, highly qualified people on the *quality of life in this country* and on the *quality of man's environment.*

• • • • •

"I think if we did this we would find that we would get a returned balance to the *management of man's environment here."*

Udall's remarks demonstrate that terms such as "man's environment" were used to reject the traditional view of the environmental problem as one involving trees, fish, wildlife and forestlands. The phrase connotes a broad view of the environment and encompasses cities as well as the countryside and manmade structures as well as natural ones. The Udall testimony also shows that a national policy to protect the national environment is not inconsistent with broad references to man's environment. Nearly all of Mr. Udall's remarks follow the pattern of H.R. 6750 and NEPA—a description of the problem in terms of man and his environment and a discussion of the solution in terms of the Nation and the American people.

In the same manner, Ned Bailey, Director of Science and Education at the Department of Agriculture, submitted a statement that reviewed the extensive efforts of the Agriculture Department concerning "Rural America," and the use of "the Nation's water, land, and related ecological resources" for "the benefit of all Americans." [52] Mr. Bailey's statement demonstrates the distinctly domestic concern of the programs discussed, yet he described the goal of those programs in terms as broad as the goals of NEPA: "In total, USDA programs are among the major Federal efforts in advancing understanding of natural communities and their interaction with man." [53]

Further indications that references to man and his environment were not territorial terms, but were used to reject the notion that man and nature are separable are found in the cogent statement of Dr. Helmut K. Buechner, Senior Scientist, Office of Ecology, Smithsonian Institution: [54]

"A final point I would like to make may seem somewhat theoretical, especially in view of the gratifying awakening of society to an environmental conscience. My point is that man and nature are one, forming a single ecological system, or ecosystem that functions as a whole. Such a viewpoint may be more conducive to environmental improvement in the long run than the conventional viewpoint of man and nature as separate entities. Our objective then becomes one of producing and maintaining the patterns and processes that are essential to self-perpetuating ecosystems over infinite time, rather than the exploitation of nature for maximum short-term benefits of man.

"We are concerned ultimately with the quality of the whole ecosystem formed by man and his total environment. I realize that the most practical approach at present may be to focus on the "environment" in terms of problems of pollution, urban sprawl, soil erosion, radioactive fallout, over-exploitation of natural resources, and other ecological problems created by man, but the sooner we start thinking in terms of ecosystem processes, including man's decisionmaking processes and his activities, the sooner, I believe, we will achieve the fundamental changes required for lasting improvement of human ecosystems."

The thrust of all these comments is that the environmental problem is not a narrow one treating separately what one normally thinks of as "nature;" rather, it involves viewing man as interrelated with all aspects of his surroundings. It is, of course, true that man and nature interrelate both inside and outside the United States and that America is not the only nation that is, or should be, concerned with man's environment.[55] "Man's environment" and related phrases do not designate an environment within any particular political jurisdiction; they refer to the relationship between a species and all that surrounds and interacts with it. They serve only to define generally the environmental problem. The territorial scope of the solution proposed by H.R. 6750 is not found in the "ecological" phrases, but in the bill's references to the needs of "present and future generations of Americans" and in Congressman Dingell's discussion of the "national ecology" and a broad policy of "nationwide benefit."

(b) reliance on international cooperation for aspects of environmental matters outside the United States.

A close reading of the House hearings confirms that the subcommittee was concerned predominantly with the domestic environment.[56] Of the few witnesses who discussed the extraterritorial environment, most suggested that the problem be addressed through some form of international cooperation including the United Nations,[57] the International Biological Program,[58] the use of international accords,[59] and the exchange of environmental information among the nations of the world.[60] None of the witnesses interpreted the scope of the policy statement in H.R. 6750 as broad enough to encompass international environmental problems generally or the specific problem of foreign environmental impacts resulting from federal activities. On the contrary, the limitation of the policy statement to the domestic environment was noted expressly on the last day of the House hearings. Mr. Peter S. Hunt, representing a consulting firm specializing in environmental control, testified as follows: [61]

"The second point on the policy involves its scope. In my opinion, the policy statement should be expanded to include our international as well as domestic approach to environmental problems. In the notable example of Lake Erie our action, or lack of actions, involve a close neighbor. In other cases we are involved with Mexico. There is no doubt in my mind that some of the residual pesticides found in foreign countries came from our shores and the potential biological impact of any sea-level canal we may dig through Central America certainly has strong international implications. You have heard that some of the infamous Santa Barbara oil has turned up on Mexican beaches.

"To extend this I am led to understand that some of our foreign aid programs have created serious environmental problems amongst the intended benefactors. To close this point, I think this single policy should be adopted as both our internal and international approach to the subject of environmental policy."

Mr. Hunt's view of the policy statement as being limited only to domestic environment was endorsed by Congressman Pelly during the colloquy that followed: [62]

"I have been reading the bill to see exactly where we might possibly inject the international statistical and cooperative effort that might go into this program. I think maybe counsel can work it out with advice from others, but it does not seem to be there as you pointed out, and I think it properly should be."

Two important points are noteworthy in this exchange. First, both Mr. Hunt and Congressman Pelly read the policy statement as encompassing only the environment of man in the United States. The policy is stated in essentially the same words in the Act that was later passed by Congress [63] Second, Congressman Pelly's proposed solution to the international aspects of the environmental problem was the same as that proposed by the participants in the 1968 Colloquium and by the witnesses who preceded Mr. Hunt in the 1969 hearings.[64] Congressman Pelly suggested that language be devised to inject the international "statistical" and "cooperative" effort that should be included in the Nation's environmental program. The "statistical" effort seems to refer to an exchange of information among nations, and the cooperative effort refers to the United Nations, the International Biological Program, and treaties and other international agreements.[65] Congressman Pelly's suggestions for changing the bill incorporate an approach to the international environment that is the same as Congress later adopted in section 102(2)(E) of NEPA.

The comments and proposals of the witnesses and congressmen who attended the House hearings in 1969 adhere to the three-part approach to a national environmental policy established in the 1968 Special Report: defining the environmental problem as encompassing all aspects of man's relationship with his environment; attending primarily to the problems of the human environment in the United States; and recognizing that an international cooperative effort is necessary to protect the environment outside the United States.[66]

3. House report.

On July 11, 1969, the House Committee on Merchant Marine and Fisheries reported H.R. 12549 in lieu of H.R. 6750.[67] The reported bill had been introduced by Congressman

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Dingell after the hearings [68] and was, with three minor exceptions not relevant here,[69] identical to H.R. 6750.

Although the Committee did not amend the bill to accommodate the concern for international problems raised by Peter Hunt, it did insert language in the Report to show its concern for the international environment: [70]

"The testimony at the hearings also stressed the importance of the international aspects of the environmental problem. It is an unfortunate fact that many and perhaps most forms of environmental pollution cross international boundaries as easily as they cross State lines. Contamination of the oceans, with insufficient attention paid to its long-term consequences, appears to be a major problem, to which far too little attention has been spent in the past. The international aspects are clearly a major part of the questions which the Council would have to confront, and your committee feels confident that these would receive early attention by the Council."

It is possible that the Committee inserted this paragraph as a recognition that some actions of the United States have an impact both on the national environment and the environment outside the United States. Thus, the paragraph could be consistent with the bill's purpose to give the Council overview responsibilities for the "quality of our national environment". There is some support for this view in the section-by-section analysis. The analysis of subsection (1)(b) of the bill (concerning the President's annual environmental report to Congress) states that the President's report should contain "an inventory of the American environment," [71] and then continues with a statement concerning the international environment: [72]

"Implicit in this section is the understanding that the international implications of our current activities will also be considered, inseparable as they are from the purely national consequences of our actions."

Because this statement follows the discussion of the "inventory of the American environment," it seems that the Committee was concerned about those aspects of the international environment that would be related to the national "inventory". The reference to "international consequences" seems to encompass extraterritorial impacts of domestic actions and impacts of actions outside the United States that have "national consequences." When an activity has both domestic and international consequences it would be logical to view them as inseparable.

The House Report's very limited references to the international environment must be considered in the context of the provisions of the House bill. It is likely that the Committee perceived the need to address the international problem and inserted the two statements to assure that international problems received some attention. Because the House bill did not contain any of the action-forcing provisions of NEPA, there was no need to consider carefully the effect of expanding the scope of the bill by insertion of language in the House Report. The President and the Council could fulfill the additional responsibilities imposed by the Report without any significant effect on the foreign policy of the United States and without engaging in intrusive inquiries into the affairs of foreign nations. It is, however, significant that the Committee understood the need to state expressly that the Council was to consider some aspects of the international environment. Without the additional explanation, the policy statement did not cover the environment outside the United States.

4. House debate.

Pursuant to a House Resolution, H.R. 12549 was considered by the Committee of the Whole House on the State of the Union, debated, amended, passed, and then substituted for the environmental policy bill passed by the Senate.[73] In addition to minor and technical amendments,[74] the House adopted amendments that eliminated the requirement of Senate confirmation of the members of the Council; [75] added a provision that nothing in the Act changed the existing responsibilities of federal agencies; [76] and increased the scope of the President's annual environmental report to include a discussion of the adequacy of natural resources for "fulfilling *human* and *economic* requirements of the Nation," a review of federal, state, and local programs, and recommendations for new legislation.[77]

Although some of the floor debate consisted of mere repetition of prior material found in the hearings [78] or in the House Report,[79] including the paragraph in the introduction of the Report concerning the international environment,[80] there was a substantial amount of new discussion of the bill, nearly all of which demonstrated that the House members viewed the bill as a domestic measure. Some Congressmen delivered statements reviewing the wide variety of domestic environmental problems facing the Nation; [81] others focused on particular environmental problems in their districts.[82] A sample of the floor comments shows the nearly unanimous view of the congressmen who discussed the bill that it was to be a domestic enactment.[83] In addition, at least 17 congressmen made references to national environmental problems requiring a national solution.[84]

In contrast to the extensive floor discussion of *domestic* environmental issues and expression of views that H.R. 12549 was a solution to an urgent *domestic* problem, the attention to the international aspects of the environment was sparse indeed. Other than Congressman MacGregor's recitation of the paragraph from the introductory section of the House Report,[85] the only significant statement on the international implications of environmental protection was delivered by Congressman Mailliard. His relatively short statement included a general discourse on the dangers of technological progress, a brief review of the history of environmental pollution from the industrial revolution in England to the age of industrialization in the United States, and a broad discussion of the deterioration of the world environment.[86]

During the entire floor debate, which included extensive statements about numerous domestic environmental problems, including the domestic environmental impacts of federal activities, there was *no* discussion of environmental impacts outside the United States. Moreover, the only reference in the House Report concerned with extraterritorial impacts [87] was excluded in Congressman Dingell's recitation of the analysis on the floor, so that section (1)(b) of the bill was presented to the House as a provison requiring the President to submit an annual report "setting forth an *inventory of the American environment*, broadly and generally identified, together with an estimate of the impact of visible future trends upon *our future environment*." [88]

The legislative history of House action on its bill to establish a national environmental policy and a Council on Environmental Quality suggests strongly that the policy and the Council were devices for saving the domestic environment and not for restraining or altering the activities of the federal government when those activities have environmental impacts outside the United States. To the extent that the House Report expanded the scope of Council's studies to include some international matters, it tells little about the legislative intent concerning the impact statement requirement of section 102(2)(C) of NEPA. The House bill did not include NEPA's action-forcing provisions and provided only for studies, advice, and recommendations. Prior to the conference on the Senate bill, the House did not consider the implications of requiring federal agencies to prepare environmental impact statements for federal activities that have impacts outside the United States.

On September 23, 1969, the House passed H.R. 12549 by a vote of 372 to 15. Immediately thereafter, it substituted H.R. 12549 for all after the enacting clause of S. 1075, passed S. 1075, and requested a conference with the Senate.[89]

C. The legislative history on the Senate where the "action forcing" provisions were added demonstrates that those provisions were considered only with respect to domestic application.

On February 18, 1969, Senator Jackson, for himself and Senator Stevens, introduced S. 1075: "A bill [t]o authorize the Secretary of the Interior to conduct investigations, studies, surveys and research relating to the Nation's ecological surplus, natural resources, and environmental quality, and to establish a Council on Environmental Quality." [90] This section describes the Senate bill and analyzes the hearings, report, and debate in the Senate.

1. Senate bill.

Title I of the Senate bill authorized the Secretary of the Interior to conduct studies, to collect and disseminate data on the environment, and to provide environmental advisory services.[91] Title I also directed the Secretary to consult with and to provide technical assistance to other federal agencies and authorized him to obtain information from such agencies.[92] A separate section of the title authorized the Secretary to participate in cooperative efforts to conduct research in areas outside the United States.[93] Title II established a Council on Environmental Quality with responsibilities and duties similar to those in H.R. 6750 and required the President to submit an annual report on the environment.

The character of the Senate bill as a domestic measure is immediately evident from the statement of purpose: [94]

"[I]t is the purpose of this Act to promote and foster means and measures which will prevent or effectively reduce any adverse effects on the quality of the environment in the management and development of the Nation's natural resources, to produce an understanding of the Nation's natural resources and the environmental forces affecting them and responsible for their future well-being, and to create and maintain conditions under which man and nature can exist in productive harmony and fulfill the social, economic and other requirements of present and future generations of Americans, through a comprehensive and continuing program of study, review and research."

Title I authorized the Secretary of the Interior to carry out the purposes of the bill. Title II of the bill was directed to the domestic environment. The members of the proposed Council were to be "conscious of and responsive to the scientific, economic, social, esthetic, and cultural needs and interests of this Nation." [95] Another section of Title II provided: [96]

"The primary function of the Council shall be to study and analyze environmental trends and the factors that affect those trends, relating each area of study and analysis to the conservation, social, economic, and health goals of this Nation."

The bill also required an annual report by the President on "the status and condition of the major natural, man-made, or altered environmental classes of the Nation," the trends in environmental quality, and the "effects of those trends on the social, economic, and other requirements of the Nation." [97] The only section of the bill that was concerned with the environment outside the United States directed the Sec-

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retary to participate in international cooperative research efforts: [98]

"The Secretary is authorized to participate in environmental research in surrounding oceans and in other countries in cooperation with appropriate departments or agencies of such countries or with coordinating international organizations if he determines that such activities will contribute to the objectives and purposes of this Act."

The domestic purposes of S. 1075 were also evident from Senator Jackson's speech introducing the bill.[99]

The purpose of this legislation is to lay the framework for a continuing program of research and study which will insure that present and future generations of Americans will be able to live in and enjoy an environment free of hazards to mental and physical well-being."

He noted further that under Title I of his bill the Secretary of the Interior was to conduct studies "relating to the Nation's ecological systems and environmental quality" [100] and under Title II the Council was to study environmental trends and how those trends "relate to the conservation, social, economic, and health goals of the Nation." [101]

S. 1075 was referred to the Senate Committee on Interior and Insular Affairs.[102]

2. Senate Hearings.

The Senate Committee, under the chairmanship of Senator Jackson held one day of hearings on S. 1075 and related bills.[103] The statements of the witnesses and comments of the Senators at the hearings demonstrate that S. 1075 was intended to be a domestic measure and indicate how Senator Jackson and the Committee on Interior and Insular Affairs later addressed the problems of the international environment.

(a) consideration of the policy statement and the Council.

The characterization of S. 1075 as domestic legislation is evident in the statements of numerous witnesses. Commenting favorably on the bill, Stewart Udall observed: [104]

"I believe we reach the point where legislation of the kind you are considering today is most timely, and one of the reasons that the time is right and that this legislation has the kind of support that has been evidenced here today is that one of the phenomena of the Nation today that did not exist a decade ago is a very broad and a very deep concern at all levels of our population over the quality of the American environment."

Laurance Rockefeller, in a letter to Senator Jackson, expressed his view that: [105]

"[T]here is action needed by both the Congress and the Executive Branch working in harmony to preserve what in your own words is "a new focus for public policy." In my belief, environmental problems have emerged in recent years as the most pressing domestic problem of our Nation."

Witnesses and Senators alike provided extensive commentary on the domestic environmental problems facing the Nation, both in terms of local and state problems [106] and nationwide environmental deterioration.[107] And Senator Jackson discussed his bill, at the opening of the hearings, as follows: [108]

"S. 1075 authorizes a program of studies, surveys, and research relating to the Nation's ecological systems and natural resources; establishes a Council on Environmental Quality in the Executive Office of the President; and declares a national policy for the environment. The intent of all these measures is to take action toward the establishment of a national strategy and a national capacity for the management of the human environment."

The Senator's use of the phrase "human environment" provides another illustration of the approach first set forth in the 1968 Special Report. The context of the phrase demonstrates that Senator Jackson was referring to the human environment of the United States. This meaning is confirmed in the continuation of the Senator's remarks, in which he discussed the broad nature of the problem as well as the domestic nature of his solution: [109]

"Today's concern for problems of environmental quality goes far beyond the conservation of expendable resources and problems of waste disposal and public health. It encompasses all of these matters of human survival, but it also includes the aspirations of our citizens for a life among surroundings which afford tranquility, opportunity for diversity of experience, and the enrichment of human existence.

The Federal Government has the responsibility to provide for the general welfare of the United States. To a very great extent, the future welfare of the United States may depend upon the kind of job this Government does today in managing the environment. In the past, man's impact upon the earth was moderated by his limited capacity to alter nature. With the technological revolution of recent decades, man's capacity to irreparably damage the environment has increased until, today, some of the Nation's most difficult public problems result from our failure to have public policies designed to deal with environmental problem."

As should be clear, "man" and "human" as used in the bill, in the statements at the hearings, and in NEPA, have no independent territorial or jurisdictional contest.[110]

Although the bulk of the Senate hearing was devoted to the human environment of the United States, there were some references to the deterioration of man's environment in the international context. Most of these were incidental references lacking specific recommendations for action.[111] Three submissions to the Committee, however, proposed solutions, all in the form of international cooperation. One of these, the State Department's comments on S. 1075, is worthy of detailed discussion.[112] The State Department emphasized that the sources of the environmental problems of the Nation are not confined by political boundaries but are international in scope: [113]

"The Department wishes to call attention to the fact, moreover, that the objective of the Bill or, for that matter, of any proposition dedicated to the protection of the national environment, cannot be effectively achieved unless it recognizes that existing ecosystems are interrelated by nature or by the activities of man, and that the environmental forces affecting our natural resources disregard political and geographical frontiers. Nature, technological interference, the demands of a population steadily growing in number and opulence, and sheer neglect, produce pollutants which transcend national boundaries. Pollution may be national in origin; its effects and control are international."

The State Department's response to the international scope of the problem, however, was not unilateral action by the United States, but participation in international cooperative efforts to solve a common problem.[114] The Department reviewed some of the efforts of international organizations, including the International Biological Program and the U.S. Conference on Human Environment, and the participation of the United States in these efforts.[115] It then emphasized again the importance of participation in international efforts to solve an international problem: [116]

"The U.S. interest in the international aspects is profound and real. It is dictated by the realization that the human environment is one, and that it would be fallacious and arbitrary to divorce the international aspects from the national. It has been fully documented that air and water pollution, to mention but two, are not respecters of international boundaries. Pollutant problems now considered local in character may be regional or international tomorrow and thus we cannot afford to be indifferent nor complacent about global pollution. It is this international nature of the threat and the concommitant need for international cooperation that has already focused United States attention on the need for a broad approach to environmental problems.

* * * * *

"In a sense the deterioration of the environment is only one of the many problems that face all nations. But . . . it is the one problem that accentuates and aggravates all others: population pressures, inadequate food, shelter and medical care. To arrest and reverse it calls for the combined effort of all nations."

The Department of State recommendations were straightforward: [117]

"It is for this reason, Mr. Chairman, we suggest that with respect to any action taken on the question of environmental quality, recognition should be given to the following facts:

"1. The deterioration of the national environment is part of a global process and thus requires remedial action on an international as well as national scale.

"2. Study, review and research must, therefore, be extended to take into account problems and problem areas beyond national borders and to enlist the cooperation of other governments and the scientists of other nations.

"3. The solution of the environmental problem being a matter of national interest as well as of international concern, U.S. participation in bilateral and multilateral programs dealing with the international aspects of the problem must be recognized as a vital part of U.S. policy to cope with environmental problems."

These recommendations are not for unilateral action by the United States in its activities that have international environmental impacts, but for bilateral and multilateral cooperation with other nations of the world. It cannot be assumed that a Committee with primarily domestic responsibilities would, without further discussion, ignore the recommendations of the Executive Department charged with shaping and implementing the foreign policy of the United States.[118]

(b) consideration of action-forcing provisions.

The version of S. 1075 introduced by Senator Jackson and on which the hearings were held did not include the action-forcing provisions that became section 102(2) of NEPA. Three witnesses at the hearings, however, suggested that some form of action-forcing requirement should be added to the bill. The discussions of this type of provision are important because they establish the context in which the amendment that included the action-forcing provision was devised. In all three of the discussions that took place during the hearings, the focus on federal activities that impact on the domestic environment is evident.

Senator Tydings urged the Committee to add to S. 1075 a provision that would give the Council "the power of delay." [119] In his explanation of this recommendation, Senator Tydings was referring to the power to delay projects affecting the domestic environment: [120]

"I would hope that you would consider giving the agency some sort of strength to delay a specific Federal project which in its judgment threatens the quality of the environment of our Nation."

At the conclusion of Senator Tydings' statement, Senator Jackson agreed that some sort of action-forcing procedure was needed to reinforce the declaration of policy.[121]

In a written statement submitted to the

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Committee, Anthony Wayne Smith, President and General Counsel of the National Parks Association, recommended the establishment of an Environmental Council with the power to protect the domestic environment: [122]

"The law should specify that the members of the Council should be persons with policy minds, capable of formulating long range goals for environmental management in the United States.

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"The Council should have authority to enter a stop order in the name of the President of the United States against any construction project or other program of the Federal Government which it deems may have an adverse effect on any aspect of the life environment of the American people, pending full review by the Council."

The third proposal for an action-forcing provision was made by Dr. Lynton K. Caldwell, the author of the 1968 Special Report to the Senate Interior and Insular Affairs Committee.[123] In his opening remarks, Dr. Caldwell demonstrated that he viewed the problem before the Senate, and the subject matter of S. 1075, as the preservation of the domestic environment for the benefit of the American people: [124]

"It seems that in the morning session here there was a good deal of agreement here as to what the issue is. That issue, as I believe I saw it, is the continued viability of the life support system of the United States. That is to say, of the air, water, land, and living things upon which the health and happiness and prosperity and, indeed, the survival of the American people depends."

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"This issue of environmental degradation affects all of the American people regardless of income or condition, or race, or whether they live in the cities or whether they live in the rural areas; we are all affected. This cuts across all categories of American society."

He then drew a sharp distinction between foreign affairs, where the President exercises primary authority, and domestic affairs, where the Congress plays an important role, and argued that the Congress should act to protect the environment of the Nation: [125]

"But I think the Congress needs to do more in the shaping of domestic policy, and particularly the Congress is certainly coequal in our constitutional system at present. I sometimes feel that in the past 20 or 25 years in which our country has been so heavily engaged in military exigencies and concerned with foreign affairs, we have lost much of the important leadership role that the Congress traditionally has played in the framing of legislation from the very beginning of the Republic. The President of the United States has had a nearly exclusive leadership role under the Constitution in the area of the negotiation of foreign affairs and as Commander in Chief of the Armed Forces, but only in these two areas does the Constitution place that unique responsibility on the President.

"On matters of domestic legislation, the President must share with the Congress this role of policy determination. And I think for this reason that the Congress cannot avoid consideration of a problem so major as one which could be described as the survival of the United States. Maintenance, for example, of its life support system.

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". . . I am sure that we need the involvement of the Congress. And we need somewhere in the structure an independent forum and focus for a review of the Nation's condition of the environment . . . ."

In his written statement, submitted for the record, Dr. Caldwell indicated that in areas outside the United States, environmental protection should be acomplished through cooperative efforts with other nations: [126]

"And although our immediate concern is with environmental policy in America, that policy must permit our nation to play a constructive role in international efforts to safeguard the biosphere of the whole earth."

There is no indication, in either his oral or written statement, that he believed that the same procedures should be used for protecting the international environment as for the domestic environment. It seems clear that Dr. Caldwell recognized that the protection of the international environment involved the foreign affairs powers of the Executive Branch, and should be undertaken, as recommended by the State Department, through "United States participation in bilateral and multilateral programs." [127]

Dr. Caldwell's specific recommendation for an action-forcing provision also demonstrates that he viewed the action-forcing procedure as a means of protecting the domestic environment: [128]

"When we speak of policy we ought to think of a statement which is so written that it is capable of implementation; that it is not merely a statement of things hoped for; not merely a statement of desirable goals or objectives; but that it is a statement which will compel or reinforce or assist all of these things, the executive agencies in particular, but going beyond this, the Nation as a whole, to take the kind of action which will protect and reinforce what I have called the life support system of this country."

Senator Jackson agreed with the recommendation and discussed it further with Dr. Caldwell.[129] At no point during these discussions did the Senate take issue with Dr. Caldwell's view that the primary question was that of domestic environment and that in the area of foreign policy the Congress should defer to the President.[130] Neither Senator Jackson nor any other Committee member suggested that Dr. Caldwell viewed the problem too narrowly and that an action-forcing procedure should be used to protect the international as well as the domestic environment. Nor was there any discussion of the unique problems that would arise if legislation were enacted that would affect the foreign policy of the United States. In short, it appears that from the outset of consideration of an action-forcing procedure the witnesses and Senators at the Senate hearings perceived the need for such a procedure in the context of protecting the environment of the United States and agreed with the view of the State Department that the environment outside the United States should be protected through international cooperation consistent with the foreign policy of the United States.

The Senate hearings are a valuable source in the legislative history of NEPA. In them is contained the first discussion in the Ninety-First Congress of the procedures that ultimately became section 102 of NEPA. And the procedures suggested, like those that were finally adopted, incorporated two separate approaches: (1) requirements to precipitate formal consideration of environmental impacts on the human environment of the United States and (2) international cooperation to avoid or mitigate degradation of man's world environment. When the Committee on Interior and Insular Affairs reported S. 1075 to the Senate it included these two separate solutions to the problem of the environment of man.

3. Senate Report.

On July 9, 1969, the Senate Committee on Interior and Insular Affairs reported favorably a substantially amended version of S. 1075.[131] The Committee version included a statement of purpose identical to that in section 2 of NEPA,[132] a policy statement substantially similar to section 101(b) of NEPA,[133] a congressional recognition of each person's right to a healthful environment similar to section 101(c) of NEPA,[134] a section as to the effect on the existing authority of federal agencies similar to section 101(c) of NEPA,[135] and a section substantially similar to section 102 of NEPA.[136] The amended version of S. 1075 also included a new title II authorizing federal agencies to conduct studies and disseminate information on the environment [137] and a new title III similar to provisions in title II of NEPA requiring an annual presidential report on the environment and creating a Board of Environmental Quality Advisers.[138] The substantial similarity between the reported version of S. 1075 and sections 101(b), 101(c), and 102 of NEPA makes the Senate Report an especially important part of the legislative history.

(a) context of the Report.

Before examining the Report, however, it is useful to review briefly the context in which it was written and presented to the Senate.

As originally referred to the Committee, S. 1075 was domestic legislation devised to protect the environment of the United States and had been presented as such to the Senate when it was introduced by Senator Jackson.

The bill was considered and reported by a Senate committee the jurisdiction of which is as predominantly domestic as its title.

During the hearings on the bill, of the few witnesses who discussed the international environment most suggested that the United States fulfill its responsibility in that area by cooperating with other nations; and the one witness whose influence on the legislation is evident through the legislative history, and who suggested that an action-forcing procedure be included in the bill, acknowledge the preeminence of the Executive Branch in matters involving the foreign affairs of the United States. His view was not disputed by any member of the Committee.

The only significant expression of the views of the Executive Branch on the question of the international environment was provided by the State Department which recommended that bilateral and multilateral efforts be pursued to safeguard the environment outside the United States. The Committee heard no further testimony and received no further written communication from the Department of State (or any other executive agency with international responsibilities) concerning what effect an action-forcing procedure would have on foreign policy.

The amended bill itself included a specific provision concerning the "world environment" (the only such provision) and directing federal agencies to support international cooperative efforts.

In this context, if the Committee intended to impose an action-forcing provision, potentially affecting the foreign policy of the United States, on the State Department and other agencies concerned with foreign affairs, foreign trade, and foreign economic policy, it would have indicated that intention in a clear and unambiguous manner, either in the language of the bill or in the Report. No such indication can be found.

(b) References to international concerns.

The Senate Report contains four references to the environment outside the United States.[139] The first is a general reference to the "world" at the beginning of the Report, after a discussion of the deterioration of the American environment resulting from technological development and pursuit of an increased gross national product: [140]

"Today it is clear that we cannot continue on this course. Our national resources—our air, water, and land—are not unlimited. We no longer have the margins for error that we once enjoyed. The ultimate issues posed by shortsighted, conflicting, and often selfish

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demands and pressures upon the finite resources of the earth are clear. As a nation and as a world, we face these conditions:

"A population which is doubling at increasingly shorter intervals;

"Demands for resources which are growing at a far greater rate than population; and

"A growing technological power which is far outstripping man's capacity to understand and ability to control its impact on the environment."

The second is a similar general reference to the world in the summary that precedes the section-by-section analysis: [141]

"But the compelling reasons for a national policy are more deeply based. The survival of man, in a world in which decency and dignity are possible, is the basic reason for bringing man's impact on his environment under informed and responsible control."

These two general references are little more than expressions of the Committee's general recognition of international environmental problems.

The remaining two references in the Report to international matters are a part of the Committee's solution to international environmental problems: international cooperation. In the explanation of the amendments to S. 1075, the Report notes that the provision for international cooperation requires federal agencies "to support appropriate activities designed to deal with international environmental problems." [142] And in the section-by-section analysis, the provision is explained as follows: [143]

"In recognition of the fact that environmental problems are not confined by political boundaries, all agencies of the Federal Government which has international responsibilities are authorized and directed to lend support to appropriate international efforts to anticipate and prevent a decline in the quality of the worldwide environment."

In the absence of any other discussion of international environmental problems, it appears that the Committee adopted the State Department's recommendations and used international cooperation as the mechanism for protecting the international environment.

(c) Concern about domestic problems.

Although the Report's discussions of the impact statement requirement do not refer either to the domestic or international environment,[144] the remainder of the Report demonstrates that, with the exception of the provision for international cooperation, the Committee was proposing a solution to domestic environmental problems. The domestic nature of the problem is immediately evident in the opening paragraph of the introduction of the Report.[145]

"It is the unanimous view of the members of the Interior and Insular Affairs Committee that our Nation's present state of knowledge, our established public polices, and our existing governmental institutions are not adequate to deal with the growing environmental problems and crises the Nation faces."

The Report goes on to describe the domestic environmental crisis in an extensive list of the various forms of environmental damage that have occurred in the history of America and concludes: [146]

"As the evidence of environmental decay and degradation mounts, it becomes clearer each day that the Nation cannot continue to pay the price of past abuse. The costs of air and water pollution, poor land-use policies and urban decay can no longer be deferred for payment by future generations. These problems must be faced while they are still of manageable proportions and while alternative solutions are still available.

"If the United States is to create and maintain a balanced and healthful environment, new means and procedures to preserve environmental values in the larger public interest, to coordinate Government activities that shape our future environment, and to provide guidance and incentives for State and local government and for private enterprise must be devised."

In the section setting out the purpose of the legislation, the Report emphasizes the importance of the action-forcing procedures in influencing federal actions: [147]

"The purpose of S. 1075, the National Environmental Policy Act of 1969, is to establish, by congressional action, a national policy to guide Federal activities which are involved with or related to the management of the environment or which have an impact on the quality of the environment."

The examples cited by the Report of the kinds of federal activities that S. 1075 was designed to influence are exclusively "problems of domestic policy." [148]

In describing the need for enactment of S. 1075, the Report notes that the Committee had heard much testimony concerning the "inadequacies of the Nation's environmental management policies and practices," and summarizes the "situation of contemporary America and the Federal Government regarding the management of the environment:" [149]

1. Population growth and increasing per capita material demands are placing unprecedented pressure upon a finite resource base.

2. Advancing scientific knowledge and technology have vastly enlarged man's ability to alter the physical environment.

3. The combination of the foregoing conditions presents a serious threat to the Nation's life support system. The pursuit of greater material wealth and increased productivity, the quest for scientific knowledge, and the requirements of worldwide responsibilities have had unplanned and often unforeseen consequences in the form of resources depletion, pollution, ill conceived urbanization, and other aspects of environmental degradation.

4. The attainment of effective national environmental management requires the Nation's endorsement of a set of resource management values which are in the long-range public interest and which merit the support of all social institutions. The Federal role will involve in some measure nearly every Federal agency. Successful Federal leadership in environmental management must be based upon the best possible information and analyses concerning the status and trends of environmental conditions. Federal action must rest upon a clear statement of the values and goals which we seek; in short, a national environmental policy.

There is no general agreement as to how critical the Nation's present environmental situation has become. Some respected scholars insist that a number of crises already exist. Others maintain that there is yet time to prevent them. There is nearly unanimous agreement, however, that action is needed and that, at least in some instances, dangerous conditions exist.

The Senate Interior and Insular Affairs Committee has not concluded that the complex environmental problems we face are susceptible of easy solution. It is however, clear that the Congress cannot disavow its responsibility to establish basic policies and to exercise supervisory powers over the agencies it has created.

* * * * *

The committee believes that it is necessary to move ahead to define the "environmental" desires of the American people in operational terms that the President, Government agencies at all levels, the courts, private enterprise, and the public can consider and act upon.

(d) relationship between action-forcing provisions and policy goals.

The section-by-section analysis in the Senate Report also shows the domestic concerns behind the bill by relating the action-forcing privisions to the domestic-based policy goals. The action-forcing provisions of section 202 of the bill reveal little about their possible extraterritorial application.[150] The section-by-section analysis, however, notes that the action-forcing procedures are designed "to insure that the policies enunciated in section 101 are implemented" [151] and the section 101 policy appears to be a statement of domestic policy.[152] The policy goals that follow the congressional declaration in section 101(a) of the bill are presented in language identical to section 101(b) of NEPA. The goals, as explained by the section-by-section analysis, demonstrate the domestic thrust of the policy and give a territorial context to the phrases using the terms "man" and "human:" [153]

"(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;"

The Federal Government, in its planning and programs, shall strive to protect and improve the quality of each citizen's surroundings . . . .

"(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable or unintended consequences;"

The resources of the United States must be capable of supporting the larger populations and the increased demands upon limited resources which are inevitable in the future. . . .

"(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, whenever possible, an environment which supports diversity of experience and variety of individual choice;"

This subsection would make it clear that all agencies, in all of their activities, are to carry out their programs with a full appreciation of the importance of maintaining important aspects of our national heritage.

This subsection also emphasizes that an important aspect of national environmental policy is the maintenance of physical surroundings which provide present and future generations of American people with the widest possible opportunities for diversity and variety of experience. . . .

"(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities;"

This section recognizes that population increases underlie many of the resource and environmental problems which are being experienced in America. If the Nation's high standards of living are to be made available to all of our citizens . . . the Federal Government must strive to maintain a magnitude and distribution of population which will not exceed the environment's capability to provide such benefits.

"(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources."

In recent years a great deal of the emphasis of legislative and executive action regarding environmental matters has concentrated upon the protection and improvement of quality of the Nation's renewable resources such as air and water. It is vital that these efforts be continued and intensified because they are among the most visible, pressing, and immediate concerns of environmental management.

Thus, it was the Committee's view that each of the sections that became section 101 (b) of NEPA referred solely to a domestic application within the United States.[154] The The impact statement requirement, as an implementation of the goals of the policy statement, would seem to be confined to impacts on the domestic environment.

(e) value choices implicit in impact statement requirement.

The congressional intent that the international cooperation provision be the exclusive

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means of preserving the environment outside the United States is also evident from the Senate Report's recognition of the value choice that is implicit in the impact statement process. The Report notes that the source of "threats to the environment and the Nation's life support system are those that man has himself induced in the pursuit of material wealth, greater productivity, and other important values," [155] and that "new means and procedures to preserve environmental values in the larger public interest" must be preserved.[156] It appears that the Committee recognized that the weight to be assigned to competing values in implementing national policy is a choice that must be made by each sovereign nation. Thus, the Committee perceived a need for "the Nation's endorsement of a set of resource management values which are in the long-range public interest" and for a definition of the "'environmental' desires of the American people." [157] The Committee determined that many agencies within the federal government did not have an adequate mandate "to allow them to give adequate attention to environmental values" and that other agencies often elected to emphasize narrow economic values in their decisionmaking.[158] The statement of goals in section 101(a) and the impact finding requirement in section 102 were incorporated in the bill so that the value choice implicit in federal decisions and actions would include consideration of environmental values.[159]

In view of the Committee's desire to establish a set of national values for the American people, it seems unlikely that it would attempt to apply these values to federal activities that have impacts in other countries. Section 102(c) of the bill, the impact statement procedure, assigns to federal agencies the role of determining that adverse environmental effects resulting from a proposed federal activity are "justified by other stated considerations of national policy" and that irreversible commitments of resources are "warranted." However appropriate this choice may be for federal projects impacting on the domestic environment,[160] it seems quite inappropriate when the only impact of the project is outside the United States. Although the United States may have reached a stage of technological development so that its people are willing to sacrifice material gain for preservation of less tangible environmental values, another nation may make a different choice preferring economic development to the preservation of its undeveloped land or clean air and water. At the least, one would expect that the Committee would acknowledge that, before applying a statement of national policy and national values to other sovereign nations, there should be some form of consultation and cooperation with foreign countries. The absence of any provision in the bill, or any discussion in the Report, of the need for consultation in connection with the impact statement procedure with governments of the countries suffering the environmental impact is not consistent with the Committee's perception that preservation of the environment required a national value choice and that S. 1075 represented a declaration of the values of the American people. Indeed, in view of its separate provision, in subsection 102(e), for international cooperation, it cannot be assumed that the Committee intended to require an impact statement by federal agencies when the environmental impacts of their activities are outside the United States.

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The continuous and consistent discussion of S. 1075 as a solution to the domestic problem of a deteriorating American environment and the nearly total absence of references to the international environment strongly suggests that the impact statement requirement of the bill was intended to apply to the domestic activities of federal agencies and that the Committee accepted the recommendation of the State Department by requiring federal agencies to recognize the world-wide character of environmental problems and lend support to international cooperative efforts to preserve the environment of the world.

4. Senate Debate.

The main discussion of S. 1075 on the floor of the Senate was by Senator Jackson, sponsor of the bill and chairman of the Interior and Insular Affairs Committee. Although floor debate often is not an important part of legislative history, Senator Jackson's brief speech in support of the bill is significant in that it was an opportunity for the Interior and Insular Affairs Committee to explain to the Senate whether it intended that the new impact statement requirement of the amended bill apply to the development and implementation of United States' foreign policy.[161] Rather than informing the Senate that his bill was intended for international application, however, Senator Jackson emphasized that the bill was a measure to protect the domestic environment:[162]

"S. 1075, the National Environmental Policy Act of 1969, as amended . . . is in my judgment the most significant and important measure in the area of long-range domestic policymaking that will come before the 91st Congress. . . .

"As reported by the Committee, S. 1075 provides a considered congressional statement of national goals and purposes for the management and preservation of the quality of America's future environment. The bill directs that all federal agencies conduct their activities in accordance with these goals and provides "action-forcing" procedures to insure that the goals and principles are observed.

* * * * *

"It is my view that S. 1075 will provide an . . . important national policy for the management of America's future environment.

* * * * *

"[S. 1075] returns to the Congress the responsibility and the initiative for domestic policymaking in this important area of national concern."

This presentation to the Senate summarized the assumption of domestic application that had attended the bill throughout the Senate proceedings. In February, 1969, the Senate had referred a domestic environmental bill to the Committee on Interior and Insular Affairs. Five months later, the Committee rendered a Report on an amended version of that legislation and devoted nearly the entire Report to the domestic problems and solutions proposed by S. 1075. The amended bill, following the same format as the original bill, expressly referred to the environment outside the United States only in the context of international cooperation. Against this background, it must be concluded that the Senate, when it voted to pass S. 1075, was voting to protect the environment of America and not to impose new conditions on the conduct of foreign policy.

C. The legislative history with respect to the Conference is consistent with that in the House and Senate as to a solely domestic application.

This section considers the report of the House-Senate Conference on the bills and the related floor discussions.

1. Preliminary debate.

After the House requested a conference with the Senate, and before the conference,[163] there were two separate discussions of S. 1075 on the floor of the Senate. The first discussion took place in the context of Senate consideration of S. 7, the Water Quality Improvement Act of 1969 [164] and resulted in instructions to the Senate conferees to support certain compromise language for S. 1075.[165] There was no discussion of international aspects of the bill.[166] But Senator Jackson's remarks provide further insight as to the domestic purposes of the bill. In discussing the relationship between S. 7 and S. 1075 he described them as: [167]

". . . parallel legislative proposals which involve the creation of new governmental institutions for the overview and administration of Federal programs related to the management of the Nation's environment."

Senator Jackson went on to discuss the problem of adverse environmental impacts resulting from two domestic federal actions that would have been influenced by S. 1075.[168] He then concluded: [169]

"If enacted, titles I and II of S. 1075 will give all agencies a mandate, a responsibility, and a meaningful tool to insure that the quality of America's future environment is as good or better than today's."

It is significant that the "mandate, responsibility, and meaningful tool" provided to "all" agencies relates only to the quality of America's future environment. At no point during his presentation to the Senate did Senator Jackson suggest that the impact statement requirement in his bill was also a "tool" to protect the quality of the world's future environment.[170]

The second preliminary discussion by the Senate took place on the same day when the Senate briefly considered the House amendment of S. 1075 and request for a conference. Again, Senator Jackson led the discussion and again he described the problem of the environment as a domestic problem: [171]

"[O]ver the past decade there have been some very remarkable changes in public attitudes toward the manner in which the Nation's natural resources are administered. . . . Today, a new set of concepts have come into wide public use in discussing the Nation's irreplaceable natural resource base. These words and concepts include "ecology," "environment," and the "inter-relatedness" of all aspects of the physical environment."

In his third address to the Senate since the Committee reported the bill, Senator Jackson again failed to provide any indication that S. 1075 was intended to influence the foreign policy activities of federal agencies.

2. Conference Report.

The bill that came out of conference and that was enacted by Congress was a combination of the House bill, the Senate bill, and the Senate's instructions to the Senate conferees. The Conference Report consists of only an introductory paragraph and the text of the bill.[172] In the House version of the Report, the House conferees included a brief separate statement reviewing the conference bill, but that statement provides no indication that the conferees intended the conference bill to apply to federal agencies when the environmental impact of their activities is outside the United States.

Despite the lack of commentary in the Conference Report, two of the conferees' additions to the bill, taken in combination, suggest strongly that the conferees did not perceive the impact statement requirement as applying to impacts outside the United States. On the one hand, the conference added a requirement that federal agency participation in international cooperative efforts be "consistent with the foreign policy of the United States. . . ." [173] On the other hand, it included in the impact statement subsection a requirement that comments and views of state and local agencies accompany the impact statement through the review process.[174] These two additions show: first, that the conferees were sensitive to imposing conditions or restraints on United States' foreign policy; and second, that they were also sensitive to the need for acquiring the views of

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the local jurisdictions in which the environmental impact occurs. If the impact statement were intended to apply to impacts outside the United States, one would expect that the conference would have included in that subsection both a recognition of the importance of the foreign policy of the United States and a provision for acquiring and considering the comments of foreign governments.[175] The absence of these provisions cannot be accidental; the conference considered both issues and resolved them in a manner that demonstrates that the bill and the Act do not require impact statements for environmental impacts outside the United States.

3. Debate in House and Senate.

When the Conference Report was presented to the House, the debate was short. However, the Congressmen who participated confirmed that the purpose of the legislation was to protect the domestic environment. Congressman Dingell noted:[176]

"[T]he passage of this legislation will constitute one of the most significant steps ever taken in the field of conservation. With the establishment of the Council on Environmental Quality, we can now move forward to preserve and enhance our air, aquatic, and terrestrial environments and at the same time it will offer us the opportunity to carry out the policies and goals set forth in the bill to provide each citizen of this great country a healthful environment."

Congressman Mailliard observed:[177]

This legislation stands as a commitment of the Federal Government to the American people that the quality of life in this country in terms of its basic environmental components will be restored and maintained for our own benefit and that of succeeding generations of Americans."

Congressman Saylor opined:[178]

"[This legislation] provides the foundation upon which this Congress and future Congresses can forge ahead toward the goal of providing all Americans with a quality environment in which they can live.

". . . . the importance of this legislation cannot be overstated. . . . In this Nation today, we read with ever increasing frequency about the pollution of our waters, pollution of the air we breathe, the scarring of our natural landscape, through the exploitation of our resources. The profound impact of man's activity through technological advances . . . has a direct interrelation to the health and welfare of all Americans."

And Congressman Garmatz emphasized the importance of the Council's duty to "recommend national programs to foster and promote the improvement of the Nation's total environmental quality."[179]

In the Senate, Senator Jackson again dominated the substantive discussion of the bill. Much of the Senator's discussion is an intermixture of references to specific terms such as "environmental management for the Nation," "management of America's future environment," and "managing the environment—the Nation's life support system," and broad phrases such as "the continued existence or the health of mankind" and "air, land, and water which support life on earth."[180] The meaning of the latter terms has been discussed previously, but Senator Jackson's explanation of the subsection on international cooperation is perhaps the most powerful demonstration that the application of the Act to federal activities with international impacts is limited exclusively to the international cooperation subsection. Senator Jackson began by noting that the provision should be brought to the attention of the Senate. He then provided the most detailed explanation of the subsection that appears in the legislative history:[181]

"This provision was added to the bill as an amendment I offered in the Senate Interior Committee in June. The purpose of the provision is to give statutory authority to all Federal agencies to participate in the development of a positive, forward looking program of international cooperation in dealing with the environmental problems all nations and all people share. Cooperation in dealing with these problems is necessary, for the problems are urgent and serious. Cooperation is also possible because the problems of the environment do not, for the most part, raise questions related to ideology, national security and the balance of world power.

"We must seek solution to environmental problems on an international level because they are international in origin and scope. The earth is a common resource, and cooperative effort will be necessary to protect it. Perhaps also, in the common cause of environmental management, the nations of the earth will find a little more sympathy and understanding for one another.

"I am hopeful that the United Nations Conference in 1972 on "the Problems of the Human Environment" will unite leaders of nations throughout the world in the effort of achieving solutions to international environmental problems. I am, however, concerned that at the present time the Federal Government is not doing enough to plan and prepare for the 1972 U.N. Conference. Section 102(E) of the conference report on S. 1075 provides the Federal agencies and the administration with the authority to make a positive and a far-reaching contribution to this international effort to deal with this critical and growing international problem. I am hopeful that this authority will be utilized."

A number of points are noteworthy about Senator Jackson's discussion. First, the Senator believed that it was important to call the Senate's attention to the subsection but did not also call the Senate's attention to any implicit international application of the impact statement requirement. Second, Senator Jackson's discussion demonstrated his awareness that cooperation, not unilateral action, is the preferred approach to international environmental problems. It seems highly unlikely that the Senator would have expressly endorsed a solution based on cooperation while at the same time silently intended that the impact statement be applicable to international activities of federal agencies. It also seems unlikely that, if the impact statement provision did apply internationally, the Senator would not have informed the Senate that the cooperative approach was supplemental to the unilateral approach. Finally, Senator Jackson's choice of words is significant. With the exception of the title of the UN Conference, "man" and "human" do not appear in the Senator's discussion. It does not seem possible that when discussing a provision that clearly had international applications the Senator would use equally clear and unambiguous terms to explain it, yet when drafting and discussing other sections of the legislation, supposedly with international application, the Senator would rely on vague terms such as "man" and "human" to convey their extraterritorial import.

Senator Jackson's discussion of the conference bill also provides valuable information about two other provisions of the Act tangentially relevant to application of the impact statement requirement outside the United States. Section 101(c) of NEPA is a congressional recognition that each "person" should enjoy a healthful environment and that each "person" shares the responsibility to preserve the environment. Senator Jackson briefly reviewed the history of this provision:[182]

"Mr. President, one of the provisions of the Senate passed bill which the conference committee agreed to change requires special comment. Section 101(b) of S. 1075 provided that:

"(b) The Congress recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

"The conference committee changed this provision so that it now reads:

"(b) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment."

In explaining why he opposed the change, the Senator also explained the "persons" to whom the provision refers:[183]

"I opposed this change in conference committee because it is my belief that the language of the Senate passed bill reaffirmed what is already the law of this land; namely, that every person does have a fundamental and an inalienable right to a healthful environment. If this is not the law of this land, if an individual in this great country of ours cannot at the present time protect his right and the right of his family to a healthful environment, then it is my view that some fundamental changes are in order."

That is, the "persons" wha should enjoy a healthful environment under the protection of the bill, are "persons" in America, who are also protected by the law of land.

Finally, Senator Jackson provided further insight into the meaning of the goals listed in section 101(b) of the Act. The Senate Report explained five of the six goals in terms of the domestic environment.[184] In the Act and at other points in the legislative history, there are indications that the sixth goal, to preserve the environment for "succeeding generations," was also a domestic goal and referred to succeeding generations of Americans.[185] Senator Jackson, the author, sponsor and floor manager of the bill, confirmed this interpretation:[186]

"If we can send men to the moon, we can clean our rivers and lakes, and if we can transmit television pictures from another planet, we can monitor and improve the quality of the air our children breathe and the open spaces they play in.

"The needs and aspirations of future generations make it our duty to build a sound and operable foundation of national objectives for the management of our resources for our children and their children. The future of succeeding generations in this country is in our hands. It will be shaped by the choices we make. We will not, and they cannot escape the consequences of our choices."

On December 20, 1969, the Senate adopted the Conference Report on S. 1075;[187] two days later the House did the same.[188] On New Year's Day, 1970, President Nixon signed into law the National Environmental Policy Act of 1969.[189]

* * * * *

In summary, it is important to emphasize that the foregoing discussion relates to the most remote form of legislative history. The primary evidence of congressional intent—direct expressions of intent from witnesses, Congressmen or Senators, or staff contributors to written reports—appears nowhere in the legislative history. There is no statement in the hearings, reports, or debates discussed in this section that expresses an intent to apply the impact statement requirements of section 102(2)(C) of NEPA to federal actions with extraterritorial environmental impacts. Absent direct expressions of intent on such an important issue, there is insufficient evidence to find, as a matter of law, that Congress intended such extraterritorial application. Moreover, the secondary evidence of congressional intent—discussions of the

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unique consequences of extraterritorial application—also appears nowhere in the legislative history. There is no discussion of the problem of acquiring environmental information from foreign countries, of the effect of an "international" NEPA on United States foreign policy, or of the difference between federal agencies making value choices for the United States and for foreign countries. Absent such secondary evidence of intent, it is not possible to find, as a matter of law, that Congress intended to apply NEPA to foreign environmental impacts.

The lengthy analysis in this Part of the memorandum of the most remote evidence of congressional intent—that with respect to the use of particular words and phrases—confirms the conclusion from the lack of any direct or secondary evidence. When Congress used phrases such as "man and his environment" and the "human environment," it was describing the nature of the environmental problem—involving the complex relationship between man and his surroundings—and not the territorial scope of the solution. And when it recognized that each "person" should enjoy a healthful environment, it was reaffirming the national policy of protecting the domestic environment "to fulfill the social, economic and other requirements of future generations of Americans." The persons protected by the Act are Americans and to assure that their environment would not be mindlessly abused, Congress required, in section 102(2)(C) of NEPA, that all federal agencies prepare an environmental impact statement for any activity that would significantly impact on the human environment of the United States.

E. Congressional action with respect to NEPA since its enactment does not contradict the conclusions as to the pre-enactment legislative history

The Congressional oversight hearings with respect to NEPA are arguably a relevant part of an assessment of the legislative history of NEPA. This source is not given significant weight because of the obvious difficulties in supporting inferences as to the intent of an earlier Congress (in enacting legislation) from the actions of individual participants in later Congresses. A discussion of this material is included here primarily for the sake of completeness. There are, however, significant legislative enactments outside the context of NEPA that lend substantial weight to the argument that NEPA does not apply outside the United States. These statutes create procedures for dealing with international environmental impacts that would be unnecessary if NEPA applied outside the United States.

1. Post-enactment oversight hearings.

There have been extensive oversight hearings before the House Committee on Merchant Marine and Fisheries and the Senate Committee on Interior and Insular Affairs. These hearings considered possible international applications of NEPA only rarely. The case law standard with respect to post-enactment legislative history is considered first, followed by an analysis of the oversight hearings.

Statements in hearings and reports subsequent to enactment have not been received with any welcome by courts asked to interpret legislative intent. In 1960 in *United States* v. *Price*,[190] the Court, in interpreting the Internal Revenue Code, was asked to look at subcommittee recommendations for revisions in the Code that were not adopted and congressional reports at the time of subsequent amendments to the Code. The Court stated its general conclusion that "the views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one." [191] This result was applied consistently in subsequent cases.[192]

In a recent case, *Tennessee Valley Authority* v. *Hill*,[193] the Court was asked to find that Congress did not intend to stop construction of the Tellico Dam when it passed the Endangered Species Act of 1973, although four months before passage of the Act, a new species of fish, the snail darter, had been discovered in the portion of the river to be converted to a reservoir by the dam and operation of the dam would cause the fish to become extinct. The Court noted that "there is no discussion in the legislative history of precisely this problem [the effect on projects underway when the Act was passed]," and turned to "the totality of Congressional action" to determine congressional intent.[194] Subsequent to passage of the Act, the House and Senate Appropriations Committees, in reports accompanying appropriation bills, declared directly and forcefully that the Act did not apply to the Tellico Dam. After being so advised by the Committees, Congress twice enacted appropriations measures that included funds to complete the dam. Despite the paucity of pre-enactment legislative history, the Court, nonetheless, rejected this post-enactment evidence of Congressional intent because the Committee reports represent only the personal views of these legislators and however explicit, cannot serve to change the legislative intent of Congress expressed before the Act's passage.[195]

The post-enactment legislative history of NEPA begins in December, 1970, when the House Subcommittee on Fisheries and Wildlife Conservation held nine days of oversight hearings on federal agency compliance with section 102(2)(C) and section 103 of NEPA.[196] Eleven Executive Branch agencies presented their views on implementation of NEPA. The Departments of Defense and State informed the Committee that they planned *not* to implement NEPA with respect to their activities in foreign jurisdictions.[197]

There was no question raised with respect to the Department of Defense policy, apparently because it was included in submissions for the record rather than in direct testimony.[198] The State Department, however, included this point as a central feature of its testimony [199] and submitted a legal memorandum in support of its position.[200] That prompted questions from Congressman Everett and Congressman Dellenback with respect to what State Department programs were covered by Section 102(2)(C) under the Department's legal interpretation, how the Department would coordinate with other agencies in providing impact statements, and whether consideration should be given to controlling the actions of United States citizens who are abroad.[201] Congressman Dingell then pursued what was an action in the United States and what was an action abroad. He was particularly concerned with whether the mere funding of an operation constituted an action within the United States.[202] The State Department demurred and later submitted a letter for the record stating the basis for its position that all programs where the environmental impact was in a foreign jurisdiction were not covered by NEPA.[203]

At the hearings, the congressmen indicated that the question with respect to the applicability of NEPA overseas had not previously been raised in their consideration of NEPA. At the end of a lengthy description by the State Department witnesses of how underdeveloped countries would view adversely any environmental controls imposed on them, Congressman Dellenback remarked: [204]

"This has been interesting.

"As I indicated Mr. Herter, I think you opened up at least in my mind various aspects of the international impact which NEPA may have. I am thinking primarily along the line of a U.S. territorial problem, but in addition and in truth, the problem of the environment and what happens to be polluted or not polluted is a worldwide problem."

Similarly, after a discussion of whether foreign programs were covered by language in Section 102(2)(C) including "every recommendation" with respect to major federal actions significantly affecting the environment, Congressman Dingell said: [205]

"I have to be perfectly fair with you. I was one of the drafters of this statute. I am not sure what I had in mind when this language was included."

Despite the tentativeness of the members of the subcommittee during the hearings, the position of the Report was quite strident: [206]

"Stated most charitably, the Committee disagrees with [the State Department's] interpretation of NEPA. The history of the Act makes it quite clear that the global effects of environmental decisions are inevitably a part of the decisionmaking process and must be considered in that context."

Subsequent oversight hearings and legislative actions indicated that this aspect of the report of the 1970 Oversight Hearings was given little weight.[207]

The next set of NEPA oversight hearings in the House was held during early 1972.[208] There was no exploration of the issue of extraterritorial application of NEPA although the materials received by the committee and included in the record made clear the agencies' adherence to their earlier position.[209] In 1973, CEQ reported to the committee on its activities with respect to environmental impacts outside the United States. These activities consisted entirely of attendance at international conferences.[210] There was no other consideration by the committee of the application of NEPA outside the United States that year. In 1975, the committee again conducted NEPA oversight hearings without reaching the issue.[211]

There was a similar lack of attention to the issue in the Senate. In the first oversight hearings in 1970 before the Subcommittee on Air and Water Pollution of the Committee on Public Works, the Chairman of the CEQ commented on the CEQ role in the international area in response to a question by Senator Muskie with respect to the SST: [212]

"The legislation itself didn't address itself expressly to the international aspects of the environment, although I think the legislative history indicated the intent of Congress quite clearly, to the effect that the Council should concern itself with the broader international concerns."

There was no other discussion of the extraterritorial application of NEPA. In the parallel hearings, begun a few days later before the Committee on Interior and Insular Affairs, a number of questions were raised by Senator Magnuson with respect to new mechanisms for international cooperation in dealing with environment problems. There was no discussion of the extraterritorial application of NEPA.[213] In 1972 there were joint hearings on NEPA held by the Committee on Public Works and the Committee on Interior and Insular Affairs.[214] The testimony and record included no materials relevant to the issue. That was also the case for the NEPA hearings in 1974.[215]

2. Post-enactment legislation.

After the enactment of NEPA in 1969, Congress continued to legislate with respect to environmental problems outside the United States. Several of these enactments contain provisions that are important in assessing Congress' intent with respect to the overseas application of section 102(2)(C) of NEPA. These subsequent legislative provisions appear to be based on a presumption that the environmental impact statement requirements of NEPA do not apply to federal actions having environmental impacts outside the United States. They contain provisions that would be unnecessary or inconsistent with NEPA if section 102(2)(C) did apply to

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major federal actions having environmental impacts outside the United States, and the legislative history of these subsequent legislative acts indicates that the Congress did not regard them as either unnecessary or inconsistent with NEPA.

(a) Overseas Private Investment Corporation Amendments of 1974.

The 93rd Congress enacted section 2(5) of the Overseas Private Investment Corporation Amendments of 1974.[216] That section provides:

"Within six months after August 27, 1974, the corporation shall develop and implement specific criteria intended to minimize the potential environmental implications of projects undertaken by investors abroad in accordance with any of the programs authorized by [sections 2191 to 2200a of this title]."

The Overseas Private Investment Corporation conducts programs to encourage the participation of United States capital and skills in the economic development of other countries. Its primary programs are political risk insurance against losses due to expropriation, inconvertibility and war damage; and investment financing through loans and loan guarantees. The Corporation operates on a self-sustaining basis.

The provision for assessing environmental impacts was introduced as a floor amendment by Senator Javits on behalf of Senator Baker.[217] The introduction was accompanied by a statement by Senator Baker which referred to the environmental efforts in the United Nations and the absence of environmental safeguards for developing nations. Senator Baker stated that pollution is not a national but rather an international problem and [c]onsequently it must be dealt with at the international level and not solely by the action of individual states. . . . The objective [of the amendments] is to minimize the environmental implications of projects undertaken by American investors, in lieu of domestic statutes requiring the same thing.[218]

There was no mention of NEPA in the brief exchange on the floor and no indication that NEPA was thought to apply to the actions of the Overseas Private Investment Corporation. If section 102(2)(C) of NEPA applied to actions having environmental impacts overseas, however, the provision would have been unnecessary because the same result would have been achieved if the Overseas Private Investment Corporation were to comply with the impact statement requirements of that section. The provision also is evidence of the fact that when Congress intends to provide for environmental considerations of overseas actions, it does so by express terms.

This legislation was not an amendment of NEPA, and, therefore, does not fall clearly within the standard for weight to be given subsequent amendments.[219] As an enactment, however, it is entitled to considerably more weight than that accorded most post-enactment legislative history.[220]

(b) The Marine Protection, Research, and Sanctuaries Act of 1972.

The 92d Congress enacted an extensive environmental assessment requirement for ocean dumping. The Marine Protection, Research, and Sanctuaries Act of 1972,[221] (hereinafter the Marine Protection Act) regulates the dumping and transportation for dumping waste material into waters beyond the territorial jurisdiction of the United States. The Act bans dumping of radiological, chemical, or biological warfare agents, and subjects all other dumping that includes transportation from a location in the United States or by a United States vessel to a permit requirement.

The permit granting process includes an extensive environment assessment requirement: [222]

"The Administrator [of EPA] shall establish and apply criteria for review and evaluating such permit applications, and, in establishing or revising such criteria, shall consider, but not be limited in his consideration to, the following:

"(A) The need for the proposed dumping.

"(B) The effect of such dumping on human health and welfare, including economic, esthetic, and recreational values.

"(C) The effect of such dumping on fisheries resources, plankton, fish, shellfish, wildlife, shore lines and beaches.

"(D) The effect of such dumping on marine ecosystems, particularly with respect to:

"(i) the transfer, concentration, and dispersion of such material and its byproducts through biological, physical, and chemical processes

"(ii) potential changes in marine ecosystem diversity, productivity, and stability, and

"(iii) species and community population dynamics

"(E) The persistence and permanence of the effects of the dumping.

"(F) The effect of dumping particular volumes and concentrations of such material.

"(G) Appropriate locations and methods of disposal or recycling, including land-based alternatives and the probable impact of requiring use of such alternate locations or methods upon considerations affecting the public interest.

"(H) The effect on alternate uses of oceans, such as scientific study, fishing, and other living resource exploitation, and nonliving resource exploitation.

"(I) In designating recommended sites, the Administrator shall utilize wherever feasible locations beyond the edge of the Continental Shelf."

The similarity between the environmental assessment procedure mandated for these actions outside the United States and the environmental impact statement requirement imposed by NEPA is obvious.

Section 102(2)(C)(i) of NEPA requires a statement of "the environmental impact of the proposed action." Subsections (B), (C), (D), and (F) of Section 1412(a) of the Marine Protection Act, set out above, are more detailed provisions covering the same ground.

Section 102(2)(C)(ii) of NEPA requires a statement of "any adverse environmental effects which cannot be avoided should the proposal be implemented." Subsection (E) of Section 1412(a) covers the same ground.

Section 102(2)(C)(iii) of NEPA requires a statement of "alternatives to the proposed action." Subsection (G) of Section 1412(a) is a more detailed statement of the same requirement.

Section 102(2)(C)(iv) of NEPA requires a statement of "the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity." Subsection (H) of Section 1412(a) is a more specialized version of that requirement.

Moreover, the consultation and cooperation provisions of the Marine Protection Act are very similar to those included in NEPA. Section 1412(a) requires:

"In establishing or revising such criteria the Administrator shall consult with Federal, State, and local officials, and interested members of the general public, as may appear appropriate to the Administrator. . . . In reviewing applications for permits, the Administrator shall make such provision for consultation with interested Federal and State agencies as he deems useful or necessary." [223]

The permit and environmental assessment requirements of the Act were based on recommendations by CEQ.[224] If CEQ had, in the administration of NEPA, construed it as applicable to federal actions having environmental impacts outside the United States, there would be no need for a separate environmental assessment provision in this Act. Once the permit requirements were in place, if section 102(2)(C) of NEPA applied to major federal actions having environmental impacts outside the United States, it would apply automatically to the federal actions involved in granting the permits.[225] The legislative history does not provide further enlightenment on the underlying assumption that section 102(2)(C) of NEPA does not apply to actions having environmental impacts outside the United States.[226]

(c) The Deepwater Port Act of 1972.

The 93rd Congress enacted the Deepwater Port Act of 1972 [227] to authorize and regulate the construction and operation of deepwater ports such as oil drilling rigs in waters beyond the territorial limits of the United States. [228] This extraterritorial legislation also includes a specific environmental review requirement. The Secretary of Transportation was directed to establish environmental review criteria for evaluating applications for proposed deepwater ports. The statute directs that the environmental review criteria shall be "consistent with the National Environmental Policy Act." [229] The review criteria must include: [230]

(1) the effect on the marine environment;

(2) the effect on oceanographic currents and wave patterns;

(3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing and exploitation of other living and nonliving resources;

(4) the potential dangers to a deepwater port from waves, winds, weather and geological conditions, and the steps which can be taken to protect against or minimize such dangers;

(5) effects of land-based developments related to deepwater port development;

(6) the effect on human health and welfare; and

(7) such other considerations as the Secretary deems necessary or appropriate.

The Deepwater Port Act also includes consultation provisions similar to NEPA. The Secretary is directed to follow the recommendations of the Administrator of EPA and the Administrator of the National Oceanic and Atmospheric Administration. The Secretary is also directed to consult with "any other Federal departments and agencies having jurisdiction over any aspect of the construction or operation of a deepwater port." [231]

In this case, Congress took a different approach and specifically made reference to NEPA. The legislative history makes clear that the phrase "consistent with the National Environmental Policy Act" means compliance with the Act.[232] Of course, if NEPA were applicable outside the United States, that provision would be unnecessary. The legislative history does not contain any further clarification of the underlying presumption that NEPA is not applicable outside the United States or of the relationship between this Act and NEPA.

(d) Legislation relying on international cooperation to deal with international environmental problems.

The approach taken in NEPA, combining extensive domestic requirements with a very general international authorization, is a part of a pattern of congressional action in dealing with environmental matters. It is widely recognized, as it was in the legislative history of NEPA, that environmental protections do not stop at the international border. It is also well understood that absent international cooperation unilateral action by one nation often achieves no results. These factors have led to a pattern of Congressional action in the international environmental field. The approach used relies almost exclusively on authorization for United States cooperation and consultation with other na-

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tions rather than on unilateral action to impose substantive requirements outside the United States. This approach was followed in the early environmental protection statutes enacted in the early 1960's that were a part of the experience on which NEPA was based.[233] This pattern was also found in major environmental statutes enacted after NEPA.[234]

Throughout the very extensive legislative attention to international environmental problems there has been a consistent recognition of the need for flexibility to accommodate foreign policy concerns and an apparent rejection of the alternative of unilateral action by the United States. This is a pattern of action that is entirely consistent with and that provides support for an interpretation of NEPA that declines to extend unilateral action on environmental impact statements into the international arena.

III. The courts have not decided whether the environmental impact statement requirement applies to Federal actions outside the United States and no clear inference can be drawn from extant opinions with respect to how that question might be decided in the future.

Whether the environmental impact statement requirement of NEPA applies to major federal actions with environmental impacts outside the United States remains an open question. No court has dealt squarely with this issue and it is not possible to predict from the existing case law how the issue might be decided in the future.

A. The decided cases leave the question open.

The question of NEPA's applicability to environmental impacts outside the United States has not been presented directly to any court. Of the few cases in which the question was presented even indirectly, the earliest is *Wilderness Society* v. *Morton*.[235] In that case, American environmental groups sued the Secretary of the Interior claiming that he had not complied with the environmental impact statement requirement of NEPA prior to issuing a permit for construction of an oil pipeline across Alaska. Thus, the basic cause of action involved an impact statement for a proposed federal action significantly affecting the American environment. The district court granted the environmental groups' motion for a preliminary injunction.[236] While the litigation was dormant, pending the Secretary's preparation of an adequate impact statement, a Canadian citizen and a Canadian environmental group sought to intervene in the case claiming that consideration of the various alternative methods of transporting oil from Alaska would affect the environment of Canada. The district court found that the interests of the Canadians would be protected adequately by the American plaintiffs and denied the intervention application.

On appeal, the issue before the court was whether the interests of the Canadian environmental groups were sufficiently antagonistic to those of the American organizations to justify intervention. In a short, per curiam opinion, the court held that intervention should be allowed because the alternatives that might be considered by the Secretary, in preparing an impact statement for the proposed pipeline across Alaska, would vary in their relative impacts on the Canadian and American environments.[237] The court's decision was confined to the narrow procedural question of intervention by foreign citizens in a case involving an impact statement for a proposed federal action affecting the environment of the United States. The court did not decide or even discuss the question of whether NEPA would require a full impact statement if the Secretary ultimately elected to approve a trans-Canada pipeline.[238] Nor did it consider whether the interests of the Canadian intervenors would be sufficient to permit them to initiate a suit under NEPA if the Secretary's impact statement did not discuss adequately the effects on the Canadian environment.[239] In short, *Wilderness Society* v. *Morton* gives no indication of how a court would dispose of a case presenting the issue of NEPA's applicability to foreign environmental impacts.

In *Sierra Club* v. *Coleman*,[240] another NEPA case involving extraterritorial impacts, environmental groups obtained an injunction to prevent construction of a section of the Pan-American Highway through the Darien Gap in Panama and Columbia, pending completion of an environmental impact statement under NEPA. There were both domestic impacts (potential spread of hoof-and-mouth disease to the United States) and purely foreign impacts (in local Indian tribes) involved in the case. Because the Federal Highway Administration already had prepared an "Environmental Impact Assessment" for the project, it elected to litigate only the question of the adequacy of its assessment and did not challenge the applicability of NEPA.[241] Consequently, the court focused exclusively upon whether the assessment met NEPA's impact statement requirement. Again, the court did not decide whether NEPA should be applied to federal actions that cause environmental impacts outside the United States.

Indeed, in a subsequent review of the case, the court of appeals stated expressly that the issue had not been decided.[242]

"In view of the conclusions that we reach in this case, we need only assume, without deciding, the NEPA is fully applicable to construction in Panama. We leave resolution of this important issue to another day."

In *Sierra Club* v. *AEC*,[243] environmental groups brought an action against the Atomic Energy Commission, the Export-Import Bank, and the Department of State for noncompliance with NEPA. The case involved the nuclear power export program under which the United States concluded agreements with foreign nations to export nuclear power generation systems and enriched nuclear fuel produced by domestic companies. After the case was filed and before any judicial action, the Commission voluntarily commenced preparation of an environmental impact statement on the overall nuclear power export process.[244] The Department of State declined to challenge the applicability of NEPA. Only the bank continued to assert that it had no NEPA obligations whatsoever. The trial court found that the Commission's impact statement constituted compliance with NEPA for the entire export program and that therefore no issues remained for decision with respect to the bank.

A similar situation developed in *Environmental Defense Fund* v. *AID*.[245] In that case, the environmental group sought to enjoin the AID program for financing procurement of pesticides in some 20 developing countries. The parties settled the case before the court decided it when AID agreed to produce an impact statement covering one entire pesticide program. The settlement contained no statement suggesting that it involved a concession by either party as to the question of law. The regulations promulgated by AID as a result of this settlement were intended to avoid conceding any aspect of this issue.[246]

In *Enewetak* v. *Laird*,[247] hereditary and elected leaders of Enewetak Atoll in the Trust Territory of the Pacific Islands sought to enjoin, on NEPA grounds, the testing of nuclear defenses by simulating nuclear blasts on the atoll. The question presented was whether NEPA should be applied to federal actions in the Trust Territory. Based largely upon an examination of the language of the statute and its legislative history, District Judge King concluded that it should. His specific holding is quite narrow: [248]

". . . [I]t is the conclusion of this court that Congress intended to include the Trust Territory within the coverage of NEPA. Specifically, it is held that the term "Nation" as used in NEPA includes the Trust Territory, and therefore that the actions of defendants . . . must conform to the provisions of NEPA."

The significance of this narrow holding is apparent. Judge King found the key language in the statute to be its references to "the Nation." The question addressed, therefore, was whether a trust territory was a part of "the Nation" and thus subject to the statute.[249] The question whether any foreign jurisdiction could be within the reach of NEPA did not have to be addressed because the holding on the threshold question was dispositive: [250]

"[P]laintiffs argue . . . that NEPA follows every federal agency and is applicable anywhere in the world that such an agency takes an action that will significantly affect the quality of the human environment. Defendants apparently [do not] accept this argument . . . as to territory under the jurisdiction of a nation other than the United States. In accordance with the view of the case taken by this Court, it is unnecessary to decide this question."

In a subsequent case, Judge King reaffirmed his holding that "Nation," as used in NEPA, includes the Trust Territory.[251]

In the most recent case, *National Organization for the Reform of Marijuana Laws* v. *United States*,[252] plaintiffs sought to enjoin a Department of State program to provide approximately $12 million annually to the Government of Mexico for Mexico's drug eradication program, which included spraying the herbicide Paraquat on marijuana plants. Paraquat remained on marijuana plants that were harvested in Mexico and smuggled into the United States. When used in the United States, plaintiffs alleged, the marijuana containing Paraquat caused lung damage and other adverse health effects. Plaintiffs claimed that an impact statement was required under NEPA both for the program in Mexico and for the environmental impact in the United States. During the pendency of the litigation, the Department of State agreed to prepare an environmental impact statement under NEPA for the impacts within the United States. Although the Department agreed to prepare what it termed an "environmental analysis" for the program in Mexico, the scope of that analysis was not defined in terms of NEPA or otherwise. The court did not decide the question whether NEPA applied outside the United States. Instead, noting the decision in *Sierra Club* v. *Adams* [253] wherein the court declined to reach the question of extraterritorial application, the court stated: [254]

"Similarly, in view of defendant's willingness to prepare an "environmental analysis" of the Mexico effects of United States support to that nation's narcotics eradication program, together with the EIS required by NEPA as to the impact of that program upon the United States, the Court need not reach the issue. . . ."

From the foregoing, it is apparent that no court yet has held that NEPA should be applied to federal actions with impacts outside the United States.[255] Each of the cases that arguably touches upon the question has left it undecided.

B. The rule of statutory construction with respect to extraterritorial effect of United States laws makes highly speculative any inference as to how the question might be decided in the future.

None of the cases discussed above provides a basis for inferring what the likely result will be when the issue is presented squarely

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because deciding that issue will require a court to consider fully the established rule of statutory construction that, unless Congress expressly provides for extraterritorial application, United States law applies "only to conduct occurring within, or having effect within, the territory of the United States." [256] This well-established judicial approach to statutory construction has the effect of creating a presumption against extraterritorial application of United States laws when Congress has failed to consider carefully the implications of extending the law beyond the Nation's borders.

In its nascent form this rule of construction reaches back to the earliest days of American law [257] and has since been considered in numerous Supreme Court decisions.[258] The rationale for the rule is based on the recognition that applying a statute extraterritorially involves different kinds of problems and considerations than applying the same statute domestically. To apply American laws outside the United States without regard to the interest of the foreign states involved could create serious sources of friction in United States relations with other countries. The presumption against construing a statute to apply outside the United States requires that before a statute is read to operate extraterritorially there should be clear evidence that Congress recognized that there were international implications presented by the statute.

It has been argued that since the extraterritorial operation of NEPA would not violate principles of international law, the presumption against extraterritoriality does not apply. This confuses two separate aspects of the rule of construction. While it is true that the courts will not, if at all possible, construe a statute so as to conflict with international law, even in the absence of such a conflict courts have presumed that Congress intends to apply its legislation only within the territory of the United States absent a clear congressional expression to the contrary. In *Foley Brothers* v. *Filardo*,[259] the issue was whether a statute limiting the working hours of persons employed under federal contracts applied to American laborers working on a United States contract in Iran and Iraq. The Supreme Court found no conflict with international law, but nevertheless applied the presumption against extraterritoriality and held that the law did not apply to contracts performed outside the United States. The Court explained that the presumption was not based simply on potential conflicts with international law, but was "a valid approach whereby unexpressed Congressional intent may be ascertained . . . based on the assumption that Congress is primarily concerned with domestic conditions." [260]

In the context of NEPA, the presumption against extraterritorial application is especially appropriate, albeit unnecessary. The statute itself is silent on the issue of impact statements for foreign impacts. And there is no indication in the legislative history that Congress either intended that the statute be applied extraterritorially or that it even considered the consequences of extraterritorial application. Moreover, the legislative history demonstrates that Congress was, in the words of the *Foley* Court, "primarily concerned with domestic conditions." [261] The only possible ambiguity in either the statute or the legislative history is NEPA's mandate that "all" federal agencies prepare an impact statement for "every" program. This precise issue has, however, been considered and resolved by the Supreme Court. In *American Banana Co.* v. *United Fruit Co.*, Justice Holmes indicated that an Act of Congress, no matter how universal the scope of its terms may be, will ordinarily be confined in its operation and effect to the territorial limits of the United States.[262] In *Foley Brothers*, the Court held that the labor law at issue did not apply to American workers in Iran under contract with the United States despite the language of the statute that "*every* contract to which the United States . . . is a party" shall be governed by the law.[263] In *United States* v. *Palmer*, Chief Justice Marshall explained that the universality of statutory language "must not only be limited to cases within the jurisdiction of the state, but also to those objects to which the legislature intended to apply them." [264]

In the face of this established case law, a number of arguments have been advanced against applying the presumption to NEPA. First, it is sometimes contended that NEPA regulates federal decisions and that as long as the decision is made within the United States, NEPA is being applied only within the Untied States regardless of the locus of the activity or the environmental impacts concerned. The argument borders on the absurd. It assumes that Congress intended to draw a distinction, for example, between an activity authorized by a State Department bureaucrat in Washington and an activity authorized by a State Department bureaucrat in some foreign capital even if the environmental impacts of the two activities are prescisely the same. There is no basis in the statute, legislative history, or logic for such a distinction. Moreover, the argument ignores the fact that the central concern of NEPA is with the environment and the impact of federal activities (not decisions) on the environment. Foley Brothers provides a useful analogy in this regard. In that case the relevant federal contract was made with an American company, was signed in New York, and involved an American employee. The work, however, was performed in Iran.[265] The Court apparently did not find dispositive the fact that the contract was signed in the United States and therefore would be within a statute that regulates the domestic signing of contracts. In the same manner it is exceedingly unlikely that a court would hold NEPA applicable to extraterritorial impacts simply because the decision to undertake the impact generating activity was a "domestic" decision. The court would look to the basic concern of the statute (environmental impacts in NEPA and the performance of work in Foley Brothers) to determine when the statute was being applied extraterritorially.

Another argument made against the presumption in the context of NEPA, is that the presumption applies only when Congress regulates individual conduct and not when the activities of a federal agency are involved. The rationale for the presumption would, however, appear to be stronger when a federal agency is concerned. To infer that a statute regulating a federal agency's activities applies outside the United States when Congress was silent on the point assumes that Congress expected the agency to act in foreign lands in the same way it operates in the United States. Such an assumption pays no heed to the unique problems and circumstances generated by consideration of foreign policy and diplomatic relations. An additional reason in favor of applying the presumption in cases involving federal agencies can be derived from the separation of powers doctrine. Traditionally, the Executive Branch exercises primary responsibility for the foreign relations of the United States. Thus, the operations of federal agencies outside the United States usually have been subject more to executive than legislative control. While it is probably that Congress has the authority to impose restrictions on the conduct of American foreign policy, the separation of powers doctrine supports a presumption that unless Congress has considered carefully the implications of intruding on the activities of executive agencies abroad, has heard the views of the Executive Branch on the matter, and has indicated its intent in a clear and unambiguous manner, congressional limitations on federal agencies will be limited to their operations in the United States.

Finally, the argument is made that the presumption against extraterritorial application of a statute should not be applied to NEPA because the requirements of that statute will not impact on the interests of foreign countries. It is contended that the environmental deliberations required by NEPA simply would be added to the economic studies made by federal agencies before proceeding with a project. The notion that an extraterritorial application of NEPA would not affect foreign countries is incorrect. The extensive data required for the environmental impact statement must be gathered in the foreign country. Based on this data, choices would have to be made concerning the environmental costs and developmental benefits of the project. A set of American values and standards as embodied in NEPA would determine the context of the consultations from the very start. When one country imposes certain values on another country as a condition for aid there is clearly an impact on the latter. Indeed, there is more than a trace of cultural arrogance in the position that the United States will cooperate with foreign states on development projects if and only if that project complies with American principles concerning the appropriate trade-offs between environment and development.[266] Congress *can* impose such conditions in foreign programs but where Congress is silent, such conditions should not be inferred.

Ultimately, a rule of statutory construction is only as good as the argument it makes for presuming congressional intent. One straightforward reason for finding the rule regarding extraterritoriality to be revealing of congressional intent is the fact that the rule has guided statutory construction for many years. This fact lends weight to the presumption that if Congress had wanted to apply section 102(2)(C) of NEPA outside of the territory of the United States, it would have done so expressly because the courts are unlikely to extend the statute without a clear expression of congressional intent to do so.[267]

IV. Administrative action since enactment of NEPA has been based on an interpretation that rejected the applicability of Section 102(2)(C) of NEPA outside the United States.

The contention that the impact statement requirement of NEPA applies to federal actions with environmental impacts outside the United States was voiced from time-to-time during the period between 1970 and 1977. The CEQ has referred to international requirements,[268] scholarly articles have commented on the possibility,[269] lawsuits have raised the question tangentially,[270] and there was one early indication that an oversight Committee of the Congress thought that such a requirement existed.[271] The administrative action taken by the agencies rejected this contention with near uniformity. The agencies that administer the major government programs outside the United States responded to the enactment of NEPA by applying the environmental impact statement requirement to the domestic portions of their programs and declining to apply it (as a statutory requirement) to their international programs. Both the Departments of State and Defense published regulations expressly rejecting the applicability of the environmental impact statement requirement overseas. The Nuclear Regulatory Commission has, by administrative law decision, reached the same result. Other agencies adopted practices consistent with this interpretation of the Act.

A. Department of Defense regulations.

In August, 1970, the Department of De-

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fense issued Interim Guidelines on Environmental Statements to implement the provisions of NEPA within the Department of Defense.[272] The Interim Guidelines were relatively brief, but with respect to domestic actions, implemented NEPA fully. They created a tentative exemption, however, for "activities or actions in foreign countries." These programs were included in a category "which normally would not require submission of an environmental statement." [273] Defense Department components were instructed to consult a designated Assistant Secretary for advice in doubtful cases.[274]

The exemption for foreign programs was continued and made more definite in succeeding issuances of the guideline. The revised regulations provide: [275]

"Environmental impact statements are required for [specified] actions *except when conducted in, or partly in, areas which are in or under the jurisdiction of a nation other than the U.S.*"

When actions are to be taken in foreign jurisdictions, the Defense Department element that has responsibility for the program makes a recommendation to an Assistant Secretary of Defense with respect to whether an environmental impact statement should be developed. The Assistant Secretary has complete discretion to decide whether an impact statement would be useful or appropriate.[276] Under this procedure, the Department of Defense has undertaken full environmental impact statements in some cases, less intrusive environmental assessments in others, and no analysis at all in still others, depending on the circumstances involved and the potential effect on foreign relations and national security.

B. Department of State regulations.

In 1970, the Department of State Legal Adviser issued an opinion concluding that the environmental impact statement requirement was not applicable "to actions occurring within the jurisdiction of another state." [277] This opinion created some controversy with the NEPA oversight committee in Congress,[278] but the Department remained firm. In 1972, the Department of State issued its final regulations implementing NEPA and expressly exempted its divisions most likely to have environmental impacts overseas.[279] In 1975 private litigants challenged the failure to provide an environmental impact statement for pesticide programs conducted abroad by the Agency for International Development (AID).[280] That litigation was settled and as a part of the settlement, AID agreed to issue regulations applying environmental measures to its programs.[281] Neither the stipulation nor the regulations concede that the environmental impact statement requirement of NEPA applies overseas. The regulations [282] are consistent with either theory.

Section 216.1(a) of the regulations refers both to NEPA and AID policy as sources of "purpose." Reference to NEPA would be proper if only because the regulations affect AID actions outside the United States that have an impact within the United States.[283] Every other matter covered by the regulations can be the subject only of AID policy entirely apart from the requirements of NEPA. As a matter of policy, AID can apply whatever environmental measures it finds necessary to its actions overseas. These measures may be the same in some respects as those required by NEPA for domestic programs if the agency finds that useful. The only other mentions of NEPA are in sections applicable to the requirement for an environmental impact statement for AID actions that have impacts within the United States. Section 216.6(c) defines "CEQ guideline" and section 216.1(c)(5) defines "Environmental Impact Statement." Those terms are used in section 216.6, a short provision dealing with, inter alia, the environment of the United States.

The heart of the AID regulations is section 216.5 that provides for environmental assessments which are used instead of environmental impact statements for AID activities where the environmental impacts occur within a foreign jurisdiction. This category includes nearly all AID programs. The provisions governing environmental impact statements are consistent with the statute, and threfore could be argued to be promulgated under it. They are, however, substantially less stringent than the CEQ guidelines which purport to set out procedures for complying with the statute, and therefore could be argued to be promulgated solely under AID policy.

When dealing with activities in foreign jurisdictions, the regulations require that an Initial Environmental Examination be prepared as a first step.[284] This document is the initial study of the reasonably foreseeable effects on the environment and is the basis for a threshold decision whether an environmental assessment is required.[285] If the threshold decision is to require an environmental assessment, the initial program document together with the Initial Environmental Examination is circulated to other federal agencies for comment within 30 days. The comments received are considered in putting together the environmental assessment and are included in the project file.

The requirement as to form and content of the environmental assessment are substantially similar to the CEQ requirements for the form and content of environmental impact statements, and the AID regulation notes specifically that the CEQ guidelines were followed in large part.[286] The requirements as to public comment are, however substantially different. Under the AID regulations, the environmental assessment is not required to be circulated anywhere for comment before being put in final form. The CEQ guidelines require that a draft environmental impact statement be made available for 60 days for review by federal agencies, EPA, state and local agencies, and the public.[287] The AID regulations do not require consideration of any comments on the environmental assessment other than by the host country.[288] The CEQ guidelines require domestic agencies to "make a meaningful reference in the final statement to the existence of any responsible opposing view not adequately discussed in the draft statement, indicating the agency's response to the issues raised." [289]

AID environmental assessments are available to the public only through the Freedom of Information Act [290] and only after they are put in final form and forwarded for agency action.[291]

The AID regulations are consistent with the letter of section 102(2)(C) of NEPA because the content of the environmental assessment meets the content requirements of subsections (C)(i) through (v); the circulation of the initial environmental examination meets the requirements with respect to consultation; [292] the attachment of any views on the initial environmental examination to the project file may meet the requirement for circulation of such views; [293] the provisions for making available completed environmental assessments meet the statutory standard for access; [294] and the provisions for making the environmental assessment a part of the project file satisfy NEPA's requirement that they "accompany the proposal through the existing agency review processes." [295]

The AID regulations resulted from settlement of litigation. The language represents a compromise of competing views. The parties were satisfied with this ambiguous compromise presumably because of the wholly uncertain state of the law. This compromise leaves AID free to insist, in subsequent litigation or in subsequently issued regulations, that it acted only under its own policies, and that it is free to change its regulations at any time specifically declaring NEPA to be inapplicable.

C. Nuclear Regulatory Commission decision.

The Nuclear Regulatory Commission published extensive regulations implementing NEPA, particularly with respect to the environmental impact statement requirement. These regulations contained no provision on the application of environmental protections to actions of the United States government overseas and no reference to the international environment. Unlike the Department of Defense regulations, however, the Commission's regulations did not specifically reject an extraterritorial effect for the impact statement requirement of NEPA.[296]

In 1976, the Commission began proceedings to consider an application for authorization to export a nuclear reactor to the Federal Republic of Germany. In early 1977, an intervenor sought to block the export authorization on the grounds that NEPA required the Commission to prepare an environmental impact statement with respect to the decision on the export application.[297] Both the CEQ and the Department of State submitted views in the proceedings. The CEQ argued that NEPA required an impact statement and the Department of State argued that it did not.

The Commission concluded: [298]

"After reviewing the statutory language of NEPA and its legislative history, as well as judicial decisions interpreting NEPA, a recent expression by the Council on Environmental Quality on NEPA's extraterritorial reach, and general principles of international law, and after weighing United States national security and foreign policy interests, we conclude that NEPA does not require preparation of an individual environmental impact statement on the issues raised in this proceeding."

* * * * *

"The obligation of § 102(2)(C) plainly extends to considering the global impacts of major federal actions significantly affecting the environment which also have substantial impacts within the United States—for example, impacts on the Pacific Ocean from oil transportation between Alaska and the United States. The more attenuated the impacts on the United States become, however, the less clearly § 102(2)(C) applies. When the issues concern the domestic German impacts of an American reactor (whose manufacture and transport do not significantly affect the American environment) to be constructed in Germany under the authority of the German government, following procedures designed by that government to meet the perceived needs of that country, we can no longer find in the statutory language a requirement for an analysis of such impacts."

In assessing the legal requirement, the Commission also took into account two policy considerations: first, that environmental impact statements require information that cannot be collected by the United States in a foreign context in the manner contemplated for the domestic context,[299] and second, that once the export leaves the United States, United States control over the export is quite limited.[300]

V. Important policy considerations support an interpretation that section 102(2)(C) of NEPA does not apply to federal actions having environmental impacts outside the United States

The decision with respect to the applicability of section 102(2)(C) of NEPA to federal actions with environmental impacts outside the United States cannot be made in a legal vaccum. There are important policy considerations that militate against such an application. These include limitations that would

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be imposed on the President's foreign policy powers, substantial harm to the foreign relations of the United States, potential unavailability of necessary information to develop useful impact statements, substantial additional costs and inflationary pressure, substantial competitive disadvantage for some classes of American exports, and the existence of an acceptable alternative to achieve the substantive goals of environmental protection.

A. Restriction on the President's exercise of his foreign policy powers.

The President conducts the foreign affairs of the United States through a wide variety of actions ranging from personal diplomacy with the heads of other nations to the implementation of longstanding programs by Executive Branch agencies. Because the rapidly shifting scene in the foreign affairs arena requires expeditious determination of appropriate United States actions—frequently at the Presidential level—the administration of foreign policy programs must be free from unnecessary administrative burdens. Nearly all of the President's decisions and policies result from agency recommendations or interactions with White House staff and must be carried out by agency action. Funds, material, or personnel are dispatched; negotiations are conducted; and program implementing decisions are made by the agencies—primarily the Departments of State, Defense, Treasury and Commerce, and two independent establishments, the Export-Import Bank and the Overseas Private Investment Corporation.

Application of NEPA to the actions of these agencies' programs that may have environmental impacts outside the United States would affect the President's powers very substantially. A principal effect would be delay. Presidential decisions could not be made as quickly as is possible presently. Before agencies could make recommendations they would have to determine whether there were likely environmental consequences and if so, whether the consequences were sufficient to require an environmental impact statement. If an impact statement were required, it would have to be completed before the agency could make a recommendation to the President because NEPA mandates inclusion of environmental factors in the decision-making process. Even if there were an exemption for emergencies, which the statute does not recognize, delay would be a likely result.

A second effect on the President's foreign affairs policies is the disclosure mandated by NEPA. Many Presidential decisions need not only speed but confidentiality to be effective. NEPA was intended to provide disclosure not only to CEQ and other federal and local agencies, but to the public in order that there could be an effective exchange of views on the balancing process between environmental objectives and other legitimate federal goals. This disclosure is often directly at odds with foreign policy needs. Even if it were possible to waive public disclosure, the disclosure within the agencies and within the CEQ that would be necessary to make the required environmental assessments of proposed actions would create risks of public disclosure that would be unacceptable in many foreign policy contexts.

A third effect is the potential for litigation. If NEPA applies, a new avenue is created to challenge foreign policy decisions that are now virtually immune from litigation. Courts almost uniformly defer to the President except when a legislative requirement has been imposed, and even then, it is rare that injunctive relief is appropriate. If section 102(2)(C) of NEPA applies to actions that may have environmental impacts overseas, no matter what regulations are promulgated by CEQ or the agencies, the courts will be invited, by those with environmental concerns or those opposed to the foreign policy decisions who are using evironmental litigation as a convenient tool, to become involved in foreign affairs decisions. The potential for injunctive relief that would block foreign programs until acceptable environmental impact statements are completed is a very serious concern. Foreign arms transfers, United States troop movements overseas, aid to insurgents or political factions within foreign countries, and other politically controversial decisions would face potential litigation.

B. Harm to the foreign relations of the United States.

The NEPA process is essentially a mandate for decisionmaking in circumstances of full disclosure to the public. This process is geared to the American system of government and to the American perception of priorities for government action. Other countries have substantially different systems of government and very substantially different government priorities. Some highly developed countries have made sophisticated choices about environmental impacts that are worth government attention. Some less developed countries have a general bias against spending time or resources on most environmental concerns.[301] Virtually all countries regard some of the kinds of information about government plans, future use of resources, limitations on government options, and dealings with the United States usually required for environmental impact statements are highly proprietary and confidential. The extension of the NEPA process to United States actions that have impacts in a foreign jurisdiction inevitably raises serious questions of national sovereignty and affects national pride in a manner detrimental to United States foreign relations.

It is possible to offer environmental assessments or impact statements to countries that want to avail themselves of this method of protection. It is also feasible to assist in procedures for environmental protection devised by other countries. These actions are contemplated by section 102(2)(E) of NEPA. If, however, the requirements of section 102(2)(C) apply, the United States will dictate the method by which possible environmental impacts will be assessed in foreign jurisdictions. The United States agencies with foreign programs will be obliged to ask for all of the information necessary to produce an effective environmental impact statement even if they know that the foreign country will deny or find means to evade the request. The act of asking will inevitably cause friction, even if no more is done and the impact statement is woefully inadequate because of the lack of critical information that the foreign country did not supply.

Moreover, the United States agencies will be obliged to make public within the United States impact statements that may contain information about foreign countries that is helpful in an environmental context and extremely harmful in a diplomatic relations context. To say that NEPA requires only that information be made available to the public, not that decisions be made in any particular way, is to avoid the heart of the matter. NEPA includes public disclosure provisions because such disclosure in some instances, provides an effective weapon against government decisions of a certain nature. That is true in foreign countries as well as in the United States. The public disclosure mandated by NEPA is a political force abroad, foisted on foreign nations by the United States ostensibly for the benefit of those nations. It may be irrational for other countries to object to our view of their benefit, but it is an objection that is a potent force in diplomatic relations.

There is another consideration. Other countries often are willing to be forthcoming on a voluntary basis. If the requests for information and attention to environmental matters are presented in a cooperative rather than coercive context, there may be substantial progress toward mutual goals. Determining that a United States statute reaches into their jurisdiction, however, turns the most innocuous requests or actions into matters of national sovereignty and the willingness to be forthcoming will probably evaporate.

The State Department has repeatedly made known its concerns in this regard. In 1970, Department representatives testified at the House Oversight hearings: [302]

"You have a problem of policy which is a very difficult one. In a day when the developing countries tend to think aid really is doled out in such a way as to keep the gap between the developing countries and the developed countries consistently at the same distance, that we are not trying to encourage them to develop their own initiative to move forward, that we treat them as children.

"We think it is a matter of policy, at least this far, that imposing our requirements with respect to AID-financed purchases as a matter of law is unwise policy. We certainly do everything humanly possible through the persuasive process to give these countries at least the option of seeing what various courses might be available."

In 1976 when the issue emerged again in the context of litigation against AID, the Department refused to concede that NEPA applied, and in 1977 when the issue was raised in the Nuclear Regulatory Commission proceeding, the Department of State took a strong stand. The Commission was advised [303] "that any U.S. attempt to make site specific assessments of environmental impacts within the territory of another country would have major, adverse political consequences. A majority, if not all, governments would be expected to take the position that, among other things:

"Decisions affecting primarily their national environments are a matter of sovereign responsibility;

"Relatedly, the degree and means of public participation in the national environmental decision-making process, which involves a relationship between the government and its citizens, should not be substantially influenced by the actions of other governments; and

"They have full competence to make the necessary analyses and judgments."

The views of the Department of State are entitled to substantial weight in this issue of possible harm to foreign relations.

C. Unavailability of information necessary to useful environmental impact statements.

Application of section 102(2)(C) of NEPA to federal actions with environmental impacts outside the United States should not be pursued if the objectives of NEPA cannot be attained by this means. CEQ has determined that, for actions within the United States, a useful environmental impact statement requires very substantial amounts of information: [304]

"(1) A description of the proposed action, a statement of its purposes, and a description of the environment affected including information, summary technical data, and maps and diagrams where relevant adequate to permit an assessment of potential environmental impact by commenting agencies and the public . . . In order to ensure accurate descriptions and environmental assessments, site visits should be made where feasible. Agencies should also take care to identify, as appropriate, population and growth characteristics of the affected area and any population and growth assumptions used to justify the project or to determine secondary population and growth impacts resulting from the proposed action and its alternatives.

"(2) The relationship to land use plans, policies, and controls for the affected area.

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. . . Where a conflict or inconsistency exists, the statement should describe the extent to which the agency has reconciled its proposed action with the plan, policy or control and the reasons why the agency has decided to proceed notwithstanding the absence of full reconciliation.

"(3) The probable impact of the proposed action on the environment. . . . Among factors to consider should be the potential effect of the action on such aspects of the environment as [air, water, fish and wildlife, solid waste, noise, radiation, hazardous substances, energy supply and natural resources development, land use and management, outdoor recreation, protection of environmentally critical areas, land use in coastal areas, redevelopment and construction in built-up areas, density and congestion mitigation, neighborhood character and continuity, impacts on low-income populations, historic, architectural and archaeological preservation, and soil and plant conservation and hydrology.] . . . Secondary or indirect as well as primary or direct, consequences for the environment should be included in the analysis. . . . For example, the effects of the proposed action on population and growth may be among the more significant secondary effects. Such population and growth impacts should be estimated if expected to be significant . . . and an assessment made of the effect of any possible change in population patterns or growth upon the resource base, including land use, water and public services, of the area in question.

"(4) Alternatives to the proposed action, including, where relevant, those not within the authority of the responsible agency. . . . A rigorous exploration and objective evaluation of the environmental impacts of all reasonable alternative actions, particularly those that might enhance environmental quality or avoid some or all of the adverse environmental effects, is essential. Sufficient analysis of such alternatives and their environmental benefits, costs and risks should accompany the proposed action through the agency review process in order not to foreclose prematurely options which might enhance environmental quality or have less detrimental effects. Examples of such alternatives include: the alternative of taking no action or of postponing action pending further study; alternatives requiring actions of a significantly different nature which would provide similar benefits with different environmental impacts. . . . In each case, the analysis should be sufficiently detailed to reveal the agency's comparative evaluation of the environmental benefits, costs and risks of the proposed action and each reasonable alternative.

"(5) Any probable adverse environmental effects which cannot be avoided (such as water or air pollution, undesirable land use patterns, damage to life systems, urban congestion, threats to health or other consequences adverse to the environmental goals set out in section 101(b) of the Act) . . . Included for purposes of contrast should be a clear statement of how other avoidable adverse effects discussed in paragraph (a)(2) of this section will be mitigated.

"(6) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This section should contain a brief discussion of the extent to which the proposed action involves tradeoffs between short-term environmental gains at the expense of long-term losses, or vice-versa, and a discussion of the extent to which the proposed action forecloses future options. In this context short-term and long-term do not refer to any fixed time periods, but should be viewed in terms of the environmentally significant consequences of the proposed action.

"(7) Any irreversible and irretrievable commitments of resources that would be involved in the proposed action should it be implemented. This requires the agency to identify from its survey of unavoidable impacts in paragraph (a)(5) of this section the extent to which the action irreversibly curtails the range of potential uses of the environment. Agencies should avoid construing the term "resources" to mean only the labor and materials devoted to an action "Resources" also means the natural and cultural resources committed to loss or destruction by the action.

"(8) On indication of what other interests and considerations of Federal policy are thought to offset the adverse environmental effects of the proposed action identified pursuant to paragraphs (a) (3) and (5) of this section. The statement should also indicate the extent to which these stated countervailing benefits could be realized by following reasonable alternatives to the proposed action (as identified in paragraph (a)(4) of this section) that would avoid some or all of the adverse environmental effects."

Even a cursory examination of this catalog of information indicates that most of it can be obtained only from sources within the government of the foreign country where the United States action will be carried out. In the American context, if any of this information is not presented adequately, the impact statement is rejected because it does not attain the objectives of the Act. There is no reason to assume that foreign impact statements, to be effective, require any less or different information. Therefore, one must assume that if the foreign government refuses to supply the needed information, the impact statement produced without that information will be valueless in terms of achieving the objectives of the Act. If those objectives can be thwarted so readily and predictably, the federal agencies with programs overseas should not be required to waste their resources in order, as a matter of form, to apply the environmental impact statement requirement of NEPA overseas.

D. Additional costs and increased inflationary pressure.

One of the President's principal goals is to contain and reduce inflation. To this end, a review of a number of environmental policies has been requested to determine whether a contribution can be made from the environmental sector in this regard. It is appropriate to examine the proposal to extend section 102(2)(C) of NEPA to federal actions with environmental impacts outside the United States in this regard. If section 102(2)(C) is determined to be applicable, the requirement to produce environmental impact statements will extend to a large number of government programs not now covered. There will be three effects: First, there will be substantial increased costs in operating some programs, particularly defense programs, attributable to additional personnel, consultant services, and overhead connected with preparing impact statements. Second, there will be substantial delay over the otherwise expected rate of progress on these programs while the formal impact statement requirements are met and this will cause increased costs. Delay will also be caused by the litigation that can be expected to accompany a determination that there is a statutory obligation with respect to impact statements. Third, countries in which the United States has programs or does business will demand additional concessions or compensation for the burdens imposed on them by our environmental procedures. These burdens may be real or imagined, but the demands will be costly to meet. None of these costs will be accompanied by any increase in productivity; therefore, the resulting inflationary pressure is inevitable. An extra inflationary impact, no matter how small, on the large part of the defense budget, for example, that may be affected will be a hindrance in reaching the President's goal.

E. Competitive disadvantage for some classes of American exports.

Some classes of exports require the issuance of export licenses or permits. An even larger class of exports are financed by government agencies. Action by the federal government to issue licenses or to finance exports that might have substantial environmental impacts would become subject to the environmental impact statement requirement if section 102(2)(C) of NEPA applies to major federal actions with environmental impacts outside the United States.[205] A suitable impact statement for each export or category of exports would have to be completed before the license could be issued or the financing could be approved. This would result in a very substantial delay that would create a competitive disadvantage for American exports and consequently affect the Nation's balance of payments. While the environmental impact statement was being drafted, put out for public comment, and revised, foreign competitors would absorb some of the available market. In other cases, foreign importers would reject American products because of the requests for information, to be made public in the United States, that would be required for the impact statement. The flexibility within the United States to design an effective export policy would be decreased.

F. Application of Section 102(2)(C) of NEPA to federal actions having environmental impacts outside the United States is not required to achieve any legitimate environmental objective.

The application of NEPA procedures to major federal actions with environmental impacts outside the United States is a matter of form, not substance. The President can assign to CEQ procedural or substantive responsibilities for environmental concerns outside the United States under section 102(2)(E) of NEPA or entirely outside the statute. The President can also require environmental information as a necessary element of federal decisionmaking on programs outside the United States without statutory authorization. There is no environmental objective that can be achieved only through application of section 102(2)(C) of NEPA to federal actions with environmental impacts outside the United States.[206]

If the President acts without reference to section 102(2)(C), he can devise means of assessing environmental factors that are specially tailored to foreign policy concerns. These means can be accompanied by carefully considered provisions for public disclosure and comment in certain cases where it is possible to accommodate foreign sensitivities. In some instances the United States may want to compile an environmental notice that transmits to the foreign government the information that the United States has relevant to the possible environmental impacts of a product or project. In other cases, the United States may want to accept environmental assessments produced by a European country because they are consistent with the European Community environmental protection measures for projects that have international effects. Freed of the restrictions of NEPA procedures designed for domestic programs, the President can achieve the same environmental objective in an economic and efficient fashion that will not disrupt foreign relations.

CONCLUSION

For the reasons stated above, Congress did not intend and the Administration should not voluntarily extend applications of section 102(2)(C) of NEPA to major federal actions that have significant environmental impacts outside the United States.

FOOTNOTES

[1] National Environmental Policy Act of 1969, Pub. L. No. 91-190, § 102(2)(C), 83 Stat. 852 (1970) (codified at 42 U.S.C. § 4332(2)(C)

(1970)). In this memorandum, except as otherwise noted, all citations to the Act are to the legislation passed by the 91st Congress. National Environmental Policy Act of 1969, Pub. L. No. 91–190, 83 Stat. 852 (1970). The text of the Act is set out in Appendix A.

NEPA was amended subsequently by the Act of July 3, 1975, Pub. L. No. 94–52, §§ 2, 3, 89 Stat. 258, and the Act of August 9, 1975, Pub. L. No. 94–83, 89 Stat. 424. NEPA as amended, is codified at 42 U.S.C. § § 4321, 4331–4335, 4341–4347 (1970 & Supp. V 1975). The text of the Act as amended and codified is set out in Appendix B.

[2] See, e.g., The Federal Noxious Weed Act of 1974, 7 U.S.C. § 2801 *et seq.* (1976) in which Congress found that noxious weeds "have adverse effects upon man or his environment." *Id.* § 2801. The Act is intended to prevent the importation of noxious weeds into the United States and to control noxious weeds in this country. Id. §§ 2801–13. It is doubtful that the use of "man or his environment" in the congressional findings was intended to expand the coverage of the statute to the elimination of noxious weeds from the face of the earth.

Another example of the use of "man" in environmental statutes can be found in the legislative history of the Environmental Quality Improvement Act of 1970, Pub. L. No. 91–224, tit. II, 84 Stat. 114 (codified at 42 U.S.C. §§ 4371–74 (1970)). At the same time that it was considering NEPA, the Senate in the 91st Congress had before it S. 7, a bill that contained provisions similar to NEPA. In order to resolve a jurisdictional dispute between the Committee on Interior and Insular Affairs and the Committee on Public Works, Senator Muskie revised S. 7 to include a series of congressional findings and a brief statement of congressional policy on the environment. Included in the former was a finding that "changes in the environment should be restricted, insofar as possible, to avoid adverse effects on man, other species and the environment itself." 115 CONG. REC. 29050 (1969). It seems clear that the use of "man" is not intended to determine the territorial scope of the finding, but to distinguish between man and other species.

[3] Section 101(a) also includes a reference to "other concerned public and private organizations." H.R. 6705, from which section 101(a) was taken, included a requirement of cooperation with "urban and rural planners, industry, labor, agriculture, science, and conservation organizations." 115 CONG. REC. 26590 (1969). In Conference the general phrase was substituted for the specific list. H.R. REP. No. 765, 91st Cong., 1st Sess. 7–8 (1969). In a section-by-section analysis of the Conference bill, the general phrase was explained to the Senate as including professional and technical societies, conservation organizations, industry and labor organizations and resources development organizations. 115 CONG. REC. 40419 (1969).

[4] Section 102(2)(C) provides that the impact statement must include a discussion of the environmental impact of the proposed action, adverse environmental effects that cannot be avoided, alternatives to the proposed action, the relation between local short-term use of "man's environment" and the maintenance of long-term productivity, and irreversible commitments of resources involved in the proposed action.

[5] (Emphasis added). Paragraph (C) also refers to the "human environment." As is true of the term "man's environment," this general phrase appears to indicate that all aspects of the environment are to be considered but does not determine the territorial scope of the impact statement requirement. That the use of "human" is not intended to indicate extraterritorial application is also evident from the use of the term in subsection 201(3), which requires that the presidential report discuss the adequacy of natural resources to fulfill the "human and economic requirements of the Nation." As is clear, "human" is used in contrast to "economic" and does not determine the territorial scope of the report, which is limited to the Nation. *See* note 10 *infra*.

[6] *See* discussion at pp. 102–3, *infra*.

[7] Section 102(2)(C) requires only a "statement" concerning the environmental impact and does not expressly require that the responsible official actually consider the environmental impact in making the decision on the project. It seems clear, however, that the "primary purpose of the impact statement is to compel federal agencies to give serious weight to environmental factors in making discretionary choices." *Monroe County Conservation Council, Inc.* v. *Volpe*, 472 F.2d 693, 697 (2d Cir. 1972). Indeed, some courts have suggested that judicial review of the substantive program decision may be appropriate if "the actual balance of costs and benefits that was struck was arbitrary or clearly gave insufficient weight to environmental values." *Calvert Cliffs Coordinating Comm., Inc.* v. *AEC*, 449 F.2d 1109, 1115 (D.C. Cir. 1971). *See* Oakes, *The Judicial Role in Environmental Law*, 52 N.Y.U. L. Rev. 489 (1977); Note, *The Least Adverse Alternative Approach to Substantive Review Under NEPA*, 88 HARV. L. REV. 735 (1975).

[8] There are two justifications for an active role of the federal government in striking the balance between environmental and other values. First, the activity involved is a federal one and should therefore be subject to federal policy. Second, the federal government is representative of the people in and has jurisdiction over the areas within the United States. The second justification is especially important for federal activities that have environmental impacts in more than one state.

[9] When the impact is in a foreign country, only the first of the justifications discussed in note 8 *supra*, is present. Because a separate sovereign nation has jurisdiction over and represents the people in the area of impact, the legitimacy of a value choice made by a federal agency is substantially diminished. It is, of course, true, that the United States government has the *power* to make such value choices in the conduct of its activities abroad; but the question is whether Congress decided that federal agencies involved in foreign aid, foreign trade, and defense matters should decide unilaterally that a particular activity in a foreign country is or is not worth the environmental cost it exacts. For example, an underdeveloped country may determine that it is willing to trade a decrease in air quality for an increase in gross national product. Although a federal agency administering foreign aid to that country may disagree, it seems reasonable to permit the foreign government to make the choice, or at least to be part of the decisionmaking process.

[10] Title II of the Act also demonstrates that the legislation was intended for domestic application. The presidential annual report required by section 201 must set forth the status of the major "environmental classes of the Nation"; environmental trends and the effects of those trends on the "social, economic, and other requirements of the Nation"; and "the adequacy of available natural resources for fulfilling human and economic requirements of the Nation." Section 202 requires that the CEQ members be "responsive to the scientific, economic, social, ethetic, and cultural needs and interests of the Nation." And section 204(4) assigns the CEQ the duty of making recommendations to the President for national policies to meet the requirements and goals of the Nation. These provisions are not simply incidental references to the national environment. They demonstrate a congressional concern with national values and goals. In subsection 102(2)(E), Congress showed an analogous concern with and respect for the values and goals of other countries.

[11] There were a number of NEPA predecessor bills. The meager legislative history of each confirms a totally domestic orientation.

86th Congress. S. 2549, 86th Cong., 2d Sess., 105 CONG. REC. 15978 (1959).

87th Congress. S. 239, 87th Cong., 1st Sess., 107 CONG. REC. 354 (1961); H.R. 3436, 87th Cong., 1st Sess., 107 CONG. REC. 1353 (1961); H.R. 4437, 87th Cong., 1st Sess., 107 CONG. REC. 2244 (1961).

88th Congress. S. 57, 88th Cong., 1st Sess., 109 CONG. REC. 191 (1963); S. 2958, 88th Cong., 2d Sess., 110 CONG. REC. 15176 (1964).

89th Congress. S. 2282, 89th Cong., 1st Sess., 111 CONG. REC. 16619 (1965); H.R. 9955, 89th Cong., 1st Sess., 111 CONG. REC. 17576 (1965); H.R. 9958, 89th Cong., 1st Sess., 111 CONG. REC. 17576 (1965); H.R. 10180, 89th Cong., 2d Sess., 111 CONG. REC. 18794 (1965); H.R. 10766, 89th Cong., 2d Sess., 111 CONG. REC. 22447 (1965).

90th Congress. S. 2789, 90th Cong., 1st Sess., 113 CONG. REC. 36712 (1967); S. 2805, 90th Cong., 1st Sess., 113 CONG. REC. 36849 (1967); S. 3031, 90th Cong., 1st Sess., 114 CONG. REC. 4083 (1968); H.R. 258, 90th Cong., 1st Sess., 113 CONG. REC. 100 (1967); H.R. 7796, 90th Cong., 1st Sess., 113 CONG. REC. 7870 (1967); H.R. 13211, 90th Cong., 1st Sess., 113 CONG. REC. 27289 (1967); H.R. 14605, 90th Cong., 2d Sess., 114 CONG. REC. 55 (1968).

[12] The importance of the Colloquium and the reports that preceded and followed it was often emphasized by Senator Jackson on the floor of the Senate during the debates on NEPA. *E.g.*, 115 CONG. REC. 3699 (introduction of S. 1075); *id.* at 29067 (pre-conference debate; *id.* at 40422 (debate on conference report). *See also* S. REP. No. 296, 91st Cong., 1st Sess. 11 n. 4 (1969). Moreover, Senator Jackson, the sponsor of the Senate bill in the Ninety-First Congress, was also a sponsor of the Colloquium and the Senators who participated in the Colloquium included all but three of the Senators on the Interior and Insular Affairs Committee when it considered NEPA.

[13] NATIONAL POLICY FOR THE ENVIRONMENT, SPECIAL REPORT TO THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, 90th Cong., 2d Sess. (Comm. Print 1968) (hereinafter cited as SPECIAL REPORT). The author of the SPECIAL REPORT was Dr. Lynton K. Caldwell of Indiana University. *Id.* IV.

The Special Report was reprinted twice in the Congressional Record, during the Senate debates on NEPA, 115 CONG. REC. 3701–08, 29068–78 (1969), and in the committee print of the hearings on the Senate bill, *National Environmental Policy: Hearings on S. 1075, S. 237, and 1752 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. 30–45 (1969). The importance of the Special Report is also evident in the Senate Report on S. 1075. *Compare, e.g.*, S. REP. No. 296, 91st Cong., 1st Sess. 16–17 (1969) *with* SPECIAL REPORT, *supra* at 23.

[14] SPECIAL REPORT, *supra* note 13, at 3.

[15] *Id.* at 16, 8.

[16] *Id.* at 8.

[17] *Id.* at 18.

[18] *Id.* at IX. In an introductory statement to the Special Report, Senator Jackson also noted that:

> . . . the declaration of a national environmental policy will not alone necessarily better or enhance the total man-environment relationship. The present problem is not simply the lack of a policy. It also involves the need to rationalize and coordinate existing policies and to provide a means by which they may be continuously reviewed to determine whether they meet the national goal of a *quality life in a quality environment for all Americans*.

Id. at IV (emphasis added). The Senator's statement demonstrates not only that the

primary concern of a national policy is with the domestic environment, but also that the "total man-environment relationship" refers to the variety of the relationships man has with his environment, not the existence of those relationships in the entire world. At no point in Senator Jackson's statement does he refer to the international environment; his concern was with "a quality environment for all Americans." *Id.* at III.

[19] *Id.* at IX.

[20] *Id.* at 3–5.

[21] *Id.* at 5–7.

[22] *Id.* at 13.

[23] SUBCOMM. ON SCIENCE, RESEARCH, AND DEVELOPMENT OF THE HOUSE COMM. ON SCIENCE AND ASTRONAUTICS, MANAGING THE ENVIRONMENT, 90th Cong., 2d Sess. (Comm. Print 1968) [hereinafter cited as SUBCOMMITTEE REPORT].

[24] *Id.* at 12.

[25] *Id.* at 16–28.

[26] *Id.* at 30.

[27] *Id.* at 16, 31–32.

[28] *Id.* at 7. The reasons for the subcommittee's preference for international cooperation over unilateral action are instructive. First, the subcommittee perceived the need for cooperation because bad environmental decisions in one country can affect the environment of other countries. Second, it noted that in all aspects of environmental management, a country that engages in unilateral restraint to protect the world environment may suffer a disadvantage in the competition for world trade. Third, the subcommittee recognized that countries differ both in their values and in their demands on the environment. As a result, decisions by different countries whether to take an action that may damage the environment will not necessarily be the same. Only through international cooperation can the values and needs of each country be accommodated. *See* pp. 67–69 *infra*.

The Air Quality Act of 1967, Pub. L. No. 90–148, tit. I, § 108(d)(1)(D), 81 Stat. 485 (current version at 42 U.S.C.A. § 7415 (Supp. 1977)) provided an important precedent for choosing international cooperation over unilateral action in the environmental field. *Cf.* Federal Water Pollution Control Act Amendments of 1972, Pub. L. No. 92–500, tit. III, § 310 (current version at 33 U.S.C.A. § 1320 (Supp. 1977)).

[29] *Joint House-Senate Colloquium to Discuss a National Policy for the Environment, Hearing before the Senate Comm. on Interior and Insular Affairs and the House Comm. on Science and Astronautics*, 90th Cong., 2d Sess. (1968).

[30] *E.g., id.* at 15–16 (statement of Stewart Udall, Secretary of the Interior), 21 (statement of Robert Weaver, Secretary of Department of Housing and Urban Development), 25 (statement of John Baker, Assistant Secretary, Department of Agriculture), 35–37 (statement of Wilbur J. Cohen, Secretary, Department of Health, Education, and Welfare). *See also id.* at 64–70 (summary of morning session by Professor Don Price).

[31] *Id.* at 74.

[32] *Id.* at 214.

[33] *Id.* at 81.

[34] *Id.* at 220. It is interesting to note that when Mr. Train testified, as a representative of the Executive Branch, before the Senate Committee on Interior and Insular Affairs during the hearings on NEPA in the Ninety-First Congress, he did not restate his belief that foreign economic assistance programs or other programs involving foreign policy should be subject to environmental considerations. *National Environmental Policy, Hearings on S. 1075, S. 237, and S. 1752 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. 212–32 (1969).

[35] *Joint House-Senate Colloquium, supra* note 29, at 83–84. Written submissions made to the Committees after the Colloquium also emphasized the need for international cooperation to solve the problems of the international environment. *E.g., id.* at 153 (recommendations of John E. Cantlon), 216–17 (comments of Walter Orr Roberts), 226–32 (statement of G. M. Woodwell).

[36] HOUSE COMM. ON SCIENCE AND ASTRONAUTICS AND SENATE COMM. ON INTERIOR AND INSULAR AFFAIRS, WHITE PAPER ON A NATIONAL POLICY FOR THE ENVIRONMENT, 90th Cong., 2d Sess. (1968) [hereinafter cited as WHITE PAPER].

[37] *Id.* at 15 (emphasis added).

[38] *Id.*

[39] *Id.* (emphasis added).

[40] *Id.* at 6-7.

[41] H.R. 6750, 91st Cong., 1st Sess., 115 CONG. REC. 3415 (1969).

[42] The policy statement in subsection (a) of H.R. 6750 did not include the second clause of NEPA section 101(a) (beginning with "particularly" and ending with "advances") and included at that point in the statement the phrase "both living and nonliving." In addition, H.R. 6750 listed "urban and rural planners, industry, labor, agriculture, science, and conservation organizations" in place of NEPA's reference to cooperation with "other concerned public and private organizations."

[43] Subsection (b) of the Dingell bill did not include subsections 201(3), (4) and (5) of NEPA and lacked the reference to "the quality" in NEPA subsection 201(2). The three missing subsections were added by amendment on the floor of the House. 115 CONG. REC. 26588 (1969). Subsection (c)(1) of H.R. 6750 did not include the NEPA section 202 requirement that the members of the Council serve at the pleasure of the President or that the members of the Council be conscious of and responsive to the needs and interests of the Nation. The bill as introduced also lacked the direction that the President designate one of the members as chairman, but that was added in the second version of the bill introduced by Congressman Dingell after the House hearings. 115 CONG. REC. 17983 (1969). *See* note 68 *infra*. H.R 6750 did not include subsections 204(5) and (6) of NEPA, the last clause of subsection 205(2), and sections 206 and 207. In addition H.R. 6750 differed in minor respects from the wording of NEPA sections 202-205.

[44] H.R. 6750, *supra* note 41, subsection (a).

[45] *Id.*, subsections (b), (c)(1).

[46] *Id.*, subsections (a), (c)(4)(A).

[47] The Fish and Wildlife Coordination Act, as amended, is codified at 16 U.S.C. §§ 661–666c (1976). The proposed placement of H.R. 6750 in the Act is shown in H.R. Rep. No. 378, pt. 2, 91st Cong., 1st Sess. (1969). The Act's purpose is to recognize the contribution of our wildlife resources "to the Nation" and the increasing significance of such resources "due to expansion of our national economy," and to provide for effective planning, development, and coordination of wildlife conservation "in the United States, its Territories and possessions." 16 U.S.C. § 661 (1976).

[48] *Environmental Quality: Hearings on H.R. 6750, H.R. 11886, H.R. 11942, H.R. 12077, H.R. 12180, H.R. 12207, H.R. 12209, H.R. 12228, H.R. 12264, H.R. 12409, and H.R. 12143 Before the Subcomm. on Fisheries and Wildlife Conservation of the House Comm. on Merchant Marine and Fisheries*, 91st Cong., 1st Sess. (1969) [hereinafter cited as *House Hearings*].

Before, during, and after the hearings, numerous bills identical to H.R. 6750 were introduced by other Congressmen, H.R. 11886, 115 Cong. Rec. 14727 (1969) (Tunney); H.R. 11942, *id.* at 15071 (Griffiths); H.R. 12077, *id.* at 15466 (Ottinger); H.R. 12180, *id.* at 16211 (Adams); H.R. 12207, *id.* at 16212 (Price); H.R. 12209, *id.* (Sikes); H.R. 12228, *id.* (Sisk); H.R. 12264, *id.* at 16358 (Farbstein); H.R. 12409, *id.* at 17393 (Moss); H.R. 12503, *id.* at 17905 (Diggs); H.R. 12525, *id.* at 17906 (Blatnik); H.R. 12527, *id.* (Conte); H.R. 12573, *id.* at 18319 (Cohelan); H.R. 12603, *id.* at 18409 (Fascell); H.R. 12877, *id.* at 19660 (Ruppe, McDonald, Vander Jagt, Esch); H.R. 12928, *id.* at 19948 (Obey); H.R. 12932, *id.* (Riegle); H.R. 13402, *id.* at 20375 (Waggonner).

H.R. 12143, introduced by Congressman Nedzi, *id.* at 15904, *reprinted in House Hearings, supra* at 9–11, differed substantially from H.R. 6750. In addition to the policy statement found in H.R. 6750, it included language substantially the same as NEPA section 101(b) and the action-forcing provisions found in section 102(2) of NEPA. Congressman Nedzi's bill, introduced on June 16, 115 Con. Rec. 15904 (1969), appears to have been based on the amendments to S. 1075 that Senator Jackson introduced on May 29, 115 Cong. Rec. 14346, 14860–61 (1969).

[49] *House Hearings, supra* note 48, at 1.

[50] *Id.* at 1–2 (emphasis added).

[51] *Id.* at 15–20 (emphasis added).

[52] *Id.* at 403.

[53] *Id. See also id.* at 55 (statement of William E. Towell).

[54] *Id.* at 438.

[55] A number of persons at the hearings used similar terms in connection with discussions of environmental problems that are not confined to a particular political jurisdicti. *E.g., id.* at 153 (statement of Ralph A. MacMullan); *id.* at 443–44 (statement of Dr. Carleton Ray); *id.* at 449 (statement of Howard T. Odum).

[56] Few of the 77 witnesses who made statements to the subcommittee made more than a passing reference to environmental problems in foreign countries or in the world commons. *Id.* at 26–35 (statement of Dr. Margaret Mead); *id.* at 107–10 (statement of Dr. S. Dillon Ripley); *id.* at 116–119 (statement of Lloyd Tupling); *id.* at 130–31, 133–34 (statement of David Brower); *id.* at 150, 152–53 (statement of Ralph A. MacMullan); *id.* at 262–63, 265, 267 (statement of Dr. Serge Korff); *id.* at 346–47 (statement of F. H. Bormann); *id.* at 425, 427–28 (statement of Peter S. Hunt); *id.* at 443–44 (statement of Dr. Carleton Ray).

Some of these included in their statements a discussion of federal actions that have an evironmental impact outside the United States. *Id.* at 26, 27, 31 (nuclear testing, export of insecticides and fertilizers, Viet Nam war) (statement of Dr. Margaret Mead); *id.* at 108–10 (AID project, DoD dumping nerve gas in ocean) (statement of Dr. S. Dillon Ripley and remarks of Congressman Goodling); *id.* at 115–116 (DoD nerve gas) (statement of Elizabeth M. Wallace and remarks of Congressman Goodling); *id.* at 130 (AID program) (statement of David Brower); *id.* at 117–18 (Aswan and other dams) (statement of Lloyd Tupling). *See also id.* at 296 (shipment of weed killers and defoliants to Vietnam) (statement of Dr. Joe Edmisten); *id.* at 226 (DoD nerve gas) (remarks of Congressman Dingell).

In contrast to the very limited discussion of the environment outside the United States, numerous witnesses and members of the subcommittee demonstrated throughout the hearings their concern with the domestic environment. Congressman Pelly expressed his opinion that "there is no *domestic problem in the Nation today* that is as important as the quality of environment and the problems of population expansion." *Id.* at 218 (emphasis added). Charles Johnson of HEW noted "the public concern for, and congressional awareness of, the magnitude of the environmental problems facing the Nation." *Id.* at 308. Many other witnesses and members of the subcommittee provided statements and comments on the broad range of environmental problems facing the Nation, *E.g.*,

id. at 164 (statement of Frederick E. Smith), 180–81 (statement of Clarence Messmer), 185–86 (statement of Carlos Fetterolk, Jr.), 189 (statement of Dr. Donald Gray), 201 (statement of Merle Dixon), 249 (remarks of Congressman Goodling), 268 (statement of Serge Korff and remarks of Congressman Frey), 289 (statement of William Capron), 338–39 (statement of Dr. William A. Niering), 411 (statement of Claire Stern).

A signficant amount of time at the hearings was devoted to the specific problem of domestic environmental impacts resulting from federal activities including: the construction of a jetport near the Everglades in Florida, *id.* at 39 (statement of Charles H. Callison); highway and road construction, *id.* at 259 (statement of J. D. Braman), 336 (statement of Rod Vandivert); the use of DDT in connection with Department of Agriculture programs, *id.* at 39 (statement of Charles Callison; Army Corps of Engineers water control propects, *id.* at 45 (statement of Dr. John Cairns, Jr.), 260 (statement of J. D. Braman; river siltation projects, *id.* at 335 (statement of Rod Vandivert); management of Lake Okeechobee, *id.* at 339 (statement of Dr. William N. Niering); the manufacture of nerve gas, *id.* at 125 (statement of Anthony Mazzocchi); Atomic Energy Commission licensing and financing of nuclear power plants, *id.* at 127 (remarks of Congressman Pelly), 321 (remarks of Congressman Karth); the use of dieldrin on air bases in the United States, *id.* at 227 (remarks of Congressman Dingell); the use of pesticides on federal lands, *id.* at 340 (statement of William A. Niering); Department of Commerce and Economic Development Administration development projects threatening the Nation's wetlands, *id.*; and federal sewage programs that result in pollution of the Nation's lakes and waterways *id.* at 341–42.

[57] *Id.* at 29 (statement of Dr. Margaret Mead), 347 (statement of F. H. Bormann), 427 (statement of Peter S. Hunt and remarks of Congressman Pelly). *See also id.* at 440 (newspaper article inserted in the record by Congressman Dingell).

[58] *Id.* at 108 (statement of Dr. S. Dillon Ripley).

[59] *Id.* at 114 (statement of Elizabeth M. Wallace).

[60] *Id.* at 347 (statement of F. H. Bormann).

[61] *Id.* at 425.

[62] *Id.* at 428 (emphasis added). Other witnesses also viewed H.R. 6750 as a domestic measure. For example, Mr. R. A. Kotrla, representing Trout Unlimited, commented favorably on the bill as a solution to the domestic problem:

. . . [w]e are of the opinion that the Council proposed by H.R. 6750 would provide the contact with the people and the coordination with Federal, State, and local agencies, the scientific community, conservation organizations, industrial and urban planners, educational institutions, agricultural and social agencies which is so vitally needed if this Nation is going to make any progress in protecting and perpetuating our environment. *Id.* at 333. *See also id.* at 1–2 (remarks of Congressman Dingell).

[63] *See* p. 26 & note 42 *supra*; p. 36 & note 69 *infra*.

[64] *See* pp. 23–24, 32–34 & note 35 *supra*.

[65] The thrust of Congressman Pelly's proposal is evident from the discussion that preceded it:

Mr. Pelly. How about the international aspects of it, which you mentioned? Does the United Nations have any study going on in connection with environmental pollution?

Mr. Hunt. Yes, they do. Their Health Organization is doing some work. I believe it is being led by Rudy Coigney, a Frenchman, up in New York.

Mr. Pelly. Are there any unilateral studies going on today—I suspect there are—atmospheric and other problems?

Mr. Hunt. Yes, and there is a great deal we can learn in this country from other countries, and when it comes to controlling, I would not say marine resources, but estuarine resources, the Dutch, I think, are the acknowledged world leaders in this area. They have a long history of hydrology and ecology of estuaries.

Mr. Pelly. Contamination is certainly related one country to another in many instances.

Mr. Hunt. Absolutely no question.

Mr. Pelly. There is a community of interest in practically all of them. *House Hearings, supra* note 48, at 427.

[66] *See* pp. 17–21 *supra*.

[67] H.R. REP. No. 378, 91st Cong., 1st Sess. (1969) [hereinafter cited as HOUSE REPORT].

[68] Four days after the completion of the Committee on Merchant Marine and Fisheries hearings on H.R. 6750, Congressman Dingell, for himself and 15 other members of the Subcommittee on Fisheries and Wildlife Conservation, introduced H.R. 12549, which was then referred to the Committe on Merchant Marine and Fisheries. 115 CONG. REC. 17983 (1969). Congressman Speedy O. Long of Louisiana was the only Subcommittee member not to sponsor the bill.

[69] H.R. 12549 increased the membership of the Council on Environmental Quality from three to five members, added a provision that the President designate one of the members as chairman, and added some conforming amendments.

[70] HOUSE REPORT, *supra* note 67, at 7. The Report also quoted a statement from the hearings dealing with the global elements of the environment. *Id.* at 5–6. The insertion of these references to the international environment in the Report seems somewhat anamolous in view of the Report's description of the bill:

The purpose of the bill . . . is to create a Council on Environmental Quality with a broad and independent overview of current and long-term trends in the *quality of our national environment*, to advise the President . . . on steps which may and should be taken to improve the quality of that *environment*.

In achieving this purpose, the bill would require the transmission to the Congress by the President of an annual environmental quality report on the status of *various aspects of the American environment*, as well as foreseeable trends that may affect that status, and on their impact on *other national requirements*. *Id.* at 1 (emphasis added).

[71] *Id.* at 9.

[72] *Id.*

[73] 115 CONG. REC. 26569 (1969). H. Res. 544 provided for general debate, not to exceed one hour, on H.R. 12549, and for an opportunity for amendment under the five-minute rule. The resolution stipulated that after the passage of H.R. 12549, as amended, the House should strike out all after the enacting clause of S. 1075 and insert the provisions of H.R. 12549 as passed by the House. *Id.* The House agreed to the resolution. *Id.* at 26571.

[74] Congressman Aspinall introduced amendments that renumbered the sections of the bill, *id.* at 26586–87, 26589, and that added a provision for appropriations, *id.* at 26589. The Committee on Merchant Marine and Fisheries introduced an amendment to correct a minor word in the bill. *Id.* at 26589. These amendments were agreed to. *Id.* at 26588, 26589, 26590.

[75] *Id.*

[76] *Id.* at 26589, 26590.

[77] *Id.* at 26588 (emphasis added).

[78] Congressman Dingell, for example, repeated essentially the same speech he had given at the outset of the hearings. *Id.* at 26571; *House Hearings, supra* note 48, at 1.

[79] *E.g.*, 115 CONG. REC. 26572 (remarks of Congressman Dingell); HOUSE REPORT, *supra* note 67, at 8–11.

[80] 115 CONG. REC. 26576 (1969) (remarks of Congressman MacGregor); HOUSE REPORT, *supra* note 67, at 7.

[81] 115 CONG. REC. 26573–75 (remarks of Congressman Pelly); *id.* at 26578 (remarks of Congressman Minshall); *id.* at 26579 (remarks of Congressman Yates); *id.* at 26584–85 (remarks of Congressman Boland).

[82] *Id.* at 26577–78 (remarks of Congressman Feighan); *id.* at 26579–80 (remarks of Congressman Yates); *id.* at 26583 (remarks of Congressman Frey); *id*, at 26584 (remarks of Congressman Leggett.

[83] *Id.* at 26569 (remarks of Congressman Matsunaga) ("time is not on our side and unless we take this action today we will have failed in our responsibility as the trustees of the people we represent in Congress"); *id.* (remarks of Congressman Latta) ("The purpose of this bill is to create a Council on Environmental Quality . . . to improve the quality of the national environment . . . to advise the President . . . on what steps should be taken to improve and up-grade the national environment. . . . All members of the Council [will be qualified to] recommend policies to improve the quality of our national environment."); *id.* at 26574 (remarks to Congressman Garmatz) ("The Council . . . would recommend national program to foster and promote the improvement of the Nation's total environmental quality."); *id.* at 26575 (remarks of Congressman Schadeberg) ("the general quality of the environment relates to the general welfare of the people of the United States and must, therefore, be a main priority of Congress". . . . I support this legislation with the hopes that the Council on Environmental Quality can meet the needs of the American people.")

Id. at 26577 (remarks of Congressman Feighan) ("I rise in support of H.R. 12549 to establish a Council on Environmental Quality to advise the President and, through him, the Congress on steps that should be taken to improve the quality of the American environment. . . . At a crucial juncture in the future development of our great Nation, we cannot afford to ignore the deplorable condition of many of our national resources, the building blocks upon which our future greatness depends."); *id.* at 26578 (remarks of Congressman Dellenback) ("But I think in this measure today we have a measure which both truly important to the future of this Nation, and which is also urgent. . . . When we deal with this basic concept of the environment we have something that we still can control in America, and do something about, and yet we have delayed in some areas of this Nation far too long in doing what we ought to be doing."); *id.* at 26579 (remarks of Congressman Yates) ("H.R. 12549 . . . will be a most useful step in focusing the people's attention on the urgent need to stem the steadily deterorating physical birthright of this generation of Americans and generations to come.")

Id. at 26581 (remarks of Congressman Goodling) ("conserving our natural resources is becoming our No. 1 domestic problem."); *id.* at 26582 (remarks Congressman Bennett) ("This is an important first step in defining protected areas where Americans can live and enjoy happy and productive lives. The five-member Council will be charged with insuring our citizens of open and naturally attractive areas they and their childern and future generations can enjoy. The population explosion, the movement from the towns to the cities, natural changes and industrialization have transformed our Nation into an environmental hobgoblin"); *id.* ("I believe this bill . . . will develop the type of program and national policy to make sure we will live in 'America the Beautiful'."); *id.* at 26583 (remarks of Congressman Donohue) ("In considering this measure before us, the House is demonstrating its interest and concern that every American has a fundamental and inalienable right to a healthy Environment. . . . I most earnestly urge my colleagues

to speedily adopt this measure which I believe is imperative to the public interest and our national survival.")

[84] These included references to: "national policies to promote the betterment of our environment;" "the quality of our national environment;" "environmental tragedies threaten our country;" "natural beauties of our country;" "the quality of our environment;" "improving our daily life;" "our streams and lakes and atmosphere;" "the status of our environment;" "integrity of our natural environment;" "our wilderness areas;" "the will to preserve our environment;" "threats to the continued quality and productivity of our environment;" "improvement of our environmental quality;" "quality and productivity of our natural environment;" "productivity and enjoyment of our society;" "our depletable resources." *See id.* at 26573–74 (remarks of Congressman Pelly); *id.* at 26575 (remarks of Congressmen Schadeberg, Garmatz, MacGregor); *id.* at 26576 (remarks of Congressmen Rogers, Karth); *id.* at 26577 (remarks of Congressman Farbstein); *id.* at 26578 (remarks of Congressmen Feighan, Minshall); *id.* at 26579 (remarks of Congressman Yates); *id.* at 26580 (remarks of Congressmen Yates, Saylor); *id.* at 26581 (remarks of Congressmen Obey, Biaggi); *id.* at 26582 (remarks of Congressmen Downing, Bennett); *id.* at 26583 (remarks of Congressman Daddario); *id.* at 26584–85 (remarks of Congressman Boland).

[85] *See* p. 74 & note 80 *supra*.

[86] 115 CONG. REC. 26575 (1969). In addition, there were five other passing references to the environment outside the United States. Congressman Farbstein noted that street corners in Tokyo must be equipped with pure oxygen to prevent asphyxiation of motorists. *Id.* at 26577. The Congressman did not suggest that the proposed Council should concern itself with oxygen on Tokyo street corners. Congressman Frey observed that "even as we gather here today, the quality of man's environment on earth is slowly decreasing" and that there was some question of whether the world population would be fed in the twenty-first century. *Id.* at 26584. Congressman Downing expressed his concern that the President then had no panel of advisers "whose main concern in [sic] the environmental problems of our Nation and the world," and went on to note: "For the sake of our Nation's health, it is imperative that he have this advice." *Id.* at 26582. Congressman Aspinall, by way of introduction to his expression of concern for certain administrative problems, said:

"I doubt if anybody can really take exception to trying to protect our environment and at the same time trying to get man to realize his responsibility in protecting his environment and, also, at the same time trying to fit man into the necessary environment of this world." *Id.* at 26579.

And Congressman Saylor noted: "Up until this point we have not tried to have any schedule or any program to consider the total environment of this country or even how it relates to other countries of the world." *Id.* at 26580.

The remarks of Congressmen Downing, Aspinall, and Saylor are especially interesting since, like the House Report, *see* p. 37 *supra*, they seem to present the international environment problem in terms of its relationship to the problem of the domestic environment; that is, the proposed Council would concern itself with the environment outside the United States in the context of domestic environmental issues.

[87] The *only* mention of extraterritorial impact (after the hearings) is found in the section-by-section analysis in the House Report. *See* discussion at p. 37 *supra*, concluding that this brief statement seems to be concerned with such extraterritorial impacts only when they occur in conjunction with domestic impacts.

[88] 115 CONG. REC. 26572 (1969) (emphasis added).

[89] 115 CONG. REC. 26590–91 (1969).

[90] S. 1075, 91st Cong., 1st Sess. 115 CONG. REC. 3698 (1969).

[91] Specifically, Title I authorized the Interior Secretary to document changes in the natural environment, to maintain an inventory of major projects by public or private agencies that make significant modifications in the environment, to establish a system of collecting data on ecological research, to evaluate and disseminate information of an ecological nature, to make available to public and private institutions advice and information useful for environmental protection, to initiate and use ecological information in resource-oriented projects, to encourage other public and private agencies to consult with the Secretary on environmental impacts of their projects, to conduct studies within natural areas under federal ownership, and to assist the Council on Environmental Quality, *id.* § 101, 115 CONG. REC. 3701 (1969).

[92] *Id.* § 103.

[93] *Id.* § 104.

[94] *Id.* § 1 (emphasis added).

[95] *Id.* § 201 (emphasis added).

[96] *Id.* § 202 (emphasis added).

[97] *Id.* § 203 (emphasis added).

[98] *Id.* § 104 (emphasis added). Even this section of the bill appears to limit the Secretary to cooperative efforts that would contribute to the clearly domestic purposes of the bill. *See* note 100 *infra*.

[99] 115 CONG. REC. 3698–3701 (1969) (emphasis added). Senator Jackson's introductory remarks are particularly instructive on the meaning, in S. 1075 and NEPA, of terms such as "man's environment." The Senator's speech is peppered with phrases such as "management of the human environment," "man's impact on the environment," "man-environment relationship," "man and his intrusive technology," "man's relationship to his environment," "man-induced environmental changes," and "man's total environment." *Id.* at 3698–3700. It is unlikely that the Senator intended by his remarks to extend his bill far beyond its statement of purpose and the meaning of its language. Indeed, in view of the language of the bill and the use of a separate section to authorize limited participation in international cooperative studies, there is little that could have been said by way of introducing the bill to alter its domestic character. Senator Jackson was using the terms not to describe the territorial scope of his bill but to encompass the breadth of the problem of the human environment in the United States. To supplement his remarks, Senator Jackson inserted in the Congressional Record a copy of the 1968 Special Report prepared for the Committee on Interior and Insular Affairs, where the broad notion of man and his environment was developed more fully. *Id.* at 3701–08. *See* pp. 17–21 *supra*.

In his introductory remarks, Senator Jackson also made repeated references to "our entire biological and physical resources," "the quality of our physical surroundings," "our national goals and purposes," and "our environment." *Id.* at 3699–3700.

[100] *Id.* at 3698 (emphasis added). Senator Jackson also demonstrated the relationship between the direction to the Interior Secretary to participate in international cooperative efforts and the domestic purposes of the bill:

The aim of my bill is to provide a continuing and thorough consideration of our Nation's overall progress in meeting national and international problems of environmental management which are critically important to the *well being of this country*. *Id.* at 3700 (emphasis added).

[101] *Id.* at 3699 (emphasis added).

[102] *Id.* at 3701.

[103] *National Environmental Policy: Hearings on S. 1075, S. 237 and S. 1752 Before the Senate Comm. on Interior and Insular Affairs*, 91st Cong., 1st Sess. (1969) [hereinafter cited as *Senate Hearings*].

The related bills were S. 237 and S. 1752. S. 237 created a council of advisers to the President for environmental matters and required an annual presidential report on the environment. The bill also included a policy declaration that the Federal government should use all practicable means to foster and promote the general welfare, "the quality of the environment in our Nation," and conditions to encourage the best use of natural resources to meet "human, economic, and national defense requirements" including the enhancement of the national heritage for future generation. *Id.* at 20–23.

S. 1752 assigned certain responsibilities to the Secretary of the Interior similar to those assigned by S. 1705 and created a Council on Environmental Quality. The purpose of S. 1752 was to "produce an understanding of the Nation's natural resources and the environmental forces affecting them," to reduce adverse effects on the quality of the environment in the development of the Nation's natural resources, and to create "conditions under which man and nature can exist in productive harmony and fulfill the social economic, and other requirements of the present and future generations of Americans." *Id.* at 14–18.

The hearings focused almost exclusively on S. 1075.

[104] *Senate Hearings, supra* note 103, at 139 (emphasis added).

[105] *Id.* at 161 (emphasis added).

[106] *Id.* at 67 (statement of Congressman Bennett), 83 (remarks of Senator Jackson), 96 (remarks of Senator Hansen), 102 (remarks of Senator Nelson), 108 (remarks of Senator Stevens).

[107] *Id.* at 69–71 (statement of Dr. Lee A. DuBridge), 88–89 (remarks of Senator Allott), 137 (statement of Senator Tydings), 159–60 (statement of Rev. John Corrado).

[108] *Id.* at 57 (emphasis added).

[109] *Senate Hearings, supra* note 103, at 58 (emphasis added).

[110] The terms can be used, as they were by Stewart Udall, in a general context:

"I am very pleased that we talk today, not as we did a decade ago about resources alone, as important as resources are, nor do we talk about conservation related to Nature alone, as important as that is, but we are trying to pull together so that man thinks of what man does, of the manmade part of the world and of the world that nature constitutes, as part of a single system, and we see these interrelationships." *Id.* at 140.

Or they can be used, as they were by Senator Kennedy, in the context of discussing a domestic bill to protect the national environment:

"S. 1075 is designed to deal with circumstances created by the increased application of technological advances which affect, in new ways, the relationship of man and his environment. We are already painfully aware of some of the effects of applied science and industrial advancement on man and on his environment—air and water pollution, noise pollution, destruction of our forests and of our other natural resources. We are aware of these problems; but, even now, we are not sure of their final effect on *the physical well-being of our people*, or on the nature of the land that has made *this nation the affluent and self-sufficient nation that it is*.

"All too often, we in the Congress are given the task of passing legislation which has as its purpose the restoration, rehabilitation or revitalization of some phase of *our American*

life and environment. Problems reach the critical stage before we act, and quick action is needed to prevent total destruction of that phase of life or environment.

"Never has this fact been more obvious than now. A review of legislation passed during the past two sessions of the Congress is dramatic evidence—we have voted billions of dollars to rehabilitate our cities, to stem the rise of water pollution, to rid our land of air pollution, to establish regional planning agencies, to revitalize our declining industries, and to restore and preserve our natural resources. How much less costly it would have been to anticipate these effects of undisciplined planning and unchecked technological application.

"S. 1075 is designed to meet our responsibilities in predicting the demands created by the ever-changing relationship of man and his environment. It is a bill which endeavors to anticipate the important and potentially critical problems created by the technological assault on our natural and human environment, and plan for their management." *Id.* at 160–61 (emphasis added). But the terms do not, in themselves, define the territorial scope of the legislation in which they are used.

[111] *Id.* at 97 (remarks of Senator Nelson), 138 (statement of Senator Tydings), 146–48 (Sierra Club advertisement), 170 (written submission of Orie L. Loucks), 179 (statement of Andrew J. Biemiller).

[112] The other two submissions had the same focus. Congressman Daddario recommended international cooperation to address the international aspects of environmental degradation. In a written submission to the Committee, he observed that United States policy should include the following:

Environmental quality and productivity shall be considered in a worldwide context, extending in time from the present to the long-term future.

Congressman Daddario was repeating material found in the 1968 Congressional White Paper, discussed at pp. 24-25 *supra*. Consistent with the approach at the White Paper, the Congressman's recommendation implementation of the policy was that the "International Biological Program must be strongly supported." *Id.* at 65-66.

The third relevant submission was a *Summary of Findings and Recommendations, Resources and Man*, prepared by the Committee on Resources and Man of the National Academy of Sciences and the National Research Council. This document was included as Appendix 1 of the Senate Hearings. *Id.* at 181–204. It provides an overview of the international aspects of the environmental problem and suggests that the solution is international cooperation either through the United Nations, *id.* at 187, 189 (recommendations 1 and 8), or the efforts of federal agencies in collaboration with the Department of State. *Id.* at 189–91 (recommendations 7, 8, 9, 17, 19, 22). Other recommendations do not expressly suggest that international cooperation be used, but would seem to require such cooperation for implementation, *See, e.g., id.* at 188 (recommendation 4, zero growth rate for the world).

[113] William Macomber, Jr., Assistant Secretary of State for Congressional Relations, sent a letter to Senator Jackson setting out the State Department's views on "the question of environmental quality as it affects this Department". *Id.* at 8. An identical letter was sent as the State Department's comments on S. 1752. *Id.* at 18.

[114] Assistant Secretary Macomber's letter notes that the growing recognition of the common problem had resulted in efforts to find a "remedy through joint-counter-action by using either bilateral or multilateral channels." *Id.*

[115] *Id.* at 9. The international organizations referred to include the ILO, FAO, WHO, WMO, UNESCO, OECD, and the "Ad Hoc Committee on Problems of the Human Environment" of the International Council of Scientific Unions. *Id.* Assistant Secretary Macomber included with his letter a report of the activities of the United Nations and reports of some of the other international organizations. *Id.*

[116] *Id.* at 9–10 (emphasis added).

[117] *Id.* at 10 (emphasis added).

[118] *Id.* at 65–66.

[119] *Senate Hearings, supra* note 103, at 136.

[120] *Id.* (emphasis added). Senator Tydings expanded on his concern for "America the Beautiful" in the written statement he submitted to the Committee. *Id.* at 137–39.

[121] *Id.* at 137.

[122] *Id.* at 177 (emphasis added).

[123] *See* note 13 *supra*. During Dr. Caldwell's testimony, Senator Jackson twice stated that the Committee would be asking Dr. Caldwell for assistance in drafting a new version of the bill. *Senate Hearings, supra* note 103, at 122, 128.

[124] *Senate Hearings, supra* note 103, at 112 (emphasis added).

[125] *Id.* at 113–14 (emphasis added).

[126] *Id.* at 128.

[127] *Id.* at 20.

[128] *Id.* at 116 (emphasis added).

[129] *Id.* at 116–22. This discussion contains the only indication in the legislative history of the congressional intent in using "all agencies of the Federal Government" in section 102(2). In endorsing the notion of an action-forcing provision, Senator Jackson noted the problems of draftsmanship that would be involved:

"I am wondering if we might not broaden the policy provision in the bill so as to lay down a general requirement that would be applicable to all agencies that have responsibilities that affect the environment rather than trying to go through agency by agency.

* * * * *

"You see the problem that we are faced with: If we try to go through all of the agencies that are now exercising certain responsibilities pursuant to law in which there is no environmental policy or standard laid out, we could be engaged in a recodification of the Federal statutes for a long, long time." *Id.* at 117. *See also id.* at 121.

Senator Jackson gave *no* indication that the general approach he was suggesting was intended to disagree with Dr. Caldwell's view that the appropriate area for congressional action was the domestic environment.

[130] Indeed, during the discussion Senator Jackson noted that insofar as the Congress wanted to force action on the part of the independent regulatory agencies, there might be litigation, and statutory authority for agency action would be required. *Id.* at 117. Dr. Caldwell responded:

"This is quite true. We are, I think, misled as to the power of the President because we so often focus upon his powers in the field of foreign affairs and military policy.

"Now on *domestic issues*, the President is by no means the all-powerful figure that he is when we step *beyond the continental limits of the United States*.

* * * * *

"And as we turn increasingly, as I am sure we must, to solve some of these *domestic problems that we recognize in the United States*, I think that we are inevitably going to encounter once again the power, the influence, and the leadership of the Congress.

* * * * *

"If we conceive of this environment, you see, as the *life support system of the Continental United States*, we are talking then about not only a policy that affects these physical things but basically we are concerned about them because they make all the difference in the world to *our own prosperity, happiness, health, and even survival*." *Id.* at 117–118.

[131] S. Rep. No. 296, 91st Cong., 1st Sess. (1969) (hereinafter cited as Senate Report). S. 1075 was initially reported to the Senate on June 18, 1969, but at the request of the Office of Science and Technology and the Bureau of the Budget the Committee voted to reconsider the measure for the purpose of considering amendments proposed by the Executive Branch. *Id.*, at 11, 27–34. *See* notes 136–37 *infra*.

[132] Senate Report, *supra* note 131, at 1 (§2).

[133] *Id.* (§101(a)). The policy statement of S. 1075 begins with a brief series of congressional "recognitions" of the need for an environmental policy and then declares that it is the policy of the federal government to improve and coordinate federal programs to achieve six goals stated in identical language to the goals in section 101(b) of NEPA.

[134] *Id.* at 2 (§ 101(b)):

The Congress recognizes that each person has a fundamental and inalienable right to a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.

For a discussion of this provision, see pages 77–78, *infra*.

[135] *Id.* (§ 103):

The policies and goals set forth in this Act are supplementary to but shall not be considered to repeal the existing mandates and authorizations of Federal agencies.

[136] *Id.* (§ 102). As first reported by the Committee on June 18, the opening clause of section 102 did not include the phrase "to the fullest extent possible;" that clause was added at the present request of the Executive Branch Senate Report. *supra* note 131, at 30. The Executive Branch also convinced the Committee to change the introductory clause of the impact statement requirement from "report on proposals for legislation or other significant Federal actions affecting the quality of the human environment" to "report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment." *Id.*

The reported version of S. 1075 differed from section 102 of NEPA in several respects. The impact statement requirement was more demanding in that it required a "finding" by the responsible official that the impact of the proposed action "has been studied and considered," adverse effects that "cannot be avoided by following reasonable alternatives" are "justified by other stated considerations of national policy," short-term uses of resources "are consistent with maintaining and enhancing long-term productivity," and irreversible commitments of resources "are warranted." Section 102 of NEPA does not require the responsible official to justify his decision. Section 102 of the Senate bill also lacked the last paragraph of section 102(2)(C) and subsections 102(2)(F), (G), (H) of NEPA. Provisions similar to subsections (F), (G), and (H) are found in section 201 (d), (e), and (g) of the bill.

[137] Senate Report, *supra* note 131, at 2–3 (§ 201–203). Title II of the bill was a recasting of title I of the measure introduced by Senator Jackson. The Committee assigned the responsibilities of conducting studies and disseminating information to all federal agencies rather than the Department of the Interior. Title II also included a new provision creating a Deputy Director in the Office of Science and Technology at the request of the Executive Branch. *Id.* (§ 203); *id.* at 33–34.

[138] *Id.* at 3–4 (§§ 301–305).

In addition, the Committee added a new title to the enacting clause of the bill:

A bill to establish a national policy for the environment; to authorize studies, surveys, and research relating to ecological systems, natural resources, and the quality of the human environment; and to establish a Board of Environmental Quality Advisers. *Id.* at 1.

[139] There are also the usual references to "man" and "human." *E.g., id.* at 6, 8, 16, 17, 20.

[140] *Id.* at 5–6.
[141] *Id.* at 17.
[142] *Id.* at 7.
[143] *Id.* at 21.
[144] *Id.* at 6–7, 9, 14, 19–20.
[145] *Id.* at 4.
[146] *Id.* at 5.
[147] *Id.* at 8.
[148] *Id.*
[149] *Id.* at 12–13 (emphasis added). On page 16 in the summary of the first part of the Report, the Committee again demonstrated that S. 1075 was a measure designed to protect the domestic environment:

Although historically the Nation has had no considered policy for its environment, the unprecedented pressures of population and the impact of science and technology make a policy necessary today. The expression 'environmental quality' symbolizes the complex and interrelated aspects of man's dependence upon his environment. Most Americans now understand, far better than our forebears [sic] could the nature of man-environment relationships. The evidence requiring timely public action is clear. The Nation has in many areas overdrawn its bank account in life-sustaining natural elements. For these elements—air, water, soil, and living space—technology at present provides no substitutes. Past neglect and carelessness are now costing us dearly, not merely in opportunities forgone, in impairment of health, and in discomfort and inconvenience, but also in a demand upon tax dollars upon personal incomes, and upon corporate earnings. The longer we delay meeting our environmental responsibilities, the longer the growing list of "interest charges" of environmental deterioration will run. . . . *Id.* at 16–17.

[150] Despite the "neutrality" of the language of the bill and the Senate Report discussion of section 102, there are two additional indications that the section was intended only for domestic application. First, the impact statement provision of the bill includes a requirement that unavoidable adverse effects of a federal activity are justified by "stated considerations of national policy." S. 1075, § 102 (c)(ii), 115 CONG. REC. 19009 (1969). There is no provision for justification pursuant to foreign policy. Second, despite the use of "all agencies of the Federal Government" at the beginning of section 102, the Senate Report explanation of subsection 102(e) limits the subsection to "all agencies of the Federal Government which have international responsibilities." SENATE REPORT, *supra* note 131, at 21.

[151] SENATE REPORT, *supra* note 131, at 19. The introductory clauses of section 101(a) of the bill provide:

The Congress, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances on our physical and biological surroundings and on the quality of life available to the American people; hereby declares that. . . .

SENATE REPORT, *supra* note 131, at 1–2 (§ 101(a)). Although the first clause is cast in terms of man and his environment, the second clause refers to the impact of man's activities on "our" surroundings and the quality of *American* life.

[152] Section 101(b) of the bill is a congressional recognition of each "person's" right to a healthful environment. The Senate Report provides no explanation of whether the intent of this provision was to extend the right to all persons rather than just Americans. Nevertheless, it would seem unusual for the Congress to be declaring rights of persons not within its jurisdiction and Senator Jackson demonstrated, on the floor of the Senate, that the provision was intended to declare the rights of American citizens. *See* pp. 77–78, *infra*.

[153] The quoted goals are taken directly from the bill, § 101(a) and NEPA, § 101(b); the explanation of each is taken from the Senate Report at 18–19. The section-by-section analysis of the first goal in the bill, and in NEPA (to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations") gives no indication of whether the goal is intended to be broader than the other five goals. NEPA itself, however, provides some assistance in interpreting the goal. Section 101(a) refers to "present and future generations of Americans." It appears that there may have been some overlap between the 101(a) policy statement drafted in the House and the policy goals of 101(b) drafted in the Senate. Later in the legislative history, Senator Jackson seems to interpret the NEPA, 101(b) "generations" as generations of Americans. *See* p. 78 *infra*.

[154] References in title III of the bill and in the section-by-section analysis confirm the domestic purpose of S. 1075. Section 301(a) mandates that members of the Board be "responsive to the scientific, economic, social, esthetic, and cultural needs and interest of this Nation," and the analysis in the Report explains that the Board members will interpret "developing problems in quality of the Nation's environment" and choose "among present alternatives in shaping the country's future environment." SENATE REPORT, *supra* note 131, at 23. Section 302(a) describes the primary purpose of the Board as analyzing environmental trends and relating them to the "conservation, social, economic, and health goals of this Nation," and the Report adds that the Board should make its "information concerning the quality of the environment available to the American people." *Id.* at 24. Section 302(b) requires the Board to review federal programs and policies that affect the environment and make recommendations to the President; the Report notes that this advisory function is necessary to provide the President "with unbiased information and an accurate overview of the Nation's environmental trends and problems" and "with a new insight into the long-range needs and priorities of the country." *Id.* at 25. Section 303 requires that the President prepare an annual report on the "status and condition of the major . . . environmental classes of the Nation" and environmental trends as they relate to the needs of the Nation. The section-by-section analysis explains that the "report should provide the best judgment of the best people available on the Nation's environmental problems and the progress being made toward providing a quality environment for all Americans." *Id.* at 26. And section 304 authorizes the Board to employ officers, employees, and consultants that, according to the Senate Report, should be persons who "are capable of furnishing the Board with a balanced and knowledgeable overview of the state of the Nation's environment." *Id.*

[155] SENATE REPORT, *supra* note 131, at 8–9.
[156] *Id.* at 5.
[157] *Id.* at 13 (emphasis added).
[158] *Id.* at 14.
[159] *Id.* at 14, 19. Later in the Senate Report, the Committee emphasized its view that a declaration of national policy and values was necessary to influence the activities of federal agencies;

At the present time, the executive agencies' view of National needs, goals, and priorities in the field of envionmental management appears to have been so thoroughly subjugated to budgetary and fiscal considerations that the nature of the fundamental values at stake has been obscured. It is the committee's view that the values which are at stake in the environmental management decisions which lies ahead need to be brought to the fore and made the subject of official decision at highest levels of Government. *Id.* at 25.

This important point was raised in the context of discussing the Board's role of providing the President with an overview of the Nation's environmental trends and how those trends affect the well-being of the American people and with a new insight into the long-range needs and priorities of the country.

[160] Even in the context of federal activities impacting on the national environment, the Committee acknowledged that the value choice cannot be made "without reference to the desires and aspirations of local people." *Id.* at 8.

[161] When Senator Jackson first introduced his action-forcing amendment to S. 1075, a speech was inserted in the Congressional Record. The speech, however, also failed to give any indication that the amendment was intended to apply to the foreign activities of Federal agencies. 115 CONG. REC. 14346, 14860 (1969).

[162] *Id.* at 19009 (emphasis added).

[163] After the House voted to substitute H.R. 12549 for S. 1075, the only discussion of S. 1075 prior to the House vote was a remark by Congressman Daddario that the policy statement in title I of the Senate bill ought to be included in the House bill. 115 CONG. REC. 26578 (1969). Congressman Daddario unsuccessfully attempted to amend the House bill to include the additional provisions of title II in S. 1075. *Id.* at 26588–89.

[164] 115 CONG. REC. 29046–65 (1969). The discussion arose in this context because of a jurisdictional dispute between the Committee on Public Works and the Committee on Interior and Insular Affairs. S. 7, reported by the Public Works Committee, contained a provision for an environmental council in the Executive Office of the President similar to the Board proposed by S. 1075. *Id.* at 29050–51 (remarks of Senators Muskie and Jackson).

[165] The compromise language of S. 1075 and the explanation thereof are printed at 115 CONG. REC. 29051–52 (1969). Most of the changes proposed by the Senate conferees were accepted by the conference.

[166] The statements of the Senators who participated in that discussion reveal that at least they believed that, but for the requirement of international cooperation, S. 1075 remained a domestic bill after it had been amended by the Interior and Insular Affairs Committee. Senator Muskie noted that the bill "brings into focus the Senate's continuing concern for the quality of the Nation's environment." 115 CONG. REC. 29053 (1969). Senator Church announced that the decision resulting in instructions to the conferees "pertaining to the quality of our environment . . . marks an important milestone in the life of every American" and complimented Senators Muskie and Jackson for their efforts "toward improving the quality of all of our citizens" and acting "to implement the needed remedies to this growing national problem." *Id.* at 29059. Senator Church's comments also suggest that the first goal of section 101(a) of the bill was intended to refer to the preservation of the domestic environment:

I believe our citizens are more aware than ever before that we of this generation are trustees of our Nation's resources and of our total environment. We must assume our duty to preserve and enhance our habitat as we prepare to pass it along to future generations. *Id.*

[167] 115 CONG. REC. 29054 (1969) (emphasis added).

[168] *Id.* at 29055. The examples were the construction of a jet airport near the Everglades National Park and the construction of dams in the Grand Canyon.

[169] *Id.* at 29055–56 (emphasis added).

[170] The *only* mention of the international environment is found in a table prepared by Senator Jackson comparing the provisions of S. 1075, S. 7, and H.R. 12549. *Id.* at 29056–57. Item 3 in that table, which corresponds to the impact statement requirement, shows that S. 1075 requires findings on "environmental impact," "adverse effects," "short-term uses," and "irreversible commitments." Item 5 of the table, which corresponds to the requirement of international cooperation, is titled *"international effects,"* and notes that all agencies are required to support international programs for the environment. It appears from Senator Jackson's table that S. 1075 required consideration of domestic effects of federal actions in the impact statement and consideration of international effects through the vehicle of international cooperative programs. A similar comparative chart, describing the international cooperation provisions as "international effects," was inserted in the Congressional Record during the Senate debate that preceded the appointment of the Senate conferees. *Id.* at 29083.

Senator Jackson did refer twice to the "human environment" in a context that does not permit a construction of that term as an indication of extraterritorial application. The Senator noted that the jurisdiction of the Public Works Committee over pollution control does not give it jurisdiction "over all matters which relate to maintaining and improving the quality of the *human environment*. Maintaining and improving the quality of the surroundings and the quality of life *enjoyed by the American people* is a basic and fundamental task of all the committees of Congress and all agencies of the executive branch." *Id.* at 29055 (emphasis added).

The Senator apparently did not perceive any inconsistency between using the quality of the human environment and the quality of the American environment interchangeably. Later in the same speech, the Senator reviewed the legislative activity of the Interior and Insular Affairs Committee:

"In addition, over the past few years, the committee has approved measures to set aside for future generations four new national parks, eight new national recreation areas, nine new national seashores and lakeshores, almost 100 new wilderness areas, national monuments and historic sites. All these measures relate to the quality of the *human environment." Id.* (emphasis added).

[171] *Id.* at 29066.

[172] H.R. REP. No. 765, 91st Cong., 1st Sess. (1969).

[173] *Id.* at 9.

[174] *Id.* at 8–9.

[175] Similarly, the addition, in the conference of section 104 (clarifying requirements for consultation with the state agencies and compliance with state environmental requirements) raises the question of why the conference did not affirm that the bill did not change existing arrangements for consultation with foreign countries and compliance with foreign environmental requirements. The answer appears to be that the conferees did not intend any effect on foreign operations other than participation in cooperative efforts.

[176] 115 CONG. REC. 40924 (1969) (emphasis added).

[177] *Id.* at 40925 (emphasis added). Congressman Malliard's remarks also suggest that the goal in section 101(b)(1) of NEPA refers to succeeding generations of *Americans*.

[178] *Id.* at 40926 (emphasis added). The only reference in the entire House debate to other nations was in the remarks of Congressman Galifianakis who complained that "I cannot stand idly by and watch this most serious problem of our Nation and indeed of all the nations be used as a thin disguise of politically motivated moves." The Congressman was upset at what he perceived to be a shift in the jurisdiction of certain House committees. *Id.* at 40928.

[179] *Id.* at 40926.

[180] *Id.* at 40415–16.

[181] *Id.* at 40416–7.

[182] *Id.* at 40416 (emphasis in original).

[183] *Id.* (emphasis added).

[184] *See* pp. 64–67 *supra*. The section-by-section analysis inserted in the record by Senator Jackson during the debate on the Conference Report reaffirmed the domestic nature of the goals in section 101(b). 115 CONG. REC. 40419 (1969). It also reaffirmed that the impact statement requirement was an implementation of those domestic goals and the policies of the Act. *Id.*

[185] *See* notes 153, 166, 177 *supra*.

[186] 115 CONG. REC. 40417 (1969) (emphasis added).

[187] *Id.* at 40427.

[188] *Id.* at 40928.

[189] The statement by the President released upon the signing of the bill and his remarks at the bill signing ceremony demonstrate that he did not perceive NEPA as imposing new restraints or conditions on the exercise of his foreign policy powers. In the formal, released statement, the President expressed his view of the territorial scope of the new environmental policy:

The act I have signed gives us an adequate organization and a good statement of direction. We are determined that the decade of the seventies will be known as the time when *this country regained a productive harmony between man and nature.* 6 *Weekly Comp. of Pres. Doc.* 11 (Jan. 1, 1970) (emphasis added).

The only reference in the presidential statements to the environment outside the United States occurred in President Nixon's informal remarks in which he noted that all nations, industrialized and underdeveloped, have similar environmental problems and that the United States had been discussing the issue in the NATO Council. *Id.* at 12.

[190] 361 U.S. 304 (1970).

[191] *Id.* at 313.

[192] The conclusion was reiterated two years later in *United States* v. *Wise*, 370 U.S. 405 (1962), when the Court considered whether it should look at an unsuccessful attempt to amend the Sherman Act. In concluding that it should not, the Court stated that "statutes are construed by the courts with reference to the circumstances existing at the time of the passage. The interpretation placed upon an existing statute by a subsequent group of congressmen who are promoting legislation and who are unsuccessful has no persuasive significance here". *Id.* at 411.

The conclusion was stated even more forcefully in a recent decision, *Teamsters* v. *United States*, 431 U.S. 324 (1977), where the Court was asked to consider legislative history made with respect to successful attempts to amend Title VII of the Civil Rights Act of 1964. Because the legislative history was made with respect to a provision different than the one the Court asked to construe, the Court rejected it:

"The views of members of a later Congress, concerning different sections of Title VII, enacted after this litigation was commenced, are entitled to little if any weight. It is the intent of the Congress that enacted § 703(h) in 1964, unmistakable in this case, that controls". *Id.* at 354 n. 39.

This conclusion was also reiterated recently in *United States* v. *Sorrell*, 562 F.2d 277, 231–32 (3d Cir. 1977), *petition for certiorari filed*, No. 77–593 (Oct. 21, 1977), and also in *Benevento* v. *United States*, 461 F.2d 1316, 1322 (Ct. Cl. 1972), *cert. denied*, 409 U.S. 1038 (1972).

A slightly more tolerant view is expressed in *Parker* v. *Califano*, 561 F.2d 320, 339 (D.C. Cir. 1977), and *Bobsee Corporation* v. *United States*, 411 F.2d 231, 237 n. 18 (5th Cir. 1969).

Of course, the rule is different when the legislative history concerns subsequent successful attempts to amend the same provision being construed. *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 380–81 (1969); *FHA* v. *The Darlington, Inc.*, 358 U.S. 84, 90 1958).

[193] —— U.S. ——, No. 76–1701 (June 15, 1978).

[194] *Id.* slip op. at 29.

[195] *Id.* slip op. at 38 (citing National Railroad Passenger Corp. v. National Ass'n Railroad Passengers, 414 U.S. 453, 458 (1974).

[196] *Administration of the National Environmental Policy Act: Hearings on Federal Agency Compliances with Section 102(2)(C) and Section 103 of the National Environmental Policy Act of 1969 Before the Subcomm. on Fisheries and Wildlife Conservation of the House Comm. on Merchant Marine and Fisheries*, 91st Cong., 2d Sess. (1970) [hereinafter cited as *1970 House Oversight Hearings*].

[197] *Id.* at 900, 1123. In August, 1970 the CEQ acknowledged the position of the Departments of State and Defense by stating in its Progress Report: "All major Federal Agencies with *domestic programs* now have forwarded 102(2)(C) procedures to the Council." The Progress Report is reprinted in *id.* pt. 2, at 16 (emphasis added).

[198] The Navy submitted its instruction on environment impact statements that specifically exempted "activities or actions in foreign countries." *Id.* at 899–902. The position of the Department of Defense is also stated in the CEQ Progress Report. *Id.*, pt. 2, at 20.

[199] *Id.* at 1123.

[200] *Reprinted in id.* at 548–57.

[201] *Id.* at 1127–34.

[202] *Id.* at 1139–42.

[203] *Reprinted in id.* at 1146–47.

[204] *Id.* at 1136.

[205] *Id.* at 1143.

[206] H.R. REP. No. 316, 92d Cong., 1st Sess. 33 (1971) (emphasis in original). The report recommends:

The Department of State, in consultation with CEQ, should reconsider its position that AID supported projects need not be accompanied by "102" statements. Such a position is contrary both to the language and to the intent of NEPA. *Id.* at 6.

[207] This lack of interest is even more apparent when set into a context where a significant number of bills were introduced seeking to settle the statutory interpretation question with respect to whether the environmental impact statement requirement applied outside the United States.

91st Congress: H.R. 16345, 116 CONG. REC. 6418 (1970).

92nd Congress: H.R. 8984, 117 CONG. REC. 20029 (1971).

93rd Congress: H.R. 2045, 119 CONG. REC. 1086 (1973); H.R. 1007, 119 CONG. REC. 62 (1973).

94th Congress: An amendment to H.R. 9005, a bill that became the International Development and Food Assistance Act of 1975, Pub. L. No. 94–161, 89 Stat. 849, provided that no funds could be used to finance the purchase of pesticides unless an impact statement of the type specified in section 102(2)(C) of NEPA has been completed. *Hearings Before the House Comm. on International Relations and Markup on Proposed Legislation To Amend The Foreign Assistance Act of 1961, And For Other Purposes*, 94th Cong., 1st Sess. 524 (1975). The sponsor of the amendment explained that this action did not constitute a finding by the Congress that AID is subject to NEPA with respect to all its activities. The amendment subsequently was withdrawn. *Id.*

95th Congress: Senator Stevenson proposed an amendment to S. 2520, a bill to amend and extend the Export-Import Bank Act of 1945. The amendment provides:

Except as otherwise provided by law en-

acted after the date of enactment of this subsection, no rule, regulation, or interpretation pursuant to the National Environmental Policy Act of 1969 applies to an activity of the Bank which does not have an environmental impact within the United States.

Senator Stevenson explained this would maintain the status quo until Congress acted. 124 CONG. REC. S. 6513 (daily ed. Apr. 27, 1978).

See also H.R. 12222, § 110, 95th Cong., 2d sess. (1978) (providing for consideration of environmental consequences in programs conducted under the Foreign Assistance Act of 1961, Pub. L. No. 87–195, 75 Stat. 424 (current version codified in scattered sections of 22 U.S.C.)). This amendment would be unnecessary if NEPA applied.

[208] *Administration of the National Environmental Policy Act, 1971: Hearings Before the Subcomm. on Fisheries and Wildlife Conservation of House Comm. on Merchant Marine and Fisheries,* 92d Cong., 2d Sess. (1972). On February 17, 1972 the subcommittee considered NEPA oversight; on February 25, 1972, it took up proposed amendments to NEPA; and on May 24, 1972, it considered federal agency compliance with NEPA.

[209] The State Department raised again in a letter to Chairman Dingell its view that many of the NEPA requirements were inapplicable to its activities. Letter from David M. Abshire, Assistant Secretary for Congressional Relations to Honorable John D. Dingell, Chairman (July 28, 1972), *reprinted in id.* at 556. *See also* letter from James R. Fowler, Executive Director, AID Committee on Environment and Development to Wallace D. Bowman, Assistant Chief, Environmental Policy Division, Congressional Research Service, *reprinted in id.* at 1689–91 app.; Environmental Activities Report of the Agency for International Development (July, 1971) *reprinted in id.* at 1710–14 app. (listing projects for which no environmental impact statements had been prepared).

The Department of Defense position was set out in materials dispatched in response to a request from Chairman Dingell for copies of implementation manuals. *Id.* at 1799 app. (§ 4); 1838 app. (§ II(A)).

[210] The Council reported:

The Council has been and will continue to be very active in international environmental affairs, as we have in the past on the U.S.-Soviet Environmental Cooperation Agreement which President Nixon signed with President Podgorny last May, the U.S.-Canadian Great Lakes Water Quality Agreement, the U.N. Conference on the Human Environment, the June meeting of the International Whaling Commission, the November Ocean Dumping Convention conference and the recently concluded Endangered Species Convention conference. The Council has been active in the Intergovernmental Maritime Consultative Organization efforts to control pollution from ships; has provided U.S. leadership with the State Department in the Environmental Committee of the Organization for Economic Cooperation and Development, and provides leadership to the NATO Committee on the Challenges of a Modern Society.

In future years, our activities will follow much the same pattern, although areas of emphasis will undoubtedly be different each year. *Environment Miscellaneous, Hearings Before the Subcomm. on Fisheries and Wildlife of the House Comm. on Merchant Marine and Fisheries,* 93d Cong., 1st Sess. 6 (1973) (emphasis added).

[211] *National Environmental Policy Oversight: Hearings before the Subcomm. on Fisheries and Wildlife Conservation and the Environment of the House Comm. on Merchant Marine and Fisheries,* 94th Cong., 1st Sess. (1975). The record of the 1977 oversight hearings in the House Committee on Merchant Marine and Fisheries has not yet been printed. There have been no hearings as yet in 1978.

[212] *Report of the Council on Environmental Quality, Hearings Before the Subcomm. on Air and Water Pollution of the Senate Comm. on Public Works,* 91st Cong., 2d Sess. 14 (1970) (emphasis added).

[213] *First Annual Environmental Quality Report, Hearings Before the Senate Comm. on Interior and Insular Affairs,* 91st Cong., 2d Sess. 44–48 (1970).

[214] *National Environmental Policy Act, Joint Hearings Before the Senate Comm. on Public Works and the Senate Comm. on Interior and Insular Affairs,* 92d Cong., 2d Sess. (1972).

[215] *Environmental Impact Statesments: Hearings Before the Senate Subcomm. on Environmental Pollution of the Comm. on Public Works,* 93rd Cong., 2d Sess. (1974). There have been no oversight hearings in the Senate for 1975, 1976, 1977 and 1978.

In 1976 the staff of the Committee on Interior and Insular Affairs prepared a report on the Council on Environmental Quality which was issued as a committee print. STAFF OF SENATE COMM. ON INTERIOR AND INSULAR AFFAIRS, 94th CONG., 2D SESS., THE COUNCIL ON ENVIRONMENTAL QUALITY—OVERSIGHT REPORT (Comm. Print 1976). This report notes:

The Council's international office also assists the domestic staff on environmental impact statement issues relating to the Department of State and AID. Until recently these agencies considered their foreign programs to be exempt from the requirements of Sec. 102(2)(C). Backed up by recent court decisions, CEQ has actively pushed AID to develop NEPA procedures during the past years. *Id.* at 41.

The source for this statement is an interview with an unidentified *person. Id.* n. 123. The court decisions to which the interviewee apparently referred are discussed in Part III *supra.*

[216] Pub. L. No. 93–390, § 2(5), 88 Stat. 763 (1974) (codified at 22 U.S.C. § 2199(h) (Supp. V 1975)).

[217] 120 CONG. REC. 4257 (1974).

[218] *Id.* at 4258.

[219] In *Red Lion Broadcasting Co.* v. *FCC,* 395 U.S. 367 (1969), a case involving a determination by the Federal Communications Commission that petitioner had failed to meet its obligations under the fairness doctrine that required broadcasters to present public issues and give fair coverage to both sides, the Court looked not only at the statutory authority of the FCC, but also at subsequent amendments to the specific provisions at issue. The Court stated that: "Subsequent legislation declaring the intent of an earlier statute is entitled to great weight in statutory construction." *Id.* at 380.

The Court reached a similar result in *FHA* v. *The Darlington, Inc.,* 358 U.S., 84 (1958). In deciding whether housing provided for veterans of World War II under the National Housing Act could be used for transients, the Court looked at the purpose of the Act, its administrative construction, and the meaning ascribed to it by a later Congress, stating that:

Subsequent legislation which declares the intent of an earlier law is not, of course, conclusive in determining what the previous Congress meant. But the later law is entitled to weight when it comes to the problem of construction. *Id.* at 90.

[220] *See* pp. 80–82 *supra.*

[221] Pub. L. No. 92–532, 86 Stat. 1054 (1972) (codified at 33 U.S.C. §§ 1401–44 (Supp. V. 1975)).

[222] 33 U.S.C. § 1412 (Supp. V. 1975).

[223] The comparable provision under NEPA requires:

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. 42 U.S.C. § 4332(2)(C) (1970).

[224] COUNCIL ON ENVIRONMENTAL QUALITY, OCEAN DUMPING—A NATIONAL POLICY (Oct. 7, 1970), H.R. Doc. No. 399, 91st Cong., 2d Sess. (1970). The House report on the proposed bill, referring to the CEQ report, stated that it "forms the basis for this legislation. . . ." H. REP. No. 361, 91st Cong., 1st Sess. 9 (1971).

[225] The type of ocean dumping regulated by the Act is very likely to qualify as an action "significantly affecting the quality of the human environment," given the broad reach of section 102(2)(C) of NEPA. If that were the case, a federal action to issue a permit making possible this effect would come under the coverage of NEPA.

[226] The House report stated that the Marine Protection Act was not intended to in "any way limit the provisions of the National Environmental Policy Act," H. REP. No. 361, 91st Con. 1st Sess. 24 (1971), but did not elaborate on the relationship between this Act and NEPA. There was no relevant mention of NEPA in the House debates on this Act. 117 CONG. REC. 30850–66, 31129–60 (1971).

The Senate Report made reference to the CEQ report, S. REP. No. 451, 92d Cong., 1st Sess. 8 (1972), but did not discuss at all the relationship between this Act and NEPA. Nor was the subject raised in the debates on the bill in the Senate. 117 CONG. REC. 43052–78 (1971).

[227] Pub. L. No. 93–627, 99 Stat. 2126 (1975) (codified at 33 U.S.C. §§ 1501–24 (Supp. V 1975)).

[228] 33 U.S.C. § 1501(a)(1) (Supp. V 1975).

[229] *See id.* at § 1505(a).

[230] *Id.*

[231] *Id.*

[232] The Senate Report states that the environmental impact statement required by the Act must be prepared "in accordance with [NEPA]." S. REP. No. 1217, 93rd Cong., 2d Sess., 45 (1974). The House Report does not deal with NEPA, H.R. REP. No. 668, 93rd Cong., 1st Sess. (1973), but the Conference Report indicates that the House and Senate conferees were in agreement that the impact statement "must be prepared pursuant to the requirements of Section 102(2)(C) of [NEPA]" H.R. REP. No. 1605, 93rd Cong., 2d Sess. 34 (1974).

[233] *See e.g.,* note 28 *supra.*

[234] United Nations Environment Program Participation Act of 1973, Pub. L. No. 93–188, 87 Stat. 713 (1973) (U.S. participation in coordinated international efforts to solve environmental problems of global and international concern); Marine Mamal Protection Act of 1972, 16 U.S.C. § 1378 (1976) (negotiations for international agreements to protect marine mammals); Fishery Conservation and Management Act of 1976, 16 U.S.C. §§ 1821–1825 (1976) (negotiations for international fishery agreements); Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. § 1419 (Supp. V 1975) (negotiations for international agreement establishing marine sanctuaries); Endangered Species Act of 1973, 16 U.S.C. § 1537 (1976) (collect scientific and commercial data with cooperation from foreign countries); Whale Conservation and Protection Study Act, 16 U.S.C. § 917c (1976) (negotiations with Mexico and Canada for protection of whales; H.J. Res. 589, 91st Cong., 2d Sess. (1970), Pub. L. No. 91–438, 84 Stat. 889, 22 U.S.C.A. § 274a (Supp. 1978) (support for International Biological Program); Sea Grant Program Improvement Act of 1976, 33 U.S.C.A. § 1124a (Supp. 1977) (promote international exchange of information concerning marine resources); Health Services Research, Health Statistics, and Medical Libraries Act of 1974, 42 U.S.C. § 242*l* (Supp. V 1975) (participation with other countries in cooperative biomedical research and other activities concerning environment and health); Energy Reorganization Act of 1974, 42 U.S.C. §§ 5801–5891 (Supp. V. 1975) (encouraging and participating in international cooperation in energy and related environmental research and development);

Solar Energy Research Development, and Demonstration Act of 1974, 42 U.S.C. §§ 5551–5566 (Supp. V 1975) (cooperation and international data exchange programs).

[235] 463 F.2d 1261 (D.C. Cir. 1972).

[236] *Wilderness Society* v. *Hickel*, 325 F. Supp. 422 (D.D.C. 1970).

[237] *Wilderness Society* v. *Morton*, *supra* note 235 at 1262–63. Subsection 102(2)(C)(iii) of NEPA requires that an impact statement include alternatives to the proposed action. Subsection 102(2)(D) mandates that federal agencies study appropriate alternatives to recommended courses of action in a proposal that involves unresolved conflicts among alternative uses of resources. 42 U.S.C. § 4332(2)(C)(iii), (2)(E).

[238] The Council on Environmental Quality guidelines in effect at the time *Wilderness Society* was decided by the district and appellate courts did not require that a federal agency comply with the full range of § 102(2)(C) procedures in its consideration of alternatives to a proposed action. 35 Fed. Reg. 7390 (1970); 36 Fed. Reg. 7724 (1971).

[239] The nature of the interests of the Canadian intervenors is important because one might argue that the court's granting intervention represents a decision, *sub silentio*, that the Canadians had standing and were therefore within the zone of interests protected by NEPA. An implicit ruling on standing and the interests protected by NEPA was not, however, necessary to the court's decision. Granting of intervention is a procedural decision, not a decision on the merits and courts often exercise their considerable discretion to permit intervention for reasons which have no application to the merits of the case, so that all sides of a question will be represented. *See Wilderness Society* v. *Morton*, *supra* note 235, at 1263 (Tamm, J., concurring). At least one district court has permitted intervention in a NEPA case despite the failure of the intervenors to show an interest sufficient to confer standing. *Appalachian Mountain Club* v. *Brinegar*, 3994 F. Supp. 105, 109 n. 1 (D. N.H. 1975); *see Trbovich* v. *UMW*, 404 U.S. 528 (1972) (person barred fromm initiating action is not *States* v. *Imperial Irrigation Dist.*, 559 F.2d 509, 521 (9th Cir. 1977) (party seeking to intervene "need not possess the standing necessary to initiate the lawsuit"). *See also* Shapiro, *Some Thoughts on Intervention Before Courts, Agencies, and Arbitrators*, 81 HARV. L. REV. 721, 726–27, 737–38, 753–54 (1968).

In a subsequent case under NEPA, the Court of Appeals for the District of Columbia apparently did not consider itself bound by its intervention decision in *Wilderness Society* v. *Morton* and noted that the issue remained unresolved. *Sierra Club* v. *Adams*, No. 75–1040, slip op. 6 n. 14 (D.C. Cir. Mar. 14, 1978).

[240] F. Supp. 53 (D.D.C. 1975).

[241] *Id.* at 56.

[242] *Sierra Club* v. *Adams*, No. 75–1040, slip op. at 6 n. 14 (D.C. Cir. Mar. 14, 1978). The court of appeals held that assuming the applicability of NEPA, the assessment of the environmental impact on local Indians was adequate. *Id.* at 15–16.

[243] 4 ENVIR. L. REP. 20685 (D.D.C. 1974).

[244] As the Nuclear Regulatory Commission noted in a subsequent matter:

[T]he case is of little assistance in determining the applicability of NEPA to international matters. The [environmental impact statement prepared voluntarily by AEC] was concerned *entirely with global and domestic American impacts, and made no attempt to assess the environmental impact of United States nuclear exports on jurisdictions controlled by foreign states.* The Executive Branch determined that NEPA did not require assessment of such foreign impacts. The petitioners in that suit did not seek judicial review of the adequacy of the [AEC environmental impact statement]. (emphasis added.) *In re Babcock* v. *Wilcox*, No. 50–571, 7 ENVIR. L. REP. 30017, 30020 (Nuclear Reg. Comm. 1977) (emphasis added.)

[245] 6 ENVIR. L. REV. 20121 (D.D.C. 1975).

[246] *See* discussion *infra* at pp. 108–11.

[247] 353 F. Supp. 811 (D. Hawaii 1973).

[248] 353 F. Supp. at 819.

[249] The Court also considered, but did not rest its decision upon, the opinion in *Wilderness Society* v. *Morton*, 463 F.2d 1261 (D.C. Cir. 1972). Judge King speculated that this case "seems to hold that NEPA provides foreign nationals with certain rights when their environment is endangered by federal actions." 353 F. Supp. at 818. He noted, however, that this dubious interpretation of *Wilderness Society*, *see* note 239 *supra*, may have been disavowed by subsequent decisions and chose to rely on a congressional intent to afford the environment of the Trust Territory the same protection as that provided for the fifty states. 353 F. Supp. at 818–19.

[250] 353 F. Supp. at 817 n. 10.

[251] In *Saipan* v. *Dep't of Interior*, residents of Saipan in the Trust Territory brought a NEPA action to enjoin implementation of a lease agreement for construction and operation of a hotel on public land in Saipan. 356 F. Supp. 645 (D. Hawaii 1973). Judge King was asked to reconsider his ruling in Enewetak but declined to do so. *Id.* at 649–50. The court of appeals affirmed this portion of the decision, and modified the opinion on other grounds not relevant here. 502 F.2d 90 (9th Cir. 1974), *cert. denied*, 420 U.S. 1003 (1975).

[252] No. 78–0428 (D.D.C. June 8, 1978).

[253] No. 75–1040 (D.C. Cir. Mar. 14, 1978), slip op. at 6 n. 14.

[254] No. 78–0428, memorandum opinion at 12 (D.D.C. Jun. 8, 1978).

[255] In one case, *Natural Resources Defense Council* v. *Export-Import Bank*, No. 77–0080 (D.D.C. Mar. 10, 1978) (Order to hold proceedings in abeyance), the trial court has entered an order staying the action "pending Executive Branch review of foreign environmental policy" because it found that "the [NEPA] issues raised by this case are more appropriate for initial determination by the Executive Branch in light of its expertise in foreign policy. . . ."

[256] Restatement (Second) of Foreign Relations Law § 38 (1972). In *Saipan* v. *Dept. of Interior*, 356 F. Supp. 645, 649–50 (D. Hawaii 1973), the court considered this doctrine and concluded it was not applicable in the Trust Territory setting.

[257] *Rose* v. *Himely*, 8 U.S. (4 Cranch) 241, 279 (1808) (Marshall, C.J.). *See* ENDLICH, A COMMENTARY ON THE INTERPRETATION OF STATUTES 169 (1888): "A nation has a right to impose its legislation on its subjects, natural or naturalized, in every part of the world, . . . Indeed, on such matters as personal status or capacity it is understood always to do so; but, with that exception, *in the absence of an intention clearly expressed* or to be inferred either from its language or subject matter . . . *the presumption is that the Legislator does not design its statutes to operate on them, beyond the territorial limits of its jurisdiction.*" (Emphasis added.)

[258] *E.g.*, *Steele* v. *Bulova Watch Co.*, 344 U.S. 280, 285 (1952); *Foley Brothers* v. *Filardo*, 336 U.S. 271, 285 (1949); *Blackmer* v. *United States*, 284 U.S. 421, 437 (1932); *United States* v. *Bowman*, 260 U.S. 94, 98 (1922); *American Banana Co.* v. *United Fruit Co.*, 213 U.S. 347 (1909).

[259] 336 U.S. 271 (1949).

[260] *Id.* at 285.

[261] *See* Part II *supra*.

[262] 213 U.S. 347, 357 (1909).

[263] 336 U.S. 271, 287 (1949) (emphasis added).

[264] 16 U.S. (3 Wheat.) 610, 631 (1818).

[265] 356 U.S. at 283–84.

[266] *See United States* v. *Mitchell*, 553 F.2d 996 (5th Cir. 1977) (regarding the question of extraterritorial application of the Marine Mammal Protection Act of 1972):

When Congress considers environmental legislation, it presumably recognizes the authority of other sovereigns to protect and exploit their own resources. . . . The traditional method of solving such differences in the international community is through negotiation and agreement rather than through the imposition of one particular choice by a state imposing its law extraterritorially. *Id.* at 1002.

[267] Of course, the presumption against the extraterritorial application of a statute can be overcome. The most obvious way is to show that Congress clearly did intend to make the legislation applicable outside the United States. Another way is to show that the nature of the statute is such that its purpose would be frustrated were it not to be operative outside the United States. "In such cases, Congress has not thought it necessary to make specific provisions in the law that the locus shall include the high seas and foreign countries, but allows it to be inferred from the nature of the offense." *United States* v. *Bowman*, 260 U.S. 94, 98 (1922). This is not, however, the case with NEPA. The dominant purpose of NEPA is to require that greater care be taken in evaluating the impact of federal actions on the environment so as to preserve that environment for future generations of Americans. There is no sense in which a failure to apply NEPA extraterritorially would frustrate that central objective.

[268] *E.g.*, Council on Environmental Quality, Memorandum to Heads of Agencies on Applying the EIS Requirement to Environmental Impacts Abroad (Sept. 24, 1976), *reprinted in* 8 CEQ ANN. REP. (1977).

[269] HANKS, TARLOCK AND HANKS, ENVIRONMENTAL LAW AND POLICY 87–88 (Supp. 1976); REITZE, ENVIRONMENTAL LAW 143–145 (1972); Applebaum, *Controlling the Environmental Hazards of International Development*, 5 ECOLOGY L. Q. 321 (1976); Robinson, *Extraterritorial Environmental Protection Obligations of Foreign Affairs Agencies: The Unfulfilled Mandate of NEPA*, 7 INT'L L. & POL. 257 (1974); Strausberg, *The National Environmental Policy Act and Agency for International Development*, 7 INT'L LAWYER 46 (1973); Tarlock, *The Application of the National Environmental Policy Act of 1969 to the Darian Gap Highway Project*, 7 INT'L L. & POL. 460 (1974); Comment, 10 TEXAS INT'L L. J. 138 (1975) (Saipan v. Dep't of Interior, 502 F.2d 90 (9th Cir. 1974)); Comment, 5 ENVIR. L. REP. 10086 (1975) ("International Applications of NEPA: Environmentalists Challenge Pesticide Program"); Note, *The Extraterritorial Scope of NEPA's Environment Impact Statement Requirement*, 74 MICH. L. REV. 347 (1975); Frank, The Foreign Reach of NEPA (Jan. 1974) (prepared for the American Law Institute-American Bar Association course on International and Trade Aspects of Environmental Law). *See also* Dominick and Brady, *The Alaska Pipeline: Wilderness Society* v. *Morton and the Trans-Alaska Pipeline Authorization Act*, 23 AM. U. L. REV. 337 (1973).

[270] *See* pp. 83–84 *supra*.

[271] *See* pp. 83–84 *supra*.

[272] The Interim Guidelines are reprinted in *Organizational Plans of the Council on Environmental Quality: Hearings Before the Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries*, 91st Cong., 2d Sess. 114–17 (1970).

[273] Interim Guidelines, *supra* note 272, § 4 (c).

[274] *Id.* § 4(f).

[275] 32 C.F.R. § 214.6(b)(1) (1976) (emphasis added).

[276] *See id.*

[277] Office of the Legal Adviser, Dep't of State, Legal Memorandum: Application of National Environmental Policy Act of 1969 to Actions of the Federal Government Occurring Outside the United States, *Reprinted in 1970 House Oversight Hearings, supra* note 200, pt. 2, at 548–57.

[278] *See* pp. 83–84 *supra.*

[279] 37 Fed. Reg. 19167 (Sept. 19, 1972). Section 1 of the regulation provides: "These procedures do not apply to the Agency for International Development, the Arms Control and Disarmament Agency, and the U.S. Information Agency."

[280] Environmental Defense Fund v. AID, 6 ENVIR. L. REP. 20121 (D.D.C. 1975).

[281] *See* pp. 98–99 *supra.*

[282] 22 C.F.R. pt. 216 (1977).

[283] *Id.* § 216.6(b).

[284] *Id.* § 216.3(a).

[285] *Id.* § 216.1(c)(2).

[286] *Id.* § 216.5(c) n. 2. The underlying standard is different. The CEQ guidelines require an environmental impact statement to assess "the probable impact of the proposed action." 40 C.F.R. § 1500.8(a)(3) (1977). The AID regulations require the environmental assessment to be addressed to "the reasonably foreseeable impact of the proposed action. . . ." 22 C.F.R. § 216.5 (c)(3).

[287] 40 C.F.R. § 1500.9 (1977).

[288] 22 C.F.R. § 216.5(d) (1977).

[289] 40 C.F.R. § 1500.10 (1977).

[290] 5 U.S.C. § 552 (1976).

[291] 22 C.F.R. §§ 216.8, 216.5(c)(14) (1977).

[292] Sec. 102(2)(C) of NEPA provides:

Prior to making a detailed [environmental impact] statement the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved.

There is no requirement that a draft statement be circulated for comment, only that comment be obtained prior to putting together the final document.

[293] Section 102(2)(C) of NEPA provides: "Copies of the comments and views of the appropriate Federal, State and local agencies . . . shall be made available. . . ."

The AID regulations provide that comments received on the initial environmental examination shall "form a part of the project file." 22 C.F.R. § 2163(b) (1977). In addition, the AID regulations provide that "final project papers containing the Environmental Assessments will be forwarded to CEQ . . . [and] will also be available to interested Federal agencies upon request." *Id.* § 216.8. Arguably this meets the requirements of the statute.

[294] Section 102(2)(C) of NEPA provides:

Copies of such [environmental impact] statements . . . shall be made available to the President, the Council of Environmental Quality and to the public as provided by section 552 of Title 5.

The AID regulation, 22 C.F.R. § 216.8 (1970), provides that the environmental assessment will be forwarded to CEQ as soon as it is available and the completed assessments will be available to the public under the Freedom of Information Act, 5 U.S.C. § 552 (1976).

[295] Section 102(2)(C).

[296] 10 C.F.R. pt. 51 (1977). Like the Nuclear Regulatory Commission, a number of departments and agencies that have international programs promulgated regulations implementing NEPA without any mention of application outside the United States and in practice, environmental impact statements are not required under these regulations for activities with impacts outside the United States. 40 Fed. Reg. 5157 (1975) (Department of Commerce); 39 Fed. Reg. 14796 (1974) (Department of the Treasury); 41 C.F.R. § 4-1.23 (1977) (Department of Agriculture); 14 C.F.R. pt. 312 (1977) (Civil Aeronautics Board); 47 C.F.R. §§ 1.1301–1.1319 (1976) (Federal Communications Commission). The Department of Energy has not yet issued regulations implementing NEPA.

[297] A generic environmental impact statement on the entire nuclear export program has been prepared by the Energy Research and Development Administration (Department of Energy). The intervenor contended that site-specific impact statements were required for each individual export.

[298] *In re Babcock & Wilcox,* No. 50–571, 7 ENVIR. L. REP. 30017, 30018–19 (Nuclear Regulatory Comm. June 27, 1977) (emphasis added).

[299] *Id.* at 30021.

[300] *Id.*

[301] Some less developed countries are particularly disturbed by a position that requires them to divert scarce resources to meet environmental concerns that were caused by the past actions of the well developed nations. They also resent the implication that they should sacrifice rapid advance to the material comforts of a modern society in order to pay for protections against environmental impacts that they judge to be acceptable.

[302] *1970 House Oversight Hearings, supra,* note 196, pt. 1 at 1135.

[303] Letter from Louis V. Nosenzo, Deputy Assistant Secretary of State, to James R. Shea, Director of the Office of International Programs, Nuclear Regulatory Commission (May 31, 1977), reprinted as an appendix to *In re Babcock & Wilcox,* No. 50–571, ENVIR. L. REP. 30017 (Nuclear Regulatory Comm. June 27, 1977) and also cited in the opinion. *Id.* at 30021.

[304] 40 C.F.R. § 1500.8 (1977) (emphasis added).

[305] This was the basis for the attempt to stop the export of a nuclear reactor to the Federal Republic of Germany in the *Babcock & Wilcox* case discussed at pp. 112–113, and note 244, *supra.*

[306] In some contexts legislation is necessary because of the need to reach essentially private conduct or because of the need to impose criminal sanctions for violations. Neither of those needs exists here because NEPA does not reach private conduct and the statute does not contain criminal penalties.

THE ECONOMIC EFFECTS OF THE PROHIBITION ON THE USE OF SELECTED ANIMAL DRUGS

● Mr. TALMADGE. Mr. President, the Department of Agriculture has submitted a study to the Committee on Agriculture, Nutrition, and Forestry entitled "The Economic Effects of the Prohibition on the Use of Selected Animal Drugs."

This study was conducted in response to my request to Secretary Bergland on December 22, 1977. I asked him at that time to have the Department do an in-depth economic analysis of what would happen if we had a total withdrawal of the several animal drugs that either USDA or Food and Drug Administration were questioning at that time. Further, I asked that an economic assessment of the economic impact be done on the withdrawal of the use of nitrites in processed meats.

These studies have taken much longer to complete than the Department originally anticipated, and the study on nitrites has still not been completed. However, we recently had testimony by Assistant Secretary Foreman that the nitrite study probably would be available by early November. The report we have received is a technical and complex document. Because of the nature of the report I am asking for peer evaluation by scientists outside the Government. We are asking the University of Georgia, the University of Kentucky, Iowa State University, and Oklahoma State University to review this report. We are asking them to bring together in this review process, their experts in the various fields that are affected by these questions, so that each review will be comprehensive. I am asking that they complete these reviews by the end of January so that we will have them when Congress reconvenes.

We will then make our final decisions on how we should use this report. I want to make it clear that I have no reason at this time to question any aspects of the USDA study. However, this is a very new area of investigation and there are many unanswered questions, as well as the need to carefully consider the assumptions that USDA used.

In the interim, the report on the USDA study will be available through the committee for use by anyone who wishes to see it. I also ask that the executive summary of the report, along with my letter to Secretary Bergland requesting this study, be printed in the RECORD at the end of my statement.

Mr. President, there is rising debate about food safety, the safety of many food additives, the safety of various animal drugs and the importance of those products to agricultural production and food processing. These are important and legitimate questions. I believe it imperative that we make a careful assessment of these issues and avoid emotional reactions that could result in more harm than good. Our committee through the Subcommittee on Agricultural Research and General Legislation and Nutrition are actively pursuing the food safety questions. We have had numerous hearings on this subject in the past and will be holding more in the future.

In addition, I have requested a series of assessments from the Office of Technology Assessments on food safety issues, specifically, on food additives. feed additives and pesticides.

Further, our committee will be publishing a committee print on food safety next year. This is being handled primarily by the two subcommittees I mentioned earlier, but it is an issue that cuts across all agriculture and food policy. I believe the committee print will become a valuable resource document for Congress and the responsible agencies of the Government. I hope it will be a document that will provide the facts we must have in order to make reasoned and balanced decisions in the future.

The letter and the report follow:

COMMITTEE ON AGRICULTURE, NUTRITION, and FORESTRY,
Washington, D.C., Dec. 22, 1977.

Hon. BOB BERGLAND,
U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: The Food and Drug Administration and the Department of Agriculture have announced several proposals

with regard to food and feed additives that could significantly impact agriculture, the economy and consumers.

The Food and Drug Administration has proposed to terminate the subtherapeutic uses of several antibiotics including tetracycline and penicillin in animal feed. They are also conducting a review of the use of sulpha drugs in pork production, and the entire group of drugs known as nitrofurans. There is a distinct possibility that FDA will propose the cancellation of use of these drugs. The Food Safety and Quality Service of the Department of Agriculture has announced that the use of nitrates and nitrites as food additives might be suspended because of an alleged problem with nitrosamines.

These animal drugs and food additives are vital to our livestock producers and our food processors. Individually and accumulatively these proposed actions will have major impacts on agriculture, the economy, the cost of food to consumers. However, no assessment of the importance of these products to agriculture nor of the potential economic impacts of withdrawal is being done. In fact, the officials in charge say that current law does not permit consideration of benefits or economic impacts in making their determination.

Many members of my Committee are concerned that regulatory agencies are making decisions that will have major implications for the economy without full knowledge or consideration of these impacts. While no member of the Congress would ever encourage the use of products that endanger the health and safety of our citizens, they are also concerned that we not endanger the economic welfare of these citizens in the pursuit of a minor benefit or to eliminate a theoretical risk.

Our laws in many cases, predate the sophisticated detection technologies that are being employed today. As our technology of detecting substances, and residues improves, I think it is necessary to ask basic policy questions about risk and how far do we go with regulations. These questions need to be examined by the Congress. However, as we consider these issues it is imperative that we have the very best information possible including the economic implications of regulations.

For this reason, I would like to ask that you have the Economic Research Service make a total economic assessment of the impacts on the various sectors of agriculture and the economy if animal drugs and the various food additives that are under scrutiny are removed individually or in total.

This assessment should not only include the impact on agriculture but also the larger economic implications and specifically upon consumer prices.

In addition, these drugs and food additives are important for the general protection of public health. Therefore a cost assessment of the implication to human health and public safety needs to be made if these products are to be banned.

I have had concerns in this area for some time and in fact, we have held hearings with regard to these questions.

However, until we can get better technical information, I am not sure additional hearings will be beneficial.

I appreciate the fact that this information is not now readily available and that compiling it will be difficult. Therefore, I think the importance of these questions warrants the allocation of the resources needed to get the data. The Department has the unique capability of thoroughly addressing this issue through the various research agencies in the Department and the partnership with the Land Grant System. I specifically request that the Economic Research Service be given the responsibility for this assessment. However, I recognize that other agencies, specifically the Agricultural Research Service and the Cooperative State Research Service need to be tapped to make available the necessary technical inputs so that the economic assessment can be made.

We would like to have this information not later than the first of June, however, because of the on-going concerns of the Committee, progress reports would be very beneficial.

I hope that you will share my concerns in this regard and that you will take steps to develop a research task force to provide us with the very best information possible on these questions.

With every good wish, I am

Sincerely,

HERMAN E. TALMADGE,
Chairman.

[The Economic Effects of a Prohibition on the Use of Selected Animal Drugs]

EXECUTIVE SUMMARY

INTRODUCTION

Since earliest times man has struggled to develop an abundant and safe food supply. Over time, though, the increased use of chemicals and drugs has played an important part in improving man's ability to increase production, retard spoilage and preserve in other ways the naturally perishable food substances.

These improvements have not come without a cost. Chemicals, once thought to be absolutely necessary for food preservation, are now being implicated as causal agents directly related to human health conditions. As a result, and in an attempt to protect the inherent safety of the food supply, public policies to ban or otherwise regulate the use of a wide variety of animal feed additives are being proposed and debated.

The subtherapeutic uses of some animal drugs are being questioned because of evidence linking resistant strains of certain organisms to the chronic intake of antibiotics. For example, the Food and Drug Administration (FDA) has demonstrated that strains Pasteurella multocida and Pasteurella haemolytica have developed a resistance to penicillin, streptomycin, sulfonamides and tetracyclines. The development of such resistance, is a serious concern because it makes the use of these antibiotics potentially less effective in dealing with human health problems.

Proposals to restrict the therapeutic and subtherapeutic use of the nitrofurans stem from the finding that these antibacterials produce tumors in laboratory animals. Since manufacturers have been unable to produce an adequate method of analysis to assure the absence of residues in human food, there continues to be doubts whether their use in animal feeds poses a threat to human health.

A potential proposal to restrict the use of sulfamethazine in hog feeding stems from the continued high levels of sulfa residue being detected in pork tissue.

Farmers have used drugs at subtherapeutic levels in raising animals for approximately 25 years. Over the years they have come to believe that such a use (a) reduces the risk of animal disease outbreaks, (b) improves feed efficiency, and (c) reduces condemnations of the final product. In short, while limited scientific evidence is available to either support or refute the notion, the subtherapeutic use of animal drugs is now believed responsible for reducing the unit costs of animal production.

At the request of the United States Senate Committee on Agriculture, Nutrition, and Forestry, USDA initiated this study of the economic consequences of the proposed and potential restrictions on animal drug use. The study focused mainly on the effects such a restriction would have on food availability, food and farm prices, farm production costs, and the level and distribution of farm income.

While the results of this study must be considered as merely suggestive, they do indicate that the economic system would generally be quite resilient to a more restrictive policy on animal drug use. Costs of production, and therefore consumer prices, would increase initially but because the farm-level demand for most livestock products is inelastic, farm prices would increase more than proportionately. As a result, total net revenue to farmers would be initially enhanced. The increased profitability would encourage farmers to expand output in subsequent years and by the fifth year following the restriction on animal drug use, production and prices of most affected species would recover to approximately their baseline levels.

These results do not take into account any changes in the structure of production agriculture that might accompany an animal drug ban. Increased risks associated with feeding poultry and livestock in confinement without the low-level use of animal drugs could make such confinement production systems less viable and change the magnitude of this result. On the other hand, we were not able to measure the effect of changes in management practices that might occur in anticipation of or following the enactment of such a rule. Improved sanitation and pasture rotation could reduce the magnitude of even the first year effects as we have shown them.

THE STUDY

Basic science data are essential to a study such as this. Without good data on the effects of subtherapeutic drug use on feed efficiency, growth rates, mortality and product condemnation rates, it is impossible to develop precise estimates of the economic effects resulting from a ban. The basic science data for this study were obtained from USDA and Land Grant university scientists, veterinarians, others in private business, and professional journals. Most estimates were extrapolated from small scale test results since other data were not available. Most of the data were from tests conducted when the additives were first introduced in the 1950's and 1960's. In many instances there were wide variations in test results making estimates of the changes in production coefficients subject to error. Despite such difficulties, however, it should be emphasized that the best available scientific data were used for this study.

Because the available scientific evidence on the animal production effects of a drug use are not conclusive, two levels of drug efficacy were assumed—a moderate and high level. Such a procedure, therefore, provides a range of potential outcomes that likely bracket what could reasonably be expected to occur in reality.

The estimated initial effects on animal production of restrictions on the low-level use of selected animal drugs are shown in Table 1. These data indicate, for example, that the first year cumulative effect of a restriction on the use tetracyclines and sulfa in feeding hogs would be a 4.9 to 17.8 percent reduction in output, depending on what is assumed about drug efficacy.

As the data indicate, use of animal drugs within the same species was assumed to generate additive effects. That is, banning the use of all four animal drugs was assumed to be equivalent to the cumulative effect of separate bans occurring one at a time. It was also assumed that substitute drugs would not be available for use and that producers would not change management practices in order to effectively circumvent the regulations. While these assumptions admittedly do not mirror what would take place in the real world they make the problem amenable to analysis and allow us to set bounds on the extent of the economic impact.

The economic analysis was conducted assuming both a species-by-species ban of each animal drug and an across species concurrent ban of all the drugs. The cumulative effects of an across species ban were estimated by taking into account the adjustments in production that would occur as a result of cross-commodity effects. For example, the increased demand for beef resulting from higher pork prices was explicitly taken into account. The net effects of an animal drug ban on prices, production and consumption were traced for a hypothetical 5 year period following the ban to indicate whether, and to what extent, there would be long term adjustments to the changed conditions.

RESULTS [1]

The study results indicate that, at least initially, net farm income, farm and food prices, and farm production costs would all increase if the subtherapeutic use of animal drugs were restricted. Farm production costs per unit would increase because animal production is made less feed efficient and because mortality is increased. Farm and food prices would increase because fewer animal units are offered for sale. Net farm income would increase because increases in aggregate costs of production would be more than offset by increases in aggregate receipts. This result would, of course, be expected in cases where the demand for a product is relatively price inelastic.

Total net farm income in the first year following the animal drug ban would be about $1.2 billion above the baseline estimate (moderate efficacy). Increases in livestock cash receipts (+2.9%) would more than offset the relatively small decreases in cash receipts from crops (−1.4%). In subsequent years, net farm income would move steadily closer to the baseline estimate. By the fourth period, net farm income would be slightly below the baseline estimate (−1.2%) reflecting primarily the somewhat higher costs of producing about the same total output of livestock product. (Table 2)

Consumer price impacts follow essentially the same pattern as the index of farm prices received. The first year impact on the CPI for food is the most significant (1.2 percent above the baseline estimate). Consumer prices for the livestock products would be affected most. Retail poultry prices would be up 10 percent, beef prices up 3 percent and pork prices up about 4 percent. By the fifth period, slightly higher prices would persist for pork and poultry products, but because of the relatively low weight of these items in the food CPI, there would be almost no change from the baseline food CPI estimate. (Table 3)

Under the assumption of moderate drug efficacy, a restriction on animal drug use implies about a 7 pound per person reduction in the availability of red meat and poultry products. Broiler consumption in the first year is reduced most (3½ pounds per capita); followed by pork (2.8 pounds), turkeys (½ pound) and beef (¼ pound). (Table 4)

Price deviations from the base estimate for both the moderate and high level efficacy are shown in Table 5. In the first year, broiler and turkey prices would be above the baseline estimate by about 12 percent, assuming moderate efficacy. Barrow and gilt prices would be up about 5 percent and fed beef prices would be about 4 percent above the baseline estimate.

By the fifth year, all prices would be relatively closer to the baseline estimates. Broiler and turkey prices would still be higher than baseline reflecting the relatively higher costs of producing poultry products without the subtherapeutic use of the chemicals and drugs.

The study also provides an estimate of the effects of a ban on the use of the four additives in producing dairy products and sheep. The impact of such a ban on dairy producers would be minimal. Such additives are now used at subtherapeutic levels only in the feeding of calves. Study results indicate that costs of producing milk would increase less than 1 percent per cwt. if that use were banned.

Impacts of an animal drug ban on sheep and lamb production would also be minimal. Study results indicate an approximate 1 percent reduction in gross farm receipts to sheep producers if the additives had been banned in 1976. In that year consumers would have paid about a cent per pound more for mutton and lamb and there would have been about 47,000 cwt. less meat available.

[1] In order to simplify the discussion only the effects of the moderate efficacy assumption are explicitly discussed in this summary. If the high efficacy response is assumed, the pattern of adjustment is identical to that assuming moderate efficacy. However, reductions in output for the affected specie are more pronounced and, as a result, prices are relatively higher. Magnitude changes are shown in the tables attached.

TABLE 1.—ESTIMATED PERCENTAGE CHANGE IN LIVESTOCK PRODUCTION OUTPUT FROM BANNING SELECTED DRUGS IN SUBTHERAPEUTIC USES, MODERATE AND HIGH DRUG EFFICACY, EACH SPECIES CONSIDERED SEPARATELY 1st PERIOD (1976) [1]

[In percent]

Animal species	Drug efficacy									
	Penicillin		Tetracyclines		Nitrofurans [2]		Sulfa [3]		Cumulative effect	
	Moderate	High	Moderate	High	Moderate	High	Moderate	High	Moderate	High
Fed beef cattle			−0.4	−0.8					−0.4	−0.8
Hogs			−3.4	−15.6			−1.5	−2.2	−4.9	−17.8
Broilers	−2.1	−3.8	−6.4	−11.5	0.2	−5.7			−8.3	−21.0
Egg production	−.6	−1.0	−1.2	−2.3	.1	−.3			−1.7	−3.6
Turkeys	−1.4	−2.8	−2.8	−4.6	−1.9	−8.7			−6.1	−16.1

[1] The higher the expected response to a feed additive, the greater will be the reduction in output if the additive is banned.

[2] In poultry, it is possible to get a slight increase in output when nitrofurans are removed from the feed. These circumstances are explained in the appendix material on poultry. A ban on nitrofurans at all levels was assumed.

[3] The major effect would be from the sulfa drugs but would also include the effects attributed to penicillin and the nitrofurans.

TABLE 2.—PERCENT DEVIATION FROM BASE PROJECTIONS OF SELECTED FARM INCOME INDICATORS RESULTING FROM A BAN ON THE SUBTHERAPEUTIC USE OF ANIMAL DRUGS, MODERATE AND HIGH EFFICACY

	Period 1		Period 2		Period 3		Period 4		Period 5	
	Moderate	High	Moderate	High	Moderate	High	Moderate	High	Moderate	High
Cash receipts from livestock	2.9	6.7	2.0	5.2	1.5	3.1	0.9	1.7	0.5	1.3
Cattle	3.0	11.3	2.3	8.3	2.0	5.0	1.2	2.4	.4	1.8
Hogs	.2	−3.5	−.1	−2.6	−0	−1.3	.2	−.2	.2	0
Broilers	8.4	19.1	5.9	−18.3	5.5	12.2	3.9	8.9	2.9	6.2
Turkeys	2.1	1.6	1.0	1.6	.4	1.1	.4	.8	.5	1.1
Cash receipts from all crops	−1.4	3.4	−1.1	−2.0	−.6	−1.1	−.6	−.9	−.4	−.7
Corn	−3.4	−8.9	−2.7	−3.8	−1.5	−2.4	−1.2	−1.6	−1.0	−1.5
Soybeans	−3.0	−7.2	−3.0	−5.1	−1.9	−3.7	−1.3	−2.6	−1.1	−1.9
Oil crops	−2.7	−6.7	−2.8	−4.8	−1.2	−3.4	−1.3	−2.4	−1.0	−1.8
Total receipts from marketings	.9	2.7	.5	1.9	.5	1.1	.3	.5	.1	.4
Total farm expenses	−.2	−.4	.3	.5	.4	1.0	.5	1.0	.5	1.2
Total net farm income	4.7	10.9	1.6	6.6	0	1.2	−1.2	−2.0	−2.1	−3.8

TABLE 3.—PERCENT DEVIATIONS FROM BASE PROJECTIONS OF SELECTED CONSUMER PRICE INDEXES, ANIMAL DRUG BAN, MODERATE AND HIGH EFFICACY

	Period 1		Period 2		Period 3		Period 4		Period 5	
	Moderate	High	Moderate	High	Moderate	High	Moderate	High	Moderate	High
Beef and veal	2.7	10.4	2.2	7.7	1.4	3.4	0.7	1.4	0	0.7
Pork	4.5	14.7	3.5	11.8	2.1	7.3	1.4	4.8	1.0	3.2
All red meats	3.2	11.7	2.6	8.9	1.6	4.6	.9	2.4	.3	1.4
Poultry	10.3	27.6	5.7	15.9	2.6	7.4	2.4	6.5	2.2	5.6
Total, meat, poultry and fish	3.4	11.0	2.4	7.7	1.3	3.9	.9	2.3	.5	1.6
Total livestock and products	2.6	8.1	1.8	7.1	1.0	2.8	.6	1.6	.3	1.2
Food at home CPI	1.2	3.8	.9	2.7	.4	1.3	.3	.7	.2	.6
Total CPI	.2	.5	.1	.3	.1	.2	.04	.1	0	.04

TABLE 4.—ESTIMATED QUANTITY AND PERCENTAGE CHANGE IN PER CAPITA PRODUCTION OF BEEF, PORK, BROILERS AND TURKEYS FROM BASE FROM BAN ON THE SUBTHERAPEUTIC USE OF ANIMAL DRUGS [1]

	Units	Drug efficacy: Moderate, Period 1	Moderate, Period 5	High, Period 1	High, Period 5
All beef (carcass weight)	Pounds	−0.23	+0.39	−0.34	+0.72
Percentage change	Percent	−.21	+.36	−.31	+.67
Pork (carcass weight)	Pounds	−2.79	−.48	−10.25	−2.10
Percentage change	Percent	−4.52	−.85	−16.59	−3.08
Broilers (RTC)[2]	Pounds	−3.44	−.89	−8.70	−2.26
Percentage change	Percent	−7.26	−1.61	−18.37	−4.08
Turkeys (RTC)[2]	Pounds	−.59	−.28	−1.45	−.70
Percentage change	Percent	−5.94	−2.50	−14.60	−6.26
Total net change	Pounds	−7.05	−1.36	−20.74	−4.34
Percentage change	Percent	−3.06	−.56	−9.01	−1.79

[1] Based on 1977 civilian population of 214,700,000.

RTC—ready to cook.

TABLE 5.—PRICE DEVIATIONS FROM BASE PROJECTIONS, RESULTING FROM A BAN ON THE SUBTHERAPEUTIC USE OF SELECTED ANIMAL DRUGS, MODERATE AND HIGH EFFICACY [1]

	Units	Years 1	2	3	4	5
Moderate efficacy:						
Barrows and gilts (liveweight prices)	Dollars per hundredweight	2.32	1.62	1.11	0.72	0.54
Percentage change	Percent	5.02	3.83	2.34	1.59	1.14
Broilers (RTC wholesale price)[2]	Cents per pound	5.03	2.75	1.77	1.46	1.34
Percentage change	Percent	12.99	6.94	3.09	2.67	2.25
Turkeys (liveweight farm prices)	Cents per pound	3.39	1.90	1.32	1.19	1.19
Percentage change	Percent	11.61	6.70	3.42	3.51	3.54
Fed beef (steer price, Omaha)	Dollars per hundredweight	1.68	1.33	1.06	.60	0
Percentage change	Percent	4.30	3.30	2.00	1.00	0
High efficacy:						
Barrows and gilts (liveweight prices)	Dollars per hundredweight	7.45	5.49	3.80	2.37	1.67
Percentage change	Percent	16.13	12.97	8.00	5.24	3.53
Broilers (RTC wholesale price)[2]	Cents per pound	13.80	7.91	5.15	4.08	3.60
Percentage change	Percent	35.65	20.00	8.98	7.46	6.04
Turkeys (liveweight farm price)	Cents per pound	7.49	4.66	3.43	2.98	2.98
Percentage change	Percent	25.64	16.42	8.88	8.79	8.88
Fed beef (steer price, Omaha)	Dollars per hundredweight	6.02	4.55	2.65	1.20	.60
Percentage change	Percent	15.34	11.27	5.03	2.00	.96

[1] Drugs considered banned were penicillin, tetracyclines, and sulfa at subtherapeutic levels and nitrofurans at all levels.

[2] RTC—ready to cook.

A PROFILE OF SENATOR RUSSELL B. LONG

● Mr. CURTIS. Mr. President, I ask unanimous consent to print in the RECORD a profile of Senator RUSSELL B. LONG, the distinguished chairman of the Senate Finance Committee, that was published in the Chicago Sun-Times last Sunday, October 1, and also was distributed by the Sun-Times Syndicate.

It has been my pleasure to serve as ranking Republican on the Finance Committee and to observe the fair, impartial way that Senator LONG has chaired the committee since he became chairman in 1966.

Mr. President, the chairman always has tried to operate by consensus and has been resolute in his determination that every member of the committee be treated equally. I consider him not only a valued colleague but also a close and personal friend.

This profile of Senator LONG illuminates his compassion for the poor and those unable to help themselves, as well as his concern for the economic health of our Nation. He defies label, because he wants to preserve those things that have made this Nation so great. He also is a most effective legislator and a man whose friendships with his colleagues cross all political and philosophical lines.

The article follows:

IN THE SENATE, A "LIVING LEGEND"—RUSSELL LONG IS A ONE-MAN POWERHOUSE

(By Lisa Myers)

WASHINGTON.—Jimmy Carter tells how he always longed for the day when a Southerner would take control of the government. When he arrived in Washington, the President says, he knew his wish had come true.

But the politician running the show was not himself, Carter says, but another enigmatic, pragmatic populist from the same side of the Mason-Dixon Line: Sen. Russell Billieu Long.

Such self-effacing humor draws laughs at Washington black-tie dinners. But the politically savvy know that Carter's joke is only partly in jest.

For the colorful Louisiana Democrat with the infectious grin and cherubic, pink face is the man who controls the buck that stops on Jimmy Carter's desk.

Son of a governor, son of something worse to his legion of critics, Long is regarded as the single most effective user of power in government today. Not since the days of Lyndon Baines Johnson, the granddaddy of big-time operators, has wheeling and dealing been practiced with such folksy aplomb.

He is at once the Senate's Baryshnikov and Muhammed Ali, mixing graceful legislative pirouettes with power and finesse. His charm and disarming down-home wit, one of his most effective political tools, might even inspire actor James Whitmore to do another one-man show.

While the power of committee chairmen generally has waned in recent years, the industrious Long has retained and, in some respects, strengthened hold on his barony, the Finance Committee. He has the final, and usually the biggest, say in Congress on taxes, welfare, Social Security, Medicare, Medicaid, trade and other sundry policies.

In a political system where allocation of resources is the pinnacle of power, Long reigns over most of the U.S. Treasury. At last count, he and his committee controlled virtually all federal taxes, totaling about $450 billion, plus another $300 billion in spending, which amounts to more than 40 percent of the U.S. budget.

"He stands at the commanding height of government," said Sen. Daniel Patrick Moynihan (D–N.Y.). "He is king."

Long's enemies see him more as a not-so-benevolent despot who misuses or even abuses his power for the sake of oil, the rich and other special interests. Nobody's lacky, the 60-year-old Long has been a pain in the ankle to every President going back to John F. Kennedy.

President Carter got his baptism early from Long over the $50 tax rebate, which Carter was forced to withdraw in the face of certain defeat. He is receiving more advanced political education these days. If nothing else, Carter has learned of late that this month's end of the congressional session is Russell Long season.

"In the last week, there will be seven conference committees and he'll be chairing them all," Moynihan said.

Long also is prone to legislative banditry. His latest hostage was a multibillion-dollar airline aid bill that he held in return for more convenient air service between Washington and New Orleans, the largest city in his home state.

But, with few exceptions, adversaries highly respect the irrepressible Long as a master of legislative strategy and tactics, an unequalled raconteur and, some say, even a genius. Most also admit a strong affection for the "lovable charlatan," although it clearly pains them to do so.

"He knows the tax code about as thoroughly as the Pope knows the Lord's Prayer," said Sen. William Proxmire (D–Wis.), who often skirmishes with Long and loses.

"Long's the smartest man I've ever met," a highly successful lobbyist said. "His mind is so fertile that ideas spring from it like fleas off a bird dog in summer."

Long abandons more original ideas in a session than most politicians have in a career. Often during hearings or staff briefings, he will lean back in his chair, chew on his unlit cigar or a wad of paper and stare into space.

"He's in his own creative little world then," an aide said. "He won't be gone long, and when he's back, it'll be with a new twist or something or a whole new thought altogether."

Usually that idea is steeped in populism—or oil. Sometimes, the unpredictable Long finds a way to mix the two. For example, when everyone was fighting last year about whether to give receipts from a proposed

crude oil tax back to the people or to the oil industry, Long suggested that the money be given to the people to buy stock in energy companies.

Critics contend that Long's populism takes a weak third to parochial oil interests and a strong streak of conservation. Yet, looking back, the proposals for which the complex and contradictory Long has fought hardest (other than the oil depletion allowance) favor the average man.

There was the $1 tax return checkoff for political campaigns and public financing of presidential elections. Long's earned income credit, which aids the working poor, is the most progressive addition to the tax system in a quarter of a century. A first step toward a negative income tax, it supplements the income of working families with government payments of up to $400 through the tax system.

Another of Long's pet projects is the Employe Stock Ownership Plan (ESOP), through which workers are given stock in their company. The tax code is now peppered with incentives for firms to set up these share-the-wealth plans.

Long's populist streak was inherited from his famous father, Huey, who was governor of Louisiana and then senator before being cut down by an assassin's bullet when Russell was only 16. Otherwise, father and son share little in terms of political philosophy.

The revolutionary Huey, whose political slogan was "Every Man King," made his name by attacking Standard Oil and the railroads and demanding redistribution of wealth. If the "Kingfish" were around the Senate today, Russell, who was dubbed the "Princefish" when he was elected to the Senate at age 30, might tag him with the "fiscal bomb thrower" label he puts on certain liberals.

Living in the shadow of his flamboyant father, after whom he was named Huey Jr. until his name was changed to shield him from big Huey's enemies, Russell was left with a stammer that crops up when he gets wound up. Although he reveres his father, Russell rarely talks about him, except to recant how Huey dehydrated himself in preparation for Senate filibusters and then wore a dark suit in case his bladder gave way before a replacement arrived during all-night debates.

Instead, Russell talks about his notorious Uncle Earl, who has become to the Senate what Mother Goose is to nursery school tots. Gov. Earl Long, whose wife put him in a straitjacket and shipped him off to Texas after Earl allegedly proved his mental incompetence by telling the Louisiana legislature that "niggers is people too," was a master politician who taught his bright nephew many of his tricks.

The senator tells how as a youth he once asked Uncle Earl whether he should base his argument in a debate on princples or pragmatism. "Use anything you have to in politics, son," Earl replied. "Sometimes even ideals."

Russell uses a similar approach. More than once he has told a colleague who complained that he didn't know what he was voting on: "If we all knew what we were voting on, we'd never get out of here."

One of the keys to Long's power is horse trading. He's generous but expects reciprocity. As a freshman senator who knew Long's modus operandi from his days with the Nixon administration, Moynihan took pains to vote with the chairman whenever possible. He was rewarded with $120 million in federal welfare funds for New York.

This year, Long gave Carter a crucial vote on the Panama Canal treaties and lobbied to get him one or two more. The administration will be paying off that debt indefinitely. At one point, a friend suggested that Long draw up a list of what he expects in return. "Hell, no," said Long, horrified at the thought. "Then they're likely to hold me to it."

Perhaps Long's most famous swap came during his successful race for Senate majority whip in 1964. Long's desk in the Senate chamber, which once belonged to John C. Calhoun, was coveted by South Carolina Sen. Olin Johnston, whose vote Long needed. The problem was that the desk also had belonged to the Kingfish and later Russell's mother, who served briefly in the Senate after Huey was killed.

Long solved the dilemma by cutting a deal with Johnston. On bended knee, he apologized to his father: "Daddy, forgive me, but this time I'm going for broke." Long got the desk back six months later when Johnston died.

Long's political career hit a low point a few years later. A broken marriage and a bout with drinking almost ruined him. During that period, Long emotionally defended his friend and then Connecticut Sen. Thomas Dodd, who was accused of misusing campaign funds and was censured. Long almost got himself censured in the process.

"Russell has a tremendous sense of loyalty. He felt Tom Dodd was being abused for doing something a lot of people did," said Sen. Abraham Ribicoff (D-Conn.), one of Long's closest friends.

In 1967, Long suffered his only political defeat, the loss of his whip job to Sen. Edward M. Kennedy (D-Mass.). Although Long is not one to hold a grudge, to this day there is animosity between him and Kennedy. They frequently tangle on the floor, with Long winning 9 out of 10 times.

Long played a big part in helping now Senate Majority Leader Robert C. Byrd (D-W. Va.) strip Kennedy of the whip's post in 1971. After the vote, Long told Kennedy, "Maybe we ought to form a drinking club of former whips." Kennedy didn't laugh.

Long's drinking problems now are behind him, thanks in part to his second wife, former Senate aide Carolyn Bason, who most find even more charming than her husband. He is more than comfortably rich, with his net worth most recently listed at $2.3 million, a conservative estimate. Some $1.1 million of that comes from oil investments, but Long dosen't see any conflict of interest in consistently voting for oil producers.

All in all, things couldn't be better for the man who's the closest thing in the Senate to a living legend. "They talk about Long in reverential, hushed tones round here—almost as if he is some kind of miracle worker," Rep. Toby Moffet (D-Conn.) said.

Just what Long is going to do next is the source of endless speculation in the White House, the Senate cloakroom and press galleries. Both politicians and reporters watch curiously when the affable senator uses his wiles on a cornered colleague. "When I see him grab someone by the arm and put his mouth to their ear and start talking, I know that something's about to move to Louisiana," said Sen. Lloyd Bentsen (D-Tex.).

Throughout it all, Long remains modest, almost humble. One is more likely to find him at the local McDonald's than a ritzy French restaurant. He lives in a nice, but not lavish, Watergate apartment and keeps a two-bedroom frame house outside of Baton Rouge, La. On weekends he escapes to a rustic hideaway in Virginia's Shenandoah mountains.

In fact, Long, who looks rumpled even in $400 suits, goes out of his way to downplay his clout. "Call me anything you want to, boys, but don't call me powerful," he tells reporters.

Though he doesn't call himself "Champ," Long still has something in common with self-touting superstars like Ali. When he retires, things will never be the same.●

VIETNAM VETERANS—LEST WE FORGET

● Mrs. HUMPHREY. Mr. President, it is now more than 3 years since the last American troops left Vietnam, and the longest war in the history of America drew to its close.

This period of American history was marked with unrest and uncertainty. For millions of Americans, that war is still with them, is still part of their daily lives. For those millions of Americans, the veterans of that war, Vietnam has not passed.

The tumult of that period has carried over into their lives, changing them dramatically. They are not a generation of joiners. Vietnam veterans have not joined the traditional veteran organizations. Returning from the war they were not met by a grateful country commending them for their effort, but rather a country that was divided in sentiment regarding the years they had spent serving in the war.

The Nation's feelings, and the war itself, shaped these young lives, often in tragic ways. Recent studies have found 25 to 35 percent of Vietnam veterans are in need of mental health services.

Both the President's recent Commission on Mental Health and the Forgotten Warrior project of the department of psychology at Cleveland State University, a leading center of Vietnam veteran studies, have found shocking rates of alcoholism and drug abuse. It is estimated that 16 percent, or approximately 1,400,000 veterans, are suffering from alcoholism, and another 5 percent from drug abuse.

Not only is this problem not met, but veterans returned to a VA health care system that was not prepared to deal with the traumatic nature of crippling wounds received in combat, as well as new and extensive forms of rehabilitation that were required. The Nation was dismayed when a 1970 story in Life magazine told of the plight of the Vietnam combat veterans in hospitals that were established to deal with chronic illnesses and the older veteran.

A recent study by the National Academy of Science continues to find major problems, and the stories of seriously disabled veterans who dread returning to VA hospitals remind us of the help that is needed.

Not only do health problems plague these men, but unemployment also undermines the veteran. After a 6-month period of encouraging decline, Vietnam veteran unemployment has again spiraled upward. Unemployment among Vietnam veterans, in every measured age group, exceeds that of their nonveteran peers by over 50 percent.

These problems must be addressed by Congress and the National Government as a whole. We must get moving with a serious program of readjustment assistance. This assistance should take the form of educational benefits coupled with strong programs of health care, employment, and compensation.

Some signs of change are taking place. For instance, the Council of Vietam Veterans has been formed to provide a

Washington-based advocacy office to present as a united voice the views of Vietnam veteran groups from across the country.

Recently, 14 House Members and 1 Senator joined together calling themselves the Vietnam Veterans in Congress. On September 25 this group introduced the Vietnam Veterans Act of 1978. If this legislation is enacted it will be the first time we have committed ourselves to comprehensive assistance to Vietnam veterans attempting to shift their lives back to civilian status. This is a wide-ranging response which provides:

Tax credits for employers to hire Vietnam vets;

Readjustment counseling, either from private clinics or the VA;

Treatment will be made available for those suffering from alcoholism and drug abuse;

GI bill educational benefits will be provided;

Low-interest housing loans will be made available.

Some of these provisions have been independently introduced and may be enacted this year. But next year the continuation of these efforts must move ahead. We must meet these obligations.

My term of office will soon be ending. I could not leave this unfinished agenda without urging that the debt of gratitude we owe these men may simply be paid by offering them the opportunity to make their lives whole again.●

SENATOR BARTLETT ON COMPREHENSIVE TEST BAN

● Mr. NUNN. Mr. President, since the Limited Test Ban Treaty of 1963, the United States and the Soviet Union have been committed to concluding a comprehensive test ban treaty. This has been no easy task. Problems in verification and fears of an unequal, even destablizing, effect have hindered progress.

Nevertheless, the United States, Great Britain, and the Soviet Union are now meeting in Geneva in an effort to overcome differences and difficulties. It is possible that the Senate will be considering a comprehensive test ban within the next year.

The issues surrounding a test ban are complex, and we should all make an effort now to become familiar with those issues. Right now, I can think of no one in the Senate who has taken greater interest and worked harder on the test ban issue than the Senator from Oklahoma, Mr. BARTLETT. As the ranking minority member of the Research and Development Subcommittee of the Armed Services Committee, he has probed this issue carefully. He was the first congressional observer ever to the test ban talks in Geneva, and he has visited each of our nuclear weapons designing laboratories. Because of his training as a geologist, he has been particularly interested in the question of verification.

For that reason, I urge my colleagues to read the following address by Senator BARTLETT on the "Dangers of a Comprehensive Test Ban," and I ask that it be printed in the RECORD.

The address follows:

THE DANGERS OF A COMPREHENSIVE TEST BAN

(By Senator DEWEY F. BARTLETT)

Ladies and gentlemen, it is a pleasure for me to share with you today my findings on the implications of a cessatioin of underground nuclear weapons testing for the security of the United States. I want to thank Frank Barnett and the National Strategy Information Center for providing me this opportunity to amplify on the report which I presented to the Senate Armed Services Committee.

A comprehensive test ban has been a goal of the United States for many years. It is a goal which may be achieved within the next year. Once major policy decisions made by the President are transmitted to our negotiators, a treaty could follow within six or seven months. A unilateral moratorium, matched by the Soviet Union, is possible at any time, perhaps in conjunction with the signing of the SALT II agreement.

Efforts to negotiate arms control and disarmament limitations on nuclear weapons are almost as old as the weapons themselves. In the 1946 Baruch plan, the United States proposed that the production and control of all atomic energy be placed under international control and that all nuclear weapons be destroyed. Soviet opposition to the far reaching verification and control measures resulted in the failure of this proposal. Clearly, the Soviet Union had decided that the possible dismantling of all existing American nuclear weapons was of less value than proceeding with the development of its own nuclear strike force.

An outright ban on nuclear weapons remains distant, partly because of Soviet resistance to verification procedures which would compel the opening up of Russian society and partly because of the ease with which other nations have or could acquire nuclear weapons. Nevertheless, significant restrictions have already been placed upon the testing of Soviet and American nuclear weapons. The United States has signed seven treaties and an agreement with the Soviet Union limiting nuclear testing and explosions—the Antarctic Treaty in 1959, the Limited Test Ban Treaty in 1963, the Outer Space Treaty in 1967, the Non-Proliferation Treaty in 1968, the Sea Bed Treaty in 1971, the Threshold Test Ban Treaty in 1974, and the PNE Treaty in 1976, along with the Accidents Measures Agreement in 1971. Also, the United States and the People's Republic of China are signatories to Protocols to the Latin American Treaty which prohibits nuclear weapons tests in Latin America.

Today, the United States and the Soviet Union are prohibited by treaty from testing nuclear weapons in the atmosphere, underwater, on or under the seabed, in outerspace, on the moon or other celestial bodies, and in the Antarctic. In addition, they have agreed not to test underground any weapons with a yield over 150 kilotons or individual Peaceful Nuclear Explosions (PNE's) which exceed 150 kilotons. The United States and Russia are also bound not to assist non-Nuclear Weapons States with nuclear weapons testing and have agreed to share information on any unexplained incidents involving the detonation of a nuclear weapon.

In short, the United States and the Soviet Union have been following an incremental approach to restrictions on nuclear weapons testing. I believe that this is a wise policy when attempting to negotiate with the Soviet Union on matters of vital concern to the national security of the United States. And, it is a process which can be continued.

Despite the slow, but steady progress which has been made in limiting nuclear weapons tests, many people insist that all nuclear weapons tests be banned immediately. Many such advocates believe that a total test ban will be followed by a wide variety of other disarmament measures, thus cutting the "Gordian Knot" of arms control. This goal, which carries with it much of the enthusiasm, confidence and moralism of the "Ban the Bomb" movement, has had a long history since it was first proposed by the Soviet Union in 1956.

The United States, contrary to popular opinion, has already had extensive experience with a Comprehensive Test Ban as a result of the U.S./Soviet test moratorium which lasted from 1958 to 1961. The lessons of that moratorium are ones which should not be forgotten.

Despite the fact that the United States continued the moratorium on a year by year basis with the full expectation that it would resume testing, the U.S. was totally unprepared to start testing when the Soviet Union suddenly began atmospheric tests on September 1, 1961. The U.S. had not kept its testing organization and facilities in readiness, and many experienced nuclear physicists had left the test program.

From Soviet atmospheric testing, we learned that the Soviet Union had made major new advances in nuclear weapons technology during the moratorium. We do not know whether they conducted secret tests.

As a result of our own testing, we learned that we had made major mistakes in weapons design and engineering and that we had inadequate information about nuclear weapons effects. Although we were able to correct those problems we discovered, we did not succeed, during the period 1961 to 1963, in conducting all of the atmospheric tests which were needed.

Thus, the result of our only previous experience with a cessation of nuclear testing was the revelation that some of our weapons were, or had become, unreliable. Also, we learned that the Soviet Union had used the test ban period to prepare for a breakout which greatly reduced U.S. advantages in some nuclear weapons technologies and produced Soviet advantages in others.

Given this generally disadvantageous result of the test moratorium, why is there now such pressure for a Comprehensive Test Ban?

Advocates of a Comprehensive Test Ban are persuaded that it would slow the technological arms race, perhaps even freezing a perceived American technological advantage. They believe a CTB would result in reduced defense expenditures and increased strategic nuclear stability. They doubt that the Soviet Union could or would cheat, and they do not believe that the Soviet Union could obtain any significant advantage from secret nuclear testing. Furthermore, because some nations, such as India, say they will not accept non-proliferation safeguards in their nuclear power programs until after the superpowers cease testing, the Carter Administration believes that a CTB is vital to preventing other nations from acquiring nuclear weapons. These are admirable goals for a CTB, but they are goals which no CTB today could provide.

True, if all nations complied, a ban on nuclear weapons testing would severely limit the design of new nuclear warheads. But the design of new warheads is an extremely small part of the military competition between the superpowers. The Soviet Union does not need new warhead designs to give its existing ICBMs a devastating first strike capability against U.S. fixed, land-based missiles. Nor does the United States need new designs to deploy most of the new weapons systems being considered for the future, although in some cases, use of existing warheads would not be optimal.

That a comprehensive test ban might prevent the development of some horrible new nuclear explosive is also of questionable advantage because nuclear weapons now in the stockpile are already sufficiently horrible. The

new weapons designs which a CTB might prevent are those which are cheaper, safer, more secure, and more reliable. Even the notorious Enhanced Radiation Warhead—the so-called Neutron Bomb—was designed to be less destructive, not more destructive.

With or without a CTB, the qualitative and quantitative arms races will go on. I suspect that the future stability of the strategic balance will be endangered less by pending developments in nuclear weapons design than by an imbalance in conventional military forces or by non-nuclear weapons such as lasers or by asymmetries in delivery systems independent of the warheads they carry.

Advocates and opponents of a comprehensive test ban both agree that a cessation of testing will result in a loss of confidence in the reliability of nuclear weapons over time. They disagree only on how quickly this will occur and how widely. Proponents of a CTB suggest that one superpower would be unlikely to launch a surprise attack against the other if it were uncertain as to how well its weapons would perform. Over time, according to this view, the nuclear powers would find themselves gradually compelled to dismantle their increasingly unreliable nuclear stockpiles. I find it difficult, however, to accept the view that this is a stabilizing development.

More likely, one superpower would experience greater loss of confidence in its weapons than the other. I fear that this would be the United States.

Our knowledge of Soviet nuclear weapons technology has been sketchy since the ban on atmospheric testing in 1963. Still, we can infer from the size of their missile re-entry vehicles (RVs) and from appraisals of their underground testing that their weapons are, for the most part, probably larger and of higher yield than those of the United States. It is likely that the Soviet Union has not "optimized" its weapons to the same degree as has the United States. Thus, Soviet weapons, even if they were of older or more simple design than American weapons, would likely be less sensitive to changes in design, material, and conditions.

Soviet intercontinental ballistic missiles, such as their heavy SS–17s and SS–19s, and their superheavy SS–9s and SS–18s, are also better suited than U.S. systems to an environment where development of new warheads would be difficult. The additional throw-weight would permit them to use heavier, more conservative, and, therefore, less sensitive designs.

Because maintaining the reliability of the nuclear weapons stockpile would be the primary function of the weapons laboratories during a ban on nuclear weapons testing, the Soviet Union, with its regimented society would find it easier to maintain those experienced scientists and engineers who are necessary to certify the reliability of weapons and make corrections. In the United States, on the other hand, creative physicists unable to test their theories, would move into other fields of study. Thus, the Soviet Union, with its closed and controlled society, would be in a far better position to tolerate a test ban and to break out of a test ban with an extensive test program.

The Soviet Union would enjoy other advantages under a test ban. Unlike the United States, the Soviet Union is relatively free to ensure that all of the materials it needs for its nuclear weapons programs are produced in the amounts and quality required. Not only has the United States stopped production of some needed materials, but environmental regulations have banned others or have made them nearly impossible to duplicate. Thus, under a test ban, the United States would find it difficult even to refabricate weapons already in the inventory exactly as they were originally produced. Some changes which may affect the reliability of the weapons are therefore inevitable, and will lower the reliability of the stockpile.

Perhaps the most worrisome asymmetry favoring the Soviet Union under a test ban is the technical impossibility of verifying compliance.

Everyone agrees that some nuclear tests could escape even the most elaborate verification techniques and procedures. How large and how significant such illegal tests might be is disputed. Advocates of a total test ban argue that those tests which escape notice would be too small to be of value. However, I believe that view reflects an inaccurate understanding of how a comprehensive test ban will be enforced.

In principle the U.S.S.R. has agreed to voluntary on-site inspection, and the U.S., British and Soviet delegates in Geneva are attempting to work out the procedures for such investigations. In fact, proof that an illegal nuclear test has taken place will, in most cases, not be possible even with elaborate on-site inspection. The Soviet Union is demanding that the United States and other nations be required to produce extensive seismic proof that a test has been conducted prior even to consideration of a request for on-site inspection. However, if the Soviet Union should conduct a secret nuclear test, the conclusive evidence we are least likely to have is seismic. This can be seen by an examination of seismic means of verification.

Today, various sources place the "seismic verification threshold" at between one and ten kilotons in hard rock depending on the number and quality of seismic detection stations the Soviet Union permits on Russian soil. In some cases, we may be able to identify tests below one kiloton and in other cases we might not be able to identify a test well above ten kilotons.

Some tests will simply escape "detection" because they are lost in the natural noise of the earth. Others will be "detected" but their source cannot be "identified" as either nuclear, chemical, or natural.

"Detection" and "identification" of even large tests is difficult whenever those tests are conducted in "low coupling" softer soils or in seismically active areas away from known test sites. Furthermore, secret tests can be camouflaged in real earthquakes, detonate so as to stimulate earthquake, contained in large steel spheres, and "decoupled" in cavities such as salt domes. For example, decoupling tests conducted in salt domes near Hattiesburg, Mississippi showed that the signal from a test could be reduced by a factor of 75.

Furthermore, because our ability to monitor tests in the Soviet Union is better than our ability to monitor tests in many other parts of the world, the Soviet Union could choose to conduct tests outside its boundaries including in the atmosphere and in outer space. Many of the test ban treaties we have already signed, which would prohibit such tests, are not now completely verifiable. That fact is of little consequence as long as we can test underground to maintain the reliability of our weapons stockpile. Likewise, the Soviets are unlikely to resort to such expensive cheating as long as they also can test underground, but during an absolute test ban, these methods of cheating become very significant.

Much has been said about "non-seismic" means of verification such as satellite photographs of test activities, drilling, "subsidence" craters, dust clouds, and other detectable changes in the environment around a test site. Defectors, spies, signal intelligence, and inadvertent disclosure might also reveal clandestine testing. However, as long as the Soviet Union insists that on-site inspection is essentially voluntary on a case-by-case basis and requires seismic evidence to support an inspection request, non-seismic intelligence will be of limited value to enforcement of a comprehensive test ban treaty. In any case, that non-seismic evidence which is most credible, such as the discovery of new "subsidence" craters, is generally easy to prevent, and that non-seismic evidence which is most difficult to prevent, for example, spies and defectors, is the most difficult for the U.S. to substantiate or disclose.

Our ability to insure that the Soviet Union were not obtaining an advantage from secret testing under a test ban would depend then on how much they cooperate and how much they would attempt to violate the rules. The more they would test, and the greater the size of their tests, the more likely they would be caught. Unfortunately, significant advantages could be achieved even with very limited testing at very low levels. Reliability testing often requires no more than a single low yield test, and some new weapons development could be conducted with a short series of low yield tests. The United States would have difficulty detecting these tests, and, if detected would have much greater difficulty identifying them.

Even after the U.S. had discovered what it believed to be a covert Soviet test, it would be difficult to identify the exact location and to provide sufficient proof to persuade a world, which did not wish to see violations, that a violation had already occurred. And what remedy would be available to the United States if the Soviet Union refused to acknowledge its violation and also refused to permit on-site inspection? And how likely is it that the U.S. would challenge an unidentified event when there is a good chance that its suspicions could not be proven even with on-site inspection?

Clearly, a complete test ban is not verifiable and would work to the advantage of the Soviet Union, possibly resulting in a destabilizing loss of confidence in the U.S. nuclear deterrent. For example, what would happen if, in the mid-1980's, when our Minuteman missiles will be vulnerable and our B–52 bombers will have difficulty penetrating Soviet air defenses, our Poseidon warheads suddenly proved unsafe or unreliable? For over 30 years, the nuclear balance of terror has deterred a third world war. What possible advantage from a comprehensive test ban could justify placing in jeopardy our nuclear deterrent? The answers are not very compelling.

Today, the most frequent argument made on behalf of a comprehensive test ban is that it would reduce the number of additional nations which are likely to develop nuclear weapons. For the present administration, this appears to be the primary goal of a CTB. This non-proliferation aspect of a test ban is based upon the objections of some nations, such as India, which have refused to sign the existing Non-Proliferation Treaty (NPT) and have refused to accept more stringent safeguards on their nuclear programs because the nuclear powers have not ended their own testing and dismantled their nuclear weapons. A comprehensive test ban would, according to some of its advocates, remove this rationalization for rejecting safeguards and place great moral pressure on any nation considering a nuclear weapons test. Of course, the test itself would be prohibited to any nation that signed the CTB Treaty.

Personally, I find this non-proliferation argument extremely weak. Most nations likely to develop nuclear weapons would do so, not because the superpowers continue testing, but because they face serious regional security threats. Countries like Israel, South Africa, South Korea, the Republic of China, Iran, and Pakistan fall in this category. Those nations, such as India, which cite superpower nuclear testing in their refusal to sign the Non-Proliferation Treaty say they will accept non-proliferation safeguards only if other conditions, such as general nuclear disarmament, are also met. A CTB is likely to take away only one of the many

arguments these nations use to justify their refusal to sign the Non-Proliferation Treaty. Because India has already tested a nuclear device, because France and Red China have said they will not cease testing, because testing is not even necessary for a nation to develop and deploy a rudimentary nuclear force, and because some nations may choose to develop nuclear weapons because of regional security dangers, a CTB is not likely to be an effective non-proliferation step. In fact, if the United States should lose confidence in the reliability of its nuclear deterrent, allies who depend upon the American nuclear umbrella might feel compelled to develop their own nuclear weapons. France, which recently announced that it will develop neutron warheads for its Pluton tactical missiles, provides an example of this behavior.

A comprehensive test ban is sometimes justified on the grounds that it would save money. Major cuts are anticipated in the size of the nuclear laboratories and in nuclear weapons testing.

Savings from a test ban, however, will be illusory. The United States would have to maintain the reliability of the stockpile without nuclear testing. This is likely to be expensive as the United States attempts to reconstruct weapons out of materials no longer manufactured and increases its inspection programs. Also, the United States would probably need to maintain a considerable research effort aimed at understanding the state of the art and countering a possible Soviet breakout of the test ban, as occurred in the early 60's. The Administration has already testified that the Nevada Test Site would be maintained in readiness. In any case, if the United States experienced reliability problems during a CTB, it would be compelled to compensate by increasing the variety and size of its strategic programs. This will not be cheap either.

If, as my remarks suggest, the advantages of a comprehensive test ban are marginal and the disadvantages potentially very serious, what should the U.S. do about the test ban negotiations?

First, the United States must recognize that it makes no sense to negotiate an unverifiable, and therefore unequal and dangerous, "zero yield" test ban with the Soviet Union simply to placate vague demands from potential nuclear proliferators, many of whom will probably develop nuclear weapons no matter what the outcome on CTB. Indeed, the leader of this group, India, has already tested a nuclear explosive.

We must link progress in arms control to improvements in verification technology, procedure, and cooperation. And we must make it clear to everyone that the Soviet Union can speed this progress by opening up its closed society and by complying more with the spirit of the Helsinki Agreements.

The Senate should underscore this commitment to verification and improved Soviet cooperation by proceeding with ratification of the Threshold Test Ban Treaty, which was signed in 1974, and the Peaceful Nuclear Explosions Treaty which was signed in 1976. Both of these treaties require the Soviet Union to take preliminary steps toward cooperation in verification.

Earlier this year, I wrote to the Chairman and each member of the Senate Foreign Relations Committee urging them to report out these two long-delayed treaties, just as they had voted to do on September 20th of last year. Instead, they met to reverse their earlier decision because the Administration, which had pressed for action last year, was not anxious to deal with the test ban issue this year. I suspect now that these treaties will never come before the full Senate.

Nevertheless, the Congress can act to expedite progress toward a safe comprehensive test ban by supporting programs which improve our verification capability, increase the long-term reliability of our nuclear weapons, complete needed testing, and maintain a strong technological base which could respond quickly if the Soviet Union should suddenly break out of a test ban as it did in 1961.

In general, I believe that it would be unwise for the United States to conclude a comprehensive test ban until after a SALT II treaty has been ratified and progress has been made in reducing the Warsaw Pact threat to Western Europe. A CTB should be linked closely to the overall military balance and to Soviet behavior around the world.

Based upon testimony received by the Senate Armed Services Committee, it is doubtful that a major breakthrough in verification technology is around the corner. Much work needs to be done both in developing systems and in obtaining Soviet cooperation. Nevertheless, I don't believe that it is necessary to give up the test ban negotiations while we wait. I believe that the United States and the Soviet Union could negotiate a Reduced Threshold Test Ban Treaty which would prohibit tests above five or ten kilotons or whatever can be verified.

Such a Reduced Threshold Test Ban Treaty would probably prevent both the United States and the Soviet Union from developing any new strategic warheads which it could deploy with confidence. It would also limit the development of tactical nuclear weapons. At the same time, it would permit both superpowers to conduct tests necessary to maintain the reliability of their existing nuclear weapons.

A Reduced Threshold Test Ban is a reasonable step forward in arms control. It shows the world that we are negotiating in good faith to limit the arms race and it shows that we are a responsible world power. It shows the Soviet Union that we are committed to cooperation and to verification. And it shows that we want meaningful arms control not media events. Furthermore, a Reduced Threshold Test Ban would promote those developments in Soviet-American cooperation which would be necessary before a "zero-yield" or "near zero-yield" test ban could be concluded.

I regret that the present Administration does not see the wisdom of this path which I have recommended. At the present time, it seems committed to negotiating a nonverifiable, essentially "zero-yield" test ban of very limited duration. Such a treaty will permit us to maintain the reliability of our existing weapons only if we can resume testing at the conclusion of the treaty period. However, a resumption of testing would, of course reduce whatever non-proliferation symbolism is contained in the treaty. Thus, the approach of the Carter Administration is to put their foot in the door on a zero-yield test ban treaty and hope that no problems develop. This is a bit like crossing a river on thin ice. It's only a temporary solution, and it is filled with danger. Generally, it is better to build a bridge, and, in the case of a CTB, that bridge is a verifiable Reduced Threshold Test Ban Treaty.

Also, it is dangerous and counterproductive to believe that a non-verifiable, "zero-yield" test ban would improve Soviet-American relations. On the contrary, suspicion that the other side is cheating, and accusations to that effect, could only result in serious diplomatic conflict which would poison Soviet-American relations and hinder further arms control steps. I believe, a "zero-yield" CTB would sew the seeds of its own destruction. For that reason, I am opposed to the Administration's "zero-yield" negotiations position. ●

PROCEDURAL ACTIONS OF SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, I would like to advise the Senate of two procedural actions affecting the Subcommittee on Federal Spending Practices and Open Government.

I submit both actions for the RECORD. The material follows:

WASHINGTON, D.C.,
October 9, 1978.

Pursuant to the authority granted in Senate Rule XXV, 5(b), and Rule 2 of the Rules of Procedures of the Committee on Governmental Affairs, and in compliance with Rule 2(c) of these Committee Rules, we do hereby approve that one member of the subcommittee shall constitute a quorum for the purpose of taking sworn testimony effective this date.

H. JOHN HEINZ III,
Ranking Minority Member.
LAWTON CHILES,
Chairman.

U.S. SENATE,
Washington, D.C., October 10, 1978.

Hon. LAWTON CHILES,
Chairman, Subcommittee on Federal Spending Practices and Open Government, U.S. Senate, Washington, D.C.

DEAR SENATOR CHILES: This is to authorize you, as Chairman of the Subcommittee on Federal Spending Practices and Open Government, pursuant to Section 3(c) of S. Res. 370, as amended by S. Res. 425, 95th Congress, 2d Session, at your discretion, to require by subpoena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents.

Sincerely,

ABE RIBICOFF,
Chairman. ●

RAPE VICTIMS—H.R. 4727

● Mr. BENTSEN. Mr. President, last night the Senate passed legislation that will take an important step forward in the effort to make rape laws more fair and just.

This legislation will severely restrict the use of evidence regarding the rape victim's sexual history, and will establish a procedure for determining admissibility that will protect the rape victim from abuse while safeguarding the rights of the defendant.

This legislation will help eliminate the callous defense strategy that attempts to place the character of the victim on trial in a vicious attempt to acquit the accused. It will help prevent rape victims from being victimized a second time around in our criminal justice system.

Mr. President, I first introduced legislation to reform rape laws in 1975, and I have repeatedly urged the Congress to enact this legislation. Last night the Senate passed a bill that parallels mine very closely, and I believe that it will serve as an important step toward justice. It was the culmination of years of work by the Senate and House Judiciary Committees, the Department of Justice, and legislators including Representative HOLTZMAN and Senator BAYH and myself.

It is clear that senseless and unfair rape laws have discouraged women from reporting these crimes and have allowed many dangerous and guilty people to

escape. In one incredible study by the Chicago Crime Commission, it was disclosed that of the approximately 35,000 rapes committed in Chicago, one-tenth, 3,562, were reported. Of those, there were 833 arrests and 204 indictments, and of those indicted, there were 23 guilty pleas and 8 were convicted and sentenced after trial. These statistics underscore the magnitude of the problem and argue strongly for reform. Clearly, inadequate and unfair rape laws have served as an injustice to the victim and a windfall for the rapist.

Mr. President, we are seeing, finally, a growing recognition of the intolerable ordeal that senseless rules of evidence have imposed on rape victims. We are recognizing the need for compassion, kindness, and concern to those who have been so brutally assaulted. We are recognizing the debt we owe to those women with the strength, courage, and determination to report these crimes in an effort to bring the guilty to justice. These women deserve the admiration and respect of all of us, and we can do nothing more important than reforming those rape laws that block the path to justice.

Mr. President, I strongly urge the President to sign this bill and enact this important reform into law.●

OUTSTANDING SEAMANSHIP

Mr. INOUYE. Mr. President, as an island State, Hawaii is almost totally dependent on ocean shipping for movement of its foreign and interstate commerce; services provided by the ocean-going vessels calling at Hawaiian ports truly represent the State's lifeline.

Because of the special significance of ocean shipping to my home State, I take this opportunity to bring to the attention of my colleagues an example of skillful and outstanding seamanship on the part of the master and crew of one of the vessels operated in Hawaii's interstate commerce with the contiguous mainland States.

I have reference to Capt. Stanley K. Smith, master of the Matson Navigation Co. vessel S.S. *Kopaa*, who at a recent awards banquet in New York City was presented an award "given to officers and crews for outstanding seamanship in rescue operations at sea." The text of the award read as follows:

Out of San Francisco on a course for Nawiliwili, the *Kopaa* rendezvoused with an air force rescue plane which dropped paramedics, coming to the aid of the chief officer, who was unconscious with failing vital signs. Subsequently in conditions of heavy seas and darkness the paramedics were brought aboard by motor lifeboat and finally a helicopter lift was achieved with the medics and first officer being flown to the Marine Hospital in San Francisco. In all of these maneuvers, spanning 24 hours, the officers and crew displayed a tenacity and devotion to duty that is in the highest tradition of the American merchant marine.

It is inspirational and reassuring to know that we have this type of skill and devotion to duty among that segment of the U.S. merchant marine serving our State of Hawaii. I extend my heartiest and sincerest congratulations and Aloha to Captain Smith, his crew, and to the owners of the vessel, Matson Navigation Co.

SOVIET ATTITUDES AND VALUES

● Mr. McGOVERN. Mr. President, among the papers prepared for the seminars on "The U.S.S.R. and the Sources of Soviet Policy" last spring were two intriguing discussions of attitudes among the citizens and the emerging leadership of that country.

As my colleagues know, these seminars, held on April 14 and May 19 of this year, were sponsored jointly by the Kennan Institute for Advanced Russian Studies of the Wilson Center and by the Council on Foreign Relations.

The question of public attitudes in the Soviet Union is very difficult to discuss, because of the absence of reliable data. Whereas the mood of our own population constantly is being probed, the public opinion poll obviously is an unknown phenomenon in the Soviet Union and we must, therefore, rely upon much less scientific methods in attempting to discern the concerns and the hopes of the Soviet citizenry.

Yet, in the first of two papers on this subject, Alexander Dallin, of the Department of History at Stanford University, defined a number of important trends in popular Soviet attitudes. He noted that often the views we can identify are in conflict—a desire for expanding contact with the West, for example, coupled with a concern about a uniquely Soviet nationalism. But if the task is difficult, Mr. Dallin urged that we nonetheless consider the popular effect of our foreign policy actions within the Soviet Union:

The Soviet domestic scene is part of our 'audience' whether we like it or not, whether we think of it or not. By what we do and what we don't do, by what we say and what we don't say, we reinforce or weaken assumptions and images among different Soviet strata; we validate or undercut arguments among them. If this invites a more difficult conduct of American foreign policy, it also promises a more realistic and sensitive awareness of a large, often silent, mass for whom American conduct can be of great consequence.

In a separate paper entitled "Soviet Attitudes and Values: Prospects for the Future," James H. Billington of the Wilson Center also argued that we must, as a matter of political necessity:

Move behind the stern, outer face of material Soviet power to investigate the inner face of what Soviets themselves refer to as their spiritual culture. We must be open to the testimony of their art—not just the artfulness of our testimonies.

Mr. Billington also forecast some significant changes in outlook among the next generation of Soviet leaders. And he included among his recommendations that—

American policy makers learn to speak effectively and simultaneously to both those in power and to the generation destined shortly to attain it.

Mr. President, these two papers add another important dimension to the study of United States-Soviet relations upon which I hope we will all be focusing more closely in the weeks ahead. Therefore, I ask that the studies by Alexander Dallin and James H. Billington be printed in the RECORD.

The two papers follow:

SOVIET ATTITUDES AND VALUES: CURRENT PERSPECTIVES

(By Alexander Dallin)

INTRODUCTION

Soviet attitudes and values constitute the vaguest and vastest of all topics examined in this series of seminars. To a greater extent than in other areas, we are dealing here also with judgments rather than demonstrable facts. Of necessity, these comments must be highly selective. Let me preface my observations with three general points:

1. There are genuine developments in Soviet society—affecting attitudes and values—which are largely autonomous of the authorities, i.e., unintended, often unforeseen and unwelcome. (This is true, for instance, of demographic patterns and of alcoholism.)

2. Changes do occur and will continue to occur in Soviet society: the widespread myth of the immutable nature of Russian attitudes and behavior tells us more about our preconceptions and about previous difficulties in observing the Soviet scene than about present realities.

3. We are able to observe and study Soviet attitudes and values, even if we cannot systematically conduct survey research and cannot always foresee their scope or consequences.

To begin with, I would reject both of the following extreme notions:

1. It is a mistake to believe that Soviet policy is impervious to domestic needs and pressures or to perceived constraints from parts of Soviet society; but

2. It is no less misleading to argue that what we commonly call "dissent" is only the tip of a political iceberg which is bound to bring about the disintegration of the Soviet system.

In my judgment, Soviet citizens overwhelmingly accept the existing order as legitimate: for most of them, it is the only system they know; they have all been taught to identify with it; some have been its beneficiaries. But if most of them do not seek a change of systems, many and probably most Soviet citizens wish for a variety of in-system changes—attitudes which may over time move some of them toward greater alienation.

There are in fact serious and multiple tensions and cleavages—among various elements within the Soviet population, as well as between social groups and the regime (or particular institutions). Such tensions need not always be dysfunctional or divisive but they prove to be so.

It scarcely needs to be mentioned that sixty years of Soviet rule have failed to produce either a communist society or a "new Soviet man" with a socialist value system. Soviet society is stratified, with substantial inequalities of income, status, power, and opportunity. It is beset by a multiplicity of problems, ranging from apathy to crime, from deviance to growing ethnicity, from perceived stagnation to a quest for privacy.

COMPLEXITY, CONSUMERISM, CONSERVATISM

Among the multitude of processes affecting Soviet society, it may be useful for us to focus on a few interrelated ones, which can conveniently be considered under the labels of complexity, consumerism, and conservatism.

Let us remind ourselves of the scope and speed of Soviet "modernization"—from also ran to super-power—as exemplified in massive industrialization, urbanization, education and the accompanying social, economic, military, and institutional development. Greater complexity and diversity are bound to be by-products of this process. It is bound to produce a greater differentiation of individual roles and functions, and hence greater diversity in what different individuals would put uppermost among desired goals: the result is tension among the priorities of "good communists" in different jobs, positions of responsibilities, career ladders, geographic and ethnic units, generations,

and bureaucratic hierarchies. A factory manager in Uzbekistan, a physicist in Novosibirsk, a tractor driver in the Ukraine, a party propagandist in Leningrad are likely to want different things first—differences apt to find political expression over such perennial issues as the allocation of scarce resources and the state budget.

The limited plurality of preferences which thus emerges within the authoritarian structure tends to contribute to the further erosion of the already fading faith in the existence of a single, incontestable and official truth. In this sense (and in a number of others), nothing fails like success. The very fact that the Soviet Union has reached the stage of social and economic complexity makes a return to Stalinism well-nigh impossible: the system could not rely on mass terror, nor ignore demands for housing, consumer durables, or services, without paying an immense price. The very fact that science, technology, and education have made remarkable strides contributes both to greater interest in the world abroad and to greater access to television sets, wider knowledge of foreign languages, and more widespread and intense interaction with opposite numbers abroad in many occupations and professions. The fact that the party has more or less successfully led the process of forcible industrialization to completion, contributes to more widespread doubts concerning the redundancy of the party's role in the years ahead, and reinforces the legitimacy of diverse priorities in resource allocation. At the same time, wholehearted support becomes more essential to the regime when the stress is no longer on mere compliance or efficacy but increasingly on efficiency, sophisticated innovation, and other goals whose attainment require good will rather than duress.

Two good examples of problems raised by technological advances are the unintended consequences of stepping up the production of private cars and the introduction of xerox copying machines. In the first case, there is already ample evidence of pressures for networks of mechanics, spare parts (including black-market sources), and service facilities, and also official complaints about changes in attitude on the part of automobile owners, who reportedly spend inordinate time taking care of their cherished vehicles, seek to spend vacations driving—whether alone or with their families—thus removing themselves from the "collective" to which they belong. In the second case, the authorities are caught between the chronic need for relief from incredible bureaucratic overloads and inefficiencies, on the one hand, and the (not entirely unfounded) political suspiciousness of permitting access by "ordinary citizens" to duplicating or copying facilities (access otherwise not allowed). The resulting efforts at greater controls or guards cannot be considered lasting "solutions."

In the broadest sense, the same problem arises with the introduction of the computer into Soviet economic planning: does it threaten and obviate the role of the political boss and decision maker, or does it help the latter make better decisions? Ultimately this intensifies the tension between "objective" and "subjective" approaches—the latent conflict between "Red" and "Expert" in communist societies (to use the shorthand labels used by the Chinese).

It is now the incumbent office-holders and party officials who are likely to be the fiercest defenders of the status quo, the greatest practitioners of conservatism opposing innovations which, they perceive, might threaten their status, privilege, and role. Thus the new Soviet elite that has benefited from development and differentiation—an elite that felt threatened by Nikita Khrushchev's improvizations, and reorganizations but has been made to feel more secure by the policies and practices of the Brezhnev era—seeks the persistence of privilege and, by the same token, is inclined to oppose policies apt to produce crises, at home or abroad, and to require more than minimal risk-taking.

At the same time, this new elite is something of a functional equivalent of a middle class (which had been notoriously weak in Russia in earlier times)—with all its highly unrevolutionary characteristics. Among the best-off, travel abroad is in fact a kind of conspicuous consumption; others tend to adopt philistine, perhaps jingoistic attitudes. What both groups share increasingly with the urban rank and file is the quest for "things"—in effect, consumerism. (Since "materialism" cannot be made into an official pejorative in the Soviet Union, the phenomenon tends to be called veshchizm or "thingism.") The relative deprivation in this regard—ranging from meat and dairy products to appliances and furnishings—is of course a legacy of the Stalin era. And, as in other countries, the relative satisfaction of demand has evidently produced a remarkable rise in expectations.

Even in the younger age brackets, where greater idealism might be expected, the result (as indicated by Soviet opinion polls) is a quest for goods and gadgets. Soviet university students, for instance, place on a list of what they would like most, items such as motorbikes, stereos, and tape recorders. Needless to say, television is increasingly absorbing the leisure time of Soviet males, while Soviet females put vacuum cleaners and washing machines, processed and packaged food, and other services high on their list of desires and needs.

It is generally taken for granted in the Soviet Union that the assurance of welfare—and this would include both goods and services and opportunity—is properly and inevitable among the tasks of the state. In the long run, of course, the perceived legitimacy of the regime is bound to be a function of the extent to which the authoritarian structure permits and facilitates both the achievement of "progress" (which is typically linked to advances in economy, technology, science, and medicine) and the emergence of an acquisitive society—in short, it depends significantly on the way the system performs.

CONTRADICTIONS AND AMBIGUITIES

Given the increasing complexity of Soviet society, sweeping generalizations about attitudes and values are less and less satisfactory. There are, in fact, many unresolved tensions among values held simultaneously by the same people, and also among diverse attitudes adopted by different groups of people. A growing all-Soviet nationalism appears to be gathering support at the same time as the tendency to identify with subnational units—either ethnic or geographic is also on the rise. An insistence on "law and order" is manifest, and at the same time anti-social behavior is on the rise. Elitism and egalitarian attitudes have long coexisted uneasily in communist attitudes. The Red/Expert dichotomy has been remarked upon above.

Potentially perhaps the most serious among the many overlapping cleavages in Soviet society is that which takes place along nationality lines. The situation is one of such complexity that justice cannot be done to it here. Suffice it so say that there are conflicting pulls—some that make for increasing assimilation, amalgamation, and integration of non-Russians and non-Russian areas into the Soviet-Russian "mainstream", others intensity centrifugal, separatist tendencies, be it in the quest for more elbow-room, in pursuit of cultural autonomy, or for political distinctiveness. Most authorities would agree that the centrifugal impetus—though varying from area to area—is stronger than the integrationist forces.

A fuller treatment would of course need to specify the roles played by the Soviet equivalent of America's interest groups. In the USSR, with the exception of the military establishment, these are largely informal identifications of people in the same occupations or bureaucracies. Even with very inadequate knowledge of their attitudes, it is possible to show that different groups tend to differ substantially on a variety of important issues. Whereas scientists and creative intellectuals may favor liberalization in cultural as well as other policies, there is little indication that the rest of the Soviet elite shares such views. Attitudes toward the United States and detente (such as it is) appear to vary significantly, presumably as different groups and individuals perceive whether their self-interest would or would not be served by greater interaction with the outside world, greater technology transfer, further arms control agreements, and so forth. While the full spectrum of opinion is hard to convey, it may be affirmed that on every single question on which Soviet opinion has been probed, different—and often contradictory—attitudes and opinions are reported.

IMPLICATIONS AND CONCLUSIONS

There are at least three reasons why attitudes and values in the Soviet population, even where they seem apolitical, are policy-relevant: (1) Soviet decision makers are bound to take into account what they perceive as domestic pressures and constraints; (2) given the sweeping nature of the state's role in the economy and society, decisions in any one sector are bound to impinge on the others; and (3) given the scarcity of resources in a number of key areas, alternative options regarding the allocation of these resources are invariably among the most contested political issues in the Soviet system.

I have tried to suggest that there are a number of contradictory trends at work, and that while a widespread sense of improvement exists, large sectors of the Soviet population remain unsatisfied with either the "bread" or "circuses" provided by the regime. The contradictory tendencies need to be restated here. There is substantial support for low risk-taking in Soviet foreign policy, as suggested above. Side by side with this view, there is a widespread impatience with do-nothing immobilism, with seeming lack of daring on the part of super-annuated bureaucrats, and a desire for more chauvinistic behavior. If the ideological zeal has markedly lessened, the new "responsiveness" of the Soviet leadership makes it more difficult for the regime to stomach setbacks or to institute sharp changes in policy abroad without paying a price at home.

While there is considerable pressure for more interaction abroad—be it on the national level of trade, technology, and travel, or on the individual level of blue jeans, Olympic games, and TV programs—there is also fear of the consequences of such a process because of the suspected contagion of alien ideas and values, security problems, and the sense in some Soviet quarters that the Brezhnev regime has yet little to show for its policies in this sphere.

Among the various implications of this for the United States, one aspect deserves particularly to be noted here. I suspect that analysts and policymakers in Washington, in dealings affecting the Soviet-American relationship, assume either that U.S. actions can be rendered directly efficacious or alternatively that American behavior somehow will impact positively on the Soviet elite's general and operational assumptions regarding the U.S. The choice between these two criteria often makes for different policy preferences here. This is somewhat analogous to the Soviet view of the U.S. response to the Angola and Ethiopian situation: Moscow correctly foresaw that the U.S. would not respond to Cuban/Soviet involvement by direct action. But Moscow apparently ignored or seriously underestimates the effect of this involvement on American opinion, including suspicions of Soviet intentions and implications for the U.S. defense posture. This misperception may ultimately prove quite

costly for the "moderates" among the Soviet leadership.

The Soviet domestic scene is part of our "audience" whether we like it or not, whether we think of it or not. By what we do and what we don't do, by what we say and what we don't say, we reinforce or weaken assumptions and images among different Soviet strata; we validate or undercut arguments among them. If this invites a still more difficult conduct of American foreign policy, it also promises a more realistic and sensitive awareness of a large, often silent, mass for whom American conduct can be of great consequence.

APPENDIX

TABLE 1—*Annual income: Percentage of families (1970, in rubles)*

Annual income per person:	Percentages of total
Up to 600 rubles	32.6
601–900	31.2
901–1,200	17.7
1,201–1,500	9.1
1,501–2,100	7.1
Over 2,100	2.3

TABLE 2.—*Growth of per capita disposable income (1950–75, in rubles): U.S. estimates*

1950	220.50
1955	282.75
1960	386.00
1965	493.00
1970	685.15
1975	871.50

TABLE 3.—*Household stocks of consumer durables, USSR, per 100 families*

	1960	1975
Radios	46	78
TV sets	8	74
Bicycles	39	54
Vacuum cleaners	3	19
Washing machines	4	65

TABLE 4.—PERCENTAGES HAVING BATH, TELEPHONE, AND CAR, UNITED STATES AND U.S.S.R.
[P stands for Pskov; J stands for Jackson, Wyoming]

	Percentage of each group having—					
	Private bath		Telephone		Private car	
	P	J	P	J	P	J
Professionals	65	99	16	48	4	98
Employees	49	98	6	59	3	97
Skilled labor	33	93	2	61	1	98
Unskilled labor	28	92	2	48	1	83

SOVIET ATTITUDES AND VALUES: PROSPECTS FOR THE FUTURE

(By James H. Billington)

We move into deep, dark and difficult territory when we probe into people's attitudes, values, and beliefs. We have trouble enough finding and articulating our own—let alone penetrating those of a culture as opaque as the Russian. In this—as in some other respects—the so-called era of detente may have actually increased our ignorance. For, in addition to perpetual obstacles to understanding (the secretiveness of Soviet society and the manipulable vanities and cultural parochialism of most American interlocutors with the Russians), there has been an intensification of a process within the Soviet-American dialogue that I would describe as funneling.

Ostensibly increased and diversified American contacts with the USSR seem increasingly channeled through ever narrower control points within the USA Institute, the Ministry of Foreign Trade and the like. The American connection becomes, in effect, at least partly a form of patronage for internal distribution within the Soviet system by a small element of the Soviet power structure. This element may very well play a more reactionary role inside Russia not only than we assume—but than would the other Russians whom they keep us from seeing.

I may be contradicted by inside knowledge, to which I have no access, or corrected by studies I may not have seen; but I have the impression that as they contact us, the funnel is simply reversed—again to their advantage. Soviet interlocutors from a small number of central control points now spray their contacts out widely into a diffuse American constituency whose cumulative and collective experience never seems to be systematically inventoried let alone appraised. Even within Washington one still wonders half a decade after the grain deal, if one administration, one branch of government, or even one department within a branch fully shares with the next everything Dobrynin said to it as he roams freely through our corridors of power—while our own ghettoized and often bypassed representatives in Moscow squint for a little light at the end of their funnel.

The beginning of wisdom in this unhappily asymmetrical state of affairs lies only partly in the better gathering and collating of data. I believe there is also a conceptual need to recognize that deep contradictions are inherent in the object being studied—and are not merely a function of inadequate information. Acceptance of contradiction will help us realize that there can be no simple answers about the USSR—including, paradoxically, any certainty that there are no answers.

The basic contradiction in the Soviet Union is the relatively simple contrast between outward power and inner weakness. Outwardly it is the last, the largest and the most powerful of the great multinational empires of the pre-modern era. Inwardly it is a land of disturbed emotions—born of suffering, impacted by silence, uncleansed by sunlight. Within the lifetime of the present Soviet leaders impressive material accomplishments and physical transformations have certainly been made. But at the same time some 50 million people have been killed on their own soil by unnatural causes, and near total destruction visited on all three of the great monotheisms of Judaism, Christianity and Islam—all of which were freshly flowering in Russia when Brezhnev was a boy. Marxism-Leninism—the secularized heir to this prophetic line of historical religions—came into power during Brezhnev's adolescence, was used to justify everything that followed, and has itself now ossified into the intellectual labor-saving device of an arteriosclerotic dacha despotism.

Whether arguing that we in America should adjust to it or adjust ourselves to confronting it, both the As and the Bs in our not very great debate have assumed that the "it" worth talking about was essentially only the military power of the Soviet Union. I would argue that—as a practical—political necessity of equal importance—we must move behind the stern, outer face of material Soviet power to investigate the inner face of what Soviets themselves refer to as their spiritual culture. We must be open to the testimony of their art—not just the artfulness of our testimonies.

Within that art, I would begin not with high culture but with a favorite form of their popular children's art: the matrosha or wooden doll containing other dolls within it. I would suggest it as a metaphor for Russians and even for Russia itself: an image which transforms Churchill's reference to a "puzzle wrapped in a riddle inside an enigma" into a research program rather than a counsel of despair.

Authentic matroshas (unlike those sold to tourists) often depict the face on each doll as different from the others outside it. The expression on each face is real (and at any given time the only visible one for the whole). But there may be only ⅛ of an inch of wood behind it; and the real nature of the matrosha is thought to be found only on the final face which alone lies on solid wood.

This layered, matrosha quality of Russian reality—with real conflicts often occurring within and not just between individuals and groups—makes the future particularly unpredictable and our culture-bound techniques of Kremlinology, interest group analysis and the like frequently fruitless.

The central question for the West in this period of political transition is: What will the face look like on the solid wood of the next generation of leaders when time peels away the presently visible outer layers? I believe that there is a second layer already visible behind the outer face of increased military power and the still invisible face of the next leadership.

This is the second or inner face of the present leadership itself, which is one of insecurity, perplexity, and simple entropy. It is the weary expression of a human energy crisis at the top. To change the metaphor, the ship of state though well armed is running out of steam. There is the shortage of labor, the systematic failure of agriculture, the systematic inability to translate R and D into effective production, the deferral of basic maintenance and turnover within both the economic and political system—and a loss of dynamism almost everywhere except in priority military-related technology on the one hand and the burgeoning second economy on the other. The situation is objectively serious to them even if largely unnoticed by us as we concentrate our attention on the outer face of power—the armament on the decks, the cruising capacity of the ship, the effect of technological tow lines from the West.

Much attention has been paid of late to the dragging anchor of the police bureaucracy and to the flapping sail of dissident agitation. The former, of course, relates to the outer face of power. The latter has a special importance for our probe into the future face of Russia, because (quite apart from the intrinsic human interest of unfurling a banner in Red Square), the fact of flapping indicates that invisible fresh winds are already blowing and might provide new sources of power and dynamism if anyone could find a way of tying them down to the deck.

The crucial question in determining the face of the next generation of Soviet leaders is how far they will go in working with these new forces of potential energy that are evident in the society as a whole but are not yet integrated with the realities of power.

The new forces blowing in the wind which new leaders will surely feel tempted to work with, are essentially the two imperatives of efficiency and identity. The powerful, contradictory pulls exercised by these two seemingly universal aspirants of modern man will largely determine the character of the emerging generation of leaders.

Efficiency is a seemingly irresistible ideal, which is pre-programmed into industrial society—and is particularly appealing to the new post-war generation in the USSR. For them, heroic struggles for social construction and wartime resistance are overtold tales from the past; the deferral of gratification in the name of remote goals seems increasingly intolerable; and a new consumer-oriented ethos is accompanied by creeping pragmatism and rising expectations fostered by a period of 30 years almost without precedent in Russian history: of continuous peace, relative prosperity, steady growth in formal education and dramatic recent increase in informal knowledge about the outside world.

Though the coming generation of leaders is no longer young, its formative background will be profoundly—almost unimaginably—different from that of Brezhnev and Suslov. From a generation formed by the unprecedented traumas of the thirties and forties, the torch of power must pass to a generation formed in the equally unprecedented (by Russian standards) tranquility and stability of the fifties and sixties. This emerging, middle-aged generation never had the safety-valve outlet of a youth rebellion. But it would be a mistake to assume that the impulse was

not there or that passion and idealism has been totally corroded by cynicism among those who work silently within the system. The cynicism about politics that accompanies the quest for efficiency in Russia has an essentially moral thrust. It was the faith, after all, of Dogenes in search of an honest man; and, just as the cynics were the most moral of men in pre-Christian antiquity, they may prove to be the harbingers of a new morality in a largely post-Christian Russia.

The cult of efficiency feeds on the professional pride which struggles in a thousand undramatic ways to enlarge the sphere of integrity within which one can work free arbitrary ideological interference and parasitic bureaucratic control. The quest for efficiency does not necessarily lead to convergence with the West. But it is a Westernizing force of increasing importance. It cannot easily be either successfully suppressed or selectively coopted by a new generation of leaders; for they have to work laterally against the basic inclinations of their own age group—as distinct from vertically as the older, Brezhnev generation has been able to do with a certain cachet of authority carried over from earlier struggles and sacrifices.

What complicates the natural tendency to extrapolate from this picture a future line of clear progression towards less despotic rule is the importance of the second goal of the coming generation, identity, which the new generation may seek even more urgently than efficiency.

I don't like the word "identify", but one needs a term more inclusive than "nationalism" to suggest the gut importance of the search for meaning that is personal and cultural even more than narrowly political. The phychological term may help suggest the growing compulsion of Soviet citizens to make some kind of sense of their shared sufferings; to find out who they really are. At the same time the quest for identity suggests that there are imperatives to human growth that cannot be understood by any account that confines itself simply to measuring material growth.

In the modern world this means nationalism—the most repeatedly underestimated and imperfectly analyzed force in modern politics. The nationalism of the ethnic minorities is the most complicated unresolved identity problem within the Soviet system. But since this subject is discussed in the other papers (and indeed in this week's newspapers), I will concentrate on the most important problem of national identity in the USSR—one that is made dialectically more urgent by unrest among the ethnic minorities—the quest for national identity within the still dominant Russian nationality itself.

This, perhaps the most important single internal problem of the Soviet regime, would take volumes to properly describe and intelligently analyze. So let me confine myself to three important propositions that I believe to be almost certain about the remarkable middle-aged identity crisis among Russians in the USSR—and end with three propositions that are much more speculative. I would hope, at a minimum, to move discussion of this phenomenon beyond the stereotyped liberal fears of some Russian fascism on the one hand or conservative fantasies of some slavophile escape from modernity on the other.

1. The matter of Russian identity is of crucial political importance. Its resolution will almost certainly be as apolitical as its origins. For this problem; which had been essentially resolved under Lenin and Stalin, was created by Khrushchev's downgrading of Stalin's validating myths of apostolic infallibility without providing any real explanation of the Stalin era, restitution for its wrongs, or structural guarantees against a recurrence. I believe that a large and increasing number of the post-war generation now about to come to power began in the late Khrushchev era to conclude that the system was not self-corrective; and that this conclusion has given political bite to the widespread search for a deeper Russian identity (typified by the astonishing growth of the authentically private Society for Preservation of Historical Monuments to some 12.5 million members).

Samizdat and dissidence are only a small fraction of a much larger and only partly outlawed search by intelligent, non-ruling elements in the USSR to continue the de-Stalinization that was artificially arrested by Brezhnev. This search takes the form—in a society unable to speak about the present—of debating the future in terms of the past.

2. The result has been—and this is my second proposition—the creation of a rich and diversified critical and creative life in Russian society engaged in a much wider range of debate over social and event political alternatives than Russia has known in fifty years. The new generation of independent critics have revived and reinserted into the mainstream of Russian culture three elements of strength from the Russian past that Stalin had almost succeeded in destroying: (a) the literary traditions of old Russia including particularly satire, the least understood abroad of all the great Russian literary genres; (b) the religious traditions of old Russia as an alternative basis for moral and aesthetic standards to either socialist realism and rationalization or Western modernism; and (c) spiritual links with the Russian countryside and its brutalized peasantry, the discovery of whose plight has enriched the literature and activated the social consciences of many young Russians in much the way the discovery of the black urban intellectuals did in America 15 years ago.

As in America, there followed a reformist, civil rights movement—weaker politically to be sure, but infused with a moral passion and religious idealism that may be possible only for those who have lived so long without them. Perhaps even more important has been the formation of a large-scale oral counter culture in a society that has always tended to believe that truth varies in inverse proportion to the amount of government prose written on a given subject. With the international guitar of protest folk singing having long-since replaced the balalaika, and with oral information given greater permanence and broader circulation by magnitizdat, the new generation has access to a wider variety of information and interpretation than ever before. In the oral counter-culture as in the flourishing new Soviet cinema, the national minority cultures lead the way, but tend to feed into and enrich the general Russian ferment.

3. My final—and perhaps most controversial—proposition is that these and other creative new developments that have been taking place in the inner layers of the Soviet matrosha will create the possibility for a much wider range of realistic alternatives in economic and political policies of the next generation of Soviet leaders—and even perhaps in the very ideology of the Soviet system itself. In contrast to the strict limits that have prevailed in recent years on the innovative possibilities of the Soviet system—constraints present throughout most of Russian history—I see a wide range of possible future developments that could make the USSR either a much more menacing or a much less menacing adversary than today. But new leaders are unlikely to be able to leave it much the same as they found it as Brezhnev has done.

In turning purely speculatively to this spectrum of future possibilities one senses the greater likelihood of more menacing developments in the early period of the generational transition (which may, of course, be already underway and a partial reason for recent negative trends). It is not just a result of the instinct to rally round the tomb in a regime where succession raises basic problems of legitimacy. The sheer weight of arms combined with lack of recent experience in using them could—if provoked by nationalist unrest or Chinese bellicosity—help convert the search for Russian identity into the nationalistic militarized dictatorship that many predict. And, of course, a rapprochement with China would be much more likely under new leadership. If negative developments seem probable in the short run, more interesting and hopeful possibilities seem increasingly likely under new leadership over the longer haul. These could include not just agricultural decollectivization and the widespread reintroduction of the incentive principle and administrative decentralization, but also—say—ideological accommodations with Russian religious tradition or the conversion of the original instrument of the Leninist revolution—the Soviets—into a serious forum for political debate.

So the next generation of leaders may confront us with a matrosha of their own, revealing some new expression of hardness that conceals once again friendlier forms inside. One can only hope that the future American dialogue with Russia can improve on that launched by the last administration, which seemed to feel that the older, outer face of power was the only one worth talking to—or in the early days of the current administration which seemed to believe mainly in sending signals to younger forces of moral aspiration inside the matrosha.

American policy makers must learn to speak effectively and simultaneously to both those in power and to the generation destined shortly to attain it. Many more people should be involved in contacts between the two superpowers, which are too important, too many-sided in nature, and too polypotential in effect to be left in the hands of only a few. We should challenge the funnels that separate us and should learn to listen far better than we do to the variety of signals that one multinational continent-wide civilization undoubtedly has to send the other in an increasingly interdependent world.

Our attitude is important for another, little-understood reason: the curious way in which Russian culture has often tended to imitate its principal adversary. The Eastern Slavs took their religious culture from Constantinople after raiding it, and their modern governmental institutions from the Swedes after fighting them. Their original models for industrial transformation came from America—just as many innovations they have made (and others yet to come) are taken from the scorpion in the bottle that they know best.

This is not a secure, mandarin culture with a long unbroken identity like the Chinese—but an insecure and polyglot Eurasion empire with a love-hate relationship to the West that has often tended to concede the role of leadership and creative innovation to whatever adversary it seeks to "overtake and surpass". Thus, if a new generation might indeed consider the wide range of innovative options I have suggested, we have added reasons for trying harder at efforts we ought to be making anyhow—to work harder on perfecting our own example at home and to communicate more broadly, openly and imaginatively abroad—particularly with those whose fate is—for better or worse—directly intertwined with our own for many years to come.●

UNITED STATES AND TAIWAN: IS THIS DIVORCE NECESSARY?

● Mr. GOLDWATER. Mr. President, there is an excellent and objective discussion of our China relations in the

August issue of the Retired Officer magazine, and I commend it to my colleagues for reading.

The article is written by James D. Hessman and it fairly presents the major arguments both of persons who favor full diplomatic relations with Communist China and those who favor continuing relations with our longtime and loyal ally, the Republic of China.

The article persuasively demonstrates that in any side-by-side comparison of the competing viewpoints, the clear winner on moral and practical grounds is Taiwan. For example, Mr. Hessman writes that the gossamer allure of "900 million potential customers" on the Mainland must be balanced against some hard economic facts: Taiwan's two-way trade with the United States last year totaled 16 times the PRC's two-way trade with us; Taiwan is pledged to substantially increase its imports from the United States; Taiwan is a showcase of economic and human progress for developing countries of the world.

Moreover, the article mentions that the Carter administration may have no choice in the matter of abandoning the Defense Treaty with Taiwan, which is one of the conditions made by Peking for establishing diplomatic ties. For although some people in the State Department appear to want total power for the President over treaty matters, this is not permitted by the Constitution.

The executive branch has already usurped much of the "advice and consent" power of the Senate by calling a treaty an "executive agreement" and thereby dispensing with the requirement of Senate action. Now, the State Department wishes to embark on a new power grab: total and unbridled discretion to repeal international agreements, even if they are formal treaties which have been ratified with the advice and consent of the Senate.

As Mr. Hessman indicates, one must doubt the administration really wants to set a precedent that would say, "in effect, that the next President could at his discretion terminate the Panama Canal Treaties."

Mr. President, I ask that this instructive article shall be printed in the RECORD.

The article follows:

U.S. AND TAIWAN: IS THIS DIVORCE NECESSARY?

(By James D. Hessman)

Why is it so important to normalize relations with China?

"Because it is there. Because you can't ignore 900 million people. Because, without full ties, the United States might stumble into war with China—over Korean reunification, perhaps. Because China is a counterweight to the Soviet Union."

That was the rhetorical question—and the multi-faceted answer—which the *Washington Star* featured in its lead editorial on Feb. 11, 1978.

The question appeared in the text of the editorial, however, and the "answer" just quoted was not the *Star's* own, but rather its short (and accurate) summary of the reasons many other have given for breaking U.S. ties with Taiwan and "normalizing" U.S. relations with Communist China.

The *Star's* own sentiments, it should be noted, were reflected in the editorial's headline: "What's the hurry on China?"

A lot of other people are asking the same question these days—but not many of those people, it seems, carry much weight with the Carter administration.

On raw statistics alone, those who advocate formal diplomatic recognition with the Mainland, even at the cost of breaking relations with a longtime and loyal ally, would seem to have all the better of the argument.

Mainland China or the People's Republic of China—the terms "Red China" and "Communist China," both considered somewhat pejorative, have been dropped from the U.S. diplomatic lexicon since President Nixon's 1972 visit to Peking—is the world's most populous nation as well as the third largest geographically (3,691,000 square miles). Its Gross National Product, an estimated $223 billion in 1974, is fifth largest in the world—almost equal to the collective $241 billion of all the countries of Latin America combined.

There are other arguments. Throughout the 1950s the possibility of Mainland China uniting with the Soviet Union in a massive onslaught against the Free World (as it was then quaintly called) helped focus and, to a certain extent, transfix U.S. defense policy into a position of worldwide "containment." The post-Stalin PRC/USSR tension which in the early 1960s escalated to an open and acrimonious split between the two Communist giants evolved in turn to the present status of armed truce, with an estimated one million Soviet troops poised just north of the Ussuri River ready to defend Mother Russia (the Soviet view) or to launch unprovoked new attacks against their erstwhile allies (the PRC view).

Whatever the merits of the various ideological arguments which still divide the Soviet Union and the People's Republic of China, the practical fact remains: not only are one million Russian troops tied up in the USSR's Far Eastern provinces, but the very possibility of having to fight a major two-front war must give the Kremlin pause and might, just perhaps, deter Soviet adventurism in Europe if not elsewhere.

U.S. PLAYING "THE CHINESE CARD"?

For both selfish and altruistic reasons, the United States does not want, and will do nothing to instigate armed conflict between the USSR and the PRC. Neither, however, does it desire a complete reconciliation between the two—not, at least, until one or both shift from their posture of evangelical militance (old-fashioned imperialism, in other words) in the cause of Communism to a more amicable *modus vivendi* toward the West. Fearful in any case, therefore, of a renewed ideological—and, worse, military—Sino-Soviet partnership, the new wave of PRC partisans suggest what amounts to a preemptive U.S./PRC friendship. They sometimes add, not altogether convincingly, that by thus playing "the Chinese card" the United States will somehow force the Kremlin to be more cooperative in the Strategic Arms Limitation Talks (SALT) negotiations.

There is also, as there has been for decades if not centuries, the rather hypothetical economic argument that the 900 million citizens of Mainland China are, from a purely business point of view, "900 million potential customers." Compared to that huge untapped market, Taiwan's 17 million pale into shadowy insignificance. Adding economic credence and political visibility to the "trading partner" rationale, which thus far has been stronger in promise than on performance, Commerce Secretary Juanita Kreps said on June 14 that she expects U.S. trade with Mainland China to almost double this year to a level of over $700 million. Most of the projected increase is based on the $115 million PRC purchase in April of a million metric tons of U.S. wheat. Commerce Department officials say the PRC may purchase as much as two million more tons this year, but not necessarily all or any of it from U.S. farmers.)

Finally, there is a burning political desire, sometimes barely distinguishable from missionary zeal, in the Carter administration to conclude an accord with the PRC which would at long last guarantee "peace in our time" between the world's most populous nation and its greatest economic power. Administration spokesmen always insist, of course—with what sometimes seems more hope than conviction—that attainment of that laudable objective will not be at Taiwan's expense; that, in other words, the United States will not formally recognize the People's Republic of China unless the latter "pledges" not to use force against Taiwan and "guarantees" the continued freedom of that island nation. The nature and extent of such pledges and guarantees are never spelled out, though.

President Carter's own convictions about the desirability of a comprehensive long-term relationship with the People's Republic are clear. His intentions toward Taiwan are somewhat less so. At an April 11 press conference, Bud Smyser of the Honolulu Star-Bulletin noted that, "The present Peking Government says that it will not use force in the near term to settle the Taiwan question but it will not rule out the use of force for the indefinite future.

"Does this reservation by Peking pose an insurmountable obstacle to our full diplomatic recognition of Peking?" Smyser asked.

The President's answer (with emphasis added): "I would not acknowledge any insurmountable obstacle in reaching the goals expressed in *the Shanghai Communique, which is binding on us*—and which I fully support—and binding on the People's Republic of China leaders. We recognized the concept that is shared in Taiwan and on the Mainland that there's only one China. We recognize that it's for the best interests of our own nation to have full diplomatic relationships with China. And my hope is that *over a period of months*—we are not in any big hurry; neither are the People's Republic of China leaders—that we will completely realize the hopes expressed in the Shanghai Communique.

It will be recalled that the Shanghai Communique, issued on Feb. 27, 1972 by President Nixon and Premier Chou En-lai, recognized what was never disputed: "That all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China.

"The United States does not challenge that position," the Communique continued. "It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves."

So far, nothing which either the PRC or Taiwan, or the supporters of either, would find objectionable. But there was more: "With this prospect in mind, it [the United States] affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes."

"WHAT'S THE HURRY ON CHINA"?

A few observations are pertinent:

First, the Communique, which President Carter says "is binding on us," has in fact no legal validity. It is not a formal treaty ratified by the U.S. Senate. Its well-intentioned but necessarily vague provisions have never been tested in a court of law—nor could they be, considering the reality. It was, and is, nothing more nor less than the personal political views of its human signatories. (Parenthetically, it might also be noted that the Communique is a most selective example of the Carter administration's willingness to accept any such extra-legal Nixon precedent or initiative as binding on President Carter himself.)

Second, despite Mr. Carter's protestation

that "we are not in any big hurry," his immediately prior reference to "a matter of months" as the time frame in which he wants to "completely realize the hopes expressed in the Shanghai Communique" raises again the Star's question: "What's the hurry on China?" Mao Tse-tung and Chou En-lai both died in 1976. Since then, Liu Shao-ch'i, Mao's personally designated successor, was purged by his peers, as was Lin Piao—whose name once was written into the PRC constitution as Mao's successor. Meanwhile, public recriminations continue on the Mainland against the so-called "Gang of Four," a sure sign, according to longtime China watchers, that the present PRC regime (headed by Premier Hua Kuo-feng and Vice Premier Teng Hsiao-ping) is not yet in full control. Unless and until the turbulence subsides, hasty U.S. acceptance of any change in the current U.S./PRC/Taiwan relationships could prove in the long run to be disastrously premature.

Third, intentionally or otherwise, President Carter did not specifically answer the question asked by Bud Smyser: whether Peking's refusal to "rule out the use of force for the indefinite future" poses an "insurmountale obstacle" to full diplomatic recognition of Peking by the United States. The President's reply that he would not "acknowledge" any insurmountable obstacle begs the point. He could very simply have said, but didn't, that if the PRC does not formally forswear the future use of force against Taiwan, then the United States would have no honorable course open to it but to continue the status quo, unsatisfactory as that might be in some other respects.

If the President was ambiguous on the conditions, Secretary of State Cyrus Vance left no doubt that "full diplomatic recognition"—and soon—is still a very high priority goal. Vance said April 30—on "Face the Nation" (CBS)—that "Normalization of relations with China is one of the fundamental goals [of the administration]. I would hope that during the first term we would be able to normalize relations."

Underscoring that oft-expressed determination, the administration shortly thereafter added insult to injury by dispatching Zbigniew Brzezinski, the President's national security adviser, to Peking—to arrive on the same day, May 20, that Taiwan premier Chiang Ching-kuo was inaugurated as that country's new president. Incredibly, State Department and White House officials maintain there was no insult intended, that the remarkable coincidence in timing was "not realized" when the Brzezinski trip was scheduled. If so, that is an admission that the administration's already much-criticized staff work may have retrogressed from the appalling to the abysmal.

Still, what's done is done, and cannot be undone. Besides, such past hurts and humiliations are unimportant to Taiwan compared to what could be, for it, a cataclysmic future.

THE QUESTION OF TAIWAN'S FUTURE

What about that future? Is Taiwan's position now untenable, given the apparent predilections and publicly stated positions of the Carter administration?

Not necessarily. But before going into specifics it might be relevant to recall what John F. Kennedy once said in another context: "I hear it said that West Berlin is militarily untenable. And so was Bastogne. And so, in fact, was Stalingrad. Any dangerous spot is tenable if men—brave men—will make it so."

That the brave men of Taiwan have already made their position, their "dangerous spot," highly tenable, and would fight to the death to keep it so, is indisputable. On the small island of Quemoy, just over one mile from Communist-held Chiao Yu, there have been six major battles since the PRC took over the mainland on Oct. 1, 1949. In the first of those, the Battle of Ku Ning T'ou (Oct. 25–27, 1949), some 13,000 Communist troops, two-thirds of the entire invasion force, were killed in battle; 7,000 more PRC soldiers were captured. Not one man escaped. (For comparison: in the entire Vietnam War, 1961–75, the United States suffered 46,752 "battle deaths," 10,390 "other deaths.") How many deaths would occur in a battle for Taiwan itself is unimaginable, but the total could easily be in the millions.

Taiwan, the Republic of China or ROC—sometimes called Formosa, Free China, or Nationalist China—does not have to depend solely on the uncommon valor of its troops, however. Despite the political reverses and public humiliations of recent years, it still has many strengths—and many friends.

Among those friends, it seems obvious, are the majority of the American people . . . who, ironically, are more consistent in their espousal of human rights than is the President who made the term his political battle cry. Numerous surveys have shown that the American public: (1) favors establishing formal diplomatic relationships with Mainland China; but (2) is adamantly against severing relations with Taiwan if that is the price required.

OPINIONS FROM THE MEDIA

The U.S. media, although far from unanimous on the subject, has also been holding the administration's feet to the fire, and in less-than-complimentary language. A few examples:

An editorial in the Feb. 19, 1978 Detroit News telegraphed its punch with the straightforward headline "Only moral bankrupts sell out their friends," and then commented that, "Especially after its performance in Vietnam, the United States would be wise to husband the moral capital it has left. Without doubt, deserting Taiwan would just about deplete the supply."

The *Salem* (Oregon) *Statesman* echoed the same theme in a Feb. 28 editorial: "The world has seen, in Vietnam, what can happen to people who put their trust in the United States. The grievous miscalculation there has left uncounted numbers in prison camps and 'retraining' centers, plus hundreds of thousands of refugees. . . . Are we willing to spawn another horde of 'boat people,' this time from Taiwan?" The *Statesman* answered its own rhetorical question: "While we curry China's favor to counter Russian strength, we should not violate our own integrity in so doing. There is no reason we should sacrifice the 16 million people of Taiwan in a futile effort to gain friendship with China."

Rutgers professor Peter Berger, in a Feb. 14 column in the *New York Times*, also discussed the "boat people," as follows (his emphasis throughout): "These boats bear a message. It is a simple and ugly message: *Here is what happens to those who put their trust in the United States of America.* . . . All of this is terrible enough in itself. But it now appears that the abandonment of those who trust us is becoming a habit. *We are getting ready to do it again—this time in Taiwan* . . . If there is one universal, indeed primeval, principle of morality, it is that one must not deliver one's friends to their enemies. And if there is one maxim in which morality coincides with politics, it is that a nation that breaks its solemn word twice will never be trusted again."

If the several moral arguments just cited are not persuasive to an administration which has so often staked its reputation on its own morality and rectitude, there are some practical considerations also worth nothing.

PRACTICAL CONSIDERATIONS

First, the gossamer allure of "900 million potential customers" on the mainland has to be balanced against a hard economic fact: "Taiwan's two-way trade with the United States last year totaled $5.7 billion, or about 16 times the PRC's two-way trade with the United States. What is more, Taiwan is proving itself just as loyal a trading partner as it has been a military ally. At a time when the United States is suffering unprecedented balance of payments deficits, the government of Taiwan has pledged to substantially increase its imports from the United States—an ROC trade mission left Taipei in mid-June on a $731 million shopping trip for American-made goods, and two other missions are scheduled to visit the United States later in the year to make similarly large purchases.

Second, Taiwan is, whether the current administration approves or not, an American showcase for other developing countries of the world. Thanks in about equal shares to earlier U.S. economic aid and to the native genius and industry of its own people, Taiwan is now leagues ahead of the mainland in virtually every measurable category of economic (and human) progress. A few examples (from the 1978 CBS News Almanac—the PRC statistics are estimates): the PRC's per capita income in 1975 was $320, the ROC's $809; life expectancy on the mainland is 62 years, on Taiwan 71 years; 45 percent of Mainland China's population is still illiterate, only 11 percent of Taiwan's population; the PRC's death rate is 10.3 per thousand population, the ROC's death rate 5.2 per thousand.

Third, if the United States were to play its "Chinese card" against Russia, Taiwan might be forced, against its own wishes, to play its "Russian card." ROC officials are insistent that Taiwan would never ally itself with the Soviet Union, which it ideologically despises as much as do the Mainland Chinese. But desperate situations sometimes require desperate measures. Niu Sien-chong points out (in the Feb./March issue of NATO's *Fifteen Nations*) that, "Naval and air base rights on the island [which the United States now has, incidentally, under its Mutual Defense Treaty with Taiwan] would enable the Soviet Union to dominate the South China coast, effectively close the ring around the Chinese mainland, and, as a bonus, put Japan in a Soviet vice. . . . It is not out of the question that the ROC might seek an alliance with the USSR if the Taipei Government felt itself abandoned or betrayed. . . . For the PRC [and for the United States, it seems fair to add], Soviet naval access to port facilities in Taiwan would be the worst of all possible worlds."

Fourth, Taiwan has yet another odious option: development and deployment of nuclear weapons—indeed, political analyst Ranan R. Lurie reported in the *Chicago Sun Times* (Oct. 26, 1977) that the ROC already has developed "tactical nuclear bombs designed to annihilate an invading armada or prevent a Chinese sea blockade." That report is denied by ROC officials; U.S. intelligence officers will "neither confirm nor deny"—but they concede that Taiwan has for several years had the capability to manufacture nuclear weapons. It would be both ironic and tragic if Jimmy Carter, who has waged a sincere and zealous campaign against the proliferation of nuclear weapons, were—because of his own foreign policy decisions—to force smaller unprotected nations such as Taiwan to develop their own nuclear arsenals. It seems reasonable to conjecture that an abandonment of Taiwan might well force other erstwhile U.S. allies to reexamine their own defense requirements.)

For all of the foregoing and other reasons both theoretical and practical which could be cited, many analysts believe any unilaterally-pursued U.S./ROC divorce would be neither necessary nor beneficial.

Fortunately (in the view of those who favor a continuation of the status quo), the Carter administration may have no choice in the matter. Senator Barry Goldwater (R-

Ariz.) argues—in a Heritage Foundation monograph ("China and the Abrogation of Treaties") released on May 17—that "it would be unconstitutional for the President to abrogate the Mutual Defense Treaty with Taiwan without obtaining the approval of two thirds of the Senate or both Houses of the Congress."

Goldwater contends—and musters an impressive phalanx of constitutional arguments to back him up—that "It is the clear instruction of history that the President cannot give valid notion of an intention to withdraw from a treaty, let alone void a treaty in violation of the formalities required by any provision it may contain regarding duration. . . .

"Although the immediate question arises in connection with the defense treaty between the Republic of China and the United States," Goldwater adds, "it is also important to explore the principle involved because it touches every one of our nation's treaty commitments. If the President can break the treaty with Taiwan on his own authority, then he can withdraw from NATO or pull out of any other treaty without consulting Congress or getting its consent. . . .

"The truth is that, were the shoe reversed," the Arizona Republican also points out, many Americans who are falling all over themselves to give in to every demand by Communist China would be the first to condemn unilateral presidential action of a kind they do not like."

Goldwater also said: (1) it is the view of "several subordinate officers" at the State Department that the President could indeed terminate the U.S./ROC Mutual Defense Treaty" at his own discretion"; and (2) that "the Legal Adviser's Office in the Department of State" already has been "studying this contingency."

Senator Goldwater tactfully sidesteps the point, but if President Carter and/or his spokesman and legal advisers do seriously defend the thesis that a President could unilaterally and "at his own discretion" terminate treaties, they would necessarily be promoting a principle which could make an ex post-facto shambles of the Carter administration's own foreign policy goals and achievements.

They would be saying, in effect, that the next President could at his discretion terminate the Panama Canal Treaties.

One doubts that the administration really wants to set a precedent which could lead to that result. For then one risks having a set of formal and sacred agreements with friends and allies little different than the "live-in" arrangements so common today among those whose real commitment is suspect.

Taking all factors into account, and much as it is to U.S. national interests to maintain friendly relations with the PRC, it is still prudent to ask, "U.S. and Taiwan: is this divorce necessary?"●

DR. DANIEL NATHANS WINS HIGHEST PRIZE IN MEDICINE

● Mr. BIDEN. Mr. President, I rise today to salute a native Delawarean who has achieved the highest honor in medicine, the Nobel Prize. Dr. Daniel Nathans will become a Nobel laureate for his pioneering work enabling scientists to break apart the molecules that shape life and reconstruct them in different combinations.

He will share the $165,000 prize with Drs. Hamilton O. Smith, a colleague at Johns Hopkins University and Werner Arber of Basel, Switzerland.

Dr. Nathans grew up in my hometown, Wilmington, where he attended Bancroft Elementary and Junior High School and later Wilmington High School. In 1950, he graduated with honors in chemistry at the University of Delaware.

After graduation, he attended Washington University in St. Louis where he received a degree in medicine and today he is the director of the department of microbiology at Johns Hopkins University Medical School in Baltimore.

The Nobel Committee of the Karolinska Institute of Medicine said the discoveries by Drs. Nathans, Smith, and Arber have far-reaching consequences for genetics, the science which explains how genes, the basic units of heredity, are organized in cells and how they determine the characteristics of living organisms.

The three Nobel Prize recipients have excelled in the field of molecular genetics. The discovery and application of "restriction enzymes"—chemical instruments for dissecting and analyzing genetic material—has exciting and beneficial prospects in "the prevention and treatment of malformations, hereditary diseases and cancer." The enzymes will help to identify the "chemical mistakes" in genes that lead to certain inherited disorders as sickle cell anemia, cystic fibrosis and Tay-Sachs disease.

What I find truly inspirational about Dr. Nathans is in addition to being an outstanding scientist, he is strongly motivated by compassion and concern for the impact of science on society. In fact, in the early 1970's, while conducting research on dismantling DNA of cancer cells in an attempt to learn what made them different from normal cells, Dr. Nathans became outspoken in his concern about the dangers of recombinant DNA research. His warning led to Federal guidelines for conducting experiments under tightly controlled laboratory conditions. It is most fitting that Dr. Nathans' breakthrough is directed to disease prevention. His research is evidence that DNA discoveries can be applied to the fundamental objective of the medical profession, that is, saving lives.

All Delawareans can share in the pride of Dr. Nathans' achievement. It is my special privilege to salute Dr. Nathans and to inform my colleagues on this special occasion.●

AFA POLICY STATEMENTS

● Mr. GOLDWATER. Mr. President, on September 18, 1978, in Washington, D.C., the delegates to the Annual National Convention of the Air Force Association unanimously adopted a "Statement of Policy" and a policy paper on "Force Modernization and R. & D."

I think the Senate will find these statements useful in understanding the concerns of our land based missile force, the direction of our strategic and tactical air breathing systems, and the objectives of SALT and arms limitation accords. These AFA statements are in the tradition of the great service this fine organization provides to America and I ask to have them printed in the RECORD.

The statements follow:

AFA'S 1978–79 STATEMENT OF POLICY

America's security is the sum total of elements as diverse as the nation itself. Some can be measured in dollars and cents as investments in people, weapons, and supplies. Others provide the crucial and fundamental measure of America's will to stand her ground. Essential is the commitment of her sons and daughters in uniform to enforce that will. Further, national security is firmly bound to international considerations that range from arms control to the degree of unity—or division—prevailing among both friends and adversaries.

The members of the Air Force Association believe that the United States in the coming year will have to deal with severe and pressing challenges across the spectrum of national security concerns. How well this nation will be able to cope with these challenges depends on how well these issues are understood by the American people and their elected leaders and representatives. Not enough has been done—or is being done—to arouse public awareness and understanding of these challenges.

The first step must be a deep understanding of the shifting balance of military power between this country and the Soviet Union that threatens the United States with intolerable imbalance—if not actual inferiority—by the mid-1980s. The Soviet Union's economy and living standards compared to the free world are at best dismal. Yet, that country persists in spending almost one-eighth of its gross national product—compared to one-twentieth by the United States—on offensive and defensive military capabilities. Year-in and year-out, Soviet military investments continue to increase at an annual rate of between four and five percent. All this is in the face of the reality that today the Soviet Union leads the United States in most areas of military spending.

We can draw but one conclusion—Soviet Russia seeks full military superiority over the United States, no matter the price and sacrifices exacted from its people.

Continuing emphasis on offensive strategic forces—on which the Soviet Union spends about three times as much as the United States—supports this assumption, as does the fact that, in structuring its strategic as well as general-purpose forces, the USSR clearly aims at the United States and its NATO allies, with the People's Republic of China rating only secondary attention.

Americans derive justified pride and comfort from the knowledge that their society's strength lies in a composite of high economic, political, and moral achievements, in addition to purely military might. In the sense of total power the United States leaves the Soviet Union far behind. This broad-based strength of the United States accounts for its international influence and prestige. Also there is no room for doubt about the unequalled reservoir of military strength that American industry, technology, and science represent if there is time to mobilize them. But all these factors are reduced to marginal significance in the case of strategic nuclear war and perhaps even major theater war or when the threat of such a war reaches a critical state. Forces in being will determine the outcome of such a contingency, not the ability to mobilize industrial resources which may no longer even exist.

The most damaging misconception that must be faced and corrected, in our view, is the national delusion that nuclear war is unthinkable and that, therefore, strategic deterrence does not necessarily require the United States to match the Soviet Union in nuclear firepower.

Quite the contrary. Soviet military strategy rejects the theory that the unique power of nuclear weapons has swept away the historic and fundamental rules governing warfare. As any careful examination of Soviet

military literature makes clear, Moscow does not accept the logic and morality of deterrence. Instead, the Soviet Union subscribes to the doctrine of victory, in nuclear war as in any other war. Soviet strategy and Soviet strategic forces, therefore, are being shaped in a way that is tailored not only to the ability to fight a protracted nuclear war but to emerge from one as the clear winner.

The members of the Air Force Association are concerned about the tendency to "mirror-image," that is, to ascribe to one's main adversary the same doctrines, objectives, and inhibitions that govern the formulation of one's own strategic concepts. There is no credible evidence that in a severe crisis the Soviet Union's rulers—unencumbered by accountability to their people—would be deterred from threatening the United States with nuclear war by any condition short of the conviction that certain defeat and annihilation of their country would ensue.

Any United States strategic force structure and any deterrence concept that fail to checkmate Soviet objectives on their philosophical homeground, we fear, will be futile and incapable of providing, over the long run, strategic stability and lasting peace.

In this context, a major problem is the lack of any broad public debate about the nation's geopolitical and defense goals, most notably of the fundamental need to shield the nation from the paralyzing effects of Soviet nuclear and other military blackmail while safeguarding America's credibility as a reliable and effective ally.

Ever since the term détente entered our political vocabulary, its moralistic appeal has mesmerized many Americans with visions of a millennium of peace. Consequently, there is a tendency to substitute cosmetic arms-control accords, hurriedly negotiated and often out of step with fundamental national security requirements, for the only fatcor that can bring about strategic stability—adequate, modern strategic forces and weapons.

The consequences of confusing arms-control agreements with strategic stability are broadly detrimental. In treating SALT and other arms-control initiatives as policy objectives in their own right, the nation denies itself a cohesive posture on nonnegotiable defense capabilities and thus lacks a baseline for the conduct of negotiations with the Soviets.

At the same time, the quest for strategic stability through unilateral arms reductions rationalizes out of existence the need for modernizing and strengthening our strategic forces over the long term.

The members of this Association continue to support carefully crafted arms control—coupled with prudent modernization of American military capabilities—as a worthy, constructive step toward enduring peace. But such agreements must meet rigorous standards of evenhandedness, precise terminology, high verifiability, and improved strategic stability over the short as well as the long term. Further, arms limitation is only one form of controlling power relationships between the superpowers. Arms-control accords, formulated and carried out with disregard for the international behavior of the Soviet Union and her surrogates, are of uncertain value and highly perishable. The contention that any arms-control agreement is better than none and that the only alternative is nuclear holocaust is fallacious. The effectiveness of the SALT I treaties in slowing down Soviet strategic growth is close to zero. One result of these accords is indisputable, however: The United States has gone from a position of clear superiority in ballistic missile defense technological capabilities to one of inferiority. SALT II cannot be permitted to cause similar setbacks.

The time is overdue for this nation to undertake a searching reappraisal of the goals it seeks from SALT and similar arms-limitation accords and of how to bring them into harmony with basic national security objectives. There is a need to probe also the danger of treating such accords separate and apart from the balance in conventional arms and of excluding from the negotiations our allies whose security depends on the effectiveness of United States strategic and theater forces. In setting a rational and realistic arms-control policy, the nation must learn to expect progress slowly, patiently, and incrementally.

The Air Force Association believes the national interest is served poorly by the present rush toward a Comprehensive Test Ban Agreement, whether treaty or moratorium, that would bar the testing of all nuclear weapons and devices. Such an accord cannot be verified satisfactorily by existing technological means. It could jeopardize the reliability of our stockpiled nuclear weapons. And it certainly would inhibit modernization of our nuclear capabilities. We are especially concerned that official information regarding this crucial but little understood arms-control endeavor has been contradictory, tightly controlled, and sparse.

The Air Force Association shares the deep concern expressed by Congress over the possibility—confirmed by Administration spokesmen—of presenting SALT II as an executive agreement rather than a treaty, thus eliminating the need for its approval by two-thirds vote of the Senate. A similar tactic—treating the Comprehensive Test Ban as a moratorium—reportedly is also under consideration and likewise would bypass the historic prerogatives of the Congress. We believe that nothing but the unabridged constitutional process can provide the nation with the responsible review that these fundamental national security issues demand. There is a clear and present danger that the democratic process will be short-circuited unless there is a free and open debate among policymakers, lawmakers, and the American people.

Critical to the value of such a debate is a thorough and public examination of all pertinent facts and factors relating to the strategic posture of the United States and its future direction.

We pledge our wholehearted, best effort to aid and encourage such a debate.

AFA Policy Paper: Force Modernization and R. & D.

The ability of the United States Air Force to carry out its task—to deter war or, if need be, to prevail in it—depends on having in place enough men and women equipped with enough capable weapons to counter the military threats that can be foreseen or prudently expected. Except for increasing and worrisome curbs on essential training coupled with declining force levels, the Air Force Association finds no fundamental reason for concern about the ability of Air Force people to do their job. But we do find cause for deep concern over deficiencies and deferrals in the modernization of USAF's weapons and support systems. Soviet military might continues to grow relentlessly, at an awesome pace, and with a breadth that extends from below the sea to space, and from tactical defense to strategic offense. The United States, by contrast, is living largely off past investments and every passing day brings reductions in some of our technological leads or further decline in areas where we are already behind the Soviet Union.

SURVIVABLE ICBM FORCE

Nowhere is this slippage more acute and critical than in the strategic sector. No aspect of Soviet military growth is more threatening to U.S. national security than the continuing and sharp proliferation of Soviet ICBM MIRVs (warheads) combined with unexpected, dramatic gains in the accuracy of these weapons. The time is fast approaching when the Soviet ICBM arsenal will contain more than 6,000 nuclear warheads, each accurate enough and powerful enough to destroy even the hardest U.S. target. The consequences, we firmly believe, will be intolerable if there is no offsetting improvement in the composition of the U.S. strategic forces. Not only could Soviet Russia threaten the almost instant destruction of the United States ICBM force, the most reliable and responsive component of this nation's strategic forces, but the Soviets would retain an ample reserve of warheads for blackmail, coercion, or attacks on U.S. population and industry. Further, the Soviets would not even have to employ their large submarine-launched ballistic missile (SLBM) force and their growing bomber force in order to place both our ICBMs and our society at risk.

The Soviet SLBM force is larger than ours in terms of missiles and throw-weight—although not in warheads—and the Soviet strategic bomber force, through production and deployment of the supersonic bomber Backfire is well on its way to surpassing ours numerically, while our continental air defense capability has been declining. The resultant condition of double jeopardy clearly is destabilizing and an invitation to Soviet brinkmanship.

Intensifying U.S. trends toward a policy of abandoning, over time, its ICBM force—and thus the strategic triad—represent in the view of this Association a reckless tampering with a strategic peacekeeping mechanism that brilliantly has stood the tests of time and logic. Turning back to a narrowly based form of deterrence would drive us to an inflexible and fragile minimum assured destruction posture that could be overcome by a single Soviet technological advance.

The Air Force Association, therefore, views as the nation's foremost military priority the development and deployment of a survivably based ICBM force. Further, we believe that such a force eventually must provide for sufficient throw-weight to counter the perilous tilt the strategic balance has taken with the Soviet introduction of wave upon wave of large, modern ICBMs.

Time is running out on this nation's ability to restore a safe nuclear balance in the decade to come. Studying and restudying ad infinitum a modern, survivable ICBM may be politically expedient, but it does not cure U.S. strategic deficiencies. We are alarmed also by the tendency to defer the go-ahead on a new U.S. ICBM because of potential conflict with SALT II, a condition that could be resolved through a simple change in the U.S. negotiation position. We applaud, therefore, the armed services committees of both Houses of Congress for setting firm, early deadlines for the Administration on this crucial decision. We hope the Administration will heed this congressional mandate to start development and deployment of a survivable ICBM force this year.

AIR-BREATHING STRATEGIC SYSTEMS

Because of the Administration's decision to halt production of the B–1 strategic bomber and slippage in the production schedule of the Trident submarines, the air-breathing leg of the triad—B–52 bombers equipped with gravity bombs, SRAM missiles and, beginning in 1982, with air-launched cruise missiles (ALCMs)—will be called upon to perform an increasing share of the deterrence role.

To strengthen and assure the continued effectiveness of this force, a number of initiatives should be taken. Air Force leaders, as well as the Joint Chiefs of Staff, are on record that, for the foreseeable future, there exists a categoric need for a manned penetrating aircraft. Thus, the first requirement for the U.S. is to upgrade the avionics and electronic countermeasure capabilities of the B–52 force to prolong its ability to operate

in hostile airspace and to penetrate to Soviet targets. Upon completion of current Air Force and Defense Department studies of technological options for an advanced penetrating bomber, this Association believes work on development and deployment of such a weapon system should be started promptly. For the foreseeable future, penetration by a manned strategic system, capable of making on-the-spot decisions and of reattacking specific targets, remains an essential element of deterrence. Similarly, the bomber remains the only leg of the triad that can be recalled after launch.

Lacking a new bomber, the air-launched cruise missile must help fill some of the voids in U.S. strategic capability. It follows that every precaution should be taken and no reasonable effort spared to optimize the design and performance of this weapon. A first step here should be that the Air Force, as principal user of ALCM as well as the closely related ground-launched cruise missile (GLCM), be entrusted with design, development, and acquisition of these weapons. Program management by USAF appears essential also to carry out evolutionary improvements of these weapons in response to feedback from the using Air Force commands and to assure rapid adjustments to future advances in Soviet defense against both the cruise missile and its carrier aircraft.

The Soviet Union clearly has the incentives, as well as the technical capabilities and geographic opportunities, to increase in a major way the range and effectiveness of its defenses against U.S. cruise missiles. The time to formulate programs for enhancing the cruise missile's ability to penetrate Soviet defenses in the mid-1980s and beyond is now. High payoff improvements, such as follow-on cruise missiles that can operate supersonically in the target area or are equipped with evasive electronic warfare capabilities, should be explored and tested expeditiously. Concurrently, options to extend the range of SRAM, a weapon considered by the Strategic Air Command to be largely invulnerable to interception, should be explored to hedge against breakthroughs in Soviet cruise missile defense technology.

Issues of pervasive importance to the nation's strategic and certain theater warfare capabilities involve the state of nuclear warhead technology, the lack of nuclear material to build the required number of weapons, and the Administration's decision not to produce a modern, flexibly deployable strategic bomb. This Association applauds recent, resolute congressional action designed to encourage the Administration to produce the Full Fuzing Option B77 weapon. Similarly, we believe steps must be taken now to prevent a slowdown in cruise missile deployment in the 1980s because of insufficient nuclear material for their warheads.

AIR DEFENSE

The tragic imbalance in air defense capabilities between this country and the Soviet Union takes on added, grim importance as Moscow moves toward a massive buildup—basically unchecked by SALT II—of its Backfire strategic bomber force. Further, Soviet development and deployment of strategic cruise missiles appear to be only a matter of time and thus seem to dictate the revitalization of US air defenses. The clear need here is for the availability of a modern, manned air defense interceptor force to shore up the meager and aging assets that make up Aerospace Defense Command's inventory at this time. This Association believes that proposals to "fabricate" an interceptor force by the expedient of part-time assignment of Tactical Air Command fighters to the air defense augmentation role amounts to weakening tactical air capability without strengthening air defense. We believe that a dedicated force of modern aircraft configured for the air defense role and manned by crews proficient in this role must be set up promptly. We applaud Canada's decision to modernize its interceptor force and urge the US to follow suit. Equally essential is the assignment of modified E-3 AWACS systems to the air defense mission, as well as the assignment of modern SAM weapons to the defense of vital US command centers.

SPACE SYSTEMS

There is cause for encouragement as well as concern in recent actions regarding the military space mission. The President's decision to pursue an energetic space defense program is commendable. So is the commitment to an integrated space attack warning system and to measures to improve the survivability of our space-based command and control and intelligence assets. On the other hand, it is alarming that the Administration has not given the Air Force permission to actually deploy a US space defense weapon system. Also, this nation's quest for an agreement with the Soviet Union prohibiting test and deployment of space weapons must not cede unilateral advantages to Moscow. The USSR has capable, fully operational satellite killer weapons in its inventory. The US has not even completed the design of such systems. Signing such an accord before the US has pulled even with the Soviet Union in this important technology would leave us extremely vulnerable, should the Soviet Union decide to abrogate the accord at some future date.

Finally, modernization of US strategic and tactical forces stands or falls with a corresponding upgrading of their command control and communications systems. Current schedules for modernizing these systems must not be permitted to slip for budgetary reasons, especially so far as the crucial area of attack assessment is concerned.

STRATEGIC AND TACTICAL AIRLIFT ENHANCEMENT

USAF's airlift and refueling forces make the difference between unusable power and power brought to bear in time and where needed. At this time, major shortfalls exist, thus jeopardizing this nation's ability to meet fully its commitment to the defense of Western Europe or to cope with contingencies in the Middle East and elsewhere. A near-chronic condition of underfunding or denied funding of vital airlift and air refueling enhancement programs caused these shortfalls. We believe that continued procrastination would introduce intolerable weaknesses in the national defense posture. Specifically, the C–5 wing modification program, the stretch and aerial refueling modification of the C–141, the Civil Reserve Air Fleet airlift enhancement, procurement of Advanced Tanker/Cargo Aircraft and initial development of an Outsize Cargo/Tanker Aircraft, reactivation of the Advanced Medium STOL Transport program, and especially reengining and modernizing the KC–135 force must not be delayed further.

TACTICAL AIRPOWER

Since USAF launched its broad-gauged tactical airpower modernization program in 1974, Soviet tactical airpower has advanced qualitatively and quantitatively at a rate far greater than anticipated at that time. Yet the USAF program has lost ground through cuts in production rates and other economy measures that in the aggregate now amount to more than $6 billion. We believe that meeting increasing threats with decreased capability, over the long run, is untenable. There may be the indirect benefit from stretching out aircraft buys of keeping production lines open for a longer period, but that advantage often will be canceled by the sharply increased risk of an understrength force. Soviet tactical airpower already outnumbers the equivalent US forces by about forty percent. Failure to maintain scheduled production rates will increase costs as well as the danger of the US losing its qualitative lead and at the same time increase the handicap of age creep, obsolescence, and an ever-shrinking force structure.

Central to maintaining USAF tactical airpower effectiveness is the need to accelerate aircraft delivery into the operational aircraft inventory of USAF's twenty-six active-duty and ten Reserve and Guard fighter wings to the authorized level. Equipping the Air National Guard and Air Force Reserve with the required number of F–4, A–7, and A–10 aircraft is essential to improve the combat capability of the Total Force.

One of the top priorities of USAF's tactical airpower is the development of capabilities for blunting the Soviet armored blitzkrieg in case of a NATO/Warsaw Pact war. The Air Force is handicapped in pursuing the required technologies, for such weapons as WAAM (Wide Area Anti-Armor Munitions) and other second-echelon attack concepts, because of restrictive, overcentralized management policies imposed by the Defense Department and Congress. (A similar condition also exists in regard to certain space programs, for which funding was denied.) By insisting on greater equipment commonality and by intertwining USAF and US Army weapons, autonomous operation by either service alone is jeopardized and mission-peculiar performance requirements are compromised. Yet the likelihood that the Air Force might have to operate independently of the Army, at least initially, in contingency wars is increasing. The Air Force Association, therefore, continues to call attention to the unchanging truth that final weapon system configuration is best left to the military professionals who have to fight with and, at times, die using these weapons.

Major deficiencies in the Air Force's ability to carry out its tactical air mission under night/adverse weather conditions, coupled with the lack of wide area munitions, could have grave consequences in a NATO/Warsaw Pact war. Needed is expeditious development of airborne night/adverse weather equipment and its integration with USAF's combat aircraft to provide aircrews with vision-enhancing avionic subsystems for terrain avoidance and target acquisition under all weather conditions. We deem these capabilities essential to deter Pact forces from attacking, as otherwise could be logically expected, during periods of low visibility

We see a similar urgency with regard to shortfalls in the availability and performance of air-to-air munitions. Both the Advanced Medium-Range Air-to-Air Missile (AMRAAM) and the Advanced Short-Range Air-to-Air Missile (ASRAAM) should be developed and entered into production as soon as possible. Augmentation of manned nuclear-capable aircraft through Intermediate-Range Ballistic Missiles (IRBMs) as well as cruise missiles is another high-priority requirement now that the Soviet Union has started operational deployment of its SS–20 MIRVed IRBM against NATO.

RESEARCH AND DEVELOPMENT

Basic research, combined with exploratory and advanced development, form the bedrock of U.S. national security years hence. Our technological bedrock began to erode in the late 1960s and early 1970s when the U.S.S.R. pulled ahead of the U.S. level of effort, a lead that has widened ever since. Aggravating this condition is uncomfortable evidence of decreasing vigor in our science and engineering enterprise and of diverging scientific and national policies.

We note with deep apprehension the continuing trend to underfund research and development even though specific commitments have been made to maintain an annual, real-dollar growth of ten percent in research and five percent in exploratory development through FY 1981, with further growth to be determined by annual review. These goals were not met last year and seem to be in jeopardy in the coming fiscal year.

Yet a strong technology base is paramount

to offset to some extent the long lead times required by modern military production and procurement programs.

A diversified, robust technology base also is a sine qua non in this age of deterrence that involves cycles of moves and countermoves. We not only must be able to understand and correctly forecast the next Soviet initiative but be prepared to start implementing a technological counter before Moscow has fully fielded this initiative.

We see as the central need, therefore, a sustained commitment to assure the adequacy of the military technology base over the long pull. Continuity of effort at a moderately increasing level is more productive, and far more economical, than spasmodic crash programs, conceived and executed in haste. We believe that level, at the very minimum, should advance the technology base in net, real terms at a rate of ten percent a year and exploratory development at five percent.

In sum, failure to respond to steadily increasing Soviet research and development—now accounting for about one-fourth of all Soviet defense spending—is the surest way to long-term U.S. military inferiority.●

NUTRITION STATUS REPORT, 1978: A SENSE OF HISTORY

● Mr. McGOVERN. Mr. President, the word "nutrition" first entered our political vocabulary in the early 1960's. At that time "malnutrition" was equated only with the problems of the hungry. Clearly that was the Nation's most urgent nutrition problem—to get food to those who were without.

In his 1963 farm message to Congress, President Kennedy asked for legislation to expand and make permanent the pilot food stamp program he had initiated by Executive order in 1961. President Johnson repeated the request in his January 1964 farm speech and in his March 1964 poverty message. He cited the food stamp program as one of a number of measures "to protect those who are specially vulnerable to the ravages of poverty." Later that year the Congress passed legislation establishing the food stamp program on a permanent basis.

In 1968, "Hunger, U.S.A." was published; in that same year the CBS documentary "Hunger in America" brought the fact of malnutrition into American homes with a heart-rending impact on our national consciousness.

The Congress again responded.

Acting on a resolution which I introduced to the Senate, my colleague in the Senate created the Select Committee on Nutrition and Human Needs "to study the food, medical, and other related basic needs among the people of the United States and to report back to the appropriate committees of the Senate—such recommendations as the committee finds necessary to establish a coordinated program or programs which will assure every U.S. resident adequate food, medical assistance, and other related necessities of life and health."

In the decade that followed:

The food stamp program was expanded to all 3,000 counties and approximately 16 million persons.

A uniform, national free and reduced price school lunch program was created in 1970.

Other feeding programs were developed to reach the very young and the very old.

A special program for women, infants and children was launched.

As we became more knowledgable in the area, we began to enlarge our definition of the word "nutrition." We came to realize that there were two faces of malnutrition in the United States:

First. The problems of underconsumption resulting from poverty, and second, the illnesses that can affect us all as a result of a poor diet or excessive consumption of food.

Policymakers in Washington started to think of nutrition not as a "fad," but as an important policy area with major implications for American agriculture and the health status of the Nation.

The first witness before the Select Committee on Nutrition in its series of hearings on the relationship between diet and health begun in July 1976, was the then Assistant Secretary for Health, Dr. Ted Cooper.

> In formulating health policy, I believe that we have now reached a crucial point.
>
> Many of today's health problems are caused by a variety of factors not susceptible to medical solutions or to direct intervention by the health provider.
>
> While scientists do not yet agree on the specific causal relationships, evidence is mounting and there appears to be general agreement that the kinds and amount of food and beverages we consume and the style of living common in our generally affluent, sedentary society may be the major factors associated with the cause of cancer, cardiovascular disease, and other chronic illnesses.

In concluding the series of hearings a year later, the present Assistant Secretary for Health, Dr. Julius Richmond, concurred by saying that:

> Many experts now believe that we have entered a new era in nutrition, when the lack of essential nutrients no longer is the major nutritional problem facing most American people.
>
> Evidence suggests that the major problems of heart disease, hypertension, cancer, diabetes, and other chronic disease are significantly related to diet.

We believe it is essential to convey to the public the current state of knowledge about the potential benefits of modifying dietary habits, without overstating the benefits that could possibly result from the adoption of alternative dietary practices, such as reducing excessive caloric intake and eating less fat, less sugar, and less salt."

In all, 6 of the 10 leading causes of death were linked to diet. Diet was said to be one of the risk factors that would affect the probability of an individual contracting one of these dreaded killer diseases.

It was this realization, more than anything else, that lead to the publication of Dietary Goals for the United States in 1977 and the updated second edition later that year. This edition may be obtained through the Government Printing Office, stock number 052–070–04376–8.

The concept of setting dietary guidelines has been well established since 1943 when the Food and Nutrition Board of the National Academy of Sciences (NAS, FNB) set forth "Recommended Dietary Allowances" (RDA) for the first time. The RDA, which focus on micronutrients, protein and total energy in the diet, are now in their eighth edition and were most recently revised in 1974. As stated in that edition:

> The Recommended Dietary Allowances are the levels of intake of essential nutrients considered, in the judgment of the Food and Nutrition Board on the basis of available scientific knowledge, to be adequate to meet the known nutritional needs of practically all healthy persons.

Dietary Goals for the United States simply extended to macronutrients the same approach the NAS had been using for years with regard to micronutrients.

The diet we eat today was not planned or developed for any particular purpose. It is a happenstance related to our affluence, the productivity of our farmers, and the activities of our food industry. The risks associated with eating this diet are demonstrably large. It is important to understand that we are not talking about the safety of individual food items. What is being examined is a very different issue. It is whether our average, total diet is as healthful as possible. I do not believe that it is.

The question to be asked, therefore, is not why should we change our diet, but, why not? What are the risks associated with eating less fat, less saturated fat, less cholesterol, less sugar, less salt, and more fruits, vegetables and whole grain cereals? There are no risks that can be identified, and important benefits can be expected.

At a recent hearing, Esther Peterson, the President's consumer advisor, observed:

> These goals are probably the most important nutrition advance in my memory. Furthermore, they are simple to understand.
>
> By using and educating the public about the Dietary Goals, all consumers will begin to think about cutting down from the amount of fat, sugar, cholesterol, and salt they are now eating. You know, nutritionists spend their lifetimes studying food, but it doesn't take long to learn the elements of a healthy diet based on the Dietary Goals. A good diet, pure and simple, is based largely on fruits, vegetables, whole grains, low-fat dairy products and low-fat meats (and other), protein sources including fish and poultry.

As one final point on this matter, I can not envision the Congress legislating specific dietary guidelines. The Dietary Goals Report was intended as the committee's best advice on how to minimize the health risks associated with our current diet. The Dietary Goals should be viewed in an ongoing context as part of the evolution of a national nutrition policy.

Now where has the last decade taken us?

How do we continue to piece together what amounts to a national food and agriculture policy?

FUTURE AGENDA

First, we must continue to monitor and improve our national food programs. The school breakfast program is available to only a small percentage of those students who participate in the school lunch program. The WIC program, the special supplemental feeding program for preg-

nant women, infants and children, deserves to be expanded based on the remarkable medical evaluations it is producing. Many important questions must still be addressed with regard to the other feeding programs.

World hunger is an explosive humanitarian and political problem, causing either directly or indirectly millions of deaths per year. Recent estimates indicate that as many as 1.2 billion people may be hungry. Under-nutrition is endemic in almost all poor countries, and is concentrated in infants and children, and among women—particularly nursing mothers. In parts of South Asia, for example, under-nutrition affects over 50 percent of the children. In Latin America, where nutrition is considerably better, under-nutrition is a primary or contributing cause of almost 60 percent of the deaths of preschoolchildren.

The food production and nutrition problem has several major international aspects. The world's food production is now sufficient to meet the current needs, and promises to remain so in the immediate future. However, the demand for food in developing countries has been growing and continues to grow more rapidly than the supply of food available in those countries. Poor countries increasingly depend on food exports from the United States and a few other major agricultural exporters.

One role the Congress can play is to examine further how our food and agriculture programs impact on Third World agricultural development. Currently, there are 26 separate executive branch agencies with involvement in the food field. As might be expected with a plethora of fingers in one pie, interagency mechanisms have not been successful in adjudicating or harmonizing differences.

The result is that what the Agency of International Development seeks to do to increase food production in developing countries is sometimes undercut by the Department of Agriculture's shipments of large amounts of food aid to such nations and by U.S. trade policies managed from elsewhere in the bureaucracy. On the multilateral side, there are confusions related to the fact that the State Department has lead responsibility for relationships with some international organizations—for example U.N. development program, Treasury with others—for example the International financial institutions, and Agriculture with others—for example the U.N. Food and Agriculture Organization. Not only is there on clear cut and orderly decisionmaking process, but the developing nations have no agency specifically charged with and able to advocate their needs. The creation of the President's Commission on World Hunger is a hopeful sign that the United States is serious about addressing this failing and other world food problems.

Nationally, nutrition labeling is clearly a primary public concern whose time has come. With approximately 18,000 food items offered on today's supermarket shelves, of which a majority are processed food products, the buyer is in need of sound, useful nutrition information in order to make a more informed choice. A recent survey by Yankelovich, Skelly, and White found that:

> Interest in nutrition . . . is growing in giant leaps and bounds—with 77 percent of the consumers interviewed indicating that they are more interested in nutrition than they were a few years ago. Information about nutrition is more modest, with only 24 percent of the public indicating they consider themselves to be well-informed on the subject; 63 percent fairly well-informed; and 13 percent not well-informed at all. Behavioral manifestations suggest that self-perception is perhaps somewhat overstated—but the appetite for more and more information on the subject is manifest.

In response to the public's growing appetite for nutrition information, the Nutrition Subcommittee is beginning to undertake an examination of food safety and labeling laws.

Generally, I perceive a desire for more communication of nutrition information. However, I do not think we know yet how best to convey nutrition information, either on labels or through other media, or precisely what data is most commonly called for. Thus, while it would appear that it is time to act, we must proceed in a comprehensive and systematic fashion that will consider the needs of all concerned parties.

The right to know what is in one's food and how to transmit effectively the information necessary for exercising that right, are of national importance. Therefore, in addition to the heightened awareness shown by consumers, I am encouraged by the interest and enthusiasm of the food industry for this undertaking.

In August, the executive branch initiated 10 days of public hearings on food labeling, cosponsored by the Department of Agriculture, the Food and Drug Administration, and the Federal Trade Commission. Before they began their national hearings, the Nutrition Subcommittee held 2 days of oversight hearings to initiate the effort. Those hearings on August 9 and 10 led me to the following observations:

> First. Nutrition labeling should be developed as an information system and not as a regulatory mechanism.
>
> Second. It is important to balance the value of a meaningful and relevant nutrition label against what is practical and economically feasible.
>
> Third. We need to develop a consistent labeling system for all foods.
>
> Fourth. Experimentation with different ways of presenting nutrition information in the marketplace is necessary.
>
> Fifth. Since an increasing percentage of our meals are eaten away from home, we should examine the potential for providing nutrition information in restaurants, particularly fast food chains.
>
> Sixth. The media plays a critical and complex role in conveying nutrition information—both with respect to programming and advertising.

The Nutrition Subcommittee will hold further hearings commencing this year to provide the basis for developing a comprehensive nutrition labeling and information legislative proposal for consideration and action during the first session of the 96th Congress.

A vital matter to be considered is what cost may be incurred by supplying additional or different nutrition information. I was encouraged by the testimony of Esther Peterson that one of the best anti-inflation fighters we have is information. This suggests that the cost, if any, of furnishing further nutrition information could be offset by the savings which can result from more informed food-purchasing decisions. In addition, depending on what is included on the label, it is possible that a new nutrition labeling system could even cost less than the current format.

Finally, I want to underscore that we must protect both the right to know what is in our food, and the right to choose what food we want to eat.

A less visible but important long term concern is nutrition education for medical students, and the training of researchers in human nutrition. If we are going to alter our current medical practices toward a more preventive approach, it is critical that nutrition and other health promoting tools be taught to both our new physicians and those who already are practicing. If we are going to bring the present research emphasis around to a preventive mind set, then one necessary action is to encourage the training of new researchers who view nutrition as their primary investigative focus.

The 96th Congress must continue to support the growth of human nutrition research. Three reports in the last year have emphasized the need for more nutrition research. The Congress has just agreed to develop, under the direction of the Department of Agriculture, two more major human nutrition research laboratories. These labs will be at Tufts and Baylor Universities and will focus on geriatric and pediatric nutrition respectively. This makes four primary laboratories within USDA, and there is discussion of locating a fifth lab on the west coast.

USDA has just appointed Dr. Mark Hegsted from Harvard University to be the Administrator of the newly established Human Nutrition Center, and Audrey Cross from the University of California has been selected to be the Department's Nutrition Coordinator. Dr. Hegsted has responsibility for all research in human nutrition within USDA.

Although I am encouraged that HEW has also added a department-wide nutrition coordinator, Dr. George Bray, from UCLA, other evidence of interest in human nutrition research at HEW is less heartening.

For example, 2 days of hearings in June, before the Nutrition Subcommittee, on diet and cancer research at the NCI were particularly disturbing. Dr. Upton, the NCI Director, testified that as much as 50 percent of all cancers are in some way diet related. Yet, he did not plan to increase the diet/cancer research budget above the current level of 1 percent of the total NCI budget. Although the NCI budget has mushroomed from $200 million to almost $1 billion in the 1970's, the Institute has continued to invest the additional funds in the same areas of investigation—immunology, virology and chemotherapy. This dogged, same-track approach is even more discouraging when one considers that:

First. In 1974 the Congress mandated that the NCI investigate the diet/cancer relationship.

Second. In 1977 the Acting Director, Dr. Newell, admitted that the $750 M invested over time in the NCI virology program had developed only "negative information," i.e., no link between virus and human cancer in the United States.

This failure to address aggressively the diet/cancer issue is very difficult to understand. It is just as unsettling that, even though 70 percent of all deaths in the country result from chronic illnesses in which nutrition is a significant risk factor, Dr. Fredrickson, the Director of the National Institutes of Health, plans to maintain NIH's nutrition research investment at only 3 percent of the total budget. A third instance of HEW's less than enthusiastic support for nutrition research is the continued resistance by the National Institute of Mental Health to explore and/or fund research into the links between nutrition and one's mental health and behavior.

Finally, I am distressed over the persistence within the biomedical research community of putting the bulk of our marbles in the "cure" basket when the most viable long-term solution is the prevention of killer diseases. Thus, it comes as no surprise that the so-called war on cancer, and the generally low status given to nutrition research, have raised grave doubts which could spread to all of this Nation's biomedical research endeavors.

Before moving on to my last topic, I want to comment briefly on the current discussions about national health insurance (NHI)—an objective which I support. Access to medical care was the primary concern in an earlier period of the health insurance debate. Today we face rampant inflation in medical care costs, and thus we hear more and more about health insurance as a means to contain those costs. I believe that national health insurance has the potential to slow the escalation of medical expenses. But it is important that insurance be designed so that it encourages an expanded role for preventive medicine and health cost containment—as well as financing the cost of health services.

As our experience with medicare and medicaid has so vividly demonstrated, if we do nothing to address the basic lifestyle patterns associated with our chronic degenerative diseases—heart disease, cancer, stroke, and diabetes—then we should not expect health insurance to lessen medical care costs to the desired degree. But increasing the level of health and the quality of people's lives will reduce the need to use the medical care system, and thus its costs. What we call national health insurance might actually establish only a national medical care insurance program which by itself will neither reduce our medical costs nor solve our health problems. National health insurance will not succeed and could even prove to be a fiscal nightmare if it and our national health programs do not include the concepts of health promotion and disease prevention.

Clearly, nutrition is a vital weapon in maintaining one's health, and in healing the sick. Our insurance program must have a strong prevention component which provides such services as nutrition counseling. I cannot overemphasize the importance of including health promotion provisions and incentives in any insurance package that we develop.

Last, there is the question of how to proceed in developing a consistent and reasonable food safety policy. The saccharin debate in 1977, and this year's nitrate findings have intensified public interest over the chemicals being added, purposefully or inadvertently, at the various stages in the food production chain.

My colleague, Senator LEAHY, initiated last year a series of hearings on the regulation of chemicals in food and agriculture. He has said many times during these hearings before his Subcommittee on Agricultural Research and General Legislation, that too often the broad issues and policy implications are lost in the emotional debate over the particular substance currently receiving newspaper headlines. At a recent nitrite hearing, Senator LEAHY said:

> We never seem to be willing to answer, in a consistent and coherent way, the question: How safe? We have passed many laws regulating safety. But each law defines safety in a different manner. Unfortunately, safety as defined by government, is dependent on whether a substance is under a law passed five years ago or ten years ago or twenty years ago. We do not regulate chemicals based upon their risk, but based upon the legislative history of the regulatory acts."

Much attention has been centered on the Delaney clause and whether it is any longer a reasonable or useful regulatory mechanism. But I suspect that our energy is being misplaced. I am concerned that our sporadic, crisis-oriented excursions into the issue of chemicals in our food, lack perspective. Some modification of the Delaney clause may be necessary to open the way for more rational discussion of the relative risk of various chemicals in our foods. An even more critical question, and one which is as yet essentially unexamined, is how do the risks from the various chemicals, single and in toto, compare to the risk from the amount of fat, sugar and salt that we consume? Finally, it is not clear that the means even exist with which to determine the relative risk between, say, nitrates and pesticides, or saccharin and dietary fat.

In short, we must recognize that the consumer is interested in the healthfulness of the total food supply. In addition to the absolute and relative risks of individual foods and food additives, consumers want to know if they are eating as healthy a diet as the American farmer can produce? This wider prospective raises such basic questions as:

Do we understand human biology sufficiently to know if the degree to which we process many foods is, in fact, in the best interest of our long term health?

What can we do to measure and then compare the risks from chemicals in our food and from the foods themselves?

In other to answer these kinds of queries, we must undertake an assessment of all of the various risks associated with a food product and among food products, and address the questions that those risks pose.

Thus, our perception of what is safe is undergoing some significant modifications. Just as the Congress must take responsibility to encourage a practical and comprehensive nutrition labeling and information system, we must also begin to articulate a sound food safety policy. No longer can we accept the rather narrow, legalistic definition of safety. It is time to incorporate into our original concepts of a safe food supply the broader understanding of how our food system can be most healthful. This undoubtedly will be a multiyear process, and will require the time and cooperation of Government, industry, and the American public.

In conclusion, we have made great strides during the last decade in fashioning a national nutrition policy. The result could not be viewed as preconceived or rigorously consistent. Rather, as is often the case with the development of a national policy, it reflects many individual decisions, and executive actions, judicial rulings and legislative initiatives. But no matter how one characterizes it, there definitely is a policy being formulated.

An agriculture, food, and nutrition policy is every bit as important as an energy policy or a water policy or an urban policy. It is important to our health, our farm economy, our balance of payments, and our environment.

We must therefore bring to bear those resources, both in Government and in the private sector, which will help us find the answers to such questions as:

How do we maximize our health and reduce the incidence of disease through diet?

How do we implement a useful and effective nutrition information system?

How do we ascertain, prioritize, and address the questions raised by chemical additives in the food chain?

In the past, success in the nutrition policy arena has been largely measured by the growth of the major Federal food programs. Our achievements in the next decade will be gaged more by how well we meet the challenges outlined above. While I cannot speak for all the parties who may be involved, I look forward to continued creative and energetic leadership from my colleagues in the Congress. By working together we cannot help but succeed.●

MORE PROGRESS ON REGULATORY REFORM

● Mr. RIBICOFF. Mr. President, I am convinced that, on the whole, our Federal regulatory system is fundamentally sound. In my opinion, the vast majority of those programs are well-conceived, meet legitimate needs, and provide the public with benefits that amply justify their existence.

In saying that, I recognize that recently there has been much criticism of regulatory activities. "Bigness," "red-tape," "paperwork" and "waste" are often-heard expressions of public discontent on that score. But, as a Washington

Post survey observed, concern appears to be directed more at making what exists more effective and efficient, rather than at wholesale elimination of programs and services.

I agree in that perception. There is certainly room for improvement. From the standpoint of organization, procedure and administration, significant changes are justified across the board. So too, the recent experience with deregulation of the airline industry amply illustrates that Federal controls can be removed much to the benefit of the public in general as well as the regulated interests.

Mr. President, there is no question in my mind that Federal regulation and, specifically, the burdens imposed by those activities will be major issues in the 96th Congress. The people will expect their elected representatives to insure that new as well as existing regulatory programs are both justified and effective.

All the same there has been progress in regulatory reform over the past 2 years. Legislative measures aside, perhaps most significant has been the high quality of appointments President Carter has thus far made to the major regulatory agencies. Too frequently, in the past, that standard has not been met. The high caliber of the President's regulatory appointments have, in my opinion, made a very significant difference in the outlook and vitality of those agencies.

I believe a further element of that progress is reflected in the work of the Committee on Governmental Affairs. It is appropriate, as this Congress comes to a close, to report on the steps taken to implement the recommendations of the committee's study on Federal regulation. A year ago August, I presented to the Senate the first progress report on that study. It is gratifying to be able to add to that list today. This progress further demonstrates our commitment that the committee's studies will not gather dust on library shelves, but will instead have a decided impact on the proper functioning of the Federal regulatory process.

The committee was directed to conduct this comprehensive study by Senate Resolution 71, passed by the Senate in 1975. To date, the committee has published five volumes, each of which concern the following major areas of Federal regulation: The regulatory appointments process, congressional oversight, citizen participation, undue delay, and regulatory organization. A sixth and final volume on the substantive economic issues of Federal regulation will be published shortly. Each of the published volumes contains detailed recommendations for the improvement of the regulatory process.

There are a number of implementation developments on regulatory reform that I would like to briefly note at this time.

RESTRICTIONS ON "REVOLVING DOOR" PRACTICES

Both the House and the Senate have now agreed to the conference report on the Ethics in Government Act of 1976, and the President will sign that bill into law in the very near future. The ethics legislation contains major conflict-of-interest provisions, first recommended by the committee's study on the regulatory appointments process, as amendments to 18 U.S.C. 207, the statute governing postemployment activities of former officials of the executive branch and the independent agencies. Thus the bill addresses widespread public concern about so-called revolving door practices of Federal officials. There is a deep public uneasiness with officials who switch sides—who become advocates for and advisers to the outside interests they previously supervised as Government employees. It is feared that officials may use information, influence, and access during Government service at public expense, for improper and unfair advantage in subsequent dealings with that department or agency. The Ethics in Government Act establishes, in my opinion, reasonable and effective standards in that regard.

I would like to briefly mention several key provisions of that bill which come from the committee study. First, the legislation will establish a 1-year "cooling off" period, during which time former high-ranking executive branch officials may not contact their former agency on matters of business. This provision will address problems of undue influence over former colleagues and subordinates. Second, the bill provides that officials will be prohibited for a period of 2 years from aiding and consulting on certain matters. That action corrects what I consider a major gap in existing law, namely, that former officials are presently able to consult on matters, even those cases in which he or she was personally and substantially involved while in office. Third, the "Ethics in Government Act" also remedies another major failing of present law, by instituting an administrative sanction procedure for violations of the statute.

The present sanctions in 18 United States Code 207 are entirely criminal in nature. Criminal prosecutions under this statute are rare. Reliance on those sanctions also does not appear to have encouraged the various agencies to do much in the way of monitoring post-employment contacts by former officials. There is serious concern whether criminal penalties are the best approach in this area. What is needed, and what this measure provides, is an administrative mechanism. Under this legislation, a former official who violates the statute may be barred from practice before, or contact with, his or her former agency for a period not to exceed 5 years.

STANDARDS FOR THE USE OF BLIND TRUST

Volume I of the study considered the use of blind trusts by Federal officials during Government service. A number of problems in that regard were noted. The study found an absence of formal standards governing that use, and an informal, uneven and sometimes nonexistent process for monitoring such trusts once etablished. In short, although their use was increasing, the process by which they were fashioned, approved and supervised was unsystematic. Volume I proposed specific standards and procedures that should be applied to govern the use of blind trusts.

With some modification, those recommendations were incorporated into the blind trust provisions of the "Ethics in Government Act of 1978." Briefly, the act will insure a truly independent trustee, a trust document that meets certain minimum standards, restrictions on trust assets, public disclosure of the trust document and assets deposited, prior approval of the trust document and the trustee, and meaningful sanctions for proper enforcement and supervision.

The Civil Service Reform Act of 1978, which today was signed into law by the President, also implements a series of recommendations made in the committee study. The new law incorporates proposals advanced by the studies on regulatory appointments, congressional oversight, citizen participation and regulatory organization.

IMPROVING APPOINTMENT QUALITY

Qualified, experienced leadership acting in the public interest has always been considered to be critical to the effectiveness of the regulatory agencies. However, volume I found that the preeminent problem with the appointments process was that it has not consistently resulted in the appointment of people best equipped to perform regulatory responsibilities. All too often truly outstanding men and women have not been selected for the commissions. The new Federal Energy Regulatory Commission established by the Department of Energy Organization Act, as reported by our committee and as adopted last year, provided that the members of commissions shall be persons "who, by demonstrated ability, background, training, or experience, are specially qualified to assess fairly the needs and concerns of all interests affected by Federal energy policy." Similar standards were incorporated into the recently enacted Civil Service Reform Act for the new Merit Systems Protection Board. That act also implements a further volume I recommendation, by providing that the President's designation of an MSPB chairman shall be subject to Senate confirmation.

IMPROVING THE CONFIRMATION PROCESS

Volume I of our study also addressed the problems of Senate confirmation, and proposed a more systematic process for that consideration. In March 1978, very similar procedures to those recommended by the committee study were adopted as part of the Governmental Affairs Committee's Rules of Procedure. After having had a fair experience with our new rules confirmation guidelines, I am convinced that they insure both thorough and fair consideration of Presidential nominees.

MAINTAINING THE INDEPENDENT STATUS OF THE REGULATORY COMMISSIONS

Both volume II—Congressional oversight—and volume V—regulatory organization—of the study discussed the importance of maintaining the independent status of the regulatory commissions. We concluded that the fact that these agencies exercise quasi-judicial functions, in that they adjudicate and reach decisions on specific cases, alone was sufficient justification for independent status. Decisions on who should receive a public license or privilege, or whether a certain regulation ought to be

enforced, is appropriately made in a setting independent from partisan politics.

Our study on Federal regulation also concluded that it was critical that the independent commissions be able to communicate freely and directly with Congress over their legislative and budgetary needs. Thus it was recommended that budget requests, testimony and legislative proposals should be concurrently submitted to Congress at the same time as they are transmitted to the executive branch. Those recommendations were included in the act creating the Merit Systems Protection Board and, with modification, in the act creating the Federal Energy Regulatory Commission.

A further recommendation concerning regulatory independence was that high-ranking, noncareer staff officers of the independent commissions not be subject to review or approval by the White House. The "Civil Service Reform Act" adopts that provision for members of the new Senior Executive Service.

PROTECTION FOR "WHISTLEBLOWERS"

Volume II of the committee study recommended protections against reprisals for Federal employees who disclose Government wrongdoing. That recommendation was incorporated into the "Civil Service Reform Act," thus assuring that unlawful and improper acts will not go undetected for fear of reprisals against those who disclose such acts.

ELIMINATING UNDUE DELAY

Volume IV of the study examined undue delay in the regulatory process. The committee found that the regulatory process takes far too long and results in economic costs of tens of millions of dollars. One of the principal causes of delay is that agency procedures are excessively judicial. We also found that rulemaking proceedings are faster than adjudicatory procedures for making policy decisions.

The study therefore recommended that the agencies make increased use of informal rulemaking on cases in which adjudication is currently used. In addition, the study recommended use of a new modified procedure in certain proceedings that now proceed by formal adjudication. That modified procedure would allow for a legislative-type hearing in which interested persons could fully present their views. Where necessary to resolve particular factual issues essential to the outcome of the proceeding, an adjudicative hearing could be held.

The Department of Energy Act, enacted by Congress and signed into law by the President on August 4, 1977, provides that a similar procedure will be available to the newly created Federal Energy Regulatory Commission. Inclusion of these provisions in the Department of Energy legislation should be of great help in eliminating unnecessary delay in the new department's proceedings.

Volume IV of the study also proposed that agencies be required to set deadlines for their actions. That proposal also became part of the Civil Service Reform Act, which provides that the Merit Systems Protection Board must establish deadlines and must explain any failure to meet such deadlines.

In addition to those legislative initiatives, I am pleased to report that the committee studies have been well received by Government, the academic community, and the private sector. Our study on Federal regulation has been cited, discussed, or endorsed in, among others, reports issued by the Business Roundtable, Common Cause, American Bar Association, and the Comptroller General. I do not think it is inaccurate to state that the study has become an important part of the literature on regulatory reform.

Therefore, Mr. President, there has been significant progress on regulatory reform in connection with our committee's study. Much, of course, remains to be done. Next year the committee will work on comprehensive legislation to improve the overall quality of the regulatory process. The legislation will build on proposals already before the committee, as well as other recommendations made in the committee study which Congress has not yet acted upon. Legislation will be developed and introduced in the following areas:

IMPROVING COORDINATION

Volume V of our study discussed the need for better coordination of Federal programs in various areas. Our study concluded that there are major problems in overlap, duplication, and conflicting mandates which detract from the effectiveness of Federal regulation. In the next Congress, our Committee will address those issues with specific legislation. In particular, we will be concerned with these problems in the banking area, and I anticipate further consideration of "The Consolidated Banking Regulation Act" (S. 2750), which was introduced in March 1978 by Senators Proxmire, Javits and myself.

I would also like to note that effective coordination of Federal radiation health and safety programs, which was discussed in Volume V, continues to be a matter of concern. This past August, the Committee published responses that had been solicited from groups and individuals in the private sector on various proposals to improve government coordination in that area. Our staff has been working closely with the Interagency Task Force on Radiation, which was established within HEW by direction of the President, to review Federal radiation protection activities. I am advised that the recommendations of that Task Force, which will include regulatory organization proposals, are expected in the near future. I think the results of the HEW review will merit serious consideration in developing legislation on this important matter for the 96th Congress.

A MORE EFFECTIVE REGULATORY PROCESS

Undue delay is, as our study observed, a major problem of the regulatory process. In the next Congress, legislation will be introduced to address those issues. In that regard, we will draw upon "The Regulatory Procedures Reform Act" (S. 2490), introduced in February 1978, by Senators Abourezk, Percy, Javits, Mathias, Nunn and myself, which contains the major recommendations of Volume IV on eliminating undue delay in Federal regulation.

REFORM IN STRUCTURE AND ORGANIZATION

In 1979, as proposed in several study volumes, legislation will be developed and introduced to clarify and improve the structure and organization of the regulatory agencies. In this past Congress there are two bills which I think will prove to be helpful in that regard. The first is "The Independent Regulatory Commission Act" (S. 3240), introduced in June 1978 by Senators Glenn, Percy and myself, which contains proposals advanced by several study volumes on the proper organizational structure for independent collegial bodies.

Similarly we will consult "The Interim Regulatory Reform Acts" (S. 1532–7), which contained a series of amendments, made by Senator Percy and myself, concerning conflicts of interest and appointment qualifications for Federal regulators. The Committee will also review the situation regarding the litigating authority of the various regulatory agencies as it relates to the Department of Justice. Those issues were discussed in volume V. I understand that the Administration is presently preparing recommendations on those issues.

PUBLIC ACCOUNTABILITY OF AGENCY ACTIONS

Citizen participation in the regulatory process was the principal subject of volume III of the Committee's study. One of the major recommendations advanced in that volume concerned the ability of citizens to bring lawsuits in Federal court challenging the legality of government actions. I expect more work in that, and other related areas, in the 96th Congress. Specifically, there will be further consideration of the "Citizens' Right to Standing in Federal Courts Act" (S. 3005), introduced in April 1978 by Senators Metzenbaum, Kennedy and myself.

MORE SYSTEMATIC REGULATORY DECISION-MAKING

A principal finding of the Committee's volume VI will be that there should be greater attention paid by the agencies to economic impact evaluation. We need to find ways to insure more careful agency consideration of the need and effect of existing or proposed regulation in order to avoid wasteful and unjustified programs. President Carter's recently promulgated Executive Order on Improving Government Regulation is certainly an important step in the right direction. However, I believe that legislation is also required along that same line.

In short, Mr. President, progress is being made in regulatory reform. The Governmental Affairs Committee has played a leading role in this effort. I pledge that the committee will retain that role so that, in the 96th Congress, regulatory reform becomes a reality.●

GLYNN ROSS—GENERAL DIRECTOR, SEATTLE OPERA

● Mr. MAGNUSON. Mr. President, the June 26, 1978, edition of the New Yorker included a profile of Seattle Opera's general director, Glynn Ross. The New Yorker article gave timely recognition to the man most responsible for Seattle's production of "Ring of the Nibelung" in both English and German. Seattle Opera presented its fourth annual production of this epic opera in July and it met once again with international acclaim.

Glynn Ross has directed Seattle Opera since 1964. Since the initial production of two operas seen by a total of 12,000 persons, Seattle Opera now presents at least six performances of five different operas which will be attended by at least 165,000 persons. The above noted productions are in addition to the "Ring" cycles.

The hallmark of Seattle Opera's success has been its accessibility to the public. Attendance has increased and the productions are seen by persons from all

walks of life. They have accomplished this goal through the use of English language productions, productions for schoolchildren throughout the State, previews before a variety of organizations, and finally, by community performances.

The arrival of Seattle Opera's 16th season is an appropriate time to note the remarkable success of the opera and the contributions of its general director, Glynn Ross.

I ask that Winthrop Sargeant's article, "The Ring's the Thing," be printed in the RECORD.

The article follows:

THE RING'S THE THING

Seattle is a comparatively new-looking city that covers an old frontier town like frosting on a cake. Its principal industries are forest products, shipping, and aircraft. It is a cosmopolitan place: though the population is only about half a million, it contains large groups of Scandinavians, Chinese, and Japanese, together with various kinds of Western Euopeans and settlers from the Eastern seaboard. Its lure is its setting, and just possibly its weather, for though rain is expected all winter, the temperature seldom gets much colder than thirty degrees Fahrenheit or warmer than eighty-five. Whether or not the city may be described as beautiful, it lies in a magnificant broad valley, giving onto Puget Sound, with ranges of steep, deeply forested mountains surrounding it—the Cascades to the east and the Olympics to the west. To the casual visitor, it appears to be built on fingers of land interspersed with lakes or arms of the sea. Its air is as fresh as only Pacific winds can make it, and it has relatively little pollution. In the summer, it is actually somewhat warmer than San Francisco, about seven hundred miles to the south, and it does not have the fog that is one of San Francisco's banes or charms, depending on how you look at it.

Until something over a decade ago, nobody had ever thought of Seattle as a cultural Mecca. In fact, in the early nineteen-forties, the haughty British conductor Sir Thomas Beecham described it as an "aesthetic dustbin." But things have changed. There was a Seattle World's Fair in 1962, which left as relics a splendid civic auditorium, the famous Space Needle, and a Monorail that goes to downtown Seattle. For the fair, the auditorium, which had been used for such things as conventions, was largely redone and converted into an opera house. Now that they had an opera house, the natives decided they wanted some opera, and they sent for a man named Glynn Ross, who had produced operas in places halfway around the world but had most recently been producing them in California.

Ross is a remarkable man—a somewhat more remarkable one than Seattle had bargained for. During his first season (1964), he gave it "Tosca" and "Carmen," directing both himself. But a couple of such standard works were not enough for Ross. He began to create longer seasons, and to publicize them in a manner that took his board of trustees' breath away. In order to popularize his productions, he did two versions of each opera—one in the original language and one in English. "People are intimidated by opera," he commented the other day. "They think it's a lot of fat people standing around and singing in an incomprehensible language. Well, it isn't, or it isn't necessarily." In the matter of publicity, Ross proved himself more than adept. Bumper stickers on the backs of Seattle's cars proclaimed "Opera Lives." The acronym WITCO, for "What is this thing called opera?", appeared all over town. Skywriting brought attention to slogans like "Bravo Opera." There were signs in school buses, and signs on the backs of cement trucks reading "Get Mixed Up with Opera." One of the most outrageous bits of publicity was the awful pun "Get Ahead with Salome." Some of this disturbed the best families of Seattle. They had expected opera to be a society event, as it is in most American cities. One member of the board of trustees, suspecting that Ross lacked social graces, complained, "How can you have a director of the opera who doesn't play golf?" But Ross was out to attract the largest possible public, and he succeeded brilliantly. It was not long before *Seattle Magazine* was referring to him as "the hip huckster of grand opera." "I myself thought that it was cheapening to use such methods," Ross has said. "But I was merchandising opera, and I'd do anything that would shock the public into coming."

When it came to the opera company itself, he turned out to be a master organizer, and he brought many internationally celebrated stars to Seattle. "Our first three years were a matter of survival," he said not long ago. "The next three years we were getting national publicity, and the three years after that we devoted to expansion. I put a classified ad in the papers asking for four Seattle whiz kids. I don't think many of them had ever heard an opera, but I hired five of them and put them to work on publicity. One was an Oberlin College student, another turned out to be an American college student who had recently returned from an extended stay in Tibet."

Ross's first season drew an audience of ten thousand; by his third, the figure had soared to fifty thousand. Opera in Seattle had become a going thing, with a season beginning in September and ending in May. The house was sold out. "Nowadays, fifty per cent of the budget comes from ticket sales," Ross said not long ago. "Thirty per cent comes from contributions, of which three per cent is from corporations and businesses—Boeing, Weyerhaeuser, and so on—and twenty-seven per cent from individuals and private foundations. And twenty per cent comes from federal, state, and local subsidies. The Gramma Fisher Foundation and the Ford Foundation have also helped, as have Alice Tully and her sister, Mrs. John Dimick. We have twenty-five young singers who work with us the year round, and we employ musicians for the orchestra forty weeks a year, between the opera, the symphony, and the ballet." Over the past fifteen years, Ross has produced the whole standard repertory, along with the world premières of Carlisle Floyd's "Of Mice and Men" and Thomas Pasatieri's "Black Widow" and the West Coast première of Pasatieri's "The Seagull."

In 1974, Ross persuaded his board of trustees to let him do the entire Wagner "Ring of the Nibelung" the following year as a summer festival—again, in both German and English. The Pacific Northwest Wagner Festival has become an annual event, and over the past three years it has attracted an audience of more than sixty thousand. This year, the festival will open on July 9th and run for two weeks. Sheffield Phelps, who was president of the board in 1974, admits today that the whole idea of the "Ring" frightened him. One board member said, "Won't Ross have a wonderful time sitting in the audience all by himself?" But again there was all that publicity: "The Ring's the Thing" on lapel buttons; "The Ring of the Nibelung: Get into It" on posters all over town. Ross even advertised a "Wagner orgy" in the local newspapers and offered a "Free Wagner Orgy Kit." The results were fantastic. Seattle already had one of the highest per-capita audiences for opera of any city in the United States. Ross hired the eminent veteran baritone George London, who since 1975 has been general director of the Washington Opera, in Washington, D.C., to do the staging, and Lincoln Clark, who had assisted London, subsequently took over. Curiously, the German-language version attracted the larger audience, and last summer it was sold out. The excellent English-language version by Andrew Porter has attracted about seventy-five per cent of capacity.

But Seattle's opera house has just over three thousand seats, and Ross pointed out that, inasmuch as the capacity of Bayreuth is a mere nineteen hundred, he was bringing Wagner opera to an audience fifty percent larger than Bayreuth's. People came not only from Seattle itself but from all over the United States, from Australia and Japan, and from all over Western Europe. Opera producers from England showed up, and critics came from nearly every Western European country, from Japan, and from Australia, Seattle, at least for the time being, was the only place in the world except the Wagner shrine at Bayreuth where one could hear the entire "Ring" every summer. Some spoke of "Bayreuth West". Every Wagner enthusiast who could get to Seattle did. Tickets for the series of four operas were sold at a hundred-dollar top; single performances could be had for as little as nine dollars and fifty cents. The first "Ring" lost forty thousand dollars, but an appeal to those who had attended the performances made up all but ten thousand of this sum, and the Seattle Opera Sustaining Fund made up the rest.

Statistics do not tell the real story, however. Last summer, I went to Seattle to hear and see the German "Ring" performances. The quality of the singing was not notably below that of many performances heard at Bayreuth, and the orchestra, though a bit smaller than Bayreuth's, had all the requisite instruments, including the "Ring tubas" that Wagner specified. The opera house is a handsome one, lined with brown wood, and with wooden baffles at the sides. The upholstery and carpets are the usual operatic red. Over the proscenium is an acoustical shield, and just in front of the shield is a lighting bridge, from which spotlights can be thrown onto the stage without showing up on the scenery. The acoustics are perfect. One can hear every word of the text. The orchestra pit is partly recessed under the stage, as at Bayreuth, and has a low wall that makes it invisible to the parterre audience. The conductor was Henry Holt, a Viennese who was educated largely in Los Angeles, and he was certainly competent, if not brilliant.

The scenery and costumes were naturalistic in the manner that Wagner himself had envisioned; a sort of Arthur Rackham style prevailed, with seemingly real trees, rocks, and armor for Brünnhilde. The cast contained a splendid, if diminutive, Brünnhilde from Germany named Ute Vinzing; a genuine heldentenor Siegfried, such as has not been heard at the Metropolitan in many years, in Herbert Becker, also from Germany; the tallest Wotan (six feet ten inches) ever seen, in a man from West Chester, Pennsylvania, named Noel Tyl; and an Alberich and a Mime who were both unforgettable, in the Englishmen Malcolm Rivers and Paul Crook.

There were first-rate performances in all the other roles as well—especially those of Erda, by Geraldine Decker, from Oxnard, California, and Sieglinde, by Karen Middleton, from Columbia, Mississippi. The house was filled to capacity, and at the end of every act the clamor was so tremendous that you might well have thought you were at a football game. People roared approval. Others set up a hurricane of clapping. There was no doubt that in Seattle the "Ring" was one of the great events of the year.

Much of the success of this production was due to Ross's uncanny instinct for picking the right singer for each role, even though not one who appeared in the "Ring" was a big-name artist. In this instinct, Ross recalls the late Edward Johnson, the general

manager of the Metropolitan Opera. Ross scours America and Europe every year for singers, and manages to hire those who are just emerging into international stardom. He pays top fees, and also presents his offer as a favor to the singers. Wouldn't this singer love to sing her very first Tosca in Seattle, to gain experience before assaulting the more prestigious opera houses of the world? Wouldn't that one like to do a role he had never done before as a preparation for the big time? "An artist," Ross commented, "wants four things: one, a chance to do something that requires the best of his abilities; two, the opportunity to grow by singing different roles; three, prestige; and four, a paycheck." Ross's policy is to cater to these wants. He inveigled Joan Sutherland into coming to sing with his company in "Lakme" in 1967 by telling her that there was no good recording of the opera and that her Seattle appearance would give her the opportunity to prepare for one. Sutherland did record work, with another company, a year after she sang it in Seattle. It cost Ross sixteen thousand dollars for her and her conductor husband, Richard Bonynge, but he felt it was worth it. He presented Beverly Sills in Seattle in 1965—the year before her New York triumph in "Julius Caesar." "It's a situation where everybody comes out a winner," he remarked.

The offices of the Seattle Opera are in a fairground building quaintly named the Food Circus, which has facilities ranging from a conference center to a place where elderly people can dance to popular music. The office is a few floors up, and is remarkable for the ease of communication among its various parts. There are no interior walls as such—only low partitions cutting off one office from another. Ross wants to be in as close contact as possible with his subordinates. The staff includes about thirty people, half of them performers and members of the production staff and the other half members of the administrative staff.

The most important of the administrative people are Lloyd Yunker, who is in charge of finance and development; Holt, the musical director, who is also in charge of the educational program; and Colleen Armstrong, who is a general trouble-shooter and right-hand woman. Ross, his assistants say, is willing to listen to any idea (he has a file of some seventy ideas in his office, about a third of which have been realized), but once a decision is made he sticks to it. His own enthusiasm inspires others. For Seattle, opera is a great new adventure, and to be connected with it in any way is a thrilling experience. Last year, the "Ring" had a budget of six hundred and sixty thousand dollars, thirty solo singers, a men's chorus of forty-four, a women's chorus of fifteen, an orchestra of eighty-two, twenty-two supernumeraries, a backstage crew of thirty, and eight wardrobe people.

The best families of Seattle long ago gave up their idea of society opera and are now fully under Ross's spell. "My track record was so good," he said the other day, "that they had to come around." He has given them "Boris Godunov," "Rigoletto," "Faust," "Lucia di Lammermoor," "Il Trovatore," "Madame Butterfly," "Samson et Dalilla,' "Lohengrin," "La Bohème" (for which the publicity read "Six old-time hippies in Paris"), "Andrea Chénier," "Aida," "Der Rosenkavalier," "L'Elisir d'Amore," "Don Giovanni," "Fidelio," Robert Ward's "The Crucible," "Roméo et Juliette" ("Two kids in trouble, real trouble, with their families"), "Otello," "La Traviata," "Turandot," "Cavalleria Rusticana" and "I Pagliacci," "The Barber of Seville," "Salome," "La Forza del Destino," "Don Carlos," "Le Nozze di Figaro," "Les Contes d'Hoffmann," "Der Fliegende Holländer," "Un Ballo in Maschera," "Mefistofele," "La Fille du Régiment," "Cosi Fan Tutte," "Gianni Schicchi," "Manon Lescaut," "La Périchole," "Manon," "Eugene Onegin," "Thais," "Werther," "La Cenerentola," "Le Roi de Lahore," "The Magic Flute," and "Falstaff"—along with separate performances of the "Ring" operas. It is a repertoire that any opera house might be proud of. The company gives six performances of each opera, four in the original language, two in English, and on occasion additional performances for student audiences. The younger singers who work with the company year round usually fill the major roles in the English-language productions and the secondary roles in the original-language productions. For the others, talented imports—sometimes stars—have come willingly to participate.

The Seattle Opera is attaining international status, though the city is so far away from most other opera centers that its status is not as generally appreciated as it might be. "The Seattle Opera is one of the few American companies that has singers on annual salaries," Ross pointed out recently. "And it is one of the half-dozen largest operatic organizations in the country." Not long ago, Ross was named First Citizen of Seattle by the Seattle-King County Board of Realtors.

"I'm thinking of giving up all that flamboyant publicity," Ross said a while ago. "It does cheapen opera. But the word 'dignified' scares me. I am merchandising Mozart. And we have done all sorts of multimedia things. We did the rock opera 'Tommy' in 1971. The year before that, we did Stravinsky's 'L'Histoire d'un Soldat,' with a trial afterward in which the Princess and the Soldier were courtroom figures and the audience served as the jury—Stravinsky was told about it and loved it."

Glynn Ross, at sixty-three, is a compact, wiry man (he stands five feet nine), with blue eyes, a toothy smile, brown hair carelessly combed back, and, obviously, an enormous amount of energy. He seldom sits still. He has been referred to as "the bantam of the opera." At home—a beautiful and spacious house whose lawn, punctuated with trees, runs down to Lake Washington, in a suburb of the city—he is a devoted family man. His wife, the former Angelamaria Solimene, is an aristocratic-looking Italian woman, with dark eyes, gray hair, and a slim figure; she is a portrait painter. They have four children, the eldest of whom, Stephanie, is married to a San Francisco lawyer; their child is the Rosses' first grandchild Stephanie was given her name because it can be easily transformed into the Italian Stefania, and the other children have names of similar bilingualism. Claudia is a painter, like her mother; she also studied forestry at the University of Washington, and is now a forestry consultant to small tree farmers for Weyerhaeuser. Claudia has been trained in Tai Chi Chuan. Melanie (Melania) is a technical coordinator at the opera. And Anthony (Antonio) is just out of college. He lives in Los Angeles, but the ties of family affection are strong, and he and the daughters often visit their parents. All the children were born in California, during Ross's operatic activities there, but all are bilingual, because they have spent a great deal of time in Italy. While he was producing opera in Los Angeles, he used his own children for the choirboys in the first act of "Tosca," as the two children in "Norma," in the children's chorus in "Carmen," as mice in an interpolated ballet for "La Cenerentola," and as Nibelungs in "Das Rheingold." The four were close enough in age to play together, and, because they grew accustomed to being taken from one place to another, they formed a solid front against the rest of the world. "Other people's kids read fairy tales," Melanie said recently. "We read 'The Ring of the Nibelung.' "

Mrs. Ross, whose nickname is Gio (pronounced "Joe"), is a very active woman. In addition to her portrait painting, she supervises the costume department for the opera and gives huge parties for the board of trustees, visiting critics, singers, and so forth, thinking nothing of managing two such parties per week. She has no servants to help her—except for a couple of waitresses during those parties—and does all the housework herself. She gets up at 5 a.m. to start her household duties, and Ross occasionally gets up then, too, to go to his office and get a head start on his work. They were married just after the Second World War, and are deeply devoted to each other.

According to Phelps, the past president of the board of trustees, Ross is essentially shy and ill at ease with people, but he is an extraordinarily capable man, who attracts a devoted following. "He is flexible but stubborn," Phelps said recently. "He involved everybody in extra research for the 'Ring.' He also had a hand in creating Pacific Northwest Dance, the Seattle ballet, and at one point, when they were doing 'The Nutcracker,' he somehow came up with the money for a five-thousand-dollar scrim just before the performance took place. He loves to ride horses, and he swims. His wife is a highly imaginative woman. For one of his California productions, the costumes had arrived but not the wigs. Gio found an old horsehair mattress, opened it up, and made wigs for the geisha in 'Butterfly' out of the contents."

While Ross is usually the epitome of good nature, he does get angry occasionally, usually over thoughtless mistakes. He is a stickler for good manners within the company and in the office, and never allows anyone to cut anyone else down. "He works very fast," one subordinate said. "He zips through his mail. And he always says, 'Keep your ears open.' When he is worried, he doesn't talk much. He accepts women's lib, but he doesn't really understand it. He once complimented a liberated woman on her looks, and she was insulted; he was merely puzzled. You can't tell what he is thinking unless he tells you. On the other hand, he seems to anticipate nearly everybody else's thoughts. He has a lot of good friends. One is a retired Boeing executive who handles fund-raising and who was responsible for computerizing the opera's operations. It's an unpaid position."

Funds are currently needed to improve backstage facilities at the opera house and to build a rehearsal wing. However, with the help of the state, the country, and the city, and of the various foundations, Ross and his Seattle Opera haven't done badly from a financial point of view. The local politicians realize that he is bringing valuable tourism to the State, and to Seattle in particular, and the foundations are well aware of his efforts.

There is a sense of determination about Ross's career, but there has also been a long string of lucky breaks. He represents a new breed of impresario—the expert technician rather than the glamorous, tyrannical, rich-ladies'-hand-kissing type that was the rule in America for so many years. And his career has been one of the most implausible in the history of opera.

He was born on December 15, 1914, in the packinghouse district of South Omaha, Nebraska. His father, a Texas cowpuncher named Herman Aus (the son later changed it to "Ross"), was from Christiania (now Oslo), Norway, and his mother, born in a sod house in Saunders County, Nebraska, was a descendant of Swedish farmers. Her maiden name was Ida Carlson. When Ross was seven years old, his father managed to obtain a ten-acre farm in Sarpy County, south of Omaha, and there the boy was brought up. He had been a very small baby, and it was thought for a time that he would not live. On the farm he was given the easy jobs—washing dishes, herding cows, and

doing the housework—because it was felt that he was too small for field work. (He had a brother, nine years older, who helped out with the more demanding chores.) But young Glynn worked very hard in order to get strong enough to harness the horses and plow a furrow all by himself. In time, he drove the grain wagon up to the threshing machines. He could drive horses at an early age, and has had a special knack of communicating with them ever since. In 1936, four years after Ross had graduated from high school, his father died, after a long illness, leaving him with the responsibilities of the farm and also with a big medical bill. (His brother had left the farm and married.) It was the time of the Depression, and there were droughts. "Corn was at ten cents a bushel," he recalled recently. "And hogs just couldn't be sold. Cornstalks would be broken and beans driven into the ground by dust storms, as well as by torrential rains—when there was any rain. Farming then was an emotional experience. Every crop I planted, I was planting with my own emotions. While he was still alive, my father looked over my shoulder. He was ill for four years before he died, and I worked my hind end off to pay off the mortgage and the medical bills. I vowed that I would never go into farming unless I had enough put away to withstand three bad years. Of course, any business has to be able to sustain three bad years. But I was naive. I thought that other businesses could be controlled more closely—that farming was unique in being at the mercy of God and the elements. I worked not only on the farm but outside it, too. During one drought, I worked with the Civilian Conservation Corps, where I got thirty dollars a month. I'd send twenty-eight dollars home and keep two, and I gambled with one to see if I could make some more."

In high school, Ross's drama teacher had thought that the boy had great acting talent. He had been prominent in Gilbert and Sullivan performances. "I went up once to act in the Omaha Community Playhouse," Ross says. "That's the alma mater of Henry Fonda and Dorothy McGuire. I managed to get into Station WOW, doing radio commercials. Meanwhile, I worked cutting meat in a meat market on Saturdays. Then I got a job in a packinghouse. My drama teacher had studied at the Leland Powers School of Radio and Theatre, in Boston, and one day in the spring of 1937 I just wrote and said I was coming. I had a good track record on the farm, and my mother said, 'If that's what you want to do, Sam go ahead.' She is now ninety-nine, and she still lives on the farm. I finally managed to get somebody to allow me to ride in the caboose of a cattle train to Pittsburgh. I got off in the middle of the night and hitchhiked to Brooklyn, where I got a Greyhound bus to Boston, with seven dollars in my pocket. I had planned to take sixty dollars, but I was afraid I would get rolled in some railroad yard, so I gave fifty to my brother and carried the rest with me."

In Boston, Ross got a job waiting on tables in a private school called the Child-Walker School, earning his bed and board while attending drama school. "Child-Walker was a social school, in the sense that they picked people from the upper class, and it was art-oriented," he remembers. "It had a wonderful library, and—what was even more important—it got extra tickets to Symphony Hall, where the Boston Symphony was playing under Serge Koussevitzky. I heard people like Rachmaninoff play with the symphony. My first exposure to opera that I really remember was at the old Boston Opera House, where I worked as a super while big Julius Huehn was singing in 'Lohengrin.' He looked ten feet tall to me. I supered in several operas, and for a time I wrote publicity for the Salvation Army."

During that period, Ross had no inkling that he would ever be connected with opera in any serious way. His ambition was to be a Shakespearean actor. "I was not getting my place in the sun, though," he says. "I was not big enough or handsome enough to be a successful actor. I went through a couple of years getting the hayseeds out of my hair—I was self-conscious about my Midwestern accent. Not that Boston intimidated me in any way. Boston was very kind, and I've always thought that there are more good manners per square block in Boston than anywhere else. I experienced a sense of culture that I'd never felt in Sarpy County. I went on waiting on tables, and I got a little extra money working at the switchboard and by waiting up for the students who came in late and locking up after them.

I worked Saturdays in a meat market in Cambridge, and at another in Roxbury. Also, I did cleaning chores at the Leland Powers School, and, in return, they let me have a little snack-bar concession, where I sold Cokes and odds and ends. At the end of my first year in drama school, I got a contact in Stratford-Upon-Avon in England, through a woman named Fannie Bradshaw, who had attended Leland Powers and was then living in Stratford. That summer of 1938, I managed to get over to Stratford, and I lived in a loft next to Anne Hathaway's cottage. I would cycle to the theatre every day. The director at that time was B. Iden Payne. I went to church, and later I realized that I was praying only a few feet from Shakespeare's tomb. At that time, Shakespeare was everything to me. He was the ultimate, whether I was going to be an actor, a writer, or a director."

Ross went back to Boston in September, then returned to Stratford the following summer. "I suppose I was a gofer at Stratford. My work was running errands for the staff. But for me just the exposure was a privilege. You never know how much is rubbing off. I got to see all the plays and all the rehearsals. I was absorbing Shakespeare like a little child in a new world. I was twenty-four, and I was still convinced that I would be a Shakespearean actor. But I coudn't get a job at Stratford. I came back to the States, but then I returned immediately to Britain, as a cargo supervisor on a coal-burning ship to Glasgow. I also filled in for a stoker who had become ill. I don't recommend that job. Hitler had invaded Poland, and German submarines were sinking ships in the Atlantic. As we approached Glasgow, we speculated on whether we would have to swim for it. One ship that passed us was sunk."

Ross was in England during the "phony war"—the period in which the United States was still isolationist. The American consul said Ross had to leave, and when he told the consul that he had no money he was shipped off on a boat that was floodlit, painted white, and had big American flags painted on each side. "The consul said that I could pay the government back sometime. It sailed from Southampton, and stopped at Bordeaux before crossing the Atlantic. The passengers were a *Who's Who* of the arts—the Ballet Russe de Monte Carlo, Arthur Rubinstein, Paul Robeson, Vladimir Rosing, Anton Dolin, Baronova, Danilova. There were also two dancers who wanted to work for the Ballet Theatre, a company that had just been founded and that became the American Ballet Theatre some years later—Antony Tudor and Hugh Laing. The ship was very crowded. There were cots in the smoking lounge."

In England, Ross had met the British conductor Albert Coates through Rosing, a Russian-born tenor. By now, Coates was in California, where he had been invited to conduct the Los Angeles Philharmonic at the Hollywood Bowl, and Ross was asked to join him. "My first real experience with opera as a participant came by way of Coates," Ross said recently. "He asked Rosing to form an opera studio in Los Angeles, and I worked with Rosing." Less than a year later, in the spring of 1940, it was operating and, with the help of W.P.A. sets and costumes, the company presented "Faust" in the Los Angeles Philharmonic Auditorium. Rosing became ill, and final rehearsal responsibilities fell on Ross's shoulders.

"Then Coates wanted to leave for South Africa, where he eventually became music director and conductor of the newly formed Johannesburg City Symphony," Ross recalled. "He invited me to go with him, but I thought, That's not for me. The man who did become his conducting assistant was Ernest Fleischmann, now executive director of the Los Angeles Philharmonic and general director of the Hollywood Bowl. I went back to Boston, and Wallace Goodrich, then head of the New England Conservatory, asked me to take over some classes in operatic acting. It was not really a department, but we called it that. We were looking for good male singers—hard to come by in wartime—who deserved scholarships, so that we could use money from an endowment fund. Geraldine Farrar, who had retired from opera years earlier and had become a trustee of the conservatory, really revived interest in opera there. A funny thing happened. Several years after that, I did my first 'Carmen' for the Fort Worth Opera Association. The girl who sang Carmen was Alberta Masiello, who is now an assistant conductor at the Met. She came to me and said that she was uncertain as to how I wanted the role played. I told her I didn't have time to teach her, and the only thing to be done was for me to run through the part in front of her, playing Carmen myself, and then she could decide if she wanted to play it my way. That's what we did, and that's the way she played it. After the performance, John Rosenfield, of the Dallas *Morning News*, wrote in his review that her characterization was 'in the memorable tradition of Geraldine Farrar.' And it wasn't until then that I realized that I had borrowed or stolen—or whatever you want to call it—Farrar's Carmen. The Don José was a promising young tenor named Brian Sullivan, who made his début at the Metropolitan that same year."

Ross paused for reflection, then said, "In December of 1942, I joined the Army. I thought that it would be the end of my career, but it turned out to be the luckiest thing that ever happened to me. I was sent to North Africa as a member of the Transportation Corps preparing for the invasion of Sicily. I was very useful in Oran, because I could speak French. In 1939, I had studied mime in London with Michael Saint-Denis. The Arabs all spoke French, so I could bargain for fresh fruit and fresh eggs. My acting training helped, too, in the haggling. Then my outfit moved to Bizerte, where I was made a sergeant technician in charge of unloading bombs. Once the port got organized, I studied Italian with a prisoner of war. I was wounded in the leg at Bizerte, and the wound refused to heal—I had osteomyelitis. So I was shipped back to Walter Reed hospital, where they were experimenting with a new drug called penicillin. I was one of the guinea pigs. The wound finally healed, and, curiously, my hair turned from blond to brown."

After being released from the hospital, Ross spent a month at Washington and Lee University, in Lexington, Virginia, where he took an Army Special Services course and then rejoined his outfit, which was now in Naples. He had been given a field commission as second lieutenant, and his job now was to head a rest camp in an old hotel on the island of Ischia, just at the entrance to the Bay of Naples. There he began to show his talent as an organizer. He remade the old

hotel. "Ischia was technically under British naval control, but I did just a good job that all the Americans came there on leave. I outfitted everybody in clothes I had bought by mail order from Sears, Roebuck, so nobody could tell any difference in rank. A private could stand at the bar next to a general, and neither would know. They all relaxed. I gave them lobster dinners with wine, and breakfast in bed. I would thoroughly spoil them during the week they were there. I did a lot of wheeling and dealing. I got the best wines from France, and Scotch from Greece. The place became famous." Ross also met his future wife there. She was the daughter of a Neapolitan lawyer named Ermanno Solimene, who had been a rebel against Mussolini's government. Both he and his daughter had been exiled to the island of Lipari until the Americans came. When Ross arrived in Ischia, Solimene was the owner of a small boatbuilding business there that the British had requisitioned.

Eventually, Ross was moved to the mainland—to Naples, itself, where he was put in charge of seven hotels that provided temporary living quarters for military personnel. "It was great discipline," he recalled. "I had to get all the financial books completed, and send them to the adjutant general. I had to order food and wine, and keep the waiters and room-service personnel on their toes. I could still get wine from France. When I got back to the States, I thought that waiters were trying to insult me by offering me poor service. I had been used to the best."

It was in Naples that Ross's real experience with opera began. He had had no musical training except for some piano lessons with his mother, but he did know something about acting. "I met a man in my own outfit who told me he was a friend of the prompter at the Teatro di San Carlo, a certain Maestro Arturo Rizzo," Ross recalled. "By that time, the war was over in Europe, and Naples had become a tremendous shipping-out place. Troops were everywhere, and the Army wanted something to keep them off the streets. So the Allies began to put on opera at the San Carlo, Naples' famous old opera house. I made my début as a stage director with Tancredi Pasero, the great Italian bass, in 'Boris Godunov.' We used the same scenery for several operas—'L'Amico Fritz,' 'L'Elisir d'Amore,' and so on. We put on three shows a day. I was still running the seven hotels, too. Some of the finest Italian singers came to the opera house—elderly ones, like Francesco Merli, Beniamino Gigli, Giacomo Lauri-Volpi, Tancredi Pasero, and some younger ones, like Giuseppe di Stefano, Luigi Infantino, Tito Gobbi, and Italo Tajo. They called me Maestro, and I called them Maestro, but there was no doubt about who was doing the learning.

"I wanted to marry Gio. The Army didn't make it easy. Finally, they told me that if I enlisted again it could be worked out. So I did, but in order to get Gio a passport so we could go to Paris for our honeymoon we had to placate the whole Italian bureaucracy with cigarettes. We had a civil marriage. We had a woman major who was very efficient, and she did everything she could to keep me from leaving Italy. She thought I was too valuable. When we wanted to go to the States, the military said that Gio could only travel on a war brides' ship. I wasn't having any of that. We finally got on the same ship because we had a dog, so the Army let us travel as super-cargo on a vessel that was taking a shipment of dogs to the United States. It was March 1947. When we got to New York, Gio was astounded to find that all the Neapolitan dialects were spoken in Brooklyn. We began going to the theatre frequently, and I looked for a hotel job."

Ross could have returned to the New England Conservatory, but he wanted Gio to see America, so they travelled by train to Omaha, where Ross bought a car. They stopped in Central City, Colorado, and he was offered a fund-raising job, which he refused. He wanted to work either in hotel management or in opera directing. They went on to Los Angeles, where his friend Vladimir Rosing was forming an opera workshop—a place for young singers to gain experience rehearsing and performing operas. He joined Rosing, and they found that scores of people wanted to study opera on the G.I. Bill. They did a number of operas with Ross as stage director.

In 1948, Gaetano Merola, the head of the San Francisco Opera, hired Ross as a stage director. The season opened with Verdi's "Falstaff," with Regina Resnik as Alice, Ebe Stignani as Dame Quickly, Licia Albanese as Nanetta, and Salvatore Baccaloni as Falstaff. Italo Tajo, whom Ross had recommended, sang several roles with the company and became the hit of the season.

During the late nineteen-forties and the early nineteen-fifties, Ross was spending four months of the year in San Francisco, and the remainder producing opera elsewhere. In Los Angeles, he and a colleague founded the Guild Opera, which toured extensively in southern California. He staged four productions for the Fort Worth Opera Association. While he was in San Francisco, he got his first invitation to Seattle, where, in 1954, he worked with a company called the Northwest Grand Opera. Shortly before that, the Austrian-born conductor Richard Lert, who had emigrated to California, and who had heard of Ross's work, told him that he should go to Bayreuth to observe the production of Wagner opera at first hand, and wrote him a letter of introduction to the conductor Hans Knappertsbusch.

Ross went to Bayreuth to spend the summer of 1954. He could not afford to take his family, so his wife remained at home with the children, in California. He returned to Bayreuth the following summer, too. It was the austere period of Wieland Wagner's abstract sets in the style of Gordon Craig and Adolph Appia. Ross was not a paid member of the company, but he did work with the production crew, which gave him the opportunity to observe the staging close up. The winters in America were very busy. Ross had become one of the most sought-after opera stage directors in the country. In the early nineteen-fifties, a new opera company, the Cosmopolitan Opera, was formed in San Francisco to compete with Merola's San Francisco Opera. "It was backed by a wealthy Scot," Ross recalled not long ago. "I was part of the new company, and so were such famous singers as Jussi Björling, Zinka Milanov, and Richard Tucker. The Cosmopolitan Opera did not last, however. The Scot was a widower and a firm believer in spiritualism and fortune-telling. On the advice of a medium, he remarried. His second wife didn't like the idea of his squandering his fortune on opera. Finally, the medium told him that if he did not give up supporting opera he would drop dead. That was the end of the Cosmopolitan Opera."

This left Ross with nothing to do. So in 1959 he went back to Naples, this time with his wife and children. He put the children in a convent school and looked for a job. He got one at the Teatro di San Carlo, "we put on the first 'Lucia' since Callas," he recalls.

The Neapolitans scarcely realized that he *was* an American; in fact, he debated the idea of adding an "i" to his name. But his own name was so well known in Naples that he decided against it. He spent three years as a director in Naples, and frequently returned to America alone, leaving his family there. He had numerous offers in America. One came from the Laguna Beach Opera, where he produced opera off and on for two years and was then asked to create a performing-arts festival there. Then a man named Albert Foster, the first president of the board of the Seattle Opera, called him and asked him to come to Seattle for an interview. The result was an offer to create and direct an opera company. Ross was already in love with Seattle, so he turned down the job in Laguna Beach, and in December of 1963 he and his family arrived in Seattle. "I felt that the potential here was very great," he said recently. The offer was for eighteen months, and it left him free to direct opera elsewhere. In the spring of 1964, he produced his Seattle Opera "Tosca" and "Carmen" on a budget of ninety-one thousand dollars for two performances of each. At that time, he did not regard the Seattle job as anything necessarily permanent. During the winter of 1964, he had gone to Italy to fulfill a couple of contracts there. By the time he returned to this country, however, he realized that the Seattle job, though it meant a considerable loss of income, held possibilities that he did not see elsewhere. He welcomed the chance to be an operatic administrator as well as a stage director, and soon he set to work on several projects, including public relations (this was the period of the bumper stickers and the skywriting) and plans for supplemental education in the schools. Ross went through the first three years without government support of any kind, but the opera was such a tremendous success that he managed on boxoffice receipts, private contributions, and the assistance of the Ford Foundation. Later on, the federal government, and then the state, county, and city governments, began to play their parts.

Today, the Seattle Opera is a going concern, but Ross's ambition remains undiminished. When the "Ring" was such a huge success, Ross proposed the most ambitious idea of his life—a plan for a Pacific Northwest Festival in the Forest, of which the "Ring" would be a part. He got an important political figure, Lou Guzzo, who had been one of Governor Dixy Lee Ray's principal campaign managers, to enlist the support of the Governor for his proposal. The Weyerhaeuser Company pledged thirty acres of forestland for the project—thirty acres surrounded by a hundred and ten more, which insure privacy. Ross has planned three theatres, an amphitheatre, and eating facilities for the project. The Weyerhaeuser land is twenty-five minutes south of Seattle by car, about halfway between Seattle and Tacoma. Ross hopes that people will be attracted from all over the world.

The project is now in the works, and Ross is positive that it will be a success. It has brought out the salesman in him as never before. He argues that Seattle, as the nearest port to the Orient in the contiguous forty-eight states, is bound to become the center of the cultural world. "The Orient is not the Far East anymore," he said recently. "It's the Near East. The Festival in the Forest will develop into a year-round activity. It will include a larger Wagner series, a World's Fair of the Arts, an international conference on the humanities, and presentations of other performing arts, such as symphony and theatre. We are not only a cosmopolitan place—we are the cultural capital of the Pacific rim countries. We are closer to Russia and Japan than any other large city in the forty-eight states, and we have the opportunity of becoming a center not only of Pacific culture but of world culture. For the 'Ring,' we can use new film-projection techniques to create scenic effects. We have used projections before. We did an all-

film-projection of 'Turandot' with Birgit Nilsson in 1969. The entire stage was a movie screen. The projections were in color, and created a very misty atmosphere. There's a big momentum toward the festival. There will be Wagner. There will be millions of dollars in tourist revenue. This all comes down to a theory I have: the commodity market has largely been satisfied, and now people are going to go in for the experience market. They are not going to leave their money in the bank; they are going to travel and see things. Free time is not enough. People are not going to sit around. A lot of older people are going to say, 'What am I saving my money for?'"

Last year, the state of Washington authorized five million dollars in bonds for the project. "There will be a commission, like a World's Fair Commission, only it won't self-destruct in five years," Ross told me. "The commission might even become a national commission, or a world commission—like the Olympics. A world committee! And, frankly, during the winter I would like to do here what the Germans have done in the Ruhr Valley for the miners. Just after the Second World War, theatres and opera houses needed coal. The Ruhr miners sent it, and in return they were invited to a free performance. That's how the Ruhr Festival got started. It's backed by the trade unions and the city of Recklinghausen. I would like to do something with labor backing. When I realized that we had one of the highest per-capita operagoing publics in the United States, we began to pursue other sources of income. One was the 'Ring,' which is for tourism. The population of metropolitan Seattle is only a million and a half, give or take a little, yet we are still one of the few companies other than the Met to put singers on annual salary—mostly lesser-known singers, to be sure. And we have our own coaches. The singers are not old, they are not fat, they sing in your own language, and the seat prices are comparable to those of a movie house—three dollars for the cheapest ones, and even less if you buy a subscription. You don't have a snob audience at that price. A star, to be a star, must travel, so we have to import stars and pay them accordingly. And our younger singers are allowed to sing anywhere else they want. One of our tenors is singing at the Kennedy Center, and not so long ago one of our baritones sang Wotan with the San Diego Opera. We encouraged him to go, because we thought the experience of singing Wotan could be important to him. But the Festival in the Forest is the main thing just now. We have made elaborate surveys for it. All nations will be represented. I expect the world to respond. It will be more than a world's fair—it will be a continuing world's fair of the arts. And the idea is already taking shape. As far as I am concerned, provincialism is dead. Long live regionalism!"—WINTHROP SARGEANT ●

SOVIET DEMOGRAPHIC TRENDS

● Mr. McGOVERN. Mr. President, both the economic and the physical strength of the Soviet Union are affected by trends in population growth and regional, ethnic, and age distribution.

In a paper, "Population and Manpower Trends in the U.S.S.R.," Murray Feshbach of the Foreign Demographic Analysis Division of the Bureau of the Census has projected some highly significant demographic changes which almost certainly will have an impact on future resource allocations between civilian and military priorities.

Regional differentials foreseen by Mr. Feshbach mean, for example:

. . . that the military will need to train increasing numbers of less trustworthy non-Slavic, primarily rural recruits from the border regions in the Russian language and to adapt them to the technology of modern armed forces.

Mr. Feshbach's study is among the papers which were prepared for the seminars on "The U.S.S.R. and the Sources of Soviet Policy" held in Washington last April and May under the joint sponsorship of the Kennan Institute for Advanced Russian Studies of the Wilson Center and the Council on Foreign Relations. I ask that this paper be printed in the RECORD.

The study follows:

POPULATION AND MANPOWER TRENDS IN THE U.S.S.R.

(By Murray Feshbach)

The structure and dynamics of the population of the Soviet Union during the remaining quarter of this century will be significantly different than they have been over the years since the Second World War. Whereas population and manpower trends as a factor in Soviet economic growth in analyses have to now largely been ignored or downplayed by Western scholars, their importance can no longer be ignored.

The changes are a result of past demographic catastrophes and of postwar demographic developments. It should be understood that the estimates and projections up to the middle 1990's, which I am presenting are based entirely on the number and distribution of persons already born. Those for the period up to 2000 are based on projected births for only the next few years. The short-run determinants and consequences of demographic trends do not change sharply. The projected figures for persons already born are based on observed trends in mortality and the assumption that there will be only minor changes in the future; therefore, assuming that no major catastrophes occur, we can have a relatively high degree of confidence in the overall figures. Less precision can be claimed for the projected births and the regional projections. Nonetheless, the enormous importance of regional considerations in all aspects of population and manpower will, it is hoped, be clear from the following data.

TOTAL AND REGIONAL POPULATION

According to the estimates and projections prepared by the Foreign Demographic Analysis Division, the Soviet population as a whole can be expected to grow by almost 130 million persons between 1950 and 2000, from 180 up to 308 million persons (Table 1). Due largely to the postwar decline in the birth rate for much of the country, the rate of growth of the population will drop by the last decade of the century to about one-third the 1951–1955 rate, i.e., from 1.7 percent to 0.6 percent per year. The projected total of 308 million for the year 2000 is much lower than Soviet projections of 340 to 350 million persons made a decade ago.

The overall figures mask very disparate rates of growth by republic or region. At the beginning of 1977, the population of the most important republic, the Russian Republic (RSFSR), was 135,453,000 or 52.5 percent of the population of the country as a whole. By the beginning of the next century, it is projected that the Russian Republic's proportion of the total will drop to only 48.0 percent, even though there will be an absolute growth of some 12 million persons in the Russian Republic between these dates. In contrast, the share of the five Central Asian republics of Kirgiziia, Tadzhikistan, Turkmenistan, Uzbekistan, and Kazakhstan will increase dramatically. The population of this group of republics will almost double, from 33 million persons at the beginning of 1970 to 64 million at the beginning of the year 2000. The proportion of the Soviet population in these five republics will increase by over one-half, from 14 percent to 21 percent. The three Transcaucasian republics of Armenia, Azerbaidzjan, and Georgia will also increase rapidly, adding another 5 to 6 percentage points. The significance of demographic changes in these eight republics will become clearer as we proceed to discuss vital statistics, nationality data, and current and future civilian and military manpower.

VITAL STATISTICS

Dramatic changes have taken place in the Soviet crude birth and death rates since 1950. The birth rate has dropped by over 30 percent, whereas the death rate declined until 1960, but has since increased almost to the 1950 level of 10 per 1,000. The birth rate is expected to increase from 18 per 1,000 in 1976 to 19 per 1,000 in 1980 because of a relative increase in the population in the ages of childbearing but after that the crude birth rate should decrease to 16.1 by the year 2000.

Again the aggregate figures conceal major regional differentials. In 1970, the four core Central Asian Republics (i.e., excluding Kazakhstan) recorded birth rates of about 33.5 per 1,000, approximately twice as high as the national average. Projections for the year 2000 show a drop in the birth rates of the four core republics to a range of 23 to 27 per 1,000, still higher than the projected national rate of 16 and much higher than the 14 for the Russan Republic.

Due to the aging of the population, the death rate should increase from its 1976 level of 10 per 1,000 up to 11 per 1,000 in the year 2000. However, unusually high increases in the death rate which have taken place recently should also be noted. The rise in the death rate is more than would have been expected due to the aging of the population. This is likely due to three factors. As I have argued in the 1976 Joint Economic Committee volume on the Soviet economy and elsewhere, there has been an astonishing rise in infant mortality and a very significant increase in the age—specific mortality rates of males aged 20–45, which have accelerated the rise in the crude death rate. Our projection of 11 per 1,000 in the year 2000 may be too low if the present high mortality levels of infants and young males (due largely to alcoholism) continue. The rising mortality rates may be the underlying reasons why the Soviet Union no longer publishes life expectancy estimates for any year later than 1971/1972 and infant mortality rates for any year later than 1974.

AGING OF THE POPULATION

One of the major consequences of the drop in the birth rate is the relative aging of the population. In the Soviet Union, the population of able-bodied ages is defined as all males 16 to 59 years of age and females 16 to 54 years of age, inclusive. Males aged 60 and over and females aged 55 and over are considered to be part of the pension or "over-age" population. Children 0 to 15 years of age are considered to be the "under-aged" population. The share of the over-aged population is expected to double between 1950 and 2000, from 10 percent up to 19 percent. The share of the under-aged population is expected to decline from 32 percent in 1950 to 25 in 2000 and that of the able-bodied population from 57 to 56 in the same period.

Because of different trends in fertility and,

to a lesser extent, in mortality, regional population structures will become more sharply differentiated over the next 25 years. The gain of the Russian Republic's population, primarily due to the reduction in the birth rate, is reflected in an increase in the share of this republic's over-aged population from 15 percent in 1970 up to 22 percent in 2000. At the same time, in the four core republics of Central Asia, where the birth rate remains high the share of the over-aged population will drop from 10.2 percent in 1970 to 8.2 percent in 2000. Young persons aged 0–15 in Central Asia, Kazakhstan, and the Transcaucasus are expected to account for 37 percent of the national total in 2000, up dramatically from 26 percent in 1970. The share of 0–15 year olds in the Russian Republic will decline from 50 percent in 1970 to 41 percent in the year 2000. The numbers of young people in these eight southern republics are projected to increase by 50 percent from 19,354,000 in 1970 to 28,957,000 in 2000. The share of this region in the overall and especially the younger population will continue to rise into the next century if these projections are reasonably correct.

CIVILIAN AND MILITARY MANPOWER

Because of all these factors, the demographic aspects of manpower will undergo radical quantitative and geographical shifts in the next three five-year plan periods.

Until the decade of the 1970's began, Soviet economists considered that there existed a pool of potential labor which could be tapped for the State sector. This pool was felt to consist of non-working members of households, collective farmers, and some persons from among the under- and over-age groups. In 1976 however, the Deputy Chief of the Labor Department of the Soviet State Planning Committee indicated that "almost 100 percent" of the new increments to the labor force in the current plan period would be young persons entering the able-bodied ages. Therefore, in effect, this source does not foresee possible major increases in the number of pensioners returning to work.

The net addition to the population of able-bodied ages in the Ninth and Tenth Five-Year Plan periods (1971–1980) is estimated to be 23,341,000 persons. However, in the next two plan periods only slightly more than one-quarter of this number, i.e., 5,294,000 will be added over the entire 10 years (Table 3). The average annual increase of 529,400 in the 1980's is only one-quarter of the annual rate in the 1970's, and is also less than three-quarters the previous low average annual increase of 739,000 in the Seven-Year Plan period (1959–65). At that time the annual increment of young people was so low that the military felt impelled to draft two cohorts in 1961 to maintain the then current level of the Armed Forces. What will be done in the 1980's?

Before turning to the military aspects of the manpower problem it must be noted that the eight republics of the southern tier of the country will provide substantially more than 100 percent of the increments of persons of able-bodied ages in the period 1981–1995 because of net decreases elsewhere. In the Russian Republic, there will be a net decrease over the entire 15-year period. This is particularly important because in 1972 that Republic produced 62 percent of the nation's gross value of industrial production. It is believed that there is little prospect of large-scale migration of the natives of the Central Asian region to Russian cities during the next decade. Thus, it is understandable that the need to improve productivity and efficiency in order to achieve the economic goals of the current 5-year plan was underscored by General Secretary Brezhnev at the XXVth Party Congress. While on the surface he was addressing the current plan, he undoubtedly was keeping future labor (and capital) prospects in mind. If the labor shortage is serious now, then what will the level of urgency be in the 1980's?

The regional differentials in birth and population growth rates will have a major impact on both the size and nationality structure of the supply of new draftees. By the end of the century about one-third of the 18-year old male cohorts will come from the eight southern republics as compared with about one-fifth in 1970. At the same time, the Russian Republic's potential supply of 18-year old males will drop to 44 percent in the year 2000 as compared with 56 percent in 1970 (Table 4). These changes mean that the military will need to train increasing numbers of less trustworthy non-Slavic, primarily rural recruits from the border regions in the Russian language and to adapt them to the technology of modern armed forces.

In sum, then, we have seen that major shifts have been taking place and will continue to occur in Soviet demographic trends. Because of these changes and especially the underlying regional differentials, these demographic factors have far reaching importance for manpower resources in the U.S.S.R. for the remainder of this century.

NATIONALITY

Many of the underlying causes for the changes indicated in the total population and its regional components lie in nationality differences. The traditional way of life and the high birth rates which it tends to sustain have not changed significantly among most of the Muslims of the Soviet Union. Thus, the total population of the U.S.S.R. grew by 15.8 percent during the intercensal period between 1959 and 1970 and the population of Muslim origin grew by 42 percent, or over two-and-one-half times the national rate (Table 2). Meanwhile, the Great Russian population increased from 114,114,000 persons in 1959 to 129,015,000 in 1970, or by 13 percent, significantly less than the national average.

The Russians represent a declining share of the total population. If the rate of growth between 1959 and 1970, the last two census dates, is extrapolated to the year 2000, then the Great Russian share will decline from 53 percent in 1970 to barely 50 percent of the total population estimated for that date. If one were to include the other two basic Slavic nationalities—the Ukrainians and Belorussians—the share of this combined Slavic group will decline from about 74 percent in 1970 to about 66 percent in 2000.

Linear extrapolation probably understates the changes that will occur. A Soviet analyst, G. R. Bondarskaya, gives some hypothetical estimates for the year 2000 which are the only Soviet nationality projections ever published. She explicity states that her estimates assume a continuation of current gross reproduction rates for each nationality and a single set of mortality rates for all nationalities, which she admits is unrealistic. Nonetheless, from these estimates we can see the implications of current trends. She presents a graph from which it is possible to estimate roughly that by 2000 the Great Russians will number almost 35,000,000 less than the 179,137,000 derived by extrapolating 1959–1970 trends (Table 2). The lower figure is a result of current fertility patterns and an older age structure.

If Bondarskaya's estimates were to prove correct, then the Great Russians would represent only 46 percent of the population. If we were to include the other Slavic peoples, the combined group would still represent less than 65 percent of the total. Simultaneously, however, according to the Bondarskaya projection, the Muslims would increase from one out of seven Soviet citizens in 1970 to about one out of every three in the year 2000. I believe that the actual trend will fall somewhere between these two projections. An alternative estimate yields a ratio of one out of four by the year 2000, still a very high proportion of Muslims among the total population. This calculation is based on the assumption that the rate of increase in the population of the four core Central Asian republics, which we project to be 119 percent, can be applied to the entire Muslim population. According to our preferred projection, out of 308 million persons in the Soviet Union in the year 2000 76.8 million would be of Muslim origin.

TABLE 1.—ESTIMATED AND PROJECTED TOTAL POPULATION OF THE U.S.S.R. AND SELECTED REPUBLICS, 1970 TO 2000

[Numbers are in thousands as of Jan. 1]

U.S.S.R. and republic	1970	Percent of total	1980	Percent of total	1990	Percent of total	2000	Percent of total	2000 (constant)	Percent of total
U.S.S.R.	241,640	100.0	265,049	100.0	289,206	100.0	308,050	100.0	319,048	100.0
R.S.F.S.R.	130,036	53.8	137,946	52.0	144,830	50.1	147,834	48.0	147,640	45.9
Central Asia and Kazakhstan	32,789	13.6	41,617	15.7	52,695	18.2	64,005	20.8	73,073	22.9
Kazakhstan	13,004	5.4	15,367	5.8	18,157	6.3	20,507	6.7	22,369	7.0
Kirgiziya	2,932	1.2	3,693	1.4	4,644	1.6	5,614	1.8	6,398	2.0
Tadzhikistan	2,899	1.2	3,921	1.5	5,209	1.8	6,590	2.1	7,885	2.5
Turkmenistan	2,158	.9	2,877	1.1	3,766	1.3	4,722	1.5	5,525	1.7
Uzbekistan	11,796	4.9	15,759	5.9	20,919	7.2	26,572	8.6	30,896	9.7
Transcaucasus	12,291	5.1	14,362	5.4	16,989	5.9	19,317	6.3	20,821	6.5
Armenia	2,491	1.0	3,045	1.1	3,632	1.3	4,101	1.3	4,367	1.4
Azerbaydzhan	5,115	2.1	6,148	2.3	7,512	2.6	9.014	2.9	10.081	3.2
Georgia	4,685	1.9	5,169	2.0	5,745	2.0	6,202	2.0	6,373	2.0

Source: Unpublished estimates and projections by the Foreign Demographic Analysis Division, Bureau of the Census, U.S. Department of Commerce in March 1977. Medium series. An alternative constant series has been derived on the assumption that the fertility levels of 1975 will remain identical until the year 2000, and that mortality will decline during the projection period at a rate equivalent to an increase in life expectancy at birth of 2.5 years. All republic projections are based on the assumption that there will be no net migration between them.

TABLE 2.—NATIONALITY COMPOSITION OF THE U.S.S.R., 1959 TO 2000

[Numbers are in thousands]

Nationalities	1959	Percent of total	1970	Percent of total	2000 (A) Extrapolated 1959/70 growth	Percent of total	2000 (B) Bondarskaya hypothetical estimate	Percent of total
U.S.S.R.	280,827	100.0	241,720	100.0	(356,126)	(100.0)	(312,000)	(100.0)
Slavic	159,280	76.3	178,820	74.0	(244,229)	(68.6)	(201,364)	(64.5)
Great Russians	114,114	54.6	129,015	53.4	(179,137	(50.3)	(144,497)	(46.3)
Belorussians	7,913	3.8	9,052	3.7	(13,336)	(3.7)	(11,224)	(3.6)
Ukrainians	37,253	17.8	40,753	16.9	(51,756)	(14.5)	(45,643)	(14.6)
Muslim	24,744	11.8	35,084	14.5	(109,091	(30.6)	(104,809)	(33.6)
Azeri	2,940	1.4	4,380	1.8	(13,027)	(3.7)	(11,300)	(3.6)
Kazakhs	3,622	1.6	5,299	2.2	(14,872)	(4.2)	(13,459)	(4.3)
Kirgiz	969	.5	1,452	.6	(4,445)	(1.2)	(4,734)	(1.5)
Tadzhiks	1,397	.7	2,136	.9	(6,928)	(1.9)	(6,686)	(2.1)
Turkmen	1,002	.5	1,525	.6	(4,805)	(1.3)	(4,895)	(1.6)
Uzbeks	6,015	2.9	9,195	3.8	(29,823)	(8.4)	(29,148)	(9.3)
Others	8,799	4.2	11,097	4.6	[1] (36,000)	(10.1)	[1] (34,587)	(11.1)

[1] Derived from average of 1959 and 1970 shares that "Other Muslims" represents among all Muslims in both years.

Source: 1959 and 1970: TsSU S.S.S.R., "Itogi Vsesoyuznoy perepisi naseleniya 1970 goda," vol. IV, "Natsional 'nyy sostav naseleniya SSSR," Moscow, 1973, p. 9, and Murray Feshbach, "Prospects for Massive Out-Migration From Central Asia During the Next Decade" (forthcoming).

2000: (A) Extrapolation based on nationality growth during intercensal period of 1959 to 1970: (B) Approximate estimates based on G. A. Bondarskaya, "Rozhdayemost' v SSSR (Etnodemograficheskiy aspekt), Moscow, 1977, pp. 92–93. Also see Roman Szporluk, "Why Some Sociologists Are Alarmed in Russia," International Herald Tribune, Sept. 1, 1977, p. 4, based on a New York Times article.

TABLE 3.—ESTIMATED INCREMENTS IN THE POPULATION IN THE ABLE-BODIED AGES IN THE U.S.S.R., R.S.F.S.R., CENTRAL ASIA AND KAZAKHSTAN, AND THE TRANSCAUCASUS, BY PLAN PERIOD, 1971 TO 2000

[Based on data as of Jan. 1; in thousands]

Plan period	U.S.S.R. Total increase	U.S.S.R. Average annual increase	U.S.S.R. Average annual rate of increase	R.S.F.S.R. Total increase	R.S.F.S.R. As a percent of national increase	R.S.F.S.R. Average annual rate of increase	Central Asia and Kazakhstan Total increase	Central Asia and Kazakhstan As a percent of national increase	Central Asia and Kazakhstan Average annual rate of increase	Transcaucasus Total increase	Transcaucasus As a percent of national increase	Transcaucasus Average annual rate of increase
1971 to 1975	12,963	2,593	1.9	6,039	46.6	1.6	3,099	23.8	3.7	1,059	8.2	3.
1976 to 1980	10,378	2,076	1.4	3,928	37.8	1.0	3,444	33.2	3.5	1,142	11.0	3.
1981 to 1985	2,664	533	.3	−813	(1)	−.2	2,773	104.1	2.4	690	26.1	1.
1986 to 1990	2,630	526	.3	−880	(1)	−.2	2,880	109.5	2.2	514	19.5	1.
1991 to 1995	3,291	658	.4	−425	(1)	−.1	3,361	102.1	2.4	548	16.7	1.
1996 to 2000	8,101	1,620	1.0	1,964	24.2	.5	4,380	54.1	2.7	954	11.8	1.

[1] Not applicable.

Source: Unpublished estimates and projections prepared by the Foreign Demographic Analysis Division, Bureau of the Census, U.S. Department of Commerce in March 1977. Medium series

TABLE 4.—ESTIMATED AND PROJECTED NUMBERS OF 18-YEAR-OLD MALES IN THE U.S.S.R., THE R.S.F.S.R., CENTRAL ASIA AND KAZAKHSTAN, AND THE TRANSCAUCASUS, 1970 TO 2000

[Data as of July 1; in thousands]

Selected republic	1970 Number of 18-yr-old males	1970 Percent of total	1980 Number of 18-yr-old males	1980 Percent of total	1990 Number of 18-yr-old males	1990 Percent of total	2000 Number of 18-yr-old males	2000 Percent total
U.S.S.R.	2,238	100.0	2,542	100.0	2,135	100.0	2,544	100.0
R.S.F.S.R.	1,261	56.3	1,251	49.2	959	44.9	1,124	44.2
Central Asia and Kazakhstan	307	13.7	495	19.5	504	23.6	668	26.3
Kazakhstan	129	5.8	180	7.1	154	7.2	193	7.6
Uzbekistan	105	4.7	190	7.5	211	9.9	292	11.5
Turkmenia	22	1.0	35	1.4	39	1.8	51	2.0
Kirgizia	26	1.2	43	1.7	46	2.2	59	2.3
Tadzhikistan	25	1.1	47	1.8	54	2.5	73	2.9
Transcaucasus	113	5.0	170	6.7	141	6.6	176	6.9
Georgia	40	1.8	52	2.0	43	2.0	51	2.0
Armenia	26	1.2	38	1.5	30	1.4	37	1.5
Azerbaydzban	47	2.1	80	3.1	68	3.2	88	3.5

Source: Unpublished estimates and projections prepared by the Foreign Demographic Analysis Division, Bureau of the Census, U.S. Department of Commerce in March 1977. Medium series.

PERCENTAGE DISTRIBUTION OF THE POPULATIONS OF THE U.S.S.R. AND THE UNITED STATES, BY AGE GROUP, 1950 TO 2000

[Percent of own country total]

Age group and country	1950	1960	1970	1980	1990	2000
Total:						
U.S.S.R.	100.0	100.0	100.0	100.0	100.0	100.0
United States	100.0	100.0	100.0	100.0	100.0	100.0
0 to 15:						
U.S.S.R.	32.1	31.4	30.9	26.1	27.0	25.4
United States	28.3	32.6	30.2	24.2	24.0	23.4
16 to 59/54:						
U.S.S.R.	57.5	56.3	54.0	58.4	55.6	55.5
United States	57.1	51.9	53.2	57.5	57.2	57.8
60/55 and over:						
U.S.S.R.	10.4	12.4	15.0	15.4	17.4	19.1
United States	14.5	15.6	16.6	18.3	18.7	18.7

TAKING STOCK OF AMERICA'S FOREIGN POLICY

● Mr. CRANSTON. Mr. President, on Thursday, Deputy Secretary of State Warren Christopher, spoke to the World Affairs Council of Los Angeles. In his thoughtful address, Secretary Christopher discussed the foreign policy challenges facing the United States over the past 20 months, as well as the four main areas of foreign policy in which America has been and continues to be involved: National security, regional conflicts, the world economy, and human rights.

As the 95th session of Congress draws to a close, we have an opportunity to examine our country's foreign policy agenda, and I commend Warren Christopher's address to my colleagues' attention.

Mr. President, I ask that the entire text of "Taking Stock" be printed in the RECORD.

"TAKING STOCK"

(An address by Deputy Secretary of State Warren Christopher)

I realize that January is the usual time for taking inventory. But after 20 months in office, perhaps you will agree that now is a good time for taking stock.

America's foreign policy agenda is a full one. This is a healthy sign. It reflects an America that has emerged from the ordeal of Vietnam and Watergate. We are affirmatively engaged in the world, and exercising active world leadership.

It is a reality of the 1970's that we cannot simply command solutions to the world's problems. So many of the challenges we face today extend beyond the boundaries of any single nation—both in their origin and in their solution. Our leadership must increasingly take the form of inspiring other nations to work with us toward goals we share but cannot reach alone.

This inevitably is a long-term process. But on a wide range of issues, we have been active and we are, I believe, making progress. I would like to discuss four basic areas of foreign policy where this is the case—national security, regional conflicts, the world economy and human rights.

MAINTAINING OUR SECURITY

Our first priority is to maintain America's security.

It is a fact of modern life that our security depends upon maintaining an unsurpassed military capability—strong enough and flexible enough to meet any challenge we might face and to carry out our security commitments to our friends and allies. We have that capacity today, and we are determined to preserve it.

We are moving ahead with programs to modernize each of the three elements of our strategic nuclear forces:

We are building a new Trident submarine, which will have greater range and be more difficult to detect. And we are developing a new, even more powerful submarine-launched missile.

Our cruise missile program will greatly increase the future effectiveness of our strategic bombers. We will be able to deploy thousands of these missiles on our B–52's by the mid-1980's.

We are improving the accuracy and yield of our Minuteman land-based missiles and we are actively considering a number of options to enhance the survivability of our land-based missiles in the future.

One of our principal defense concerns has been to modernize NATO's forces to counter the build-up of Warsaw Pact capabilities in Central Europe. At our initiative, the NATO allies agreed at the recent summit in Washington to an unprecedented joint effort to move in a coordinated fashion to meet our collective defense needs.

As we reviewed NATO defenses, we were particularly concerned about the serious erosion of strength on NATO's southastern flank stemming in part from the embargo on the sale of U.S. arms to Turkey. With Congressional approval, the President recently lifted the embargo. Turkey in turn has already agreed to reactivate important U.S. intelligence facilities in that country. We are now in a much better position to work with each of the nations in the eastern Mediterranean area to help them resolve the difficult problems that have divided them.

An adequate military defense, essential as it is, is only one-half of the security equation. We live in an era when the United States and the Soviet Union share the capacity for mutual annihilation. To lessen that risk, we are engaged with the Soviet Union today in the broadest range of arms control negotiations in our history. Our objective in each of these negotiations is to impose equivalent restraints on both sides, and to be able to verify Soviet compliance.

After four years of painstaking negotiations under Presidents Ford and Carter, we are now within sight of a SALT II agreement. Secretary Vance will be in Moscow in about a week for further negotiations on the remaining issues.

The agreement that is emerging is a good one for the United States.

It will, for the first time, impose equal limits on the overall number of strategic missiles and bombers on both sides.

It will compel the Soviets to dismantle more than 250 strategic weapons they now have deployed; the U.S. is already below the overall ceiling.

It will place lower sub-limits on the most dangerous and destabilizing weapons—land-based missiles with multiple warheads.

It will, for the first time, place direct restrictions on the race to build new types of intercontinental ballistic weapons.

And at the same time it will enable us to go forward with the strategic improvements I mentioned earlier.

Let me emphasize that the SALT agreement we are negotiating does not rely upon blind trust that the Soviets will live up to its terms. We will be able to determine for ourselves whether they are complying through our own technical means of verification, including satellite reconnaissance.

In addition to SALT, we have made progress on negotiations with the Soviets and the British on a comprehensive ban on nuclear weapons testing. Such a ban would be a significant constraint on the inexorable competition to build even more dangerous and destructive weapons. Here, too, the question of verification is central. We want to be sure that we can ourselves monitor compliance with the terms of any such treaty.

There are a number of other important arms control negotiations with the Soviets that are proceeding—such as those to prevent a dangerous arms race in space; to ban chemical and radiological weapons; and to restrain the level of conventional arms sales.

The issues are intensely complicated and basic matters of national security are involved. But steady and deliberate progress is being made.

The danger to our security from the growth and spread of nuclear weapons is not confined to the US-Soviet competition. Twenty years ago, there were only three nuclear weapons nations. There are now more than a dozen nations which could develop a nuclear weapon within two years of a decision to do so. This problem can no longer be left on the back burner of American foreign policy.

We are acting with a greater sense of urgency than ever before to dissuade nations which do not yet have nuclear weapons from obtaining them. At the same time, we recognize that the development of peaceful nuclear energy is vital to the future of many nations.

We have therefore brought together 44 nations to explore safer nuclear energy alternatives. We have worked with Congress to develop tighter guidelines for the export of nuclear material and technology. And we have tried to persuade a number of countries that their energy needs can be met with safe nuclear energy technologies.

In the context of our security interests, let me say a word about our relationship with the Soviet Union and the People's Republic of China.

Since World War II US-Soviet relations have fluctuated between periods of high and low tension. During the past year, we have gone through a period of relatively higher tension. There are, however, encouraging signs that the strains we have experienced have begun to ease.

We still obviously have basic differences between us—in our view of history, in our conception of the proper relationship between the individual and the state, and—in many respects—in our objectives in the world. Given those differences, we must remain sober and realistic, yielding neither to euphoria nor despair. The approach we are pursuing with the Soviets—maintenance of our overall strength, measured steps toward concrete objectives where our interests converge, and vigorous efforts to resolve peacefully the conditions in the world that produce tensions—will, I believe, in the long run place our relations with the Soviets on a more stable, and a safer, footing.

We also have a strong strategic interest in improving our relations with the People's Republic of China. With more than a fifth of the world's population, China has an undeniable importance in world affairs and a major role in the peace and security of Asia. This administration has reaffirmed the commitment to normalizing our relations with Peking, always mindful of the future well-being of the people of Taiwan.

REGIONAL CONFLICTS

Our second priority over the past twenty months has been to help resolve the most serious regional conflicts. They exact a heavy toll in human lives, and they bring the danger of wider confrontation. Decades—sometimes centuries—of bitterness surround them, and they are also extraordinarily difficult to resolve.

The most notable progress has been in the Middle East.

The agreements produced at Camp David by President Sadat, Prime Minister Begin and President Carter provide a breakthrough which will enable the people of the Middle East to turn their backs on the conflict that has plagued the region for thirty years—and endangered the rest of the world. Many hard issues have yet to be settled. But an historic process has started and it is one on which all the parties in the Middle East can build.

Today, Egyptian and Israeli delegations are beginning direct negotiations at Blair House on a peace treaty between Egypt and Israel. They will be discussing the restoration of Egyptian sovereignty over the Sinai Peninsula and the future of the West Bank. These negotiations should provide for the establishment of peaceful and normal relations between Israel and Egypt. What a tremendous accomplishment that would be:

The role that we can play in defusing, and ultimately resolving, the continuing Lebanon crisis is more limited, but it is important that we work with other interested parties to help put an end to the bloodshed in that nation. This would permit the Lebanese to rebuild their tragically torn country, and would remove a grave threat to the larger

Middle East peace toward which all of us are working so hard.

For these reasons we took the lead in March to establish a U.N. peacekeeping force in Southern Lebanon. Most recently, we sponsored a U.N. resolution which resulted in a ceasefire established in the very dangerous situation in northern Lebanon. The ceasefire is fragile. Fighting could again erupt, in what is perhaps the most imminent threat to peace.

In southern Africa, we have worked with others to try to help provide the people of that region—black and white—with an alternative to violence for achieving majority rule. I do not know whether these efforts will succeed. But I do know that if the parties to these conflicts do not find a mutually agreeable basis for making that difficult transition, the alternative will be increasing violence and bloodshed.

In Namibia, the United States, together with the other four western members of the United Nations Security Council, and the African nations in the region, have been engaged in a major diplomatic effort over the past 17 months to end the fighting and to reach an agreement on a peaceful and fair transition process.

After long negotiations agreement was reached. The United Nations has endorsed it, and is prepared to implement it. South Africa, however, has recently expressed reservations and has indicated that it will proceed with its own separate plans for the country. As I return to Washington tonight, Secretary Vance will be preparing to leave for South Africa to try to overcome this remaining barrier to a lasting settlement.

In Rhodesia, we are convinced that the only way to stop a growing, bloody and dangerous civil war is for all the parties to meet with each other and agree upon a fair and peaceful solution.

There is some common ground between the competing parties in Rhodesia. Each side has now accepted the principle of free elections. However, both sides seek to dominate the transition period leading up to the elections.

Together with the British, we have proposed transitional arrangements that could break this impasse. While we believe that this proposal provides a just and realistic basis for settlement, we would support any arrangements to which the parties themselves could agree.

Last Monday, Secretary Vance met with Ian Smith and urged that he finally agree to talks among all the parties. We hope that he will seriously consider this proposal, and that both sides will negotiate in order to bring peace and majority rule to the people of Rhodesia.

To help break the present cycle of violence, it is essential that we maintain a position of impartiality. We have not—and we will not—favor either side, for to do so would close off the only realistic avenue for bringing the parties together. Only fair elections—not outside powers—should decide the future of Rhodesia. Only a government that has broad popular support will be stable and internationally accepted.

The stakes in Rhodesia are high. If a settlement cannot be achieved, war will bring great human tragedy, further economic instability, and ever-increasing foreign intervention. We cannot solve this problem for the people of Rhodesia. But we can and should bring all our influence to bear in support of a settlement that will enable all of the people of Rhodesia to choose their own leaders in fair elections.

We have tried to play a constructive role in resolving tensions in other dangerous trouble spots. We have worked from the first days of the Administration in support of the efforts of the United Nations to bring the parties to the Cyprus conflict together in negotiations. In the last month, we have had intensive contact with all the parties and we believe there is new and promising readiness for serious negotiations to try to settle this bitter and persistent conflict.

Closer to home, in this hemisphere, we have had to deal with the tragic events in Nicaragua. This situation presents a challenge to our capacity to answer the call for U.S. leadership in an era when gunboat diplomacy is behind us, and when we are firmly committed to the principle of non-intervention in the internal affairs of our Latin neighbors.

We believe international mediation between President Somoza and the Broad Opposition Front is the best approach. We have concentrated our diplomacy to that end. Both President Somoza and the opposition leaders have now accepted the offer of good offices of the United States, the Dominican Republic and Guatemala. Under the aegis of the OAS, representatives of these three countries are now in Managua to help the Nicaraguans find an enduring and democratic solution to their problems.

The new Panama Canal treaties also reflect our commitment to the peaceful resolution of disputes. The treaties that we concluded with Panama after fourteen years of negotiation have placed the future of the Canal on a sounder and more secure foundation, and they have opened a new era of relations with all of Latin America.

ENHANCING OUR ECONOMIC WELL-BEING

Our third priority over the past twenty months is to restore the economic health of the industrial nations after the shocks of the mid-seventies and to address the massive problem of economic development in the third World.

At the Bonn Summit this past summer, the United States and our major industrial partners agreed to a coordinated strategy to continue economic recovery. Positive results are already visible. The Germans and Japanese are taking expansionary steps. The U.S. Congress is completing work on the Administration's energy bill which will help reduce our dependence on foreign oil.

The U.S. trade balance is showing signs of improvement. I know that when I was in the private sector and heard government officials predicting better times. I would instinctively put my hand over my wallet. But having so warned you, let me say that we do believe that as a result of accelerated recoveries in Germany and Japan, more moderate growth in the U.S., and passage of the energy bill, we will see significant shifts in global trade balances next year, and a strengthened dollar.

In the coming years, our economic relations with the Third World will be increasingly important. Our exports of manufactured goods to the developing world already exceed our exports of these products to Western Europe, Japan and the communist countries combined. The developing countries are our fastest growing markets and critical sources of raw materials.

We have taken concrete steps to assist these countries in their development and their successful integration into the international economic system. We have taken a positive approach to commodity agreements which benefit both producers and consumers. We have increased our development assistance. And we have agreed to take meaures that will help ease the debt burden of the poorest nations.

There is still much more to be done. As a nation, we have only begun to come to terms with the fact that our major challenge of the remainder of this century is likely to be in our relations with the developing countries.

STRENGTHENING HUMAN RIGHTS

Fourth and finally, America today is reasserting the continued vitality of our commitment to individual freedom.

The fundamental objective of our human rights policy is to improve the observance of basic human rights throughout the world.

I am convinced that there is a new consciousness, a growing awareness, of human rights around the world. Old abuses are abandoned. New violations are avoided.

There are indications of concrete progress from many regions. Thousands of political prisoners have been freed in over a dozen countries. Torture of prisoners has been reduced and trials are more often open to the public. In a number of instances, the process of broadening press and political freedom has started. To be sure, the picture is mixed, and I share your outrage over conditions in Cambodia and other consistent violators of human rights, but I am convinced there is more good than bad.

We do not claim credit for the improvements that have taken place. When a country makes progress on human rights, it is the result of decisions made by its people and its government. But the U.S. policy has helped to create a climate in which such changes may be more likely.

In addition to its essential humanitarian purpose, our renewed attention to human rights strengthens U.S. interests in other ways as well. It demonstrates at home and abroad that our foreign policy is consistent with our values as a people. We should never forget that our founding ideals—grounded in a faith and respect for the individual—remain the most powerful ideas in the world. Our fidelity to those ideals is the core of our strength—as a people, as a nation, and as a world leader.

CONCLUSION

As I conclude, I want to say a few things about America's foreign policy.

Some have said that we are trying to do too much. I say that we cannot afford to do less in our own national interest. Our agenda has been shaped by certain inescapable imperatives: that we can no longer neglect certain problems merely because their full impact will not be felt immediately; that we cannot expect to achieve peace and economic prosperity for our own people unless we are prepared to exercise active leadership in the world; and that the nations of the world look to the United States to exercise the full measure of its leadership.

Some have said that our policies are inconsistent. I say that America has diverse and varied interests in the world, that we must constantly weigh them against each other, and try to move each of them forward when opportunities occur. No single consideration can always be determinative. Nor can a single phrase or slogan honestly encapsulate America's objectives. But the efforts I have described are all directed at important U.S. interests in the world.

Some have said that after Vietnam and Watergate, the Executive and Legislative Branches cannot work together on foreign policy. I say that the record over the past twenty months has been a good one. We have asked Congress to tackle some difficult issues and it has done so. There is, in my judgment, an unusually high degree of trust, frankness and mutual purpose between the President and Congress on critical foreign policy issues.

Some say that America is in a period of decline. I say they are wrong. We have emerged from Vietnam to play an active and constructive role of world leadership. That role is strongly internationalist and firmly grounded in American interests. Despite the diffusion of power in the world, the strength of America has never been greater.●

EQUAL RIGHTS AMENDMENT EXTENSION RESOLUTION: HOUSE JOINT RESOLUTION 638—THE PRESIDENT'S SIGNATURE IS NOT REQUIRED

● Mr. BAYH. Mr. President, by this time most of the country is aware of the Congress historic work regarding the exten-

sion of the time period for States to ratify the proposed 27th amendment to the Constitution—the equal rights amendment.

On August 15, 1978, the House of Representatives, by a vote of 233 to 189, passed the ERA extension resolution. On October 6, 1978, the Senate, by a vote of 60 to 36, likewise passed the ERA extension resolution, which then became law on that day.

On Friday, October 6, 1978 the Senate enrolling clerk then messaged House Joint Resolution 638 to the House Clerk. On Wednesday, October 11, 1978, the Speaker of the House, TIP O'NEILL, signed House Joint Resolution 638 and it was messaged back to the Senate. At that time Senator JAMES O. EASTLAND, the President of the Senate pro tempore, signed House Joint Resolution 638 and it was then messaged back to the House Clerk. The House Clerk, the afternoon of Wednesday, October 11, 1978, then presented the signed copy of House Joint Resolution 638 to President Carter for his deposit in the National Archives.

Mr. President, a question which arose during the House and Senate deliberations on the ERA extension resolution was the authority of Congress to regulate the amendment process—in particular—whether the President's signature is required.

The House Committee on the Judiciary issued its report on House Joint Resolution 638, on August 1, 1978. The distinguished chairman of the House Subcommittee on Civil and Constitutional Rights, DON EDWARDS, in reporting House Joint Resolution 638 discussed the committee's deliberations on whether the President's signature is required. I believe the House Committee on the Judiciary report is extremely relevant and ask that the portion of the report on "Presidential Signature" be printed in the RECORD.

The material follows:

PRESIDENTIAL SIGNATURE

The question was raised during the committee's deliberations on House Joint Resolution 638, whether the President's signature is required, particularly in the absence of a requirement that the resolution be enacted by a two-thirds vote of both Houses. The consensus of the witnesses testifying before the subcommittee was that Presidential approval is not constitutionally mandated. The amendment process is no less than a redefinition of the basic compact of our political union. The President is merely a creature of that compact, whose only functions derive from the terms of the compact. Those functions do not include a substantive role in the compact's initial formation or its subsequent alteration. The duty, power, and accompanying obligation to alter the basic compact—to propose an amendment to the Constitution—is reserved solely to Congress under article V of the Constitution. The Supreme Court opinion in *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798), reaffirmed in subsequent decisions, e.g. *Hawke* v. *Smith*, 253 U.S. 221 (1920), supports this view of the role of the Congress vis-a-vis the Executive in the amendment process. HOLLINGSWORTH held that the President's signature was not needed on a constitutional amendment. The opinion is generally cited for the proposition that the Executive plays no role in the amendment process.

It seems clear that the President has no role in originally proposing the mode of ratification; under article V that responsibility belongs exclusively to Congress. For the President to be involved in that decision would be unnecessary. It is no more necessary for the President to be involved subsequently. However, history shows that the President has played a symbolic role in the amendment process, in signing a proposed amendment (in the case of President Lincoln* and the 13th amendment) and in signing certifications of ratifications (in the case of Presdent Johnson and the 24th and 25th amendments). Such a role is not improper, nor does it detract from the role of Congress.

Mr. BAYH. Mr. President, I concur in the House Judiciary Committee report. The numerous constitutional scholars who testified before the Subcommittee on the Constitution, which I chair, also overwhelmingly concur in this position. Likewise, the Department of Justice testified in favor of this position.

The President's signature is not required; it has no effect, even if the President chooses to sign it; and further, the President does not have a veto power over any proposed constitutional amendment. Under article V of the Constitution of the United States the "mode of ratification" belongs exclusively to Congress.

The authority of Congress to regulate the constitutional amendment process derives from its power under article V of the Constitution. The Supreme Court has said, on several occasions, that these powers are exclusive and belong to Congress alone. In *Hollingsworth* v. *Virginia* 3 Dall. 378 (1798), the Court held that the Bill of Rights did not have to be submitted to the President for his signature after having been passed by the Congress. That case has been interpreted by subsequent Courts and by the vast majority of legal scholars and commentators to stand for the proposition that the President plays no role in the amendment process (*Hawke* v. *Smith*, 253 U.S. 221, 229–30 (1920)).

The House Judiciary Subcommittee on Civil and Constitutional Rights heard from seven witnesses at its hearings on the constitutional questions regarding the proposed ERA extension. Of those seven witnesses, only one, Charles Black from Yale School of Law, thought the extension would require the President's signature. When questioned, however, Professor Black acknowledged that the Supreme Court had held otherwise in Hollingsworth against Virginia.

The Subcommittee on the Constitution heard from five witnesses at its hearings this past August on the question of need of or lack of the President's signature. Of those five witnesses, four were in agreement that the President's signature was not necessary and the fifth, did not comment on it at all. At this point I would like to quote Prof. Thomas I. Emerson, Lines professor of law emeritus, Yale University Law School, in his letter dated September 15, 1978, to Congressman DON EDWARDS:

The Supreme Court held in *Hollingsworth* v. *Virginia*, 3 Dall. 378 (1798), that, despite Article I, Section 7, a resolution proposing an amendment under Article V does not require the President's signature. That decision has been cited with approval in later cases. See, e.g., *Hawke* v. *Smith*, 253 U.S. 221, 229–30 (1920). And Congress has consistently followed the practice of not submitting such resolutions to the President. The principle of law involved is simply that the President does not play any role in the amending process provided for by Article V. Since H.J. Res. 638 merely amends action taken through the original resolution it is plainly part of the amending process and hence does not require the President's signature.

Mr. President, I believe the historical, congressional, and Supreme Court precedent supports the view that we in the Senate and House have most recently adhered to with regard to the President and executive branch having no power in the constitutional amendment process.

We in the Senate, as our colleagues in the House, are appreciative of President Carter's strong support for and diligent efforts on behalf of the equal rights amendment. However, clearly, the only role the President could play in this process would be symbolic and ceremonial. The President may choose to sign House Joint Resolution 638, but it is not necessary that he do so. I believe very strongly that article V, the constitutional amendment process, is a matter between the Congress and the States, just as the framers of the Constitution saw fit to provide.

This body looks forward to a close working relationship with the President in assuring that both men and women are given equal treatment under the Constitution of the United States.

Mr. President, I now join with my colleagues, who overwhelmingly support the equal rights amendment, in urging the remaining 15 States who have not, as yet, ratified the equal rights amendment to do so immediately, so that we may be assured of equality of rights under law for all our citizens—both men and women.●

*Senate Judiciary Committee note.—President Lincoln did not sign the 13th Amendment which became a part of our Constitution, but signed a "proposed Article 13" in 1861, which never was ratified by the States.

U.S. EXPORT POLICY

● Mr. CASE. Mr. President, the sale abroad of commercial equipment which can readily be converted to military use raises important questions bearing on our foreign policy and the national security.

One such sale almost occurred recently with the State Department's quiet approval of four L–100 cargo aircraft to Syria. The L–100 is the civilian version of the famous C–130 Hercules cargo transport plane. Not only were the marginal differences between the two versions slight, but the planes were destined for a country whose foreign policy is detrimental to our own.

The details behind this story, of which we may not have heard the end, are spelled out in the CONGRESSIONAL RECORD of October 7, page 34435.

Mr. President, this is not the only sale of its kind to occur without congressional knowledge or consent.

There are others which I cited on October 11 in testimony before the Senate Banking, Housing, and Urban Affairs

Committee. I am hopeful that the new Congress will review this most serious issue as part of its responsibility for oversight of U.S. export policy.

Mr. President, I ask that the testimony I gave, along with supporting data, be printed in the RECORD.

The material follows:

STATEMENT BY SENATOR CLIFFORD P. CASE

Mr. Chairman, Members of the Committee, I wish to thank you for the opportunity to present my observations on some aspects of review procedures with respect to U.S. export control laws.

The matter of closer congressional and technology and arms sales abroad has been a high-level Executive Branch scrutiny of high subject of interest to me and, I know, to a number of our colleagues.

Over the years, we have viewed with increasing concern the continuing flow of weapons from the United States, the Soviet Union, France and other manufacturers to some of the world's most troubled areas.

Many advanced high technology weapons systems such as the AWACS sold to Iran, if sold in its original form and obtained by our enemies, could have an adverse effect on our own security.

We also know that certain sales, because of the numbers and types of weapons involved, as in the sale of 60 F–15s to Saudi Arabia, can contribute to shifts in regional balances of power.

From the concern that we in Congress have felt over such transactions emerged the Nelson Amendment, which calls for the systematic review of sales of arms to foreign countries by both Houses of Congress.

Not unexpectedly, congressional oversight of such sales has not always been welcomed by the Executive Branch. In some cases the Executive Branch has argued that, despite other concerns, a particular weapon in specific quantities should be sold to a particular country because of foreign policy considerations. During the recent dispute over the number of Maverick and Sidewinder missiles to Saudi Arabia and Hawk missiles to Jordan, for example, former Secretary of State Henry Kissinger contended that any cut in their numbers would hurt our relations with those two countries. We subsequently made those cuts, without any appreciable change in those relations.

But, in the few years since the Nelson amendment has been in force, however, the Executive Branch has made greater efforts to consult with Congress on proposed sales involving equipment and weapons systems clearly military in nature.

Problems have developed, however, in the grey area of sales of equipment which are commercial in nature but which can readily be converted to military use.

The most recent example is the quiet and unannounced State Department approval of the sale to Syria of four L–100s. This aircraft varies by no more than 10 percent in capability from the famous C–130 Hercules military cargo version. The L–100 can also be used to carry military as well as civilian cargo.

Approval of the sale of these planes to Syria was granted at the same time the Damascus government was already receiving a "carrot" in the form of a $90 million foreign aid appropriation in a House-Senate conference committee.

The Administration had conducted a high-level lobbying campaign for the foreign aid appropriation. (This lobbying effort was all the more interesting in view of the fact that just the week before, the State Department had indicated its acceptance of an aid cut for Syria by up to a third.)

Lockheed, the manufacturer of the L–100, had sought for two years to obtain a license for the sale but was turned down. The application was submitted again last August 27, shortly before the Camp David Summit began.

The export license for the sale was approved as a "routine decision" at a relatively low level at the State Department on September 27th—while Syria was continuing to attack the Camp David summit agreements. The sale was approved in less than a month and without prior consultation with Congress. The first indication of the sale came from a leak to the press. As a result of persistent inquiries from congressional offices, however, the State Department said that it was reviewing its September 27th decision.

Another example is the effort to sell 400 heavy-duty trucks to Libya. These trucks are suitable as tank transports and we all know that Libya is a major backer of international terrorism and has been involved in military adventurism along its borders.

Despite the fact that the Commerce Department ultimately rejected this sale, it is my information that a Swiss middleman may have made renewed inquiries to the truck factory on behalf of Libya.

Problems also exist in the case of equipment which, by itself, would have only legitimate civilian uses but which, if combined with other equipment—whether made by the United States or other countries—can form a deadly weapons package.

Earlier this year, for example, American Motors Corporation announced the construction of a factory outside Cairo to manufacture so-called utility vehicles, in this case, Jeeps. This transaction was approved by the Commerce and State Departments.

But the factory is reportedly to be constructed next to a factory for manufacturing British Swingfire anti-tank missiles. We are informed that these missiles may be mounted on the Jeeps, which could result in a highly versatile and mobile long-range anti-tank missile system.

I am told that some of the Jeeps which Egypt has already purchased have been seen passing in review in recent May Day parades, mounted with missiles.

The State Department was asked to comment on a *Detroit News* article which originally broke this story and which indicated that the Department had been aware that the Jeep factory was to be constructed next to the missile factory in Egypt. A document, reportedly classified, is said to show that the department was aware of the location and purpose of the Jeeps. Congress was never notified about any of this.

Mr. Chairman, I offer for the record an exchange of letters between Representative William Brodhead of Michigan and Chairman Lee Hamilton of the House International Europe and Middle East Subcommittee and the Commerce and State Departments on the matter of the Jeep sales (Exhibits A, B, C, D, E and F).

In another instance, the Commerce Department recently approved the Dresser Industries oil bit sale to the Soviet Union. It later appeared in the press that included in the sale is a component with potential armor-piercing capability, a direct military application.

Mr. Chairman, these recent examples raise serious questions as to current review procedures, especially with respect to the potential military and security significance of such sales.

It may be timely for Congress to consider applying a Nelson-type review procedure in these cases.

I thank the Chairman and the Members of the Committee.

EXHIBIT A

[From the Detroit News, Nov. 13, 1977]

AMC AGREES TO BUILD JEEPS IN EGYPT

(By John E. Peterson)

WASHINGTON.—An American Motors Corp. contract to build Jeeps in Egypt may constitute a "back door" arms deal which could alter the balance of power in the Middle East, say some members of the Senate Foreign Relations Committee.

The deal, announced last month by AMC and an Arab consortium, was approved by the State Department, which knew at the time that the Jeep plant was being constructed near a British anti-tank missile factory in a military industrial park east of Cairo.

The missiles, dubbed the Swingfire B, can be mounted on Jeeps and other military vehicles. Considered one of the world's most advanced anti-tank weapons, the Swingfire has an effective range of 2.5 miles and can be delivered at speeds of slightly less than 700 m.p.h. at targets hidden behind hills.

Members of the Foreign Relations Committee, including Sens. Richard Stone, D-Fla., and Clifford Case, R-N.J., say they are peeved that the State Department failed to inform the Senate the Jeep plant would be adjacent to the missile factory.

The Arms Control Export Act requires the Senate to approve U.S. weapons deals with foreign countries. The State Department's Office of Munitions Control approves export licenses for nonweapons deals which are then granted by the Commerce Department.

"If we had known about the proximity of the two plants, we almost certainly would have wanted to review the AMC contract," said the subcommittee staffer. "As it stands, we may call the approval back and hold a hearing on the matter.

"It doesn't take much imagination to realize the Egyptians very likely intend to drive the assembled Jeeps next door and equip them with Swingfire missiles. A few thousand Jeeps armed with those missiles would be an effective force against slower, less maneuverable Israeli tanks in any future conflict."

The State Department says it did not bother to clear the AMC contract with the Senate because the Jeeps are not manufactured with a weapons system and are classified as agricultural models.

The Senate found out about the missile plant second-hand—when a State Department document noting the plant's location was sent to other federal agencies, one of which tipped The Detroit News.

AMC officials denied any knowledge that the Jeep plant would be located next to the missile factory.

"Our position is that we are complying with U.S. law by not selling any lethal weapons to the Egyptians," said AMC spokesman Lloyd North.

North said AMC has no control "over what the Egyptians eventually do with the Jeeps" since it owns only 49 percent of the joint venture.

The controlling 51 percent interest in the facility is held by the Arab Industrial Organization, a consortium of the United Arab Emirates, Saudi Arabia, Qatar and Egypt, and financed mainly by Arab oil profits.

North declined to say how much AMC will invest in the 200,000-square-foot plant, which will produce Jeeps, Wagoneers and pickup trucks from parts manufactured by AMC in the United States.

Ground-breaking for the plant is scheduled this month, with completion set for next fall. The plant will be able to turn out 10,000 to 12,000 vehicles a year when it gears up to full production in 1981.

North said AMC is unable to estimate how many Jeeps will be included in the

annual production, adding that the decision likely will be made by the Arab consortium.

AMC also has a license agreement with an Israeli firm to assemble a small number of vehicles in Israel and had been on the Arab boycott list because of that involvement. AMC said it is confident the Arabs will agree to remove it from the boycott list, even though it intends to continue the Israeli agreement.

Foreign Relations Committee members indicated they are dissatisfied with the State Department's handling of the matter. They said Egypt contracted to purchase about 1,000 AMC Jeeps in 1974. Some of them were observed in Egypt's Independence Day parade last year carrying soldiers equipped with Swaggers, shoulder-fired, anti-tank missile launchers.

"The State Department can say the Jeeps AMC will be producing are agricultural models," the Near East subcommittee staffer said, "but it's clear that most of them are intended for the Egyptian army. They're not going to come off the assembly line with jazzy red and yellow stripes."

The anti-tank missile factory is a joint venture between the Arab consortium and the British Aircraft Corp. (BAC), which earlier this year signed a $70 million contract to build the facility. BAC, which developed the Swingfire in 1969, has supplied the weapon to Belgium and Egypt as well as its own country's armed forces.

Egyptian military leaders decided to purchase Jeeps from AMC several years ago after they became dissatisfied with Russian jeep-type vehicles supplied to them by the Soviet Union.

The Swingfire missiles are 42 inches long, weight 60 pounds and cost about $4,000 apiece. They are fired from a three-way launcher which can be mounted on the backs of vehicles and detached for ground use by infantry troops.

EXHIBIT B

NOVEMBER 21, 1977.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House Committee on International Relations, House Office Building.

DEAR LEE: Enclosed is an article which recently appeared in the Detroit News which details activities that I believe warrant the Subcommittee's attention.

I believe this matter raises two serious questions: (1) Did the State Department follow the letter and spirit of the Arms Control Export Act by not reporting the full details of this contract to Congress? (2) What changes are needed in reporting procedures or in the law to insure that Congress is adequately informed about "indirect arms sales" to foreign countries—that is, the sale of U.S. technology and equipment that can readily be converted to military purposes by foreign countries?

Thank you for your interest in this matter. I would appreciate being informed of any action the Subcommittee may take on this matter.

Sincerely yours,

WILLIAM M. BRODHEAD,
Representative in Congress.

EXHIBIT C

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C. November 22, 1977.

Hon. WILLIAM M. BRODHEAD,
U.S. House of Representatives, Cannon Office Building, Washington, D.C.

DEAR BILL: Thank you for your letter of November 21st enclosing an article from the Detroit News concerning an AMC Jeep Factory in Egypt which is located next to a missile plant.

The article certainly raises an important issue for the subcommittee. Over the next few weeks I will investigate the matter with the State Department and other relevant agencies. We have been aware for nearly three years of the activities of the AMC Corporation in Egypt and Egypt's need for new jeeps, but I was never aware that the keeps might be prepared with missile mounting equipment.

I will be in touch with you after I have had an opportunity to review the matter and, if the allegations are true, find out why Congress was not notified.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

EXHIBIT D

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., November 30, 1977.

Hon. WILLIAM M. BRODHEAD,
U.S. House of Representatives, Cannon Office Building, Washington, D.C.

DEAR BILL: I have had an opportunity to check briefly on the AMC Jeep plant in Egypt and examine the two questions you raised in your letter to me of November 21, 1977.

Your first question concerned whether the State Department followed the letter and spirit of the Arms Control Export Act by not reporting full details of this contract to Congress. The American Motors Company Jeeps to be produced in Egypt are the commercial version and are not subject to munitions control licensing procedures. The State Department, therefore, was technically not involved in this commercial transaction although you can be sure that the State Department gave its approval to the commercial license.

As I indicated to you in my letter of November 22nd, the subcommittee was aware of AMC's activities in Egypt for some time and the State Department has been forthcoming in telling us about our evolving relationships with Egypt over the last three years.

Your second question raises a key problem, the possibility of indirect arms sales. Although it is technically up to the Egyptian Government and AMC to determine where the Jeep factory is to be located and although the United States Government has no control over what other facilities might be located in the same area, I feel it is incumbent upon our government, AMC and others involved to report to us any instances when sold commercial equipment is being converted for military purposes.

At the moment I think the Arms Control and Export Act is fairly comprehensive and while it cannot deal with all possible instances of indirect arms sales, it does provide procedures for insuring adequate inspection of end use of equipment sold under provisions of the Act. In the case of the sale of commercial jeeps, however, there is no provision for end-use monitoring. There is a provision in the Export Administration Act requiring end-use monitoring for some high technology exports but this does not cover commercial contracts with friendly countries for jeeps which are not considered high technology items.

As you know, United States-Egyptian relations have improved dramatically over the last four years. President Sadat has played a key role in trying to prepare the way for peace talks in the region. He has moved to curb Soviet influence in the area and he is apparently committed to a peaceful settlement with Israel. It is in our interest to help him and his country. Given enormous transportation problems in Egypt and its badly equipped transport sector, the United States has moved in several ways to improve the situation. In the transportation sector, buses are being sold and several car companies are now, I gather, working with the Egyptians on possible arrangements. The AMC Jeep transaction should be seen as only one step in a larger picture.

I appreciate your inquiry and I will continue to follow this particular matter and report to you any further information we acquire on it.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

EXHIBIT E

NOVEMBER 21, 1977.

Hon. CYRUS VANCE,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Enclosed is an article which recently appeared in the Detroit News that I believe warrants your attention.

The article strongly suggests that the State Department did not carry out the spirit of the law or the intent of Congress by neglecting to report pertinent details about this contract.

The sale to a foreign country of U.S. technology that is readily adaptable to weapons technology already in use by that country has serious implications for our foreign policy, and I believe that Congress should be informed of such sales. I would appreciate your investigating this matter to determine why the Congress was not fully informed about this contract.

Thank you for your kind attention to this request.

Sincerely yours,

WILLIAM H. BRODHEAD,
Representative in Congress.

EXHIBIT F

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., January 2, 1978.

Hon. WILLIAM M. BRODHEAD,
House of Representatives, Washington, D.C.

DEAR MR. BRODHEAD: The Department of State has referred to this Department for reply your letter of November 21 to Secretary of State Vance concerning an American Motors Corporation (AMC) contract to build Jeeps in Egypt. The Jeeps in question are non-militarized, civilian form type vehicles available from any local dealer.

Most commercial exports of goods and technology are regulated by the Department of Commerce under the authority of the Export Administration Act. At present, the regulations promulgated by this Department to implement the Act permit the goods and technology involved in the manufacture of Jeeps to move to Egypt and most other free world countries without specific prior authorization by this Department. This reflects the non-military character of the product and related technology and the general policy of the Department to minimize controls over peaceful trade. AMC was under no obligation to advise us of the contract with Egypt or to seek our approval.

The desirability and feasibility of imposing stricter export controls on non-military vehicles such as Jeeps to achieve either security or foreign policy objectives has been reviewed various times within export control circles. It has been agreed that such controls would be virtually meaningless in the light of extensive production of such vehicles abroad, including the Communist nations. Moreover, the trade in used vehicles throughout the world is so widespread that U.S. enforcement of unilateral controls would be most difficult. The related production technology is also generally available from other countries. For this reason, the conclusion has been reached that restraints

on the export of the technology likewise are not called for.

Please let me know if I can be of further assistance.

Sincerely,

STANLEY J. MARCUSS,
Deputy Assistant Secretary for Trade Regulation.●

SALARY ADJUSTMENT AUTHORIZATION

● Mr. EASTLAND. Mr. President, for the information of the Senate and the general public, I submit for the RECORD a copy of an order which I signed as President pro tempore on October 9, 1978, authorizing certain salary adjustments under the provisions of the Federal Pay Comparability Act of 1970.

The information follows:

ORDER OF UNITED STATES SENATE, OFFICE OF THE PRESIDENT PRO TEMPORE

By virtue of the authority vested in me by section 4 of the Federal Pay Comparability Act of 1970, it is hereby—

Ordered,

CONVERSION TO NEW MULTIPLE

SECTION 1. (a) Except as otherwise specified in this Order or unless an annual rate of compensation of an employee whose compensation is disbursed by the Secretary of the Senate is adjusted in accordance with the provisions of this Order, the annual rate of compensation of each employee whose compensation is disbursed by the Secretary of the Senate is adjusted to that multiple of $189 which is nearest to but not less than the rate such employee was receiving on October 1, 1978, immediately prior to the application of this Order.

(b) For purposes of this Order—

(1) "employee" includes an officer other than a Senator; and

(2) "annual rate of compensation" does not include longevity compensation authorized by section 106 of the Legislative Branch Appropriation Act, 1963, as amended, or merit compensation authorized by section 109 of the Legislative Branch Appropriation Act, 1979.

RATE INCREASES FOR SPECIFIED POSITIONS

SEC. 2. (a) The annual rates of compensation of the Secretary of the Senate, the Sergeant at Arms and Doorkeeper, and the Legislative Counsel (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this order, at an annual rate in excess of either of the following: (1) the annual rate in effect for positions in level III of the Executive Schedule under section 5314 of title 5, United States Code, or (2) an annual rate of compensation which is $1,000 less than the annual rate of compensation of Senators.

(b) The annual rates of compensation of the Secretary for the Majority (other than the present incumbent) and the Secretary for the Minority (as such rates were increased by prior orders of the President pro tempore), and the maximum annual rate of compensation of the Secretary for the Majority (as long as that position is occupied by the present incumbent) (as such rate was increased by prior orders of the President pro tempore), are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $500 less than the annual rate of compensation, which is now or may hereafter be in in effect, for those positions referred to in subsection (a) of this section.

(c) The annual rates of compensation of the five Senior Counsels in the Office of the Legislative Counsel and the maximum annual rates of compensation of the Assistant Secretary of the Senate, the Parliamentarian, the Financial Clerk, the Assistant to the Majority Leader for Floor Operations, and the Assistant to the Minority Leader for Floor Operations, (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this subsection, an individual occupying a position whose annual rate of compensation is determined under this subsection shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of $1,000 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(d)(1) The maximum annual rate of compensation of the Director of the Office of Classified National Security Information in the Office of the Secretary of the Senate is increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $2,000 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(2) The maximum annual rate of compensation of the Special Deputy to the Federal Elections Commission in the Office of the Secretary of the Senate (as such rate was increased by prior orders of the President pro tempore) is further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $2,500 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(3) The maximum annual rate of compensation of the Chief Reporter of Debates (as such rate was increased by prior orders of the President pro tempore) is further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying the position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $3,900 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(4) The maximum annual rates of compensation of the seven Reporters of Debates in the Office of the Secretary of the Senate (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this Order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $4,300 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(5) The maximum annual rates of compensation of the Administrative Assistant in the Office of the President pro tempore and the Office of the Deputy President pro tempore (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $4,800 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

(6) The maximum annual rates of compensation of the Executive Assistant in the Office of the Secretary of the Conference of the Majority and the Office of the Secretary of the Conference of the Minority (as such rates were increased by prior orders of the President pro tempore) are further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189. Notwithstanding the provisions of this paragraph, an individual occupying a position whose annual rate of compensation is determined under this paragraph shall not be paid at any time, by reason of the promulgation of this order, at an annual rate of compensation in excess of the next lowest multiple of $189 which is at least $5,900 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in subsection (a) of this section.

CHAPLAIN'S OFFICE

SEC. 3. The annual rate of compensation of the Chaplain and the maximum annual rate of compensation for the position of secretary to the Chaplain are increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189.

OFFICES OF THE SENATE

SEC. 4. (a) The maximum annual rates of compensation for positions or classes of positions (other than those positions referred to in sections 2 (c) and (d) of this Order) under the jurisdiction of the President pro tempore, the Deputy President pro tempore, the Secretary of the Conference of the Majority, the Secretary of the Minority, the Secretary of the Senate, and the Sergeant at Arms are increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189.

(b) The following individuals are authorized to increase the annual rates of compensation of the employees specified by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189:

(1) the Vice President, for any employee under his jurisdiction;

(2) the President pro tempore, for any employee under his jurisdiction (subject to the provision of section 2 (d) of this Order);

(3) The Majority Leader, the Minority Leader, the Majority Whip, and the Minority Whip, for any employee under their respective jurisdictions;

(4) the Majority Leader, for the Secretary

for the Majority so long as the position is occupied by the present incumbent (subject to the provisions of section 2(b) of this Order);

(5) the Majority Leader and the Minority Leader, for the Assistant to the Majority Leader for Floor Operations and the Assistant to the Minority Leader for Floor Operations, respectively (subject to the provisions of section 2(c) of this Order);

(6) the Secretary of the Conference of the Majority and the Secretary of the Conference of the Minority, for any employee under their respective jurisdictions (subject to the provisions of section 2(d) of this Order);

(7) the Secretary of the Senate, for any employee under his jurisdiction (subject to the provisions of section 2 (c) and (d) of this Order);

(8) the Sergeant at Arms, for any employee under his jurisdiction;

(9) the Chaplain, for his secretary;

(10) the Legislative Counsel, subject to the approval of the President pro tempore, for any employee under his jurisdiction (other than the five Senior Counsels);

(11) the Secretary for the Majority and the Secretary for the Minority, for any employee under their respective jurisdictions; and

(12) the Capitol Guide Board, for the Chief Guide, the Deputy Chief Guide, the Assistant Chief Guide, and the Guides of the Capitol Guide Service.

(c) The limitation on the rate per hour per person provided by applicable law immediately prior to October 1, 1978, with respect to the folding of speeches and pamphlets for the Senate, is increased by 5.5 percent. The amount of such increase shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

(d) The limitations on the gross compensation which may be paid during a fiscal year to employees in the Offices of the Majority Leader, the Minority Leader, the Majority Whip, the Minority Whip, the Secretary for the Majority, and the Secretary for the Minority are each increased by 5.5 percent and, as so increased, adjusted to the next higher multiple of $189.

COMMITTEE STAFFS

SEC. 5. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, the chairman of any standing, special, or select committee of the Senate (including the majority and minority policy committees and the conference majority and conference minority of the Senate), and the chairman of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate, are each authorized to increase the annual rate of compensation of any employee of the committee, or any subcommittee thereof, of which he is chairman, by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189.

(b)(1) The figures "$21,122" and "$31,862" appearing in section 105(e) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 5(b)(1) of the Order of the President pro tempore of September 29, 1977), shall be deemed to refer to the figures "$22,302" and "$33,642", respectively.

(2) The maximum annual rates of "$52,984", "$55,132", and "$58,175" appearing in such section 105(e) (as provided in section 5(b)(2) of such Order of September 29, 1977) are each further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189, and shall be deemed to refer to the figures "$55,944", "$58,212", and "$61,425", respectively.

(3) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of a standing committee of the Senate or the majority or minority policy committee of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $189 which is at least $5,900, $4,600, and $2,000, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

(4) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any special or select committee of the Senate or the conference majority or conference minority of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $189 which is at least $5,900, $4,600, and $2,500, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

(5) Notwithstanding the provisions of paragraph (2) of this subsection, any individual occupying a position on the staff of any joint committee of the Congress whose funds are disbursed by the Secretary of the Senate to which any such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $189 which is at least $5,900, $4,800, and $2,900, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

SENATORS' OFFICES

SEC. 6. (a) Subject to the provisions of section 105 of the Legislative Branch Appropriation Act, 1968, as amended (as modified by this Order), and the other provisions of this Order, each Senator is authorized to increase the annual rate of compensation of any employee in his office by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189.

(b) The table contained in section 105(d)(1) of such Act shall be deemed to read as follows:

"$508,221 if the population of his State is less than 2,000,000;

"$522,963 if such population is 2,000,000 but less than 3,000,000;

"$558,495 if such population is 3,000,000 but less than 4,000,000.

"$604,233 if such population is 4,000,000 but less than 5,000,000.

"$641,655 if such population is 5,000,000 but less than 7,000,000.

"$680,967 if such population is 7,000,000 but less than 8,000,000;

"$701,757 if such population is 8,000,000 but less than 9,000,000;

"$723,681 if such population is 9,000,000 but less than 10,000,000;

"$756,567 if such population is 10,000,000 but less than 11,000,000.

"$799,659 if such population is 11,000,000 but less than 12,000,000.

"$832,545 if such population is 12,000,000 but less than 13,000,000.

"874,503 if such population is 13,000,000 but less than 15,000,000.

"$916,461 if such population is 15,000,000 but less than 17,000,000.

"$958,419 if such population is 17,000,000 but less than 19,000,000;

"$989,793 if such population is 19,000,000 but less than 21,000,000;

"$1,021,167 if such population is 21,000,000 or more.".

(c)(1) The second sentence of section 105(d)(2) of such Act (as modified by prior orders of the President pro tempore) is further modified to read as follows: "The salary of an employee in a Senator's office shall not be fixed under this paragraph at a rate less than $1,134 per annum or in excess of $30,807 per annum except that (i) the salaries of three employees may be fixed at rates of not more than the rate referred to in subsection (e)(1), (ii) the salaries of five employees may be fixed at rates of not more than $54,243 per annum, and (iii) the salary of one employee may be fixed at a rate of not more than $56,700 per annum.".

(2) Notwithstanding the modification made by paragraph (1) of this subsection, any individual occupying a position to which a rate referred to in clause (i), (ii), or (iii) of such modification applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $189 which is at least $5,900, $5,400, and $2,500, respectively, less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

(d) The figures "$149,286"" and "$49,762" appearing in subsections (a), (b)(1), and (b)(2) of section 111 of the Legislative Branch Appropriation Act, 1978, as amended, shall be deemed to refer to the figures "$157,626" and "$52,452", respectively.

GENERAL LIMITATION

SEC. 7. (a) The figure "$1,074" appearing in section 105(f) of the Legislative Branch Appropriation Act, 1968, as amended (as provided in section 7(a) of the order of the President pro tempore of September 29, 1977) shall be deemed to refer to the figure "$1,134".

(b)(1) The maximum annual rate of compensation of "$58,175" appearing in such section (as provided in section 7(b)(1) of such Order of September 29, 1977) is further increased by 5.5 percent, and as so increased, adjusted to the next higher multiple of $189, and shall be deemed to refer to the figure "$61,425".

(2) Notwithstanding the provisions of paragraph (1) of this subsection, any individual occupying a position to which such rate applies shall not be paid at any time at an annual rate in excess of the next lowest multiple of $189 which is at least $2,500 less than the annual rate of compensation, which is now or may hereafter be in effect, for those positions referred to in section 2(a) of this Order.

NOTIFYING DISBURSING OFFICE OF INCREASES

SEC. 8. In order for an employee to receive the increase in his annual rate of compensation pursuant to section 4, 5, or 6, the individual designated to authorize such increase for that employee shall notify the disbursing office of the Senate in writing that he authorizes such increase for that employee and the date on which such increase is to be effective. Such increase shall become effective as provided in section 105(a)(2) of the Legislative Branch Appropriation Act, 1968, except that if the notice required by the preceding sentence is given on or before October 14, 1978, such increase may become effective on or after October 1, 1978.

DUAL COMPENSATION

SEC. 9. The figure "$10,540" contained in section 5533(c)(1) of title 5, United States Code, shall be deemed to refer to the figure "$12,480".

EFFECTIVE DATE

SEC. 10. Sections 1–9 of this Order are effective October 1, 1978.

JAMES O. EASTLAND,
President pro tempore.

October 9, 1978.●

THE SUGAR STABILIZATION ACT

● Mr. ANDERSON. Mr. President, late last night this body passed H.R. 13750, the Sugar Stabilization Act. Minnesota family farmers have a heavy financial stake in the outcome of this important

legislation: we are the second largest beet growing State in the Nation, and are heavy corn producers. Corn growers of the Nation are solidly behind beet and cane growers in insisting upon a sugar stabilization program that gives the domestic sweetener industry a chance to survive.

From previous debates on this floor, from hearings in the Senate and the House, and from the Secretary of Agriculture's recent letters to all of us, there does not appear to be any dispute about the need to protect our domestic sugar industry. What is involved is how it can best be done.

I support our beet and corn growers in seeking that protection by a fair market price rather than subsidies out of the Treasury.

The House agreed to this position, and in their bill provided that price objectives should be achieved only in the market place.

Now the administration again says that the U.S. Treasury should borrow hundreds of millions of dollars and make payments to sugar processors, as an alternative. As a member of the Senate's Budget Committee I cannot agree. Quite frankly, the blank check pledge of Secretary Bergland's letter, saying that he will take care of increasing sugar production costs by deficiency payments under existing authorities, should disturb anyone concerned with controlling our budget.

We have made no provisions in our budget for any such payments, or any such costs of the sugar program. We have made no such provision because the sugar legislation has never called for payments, and does not now.

Yet, unless we do something to stop it, the administration threatens to act outside our budget controls to make future payments we haven't authorized.

These are the same administration people, who against the expressed wishes of the Congress in enacting previous legislation, paid out over $200 million of unappropriated funds in multimillion dollar payments to sugar processors primarily for the benefit of industrial users of sugar, who use about 80 percent of the sugar consumed in this country.

There is no reason to place these industrial users on welfare. Ten sugar processors received payments in excess of $10 million each under the administration's self-imposed program Congress sought to avoid; unless we prevent it now, more of this budget busting will occur again.

There is no evidence that these hundreds of millions of dollars in payments resulted in reduced prices to consumers. Sugar based products are at record levels despite the fact that the price of raw sugar is only 25 percent of the 1974 peak level.

Domestic sugar producers are opposed to payments by the Treasury. They know that with current interest rates the cost of this borrowed money for payments would double in 7 years. They want their return—any return we establish—in the marketplace.

This is the only way that meets the test of fiscal responsibility. We can not say we are concerned with inflation and then invite blank check payments from the Department of Agriculture for which we have not made any provision in our budget controls.

For that reason I was happy to join my colleague from South Dakota, Senator McGovern, in cosponsoring the amendment proposed by Senator Dole to make clear that Treasury payments are not used as a substitute for market prices in achieving fair returns to sugar producers.●

CARTER'S FOREIGN POLICY—A NEW WORLD FOR THE RUSSIANS

● Mr. HATCH. Mr. President, I would like to call the attention of the Senate to an article by the Honorable Clare Booth Luce in the October issue of the American Spectator. She points out the United States has responded to growing Soviet power by electing "a President admirably equipped by temperament, inclination, and inexperience to help us make a virtue of our political, military, and moral impotence."

That might seem to be a harsh assessment, but more and more people are noticing that we are, in fact, denying to ourselves that our vital interests and national security are threatened by the growing might of the U.S.S.R. We are falling into a foreign policy of self-deception in which we pretend that our concessions in the face of confrontation are great acts of statesmanship guided by moderation and restraint.

I ask that the article by the Honorable Clare Booth Luce be printed in the Record.

[From the American Spectator, October 1978]

CARTER'S FOREIGN POLICY—A NEW WORLD FOR THE RUSSIANS

(By Clare Booth Luce)

Walter Lippmann once called U.S. foreign policy the "Shield of the Republic." A sound foreign policy is the shield that protects a nation's vital interests abroad, its territorial integrity, its political independence, and the lives and fortunes of its people. The primary goal of a sound foreign policy is the maintenance of the nation's security, by peaceful or diplomatic methods if possible, by war if necessary. This is what Washington meant when he said in his Farewell Address that our foreign policy should be such that "we may choose peace or war, as our interest, guided by justice, shall counsel."

A nation can make no worse mistake in foreign policy than to substitute the ideal of peace for the idea of security. The corollary of this goal invariably becomes unilateral disarmament. Central to idealistic, pacifistic, and, perhaps, democratic thought has always been the belief that armaments are the cause of war, and that a nation that rejects the concept of force and unilaterally disarms will produce a similar "peace-loving" response from its enemies. This has been the most costly illusion of the democracies in this century. The substitution of the ideal of peace for the idea of security led an unarmed Britain to Munich in 1938; Munich led to World War II in 1939. Two years later, a U.S. foreign policy which had also made peace its supreme goal led America unprepared to Pearl Harbor.

In the lawless world of sovereign nations, the threat of force lies behind all international relations. The triad of diplomacy is persuasion, negotiation, and compromise. But diplomacy can be successful only insofar as it is backed by the triad of adequate military force—air, sea, and land power—and above all by the nation's will to use force, when diplomacy fails, to maintain its security.

Since the end of World War II our interests and those of our allies, "guided by justice," have constantly counseled that we should contain, at every step, the expansion of Soviet imperialism, by peaceful or diplomatic means if possible, but by war if necessary. The policy of global containment was designed in 1947 to prevent this expansion. Backed by predominant U.S. military strength, and supported by the people, it stood the test of Communist aggression in Korea. It succeeded in Western Europe where it has maintained peace for the longest period Europe has ever known.

The policy of containment perished in the long, ill-conceived and badly fought war in Vietnam. Dismayed by the magnitude of the task to contain Communist ideological and military expansion, the U.S. cut back its military commitments to the NATO bone, and in the name of a "higher morality" of peace, abandoned the Cold War struggle. And the ideal of peace, embodied in the policy of détente, once again became the supreme goal of U.S. foreign policy.

The melancholy results for American security of the past six years of détente have now become apparent. "A nation has security," Lippmann wrote, "when it does not have to sacrifice any of its vital interests in order to avoid war." Today the American people are beginning to realize that if the U.S. and its allies wish to avoid conflict with the USSR, or its surrogates, they must do so at the sacrifice of some of their vital interests. At the same time, many Americans fear that unless we do avoid war—war anywhere—we will risk nuclear annihiliation.

Opinion polls would show that many Americans believe that any war fought in Asia or Africa would turn into "another Vietnam." Despite our superior equipment and overwhelming firepower, we would get "bogged down" in jungles or mountains or savannahs or deserts, and the wily guerrilla tactics of the natives would wear us out and eventually drive us to a humiliating withdrawal. If the natives were supported or provisioned by the Soviets, we "certainly" couldn't win, since the very attempt to win would lead to a "confrontation" with Moscow. And *that* could lead to a nuclear war.

Nor, it seems, could we any longer win a conventional war in Europe. The conventional forces of the Warsaw Pact now outnumber NATO forces three to one. The only way we could halt a Soviet blitz to the channel would be to employ tactical nuclear weapons. And that would "certainly" escalate into nuclear war.

We can't fight a war in the Middle East, even though Israel's survival should depend on it. War on the side of Israel would not only lead to the destruction of the oil fields, on which the economies of all the industrial democracies now rely, but the Soviets would "certainly" come in on the side of the Palestinians, Syrians, Libyans, and Egyptians. And that, too, would lead to nuclear war.

And, as everyone knows, "nobody can win a nuclear war."

So what should we do when we begin to perceive that our vital interests are everywhere threatened by the advance of the enemy, but when at the same time we are certain that any military effort to defend them would end in nuclear destruction? The first thing we should do is to recognize that we have come a long way down the road to Munich since Vietnam. Without public recognition that the "Shield of the Republic" is in desperate need of repair, America has little hope of avoiding World War III—or the alternative of acquiescence to Soviet hegemony. But what we have done instead

is to deny to ourselves that our vital interests and our national security really are threatened by the growing might of the USSR and its slow but steady geopolitical advance; to cling desperately to our detente policy of trying to buy Soviet "friendship" with food, money, and technological goods; and to pretend to ourselves that our diplomatic concessions and military withdrawals, in any area of the world where we are faced with the by "moderation," "restraint," and even (as in the case of Israel) by a wise concern for slightest risk of "confrontation," are guided the "best interests" of our allies. What we also have done is to elect a President admirably equipped by temperament, inclination, and inexperience to help us make a virtue of our political, military, and moral impotence.

Consider that major address on foreign policy which Mr. Carter delivered in June 1977, at Notre Dame. This speech epitomized all the intellectual ruses by which we have been concealing from ourselves—and hoping to conceal from the world—the spirit of appeasement and defeatism that now guides our East-West policy. "I believe in detente with the Soviet Union," the President said. "To me, it means progress towards peace." Furthermore, "We are now free of our inordinate fear of Communism." What has freed us of this "inordinate fear" is the "lesson" that the U.S., then the strongest military power in the world, learned from the licking it took in Vietnam at the hands of the Communists. This "lesson," it seems, is that it is stupid and wicked for America to try to halt Communist military aggression with military means.

Said the President, "We fought fire with fire, never thinking that fire is better quenched with water. This approach failed, South Vietnam the best example of its intellectual and moral poverty." And what is this miraculous "water" that will now quench the fires of Communist military aggression? Why, the water of *words*, specifically, a flood of pietisic presidential rhetoric. While the President fully understood "the limits of moral suasion, it is a mistake to undervalue the power of words. . . . In the life of the human spirit, words are actions. . . ."

"We live in a new world," the President said. This presumably is the post-Vietnam world in which all right-thinking nations have come to realize that armed resistance to armed aggression is not only futile, but immoral. The principle that had once guided our foreign policy was "a belief that Soviet expansion was almost inevitable, and must be contained," but in the "new world" right is stronger than might, and so this principle is no longer valid. Words being actions, the President had acted—he had "reaffirmed America's commitment to human rights as a fundamental tenet of our foreign policy." And already his human-rights policy had begun to turn the evil tide of totalitarianism: "We can already see dramatic worldwide advances in the protection of the individual from the arbitrary power of the state. . . . The spirit of confidence [in the democratic system] is spreading." Obviously, this "new world . . . calls for a new foreign policy—a policy based on the consistent decency of its values, and an optimism in its historical vision." And what is that "historical vision"? The nearest the President came to defining it was to say that America's "historical role" is "to serve mankind." The address was, essentially, a peace-in-our-time rationalization of the long American Munich that began in Vietnam. It was everything that a people subconsciously ashamed and afraid to stay on the road to Munich—but consciously more afraid to get off—wanted to hear.

A year has passed since Mr. Carter unveiled his new-world, born-again foreign policy. But alack for Mr. Carter—and alas for America—the Communists have shown no willingness to be baptized in the salvific waters of Carterian rhetoric. The Soviet military build-up, in all weapon categories, including nuclear, has proceeded at the same furious pace as before the "new world" of democratic-totalitarian cooperation was created by presidential fiat. Soviet SALT negotiators have proved tougher than ever in their demands that the U.S. strip itself of its newest military "equalizers"—the cruise missile and neutron bomb. And, to the dismay of all except the congenital isolationists and spaced-out doves, like George McGovern, and the Black Africa-Firsters, like Andrew Young, the Soviets together with some 40,000 Cubans are off once again lighting new fires in Africa.

And indeed, what is to prevent them? Mr. Carter has gone on record that it is intellectually and morally reprehensible to "fight fire with fire" in far-off places with strange-sounding names. So for the Soviets and Cubans the military risks of expansion in Africa are negligible, while the material gains in controlling countries with valuable raw materials and the strategic advantages in securing coastal bases onthe oil-shipment routes of the West are enormous. The long-term gains of expansion in Africa were long ago pointed out by Lenin. "Who controls Africa," the Father of the USSR said, "controls Europe." The political and military vacuum that has existed on that vast, rich, disorganized continent since the end of European colonialism is not going to be filled by Washington hot air about human rights and majority rule. Dynamic Soviet imperialism has begun to fill it.

In the Middle East, no amount of shuttle diplomacy or Arab and Israeli state visits to Washington can any longer conceal the inability of the U.S. to produce an Arab-Israeli peace treaty acceptable to both sides. Mr. Carter's capacity to ignore international realities, and his proclivity for confusing presidential prestige and rhetoric with military power and political action, were again revealed in the address he delivered last May on the occasion of the 30th Anniversary of the founding of the state of Israel. "The United States," he declared, "will never waver from our deep friendship with Israel; our total, absolute commitment to Israel's security." The "total, absolute commitment" of one nation to the security of another is something that calls for a formal military alliance—such as the U.S. has with the NATO countries. But surely the President knew, even as he spoke, that not a dozen U.S. senators would support a U.S.-Israeli military treaty, or for that matter, any kind of commitment to Israel that might involve us in military action against the Arab nations. U.S. imperatives in the Middle East are militarily to strengthen the Saudis, Iranians, and Egyptians against the USSR and—at whatever costs to Israel—to maintain the flow of Arab oil to the West.

Israel has two imperatives: legitimacy and security—the recognition by its Arab neighbors of its right to nationhood, and its desperate need for defensible borders. But the mere recognition of its "right to exist" *by* the Arabs is not enough to protect Israel *from* the Arabs. Without the strong, unambiguous backing of the U.S.—Israel's *only* ally—Israel's chances of securing defensible frontiers, either in direct negotiations with the Arabs or at the Geneva peace table, are virtually nil.

With the shift in the balance of military power in favor of the USSR, and America's continued dependence on Arab oil, Israel can no longer count on this backing. Israel's demands for security are now seen in Washington as an "obstacle to peace." On the détente road to Munich as it winds through the Middle East, Israel is likely to become a victim.

And what has happened to that other "total and absolute" presidential commitment—Carter's global human-rights policy? His only contribution to foreign policy (which may be fortunate), Carter's attempt to apply his human-rights crusade to the USSR has been a stunning failure. Ironically, this attempt has done even more than events in Africa or the Middle East to expose the impotence of Washington *vis-a-vis* Moscow.

The President's insistence that Moscow honor the human-rights provisions of the Helsinki accords, followed by his overt support of Soviet dissidents, provoked a violent reaction in Moscow. And with some reason. The government of a sovereign nation has the right to treat its own citizens in any way it chooses. Overt interference by another nation with this right is always deeply resented, and (as any Class 4 Foreign Service Officer could have told Mr. Carter) not only worsens their relations but invariably fails—unless it is backed by strong political, economic, or military pressures.

Soviet leaders lost no time impressing upon Carter the fact that the U.S. is fresh out of such pressures. In the toughest language to come out of Moscow since the détente agreements were signed, they told President Carter that détente and SALT would not survive his interference in Soviet internal affairs. Soviet human-rights dissidents, and several Jews who had agitated to emigrate, were given show trials and sentenced to long years in prison, or hard labor in the Gulag. To emphasize further their displeasure, the Soviets charged F. J. Crawford, a Moscow-based executive of International Harvester, with illegal currency manipulation and popped him into prison. And two American Moscow correspondents, from the *New York Times* and the *Baltimore Sun*, were accused of slandering the Soviet state and fined for failing to reply to a Soviet court order to publish retractions.

The President has responded to all of these developments with a few small slaps on the mailed fist of the Kremlin. At Annapolis in June he warned the Soviet leaders against further adventurism in Africa. They must choose, he said, between "confrontation and cooperation" (whatever that meant). And in reprisal for Moscow's treatment of its own nationals, and ours, he called off several American technological missions scheduled to visit Moscow, cancelled the sale of a giant computer, and imposed an export-licensing system on sales of oil-related equipment.* But at the same time he reiterated his devotion to détente ("the road to peace and progress") and his desire for the consummation of a SALT treaty that is "fair to both parties."

In its notes on U.S.-Soviet affairs, the Advanced International Institute summed up: "Carter's Annapolis speech . . . evoked a Soviet frontal assault on all major areas of U.S. policy towards the USSR. . . . The keynote of this assault [a *Pravda* editorial] contained unparalleled overtones of arrogance and contempt, as well as threats to peace if the U.S. did not 'mend its ways.'" The gist of the "frontal assault" was that the "objective reality" is now a preponderance of military and ideological power in Soviet hands and short of initiating a suicidal nuclear holocaust, there is nothing the United States can do to prevent the USSR from accomplishing its world revolutionary mission. America's leaders do not seem to realize that America has "lost its strategic supremacy." Washington "is not taking into account the growth of the forces of World Socialism," and when it does, it will see that "the concept of confrontation holds no promise in the long term. . . . Washington strategists would be well advised to under-

*Shortly after this, however, the administration approved the sale of a Dresser Industries welding machine to the Soviet Union.

stand this." In the Soviet view, America can no longer "choose war or peace," as U.S. interests, guided by justice, counsel. Henceforth, America has no choice but to accept détente—and peace—on Soviet terms.

The Soviets do not ignore the reality of the vast potential strength of the U.S. But their confidence in the ultimate triumph of a Soviet-dominated world is based on the belief that the American people have lost the will to resist, and that our leadership is too confused, vacillating, and indecisive to develop policies, strategies, and capabilities to restore the balance of power to the West. Like the President himself, we are too enamored of the ideal of peace to focus on the idea of our own security—though it has now become a question of our survival.

But the Soviets could be wrong. There is a strong, stubborn current in America of anti-Communism which has now begun to surface again. Americans have been learning the hard way—thanks to Soviet actions in the last year—a lesson that is not yet too late for President Carter to learn: that the foreign policy of a great nation cannot be made "in the realm of the spirit." It must be made in the jungle world of sovereign nations, where foresight, purpose and resolve are more productive of peace and progress than noble visions and moral impulses, where firm actions speak louder than fair words, and where—in the end—mind more than heart, and might more than right, decide the fortunes of nations.

SCALES FALL FROM LEFT-WING EYES REGARDING COMMUNIST OPPRESSION IN VIETNAM

Mr. HATCH. Mr. President, the United States was defeated in Vietnam by the Western press and elements in the U.S. Congress itself. These people, some of whom may have been well-meaning but naive, repeatedly declared the only oppression that our military presence protected, and that the only bloodbath was the bloodbath caused by our weapons of destruction. They shrilly denounced the United States day after day, week after week, month after month, year after year until we abandoned the country to the Communists.

Events since have shown these people to have been completely and totally wrong. The French newspaper Le Monde, which was sympathetic to the Communist cause in the Vietnam war, has published a report that states that the Communist government of Vietnam has instituted a system of political repression more severe than anything known under the previous governments of South Vietnam. Things must really be bad for left-wing partisans to make such an admission. The report states that 800,000 people are locked up in camps with primitive living conditions and high death rates. The true facts prompted Le Monde to editorialize about Communist Vietnam's Gulag Archipelago and the Peace Crimes of the Communist victors.

I ask unanimous consent that an article from the Christian Science Monitor reporting on the growing repression in Vietnam be included in the RECORD.

The article follows:

[From the Christian Science Monitor, Oct. 6, 1978]

REPRESSION SAID TO GROW

(By Jim Browning)

The Communist Government of Vietnam has instituted a system of political repression and economic mismanagement more severe than anything known under the previous governments of Soviet Vietnam, according to an authoritative report in the left-wing French newspaper Le Monde.

The political prisons made infamous under the regime of former South Vietnamese President Nguyen Van Thieu now are fuller than before and are being expanded, the newspaper reported in its Oct. 5 edition.

Re-education camps set up for Army officers, officials, and supporters of the old government also are reported full. Despite promises to the contrary, almost no one has been released, even though the Vietnam war ended 3½ years ago, the Le Monde correspondent wrote.

He said refugees have documents purporting to show that as many as 800,000 persons are still in the camps, living in primitive conditions, short of food, often doing dangerous work, and allowed only rare visits. He was told that the death in some camps is high.

The report was filed by R. P. Paringaux after extensive research in Ho Chi Minh City (formerly Saigon) and in the countryside. It is rare for a Western correspondent to be allowed such access to the country.

Next to the article, Le Monde, the most respected newspaper in France and one that was sympathetic to the Communist cause in the Vietnam war, published a front-page editorial.

Entitled "Peace Crimes" it denounced what it called "Vietnam's Gulag Archipelago," and accused the Communist government of preferring "police state monologue to democratic debate."

FEDERAL ELECTION COMMISSION SCANDAL

Mr. HATCH. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the September 29 issue of the St. Louis Globe-Democrat which reports that the FEC is in a miserable state of affairs when the watchdog sleeps on the job, has to be pushed into action, and then cites its own regulation in preference to the law cited by a Federal judge.

Here would seem to be yet another example of the growing attitude on the part of Federal agencies that the regulations they issue are the only relevant law in the land.

[From the St. Louis Dispatch, Sept. 29, 1978]

SLEEPING FEC WATCHDOG

"The Federal Election Commission was created by Congress in 1975 to serve as a watchdog over national elections.

"It was supposed to be a bi-partisan commission that would enforce the laws without favoring any party, group or individuals.

"But, as can be seen in the case of $821,000 in 'reverse check-off' campaign contributions by a National Education Association-Political Action Committee that a federal judge has ruled were illegal, it is apparent the FEC has strayed far afield from its original mission.

"This case started in October 1976 when the National Right to Work Committee filed a complaint asking the FEC to take action against the NEA for using the reverse check-off system to collect campaign contributions from teachers. Under this system the NEA was accused of deducting campaign contributions from teachers' checks without getting their approval. If teachers objected to the campaign contribution deductions and wanted their money back, it was charged that they had to write a letter to their state or national NEA headquarters to get it returned.

"When the FEC refused to act, the Right to Work Committee obtained a court order requiring the FEC to do its duty. The FEC then took the case to the U.S. District Court in Washington where Judge Oliver Gasch, despite what was described as a weak presentation by the FEC, ruled on July 20 that the NEA-PAC's reverse check-off system—which operated from 1974 through 1977 and allegedly collected $821,000—is by its very nature illegal.

"Judge Gasch ruled that the reverse check-off system clearly violated the Federal Election Campaign Act of 1971 and ordered the NEA to refund all the money it had collected with this illegal system.

"Why there was no fine or penalty other than the order to refund is hard to understand. But the FEC's reluctant dragon attitude may have had something to do with this.

"Now one would assume under these circumstances that the 200 incumbent congressmen and senators who had received sizeable campaign contributions from the NEA-PAC in 1974 and 1976 would feel bound to return these contributions because of the allegations that some of this money came from illegal check-offs. (A just released report from Common Cause says that 237 House members received more than $600,000 from NEA in the 1974 and 1976 campaigns).

"But what actually happened?

"In July the Right to Work Committee made a demand that 'the candidates return the teachers' involuntary "contributions".'

"As a result of this, five members of Congress who had received contributions from the NEA-PAC asked the Federal Election Commission for an advisory opinion on the issue.

"The FEC quickly issued an advisory opinion that none of the candidates would be held accountable for having received the NEA-PAC contributions. In so doing it ignored Judge Gasch's decision that the reverse checkoff collection method violated the 1971 Federal Election Campaign act. The FEC claimed that the candidates were not accountable because the Federal Election Commission regulation prohibiting the use of reverse check-off was not effective until April 1977.

"This is a miserable state of affairs. The watchdog sleeps on the job, has to be pushed into action, and then cites its own regulation in preference to the law cited by a federal judge as it gave members of Congress a pass.

"If this is the way the FEC performs the country would be much better off without it." ●

CIVIL SERVICE REFORM ACT OF 1978

● Mr. SASSER. Mr. President, I rise to congratulate President Carter for the signing today of the historic Civil Service Reform Act of 1978.

President Carter has called civil service reform "the centerpiece" of his efforts to reorganize the Government, and I agree.

The legislation truly represents a historic step in making the bureaucracy more accountable to the people.

Mr. President, as chairman of the Senate Civil Service Subcommittee, I am pleased that I was able to play a part in advancing the civil service reform bill to its signing today.

But I wish to call special attention to President Carter, to the Chairman of the Civil Service Commission, Dr. Alan Campbell, and to the chairman and ranking member of the Governmental Affairs Committee, Senator RIBICOFF and PERCY, for the outstanding work that led to today's signing.

Many hours were spent in hearings, markups, on the Senate floor, and in conference, to address the pressing problems which have plagued the civil service sys-

tem and to write legislation which overcomes these problems.

This legislation gives us the tools to get the most efficient government for the taxpayers of this country—a goal well worth our months of effort.

Again, I congratulate President Carter for this important legislative achievement, and I look forward, as subcommittee chairman, to working with him to implement the new reforms.●

CRISIS IN LEBANON

Mr. KENNEDY. Mr. President, the world stands in shocked despair over the deepening human and political tragedy which has overwhelmed the people of Lebanon in recent weeks. The violence has reached a peak not seen since the darkest days of war in 1976.

Death and misery and destruction have become a way of life for Lebanon. The personal anguish and human misery of hundreds of thousands defies description and belief. As during the height of the conflict in 1976, the front lines of violence are everywhere, and no one is safe from wanton artillery shelling in civilian areas. Thousands more have been injured and maimed. More homes have been destroyed. Neighborhoods are besieged, and refugee numbers grow daily.

Mr. President, the Lebanese people cry out for peace and relief. But the response of the international community, and that of the United States, has not been adequate. Urgent humanitarian needs remain unmet.

The need for emergency food and medicine and blankets and shelter has never been greater than it is today. According to recent field reports, over 200,000 Lebanese are in need of assistance as a result of the recent fighting, and some 50,000 are expected to need extended assistance through the winter months.

Field reports suggest that the recent destructive violence, and the cumulative affect of many months of conflict, has created needs that far outstrip available resources.

The International Committee of the Red Cross (ICRC) is currently making a field assessment of humanitarian needs in Lebanon, and the ICRC is expected to launch an international appeal for assistance in the next few days. Best estimates are that the appeal will be for at least $10 million—perhaps more.

Mr. President, I am confident that when the appeal of the International Red Cross is made, the administration will move swiftly to respond to it fully and generously. Officials in the Agency for International Development have already responded to an urgent appeal for food assistance by Catholic Relief Services, allocating some $2.3 million in Public Law 480 food assistance.

I am also gratified that the Department of State has taken steps to respond to the needs of many Lebanese for safe-haven, and have once again implemented the special immigration measures for visa issuance and immigration processing that was adopted in 1976 after hearings before the Subcommittee on Refugees. I hope that where these special measures prove inadequate, that the Department will exercise humanitarian parole on a case-by-case basis, to accommodate the safe-haven or resettlement needs of Lebanese refugees who have strong family or other ties to the United States.

On the diplomatic front, equally urgent action is needed. I commend the initiative of President Carter in trying to bring the force of world attention and concern to the goal of achieving a stable cease-fire, and to facilitate negotiations to help defuse and resolve the political roots behind the violence.

For too long there has been a paralysis of diplomacy to end the conflict, and a silence in the international community over the perpetrators of the havoc in Lebanon. We must now move forward not only to bring an end to the terrible violence which affects all the communities of Lebanon, but to prevent it from disrupting the prospects for peace in the Middle East as a whole.

Mr. President, I ask that the attached editorial comment on the crisis in Lebanon be printed in the RECORD.

The material follows:

[From the Washington Post, Oct. 10, 1978]

CEASE-FIRE IN LEBANON

As one stares at the debris of the dozens of cease-fires that have been proclaimed and then broken in Lebanon in the last three years, it is idle to say that one of them has more value than the others. Yet the one that the United Nations Security Council demanded and the Christians and Syrians accepted over the weekend is precious indeed. It halted at least temporarily a frightful phase in the calamity that has become Lebanon's permanent way of life. And it forestalled an Israeli intervention in behalf of the Christians, with all the damage to the Arab-Israeli peace effort that could have done.

Through the summer, the militias guarding the Christian Maronite community in Beirut found themselves heavily engaged with the Syrian army, which has been occupying parts of Lebanon for two years, ostensibly to keep the peace in the Lebanese civil war. Did the militias provoke the attack? Which comes first is, by this time, a chicken-and-egg question in Lebanon. In any event, Syria took the occasion, or so it seems, not only to punish the militias but also to make Christian East Beirut uninhabitable and thus to threaten, by demoralization as much as by death, the whole Christian Maronite community. Civilians and civilian facilities were major targets, and Syrian fire was deadly.

Can the weekend cease-fire hold? There is a long chance that it could. One party—the Christian militias—may be frightened and headstrong and resistant to international discipline in the Lebanese manner. But the other—Syria—is something else. Though the U.N. appeal is an implied rebuke to Damascus, the Syrians may well wish to have others take over some further part of the thankless job of keeping the peace in Lebanon. They are probably less interested in provoking the collapse of the Arab-Israeli peace effort than in leaving open an eventual place in it for themselves. They are poorly placed to challenge, at the same time, the United States, which provides aid and a certain political support; and the Soviet Union, their military patron; and France, a traditional friend. All supported the cease-fire call.

Why the Russians? Jimmy Carter personally approached Leonid Brezhnev. Evidently the Kremlin did not want to cause trouble—trouble that could easily get out of hand in a way that could seriously discomfit Moscow—at an otherwise quite propitious moment in Soviet-American relations.

It remains a formidable task to use the time gained by the cease-fire to make a creditible start on healing Lebanon's wounds. The Camp David agreements, offering a potential way to lance Lebanon's Palestinian boil, are one possibility. Jimmy Carter's proposal for an international conference to recalibrate Lebanon's Moslem-Christian political balance is another. The matter should be at the top of the international agenda. More people have lost their lives in Lebanon in three years than in all the Arab-Israeli wars combined. The slaughter cannot be allowed to resume.

[From the Christian Science Monitor, Oct. 3, 1978]

DANGERS IN LEBANON

Twenty years ago the United States Marines landed in Lebanon to quiet a dangerous situation. Today such a unilateral show of force is no longer possible. Yet it is clear that something must be done about the growing factional fighting in that hapless country. Left to itself, the turmoil could reignite a full-scale civil war. It could also spill into a regional conflict and jeopardize the achievements of the Camp David summit.

Hence President Carter is right in taking the lead and trying to do something. He mentioned the Lebanese problem in his address to Congress after the summit. He later called for an international conference on Lebanon to try to end the fighting. And he and United Nations Secretary-General Kurt Waldheim now urge that a "framework" be developed for a political solution to the crisis. Considerable ambiguity surrounds all these moves but at least ideas are germinating behind the scenes.

The tragedy of Lebanon is that nothing was settled by the cease-fire following the 1975–1976 civil war. In theory, the whole country was placed under the authority of the central government but, in fact, a de facto partition has taken place. Today Lebanon is a cruel tangle of vying Christian and Muslim forces that have grown accustomed to living by the power of the gun and are reluctant to submit to an orderly state.

The Syrians, for their part, who intervened in 1975 when the Christians had their backs against the wall and saved them, now are themselves the target of Christian rightist militias who want them out of the country. The danger is that these Maronite militias will keep provoking the Syrians to the point where Israel will get involved. The Syrians perhaps have overreacted to the Christian provocations but basically they have been a stabilizing influence in Lebanon.

To add to this volatile situation, Lebanon remains the headquarters for the Palestinian resistance movement. The Palestinians have stayed out of the current fighting but PLO terrorist attacks on Israel that inevitably bring on Israeli retaliatory raids on Lebanese camps are a constant concern.

In these difficult circumstances the urgent need is to try to strengthen the central government in Beirut. President Elias Sarkis is trying to build an effective national army that could put down the factional conflict but that seems to be proceeding at slow pace. Suggestions that the United States should provide a small contingent of military officers and men to help train the Lebanese Army may be worth considering.

Even more important, however, the United States and other concerned parties must throw their weight behind a redistribution of political power in Lebanon. At the root of the country's turmoil has been the unwillingness of the Christian extremists to accept a reformulation of representation within the government. They want Christians to continue dominating the country as they

have in the past even though Muslims now are a majority of the population.

It seems clear that all hope of a united Lebanon will be lost if the principle of a fair sharing of power is not upheld. It is also clear that it will be hard to restrain the Palestinians if the political situation is not pulled together so that the central government can act from a strong unified position.

This is the objective to which the United States must earnestly give its attention.

[From the Christian Science Monitor, Sept. 25, 1978]

A DANGEROUS ALLIANCE IN LEBANON

(By William Porter)

Like a many-headed hydra, the Middle East problem has sprouted another very dangerous offshoot in the Lebanon. Though it differs in nature from the Arab-Israeli land problems, its ramifications are already severe, because it has aroused age-old fears of the Maronite community that it will be overrun by the Muslim majorities of Lebanon and Syria, augmented by the troops of the PLO, and their families. In effect, these Christians, driven by their fears, have been persuaded by Israeli diplomacy and power to enter an arrangement which effectively confers on the Israelis the role of Defender of the Christians of Lebanon.

It was to be expected that the earlier "cooperation" which developed between Christian elements and Israel would be maintained by both as a response to the pressure of the Muslim armies, but the present arrangement goes well beyond mere cooperation. In fact, it can be accurately described now as a full-fledged Israeli-Maronite military alliance, the existence of which portends grave events for all those involved, including the United States which indirectly furnishes most of the arms and other supplies needed to sustain it.

The arrival in Lebanon of the PLO, and later of the Syrian army, placed an intolerable strain on the Christians, particularly the Maronites. These had for long centuries deplored the circumstance that placed them cheek by jowl with the much more numerous Islamic Arabs of the interior. The presence of the French during the League of Nations mandate period—between the two world wars—eased matters temporarily for the Maronites and some other Christians who were receptive to French rule and culture; but at the same time benefits from that source were counterbalanced by the frictions which French policy created between Christian and Muslim Arabs; and when France withdrew from the Levant States, as it called Syria and Lebanon, the Muslims in both countries moved to rectify what they considered to be the imbalances of French rule.

In 1948 the British refused to implement the United Nations decision to create a Jewish state, and the well-prepared Jewish armies overwhelmed the Arabs of Palestine in short order. Lebanon then experienced the first great influx of Arab refugees from its war-torn southern neighbor. These were mostly civilians, however, and while the problems of absorption were real they were not insurmountable.

The next great wave of refugees followed the Israeli takeover of the West Bank in 1967 and strained Lebanese resources even more. Eventually, in the mid-1970s thousands of PLO troops arrived. These rude guerrillas had been ejected from both Jordan and Syria, where they had disputed the prerogatives of the established auhorities, and they proved to be neither absorbable nor tractable in the Lebanon. Aside from their insistence that they were not bound by Lebanese laws, they also brought upon the country Israeli retribution for PLO raids and bombings in Israel.

This, in broad brush, was the train of events that led to the Israeli-Maronite entente. As to the other Christian communities of the region, it should be noted that they are unlikely to follow the Maronite move.

For example, three of the four major Patriarchs of the Greek Orthodox Church are situated in Damascus, in Arab Jerusalem under Israeli control, and in Alexandria. These operate with a caution bred of many centuries of coexistence with Islam. They minister to important congregations and interests and there is little doubt that they see the Maronite initiative as harmful to Christian interests over the long term. They believe that all the energies and influence of which the Christians dispose should be directed toward bringing about the return of the PLO to the West Bank of the Jordan; and they see all too clearly that the Maronites' ally, Israel, is determined to prevent that by every means at its disposal.

S. 3083, THE QUIET COMMUNITIES ACT, FINAL PASSAGE

● Mr. CULVER. Mr. President, on July 19, 1978, the Senate passed S. 3083, the Quiet Communities Act.

It reauthorized the Noise Control Act of 1972 for 2 years and directs a change in focus for the Environmental Protection Agency (EPA) from setting national standards on noise sources to undertaking a comprehensive program of research, technical assistance, and discretionary grants in support of noise control programs at the State and local levels. This legislation is based on testimony taken at the first comprehensive oversight hearings by the Senate Resources Protection Subcommittee on the Noise Control Act in several years.

Comparable legislation was considered by the Subcommittee on Transportation and Commerce of the House Committee on Interstate and Foreign Commerce. The subcommittee is chaired by Mr. ROONEY, the distinguished Congressman from Pennsylvania. Under his able leadership a bill was approved by the committee in May and passed by the House on October 10, 1978.

The House adopted the basic provisions of S. 3083 after making three changes. These changes do not affect the programs established in the act and are acceptable to the Senate Committee on Environment and Public Works.

Briefly, the proposed amendments by the House reduce the authorization to 1 year, through fiscal year 1979; mandate a study by EPA and the Department of Transportation of airport noise which affects communities located in another State; and reiterate that no actions or plans developed under the act shall be inconsistent with existing Federal authority to regulate sources of noise in interstate commerce.

The Senate and House versions of the bill each contain technical amendments to the Resource Conservation and Recovery Act, Public Law 94–580. Those changes have been developed to correct certain errors in the drafting of the original legislation during the close of the 94th Congress 2 years ago.

Mr. President, the Quiet Communities Act should provide a real boost to States and local communities interested in controlling excessive noise. It is clear that Federal, State and local governments must work together in a complementary way to reduce unwanted noise.

OUR HEMISPHERE'S MISSION

Mr. SARBANES. Mr. President, the distinguished Senator from Massachusetts, Mr. KENNEDY, yesterday delivered an excellent speech to the Inter-American Press Association at its 34th annual meeting in Miami, Fla. Titled "Our Hemisphere's Mission," his address summarizes each of the outstanding issues today between our country and its neighbors in this hemisphere.

I hope Senator KENNEDY's remarks will be noted by Members of the Congress as a forceful and progressive agenda of the common needs of this hemisphere, and I ask that the text of his speech be printed in the RECORD.

The speech follows:

OUR HEMISPHERE'S MISSION

(By Senator EDWARD KENNEDY)

It is a pleasure to be able to speak today with such distinguished editors and publishers from throughout the hemisphere at this 34th General Assembly of the Inter-American Press Association.

I want to express my personal appreciation to your President, Tina Hills, for the invitation to address this gathering.

The Inter-American Press Association has a long history of championing the cause of freedom of the press, a history etched in resistance to government intervention and censorship.

The tragedy today is that too many of your members are still forced to defend the public's right to know against the heavy weight of government pressure. States of seige and states of emergency persist; the censor still practices his dishonorable profession.

Your Committee on Freedom of the Press has an all too long list of reporters and editors who have disappeared or have been imprisoned in Argentina, Chile, Uruguay and other countries in this Hemisphere.

I know that Mrs. Violeta Chamorro, a member of your Board, is with you today. Her courage and dedication reminds us only too well of her husband, Pedro Joaquin Chamorro, the brave editor and opposition leader of Nicaragua. Last year at your convention, Mr. Chamorro spoke of his own fight for liberty in Nicaragua. His assassination ten months ago was a terrible act by those unwilling to see freedom come to his country. Its futility is written in the explosion of disgust and rejection in wide sectors of Nicaraguan society. Its futility is written in the courageous voice of *La Prensa* which has refused to be silent. Its futility is written in the course of events since his tragic death.

Someday, the oppressors will learn: "One can kill a man, but never an idea."

ORIGINS OF ALLIANCE

When President Kennedy proposed the Alliance for Progress, in March 1961, he said that "Our hemisphere's mission is not yet completed. For our unfulfilled task is to demonstrate to the entire world that man's unsatisfied aspiration for economic progress and social justice can best be achieved by free men working within a framework of democratic institutions."

Over 17 years later, we are closer to fulfilling this mission. We are further along in our struggle for economic and social justice, for human rights and democratic institutions.

The Panama Canal Treaties have been a major factor in this progress and in these prospects. They have confirmed to the nations of Latin America and the world that the United States is no colonial power; that we do not wish to intervene in a country's internal affairs by dividing it into two; and that we want our relations conducted on the

basis of equality and mutual respect, with nations as small and weak as Panama or as large and powerful as the Soviet Union.

But significant tensions remain in inter-American relations. Obstacles to progress persist. The reasons are important to understand.

First, the Panama Canal Treaties helped to shift our attention toward policy problems. From human rights to arms control and economic issues, there has been some progress on the policy problems, but there has also been great friction and even confrontation.

Second, despite the enormous contribution of the Panama treaties, there remains a great residue of paternalism both in the way our neighbors perceive our actions and, frankly, in the way we approach "their" problems. Some of this is inherent in the asymmetry of power—in the sheer bigness of the United States. But there is too much unilateralism still in United States policy—too much of a "big brother" mentality—and not enough attention to genuinely multilateral approaches to what are *mutual* problems facing all of us. There are instances as well of other members of inter-American institutions not living up to their responsibilities, thus leaving a vacuum of leadership. We disregard at our peril the power of multilateralism—of the "community of the concerned."

DOMESTIC PRESSURES

Third, the new directions taken by the Carter Administration have come under increased domestic pressures. The arms manufacturers object to arms embargoes against human rights violators. A disturbing mood of protectionism is arising not only in the United States, but in other economies as well. Sugar growers object to an International Sugar Convention which can save many of our Caribbean neighbors, some of whom also happen to be fragile democracies, from financial catastrophe. The copper producers agitate for sales from the tin stockpiles to finance copper purchases, ruining the mineral economies of Bolivia and Peru. Neither the Congress nor elements of the Executive Branch have responded as effectively as possible to the clear call of President Carter for high standards of political and economic justice in the Hemisphere.

Fourth, and finally, there is our proverbial impatience with chronic problems. The fact today that democracy and human rights do not yet prevail throughout this Hemisphere, or that we disapprove of Cuban military intervention in Africa, leads some to urge that we befriend the despots or that we eject the Cuban Interests Section from Washington—and it leads others to shift their attention from the intractable problems of nearby friends to the delectable problems of distant enemies.

The lessons need to be relearned. The struggle for political and economic justice is a long and difficult one: what it needs is coherent articulation, persistent implementation, and broad-based support—nationally and multilaterally—from Congress to Congress, Administration to Administration.

The United States is not alone in its dedication to political and economic justice. For us to proceed as if we were lonely soldiers for justice is not only to succumb to national arrogance, but to neglect the power of multilateralism. In our dedication to human rights and democracy, we are joined by such nations as Venezuela, Colombia, Costa Rica, Jamaica, Mexico, and most recently the Dominican Republic. In these and other areas of mutual concern, the American states can and should join with like-minded partners in Western Europe and from among the non-aligned nations of Africa and Asia, who share these problems and can shift them from the emotion-laden US perspective to a more objective global perspective.

So we must restore purpose to the future. We must reduce the posturing of the past. We must act concretely on the key issues which we face in this Hemisphere—the economic, security and political issues that are shared by all of us.

THE ECONOMIC DIMENSION

Latin America is the most economically advanced region of the Third World. It is also highly differentiated economically between least developed nations or rural areas—such as Bolivia and Haiti or northeast Brazil and rural Mexico—and "advanced developing countries" such as Argentina, Brazil, Mexico and Venezuela. For policies to be effective, therefore, they must take into account both specific economic circumstances and their regional and global contexts.

By 1985, the economy of the region will be equivalent to Europe's in 1970, and its population will be double that of the United States, if present trends continue. It has enjoyed a higher rate of economic growth than the United States for the last quarter-century. In this decade, Latin America has grown at an average annual rate of almost 5% compared to only 2% for the OECD. Against this impressive record, three major problems face the economic and social planners, not only in increasing the rate of growth but in translating it into decent living conditions for all people in the Hemisphere.

First, there is the appalling blight of poverty amidst general wealth. In the region as a whole, the bottom half of the population must survive on a per capita income of less than $200 per year. 5% of the population controls 33% of the wealth, and the incomes of the rich are increasing much faster than those of the poor. Latin America and the Caribbean continue to experience an epidemic of malnutrition and inadequate shelter. Almost 8 out of every 100 children die at birth. Now that the average per capita income exceeds $1000 per year, these facts are intolerable.

Second, 12 countries still depend on one or two primary products for most of their export income, on which their continued economic growth must largely depend. To take one example, 48% of the foreign exchange earnings of the Dominican Republic depend on sugar exports, but the price of sugar has plummeted from 20¢ to 7¢ a pound from 1975 to 1977, with sugar earnings dropping by $300 million a year. If the democratically elected government of President Guzmán is to survive and prosper, crash efforts are needed to stabilize international sugar prices and to assist the Dominican government in its efforts to diversify the Dominican economy.

Third, no region in the world is more dependent on imported oil than non-OPEC Latin America and the Caribbean. The quadrupling of oil prices since the first OPEC embargo in 1973 cut growth rates almost in half—and energy scarcity looms as a major obstacle to future growth in most of the Hemisphere.

DISTRIBUTION OF WEALTH

The first problem, distribution of wealth, is one of the most difficult to solve. It will require long-term and determined efforts in both the public and private sectors to make important progress. Yet, together with the future of democratic institutions in this Hemisphere, it will prove decisive in determining whether we can move toward social justice in peace and stability—or whether there will be increased potential for violent upheavals.

"Unless necessary social reforms, including land and tax reform, are freely made—unless we broaden the opportunity for all our people," President Kennedy said, "then our alliance, our revolution, our dream, and our freedom will fail."

The emphasis of the United States and multilateral lenders on channeling aid to basic human needs makes a contribution in the right direction. But we must remind ourselves that the economic and social policies which a country follows are vastly more important in determining the extent and quality of development than the most generous external lending program. This underlines the need for international banks to consider suspending their lending programs in countries where it is commonly recognized that unsound policies are being pursued. Similarly, public and private agencies should respond generously in support of efforts to ensure full popular participation in economic progress.

We cannot over-stress the importance of the multilateral banks in social and economic development. All but a very small fraction of the official or public capital that flows to Latin America comes from these banks. They therefore have a heavy responsibility to encourage and support equitable social and economic development, and they must reflect a concern for fundamental human rights. The goal of development is to improve the lives of individuals. When repression is institutionalized, the basic purposes of development are brought into question.

LARGE FOREIGN DEBTS

We must also face up to the fact that Latin American and Caribbean countries now owe about $80 billion. They must use over 90 percent of their new aid to service existing debts. They must borrow over 60 percent of their money from private banks at interest rates which average over 9 percent. Countries such as Peru are borrowing themselves into bankruptcy. Because Peru is considered a high risk, it must pay roughly 11.5 percent in interest rates. But the lenders do not hesitate to impose far more burdensome criteria for repayment than they would dare to impose on domestic corporations in similar circumstances. It is also unjust when political democracies struggling for social democracy, like Jamaica, are punished by excessively strict criteria—criteria that we would not tolerate in the United States while some larger but less than democratic nations such as Brazil have no difficulty in getting all the favorable financial credits they can ask for.

The lenders should review their rate of return and consider their corporate responsibilities. They should consider whether they cannot at least mitigate the hardship of the debtors by rescheduling the debts. They should earmark substantial portions of each loan and investment for health, nutrition, housing and other projects which are so desperately needed in the region. I see no reason why governments cannot require, as a condition of investment, corporate contributions to health and other facilities meeting the basic needs of their work force. American corporations have done this in the United States; they should be expected to in foreign countries as well. By methods such as these, we can harness the engines of private investment for social as well as for corporate good.

The second problem, over-dependence on primary products, is also difficult to solve over the short term. But governmental and non-governmental funds should be applied to economic diversification, as they should be to maldistribution of wealth. Vehicles for achieving this include the Caribbean Group, initiated by the Carter Administration, and the Andean and Central American common markets—although the latter has been set back seriously by national upheavals and regional antagonisms.

The United States and other developed economies can do far more to assure price stability and product availability by ratifying vital commodity agreements—for example, coffee and sugar—and by contributing to a Common Fund, pooling commodities and re-

straining the worst fluctuations in prices and supplies.

OPENING OUR MARKETS

We can make a major contribution to economic diversification and growth by opening our markets to manufactured goods from the less developed countries. In Latin America, manufactures have doubled from 10 to 20% of export earnings. Tariffs and non-tariff barriers remain too high both in the developed and the developing countries for the good of either the consumer or the Hemisphere as a whole. The key must be to strike a global trade bargain in the interest of all nations—but with special attention to developing countries—at the Multilateral Trade Negotiations currently underway in Geneva. Much credit for progress on the North/South issues at the MTN should go to Brazil—but more leadership is needed from all countries of this Hemisphere if we are to achieve an accord meeting the most important needs of developed and developing countries. Over the longer term, we should look forward to full Latin American participation in the General Agreement on Tariffs and Trade (GATT), as the region seeks to liberalize its trading relationship with the rest of the world.

The third problem, energy scarcity, is one in which I believe we can make major progress. The Hemisphere has vast oil and natural gas reserves—currently in our Alaskan North Slope, Canada, Mexico and Venezuela, and possibly in the future in Argentina, Brazil as well as the continental shelf.

MEXICAN OIL RESERVES

Mexico is an important case in point. Last March, I held hearings of the Joint Economic Committee on world oil supply in which a senior scientist for the United States Geological Service, Dr. Bernard Grossling, testified to a skeptical audience that Mexico had an astonishing 280 billion barrels of petroleum, maybe more.

Since then, even conservative Mexican Government estimates point toward 200 billion barrels, and the Atlantic Richfield Company—not known for exaggerating other people's properties—has offered the opinion that Mexico probably has twice that much. It is no wonder, therefore, that you men and women of the press have begun writing the Mexican story. It is an exciting story, full of promise and possibilities for Mexico and the world.

The wonder is why Mexican oil and gas resources have been given so little attention and priority by the Administration. Although some estimates indicate that Mexico could both meet its own vital development needs and supply 25 per cent of United States imports by 1990, Mexico appears not to have been taken seriously into account by the United States.

When Mexico offered to sell the United States about 2.5 per cent of our natural gas requirements, with the prospect of more to follow, the Energy Department rejected the gas contract. When Mexico offered to sell up to 40,000 barrels of oil per day to the United States strategic reserve *at a price below the competition*, the Defense Department rejected the oil contract.

Although Mexico has been prepared to enter talks with the United States on a comprehensive basis, linking such critical issues as energy, trade, air and water rights and immigration, we have been slow to move forward because of the complexity of our laws, the inertia of our bureaucracy, and a conceptual failure to inter-relate the various strands of our Mexican policies.

Across the board, it is fair to say that we have failed to accord Mexico the same attention and respect offered countries such as Iran and Saudi Arabia. Given Mexican nationalization of its energy sources and extensive multinational investments in the Middle East, continued inattention to Mexico would give the unfortunate impression that the United States is less interested in meeting the energy needs of the consumer than in protecting the financial stakes of the major oil companies.

MISTAKES OF THE PAST

I believe we can recover from the serious mistakes made in our past dealings. I believe we can formulate arrangements of long-term mutual benefit to both Mexico and the United States, arrangements which address our respective interests and concerns in a balanced and long-term manner. And I believe we can do so in the context of steadily shifting our dependence on imported oil from the Middle East to the Western Hemisphere.

Non-OPEC Latin America has 3.8 million square miles of petroleum prospecting areas, or about half of all the potential in the world outside OPEC. Yes, Latin America has less than one percent of the drilling density of the United States. Our March hearings revealed that more oil wells have been drilled in Kansas than in all of Latin America. While the United States has been drilled full of holes, more than two million of them, Latin America has been barely touched.

Last month, the Latin American energy ministers met in Mexico City and called for regional funding both to study oil and geothermal energy sources and to engage in oil exploration efforts. The United States should strongly support these recommendations, and work closely with OLADE, the regional energy organization, in carrying them out.

Second, I believe that the governments of this Hemisphere should establish a much larger fund to finance drilling activities, both by state-owned enterprises and private companies. In addition to the World Bank, the Inter-American Development Bank (IDB) should finance both exploration and drilling efforts—which it is presently considering—and the Congress should make a special appropriation to IDB for this purpose.

Third, the United States should increase access to the necessary technology for oil exploration both in this Hemisphere and in the developing world as a whole. The vehicle could be our projected Foundation for International Technical Cooperation, which is to catalyze, at long last, North/South technology—sharing for economic development—a goal highlighted by the recent UN Conference on Technical Cooperation Among Developing Countries.

THE SECURITY DIMENSION

With the energy problem have come increased security risks in the Hemipshere. The desire to reduce dependence on fossile fuel sources has increased the interest in non-fossil alternatives—most importantly nuclear power. But, as demonstrated by the Indian nuclear explosion in 1974, the spread of nuclear power raises the specter of nuclear weapons proliferation.

In our Hemipshere, Brazil's contract to acquire from West Germany not only nuclear reactors, but enrichment and reprocessing facilities, has exacerbated fears of nuclear proliferation. Nuclear reactors under effective international safeguards can meet electric power needs safely in the years ahead, but it is vital to find acceptable alternatives to the spread of national enrichment and reprocessing facilities and the direct access they provide to nuclear weapons materials. These alternatives must include assured and economical supplies of nuclear fuel and reactors, meeting the legitimate energy needs of all states.

This is why we should all hope for Brazilian reconsideration of plans to acquire a complete nuclear fuel cycle—and in particular the capability to reprocess plutonium. This would entail a special act of statesmanship by the government of Brazil. It has invested great prestige in its nuclear power program, and I believe that any solution must protect the future energy security of this dynamic and increasingly important country.

Brazil's sense of regional and global responsibility has led it to oppose the spread of nuclear weapons and to join the Latin American Nuclear Free Zone. I hope that its government will consider objectively and dispassionately whether projected sensitive nuclear facilities could lead other, less responsible governments to acquire similar bomb-producing capabilities, to the disadvantage of all states in the region, including Brazil.

We should all be encouraged by the progress made toward universal adherence to the Treaty of Tlatelolco, establishing a Latin American Nuclear Free Zone. President Carter has signed, and the United States Senate should now ratify, Protocol I of this important Treaty; France should also adhere to this Protocol; Argentina should carry out its commitment to follow up its signature with ratification. The USSR should complete its ratification of Protocol II, and Cuba should follow suit by joining the Nuclear Free Zone. Then Latin America will become the first continent—after Antarctica—to rule out nuclear weapons, setting an important example for the rest of the world.

Finally, we should look to the day when we can bring the conventional arms race to an end in our Hemisphere. Last year alone, the governments of Latin America and the Caribbean spent $918 million on purchases of arms, money which could have eliminated malnutrition and preventable disease. Nor are we blameless: the Congress has refused to cut the United States defense budget by even 1%, which could have been used for bread and medicine instead of for military fat. The eight parties to the Ayachucho Convention have set the lead by agreeing not to import new categories of offensive arms. Now Europeans sell more arms to Latin America than does the United States. An early priority of our ongoing Conventional Arms Transfer negotiations should be to secure restraint in arms sales to Latin America—matching restraint in the region's arms purchases—restraint which can liberate our governments to devote all of our resources to the urgent human needs of their citizens.

The arms race is a worldwide problem, especially for the two superpowers—the United States and the Soviet Union. But perhaps this Hemisphere has the best chance to show the rest of the world how to transform one of mankind's greatest shames—the needless waste of billions of dollars and millions of men in military competition—into one of mankind's greatest hopes—international cooperation for development and democracy. Hemispheric disarmament can only further democracy.

THE POLITICAL DIMENSION

There is no more profound commitment in this Hemisphere than to democracy and to human rights. In the early 19th century, the United States made common cause with the generation of Simon Bolivar and José de San Martin to liberate Latin America from the yoke of European imperialism. In 60 years following the Spanish-American War, more often than not we betrayed this revolutionary heritage and made common cause not with the peoples of this Hemisphere, but with the repressive, upper-class, increasingly militarized regimes which had taken the place of the colonial authorities after independence.

The 1960's and early 1970's were times of conflict between the progressive response to popular aspirations and the interventionist tendencies of the past. The Alliance for Progress was the reflection of a generous and progressive impulse, but it became paralyzed by inadequate differentiation of national conditions, the accumulated power of the status quo and vested interests, and by the subordination of developmental objectives to false security considerations. The sorry record

of Cold War military interventionism—Guatemala in 1954, the Bay of Pigs in 1961, the Dominican Republic in 1965 and the "destabilization" of the Goulart government in 1964 and of the Allende government in 1973—we trust has now ended.

To his enormous credit, President Carter has articulated the strong commitment of our nation to democracy and human rights throughout the hemisphere. In a historic address last June at the OAS General Assembly, the President pledged that "we will continually support and encourage political systems that allow their people to participate freely and democratically in the decisicns that affect their lives." The very statement and re-statement of this commitment—so notably lacking in previous Administrations—has bolstered the morale of democratic leaders who courageously oppose, day in and day out, the military rules and the dictators of so many countries of Latin America and the Caribbean.

AN EFFECTIVE POLICY

Second, there is now no government in the world—excepting Cambodia and Uganda—which can ignore the issue of human rights. Throughout the Hemisphere, there is abundant evidence of the effectiveness of the Carter human rights policy, which has deep popular roots. We can take quiet pride in the steadfast posture of the President and Congress and rejoice with those whose suffering has been relieved.

Third, regional institutions have been strengthened in the field of human rights. The Inter-American Human Rights Commission plays an essential and increasingly active role, and its budget has tripled over the past year. Thirteen nations have ratified the American Convention on Human Rights, in contrast to only 2 before President Carter took office, and it has now entered into force. The President signed this Convention last June, and it should be ratified by the Senate next year—in addition to the Genocide Convention which has been pending disgracefully for the past 30 years.

Fourth, we should keep our door open to those refugees fleeing persecution and the violation of their basic human rights. I have strongly supported resettlement opportunities for refugees from Argentina, Chile and other countries—and I shall continue to do so. Just last month, I supported legislation that provides for the orderly adjustment of these refugees' immigration status, to allow them to become permanent resident aliens and more rapidly normalize their lives in our country.

One of the first items on my agenda next year will be for the Judiciary Committee to study legislation that will reform our discriminatory laws relating to the admission of refugees—to establish once and for all a national refugee policy that will treat all refugees equally. Currently, the law discriminates against refugees in the Western Hemisphere, and makes it more difficult for us to respond to the growing number of human rights and refugee problems in this region.

THE HUMAN RIGHTS RECORD

In each country of this Hemisphere, the forces of human rights and democracy have grown. They have been reinforced by the stand of President Carter and his Administration, as well as by the actions of Congress. I would cite three cases in point: the Dominican Republic, Brazil and Chile.

One of the most heartening developments has been the democratic election of Antonio Guzman, an outstanding social Democrat, as President of the Dominican Republic. The future of the Dominican Republic will not fail to have enormous impact on the future of the Caribbean. The Carter Administration made clear that U.S. support and continued assistance would depend on maintaining the integrity of the democratic process. The months ahead of President Guzman will be difficult economically and politically, and he should know that he will have strong U.S. support in meeting Dominicans' needs and aspirations.

Progress toward democracy has been slower in other countries. But in Brazil, which represents 41% of Latin America in territory and 29% in population, the debate has shifted from whether to when to return to democratic rule. Although a stacked electoral convention will surely elect General Figuereido as President this month, this former security chief is committed to ending military rule, and his military opponents are arguing for an accelerated return to the barracks. The electronic media remain subject to censorship, but the Brazilian press is now free and encourages a lively political debate in its pages. Equally important, both the degree and the incidence of human rights violations have decreased in a country where both had reached scandalous proportions just five years ago. Moreover, Institutional Act Number 5 will end this year and habeas corpus will be restored. While these and other steps are only partial protections for civil and political liberties, the path has been chosen and the people will not allow retreat. Brazil is crucial to the future of human rights, democracy and development in South America and across the spectrum of nonaligned and developing countries. Its capacity to continue, and hopefully to speed up, its return to democratic institutions and rule by law, and to address serious social and economic issues, will have regional, indeed global impact.

Chile has experienced repression and human rights violations of tragic dimensions since the Pinochet Junta seized power in 1973—a travesty of its 168-year history of democracy and freedom. It took the Congress to impose, in 1976, a total embargo of military support to a military regime which had overthrown a democratic government, murdered thousands of civilians and caused thousands more to flee their country since the coup. Now five years later, a general amnesty and a lifting of the state of seige represent a lessening of the worst repression in Chile. But the amnesty will protect the agents as well as the victims of repression, and the government has yet to lift its executive decrees or admit openly that up to 1500 "disappeared" prisoners have been murdered by the security police. Now, the democratic political parties, the trade unions, the student movement, the Church and thousands of Chilean democrats are cooperating with each other to hasten the day that democratic rule will be restored. Significant elements of the armed forces appear to be dissatisfied with General Pinochet and to welcome this process.

The Administration and Congress are right to deny all but humanitarian aid to Chile until democratic rule returns, as it surely will. American trade unions are right to join with their European counterparts in boycotting shipments which will shore up the Junta and aid its repression of the Chilean people. And I commend the Justice Department and Ambassador Landau for their determined efforts to bring the killers of former Foreign and Defense Minister Orlando Letelier and his associate Roni Moffit to justice. Political assassination cannot and will not be tolerated in the streets of Washington or any other American city.

Last May, the U.S. Commodity Credit Corporation granted loans to Chile, one for $38 million and the second for $8 million. I believed then, and I believe now, that such loans should have been denied in the absence of human rights improvements. I am pleased that no other CCC loans have been permitted since. Much more disturbing, however, was a pending military pipeline shipment of bomb fin assemblies to Chile, which the Administration halted following my intervention and that of the International Longshoremen in California.

BANK DISCLOSURE NEEDED

With the exception of the CCC credits and the bomb fins, the United States Government has acted consistently and I believe effectively in behalf of democracy and human rights in Chile. However, American banks have unfortunately filled the credit gap created by the termination of U.S. assistance—loaning hundreds of millions of dollars to the Pinochet regime. At present, Manufacturers Hanover Trust is cosponsoring an international consortium to grant to Chile a $300 million loan. This back-door economic support raises serious questions about the judgment of our banks in effectively undercutting official U.S. policies. I will therefore introduce legislation tomorrow, cosponsored by Senators Church, Cranston, Sarbanes and others, which will require full bank disclosure of all loans to governments, including Chile, whose foreign aid has been cut off for human rights reasons.

While these are encouraging signs, there remain many cases of disappointment. More than 10 family or military dictatorships—with wide differences in political orientation and degree of repression—remain in Latin America and the Caribbean. Four of these deserve special mention.

In Bolivia, an encouraging move toward democratic elections aborted as the military moved against the candidate of a center-left coalition of political parties. Efforts are presently underway to return to democratic rule next year—and the United States should support early democratization. We should also welcome the fact that political prisoners have been released, and censorship and restrictions on labor unions and political parties have ended.

In *Uruguay*, harsh military dictatorship and repression continues in a country with a 70-year tradition of democracy and relative prosperity. One out of every 500 Uruguayan citizens has been detained for political reasons, making Uruguay the highest-density political prison in the hemisphere. The military junta has murdered much of its political opposition and controls all public activity, including the screening of candidates for Church office. There is no excuse for not following up on the highly critical report of the Inter-American Commission on Human Rights and denying Uruguay all but humanitarian aid until the abuses are corrected.

In *Argentina*, the tragedy is unending. Amnesty International estimates that some 15,000 people have "disappeared" since the military Junta seized power in 1976; up to 10,000 have been officially detained. Argentina has the dubious distinction of having more political prisoners than the rest of the Hemisphere combined. As in Chile, most of the so-called disappearances involve kidnapping, torturing and killing by the security forces. The victims include nuns, lawyers, doctors, journalists, trade unionists, business people, students, housewives and children.

Under the military junta notorious communique 19, moreover, it is a crime for the press to report on such disappearances—punishable by detention of up to 10 years—unless the information is derived from official sources. Small wonder that, since the military coup, 42 Argentine publications have been closed and 13 have been shut down for periods ranging from 24 hours to 27 days; over 40 Argentine journalists have been killed and over 40 imprisoned, and more than 400 have gone into exile.

Jacobo Timerman, the courageous publisher of the distinguished paper La Opinion, epitomizes the harsh treatment of the formerly free Argentine press: he remains un-

der house arrest after 17 months of illegal imprisonment. Nor should we forget that Mr. Timerman, a Jew of strong convictions, has courageously spoken out against fascist and neo-Nazi trends in Argentina. Although the Argentine Government has moved to contain these trends, there is no excuse for 8% of its detainees being Jewish when Jews constitute only 2% of the Argentine population. It would be in the best interests of the Argentine government to permit the Timerman family to exercise their Constitutional right to emigrate to Israel, as is their desire.

TERRORISM CONTINUES

The defenders of the military have tried to deny the existence of torture and killing—or they have defended it as necessary to meet the problem of terrorism which had been a harsh reality of Argentine politics in the past. Although both Government and independent accounts point to a sharp decline in terrorist actions, these have by no means completely disappeared. On August 1st, a bomb intended for Vice Admiral Armando Lambruschini, the Naval Chief of Staff, killed his daughter Paula and two other persons, and totally destroyed a building housing 30 persons.

Acts of terrorism are abhorrent, regardless of their source. But they cannot be used to justify institutionalized repression. They cannot justify torture and killing by the security forces of any civilized government. And they cannot justify the victimization of men, women and children who have had no connection with terrorism at all. Either the victims have no "political" background, or they participated in lawful, peaceful civic actions; many are scientists and writers.

Against this tragic background, the Congress moved last year to end all military support of the junta in Argentina—as it had previously in the case of Chile. The arms embargo took effect at the beginning of this month, the new fiscal year, but even before then, the Administration had been persuaded to disapprove more projects (worth more than $100 million) than it approved—with most new military commitments in the area of non-lethal spare parts and safety related equipment.

Yet the week before the arms embargo became law, the Administration approved military training for over 30 Argentine military officers in the United States—half of the number originally requested by Argentina. And it signed a "letter of interest" covering $270 million in Export-Import Bank credits for hydroelectric generators to be supplied by the firm of Allis Chalmers. It comes as no surprise that the controlled press of Argentina has greeted this news as a victory for General Videla and a reverse for long-standing Administration policies.

I deplore these decisions by the Administration. Senators Cranston and Sarbanes joined me in a letter of protest to the President, which we are releasing today. In our view, there is no justification for a military training contract, concluded only days before it would be completely illegal, with a military regime noted for the brutal repression of its citizenry. Approval of over 30 instead of over 60 officers is no decision of Solomon: the United States should not engage in any military association with this kind of regime.

But I am pleased to report Administration assurances that its "letter of interest" will only keep options open in the Allis Chalmers project—and that it will make no further commitment in the absence of substantial human rights improvements in Argentina. This is the only criterion that should count. If there is concern that others in Europe or elsewhere will sell to Argentina if we refuse, then the United States should strenuously seek multilateral agreement not to undercut our human rights policies. Other governments should be made to account to their people and the world for actions which weaken the critical struggle for human rights in Argentina and elsewhere in Latin America.

We can and should use economic incentives for concrete improvements—not procedural ones, but ones which result in positive changes in the living conditions of a country. Moreover, the Congress should consider appropriating, in the future, additional foreign assistance for governments which are moving toward democratic institutions and respect for human rights. But in the absence of decisive improvements I have opposed and will continue to oppose military aid of any kind.

A FALSE CHOICE POSED

In Nicaragua, decades of failure to prevent gross violations of human rights, to meet the aspirations of the people, and to engage constructively with the democratic opposition culminated in a popular uprising against the Somoza regime. President Somoza would like us to believe that the choice is between him and Communism. Nothing could be further from the truth. Except for Somoza's cronies, and of course the National Guard, everyone who counts in Nicaragua wants him to leave now—not in 1981, the date the President seems to have in mind for handing over the power, to his son or some protege, that Somoza inherited from his father. A Broad Opposition Front consisting of the entire political opposition wants him out, now. The Nicaragua Church wants him out, now. But instead of acting in the best interests of his country, Anastasio Somoza ordered his National Guard to raze Leon, a focal point of armed resistance to his regime. He countenanced the cold-blooded murder of thousands of innocent men, women and children by his National Guard, and the creation of many more thousand refugees.

There is little for the United States to be proud of in Nicaragua. Our Marines brought the Somoza family to power more than a half-century ago. We trained the National Guard which has kept it in power since then. Until this year, past Administrations turned their eyes from the ample documentation of repression and human rights violations in Nicaragua; they failed to support repeated efforts in the Congress to end our unconscionable military support of President Somoza and his National Guard.

Even this Administration has sent mixed signals, halting some ties but permitting others to continue. Only last spring did it bring military transfers to an end. Despite the intensification of the violence, it has not responded to our call to end all economic disbursements except for humanitarian assistance and refugee relief. It has not withdrawn our four-man military mission which continues to tie the U.S. symbolically to the National Guard. These are actions which should be taken, now, to make clear that the United States holds a brief not for President Somoza, but for the peaceful and democratic future of the Nicaraguan people.

I welcome and support the Administration's efforts—in conjunction with Guatemala and the Dominican Republic—to mediate between President Somoza and his political opposition. I welcome its success in securing free access by the Inter-American Human Rights Commission.

We must all hope for positive results from these actions. But unfortunately they are not sufficient. They may have been adequate even six months ago, but it is necessary now to associate the United States with peace and democracy in Nicaragua, not with the continued tenure of President Somoza.

It is the Nicaraguan people, not the United States, who should decide Nicaragua's future. While President Somoza has blamed the Administration for the recent violence in Nicaragua, at other times he has pointed to development aid as evidence of continuing US support. That must end. The Nicaraguan people should not have to wonder whether the United States supports the Somoza regime. An end to all our military and economic ties are the minimum steps that we should take to show where we stand, not only to Nicaragua but to the Latin American democracies who see our stand on Nicaragua as a critical test of our human rights policy.

CONCLUSION

For perhaps the first time in this century, the United States has acted consistently in a manner that befits the revolutionary traditions of this hemisphere. We have moved from the rhetoric to the action of pursuing security, prosperity, and freedom in the New World.

It is small wonder that the minority which has benefitted so much from the old order is resisting so strongly the advent of the new. But the trend of history is against this minority. It is in favor of the overwhelming majority of people who want to lead lives free of the economic and political repression of the past. In the words of Benito Juarez, the Mexican patriot and statesman, "democracy is the destiny of future humanity."

We share this destiny with the people of this Hemisphere, not with the minority regimes, the military dictators, the forces of repression. When democratic governments come to power, they should not remember us as the ones who forged and sold the chains to their predecessors. They should remember us as the ones who helped to break the chains and set the people free.

Critics say that the United States is intervening in the internal affairs of the dictatorial regimes. But there is no need to intervene. If both the public and private sectors of this country do not contribute to political and economic injustice, and respond affirmatively to the righting of these wrongs, the people of Latin America and the Caribbean will themselves realize a future which is secure, prosperous, and free.●

SENATOR HAYAKAWA BRINGS GREATER AWARENESS OF SOUTH AFRICA

Mr. HATCH. Mr. President, I call to the attention of the Senate an enlightening article respecting the diligent work of our colleague, Senator HAYAKAWA, in bringing to light a greater awareness of the South Africa situation which appears in the October 7 edition of "The Economist." I ask that it be printed in full in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Economist, Oct. 7, 1978]

SALESMAN SMITH

In a little-remembered incident last spring, when he was desperately searching for the necessary votes to get the Panama Canal treaties through the senate, President Carter held a meeting with Mr. S. I. Hayakawa, the enigmatic 72-year-old Republican junior senator from California. The president made perhaps his most unusual promise of the season in order to secure Mr. Hayakawa's vote for both treaties—not a dam or any special favour for his constituents, not an offer to give a judgeship or other federal job to someone sponsored by the senator, but an agreement to consult with him on issues of foreign policy.

It was all considered a matter of laughter at the time. A noted academic semanticist who had been propelled to public attention when, as president of San Francisco State College, he confronted student protesters. Mr. Hayakawa was hardly taken seriously in

the world of international affairs. Since arriving in Washington in early 1977, in fact, he had generally been scoffed at—accused of falling asleep during important hearings and of otherwise being unable to cope with the Senate's hectic schedule.

But last spring's laughter has turned into this autumn's cruel joke on the Carter administration. For it is none other than Mr. Hayakawa, backed by 26 other Senators, who has invited Mr. Ian Smith and his colleagues in the Rhodesian internal settlement to come to Washington to press their case for American support. Picking up a cause that has been championed in the United States largely by the right wing, Senator Hayakawa and his associates insist that the Rhodesian diplomacy of the state department and the British government has aggravated, rather than alleviated, the bloodshed in the future Zimbabwe. With American sensibilities particularly offended by recent actions of the Patriotic Front guerrillas, including the shooting down of a civilian airliner, there has been a new surge of belated interest in Mr. Smith's internal settlement. Never mind the fact that Senator Hayakawa and his friends (including such luminaries as Senator Bob Dole of Kansas) have scant knowledge of southern African affairs; circumstances have permitted them to score points against the administration.

So it was that the government finally decided last Tuesday that it would grant tourist visas to Mr. Smith and his colleague, the Reverend Ndabaningi Sithole—but not before the White House and state department had acted out a comic-opera of classic scale. At first, administration officials reacted coolly to the Hayakawa invitation, insisting that routine visa applications should be filed in Pretoria. Once they were, the state department did everything it could to delay action on them. But after a few days, Mr. Carter, speaking at a White House breakfast, ventured to "predict" that tourist visas would be granted. As the original scheduled date of Mr. Smith's and Mr. Sithole's arrival approached, however, a state department spokesman called Mr. Hayakawa's office to say the visas could not be granted. But then again, the next day, the state department insisted that had been only an "interim decision" and said the final determination was still in the works.

For all the clumsiness on the surface, the uncertainty reflected a serious policy debate within the administration. At the state department, those who had laboured long and hard to improve American relations with black Africa argued that letting in Mr. Smith would do serious damage to those relations; their argument was buttressed by administration lawyers who pointed out that it would also violate United Nations sanctions against the rebel regime in Salisbury. But on the other side pragmatists and purists alike contended that the American tradition of free speech required permitting any and all sides of the Rhodesian struggle to be heard publicly in the United States. That view gained strength from the fact that the leaders of the Patriotic Front, Mr. Joshua Nkomo and Mr. Robert Mugabe, have had American visas, as has Bishop Abel Muzorewa, another member of the internal settlement.

What everyone in the state department and the White House seemed to hope most of all was that the whole matter could be postponed until congress adjourns on October 14th, if not until after the midterm congressional elections on November 7th. But Senator Hayakawa was aware of that gimmick and effectively kept the pressure on until he got his way.

What effect Mr. Smith and Mr. Sithole may have on the fragile American policy in southern Africa is hard to estimate. The administration is clearly unhappy with the idea that many members of the American public will hear about Zimbabwe for the first time from Mr. Smith; and yet, by delaying its decision for so long, it seems to have guaranteed him heavy press and television coverage. The administration is at pains to make it understood that the granting of the visas should not be taken as a sign of weakening in its criticism of the internal settlement in Zimbabwe. Making the best of things, the administration is now prepared to use the visit to soften Mr. Smith's reservations about an Anglo-American sponsored all-party conference, slim though the chances might seem.●

U.S. POLICY TOWARD ARGENTINA

● Mr. KENNEDY. Mr. President, the human rights situation in Argentina remains extremely serious. At the conclusion of my remarks, I will enter in the RECORD information which points to the continued kidnaping, torture, and killing of Argentine men, women, and children who have committed no crimes—and only some of whom made the mistake of standing up for the cause of human rights and democracy in that deeply troubled nation. I will also enter into the RECORD information on Argentine Government efforts to whitewash the crimes of its security forces and to escape responsibility for the repression which has gripped Argentina since the 1976 military coup.

Against this consistent pattern of gross violation of human rights, Mr. President, the administration took two actions which I believe were unfortunate and unjustified. First, it approved military training in the United States for more than 30 Argentine military officers just 5 days before such training would become illegal under U.S. law. Second, it signed a letter of interest covering $270 million in Export-Import Bank loans for Argentina.

These actions prompted a letter of protest signed by myself and my colleagues, the Senators from California (Mr. CRANSTON), a member of the Banking Committee, and from Maryland (Mr. SARBANES), chairman of the Foreign Relations Subcommittee on Western Hemisphere Affairs. I request that the full text of our letter and of the administration's reply be printed in the RECORD.

Although I understand that our letter prompted serious review within the administration, I regret to say that the decisions have not been reversed. As such, they are a source of extreme disappointment not only to myself, but I believe to all those who think that the United States should refuse to provide other than humanitarian aid to countries whose governments are gross violators of human rights and fail to make substantial reforms.

I am relieved, however, that the administration will not go beyond its "letter of interest" and make a further "preliminary commitment" to disburse the Eximbank credits in the absence of further progress. For the sake of the Argentine people, these credits should not go forward on the basis of cosmetic or procedural improvements. Only concrete changes for the better—such as a complete end to torture, an accounting for the "disappeared," and release of political prisoners—could be a satisfactory basis to consider major new loans to the Argentine Government.

I do not see similar, redeeming features in the U.S. military contract. In the past, all new military commitments were excluded. The only exceptions were to be supplies under already negotiated contracts and some safety-related equipment. But the administration assures us this training will be limited to "nonlethal subject matter" and therefore will not involve counter insurgency or police functions. We can also assume that the officers will not be known torturers and killers. Finally, the training courses occur against the backdrop of over 200 arms sales which were not and will not be authorized, and they represent less than half of the courses requested by Argentina.

This is minimum protection but small consolation, given the extent of military repression of the Argentine people. This action tends to tarnish the positive U.S. record of opposition to military dictatorship and violation of human rights in Argentina. It is doubly unfortunate in that it was taken hastily and without adequate consultation between the legislative and executive branches. However, I welcome the fact that the administration intends to maintain its commitment to human rights and democracy in Argentina, as well as elsewhere in Latin America and the world, which I will continue to strongly support.

The attachments follow:

THE DEPUTY SECRETARY OF STATE,
Washington, D.C., October 13, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR TED: The President has asked me to reply to your September 27 letter concerning Argentina.

With respect to the military courses of instruction offered to the Argentina Government, those courses amount to a very small fraction of the more than $28 million in pending requests from the Argentina Government to purchase military equipment or services from the United States Government. The pending Argentine requests for such sales, as well as over 200 licenses for arms sales by commercial firms to the Argentine military, were not approved before the October 1 statutory cut-off and are now barred by law. The training courses approved are less than half the courses requested by Argentina, and are limited to nonlethal subject matter such as medical, transport, communications and logistical functions. We will review carefully all aspects of these training programs, which we note can serve the useful purpose of exposing foreign military officers to U.S. institutions and values, including our commitment to human rights.

The Export-Import Bank recently has issued two letters of interest concerning credits for Argentina. Our recommendation which preceded the issuance of these letters of interest was based on our assessment of the situation in that country, including our expectations with respect to future developments. Your understanding is correct that further action must be taken before the Bank is committed to provide financing, and that we will continue to review the situation in Argentina in deciding what recommendation to make with respect to this further action, including the preliminary commitment to which you referred in your letter.

We greatly admire and appreciate your efforts to advance the cause of human rights throughout the world. We look forward to working with you in the future, as we have

in the past, to advance that common objective.

With regards.

Sincerely,

WARREN CHRISTOPHER.

U.S. SENATE,
Washington, D.C., September 27, 1978.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On Monday, September 25, the State Department made two decisions regarding Argentina. The first is approval of military training for over 30 Argentine military officers in the United States. The second is signature of a letter of interest covering $270 million in Export-Import Bank credits for a major hydroelectric project to be built by the firm of Allis-Chalmers in northern Argentina.

We have strongly supported the Administration's consistent refusal to approve economic and military projects (excepting humanitarian cases), unless there is substantial improvement in the human rights situation in Argentina, Amnesty International and other independent sources confirm that this situation has not improved, and probably has deteriorated further. Since the 1976 military coup, some 15,000 Argentine men, women, and children have simply disappeared, in addition to up to 10,000 who have been officially detained. Argentine Government lists includes the names of only 3500, although thousands more are known to be in prison. In the past 100 days alone, Amnesty International has received reports of over 100 disappearances, and fears many more to have disappeared during this period. Thousands of the detainees have been murdered and nearly all "political" prisoners have been tortured by the security forces. This torture and killing continues to this day.

Against this background, we are extremely disappointed by the two State Department decisions and request your personal reconsideration of them. In the past, we were consulted regularly on such decisions, and made clear our strong opposition to any change in Administration policy. However, on this occasion, only a few Senators were notified hours before the decision began to be implemented, with the others completely uninformed. We do not believe that there is any satisfactory explanation for the absence of meaningful and timely consultation, when a significant change is being made in our policy toward Argentina.

U.S. training of Argentine military officers would be illegal after September 30, under Section 620B of the Foreign Assistance Act as amended. At the time the military cut-off was enacted, the sponsors made clear that it would take effect in FY–1979 to give the Administration flexibility to respond to substantial human rights improvements in Argentina. We welcome the fact that the Administration has refused military training and transfers to Argentina in the past. Since no substantial improvements can be demonstrated, we believe it is highly inappropriate, and possibly a violation of the spirit of the law, to approve training of officers five days before the cut-off takes effect. We therefore strongly urge you to reverse this unwise and unwarranted decision.

We have been assured by the State Department that it has made no final decision on the Allis-Chalmers project, and that the letter to be signed represents only an interest in keeping that option open. In the absence of substantial human rights progress, we would be unalterably opposed to signing the second letter of intent to make a preliminary commitment of Ex-Im funds to this project. We request full consultations, including consultations with our colleagues on the Foreign Relations and Banking Committees, well before this key step might be taken.

In recent weeks, the Argentine Government has conducted a press campaign in the two countries against your human rights policies. This campaign should not be permitted to obscure the continued, gross violations of human rights in Argentina, and it would be extremely unfortunate if you were not to reverse, or at least revise, these two decisions.

With thanks for your consideration, and best wishes,

Sincerely,

EDWARD M. KENNEDY,
PAUL S. SARBANES,
ALAN CRANSTON.

HUMAN RIGHTS VIOLATIONS IN ARGENTINA

Mr. President, on October 1, all U.S. military transactions with Argentina became prohibited by section 620B of the Foreign Assistance Act, under an amendment which I cosponsored with the senior Senator from Idaho (Mr. CHURCH) last year. Last March, I urged Secretary Vance to disapprove new arms to Argentina, at least until substantial progress has been demonstrated toward both our human rights and our nonproliferation objectives in that country. And last June, Under Secretary Newsom assured me that "new cases cannot be approved for Argentina until we see evidence of an improving human rights trend." I request that this correspondence with the administration be printed in the RECORD at the conclusion of my remarks. (Exhibit I.)

In recent weeks, Mr. President, we have seen an effort by opponents of the Carter administration's human rights policy to mislead the public about basic matters of fact regarding Argentina. Behind this appears to be a public relations campaign by the military junta to polish its human rights image. Last May, Amnesty International USA disclosed a report to the junta by the Madison Avenue advertising firm, Burson-Marsteller, which the junta had reportedly retained at a cost of $1 million. I request that the RECORD reprint, at the end of my remarks, the statement by the chairman of AIUSA, an article on the Burson-Marsteller report in the Los Angeles Times, and the full text of the report. (Exhibit II.)

Just last week, ads were placed in the Washington Post and the Wall Street Journal as part of Argentina's public relations effort. The Post ad purported to come from an independent group of "concerned" Argentine women. Not only did this ad cost $49,250—not a modest amount—but the women are married to the Argentine military attachés, and the address in the ad is that of the current residence of the Argentine Embassy's Naval Attaché in Washington.

What we need is more facts and fewer PR efforts about the tragic problems besetting Argentina. The human rights situation in that country is today as serious as ever. Amnesty International estimates that some 15,000 Argentina men, women, and children have simply disappeared since the 1976 military coup, in addition to as many as 10,000 who have been officially detained. Argentine Government lists include the names of only 3,500, although thousands more are known to be in prison. In the past 100 days alone, Amnesty International has received reports of over 100 disappearances, and fears many to have disappeared during this period. Thousands of the detainees have been murdered and nearly all "political" prisoners have been tortured by the security forces. This torture and killing continues to the present time.

The victims come from all walks of life. They include nuns, lawyers, doctors, journalists, trade unionists, business people, and students. And it is ominous that 8 percent of the detainees in Argentina are Jewish, when Jews constitute only 2 percent of the population—against a disturbing backdrop of anti-Semitism in that country. Although many victims are also political dissidents who have opposed the military junta, many have had no prior involvement in politics.

Mr. President, to take one concrete example of the terrible fate of these victims, I request that the first-hand testimony about one Argentine citizen's abduction, interrogation, torture, and detention by Argentine security forces be printed at the end of my remarks. The individual in question was abducted in the fall of 1977, repeatedly tortured during an interrogation period lasting more than 10 days, and then held under executive decree detention without charge for close to a year. This person has no connection with any terrorist or subversive organization nor was the individual involved in any way with terrorist activities. On the contrary, the individual is a reputable and civicly active member of Argentine society. I also request that a statement made last August by Amnesty International on "continuing grave violations of human rights in Argentina," be printed at the conclusion of my remarks. (Exhibit III.)

The defenders of the military have tried to deny the existence of torture and killing—or they have defended it as necessary to meet the problem of terrorism which had been a harsh reality of Argentine politics in the past. Although both government and independent accounts point to a sharp decline in terrorist actions, these have by no means completely disappeared. On August 1, a bomb intended for Vice Adm. Armando Lambruschini, the Naval Chief of Staff, killed his daughter Paula and two other persons, and totally destroyed a building housing 30 persons. We must condemn such acts as surely if they came from the left as if they came from the right.

But abhorrent acts of terrorism cannot be used to justify institutionalized repression. They cannot justify torture and killing by the security forces of any civilized government. And they cannot justify the victimization of men, women, and children who have had no connection with terrorism at all. Either the victims have no "political" background, or they participated in lawful, peaceful civic actions.

As the Buenos Aires Herald observed on August 11:

It is, tragically, impossible to deny that torture is widely used in Argentina; efforts to suppress it have been too few and too ineffective. It is also impossible to deny that large numbers of people have been held in jail for an unconscionable length of time without being charged, let alone tried. No

satisfactory explanation has yet been given for the disappearance of thousands of people.

So let us not be misled by PR campaigns organized by or for the Argentina junta. Let us not believe for a moment that there are no serious human rights problems in Argentina. The problems remain extremely serious—and the United States and all other concerned countries should continue to press for fundamental changes in the plight of the Argentine people.

EXHIBIT I

MARCH 22, 1978.

Hon. CYRUS S. VANCE,
Secretary of State,
Washington, D.C.

DEAR CY: I understand that you may be considering, in the near future, further transfers of military arms and equipment to Argentina. I want you to know that I would be extremely concerned about such transfers at this time. Before you make a final decision, I ask that you arrange for consultations with my staff and the staff of other interested members of Congress.

Last summer, the Congress adopted Section 620B of the Foreign Assistance Act, which included a prohibition of all military sales to Argentina introduced by myself and Senator Church. Although this prohibition takes effect in the next fiscal year, it was never our intent to encourage a surge of new arms transfers in the months preceding the cut-off of military assistance and supply. Last November, I wrote to you about thousands of innocent people who have been kidnapped, detained and tortured in Argentina, and asked specifically that you raise five cases of pressing concern. I welcome the oral response that these cases were raised during your trip to Argentina, but it is my understanding that very little human rights progress of significance has occurred since that time. I would appreciate a written update on these cases, and on the human rights situation as a whole, at your earliest opportunity.

I strongly believe, therefore, that there should be no new arms transfers to Argentina, at least until substantial progress has been demonstrated toward both our human rights and our non-proliferation objectives in that country. My staff will be at your department's disposal for early discussion of this important issue.

My thanks for your consideration of these points, and my warm personal regards,

Sincerely,

EDWARD M. KENNEDY.

UNDER SECRETARY OF STATE
FOR POLITICAL AFFAIRS,
Washington, D.C., June 29, 1978.

Hon. EDWARD M. KENNEDY,
U.S. Senate.

DEAR SENATOR KENNEDY: I refer to your letter of March 22 and our interim response of March 31 concerning the human rights situation in Argentina and its relationship to our arms transfer and non-proliferation policy.

Since October, with the exception of inertial navigation equipment, no new Munitions Control cases have been approved for Argentina. This has resulted in a backlog of approximately 225 cases with a value of almost $100 million. We have advised applicants for Munitions Control licenses that new cases cannot be approved for Argentina until we see evidence of an improving human rights trend. Furthermore, applicants have been informed that after September 30 we cannot approve new licenses because of the entry into force of Section 620B of the Foreign Assistance Act of 1961 as amended. However, we have not interrupted the flow of Munitions Control cases approved prior to October, such as Chinook helicopters for Antarctica and KC-130 tanker aircraft with important search and rescue features. Both these cases were mentioned to the Congress in late April.

Contingent on consultations with the Congress, we have approved approximately twenty safety rights improvements in Argentina. Both during my May 24-25 visit to Argentina and my talks with Deputy Foreign Minister Allara last week, I focused on the need for a more responsive Argentine Government attitude in three areas: (1) release or trial of prisoners, (2) accounting for individuals who have disappeared, and (3) a mechanism to facilitate the visit of an international team to inspect human rights conditions in Argentina.

In terms of human rights improvements, we believe that the number of disappearances has diminished during the last year and that the Argentine Government has issued instructions to the police and reportedly to the military to curb excesses in counter-terrorist operations. In addition, such prominent individuals as journalist Jacobo Timerman and labor leader Alfredo Bravo have been transferred at least to house arrest or placed on parole. We are doing what we can to encourage greater prisoner release and have indicated a willingness to receive prisoners in the United States, through the parole authority which has recently been authorized by the Attorney General. We appreciate your long-standing support for such a parole.

In response to your request for information on individual Argentine cases, our records indicate:

Marcelo and Maria Claudia Gelman: There is no word of their whereabouts.

Matilda Belaustegui Herrera: She and other members of her family disappeared in 1977. We have no information of her whereabouts.

Dagmar Hagelin: Both the United States and Swedish Governments have inquired about her. The Argentine Government has provided no information.

Hector Campora: The Argentine ex-President remains in asylum status in the Mexican Embassy in Buenos Aires. We have told the Argentines of our interest in his case.

Claudio Berman: The Argentine Government has reported that Dr. Berman is being held on charges of engaging in communist activities.

Irene Berman: There is no information about Irene Berman's whereabouts.

Juan Risau: Dr. Risau disappeared in July 1977. There is no word of his whereabouts.

Juan Fuentes: We have no knowledge of Dr. Fuentes who disappeared in 1977.

Our embassy once again has been requested to make a follow-up request to the Argentine Foreign Ministry for information on these cases.

In the non-proliferation field, we are very encouraged by Argentina's public announcement that it will ratify the Treaty of Tlatelolco. We attach considerable importance to this step by Latin America's leading nuclear nation.

I hope this information is responsive to your concern over the human rights situation in Argentina.

Sincerely,

DAVID D. NEWSOM.

EXHIBIT II

STATEMENT BY DAVID HINKLEY,
CHAIRMAN OF AIUSA

In May 1977, Amnesty International issued a major report on Argentina. While that report noted and condemned left-wing guerilla violence, it documented that in the name of combatting terrorism the Argentine government had unleashed a terror of its own: widespread and arbitrary arrests, long-term imprisonment without charge or trial, abductions, torture and political murder. Today, more than a year later, the same military government has publicly announced its success in eliminating guerilla violence. Yet its own terror continues. The repression is now directed not merely against suspected subversive acts, but against what the government calls a "subversive mentality." As General Videla has stated, "a terrorist is not just someone with a gun or a bomb, but also someone who spreads ideas that are contrary to Western and Christian civilization." Apparently this includes such ideas as the right to strike, or the right to vote. Apparently it includes such persons as Alicia Domon and Léonie Duguet, two French nuns who were seized in Buenos Aires in December of 1977, following a visit with relatives of others who have disappeared. They are still missing.

At least 15,000 men and women and children have similarly "disappeared" since the military took power in 1976. Most of those who disappear are never heard of again; others are finally located in special secret camps. In such camps torture is frequent and prisoners live under the constant threat of murder by their guards. Another 8-10,000 men and women are officially detained in prisons. Most have never been charged or tried. Many of these prisoners are also tortured. The most frequent methods are electric shock, water torture, severe beatings, cigarette burns, sexual abuse and rape.

The documentation of this massive repression has been accompanied by growing international concern and pressure on the Argentine government to stop its human rights violations. It appears that this pressure has caused dissension within the military. Thus far, however, the government has responded not by changing its policies but by spending millions of dollars to improve its image.

It is not easy for a government to improve its image when it continues to arbitrarily imprison, torture and kill its citizens. To aid in its efforts, the Argentine government has engaged the services of one of the leading public relations firms in the United States—Burson Marsteller.

We are distributing today a report received by our Research Department which we believe to be authentic and which details the Burson Marsteller strategy for the Argentine government. In the words of the report, "The primary task of this program is to generate a sensation of confidence in Argentina among the ranks of the target audience in eight countries around the world through projecting an aura of stability." It is aimed, as one might imagine, at those who influence thinking—the press, those who influence investment-bankers and those who influence travel, such as travel agents. As you will note on pages 8-10, it targets specific newspapers and specific journalists. It also includes a strategy for exploiting the World Cup games. using athletes to project the image of Argentina as a "sports nation," introducing journalists and syndicated writers to attractive and healthy youth.

All of this is perhaps normal procedure for improving tourism in any country. But the Burson Marsteller paper acknowledges that in Argentina there are special problems, namely, to quote, "that the matters of terrorism and human rights, the alleged anti-Semitism, and repression and isolationism must all be put to rest if Argentina is to assume its rightful place in the world." So, for example, to combat what the report calls "those well-financed subversion campaigns of international origin," the Argentine government is asked to "finally, whenever and if possible proclaim the government's interest in instituting a system of law and order which administers justice in full keeping with the legal process." These words were written in 1976. In 1978, the legal process in Argentina continues to be ignored and human rights violations continue unabated. So does the Burson Marsteller campaign.

It is on their behalf that Amnesty International is launching a major international campaign which will call on the Argentine government to

(1) stop torture,

(2) stop arbitrary executions,

(3) publish a list of all detained prisoners,

(4) account for the whereabouts of more than 15,000 disappeared persons,

(5) allow persons detained under the State of Siege to leave the country immediately under the provisions of Article 23 of the Argentine Constitution,

(6) restore and respect all rights guaranteed under the Argentine Constitution, the American Convention on Human Rights, and the United Nations Universal Declaration.

The United States section of Amnesty International will begin its participation in this campaign immediately following this press conference with a vigil in front of the N.Y. offices of Burson-Marsteller. Similar AI vigils are being held today in Chicago, Washington and Los Angeles. Amnesty International is opposed to, and will seek to expose, any attempt to use public relations to weaken public concern over human rights violations in Argentina. For this reason, we will be reaching out to athletes and fans of the World Cup games—not to call for a boycott of the games, but to encourage protest of the use of this prestigious sports event to divert attention from massive political imprisonment and torture.

In the months to come we will be joining with churches, unions, associations of lawyers, journalists, scientists and others to mount expression of concern through letters and telegrams to the Argentine government.

Amnesty International does not have the resources of the Argentine government. We do not have the public relations skills of a Burson-Marsteller. What we do have is accurate, well-documented information on what is happening to human rights and human beings in Argentina. Beginning with today's vigil and throughout the coming months we will be doing all we can to get this information to the American people.

[From the Los Angeles Times, June 11, 1978]

THE SELLING OF ARGENTINA: MADISON AVE. PACKAGE REPRESSION

(By Andrea Fishman and Richard Alan White)

On most evenings of the week, America's John Q. Public comes home from the office or factory, sits down with a martini or cold beer and casually thumbs through his paper or watches television's nightly news.

How could our work-weary American everyman know that, in countries that are only names in a newspaper to him, medal-bedecked military men and dapper dictators huddle around burnished tables worrying about what the American public thinks of them?

But they do. And the result is a little-publicized war of words for the hearts and minds of the American people. The shock troops most often used by foreign governments to wage that war are the best-known salesmen in the world: The glossy, sophisticated advertising and public relations agencies of New York's Madison Avenue.

These professionally friendly, highly influential people are in the business of mapping out sales campaigns and the marketing strategies to win them, and they do it very well. It is all strictly business: service rendered for payment received. So, helping a foreign government—whatever its politics—put its best foot forward is just another day's work.

A growing number of American agencies have accepted assignments from national governments from all over the world. As early as 20 years ago, Lt. Gen. Rafael Trujillo Jr., then dictator of the Dominican Republic, hired a public relations firm to boost his image in the United States. Today a number of countries, concerned about the influence of American public opinion on their relations with the U.S. government, use the services of one or more agencies. The PR firm of Ruder and Finn handles the Shah of Iran; so does Doremus and Co. The latter has several other clients of similar rank: The Philippine Central Bank, an arm of its nation's government, as well as Egypt and Saudi Arabia, to name just a few. Riyadh's interests are also promoted by Michael W. Moynihan and Associates, Inc., which is headed by the brother of Sen. Daniel Patrick Moynihan (D-N.Y.). Another well-known figure formerly involved in this cozy but extensive network was Marion Javits, wife of Sen. Jacob Javits (R-N.Y.), who worked on Ruder and Finn's Iranian account until public pressure forced her resignation.

Despite such periodic individual controversies, there is nothing illegal about the American firms' relationship with their foreign clients. Indeed, all these agencies have, as required by federal law, registered with the Justice Department as agents of foreign powers. Moreover, as the firms themselves are quick to point out, their interest in such accounts is purely commercial rather than ideological. To them, foreign governments and their heads of state are like toothpaste and celebrities—merely products and personalities to be sold. According to the agencies, they simply advertise their clients' good points in order to build good will, encourage tourism and stimulate investment.

Other Americans, however, may not be quite so willing to judge these practices purely on the basis of their profitability. For, as the last few years have dramatically demonstrated, popular opinion can exert a profound and decisive influence on the formulation of U.S. foreign policy. For example, Jewish Americans, outraged by the Soviet Union's treatment of their coreligionists, have successfully prevented Senate ratification of trade agreements favored by both the Kremlin and the White House. More recently, Greek Americans, aroused by the Turkish invasion of Cyprus, have prevented the lifting of the American arms embargo on Turkey.

But political campaigns mounted by voluntary citizens' groups acting out of personal conviction are one thing. The manipulation of public pressure on foreign policy for commercial gain seems quite another.

Take, for example, the case of Burson Marsteller, a major New York-based advertising and public relations agency with offices in Los Angeles, Chicago and several foreign countries. BM, as it is known on Madison Ave., already represents the Soviet Union and Hungary and, more recently, it has taken on the right-wing military government of Argentina.

How and why Burson Marsteller secured the latter account, and what it did with it, presents an interesting case study. In 1976, the head of the Argentine government, Gen. Jorge Videla, became worried enough about the impact of his military dictatorship on public opinion to seek professional help. In August of that year, he got it, when he signed a $1 million contract with Burson Marsteller.

What sold the Argentine strongman on the New York agency was a no-nonsense analysis of his country's problems as they existed in the minds of the rest of the world, and a straight-forward plan for correcting them. All of this was set down in a business-like document, a copy of which was recently secured by Amnesty International, the human rights monitoring group which was awarded the 1977 Nobel Peace Prize. The 33-page document was titled simply "Report" and began with the traditional memo form.

From: Burson Marsteller/Publicity Agency
To: Argentine Government
Re: Improving the international image of Argentina

Certainly the government was right in thinking there was a lot about its image to improve. In the two years since a military coup brought Videla to power, the world press has been highly, and understandably, critical of the mass repression and violation of human rights in Argentina. According to a report published by Amnesty International, at least 15,000 men, women and children have "disappeared," and another 8,000–10,000 are currently in prison. Many of them have been subjected to brutal torture and face indefinite detention without charge or trial. The federal police, who are responsible for law enforcement, operate unchecked by the military government, as do such groups as the Argentine Anti-Communists Assn. (AAA), a far-right terrorist group with anti-Semitic leanings.

In its pragmatic appraisal of Argentina's needs, Burson Marsteller addressed the central problem candidly: "The matter of terrorism and human rights, the alleged anti-Semitism and repression and isolationism must all be put to rest if Argentina is to assume its rightful place in the world."

Under the report's sub-section headed "The Communications Implications of Terrorism," Burson Marsteller noted, "It can be categorically stated that terrorism and the manner in which Argentina eliminates it—particularly the accusation that terrorism by the right is not suppressed—are the only problems standing between the Videla government and the free-world approval."

To eliminate those problems and help the Videla government "project a new, progressive and stable image throughout the world," Burson Marsteller proposed an internationally coordinated effort by its offices in eight countries: the United States, Canada, Japan, Great Britain, Belgium, Holland, Mexico and Colombia.

The agency warned it would be a long-term effort; the job was one "which ought to be considered in the same manner as any program of communication undertaken to help mold and change world opinion toward Argentina."

The targets of its campaign were to be three major audiences:

—"Those who influence thinking, which includes the press, government functionaries and educators. . . ."

—"Those who influence investments, which includes key persons in banks and commercial enterprises, investment counsellors (sic), government functionaries concerned with international trade, businessmen and administrative consultants";

—"And those who influence travel, which includes travel agents, travel writers, airline personnel and tour operators."

Reporters promised to be the hardest to sell. Burson Marsteller's report noted that many of them "consider the Argentine government oppressive and repressive, a dictatorial military institution which deserves little more than condemnation." To counteract that attitude, a special program was aimed at 53 influential reporters, identified as "those well-known journalists who participate in the determination of editorial policy more than in the act of writing." Together they were regarded as primary targets for the "building of a system of conduits in the leading newspapers and magazines (in the West)." Once contacted, each reporter was presented with a "basic press packet, including the biographies of Argentine government leaders, the local ambassador and any local spokesmen" in the journalist's home country.

Argentine editors, selected with equal care, would invite the journalists, "on a one-to-one basis," to come to Argentina at the government's expense. The editors were to be "furnished beforehand with information about the individual he would be hosting, the main questions on the journalist's mind and the best approach for creating a positive and lasting impression for his guest."

According to Burson-Marsteller, 30 to 40 of their press VIPs have already gone to Argentina on such personalized visits. The format of such visits is carefully designed to place the journalists' hosts in control of their impressions. Informal receptions in the visitors' home countries and upon arrival in Buenos Aires establish a relaxed atmosphere. Tours and entertainment supplement scheduled meetings and luncheons with ranking Argentine officials and business people, chosen to give the government's Secretariat of Information "better control over the reporter's contact with the private sector." A final question and answer session with the Secretary himself "affords an excellent opportunity for correcting any false information the reporters may have."

"To insure the development of favorable reports, "Burson-Marsteller proposed to arrange follow-up work aided by Argentina's embassies abroad. Selected Argentina editors would pay reciprocal visits to their foreign counterparts—having first been "thoroughly instructed and furnished with a moderate presentation on 'what was reported versus what really happened'."

Key government representatives would likewise be chosen and sent abroad, on a program designed for "answering questions, correcting misimpressions among government agencies, and . . . interviews." Additional methods proposed for reaching the "opinion molder" segment of Burson-Marsteller's audience included newsletters; direct mail, such as pamphlets, reprints and advertising, and targeted publicity to include "all publications, interviews and planted articles appearing for the duration of this program."

The program for "those who influence investments" was spelled out with equally painstaking care. Local business seminars "aimed at displaying trade and investment opportunities in Argentina" would follow a "highly structured format" with up-to-date information and offering a "take-home packet."

In addition, Burson-Marsteller recommended "a modest support program of advertising," to "eliminate the risk of influential readers' missing the message" and because "we can never be certain that important business and financial publications will print news about Argentina along agreed-to lines."

To date this campaign has apparently been successful, at least with its primary audiences. Victor Emmanuel, a Burston-Marsteller vice president, expressed personal satisfaction with the results in an interview two weeks ago, confirming the number of journalist's who had visited Argentina under his agency's auspices, and noting that there were now more balance in coverage of Argentina by news and other media.

Argentina signaled its own satisfaction with Burson Marsteller's performance by siging two more contracts with the agency—the latest concentrating on developing foreign investment and export expansion.

But propaganda—no matter how carefully packaged—simply cannot obliterate facts. A country that is truly "new, progressive and stable," as Burson-Marsteller claims Argentina is, need not hire professional propagandists to "control" the facts about its society.

More important, how did Burson Marsteller address the problems it pinpointed as central to Argentina's dilemma—"terrorism and the manner in which Argentina eliminates it"? A total of 12 steps were recommended by the report under the heading, "Handling of the Anti-Government Campaign." Typical is step two, which urges emphasis on "positive factors: that terrorism is not the only news from Argentina, nor is it the major news." Step eight's solution was to "show that the level of violence in Argentina has gone down since the government assumed power. This will require credible proofs. But if such proof is available, it will be extremely useful in counteracting the adverse propaganda campaign."

General Videla is not giving his publicists' firm much help in negotiating this linguistic minefield. He recently redefined his terms, claiming that "a terrorist is not just someone with a gun or a bomb, but also someone who spreads ideas that are contrary to Western and Christian civilization." On the other hand, Burson Marsteller sympathized with his problems when it noted in its report summary: "The process of eroding support for the government is being stimulated by an apparently well-financed propaganda campaign, internationally sponsored and originating from leftist movements."

That, of course, is the sort of public relations loophole through which a right-wing client would love to crawl for comfort. But it is not true. Many left-of-center governments and organizations have, indeed, expressed concern about Argentina's continuing campaign of repression, but so have Amnesty International, the Catholic Church and the U.S. State Department.

And, for Americans, this raises a serious question. In a society based on free enterprise, businesses such as Burson Marsteller and other international public relations agencies cannot be condemned merely for seeking a profit. On the other hand, the United States long ago recognized that the drive for profit cannot go entitrely unrestrained.

Thus, America has enacted laws requiring "truth in advertising." But if Madison Ave. is prohibited from making false claims on behalf of a mouthwash, why should its advocacy of a foreign government's interests not be subjected to careful legal scrutiny?

REPORT FROM BURSON-MARSTELLER

If we were to choose one word to describe the attitude expressed by the majority of persons participating in the Burson-Marsteller poll about Argentina, that word would be caution. Of 400 individuals interviewed in eight countries, the vast majority exhibited some degree of confusion, ignorance and prejudice. But the feeling most clearly shared by almost all respondents was caution in analyzing their impression of the country, its government, its economy, its cultural and social progress, and its long-range future.

On an international level, Argentina is a mysterious country. Little is known about the nation in other parts of the world. In the eight-nation poll conducted by Burson-Marsteller, it became clear that knowledge of Argentine events in the eight countries polled is extremely limited, as a general rule. Those individuals whose positions or connections make them important to Argentina are adopting, almost without exception, all attitude of wait and see, while they observe the progress of the Videla government in the conduct of the Nation. Many reporters consider the Argentine Government oppressive and repressive, a dictatorial military institution which deserves little more than condemnation.

HOW ARGENTINA IS PRESENTLY PERCEIVED

Those truly acquainted with the Videla government's progress in the past six months appear quite optimistic about the future, although their optimism is tempered by historically-based doubt concerning the duration of the new, progressive thrust of the country.

They admire the apparent underlying force of Argentina, and the recuperative power which enabled it to return from the brink of total disaster to which it was led by the two Peronist administrations.

The major surgery carried out by the new government for detaining inflation, its daring acts in freezing salaries while simultaneously allowing prices to seek their natural levels in a situation of restricted demand, its attempts at achieving a favorable commercial balance through export and agricultural production incentives, have all won back some measure of confidence among the most knowledgeable sector of the international financial community. New interest has also been kindled among potential investors whose wait and see attitude may be based as much on lack of information on lack of credibility.

The Argentine campaign to eliminate organized leftist terrorism and to reestablish order and tranquility has succeeded in great measure and brought with it a new measure of respect in the world. At the same time, those seemingly immune acts of illegal terrorism coming from the other extreme of the political spectrum have generated concern among friends and have furnished ammunition to enemies with respect to the human rights matter.

NEED FOR A NEW IMAGE

Based on these facts and observations, themselves based on our poll, it is clear that the Videla government ought to project a new, progressive and stable image throughout the world, if it is to realize its stated goals of accelerating industrial and agricultural development, increasing international trade, and enlarging tourism and the certainty of progress in the political order. The key word is stability. In interview after interview, the one question always clearly on the minds of almost all respondents although it was rarely formulated as a question, was where is the country really heading. Thus, it is of vital importance that any program for communication be focused on this question of stability.

What is immediately apparent to those who have visited Argentina is that here is a nation with much to offer in terms of commercial opportunities, cultural and social experiences, and an almost endless unfolding of marvels of both natural and man-made. Large, clean beaches; rugged and imposing mountains; rich and fertile arable lands; lush tropical forests; an almost endless unfolding of flora and fauna both familiar and unique; enthusiasm; beauty; technology; growth—this is the real history of Argentina. Nonetheless, it has never really been told to the world. Its telling at this time will furnish balance to the world view of this country, will place its present problems in a broader context, and will give observers a more reasonable point of view.

The matters of terrorism and human rights, the alleged antisemitism and repression, and isolationism must all be put to rest if Argentina is to assume its rightful place in the world. This can only occur through the taking of affirmative action by the Videla government, and through exposing the formulators of world opinion and thought to the nation, its government, its economy and its people.

LONG-TERM EFFORT

Although it is important to move rapidly and to show the major results promptly, the completion of this task is not a matter of one or two years' duration.

It is a long-term effort which ought to be considered in the same manner as any program of communication undertaken to help mold and change world opinion toward Argentina.

Initially, the task consists of effectuating the labors of cementing and assuring that the same messages are transmitted in the same form around the world. Further on, the challenge will consist of reaching more people and achieving the ever-growing support of individuals with influence in the international sphere.

Clearly, the final goal is to stimulate interest and investment in the future of Ar-

gentina. In this sense, the distance we can cover during the first year of this program of communication will be determined to a large degree by teamwork. Burson-Marsteller and government personnel should learn to work as a cohesive unit. The effectiveness of Burson-Marsteller will depend, to a large degree, on the government's capacity to furnish the necessary information, to accelerate approval of projects and their components and to place at our disposal those persons best prepared to speak for and on behalf of Argentina and its future.

COUNTRIES PARTICIPATING IN THE PROJECT

The offices of Burson-Marsteller in each of the following countries will participate in this project:

Country, and office location.
United States, New York.
United States, Washington.
Canada, Toronto.
Japan, Tokyo.
Great Britain, London.
Belgium, Brussels.
Holland, Brussels.
Mexico, Mexico City.
Colombia, Mexico City.

GOALS

As a review is undertaken of the eight-nation poll conducted on behalf of Argentina by Burson-Marsteller, it becomes readily apparent that the majority of the people consulted consider the country unstable. So long as fear of instability inside Argentina persists in international circles, the government, the economy, tourism and public opinion will be adversely affected. The primary task of this program is to generate a sensation of confidence in Argentina among the ranks of the target audiences in the eight countries around the world, through projecting an aura of stability for the nation, its government and its economy.

In this manner, the program of communications will support the efforts of Argentina in the sense of:

1. Increasing foreign investment and industrial development;
2. Building the nation's foreign trade;
3. Encouraging tourism; and
4. Furthering understanding of the actions and policies of the government.

STRATEGY

The proposed program for Argentina will have a highly directed focus on the target audience. Since it is easy to see that the attitudes of individuals in the eight countries studied are, in large measure, quite similar, it is natural to deduce that the program should project the same or similar messages to the audiences which compose its goal in each of those countries. To achieve this level of control, a sole international program has been created for implementation by all offices of Burson-Marsteller which are under the direction of the New York office. This does not mean that the individual offices are not free to undertake projects of importance for their specific national situations. Such freedom is not only permitted, but encouraged—as long as such activities work towards the objectives roughly outlined above.

Nonetheless, it is of fundamental importance that Argentina begin to speak with one sole voice in the nations of today's world. And this can only be achieved through a highly controlled program of communications.

As part of the strategy of this program, we have established three basic categories of activity, which are:

1. The category of "personal experience."
2. The category of "personal testimony."
3. "Third-party assistance," the one category from which the bulk of publicity activities will be drawn.

TARGET AUDIENCES

In general, the people who participated in the Burson-Marsteller eight-nation poll fall into four general categories in terms of their ideas about Argentina. One group is radically opposed to the Videla Government. Another is equally firm in its support of the government and its programs. A third group consists in large measure of disinterested individuals who have some knowledge of the country and the government but who do not have a firm position pro or con. And the final group is characterized by its total ignorance of Argentina, its government and its economy.

Of these four general groups, only the thinking of the latter three can be affected through communications. Any political strategist would agree that it is neither economical nor feasible to direct a program at those already decided to oppose it. And that, in essence, is what group number one has done. Given this, it is a basic philosophy of this program that all activities will be aimed at those audiences which maintain a flexible point of view with respect to Argentina and its government.

The "flexible" audiences of the program of communications can be divided into three general categories:

Those who influence thinking, which includes the press, government functionaries and educators. It is important to note here that we are not looking at the press as a conduit for transmitting specific messages, as is the usual case, but rather more as itself a target audience.

Those who influence investments, which includes key persons in banks and commercial enterprises, investment counsellors, government functionaries concerned with international trade, businessmen and administrative consultants.

Those who influence travel, which includes travel agents, travel writers, airline personnel and tour operators.

The audiences are the same for each of the eight countries.

BASIC TOOLS

Upon putting this program into practice on a formal and normalised basis, each Burson-Marsteller office needs some basic materials:

A basic Argentine press packet
A basic literature packet
A basic stills and film library

Let us consider each of these packages in order.

The basic press packet would be written New York and sent to each of the other participating offices of Burson-Marsteller. The material would be localized there. This packet would include background reports on Argentina, the economy, the culture and life-style, its government and any special relations between Argentina and the eight nations involved in the program.

A separate report about the Argentine panorama, singling out the things one can do and see in Argentina, would form a basic part of this packet. In addition, the press packet would include the biographies of government leaders, the local ambassador and any local spokesperson employed in the eight countries. A selection of photographs showing the government leaders at work, the local ambassador, the local spokespersons, and illustrating the key points in each of the background reports, would complete this packet.

The basic literature packet would include folders of in-depth material about Argentina, its investment and economic opportunities, and what to do and see in Argentina, and vacations in Argentina; a special packet of case histories emphasizing investment opportunities and a guide to press sources would complete this packet of lending materials.

The basic library of films and stills would include copies of all available films about Argentina, a complete photographic library covering the economy, trade, specific investment case histories, tourism, etc.; a prepackaged sound-slide show about economic and commerical opportunities, and a prepackaged sound-slide show about tourism opportunities.

Clearly, few of these materials presently exist. And the preparation of these basic packets should be a principal focus in the initial stages of this program. Once they have been produced and distributed to all the offices, they will serve as a constant control over the types of information to be disseminated under this program.

COORDINATION WITH EMBASSIES

An area of central and critical importance in the execution of an effective program will be those of Burson-Marsteller's activities carried out in coordination with the Argentine embassies in all eight countries. These activities will take various forms, according to the situations, needs and opportunities that arise. They are meant only as a support mechanism and in no sense replace or nullify ambassadorial functions such as official government contacts or the making of such contacts.

It should also be understood that the basic thrust of Burson-Marsteller's reports is drawn from the Secretariat of Information in Buenos Aires. Consequently, large-scale activities or those of major importance will require prior approval from Buenos Aires, and all such requests will be channeled through Burson-Marsteller in New York. Hopefully, full and explicit guidelines for working with Burson-Marsteller have been or will be sent to all the main diplomatic missions in the effected countries including the consuls general and the special ambassadors such as those representing Argentina in the United Nations and in the Common Market.

Among the activities to be developed by Burson-Marsteller in all the countries are the following:

1. Advice and counselling to embassies on politically sensitive themes coming before the public through the news media or likely to do so. This would include terrorism and human rights (see modified recommendation concerning terrorism).

2. Monitoring and analysis of activities in the respective countries with respect to their impact on relations with Argentina and corresponding advice to the Secretariat and the embassies about said points.

3. Preparation of draft statements on developments or governmental and political announcements for approval and distribution by the embassies.

Note: As the Washington office of B–M has pointed out, the closest possible coordination should be maintained for setting simultaneous publication dates when the news item originates in Argentina and is for universal consumption. To organize this phase to achieve the maximum results, the Secretariat of Information, the agency and the embassy ought to jointly develop a better system for releasing news.

Additionally, as our Brussels office has noted, those reports originating in New York which have been approved by Buenos Aires and by the Washington Embassy for publication ought to be adapted to the specific needs of each nation. They ought to conform to the personal ability of the individual ambassador to back up the information released under his name, and to the situation of each individual country.

4. Help in developing and maintaining cordial and effective relations between the embassies and the key information media. This could take the form of regular, informal briefing sessions for the press, on the record or not, individual interviews, etc.

5. Help the ambassadors and their key aides with speeches and all other public relations events, including identification of such opportunities, recommendation of subject matter, availability of assistance in editing and correcting texts, and obtaining maximum public awareness.

Burson-Marsteller would be pleased to perform two special activities, which are:

1. A training seminar for all persons in each embassy who are in any way involved in contact with the news media. This seminar will involve simulated situations which will make dramatically clear to the embassy personnel what they ought and ought not to do in various communications-related situations (see special recommendations for this program).

2. An informal meeting led by B-M, for all professional and administrative personnel of all the embassies, to give a point-by-point description of what B-M will be doing for Argentina, what its ends are and how B-M and the embassy personnel can effectively work together for the good of the country. This meeting, to take place following approval of the overall program, would clearly improve cooperation.

The different countries would present district situations and opportunities. For example, in Japan, the press clubs represent a unique system on which close tabs should be kept.

In the United States, contrary to Japan where little is known or said about the problem of Argentine terrorism, the area of most problematic concern will continue to be that of civil and human rights, judging by signs from the House International Relations Subcommittee on International Organizations.

The human rights question is also a centrad concern, to varying degrees, in Canada, the United Kingdom, Holland and Belgium, The 1978 International Championship[1] has begun to elicit concern from the latter three countries, which cite personal safety as the cause. The embassies will have to respond to the questions which will be asked, and information about the preparations in Argentina will have to be circulated more promptly and frequently if criticisms are to be forestalled (see special recommendation concerning World Championship). Mexico is also developing a critical attitude towards the World Championship, but more from lack of information that from any preoccupation with security. In England, the dispute over the Malvinas[2] Islands continues to be a matter of contention.

The subject matter will vary, the situations will change frequently, and ongoing ad hoc contact should be maintained between the agency and the various embassies to keep in step both to meet challenges and to work out their full or partial remedies.

We anticipate that some of our offices will spend up to half their time on this subject working on projects related to the embassy ties. Different offices will approach matters in different ways; for example Brussels has made the following suggestions:

1. They will seek to establish every Ambassador in Belgium and Holland as public representatives of Argentina, with a personality in tune with the specific climate of the country where they are located.

2. From this position of established credibility, the ambassador and the embassy can reply to press criticisms about Argentina, with agency help.

3. The agency will help the ambassadors and the embassies to become the source of positive news accounts about the country and to sponsor, publicly or otherwise, activities promoting cultural or other non-controversial aspects of the country.

As another example, Canada foresees much of its activities during the initial year of the program focusing on speeches prepared by the agency, and press or other contacts made by the Ambassador and his economic aide.

An especially promising project is a recommended series of informal lunches with key executives in five Canadian cities. Informal press briefings with local commercial and financial editors would be arranged for the Ambassador at the same time, to take full advantage of the trips. With proper planning and advance notice, addresses to important audiences could also be arranged during the same visits, with the attendant publicity.

Productive relationships with the respective Argentine embassies in Mexico and Colombia have already brought about positive results. This will be the goal of B-M in all the countries.

PROGRAM ORGANIZATION

Due to the size and complexity of the program, we have decided to follow a simple, direct format for dealing with the many specific recommendations on communications to be implemented on an international scale.

We have organized these recommendations mindful of the mentioned audiences, in keeping with their influence over attitudes, investments and trips.

We have singled out activities based on the three described categories of action for each of the audiences: personal experience, personal testimony and third party support.

MOLDERS OF PUBLIC OPINION—PERSONNEL OF EXPERIENCE

The press

The basis of any public relations program is the generation of positive editorial comment in newspapers, magazines and business and financial publications. If there were one audience group which could be called antagonistic towards Argentina, that group would be composed of the reporters we spoke with in the course of our eight-nation poll. The goal of this aspect of the program will be to invite the leading journalists of the eight nations participating in this program to visit Argentina and get to know the country, its government, its economy and its people.

Start with high-ranking reporters:

By focusing so far as possible on the most well-known members of the press, we are, in effect, building a system of conduits in the leading newspapers and magazines, which which will help to put the true situation in focus and correct misunderstandings which otherwise become the bases of impressions. Such well-known reporters, who commonly sit on the executive boards of their respective publications, can play a principal role in furnishing balance to news reports about Argentina.

In general, this audience is difficult to reach and harder still to motivate. Nonetheless, we have developed a concept which will not only enable us to reach these influential persons, but will motivate them to visit and get to know Argentina.

Clearly, the first step is for each B–M office to work with its local embassy towards identifying the key objectives of this program. Invitations to visit Argentina would be sent out on a one-to-one basis by Argentine editors.

During each well-known journalist's visit, a specific Argentine editor would act as host. Itineraries will be specifically made-to-measure in order to respond to the questions of the visiting journalists. Each participating Argentine editor will be furnished beforehand with information about the individual he will be hosting, the main questions on the journalist's mind and the best approach for creating a positive and lasting impression for his guest.

In every case, the emphasis will be placed on showing and explaining the key points to participating journalists. Each visit will be treated as a separate project with its own, specific objectives.

Proposed list:

The well-known editors who will be the targets of this element of the program during the course of the year will be drawn from the following publications:

United States: The New York Times, The Washington Post, The Wall Street Journal, Forbes, Fortune, Time and Newsweek.

United Kingdom: The London Times, The Guardian, The Telegraph, The Economist, The Financial Times and The Observer.

Benelux countries: NCR Handelsblad, Elzevier, Accent, Haagse Post Trends.

Colombia: El Tiempo, Espectador.

Canada: The Financial Post, The Globe and Mail.

Mexico: Excelsior, Novedades.

Japan: Yomiuri Shimbun, Mihon Keiza Shimbun.

Additionally, B–M will continue with short-term public relations in a projected effort to bring reporters to Argentina on a continuing basis. It is important to note that this aspect of the program differs from the one previously sketched in that, here, we are talking about "working" reporters who would undoubtedly return to their countries and write stories about Argentina, whereas, in the project outlined above, the objects are those well-known journalists who participate in the determination of editorial policy more than in the act of writing.

The importance of caution:

The B–M representatives in each country have taken great care in the preparation of working press lists to maximize the chances of getting good coverage. With this in mind, we have mainly aimed at the business, travel and apolitical press. Where political writers are included, they are of conservative or moderate persuasions.

Whenever possible, we will plan visits for groups of from three to seven reporters. The United States press will probably be the least disposed to group travel, except in the case of special interest editors such as travel writers.

The following is a list of working reporters seen as wanted participants in this portion of the program:

Working United States reporters

Chicago:

1. Edwin Darby, financial editor of the Chicago Sun-Times. A politically moderate person who likes reports about commercialization.[3] His columns are generally published by the Sun-Times agency. The Sun-Times is the largest newspaper in the city and is considered centrist.

2. Alvin Nagelberg, financial editor of the Chicago Tribune. An extremely thorough reporter-editor who spent a lot of his time covering landed poperty. Considered very protrade. The Tribune calls itself an independent journal, but its positions are close to right-wing Republican.

3. George Harmon, financial editor of the Chicago Daily News.

4. Richard Griffin, financial columnist, Chicago Daily News. Both men are considered very knowledgeable business reporters, and both their reports appear frequently in the Sun Times News service. The Daily News has a foreign staff and is interested in overseas news.

5. Thomas H. Coulter, main executive of the Chicago Association of Commerce, a monthly publication of the association. The Chicago business community is considered well united, the publication is strongly supported by the community and, so, it has become the "insiders' book," always filled with business notices from foreign companies and governments. It is a glossy publication printed at high cost.

New York:

6. John Pearson, editor of foreign business news for Business Week, the business world's weekly. Business Week recently published an article about the changing business climate in Latin America, mentioning the liberal tendency in Argentina and offering a profile of the Minister of Economy, Dr. Martinez de Hoz.

7. George Telfer, foreign editor of the Journal of Commerce. Well-versed in Latin American affairs, he has travelled in the area. The Journal of Commerce maintains detailed cov-

Footnotes at end of article.

erage of United States and foreign business events, offering maritime news and sailing schedules as well. It is widely read by the East Coast business community of the United States.

National coverage

8. Don Larrabee and his wife, co-owners of the Griffin-Larrabee News Bureau in Washington, D.C. Both could spend a week in Argentina covering news items as well as preparing articles. Their office services 27 newspapers from Alaska to South Carolina.

9. William Giandoni, Latin America editor of Copley News Service, which services 9 newspapers in California and Illinois. Copley News Service is considered moderately conservative and very pro-business.

10. David Mazzorella, foreign affairs expert for Gannet News Service, which services 48 newspapers coast-to-coast. Mazzorella, like Gannet News itself, is considered politically conservative and pro-free enterprise in all business matters.

11. Mrs. Betty Ross, travel writer. Has written for all main-line travel publications and has begun to sound out editors for interest in a series of articles about travels to Argentina and tourism there. Has also analyzed with our Washington office the possibility of organizing a special trip to Argentina for travel writers.

12. Geoffrey Godsell, overseas editor of the *Christian Science Monitor*. A respected analyst of foreign events of British background. Spent many years in the Middle East with the BBC. Knows Latin America and has great ability in subject matter not necessarily connected with political news. The Christian Science Monitor is one of the most influential dailies in the United States and is widely read in Washingon.

13. William Rusher, journalist for the weekly *National Review*. Extremely conservative politically, with a XIX-Century liberal free enterprise philosophy in economic matters. The National Review is considered center- to right-wing Republican, with supporters in conservative circles around the country.

14. Lloyd Shearer, editor, *Parade* magazine. An expert in foreign affairs with wide-ranging knowledge, a strong predilection for unusual subject matter for articles. Parade magazine is a Sunday supplement and, as such, enjoys large circulation on that day of the week.

Columnists:

15. Vernon Louviere, associate editor and columnist, *Nation's Business*. Publication of the main branch of the National Chamber of Commerce, it is widely circulated throughout the United States business community. Conservative, profree enterprise throughout the world, he seeks to cover developments which he sees as supportive of the private sector.

16. Robert S. Allen of Publishers Hall. Probusiness, conservative columnist for a chain of weeklies and dailies around the United States.

17. Richard Wilson, columnist for the Register and Tribune Syndicate. Politically and economically conservative. News agency particularly strong in the midwestern wheat and cattle belt.

18. Ernest Cuneo, United Features, columnist with circulation to some 60 dailies coast-to-coast. Conservative.

19. Holmes Alexander, conservative columnist for the approximately 80 newspapers serviced by the McNaught Syndicate. Although he writes on a broad range of political subjects, he will also cover the business impact of economic matters. Very pro-business.

20. John Chamberlain, a moderate and studious columnist. His column is distributed by King Features and reaches some 80 newspapers around the country.

21. Stanton Evans, a conservative, pro-free trade columnist with the Indianapolis News. He also reports on business news for the CBS radio network, one of the major sources of business and political news in the country.

Working Mexican reporters

1. Excelsior: Invite Carlos Ravelo or else any representative named by the editor, Regino Diaz.

2. El Sol: Features writer Lic. Louis Gutierrez has said he would be extremely interested in going if he is assured an interview with President Videla.

3. Novedades: An invitation should be sent directly to reporter Romulo O'Farrill (h), who will name a representative. Nonetheless, we will try to get our contact assigned to the trip.

4. El Universal: It has not yet been possible to speak with the editor.

5. Heraldo de Mexico: The most conservative of the Mexico City newspapers and the friendliest towards present-day Argentine policies. Oscar Alarcon, editor-in-chief and son of the publisher, would be the best bet for an invitation.

6. The News: Very influential English-language publication. The invitation should reach Jaime Penn editor although he may assign a staff writer. We have several friends on this newspaper.

7. Revista Hoy: We have discussed a possible invitation with the editor-in-chief, Gustavo Ortiz Hernan, who would accept. Although he has leftist tendencies, he would treat Argentina fairly and would publish an interview with President Videla as "the other side of the coin" which has not yet received adequate coverage.

8. Televisa, S.A.: A virtual monopoly (channels 2, 4, 5 and 8) and the main political commentator is Jacobo Sablodowsky. He should be invited and undoubtedly will want to take along a cameraman.

Working British reporters

1. Hugh O'Shaughnessey, Financial Times. Has an extensive background knowledge of the country, having lived there for several years. His newspaper is the main business/commercial paper and is read internationally.

2. Michael Frenchman, The Times. He covers the country for the paper and just finished a special poll about the Malvinas Islands. The Times is the main British newspaper read by influential thinkers including politicians and government employees. Alternately: Dennis Dwyer, Times editor, business news section.

3. Nicholas Carroll, assistant foreign editor of the Sunday Times. Has expressed the opinion that Argentina should adopt a positive information program. The Sunday Times is the largest circulation quality newspaper in the United Kingdom. Alternately: business specialist James Poole, foreign business editor.

4. Chris Roper, Latin America Magazine and Latin America Economic Report. He is the Argentina specialist for these publications and is frequently cited by persons involved in analyzing the subject.

5. Jill Samuels, overseas editor of Trade and Industry. This is a government publication read by importers/exporters.

6. Andrea Whittam Smith, editor of Investors Chronicle, the only independent financial weekly.

For in-depth coverage in glossy cultural and tourism publications, we should concentrate on:

7. Nigel Buxton, of the new, glossy Sunday Telegraph Magazine, which gives the best coverage of any quality Sunday magazine.

8. Winfred Carr, of the Daily Telegraph, excellent travel coverage, highest circulation quality daily.

9. Arthur Sandles, of the Financial Times, the dean of travel writers in the national papers.

10. Jill Garshaw, of the Daily Mail. Edits one of the most popular travel sections in the United Kingdom, high circulation.

11. Rene Lecler, Harpers and Queen. Publishes articles read by women in the upper portion of the market, also has many male readers. Long travel articles.

Working Canadian reporters

Contact has been established with the following reporters, all of whom have indicated, to one degree or another, that they would like to visit Argentina. In general, the French-language press is more receptive to making this sort of trip than is the English-language press.

1. Dr. Harry Levenstein, assistant professor of History at McMaster University in Hamilton, Ontario. Has frequently written about South America, especially Argentina. Free-lance writer for the afternoon papers Toronto Star and Hamilton Spectator.

2. Michel Lefvre, business editor of Le Devoir of Montreal, Quebec's most respected daily newspaper.

3. Roger Leroux, business editor of La Press, the largest-circulation daily in Quebec.

4. John Wardell, editor of Canadian Travel Courier, the key magazine of the travel industry. A bi-monthly book that circulates to travel agents, hotel owners, et cetera.

5. Michael Tremblay, travel editor of La Presse, a key publication for reaching the Quebec travel market.

Working Japanese reporters

All the following publications are of national circulation and prestige and all have expressed interest in visiting:

1. Nipon Keiza Shimbun, business daily known as the Wall Street Journal of Japan.

2. Yomiuri Shimbu, one of three quality dailies in Japan.

3. PHP (Peace and Happiness Through Prosperity), popular general-interest monthly.

4. Nikkei Business, leading biweekly put out jointly by Nihon Kaizai and McGraw Hill.

5. Diamond, the Japanese equivalent to Forbes.

6. Asahi Weekly (bilingual); weekly.

7. Travel Times: best-known travel industry publication, it also publishes a hotels and restaurants magazine.

8. Net: one of the main television stations affiliated with Asahi Shimbun.

Working Belgian and Dutch reporters

The number of reporters recommended for an early trip has been kept deliberately low in order to maximize the opportunity for positive coverage during this transitional period in Argentina. Invitations to the Dutch press should not be sent to any specific reporter but rather to the editor-in-chief and the people who will most likely be named for the trips are the foreign affairs or Latin American news editors and we could suggest these people to the editor-in-chief but there is no absolute guarantee.

Format for the editors' visits

The basic format is as follows:

1. Reception by the Argentine Embassy prior to departure for Buenos Aires. The idea behind this is to introduce the reporters to key members of the Embassy, including the Ambassador and his personal aides.

2. Departure for and arrival in Buenos Aires.

3. Initial meeting with officials of the Secretariat of Information. Planning a brief, to-the-point informal reception first, it will be possible to overshadow the traditional points of view many reporters may have towards military governments. The meeting itself should be formal and serious. It should include:

A welcome by the Secretary of Information.

A verbal outline of the itinerary for the trip, during which it should be pointed out that free time has been scheduled for the reporters to follow up on their special interests, go shopping, look around, etc.

Distribution of a second press packet, including:

a. Current facts and figures about Argentina, with special emphasis on information of an official nature.

b. Official background information about the country.

c. A copy of the Foreign Investment Law, with an up-date on proposed or adopted modifications.

d. The booklet "This is Argentina" ("Esta es la Argentina").

e. A special publication (and/or other materials) about the World Championship.

f. The most recent in-depth materials (speeches, articles, etc.) about key economic sectors such as key industries.

g. Two or three of the most recent speeches by President Videla, Minister of the Economy Martinez de Hoz and Minister of Foreign Relations Guzzetti.

h. Publications and narratives directly related to the editors' visit.

4. The key elements of the editors' visit will vary, depending on the group. Nonetheless, the following key elements must be included:

a. A tour of the city, emphasizing the cultural and tourist attractions. Special attention should be paid to the port facilities, the industrial complexes and the sports stadium which will hold the World Championship.

b. Interviews with high-ranking government officials;

Minister of the Economy
Secretary of Foreign Trade
Secretary of Energy
Secretary of Maritime Affairs
Secretary of Agriculture
Mining—The Offices of Military Manufacturing
National Commission on Atomic Energy

c. Working visits to the logical plants for the invited group. For example, agricultural editors will tour a refrigeration plant, grain storage warehouses, etc. Industrial editors should see key factories in the Buenos Aires industrial complex, shipping installations and so on.

d. Luncheons with important private sector Argentines. The end of this recommendation is to insure that the reporters manage to get the private sector point of view in addition to meeting with the government officials in charge of the various sections. Beyond this, by offering these luncheons, the Secretariat of Information will have better control over the reporters' contacts with the private sector.

e. A soiree in the Colon Theatre, a tour of an outstanding museum, an art gallery and a soiree in the Michelangelo night-club or someplace similar should also be included, to give the reporters a sense of life in the capital and of the country's great cultural heritage.

5. Program outside Buenos Aires: The goal of this part of the program is to give the reporters an impression of the countryside, to promote tourist attractions and to show additional agricultural and industrial installations. It would include:

a. A visit to a farm for a complete view of Argentine agriculture in action.

b. Visits to a factory or industrial complex related to the groups' interests.

c. A trip to Mar del Plata, Bariloche, Mendoza or the Iguazu Cataracts.

d. Following the model established for Buenos Aires, luncheons with leading local personalities should also be scheduled. The cultural evenings or night tours should be organized in such a way as to give the reporters an indication of the variety which exists in Argentina and of the "normalcy" of life in the cities outside Buenos Aires.

6. Return to Buenos Aires. All the reporters will participate in a final meeting with the Secretary of Information and his aides for a final question-and-answer session. This affords an excellent opportunity for correcting any false information the reporters may have and also permits the Secretary and his aides to obtain a better understanding of how to structure future trips. There will also be a meeting with the Foreign Relations desk which oversees the reporter's home country and a brief reception/press conference with President Videla or the Minister of Foreign Relations (according to the calibre and composition of the group).

7. Return to home country. B–M and the press attaches in the embassies will be in charge of follow-up work to complement the efforts of the Secretariat of Information in Buenos Aires during the tour and to ensure the development of favorable reports.

Government representatives

In the same way that we have singled out important journalists to visit Argentina through special invitations from Argentine journalists, we are picking out government representatives in each of the eight countries involved in this program, to visit the country and get to know its government, its economy and its people. The objectives of this element of the program are the correction of any false impressions which may be held about Argentina by key government officials in our target countries; to answer any specific questions they may have about the government and the stability of its programs and, wherever possible, to help establish special relations between Argentine government representatives and their counterparts in other nations.

INFLUENTIAL THINKERS—PERSONAL TESTIMONY

The press

The idea is to use selected Argentinian editors and have them visit their counterparts in the eight countries covered in this program. Each editor chosen will be thoroughly instructed and furnished with a moderate presentation on "what was reported versus what really happened." The focus would be on correcting false impressions which may exist in press galleries around the world. This section of the program will serve to build bridges between selected Argentinian editors and their counterparts elsewhere in the world and will supply us with an informal poll of press attitudes towards Argentina. It will also help identify friendly reporters and editors.

The first step involves selecting knowledgeable and cooperative Argentinian editors prepared to tour the eight countries and speak about their country. A special itinerary would be prepared for each participating editor, designed to permit them to meet their counterparts on a one-to-one basis, tell editorial boards about Argentina and its programs, address press association meetings and generally act as good-will ambassadors with good news to share.

Efforts will be made to get press coverage of the tours in the countries visited and to promote better understanding with Argentina.

As part of this project, the participating editors would offer to serve as information resources for the publications they visit. The contacts they establish will act rather like truth squads in disseminating "white papers" on specific topics of importance to Argentina later on. We will also be able to build an ever-growing list of friendly press to invite to Argentina on a continuing basis.

Government representatives

Under this part of the program, key Argentine government representatives are sent to visit their counterparts in the eight countries and speak about "the truth behind the false impressions about Argentina." The program will be similar to that described for Argentine editors except that each visit will be tied to an event scheduled in the country visited. The emphasis will be on answering questions, correcting misimpressions among government agencies, and radio, television, newspaper and magazine interviews.

Follow-up will include drawing up mailing lists after each visit, for sending out reports, in-depth materials, etc., which might benefit Argentina in the future.

This program will also help us to identify those friends of Argentina in high government positions around the world who might be invited to visit the country and learn more first-hand about the government, economy and the people.

INFLUENTIAL THINKERS—THIRD-PARTY ASSISTANCE

This segment of the program contains three basic vehicles for conveying Argentina's story to our key audience. They are: newsletters, direct mail and targeted publicity.

1. Newsletters:

First, the newsletter. We propose to develop a newsletter that will give Argentina a tool for direct, impartial communications, conserve high visibility for the country and its government, and act to furnish information and ideas to our target audience. It would be called "Report on Argentina."

To be published bimonthly at first, the newsletter would cover a wide range of general-interest information: outstanding points from speeches by the President, the Minister of the Economy and other persons; reports on government progress and initiatives in industrial development; cultural developments; important visitors' observations; important conferences and congresses to be held in Argentina; news about the World Championship, etc.

These "controlled communications" accomplish their goal much better than media coverage. By reaching the people Argentina wants to reach, with significant and up-to-date information on a regular basis, familiarity, understanding and support will be built for the country's economic, political and social goals.

The "report on Argentina" will be designed for use by all the countries in the near future. The basic text and lay-out will be developed in New York and sent to B–M offices in the rest of the world for selection and editing in coordination with the respective embassies. All countries will use the same format, and each edition will be designed to encourage dialogue with the target audience.

2. Direct mail:

All mailing lists compiled by the newsletter will be sent all general interest materials which may help achieve world understanding of Argentina, including pamphlets, reprints and advertizing. Cover letters or special calls will explain the significance of each mailing. There will be a built-in response mechanism to encourage dialogue with our target audience.

3. Targeted publicity:

The third element of this program is targeted publicity. We include under this heading all publications, interviews and planted articles appearing for the duration of this program.

INFLUENCERS OF INVESTMENT AND TRADE—PERSONAL EXPERIENCE

Trade missions are the basic vehicle for this part of the program. Once again, we are using a narrowly-directed focus to expose carefully-chosen members of the international trade and financial community to investment opportunities in Argentina and, where possible, to stimulate competition among powerful investors.

Opportunities for stimulating trade missions to Argentina will be actively sought in their countries. This will be accomplished by naming an important staff member as "trade liaison" with specific responsibility

for arranging trade missions on an on-going basis in coordination with the local embassy. In order to achieve his goals, this person will connect with a variety of organizations:

Government and agency officials charged with fomenting international trade and overseas investments

International organizations such as the EEC which are also interested in international trade and investments

Banks and other financial institutions either with offices in Argentina or with interests in international trade

Branch organizations, either independent or government-sponsored, whose duty it is to represent the interests of specific industries in their countries. Examples would be the American Petroleum Institute in the United States and the Japanese Iron and Steel Federation in Japan.

Independent trade leaders known to favor international trade and investments.

All individuals and organizations contacted will be analyzed in terms of their interest in fields of specific interest to the Argentine government (energy, fishing/maritime affairs, chemicals and petrochemicals, steel, construction and heavy machinery). Whenever possible, each trade mission to Argentina will be composed of a minimum of five and a maximum of 20 executives. Missions will last a week and include visits to industrial sites, informal conversations on trade opportunities in the country, and a series of informal seminars led by government personnel and private merchants in an attempt to inspire rapid investments.

Our goal is to have twelve such trade missions visit Argentina during this year of the program.

THOSE WHO INFLUENCE INVESTMENTS—PERSONAL EXPERIENCE

1. International visits:

During the next two years, special teams of businessmen and Argentine government officials will be organized to visit the eight countries in this program and discuss opportunities for investments in energy, fishing/maritime affairs, chemicals and petrochemicals, steel, construction and heavy machinery in Argentina. Working in close contact with the local Argentine embassies, B–M will organize adequate opportunities for the trade missions. The objective of these visits will be to stimulate both individual and trade mission visits to Argentina from each of the countries visited in order to identify markets for Argentine products.

Each team will spend approximately a week in each country. During this time, meetings will be held with government officials, representatives of branch offices, the editors and publishers of branch publications, business and financial editors of newspapers and general news magazines, and with individual merchants.

Each touring group will be equipped with adequate speaking materials, a high-impact audio-visual presentation and special formulae—all aimed at stimulating firm commitments for early visits to Argentina. At least six such missions are foreseen for the first year of the program.

2. Local Business Seminars:

Another aspect of the personal experience segment of this program is the addition of local business seminars aimed at displaying trade and investment opportunities in Argentina to the largest possible audience in each of the eight target countries, and to sustain face-to-face conversations between the candidates and the embassy personnel in the countries.

In general, such a seminar will follow a highly structured format. The basic agenda and all presentations will be arranged by Burson-Marsteller in New York. A typical schedule will include a welcoming speech setting forth the ends of the meeting; an analysis of the new investment law; several audio-visual presentations of case histories of successful business ventures in Argentina, an outline of special investment opportunities in Argentina for companies and financial institutions located in the particular country being visited; and a question-and-answer session, reasonably structured.

The seminar packet would be given to each Burson-Marsteller office so that it could be localized to achieve the greatest impact. Following consultation with the embassy, the Burson-Marsteller office would prepare an invitation list including members of the financial community, brokers dealing with South America, industrial executives in charge of South American operations, and interested government personnel.

These seminars would be held in the local embassy or in a capital city hotel. All those attending will receive, besides a complete, up to-date program on investment opportunities and trade in Argentina, a take-home packet with various background reports and printed materials about Argentina.

We recommend that the first trade seminar take place in the United States during January. Our experience there will enable us to fine-tune the program for dissemination to the other offices.

3. Local exhibits:

The Burson-Marsteller office in each of the eight participating countries will prepare a list of local fairs and exhibits. This list will categorize, in order of descending importance, all such business opportunities and will be submitted to the local embassies for their information and approval. A detailed design for an exhibit booth to be used by all the countries will be drawn up.

While it is anticipated that embassy support of the exhibits will be optional, participation in certain shows ought to be obligatory. For example, the United States' Offshore Technology Conference, the Iron and Steel Institute meeting in Brussels, the Royal Agricultural Show in England, and the Canadian National Exhibit in Canada.

As an alternative plan, the exhibits could be used as special promotions in department stores in the key target cities around the world.

The execution of this alternate concept would involve having major businesses declare a particular week or month as Argentina Week or Argentina Month, during which period the business places Argentine products on sale in several departments.

Even so, the standardized exhibits prepared by the various countries should be placed in heavily-trafficked business zones where they will have the greatest visibility. Once again, we would recommend holding a formal inauguration, with advance notice to the press and so on, in order to maximize publicity and attract specialized businesses so necessary to the success of this sort of program.

Obviously, all these activities are supported by our on-going news program.

Advertising

Besides developing appropriate public relations activities to aid Argentina's foreign investment goals, Burson-Marsteller proposes a modest support program of advertising to stimulate participation of designated foreign countries. Advertising is the key to this effort since we can never be certain that important business and financial publications will print news about Argentina along agreed-to lines. But we can definitely present our case through paid advertising. This eliminates the risk of influential readers' missing the message.

Together with this proposal for a modest advertising campaign, we emphatically recommend reprinting the advertisements for later distribution to select lists of business and financial entities in the countries under consideration.

The advertisement would be specifically related to the new investment law and would be designed to elicit response. A coupon enabling the reader to send for a copy of the new law would be included.

In keeping with our contractual letter, the cost of advertising space is a separate budget item.

The recommended program for the communications media covers the major business and financial publications of the assigned countries. For maximum effect, the advertisement should be scheduled to appear three times although the budget figures cover only one printing. A small reduction in cost would accompany repeated printings, so that the budget figure for three insertions would be somewhat less than the multiple three.

Once the advertisement appears, reprints will be sent with a cover letter to a select list of businessmen in the assigned countries. The specific lists should be prepared by B–M and the Argentine staff in each locale.

A special pamphlet, "pamphlet on the investment law," should be prepared. This folder would present the text of the investment law in the languages of the assigned countries and include a section comparing the new law to the old. Separate information sheets would review the present regulations and list priority investment opportunities. These fact sheets would both anticipate and answer the major questions a potential investor might have. Other descriptive facts aimed at encouraging investment would be included as well.

We anticipate that an initial advertising effort will provide us with a base for a more comprehensive campaign further on in our communications program. With recourse to our advertising division, Marsteller, Inc. we will submit recommendations for an on-going program early in 1977. Marsteller, Inc., is the eighteenth-largest international advertising agency, and it creates and places more business advertisements than any other advertising agency in the world.

INFLUENCERS OF TRAVEL—A BASIC PREMISE

While not falling within the primary scope of this program, those activities having to do with travel and tourism are extremely important in that work carried out in this area overlaps onto other areas. At the moment, we foresee a two-phase program to encourage travel and tourism.

The first phase focuses on working with target audiences such as tour operators and airline personnel to create travel packages.

The second phase involves working with such publics as travel agents and general consumers to create consumer demand.

In conformity with the first phase of this program, an effort will be made to increase travel writers' and specialists' knowledge about Argentina, in order to interest hotel chains and businesses in creating tourism facilities in the country.

Burson-Marsteller visualizes this effort as a joint undertaking with the Government Department of Tourism. We also believe, based on our successful exposition of the theme with Sr. Rezzi, that the Argentine Association of Travel and Tourist Agencies can be of great assistance.

We will assume leadership where to do so would be effective and acceptable. Nonetheless, it is clear that the principal role must be taken by the Argentine agencies mentioned above. We trust in our ability to work with them constructively.

INFLUENCERS OF TRAVEL—PERSONAL EXPERIENCE

Three basic ideas have been grouped together in this portion of the program. They are: visits to Argentina by tour operators; development of package tours; and visits to Argentina by specialized travel writers.

1. Visits by tour operators:

Interviews conducted with tour operators

in the eight countries covered by this program indicate that discontent exists concerning the difficulty of arranging realistic package tours. Additionally, tour operators complain of a general lack of cooperation from Buenos Aires and say their information on Argentina is extremely out-of-date. By bringing the tour operators to Argentina, we will have an opportunity to furnish them with all information necessary for package tours. This is also the time to offer them all possible assistance and to point out to them the natural and man-made wonders of Argentina. Beyond this, we would also have a chance to identify those tour operators with whom we might work in the future.

Here is how it works:

Burson-Marsteller will identify those tour operators presently active in the southern target market or those with potential capacity for penetrating the South American market. The local embassies will invite the package tour organizers on a familiarization tour of Argentina. By bringing tour operators from all the countries at one time, we will minimize our expenses. The visit will be set up as a seminar.

On their first day in Argentina, there will be a welcoming ceremony for the tour operators and the purpose of their trip will be described to them. Following the welcoming ceremony, they will be given an audio-visual overview of Argentina and a presentation on the opportunities for expanded tourism. Each operator will be furnished a detailed description of the various cities to be visited and will be introduced to the key airline and branch office contacts.

At this time, we will announce a special contest for participating tour operators in which all those present will have a chance to design "the ideal Argentinian tour." The grand prize will be an all-expenses-paid winter tour of the wintry wonders of the Antarctic, sponsored by the Argentinian government.

On the second day, all the tour operators will be taken on a visit to all the key sites and facilities in Buenos Aires. There will be an evening reception with key hotel personnel of Buenos Aires. The entire day will be mapped out to convince these tour operators that Buenos Aires is an ideal city for visitors seeking something new and different, and inspirational for vacation visits.

On the third day, the tour operators will go on excursions to other touristic cities where they will take part in mini-seminars in which the tourist attractions of these areas and the facilities available for tourist use will be underscored.

The fourth and fifth days will be spent in Buenos Aires, where the tour operators will meet with hotel, airline and ground transport personnel to discuss tourism and its possibilities. In this same period, the operators will have time to design their local packages. A banquet will be staged on the final night and the winner of the tour-design contest will be announced.

2. Package tours:

Ideally, at some moment prior to the arrival of the tour operators, the Department of Tourism, in conjunction with Aerolineas Argentinas, should develop a completely new, original tour which will be revealed to the tour operators during their visit.

Each participating tour operator will receive a take-home packet which will include two copies of the basic Argentina folder and two copies of all other tourist materials, special mementoes for their desks and work areas and a listing by name of all key personnel with whom to make contact when preparing package tours. Additional materials will be sent to their homes.

To extend the reach of this program, three chosen travel magazine editors will be included in the operators' tour. The articles which appear subsequently will be read by other tour operators and will serve as a preview glance for travel agents.

3. Visits by feature writers:

The visits of travel and special-interest writers will allow us to immediately begin placing Argentina as "the 'in' vacation spot." Upon bringing these editors to Argentina, emphasis must be placed on the unusual, including hunting and fishing opportunities. Our objective must be the glorification of the best Argentina has to offer—its food, its night-life, its natural beauty. We will employ massive exposure to counteract the fears these writers have about the country, and we will concentrate our efforts on developing meaningful accounts about Argentina, not only Buenos Aires.

Among the writers and publications which must be targeted for this activity are Bob Joseph of Esquire Magazine, Paul Steiner of Playboy Magazine, Paul Friedlander of Traveler World, Murray Brown of UPI, Horace Hutton of Saturday Review World and Mort Young of Hearst.

As articles appear, they will be reprinted for use in direct mailings and for distribution through the embassies.

Once again, the selection of the editors will be the responsibility of the local Burson-Marsteller offices in conjunction with the respective embassies.

INFLUENCERS OF TRAVEL—PERSONAL TESTIMONY

In this segment of the program several activities will be combined in order to extend the reach of our message to travel agents, expand our influence with tour operators and to get various tourist industry associations involved and interested in Argentina.

1. Presentation to the Agents:

The keystone of this segment of the program is the development of a special presentation for travel agents. In general, our research has shown that travel agents cannot "sell" Argentina until tour operators have mounted economical and feasible tours. We need to reach those travel agents and tell them what we are doing to develop those tours. We must also reach these agents to furnish them with basic "know-how" with information about sending clients to Argentina. This task is somewhat simplified due to the fact that travel agents need only a ready knowledge of basic facts about the country.

To carry out this task in the most effective and efficient manner, we are recommending an audio-visual module presentation for use by embassy and agency personnel, describing the tourist facilities and attractions available in Argentina and focusing on the "how-to" of sending clients to Argentina.

This presentation will be used for the important travel companies in each of the eight countries and in local travel meetings when such meetings take place.

2. Extension program for tour operators:

This activity will be wound up with something we call "extension program for tour operators" which is designed to help tour operators sell packages and, at the same time, to maintain the tour operators' interest in developing new packages for Argentina.

Under this program, we offer the tour operators the use of our audiovisual module presentation. We could also furnish color photographic maternal and texts to help them produce their own package-tour projects. Additionally, we would furnish them bulk quantities of the Argentine travel folder and we would produce direct-mail packets designed for general use by the tour operators. Additional help and assistance would also be offered. For example, we could furnish the tour operators with reprints of articles in almost any quantity desired. We could work with active operators to make visits travel agents' familiarization packets, to Argentina.[4] And, we would produce local advertising packages for use by the local tour operators.

3. Tourism newsletter:

All of this would be backed up through the development and distribution of a newsletter on Argentine tourism. The newsletter, which would evolve along the same lines as the general newsletter mentioned previously, would be designed to maintain high visibility for Argentina in tourism industry circles. This would furnish us with a direct means of communication between the Argentine government and travel and tour agents. Each edition of the newsletter would carry mention of the most recent tourist offerings, reprints of articles by travel writers, reports on tourism innovations, stories about trends and news of special tourist offers. The newsletter would be designed in New York and adapted to each of the eight countries in this program, and would be distributed to the tourism information media.

4. Celebrities:

Additional impact will be provided using specifically-selected Argentine celebrities trained to tour the different countries and to talk about Argentina and what it offers travellers. Examples of such personalities would be Juan Manuel Fangio (he came to Acaracas[5] with Videla as part of the plan) and Carlos Monzón. The celebrity would be chosen in keeping with the needs of the country to be visited. The local offices of Burson-Marsteller would be responsible for originating the basic feature reports and for press materials and for arranging television and radio interviews when the special guest celebrity is in the country. The celebrities would hold briefings with the local agency personnel before heading out on media tours and would be accompanied throughout their trip by agency personnel.

During their visits to each country, the celebrities would host a series of parties for the well-known thinkers of the country, and time would be allowed for conversations with travel and tour agents about travel opportunities in Argentina.

5. Asta[6] participation:

We suggest that Argentina make more direct contact with Asta and that this contact then be put to use as a catalyst to building tourism. We recommend, in the first place, the immediate taking of the necessary steps for Argentine participation in the ASTA Convention in Madrid in the fall of 1977. This participation would take the form of a classy exhibit and an Argentine evening of "meat and wine" including the best, distinctly Argentinian food and drink as part of the general merriment. (This would be best accomplished by having Argentine beef and wine flown in for a typical "parillada"[7], for instance). It should be of such quality and interest that all 1500 members of ASTA and hotel, airline and other representatives are attracted. The number of invitations could vary from 3,000 to 6,000.

If Argentina decides to undertake this, immediate action should be taken as the program and exhibit spaces are already being reserved. Burson-Marsteller would work through the Argentine Association of Travel and Tourist Agencies to explore this possibility and to plan a program if the government wants to participate.

We also recommend that Argentina offer to act as host for the 1979 ASTA Convention. This will immediately separate Argentina from the other South American countries by pointing out its vanguard position, and establish a high level of tourist activity. Carrying out this task requires a major role for the Argentina government and a totally separate program aimed at influencing travel agents and tour operators if ASTA accepts the offer.

Meanwhile, emphasis should be placed on supporting ASTA efforts by all means possible, focusing on the offer to host the 1979 convention. And if this offer were accepted, the key industry editors would be invited to travel to Argentina to review the convention plans and the site on which it would be held.

Under this segment of the program, ASTA

Footnotes at end of article.

would be asked to hold a regional meeting in Argentina at the end of 1977. This meeting would serve to spearhead the 1979 event. Nonetheless, it is important to note that the regional meeting should be scheduled for the time period following the release of the new tour packages. Burson-Marsteller in New York will work intimately with the Department of Tourism concerning this and other facets of the tourism program, on the necessary bases; the same holds for the Argentine Association of Travel and Tourist Agencies.

INFLUENCERS OF TRAVEL—THIRD-PARTY ASSISTANCE

Three elements are combined in this segment of the program. They are: publicity about travel opportunities in Argentina, school study guides, and a television "Special."

1. School study guides:

The development of school study guides is important to the success of the program given that the students of today are the tourists of tomorrow and because teachers play a role in the formation of opinions and as community leaders around the world. We suggest a simple packet of folders which would include wall posters about the people of Argentina, the economy, their heritage and points of interest and teaching guides with bibliographies, tests for the students, and so on.

The school study guides would be available through advertisements placed in the corresponding educational magazines. The packets would be mailed to the teachers on their request.

Burson-Marsteller in New York would produce a basic publication on the availability of these aids and would send this to all the local offices for placement in local publications. All the offices would oversee replying to the advertisements and would develop ongoing stories based on their local situations.

Television special

The special element of this segment of the program is a television "special" designed to take advantage of the fact that television is the most important medium of our time and offers the greatest impact. Studies have shown that people believe what they see on television. Correctly executed, this program could be adapted for all the countries and later be restructured for use in movie houses and film exhibition halls.

The television show would be a special, thirty-minute or one hour program, furnishing Argentina slots for the opening and closing announcements and, at least in the United States, two commercials of thirty seconds each during the actual broadcast.

Burson-Marsteller in New York would be responsible for developing the concept of the television program. The production would be contracted to capital city broadcasters who would also be responsible for distributing the show in the 120 major markets of the United States. Promotional support will be taken care of with a special publicity package to be developed by Burson-Marsteller in New York. Additionally, special advertisements will be prepared for insertion into newspapers when the show is about to be aired, calling the public's attention to the broadcast. Copies of the film would be made available to all the embassies in the participating countries.

Following the airing here in the United States, the film and the script would be sent to the local Burson-Marsteller offices, which would be responsible for dubbing over the soundtrack with the language of the country in which they are located, and of making arrangements for airing the program on local television stations. Each local office will use the publicity package developed in the United States as the basis for its own publicity campaign.

GENERAL AUDIENCE—RECOMMENDATIONS—PROLOGUE

This section consists of four recommendations concerning communications which are applicable to Argentina's three audiences. These areas are:

1. Establishing a strong center of press relations in Buenos Aires which could eventually be broadened to serve as a Visitors' Office.

2. A seminar to improve the communications effectiveness of embassy staff and other Argentine representatives.

3. Expansion of Burson-Marsteller's original recommendations concerning the terrorism problem.

4. An analysis of, and proposal for, visual continuity in all Argentine communications material.

To varying degrees and for differing reasons, it is our opinion that each of the foregoing points is critical to the success of our communications program in the eight countries which have been chosen.

EXPANDING THE RESPONSIBILITIES OF THE SECRETARIAT OF INFORMATION

The Buenos Aires connection is critical to achieving the long-range success of Burson-Marsteller's communications/advertising program. The adequacy and exactitude of information furnished by the Secretariat of Information, and the speed and efficiency with which it flows from Buenos Aires through New York to the eight countries, will be a fundamental factor in determining the success or failure of the program.

Since we are already committed to the success of the program, we recommend expanding the responsibilities of the Secretariat of Information to include the establishment of a Foreign Desk.

1. Duty of the Foreign Desk:

The Foreign Desk should be staffed by persons familiar with the eight countries covered in the Burson-Marsteller contract (and should, unquestionably, include the other European countries).

It should compile and store basic data, illustrative material, photographs and film covering the individual necessities of each country. For example, the Belgium specialist should be thoroughly acquainted with the Argentine campaign to the European Common Market to win acceptance of Argentine beef. He should know "by heart" the latest figures on meat production and have at hand photographic and film material about exports which could be furnished to the Argentine Embassy in Belgium or the Burson-Marsteller office in Brussels, immediately the information is requested.

The Foreign Desk should have a list of writers and translators able to communicate in the language and slang of those countries—persons who could serve as guides or interpreters at any given moment in Argentina. This would not only keep the Desk functioning in an informed manner but would generate a "warmer" press climate, which in turn would result in coverage more favorable to Argentine events on the part of said correspondents.

A DUTY OF THE INFORMATION DESK

We would also strongly suggest the establishment of a "news desk" job in the Secretariat of Information, to regularly call on other offices and ministries of the Argentine government for:

1. A complete list of events.

2. The latest news.

3. Itineraries of foreign trips by important government officials.

4. Specific information to fulfill information requests from Burson-Marsteller personnel for the newsletters.

For example, Burson-Marsteller has been privately contacted by many businessmen asking when Argentina plans to open bidding for multinational petroleum companies interested in obtaining drilling and production rights in Argentina. It would be the duty of said information desk to keep up-to-date information about the time and exact places in which such bidding will occur.

VISITORS' OFFICE

Finally, we recommend an eventual expansion of the Foreign Desk to create an extensive "visitors' office" of the sort that exist in most developed countries. This office would serve to coordinate visits by all foreigners invited by the government and to choose Argentinians to represent the country on similar trips abroad.

As has been indicated in an earlier section of this program, these visits are critical to Argentina's general image around the world. Because they are aimed at the key formulators of opinion outside the country, they necessarily involve extensive programs which—to be successful—should be planned and executed with precision. To achieve the needed degree of coordination, we strongly urge the creation of this function within the Secretariat of Information.

It should be pointed out that the additional cost of such an office is actually less than it appears to be. The staffers on the country desks can help organize and coordinate the visits. The guides and interpreters can be chosen from the universities where they studied the language and, in some cases, the cultures of the involved countries and can be hired on a part-time basis or case-by-case as the need arises. Beyond this, by offering foreign visitors this person-to-person contact with the young people of the nation, the office helps create a highly favorable impression of the future Argentinian in the minds of these guests.

Those staff members, in charge of this office should be encouraged to create a list of so-called "unofficial spokesmen" who like Clark Clifford, George Ball and David Rockefeller in the United States can represent Argentine interests to important private sector groups.

In this way whenever these persons participate in branch or business meetings, or when they are members of an official delegation, they can be used by Burson-Marsteller to appear on locally-televised interviews or as guests of honor at luncheons, dinners, etc.

COMMUNICATIONS TRAINING

1. Raison d'etre:

In keeping with the short-term recommendations of our program, we believe that a formal training seminar might strengthen the communications skills of the government officials in our eight chosen countries.

We consider this training to be a high priority. The task of communicating about Argentina around the world is a complex, sensitive, important responsibility. If detailed plans are not made, it will never be effectively implemented.

One obstacle to effective communications is the compressed passage of time brought about by television and the other electronic communications media. Through them, most people receive their information in a very fast and encapsulated form—without the perspective inherent in the print media.

A second obstacle is the popular belief that the media basically are negative instruments.

By contrast, adversary groups frequently make excellent use of the media through means of organized and directed efforts. They accuse, sensationalize, get publicity and, in brief, take the offensive.

Without adequate preparation and programming, those who are criticised frequently find themselves on the defensive, responding to every adversary salvo instead of seizing the initiative.

2. General focus:

The seminar we are proposing deals with

both classes of communication—effective "reaction" to criticism and effective "action" to promote our position.

The "reactive" communications positions would include:

1. How to respond to print, radio and television requests.

2. How to deal with local, national or international groups such as Amnesty International which carry out local anti-Argentina campaigns in the countries where they operate.

3. How to deal with special interest groups, such as businessmen, sports-writers, exporters, etc., which express interest, criticism or condemnation of Argentine policies in keeping with the point of view effecting their particular area.

The "action" situations would include:

1. How to conduct a successful information-distribution program in print, radio and television and prómote vital Argentine interests and policies in a particular country.

2. How to use embassy-sponsored luncheons, cocktails or special evenings to reach a particular audience.

3. Reasons for furnishing materials to the press and how to construct them.

4. Developing a fact file reflective of the needs of the public in the country where you are located.

5. Developing a photographic archive for information media covering Argentina, with special articles encouraging tourism and foreign investment!

Through a variety of audience-involvement techniques Argentine officials participating in the seminar will undergo experiences which will serve as a lead-in for the actual communications presentation. The seminar will deal with conventional means of direct communication about Argentina. It will expound on the difficult and sensitive situations which arise in communications. It will afford the participants with an opportunity to practice public speaking, will give them experience in being interviewed, and will have them deal with the essential communications problems confronting Argentina through group work.

3. Suggested participants:

The seminar will be primarily aimed at embassy officials, the press attache, the trade attache and possibly the ambassador. But effective communications for Argentina should be a team effort. Given this, we strongly recommend that, if possible, government information personnel based in Buenos Aires and chosen towards this end, also be included.

It is also our opinion that, among the seminar participants, there ought to be representatives of the Argentine Chamber of Commerce from each country and representatives of Aerolineas Argentinas and other Argentine travel-oriented organizations present.

The primary language of the seminar will be Spanish, but simulated local situations will be conducted in the local language, particularly when embassy personnel are involved. Spot-translations will be furnished.

4. Location:

The seminars will produce maximum benefits if their content is suited to the special local interests of the participants. Ideally, this means that small group seminars would be held in each of the eight countries. Nonetheless, in order to save time and money, we recommend consolidating the participants in larger groups.

For example, the groups might be organized as follows:

New York: Officials of the embassies, Chamber of Commerce and United Nations representatives, selected officials based in Buenos Aires.

Los Angeles: Officials of the Embassy, Chamber of Commerce and travel representatives based in Japan, Mexico, the United States and Colombia; selected representatives based in Buenos Aires.

Brussels: Officials of the embassy, Chamber of Commerce and travel representatives based in London, Belgium and Holland; selected representatives based in Buenos Aires who are in Europe on other business.

The seminar would take up an entire day and could be repeated on a second day in each city if the duties of the embassy staff do not allow all of them to attend on the same day.

5. Outline of the program:

Working title: "Argentina, friends and foes."

Previous evening: The participants arrive at the designated seminar site (a prominent hotel), pick up their packet of materials and are invited to cocktails and dinner.

The packet is critical to the next day's activities. It includes a brief outline of the seminar and a statement of objectives. It warns the participants that five of their number, first thing the following morning, will have to give a three- to five-minute defense of "Argentina today." They will be asked to think the night before about what they will say if called on, and to put themselves in the Argentina ambassador's shoes throughout the following day's program.

Morning session: Introduction: Multimedia presentation (slides, films, music, taped commentary) describing Argentina today—its many positive aspects and the many criticisms its adversaries make. (5 minutes) Opening remarks: The moderator (a Burson-Marsteller representative) outlines the day's program, introduces the seminar leaders, stresses the importance of communications training, requests participation (10 minutes).

Address "Argentina today" Five pre-selected participants are asked to speak on the topic assigned the previous night. Following each address, the opinions and style of the speaker will be analyzed by the moderator and other participants. Suggestions for improvement will be made. The primary objective of this exercise is to involve the participants in the precise identification of positive messages about Argentina. The messages analyzed in this format will be extremely useful to the participants as they go through the rest of the day's exercises.

Surprise interview: When the last speaker finishes giving his comments, a radio reporter (to be played by a Burson-Marsteller representative) hurries towards him with a microphone and asks for an interview right there. The interview is substantially different from the lofty theme of the formal talk. It involves several politically-sensitive questions. The interview lasts only a few minutes and the participants' actions and the situation itself are analyzed. (10 minutes)

General problem solving: The surprise interview introduces a series of four or five situations typical to communications and which might confront an ambassador and his staff as they act in a foreign country. The situations the participants will have to face could be:

An invitation to speak at what is said to be a business-trade forum on South America, sponsored by a group with which the embassy is unfamiliar.

A negative newspaper story on Argentina quoting several adversary groups (for example, Amnesty International) and containing several confusing statements.

A telephone call from a businessman seeking specific information about the new investment law and trade rules.

A simulated radio commentary castigating the Argentine government for its "softness" towards the Right and its brutality towards the Left.

A telephone call from a radio reporter requesting an interview on Argentina today. The reporter gives no indication of the interview's limits and says his tape recorder is ready to go. (1½ hours).

Luncheon speaker: A well-known reporter from the country where the seminar is being held or a prominent Latin American press correspondent will address the group on "what I want to know about Argentina—but can't find out—." The speaker will offer comments and advice about working with the main information media! (20 minutes).

Evening session: The moderator will open the evening session with a review of the morning and of the points covered by the breakfast speaker. Emphasis is placed on the real importance of the information media. Another B–M representative is introduced and speaks briefly on how to work effectively with the media. Ten basic rules for general press relations are covered, followed by specific advice for working with television. (15 minutes).

Press interviews: Once the speaker has concluded, the moderator announces that several participants will be chosen for a series of interviews covering a broad spectrum of events relative to Argentina. The telephone rings and one of the participants is asked to answer. On the other end is a reporter from a prominent news magazine saying he is writing an article about Latin America—past, present and future. He wants to interview the ambassador tomorrow.

Following the call, the moderator and participants analyze the call and what action to take. Should the interview be granted? Where should it take place? What questions should the reporter be asked beforehand? How to prepare for the interview? What materials should be at hand?

Interview No. 1—basically an easy interview, but some questions touch on sensitive subjects.

Interview No. 2—Typical television interview, which is to say that the subject is treated in encapsulated form and tends to pressure the interviewee to make quick, unsupported statements. The discussion continues with special emphasis on the way to handle the final question and how to prepare for the next week's interview which the speaker had finally asked.

Interview No. 3—This is basically with an adversary who places the participant heavily under fire on his treatment of delicate questions. A surprise second guest representing a group like Amnesty International with a very distinct point of view about the Argentinian political situation is announced.

Team exercise: The moderator presents three major problems and divides the participants into teams to consider what action to take with respect to communications to help resolve the problems. The teams are asked to present their recommendations in two ways—first, what would they do immediately to control the problem and second, what would they have done long-term to prevent the problem from arising.

The team problems could include subjects such as:

1. Reliable sources report that an Argentinian group is mounting a campaign in several countries to criticize the Videla government for "human rights violations."

2. President Videla or another high government official is visiting the country where the team's embassy is located. Preliminary press coverage is negative. There are rumors that opposition demonstrations will be staged in front of the embassy.

3. Growing concern is expressed in several countries about the dangers of Argentina serving as host country for the World Championship. (1½ hours).

The Argentina program of communications: The final part of the program is a presentation of the approved program of commu-

nications which Burson-Marsteller has prepared for the eight assigned countries. An outline will be given of the program and materials completed at the time of the seminar, to be given to the participants along with a variety of materials reflecting the various educational points covered during the day's program. Following the presentation, questions and answers will continue (45 minutes).

THE COMMUNICATIONS IMPLICATIONS OF TERRORISM

The most crucial problem facing Argentina is terrorism in all its ramifications, not only because the way in which it is handled will determine the success of the present government, but also because it involves world-wide concern with human rights and civil liberties.

It can be categorically stated that terrorism and the manner in which Argentina eliminates it—particularly the accusation that terrorism by the Right is not suppressed—are the only problems standing between the Videla Government and free-world approval. This[8] * * * in our preliminary poll on attitudes.

The problem should be clearly understood. Today, terrorism is an almost universal problem. The fact that a country finds itself plagued by terrorism poses numerous problems—economic, political and social. As a matter of concern inside a country, it can overthrow a government, choke economic growth, deny the most basic civil liberties and security. But in and of itself, it does not necessarily reflect unfavorably on the country or on the government against which it is directed. An unfavorable image results from either government conduct causing terrorism or the manner in which the government seeks to suppress it.

To enjoy world-wide approval or, put another way, a favorable image, suppression should be tempered with justice and equanimity and with full consideration for civil liberties and human rights, be the terrorism from the Left or the Right. Otherwise, repression evokes memories of Nazi Germany's Gestapo.

The basic consideration in public reaction to terrorism and its elimination is that when civil liberties and human rights are observed one is not anathema to world public opinion. On the other hand, those who suppress terrorism are condemned by world opinion if they do not respect these elemental rights or distribute even-handed justice.

THE ARGENTINE PROBLEM

1. In 1969, a leftist subversion and terrorism campaign was instituted with the clear objective of overthrowing the government through creating conditions for a seizure of power by the extreme Left. Part of this effort is the current world propaganda campaign, apparently well-financed, to discredit the present Argentine government, especially relative to its efforts to neutralize the subversive forces and to eliminate terrorism.

2. At the same time that the government forces are working to eliminate subversion and terrorism by the extreme Left, some elements of the Right have, in the past, responded by unleashing their own terrorist campaign against the Left, apparently without distinguishing between those involved in subversion and those who might simply intellectually support the policies of the Left. Among those who have been abducted and assassinated are Catholic priests and refugees. It is said that some terrorist actions have been of an antisemitic nature.

3. World opinion is being molded by accusations and reports that the Argentine government is not attempting to control the actions of the Right, that the police are involved in those actions, that no arrests have been made of Right-wing lawbreakers and that due process is not being observed with Leftist lawbreakers who are arrested.

4. As a result, while the free world is predisposed to support the Argentine government in its intensive efforts to reestablish the political and economic stability of the nation, this support is being undermined, and may result in unfavorable consequences.

HANDLING OF THE ANTI-GOVERNMENT CAMPAIGN

Those well-financed subversion campaigns of international origin should be confronted in two ways, both of basic and preponderant importance at this stage:

1. The government should take steps to demonstrate and deal with all kinds of terrorism in the same way and also to halt any campaign of an antisemitic or other nature which denies civil liberties and human rights. This should be done without itself infringing on basic civil liberties. This, of course, is easier said than done. But the need is clear.

2. An in-depth public relations effort, such as the one being prepared, should be maintained in order to:

A. Let the world know about the positive aspects of Argentine developments, supplying information which clearly reflects the presence of positive factors; that terrorism is not the only news from Argentina, nor is it the major news.

B. Use the best professional communications skills to transmit those aspects of Argentine events showing that the terrorist problem is being handled in a firm and just manner, with equal justice for all. In keeping with these general guidelines, we recommend the following:

1. Heavy emphasis on economic information showing the government is making all possible efforts to better the life of the average Argentine citizen, in this way depriving the subversives of one of their main propaganda points.

2. A strong campaign to communicate the fact that terrorism is not universal throughout the country. Those reports dealing with tourism possibilities, cultural themes and other news that doesn't mention terrorism should be sought and distributed. These reports need not be of such magnitude as to demand columns of newspaper space; the smallest ones will have their cumulative effect.

3. The government should release a "white paper" on what it is doing to combat terrorism, showing that the police are being controlled and that right-wing terrorism is not condemned.[9]

4. When the time comes, an international commission should be invited to visit Argentina to investigate terrorism and the government program to bring it to a halt.

(The government of Nigeria[10] accepted a similar proposal of ours during the Biafran War, when the government was accused, by propagandists in Europe paid by Biafra, of generalized genocide. The commission reported that there was no basis of fact for the propaganda campaign).

5. Attempt, through diplomatic channels, to obtain the cooperation of a large number of other free-world governments in calling a meeting to examine terrorism and means of eliminating it. The identification of Argentina as a member of a group of free-world nations condemning all classes of terrorism and committed to using all legal means to dissipate terrorism[11] would immediately unite it with those countries which respect human rights and civil liberties.

6. Take steps, as soon as possible, to identify more visibly with the problems of the poor, keeping in mind the charge that the government considers anyone who endeavours to help the poor to be "communist."

7. Increase the amount of news released about terrorist activities in order to establish the absolute necessity of completely eliminating such activities from Argentine society. There is no better means of winning support than furnishing vivid evidence of guerrilla or terrorist brutality.

8. Show that the level of violence in Argentina has gone down since the government assumed power. This will require credible proofs. But if such proof is available, it will be extremely useful in counteracting the adverse propaganda campaign.

9. Send respected leaders abroad to analyze the terrorist problem with the information media and leaders of opinion.

10. Allow the information media to get to know the personalities and families of the government leaders. This will humanize them in the public's minds.

11. Those in the highest levels of the government should increase their contracts with important foreign reporters. These reporters will respect the government and government officials willing to frankly discuss their problems. Whenever necessary, certain information could be furnished off-the-record.

12. Finally, whenever and if possible, proclaim from the highest levels the government's intention to institute a system of law and order which administers justice in full keeping with the legal process and without considering political persuasions. This would be an immediate signal to the world in terms of the government's intention to respect civil liberties and would separate it from the repressive dictatorships.

SUMMARY

The Argentine government enjoys a reservoir of good will in the free world. Nonetheless, terrorism, accusations of repression, and sporadic attacks by the so-called inhumanity[12] of right-wing groups against refugees, priests, and Jewish institutions, are drying up that reservoir. The process of eroding support for the government is being stimulated by an apparently well-financed propaganda campaign, internationally sponsored and originating from leftist movements.

The government and the people of Argentina are threatened not only by left-wing terrorism, but also by a right-wing reaction suspected of having at least the tacit approval, if not the complete cooperation, of the Federal Police. One reason cited for the attacks against priests is the point of view of some elements that whoever helps the poor is, or might be, a left-wing subversive. This sort of reasoning serves to fuel the campaign of those who wish to persuade the world not only of the ignorance of the government and of human rights and of the poor.[13]

This situation requires a forceful program of communications to counteract the adverse world effect of the anti-government propaganda effort which is undermining the government. And we believe that this program, when it is put into effect, will help achieve that goal.

SPECIAL COMMUNICATIONS PROGRAM—THE WORLD CUP

Given the enormous coverage of the World Cup by the media, especially television, the event will offer Argentina a unique opportunity to present to the entire world what for many will be their first glimpse of the country, its people and its life-style. Previous coverage of the World Cups in other countries, the last time coming from West Germany, included all sorts of subjects from tourism to the economy, presented as special reports accompanied by detailed coverage of the games.

There is an additional factor which should be mentioned—the partial success already achieved by the subversive movement both

Footnotes at end of article.

inside and outside Argentina, which has led some countries, mainly in Europe, to reconsider having Argentina as the host country.

With these factors in mind, we allow ourselves to make the following suggestions:

1. A gigantic press conference lasting one week. This should coincide with the official opening of the Hall site at the end of November, which we would recommend designating the International Press Center.

We recommend sending the two or three sports choniclers of greatest influence in the countries of political importance to the World Cup to Argentina for this event.

This recommendation has a double objective: a) allowing Argentina to show the world that it is moving ahead with its preparations for the World Cup and b) giving the Argentine World Cup officials, in this initial stage, an opportunity to find out what reporters in the various countries think could be done to make this the most beautiful World Cup ever seen, so allowing Argentina to adapt its preparation in order to make this the most successful World Cup.

During the press conference, the press representatives would be introduced to the Argentine World Cup Committee. Outstanding Argentinian sports figures known the world around—not only soccer players—would also be introduced, in order to present the concept of Argentina as a sports nation. (Juan Manuel Fangio, Guillermo Vilas, Carlos Monzón, etc., would be included here).

The director of the Argentine World Cup organization would give a speech including the following points:

A—A complete report on the progress made to date, including slides.

B—A description of press facilities (location of press galleries in each site, telephone and telex communications, translation services, etc.) during the World Cup.

C—Depending on the progress made, any symbol or other graphic arts details used for releases on the event—emblems, logos for news bulletins, television, etc.

D—Introduction of the young people representing the attractive and healthy youth who will serve as ushers and guides during the 1978 event.

E—A report on security preparations with special emphasis on those cities and localities where the World Cup games will take place.

Additionally, offers should be made for:

A sweep around Buenos Aires with special attention to the stadiums where the World Cup matches will take place.

A chartered flight for the press to other cities and localities where the World Cup matches will be held.

A sweep around these cities and nightspots to accentuate the tourist, cultural and social attractions.

A final meeting in Buenos Aires for questions and answers.

Consecutive program

Continuing communiques and other press materials showing the progress made.

Travels by members of the Argentine World Cup Organization to important countries to publicize the event.

The objective of this is to "introduce" Argentina to the world; to point out its other attractions—to tourism, culture, food, nightlife, etc., while the focus is on the World Cup.

Activities prior to/during the grand event

Once Burson-Marsteller is hired to develop the entire World Cup program, it will immediately undertake the following tasks:

Organizing an effective press center for the final phase of the World Cup.

The initial world press conference inaugurating the World Cup competition in Argentina, based on Burson-Marsteller's experience in the Munich and Montreal Olympic Games.

Preparation of television shorts to be used jointly with detailed coverage of the matches:

Special interviews—behind-the-scenes—for the media, as well as special reports to offer the world public a wide panorama of Argentina, its people and its culture.

All ongoing press activities of the moment.

Towards the end of this year, Burson-Marsteller will introduce an advertising campaign aimed at developing a dynamic, four-colored propaganda and capturing the spirit and emotion the World Cup encounters for all the countries embraced by our present task. Paid advertisements will complement the other promotional means previously mentioned.

The opportunity to publicize the National Cup matches allow the Argentine government to present iteself in an extremely favorable and positive light. The World Cup can serve to exemplify Argentina's position as an important sports center in South America.

The Argentine government and Burson-Marsteller should explore all possibilities for collaborating on advertising with various sponsors, travel agencies, hotels, etc. This would insure uniformity of message and would economize on costs by sharing them.

CONTROL, ADMINISTRATION, PROCEEDINGS AND TEAM MEMBERS

Organization

The New York office will occupy themselves principally with directing and coordinating the eight-country communications program for Argentina. As has been indicated in the program, New York will have the major responsibility for obtaining articles, news bulletins for publications, pictures, and other communications materials. The Washington office will furnish internal communication with the Embassy and will work closely with the Ambassador and his staff as stated in the special section detailing with embassy ties.

The task of the Buenos Aires office is to produce, process and get approval of material developed in New York. Additionally, the material will originate from Buenos Aires, be it from the Secretariat of Information or from our office.

The Mexico City office will be responsible above all for the Mexican program, as well as the Colombian program, and will have the Buenos Aires office at its disposal. They will collaborate as closely as possible with New York, using important elements and materials of the program similarly to the other countries.

FOOTNOTES

[1] World Cup Soccer Championship, to be held in Argentina in June.

[2] Also known as the Falkland Islands; English territory claimed by Argentina.

[3] Sic the original.

[4] Sic the original.

[5] Possibly a misprint of Caracas, the capital of Venezuela.

[6] American Society of Travel Agents.

[7] An Argentina barbecue.

[8] Words missing from the original.

[9] This is what the original says, but the author may have meant to say "condone" rather than "condemn."

[10] Spelling from the original.

[11] Incoherent original, this is best guess as to what was meant.

[12] Sic the original.

[13] Sic the original.

EXHIBIT III

AMNESTY INTERNATIONAL CONCERNED AT CONTINUING GRAVE VIOLATIONS OF HUMAN RIGHTS IN ARGENTINA

Amnesty International today (Thursday 24 August 1978) cabled President Jorge Videla of Argentina to express the organization's profound concern about persistent violations of human rights in the country. In its telegram AI also deplored the recent bomb attack on the home of Admiral Lambruschini in which his 15-year-old daughter and two other persons were killed. The government news agency reported that the Montoneros (the leftwing Peronist guerrilla organization) had claimed responsibility for the murders.

The organization referred to the increasing number of abductions in which, according to the reports received by AI, the security forces and police were involved. AI said, "International attention surrounding the country owing to the World Cup in May seems to have had little effect in preventing disappearances, during the past 100 days we have heard of over 70 cases".

Among the recent abductions notified to AI are: Rolando Garcia, Secretary of the Taxi Drivers' Union, who had attended the June meeting of the International Labour Organization in Geneva; psychologists, Silvia Criado and her husband, Alfredo Smith, both abducted when they attended a meeting to call for the release of the president of the Buenos Aires Psychologists Association: Beatrice Perosio who disappeared in Buenos Aires on 8 August; and two members of the Argentine Marxist/Leninist Communist Party, Roberto Cristiano, a 36-year-old sociologist active in the trade union movement, and Elias Seman, a 44-year-old lawyer and president of the party. Both disappeared on 17 August in Buenos Aires.

AI has also just learnt of the shooting of Osvaldo de Benedetti, who had been in official detention for some time. Over the past three months concern had been expressed about his safety as he had been repeatedly moved from one prison to another throughout the country. On 27 July, his family was informed that de Benedetti had been "shot trying to escape" from a prison in the province of Tucuman. According to reports the body had a large hole in the chest and a smaller one in the neck. Since the beginning of the year a number of prisoners have disappeared from official prisons and their families have failed to obtain any satisfactory explanation from the authorities.

FIRST HAND TESTIMONY OF AN ARGENTINE CITIZEN'S ABDUCTION, INTERROGATION, TORTURE AND DETENTION BY SECURITY FORCES (1977–78)

DETENTION AND TRANSIT

Three men in the fall of 1977 entered my place of work, showed police identification, said I was wanted for questioning, and escorted me outside to a run-down automobile. My hands were handcuffed behind my back but my treatment was correct as long as the vehicle was in the Federal Capital. However, after we crossed the bridge into the province of Buenos Aires, the automobile pulled off into a side street. I was taken out of the car, punched and then blindfolded by the three men. The men then discussed among themselves whether to kill me. Another suggested that kerosene would be better as it disguised the body smell better. They again punched me and finally one man stated that they couldn't kill me because I had to confess first. They then handcuffed my hands in front of my body. They placed eye glasses, presumably with dark lenses, over the blindfold, put a hat on my head and resumed driving.

After a period of time, the car stopped. I peered under an edge of the blindfold and saw that we were in La Plata (the capital of Buenos Aires Province). I saw two uniformed policemen pass by with rifles. I thought about calling to them for help, but decided that they were probably colleagues of my abductors.

A new voice gave orders to my abductors on where to take me. They then drove to another place. There were a number of other cars there. When I arrived in the building, the voices in the room went silent. At this time, I was stripped naked; my jewelry and

brief case were taken. A hood was placed over my head. The hoods were changed throughout my interrogation. I believe that the hoods were of different colors denoting the point at which I was in the interrogation process. I remained naked and blindfolded throughout 10 days of interrogation and torture.

SESSION 1

Shortly after being stripped, I was spread eagled on a table. My hood was removed. Before any questions were asked, a four pronged electric picana was run over my chest from my neck to my waist, like a rake (rastrillo). It was excruciatingly painful. At the start of this session and all following torture sessions. I was addressed with mocking courtesy as "Estimado". The questioning during this session focused on my relations with members of the government and with unions.

After the first round of torture ended, I was so full of electricity that my jaws and tongue were paralyzed. I was allowed to rest between rounds until I regained some use of my jaws and tongue. At this point, a helpful voice told me not to swallow salt or drink anything during or after the picana session. A second round of rastrillo (rake) applications began. At this point, I was unable to communicate. I had no use of my jaw muscles and tongue. Again the same questions were repeated. I was incapable of replying. At the conclusion of the second round of picana applications, someone poured water in my mouth. This caused me to choke and gag and my mouth and gums felt like they were suddenly, grossly swollen. I would have drowned if someone had not come and turned my head to the side and sponged water from my mouth and from between my lips and teeth. During this round I was given an injection in the buttocks. I believe that the injection was some sort of a cardiovascular stimulant to enable me physically to endure continued electric shock treatment.

Another round began with further applications of the rastrillo. Most of the applications were to my chest and some to the ribs on my side. Close to the end of the third round the rastrillo was placed on the back of my neck. This was the worst as it had direct shock effect on my brain. During the second and third rounds I was threatened twice that "we are going to do the same to you as we did to other people", one of whom I didn't know. During torture sessions I heard repeated cries from other nearby rooms.

At the conclusion of the last round, I was put in the back of a van with a man and woman who I believe were dead. I saw through my blindfold a part of a woman's face which was beaten bloody. I was taken to a second place of detention, a deposito. I alone was taken out of the van.

SESSION 2

When I entered the deposito a new hood was placed over my head. After some time I was taken into a room and subjected to a torture called el cubo (the bucket). My feet were forced into a bucket of ice water. When I tried to lift my feet from the water, someone pressed my knees down forcing my feet back into the bucket. My feet were kept in the ice water for five or six minutes. After this time had past, one of my torturers, as if to be nice, said to the others to let me take my feet out. But my feet were then jammed into another pail containing boiling hot water. The pain was intense. After several minutes, my feet were again placed into the bucket of ice water and the questioning began. I was subjected to four cold-hot cycles, during which the interrogation centered on the activities, funding, and relationship to foreign organizations and governments, of private groups in Argentina.

I was then carried, as I could not walk, and placed on the wooden floor of a small cell. Up a staircase, a friendly voice consoled me that it was only a few steps more. I then slept for an unknown period of time.

SESSION 3

Some time later, I was taken from my cell and brought into a room where there were other prisoners. I was told to grab the other prisoners' hands and they formed a circle. Suddenly electricity was passed through the entire group. While I was held in this communal torture room, a woman was raped in the midst of the other (presumably blindfolded) prisoners. A prisoner shouted that the woman being raped was his friend, and went beserk and attacked the guards. He was severely beaten. Another man was also beaten severely and was threatened with being killed. One of the guards said "shove your gun up his anus" and suddenly a muffled shot was heard. I believe that the man was killed in the room. During my detention in the room, the entire group was beaten severely with punches.

After a stay of undetermined time in the communal torture room, I was placed in another cell on a cement slab. I had neither food nor water until the end of my interrogations.

SESSION 4

At some time later, I was taken and placed in a van with seven or eight other naked prisoners. They were forced to lie down on top of one another on the floor of the van. During the ride, the prisoners whispered to each other. A number of the prisoners were factory workers.

The van stopped along the way and some of the prisoners were taken out. I was finally taken out of the van at a third detention facility. There I was subjected to the submarine. I was held under water six or seven times until I was writhing for air. I came up gagging for breath. The first two times after I was submarined I did not have a chance to catch my breath after being pulled out of the water as I was gasping for air in very small breaths. On the third time after I came up, I tried to get as much air into my lungs before my head was forced back under the water. After the repeated submarining, I was questioned again about the activities of private organizations and church groups in Argentina, their connections with communist or terrorist groups here and abroad and with journalists and news agencies. Three persons took turns questioning me during this period. They asked me to identify 20 or 25 names, some of whom I did not know at all. The questioning focused on whether these individuals engaged in covert political and terrorist affiliations. I provided publicly available information.

SESSION 5

While in the same facility, I was taken to a room and was told to shut my eyes and not to open them until I was so ordered. My blindfold was then removed and the vertical adhesive strips removed from my eyes. Then I was told to open my eyes and not to shut them. I saw a Dantesque scene from hell. One person chained to the wall in a crucified position, another woman whose hands had been horribly burned was sobbing while lying on a table, another woman was sitting on a small stool with her hands tied through her legs to a ring on the floor. I was then told "look well, you are a candidate for this, if you do not tell us the true political affiliation of these people." I was then told that I should rest well and that tomorrow I again would be questioned. I was led back to my cell. When I was struggling up the stairs to my cell (because of my burnt feet), the friendly voice told me "falta poco, arriba" (a few more steps and you'll be there).

SESSION 6.

I was subsequently taken from my cell and rubber wraps were placed around my wrists and ankles and ropes were tied to my limbs. I was then hung by my arms from the ceiling so that my feet were suspended from the floor in the middle of a room. A piece of wood was strapped between my ankles so I could not move my feet. I was then beaten with a rubber baton and questioned again. I begged my torturers to kill me as I did not know anything. During the interrogation, I was asked about a number of people whom I did not know. Some were identified as nuns and priests, others were Jews from the sound of their names. One was a Protestant Minister.

My tactic in answering all these questions was to provide only that information which was publicly known. I felt that if I answered one question affirmatively I would be forced to answer the next question and under torture I could be made to say anything that my captors wanted me to agree to. I feared that if I answered any questions positively it would lead down a path in which I would be killed.

I believed I was held by the Provincial Police of Buenos Aires. Provincial Police detention centers are known as "caves" and each has a number such as "cueva numero dos", etc. Federal Police detention facilities are called "clubs".

SESSION 7

At an unspecified time later, I was taken from my cell and brought to another room. There were a number of persons around me in a circle. My hands were handcuffed behind me. I was seated in a chair. I was then beaten severely and repeatedly asked about the political affiliation of all the names which had been raised in previous interrogation sessions. After a break I was again questioned but this time regarding my relations with U.S. Government officials.

A BREAK

That night a large number of persons were brought into the interrogation center. I heard many voices in the large room outside of the cell door. I managed to peer through the crack under the door and saw three or four dressed young people. I was not interrogated for several days because of the detention center having to process this large number of young suspects. During this break, I was told to clean my cell which was revolting work as prisoners in the detention facilities are not allowed to use the bathrooms and defecate and urinate on their cell floors. During the first picana treatment I completely lost control of my bodily functions but did not lose control during the submarine. During this first break, I was allowed to bathe and during the shower, had the first drink of water that I had during my captivity.

SESSION 8

I was placed in a truck with a number of other naked people and driven outside of La Plata. The truck stopped in a muddy area which probably was a garbage dump, and the passengers were pushed out of the truck. The debris badly hurt my bare feet. I heard the sound of others being beaten. Then many shots were fired, including machine guns. At the conclusion of the firing, I and a few others were led back to the truck. The others were executed. During the beatings no one cried out. When I returned to prison, I was told by the "friendly voice" you are saved ("estas salvada").

SESSION 9

Later I was brought to a room where I was questioned by a person, who was a military officer. The interrogation was conducted in an entirely different manner—as a conversation between two civilized people. It was a long session, covering much of the same ground that had been covered in the torture sessions. I did not know how many other people were in the room or if there was a tape

recorder present. I felt that a door was open as I felt the cold air coming in and could also sense daylight.

SESSION 10

At this time, about two weeks after my abduction, I was taken out of the detention place clothed and in daylight driven to the next site.

At the next building, I saw through the edges of my blindfold uniformed policemen. Here, I was asked a number of questions for a formal statement.

SESSION 11

I was brought to Buenos Aires Provincial Police and threatened that if I talked of what happened to me, I would be found to have committed suicide. I was then put in a cell with a hangman's noose hung from a pipe and left there.

A PEN decree (Poder Ejecutivo Nacional) was issued for my imprisonment. I remained incarcerated for close to a year.

INFORMATION PROVIDED MY FAMILY

When a family member went to the police to inquire about me, the police interrogated them about me. The police said I was a fine person who had fronted unwillingly for other people. The police said I had been interrogated, but not tortured.

CONCLUSION

I heard tales in the prison which made my treatment look moderate. My strength to endure the questioning came from the fact that I knew I was not involved with terrorism or subversion. Negating everything possible was my only salvation. It was not a question of physical will, but of psychic will. I had three serious breakdowns during the 11 days of my interrogation. I was not superhuman and cried out with pain.

TREATMENT IN PRISON

The jail conditions were severe. A number of the trustees in charge of the prisoners were former AAA members (right wing terrorists). The prison's rules are not published and thus are subject to the interpretation of each individual guard. Any small infraction results in the prisoner being confined to the "Chanchos" (pig pens). I received only one severe beating while in the Prison and that occurred before my meeting with a visitor from the outside.

FIFTEEN THOUSAND DISAPPEARED SINCE MARCH 1976—8,000 TO 10,000 POLITICAL PRISONERS OFFICIALLY DETAINED

The military junta which came to power in March 1976 has now had two years to establish its program of national reorganization by fulfilling its threefold promise made on the day of the coup: to stabilize the economy, to eliminate terrorist activities, and to restore respect for human rights.

The economic policies adopted by the Argentinian government have succeeded in reducing the level of inflation, but the country continues to have the world's highest rate of inflation (160% in 1977). The wage freeze imposed on public sector workers led to a number of strikes at the end of 1977, but strikes are illegal and anyone participating faces up to ten years imprisonment. On November 2, 1977, a military patrol shot and killed a trade unionist while he addressed a crowd near one of the central railway stations, calling for strike action. A subsequent army communiqué stated that "the legal forces acted in accordance with orders designed to guarantee freedom of employment." The Ministry of Labor recognizes that a family needs 60,000 pesos a month ($110) just to buy basic necessities and that 75% of Argentinian industrial workers earn less than 70,000 pesos ($130) a month.

Political instability remains, despite the drastic steps taken by the junta to crush left-wing violence. The armed forces had already been given, under the previous regime of Isabel Perón, wide-ranging powers of arrest and a state of siege had been declared in November 1974. But since the coup, the military junta has assumed additional extraordinary powers which violate the Argentinian Constitution. The executive is no longer subject to any check or control, for Congress has been suspended, and the junta has replaced many members of the Supreme Court of Justice. The official justification for all these measures has been the need to eliminate subversion, and guerrilla violence has, indeed, been almost completely suppressed. In September 1977 the Army Chief of Staff, General Roberto Viola, claimed that 7,000 to 8,000 subversives had been killed or captured by the armed forces since March 24, 1976. At the same time he announced that although the guerrillas were still able to make isolated attacks, they were no longer in a position to carry out large operations.

In fact, in recent months the junta has modified the kind of justification it offers. It is frequently no longer subversive acts which are cited to justify repression, but subversive mentality. In December 1977 at a press conference in Buenos Aires President Videla informed English journalists that "a terrorist is not just someone with a gun or a bomb, but also someone who spreads ideas that are contrary to Western and Christian civilization" (*The Times*, January 4, 1978). In this atmosphere thousands of people have been dismissed from posts in universities, hospitals, and research establishments.

In mid-February 1978 the Government issued a Decree instituting the National Registry of Religions (*Registro Nacional de Cultos*) which requires all religious groups except the Catholic Church to register with the Ministry of Foreign Affairs and Religion. Four religions have already been banned and arrests have been made. (See box.)

Following statements by the military that 1978 was to be the año politico or year of politics during which civilians would be brought into discussions about the future of the country, major figures of the largest political parties, the Peronists and the Radical Civic Union, have publicly called on the military to begin the process of normalization. However, there does not appear to be any likelihood of elections being called in the near future. In July 1977 the Argentinian Ambassador to Venezuela, Hidalgo Sola, was abducted in Buenos Aires after making a speech about a phased return to civilian rule. The junta itself is now openly divided, with Admiral Massera and Air Force General Orlando Agosti on one side and General Videla on the other.

There is continuing concern about the violations of human rights in Argentina committed by the government. On January 31, 1978, the *International Herald Tribune* reported: "While incidents of leftist terrorism have virtually stopped during the two years of junta rule, disappearances and allegations of torture and murder by the government and rightist groups have continued."

DISAPPEARANCES

Since the coup, many thousands of people have disappeared without trace after arrest by police, security forces, or parapolice. Human rights groups estimate that more than 20,000 writs of *habeas corpus* have been filed, and Amnesty International believes that as many as 15,000 persons have disappeared. No attempt has been made by the government to investigate such disappearances, and as arrests do not require any authorization by a judge, these abuses continue to be a daily occurrence. You do not need to be a terrorist to be arrested, tortured, or murdered in Argentina: it is enough to have belonged to a trade union, a student organization, to have shared an apartment with people of left wing tendencies, or to have helped persons classified by the military as "subversive." On December 8, 1977, after having attended a meeting of relatives of disappeared persons, two French nuns, Sisters Alicia Domon and Leonie Duquet, were abducted. To date, there has been no reliable information concerning their whereabouts, despite official inquiries by the Federal Government.

SECRET PRISON CAMPS

There is substantial evidence to show that after abduction the victims are taken to secret prison camps. Obviously, it is difficult to obtain first-hand information about these places, not least because the prisoners are kept blind-folded or hooded throughout their detention so that they cannot recognize their capots or fellow captives. Another reason is that outside agencies find it practically impossible to check the location of these secret camps, since many of them are located in restricted military zones, like the Campo de Mayo base in Buenos Aires. However, the location of quite a few secret camps has been established by first-hand testimonies of former prisoners, and reliable sources in Argentina allege that there are as many as 60 camps scattered throughout the country.

"In Cordoba everybody knows about the concentration camps: the *Rivera Camp* near San Vicente cemetery, and *Perla* near the tourist resort of Carlos Paz. You can see the walls from the road. In spite of the government's control over the press, everybody is aware of the existence of these places and knows what goes on inside."—Testimony by Abel Fuentes (pseudonym), arrested November 17, 1976 and released in March 1977.

The treatment meted out to the "disappeared" prisoners in these camps has also been fully documented:

"I heard there had been three deaths through torture that day. Later I saw a man beaten to death. Once, while I was hearing the screams of Alberto [the prisoner's husband], the loudspeakers called for a doctor. Then I heard the doctor say: 'That is all, if you still want him alive.' . . . There was scarcely one inch of skin without injury. He [the prisoner's husband] was sweating profusely and crying: 'Water, water,' but his voice was weak and he could hardly speak. A guard told him they could not give him water, because he would die. He was not allowed to drink any liquid for at least five days, and he was not able to eat, so his condition was worse every day. I managed just to touch my husband and pass him my bottle. We were able to whisper a little when the guards weren't watching."—Testimony of Estela Cornalea, arrested with her husband Dr Samuel Alberto Falicoff on November 24, 1976. She was released on December 24, 1976, but her husband is still missing.

Although it is apparent that a large number of people who disappear in Argentina have been unofficially executed, the existence of secret places of detention proves that a large number are still alive; in the majority of these cases, the Argentine government refuses to acknowledge their imprisonment and denies all knowledge of their whereabouts.

TORTURE

Amnesty International continues to receive testimonies of torture from released prisoners. It is a problem which is closely linked to that of disappearance, as torture is most likely to occur when the victim is secretly detained after abduction in military barracks, local police stations, and disused buildings. However, torture is also common in official prisons. The most usual methods of torture are: electric shock treatment; water torture; beatings with fists, truncheons, rifle butts and sticks (there have been cases of pregnant women who have been so badly beaten that they have miscarried); cigarette burns; hooding; deprivation of food, drink, and sleep; sexual abuse,

rape. Amnesty International has also received allegations of torture by removing teeth, fingernails, and eyes; by burning with boiling water, oil, and acid; and even by castration.

Torture is frequently used to force the victims to supply new information or to sign confessions of their own guilt. The testimonies of torture are varied and numerous and have been made by people from all sectors of society.

For example, Veronica Handl-Alvarez, age 24 and of dual Argentine-Austrian nationality, disappeared in Buenos Aires on September 5, 1976, when she was expecting a baby. At the time of her arrest she was studying at the Faculty of Arts, University of Buenos Aires, and financing her studies by working part-time at the Mexican Embassy. Despite her family's efforts to trace her, there was no news of her whereabouts until nearly two months later when they were informed that she was being held in Villa Devoto prison. During her detention there, Veronica was subjected to sexual abuse, beatings, and electric shock treatment. On April 11, 1977, she gave birth to a son in prison. During labor she was tied to a stretcher by her hands and feet and was completely unattended until the last few minutes. Her newborn baby had to sleep on the floor of a rat-infested cell. She was unexpectedly released in October 1977, after the Austrian government granted her a visa.

Torture is used as an instrument of polily and as an integral part of the countersubversive strategy, both by official law-enforcing bodies and by para-police groups.

PRISONERS AND PRISON CONDITIONS

Throughout 1976 and 1977 the Argentine government consistently refused to publish lists of those people who were officially or unofficially detained for political reasons on the grounds that this was a military secret. But in December 1977 the authorities admitted holding 3,607 persons in official custody and so far have published several incomplete lists of those detained in Villa Devoto, La Plata, Santa Fe, and Sierra Chica prisons. However, Amnesty International estimates that there are between 8,000 and 10,000 political prisoners officially detained. The majority of these prisoners have not been accused of any crime, have no charges pending against them, and face imprisonment for an indefinite period of time. On the rare occasions when a prisoner is tried and acquitted, it is quite usual for the military authorities to use their extraordinary powers to keep the person in prison.

The main prisons for political prisoners are: Villa Devoto (for women) in Buenos Aires, La Plata (for men) in Buenos Aires province, Sierra Chica, Rawson, Cordoba Penitentiary, and Resistencia (the last two being in almost permanent isolation from the outside world). Conditions in these prisons are reported to be very poor.

In Villa Devoto it has been estimated that about 1,200 female political prisoners are held ranging in age from 17 to 70 years. The majority, however, are young women, and sometimes their small children, for whom no facilities exist, are imprisoned with them. Four women have to share a cell made for one person; ventilation is minimal and the sanitary system virtually nonexistent. One hour's exercise per day in an enclosed concrete yard is allowed, but this privilege can be withdrawn at any time as a punishment. A number of petty prohibitions are imposed on the prisoners who are forbidden to sing, to talk loudly, to celebrate birthdays, to do gymnastics, or any work with the hands. The women are subject to weekly body inspections, including the humiliation of vaginal searches. Mothers with infants (about 25–35 women with their babies) live in one room measuring 72 by 33 feet. They share two malfunctioning toilets and one cold-water shower with poor drainage. When it rains the clogged pipes cause sewage to back up into the living area, already infested with vermin. Powdered milk must be mixed in plastic bags (since the use of glasses is forbidden) and stored on the floor. The total lack of sanitary conditions causes severe health problems for infants and mothers alike. The prison diet is completely inadequate. Medical treatment in the prison is almost nonexistent and one woman, Alicia Pais, died last October when her acute bronchitis and asthma went untreated. Prisoners have the right to receive two hours' visits per week, but their conversations are recorded, and even this privilege is frequently taken away as a punishment. Visitors may have to wait in line outside the prison 5–20 hours to enter and according to testimonies are themselves subjected to degrading body searches.

For insignificant transgressions against arbitrary rules prisoners are confined for two or four weeks, or longer, to small dark cells measuring three by seven-and-a-half feet, without any sanitary facilities. All privileges such as exercise, visits, letters, and even the most rudimentary medical attention are withdrawn. Nevertheless, Villa Devoto Prison has been considered by the authorities a "model" prison.

According to first-hand reports there were about 1,500 male political prisoners detained in La Plata prison "Unidad 9" as of November 1977, strictly separated from 200 common prisoners. Small cells, five feet nine inches by six feet ten inches, meant for one person, are shared by two prisoners. The slightest infraction of arbitrary, petty rules results in confinement to punishment cells and isolation for three to fifteen days at a time. There prisoners are constantly subjected to brutal corporal punishment by prison guards and officials. Again, "Unidad 9" in La Plata is considered one of the model prisons, whereas conditions in other official prisons are allegedly much worse.

DEATHS IN CUSTODY

Although the death penalty has been reintroduced in Argentina, it has never been officially implemented. However, many political prisoners have been and continue to be killed while in official or unofficial detention.

It was in La Plata prison (see above) that prisoners were first separated according to their political affiliations. Pavilions 1 and 2—later know as the Death Blocks—were designated to house prisoners of alleged Marxist or revolutional ideology. During the period of January to March 1977 Amnesty International received detailed circumstantial evidence to show that a total of five prisoners were removed from these notorious Death Blocks and unofficially executed. In all cases the Argentine authorities alleged that these prisoners were shot during escape attempts.

Testimonies smuggled out of Córdoba Penitentiary between July and October 1976 reveal that between May 17 and August 12 of that year 17 prisoners were removed from their cells and shot. In all cases the official version was that they had been killed while attempting to escape. Four more died under suspicious circumstances in October 1976, and death notices were published in the local newspaper *Voz del Interior*. There are also strong indications that prisoners have been removed from other official prisons such as Resistencia prison, Chaco province, and secretly executed.

Besides the few examples cited of removal of political prisoners from known prisons for purposes of unofficial executions there are, of course, many more instances of killings under torture or otherwise when persons have been abducted and taken to unofficial detention centers. Most of the victims are never seen again, but those whose bodies are returned to relatives are accompanied by strange stories of official justifications. For example, the Secretary General of the Agrarian Leagues of Misiones province, Pedro Peczack, was abducted in November 1976. There was no news of him until one month later when security forces returned the body to his relatives, stating that he had been killed by his friends for betraying them. Neighbors had to bury the body and reported that it had been mutilated.

An internationally-known case of disappearance and unofficial execution is that of Elizabeth Käsemann, a 29-year-old West German citizen who was killed on May 23, 1977, three months after her arrest by security forces. Amnesty International has reliable information showing that Miss Käsemann had been held since March 9, 1977, in an unofficial detention center where she was subjected to torture. Despite high-level interventions by the Federal German Foreign Office, there was no indication of Elizabeth's whereabouts until June 1, 1977, when an armed forces communiqué announced that a week earlier "16 left-wing guerrillas had been killed during an army raid in Monte Grande." Among the dead was Elizabeth Käsemann, but it is widely believed that the others were also being held in the unofficial custody of the Argentine security forces. An autopsy carried out on June 12, 1977 in Germany on the body of Miss Käsemann revealed shot wounds in the back and two surface wounds from a machine gun at the back of the neck and around the heart.

Unofficial executions and threats of executions continue in 1978. At the beginning of this year Amnesty International received information that about 18 political prisoners had been transferred to Córdoba Penitentiary from two other prisons and threatened with immediate execution. Four prisoners were returned to their original prison but 14 remained in Córdoba and serious fears for their lives were still expressed in March.

From the evidence that Amnesty International has received, the level of political repression in Argentina has not diminished since the publication of the *Report of a Mission to Argentina* in March 1977. Arbitrary arrests, abductions, disappearances, and cases of torture all continue unabated. There is, therefore, more than ever a great need for continued pressure on the Argentine government.

While internally the political situation has not improved, and overt dissension between members of the ruling military junta is on the increase, externally the government has embarked on a vigorous campaign of self-justificatory propaganda. The timing of this international image building coincides with the extensive preparations for the 1978 World Cup soccer games which will bring some 500 foreign journalists to Argentina to cover the events in June. In this connection the government continues to give much publicity to the destructive activities of terrorist groups—which, however, it claims to have largely liquidated—in order to justify its continued indiscriminate violations of human rights extending to thousands upon thousands of innocent citizens and refugees from other South American countries in Argentina.

The facts and figures that Amnesty International, other human rights and professional organizations, and the world press bring to the attention of the public unmask the projected image and reveal the tragic reality hidden behind bars, walls, and wire fences. The many thousands of Argentine refugees who have been forced to leave their homeland testify to the same reality by their very presence outside Argentina where they no longer can live without fear of persecution.

The Argentine Republic is a signatory to the United Nations Charter, the United Nations Universal Declaration of Human Rights and the American Convention on Human Rights." It is evident that for the past years the Argentine government has consistently violated the principles laid down in

these documents as well as in the Argentine Constitution. Therefore, continued efforts are called for by all those who believe in the protection of human rights to put pressure on the Argentine authorities to uphold the principles to which they officially subscribed.

DECRETO 21.745

The military junta issued a decree February 13, 1978, requiring over 1,600 religious sects to register within 90 days (starting mid-March) with the Ministry of Foreign Affairs and Religion. The Catholic Church which accounts for 90% of a population of 25,000,000 will not be affected. However, the fact that three religions were already banned last year (Jehovah's Witnesses, the Divine Light Mission, and Hare Krishna), and six members of the Center of Inner Religion were arrested by security forces February 16, 1978, in Resistencia, Chaco Province, maltreated, and held for over a month under harsh conditions at a military detention center without charges, indicates that the Government will not hesitate to use Decree 21.-745 for purposes of persecution and intimidation. It has already announced that religious organizations "seen as injurious to the public order, national security, morality or good habits" can be banned by the authorities by rejecting applications to register. The new decree was announced shortly after the Supreme Court upheld a previous decree law banning the activities of Jehovah's Witnesses in Argentina.

Mr. CRANSTON. Mr. President, I want to commend my very able colleague from Massachusetts (Mr. KENNEDY) for his remarks on the alarming state of human rights in Argentina today. The figures he cites and the incidents he has reported are a chilling documentation of the continuing and systematic abuse of fundamental human freedoms in that country.

Senator KENNEDY deserves praise for his leadership in making the gross violations of human rights in Argentina a matter of public conscience and in seeing that our country does all it can to improve the plight of the Argentine people who have been the victims of repression in their own country. I supported the good efforts of Senators KENNEDY, CHURCH, and others in terminating all U.S. military transactions to Argentina on October 1 this year by amending the Foreign Assistance Act.

I have been deeply concerned for some time about the severe and growing number of human rights violations in Argentina. Especially disturbing to me have been the incidence of arbitrary arrests for apparently political reasons, the long detention of prisoners without charge or trial, the pervasive use of torture, the lack of information available to the families of those detained, and, finally, the disappearance of thousands of people. Amnesty International has cited reports from lawyers and human rights organizations within Argentina that between 20,000 and 30,000 writs of habeas corpus have been filed with the Ministry of the Interior since 1976 by family members of disappeared persons.

Over the years, numerous Californians have asked for my help on behalf of relatives or friends who have languished in Argentine jails without trial, or who have been cruelly tortured, or who have simply been in the night—their whereabouts still unknown.

I think it is vitally important that the U.S. Government let the Argentine Government know how seriously we view the continuing human rights violations. Mr. President, it is not our human rights policy that stands in the way of better relations between the United States and Argentina, but the human rights abuses themselves. It is not the accuracy of the figures on human rights violations that are in question—for they have been well documented by respected and nonpolitical human rights organizations—but the apparent lack of will to curb the excesses and to prevent their recurrence within Argentina. Our own Government must continue to play a constructive and active role to encourage Argentina to improve its human rights record.

● Mr. METZENBAUM. Mr. President, it is with a feeling of sadness that I speak out today about the continuing agony of the people of Argentina.

This is a sad occasion for me, Mr. President, because I can remember when Argentina was widely considered to be a very promising country from the standpoint of economic development.

It is a sad occasion, because I can remember when Argentina showed the promise of becoming a functioning democracy.

It is sad, because I can remember when Argentina had a strong labor movement and a vigorous free press.

And it is sad, because the attempts made by the Videla regime's paid apologists to improve Argentina's public image cannot obscure the fact that brutality and random irrational terror have become a way of life in that country.

Mr. President, I am certain that many Senators have heard individual horror stories from Argentina.

The Senator from Massachusetts has made reference to some specific cases.

I have myself heard of people from all walks of life who have simply disappeared—nuns, teachers, clergymen, some of them critics of the regime and some nonpolitical.

A distinguished Argentine lawyer visited my office and told of his daughter, a professor of history, who was seized months ago for no apparent reason. She has not been seen again.

Many Ohioans have written to me to protest the official persecution of Jehovah's Witnesses and other minority religious groups in Argentina.

Many others have expressed interest in specific cases, most notably that of Jacobo Timerman, formerly editor of La Opinion, a leading Buenos Aires newspaper.

Since April 15, 1977, Mr. Timerman has been under one or another kind of confinement.

The Argentine Government has accused Mr. Timerman of no crime. Indeed, a military tribunal cleared him of accusations of subversion.

President Carter has made specific inquiries of President Videla with regard to the Timerman case.

B'nai B'rith International, among other organizations, has taken up Mr. Timerman's cause.

But in spite of all this concern and in spite of the fact that the Argentine Government itself admits that he has done no wrong, Mr. Timerman remains under house arrest. In addition he has repeatedly been denied permission to leave the country.

In January 1978, the board of governors of B'nai B'rith International issued a position paper and adopted a resolution on the Timerman affair. I ask unanimous consent that the texts of these two documents be printed in the RECORD at the conclusion of my remarks.

Mr. President, I believe that our policy toward Argentina is a litmus test of this Nation's commitment to the policy of furthering human rights around the world. If we do not bring whatever pressure we can to encourage a country like Argentina to respect the fundamental human rights of its citizens, we cannot expect other countries in this world to take our human rights position seriously. We cannot and we must not back down.

The documents follow:

THE TIMERMAN AFFAIR

B'nai B'rith deplores the imprisonment of Jacobo Timerman by Argentine military officials as an unconscionable violation of human rights.

Mr. Timerman is a distinguished journalist and a Jew of strong convictions. Though he has never been formally charged with any crime, he has been held *incommunicado* since April 15, 1977 when a small armed group of men made a pre-dawn raid on his house; after identifying themselves as officers of the First Army Corps stationed in Buenos Aires Province, they forced him to accompany them. Later in the day his family learned that he had been arrested; they, however, were prevented by the police from visiting him. The circumstances surrounding his detention have never been clear. Timerman for years was a strong voice of opposition to fascism. He has been an undaunted supporter of Israel. Timerman had also been associated with David Gravier, a banker whose financial affairs were the subject of scandal allegations which were under investigation when he was killed in a plane crash on August 7, 1976. Gravier was thought to be the banker or investment broker for the Argentine terrorist Montoneros.

By mid-May, Timerman was reported held on executive order without official charges. By July, a special court-martial convened to determine whether Timerman and 29 other arrested persons were to be tried on charges on subversion in connection with the Gravier affair, or turned over to civil courts on charges yet to be specified. At length Timerman was cleared by a military tribunal of involvement in subversive activities. He has, however, been confined to an Army prison, without charge, during an investigation of "economic subversion" in connection with business operations purportedly involving the Montoneros.

Despite the failure to charge him with any crime, the Argentine military junta announced on November 10 that Timerman had been relieved of his civil rights and control over his assets and, most insidious of all, that he could be held indefinitely. President Jorge Rafael Videla and two other members of the junta signed that decree. In the absence of formal charges, it is difficult to discern whether the inhuman detention of Jacobo Timerman, as well as the deprivation of basic rights, are attributable to his Judaism or to his journalism. Antisemitism long ago found a haven with some Argentinians both in and out of government. The virulence of outbreaks of anti-Jewish activities and its traces

to key officials is often related to external conditions. Last year the combination of one percent daily inflation and political turmoil may have expressed itself in an upswing of antisemitic actions. There is also some belief in Argentina that Timerman is merely a scapegoat for the junta in its attempts to satisfy excessive military pressures within the government but the case against him would stand the test of a trial in court.

As a leader in both the Jewish community and the world of journalism, as a democratic voice in an increasingly benighted country, Jacobo Timerman is the symbol of the more than 8,000 Argentinians—among them some 600 Jews—who have reportedly been arrested, killed or kidnapped since the junta took charge in March 1976. President Carter raised the affair with President Videla during their discussions in Washington last August.

B'nai B'rith urges President Jorge R. Videla to release Jacobo Timerman from prison and, if he and his family so desire, to grant permission to leave Argentina.

RESOLUTION ON JACOBO TIMERMAN

By prolonging the imprisonment of prominent journalist and Jewish community leader Jacobo Timerman, the Argentinian government is creating a worldwide cause célèbre carrying more than a faint scent of official antisemitism.

Timerman, the editor of the distinguished Buenos Aires newspaper La Opinion and an ardent supporter of Israel, has been held incommunicado since last April 15, deprived of his civil rights and any control over his assets, but without any charges having been brought against him.

B'nai B'rith believes that Timerman's background as well as the circumstances surrounding his case raise the strong possibility that he may be a scapegoat for the regime's economic and political failures, and that his position in Jewish life is at least as weighty a consideration in the government's decision to hold him as his espousal of liberal and humane ideals.

B'nai B'rith calls on the government of Argentina to rescind the decree permitting his indefinite detention and, if they so wish, to allow Timerman and his family to leave the country. Argentina's failure to act on such appeals can only risk the condemnation of responsible governments and promote its isolation in the community of nations. We believe it is in Argentina's highest national interests to dispose of this affair in the most humanitarian manner.●

OFFICE OF EDUCATION REGULATIONS FOR IMPACT AID

● Mr. BURDICK. Mr. President, Federal impact aid is essential to many school districts in my State, especially those serving the air bases at Minot and Grand Forks, N. Dak. Each year, however, these districts face the threat of losing these funds because current Office of Education regulations imposed on the State are too strict. To remedy this perennial problem, the Appropriations Committee has urged the Office of Education to reduce the percentage of equalized revenues now required by the State in the wealth neutrality test, which is contained in regulations implementing section 5(d)(2) of Public Law 81–874. I hope very much that the Office of Education will heed this suggestion by the committee.

Under current law, States whose school aid programs are designed to equalize expenditures may consider Federal impact aid as local resources, since this aid is intended to replace local taxes lost because of Federal installations. Yet, in an effort to define what "designed to equalize" means, OE has taken it upon itself to demand near perfect equalization of State education funds—a demand that is far beyond the congressional intent of the law and, I believe, an unnecessary encroachment on the State's and the local government's rights to run their own education systems.

North Dakota, which has one of the best equalization programs in the Nation, currently has 87 percent equalized revenues—a perilously small 2 percentage points above the 85 percent now demanded by OE.

Given the practical problems of available funding, the political problems of meeting State legislative demands, and the reality of helping school districts with widely differing tax bases, however, I believe the North Dakota percentage is perfectly acceptable. It is, in fact, a very good percentage. But what is really important, however, is that the North Dakota school aid program is designed to insure that the percentage of equalized revenues is always relatively high. And it is this fact which the law directs OE to determine.

I believe, and the Appropriations Committee has agreed, that 85 percent is an unnecessarily strict standard and that a lower percentage would fulfill the requirements of the law. Although only a few States are now affected by this regulation, more States will be affected in the future as they move to enact State equalization programs. As long as these States have a relatively high percent of equalized revenues, it makes little sense to keep the threat of noncompliance hanging over their heads and the local school districts in turmoil. A lower percentage requirement would resolve this continuing problem, and I would urge the Office of Education to make the change in their regulations without delay.●

ELEMENTARY AND SECONDARY EDUCATION ACT—CONFERENCE REPORT

● Mr. STAFFORD. Mr. President, on the occasion of the Senate's acceptance of the conference report on the Education Amendments of 1978 (H.R. 15), I would like to make just a few comments and to express my appreciation of the superb work done in conference by my colleagues, Senators PELL and JAVITS.

This bill is a major accomplishment. I understand that the report is the second longest submitted to the Senate in the last decade. The bill's importance is far-reaching and fundamental. The Elementary and Secondary Education Act's title I compensatory education program will benefit nearly 6 million educationally disadvantaged children. Title I's very desirable new concentration fund will, as the name implies, provide additional assistance to local educational agencies in counties with especially high concentrations of children from low-income families. This concentration fund will reinforce targeting upon the areas of very greatest need, both urban and rural.

When we began our work on this bill many months ago, we heard two great outcries. One was against declining test scores. The other was against excessive administrative paperwork. I believe we have taken constructive steps in both regards.

I am delighted by title II, which is entirely new and addresses our great need for basic skills improvement. This title is a significant initiative. It will help us to reverse those declining test scores by authorizing grants and contracts to develop and demonstrate the most effective ways of improving achievement in reading, mathematics, and written and oral expression. It also will establish a program of grants to implement educational proficiency standards and technical assistance to develop achievement tests.

I am also very pleased by the measures taken to curb the steady proliferation of burdensome paperwork. One of the several sensible changes, for example, is the provision for a single State department of education application covering titles I and IV.

This bill is both responsive and creative. Its effect will be to increase access to opportunity and to help the States and local educational agencies to improve the quality of our schools. These improvements are needed for our young people and for this country's future. As the ranking minority member on our Subcommittee on Education, Arts and Humanities, I am very pleased to have been associated with the development of this very important legislation.●

REPORT TO THE PEOPLE OF MISSISSIPPI FOR 1978

● Mr. STENNIS. Mr. President, as the second session of the 95th Congress draws to a close, I will follow my usual practice of making a special report to the people of Mississippi. My purpose is to tell them of some of the matters on which I have been working this year, and which I think may be of particular interest to them.

I am respectful of the responsibilities entrusted to me by the citizens of Mississippi, and I consider it a very great privilege to work in the Senate on their behalf. I will begin by thanking them for their trust and for the expressions of confidence in me. For this I am deeply grateful.

I also wish to express my thanks to the other Members of the Mississippi delegation in Congress. We enjoy a close and cooperative working relationship that is mutually helpful in legislative matters that help our people and our State. They are always helpful to me and I endeavor to reciprocate.

My thanks also go to my colleagues from the other States here in the Senate. Their cooperation and assistance in my endeavors are essential in accomplishing the legislative actions that help Mississippians, and I appreciate their many courtesies. I wish to say a word of thanks to my office staff also. It is a relatively small staff, compared to those of many other States, but they have worked loyally and hard and I believe have reflected my policy that we are here to

serve and to be of assistance. The committee staffs with whom I work are also due my thanks.

Looking back over the events of 1978, there are reasons for Americans to be proud and gratified, and also cause to be concerned that more progress has not been made on some national problems. We can be happy that we are at peace, and that our Nation has used its position of world leadership to work toward peace throughout the world.

I am dissatisfied that so little progress has been made toward stemming inflation, which remains our foremost national problem. I also regret that it has taken so long to formulate and adopt a national energy policy. A start has been made on the energy policy—one that is not satisfactory to all, but a start, from which ultimate pólicies will evolve that the people as a whole support and that will relieve us of our totally unsound position of dependence upon imported foreign oil.

The oil problem and inflation are directly related, for it was the oil embargo and energy crisis of 5 years ago, with greatly increased energy prices, that set off a vicious new cycle of inflation that reached all aspects of our economy. It has unbalanced our foreign trade, depreciated the dollar abroad, and raised the cost of every item in the domestic marketplace. It caused a cost-related surge in wage rates, and set off a cycle of commitments to future wage increases in collective bargaining negotiations.

Inflation is also fed of course by Government spending. Some progress is being made toward a balanced budget, but not enough. With the public demanding control of government expenditures the vast deficits can be expected to be greatly reduced within a very few years. Demands to curtail the waste in Government will help to stop the idea that the free riders of welfare can live off the labors of others. Perhaps this will help to bring back the work ethic and stop the fall in productivity that has also increased inflation.

Looking back over the year there is cause to hope that we have seen the beginning of a turnaround in national attitudes that will stop the tide of liberal legislation that has been so expensive and ineffective in curing so-called social problems. If history proves this to be the case it will have been a momentous year.

There is much work to be done by all three branches of Government but there have been some accomplishments. Under the headings below I will discuss what took place in Congress this year that I think will be of special interest to Mississippians.

ENERGY LEGISLATION

In the dying days of the session the Congress acted upon and approved compromise versions of the President's energy program.

Unquestionably, the most important of the actions taken was approval of the controversial natural gas pricing bill. This compromise plan is radically different from that proposed by President Carter in April 1977. Under the plan agreed to, the prices on almost all categories of natural gas, including intrastate gas, would be controlled at gradually increasing rates until 1985. At that time Federal regulation of "new" natural gas and almost all gas currently sold in intrastate commerce would end.

The bill, of course, has objectionable features and I do not hold it out as the solution to all of our energy problems. I supported it because I believe it was the best bill attainable at this time and because I believe that it will make a start on increasing the supply of energy and decreasing our reliance on imported oil. The bill is at least a start on an essential new energy policy. Despite its objectionable features I believe that, on balance, it is in the best interests of the State of Mississippi, its people and the United States as a whole.

The energy tax bill adopted by the Congress was also a far cry from President Carter's proposal. The bill as passed contains no crude oil equalization tax and no tax on the oil and natural gas used by utilities and industries. It does impose a tax on so-called "gas guzzling" cars, commencing with 1980 models.

It provides for an income tax credit of up to $300 for homeowners who install insulation, storm windows and other energy-saving devices. This credit is retroactive to April 20, 1977. Another homeowner tax credit, also retroactive to April 20, 1977, is provided for solar, wind and geothermal equipment up to $2,200. For businesses that install certain energy-saving or energy-producing equipment the bill offers, retroactive to October 1, 1978, an extra 10 percent tax credit in addition to the regular 10 percent investment tax credit.

Other energy bills adopted by the Congress provide for mandatory efficiency standards for home appliances, conversion of utilities and industries from oil and gas to coal, reform of electric utility rates and ratemaking, and other matters.

THE PANAMA CANAL TREATIES

As you know, the Senate voted in April to ratify the first of the two Panama Canal Treaties, and in May approved the second one. In both cases the margin between approval and disapproval was only two votes. I voted against both treaties.

I think these are not wise and prudent treaties from the point of view of American citizens and taxpayers. Events preceding and following the approval of the treaties demonstrated that the documents are not acceptable to substantial numbers of both Panamanians and Americans. If this is the case, then they are going to be constant sources of discontent over the years from both nations.

Much of the debate has been over the meaning of the language in the treaties. They are broadly worded and subject to different interpretations, not only between proponents and opponents here, but in Panama as well. If there is dispute now as to what the treaties mean think what the problem may be a generation from now, trying to interpret what was intended by the negotiators. It is predictable that there will be bitter differences of opinions between the two nations.

Unfortunately, the fact that treaties have been agreed to does not assure a peaceful settlement of the issue. It remains to be seen whether the Panamanian Government can or will control the citizenry to the extent necessary to carry out the intent of the treaties. It is a year until the changes made by the treaties begin to take effect. The developments may be revealing as to what we can expect in the years ahead.

I presided over extensive hearings held by the Senate Armed Services Committee on the military issues involved, including the strategic value of the canal, its defense, and the economic and financial effects of the treaties on the United States.

An independent study prepared for our committee pointed out that there is a substantial possibility that the canal could suffer operating losses beginning in 1983–84. It is conceivable that in a few short years that the Congress may be called upon to appropriate American tax dollars to keep the canal financially afloat.

I remain convinced that a serious mistake has been made in accepting those flawed and inadequate agreements as a basis for turning over the Panama Canal to others.

The passage of the treaties does not end the matter, however, for under the terms of the treaties implementing laws must be passed, dealing with the establishment of the Commission to operate the canal, the operating expenses and other money questions, the protection of the rights of American employees, and various other important matters. This legislation will not be acted upon until next year, and it must be passed by the House as well as the Senate. In the Senate it will come before the Armed Services Committee, and as chairman I intend to see that it is gone over very strictly and thoroughly.

THE DEFENSE AUTHORIZATION BILL

Congress and the President were not able to agree on the military procurement authorization bill, of which I was the author. He vetoed one that the Senate and House had agreed to by a very large majority of votes, because he objected to including a nuclear aircraft carrier, saying that he wanted to wait another year and then authorize a conventional oil-powered carrier.

The President's veto message gave the impression that a number of smaller military programs he had proposed had been deleted or reduced in order to make money available for the nuclear carrier. This is really not the case—there was no tradeoff of several small programs against one big one, and any claim that defense will suffer as a result of our bill is ill founded. The President's budget request was prepared many months before Congress passed the bill, and in the interim the situation changed on some of the proposed spending. During long weeks of thorough hearings by the Armed Services Committee, Defense Department witnesses testified as to these changes, which included slower anticipated production so that as much money would not be needed, alterations in priorities, and other good and substantial reasons for reducing some programs and

adding to others. As a matter of fact, the so-called wish list that the President and Secretary of Defense made public as the administration desires was different than what had been in their budget request.

As chairman of the Senate Armed Services Committee I proposed that the committee report a new bill which would simply delete the new carrier. The committee did this, and the Senate passed the bill. The House took the same action, and the measure was signed by the President. There will be ample opportunity in supplemental bills to make any adjustments in smaller programs to meet such new changes in circumstances as may come up in the next few months, and for that matter to take up the carrier again should that be necessary. In any case, the matter of the carrier can be agreed upon by next year. It is still needed, and Congress believes it should be nuclear powered, so it can be operated without being dependent on oil supply ships coming out to meet it from land bases around the world.

The weapons, ships, and aircraft authorized in this bill will be produced and delivered to the troops in the field over the next 2 to 5 years as quickly as they can be produced. In my opinion, the bill vetoed by the President was one of the strongest, most balanced bills for strengthening our military forces I have seen since I have been in the Senate. This new bill is the same in every way except that the nuclear carrier has been taken out. We must move ahead now with all of the new weaponry that is authorized in this bill to insure and improve the strength of our Armed Forces.

The Nation is not weak in a military way. It is strong and superior, and it will remain strong 10 to 15 years from now, which is why the military procurement bill is so important.

THE NAVY SHIPBUILDING PROGRAM

Last year, I reported that "our Navy today stands at a critical turning point in its history" and that "both the Navy and the Congress must wrestle with the question of what kinds of ships will be built in the future."

This year, needed answers were still not available on the future of the Navy. The 5-year shipbuilding program presented by the administration represented a significant reduction in the number of new ships when compared to last year's plan. Programs for innovative new ships were either scaled down or eliminated entirely. Fundamental questions were simply not addressed.

I remain convinced of the superiority of our naval forces—both for the present and for the next several years. However, the steps to assure continued superiority beyond that line must be taken now.

Our Senate Armed Services Committee authorized $4.5 billion for Navy shipbuilding for fiscal year 1979. Fourteen new ships were approved. Of equal importance, the committee included several new initiatives for possible new and innovative future ship programs, including the Surface Effect ship, design of a new light carrier, study funds for a new and smaller ballistic missile submarine to complement the Trident submarine, and study of cheaper alternatives to the current SSN–688 nuclear attack submarine.

The committee also took the initiative in providing funds for conversion of an existing LPH amphibious assault ship to a light carrier as a means of getting more naval airpower at sea. Long lead funds for a sixth LHA was approved with the firm intention of providing the remainder of the required funds next year. The Navy and the Department of Defense took a strong position against the money for these ships. The Senate nevertheless approved the money but the House would not agree to the money so it was not provided.

I am pleased that Ingalls Shipbuilding won the competition for construction of the first DDG–47 Aegis destroyer. Their success in the competition is a tribute to the dedicated worker and management team and the innovative techniques pioneered by Ingalls Shipbuilding in Pascagoula. Seven additional Aegis destroyers are planned through 1983, and based on the needs of our Navy, a total of 16 Aegis destroyers may ultimately be required.

The Navy has awarded Ingalls a contract for the long leadtime procurement and work leading to the construction at Pascagoula of the already awarded 31st DD–963 class destroyer which was funded last year. In addition, the shipyard will be interested in the modernization on the DDG–2 class destroyers. There are 23 of the DDG–2 destroyers and the extensive destroyer experience and capability should make the Ingalls Shipyard a solid contender for this program.

THE FARM CRISIS

For several years farmers have been faced by rising costs without a compensating increase in the price of their products. This placed them in the position of having to borrow increasing amounts each year in order to stay in production. Many have not been able to do so. For many others only the increased valuation of their land has permitted them to get the credit they needed. The cost-price squeeze has greatly reduced the number of young farmers beginning on their own.

This very difficult economic position resulted in the formation of the American Agricultural Movement, and the tractor marches that took place early in the year.

The demonstrations by farmers in many places around the United States have served a very useful purpose by attracting public attention to the truly crucial financial position of many farmers today. American consumers now realize—many of them for the first time—that the high prices they pay for food are not going into the farmers' pockets, and, in fact, current farm prices will not pay the cost of production. This is a step toward getting all Americans to understand that the consumers are partners with farmers, each being dependent upon the other.

These difficult conditions for farmers, and their organized reaction to them took place at a time when a new farm law was about to go into effect for the first time. The Agricultural Act of 1977 made many changes that were as yet untried, and the accompanying regulations were just being prepared. This made the situation even more difficult. All the members of the Mississippi delegation in Congress were, and still are, very concerned about the farm situation and are resolved to improve farm legislation as much as possible to correct the situation.

Congress attempted to respond to the crisis with an emergency farm bill, but it became too top heavy and President Carter said that he would veto the bill. A subsequent emergency farm bill was passed to provide authority to the Secretary of Agriculture to increase target prices for the major farm crops.

However, the administration has generally adhered to the position that the Agriculture Act of 1977 would be enough to meet the crisis if a sufficient number of farmers responded to the options available to them under the law. This remains to be demonstrated.

The Senate passed an unusually large number of bills this year pertaining to agricultural matters. They included a revised and expanded Agricultural Credit Act, which will help the credit squeeze but is not a solution to the cost-price squeeze. I cosponsored a beef import bill that is a definite improvement over the old law because it will reduce imports when domestic production is large, and will help prevent the cyclical price changes that have been a constant problem in beef production.

Other legislation included amendments to the Packers and Stockyards Act, a bill to require registration of foreign purchases of farmland, one to provide equitable interest rates for price support loans on upland cotton, the agriculture appropriation bill, and the Agricultural Export Expansion Act. The latter is a very important aspect of American agriculture for we are very dependent upon foreign markets to buy our surplus production of food and fiber.

The farm problem is not yet solved, but will be before us next year. The picture will be further developed and the true issues drawn. Congress wants to meet the problem and will continue to be concerned and I will continue to give it my special and active attention.

WATER RESOURCES POLICY

In May of last year, in his environmental message to Congress, President Carter announced his intention to completely revise the national policy on the development of water resources. He appointed a study group, which conducted four regional public hearings on the subject in late July and early August, and stated that comments from the States and interested citizens would close on August 15. In response to complaints from the States and Members of Congress the short period for comment was extended until November.

It seemed rather clear that this very hasty effort to revise an important national policy on a very complex subject was being carried out with some preconceived ideas as to what the final policy would be, and that the limited coordination with the States could result in a policy in which the Federal Government would be infringing on various

matters such as water rights, which are properly in the jurisdiction of State governments and State laws. Strong policy statements and resolutions on this subject were adopted by governors' meetings in the summer and fall of 1977. There was a general impression that perhaps the new administration felt that all water resources development was automatically bad.

During the preparation of the revised water policy there was little or no effort to coordinate with Congress to arrive at an acceptable new policy. There was no legal necessity for this, although from a practical point of view it would have been the thing to do. In the Water Resources Act of 1965 Congress had given the President the authority to make revisions in the national water policy, and had created a Water Resources Council to handle the matter. Subsequent events revealed that this legislation had been a mistake. The Water Resources Council never was able to send forward the new policies and regulations that Congress had requested. It was an unsuccessful delegation of what should have been a legislative responsibility.

Apparently the widespread concern about this broad and unilaterally prepared policy revision delayed its release. In February the Secretary of the Interior discussed the subject with various Governors. He and the Vice President both spoke on the subject in the West, where concern was very great because of the vital nature of water resource development to economic progress in arid areas. Some preliminary announcements were made by the President in May, and he sent his water policy message to Congress on June 6.

In brief the proposed new policy would expand the role of the Water Resources Council in preparing projects, although this Council has been singularly unsuccessful in the past. It stresses water conservation and environmental quality, and would increase the cost sharing borne by States and local citizens. The objectives stated by the President were attractive, but there were many ambiguities in the lengthy supporting papers. The message acknowledged that some parts of the new policy, such as the changes in cost sharing, would require new legislation. The remainder of the new policy was put into effect immediately so far as the executive branch was concerned.

Since up to this time this was a unilateral effort by the executive branch, its reception in Congress was marked by doubt, and the general expression of the desire for extensive hearings to explore the ambiguities, and hear the views of the States and public citizens. I believe that the policy will have very little weight with Congress until this is done, and the proposed new cost-sharing legislation considered. This will not occur until the new Congress meets next year. The eventual outcome may be that Congress will revoke the 1965 act and proceed to legislate a new water resources policy, calling on the administration for its input in open hearings.

The progressive development of water resources, with proper care as to environmental considerations, is absolutely essential for future water supply, water transportation, flood control, agricultural irrigation, hydroelectric power generation, and the continued prosperity of the Nation in generations to come. It is a subject on which the administration and the Congress must get together, and this will be a major subject in the next Congress. In the meantime projects are proceeding on the basis of the existing laws.

APPROPRIATIONS FOR MISSISSIPPI PROJECTS

August and September are the months when most of the annual appropriation bills for the coming fiscal year are passed by the Senate. I am pleased to be able to say that this year efforts on behalf of many federally funded projects in Mississippi have been quite successful.

To mention some of the projects, $19 million has been approved for continued construction of the Natchez Trace, $156 million for the Tennessee-Tombigbee Waterway, $16 million for flood control projects in the Yazoo Basin, $150,000 for design of a new flood control project in Meridian, and $2.9 million for work on the navigation project on the Yazoo River, as well as money for levees and channel work on the Mississippi River, and a number of smaller projects throughout the State. My work on the Senate Appropriations Committee on behalf of these projects has been coordinated with that of Congressman WHITTEN on the House Appropriations Committee, for the two bodies must reach agreement on the amount for each project. The other members of the Mississippi delegation have also been involved in making these gains in ongoing projects.

Provision must also be made for projects that are not yet authorized and under construction. Contrary to the legislative process in most States, Federal law requires two legislative actions on a given project. The funding in an appropriation bill must be preceded by a separate authorizing act. For example, the Sowashee Creek flood control project in Meridian was authorized 2 years ago in a bill that I sponsored, and an authorization bill containing improvements to Gulfport Harbor was passed by the Senate and House this year but did have final approval when the session ended.

An authorization for a project is based on a study, or survey report, which shows that it is environmentally sound and that the benefits exceed the costs. The Public Works Appropriation bill this year contains the money to carry out quite a number of these preliminary studies that will be very important for future water resources development in our State.

In the Senate bill for construction at military installations, Mississippi has done quite well. The Army ammunition plant in Hancock County received $64 million. For Kessler Air Force Base at Biloxi $8,446,000 is provided for three projects. Work at Columbus Air Force Base totals $1,801,000. Money is provided also for work at Camp Shelby, Camp McCain, and armories at Taylorsville and Yazoo City.

There usually are fifteen major appropriation blls passed in each session. They are considered in detail and they require a great deal of attention, particularly during committee deliberations. However, this work enables me to be sure that the projects and programs in Mississippi proceed as they should, and it is very satisfying to be able to accomplish this.

THE NATCHEZ TRACE PARKWAY

I have for many years been a strong supporter of the Parkway construction, and it has been a struggle each year to get the money. From fiscal year 1963 through fiscal 1968, a total of $23,149,000 appropriated for construction of the Natchez Trace. In fiscal 1969, however, the administration abruptly withdrew support of funding the project to assure construction progress, and budgeted only $54,000 that year. Thereafter getting the money was a matter of adding it in Congress, over and above the budget, and when this was done it was sometimes impounded. We have stopped the impoundment with the Congressional Budget legislation, but it is still a struggle each year to get money.

From 1968 until this year, appropriations for the parkway actually were opposed by the Department of the Interior, as they had written off the Natchez Trace. I have a letter from the then Secretary of Interior that says.

> Unless or until new methods of funding the Natchez Trace Parkway become available, we would be less than candid if we did not conclude that a mutually satisfactory rate of progress of new mainline construction will be impractical in the fiscal climates of the foreseeable future.

This was in response to my advocacy of an all-out 5-year plan for full completion of the project.

From 1969 to 1974, with the opposition of the Secretary of the Interior, it was possible to obtain only $4,887,000 for construction. Since then progress has been better.

I was able to get the Senate to include in the Interior appropriations bill for fiscal year 1975 a program of $7.4 million for the Natchez Trace, over and above the budget. The addition was retained in conference with the House, and this work was carried out.

The next year, fiscal 1976, I was able to get $9,160,000 in the Senate bill for fiscal year 1976, which was approved in the Senate-House conference, and this work has been completed.

For fiscal year 1977 I was able to put $9,560,000 in the Senate bill for fiscal 1977, as opposed to $1,100,000 that had been added in the House bill. This is in the face of the fact that there was no money recommended by the administration in the budget. In the Senate-House conference, unfortunately, the conferees found it necessary to compromise, and the amount approved for fiscal 1977 was $3,687,000. Of this, $100,000 was specifically earmarked for planning for section 3–X, the Natchez end of the parkway.

The revised budget for fiscal year 1977 was submitted by President Carter after he assumed office. It contained $29.2 million for the Natchez Trace, of which $14.1 million was for new construction and $15.1 was for resurfacing. This money was appropriated in the supplemental appropriations bill for fiscal year 1977.

The $29.2 million was a part of the Bicentennial land heritage program. President Ford proposed this program to Congress during the campaign, to improve all National Parks. President Carter adopted it, and after he took office requested the money for it in the fiscal year 1977 supplemental appropriation bill. This money was programed for use in 1977 and 1978, and the work is underway. For fiscal 1978, $8 million was added in the Senate bill, was agreed to by the House, and was appropriated. It was expected that the budget for fiscal year 1979 would again contain money for the Natchez Trace. However, no money was requested.

It was necessary therefore that I again attempt to obtain the money by congressional action, and I am pleased to say that I was able to do this. I strongly recommended to the Senate that $19 million be appropriated in the Interior Department appropriations bill for the Natchez Trace. Congressman JAMIE WHITTEN made the same recommendation in the House. The bill was passed by Congress and signed into law, and the money is now available for construction.

I was also able to get the Office of Management and Budget to reprogram $3.5 million from money appropriated for fiscal year 1978 so that it can be used to complete a 1.8 mile length of the parkway in Jefferson County.

I justified the $19 million appropriation on urgent grounds. It will be used to complete section 3–B, according to the current priorities of the National Park Service. Section 3–B includes the bridge which will cross the Tennessee-Tombigbee Waterway. Construction of the waterway has not yet reached the juncture with the Natchez Trace, and the Park Service reports that substantial savings can be realized if the bridge is constructed before this part of the canal is dug.

The money will also be used for construction south of Port Gibson, and for engineering planning preliminary to construction near Natchez.

It should be emphasized that the exact location of the Natchez Trace where construction money will be spent is normally specified by the National Park Service, in accordance with priorities they establish. The only way to be sure that nobody is going to have to wait very long for a particular section is to complete the whole parkway under a 5-year plan. That is why I have introduced legislation to require and direct that this be done.

In May I introduced a bill which would authorize the Secretary of Interior to complete the Natchez Trace Parkway in 5 years, and furthermore the bill directs that he do so. Senator EASTLAND and the Senators from Alabama and Tennessee cosponsored the bill.

Unfortunately with the heavy press of business this year in the committee to which the bill was referred, which also handles energy authorizations, the bill was not reported out of committee, and it will be necessary to try again in the coming year.

After 40 years of construction the Natchez Trace is only three-quarters completed. It simply has gone too slowly and drastic measures are necessary. The Federal Government and the three States concerned made an agreement a long time ago about the Natchez Trace Parkway. The States would provide the project lands and rights of way; the parkway would be dedicated to recreational use with restricted driving speeds, and forbidden to trucks; and the Federal Government would build the parkway. The States have lived up to their share. The Federal Government should carry out its end of the bargain, and my bill would require that this be done.

APPALACHIAN COMMISSION PROJECTS

Under the Appalachian Regional Development Act of 1965, programs are sponsored by the Appalachian Commission to further economic development, and educational improvement, and health care within the 13-State Appalachian region. As originally passed, this act did not include any part of Mississippi, but an amendment I sponsored in 1967 resulted in the inclusion of the 20 northeast counties of our State in the area eligible to participate in projects sponsored by the Appalachian Commission.

Since my amendment was signed into law, very significant progress has been made in these programs, all aimed at health, education, and job development. We are in the 11th fiscal year of that period, and projects have been completed or approved that for Mississippi now have a dollar total of well over $162 million. Of this money about half came from grants from the Appalachian Regional Commission, and half from other Federal programs and matching funds of State and local money.

About a third of the money has been spent in education, and another third in community facilities, for the most part for water and sewer facilities. A sixth went for health projects, and the rest for child development, recreation, and transportation. In addition there have been substantial investments in highways, especially access highways for economic development purposes.

Last year projects in Mississippi totaling $6,225,000 were funded, and a similar number are in process for funding this year.

For fiscal year 1979, I introduced an amendment to increase the appropriation for Appalachian developmental programs by an additional $15 million, and I am pleased to say that this added amount was in the public works appropriations bill as it was passed by Congress.

Within the 20-county area many fine vocational and technical educational facilities and health care facilities have been provided, as well as other projects intended to stimulate the economy and enable the people to take full advantage of the additional economic opportunities presented. These authorizations and the funding of them are important to our State and will continue to receive my attention and strong support.

FORESTRY PROGRAMS

One of our leading resources in Mississippi is our forestland, and forest products play a very prominent part in our industry and commerce. It is natural therefore that over the years I have devoted considerable interest to legislation on forestry matters.

In June the Senate passed the Forest and Rangeland Renewable Resources Research Act of 1978. Also passed on that date were the Cooperative Forestry Assistance Act of 1978 and the Renewable Resources Extension Act of 1978. All three of these bills are of extreme interest to the Southeast, as a prime production area of timber products.

The Forestry Research Act was originally introduced on June 7, 1977. I was a cosponsor with the late Senator Hubert Humphrey, of Minnesota, with whom I had a common interest in the renewable resources of our American forests.

The Forestry Research Act will modernize and broaden the basic authority for research on forestry, which until now has been based on the McSweeney-McNary Act of 1928. No changes are made in the Cooperative Forestry Research Act of 1962, which I had the privilege of sponsoring, together with the late Clifford G. McIntire, then a Congressman from Maine. The Cooperative Forestry Research Act authorizes cost sharing in forestry research at the graduate level in State colleges and universities. Today there are 60 cooperating State universities and land-grant colleges participating in essential forestry research under this fine program. It is a source of pride and pleasure to me that the participants commonly refer to this research as the McIntire-Stennis program. It is coordinated by the Cooperative State Research Service of the Department of Agriculture, and has been progressing steadily, bringing benefits from the research to forestry problems in every State, its progress limited only by the funds appropriated for it annually. It is an extremely successful program at Mississippi State University. The potential exists for vastly increased returns from this research in response to the needs of modern forest management. This very successful research program will continue as before.

The new forestry research bill will provide an additional program of competitive research grants, among other authorizations. The bill as a whole provides the added flexibility that is needed to achieve the high levels of productivity and multiple use that can be possible under modern scientific forestry practices.

The second bill, the Cooperative Forestry Assistance Act consolidates and clarifies previous authorizations for programs of cooperation with States and private forest owners. Seven separate statutes are incorporated in the bill, some of them dating back many years.

One of the statutes this bill incorporates is that part of the Agriculture Act of 1973 that authorizes the forestry incentives program, of which I was the original sponsor. This program is for technical assistance and cost sharing to improve timber production on private nonindustrial forest lands, on which much of our future national supply of wood products must be grown.

In 1972, I introduced the Forestry In-

centives Act, and it was signed into law in August 1973. It provides cost sharing of 75 percent by the Federal Government for planting seedlings and for timber stand improvement. The first money became available in February 1974, and the program has been very effective and successful in Mississippi.

Later in 1974 the State legislature passed the "State Forest Resource Development Program," which is financed from timber severance tax. The two programs complement each other very well, and I think it is safe to predict that within a few years over a half million acres of our forest land will have been planted, or the timber stand improved. The State Forestry Commission and its staff is providing very efficient leadership, through county foresters, in making Forestry incentives a success.

In Mississippi in the fiscal year just completed, the Federal Forestry Incentives Program accomplished the planting and seeding of 20,653 acres and timber stand improvement of 3,753 acres. The State program is of similar size.

The Cooperative Assistance bill passed this year gives full and permanent status to Forestry Incentives, which was originally considered a pilot program, and removes the authorization ceiling under which it operated.

The third bill, the Renewable Resources Extension Act, authorizes the Extension Service of the Department of Agriculture to have a separately funded and expanded extension program in forestry. By this means the improvements in production and management practices that are brought about under the other two bills can be made immediately and effectively available to private citizens who have forest tracts.

These three forestry bills are good, solid legislation. They were prepared over a period of several years, with extensive coordination with the most knowledgeable sources in the country, and they will benefit the Nation's woodlands for many years to come. I am of course pleased that two of my previous legislative contributions to foresty are reaffirmed and continued in these bills. I am especially pleased that the Research Act, which was a measure that I originally cosponsored, has been signed into law.

LABOR LEGISLATION

The so-called Labor Reform Act, despite its title, was a huge union power grab designed to shore up declining union membership at the expense of business—particularly small business. Although it had literally sailed through the House of Representatives in 1977 it met organized and determined opposition in the Senate. As a part of this opposition I fought and spoke against the bill and the imposition of cloture. The supporters of the bill failed in repeated efforts to shut off debate and, after the sixth cloture vote failed, the bill was pulled off the floor. It finally died quietly in the Human Resources Committee but unquestionably will be revived in 1979.

The Common Situs Picketing bill, which I also opposed, was disapproved by the House of Representatives, on March 23, 1977. In the wake of its defeat in the House this bill, which would have allowed a union to picket an entire construction site even though innocent and third-party subcontractors were involved, was never brought to the floor of the Senate for consideration. No doubt the effort to pass this bill will be renewed next year.

TAX REDUCTION BILL

The Senate and the House of Representatives passed widely differing versions of bills reducing income taxes for individuals and corporations, including a reduction in the capital gains tax. One of the more significant provisions of the Senate bill was an amendment sponsored by Senator NUNN, of Georgia, providing for tax reductions for each of the 5 years beginning with fiscal year 1979, contingent on the achievement of specified expenditure restraints. I supported the Nunn amendment. I also favor a significant across-the-board tax cut but feel that the amount provided in the bill passed by the Senate is somewhat excessive. As this is written, the Senate and the House are still trying to resolve the differences between them and it is not possible to say what the final outcome will be although it is probable that some tax reduction bill will be passed before adjournment.

DISTRICT OF COLUMBIA REPRESENTATION IN CONGRESS

Congress made a serious error, in my judgment, in voting to submit to the States a constitutional amendment that would give the District of Columbia the same full representation in Congress that is accorded any State. In particular, for this Federal City to have two Senators is an abandonment of some of the principles upon which the Constitution is based.

The very name of our Nation—the United States of America—indicates that it is a union of States. This fundamental concept guided the Founding Fathers in creating two legislative bodies: a House of Representatives in which the people are directly represented, and a Senate which gives every State an equal voice, regardless of population. Thus we are at once a single nation of people united, and also a union of diverse States each with an equal voice.

Had it not been for this very wise concept, and the unique way devised to carry it out legislatively, our Nation might have had a single legislative chamber, and been called the Republic of America, or some similar title, rather than the United States. With a single legislative body, our legislative system would have been without the check-and-balance factor that has in the past been so effective in preserving the constitutional system.

The most disconcerting and troublesome part of the passage of this congressional resolution is that it apparently caused little concern or interest outside the Washington area. There is a real danger in this relative indifference, for unless the fundamental break with the Constitution is recognized throughout the Nation and in State legislatures, the issue may be settled on the superficial aspects. If the question was solely whether every citizen should be equally represented in Congress, then it will be deceptively easy for three-quarters of the States to accept the proposed constitutional amendment, and thus adopt it.

This is not the real issue. The issue is whether Washington, the Federal city, should have the full rights and privileges of a State. No other city has this. Most of all, Washington should not. It was especially set aside as a Federal city, subject to the laws of no State—only those of Congress—and deliberately excluded from the setting of Federal policies because of its direct involvement in them. Citizens of Washington elect their mayor, city council, and school board, and have all the usual local prerogatives, without the obligation of paying the city costs entirely through taxes. There is no reason for them to be considered a State. And if they are given two Senators they will in time be considered a State, quite naturally, and when this has come about some of the vastly larger cities will demand the same privilege, and perhaps ask for the same Federal payments that Washington receives.

This whole thing is a clear and present danger to a principle of our Constitution. I strongly hope that it will receive the thorough analysis it deserves in the news media, and must urge all legislatures to recognize it for the dangerous precedent it is.

ERA EXTENSION

The Congress adopted a resolution extending the time for States to ratify the Equal Rights Amendment from March 1979 to June 1982. Since I thought the original 7-year period provided was ample, I opposed this action. I supported inserting a provision giving States which had ratified the amendment the right to rescind this action and also supported a proposal to require that the resolution of extension be approved by a two-thirds vote of both Houses of Congress as was required of the original resolution. Both of these propositions were defeated after floor fights in both Houses.

COMMITTEE WORK

The matters I have discussed so far in this report are for the most part those which are of direct interest to Mississippians because they affect their daily lives, their work, and the communities in which they live. These matters are of intense interest to me, of course, and to them I devote a large part of my time and effort.

In addition to this work, I also have, as do all Senators, legislative responsibilities of a national nature. Most of this work is done in committees. As a body, the Senate represents the union of 50 States, each State having equal rights. In national matters a Senator is speaking for his State, and when legislation is passed into law, that law becomes binding upon the people of his State, so this is a responsibility that is taken very seriously.

This work is for the most part carried out in committees. When a bill is proposed by a Senator, or received as a recommendation from the administration, it is referred to the Senate committee that has jurisdiction over the subject matter of that particular bill. The committee holds hearings, to obtain the views of

citizens, interested organizations, and the appropriate agencies of the executive branch. The facts are established, and in committee deliberations the final form of the legislation is worked out, with differences of opinion being decided by a majority vote of the committee members. When the bill is sent to the full Senate for debate and vote on passage, it is normally accompanied by a committee report that explains the committee reasoning in resolving the various complexities involved in the bill. In the debate on the bill, the committee chairman serves as the floor manager, and when the bill goes to conference to reconcile differences between the Senate bill and the comparable bill passed by the House, the committee chairman is the leader of the Senate delegation on the conference committee.

Senators are allowed to belong to only two major committees, and they become especially knowledgeable of the subject matter handled by those particular committees. I welcome my committee work as an opportunity to participate in formulating legislation that by serving our Nation well also serves the State of Mississippi. I believe that I am fortunate in my own committee assignments, in that many matters of direct interest to our State, as well as to the Nation, come under their jurisdiction.

A Senator may be chairman of only one major committee, and of course to be a chairman at all, he must be quite senior in terms of length of service in the Senate and must be a member of the majority party.

I have had the privilege since 1969 to serve as chairman of the Armed Services Committee, a major committee of the Senate that deals with all matters involving military readiness, the protection of the American people and the security of the free world. Through my work on the committee, I become involved in many national security issues so vital to the well-being of our Nation. Our security in future years can be insured by taking the proper initiatives today.

This year over 50 bills or resolutions were referred to the committee. The committee considered and reported to the Senate 24 bills or resolutions and thousands of nominations of military officers and civilian officials for appointment or promotion.

Each year the major work of the Armed Services Committee is the annual military authorization bill. This bill authorizes the money for procurement of military weapons, research and development, and civil defense, and sets the manpower levels for the active military forces, the military reserves, civilians working in the Department of Defense, and military student training loads. The committee spent 5 months carefully reviewing the President's budget. As chairman, I strive to report to the Senate a bill that will provide a strong national defense while assuring a careful and cautious spending of U.S. tax dollars.

The committee reviewed a budget request of $35.5 billion. Hundreds of items were carefully reviewed over a 5-month period. The committee and 5 of its subcommittees held a total of 44 hearings compiling a hearing record of 10 volumes totaling 7,323 pages. After 11 meetings to mark up the bill, the committee approved a bill totaling $36.1 billion. After 2 days of important debate in the Senate including votes on 16 amendments, the Senate passed a bill with only two votes in opposition. It was my job and privilege to serve as floor manager of the bill. After nine conference sessions with Members of the House of Representatives, the Congress approved for the President's signature a bill totaling $37 billion.

As I stated in an earlier section of this report, unfortunately the President did not agree with the Congress on this legislation and on August 17 he vetoed the military authorization bill. I was greatly disappointed by this action. However, it is clearly within the President's constitutional power and responsibility to veto any legislation which in his judgment does not pass muster. But the Congress had done what the President requested in his budget. In many areas where the United States is making major initiatives, notably NATO and in planning for a future Navy, Congress has done more.

The revised bill of $35.2 billion is an excellent, responsible bill that will strengthen our defense in many ways. This bill is identical to the one vetoed by the President with the exception that the nuclear aircraft carrier was deleted and additional money was included for payment of shipbuilding claims between the Navy and Litton and General Dynamics. I am pleased to report that this dispute has been settled and look forward to Ingalls Shipbuilding in Pascagoula to continue to build such fine ships for our Navy.

The Senate Appropriations Committee is the second major committee on which I serve. I value this assignment particularly, for it affords special opportunity to participate in the very early stages of allocating funds to specific programs and projects, many of which are particularly important to Mississippians. Until this year I have been chairman of the Public Works Subcommittee, but in January I accepted the chairmanship of the Defense Subcommittee. I have continued to serve as the ranking majority member of Public Works and to take a very active role in the decisions in that field.

I am a member of four other appropriations subcommittees. Those on which I serve deal with the money for funding the programs for agriculture, environmental and consumer protection matters; defense; housing, space, science and veterans and transportation. Membership of these subcommittees also permits me to serve on the conference committees which resolve appropriation differences between House and Senate bills, and which have much to do with the substance of these bills as they are signed into law.

Committee work is demanding, and takes time, but in my judgment it is time well spent. My assignments give me many opportunities to look out for the interests of my State, and its people, in the formulation and enactment of the public laws that apply across the Nation.

This is the busiest year, I believe, I ever had, especially in holding major hearings and handling legislation in committees, on the Senate floor, and in conference with the House. I hope there has been a real contribution to the welfare of the people of Mississippi and the strength of our Nation.

APPRECIATION TO THE NEWS MEDIA

Mr. President, I want to express special appreciation to the Mississippi news media which deserves much credit for keeping the citizens of my home State informed on the actions of Congress during this past year. It would be impossible to regularly tell our constituents what we are doing and how it will affect them without the news media.

I am truly thankful for the excellent service the Mississippi news media has provided the people in the past year. Certainly the many fine newsstories, analysis and editorials presented have enabled Mississippians to gain insight into our actions, the reasons for these actions, and their effects.

In this regard, I would like to personally thank all of the Mississippi newspapers for their efforts to inform our citizens.

Daily newspapers in Mississippi:

Biloxi—Daily Herald; South Mississippi Sun.
Brookhaven—Daily Leader.
Clarksdale—Press Register.
Cleveland—Bolivar Commercial.
Columbus—Commercial Dispatch.
Corinth—Daily Corinthian.
Greenville—Delta Democrat-Times.
Greenwood—Commonwealth.
Grenada—Daily Sentinel-Star.
Hattiesburg—Hattiesburg American.
Jackson—Clarion-Ledger: Jackson Daily News.
Laurel—Leader-Call.
McComb—Enterprise-Journal.
Meridian—Meridian Star.
Natchez—Natchez Democrat.
Oxford—Oxford Eagle.
Pascagoula—Mississippi Press Register.
Picayune—Picayune Item.
Sparkville—Starkville Daily News.
Tupelo—Northeast Mississippi Daily Journal.
Vicksburg—Vicksburg Evening Post.
West Point—Daily Times Leader.
Yazoo City—Yazoo Daily Herald.

Weekly newspapers in Mississippi:

Aberdeen—Examiner: News Herald.
Ackerman—Choctaw Plaindealer.
Amory—Advertiser.
Ashland—Southern Advocate.
Baldwin—News.
Batesville—Panolian.
Bay St. Louis—Sea Coast Echo: Coast Buyer's Guide.
Bay Springs—Jasper County News.
Belmont—Belmont-Tishomingo Journal.
Belzoni—Banner.
Biloxi—Biloxi Press: The North Biloxian: Keesler News.
Booneville—Banner-Independent.
Brandon—Rankin County News.
Bruce—Calhoun County Journal.
Calhoun City—Monitor-Herald.
Canton—Madison County Herald.
Carrollton—The Conservative.
Carthage—The Carthaginian.
Charleston—Sun/Sentinel.
Clinton—News.
Coffeeville—Courier.
Collins—The News-Commercial.
Columbia—Columbian-Progress: Marion County Advertiser.
Crystal Springs—The Meteor Inc.

Dekalb—Kemper County Messenger.
Drew—Sunflower County News.
Durant—Durant News; Durant Plaindealer.
Edwards—Edwards Hummer.
Ellisville—Progress Item.
Eupora—Webster Progress Times.
Fayette—Chronicle.
Flora—Banner County Outlook.
Forest—Forest Advertiser; Scott County Times.
Fulton—Itawamba County Times.
Gautier—Jackson County Independent.
Gloster—Wilk-Amite Record.
Grenada—Grenada County Weekly; Grenada Lake Herald.
Gulfport—Gulfport Star Journal.
Hazlehurst—Copiah County Courier.
Hernando—North Mississippi Times.
Holly Springs—the Marshall Messenger: South Reporter.
Houston—The Times Post.
Indianola—Enterprise-Tocsin.
Iuka—Tishomingo County News.
Jackson—Jackson Advocate: Mississippi Enterprise; Northside Sun; Steppin'Out; Capital Reporter.
Kosciusko—Star-Herald.
Leakesville—Greene County Herald.
Leland—Leland Press.
Lexington—Lexington Advertiser; Holmes County Herald.
Liberty—Southern Herald.
Long Beach—Gulf Coast Weekly.
Louisville—Winston County Advertiser; Winston Co. Journal.
Lucedale—George County Times.
Lumberton—Lamar County Head Block.
Maben—News-Press.
Macon—Macon Beacon.
Magee—Magee Courier.
Magnolia—Magnolia Gazette.
Marks—Quitman County Democrat.
Meadville—Franklin Advocate.
Mendenhall—Simpson County News.
Meridian—Mississippi Memo Digest; Starland News.
Monticello—Lawrence County Press.
Morton—Morton-Pelahatchie Advertiser; Home Maker.
Moss Point—Jackson County Independent.
Mount Olive—Tribune.
Nettleton—Nettleton News.
New Albany—Gazette.
Newton—Newton Record.
Ocean Springs—The Record.
Okolona—Messenger.
Olive Branch—DeSota County Tribune.
Oxford—Lafa Shopper News.
Pass Christian—Tarpon Beacon.
Pearl—The Pearl Press: The Petal Journal.
Philadelphia—Neshoba Democrat.
Picayune—Pearl River Journal.
Pontotoc—Progress.
Poplarville—Poplarville Democrat.
Port Gibson—Port Gibson Reveille.
Prentiss—Prentiss Headlight.
Purvis—Lamar County News.
Quitman—Clarke County Tribune.
Raleigh—Smith County Reformer.
Raymond—Hinds County Gazette.
Richton—The Richton Dispatch.
Ripley—Southern Sentinel.
Rolling Fork—Deer Creek Pilot.
Sardis—Southern Reporter.
Senatobia—Tate County Democrat.
Southaven—Whitehaven Press.
Summit—Summit Sun.
Taylorsville—Signal.
Terry—Headlight.
Tunica—Tunica Times-Democrat.
Tupelo—Lee County News.
Tylertown—Tylertown Times.
Union—Appeal.
Utica—Advertiser.
Water Valley—North Mississippi Herald.
Waynesboro—Wayne County News.
Wiggins—Stone County Enterprise.
Winona—Winona Times.
Woodville—Woodville Republican.
Yazoo City—Peoples Press.

Each week during the session, I record a radio and television report to the people of Mississippi on issues pending before the Senate. I would also like to express my appreciation to these radio and television stations which perform a valuable public service through the airing of these reports.

RADIO STATIONS:

Aberdeen—WMPA.
Amory—WAMY.
Biloxi—WLOX.
Canton—WMGO.
Columbia—WFFF.
Columbus—WCBI: WMBC.
Forest—WMAG.
Greenville—WDDT.
Greenwood—WGRM.
Gulfport—WGCM.
Gulfport—WROA.
Hattiesburg—WHSY.
Houston—WCPC.
Indianola—WNLA.
Iuka—WVOM.
Jackson—WYIG.
Jackson—Mississippi Radio News.
Kosciusko—WKOZ.
Laurel—WMAL; WNSL.
Lexington—WXTN.
Louisville—WLSM.
Magee—WSJC.
Meridian—WOKK.
Mississippi State—WMSB-FM.
Natchez—WNAT; WQNZ.
Newton—WMYQ.
Pascagoula—WCIS; WPMP.
Picayune—WRJW.
Poplarville—WRPM.
Pontotoc—WSEL.
Senatobia—WSAO.
Starkville—WSSO.
Tupelo—WELO; WJLJ.
Vicksburg—WQBC.
Winona—WONA.

TELEVISION STATIONS:

Biloxi—WLOX.
Columbus—WCBI.
Hattiesburg—WDAM.
Jackson—WJTV.
Meridian—WHTV; WTOK.
Tupelo—WTWV.

CONCLUSION

The foregoing comments were limited to some specific subjects that I thought might be of particular interest to Mississippians. There were many other legislative matters that would have been included had space permitted, for example health and education authorizations and appropriations. I want you to know that those matters also have had my interest and attention, especially when you have written to me or talked to me about them.

Making a report for the year means looking back, of course, and telling you what was done, and why. Now I want to conclude by looking ahead.

The next year will bring new endeavors, and new challenges. Some of them cannot be anticipated but must be met as they arise, with the best possible effort, resolution, and judgment. Assuming, however, that there are no drastic and unpredictable changes in world affairs or domestic circumstances, it is clear what major problems must be faced. They are inflation, government spending and waste, and continued dependence on imported oil. There are other problems, of course, that will remain with us, but if these three can be solved the Nation can expect to be secure and prosperous.

The three are interrelated problems. Excessive Government spending and unbalanced budgets are a fuel for continued inflation. The steady flow of dollars abroad for oil affects the cost of every domestically produced item in the marketplace. It also depreciates the value of the dollar abroad and so adds to the cost of items we must import. The budget can be balanced and the imports of oil reduced. If this is done inflation will be greatly reduced. The rest of the inflation problem can be balanced by getting productivity back on the rising curve where it used to be when the work ethic—a full day's work for a day's pay—was part of our national way of life. And if there were not so many wasteful Government programs that are for some a substitute for a day's pay, then the work ethic would again be a necessary part of our daily lives.

These problems can be met. Congress must have a large part in doing so. It is to be hoped that the day has arrived when the liberal domination of Congress that led to the big spending programs is ending, and those of us who have been outvoted in seeking to restore pay-as-you-go government can finally muster majorities for more conservative legislation. If waste is cut, inflation stemmed, and productivity increased, the national economy will surge forward and lowered tax rates will be entirely adequate to finance legitimate Government programs.

There is much work to be done in 1979. I look forward to doing my part of it. I will dedicate myself to that work on behalf of the people of Mississippi. I am grateful for your trust, support, and confidence, and I welcome your continued advice and counsel.●

WATERWAY USER CHARGES—PASSED BY CONGRESS

● Mr. SCHMITT. Mr. President, yesterday, the House of Representatives took a major step to improve national transportation policy by passing a compromise waterway user charges Locks and Dam 26 bill, sending it to the President for his signature.

I believe that most Members of the Senate will agree that this legislation represents a major legislative achievement by my senior colleague from New Mexico (Mr. DOMENICI). While this bill does not represent as comprehensive a solution on the issue of user charges as many would have liked, it nevertheless provides a dramatic change in Federal policy, one that will lead to better balance in national transportation.

Senator DOMENICI is to be commended for his hard work on this issue over the past 2½ years. Without his tenacious and effective leadership, this important change in Federal policy would never have occurred.

Because of the interest in this issue, I ask that an article from today's Washington Post be printed in the RECORD.

The article follows:

A WATERWAY FEES ACT

(By T. R. Reid)

The waterway toll bill finally became a waterway toll *act* yesterday, but not before one

final problem—this one involving the unlikely subject of bingo games—raised last-minute doubts about its fate.

The legislation imposing a charge on use of federal waterways—sent to the president by a 287–123 vote of the House—was considerably watered down from the bill Sen. Pete V. Domenici (R-N.M.) had in mind 21 months ago when he introduced his original waterway bill, S. 790. But yesterday's vote still represented a reversal of almost 200 years of federal waterway policy.

The principle contained in the new act—that shippers must pay for use of federally maintained waterways—alters policy dating back to the Northwest Ordinance of 1787, which declared that inland waterways should be "forever free . . . without any tax, impost, or duty therefor."

The bingo problem that threatened this historic reversal was disposed of yesterday afternoon. Since the bill then passed by the House was identical to one the Senate approved Tuesday night, there was no need for conference.

The act, in turn, seems certain to become law within the next two weeks. The Carter administration—as its contribution to a compromise that broke a long stalemate over the legislation—agreed late last week to sign the latest version.

Despite its historical significance, the waterway bill ended its circuitous path through Congress hitched somewhat ingloriously to an obscure measure exempting certain bingo games from federal taxation.

The bingo gambit was the work of Sen. Russell Long (D-La.), who dug out the bingo bill Tuesday to serve as a vehicle for the compromise package of waterway legislation that had been negotiated by congressional staff aides in meetings with lobbyists from the administration, the barge lines, the railroad industry and environmental groups.

Without a convenient vehicle like the bingo measure, the compromise never would have emerged from the crush of business that had accumulated as the 95th congress ground to a close.

Yesterday, however, the bingo measure became a *cause celebre* in its own right, and almost blocked passage of the waterway toll.

When Long introduced the waterway compromise in the Senate Tuesday, he worded it in such a way that the waterway legislation became a substitute to the bingo tax bill rather than an amendment to it. As a result, the "bingo bill" that emerged from the Senate contained the waterway compromise, all right, but lacked the bingo tax exemption.

This outraged some Democratic House members from Michigan, where the state party has used bingo games to raise campaign funds. They threatened to block the waterway bill unless the bingo language were reinstated.

That was not palatable to Sen. Robert Griffin, a Michigan Republican, who feared that the bingo revenues might be used against him in his race for reelection.

A flurry of last-minute lobbying pressure was brought to bear on all parties to the bingo battle, however, and they agreed to let the waterway bill move on to enactment minus any mention of bingo taxes.

The legislation enacted yesterday will impose a federal tax on diesel fuel burned by the barges, with receipts to accumulate in a trust fund for waterway construction. The tax will be phased in starting in 1980, reaching a maximum of 10 cents per gallon by 1985.●

RULE 29.5

● Mr. CHILES. Mr. President, during the waning moments of this 95th Congress I wish to point to the Senate's record in following rule XXIX, clause 5. I wish further to invite my colleague to join me in steps to improve the use of this rule next Congress.

At the beginning of this 95th Congress, the Senate added to the Standing Rule XXIX a requirement that a regulatory impact evaluation be included in the committee report accompanying each bill or joint resolution of a public character. If evaluation is impracticable, the committee is to state why. It is not in order for the Senate to consider any bill or joint resolution that does not have such accompanying statements.

Clause 5 to rule XXIX was added as a result of Senate Resolution 4, the Committee System Reorganization Amendments of 1977. Only the Committee on Appropriations was exempted from the rule.

Committee evaluations are to include who will be affected, the potential economic consequences of regulation, the impact on personal privacy of individuals, and a determination of the amount of additional paperwork that will result.

The purpose of these requirements is to attack excessive regulation, paperwork, and redtape demands the laws of this country seem to shower on the people of this Nation. It is worth recalling that the Paperwork Commission estimated conservatively last year that it costs $100 billion a year to meet just the paperwork demands imposed on citizens, State and local governments, and private businesses. Every 1 percent reduction in this growing figure represents a billion dollars.

Rule 29.5 is a vehicle to discipline the committees of the Senate to address these costs at their source, the making of laws. You can say all you want about bureaucrats who run amuck, and I believe strongly much can be done through better oversight of programs, but the problem "starts" in the bowels of the legislative process.

Mr. President, the Senate record in following rule 29.5 has been poor. My staff, together with the Congressional Research Service, has reviewed 675 committee reports that accompanied bills and joint resolutions falling under the scope of the rule from the beginning of the 95th Congress to last Saturday, October 7. Of 675 committee reports, 212 ignored rule 29.5. Roughly a third of the reports, 31.4 percent, did not refer to the rule—did not make any statement whatsoever to the requirement that regulatory, economic, privacy, and paperwork impacts of legislation be considered.

This finding does not touch upon either the quality or usefulness of the evaluations that were done by committees. It is a simple, stark statistic that illustrates the Senate's lack of discipline. My reading of 29.5 is that it is not in order for the Senate to consider bills which do not comply. Many of the 212 bills and resolutions whose reports did not bother to speak to the rule are now public law.

While the record of performance to date on this new rule is poor, the strategy this rule provides to attack paperwork and excessive regulation should not be ignored. We should and can do better next Congress.

As chairman of the Subcommittee on Federal Spending Practices I held an oversight hearing on paperwork reduction efforts last summer. The subcommittee explored what had happened to the recommendations of the Federal Paperwork Commission since submission of its final report. Senator MCINTYRE and Congressman HORTON, cochairmen of that Commission testified. The Comptroller General testified. The Director of OMB laid out the President's reduction program and its relationship to the Commission's work.

The major priority that evolved from that hearing was the need for Congress to more deliberately consider paperwork and regulatory impacts at the beginning of the legislative process, during committee deliberations. The trade-offs and alternative ways to avoid the "hidden taxes" laws can impose on the public are best considered at that point.

Ideally, committee work should crank in the analysis of executive branch agencies, interested public groups, and the General Accounting Office in performing evaluations. Members would then have a better basis to select the least burdensome and paperwork intensive way to get a job done. Most importantly, the regulatory and paperwork requirements that often go along with better health, environment, education, or energy conservation goals would be looked at.

This kind of process is exactly what was envisioned by the requirements of rule 29.5. That is why we decided to review what committees have done in their reports. Survey data collected is submitted at the end of this statement for printing in the RECORD.

There are limitations to the requirements of the rule. They do not, for example get to amendments made to bills already reported or conference reports. Regulatory, economic, and paperwork impacts are not always easy to measure exactly. But a quick look at the survey results shows the Senate has hardly tried to use this rule. A look at some of the few good evaluations shows what can be done.

Next Congress I plan to bring to the Senate's attention any bill or joint resolution that does not comply with rule 29.5. I invite other Members to join me in monitoring committee reports. Several Senators have already agreed and I believe the result will be to reduce the headaches as well as the financial costs of regulatory and paperwork requirements that find their way to reauthorizations and new legislation.

The Comptroller General, Mr. Staats, has offered to assist any committee at its request in developing the evaluations required by the rule. He has taken steps to insure that the General Accounting Office is properly staffed for this purpose. The GAO is well suited to help committees do this work and I recommend to my colleagues to join me in utilizing its resources.

Mr. President, I plan to speak on rule 29.5 again early next Congress. I felt a moment of reflection on the Senate's performance during the 95th Congress was appropriate.

The material follows:

TOTAL NUMBER OF REPORTS REVIEWED WAS 675

	Reports	
	Number	Percentage
Does the report include a separate and specifically designated regulatory impact statement?		
Yes	463	68.6
No	212	31.4
Does the report include a statement explicitly waiving the impact statement requirement?		
Yes	9	1.3
No	666	98.7
Does the report state that the impact statement is based upon information provided by the executive branch?		
Yes	3	.7
No	451	99.3
What is the length of the impact statement?		
1 paragraph or less	182	40.1
More than 1 paragraph but no more than 1 page	223	49.1
2 to 5 pages	45	9.9
More than 5 pages	4	.9
How does the impact statement characterize the individuals and businesses to be regulated?		
No characterization	311	68.5
Qualitative identification	97	21.4
Quantitative estimate	46	10.1
How does the impact statement assess the regulatory impact of the measure?		
Not a regulatory measure	107	23.6
No regulatory impact	150	33.0
No increase in existing regulations	112	24.7
Increase in existing regulations	26	5.7
Decrease in existing regulations	12	2.6
No assessment	47	10.4
How does the impact statement assess the economic impact of the measure?		
No significant economic impact	129	28.4
Positive economic impact	54	11.9
Negative economic impact	7	1.5
Mixed economic impact	9	2.0
Discussion of economic impact without assessment	4	.9
No assessment	251	55.3
How does the impact statement assess the impact of the measure on personal privacy?		
No significant impact	291	64.1
Positive impact on privacy	1	.2
Negative impact on privacy	13	2.9
Mixed impact on privacy	9	2.0
Discussion of impact on privacy without assessment	1	.2
No assessment	139	30.6
How does the impact statement assess the impact of the measure on Federal paperwork?		
No significant impact	251	55.3
Positive impact—reduced paperwork	28	6.2
Negative impact—increased paperwork	41	9.0
Mixed impact	19	4.2
Discussion of impact on paperwork without assessment	1	.2
No assessment	114	25.1
How does the impact statement assess the impact of the measure on private recordkeeping?		
No significant impact	96	21.1
Positive impact—reduced recordkeeping	6	1.3
Negative impact—increased recordkeeping	30	6.6
Mixed impact	6	1.3
No assessment	316	69.6
Does the impact statement include data, specifications, or examples of paperwork or recordkeeping to be affected by the measure?		
Yes	25	5.5
No	429	94.5

These data should be interpreted in light of several caveats. First, the data reflect characterizations and evaluations that are necessarily subjective. In many cases, differences of interpretation are certainly possible. Inconsistencies have been minimized, however, by subjecting all reports to review by the same individuals. Second, this report focuses only on separate and specifically designated impact statements. Information pertinent to the requirements of the rule may often be included elsewhere in the texts of committee reports. Third, the only reports accompanying bills and joint resolutions that have been excluded from this review are those of the Committee on Appropriations and those that provide for the relief of named persons or entities. Many of the reports that have been examined accompany measures so limited in scope and effect that they would not be expected to have a discernible regulatory impact. Fourth, a few committee reports have not been available for examination, but they are too few in number to have a significant effect on the data.

Rule XXIX of the Standing Rules of the Senate was amended at the beginning of the 95th Congress by the addition of clause 5, as follows:

5. (a) The report accompanying each bill or joint resolution of a public character reported by any committee of the Senate (except the Committee on Appropriations) shall contain—

(1) an evaluation, made by such committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (A) an estimate of the number of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (B) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (C) a determination of the impact on the personal privacy of the individuals affected, and (D) a determination of the amount of additional paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the record-keeping requirements that may be associated with the bill or joint resolution; or

(2) in lieu of such evaluation, a statement of the reasons why compliance by the committee with the requirements of subparagraph (a) is impracticable.

(b) It shall not be in order in the Senate to consider any such bill or joint resolution if the report of the committee on such bill or joint resolution does not comply with the provisions of this paragraph.●

SENATOR JAMES B. PEARSON

● Mr. DOLE. Mr. President, my distinguished senior colleague from Kansas recently noted that politics was not really a very complicated business—mostly just commonsense and good manners. As usual, my colleague was correct, having placed his finger on a central aspect of politics in our home State.

Having identified that key element of politics, he had also explained an important reason for his continuing popularity among the voters of Kansas. Coupled with hard work, patience, and a vast reservoir of experience—these key attributes explain both his Senate career and his consistent success at the polls.

There have been few Members of this body who have exceeded my colleague's commonsense and who have carried out their service with such diligence.

ACCOMPLISHMENT AND ACHIEVEMENT

The senior Senator has a solid record of accomplishment and achievement. Patiently, quietly, but sure of step and sure of himself, JIM PEARSON has both represented the interests of Kansas and established a definite place for himself among American statesmen.

A Kansan by choice, the distinguished Senator came to Kansas to settle shortly after the Second World War and became active in a wide variety of community and civic affairs. Elected to a term in the Kansas State Senate in 1956, he retired from that body in 1960 because he was tired of politics. After a brief stint as chairman of the State Republican Party in Kansas, Senator PEARSON found himself appointed to replace Senator Andrew Schoeppel, who died in early 1962.

AN UNCONVENTIONAL SENATOR

JIM PEARSON was an unconventional Senator. Neither a backslapper, nor a professional politician, Senator PEARSON had only his vast reservoir of ability and his background to bring with him to the U.S. Senate. While he is hardly a typical politician, the people of Kansas appreciated his sincerity and his commonsense.

In 1962 and 1966, my distinguished colleague faced stiff primary challenges from other very capable and distinguished Kansas Republicans. But each time he came out on top, and went on to win the general election. In 1972, the prospects of defeating Senator PEARSON were so slim that no candidate with a chance of winning emerged in either the primary or the general election. Most political observers felt that he could have run for another term this year and won quite handily.

LEGISLATIVE ACCOMPLISHMENTS

Mr. President, I would like to recap a few of the outstanding legislative successes of my distinguished senior colleague.

My senior colleague was a sponsor of the natural gas deregulation proposals which we considered at great length last year. Unfortunately, in my view, that legislation was not passed in the form proposed by Senator PEARSON. Shepherding that proposal through the Senate required a tremendous amount of work and effort because of the way the issue developed. His contribution to the effort to deregulate natural gas was an important chapter in the history of the Senate.

Another important issue, on which my distinguished colleague was very active was the airline deregulation bill. The Senator from Kansas worked to bring together the proponents of various proposals to create a workable compromise. His work on the Republican side was a major factor in bringing about this important reform in airline regulation. Both the distinguished majority leader and the President have singled Senator PEARSON out as being a central figure in this matter, and he deserves the appreciation of American consumers who will benefit from this proposal over the years.

Because of his position as ranking Republican on the Senate Commerce Committee, my colleague has been in a position to have a major impact on transportation legislation. For instance, he was instrumental in setting up the airport development aid program and the trust fund from which it is funded. Over the years my colleague has been very active on behalf of general aviation, making sure that it got its fair share

of aviation revenues. I know that general aviation has benefited greatly from his work and tireless commitment. Over the years he has worked hard to protect the trust fund from raids which would have taken money for purposes other than aviation. I know that this work is appreciated by many Kansans, and many people throughout the Nation who recognize the importance of airway development and airports to our Nation's economy, and to our Nation's future.

In addition, he was very active with other transportation legislation. His imprint can be clearly seen on the Regional Rail Reorganization Act of 1973, and the Rail Revitalization and Regulatory Reform Act of 1976, two extraordinarily important pieces of rail legislation.

A matter of special concern to the senior Senator from Kansas was the continuing problem of freight car shortages in the midwestern grain States at harvest time. My colleagues from other grain States can appreciate the serious problems which a shortage of rail cars can cause, as elevators become full to overflowing and all storage capacity runs out.

Because of his position on the Senate Commerce Committee, the Senator from Kansas was able to bring real attention to the problem. No doubt, the problem would be much worse today but for his work in this area. In fact, a special committee set up to study the railcar shortage in the 1960's was run, largely, by my colleague.

Another matter of great importance to my home State is climate research. As author of the National Climate Program Act of 1978, my colleague is responsible for placing all Government agencies dedicated to climate research into one agency, to centralize and make more effective this important aspect of research. Earlier, he authorized the National Weather Modification Act of 1976.

Over the years, my colleague has also been instrumental in the area of rural development, and has introduced several major pieces of legislation in this area including the Rural Highway Development Act of 1969, the Rural Community Development Act, and the Rural Job Development Act. Many of these proposals were included in different forms in other legislation which passed the Senate and became an integral part of rural development in this country.

As a member of the Committee on Foreign Relations since 1971, my colleague has made a major contribution to work of that committee, especially in the areas of world hunger and arms control. Certainly his contributions to the Murphy Commission and his work on the assignment American program, have left a niche for him in the annals of the committee, and in this important chapter in contemporary foreign relations.

Over the years, my colleague has held a number of important committee assignments in addition to his current Commerce and Foreign Relations Committee posts. A former member of the Government Operations Committee and the Appropriations Committee, he made major contributions to the important work of both of those committees. Likewise, he has been a member of the Joint Economic Committee, and the Joint Atomic Energy Committee in the past. Currently serving as a member of the Select Committee on Intelligence, my colleague has had a hand in the oftentimes difficult work of that committee.

Mr. President, although my colleague and I have been together on most issues, over the years we have had occasion to disagree on certain matters of national importance. However, on crucial matters of interest to Kansas, we were able to work as one, and were able to work together on a number of important issues where we shared a common commitment to an important principle. When I came to the Senate in 1969, my colleague was very helpful in helping me find my way in the Senate. Over the years, our relationship has developed into a warm personal friendship which I will always count as one of the most important aspects of my own Senate career.

Mr. President, I join the people of Kansas in applauding the dedicated work and high principles of my distinguished colleague. A city councilman, a Kansas State Senator, State Republican chairman, and U.S. Senator, my colleague has worked on their behalf and built an extraordinarily distinguished public career.●

HOUSE REJECTS SENATE OFFER ON OIL SPILL LIABILITY FUND

● Mr. MUSKIE. Mr. President, the Senate has made significant efforts this year to enact oil spill liability bill which would create a fund to pay cleanup and damage claims for the spill of oil and hazardous substances into the navigable waters of the United States. On Thursday, October 5, the Senate passed H.R. 6803. We then immediately made our staff available to begin work with the House staff to draft compromise amendments which would be added to this legislation and sent back to the Senate. With so many conferences and so much floor activity, this seemed the most sensible approach.

The Senate staff was available to begin meeting early Friday morning, but the House staff was not available until late Monday afternoon. That delay has made it difficult to negotiate an agreeable compromise, but nevertheless, the Senate has made a strong effort to provide significant concessions on the key issues that separate the House and Senate.

The staff was instructed to try all reasonable avenues to reach a compromise. If those suggestions were acceptable to the House staff, then they were to bring the proposals back to the Senate Members to see if they were acceptable.

What are the three major issues that separate the House and Senate bills? The House has indicated they are hazardous substances, preemption of State laws, and liability coverage for inland oil barges. There are dozens of other differences, but these have been identified as key issues.

In order to accommodate the House position, the Senate staff suggested major concessions to the House:

First. Hazardous substances. The Senate staff has suggested dropping completely the hazardous substances provision. This is a tremendous concession on the part of the Senate. The House staff on numerous occasions urged elimination of this provision. In a sense this is the heart of the Senate bill. The staff offered to attempt to convince the Senate Members that such a compromise was necessary.

Second. Preemption of State laws. The Senate-passed bill has absolutely no preemption of State laws, whatsoever. States are allowed to maintain their own cleanup funds and to charge a fee on oil and/or hazardous substances to establish such funds. States are allowed to create funds to compensate economic damages and natural resource damages. States are allowed to establish liability schemes and other requirements as they see fit.

The Senate staff has suggested going halfway on this key issue and has proposed preempting State funds to compensate economic and third party damages. This would allow States to maintain their own fund to pay cleanup costs of spills and to establish their own liability schemes. I want to emphasize that existing law contains no restraint on the authority of States. What has been suggested by the Senate staff as a compromise is an erosion of existing State authority. This is a questionable compromise in my view, but one proposed by the staff in an attempt to accommodate the demands of the House. Apparently it is not enough.

Third. Inland oil barges. The Senate staff has suggested a compromise that splits the difference between the House and the Senate bills. The Senate bill establishes liability on inland oil barges at $300 per gross ton or $500,000 per vessel, whichever is greater. The House bill is $150 per gross ton and $150,000 minimum. The Senate staff has suggested as a compromise $225 per gross ton and $325,000 maximum. That is an absolute 50–50 compromise.

Yet the response from the House staff has been that this provision is so important to them that the Senate must take the House provision completely. The Senate staff accompanied its suggestion with a willingness to discuss other levels as well, but the answer was that only one offer is acceptable, and that is the House bill.

So where do we stand on these three key provisions? On two provisions the Senate staff has suggested a compromise that goes at least halfway to the House position. On the third item, hazardous substances, the Senate staff has suggested going all the way to the House position. So the House would come out well ahead on the key items on what were identified by the House staff as the key obstacles to getting a bill.

The Senate staff made these suggestions Wednesday afternoon, and agreed to consider additional changes in the Senate bill if the House felt that was necessary. Instead, the proposal was rejected. In essence the House has said this:

You must drop hazardous substances even though they threaten the public and the environment;

You must be willing to take away the existing power of States to establish their

own liability laws, cleanup funds, and third-party damage compensation funds; and

You must be willing to give the inland oil barge industry exactly what they have demanded.

The Senate staff suggestions may have gone further in compromising than the Senate Members would be willing to accept. But that proposition was not even tested, because the proposal was not viewed by the House staff as going far enough.

Let me match the suggestions of the Senate staff against the suggestions of the House staff. What has the House offered in these discussions?

From the very beginning, there was no doubt about the fact that the House staff would insist on the format of their bill—a text reviewed by the Senate committee and rejected in favor of a bill building upon the Clean Water Act which currently deals with spills of oil and hazardous substances. The Senate Environment and Public Works Committee felt that any effort to create a new legislative authority to deal with the additional problems associated with spills of oil and hazardous substances; namely, economic damages, should be part of the existing law which has been in place for years. Yet the House staff refused to consider the merits of using the Senate format and insisted on using their arrangement which creates an entirely new legal regime outside the statute which already governs many aspects of this issue.

The Senate staff met with intransigence on another issue of significant importance to the Senate—the question of coverage of hazardous substances. The suggestions from the House staff was agreement to conduct a study of the issue.

As I noted, an area of great significance to the Senate is the issue of preemption of State liability statutes. The House staff refused to negotiate with any particularity on this matter. They only agreed to talk about preemption after every other decision was made. When pressed, they admitted to be willing to accept very little in the preemption field.

Let me give you an example of what the House position on preemption means. The State of Washington had a law on the books which imposes strict liability upon a spiller of oil to pay for all cleanup expenses and damages resulting from that spill. The defenses to that liability are act of war or sabotage or negligence on the part of the United States or State of Washington. There are no other defenses to liability.

If the House preemption provision were to prevail, then the Washington law would be effectively repealed. The provisions of the House liability scheme, which include limits of liability for the spiller and greater opportunity for defenses to liability would supercede the policy that State has already fashioned for itself.

Obviously, the State of Washington in its wisdom has determined that strict and unlimited liability is a necessary protection from the dangers of oil spills. There are two factors at work in such a policy—the guarantee of total compensation to all damaged parties and the incentive created by such a policy on the carrier of the oil to safer handling.

It was this latter purpose which the Senate especially wished to preserve.

In many other areas of importance to the Senate—damage assessment, defenses to liability, uses of the fund, levels of libility, financial responsibility, and definition of operative terms, the House staff suggestions offered little or no movement.

Mr. President, what has been suggested by the staff was only lipservice to the Senate concerns:

No effort was made to accommodate the Senate concern over the issue of hazardous substances.

No effort was made to accommodate the Senate concern over the preservation of State's rights.

No effort was made to accommodate the Senate concern over the use of a legal framework which has been in place for years.

And these are only the major issues. And the Senate saw nothing from the House staff on the many lesser issues important to a final bill.

The House insisted on their bill, start to finish, take it or leave it.

The House has sent a bill back to the Senate. It is unacceptable for many reasons. I have already outlined the major reasons for our rejection of this bill; I would like now to discuss some of the less obvious but equally important problems with the House passed bill.

First, the structure of the House bill is designed so as to repeal section 311 of the Clean Water Act as it relates to spills of oil. And it replaces that program, which has been in effect for almost 9 years, with a completely new framework which in many respects is far less protective than what current law provides.

I would like to print at this point in the RECORD an analysis made at my request by EPA of the impact of the House-passed bill on the current section 311 program.

The analysis follows:

WASHINGTON, D.C.,
October 13, 1978.

HON. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution, Committee on Environment and Public Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is the technical review you requested on the impact of the House-passed Superfund bill, H.R. 6803, on the provisions of existing law, specifically the Clean Water Act.

This effort was necessarily hurried but it represents our best judgment on these complicated issues.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.

ANALYSIS

Factual review of the implications of the House-passed Superfund Bill on eristing Law, Clean Water Act, section 311, as it relates to the discharge of oil and hazardous substances.

(1) The Clean Water Act [Section 502(7)] defines navigable waters to be "waters of the United States, including the territorial seas." This is an all inclusive term and is the broadest reach of jurisdiction possible. The House-passed Superfund bill defines the waters narrowly—in the words of its report "Intentionally more restrictive than the meaning ascribed to navigable waters in some other Acts." If the House-passed Superfund bill became law, the result of these two different definitions would be twofold:

A) overlapping jurisdiction in some waters between 311 and Superfund; and B) exclusive 311 jurisdiction in other waters. This division and overlap would serve no public policy objective and would cause considerable confusion to onscene coordinators, dischargers, and to the public. It would result in considerable litigation and inefficiency.

(2) The House-passed Superfund bill amends section 311 to exclude "petroleum oil". Thus, in those portions of the waters of the United States which are not covered by the restricted definition of navigable waters under the House-passed Superfund bill, there would be no oil response and liability program under existing law. In effect, it would constitute a repeal of section 311 with respect to those waters.

(3) Both the Clean Water Act and the Superfund bill create duties and liabilities regarding the discharge of oil into waters of the territorial sea, the Contiguous Zone and the High Seas. With respect to discharges into the territorial sea and the Contiguous Zone, the provisions are the same, however, with respect to discharges of waters beyond the Contiguous Zone, the existing law, Section 311(b)(3), provides for the threshold (i.e., the discharge which requires notice and establishes the potential for liability) to be those discharges "which may affect natural resources belonging to or pertaining to . . .", whereas the House passed bill would amend that provision and uses the words "causing injury to or loss of natural resources belonging to or pertaining to . . .". The effect of this change would seriously weaken the environmental protection objectives as it would require a determination to be made, generally by the discharger, of actual injury or loss as opposed to potential injury or loss. The effect of this would be (1) to increase litigation, and (2) to create an incentive on the part of the discharging source not to notify and trigger the sequence of liability because, it is always possible to allege no actual injury or loss to natural resources occurred, and shift the burden to the government and to the environment. It could negate the environmental objectives of the statute. This is especially acute in the deep ocean waters where the ability to prove immediate actual harm is always difficult, if not impossible.

(4) The House-passed bill changes the definition of oil from that which appears in the Clean Water Act. The change in this definition of oil would create tremendous uncertainty and confusion with respect to those portions of waters where both the existing Clean Water Act and Superfund Law would apply. There seems to be no public policy served by that difference.

(5) The House-passed bill includes removal costs under section 311 as eligible costs under the Superfund for subsections (c), (d), and (1) of section 311. It omits subsection (f)(4) of section 311 which was added in the 1977 amendments to allow costs to restore and replace natural resources damaged as a result of a spill.

(6) The House-passed bill changes the section 311 defenses to liability available to discharging sources. Section 311 provides that the defenses are available where the spill was "solely" caused by an act of God, act of war, or act of a third party. The House-passed bill uses the word "primarily", thus introducing the concept of contributory and comparative negligence which could have the affect of increasing markedly the amount of litigation. It will certainly reduce the amount of recovery by the government as the clarity of "solely" is negated.

(7) The House-passed bill repeals subsec-

tion (p) of section 311 which requires financial responsibility. This provision in existing law applies to all forms of oil (beyond those of the House-passed Superfund) and to hazardous pollutants. The effect of this repeal is to eliminate from existing law financial responsibility requirements for those pollutants.

(8) The Clean Water Act does not preempt State liability laws for oil or hazardous substances. There are many States with such laws, for instance, Washington, California, Texas, Georgia, and Maine. Many make no distinction between oil and hazardous pollutants. The House bill preempts at least some elements of those laws. Under the House bill there will be uncertainty with respect to the preemption of oil and not hazardous pollutants, especially within States that have coverage over both oil and hazardous pollutants in the same law, such as Florida and Texas.

(9) The Administration has strongly supported including a limitation on all penalty provisions applicable outside U.S. waters to protect foreign vessels and thereby achieve consistency with International Law and U.S. Foreign Policy. The House Bill does not include those provisions.

Mr. MUSKIE. Mr. President, these are significant issues on which the Senate Environment and Public Works Committee was not willing to recede.

Further, the House bill does not include any substantive provision on damage assessment. This provision is an essential ingredient to a workable liability and compensation program.

The House bill regards the fund as an insurance policy for the spiller. The fund can deny liability for any claim, thereby throwing the whole issue into adjudication. The Senate bill, on the other hand, makes the fund available immediately for compensation purposes and allows it to recover through subrogation. The emphasis in the House bill is on protection of the spiller; the Senate bill is designed instead to protect the damaged party.

As can be seen from this bill, the House has insisted totally on their format; their staff have made no effort to reach a compromise on the major issues of importance to the Senate. They have offered studies for substance—technical changes in exchange for good public policy.

Mr. President, I can hardly call this an exercise in compromise. After reviewing the suggested concessions on the part of the Senate staff and the intransigence on the part of the House staff, I can only assume that the House is simply not interested in pursuing a legislative solution to this problem this year. And may I add that it was at the urging of the chairman of the House Merchant Marine Committee, the chairman of the Coast Guard Subcommittee, and their ranking minority members (Mr. MURPHY, Mr. BIAGGI, Mr. RUPPE, and Mr. TREEN) that caused this bill to move out of the Environment and Public Works Committee. Their letter indicated a willingness to discuss the issues we have outlined. It was in anticipation of such good faith negotiations that the Senate proceeded with its bill. I would like to share with you the contents of that letter, and I ask that it be inserted at this point in the RECORD.

The letter follows:

WASHINGTON, D.C., *August 2, 1978.*

Hon. EDMUND S. MUSKIE,
Chairman, Subcommittee on Environmental Pollution Committee on Environment and Public Works, Dirksen New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: We would like to take this opportunity to call your attention to a matter which, in our opinion, is one of extreme importance, the issue of oil pollution liability and compensation legislation.

As you are aware, the Committee on Merchant Marine and Fisheries, in the First Session of the present Congress, completed action on, and reported, H.R. 6803. That bill, which provided for a comprehensive system of oil pollution liability and compensation, was passed by the House on September 12, 1977, by a vote of 332 to 59 and was subsequently referred to the Senate. It is, of course, now pending before your Subcommittee.

Since the referral of H.R. 6803, your Subcommittee has been considering S. 2900, a bill introduced by you on the same general subject. The primary difference, as we understand it, between the two bills is the fact that your proposal includes provisions relating to hazardous substances, as well as to oil. What prompts our present concern are recent reports that the difficulty in addressing the problem of hazardous substances has led to the possibility that action on the legislation may be postponed until the next Congress.

We sincerely hope that the reports are not correct. We recognize the problems inherent in melding hazardous substance legislation with that involving oil alone, and it was because of those difficulties that our Committee decided last year that it would be much easier to treat the two subjects separately. It may well be that there is some reasonable method by which they can be joined together, but, in any case, we strongly urge you to see that the oil pollution legislation moves forward, whether with or without comparable provisions for hazardous substances.

You will recall that after the several pollution casualties in the Winter of 1976–77 many Members of both Houses, as well as the general public, urged prompt action for legislation to resolve the several issues involved including liability and compensation for damages. We do not believe that the public will understand further delay, particularly should the U.S. be unfortunate enough to suffer another Argo Merchant disaster or one similar to the casualty involving the Amoco Cadiz. A recent similar, though small, reminder occurred only this week, with the grounding of the dredge barge Pennsylvania in Rockaway Inlet, New York, with a resulting spill of diesel and fuel oil.

We have been and continue to be of the opinion that H.R. 6803, in some acceptable form, should be enacted during the present Congress. The bill is a culmination of extensive work begun in earlier Congresses, and, in its final version, it has received widespread support from a broad range of interested individuals and groups, including the Administration, maritime management and labor, oil interests, environmental groups, state governments, and the general public.

Certainly, we can assure you that we have no desire to attempt in any way to intervene in your Subcommittee deliberations. However, we urge you to see that some legislation is moved forward. Should you decide that hazardous substances should be a part of that legislation, we stand ready to consider that inclusion in a forthcoming conference. If, on the other hand, the present difficulties surrounding hazardous substance regulations and their proper handling should make present legislation on the subject impossible, we urge you then to move the oil pollution bill forward so that that important subject may be resolved prior to the end of the present Congress. In that case, we can promise you our wholehearted cooperation in addressing hazardous substance legislation at the earliest possible opportunity during the course of the next Congress.

With highest personal regards, we are,

Sincerely,

JOHN M. MURPHY,
Chairman, Merchant Marine and Fisheries Committee.

MARIO BIAGGI,
Chairman, Subcommittee on Coast Guard and Navigation.

PHILIP E. RUPPE,
Ranking Minority Member, Merchant Marine and Fisheries Committee.

DAVID C. TREEN,
Ranking Minority Member, Subcommittee on Coast Guard and Navition.

Mr. MUSKIE. Mr. President, some have argued that superfund legislation must be enacted in this Congress no matter how poorly drafted or ill-conceived that legislation may be. I reject that argument. It is not as if our shores will be awash with oil with no authority to act against a major spill.

Existing law is adequate to provide protection against all but the most catastrophic of spills. And existing law creates fewer litigable issues than would be created by the House-passed bill.

I ask to print in the RECORD at this point a memorandum summarizing the Federal statutes which are currently extant covering liability for both cleanup and damages resulting from spills of oil.

The memorandum follows:

MEMORANDUM

WASHINGTON, D.C.,
October 12, 1978.

To Senator Edmund S. Muskie.
From Sally Walker and Karl Braithwaite.
Subject: Update of July 17 Memo on Discussion of the Need for S. 2900.

There are several questions which should be raised about proceeding with further action on Superfund.

1. Is the coverage provided in the Superfund really necessary?

There are currently in existence several statutes covering liability for both clean-up and damages resulting from spills of oil. They are:

The Clean Water Act. This law establishes liability out to 200 miles for clean-up of spills of oil and hazardous substances and also establishes liability for damages to natural resources caused by spills of oil and hazardous substances out to 200 miles. A $35 million appropriated fund covers claims beyond the limits of liability. Vessels are liable up to $150 per gross ton with a minimum of $250,000; inland oil barges are liable up to $125 per gross ton with a minimum of $125,000; facilities are liable up to $50 million (may be lowered by President to maximum of $8 million).

The Trans-Alaska Pipeline Act. This law establishes liability for clean-up and damages resulting from spills of Alaskan oil. A $100 million fund covers claims beyond the limits of liability. Vessels are liable up to $14 million for proven claims.

The Deepwater Ports Act. This law establishes liability for clean-up and damages from spills of oil around deepwater ports. A $100 million fund covers claims beyond the limits of liability. Vessels are liable up to $150 per gross ton with a ceiling of $20 million; facilities are liable up to $50 million.

The Outer Continental Shelf Lands Act. This law establishes liability for clean-up and damages for spills of oil from OCS rigs and vessels carrying OCS oil. Vessels are

liable up to $300 per gross ton with a minimum of $250,000; facilities have unlimited liability for clean-up and are liable up to $35 million for damages.

Mr. MUSKIE. Mr. President, I have expressed many times my feelings that a superfund bill is appropriate only under certain conditions. Without those conditions, which were clearly and simply expressed to the House, my support for a superfund bill ceases to exist. Without such protections, I feel confident that existing Federal and State law is adequate, albeit inconsistent in spots, to address the current situation. I expressed my reservations with this legislation in a letter to former Massachusetts Gov. Frank Sargent and ask that the text of that letter be printed in the RECORD at this point.

The letter follows:

WASHINGTON, D.C.,
August 17, 1978.

Mr. FRANCIS SARGENT,
Boston, Mass.

DEAR FRANK: In your recent "open letter" to me, you asked me to say "It isn't so," that it is not me blocking passage of an oil spill liability bill which you treat as if it were being carried from the mountain by Moses. Parts of the oil pollution liability bill passed by the House came from the pits, not the heights. Before you cast me as the snarling villain who stabbed the bill in the back, please consider the following points.

(1) The oil pollution liability legislation is not dead. My Subcommittee on Environmental Pollution acted a month ago to approve an alternative to the House-passed version which struck you as so valuable. I think my approach is a good one. My opinion of the House version will become clear later on.

The key purpose of the legislation is to set up a revolving fund called the "superfund." I think it is called superfund because it represents a "super" deal for the oil companies. It is a government-sponsored and government-administered insurance policy for the major oil companies. It has a laudable purpose—one I fully support. That is to protect the average fisherman, motel owner or coastal businessman from financial disaster in the event of a catastrophic oil spill along the American coast. Not a word in the legislation is designed to stop the spill. But if one happened, the superfund would help ease the pain by making cash available.

The lack of a superfund has had an interesting side effect. The oil companies and their allies are afraid of bringing supertankers to the American coast without this sort of insurance policy. So the insurance policy will be an incentive to increase the size of tankers off our shores and in our ports.

(2) There are some fine state laws governing oil pollution liability in state coastal waters. Do we really want to tell Maine, Massachusetts and the other coastal states that they can no longer make their own decisions on how best to protect their coastal resource, especially if the threat to their shores increases with the use of supertankers? I think not. In the first place, I am suspicious of any call for state preemption, because if past history is any guide, it is the polluters who have the most to gain.

It works this way: a polluter will fight tooth and nail against federal legislation, preferring to fight environmental legislation in the state legislatures. But if enough states adopt environmental legislation on their own, the polluter comes to Congress eager to enact a "comprehensive" federal approach. The aim is to dilute the federal legislation and wipe out the state laws all at once. Coastal states are in a minority in the Senate, which improves the chances that federal legislation would be more lenient than state law. I do not buy that approach.

Maine is second to none in the value we place on our coastal resources. You can judge for yourself how Massachusetts feels about its coast. I will not be a party to telling those states and others that protecting their coastline is not only none of their business, but they are forbidden to act on their own.

Massachusetts has liability laws tougher than those under consideration in the Congress. And state officials testified this summer that the state wants to keep its right to act.

(3) Just about the only people interested in the super fund bill are the members of the House who worked on it, and the oil companies and their maritime allies. That would make me suspicious all by itself. But looking at the House-passed bill, I find some reasons why the oil companies want it so badly:

It would encourage the use of supertankers off America's coasts.

It would actually provide less comprehensive liability for oil spills than we now have under current law.

It would also increase the number of arguments an oil carrier could use to escape liability in a court of law.

It would allow the dollar amount of liability for some facilities to be lowered administratively.

The House bill ignores the question of other hazardous materials transported on the oceans, even though the potential for environmental damage is infiinitely greater from these poisons.

In a lot of ways, we are better protected under current law than we would be under this new "comprehensive" approach.

The more closely I examined the House-passed bill, the more clearly I understood why the real pressure for passage has come from the oil companies and their allies.

(4) I can also understand why the oil companies have promised to kill the oil pollution liability bill which my Subcommittee passed a month ago. The oil company lobbyists were not even polite about it. They were not threatening. They were promising to kill my legislation if it allowed states to keep their own guard up against an oil catastrophe. I hope they are not so powerful as to deliver on that promise.

For my part, I hope we can get the kind of support behind my bill that the oil companies have generated for their version. I doubt it. But we have passed sound environmental legislation in the face of powerful opposition before. If I have to stand alone, I will. But I hope you will help me by pushing for S. 2900.

And if you are looking for a villain, don't look at me, Frank. It isn't so.

Sincerely,

EDMUND S. MUSKIE.

Mr. MUSKIE. Mr. President, yesterday I introduced a bill which represents the extent to which the Senate Environment and Public Works Committee was willing to negotiate.

That legislation represents an absolute barebones bill, one which the Senate is willing to offer to the House in the hopes of reaching final agreement on this superfund issue.

This final offer does these things:

Totally removes the imposition of liability for economic damages resulting from spills of hazardous substances. Nothing is changed from existing law on the question of hazardous substances.

Reduces the liability for inland oil barges to $150 per gross ton with a $250,000 minimum.

Adds some elements of preemption of State law so that third-party compensation funds as well as fees supporting such funds are preempted. Cleanup funds and fees supporting such funds are specifically preserved. State financial responsibility requirements are preempted. Double recovery for the same claim is prohibited.

Includes specific dollar limitations on some of the uses of the fund.

Clarifies certain aspects of the trans-Alaska pipeline fund dissolution.

It was my hope, and the hope of my colleagues on the Senate Committee on Environment and Public Works, that this barebones approach would represent sufficient concessions to the House. Apparently, it did not.

I regret that the House was unable to see its way clear to come to the bargaining table with real compromise. Yet I am not so anxious to get a bill that I am willing to forego the entire structure of the Senate bill and every major piece therein. I presume that this effort will begin again next year and, perhaps with time on our side, we can develop something more useful than we were able to accomplish at this late date this year.●

IMPORTS OF SCRAP TOBACCO

● Mr. HELMS. Mr. President, earlier this year I was visited by a delegation of citizens from North Carolina representing tobacco farmers, warehousemen, and others interested in the preservation of a strong tobacco program. They asked me to try to ascertain what could be done to stem the tide of foreign tobacco imports that had increased so markedly in the past few years.

In particular, a very good friend of mine, who is one of the most respected tobacco farmers in North Carolina, Mr. Bailey Williamson of Wake County, voiced his suspicion that the crux of the problem lay in the sudden increases in imports of scrap tobacco from Korea. At his urging, and with his guidance, I did undertake a thorough study of the situation, and have assembled evidence which, I believe, proves his concerns to be exactly correct.

I want to add that Senator TALMADGE, chairman of the Senate Committee on Agriculture, Nutrition, and Forestry and Senator HUDDLESTON, another of my able colleagues on the Agriculture Committee, were kind enough to meet with the tobacco representatives from North Carolina. Both Senators have supported and encouraged the study I have undertaken, and Senator HUDDLESTON has joined me in taking action today.

Today, we have jointly called upon the Commissioner of Customs and the Comptroller General of the United States to initiate a study and investigation to determine the reasons for the curious circumstances surrounding the importation of so-called foreign scrap tobacco into the United States. The data collected in this correspondence is from official publications of the U.S. Department of Ag-

riculture, and forms the basis for a thorough investigation. I request that the letter sent to the Commissioner of Customs, and the accompanying charts be printed in the RECORD following my remarks.

The material follows:

U.S. SENATE,
Washington, D.C., October 13, 1978.

MR. ROBERT E. CHASEN,
Commissioner of Customs, U.S. Customs Service, Washington, D.C.

DEAR MR. CHASEN: We wish to bring to your attention what we understand to be importation of considerable quantities of unmanufactured tobacco into the United States, which appears to avoid the lawful tariffs on such products.

This information is particularly disturbing to me because of the adverse impact it has upon domestic tobacco producers, and because the circumstances surrounding recent changes in policy which permit this activity seem to raise serious questions, in that they may have been perpetrated in an effort to legitimize some such actions after the fact.

The adverse impact upon the domestic producers is caused by the fact that avoidance of proper and appropriate tobacco tariffs has encouraged an increase in the importation of foreign unmanufactured tobacco into the United States, particularly in the type of tobacco known as "scrap." These increased imports come at a time when the market share of domestic tobacco growers has been declining, both in the United States market and in the world trade. Further, the application of improper tariffs has had the effect of encouraging the foreign production of tobacco for the world trade, thereby creating domestic and worldwide competition for U.S. producers that would not have otherwise existed. Finally, the increase in the incidence of importation of such foreign tobaccos has come at a time when the surplus of tobacco, held by the Flue-Cured Tobacco Cooperative Stabilization Corporation, has reached record levels, currently totalling some 540 million pounds. The incidence of increased imports threatens to weaken the economic stability of the Tobacco Program, thereby threatening the livelihood of some 500,000 farm families in America.

The interests of the United States may have been further impacted adversely by a revenue loss from uncollected tobacco tariffs which may, in total, exceed $100 million. Additionally, the increased tobacco imports have come at a time when the U.S. balance of trade has not been favorable, thereby weakening and undermining the value and strength of the dollar.

By letter of June 16, 1977, the U.S. Customs Service reversed its standing definition of "scrap" tobacco by permitting that designation "to include leaf tobacco which has been broken or threshed into pieces principally under 4 inches in length," according to an undated Customs Service memorandum entitled "Tobacco." "Consequently," the memorandum continues, "the provision for scrap tobacco now embraces tobacco which has been manufactured specifically for cigarette making needs." Scrap tobacco is dutiable at the rate of 16.1¢ per pound, whereas destemmed machined tobacco pays a 45¢ per pound import tax.

In our view, the June 16, 1977 definition of "scrap" tobacco is improper and deceptive, and should be reversed immediately. Besides being a completely inaccurate description of scrap tobacco, it amounts to a virtual unilateral reduction in the tobacco tariff by the United States, and as such, is reckless and irresponsible.

Because the ruling followed what appears to be several years of increasing incidence of declaration of the unmanufactured tobacco in question as scrap, the possibility exists that the June 16 definition may have been sought to legitimize previous declarations that avoided the intent and purpose of the tariff laws. We believe all circumstances surrounding that decision should be thoroughly investigated so as to make clear to the public just exactly who requested the changes and for what reasons, and request that you conduct such an investigation.

Further, we are requesting the General Accounting Office to conduct a thorough study and investigation into the nature of the business and trade in "scrap" tobacco between the United States and those countries from which it is imported to determine just what, when, and why changes in practice regarding the leaf in question did take place.

However, we emphasize that it is most imperative and urgent that immediate actions be taken to properly define "scrap tobacco," and to collect full duties upon it. The tax on imported de-stemmed, unmanufactured tobacco used for cigarette making needs ought to be returned to the original 45¢ per pound rate as was originally intended when the rate was first adopted.

A thorough analysis of tobacco imports from all countries indicates that the incidence of apparent tariff avoidance in appreciable volume is limited to less than ten countries. Chart I lists those countries, broken down into two categories. The Category I countries are Korea, Thailand, and Brazil. They are listed separately because the base year data is for the average of the five years 1969–1973, and because the volumes of tobacco, and in particular the increases in the importation of "scrap," are considerable.

The Category II countries of Costa Rica, Guatemala, Indonesia, and Panama are listed separately because the base year data is for the average of the five years 1970–1974, and because the volumes are not as great as those in Category I.

Category III provides comparison for all countries other than those in Categories I and II.

Category IV lists total volumes for all countries from which the United States imported tobacco during the years indicated.

Chart 2 lists countries from which sizable volumes of unmanufactured tobacco are imported. The figures in each column represent the percentage of "scrap" as a total of the entire trade. As can be seen from the figures, the amounts in trade designated as "scrap" have gradually increased from 16.9% in Avg 69–73 to 26.9% in 1977.

The data to substantiate these concerns and charges is found in the Foreign Agricultural Circular: Tobacco, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, D.C. of March 1977 and February 1978, and is found collected in the charts attached to this letter.

So that the significance of the information contained in the attached charts may be better understood, please permit us to make the following commentary and points:

1. The first fact of which to take note is in Chart I, Category IV. The total imports of unmanufactured tobacco, not including scrap, for all countries, decreased by more than 4,000 metric tons, while imports of "scrap" tobacco increased dramatically by more than 13,000 metric tons.

2. In Category III, we find that the trend is slightly different, only more revealing for our purposes. The startling fact is that the combined total of imports for both unmanufactured leaf (less scrap) and for scrap itself declined by 9,500 metric tons or some—10 percent and by 4,500 metric tons or 22 percent, respectively.

3. In Categories I and II, we find virtually all of the increase in tobacco imports, and find that while in the case of Category I, there have been increases in both types of tobacco imports, the overwhelming increase in the volume of imports has been in scrap tobacco, and that it has come from these few countries.

4. The problem is most acute in the instance of Korea. Imports from Korea in the base years were predominately non-scrap. Yet, in 1977, the volume of non-scrap tobacco actually declined some 20 percent, while the volume of so-called "scrap" increased from 303 metric tons in Avg 69–73 to a whopping 9,300 metric tons in 1977—almost a 3,000 percent increase. What's more, the Koreans are so bold as to actually value the scrap at $1.2482 per pound, while the other unmanufactured tobacco is listed at only $.9188 per pound. And, the "scrap" accounted for 84 percent of the total trade in 1977 as compared to 12 percent in Avg 69–73.

5. The evidence seems overwhelming that Korea, sometime after 1969, but before 1977, began to increase its imports of unmanufactured leaf into the U.S. and began to call it "scrap," paying the lower duty of 16.1¢ per pound, rather than the 45¢ duty on destemmed unmanufactured leaf. Scrap accounted for 89 percent of the total trade in 1976; 49 percent in 1975; 41 percent in Avg 70–74; and, as previously stated, 12 percent in Avg 69–73.

6. If one calculates that the total avoidance can be attributed to the entire increase from Avg 69–73 through 1977, it appears as if Korea avoided some $6 million in tariffs in 1977 alone (at $.29 x 2204.62 lbs. x 8997 metric tons).

7. A review of Thailand reveals the same trends except that the value per pound of "scrap" appears to be more realistic when compared to other unmanufactured leaf imports. The increases in the incidence of "scrap" imports is 1,679 percent and the total "scrap" trade constitutes 48 percent of the total trade in 1966 as compared with 78 percent in 1976; 77 percent in 1975; 26 percent in Avg 70–74; and 18.8 percent in Avg 69–73.

8. Brazil is another culprit in all categories. Total "scrap" trade in 1977 was 31 percent of the total as compared to 23 percent in 1976; 8 percent in 1975; 11 percent in Avg 70–74; and 16.5 percent in Avg 69–73.

9. In countries in Category II, Costa Rica gets the prize for the most probable case of possible avoidance of the tariffs. Total "scrap" trade is up almost 2,200 percent in volume and constitutes 99.8 percent of the total trade in 1977. Comparable figures for other years are: 86 percent in 1976; .6 percent in 1975; 21 percent in Avg 70–74.

10. Guatemala follows the very same trend with an increase in "scrap" trade of 880 percent in volume constituting 80.3 percent of the total trade in 1977. Comparable figures for other years are: 73.5 percent in 1976; 48.5 percent in 1975; 48 percent in Avg 70–74.

11. Panama's U.S. trade in tobacco is entirely in "scrap" and is an entirely new development, probably in direct consequence to the June 1977 re-definition of scrap tobacco.

12. Indonesia is another country that registered a significant decline in trade of unmanufactured leaf (less scrap)—some —20 percent. And yet totalled an increase in "scrap" of 189 percent, with "scrap" constituting 57.6 percent of the trade in 1977; 81 percent in 1976; 61.9 percent in 1975; 39.2 percent in Avg 70–74.

With the presentation of this statistical evidence, we request that you thoroughly investigate the situation we have described, and as is most readily seen from the accompanying charts. We urge you to determine just what were the exact circumstances by which the changes in the Customs Service

definition of scrap tobacco were undertaken, and for what reasons. We believe it is appropriate to determine at just whose request the change was made, and who was consulted in making the change. As stated earlier, it seems an entirely inappropriate and erroneous change.

We request you undertake this investigation with most deliberate speed, and hope you will keep us fully informed of all developments. We appreciate your interest and consideration.

Most importantly, we request you immediately rescind the letter of June 16, 1977, and cease to ignore the collection of duty on unmanufactured tobacco imported for the purposes of use in cigarette making that is not truly, in the most literal sense, scrap.

Sincerely,

JESSE HELMS,
WALTER D. HUDDLESTON.

CHART 1.—TOBACCO TARIFF AVOIDANCE

[Value in dollars]

Country	Unmanufactured tobacco (less scrap)								Scrap tobacco									
	69–73 avg		1977			(More/less) change		Percent change, metric tons	69–73 avg		1977			(More/less) change		Percent of change, metric tons	Scrap[1]	Potential revenue, loss per year 1977
	Metric tons	Value	Metric tons	Total value	Value per lb	Metric tons	Value		Metric tons	Value	Metric tons	Total value	Value per lb	Metric tons	Value			
CATEGORY I																		
Korea	2,208	1,838,000	1,761	3,567,000	0.9188	−447	+1,729,000	−20.24	303	381,000	9,300	25,592,000	1.2482	+8,997	+25,211,000	+2,969.00	84.0	5,752,140.10
Thailand	522	295,000	2,244	4,476,000	.9048	+1,722	+4,181,000	−329.89	121	66,000	2,153	3,712,000	.7820	+2,032	+3,646,000	+1,679.34	48.0	1,299,138.40
Brazil	6,599	5,072,000	12,932	17,859,000	.6264	+6,333	+12,787,000	+95.97	859	768,000	5,890	10,736,000	.8268	+5,031	+9,968,000	+585.68	31.0	3,216,518.40
Total	9,329	7,205,000	16,937	25,902,000	.6937	+7,608	+18,697,000	+81.55	1,283	1,215,000	17,343	40,040,000	1.0472	+16,060	+38,825,000	+1,251.75		10,267,796.90
	70–74 avg								70–74 avg									
CATEGORY II																		
Costa Rica	108	209,000	1	2,000	.9072	−107	−207,000	−99.07	29	4,000	660	1,850,000	1.2714	+631	+1,846,000	+2,175.86	99.8	403,423.40
Guatemala	128	157,000	286	580,000	.9199	+158	+423,000	+123.44	119	180,000	1,166	3,294,000	1.2814	+1,047	+3,114,000	+879.83	80.3	669,388.75
Indonesia	1,741	1,401,000	1,397	1,201,000	.3900	−344	−200,000	−19.76	656	226,000	1,899	1,480,000	.3535	+1,243	+1,254,000	+189.48	57.6	794,699.35
Panama	0	1,000	0	1,000	0	0	0	0	0	1,000	292	921,000	1.4307	+292	+920,000	Infinite	100.0	186,687.22
Total	1,977	1,768,000	1,684	1,784,000	.4805	−293	+16,000	−14.82	804	411,000	4,017	7,545,000	.8520	+3,213	+7,134,000	+399.63		2,054,198.60
CATEGORY III																		
All other countries	92,419	127,495,000	82,918	228,715,000	1.251	−9,501	+101,220,000	−10.28	20,618	17,260,000	16,149	14,985,000	.4209	−4,469	−2,275,000	−21.68		

	Unmanufactured leaf including scrap			Just scrap			Unmanufactured leaf less scrap		
	Avg 69–73	Avg 70–74	1977	Avg 69–73	Avg 70–74	1977	Avg 69–73	Avg 70–74	1977
Category IV: All countries total	119,380	130,179	139,352	20,264	24,280	37,509	99,116	105,899	101,843
Difference		+9173			+13,229			−4056	

[1] 1977 scrap percent of total trade.

CHART II—"SCRAP" AS A PERCENTAGE OF TOTAL IMPORTS

	1969–73 average	1970–74 average	1975	1976	1977	Net (+ or −)
Worldwide	16.9	18.6	21.6	21.4	26.9	
Canada		46.7	41.8	31.8	20.0	−
Dominican Republic		13.8	13.0	15.0	6.0	−
Honduras		14.6	28.1	17.2	9.7	
Mexico		37.4	14.9	11.6	23.0	−
Nicaragua		6.7	3.2	2.4	33.0	+
Argentina		47.5	56.7	29.7	46.5	
Colombia		23.5	50.0	38.3	38.7	+
Paraguay		48.2	81.3	57.8	48.0	
Italy		11.6	3.1	6.2	15.0	+
Philippines		61.9	75.0	72.0	69.4	
Turkey		6.8	10.8	4.0	14.3	+
Category I:						
Korea	12.0	41.0	49.0	89.0	84.0	+
Thailand	18.8	26.0	77.0	78.0	48.0	+
Brazil	16.5	11.0	8.0	23.0	31.0	+
Category II:						
Costa Rica		21.0	.6	86.0	99.8	+
Guatemala		48.0	48.5	73.5	80.3	+
Indonesia		39.2	61.9	81.0	57.6	
Panama		0	0	0	100.0	+

IMPROVEMENTS IN THE SURVIVOR BENEFIT PROGRAM FOR ACTIVE AND RESERVE MILITARY PERSONNEL

● Mr. NUNN. Mr. President, I want to call to the attention of my colleagues the fact that the bill, making improvements in the survivor benefit program for retired military personnel, passed by the Senate earlier in this session, has now been signed into law.

The improvements enacted will provide cost-of-living increases for retired serviceman's family protection plan, widows retroactive to September 1972, will reinstate the survivor benefit plan annuity to widows whose dependency and indemnity compensation benefits are terminated on remarriage after age 60, will increase the payments for certain minimum income widows and will eliminate the social security offset applied to the survivor benefit plan payments for working women who do not receive social security.

I want to express my appreciation to my Senate colleagues who provided a great deal of assistance in the consideration of this bill, especially the Senator from South Carolina, Mr. THURMOND, the Senator from North Carolina, Mr. MORGAN, the Senator from Texas, Mr. TOWER and the distinguished chairman of the Budget Committee, the Senator from Maine, Mr. MUSKIE.

The changes now in law applying to survivor benefits for reservists are especially significant. Previously, reservists who completed 20 years of service and thus became entitled to retired pay at 60 could select survivors benefit coverage at age 60. But if the reservist died before age 60, his survivor was left without any benefit at all. The new law allows the reservist to select various options for coverage at the time he actually becomes entitled to retired pay. The previous law placed unnecessary hardships on the widows of reserve personnel.

I want to express special appreciation to the assistance from Mr. Will Hill Tankersley on these changes for reserve survivor benefits. Mr. Tankersley was formerly the Deputy Assistant Secretary of Defense for Reserve Affairs and deserves great credit for the development of these proposals and for his continuing interest in helping to correct unintended hardships imposed under the previous law. I am sure that all military personnel share my appreciation of Mr. Tankersley's continuing interest and assistance.

Mr. President, there were other proposed changes to the survivor benefit plan that the Armed Services Committee could not recommend favorable action on because of the large estimated cost

and the difficulty the committee had in getting actuarially based estimates on the survivor benefit plan. There are indications that the current structure of the plan may eventually provide a large surplus to the Government. As a result, the committee report on the bill included a requirement for the Department of Defense to submit a special report with actuarially based estimates on the financial status of the plan under current provisions and under some proposed changes. This report should be submitted by February 1, 1979. The Manpower and Personnel Subcommittee intends to monitor the development of this report with the Department of Defense over the next few months and intends to hold hearings within 30 days after that report is submitted to consider other changes. ●

CONGRESSMAN JOE SKUBITZ

● Mr. DOLE. Mr. President, the end of this Congress will bring an end to the distinguished congressional career of my dear friend, Congressman JOE SKUBITZ. Although he announced his retirement over a year and a half ago, it is still difficult for this Senator to adjust to the idea of a Kansas Congressional delegation without JOE SKUBITZ.

An integral part of our delegation, I have had occasion to work very closely with my colleague on a wide variety of issues of importance to southeastern Kansas. Our working relationship has been close, our personal relationship has been very warm. JOE SKUBITZ and I have been telling jokes on one another throughout those 16 years. As a result, our mutual friends understand how much we appreciate and truly enjoy one another. The time that I have spent working with JOE SKUBITZ will be among my fondest memories.

JOE is a truly unique individual, just as his congressional district is a truly unique area in the State of Kansas. Interspersing hard work with lively stories and anecdotes, he has given the people of his district reason to return him to Congress again and again by wide margins. In fact, his 141 vote victory over an incumbent Republican Congressman in 1962 was the only really close election that JOE SKUBITZ ever saw.

His constituents have appreciated his dedication to their interests, and have appreciated his unique sense of humor. In an age when most politicians play down their personality, my colleague has stood out as a colorful character and a unique individual.

Long before he entered Congress, he had an extraordinary grasp of Kansas politics. Although he began his legal education at Washburn Law School, my own alma mater, he finished at George Washington University, having come to Washington to work as administrative assistant to Senator Clyde Reed. After that he went to work for the late Senator Andrew Schoeppel.

In 1962, he entered Congress and began his long and distinguished career.

Combining his political talent with an extensive knowledge of Kansas, JOE SKUBITZ was an individual uniquely suited to serve his constituents.

As the ranking Republican on the House Interior Committee, and as an important member of that committee before that, he has been in a key position to assist his constituents in connection with Big Hill Lake, and Hillsdale Reservoir. Likewise, he was the motivating force behind the restoration of historic old Fort Scott, an important historical landmark in my State of Kansas and, more particularly, in the Fifth Congressional District. An important Civil War outpost, and an Indian fort, this project has been the Congressman's special project. It will insure that this valuable landmark will be preserved and protected for the future.

Nationwide, JOE SKUBITZ has had a role in the creation of every national park over the last 16 years. I know that he takes pride in this accomplishment, I know that proponents of these national parks appreciate his work.

My colleague has also been very active on behalf of rural water districts, which are an important part of rural life in his district, and throughout the State of Kansas. Likewise, in a matter of intense local interest, my colleague has succeeded in keeping open the Kansas Army Ammunition Plant at Parsons, Kans.

In addition, the Congressman is an influential member of the Interstate and Foreign Commerce Committee and is ranking on the Transportation and Commerce Subcommittee.

Mr. President, when JOE SKUBITZ leaves the Halls of Congress, he will be leaving behind an impressive list of accomplishments and a record of distinguished service.

He will also be leaving behind a number of colleagues who will miss him deeply.●

MEAT IMPORT ACT

● Mr. CLARK. Mr. President, I am pleased to join as a cosponsor of this bill.

Beef imports have been a matter of serious concern to cattlemen in my own State of Iowa for some time. Cattle feeders there have lost money on cattle sold in most months since the fall of 1973, and prices have been extremely weak until this summer.

The beef industry is very important to us in Iowa. It is a $1.8 billion industry. That means that we produce a little less beef than Texas does, but more than any other State, and we are very proud of that record.

Low world beef prices put pressure on U.S. beef prices through our beef imports. Imported beef does compete with our cow beef, obviously, and it competes with a portion of the choice beef carcass. Distressed prices for hamburger beef around the world were one more contributing factor to low U.S. cattle prices.

The Meat Import Quota Act of 1964 (Public Law 88–482) was designed to protect beef producers against large surges in imports. Basically, it permits the Secretary of Agriculture to enter into agreements with beef-producing countries to limit imports to about 7 percent of the U.S. market.

This law was very helpful protection when it was passed in 1964. It was assumed then that it would hold imports down to a level that the United States would need to supplement the higher quality beef that makes up the bulk of our beef production. It was also assumed that foreign beef would be attracted here when our supplies were short and our prices high, but not when U.S. production was high and our prices low.

In fact, the law has not worked well. It fell short in two basic ways. First, it did not provide increased protection when most needed. It worked the other way and reduced protection when it was needed most. Second, the law has a number of loopholes which ought to be closed.

We have imported just about exactly the maximum amount allowable under the law each year since the mid-1960's—both when prices were high and when they were low.

Clearly, the law has prevented some beef from coming into this country that would have come in without any agreements. But, it is just as clear that the law does not work to give any added protection to cattlemen when they are most vulnerable.

There are at least two additional problems with the act, as it is now. First, live cattle are not covered. Even worse, when these live imported cattle are slaughtered, they increase domestic meat production—and thus, the amount of imported beef that can come in under the act.

Second, certain processed beef products are not covered by the act. Canned corned beef; frozen cooked beef; and other processed beef can come into the United States in unlimited quantities. I believe these loopholes should be closed, and that beef imported in these forms should be counted against the quota of each producing country.

In February, when we began work on this amendment, I listed several characteristics that I felt any revision in the current law should include.

First, the protections in the law should be countercyclical. They should provide more protection when U.S. prices are low and admit more imported beef when U.S. supplies are short and prices high. The basic concept of the 1964 law of specifying a share of the market for imports, over some average period, seems like a fair one to me. But, I would like to see each year's quota adjusted up or down around the average so that producers have more protection when they need it most.

Second, the loopholes should be closed. It seems to me to be only a matter of equity and commonsense that processed beef and beef from cattle imported live be counted against each producing country's quota. Certainly, beef of all kinds and from all sources should be covered by the law.

And, imported meat should face the same rigorous inspection domestic meat does. I know current Federal meat inspection laws require such inspection. But Iowa cattlemen are concerned that such inspection does not always occur.

The House passed bill, H.R. 11545, has the most important of these provisions. It has a countercyclical formula that

will make the law more effective, I believe. And it prevents arbitrary changes in quotas, except in emergency situations.

The need for this legislation became even more imperative last June when President Carter directed Secretary Bergland to renegotiate our voluntary agreements with beef-exporting nations to allow an additional 200 million pounds of beef to be imported into the United States. That action was a breach of trust by the Government. It was unfair to farmers. It did not significantly reduce prices consumers paid for beef. And, it may very well cost consumers millions of dollars in higher beef prices over the long run.

That decision was clearly an overreaction on the President's part. I protested it very strongly last summer. And, I urge my colleagues to support this bill to help prevent such arbitrary overreactions in the future.

Our interest in international trade in agricultural products is immense. We depend on export markets for some 60 percent of our soybeans; more than half of our wheat; and more than a quarter of our corn. Much of our current difficulty with agricultural prices stems directly from good weather overseas that has weakened our export markets, especially for wheat. To an important extent, our hopes for stronger domestic agricultural prices depend on the strengthening of those overseas markets. We must work to develop those markets.

The changes this bill would make in the 1964 meat import law do not represent any move to restrict foreign trade. They would make the protections Congress intended for our producers in 1964 more effective—far more effective than they are now.

I am not for isolationism, but I am not for unfair competition either. Our producers must be protected against surges of imports that destroy their markets. Our trading partners in Europe and Japan have severe quotas on beef. We cannot permit the United States to be a dumping ground for the world's distressed supplies of cattle or beef.●

U.S. CIVIL SPACE POLICY

● Mr. STEVENSON. Mr. President, President Carter has issued a directive covering U.S. efforts in space for the next decade. This directive is the product of several interagency efforts during the past year, the most recent being a 4-month review conducted by the Space Policy Review Committee of the National Security Council. Dr. Frank Press, Director of OSTP, chaired this review.

On the basis of the fact sheet issued by the White House, several comments are in order.

First, the administration's civil space policy clearly recognizes the changing nature of U.S. activities in space. The new era in space will be characterized by the concept of "routine utility," that is, using the space environment on a regular basis to bring economically productive services directly to people on Earth. As the White House fact sheet notes:

> More and more, space is becoming a place to work—an extension of our environment. In the future, activities will be pursued in space when it appears that national objectives can most efficiently be met through space activities.

In my opinion, this is an eminently correct point of view.

Second, the administration's civil space policy recognizes the need to maintain U.S. leadership in space and the importance of continuing research and development to achieve this objective.

The policy contemplates NASA resuming research and development in communications satellites, reversing the Nixon administration's decision to leave such R. & D. totally to the private sector. This has resulted in serious erosion of U.S. technological leadership by other countries, such as France, Japan, and West Germany. I applaud President Carter's decision.

There will be initiated an interagency review of future capabilities that will be needed for full use of the space shuttle, including a reusable space tug and an orbital transfer vehicle. Also, the policy provides for intermediate steps to develop technologies and experience in industrial operations in space, although these intermediate steps are not identified in the fact sheet.

Third, the policy recognizes the need to develop new operational mechanisms to carry out routine, useful space activities, as distinct from the experimental, research, and development efforts that have been conducted by NASA. In this regard, there is established an interagency group to explore "expected technical, programmatic, private sector, and institutional arrangements for remote-sensing" with the objective of developing options for an integrated national remote sensing system.

Another interagency effort—involving the defense community, NASA, and NOAA—is established to explore the feasibilitiy of consolidating the separate military and civilian systems of weather satellites, as well as an integrated system of ocean observations from space.

Fourth, the policy acknowledges the importance of continued international cooperation in space. The United States will demonstrate advance space technologies of benefit to developed and developing countries. Joint programs with other countries in space applications and space science will be emphasized.

Fifth, the policy commits the United States to maintaining a position of leadership in space science and planetary exploration.

The fact sheet identifies the need to continue "a vigorous program of planetary exploration to understand the origin and evolution of the solar system," the use of "the space telescope and free-flying satellites to usher in a new era of astronomy," the development of "a better understanding of the Sun and its interaction with the terrestrial environment through Space systems," and the use of Space Shuttle and spacelab "to conduct basic research that complements Earth-based life science investigations and human physiology research."

Sixth, the policy recognizes the importance of transferring technology between civilian and military space programs and conducting more joint projects. Elimination of unnecessary duplication in these high cost programs obviously makes sense.

In summary, President Carter's decisions set in motion a number of useful efforts to develop the potential of space during the era of the Space Shuttle.

The principal weakness of the administration's policy directive, in my review, is its failure to provide the longer term programmatic goals that are necessary to give purpose and direction to the annual expenditure of funds.

As I have attempted to indicate in the Space Policy Act of 1978 which I introduced recently, there is no inherent contradiction in setting longer-term goals for the United States in space and maintaining a constrained budget in any given fiscal year. To the contrary, a clear sense of direction is an essential factor in making wise decisions about annual expenditures. What we now face is a space budget which is little more than a collection of ad hoc decisions, often forced by the very short-run concerns of the Office of Management and Budget. I believe it would make far greater sense to establish basic programmatic objectives and then tailor annual budget outlays to fiscal realities.

This approach is less wasteful in the long run. It also permits the Government's space effort to maintain its momentum and direction through periods of budgetary constraint, with minimum disruption of programs and loss of personnel.

In a number of cases, the administration has elected to substitute interagency studies for positive decisions to move forward. In most of these instances, the problems in question have been examined and studied in great detail. The missing ingredient is not more analysis or additional interagency meetings but a decision to act.

For example, the development of an operational remote-sensing system can only be achieved by giving a Federal agency the task of effecting the transition from experimental to operational activities and setting criteria to guide this transition. I have proposed such a process in the "Earth Data and Information Service Act of 1978."

Congress has an obligation to express its views on the adequacy of the administration's civil space policy. This can occur in two ways. First, we will review carefully the administration's proposed fiscal year 1980 budget for NASA with an eye toward its longer-run effects. This year, for example, Congress approved additional funds for advanced programs, specifically directing NASA to proceed with the development of a 25 kilowatt power module to extend the operational capabilities of the space shuttle. I would hope that Congress next year would seriously consider the advisability of

initiating a development program for space structures, an essential technology with a host of potential applications. Other initiatives can also be evaluated. None of these efforts would involve substantial new expenditures in fiscal year 1980 or fiscal year 1981.

Second, Congress will have an opportunity to examine broader space policy issues in considering such legislation as the "Space Policy Act." I look forward to hearings before the Subcommittee on Science, Technology and Space early in the next session.

Other Senators and Members of the House have also proposed legislative initiatives. For example, Senator SCHMITT has introduced the "National Space and Aeronautics Policy Act." Congressman FUQUA has introduced the "Space Industrialization Act." Congressman FLIPPO has introduced the "Solar Power Satellite Research, Development, and Demonstration Program Act." Each of these bills contains important and useful ideas. I commend my colleagues for their initiative. Drawing from the substance of these bills, Congress can develop a programmatic strategy that will permit an orderly and forward-looking civil space program.

As I have indicated, this can be achieved in a manner which takes into account President Carter's concern for budgetary restraint but does not sacrifice the equally urgent need to set new directions in space as the United States enters the space shuttle era.

Mr. President, I request that the full text of the White House fact sheet summarizing President Carter's directive on U.S. Civil Space Policy be printed in the RECORD.

The statement follows:

THE WHITE HOUSE FACT SHEET—U.S. CIVIL SPACE POLICY

The President announced today a space policy that will set the direction of U.S. efforts in space over the next decade. The policy is the result of a four-month interagency review requested by the President in June 1978. American civil space policy will be centered around three tenets:

First: Our space policy will reflect a balanced strategy of applications, science and technology development containing essential key elements that will:

Emphasize space applications that will bring important benefits to our understanding of earth resources, climate, weather, pollution and agriculture, and provide for the private sector to take an increasing responsibility in remote sensing and other applications.

Emphasize space science and exploration in a manner that retains the challenge and excitement and permits the nation to retain the vitality of its space technology base, yet provides short-term flexibility to impose fiscal constraints when conditions warrant.

Take advantage of the flexibility of the space shuttle to reduce the cost of operating in space over the next two decades to meet national needs.

Increase benefits for resources expended through better integration and technology transfer among the national space programs and through more joint projects when appropriate, thereby increasing the return on the $100 billion investment in space to the benefit of the American people.

Assure American scientific and technological leadership in space for the security and welfare of the nation and continue R&D necessary to provide the basis for later programmatic decisions.

Demonstrate advanced technological capabilities in open and imaginative ways having benefit for developing as well as developed countries.

Foster space cooperation with nations by conducting joint programs.

Confirm our support of the continued development of a legal regime for space that will assure its safe and peaceful use for the benefit of mankind.

Second: More and more, space is becoming a place to work—an extension of our environment. In the future, activities will be pursued in space when it appears that national objectives can most efficiently be met through space activities.

Third: It is neither feasible nor necessary at this time to commit the United States to a high-challenge space engineering initiative comparable to Apollo. As the resources and manpower requirements for shuttle development phase down, we will have the flexibility to give greater attention to new space applications and exploration, continue programs at present levels or contract them. To meet the objectives specified above, an adequate Federal budget commitment will be made.

SPACE APPLICATIONS

As a part of his overall review and in accordance with his desire to increase emphasis on uses of space for a wide variety of practical and economic benefits the President made the following decisions:

Remote Sensing Systems.—Since 1972 the United States has conducted experimental civil remote sensing through LANDSAT satellites. There are many successful applications and users, including Federal departments, other nations, a number of states, and a growing number of commercial organizations. The United States will continue to provide data from the development LANDSAT program for all classes of users. Operational uses of data from the experimental system will continue to be made by public, private, and international users. Specific details and configurations of the LANDSAT system and its management and organizational factors will evolve over the next several years to arrive at the appropriate technology mix, test organizational arrangements, and develop the potential to involve the private sector.

Integrated Remote Sensing System.—A comprehensive plan covering expected technical, programmatic, private sector, and institutional arrangements for remote sensing will be explored. NASA will chair an interagency task force to examine options for integrating current and future systems into an integrated national system. Emphasis will be placed on defining and meeting user requirements. This task force will complete its review prior to the FY 1981 budget cycle.

Weather Satellites.—Separate operational requirements for meteorological data over the past two decades have led to separate Defense and Commerce's National Oceanic and Atmospheric Administration (NOAA) weather satellites. The Defense community, NASA, and NOAA will conduct a review of meteorological satellite programs to determine the degree to which these programs might be consolidated in the 1980s and the extent to which separate programs supporting specialized defense needs should be maintained. The possibility of integrated systems for ocean observations from space will also be examined.

The Private Sector.—Along with other appropriate agencies, NASA and Commerce will prepare a plan of action on how to encourage private investment and direct participation in civil remote sensing systems. NASA and Commerce will be the contacts for the private sector on this matter and will analyze proposals received before submitting to the Policy Review Committee (Space) for consideration and action.

Communications Satellite R. & D.—United States leadership in communications satellite systems will be supported by NASA. Selected technological opportunities to provide better frequency and orbit utilization and other longer-term opportunities will be pursued.

Communications Satellite Services.—Some areas of communications services—such as educational and health services and basic communications services for remote areas—involve low-volume and intermittent use and have evidenced little interest from commercial satellite operators. The Department of Commerce's National Telecommunications and Information Administration (NTIA) will assist in market aggregation, technology transfer, and possible development of domestic and international public satellite services. This direction is intended to stimulate the aggregation of the public service market drawing on the technology that is already in existence. The Agency for International Development and Interior will work with NTIA in translating domestic experience in public service programs into potential programs for lesser-developed countries and the remote territories.

Future Applications and Economic Activity.—It is too early to make a commitment to the development of a satellite solar power station or space manufacturing facility due to the uncertainty of the technology and economic cost-benefits and environmental concerns. There are, however, very useful intermediate steps that will allow the development and testing of key technologies and experience in space industrial operations to be gained. The United States will pursue an evolutionary program that is directed toward assessing new options which will be reviewed periodically by the Policy Review Committee (Space). The evolutionary program will stress science and basic technology—integrated with a complementary ground R&D program—and will continue to evaluate the relative costs and benefits of proposed activities.

SPACE SCIENCE AND EXPLORATION

The President reviewed the space science and planetary exploration program and determined that the United States' priorities at any given time will depend on the promise of the science, the availability of the particular technology, and the budgetary situation. The United States will maintain a position of leadership in space science and planetary exploration and will:

Continue a vigorous program of planetary exploration to understand the origin and evolution of the solar system. The goal in the years ahead is to continue the reconnaissance of the outer planets and to conduct more detailed exploration of Saturn, its moons, and its rings; to continue comparative studies of the neighboring planets, Venus and Mars; and to conduct reconnaissance of comets and asteroids.

Utilize the space telescope and free-flying satellites to usher in a new era of astronomy, as we explore interstellar molecules, quasars, pulsars, and black holes to expand our understanding of the universe.

Develop a better understanding of the sun and its interaction with the terrestrial environment through space systems—such as the Solar Maximum Mission and the Solar Polar Mission—that will journey towards the sun and earth-orbiting satellites that will measure the variation in solar output and determine the resultant response of the earth's atmosphere.

Utilize the space shuttle and spacelab, alone and in cooperation with other nations, to conduct basic research that complements

earth-based life science investigations and human physiology research.

Our policy in international space cooperation will include two basic elements: (1) to pursue the best science available regardless of national origin and expand our international planning and coordinating effort; and (2) to seek cooperative support for experiments-spacecraft which have been chosen on sound scientific criteria.

INCREASED BENEFIT FOR RESOURCES EXPENDED

As a result of the President's review, decisions were made that will increase the benefit to the United States for resources expended.

Strategy to Utilize the Shuttle.—The Administration will make incremental improvements in the shuttle transportation system as they become necessary. Decisions on extending the shuttle's stay time in orbit and future upper stage capabilities (e.g., the reusable space tug and orbital transfer vehicle) will be examined in the context of our emerging space policy goals. An interagency task force will make recommendations on what future capabilities are needed. This task force will submit the findings to the Policy Review Committee (Space) prior to the FY 1981 budget cycle.

Technology Sharing.—The Policy Review Committee (Space) will take steps to enhance technology transfer between the space sectors. The objective will be to maximize efficient utilization of the sectors while maintaining necessary security and current management relationships.

BACKGROUND

Early in his Administration, the President directed a National Security Council review of space policy. The emphasis was on coherent space principles and national space policy and did not deal in detail with the long-term objectives of our defense, commercial, and civil programs. The review, completed in May 1978, resulted in a Presidential Directive that set the basic framework for our civil space policy completed last week. The President's May 1978 directive established a Policy Review Committee (Space) to provide a forum for all Federal agencies in which to advise on proposed changes to national space policy and to provide for rapid referral of issues to the President for decision. This Committee is chaired by the Director of the Office of Science and Technology Policy, Frank Press. In June 1978 the President directed the Policy Review Committee (Space) to assess the future needs of the nation's civil space program, and their report formed the basis for the policy decisions outlined here. The following agencies and departments participated: The National Aeronautics and Space Administration, Commerce, Interior, Agriculture, Energy, State, National Science Foundation, Agency for International Development, Defense, Director of Central Intelligence, Joint Chiefs of Staff, and Arms Control and Disarmament Agency, as well as the Domestic Policy Staff, the National Security Council Staff, and the Office of Management and Budget.●

THE SOVIET POWER STRUCTURE

● Mr. McGOVERN. Mr. President, over the past several days I have been inserting in the RECORD a series of papers which were prepared for two seminars held in Washington in April and May on "The U.S.S.R. and the Sources of Soviet Policy." The seminars were sponsored by the Council on Foreign Relations and the Kennan Institute for Advanced Russian Studies of the Wilson Center.

The last paper in the series, appropriately, is an analysis and prognosis on the apparatus of power in the Soviet Union. It was prepared by Jerry F. Hough of the department of political science at Duke University.

Mr. Hough, with due recognition to the hazards of making such forecasts, nonetheless makes a good case for a projection on the succession of power:

My personal feeling is that the next General Secretary—or the General Secretary after the next, if a conservative representative of the Brezhnev generation is able to hang on as a transition leader—is likely to be more activist than Brezhnev, more willing to do battle with at least a few of the major complexes. . . . Brezhnev established his authority as a symbol of normalcy, but his successor will find it difficult to establish himself without identifying himself with some program for change.

Mr. Hough's study contains a number of points that might seem surprising. He suggests, for example, that the Brezhnev era has been one of a comparative diffusion of the decisionmaking power—internally, not a step back from Khrushchev's relative liberalism, but rather a step, however small, toward greater democracy.

Mr. President, I request that this paper be printed in the RECORD.

The paper follows:

THE APPARATUS OF POWER

(By Jerry F. Hough, Department of Political Science, Duke University)

We often speak of the changes that occurred in the Soviet political system after Stalin's death, and we often compare the "Stalin political system" with the "post-Stalin system". Clearly Stalin's death was a historic turning point in Soviet history, but if the last 25 years are treated as a unit, we lose sight of the very important differences between the Soviet system of the Khrushchev period and that of the Brezhnev years. The results of this focus are very unfortunate. First, it is the changes in the last 10–15 years that are most-policy-relevant for those concerned about the impact of détente on the evolution of the Soviet Union. Second, if we are not fully conscious of the major changes that took place in the structure of power in the Soviet Union after Khrushchev's removal, we are in a poor position to understand the choices and dilemmas that face the Soviet elite after Brezhnev's departure from the scene. The purpose of this paper will be to look at these changes and at some of their possible implications.

I

In formal institutional terms of the Soviet political system of the late 1970s is quite similar to the Soviet system of the mid-1960s and even more similar to that of the early 1950s. In the most formalistic terms the Soviet Union has a parliamentary political system, with the Council of Ministers being responsible to the Supreme Soviet in the same sense that the British cabinet is responsible to the British Parliament. However, from the earliest years of the Soviet regime, the top committees of the Communist Party—the Central Committee and the Politburo—became the top policy-making committees in the Soviet political system. Communists in the governmental institutions were required to carry out decisions made in the central collective party organs. The Politburo became the real cabinet of the system, the General Secretary the real Prime Minister, and the Central Committee the real (if usually inactive) parliament to which the General Secretary is ultimately responsible.

These basic circumstances were quite unaffected by Khrushchev's removal. The new leadership did reverse several of Khrushchev's organizational experiments, but these actions did little more than reconstitute the institutional arrangements of pre-1957. The Central Committee and Politburo continued to be the top policy-making bodies in the system; the Council of Ministers continued to supervise the ministries and state committees that constituted the executive branch of the system; the Communist Party continued to have a specialized Secretariat attached to the Central Committee to oversee the government and to collect information, prepare memoranda, and supervise the drafting of Politburo and Central Committee decisions; such institutions as the trade union, the Young Communist League, and the Academy of Sciences continued to play much the same role that they had before; the key positions in the government as well as the trade unions and the Academy of Sciences remain in the nomenklatura of the Central Committee—that is, the removal of the incumbents and the appointment of successors must be approved within the central party organs.

If one were to judge on a formal institutional basis alone, one would say that the main change that occurred after 1964 was some reduction in the republic's role in industrial decision-making (with the abolition of the regional economic council) and in education and the regular police (with the creation of national ministries in these realms)—in short, some recentralization of power, although of a rather limited nature.

It is vital that we analyze the structure of power in the Soviet Union on a number of different levels and that we always keep clear in our minds the level of analysis on which are are speaking. The fact that the Soviet Union has a kind of parliamentary-cabinet system in the relationship between the Politburo and the Central Committee makes such a sophisticated analysis particularly important. Frequently when Americans compare the Soviet political system with the American, they note the lack of any checks-and-balances between the executive and legislature in the Soviet Union, the lack of any effective written constitution, the absence of a Supreme Court that can declare Politburo decisions unconstitutional. What needs to be remembered is that the absence of these provisions do not in themselves indicate an undemocratic political system or unrestrained government. In a formal sense they are absent in many parliamentary systems, notably, of course, the British.

When we say that the British political system features restraints on government and a pluralistic distribution of power, we are not referring to formal limitations on the power of the cabinet and the Parliament. Rather, we mean that, in practice, the political leaders feel restrained from taking certain actions and that, in practice, power or influence is not concentrated solely in the political leadership. The top leadership has the theoretical ability to take any decision (it has long been said that the British Parliament has the power to do anything except change a man into a woman or vice versa), but, in practice, they tend to be responsive to major social forces as they take their decisions.

This is a critical level on which to analyze the Soviet system as well. With institutions that formally are very democratic but actually quite authoritarian, enormous evolution can take place within the political system with minimal change in the institutions. Even the establishment of full-Western-type democracy could conceivably take place under Lenin's old slogan "All Power to the Soviets," in which case the Supreme Soviet would probably begin functioning the way suggested in the Soviet Constitution. Less drastic change (even that which occurred after Stalin's death) is even more likely to stay within the existing institutional framework.

II

The analysis of the more informal, non-institutional structure of power in the Soviet Union—or in any country—is always a complex and difficult task. The basic problem is that power is not a definable thing, but a relationship. It varies from situation to situation and from time to time, even within a given country. It is "exercised" not simply through direct coercion or pressure, but through the judgment of many persons about the future consequences of a proposed action. If rulers fear riots, if they are worried about low productivity in work or poor performance in the army, these concerns mean that some of the interests of the masses must be taken into account and that, in practice, the masses have at least a modicum of power.

It would be wrong to see the Soviet political system, even under Stalin and Khrushchev, as one in which all power was concentrated in the leader of the Politburo. Under Stalin, decisions were shaped to some extent by the social forces that provided political support for the regime and that were crucial to the drive for industrialization. Moreover, the institutions that were assigned the job of executing the dictator's will took on a life of their own. As Merle Fainsod wrote at the end of the Stalin era.

"Each of [the bureaucracy's] specialized parts manifests the characteristics of bureaucracy everywhere. It seems to transmute skill into influence and power. It views every decision from the vantage point of its own particular interests, and it strives to defend and expand the area of its own dominion. Behind the monolithic facade of totalitarianism, the plural pressures of bureaucratic power continue to find dynamic expression. . . . These organizations cannot be dismissed as mere robots. . . . They are power structures in their own right."

Nevertheless, in comparative terms the degree to which real power was concentrated in the hands of the leader was very great not only under Stalin, but under Khrushchev as well Yet, while everyone is quite aware of the great power exercised by Stalin, it should not be forgotten that Khrushchev too occupied an extraordinarily strong position in the Soviet political system. Khrushchev could no longer terrorize the top political elite, but he was able to build a political machine through the same mechanisms that Stalin had used.

With Khrushchev—even more than with Stalin in his last years—one has the sense of a person convinced of the perfectability of man and society, who was convinced, too, of the validity of his own views, and who was quite willing to override objections in pushing through his ideas for change. In almost every policy area, he initiated important actions that were opposed by the major institutions dealing with it; in industry, he abolished the ministries and scattered their officials to regional economic councils; in agriculture, he conducted an annual reorganization, and after 1959 he sharply cut back the increase in agricultural investments in the not-to-be-realized hope that the reorganizations would prove to be a panacea; in the defense realm, he undertook a reduction in the size of the military establishment; in foreign relations, he placed missiles in Cuba, issued ultimata on West Berlin, and pounded his shoe at the United Nations in a way that alarmed the foreign policy specialists, and so forth. The pattern of these decisions bore little resemblance to that usually produced by the compromises and logrolling endemic to committee decision-making.

Although it is universally recognized that great changes occurred in the informal structure of power after Stalin's death, the fact of similar change after Khrushchev's removal is often not appreciated. Indeed, when change is perceived, it is thought to be in the direction of recentralization—an interpretation that is true in formal terms, but that is 180 degrees from the mark in the more meaningful informal sense. In a number of respects (a cautious and gradual trend toward a more egalitarian distribution of income and somewhat more individual freedom and citizen participation in political life) the basic policies of the Brezhnev era have been continuations of those of the Khrushchev years, but Brezhnev adopted a fundamentally different attitude toward the institutions, officials, and scientific experts within the Soviet establishment. In all of the examples cited of Khrushchev's intervention in specialized policy areas, Brezhnev essentially reversed the policy in the direction that the major specialized officials and experts desired. The leadership, like the British Parliament, retained the ultimate power to do what it wanted, but Brezhnev's in practice, served more as a broker. "One of [Brezhnev's] best qualities," the first secretary of the Georgian Communist Party stated in 1976, "is that he does not clothe himself in the mantle of a superman, that he does not try to do everyone's thinking and working." The result was a very significant diffusion of power away from the top leadership in comparison with the Khrushchev, let alone the Stalin, regime.

Judgments about the informal structure of power in any country must always be somewhat tentative, but the direction of the change in the structure of power from the Khrushchev period to the Brezhnev period is one on which all serious students of the Soviet system agree, although, to be sure, in somewhat differing language. Some speak of the petrification of the Soviet system; others speak of the establishment of bureaucratic dominance; others speak of society asserting itself vis-a-vis the state; others speak of movement toward a more pluralistic political system; the Soviets themselves speak of a renunciation of "voluntarism" and the adoption of a "scientific approach to decision-making." But the difference in phraseology should not obscure the fact of agreement on one central point: Brezhnev simply does not correspond to our old image of a Soviet dictator who ruthlessly forces through social transformation on the basis of his ideological preconceptions, and to some extent real power has devolved to lower levels in the bureaucracy and/or society.

The more difficult question to answer is: to whom has power diffused? Of course, to a considerable extent this question is unanswerable in any country, for power varies from time to time and from issue to issue, and no simple summary statement can be true, regardless of its nature. Thus, during the Brezhnev years the pattern of investment in reclamation shows the effects of intervention by top leaders; Brezhnev also has a major impact upon decisions relating to the Soviet-American relationship. By contrast, transportation policy has given every indication of being dominated by the railroad industry for years, both because of lack of attention by the higher leadership and because former railroad officials occupy the key posts dealing with transportation policy in the Central Committee apparatus, Gosplan, the Institute for Complex Transportation Problems, and the People's Control Committee. The power of societal groups, too, can vary with the issues. The ability (and propensity) of young peasants to leave the village for the city has given the peasants considerable de facto power on investment decisions and on wage and social policy, but the peasants seem to have made little dent vis-a-vis the agricultural hierarchy's vested interest in collectivization.

The locus of real influence has also varied over time. For example, Brezhnev had almost no contact with non-Communist foreigners in the 1960s and left key negotiations to Kosygin. But in the first half of the 1970s he virtually monopolized the key negotiations with the United States and West Germany. On other questions, changes in the personality of the top lieutenants seems to have had an impact on the power structure. Thus, the death of the Minister of Defense, Rodion Malinovsky, in 1967 seemed to remove an obstacle to a major generational replacement of personnel in middle levels of the Ministry of Defense—a change that surely had policy implications as well.

The influence of societal groups has also increased. A number of indicators (for example, college admission policies) strongly suggest that the rise of Dubchek and then the Polish riots has made the Brezhnev leadership more sensitive to worker interests, while the gradual decline in the rate of increase in industrial growth strengthens the hand of those in the late 1970s who argue that the trend towards wage egalitarianism needs to be reversed to provide greater incentives. In another area, the rise in the environmental movement in the United States was accompanied by the rise of a similar movement in the Soviet Union—one that was clearly initiated within the intelligentsia rather than within the party leadership and that altered somewhat the balance of power between the forces committed to industrial growth and the forces emphasizing other values.

If one is to summarize the most prominent developments in the distribution of power in the Brezhnev period, I would point to the diffusion of power to specialized complexes or "whirlpools" which deal with the various policy areas. Sovietologists often talk about conflicts between "the Party" and "society," between "the Party apparatus" and "the government," even between "Red" and "expert." It seems to me that the relevant political divisions seldom follow these lines. Rather the alignments and politics of the system usually cut across major institutions and follow policy lines.

Thus, one can detect the presence of a military-defense industry complex that includes the military, the defense industry, the Central Committee secretary (Riabov) and Central Committee departments supervising them, the defense industry departments of Gosplan and the first deputy chairman leading them, the defense industry scientists and designers, the defense industry trade unions (and the workers in them), the Komsomol secretary for physical culture and the military, some of the regional party officials from the major defense industry centers, and defense-related specialists in other institutions (e.g., State Committee on Science and Technology, the State Committee on Wages and Social Policy, the People's Control Committee).

One can also discern the existence of an agricultural complex which includes the four ministries in the agricultural realm, the Central Committee secretary for agriculture (Kulakov) and the agricultural department of the Central Committee, the agricultural scientists, the agriculture trade union (and the peasants), the agriculture department of Gosplan and the two deputy chairmen supervising it, party and governmental officials from rural areas (or specialized local officials dealing with agriculture in industrialized regions), and agriculture-related officials in other institutions. Other complexes are found in other policy realms, and each complex contains narrower sub-complexes. Thus, the foreign policy complex seems to have fairly clearly defined sub-groupings on major areas of the world such as the United States and Africa.

It should be emphasized once more that I am deliberately over-simplifying a political reality that is far too complicated to be summarized in capsule form. The boundaries of the complexes are neither precise nor unchanging, and some persons participate in several. A crucial question from an Amer-

ican point of view is the extent to which those in the military-defense industry complex are also influential members of the foreign policy complex and subcomplexes.

If this image is correct, the complexes are crucial in the policy process. On substantive issues of a more specialized nature, the politics takes place largely within the complex. Discussions of defense policy are largely limited to those involved in defense and foreign policy, while agricultural issues are debated in overwhelming part by those in the agricultural complex. On politics that involve priority—first and foremost, the budgetary process—the major political conflict takes place between complexes (or subcomplexes). The party, governmental, planning, and trade union officials in agriculture tend to be allied in pushing for more resources for agriculture, and they tend to be pitted against those in other complexes. A few persons—notably intellectuals—try to participate on questions well outside "their" complex, and some issues (e.g., environmentalism or income distribution) tend to cut across the normal complexes.

This kind of "politics of the complexes" has long been a feature of Soviet politics. The striking feature of the Brezhnev era, in contrast to both Stalin and Khrushchev, has been the marked tendency for the leader to defer to the consensus within the respective complexes.

However, Brezhnev is not merely a barometer who automatically registered every consensus within the respective complexes. For example, there is a good deal of evidence that many within the African policy subcomplex have not been happy about the sequences of Soviet policies towards Somalia and Ethiopia. Yet, his emphasis on a "scientific approach to decision-making" means, in practice, the creation of broad commissions to discuss and draft decisions, consultation with all the "interested" institutions, and, most important, a tendency to rely on the "scientific" judgments that emerge from this process. Reliance on such "scientific" judgments means reliance on the judgment of the establishment within the complexes that provides the members for the commissions.

What seems to be lacking in the regime's enthusiasm for a "scientific approach" is the Marxian sense that a group's attitudes and policies often reflect their economic interests. There seems to be a belief that specialists are basically disinterested experts—that commissions of doctors can be trusted to present an objective assessment of the program needed to satisfy the country's health needs, that the transportation commissions choose objectively between an expensive new railroad in the Far East and an expansion of the highway network, that the military have proposed the type of troop placements on the Western front and the type of modernization of those forces that are required for national defense. There seems not to be much of a suspicion that the advice of the doctors, of the military, or of the railroad-dominated transportation complex might unconsciously be serving the interests of those respective groups rather than simply the public interest. Nevertheless, whoever's interests are being served, deference to the advice of the complex means a de facto diffusion of power to the complex. A Westerner can hardly avoid the suspicion that this diffusion of power sometimes has consequences that are beneficial to the complex.

III

To say that there has been a considerable diffusion of power to specialized complexes in the Soviet Union already has certain policy implications for the United States. In the first place, this development, coupled with the continuation of the trends of the Khrushchev era towards a greater toleration of individual freedom and a more egalitarian social policy, should reassure those who have worried that detente would strengthen the repressive forces within the Soviet political system. It should also help to explain the strength of the Soviet reaction to the American human rights program, especially as it was presented in the early days of the Carter administration. When movement of the Soviet Union towards a system with somewhat more freedom and a more pluralistic distribution of power was only met by an escalation of American criticism, unaccompanied by any acknowledgement of progress, the Soviet leadership came to fear that little short of the abolition of the Soviet system would satisfy the Americans.

In the second place, the diffusion of power suggests a decline, at least temporarily, in the fanatic, ideologically-inspired determination of the leadership to transform human nature and society at all costs. Although conceivably the persons who have gained added influence on foreign policy might turn out to be more antagonistic to the United States than past leaders, a lessening of fanaticism in the domestic sphere is likely to be associated with a lessening of the ideological drive to transform the outside world as well.

The question which remains of intense interest, of course, is the permanence of the changes that have occurred. Will Brezhnev's successor also serve as a Brezhnev-type broker? Or will the next leader either reinstitute the type of intervention associated with Khrushchev or, on the contrary, promote further diffusion of power, even a pluralism that extends beyond the complexes.

Some analysts explain the diffusion of power in the Brezhnev era by suggesting that the political leader has lacked the ability to challenge the bureaucracy, that the political system has become so ossified that no General Secretary can do more than Brezhnev has and that little will change when Brezhnev leaves the scene. However, such a view seems to me overdrawn. Only fifteen years ago we were emphasizing the weaknesses of the restraints on the Party leader and marvelling at his ability to abolish the industrial ministries, bifurcate the party appartus, and so forth. With no changes having occurred in the basic institutional characteristics of the system, with there being an objective need for widespread replacement in the top administrative-political elite and the potential for the creation of a political machine in the process, it seems premature to conclude that our earlier analyses can be forgotten.

In my opinion the major change that occurred in 1964 was in the personality and psychological make-up of the leader. We have assumed in the past that a Communist leader would inherently be interested in attaining total power to mold society to conform to his values. As Khrushchev failed to realize, however, total power in that sense is not the same as total power in the sense of total job security. Indeed, the two can be contradictory, for a drive to impose radical policy views is bound to create powerful enemies. What we have seen in Brezhnev is a man who has been concerned with power in the sense of securing his position and who has exercised great skill in taking the steps necessary to achieve his goal.

The success of Brezhnev is likely to be an object lesson to any successor, and beyond that any successor is far more likely to have a personality like Brezhnev's than Khrushchev's. Men who rise through a bureaucratic society are likely to develop the skills of bargaining and accommodation and to have different inner drives from men who go into the pre-revolutionary underground or wage civil wars.

As we try to judge whether a Soviet successor is more likely to have the personality of an Eisenhower or a Johnson, we should recognize the need for great caution. The consistency with which American specialists have been fascinated with speculating about the Soviet future has been equaled only by the consistency with which they have failed to predict the major changes that have occurred in the Soviet system. The normal caution that this record should engender should be reinforced by an awareness that the next succession may be a very sensitive one. Brezhnev has studiously avoided the appointment of likely successors to the posts that provide good bases for a bid for the top leadership, and this threatens greatly to complicate the turnover the generations that should accompany Brezhnev's departure. Moreover, once a successor is named, the advanced age of the Politburo and the Central Committee —and the need for rejuvenation in the early 1980s—will make it difficult for the political elite to prevent a new General Secretary from building a strong political machine unless they are willing to tolerate real stagnation within the administrative elite. With so many uncertainties interacting at a point of time that cannot be predicted, it is difficult to be certain about any scenario.

My personal feeling is that the next General Secretary—or the General Secretary after next, if a conservative representative of the Brezhnev generation is able to hang on as a transition leader—is likely to be more activist than Brezhnev more willing do to battle with at least a few of the major complexes. With Brezhnev projecting a very cautious image and with his regime losing energy in the second half of the 1970s, there is likely to be elite sympathy for a candidate who projects a more activist image. Brezhnev established his authority by serving as a symbol of normalcy, but his successor will find it difficult to establish himself without identifying himself with some program for change. If the major currents of opinion within the upper strata in 1964 centered on a weariness with constant, hare-brained experimentation, those currents today include much more yearning for change, and a politician seeking to duplicate Brezhnev's record of longevity will have to adapt himself to the changes in social forces that have occurred.

The most interesting speculation is of a more long-range nature. The evolution in the political process that has occurred since Stalin's death has been in many ways quite appropriate for a system of policy-making by complexes. If a leadership wants sound judgments from a complex, there needs to be communication within it so that ideas can be advanced and explored. And, in fact, the censorship has come to vary greatly with the audience to which an idea is addressed. Media that reach a mass audience are tightly controlled, but the censorship on policy debates (at least, properly-expressed policy debates) within the specialized journals and books has been greatly relaxed.

But what if the leadership loses faith in the distinterestedness of the specialized complexes? What if it perceives that its own power has been drained off to the complexes and begins to feel that this power is being exercised for the benefit of the vested interests within the respective complexes? How will it broaden the range of options to be considered without falling prey to the kind of frenetic, often uninformed intervention in which Khrushchev indulged?

An obvious step would be to broaden the framework of discussion: to draw in individuals and groups that lie outside the respective complexes in hopes that some would launch attacks on some of the most self-interested assumptions of those in the complex. It would probably take a major shock to produce a major change (e.g., an energy shortfall for which the energy complex had done insufficient long-term planning), but as we try to survey the possible options in

the Soviet future, we should not neglect the paradoxical possibility that a leadership interested in exercising real power might find a considerable relaxation of censorship a way of increasing its power rather than reducing it.

Nevertheless, speculation about either the succession or the long-range evolution of the Soviet system is no more than that. The record of specialists on the Soviet Union as court astrologers over the years has been incredibly bad, and no one would cite my predictive record to demonstrate that there have been shining exceptions to this rule.

The strength of the scholar should be in analyzing what has happened and what is happening. Yet if we understand that there has been a real diffusion of power during the Brezhnev era, that this in considerable part reflects the personality and "electoral strategy" of the General Secretary rather than a fundamental institutional change, that the General Secretary's strategy for political longevity has included an avoidance of any preparation for the succession, and that the diffusion of power creates major problems at the same time it solves others, then we will be far less likely to assume that nothing can change when Brezhnev leaves the scene. Perhaps more important, we will be better able to understand the consequences of our own actions and to play a role that is constructive in terms of the values of human rights and a less threatening international competition.●

INTERLOCKING DIRECTORATE LEGISLATION

● Mr. HART. Mr. President, in the 4 years I have served in the U.S. Senate, I have found no issue which poses more concern for our society than the steadily increasing size of our institutions, both public and private. Corporations, Government agencies, labor unions—by their very size—alienate the average citizen and threaten to crush individual innovation and creativity. The resulting ramification of most importance to a pluralistic, democratic society is the growing concentration of economic power in America.

Economists may disagree about the precise extent and trend of market power in American industry, but the evidence is clear that, in many markets, concentration is far too high for effective competition, and that it is steadily increasing.

In addition to the high and ever-increasing concentration that exists in particular industries, the economy at large is becoming more rigidly structured as financial resources and decisions become increasingly centralized in the hands of a relative few. A Senate governmental affairs subcommittee study released this year concluded that American business may be more highly concentrated across industry lines than at any time in our history.

This study focused on the interlocking directorate, a corporate management device which has become a tradition among the largest U.S. corporations. Of the 130 companies studied, representing 25 percent of the assets of all U.S. corporations, 123 of the major firms connected on the average with half the other companies through a total of 530 direct interlocks, where a director of one company is also director of another company. It also revealed 12,193 indirect interlocks, where 2 companies each have a director on the board of a third.

Though the interlocking directorate may be good business for a corporation, the consequences for the public are ominous at best, and more often inconsistent with the public's interest in a competitive economy. The great jurist Louis Brandeis commented:

> The practice of interlocking directorates is the root of many evils. It offends laws human and divine. Applied to rival corporations, it tends to the suppression of competition . . . Applied to corporations which deal with each other, it tends to disloyalty and violation of the fundamental law that no man can serve two masters. In either event, it tends to inefficiency for it removes incentive and destroys soundness of judgment.

American Telephone & Telegraph, the huge telecommunications carrier, exemplifies the corporate interlock in its most pervasive form. The Senate study found that A.T. & T. had the greatest amount of interlocks with each of the other top 12 corporations that were examined. A.T. & T. was directly interlocked with Citicorp through A.T. & T.'s chairman. In addition, directors of A.T. & T. sat with directors of Citicorp on 12 intermediate boards accounting for 20 indirect routes of director contact. A.T. & T. interlocked with Chase Manhattan on 12 intermediate boards through 22 indirect routes. It interlocked with J. P. Morgan on 12 boards through 18 indirect routes. A.T. & T. also interlocked with Prudential, General Motors, and Exxon and many other corporate giants. In all, A.T. & T. had 31 direct and 625 indirect connections reaching 93 of the 130 major companies in the study.

The potential areas of abuse fostered by such interlocking directorates are numerous. Interlocks between actual or potential competitors provide a linkage for communication and discussion which can result in common action. Among the largest national corporations, personal interlocks between business leaders may lead to concentration of economic or fiscal control in a few hands.

A business elite may develop with the ability to chart the direction of production and investment in several keystone industries. Directorate interconnections between companies that are not directly competitive, but are closely related industries, may result in corporate policies which discourage expansion and diversification into competitive fields.

When the 96th Congress convenes in January, I intend to introduce legislation to deal with the problem of close directorate ties among the larger corporations. This legislation will provide the public with a better understanding of how corporate policies are made and who is responsible for making them. Legislation which I am now preparing will establish a general prohibition against any officer or director of a company with over $1 billion in assets or sales from being an officer or director of any other company of similar size. Such legislation will separate the larger corporate managements in order to encourage more innovative and competitive corporate policies. This statutory restriction will be considerably easier to enforce than existing antitrust statutes since it is a flat prohibition without exceptions.

The legislation will also provide for a designated agency to take the lead role in collecting and disseminating data on interlocking directorates. The Senate Governmental Affairs Subcommittee had enormous difficulty in collecting the information used in their study. The requirement of a simple annual interlock and ownership report to be filed with a single agency would place the burden of monitoring interlocks on the corporations themselves, with minimum cost to each. Such a filing requirement would provide a method of consistent and continuing interlock review by corporate counsel as well as by antitrust enforcement authorities. This would establish one public source for corporate counsel to check when screening the other relationships of an individual being considered for a directorship.

Mr. President, the conclusions of the Senate Governmental Affairs Subcommittee carry a profound implication that corporate power may be far more concentrated than has been presumed. The legislation I have described will be an important first step in checking the ever-increasing concentration of economic power in the hands of a few.●

ANNOUNCEMENT OF POSITION ON VOTES

Mr. CLARK. Mr. President, I have missed a number of votes recently. If I had been present, I would have voted as follows:

Rollcall No. 431, "yes."
Rollcall No. 434, "yes."
Rollcall No. 435, "yes."
Rollcall No. 483, "yes."
Rollcall No. 484, "no."
Rollcall No. 485, "yes."
Rollcall No. 486, "yes."
Rollcall No. 487, "yes."

TOWARD PEACE IN RHODESIA

● Mr. KENNEDY. Mr. President, five black civilians were reported today to have been killed by Rhodesian security forces in the township of Harrar. These killings can only underline the fact that the situation in Rhodesia is now becoming more desperate and is deteriorating rapidly. The violence has mounted trapping the innocent with increasing frequency. Hospitals are having difficulty coping with the casualties of the violence. Areas once considered secure by the Smith regime are now contested or conceded to be under the control of insurgent forces. White emigration is increasing and the economy is slowing down. The prospects for stability are poor if the present political situation continues.

This tragic situation in Rhodesia is a cause of concern for all who care about the future of both whites and blacks in that country. It is of concern for all those who want peace in Africa. And it is a concern for all those who want to prevent a growth of Soviet and Cuban influence and activity in this part of Africa.

Ian Smith has come to the United

States and is urging us to support the internal settlement which is established. I did not object to the granting of Mr. Smith's visa. He has a right to be heard, but we should base our judgment on his actions and not just his words.

But I do not believe the Carter administration should or will endorse his solution to halting the turmoil in Rhodesia. I base this conclusion on several simple but critical points.

First, it should be obvious that the United States can play an effective and constructive role in Rhodesia only if we remain impartial among the parties involved. This is the only way we can work for a settlement which all parties can support as fair.

The so-called Anglo-American plan offers a foundation for an acceptable solution by offering a compromise solution to the essential dispute: who would hold power during the election period. Its three key elements are:

Fair and free elections conducted by an impartial administration;

A cease fire to be maintained by an international presence; and

A democratic constitution which guarantees the rights of both black and white Rhodesians.

The Anglo-American plan offers one path toward peace. But it is not the only path. The United States and Britain have also said that we will support any solution which the parties may agree on.

Some, like Ian Smith, have charged that the United States has sided with the Patriotic Front. Others, like guerrilla leader Robert Mugabe, have said we are supporting Smith. The truth is that we have steadfastly refused to support any single party. Instead, we have proposed the type of arrangements in which no single party would dominate.

Second, I believe that the United States cannot and should not try to impose a government on Rhodesia. Nor could the United States make the "internal settlement" work as some have suggested. We do not have that kind of influence. We do not have a mandate for intervention. The internal settlement cannot work because it evidently does not have the support of the Rhodesian people, as the deterioration of the situation clearly indicates.

Third, I believe we must recognize the fact that support of Ian Smith and his colleagues will not, as some argue, promote Western interests in the region. On the contrary. A policy course which promotes a peaceful settlement, whether achieved through the Anglo-American plan or by some other form of agreement which includes all the parties, is the most effective way to counter Soviet and Cuban influence in this troubled area.

Only by holding open the possibility of a peaceful settlement have we encouraged the African states in the region to resist deepening Soviet and Cuban involvement in a military solution to the conflict. These key nations know of our commitment to a peaceful resolution of the problem. They know that only the West can work for a peaceful transition to a just and stable government in Rhodesia.

However, if the United States and Great Britain were to support Ian Smith and abandon a negotiated path as he now urges, we would be adopting a formula for conflict in southern Africa that would provide a unique opportunity for the Cubans and Soviets.

Finally, we must understand that there are limits to American influence and to our ability to shape events in southern Africa.

As Mr. Smith travels around the Nation urging the American people to support him, we must hope be comes to understand that we cannot gain for him what the internal settlement has failed to gain for itself—sufficient support in Rhodesia to put an end to the bloodshed.

Both he and those opposing him must also understand that we will not work to impose a government on Rhodesia that the people themselves have not chosen through elections.

If Mr. Smith takes back any message from America, let it be that the path to peace and stability in Rhodesia cannot be obtained through obduracy. Peace can only be achieved through negotiations and compromise among all the parties. Mr. Smith, unlike his opponents, has apparently refused to accept the idea of such negotiations. A great deal depends on his changing his mind.●

THE NUNN AMENDMENT TO THE TAX BILL

● Mr. BAKER. Mr. President, I ask unanimous consent to have printed in the RECORD a statement and an attachment by the Senator from Texas, Mr. TOWER.

The material follows:

STATEMENT BY MR. TOWER

Mr. President, at this moment the House and Senate conferees are attempting to break an impasse over the inclusion of the so-called Nunn amendment to H.R. 13511, the Revenue Act of 1978. It was appropriate that this measure was adopted by the Senate by the convincing margin that it was, and I would like to associate myself with remarks made earlier by Senator Hatch in expressing gratitude to Senator Roth and Representative Kemp, without whose persistence and dedication the concept of the Nunn amendment may not have been born. Adoption of the Nunn amendment was indeed a historic moment for the idea of multi-year tax cuts embodied in the Roth-Kemp proposal. I am certainly proud to be one of the many cosponsors of this far-reaching measure which is the first step on the road to achieving greater fiscal responsibility and discipline. An excellent analysis of the birth of the Nunn amendment and the growing awareness of the importance of balancing the federal budget appeared in the October 12 issue of the Wall Street Journal. I submit this editorial to be printed in the Record for the benefit of my colleagues in the Congress. The article follows:

KEMP-WHAT?

Now that the Senate has passed the Nunn version of the Kemp-Roth tax cut, the folks who love big government are scurrying around trying to find a rationale for opposing it. The one on which they seem to be settling, floated in a speech by Sen. Moynihan on Monday night and repeated by President Carter at his press conference Tuesday, is that it is too radical a departure to take on the spur of the moment without extensive debate. Kemp-what? they ask. Never heard of it.

The intensively publicized proposal by Sen. Roth and Congressman Kemp, to be sure, would simply have cut tax rates successively in three steps over three years. It was attacked for ignoring spending and deficits, so Sen. Nunn laid out a five-year schedule of rate reductions but made them contingent on holding the growth of federal spending to the rate of inflation plus one percent. Those who argued that Mr. Roth and Mr. Kemp were irresponsible for ignoring spending now argue that Mr. Nunn is irresponsible for including spending.

As it happens, the idea of linking tax cuts to expenditure restraint has also been extensively debated this year, in the context of the budget process. It is said that the House has not had a chance to consider the Nunn proposal, but in fact for a few moments last May the House had actually passed what is in principle the same proposal. The Republican budget resolution offered by Rep. Marjorie Holt was specifically designed to accommodate the first year of the Kemp-Roth cuts and was offered in the context of a systematic program tying the tax cuts with the spending restraint of a current-services budget—the same inflation-adjusted concept embodied in the Nunn bill.

As the rollcall ended, Mrs. Holt found herself with 202 votes for and 198 against. But Majority Leader Jim Wright started dragging Congressmen bodily into the well to change their votes, and the Holt amendment finally lost by 203 to 197. Mrs. Holt offered conceptually the same amendment again with the second budget resolution in September, and lost by 206 to 201. Considering the lopsided Democratic majorities and pull of the leadership and party loyalty, there is obviously quite considerable sentiment in the House for the principles now embodied in the Nunn amendment, which incidentally passed the Senate by 65 to 20. House Republicans are now moving to instruct the conferees to accept the Nunn amendment; it will be instructive to observe how the Democratic leadership behaves.

The political support for the principles involved is far more important than the mechanics of the Nunn amendment. In itself no gimmick or procedural device can reform government spending. The Washington Post has the fanciful notion that the Nunn mechanics would tie the hands of future Congresses, preventing them from working their wisdom when antirecession tax cuts or spending increases were needed. Yet there is no way to dictate to future Congresses. And on the record the more likely outcome, we should think, is that they would find some way to distort the Nunn amendment into a prospending device, an excuse for not cutting taxes.

What the Nunn mechanics would do, however, is to instill a bit of discipline in the congressional budget process, which itself has been neatly transformed into an engine of high taxes and high spending. No Senator was more effective in opposing tax reduction in this week's debate than budget czar Edmund Muskie, who refused even to let the Senate vote on the provision to repeal deduction of gasoline taxes. On the House side, we find back in May Budget Committee Chairman Giaimo deriding Mrs. Holt's lower totals as an impossible, a "wish-type amendment," though in fact outlays in the final budget resolution ultimately ended up almost exactly what she had proposed in May.

The real effect of the Nunn proposals would be to force the budget committees to take tax reduction seriously as a national goal. At present, tax levels are driven by spending desires; after the budget committees decide how much to spend, the revenue committees decide whether they can afford to cut taxes. With the political support that seems to be building in the country, plus a little luck, this can be reversed. We can decide what level of taxes we want to pay, in par-

ticular what levels are healthy for economic growth, and make the budget committees hold down spending accordingly.

This is what the budget process was supposed to have been. It is what the country seems to want. And given the Nunn vote in the Senate and the Holt votes in the House, a majority of the Congress—if given a free choice—would be ready to agree.

ETHICS COMMITTEE NOTICE ON USE OF STAFF IN CAMPAIGNS

● Mr. STEVENSON. Mr. President, on behalf of the Select Committee on Ethics, I bring to the attention of the Senate a recent ruling by the committee concerning participation in campaign-related activities by Senate staff members.

Interpretative rulings by the committee may be relied upon by an individual involved in a transaction or activity which is indistinguishable in all its material aspects from the facts on which a ruling has been rendered.

The ruling that I bring to your attention involves the question of whether it is proper for Senate staff members to utilize annual leave time to carry out campaign-related activities and is, as follows:

Except for Senate Rule 49 which prohibits anyone other than two designated employees from handling campaign funds, no rule expressly forbids campaign activity by staff members.

The select committee has previously ruled that it is preferable for a Senator to either reduce the salary or remove an employee from the Senate payroll when the employee intends to spend a substantial amount of time on campaign activities, over and above leave time.

The committee recognizes that Senate staff members ought to be able to use bona fide vacation time in whatever way they wish, including participation in a political campaign. So long as staff takes no more than established and reasonable annual leave, the committee is of the opinion that staff may engage in campaign activities.

Rule 49's restrictions on the handling of campaign funds by only two designees would, of course, remain applicable.●

NOBLE PRIZE WINNER ISAAC BASHEVIS SINGER

● Mr. JAVITS. Mr. President, I feel that the chorus of congratulations so properly offered Isaac Bashevis Singer on his selection as winner of the Nobel Prize for Literature is the sound of our country.

A fellow New Yorker from the lower East Side, I have admired Mr. Singer's works for decades. His writings describe for Americans a cherished element of their heritage, animating in words the rich folk traditions and life of Eastern European villages so many of our ancestors called home.

He writes with the simplicity and authority that is the hallmark of a master storyteller. And his work is all the more treasured for being first written in Yiddish. Mr. Singer preserves and perpetuates a centuries old tradition that, once lost, will be gone forever.

His gift to us, so aptly recognized by the Swedish Academy, is the wisdom by which we must seek to answer the universal questions in all of our hearts and the innocence and love necessary for us to bear the journey.

Mr. President, I would like to include in my remarks an editorial by the Washington Post of October 11, 1978, in praise of the genius of this gifted writer.

The editorial follows:

MR. SINGER'S NOBEL PRIZE

Almost every time a Nobel Prize for literature is announced, the cries divide between "Who?" and "Shame!"—"Who?" coming from the general public, "Shame!" from the particular. This year there are very few cries of either sort in response to the award to Isaac Bashevis Singer, and it is surprising how many people have heard of, and read, the work of the shy Polish immigrant who still writes his stories in Yiddish, from right to left, in college blue books. The credit for the prize is rightfully and naturally all Mr. Singer's. But a separable kind of credit goes to the Swedish Academy of Letters for recognizing in Mr. Singer not only a great writer, but also the satisfaction of a popular wish to hear a good story.

For all the complaints that automatically accrue to Nobel Prizes, the awards for literature, in fact, have not been half bad. To be sure, Tolstoy, Joyce and Proust were left in the cold, but Yeats, Shaw, Mann, O'Neill, Eliot, Faulkner and Hemingway have been honored; and most of these writers, including the poets, had the genius for storytelling that the academy has prized in Mr. Singer. Even Sinclair Lewis and John Steinbeck, whose awards caused a healthy ruckus, were storytellers above all. It is an ancient art, storytelling; the more straightforward the better.

The award to Mr. Singer, then, is also an award to simplicity and clarity, the achievement of which is no mean trick in a literary atmosphere curently dominated by linguistic criticism. The achievement of simplicity and clarity is no mean trick in life, either, which is what Mr. Singer has been saying in a hundred ways for 50 years. His first famous story, "Gimpel the Fool," is about a man who is a fool in name only mainly because he personifies simplicity and clarity. "When the time comes," Gimpel says of death, "I will go joyfully. Whatever may be there it will be real, without complication, without ridicule, without deception. God be praised: There even Gimpel cannot be deceived."

The praising of God is Mr. Singer's other major strength, and in a sense that, too, is being rewarded here. Not Judaism or religion per se, but rather the half-fearful belief in a supernatural world against which men contend. This, too is the old world of writing: the tales of little people who go about their funny or pathetic or tragic business in the sight of an Almighty who may not care. Mr. Singer said his prize doesn't prove much. But it proves that such a world is still around.●

RESIGNATION OF PAUL WARNKE

● Mr. KENNEDY. Mr. President, the administration announced recently that Paul Warnke, the Director of the U.S. Arms Control and Disarmament Agency, will resign and leave the ACDA by the end of this month.

I deeply regret the departure of Paul Warnke. I believe he is the most effective Director ACDA has ever had. He commanded deep affection, dedication, and loyalty from the entire staff of this hard-working and indispensable Agency of the U.S. Government.

In all of his rich Government service, Paul Warnke was not only a great patriot, but a public servant selflessly dedicated to the cause of security and peace for the United States. If there is one theme that has epitomized Paul Warnke's service in ACDA, it is the conviction that arms control negotiations can and must serve the national security interests of our Nation and the world community. There is not a single recommendation that Mr. Warnke has made, and not a single agreement that he has reached, that does not fully reflect this commitment.

In one of his greatest speeches, in Hartford, Conn., on July 25, Paul Warnke reflected this commitment when he said:

I am convinced that our new SALT agreement will contribute in a major way to the security of the United States. Because this is the simple, paramount objective of arms control. It's not an exercise in international idealism. It's not a smoke screen for unilateral disarmament. It is a way to see that we are safer and the world is further removed from the unimaginable catastrophe of nuclear war.

With the signing and ratification of the SALT II and CTB treaties, this administration will have done more than any of its predecessors to control the vertical and horizontal nuclear arms races. More than any other person serving President Carter, Paul Warnke will deserve the credit and the enormous gratitude of the United States for this enormous achievement. Not only the historians of the future, but the American people and Congress will come to recognize their debt to this brilliant negotiator and peacemaker, Paul Warnke.●

THE DOMESTIC REFINING INDUSTRY

● Mr. BROOKE. Mr. President, the small refiner bias is an example of the kind of Government program that inspires what has come to be called the tax revolt. The Government is taking money, $1 billion a year in fact, that should be going to oil consumers and subsidizing inefficient oil refineries.

I have a continuing concern about both the operations of the entitlements program and the future for the domestic refining industry. I had intended to offer an amendment to limit this subsidy and to begin its phase out as part of the DOE authorization bill. Unfortunately that bill appears to have no chance of passage.

I have nevertheless decided to file this measure to indicate the seriousness with which I regard the problem and my firmness of intent with regard to pushing this measure next year. Very frankly I hope for advice and suggestions by those in the energy industry and the Government about strengthening the amendment language.

Mr. President I request that both the amendment and the article from Fortune magazine of August 14, 1978, entitled "How Little Oil Hit a Gusher on Capitol Hill" be printed in full in the RECORD following my remarks.

The material follows.

Delete lines 3–24 on page 71, page 72, and line 1–19 on page 73, and insert in lieu thereof "Section 603."

No funds authorized in this Act shall be used to carry out functions under the entitlements program or similar programs designed to equalize the cost of crude oil among refiners, except in accordance with the restrictions hereunder. [In carrying out any entitlements program or similar program to equalize the costs of crude oil among refiners, the Secretary shall abide by the following restrictions:]

(1) A small refiner who was not in operation as of the date of enactment hereof, shall not receive any additional benefit under any program requiring the purchase or sale of entitlements or similar cash transfers to equalize the cost of crude oil.

(2)(a) No small refiner presently receiving benefits under the entitlements program shall receive benefits in an amount greater than the amount of such benefits granted to such refiner during the comparable month of 1975, unless such refiner demonstrates to the Secretary or his designate: (i) that unless additional amounts are granted, operation of the refinery will cease or decrease; and (ii)(A) that cessation or reduction of the operation of the refinery will cause a loss of supply of refined petroleum products to an identifiable market segment, which loss will not be made up by other refiners, or (B) that such loss of supply will cause an increase in prices of products to an identifiable market, the total amount of which will be greater than the amount of additional benefits sought in the small refiner, [or (C) that the cessation or reduction in operation of the refinery will significantly reduce competition in an identifiable market to the detriment of the consuming public.]

(b) No small refiner presently receiving additional benefits under the entitlements program shall continue to receive such benefits after 18 months from the date of enactment hereof, unless such refiner demonstrates to the Secretary or his designate: (i) that unless additional amounts are granted, operation of the refinery will cease or decrease; and (ii) that cessation or reduction of the operation of the refinery will cause a loss of supply of refined petroleum products to an identifiable market segment, which loss will not be made up by other refiners, or (B) that such loss of supply will cause an increase in the prices of products to an identifiable market, the total amount of which increases will be greater than the amount of additional benefits sought by such small refiner, [or (C) that the cessation or reduction in operation of the refinery will significantly reduce competition in an identifiable market, to the detriment of the consuming public.] *Provided* that in no instance in which relief is granted hereunder to a small refiner on or after 18 months from the date of enactment hereof, shall such relief be in an amount greater than the amount received by such small refiner during the comparable month of 1975.

(3) In a report to Congress the Secretary shall include a discussion of the operation of the entitlements program. Such discussion shall include an analysis of whether the program has fostered investment in inefficient refineries; the degree to which competition within the industry has been fostered or maintained; the number of inefficient refineries which are not economically viable in the absence of the program which have been established; and shall make recommendations concerning the continuation of the program.

How Little Oil Hit a Gusher on Capitol Hill

(By Tom Alexander)

Some oil experts are predicting that the U.S. is going to experience a shortage of refinery capacity in a few years. One of the reasons, they add, is that too many refineries are being built. If you think you detect the antic touch of your federal government somewhere in this paradox, you're right. Through some convoluted manipulations of oil-price controls, the government has set off a veritable boom in small refineries. Since 1976, the total number of refining companies in the U.S. has grown by forty-one, or more than 31 percent, and the pace seems to be accelerating.

The exploding refinery population consists almost entirely of inefficient, inappropriately designed plants whose main function is to enrich their owners at public expense. Subsidies to small refiners now run well over a billion dollars a year. The government siphons the money away from bigger oil companies, but the consumer ultimately pays.

Few of the subsidized refineries can do what most needs doing. Most are tiny—handling no more than 10,000 barrels of crude oil per day—an anomaly in an industry where standards of efficiency, productivity, and flexibility call for plants with capacities of at least 175,000 barrels per day. And few of these little "teakettles" are capable either of cleaning up the "sour," or high-sulfur, crudes that are relatively plentiful, or of "cracking" the less valuable petroleum fractions into the gasoline and heating oils that the nation most needs.

Out of the Gritty Sediment

Yet, their proliferation has helped discourage investment in bigger, more versatile refineries—the kind that are already severely constrained by environmental regulations. As a result, the U.S. may in a few years wind up with another refinery bottleneck like the one that led to shortages and price increases in the early Seventies, well before OPEC flexed its muscles.

While almost no one anywhere can be found to defend the teakettle refining industry except the industry itself, the consensus in Washington is that there's also not much likelihood that anything very significant will be done about the subsidies. Questions on the issue tend to be answered with a glance toward the Hill and the resigned shrug that often closes discussions in the capital city. For the subsidization of little refineries represents another of those divergencies between rationality and destiny, the acceptance of which passes for local wisdom. It also represents one of the more lucrative successes of that new and thriving entrepreneurial class—the lawyers and clients who have learned how to pan the plentiful gold that resides in the gritty sediment of the *Federal Register*.

Small refineries have always had a legitimate niche to fill in the economic ecology, particularly in producing specialized products or locating themselves near markets or oil sources that are small and isolated. But another thing they have going for them is the right kind of friends. As oil companies go, they may be small, but they loom pretty large in the average congressional district. Even a little refinery processing only 10,000 barrels a day would have revenues of $50 million to $60 million a year. So, over the years, Congress has developed a touching solicitude for small refining that manifests itself in many ways. There's a program to lend small refiners money at below-market rates, another that reserves them some of the Defense Department's oil purchases, another that sets aside for them some of the oil from the Naval petroleum reserves, and so forth.

The $2.5-Billion Shuffle

One benefit to small refiners sprang up in the good old days when foreign oil was cheap and the government took pains to keep it out of the country with an import-quota system. All refiners were allowed to import some of their crude oil, but the government allowed small refiners to import proportionately more. The embargo in late 1973 and the subsequent increase in foreign oil prices turned everything on its head. All of a sudden, it was domestic oil, with its cost held down by price controls, that everyone was trying to get his hands on. In an effort to equalize the cost to refiners that processed domestic and foreign oil, the government came up with the so-called entitlements program. Companies that refine relatively large amounts of cheap domestic crude are required to buy entitlements from those refining relatively more imported oil.

The price of each entitlement is the difference in cost between a barrel of imported oil and a barrel of controlled domestic oil. This difference now amounts to $8.35. Complex as the system is, it seems to work, at least to the extent that buyers and sellers come out even, and some $2.5 billion worth of entitlements changes hands a year. "The remarkable thing," marvels Douglas McIver, the government official in charge of the entitlements program, "is that people actually write the checks, to the tune of some $200 million every month."

But what about those little refiners that got special access to foreign oil in the days when it was cheap? Shouldn't they also get special treatment now? Indeed, much of the talk in Congress when price-control regulations were being drawn up was to the effect that Little Oil was put at an increasing disadvantage because it was little. To alleviate that injustice, Congress threw into the Emergency Petroleum Allocation Act some all-purpose language that directed the bureaucracy to provide for a number of wonderful things:

". . . (D) preservation of an economically sound and competitive petroleum industry, including the priority needs to restore and foster competition in the producing, refining, distribution, marketing and petrochemical sectors of such industry, and to preserve the competitive viability of independent refiners, small refiners, nonbranded independent marketers, and branded independent marketers;

". . . (F) equitable distribution of crude oil, residual fuel oil and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, nonbranded independent markers, branded independent marketers, and among all users;

". . . (H) economic efficiency; and

"(I) minimization of economic distortion, inflexibility, and unnecessary interference with market mechanisms."

Detecting a Message

Some think that it was only by oversight that Congress neglected to call for lower prices and higher profits, sunnier weather and adequate rain, and the abolition of cheating at cards. One can smile at the picture of federal officials opening their orders one morning and dazedly undertaking to "restore" competition among the 150 refiners in the oil industry while accomplishing all the other desirable and mutually contradictory tasks they were assigned. What these officials did, understandably, was read into all the directions about equity, viability, efficiency, market mechanisms, and so forth, a message to do something especially nice for Little Oil, and they proceeded manfully to oblige. Into the entitlements program they folded the appropriately named "small-refiner bias."

This led the government simply to allocate extra entitlements to "small" refiners—defined as those having "runs to stills"—or crude-oil inputs—amounting to fewer than 175,000 barrels a day. In general, the smaller the refiner, the more entitlements he gets for every thousand barrels of crude he runs. Exactly how this furthers the aim of improving "economic efficiency" or reducing "economic distortion," no one has ever clearly explained.

Anyway, as is its wont, complexity begat complexity. Ever since, Congress and the energy bureaucrats and various courts have been fiddling with the rules, seeking that

golden state of equitability, the definition of which depends on which party has the best-connected lobbyists.

For instance, it quickly developed that not all the small refiners the government thought it was benefiting were altogether happy with the presents they had received. Some who had access to lots of price-controlled crude complained that they shouldn't be required to buy entitlements at all. To do so, they argued, was to pay a subsidy to the less prudent, less foresighted refiners who had allowed themselves to get stuck with foreign oil. (They did not emphasize that most of the money for entitlements is paid by Big Oil—e.g., this year Amoco will pay out $30 million.)

WHAT A LITTLE BIAS WILL DO

The aggrieved refiners hired Joseph Califano, then a Washington lawyer, who talked Congress into giving them a bonanza of outrageous proportions (see the story on page 152). That victory led in turn to further rounds of heavy lobbying, congressional compromises, and regulatory changes, which in the spring of 1976 practically doubled the subsidies to all smaller refiners, as shown in the chart above.

At this point, the amount of money that had begun to flow from the big refiners to the small ones began to seem quite interesting. The smallest category of refiners—those running 10,000 barrels per day or less—were allocated 228 "bias" entitlements for every thousand barrels they run. With entitlements now worth about $8.35 apiece, the effect is to hand these refiners a price break of around $2 on each barrel of their raw material—an amount that substantially exceeds their extra costs of refining (a small refinery's costs generally run 50 cents or so a barrel more than a large refinery's).

With that kind of subsidy, it pays to go into the refining business. The cost of building an ultra-simple small refinery lies somewhere in the neighborhood of $1,000 per barrel of capacity—and a lot less than that if the operator can scrounge up used equipment or acquire intact an old refinery that some large company previously closed down as uneconomical. Clearing some $20,000 a day before taxes from bias entitlements alone, the 10,000-barrel-a-day teakettle operator could sell his products at cost and still pay for his refinery in somewhere between eight and eighteen months. And from that point on, the gravy would flow in at a rate of around $7 million a year.

The consequences were predictable. In the year prior to the doubling of the subsidy, only three refineries were completed in the U.S. In 1976 and 1977, thirty-six plants were built or spun off and reactivated, nineteen of them below 10,000 barrels per day of capacity. Only one—a 126,000-barrel plant—had a capacity over 50,000 barrels a day. Most of the owners of these plants are former petroleum-products jobbers and retailers, and they acknowledge that they wouldn't be in the business if it weren't for the small-refiner bias. Says Lamar Lund, president of Mount Airy Refining Co., whose 11,600-barrel refinery in Louisiana opened last year, "If there weren't the bias or an equivalent benefit, we would have to shut down."

BETTER OFF BROKEN UP

The perverse incentives at work are illustrated by the case of Pennzoil, which has three refineries with an aggregate capacity of 50,000 barrels a day. Ray Rabke, a Pennzoil vice president, notes with some disgust, "The federal government has put on a largely disproportionate incentive to be small. If our refineries were operated by separate companies, the total benefit received by the three would be $18.9 million a year. As things stand, we get $6 million. Some people have offered us a premium price for one of our small refineries because the bias is so big." So far, Pennzoil has resisted breaking itself up. Among those who have sold off little plants, however, are Allied Chemical, Tenneco, American Petrofina, and Tesoro Petroleum.

The total amount of money that flows from large to small refiners under the direct provisions of the small-refiner bias now runs around $700 million per year. But that isn't all: a kindly government also provides something called "exceptions and appeals relief" to take care of lingering difficulties. The recipients of this relief are small companies that have doemstic oil but can't afford to make their entitlements payments, or otherwise find themselves in the strange predicament of not being able to meet "historical levels of profitability." Under these circumstances, the government may issue extra entitlements or bend the rules. By now, exceptions and appeals relief has come to assume almost as important a role as the small-refiner bias—some $460 million went to small refiners under its provisions last year.

Taken together, the $1.1 billion provided small refiners last year would be enough to build four or five modern 200,000-barrel-a-day plants. If the government were really serious about "fostering competition" and "efficiency" in the oil industry, it would be bending its efforts toward encouraging the construction of those large and flexible plants that can handle sour crudes. Instead, there are already moves afoot to replace the small-refiner bias with other measures to prop up the little companies if and when Congress ever gets around to equalizing the costs of domestic and imported oil, either through taxes or deregulation.

The fruit of government's efforts to succor Little Oil seems to have been to make the once-competitive small-refining industry noncompetitive. In fact, the very concept of competition, embodying as it does the notion of winners and losers, has for practical purposes been abandoned. Efficiency and the willingness to assume risks have become unnecessary virtues. Despite Congress's original assertions that the measures to aid small refiners were temporary, the government seems to have saddled itself with a self-perpetuating constituency of investors who were induced to build refineries just to capture subsidies. And in the political world, subsidized constituencies seem to be the kind with the most assured futures of all.●

RECOGNITION OF THE WARTIME VALOR OF CPL. ANTHONY CASAMENTO

● Mr. SCHWEIKER. Mr. President, I am pleased my colleagues passed H.R. 3307 last night, with my strong support. This important bill would waive the statute of limitations so that the appropriate award for wartime valor can be presented to former Marine Cpl. Anthony Casamento. H.R. 3307 passed the House of Representatives August 1, 1978, by unanimous consent.

I feel it is significant that the Department of the Navy be given the opportunity to honor Mr. Casamento for his extraordinary bravery at Guadalcanal during World War II. I ask that two news articles describing Anthony Casamento's heroism be printed in the RECORD.

The articles follow:

ONE MAN'S FIGHT FOR THE MEDAL OF HONOR

(By John Pascal)

It has been a good many years since Anthony Casamento's quest for the Congressional Medal of Honor passed beyond saga into epic lore, yet on he goes, pursuing his dream, and now there is reason to believe, to conjecture, that one way or another his long quest's end is nigh.

If you are at all familiar with his case, which is to say if you have taken notice over the years of several demonstrations on Long Island in his behalf by veterans' organizations and other community groups, if you read of his wife Olivia's angry fortnight of picketing at the White House, if you are in any way in touch with the thinning but still wide-flung subculture of old World War II warhorses, then you are probably aware that Casamento is an authentic Marine hero now living in West Islip who found high glory on a Pacific rock called Guadalcanal 36 years ago and believes the Medal of Honor is his by right of tradition, procedure and great quantities of spilled blood, his.

The Marine Corps and its parent, the Navy, disagree. Indeed, for two decades they were persuaded that despite the wounds, the paralysis, the constant hospitalizations across the years, the 100 per cent disability, Casamento merited no medal at all. But since 1965, when in an aberrant and never fully explained bureaucratic fandango the Navy became involved in a prolonged argument with itself, it has been the high command's judgment that Casamento's undisputed heroism is deserving of the Navy Cross. It is the Navy's (and the Marines') second highest award, ranking just below the Medal of Honor, and is itself rarely conferred and greatly esteemed. But Casamento has never accepted it and swears he never will.

It has now become just barely possible that the enormous bureaucratic resistance to awarding him the Medal of Honor may finally have been breached sufficiently to allow Casamento a tiny prayer of hope for his claim. By law, the military's highest medals have to be awarded within five years of the act of bravery that earned them. For Casamento, the time limit expired in 1947, and only an act of Congress, though the expedient of a private bill, can waive the restriction. In early July, the House Armed Services Committee, in a campaign orchestrated by Rep. Thomas Downey (D-West Islip), voted out the private bill that waives the time limit for Casamento. And a month later, the full House passed the bill without dissent. Even so, the gain was not much more than an inch toward a goal that was still miles away. Ahead lay the required approval of the Senate Armed Services Committee where Sen. Jacob Javits had submitted the Senate version of the bill, then the affirmative vote of the Senate as a whole, and beyond that the consent of President Carter, for only the President can award the Medal of Honor—and all this in the teeth of what still remained as implacable opposition by the Navy.

Still, the House vote in favor of the Casamento bill constituted an important gain, and on a recent day Casamento, now 56, summoned as much elation as a man can who has been exhausted by three and a half decades of frustration and rebuke. "Good, fine," he said. "I've always believed in justice. I fought for justice. I believe with all my heart I'll get justice in my case, no matter how long it takes. Now we go to the next step and the next one and keep going. I'll never stop fighting."

Yet there is a feeling among those familiar with Casamento's struggle that this is perhaps the last effort that has any chance at all of success. His case is labyrinthine, a nightmare of ancient disputes, failed memories, lost records, decades of unconcern, old prejudices that have become with time as hardened as the iron of the Navy to deny Casamento his cherished dream. There is furthermore a discernible inference from the military that Casamento's crusade for the land's most prestigious medal is somehow tainted because it is the hero himself, not

a third party acting in his behalf, who has brought such passion to the cause. Accordingly there is an intuition among even his closest supporters that Casamento will succeed or fail, permanently, in the weeks ahead. Yet the central issue, the fundamental right or wrong of it all, seems fairly clearly drawn. Anthony Casamento either deserves the Medal of Honor or he doesn't.

The critical day in his extraordinary drama is Nov. 1, 1942, near the end of the Guadalcanal invasion. It had been raging since August, the first of the long series of island battles that became the Pacific campaign of World War II. By November, the Japanese had lost all but a final stronghold on the island, one of the southernmost of the Solomons, and were under orders to recapture Henderson Field, the precious airstrip that gave the United States command of the skies and hence the sea approaches that offered the only hope for a landing of Japanese reinforcements.

The Japanese massed their available troops for an attack on the airfield, and in response the American forces, including the First Battalion, Fifth Marines, were compelled to cross the Matanikau River over a log bridge built by the Japanese during their earlier occupation of Guadalcanal. Among the first American troops across the Matanikau were Company A, assigned to protect a position along the coast, and Company C, assigned to advance along a high inland ridge. Casamento belonged to a platoon of Company D assigned to Company C. Company B was in reserve.

The river crossing itself met only scattered machine gun fire from the Japanese, but approximately 200 yards across the Maranikau concealed Japanese troops unleashed a murderous small-arms attack on Company C just as it was emplacing its mortars and machine guns at a favorable salient.

Casamento, then a 20-year-old corporal, commanded two machine gun crews. Men were drooping all around him, killed or wounded. The ferocity of the attack cut Casamento's units off from the main battalion and from supporting machine guns squads of his own company on his left flank. Of the 29 men under Casamento's command, only two were alive within the first few minutes of the Japanese onslaught. One was Pvt. Vincent J. Tortorici, the other Pvt. Michael Calverelli. Tortorici was dazed and thrown 30 feet by a mortar shell. Claverelli was wounded in the leg as he attempted to remove the body of a dead gunner and take over one of the machine guns himself. Casamento was unaware of Tortorici's injury but he did see Claverelli get hit and sent him to the rear to call for reinforcements and medical help. He himself took over the machine gun that had been silenced seconds earlier with the death of Cpl. Lewis R. Robards.

Casamento was wounded 14 times by machinegun fire and grenade shrapnel. One bullet entered his throat and exited from the back of his neck. Another creased his right ear and right temple. An enfilade of fire climbed his right side, gouging deep holes in his right ankle, right leg, hip, torso and shoulder. A grenade shredded his right hand. At one point he took off his shirt and wrapped it around his throat to stem the loss of blood. He was reduced to reaching for the ammunition boxes, opening them, feeding the ammo belts into the machine gun and firing, all with his left hand. He was certain—and the Marine Corps later informed him—that the two other survivors of the initial attack, Tortorici and Claverelli, had been killed. In his own mind he was, as he later put it, "done for." Yet on he fought through his pain and exhaustion, and lost hope, spraying fusillades of machine gun fire at the slowly advancing Japanese and killing an uncounted number of them, until, as he described it years later, "they were lying in front of me in a pile."

And singlehandedly he held the ridge until reinforcements arrived. Ultimately the battle of Guadalcanal became one of the more memorable American victories of World War II, and when the island was fully secured Casamento's division, the Fifth, was evacuated. That was in December, 1943. Casamento himself had by then been patched up at a medical aid station, then shipped back to the United States and, on Nov. 20, admitted to the naval hospital in Oakland, Calif.

While Casamento was there, a Marine Corps publicist interviewed him and sent a press release of his exploits to newspapers in the Bay Area. One of the San Francisco papers sent a reporter to the hospital to talk to Casamento and later wrote a rather stirring story for a readership hungry, less than a year after Pearl Harbor, for tales of American gallantry in action. Casamento's heroics certainly filled the bill and upon the story's appearance in San Francisco, United Press, a news agency with a clientele of hundreds of newspapers, quickly picked it up and ran it on its national wire.

Among the newspapers interested in Casamento's story was the Hearst-owned New York Journal-American. Since Casamento was both a hometown boy (the Bronx) and a Marine hero he was a particularly appealing subject for the Journal-American's vivid writing style. The paper interviewed Casamento in April, 1943, after his transfer from Oakland to a naval hospital in Brooklyn.

The Journal-American story was to have a significant role in Casamento's Homeric pursuit of the Medal of Honor, but at the time it appeared, Casamento recalled years later, "I was flabbergasted. It was a first-person story, made to look like I sat down with this reporter and he just took down my dictation." "It was embarrassing," Mrs. Casamento remembers. "It was made to seem as though Tony practically won Guadalcanal all by himself. Anyway, the facts in it were true, and that's what got Mr. Marcantonio interested in Tony."

Vito Marcantonio was a New York City congressman whose district included the section of the Bronx where Casamento's family was then living. On April 9, 1943, the congressman sent a copy of the Journal-American story and a letter to Gen. Thomas Holcomb, commandant of the Marine Corps, and requested an inquiry into the events of Nov. 1, with an eye toward winning his young constituent a medal for his bravery.

Records in the Navy Department indicate that Holcomb ordered an investigation on April 15 and that on the following May 26, one Maj. W. K. Enright, the commanding officer of Casamento's batallion, reported back that "The account of what happened as related by Cpl. Casamento in his statement to the press is the first and only eyewitness report of the action . . . The case, like so many others, probably merits consideration for a citation, but unfortunately there are no witnesses available."

On its way to Gen Holcomb, Enright's report was routed to Maj. Gen. Alexander A. (Archie) Vandegrift, commanding general of the Marine forces on Guadalcanal. He was the front-line commander whose 17,000 Marines were in the thickest and bloodiest of the Solomon Island battles. But he had no first-hand knowledge of Casamento's exploits and wrote that "It can be established only that Cpl. Casamento was a member of a machine gun crew which [came] under heavy enemy fire and that he alone of the crew survived. There is no evidence concerning his conduct under fire nor any method of determining that conduct aside from the ex parte statement of Cpl. Casamento."

There was no reason for the Marine commandant, Gen. Holcomb, to doubt the veracity of reports not only from Enright, the battalion-commander, but from another general, Vandegrift, who was himself a hero of the Pacific.

So on Aug. 21, about three and a half months after Rep. Marcantonio requested the inquiry, Holcomb replied in part: "On the basis of the facts set forth in Cpl. Casamento's statement, these headquarters would normally recommend the award of a Silver Star Medal for gallantry in that Cpl. Casamento continued to man his gun after all other members of the crew had become casualties and attempted, although unsuccessfully, to continue to man it after he had himself been wounded. These headquarters cannot, however, base a recommendation for an award on the uncorroborated testimony of the interested party and it is considered that any award made on such a basis would establish an undesirable precedent." It was the Enright/Vandegrift/Holcomb report denying Casamento a medal of any kind that became the military's Holy Writ on the case in 1943 and, some believe, has continued to influence the military's attitude toward Casamento's pursuit of the Medal of Honor to this very day.

Though understandably disappointed, Casamento accepted the Marine Corps' findings. He understood the logic, and the tradition, requiring eyewitness corroboration before awarding medals for acts of bravery. And he could quite believe that all of his men were dead, that he alone survived the massacre. It was a belief he carried for more than 20 years.

But in fact the Marine Corps' statements were wrong. Casamento was not the only survivor of his gun crews in the Matanikau engagement. And there were indeed eyewitnesses, two of them. Along with hundreds of other troops from the Fifth Marine Division, Pvts. Vincent Tortorici and Michael Claverelli, the two who'd been wounded on the ridge, had been sent to Australia for rest and rehabilitation after the Solomons campaign and were still there while Marine headquarters was conducting its "investigation."

Years later, officials of the Navy Department would say that at the time, early in the war, no great amount of time or manpower could be spared to assess the merits of a single claim of valor in battle. "After all, a war was going on," Bernard Rostker, deputy assistant secretary of the Navy, said in a recent interview. "Granted, a more methodical search might have turned up others involved in the battle, but this was early in the war, battles were going on every day, men were dying, troops were being moved all over the Pacific. But how much difference would it have made? Based on Casamento's own account of the battle, the commandant at the time thought he merited a Silver Star. Based on the eyewitness accounts and other considerations, we've upgraded it to the Navy Cross, a very high honor. He's not being overlooked in any way."

Nonetheless Casamento is bitter at what he considers inefficiency in the military's initial response to his case. "All they had to do was look in the records to see where my old unit was," he says. "They were in Brisbane for a year. My old CO, Col. [Joseph S.] Skoczylas, says if he'd heard the eyewitness reports back in '43 he'd have put me in for the Medal of Honor. But how could I know there were survivors? When the Marine Corps says such and such a thing happened, you believe them. So all those years, 22 years, I thought, okay, there were no survivors and no survivors, no medal. Then I find out they never even tried to find my outfit. That's not right."

The electrifying discovery that two eyewitnesses to Casamento's heroism were still alive came in 1964 and was described in a recent interview by Mrs. Casamento:

"The [New York] Daily News did a story on Tony. It was Veterans Day or something and I guess they had Tony's name in their files. Well, they did a nice story and both Vincent Tortorici and Mike Ciaverelli were living in New York and they read it. Well, they couldn't believe it! Tony Casamento, their old buddy from Guadalcanal. They thought for sure he was dead from all those wounds. So they called us. We were just thrilled. We were still living in the Bronx then and they both came over and we had a nice reunion. They couldn't believe that Tony hadn't gotten a medal, nothing, and both of them said they'd do anything we wanted to get Tony the Medal of Honor. And they did. They wrote wonderful affidavits for Tony. And we got affidavits from other men in Tony's old company, men who knew what Tony did even if they didn't actually see it. And then we had our Congressman, Mr. [Paul] Fino, to sponsor Tony for the Medal of Honor, and the Navy Department, once they knew we had eyewitnesses this time, opened up a whole new investigation."

It was on Dec. 9, 1964, that Fino submitted a letter to the office of the commandant of the Marine Corps and enclosed the notarized affidavits from Tortorici and Ciaverelli, plus supporting testimony from two other veterans of the Matanikau battle. In the meantime, by appealing for help in various Marine Corps journals, the Casamentos heard from perhaps 20 former Marines. Fino shipped all their statements to the Marine commandant, and on April 6, the Marine Corps told Fino that a Navy Board of Decorations and Medals would consider Casamento's petition for the Medal of Honor based on the new information.

Apparently the most persuasive documents of all were the affidavits of the two eyewitnesses. Both attested to Casamento's extraordinary valor. Ciaverelli's said in part: "Our squad was surrounded completely by the enemy and we found ourselves under very heavy machine gun and mortar fire that the Japanese were laying down continuously until every man in our squad was either killed or wounded. Cpl. Casamento took over the machine gun after Cpl. Robards was killed with a chest wound. Cpl. Casamento continued to man the machine gun all by himself and put out of commission the Japanese machine guns on our flanks and held them back with grenades and machine gun fire as they were trying to infiltrate our position from all sides. Though Casamento was repeatedly wounded all over his entire body and bleeding all over, he continued to fire and man the machine gun so that the Japanese wouldn't charge our position and bayonet our men who were lying on the ground helplessly wounded and also capture our machine gun. I myself was wounded in the leg and Casamento ordered me back to the rear to report their strong concentration of Japanese and their positions and to have medical help sent so that the wounded could be taken care of. When I hesitated to go back to the rear, because I did not want to leave him by himself, Casamento ordered me again and told me he was done for anyway because he was so badly wounded and he said he would try to hold on long enough to cover my retreat to the rear by laying down heavy machine gun fire. The courage and determination displayed by Anthony Casamento was of an inspiring order and his valor and great deed for our country in time of war should not go unrewarded."

Tortorici's affidavit recounted essentially the same information and added, "I know if there had been an officer in the immediate vicinity at the time to witness as I did his great act of heroism, he certainly would have received the Congressional Medal of Honor. I sincerely believe he is one of our great unsung heroes."

The four-man Board of Decorations and Medals met on June 13, 1965. Casamento was represented at the hearing by his old company commander, the recently retired Col. Joseph Skoczylas. The board's meetings are private and its conclusions purely advisory, but rarely, if ever, has a unanimous recommendation by the board been rejected by the Secretary of the Navy. For that reason Skoczylas felt no hesitation in informing Casamento by phone after the meeting that the board had, by a vote of 4–0, recommended him for the Congressional Medal of Honor.

"We were absolutely thrilled," recalls Mrs. Casamento. "As far as we were concerned, the battle was over. Tony had won. So we waited to hear from the Navy and we waited and we waited and nine months went by and then one day the Navy sends us a letter saying congratulations, Tony has been awarded the Navy Cross. We were stunned. We really thought there was some kind of mistake."

"Sure," says Casamento, "I knew Col. Skoczylas wouldn't have lied to me. Never. So something else happened that the Navy wasn't telling us about."

Mrs. Casamento has several thick files. One of them contains a record of the Casamentos' correspondence with various Marine and Navy Department officials in recent years. "It's all here," she said. "Repeatedly, they refused to let us know what happened to change their minds. They'd write and say only that the Board of Decorations and Medals had decided on the Navy Cross, even though we knew that was a lie. They'd say there were no written minutes of the board's hearing when we asked for a copy of them. They'd say it was all private and confidential anyway. We could never find out what happened."

"Then in 1975," said her husband, "Congress passed the Freedom of Information Act. And I got legal advice on what to do and kept plugging away. The Navy Department kept putting me off, finding ways to delay things, but suddenly, I guess it was some minor clerk who didn't know what he was doing, he sees my latest letter asking for any information about the Casamento hearing and he sends me the whole file. This was in late 1975."

Included in the file was the board's endorsement to the Secretary of the Navy in 1965, Paul Nitze. It stated, quite unequivocally, that "The board recommends that Anthony Casamento, former corporal, 292218, USMC, be awarded the Medal of Honor."

"So we had it right there in black and white," says Mrs. Casamento, "Col. Skoczylas had told us the truth. But we also found out what went wrong. There were two meetings on Tony's case. They never told us about the second one. We never had the chance to have Col. Skoczylas represent us again. They just pulled this second meeting on us six months later because the Marine Corps commandant felt that Tony's case would set a bad precedent. He said that however much Tony deserved the Medal of Honor, awarding it this many years after the battle would—she reads from the offending document—in all probability bring forth numerous similar requests to the service secretaries, congressmen and to the President, creating embarrassing situations for all concerned."

She becomes indignant. "That's what it comes down to. They refused to give Tony the Medal of Honor, even though he deserved it, because it would be embarrassing for them."

The Navy Department, of course, doesn't agree. Deputy Assistant Secretary Rostker argues that there are no firm rules for awarding medals. "It's a matter of judgment," he was saying recently. "The original assessment was for a Silver Star. When the eyewitness testimony came in and told how strong the case was for him, a very competent board of officers upgraded it to the Navy Cross. That was their judgment. Nobody's trying to be unfair, nobody's trying to do Casamento out of something. It's a judgmental thing, and from the Navy's point of view, it's important to protect the integrity of the Medal of Honor. It's the highest one we have." To a suggestion that in protecting the integrity of the Medal of Honor, the Navy might be bringing its own integrity into question because if its obduracy in the face of what many seem to believe is an overwhelming case for Casamento, Rostker replied, "Well, I guess we may come out looking bad, but that can't be helped. I just hope nobody's too hard on us."

At this writing, the issue is unresolved. The Casamentos have won the sympathy of political figures like Rep. Downey and Sen. Javits, and even Vice President Mondale, whose visit to Lindenhurst last May at a fund-raising dinner for Downey was picketed by Mrs. Casamento and others in a successful bid to bring the case to his attention. The demonstration was heavily attended by families of the Sons of Italy organization whose Grand Venable, state chairman, Peter Zuzolo of Massapequa, largely organized it.

Zuzolo said in an recent interview that the Sons of Italy were now concentrating on writing letters to President Carter who is, of course, the only person authorized to grant Casamento the medal he has coveted for so long. "If anybody deserves that medal," said Zuzolo, "it's Tony."

If he wins the medal he will hang it around his wife's neck, says Casamento, for staying in the fight with him with such determination. If he does not win it in his latest struggle, he will, he says, "just go on fighting for it. I'll go on fighting till the day I die."

[From the Suffolk Legionnaire, Dec. 1977]

AN UNPARDONABLE MISCARRIAGE OF JUSTICE

(Joseph R. Sconzo)

While Marine Corporal Anthony Casamento hovered between life and death at a Bay area naval hospital in 1943, he was visited by a Public Relations unit of the Marine Corps. Finally, they caused to be printed an account of his extraordinary heroism in the newspaper, the headline reading: "Riddled by 14 Bullets, Marine Hero Keeps Firing." Corporal Casamento was quoted as follows: "I don't know how many times I'd been hit up until that time. I do know that one of the bullets got me in the throat and came out of my neck, one split my ear and another caught me in the shoulder. Then they used hand grenades on me." The article continues: "His story ended there, but fellow marines picked it up from there. ' "He got to his hands and knees after a while and started crawling towards the Japs," ' one of them said. ' "Finally, he collapsed but the Japs must have thought it was a trick because they wouldn't go near him—just kept trying to get him with hand grenades." ' This story was picked up by the wire services and published in the New York Journal American, in New York City, where the corporal resided before entering the Marine Corps. The story, in turn, was read by Corporal Casamento's area Congressman, now deceased, who felt that the Marine hero should be given our country's greatest honor, the Medal of Honor. At the Congressman's request an investigation was alleged to have been conducted in 1943, and the results, submitted by the Commanding General, 1st Marine Division, were as follows:

"In connection with the subject, it can be established only that Corporal Casamento was a member of a machine-gun crew which was taken under heavy enemy fire and that he alone of the crew survived . . . These Headquarters cannot . . . base a recommendation for an award on the uncorroborated testimony of the interested party . . ."

When the Congressman apprised the Marine hero of the above findings, Casamento assumed that those of his buddies whom he knew had survived the bloody Battle of

Guadalcanal, had been returned to subsequent battles and had since been killed in combat.

It must be recapitulated that Casamento sought no publicity—that the Public Relations unit of the Marine Corps sought him out, questioned him and other Marines and published that information for area consumption, that the wire services picked up the information, that the Journal American published same, that his Congressman sought him out with the view of awarding him a Medal of Honor.

Then, in 1964, as a result of an article published in the New York Daily News, and another article published in the Old Breed News, in connection with Veterans Day, which dwelled on the exploits of Anthony Casamento, two Marine veterans who had been eyewitnesses to Casamento's incredible bravery got in touch with him. Following is an account of each of their sworn affidavits:

"Corporal Casamento took over the machine gun after Corporal Roberts was killed with a chest wound. Corporal Casamento continued to man the machine gun all by himself and put out of commission the Japanese machine guns on our flanks and held them back with grenades and machine gun fire as they were trying to infiltrate our position from all sides. Though Casamento was repeatedly wounded all over his entire body and bleeding all over, he continued to fire and man the machine gun so that the Japanese wouldn't charge our position and bayonet our men who were lying on the ground helplessly wounded and also capture our machine gun. I myself was wounded in the leg and Casamento ordered me back to the rear to report the strong concentration of Japanese and their positions and to have medical help sent so that the wounded could be taken care of. When I hesitated to go back to the rear, because I did not want to leave him by himself, Casamento ordered me again and told me he was done for anyway because he was so badly wounded and he said he would try to hold on long enough to cover my retreat by laying down heavy machine gun fire." (Sworn Testimony of Michael Ciaverelli)

I myself was knocked over and dazed from the concussion of a mortar shell that landed near us, and threw me about 30 feet away from where Anthony Casamento was on the machine gun. I witnessed him firing belt after belt at the Japanese Machine Guns on the ridge directly in front of us. He continued to fire and man the machine gun by himself even after he was knocked off it once and wounded and covered with blood all over. I witnessed him knock out one Japanese Machine Gun that was set up in a large tree in front of the ridge directly in front of our advance. The Japanese fire being laid down at the time was so heavy I could not move forward the thirty feet to help Corporal Casamento and the wounded or to help him on the machine gun." (Sworn Testimony of Vincent J. Tortorici)

With the appearance of these two eyewitnesses, Anthony Casamento contacted the Marine Corps and his old Company Commander, Colonel Joseph S. Skoczylas and, for the first time, took the initiative with the view of securing his nation's highest award. Colonel Skoczylas agreed to represent Anthony Casamento at the subsequent hearing. Following the hearing, Colonel Skoczylas telephoned Anthony Casamento in New York and told him that he had been unanimously recommended for the Medal of Honor by the four member board. An elated Anthony Casamento waited and waited and waited for confirmation as the weeks and months went by. Finally, he was advised that he had been awarded the Navy Cross. It was a complete shock to Casamento especially since his former Company Commander categorically told him that the had been awarded the Medal of Honor. Because a principle was involved now, Casamento refused to accept the Navy Cross and requested the minutes of the hearing which Colonel Skoczylas attended. He was informed that no minutes were taken and that he would have to accept the Navy Cross or nothing and that if he persisted in his quest of the Medal of Honor that he would lose his pension.

The mere reciting of these facts is one thing but can one imagine the hurt, the pain, the anguish, the heartache, the tears which these incredible actions by the Navy Department visited upon this 100 percent disabled American veteran? Who would believe that a man who so honored himself would be treated so shabbily, so monstrously?

In a sworn statement Colonel Skoczylas said: "I . . . believe that Anthony Casamento should receive consideration for his country's highest combat award." The statement of then Colonel and now Lieutenant General John N. McLaughlin said: "In talking with some of the officers and men of "C" Company of the "D" Company machine-gun platoon attached to "C" Company, I heard many comments to the effect that Casamento, though badly wounded, had contributed materially to the defeat of the enemy. Although I realize that my information is hearsay, I believe it will help to confirm the occurrence and the fact of Anthony Casamento's outstanding performance of duty." Major Richard F. Nellson's sworn statement reads: "In my personal opinion Casamento's action was the deciding factor that held the left flank position of the Battalion. In accomplishing this, I feel it was evident that Casamento performed in a manner that was far above and beyond the call of duty and certainly would qualify him as a candidate for the Medal of Honor." Finally, Major Maurice Raphael, who kept a diary during the war and on this day in particular, 1 Nov. 1942, swore to the following:

"My memory is quite clear on the above incident . . . As we were moving across this hill that was covered with dead and dying men, I came across this body all covered with blood. My men had bayonets on their rifles and were ready to bayonet this 'thing', when all of a sudden I recognized Casamento. I cried out, 'My God, Casamento, what have they done to you?'" He was a bloody mess, and he did a lot of jabbering about the Japs, and his men and crying about losing all of them. Empty rounds of MG ammo was all over the place. To go back to my diary . . . 'Saw Ausili die. Louis Kovacs was dead but still warm, Harland Swart, Carlson, Potacki, Doucet, Waterstraw . . . everyone was dead . . . shot to hell and back. It was the saddest and most awful sight I've ever seen in my life. I saw Jack Holliand, leader 2nd Platoon, shot in the shoulder. Henry Lochman was shot in the groin, and died . . . I found Crosby's body . . . Poor fellow, he never knew what hit him.'"

Again, the matter lay dormant since Casamento refused to acccept the Navy Cross. Then, in 1975, Casamento requested some information under The Freedom of Information Act, and a clerk inadvertently sent him the minutes to the Award Hearing in 1965, attended by Colonel Skoczylas. It reads as follows:

"The Board recommends that Anthony Casamento, former Corporal, 292218, USMC, be awarded the Medal of Honor.

During the deliberation by the Board, Casamento's actions were considered in accordance with the awards criteria in effect at the time of the action for which he is recommended. In this respect, it is considered that Casamento's statement of his actions as corroborated by sworn statements of eye witnesses contained in enclosure (5) qualifies him for the award of the Medal of Honor.

The Board was briefed by Colonel Joseph S. Skoczylas, USMCR (Retired) former Commanding Officer, Company D, First Battalion, Fifth Marines. Colonial Skoczyles, although not an eye witness, stated to the Board that if corroborating statements of Casamento's actions had been available to him immediately following the action, that he would have recommended Casamento for the Medal of Honor."

There we have it black and white. In addition to the sworn testimony of eyewitnesses, both officers and enlisted men, we have the testimony of Anthony Casamento's Commanding Officer who categorically states that had he known of Casamento's actions and having accumulated sworn testimony to that effect, he, most assuredly, would have recommended Corporal Anthony Casamento for the Medal of Honor.

Why then, a reasonable man must ask, has this most deserved recognition for unbelievable obstacles been withheld from this giant of a man for so long? Who is it who will dare to stand up and say he is not worthy of the highest honor our nation can bestow? If there is such a man let him speak now and if no such man exists then let us correct this unpardonable miscarriage of justice.

If you love honor and truth and justice and if you respect courage and sacrifice and valor then you are urged to come to the aid of your countryman, even as he defended you and yours, under the stress and torment of battle. Anthony Casamento does not deserve the treatment he has been accorded by the Navy Department. You are urged to write to the Chairman of the Armed Services Committee, Hon. Milvin Price, requesting that he release H.R. 3307, a bill introduced by Congressman Thomas Downey, for a full vote in the Committee. The bill reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the time limitations of section 6248 (a) of title 10, United States Code, the President may award, and present in the name of Congress, a Medal of Honor under section 6241 of such title to Anthony Casamento, of West Islip, New York, for acts of valor performed by Mr. Casamento while serving as a corporal in the United States Marine Corps on Guadalcanal in November 1942.

This tribute, this honor, this recognition is already thirty five years overdue. You can help make this the happiest Christmas ever for the Casamentos, Anthony and Olivia and their four beautiful daughters. Anthony Casamento still carries the scars of battle but the scar which has never healed, and which pains him to this day, is from the wound inflicted upon him, not by the Japanese, but by the bureaucrats at the Navy Department, in Washington, D.C. Christ, at least, knew that he would be betrayed but Anthony Casamento never dreamed, not for one instant, that those men in uniform, under whom he served, would betray him for reasons best known to themselves. I plead with my fellow Americans to remove the knife from the back of Anthony Casamento and place the Medal of Honor upon his chest, at long last.

Mr. SCHWEIKER. Mr. President, awards for wartime bravery must be made within 5 years of the date of the act according to Federal statute. Because of the disruption during wartime and the rapid deployment of troops, it was not until 1965 that substantial evidence came to light recounting Corporal Casamento's heroism at Guadalcanal. H.R. 3307 will waive the 5-year statute of limitations to allow formal recognition of Corporal Casamento's bravery.

Mr. President, the Department of the Navy supports this bill. It has the support of Veterans and American Legion organizations. Therefore, in light of the widespread support for waiving the statute of limitations to make Corporal Casamento eligible to be decorated for his heroism during World War II, I appreciate the strong support of the full Senate for this measure.●

THE HUMPHREY-HAWKINS LEGISLATION

● Mr. STEVENSON. Mr. President, this morning I had hoped to attend the funeral of my good friend, Ralph H. Metcalfe, late a representative from the State of Illinois. Senate business prevented me from doing so.

Last night, however, the Senate paid tribute to Ralph Metcalfe by passing with an overwhelming vote the Humphrey-Hawkins legislation. Ralph Metcalfe was a champion of social justice. He fought for the Humphrey-Hawkins legislation, because the legislations commitment to full employment is the cornerstone of social and economic equality.

I was pleased to join my colleagues in voting for this legislation, and gratified to see that the bill we approved contained several provisions I proposed and which were accepted by the Banking Committee. Those provisions make the achievement of an improved trade balance a major goal of economic policy. They recognize as well the interdependence of the world's national economies and its significance for employment and price stability.

In 1975 the United States recorded a trade surplus of $9 billion. The following year the surplus disappeared and became a deficit of $9.3 billion; and, in 1977, the country ran a record trade deficit of $27 billion. This year the trade deficit may exceed $30 billion.

The causes of this trade deficit are many: Dependence on high cost energy imports; slow growth in our major trading partners abroad; deterioration in the international competitiveness of U.S. agriculture, business, and industry; the industrialization of developing countries combining low wages and technology; ineffective exchange-rate adjustment and trade barriers.

The consequences of the trade deficit include reduced economic growth, an unstable dollar which feeds inflation, and lost jobs—jobs lost as U.S. producers lose both domestic and foreign markets.

It is conservatively estimated that each $1 billion in U.S. exports results in 30,000 to 40,000 jobs; taking into account other jobs that indirectly benefit from export activity, for example, transportation and related industries, and the resulting spur to national economic growth, exports should be one of the prime means of accomplishing the bill's goals of producing full employment through the private sector.

Increased exports require improvement in the international competition position of U.S. agriculture, business, and industry, a free and fair international trading system and a sound and stable international monetary system. Increased competition requires an increased U.S. commitment to industrial innovation—new technologies and increased productivity that reestablishes the superiority of U.S. goods and processes both at home and abroad.

A free and fair international trading system and a sound and stable international monetary order are essential not only to increasing export growth, but also to creating a stable world economic and political order. A fair and successful conclusion of the GATT negotiations, strong support of U.S. participation in the International Monetary Fund and appropriate reform of the international monetary system are all requisites in this regard.

Mr. President, I believe that our departed colleague from Minnesota, Mr. Humphrey, would have strongly supported these amendments, because he was devoted to international, social, and economic justice, and to a free and fair international trading system. Thus, I believe these provisions are as well a tribute to his wisdom and foresight on these issues.

Mr. President, I join my colleagues who last night praised the distinguished Senator from Minnesota (Mrs. HUMPHREY), and the bipartisan coalition that developed the compromise legislation. We cannot reach full employment without also reducing inflation, without targeting our efforts on the structural unemployment that plagues our economy, without reducing our trade deficit through increased exports and improvement in the international competitive position of U.S. agriculture, business, and industry, without developing a comprehensive national agricultural policy, and accomplishing the many goals set forth in the legislation. The key achievement of this legislation is its recognition that achieving full employment is no longer a matter of turning knobs and dials on a Government machine built on a foundation of aggregate demand management. Today's challenges are much more difficult, much more complex than we have ever faced before. And it extends far beyond our own borders to an interdependent world economy. And the legislation we passed last night, in its breadth of issues addressed, recognizes this.

The people should not be misled; the Humphrey-Hawkins legislation by itself creates no jobs. It does, however, give us a blueprint for meeting this Nation's economic needs, and most importantly, those of the unemployed. The greatest tribute we can pay to our departed colleague from Minnesota, Mr. Humphrey, and to the Senator from Minnesota (Mrs. HUMPHREY), who has valiantly and determinedly carried on his work in this legislation, is to insure that our future performance fulfills the promise of Humphrey-Hawkins.●

THE FUTURE OF THE TORT CLAIMS ACT AMENDMENTS

● Mr. ABOUREZK. Mr. President, it now appears unlikely that this Congress will adopt the amendments to the Federal Tort Claims Act proposed by the Department of Justice, S. 2117. These amendments were intended by the Department to immunize Federal employees from personal liability for constitutional and common-law torts committed against American citizens.

I have mixed feelings about the demise of this legislation. On the one hand, I believe the thrust of the original Justice Department proposal was unjustified and potentially dangerous to the civil liberties of all Americans. To its credit, however, the Justice Department has agreed to amendments which greatly improve the bill. These amendments were incorporated into S. 3314, as introduced by Senator METZENBAUM. I supported S. 3314, and believe it to be a workable and just compromise. S. 3314 was favorably reported without amendment from the Citizens Rights Subcommittee of the Senate Judiciary Committee late in this session. No action on S. 3314 was taken by the Judiciary Committee. The House Judiciary Committee similarly took no action to report the House version, H.R. 9219.

It is, indeed, unfortunate that the Congress could not complete action on this bill during this session. I would hope that the compromises which are now embodied in the Metzenbaum bill will go unchallenged when the bill is considered in the next Congress. It was only after painstaking consultation and consideration that the compromises in the Metzenbaum bill were agreed to by the various interested groups. The resulting bill provides a delicate balance among the competing—and often incompatible—interests.

In order to expedite consideration of this bill in the next Congress, I call upon the Justice Department to reaffirm its support for all of the compromises to which it has agreed in this Congress. To begin consideration of this bill again from scratch is to invite a protracted and partisan debate which will jeopardize the bill and ill-serve both the Department's and the public interest.

I would like to describe in detail the amendments to which the Justice Department has agreed and to describe certain additional provisions which I believe further improve the bill.

S. 2117 AS INTRODUCED

In my opinion, it is not possible to overstate how dangerous the provisions of the original Department bill, S. 2117 were. That bill can fairly be characterized as a private relief bill for every Federal official who violates the constitutional rights of American citizens. For example, the bill would have given immunity from personal liability to a law enforcement officer who intentionally and with malice murdered an innocent suspect being held in his custody. Under the original Department bill that officer would have been completely immune from personal liability even if he had been convicted and jailed for the murder. At a time when our society is still reeling from revelations of unprecedented lawlessness of Federal officials, it is not hard to see that granting such broad and unequivocal immunity could encourage further lawlessness by Federal officials.

The reasons advanced by the Department for a bill granting such broad immunity were to protect innocent Federal employees from harassment suits and to avoid the costs of retaining private counsel to represent these employees in civil suits. In pursuing these two objectives, however, one must remember that the recent deluge of civil suits against Federal officials and the evolution of the Department's policy of hiring private counsel to defend these suits are direct consequences of past widespread Government lawlessness. In attempting to mitigate this situation we must guard against encouraging such lawlessness. It would be both ironic and tragic for us to comfort and encourage Federal employees who intentionally violate the constitutional rights of Americans in our concern over the plight of innocent Government employees harassed by civil suits.

DEPARTMENT AMENDMENTS OF JANUARY 26, 1978

After it became apparent that S. 2117 as introduced was not an acceptable proposal, the Justice Department began proposing a series of amendments to its own bill. For example, on January 26, 1978, the Department formally proposed seven changes in the bill. See "Amendments to the Federal Tort Claims Act: S. 2117," Hearings before the Subcommittee on Citizens and Shareholders Rights and Remedies and the Subcommittee on Administrative Practice and Procedure, Senate Judiciary Committee, part I at 48–49. These seven amendments covered the following subjects:

One. Clarification of the attorney's fee provision in the bill's amendment to section 2674 of the Federal Tort Claims Act.

Two. Clarification of cross reference to wiretap statute in amendment to section 2674;

Three. Waiver of absolute and qualified immunity in amendment to section 2674;

Four. Waiver of contingent fee limitation in amendment to section 2678;

Five. Provision for class actions in amendment to section 2675(a);

Six. Deletion of cross reference to section 1346(b) in amendment to section 2679(d); and

Seven. Provision to make inapplicable the limitations to the waiver of sovereign immunity in section 2680. Each amendment, after some technical modifications, was incorporated in S. 3314.

Each of these seven amendments is designed to assist the Department in expediting settlements of constitutional tort claims. For example, by waiving qualified immunity, the Department is relieved of the burden of protracted discovery which results when an employee's defense of good faith is at issue. By waiving this defense the Government will probably reduce its litigation costs more than it expends in settling cases. Similarly by providing that class actions may be brought under the Tort Claims Act, the Government can settle lawsuits where there are numerous potential plaintiffs. Consolidating these claims in one lawsuit will also result in substantial savings to the Government. Finally, by waiving the section 2680 limitations the Government relieves Federal employees of personal liability in a greater number of cases and reduces the Department's need to hire private counsel.

These amendments taken together are important in minimizing the likelihood that the bill in its entirety will be declared unconstitutional. The constitutional question arises, because the personal liability of a Federal employee—which the bill limits—is itself based in a constitutional right of the victims. To take away a person's remedy based in the Constitution without substituting an equivalent statutory remedy is clearly subject to constitutional challenge. See Hearings, part 2, at — to —. For example, a victim presently may bring a class action against an employee for a constitutional violation. The class action amendment in conjunction with the other amendments, therefore, are offered by the Department to assure that a victim has a remedy under the Tort Claims Act which is equivalent to that he already possesses.

DEPARTMENT AMENDMENTS OF JULY 11, 1978

On July 11, 1978, the Justice Department submitted a complete redraft of S. 2117 which contained further amendments to the Tort Claims Act and proposed a major new amendment. See Hearings, part 2, at pages — to —.[1] Among the amendments to the Tort Claims Act provisions of the bill then proposed were:

One. Amendment to section 2672 to require Attorney General approval of settlements of constitutional tort suits;

Two. Modification of the liquidated damages provision in section 2674 to provide for a greater monetary recovery for continuing constitutional torts;

Three. Limitation of the exclusivity provision in section 2679(b) to torts committed within the scope of an employee's "office or employment";

Four. Requirement for an election of remedies by plaintiffs in section 2679(b);

Five. Limit certification procedure in section 2679(d) to torts committed by an employee within the scope of his "office or employment";

Six. Make Attorney General's certification in section 2679(d) unreviewable; and

Seven. Modify the retroactivity provision in section 12. With some modifications all of these seven amendments, except the sixth one, were incorporated in S. 3314.

The second of these amendments—liquidated damages for continuing violations—covers an important gap in S. 2117. It was unclear in S. 2117 whether a plaintiff who had suffered multiple constitutional torts could plead that he had more than one constitutional "claim." Providing that the liquidated damages provision applied to "each" constitutional claim would invite an artificial and legalistic dispute on how to define where one claim left off and where another began. To raise the liquidated damages figure for all torts might encourage judges to find that no constitutional tort had been committed. At the same time all parties, including the Justice Department, readily agreed that the $1,000 liquidated damages figure was inadequate for continuing violations. The amendment proposed by the Department accommodates these various concerns by applying the same formula which presently applies for wiretap violations, "the higher of $1,000 or $100 a day for each day the violation continues." The amendment also provides a maximum figure of $15,000 for liquidated damages awarded on this basis.

THE CERTIFICATION PROCEDURE

The third, fourth, fifth, and sixth Department amendments of July 11 involve by far the most significant and fundamental question discussed by the Justice Department and other interested groups. As introduced S. 2117 gives complete immunity to Federal employees from constitutional tort suits whenever the Attorney General certifies that the employee was "acting within the scope of his office or employment or under the color thereof * * *." (S. 2117, section 6: page 4, lines 22–23 and page 4, lines 12–13.) Once this certification is made, the United States is substituted as the sole and exclusive defendant in lieu of the employee. The certification procedure, therefore, enables the Attorney General to confer immunity on a Federal employee from personal liability. As will be discussed below, the term "scope of office or employment or the color thereof" is extremely broad. It would enable the Attorney General to confer immunity upon employees no matter how unwise or illegal their activities, if it is determined that the employee intends to be acting in his official capacity.

This certification procedure which immunizes an employee, however, is needed only when a plaintiff attempts to sue an employee in his individual capacity. Under S. 2117 a plaintiff is permitted to sue the United States for all constitutional torts where the employee is "acting within the scope of his office or employment, or under the color thereof." (S. 2117 at page 1, line 8 and page 2, line 1; page 2, lines 8–9; and page 3, lines 22–24). This provision confers liability on the United

[1] In the Hearings, Part 2, is printed a side-by-side comparison of the provisions of S. 2117, the July 11 Department draft, and S. 3314.

States for virtually all of the constitutional torts committed by its employees. Thus when a plaintiff chooses to sue the United States rather than the employee, no certification is necessary to immunize the employee.

Although the immunity and liability provisions in S. 2117 are identical—both apply when an employee is "acting within the scope of his office or employment, or under the color thereof * * * "—there is no reason why immunity must be extended to an employee in all cases in which the United States is made liable. In other words although the bill provides that a plaintiff may bring suit against the United States, this fact does not make it necessary that the certification procedure be used to prevent plaintiffs from suing the employee instead of the United States.

At present all Federal employees other than judges or prosecutors may be sued in their individual capacity for constitutional torts. The Supreme Court has emphatically reaffirmed in the recent Economou case the constitutional right of aggrieved persons to hold Federal employees personally liable. The option to sue the United States under the Tort Claims Act for these constitutional torts is very limited, thus most plaintiffs now sue the employee rather than the United States.

Few of these cases against individual employees, however, have resulted in money judgments, because an employee can raise a "good faith" defense. Although plaintiffs rarely recover damage judgments in suits against employees in their individual capacity, the threat of personal liability does have a deterrent effect against unlawful conduct by such employees. More important, the prospect of such suits has led Federal employees to seek guidance on their authority to engage in activities the constitutionality of which may be challenged. This pressure has given impetus to the legislative efforts to enact a charter for the FBI and CIA to define the limits of lawful activity.

S. 2117 as amended clarifies the authority of plaintiff to sue the United States rather than the employee. There will no longer be any doubt that the United States is liable for all of the constitutional torts of its employees. In the interest of compensating persons who are victims of constitutional torts, the United States should be liable for the acts of its employees, no matter how misguided. However, giving Federal employees complete immunity for any activity no matter how remotely related to official duties clearly raises serious questions about the accountability of such employees for their actions.

Thus the Justice Department has agreed that without an alternative method of accountability to replace personal liability, granting Federal employees any degree of immunity is unwise. Therefore, the Department has offered an amendment to S. 2117 to strengthen internal agency disciplinary procedures. This amendment will be discussed in detail below. It is important here to note that the degree to which one has confidence that the new disciplinary procedures provides an adequate substitute for personal liability will determine the degree to which one is willing to permit use of the certification procedure to immunize an employee.

My view is that no matter how rigorous the new disciplinary procedures are, it is still unwise to grant all Federal employees complete immunity for constitutional torts committed in bad faith, for constitutional torts which constitute crimes, and for other egregious conduct. I have no sympathy for such employees and see no justification for giving them any comfort whatsoever. I do recognize, however, that it is important to protect innocent Federal employees from harassments. What is necessary then is to limit the authority of the Attorney General to use the certification procedure so that only innocent Federal employees are protected against harassment.

SCOPE OF OFFICE OR EMPLOYMENT OR THE COLOR THEREOF

S. 2117 as introduced will permit the Attorney General to immunize employees in the broadest range of circumstances. As I have already stated, in order for an employee to be acting "under color" of his office or employment, for example, all he need do is hold himself out to be acting in his official capacity, whether or not he is, in fact, acting in such capacity. For example, an IRS agent who walks into a bank, identifies himself as an IRS agent, and confiscates the contents of a teller's cash drawer is operating "under color" of authority. In its answers to subcommittee questions the Department has acknowledged that the language in S. 2117 even would serve to immunize an FBI agent who had been indicted and convicted of a Federal crime, as long as the crime was committed by an agent holding himself out to be an agent. Hearings, part I, at 97. The only acts of a Federal employee which would not fall within the "color" of his office or employment would be activities such as assaulting an umpire at a little league game which had no connection, real or apparent, with the employee's official duties. As stated above, the Senate subcommittee found this provision unjustifiably broad.

Given the breadth of the term "color" of office or employment, it is not necessary to distinguish between the acts of an employee which are within the "scope of his office or employment" and those which are merely "under color thereof."

ALTERNATIVES TO COMPLETE IMMUNITY

There are at least seven alternatives to the provisions of S. 2117 giving Federal employees complete immunity. Four of these alternatives would limit the Attorney General's authority to use the certification procedure to immunize all Federal employees. These four alternatives would: First, permit the Attorney General to use the certification procedure to immunize a Federal employee only if the employee was "acting within the scope of his office or employment"; second, permit certification only when an employee is "acting within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct"; third, permit certification only when an employee is "acting within the scope of his authority"; or fourth, permit certification only for current Federal employees who are not appointees of the President. Two alternatives would permit no certification at all but would, fifth, require plaintiffs to elect between suit against United States or the employee and prohibit suit against both; or sixth, permit plaintiffs to sue Federal employees when the plaintiffs allege that the employee was not acting within the scope of his authority or with a good faith belief. These six alternatives provide, respectively, lesser and lesser degrees of immunity to a Federal employee. The seventh and last alternative would give employees no immunity and permit a plaintiff to sue a Federal employee whenever he wished to do so and to join the United States as a codefendant. Combinations of some of these alternatives are also possible. Under each of these alternatives, the liability provisions of the bill would remain unchanged.

I will now discuss the differences between these options and summarize the arguments in favor and in opposition to each.

With options (a), (b), and (c), as well as the language of S. 2117 itself, the degree of immunity afforded depends on the definition of the circumstances under which the Attorney General may substitute the United States as the defendant in the suit. These four definitions will be discussed in turn.

SCOPE OF OFFICE OR EMPLOYMENT

Like S. 2117, option (a) permits certification where an employee is "acting within the scope of his office or employment." However option (a) requires one to make a distinction between "scope of his office or employment" and "under color thereof." "Scope of office or employment" would not permit the Attorney General to immunize Federal employees who are acting under "color" of office or employment.

Although S. 2117 permitted certification for conduct under "color" of office or employment, the Justice Department has agreed that there was no need for granting such broad immunity. The Department agreed in principle that it made sense to limit immunity to those cases where an employee would be able to prevail if sued in his individual capacity. In an attempt to express this agreement, on July 11, 1978, the Department proposed the third and fifth amendments listed above which limit the Attorney General's authority to use certification only for "scope of office or employment" torts.

One advantage in using this term is that it is similar to the standard which defines the extent to which the United States presently is liable for common law torts. The term also is similar to the standard which defines the extent to which the Attorney General may use the certification procedure in the existing provisions of the Tort Claims Act, which apply only to Federal drivers. The standard in each case is "scope of employment"—as compared to "scope of office or employment" in the Department's

July 11 amendment. Because of this similarity, confusion as to the meaning of this term should be minimal. "Scope of employment" has been in use to define U.S. liability in the Tort Claims Act since its enactment and to define the existing certification procedure.

In addition, the Attorney General has already determined that the Justice Department will represent or retain private counsel only to represent a Federal employee acting within the "scope of his employment." 42 Fed. Reg. 5695 (January 31, 1977). Therefore, if under option (a) the Attorney General refuses to certify that an employee was acting within the "scope of his office or employment," he would also probably refuse to represent the employee. Adoption of this option would, therefore, terminate the Department's problems in representing Federal employees sued in their individual capacity.

BECAUSE IN PRACTICE THE DISTINCTION BETWEEN "SCOPE" AND "COLOR" HAS VIRTUALLY DISAPPEARED

Problems exist with this option, however. Under the existing language of the Tort Claims Act the Attorney General has interpreted the term "scope of employment" to include situations in which drivers have violated traffic laws. More recently the term "scope of employment" has been interpreted by the courts so broadly that there is no longer a meaningful distinction between "scope" and "color." Therefore, although option (a) purports to permit certification for a more limited range of activities, in practice option (a) is virtually identical to the language of S. 2117 as introduced.

These recent cases arise under amendments to the Tort Claims Act adopted by Congress in 1974 which—for the first time—permitted plaintiffs to bring suit against the United States for certain intentional torts committed by law enforcement officers. Unlike S. 2117, however, these 1974 amendments did not extend U.S. liability to "color" torts and did not amend the certification section. Therefore, plaintiffs not only were permitted to hold the United States liable for torts committed within the employee's "scope of employment," but could also sue the employee in his individual capacity.

Moreover, in a number of recent suits where plaintiffs have invoked the 1974 amendments in an effort to sue the United States for intentional torts, although the 1974 amendments did not provide that the United States could be sued for activities committed "under color" of employment, plaintiffs in two cases have successfully argued—over the strenuous objections of the Justice Department—that criminal activities of Federal employees were committed within the "scope of employment." The courts have accepted these arguments, finding that the purpose of the 1974 amendments was to make the United States liable, even for criminal activities of its employees. See *Birnbaum* v. *United States*, 436 F. Supp. 967, 972 (E.D.N.Y., 1977) and *Avery* v. *United States*, 434 F. Supp. 937, 941–943 (D. Conn. 1977). Although the courts clearly were reaching to find U.S. liability, the effect of these holdings is to blur any distinction which previously existed between "scope" and "color." The distinction would be even further blurred if the certification standard were "scope of office or employment"—not just "scope of employment." By including "office or" this standard is arguably even broader than the standard interpreted in these recent cases.

If the Congress amends the liability section of the Tort Claims Act to include both "scope" and "color" violations, courts will no longer need to construe broadly the term "scope of office or employment" to find U.S. liability. The question remains, however, whether the case law already defining the term "scope of employment" in the liability context will permit the Attorney General under the bill to use the certification procedure to immunize Federal employees for criminal activities and other egregious conduct.

Arguing against this prospect is the fact that the incentive of the court to provide compensation to plaintiffs by reaching to find U.S. liability may be stronger than the incentive of the Attorney General to immunize a Federal employee. Although the Attorney General will certainly feel obligated to protect Federal employees from personal liability, he will also be under pressure to hold such employees accountable. By using the certification procedure to immunize Federal employees who commit especially egregious acts or who act without a "good faith" belief in the lawfulness of their activities, the Attorney General will reduce his ability to set standards to control improper activities by Federal employees.

On the other hand, these incentives against a broad construction of the certification standard may be overcome simply by a preference by the Attorney General to hold employees accountable by using the new disciplinary procedures or by proceeding under the criminal law. One of the main purposes of the bill after all is to substitute a new form of accountability—the new disciplinary procedures—for employee personal liability. Even in cases where the Attorney General intends to impose severe discipline or to indict an employee, he may well consider it vindictive also to refuse to use the certification procedure to immunize the employee from personal liability.

Although the Department of Justice has supported the standard in option (a), it is unable to present any guarantee on how the Attorney General will, in fact, interpret the "scope of office or employment" standard or how this term differs from "scope of employment" or "color of office or employment." While the Department has agreed in principle that Federal employees should be given immunity only if they would prevail in a tort suit brought against them in their individual capacity, the Department has not explained how the "scope of office or employment" standard implements this principle.

Given the ambiguity of the term "scope of office or employment," the mixed incentives which the Attorney General will have in interpreting the term, and the absence of any guarantees by the Department on how this authority will be interpreted, one can have little confidence that option (a) will, in fact, limit the Attorney General's discretion in using the certification procedure. A clear legislative history repudiating the recent cases interpreting the term, might result in fewer certifications under option (a) than would be permitted under the existing provisions of S. 2117. However, such a heavy reliance on legislative history to implement the principle to which the Department has agreed, is to be avoided.

SCOPE OF AUTHORITY OR WITH A REASONABLE GOOD FAITH BELIEF IN THE LAWFULNESS OF HIS CONDUCT

Option (b) will permit the Attorney General to use the certification procedure to immunize Federal employees who would—in his opinion—prevail in a constitutional tort case. As will be seen in the discussion of option (c) below, the term "scope of authority" will include all actions which do not, in fact, constitute constitutional torts. By including "good faith" defenses, option (b) includes constitutional torts for which the employee has a valid and complete defense.

It makes sense to immunize Federal employees for acts for which they could not be held personally liable. There is no reason to subject them to the pain and inconvenience of suit, if plaintiffs in the end cannot recover. The Department agrees with this principle. The major question raised by the Department about option (b) is whether it is practical for the Attorney General under this standard to determine when to confer immunity on an employee.

The language proposed in option (b) is taken from the Supreme Court's recent holding in the Economou case. That case held that Federal employees could be held liable either where they exceeded the clear limits of their authority or where they exercise discretion without a reasonable good faith belief in the lawfulness of their conduct. There is no doubt that this standard accurately states the current standard of personal liability for Federal employees.

One problem with the implementation of this standard is the implication which may be drawn from the Attorney General's certification that an employee was acting in good faith. This certification may be viewed as inconsistent with or even preempting the use of the new disciplinary procedure to discipline that employee or even with any criminal prosecutions which may be brought against him. This apparent inconsistency can partially be allayed in report language which makes it clear that the Attorney General's certification has no relevance whatever to any subsequent disciplinary or criminal proceeding. Employees who have been given immunity from civil suits should not be able to raise that certification as a way to avoid accountability.

There is also an apparent irony in requiring the Attorney General to determine whether an employee was acting in good faith when the Department's amendment to S. 2117 described above provides that the United States may not raise a good faith defense once it is substituted as the sole defendant. This irony, however, is more apparent than real be-

cause the purpose of the certification process is to determine who should be liable and the purpose of waiving the good faith defense is to assure plaintiffs of a recovery. In addition, by waiving the good faith defense most plaintiffs will be enticed to sue the United States in the first place, thus, avoiding the need to use the certification process.

A more serious problem may arise for the Attorney General in conducting the factual investigation upon which the certification must be based. If there is a pending disciplinary proceeding or criminal investigation against the employee, it may not be possible for the Attorney General to question the employee. Any information the employee may divulge could be used against him in the Department's disciplinary proceeding or criminal investigation. This same conflict problem has arisen when the Attorney General has been asked to represent Federal employees sued in their individual capacity.

There are four ways around this impasse: First, presume that the employee was acting in good faith;" second, presume that the employee was not acting in "good faith;" third, delay making the certification until the disciplinary proceeding or criminal investigation is complete; and fourth, retain private counsel independent of the Department to interview the employee. In determining whether to represent a Federal employee the Department has employed both the first and the fourth of these methods. In using the certification proceeding, it would seem that if the Department is conducting a disciplinary or criminal investigation, there is less need to presume against the presence of "good faith." However, delay or use of private attorneys would be preferable to presuming the existence of "good faith."

Although there are some problems in implementing option (b), I believe that no Federal employee should be given immunity unless he has acted in good faith. It is clear to me that option (a) would permit and even require certification for employees who did not act in good faith. It will sometimes be difficult for the Attorney General to conduct the detailed factual investigation necessary in order to make this certification. But the decision to grant immunity to a Federal employee is a judgment with significant policy implications. No one would argue that a decision to grant immunity from criminal prosecution should be made without painstaking analysis. I believe no less should be expected for use of the certification procedure to immunize Federal employees accused of violating the constitutional rights of Americans.

REVIEWABILITY OF CERTIFICATION

The remaining issue about option (b) is the extent to which the certification of the Attorney General is itself subject to judicial review. This question arises in the context of any use of the certification procedure, even under the broad standard in S. 2117. But the question is particularly important with respect to the more limited certification standards described in options (a) and (b).

The Department is so sensitive to the reviewability issue that even with respect to the certification standard proposed by the Department in option (a), which is quite ambiguous, the Department has proposed an amendment which provides that the Attorney General's certification "shall be binding and conclusive"—in other words, unreviewable. The Department would probably be even more interested in this provision with regard to option (b) because a more detailed factual determination is required.

Under the existing provisions of the Tort Claims Act, the certification of the Attorney General has always been reviewable. The finality of the Attorney General's certification has been tested by Federal employees in actions for a writ of mandamus. See *Lemley* v. *Mitchell*, 304 F. Supp. 1271 (D.D.C. 1969) and *Seiden* v. *United States*, 537 F. 2d 667 (6th Cir. 1976). In both of these cases the employee was denied a writ and the Attorney General's decision not to issue a certification was upheld. In another case, however, the certification of the Attorney General was held not to be dispositive and the Federal employee's motion to be dismissed as a defendant was denied. *McGuire* v. *Ovenshire*, 358 F. Supp. 979 (E.D. Wis. 1973. See also *Adams* v. *Jackel*, 220 F. Supp. 764 (E.D. N.Y. 1963). In Lemley the Court pointed out that even if the Attorney General were required to issue a certificate, the court would not be bound by the certification. In *Thomason* v. *Sanchez*, 398 F. Supp. 500 (D.N.J. 1975), aff'd, 539 F. 2d 955 (3d Cir. 1976), *cert. denied*. 429 U.S. 1072 (1977) the Court noted that "there must be an independent determination by the court * * * as to whether Sanchez was acting within the scope of his employment, so as to preclude recovery from him individually." Finally, in *Proietti* v. *Levi*, 530 F. 2d 836 (9th Cir. 1976) the Court held that the Attorney General's certification can be reviewed under the Administrative Procedure Act.

There is no question that in enacting the Drivers Act in 1961—when the certification procedure first was used—Congress expected that there would be judicial review of the Attorney General's certification. In fact reviewability led to a Presidential veto of the initial version of the Drivers Act in 1959. At issue was whether the Attorney General could use the certification procedure to deprive State courts of jurisdiction over tort claim actions against Federal employees. The Senate bill had provided that the Attorney General could remove a case to Federal court and substitute the United States as the sole defendant only—"with the consent of the plaintiff * * *" (See Senate Report 87–736 at 18.) Obviously, this provision preserved a major loophole in the Government's effort to immunize Federal drivers. A compromise on the issue was reached whereby the Attorney General's certification was to be dispositive only until a hearing could be held on a "motion to remand held before a trial on the merits" to determine whether the employee was, in fact, "acting within the scope of his employment." (See 107 CONGRESSIONAL RECORD at 18499–18501 (September 7, 1961).) It is clear that review of the certification would also occur if a plaintiff initially had commenced his action in Federal court.

The reviewability of the Attorney General's certification is important in considering options (a) and (b) for three reasons. First, the Attorney General wants assurance that he will, in fact, be able to confer immunity on Federal employees when warranted. Second, the Department wants to avoid litigation, particularly on the issue of whether an employee was acting in good faith, because this issue is one which goes to the merits of a case. And third, aggrieved persons want to be able to challenge the Attorney General's certification when there is abuse.

The uncertainty on the extent to which the Attorney General's certification can or should be reviewed is obviously crucial to any reliance on the certification procedure to limit the Attorney General's authority. In part the Justice Department has withheld support for option (b) due to its uncertainty about whether report language is sufficient to resolve the reviewability issue.

It is clear to me, however, that the Department's proposal to bar any judicial review of the Attorney General's certification is an invitation to abuse. Detailed language in the committee reports defining both the certification standard and the degree to which the Attorney General's certification can be reviewed should resolve the uncertainty about judicial review and give adequate guidance to the courts.

The Subcommittee on Citizen and Shareholder Rights and Remedies, after considering the Department's objections, choose to adopt the certification standard in option (b) in reporting S. 3314 and rejected the Department's amendment precluding judicial review. The draft report circulated to the committee members contains an extensive discussion of the substantive requirements for a certification of "good faith" and provides that the courts should engage in limited review of a certification. I find this balance far preferable to the certification standard proposed by the Department in option (a).

SCOPE OF AUTHORITY

Option (c)—"scope of authority"—is much narrower than either options (a) or (b). In terms of employee liability, the Supreme Court has interpreted the term to mean that an employee cannot be held liable unless he knowingly or willfully violates constitutional limitations on his authority. Although such an employee may be held liable for such acts, the Supreme Court seems to be saying that such acts are outside the employee's scope of authority. The intent requirements describe the defense which an employee may raise when he has, in fact, acted outside the "scope of his authority." In using this term in the bill, therefore, the intent requirement would not be relevant in the certification process. Only if an employee has not in fact violated a person's constitutional rights could the Attorney General certify that the employee

was operating within the "scope of his authority."

Option (c) would have the effect of permitting continued personal liability, even for constitutional torts committed in good faith. I recognize that there is no sense in subjecting Federal employees to personal suit in cases where the employee will be able successfully to avoid liability by raising a good faith defense. On the other hand, it would not be necessary for courts to engage in an extensive factual review of the Attorney General's certification. The "scope of authority" standard is essentially a legal, not a factual standard. On balance I believe option (c) is too narrow, just as option (a) is too broad.

CURRENT EMPLOYEES WHO ARE NOT APPOINTEES OF THE PRESIDENT

Option (d)—to permit certification only for current Federal employees who are not appointees of the President—was considered because of a peculiarity of the Department's disciplinary proceedings amendment. The disciplinary amendment applies to current Federal employees who are not appointees of the President. Former Federal employees or current or former appointees of the President are for practical or constitutional reasons outside the jurisdiction of the disciplinary procedure. As discussed below, in lieu of discipline the amendment provides that a "report" be issued which determines whether the former employee or appointee of the President has committed a constitutional tort.

Even if one concludes that the disciplinary procedure is an adequate alternative to personal liability, one may question whether the issuance of a report is an adequate alternative. All an employee need do to avoid the disciplinary procedure, for example, is to resign. Presidential appointees—particularly former appointees of the President—are not likely to be damaged by an adverse report. By limiting the certification authority of the Attorney General to current employees who are not appointees of the President, this "gap" in the disciplinary amendment is filled.

One problem with this certification standard, however, is that it may give Federal employees who have committed constitutional torts an incentive to remain with the Government. It also will give an agency head reason to pause when he decides whether or not to fire an employee, knowing that to do so may subject the employee to suits. If an employee resigns in the midst of a disciplinary proceeding after the Attorney General has made his certification, there is a question of whether the certification should be rescinded.

The major drawback from the option (d) proposal is that it provides a major exception to the certification procedure. Whether or not the "gap" in the disciplinary procedure warrants this exemption in the immunity provision is a difficult question.

Many former employees have committed no constitutional torts or have acted in good faith. Presidential appointees are often sued and—do not often commit constitutional torts.

If option (d) could be combined with options (a), (b), or (c), there would be some overlap. For example, some former employees also may not have acted with a good faith belief. These employees already would be exempted from the certification procedure by options (a), (b), or (c). In fact in reporting S. 3314 the Subcommittee on Citizen Rights adopted option (d) in combination with option (b).

The Justice Department vigorously objected to the adoption of option (d) arguing that it left too many employees subject to personal liability.

My own view is that I would be willing to permit the Attorney General to use the certification procedure in section 2679(d) to immunize former employees if the employee "agrees to submit to the disciplinary procedures set forth in chapter 78 of title 5 with respect to current employees." This amendment should further provide that "if the former employee elects to subject himself to such disciplinary procedures, the discipline that may be imposed shall be limited to a public reprimand or a civil fine not to exceed one-twelfth of the former employees average annual Federal salary earned during the period in which the act or omission occurred for which the former employee is being disciplined." This is a reasonable provision which will eliminate the incentive to stay with the Government which the provision in option (d) and in S. 3314 gives an employee.

I do, however, support the subcommittee in exempting Presidential appointees from the certification procedure. As the Supreme Court has just reiterated in the Economou case, "the greater power of—an official of high rank—affords a greater potential for a regime of lawless conduct." I can see no policy justification why Presidential appointees, who cannot be made subject to the disciplinary amendment, should be given immunity.

With respect to Presidential appointees, adoption of the certification standard in option (b) is not sufficient. Under option (b) it would be politically very difficult—if not impossible—for the Attorney General ever to refuse to certify that another Presidential appointee has acted in good faith. It would be especially difficult for the Attorney General properly to conduct an investigation of whether the Presidential appointee did, in fact, act in good faith. The courts will be especially reluctant to tolerate challenges to the Attorney General's certification.

If a frivolous suit is filed against a Presidential appointee who has acted in good faith, I trust that the courts will dismiss the suit. I have no doubt that the Justice Department will, under its existing policy, provide legal representation to the Presidential appointee. I do not feel that recruitment of high level Presidential appointees will be hampered by the prospect of personal accountability.

Even if current Presidential appointees could not be made subject to the new disciplinary procedures in the same manner that I have proposed for former employees, I would still support the subcommittee bill. The same pressure which would lead to abuse in the certification process would mitigate against the Department exercising its prosecutorial discretion to bring actions to collect civil fines against Presidential appointees.

REQUIRE PLAINTIFF TO ELECT BETWEEN UNITED STATES AND EMPLOYEE AS DEFENDANT

Option (e)—requiring plaintiffs to elect between bringing suit against the United States or the employee—will have the practical effect of immunizing a substantial number of Federal employees. The Justice Department proposed this option which is included in the subcommittee bill.

Under S. 2117 as amended by the Department a plaintiff has substantial incentives to bring his action against the United States rather than the individual employee. To begin with employees rarely have the financial resources to pay a large judgment. In an action against an employee one will rarely recover any damages because a defendant employee can raise a good faith defense. In addition, it is difficult to assess damages and attorneys fees will not be awarded. In contrast, under S. 2117 as amended the United States can pay any judgment, waives any good faith defense, and will pay liquidated damages and attorney's fees.

If however, a plaintiff chooses to sue the employee, option (e) would give the Attorney General no authority—absent any authority to use a certification type procedure—to substitute the United States as the defendant in lieu of the employee. If one employee has violated the rights of a substantial number of individuals, at least some of the plaintiffs are likely to sue the employee. In these cases the Attorney General's problems in providing representation to the employee will continue. Employees will have no real protection against suits or judgments. This provision, therefore, should be adopted to the exclusion of a certification procedure only if one is cynical about the efficacy of the new disciplinary procedure.

The Subcommittee on Citizen Rights decided to adopt option (e) in combination with options (b) and (d). This combination will have the practical effect of immunizing Federal employees in cases where options (b) and (d) do not permit the Attorney General to use the certification procedure to protect such employees. Most plaintiffs who are victims of constitutional torts committed by employees acting in bad faith or by former employees or by Presidential appointees will in all probability still elect to bring suit against the United States.

REQUIRE PLAINTIFFS TO ALLEGE EGREGIOUS ACTS

Option (f) also bars use of the certification process by the Attorney General. Instead it permits plaintiffs to make an election to sue Federal employees who have engaged in egregious acts.

In practice, a plaintiff wishing to sue an employee could always allege such acts. The result of this option, therefore, is to provide no immunity for Federal employees. In addition, giving plaintiffs an incentive to allege egregious acts would lead to litigation on issues plain-

tiffs may not wish to prove. If plaintiff's allegations are not proved, defendant employees may claim that the plaintiffs should pay the defendant's attorneys fees. For this reason the Subcommittee on Citizen Rights rejected this option. I agree that this option is unworkable.

NO IMMUNITY

Option (g) would not permit the Attorney General to use the certification procedure or require plaintiffs to make an election. The result will be that in most cases a plaintiff would sue both the employee and the United States.

The result of this option will be that none of the Justice Department's private counsel problems will be solved. Indeed, this option will probably require the retention of private counsel in every tort case because the interests of the employee and the United States always will be at variance. Serious questions on the allocation of liability between the employee and the United States also will be raised when plaintiffs win judgments.

It seems that option (e)—requiring plaintiffs to elect defendants—would be far easier to administer than option (g). Then at least there will be no direct conflicts between the employee and the United States. Most cases would be brought against the United States and would not involve the employee. The subcommittee rejected option (g), and again I concur.

BALANCE IN S. 3314

The foregoing discussion of the certification procedure is necessary to explain why the subcommittee decided to modify the third and fifth Department amendments submitted on July 11, 1978, to accept the fourth amendment, and to reject the sixth amendment. The balance struck by the subcommittee is fundamental to my support for the bill. Without limiting the Attorney General's authority to use the certification procedure to immunize Federal employees, the net effect of this bill—notwithstanding the inclusion of an effective new disciplinary procedure—will be to abrogate the principle that Federal employees should be held accountable for their activities.

There is no reason why Federal employees who have acted in bad faith should be given immunity. An employee who acts in bad faith should expect both personal liability and discipline. No remedy or procedure which deters bad faith conduct should be neutralized or negated. To give immunity to an employee who acts in bad faith is to tolerate and condone such conduct. I, therefore, strongly support the subcommittee's decision to use the certification standard set forth in option (b).

With respect to former employees and Presidential appointees—option (d)—my position, as I have already stated is flexible. I would be willing, despite the subcommittee decision, to compromise on use of the certification procedure to immunize former employees. Presidential appointees, however, cannot be made subject to meaningful disciplinary action. The Attorney General cannot be expected to be able objectively to consider whether a fellow Presidential appointee has acted in good faith. I can see no option but to exempt Presidential appointees from the certification process.

The election of defendants requirement—option (e)—will mitigate the number of suits which will be filed against employees not protected by the certification procedure. Although it is vital to preserve the individual accountability of employees who act in bad faith or Presidential appointees, one must remember that most plaintiffs nonetheless will elect to sue the United States rather than the employee or Presidential appointee. I therefore, support this provision as adopted by the subcommittee.

DISCIPLINARY PROCEEDING AMENDMENT

At the same time that revisions in the tort claims provisions of the bill were being considered, extensive discussions took place over the provisions of an amendment proposed by the Justice Department to establish new disciplinary procedures for Federal employees. The basic rationale for this amendment is to make sure that Federal employees given immunity by the bill would still be held accountable. Even with the imitations on the certification procedure adopted by the subcommittee, most plaintiffs will elect not to bring suit against the employee. The new disciplinary proceeding applies only when the employee is not subject to personal liability, either by operation of the certification procedure or at the election of the plaintiff.

The initial draft of the Department's disciplinary procedure amendment was submitted on April 10, 1978. See hearing, part 1, at 49–51. A modified version of this amendment then was submitted by the Department on May 3. See hearings, part 2 at to . A final revision of the disciplinary procedures amendment was submitted as part of the July 11 bill I have just discussed.[1] See hearings, part 2, at to . Nearly all the provisions of the July 11 draft of this amendment are incorporated into S. 3314.

Despite the fact that there are important differences between these various versions of the disciplinary procedures amendment, there are certain features which all three have in common. Each permits a private person who has been a victim of a constitutional tort to petition an agency to commence a disciplinary proceeding against the responsible employee. The person may then participate in the disciplinary proceeding and, if dissatisfied with the agency action, appeal to the Civil Service Commission and to the courts. There are, however, numerous details distinguishing each approach—some of which are crucial. Extensive discussions took place between the Department and other interested parties after the April–May versions of the disciplinary amendment were made public. On July 11 the Department offered a substantially revised version of the amendment to the subcommittee.

It is useful to outline the differences between the April–May versions of the disciplinary procedures amendment and the final Department version of July 11.

Definition of "person" in section 7801 is broadened;

Definition of "appointee of the President" in section 7801 is included;

Definition of "disciplinary actions" in section 7801 is broadened;

Requirement in section 7802 that claimant win a Tort Claims Act prior to filing a request for a disciplinary action is modified.[2]

Agency permitted in section 7802 to invite claimant to participate in disciplinary proceeding;[3]

Under section 7803 request for disciplinary proceeding must be accompanied by a sworn statement of all facts known to claimant;

Under section 7803 request for disciplinary proceeding may be made even if identity of employee is unknown;

Under section 7803 agency may dismiss unsubstantiated complaints;

Objective standard included in section 7803 to determine when hearing must be held;

Authority of agency to permit claimant to examine and cross-examine witnesses in section 7803 is clarified;

In section 7803 agency required to issue statement of findings;

In section 7803 agency loses jurisdiction if it fails to take final action within 1 year;

Appeal period in section 7803 to run for 60 days;

Standard of court review in section 7803 is modified;

In disciplinary proceeding against a former employee or appointee of the President under section 7804 a hearing may be held;

Under section 7804 a former employee or appointee of the President may submit a rebuttal statement to accompany the report;

Under section 7805(e) body to review disciplining of intelligence officers must be designated by President within 60 days;

Section 7805 provides that such body may not be related to FBI, CIA, et cetera;

Section 7850 amended to include separation of function requirement;

Revolving door limitation added to section 7805;

Regulations issued under section 7805 made subject to Administrative Procedure Act;

Annual report requirement; and

Attorneys' fees to be awarded for judicial review.

All of these Department modifications of the April–May proposals improve the bill and all were adopted by the subcommittee in S. 3314. Of these 23 changes, the fourth and fifth, however, are by far the most important. They concern the question of who can petition an agency to commence a disciplinary proceeding.

In the April and May versions of the disciplinary amendment the only person who could petition an agency to initiate

[1] In the Hearings, Part 2, there is a side-by-side comparison of the April 10, May 3, and July 11 versions of the Disciplinary amendment. A side-by-side comparison of the July 11 draft and S. 3314, including the disciplinary amendment, is also included in the Hearings, Part 2.

[2] See Sections 7802(b) and 7803(e) of July 11 bill.

[3] See Sections 7802(c) and 7803(1.e.) of July 11 bill.

a disciplinary proceeding was a person who had filed and won a monetary award under the Tort Claims Act. The Department's concern in proposing this standard was to prevent the filing of frivolous petitions for disciplinary action. The principal problem with this standard, of course, is that tort claims suits sometimes take years to solve. The public interest is ill served because disciplinary action which may prevent further constitutional torts are delayed. This also harms Federal employees who have not committed any constitutional tort by postponing their vindication until after a tort claim suit is settled.

It is particularly ironic that this trigger standard was proposed by the Department because in many cases tort claims suits will be settled despite the existence of good faith on the part of the employee. Under the bill as modified by the Department this defense is waived. Therefore, the fact that a person has obtained a monetary recovery does not necessarily indicate that the employee should be disciplined.

The flexibility in the fourth and fifth Department proposals attempts to balance these considerations. Under these revisions a person may petition an agency to initiate a disciplinary proceeding in two circumstances: One, if he obtains a monetary recovery; and two, if he files suit under the Tort Claims Act and waits for 2 months. See sections 7802 (a) and (b) of July 11 draft. Because a tort claims act suit can only be filed after an agency has had up to 6 months to settle the claim administratively, this second trigger actually will require up to an 8-month wait before a person can petition for disciplinary action.

Under this second triggering standard, it is still possible that some frivolous requests for discipline will be filed. For this reason the Department proposal provides that the right of a person to appeal a disciplinary proceeding is held in abeyance until the person does obtain a monetary recovery. See section 7803(e) of July 11 draft.

Giving persons the right to petition for a disciplinary proceeding before they win a monetary recovery in a Tort Claims Act suit will serve to expedite such proceedings. But in some—hopefully in many—cases an agency will not want to wait for an outside person to make the request. If an agency does initiate a disciplinary proceeding, it should not be required to reopen that proceeding once an aggrieved person finally exercises his right to participate. For this reason the Department proposal in section 7802(c) authorizes each agency to invite aggrieved parties to participate even though they nave no right to participate. Each agency also is authorized to permit an administrative appeal and judicial review. If the aggrieved party does not accept these invitations, he loses any right later to participate or to appeal.

The subcommittee accepted the Department proposal on these points and each of the other provisions listed above.

SUBCOMMITTEE AMENDMENTS

This review of the various Department of Justice changes in the bill makes it clear that the Department has made a great effort to accommodate the critics of S. 2117 and of the April–May disciplinary proceeding amendment.

As I have already noted, some of the Department proposals—particularly with respect to the certification process—were modified or rejected by the subcommittee. I will now describe all of the subcommittee additions or changes to the bill.

In the Tort Claims Act provisions of the bill the subcommittee took the following actions:

First. In section 2674 further raise the maximum liquidated damages provision for continuing violations;

Second. In section 2679(b) further limit exclusivity provision;

Third. In section 2679(b) further broaden election of remedies provision;

Fourth. In section 2679(d) further limit certification provision;

Fifth. Conform exemption from section 2520, title 18 to change in section 2679; and

Sixth. Further limit retroactivity provision in section 12 of the bill.

The second, third, and fourth changes have already been discussed. They substitute options (b), (d), and (e) for the Department's option (a). The fifth item conforms the section 2520 change to the changes in the certification change.

The first and sixth change are minor. The Department proposed $15,000 as the maximum amount of liquidated damages for continuing violations. The subcommittee preferred $25,000.

The difference in the retroactivity provision is also minor. The Department proposed that persons with pending cases against Federal employees could retain any vested right to a jury trial—which normally is not permitted in Tort Claims Act cases. The subcommittee choose also to permit the recovery of punitive damages in pending cases. Both the Department and the subcommittee retroactivity provisions permit the United States to use the certification process to immunize Federal employees who acted in good faith.

In addition to these changes in the Tort Claims Act provisions of the bill, the subcommittee modified the disciplinary procedures amendment in the following ways:

First. Extend definition of "employee";

Second. Change standard for administrative review of disciplinary proceeding;

Third. Permit administrative and judicial review when settled suit was "alleged" to arise under Constitution; [4]

Fourth. Permit administrative and judicial review when agency or court has found that claim arises under Constitution: [4]

Fifth. Delete provision in section 7804 for injunction of report about a former employee or Presidential appointee;

Sixth. In section 7804 permit claimant to seek judicial review of report about a former employee or Presidential appointee;

Seventh. Delete provision in section 7805 for Attorney General review of regulations; and

Eighth. In section 7807 give claimant the same appeal rights as has an employee.

Each of these eight changes in the Department proposal is significant although I personally do not feel the second of these changes is necessary or desirable.

The first change makes it clear that the disciplinary procedures apply to Presidential assistants. It is my understanding that the Justice Department always intended that Presidential assistants be subject to discipline and that such assistants not be included with other appointees of the President who are confirmed by the Senate. The submittee provision clarifies this point.

The second provision has been the subject of extensive discussion and both the Department and the FBI are adamantly opposed to it. Both the Department and the FBI agree that the ruling in the disciplinary proceeding should be appealable to an agency independent of that where the employee is employed. However, they both argue that the power of that independent agency to reverse the ruling should be limited to determining whether the ruling is "reasonable." At the same time both the Department and the FBI agree that if the employing agency refuses to take action or if the record of the disciplinary proceeding is "inadequate," the reviewing agency should have the power either to remand the case to the employing agency for further proceeding or to "supplement the record by taking additional evidence."

In contrast the subcommittee bill authorizes the reviewing agency the power to "substitute its judgment as to the appropriate nature and degree of disciplinary action"—not just to determine if the action taken was "reasonable." The subcommittee adopted the Department provision regarding remand and supplementation of the record.

The difference between "substitute of judgment" and "reasonableness" has both legal and policy significance. The review standard adopted by the subcommittee would permit the review agency utterly to disregard the judgment of the employing agency—to decide the case as if no other body had ever considered the matter. The Department and FBI review standard would require the review agency to show some deference to the judgment of the employing agency.

This legal distinction has real policy significance. If the employing agency judgment carries no weight whatever with the review agency, there is little incentive for the employing agency to take tough positions in tough cases. If it does, the employees will seek to overturn these decisions on appeal. In both cases the responsibility of the employing agency to discipline its own employees is undercut.

On the other hand, the FBI, CIA, and other agencys have an infamous reputation for leniency with employees who violate the constitutional rights of American citizens. The appeal agency must have sufficient power to prevent coverups by employing agencies. In addition, when employees have an existing right to appeal a disciplinary action, they are entitled to a full-blown adjudicatory hear-

[4] Section 7803(e).

ing on appeal even if they already have had a hearing at the agency level. There seems to be no reason why outside parties should have lesser rights.

On balance I believe the Department and FBI standard is better than the subcommittee's "substitution of judgment" standard. Under that standard the review agency has sufficient power—particularly with the power to supplement the record—to prevent coverups. Agencies which take their disciplinary responsibility seriously should be given every incentive to continue to do so. In terms of employee's existing appeal rights, the eighth subcommittee provision takes care of this issue.

The third and fourth subcommittee provisions both increase the appeal rights of a person who has not as yet obtained a monetary judgment. As I described above, the Department/subcommittee compromise permits a person to petition an agency to initiate a disciplinary proceeding even though he has not as yet obtained a monetary recovery. Such person, however, is not given appeal rights until he does obtain a monetary recovery.

The third and fourth subcommittee provision clarifies the circumstances when the appeal rights of such a person vests. The third provision makes it clear that if there is a settlement in a Tort Claims Act suit, there is a presumption that the case in fact involved a constitutional tort—rather than a common tort—if the claim "alleged" a constitutional tort. Without this provision the Department might insist that a settlement provide that there is no admission that the tort was, in fact, a constitutional tort. The law on what constitutes a constitutional tort still is evolving and it may be important for the Department to insist that a settlement provide no precedent on this issue. In other cases the Department might want to avoid an appeal in a related disciplinary proceeding. The third subcommittee provision avoids any dispute on this issue by providing that the appeal rights vest if there is a monetary settlement in a case which alleges a constitutional tort.

The fourth provision provides that the appeal rights vest once it is held that the tort is, in fact, a constitutional tort, even though there has been no monetary settlement. Some cases will drag on over the issue of damages. If the Government has admitted or if a court has found that a constitutional tort has been committed, a person's rights to appeal a disciplinary proceeding should vest.

The fifth and sixth subcommittee provisions strengthen disciplinary proceedings for former employees and appointees of the President. The Department disciplinary proceedings amendment permitted a former employee or appointee to obtain an injunction against release of a report about them. This provision is made unnecessary with the addition of a provision—proposed by the Department in its July 11 draft, which permits a former employee or appointee to submit a rebuttal to the report, which must accompany the report whenever the report is made public. This provision, together with the right of the employee to seek judicial review of the report after it is made public, provides sufficient protection to the employee. To permit injunctions smacks of censorship. Also in an injunction proceeding no party other than the employee and the agency could participate.

The sixth subcommittee provision gives to aggrieved parties the same right to judicial review as the Department gave only to former employees and appointees. There is no reason why both should not have the same appeal rights.

The seventh subcommittee provision merely deletes the section of the Department's proposal which gave the Attorney General the authority to review the regulations issued by the review agencies. Inasmuch as some of these review agencies—most notably the Civil Service Commission—are independent agencies, the subcommittee felt it was inappropriate for the Attorney General to approve their regulations.

The eighth and last point has already been discussed.

REMAINING ISSUES

With these changes in the tort claims and disciplinary provisions of the Department's proposal, the subcommittee reported S. 3314. It is clear that most of the differences between the subcommittee and the Department were resolved in the discussions which led to the provisions of S. 3314. The principle remaining differences are the certification standard and the standard of review for administrative appeals. I have said that I am flexible on including former employees under the certification standard and on the standard for administrative review. An agreement on the remaining issues should be possible prior to introduction of a bill in the next Congress.

There remain, however, several amendments I would want to be adopted concerning the tort claims part of the bill. None of these has been raised before either by the Department or by the subcommittee.

These include the following:

First. Amend section 2674 by inserting at the end of the first paragraph a provision permitting the award of punitive damages "when it is established that an assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process was committed intentionally";

Second. Amend section 2674 by inserting before the proviso of the new third paragraph a provision permitting the award of punitive damages "when it is established that the employee whose violation is complained of did not act with a reasonable good faith belief in the lawfulness of his conduct";

Third. Amend section 2679(d) to require that the Attorney General "state the basis upon which any certification under this section is made"; and

Fourth. Amend section 2679(d) to prohibit the Attorney General from using the certification procedure to immunize a Federal employee who has "intentionally committed an assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process."

The first two of these four amendments concern the issue of punitive damages. Under the Department and subcommittee bills, no punitive damages can be awarded in a tort claims act case. I agree that in normal cases, no punitive damages should be awarded, but in egregious cases I believe they should. These two amendments permit punitive damages to be awarded but only for intentional common-law torts or for constitutional torts committed in bad faith.

The third proposal merely requires the Attorney General to state the basis for his certification that an employee was acting within the scope of his authority, et cetera. Probably the Attorney General would be under such a requirement in the absence of this provision. But the provision does clarify the obligation of the Attorney General carefully to exercise his certification authority.

The fourth proposal raises an issue of great significance. Under existing law the Attorney General can use the certification procedure only to immunize Federal drivers. Under the bill the Attorney General can use the certification procedure to immunize Federal employees for all types of torts, common law and constitutional. In some ways, the extension of the certification procedure to common-law torts committed by Federal employees other than drivers is just as significant as the extension to cover constitutional torts.

Some complexity arises from the fact that the certification standard for the subcommittee bill for common-law torts is much broader than for constitutional torts. For common-law torts the certification standard is "scope of office or employment", option (a) in the discussion of constitutional torts. This standard was rejected by the subcommittee as far too broad for constitutional torts. I feel it may also be too broad for some common-law torts.

It is sometimes hard to define whether a tort is a common law or a constitutional tort. For example, it is not clear whether the common law tort of assault can also be characterized as a constitutional torts of invasion of privacy or deprivation of due process. Even if certain common law torts also may be characterized as constitutional torts, it may be more difficult to establish the existence of the tort claim if it is characterized as a constitutional tort. For plaintiffs who wish to bring a tort suit for a common-law tort-like assault against the individual employee rather than against the United States, the difference in the certification standard presents a real dilemma. In addition, it makes no sense to me why employees should be given immunity from personal liability if they have intentionally committed a common law tort-like assault.

Under my fourth proposal I would prevent the Attorney General from using the certification procedure to immunize an employee who intentionally commits a common law tort of assault, battery, false imprisonment, false arrest, malicious prosecution, or abuse of process. All of the above discussion of the mechanics of the certification process would apply to certification for these common law torts.

With these four modifications of the subcommittee bill I can enthusiastically support its adoption in the next Congress.

UNCERTAINTIES

I have already described my mixed feelings about the inability of Congress to take action on this bill in this Congress. I hope that the Department of Justice has the wisdom next year not to begin consideration of the bill from scratch. Great progress has been made in revising the bill.

There are certain events—some of them external to the Congress—which may substantially alter the context in which this bill is considered in the next Congress. Some of these make passage of the bill less urgent; some make it more urgent; and others simply complicate the picture.

The most important factors will be consideration by the Judiciary and Intelligence Committees of charters for the FBI and CIA. There is no doubt that there is a need to provide clear guidelines to the FBI and the CIA. At present there is some demand for these guidelines from within these agencies because of the fear of FBI and CIA employees of civil suits. Such employees are demanding clear guidance in order to secure a defense against liability. If the tort claims bill is adopted prior to adoption of charters, some of the impetus for the charters will be lost. This result is likely even if the limited immunity provisions of S. 3314 are adopted. For this reason I believe that action on the bill be deferred until charters for both the FBI and CIA are enacted into law.

Second, there are a number of cases now in the courts which may substantially reduce the benefits which this bill provides to victims of constitutional torts. At present there is substantial uncertainty over which constitutional torts already are covered by the Tort Claims Act. The Justice Department has claimed that—

[F]or the first time, this bill will provide that the United States would make itself liable in damages for the conduct of its employees for acts or omissions in most common law torts and for all actions which violate certain constitutional rights of individual Americans. Hearings, part 1, at 7.

Notwithstanding this claim some courts in recent cases have ruled that the existing provisions of the Tort Claims Act already cover many constitutional torts to which the bill purportedly would "for the first time" extend coverage. See hearings, part 1, at 131–139.

The Department is strenuously objecting to the court rulings in these recent cases and appeals are now pending. It is not clear which constitutional torts eventually can be brought under the Tort Claims Act. It is likely that the courts will hold that constitutional torts which have comparable common law equivalents, such as privacy and trespass, will be covered. While the bill does clarify the applicability of the Tort Claims Act to all constitutional torts, these recent cases substantially reduce the benefits to victims provided by the bill.

If the Tort Claims Act is held already to extend to many constitutional torts, the principle purpose of the bill will be to provide immunity for Federal employees—not to compensate victims of constitutional torts. Considered as an immunity rather than a compensation bill, the need for the disciplinary procedures amendment is far clearer.

A third factor may mitigate in favor of expedited consideration of the bill. At present the Justice Department is paying for private counsel to represent Federal employees in civil suits. I am convinced that the Department has no statutory authority to retain such counsel. See "Justice Department Retention of Private Legal Counsel To Represent Federal Employees in Civil Lawsuits," staff report of the Subcommittee on Administrative Practice and Procedure. The GAO has ruled that the Department has such authority but I believe their ruling is patently wrong. At some point there may be litigation on this issue. If I am correct—notwithstanding the GAO ruling—that the Department has no authority, a major crisis will occur. There will be tremendous pressure on the Congress to adopt this bill to immunize the Federal employees. If this occurs, I hope Congress will have the wisdom to adopt a bill as carefully considered as in S. 3314.

CONCLUSION

There are few bills pending in Congress which raise issues as serious and controversial as these Tort Claims Act amendments. My initial inclination was to oppose this bill as unamendable. I am happy to say that the Department of Justice has shown commendable flexibility in proposing amendments to the bill. The Department has negotiated in good faith. Great improvements in the bill have been made by the Department and by the subcommittee.

If the Department and subcommittee continue to negotiate in good faith, I am confident that the remaining issues—the certification standard and standard for administrative review—can be settled. I must add, however, that any substantial weakening of the Tort Claims Act or disciplinary provisions of the bill would be absolutely disastrous. Only by preserving the delicate balance in S. 3314 will the public interest be served by passage of this bill.●

IN SUPPORT OF COMPREHENSIVE NUCLEAR TEST BAN

● Mr. KENNEDY. Mr. President, the negotiations for a comprehensive nuclear test ban (CTB) have resumed again in Geneva, and the prospects for success appear much brighter now than last August, when the nuclear weapons labs and their friends in Government launched a strong effort to bring these negotiations to a halt. I strongly support the President in his clear guidance to the executive branch to conclude a truly comprehensive test ban without further bureaucratic delays.

On September 28 the Washington Post published an editorial endorsing an effective CTB, which would help significantly to constrain both vertical and horizontal nuclear proliferation. It noted pressures to reduce the CTB period to 3 years and stressed that "a ban must be of respectable length; 5 years is minimal." It stated that "anxious would-be testers are trying to beat down the American negotiating position. That must not happen."

This editorial makes excellent sense, Mr. President. The American people strongly support President Carter's commitment to an effective CTB, and I am confident that the Senate will reflect this popular support when the CTB treaties are submitted at long last for ratification.

I ask that the text of the Washington Post editorial, and of an ad prepared by the Task Force for the Nuclear Test Ban which appeared in the Post on October 1, be printed in the RECORD.

The material follows:

THE LABS AND THE TEST BAN

When the definitive history of Soviet-American efforts to negotiate an end to nuclear testing comes to be written, it will be 1) very long and 2) replete with incidents of brass-knuckle bureaucratic warfare. The current episode involves a campaign to get Jimmy Carter to weaken the comprehensive test ban that he is negotiating with the Russians (and British) at Geneva. The campaign is led by the two nuclear-weapons labs—Los Alamos and Livermore—and their sympathizers in the Departments of Defense and Energy. They are moving, it seems, on two fronts.

First, the labs contend that a treaty should let the United States conduct occasional underground tests to check the quality of stockpiled warheads. But, a group of former top Los Alamos hands has told the president, the necessary stockpile assurances can be gained by measures other than nuclear testing—by non-nuclear testing inspection and remanufacture of suspect units. Our own view is that whatever marginal confidence, if any, might come from testing does not seem worth the costs in strategic and political instability. President Carter, we understand, feels that way, too.

The labs further argue that, if a comprehensive test ban is completed, it should run for only three years, with the presumption that testing should then be renewed. Mr. Carter is apparently under pressure to throw the testing lobby that bone. We hope he resists. A short ban would undercut his no-test pledge. A short ban accompanied by an expectation of resumed testing would mock everything he has ever said about the nuclear menace. With China, for one, still not recruited to the Geneva talks, it makes some sense not to write an indefinite ban. But a ban must be of respectable length. Five years is minimal.

A comphehensive test ban seems at once so familiar, for having been discussed for two decades, and so modest, when set against the strategic arms limitation talks, that people's attention wanders. It may help to underline a few basic things. To continue testing warheads underground is at this point merely to drive the arms race mindlessly on. A test ban would freeze what almost everyone regards as the current American advantage in warhead technology. A ban would strengthen the two powers' hand in inducing other countries not to start or expand nuclear arsenals. The treaty under negotiation embodies long-sought Soviet decisions to permit on-site inspections and to forego "peaceful" explosions.

For political reasons, a test ban may have to stand in line behind a SALT treaty, but, meanwhile, anxious would-be testers are trying to beat down the American negotiating position. It must not happen.

BAN NUCLEAR WEAPONS TESTS NOW!

The East-West negotiations on a nuclear test ban reconvened once more on September 28. If President Carter's efforts to halt the proliferation of nuclear weapons are to succeed, he must move ahead unhesitatingly to fulfill the commitments made both before and after his election to conclude a comprehensive test ban (CTB) with the USSR. In the 1968 Nuclear Non-Proliferation Treaty, which is still in effect, those countries which did not have nuclear weapons agreed to refrain from developing this capability if the nuclear powers continued to work towards nuclear disarmament—and the cessation of weapons tests.

We have not yet fulfilled this pledge.

Our delay could be critical. It is estimated that over 40 nations that did not sign the treaty could go nuclear over the next 12 years.

How long will the non-nuclear Nations wait?

The United States has supported a total prohibition of nuclear tests for two decades. President Eisenhower initiated these negotiations in 1958. President Kennedy was able to conclude a Partial Test Ban Treaty in 1963, which pledged signers "to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end."

The CTB remains an outstanding national commitment advocated by a majority of Americans, 74% of whom confirmed their support for a total test ban, according to a Harris Poll taken in May.

At the recent United Nations Special Session on Disarmament, there was a general expectation among the 149 member states attending that a completed treaty would be presented by the United States, the Soviet Union and Great Britain.

They were disappointed.

Progress was reported in the talks, some of it made possible by a Soviet concession accepting on-site inspection. But within the United States, opponents of the comprehensive test ban representing the nuclear weapons lobby, argued that small tests are required to maintain the reliability of our stockpiles. Since they cannot be detected, these four critics asserted at a Congressional hearing, they should be exempted from the treaty.

The President has wisely refused to exclude small tests and insists on a "zero" test ban, basing his position on the conclusions of most experts that it is now technically possible to detect small blasts, and that it has been amply demonstrated that stockpile maintenance does not require nuclear testing.

At the same time, to pacify the critics, the Administration is negotiating not only the exchange of authenticated seismic data from stations in the United States and the Soviet Union, but provision for on-site inspections as well. These additional negotiations could unnecessarily prolong the talks.

Our supply of nuclear weapons as well as our position in nuclear technology (we have conducted more than 626 tests to their more than 371) contradicts the argument that the CTB concluded now, would put the United States at a military disadvantage. A treaty would constitute a major step away from the race in nuclear weapons development between the nuclear superpowers; it would contribute to the effort against nuclear proliferation; and it would remind the world community that the United States continues to adhere to its international commitments.

There is still pressure from opponents of the CTB to delay it further. For the safety of future generations, we urge all Americans to join us in calling on the President for an early agreement on the comprehensive test ban treaty.

We cannot wait another 20 years.

We may not have another 20 years to wait.

SIGNATORIES

Bella S. Abzug, Joel I. Brooke, President, The Fund for Peace.

William J. Butler, Esq., Executive Committee, International Commission of Jurists, Geneva, Switzerland.

Kay Camp, President, Women's International League for Peace and Freedom.

The Hon. Benjamin V. Cohen, Formerly U.S. Ambassador, UN Disarmament Commission.

Norman Cousins, Chairman of the Board, Saturday Review.

Oscar de Lima, Governor, UNA/USA President, Roger Smith Hotels Corporation.

Dr. Bernard T. Feld, Professor of Physics, Massachusetts Institute of Technology, Editor, Bulletin of the Atomic Scientists.

Joseph H. Filner, President, Noblemet International, New York, N.Y.

The Hon. Seymour M. Finger, Director, Ralph Bunche Institute, City University of New York.

Dr. Alan Geyer, Director, Center for Theology and Public Policy, Washington, D.C.

Dr. G. B. Kistiakowsky, Professor Emeritus, Harvard University, Formerly Science Advisor to President Eisenhower.

Antonio Mazzocchi, Legislative Director Oil, Chemical and Atomic Workers Union, AFL–CIO.

Hon. Patsy T. Mink, President, Americans for Democratic Action,

Miles Pennybacker, Retired manufacturer, Westport, Connecticut.

Rabbi David Saperstein, Commission on Social Action of Reformed Judaism.

Dr. Herbert Scoville, Jr., Vice-President, The Arms Control Association.

C. Maxwell Stanley, Chairman, Stanley Consultants, Inc.

Gloria Steinem.

The Hon. James J. Wadsworth, Formerly Permanent U.S. Representative, U.S. Mission to the UN.

Dr. Herman Will, Associate General Secretary, United Methodist Board of Church and Society.

The Hon. Charles Yost, Aspen Institute, Formerly U.S. Ambassador to the UN.●

MEDICAL PERSONNEL WEEK

● Mr. BAKER. Mr. President, I ask to have printed in the RECORD a statement and an attachment by the Senator from Texas (Mr. TOWER).

The material follows:

STATEMENT BY SENATOR TOWER

Mr. President, the lifesaving expertise of our nation's paramedics has had the profound impact of saving countless American lives. The vital role these professionals exhibit and the services they provide in both our rural and urban areas have greatly enhanced the effectiveness and responsiveness of this country's health care delivery system.

I am proud that the Governor of the State of Texas, in recognizing the value of the paramedical professional, has designated the week of November 1, 1978 as American Association of Medical Personnel Week. I urge my colleagues to join with me in giving these medical professionals this well deserved praise and gratitude of an appreciative nation.

I ask that the following declaration by Governor Brisco be printed in the RECORD.

DECLARATION

The American Association of Medical Personnel provides a Registry for accredited institutions engaged in training medical, dental and veterinary laboratory technicians and assistants.

The American Association of Medical Personnel is an international registry for paramedic professions with a continuing education program that is approved by the National Task Force, under the joint sponsorship of the National University Extension Association, the American Association of Collegiate Registrars and Admissions Officers, U.S. Civil Service Commission, the U.S. Office of Education and others.

The scientific seminar for 1978 will be held in conjunction with the National Convention of the American Association of Medical Personnel, in Dallas, Texas, on November 1–7.

THEREFORE, I, as Governor of Texas, do hereby designate the week commencing November 1, 1978, as American Association of Medical Personnel Week in Texas.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN COUNTRY

● Mr. STEVENSON. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsorsd by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 43 which would permit David Rossiter, legislative assistant to Senator EDWARD W. BROOKE, to participate in a program sponsored by a foreign educational organization, the Van Leer Foundation of Jersualem, Israel, November 13–23, 1978.

It has been determined that participation by the above named individual in the program in Israel, at the expense of the foundation to discuss issues in the education field is in the interest of the Senate and the United States.●

SUSPENSION OF ASSISTANCE TO NICARAGUA

● Mr. KENNEDY. Mr. President, when I addressed the Inter-American Press Association last Thursday in Miami, I called for an end to all but humanitarian assistance to Nicaragua, to make clear that the United States holds a brief not for President Somoza, but for the peaceful and democratic future of the Nicaraguan people.

I strongly welcome the fact that yesterday 86 Members of the House of Representatives, including 16 members of the House International Relations Committee, joined Representative DONALD FRASER and Representative TOM HARKIN in calling for an end to all assistance until the conflict in Nicaragua can be resolved. Continued assistance, they said, "would only send a misleading message of support to a regime that becomes increasingly illegitimate in the eyes of the Nicaraguan people."

Mr. President, I commend this forthright action by my good friends in the House. It supports the vote of the U.S.

Senate last month to end all but humanitarian assistance to the Somoza regime. It follows up on the calls which the senior Senator from Idaho (Mr. CHURCH), I and many other Senators have made for immediate action by the administration. It is now up to the admiinstration to respond to this clear message from the Congress, that the United States must support the Nicaraguan people in its struggle for a peaceful and democratic future for its strife-torn country.

Mr. President, I ask that the text of the letter signed by the 86 Members of Congress, addressed to Secretary of State Vance, be printed in the RECORD.

The letter follows:

OCTOBER 13, 1978.

DEAR MR. SECRETARY: We have been watching with great concern the events in Nicaragua over the past several weeks. The extent of opposition to the Somoza regime has become increasingly clear. A general strike which had the unanimous consent of the Nicaraguan Chambers of Commerce and Industry lasted five weeks. Repudiation of the Somoza government at all levels could not be more deeply felt or actively displayed.

The Nicaraguan crisis presents another key test for the administration's innovative Latin American policy based on mutual respect and understanding. We applaud Deputy Secretary Warren Christopher's statement before the Organization of American States last month, committing the United States to efforts that would permit the "Nicaraguan people themselves to engage in a peaceful and democratic process that would result in an end to their suffering . . ."

At the same time, however, we cannot be oblivious to the carnage the Nicaraguan Government is unleashing on its people by its excessive military force. We therefore strongly recommend that the administration suspend all aid to the Nicaraguan Government until the armed conflict is resolved and the Nicaraguan people are permitted to work through peaceful means to establish representative government. Providing assistance to the Somoza government during this time of civil strife would be ineffective and would only send a misleading message of support to a regime that becomes increasingly illegitimate in the eyes of the Nicaraguan people.

Your attention to these important matters is most appreciated.

Sincerely,

Donald M. Fraser, Tom Harkin, Millicent Fenwick, Berkeley Bedell, Anthony C. Beilenson, Jonathan B. Bingham, Michael T. Blouin, David E. Bonior, Don Bonker, John Brademas, William M. Brodhead, John Buchanan, Yvonne B. Burke, John L. Burton, Phillip Burton, Bob Carr, Shirley Chisholm, Cardiss Collins, James C. Corman, Baltasar Corrada, Ronald V. Dellums, Charles C. Diggs, Jr., Christopher J. Dodd, Thomas J. Downey, Robert F. Drinan, Robert W. Edgar, Don Edwards, Walter E. Fauntroy, Edwin B. Forsythe, Robert Garcia, Dan Glickman, Bill Green, Michael J. Harrington, Herbert E. Harris, II, Augustus Hawkins, Elizabeth Holtzman, James Johnson, Robert W. Kastenmeier, Dale Kildee, John Krebs, Jim Leach, Stanley N. Lundine, Paul N. McCloskey, Jr., Matthew McHugh, Stewart B. McKinney, Andrew Maguire, Edward J. Markey, Helen S. Meyner, Barbara Mikulski, Abner J. Mikva, George Miller, Norman Y. Mineta, Parren J. Mitchell, Anthony Toby Moffett, William S. Moorhead, Richard Nolan, Mary Rose Oakar, Richard L. Ottinger, Leon E. Panetta, Edward W. Pattison, Donald J. Pease, Tom Railsback, Charles B. Rangel, Henry S. Reuss, Frederick W. Richmond, Peter W. Rodino, Jr., Benjamin S. Rosenthal, Edward R. Roybal, Leo J. Ryan, Fernand St Germain, James H. Scheuer, Patricia Schroeder, John F. Seiberling, Stephen J. Solarz, Fortney H. Stark, Newton I. Steers, Jr., Louis Stokes, Gerry E. Studds, Paul E. Tsongas, Charles A. Vanik, Bruce F. Vento, Harold L. Volkmer, Henry A. Waxman, Theodore S. Weiss, Charles W. Whalen, Jr., Lester L. Wolff.●

THE END OF THE DOLLAR ERA

● Mr. JAVITS. Mr. President, I would like to bring to the attention of my colleagues an editorial that appeared in the October issue of Euromoney called "The End of the Dollar Era." The editors of Euromoney, a highly respected journal of international money management, describe the dramatic changes that have affected the international monetary system. The dollar is no longer the unquestioned pillar of the international system although 80 percent of the world's monetary reserves are still in dollars.

The editors cite numerous indications that a fundamental movement away from the dollar has already begun: serious reservations by central bankers about keeping their reserves in dollars; the increasing recourse to pegging currencies to a weighted basket of our currencies; a direct movement away from the dollar by OPEC central banks and other investment institutions; and, the popularity of the deutsche mark among central bankers.

The editors do not have any suggestions to deal with the present situation, that they believe "may be the eye of the hurricane." They only state the facts: the world needs a currency to grease the wheels of international trade; and with the dollar going the way of gold and sterling, the only alternative is an international monetary system based on the deutsche mark, yen, or Swiss franc.

This article forces us to confront what bankers and money market dealers are seeing every day. We must start thinking about the consequences of no longer being No. 1 in the international monetary arena and begin to prepare, through intensive international discussions with the other industrialized countries, for a transition to a broader-based international monetary system which if it comes should be agreed upon and orderly.

Mr. President, I commend the Euromoney article to my colleagues and ask that it be inserted in the RECORD.

The article follows:

THE END OF THE DOLLAR ERA

This may be the eye of the hurricane, the period of tranquility before a series of economic events as profound and as significant as the events in August 1971 when President Nixon bowed to the inevitable and ended the era of fixed exchange rates. In doing so, he committed the first act to loosen the dollar's importance in the world's system of payments and exchange. Now the next act, the march away from the dollar by those most conservative of money managers, the world's central bankers, may be about to take place, if it has not already begun. This is the issue that must most occupy the finance ministers and central bankers at this IMF annual meeting, because it is the issue to which world economic confidence is most vulnerable.

Let us marshal the facts. The world needs a currency to grease the wheels of international trade. It used to be gold. Then it was sterling. Now it is the dollar. Corporations that trade with corporations or governments in other countries generally receive their revenues in dollars, but they do not keep them in dollars if they are not domiciled in the US; they convert them back into local currencies by exchanging them at their banks who, in turn, exchange them back for local currencies from their central banks. If the country of that particular central bank is running a surplus on its external payments, then its dollar reserves will increase accordingly. These are the rules of the simple economic textbook.

Corporations that trade across their own borders decide exchange rates by their expectations, both in the spot and the forward markets. So do banks and investment institutions, but less so. It is the cumulative effects of hedging operations by corporations that, in aggregate, do not trust the exchange rate for a particular currency, that force that currency into decline. It is rarely, if ever, that a central bank joins in, in spite of the fact that its receivables in that particular currency may be increasing more rapidly than those in others, and in spite of the fact that its reserves may by now be largely composed of that one currency. Hence the fact that central bankers when compared with, say, the treasurers of international corporations, are viewed as a most conservative body of men.

But central bankers do not necessarily hold the same views for ever. In the past they have sometimes changed their minds, or allowed their minds to be changed for them. On gold, for example; at one time countries held much of their reserves in that precious metal. Some hold much of it even now; lucky them. On sterling, for example; at one time countries held much of their reserves in pounds, and at that time it was even held that they always would, in much the same way as the conventional wisdom in official circles today, has it that central banks will always keep their reserves in dollars. Not that they like dollars; it's just that there is not an alternative. Gold has been phased out. So has sterling. Germany and Japan will not allow their currencies, obvious candidates to share the dollar's role, to be used as such because they know how vulnerable they would become to the expectations of international corporations as a result. Central banks, therefore, do not have a choice. While the United States runs a deficit that shows little sign of narrowing, central banks in surplus countries must accumulate dollars in spite of the fact that they are embarrassed by the amount that they hold already.

There is one problem with that argument: central bankers do not believe in it any more. They no longer accept that the dollar must remain the only reference currency, they do not accept that the dollar proportion of their reserves should much exceed 80%, and they are beginning to realize that if they do not soon begin to diversify either their existing reserves, or additions to their reserves, then the most liquid evidence of their countries' wealth is going to be locked into an asset that is depreciating as rapidly as US imports of oil are increasing.

At this moment, the evidence of this is leaking out through all sorts of signals. One is the increasing recourse to pegging currencies to a weighted basket of other currencies, instead of pegging it to the dollar. In hard terms, what does that mean? Not much, if the central bank concerned continues to use the dollar to intervene against that basket of currencies in order to maintain the

stability of its own currency. But in a lot of cases, that doesn't happen; instead, the central bank commonly stocks up on the currencies in that basket to enable it to intervene directly. Result: diversification by that central bank away from the dollar. Another signal: a direct switch away from the dollar by OPEC central banks and investment institutions, identifiable from official figures. Another: an increasing number of central banks in the richer LDCs are hiring professional reserve asset managers to advise them. The latter tend to take the traditional investment portfolio approach of diversifying risk as much as possible. Yet another: the popularity, in spite of all the Bundesbank can do, of the Deutschemark among central bankers; it's now the second reserve currency, pushing the poor old pound into third place.

These may be just the beginning; for instance, we haven't even mentioned the herd instinct. If one central bank sees its counterparts ditching the dollar it will not want to be odd man out. The fact that central banks tend to march in step (into gold, out of gold, into sterling, out of sterling, into the dollar, er . . .) favoured the dollar greatly at one time. It may scupper it now.

Where will they march? Simple: into Deutschemarks and yen, even into Swiss francs, even, perhaps, into French francs. But what if those currencies aren't available? The answer is that they will become available; history proves that. Countries that dominate international trade and run up consistent surpluses must, sooner or later, make their currencies available for others to hold. That is why moves to liberalize the yen are only the beginning of many. The same goes for the Deutschemark. What does that mean for the dollar? It could mean that it's in long-term decline, and is going in much the same way that sterling went. It might also bring the world's monetary system closer to reality than it is now.●

HATCH ACT REFORMS

● Mr. KENNEDY. Mr. President, as this Congress comes to a close it is clear that we will not be able to act on the Hatch Act reforms contained in H.R. 10. That bill was enacted by the House of Representatives last year by a strong vote, 244 to 164. But it has not progressed in the Senate.

Mr. President, the people who work for the Government need to be taken out of their bondage. They need and deserve the same political rights which are given to all other Americans and which are fundamental to a democratic society. That is what H.R. 10 does and that is why it must be a priority when we reconvene in January.

The amendments to the Hatch Act which are in this bill will not turn the civil service into a seething political jungle. The careful protections already in the law to prevent this will remain.

What the Hatch Act reforms will do is allow Government workers, on their own time, to exercise their opinions in the same way that all other Americans can.

H.R. 10 would allow Government workers to campaign for political office if they take a leave from their jobs, and would allow workers to help in the campaigns of others, so long as it did not interfere with their duties. Workers in especially sensitive positions, such as foreign intelligence, law enforcement and auditing would be exempt from the changes. And all workers would continue to be protected from coercion and intimidation by supervisors.

Mr. President, the changes proposed in H.R. 10 are fair ones. They expand the freedom of our people without hurting the effectiveness of our civil service. It is time for action on the Hatch Act reform. I hope to see a bill like H.R. 10 back before us early next Congress.●

TRIBUTE TO SENATOR KANEASTER HODGES

● Mr. THURMOND. Mr. President, at the end of this Congress, Senator HODGES of Arkansas will be returning to private law practice in his home State. I would like to take this opportunity while he is still with us to commend him for the good work which he has done during his brief tenure as a U.S. Senator.

KANEASTER HODGES was appointed to the Senate on December 10 of last year to represent the State of Arkansas at a time when that State and the Nation had lost a most distinguished leader, Senator John L. McClellan. Senator McClellan's shoes were not easy ones to fill, but Senator HODGES courageously accepted the responsibility involved. Since last December, KANEASTER HODGES has earned the respect of his constituents and of his colleagues here in the Senate. He has now become, in his own right, a very popular public figure in Arkansas.

Senator HODGES has gained my respect by fully and effectively representing the interests of the people of Arkansas. He has worked very hard to fulfill his responsibilities to the people of his State, even though he knew that he was only to spend a short time in Washington. He has presided over the Senate in excess of 100 hours. As a member of the Environment and Public Works Committee, he demonstrated his concern for environmental issues by managing a bill to utilize duck stamp revenues to purchase wetlands.

Perhaps Senator HODGES' greatest contribution to the work of the Senate has been the very active interest he has taken in agricultural issues. As a farmer, he has firsthand knowledge of the problems which farmers today are encountering. He is the author of S. 2626, a bill still pending in the Committee on Agriculture, Nutrition, and Forestry. The purpose of this legislation is to give farmers some income security by attempting to insure them a price which at least would cover their cost of production. S. 2626 is also directed toward getting farmers out of a boom-and-just economic cycle and toward giving them a voice in deciding the agricultural policies of the Nation.

Mr. President, I have enjoyed serving with the distinguished Senator from Arkansas and thank him for his work here in the Senate. I sincerely hope that he has learned from and enjoyed his experiences as a U.S. Senator. I wish him and his lovely wife good health and the very best of luck as they return to their beautiful State of Arkansas.●

AN INDUSTRY VIEWS INFLATION

Mr. THURMOND. Mr. President, in these closing hours of the 95th Congress, we should remind ourselves once again that inflation in our economy is our No. 1 problem. We must continue to seek and implement ways to slow it down.

I expect that each of you, as I did, received today a copy of a letter, dated October 9, 1978, from Mr. Dunbar Abston, Jr., chairman, Automotive Warehouse Distribution Association, Inc., to the President of the United States. I hope you have read Mr. Abston's letter, but, if you have not, I urge you to do so.

Like so many of our American citizens today, Mr. Abston expresses his strong concern about inflation and its awful consequences. But, Mr. President, the reason that I call this particular letter to the attention of my colleagues is to encourage them to read the excellent comments presented in Mr. Abston's letter. His discussion about Government programs and policies includes suggestions about budget and deficit spending, taxation, regulations, the trade deficit, technology, and social welfare.

These subjects and these problems are not new to us. But certainly we should be encouraged that individuals all across this Nation are acutely aware of the serious long-run implications of inflation. We must respond to their concerns in a positive and aggressive manner.

Mr. President, in order to share this letter readily with my colleagues, I ask that it be printed in the RECORD.

The letter follows:

OCTOBER 9, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

Mr. PRESIDENT: This letter is written to you on behalf of the Automotive Warehouse Distributors Association (AWDA), which is based in Kansas City, Missouri. AWDA is an automotive aftermarket trade association composed of over 600 warehouse distributing locations and more than 225 affiliate manufacturer suppliers. These companies supply in excess of 30,000 automative parts wholesalers throughout the country who in turn provide supplies to more than 300,000 automotive retail service outlets.

AWDA members are keenly concerned with the present inflationary state of our economy. In the course of operating our businesses, and monitoring government legislation and regulation affecting us, AWDA members have acquired expertise in the causes of inflation and what must be done to slow it down. Because of your concern with this problem, AWDA would like to present to you its views on inflation.

First and foremost, there has been an institutionalization of inflation which is reflected by government legislation, programs and policies. This government sanctions of inflation may be illustrated by reference to the indexing of social security benefits and veterans' pensions, cost of living allowances built into union contracts, and the progressive increase in the minimum wage structure. A moratorium must be declared on these and similar programs which contain built-in inflationary elements. Specific steps must be taken.

To illustrate, at least a two-year delay should be adopted on implementation of the minimum wage increase scheduled for January 1, 1979. Also, the scheduled January 1, 1979, increase in social security taxes should be deferred for further study of the entire social security tax bill. These are estimated to reduce the inflation rate by ½% each. The official government assumption that inflation will continue unabated, as manifested in such programs as the progressive minimum wage, has the tendency to ensure that

it will—like self-fulfilling prophecy. This attudinal consideration must be addressed.

On a somewhat more concrete plane, a most important task involves the systematic cutting of the federal deficit. Plans should be made to decrease the budget deficit to less than $40 billion for fiscal year 1980, to less than $20 billion in 1981, to achieve a balanced budget in 1982 and thereafter, except possibly in emergency years.

A balanced budget must be coupled with a high rate of employment. But increased employment must in turn be coupled with increased productivity. U.S. rates of productivity have plummeted from 3½% a year a few years ago to 1 to 1½% in recent years. In the past year, a 4.5% increase in employment translated into only a 3.7% increase in the production of goods and services. It is true that productivity involves worker skills and attitudes. But it also requires encouragement of private sector investment in research, development and capital improvements.

Government encouragement of research and development requires that changes be made in the areas of federal tax and regulatory policies, and public subsidies for the private sector:

Tax reduction and incentives for research should be adopted in order to achieve the dual goal of reducing government expenditures and placing spending decisions with the people. A shift of resources to the private sector will stimulate our private enterprise economy. Outmoded taxing and depreciation policies result in a progressive erosion of the capital base of the economic system, and consequently have discouraged the long-term capital investment that leads to improved productivity.

Increasing federal regulation burdens private business and fuels the inflationary trend. The cost of complying with often contradictory regulations includes not only the cost to those regulated, but the cost of maintaining the regulatory bureaucracy, which steadily spins out new regulations. There must be balancing tests instituted for even such noble regulatory goals as reducing pollution, to determine if the intended results outweigh inflationary and/or unfavorable sociological impact. Indeed, more efficient means than traditional regulation exist for achieving a cleaner environment. Through a system of market incentives, by putting a cost on pollution, industry would have incentives to develop more efficient ways to reduce pollution.

Public subsidies of several private industries have functioned to decrease their already declining competitiveness. Subsidies of railroads, for example, have rewarded and reinforced their inefficiency. The inevitable result of spiraling inefficiency and declining competitiveness is nationalization of many capital intensive industries.

The federal government spends $1 million every 68 seconds. Federal government expenditures represent 22 percent of the Gross National Product, which is higher than ever before. This percentage should be reduced over a five-year period to no more than 20 percent of the GNP. It can be achieved. The National Commission on Federal Paperwork has identified areas where government waste may be greatly reduced. The General Services Administration has uncovered rampant overpayment for government services HEW Secretary Califano and his Inspector General have identified waste and fraud exceeding 5 percent of many programs. In addition to controlling and cutting back the costs of existing government bureaucracy, creation of new bureaucracy such as the Consumer Cooperative Bank should be repudiated.

A comprehensive national energy policy would cut inflation in 1979 by 1 percent. Although the oil crisis is now five years old, the country still lacks a coherent energy plan. Adoption of such a policy would demonstrate to the rest of the world that the United States is serious about reducing its trade deficit.

In the early part of the 1960's, the United States imported $1.6 billion of oil and $6 billion of manufactured goods. This was more than offset by its exports of $2.7 billion of food and $10.8 billion of manufactured goods. By 1976, however, we imported $32 billion in oil and $60 billion in manufactured goods; but our exports were only $15.7 billion in food, and $67 billion in manufactured goods. Our strong foreign balance of trade surplus became a strong deficit. The trend shows signs of worsening in the next decade unless affirmative steps are taken. The U.S. trade deficit would be reduced by an aggressive export program with a goal of increasing our exports from 7 percent of GNP to 10 percent. In achieving this export goal, federal regulatory and tax policies again come into play, in their adverse affect on export performance. Adherence to goals to improve our export program would also accomplish much toward stabilization of the dollar as compared to other currencies.

There has been a shift of federal funds from support of high-technology invention to the support of recipients of social welfare. A diversion of 10 percent of the federal budget away from outright grants to the unproductive poor toward technological innovation, such as energy technology, could result within a few years in the creation of several times as many jobs, which would produce far greater social and economic benefits than outright grants to the unproductive.

Every society should have among its objectives the amelioration of social injustices and the improvement of living standards, but the execution of these ends must be based on attainable, affordable, feasible means. The ever-increasing cost of "entitlements," such as spiraling welfare, guaranteed income, and unmanageable health insurance, demands that a reassessment of our national priorities takes place. To stem inflation, there must be a shift in government activities from imposing burdens on the privatae sector toward a reinforcement of the market system which makes such social programs possible.

AWDA believes that obedience to the principles discussed here will result in a downturn in inflation and expresses its appreciation for your attention to its views.

For the Pursuit of Excellence,

DUNBAR ABSTON, Jr.,
Chairman, AWDA Board of Governors.

PAUL GOMA VISIT

● Mr. DOLE. Mr. President, this week we had the honor of a visit from Mr. Paul Goma, an exiled Romanian writer, who is the most prominent figure in the Romanian dissident community today. Mr. Goma shared his experiences and views with the Commission on Security and Cooperation in Europe on Thursday. His efforts are bringing to light a situation which has not received nearly enough attention by the Western press and political community.

Romania is a signatory of the Final Act of the Helsinki Conference on Security and Cooperation in Europe. This includes the principles of "Basket 3," principles guaranteeing basic human rights. For the Romanians, the principles of freedom of movement and family reunification are particularly important. Mr. Goma makes a sobering testimony on Romanian adherence to these principles. He states that—

Human rights in Romania are not being violated—they do not exist. The right of the government is the only one that exists—the right to do what it pleases.

Yet little is heard on the behalf of the Romanian people in the United States.

A DETERMINED INDIVIDUAL

Paul Goma is the most notable and principled Romanian dissident to emerge in recent years. His articulate and vocal criticism of Romanian leader Nicolai Ceausescu and his policies has been an inspiration to his colleagues and to observers here in the West. He is a strong spokesman for his people, reflecting their discontent and thirst for reprieve from Ceausescu's harsh policies. Despite the fact that there are no Soviet troops in Romania, life there is, in many ways, much worse than that in the other countries of Eastern Europe. There is an image of independence externally, reflected through their relations with the Soviet Union, but internally, total dictatorship reigns. For attempting to speak out against this and inform the world of the situation that exists in Romania, Paul Goma risked a great deal, and suffered the rigors of enforced psychiatric internment.

ABUSE OF PSYCHIATRY

Psychiatric imprisonment is done on the basis of what is called "delinquent opinion." The police, either regular or secret, decide who gets such treatment. After they have decided to detain someone, the person is taken to the hospital by force, where the physicians are forced to make the desired diagnosis. The number of patients is often a function of international events. If there is a state visit to Romania or a major foreign contact, those who are considered potential troublemakers, meaning those who would be telling people the truth about Romania, are hospitalized. This can involve thousands of people who are detained for the duration of the visit. This can be days or weeks. Mr. Goma was kept in the headquarters of the secret police for 5 weeks, the duration of the Belgrade Followup Conference on Security and Cooperation in Europe. During this time he was chemically treated and left a physical wreck. Mr. Goma's crime consisted of organizing a small group of individuals seeking Romanian adherence to the human rights principles of the Helsinki Final Act. For this he was accused of high treason.

ROMANIAN PROSPECTS BLEAK

According to Mr. Goma, the hopes of the Romanian people for an improvement of their lot is very low. Some people were very stirred by the Helsinki Agreement and further encouraged by the followup conference in Belgrade. Official endorsement of these principles indicated that perhaps the political atmosphere would become less stifling. The formation of the Charter '77 Group in Czechoslovakia was also a sign of encouragement. But these moments of hope were brief and quickly suppressed. A mood of complacency hangs over the population, a mood not encouraged by American support of the Ceausescu regime through credits and technology transfer. The Romanian people feel abandoned and helpless. They are a very isolated community in Europe, dominated by their all-powerful government.

Yet a small group of people persist in their dedication to principle and to the goals of human rights and freedom for their people. Their names should be made

well known here in the West, as that is one of their best defenses against persecution at home. The work of Mr. Goma is carried on by Vlad, C. Dragescu, Victor Frunza, Petre Tutea, Gheorghte Calciu, Marcel Petrisor, Aurel State, Vlad Georgescu, Octavian Voinea, Francise Holz, Ilorian Gaba, Ion Ladea, and Robert Damboviceanu, Their names must rise to the rank and exposure of all dissidents in the Soviet Union and the other countries of Eastern Europe.

ROMANIAN GOVERNMENT SENSITIVE TO OUTSIDE PRESSURE

There is a way to help these people, a means of supporting them in their efforts to achieve justice and make their government more responsive to the needs of the people. Mr. Goma emphasized that the Romanian government is very sensitive to pressure and publicity from abroad. Indeed, it was the publicity generated in the West that allowed him to leave Romania, at the invitation of the International Pen Club. Publicity for these people and appeals to the Ceausescu regime can make their difficult task easier.

Yet the United States supplies technology and advanced equipment to Romania. The countries of the West continue to provide support to Ceausescu. The independent stance that he takes within the Warsaw Pact organization does warrant a different approach than that we maintain toward the Soviet Union, but we must not sacrifice our principles for such a purely political goal. The United States must be consistent in promoting adherence to the principles of the Helsinki Final Act by its signatories. If our stand on human rights is to remain credible in the eyes of other nations, particularly those nations we are pressuring most, than we must avoid any double standards as far as human rights.

AMERICAN OPPORTUNITIES

The United States has a great opportunity to influence the Romanian Government in favor of the cause of the dissident groups which carry on the work of Paul Goma. Romania is in great need of Western plant and equipment and of Western technology to increase its lagging rates of industiral productivity and resource development. Ceausescu strongly desires advanced technology for his country to improve its trading position and the stability of his own regime. The United States should carefully weigh the benefits of trade and technology transfer to Romania against the need for improved adherence to the principles of the Helsinki agreement. In discussing trade and assistance to the Government of Romania, we should consider the possibility of placing certain conditions with regard to such adherence. We must temper our policies toward Romania with prudence and principle. We owe this to the Romanian people who have contributed so much to the growth of this Nation as immigrants, and to those who still suffer much at the hands of the current regime.

TRIBUTE TO PAUL GOMA AND HIS COMPATRIOTS

Mr. President, I wish to offer a tribute to Mr. Goma and those compatriots of his who remain in Romania. Their courage and dedication have brought the case of the Romanian people to our attention. It is our moral obligation to make the American public aware of their plight and to carefully consider these matters here in Congress. And I offer my thanks to him for the great honor and pleasure of his visit to Washington and to Capitol Hill.

Mr. President, I ask to have a statement by the Romanian Dignity Association and a collection of documents on the activity of Romanian dissidents printed in the RECORD.

The statements follow:

STATEMENT

We, a group of free Romanians living in the United States and other Western countries, feel it is our solemn duty to bring to the attention of responsible American leaders and organizations that in the Socialist Republic of Romania the people do not enjoy yet the human rights, and former political prisoners are still harassed, persecuted, and forced to live as second class citizens. While assuming a posture of "independence," the current regime managed to acquire great economic and political benefits from Western countries and America, failing altogether to implement any democratic or humane reforms at home. While selling to the West a surrogate of "liberal" attitudes in international affairs, the Ceausescu regime maintains a stalinist system in Romania which was long discarded in other East European countries. It is worth mentioning in this respect the following facts:

The Peace Treaty of Romania signed in 1947 provides that Romania shall take all measures necessary to secure to all persons under Romanian jurisdiction the enjoyment of human rights and fundamental freedom, including freedom of expression, press and publication, religious worship, political opinion and public meeting (Part 11, Section 1, Article 3, Point 1). Later, Romania ratified the UN Universal Declaration of Human Rights which embodies the basic aspirations of the mankind, but which she violated in every single provision.

Since the Soviet Army brought the communists to political power in Romania in 1945, establishing them firm in control in 1947, Romania has passed through several political stages characterized by different traits.

From about 1945 until 1962–64, any discussion of human rights in Romania would have been a matter of ridicule. During the first part of this period the almost nonexistent Communist Party secured political power through mass terror, starvation and mass imprisonment of opponents and by relying on the Soviet Red Army and the newly created arm of repression Securitate (Secret political police). Hundreds of thousands of people were thrown in prison during that time, many serving up to 20 years in there and in labor camps. Many of these political prisoners died while serving their sentences, leaving behind widows and orphans without basic means of support. Others, probably less fortunate, lost their mind while subjected to the horrifying "brainwashing" experiences at Pitesti and Gherla prisons, or the Danube-Black Sea Canal. During this period in Romanian History, people of all walks of life were indiscriminately jailed for opposing the new regime.

As an example of mass arrests, according to official communist sources, some 200,000 peasants were arrested and sentenced during the forced collectivisation of agriculture alone. The official daily Scanteia admitted that those peasants were abusively arrested by those in charge with collectivisation only because they opposed the idea of giving up their land. It is worth mentioning here that many were arrested during the last struggle of collectivisation, between 1959 and 1962, long after other East European countries had denounced the former Stalinist methods.

Then, in the early 1960's Romania reportedly began to be at odds with the Soviet Union and, consequently, approached the West. At that time, the Party was in full control of the country and could afford the new moves. Whether the conflict was real or not is not the purpose of this statement to clarify, but it did trigger some unexpected changes to the country and its people.

In 1963–64 the Bucharest government freed those political prisoners who managed to survive. Nevertheless, before freeing them, the regime subjected the inmates, particularly those in Aiud prison, to unspeakable "brainwashing," which only specialists in human psychology and psycho-pathology would ever be able to understand and illuminate. Many victims of this brainwashing, called by its initiators "re-education," have had their minds damaged for ever. This category of former inmates is now at the mercy of very poor public assistance programs in order to survive, or have become a burden to their impoverished families. On the other hand, many of those who spent endless years in prison have been physically incapacitated, incapable of continuous hard physical work. And yet, another large category is unable to retire because they lack the mandatory years of work, although their advanced age would entitle them to. We recently received a letter from a group of such people begging us to ask the US Congress and other American organizations to intervene on their behalf so that they may be able to retire and still enjoy some dignity and human rights in their old ages if God denied them such privileges when they were young. Here are those who dared to give us their names:

(1) Remus Radina, age 54, 9 years in prison, Str. Costila No. 8, Ap. 4, Bucharest 5.

(2) Cicerone Ionitoiu, age 54, 10 years in prison, Bvd. E. Bodnaras No. 25, Ap. 24, Bucharest 7.

(3) Valerian Basarabescu, age 57, 10 years in prison, Sos. Pantelimon No. 287, Ap. 64, Bucharest 3.

In 1975 Romania signed the Helsinki Accords, thus pledging to respect the human rights of its own people. Later, Romania received from the United States the Most Favored Nation Clause, which grants her great economic and trade privileges. This privilege, however, was granted on condition that the Bucharest regime would liberalize its emigration and human rights policies. We, the free American-Romanians, demand that human rights should be fully observed in Romania and that all former political prisoners enjoy the rights and dignity of all human beings in this 20th Century. Here is a Memorandum written by a group of former political prisoners in Romania, now American citizens or permanent residents. The memorandum has been prepared under the guidance of Zaharia Pana of New York, who spent 14 years in the political prisons of communist Romania, and Ion Dima, also of New York, who spent 10 years in prison.

MEMORANDUM

Former political detainees in Romania continue to form a category of ostracized citizens, deprived of basic human rights.

After years of duress and torture in the extermination conditions prevalent in prisons and labor camps, those who have managed to survive and regain their freedom continue to be the victims of persecution, including among other things, denial of rights to old-age pensions and Social Security benefits.

It is a well-known fact that in all Communist countries the only means available to ensure a minimum of living conditions

are the wages and salaries earned by able-bodied individuals or the Social Security benefits granted to those incapable of work. Any other income, apart from wages, old-age pensions and sickness benefits, is considered illegal and is penalized as such. Wages and salaries are governed by innumerable laws and regulations but these do not form the object of this memorandum. We shall only deal here with old-age pensions and Social Security sickness benefits, which affect all former political prisoners.

In accordance with laws applicable in present-day Romania, old-age pensions and sickness benefits are partly calculated on the basis of the average earnings of the respective individual during a given period of time (for instance, 10 years for old-age pensioners), as well as the number of years he or she has been in employment. The voluntary retirement age is 55 for women and 60 for men. On reaching these ages, the minimum period of employment must be 20 years for women and 25 years for men. Nonfulfillment at retirement age of these minimum periods of employment affects the amount of the pension, which even in the most favorable conditions never reaches more than 65 p.c. of earnings during the last 10 year period.

However, as far as former political prisoners are concerned, their years of imprisonment are not taken into account, a circumstance which seriously affects their future existence. It is also worth mentioning that the majority of former political detainees worked during their detention.

In these circumstances, we consider it necessary to emphasize the following points:

1. Since the Communist regime came to power in Romania, the Penal Code has undergone a number of changes in order to bring it into line with the main tenet of the "proletarian dictatorship" — the class struggle. In the framework of these changes in the Penal Code, the penalties imposed on all persons arrested as opponents of the regime have been raised to a maximum level of severity, varying between 10 years for a disparaging verbal utterance about the regime, to hard labor for life and capital punishment for wider discussions, considered by the authorities as being counter-revolutionary plots or acts in support of American imperialism.

2. During their terms of imprisonment political detainees were compelled to work in various labor camps, such as the Danube-Black Sea Canal, the lead mines at Cavnic, Baia Sprie, Valea Nistrului, irrigation projects in the Danube marshlands and the harvesting of reeds in the Delta, as well as in factories and workships attached to prisons at Aiud, Gherla, Margineni and other penal settlements. Prisoners working at the more important of these sites were assigned, in accordance with a master plan, to specialized production units, where labor norms were 2 or 3 times the level of those required from 'free' workers performing identical work. Moreover, their official wages were paid directly to the Directorate of Prisons and Labor Camps. As a result of the extermination conditions and complete lack of protective measures at these sites of work, many political prisoners died or were incapacitated for life.

3. After their release from detention, the professional qualifications of these former political detainees were totally ignored and Communist Party organs and personnel bureaus within the State-owned enterprises were, and still continue to be, extremely vigilant so that no former political prisoner should occupy a better-paid job, notwithstanding his abilities and qualifications.

4. The penal sentences passed on political prisoners also entailed total confiscation of their assets and belongings, so that after their release they were entirely at the mercy of the omnipotent Party organs, which continue to exert physchological pressure on these individuals deprived of all rights.

Taking into account the above-mentioned facts, we respectfully request your intervention for the implementation of human rights of former political prisoners in Romania, namely by:

A. Recognition of their years of detention as equivalent to years of employment. In this respect a precedent has already been created by law for individuals deprived of liberty as a result of administrative decrees.

B. The granting of Social Security sickness benefits to former political prisoners unfit for work or suffering from chronic diseases, shocks, etc.

C. The granting of pensions to the deprived descendants of former political prisoners, who died in captivity.

D. We also request the restitution of assets and belongings confiscated by penal sentences and payment of damages for years in detention.

We sincerely hope that your kind intervention will alleviate some of the hardships of those former Romanian political prisoners and prisoners of conscience who were deprived of freedom for too many years and who still cannot live in peace and dignity now toward the end of their lives.

Sincerely,

Zaharia Pana, Ion Dima, and Nicholas Dima, Ph. D., Coordinator Romanian Dignity Assoc., 215 "C" Str. SE, Ap. 508, Washington, D.C. 20003.

WASHINGTON, *September 1978.*

ROMANIA—EDITOR'S PREFATORY NOTE

The following material consists of excerpts taken from documents representing the views of various dissenting groups in Romania. All the material relating to the "Paul Goma movement"—as well as the documents on psychiatry, emigration and the miners' strike—may be obtained in French from "The Committee for the Defense of Human Rights in Romania", 14 Rue de l'Amorique, 75015 Paris, France. Many of the Goma documents were first published in French by Editions Albatross in vol. 9/10 of their Cahiers de l'Est (May–August, 1977) and as a separate volume, *Dossier Paul Goma* (September, 1977).

The full text of the "Appeal for Respect of Human Rights for Evangelical Believers in Romania" may be found on page 419 of Volume II of the CSCE Commission Hearings, "Basket Three: Implementation of the Helsinki Accords," Government Printing Office 91–710, Washington, D.C., 1977.

Other material relating to neo-Protestantism was made available to the Commission by Radio Free Europe.

The documents, including those published in the New York Times, on the situation of the Hungarian ethnic minority in Romania were translated by—and can be obtained in full from—The Committee for Human Rights in Romania, P.O. Box J, Gracie Station, New York, N.Y. 10028:

"Paul Goma and Dissent in Romania" by Dumitru Tsepeneag, editor, Cahiers de l'Est.

For once, dissidents in the East dared to act in unison. For once, in Romania, discontent was expressed in an open and more or less organized fashion. Groups of people began to gather around Paul Goma: artists and workers, economists and engineers—all wanted to express their support for the principles of Charter '77 and their hope that the Helsinki accords would be honored. Why this seemingly unexpected change?

The Romanian government made special efforts to ensure that the Helsinki Conference conclude with the signing of the accords patiently negotiated for three years. They did not foresee the general outcry the agreement would create. For something very simple happened. The accords, which were published in all the signatory states, became a universal point of reference.

The famous "Third Basket" contained elementary rights which the governments of the East equally pledged themselves to respect. For the first time, a common language was established between the Romanian government and its citizens. Of course, civil rights are also guaranteed by the Romanian Constituion, but each article contains one small clause which has thus far facilitated judicial and administrative arbitrariness: the particular right guaranteed actually applies only to the extent it does not harm "the building of socialism."

Nothing could be more arbitrary than such a formula, particularly in a regime where no separation of powers exists. The Constitution alone, weighed down even further by decrees which often contradict each other, could not truly guarantee the rights of men. On the other hand, the Helsinki accords are unmistakably clear.

Romanians discovered, as did other citizens of Eastern countries, with astonishment and pleasure that, for once, they could demand their rights while remaining within their legal bounds. A person could claim that his demand had nothing to do with dissent. He was not challenging any regime. He was only referring with some conviction to rights guarantee by his own government before world opinion. As such, this was not a challenge, but rather a logical step and a reasonable request: Honor your commitments! In addition, the international character of the accords has given the other signatory governments a right to demand global respect for an entente which could develop into a true detente only when treated as a whole. The poor third Basket cannot be forgotten somewhere in a corner. (pp. 178–179, Cahiers de l'Est, vol. 9/10, May-August, 1977)

BUCHAREST,
January 26, 1977.

To Pavel Kohout and His Comrades: I declare my full support of your actions. Your position is also mine; the state of Czechoslovakia is more or less that of Romania. We are living, we are surviving in the same Camp, in the same Biafra (capital, Moscow) . . . While you are occupied by Russians, we Romanians are occupied by other Romanians, which is, after all, more painful and effective than a foreign occupation. We are all living under the heel of the same boot . . . The same lack of basic rights, the same disdain for people, the same shameless lie—everywhere: poverty, economic chaos, demagogy, uncertainty, terror . . .

I am with you—Czechs, Slovaks, Hungarians, Poles, Germans. Also with you, in spirit, are a number, a very large number, of Romanian intellectuals, even if they have not placed their signatures next to mine.

(Signed by Paul Goma.)

* * * * *

FEBRUARY 8, 1977.

PREFACE TO AN OPEN LETTER* TO THE PARTICIPANTS OF THE BELGRADE CONFERENCE

As 1977 has been declared Human Rights Year, we, the signers of this open letter addressed to the Belgrade Conference, attach great significance to the necessity of convening a high-level international gathering to defend the rights of man.

Whichever states have perpetrated the inhuman acts which brought about such a conference, we protest against all forms of oppression—physical, moral, intellectual—which destroy liberty and human dignity through violence and lies in political prisons, forced labor camps, psychiatric wards, old or new Gulags . . . rights guaranteed by internal laws and international conventions, though ratified by the governments of totalitarian states, are not respected. Such is the case

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* The full text of the letter appears on page 389, CSCE Commission Hearings, "Basket Three: Implementation of the Helsinki Accords," Volume II, Washington, D.C., 1977, Government Printing Office, 91–710.

with certain articles of the Romanian Constitution . . .

Throughout the world people speak of dignity and liberty, but how many people living in countries where dignity and liberty are genuinely respected know that there are states where human beings are forever bound to the country in which they were born? How many people know that there are countries where work and not the laboring man is paramount? How many are aware of the fact that there are states where citizenship is turned against the citizen and where the principle of non-interference in internal affairs is used to deny the international community's right to concern itself with the non-observance of human rights and international freedoms?

We conclude by thanking the distinguished participants of the Belgrade Conference which is convening to defend human liberty and dignity.

(Signed by Adalbert Feher, Emilia Gesswein, Paul Goma, Maria and Sergiu Manoliu, Maria Navodaru, Serban Stefanescu.)

* * * * *

What Paul Goma never dared hope for happened: he set out alone to confront the Romanian political authorities and police apparatus of whose strength and cruelty painful personal experience had made him well aware. Suddenly, he saw gather around him a group of men and women who not only viewed the Romanian situation in the same way . . . but also had the courage to speak out . . .

. . . He received from all over Romania, letters, memoirs, copies of official papers with which the authorities dispensed their preferential injustice to citizens. (Over 200 people signed the letter to the Belgrade participants—ed.) They address Paul Goma as another head of state—as the true head of state . . . for three months, the dawn of a real socialist revolution began in Romania with Paul Goma at its head.

(Virgil Tanase, Dossier Paul Goma, pp. 98, 86–87.)

EXCERPTS OF LETTERS TO GOMA

BUCHAREST,
March 5, 1977.

. . . I assure you, Mr. Writer, that I join in this noble struggle because today there is no more noble cause in the world than to fight with all our heart and soul for a full respect of these rights, so desired by all our people . . .

(Signed: Marin Nicolaescu.)

* * * * *

(Undated.)

. . . What is the point of speaking of democracy, liberty, human rights? They exist only on paper, in official statements. What really exists are people who tell us what to say at meetings, who distort the truth, who determine the length of our hair and our clothes . . . who keep our passports locked away in closed safes and demand, for their return, detailed reasons, moral and political guarantees, an abundance of recommendations, declarations, receipts, meetings, bureaucratic forms and months of demarches, as if the simple desire to see the Alps or the Atlantic had the import of a major international crisis. Why, as soon as we ask for a passport, are we considered political traitors? Who has the right to decide for us, as if we were mentally retarded and incapable of thinking for ourselves? We have studied for 16 to 20 years in socialist state schools, comrades of the Passport Office! . . . We are well-educated. It is time that you trust us . . .

(Signed: Victor Mavrodineanu.)

* * * * *

BUCHAREST,
March 3, 1977.

. . . What I see as the major problem today is the general state of Romanian literature . . . Symptomatic of the problem is the banning of your book just as it was about to be published . . . Symptomatic of the problem more generally, is increasing censorship, which is fatal for all literature. . . . Whoever opens the pages of Romanian literary journals can only be shocked at the weakness of the prose and verse, at the artificial character, at the uselessness and inferiority of the critical discussions . . . What poetry, what prose worthy of that name could possibly be created out of that unnatural mother which our daily language has become? . . .

But I must also mention, with even greater pain, the internal exile within Romania's borders of so many valuable writers who have been discouraged from writing or, if they still write, have had their books rejected by publishing houses.

All these unfortunate developments are occurring because today in Romania more attention is paid to the administration of culture than to the stimulation of spiritual creation.

(Signed: Ion Negoitsescu.)

* * * * *

ON PSYCHIATRIC ABUSE

BUCHAREST,
March 24, 1977.

To the very esteemed writer, Paul Goma: The present letter will serve as notice that I both associate myself with the signatories of Charter '77 and with the letter of support that you have addressed to them. If Paul Goma did not exist, it would be necessary to invent him.

The reasons for which—after long reflection—I have joined with you are the following:

1. I was arrested and interned in a psychiatric hospital from June 4 until July 13, 1976. While I was there, my doctors were ordered to report the following diagnosis: lacking any faculty of judgment; responsible for antisocial behavior; mental deficiency.

2. For a long time I was unemployed and—completely contrary to the law—was deprived of minimal financial resources.

3. I am the son of a poor peasant. I have no criminal record, and presently there is no legal action being taken against me. My civil and political rights were curtailed by order of the court, Sector 1, Bucharest, (case number 710/1977) simply because I dared to demand, in my own country, a bit more justice and respect for moral laws and the rights of the individual. Six certified psychiatrists have confirmed in writing that I am not afflicted by any neuro-psychiatric illness. Nevertheless, I have been ordered to present myself at the hospital (for treatment—ed.) on April 14, 1977 . . .

If the human rights for which you fight with so much ardor and self-sacrifice were respected, there would be no need for me to write. But official acts prove that these rights are brutally trampled . . . Knowing that you are asking pertinent questions concerning the internment of sincere and completely sane patriots in mental hospitals, I would like to meet you so that you can see a living example of one of these cases . . .

(Signed: Stefan Toia.)

* * * * *

The two documents excerpted below do not appear in the "Dossier Paul Goma," but were made available to the CSCE Commission by him and can be obtained, in full, through the Paris-based Committee for the Defense of Human Rights in Romania.

FACTS CONCERNING THE PSYCHIATRIC HOSPITAL PETRU GROZA

(By someone who wishes to remain anonymous)

There are three hundred men and 100 women in this hospital. Forty per cent are there for political reasons, five per cent for petty crimes (hooliganism, gold trafficking, "frontierism"—attempting to cross the border illegally—incurable sicknesses); 55% are criminals . . .

The food is miserable, with very little of substance and mixed with heavy doses of medication . . . The patients are poisoned with strong doses of Plegomazine, are beaten with rubber clubs, and are chained in metal handcuffs. Mail is censored; each letter is opened.

Those who try to escape (each window is tightly barred) are returned, beaten, placed in solitary confinement, and subjected to special "treatments." Those who "behave" have the right to physical therapy in special hospital rooms. There is a high number of deaths. In 1975, autopsies were performed on six people who died as a result of treatments they underwent (cerebral hemorrhages, infarcts, pneumonia, paralysis). Burials are makeshift, with no religious rites (no priests, no cross) . . .

POLITICAL CASES

Ioan Török, 49 Blajulu Street—Cluj, Technician in a textile plant, Three children:

He had the courage to criticize, in front of 2,000 people in the "Textila-Cluj" factory, the so-called "democratic" elections of March 9, 1975, the "Stalinist" Bucharest regime, the poverty, low salaries and the "red bourgeoisie." He also spoke of the harmful influence of the USSR on Romanian politics. He was arrested and beaten by members of the "Securitate" in the office of the factory's director. Afterwards, he was interned at the Petru Groza hospital.

Calin Apostolescu, Turnw-Severin. Doctor of Mathematics:

Condemned by the court in Timisoara to be interned in a psychiatric hospital because he distributed anti-Communist tracts and sent anonymous letters to responsible Communists of Turnu Severin, he was diagnosed as a "lunatic" . . .

The two following documents deal with other human rights and emigration problems in Romania. According to information supplied with the original documents by the Paris-based Committee for the Defense of Human Rights, the seven co-signers of the first letter—a worker, four hotel porters and two others—were all fired from their Bucharest jobs and sentenced to a year's forced labor at a construction site on the Black Sea Canal, the recently reopened site of the principal Stalin-era deportation camp. By their own account, the first six of the nine cosigners of the second letter—all of them workers—were fired on August 2, 1977, and condemned to a year's forced labor near Braila, in the "Insula Mare" swamps, after a perfunctory 30-minutes trial during which they were not allowed to defend themselves. The other three authors were allegedly beaten by police.

APPEAL TO BELGRADE

BUCHAREST,
May 26, 1977.

In order to establish the liberties, rights and world peace desired by all people: We, citizens of the Socialist Republic of Romania, wishing to assure for ourselves as well as for generations to come a happy existence suited to the ideals of free human beings,

(1) Demand that the States participating in the Conference on Security and Cooperation in Europe—Belgrade, 1977, analyze specifically the manner in which the Final Act has been applied in Romania, especially Principle VII of the Final Act concerning the obligation to respect human rights and fundamental liberties including freedom of thought, conscience, religion; as well as the chapter from the same Act which is concerned with human contacts.

(2) Demand an examination of Romania's application of article 55 of the Charter of the United Nations, dealing with the universal respect for human rights and fundamental liberties for all, without distinction as to race, sex, language or religion.

(3) Demand that Romanian application of a fundamental human right inscribed in the Human Rights Declaration, namely Article 13, Paragraph two, be analyzed; this Article states that any person has the right to leave his country, or any country, and return to his own country.

(4) Demand respect for Article 38 of the Romanian Constitution, which states that "each citizen of the Romanian Socialist Republic has the duty to respect the Constitution and its laws" as well as for other articles in the Constitution which concern the inalienable rights of man, such as Article 17: "The State guarantees the equality of rights of all of its citizens" and Article 3: "Freedom of conscience is guaranteed to all citizens of the R.S.R." . .

(5) Demand that President Jimmy Carter and the American Congress make all possible efforts to examine how Romania respects the right to free emigration, a right which appears in the American trade law as a condition for obtaining most-favored-nation treatment.

(6) Demand that the United Nations Commission on Human Rights study how the Romanian Government interprets and respects the International Covenant on Civil and Political Rights, which it ratified by a decree of the Council of State on October 31, 1974. . . .

We would add that the goal of this appeal is not to damage the political atmosphere in Romania, nor to undermine the socialist regime or weaken, in any sense, national unity or the sovereignty of the Romanian State. We only ask that the Constitution of this country as well as the international documents and accords which have been signed by the Romanian Government be respected.

In the hope that our appeal will contribute to the effort of the human race to establish true detente and peaceful co-existence,

(Signed—with addresses—by Ion Marinescu, 30; Iosif Nita, 26; Radu Negrescu, 27; Raymond Paunescu, 26; Nicolai Windish, 28; and by Vasile Constantinescu, 33, an engineer; and Dragos Neamtu, 21, a technical designer.)

(Isle of Brailae, after August 2, 1977.)

To the President of the Republic: Given the critical period that we are now in, we should like to underline, at the beginning, that we find it absolutely necessary that you look upon our plea with understanding.

We are victims of an error, and we no longer expect any understanding or indulgence on the part of the Security organizations, which are answerable to you. . . . The practices of terror which are employed by these organs of the State certainly do not correspond to the humanistic theory of party policy. . . .

If here, in Romania, a request to emigrate is considered an antisocial act which will damage the party's interests, then, the Final Act of the CSCE—an act which affirms the agreed views of the signatory States on the "right" to do just that—is only a scrap of useless paper and is, in any case, of no concern to Romanian citizens. The right to emigrate—a fundamental right on any list of human rights—must be recognized for everyone, including those like us, who ask to benefit from it.

The authorities' conduct towards us after we asked to emigrate has been, and still is, scandalous and dishonorable. The authorities have made illegal arrests, without warrants. Having been condemned by virtue of law 25–1976 to one year of forced labor, we have not profited from the application of all articles of this law; we have, moreover, been deported to a forced labor colony on the Grande Isle of Braila where the hygiene, food and drinking water are extremely unhealthy. . . .

How could such practices still exist today, side by side with the spirit of democracy, humanity and progress when everyone is fighting to preserve mankind and human rights? Do you, as one who fights for the respect of rights, peace and progress in the world, do you, the man whom we would see as having the most understanding for us, do you find our situation normal? . . . The Romanian Constitution guarantees the freedom of speech. We have spoken, and look at the result. . . .

(Signed by Cristian Ionescu, Cornel Urdarianu, Cornel Munteanu, Adrian Mutica, Adrian Sinca, Constantin Hulduban—those condemned—and by Gherman Calin-Mihai, Liliеu Buretiu, and Christian Onutu.)●

RETIREMENT OF LT. GEN. BYRON MEEKS SHOTTS

● Mr. STENNIS. Mr. President. Lt. Gen. Byron Meeks Shotts, a native of Laurel, Miss., is retiring after a distinguished career in the U.S. Air Force spanning more than 36 years. His last assignment was as commander of the 15th Air Force, Strategic Air Command, at March Air Force Base, Calif.

During his long and outstanding career General Shotts received many honors. These include the Distinguished Flying Cross, Bronze Star Medal, Air Medal with four Oak Leaf Clusters, Air Force Commendation Medal Purple Heart, and many others. He has served his country and the Air Force long and faithfully and, by his record, has brought great credit upon himself and his service. I appreciate his honors, and even more I appreciate his sterling qualities of character and the constant inspiration he has been to many in our Air Force as well as countless others during his entire career.

As he retires, I am very pleased to pay well-deserved tribute to my fellow Mississippian and to commend him for his distinguished career.●

TRADE EMBARGO ON UGANDA

● Mr. MARK O. HATFIELD. Mr. President, Ugandan President Idi Amin has threatened reprisal against the Americans living in his country in response to President Carter's signing of the trade embargo legislation this week. In light of this, it is my desire to indicate for the record that the threat of such action in the face of a boycott was responsibly anticipated and guarded against by the primary sponsors of this legislation: Senator WEICKER, Congressman PEASE, Congressman BONKER, and myself.

Congressman DONALD PEASE's office undertook on January 26, 1978, the responsibility of writing all of the missionary organizations which have personnel in Uganda. While some responded that they did not wish to become involved with the political aspects of United States-Ugandan relations, and others encouraged the American Government to take such action against Amin; virtually none of the respondents voiced opposition to economic sanctions against the Amin regime. In February of this year, when it became apparent that congressional action was imminent, the State Department sent Telex messages through the West German Embassy to all Americans residing in Uganda, urging them to leave. I am also informed that the State Department has at other times sent messages to Americans living in that country advising them of the possible danger they face in doing so. Of the roughly 200 Americans still living in Uganda, approximately 100 are missionaries who have vowed to stay as long as possible no matter what the danger is to them personally. The remaining Americans are either representatives of American companies or are conducting business directly with the government.

As to precautions being taken presently, the State Department and other agencies of Government which would be concerned with such a matter are monitoring the situation in Uganda very closely.

Mr. President, the Ugandan legislation makes provisions for the exportation of cereal grains and other food products and also for the lifting of trade sanctions if the President determines and certifies to the Congress that the Government of Uganda is no longer committing gross violations of human rights. Reference can be made to the aforementioned precautions as well as a representative sample of letters returned from Uganda to Congressman PEASE on pages 23435 and 23436 in the July 31, 1978, CONGRESSIONAL RECORD.●

THE TAX REDUCTION ACT

● Mr. BAYH. Mr. President, on Tuesday night the Senate passed the tax reduction bill. At this time, the conference committee is deliberating on that legislation and hopefully will report back to both Houses of Congress with an agreement later today. I would like to take a moment, if I may, Mr. President, to comment on the action which was taken by the Senate earlier this week.

There is no question that a tax reduction is essential. This has been a fundamental element of the President's domestic program which I have strongly supported. Congress must adjust taxes for those who have been pushed into higher tax brackets by inflation and to offset the increased burdens which will face us in payroll taxes due to the changes in financing of the social security system which we passed last year. To fail to enact a tax reduction would be unfair to the American people and have a dangerously restrictive effect on the economy. Unemployment still hovers around 6 percent, and our rate of economic growth is slowing. Restrictive tax policy could very well cause a recession next year.

The bill we passed in the Senate will provide the needed tax relief and will also provide stimulus for capital investment which is crucial to economic growth, increasing productivity, and reducing inflation. While I did not agree with all its provisions, I think the bill includes some very important measures, which I hope will be accepted by the conference committee.

First, and most importantly, Mr. President, the Senate bill did not focus its relief on the wealthy as did its House

counterpart. On the contrary, it addressed the needs of all the people. The earned income credit was increased for the poor and the working poor. And with the passage of the Kennedy-Bumpers amendment, the long overdue relief for the middle class was finally provided. Under that amendment, two-thirds of the total tax reduction would go to those earning less than $30,000 per year, and a family of four with adjusted gross income of $15,000 would pay $227 less in taxes next year than they do under present rates.

Further, under the Senate bill taxes would be reduced an average of 5 percent per year in 1980 through 1983. These reductions would be tied, however, to reductions in Federal spending, unlike those envisioned in the Roth-Kemp proposal, to make certain that additional tax relief does not create inflationary pressures.

Mr. President, I supported a very important amendment offered by Senator CHURCH which overwhelmingly passed the Senate. That amendment would provide an exclusion from taxation for up to $100,000 in capital gains arising from the sale of a principal residence for people over 55. Too often, Mr. President, capital gains taxes have penalized couples who are not wealthy but have one large shot of income when, late in life, they sell the home they have lived in most of their lives. These people should be relieved from capital gains tax burdens, and the Church amendment accomplishes this.

Mr. President, I mentioned earlier that several measures in this bill were directed at stimulating capital investment, including reduction in capital gains, the 10 percent investment tax credit, the reduction in corporate tax rates, and the Nelson amendment to provide 3-year straight line depreciation for the first $25,000 in equipment purchased each year.

With the exception of the massive increase in the capital gains tax, I supported these provisions. Increased capital investment is critical if we are to compete in the world economy and increase productivity and our standard of living.

I was particularly pleased with the Nelson amendment which substituted a 3-year writeoff on the first $25,000 of equipment purchased for an increase in the asset depreciation range (ADR) from 20 percent to 30 percent. ADR is used only by 0.7 percent of our corporations—the very largest, which have ample cash reserves for capital investment. The Nelson amendment will eliminate the increase in the ADR and provide extra cash for small businesses which are constantly seeking ways to expand and improve their operations. I am confident it will produce the increased investment we are seeking.

Mr. President, I was opposed to the massive reduction in capital gains in the Finance Committee bill. I believe that the other measures I mentioned will stimulate capital investment and this reduction is not needed. With the Church amendment, we recognized and relieved the problems encountered by homeowners under the capital gains law. I can see no reason to pass such a huge additional measure for the very wealthy, especially when 75 percent of its impact will be in areas such as real estate speculation rather than capital formation.

I was disappointed, Mr. President, that the bill did not accomplish significant tax reforms. I was particularly hopeful that at long last we would do away with domestic international sales corporation (DISC) and the deferral of taxes on foreign corporate earnings. Nearly all experts agree that DISC has been a giveaway to large corporations and had no impact on our exports. The deferral on foreign income has encouraged American companies to invest abroad rather than at home and resulted in a significant loss of jobs in this country.

In closing, Mr. President, let me say I am pleased the Senate bill contained tax credits to help offset the costs of higher education, a provision to tax capital gains received by foreign corporations from transactions in American farm lands, and a postponement of the carryover basis provision which has caused so many administrative difficulties in managing decedents' estates. In the last case, I am hopeful that revisions in the law will be made in the near future so that administrative difficulties can be eliminated and the important reform of carry-over basis can be made effective.

Mr. President, like all of my colleagues, I am anxiously awaiting the conference report on the tax bill. I am hopeful it will contain the important provisions I supported earlier in the week, and perhaps some improvements. The importance of this tax legislation cannot be overstated, Mr. President. It will affect each and every American.●

STARTLING POSSIBILITIES OF DMT

● Mr. BROOKE. Mr. President, as the 95th Congress draws to a close, I would like to call attention to one of the wisest investments which this Congress, as preceding Congresses, has made with the taxpayers' money. And that investment is in the funds appropriated for medical and health research.

As only one example of the great strides being made by our health research dollars, I would like to call to the attention of my colleagues an article in the May/June issue of Quest magazine on the exciting, far reaching research being done on the chemistry of the brain by Dr. Jerry Christian at the University of Alabama in Birmingham, research which provides most needed basic information on the physical or chemical causes of mental illnesses such as schizophrenia and stress. Some of the most dramatic breakthroughs in medical research in the last decade or so has come in such research on the physical or chemical causes and treatment of mental illness. And the fruits of such research have provided a welcome and necessary complement to doctors' existing knowledge about and methods of caring for the mentally ill. I hope that the National Institute of Mental Health will not only continue but will expand its support of research such as Dr. Christian's. I submit the article for printing in the RECORD.

In closing, I would like to note that I am especially pleased to call attention to this most progressive medical research being done at the medical school at the University of Alabama. For the National Institutes of Health and our Nation's medical research programs owe much of their very existence and support to the vision, dedication, and leadership of our most esteemed former colleague, Senator Lister Hill of Alabama, former chairman of what is now the Human Resources Committee which has jurisdiction over our Nation's health and medical research programs, and former chairman of the Labor-Health, Education, and Welfare Appropriations Subcommittee, on which I now have the honor to serve as ranking minority member. Senator Hill's much honored work on behalf of the National Institutes of Health as well as his and his family's long-time support of the medical school of the University of Alabama, one of the Nation's leading medical centers, surely needs no further tribute from us. But I am sure that I express the best wishes and appreciation not only of his contemporary colleagues but those of us who are honored to carry on his work by wishing him well as one of the last—and the most unanimous—actions of the Senate in the 95th Congress.

The article referred to follows:

A CHEMICAL CURE FOR MADNESS?

(By Jo Durden-Smith)

On the ninth floor of the shiny neurosciences building at the University of Alabama in Birmingham, Terry Christian is looking for schizophrenia and stress. But not in the talk of patients or of businessmen. In graphs. The output of a gas chromatograph, they lie around him in huge swaths, a thin blue line eating up the paper. The line rises and falls, rises and falls, charting trace chemicals in batches of spinal fluid and brain tissue he has prepared for analysis. And each time it peaks at a particular interval, it shows that a substance called dimethyltryptamine (DMT) is present. It's like looking for a drop of oil in a lake or for a bottle with a message in it in the Atlantic, so small is the amount involved.

But whenever DMT is translated out from the background "noise" of its metabolites, Christian believes, it means that the brain is making its own hallucinogen. Perhaps this has to do with dreaming. Perhaps it has to do with visions of madness. Perhaps it has to do with the tensions and anxieties that stress makes for. All Christian knows is that DMT is there, in rats, in patients awaiting surgery, and in a percentage of schizophrenics. What does it mean? And where in the brain and the nervous system does DMT operate? "New technologies produce new knowledge," Christian says in a careful Southern accent, as he looks up from the reams of paper and reaches for his pipe. He's a neat man, a West Virginian, conservatively dressed, conservatively bearded. But there's an anxious drive in his talk that matches the lines in his forehead.

"It had been suggested for a number of years that this thing was in the brain. Chemically, it's a derivative of tryptophan, an amino acid that's in virtually every food. But no one could find it. They could find tryptamine, one of its precursors. And in the test tube they could make DMT out of tryptamine. But they couldn't find DMT itself. There wasn't enough of it there. So we thought about this. And a group of us here—

Richard Morin, Frederick Bonington, and myself—developed a special electron-capture gas chromatography technique that allowed us to look for much smaller concentrations than had been possible before: up to one part in a trillion. And we found it, just as had been predicted." He stabs at the graph peaks with his pipe. "DMT. A drug you could buy on street corners in the sixties. In the brain."

Ten years ago, DMT was known as "the businessman's trip." It did not pass from the blood into the brain as well as LSD, so it did not last as long or have as pronounced an effect. Timothy Leary studied it, in the early days, as a Harvard researcher. And it was one of the drugs investigated by the various programs the government later poured money into as a result of society's general anxiety about addiction and the recreational high. Terry Christian, like many other young scientists, was a beneficiary of this new funding. After graduate studies in neurosciences at the University of Tennessee and postdoctoral research at the University of Kentucky, he joined the U.S. Drug Addiction Center in Lexington, Kentucky to work on LSD and the brain's messenger chemicals. And by the time—as an associate professor of neurosciences in Birmingham—he established DMT's presence in the brain, he had picked up enough interdisciplinary knowledge about the complex workings of the brain's communication system to be able to take his work beyond simple measurement. First, he showed that DMT was not just an accidental byproduct of the workings of the nerve cells, but integral to the way they interacted with each other. And then he and his group set about the task of finding out what role DMT played in the delicate chemistry of mood and sensation.

"At the time, I was reading a book on brainwashing during the Korean War," he says, leaning back from his cluttered desk. "And it mentioned a curious thing that happened to people being brainwashed. If they were put under sufficient stress for a sufficient period of time, they would start having florid hallucinations and would escape from reality. They would just say: 'I'm not here.' Now, what causes this, I thought—what candidate would you pick? I picked DMT."

The next step was to work with human beings under stress, something that's possible only in hospital complexes like the University of Alabama Medical Center. Christian could not, of course, look directly into the contents of his subjects' brains. But he reckoned that what was in the brain would also be in spinal fluid. So he took spinal fluid from three groups: a neurological laboratory control group, a group of schizophrenics, and a group of patients about to undergo surgery. And what he found, using the technique he and his colleagues had refined, seemed to bear out the idea he'd got from the brainwashing book. DMT levels in the patients facing imminent surgical operations were way up beyond those of the control group, suggesting a connection between DMT and stress.

And DMT in a proportion of the schizophrenics (which was what I expected; we know that schizophrenia is not a single disease") was also extremely high, suggesting a connection between stress, genetic predisposition, and madness. Subsequent work with rats confirmed some of these suppositions. When the rats were subjected to extreme stress, the amount of DMT went up in their brains too, and their behavior became obsessive, random, "mad."

The theoretical implications were, and are, staggering. "You see, what we're really talking about," says Christian, "is the chemical brain, the chemical basis of madness, stress, dreaming. imagination, sleep, pleasure, and so on. For years we've been dishing out drugs without really understanding what they do. We've been anesthetizing people we call crazy and tinkering with their behavior. And now we're just beginning to see that this makes no sense. These things are *organic* processes. They are *organically* correctable, even if the original cause of the disorder was *not* organic. Take DMT, for example. It's just one of a myriad of chemicals in the brain. And yet a breakdown in its distribution and control seems to have something to do with stress—and therefore with ulcers and alcoholism—as well as schizophrenia. Just understanding this one chemical and its pathways may give us a method of measuring and reducing stress, the quintessential 20th-century disease. It may give us a way to bring people back from certain kinds of madness. It may help clear out some of the back wards of mental hospitals. But what about the rest of the brain? What about all the other neuronal systems that scientists are working on? I mean, we're just scratching the surface, we're just learning how to crawl. But already the new techniques we have are giving us a whole new perception of the body and its ailments. They're suggesting radically new approaches to addiction and insanity. And they're leading us toward a whole new family of drugs: nonaddictive painkillers, antipsychotic drugs, and even, perhaps, drugs to regulate pleasure and sexual function."

Terry Christian, 40, married, with three children, is just one of the people researching DMT in the United States, and just one of the people working in the burgeoning field of neurochemistry. Last November, 4,000 neuroscientists held a conference near Disneyland in California—the biggest convocation of brain specialists ever gathered. They read a total of 1,900 papers to one another, each reendorsing the collective view that the "chemical" brain had replaced other descriptive models of the brain's working, as Christian suggests.

Freud's hydraulic model—impulses and instincts dammed up in one room will always come squirting up in another—was antiquated, Victorian. And all the other models—the telephone-switching system, the analog computer, the holograph—were just brave little metaphors borrowed from the latest available technology. Chemistry was the answer. Chemical techniques already were opening up the brain for mapping, showing where the seats of sleep, emotion, and the body's sense of time were. They were tracing the roots of madness and of pain. And soon they would take the place of the mysteries of the psychiatric confessional in explaining and correcting the dysfunctions of the mind.

The story of the revolutionary new advances in neurochemistry began, like Terry Christian's career as a research scientist, more than 10 years ago. When the U.S. government set up its extensive addiction and drug-abuse programs in the mid-sixties, it wanted to rehabilitate addicts, to find nonaddictive narcotics, and to understand why some people got hooked and some people didn't. But it also wanted to know what happened when drugs like heroin and LSD entered the brain and the neuronal pathways to it. In the absence of this basic knowledge, addiction would remain an enigma.

A large number of biochemists, medical chemists, and pharmacologists, then, were drawn into brain research and the neurosciences, partly because there was now money and opportunity in the field, and partly because they saw the drugs to be studied as enormously powerful tools for probing brain mechanisms, about which little or nothing was known. Etorphine, for example, one of the most potent drugs known to man—more powerful than LSD and as much as 10,000 times more powerful than heroin—was effective in tiny amounts, and this suggested that whatever was happening was highly specific. Other drugs had pronouncedly different effects. Perhaps they could each be tracked down to precise events in the brain and the nervous system, thereby revealing a geography of pain, hallucination, and feeling.

The scientists worked mainly with spinal and whole-brain preparations from animals. (The technology did not allow more exact pinpointing.) Even so, by the early seventies they had developed a rough picture of how psychoactive drugs and narcotics worked. They appeared to home in on the synapses, specialized regions (see box on page 34) where the terminal of a nerve cell fiber makes a junction with other nerve cells and communicates with them via messenger chemicals called neurotransmitters.

The drugs and narcotics seemed to bind there to what are known as receptor sites—large molecules that float on the surface of the body's nerve cells and lock on to naturally occurring substances, like hormones, which cause different chemical instructions to be sent to their various internal machineries. What the drugs and narcotics did was break into the nerve cells' lines of communication, subverting their normal signaling processes. And they seemed to do this, in exactly the same way, in every vertebrate system studied from hagfish to humans.

Why, though, was their invasion so effective? And why were the narcosis, hallucinations, and addiction they caused so extreme? The next step was to find out the exact nature of the receptor sites: Did these drugs have their own receptors, or did they merely have an accidental, partial affinity for receptors involved in routine nerve cell interaction? In 1973, the answer came. Three groups, notably that of Solomon Snyder and Candace Pert at Johns Hopkins University, identified the first receptor sites for the opiates. And they did not, in fact, match any of the sites then known to mediate normal nerve cell interactions. The discovery of the opiates' receptor sites made it much easier to establish what parts of drug molecules were responsible for what physiological effects. And because the rule seemed to be, the stronger the drug, the greater its affinity for the receptor sites, it became simpler and less expensive to test drugs for their analgesic and other potentials. This could not be done in the test tube, with purified receptors; scientists no longer had to rely on prolonged testing with animals and humans. The pharmaceutical companies were enthusiastic.

The work, though, also raised some extremely important questions. For man was not made with morphine inside him. Nor Valium. Nor LSD. Nor any of the other chemicals being studied. Why, then, should they fit, like key into lock, onto perfectly designed receptor sites at the synapses, just where the receptor sites for the body's own neurotransmitters were? Did it mean that the body produced natural painkillers, opiates, and hallucinogens, unchanged through evolution and similar in some part of their chemical structure to the drugs being investigated? Did it mean that ancient organic substances were being displaced from their normal chemical pathways by laboratory-made equivalents?

If the answer to the questions was yes, two fascinating implications followed. First, it might be possible to manufacture genuinely nonaddictive drugs that already existed in the body in small quantities. And second, it might be possible to find the biochemical basis of dreaming, shock, natural analgesia, and mental disorder. Catatonic schizophrenia, for example, might be caused by overproduction of the body's morphinelike substance. Hallucination and dreaming might be caused by an LSD-like substance.

Terry Christian had long studied both LSD and the binding sites for two of the known neurotransmitters—dopamine and serotonin.

Now he began his search for DMT, which seemed to be the best candidate for the body's own hallucinogen. Elsewhere, spurred by rapidly improving methods for detecting tiny quantities of peptides in the brain, scientists feverishly looked for natural analogs of morphine and heroin. Then came the breakthrough they'd all been waiting for. Two British scientists at the University of Aberdeen, John Hughes and Hans Kosterlitz, had worked for years on electrical contractions of involuntary muscle in mice and guinea pigs, and they'd found—as had Solomon Snyder's group—that these contractions were interfered with both by opiates and by extracts of brain tissue. Finally, in 1975, they succeeded in isolating from the tissue two related substances that were responsible for the opiatelike effect. They called them enkephaline (Greek: "in the brain").

Almost immediately, Choh Hao Li, a researcher at the University of California, noticed that the published structure of the enkephalins was almost exactly like a word in the chemical sentence of a substance he'd got from camel pituitaries a decade before. Now he called his fragment beta endorphin (for endogenous morphine) and found that it had about 30 times the potency of morphine when injected into the brains of mice and rats. (This perhaps explains the camel's extraordinary imperviousness to pain.) Later, beta endorphin was found in pigs by a group at the Salk Institute, and later still two other substances, alpha endorphin and gamma endorphin, were also found, both of them similar to word sequences in the camel-pituitary sentence. One had a tranquilizing effect in rats. The other made them irritable and violent.

In the past two years, work on these natural modifiers of pain and mood and madness has gone forward at an astonishing speed. Half a dozen endorphins, as well as the two enkephalins, have now been discovered, and the number of known neurotransmitters, each of them drops in the sea of the brain, has risen from a single figure to more than 20. Led by Richard Squires of the Ferrosan Laboratories and Claus Braestrup of the St. Hans Mental Hospital (both in Denmark), the search is on too for the body's versions of benzodiazepines (the minor tranquilizers Librium, Valium, and Tranxene). All this has been made possible by the new, ultrasensitive techniques in gas chromatography. "New technologies produce new knowledge," as Christian says.

An advance in technology has also made it possible to find out exactly where in the brain these substances operate. By tacking a radioactive atom or a chemical marker onto the molecule of an endorphin, a neurotransmitters, or a drug, scientists now can track the molecule's pathway in the brain and pinpoint its area of influence with remarkable accuracy, something they could not do before. Thus the enkephalins, which seem to be neurotransmitters, are confined to the limbic system in the brain—linked in man to pain, moods, and emotions—and to the older, evolved pathway to it. Antipsychotic drugs like chlorpromazine seem to compete with the neurotransmitter dopamine in the same area. And the endorphins seem to play a pain-modifying role in the pituitary gland, the conductor of the body's chemical orchestra.

A third group of experiments has concentrated on what these substances do. And here the results have been truly extraordinary. In Sweden, researchers gave patients with auditory hallucinations antiopiates to interfere with the body's own opiate-producing processes—and saw the hallucinations end within minutes. In Israel, a scientist demonstrated that, at just over normal levels, a brain protein could produce epileptic convulsions; just below, it conferred feelings of pleasure and gratification. And in the United States, there are reports from New York of depressives and paranoid schizophrenics temporarily released from the prison of their diseases, and from Wyeth Laboratories of rats excited by their own brain chemicals.

Such results make neurochemistry's current advances both extremely exciting and somewhat scary. Brain scientists now can find answers to the five basic questions of research: "Is it there?" "What is it?" "What is its structure?" "Where does it operate?" "What effect does it have?" They are primed for a broad-front assault on the workings of the chemical brain.

They can take a drug with known psychological and physiological effects (Seconal, Dexedrine, Librium, Haldol, LSD: antipsychotic drugs, mood modifiers, opiates, and hallucinogens), and by tracing it in the brain they can make an anatomical map of the functions it alters. They can, in autopsies, compare the brains of schizophrenics with those of normal patients and so locate and define the chemical disorders at the root of their madness. They can begin to elucidate the bases of hysteria, shock, epilepsy, sexual pleasure, sleep, dreaming, perhaps even imagination and memory.

But inevitably, in the very process of understanding and correcting these things, they will alter the way we see ourselves and the way we live our lives. The drugs they produce are likely to be as revolutionary in the treatment of mental disease as antibiotics once were in the treatment of physical disease. And the pharmaceutical companies are working hard in this area: Burroughs Wellcome, as a result of work done in Britain and the United States, has already produced a laboratory variant of enkephalin 100 times more powerful than morphine. But the technology and understanding necessary to create beneficial drugs will make it possible to regulate the activities of a normal brain: all the processes and emotions integral to what we call personality—gratification, the sex drive, memory, intelligence, and so on. Ultimately, the work of neurochemists will have social and political dimensions.

Terry Christian is aware of this. He's standing over a dissecting microscope, cutting out of the small mass of a rat brain an even smaller part of it, the limbic system. With radio-labeled DMT soon available, he's on his way to finding out exactly where in the nervous system DMT plays its part in stress and perhaps schizophrenia. "Of course I've thought about it," he says. Flick. Cut. Lift. The heads of five other rats lie nearby. "A pill or injection to cure catatonia, hallucinations, and the effects of stress. A pill or injection for dreaming or sex. A pleasure pill. . . . But our first responsibility has got to be the sick in this society. Something like one in every three hospital beds in the U.S. has a mental patient in it. Between 30 and 40 million Americans have diagnosable mental disturbances, and mental health costs us $17 billion a year.

"Then there are all the stress-related diseases. We just don't know how to help people who suffer from these things. We're quite good at antidepressant drugs, though we don't know how they work. But we're no good at antipsychotic drugs. The only effective one we have, chlorpromazine, was discovered by accident (they thought it was an antihistamine); the others have bad side effects. So all we can really do is give people stuff to keep them quiet. It's unbelievably primitive. I mean, there's still this mystique about brain disease, about madness. It's a throwback to ancient times.

People say: 'This guy is crazy. Stay away from him. It's not an organic disease. He's just crazy.' But it *is* organic. It *has* to be organic. There's nothing up there *but* organic matter." He moves back to the microscope, a small scalpel in his hand. "Even Freud, who did a terrible disservice to chemistry, said so."

The rat brains sectioned and put into isotonic sucrose for eventual analysis, we walk back to Christian's office. It's piled with books, papers, articles, and graphs, emblematic of the urgency scientists like Christian feel when their field becomes a hot one. There is so much to be done. There is DMT to be looked for in the mesolimbic system (the possible seat of schizophrenia) and in the visual cortex (hallucination). There is its relation to the dopamine receptors (which seem to play an important part in schizophrenia) to be analyzed. There is the effect the antipsychotic drugs may have on its production to be assessed. With the best equipment and proper funding, Christian believes that this would take two years. As it is, it will take four or five. As head of the neurochemistry section of the neurosciences program, Christian operates on a budget of little more than $35,000 a year.

And this raises an important point. We are at what Christian and other scientists call "the newest frontier." A new generation of opiates and mood drugs (to be used or abused as future generations see fit), a new control over mental disorder, a new explanation for (and perhaps control over) the activities central to our functioning as human beings—these things seem assured. And yet, the world of mental illness is ruled by the conventional wisdom of psychiatry, by, as the saying goes, "M.D.s, not Ph.D.s." And not enough money is available for this kind of brain research. "The fact is," says Christian, packing his pipe and clearing a space on his desk, "the National Institute of Mental Health, and the brain research section inside it, is a poor stepchild. We're at the low end of the totem pole in terms of funding. What little money there is goes, in large part, to the M.D.s. Which means that, as more and more people come into the brain research field, fewer and fewer applications for grants can be met, and more and more scientists are drawn into the pharmaceutical companies, which have slightly different priorities. And it's time to change this. There's got to be a national program for mental illness—precisely the kind of effort that was launched in the sixties to deal with addiction. There should be a proper center in the United States for research into schizophrenia. At the moment there just isn't one. There's a center for alcohol, there's a center for drug abuse. But we're talking about a *much* bigger problem—stress, madness, things that eat into the fabric of our society—but things we know with proper funding we can eventually cure."●

ALASKA NATIONAL INTEREST LANDS

● Mr. HART. Mr. President, 7 years ago Congress set in motion one of the most far-reaching conservation initiatives in our history. Recognizing that irreversible changes were taking place in Alaska and that positive steps were needed to protect nationally significant wildlife, wilderness, and scenic resources in Alaska, Congress included in the Alaska Native Claims Settlement Act of 1971 provision for temporary withdrawals, studies, and recommendations to Congress regarding the expansion and establishment of conservation system units in Alaska.

To force timely congressional action on these proposals and to resolve the uncertainty over Alaska's land ownership and management status, Congress set a December 18, 1978, deadline for resolution of the Alaska national interest lands issue.

It is now clear that we will not meet this deadline. I am sorely disappointed by our failure to do so. The citizens of

this country deserve an assurance that these lands will have lasting protection.

Passage of Alaska lands legislation will be one of the highest priorities of the 96th Congress when it convenes in January. I hope that we will pass promptly next year a bill that adequately protects the lands of national importance in Alaska. The House passed such a bill this year, by a vote of 277 to 31.

While the Energy and Natural Resources reported an unacceptably weak bill this year, I am sure that if given the chance the full Senate would have approved legislation similar to the House bill. Had the Energy Committee bill come to the floor, I and others would have offered amendments to raise the bill to the minimal standards necessary to preserve the national interest in Alaska's unique lands. As an illustration, my amendment would have restored 19.1 million acres of the 41.5 million acres which the Energy Committee cut from the House-passed wildlife refuge system. The following table lists the wildlife refuges approved by the House, included in my amendment, approved by the Energy Committee, and proposed by the administration.

NATIONAL WILDLIFE REFUGES (ACREAGE OF UNITS PROPOSED)

Refuge	House H.R. 39	Hart amendment	Senate committee	Administration
Alaska Maritime	460,000	460,000	460,000	430,000
Arctic	9,900,000	9,900,000	5,650,000	8,850,000
Alaska Peninsula	1,570,000	1,882,000	0	0
Becharof	1,090,000	1,090,000	990,000	1,030,000
Copper River	1,200,000	1,200,000	0	0
Innoko	3,900,000	3,850,000	3,850,000	2,840,000
Kanuti	1,450,000	1,420,000	1,420,000	1,200,000
Kenai	250,000	250,000	250,000	250,000
Kodiak	100,000	50,000	50,000	0
Koyukuk	3,650,000	3,535,000	3,535,000	3,330,000
North Slope	22,000,000	0	0	0
Nowitna	1,560,000	1,560,000	0	1,450,000
Selawik	3,300,000	2,150,000	2,150,000	2,150,000
Tetlin	704,000	765,000	765,000	765,000
Togiak	3,135,000	3,135,000	0	3,840,000
Yukon Delta	13,850,000	13,850,000	11,130,000	10,590,000
Yukon Flats	9,400,000	10,010,000	5,710,000	8,450,000
Total	77,519,000	55,107,000	35,960,000	45,175,000

As the table indicates, my amendment is very similar to the House bill except for the National Petroleum Reserve, which the House designated as the North Slope National Wildlife Refuge with an exception to allow the existing petroleum exploration activities.

Although I prepared my amendment only 2 days ago, 20 Senators joined me as cosponsors. They are Senators CHURCH, DURKIN, RANDOLPH HASKELL, ANDERSON, EAGLETON, HUMPHREY, LEAHY, MCINTYRE, NELSON, RIEGLE, PELL, GRIFFEN, ROTH, MCGOVERN, CHAFEE, PROXMIRE, DECONCINI, HATHAWAY, and BIDEN. I am confident that, if given the opportunity, the Senate would have overwhelmingly adopted my amendment and other strengthening amendments.

This support in the Senate is a reflection of the wide support across the country for a strong Alaska lands bill. I hope that the new bill reported by the Energy Committee next year similarly reflects the clear national will.●

THE MEDICAL PERSPECTIVES FELLOWSHIP PROGRAM

● Mr. HEINZ. Mr. President, there is a great concern about personal health and well-being among Americans today. The public is alert to advances in the field of medicine and is looking for continued improvement in health care. I was especially interested, therefore, to learn about an unusual new fellowship program for medical students called medical perspectives. It is administered by the National Fund for Medical Education and made possible by a grant from Smithkline Corp. of Philadelphia, Pa. I believe my colleagues might like to know about this exciting new program.

The purpose of medical perspectives is to offer medical and osteopathic students unique learning experiences that they would not ordinarily encounter in the normal course of their education. Students enrolled in any school of medicine or osteopathy in the United States may participate. Their projects are carried out during the third or fourth years of medical school. Fellowships are awarded for innovative projects that will give them a deeper insight into clinical medicine or health care delivery. The study of significant worldwide health problems and those affecting minorities or the poor are especially encouraged.

The first group of fellowships was awarded for projects that will allow students to study such issues as genetic patterns, the diagnosis and treatment of battered women, a team approach to home care of the elderly poor, and the development of educational programs for patients with hypertension, diabetes, or myocardial infarction. Representing 18 States and the District of Columbia, the students winning fellowships are from 23 medical schools and one osteopathic school, including students from Pennsylvania's Jefferson Medical College, the Medical College of Pennsylvania and the University of Pennsylvania School of Medicine.

Eight of the 28 students will go abroad for their fellowships to such places as Thailand, Senegal, Great Britain and Sweden for all or part of their studies.

Since 1965, the National Fund for Medical Education has awarded nearly $50 million to educational institutions and organizations dedicated to improving medical education. I believe that this fine and highly original program gives substance to the kind of pioneer spirit we need if there are to be continued advances in medicine for the benefit of people everywhere.

Mr. President, I commend the Smith-Kline Corp. for making the medical perspectives fellowship program possible. To every fellowship recipient, I offer my hearty congratulations.●

HISPANIC DEMOCRATIC COMMITTEE OF NEW JERSEY

● Mr. WILLIAMS. Mr. President, there are over 12 million Hispanics in the United States today, and within a decade Spanish-speaking Americans—Mexicans, Puerto Ricans, Cubans, Central and South Americans will be the Nations' largest minority. Several hundred thousand Hispanics live in New Jersey alone.

It is for this reason that I am particularly pleased to draw my colleagues attention to an organization in my State which was created to make sure the Hispanic population has a voice in local, State and Federal Government. Called the Hispanic Democratic Committee of New Jersey, this is the only organization in the State geared to serving this growing segment of our population. Members encourage the Spanish-speaking communities to participate in elections, they tell people how and where to register to vote, they explain the importance of voting and the value of remaining aware of political issues of significance at all levels of Government.

This new unity and participation in the political sphere not only benefits the Hispanics in New Jersey, but benefits every citizen in the State. Rather than becoming a voiceless minority, the Hispanic population, through their cumulative political voice, will help create a Government more responsive to their needs. In their diversity, the Hispanics can bring unique and distinctive characteristics from their melting pot of contemporary American society.

Commensurate with their growing numbers, Hispanics across the country will play an increasingly important role in shaping the Nation's politics and policies.

Mr. President, I applaud the work of the Hispanic Democratic Committee of New Jersey and sincerely hope that we see organizations such as theirs flourish in the years to come.●

EXPLANATION OF VOTE ON SUNSET LEGISLATION

● Mr. BUMPERS. Mr. President. On Thursday afternoon, when the Senate passed the so-called sunset bill, I was the object of some curiosity because I cast the only dissenting vote. My vote was not cast lightly or whimsically.

It is my honest feeling that if the bill ever becomes law, it is the paper industry, not the American people, who will benefit. The concept of making every Federal agency justify its existence every 10 years has considerable appeal in this year of our great discontent with Government in general and the bureaucracy

in particular. But Mr. President, the implementation of their bill will require hundreds of additional employees to do the paperwork that will be required. If you can imagine how much paper will be forwarded to Congress as each agency attempts to protect its turf, its jurisdiction, and the job security of the people working there. And considering the fact that the Senate, at least, by most estimates, is only capable of performing about 10 percent of its oversight responsibilities now, how many employees will Congress employ to read all this paper transmited to us? And then, Mr. President, does anyone presume that the Department of Health, Education, and Welfare is going to be abolished, that the Sun is going to set on the Departments of Defense, Commerce, and so forth? Of course not, and so what will the costs have netted us? Nothing. The very opposite of what we sought will have occurred.

Mr. President, the sunset bill is a classic bureaucratic response to controlling the bureaucracy. It is a classic example of dealing with the politics of the problem rather than the problem. I will admit the error of my vote the first time the sun ever sets on a governmental agency as a result of this legislation.

When I was Governor of my State, I had dozens of consultants who tried to sell—and to some extent succeeded—me on various exotic techniques—all guaranteed to not only curb the growth of Government, but make Government more efficient and responsive, and thereby generate a wave of renewed confidence in Government. There was "Zero Base Budgeting," "Management by Objective," "Annual Operating Plan" and yes "Sunset." We tinkered with MBO and AOP, to my eternal dismay and regret. I could hardly get into my own budget hearings because of the stacks of paper. The whole system was finally discarded because it was sinking under the weight of all the paper.

The way to curb Government, Mr. President, is for the executive and legislative branches to do their duty and cut funding for the unnecessary functions, and shape up the ones that are not performing satisfactorily.

Mr. President, this Sunset bill reminds me so much of the old saw made famous by Pogo: We have met the enemy and he is us.●

ANTITRUST IMMUNITIES

● Mr. HATCH. Mr. President, as a member of the National Commission for the Review of Antitrust Laws and Procedures, I have had the opportunity in the last several weeks to become acquainted with the ongoing debate surrounding the value of antitrust immunities being applied to several of our Nation's industries. Two of the largest industries involved in the debate and which now are granted immunity for the purpose of collective ratemaking are trucking and railroads.

A recent editorial in the October 9, 1978, issue of Traffic World discussed the issue of collective ratemaking and rate bureaus in the railroad industry. While making a persuasive defense of the collective ratemaking concept, the editorial also reviewed the recent efforts of the Interstate Commerce Commission to do away with antitrust immunities for the railroads—a move which, according to the editorial, "would add further monumental burdens to an already sick industry."

Because the issue of collective ratemaking and antitrust immunity in the transportation community is certain to come before Congress in the next several months I would like to share with my colleagues the Traffic World editorial.

I submit the following editorial for printing in the RECORD:

THE MAKING OF CHANGES ISN'T ALWAYS GOOD

Over a long period of years we have witnessed the making and effectiveness of federal laws to rationalize and stabilize the provision and pricing of for-hire transportation services. In those years we have also witnessed continuing efforts by the Justice Department's antitrust division to undo the orderly ratemaking processes established by law. Now we are discouraged and distraught by the Interstate Commerce Commission's presently hostile attitude toward some essential elements of carrier ratemaking.

It was in 1943 or thereabouts that the Justice Department instituted its Big Campaign to abolish the rate bureaus created by the ICC-regulated carriers. In the 35 years that have elapsed since then, many of the well-informed and trustworthy transportation leaders in Congress, at the ICC, and among the providers and users of transportation services who succeeded in obtaining and retaining antitrust immunity for collective ratemaking organizations have departed from this world. Too many of the present holders of positions of leadership in Congress and in other government areas know too little about the nation's transportation structure to enable them to evaluate properly the courses of action advocated by zealous pleaders for unrestricted competition in American transportation. It's a lovely principle for application in business generally, but in the for-hire transportation business it would be more hurtful than helpful, not only to the carriers but also, and very importantly, to the users of the carrier services, i.e., the public.

Now, apparently bowing to the wishes of White House policy makers who don't know much and may not want to know much about transportation operations and problems, the ICC has indicated by certain of its orders and decisions that it has accepted the antitrust division's implied contention that what's good for the antitrust division just has to be good for everybody.

And so the Commission has done some whipcracking at the three major territorial ratemaking bodies of the U.S. railroad industry. It says that the railroads have failed to show that their proposed ratemaking agreements (under the newly enacted section 5b, modifying section 5a of the Interstate Commerce Act) would further the national transportation policy and that they are in peril of losing their antitrust immunity altogether unless they provide more evidence in support of their agreements (T.W., July 31, p. 37).

What the Commission is really concerned about, we surmise, is not so much the consonance of rail ratemaking pacts with the ICC's concept of what the "national transportation policy" is or should be, but, rather, concurrence in the politically motivated "policy" dictated by the President and/or his advisors.

The number and nature of the replies by shipper organizations in support of the railroads' petition for administrative review of its decision, served July 21, in Section 5b Applications Nos. 2, 3, and 6 (T.W., Sept. 18, p. 175) are impressive. Particularly impressive is the reply by the Transportation Association of America, the members of which include officers of carriers of the differing modes, industrial and commercial traffic executives, and financial institutions that are investors in transport enterprises.

Fred H. Tolan, of Seattle, a highly respected veteran among the nation's transportation lawyers, has filed with the ICC a reply on behalf of the Pacific Northwest Traffic League to the railroads' plea for review and reopening of the ICC's July decision on Section 5b Applications Nos. 2, 3, and 6. This is also a reply by the PNT League to the Justice Department's petition opposing the railroads' review plea (T.W., Oct. 2, p. 10). The case for preservation of existing rail ratemaking immunities is stated well by Mr. Tolan.

"It's incredible," he says, "that the Interstate Commerce Commission would add further monumental burdens to an already sick industry by eliminating the essential rate bureaus. If the Commission's order served July 21 is allowed to stand, it will be the death knell of the rate bureaus. . . . We see no shipper benefit from the Commission's July 21 order.

"These shippers will join with interested railroads in seeking legislative correction in Congress if the Commission's order served July 21 is not amended in a satisfactory way by the Commission and if the court attack on that order is not successful. In our opinion, the Commission has gone far beyond anything necessary for the public interest."

The ICC ruling that single-line rate discussion, voting, and agreement would have to be separate from any joint line participation, Mr. Tolan wrote, is "impossible of application." Either the ICC order served July 21 is right, or its joint-rate order for the Burlington Northern and the Milwaukee Railroad on which, in part, the Northern Lines merger was conditioned is wrong, he said, adding:

"To now state that the BN would have to act on a single-line basis between Seattle and Chicago without discussion with the Milwaukee Railroad on which they are mandated to have joint rates would be a gross misuse of the Commission's power. . . .

"If the 'open meeting' rule goes into effect, every competitor of a railroad will have advance information on railroad ratemaking. That can only hurt an already sick industry."

In a verified statement filed with the ICC in Section 5a Application No. 61—National Motor Freight Classification—Agreement, Jesse J. Friedman, economic consultant, of Washington, D.C., said that from the standpoint of shippers, one of the most important values of the making of rates by collective action, as opposed to individual carrier action, lies in the high degree of stability that collective action affords in enabling the shipper—as the U.S. Supreme Court has said—to have a basis for planning ahead by relying on a coherent rate structure reflecting competitive factors.

Proponents of "freedom in ratemaking" maintain that with the advent of some astonishing technological changes in transportation should come extensive changes in transport regulation. There are, however, some benefits of regulated transportation that are not affected by technology, benefits that need to be and should be preserved. Highly important among them is the rate stability that shippers need and collective ratemaking provides.●

A START TOWARD BEEF IMPORT LEGISLATION

● Mr. McGOVERN. Mr. President, for years, cattlemen have been dissatisfied

with the Meat Import Act of 1964. Though it was universally applauded at the time of its passage, its formula for allowing imports into this country has become hopelessly outdated. By basing imports on annual beef consumption nationally, imports in 1977 rose to 1.3 billion pounds at a time when cattle population in this country was at an alltime high. Depressed domestic prices of beef coupled by record imports were either putting cattlemen at the brink of bankruptcy or forcing them out of business by the thousands.

Cattle sales in South Dakota are by far the greatest single source of agricultural cash receipts. Both cow-calf operators and cattle feeders were losing millions of dollars each year. In this connection, I want to pay tribute to Les Blomberg and Francis Veal, two South Dakota ranchers who head the National Association of Meat Promoters. This organization initiated a petition before the International Trade Commission on the beef import question and gave it national attention.

They were also very helpful to me in formulating the provisions of S. 2737 which I introduced on March 13, 1978. This bill contained the identical formula for the countercyclical formula which emerged later in the bill introduced by the Senator from Texas (Mr. BENTSEN) and which passed the Senate unanimously. On February 27, 1978, I presented extensive testimony before the Senate Finance Committee in support of my legislation as well as appearing twice before the International Trade Commission in support of the petition to which I referred earlier.

The countercyclical formula makes sense. It allows more meat imports into this country when our cattle population is low and curtails imports when our cow numbers are high. This is what our cattlemen want and this is what they are entitled to.

In my judgment the bill we passed in the Senate contained the mathematical formula most acceptable to the industry. On October 12, 1978, the House of Representatives passed its version of this legislation, which I understand to be less progressive in terms of the interests of domestic producers. I would prefer that the two bodies have the opportunity to go to conference to resolve the differences between the bills. However, as a practical situation in the closing days of this Congress, I realize that this route is neither practical or possible. It is evident to me that we must have a bill to at least change the philosophical approach to this problem if not solve all that we would like to solve. For these reasons, I hope that the Senate will recede to the House bill, take up its provisions and pass them. Future Congresses can correct what we feel to be the deficiencies in the House bill but I feel that all cattlemen will welcome a start. The legislative vehicle we have at hand will provide this opportunity. I hope that we will have the good sense to use it.●

THE VICTIMS OF LABOR REFORM

● Mr. HATCH. Mr. President, now that the 95th Congress is rapidly drawing to a close, I want to again publicly affirm my commitment to work out a consensus labor reform legislation next year in conjunction with both labor and management's participation. I know that in the National Labor Relations Act as well as other laws governing labor/management relations can be corrected if a spirit of compromise will prevail in what must be a "give and take" process. I hope that labor and management will reconcile their current difficulties and resort to our good offices to get on with the work of designing a fair and balanced labor relations bill which union members and the general public can support.

One piece of unfinished business which remains involves the desire of the Ingersoll-Rand Co. to respond to Senator WILLIAMS' May 17, 1978, recitation, "Why America's Workers Need Labor Law Reform."

Senator WILLIAMS' pronouncement on the Senate floor that date clearly stated three points:

First. Bernard Mings, an Ingersoll-Rand employee, was discharged March 3, 1976, by the company because of his efforts to "organize" union representation.

Second. Had the proposed bill S. 2467 been in effect at the time of Mings' discharge he would still be employed and remain so until the case is fully adjudicated—decision pending in 6th Circuit Court of Appeals.

Third. Ingersoll-Rand repeatedly delayed the reemployment of Mings by refusing to comply with an NLRB decision and, in addition, this employer contributed to the Mings' unemployment by use of delaying tactics.

Mr. President, I submit for the RECORD a response prepared by Ingersoll-Rand as to its position on the Mings case so that my colleagues can evaluate whether Mings was in fact "a victim of our labor laws" as the proponents of S. 2467/H.R. 8410 have suggested.

The statement follows:

Reference has been made in presenting arguments in support of the so-called Labor Reform Law to the discharge of employee named Bernard Mings as the result of his assault on a fellow employee at a plant of Ingersoll-Rand in Campbellsville, Kentucky. Much has been made of the fact that 26 or more months after the discharge the employee has not been reinstated and has not secured comparable other employment since NLRB found his discharge to be a violation of the National Labor Relations Act.

Prior to pointing out many of the omissions in the earlier description of the events of this case it should be noted that the proposed Bill as described by its sponsors in the Majority Committee Report stated:

"A preliminary injunction is an appropriate remedy when the harm in permitting a probable violation to continue outweighs the possibility that the eventual decision will be in the defendant's favor."

The footnote at this point indicates that it was not the intention of the Bill's proponents to disturb the existing policy when reinstatement would not be an appropriate remedy "because for example the discriminatee has engaged in acts of physical violence."

What the description of the facts of this case given on May 17, 1978 omitted was that the Bernard Mings had been discharged for acts of physical violence. In both the decision by the Administrative Law Judge and in the brief filed by the Board in the Court of Appeals it is admitted that the employee committed an assault on another employee. In fact Mr. Mings also admitted that he had assaulted this other employee. The only possible point of dispute is whether Mings' assault was provoked. The so-called provocation consisted at most of nothing more than the calling of names. It was not even claimed that the victim of the assault engaged in any acts of violence or retaliated against Mings in any manner. The nature of the assault as admitted by Mings was described "I was trained in karate, it was a hit-kick" and further that it was "a blow to the jugular vein (which) stunned him."

The description previously given of this matter also creates the impression that the National Labor Relations Board independently had found the employee unlawfully discharged. In fact the Board did nothing more than rubber stamp the decision by the Administrative Law Judge without the slightest effort to correct a number of unchallenged errors in the opinion of the Administrative Law Judge. It is unfair and misleading to create the impression that the Board review of this matter was anything more than a perfunctory agreement with an earlier decision.

Also omitted from the prior description is the fact that although the union filed charges with the Board on March 17, 1976 the Regional Director for the Ninth Region of the Board declined to issue a complaint in connection with Mings' discharge. Thereafter following the procedures of the law the union appealed to the General Counsel in Washington who overruled the Regional Director and directed the issuance of a complaint. This was done, despite the fact that the employer had cooperated with the investigators of the regional office, had submitted sworn statements by a number of company officials and had cooperated further in permitting the Board agent to secure statements privately from a number of employees. As evidenced by the refusal of the Regional Director to issue a complaint it must have been clear in his investigation that the employer had a valid reason to discharge Mings for assaulting another employee.

Under the peculiar procedures of the Labor Board no reason is given when the Regional Director's on the spot decision not to issue a complaint is overturned by a remote official in Washington.

Following the issuance of a complaint as directed by Washington the case proceeded in normal course to a formal hearing at which all parties received a full hearing.

The evidence at the hearing established beyond any dispute that Mings had struck the other employee and that his blow had staggered the other employee. However, in his decision finding a violation the Administrative Law Judge held that the assault had been provoked but cited no evidence to support such a holding except some alleged name-calling between Mings and the employee he assaulted.

Following receipt of the incomprehensible decision by the Administrative Law Judge the employer promptly submitted exceptions to the full Labor Board in accordance with the Board's regulations. These exceptions detailed with great particularity innumerable errors in the decision of the Administrative Law Judge. Those errors were unchallenged by the General Counsel. Despite the enumeration and elaboration of errors made by the Administrative Law Judge the Labor Board affirmed his decision without in any way indicating whether it ignored the errors, whether it approved the errors or whether it just disregarded them.

Thereafter and immediately upon receipt of the so-called decision by the Labor Board the employer promptly filed a notice of appeal in the United States Court of Appeals for the 6th Circuit.

Again the employer enumerated errors in

the Board decision and again those errors are not challenged in the Board brief.

Since this matter is currently before the courts it would seem that a decent respect for the separation of powers so much a part of our constitutional form of government would have required that any comments await a final judicial determination on the merits. It is unfair to the parties and even more unfair to the Court to have a one-sided presentation on the pending case included in the legislative deliberations of this bill before the Court established by law to pass upon these matters has had the opportunity to do so.●

SUIT CHALLENGES ENERGY POLICY

● Mr. McGOVERN. Mr. President, editorially, the Sioux Falls, S. Dak. Argus Leader this week asked, "Which is more important to the country, and particularly this part of the United States—environmental protection for the whooping crane or the completion of the Laramie River Power Station at Wheatland, Wyo.?"

Here are the facts in the case.

A U.S. district court decision was handed down in Lincoln, Nebr., on Monday, October 2, which halted Federal financing for the $1.6 million consumer-owned Missouri basin power project under construction near Wheatland, Wyo.

The court's decision was based on a lawsuit brought by the State of Nebraska, the National Wildlife Federation and the Audubon Society. The plaintiffs cited the "inadequacy" of the project's environmental impact statement.

The court and plaintiffs were not concerned with the three-unit 1.5 million kilowatt Laramie River Station generating facilities nor the 600 miles of associated 230 kilovolt and 345 kilovolt transmission lines. They were instead concerned with the 100,000 acre-foot Grayrocks Dam and Reservoir which would have provided water necessary in the generating process.

On October 2, the court ordered that loan guarantee commitments by the Rural Electrification Administration be set aside for not only the reservoir but the entire project. The court ordered that a Corps of Engineers "section 404" permit be set aside. REA was enjoined from approving any loan guarantee to the project sponsors until an environmental impact statement is supplemented or approved to correct inadequacies determined by the court. Grayrocks Dam and Reservoir cannot proceed until a new section 404 permit is issued, and it cannot be until the EIS is complete. The project has been stopped; 2,100 men working at the site are without work; $800 million in contracts which were awarded cannot be fulfilled; $437 million in "sunk costs" are just that.

The timetable planned to provide electric power to 100 rural electric cooperatives and 75 municipal electric systems for 2 million consumers in eight States through the mid-1980's is in total disarray. The project had already experienced a 1-year delay as a result of State legislation requiring new and more stringent standards for sulfur dioxide emissions. It is important to know, however, that this requirement had been satisfied as had all others up until the time the court took this action.

I would like to recount the history of this project, because it can be instructive for any power company anywhere in this Nation, because frankly, I believe this action sounds a note of "doom" for any electrical generation plans anywhere. After I describe what happened to this project, I think my colleagues will come to realize that if it could happen here—it could happen anywhere.

Initial planning for the Laramie River Station began in the spring of 1971. In September of 1975, the project sponsors applied for the necessary Corps of Engineers section 404 permit, which was an unanticipated new requirement. In December of 1975, the U.S. Fish and Wildlife Service published proposed rulemaking to designate a portion of the Platte River some 250 miles away as "critical habitat" for the whooping crane, an endangered species.

In January of 1976, the project draft environmental impact statement was published. Not until April did the corps hold their hearings on the section 404 permit application. In May, the project's final environmental impact statement (EIS) was completed and submitted to the Rural Electrification Association. On June 7, REA published the notice of final EIS in the Federal Register. Site preparation began in July. In August, REA published its intent to issue loan guarantees for Basin Electric's share of the project. Not until November did the State of Nebraska decide to file its suit against REA challenging the sufficiency of the project EIS.

Not until March of 1977, did the National Wildlife Federation intervene in the suit on the side of Nebraska. That is all for 1977.

In March of 1978, 1 year later and over 3 years after application, the U.S. Army Corps of Engineers issued the section 404 permit. In April, the State of Nebraska, National Wildlife Federation, and the Audubon Society filed suit against the corps claiming they had violated the intent of the Endangered Species Act and the Federal Administrative Procedures Act. In May, a final rule was published by the U.S. Fish and Wildlife Service designating a portion of the Platte River, 250 miles from the proposed reservoir, as "critical habitat" for the whooping crane. Finally, in August of 1978, the suits were heard on a combined basis in Federal District Court in Lincoln, Nebr.

What reason did the court give for halting the entire Laramie River Station project, not just Grayrocks Dam and Reservoir, the only aspect of the project challenged in court?

The court determined that the EIS was inadequate under the National Environmental Policy Act of 1969 because: first, it failed to describe the cumulative effects of the project and others such as the Narrows Unit on the South Platte River in Colorado; and second, it failed to discuss the effect of the project on the canal and reservoir system downstream from Lake McConaughy should the lake go dry.

I should note parenthetically that Lake McConaughy is a 1-million acre-foot lake operated under the authority of the State of Nebraska and for which there is no written plan for the protection of wildlife habitat downstream from it.

The court also found that the REA and corps failed under the provisions of the Edangered Species Act to take action necessary to insure the project does not jeopardize the continued existence of the whooping crane or result in the destruction or modification of its habitat within the meaning of the act. Again, parenthetically, a meaning which has not yet been determined and will require a 3-year study to prove—a study for which no money has been provided.

It is important to note the court did not find the project to be a "bad" one, and, in fact, did not cite any adverse effects which would be expected to result from it. The court simply found the EIS did not address all possible effects as may be alluded to in NEPA and the Endangered Species Act.

The project sponsors had gone through all the required hearing processes and received all the requisite local, State and Federal permits.

The existence of critical crane habitat was not known to exist some 250 miles away from the site until well after the EIS process was underway. It was not until the action had been brought that it even became a possible issue. In fact at this point, it is impossible for the mandated Federal agency to say with any certainty in what manner this project might adversely affect the crane or its habitat. The burden of proof is not on them, it is on the project sponsors.

This is why the Sioux Falls Argus Leader asked its editorial question. Therefore, I submit for the RECORD that article along with a related October 6 news release by East River Electric Power Cooperative.

Additionally, I would also like to submit news releases prepared by the Basin Electric Power Cooperative, one of the project sponsors. They are dated October 3, 4, and 6, 1978.

The material follows:

[From the Sioux Falls Argus Leader, Oct. 9, 1978]

SUIT CHALLENGES ENERGY POLICY

Which is more important to the country, and particularly this part of the United States—environmental protection for the whooping crane, or completion of the Laramie River Power Station at Wheatland, Wyo.?

The $1.6 billion power plant and the Grayrocks Dam and Reservoir in eastern Wyoming have been termed essential to supplying power needs in South Dakota and neighboring states by 1980.

If a Nebraska federal court suit stopping construction on the dam and reservoir is allowed to follow its normal judicial course, the delay could have serious consequences. The shutdown order was temporarily lifted over the weekend, but resolution of the legal problems, unless a solution is expedited, could seriously jeopardize a a project its sponsors believed was carefully planned and considered.

Federal Judge Warren K. Urbom of Lincoln halted construction on the dam and reservoir last week, after the Nebraska and National Wildlife Federations, the state of Ne-

braska and the national Audubon Society sued. They charged that project officials failed to comply with federal environmental regulations. The suit said the project would harm downstream flows in Nebraska and threaten the habitats of several species of birds, including the endangered whooping crane.

There may well be some environmental considerations that were overlooked in planning the power complex at Wheatland. However, Loren Zingmark of Madison, general manager of East River Electric, says there's not a plant in construction in the United States today that's had more study on environmental or socio-economic factors.

Zingmark warned that "if this case is allowed to stand, there won't be any construction of generating plants in this country because there's no way we can meet the demands."

His warning should be heeded. On its face, the Wheatland power complex, designed to tap the coalfields of Wyoming near the source, would appear to be a logical and efficient way to supplement Missouri River power in the years ahead.

Neither the project nor the county can wait for the three years Zingmark says it would take to do further environmental research on whooping cranes.

According to Winn Curtiss of Bismarck, a spokesman for Basin Electric Power Cooperative, the combine which is building the complex, the organizations which sued in court did not file protests against the project until after the deadline for commenting on the environmental impact statement.

This weakens the case of the environmental groups and puts them in the apparent position of harassing an ongoing project with judicial delays.

Hopefully, the court process can be expedited to sustain the project and find a way, if possible, to help the whooping crane while construction continues.

Other choices, which preclude completion plants like the Laramie River Power Station, would be directly contrary to this country's energy policy and needs.

EAST RIVER ELECTRIC
POWER COOPERATIVE, INC.,
Madison, S. Dak., October 6, 1978.

MADISON, S.D.—Loren Zingmark, general manager of East River Electric Power Cooperative, charged today that Nebraska Governor J. J. Exon is leading the effort to halt construction of the Missouri Basin Power Project near Wheatland, Wyoming.

"The State of Nebraska brought the court action which led to Federal Judge Warren Urbom issuing an injunction this week to halt construction of the MBPP project, which will assure future supplies of electric power to rural electric cooperatives and municipal electric systems in South Dakota," Zingmark said.

"Yet, while trying to stop this project on some trumped up environmental concerns, Governor Exon is endorsing the plan of Nebraska Public Power District to build a huge transmission line from Canada to Nebraska, cross South Dakota. This line would cross right through eastern South Dakota's prime farming areas, but would provide no benefit whatsoever to our people," Zingmark charged.

The East River manager said the action by the Governor and the State of Nebraska is "totally inexcusable and irresponsible. He's trying to tell the State of Wyoming how to use its water and ignores the fact that the Missouri Basin Power Project is the cleanest, most environmentally acceptable power generating project under construction in the country."

"There is no proof whatsoever that this project will have any adverse affect on habitat for whooping cranes in Nebraska and this action demonstrates how federal legislation, passed in the name of protecting the environment, can be used to stop just about any construction project," Zingmark said.

Zingmark said that such legal harassment and costly delays in construction will add millions of dollars to the cost of the MBPP project and end up in higher electric bills for rural electric and municipal consumers.

"It's time our people rise up and demand Congress and the Carter Administration to amend this ill-conceived environmental legislation which threatens to turn out the lights for the people of our region," he concluded.

BASIN ELECTRIC,
POWER COOPERATIVE,
Bismarck, N. Dak., Oct. 3, 1978.

Basin Electric Power Cooperative General Manager James Grahl said today the Cooperative will file an appeal of a Federal District Court decision to halt Federal financing of the $1.6 billion consumer-owned Missouri Basin Power Project near Wheatland, WY.

As project manager for MBPP, Basin Electric will also file an immediate request for a stay of the injunction to halt construction on the Grayrocks Dam and Reservoir.

"This is an incredibly costly blow not only to the thousands of people and workers with jobs on the project in Wyoming," said Grahl, "but also to the hundreds of thousands of consumers in the region who are depending on this project to meet their future electric power requirements."

Grahl said the Missouri Basin Power Project, like other major energy projects under development in the 1970's, was attacked in court only after the project was well underway and had secured virtually all of its required governmental permits. He noted the project has had to proceed while litigation was pending which challenged the project's Federally approved environmental impact statement.

"The National Environmental Policy Act of 1969 (NEPA), under which the MEPP was challenged," noted Grahl, "is a litigation-spawning statute which has allowed opponents to thwart by means of legal maneuvering the efforts of power suppliers to meet their responsibilities.

"The decision to halt construction on the Missouri Basin Power Project is a victory for the National Wildlife Federation, the Audubon Society and the Governor of Nebraska who challenged the project," said Grahl, "but it is a severe and expensive defeat for the consumers of the region."

"Those who have challenged the project have demonstrated how the Endangered Species Act and the Environmental Policy Act can be used to endanger economic development in all of the states in the Missouri River Basin and the Platte River system," Grahl declared.

Grahl pointed out that since 1973 over $630 million in contracts have been awarded on the project, plus additional contracts for transmission construction, and $437 million expended on the project as a whole to date.

"We have no choice today, however," said Grahl, "but to comply with the order of the court and begin a systematic and orderly shutdown of the construction activities on the Grayrocks Dam and Reservoir site. We will have to find out the effect of the Court's decision against Federal loan guarantees on construction of the power plant. In the meantime, work on the plant is continuing because we understand the court order to permit this."

BASIN ELECTRIC POWER COOPERATIVE,
Bismarck, N. Dak., October 4, 1978.

Basin Electric Power Cooperative says it will make every effort to continue with construction of the generating units at the Missouri Basin Power Project's Laramie River Station site near Wheatland, Wyoming.

A Federal District Court decision has ordered a halt to construction on the Grayrocks Dam and Reservoir which is associated with the Laramie River Station, and has enjoined the Rural Electrification Administration from approving loan guarantees for the $1.6 billion project. Basin Electric is the largest participant in and construction manager for the project.

Basin Electric General Manager James Grahl said today that the Cooperative will "have to find out the effect of the Court's decision against Federal loan guarantees for construction of the power plant.

"In the meantime," said Grahl, "work on the power plant itself is continuing because we understand the court order to permit it.

"It is vitally important to all of the rural consumers in the eight states of this region who will be supplied power from this project," noted Grahl, "that construction of the generating units continue while the necessary legal and technical steps are taken to comply with the Court's order and appeal the decision that was rendered.

"A complete construction delay of any length of time will cost the consumers of this region millions of dollars," said Grahl, "and raise the question of an adequate supply of electric power beginning in 1980."

The State of Nebraska, the National Wildlife Federation and the Audubon Society brought the suits seeking to halt the project.

STATEMENT ON MISSOURI BASIN
POWER PROJECT

Meeting in Denver, CO, on Thursday, the Management Committee of the Missouri Basin Power Project (MBPP) acted to continue construction at the site of the Project's Laramie River Station generating units near Wheatland, WY. At the same time, the management group directed contingency shutdown plans be developed. The committee authorized and directed the Project Manager (Basin Electric) to:

(1) Proceed to take any and all prudent actions to assure the orderly construction of the Laramie River Station, emphasizing completion of units 1 and 2, and protecting those parts of the project which are already in place or nearing completion;

(2) Take all proper and legal steps to gain clarification of the Federal District Court judgment in order to lift the injunction halting construction on the Grayrocks Dam and Reservoir and determine if negotiations with the plaintiffs would be fruitful; and

(3) Engage all necessary legal assistance to proceed with an appeal of the District Court order.

Shutdown of construction on Grayrocks Dam and Reservoir is underway and as of Thursday 18 workers had been terminated and 22 others placed on a standby status. One hundred and eleven workers are proceeding with the shutdown work which includes storage of materials and maintenance of equipment, filling of trenches and exposed safety hazards, installing road barricades and guard rails and covering openings of tunnels and shafts.

Informal discussions over clarification of the legal order relating to construction loan guarantees by the Rural Electrification Administration (REA) began with the District Court in Lincoln, NE, on Thursday and are to continue into next week.

Attorneys for the Project are drafting an appeal of the District Court order and a request for a stay to lift the injunction which has stopped construction at the Grayrocks Dam and Reservoir. Post trial motions on the request and clarifications will be filed with the Court next Tuesday and a decision is anticipated by the Project by the end of next week.

In a memorandum issued with the paychecks to the construction work force at the Laramie River Station site on Friday, Project General Manager James Grahl assured the work force that the Project plans to

proceed with construction on the generating units, related systems and transmission facilities. Grahl told the work force:

"You have done a tremendous job developing the Missouri Basin Power Project into what is regarded in the industry as a model power construction project. Your high motivation and personal involvement in the project is a source of pride to us all. Please be assured that we will keep you informed of developments through your business representatives and contractors." ●

LETTERS TO LEADERS OF THE MIDDLE EAST PEACE NEGOTIATIONS BY RABBI BARUCH KORFF

● Mr. HATCH. Mr. President, the religious leaders of this Nation have offered their prayers and assistance to the parties now negotiating a peace settlement in the Middle East. I applaud all of their efforts. I, too, have remembered these men in my prayers and urge my colleagues here in the Senate to do so also.

One of the many religious leaders offering prayers has been brought to my attention. Rabbi Baruch Korff of the United States has sent letters of support to President Carter, President Sadat and Prime Minister Begin. I submit for the RECORD these letters as an example of the efforts of all religious leaders.

The letters follow:

SEPTEMBER 25, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am privileged, on behalf of the United States Citizens' Congress Education Foundation, to extend to you our high esteem for your historic accomplishments at Camp David. Indeed, our prayers were with you from dawn to dusk, and our hearts, too, yearned with you all during your encampment.

Whatever the conjecture about the negotiations, we firmly believe that your oneness with God led to the breakthrough and will sustain your efforts for peace.

Faithfully yours,

Rabbi BARUCH KORFF.

SEPTEMBER 25, 1978.

President ANWAR EL-SADAT,
Cairo, Egypt.

DEAR MR. PRESIDENT: The United States Citizens' Congress Education Foundation and I, personally, wish to extend to you Godspeed on your continued journey toward peace. Arduous as your journey might be, I firmly believe that God has chosen you to be among his apostles for peace, which is why you will succeed. You, Mr. President, measure up to the task which has felled many men. At each of our meetings I came away with renewed strength and confidence in your pioneering ability to succeed where others have failed.

May your perseverance be crowned with laurels in Oslo, as it is even now in the hearts of peace-loving peoples throughout the world.

Faithfully yours,

Rabbi BARUCH KORFF.

SEPTEMBER 25, 1978.

Hon. MENACHEM BEGIN,
Jerusalem, Israel.

DEAR MR. PRIME MINISTER: The history of the Jewish People is replete with missed opportunities for redemption and salvation, and if we were to scrutinize recent events and the holocaust, we could not escape the high degree of responsibility for the impotency borne by Jewish leaders who did not measure up to past challenges.

Your skill and your vision of Israel's future, underscored by the torment of servitude you endured, enabled you to achieve a victory that eluded Israel for two thousand years. Your Friday night Kiddush in your Birch Lodge at Camp David struck a chord of your spiritual commitment in those who have shared the Sabbath meal with you. This, in essence, is Israel's mandate, which came across beautifully.

On behalf of the United States Citizens' Congress Education Foundation and myself, I wish to extend to you the felicitations and good will of millions of Americans who shared in the tension and anxiety and prayer all during the deliberations at Camp David.

I will be leaving for Israel on Wednesday, September 27, to worship during the High Holidays as I have done for many years. During the intervening days, I am tentatively scheduled to visit with King Hussein and President Sadat. In Israel, I will alternate between the King David Hotel in Jerusalem and the Accadia in Herzlyya.

Faithfully yours,

Rabbi BARUCH KORFF. ●

ERA EXTENSION

● Mr. BAYH. Mr. President, during the recent Senate debate on House Joint Resolution 638, the equal rights amendment extension resolution, there was a great deal of discussion over the question of rescission. On three occasions during this debate, the Senate went on record as opposing any attempt to recognize the right of a State to withdraw its previous ratification of a constitutional amendment.

During the discussion pursuant to these amendments, attempted rescissions of the pending equal rights amendment by Tennessee, Nebraska, and Idaho were mentioned on numerous occasions. Also listed as a rescinded State by opponents of the extension was Kentucky. I feel that it is important to point out that the validity of Kentucky's recission is questionable not only on the grounds that it may be constitutionally impermissible to rescind, but also on the basis that the attempted recission was vetoed by the Acting Governor of Kentucky.

Mr. President, I would like to ask unanimous consent that the statement and veto message signed by Kentucky's Lt. Gov. Thelma Stovall be printed in the RECORD.

STATEMENT BY LT. GOV. THELMA STOVALL

The 1978 General Assembly is now in the past, the failures and accomplishments of which are left to the judgment of history.

In January I had great hopes for the potential of this legislative session. There was much to be done for the commonwealth and its people, and I was eager to do my part in seeing legislation enacted which would enhance Kentucky's image as a forward-moving, progressive state. There was much good legislation which materialized during this session to continue that image.

Through a maze of the most dubious parliamentary maneuvers, the legislature allowed itself to be used by the misguided and plunge itself into action which I consider regrettable.

The 1978 session of the General Assembly wasted valuable time and energy in using many tactics, within or without, the boundaries of the rules adopted by the legislature, to pass a measure which in itself amounts to legislative folly.

The highest court of Kentucky has held, that a state can act but once upon a proposed amendment to the federal constitution. When the General Assembly has acted to ratify an amendment to the federal constitution it may not change its position, for reasons that are perfectly clear. Successive legislatures, as in the case before us, could make it impossible for the federal machinery of government to be certain of ratification or rejection.

The simple statement contained within the equal rights amendment, reads: "Equality of rights under law shall not be denied or abridged by the United States or by any state on account of sex." It carries only the promise of equal treatment and protection under the law. No one should seek more, and no government should afford less.

Kentucky would suffer from the distortion of the equal rights amendment as publicly has been announced.

It has been my experience over the years that I have held public office times occur which put on trial the personal convictions and public commitments of public officials. Every elective official is faced sooner or later with the prospect of acting for political expediency, acting from conscience and law, or avoiding the issues by not acting at all.

When the people vote to elect their leaders, they expect them to act, and act decisively. The whole purpose of life is action, and for a public official the action must be measured by positions of trust and responsibility.

I have always held that to sacrifice conscience for political expediency is to forfeit the public trust which is inherent in public office.

For this reason I have decided this day on what I consider a necessary course of action.

Section 89 of the Constitution of Kentucky provides:

"Every order, resolution or vote, in which the concurrence of both Houses may be necessary, except on a question of adjournment, or as otherwise provided in this Constitution, shall be presented to the Governor, and before it shall take effect, be approved by him; or, being disapproved, shall be repassed by a majority of the Members elected to both Houses, according to the rules and limitations prescribed in case of a bill".

In the absence of Governor Julian Carroll from this commonwealth I am, according to the Constitution, Governor.

I have asked for and received from Jack Hall, chief executive assistant to Gov. Carroll, House Joint Resolution 20. In accordance with my constitutional duty in the absence of the Governor, I am acting today to veto this resolution.

VETO MESSAGE TO BE TYPED UPON HOUSE JOINT RESOLUTION NO. 20 AND SIGNED

Whereas, the official records of the Secretary of State reflect the fact that the Governor of the Commonwealth of Kentucky is "absent from the State" within the meaning of section 84 of the Constitution of Kentucky, and

Whereas, in such circumstances, it becomes incumbent upon the Lieutenant Governor to discharge the duties of the office of the Governor,

Now, therefore, H.J.R. 20, 1978 Regular Session of the General Assessbly of Kentucky should be and it hereby is vetoed.

Conformable to the requirements of section 88 of the Constitution of Kentucky the objects and reasons for the veto of H.J.R. 20 are:

(1) It is not in the best interests of the people of the Commonwealth of Kentucky;

(2) The General Assembly of Kentucky was powerless to rescind the action previously it had taken on the identical subject matter of H.J.R. 20.

(3) The manner in which H.J.R. 20 ob-

tained concurrence by both Houses of the General Assembly were illegal.

This the — day of March, 1978.

———— ————.

Governor.

(Original was signed and dated by Thelma L. Stovall on March 20, 1978) ●

ADDRESS BY HAROLD M. WILLIAMS, CHAIRMAN, SEC

● Mr. HEINZ. Mr. President, I would like to share with my colleagues the address of Harold M. Williams, Chairman of the Securities and Exchange Commission as part of the Columbia University/McGraw-Hill Lecture Series in 1978.

Mr. Williams' speech, entitled "Egalitarianism and Market Systems," addresses the topic that our society lacks a well-developed, coherent philosophy within which to view the interaction between what we have traditionally viewed as a free market economic system and increasing governmental and political involvement aimed at promoting individual equality.

One of the most provocative sections of this address deals with major changes being made in the terms of the social contract underlying the relationship between individuals and the institutions in our society. Mr. Williams notes that increasingly the individual expresses less personal responsibility to institutions and less willingness or sense of obligation to sublimate personal needs or desires to those of others, while at the same time, the individual expresses greater expectations of institutional responsibility to him—and is often willing to enforce these responsibilities, or rights, through the political process.

He concludes by observing that if we are to succeed at the very difficult task of balancing what we draw from society against what we pay back, then—and only then—will the vitality and strength of both our market system and our egalitarian values be assured.

I commend his observations to all those who are concerned with condition and development of our economic and political system—and urge you to ponder the implications of the interplay between individuals and institutions in terms of our own legislative work here in the Congress. Our society takes its strength from the fact that our egalitarian goals give purpose to strengthening our economic system; yet our economic security gives us time and opportunity to pursue egalitarianism for all our citizens. We need to look to both aspects of our American way of life to meet our needs.

Mr. President, I ask that Mr. Williams' speech be printed in the RECORD in its entirety.

Text of speech follows:

EGALITARIANISM AND MARKET SYSTEMS

When I was invited to participate as a speaker in this series of Columbia University/McGraw-Hill Lectures on Business and Society, I was, of course, both honored and anxious to accept. The subject matter of the series—"Egalitarianism and Market Systems"—seemed to be sufficiently broad and amorphous that I could treat virtually any subject relevant to the contemporary economic or social environment which happened to strike my fancy and still fall safely within its parameters. Certainly the topic of corporate governance, on which I have spoken often during the past year, would, it seemed to me, fill the bill quite well. All-in-all, the opportunity to speak to you here this evening for a half an hour or so appeared to be pleasant and stimulating, but not especially onerous.

Several weeks ago, however, I began to appreciate fully the complex labyrinth into which I had unwittingly permitted the sponsors of this series to lead me. Several attempts to relate both the century-long trend in this country toward greater individual equality and the free—or relatively free—market system which undergirds our economic system to current topics of interest, such as corporate governance, the persistence of inflation, or the restructuring of the securities markets which Congress has mandated, proved fruitless. Or, perhaps more accurately, that exercise proved too fruitful; any attempt to relate egalitarianism and the dynamics of the marketplace to a particular topical issue rapidly seems to embroil one in broad questions bearing on the future of our society. It was at that point that I fully realized that the title "egalitarianism and market systems" captures the two most fundamental sets of forces and dynamics which define our society. In joining them together, rather than placing them in opposition as choices, the sponsors of these lectures have, I think, recognized that it is the continuous interaction, conflict, and fusion of notions of egalitarianism with the free play of the marketplace that determines the true health and vitality of our society. Our understanding of this interaction underlies the perspective which each of us individually brings to economic, social, and political thinking. Indeed, the manner in which our society as a whole succeeds in striking a balance between these two forces may well determine whether it survives into the next century.

For that reason, I want this evening to share with you some of my thoughts concerning this complex challenge. The theme of my remarks can be easily summarized: In my view, our society today lacks a well-developed, coherent philosophy or theory within which to view the interaction between what we have traditionally viewed as a free market economic system and increasing governmental and political involvement aimed at promoting individual equality. We are, unconsciously for the most part, developing a new political, social, and economic order. The economic forces of the free market and the political and social forces of democracy have always been somewhat conflicting and at odds with each other. But, increasingly, the political forces that democracy lays on top of the economic achievement of a society which promises at least a minimum level of human dignity and opportunity have begun to exert a greater influence. The impact of these social and political forces on the economy is a subject of ever-greater attention. What we need to achieve is an equilibrium between the enormous energies of the free market and the compassion, equal opportunity, and social justice associated with democracy, in such a way that we do not fetter the market and prevent it from continuing to provide the healthy, growing economy necessary to achieve the promises of democracy.

I have no simple solutions to offer, and I will leave to another day, or at least to the question period following this talk, any effort to relate the resolution of this challenge to any particular substantive issue—such as, for example, who should serve as the directors of our large public corporation and what their responsibilities should be. The inter-relationship between egalitarianism and market systems has obvious implications in that area, as well as in many others touching both business and government. If some of the thoughts I throw out this evening stimulate you to reflect on that relationship, I will have more than accomplished my purpose.

MARKET SYSTEMS

It is, I think, logical to begin with a brief description of some of the critical attributes of both "market systems" and "egalitarianism" as those concepts manifest themselves in our society today.

The market system—and by this I understand the sponsors of these lectures to refer to the concept of an economy in which resources are allocated according to the free interplay of supply and demand resulting from the overall impact of the decisions of individual businesses and consumers—has tremendous strength and power, as the economic and industrial history of our nation attest. And, it is because the market system is value neutral that it is so efficient an allocator and so prolific a wellspring of goods and services. Unless hampered by external forces, the market responds equally to equal buying power or talent or creative genius regardless of the ancestry, social philosophy, race, or religion of market participants. At the same time, however, the free play of market forces is oblivious to any concepts of what might be called "social justice." If the market does not value what one has to offer, one receives nothing in return; and if the result is breadlines, rioting, or political upheaval, that is of no direct concern to the impersonal forces of demand and supply.

Of course, our market economy today is nowhere near that free. In fact, a large part of the story of the 20th Century has been the quest to round the sharp edges of "free market" economics. That effort legitimized the idea that the state—as the expression of a society's political will—must always retain the right to overrule the market's informal decisions. Beginning perhaps with the Sherman Act in 1890 and extending through the enactment of the federal income tax, the minimum wage and fair employment laws, occupational safety statutes, and a whole catalog of other laws, much of the work of the political system during the last 90 years has been directed toward using law to temper the power and efficiency of the free marketplace with notions of social justice. We are today, however, beginning to realize that, as more and more "extra-economic" demands are placed on the market, there is a corresponding loss in efficiency and effectiveness. The impact of that realization is visible in everything from Proposition 13 to the rhetoric concerning big government which you are likely to hear in any Congressional district across the country this Fall.

My point is not that we are about to or ought to return to the sort of unbridled private economic freedom which characterized the 19th Century, but rather that we need to develop decision-making processes which are capable of recognizing explicitly the trade-offs involved in substituting "fairness" for "efficiency." And, in developing those processes, it may also be necessary to define more clearly the goals—the values—which those trade-offs seek to attain. Significantly, the debate about the role and importance of the free market has been conducted in the past mostly in terms of economic institutions and seldom in terms of moral philosophy. Discussion of the merits of greater governmental economic control, for example, is centered around the distinction between private individuals and firms operating in a free market versus governmental agencies planning for the entire economy. As important as this distinction is economically, socially, and politically—and as large as it looms in popular jargon—it overlooks the question of goals, ends, and priorities—the basic moral questions involved in economic action. The problem is not merely who should make the decisions in the economy—private individuals and firms or governmental agencies—but

what decisions should be made. The question of what should be decided is neglected in favor of the question of who should be the decisionmaker. This is due, in large part, to the historic perception of the free market philosophy as value neutral. We have become so accustomed to assume that a free market will coordinate random individual decisions and actions and channel them in the right direction that we concentrate on the mechanism of allocation but not on its content and results.

EGALITARIANISM

Before I pursue that thought, however, it is necessary to describe some of the attributes of egalitarianism and to compare and contrast those attributes to the characteristics of the marketplace.

The type of democratic process which our political system embodies tends to be egalitarian, consumption-oriented, and concerned with the common man and equal distribution of income and benefits. The marketplace, on the other hand, functions by incentive and reward, in hierarchical, rewards risk-taking, and fosters uneven distribution. Democracy is concerned with values—the free market is essentially value-neutral. The marketplace encourages and rewards self-interest, while democracy focuses on the common purpose. Democracy inclines towards compromise and conciliation. In its purest form, the phenomenon we call the "free market" is intolerant and uncompromising.

As a result, our political system is an agglomeration of conflicting interests which have to be balanced and reconciled. This reflects, as does the "free market," a value neutral theory. The political system relies on a mechanism, the pressure of group interests, which is much like the theory of market competition. In both cases, the "market" is regulated by a countervailing force. Competition in one case—countervailing power in the other.

One consequence of the operation of this mechanism in the political arena is that our society as a whole, and business as a part of society, is being compressed between competing claims and goals, each of which could be achieved individually, but none of which can be achieved all at once, without adversely impacting the health of both the society and the market system. What our priorities should be, where our scarce resources should be applied, and what systems impacts we can accept are questions which must be resolved through the democratic process. Unfortunately, much of the debate often is characterized by an abundance of emotion and special interest and a shortage of reason and concern for the overall good. Self-righteousness, simplistic thinking, and idealogical haranguing often take priority over balanced consideration.

We have moved inexorably toward becoming a special interest society. Too many lobbyists and interest groups today either care absolutely nothing about the national interest as long as they get theirs or blithely assume that getting theirs is in the national interest. This happens today in the name of egalitarianism—which has been misdefined to mean that everyone should get his or hers or its, and that value judgments should not be made. This fragmentation marks not only an absence of community—a lack of a sense of shared values—but also an absence of consensus—an inability to reach agreement despite differences.

The result has been an increasing polarization pitting those identified as supporters of the "public interest" against backers of "private interest" as if the two were neatly and simply defined and opposed. At its most complex, this polarization pits each pressure group's self-interest, labeled "public interest," in competition against all other "public" and "private" interests in the society. In reality, of course, the public interest is of broad dimension, encompassing not only environmental protection but also energy conservation and job creation; not only assuring work health and safety but also providing goods and services at a reasonable cost; not only consumption for today but also investment for tomorrow.

That concept—the need to consider the investment which our future will require—highlights another important consequence of the intersection of a market economy and an egalitarian political system. In both the economic and social spheres, the idea of unlimited and cheap resources has always been basic to our hopes and designs for the future. Any view to the contrary has been, and continues to be, rejected by many because it requires rethinking virtually all of the social thought of contemporary science and public policy. An egalitarian society can hardly contemplate limitations without realizing the great constraints that the concept entails; our national goals are inconsistent with such a concept. Yet, I believe that the constraints are not only growing in number, but that they may well portend a very basic change in our way of life. It is a virtual certainty that we are moving from an age of affluence to one of greater austerity. The potential political and economic implications of that change are enormous.

THE ROLE OF INSTITUTIONS

In addition to the power, efficiency, and neutrality which characterizes our market economy, and the accelerating trend toward egalitarianism with an attendant "right" to governmental benevolence which defines our politics, there is a third component which ought to be borne in mind in trying to predict and encourage the future vitality of our society. Over the past decade, the public has reflected a continuous and growing cynicism and distrust of our institutions. In fact, each of our major institutions has suffered a serious decline in public confidence.

Consider first public attitudes toward business. Opinion polls since 1965 have showed consistently that the reputation of both business generally and of particular industries and companies have declined, often precipitously. Only a minority of Americans now profess much faith in big companies. In 1968, for example, Yankelovich, Skelly, and White found that 70 percent of the respondents in a national survey agreed that business tries to strike a fair balance between profits and the public interest. Only two years later, in 1970, that figure had dropped to one-third. It reached a low of 15 percent in 1976—an 80 percent loss of support over eight years—and stayed there last year. In a similar vein, pollster Lou Harris found that public confidence in leaders of major companies dropped from 55 percent in 1966 to little more than 20 percent—only one in five—in his most recent survey.

Yet, the public loss of confidence in business does not appear to involve a questioning of the fundamentals of the free enterprise system. In 1976, 74 percent of those responding to a Yankelovich survey disapproved of the view that the country would be better off if big business were taken over by the government. In 1977, Yankelovich found that the public disagreed by 52 percent and 16 percent with the statement that "The free enterprise system benefits the few." Over 90 percent oppose nationalizing any industry, and two-thirds reject the idea of national economic planning if it means more government control of the economy.

Moreover, any conclusions that things are bad for U.S. business must be tempered by the realization that business, government, and labor all have suffered comparable losses in public esteem, and that government and labor unions show up in all polls as significantly less popular than business. It appears that major crises, such as the events of the late '60's and mid '70's, lower confidence levels in all institutions. For example, between 1966 and 1971, the Vietnam involvement, racial conflict, anti-war protests, and the rise of militant social movements seem to have worsened the perceptions Americans had of their country. According to the Harris poll, confidence in Congress, the press, the medical profession, the military, religion, the federal executive, organized labor, and major companies all declined in public esteem during this period.

Levels of confidence seemed to stabilize briefly in the early '70's, but then fell again between 1973 and 1976, a period marked by Watergate, the energy crisis, and the worst recession since the '30's. The first poll conducted after President Carter took office in 1977 suggested an increase in confidence compared to the prior year, but the recovery did not last. Between 1977 and 1978, the combination of continued high inflation and apparent concern about the President's ability to lead the country renewed what appears to be a crisis atmosphere. A Gallup survey in 1978 revealed lower levels of confidence in seven major institutions.

What does this trend mean? Most importantly, it reflects a major change in the terms of the social contract underlying the relationship between individuals and the institutions of our society. The change in essence is that, increasingly, the individual expresses less personal responsibility to institutions and less willingness or sense of obligation to sublimate personal needs or desires to those of others. At the same time, the individual expresses greater expectations of institutional responsibility to him—rising to the level of rights—and is willing and able to enforce these new rights, at least in part, through the political process.

Clearly, the respect which our society accords to the individual and to his right to think, develop, and live as he chooses—with as little interference as is possible from government and other large institutions—is our chief strength. If anything promises to make us victorious in the competition with societies in which institutions are more potent because they can command greater subservience from individuals, it is the social, artistic, scientific, and cultural inventiveness which marks a nation which protects the individual. Yet, at the same time, our increasing zealousness in fostering the rights of individuals against the demands of institutions exacts a price: The social institutions that have held us in balance internally have eroded. They were personal structures—of family, church, small community, face-to-face contact, and training by apprenticeship, for example. They have been replaced by impersonal, massive aggregates, which may be good schools for developing skills, but not for developing character. The scale has shifted, too. What was once a human scale, and therefore the measure of a man, has become a scale of gigantism, against which the man has shrunk in size.

In the business sphere, the separation of ownership and management is another part of the growing separation and distance between the institutions and the individuals. But this is not a special problem of the corporate sector of the economy—it is a phenomenon connected with mass society, mass organizations, with bureaucratization, and with the complexity of technology. All these factors seem to have generated doubts about the meaning of "representation." How can the representatives, be they elected or appointed public officials, leaders of trade unions, or corporate directors and managers, be made more responsible or more responsive to the needs, interests, and aspirations—to the "will"—of those they represent? But this is, again, value neutral reasoning. It does not

ask whether the representation of the will accomplishes something that is "good" in the context of total society. That is left to the supposition that in society as a whole, as well as in the economy, an invisible hand will somehow bring about the "good" by the integration of individual and specific group self-interests. It assumes that representation—political, social, and economic—in a democracy requires merely that the representatives should faithfully represent the "will" of the represented, regardless of its content. And that is an assumption which, in a complex, technological society in which the art of persuasion and public relations are highly refined, is increasingly open to question.

Stated differently, we must be concerned about the degree to which we politicize the economic decision-making process. Yet, that kind of politicization is exactly what is beginning to appear. Henry Simon, the economist, expressed a similar idea back in the 1930's:

"The petty warfare of competition within groups can be kept on such a level that it protects and actually promotes the general welfare. The warfare among organized economic groups, on the other hand, is unlikely to be more controllable or less destructive than warfare among nations. Indeed, democratic governments would have hardly so good a chance of arbitrating these conflicts tolerably as have the League of Nations and the World Court in their field."

Our society is, in my view, rapidly reaching the limits of its ability to arbitrate between the warring interest groups Simon envisioned.

TOWARD A PHILOSOPHY FOR DECISIONMAKING

Let me summarize the dilemma I have tried to outline thus far. Increasingly, the political processes in our society are injecting considerations of fairness, equality, and social justice into our market system. This is entirely understandable—indeed, if the operation of the market place were permitted to continue without regard to social consequences and impact, it is probable that—like much of the balance of the world—our society would have been reshaped by other forces during this century. But, just as society is no longer prepared to accept that the marketplace can be permitted to function in a value neutral vacuum, the assumption that a democratic society can and should simultaneously respond to and serve the demands and expectations of all special interests creates an equally unacceptable value neutral vacuum. We must somehow address both vacuums simultaneously, with a full appreciation of what it takes philosophically, to keep our society evolving along a healthy course.

What do we do with this dilemma? One piece of the answer is to take stock, reflect upon our condition, try to understand how we got to where we are. It may not sound like much, but if you believe in the democratic process and want to preserve it, a conscious understanding of our dilemma is the first and critica' step towards some form of resolution. The leverage of conscious understanding is so enormous that a slight shift in the intellectual climate can and will—over time—bring about enormous change, just as it has in shaping the major institutions of American society today:

Consider, on the other hand, the consequences of the failure to develop such an understanding, the price of embarking on the future without a coherent set of guiding principles. In the interest of equality and fairness, we are becoming so enmeshed in regulation that we may hobble, rather than reshape, our institutions—whether they be business, the community, or whatever. Stated differently, while we permit the political process to impose necessary egalitarian-mechanism which encourages the political ism on the market, there is no corresponding process to consider the impact of its actions on the economy. For example in my view, the high rate of inflation and low rate of capital formation which we are experiencing today can, in large measure, be traced to a tax code which has titled too far in favor of equality of after-tax income and too far against permitting risk-takers to retain the rewards of successful investment; to the inability to agree on an energy policy capable of reconciling the need to stimulate and reward explorative development and the commercialization of alternate sources of energy, with the social dislocation of higher energy costs; to safety and environment statutes which have taken necessary, even essential, concepts and permitted them to be developed to absurd extremes; and to a host of similar political decisions premised on the assumption that the market system is indestructible and infinitely resilient. The error in that assumption is beginning to emerge.

Indeed, if we focus just that on the shrinking purchasing power of the dollar, the problem becomes even clearer. Inflation—widely characterized as our most pressing economic problem—is primarily a political phenomenon. At bottom, its cause is the failure of our political system to contain the growth of social demands within limits tolerable to the market. Rising social expectations are intrinsic and inherent to our society. Moderating the rate at which we undertake to satisfy them, is however, rapidly becoming a political necessity—if not a practical reality.

Similarly, in the interests of equality, our legal system subtly discourages legitimate risk-taking and fosters an attitude of "playing it safe." The costs of uncertainty and honest mistakes may be too high. We foster the notion that society is capable of "zero-defects" and that, for every malfunction, there must be, as a matter of principle, a redress and corrective action to assure that it never happens again. In addition to reducing risk-taking, this spirit of strict liability erodes the sense of personal responsibility and induces a tendency to blame "someone else" for our own failures, losses, insecurities, and incompetence.

It would be neat and convenient to have an accepted dividing line between where the market should be allowed to prevail and where government intervention is considered appropriate and helpful. In the absence of a clear dividing line, it is essential to a healthy and free society that it have a process whereby the evolving social standards may be established and changed and that it have a set of shared values to guide that process. It is the lack of that process and the absence of that philosophy which must be corrected.

Law does not provide the solution. It lags rather than leads. Implemented by the political system, its primary role is to articulate the pre-established norms of a society. As Alexander Solzhenitsyn put it in his momentus Harvard talk, "Western society has given itself the organization best suited to its purposes, based, I would say, on the letter of the law." He went on to point out that the absence of an objective moral order leads to a legalistic system in which the goal is for each one to get the most out of the system for his own advantage. People have acquired considerable skill in using, interpreting, and manipulating the law. If one is right from a legal point of view, nothing more is required. Nobody may mention that one might still not be entirely "right," and urge self-restraint or counsel renunciation of such legal rights. Solzhenitsyn concluded:

"I have spent all of my life under a Communist regime and I will tell you that a society without any objective legal scale is a terrible one indeed. But, a society with no other scale but the legal one is not quite worthy of man either. . . . Wherever the tissue of life is woven of legalistic relations, there is an atmosphere of moral mediocrity, paralyzing man's noblest impulses. . . . Life organized legalistically has shown its inability to defend itself against the corrosion of evil."

Unfortunately, however, we seem to have fallen into precisely this trap. We have become a litigious society where individuals and groups—in dramatically increasing numbers—bring suits to resolve issues which previously would have been settled privately—even to the point of a son suing his parents for not rearing him properly. A litigious society breeds consequences no one would intentionally bargain for—confusion, ambiguity, and lack of subtlety in the law with attendant injury to institutional autonomy and leadership—and the creation of institutional paralysis while litigation winds its laborious way through the procedural maze likely to characterize such a society's judicial system.

If the legal structure cannot provide either the process or the philosophy we lack, where can it be found? What is required is that we bring a sense of responsibility, of values and morality, transcending those articulated by the law, to our economic and political decisionmaking, and that we insist upon and support leadership beyond the rhetorical. In an environment of value neutral reasoning, we must not overlook the fact that there is a role for inner normative restrictions on both institutions and individuals, restrictions based on ethics and morality. Such checks are a necessary compliment to external restrictions. Only the combination of an internalized value system and external constraints can assure that institutions act in a truly representative and democratic way.

We need some set of values held in common by our citizenry, values which give a certain shape to the institutions of our society—or at least a more effective process for arriving at consensus. For nearly as long as this country has been in existence, social critics have been warning us that we were living off the accumulated moral capital of traditional religion and moral philosophy. That legacy is depleted and needs to be replenished. It was the cultural and religious institutions which infused positive values. The basic belief was that a life led according to these values would maximize personal liberty in a context of social and political stability and would increase the likelihood that the exercise of everyone's personal liberty would add up to a decent and good society.

Today, that assumption is increasingly in need of rethinking. Economic growth, efficiency, and profitability alone are not adequate unifying values. Nor is the commitment to improvement in the human condition and in the level of individual freedom. And precisely at the time when the trust and credibility of our leaders is at an all-time low and when survivors in leadership feel most inhibited in exercising the potentiality of power, we most need individuals who can lead. We need people who can shape the future, not just barely manage to get through the day.

In terms of business, for example, the leaders of our large private economic entities must accept and act on the fact that the social contract with business is changing to include an ever enlarging set of expectations beyond business's traditional role—such as affirmative steps to protect the health and safety of its workers, customers, and society at large, and to deal openly, honestly, and fairly—and covering the full spectrum of corporate activities from product quality to fair employment, from advertising to political activity. If business does not respond to this challenge voluntarily, the political processes will continue to see to it that there is an involuntarily response. But, as I have

stated, that government-imposed response is far less likely to be fashioned with due regard to the health of the market place. And, similarly, consumers, environmentalists, unions, and other groups which have increasingly cast themselves in the role of business's opponent must recognize their own obligation to temper the demands of their interests with consideration for the health of the market system so vital to the overall objective of a strong society.

CONCLUSION

I want to conclude with the reminder that ours is a fragile society, but that fragility is its very strength and the source of sensitivity to the tensions which society brings to bear on its institutions. This is not the first time that American institutions have had to deal with new demands and with the creative tensions that come with the need to adjust. A free and open society will be characterized by on-going conflict; it must, in turn, also have the ability to compromise. One of the difficulties of our system is its imperfection, its inefficiency, its cost, and the disorderly way in which it makes progress. That very disorder is the essence of our freedom. It makes it difficult, if not impossible, for us to arrive at a consensus as to what the "common good" might be. Yet, I believe that man is much better off in a society shaped by the interplay of public opinion and individual preferences than in one dominated by government establishment and enforcement of any one set of "official" values.

Similarly, a strong and viable economic market system—with substantial freedom—is as vital a component of our society as is the individual. Without our egalitarian goals, our economic achievements would lack purpose. And without economic achievement, our egalitarian goals would not be possible; egalitarian rights can exist only so far as the fabric of the society is strong enough to provide and protect them. Egalitarianism is the product, not the antithesis, of economic health.

If we accept, as I do, Daniel Boorstin's definition of democracy as a process and not a condition, a quest and not a system, then we can appreciate that we are in process and that the present time is not the climax. We must, however, also accept the burden of individual responsibility which that fact carries with it. If each of us is able to succeed at the very difficult task of balancing what we draw from society against what we pay back, then—and only then—will the vitality and strength of both our market system and our egalitarian values be assured.●

COMMENDATION OF SENATOR MILTON YOUNG

● Mr. STENNIS. Mr. President, the Subcommittee on Defense of the Committee on Appropriations held 22 formal hearings this year in consideration of the President's budget request for defense. These hearings consumed almost 40 hours of continuous testimony by more witnesses than I was able to count. Throughout these hearings and the subsequent subcommittee consideration of over 3,000 line items for defense appropriations, I leaned very heavily on my good friend, the senior Senator from North Dakota, Senator YOUNG.

The distinguished Senator from North Dakota is the third ranking member of the Senate in terms of service. He became a member of the Committee on Appropriations in January 1947, and a member of the Subcommittee on Defense in January 1951. This long service on the committee and the subcommittee has given him a depth of knowledge that has been invaluable to me. I sought his counsel throughout the year on defense appropriations matters and oftentimes sought his advice on defense matters that were of concern to the Senate Armed Services Committee in their consideration of the defense authorization bill.

All my colleagues are aware of our many responsibilities and the demand on our time. Senator YOUNG made it a point to attend all of the hearings of the Defense Subcommittee and to be available whenever there was a need to take up defense matters, or I needed his counsel.

Mr. President, Senator YOUNG's dedication and loyalty to his responsibilities here in the Senate are a model for all of us. I want him to know that I am very grateful for his advice and counsel this past year and look forward to our continued close relationship next year.●

LAWSUITS ON BEHALF OF INSTITUTIONALIZED PERSONS

● Mr. DANFORTH. Mr. President, recently the senior Senator from Indiana, Mr. BAYH, chastised—as obstructionists—those of us who oppose S. 1393, a bill which would authorize the Justice Department to sue State and local governments on behalf of institutionalized persons. The concerns which my colleagues and I have expressed respecting the threat to Federal-State relations presented by this legislation are dismissed as "States rights" arguments reminiscent of the civil rights debates in the 1960's—arguments, it is said, unworthy of serious consideration. Any discussion of this bill quickly devolves into a question of whether one is for or against the abuse of retarded children.

I suggest that the question is more complex than that. As attorney general of the State of Missouri for 8 years I had occasion to experience, firsthand, the strongarm tactics often assumed by the Federal Government in its relations with the States, and it is this experience which leads me to be cautious in approaching enactment of this legislation. I recall, in particular, a 1975 investigation of Missouri's schools for mentally retarded persons.

So that my colleagues might better understand my concern, a concern shared by every State attorney general in the United States, I ask that the text of a letter I wrote to then Attorney General William Saxbe, summarizing that investigation, be printed in the RECORD.

The letter follows:

ATTORNEY GENERAL OF MISSOURI,
Jefferson City, January 30, 1975.

Hon. WILLIAM B. SAXBE,
Attorney General of the United States,
Department of Justice,
Washington, D.C.

DEAR MR. SAXBE: This letter is to protest the tactics which have been used by the Department of Justice in its investigation of our state schools for the mentally retarded. These tactics, which will be described herein, have included deception, circumvention of this office, lack of candor, ludicrous demands for detailed information, and threatened dispatch of teams of FBI agents into our state schools for the mentally retarded. What follows is a chronological description of the activities of your personnel, together with my comments on those activities.

In the week of October 15, 1974, a Mr. Michael Thrasher, who turns out to be Chief Counsel for the Office of Special Litigation of the Civil Rights Division of the Department of Justice telephoned Dr. C. Duane Hensley, Ph.D., at Dr. Hensley's office in Jefferson City. Dr. Hensley is Division Director of Mental Retardation and Developmental Disabilities of our Missouri Department of Mental Health. Mr. Thrasher told Dr. Hensley that he, Mr. Thrasher, was with the Justice Department, but did not indicate that his job there was special litigation. Mr. Thrasher told Dr. Hensley that he was frequently in this part of the country, that he had planned a trip to Kansas City and Jefferson City for October 29, 1974, and that as long as he was in the area, he would like to stop by Dr. Hensley's office for a chat.

Thereafter, on October 29, 1974, Mr. Thrasher called on Dr. Hensley in Jefferson City. Mr. Thrasher was accompanied by a Mrs. Susan Lentz. They met with Dr. Hensley for about three hours that day in an atmosphere which was disarmingly informal. At no time did Mr. Thrasher or Mrs. Lentz volunteer that they were active in special litigation. At no time did they indicate that our state schools for the mentally retarded were under investigation by the Department of Justice. At no time did they communicate with my office or suggest that Dr. Hensley seek the counsel of my office. On the contrary, Dr. Hensley now states that the demeanor of Mr. Thrasher was so informal that Dr. Hensley felt as though he were being interviewed for a job.

On the next day, Mr. Thrasher and Mrs. Lentz returned to Dr. Hensley's office. At this time, Dr. Hensley became suspicious, and asked them exactly what they were doing in Jefferson City. Then, for the first time, they disclosed that they were visiting several states with a view to possible litigation concerning whether patients in state schools for the mentally retarded are receiving constitutionally adequate treatment.

At this point, let me say that in my experience it is the universal practice of attorneys to communicate with parties or potential parties to litigation only through attorneys, if the attorneys are known. It is common knowledge that a state's attorney general is the attorney for the state, and usually for its agencies. Regrettably, this universal courtesy was not accorded my office by the Department of Justice. It would have been so easy for Mr. Thrasher to call me or one of my assistants to inform me that he wanted to question Dr. Hensley about possible litigation. Mr. Thrasher did not do so. Instead he used the tactic of stealth to slip quietly into Jefferson City. And being here, he declined to put his cards on the table, and tell Dr. Hensley the purpose of his visit.

Dr. Hensley next heard from the Justice Department in a November 5, 1974, phone call from Mrs. Lentz followed by a letter of the same date. A copy of the letter is attached for your information. It announces a schedule of a four day tour of the state by Mrs. Lentz and two other employees of the Department of Justice, to begin two weeks after the date of the letter, and it sets forth two single spaced pages of statistical information and records which it asks Dr. Hensley to have available on November 21.

Once again, no effort was made by the Department of Justice to communicate with this office, nor did Mrs. Lentz give me the courtesy of a copy of her letter to Dr. Hensley. The apparent view of Mrs. Lentz was that the Department of Mental Health should blindly cooperate with her preparation for litigation, conduct tours for her, prepare statistical reports so she could gather her evidence, and not advise its own counsel of what was going on.

Fortunately, Dr. Harold Robb, Director of

the Department of Mental Health did advise this office of the visit by Mrs. Lentz and her two colleagues, and my assistant, Paul Allred, was able to be at the state school of Nevada, Missouri, as the inspection tour commenced.

Beginning November 20, 1974, Mr. Allred and personnel from the Department of Mental Health conducted Mrs. Lentz and her colleagues on an exhaustive tour of our state schools for the mentally retarded at Nevada, Marshall and Higginsville. The tour of Nevada lasted about seven hours, of Higginsville about five hours, and of Marshall about seven and a half hours. Throughout this tour, the investigative team took what appeared to be elaborate notes on their observations.

Prior to commencing the tour at Nevada, Assistant Attorney General Allred told Mrs. Lentz and her colleagues that he would be happy to have them tour our schools for the mentally retarded, but that he expected openness and candor from the Department of Justice in return. Unfortunately, such candor was never forthcoming. On the night of November 21, after the visit to Marshall, Mr. Allred asked the Department of Justice team to relate to him their findings and conclusions to date. They flatly refused to discuss their findings and conclusions with him, except that one member of the team said that conditions at our state schools were better then he had been led to expect. Based on the lack of openness on the part of the Department of Justice team, Mr. Allred advised them that he would not accompany them on a tour of the state school at St. Louis, and that they did not have permission to visit that facility.

In addition, at that time, Mr. Allred stated to Mrs. Lentz that the time had come for the Department of Justice to explain to me exactly what the basis was for its investigation and what its findings and conclusions were to date. He stated that the Department of Justice could not reasonably expect to receive even more cooperation from state officials without first extending to me the common courtesy of an explanation of why the Office of Special Litigation was conducting an investigation in Missouri. Mrs. Lentz inquired about my schedule for the following Monday, and assured Mr. Allred that such an explanation would be forthcoming from the Department of Justice immediately. It never was.

Throughout the two day period Mr. Allred spent with Mrs. Lentz and her investigative team, he repeatedly stated that Missouri would welcome any suggestions the Department of Justice might have for further upgrading our program for the mentally retarded, and that we would prefer to make any improvements without the need for expensive and time consuming litigation. At no time has the Department of Justice offered any constructive suggestions to us. Indeed, since the beginning of Mrs. Lentz's tour of our state schools, the impression given to us has been that of people who have made up their minds that their only interest has been to go to court.

The next known development in the matter was a visit to Mr. Allred by Mr. Tom Weaver, a special agent of the Federal Bureau of Investigation stationed in Jefferson City. Mr. Weaver informed Mr. Allred that the FBI had received a request from the Office of Special Litigation for the Civil Rights Division of the Department of Justice. Mr. Weaver said that the Office of Special Litigation had requested a field investigation by the FBI of certain institutions operated by the Department of Mental Health. He explained that the investigation would probably require the assistance of approximately ten agents working for several weeks in each institution. He identified the institutions as the state schools for the mentally retarded at Nevada, Marshall, Higginsville and St. Louis, and the State Hospital for the Mentally Ill at St. Louis. Mr. Weaver said that he had a very specific list of the information requested by the Office of Special Litigation.

Mr. Weaver related in some detail the information desired from the Department of Mental Health, but he stated that he was unable to inform Mr. Allred of the specific purposes of the investigation. He stated that information would be solicited from the superintendents, various employees and records of the institutions. Mr. Allred asked Mr. Weaver if an attorney from this office could be present during the FBI investigation. Mr. Weaver said that it was the policy of the FBI not to allow an attorney to be present, but that he would relay Mr. Allred's question to his superiors.

After Mr. Weaver's visit, Mr. Allred telephoned Mr. Thrasher. Mr. Allred asked that he receive a copy of the request made by the Office of Special Litigation to the FBI. Such a copy was turned over to us, and is attached to this letter. In addition, Mr. Allred suggested that Mr. Thrasher come to Missouri to discuss with us the findings and observations of Mrs. Lentz and her investigative team. Mr. Thrasher stated that he would be happy to come to Missouri, but that he would not share with us the findings and observations of Mrs. Lentz and her investigative team.

Mr. Saxbe, it is not the purpose of this letter to discuss the merits of our state's program for the mentally retarded. But without getting into the merits of our state's program, I can assure you that the program has a high priority in Missouri, and that those who operate it are people of good will. The leadership of our Department of Mental Health is not offended by constructive advice from well meaning people. But the Department of Mental Health is upset by the approach and attitude of the Department of Justice.

The Department of Mental Health is, as you can imagine, quite accustomed to investigations of various sorts. As one state hospital superintendent has put it recently, "(W)e are continually and perennially investigated by persons representing medicare and medicaid and we have our own internal investigations such as by the Utilization Review Board, Medical Records Committee, and the State Committee on Hospital Accreditation—all of which are an effort to monitor and improve functions."

However, in the present instance, the possibility of disruption is especially great. Dr. Harold Robb, the Director of the Department of Mental Health, has told me that the earlier visits of Mrs. Lentz and her team caused numerous alarmed phone calls from superintendents at the state schools expressing their concern about the demoralizing effect of the procedures in this investigation. I have asked Dr. Robb and Dr. Hensley how much effort it would take to compile the information called for in the memorandum to the FBI. They have informed me that in each of the five institutions it would take approximately five key people six months. Dr. Robb and Dr. Hensley are both especially concerned with the effect on the morale of the staff and parents of patients of sending ten FBI agents into each of the state schools and into the state hospital at St. Louis for periods of several weeks.

It is my present position that our state officials have been more than cooperative with the Office of Special Litigation. Unfortunately, cooperation has not been a two way street. I have advised our Department of Mental Health not to furnish further aid to the Office of Special Litigation until you can convince me of the good will of your Department I should be delighted to discuss the matter with you in Jefferson City, at your convenience.

Sincerely yours,

JOHN DANFORTH.

Mr. DANFORTH. Mr. President, none of us who opposes this legislation sanctions the abuses which have been cited as reason for its enactment. But we do happen to believe in federalism. And we do object—and object strenuously to the glib presumption that the way to achieve adequate care for institutionalized persons is to sanction lawsuits against the States by the Federal Government. The answer to all questions does not lie in a courtroom. We who oppose enactment of this legislation in the rush to finish the Senate's business prior to adjournment do so for the simple reason that we believe some meaningful discussion of these issues is worth the Senate's time. I invite the attention of those who see these issues in black and white terms to the testimony of Francis Burch, attorney general of the State of Maryland, in hearings before Senator BAYH's subcommittee last year. His testimony illustrates, I believe, some of the fundamental weaknesses in S. 1393, and I submit it, also, for publication in the RECORD.

The testimony follows:

TESTIMONY OF FRANCIS B. BURCH, ATTORNEY GENERAL, STATE OF MARYLAND; ACCOMPANIED BY GEORGE NILSON, DEPUTY ATTORNEY GENERAL, STATE OF MARYLAND

Mr. BURCH. I would like to thank you for the opportunity to address you on S. 1393. As you already know, the Justice Department was prompted to request this legislation by the opinions in *United States* v. *Solomon*, and *United States* v. *Mattson*, the latter decided on the basis of the *Solomon* case.

The *Solomon* case was brought by the Justice Department to enjoin various alleged violations of the civil rights under the 8th, 13th, and 14th amendments, of the residents at the Rosewood State Hospital, a Maryland hospital for the mentally retarded.

No resident or relative of a resident, or even an organization representing residents ever took part in the proceeding. We moved to dismiss this action on the grounds that the Justice Department lacked both authority and standing to initiate this type of action.

The district court, in a scholarly opinion, which I believe your staff has, agreed with our position and dismissed the action. The case has been appealed and is now being held sub curia by the fourth circuit.

We have taken a strong position that the Justice Department does not have the present authority to bring this type of action without some statutory authorization. Our argument has been that the 14th amendment has given the exclusive power to enforce its provisions to Congress. Congress has chosen to exercise that power by giving the Attorney General the authority to initiate suits to protect 14th amendment rights in the areas of voting, housing, employment, education and public accommodations.

Congress has repeatedly rejected giving the Attorney General the broad powers to bring suit which the Justice Department claimed in the *Solomon* case.

Senator BAYH. If I may interrupt just a moment, are you pointing out that Congress has not given this authority?

Mr. BURCH. That is right.

Senator BAYH. Do you contest the constitutional grounds that Congress has this authority?

Mr. BURCH. I am not.

Senator BAYH. That is what this is all about.

Mr. BURCH. I want to point out the historical background.

Senator BAYH. Certainly. Please excuse my interruption.

Mr. BURCH. I am submitting today a copy of our brief to the fourth circuit which states

in great detail our legal position as to the right of the Attorney General to initiate suits to protect 14th amendment rights.

I am also of the opinion that the Attorney General should not, as a matter of sound public policy and constitutional government, have the plenary powers which is claimed for itself in the *Solomon* case.

Former Attorney General Robert Kennedy's remarks to the House Judiciary Committee in opposition to proposed title III of the civil rights bill of 1964 are appropos:

"Title III would extend to claimed violations of constitutional rights in State criminal proceedings or in book or movie censorship; disputes involving church-state relations; economic questions such as allegedly confiscatory ratemaking or the constitutional requirement of just compensation in land acquisition cases; the propriety of incarceration in a mental hospital; searches and seizures, and controversies involving freedom of worship, or speech, or of the press.

"Obviously, the proposal injects Federal executive authority into some areas which are not its legitimate concern and vests the Attorney General with broad discretion in matters of great political and social concern."

Such a power would blur all distinctions between the State and Federal governments and could lead to a profound distortion in our political system.

My opposition to untramelled authority to initiate these suits in the hands of the Attorney General should not be understood, and I wish to make this clear, should not be understood as blind opposition to any attempts to give the Attorney General a constructive role in the protection of the rights of the institutionalized.

We are all aware of the good work done by the Justice Department in the protection of the civil rights of racial and ethnic minorities under the authority of the various civil rights laws. If a well-drafted, thoughtful statute would result in the improvement of the condition and protection of the rights of the institutionalized, no civilized person in good conscience could oppose it.

S. 1393, in its present form, is not the type of statute which could command such universal respect. In the light of our experience in *United States* v. *Solomon*, there are significant deficiencies in this legislation.

The most fundamental defect is that not enough attention is given to the delicate problem of inter- and intra-governmental relations.

Let me illustrate. First, in 1975, Congress passed the "Bill of Rights for the Mentally Retarded", 42 U.S.C., section 6010, et seq. Section 6012 of that act mandated the establishment of a State advocacy system which would have the power to seek "legal, administrative and other appropriate remedies" for the protection of the rights of the mentally retarded.

I might mention that the State of Maryland has taken active steps to establish just such an advocacy system, and it is our hope that the system will be of assistance in the State's efforts to provide for the mentally retarded.

Yet, even though the Federal Government is paying for this State advocacy system, S. 1393 is silent as to the effects of such a system on the Justice Department. Should a suit by Justice or by the advocate preclude the other from acting? If the advocate is pursuing administrative remedies, may the Justice Department still file suit? What happens if Justice and the advocate request incompatible remedies? Which agency should control the terms of a settlement, et cetera?

Second, similarly, no mention is made in this statute of the role of HEW in the enforcement of rights. Judge Northrop, in *United States* v. *Solomon*, concluded that HEW had exclusive enforcement powers in the area of mental retardation by means of the cutoff of funds. What can it mean when, as in *Solomon*, HEW finds no cause to cut off Federal funds, but Justice files suit claiming that conditions are so poor as to constitute a denial of constitutional rights?

As to the State advocate and HEW, and the Attorney General, this legislation must spell out areas of responsibility and priorities lest State institutions be emeshed in a procedural nightmare.

Third, section 2 of S. 1393 provides that prior to the institution of a suit, the Attorney General must certify that he has informed the relevant State officials of the existence of violations of rights protected by the Constitution. This section contains the germ, but only the germ, of a good idea.

S. 1393 could be satisfied if the Attorney General sent a registered letter or even made a phone call to State officials a few moments before filing suit. A requirement so easily satisfied cannot serve the salutary function of protecting harmonious Federal-State relations. It is surprising to me that even though much of S. 1393 is conceptually borrowed from the various civil rights acts, one of the key devices of those acts is not used here.

42 U.S.C., Section 2000e–5(b) requires the Equal Employment Opportunity Commission to attempt to resolve disputes by conferences, conciliation, and persuasion before resorting to enforcement mechanisms. The EEOC is also required to defer to State and local antidiscrimination procedures when they are available. Surely, a State of the United States is entitled to at least as much deference as an employer accused of racial discrimination. Before a suit is brought, the State should be entitled to a grace period of perhaps 6 months or a year to eliminate or begin eliminating whatever problems exist.

In essence, the Attorney General should be explicitly required to engage in reasonable good faith conciliation efforts prior to instituting suit. It should be remembered that most of the problems against which this legislation is aimed do not result from malice, but from the lack of funds and staff, from a failure in the institution's philosophy of treatment, or from simple inertia.

The *Solomon* case provides a good example of the problems which can result from changes in treatment philosophy. When Rosewood was designed, the ideal treatment facility was thought to be a large hospital in a rural setting with an opportunity for residents to perform useful farmwork. Rosewood was based on just that model. Present treatment philosophies are oriented toward small community-based facilities.

One of the Justice Department's aims has been to reduce Rosewood to a community-based facility of relatively small size. We are not convinced that this treatment philosophy is constitutionally mandated. It further remains to be seen whether this new concept will prove to be any more successful than the old.

Overnight cures of the problem are not possible. However, the threat of suit could serve as the catalyst to resolve problems of long standing, but sufficient time is necessary to permit the State to act responsibly. While the threat of a possible suit may serve as a constructive catalyst for change, the actual filing of a suit may cause positions to crystalize and harden because of the pendency of an adversary proceeding which undercuts the partnership approach.

Fourth, a further difficulty in this legislation is the prospect of an award of money damages in a suit. Section 1 of the statute authorizes the Attorney General to seek such relief as he deems necessary. Presumably this statute will not serve to abolish the 11th amendment so that damages will not be awarded against the State.

However, the prospect of the Attorney General of the United States seeking money damages against a hospital attendant, a prison guard, a juvenile counselor, or a nurses' aide is both disturbing and unnecessary. The United States is a formidable litigant for a State, much less for a private party.

An incident which occurred before the filing of the *Solomon* case will show you the difficulties of litigating with the Justice Department. Our first contact with the Justice Department occurred one fine day when a team of FBI agents showed up at Rosewood, out of the blue, and began questioning the staff about conditions. The FBI's visit, which I might add was properly conducted and under the orders of the Justice Department, threw the hospital into an uproar. Yet, the visit was completely unnecessary. Had Justice asked for the information they sought, we would have given it to them.

Fifth, and that brings up my final point. The Justice Department at that point told a member of my staff that conditions were no worse at Rosewood than at a number of other institutions, and that nothing was likely to come of the investigation. Six months later, again with no warning, suit was filed. The same members of my staff later asked why we were being singled out, and he was told that Rosewood was chosen because the Baltimore Federal Court was only an hour's drive from Washington.

So, my final point is that the circumstances justifying a particular suit by the Justice Department must be delineated more clearly.

As an example, I do not believe the Justice Department should bring suit if any private litigants are available to present the case. In such situations, the Justice Department would only be wasting its resources and preempting a proper litigant.

When the Justice Department has brought a suit, it is essential that the persons in whose behalf the relief is sought be brought into the case. The patients or inmates will have to live with any settlement or court decree in a case brought by the Justice Department. Either directly or through localized and legitimate advocate groups they ought to have some say in such decisions.

One of the frustrations of the *Solomon* suit was the difficulty we had in settlement discussions. We always had the feeling that what interested the Justice Department in the suit was the opportunity to establish its authority to bring such an action. Justice had no incentive to settle the case until our motion had been decided.

As an example, we presented the Justice Department with a proposed settlement agreement. Justice rejected the offer out-of-hand with no explanation other than a general statement that Rosewood, as it now exists, should be abolished and replaced by a 300- to 500-bed facility. We decided to go forward with this settlement proposal unilaterally after the case was dismissed. Among other changes in the hospital are a reduction from 2,400 to 1,600 patients and improvements in staffing and sanitation.

In closing, I would like to leave with you one final thought. Any scheme of selected litigation in a sensitive area will necessarily suffer from the fundamental, and perhaps unsolvable weakness. The Justice Department simply does not have, and will never have, the full range of information necessary to intelligently determine whose institutional conditions are the worst and what each State's order of fiscal priorities should be.

Every suit resulting in substantial relief as to one institution may result in a diminished availability of funds for another institution where the need may be greater. The States are in a far better position to establish these priorities.

I will be glad to answer any questions.

Senator BAYH. Thank you, attorney general Burch.

Since attorney general Burch has a luncheon engagement, I would like to give him a

chance to leave, if the other members of the panel have no objection.

We will direct questions to attorney general Burch now, if you do not mind.

You say the first time that anybody in the State of Maryland knew anything about the FBI agents coming to Rosewood was when they arrived, and that there had been no consultation with the mental health people in the State of Maryland whatsoever?

Mr. BURCH. They descended upon us en masse.

Senator BAYH. Have you ever been to Rosewood?

Mr. BURCH. Yes.

Senator BAYH. You have been out there personally?

Mr. BURCH. Yes.

Senator BAYH. I notice in the Justice Department complaint that they list a number of conditions: failure to provide Rosewood residents with living or sleeping space sufficient to insure protection against physical harm at the hands of others; failure to provide safe and sanitary living and sleeping areas; failure to maintain sanitary and minimally adequate kitchen facilities, et cetera.

Is that a valid complaint?

Mr. BURCH. Let me say this. First of all, I cannot tell you as of the time of their visit what the conditions were because obviously I was not there. There have been some complaints that we have looked into which are justifiable, whether raised by Justice or by others.

Where those have come to our attention, we have consulted with the Department of Health and Mental Hygiene and we have indicated that those conditions should and must properly be corrected.

I might say that we have had a rather good experience, given the proper amount of time, to negotiate and conciliate with HEW and the Justice Department to correct a lot of conditions that exist simply because they have been brought to our attention.

We have had the opportunity to advise the particular department involved that they will be in violation of the constitutional mandates that have been laid down. We have been able to resolve many of these problems.

I can give you an example of two instances. One dealt with the Civil Rights Division at the Department of Justice, proposing the institution of a suit against the State of Maryland because of the number of blacks in the State police service, and the number of women in the State police service, and some of the criteria that were established with respect to recruiting both blacks and women in the State service.

We sat down. I personally sat in on these conferences as did my deputy. We sat down with the head of the State police and we said that there were areas that required some correction. We did not agree to a quota, but what we did is that we agreed to goals and we finally got to the point where we entered into a consent decree where we were able to resolve our problems at the conference table rather than in the court room.

The second instance dealt with the mental institutions and the hospitals in the State of Maryland where there was a charge by HEW that there was insufficient staffing of nurses. They were ready to cut off the funds which they had the right to do under the HEW statute.

I met once with my deputy and with the members of the Department of Mental Hygiene and the members of the Civil Rights Division of the Department of Justice. At that one meeting with a bunch of people we were able to work out a proposal and a procedure to try to increase the number of nurses and to generate a recruitment program within the institutions to give more nurses to those institutions.

That has been going on now for the past 8 months. It is working quite well.

What I am saying to you, Senator, is this. The States have an interest in this. There ought to be a good working relationship between the State and the Federal Government. We have been litigating in the courts against HEW in the State of Maryland. We filed a suit here the other day in the District of Columbia against HEW because they tried to cut $2.5 million worth of nursing home funds simply because of some technical violations and failure to get reports in on time. They threatened to cut off $330 million in funds and some 20 or 21 other States are involved.

The answer is not to go into court and litigate these things day in and day out. The courts then will be running institutions. The courts do not want it. The HEW does not want it. Justice really does not want it, in many instances. Certainly the States do not want it.

We have problems. All we are saying is that if there is going to be a statute that addresses itself to this problem, then let us have a meaningful one. Let us have one where the Justice Department must come in and sit down and say that "This is what the problem is and that this is what we see is wrong, and we will give you 6 months or a year to correct those conditions, and if you do not, we will go in and take action in the courts."

This is an open-ended bill.

Senator BAYH. I think the thrust of this is to try to get the kind of cooperation that often makes sense. The Attorney General said in Indianapolis in addressing your national convention, that he would not utilize the power given under this bill until all efforts to achieve voluntary compliance by the States had failed.

I see no reason not to put that kind of test in the bill to require this effort be made.

But let me ask you this, Mr. attorney general.

Suppose somebody in the *Solomon* case had brought suit against the State of Maryland or had gone into the Federal district court and sued the State of Maryland. Who would you have been representing in that case? The patient, the inmate, or the State of Maryland?

Mr. BURCH. The State of Maryland.

Senator BAYH. You would have been fulfilling your constitutional obligation?

Mr. BURCH. That is right.

Senator BAYH. You and other attorneys general are in a decided conflict of interest.

Mr. BURCH. I have been attorney general for 11 years now. I have worked with attorneys general throughout the United States for 11 years. I will tell you that we are in a much more enlighted age in the area of administration of State government over the past 4, 5, or 6 years than we have been in all the other prior times in the history of this country.

I can tell you the difference between the attorneys general today in the States and the attorneys general of yesteryear. It is an entirely different breed.

They are determined to go out and do that which is necessary to protect the constitutional rights of all of the people, whether they be mentally retarded or whether they be in hospitals or whether they be prisoners, or whoever they be. I can tell you that.

Senator BAYH. I am not about to urge you to do this, because you are wise enough to do it. We have had horror stories brought to us that exist today that did not exist 10 or 20 years ago. I would hate to see you, or any other conscientious public official, which you are, get yourself in a position that really there is no need for.

The fact of the matter is that we had a Federal judge just now who told us that if it had not been for the intervention of the Federal Government, they would not be providing relief for the patients of the Lima Hospital in Ohio.

Mr. BURCH. Let me read to you from Judge Northrup's opinion. It gets to the heart of what you are saying. First of all, it refers to 42 U.S.C., section 60008, which are regulations giving the Secretary of HEW the right to promulgate regulations. It goes on to say, "A State's funds may be discontinued after notice and opportunity for hearing, if the Secretary finds that the standards prescribed by the regulations are no longer being met."

Those are the qualitative standards as to whether there is proper care given in the mental institutions.

Senator BAYH. You just pointed out to this committee that you are suing HEW now because you do not agree with their position.

Mr. BURCH. Only because of the arbitrary action.

Senator BAYH. That is your judgment, but you have a conflict there where you make that judgment.

Mr. BURCH. I cannot believe, Senator, that you would believe that the Justice Department should have the right to move in and deprive the States of their rights, simply because of capricious or arbitrary action they may want to take. That would be an abominable theory of government.

Senator BAYH. I do not think we are really that far apart in our theories of government, but I also do not believe that when you, as an attorney general, are in a position of defending a State in a suit brought by institutionalized persons who feel they are being abused by the State that you can adequately represent their side of this.

The HEW question is a good one. You refer to what the Judge says, that the real way to do this is to let HEW make the decision. Yet, in another unrelated instance where HEW made the decision, you are suing HEW because you think their judgment was capricious.

Senator HATCH. That was not the point, as I understood it. The one I understood was that you feel there are conflicting agencies here.

Mr. BURCH. That is the point I was trying to make.

Senator HATCH. The point is this. I know areas in government and business where you have as many as 30 agencies vying to try to tell you what to do. What you want to do is prevent that.

In other words, if we are going to have this bill, then we have to get HEW out of it and let the Attorney General handle it.

Senator BAYH. No. The Attorney General is relying on the judges saying, "The way to handle this is to have HEW cut off funds." That is not the way to handle it.

Mr. BURCH. Senator, you did not let me finish the quote. Senator Hatch is correct, because the balance of the quote gives it. I was giving you the preparatory remarks.

The balance of the quote is, "The court simply cannot believe that Congress intended or expected that while an elaborate plan to improve the lot of the mentally retarded was being implemented by the one Federal agency," the Department of Health, Education, and Welfare, "with expertise in the field of mental retardation, another government agency," the Department of Justice "with no expertise in the solution of the very difficult problems posed by mental retardation would simultaneously be making wholesale attacks on a State's mental retardation programs under the guise of protecting 13th and 14th amendment rights."

I do not believe you want it. I do not believe the people want it. I know the States do not want it. They do not want HEW coming in with their expertise and saying one thing and the Department of Justice,

with no expertise whatsoever, coming in and saying something else.

Whether you like it or not, if this bill passes, and if the Department of Justice files suit, we are going to be in court and we will waste a lot of the taxpayers' money and a lot of the people's time and a lot of our time and a lot of the Department of Justice's time.

Senator BAYH. Was HEW involved in the *Solomon* case?

Mr. BURCH. I do not believe they were. I do not believe they have given us any indication that we have not met the criteria established under the regulations.

Senator BAYH. Let us get the facts straight. You are familiar with them. I am not.

At the time that the Justice Department got involved, was HEW involved in what was going on in Rosewood?

Mr. BURCH. They were not involved with Justice and the actions that the Justice Department took, but they were familiar with Rosewood, if that is what you mean.

Senator BAYH. Were they trying to get the State mental health people to upgrade their standards? Had there been any effort to try to cut off funds there?

Mr. BURCH. Mr. Nilson tells me they were not trying to cut off funds, but they were working with us in saying that "in these areas you ought to have this and that improvement", but they never threatened to cut off funds.

But they were satisfied we were making progress in trying to correct the situation. They saw them as they existed. But we do not need another proliferation of governmental agencies telling us what to do. It will end up by hurting the people that it is intended to help. This is our point.

If the Congress of the United States wants to pass a bill such as this, and if it wants to do it in a responsible manner and give the States a reasonable opportunity to correct matters without an open-ended bill which says that a man can call you on the telephone and do what they did to us when they came in the *Solomon* case and simply notify you they are going to file suit tomorrow.

Senator BAYH. I certainly think there should be every effort expended to try to get the States to move. Theoretically the States ought to be aware of this problem and ought to be resolving it before the Federal Government ever gets involved.

So, I think that point is well taken.

But, I think it would not be totally accurate to paint a picture in which all States are rushing out there to solve these problems, because all States are not. It is not that they do not want to. They have a conflict with spending moneys. We all know that. But sooner or later there has to be somebody who says, "All right, there are some significant constitutional rights that are being violated here and you have to shape up."

Mr. BURCH. The HEW does that. In today's age, you might as well forget it if you do not think that the Federal Government and HEW does not have a lot to say as to how these institutions are run. So much of the funds that are being used to support those institutions are Federal funds. One of the conditions under which those Federal funds are received is that we comply with the standards that they lay down. They are really running the institutions indirectly as it now exists.

If the matter reaches a point where they are going to cut off those funds, then they will go in and we will end up in court. So we will end up in court either way.

But we do not need somebody coming in and telling us to do something when they do not know what they are doing. The Justice Department is not an expert in the care of the mentally ill.

Senator BAYH. We had a Federal judge here half an hour ago who said the Department of Justice made a significant contribution and had great expertise and was able to get at records that had not been made available to any of the complainants.

Senator HATCH. In all honesty, Senator Bayh, what he meant was that they had greater legal expertise in getting the legal problems resolved and in getting the case moving. That does not mean what the Attorney General says, that is, that they are not health experts.

Senator BAYH. The judge said they got experts and made them available to the court and this had not been made available prior to that time.

Senator HATCH. I believe he said that. That is true.

Mr. BURCH. They also came in in a vigilante fashion in Maryland.

Senator BAYH. I would be very incensed, if I were you, and you are incensed, if the first notice I got of this was a call saying that I was supposed to be in court at 11 o'clock this morning.

I want to find out about this. We will dig into the *Solomon* case. Apparently this was not the first time the State of Maryland was aware you had problems out there. HEW had made those problems apparent to the central health people.

The question I would like to find out from HEW is this. It seems to me that a legitimate question to ask those people is: Had you reached an impasse with the Maryland mental health people and had you then said to the Department of Justice, "It is important for you to intervene?"

Otherwise, the right and left hand do not speak to each other.

Mr. BURCH. The Executive Committee of the National Association of Attorneys General met in March with the Chief General Counsel of HEW, Peter Iibassi. What we tried to tell him was this. You are dealing so many times with the middle layer people that you do not get in touch with the Attorney General so the Attorney General has an opportunity truly to advise the department head what he is required to do and not required to do under Federal statutes and the Federal Constitution.

We think we have arrived at a resolution of that problem for greater communication.

I will tell you, sir, that at no point in time, did HEW ever say to the Department of Mental Health and Hygiene, insofar as our knowledge is concerned, that you have to do this, that or the other thing and an impasse was reached.

Their attorneys were involved and as a matter of ethics, they should have sat in then with us as the Attorney General. If the Federal Government is going to run the Government this way and refuse to communicate with the State officials, who are their counterparts at the State level, then we have no hope for solving these very, very difficult and intricate problems that we have in the country today.

All I say is that it did not happen. As far as our office was concerned, it did not happen. Had an impasse been reached, I personally have a policy that whenever we have a matter of this import, I will sit in and do the negotiating, if necessary, to try to resolve the problems in order to see that things are done.

I have one final thing I would like to say.

You mentioned that the statute would not be abused. My simple answer to that is the same thing that I get when every member of the legislature says, "I do not want to give this power to the Attorney General, not that I have anything to worry about with him, because I know he is an honest man and I know that he acts responsibly, but I do not know who is going to come after him."

The truth of the matter is that the Attorney General, in the Federal orbit, does not have control over all of the actions that take place within his departments. It is too vast and too intricate. You know it and I know it. I remember Attorney General Levi told me that he could tell his subordinates what to do but if they do not do it, there is nothing he could do about it.

That is the way the Department of Justice has been run in the past. I am not saying it will be run that way in the future because I have the greatest respect for Judge Bell. He has done a tremendous job. I am sure he will continue to do so, but I do not know who is going to come after him and I do not know what the middle layer people in the Department of Justice will be doing, because the Attorney General himself is not going to be able to make each of these decisions.

Senator BAYH. You mentioned the Maryland advocacy program. Has that been implemented yet?

Mr. BURCH. It is on the threshold.

Senator BAYH. What authority is given this advocacy agency?

Mr. NILSON. Senator, the final terms of the advocacy program are just now being completed. I am not sure exactly how that is going to come out, but my understanding is that they will be given full ability to litigate both in administrative proceedings and in court proceedings and to represent patients and inmates.

Admittedly, this advocacy does not reach all of the kinds of institutions indentified in your bill.

Senator BAYH. Do we know how much money is going to be budgeted for them to function?

Mr. BURCH. That probably has not been budgeted as of yet. It probably will be budgeted either by an emergency appropriation through the Board of Public Works or at the next session of the legislature in January.

Senator BAYH. I appreciate your giving us your thoughts on this. I think it is important for us to structure whatever we do here in a way that can use the power, the prestige, or indeed the threat of Justice Department involvement in a way that will get the States to use maximum haste in resolving these problems themselves. I am glad to have any thoughts from you as to how we can word this. You had an opportunity to see things go awry.

The real concern I have is this: those of you who are upholding your constitutional authority are really in a conflict of interest situation. When you come to an impasse, and we have some examples of that, it is much easier to move in the area of constitutional rights for the mentally ill than it is in the area of prisoners. Society just sets different standards and understandably so.

But, where you have an impasse between the Federal court, let us say, or the plan that has been laid down even by HEW sometimes, and where the State just refuses to follow out the order, then there has to be some mechanism to bring in an outside force to deal with the conflict that a State attorney general has. His primary client, his sole client, really, is the State.

Senator Hatch?

Senator HATCH. As I understand it, Mr. Attorney General, you have listed four or five points. One is States rights. You feel like the States are more enlightened today and that they can take care of a lot of these problems, especially in consideration with your second point, which is that if they are given advance notice, and 6 months to 1 year lead time, they will correct bad conditions which are there because most conditions arise either out of a lack of funding or oversight or some other problems.

We have heard some significant abuses here. These are isolated situations. I think you will certainly not find that in every State, but in many, many cases. There are many States involved here because of what you are talking about.

Sometimes these isolated cases of severe abuse really need to be curtailed. All abuse needs to be curtailed, but they really are flagrant.

We have heard some of those.

Your third point, it seems to me, was this. Outside of the protection of State's rights and the need for a grace period of 6 months to 1 year, so that the States can do something about it without the necessity of going to court, and having all the congestion that comes from that and the expense from that, and the bitterness and acrimony that comes from court litigation.

But then you indicated that you are concerned about the prospect for the award of money damages, citing the 11th amendment which, of course, would prevent money damages against the State. But if the Federal Government is going to seek money damages against the individual guard or attendant or nurse, or whatever it is, then that could be an overwhelming problem to whomever is involved.

Last, but not least, you want to have a more clear-cut delineation concerning the circumstances justifiing a particular suit. You want to have more notice of what is going on here.

I commend you for going through this carefully enough to point out those inadequacies because those are inadequate aspects of the bill. I think the States will clean up abuses. If they do not, maybe we need the Attorney General to come in to see that they do.

The points that you made, I think are well taken. I am concerned also about allowing the Federal Government another right to come in and harrass the people in the various States. There are going to be complaints, millions of complaints immediately from people in mental institutions, for instance, and I think we will see many, many complaints in penal institutions as well.

Those are not going to be ideal places, no matter what we do. So, we have to hit a happy medium here. If we just go all the way in a broad-based bill to where we are bringing a suit everytime somebody makes a complaint—that is not what Senator Bayh or I want—but you are afraid it is going to happen.

Mr. BURCH. I am afraid the bill does it.

Senator HATCH. I think you are right. I think the bill is broadly drafted.

Mr. BURCH. It is open ended and we will have nothing but a rash of suits depending on who wants to go after somebody.

Senator BAYH. The purpose of these hearings is to perfect the bill.

Senator HATCH. I think he has pointed out five pretty good ways that we could perfect the bill.

You are not particularly against the Justice Department having a right, after certain cautionary, and you might say, justification is proven, to come in and clean up a mess that a State is unwilling to clean up; are you?

Mr. BURCH. That is correct.

Senator HATCH. What you are saying is that we should not jump into this thing without some grace period and some reasonable approach to get the States to take care of it.

Yesterday we passed an amendment to the HEW labor bill on the floor of the Senate that requires OSHA, instead of coming in and issuing fines when nobody knows what the rules and regulations are, OSHA now, according to this amendment, if it is formally approved through the legislative process, has to give notice and a reasonable time to correct.

You are suggesting that maybe that is not the worst approach here and that we at least ought to have some reasonable approach that does not get us embroiled in a quagmire of litigation which ties up the courts and the Attorney General's time from other things that may be equally, if not more, important than problems which should be resolved by local governments.

Of course, this would prevent the excessive expenses that comes from that type of litigation.

I think your comments are good. I think both Senator Bayh and I, and other members of the committee, will give great weight to them. You have been through this pain. I agree. I have had to defend a few cases where the Federal Government has jumped in and really, because of some over-zealous advocate or some over-zealous prosecutor, has prosecuted some very innocent people.

After those people are dead financially and can never come back and they are broken emotionally, it is nice to say, "Well, they were vindicated by a jury." Sometimes they are not even vindicated by a jury.

I think you have brought some very important things here. I think you are a heck of an advocate. We will take into consideration everything that you have brought out here today.

Thank you.

Mr. BURCH. Senator, may I be excused? I have to get on the road?

Senator BAYH. Of course.

Senator HATCH. I hope you do not get this excited on all matters that come before you. I hope it is just the Federal Government and the State relationship that gets you this excited.

Mr. BURCH. I always get excited about everything I do. [Laughter.]

Senator HATCH. I want to keep you around for a few years. You sound like a good man. [Laughter.]

Mr. BURCH. Thank you.

Mr. DANFORTH. Finally, Mr. President, I wish to note that I am not an obstructionist. I know that Senator BAYH's interest in this issue stems from his sincere interest in the rights of institutionalized persons. The cause he espouses is a good cause. But so is federalism. During the next few months I hope to develop alternative legislation which addresses Mr. BAYH's concerns and yet is, at the same time, sensitive—in practice as well as in theory—to the cause of promoting good Federal-State relations.●

LEBANON RESOLUTION

● Mr. DOLE. Mr. President, the council executive board of the National Republican Heritage Groups Council has passed a resolution on the situation in Lebanon. I ask unanimous consent that this resolution be printed in the RECORD at the end of my remarks.

This resolution is one more sign of the growing concern and outrage at the incredible violence and destruction which is plaguing Lebanon. This disruption is rapidly reaching a peak. The government of President Sarkis is tottering on the brink of ruin. The forces of the Syrian Army are escalating what is one of the most bitter conflicts to have struck the Middle East, a conflict which threatens to break into open war, one that will perhaps draw in Israel and other Arab nations. It would be a great pity to see the progress achieved at Camp David destroyed in another Middle East conflict. But inaction on the part of the United States and the other nations involved in this crisis could very well lead to this.

HUMANITARIAN CONCERNS FOREMOST

I would like to stress that the humanitarian concerns involved in this conflict must take precedence. Hundreds of civilians are being killed in the fighting and shelling of the Syrian forces. Thousands more are having their homes and livelihoods destroyed. The United States must take the lead in providing humanitarian aid for these people. These innocent people, victims of the terrible persecution and destruction of the Christian areas of Lebanon, especially Beirut, are caught in the middle, with little chance of escape, and almost no prospects of help from outside supporters.

AMERICAN PUBLIC AROUSED

Mr. President, I think that this resolution is a good example of the outrage that the American people feel over this crisis. There are many Lebanese Americans among us here in the United States, who have been a great asset in making this country strong and prosperous. Are they to sit by and watch the destruction of their countrymen and relatives? It is my hope that the United States can yet do something to help alleviate this crisis, or at least provide refuge for its many victims.

The resolution follows:

RESOLUTION

The National Republican Heritage Groups (Nationalities) Council, at its fall Executive Board meeting held September 30, 1978 in Washington, D.C., hereby makes the following recommendation:

Whereas, Lebanon is continuing to suffer daily assaults in the loss of life and limb to innocent civilians by the indiscriminate shelling and bombings being conducted by the Syrian peace-keeping troops in Lebanon;

Whereas, such conduct by the Syrians upon civilian targets is both reprehensible and in flagrant violation of the rights of those civilians;

Therefore, the National Republican Heritage Groups (Nationalities) Council urgently demands:

(1) That President Carter immediately intercede with the Syrians to halt the shelling and bloodshed being inflicted upon the innocent civilians in Lebanon;

(2) That President Carter demand the immediate removal of the Syrian troops from Lebanon and their replacement with the United Nations peace-keeping troops;

(3) That additional humanitarian aid by the United States be rendered to Lebanon to assist the victims of the present conflict.

MITCHELL P. KOBELINSKI,
Chairman.●

October 2, 1978.

WHAT WE SHOULD LEARN FROM THE GSA SCANDAL

Mr. HATCH. Mr. President, the public has once again become skeptical of Government as a result of the scandal involving the General Services Administration. I perceived that we were beginning to bounce back after our national affliction with Watergate, but now it seems we must again rebuild the American peoples' trust in the honesty of Government.

It is alarming that a report issued by the General Accounting Office confirmed that corruption and fraud is widespread throughout Government. Accordiing to the GAO estimates, white collar criminals are stealing between $2.5 and $25

billion a year from the taxpayer. The inability of the Government to pinpoint the magnitude of the loss any more precisely says a great deal by itself of its lack of accountability.

The report pointed to various specific factors which have contributed to this sorry state of Government. Most agencies, says GAO, lack the information systems to identify fraud, a designated official to coordinate and be responsible for the agency's antifraud efforts, and the investigative personnel with adequate training and experience in fraud detection.

I think we should give considerable thought to why these instances of corruption continually seem to erupt and what we can do about it.

While we may ferret out those who are responsible for waste and corruption in GSA and elsewhere. I would hope that we would begin to recognize the general susceptibility of the public sector to such temptations. Certainly, there is waste and corruption in the private sector, too; no one can deny this. But at the same time, there is always some party with a strong compelling interest to eliminate these problems. There is always some identifiable individual or individuals who recognize that such waste and corruption is doing him or her direct harm and is motivated at the earliest point to eradicate it.

This is not the case in the public sector. There are, of course, many honest, good people in Government, people who abhor the sort of dissoluteness that has emerged within the GSA and other Federal agencies. It is too easy, however, for Government employees and administrators to view Government dollars and resources as belonging to everyone or to no one, and there is not the same interest in checking the waste and abuse of these resources that would otherwise occur if responsible individuals perceived they were being directly injured by such waste and criminal activity.

In short, there is no incentive within Government to insure that its dollars are spent with maximum efficiency and integrity. Because there is no profit motive, administrators have not made a priority of investigating internal complaints of either inefficient and wasteful practices or criminal activity. It is to their greater personal advantage to insure prompt program delivery as this is where we in Congress have placed our emphasis.

Clearly, Congress must share some of the blame. I believe GAO's observation is correct that Congress is more concerned with the actual substance and content of programs than it is with the complexities of administration and the fact that when the number and/or scope of Government programs increases, so does the risk and probability of fraud and waste. In many ways, the bureaucracy is as faceless to the Congress as it is for the average citizen.

Congress does not spend nearly enough time performing its oversight functions and I would hope that one result of the discovery of abuses at the General Services Administration will be the reaffirmation of these duties by the legislative branch. We ought to follow up on the recommendation by Comptroller General Elmer Staats to build specific oversight procedures and requirements into new legislation. Further, in his book, "The Futile System: How to Unchain the System and Make it Work Again," House Minority Leader John Rhodes suggests a 1-year moratorium on all new enacting legislation in order to permit Congress to spend the necessary time taking inventory of the myriad of departments, agencies, boards, bureaus, and commissions in which it has vested the responsibility for carrying out the Government's business.

I applaud the concept of sunset and am pleased that the Senate has agreed that sunset provisions should be attached to many pieces of legislation, including authorization measures. I believe, however, that we must do more. Congress must lead the way to Government-wide reforms in priority setting, putting oversight and the control of criminal and management abuses at the top. The public has a right to expect that Congress will be dutiful in this regard. We cannot let them down.

VETERANS' DAY

● Mr. DOLE. Mr. President, we will observe Veterans' Day on its traditional date of November 11, a day which is unique in history and appropriate for honoring those millions of Americans who have defended our Nation as members of the Armed Forces. I have long supported the effort to restore the special day for veterans to November 11 by introducing legislation in both the 93d and the 94th Congress. I was pleased to see that the passage of this legislation again established a legal holiday which represents American tradition and provides a unique and fitting day of recognition for American veterans.

Mr. President, on this day we will honor the brave men and women who fought to preserve our Nation, our way of Government, and our freedoms. We are reminded that no one dislikes war more than those who have had to fight, and that none have a greater right to insist that we pursue policies which prevent war, protect liberty, and preserve peace.

We realize that we must move with diligence and discipline, with courage and wisdom, to maintain our strength so that peace can be preserved.

On Veterans' Day and everyday throughout the year, we recognize that our first duty to the war veterans of this Nation is to insure that there will be no more war veterans. With great thanks, we are celebrating the fourth consecutive Veterans' Day where no troops are fighting in a foreign land. In these days of peace, it is even more important that we remember the sacrifices many have given throughout our history. Thus, it is fitting that we take time to pause and recall those who have paid for the times of peace we are now cherishing.●

A NATIONAL ENERGY PLAN

● Mr. GARN. Mr. President, we are apparently on the verge of passing a national energy plan, if the House can get its act together, and if various filibusters in this body can be overcome. No doubt it is too late to do anything about that, even if I were disposed to do so, but it may be worth throwing in to the debate a recent article which is truly thought-provoking.

The article, from the current Public Interest, argues that we need no national energy program, and that in fact, such a program would be a mistake. Many of the author's arguments parallel those I have made from time to time over the past year and a half since a comprehensive program was first proposed. Thank heavens we are not passing anything like what was proposed, or we would never have sufficient energy in this country. What we are passing is bad enough, and where not bad, almost totally unnecessary. These points are all made very well by the author of this article, Mr. David Stockman, and I ask unanimous consent that the entire article be printed in the RECORD.

The article follows:

THE WRONG WAR? THE CASE AGAINST A NATIONAL ENERGY POLICY

(By David A. Stockman)

When President Carter declared the energy crisis so serious for the future political, economic and security interests of the nation that it required a response amounting to the "moral equivalent of war," his call to arms was met with nearly universal acclaim. To be sure, there was much disagreement about the tactics of battle. But the twin tenets of Carter's declaration—that the word was running out of energy and that the U.S. faced grave peril unless it cured its "energy alcoholism" and consequent dependence upon imported oil—became axiomatic in all subsequent debate.

New York Times columnist Anthony Lewis echoed the first tenet when he called upon the American public "to face the central truth: The world cannot for much longer produce enough oil to meet escalating demand. In the years ahead there is no way out but strong conservation measures. Americans will surely accept them if Jimmy Carter can persuade them to open their eyes to the facts."

The Washington Post reiterated the second tenet while endorsing the Carter program as an essential "national energy insurance policy." "Depending upon 9 million barrels a day of other peoples' oil is hazardous to your health," the *Post* warned. "If Mr. Carter and the Congress put through all these severe and unwelcome measures, maybe the country can avoid the dire possibilities of embargo and extortionate pricing."

One year later, the grand civilian mobilization proposed by the Carter Administration to surmount this energy peril has not even been launched. Congress has refused to approve even one of the heavy artillery pieces requested by the Administration—the crude oil equalization tax, a 50 cent tax on gasoline, industrial oil and gas consumption taxes, and a stiff forced-draft coal conversion program. Those minor actions which have been approved are lttle more than a discordant goulash, representing virtually no policy momentum whatsoever.

In terms of the stated central objective of the Carter National Energy Plan (NEP)—reduction of oil imports—the energy laws already "on the books" are largely self-cancelllling. The gains from the auto-fuel-economy standards, for example, are more than offset by domestic-production shortfalls due to rigid oil and gas price controls. Those elements of the NEP which may eventually be implemented are too weak or

too late to have a significant effect on petroleum consumption. Homeowners haven't waited for insulation tax credits or Federally mandated residential-energy "audits" to iinsulate their homes. Although the cumbersome appliance-efficiency standards and utility-rate-reform programs may eventually reduce nuclear and coal-fired electricity demand, they will "save" scarcely a drop of oil. Even the final, heavily diluted version of the mandatory coal conversion program will result in only an infinitesimal iincrease in industrial coal use as a substitute for oil and gas above what the marketplace would have induced without regulatory prodding.

In short, the nation no longer finds inspiration in the bold promises of a new administration ready to move toward a solution of the energy problem. The sense of anticipation that characterized the Spring of 1977 has turned sour. The political debate has increasingly degenerated into a petty and unseemly squabble over marginalia. Public opinion is growing skeptical and uninterested, the political fortunes of the Carter Administration have been wounded, perhaps fatally; and, Congress has become a veritable cauldron of disarray, jurisdictional jousting, personal antagonism, and confused opinion. Under these circumstances, it can be predicted with a fair amount of confidence that nothing decisive regarding the alleged energy peril will evolve before the next Presidential election. The endlessly repeated calls for a "national energy policy" will remain unanswered.

The prospect of this continued hiatus on the energy issue will undoubtedly give rise to a chorus of national self-flagellation and blame-ascribing. But regardless of where the finger of fault is pointed, the problem will be identified as a *political failure*. Some will point to the weak, inconstant, amateurish performance of the Administration and yearn for the tough, decisive, visionary leadership that crisis purportedly demands. Others will point to Congress' slavish devotion to parochial interests and cowardly unwillingness to inconvenience or arouse the electorate. The moralists will blame the short-sighted hedonism of the American people , and those of a more conspiratorial mind will point to the machinations of the oil industry and other powerful economic groups.

But before resigning ourselves to this impending fit of national bad temper, it might be worthwhile to consider another perspective—a radical one, to be sure. What we are experiencing just now may not be a political failure at all, but rather a *remarkable political success*. Despite heavy odds, the political system has not been panicked by monetary energy jingoism. We have declined to launch what would have become a disastrous, inextricable engagement in an unnecessary war. It may be that the true political task before us is not a renewed effort to mobilize our national resources for battle against energy shortages, oil imports, and related perils, but to confirm the implicit judgment of the electorate and mothball the motley energy army—such as it is—that we have erroneously called to arms.

CHICKEN LITTLE'S LOGIC

The argument for a comprehensive national energy policy—a policy of extensive Federal management and intervention in all phases of the energy market—is reminiscent of Chicken Little's defective logic. From the undisputed empirical fact that he was struck on the head by a falling object, he jumped to a number of wholly unwarranted conclusions: that the offending object—a common ear of corn—was of non-terrestrial origin; that it had fallen from the sky and not a corn stalk; and that the incident was the preclude to an extraordinary universal catastrophe, when it was in fact an isolated, mundane event that might well have been anticipated by any sensible chicken strolling through a cornfield in October.

The case for a government-orchestrated national energy policy has been proceeding on the basis of unwarranted conclusions since October 1973. The one empirical fact of relevance at that time was that the U.S. itself could no longer produce sufficient gas and oil to meet domestic consumption needs at either the pre- or post-embargo price. Even the most optimistic deregulators have never argued otherwise. But that is about as far as the evidence goes. The remaining arguments for a national energy policy consist largely of an accumulation of superficial conclusions, questionable interpretations and unwarranted inferences. Together they amount to a strategy of drastic U.S. withdrawal from the global energy marketplace—to autarky for a major sector of the free world's largest economy. But since the marketplace inherently resists artificial segmentation, the burden of compensatory policy action is enormous. To establish and maintain an internal energy regime insulated from the forces of the global marketplace requires an ever-proliferating network of controls, subsidies, and bureaucratic management schemes.

Accomplishing this rather formidable task of insulation has been the central task of energy policy since the embargo. The results have not been encouraging. The naive goal of total "energy independence" by 1980 proposed by the Nixon-Ford Administrations in the immediate aftermath of the embargo was revealed to be a costly, unrealistic illusion even before implementation plans could be formulated. But, in only slightly more muffled tones, the quest continues. The latest effort, the Carter Administration's National Energy Plan, is little more than a policy-induced oil import displacement scheme. Indeed, Administration spokesmen took great pains to specify the precise volume of oil imports that each of their 110 assorted policy measures would displace. Since most of these oil import demand-suppression measures (energy consumption taxes and mandatory conservation) have been rejected by the Congress, the Administration is now formulating a "Phase II" supply-oriented displacement strategy. But these schemes to subsidize the accelerated commercialization of synthetic fuels and other alternate energy forms are likely to become embroiled in even more political controversy than Phase I. Which is the best bet—fluidized bed combustion, coal liquefaction, shale retorting, gasohol plants, or solar technology?

The national energy policy enterprise is going nowhere because it embodies a schizoid impulse: a firm commitment to the drastic reduction of U.S. dependence on external energy supplies as a goal, accompanied by a persistent reluctance to implement the drastic policy actions required to achieve it. The time is long overdue, therefore, to seriously question the newly universally shared premises that have given rise to the paralysis that now grips us.

The underlying commitment to national energy autarky rests on three axiomatic assumptions about the world energy conditions. Like Chicken Little's inferences, these axioms represent a fundamental misapprehension of the actual state of affairs.

The first axiom is that the world faces the imminent exhaustion of conventional fossil fuels and that the "business-as-usual" workings of the marketplace are totally inadequate to respond to impending supply shortfalls. As the world's most powerful economy, the U.S. must therefore take the lead in politically managing the indicated transition to a low-energy, non-petroleum-based society. The second is that regardless of the precise state of potential world supplies or the timetable for depletion, the world energy marketplace was irremediably impaired by the events of October 1973. The market has been superseded by a politically motivated and cartel presenting every manner of economic and national security peril to those nations which fail to take prudent steps toward insulating their economies from its reach. The final assumption is that home grown energy is better, and that by reducing imports through NEP-type substitution and conservation schemes we will improve our balance of payments, strengthen the dollar, and enhance the performance of the domestic economy.

The first two propositions merit serious analysis and compromise the burden of that which follows. The third is a manifestation of economic wishful thinking, and can be refuted without much difficulty.

HOTHOUSE ENERGY: A DUBIOUS BARGAIN

At bottom, the notion that "home grown energy is better" implies a radical rejection of the global trading system and the law of comparative advantage on which it is premised. Anyone advocating a policy of autarky for bananas, textiles, tin, or transistor radios, for example, is immediately suspected of economic illiteracy or of possessing an economic axe to grind. But not for oil or other energy supplies, although they are tradeable commodities subject to the same economic laws.

The fact that we are importing 3.4 billion barrels annually of oil and natural gas, or 30 percent of our total energy supply, strongly suggests that a policy-induced regime of of autarky would be expensive indeed. Of course, our current levels of imports are excessive and uneconomic to the extent to which they represent distortions caused by oil and gas price controls, the entitlements subsidy, and lesser aspects of the current energy programs. As Hall and Pindyck suggested in their Spring 1977 article in The Public Interest, the current U.S. policy of maintaining domestic prices roughly 30 percent below the world level may result in up to 3 million barrels per day (mm bbls./day) additional demand and may suppress 2 mm bbls./day of domestic production. Dismantling the present government-imposed energy-management structure, and allowing the market to clear at the world price, would thus reduce imports and confer substantial economic benefits on the nation.

But this would not be a policy of deliberate autarky. It would be precisely the opposite—a market solution. And in any event, a requirement for nearly 1 billion barrels per year of imported energy would remain. Moreover, even under a free domestic market, in future years the level of imports would inevitably rise. At the current world energy price level, the present U.S. energy demand of approximately 38 mm bbls./day oil-equivalent would rise to well over 50 mm bbls./day by the late 1980's, even if the domestic price were allowed to rise to the world level and greater end-use efficiency (conservation) resulted. Given the high cost of remaining U.S. oil and gas reserves, and the equally high cost of coal combustion in all but the largest utility and steam applications, no convincing case has been made that U.S. domestic supply in the next decade could be raised much beyond 40 million barrels per day—even if every price controller in the Department of Energy (and the Texas Railroad Commission) were placed on immediate early retirement. Achieving the lowest-cost economic solution to energy supply on both theoretical and practical grounds thus necessitates increasing U.S. import dependence in the years ahead.

It is precisely this inexorable rise in dependence upon external supplies that autarky-based U.S. energy policies are designed to reverse. But even a cursory examination of the implementation strategies contained in the NEP and subsequent elaborations reveals the staggering cost-penalties involved.

The mandatory coal-conversion program, which it was originally claimed would displace more than 3 mm bbls./day of oil and

gas use, is a case in point. Since the quadrupling of world oil prices, the marketplace has already effected a major coal-conversion program of its own. In the last two years, almost no large utility or industrial oil-fired boilers have been ordered, whereas prior to 1974, oil- and gas-fired units accounted for nearly one-half of new capacity. The reason for the switch to coal is simply that at mine-mouth cost of five to seven dollars per barrel energy-equivalent, the total combustion cost of coal is lower than that of petroleum, even after making allowance for higher basic-equipment costs and elaborate pollution control devices.

The Administration program would have gone far beyond the cost-effective displacement now taking place, however. It would have required the scrapping of billions of dollars worth of existing oil-and gas-fired combustion equipment and its premature replacement with new coal facilities—since "conversion" is in fact a euphemism for replacement in the case of equipment designed to use only oil or gas. In addition, the program would have mandated direct coal combustion in small and medium-sized industrial boilers, in which the substantial economies of scale in pollution control and coal storage and handling available to large utility and industrial steam plants are absent. And it even proposed the forced conversion to coal of many non-steam combustion application—among them direct- and indirect-firing ovens, furnaces, and kilns, which would have borne the brunt of the mandatory conversion program, even though the unit costs of storage, handling, pollution clean-up, product-quality control and combustion-equipment maintenance associated with coal use would be prohibitively expensive. Depending upon a wide range of variables, the total cost of coal combustion in such facilities can range from $15 to $40 per barrel or more of oil-equivalent. Had the original Draconian coal conversion program been adopted and implemented, the 3 mm bbls./day of oil it might have displaced would have extracted a multi-billion dollar annual premium from the economy above and beyond the lowest cost alternative—imported oil.

The same logic holds for all of the other substitution strategies proposed or implemented. All of the evidence suggests that coalbased synthetics (both liquid and gaseous forms) will not come in at under $20 per barrel and may cost $30 per barrel. Likewise, the proposed tax subsidies of three to four dollars per barrel for $18 shale-based petroleum would not change its supply cost to the economy—only the accounting system and the incidence of the fuel bills for whatever supplies might be produced. The same is true for the solar-heating subsidies proposed by renewable-energy enthusiants: Energy supplied at an economic cost ranging from $25 to $40 per barrel-equivalent, even if subsidized down to current market levels with tax credits, would not only heavily burden the economy, but also might cause an increasing number of homeowners to wonder why they are paying half of their neighbors' fuel bills.

The strategems for bureaucratically ordered improvements in consumption efficiency fare no better on economic-benefit grounds. The Department of Transportation, for example, was recently compelled to modify proposed mandatory-fuel-economy standards for light trucks after it was pointed out that the cost of the projected fuel savings would be more than $40 per barrel.

In short, the force-feeding of new energy supplies into the economy (by such means as coal conversion, synthetic fuels, and solar technology), or the artificial withdrawal of energy from the economy (mandatory efficiency standards) at costs-equivalent above the world price, are exceedingly bad economic bargains. Any attempt to displace the 3 to 5 billion barrels per year in imported liquid and gaseous fuels that will likely be required late in the next decade would impose a cost-penalty on the economy in the range of $40 to $70 billion per year. The result would be a substantial, unnecessary loss in national output, and an artificially high domestic-energy-cost structure which would reduce the competitiveness of our exports and increase the cost-advantage of imports. We obviously cannot improve our balance of payments or any other aspect of economic performance by resorting to home grown, hothouse bananas. The same is true for energy. If autarky is a defensible policy it must have some other, non-economic justification.

THE MYTH OF IMMINENT DEPLETION

If the case for energy autarky cannot rest on its intrinsic economic merits, it might nevertheless be made on the basis of postulated fundamental defects in the world market. Easiest to refute of these defenses of autarky is the assertion that conventional world supplies are nearing exhaustion.

Since the catalytic event which triggered the current march toward an autarky-based national energy policy occurred in the global context—the embargo crisis of October 1973—it did not take much of a leap in logic to assume that the U.S. oil and gas predicament was universal. After all, the cartel justified its action in the name of conservation and stretching dwindling oil supplies to cover the impending transition to the post-petroleum age.

The empirical data all point to the opposite conclusion, however. Even had it been known at the time of the embargo that the planet would refuse to give up one additional barrel of oil or gas reserves, there still would have remained a ready-to-produce worldwide inventory of proven reserves capable of sustaining consumption for more than a quarter-century. This hardly seems a basis for panic.

But a further argument was raised. Demand would continue to grow at high rates, thus rendering the world supply margin far thinner than current production-reserve ratios might imply. But this, in turn, assumed that new reserve additions would fail to keep pace with rising production. As of yet, there is no evidence for this conclusion either. Since the end of 1973, worldwide crude oil production has amounted to 80 billion barrels. New reserve additions have exceeded 100 billion barrels. *Thus, nearly five years after the scarcity threat first arose, new reserves are still being added faster than production.* The absolute level of the world's proven reserve inventory continues to increase, notwithstanding a significant growth in annual production rates. The quarter-century oil inventory remains.

Nevertheless, the Malthusian assumption persists—if only on the vague and self-evident premise that exponential production growth of a finite resource must halt sometime. But for the purposes of policy it is important to know when that "sometime" will occur—a decade from now or a century from now. This vital query leads us to an examination of the worldwide resource base. And it is here that the perverse logic of Chicken Little has blanked out some rather compelling evidence that is incompatible with the imminent exhaustion hypothesis.

What the conventional wisdom failed to recognize in the aftermath of the embargo crisis was that there was no symmetry whatsoever between the U.S. oil and gas predicament and that of the remainder of the planet. The U.S. had indeed reach the point at which, under very exacting premises (conventonal oil resources at existing prices under known technology), domestic oil production had reached a plateau and was moving inexorably toward final exhaustion of supply within a matter of decades. But the U.S. is a unique case. The rest of the world has barely inched away from the starting gate.

This is not surprising, given the global distribution of the resource base and the development history of the petroleum industry. Accordingly to most geologic estimates, the U.S. accounts for about 4 percent of the volume of hydrocarbon-bearing sediments deposited around the planet, and perhaps 12 percent of the 2.0-2.5 trillion barrel resource base of ultimately recoverable conventional crude oil. Yet, in contrast to this meager share of the resource base, it accounts for 75 percent of all the exploration and production wells ever drilled. Up until World War II, the U.S. accounted for nearly 70 percent of cumulative world production, and even during the subsequent 25 years, when the oil era came of age on a global scale, the U.S. still accounted for over a third of cumulative production.

Thus, when the sky began falling in 1973, more than a third of all the oil produced in the first century of the petroleum era had been extracted from the relatively small U.S. cornfield. As a result, the U.S. had produced nearly 45 percent of its conventionally estimated oil resource base, and—with the inclusion of proved and inferred reserves—nearly two-thirds was either already consumed or on-hand. The condition of the remainder of the world was dramatically different, however. Less than 10 percent of the non-U.S. conventional-oil resource base had been produced. For the major new producing areas outside the Western hemisphere, cumulative production relative to ultimately recoverable reserves was (and remains) negligible: 8 percent for the Middle East Persian Gulf, 7 percent for sub-Saharan Africa, and 3 percent for the North Sea.

Only by using improbable and non-economic assumptions about the growth in demand can one hypothesize a potential physical supply constraint before the turn of the century. For reasons that will be explored in more detail below, the sustained world oil-demand growth rate, at $13 per barrel, is not likely to exceed 3.5 percent per annum in the years ahead. At this rate, non-Communist world production would nearly double from its current 48 mm bbls/day to over 90 mm bbls/day by the year 2000. Yet this could be accomplished with an average new-reserve addition rate of only 23 billion barrels per year—a rate significantly lower than that of the past decade. Moreover, nearly half of the undiscovered oil resource base would remain intact.

The irony of the matter is that the great age of "world oil scarcity" begun just barely after production of the resource had commenced. When U.S. energy policy swung sharply toward autarky in the aftermath of the embargo, partially on the theory that the world was running short of oil, more than 90 percent of the non-U.S. resource base remained to be produced.

NATURAL-GAS RESOURCES

The asymmetry between the U.S. condition and the remainder of the world on natural gas was even more striking. The most recent geologic surveys suggest that the U.S. and Canada combined account for about 20 percent of the estimated conventional natural-gas resource base. But through the end of 1974, 70 percent of cumulative world production had come from these hydrocarbon provinces. With the exception of the modest natural-gas industry in Western Europe (primarily the Netherlands) and the then newly developed Soviet industry, the entire original geologic deposit of gas had not been commercially exploited outside of North America. Cumulative production in Western Europe through 1974, for example, amounted to only 8 percent of the estimated resource base; in the case of 13 hydrocarbon-rich OPEC countries, cumulative production was estimated at a mere 2.2 percent of the ultimately recoverable base, and for South and Central America the figure was 1.6 percent. Overall, 97 percent of the non-American natural gas resource base had yet to be disturbed by a

production-well bore. Nor was this potential resource negligible in dimension. The remaining natural-gas resource base outside of North America may total 1.4 trillion barrels-equivalent, a quantity of energy equal to four times all of the crude oil that has ever been produced.

As in the case of petroleum there is little prospect of a physical constraint on production of natural gas at any time before the turn of the century. Indeed, a recent American Gas Association world-wide survey projected a protential-production curve rising from 22 mm bbls./day in 1976 to 33 mm bbls./day by 1985 and 62 mm bbls./day by 2000. Moreover, even with substantial natural-gas substitution for coal or oil, were such substitutions to be economic, it is wholly unlikely that demand for gas will grow at anywhere near the 4.5 percent annual rate implicit in this potential-availablity forecast.

The argument for autarky thus finds no support in the actual data on potential supply availability. It is based on grand supposition rather than on even a cursory examination of the evidence. When the conventional wisdom became locked on an autarky strategy in the early days after the embargo, it was true that the U.S. was substantially advanced along the curve of resource depletion—nearing the mid-point for oil and quarter-mark for natural gas, as the table on page 14 shows. But the more relevant factor—that the U.S. "cornfield" was an astoundingly small part of the global base (less than one-seventh) received almost no serious consideration. The decision to eschew an economic policy of trading on the world market for the 90 percent of the non-U.S. oil and gas resource base that remains to be developed in favor of a cramped, inward-looking policy of autarky may prove to be the most costly national error of the last half of the twentieth century—if it is not soon reversed.

TABLE I. DEPLETION ASYMMETRY OF THE GLOBAL OIL AND GAS RESOURCE BASE, YEAREND 1973

Area	Estimated resource (billion barrels)	Share of global oil and gas resource base, percent	Cumulative production (billion barrels)	Production as percent of base
United States:				
Oil	242	5.9	106	44.0
Natural gas	409	10.0	101	25.0
Subtotal	651	15.9	207	32.0
Non-United States:				
Oil	2,038	49.8	213	10.0
Natural gas	1,401	34.3	46	3.3
Subtotal	3,439	84.1	259	7.5
World total:				
Oil	2,280	55.7	319	14.0
Natural gas	1,810	44.3	147	8.1
Grand total	4,090	100.0	466	11.4

Sources: The oil resource base figures are taken from E. N. Tiratsoo, "Oilfields of the World," and represent the most recent consensus geologic estimate of ultimately recoverable conventional petroleum within the range of current prices and technology. The natural gas figures are from an American Gas Association study, "The Future for World Natural Gas Supply." The U.S. natural gas figures include Canada.

There remains one obvious point. Neither the U.S. nor any other industrial economy requires crude oil from conventional geologic structures, such as those in Saudi Arabia and Texas. What is required is merely liquid-hydrocarbon feedstocks capable of being refined into a variety of end products. The same is true for natural gas. Industrial economies require gaseous-state hydrocarbons, but there is nothing to say that they must come from naturally trapped methane. The global potential to supply such hydrocarbons from unconventional sources is simply mind-boggling. No major breakthroughs in science, engineering, or technology would be required, and the price of such supplies would be perhaps not more than double the current oil price.

The most massive of these lower-grade reserves capable of being upgraded to suitable liquid and gaseous fuels is, of course, coal. Recoverable reserves are estimated in the trillion barrel-equivalent range. The reasons why the gasification and liquification plants necessary to process coal into usable fuels have not been developed are distinctly non-technological: These plants would employ standard petrochemical and refining-industry engineering, chemistry, temperatures, and materials. But such plants remain outside of the supply system at present for purely economic reasons. Conventional crude oil is still cheaper to discover and produce.

The same is true for the massive quantities of heavy oils and tar sands. While geologic delineation is just beginning, potential reserves in the Western Hemisphere alone are estimated at 2.2 trillion barrels. Shale reserves, another potential liquid-hydrocarbon feedstock, are placed at five trillion barrels-equivalent worldwide, again as a result of only the most cursory geologic delineation. Moreover, recent successes with both demonstration and small-scale commercial plants in the Canadian tar sands, Rocky Mountain shales, and the Venezuelan heavy oil suggest that these resources may be producible at lower cost than coal-based synthetics—perhaps at substantially under $20 per barrel in the case of the most accessible deposits.

Finally, even the two trillion barrel conventional oil resource base has substantial potential for eventual expansion; it represents an estimated four to six trillion barrels of in-place oil, the greater part of which is deemed not recoverable at current prices using available technology. But recent investigations of the potential for new technology to push beyond the 25 to 40 percent recovery rates which now prevail suggest the likelihood of hundreds of billions of additional barrels of ultimate recovery within the parameters of an affordable price range and achievable technology.

Overall, the planet's accessible natural hydrocarbon reserves readily exceed 20 trillion barrels. This is the equivalent of five centuries of consumption at current rates. The figure would be even greater should the abundant geo-pressurized gas reserves prove to be economic. Moreover, exploitation of these resources would require scientific or technological advance of a far lower order than that of the moon-landing or current fusion-power experiments. The case for fossil-fuel exhaustion simply cannot rest on physical scarcity or the stinginess of the planet. Perforce it must assume a failure of man or his economic institutions.

ECONOMIC EVENTS

One such failure is widely believed to have occurred in October, 1973. Because OPEC sprang on the world sphinx-like out of the turmoil of the last Middle East war, it has been assumed that the original huge oil-price boosts were largely political events, reflecting the new-found political will, cooperation, and self-assertion of the Persian Gulf producers and their lesser oil-producing allies. Having successfully exerted political control over a substantial share of the world's crude oil reserve, so the argument goes, the cartel has essentially abolished any semblance of a normal world marketplace. If the laws of supply and demand have been revoked, and the predictability and reliability they generate are absent, neither the U.S. nor any other major industrial nation can afford to treat oil as just another commodity in world trade, the argument runs. Political usurpation of the market abroad must be countered with politically managed insulation of the market at home. As The Washington Post has consistently argued, the principal purpose of an autarky-based national energy policy is to provide insurance against embargoes, price extortion, and the other non-economically based perils emanating from a cartelized world oil market.

There is a strong case to be made, however, that the October 1973 and subsequent price boosts were almost entirely economic events; that they were generated by nearly irresistible global economic forces; and that their timing originated as much in the domestic-energy production and consumption policies of the major industrial nations during the late 1960's and early 1970's as in the political turmoil of the Middle East and the emergence of an organized worldwide oil-producers' cartel.

The catalytic force in this process was delineation of the huge, ultra-low-cost Persian Gulf petroleum reserves during the 1950's, and their subsequent entry into the world energy-supply system. Once it was known that the Gulf contained several hundred billion barrels of reserves producible at less than 20 cents per barrel, the oil and other fuel-supply industries in the remainder of the world were destined for mothballs. The only potential escape from the withering competition of Persian Gulf oil was extra-market intervention—either in the form of home-market-protection policies or, ironically, through production of these resources under cartel or monopoly (high price) arrangements.

For two decades the world tried a little bit of both. Industries threatened by sudden changes in global comparative advantage do not die easily; instead, they seize the levers of political power and hang on for deal life behind protective barriers—quotas, tariffs, subsidies, "buy national" policies, and such other expedients as can be erected to compensate for lost economic advantage.

In the U.S., the domestic-petroleum industry, and to a lesser extent the coal industry, repaired to the protective umbrella of the mandatory oil-import quota program. In Europe, various petroleum tariffs and taxes, as well as generous infusions of subsidized capital, provided relief for the beleaguered coal industry. On the other side of the equation, major oil companies comprising the "Seven Sisters" maintained a weak producer cartel by means of joint-production agreements. These arrangements permitted mutual surveillance of production and pricing actions, thereby preventing the outbreak of unrestrained competition in Middle East oil ex-

ports—a task made easier by the market-limiting protectionist policies of the United States and Western Europe. But home market protection schemes invariably extract huge economic costs from the consuming and taxpaying public. When the overseas comparative advantage is enormous, as it was for Persian Gulf oil, the cost of protection, and the political instability associated with it, increases commensurately.

For all practical purposes, Western Europe succumbed to Persian Gulf oil about 1965. By manful effort, coal production was held at nearly 500 million tons per year for two decades after World War II, but at last production plummeted when additional sufficient compensatory subsidies were not forthcoming. By 1973, Western European coal production had declined by 33 percent from its mid-1960's peak, or by the oil-equivalent of nearly one billion barrels annually. The much smaller Japanese coal industry experienced a 60-percent decline during the same period.

The petroleum producing provinces of the Western hemisphere maintained the appearance of vigor slightly longer. Production steadily climbed during the 1960's rising from 4.1 to 5.8 billion barrels annually—or by 40 percent from the opening to the close of the decade. As a result, the U.S. was able to satisfy 70 percent of its petroleum-demand growth out of domestic-production gains during the decade. But in a world in which the cheap Persian Gulf reserves brought steadily declining real prices, a trend which M. A. Adelman of the Massachusetts Institute of Technology has shown even the Seven Sisters could not stem, the 1960's production growth of the old provinces was clearly not sustainable.

In fact, this growth was generated primarily out of the large inventory of new reserves delineated in the fifteen years immediately after World War II. During this period Western hemisphere reserves doubled from 30 to 60 billion barrels, and the reserve-production ratio improved substantially despite steady gains in output. But in the 1960's, this reserve margin was steadily liquidated. Rising production masked the fact that the economic incentives to find new reserves and provide for future production were rapidly disappearing. By the end of the decade, the search for new reserves in the U.S. had gone into a tailspin. Between 1959 and 1973, total wells drilled declined 35 percent, well footage by 27 percent, and exploratory drilling by nearly 50 percent. As a result, genuinely new reserve additions (excluding revisions of prior finds) literally collapsed: The U.S. added two billion barrels per year of new reserves in the mid-1950's; about one billion per year in the late 1960's, and only 594 million barrels by 1973. On the eve of the embargo, truly new domestic reserves were replacing only 9 percent of U.S. consumption and less than 25 percent of the nation's production.

The economic reasons for this precipitous decline are readily apparent. By the early 1970's, the marginal cost of new U.S. crude-oil reserves was between seven and ten dollars per barrel. Had a leak-proof import protection policy remained intact, the then-current three dollar per barrel domestic price would have risen to this level and the gap between the import price and the domestic price would have become enormous.

The American public was unwilling to support such a costly policy, however. The leaks in the import quota quickly sprang into a torrent under the pressure of rising demand. From the perspective of hindsight, 1970 was a critical turning point: By then the excess reserves which had sustained rising domestic production for more than a decade had been almost entirely eliminated. This fact was symbolically confirmed shortly thereafter when the Texas Railroad Commission authorized a 100-percent production "allowable" as of April 1972, thus ending decades of production restraints. Henceforth, all incremental U.S. petroleum supplies would come from the Persian Gulf so long as the low price prevailed. The U.S. petroleum industry, like the European coal industry, had become the victim of the marketplace's relentless search for the least-cost source of supply—a powerful momentum that industry-sponsored trade barriers could not long contain. The smaller Canadian and Venezuelan oil industries confronted essentially the same economic pressures, and reached peak production at roughly the same time. Overall, Western hemisphere oil production peaked at 5.8 billion barrels per year in 1970 and remained level thereafter.

A significant consumption policy drove the final nail in the coffin. In the late 1960's, the major industrial nations, led by the U.S. began to impose meaningful sulphur emissions controls on major utility and industrial consumers of energy. This further shifted the comparative advantage to Persian Gulf oil. On a total "cost of combustion" basis, higher-sulphur coal could not compete with foreign oil—then available at a delivered price of two dollars per barrel. As a result of these policies, demand by U.S. utilities for fuel oil tripled between 1967 and 1973, rising to 1.6 million barrels per day, at an almost 30 percent annual rate of increase.

The combination and timing of these developments was extraordinary. After 1970, nearly the entire increment of non-Communist world energy-demand growth had to be satisfied out of the Persian Gulf. During this four-year period, old-province oil (that is, oil from areas already producing) and industrial-area coal production declined by the equivalent of one-half billion barrels of oil. At the same time, the post-1970 worldwide economic recovery pushed demand growth rates to nearly unprecedented levels. U.S. Western European, and Japanese demand for Persian Gulf imports thus exploded prior to October 1973, rising by 2.5 billion barrels in less than 36 months.

THE OPEC CARTEL

Under these circumstances, the Persian Gulf became the classical marginal supplier. Between 1969 and 1973, production galloped upward at a 15 percent annual rate. It was rising at a 25 percent annual rate in the period immediately before the October events threw on the brakes. During the period from 1969 to 1973, the Persian Gulf supplied 97 percent of incremental OPEC production, 92 percent of incremental world oil production, and 70 percent of incremental world energy supplies from all sources; after 1972, nearly 90 percent of additional world energy demand was satisfied with Persian Gulf oil. With the effective collapse of domestic energy-industry-protection policies in the industrial nations after 1970, the full comparative advantage of the Persian Gulf asserted itself. The Seven Sisters cartel was unwilling or unable to restrain production and force up the price due to the entry of new producers after 1960 and the resulting competitive market pressures. And the modest pre-1973 price increases obtained by OPEC were not sufficient to make competitive any other potential source of additional energy supply.

There is strong reason to believe, however, that this pattern of rapid growth in OPEC production would not have been sustainable without a major price rise sometime after 1973—even had the Gulf oil properties been in the hands of Wild-West Texas entrepreneurs rather than the sheiks. Given the 5 percent world-energy-demand growth rate which prevailed under pre-embargo conditions, and the Persian Gulf burden of providing from 80 to 100 percent of incremental world energy supplies, Gulf production would have had to have risen by a staggering six to seven billion barrels by 1978 had the trend not been broken. This would have meant an effective doubling of the already high production levels of 1973.

While the reserve potential to support output of this magnitude was easily available, the production capacity was not. In 1973, installed capacity in the Gulf amounted to about 25 mm bbls./day. Continuation of the pre-1973 trend would have required production rates of from 37–41 mm bbls./day by 1978. It is highly doubtful that the necessary loading facilities, gathering-pipelines, separation plants, new production wells, and associated reservoir-engineering and management practices could have been installed rapidly enough to translate reserves into the required production levels. And so the world market itself would have likely bid up to the Gulf price to the eventual OPEC levels within a very few years.

Thus, far more than the manifestation of a capricious exercise of political power by the OPEC cartel—which to some extent it was, of course—the world oil price quadrupling represented the unavoidable release of economic tensions built up in the world energy supply system after 1970. What the cartel can primarily take credit for are the timing and circumstances under which these pressures were released.

It can also take credit for the aftermath. In a non-cartelized market this disequilibrium would have resulted in a temporary commodity boom cycle rather than a permanent change in the terms of trade. The peak prices generated by temporary supply/demand imbalance would have eventually come down in response to reduced demand and the rapid expansion of Persian Gulf supply capacity. The only truly political act of the cartel, therefore, was to maintain the new price level by refusing to produce in excess of the now-reduced world oil demand at the new price. Its motivation for this policy is not hard to fathom. Between October 1, 1973 and January 1, 1977, the market value of proven Persian Gulf crude oil reserves increased from one to five trillion dollars! But the power to preserve the largest windfall capital gain in recorded economic history—by the simple and costless expedient of freezing production levels—implies almost nothing about OPEC's capacity for unilateral acts of similar import in the future.

Indeed, the global economic conditions necessary for another major unilateral price action by OPEC are not likely to re-emerge for more than a decade—if ever. Since OPEC rode a tide of global economic forces to their crest, it is illogical to assume that it now hangs from an economic sky-hook, immune to the very global economic forces which created its original opportunity. Yet the fear of the cartel's capacity for capricious action persists—as is evidenced by the U.S. drive to strangle its own economy in pursuit of a haven safe from OPEC's reach.

It is equally illogical to assume that even though OPEC altered with a cartel solution what would have been the normal market outcome of the early 1970's energy disequilibrium, there will not be compensatory reverberations throughout the world economy. In fact, in one fell swoop—by the decision to halt production growth and stabilize the high price—OPEC reversed all of the global economic pressures that caused worldwide energy demand to converge on the Persian Gulf in the early 1970's. At $13 per barrel, the Persian Gulf is no longer the unassailable marginal supplier, possessed of a withering comparative advantage. Instead, OPEC has unleashed powerful economic counter-forces which will make it the supplier of last resort, not first, and which are profoundly altering the shape of the global economy.

THE CONSEQUENCES OF OPEC: THE BRIGHT SIDE

The displacement of the Persian Gulf as the predominant supplier of new energy pro-

duction to the world market is an inevitable consequence of the changed price structure for oil. At a price ceiling of $2 per barrel, substantial new supplies could be produced only from the vast hydrocarbon storehouse of the Persian Gulf. But at $13 per barrel, new energy in massive quantities can be generated virtually anywhere on the planet.

One of the most prolific new energy sources is not even a conventional fuel. The substitution of non-fuel factors and new technology—one example being the increased use of aluminum and plastics in transportation equipment, which lowers fuel consumption without affecting performance by lowering vehicle weight—has made available vast new "conservation supplies." In the years between 1970 and 1977, the ratio of energy consumption to real GNP declined by nearly 10 percent in the U.S. This is an implied savings for 1977 equal to 3.8 million barrels per day of oil, a quantity larger than the oil production of all the fields in Texas.

Substitution of non-energy factors for fuel has been equally dramatic elsewhere in the industrial world. For the OECD area as a whole, real GNP rose by 9 percent between 1973 and 1977. Under the GNP/energy-demand growth ratio of 1.0 that prevailed prior to the embargo, energy consumption would have grown by the same percentage. Yet in actuality energy-demand growth was only 1.3 percent. The savings from end-use efficiency improvements and non-fuel substitution thus implied equalled 5.5 million barrels per day in 1977—the current daily production of Iran. And these "conservation supplies" can be expected to grow for many more years, as new equipment continues to replace less energy-efficient capital stock.

But it is on the conventional supply side of the equation that the effect of a higher oil price will be most dramatic. The new oil price has reversed the collapse of the world coal industry, rejuvenated the old oil and gas provinces, paved the way for a major world-wide natural-gas/liquified-natural-gas industry and rendered economic numerous new petroleum provinces all around the globe. Very little of the billions of barrels worth of energy that these sources will pour into the world economy in the decades ahead would have been produced at the pre-1973 energy price.

The changed economics of the coal industry are particularly striking. Despite strong growth in world energy demand, world coal production remained static between 1963 and 1973 at about 5.5 billion barrels-equivalent per year. There can be little doubt that had world oil prices not moved to a permanently higher level, coal production would have steadily declined after 1973 as a result of the progressive tightening of emissions standards.

But under the OPEC price umbrella the comparative economics of coal shifted drastically: even high sulphur coal with stack cleanup is now cheaper as a utility-boiler fuel than world-price oil. In a recent world energy supply survey, Exxon has forecast non-Communist world coal production rising to 8.8 billion barrels-equivalent by 1985 and to nearly 11 billion barrels by 1990. By the late 1980's, worldwide coal production will exceed its pre-1973 anticipated-decline trend by 16–21 million barrels per day—an energy supply that exceeds the present combined oil-production rate of the entire Persian Gulf.

The potential petroleum supply ramfications of the OPEC price umbrella are most evident in the case of the developing areas of the world. According to the calculations of Bernardo Grossling of the U.S. Geological Survey, the developing world contains 50 percent of the prospective hydrocarbon-bearing sediments of the planet. But by 1973, these areas had accounted for only 6 percent of cumulative oil production, and perhaps more important, for only 4 percent of the exploratory wells ever drilled. Indeed, during the two year period 1955–56, more exploratory wells were drilled in the U.S. than have been drilled in the entire developing world (including Communist China) since the beginning of the petroleum age.

According to a recent report by the World Bank, however, exploration and production activities are now underway in nearly 60 countries. Prior to 1973, there were only a dozen commercial oil and gas producers among less developed nations (LDC's).

Mexico provides an example of the great potential unleashed in the LDC's. At the end of 1972, Mexican hydrocarbon reserves were published at a very modest 2.4 billion barrels—only slightly more than the actual oil and gas production during that year across the border in the state of Texas. Since 1973, however, Mexico has been the recipient of a massive flow of external capital for discovery, delineation and development of the long-suspected energy potential of the nation.

The results should startle even the most confirmed Malthusean. By 1977 published reserves had reached 17 billion barrels. Pemex, Mexico's national oil company, now claims reserves of 40 billion, with little dissent from informed world oil watchers—especially international banks. Indeed, it is increasingly believed by those who have analyzed the results of the current intensive drilling program, that Mexico may possess more than 100 billion barrels of recoverable hydrocarbons, which would put Mexico in the top ranks of world producers. Moreover, these reserves are undergoing a rapid transformation into a rising production curve. Pre-embargo production (from 1930's discoveries) of 450,000 bbls./day has already increased to 1.2 mm bbls./day, will pass 2 mm bbls./day by 1980, and could exceed 5 mm bbls./day by 1985.

Overall, the World Bank has forecast that Mexico and other LDC's will increase their oil and gas production by a total of 140 percent by 1985 as a result of the infusion of nearly $70 billion in new capital over the coming decade. This production gain of 2.5 billion barrels annually would have been inconceivable without the OPEC price umbrella.

HIGH-COST SUPPLIES

The old oil provisions also benefited from the OPEC price. The 1973 price increase has decisively revived future U.S. production capacity. One of the most important changes is in the much brighter prospects for oil recovery. A major study by the Congressional Office of Technology Assessment (OTA) concluded recently that only 2 billion barrels of production using high-cost, sophisticated Enhanced Oil Recovery (EOR) techniques would have been economic at the pre-1973 price. But at a $13 per barrel price, the consensus of estimates for EOR from presently producing fields ranges from 15 to 30 billion barrels—a potential doubling of the present proved reserves of the U.S. The OTA also estimated that under pricing policies geared to the world level, and with favorable technological performance, the potential U.S. production curve with these enhanced techniques could rise from practically nothing today to 1 mm bbls./day by 1985 and to 3.1 mm bbls./day by 1995.

The OPEC price has also renewed the nearly moribund search for new, high-cost reserves in the United States. The number of exploratory wells drilled in 1977 was up 33 percent from its early 1970's low; the number of drilling rigs in the field has doubled. According to a recent sophisticated probability study by Exxon, there may be up to 75 billion barrels of remaining onshore recoverable reserves (beyond current proven reserves of 30 billion barrels) scattered in smaller, previously uneconomic fields and structures. These high-cost reserves should enable U.S. production to stabilize at curent levels (9–10 mm bbls./day) for a decade or more; at the pre-1973 prices production would have declined to less than half that rate by the late 1980's.

These same dynamics apply to the smaller Canadian oil and gas industry—with even greater intensity. Between 1970 and 1973, new Canadian reserves of oil, natural-gas liquids, and natural gas amounted to only 70 percent of production, and with the prospects of future supply declining, the Canadian government began phasing out its large oil and gas exports to the U.S. in order to preserve its modest future supply. During the intervening five years, however, the Canadian supply outlook has changed dramatically. Ottawa is now under enormous pressure to reverse its export policy in order to avert massive shut-ins of its rapidly improving oil and gas production capacity. During 1977, for example, new reserves of oil, natural-gas liquids, and natural gas exceeded production by nearly 30 percent. In recent months, what may prove to be the single largest oil field in Canadian history has been announced—West Pembina, which has an estimated reserve potential of between 1 and 2 billion barrels. Last year's "Deep Basin" gas discovery offers even greater promise.

But the greatest new Canadian production potential may lie in two frontier sources that appear to be on the verge of being economic at the $13 cartel price. The shallow waters of the Beaufort Sea, located within the Arctic Circle, are believed to be one of the most prodigious remaining hydrocarbon provinces in the world. Some experts place ultimate oil and gas reserves at more than 100 billion barrels-equivalent. The high world price is now supporting an exploration and development program that could well bring this enormous find on stream by 1990.

The other potential new Canadian source—the Athabasca tar sands and the Cold Lake heavy-oil region—are of Persian Gulf proportions in their hydrocarbon potential: In-place reserves are estimated at one trillion barrels, with nearly 100 billion barrels believed recoverable by surface extraction. In-place and scheduled extraction plants will be producing 500,000 bbls./day by the mid-1980's.

The 1973 oil price change has also transformed the development schedule for the vast global reserve of natural gas. As was pointed out previously, commercial-gas production outside of North America was still in its infancy at the time of the embargo. The reason was wholly economic. As in the case of crude oil, most of the planet's reserves of natural gas are located vast distances from industrial markets—in the U.S. and Canadian Arctic, the Persian Gulf, lower Mexico, Western Siberia, and Southeast Asia and Australia. But unlike crude oil, gas cannot be cheaply transported in its natural state. Its BTU density per cubic foot is less than 2 percent that of crude oil. The conversion of natural gas to liquid form—the most economical method for long-distance ocean transport—substantially increases its cost relative to that of petroleum. On a delivered BTU basis, shipping liquified natural gas is 10 times more expensive than transporting crude oil by large tanker.

Crude oil prices in the $13 range were therefore essential in order to make utilization of most of the planet's natural-gas reserve economic. In the years ahead, the OPEC crude oil price umbrella can be expected to facilitate the development of Siberian, Malaysian, Indonesian, and Australian gas for the Japanese and Far Eastern market; North African and Persian Gulf gas for the Western European and U.S. market; U.S. and Canadian Arctic gas for the North American market; and North Sea gas for the Western European market. From a miniscule 130,000 barrels per day oil-equiv-

alent in 1970, liquid natural gas facilities are expected to supply more than 2 mm bbls./day oil-equivalent by 1980, and up to 5 mm bbls./day by the mid-1980's.

Overall, the American Gas Association has predicted a 26 trillion cubic feet world wide natural-gas-production increase by 1985 over the pre-embargo level. Such a production gain, if it materializes, would equal in energy content the current combined oil production of Saudi Arabia, Kuwait, and the United Arab Emirates (UAE). By the turn of the century, the natural-gas production gain over 1973 projected by the Association is 20 million barrels per day oil-equivalent, an amount greater than the combined crude production of all of the Persian Gulf producers, including Iran and Iraq. As in the case of coal, the long-run effect on natural gas of the OPEC oil-price increase will be to transform a weak competitor into an equal partner in meeting the energy demands of the world.

One final supply effect on the world economy needs to be noted. In a kind of perverse serendipity, the Gulf producers' cartel strategy has given the autarchic Communist-bloc nations a major new opportunity to enter the world trading system. Shackled with currencies that have no exchange value, and manufacturing industries that produce goods for which there is little Western demand, the Communist bloc countries (with the possible exception of a few in Eastern Europe) had little hope prior to 1973 of trading arrangements that would generate significant quantities of hard currencies—notwithstanding rhetoric about increased East-West trade. Shoddy Soviet herd-goopds and Chinese rug, pig bristles, varnish, and feathers simply do not have a bright future as export commodities.

But energy supplies do. And the Communist bloc nations are prodigiously endowed with hydrocarbon resources. Even on the basis of conventional estimates, it would appear that bloc countries hold nearly 50 percent of recoverable world reserves of oil, gas, and coal. This sum is 250 times greater than worldwide consumption of these resources in 1977. Moreover, some geologists think that the Communist-bloc resource potential is even more staggering. A. A. Meyerhoff has estimated that the three Siberian basins alone may contain as much gas and oil as the entire Persian Gulf—800 billion barrels-equivalent.

On the basis of resource potential, demonstrated production ability, development policies, and projects underway, (as well as the prohibitive costs of hard-currency oil purchases from the West) there is virtually no probability that the Communist bloc will become a net energy importer during the next decade, as the CIA has forecast. Nor is this position likely to change for the rest of the century. As the Oil and Gas Journal concluded last fall after an extensive survey of Soviet oil-production prospects: "Predictions that the Soviet Union will soon become a net oil importer appear as hollow today as in the late 1960's, when that view gained currency among Western observers."

Rather, the dynamics press in the opposite direction. Oil and gas hold a unique status in the Communist economies as the one product that can be readily sold for hard currency on international markets. Even with only partial success in adjusting internal fuel-consumption patterns (the Soviet Union is already programming a major internal shift toward more gas, coal, and nuclear) and in solving production and development problems, it is nearly certain that the Communist bloc will remain a modest net oil and gas exporter to the world trading system in the years ahead. If they have favorable access to Western petroleum technology and surmount supply-development problems, they could become a major net exporter. The OPEC price has given them unparalleled incentive to do just that.

The worldwide supply consequences of the cartel's decision not to permit a market-clearing price and production level for Persian Gulf reserves will be monumental in the years ahead. The $13 world oil price has completely shifted the supply schedule for a whole range of the planet's fuel resources, a shift which will facilitate the production of tens of billions of barrels of what would have otherwise been non-economic reserves. At bottom, the notion that the energy sky is falling is based on the wholly non-economic view that price and supply are unrelated.

THE CONSEQUENCES OF OPEC: THE DARK SIDE

The high Persian Gulf oil price has also drastically realigned the world petroleum demand schedule. Unfortunately, the macroeconomic effect of the cartelization of Persian Gulf oil, like much else relating to energy, has been viewed upside down. The conventional perception is that the quadrupling of oil prices has had a severe inflationary effect on the U.S. and other industrial economies. But the oil price surge of 1974–76 did not cause the double-digit inflation that afflicted the industrial world in those years. Rather, hyper-inflation was the result of monetary policy responses to the OPEC price increase. A change in the relative price of one commodity cannot cause the general price level to increase, no matter how large the price increase or how important the commodity as a supply factor. Such relative price changes only induce a reallocation of money demand away from other goods and services to the extent of the demand inelasticity of the commodity in question. For this reason, substantial relative price increases are always deflationary in their real economic impact. In the case of oil—which supplied roughly 55 percent of world energy needs in 1973—the quadrupling of the real price was exceedingly deflationary in the short run because nearly the entire capital stock (homes, autos, factories) of the industrial economies was dependent on relatively fixed oil supplies to sustain existing levels of economic activity.

The sharp rise in oil prices thus necessitated that demand for non-oil goods and services give way, and that total output fall. Economist Robert Pindyck has calculated that the industrial world could not have avoided suffering a 5 percent—roughly $200 billion—loss in real output as a result of the doubling of energy prices in the aggregate that took place between 1973 and 1976. But the time distribution of that output loss was a function of monetary policy.

Had the industrial nations made no attempt to neutralize the abrupt increase in world oil prices, the deflationary impact would have been immediate and traumatic. It would have touched off an even more virulent recession than actually occurred. As it turned out, the industrial world, led by the U.S., maintained relatively rapid rates of money supply growth even as both potential and actual output were falling. And with U.S. output declining at a 2 to 3 percent annual rate, and the money supply expanding by more than a 6 precent rate during 1974, a price explosion was inevitable. Between mid-1973 and the end of 1974, the U.S. GNP deflator rate (which is to say, the inflation rate) doubled—from 6 to 12 percent.

But industrial bloc monetary expansion, helpful as it may have been as a short-run expedient to cushion the oil-price blow, could only delay the full deflationary impact of the quantum jump in world energy prices. The evidence of how the oil-price shock, coupled with additional growth-retarding factors, has drastically lowered the economic growth rate throughout most of the world is already available. As shown in the table below, real growth rates in the second half of the 1970's are now nearly certain to be *half* of the 1960–73 average. In the case of Europe and Japan, the growth-rate reduction is even more pronounced.

TABLE II.—WORLDWIDE REAL ECONOMIC GROWTH RATES PRE- AND POST-1973

Area	1960–73	1974–79	1974–79 as percent of 1960–73
United States	4.0	2.6	65
OECD-Europe	4.7	2.2	47
Japan	10.5	4.3	41
All industrial countries	4.9	2.4	49
Developing countries	5.6	4.5	80
Total world (non-Communist)	5.0	2.7	54

Sources: Data for 1960–77 represent actual real GNP growth for areas shown; 1978–79 based on consensus estimates from government agencies, international organizations, and banks. Developing countries exclude OPEC.

Obviously, five years is not a permanent long-term trend, nor is this drastic decline in real growth rates solely a function of higher energy prices. But it is apparent that slow growth can no longer be blamed on the deep recession of 1975. The present business cycle is now nearly mature. The prospect for the immediate future is for a renewed period of sharply decelerating growth, if not an actual U.S.-led worldwide recession by the turn of the decade. And just as high energy prices are not likely to vanish in the immediate future, neither will other fundamentally new variables in the growth equation, such as the slowing of labor-force growth rates in the U.S. and much of the industrial world, increased production costs due to tougher pollution control standards, and increases in the real cost of labor due to strengthening of workplace health and safety standards.

THE MONETARY FLOOD

This growth burden is serious enough in itself. But the United States, reflecting its status as the last bastion of Keynesian fiscal orthodoxy, resolutely insists that it isn't so, and thereby threatens to make things considerably worse. After the initial oil shock had been absorbed in 1975 and it was clear that OPEC was firmly committed to permanently altering the terms of trade in oil, the U.S. continued to pursue a fiscal/monetary strategy that rapidly expanded nominal GNP in accordance with Keynesian prescriptions from an earlier era. The result has been a nominal GNP explosion: Nominal GNP has grown at a feverish rate of 12 percent since the first quarter of 1975. That the U.S. economy is now perched on a precarious bed of egg shells should not be surprising; at a time when the real-growth capacity of the U.S. economy is lower than it has been in decades, nominal GNP in the last 13 quarters has been force-fed at a pace far faster than the rate for any comparable period since the Korean War. This widening divergence between nominal demand and real output can only result in skyrocketing prices and, due to the dollar's international role, growing worldwide monetary turbulence.

That the international economy is consequently now beginning to totter on its foundations should not be surprising. The rest of the world simply will not be, as some of our leaders suppose, innocent prey for the monetary illusions being flashed around the globe by U.S. economic policies. During the 1977 London summit, the West Germans and Japanese obligingly promised to apply a substantial dose of U.S.-style stimulus to their economies. They then went home and stayed on their previous, more prudent post-1973 course. This naturally meant lower real-growth rates and substantially lower inflation rates than prevailed in the U.S. The results of the most recent summit are not likely to be much different. Our monetary expansion has not deceived anyone.

But the international monetary and trading system cannot bear the accumulating strains of this U.S. "Lone Ranger" policy indefinitely, nor can our major trading partners afford to continue to politely ignore our advice. U.S. nominal GNP is now expanding at nearly three times West Germany's rate and considerably faster than even that of Japan. The only possible result from a continuation of this unprecedented asymmetry is a world economy so overstuffed with paper dollars that it begins to split apart at the seams.

The anti-growth implications are clear. Under the prodding of anxious export industries, today's "dirty" currency floats, in which governments attempt to influence exchange rates, will become dirtier and most costly for nations compelled to "defend" themselves from the dollar onslaught. The flow of international investment capital will be slowed further. Currency-portfolio jugglers production and marketing men in calling the shots in the great industrial enterprises that comprise the core of the world economy. The forces of economic nationalism will increasingly come to the fore and burden the world economy with a proliferating array of trade-inhibiting expedients designed to provide shelter from the external perils, real and imagined, perceived by domestic industries.

In short, by dogged adherence to the essentially crank economic notion that the growth-inhibiting effects of the radical change in the supply cost of energy can be overcome with exuberant monetary expansionism, the U.S. is now leading the world toward a contractionary cycle in trade and commerce that can only further depress the growth and performance potential of the national economies affected. The buoyant national growth rates of the 1955–73 period were abetted by a rising tide of international economic integration and trade growth that proceeded far faster than the growth in world output. The prospects for the next decade all point the other way.

Even the few Persian Gulf sheiks who lack Harvard Business School degrees have not been mesmerized by the U.S. monetary mirrors. By virtue of the cartel's halting the expansion of Persian Gulf oil production after October 1973, the world economy very quickly reached the optimum price/demand relationship. By October 1974, when the world buckled under the oil-cost pressure, the producer "take" on Persian Gulf oil had quadrupled from its January 1973 level—rising from $1.27 to $5.50 per barrel in constant 1970 U.S. dollars adjusted for exchange-rate fluctuations. That "take" has not changed significantly in the intervening years.

Indeed, the entire price drama that has transpired since reaching the 1974 real-price level has been mere shadow boxing. Led by the U.S., the industrial world has steadily devalued its currencies and inflated the nominal price of its export goods. On more than a half-dozen occasions, the cartel has reciprocated by raising its posted prices or by increasing the government "take" through modifications of participation arrangements. After all this back-and-forth, the nominal Saudi "marker" price for crude oil is 30 percent higher than October 1974, but the inflation- and currency-adjusted "take" is still $5.50 per barrel on the average in constant 1970 dollars.

The Persian Gulf cartel has thus shown its unwillingness to be swindled out of its huge windfall capital gain. Under these circumstances, a continuation of U.S. monetary profligacy can only damage the world trading system and reduce real growth at home and abroad. In the process, it reinforces the wholly erroneous notion that OPEC—which does raise its nominal prices—retains the power to unilaterally "raise" real oil prices, or is entitled to diplomatic and political concessions if it demonstrates restraint.

Thus, the dark side of the cartel comes into full relief. By effectively withholding part of the Persian Gulf hydrocarbon storehouse from the world economy, the cartel has temporarily denied the entire world the opportunity to prosper by tapping the prodigious amount of ready-to-use low-cost fuel reserves produced by the planet over the geologic ages. As it is, this planet's legacy in the Persian Gulf must now be supplanted by a quantum leap in the application of human and physical capital in order to unearth less easily obtainable resources from elsewhere on the globe.

This task can and is being accomplished, as the preceding section on energy supply expansion demonstrated. But these additional supplies come only at a huge cost in lost opportunities for the world economy as a whole. The quantum leap in the resources required just to "run-in-place" in terms of energy supply means that less of other things can be produced, that output will be lower than otherwise, and that growth rates of worldwide physical production and economic well-being will be reduced.

Furthermore, this opportunity cost is compounded by the economic impact of the wealth transfer implicit in even those oil supplies that the cartel is willing to make available. Were the recipients of these rents capable of employing their receipts as productively as the industrial world, there would be no additional output loss—just a transfer of title to wealth. But the Persian Gulf producers and the other cartel members are not as productive as the purchasers of their oil. They are using a significant proportion of their receipts to accumulate superfluous war machines, capital investments which will yield zero future production and income. They are building uneconomic petrochemical industries that in the future will extract unnecessary transportation costs to distant industrial markets. They are constructing huge airports with no traffic, universities with no students, and other outsized public and private works of dubious utility. This wasteful disposition of resources is surely of a far greater magnitude than the alleged energy gluttony of the West.

These considerations make clear why the nightmarish vision of an oil price/supply squeeze in the mid-1980's propounded by U.S. energy policy makers is so far off the mark. Their scenarios are premised on a return to moderate-to-high energy-demand growth rates and on low rates of non-OPEC supply expansion over the next decade. But the dynamics of the global energy predicament all run powerfully in the opposite direction.

Oil-demand growth rates are certain to remain low for the next decade, primarily because *economic* growth rates—the major determinant of demand—will remain far below historic levels. As was previously shown, the trend economic growth rate of the industrial world has settled to only 50 percent of its pre-1973 rate—a performance that will only worsen if the U.S. and other governments persist in attempting to push output back up the growth hill with monetary noodles.

THE CIA FORECAST

In the face of this developing trend toward slower economic growth, the April 1977 CIA world oil forecast—which was the central justification for the Carter Administration's National Energy Plan—has already become almost ludicrous barely one year after its publication. Its forecast of huge world oil demand in 1985 (72 mm bbls./day compared to 50 million at present), rests in large part on an assumed 4.1 percent annual average economic growth rate for the OECD nations between 1976–85. Given the apparent outcome for the years through 1979—an OECD growth rate of just over half of this magnitude—it would require a return to sustained annual average growth of 5.2 percent beginning in 1980 to achieve the OECD gross national product levels the CIA has forecast for 1985. Such sustained rates of real growth were not achieved even during the halcyon days of the 1960's, and are far higher than the long-term postwar average.

Under the best of conditions, the average OECD growth rate over the 1977–85 period is not likely to exceed 3.0 to 3.5 percent, most likely falling at the lower end of this range. Thus simply correcting for unrealistic economic-growth assumptions, the CIA forecast of OECD energy demand in 1985 should be reduced by 5 to 8 mm bbls./day oil-equivalent.

Drastically compounding the bias introduced by unjustifiably rosy economic-growth assumptions is the fact that the CIA study unaccountably assumes that the energy intensity per dollar of GNP will actually increase in much of the industrialized world during the next eight years. As is shown in the table below, the CIA forecast assumes GNP-energy demand growth elasticities higher than those recorded for Western Europe and Japan during 1960–73, a period of falling real energy prices. This premise defies both economic logic and the empirical evidence of the past four years. Although to some degree the very low elasticities shown for 1973–77 reflect one-time efficiency gains resulting from low-cost changes in both consumer habits and industrial production practices, the fact remains that, given the inherent lag in replacement or retrofit of much of the major energy-consuming capital stock of industrial societies, some substantial part of the demand response to quadrupled real energy prices has not yet occurred. Thus, while economic-growth/energy-demand elasticities for the industrialized world will undoubtedly rise in future years from the extremely low rates of the past four years, it is nearly a foregone conclusion that they will not revert to the pre-embargo levels assumed by the CIA. Indeed, other forecasts from a variety of government and industry sources have assumed an energy-demand elasticity of about .8 for the industrial economies as a whole. Making this correction reduces the CIA forecast for OECD demand in 1985 by another 3 million barrels per day oil-equivalent. Overall, the dubious assumptions underlying the CIA's OECD-demand forecast create a supposed requirement for some 8–11 million barrels per day of energy that is extremely unlikely to occur.

TABLE III.—GNP-ENERGY DEMAND-GROWTH ELASTICITIES

Area	1960–73	1973–77	Assumption in CIA forecast
United States	1.00	0.17	0.76
Western Europe	1.04	.21	1.10
Japan	1.07	.04	1.14
OECD[2]	1.00	.15	.92

[1] Source: OECD, and British Petroleum, Ltd.
[2] Excludes Canada, Australia, and New Zealand.

The dynamic forces at work in the world economy were ignored by the CIA study on the supply side of its forecast as well. A fundamental effect of the post-1973 oil price change is that petroleum products have lost their previously decisive comparative advantage over other fuel sources, particularly in the steam and heating sectors of industrial economies. Because of its cost advantage, oil prior to 1973 had been rapidly displacing other fuels. In 1950, for example, oil accounted for 32 percent of non-Communist world energy supply; by 1965, the oil share had risen to 46 percent, and had topped 55 percent on the eve of the October crisis.

By 1977, however, the petroleum share of energy supply had fallen back to 52 percent. This decline is certain to continue in the

future as coal and nuclear energy meet nearly 100 percent of incremental utility-baseload demand, as the expected rapid growth in worldwide natural-gas supply increasingly penetrates the industrial and home-heating sectors, and as developing nations exploit their abundant non-oil energy resources.

But the CIA study completely ignores this predictable market response to changing relative fuel prices and assumes that the pre-1973 pattern of oil displacing other fuels will continue on an accelerated basis. It projects a rise in the oil share of energy demand in industrial areas from 51 to 55 percent of total energy supplies by 1985, and makes the incredible assumption that the oil share of total energy supplies in the non-OPEC LDC's will rise from 59 percent in 1974 to more than 80 percent by 1985! By contrast, a recent country-by-country analysis of LDC energy development plans performed by the World Bank estimated a decline in the oil share of energy supplies to 47 percent by 1985 as a result of the rapid development of hydroelectric, nuclear (Brazil and Argentina), natural gas, and other non-oil indigenous resources in the developing countries. In short, by simply ignoring one of the most important supply consequences of the change in world oil prices, the CIA study exaggerates 1985 world demand by at least 10 mm bbls./day.

Finally, the CIA study assumes that non-OPEC world oil supplies, minus Communist-bloc transactions, will remain constant at only 22 mm bbls./day after 1980. This forecast largely reflects the "darkness at the end of the tunnel" theory so adamantly declaimed by Carter Administration spokesmen—such as Secretary Schlesinger—despite accumulating evidence and economic logic to the contrary.

In this view, the world is being temporarily lulled by the one-time windfall of North Slope and North Sea supplies. After these new areas reach full production in the early 1980's, the world will again be clamoring at OPEC's door for incremental energy supplies. A fine theory, no doubt, if there were few new oil resources to be found outside of the Persian Gulf, and if the worldwide oil-supply elasticity were nearly zero.

But as has been shown, that just is not the case. A recent careful analysis of prospective worldwide oil production by the Petroleum Industry Research Foundation forecast that non-OPEC oil supplies will grow to 25 mm bbls./day by 1985, and to 30 mm. bbls./day by 1990. Other analysts, such as Arnold Safer of the Irving Trust Company, project even higher levels of non-OPEC production.

The glaring defect of the CIA analysis, and indeed that of the entire genre of 1980's world-oil-crisis forecasts, is the implicit assumption that the effective cartelization of the Persian Gulf oil reserves has had primarily political effects. But the real effects have been economic.

The global economy has not and will not passively suffer a quadrupling of the price of its major fuel source. The cartel's decision to withhold the additional low-cost petroleum supplies demanded by the world economy in 1973 has unleashed powerful, pervasive adjustment processes in the form of reduced economic growth, lower energy intensities, and enhanced discovery and production of the non-Persian Gulf oil and non-oil energy resources distributed so abundantly around the planet. These processes, are already moving the global economy toward a new equilibrium at which, for a substantial period of time, there is not likely to be incremental demand for OPEC oil beyond the 30 mm bbls./day level at which the cartel imposed a halt on production growth in 1973.

Given the manifold complexities and subtleties of the ongiong world-energy adjustment—and the fact that small changes in major variables, when componnded over several years, produce large differences in predicted outcomes—precise forecasting of global energy supply-and-demand conditions even a decade in advance is a risky, arrogant, and probably futile undertaking. Most of the pessimistic forecasts published during the last year or two, such as the CIA analysis, the MIT-WAES study, and the 1977 OECD report are already far off the mark in their forecasts for 1978–79—to say nothing of the years ahead. The reason is that despite the elegance of their estimating models, the major assumptions employed in these studies wholly underestimate the profound economic reverberations throughout the world economy since 1973. Ironically, in their effort to foretell how different the future may be, they assume that it will too closely resemble the past.

The figure below is not intended as a precise forecast, but simply as an illustration of how the 1973 oil-price change has drastically shifted the parameters of the global economy. The chart assumes that a world economy which grew at a rate of 5 percent under the best of conditions between 1960 and 1973—declining real energy prices, rising world trade and economic integration, relative currency and price stability, high rates of capital formation, and unrestrained use of air and water for depositing industries wastes—will drop to a lower growth plateau (in the 3.5 to 4.0 percent range) during a period in which less conducive conditions for growth prevail. Combining this new growth rate with a modest decline in the pre-1973 GNP/energy demand growth elasticity (from about 1.0 to a ratio on the order of .8 to .9) yields an average energy-demand growth rate not exceeding 3.5 percent in the years ahead—and possibly considerably lower. To grasp the magnitude of this downward shift in the demand curve, consider that following the pre-1973 trend, energy demand by 1985 would have been nearly 16 billion barrels per year higher! Thus, in just one decade, this lessening of demand will mean a reduction in annual energy consumption equal to one and one-half times the present proved reserves of the Alaskan North Slope.

Under the powerful economic pull of the $13 Persian Gulf price umbrella, non-OPEC world energy supplies will accelerate substantially from their average 3.3 percent growth rate for 1960–73 and the nearly zero rate of expansion that prevailed just prior to 1973. The comprehensive analysis by the Petroleum Industry Research Foundation suggests a growth rate on the order of 4.5 percent annually, reflecting revival of old province oil production, the rapid growth of new oil provinces, substantial increases in coal output, rapid expansion of world natural-gas and liquid-natural gas supplies, and lesser increases in nuclear and hydroelectric power. As a result, the demand for Persian Gulf oil production is not likely to exceed its current self-imposed limits until the late 1980's. Even then, its present production capacity of 40 mm bbls./day is not likely to be fully utilized. (The chart assumes that OPEC production reaches 34 mm bbls./day by 1990, about 12 billion/year.)

THE TEMPORARY BALANCE—AND AFTER

These projections suggest that the global economy will prove itself sufficiently resilient to pacify the Persian Gulf cartel, but only at a substantial cost in terms of lower economic growth and reduced welfare for the people of the world. Yet there appears to be no alternative short of military intervention—a course fraught with even greater risk than that of reduced economic growth, given the relative parity of U.S./Soviet military strength and the tenuous geopolitical balance that now prevails in the Middle East. Most certainly, the decade-long equilibrium suggested above, in which the growth of non-OPEC energy supplies satisfies the reduced energy demands of the world economy, and in which the real price of energy remains relatively constant, *cannot be improved upon* by deliberate energy-policy actions on the part of the U.S. or any other government.

In general terms, to raise the non-OPEC supply curve appreciably above the level shown would require substantially accelerated development of synthetic fuels, low-grade fossil resources, geopressurized gas, and meaningful solar-based supplies. But all the available evidence indicates that the supply schedule for all of these alternatives ranges from $18 to $30 per barrel and up. The forced displacement of OPEC oil with these technological feasible but presently uneconomic resources would only worsen economic growth prospects. The supply cost to the economies utilizing them (regardless of how nominal accounting systems might be rigged via fiscal subsidies) would be even higher than that for OPEC oil.

Similarly, to further depress demand substantially by means of policy action would inevitably require substitution of capital, nonfuel minerals, technology, and labor at cost-equivalents greater than the world oil price, or else drastic government regulation and rationing of end-use consumption. Both courses of action would further shackle the growth capacities of the economies deploying them. In any event, the electorate is likely to resist strongly any such high-cost efforts.

It thus appears that OPEC will be assured of a market for its current level of production under the current terms of trade for a considerable period of time. In the decade ahead, OPEC will not distintegrate, as some students of past cartels have suggested, nor will it sit Colossus-like astride the globe, dictating the price and supply of world energy, as the conventional wisdom fears. Rather, its world role during the next decade is more likely to resemble that of a rather undramatic tollgate keeper, passively collecting rents from the constant stream of traffic that its earlier actions ensured.

There remains, of course, the possibility that OPEC will eschew the sedate life of a tollgate keeper and unwisely attempt to push the real oil price uphill against the incline of global economic forces. But this would require a substantial permanent cut from even current levels of production, because the supply and demand adjustment forces now in motion worldwide mean that even short-run elasticities are rather large. OPEC as a whole is therefore in a weak position to increase its collective revenues. A supply-reduction/price-increase maneuver would involve essentially a reallocation of revenue within the cartel. Yet the only producers in a position to even entertain the idea of such a charitable transfer of current income to fellow cartel members are Saudi Arabia and Kuwait.

Given the large burden of production restraint that they already bear and their grandiose development plans for the future, these two nations appear to have little incentive for further self-sacrifice. In order to maintain the real "take" which has prevailed since 1974, OPEC has had to cut production by more than 3 mm bbls./day from the 33 mm bbls./day level prevailing on the eve of the embargo. Although there have been fluctuations in the production of the individual cartel members due to seasonal peaks in world demand, temporary production, transportation bottlenecks, and the 1977 price split, Saudi Arabia and Kuwait have been forced to bear more than 70 percent of this net reduction. Consequently, their production is currently 20 percent below that of September 1973 and 37 percent below scheduled capacity for the early 1980's. The cut in production which would be required to raise the real OPEC "take" per barrel under

existing and forseeable conditions would require these countries to lower output by another 23 mm bbls./day, or to less than 50 percent of current and planned capacity. Permanent production restraints of this magnitude for the sake of slightly enriching the Indonesians, Iranians, Nigerians, and Libyans do not seem to be in the cards, especially in light of Professor Theodore Moran's recent calculation that after 1980, Saudi Arabia and Kuwait will have to export in excess of 11 mm bbls./day of oil and gas in order to finance development programs now underway.

This emerging equilibrium will not last indefinitely, of course. Sooner or later, probably sometime in the early 1990's, the global conditions of 1973 will reemerge. The growth of non-OPEC energy supplies at $13 per barrel will begin to taper off, and the world economy will again come knocking at the Persian Gulf door for incremental supplies at the prevailing price. The only relevant question is whether the cartel will accommodate this increased demand amicably or precipitate a replay of 1973–76 and its wrenching impact on the world economy.

This matter essentially comes down to a question of what Saudi Arabia, Kuwait, and the United Arab Emirates will do, since by that time Iraq and Iran will have little capacity to increase production. One powerful fact of life will have changed since 1973, however. By 1990, a very substantial share of the national assets of these nations will have shifted from the secure depositories of nature made petroleum reserviors to the far more fragile membranes of the world economy. These countries will have produced nearly 73 billion barrels of oil and realized receipts of nearly one trillion dollars (1978 dollars) by the early 1990's. A substantial receipts of nearly one trillion dollars (1978 portion of these proceeds will have been placed in direct overseas investment, international financial institution, domestic petrochemical exporting industries, and an expensive liquid-natural gas exporting infrastructure. To send the world economy through the wringer under these circumstances for the sake of forcing a large and rapid appreciation in the value of their remaining unproduced oil would require a willingness to run risks entirely absent in 1973: at worst, retaliatory expropriation of hundreds of billions in overseas assets, and at best, a dramatic shinkage in the market value of both overseas and domestic assets under conditions of sustained worldwide recession. Stated another way, the cost of holding back oil in 1973 was small in proportion to the potential gain, but the cost in 1995 of shutting down multibillion-dollar petrochemical and liquid-natural-gas facilities, and suffering a major shrinkage of external assets, in order to extract another large capital gain on a far smaller oil-reserve inventory is quite another matter. In short, the pivotal Persian Gulf producers will have an overwhelming economic self-interest in producing oil at a sufficient rate to permit a gradual increase in the price of energy. The world economy, as it approaches the turn of the century, will then be positioned to move in an orderly manner toward development of the planet's still prodigious reserves of higher-cost fossil and non-fossil fuels.

THE NECESSITY OF WITHDRAWAL

It is time to discard our medieval energy maps. There is no region filled with lurking dragons and other perils on the far side of the ocean. So rather than institute a politically imposed and bureaucratically managed and enforced regime of domestic-energy autarky, we need do little more than decontrol domestic energy prices, dismantle the energy bureaucracy, and allow the U.S. economy to equilibrate at the world level. Energy supply and demand will take care of itself, no less efficiently than were the commodity soybeans or Saran Wrap. And by thus encouraging full integration of the U.S. economy into the world marketplace's search for the least-cost-development sequence of our planet's prodigous remaining energy resources, we will produce the highest possible level of domestic economic growth and welfare.

Failure to do so will expose the American people to far greater dangers than any of the fictions emanating from our present energy bureaucrats. The most serious of these dangers is that we will squander massive amounts of economic resources on a continued futile and foolish quest for energy autarky. The economic pie will inevitably shrink as a result. And in the process we will saddle our economy and the American people with enormous amounts of political interference and bureaucratic management of their lives, so that the sphere of personal freedom shrink as well.

It is evident that the quest for energy autarky has already become a haven for every manner of quack, charlatan, self-aggrandizing economic-interest group, bureaucratic power-seeker, social reformer, and intellectually anemic would-be policy maker that inhabits the American political system. By swathing them in a coat of legitimacy, the quest for autarky threatens to unleash no small amount of costly mischief in the years ahead.

The potential results of continuing this misguided quest range from the trivial to the dangerous. The 1978 energy bill empowers a corps of Federal yard inspectors to extinguish all decorative gas lighting by 1983. Silly. A United States Senator recently published an article in a serious journal calling for an immediate program of gasoline rationing. Dangerous. The House Energy Subcommittee nearly made it a criminal offense to sell one's own home after 1983 without certification by a Federal inspector that it meets certain thermal performance standards. Even more dangerous.

Energy autarky also provides a convenient fig leaf. In response to the recent long-overdue effort to force inland-barge operators to pay user fees to defray the multi-billion-dollar annual construction and maintenance costs of the waterways, barge operators advanced a defense that enabled them to resist successfully any major change in the status quo—barges save oil and should therefore receive continued taxpayer subsidies. But subsidized mule trains would save even more oil! Other old parasites have learned the new rhetoric, too. Just recently, Congress voted another billion-dollar annual subsidy to Amtrak on the grounds that despite huge financial losses, rail passenger service saves petroleum. It does. At a cost of $100 for each barrel saved.

In the name of oil-import reduction, an energy "pork barrel" is now emerging that will make the traditional public works and farm commodity programs look trivial in comparison. The Department of Energy was recently cajoled into financing a $500 million commercial-scale coal-liquefaction plant in the Congressional district of the Chairman of the House Commerce Committee. This plant will indeed increase the use of West Virginia coal. But the fuel oil produced will cost East Coast consumers (or the taxpayers) at least $20 per barrel—50 percent more than the alleged monopoly OPEC price. Moreover, this is only the proverbial camel's nose under the tent. The northern Great Plains delegations will push for subsidized coal-gasification plants, the Rocky Mountain delegation for shale plants, the New England delegation for bio-mass-conversion facilities, the Corn Belt for gasohol plants, the Sunbelt for solar credits and subsidies, the fiberglass industry for insulation subsidies, the oil and gas states for restoration of petroleum tax subsidies, the nuclear lobby for expanding subsidized development of uneconomic breeder reactors, and the "soft" technology people will lobby for "appropriate-scale" windmills. The effect of all of this "pork trading" will be to burden the Congress with decisions it has neither the competence nor need to make, and to burden the economy with multibillion-dollar excess costs and resource misallocations which will only further stifle our seriously declining prospects for economic growth.

THE ENERGY BUREAUCRACY

The quest for autarky is also spawning a permanent energy bureaucracy whose 20,000 employees already command a budget in excess of $13 billion. Were this rapidly expanding bureaucratic empire devoted solely to useless but innocuous tasks (such as carrying on education campaigns that show the American homeowner he can cut his fuel bill by adding insulation or adjusting his furnace, or supporting experiments to encourage the re-use of discarded motor oil) there would be no grave danger. But bureaucracies erected to solve non-existent problems have a perverse way of ensuring that such problems actually develop. In any event, the Department of Energy is making a valiant effort.

The Department's "entitlement" regulations have so distorted the economic signalling process that they nearly caused 300,000 barrels per day of West Coast crude oil selling at $4.50 per barrel to be shut-in in favor of increased imports of Indonesian crude at $15. Currently pending regulations would require producers who use crude oil on lease sites to generate steam for secondary-recovery operations to pay full "entitlements" on this oil. Including such producers in this complicated government-imposed production-quota system would mean requiring them to pay $12 per barrel to stimulate additional production of oil for which they may legally charge only $5.40—an excellent way to discourage production of domestic oil. DOE's coal-conversion program has hardly added a ton of incremental consumption, but it has generated scores of plant-by-plant coal-conversion hearings that have created a boom market for Washington consultants while paralyzing the investment climate for the firms involved. DOE regulators are even disrupting the home-appliance industry. They recently ordered firms to make energy-efficiency improvements in automatic clothes dryers that require a sealed temperature and moisture-controlled chamber in order to test the gains. Should some benighted consumer operate these DOE-approved products in a damp basement or cold pantry, it is far from clear that the postulated energy savings will be realized. That dryers will cost substantially more is the only certainty.

The complete list of supply-dampening, cost-increasing regulatory distortions is simply staggering. And the transactions-cost of compliance by everyone from Exxon to the corner gas station balloons the resulting economic waste still further. The more the Department is empowered to manage the domestic energy system on the premise of energy shortage and autarky, the worse this burden will become.

The other great danger is that we will continue to premise macroeconomic policy on the faulty notion that oil imports are the source of all our economic woes—the balance-of-payments hemorrhage, the dollar depreciation, and the resulting rampant domestic inflation. But it is not the volume of imports that is the culprit. The culprit is the quantum leap in the real cost of energy, which is retarding the growth capacity of the U.S. and other industrial nations. Continued monetary profligacy will only exacerbate this problem by seriously impairing the global monetary and trading system on which we depend.

The policy response that we do need in this post-embargo era, therefore, is not an energy policy aimed at the artificial manipulation

of supply and demand, but an economic policy aimed at compensating for the reduced growth potential of the economy. In practical terms this translates into a reduced government claim on national income, and tax policies and other measures oriented toward increasing the supply of non-energy economic inputs: savings, risk capital, entrepreneurial creativity, technological advance, and labor. The only alternative is a permanent reduction in the rate of economic growth, and a substantial slowing in the rise of our standard of living.

There will remain in the minds of some, of course, an exaggerated notion of the security threat implicit in reliance on the world market for energy. But once all of the economic mythology is stripped away—price extortion, the high cost of imports, and so on—the actual geopolitical dangers are of a much more limited nature. In essence, they require only two policies—strategic reserves and strategic forces. Both are wholly separable from the enterprise now called national energy policy.

Strategic reserve storage can readily handle the diminishing threat of temporary politically motivated boycott emanating from one or a few OPEC producers. Given the fact that all OPEC members except the three large Persian Gulf producers (Saudi Arabia, Kuwait, and the UAE) are or will be shortly in a deficit balance-of-payments position, the probability of such action has become increasingly remote. Even the three Gulf producers cannot readily control their oil after it leaves their hands, as was shown during the 1973 embargo under far more favorable conditions. Therefore, the prospect that they would even attempt to impose a selective boycott for purely political ends is minimal—given downstream leakage, increased oil-production potential elsewhere, both within and without the cartel, and strategic storage in target nations. In any case, ample strategic storage is cheap insurance. Whenever the period of perceived contingency ends, the oil will be worth far more than when it was placed in reserve.

The only serious security threat is the prospect of Soviet intervention in the Gulf, either by direct military incursion or via client regimes. The fact is that the remaining oil and gas resources of the Persian Gulf have a present market value of some $16 trillion. The U.S. can no more afford to have these fall into Soviet hands than it can afford to lose Western Europe. The rate of current Persian Gulf production or the level of U.S. supply dependence makes absolutely no difference to the strategic importance of that region of the world. Were the U.S. to somehow achieve 100 percent energy independence, it would still have to counter overt Soviet aggression in the Persian Gulf with strategic power. To permit more than a trillion barrels of the planet's only remaining cheap-hydrocarbon resources to be annexed by the Soviet Union would pave the way for its speedy military and political domination of the world. Thus the real threat cannot be ameliorated with an NEP-type energy policy, or by former defense officials turned energy bureaucrats. The task of meeting that threat has belonged to the defense establishment all along.●

ENVIRONMENTAL RULINGS

● Mr. WALLOP. Mr. President, many people, including me, share a growing concern that sound legislation designed to protect and enhance our environment is being cynically used to achieve the most devious ends.

Those who abuse the intent of environmental legislation in such ways deserve the scorn of all who seek a responsible course for America in restoring a quality national environment. By their actions they discredit the national commitment, the laws, the efforts of those who truly care. Mr. President, I ask to print in the RECORD at this point AP releases published in the Wyoming Eagle.

Recently, after receiving a favorable ruling from a Nebraska court on an ostensibly environmental matter, an attorney for the National Wildlife Federation, Mr. Oliver Houck, was quoted in the article as saying that the issue was not a clear cut case of environment versus consumers electric bills. With his environmental ruling in hand, Mr. Houck stated:

> That the guts of the lawsuit isn't whether the environmental impact statement is accurate or inaccurate. It's whether we can get more water into Nebraska. Nebraska also wants the water for its need for agriculture. Someone who thinks this case is about the theoretical perfection of an environmental impact statement is missing the point entirely. We want that water.

Mr. President, other parties to that dispute, namely the Laramie River Resource Council, had a sincere, and unvarnished environmental interest. I do not quarrel with their involvement or their use of environmental legislation to pursue their sincere purposes. Indeed, I do not necessarily quarrel with the conclusions of the court.

I do, however, take bitter exception to the statement of Mr. Houck. For Mr. Houck, the National Wildlife Federation, and the State of Nebraska, to use NEPA, the Federal Water Pollution Control Act, and the Endangered Species Act, to conduct a raid on Wyoming water rights is a cynical misuse of the noble intent of National Environmental Policy. Mr. President, the water in question is Wyoming's lawful share of the Platte River water, and is held hostage by this decision.

Mr. President, if we are going to maintain the credibility of our environmental commitment, lawyers, politicians, and economic interests must avoid the temptation to abuse the intent and purpose of these laws for their own unrelated ends.

Upstream States cannot be held accountable for down stream effects which are caused by prior downstream storage and diversion. The responsibility for effects must be proportionately shared or all river basin compacts so carefully negotiated between the States will be destroyed, and the final division of the waters will be neither equitable nor environmentally sound, but politically decided by population concentrations and economic power. I suggest we should all be the poorer for that eventuality.

I implore my colleagues to look carefully in the future at the environmental legislation in front of us and see to it that it does in fact serve the purposes of environmental standards, enhancement, and protection and not parochial interests. For the credibility and maintenance of our commitment, it is a critical requirement. We shall never maintain the broad public support we now have for environmental law in its absence. If ever we lose that support, not only will our commitment to the future be diminished, but our very real achievements of the past decade are in danger as well.

The articles follows:

ORDER TO STOP WORK ON DAM JOLTS WHEATLAND

WHEATLAND, WYO.—Effects of an order to halt work on the Grayrocks Dam—and possibly also the Laramie River Station power plant project—were being assessed Wednesday in Wheatland.

Missouri River Power Project officials said they were waiting to receive a federal court order before halting construction of the dam and possibly the power plant.

Meanwhile, residents of this prairie boomtown of 5,000 wondered about the economic impact that could leave their community even drier than the Laramie River.

The two projects, being developed by a consortium of public utility cooperatives headquartered in Nebraska and North Dakota, employ more than 2,000 construction workers and have a monthly payroll of $3.5 million. The total project cost is $1.6 billion.

"It is total chaos in Wheatland," said Jack Branscom, managing editor of the Platte County Record-Times. "It's not that the town is falling apart, but no one knows what is happening."

The uncertainty seemed to be shared by Missouri Basin officials, who issued conflicting statements during the day Tuesday until agreeing they would wait to be served with the formal court order before deciding whether both projects or just the dam should be shut down.

About 180 workers are building the dam, which is to apply water for the 1,500-megawatt power plant complex. About 2,000 persons are working on the power plant itself, whose first two 550-megawatt units are 42 percent complete.

Wyoming Gov. Ed Herschler said he is "disappointed" in the federal court ruling and pledged the state's assistance to Basin Electric if it is needed.

"I think we need the construction of the plant very badly," Herschler said, adding the delay would be "very detrimental, not only to the firm (Basin Electric), but to Wyoming."

Herschler, other politicians and business groups were especially critical of the timing of the ruling, coming more than two years after the project was started.

SUIT HALTING DAM PROJECT DEFENDED

LINCOLN, NEBR.—The court order halting construction of the Grayrocks Dam and Reservoir and possibly the Laramie River Power Station near Wheatland, Wyo., isn't a clear-cut case of the environment versus consumers' electric bills, an attorney for the National Wildlife Federation said.

Oliver Houck, general counsel for the Washington-based wildlife group, said Tuesday that the "guts of the lawsuit isn't whether the environmental impact statement is accurate or inaccurate. It's whether we can get more water into Nebraska.

"It was our feeling that the project was water consumptive to the point of water wasteful. And this is terribly important when considering the environmental values that Nebraska has.

"And Nebraska also wants the water because of its need for agriculture," he said.

"Someone who thinks this case is about the theoretical perfection of an environmental impact statement is missing the point entirely. We want that water," Houck said.

U.S. District Judge Warren K. Urbom ordered a halt to construction of the eastern Wyoming project Monday. He also enjoined the Rural Electrification Administration from making loan guarantees necessary to make the project financially workable.

Work on the power plant complex was about 50 percent complete, according to officials of Basin Electric Power Cooperative.

Basin plans to file an appeal of the federal court ruling, officials said. The cooperative also will file an immediate request for a stay of the injunction halting construction on the Grayrocks dam and reservoir.

Urbom ruled that the environmental impact statements drafted for the project failed to consider adequately the full impact of the project on Nebraska, Wyoming and Colorado supplies, migratory water fowl (including the endangered whooping crane), fish and agriculture.

The Laramie River is the water source affected by the dam and reservoir. It is a major tributary of the North Platte River, which provides the bulk of the water needed by Nebraska's largest surface irrigation project in the Holdrege area.

The North Platte also serves to recharge underground reservoirs.

Meanwhile, Lincoln Electric System Administrator Walter Canney said Tuesday he viewed the court order "with complete disappointment."

And a spokesman for the power cooperative building the $1.6 billion, 1,500-kilowatt project says consumers won't be the only people hurt by a project shutdown—the city Wheatland, Wyo., will suffer, too.

Basin electric official Win Curtiss said the shutdown could cost Wheatland a monthly payroll of $3 million. He said a shutdown would put 2,150 construction workers out of work.

But Wheatland Mayor Charles Parsons isn't too concerned about the court order.

"I think it's just another delaying tactic," he said. "It seems like another of those political moves. It's just going to end up with the project costing a lot more money. But what's money, right?"

HAWAII SALUTES 100TH ANNIVERSARY OF ARRIVAL OF FIRST PORTUGUESE IMMIGRANTS

● Mr. MATSUNAGA. Mr. President, the people of Hawaii last month concluded observation of "Portuguese Month" in celebration of the arrival of the first Portuguese immigrants to the island State. The festivities included a reenactment of the arrival of the ship *Priscilla* in Honolulu on September 30, a centennial fiesta and a ball.

The immigrants from Portugal immeasurably enriched our island culture. Among the best known of their contributions is the ukelele, now considered an essential component in Hawaiian music. They have helped to make Hawaii the multicultural paradise that it is today.

As a means of congratulating Hawaii's Portuguese community on their achievements during the last 100 years, and extending best wishes for continued success during the next 100 years, I ask that a recent article from the Garden Island of Kauai, the island where I was born, outlining in greater detail the accomplishments of Hawaii's Portuguese immigrants, be printed in the RECORD. I know that my colleagues will find the story of the Portuguese in Hawaii to be an inspiring tribute to an immigrant group who have helped to build Hawaii and make our Nation the greatest on Earth.

The article follows:

THE PORTUGUESE—SOBER, HONEST, HARD WORKING—THEY CAME TO HAWAII

The rise of the sugar industry in Hawaii in the nineteenth century was dependent upon a continuous supply of cheap labor. Because of the decrease of the indigenous Hawaiian population, the labor problem could only be solved by immigration from abroad.

The Chinese were the only people immediately available, but very few Chinese women could be induced to emigrate, and the large influx of single Chinese males was soon met with militant outcries by the general public.

The Bureau of Immigration consequently directed its efforts to promoting an immigration of people other than Chinese who could supply families to replenish the population of the islands as well as meet the problem of the acute labor shortage for plantation work.

November 6, 1876 the board voted to defray the cost of bringing 200 people from the Portuguese islands at the rate of $45 for each man, $50 for each woman, half of those amounts for children, and to transport the immigrants on ships beloning to New England shipping and whaling firms.

"Hawaiian Gazette" remarked: "There are now about 400 Portuguese here, and they are among the most industrious of our people, being generally small farmers or dairymen, or serving on plantations and ranches."

This scheme, though it was not carried out, was the first definite movement to promote the immigration of Portuguese into the Hawaiian Islands. The actual inauguration of such immigration was largely the work of Dr. William Hillebrand. Dr. Hillebrand, who had returned to Germany from Hawaii in 1871, was residing temporarily in the Madeira Islands. Writing from there in December, 1876, he spoke of the similarity in climate and productions of Madeira and Hawaii, mentioned conditions favorable to an emigration from the former to the latter, and intimated that he would be willing to assist in such an enterprise if requested to do so by the Hawaiian government.

In a subsequent letter, he wrote: "In my opinion your islands could not possibly get a more desirable class of immigrants than the population of the Madeira and Azore Islands. Sober, honest, industrious and peaceable, they combine all the qualities of a good settler and with all this, they are inured to your climate.

"Their education and ideas of comfort and social requirements are just low enough to make them contented with the lot of an isolated settler and its attendant privations, while on the other hand their mental capabilities and habits of work will ensure them a much higher status in the next generation, as the means of improvement grow up around them."

Hillebrand was appointed commissioner of immigration for Hawaii in the Portuguese islands. The board of immigration said it would pay the amounts with agricultural employment for the first year after arrival, at wages of at least $15 per month for the men.

The commissioner was to arrange with Hackfeld and Co. for a ship to transport the immigrants to Hawaii. Steps had previously been taken to negotiate a treaty with Portugal, but this was not accomplished until several years later.

Dr. Hillebrand had expected some difficulty in arranging the details of this enterprise and in recruiting a shipload of immigrants for Hawaii, but the business proved to be even more troublesome than he anticipated. It was necessary to reconcile requirements of the laws of Portugal and the demands of the prospective immigrants with the laws, regulations, and also with the conditions that Hawaiian employers are willing to accept an appropriation under which the board of immigration was operating, since the latter were to share the expense with the government.

In order to get the matter started, the board made all concessions that it could. In a contract drafted in Nov. 1877, for the Portuguese immigrants, "the time of service was stipulated for 36 months of 26 working days each—ten hours being counted to the day. To each able bodied male so contracting, ten dollars a month in US gold or silver, and daily ration . . . with suitable lodging, garden ground, medical attendance and medicine free of charge."

Working women and boys were to receive smaller wages but similar perquisites. The board agreed to pay the entire cost of passage from Madeira to Hawaii, which Hackfeld and Co. put at $75 for each adult, this amount not to be refunded by the immigrant unless he withdrew from his contract.

After all difficulties were smoothed out, a company of immigrants boarded the German bark "Priscilla" at Funchal, Madeira and arrived at Honolulu on Sept. 29, 1878. The group numbered 120 persons. (60 men, 22 women, and 38 children).

The "Priscilla" and her passengers marked the beginning of an immigration movement that continued with minor interruptions for a period of ten years (1878–88), during which seventeen ships transported 11,057 Portuguese immigrants from Madeira and the Azores to the Hawaiian Islands.

After the arrival of the pioneer group, it was quickly decided to send for more. (Ralph S. Kuykendall, "Portuguese in Hawaii, Ethnic Research and Resource Center Publication No. II).

This year, 1978, marks the 100th anniversary of the arrival of the first Portuguese in Hawaii.

The newly formed Kauai Portuguese Society has spent the past 4 months in preparation for Kauai's celebration. The club is as yet small and the hard working members have given their all to make this night one that will be remembered for generations to come. If you like what you see, if you have a good time, if you're just a mite interested in things Portuguese, then think about joining this club.

As many people as possible are needed to help form this club. It is open not only to those of Portuguese descent, but to anyone interested in perpetuating the Portuguese culture.●

RETIREMENT OF OMAR BURLESON

● Mr. BENTSEN. Mr. President, with the retirement of OMAR BURLESON, the U.S. Congress will lose one of its most distinguished and effective Members.

OMAR BURLESON has served Texas and the Nation with distinction for over three decades. Throughout the postwar period he has stood as a force of reason, moderation, and achievement in the House of Representatives. People with the talent, dedication, and integrity of OMAR BURLESON are perhaps our scarcest national resource; they are difficult or impossible to replace.

Clearly, Mr. President, the U.S. Congress and the Texas delegation will miss the presence of OMAR BURLESON.

I well remember when OMAR BURLESON, a Navy veteran, former county judge, and former FBI agent, was elected to the 80th Congress. Two years later I followed him to the House of Representatives. OMAR became my friend and mentor. He was quick to share his knowledge and experience with a junior colleague.

Throughout the years it has been my privilege to work with OMAR BURLESON. I have seen firsthand his outstanding work on the Budget and the Ways and Means Committees. I have been able to appreciate the services Congressman BURLESON has rendered to the people of his district and his State.

For more than 30 years, Mr. President, OMAR BURLESON has been a champion of the American farmer in the Halls of Congress. He has fought long and hard on their behalf: he took on the tough battles, the ones that had to be waged, and more often than not he was successful.

Mr. President, OMAR BURLESON will be retiring to Abilene, Tex., where he will live among the people he has represented so effectively for so long. I fully support this legislation to rename the Abilene Federal Building in honor of Congressman BURLESON. I believe this would be a fitting and most appropriate tribute to a truly distinguished career in public service.●

A FAREWELL TO GEORGE MAHON

● Mr. BENTSEN. Mr. President, when we end this session, several of my colleagues from Texas have chosen to retire. I would like to pay tribute to one of them today—one whom I believe we all have reason to admire and respect. Today, I would like to bid farewell to GEORGE MAHON.

GEORGE MAHON was first elected to Congress in 1934; he has spent 44 years here attempting to resolve the numerous problems of this Nation—over half his life. He came here first to fight the Great Depression, he has served here during three wars. He has known these great problems and the efforts this country has made to solve them. His knowledge, his efforts have contributed to our successes.

Mr. President, I have worked with GEORGE MAHON—first as a young Congressman, then as a Texas businessman, and now as a Senator. I have sought and respected his advice in all these relationships. He is equally well respected by his fellow Texas Congressmen.

GEORGE MAHON is a leader, a man whose efforts are admired by those who support and those who oppose him. This quiet, yet effective man has represented the 19th District of Texas with dignity and responsibility. There is no way in this short time that I can hope to do justice to his accomplishments. But, I do want to single out one area for special emphasis.

For the past 14 years, GEORGE MAHON has been chairman of the House Appropriations Committee. I am sure all of us know the difficulties of managing the enormous sums of money that we appropriate each year. In his capacity as chairman, Congressman MAHON has been the guiding influence of the appropriations process in the House. He has had to confront the difficult problems of ever-increasing funding and mold it into a workable system.

Mr. President, today we are facing some of the most demanding fiscal problems that have ever been confronted by the Congress of the United States. We must wrestle with complex inflationary pressures; we must change the thrust of Federal spending. We must make our Federal dollars more effective than ever before. It is truly unfortunate that these difficult problems coincide with the retirement of GEORGE MAHON. This Congress will sorely miss his skill, his knowledge, his leadership in addressing these issues.

GEORGE MAHON's record of achievement will constitute an enduring monument to what is finest and most noble in our representative form of government.

Mr. President, the bill before us now would name the Midland, Tex., Federal Building in honor of GEORGE MAHON. I do not know whether any single act can effectively show our appreciation for GEORGE MAHON's efforts here, but I sincerely believe that we should execute this appropriate tribute to his dedication and career. I strongly support this legislation.

I wish to submit for the RECORD an act to name the Federal building in Midland, Tex., in his honor.

The text of the act follows:

H.R. 13809

An act to designate the "George Mahon Federal Building"

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building, United States post office and courthouse located in Midland, Texas, is hereby designated as the "George Mahon Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the George Mahon Federal Building.

SEC. 2. This Act shall take effect on January 4, 1979.

Passed the House of Representatives September 18, 1978.●

ADDRESS OF PRESIDENT RODRIGO CARAZO OF COSTA RICA TO THE UNITED NATIONS

● Mr. MOYNIHAN. Mr. President, such is the rarity of functioning democracy in Latin America that the words of a leader of one of that continent's democratic polities carry special weight. In late September, President Rodrigo Carazo of Costa Rico addressed the General Assembly of the United Nations. I believe his observations will be of interest to my colleagues, and I ask that the text of the President's remarks be printed in the RECORD.

The address follows:

ADDRESS BY THE PRESIDENT OF COSTA RICO RODRIGO CARAZO

Mr. President and distinguished delegates: As I address this august assembly of the Organization in which Mankind has placed its highest hopes for the preservation of peace, the development of the Earth's peoples and the prevalence of respect for the rights of the human person, it is with deep satisfaction that I extend a respectful greeting to the honourable representatives of the sovereign States that take part, with identical rights, in the deliberations of this supreme body of the most eminent of international organizations. And to you, Mr. President, as one who ranks high among the intellectuals and men of outstanding insight who have lent distinction and renown to our Latin American spiritual community, I wish to express my heartfelt satisfaction at the well-deserved recognition your merits have received through your election to the presidency of this General Assembly of the United Nations in a year so crucial to that noblest of endeavours, the advancement of human rights, a cause to which your country and my own attach such great importance.

This year marks the thirtieth anniversary of the unanimous adoption of both the American Declaration of the Rights and Duties of Man, signed on the second of May, 1948, in Bogota, and of the Universal Declaration of Human Rights, adopted on the tenth of December of the same year in Paris, that city beloved of all free men since the historic day when the barricades raised in its ancient streets gave rise to the immortal cry of "Liberty, Equality, Fraternity!" And now, as if to attest to the strength of their belief in this noble cause, a group of member States of the United Nations is preparing for the forthcoming inauguration of the Inter-American Court of Human Rights, whose seat is to be in Costa Rica, the country that was also the seat, more than 70 years ago, of our first regional court of justice, the Central-American Court, which was given competence to hear grievances and accusations by persons who considered that their rights had been violated by any of the governments of Central America.

HUMAN RIGHTS

Thirty years will shortly have elapsed since the Paris Declaration was drawn up. Much progress has since been made in this continuing struggle to secure recognition and respect for the rights of the human person in every corner of the globe. That declaration, a valuable yet limited expression of the juridical conscience of Mankind, gave way to the Human Rights Covenants adopted in this very hall on the sixteenth of December, 1966. Over ninety countries have secured the inalienable right recognized by the United Nations freely to determine their own destiny. Discrimination among men for reasons of race has wholly disappeared from the law of many countries, where the separation imposed by social custom has also diminished or abated. Today, although one nation or another may still cling to the laws and practices of "apartheid" abhorrent though they may be to all who believe in the oneness of the human race, the innate equality of men and the ideals of the United Nations, we may be sure that no such laws or practices can long endure, for they are infringements of the most sacred of the rights of the human person: respect for the dignity of man, which is both the wellspring and the foundation of the juridical doctrine of human rights. We therefore welcome the news that has recently reached us that biracial Government of Zimbabwe has adopted a series of measures that take the first step towards the abolition of all rules and measures implying unequal treatment of the inhabitants of that long suffering country merely by reason of the colour of their skin.

The work done by the United Nations in this field, which affects so many millions of men and women, as well as other innocent beings, as are children and adolescents, has been great and fruitful. Worthy of special mention is the ardous work done by the Commission on Human Rights and the Sub-Commissions, Committees and sub-committees created to deal with related problems. But this is not enough. In every corner of the earth, there continue to occur frequent cases in violation or non-recognition of rights which the world's conscience and the United Nations consider sacred because the domestic peace of States and, in the final analysis, peace among nations rests upon respects for those rights.

In this connexion, Costa Rica has, for more than 12 years, tirelessly advocated the establishment cf the post of a United Nations High Commissioner for Human Rights, which, like that of the United Nations High Commissioner for Refugees, would strengthen, through specific personal action, the application of the Universal Declaration and Covenants on the fundamental human rights and freedoms, which is essential to enable all men

to enjoy peace and the blessings of progress and civilization.

We have once again pressed for the inclusion of this item because we feel that its continued presence on the agenda of the General Assembly will serve constantly to underscore its importance to the world. This, however, does not imply that we underestimate in any way the major role which has been played, with respect to this item and to human rights in general, by the special committee entrusted with studying the item and reporting to the General Assembly.

AGRESSION BY NICARAGUA

A fortnight ago, my country, which has made peace a habit and a way of life, was the victim of the violation of a fundamental right of man: the right to peace.

My country's constitution forbids the establishment of an army and allows only a police force to keep the peace. Resources earmarked by other nations for maintaining military forces are devoted to education. Costa Rica is thus able to appropriate one third of its national budget for education at all levels.

Costa Rica has no arsenals, no military forces or economic might. Yet it is not by default but by conviction that my country has clearly chosen a civilian vocation, one which places right over might, and the search for the riches of the spirit over the desire for dominance. Costa Rica's lack of force is its strength.

On the twelfth of September, aircraft of the Nicaraguan Air Force violated the border with Costa Rica and proceeded to strafe the only army our country has: its students and teachers. The order was given by the Government of Nicaragua, and the target was the innermost heart of our nationhood.

My Government, which is based upon the rule of law and respect for international agreements, repelled the attack with its finest weapons: the moral courage of its people, and reliance upon international treaties. It immediately appealed to the Organization of American States, invoking its Charter, and supported the open and exemplary initiative of the Government of Venezuela, which called for a meeting of American Foreign Ministers. My Government brought its case before the Organization of American States, as a regional body, before appealing to the Security Council.

In this matter, my Government has enjoyed the resolute and effective support of the Governments of Venezuela and Panama, which have shown themselves ready to come to the aid of a country which has no army and no weapons, as well as the support of other friendly nations. Before this world forum, I convey to them the thanks of my Government and my people.

How great a task lies before us in the field of human rights when a country can be assailed because it lives in peace! How great is our responsibility when dedication to culture, to education, health and development can be greeted with a treacherous attack! How much yet remains to be done to uplift the minds of men and nations when weapons, in the hands of a foreign country's ruler, can be raised against children, teachers and students walking joyously and peacefully through the fields of their homeland organizing the celebration of their Independence Day, as has just occurred in my country.

Distinguished Delegates, compare the character of the attacker and the position of the attacked, and ask yourselves whether this case leaves any room for doubt as to who is in the right.

My people and Government solemnly undertake, before this forum of universal dialogue, to continue demonstrating their adhesion to human rights and to the cause of peace, and to strive without respite to secure respect for the law and for the human dignity in the face of aggression, genocide, violence and the stifling of liberty. This is my Government's reply to those who, in word and deed, have left the stain of their treachery upon our land.

I am confident that the international community will recognize who is in the right and will issue a just verdict, as an expression of its faith in its principles as a demonstration of their fruitful application.

SELF DETERMINATION

The Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, of sixteen December 1966, which Costa Rica had the privilege of signing, approving and ratifying before any other country, are an embodiment of the inalienable right of peoples freely to exercise self determination in the political, economic and social domains. Both Governments, using the same wording, place this right in the first paragraph of their first article, to indicate thereby that the legal framework of respect for human rights and peace among nations rests fundamentally upon recognition of the right of peoples freely to determine their political institutions. Thanks to this sound principle, we have today in this General Assembly representatives of a great many States which secured independence, recognition and sovereignty since 1945, among them the newest member of our Organization, the Solomon Islands, to whom I wish to extend my Government's heartfelt congratulations and our best wishes for the development and prosperity of this new nation. Costa Rica cannot hide its satisfaction at having contributed, on all previous occasions, to ensuring that the aspirations of different groups of human beings to govern themselves freely and independently should be recognized by other nations and by our Organization.

MIDDLE EAST

In this regard, my Government publicly expresses its joy at the signing by President Anwar El-Sadat and Prime Minister Menachem Begin, of a preliminary peace agreement, under the auspices of President Jimmy Carter, which augurs an historic change in international relations in the Middle East, if good will, pursuit of the ideal of peace, and direct dialogue between the two countries continue.

It is my Government's sincere hope that, in the long-awaited settlement of the very delicate problems of the Middle East, the right of the Palestinian people freely to determine its own destiny should, as the Camp David document suggests, become a reality in the near future. My government likewise reaffirms the right of the State of Israel to have its status as a free and sovereign State acknowledged and guaranteed by all members of this Organization.

The direct dialogue between Israel and Egypt has inspired new hope in all peace-loving men and peoples. Peace is possible. In that conviction, I appeal to all Governments concerned in the Middle East conflict to join in this effort and pursue in this fruitful and exemplary dialogue so that, before long, they can offer the world imposing evidence of faith in man, and so that, once again, as in Biblical times, the dove of peace shall take flight and peoples shall be united. On that day, Mankind shall turn a new page in its history and the blessings of all men of good will shall go with the leaders who brought about this achievement.

My Government upholds the unique effectiveness of frank and cordial dialogue, as in the case of Egypt and Israel. We also harbour the highest hopes for Central America expressing once again Costa Rica's heartfelt wish and concern to see a speedy solution of the problems still pending between the sister nations of El Salvador and Honduras. Accordingly, I reaffirm my Government's confidence in the mediation mechanism which has been established.

PANAMA CANAL

My Government hopes that the same spirit of justice will attend the deliberations of the Third United Nations Conference on the Law of the Sea, which has just completed another session, as well as the multilateral negotiations being conducted by several countries concerning the rights and obligations of States which have interests or which carry on fishing activities in the economic zones which the new Law of the Sea recognizes for coastal States. Costa Rica, whose land territory is small, possesses broad maritime zones in the Pacific and Atlantic Oceans that it has claimed for many years, with no objection by other States, on legal grounds which correspond to those that have already been incorporated in the text which the Conference on the Law of the Sea is working out by consensus. These zones abound in marine species of all kinds—some sedentary, others migratory—all of which are part of the natural resources which both law and equity recognize as the economic heritage of Costa Rica, and which the government that took office in my country on the eighth of May proposes to defend with all the force of the law in order to ensure that the Costa Rican people receive their just share of the benefits derived from permitting the exploitation of their fisheries by Costa Rican vessels or by foreign vessels which obtain the necessary permission in accordance with duly established regulations. It is all well and good that on the high seas, which are the res communes of Mankind, fishing fleets of economically powerful nations should take the harvests without sharing the product of their sale with any country other than their own; it would be inequitable, however, for such fleets to transfer their bases thousands of kilometres away in order to take advantage of the thunnidae which abound in the economic zones of other nations without those nations, which are generally underdeveloped or at an early stage in development, receiving a fair share of the proceeds accruing from the sale of a natural resource that was taken from their economic zones.

It is not right that great industrial powers should reserve extensive fishing zones for themselves, send their fleets thousands of kilometres away to reap resources lying off the coasts of developing States, and yet not recognize the rights of those States with regard to the exploitation of their marine resources, which are the only such resources accessible to their generally poorly equipped national fleets.

As I stated during my first visit to our island territory most distant from the mainland—Cocos Island—"the President of the United States has opened up a new and promising era in international relations by proceeding with the exchange of documents concerning the Panama Canal Treaty. The principles he laid down are categorical and, if the new Canal Treaty is the first sign of this new policy, Costa Rica trusts that those same principles will apply in the case of fisheries, in the interests of justice in relations between our two countries." The resources of the sea are an important part of the national wealth of coastal States. Costa Rica hopes that, at this promising juncture, as nations strive to find just formulae conducive to development, bi-lateral or multilateral agreements can be worked out that will recognize the right of Costa Rica or of any other State that authorizes exploitation of its resources by foreign fleets to receive the equitable share to which it is entitled by the use of the living resources of its exclusive economic zone.

DISARMAMENT

All men who long for peace are concerned about the arms race that has been unleashed among the largest world powers and which is consuming enormous economic resources and absorbing the efforts of intelligent men who could otherwise place their inventive genius in the service of peaceful arts and sciences,

and thus contribute to the worthy tasks of development and the gradual eradication of the ignorance and poverty that persist in many large areas of the globe. My Government, which represents a people known for its love of peace, cannot fail to reiterate its hope that the major military powers will find a propitious formula enabling them to earmark for peaceful purposes a substantial part of the financial resources and manhours which they are now devoting to the construction of ever more sophisticated instruments of death and destruction.

As we enter the closing years of the Twentieth Century and near the dawn of the Third Millennium, the question of disarmament as the basis for the establishment of peace in the world must, in my Government's view, be accompanied by a new vision of peace.

The purpose of global efforts for disarmament is to eliminate the principal physical instrument of war. All things considered, what is involved is a worldwide decision and a worldwide struggle, which may fail to alter the fundamental problem: the absence of a collective and positive will for peace. The struggle for disarmament must therefore be accompanied by a pedagogy of peace—in other words, education for peace. Disarmament may serve to avert imminent disaster. Education for peace is a permanent attitude. Disarmament means discarding an instrument of war in order to achieve the objective of peace. Education for peace means creating the real conditions for a peaceful world. Consequently disarmament should advance hand in hand with education for peace.

I therefore propose to this Thirty-Third General Assembly of the United Nations the creation of a University for Peace, within the framework of the United Nations University network, as a concrete expression of this new vision of a triumphant and dynamic peace, this new vision of peace as a result of education and conciousness.

This University would be a great centre of higher learning, open to all peoples and all men of good will, whose primary objective would be to contribute, through research, teaching, dissemination and free inquiry, to the cause of peace, to mutual knowledge for men throughout the world, and to the promotion among all men of a spirit of understanding, tolerance, and peaceful coexistence, in order to stimulate international cooperation and eliminate any situation which could imperil universal peace and progress.

The United Nations is, by definition, dedicated to the cause of peace. That is its supreme and inescapable purpose.

The United Nations has created various bodies to perform specific tasks in economic, social and cultural development. However, it lacks the supreme institution, that from which it derives its essence and its reason for being: the institution of Peace. The United Nations was created to safeguard peace, and the entire organization is oriented towards that central goal. However, for historical reasons, its concept of peace has been closer to the notion of peace as the absence of war than to that of peace as the supreme achievement of man, as a continuing task in the domain of learning. Accordingly, I propose the creation of an institution to prepare men and nations for peace.

Every positive and concrete effort against the arms race meets with opposition from those who wield the old Latin principle "Si vis pacem, para bellum" ("If you desire peace, prepare for war".) Today, however, preparing for war has a different goal, not the achievement of peace, but the prevalence of fear, as the means to world equilibrium. This, then, is peace founded on an act of fear, not on conviction or on an act of conscience.

For the military maxim, I propose to substitute a human one: "If you desire peace, prepare for peace".

Peace is a dynamic concept. It is a condition of life and, consequently, one of the fundamental human rights. Viewing the matter in this way, it becomes a question not of keeping the peace, but of achieving it. Peace is a right of the human species, but it is also a duty. It follows that every man, and Mankind as a whole, must be not only the object, but the subject of peace. Men may enjoy this right, but they must, at the same time, keep it in being. Peace is the work of justice and the fruit of love, but it must also be the product of education, or, better said, education must be one of its most effective instruments of action.

At this point in the Twentieth Century we are being called upon to face, in all their tragic urgency, the needs of Mankind. However, we must at the same time face up to the requirements of the species. The University for Peace must be the laboratory of the spirit of peace, the crucible in which we must form the new mentality of peace over the decades to come. For the Twenty-First Century shall be peaceful, or it shall not be.

Peace is not the end of a conflict or an interlude between wars; it is a constantly renewed challenge. It must be our supreme objective and, as such, we must provide concrete means for affirming it, recalling that the present generation reserves its trust for words that are accompanied by deeds.

Peace, like war, is not the result of historical predestination; it springs from man's freedom. Peace is within man, but it urgently requires measures to safeguard and create it: diplomatic relations, covenants, agreements, treaties, economic and human resources, means of information and education, laws and, finally, a vast machinery to give visible and tangible shape to this ceaseless quest of man on earth. What would become of the human species without all of a specific institution dedicated to preparing for peace, training for peace, two decades before the new millennium?

Peace is not merely a matter of noble sentiments. It requires, by its very nature, some measure of precise and diversified knowledge, both theoretical and practical. That is why it is urgent that man's intelligence and culture should be directed toward peace. What is involved, as has been proposed by one eminent voice, is marshalling all man's intellectual faculties, all of the cultural and scientific heritage of mankind, in order that we may become an instrument of peace. What this implies, finally, is preparing and training man's will and intelligence for peace.

Peace is made, not found. Peace is not rest. It is not another word for fear. It is the pulse of life.

Settlements imposed by fear do not constitute peace. The institutions of peace we have today were born in the wake of the war. They were inspired by pain and fear. But, as the pain and fear of that holocaust subside, the possibility of a new war looms ever greater. Why is this happening? Because, as the old Latin maxim would have it, we are still preparing for war in order to bring peace. Thus, the vicious circle continues and Mankind is never prepared for peace.

With this in mind, what I offer for your consideration is an institution that would not be built on fear, but on a triumphant and vigorous idea of peace. The world must instil a dynamic mentality of peace in adults, children and young people. To that end, we must put to use one of the greatest and most effective means of ennobling and transforming man: education. In this way we may forge in man the thoughts and habits of peace, bringing peace first into the minds and hearts of men, and then into world politics.

My Government will submit a specific draft resolution on this subject, requesting the General Assembly to consider the initiative of creating a University for Peace along the lines I have described, as the contribution of a peaceful people to the cause of peace, the supreme goal of the United Nations, on the thirtieth anniversary of the Universal Declaration of Human Rights.

And, as a token of good will and the desire to take part in the creation of the University for Peace, I offer my country, Costa Rica, as its host. I hope that the distinguished representatives of the Member States will view this offer as testimony of our faith and trust in the ability of this Organization to find new ways to strengthen and nurture a flourishing and positive peace in the world through the education of man. Let us rally to peace!

Costa Rica places at the disposal of the United Nations architectural drawings and programmes of study which we have already developed, as well as an ample and ideal site, from an ecological and geographical viewpoint, for the realization of this project. The tropical features of the site, coupled with a refreshing altitude, produce a springlike climate. Largely surrounded by virgin forest, the site is an ecological paradise.

The area set aside for the University for Peace enjoys a climate which, from the physical and biological standpoint, is particularly well suited for the realization of an historic project on peace.

Distinguished delegates: Thirty-five years will shortly have elapsed since the signing, at Moscow in October of 1943, of the Four Nations Declaration on General Security, which, for the first time, recognized the necessity of establishing "a general international organization, based on the principle of the sovereign equality of all peace-loving States, and open to membership by all such States, large and small, for the maintenance of international peace and security." That declaration planted the seed which, finding fertile soil in a Mankind racked by blood and destruction, was to grow into this august Assembly of sovereign States, the largest and most exemplary organ of international action that the centuries have witnessed. I call to mind here the illustrious names of so many eminent men of the Old and New Worlds, of men from strong countries or from weak countries, leaders of Christianity and of other spiritual movements, who have spoken from this podium and have contributed so much to this Organization's endeavours to fulfill the hopes that led to its creation.

Distinguished Delegates, allow me once again to extend to you all my respect and consideration.●

TETON DISASTER RECOVERY ORGANIZATION

● Mr. CHURCH. Mr. President, I am offering an amendment to address unfinished Federal business after the Teton Dam disaster on June 6, 1976.

The Teton Dam disaster was a unique tragedy for which the Federal Government bore responsibility. Immediately afterward, all possible assistance was promised to the individuals and communities who were its victims. As part of that assistance, the Economic Development Administration worked with community officials, who formed the Teton Disaster Recover Organization (TDRO), in order to execute projects for the consequences of the devastating flood after the Teton Dam burst.

EDA helped TDRO write a three volume study, "Adjustment Program for the Teton Disaster Area," which included direct and indirect effects of the

flood. Most of the projects in this program have been funded, but those for economic assistance have encountered stubborn resistance, despite the fact that they are perfectly within the basic mandate of EDA, which helped write them in the first place.

Early this year, fully 18 months after the disaster, I sent a mailgram to EDA urging action on these projects which details the bureaucratic contortions they had suffered. I ask that it be printed in the RECORD at the conclusion of my remarks.

Following my mailgram, EDA finally decided to fund only $3.9 million of the $14.2 million which had been requested. EDA has remained adamant in its refusal on the remainder of these funds, and thereby has failed to fulfill its part of the Federal obligation, assumed in the wake of the Teton Dam's collapse. Correspondence I have received from TDRO explains the entire situation clearly, and I ask that it also be printed in the RECORD at the conclusion of my remarks.

Mr. President, the amendment that I offer will serve to meet the Federal responsibility for the Teton Dam disaster in simple and straightforward fashion, without any complication or additional appropriations. It provides that these projects will be funded with any funds that remain after all individual claims and expenses under the Teton Dam Disaster Assistance Act have been taken into account.

This amendment is necessary, Mr. President, because the Teton Dam Disaster Assistance Act limits payments to directly related consequences of the disaster. Economic assistance projects, as we all know, are often only indirectly related to the purposes they serve.

The amendment is limited in two respects. First, the Teton Dam disaster was unique, and precedents set in its aftermath would have applicability only if such a Federal calamity were ever to occur again. I would point out, Mr. President, that the dam safety legislation which we seek to amend has as its main purpose the avoidance of such disasters.

The second limitation is in the amendment itself, which provides that only those remaining projects in the June 1977 "Adjustment Program for the Teton Disaster Area" will be funded in this manner, and I ask that a specific listing of them, the May 1978 "Adjustment Program for Teton Disaster Area, Summary of Remaining Economic Measures," be printed in the RECORD as part of this amendment's legislative history. In addition, if there are not sufficient funds for all of these projects after all other expenditures are taken into account, then TDRO will work with Federal officials to determine which projects will be funded.

Mr. President, it is a matter of law and tradition that when a wrong has occurred and responsibility is established the liability is clear and the commitment for compensation is firm. That is the purpose of our amendment, and I urge its adoption by the Senate.

The correspondence follows:

JANUARY 6, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development, Department of Commerce, Washington, D.C.

I am extremely concerned with the delays the EDA has imposed in dealing with the State of Idaho and Teton Dam Recovery Organization's profile for possible funding of worthy projects through your Title IX program. It has been over 18 months since the failure of the Teton Dam. The need for repair of the ensuing flood damage is long overdue.

Early last year, the State of Idaho submitted a pre-application and profile of projects identified by a detailed study required by your agency. The study cost the counties involved $150,000. The profile, developed from that study, and with the assistance of your Seattle Regional Office, was returned to the applicant by the EDA Review Committee in Washington, D.C., for being unacceptable.

Your objections to the first profile were reworked. A second profile was submitted on November 16, 1977. Local officials in the flood-affected areas, and my Pocatello Field Office, were assured it would be expeditiously handled there, and then sent to Washington for the action of the Review Committee.

My office was notified by your agency that Seattle had finished their work, and had sent the profile to Washington. For over two and one half weeks, I awaited word that the Review Committee had received the profile. My Field Office was told it had arrived one day, the local elected officials were told it had not the next day, and was still enroute.

I understand the profile finally arrived in Washington for consideration during the week of December 12. I was in East Idaho at that time, and talked with the local officials involved. They repeatedly expressed their concern over the lack of cooperation they had received from the EDA.

While in my Pocatello office, I was assured, the Review Committee would meet December 15 or 16 to act on the TDRO proposal. I was also assured the results of that review would be furnished to the Seattle EDA office for notification of the applicants no later than the first of the next week. On December 22nd, I was informed the EDA Seattle office had failed to furnish the proper in-house information needed by the Review Committee to adequately consider the profile, and that it would have to be returned to Seattle for further consideration.

As of today, I have been informed the TDRO profile has not yet been received there.

Because of the background information I have mentioned, it is extremely difficult for me to understand why consideration of this proposal is being delayed. Either there is some reason the EDA refuses to deal with the TDRO project, and will not publically inform those of us interested in it, or this is a case of bureaucratic mismanagement at its worst. Whichever is the reason, I would appreciate your own review of the problems involved, and a report of your findings at the earliest possible time.

Senator FRANK CHURCH.

EAST-CENTRAL IDAHO PLANNING AND DEVELOPMENT ASSOCIATION, INC.,
Rexburg, Idaho, April 24, 1978.

Hon. FRANK CHURCH,
U.S. Senate,
Russell Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: It is now nearly two years since the failure of the Teton Dam. The Teton Disaster Recovery Organization (TDRO) has been working through this period to achieve full economic recovery and adjustments from the aftermath of that disastrous flood. We appreciate the efforts of your office, the offices of other members of the Idaho delegation, and the various Federal agencies which have assisted in our recovery.

Many difficult, "indirect" problems remain. Assistance provided through the Church-McClure bill, particularly, has allowed the FDAA and the Bureau of Reclamation to deal with most of the damage directly associated with the flood waters. Language in that bill has, however, restricted its application to "direct" effects.

Cities, counties and other public agencies have been particularly hard pressed to deal with indirect, but flood caused, problems. Patterns of residence and living have been dramatically changed and speeded up. New areas have been developed for housing, farms and business. Many jobs were permanently lost or changed. Much capital has left the Upper Snake River Valley as former residents chose to take compensation for their damaged homes or businesses and live somewhere else. To deal with such problems, an EDA funded study (Adjustment Program for the Teton Disaster Area, three volumes, June 1977) proposed a two-pronged "adjustment strategy" for "restoration" and "redevelopment". Most restoration needs were covered under the current language of the Church-McClure bill, but a few have not been. Some projects relating to restoring pre-Teton Dam flood control are not yet funded. Also, some projects aimed at providing vital municipal services (water, sewers, and streets) to residents who resettled in new areas of the cities and counties affected have fallen outside of the coverage of the Church-McClure bill.

Projects aimed at economic adjustment have been particularly difficult to get underway. After the flood, local leaders quickly realized that many jobs and resources were permanently lost. Assistance to individual, private persons, and interests was fraught with problems of inequity and special pleadings. They chose to focus economic adjustment efforts in the public sector. Jobs and development infrastructure would be created, providing an environment conducive to private investment. We had hoped that the EDA would fund many of these projects. They responded, after much prodding, with an agreement to consider applications for projects totaling $3.9 million. These economic adjustment measures are seriously needed, but they include only one-fourth of the items needed. Further, the projects EDA consented to consider focused much of the money outside of the hardest hit areas in Jefferson and Madison Counties.

We are asking that the Church-McClure bill be amended slightly so that funds which were appropriated by Congress in 1976 can be used to complete the Congressional intention of restoration and economic adjustment. We are recommending that the amendment be worded so that only a specific set of projects which now fall outside the coverage of the Church-McClure bill can be funded.

Attached to this letter is a summary of the status of the Teton Disaster Recovery and Economic Adjustment program, the contributions of various Federal agencies to that program, a proposal to amend the Church-McClure bill, and a list of the economic adjustment measures to be included for funding. It should be stressed that these projects have been widely discussed and agreed upon by local leaders and citizens. It is not an extravagant wish list, but a realistic set of measures which will help complete the commitment Congress and the President made to fully restore the Teton Disaster area. The list includes projects for both restoration and redevelopment.

We are indebted to your offices for drafting and assisting in the implementation of the Church-McClure bill. Without your prompt and continuous help we could not have accomplished the fantastic level of recovery

we have reached so far. We understand there may be serious legislative difficulties if the Church-McClure bill is amended, but we believe that such legislative action is our last remaining option.

Therefore, on behalf of the TDRO, we ask that an amendment be made to the Church-McClure bill to implement the economic adjustment strategy recommended in the Adjustment Program for the Teton Disaster Area.

Respectfully,

JAMES SIDDOWAY,
Commissioner, Fremont County.

JOHN C. PORTER,
Mayor, City of Rexburg.

Enclosure.

SUMMARY

I. STATUS OF THE TETON DISASTER ECONOMIC ADJUSTMENT PROGRAM

The Teton Disaster Recovery Organization (TDRO) has, after months of effort, failed to complete the outlines of the funding strategy for its Economic Adjustment Strategy (Adjustment Program for the Teton Disaster, Area, June, 1977, was financed by EDA). The approach taken in the adjustment strategy was to have the various regular funding authorities, the Federal Disaster Assistance Administration (FDAA), the Soil Conservation Service (SCS), Corps of Engineers, and the Bureau of Reclamation (BuRec's regular and special authority under the Church-McClure "Full Restitution Act") carry their assistance to the limits of their authority. Then, the Economic Development Administration, through its disaster related Title IX authority, pick up the remainder.

TDRO had exhausted the regular authorities and BuRec's special claims authority when EDA began to say that they could not support their part of the approved economic adjustment strategy. EDA has made a first and final offer of only $3.9 million (see letter attached). This leaves $11,400,000 needed to complete the economic adjustment strategy and achieve full economic recovery. This strategy can be fulfilled and full recovery realized without the need for additional appropriation. Possibly as much as $125 million may remain from the original appropriation—less than 10 percent of the estimated remainder.

II. THE PROBLEM

Why have the existing programs and appropriations not dealt with the full economic adjustment program? The answer is basically the unique character of the disaster and the limitations in authority. There are many secondary and diffuse impacts which most regular and special Federal authorities were not designed to address. What follows is a brief recapituation of the agencies and their constraints.

The FDAA may only replace those public facilities which were in place and actually flood damaged or directly linked to flood damage (i.e. damage done by cleanup crews). The economic adjustment strategy calls for a restoration and redevelopment of the disaster area. The restoration objective is to restore a specific facility or provide a specific capability that was damaged or eliminated by the flood. The redevelopment objective is aimed at offsetting the negative indirect economic impacts of the flood.

The SCS will have completed its work and exhausted its funding with the work currently underway on the South Fork of the Teton River. Some river bank habitat conservation measures also have yet to be completed but should be complete this calendar year. SCS is prohibited from further flood control or reclamation work due to a lack of funding and authority (no further work could be done unless flooding occurred or was imminent).

The Corps of Engineers is prevented from restoring the Teton Dam pending Congressional authority and appropriations. The same constraints also control the Bureau of Reclamation.

The Church-McClure "Full Restitution Act", administered by BuRec in the public sphere is merely an extension of FDAA authority as interpreted in its administrative regulations. Nothing may be addressed without the items' previous existence and without direct water damage. Administrative costs for public jurisdictions relating to the disaster may be paid.

One further point should be made about the Church-McClure measure. The Claims Program of BuRec is basically conducted in an adversary atmosphere. Some public claims have come close to court cases because of differing interpretations of the law. The Bureau has taken the claims administration very seriously and thus has taken a narrow and strict interpretation of the law.

The EDA Title IX program has also taken a fairly narrow approach to the problems of adjustment. The TDRO feels that it is fair to say that the nature of the adjustment problem and the economic adjustment program has been poorly treated by this agency. Aside from the inefficient and slow response of the agency throughout this case, the EDA has exhibited a poor understanding of the laboriously prepared and costly ($150,000) economic adjustment strategy. Indeed, EDA has also exhibited, from start to finish, a lack of familiarity and understanding of their own Title IX program.

EDA has alternatively pleaded that there was no strategy, then drug its feet to fund one; then, complained there was not time to read and review the study which was prepared; then, pleaded that there were insufficient funds; and has finally wound up using regular Title I and unfunded Title VIII criteria for evaluation purposes. Some of these criteria make very little sense to the localities which labored long and hard to communicate their needs in an effective manner, and also develop an adjustment strategy which would work. EDA ignored the programatic nature of the adjustment strategy which was derived from local plans and priority systems, and reverted to the traditional "project by project", piece meal approach. Nothing so swiftly belies the current strategy oriented emphasis of the EDA as their handling of the Teton Disaster adjustment case.

All of this has been said not so much in a sense of bitterness and frustration, but to point out that as an agency EDA has very little business trying to deal with a disaster, and from a response point of view, is far too bureaucratic to respond in a timely manner. Therefore, despite the fact that it can be shown that the adjustment program is valid and useful, the Economic Development Administration's adjustment program has in essence failed to effectively complete the adjustment financial strategy.

III. THE PROPOSED SOLUTION

With the Claims Program nearing a conclusion (September 28, 1978), the balance of the appropriation estimated to be unexpended ranges between $100 and $125 million. The TDRO proposes that the remaining portion of the unfunded adjustment strategy be completed with the existing disaster appropriations through an amendment to the Church-McClure "Full Restitution Act".

ADJUSTMENT PROGRAM FOR TETON DISASTER AREA, JUNE 1977—SUMMARY OF REMAINING ECONOMIC ADJUSTMENT MEASURES

	County	Location	Measure	Brief description	Estimated cost	Federal share
1.	Fremont	City of Parker	Sewage collection system	Public investment substitution for job and income losses which will complete a regional sewer system in disaster impacted county.	$550,000	$161,500
2.	Do	City of Newdale	Rebuilding of city streets	Heavy traffic by recovery crews following disaster and influx of flood victims caused breakup of streets which need replacing.	100,000	100,000
3.	Fremont/Madison	do	Diversion structure on Teton River.	Diversion structure capable of providing a measure of flood control now absent with the loss of the Teton Dam.	200,000	200,000
4.	Fremont	do	Water supply, storage distribution.	Will replace well and pump worn out by increased use during recovery effort and will also supply storage necessary for a viable system distribution.	400,000	362,000
5.	Do	City of St. Anthony	Recreation facilities	Will replace a local recreational capability voided by land and environmental damage due to disaster.	80,000	60,0000
6.	Do	do	City-county jail	Will provide income stream replacement and will replace a facility which is obsolete without overtaxing a tax base not fully restored since the disaster.	520,000	390,000
7.	Do	City of Ashton	Street improvements	Street replacement in commercial and industrial area to serve as an income stream replacement.	808,000	606,000
8.	Madison	Rexburg	Barney Dairy Rd	Flood caused displacement sponsored by HUD was poorly placed increasing hazard for both motorist and pedestrian-road to provide safe access.	206,000	206,000
9.	Do	do	Madison Memorial Hospital	Disaster related funding problems which plague this new facility's completion can be solved with assistance to complete construction begun immediately after the disaster.	3,700,000	800,000
10.	Madison	City of Rexburg	Storm drains	Will provide adequate drainage and waste water management which is seriously needed due to flood victim relocation.	1,720,000	1,720,000
11.	Madison	do	Water supply	Due to relocation of flood victims the recently installed water storage and distribution system has already become obsolete and in need of expansion.	1,090,000	1,090,000
12.	Madison	do	Sewer main extension	Due to flood victim relocation from the plain to Rexburg bench area, there is now a need to extend sewer services.	210,000	210,000
13.	Madison	do	Street improvements	Flood victim relocation requires access roads into areas being settled out of the flood plain on the Rexburg bench.	527,000	527,000
14.	Madison	do	Parking facilities	This redevelopment measure will assure the competitive position of central business district merchants whose livelihood is threatened by proposed mall-type developments outside the CBD.	600,000	450,000

County	Location	Measure	Brief description	Estimated cost	Federal share
15. Madison	Sugar City	Park facilities	Will provide a replacement for recreation facilities and environment damaged by the Teton disaster and will aid in the redevelopment of the center of Sugar City.	$150,000	$112,500
16. Madison	do	Heating district	Funding will be combined with other assistance to verify the existence of a geothermal resource to trigger district heating system development which could make a valuable redevelopment contribution.	198,000	198,000
17. Madison	City of Rexburg	Fairground arena	Proposal will finish structure begun with FDAA assistance and will replace income streams and jobs lost through public infrastructure reinvestment.	275,000	206,250
18. Jefferson	City of Roberts	Well and water extension	Relocation and damage done since recovery to assure pure culinary water source requires well replacement and water extensions.	208,000	208,000
19. Jefferson		Storm drain	Flood victim relocation and heavy silting now require a much more sophisticated method of wastewater treatment.	314,000	314,000
20. Jefferson	Cities of Rigby, Lewisville, Menan area.	County drain district No. 1	Severe economic impact resulting from high ground water level can be eliminated and an income stream and job replacement achieved.	800,000	600,000
21. Jefferson	City of Rigby	Recreation facilities	Facility will act as a substitute for recreation areas and environment lost or degraded by the disaster and will also act as an income stream/job replacement reinvestment.	400,000	300,000
22. Jefferson	City of Roberts	CBD beautification	Proposed to stimulate redevelopment of CBD through beautification and will act as an income stream/job replacement investment.	60,000	45,000
23. Jefferson	City of Rigby	Streets and storm drains	A public infrastructure reinvestment will substitute for jobs and income stream losses.	600,000	450,000
24. Jefferson	City of Ririe	Sewer and water extensions	Public infrastructure replacement for income stream/job losses resulting from Teton disaster.	115,000	86,250
25. Bingham	City of Firth	Drainage system	Will reduce ground water level raised by flood, restoring productive capability to surrounding farm land damage by the Teton disaster.	625,000	307,000
26. Bingham	Blackfoot	Dikes	Will restore dike protecting 450 homes and 3 major potato processing plants (handle 48 percent of Idaho's crop) from potential 100-yr flood.	216,000	216,000
27. Fremont, Madison, Jefferson, and Bingham.	Areawide	Technical assistance for implementation.	A 2-yr technical assistance program is called for to support the efforts of these disaster area localities in implementing the adjustment program for the Teton disaster area.	400,000	200,000
28. Total				15,072,000	10,125,500

COMMUNITY HEALTH CARE CENTERS

● Mr. HATHAWAY. Mr. President, I would like to express my support for the ccnference agreement on S. 2450, the Community Mental Health Centers and Biomedical Research Extension Act.

With respect to the community mental health centers program, the bill authorizes a 2-year extension of existing authorities with some revisions of current law. Provision is made to assist those centers which are "graduating" from the program, that is, completing their eighth year of funding. I have been quite concerned that, in renewing the act, we at least provide for some interim assistance while we undertake a thorough review of the program next year. At that time, I look forward to substantive changes to insure the continued viability of the community mental health centers program.

In addition, I would hope to make sure that we provide flexibility to centers to phase in the direct delivery of services and to share service across catchment boundaries through contract arrangements. Provisions such as these are particularly important for rural areas such as those in Maine.

The conference report also includes a modified version of the Families With Alcoholism Assistance Act which I introduced with Senators HATCH and WILLIAMS. As modified, the Families With Alcoholism Assistance Act amends the Comprehensive Alcohol Abuse and Alcoholism Prevention. Treatment, and Rehabilitation Act of 1970 to provide emphasis within the National Institute on Alcohol Abuse and Alcoholism for families of alcohol abusers and alcoholics. Specifically, it requires the States to identify the need for education, counseling and treatment of these families and provide assurances that this need will be met. In addition, it also encourages research on the impact of alcohol abuse and alcoholism on the family.

That an emphasis on alcoholism and the family is warranted became clear when the subcommittee held hearings on this issue in Salt Lake City. At that time witnesses outlined the widespread detrimental effects of alcoholism on the family unit and its individual members. For every alcoholic, an additional four people are affected. These are the "other victims" of alcoholism, and there are some 40 million in our country. Alcoholism is a contributing factor to our high divorce rate, to the physical and sexual abuse of children, to the incidence of battered spouses, and to the number of runaway children. At least 50 percent of juvenile delinquents have family members with drinking problems. Children of alcoholics—estimated as high as 28 million—run a high risk of becoming alcoholics themselves. And children of alcoholic mothers who drink during pregnancy might be deformed or mentally retarded. The picture is not very pretty.

While alcoholism can, indeed, have a detrimental effect on the family and its members, the family can be a strong positive factor in the treatment and rehabilitation of the alcoholic. At the hearings, witnesses emphasized the importance of the family in the recovery of the alcoholic. With family involvement, the road back is much less difficult. But to assist in the recovery of a loved one, families first need to know what alcoholism really is and where help can be found. Information must be made available; educational and counseling services are essential.

On the basis of the hearings in Utah, we concluded that a greater Federal commitment to addressing the problem of alcoholism and the family is imperative.

Mr. President, I urge my colleagues to adopt the conference report on S. 2450.●

HUD CONFERENCE REPORT

● Mr. SCHMITT. Mr. President, I will vote in opposition to the conference report returned to the Senate by the conferees.

The housing bill approved by the Senate earlier this year contained a provision which would have required the Secretary of the Department of Housing and Urban Development to roll back the reorganization of the area field and insuring offices of the Department which was announced in October of 1977.

To my regret, the conferees have failed to include this important provision in the conference report. The damage resulting from this reorganization to housing services in the rural and western areas of the country should be a matter of concern to every Member of this body.

This action has, in many cases, moved local HUD multifamily offices hundreds of miles away, often into other States. Those who deal with HUD will thus bear the burden and expense of traveling these distances—and will be forced to suffer additional delays in their struggle with HUD's already formidable maze of bureaucracy and redtape.

From its outset, HUD has failed to produce any justification for this ill-starred reorganization. Letters to the Secretary have yielded little or no data to support the contention that this move would produce any tangible benefits. In brief, the Department has "stonewalled" the Congress on this issue.

Earlier this year, the General Accounting Office was requested to conduct an evaluation of the proposed reorganization of the Department. The GAO's report points out clearly that "HUD's projected cost savings resulting from the reorganization are not well supported."

GAO found that in many cases, HUD offices will be moved 600 to 800 miles from the people they are designed to serve. This is hardly in keeping with the President's oft-quoted desire to "bring Government closer to the people."

Many Members of Congress will be watching HUD closely over the coming months for any decline in the quantity and quality of housing services in the rural areas of the country. Should this decline occur, I am sure that action will be taken to restore housing services to these areas.

There is an additional provision in the conference report that I would like to address. The legislative veto of HUD regulations contained in the House bill is a welcome addition to the procedures available to the Congress for insuring that regulations required by that Department are consistent with congressional intent. The inclusion of legislative veto provisions similar to this in authorizing legislation is a growing phenomenon. I am hopeful that we can soon look forward to extending the legislative veto to all regulations issued by executive departments.

This will, perhaps, reduce the tendency of agencies to ignore Congress in the promulgation of regulations—and in reorganization plans that ignore good management principles and commonsense. I am sure that should such practices continue, my colleagues and I will make liberal use of the legislative veto to gain more control of irresponsible bureaucrats.●

SUNSET LEGISLATION

● Mr. DURKIN. Mr. President, as an original cosponsor of sunset legislation, I am pleased to support this important bill. It is imperative that the sunset concept—that needless Government programs be allowed to expire—be implemented on the Federal level.

Clearly the nationwide taxpayers revolt indicates that the public is demanding more rigorous evaluation of Government spending programs. One of the most important features in the sunset bill is establishment of systematic and uniform review procedures of Government programs and regulations by congressional committees. Sunset procedures reflect the increasingly prevalent opinion that Congress should shift its priorities from writing new bills for every problem and emphasize more effective oversight review of legislation already on the books.

Sunset legislation offers an appealing alternative to "meat ax," across-the-board cuts in appropriation bills. Outdated or duplicated programs will be terminated, reducing spending and bureaucracy in a rational and effective fashion. Moreover, the bill empowers the review process with adequate safeguards against termination of programs through either inadvertence or legislative obstruction. Through meaningful evaluation of Federal programs, sunset legislation will provide a means of producing a more effective and efficient Government that requires fewer taxpayer dollars to operate.

Present congressional reauthorization procedures are inadequate. The oft-repeated spectacle of agencies frantically spending their appropriations solely to justify an increase for the next fiscal year is something the American taxpayers would and should rather live without. The entrenchment of the bureaucracy is such that even direct intervention by the President cannot eliminate unneeded programs. Ubiquitous agencies such as the Board of Tea Tasters continue on their merry way, impervious from interference from the President and unscrutinized by Congress.

Sunset requirements will have the indirect effect of forcing Federal agencies to conduct thorough in-house reviews of their own programs before coming to Congress for reauthorization. Knowing that their programs will be scrutinized, agency heads will have the motivation to eliminate waste before coming in front of congressional committees. The sunset bill has the practical effect of conveying public demands for reform of the bureaucracy into legislative requirements for review and reauthorization.

The sunset concept has already been proven successful on the State level. Twenty-nine States have enacted sunset legislation, following Colorado's lead in 1976.

Mr. President, the sunset provision that is before us today has been scrutinized and revised by the Governmental Affairs and Rules Committees. The result of this hard work is a polished bill that promises to effectively meet the need for oversight on Federal programs and regulations. The members of both committees, and in particular the distinguished Senator from Maine, Senator MUSKIE, deserve congratulations.●

H.R. 9434—MEDICARE AND MEDICAID AMENDMENTS

● Mr. HATHAWAY. Mr. President, H.R. 9434, as modified and approved by the Finance Committee, contains a number of very important measures which I believe. We should adopt without delay before the close of the session.

The first of these is the Child Health Assessment program which I introduced with Senators RIBICOFF and KENNEDY. With increasing public and private concern over escalating health care costs and the administration's stated commitment to a national health policy, it becomes incumbent upon us to find more effective means of promoting and maintaining health. And at least on its face, no investment of public resources is better spent than on the prevention, early detection and treatment of disease and disability in children. Whether one couches the decision in the rhetoric of cost-benefit ratios and life-years or in the humanistic phrases of equality, access, quality of care and the right to health, the allocation of public moneys for the detection of illness in poor children and its followup is money well spent. The Child Health Assessment Act of 1977 would do this through improving the EPSDT program by reaching more poor children with more comprehensive, continuing primary and preventive health care.

When the Social Security Act was amended by Public Law 92–603, it was hoped that the early periodic prevention, screening detection, and treatment program would reach all eligible children in need. These hopes were not fully realized.

Current efforts to improve health services for poor children are clearly inadequate. The major existing program seeks to provide health screening and treatment for medicaid-eligible children.

EPSDT reaches only 30 percent of the 12 million children currently eligible for medicaid.

Approximately 22 percent of the children screened under EPSDT and found to need treatment do not get the service required.

The program does not reach an estimated 700,000 children under 6 who are in families whose income meets State financial requirements for medicaid but whose family structure—the father is present, for example—makes them ineligible for medicaid. States now have the option of covering children in such families under medicaid, but only 16 States now do so. I am pleased to say my own State of Maine is one of those that does cover these children.

Even now, over a decade after medicaid and 5 years after the passage of the law setting up the EPSDT program, children do not receive adequate and continuous health care.

Poor children are likely to have twice as many hospital days as children with adequate income.

They lose more days from school.

They are bedridden more days.

They have more chronic diseases.

They have less access to a regular source of physician's care.

The proposed new child health assessment program—CHAP—would substantially strengthen the existing program.

Specifically, the legislation as approved by the Finance Committee would do the following:

First. Require States to provide medicaid for all individuals age 6 and under who are financially eligible under the State welfare or medicaid income standard, regardless of whether they are members of an intact family. (Current law requires States only to cover children in families where one parent is absent or incapacitated.) Additionally, it makes Federal matching available to cover all financially eligible individuals up to the age of 21 if a State elects to provide medicaid to persons in this age group. All of these children are eligible for the medicaid services normally included in services. Once a child has been assessed, that child would also be eligible for all medically necessary services (with some exceptions) whether or not the State plan makes specific provision for them.

Second. Provides a 4-month extension of eligibility for medicaid beyond the point when the income and resources of the family exceed the financial eligibility standard for the program for any child who has received a health assessment, in order to assure adequate time to receive necessary services.

Third. Allows Federal matching for medicaid coverage for adopted children who have been in foster care, and who were hard to place for adoption because of a handicapping or medical condition requiring medical care, regardless of the income level of the adopting family. This coverage would be at the option of a State.

Fourth. Allows children who are inmates of public institutions to remain eligible for medicaid if they were eligible before entry into the facility. (Current law provides that eligibility ceases when a person becomes an inmate of a public institution which is not a medical institution.)

Fifth. Provides that all children who have received a health assessment are eligible for all treatment and services which could be paid for under medicaid, whether or not such treatment is included in the State plan except that no State would be required to provide services for mental illness except as covered in the State plan, care for the mentally retarded in an intermediate care facility, or dental care which is not routine. An assessed child would not be required to make copayments for any medicaid service.

Sixth. Provides for an increase in the Federal matching rate for assessments, and for all noninpatient services provided to children who have been assessed (and reassessed at appropriate intervals). The new Federal matching rate is the greater of 75 percent or halfway between the current medicaid matching rate and 90 percent.

Therefore, a State such as Maine, with a Federal matching rate of 70 percent under current law would receive an 80 percent match under the CHAP proposal. It is hoped that this provision will encourage the use of ambulatory care wherever possible rather than more costly inpatient care, and will provide a strong incentive to States to assess as many medicaid children as possible.

Seventh. Requires a maintenance of effort by States relative to services for children, as a condition for receiving the higher Federal matching rate; that is, for a 2-year period, the receipt of the increased Federal matching would be conditional on a State taking no action that would reduce both the scope and extent of medicaid coverage and State share of spending for children.

Eighth. Repeals (retroactive to original enactment) the penalty provision of current law for States which fail to meet certain requirements of the early and periodic screening, diagnosis, and treatment (EPSDT) program and replaces it with a provision for a 20-percent decrease in the Federal share of medicaid administrative costs for States which fail to meet certain minimum CHAP performance standards established by the Secretary. The Secretary would have the authority to delay imposition of the penalty for 6 months where he found a State was making a good faith effort to comply and to waive it if compliance is achieved in that time period. The legislation also provided for a bonus in the form of a 25-percent increase in matching for administrative costs for States which meet standards for outstanding performance.

Ninth. Requires States to offer written agreements to all qualified health care providers who will agree to do assessments and necessary followup on terms as will reasonably be expected to elicit adequate provider involvement, including private practioners, public health departments, community health center, Head Start agencies, rural health clinics, and maternal and child health centers. Additionally, provision was made to allow States to sign agreements with college health centers and school systems which have made arrangements for assessments.

Tenth. Requires providers who do assessments of medicaid children to provide them with information on available dental services dentists who participate in medicaid.

Eleventh. Requires States to designate a lead agency which must establish and maintain a health profile for each child so as to insure appropriate coordination and nonduplication in the provision of care and services to the child.

Mr. President, while I consider the CHAP proposal a significant step forward in improving the health of our Nation my only concern is that we take care not to place unnecessary restrictions on the program. Consequently, I would support an amendment to include limited coverage for necessary care and services for mental illness, with the exception of long-term institutional care. Without such an amendment, a child eligible for CHAP could be screened and diagnosed as mentally ill, but would not necessarily receive treatment for that diagnosed illness. That would indeed be unfortunate.

While there are other provisions I would like to see included in the child health assessment program, I believe the proposal approved by the Finance Committee is a good beginning and hope it will enjoy the support of my distinguished colleagues when it is brought up for consideration.

H.R. 9434 also includes in title III a strengthened version of S. 3544 which I was pleased to cosponsor with the distinguished chairman of the Finance Subcommittee on Health. This provision authorizes demonstration projects for the training and employment of AFDC recipients as homemakers and home health aides. It will have a great impact on the health care and welfare systems of our Nation. The purpose of this legislation is to train women who are presently on the welfare rolls to be homemakers and home health aides, thereby providing at-home health and support services to persons who would otherwise have to be confined to an institution under medicare.

Clearly, the implications of such training are vast. Women who are now recipients of Aid to Families with Dependent Children (AFDC) money would be eligible, if they so chose, to enroll in a formal training program of 10 or 12 weeks, established by the State and approved by the Department of Health, Education, and Welfare, during which time they would receive an allowance to enable them to maintain themselves and their children. At the end of this time they would be qualified homemakers or home health aides, and could then be employed by public and nonprofit organizations and agencies to provide support services to the elderly, handicapped, or other medicaid recipients.

In the area of health care, the field of allied health personnel is becoming recognized as a valuable mechanism for providing a variety of health care services to people in their homes, in outlying areas, and short of a physician's care. These include homemaking help such as cooking, shopping and cleaning, and health maintenance for individuals who need assistance in bathing, walking, and so on. Although under this program the trainees would work with medicaid patients and serve as outreach workers for hospitals to patients who have been discharged, they may of course choose to leave the program and use their trainees elsewhere, finding that the skills, they have acquired are greatly needed. And with this training, we have removed these people from the welfare rolls and provided them with marketable skills, thereby reducing the welfare rate and raising the employment rate.

It is important to note that the program is completely voluntary—an AFDC recipient is under no obligation to enroll and does not risk loss of AFDC funds by refusing to participate. Further, the number of persons eligible for the program is determined only by the number of persons in need of such services in the State and by the ability of the applicants to be trained and employed.

When we focus on the recipients of this care, we find that many of the patients in nursing homes and intermediate care facilities do not have to be there—not only can they remain at home with the help of these support services, but most prefer to live in the familiar surroundings in which they can retain their sense of independence and dignity. As we as a Nation learn more about the special needs of our elderly and handicapped citizens, we realize the importance of providing them with the means to take their places as valuable members of society and remain in its mainstream.

Persons would be eligible to receive homemaker and home health services under this program only if those services are not reasonably and actually available and who would otherwise be reasonably anticipated to receive institutional care.

In order to be eligible for the homemaker and home health services, an individual's income must be within 200 percent of the State's standard of need. In addition, he or she would have to require institutional care if the support services were not provided. The reason that the eligibility level is above the State's standard of need is that most individuals, regardless of income, would

become medicaid recipients once they require intermediate care or care in a skilled nursing facility.

In addition, most medicare beneficiaries would be potentially eligible for homemaker and home health services because of the income standard set for this program. These services, however, unless the recipient is otherwise qualified for reimbursement, would not be a regular medicare benefit.

I believe that by providing these services we can shorten some hospital stays and even avoid others. Therefore, the cost of the training programs and the provision of the services would be offset by the reduction of expenses which would otherwise be incurred by longer periods of institutionalization. Not to be forgotten also is the reduction in welfare costs as these aides become members of the work force.

The States, in getting up their programs, can decide to make these services available to those whose incomes are above the eligibility level, and charge fees on a sliding scale.

This legislation would authorize 12 States to set up demonstration programs for up to 5 years with the Federal Government providing 90 percent matching funds for the programs from funds authorized under medicaid. The Secretary of HEW will select the participating States from those which apply. I would expect the recipients of awards to include both rural and urban States. In those then selected, the State health agency designated by the Governor shall have full responsibility for the program. Although the agency could subcontract for some aspects of the program, responsibility for the training and operation would rest solely with the agency. The Secretary of HEW would be expected to assist a State in developing its training program as well as establishing safeguards to prevent abuses.

I would like finally to emphasize my strong support for a program which, besides its fiscal merits, would enhance the dignity of both the providers and recipients of the needed services. I would urge my colleagues to give their full consideration and approval to this measure.

Mr. President, before the close of the session, I would also recommend adoption of a provision to revise section 1835 (a) (2) (D) (ii) of the Social Security Act relating to medicare reimbursement for speech pathology services.

Current law requires a physician to prescribe the frequency rate and duration of speech pathology services. However, since speech pathology involves highly specialized knowledge and training, physicians generally do not specify the services needed when referring a patient for such services. The proposed change would permit physicians to refer patients to a speech pathologist for services, rather than requiring the physician to detail the necessary services and plan of treatment. This revision would simply conform medicare law to the actual practice. The existing requirement that a physician make the referral and periodically review the plan of treatment would be retained.

Figures from the Department of Health, Education, and Welfare, reviewed by the Congressional Budget Office, indicate that this is a no-cost measure.

Mr. President, this provision has already been passed by the House. I understand that the administration has no objection to it and the distinguished chairman of the Finance Subcommittee on Health is prepared to support it.

Finally, I would urge my colleagues to lend their support at the appropriate time to a measure to expand participation in the Professional Standards Review Organization (PSRO) program under the Social Security Act to include a broader range of health care practitioners. That was my intent in introducing S. 3506.

The PSRO program was created in 1972 to assure that health services which are reimbursed under the medicare, medicaid, and Maternal and Child Health and Crippled Children's programs are medically necessary, meet professionally recognized standards of care, and are appropriately provided in the most economical settings.

Under current law, PSRO's are required to be composed solely of licensed doctors of medicine or osteopathy engaged in the practice of medicine or surgery in the PSRO area. Similarly, the National Professional Standards Review Council, also created in 1972, is limited to physician members. Given the fact that other health care practitioners play a vital role in the organization and delivery of health care services, particularly in rural areas it would clearly be useful to expand membership in the PSRO's to include these other professionals. This is especially important since physicians may not always have the expertise to review the broad range of health services which come within the purview of the PSRO. By giving these practitioners a voice in the PSRO program, genuine peer review will be assured.

In addition to physicians, there are at least 15 other health professions, each of which has its own professional standards and none of which is currently represented on PSRO's. The largest of these professions is nursing, with over 900,000 professional registered nurses and numerous more licensed practical nurses. These individuals perform a broad range of extremely valuable services essential to the health care system. Yet they have no voice in PSRO's. The contradiction to peer review is obvious when decisions about the standards of nursing practice and equally important, the sanction procedures, are made without nursing representation.

The dentistry profession offers another clear example of the need to expand PSRO participation to nonphysicians. Unlike many other health professionals, dentists perform unique services which are usually beyond the training and professional involvement of physicians. Yet the services they perform are subject to PSRO review. A significant number of dentists are engaged in hospital practice. In fact, over $500 million worth of medicare and medicaid services are performed by dentists. It is apparent that the peer review process would benefit from the participation of dentists.

The many other health professions also contribute invaluable services for the health of our Nation. These include clinical psychologists, dieticians occupational, physical, respiratory, and speech therapists, optometrists, pharmacists, podiatrists, radiological technologists, social workers, and audiologists, among others. Providing for their input in the peer review process is also critical if that process is to be effective. Furthermore, professional involvement should help bring about acceptance of the peer review program.

The measure I propose would establish genuine peer review by providing for nonphysician participation at the local, State, and National levels. Specifically, it would amend the PSRO membership requirements to allow PSRO's to invite as members other health care practitioners who hold independent hospital admitting privileges. This will allow such practitioners, particularly dentists, to review at the local level health care services provided by such practitioners under medicare, medicaid, and maternal and child health programs. Second, it would require the advisory group to statewide PSRO councils to include at least one registered nurse and one dentist. Third, the National Professional Standards Review Council would be expanded to include three nonphysician members including a registered professional nurse, a dentist, and one other nonphysician health care practitioner. This will provide nonphysician practitioners, whose role in the delivery of services is so crucial a policymaking voice at the national level. Finally, the measure would establish an advisory committee to the National Professional Standards Review Council composed of nonphysicians health professionals whose service payments may be made under the Social Security Act. This advisory committee, which has already been implemented on a temporary basis by the Department of Health, Education, and Welfare, would provide for expanded participation of nonphysician practitioners in the PSRO program.

Mr. President, I believe that this proposal would improve the ability of the peer review system to assure quality care in the most efficient manner possible. It has the support of the Department of Health, Education, and Welfare as well as many health care practitioners. A companion bill, H.R. 13817, introduced by Representatives ROSTENKOWSKI and KEYS, has already passed the House by a vote of 359-40. I hope it will enjoy similar support in the Senate.●

CLIFFORD P. CASE

● Mr. CHURCH. Mr. President, the Senate Foreign Relations Committee recently passed a resolution commending CLIFFORD CASE on his service to the committee since 1965, noting that not only his experience in foreign affairs, but also his wisdom, compassion and "devotion to the national good as he sees it without regard to partisanship."

Those qualities, Mr. President, sum up well my feelings about CLIFF CASE.

It is the nature of service in Congress to be partisan in our approach to issues, in the best tradition of the American two-party system of government. But

there are times of overriding national interest that require us to rise above partisanship. It is in the context of those times that I best remember CLIFF CASE.

In 1973, Senator CASE and I joined together in a bipartisan effort to secure legislation that would end the bombing of Cambodia and call an end, once and for all, to our direct military involvement in Indochina. That we succeeded, against long odds, was in large part due to the legislative skill of CLIFFORD CASE. To him fell a major portion of the negotiations with the Nixon administration that were necessary to fashion legislation that would succeed and be signed into law. Without him, the Case-Church amendment would not have passed, and the bombing would have continued.

His service on the Foreign Relations Committee, and in the Senate itself, has always been marked by a sense of doing what is right. I am saddened that he is leaving us, for his many talents will be missed.

I ask that the text of the Foreign Relations Committee resolution be printed at the close of my remarks. And for the future, I wish for CLIFFORD CASE only the best of health and happiness and the satisfaction that comes from knowing he has served his State and his country honorably and well.

The resolution follows:

[Committee on Foreign Relations, United States Senate]

COMMITTEE RESOLUTION

Whereas Hon. CLIFFORD P. CASE has been a member of the Committee on Foreign Relations since 1965 and has been its ranking minority member since 1975;

Whereas his keen awareness of our constitutional system and Congress' role in foreign policy, as shown in such measures as the Case Act, have strengthened the Committee, the Senate, and the Congress in the fulfillment of their responsibilities; and

Whereas his service, marked by long experience, by wisdom, by compassion and by devotion to the national good as he sees it without regard to partisanship, has contributed greatly to the formulation of foreign policy;

Whereas Senator Case is retiring from the Senate upon expiration of the 95th Congress on January 3, 1979: Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses to Clifford P. Case its admiration, appreciation and high regard; and be it further

Resolved, That the Committee extends to Senator Case its most sincere best wishes for the future.

TRIBUTE TO SENATOR BARTLETT

● Mr. LAXALT. Mr. President, when I was elected to the Senate, the prospect of serving in this body was, admittedly a little intimidating. I believe that is a situation quite a few in this Chamber can empathize with.

As a freshman Senator coming to Washington with my "sealegs" not yet under me, I looked around for help. There is so very much to learn in such a short time that a guiding hand is welcome.

And it is natural for freshmen Members to gravitate for this help toward those of a like philosophical stripe. In politics that is an important bonding agent, but just as vital is identifying a man who has the respect of his colleagues. Mixing the ingredients of philosophy and respect, I found myself spending time with DEWEY BARTLETT.

Also, as freshmen, many of us look for those who enjoy an expertise in areas we lack knowledge. Well, my blindspot at the time was in the energy field. Once again, DEWEY BARTLETT filled a void. The Senator from Oklahoma, as we all know, has a grasp on an issue few of us will ever truly master.

And he has an expertise in the defense field also from which I borrow constantly. Energy and defense matters are two of those issues which leave most of us frustrated in our lack of command of the various complications involved. DEWEY is a man I found who can lift me out of my fog when there is a matter on which I have questions.

Third, as a freshman, it is nice to find someone who has the patience to explain some of the ins-and-outs of this body and will take the time to do so. Time is at a premium around here—we all know that—and it is a special person who will find a break in his schedule to help fill the gaps for a new Member. Believe me, DEWEY filled a lot of gaps for this Senator a few years ago and had the patience to tutor a Basque who asked a lot of questions.

One of the first practical lessons you learn around here is what a tough chore it is to stay informed. We usually pile unrelated subjects one on top of the other as measures are considered. The size of modern-day government demands constant attention to a myriad of detail.

In this crossfire of activity, Senator BARTLETT is looked to for a lead on votes by those of us who share common politics. DEWEY is often in that lead because we in the Senate know this man comes as close as humanly possible to preparing for each and every vote. And because of this, those who may not agree with him on matters at hand, as well as his allies, recognize that he never votes on a visceral level. He votes on the strength of facts and DEWEY's decisions are respected by those on both sides of the aisle.

Senator BARTLETT's special concerns, energy and defense are of particular moment in the 1970's. DEWEY is "Mr. Energy" in the Senate. His service here and in State government prior to arriving on the Washington scene coincide with the years of growing concern over our domestic energy situation. He has contributed immeasurably to our understanding of the complexities involved in this whole area. Naturally, the Senator has defended his point-of-view in relation to our attempts to formulate an energy policy. But whether agreeing or disagreeing with the Oklahoma Senator's philosophy, no one here will deny he knows his subject and has taught us well.

As mentioned, Senator BARTLETT is also a recognized authority in the field of defense preparedness. On that subject he tutored himself well because of his grave concerns for the security of this country. Once again, his knowledge here draws many of us to him for counseling on those very important votes covering national security.

I think it is worth noting also that DEWEY represents his State admirably on all fronts, but his special interests have never been strictly parochial and always reflected broad national concerns.

In our business, a person can learn to cultivate friendships. That is a fact of political life. He can school himself on the issues to vote as a responsible legislator on behalf of his constituents. But, quite frankly, too few in all walks of life are genuinely fine people like DEWEY.

The Senator has excellent relationships with each of us regardless of philosophical differences. And in our line of work that is a mark of real distinction. His patience and willingness to guide the newly initiated has been covered. Each of these traits is a sign of a man with inner strength and self-confidence. I do not want to dwell on DEWEY's current battle, but his determined and succeeding fight is an inspiration. He is a rock, a strong person sure of his victory. That is an uplifting example.

Besides all of this, getting down to the bottom-line, DEWEY has always had his priorities in order. Here is a man who faithfully feeds a flock of pigeons in the Russell Senate Building courtyard. There will be a new Senator from Oklahoma, the system will see to that. But I doubt the birds will find a more faithful friend than the one they have in DEWEY BARTLETT.

His absence is going to leave a big hole both inside and outside the Senate Chambers.●

TRIBUTE TO DEPARTING SENATORS

● Mr. McCLURE. Mr. President, as the 95th Congress draws to a close, it is once again a time of sadness as we say goodby to colleagues with whom we have worked. I have had a very special relationship with four of those who will be retiring, and I would like to say a few words of tribute at this time to each of them.

Senator CARL CURTIS has been a Member of Congress for so long that he has become almost as much of an institution as the institution he serves. How much more effective the Senate would be if the rest of us had even half as much wisdom as this man possesses. I worked with CARL in the creation of our ad hoc committee which we call the Steering Committee. During this time, we developed a close relationship which has been one of the bright spots in my first term here, and I thank him for many kindnesses.

Senator CLIFF HANSEN has been the senior member of the committee we both serve on, the Committee on Energy and Natural Resources. More than that, however, he has been senior to the rest of us in so many other ways. I doubt that there is another Member of this body on whom I have relied so heavily throughout the past 6 years. It probably embarrasses him to be constantly referred to as the "nicest man in the Senate." But I daresay that all of us would gladly trade any legislative accomplishment we might have achieved for just such an accolade. He will be greatly missed by everyone on both sides of the aisle.

Senator BILL SCOTT and I have had so much in common. We were elected to the House of Representatives on the same day and we were sworn into the Senate at the same time. Although Idaho and Virginia are separated by most of the continent, there is a great commonality among our people. Virginians, like Idahoans, still possess the conservative spirit of the nearly pioneers, and BILL represented his people ably. I am happy to call him my friend.

When I entered the Senate, I was told that I would get to know best those colleagues who serve on the same committees as I do. And that, as it turns out, is how I got to know DEWEY BARTLETT so well. If there is a more courageous figure in this body, I do not know who it is. As a Senator, he has served the people of this Nation innovatively and with enormous competence. As a man, he has been an inspiration to all who came in contact with him. If you were to write a textbook on the qualities which a Senator ought to possess, you could find no better model than DEWEY BARTLETT.

To these four Senators go my very best wishes and, on behalf of the people of Idaho, I say thank you for serving America so well.●

JOHN SPARKMAN

● Mr. CHURCH. Mr. President, it has been my privilege to serve in the Senate for nearly 22 years with JOHN SPARKMAN of Alabama. In all those years, I have known him as a friend, a valued colleague, and, unfailingly, as a gentleman.

But in paying tribute to him in these closing days of the 95th Congress, it is especially appropriate to comment upon his chairmanship of the Senate Foreign Relations Committee, for it is here that I have come to know him best.

When JOHN SPARKMAN announced his retirement earlier this year, I commented that he has presided over the committee during a period of transition, as the country moved from the end of our involvement in the war in Indochina to a new era of peace. These were the years during which Congress turned away from old habits of uncritical acceptance of Executive judgments in foreign policy to a more self-confident awareness of its own powers and responsibilities. The change often produced tension and strain. It fell to JOHN SPARKMAN, as chairman of the committee, to preside over this transition, and he has done so with patience, skill, and grace. He has provided an even hand of leadership, always scrupulously fair, always respecting the differing views of individual Senators, while guiding us toward resolution of the issues confronting us.

Let me add here a personal word. I am grateful to JOHN SPARKMAN for the support he has given to me in my own responsibilities on the committee. It has meant a great deal to me.

Mr. President, the Senate Foreign Relations Committee recently approved a resolution commending JOHN SPARKMAN for his service to the committee and for his constructive and nonpartisan approach to foreign policy issues, and it was my pleasure to host a recent reception in his honor. I think it is appropriate that the text of the resolution be printed in the RECORD, and I ask for its inclusion.

The resolution follows:

[Committee on Foreign Relations, United States Senate]

COMMITTEE RESOLUTION

Whereas Hon. JOHN J. SPARKMAN has been a member of the Committee on Foreign Relations since 1951 and has served as Chairman since 1975;

Whereas during his long service on the Committee he has taken a constructive and nonpartisan approach to foreign policy issues;

Whereas he has consistently worked to advance the cause of world peace;

Whereas during his service he has shown great compassion for the less fortunate of the world, particularly in the areas of economic development, housing, and other human needs;

Whereas as Chairman he has served with fairness, humility and thoughtfulness; and

Whereas Senator Sparkman will retire from the Senate at the expiration of the 95th Congress on January 3, 1979: Now, therefore, be it

Resolved, That the Committee on Foreign Relations expresses to John Sparkman its admiration, appreciation and high regard; and be it further

Resolved, That the Committee extends to Senator Sparkman its most sincere best wishes for the future.

THE COURT INTERPRETERS ACT

● Mr. MATHIAS. Mr. President, I am pleased to join with my distinguished colleague from Arizona (Mr. DECONCINI) in urging the Senate to accept the House version of S. 1315, the Court Interpreters Act. As author of S. 819, the Interpreters for the Hearing Impaired Act, as well as cosponsor of the original version of S. 1315 and its predecessor S. 565, I am happy to express my strong support for this legislation.

In recent years, Congress has considered a variety of proposals to insure equal access for all Americans to our Federal courts. Proposals dealing with increasing the number of Federal district and appellate judges, standing to sue, attorneys fees in Federal civil rights cases and suits against Federal, local and State governments for constitutional violations by their employees, all have been among the access issues debated in this and earlier Congresses. There are important proposals. They deserve our full and careful consideration. But, other less publicized access bills deserve attention too. One of these is the Court Interpreters Act.

Today, the phrase "equal access to justice" has little meaning for millions of Americans. Persons who are unable to speak or understand English or who suffer from a hearing impairment are incapable of participating effectively in Federal court proceedings. To these individuals, our existing statutory and constitutional rights, as well as those additional guarantees set forth in other pending proposals, are of little comfort. Only statutory assurances that they will be provided qualified interpreters, can assure that they will have access to justice. For the hearing impaired and those not able to speak English access to qualified interpreters is access to justice. S. 1315 is addressed to these individuals.

S. 1315 is an important step in our effort to provide effective interpretative services in our Federal courts. At the heart of this bill is the recognition that rules 28(f) and 43 of the Federal Civil and Criminal Rules of Procedure respectively, have been inadequate in insuring such services in the past. Rather than continuing the discretionary appointment provisions found in the rules, S. 1315 would require appointment of interpreters in civil and criminal cases initiated by the United States where it was determined that the person involved in the proceedings "speaks only or primarily a language other than the English language or suffers from a hearing impairment (whether or not also suffering from a speech impairment) and that either of the above may inhibit such party's comprehension of the proceedings of communication with counsel or the presiding judicial officer or that it may inhibit such witness' presentation of testimony.' Not only would this provision broaden the availability of interpreters, but—unlike the present rules—it would also provide uniform standards for such appointments.

Equally significant, the proposal would go far toward insuring the availability of qualified, competent interpreters. First, the bill places on the shoulders of the Director of the Administrative Office of the U.S. Courts responsibility to prescribe, determine and certify the qualifications of those seeking to be certified as interpreters in the Federal courts. Furthermore, the bill requires each district court to maintain a list of certified interpreters. Both of these changes significantly improve the existing rules.

The House-passed version of S. 1315 is a consolidation of my bill, S. 819, the Interpreters for the Hearing Impaired Act, with the original version of S. 1315. I originally introduced S. 819 because of my concern that S. 565, the predecessor to S. 1315, while protecting the non-English speaking, did not adequately protect the interests of the hearing-impaired. S. 565 would have limited the appointment of interpreters to individuals who did not speak and understand the English language. Thus the bill would have excluded from its coverage a totally deaf person who could speak English, but could not understand it. By specifically covering hearing impaired individuals, S. 1315 brings these physically handicapped persons within its purview. I am delighted that the bill now before the Senate, while not incorporating all of the key provisions of S. 819, does include this important language.

I would be remiss, Mr. President, if I did not thank Mr. Michael Chatoff for his aid in developing S. 819 and for his invaluable insights as S. 1315 made its way though Congress. His assistance in analyzing the myriad legal problems confronting the hearing-impaired and his work on a legislative response was of great value to me. Mr. Chatoff is himself deaf. Despite this handicap, he is a practicing attorney. Mr. Chatoff's work on behalf of the rights and interests of

the hearing-impaired is well known and is highly commendable.

I am convinced that the enactment of S. 1315 will be an important step toward providing access to our Federal courts for millions of Americans. Additional legislation will be needed to complete this important task, but we are on the right track at last.●

MURIEL HUMPHREY

● Mr. CHURCH. Mr. President, MURIEL HUMPHREY's decision to retire at the end of the 95th Congress is the Senate's loss. She has not only carried on the remarkable career of Hubert Humphrey, she has added her own insights, her strength of character, and her own personal warmth. It is not enough to say that Hubert Humphrey would have been proud; he knew all along what a fine woman she is.

Recently, the Senate Foreign Relations Committee passed a resolution commending Senator HUMPHREY on her service to the committee and the Senate. That resolution praises her "compassion and concern for the less fortunate of the world and (her) dedication to the cause of peace (which) have been hallmarks of her legislative efforts," and takes special note of her "unusual courage and determination on controversial foreign policy issues."

Mr. President, it was my privilege to have had the opportunity to serve with MURIEL HUMPHREY on the committee and in the Senate. I think it appropriate that the text of the committee resolution be printed in the RECORD at the conclusion of my remarks. I ask that this be done.

The retirement of MURIEL HUMPHREY brings to a close the "Humphrey era" in the Senate. I am saddened at her decision to leave. But for the future, I wish for her only the best: the pleasure of family and friends, good health and long life. As she leaves, she takes with her the gratitude of the people of Minnesota and the Senate itself for a job well done.

The resolution follows:

[Committee on Foreign Relations, United States Senate]

COMMITTEE RESOLUTION

Whereas Hon. MURIEL HUMPHREY has been a valued member of the Committee on Foreign Relations;

Whereas compassion and concern for the less fortunate of the world and dedication to the cause of peace have been the hallmarks of her legislative efforts;

Whereas she has exhibited unusual courage and determination on controversial foreign policy issues;

Whereas she has been a worthy successor to the Humphrey seat on the Committee on Foreign Relations;

Whereas Senator Humphrey is retiring from the Senate upon the expiration of the 95th Congress: Now, therefore, be it

Resolved, that the Committee on Foreign Relations expresses to Senator Muriel Humphrey its affection, appreciation and sincere best wishes for the future.

CONTRACTS DISPUTES ACT OF 1978

● Mr. PACKWOOD. Mr. President, as a coauthor of the Contract Disputes Act of 1978 (S. 3178), I have looked forward to this, the day of its Senate consideration, for some time.

I introduced my version of the Contract Disputes Act of 1977 (S. 2292) on November 3, 1977. This was based on my discovery, during a poll of last summer, that a full one-third of Oregon businessmen who had goods and services for sale had opted not to offer them to the Federal Government. I found these businessmen, who were all potential Government contractors, complained of paperwork not typical of other, nongovernment dealings, unprofessional agency officials who were hard to reach, late payments on completed work and, finally, expensive, protracted disputes on contract performance.

After chairing the Senate Small Business Committee in a number of hearings both in Portland and Washington, D.C. I confirmed that increasing numbers of businessmen are leaving Government contracting to others.

I find this a dangerous trend. Not only does it show inefficiency in Government. It shows that competition for Government procurement is declining. The trend can only result in reduced quality of Government goods and services and higher prices.

For this reason I took two actions to reverse this trend. Legislation I sponsored to compensate contractors for late Government payments is now a part of the Federal Acquisition Act on the Senate calendar. More than any other single measure, this late payment interest will clear up the delayed payment problem in Federal agencies.

Today, the Senate is on the verge of enacting the other major effort I coauthored to encourage businessmen to compete for Government contracts.

The Contract Disputes Act of 1978 is intended to clean up the contract dispute resolution process. It requires that a contractor be informed of certain decisions made regarding this contract. It encourages out-of-court settlements in order to avoid litigation expensive to both the contractor and the Government agency. The bill permits the contractor to elect the normal court system or an agency board of contract appeals to resolve his contract claims. Small claims would be dealt with more quickly, using easier, less-expensive procedures. Contractors would receive interest on amounts determined owed to them. Several other provisions will help as well.

This legislation would not have been possible without the guiding hands of Senator CHILES, chairman of the Governmental Affairs Subcommittee on Federal Spending and Senator METZENBAUM, chairman of the Judiciary Subcommittee on Shareholders Rights and Remedies.

I see no reason why I or any other Member of Congress should reduce efforts to make Government contracting a more viable enterprise for American businessmen. On the other hand, I am greatly encouraged by the action we take today.●

TRIBUTE TO SENATOR SPARKMAN

● Mr. EASTLAND. Mr. President, retiring Senator JOHN SPARKMAN, Democrat of Alabama, has just returned to Alabama after 42 years in the Congress. His return to Huntsville is a time for looking backward and forward—forward to the challenges of the future; backward to the triumphs of the past.

When SPARKMAN came to the House of Representatives in January of 1937, he represented the north Alabama tier of counties bordering the Tennessee River which makes a long crescent into Alabama between the Chattanooga and the northwest corner of Alabama where the river returns to Tennessee at the Mississippi line.

In the House, SPARKMAN was instrumental in bringing about enactment into law the Soldiers and Sailors Civil Relief Act of 1942 when he was on the House Military Affairs Committee. This law provided that financial obligations of servicemen could not be foreclosed during the time of their service in World War II. Millions of men were drafted on very short notice, often leaving their families in severe financial straits.

SPARKMAN served 10 years in the House and is still remembered for his accomplishments on the House Military Affairs Committee during the period 1936–46 when he played a part in drafting the GI bill of rights.

He was majoriy whip of the House.

SPARKMAN's first objective when he came to Congress was the development of Alabama's basic natural resources. He was an early champion of the Tennessee Valley Authority and low-cost electric power, of REA, which took this power into rural areas; fought for the funds to develop Alabama's waterways and to utilize fully the Port of Mobile. Modern highways and farm-to-market roads, essential to transportation of industrial products and farm commodities, found a staunch supporter in JOHN SPARKMAN. He is the only member of the present Alabama congressional delegation who was in Congress to vote and work for the Interstate Compact which enabled the States to establish the Tennessee-Tombigbee Waterway Authority.

In 1950 he was appointed by President Harry Truman as a member of the American delegation to the United Nations General Assembly.

In 1952 he was on the Democratic ticket for the position of Vice President with Gov. Adlai Stevenson heading the ticket.

In the 1952 bid for the Vice Presidency, SPARKMAN and Stevenson waged an admirable campaign against a formidable opponent, Gen. Dwight Eisenhower. Parents of 15 million servicemen were grateful for his leadership in World War II. "No one could have beaten him," SPARKMAN says. "We could have beaten any one else."

Even in losing, SPARKMAN and Stevenson racked up the largest number of votes ever received by losing candidates in a Presidential race. SPARKMAN helped carry the State of Alabama for Stevenson. Incidentally, when President Jimmy Carter won all of Alabama's electoral votes in 1976, it was the first time that a Democratic Presidential nominee had received all of Alabama's electoral vote since SPARKMAN and Stevenson received all of them in 1952. The SPARKMAN-

Stevenson total of 26,314,987 votes was even larger than the landslide victories of Franklin D. Roosevelt in the early 1940's.

SPARKMAN represented his House district and its interests well, so well that in 1946, when Senator Bankhead died, SPARKMAN defeated two strong men, both known statewide, for the unexpired portion of the Bankhead term. In a unique combination of circumstances, JOHN SPARKMAN thus became the Democratic nominee for two congressional seats: Congressman from his north Alabama district and Senator from the State. Because the House seat would go by default to the Republican contender if the Democratic nominee withdrew, SPARKMAN was asked to remain on the ticket in both spots, and was duly elected, in November, to both House and Senate. He then resigned the House seat.

Since coming to the Senate SPARKMAN has become known as the champion of small business for his efforts to give small firms an even break in America's marketplaces.

When Vice President Alben Barkley selected SPARKMAN as chairman of the newly established Senate Select Committee on Small Business in 1950, many complex problems stood in the way of the small firms' ability to survive. During SPARKMAN's chairmanship from 1950 until 1967, except for 1953 and 1954 when the Republicans controlled Congress, SPARKMAN authored and guided into law the Small Business Act of 1953, the Small Business Investment Act of 1958, the Small Business Tax Act of 1958, and the Small Business Amendments of 1966–67.

At a recent celebration commemorating the 20 years that the Small Business Investment Act has been operative, SPARKMAN noted that this one program, of many administered by the Small Business Administration, has produced $3 billion in capital and credit to over 40,000 U.S. small businesses.

SPARKMAN is often referred to as "Mr. Housing" for his efforts to give America's families decent housing in a decent environment.

As the acknowledged Senate leader in the field of housing, Senator SPARKMAN has been personally responsible for housing programs which over the past 25 years have assured modern new homes for thousands of Alabamians and millions of Americans.

"Decent, safe, and adequate shelter is just as necessary to the American family as is food, medicine, or clothing," SPARKMAN contends. Since World War II nearly every person in the United States has been touched in some way by legislation, either sponsored or supported by SPARKMAN, to provide adequate housing.

When he leaves the Senate officially on January 2, 1979, he will be vacating the chairmanship of the Senate Foreign Relations Committee, a position he has held since 1975. Other positions of leadership which he will vacate include chairman of the Senate Housing Subcommittee and chairman of the Senate Office Building Commission.

In the past he has been chairman of the Senate Committee on Banking, Housing and Urban Affairs; the Senate Select Committee on Small Business; and the Joint Committee on Defense Production. He is top ranking Democrat on the Joint Economic Committee.

When he became chairman of the Senate Foreign Relations Committee, Senator SPARKMAN brought with him years of experience in that field, including long periods during which he was acting chairman. While chairman he put through the Senate many different measures for establishing better relations with other countries aiming for peace throughout the world.

The Alabama Senator has taken part in many significant international events. SPARKMAN was one of the four American signers of the Japanese Peace Treaty along with then-Secretary of State John Foster Dulles. He witnessed the signing of the Nuclear Test Ban Treaty in Moscow. He witnessed the signing of the Panama Canal Treaty in Panama.

In January 1977, Senator SPARKMAN's colleagues in the Senate honored him with a reception marking 40 years of service in the Congress. Several months later, a dinner honoring the Senator at the Washington home of former Vice President Nelson Rockefeller honored the Senator and kicked off a drive to create a Sparkman Chair of Law and World Commerce at the University of Alabama.

A special Sparkman Room has been created at the University of Alabama in Tuscaloosa to house and enshrine hundreds of plaques and other material memorializing the services in many fields rendered by the Senator from Alabama.●

OLDER PERSONS' PROBLEMS

● Mr. CURTIS. Mr. President, it concerns me very deeply that we should again be told during the closing week of the 95th Congress about the difficulties being experienced by a few Americans, especially the elderly, in meeting their medical expenses. Because the elderly are often singled out as being the most displeased, I would like to call the attention of my colleagues to the results of a survey recently conducted in my State of Nebraska which shows just the opposite.

It is significant because the State ranks fifth among the 50 in percentage of older people in its population. So that you may have the benefit of these findings, I ask to have printed in the RECORD an article from the Omaha World Herald of October 13, 1978.

The article follows:

MOST OLDER PEOPLE IN POLL ARE SATISFIED WITH THEIR LIVES

(By Jim Flanery)

Sixty-two percent of those willing to talk about it reported personal incomes under $5,400 a year.

Fifty-one percent said they were sometimes or often lonely.

And relatively small percentages participated in a number of programs supposedly geared to their needs.

But when these same 1,720 Nebraskans age 60 and over were asked about their lives overall, 94 percent said they were fairly or very satisfied.

That was a key result in a just completed statewide telephone survey for the Nebraska State Commission on Aging.

"We have stereotypes about older people that they should be miserable, unhealthy and displeased," said Heather Hong, commission coordinator of research, planning and evaluation.

POSITIVE IMAGE

"This survey pinpointed problem areas for older people, but it also presented a fairly positive image about them," Mrs. Hong said.

The latest data available indicate that Nebraska ranks fifth among the 50 states in percentage of older persons in its population.

Self-sufficiency and stability were the most evident themes defining older Nebraskans' lives, said Doug Evans, a partner in a Lincoln research firm which conducted the survey.

"In large part, older people didn't participate in a number of programs because they believed in taking care of themselves," said Evans. Informal support systems—family, relatives and friends—often appeared to be more important to those surveyed than formal associations, he said.

In the commission's five-county eastern Nebraska region, including Omaha, the survey indicated that percentages of older persons participating in formal programs often fell far short of the percentages aware of thoso programs.

For example, 85 percent of the 215 persons surveyed in the five counties said they had heard of senior citizen centers and 16 percent had used them.

Fifty-three percent had heard of home health care programs, and 1 percent had participated. Seventy percent had heard of handyman repair services, and 6 percent had used them.

The survey indicated similar participation rates statewide.

"Part of the explanation is that a particular need does not exist for a large proportion of older persons," said Mrs. Hong.

Also, "if people feel the program is a handout or charity sometimes they think it would be against their dignity to use the program," she said.

Stability also was evident, as 66 percent of those questioned statewide said they had lived in the same household 10 or more years. Forty-four percent said they had been in the same home 20 years or more. Seventy-seven percent owned their residences.

"NO PROBLEM"

Money, health and crime were ranked by those queried as their biggest problems. Still, a majority said "no problem" when asked about these three problem areas and seven others.

Eastern region respondents more frequently cited money, health, crime and transportation as problems. Crime, for example, was described as "some problem" or a "big problem" by 23 percent of those questioned in this region and 14 percent polled statewide.

But even in the eastern region, the majority in every case said "no problem" when asked about the 10 problem areas.

Older persons' problems

Area	No Problem	Some	Big
Money	61	30	9
Health care	84	13	3
Housing	94	4	1
Transportation	88	9	3
Getting more education	95	5	1
Age discrimination	93	3	1
Job opportunities	91	7	2
Spare time activities	92	7	1
Crime	86	11	3
Nutrition and food	96	3	1

Other statewide results from those surveyed:

Eighty-four percent said they had never seriously considered moving to housing designed for the elderly.

Ninety-five percent said they could get to places they wanted or needed to go. Ninety percent said that in the Omaha-dominated eastern region. But slightly more than a third of those queried in the region said they would use an efficient, reasonably priced form of public transportation.

Ninety-five percent said they had no problems receiving medical care and 88 percent said they felt "average" or "better than average." Twenty-six percent said they had been in a hospital the last year. The poor were more inclined to report problems in getting care. In the Omaha region, black respondents appeared more likely to see doctors more frequently.

Eighty-four percent of those queried reported eating three meals a day. The figure was 76 percent in the Omaha region, however.

A survey indicated a kind of nutritional "blueprint for survival," Evans said. Sixty percent in the poll said they hadn't eaten candy or snack foods the previous day and 86 percent said the same about beer, wine or other alcohol.●

JAMES PEARSON

● Mr. CHURCH. Mr. President, for the past 8 years it has been my privilege to serve on the Senate Foreign Relations Committee with JIM PEARSON of Kansas, who is now retiring after 16 years of service in the Senate.

JIM PEARSON'S contributions to his State and country have been many and varied, and he can take a great deal of pride in the accomplishments of his years of service representing the people of Kansas in the Senate.

But I would like to pay special tribute to his work on the Foreign Relations Committee, where I have come to know him best.

The Foreign Relations Committee, in a tradition that dates back decades, has taken care to preserve its nonpartisan approach to American foreign policy. The tradition of the committee has been to do what is best for the country. The strains and tensions that have come from service on the committee—especially in the years of the Vietnam war and those just following—have more often been the result of confrontation with the executive branch than as a result of partisan differences among members.

It is in that tradition that JIM PEARSON has served the committee, and the Senate, so well. A gentleman always, his word has always been his bond, and I will miss his counsel and his friendship.

Mr. President, the committee recently passed a resolution that takes note of Senator PEARSON'S service, and which commends "his decency, compassion and wisdom (which) have enhanced the work of the Committee." It was also my honor to host, with Senator JAVITS, a recent luncheon in honor of Senator PEARSON and other retiring members of the committee. The resolution and the luncheon are but small tokens of the esteem in which he is held. I ask that the text of the resolution be printed in the RECORD at the conclusion of my remarks.

For the future, Mr. President, I wish for JIM PEARSON only the best in the years to come.

The resolution follows:

[Committee on Foreign Relations, United States Senate]

COMMITTEE RESOLUTION

Whereas Hon. JAMES R. PEARSON has been a member of the United States Senate since 1962 and a member of the Committee on Foreign Relations since 1971;

Whereas his decency, compassion and wisdom have enhanced the work of the Committee; and

Whereas his service was marked by a sincere concern for humanity, as seen in his efforts to deal with such global problems as world hunger and arms control; and

Whereas his efforts to improve the formulation and implementation of foreign policy resulted in his contributions to the Murphy Commission and in such measures as the Assignment America Program, better known as the "Pearson Amendment";

Whereas Senator Pearson is retiring from the Senate upon expiration of the 95th Congress on January 3, 1979: Now, therefore, be it

Resolved, that the Committee on Foreign Relations expresses to Senator James B. Pearson its admiration, appreciation and high regard; and be it further

Resolved, that the Committee extends to Senator Pearson its most sincere best wishes for the future.

MESSAGE ON INFLATION

● Mr. McCLURE. Mr. President, I wish to bring to the attention of the Senate an excellent article which appeared in the Journal of Commerce (in Boise) on September 25, 1978. Entitled "Message on Inflation," it is written by Robert L. Andersen, a distinguished Idahoan and president of the Idaho Bankers Association. I believe my colleagues in the Senate will find this perceptive article to be an articulate reminder of the need to exercise self-discipline as we work to control runaway spending and overregulation. Therefore, Mr. President, I am submitting Mr. Andersen's article to the RECORD and urge each Member to give it a careful reading. I ask that the article be printed in the RECORD.

The article follows:

MESSAGE ON INFLATION

(By Robert L. Andersen)

Inflation is the number one concern of the American people today.

If everyone is so concerned about rising costs and prices, why can't we do something to bring them under control?

The problem is the way we consider inflation. Everybody knows inflation is a problem of economics—but it is also a problem of politics. The hard facts of life have taught us that regardless of the source of the problem, the solution can only be reached through actions that have unavoidable political consequences.

The most important of these actions concerns the federal budget. We are now in the fourth year of an economic expansion, but we are still running deficits in our federal budget. That's almost a guarantee of a continued rise in prices.

When President Carter submitted his budget for fiscal year 1979 last January, the proposed deficit was $61 billion. By late July the Administration had trimmed its proposed deficit to $43.5 billion.

But Congress holds the purse strings for the federal government. Both the House and the Senate must soon approve a budget resolution to establish a ceiling on federal spending—and a ceiling on the federal deficit—for the coming year. It is the only time during the year when Congress must vote on both spending and revenues at the same time.

That's where we, the people, enter the picture—because Congress and the federal government do not act in a vacuum. They act in response to what they hear from their constituents—and what they hear is confusion. There are loud sounds of taxpayer revolts clashing against the cries for most special interest spending programs.

Cities want revenue sharing funds; farmers want price supports; welfare groups want more funds for the needy; older Americans want larger Social Security payments; bankers want loan guarantees for high risk loans; educational institutions want more federal grants. We Americans have become experts at pleading the case for our own special interests, but no one speaks out for the nation as a whole.

In the past, we have all asked for something from Uncle Sam, but we didn't ask the cost. The result has been a ballooning budget deficit and finally, inflation.

Well, now we know the cost, and an increasing number of Americans are saying, "No more." They want an end to inflationary budget deficits—even if it means cuts in their own special programs. They recognize the need to make short-range sacrifices to win the long-range prize; an end to inflation and a return to honest money.

Nobody is under any illusion that inflation can be stopped quickly. It took years for inflation to worm its way into our economy; it will take years for us to root it out.

Nor does anyone believe that ending federal budget deficits is the only thing that will put a stop to spiraling prices. Increasing productivity, eliminating unnecessary federal regulations, minimizing our dependence on foreign oil—all will help bring inflation under control.

But bringing an end to federal deficits clearly has top priority in much of the voting public's mind—even at the cost of some short-term discomfort. We, each of us, need to communicate that feeling to our legislators in Washington. With elections coming up in November, our representatives on Capitol Hill should be mindful of this shift in their constituents' views.●

IMPORTANT CHANGES IN PENSION LAWS

● Mr. HELMS. Mr. President, the Senate acted properly in approving the Revenue Act of 1978 containing a number of changes in the tax treatment of contributions to pension plans. I support these changes which will make it easier for employers and employees alike to build solid pension programs for the retirement security of the working men and women in this Nation.

Many citizens of North Carolina have thought ahead, and have taken advantages of present provisions in the Tax Code to provide retirement programs. Many citizens throughout the Nation who participate in these programs will want to know the change in the law, and access to the CONGRESSIONAL RECORD should provide that information to them.

Mr. President, for this reason, I submit for the RECORD an explanation of some of the changes in the pension laws.

The material follows:

1. Deduction for employee retirement savings contributions (Sec. 151 of the bill and Sec. 221 of the Code).

Under the bill, an active participant in a qualified retirement plan may make a deductible contribution either to that plan or to an IRA. However, deductions for contributions are not available to participants in

government plans (whether or not qualified), in tax-sheltered annuities or to self-employed individuals who are participants in an "H.R. 10" plan.

The deductible amount is limited to 10 percent of the employee's compensation for the taxable year. Furthermore, the deductible amount is subject to a dollar limitation which depends upon the nature of the contribution. In the case of voluntary contributions, the deductible amount may not exceed $1,000; in the case of mandatory contributions the deductible limitation is $100. Thus, for example, if an employee made mandatory contributions of $200 and voluntary contributions of $1,100 for a taxable year, the deduction would be limited to $1,000 (the deduction would be allowed first for the mandatory contribution (up to $100) and the balance of the deduction would be allowed for the voluntary contributions up to a total of $1,000). The reduced limitation with respect to mandatory contributions makes the benefits of the provision available to participants in existing or new plans with mandatory contributions, but does not encourage the shifting of the burden of providing a substantial portion of total benefits under the plan from the employer to the employee.

2. Simplified pension plans (sec. 152 of the bill and secs. 219, 401, 404, and 408 of the Code)

Employee deduction.—If an employee establishes and maintains an individual retirement account or an individual retirement annuity which meets the requirements of the bill, the limitation on deductions for contributions to the account is increased to the lesser of $7,500 or 15 percent of the employee's earned income for amounts contributed to his or her employer to the account or annuity. The limits on employee contributions to an account or annuity are not changed by the bill. For example, if the employer contribution to an employee's account is less than the usual limit on deductible contributions by the employee for a year, the employee could make additional contributions that year to make up the difference. On the other hand, the employee could not make additional deductible contributions to the account for a year in which the employer contributions exceed the usual limits. In the case of an employee who is an officer or shareholder, or in the case of an owner-employee, the deduction limit is reduced if Social Security taxes are treated as employer contributions. (See additional requirements, below.)

The employee's deduction for amounts contributed by his or her employer to an individual retirement account or individual retirement annuity would be allowed even though the employee is an active participant in a qualified plan, a governmental plan, or a tax-sheltered annuity. However, make-up contributions would not be allowed.

GAO REPORTS ON LABOR DEPARTMENT

● Mr. NUNN. Mr. President, during October and November of 1977, the Senate Permanent Subcommittee on Investigations held 11 days of public hearings which exposed abuses in the awarding and administration of insurance contracts involving labor union health and welfare plans including the Teamster Central States Health and Welfare Fund. During the hearings, facts were uncovered which raised questions as to the Labor Department's effectiveness in the detection and investigation of criminal violations of the labor laws. The laws the subcommitte was most concerned with were the Labor Management Reporting and Disclosure Act (LMRDA) and the Employe Retirement Income and Security Act (ERISA).

On November 29, 1977 as vice chairman of the subcommittee, and with the concurrence of Senator PERCY, the ranking minority member, I asked the General Accounting Office to conduct its own inquiry in this field. The subcommittee's primary concern was to obtain the view of GAO on the responsibilities of the Department of Labor for the detection and investigation of criminal violations of LMRDA and ERISA and on whether they are adequately discharging those responsibilities.

Mr. President, I request that my letter dated November 29, 1977 to Elmer B. Staats, Comptroller General of the United States, General Accounting Office, and his acknowledgment, dated December 7, 1977, be printed at this point in the RECORD.

The letter follows:

U.S. SENATE,
Washington, D.C., November 29, 1977.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. COMPTROLLER GENERAL: The Permanent Subcommittee on Investigations of the Senate Governmental Affairs Committee has initiated an inquiry into the effectiveness of the Labor Department in the investigations of criminal violations of statutes pertaining to labor organizations (LMRDA) and labor union pension and welfare benefit programs (ERISA).

Since this inquiry contemplates the holding of public hearings sometime early in 1978. I would like to request the assistance of the General Accounting Office in examining how the Labor Department is organized and staffed to meet these responsibilities. Specifically, the General Accounting Office is requested to determine whether the responsibilities of the Labor Department for the detection and investigation of criminal violations of statutes pertaining to labor organizations (LMRDA) are clearly defined. Secondly, GAO is requested to determine whether the Department's present organizational structure, procedures, and manning are such that it is able to fully discharge these responsibilities. In this connection, your inquiry should include, but not be limited to, the following questions:

1. Whether the Labor Department, through the LMRDA reporting system, through its auditing function and other means has an adequate system for detecting criminal violations of labor union statutes (LMRDA).

2. Who has the authority to initiate criminal investigations pertaining to LMRDA; to assign priorities and to assign manpower?

3. Is the manpower available to handle criminal investigations and related audits adequate in terms of numbers, training and experience?

4. How are cases referred to the appropriate United States Attorney for prosecution?

5. Is the appropriate United States Attorney consulted before a criminal investigation is initiated and during the course of the investigation for proper guidance and to avoid unnecessary expenditure of manpower?

6. Are criminal investigations closed administratively within the Labor Department without consultation with the United States Attorney?

7. Is there any existing policy statement indicating that the Department gives priority to civil enforcement procedures over criminal prosecution in cases of statutory violations?

The General Accounting Office is also asked to make the same inquiries and determinations concerning the Department's responsibilities in regard to criminal violations of the statutes pertaining to labor union pension and welfare benefit programs (ERISA).

It is suggested that the General Accounting Office might, as a preliminary step, examine into the above matters at a representative Labor Department Regional Office and arrange for an informal review of the results obtained with the Subcommittee staff about January 15, 1978. At that time, it would be possible to fix the date and the format for the final GAO report in this matter.

Sincerely,

SAM NUNN,
Vice Chairman.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., December 7, 1977.

Hon. SAM NUNN,
Vice Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. VICE CHAIRMAN: We have received your letter of November 29, 1977, requesting GAO look into how the Labor Department is organized and staffed to meet the investigation of criminal violations of statutes pertaining to labor organizations (LMRDA) and labor union pension and welfare benefit programs (ER'SA). This has been referred to our Human Resources Division.

Sincerely yours,

R. F. KELLER,
Deputy Comptroller General of the United States.

Mr. President, the final report by the GAO, dated September 28, 1978, has been completed and is being made public today.

The GAO report says that the responsibilities of the Department of Labor and Justice regarding criminal violations of LMRDA and ERISA are clearly defined, and that the Department of Labor is primarily responsible for detecting and investigating criminal as well as civil violations of both laws. The actual investigations of possible violations are performed in accordance with agreement entered into between the Departments of Justice and Labor. However, GAO reports that most of the Labor Department's efforts and priorities in 1977 dealt with other than potential criminal violations of LMRDA and ERISA; that the Department of Labor uses its national office computerized reporting process and desk audit system principally to achieve voluntary compliance with the laws; that the systems only identify potential criminal violations which are voluntarily disclosed and are not designed to assure that reported data is valid; and that weaknesses exist in the investigation and audit activities in Labor's area offices.

The GAO reports that there is insufficient staff at the Labor Department to enforce LMRDA and ERISA and that what staff personnel are available are inadequately trained.

Very significantly, I think, GAO found a lack of sufficient field audit work by Labor Department staff at labor organizations and pension plan offices. Little investigative effort was expended to follow up on deficient reports submitted by labor organizations or welfare plans. According to GAO investigators, there is a lack of coordination between the Labor Department staff making investigations

under the two acts. GAO inquiry also reveals inadequate coordination between the Labor and Justice Departments in the investigation of cases with potential criminal violations.

I am very disappointed to learn from the report that the Department of Labor is doing so little to protect the assets of unions and pension and welfare funds. GAO's observations in this regard are particularly disturbing because involved here are about 500,000 private plans covered by ERISA with about 57 million participants and assets of $280 billion and 57,000 labor organizations covered by LMRDA with 21.6 million members.

On March 1, 1978, the subcommittee requested the American Law Division, Congressional Research Service, Library of Congress, to perform a study as to the intent of Congress when it conferred investigative authority on the Secretary of Labor under LMRDA and ERISA.

Mr. President, I ask unanimous consent that the letter from Owen Malone, Chief Counsel of the subcommittee, of March 1, 1978, to the Library of Congress and the Library's response, dated April 13, 1978, be printed in the RECORD at this point.

U.S. SENATE,
Washington, D.C., March 1, 1978.

CHIEF,
American Law Division, Congressional Reference Service, Library of Congress, Washington, D.C.

Attention: Mr. Vincent Tracy

DEAR MR. TRACY: The Senate Permanent Subcommittee on Investigations is engaged in an authorized inquiry into the effectiveness of Department of Labor programs for the detection, investigation and prosecution of the criminal provisions of statutes regulating the activities of labor unions and labor-management pension and welfare benefit plans.

Specifically, the Subcommittee seeks to evaluate the performance of the Department of Labor in this field. In order to do this, it is necessary to determine what responsibilities have been placed on the Department of Labor. The enforcement of criminal statutes involves three major functions: the detection of potential violations; the investigation of potential violations after detection; and finally, the actual prosecution by indictment and trial based on witnesses and documentation developed in the investigation.

The purpose of this letter is to request the American Law Division to perform certain research to ascertain and define the intent of Congress when it passed certain pertinent legislation.

Public Law 86–257, the Labor-Management Reporting and Disclosure Act of 1959 (Landrum-Griffin Act) applies to labor organizations. Pertinent sections are:

29 USC 186 Restrictions on Payments and Loans (Kickbacks, etc.).

29 USC 431, 432, 433, and 438 Reporting Requirements.

29 USC 439 Reporting Violations.

29 USC 463 Unlafwul Acts During Trusteeship.

29 USC 501c Embezzlement.

29 USC 502 Bonding Violations.

29 USC 503 Loans to Officers and Employees: Payments of Fines.

29 USC 504 Prohibition Against Certain Persons Holding Office.

It is requested that the American Law Division review the legislative history (hearings, reports, debates, etc.) leading to Public Law 86–257 to determine, if possible, the intent of Congress respecting the responsibility of the Department of Labor to detect violations of the penal provisions set out above. Specifically, we wish to know whether Congress, in setting up the system of reports described in paragraphs 431, 432, 433 and 438, intended that this reporting system was to be a major or the major tool for detecting violations such as embezzlement, kickbacks, bribery, illegal loans, etc.

It would seem that when Congress required the Labor Department to establish and administer a system of annual reports describing the financial status and financial transactions of unions and pension and welfare plans that Congress also intended that the Department of Labor monitor these reports and, through appropriate reviews and audits, determine whether any questionable or illegal transactions had occurred. Any information in the reports and debates touching on this subject, namely, the Department's role in monitoring the reports and auditing of the books and records, will be helpful. Further, any evidence of Congress' intent concerning the handling of potential criminal violations, to whom they should be referred for investigation and any time limitation on how quickly this referral should be made would be significant. Finally, any discussions which define the duties and responsibilities of Labor Department Compliance Officers assigned to investigate violations should be set out.

Concerning pension and welfare plans, the pertinent statutes are the Welfare and Pension Plans Disclosure Act of 1962, Public Law 87–420, and the Employee Retirement Income Security Act of 1974, Public Law 93–406 (ERISA).

In these statutes, the Congress has established comprehensive disclosure and reporting requirements applicable to covered plans, including disclosure of financial transactions, to be administered by the Department of Labor. These Acts also include a number of criminal provisions relating to theft or embezzlement (18 USC 664), false statements and concealment of facts (18 USC 1027), and offer, acceptance or solicitation to influence operation of an employee benefits plan (18 USC 1954).

Here again, we are interested in obtaining a clear definition of the Department of Labor's statutory obligation to detect, investigate and prosecute criminal violations.

Based on the legislative history, we want to ascertain whether Congress intended that the system of financial reports required by this legislation be used as a major or the major means of detecting potentially criminal financial transactions and whether Congress intended that the Department of Labor monitor and audit pension and welfare plans to detect criminal violations of the law. Also, and again based on the legislative history, we want to ascertain which agency (i.e., the Department of Labor or the Department of Justice) the Congress intended to have the responsibility for investigating criminal violations, and how and when referrals of potential criminal cases were to be made to that agency.

PRESIDENT'S ORGANIZED CRIME PROGRAM

Another aspect of the Subcommittee's inquiry has to do with the extent of Department of Labor participation in the President's Organized Crime Program.

In 1969, the President's Program Against Organized Crime was established and the Department of Labor became an integral part of this program with specific responsibilities in the area of labor racketeering. Labor was to supply manpower, both professional and clerical, to conduct investigations of labor racketeering under the direction of Justice Department Strike Forces.

We are particularly interested in ascertaining the extent of the Labor Department's manpower commitment to the Organized Crime Program over the years. Information has been received that the Labor Department has budgeted the following number of positions within its Labor Management Services Administration for full-time support for the President's Program Against Organized Crime.

Fiscal year	National office		Field		Total	
	Professional	Clerical	Professional	Clerical	Professional	Clerical
1974	30	53	71	11	101	64
1975	30	53	71	11	101	64
1976	30	53	71	11	101	64
1977	30	53	71	11	101	64
1978						

It is requested that the Department of Labor budget requests and appropriations for the Labor Management Services Administration (LMSA) be examined for fiscal years 1974 through 1978 to determine what funding for personnel was requested and appropriated for LMSA participation in the Organized Crime Program. The Subcommittee wishes to ascertain whether the personnel commitment evidenced by the foregoing table is consistent with the Department's budget requests and the action of the Appropriations Committees. It will be helpful in this respect if your research can also include the pertinent Senate and House appropriation hearings. The Subcommittee wants to know what representations were made to the Appropriations Committees by Labor Department representatives in support of the Department's participation in the President's Organized Crime Program during the period in question.

In that early hearings on this inquiry are anticipated, it is requested that a report and supporting documentation covering this research be made available to the Subcommittee by March 15, 1978.

Sincerely,

OWEN J. MALONE,
Chief Counsel.

THE LIBRARY OF CONGRESS,
Washington, D.C., April 13, 1978.

To: Senate Subcommittee on Permanent Investigations Attention: Owen Malone; John Walsh.

From: American Law Division.

Subject: Investigative Authority of Secretary of Labor under LMRDA and ERISA.

This memorandum is in response to your letter of March 1, 1978, requesting research on the intent of Congress when it enacted legislation conferring investigatory authority on the Secretary of Labor. The specific statutes involved are the Labor-Management Reporting and Disclosure Act of 1959, (Landrum-Griffin Act), enacted as Public Law 86–257, 73 Stat. 519, Sept. 14, 1959, codified at 29 U.S.C. §§ 401 *et seq.* (hereinafter cited as LMRDA) and the Employee Retirement Income Security Act of 1974, enacted as Public Law 93–406, 88 Stat. 829. Sept. 2, 1974, codified at 29 U.S. §§ 1001 *et seq.* (hereinafter cited as ERISA).

A related statute is the Welfare and Pension Plans Disclosure Act, Public Law 85–836, 72 Stat. 997, Aug. 28, 1958, codified at 29 U.S.C. §§ 301 *et seq.* (hereinafter cited as WPPDA). Section 111 of ERISA provides that the WPPDA is repealed, "except that such Act shall continue to apply to any conduct and events which occurred before the effective date of this part." 29 U.S.C. § 1031. Section 111 also amended three criminal provisions contained in Title 18 of the U.S. Code by making them applicable to employee benefit plans subject to Title I of ERISA instead of plans subject to WPPDA. See 18 U.S.C. § 664 (theft or embezzlement); 18 U.S.C. § 1027 (false statements and concealment of facts); and 18 U.S.C. § 1954 (offer, acceptance, or solicitation to influence operation of an employee benefit plan).

Because of the complexity of the questions presented, we will first set forth the relevant portions of the legislative histories of LMRDA

and ERISA (including extensive extracts), and then analyze the specific questions raised in your letter.

LEGISLATIVE HISTORY

1. Labor Management Reporting and Disclosure Act of 1959 (LMRDA).—The investigative authority of the Secretary of Labor under the LMRDA is set forth in section 601 of the Act (29 U.S.C. § 521):

INVESTIGATIONS

SEC. 601. (a) The Secretary shall have power when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act (except title I or amendments made by this Act to other statutes) to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

(b) For the purpose of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

This provision originated as section 106(c) of S. 505 in the 86th Congress, 1st Session. As introduced in the Senate on January 20, 1959, it provided:

(c) The Secretary shall have the power and is directed, when he has probable cause to believe that any person or labor organization has violated any provision of this title, to make an investigation and in connection therewith he may enter such places and inspect such records and accounts as may be necessary to enable him to determine the facts relative thereto. If any person shall fail to refuse to file a report required by this title, the Secretary shall make a full investigation and report to the members of the labor organization concerning the facts required to be shown in the report and concerning the reasons for such failure or refusal to file. The Secretary is authorized in his discretion to publish information concerning any such violations and to study such facts, conditions, practices, or matters, and publish such reports, as he may deem necessary or proper to aid in the enforcement of the provisions referred to or in the prescribing of rules and regulations thereunder.

This section was amended by the Senate Committee on Labor and Public Welfare to read as follows:

(c) The Secretary shall have power and is directed when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act or any rule or regulation authorized by this Act (except amendments made by this Act to other statutes), to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested persons or officials concerning the facts required to be shown in the report and concerning the reasons for such failure or refusal to file or any other matter which he deems to be appropriate as a result of such investigation.

S. 1555, 86th Cong., 1st Sess. (1959).

The Committee minority explained the reasons for this amendment as follows:

Section 106(c): The Secretary shall have the power and is directed when he believes it necessary in order to determine whether anyone has violated or is about to violate a provision of this bill to make investigations.

As originally worded, this section would have given the Secretary the authority to investigate the books and records of persons reporting under the act only when he had probable cause to believe that a person had violated provisions of the act. On the surface, the term "probable cause" would appear to give the Secretary all the investigatory power that he needed. But the words "probable cause" would throw a monkey wrench into the Secretary's investigatory machinery. Probable cause means more than mere suspicion that the act has been violated. To have probable cause, a person must have such evidence as would lead the ordinary prudent man to believe that the act has been violated. Consequently, every time he commenced an investigation the Secretary could be dragged into court until the question of probable cause had been decided. Under nearly every statute requiring the filing of reports, such as the Internal Revenue Act and the Fair Labor Standards Act, the Administrator can conduct "spot check" investigations unhampered by the "probable cause" requirement. Our amendment rewrites this section to give the Secretary investigatory power when he believes it necessary in order to determine whether a violation has occurred or is about to occur.

S. Rep. No. 187, 86 Cong., 1st Sess. 90 (1959).

The Committee majority set forth the following overview of the Secretary's authority in its Report:

POWERS OF THE SECRETARY OF LABOR

The committee bill places heavy reliance upon reporting and disclosure to union members, the Government and the public to effect correction of abuses where they have occurred. However, the bill also endows the Secretary of Labor with broad power to insure effectuation of its objectives. While other sections of this report have referred to the role and power of the Secretary, this section recapitulates this power.

(1) The Secretary is empowered to receive, examine for accuracy, and complete information based on reports filed with him by unions, union officers, and employers covering union administrative and financial practice, trusteeships, union officer conflict of interests, employers expenditures and middlemen activity to interfere with the rights of employees under the National Labor Relations Act.

(2) The Secretary is empowered to prescribe regulations necessary to carry out his responsibilities under the act including forms and time of filing of reports, manner of distributing union reports to union members, the time and manner of keeping records to substantiate reports required by the act, prescription of simplified forms of reports and prescribe standards determining the adequacy of procedures for the removal of officers. All of the rulemaking power of the Secretary is subject to the safeguards against unreasonable regulation which is prescribed by the Administrative Procedure Act.

(3) The Secretary is also authorized to take certain actions to enforce the provisions of the bill or otherwise insure maintenance of minimum standards. He has power to—

(*a*) bring civil injunctions to compel compliance with the reporting provisions of the act;

(*b*) prosecute criminally persons who fail to file reports under the act or file falsely;

(*c*) make investigations, armed with subpena power, to determine whether there has been any violation of the act;

(*d*) investigate complaints regarding improperly held trusteeships and bring civil suits to restrain such violations;

(*e*) investigate violations of the elections provisions and bring court actions to overturn improperly held elections and supervise conduct of new elections;

(*f*) bar persons who violate the reporting provisions of the act from holding office.

The committee believes that the broad powers granted to the Secretary by this bill combined with full reporting and disclosure to union members and the public provides a most effective combination of devices by which abuses can be remedied.

S. Rep. No. 187 at 34.

With regard to the relationship between the reporting requirements and the Secretary's investigative powers, the Senate Report stated:

If any person who is required to make a report under this title fails to file or files a report which the Secretary of Labor believes is incomplete or false, the Secretary is directed to institute a full investigation armed with the power of subpena and to make a report to persons having a legitimate interest in such information. This provision insures that union members will have all the vital information necessary for them to take effective action in regulating affairs of their trade union, either through voluntary compliance of the labor organization with the reporting requirements of the act or as a result of investigation and reports by the Secretary of Labor.

S. Rep. No. 197 at 9.

The Senate passed S. 1555 on April 25, 1959 by a vote of 90 to 1. The language of section 106(c) was unchanged from the Committee version.

On the House side, the investigative responsibilities of the Secretary were contained in section 601(a) of H.R. 8342:

Sec. 601. (a) The Secretary shall, when he has probable cause to believe that any person has violated any provision of this Act, other than a provision of title I, make an investigation, and in connection therewith he may inspect such records and accounts as may be necessary to enable him to determine the facts relative thereto.

H.R. 8342, 86th Cong., 1st Sess. (1959)

The Report of the House Committee on Education and Labor described the Secretary's powers in the following terms:

POWERS OF THE SECRETARY OF LABOR

The committee bill places heavy reliance upon reporting and disclosure to union members, the Government, and the public to effect correction of abuses where they have occurred. However, the bill also endows the Secretary of Labor with power to insure effectuation of its objectives. While other sections of this report have referred to the role and power of the Secretary, this section recapitulates this power.

(1) The Secretary is empowered to receive, and examine for accuracy, information based on reports filed with him by unions, union officers, and employers covering union administrative and financial practice, trusteeships, union officer conflict of interests, employer expenditures and middlemen activity to interfere with the rights of employees under the National Labor Relations Act.

(2) The Secretary is also authorized to take certain actions to enforce various provisions of the bill and insure maintenance of minimum standards. He has power to—

(a) bring civil injunctions to compel compliance with the reporting provisions of the act;

(b) make investigations, armed with subpena power, to determine whether there has been any violation of the act other than title I.

The committee believes that the powers granted to the Secretary by this bill combined with full reporting and disclosure to union members and the public provides a most effective combination of devices by which abuses can be remedied.

H.R. Rep. No. 741, 86th Cong., 1st Sess. 26 (1959).

The House passed H.R. 8342 on August 14, 1959 by a vote of 303 to 125, with the language of section 601(a) unchanged from that of the bill reported by the Committee.

The Conference Committee agreed on the ultimate text of the LMRDA on September 3, 1959. The Managers on the Part of the House gave the following explanation of the provision on investigations:

SECTION 601—INVESTIGATIONS

The Senate bill contains a provision which directs the Secretary to conduct an investigation when he believes it necessary in order to determine whether any person has, or is about to, violate the act, or any rule or regulation authorized by the act.

The House amendment directs the Secretary to make an investigation when he has probable cause to believe that any person has violated a provision of the act, other than title I.

The conference substitute is similar to the Senate bill, except that the investigation authority is permissive rather than mandatory, no investigation may be made with respect to violations of rules and regulations, and the investigation authority does not extend to title I.

The Senate bill also contains a provision authorizing the Secretary to report to interested persons concerning the facts required to be shown in reports and concerning the reasons for failure or refusal to file a report or any other matter he deems appropriate as a result of an investigation. The conference substitute adopts this provision.

H.R. Conf. Rep. No. 1147, 86th Cong., 1st Sess. 36 (1959).

The Senate approved the Conference Report by a vote of 95–2 on September 3, 1959. The House agreed to the Report on the next day by a 352 to 52 margin. The President signed the bill into law as Public Law 86–257 on September 14, 1959. The intended relationship between the Departments of Labor and Justice was set forth in section 607 of the Act (29 U.S.C. §527):

OTHER AGENCIES AND DEPARTMENTS

SEC. 607. In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

The Senate Committee Report contained the following description:

Section 504: Authorizes the Secretary of Labor to enter into arrangements or agreements for cooperation with other Government agencies in the performance of their respective functions, with a view toward avoiding unnecessary expenses and duplication of functions and to utilize the facilities or services, including the services of employees, of any department, agency, or establishment of the United States or any State or political subdivision, with the lawful consent of such department, agency, or establishment. Every Government department, agency, or establishment is directed to cooperate with the Secretary and, to the extent permitted by law, provide such information and facilities as he may request for his assistance in performing his functions under the bill.

This section further provides that the Attorney General is to receive from the Secretary evidence developed in the performance of his functions under the bill which may be found to warrant consideration and a basis for criminal proceedings under the bill or any other Federal law. The Secretary is authorized to refer to any governmental agency any evidence obtained by him which may tend to show violation of a statute administered by that agency.

S. Rep. No. 187 at 53.

The House Committee reported the provision as follows:

OTHER AGENCIES AND DEPARTMENTS

Section 607: Provides that, in order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary of Labor may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this act and the functions of any such agency as he may find to be practicable and consistent with law. He may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment. Each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this act. This section further provides that the Attorney General of the United States or his representative shall receive from the Secretary of Labor for appropriate action, such evidence developed in the performance of his functions under this act, as may be found to warrant consideration for criminal prosecution under the provisions of this act or other Federal law.

In adopting section 607, the committee eliminated the language which appeared in section 605 of S. 1555, "and the Secretary may refer to any governmental agency any evidence obtained by him which may tend to show violation of a statute administered by that agency" only because the committee thought it was unnecessary inasmuch as the Secretary already has that authority.

H.R. Rep. No. 741 at 48–49.

2. Employment Retirement Income Security Act of 1974 (ERISA)—The Secretary of Labor was granted investigatory authority by section 504 of ERISA (29 U.S.C. § 1134):

INVESTIGATIVE AUTHORITY

SEC. 504. (a) The Secretary shall have the power, in order to determine whether any person has violated or is about to violate any provision of this title or any regulation or order thereunder—

(1) to make an investigation, and in connection therewith to require the submission of reports, books, and records, and the filing of data in support of any information required to be filed with the Secretary under this title, and

(2) to enter such places, inspect such books and records and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation, if he has reasonable cause to believe there may exist a violation of this title or any rule or regulation issued thereunder or if the entry is pursuant to an agreement with the plan.

The Secretary may make available to any person actually affected by any matter which is the subject of an investigation under this section, and to any department or agency of the United States, information concerning any matter which may be the subject of such investigation; except that any information obtained by the Secretary pursuant to section 6103(g) of the Internal Revenue Code of 1954 shall be made available only in accordance with regulations prescribed by the Secretary of the Treasury.

(b) The Secretary may not under the authority of this section require any plan to submit to the Secretary any books or records of the plan more than once in any 12 month period, unless the Secretary has reasonable cause to believe there may exist a violation of this title or any regulation or order thereunder.

(c) For the purposes of any investigation provided for in this title, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act (15 U.S.C. 49, 50) are hereby made applicable (without regard to any limitation in such sections respect-date of such failure or refusal, and the court may in its discretion order such other relief as it deems proper.

The legislative history of this provision was described in the Joint Explanatory Statement of the Conference Committee:

Investigatory authority.—Under the bill as passed by the House, the Secretary of Labor, where he has reasonable cause to believe that violations of the provisions of this bill have been committed, may enter places, inspect accounts and question persons to the extent he deems necessary in order to determine whether any provision of title I has been or is about to be violated. The Secretary is authorized to request the filing of supporting schedules of information and to publish and report on any investigation to interested persons or government officials.

Under the bill as passed by the Senate, the Secretary may enter premises and inspect records and accounts but he may make no more than one examination of books and records per year unless he has reasonable cause to believe that there was a violation of title I. The bill as passed by the Senate also authorizes the Secretary to require the filing of supporting schedules of information. The Secretary of Labor is further authorized to make arrangements with the Secretary of Treasury to prevent duplication of effort regarding investigation of violations relating to fiduciaries.

Under the conference agreement, the Secretary of Labor is to have the power in order to determine whether there have been violations or there are about to be violations of any provision of title I to make an investigation. In connection with the investigation, he may require the submission of reports, books and records, and the filing of supporting data, but no plan may be required to submit such books, records or supporting data more than once annually unless the Secretary has reasonable cause to believe there may exist a violation under title I. The Secretary also may enter places and inspect records and accounts and question those persons he deems necessary to enable him to determine the facts relative to the investigation if he has reasonable cause to believe there may exist a violation under title I. The Secretary is authorized to make available to persons covered by the plan and to any department or agency of the United States information concerning any matter which has been the subject for the investigation.

H.R. Conf. Rep. No. 93–1280, 93d Cong., 2d Sess. 328–29 (1974).

The Senate Committee's Report spelled out the reasons why the Secretary's investigative authority was not limited by a reasonable cause requirement:

The Secretary's investigatory authority

permits examination of plan books and records without the Secretary having reason to believe a violation of the Act (or Welfare and Pension Plans Disclosure Act) may exist. However, the Secretary is limited to one such examination annually. He may, of course, conduct an examination at any time when he has reasonable cause to believe a violation may exist. The Committee believes that monies in a pension or welfare fund should be as safe as money in a bank or insurance company. Periodic spot-check audits by governmental examiners is a time-tested method for assuring the security of funds. At the same time, the Committee recognizes a concern over possible "harassment" which may impede the effective implementation of the Act's requirements. Limiting the Secretary to one non-violation audit annually takes account of this concern and it is to be assumed that this authority shall be exercised in good faith and with no intent of capriciousness or harassment. In light of the large number of plans that will become subject to the Act, it is extremely doubtful, as a practical matter, that the Secretary could conduct more than one spot-check annually for any given plan.

S. Rep. No. 93–127, 93d Cong., 2d Sess. (1974).

The provision in section 506 of ERISA authorizing the Secretary of Labor to cooperate with other agencies is substantially identical to the corresponding provision of the LMRDA:

OTHER AGENCIES AND DEPARTMENTS

SEC. 506. In order to avoid unnecessary expenses and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this title and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize, on a reimbursable or other basis, the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this title. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this title as may be found to warrant consideration for criminal prosecution under the provisions of this title or other Federal law.

The legislative history was recapitulated in the Conference Report:

Cooperation between agencies.—Under the bill as passed by both the House and the Senate, the Secretary of Labor is authorized to cooperate with other agencies and make agreements for mutual assistance. In addition, under the bill as passed by the House, the Attorney General is authorized to receive from the Secretary of Labor for appropriate action evidence which has been developed that warrants consideration for criminal prosecution under Federal law. Under the conference agreement, the provisions for cooperation of other agencies including the authorization for the Attorney General to receive matters relating to criminal prosecution is adopted.

H.R. Conf. Rep. No. 93–1280, 93d Cong., 2d Sess. 330 (1974).

Finally, both the Senate and the House Committees expressed the view that the prior reporting and disclosure provisions of WPPDA were insufficient:

REPORTING AND DISCLOSURE

The underlying theory of the Welfare and Pension Plans Disclosure Act to date has been that reporting of generalized information concerning plan operations to plan participants and beneficiaries and to the public in general would, by subjecting the dealings of persons controlling employee benefit plans to the light of public scrutiny, insure that the plan would be operated according to instructions and in the best interests of participants and beneficiaries. The Secretary's role in this scheme was minimal. Disclosure has been seen as a device to impart to employees sufficient information and data to enable them to know whether the plan was financially sound and being administered as intended. It was expected that the information disclosed would enable employees to police their plans. But experience has shown that the limited data available under the present Act is insufficient. Changes are therefore required to increase the information and data required in the reports both in scope and detail.

H.R. Rep. No. 93–533, 93d Cong., 1st Sess. (1973); S. Rep. No. 93–127, 93d Cong., 1st Sess. (1973).

ANALYSIS

From the legislative history of section 601 of the LMRDA, it would appear that Congress intended to confer broad investigative powers on the Secretary of Labor in order to effectuate the purposes of the Act. Although both the House and the Senate versions directed the Secretary to conduct investigations, the conference substitute made the investigation authority permissive rather than mandatory. This change, however, does not appear to limit the scope of the Secretary's authority, because the Secretary may utilize the full scope of his investigative powers once he has determined to exercise his discretion.

The Federal courts have uniformly sustained the broad scope of the Secretary's authority. In International Brotherhood of Teamsters v. Wirtz, the court stated that the powers of the Secretary under the LMRDA "are broad and, as with visitorial powers in other contexts, they are to be construed in such a way as to give effect to the purposes of the Act." 346 F.2d 827, 830 (D.C. Cir. 1965). That court went on to observe that it was "not without significance that Congress considered and rejected a limitation on the Secretary's powers in the form of a requirement that the Secretary first find probable cause to believe that violations had occurred before issuing a subpoena." *Id.* at 831. The court noted Congress' rejection of a probable cause requirement as probative of its intent to confer broad investigative powers on the Secretary." *Id.*

In your letter, you note that the enforcement of criminal statutes involves three major functions: the detection of potential violations; the investigation of potential violations after detection; and the actual prosecution by indictment and trial based on witnesses and documentation developed in the investigation. Your specific request is to determine, if possible, the intent of Congress respecting the responsibility of the Department of Labor to detect violations of the penal provisions of the Act. In this regard, it should be noted that the conventional definition of "detect" is "to discover or determine the existence, presence, or fact of." Webster's Seventh New Collegiate Dictionary 225 (1972).

It can be seen from both the statute and its legislative history that the Congress empowered the Secretary to use his investigative authority when he believed it necessary "to determine whether any person has violated or is about to violate any provision of this Act." 29 U.S.C. § 521. We would therefore conclude that Congress intended the Secretary to use his broad powers of investigation to detect and determine the existence of actual and potential violations of the Act.

Your letter also asks whether Congress, in setting up the system of reports required by the Act, intended that this reporting system was to be a major or the major tool in detecting violations of the Act. As you state in your letter, it would seem that when Congress required the Labor Department to establish and administer a system of annual reports describing the financial status and financial transactions of unions and pension and welfare plans that Congress also intended that the Department of Labor monitor these reports and, through appropriate reviews and audits, determine whether any questionable or illegal transactions had occurred.

This view of the Secretary's responsibility appears to be consistent with the relevant legislative history. Both the Senate and the House Committees which dealt with the Act emphasized the reporting requirements and the Secretary's investigative authority in their respective Reports. In identical language, both Committees expressed their belief that "the broad powers granted to the Secretary by this bill *combined with* the full reporting and disclosure to union members and the public provides *a most effective combination of devices by which abuses can be remedied.*" S. Rep. No. 187 at 34; H.R. Rep. No. 741 at 26 (Emphasis added).

The Senate Committee expressly noted that its bill placed heavy reliance on reporting and disclosure to union members, the Government, and the public to effect correction of abuses where they have occurred, but that it also endowed the Secretary of Labor with broad power to insure effectuation of its objectives. The Committee stated that the Secretary was empowered "to receive, examine for accuracy, and compile information based on reports filed with him" on such matters as union administrative and financial practice, trusteeships, and union officer conflict of interests. The Committee then stated that the Secretary was authorized to take certain actions to enforce the provisions of the bill or otherwise insure maintenance of minimum standards, including the power to "make investigations, armed with subpena power, to determine whether there has been any violation of the act." S. Rep. No. 187 at 34. The House Committee's description of the Secretary's powers in this area is substantially similar to that of the Senate Committee. H.R. Rep. No. 741 at 26.

On the basis of the foregoing committee reports, we would conclude that Congress intended that the reporting and disclosure requirements of the Act to be a major tool for the Secretary in detecting and determining whether violations have or are about to occur. It thus appears that Congress intended the Secretary to utilize the reporting and disclosure system, together with his broad "vistorial" powers, to determine the existence of actual and potential violations of the Act.

Your next question relates to the intent of Congress concerning the handling of potential criminal violations; to whom they should be referred for investigation; any time limitation on how quickly this referral should be made; and any discussion of the duties and responsibilities of Labor Department Compliance Officers.

Under the statutory scheme established by Congress in section 607 of the LMRDA, the Secretary of Labor is authorized to enter into cooperative agreements with other agencies in order to carry out the purposes of the Act. Congress also provided expressly that the Attorney General is to receive evidence of matters warranting criminal prosecution. However, neither the Act nor its legislative history contains any indication of how quickly such referrals should be made. Finally, the legislative reports and debates on the Act do

not appear to contain any discussion of the duties or responsibilities of the Labor Department Compliance Officers assigned to investigate violations.

Turning to the legislative history of ERISA, it appears that Congress followed the pattern of the LMRDA in setting forth the investigative authority of the Secretary of Labor. The Secretary is authorized to make investigations to determine whether any person has violated or is about to violate any provision of Title I or any regulations or order under that Title. He may require the submission of reports, books, and records, and the filing of data in support of any information required to be filed under Title I, but he may not exercise this authority more than once in any 12 month period unless he has reasonable cause to believe that a violation exists. He may enter places, inspect books and records, and question persons in connection with the investigation, if he has reasonable cause to believe that a violation exists, or if the entry is pursuant to an agreement with the plan.

As under the LMRDA, the Secretary's power to detect or determine the existence of a violation is not limited by any requirement that he have probable cause or reasonable cause to believe that a violation has been committed. On this point, the Conferees adopted the approach of the Senate bill, which expressly contemplated a system of periodic spot-check audits by government auditors as a method for assuring the security of funds. The Conferees followed the Senate bill in limiting the Secretary to one non-violation audit per year in order to prevent possible "harassment" of funds.

It should also be noted that Secretary under such an audit can require the filing of data *in support of any information required to be filed under Title I*. It would appear from this provision that the reports and information filed under the Act were viewed as a potential tool for the Secretary in carrying out his investigative responsibilities.

When it enacted ERISA, the Congress expressed its intention to increase the scope and detail of the information and data formerly required under the WPPDA. The Committees also noted that the role of the Secretary of Labor under WPPDA was minimal. See H.R. Rep. No. 93–533 and S. Rep. No. 93–127.

Finally, Congress set forth, in section 506 of ERISA, the Secretary's authority to cooperate with other agencies and to refer evidence of criminal violations to the Attorney General. Since this language is virtually identical to the corresponding provision in the LMRDA, we would conclude that the Secretary's authority under the two Acts is the same.

CONCLUSION

Based on the foregoing analysis, we would conclude that both LMRDA and ERISA conferred broad investigatory authority on the Secretary of Labor, including the responsibiltiy for detection of violations. It also appears that the reporting and disclosure provisions of both Acts were intended to be a major tool in the detection of possible violations. Finally, it was intended that the Attorney General receive evidence developed by the Secretary in the performance of his functions under the Acts, where the evidence warranted consideration for criminal prosecution under Federal law. However, it does not appear that Congress expressly addressed the questions of how quickly referrals of criminal evidence should be made, or the precise role of the Labor Department Compliance Officers in the process.

VINCENT TREACY,
Legislative Attorney.

Mr. President, the Library of Congress points out that both LMRDA and ERISA conferred broad investigatory authority on the Secretary of Labor, including the responsibility for the detection of violations of LMRDA and ERISA. Further, according to the Library study, Congress intended that the reporting and disclosure provisions of both acts were to be a major tool to be used by the Secretary of Labor through a system of periodic audits to detect the possible existence of violations.

Finally, the Library found the Secretary of Labor has the responsibility to turn over to the Attorney General any evidence developed by the Department of Labor which warrants consideration for criminal prosecution under Federal laws. This means that, while the Attorney General is responsible for the prosecution of those who illegally used the assets of labor organizations and pension and welfare funds, it is the responsibility of the Secretary of Labor to take the initial action to see that such alleged violations as fraud, embezzlement, misapplication, conflict of interest and other criminal acts involving these assets are exposed and brought to the attention of the Attorney General for prosecution.

The key to effective enforcement of the criminal provisions applicable to LMRDA and ERISA is the initial detection of a potential criminal violation. The Government cannot investigate or prosecute a criminal violation unless it is first detected.

The report of the GAO makes it clear that the Department of Labor is not discharging this responsibility. This is not the only instance where there has been a failure by the Department of Labor to meet its responsibilities in the enforcement field.

On April 24 and 25, 1978, hearings were held before the Senate Permanent Subcommittee on Investigations concerning the extent and quality of the Department of Labor's commitment to the President's Organized Crime program and the pursuit of labor-management racketeering cases. In these hearings, representatives of the Justice Department and its Organized Crime Strike Forces from various parts of the country appeared as witnesses. They reported that the Labor Department, since 1970, had made commitments to supply manpower to the strike forces to assist in the investigation of organized crime involvement in labor-management racketeering, but that this manpower had been steadily diminished to the point where the Labor Department proposed to cease all active participation in labor-management racketeering cases. The strike force attorneys painted a chilling picture of the labor racketeering situation in America today. They said it was as bad or worse today than it was 20 years ago when the labor rackets hearings were held under the chairmanship of the late Senator John McClellan.

Following its appropriation hearings early this year, the Labor Department reassessed its position and made new commitments to support the organized crime strike forces. The subcommittee has been informed that these commitments are being met. A total of 90 positions have been assigned by the Labor Department to the organized crime strike forces and are scheduled to be on the job by October 31, 1978. As of September 19, 1978 provision has already been made for the assignment of 83 of these 90 positions to strike force work in 21 cities throughout the country. I request that a list prepared by the Labor Department showing the cities involved and the investigative staff being assigned to them be printed in the RECORD.

DOL/OCP OFFICES, STAFFING OVERVIEW, OFFICE OF SPECIAL INVESTIGATIONS

Location	Investigative staff GS–14	GS–13	GS–12	Total	Clerical staff	Key selections[1]
1. Atlanta, Ga			1	1		
2. Boston Mass		1	3	4		John Salvail, GS–14.
3. Buffalo, N.Y		1	2	3		N. Broadbent, GS–13.
4. Chicago Ill	1	1	7	9	1	D. Wheeler, GS–14.
5. Cleveland, Ohio		1	6	7	1	
6. Detroit, Mich		1	2	3		
7. Kansas City, Mo		1	2	3		O. Spelver, GS–13.
8. Las Vegas, Nev			1	1		
9. Los Angeles, Calif		1	2	3		D. Hackethal, GS–13.
10. Miami, Fla	1	1	5	7	1	N. Menendez, GS–14. W. Gamble, GS–13.
11. New Orleans, La		1	2	3		L. Parmeter, GS–13.
New York City area:						
12. Brooklyn	1	1	10	12	1	B. Silvers, GS–14. R. Montrose, GS–13.
13. Manhattan	1	1	8	10	1	S. Koniak, GS–14.
14. Newark		1	1	2		R. Wren, GS–13.
15. Camden			1	1		
16. Philadelphia, Pa		1	5	6	1	D. Steelman, GS–14.
17. Phoenix, Ariz			1	1		
18. Puerto Rico			1	1		
19. San Francisco, Calif		1	2	3		R. Godfrey, GS–14.
20. Tampa, Fla			1	1		
21. Washington, D.C	1	1		2		
Totals (90)	5	15	63		7	

[1] As of September 19, 1978. Others in process.

These figures are highly encouraging and I have no doubt that the subcommittee's public hearings last April played a major part in bringing about this greatly increased Labor Department commitment to the Organized Crime labor-management racketeering program.

The findings of the GAO study being released today make it clear that in addition to its renewed commitment to the organized crime program, a more aggressive overall effort is needed by the Department of Labor to protect the assets of both employee pension and health and welfare plans and of labor unions themselves. The hundreds of millions of dollars that flow into labor-management pension and other employee benefit plans represent the earnings of rank and file union members: Earnings set aside for investment to provide their retirement income and fund their health and welfare programs. These are workers' dollars we are talking about. They are to be administered for the benefit of the workers and their families. The millions of union families who create these trust funds are entitled to look to the Federal Government—and to the Labor Department in particular—to see to it that they are protected against maladministration, fraud and abuse. I can think of no more important obligation committed to the Department of Labor by the Congress.

In its report GAO has made a number of recommendations for corrective action. The report says in order to make the improvements needed in its enforcement programs, including increasing its field audit activity, the Labor-Management Services Administration of the Department of Labor needs more staff than requested by Labor and the Office of Management and Budget and approved by the Congress. The report recommends that the Secretary of Labor determine the additional resources needed to effectively enforce the criminal and civil provisions of LMRDA and ERISA and provide this information to the Congress for its consideration.

Finally, in determining the additional resources need to effectively use the enforcement staff, the GAO report recommends that the Secretary of Labor direct the Labor-Management Services Administration to:

Strengthen the area office audit activities by increasing the number of on-site field audits made at labor organizations and benefit plans and assure that consistent, high-quality audits are made;

Establish procedures to notify Justice of its investigative activities to avoid duplicative investigations;

Establish procedures to require direct, continuous, and day-to-day coordination between the ERISA and LMRDA investigative tracks at the area offices;

Improve the timeliness of the area offices' investigation of cases with potential for criminal violations; and

Review the training of LMSA area office field staff to insure that the auditors and compliance officers receive the training needed to effectively carry out their duties.

Mr. President, I hope the Secretary of Labor and the Congress will give careful consideration to these recommendations. I ask that the report of the GAO be printed in the record.

The report by the Comptroller General follows:

REPORT BY THE COMPTROLLER GENERAL OF THE UNITED STATES

LAWS PROTECTING UNION MEMBERS AND THEIR PENSION AND WELFARE BENEFITS SHOULD BE BETTER ENFORCED

The Labor-Management Reporting and Disclosure Act of 1959 protects the rights of union members from improper and corrupt practices by their officers and representatives. The Employee Retirement Income Security Act protects union members against the misuse and abuse of their pension and welfare benefit funds.

Most of the Department of Labor's efforts and priorities in 1977 dealt with other than potential criminal violations of the two laws. Also, Labor uses the national office computerized report processing and desk audit systems principally to achieve voluntary compliance with the laws. The systems only identify potential criminal violations which are voluntarily disclosed and are not designed to assure that reported data is valid. Weaknesses exist in the investigative and audit activities at Labor's area offices. Labor particularly needs to increase its staff and the number and quality of field audits at labor organizations and at pension plans.

GAO recommends ways to improve staffing and Labor's enforcement efforts under both laws.

COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, D.C.

Hon. SAM NUNN,
Vice Chairman, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR MR. CHAIRMAN: As requested in your November 29, 1977, letter and later agreements with your office, we have reviewed the Department of Labor's enforcement of the Labor-Management Reporting and Disclosure Act pertaining to labor organizations and the Employee Retirement Income Security Act pertaining to labor organizations' pension and welfare benefit plans.

At the request of your office, we did not follow our normal practice of obtaining agency comments on this report. Also, as agreed with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after it is issued. At that time, we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

DIGEST

More vigorous enforcement is needed to detect and investigate potential criminal as well as civil violations of the Labor-Management Reporting and Disclosure Act of 1959 and the Employee Retirement Income Security Act of 1974.

The Labor-Management Reporting and Disclosure Act imposes Federal standards and reporting and disclosure requirements to help eliminate or prevent improper and corrupt practices by unions and their officers and representatives.

The Employee Retirement Income Security Act regulates the private pension and welfare plan systems for providing working Americans with retirement income and welfare benefits. (See p. 1.)

GAO believes that the two laws, and agreements entered into under them, clearly delineate the respective areas of investigative responsibilities and jurisdiction for the Departments of Labor and Justice. Also, officials in U.S. attorney's offices in Philadelphia and San Francisco were satisfied with the coordination under the acts and agreements as well as the quality of Labor's investigations of criminal violations referred to Justice. (See ch. 2.)

Labor, however, directs most of its efforts and priorities toward other than criminal violations of the two laws. In 1977 Labor expended most of its efforts on and gave priority to enforcing the civil election provisions of the Labor-Management Reporting and Disclosure Act. Labor expended more than half of its resources under the Employee Retirement Income Security Act in nonenforcement activities, such as providing technical assistance to the public including responding to written and oral inquiries. (See ch. 3.)

Also, the Labor-Management Services Administration national office computerized report processing and desk audit systems are principally directed to achieving voluntary compliance with the reporting and disclosure provisions of both laws. The systems identify only potential criminal violations which the labor organizations or benefit plan administrators voluntarily report and are not designed to assure that the data reported are valid or determine the level of compliance with the two laws (See ch. 4.)

At the Philadelphia and San Francisco area offices, the following weaknesses in investigations and audits of labor organizations and pension plans were noted.

Inadequate coordination between Labor and Justice in investigating some cases with potential criminal violations under the Labor-Management Reporting and Disclosure Act.

Lack of internal coordination between area office staff investigating criminal and civil violations under both acts.

Little investigative effort by the area offices to follow up on reasons for deficient reports submitted by labor organizations or pension plan administrators.

Lack of sufficient field audit work at the labor organizations and pension plan administrators.

Inconsistencies in the process of selecting labor organizations for audit and inadequacies in the audits made.

Insufficient staff to enforce both laws and little formal training provided to area office investigative and audit staffs. (See chs. 5. 6, and 7.)

Labor-Management Services Administration officials cited insufficient staff as a primary cause of the lack of effective enforcement of the provisions of the two acts. They said that more staff was needed to effectively administer the day-to-day operations, do more field audit work, and educate people affected by the two laws. Although operating officials have requested additional staff, both the Department of Labor and the Office of Management and Budget have not fully granted these requests. (See chs. 7 and 8.)

RECOMMENDATIONS TO THE SECRETARY OF LABOR

To make improvements needed in the enforcement programs, including increased on-site field audits, the Labor-Management Services Administration needs more staff than requested by Labor and the Office of Management and Budget and approved by the Congress.

GAO recommends that the Secretary of Labor determine the additional resources needed to effectively enforce the criminal and civil provisions of both laws and provide this information to the Congress for its consideration.

In determining the additional resources needed to effectively use the enforcement staff, the following recommendations should be considered. GAO recommends that the Secretary direct the Labor-Management Services Administration to

strengthen the area office audit activity by increasing the number of onsite field audits made on labor organizations and benefit plans and assure that consistent, high-quality audits are made;

establish procedures to notify Justice of its investigative activities to avoid duplicative investigations;

establish procedures to require direct, continuous, and day-to-day coordination between the internal Labor investigative staffs at the area offices;

improve the timeliness of the area offices' investigation of cases with potential for criminal violations; and

review the training of area office field staff to ensure that the auditors and compliance officers receive the training needed to effectively carry out their duties.

CHAPTER 1

Introduction

This report discusses the Department of Labor's enforcement of the criminal provisions of the Labor-Management Reporting and Disclosure Act (LMRDA) (29 U.S.C. 401) pertaining to labor organizations and the Employee Retirement Income Security Act (ERISA) (29 U.S.C. 1001) pertaining to labor organizations' pension and welfare benefit plans.

THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT

LMRDA, enacted in 1959 and amended several times, directly affects millions of people throughout the United States. It applies to labor organization (union) members, employers, labor relations consultants, and other persons as well as labor organizations and surety companies.

LMRDA was passed to help eliminate or prevent improper and corrupt practices on the part of labor organizations, labor relations consultants, and their officers and representatives. The act imposed Federal standards on labor organization activities to protect the rights of union members and the election of officers, and it established requirements for labor organization officials to report and disclose the organizations' financial and administrative practices. It also imposed fiduciary responsibilities on labor organization officials. It includes criminal provisions covering various corrupt practices, such as the embezzlement of organization funds, which was made a Federal offense.

LMRDA applies to all labor organizations and employees subject to collective bargaining agreements even if not union members, except organizations representing public employees working for a State or its political subdivisions. Most agencies of the Federal executive branch, their employees, and unions that represent such employees were made subject to provisions similar to LMRDA by Executive Order 11491, effective January 1, 1970.

About 54,000 private labor organizations are covered by LMRDA. Another 3,000 labor organizations for Federal employees are covered by Executive Order 11491. In 1977 the Department's Bureau of Labor Statistics made an analysis of 1974 data which showed membership in national and international unions at about 21.6 million members. The analysis also showed an additional 1.4 million Federal employees and 1.5 million State and local government workers enrolled in unions in 1974.

The Department of Labor has primary responsibility for administering and enforcing LMRDA, although it shares responsibility for enforcing the criminal provisions with the Department of Justice. (See ch. 2.)

THE EMPLOYEE RETIREMENT INCOME SECURITY ACT

ERISA, enacted on September 2, 1974, is the first comprehensive Federal legislation regulating the private pension plan system for providing working Americans with retirement income. ERISA was enacted because of indications that pension plan misuse and abuse was resulting in lost pension benefits to employees, even those with many years of service. ERISA is to make sure that an estimated 57 million participants in about 500,000 private pension plans receive earned benefits. The assets of these plans were estimated at $280 billion as of January 1, 1978. About 18,000 of the pension plans are union related and cover about 19 million workers.

To protect employees' interests, ERISA established comprehensive minimum standards and requirements that specify how employees become eligible to participate in pension plans (participation standards), how employees earn a nonforfeitable right to pension benefits (vesting standards), how the plans are to be funded (funding provisions), how the plans are to be operated in the best interests of plan participants (fiduciary standards), and to what extent plan information is to be reported and disclosed to the Federal Government and plan participants (reporting and disclosure requirements). The act also established an insurance program to guarantee the payment of certain benefits to participants of defined benefit plans [1] if the plan terminates without sufficient assets to provide vested benefits.

ERISA's provisions are to be carried out by the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation. Labor is primarily responsible for issuing regulations on and enforcing ERISA's reporting, disclosure, and fiduciary provisions. The Internal Revenue Service issues regulations on and enforces the act's participation, vesting and funding provisions. The Pension Benefit Guaranty Corporation, established by ERISA, administers the defined benefit plan termination insurance program.

ERISA provides civil enforcement authority. Criminal enforcement authority is also provided for willful violation of the reporting and disclosure provisions. Cases involving embezzlement, kickbacks, or related violations are to be referred to the Department of Justice for prosecution under title 18 of the United States Code. (See ch. 2.)

ENFORCING LMRDA AND ERISA

Within the Department of Labor, the Labor-Management Services Administration (LMSA), under the Assistant Secretary of Labor-Management Relations, administers and enforces LMRDA and ERISA. Within LMSA, the Office of Labor-Management Standards Enforcement is responsible for enforcing LMRDA and the Office of Pension and Welfare Benefit Programs is responsible for enforcing ERISA. These offices provide guidance, direction, and supervision to staff assigned to LMSA's 6 regional offices and 24 area offices throughout the United States. (See apps. I and II.)

Each regional office, under a regional administrator, is responsible for assuring effective operations and adherence to LMSA policy directives issued by the national office operating components. Each regional office has assistant regional administrators for LMRDA and ERSIA, who serve as program experts and provide technical guidance and staff assistance to the regional administrator and the area offices in the administration and enforcement of the acts.

The area offices have primary responsibility for enforcing both acts and are organized functionally into "tracks," which are responsible for investigating possible violations under each act. The LMRDA track staff consists of compliance officers, while the ERISA track has both compliance officers and auditors. A third track, not included in our review, is responsible for enforcing the provisions of the veterans' reemployment rights statutes and other labor-management relations activities, such as the major parts of Executive Order 11491 which govern the labor-management relations of federal unions.

Functions of the area offices include:

Initiating and conducting investigations concerning alleged violations under the acts;

Reviewing and administratively closing cases within delegated authority and recommending to the regional office disposition of those not within their authority to close; and

Maintaining liaison with the regional solicitor, the Internal Revenue Service, and the local U.S. attorney for matters involving investigative action.

LMSA, in carrying out its enforcement responsibilities under LMRDA and ERISA, is assisted by the Department's Office of the Solicitor. Each region has a regional solicitor, who acts as a legal advisor to LMSA's regional and area office staffs. Regional solicitors prepare, try, or help try cases and prepare advisory opinions on questions. For LMRDA, the regional solicitor is responsible for reviewing criminal cases involving violations of the act and recommending prosecution before they are sent to the local U.S. attorney. For ERISA, however, the regional solicitor has not been delegated such authority. All ERISA criminal as well as civil matters are handled by the Solicitor's national office in Washington.

LMSA also has a Special Investigations Staff, at the national office, which plans, develops, and conducts highly complex and sensitive investigations of the operations of selected employee benefit plans suspected of violating ERISA. This staff, formed in January 1976, was originally intended to investigate the activities of the International Brotherhood of Teamsters' Central States, Southeast and Southwest Areas Pension Fund. At that time it was responsible to the Secretary of Labor. In late 1977 the staff was placed under the Pension and Welfare Benefit Programs office.

LMSA is also responsible for carrying out the Department of Labor's duties under the Federal Government's War Against Organized Crime program established in 1967 under the direction of the Department of Justice. As part of the program, Justice established Organized Crime Strike Forces to launch a coordinated attack on this serious national problem. The strike forces are comprised of staff and resources from various Federal law enforcement agencies. Large numbers of LMSA personnel have served as strike force members since 1970. These personnel have been used to audit and investigate criminal racketeering activities of labor organizations.

Neither the activities of the Special Investigations Staff nor its participation in the Organized Crime Strike Force was covered in our review.

THE OFFICE OF SPECIAL INVESTIGATIONS

In June 1978, the Department of Labor established the Office of Special Investigations, reporting directly to the Secretary, which will be responsible for most of the Department's audit and investigative functions, reporting directly to the Secretary, of the following offices will be consolidated into the new office by October 1, 1978.

The Directorate of Audit and Investigations, Office of Assistant Secretary for Administration and Management, which makes internal audits and management reviews or surveys of Department activities, including the investigation of fraud and misconduct by the Department's employees.

The Office of Investigation and Compliance, Employment and Training Administration, which investigates fraud and misconduct in manpower programs, such as the Comprehensive Employment and Training Act of 1973 (29 U.S.C. 801).

[1] Defined benefit plans are plans which provide definitely determinable benefits to participants based on such factors as years of employment and compensation received.

The Division of Investigations, Employment Standards Administration, which is responsible for investigating fraud in the Department's workers' compensation programs.

The Organized Crime Program work being done by LMSA, including any dealings and coordination with the Department of Justice.

The new office will be responsible for planning, directing, and conducting a comprehensive audit and investigation program in the Department for reviewing the Department's conduct of investigations and audits to detect and prevent program abuse, fraud, and statutory violations. This will include reviewing LMSA's enforcement activities of LMRDA and ERISA.

SCOPE OF REVIEW

Our review focused on—

Whether LMSA's responsibilities for detecting and investigating potential criminal violations of LMRDA and ERISA provisions are clearly defined:

Whether LMSA's organization, procedures, and staffing are adequate to fully discharge its enforcement responsibilities; and

LMSA's coordination with the Department of Justice.

We made the review at LMSA's national office in Washington, D.C., and at its Philadelphia and San Francisco regional and area offices. At the national office we reviewed enforcement policies, priorities, and procedures, and the computerized report processing and desk audit systems for LMRDA and ERISA. At the regional and area offices, we evaluated the enforcement efforts by reviewing (1) selected closed and pending investigative cases for fiscal year 1977 pertaining to labor organizations and pension and welfare benefit plans and (2) all self-initiated field audits made at the labor organization or plan sites during 1977. We interviewed enforcement and management personnel at the field and national offices.

We also reviewed the independent study [1] of LMSA's field activities and organizational structure made by the Science Management Corporation of Washington, D.C.

We interviewed officials of the U.S. attorney's offices in Philadelphia and San Francisco to discuss their coordination with LMSA officials regarding investigations of potential criminal violations of the two laws. We also reviewed the agreements between Justice and Labor, entered into under the two laws, detailing their respective investigative responsibilities and jurisdiction. We reviewed pertinent sections of the two laws' legislative histories and Labor's and Justice's responsibilities for detecting and investigating potential criminal violations of the laws.

CHAPTER 2—RESPONSIBILITIES OF LABOR AND JUSTICE DEPARTMENTS REGARDING CRIMINAL VIOLATIONS ARE CLEARLY DEFINED

In our opinion, both LMRDA and ERISA and the agreements entered into under the acts clearly delineate the respective areas of investigative responsibility and jurisdiction for Labor and Justice. Also, officials in the local U.S. attorney's offices in Philadelphia and San Francisco were generally satisfied with the coordination under the laws and agreements and with the quality of Labor's investigations referred to them.

RESPONSIBILITIES OF LABOR AND JUSTICE

The Department of Labor is primarily responsible for detecting and investigating civil and criminal violations of LMRDA and ERISA (29 U.S.C. 521 and 29 U.S.C. 1134, respectively). The Department of Justice, as the chief law enforcement agency of the Government and generally responsible for the investigation of Federal criminal laws, is responsible for investigating possible violations of title 18 of the United States Code. Because certain crimes designated in title 18 are related to violations of LMRDA and ERISA, the responsibilities of Labor and Justice overlap in certain areas. For example, section 511 of ERISA (29 U.S.C. 1141) makes it a criminal offense to interfere with the rights of a participant or a beneficiary of an employee benefit plan through the use of fraud, violence, or coercion. Section 664 of title 18, on the other hand, prohibits the theft or embezzlement of assets of a plan.

In carrying out its primary responsibility to detect and investigate violations of the ERISA fiduciary provisions, when a Labor investigation discloses potential embezzlement by a fiduciary of a plan, which may also involve a violation of 18 U.S.C. 664, under 29 U.S.C. 1136, Labor must refer the case to Justice for consideration for prosecution. Under an agreement between Justice and Labor, the Justice Department has the option of deciding whether it or Labor will complete the investigation which may result in criminal prosecution. On the other hand, Justice does not need Labor's concurrence to initiate investigations when embezzlement of plan funds is suspected.

AGREEMENTS BETWEEN LABOR AND JUSTICE

In recognition of this overlap and to provide for efficient operations, the Secretary of Labor and the Attorney General have entered into agreements, as permitted under LMRDA and ERISA, detailing their Departments' respective investigative responsibilities and jurisdiction. Under both agreements, and as required by the two laws, any evidence of criminal violations obtained by Labor must be referred to Justice for consideration for prosecution. (29 U.S.C. 527 and 29 U.S.C. 1136, respectively.)

Labor-Management Reporting and Disclosure Act

Under the LMRDA agreement, Labor investigates criminal provisions and matters relating to

False reporting by labor organizations,

Labor organizations' bonding coverage,

Loans by labor organizations to their officers and employees,

Labor organizations' payments of fines incurred by their officials or employees, and

Trusteeships of labor organizations established over subordinate organizations to correct corrupt practices or financial malpractice.

Justice investigates

Embezzlement of labor organization funds,

Employers' payments of fines incurred by a labor organization official or their employees,

Prohibitions against certain persons' holding office,

Extortionate picketing, and

Deprivation of rights by force and violence.

LMRDA provides severe penalties for persons convicted of violating its criminal provisions. The penalties range from (1) a fine of $1,000 and not more than a year in prison, or both, for violating section 610—depriving a union member's rights by force and violence—to (2) a fine of $10,000 and not more than 20 years in prison, or both, for violating section 602—attempting extortion during picketing.

During a preliminary investigation under LMRDA by a Labor area office, if a potential criminal violation, usually embezzlement, is indicated, area office officials consult with the U.S. attorney having jurisdiction in the region as to who will investigate the violation. If Labor has staff available, it usually requests that the investigation be handled by its area office.

At the Philadelphia area office, the local U.S. attorney usually delegated responsibility for the investigation to Labor. In contrast, the Labor San Francisco area office usually requested that Justice investigate the case because the office lacked sufficient staff to make the investigations.

Employee Retirement Income Security Act

Under the ERISA agreement, Labor investigates criminal matters involving violations of ERISA's reporting and disclosure provisions.

Justice investigates criminal matters related to ERISA prohibitions against (1) certain persons holding office and (2) interference with the right of a participant or beneficiary by fraud or coercion. Justice also investigates related offenses under title 18, such as theft or embezzlement from employee benefit plans; false statements and concealment of facts in relation to documents required by ERISA; and offer, acceptance, or solicitation to influence operations of employee benefit plans.

ERISA and title 18 also provide severe penalties for persons convicted of violating the criminal provisions. For example, conviction for embezzlement of pension plan funds or assets can result in a fine of not more than $10,000 or 5 years in prison, or both.

When a Labor area office becomes aware of a potential criminal violation of ERISA that is Justice's responsibility, the office forwards a summary of the case to Labor's national office with a recommendation as to whether the case should be developed civilly or criminally, or both. The area office also indicates whether it wants to continue the criminal investigation and whether it has the staff to do so.

Labor's national office officials consult with Justice to determine who should investigate the case. Justice generally handles investigations of cases involving potential criminal violations of ERISA.

VIEWS OF U.S. ATTORNEYS ON LABOR'S COORDINATION AND INVESTIGATION EFFORTS

We discussed the coordination between Labor and Justice in the enforcement of LMRDA and ERISA and how the agreements were working with officials of the local U.S. attorney's offices in Philadelphia and San Francisco. In general, these officials were satisfied with the coordination and noted that, because of the agreements, there has not been any overlapping investigations by Labor and Justice.

The officials also were generally satisfied with the quality of Labor's investigations, but their opinions and observations varied somewhat. For example, officials we spoke to in the San Francisco U.S. attorney's office made the following comments:

Labor has some highly skilled personnel with expertise in the area of labor management but lacks sufficient staff.

The dual investigative responsibilities between Labor and Justice have not created any problems. In complicated cases which would be referred to Justice, Labor would also be involved because of its expertise in matters of labor law.

The dual investigative responsibilities should be abolished. Either Labor's staff should be increased so that it can undertake the investigations or the responsibility should be given to Justice.

Justice manages its cases better than Labor and concentrates solely on the criminal aspects of a case. However, since Labor is responsible for enforcing both the civil and criminal provisions of the law, it often gets tied up in the civil areas at the expense of the criminal areas.

The San Francisco officials concluded, however, that Labor's investigative efforts were generally satisfactory.

An official in the Philadelphia U.S. attorney's office made the following comments:

[1] "Final Report on Evaluation of the Delivery of LMSA Field Services," submitted November 18, 1977, by Decision Studies Group, a division of Science Management Corporation.

Both Labor and Justice refer potential criminal cases to him for delegation of investigative authority. This is advantageous, because he can select the agency with the most expertise.

Labor's Philadelphia area office does not have sufficient staff to handle all the criminal investigations, but the staff is qualified to make such investigations.

Labor's review of annual reports submitted by labor organizations and pension and welfare plans is not a realistic method to detect sophisticated embezzlers who prepare proper reports to cover their actions. This type of violation can best be uncovered by field audits.

The official also said that no formal procedure exists for notifying Labor of potential violations that Justice is investigating.

CHAPTER 3

Most of LMSA's effort and priorities deal with other than criminal violations

We analyzed LMSA's staff time for fiscal year 1977 to determine the effort devoted and priorities given to enforcing the criminal provisions of both laws. Our analysis showed that LMSA directed most of its enforcement effort and priorities on LMRDA to civil election provisions and that LMSA expended more than half of its effort on ERISA to nonenforcement activities, such as providing technical assistance to the public and responding to written and oral inquiries.

MOST ENFORCEMENT TIME UNDER LMRDA SPENT ON ELECTION ACTIVITIES

According to LMSA officials, there is no written policy establishing the priorities for dealing with violations, either civil or criminal, under LMRDA. Their approach, however, is to try to achieve voluntary compliance. Also, the law requires that, if its investigation of a complaint on a labor organization's election discloses a violation, Labor must bring civil action against the organization in a U.S. district court within 60 days of the filing of the complaint.

The law, in effect, has set the priorities. In practice, LMSA's priorities are (1) investigating election complaints, (2) supervising election reruns, (3) investigating all other complaints, and (4) making self-initiated field audits.

Nationally, during fiscal year 1977 LMSA spent 79 percent of its time enforcing LMRDA; the remaining time was spent on nonenforcement work, such as technical assistance and training. About 46 percent of the total time spent nationally, 60 percent in Philadelphia, and 37 percent in San Francisco dealt with enforcing the civil election provisions. Also, only about 21 percent of the time in Philadelphia and 40 percent of the time in San Francisco was spent on other investigative and audit work with potential for detecting criminal violations.

The table below shows the percentages of staff time spent on LMRDA enforcement and nonenforcement work nationwide and at the two area offices.

[In percent]

	Nationwide	Area offices: Philadelphia	Area offices: San Francisco
Enforcement work:			
Noncriminal violations—election activities	46	60	37
Potential criminal violations	33	21	40
Subtotal	79	81	77
Nonenforcement work:			
Technical assistance	8	11	10
Training	3	5	4
Other, e.g., travel, clerical	10	3	9
Subtotal	21	19	23
Total	100	100	100

MOST TIME UNDER ERISA SPENT ON NONENFORCEMENT WORK

According to LMSA's policy, its primary concern under ERISA is to protect the interests of participants and beneficiaries. As under LMRDA, the basic enforcement strategy is to try to achieve voluntary compliance because, according to LMSA officials, its limited resources make reviewing all reports and plans impossible. Priority for compliance investigations and audits is given to cases in which the most participants and assets are involved. LMSA's practice is to first, secure the assets; second, recover any losses; and third, prosecute.

For ERISA, LMSA set a goal for fiscal year 1977 that 65 percent of area office time was to be spent on enforcement work. This goal was not met. Less than half of the staff time nationally and in Philadelphia and San Francisco was spent on compliance and enforcement work.

Of the remaining time, about 30 percent nationally and about 31 and 39 percent in the Philadelphia and San Francisco area offices, respectively, was devoted to providing technical assistance to the public. This is shown in the following table.

[In percent]

	Nationwide	Area offices: Philadelphia	Area offices: San Francisco
Enforcement work with:			
Potential criminal violations	41	41	43
Noncriminal violations	6	5	3
Subtotal	47	46	46
Nonenforcement work:			
Technical assistance	30	31	39
Training	12	13	8
Other, e.g., travel, clerical	11	10	7
Subtotal	53	54	54
Total	100	100	100

According to LMSA officials, the large percentage of time spent on technical assistance was due to the newness and complexity of ERISA. Technical assistance usually consisted of such planned activity as seminars, workshops, and speeches for educational purposes or activities associated with responding to written or telephone inquiries and walk-in visitors. According to LMSA officials, technical assistance serves two purposes—to reduce the number of complaints resulting from ignorance of the law and to encourage the filing of meaningful petitions and complaints.

Area officials advised us that planned technical assistance activities are considered part of a supervisor's overall job responsibility. However, most of the time spent on technical assistance at the two area offices was being spent by staff members, not supervisors.

SCIENCE MANAGEMENT CORPORATION REPORT ON LMSA FIELD SERVICES

In November 1977 the Science Management Corporation provided LMSA wtih an independent study on LMSA's field activities and organizational structure. Overall, the study pointed out how LMSA could better use its staff and improve delivery of services by reducing levels of supervisory field review and restructuring field offices. The study noted that LMSA had no comprehensive policy for administering technical assistance activities in the field and that the lack of such policy would probably result in misdirected time and a reduction in the program's effectiveness. The study recommended that policy be clarified to guide field personnel in carrying out technical assistance activities.

At the end of March 1978, LMSA national office officials were still evaluating Science Management's conclusions and recommendations.

CHAPTER 4

National office report review and desk audit systems designed to achieve voluntary compliance

The national office computerized report processing and desk audit systems are principally directed to achieving voluntary compliance with the reporting and disclosure provisions of LMRDA and ERISA. The systems identify only (1) potential criminal violations that labor organizations and plan administrators voluntarily disclose and (2) situations in which conflicting data is reported. They are not designed to assure that the reported data is valid.

In fiscal year 1977, LMSA received annual financial reports from about 54,000 labor organizations under LMRDA and about 500,000 pension and welfare plans covered under ERISA, of which about 18,000 were labor organization related.

LMSA depends on labor organizations and plan administrators to voluntarily submit the initial report on their organizational structure as the primary means of identification. This is supplemented by other sources, such as outside inquiries, complaints, or news articles. LMSA then tries to assure through its national office computerized operation that it continues to receive the required reports. However, we found no indications that LMSA had (1) determined the total number of labor organizations or benefit plans subject to LMRDA and ERISA reporting and disclosure requirements or (2) assessed the extent to which labor organizations and plan administrators are complying with the act's criminal or civil provisions.

REVIEW OF LMRDA REPORTS

LMRDA requires labor organizations to report and disclose extensive information about their financial condition and operations. At LMSA's national office the reports are stored and selected data elements—flag items—are computerized for analysis and evaluation. The flag items deal with bonding coverage; loans to labor organization officers, employees, or members; losses of funds; and inconsistencies or errors in financial data reported. When the computer identifies questionable responses to any flag item, the report is scheduled for desk audit by an LMSA staff accountant at the national office.

In fiscal year 1977 the national office processed 84,000 annual financial reports filed by about 54,000 labor organizations subject to LMRDA. About 13,000 reports were flagged by the computer because of deficiencies in the financial information, such as prior years' balances incorrectly reported or errors in reconciling receipts and cash balances reported.

Desk audits were made on about 3,000 of the 13,000 deficient reports. These audits covered primarily labor organizations with annual receipts of more than $30,000. LMSA officials said no desk audits were made on the other 10,000 reports because of a lack of sufficient staff. For LMRDA, the national office has 15 staff accountants who perform desk audits. LMSA officials stated that 30 additional accountants would be needed to make desk audits of all deficient reports.

The procedures generally used to resolve the questionable or flag items provide for the staff accountant to contact the labor organization to have an amended report submitted to correct the deficiencies or violations. The accountant is not required to examine the organization's records. If a questionable response cannot be resolved during the desk audit, the national office requests the appropriate area office to investigate the deficiency.

In 1977 the national office's computer and audit operation identified no criminal violations under LMRDA on the 3,000 deficient reports on which desk audits were made. However, the national office sent 500 of the deficient reports to the area offices for further investigation.

REVIEW OF ERISA REPORTS

ERISA requires pension and welfare plan administrators to report and disclose extensive information about their plans, operations, and financial condition. Certain plan financial statements are also required to be certified by an independent public accountant.

At the national office, the reports are stored and selected data elements—flag items—are computerized for analysis and evaluation. When the computer identifies questionable responses to any flag item, the report is scheduled for desk audit by a staff accountant. Flag items include (1) whether plan fiduciaries were bonded, (2) whether there was a bonding loss involving fraud or dishonesty of a plan official or other persons handling funds, (3) whether the public accountant's opinion was qualified or adverse, and (4) whether a schedule of party-in-interest transactions was included.

By the end of fiscal year 1977, the national office had received about 500,000 annual reports filed under ERISA for the 1975 plan year. In October 1977 the national office made its initial computer analysis of these reports. The analysis flagged 29,600 reports with such items as questionable financial entries, potential violations of bonding, and adverse or qualified opinions by public accountants.

LMSA officials said that they do not have sufficient staff to desk audit all questionable reports identified by the computer. They said that they try to protect the greatest number of plan assets and participants by analyzing the larger plans. Therefore, LMSA assigned the following priorities to plans for desk audit:

Those involving congressional or labor inquiries;

Those that are large; and

Those with prior suspected or actual violations.

The national office has 15 staff accountants to make desk audits on the ERISA reports. LMSA officials have not estimated how many additional accountants would be needed to perform desk audits on all the deficient reports. They added that all questionable responses may not represent actual deficiencies or violations.

The national office made desk audits on 2,250 reports during fiscal year 1977. These audits, however, did not result from the computer analysis of the reports because the computer system was not operational at that time. Rather, they resulted from complaints received from participants, congressional inquiries, news articles, or a random selection of reports received.

The procedures generally used to resolve the questionable or flag items provide for the staff accountant to contact the plan administrator to obtain the necessary information to correct the deficiencies or violations. The accountant is not required to examine the plan records to determine whether the violations or deficienices resulted from a criminal act such as embezzlement. If a questionable response cannot be resolved during the desk audit, the naticnal office requests the appropriate area office to investigate the deficiency.

In 1977 none of the national office audits resulted in the detection of criminal violations under ERISA. The 2,250 audits disclosed 1,760 potential violations. About 660 of the problems identified were resolved by the national office after contacting the plan administrators and requesting additional information. The other 1,100 potential violations involved more complicated issues which required both personal contacts with plan administrators and a review of plan records. These were referred to the area offices for further investigation.

OTHER SOURCES OF POTENTIAL CRIMINAL VIOLATIONS

The national office appears to be more successful in identifying potential criminal violations under both laws from sources outside the computer processing and desk audit systems. These sources include complaints from labor organization members, reports by parent labor organizations on assuming trusteeship over a subordinate organization, and surety company reports.

Surety companies are required by both LMRDA and ERISA to report to LMSA any claims for losses sustained by labor organizations or their pension and welfare plans. For example, under LMRDA we noted two instances in which a surety company reported losses claimed by labor organizations. These losses were not reflected on either labor organization's financial reports for its last reporting period and, therefore, the reports were not flagged by the computer. However, based on the surety company's reports, both claims were referred by the national office to the appropriate area offices for further investigation.

For ERISA, we also noted that for the year ended December 31, 1976, six surety companies reported 14 claims totaling about $1 million, with one claimed loss of about $492,000. According to a national office official, these claims would also be referred to the appropriate area offices for further investigation.

CHAPTER 5

Weaknesses in investigative activities at LMSA area offices

At the Philadelphia and San Francisco area offices, we examined selected investigative cases which may have had potential criminal violations of LMRDA or ERISA—for example, breaches of fiduciary responsibility by labor organization or benefit plan officials. The cases selected were either closed or pending during fiscal year 1977.

We wanted to determine (1) whether cases with potential criminal violations were closed within the Department of Labor without referral to Justice, (2) whether potential criminal cases were adequately coordinated with Justice, (3) the reasons for and extent of delays in processing cases, and (4) the adequacy of LMSA's investigations. Overall, we found that:

LMSA closed cases administratively when voluntary compliance was achieved, no violation was detected, or a case was referred to Justice;

A lack of coordination existed between LMSA and Justice on some LMRDA investigations;

Inadequate coordination existed between the LMRDA and ERISA staffs in their investigations;

LMSA's investigations of cases with potential criminal violations were delayed due to a lack of staff or higher priority election work; and

The area offices made little effort to follow up on reasons for deficient LMRDA reports identified by national office desk audits.

INVESTIGATIVE CASES UNDER LMRDA

In addition to information received from the national office, the area office staffs open investigations based on complaints from labor organization members, employees, officials, and employers and news media releases. Under LMRDA, LMSA has enforcement programs covering both civil and criminal violations of the act. Enforcement programs covering civil violations primarily involve investigating election complaints and supervising election reruns where violations have occurred. Programs involving potential criminal violations include delinquent and deficient reporting, bonding and trusteeship violations, and mismanagement of funds.

The Philadelphia and San Francisco area offices had a total of 86 closed and pending cases which we believe may have included potential criminal violations. We examined 64 cases—19 pending and 45 closed cases. Of the 64 cases, 26 were opened as a result of desk audits by the national office, 11 were based on information received from other sources by the national office, and the others were initiated by the area office based on complaints. Details of our case work follow.

CASES CLOSED ADMINISTRATIVELY

The two area offices closed 37 of the 45 LMRDA cases after the labor organizations voluntarily agreed to comply with the act or the investigation detected no violations.

Two of the remaining eight cases were closed administratively although fund shortages with possible criminal violations were uncovered. LMSA considered the first case to be unsuitable for prosecution because the (1) subject was 70 years old, (2) she repaid $6,500 of the $14,400 shortage, and (3) the remaining $7,900 owed on the shortage was less than the salary (about $37,800) apparently owed and never paid to her by the labor organization. In the second case, the subject had died before the receipt of the complaint and the start of the investigation.

Four cases were closed by the area offices after they were referred to Justice. Justice and LMSA agreed not to prosecute one case since the amount of the potential embezzlement ($378) was nominal and the subject agreed to repay the funds. In the other three cases, Justice initiated criminal action against the subjects.

Coordination With Justice

For the other two cases, investigations were closed after the LMSA investigators found that Justice had completed an investigation of one case and was still investigating the other. LMSA lacks formal procedures for notifying Justice of cases under investigation. Area office officials believed that such procedures were needed.

Coordination Between Investigative Staffs

There was a lack of internal coordination between the area office staff who worked on LMRDA and ERISA cases. For example, in one pending LMRDA case, the staff was unaware that the labor organization was being investigated by the ERISA staff and Justice. Also, according to LMSA officials, their investigative procedures do not include cross-checking to determine whether individuals being investigated under an LMRDA case also held a fiduciary position in the management of pension and welfare plans subject to ERISA.

Delays in Case Investigations

The period of investigation for the 64 cases ranged from about 1 to 28 months. Many investigations were delayed or suspended primarily because of higher priority election investigations.

For one pending case, LMSA opened its investigation in early 1977 and requested delegation of authority for an investigation of potential embezzlement from Justice in April 1977. As of March 1978, Justice had not responded and the case was still open. There was no indication that the area office followed up on its request.

In another pending case, the area office investigation had been open for at least 2 years even though LMSA believed that union funds had likely been embezzled. The subject of the investigation is a business agent of a local labor organization as well as a trustee of its pension plan, which gives him continued access to pension funds. Area office officials indicated that the investigation had been delayed because of higher priority election work and changeover of investigators. The investigation was resumed in March 1978. Area office officials said the case will be referred to Justice when the fund shortage is determined.

FOLLOWUP INVESTIGATIONS

We reviewed the area office investigative efforts on the 26 cases opened as a result of national office desk audits. These followup investigations consisted primarily of having the labor organization file an amended report and verifying and reconciling the fund balances shown on that report. The

area offices made little investigative effort to determine the reasons for the deficiencies noted in the desk audit. If the amended report was obtained and the fund balances reconciled, then voluntary compliance was deemed to have been achieved and the case closed.

INVESTIGATIVE CASES UNDER ERISA

LMSA area offices open investigative cases under various enforcement program categories covering possible violations of ERISA provisions. We selected for review programs that could have included possible criminal violations, such as delinquent and deficient reports, fiduciary breaches, improper bonding, and persons prohibited from holding office. We excluded programs for which potential criminal violations were unlikely.

The two area offices had 204 closed and pending cases with potential criminal violations. We selected 78 cases for review—27 pending and 51 closed cases. Fifty-two of the total closed and pending cases were initiated as a result of desk audits at or other information received by the national office indicating delinquent or deficient reporting or fiduciary violations. The remainder resulted from complaints received by the area offices from plan participants who alleged that fiduciary violations occurred or plan administrators failed to provide benefit or bylaw information to them.

The two area offices closed 50 of the 51 cases because their investigation disclosed no civil or criminal violations or the plan administrators agreed to voluntarily comply with the act. The other case was administratively closed because Justice was already taking action against the plan administrator.

Some of the pending and completed ERISA investigations were delayed. The period of the investigations for the 51 closed cases ranged from about 1 week to about 18 months. Area office officials said the delays were primarily due to heavy workloads and the need to provide technical assistance to the public and attend training sessions.

CHAPTER 6

Weaknesses in LMSA area office field audits

LMSA could improve its enforcement under both acts by making more field audits at labor organizations and pension and welfare benefit plan sites, developing a more systematic method for selecting organizations and plans for audit, and making better field audits.

Field audits are initiated by LMSA area offices and are made onsite at the labor organization or wherever the pension and welfare plans' records are located. Generally, the audits are to (1) verify the accuracy of the labor organizations' or plans' reports, (2) determine the adequacy of financial records and bonding coverage, (3) verify compliance with the provisions of the laws relating to reporting and disclosure, financial operations, and fiduciary responsibility, and (4) investigate violations.

FEW FIELD AUDITS MADE

During fiscal year 1977 LMSA staff made few field audits of labor organizations and pension and welfare plans. Nationwide, only about 1 percent of LMSA's staff-days was spent on field audits of labor organizations and only 3 percent on pension and welfare plans.

The Philadelphia and San Francisco area offices spent only 2 percent of their staff time on field audits during that period. Also, some audits were delayed because of insufficient staff or priority work such as election cases.

For LMRDA, during fiscal year 1977, the Philadelphia and San Francisco area offices completed seven and two audits, respectively. The offices noted no potential criminal violations in these nine cases.

The Philadelphia office also had one audit in process at the end of the fiscal year. This audit, however, was delayed because the staff had to work on election and pension cases.

The San Francisco area office had five audits in process at the end of the year. However, four of these were delayed, three because of election cases and one because of the death of the compliance officer. This audit was initiated because of an allegation by the labor organization's auditor that funds were being embezzled and that he was denied access to the organization's records. The complaint was originally made to the area office in 1972; however, the office did not act at that time.

In July 1974 the auditor again brought these allegations to the attention of the area office and requested an audit of the books. He again charged that the funds were being embezzled and added that fraud and misappropriation of funds had occurred. The area office finally initiated a field audit in January 1975, which continued until May 1976, when the LMSA compliance officer performing the audit died.

The field audit disclosed questionable expenditures of about $2,650 for such items as personal telephone calls, refreshments, and a loan to a member of the labor organization. Nothing in the files indicated that these questionable items had been resolved. In addition, the LMSA national office had made a desk audit and questioned the categorization of various amounts shown on the organization's 1972 and 1973 financial reports.

According to area office officials, the field audit was delayed because of a lack of staff. However, the area office had opened three new field audits within the month following the compliance officer's death. These audits were opened because it was believed that the labor organizations' annual reports contained some potential for review. One of these audits was closed in less than 5 months and the other two were pending at the end of fiscal year 1977.

In April 1978 area office officials also advised us that there was little chance of developing enough evidence to warrant prosecution and that the audit was scheduled to be closed in April 1978, upon receipt of additional data from the labor organization. After we discussed the case with the officials, they agreed to obtain the local U.S. attorney's opinion before closing it.

The two area offices did not complete any field audits for ERISA during fiscal year 1977. Philadelphia had eight audits in process at the end of the year, and San Francisco had one. Six of the Philadelphia audits were delayed because the LMSA national office could not locate the plans' annual reports; one was delayed because plan representatives questioned the application of ERISA to their plan; and the other was delayed because of higher priority investigative work and unavailability of staff.

During fiscal year 1978 LMSA also initiated a pilot program in the Philadelphia region for the compliance review of 30 ERISA pension and welfare benefit plans. The criteria used to select the 30 plans were designed to provide for a mixture according to (1) geographic area, (2) single employer and multiemployer plans, (3) pension and welfare plans, (4) insured and self-insured plans, and (5) number of participants. In reviewing the 30 plans, the region used a checklist designed to obtain information about the plans to determine whether they were basically in compliance with ERISA.

Deficiencies were disclosed in 13 plans, and as a result, the region initiated more detailed investigations of such items as fiduciary responsibilities, bonding coverage, and deficient or delinquent reports. We were told that none of the deficiencies appeared to be potential criminal violations.

The Philadelphia regional officials reacted favorably to the pilot program. They plan to recommend that the national office expand the program to about 60 plans in the Philadelphia region and extend it to two other area offices.

INSUFFICIENT INCREASE IN FIELD AUDITS PLANNED

LMSA national and area office officials agreed that field audits are valuable as a deterrent and that more audits should be made to provide better enforcement of both acts.

During fiscal year 1978 LMSA said it plans to increase the number of field audits for both LMRDA and ERISA. Another increase is planned for ERISA in fiscal year 1979. The field audits completed during fiscal year 1977 and those planned for fiscal years 1978 and 1979 are compared below.

	Fiscal year 1977 audits completed	Fiscal year 1978		Fiscal year 1979	
		Audits planned	Percent increase	Audits planned	Percent increase
LMRDA	43	60	39	60	
ERISA	32	64	100	105	64

These planned increases are an improvement in audit coverage, but the number planned is still relatively insignificant in relation to the estimated 54,000 labor organizations and 500,000 pension and welfare benefit plans known to LMSA and reporting under the acts.

NO CONSISTENT BASIS FOR SELECTING FIELD AUDITS

The Philadelphia and San Francisco area offices used different bases for selecting labor organizations and pension and welfare benefit plans for field audits.

Audit guidelines for LMRDA provide that in selecting labor organizations, area offices should achieve the widest possible diversity by (1) geography, (2) parent labor organizations, and (3) trade or industry. Audit guidelines for ERISA, however, do not have any criteria for selecting benefit plans.

For the seven LMRDA field audits completed in 1977, the Philadelphia area office selected various size labor organizations with between 582 and 36,000 members and receipts ranging from about $61,000 to $592,000. One audit was initiated at the national office's request. On the other hand, the San Francisco area office selected labor organizations on the basis of complaints and review of the organizations' financial reports to identify those with the most potential for discrepancies.

For ERISA the Philadelphia area office selected only labor organizations vacation funds for the eight field audits in process during fiscal year 1977. Area office officials said this type of fund was selected because it had not received audit coverage and they believed that most plan administrators had not been filing the required reports.

In San Francisco the one ERISA field audit was initiated because of questionable administrative costs and cash balances in the plan's annual report and complaints by the plan's trustee alleging improper handling of plan funds and assets.

Better selection of labor organizations and

plans for audits is needed. Such data as volume of annual receipts, prior audit findings, and date of last audit is available at the national office from which the universe of reporting labor organizations and plans could be identified and stratified. Based on the data available, statistical sampling techniques could be used to randomly select both labor organizations and benefit plans for field audit.

INADEQUACIES IN FIELD AUDITS

Although LMSA has comprehensive guidelines for making field audits, the audit reports and supporting working papers disclosed the following inadequacies in the performance and documentation of some audits.

Seven LMRDA audit reports stated that the labor organization's internal controls were adequate even though the compliance officer's working papers for six indicated that accounting duties were not adequately segregated. For the seventh, the working papers did not identify who maintained the books or who performed other accounting duties.

In one LMRDA audit, an accountant for the labor organization stated in August 1976 that a former treasurer who had not held office since 1971 had not deposited checks sent to the organization but had since repaid any money owed. The working papers did not disclose the amount involved, the date of the occurrence, whether this matter was investigated further, or whether verification of the claimed repayment was made. An area office official stated that, because of the time lapse between the date of the alleged act and its disclosure during the audit, the compliance officer probably reasoned that the statute of limitations precluded action against the former official. The official agreed that the compliance officer should have explained in the working papers why the matter was not pursued.

In another LMRDA audit, the compliance officer concluded that bonding coverage was adequate. LMRDA requires that all persons who handle funds be bonded and establishes criminal sanctions for willful violations. The working papers showed that, in addition to the officer covered by the bond, another officer also received checks and an employee of the organization received checks and cash. Neither was covered by the bond. We brought this matter to the attention of area office officials, and they agreed to have the organization correct the bonding coverage.

CHAPTER 7

Inadequate staffing for enforcement of LMRDA and ERISA

LMSA does not have adequate staff to effectively carry out its enforcement responsibilities under LMRDA and ERISA, and its requests for additional staff have met with little success. The background of personnel in the area offices visited appears appropriate for their positions, but they receive little formal training.

LMSA'S REQUESTS FOR INCREASED STAFFING DENIED

LMSA had 479 approved positions for enforcing LMRDA and 589 for enforcing ERISA in fiscal year 1977. At yearend LMSA had 450 LMRDA enforcement staff members on board—301 professional and 149 clerical. LMSA had 516 employees to enforce ERISA, of which 331 were professional and 185 clerical.

The Philadelphia area office had six professionals assigned to LMRDA enforcement work and seven assigned to ERISA. San Francisco assigned six professionals to LMRDA and five to ERISA.

For fiscal years 1978 and 1979, LMSA requested increases in staff for enforcement of both acts. Only a part of the requested increases was approved by the Department of Labor and the Office of Management and Budget (OMB). In 1978 the Department approved 20 of the 111 additional staff requested for LMRDA, but OMB denied the entire increase. LMSA's request for a staff increase of 134 for 1979 was denied by the Department.

For ERISA the Department approved 109 of 234 additional positions requested in 1978, but OMB reduced the increase to 59 positions. For 1979, LMSA requested 755 additional staff. The Department approved an increase of 18; however, OMB reduced the staffing to a point below the level approved by the Congress for 1978.

Details on LMSA's staff requests are shown on the following page.

Fiscal year, location	Requested by LMSA	Approved by labor	Approved by OMB	Approved by the Congress
REQUESTS FOR STAFF TO ENFORCE LMRDA				
1977:				
National	167	167	147	147
Field	417	312	332	332
Total	584	479	479	479
1978:				
National	173	153	147	147
Field	417	346	332	332
Total	590	499	479	479
1979:				
National	161	147	147	(1)
Field	452	332	332	
Total	613	479	479	
REQUESTS FOR STAFF TO ENFORCE ERISA				
1977:				
National	470	350	350	350
Field	209	239	239	239
Total	679	589	589	589
1978:				
National	373	360	350	350
Field	450	338	298	298
Total	823	698	648	648
1979:				
National	824	344	344	(1)
Field	579	322	298	
Total	1,403	666	642	

[1] The request was being considered by the Congress as of July 1978.

Philadelphia area office officials estimated a need to increase their staff for LMRDA from 6 to 12 and the staff for ERISA from 7 to 15. San Francisco officials estimated a need for 9 additional staff members for LMRDA and 10 for ERISA. According to area office officials, additional field staff is needed in the daily operations, if the field is to do more self-initiated field audits and to play a greater role in educating the rank-and-file union members and the public on the two acts—particularly ERISA because of its newness and complexity.

San Francisco officials added that the situation for LMRDA will become critical in the next couple of years if additional staff is not obtained. They said that the present experienced staff will retire and no one will be available to train future staff members. This is especially important in view of the limited formal training now being provided.

STAFF QUALIFICATIONS AND TRAINING

Most of the LMRDA and ERISA professional staff at the two area offices are college graduates with bachelor's degrees in such fields as accounting, business administration, and political science. Many were previously employed in other offices within the Labor Department, at other Federal agencies, or in private industry, and their work experience appears appropriate with their enforcement responsibilities.

However, LMSA has provided little formal classroom training to its LMRDA and ERISA staffs. Nationwide, LMRDA and ERISA staffs reportedly spent 3 and 12 percent, respectively, on training. In Philadelphia, the LMRDA staff reported that 5 percent of its efforts were spent on training, and the ERISA staff 13 percent. In San Francisco, the LMRDA staff reported that 4 percent of its time was spent on training and the ERISA staff reported 8 percent for training.

The training provided the field staff, however, consisted primarily of on-the-job activities, such as renewing regulations to keep current and attending meetings at which cases were discussed and analyzed. Little, if any, formal classroom training was provided.

The Science Management Corporation study completed in November 1977 concluded that training provided field staff was inadequate due to a lack of planning, organization, and management commitment. The study recommended that training be monitored through visits and spot checks of cases. LMSA national office officials are still evaluating the study's conclusion and recommendations.

In January 1978 LMSA issued a strategy document for implementing an enforcement policy and providing guidance to the staff working on ERISA. The document stated that staff training was mandatory and the immediate training components were to focus on the fiduciary provisions of ERISA. In addition, each national office director and each regional administrator will be required to submit an annual plan for personnel development and training.

CHAPTER 8

Conclusions and recommendations

CONCLUSIONS

We believe that the investigative responsibility and jurisdiction of the Departments of Labor and Justice are clearly defined and that the coordination between the Departments is generally adequate. LMSA, however, needs to improve its coordination (1) with Justice to eliminate duplicative investigations of the same potential criminal violations and (2) between its LMRDA and ERISA investigative staffs at the area offices.

Most importantly, however, LMSA has limited its enforcement of LMRDA and ERISA. Most of its enforcement effort under LMRDA is directed to investigating election complaints and supervising election reruns since under this act these civil violations are to be given priority. For ERISA, LMSA directed

most of its efforts to activities other than enforcement and compliance of either the civil or criminal provisions of the act—primarily because the law was new and complex and the public needed substantial technical assistance.

Much of LMSA's limited investigative efforts are directed to complaints from outside sources and deficiencies flagged in its national office computerized report processing and desk audit systems. These systems, however, are principally directed to achieving voluntary compliance with the reporting and disclosure requirements of the laws not to verifying the accuracy of the reported data. Nor is the system designed to determine the level of compliance with the acts' requirements by labor organizations and pension plan administrators.

In our opinion, more vigorous enforcement is needed to detect and investigate criminal as well as civil violations of the two laws.

We believe that field audits can be the most practical means to help LMSA effectively enforce LMRDA and ERISA. A more aggressive field audit program—properly planned and carried out—would help enhance compliance with civil requirements of LMDRA and ERISA and serve to identify potential abuses, such as embezzlement, that warrant criminal investigation. It could also serve as an indicator and verifier of the accuracy of the financial and other data being reported and disclosed by the labor organization and pension plan administrators.

LMSA needs to (1) strengthen the area office field audit activities by increasing the number of onsite field audits made at labor organizations and benefit plans and (2) assure that consistent, high-quality audits are made. In making its selection, LMSA could (1) use data available at the national office, such as volume of annual receipts, prior audit findings, and data of last audit, and (2) apply scientific sampling methods to randomly select labor organizations and benefit plans for field audits.

LMSA plans to increase the number of field audits under both laws in fiscal year 1978 and under ERISA in 1979. In our opinion, however, these planned increases are insufficient.

According to LMSA officials at both the national and the area offices, insufficient investigative staff is a primary cause of the lack of effective enforcement of the two laws and the limited field audit activity. According to national office officials, this is also a reason that more desk audits are not made.

LMSA has recognized the need for additional staff to meet its increased workload and has requested more staff for enforcing both acts. These requests have not been fully met by OMB. In fact, LMSA's staff for ERISA enforcement, as approved by OMB for 1979, was less than that approved by the Congress for fiscal year 1978.

For LMSA to improve its enforcement responsibilities under LMRDA and ERISA—particularly its field audit activities—more staff will clearly be needed. LMSA, however, needs to develop data on the level of compliance being attained for both laws through its voluntary compliance activities. This would enable LMSA to determine its additional enforcement needs and its future staff and resource requirements.

Also, some weaknesses we noted, such as poor coordination, could be alleviated through improved program administration. Our review, and the Science Management study, showed that LMSA needs to increase the training provided the area office staff.

RECOMMENDATIONS TO THE SECRETARY OF LABOR

Labor needs more vigorous enforcement to detect and investigate potential criminal and civil violations of LMRDA and ERISA. To make the improvements needed in its enforcement programs, including increasing its field audit activity, LSMA needs more staff than requested by Labor and OMB and approved by the Congress.

We recommend that the Secretary of Labor determine the additional resources needed to effectively enforce the criminal and civil provisions of both laws and provide this information to the Congress for its consideration.

In determining the additional resources needed to effectively use the enforcement staff, the following recommendations should be considered. We recommend that the Secretary direct the Labor-Management Services Administration to

Strengthen the area office audit activities by increasing the number of onsite field audits made at labor organizations and benefit plans and assure that consistent, high-quality audits are made;

Establish procedures to notify Justice of its investigative activities to avoid duplicative investigations;

Establish procedures to require direct, continuous, and day-to-day coordination between the ERISA and LMRDA investigative tracks at the area offices;

Improve the timeliness of the area offices' investigation of cases with potential for criminal violations; and

Review the training of LMSA area office field staff to ensure that the auditors and compliance officers receive the training needed to effectively carry out their duties.●

CLIFFORD HANSEN

● Mr. CHURCH. Mr. President, as a political institution, the Senate, throughout its history has operated in the tradition of partisan debate and activity. We divide ourselves into the majority and minority; we elect our leaders by partisan consideration, and we establish our committees in the same mold. It is a healthy tradition that has served us well.

But for all our partisan political heritage, we come quickly to know that the things that count most about Senators are their personal qualities of integrity and fairness.

In this context, I am especially saddened that CLIFFORD HANSEN of Wyoming will not be returning to the Senate next year. I have thoroughly enjoyed my service with him on the Senate Energy and Natural Resources Committee, where he has always been willing to look for common ground in our effort to fashion good legislation, and when we found that common ground—which, I should add, was a large percentage of the time—there was no more faithful ally. Like the rugged State he represents, CLIFF HANSEN epitomizes those traits Westerners appreciate most: Absolute integrity, a commitment to fair play, and old fashioned commonsense in the making of public policy.

I will miss CLIFF HANSEN in the Senate. His has been an outstanding record of service to his State and country. I wish him only the best of health and happiness in the years to come.●

DEWEY BARTLETT

● Mr. CHURCH. Mr. President, in all the years I have served in the Senate with DEWEY BARTLETT, I have come to know him best in the past year, when we had occasion to work together on a piece of legislation both of us consider important to small businesses. I am referring to an amendment we sponsored to exempt small business establishments from coverage under the Occupational Safety and Health Administration.

We have come to realize that while the public interest may well require governmental regulation in many cases, too much regulation stifles free enterprise, and it is the consumer, in the final reckoning, who pays. Congress took the first step this year by relaxing regulation of the airline industry, and Senator BARTLETT thought the time was ripe for approval of an amendment exempting small businesses that are not inherently hazardous from OSHA controls.

In the end, our amendment passed the Senate, but was dropped in conference. However, DEWEY BARTLETT asked me to carry on and seek approval of the amendment next year. I fully intend to do so.

Mr. President, I mention this piece of legislation because it was in connection with it that I came to know DEWEY BARTLETT better. Against great personal odds, I watched him battle for causes in which he believed, and I came to admire him greatly.

So I am saddened that Senator BARTLETT will not be with us next year. For the future, I wish DEWEY and his wife, Ann, all the best.●

ALASKA LANDS LEGISLATION

AMENDMENT NO. 2176

● Mr. DURKIN. Mr. President, I am extremely pleased that my distinguished colleague and friend from South Carolina, Senator HOLLINGS, is cosponsoring S. 1500, amendment No. 2176, which I introduced to preserve and protect the beauty of Alaska. My amendment now has the cosponsorship of over one-fifth of the Senate, a tribute to the widespread support in this body for fair and adequate protection of Alaska's lands.

Senator HOLLINGS' record as an environmentalist is unparalleled. Throughout his remarkable career in this body, he has constantly been a leader in preserving this country's natural beauty and heritage. That is why I am so proud to have him joining me in this important battle which will continue into the 96th Congress.

I know the people of South Carolina and across our Nation will join me in thanking Senator HOLLINGS for his strong support of the Durkin-Metcalf bill, and will welcome his assistance during next year's consideration of the Alaska lands issue.●

VALUE OF SOCIAL SECURITY PROTECTION

● Mr. CHURCH. Mr. President, the social security program is one of the Nation's most valued institutions. More than one out of every seven Americans receives a monthly social security check. These benefits replace, in part, the earnings that have been lost because of retirement, death, or disability. In addition, medicare protection is provided when people reach age 65 or have been disabled for 2 years, or suffer from end-stage renal disease.

In one way or another, social security touches the lives of almost every American family. A few key facts, it seems to me, make this point very effectively.

SURVIVORS INSURANCE PROTECTION

Survivors protection, for example, is an important part of social security. Social security monthly benefits are paid to a deceased worker's:

Unmarried children under 18—under 22 if full-time students;

Unmarried children 18 or over who were severely disabled before 22 and who continue to be disabled;

Widow or widower 60 or over;

Widow, widower, or divorced wife if caring for the worker's child under 18—or disabled—who receives a child's insurance benefit;

Widow or dependent widower 50 or older who becomes disabled not later than 7 years after the worker's death or, in the case of a widow, within 7 years after she stops receiving checks as a widow caring for the worker's children;

Dependent parents 62 or older;

Divorced wife 60 or older if the marriage lasted at least 20 consecutive years (10 years beginning in 1979);

Disabled divorced wife 50 or older if the marriage lasted at least 20 years (10 years beginning in 1979) and if she becomes disabled within the 7-year period described for disabled widows; and

Grandchildren who were living with and dependent on the worker and whose parents are disabled or deceased.

Ninety-five out of every 100 children under 18 and their mothers have survivorship protection if the father were to die.

The value of social security survivors protection for a family with young children depends largely on: First, the number and age of the children; and second, the earnings of the worker. For example, in the case of a young worker with average monthly earnings of $790 who dies in mid-1978 leaving a wife aged 32 and two children aged 3 and 5, the present value of social security benefits that will be paid to that family over the years—assuming that the children attend school until they reach age 22—is $196,250. And it is guaranteed inflation proof.

DISABILITY INSURANCE PROTECTION

Disability protection is another important part of social security. Monthly social security disability benefits are paid to disabled workers and the worker's:

Unmarried children under age 18—or under 22 if full-time students;

Unmarried children age 18 or over who were severely disabled before age 22 and who are disabled;

Wives or husbands 62 or over;

Wives under 62 who care for a covered worker's child under 18—or disabled—who received a benefit based on the disabled worker's earnings;

Divorced wives 62 or older if the marriage lasted at least 20 consecutive years (10 years beginning 1979); and

Grandchildren who are living with and dependent on the worker and whose parents are disabled or deceased.

Four out of five adults have disability protection under social security in the event of the breadwinner's long-term disability, either as insured workers or as dependents of insured workers.

The Social Security Act defines disability for social security purposes generally as the inability to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that has lasted or is expected to last at least 12 months, or to result in death. Where a person is able to work despite his impairment, a decision as to whether he is disabled within the meaning of the law is made based on the circumstances under which the work is performed.

Under current regulations, earnings greater than $240 a month would ordinarily demonstrate a nonblind individual's ability to engage in substantial gainful activity; earnings greater than $334 a month (in 1978; higher in subsequent years) would ordinarily demonstrate a blind person's ability to engage in substantial gainful activity.

The present value of the social security survivors and disability protection is about $196,220 for a man who:

Becomes disabled in mid-1978 at age 35;

Has a wife age 32 and two children ages 3 and 5 who attend school until they reach age 22;

Has average monthly earnings of $790; and

Dies after being disabled for 5 years.

These benefits are also inflation proof. If the disabled worker in this example dies after being disabled for 20 rather than 5 years, the present value is about $220,490.

MEDICARE HOSPITAL INSURANCE PROTECTION

At age 65, medicare hospital insurance protection automatically goes with eligibility for social security or railroad retirement benefits for workers, dependents, or survivors. Also eligible for hospital insurance are disabled people under 65 who have been continually entitled for 2 years to social security or railroad retirement benefits on the basis of a disability. Insured workers and their dependents who have end-stage renal disease are eligible also. Finally, people 65 and over who are not eligible under any of these provisions can buy medicare hospital insurance protection, currently for $63 a month.

Three types of care provided by participating organizations are covered: Inpatient hospital care, posthospital extended care, and posthospital home health services.

Inpatient hospital care is covered for up to 90 days in a benefit period. A benefit period starts when a person enters a hospital and ends when the patient has been out of a hospital or skilled nursing home for 60 consecutive days. Medicare now pays all but the first $144 of the cost of covered services for the first 60 days. If hospitalization lasts longer than 60 days, the medicare beneficiary pays a $36 daily coinsurance charge for the next 30 days. In addition, a lifetime reserve of 60 days of inpatient hospital benefits is available to beneficiaries who have used up the 90 days of benefits in a benefit period. Here again, the patient must pay a $72 daily coinsurance charge.

The second, posthospital skilled nursing facility care, is covered for up to 100 days in a benefit period if the care is begun shortly, generally within 14 days, after a hospital stay of at least 3 days. Medicare pays all covered costs for the first 20 days and, after the 20th day, pays all but $18 a day. The services covered are the skilled nursing or rehabilitation services provided daily to inpatients of skilled nursing facilities.

The third type of care covered by hospital insurance is posthospital home health services. Medicare pays for covered services in full. Up to 100 visits by nurses, physical therapists, and other health personnel are covered if furnished within a year after discharge from a hospital—after at least a 3-day stay—or from a covered stay in a skilled nursing facility. A plan of home health care must be provided by a doctor.

The value of hospital insurance protection depends, of course, on a person's state of health. A person who enjoys continuing good health will stand to receive less in benefits than the average. A person who is not that fortunate, on the other hand, could receive substantially more than the average. For fiscal year 1978, covered inpatient care in short-stay hospitals accounted for 95 percent of the total hospital insurance benefits paid. The average short-stay hospital benefits was $1,570. The average number of covered days of care for these stays was 10.8. The average present value of the lifetime value of hospital insurance benefits that can be expected to be paid for a couple, both reaching 65 now, is $31,000.

Here is another way to illustrate the value of medicare's hospital insurance protection: 16 percent of aged beneficiaries are expected to receive benefits for hospital services in excess of 1,000 in fiscal year 1978. Seven percent are expected to receive more than $3,000 in benefits. The following chart shows additional examples.

Reimbursement greater than—	*Percentage of aged beneficiaries*
$0	23
$250	22
$500	20
$750	19
$1,000	16
$2,000	11
$3,000	7
$5,000	4

Thus, medicare hospital insurance is there when you really need it.

MEDICARE SUPPLEMENTARY MEDICAL INSURANCE PROTECTION

Medicare's supplementary medical insurance plan operates somewhat differently. Unlike the rest of social security, workers do not contribute toward medical insurance protection during their working years. People age 65 and over—people under 65 who are eligible for hospital insurance—who sign up for medical insurance pay monthly premiums for this protection. The current premium is $8.20 a month. The Government more than matches the amount of premium to meet the full cost of the program. Now,

the Government's monthly share for the aged is $18.60, more than twice what each beneficiary pays.

There is an annual deductible of $60. After the deductible is met, the plan pays 80 percent of the reasonable charge for covered services. Special limitations apply to psychiatric care and services of independently practicing physical therapists.

Physicians and surgeons' services are covered in the home, office, clinic, and hospital. Outpatient hospital services are covered if furnished by participating hospitals—or by nonparticipating hospitals for emergency outpatient services.

Home health services—the same as covered in medicare's hospital insurance—are also covered under the medical insurance plan for up to 100 visits in a calendar year. After the $60 deductible has been met, the plan pays for home health services in full, rather than 80 percent of reasonable cost. No prior hospitalization is required.

Examples of other covered health services include outpatient physical therapy and speech pathology services, diagnostic tests, rental and purchase of durable medical equipment, and certain ambulance services.

The value of medical insurance protection also depends on a person's state of health. The average benefit paid per bill for physician care and related services was $56 in fiscal 1977. About three-fourths of the amounts paid for by the program was for doctor's services. An additional one-sixth was for outpatient hospital services.

Here is another way to illustrate the value of medicare's medical insurance protection: 13 percent of aged beneficiaries are expected to receive medical insurance benefits in excess of $500 in fiscal year 1978; 6 percent are expected to receive more than $1,000 in benefits. The following chart shows additional examples:

Reimbursement greater than—	*Percentage of aged enrollees*
$0	60
$100	37
$200	26
$300	19
$400	15
$500	13
$750	9
$1,000	6

Thus, medicare medical insurance is also there when you really need it.

RETIREMENT INSURANCE PROTECTION

I have purposely left until last the illustration of the value of social security retirement benefits. Many people think of social security as only a retirement plan, but it is much more. It is also family security. In fact, only about 63 percent of all people getting monthly cash benefits are retired workers and their dependents.

Social security retirement benefits are paid to retired workers at 62 or older, and their dependents. The same rules generally apply for dependents under both the disability and retirement programs.

In January 1978, 93 percent of all people aged 65 or over either received social security benefits (note: This actually includes survivors benefits to those over 65 which, generally speaking, might be considered "retirement" benefits), or would receive them if they or their spouses were not working. By 1985, about 94 percent of the aged population will be eligible for benefits; the proportion is expected to be above 96 percent by the year 2000.

The present value of social security protection is $120,840 in the case of a worker who:

Reaches age 65 upon retiring in July 1978;

Has a wife who reaches 62 in the same month; and

Has average monthly earnings of $688.

This figure includes the value of some survivor's protection for the wife, since the probability is that the worker will die before her. Once again this protection is inflation-proof.

For people reaching 65 and retiring in the future, the value is, of course, much higher. Let me again use the example of the worker and his wife who are now aged 35 and 32. In the year 2007, they will be 65 and 62. Assuming the worker retires then, the value of their social security retirement protection including the wife's survivor protection will be about $162,000 in 1977 dollars.

This valuation is based on the actuarial assumptions included in the 1978 report of the Board of Trustees of the social security trust funds. It assumes the same proportion of wage replacement as exists under present law in January 1978. It further assumes that the worker will earn the maximum salary counted toward social security. That amount is $17,700 this year and is expected to be about $28,000 in 2007 using constant dollars.

Constant dollars—that is, 1978 dollars—are used because the number of 2007 dollars is expected to be significantly higher because of inflation. I want to keep all the illustrations as consistent as possible for comparison purposes; using 1978 dollars helps do that.

WORK CREDITS REQUIRED

Before workers and their families can get retirement, survivors, disability, or hospital insurance protection, the workers must earn a certain amount of social security work credits known as quarters of coverage. For years before 1978 a worker generally received a quarter of coverage for each calendar quarter in which he was paid $50 in wages, and a self-employed person received four quarters of coverage in a year if his net earnings from self-employment for the year were at least $400. For 1978, all workers including the self-employed will receive one quarter of coverage (up to a total of four in a year) for each $250 of earnings paid in the year. This amount will be increased annually to take account of increases in average wages.

The number of quarters of coverage needed to be insured for social security benefits depends on the worker's age. For retirement and hospital insurance protection, a worker generally needs one quarter of coverage for each year after 1950 (or age 21, if later) and up to the year he or she reaches age 62. For example, a worker reaching age 62 in 1978 needs 27 quarters of coverage. He or she will need 28 quarters of coverage if 62 in 1979, 32 quarters of coverage if 62 in 1983, and 40 quarters of coverage if 62 in 1991 or later.

For survivors protection, a worker generally needs one quarter of coverage for each year after 1950 (or age 21, if later) and up to the year he or she dies. For example, a worker born in 1929 will need 13 quarters of coverage if he or she dies at age 35, 20 quarters of coverage if at age 42, and 28 quarters of coverage if at age 50.

For disability protection, workers who become disabled at age 31 or later need as many quarters of coverage as they would need if they reached 62 in the year they become disabled. In addition, though, they need 20 quarters of coverage in the 10-year period just before they become disabled. The additional quarters of coverage are not needed if the worker becomes blind.

Having enough credits means only that workers and their families can become eligible for checks. But the amount of the checks depends on the worker's average earnings over a period of years from jobs covered by social security. The higher the earnings, the higher the benefits.

A final important point: Most people believe it is wise to supplement their social security protection with other insurance or pensions. We must remember that prices will rise in the future. Although social security benefits will increase with the cost of living, it is not too likely—in my opinion—that there will be any sizable future increase in the proportion of earnings replaced by social security benefits. So planning for some supplement seems to me to be prudent.

Finally, it should be emphasized that social security was never intended to be the sole source for replacing lost earnings because of death, retirement, or disability.

It, of course, provides valuable protection. And for most older Americans social security is their primary source of support. But quite clearly, social security benefits should be supplemented by private pensions, insurance, savings, or other forms of protection.●

ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

AMENDMENT NO. 4735

● Mr. DURKIN. Mr. President, due to the last minute crush of Senate business, I was unable to add Senators McGOVERN, GRIFFIN, BIDEN, and HATHAWAY as cosponsors of printed amendment No. 4735 to H.R. 39, the Alaskan National Interest Lands Conservation Act. Senators NELSON, ABOUREZK, McINTYRE, HASKELL, PELL, ROTH, RIEGLE, HUMPHREY, LEAHY, and EAGLETON are also cosponsoring the amendment.

I welcome the support of my distinguished colleagues for my amendment which has as its purpose the expansion of the area of Federal land proposed for national park status in the committee bill. Unfortunately, the full Senate has been unable to consider the Alaska lands bill and my amendment during this Congress. However, the issue has not gone away, and we will be considering it again next year.

I look forward to working closely with

the supporters of my amendment and all other Senators during the next Congress to fashion an Alaska national interest lands bill which will represent a proper response to this last great opportunity to plan and preserve the immense natural values of the lands in Alaska.●

NOTICE OF HEARING

● Mr. DECONCINI. I wish to announce that an open public hearing will be held by the Subcommittee on Improvements in Judicial Machinery of the Committee on the Judiciary on S. 3475, a bill to provide for the reform of class action litigation procedures.

The hearing will be held on November 29 and 30, 1978, in room 2228, Dirksen Senate Office Building, commencing each day at 9 a.m.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, 6306 Dirksen Senate Office Building, Washington, D.C. 20510, telephone 202/224–3618.●

WARREN LEE

● Mr. MCGOVERN. Mr. President, I join with my fellow South Dakotans in mourning the passing of one of our State's foremost cultural and educational leaders, Dr. Warren M. Lee.

Perhaps more than any other person in South Dakota, Dr. Lee sensitized his fellow citizens with an appreciation for the art and craft of the theater.

The National Society of Masque and Thespian's creed, "Act well your part—for therein all the honor lies," was the hallmark of Dr. Lee's influence on the aspiring actors and actresses who trod the boards under his direction—and the countless audiences who delighted at the plays he produced and directed over a lifetime of active work in the theater.

Dr. Lee took the University Theater to the western part of our State and formed the Black Hills Playhouse—which to this day brings people from near and far each summer to attend superb productions.

We in South Dakota appreciate what Dr. Lee accomplished in his lifetime—and we are enriched in a renewed appreciation for the arts which is his legacy to the citizens of our State.

I knew Dr. Lee and his wife, Evy, as friends; I admired his work as an educator and I personally enjoyed his great talent as a master craftsman of the theater. We will miss him. I extend my deep sympathy to Evy Lee and to all others who mourn his passing.

Mr. President, I ask that an editorial from the Sioux Falls, S. Dak., Argus Leader be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WARREN LEE'S LEGACY TO ARTS

South Dakota and the arts have lost, in the death at 69 of Dr. Warren M. Lee, a man whose lifetime's work at the University of South Dakota, was synonymous with furtherance of the arts.

He was also a colorful and unique personality, whose preference for a cowboy hat and western wear knew no locale. He went "western" on the campus and at national arts meetings. This reflected his love for South Dakota's western heritage and Black Hills. It also demonstrated a complete lack of pretense that helped him promote and further the theater and other facets of the arts.

For him, the play was the thing from the days he was a high school student at Corning, Iowa, where he wrote and staged productions. His undergraduate and graduate work at the University of Iowa was in playwriting. He came to the Vermillion campus in 1938 as professor of theater. He was dean of the college of fine arts from 1951 until 1968, when he became professor emeritus.

Lee founded the Black Hills Playhouse in Custer State Park in 1946. Among his legacies for South Dakota is his best known play, "The Legend of Devil's Gulch," first performed in 1948. The play is an historical fantasy of the Black Hills. It has delighted thousands in summer audiences for many years. Lee managed and directed the Playhouse until 1974.

Lee was the first chairman of the South Dakota Arts Council, serving from 1966 until 1971. As Chairman, he helped extend an interest and appreciation of the arts throughout South Dakota. For his service with the Arts Council he received a special award of appreciation in 1974, bestowed by then Gov. Richard Kneip. Even as an honorary member of the council from 1971, Lee seldom missed a meeting. He was also a thoughtful contributor to the South Dakota Bicentennial Commission, of which he was a member.

Lee, the teacher and playwright, once said, "What we label 'the arts' (speaking, acting, writing, singing, dancing, painting, et cetera) are simply man's ways of sharing his experiences, trivial and memorable, actual and imaginary, with his fellowman. They are his invented and learned patterns for communication. Through the arts comes the realization of the excitement of being human."

As Dr. Wayne Knutson, dean of the College of Fine Arts at USD, expressed it, Lee was "the outstanding leader in the promotion of the arts in the state through his association with the Black Hills Playhouse, through his service at the University and also in the South Dakota Arts Council and the Bicentennial Commission."

South Dakota, unlike some other states and public bodies, has no hesitation in naming buildings or facilities after the living—if they deserve the honor. The Warren M. Lee Center for Fine Arts, dedicated at the University on Oct. 16, 1975, recognized Lee's contributions. Memorial services, appropriately, were held for Lee today at Theater No. 1 of the center, three years and a day when he saw the center dedicated.●

JAMES O. EASTLAND

● Mr. MATHIAS. Mr. President, at the time I was elected to the Senate, I had a chance encounter with former Attorney General Katzenbach. He congratulated me on my election and then asked what committee I was to be on. I told him Judiciary and he said, "Well, you will have the best chairman in the Senate."

Being well-acquainted with Nick Katzenbach's liberal proclivities and Senator EASTLAND's conservative reputation, I was surprised. But my close association with Senator EASTLAND over a full decade has amply confirmed Nick Katzenbach's judgment in this matter.

Senator EASTLAND's scrupulously fair conduct of meetings; his care in protecting every member's rights in committee, and his appreciation of the legislative process as an exercise in democracy, has been an example to all of us in the Senate and especially to those of us privileged to serve on the Judiciary Committee with him.●

JAMES B. PEARSON

● Mr. MATHIAS. Mr. President, there is certain irony that a man who understands the potential of the Senate better than most Senators should voluntarily choose to retire at an early age. JIM PEARSON is such a man and it is the Senate's loss that a voice which might have been influential in restoring the deliberative quality in the Senate has left this Chamber.

JIM PEARSON has no patience with nitpickers. Nor does he tolerate malicious gossip, whether in the cloakroom or in the press, not only because it offends his own personal standards but because he thinks it demeans the Senate.

Senator PEARSON's personal humility is so great and his reluctance to puff himself so characteristic that a colleague, discussing the Pearson-Bentsen bill, told him that the public thought Senator BENTSEN's first name was PEARSON. And, of course, this did not trouble JIM a bit, which is more than most of us would be able to say in similar circumstances.

These special qualities which characterize JIM PEARSON's service in the U.S. Senate are too rarely encountered to be given up without a sense of real loss. I feel that sense of loss and regret that JIM PEARSON is leaving us.●

DEWEY F. BARTLETT

● Mr. MATHIAS. Mr. President, I have it on good authority that the citizens of Oklahoma respond to their nickname—Okie—with great pride and affection. To them the term denotes one who enjoys Oklahoma's lakes and rich lands, its vibrant economy and vital growth; who knows the "we belong to the land and the land we belong to is grand."

This being so, I say, without fear of offending, that DEWEY BARTLETT as an Okie has no peer. His pride in his state and his devotion to it have earned him undisputed possession of the title.

Naturally, then, as DEWEY prepares to return to "the better world" vouchsafed only to Okie's, we cannot feel sorry for him. But we can feel a tinge of regret that this "fortunate, gifted and versatile person" has opted to return to Oklahoma, Key to Intelligence and Enterprise.●

JOHN J. SPARKMAN

● Mr. MATHIAS. Mr. President, in 1952 when Adlai Stevenson chose JOHN SPARKMAN to be his running mate, he said:

Senator SPARKMAN is a leading representative of the new liberalism that is changing

the face and the folkways of the South. He has been the devoted champion of legislation providing or promoting farm ownership, better housing, social security, the TVA, rural electrification, soil conservation, crop insurance and many other progressive and forward-looking legislative programs.

Mr. Stevenson went on the extol JOHN SPARKMAN'S efforts in behalf of small business and his understanding of the revolutionary convulsions that torment our world. He concluded with this eloquent summation:

JOHN SPARKMAN has enlisted for life in the struggle to improve the economic lot and the security of all of our people.

Today, more than a quarter of a century later, none, I think, would dispute that assessment of JOHN SPARKMAN'S commitment to enhancing the quality of life for all Americans.

In an age when it was easy to practice bitter parochial, regional politics, JOHN SPARKMAN became a national figure and, although he had remarkably consistent support in his native state of Alabama, his national leadership has been broad and comprehensive.

Although we were never on a committee together, it is characteristic of JOHN SPARKMAN'S generous and hospitable nature that we have become very close. The void he leaves will be difficult to fill.

But his enlistment was for life and I am confident that JOHN SPARKMAN'S wise counsel and warm support will continue to be available to all who would share his "struggle to improve the economic lot and the security of all of our people." ●

CARL T. CURTIS

● Mr. MATHIAS. Mr. President, Marcus Porcius Cato is famous for having told his colleagues in the Roman Senate:

I would rather that men should ask why no statute has been erected in my honor, than why one has.

I think that sentiment could also be applied to our colleague, CARL CURTIS, for he has built a monument in the record by his consistent support of the views he held and by his willingness to defend those views even when he stood alone.

Strong convictions sincerely held and expressed are a powerful force. They remain vivid without memorializing. And so too do those who express them. CARL CURTIS will not soon be forgotten in this Chamber.●

CLIFFORD P. HANSEN

● Mr. MATHIAS. Mr. President, in the present state of politics in America, a governorship is often the end of the line. Local government is so difficult and the decisions that have to be made nowadays at the State level are so painful that many governors retire only to obscurity.

It is a tribute to CLIFFORD HANSEN that he broke out of this pattern and moved from the State capital to the National Capital with great ease. But, although he did a great deal to change the course of events in the District of Columbia, Washington did very little to change him. He will return to Wyoming with the same clear, independent views and the same strong resonant voice with which he came to Washington.

The cowboy is America's most authentic folk hero and a symbol of our independent spirit. So I am sorry, but not entirely surprised, that our cowboy Senator has decided to exchange the confines of the Senate for the open spaces of Wyoming. But, while it lasted, it refreshed this body to have a cowboy within its precincts.●

MURIEL HUMPHREY

● Mr. MATHIAS. Mr. President, it would always be difficult to step into the shoes of a Senate giant like Hubert Humphrey. But it is doubly difficult for his wife because, on every issue, there are always, plenty of people, on both sides, prepared to advise her on how Hubert would have voted.

The easy thing for MURIEL HUMPHREY would have been simply to follow such advice and to predicate her vote on what Hubert might have done. But she has been a far more faithful trustee of the Humphrey tradition than that. She has made up her own mind on what was the right thing to be done under the circumstances and at the time of the rollcall. And, in a very short space of time, by exercising her personal judgment and her private conscience, MURIEL HUMPHREY has become a political figure in her own right.

I am sorry she decided not to run for election. We will miss her humane voice in our deliberations, but whatever she turns her mind and her heart to now will be richer by our loss.●

JOBS AND THE SOLAR OPTION FOR MILITARY WORKERS

● Mr. KENNEDY. Mr. President, the American Friends Service Committee has published an important newsletter on how to open up jobs in solar energy for workers losing jobs in defense-related industries. Successful examples of companies actually making this shift are presented, as is a chart comparing job categories for military related workers to comparable solar categories. The AFSC finds that, except for engineers and managers, workers can make the transition from making guns to making solar products with great ease.

Hearings I chaired last March of the Joint Economic Subcommittee on Energy showed that next to nothing has been done by the Department of Energy to compare the number of jobs by energy type. While the AFSC uses the few studies that have been done in this area, and they all show solar to be a job gold mine, the real value of their work is to extend this thinking into shifting workers from military-related to solar-related jobs.

Mr. President, I ask unanimous consent that the article entitled "Solar Option for Military Workers" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOLAR OPTIONS FOR MILITARY WORKERS

(By Dave McFadden)

One of the greatest resources tied up in the arms industry is the workers and their skills. Much can be done with plants, equipment, companies, and even communities once a meaningful way is found to shift the energies and skills of the workforce from military to socially useful production. Under what conditions will workers now engaged in military industry be able to shift to civilian work and, more specifically, to solar work?

This limited study discusses the occupational conversion (job transferability) of military workers to solar development, production, and installation. In analyzing jobs found in military industry, and the transferability of those jobs to solar technologies, we found the following:

Clerical and support workers can move into solar work with little or no retraining.

Semi-skilled assembly workers have highly transferable skills, although not as many jobs will be immediately available in solar.

Skilled craft workers and machinists can move readily into solar, though certain highly skilled and military-specific workers will need retraining.

Technicians, many of them highly military-specific, will have difficulty matching their exact jobs in solar, but minimal retraining will fit them for energy-related jobs.

Engineers and managers will require major reorientation and find fewer job opportunities in the solar industry.

SKILL TRANSFER OF PRODUCTION WORKERS

Skilled and semi-skilled production workers remain the heart of military industry. The higher their level of skill and the narrower their specification, the more difficult the problem of skill transfer and conversion to civilian job categories.

The government has not closely studied the impact on individual workers when firms lose military contracts, and only occasionally has analyzed the convertibility of various job skills. The only detailed studies of job skill transfer of military production workers were commissioned by the Arms Control and Disarmament Agency (ACDA) in the late 1960s, Only one of these studies, The Potential Transfer of Industrial Skills from Defense to Non-Defense Industries, analyzed the transferability of a sample of military production workers; the rest only interviewed workers after layoffs.

Using 1966 data, Potential Transfer analyzed 127 occupations in which 5600 workers were employed, at Aerojet General in Sacramento, producer of rocket engines and missile parts, and Lockheed Missiles and Space Company in Sunnyvale, manufacturer of missile air frames, re-entry systems, and space vehicles.

Focusing on technical and production occupations, such as fabrication, assembly, testing, and inspection, the study found that all but six of the 127 occupations examined, involving 89 percent of the work force, could be matched with at least one non-defense occupation.

A recent analysis by the California Department of Business and Transportation of the skill composition of laid-off B–1 Bomber workers at the Rockwell International plant in Los Angeles, finds a similar skill composition in the work force. They were predominantly technical (54.2 percent) and bench-machinist (39.4 percent), with the remainder in clerical and support services. The bench-machinist production workers include such jobs as mechanic, milling machine operator, electronic assembler, structures mechanic, and tool and die maker.

MILITARY-SOLAR SKILL MATCHING

Our study of military job skills at Lockheed Missiles and Space Company in Sunnyvale found that technicians operatives, skilled and semi-skilled job categories had counterparts in the solar industry. We conclude that, at least for solar, job transfer is not prevented because of skill mismatches, but rather because of other obstacles, such as numbers and ready availability of jobs. Any attempt to match existing job skills found in military-aerospace industry with jobs found in an emerging solar industry is handicapped most by the lack of development and experience in the solar industry. For purposes of this study, we assume a major, 30 year commitment to solar development in four technologies (active, passive, photovoltaic, wind) on the part of state and federal government and private industry.

Comparing military jobs only to solar leaves out a vast array of other socially useful products in such areas as transportation, health, heavy equipment, shipbuilding and electronics. Consideration of these fields is beyond the scope of this study, but would add considerably to the job skill matches available.

Our assessment is based on an analysis of 162 skilled and semi-skilled job categories covering 2115 members of the International Association of Machinists and Aerospace Workers (IAM) at Lockheed Missiles and Space Company, Sunnyvale. Job categories were grouped into three broad areas: technicians, skilled, and operatives (semi-skilled). Not included were another 2500 jobs in clerical/administrative support and unskilled and plant support workers, most of which are readily transferable because their jobs are not military-specific. Also not included were managers, engineers, and other non-IAM workers at Lockheed.

FINDINGS

Technicians. Except for the very military-specific, most technicians are readily transferable to other jobs within the solar industry. However, unless there is a massive commitment to solar and wind energy development, there will not be nearly as many jobs for technicians as there currently are in aerospace industry.

Skilled. Every skilled job category surveyed has its counterparts in solar industry. Some craft skills (carpenters, plumbers, sheet-metal workers, electricians) will be heavily demanded in solar development. Others, particularly machinists, mechanics, and grinders, will have fewer applications, most of which will be in machining parts for wind electric systems.

Operatives. With a minimum of retraining, nearly all the semi-skilled operatives are transferable to assembly and sub-assembly jobs in the solar industry. Some assembly jobs will be readily available, particularly in structural assembly for the solar collector and wind machine parts of the industry. Electronic, mechanical, and hybrid assembly jobs are available in active solar heating components assembly and wind systems assembly, and machine operators are needed in all factories.

CONVERTING MILITARY ENGINEERS

A much heavier concentration of scientific, engineering and technical skills exists among defense workers than in other industries. This is especially true in engineering and related technical fields. For example, at the B–1 facility in Los Angeles, before President Carter's cancellation of the B–1 contract, there were 5,000 engineers and 5,000 production workers, a 1 to 1 ratio.

Engineers have a harder time transferring their skills to civilian industry than any other category of workers. This is true for two major reasons. First, they have become extremely specialized, designing systems which have no counterparts in civilian industry. Military applications require extreme specificity of design to meet miltary specifications, instead of the cost engineering required for the market place. Secondly, large numbers of engineers have been required in defense industry.

To our knowledge, there has been only one detailed study of the transferability and conversion of defense engineers, which was conducted by Stanford Research Institute (SRI) for the ACDA in 1967. The SRI study found that there are no insuperable barriers to transferring and reorienting individual engineers, but there are major problems when groups of engineers or whole sections of companies attempt to make the transition to commercial work. Defense engineers are best suited to research and development, systems design and analysis work, and team approaches to major problems.

Engineers in Solar Technologies. Most military engineers fall into four broad categories: electrical, electronic, mechanical, and aeronautical. There are also smaller numbers of other engineers, including systems engineers and engineering managers.

Solar technologies, including active and passive heating systems, photovoltaic development, wind energy systems, and advanced hybrid and industrial systems, will utilize fewer engineers by far than in present aerospace industry. Solar industry will make the widest use of mechanical engineers of several types, and will also utilize some systems engineers, engineering managers, and a few aerodynamic engineers, electrical engineers, and electronic engineers. The engineers and their possible functions in solar industry are listed in the accompanying chart:

MECHANICAL ENGINEERS

Design engineers: design everything mechanical and electro-mechanical, such as solar collector boxes, all solar system components, wind system components, photovoltaic encapsulation, and all factory machinery.

Thermodynamics engineers: deal with problems of heat transfer and fluid mechanics, such as solar collector heat transfer, flow through collectors (pressure loss), concentrator solar sell cooling systems, and environmental temperature fluctuations of active, solar cell, and wind machines.

Heating, Ventilating, and Cooling (HVAC) *engineers:* specify heating and cooling equipment needed, and arrange for its proper installation (some systems design) for active and passive solar heating and cooling systems.

Systems engineers. Design systems necessary in large active solar applications, large photovoltaic or wind applications, and electrical grid systems. Also design hybrid advanced energy systems for industrial use.

Aerodynamic engineers. Design airframe surfaces and helicopter blades. Could be used to design wind turbine blades.

Electric and electronics engineers. Design electrical systems and circuits for control devices in all five fields.

Engineering management. Oversee groups of engineers working together, needed for large and complex projects and advanced research and development.

To explore further two particular uses of defense-aerospace engineers in the developing solar field, we have taken a look at two firms in the Santa Clara Valley, Acurex and Varian, each of which has taken a different path to the utilization of engineering talent. At Acurex, the systems approach to advanced energy and environmental work has been developed with striking success, while at Varian, very specialized work with gallium arsenide has been shifted from military to solar applications.

ACUREX

Acurex Corporation in Mountain View, California, has applied its systems engineering skills to advanced large-scale solar industrial applications. They developed a parabolic concentrator collector for supplying solar process heat and electricity to industry. Their projects utilize a full range of engineering talent: thermodynamics, fluid mechanics, aerodynamics, heat transfer and systems engineering.

Acurex began as Aerotherm Corporation, 100 percent military and space government sales. But in the late 1960s, through both acquisition and diversification, Acurex began to move into environmental and energy markets as areas of growth.

Acurex's aerospace work has not gone away, although it has declined substantially from 100 percent of total sales in 1965 to 16 percent in 1977. Their success in building non-defense markets results largely from the flexibility and diversity of Acurex engineering talent.

Solar energy experience. Acurex became involved with solar energy development in 1975 by producing through in-house research and development, a high temperature parabolic trough concentrator collector. This collector was used as the basis for obtaining Department of Energy contracts to fund demonstration projects which provide solar process heat and electricity to industry.

In one of their projects, completed in the spring of 1978, an Acurex solar system provides industrial process hot water for a Campbell soup can pre-rinse line in Sacramento, California. This solar system is the first to be installed at a food processing plant in the United States.

Other Acurex solar projects include shallow- and deep-well irrigation systems, industrial process solar steam, large scale solar total energy system, and the development of several new photovoltaic concentrators.

VARIAN

Varian Associates of Palo Alto, California has also diversified into the energy field. By redirecting its scientific and engineering talent and using its 30 years of experience in advanced electronic devices, Varian has produced efficient photovoltaic cells for converting sunlight into electricity.

Varian has invested approximately one million dollars in the research, development, and manufacture of gallium arsenide (GaAs) photovoltaic cells which can generate much more electricity than conventional silicon cells.

Varian began as an exclusive military contractor, but has diversified greatly in the 30 years since its founding in 1948. (In 1977, total sales were $352 million, of which $34 million, or less than 10 percent, were prime military contracts.)

Varian's Central Research Laboratory has worked with gallium arsenide for some years for use in light emitting diodes and night vision devices, used in many military applications, as in VietNam.

INVOLVING THE WORK FORCE: THE LUCAS EXPERIENCE

Very little attention has been paid to the critical problem of planning for conversion, especially for the involvement of defense workers.

In Britain, however, the Lucas Aerospace Combine Shop Stewards Committee, with 11,000 workers at 17 plants, has done detailed planning for the conversion of jobs and equipment to socially useful production (see Winter, 1977, Plowshare Press). The work of the Lucas shop stewards on alternate energy, particularly solar products, is especially important.

There are six major areas of products out-

lined in the 200 page section of the Shop Stewards Corporate Plan on alternate energy: (1) electronic systems and components for integrated solar heating and cooling systems (such as switching circuits and pumping components); (2) solar heating and cooling panels, (3) wind power systems, (4) fuel cell technologies, (5) solar electric technologies, (6) energy conversion and storage technologies such as batteries, heat pumps, pipes, etc. The Shop Stewards are particularly interested in those technologies which provide a systems approach, which they feel is not only the best use of the skills and equipment at Lucas, but also necessary for the best utilization of the various alternate technologies.

Lucas skills and experience seem particularly suitable for advanced research and development in wind power systems and solar electric technologies. On electric wind machines, the main problem has not been, according to the shop stewards, in aerofoil design, but in mechanical to electrical energy conversion. Lucas' work with transport, braking systems, energy transfer and energy storage may be particularly helpful in raising the efficiency of wind machines to make them useable on a much wider scale.

In solar technologies, the shop stewards saw four areas in which Lucas' skills and equipment would be particularly useful: (1) investigation of fluid flow behavior, pumping problems and control systems for flat plate collectors; (2) feasibility studies of large and small scale solar steam systems; (3) further refinement and development of solar cells, particularly a study of other techniques than the common "silicon crystal method"; (4) production of ancillary equipment for heat transfer (heat pipes, heat pumps, heat exchangers.)

The ongoing Lucas experience in involving the work force in planning for new products will be particularly instructive as affected workers in the United States begin examining their job skills, looking at their equipment and plant operations, and investigating the possibilities for socially useful production.●

WYOMING'S SENATOR HANSEN

● Mr. WALLOP. Mr. President, much like Wyoming's Tetons, where he was born, Wyoming's senior Senator CLIFF HANSEN needs no words of tribute. His public career stands as his monument. His contributions first as governor than as Senator for Wyoming are too long to list.

We are a small State in population, a large State in size. CLIFF HANSEN has represented Wyoming not only in his actions but his style. He has worked quietly, cooperatively, modestly to achieve great things for Wyoming and America.

This year, Senator HANSEN introduced the Senate bill to lower the capital gains tax, cosponsored by 59 of his colleagues from both sides of the floor. This measure reflects his undiminished confidence in the free enterprise system and its enactment will do much to restore productivity, reduce inflation, bring real prosperity to this Nation.

In 1976, after almost a full decade's struggle, CLIFF HANSEN succeeded in raising the State's share of Federal mineral royalties from 37½ to 50 percent securing authority for the State government to determine how these funds should be spent. This was a great victory for Wyoming, for the west and for the principle of States' rights. Wyoming's annual royalties have almost doubled. Our State treasury has a healthy reserve.

Our energy impacted communities have the resources and our State government has the flexibility to provide services commensurate with need and growth—due to CLIFF HANSEN's tenacity.

There are other Hansen bills that have not come to the floor but will in the future. While these may not carry the Senator's name, they shall still reflect his wisdom. Senator HANSEN's comprehensive health insurance program leads this list as he has led the Senate struggle to guarantee every citizen health insurance without creating excessive bureaucracy, regulations or costs.

Senator HANSEN's work on the Veterans' Affairs Committee also merits note. As the ranking minority member, he provided leadership during the difficult post-Vietnam period when so many would have preferred to have forgotten not only the war but our men who served so gallantly and thanklessly there.

CLIFF HANSEN is a humble man who never has expected thanks. He has never lost his compassion for those who suffer—from illness, disability, poverty or prejudice—nor his complete confidence that through the American system—with its emphasis on individual effort, initiative, opportunity, free enterprise—we can conquer all problems.

Senator CLIFF HANSEN is a true representative of the West, of Wyoming, and of America. He is a man with a deep love for his State and Nation—love so great that he was for 12 years willing to leave his home to serve in the U.S. Senate. Now, he is returning to his life, his family and ranch. He has more than kept his commitments—including one for constantly renewing citizen leadership within government.

I will miss Senator HANSEN personally. Wyoming will miss him as well. Yet even in his departure, CLIFF HANSEN has continued to serve his constituents—working to assure that his successor will bring not the same style but the same caliber of leadership to the Senate.

CLIFF HANSEN is a unique human—a spirit as strong, rugged, uncompromising, inspiring—as the great Teton Mountains to which he returns. Wyoming is honored to be able to claim both—to have contributed both the grandeur of scenery and statesman to grace this Nation.●

COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS OF 1978

● Mr. BELLMON. Mr. President, when the Budget Committee reported a waiver for the consideration of this legislation, we noted two concerns about the bill as reported by the Senate Human Resources Committee. First, the Budget Committee was concerned about the duration of the authorization. The reported bill would have authorized programs under the act for 5 years. We felt this was too long, in view of the expansions of programs and eligibility contemplated under the new law. Second, the committee was concerned about the apparent duplication and overlap between the proposed new program of comprehensive services for the severely disabled and the developmental disabilities program.

This conference agreement accomplishes much to assuage the Budget Committee concerns. The 4-year reauthorization, while it exceeds our recommendation, is more appropriate in my view than the 5 years originally proposed by the Human Resources Committee. The Comprehensive Rehabilitation Centers, while they maintain many of the features of the comprehensive services program proposed by the Human Resources Committee—particularly in the area of support for "independent living programs," appear lesss duplicative of the developmental disabilities program than was the case in the reported bill.

I still have concerns about potential duplication and overlap. I would call the attention of my colleagues to the "community service employment pilot programs for handicapped individuals" under title VI, in particular. This program, it would appear to me, has significant potential for duplication and overlap with other employment and training programs, such as those under the Comprehensive Employment and Training Act.

I am also concerned about the "loan guarantees" authorized under the act for facilities construction and reconstruction, geared to services and access for handicapped persons. The Budget Committee is on record as wanting to know the potential cost and extent of a Federal program to make facilities accessible to the handicapped, before we commit ourselves to such a program. I am aware that the loan guarantee program, authorized under this act, is subject to appropriations. I only hope we will carefully examine the potential cost and impact of such an undertaking, before we commit ourselves to funding for this new initiative.

Finally, I am pleased that the conference has included the substance of the amendment I offered, when this legislation was considered on the floor of the Senate. This amendment will require an evaluation of the relationship between the social security and disability trust fund programs, and the supplemental security income program, and the vocational rehabilitation program, with the objective of improving our capacity to rehabilitate recipients of income transfer payments and reduce public dependency. I note that this evaluation amendment is in a section of the act which will require appropriations actions to insure it is funded. I shall attempt to insure that the Labor-HEW appropriations bill includes language requiring completion of this study.●

TRIBUTE TO SENATOR MURIEL HUMPHREY

● Mr. PELL. Mr. President, MURIEL HUMPHREY is leaving the U.S. Senate, and we will be a poorer body for her absence.

Compassion, intelligence, energy, bravery, and integrity have marked every step of her life and her work. MURIEL has been an indefatigable campaigner, both outside the Senate Chamber and within its walls, for the values of equality, justice, and human freedom that are the foundation of our democracy.

MURIEL was an equal partner with

Hubert in their political life and, since his death, she has displayed the greatest valor and dedication to the goals they supported. Senator HUMPHREY pushed the Humphrey-Hawkins bill through to completion in the Senate, and I know that after MURIEL leaves, she will remain active in seeing full employment implemented as a national priority.

I enjoyed serving with her on the Foreign Relations Committee and in the Senate and truly regret her decision to retire from her seat, but I know that she will still be working effectively, in whatever capacity she chooses, to make America a better nation and to help all of our people.●

TRIBUTE TO SENATOR SPARKMAN

● Mr. PELL. Mr. President, it is with great sadness that I join my colleagues in paying tribute to the senior Senator from Alabama, JOHN SPARKMAN, who is retiring from the Senate after 32 years of service in the Senate and 10 years in the House of Representatives.

Under JOHN SPARKMAN's kindly but firm leadership, the Committee on Foreign Relations has played an important and effective role in the field of foreign affairs. I, for one, can attest to the fact that, under his guidance, the committee and the Senate have helped to shape American foreign policy in many important ways.

JOHN SPARKMAN has been particularly thoughtful and helpful to me as a member of the Committee on Foreign Relations. He has always been fair, has encouraged committee members to develop initiatives for action by the committee, and has been assiduous in his efforts to promote the closest cooperation and understanding between the committee and the administration, whether Democratic or Republican.

These qualities will be sorely missed, and I know that I will miss him in a personal way very, very much. I wish JOHN and Ivo all the best, as he returns to the practice of law with his grandson. My wife joins me in these thoughts.●

TRIBUTE TO SENATOR CASE

● Mr. PELL. Mr. President, it is with genuine sadness that I join my colleagues in paying tribute to the senior Senator from New Jersey, CLIFFORD CASE, who is returning to private life after 24 years of service in the Senate and 8 in the House of Representatives.

CLIFF and I shared many professional interests in the Senate, and I shall miss his interest, support and insights in such areas as the Law of the Sea and international environmental protection—issues that are too often neglected because of their lack of immediate political appeal. Most of all, however, I shall miss CLIFF CASE's genial wit and personal warmth. I cannot imagine a more thoughtful, engaging and sympathetic colleague.

It is, however, not only we in the Senate who will miss CLIFF CASE, but also the members and staff of the Commission on Security and Cooperation in Europe, which was created as a result of legislation of which he was the Senate sponsor. As cochairman of the Commission, I can personally attest to CLIFF CASE's deep personal commitment to the cause of human rights and freedom.

I regret that our 13 years of friendship have come to an end, but I want to wish CLIFF and Ruth Case all the best as they return to private life. My wife joins me in these thoughts.●

TRIBUTE TO SENATOR PEARSON

● Mr. PELL. Mr. President, I wish to join my colleagues in paying tribute to the very able Senator from Kansas, JIM PEARSON, who is returning to private life after almost 16 years in the Senate.

During the years that we served together in the Senate and on the Foreign Relations Committee, JIM PEARSON and I shared many interests. Both of us are strong supporters of the United Nations, and JIM, in fact, is serving now as a delegate for the second time to the General Assembly. Shared interests in arms control, world hunger problems, weather modification and the career Foreign Service have also made us close collaborators on many occasions.

JIM PEARSON's initiatives in sponsoring the Weather Modification Policy Act and the Assignment America program for the Foreign Service are particularly laudable achievements of JIM's that I would like to draw to the attention of my colleagues. As a result of JIM's effort and imagination, our country now has a coherent legislative framework to encourage the safe development and application of weather modification. JIM's foresight and experience as a member of the Murphy Commission also led him to sponsor the so-called Pearson amendment, enabling our career diplomats to be exposed to "grass roots" America through assignments with State and local governments.

JIM PEARSON's quiet but effective approach to problem-solving will be greatly missed, but I want to wish him and his wife Martha all the best as they return to private life.●

TRIBUTE TO SENATOR ABOUREZK

● Mr. PELL. Mr. President, it is with a real sense of regret that I note that Senator JIM ABOUREZK, having chosen not to seek reelection, will not be with us when the 96th Congress convenes in January.

JIM ABOUREZK has won the respect and admiration of his colleagues through his intelligence, his wit and his candor, even from those who, on occasion, disagreed with his perception and views.

I respect JIM ABOUREZK as a conscientious legislator. When he has been convinced of the rightness of a cause, he has been formidable and tireless in his efforts. I think particularly of his able and effective leadership of the Senate Select Committee on Indian Affairs. Under his chairmanship, the select committee brought its unique capabilities to bear on the difficult problem of Indian land claims in my own State of Rhode Island. JIM ABOUREZK's personal leadership contributed greatly to the passage in this Congress of legislation resolving that claim—the first consensus resolution of Indian land claims.

JIM ABOUREZK is a young man as he leaves the Senate, younger than many persons are when they enter the Senate. I know that in the years ahead, with his compassion, forthrightness and incisive wisdom, he will continue to enrich the life of this Nation. I wish him well.●

A TRIBUTE TO SENATOR SPARKMAN

● Mr. WILLIAMS. Mr. President, I would like to take a moment to express my deep appreciation and admiration for the contributions JOHN SPARKMAN has made to this country's welfare during his many years of service as a Member of the U.S. Congress.

I remember when I first came to the Senate, I had the opportunity to learn and grow under the tutelage of two most able chairmen, Lister Hill and JOHN SPARKMAN. They were two of the finest people I have ever dealt with. Their leadership was inspiring and their helpfulness and generosity to a young and less experienced colleague was complete. Two of my first efforts in the Senate, on migrant labor protections and Federal mass transit assistance, were accepted graciously by both of them and they cooperated in every way.

Over the years since, I have had the honor of working closely with JOHN Sparkman on legislation which moves us toward our goal of safe, decent, and affordable housing for all Americans. No one has had a greater impact on the Nation's housing policy, and his legislative success has earned him the title, "Mr. Housing."

JOHN SPARKMAN has always been a wise and trusted counselor; one to whom we could turn for advice and guidance, and a man the people of this country can thank for legislation and programs which touch virtually all their lives. He has had a hand in writing and guiding legislation through Congress which gives tax relief to small businesses, provides for adequate health care, improves services for the elderly, and assures every child a chance for a good education. He has weathered many a storm during his 42 years here and has helped lead the Nation through some of its most tumultuous years.

JOHN SPARKMAN's sense of humanitarianism and his overriding concern for the welfare of all people have also lent a tempering, compassionate voice to the Foreign Relations Committee, which he has chaired so ably.

His soft-spoken manner and keen intellect have earned him the respect of his colleagues on both sides of the aisle, and I know he will be sorely missed. And those who have benefited, or will benefit in years to come, from his ability to translate his compassion into achievement, will miss him as well.

I am not happy in saying farewell to such a talented gentleman and valued friend, but I do wish him success and happiness in the years to come.●

AN UNCOMMON LEADER FOR THE SENATE

● Mr. WILLIAMS. Mr. President, all of us in the Senate take great pride in the

work we do and the legislation we craft to answer the needs of our States, our Nation, and the world.

But when you thumb through a digest of the mountains of legislation we consider each and every year, you begin to realize what a diverse group we are. Given the extraordinary diversity of our Members and their interests, it is a wonder we can reach agreement on any issue of controversy. And when you consider the many, many important measures we passed during the 95th Congress, you understand that it takes a leader of patience, strength, and perseverance to keep us square on course.

These are three qualities that I admire in ROBERT C. BYRD that make the Senate he runs such a productive place. He has the uncommon patience, unflinching strength, and unswerving perseverance to make this a place of accomplishment and dignity.

Mr. President, without ROBERT BYRD I doubt if this Congress would be remembered for much at all. The historic actions we have taken—on issues ranging from the Panama Canal to a new energy program for the Nation—have been possible because of Senator BYRD's wise leadership. He has contended with a great deal over these last 2 years and I do not think there is a single Senator among us who has not come away with a feeling of admiration, trust and respect in his skill as majority leader.

Mr. President, Walter Lippmann wrote on the occasion of President Franklin Roosevelt's death that "the genius of a good leader is to leave behind a situation which common sense, without the grace of genius, can deal with successfully." The genius of ROBERT BYRD, Mr. President, is that he leaves us all in a position where commonsense, courtesy, and debate can result in magnificent achievements for an entire Nation. Mr. President, as we look ahead to the 96th Congress, we can be grateful indeed that we have Senator ROBERT C. BYRD at our helm.●

A TRIBUTE TO SENATOR CASE

● Mr. WILLIAMS. Mr. President, CLIFFORD P. CASE will leave our ranks this January after 24 years of effective and dedicated service to the State we both represent and to the Nation.

He has been my colleague, my friend, and I will miss him a great deal.

It is rare when two people of different parties and different backgrounds can share so much, yet I feel a philosophic kinship with CLIFF CASE.

He was one of the most popular Congressmen ever to represent the district we both call home. I admired the way he served our district and he inspired me to maintain the style of leadership and representation that flows from the philosophy we share.

Over the years, this respect and affection has produced a solid relationship that has been good for New Jersey. In just this last Congress, CLIFF and I labored on legislation to protect a vast, environmentally vulnerable area of our State—the Pinelands. During that successful effort, CLIFF demonstrated the hallmarks of his career: the desire to act, the willingness to listen to all sides of a question before cementing his opinion, and the great steadfastness of will to move forward once a final decision has been made. The CASE years have always been like this and the CASE years have been good for New Jersey.

During his service here, CLIFF has established himself as a man of towering integrity and honor; a person worthy of our highest esteem.

Serving on both the Foreign Relations and Appropriations Committees, he has exercised responsible judgment and adept leadership to bring to fruition legislation ranging from transportation and environmental protection to measures clarifying the role of the United States in the world and the constitutional responsibility and authority of Congress.

We will miss his voice, which has been one of calmness, thoughtfulness, and meaning. This will not be the same Senate without him.

I want to wish CLIFF and Ruth every happiness in the years to come. I know that we have not seen the last of this special statesman from New Jersey, and I know that whatever endeavor he chooses in the years ahead will meet as much success as his years here with us.●

OIL POLLUTION LIABILITY AND COMPENSATION LEGISLATION

● Mr. MUSKIE. Mr. President, on Friday, October 13, 1978, I introduced an amendment to H.R. 6803, the Oil Pollution Liability and Compensation Act. That amendment was also later discussed in my floor remarks which begin on page 37877 of the RECORD of October 14, 1978. Unfortunately, in neither case was the actual text of the amendment printed.

In order to correct the permanent RECORD, I ask that the text of that amendment be printed in full at this point in the RECORD.

The text follows:

AMENDMENT

In lieu of the matter proposed to be inserted by the House amendment to the amendment of the Senate, insert the following:

That this Act may be cited as the "Oil Pollution Liability and Compensation Act of 1978".

DEFINITIONS

SEC. 2. For the purposes of this Act—

(1) the terms "oil", "discharge", "vessel", "public vessel", "United States", "owner or operator", "remove" or "removal", "contiguous zone", "onshore facility", "barrel", "hazardous substance", and "inland oil barge" shall have the meaning provided in section 311 (a) of the Federal Water Pollution Control Act;

(2) the terms "State", "person", "navigable waters", and "territorial seas" shall have the meaning provided in section 502 of the Federal Water Pollution Control Act;

(3) the term "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(4) the terms "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from a discharge of oil or a hazardous substance;

(5) the term "claimant" means any person who presents a claim for compensation under this Act;

(6) the term "damages" means damages for economic loss or the loss of natural resources as specified in section 3(a)(2) of this Act;

(7) the term "Fund" means the Oil Spill Liability Fund established under section 4 of this Act;

(8) the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this Act or section 311(p) of the Federal Water Pollution Control Act:

(9) the term "natural resources" includes land, fish, wildlife, biota, air, water, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Fishery Conservation and Management Act of 1976), any State or local government, or any foreign government;

(10) the term "refinery" means a terminal which receives oil for the purpose of refinement; and

(11) the term "terminal" means any permanently situated onshore or offshore facility which receives oil in bulk directly from any vessel, offshore production facility, offshore port facility, or any pipeline including the pipeline constructed under the Trans-Alaska Pipeline Authorization Act.

LIABILITY FOR DAMAGES AND REMOVAL COSTS

SEC. 3. (a) Except where an owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by (i) an act of God, (ii) an act of war, (iii) negligence on the part of the United States Government, or (iv) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, and notwithstanding any other provision or rule of law, such owner or operator of a vessel or an onshore or offshore facility from which oil is discharged in violation of section 311(b)(3) of the Federal Water Pollution Control Act shall be jointly, severally, and strictly liable for—

(1)(A) all costs of removal incurred by the United States Government or a State under subsection (c), (d), (e), or (f)(4) of section 311 of the Federal Water Pollution Control Act or under the Intervention on the High Seas Act or section 18 of the Deepwater Port Act of 1974, and

(B) any other costs or expenses incurred by any person to remove oil as the terms "remove" or "removal" are defined in section 311(a)(8) of the Federal Water Pollution Control Act; and

(2) all damages for economic loss or loss of natural resources resulting from such a discharge, including:

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss;

(D) any loss of use of any natural resources, without regard to the ownership or management of such resources;

(E) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(F) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government or any State or political subdivision thereof, for a period of not to exceed one year.

(b) In the case of an injury to, destruction of, or loss of natural resources under subsection (a)(2)(C) of this section, liability shall be to the United States Government

and to any State for natural resources within the State or belonging to, managed by, controlled by, or appertaining to such State. The President, or the authorized representative of any State, shall act on behalf of the public as trustee of such natural resources to recover for such damages. Sums recovered shall be available for use to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government or the State government, but the measure of such damages shall not be limited by the sums which can be used to restore or replace such resources.

(c)(1) The liability of an owner or operator of a vessel or an onshore or offshore facility for damages and removal costs under this section, and inclusive of the limits of liability established under section 311(f) of the Federal Water Pollution Control Act, for each discharge or incident shall not exceed—

(A) $300 per gross ton or $500,000, whichever is greater, of any vessel carrying oil in bulk or in commercial quantities as cargo;

(B) $300 per gross ton of any other vessel;

(C) the total of all costs of removal under subsection (a)(1) of this section plus $50,000,000 for any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act;

(D) $50,000,000 for any deepwater port subject to the Deepwater Port Act of 1974 (including the liability of the licensee for a discharge from any vessel moored at such port, in any case where $50,000,000 exceeds $300 per gross ton of such vessel);

(E) $50,000,000 for any other onshore or offshore facility; or

(F) $150 per gross ton or $250,000, whichever is greater, of any inland oil barge.

(2) Notwithstanding the limitations of paragraph (1) of this subsection, the liability of the owner or operator of a vessel or an onshore or offshore facility under subsection (a) of this section shall be the full and total damages and removal costs not offset by any removal costs incurred on behalf of such owner or operator, if (A) the discharge of oil was the result of willful misconduct or gross negligence within the privity and knowledge of the owner or operator or of a gross or willful violation (within the privity and knowledge of the owner or operator) of applicable safety, construction, or operating standards or regulations; or (B) the owner or operator fails or refuses to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities under the contingency plan established under section 311(c) of the Federal Water Pollution Control Act.

(3) Notwithstanding the limitations of paragraph (1) of this subsection or the exceptions or defenses of subsection (a) of this section, all costs of removal incurred by the United States Government or any State or local official or agency in connection with a discharge of oil from any offshore facility operated under the authority of or subject to the Outer Continental Shelf Lands Act or a vessel carrying oil as cargo from such a facility shall be borne by the owners and operator of the offshore facility or vessel from which the discharge occurred.

(4) If the President determines that a level of liability established by paragraph (1) above or a level of financial responsibility required by section 6 of this Act will have either a significant adverse impact on small business enterprises or a significant anti-competitive impact, the President may adjust such levels of liability or financial responsibility by rule or regulation as follows:

(A) The limit of liability or financial responsibility for facilities subject to subparagraph 3(c)(1)(D), to no less than $35,000,000;

(B) The level of liability for facilities subject to subparagraph 3(c)(1)(C) to the total of all removal costs under subsection 3(a)(1) and an amount for all damages to no less than $35,000,000, or the level of financial responsibility for such facilities to no less than $35,000,000.

Before publishing said proposed rule or regulation the President shall notify the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the United States House of Representatives of his intention to propose said rule or regulation. The notice shall state with particularity the President's justification for said rule or regulation and shall include a statement of the views of the Federal Trade Commission on whether the liability or financial responsibility limit sought to be changed has significant anti-competitive or small business impacts.

(d) In any case where the owner or operator of a vessel or an onshore or offshore facility can prove that a discharge was caused solely by an act or omission of a third party (or solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government), such third party shall be liable under this section as if such third party were the owner or operator of a vessel or onshore or offshore facility from which the discharge actually occurred. Where the owner or operator of a vessel carrying oil as cargo or an onshore or offshore facility which handles or stores oil in bulk or commercial quantities, from which oil is discharged, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall promptly pay to the United States Government, and any other claimant, the costs of removal or damages claimed and shall be entitled by subrogation to all rights of the United States Government or other claimant to recover such costs of removal or damages from such third party under this subsection.

(e) The President is authorized to establish by regulation, with respect to any class or category of onshore or offshore facility subject to subsection (c)(1)(E) of this section, a maximum limit of liability under this section of less than $50,000,000 but not less than $8,000,000.

(f) A discharge of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign nation shall be deemed to be a discharge in violation of section 311(b)(3) of the Federal Water Pollution Control Act for purposes of this section, and claims for compensation for damages and removal costs may be made under this Act by any citizen of a foreign nation or by any foreign nation, if such damages or removal costs, resulted from a discharge of oil, or threat of a discharge of oil, from—

(1) a facility located in the United States or subject to the jurisdiction of the United States;

(2) a vessel incident occurring in the navigable waters of the United States; or

(3) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States.

(g) The owner or operator of a vessel shall be liable in accordance with this section and section 311 of the Federal Water Pollution Control Act and as provided under section 7 of this Act notwithstanding any provision of the Act of March 3, 1851 (46 U.S.C. 183ff).

LIABILITY FUND ESTABLISHMENT

Sec. 4. (a)(1) There is hereby established in the Treasury of the United States an Oil Spill Liability Fund, not to exceed $200,000,000, except that such limitation shall be increased to the extent necessary to permit any moneys recovered or collected which are referred to in subsection (b)(2) of this section being paid into such Fund. The Fund shall be administered by the President and the Secretary of the Treasury, as specified in this section. The Fund may sue and be sued in its own name.

(b) The Fund shall be constituted from—

(1) all fees collected pursuant to subsection (c);

(2) all moneys recovered on behalf of the Fund under section 5.

(c)(1) Beginning ninety days after the enactment of this Act, the Secretary of the Treasury shall collect from the owners of refineries receiving crude oil, and from the owners of terminals receiving any oil for export from or entry into the United States whether for import or transfer to a foreign country, a fee, not to exceed 3 cents per barrel of oil received. Oil upon which a fee has been levied under this paragraph shall not be subject to subsequent levy hereunder. The person who owns such oil shall be responsible for assuring the payment of such fee and shall be obligated to reimburse the owner of such refinery or terminal, as the case may be, the full amount of the fee levied on the oil of that person and paid by the owner of the refinery or terminal.

(2) The Secretary of the Treasury, after consulting with appropriate Federal agencies, may promulgate rules and regulations relating to the collection of the fees authorized by paragraph (1) and, from time to time, the modification thereof. Modifications shall become effective on the date specified therein, but no earlier than the ninetieth day following the date the modifying regulation is published in the Federal Register. Any modification of the fee shall be designed to assure that the Fund is maintained at a level not less than $150,000,000 and not more than $200,000,000. No regulation that modifies fees, nor any modification of such a regulation, whether or not in effect, may be stayed by any court pending completion of judicial review of that regulation or modification.

(3)(A) Any person who fails to collect or pay fees as required by the regulations promulgated under paragraph (2) shall be liable for a civil penalty not to exceed $10,000, to be assessed by the Secretary of the Treasury, in addition to the fees required to be collected or paid and the interest on those fees at the rate the fees would have earned if collected or paid when due and invested in special obligations of the United States in accordance with subsection (d)(2). Upon the failure of any person so liable to pay any penalty, fee, or interest upon demand, the Attorney General shall, at the request of the Secretary of the Treasury bring an action in the name of the Fund against that person for such amount.

(B) Any person who falsifies records or documents required to be maintained under any regulation promulgated under this subsection shall be subject to prosecution for a violation of section 1001 of title 18, United States Code.

(4) The Secretary of the Treasury may, by regulation, designate the reasonably necessary records and documents to be kept by persons from whom fees are to be collected pursuant to paragraph (1) of this subsection, and the Secretary of the Treasury and the Comptroller General of the United States shall have access to such required material for the purpose of audit and examination.

(d)(1) The President shall determine the level of funding required for immediate access in order to meet potential obligations of the Fund.

(2) The Secretary of the Treasury may invest any excess in the Fund, above the level determined under paragraph (1), in interest-bearing special obligations of the United States. Such special obligations may be redeemed at any time in accordance with the terms of the special issue and pursuant to regulations promulgated by the Secretary of the Treasury. The interest on, and the proceeds from the sale of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) If at any time the moneys available in the fund are insufficient to meet the obligations of the Fund, the President shall issue to the Secretary of the Treasury notes or other obligations in the forms and denominations, bearing the interest rates and maturities and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Redemption of these notes or obligations shall be made by the President from moneys in the Fund. These notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of comparable maturity. The Secretary of the Treasury shall purchase any note or other obligations issued hereunder and, for that purpose, is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act. The purpose for which securities may be issued under that Act are extended to include any purchase of these notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of these notes or other obligations shall be treated as public debt transactions of the United States. The authority of the President to issue notes or other obligations under this subsection shall be subject to such amounts as are provided in appropriation acts.

(f) The President shall establish an interagency task force to investigate all appropriate aspects of establishing a Hazardous Substances Liability Fund and of requiring a fee on hazardous substances to be collected and placed in such a Hazardous Substances Liability Fund, and the appropriate level at which such fund shall be maintained. Such task force shall also consider whether liability of a discharger or compensation from such a Fund ought to be provided for personal injury resulting from discharges of oil or hazardous substances. The report of such investigation, together with legislative recommendations, shall be submitted to the Congress not later than eighteen months after the enactment of this Act.

(g) The Administrator of the Environmental Protection Agency, the Commandant of the Coast Guard, and the Comptroller General shall undertake a study of possible incentives to safer operation of vessels and facilities to reduce the potential of discharges of oil or hazardous substances, and generally of measures to prevent or avoid the occurrence of such discharges. Such study shall address (1) the feasibility of a variable fee for replenishment of the Fund under subsection (c) of this section which takes into account the likelihood of a discharge and the operational experience of individuals or classes, and (2) whether current practices in the insurance and banking industries provide any incentives or disincentives to reducing the potential for discharges of oil or hazardous substances. Such study shall be conducted in consultation with other appropriate Federal and State agencies, the affected industries, and other interested parties. A first report of such study, together with legislative recommendations, if any, shall be submitted to the Congress not later than July 1, 1979, and as appropriate thereafter.

USE OF LIABILITY FUND

SEC. 5. (a) The President shall use the money in the Fund for the following purposes:

(1) payment of any claim for costs of removal or damages in excess of the amount for which the owner or operator of the vessel or onshore or offshore facility from which oil is discharged is liable under section 3 of this Act;

(2) payment of any claim for costs of removal or damages where the source of the discharge of oil is not known or cannot be identified;

(3) payment of any claim for costs of removal or damages resulting from a discharge of oil in any case where the claim has not been satisfied in accordance with subsection (b) of this section;

(4) all removal costs or expenses or other costs of carrying out the national contingency plan established under section 311(c) of the Federal Water Pollution Control Act, including removal costs incurred by any person and approved under such national contingency plan resulting from a discharge of oil;

(5) subject to such amounts as are provided in appropriation Acts, the costs of (A) providing equipment and similar capital expenses, related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, and (B) not to exceed $5,000,000 per fiscal year, establishing and maintaining damage assessment capability, for any Federal agency involved in strike forces, emergency task forces, or other response teams under such national contingency plan;

(6) the costs of assessing both short-term and long-term injury to, destruction of, or loss of any natural resources resulting from a discharge of oil;

(7) the costs of Federal or State efforts in the restoration, rehabilitation, or replacement or acquiring the equivalent of any natural resources injured, destroyed, or lost as a result of any discharge of oil;

(8) reimbursement to any State for the payment of any claims for costs of removal or damages resulting from a discharge of oil payable under this Act which such State has paid with funds under the control of such State pursuant to the national contingency plan or to a delegation under subsection (b) of this section;

(9) subject to such amounts as are provided in appropriation Acts, not to exceed $10,000,000 per fiscal year, the costs of research related to the purposes of this Act and section 311 of the Federal Water Pollution Control Act, to be performed by the Federal agencies including the Environmental Protection Agency, the Fish and Wildlife Service, and the National Oceanic and Atmospheric Administration. Such research shall include, but not limtied to (A) development and refinement of protocols to determine the type and extent of short- and long-term injury or loss of natural resources, (B) development and refinement of the best available procedures to identify the value of injured or lost resources, (C) laboratory or field research on the effects of oil and hazardous substances on living and nonliving resources that will provide additional scientific basis for damage assessments, and (D) research on minimizing the damage caused by spill control, dispersal and removal operations. Responsibility under the preceding sentence shall be assigned in accordance with the assessment responsibilities established under subsection (e)(2) of this section and officials responsible for such assessments shall be consulted before proposal of any research plan or appropriation request under the preceding sentence; and

(10) subject to such amounts as are provided in appropriation Acts, not to exceed $5,000,000 per fiscal year, the administrative and personnel costs of administering the Fund and this Act.

(b)(1) The President is authorized to promulgate regulations designating one or more Federal officials who may obligate money in the Fund in accordance with subsection (a) of this section or portions thereof. The President is also authorized to delegate authority to obligate money in the Fund or to settle claims to officials of a State with an adequate program operating under a cooperative agreement with the Federal Government.

(2) The President is authorized to delegate the administration of his duties and authorities under this Act to the heads of those Federal departments, agencies, and instrumentalities which the President determines appropriate.

(3)(A) The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims for costs of removal or damages resulting from the discharge of oil under this Act.

(B) Whenever the President receives information from any person alleging they have incurred costs of removal or damages resulting from the discharge of oil for which the owner or operator of a vessel or onshore or offshore facility is liable under section 3 of this Act, he shall notify the owner, operator, and guarantor of such vessel or onshore or offshore facility of such allegation. Such owner or operator or guarantor, may, within five days after receiving such notification or presentation of any claim by a claimant, deny such allegations, or deny liability for damages for any of the reasons set forth in subsection (a) of section 3 of this Act.

(C) The owner and operator of any vessel or onshore or offshore facility from which oil has been discharged shall provide notice to all potential injured parties.

(D) All claims shall be presented in the first instance to the owner, operator, or guarantor of the vessel, or onshore or offshore facility from which oil has been discharged. In any case where the claim has not been satisfied in accordance with this paragraph, the claimant may elect to commence an action in court against such owner, operator, or guarantor or to present the claim for payment from the Fund under this section.

(E) No claim may be presented nor may an action be commenced for damages under this Act unless that claim is presented or action commenced within six years from the date of the discovery of the loss, whichever is later.

(c)(1) Payment of any claim by the Fund under this section shall be subject to the United States Government acquiring by subrogation all rights of the claimant to recover the costs of removal or damages from the person responsible for such discharge.

(2) Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for damages or costs of removal resulting from a discharge of oil shall be subrogated to all rights, claims, and causes of action for such damages and costs of removal such claimant has under this Act or any other law.

(3) Upon request of the President, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the fund to any claimant pursuant to this Act, and, without regard to the limitation of liability provided for in section 3(c), all costs incurred by the Fund by reason of the claim, including interest, administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any owner, operator, or guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the damages or costs of removal for which the compensation was paid.

(d) The Fund shall not be available to pay any claim for costs of removal or damages to the extent the discharge or the damages had been caused by the gross negligence or willful misconduct of that particular claimant.

(e)(1)(A) The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the Environmental Protection Agency, and the Director of the Fish and Wildlife Service, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the pur-

pose of section 3(a)(2) (C) and (D) of this Act, section 5(a)(7) of this Act, and section 311(f) (4) and (5) of the Federal Water Pollution Control Act.

(B) Such regulations shall specify (i) standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or units of affected area, and (ii) alternative protocols for conducting assessments in individual cases to determine the type and extent of short and long term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(C) Such regulations shall be reviewed and revised as appropriate every two years.

(2) In accordance with such regulations, damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a hazardous substance, for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act, shall be assessed by (A) the Director of the Fish and Wildlife Service for living natural resources and their supporting ecosystems over which such Service has management or conservation authority, (B) the Administrator of the National Oceanic and Atmospheric Administration for other natural resources in the marine environment beyond the baseline of the territorial sea, and (C) the Administrator of the Environmental Protection Agency for all other natural resources. Such officials shall act for the President as trustee under section 3(b) of this Act and section 311(f)(5) of the Federal Water Pollution Control Act.

(3) Any determination or assessment of damages for injury to, destruction of, or loss of natural resources for the purposes of section 3(a)(2) (C) and (D) and section 5(a)(7) of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act shall have the force and effect of a rebuttable presumption on behalf of any claimant (including a trustee under section 3(b) of this Act or a Federal agency) in any judicial or adjudicatory administrative proceeding under this Act or section 311 of the Federal Water Pollution Control Act.

(f) The Comptroller General shall provide an audit review team to audit all payments, obligations, reimbursements, or other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the establishment of the Fund and a final report two years after the establishment of the Fund. The Comptroller General shall thereafter provide such auditing of the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(g) The Comptroller General, in consultation with the Administrator of the Environmental Protection Agency, shall investigate the necessity for providing assistance in emergencies caused by the release into the environment of any pollutant or other contaminant which presents or may reasonably be anticipated to present an imminent and substantial danger to the public health or welfare, and shall report to the Congress not later than April 1, 1979, on the results of such investigation together with a recommendation on the appropriate level and source of funding for section 504(b) of the Federal Water Pollution Control Act.

FINANCIAL RESPONSIBILITY

SEC. 6. (a)(1) The owner or operator of any vessel over three hundred gross tons (except a non-self-propelled barge that does not carry oil as cargo or fuel) using any port or place in the United States or the navigable waters or any offshore facility shall establish and maintain in accordance with section 311(p) of the Federal Water Pollution Control Act evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such vessel could be subjected under section 3(c)(1) of this Act. The provisions of paragraphs (3), (4), (5), and (6) of such section 311(p) shall apply to any vessel, or the owner or operator thereof, subject to this section. This subsection shall take effect August 1, 1979.

(2) Any vessel subject to the requirements of this subsection which is found in the navigable waters without the necessary evidence of financial reponsibility shall be subject to seizure by the United States of any oil or hazardous substances carried as cargo.

(b)(1) The owner or operator of any offshore facility shall establish and maintain evidence of financial responsibility sufficient to meet the liability to which the owner or operator of such facility could be subject under section 3(c)(1) of this Act or $50,000,000, whichever is less. Such evidence of financial responsibility shall be established according to regulations prescribed by the President and comparable to that required under section 311(p) of the Federal Water Pollution Control Act. This subsection shall take effect one hundred and eighty days after enactment of this Act.

(2) The owner or operator of any offshore facility subject to this subsection who fails to comply with this subsection or the regulations prescribed thereunder shall be subject to a fine of not more than $10,000 per day of violation.

STATE LAWS AND PROGRAMS

SEC. 7. (a) Except as specifically provided is subsection (b)(1) and (c) of this section, nothing in this Act shall be construed or interpreted as preempting any State from imposing any additional liability or requirements with respect to the discharge of oil or hazardous substances within such State.

(b)(1) Except as provided in this Act, no person may be required to contribute to any public fund, the purpose of which is to pay compensation in connection with any discharge of oil for—

(A) any injury to, destruction of, or loss of any real or personal property;

(B) any loss of use of real or personal property;

(C) payment of claims for damages resulting from any loss of use of any natural resources, without regard to the ownership or management of such resources;

(D) any loss of income or profits or impairment of earning capacity resulting from injury to or destruction of real or personal property or natural resources, without regard to the ownership of such property or resources; and

(E) any direct or indirect loss of tax, royalty, rental, or net profits share revenue by the Federal Government, or any State or political subdivision thereof, for a period of not to exceed one year.

(2) Nothing in this subsection shall preclude any State from imposing a tax or fee upon any person or upon oil for the purpose of supporting—

(A) the purchase and pre-positioning of clean-up and removal equipment, and training of personnel;

(B) removal costs and clean-up costs caused by discharges of oil or hazardous substances; and

(C) payment of claims under section 3(b) for damages resulting from any injury to, destruction of, or loss of natural resources, including the costs of assessing such injury, destruction or loss.

(c) Except as provided in this Act, no owner or operator of a facility or vessel who establishes and maintains evidence of financial responsibility in accordance with this Act shall be required under any State law, rule, or regulation to establish any other evidence of financial responsibility in connection with liability for the discharge of oil from such facility or vessel. Evidence of compliance with the financial responsibility requirements of this Act shall be accepted by a State in lieu of any other requirement of financial responsibility imposed by such State in connection with liability for the discharge of oil from such facility or vessel.

(d) Any person who receives compensation for damages pursuant to this Act shall be precluded from recovering compensation for the same damages pursuant to any other State or Federal law. Any person who receives compensation for damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same damages as provided in this Act.

CONFORMING AMENDMENTS

SEC. 8. (a) TRANS-ALASKA PIPELINE AUTHORIZATION ACT.—(1) Section 204(b) of the Trans-Alaska Pipeline Authorization Act (87 Stat. 586) is amended, in the first sentence—

(A) by inserting after the words "any area" the words "in the State of Alaska";

(B) by inserting after the words "any activities" the words "related to the Trans-Alaska Oil Pipeline"; and

(C) by inserting at the end of the subsection the following new sentence: "This subsection shall not apply to removal costs covered by the Oil Spill Liability Fund and Compensation Act of 1978".

(2)(A) Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is hereby repealed. The Trans-Alaska Pipeline Liability Fund is hereby abolished. All assets of that fund, as of the effective date of this section, shall be transferred to the Oil Spill Liability Fund established by section 4 of this Act. The Oil Spill Liability Fund shall assume any and all liability incurred by the Trans-Alaska Pipeline Liability Fund under the terms of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)). The liabilities of the Trans-Alaska Pipeline Liability Fund assumed by the Oil Spill Liability Fund include any liabilities of the Officers or the Trustees of the Trans-Alaskan Pipeline Liability Fund to which they shall become subject in the execution of their duties as such, including any liabilities arising from the transfer of the assets of the Trans-Alaska Pipeline Liability Fund in accordance with the provisions of this Act, *provided, however,* that no Trustee or Officer shall be so indemnified for any claim or liability arising out of his own gross negligence or willful misconduct.

(B) The Secretary of the Interior shall certify to the Secretary of the Treasury the total amount of the claims outstanding against the Trans-Alaska Pipeline Liability Fund at the time the transfer of assets required under paragraph (A) is made. If the Secretary finds that—

(i) the total amount of the assets so transferred is greater than the total amount of the outstanding claims so certified, subject to subparagraph (D) of this paragraph the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified shall constitute an advance payment toward payment of the fee due under section 4(c) of this Act on barrels of oil, and the Secretary may remit such fee until such time as the total amount of the fees so remitted equals the difference between the amount of the assets so transferred and the amount of the outstanding claims so certified; or

(ii) the total amount of the assets so transferred is less than the total amount of the outstanding claims so certified, the Secretary of the Treasury shall increase by 2 cents per barrel the fee imposed under section 4 on barrels of oil until such time as the total amount of the 2-cent-per-barrel in-

crease so collected equals the difference between the amount of the certified outstanding claims and the amount of the transferred assets.

(C) In the event that the total amount of the actual claims settled is less than the total amount of the outstanding claims certified, the difference between these amounts shall be rebated by the Secretary of the Treasury directly to the operator of the trans-Alaska oil pipline for payment, on a pro rata basis, to the owners of the oil at the time it was loaded on the vessel.

(D) If an owner of oil (as that term is used in section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act) who prior to enactment of this Act paid fees to the operator of the pipeline for transfer to the Trans-Alaska Pipeline Liability Fund receives the benefit of an advance payment under subparagraph (B)(i) of this paragraph for the collection or payment of fees established under section 4(c) of this Act, such owner of oil shall compute, based upon accepted accounting procedures, what the oil production tax and what the royalty paid to the State of Alaska would have been had payments not been made to the Trans-Alaska Pipeline Liability Fund in the amount of fees remitted. The difference between the amounts so computed and amounts actually paid to the State of Alaska shall be paid by each such owner to the State of Alaska. Such owner shall make such payment to the State of Alaska during such time the collection of payment of fees under section 4(c) of this Act is remitted.

(E) For purposes of paragraph (B), the term "barrels of oil" means only barrels of oil which would, but for the repeal made by this paragraph, be subject to the fee imposed under section 204(c)(5) of the Trans-Alaska Pipeline Authorization Act. The term "Secretary" means the Secretary of the Treasury.

(b) INTERVENTION ON THE HIGH SEAS ACT.—Section 17 of the Intervention on the High Seas Act (88 Stat. 10) is amended to read as follows:

"SEC. 17. The Fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978 shall be available to the Secretary for actions taken under section 5 of this Act.".

(c) FEDERAL WATER POLLUTION CONTROL ACT.—Section 311 of the Federal Water Pollution Control Act is amended as follows:

(1) Clause (H) of paragraph (2) of subsection (c) is amended by inserting after the words "of this section" the words "or the fund established under section 4 of the Oil Spill Liability Fund and Compensation Act of 1978, as appropriate,".

(2) Subsection (f) is amended, in the last sentence of paragraph (1), by inserting a comma after the word "vessel" and by adding immediately thereafter "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978,".

(3) Subsection (g) is amended, by inserting in the last sentence, after the word "party" the words "or against any guarantor of an owner's or operator's liability under the Oil Spill Liability and Compensation Fund Act of 1978".

(d) DEEPWATER PORT ACT.—The Deepwater Port Act of 1974 (88 Stat. 2126) is amended as follows:

(1) In section 4(c)(1) strike "section 18(1) of this Act;" and insert in lieu thereof "section 6 of the Oil Spill Liability and Compensation Fund Act of 1978,".

(2) Subsections (b), (d), (e), (f), (g), (h), (i), (j), (l), (n), and clause (1) of subsection (m) of section 18 are deleted.

(3) Clause (3) of subsection (c) of section 18 is amended by striking "Deepwater Port Liability Fund established pursuant to subsection (f) of this section.", and inserting in lieu thereof "fund established under section 4 of the Oil Spill Liability and Compensation Fund Act of 1978".

(4) Subsections (c), (k), and (m) of section 18 are redesignated (b), (c), and (d), respectively, and clauses (2), (3), and (4) of subsection (m) are redesignated (1), (2), and (3), respectively.

(e) OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS.—Title III of the Outer Continental Shelf Lands Act Amendments of 1978 is hereby repealed.

Amend the title so as to read: "A bill to provide for compensation for damages and cleanup costs caused by discharges of oil, to establish a liability fund, and for other purposes.".●

TRIBUTE TO SEN. ROBERT C. BYRD

● Mr. DURKIN. Mr. President, now that the 95th Congress has come to a close, I would like to take the opportunity to commend the dedicated and skillful leadership of Senate Majority Leader ROBERT BYRD. From the very beginning of the Congress, Senator BYRD guided the legislative process with a cool efficiency and a quiet assertiveness which resulted in two full and productive sessions.

Under Senator BYRD's leadership, and with the energetic and astute assistance of Majority Whip ALAN CRANSTON, the Senate has passed numerous significant and complex measures with wideranging impact, such as a national energy plan, airline deregulation, an $18.7 billion tax cut, the civil service reform, financial disclosure legislation, the toughest Code of Ethics in its history, sunset legislation, tuition tax credit legislation, legislation creating a Department of Energy, and a hospital cost containment bill, to name just a few. It is a measure of Senator BYRD's leadership ability that several of these measures were unable to be passed in the House.

The Senate's record in the 95th Congress was in large part due to Senator BYRD's determination and his commitment to personally guide the Senate in long days of debate and vote. Under Senator BYRD's leadership the Senate held its first all-night sessions in decades, and took a near record number of recorded votes.

This is not to say that the Senate was successful in tackling all the legislative initiatives we undertook, or that much important work went unaccomplished in the 95th Congress. However, it is to indicate that the Senate's record this Congress was substantial.

This is particularly notable, because during these two sessions the Senate perhaps dealt head-on with more difficult and complex problems than in any comparable period in recent memory. For example, such issues as natural gas deregulation and a comprehensive energy plan have defied solution for years, and the Panama Canal treaties were one of the most controversial and emotional issues to ever come before the Senate.

But perhaps most impressive about Senator BYRD's leadership is his determination that the Congress will be an equal partner in Government with the executive branch. For too long, the story of Congress has been one of power gradually eroded by an encroaching executive branch. As the Presidency has grown in power and influence, the Congress has declined. Coequality existed only in civics books, not in real life.

However, in recent years, the Congress has regained some of its powers. This has been accomplished through such enactments as the War Powers Act, the Impoundment Control Act, and the Congressional Budget Act, establishing the new budget process which, for the first time, has given Congress the mechanism to fulfill its constitutional obligation of controlling the budgetary process.

But strength does not spring merely from laws; it must also spring from respect—respect for Congress as an institution. As majority leader, Senator BYRD has insisted that the executive branch deal with the Congress as an equal partner, not as a stepchild. His willingness to speak out on behalf of the Senate and the Congress, matched by his ability to exert force when necessary, has earned that respect. In my own personal judgment, as Senator BYRD continues in the role of majority leader, the effectiveness of the Senate will continue to improve and the stature of the Congress will continue to increase.●

TRIBUTE TO SENATOR CASE

● Mr. DURKIN. Mr. President, during the past quarter of a century, Senator CLIFFORD CASE has been hailed repeatedly as one of the most distinguished Members of the U.S. Senate. Recalling such deserved words of praise makes it all the harder to bid farewell to CLIFF today. After a lifetime of deliberate and dedicated service, he is leaving the U.S. Congress.

It is difficult to imagine a new Congress convening without New Jersey's longest serving Senator, CLIFFORD CASE. In maintaining one of the highest voting participation records of any Member of the Senate, he has also proved to be one of the most incredible masters of bipartisanship this body has ever known. As the only one of our colleagues—Democrat or Republican—to serve on both the Appropriations and Foreign Relations Committee, we have relied on CLIFFORD CASE, his tireless efforts and outstanding command of knowledge, for giving us keen insight on matters covering the full gamut of Federal legislation.

CLIFFORD CASE has to be one of the most inherently decent individuals I have ever met. Devoted to making good government even better, he will long be remembered as one of the most accomplished and well-liked Members of the U.S. Senate.●

TRIBUTE TO SENATOR ALLEN

● Mr. DURKIN. Mr. President, it has been an honor and pleasure to serve with Alabama's junior Senator, Mrs. MARYON ALLEN. Her quick wit and charm, as well as that tremendous inner strength which she exudes, will be sorely missed in this Chamber when Congress convenes next year.

MARYON ALLEN is a remarkable human being. Amid great personal tragedy, she agreed to accept an interim appointment to the U.S. Senate. By so doing, she not only fulfilled the expressed wishes of her devoted husband, and one of our fore-

most colleagues, James B. Allen, but she also succeeded in carrying out his ideals and commitments. I strongly feel that MARYON's dedicated concern for her State and for our country is a lasting tribute to Jim Allen's distinguished congressional career.

With selfless determination, Senator MARYON ALLEN has served the people of Alabama and of this Nation admirably well. As she returns to private life, I wish her the very best in the years ahead.●

TRIBUTE TO SENATOR EASTLAND

● Mr. DURKIN. Mr. President, with the utmost respect, I want to extend my sincere best wishes to Senator JAMES O. EASTLAND who, after more than 35 years of dedicated, elective service to this country, is retiring from Congress at the close of the 95th Congress.

As New Hampshire's junior Senator, and a relatively new Member of the Senate, I owe JIM EASTLAND a great deal of thanks. Despite his numerous responsibilities as President pro tempore and ranking member of the Senate, chairman of our major Committee on the Judiciary, ranking member of the Agriculture Committee and ex-officio member of the Senate Appropriations Committee, JIM still managed to find the time to share the wisdom of his legislative experience and expertise with me. It has been my personal good fortune to profit from JIM EASTLAND's kindness and candor. I believe my dealings with him are, in no small way, indicative of the outstanding rapport Senator EASTLAND has maintained not only with his colleagues in the Congress, but also with his Mississippi constituency throughout six highly respected terms of office.

JIM has served the people of his State and of this Nation with dedicated concern and extraordinary skill. As President pro tempore since 1972, he twice proved ready to assume the duties of Vice President of the United States. JIM EASTLAND has earned the distinction of being Mississippi's longest serving Senator. In essence, he has never forgotten who elected him to the U.S. Senate, nor did he ever sway from the convictions he held true.

When Congress convenes in January, Senator EASTLAND'S absence will be deeply felt. However, his honesty, integrity, diligence, and devoted concern in the U.S. Senate will long be remembered by all of us and by the people of Mississippi.●

TRIBUTE TO SENATOR BARTLETT

● Mr. DURKIN. Mr. President, I regret that the junior Senator from Oklahoma will return to his home State after serving only one term in the Senate.

Since I came to the Senate, I have come to admire the integrity, persistence, and quiet dignity of DEWEY BARTLETT. His generous spirit and his testament to his faith in his daily life have touched me. In the last 2 years, I have seen an inspirational display of courage, strength, and unfailing good humor in adversity. Though many times DEWEY and I differed on issues, I found that we shared similar concerns.

The same qualities of dedication and hard work which won the admiration of the people of Oklahoma have impressed me as we worked together to come to grips with our Nation's energy crisis, as fellow members of the Committee on Energy and Natural Resources. We have shared also a concern for the plight of the small businessman, and a belief that the free enterprise system should include the little man as well as the large corporations. DEWEY's dedication extends to all the diverse elements of a State which includes some of the Nation's most productive oil fields and farmland, as well as a large minority of native Americans.

Senator DEWEY BARTLETT has served Oklahoma and our Nation faithfully and effectively. He has graced the Senate. I congratulate DEWEY on his fine record, and I want to take this opportunity to thank him for his contribution to our national welfare. His work in the Senate will, indeed, be missed.●

TRIBUTE TO SENATOR SPARKMAN

● Mr. DURKIN. Mr. President, because the close of the 95th Congress also marks the close of Senator JOHN SPARKMAN's congressional career, I would like to briefly address his record of distinguished public service.

JOHN SPARKMAN has spent half a lifetime as a lawmaker in the House and Senate. In 42 years of service, he has made a lasting imprint on many areas of legislation. JOHN's mark has been indelibly stamped on the major housing and banking laws of the past few decades. His work in earlier years on behalf of GI's and veterans put millions of servicemen and their families in his debt. In his service as chairman of the Committee of Foreign Relations, JOHN has continued to display the wisdom that he brought to domestic issues for so many years.

Since he came to Congress in 1937, Senator SPARKMAN has shown a statesman's capacity to grow and change as new times demanded new solutions to our Nation's problems. I have long admired the Senator's astuteness, integrity, and enlightened leadership. These were the qualities impressed upon the American public as Senator SPARKMAN became a national figure in 1952 as his party's nominee for the Vice Presidency.

Senator SPARKMAN's warmth and dignity reflect the grace and hospitality of his home State of Alabama, to which he and his wife, Ivo, now return for the relaxation they so richly deserve. The Senate will not be the same without JOHN. We will be poorer for losing him, but richer for having known and worked with him. We hope that he will continue to share the wisdom of his lifetime of congressional service with us. We need the qualities of leadership and dedication which the senior Senator from Alabama exemplifies so well.●

TRIBUTE TO SENATOR HANSEN

● Mr. DURKIN. Mr. President, with the adjournment of the 95th Congress, I want to pay tribute to our distinguished colleague from Wyoming, CLIFFORD HANSEN, who is retiring after 12 years of dedicated service in the Senate.

Because CLIFF served on the Senate Energy and Natural Resources Committee and the Veterans' Affairs Committee, of which I am also a member, I have had the distinct pleasure to work closely with CLIFF and to appreciate his enthusiastic approach toward legislation.

Particularly during the past year, as CLIFF and I worked together in reporting out a national energy plan, I have come to highly respect my colleague's consistently cogent, and creative, approach toward national issues. Through CLIFF's analytical skills as a Senator, his experiences as an outdoorsman, and his devotion to Wyoming as a resident, valuable insight was brought to Energy Committee deliberations. CLIFF's love for the land, no doubt stemming from his devotion toward the beautiful State of Wyoming, was apparent by his genuine concern for legislation pertaining to the future of the United States natural resources.

It must also be noted that as a member of the Senate Finance Committee, CLIFF's thorough understanding and grasp of American tax policy was highly respected. In particular, CLIFF's ability to expose inequities in our tax laws allowed Wyoming's Senator to play a significant role in formulating 1978 tax legislation. CLIFF's determination to reduce the taxation of our Nation's investors resulted in the reduction of capital gains taxes. Such a measure will no doubt have far-reaching effects within our economy.

And finally, during Senate debate on the floor, in committee, or during conference, CLIFF's sense of humor and optimism have always been enjoyed. As my neighbor in the Dirksen Office Building, I would often see him conversing with constituents or visitors to Washington, explaining perhaps an intricacy of Government while taking immense pride in our democratic system. Without a doubt, CLIFF's sincere love for our Nation is premised on his respect for its citizens. Such sincerity and zest for life will be missed by all of CLIFF's Senate colleagues.●

TRIBUTE TO SENATOR PEARSON

● Mr. DURKIN. Mr. President, the senior Senator from Kansas, JAMES B. PEARSON, has chosen not to run for reelection after 16 years of distinguished service in the Senate. I am confident that JIM's tenure in Washington will always be remembered.

Because JIM served as the ranking minority member of the Committee on Commerce, Science, and Transportation, of which I am also a member, we shared many common legislative interests. Time after time, I felt proud to be working with JIM on issues of concern as I recognized and respected his skill as a lawyer, his knowledge as a legislator, and his commitment to our Nation as a devoted citizen. Throughout all Commerce Committee deliberations, JIM's opinions were highly respected, his suggestions care-

fully reviewed, and his proposals often implemented by legislation. Although sensitive to his own electorate's needs, JIM's legislative abilities encompassed a consistently accurate assessment of national priorities.

It should also be noted that my colleague's membership on the Senate Foreign Relations Committee, as well as on the Select Committee on Intelligence, provided JIM the opportunity to play a significant role in formulating foreign policy. The Kansas Senator's perspective on world affairs was premised upon his own personal integrity, humility, and decency. His concern for such issues as the Peace Corps and SALT, exemplified his belief that while our Nation's military strength is imperative, success in international matters must be determined by our progress toward securing a foreign policy based on peace alone.

JIM's frankness and eloquence during the expression of his views, combined with his unusual wit, established my colleague's reputation in the Senate. I am confident JIM's future endeavors will prove to be as successful as his Senate career, and I extend all best wishes to him for the future.●

TRIBUTE TO SENATOR ABOUREZK

● Mr. DURKIN. Mr. President, it is with respect and sadness that I take note of Senator JAMES ABOUREZK's retirement from the Senate at the close of the 95th Congress.

Because JIM ABOUREZK's legislative accomplishments have been well noted by others, I would like to briefly comment on several of the qualities I believe made him a unique Senator.

JIM ABOUREZK is an unconventional man who made an unconventional Senator. His voluntary retirement from the Senate after only one term is just one indication of an independence of spirit and single-mindedness of purpose which distinguished his service in the Senate.

JIM is fiercely independent, and often the only predictable thing about him is that he will do the unpredictable. Strongly committed to principle, JIM would never hesitate to champion a cause or pursue a course he is convinced is right, no matter how unpopular and no matter what the odds. As the old saying goes, JIM ABOUREZK cannot be bullied, bluffed, or bulldozed. He stands firm, and I have yet to see anyone intimidate him.

There is also a sort of irreverence in JIM's attitude. He is not afraid to defy tradition and he is not afraid to ignore convention. This is, I think, a positive force in a body which has often been criticized as too tradition bound.

In many ways, JIM has served in the Senate as a voice of the underrepresented. He has spoken out for, and worked effectively for, recognition of the rights of the American Indians—a group which has too often and too long been underrepresented in so many areas where important policy decisions affecting their lives are made. His chairmanship of the Select Committee on Indian Affairs marked an important turning point in the relation of Congress to native Americans.

Similarly, JIM has also been an important force seeking to insure that the Arab side of the Arab-Israeli conflict is adequately considered in policy debates. Senator ABOUREZK has a deep, visceral belief that effective and prudent policy decisions must be based on full, fair, and informed debate, and he has made a major contribution in insuring a full presentation of the issues in this vital area.

In one respect, this has made JIM a type of voice of conscience in the Senate. He has a strong sense of what is fair and unfair, just and unjust, and he never hesitates to speak out forcefully when he sees infringements on the principles in which he so strongly believes.

JIM ABOUREZK sees legislation in human terms. His legislative initiatives, his questions at hearings, and his expressed concerns in floor debate all revealed his fundamental concern for the fairness of legislation and his desire that any law passed by Congress benefit rather than burden the public. His constituency was easy to define—the American people—and hard to represent. But represent them he did, with courage, conviction, and compassion. JIM ABOUREZK will truly be missed in the Senate.●

TRIBUTE TO SENATOR HUMPHREY

● Mr. DURKIN. Mr. President, it is with deep regret that we must say goodby to MURIEL HUMPHREY, who has been intimately associated with the Senate since 1949.

It is well recognized that the Democratic Party and the Nation have benefited time and again from the national statesmen developed by the Democratic Farm Labor Party of Minnesota, and it was our gain once again in January of this year when MURIEL succeeded to Hubert's Senate seat. Few have come here with more of an insider's knowledge of the workings of the Senate. MURIEL has used that knowledge well in considering the legislation that has come before her, but particularly in dealing with causes dear to her—unemployment, education, and equal rights for women.

Since Hubert Humphrey first appeared in the national spotlight 30 years ago, we have all been impressed by MURIEL's unfailing warmth and graciousness, and by the inspiration that she gave to Hubert. For the last year, we in the Senate have been blessed to have this dedicated, knowledgeable woman as our colleague. She has brought us the qualities of compassion and conscience that we so desperately need. As Hubert before her, MURIEL has been a voice for those who often are unable to articulate their concerns. Too often we end up dealing with institutions, corporations, groups or nations. But MURIEL is in tune with people, many of them unconnected and easy to forget in the marble isolation of our Nation's capital.

Though MURIEL was never to be our Nation's official "First Lady," she has earned her position as one of the leading women and citizens of our land. I regret, but well understand, her decision to leave the Senate and return to her home in Minnesota. But I know we shall hear more from MURIEL as she continues to speak out for justice in our country. That, too, will be our gain.●

INDIANA DUNES NATIONAL LAKESHORE PARK

● Mr. LUGAR. Mr. President, I join my colleague from Indiana, Senator BAYH, in support of prompt action by Congress to acquire additional land for the Indiana Dunes National Lakeshore Park.

Mr. President, this park is unique. It is an urban park, one of the few recreational areas in our region of the country where people from the immediate vicinity can retreat to quiet, open spaces surrounded by acres of natural beauty. It is, therefore, of immense importance to our State and its people.

Time is of the essence in acquiring this additional acreage which will set the final boundaries of the park. Each time we delay, we frustrate the efforts of local agencies and citizens to plan for the future, and we face higher costs for land acquisition.

I regret that the House of Representatives failed yesterday to retain our amendment, which the Senate approved last Thursday evening. This amendment would have accomplished the necessary land acquisition and resolved issues of concern to many citizens. Had the House accepted our amendment, Senator BAYH and I would not be forced to stage this last-minute effort.

I speak on behalf of constituents in the Beverley Shores area who are affected by delayed acquisition, and countless citizens in our State who derive great enjoyment from the park, in asking that the Senate adopt our amendment to acquire additional property and preserve the beauty of the Indiana Dunes National Lakeshore Park.●

OIL SPILL LIABILITY

● Mr. STAFFORD. Mr. President, the attached statement was prepared for the RECORD of October 14, 1978. It was to accompany a similar statement prepared by the distinguished Senator from Maine, Mr. MUSKIE, on the same subject, namely the oil spill liability legislation which was then pending.

Unfortunately, in the confusion of the session's closing hours the statement was overlooked. Since the oil spill liability legislation failed to pass—for reasons amply explained in my statement—it is still appropriate for my remarks to appear in the RECORD. Indeed, they may be of even greater relevance today than originally, because the same unrelenting insistence by the House which killed this legislation a few weeks past will almost certainly have the same

result if continued next year. Demands that the Senate surrender not only all aspects of its legislation but also principles embodied in existing law disserves those who stand to benefit from a new law—the residents of coastal States—for the sake of those who have a vested interest in changing old law.

My original statement follows:

STATEMENT BY SENATOR STAFFORD

Mr. President, my enthusiasm for the oil spill liability legislation has always been mixed with a healthy dose of skepticism concerning its desirability. When our Committee and Subcommittee considered these bills we were told time and time again that the true beneficiaries of the legislation would be those persons injured by spills of oil. But as I studied these bills, I was persuaded that the principal beneficiaries will be the special interest groups which have fought so hard for it. In States where oil spills are a special problem, the legislatures have enacted statutes which impose liability on spillers. And, for the bulk of the nation, there are the protections afforded by Section 311 of the Federal Water Pollution Control Act.

In essence, the various bills establish a system of Federal insurance for oil and shipping companies. A consequence of this legislation is that if a spill the size of the Amoco Cadiz were to occur in the United States, Amoco's liability would be cut off at around $35 million, even though the total damages and cleanup costs will probably exceed one-third of a billion dollars. As with so many other programs, the most of the bill would be paid by the Federal government, in the person of the so-called "superfund."

Despite my reservations, however, I was prepared to support a bill which contained two principal provisions: a prohibition against preemption; and a liability scheme for discharges of hazardous substances. As it passed the Senate, the bill contained both of these. But even with these included, the bill would not have been reported by the Subcommittee on Environmental Protection and the full Committee on Environment and Public Works except for the urgings and representations of some members of the other House as well as some Senators.

Based on these requests and assurances that the other body was willing to seriously discuss the issues in this bill to reach an accommodation, we agreed to move the legislation forward. But instead of discussing the major issues seriously and attempting to reach compromises on them, representatives of the other body have insisted on having everything their way. The probable result of this will be to kill the legislation.

Initially, they identified three major issues: the absence of any preemption provisions in our bill; the presence a liability and compensation scheme for discharges of hazardous substances as well as oil; and, the liability limits imposed on inland oil barges. In response to these, the Senate staff submitted the following proposals.

Hazardous substances: All of the liability and compensation provisions contained in the Senate bill would be deleted.

Preemption: States would be prohibited from maintaining their own funds for the payment of third party damages or collecting fees for that purpose. Similarly, they would be prohibited from imposing financial responsibility requirements, but they would be permitted funds to clean up spills and they could maintain their own liability statutes.

Inland Oil Barges: A liability limit exactly halfway between the House and Senate bills was to be imposed.

Other issues: The Senate staff indicated a willingness to discuss these or any other issues of concern to the other body, but insisted that the working document be the Senate bill.

We insisted on this because any oil spill liability legislation intrudes upon and interfers with policy established by and contained in the Federal Water Pollution Control Act. In establishing its system of liability and compensation, the House version was especially disruptive of definitions and principles long ago established in law. I would cite only a few example to illustrate this:

Defenses to liability: The Clean Water Act permits certain defenses to liability (such as an Act of God), only if the discharge was caused "solely" by these forces, but the House version would permit such defenses if the discharge were caused "primarily" by these forces.

Cleanup Costs: Existing law requires that the discharger pay for all "removal costs." This term includes a variety of costs, which are excluded from the "cleanup costs" that the House bill would require a spiller to pay.

Navigable waters: Existing law prohibits discharges into navigable waters as defined by the Clean Water Act to include all waters of the United States. The House bill would adopt a much narrower definition, thus eliminating coverage where it already exists.

These illustrate the dozens of instances where the House bill tinkers with one of the Nation's two basic pollution control laws, upsetting a delicate interplay and balance of a wide variety of conflicting and competing interests. The implication of changing the meaning of these terms goes far beyond the context of a simple "superfund" bill. For this reason, I am not surprised in the slightest that industry groups flocked to the other body asking them to insist on their version. They have the opportunity to gain not only a scheme of "super insurance", but a drastic contraction of existing law. In a single stroke during the closing hours of Congress, they can win battles which they fought—and lost—years ago.

I for one will not accept a bill on those terms. With Senator Muskie, I sought in Subcommittee and Committee—and ultimately we won—the hazardous substance and preemption provisions. One of these has been surrendered and the other seriously compromised. To now sacrifice not only our provisions in the bill, but the protections of existing law is unthinkable. And any Members of the other body who suggests it should seriously reexamine his bill to see if he truly understands it.

In response to our offers, the House has agreed to concessions which are virtually meaningless. They agreed to those of our amendments which seemed attractive to them—a GAO audit of the Fund, flexibility in setting some liability limits and the like—while insisting that we concede on every major issue. The position of the House is that we must accept not only their version of new law, but their changes to old law. It seems to be the view of the other body that the political necessity for this legislation is so great that we can be blackmailed by expediency into accepting whatever they offer.

Mr. President, I will not say that I feel betrayed because that may be too strong a term. But I must conclude that the other House does not care to pass a bill this year because if they did their discussions would be seriously designed to accommodate our views as well as their own. It seems apparent that the desire among too many interested parties now is not whether the baby dies, but on whose doorstep it will be found.

I am interested in passing a bill, and if the Members of the other body are equally interested, I hope they will start discussing some issues rather than merely demanding concessions.●

PRESERVATION OF HISTORIC RHODES TAVERN IN WASHINGTON, D.C.

● Mrs. HUMPHREY. Mr. President, earlier this year, I introduced a resolution, Senate Resolution 547, which would have expressed the concern and interest of the Senate in saving and restoring historic Rhodes Tavern in Washington, D.C. The building is in danger of demolition.

Because of the time constraints and heavy scheduling which occurred in the last few weeks of the session, it was impossible to have this resolution considered by the full Senate. Although I myself will not be returning to Congress, I hope and desire that my colleagues, especially those who cosponsored Senate Resolution 547, will reintroduce this worthy measure and oversee its early passage.

Mr. President, I have been asked on numerous occasions why saving Rhodes Tavern is so important to me, and why I believe its future should be considered an issue of national concern.

Let me try to explain.

Rhodes Tavern is not just another old building whose time has passed. Rather, it is a national landmark which belongs to all the people—to the people of Houston and Minneapolis as well as the District of Columbia. It tells us important things about the history of the Republic in its formative years. Dating from 1799, the tavern is the only building on the inaugural route between the White House and the Capitol which has witnessed every parade and ceremony since the Presidency of Thomas Jefferson.

Such distinguished persons as Senators Daniel Webster and Thomas Hart Benton, and Presidents Andrew Jackson, Martin Van Buren, John Tyler, Theodore Roosevelt, William Howard Taft and Woodrow Wilson were all associated with Rhodes Tavern in the course of their careers.

However, Rhodes Tavern is best remembered as having served as the headquarters for the British commanders during the occupation of Washington in 1814. General Ross and Admiral Cockburn took over the tavern and dined, not by candlelight, but rather by "the light of the burning Presidential Palace and Treasury."

In addition, Rhodes Tavern was for a time the home of Pierre L'Enfant, who from his rooms in the building laid out the streets and broad avenues of the new Federal city. The gun shop where the assassin of President Garfield purchased his weapon, and the first permanent home of the Riggs Bank and the National Press Club were also in the building.

Because of its many rich associations, Rhodes Tavern is listed on the National Register of Historic Places. Given care-

ful interior and exterior restoration, the building would serve as an encouraging remembrance of those generative souls—politicians, statesmen, architects, writers, generals, and diplomats—who laid the foundations of our culture in what some still call the Golden Age of American history.

Unfortunately, these qualities are difficult to translate into dollars. Rhodes Tavern may soon be torn down to make way for a $64 million office and shopping complex called Garfinkel Square. The Oliver T. Carr Development Co. has proposed several alternative plans for the location, at least one of which involved saving the tavern. The developer has sought out the community's feelings regarding this issue, and hired a local preservationist to assist in exploring alternative funding sources and both private and public support for saving the building.

If the plan which provides for the preservation of Rhodes Tavern is selected, the Carr Co. would deserve substantial credit and applause for its civic-minded interest in combining development with environmental preservation.

Support for saving the tavern is widespread. The Citizens Committee To Save Historic Rhodes Tavern, the Junior League of Washington, Don't Tear It Down, the Columbia Historical Society, the Treasury Historical Association, the city museum project, and City Council members Clark, Mason, Tucker mayoral candidate Marion Barry, and Mayor Walter Washington are all behind the preservation effort.

I firmly believe that the passage of my resolution, cosponsored by Senators ANDERSON, HAYAKAWA, LEAHY, MATHIAS, and MATSUNAGA, would have been highly beneficial in identifying, developing, and stimulating additional public support for preservation of the tavern. Moreover, this resolution could play a significant role in influencing the ongoing negotiations between the developer, the District of Columbia, and the public interest groups.

Reintroduced and passed early enough in the 96th Congress, the resolution could still help save the building. How sad it would be to spend millions of dollars restoring the ceremonial character of Pennsylvania Avenue, only to lose the one building which has witnessed all its ceremonies—the Rhodes Tavern.●

REPORT OF THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS ON VARIOUS BUILDING PROSPECTUSES

● Mr. RANDOLPH. Mr. President, the Public Buildings Act of 1969 authorizes the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation to approve by resolution, public buildings projects proposed by the General Services Administration.

In accordance with procedures adopted this year, I am submitting a formal report to the Senate, describing various projects authorized, outlining the reasons for the actions taken and the committee's views. On July 20, the committee approved the lease extension for the Center Building II, 3700 East-West Highway, Hyattsville, Md. On October 14, the committee approved a new construction project in El Paso, Tex.; alteration to the Chet Holifield Building in Laguna Niguel, Calif.; and lease extensions in Huntsville, Ala., Washington, D.C., Arlington, Va., and Boston, Mass.

NEW CONSTRUCTION

NEW FEDERAL OFFICE BUILDING AND PARKING FACILITY, EL PASO, TEX.

GSA proposes to construct a new Federal building in downtown El Paso, to provide 132,000 square feet of office space in which activities of 19 agencies now housed at 14 separate locations can be consolidated. The building will accommodate space needs of these agencies during the foreseeable future, and enable GSA to relinquish 86,406 square feet of leased space that now costs $458,022 annually. Construction of an adjacent 126,000 square foot parking facility is also proposed, that will provide 360 official, visitor, and employee parking spaces.

Construction on a 2.4 acre city-owned tract is anticipated, which GSA contemplates can be exchanged for Federal property in El Paso which has been designated surplus. This downtown location is preferred, near the existing U.S. Courthouse, not only to increase administrative efficiency and reduce operational costs, but also afford more convenience to the public.

The office building is estimated to cost about $14.5 million, or $72.45 per gross square feet, and the parking facility $5.7 million, or $39.20 per gross square feet totaling $20,220,000.

A favorable preliminary environmental impact statement has been submitted. No existing buildings have been identified, by the National Advisory Council on Historic Preservation, that are suitable for conversion to Government use. Cooperative use space will be provided in the new building, for commercial and other activities, as stipulated in Public Law 94–541.

Under the procedures of the Committee on Environment and Public Works, the General Services Administration will be expected to present the detailed plans for the project to the committee at least 30 days before a contract on the work is entered into.

REPAIR AND ALTERATIONS

THE CHET HOLIFIELD BUILDING, LAGUNA NIGUEL, CALIF.

The prospectus proposes alterations to this unique 7-story structure, which contains 752,000 square feet of usable office space. This office building and two smaller ancillary structures, originally constructed and owned by the Rockwell International Corp. as an industrial facility, were acquired by GSA through a property exchange in 1974.

National Archives, IRS, Fish and Wildlife Service, and the U.S. Geological Survey now occupy 190,000 square feet or about 25 percent of total space in the building. The remainder of the building is presently unoccupied. The building has been owned by the Government for 4 years and GSA has sought tenants for the space. Due to the facility's remote location, distance from available middle and low income housing, lack of convenient public transportation, and for other reasons, agencies have been reluctant in the past to transfer their operations from other localities to this area, even though the main building offers modern office space.

Components of the Bureau of the Census are interested in moving into about 225,000 square feet of the building when space alterations can be completed to accommodate them. In addition, agencies now occupying the building have a need for expansion space, amounting to about 8,000 square feet.

The prospectus as submitted proposed alterations to 562,000 square feet of the building, at an estimated cost of $3,300,960. The committee amended the prospectus to authorize only $1.4 million at this time, an amount which GSA states is sufficient to convert the space needed by the Census Bureau and to accommodate the expansion needs of agencies now located there.

By not authorizing funds to alter space for which GSA does not have prospective tenants, the committee does not want to discourage GSA from actively seeking additional tenants or discourage agencies from agreeing to occupy the building. To the contrary, the committee urges GSA to make every effort to find satisfactory tenants for the remaining vacant space in this Government-owned building and to reduce, wherever possible, its leasing requirements. The committee will give expeditious consideration to additional authorizations when agency tenants are found and the nature and costs of additional needed alterations can be defined.

LEASES 106 WYNN DRIVE NW., HUNTSVILLE, ALA.

The General Services Administration has leased space at 106 Wynn Drive, Huntsville, Ala., since this building was built in 1968 and there is a continuing need for this space.

The prospectus proposes to exercise the option to renew the lease for 259,060 occupiable square feet of space for a term of 5 years beginning January 1, 1979. The current lease will expire on December 31, 1978. This prospectus also requests the authorization to exercise the second 5 year option for the same space beginning January 1, 1984. The annual rent under the options is $882,548 for the first renewal term and $957,548 for the second renewal term.

The facility, which is occupied by the U.S. Army, is associated with the Ballistic Missile Center—located in Cummings Research Park—which was designed to meet the needs of space research related industries. Huntsville officials support the proposed action to remain at the present location near the

U.S. Army Redstone Arsenal, the Marshall Space Flight Center, the University of Alabama Research Institute and the other space research related industries.

The committee is informed by officials at the GSA that failure to approve the prospectus before the expiration of the current lease would cause the options to lapse, thus necessitating renegotiation at current market rates.

150 CAUSEWAY STREET, BOSTON, MASS.

The General Services Administration has leased space in the building at 150 Causeway Street since November 1972. The space will continue to be occupied by the 15 agencies now housed there.

This prospectus proposes consolidation of two existing leases totalling 169,795 occupiable square feet for a term of 5 years. The first lease covering 104,321 occupiable square feet expired November 11, 1977, and is presently under a 1-year extension of the existing lease pending prospectus approval. The second lease covering 65,474 occupiable square feet expires April 30, 1979. The annual rental, including services and utilities, from November 1977 to April 1979, is estimated to be about $1,126,610—$6.64 per square foot—and from May 1979 to November 1982, about $1,195,357—$7.04 per square foot.

The lease will contain a clause for increases or decreases in real estate taxes and operating expenses.

2025 M STREET NW., WASHINGTON, D.C.

GSA proposes continued occupancy of 119,359 square feet of office space now rented in the building at 2025 M Street NW., Washington, D.C., to house the Federal Communications Commission and the National Credit Union Administration. Space has been occupied here since 1972, under a sublease with the Corporation for Public Broadcasting, who had prior rights that are now being relinquished. The present sublease will expire on November 30, 1978.

Retention of this space is considered by GSA to be in the Government's best interests, so that activities of the two tenant agencies will not be disrupted by relocation.

The estimated renewal cost is $1,541,731 annually, including all services and utilities, or approximately $12.92 per square foot. This represents an increase of about 43 percent over the present rate, attributable to higher operating costs, inflation, and competitive demand for space in the area generally. The committee is concerned that the new lease is substantially more expensive than the existing lease, but it is informed by officials of GSA that failure to approve it before expiration of the existing lease could subject the Government to greater costs.

COMMONWEALTH BUILDING, ARLINGTON, VA.

This prospectus proposes continued occupancy, under a new lease, of 221,763 square feet of space now rented in the building, situated at 1320 Wilson Boulevard in Arlington, to house the Department of Defense, Agency for International Development, Department of Agriculture, and Executive Office of the President. Space has been occupied here by Federal agencies since 1968, and retention is considered by GSA in the Government's best interests. The current lease expired October 6, 1978, with no renewal options.

The 203,978 square feet of the total area is general office space that GSA proposes to lease for a period of 5 years. The remaining 17,785 square feet comprise computer space. The estimated annual rental is $1,912,170 which averages $8.62 per square foot, representing an increase from $4.74 per square foot at the present rate. This is attributable to higher operating costs, inflation, and competitive demand for high quality space in the Washington, D.C., area. GSA officials stated that they believe failure to approve the prospectus could subject the Government to even greater leasing costs.

CENTER BUILDING II, HYATTSVILLE, MD.

The committee has approved the prospectus to authorize renewal of the lease on the Center Building II, 3700 East-West Highway, Hyattsville, Md. It authorizes GSA to exercise two 5-year renewal options contained in the present lease. The Health Resources Administration has occupied the space since 1969.

Since the lease with renewal options was entered into almost 10 years ago, the renewal rate is considerably less than current market rates.

GSA informed the committee that in order to exercise the option, written notice had to be given by July 25, 1978. The committee approved the prospectus on July 20.●

SUMMARY OF SMALL BUSINESS COMMITTEE ACTIVITIES—1978 HEARINGS AND LEGISLATION

● Mr. NELSON. Mr. President, as the 95th Congress comes to a close, I want to take some time to comment upon the work of the Small Business Committee. This has been a historic Congress for the committee because it is the first Congress in which it has had legislative jurisdiction—granted by the Senate in Senate Resolution 104, approved in April 1976, and effective in January 1977.

The Small Business Committee is now empowered to consider and report out legislation primarily relating to the Small Business Administration and its programs and also to investigate problems and issues generally affecting the Nation's small and independent businesses. The small business community accounts for 55 percent of the jobs in the private sector; 48 percent of the business output; and 43 percent of the gross national product. Its problems are complex. The Small Business Committee has been trying to focus the Nation's and the Congress attention on the status of small business in our economy and to generate responses on the part of the Congress and the Government to the problems and unfair burdens facing many of the Nation's 14 million small enterprises.

In 1977 and 1978, 36 Senate bills, 8 resolutions, 4 House-passed bills, 2 Presidential nominations, and 38 executive communications. Of the 40 bills, 3 major small business bills have been enacted—Public Law 95–14, Public Law 95–89, and Public Law 95–315—and 3 others have been approved by both Houses of Congress and sent to the White House—H.R. 11445, H.R. 11318, and H.R. 13418. All eight resolutions have been approved by the Senate. The two nominees were approved by the Senate. Provisions of 16 bills before the committee were incorporated into the 6 small business bills receiving final congressional approval.

The committee held 65 hearings in 1977 and 44 so far in 1978 making a total of 109 for the 95th Congress; 21 committee meetings took place, principally on legislation the committee acted on.

A report on the business of the committee for calendar year 1977 is contained in the annual report for that year, Senate Report No. 95–629. However, I would like to review here some of the highlights of the committe's work in 1978 so that those interested may be informed of these efforts as the 95th Congress comes to a close.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

Planning for the first White House Conference on Small Business in the history of the Nation has been underway since April of this year, when the President formally announced the Conference, pursuant to the committee chairman's request in a Senate resolution which had passed a year earlier. In a letter to the chairman, the President said:

> Such a conference would be very constructive for the nation's 14 million small and independent businesses . . . . and can help us identify the many special problems facing small business and design an agenda that addresses them in a constructive way.

Already, regional and State planning conferences have been held around the Nation to prepare the agenda, seeking input from the large cross section of the American public involved in small business to help encourage a comprehensive strategy which will ultimately bring about a better environment for small business to grow, thrive, and, finally, survive from one generation to another. In H.R. 11445, an independent legislative act provides personnel and administrative support and authorizes $5 million for fiscal year 1979 for the Conference; and sets forth the basic purpose and structure of the Conference, to be held no later than June 30, 1980.

OMNIBUS SMALL BUSINESS AUTHORIZATION AND AMENDMENTS

The conference version of H.R. 11445 was approved by the House of Representatives on October 4 and by the Senate on October 11. The five-title bill contains provisions proposed in S. 972, the Small Business Development Center Act, S. 1726, the Small Business Economic Pol-

icy and Advocacy Reorganization Act, and S. 2157, the Small Business Investment Company Development Act. Among other provisions, the bill, first, sets program levels, and authorizations for fiscal years 1979, 1980, 1981, and 1982; second, establishes a major 4-year pilot program of small business development centers, to provide small business with a degree of expertise and technical assistance comparable to that provided American farmers through the Agricultural Extension Service; third, declares a new small business economic and investment policy applicable for all Federal departments and agencies; expands authority for the Chief Counsel for Advocacy of the Small Business Administration, to argue the case for small business within the Federal Government and before the Congress; and requires the assembling of the first statistically reliable small business data base; fourth, authorizes a new category of investment company, the Venture Capital Investment Company, to invest in small businesses; and fifth, provides funds and the framework for the White House Conference on Small Business.

MINORITY BUSINESS, SURETY BONDS, CONTRACTING AND PROCUREMENT

The conference version of H.R. 11318 was approved by the House of Representatives on October 6 and by the Senate on October 10. The two-title bill contains provisions from S. 2156, the Minority Enterprise Venture Capital Act, and S. 836, amendments to the surety bond program, S. 3179, the Small Business and Capital Ownership Development Act, and S. 2259, the Small Business Procurement Expansion and Simplification Act. Among other provisions, the bill would: first, create a small business capital and ownership development program to make broader and more competent management and technical assistance available to firms in SBA's 8 (a) minority contracting program; second, provide for more favorable borrowing terms for minority enterprise small business investment companies by reducing the interest rates; third, revise SBA's surety bond program to relieve bonding problems that minority small business face; and fourth, improve opportunities and simplify procedures for small and disadvantaged firms to sell their goods and services to the Federal Government both directly and indirectly as subcontractors.

SOLAR ENERGY LOAN PROGRAM ENACTED

On July 4, the President signed H.R. 11713, creating a small business solar energy loan program within the Small Business Administration. For fiscal year 1979, $30 million was authorized in direct and immediate participation loans and $6.75 million in loan guarantees—to cover $45 million in guaranteed loans. The Senate version of the bill grew out of committee hearings in 1975 and 1977 on the emerging solar energy industry and from provisions contained in S. 807 and S. 2733 pending in the committee. The loans and guarantees will be made to small businesses which design, manufacture, and market solar, energy conservation, and renewable energy products and services.

SMALL BUSINESS ADMINISTRATION VOLUNTEER PROGRAMS

H.R. 13418 was approved by the House of Representatives on September 25 and by the Senate on October 11. Among other provisions, the bill would: first, transfer to the Small Business Act those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business—SCORE/ACE programs; and second, authorize the SBA to reimburse its employees for subsistence and compensate experts and consultants at the same rates at which other Federal departments and agencies may do so.

CHIEF COUNSEL FOR ADVOCACY AT SBA CONFIRMED

The nomination of Milton D. Stewart to be Chief Counsel for Advocacy at the Small Business Administration was received by the committee in early March. Two extensive hearings in April were held on the nominee's qualifications, and Executive Report 95–21 was filed by the committee. Favorably reported by the committee, Mr. Stewart's nomination was confirmed by the Senate on July 18 by a vote of 88 to 11.

SMALL BUSINESS TAX POLICY

In October 1977 the committee presented to the President a five-point tax program which it hoped would be included in the administration's major tax reduction legislation in 1978. The committee held three hearings in February on the subject, and the proposals were introduced by committee members. Three specific proposals of the five major reforms recommended by the committee were approved by the Senate on October 11, 1978, as part of the Senate version of the Revenue Act of 1978. These included: First, permanent progressive corporate rate structure with cuts in taxes up to the $100,000 level; second, capital gain relief to free investment capital for new and small businesses; and third, major simplification and reform of depreciation by allowing 3-year capital recovery for up to $25,000 in assets with full investment credit. The first two proposals were accepted in the conference committee and included in the final version of the bill as sent to the President. However, the depreciation reform proposal was not accepted by the House conferees and was eliminated from the final version of the bill.

Several other significant small business provisions in the Senate bill were included in the conference-approved bill: product liability relief—extending from 3 to 10 years the carry-back period of net operating losses attributable to product liability; elimination of the "widow's tax"—allowing a surviving spouse to "earn" up to 50 percent of a farm or business at the rate of 2 percent a year, thus reducing the estate tax payment on the first spouse's death; inauguration of a "deficiency dividend procedure" for small business investment companies; further substantial improvements in subchapter S of the Internal Revenue Code; and expansion of the loss provisions of section 1244 of the code.

CAPITAL FORMATION

In accordance with the recommendations of the report of the panel on venture equity and capital in early 1977, the committee began the most concerted study of the capital and credit problems of small business in the past 20 years. This culminated in two public hearings in February and one each in May and September, which will be continued for some time, and the introduction of various legislative proposals.

As a result, the committee has in progress proceedings to pursue all of the major areas that need to be attacked to improve small business capital formation—namely: First, tax policy—see above; second, ERISA—8 days of hearings in 1976–77; third, securities laws and regulations; fourth venture capital institutions—see the sections relating to small business bills H.R. 11445 and H.R. 11318.

The committee's hearings in 1978 examined the impact of current tax policies on small businesses to determine how reforms in the code could stimulate the economy through strengthened small businesses and could facilitate small business access to capital markets. For example, several hearings focused on the effects of SEC regulations and policies on the ability of new and smaller firms to enter capital markets. Legislative proposals, in addition to those mentioned under tax policy above, include:

Qualified dividend reinvestment plans which would defer current Federal tax dividends reinvested in original issue stock of any company having a qualified dividend reinvestment plan.

Incentives for new stock issues which would provide a 10-percent credit on new equity issues of any small business with $25 million or less in revenues.

Nonqualified stock options outlining a method for valuing nonqualified stock options in a small business.

Rapid recovery of occupational safety and health expenditures which would shorten the period it takes for a business to recover the amount it invested in equipment required to be purchased to comply with OSHA from 7 to 5 years without loss of the investment credit provided elsewhere in the Internal Revenue Code.

EMPLOYMENT TAX CREDIT

Two hearings held jointly with the Finance Committee in July examined the 1977–78 employment tax credit and alternative policies and proposals for the future. Testimony revealed that nearly 70 percent of the new jobs over the past 10 years were created in companies with less than 100 employees and that small businesses have used the credit to create new jobs and inhibit price increases. The tax bill, H.R. 13511, as sent to the President, contained a provision targeting the credit to low-income persons.

GOVERNMENT REGULATIONS AND PAPERWORK

Hearings held by the committee and legislation introduced reflect the committee's continuing concern and atten-

tion to problems created for small businesses by excessive Government paperwork and regulations. Today, the Government issues more than 42,000 pages of rules a year—1977 figure. Complying with Government-generated paperwork costs the public more than $100 billion a year—estimate of the Federal Paperwork Commission. Legislation offered by committee members and other committee action include:

The Regulatory Flexibility Act which would permit agencies to tailor regulations to the size and resources of those affected by them and would require agencies to solicit and consider less costly and less burdensome alternatives. The subject of hearings by the Administrative Practices and Procedures Subcommittee of the Judiciary Committee, and favorably reported by the Judiciary Committee, this legislation passed the Senate on October 14.

The ERISA Small Business Paperwork Reduction and Investment Act which would mandate a single annual report with a single filing date and coordination among involved agencies on information-gathering associated with ERISA. Jointly referred to the Finance and Human Resources Committee, this proposal received three hearings by the Human Resources Committee.

Amendments to the Interstate Land Sales Disclosure Act resulted from a three-year staff study and two public hearings in January which concentrated on the Department of Housing and Urban Development's (HUDs) enforcement of a law regulating interstate land sales. The study disclosed that the jurisdiction of the law was extended to include "intrastate" developers, usually small and independent businessmen, by HUD. The committee concluded that the original intent of the law, to protect consumers from fraudulent land sales by unscrupulous interstate land developers, did not contemplate imposing a regulatory burden on small intrastate developers. In July, the Senate accepted an amendment incorporated into the 1979 housing authorization bill, introduced by a committee member, to exempt land developers from compliance with the regulations if they sold property within a 100-mile radius or if the lot was sold only within State boundaries. However, the major substantive provisions were not contained in the final version of the legislation as sent to the President.

Supplemental Air Carriers testified at committee hearings in 1977 called to air allegations that they had been driven out of business in the 1950's and 1960's as a result of discriminatory Civil Aeronautics Board (CAB) regulations. The hearing record illustrated how the CAB had forced some of these smaller airlines out of business with regulations that made it impossible for them to make a profit, such as severely limiting the number of flights between any two points and prohibiting regularly scheduled flights. In April of this year, the CAB agreed to hold hearings to determine the eligibility of the smaller airlines for new certificates in response to petitions by owners of these companies, and, as a result of the committee hearings, to reconsider its previous policies.

Fishing Equipment Manufacturers face cash flow problems and burdensome paperwork caused by the method of payment of the 10 percent Federal excise tax on fishing tackle manufacturers required by Treasury regulations, the committee was told by small manufacturers. Recognizing that the problem could be solved by instituting a new system of payment, a committee member introduced legislation which would permit manufacturers to pay the tax once per quarter and to defer that payment until the end of the following quarter, instead of making payments six times a year, in advance of revenue receipts from their shipments. The bill was referred to the Finance Committee.

INDUSTRIAL INNOVATION

In August, two rare joint Senate and House Small Business Committee hearings were held on the under-utilization of small business and the Nation's efforts to encourage industrial innovation. As a follow up, committee members requested the administration to request a plan from each agency involved in research as to how small business participation could be increased. The request followed disclosures at the hearings that the Federal Government awards only 3½ percent of Government research and development contracts to small business despite their outstanding record of consistently accounting for over half of all innovations.

GOVERNMENT PATENT POLICY STUDY

A series of two hearings in May and three in June continued the committee's investigation which began in 1977 on U.S. Government patent policy. Specifically, the committee looked into problems of possible economic concentration brought about by granting patent monopolies for discoveries which result from Government-financed research and development grants and contracts, and whether the Government is giving away too much and getting all that it pays for with its R. & D. dollar. A committee request in March to the Office of Federal Procurement Policy postponed the effective date of a new institutional patent agreement—(IPA)—proposed by the General Services Administration for Government-wide application to July 18, enabling the committee through hearings to examine the legal basis and implications of IPA's as an implement of Government patent policy.

COMPETITION IN THE ECONOMY

An examination of competition in the economy began in January of this year with 2 days of hearings on the subject and on a proposal by a committee member to establish a Competition Review Commission. The hearings focused on the impact of Government policies, such as tax and patent laws, regulations, and Federal contracting, on competition. The proposal is pending in the Judiciary Committee.

SOLAR ENERGY

In addition to committee action on the new solar energy loan program, the committee staff sponsored a public debate on solar power satellites in which experts on both sides of the issue participated. Such satellites would collect energy and beam it back to Earth via microwaves where it would be transformed into electricity. With increasing congressional attention being given to committing the United States to research and development and demonstration of the satellites, the committee believed it important to examine the impacts of this potential development on other alternative feasible solar projects, on concentration of energy resources and on small business involvement in the industry.

NONIMMIGRANT LABOR CERTIFICATION

Two hearings in February investigated the problems of small farmers and fruit growers in obtaining adequate seasonal labor. More specifically, the committee heard testimony on the labor certification program of the Department of Labor and difficulties it presents for small employers.

INFLATION IN THE HEALTH CARE INDUSTRY

Two days of hearings in August focused on inflation as it relates to economic conditions in the health care industry and the impact on small business.

SMALL LOGGERS IN NATIONAL FORESTS

A provision enacted in the 1976 amendments to the National Forest Management Act designed to help small loggers finance the cost of road building where required in Government timber purchaser contracts was the subject of a committee hearing in July. The committee found that the $20,000 cost threshold which triggers the assistance to loggers was too high to be of any real help to small loggers in national forests east of the Mississippi, since road-building costs rarely reach that level in certain regions. As a result of the hearing, a committee member urged acceptance of an amendment to the Interior appropriations bill, which was ultimately enacted, increasing the amount of funds available for advance roadbuilding in national forests.

OTHER PENDING LEGISLATION AT YEAR-END

Other bills offered by committee members which did not receive final congressional approval in this Congress will most likely become part of the committee's agenda in the future. We cite them here because they have been offered as part of the continuing dialog on legislative remedies to some of the problems facing small business. They include:

Tax Depreciation Reform which would allow three-year straight-line depreciation for up to $100,000 of machinery in any one year permitting machinery and equipment to be written off three times faster than under present law.

Equal Access to Courts Act which would allow small businesses and individuals who prevail over the government in a legal or administrative action to be reimbursed for reasonable attorney's fees and other related costs.

The Fair Representation for Small Business Act which would require small business representation on existing and future federal advisory bodies and councils, making sure that small business has a voice in policymaking at top government levels.

Small Business Advocates to be designated in each department and agency providing for a small business voice throughout the spectrum of federal government action.●

TRIBUTE TO CLIFFORD CASE

● Mr. SASSER. Mr. President, CLIFFORD CASE is leaving the Senate a better place for his having served here.

In his unique way, CLIFFORD demonstrated remarkable leadership qualities. He was quiet and unassuming, but when he spoke, he spoke with authority, and other Senators listened. He showed the kind of independent judgment that allowed him to transcend party lines and vote his conscience on each issue. He put the national interest first.

CLIFFORD CASE'S integrity and bi-partisan spirit were especially needed on the Senate Foreign Relations Committee, where he served as the ranking Republican. Time after time, he used his influence to bring reason and calm to potentially explosive issues of worldwide importance.

CLIFFORD CASE served four terms—24 years—in the Senate, and grew in stature with each passing year. We can all be proud to have served with such a decent man.●

TRIBUTE TO CLIFFORD HANSEN

● Mr. SASSER. Mr. President, CLIFFORD HANSEN was a true friend to all of his colleagues. I do not believe there has been a more well-liked or respected Member of Congress than CLIFFORD HANSEN.

CLIFFORD is leaving us after just two terms in the Senate, but he will long be remembered for the intelligent and hard-working approach to his duties as Senator.

As the ranking Republican on the Senate Energy and Natural Resources Committee, CLIFFORD was an expert in the field that will determine the kind of future our Nation will have. He was a forceful advocate of his positions, and was a worthy ally on the floor when we agreed on energy issues and an effectitve opponent when we disagreed. But no matter which side of any issue you were on, you could always count on CLIFFORD to be helpful and friendly to every Senator. As the Nation embarks for the first time on a national energy policy, CLIFFORD HANSEN can be proud of the role he played in shaping that policy and in defining the positions that surely will be carried forward after he leaves this Chamber.●

TRIBUTE TO JAMES PEARSON

● Mr. SASSER. Mr. President, as the 95th Congress comes to an end, we are also witnessing the end of a distinguished Senate career of one of our finest colleagues, Mr. PEARSON of Kansas.

I feel that I share a common bond with Mr. PEARSON since he was born in my hometown of Nashville. After graduating from Virginia Law School and serving as a Navy pilot, Mr. PEARSON became involved in government, as a city attorney.

For 17 years, JAMES PEARSON has served the people of Kansas in this Chamber. As the ranking minority member of the Commerce, Science, and Transportation Committee, Mr. PEARSON has demonstrated his knowledge of fundamental issues and legislative expertise.

One of the monumental pieces of legislation of the 95th Congress, airline deregulation, bears Mr. PEARSON'S name. This bill will bring increased competition to what was once an overregulated sector of the economy. In turn, it will mean lower prices for consumers.

I would like to take this opportunity to wish him and his family the best in years to come as he begins a richly deserved retirement.●

TRIBUTE TO MARYON ALLEN

● Mr. SASSER. Mr. President, I want to pay tribute to one individual whom I respect very much, Mrs. ALLEN of Alabama.

Though she has served in this Chamber for only a few short months, I have come to admire her strength and wisdom. After the sudden and tragic passing of her husband, she stepped in to continue his work in the great tradition of the Allen name.

I am sure that this was not the easiest of challenges for Mrs. ALLEN. Just as her decision to come to the Senate exemplified her strength and courage, her actions on the Senate floor demonstrated her dedication and perseverance.

In the short time that I have known her as a colleague, I have valued her friendship.

MARYON ALLEN brings to mind the words of Robert Louis Stevenson, who said:

> Give us grace and strength to forbear and to persevere. Give us courage and gaiety and the quiet mind, spare to us our friends, soften to us our enemies.

We will miss her and we all wish her the very best.●

TRIBUTE TO BILL SCOTT

● Mr. SASSER. Mr. President, our colleague, BILL SCOTT, leaves the Senate this year after devoting nearly 30 years to public service. As a U.S. Senator and as a Member of the House of Representatives, BILL SCOTT has served his native Virginia with dedication. He has stood boldy and firmly for his convictions. We will miss his warm and friendly personality. I wish him well as he returns to private life.●

TRIBUTE TO JAMES O. EASTLAND

● Mr. SASSER. Mr. President, when Congress reconvenes in January, it will do so for the first time since 1940 without the presence of our distinguished colleague, JAMES O. EASTLAND of Mississippi.

As a younger and more recently elected Senator, I am greatful for the help given to me by the most senior of my colleagues. During my first weeks in the Senate, I was privileged to serve with Senator EASTLAND on the Judiciary Committee which he has so ably chaired. At that time, and as I have worked in the Senate for 2 years, Senator EASTLAND'S advice and leadership have been invaluable.

Senator EASTLAND was a builder of America and a champion of a strong national defense. Great public works projects throughout the Nation and as a monument to his vision and dedication. His has been the voice of wisdom and experience, and we have all valued his advice and counsel.

JAMES O. EASTLAND devoted the greatest part of his adult life to public service. I wish him many happy and meaningful years as he retires and returns to his beloved Mississippi.●

TRIBUTE TO CARL CURTIS

● Mr. SASSER. Mr. President, CARL CURTIS has been as much a part of the Congress as has any other Member. He has truly left his mark on this institution.

CARL CURTIS first came to Congress 40 years ago, in 1939, and he has served continuously since that time. First, the voters of Nebraska elected him to the House of Representatives, and then in 1954, they made him a part of this body.

CARL CURTIS has truly served with distinction. As the ranking Republican on the Senate Finance Committee, he has worked diligently on tax issues and is an expert in his field. He has been active on the Senate floor each time a Finance Committee matter comes before us and he is always constructive in debate. CARL has been a stalwart defender of our Nation's free enterprise system and an advocate of efficient, streamlined Government. His voice certainly will be missed by all of us in Congress.●

TRIBUTE TO DEWEY BARTLETT

● Mr. SASSER. Mr. President, when the 96th Congress convenes in January, the people of Oklahoma and the Members of the Senate will miss not having DEWEY BARTLETT as a Member of the this body.

Mr. BARTLETT has served with dignity and distinction in this Chamber.

The distinguished junior Senator from Oklahoma has excelled in every aspect of his life, as a farmer and rancher, as a pilot in the U.S. Marine Corps, as Governor of the State of Oklahoma, and as U.S. Senator. He has enriched the legislative history of the U.S. Senate.

Mr. President, I wish the very best of everything to Senator BARTLETT and his family as he returns to private life.●

TRIBUTE TO JOHN SPARKMAN

● Mr. SASSER. Mr. President, it is with great sadness that we say good-bye to one of the most distinguished men to have served in the U.S. Senate, JOHN SPARKMAN of Alabama.

I am proud to have had the opportunity to serve with JOHN SPARKMAN during a short part of his long career. Forty-two years ago, the people of Alabama sent JOHN SPARKMAN to Congress to see what he could do about the Great Depression. For 42 years, they continued to send him back to Washington, first as a Congressman, and then as a Senator. He has served his State, his region, and his country faithfully and well, in times of

prosperity and in times of economic crisis, through peace and through war.

He came to Washington to see that Alabama got better schools, better housing, better roads, a better quality of life. He has done that and more.

Goethe reflected:

The man who is born with a talent which he is meant to use, finds his greatest happiness in using it.

I am sure that JOHN SPARKMAN has found great happiness, because he has achieved fulfillment through service to the people of Alabama, the South, and the Nation.

I am sure all of my colleagues join me in wishing the Senator and his family the very best of luck in the years to come.●

TRIBUTE TO KANEASTER HODGES

● Mr. SASSER. Mr. President, a year ago when KANEASTER HODGES was appointed to fill the vacancy left by the tragic loss of Senator John McClellan, it was understood that he would not seek election to a full term in the Senate. He could have considered his responsibility to be that of a caretaker of the seat he holds and could have assumed a passive role. But rather, KANEASTER HODGES has used his year fully and wisely. In this short term of service, he gained the respect and admiration of his colleagues on both sides of the aisle.

Harry Truman once said:

I studied the lives of great men and famous women; and I found that the men and women who got to the top were those who did the jobs they had in hand, with everything they had of energy and enthusiasm, and hard work.

I believe that KANEASTER HODGES meets that definition of a great man. Every task which he undertook in the Senate was done well. Every task was done with his complete dedication, his complete energy, and enthusiasm.

I have always valued his advice and counsel. I have known that his thoughts were the product of deep reflection and based on his conscientious advocacy of deeply held principles.

I will miss KANEASTER HODGES. I will miss his friendship as a Senator. I will miss his advice. But I am sure he will continue to devote his life to the service of his family, friends, and the people of his beloved Arkansas.●

TRIBUTE TO JAMES ABOUREZK

● Mr. SASSER. Mr. President, I would like to take this opportunity to wish my colleague from South Dakota (Mr. ABOUREZK) the best of luck as he retires from this body.

Mr. ABOUREZK served in the U.S. House of Representatives during the 92d Congress. It did not take the people of the entire State of South Dakota long to recognize his abilities, however, and he won election to the Senate on November 7, 1972.

Even though he decided to retire after only one term in the Senate, JIM ABOUREZK has left his mark on this body and on this Nation.

People around the country will long remember his efforts to protect the consumer. Mr. ABOUREZK's stand against deregulation of natural gas prices exemplified his forceful and untiring fight to prevent the overburdened American consumer from being weighed down by further price increases.

Too, the Senator's colleagues, and the public as well, will remember Mr. ABOUREZK's independence and forthright attitude.

I certainly respect his decision to retire from this body after 6 years of service. Still young, Jim ABOUREZK will now have an excellent opportunity to spend more time with his family—and I know we all envy him for that—and advance his own career in other fields.

I want to extend best wishes to him for the future, knowing that we shall continue to hear more from him in the years to come.●

TRIBUTE TO MURIEL HUMPHREY

● Mr. SASSER. Mr. President, MURIEL HUMPHREY has served well and capably as U.S. Senator. In just a few months, MURIEL has distinguished herself time and time again as a leader, as an advocate, and as a Senator worthy of the name Humphrey.

I had the pleasure of working with MURIEL more closely than did many Senators. She served with me on the Governmental Affairs Committee, where her contributions were outstanding. She was particularly effective in her committee work, and she could always be counted on for a reasoned judgment and a constructive suggestion. She worked quietly but diligently. She made important contributions to the Civil Service Reform Act of 1978, particularly in the area of protection for Government whistleblowers. Her concern for whistleblowers showed MURIEL's understanding of the need for efficient and humane government, for a government that treats its most patriotic employees with the same dignity and respect that she shows for all people.

I was also most fortunate to have MURIEL as a member of the Subcommittee on Civil Service and General Services, which I chair. In her short tenure on the subcommittee, MURIEL showed a clear understanding of issues affecting public employees. She was most helpful in her service, and her opinion was respected by the other subcommittee members.

MURIEL's Senate career will be most remembered for her advocacy of the Humphrey-Hawkins Full Employment and Balanced Growth Act. Nowhere was her lifelong concern for the poor and disadvantaged of this country demonstrated more clearly than during the debate on this bill. The passage of Humphrey-Hawkins after years of obstacles can only be attributed to the persistance and the tireless efforts of MURIEL HUMPHREY.

Each Member of the Senate owes a debt of gratitude to MURIEL for the warmth and charm she brought to this Chamber. But I will especially always have a warm spot for MURIEL. On many occasions, we sat in the back of the Chamber and talked about our experiences and about the work of the Senate, as Hubert must have done years ago when he was a freshman Senator.

MURIEL should always be proud of the mark she has made on this body through her words and deeds. And she should be proud of carrying on the great Humphrey tradition of compassion, of love, of help for those in life whose fortunes have not been as bright as have ours.

MURIEL knew that Hubert's work will never be done. But by being the first to carry forward his legacy, she has been an example to all of us who will remain in the Senate. We can honor her, as she has honored us, by never forgetting our responsibility to legislate in the people's interest, as she has so wisely done.●

TRIBUTE TO CONGRESSMAN JOE D. WAGGONNER

● Mr. JOHNSTON. Mr. President, it is with deep regret that I even need to think of what I would like to say about the retirement of the Honorable JOE D. WAGGONNER, JR. Words cannot really express the feelings I have for JOE and the loss I will feel upon his departure from Washington. Mr. President, JOE WAGGONNER was my Congressman for my home district in Washington when I was a member of the Louisiana Legislature. He had already been in our State's and Nation's service for 11 years when I joined the U.S. Senate in 1972. During my first term as a freshman Senator, I cannot recount the number of times I sought his seasoned advice and he offered his remarkable sagacity to me.

Mr. President, the Congress of the United States is losing a great leader. In my mind, great leadership implies much more than a mastery of detail. It implies the capacity to cut through voluminous detail and bring out underlying principles. I recall Emerson's description of leadership:

I count him a great man who inhabits a higher sphere of thought, into which other men rise with difficulty; he has but to open his eyes to see things in a true light and in true relations.

Leadership means less the ability to regurgitate familiar problems than the instinct to identify emerging ones and do something about them. Mr. President, this description could have been written with JOE WAGGONNER from the Fourth District of Louisiana as a model. JOE is not only a man for Louisiana, but a man for the Nation.

Mr. President, JOE WAGGONNER has been an amazingly effective representative for his constituents for over 17 years. JOE is a great believer and teacher of the free enterprise system in Washington. Modern government has the tendency to spend more than it taxes; subsidize, regulate, and confer other blessings without heed to society's and the free market's disciplining sense of the true costs of things. JOE's actions have reflected the axiom that the Federal Government should quit publishing menus of treats for every appetite and instead foster the rise of a Nation of "uncommon" men and momen. JOE WAGGONNER is truly one of the uncommon men in America today. I will miss his political leadership that summons individuals to citizenship and to the pursuit of a more personal involvement of citizens in the

Government's affairs rather than the Government's involvement into the citizen's affairs. Congressman WAGGONNER's voting record stands as solid testimony to his commitment to safeguard our free enterprise system.

JOE WAGGONNER is an innovator and not afraid to lead the charge on new ideas or "politically impossible ones." Centuries ago, when cartographers first drew maps of the "known world" they would inscribe the words, "Here be dragons" at the edge of the ominously blank "terra incognita," a signal to the voyager that he entered the unknown region at his peril. Mr. President, JOE WAGGONNER was never scared of dragons in Congress. I have a sneaky suspicion that the thought that there may be dragons ahead actually goaded him on. An example is the Red River waterway project. The unnavigable Red River has stood as a mute challenge to those who saw the dreams of opening up a low cost barge route from the Mississippi River to the northern part of Louisiana. I felt it a great honor to work with JOE to see that dream near fruition.

I will miss the wise counsel and companionship of JOE. When he announced his intention to retire he remarked that some men swell in office, some grow. Mr. President, by his own words, JOE WAGGONNER is a big man. I deeply regret that a man of his young age, easily reelected, should make the decision to retire. His acute mind and young age reminds me of the comment made of Portia in Shakespeare's "Merchant of Venice." I know that JOE will not mind that Portia was a woman; my intent is the same. The statement was that she had "so old a mind in so young a body." I regret his early retirement but, of course, respect his reasons for doing so. I cannot help but respect the Honorable JOE WAGGONNER. I always felt secure with his leadership in Congress. My consolidation upon his leaving is knowing that I can feel secure with the leadership that will emanate from him in Louisiana.

I wish JOE and Mary Ruth Waggonner the best of luck in their return to Louisiana.●

TRIBUTE TO JAMES B. PEARSON

● Mr. JOHNSTON. Mr. President, when the 96th Congress convenes in January 1979, many familiar faces will not be present. Among them will be that of my good friend and fellow colleague, JAMES B. PEARSON, of Kansas.

JIM's hard efforts as ranking minority leader of the Commerce, Science, and Transportation Committee have resulted in passage of the ConRail Act and the Railroad Revitalization and Regulatory Reform Act. The effects of these important pieces of legislation are felt daily by the citizens of our country.

Since the beginning of JIM's Senate career, which began in 1962 when he was appointed to fill a vacated seat, Kansas has been extremely lucky to have someone of JIM's caliber representing it in the U.S. Senate. His ability to represent the interests of the Midwest is recognized and appreciated by all, especially by his constituency who has reelected him for the past 18 years.

The experience of public service he brought with him through his work as a Kansas State Senator and probate judge has served both JIM and Kansas in the best possible way. In my brief 6 years in the Senate, JIM has served as a constant example of what a Senator should be. His example has crossed partisan lines, gaining him respect from both Democrats and Republicans alike.

I, for one, will greatly miss JIM and I wish him the best of luck and much happiness upon retirement.●

A TRIBUTE TO SENATOR MARYON ALLEN

● Mr. JOHNSTON. Mr. President, MARYON ALLEN is 1 of only 13 women who have been elected or appointed to the U.S. Senate. This in itself is a great distinction. But MARYON has left her mark and, in the few months she served her State, she has left us with a vivid memory full or her special wit, charm, and vivacity.

MARYON has never been one to sit back and let events just happen. In her career as a journalist and editor in Alabama, she helped shape those events and influenced their outcome. We shall miss her presence in the 96th Congress, but we shall look forward to her continued contributions to national policy in her uniquely forthright, honest manner.●

A TRIBUTE TO SENATOR KANEASTER HODGES

● Mr. JOHNSTON. Mr. President, today I join with my colleagues in paying tribute to a man we have all grown to know, appreciate and respect, KANEASTER HODGES.

When KANEASTER came to the Senate, he knew it was for a limited period of time. He knew the State law prohibited him from seeking a full term in the U.S. Senate. It would have been easy for Senator HODGES to be a caretaker, to avoid controversy and maintain a low profile.

But KANEASTER did not choose the easy way. Instead, his concerns for the welfare of his State led him to take an active role in the Senate and tackle directly the many controversial issues which came before us during this past session. I had the good fortune of working with KANEASTER on several agricultural matters vitally important to Louisiana and Arkansas. KANEASTER never faltered in carrying his share of the load and always was well prepared.

Although KANEASTER and I have not agreed on every issue, I have always respected him for his complete dedication to a job that we all know is often thankless. The people of Arkansas were lucky to have KANEASTER HODGES here, but no luckier than we who had the privilege of working with him.●

TRIBUTE TO PAUL HATFIELD

● Mr. JOHNSTON. Mr. President, the healthy tension between growth needs and environmental concerns is well recognized in States such as Montana which gave the Congress and the Nation the able and articulate Senator PAUL HATFIELD. During his brief tenure as a national policymaker in the Senate, PAUL HATFIELD has become well-noted for his judicious temperament. His previous 18 years of experience as judge, two as chief justice of the Montana Supreme Court, provided PAUL HATFIELD the skills to quickly understand and make decisions about important complex policy issues and the courage to resolutely defend his viewpoint in face of popular protest.

Our American democracy has been strengthened by the independent pioneering spirit of those who settled the rugged west. The Honorable PAUL HATFIELD is symbolic of that spirit, and I trust he will continue to share his insights on issues of great national concern.●

TRIBUTE TO CARL CURTIS

● Mr. JOHNSTON. Mr. President, after 40 years of distinguished service on Capitol Hill, my good friend and colleague from Nebraska, Senator CARL CURTIS, has decided to retire. We all shall miss him.

As ranking Republican member of the Senate Finance Committee. CARL CURTIS has deftly defended the rights of the individual and the simple precept long ago propounded by Henry George that "taxation must not take from individuals what rightly belongs to individuals." My own State will miss the presence of CARL CURTIS on the Senate Agriculture Committee, especially for his sympathetic understanding of the particular agricultural problems of Louisiana. The Congress and the Nation will also miss CARL CURTIS. As chairman of the Senate Republican conference committee since 1975, he contributed immeasurably to the quality of congressional debate on important national and international issues by expanding his party's informational base and by directing his party's initiatives for alternative policy viewpoints.

For 40 years CARL CURTIS has symbolized a conservative idealism nourished in the westward surge of our great Nation. Few have more eloquently articulated the fundamental soundness of free enterprise and Government restraint in our national debates. CARL CURTIS believes in a private economy and, as Ralph Waldo Emerson once noted, "as much wisdom may be expended on a private economy as on an empire, and as much wisdom may be drawn from it."

CARL CURTIS has ended his moment in the corridors of Congress but I know that his journey down the road, living the greatest number of good hours, is yet long.●

TRIBUTE TO CLIFFORD CASE

● Mr. JOHNSTON. Mr. President, it has been an honor and a privilege during my first 6 years in the Senate to serve with the distinguished and revered Senator CLIFFORD CASE. The Congress and the Nation will sorely miss this outstanding public servant from New Jersey because very rarely does our Nation benefit from the services of one so uniquely possessed of integrity, erudition, conviction, and sensitivity.

Through turbulent times and crises of national conscience, Senator CASE was

a paragon. The unanimity of testimony in praise of his honesty and integrity during nearly a half century of public service reassures me and should reassure the Nation that leadership is recognized by these virtues.

Mr. President, I note in admiration that over 12 university degrees have been earned by this distinguished American through formal academic training or public service. His membership in Phi Beta Kappa and other academic fraternities attests to his powerful intellectual acumen. His contributions to the quality of our national debates will long be remembered.

Mr. President, the efforts of Senator CASE on the Foreign Relations Committee to bridge the gaps of information and understanding among nations have paved the way for a more peaceful and harmonious world. On the Appropriations Committee his support of programs to assist the weak and needy in all of our Nation's communities has made our Nation stronger and better prepared to face the challenges which lie ahead. Mr. President, the Congress and the Nation will indeed miss the ongoing public contributions of CLIFFORD CASE. I wish him well and godspeed.●

A TRIBUTE TO SENATOR EASTLAND

● Mr. JOHNSTON. Mr. President, since 1972 I have had the honor of serving in the Senate with the senior Senator from Mississippi, JIM EASTLAND. The people of Louisiana have always held Senator EASTLAND in great esteem and have felt a special fondness for this distinguished representative from our neighboring State.

JIM EASTLAND, through his work on the Senate Agriculture Committee, has been a good friend of Louisiana and has helped an important sector of my State's economy go through a difficult and at times painful transition from an essentially one-crop economy to a more diversified undertaking. A farmer himself, he has a personal understanding of the problems farmers face. He has worked diligently to preserve the vital role of the small farmer in agriculture, and his strong voice will be sorely missed.

Well known nationally as chairman of the powerful Senate Judiciary Committee, JIM EASTLAND was not only the youngest man to assume the chairmanship of that committee but also has the distinction of being the committee's longest serving chairman. Half the legislation which is introduced in the Senate is considered by the Judiciary Committee, but JIM EASTLAND has never flinched from this awesome responsibility. To the contrary, Senator EASTLAND has faced this task with relish and, in the process, has had a hand in legislation affecting virtually every aspect of our lives.

Throughout his work, and especially in his service as President pro tem of the Senate, JIM EASTLAND has developed a reputation for great skill tempered with courtesy. JIM EASTLAND has set high standards for himself and for his colleagues. These will remain with us, as well as the abiding respect we all have for the earnestness and sincerity with which he pursued his goals.●

A TRIBUTE TO SENATOR MURIEL HUMPHREY

● Mr. JOHNSON. Mr. President, we have all been fortunate to have the opportunity to work with a remarkable lady during this session, the junior Senator from Minnesota, MURIEL HUMPHREY.

When MURIEL joined us in the Senate, she was no stranger. We all knew and loved her as the charming and gracious wife of our colleague of many years, Hubert Humphrey. During these months, however, we have had the opportunity to see MURIEL in another role, as a dedicated and concerned legislator, who would, as my good friend from South Carolina stated, make Hubert proud. She took a vital interest in all legislation, and lead the fight to continue the programs and policies that Hubert so believed in.

Mr. President, today we lose a great lady, but we are all better Senators for having had the opportunity to serve with her.●

A TRIBUTE TO SENATOR JOHN SPARKMAN

● Mr. JOHNSTON. Mr. President, like many of my colleagues, I was caught by surprise last January when Senator JOHN SPARKMAN announced his decision not to seek reelection to the Senate. His retirement at the end of this session brings to a close one of the most distinguished careers in the Senate.

JOHN SPARKMAN has witnessed some of the most difficult years of the 20th century, but his work has softened hard times for all Americans. He has seen the effects of the great depression, helped us win a world war, enter the nuclear age, survive the cold war and come through the turbulent sixties. Throughout these years, JOHN SPARKMAN has brought to the Senate compassion and great feeling for all humanity. He has sponsored some of the most progressive economic development legislation enacted and he has been a prime initiator of far-reaching housing programs for all Americans in need—from rural Appalachia to the urban slums of the Northeast. Our Nation's small businessmen also owe a great debt to this Senator from Alabama who has worked diligently to preserve this vital sector of our economy.

JOHN SPARKMAN'S interests extend to all issues. As chairman of the Senate Foreign Relations Committee, he played a key role in strengthening the role of Congress in the shaping of foreign policy. And, true to form, he never forgot that he was dealing with people, not with institutions, and brought a needed element of compassion and humanity to the policies the Senate considered.

But, above all, JOHN SPARKMAN added something unique to the Senate as an institution. He is well known by his colleagues as one of those disappearing breed of southern gentlemen in the finest sense of the word. His great diplomacy, kindness, warmth and honor have touched us all. In many ways, it is his essential esteem for humanity, coupled with dignity and grace that has been JOHN SPARKMAN'S greatest contribution and it is certainly this legacy which will always remain with us.

JOHN SPARKMAN has unselfishly given over half his life to public service. We owe him a great debt and we shall all miss his leadership in the coming years.●

TRIBUTE TO WILLIAM L. SCOTT

● Mr. JOHNSTON. Mr. President, with the closing of the 95th Congress we bid farewell to the junior Senator from Virginia, WILLIAM L. SCOTT. For almost 40 years, WILLIAM SCOTT provided distinguished service to his country as a public servant of the Federal Government. He was principally a trial attorney in the U.S. Department of Justice for over 25 years before being elected to the U.S. House of Representatives for three terms.

Senator WILLIAM L. SCOTT'S 6 years of service to his State and to the Nation in the U.S. Senate will be remembered particularly for his devotion to free enterprise which has made our Nation so great today and for his belief in a strong national defense to protect our system from external threats. Senator SCOTT always recognized that free enterprise could also be threatened from within by the ravages of inflation. A true fiscal conservative, WILLIAM SCOTT fought his battles against inflation at the Federal level by attacking wasteful and unnecessary deficit spending. The war against inflation rages on and we shall miss the strategic forensic forays of Senator WILLIAM L. SCOTT.●

TRIBUTE TO SENATORS HANSEN, ABOUREZK, AND BARTLETT

● Mr. JOHNSTON. Mr. President, when the national energy plan finally wended its way to congressional fruition, I regretfully realized that three of the Senators who helped mold this monumental piece of legislation would not be returning next Congress. For over a year, Senators CLIFF HANSEN, JIM ABOUREZK, DEWEY BARTLETT, and the rest of the Energy Committee have been constant companions at all hours of the day, nearly every day. Because of the intricateness and sheer volume of the energy plan we had to have many hearings as early as 7 and 8 a.m. But even though the Sun had just come up (or so it seemed) it never failed that in would come Senators HANSEN, ABOUREZK, and BARTLETT with a never-failing critical eye and an invigorating sense of humor.

Mr. President, I will miss these three retiring colleagues very much. The people of Wyoming have much to be proud of in CLIFF HANSEN'S tenure in the Senate. His belief in the abiilty of government to work with private enterprise through increased cooperation and reduced confrontation has helped shape the parameters of many of our energy laws. Mr. President, when our history is recorded much will be said about CLIFF HANSEN'S legislative victories, I would like historians to add that CLIFF HANSEN was

a man of intelligence, impeccable sincerity and honesty, and a man whom I consider it an honor to call a friend.

JIM ABOUREZK was another of the faithful on the Energy Committee who contributed so much toward our national energy plan. While we did not always agree on issues I cannot help but remember John Stuart Mill's statement that the way to find truth was by collision with error. There was, I am sure, a lot of truth "found" by our collisions together. JIM had the tenacity to force a thorough examination of any issue. It has been said that JIM ABOUREZK was an irritant at times in the normally staid Senate, but I cannot help but compare this "irritation" to what happens when a piece of sand enters an oyster. The oyster forms a nacre around the sand which in time produces a beautiful pearl. JIM ABOUREZK has done that for the U.S. Senate and we will miss him.

Mr. President, Will Rogers, the famous humorist from Oklahoma, once said he never met a man he did not like. We, in the Senate, might turn that around to say that all men (and women) here in the Senate who have met DEWEY BARTLETT could not fail to like him. DEWEY'S expertise on energy issues has greatly aided our deliberations on the national energy plan. Senator BARTLETT insisted on carefully considering all aspects of all proposed energy legislation. He felt that formulating endless rules and putting the problem on "automatic" was not the role of the U.S. Senate. Instead, his goal was to make laws reflect commonsense and not just make more laws. Just like the Oklahoma highways, DEWEY BARTLETT went after these goals with a straight and undying persistence. I wish the best to the Senator and cannot help but be jealous of Oklahomans having him to themselves.●

THE GOVERNMENT'S ROLE IN MEDICINE

● Mr. BROOKE. Mr. President, one of the most pressing problems confronting our society is what to do about escalating health care costs and how to improve our health care delivery system. The Congress has before it sweeping proposals for revamping medical services.

Our colleague, the senior Senator from Maryland, Mr. MATHIAS, made a searching examination of the problems confronting the medical profession in a talk he gave at the dedication of new facilities at the University of California, San Diego School of Medicine. He used the occasion to lay down a challenge to the academic medical community to "join in a productive collaboration with those of us in Government who feel strongly about these problems and who wish to solve them with fairness to all."

Mr. MATHIAS warned that without such cooperation we might go farther in health care reform than medical professionals would want "since the Federal Government has a clear constitutional obligation 'to promote the general welfare' of its citizens when no one else can or will satisfy a perceived need."

I commend Mr. MATHIAS' talk to the attention of my colleagues. It combines a reasoned analysis of our health problems with an intelligent approach to solving them. I ask that his talk, entitled "The Role of Government in Medicine," be printed in the RECORD.

The address follows:

THE ROLE OF GOVERNMENT IN MEDICINE

Chancellor McElroy, Dean Moxley, distinguished faculty and students, honored guests:

It is both a pleasure and an honor for me to join you today in dedicating these impressive new facilities at the University of California, San Diego School of Medicine. I am sure these four new buildings will make a substantial contribution to the excellence of your teaching and research. Even more important than physical facilities, however, are the people who will occupy and use them. This is particularly true in the academic setting of a university, where the scholarly pursuits of the individual teacher, researcher and clinician must be encouraged and protected.

So it is doubly pleasing to me that today, you not only dedicate new facilities, but you also celebrate the 10th anniversary of the founding of this medical school within the University of California system. But this should not be simply the celebration of the passage of a fixed number of years—we know that the years will pass all too rapidly no matter how we fill them. It should be a celebration of yourselves—the faculty, students and administration of this medical school—and of your remarkable accomplishments in this brief span of time.

Even as far away as Maryland, we know that San Diego has emerged in an incredibly short time as one of the leading academic medical centers in the United States. We have watched your students start repeatedly to come in first in the country in the National Board exams. We see your research scientists attaining well-deserved national and international prominence in such areas as cardiopulmonary research, genetic disease research, neonatology and neuropharmacology, to name but a few. These are wonderful achievements. And they once again prove that the individual scholar in academic medicine, and the scholar-oriented academic institution are equally important in the total national health picture.

You certainly have much to celebrate. But I hope you will allow a Marylander to claim a small, vicarious share in your success. After all, we Marylanders improverished ourselves to contribute two of your distinguished leaders—Chancellor McElroy from Johns Hopkins University and Dean Moxley from the University of Maryland.

Now, that I've acknowledged your great strengths, I'd like to explore some areas where, I think, you might do even better and some areas which you seem to be neglecting entirely. What I say is meant not as a criticism, but as a challenge—a challenge to you as individuals, and as an institution, to participate more fully in helping to solve some of the pressing health problems that face our society. And by "you" I do not mean you here at the University of California Medical School at San Diego exclusively, I mean all of academic medicine in the United States.

It was suggested that I talk to you today about "The Role of Government in Medicine." But, a better title for what I want to say might be "The Role of Government and Academia in Medicine."

First, I'd like to touch on some of the most important health care problems in the United States, because it seems to me that we have a crisis on our hands. The public has become extremely uneasy about these problems, and there is not much time-lag between the development of public concern and the appearance in congressional offices of individuals and groups, and of letters and telegrams, expressing those concerns and demanding action.

Far and away the most pressing public concern is with the jolting increases in health care costs. The statistics are shocking, as you all know:

Health care costs have been rising two-and-a-half times as fast as the cost of living.

Since 1965, the price of the average stay in a hospital has gone from $300 to more than $1,300. Last year alone, the price went up some 15 percent.

This year it is estimated that the nation will spend a total of well over $180 billion on health care—that's over $800 for each one of us—and yet some 40 million Americans with incomes below $10,000 are either not covered at all or are inadequately protected from catastrophic medical costs.

And just to bring it down to the kind of statistic that the average person understands, it cost a staff aide of mine $2,795 to have a baby last year as compared with $1,716 two years earlier. She used the same doctor, the same hospital, and, in fact, had the same room and the same bed both times.

Bu the rising cost of health care is not the only problem bothering the American people and bothering members of the Congress. You practically cannot open a newspaper or listen to a news broadcast any more without some reference being made to a toxic substance or carcinogen in the food we eat, the water we drink or in the air we breathe. Of course, it's important for the public to be informed about these hazards, but it should be possible to do it without inducing hysteria or paranoia in people and without undermining our sense of the wonderful joy of living.

Problems are also developing in the area of basic biomedical research. I have visited laboratories and spent a good deal of time talking to the scientists at the National Institutes of Health in Bethesda and at the Johns Hopkins and the University of Maryland Medical Schools in Baltimore. Because these scientists have taken the trouble to educate me, I think I have a reasonable layman's feel for the importance and the wonders of basic research and the new biology as it is practiced today. I have fought over and over again for basic research appropriations for the National Institutes of Health and the National Science Foundation, both in the Appropriations Committee and on the floor of the Senate. I am a convert.

But the average citizen is less convinced. To the average citizen, news of research breakthroughs in the morning papers or on the evening television is often troubling. Some of this unease stems from the feeling that biomedical science seems to have promised too much, too fast. The average citizen wonders why all of this money has not yet bought solutions to the problems of cancer, of heart disease and of other debilitating diseases that afflict his or her family and friends. Then too, there are misgivings about the ethical implications of some of the very complicated research procedures currently in practice, such as those arising from fetal research, from genetic engineering and recombinant DNA research and from certain aspects of behavioral research, to name a few. Even intelligent and well-read laymen find it hard to assess these problems, based upon the generally superficial information they receive in the mass media. We all share an obligation to educate the public better in this area, and you scientists and clinicians must take the lead in that effort.

There are other things that bewilder the average citizen—and I must admit, they puzzle the average senator and congressman too. One is the area of medical specialty and geographic maldistribution in the United States. Why is it easier to find a cardiac catheter team, an intensive care unit, a CAT

scanner or a neurosurgeon in the inner cities of the United States than it is to find a general practitioner to care for minor ailments, or a pediatrician to care for a sick child? Why are there so many villages, towns and even entire counties in this country without a physician to care for the sick?

The average citizen wonders why so much more elective surgery is performed in the United States than in the rest of the western world, when published studies show that much of it is unnecessary? Why is there so much variation in the quality of diagnosis and therapy from one medical institution to another? Why does a drug which bears a fancy proprietary name cost, two, three or even five times more than the same drug made by the same manufacturer but sold under a generic label? This last question bothered me so much that I introduced a bill in the Senate this year to encourage the wider use of generic drugs.

These are only a few of the perplexities in our health care system, but they provide the basis for the unease and dissatisfaction spreading among the American people. They have helped trigger the growing demand within our society for a reorganization and a rationalization of our health care delivery system. They explain why the Congress now has before it the most far-reaching set of proposals for revamping the nation's health care system that we have ever considered.

We must not underestimate the growing sense of urgency behind these proposals to restructure our health care system. The people are speaking louder and louder on this issue, and their concern will surely be translated into legislation of some sort during the next few years. I, too, share the feeling that something must be done in this area. But I believe we must scrutinize very carefully the many plans that have been proposed and adopt one that takes care of the major health needs of our citizens—and especially the needy—without bankrupting our system and without lowering the high quality of our health care. To make this choice wisely, we will need the help and collaboration of everyone in the health professions, and especially the active participation of those of you in academic medicine.

Now, you in turn, as a part of the American health care system, may well ask "Why is the notoriously ponderous and inefficient federal government so sure it can solve all of these problems better than anyone else? Why are we being stymied by more and more federal regulations, by more federal paperwork, by more rules about how we must operate—rules which stipulate how many hospital beds we can build, what equipment we can put in our hospitals, how we must conduct our research? Why are we hamstrung by a variety of new laws on health manpower, on PSRO's, on HMO's, on the FDA and an assortment of other alphabet-soup combinations?"

Those are valid questions.

To understand why the federal government is involved in all of this, we have to go back to November 15, 1777, when the Second Continental Congress adopted the Articles of Confederation at York, Pennsylvania. The Articles of Confederation and Perpetual Union, to give them their full title, contained many provisions later written into our Constitution. Among them was the idea that a federal government is obligated "to promote the general welfare." The idea was originally included in the third Article of Confederation, but 10 years later the Framers of the Constitution moved it up to the Preamble, to underscore its importance. Looking at the historical development of this concept over the past 200 years, I think it is clear that it has evolved to mean that the federal government has the obligation to intervene "to promote the general welfare" of its citizens when no one else can or will satisfy a perceived need. Let me repeat some of those words, because they are fundamental to the discussion—"when no one else can or will satisfy a perceived need."

Now let us examine some of the federal activities relating to health, to see what conditions make governmental intervention necessary, and whether such intervention can be efficient and effective. First, let's look at biomedical research. Since the second World War, there has been a growing appreciation of the fact that basic biomedical research is the single most important factor in the solution of both the acute and chronic disease problems which so afflict the people of our country and, indeed, of the entire world. This Subcommittee, on which I sit, voted to approve an expenditure of over $3 billion for biomedical research, most of it to be under the aegis of the National Institutes of Health.

I conclude two things from this and I think that you will agree with both of them. First: no one, other than the federal government, could have undertaken such a tremendous venture. Second: thanks to the scientists and laboratories here at the University of San Diego Medical School and elsewhere in America, such investment has paid off very handsomely in the past, and we will continue to reap its benefits for a long time to come. Happily, the close collaboration within the biomedical research community itself, in developing and, applying a strong peer-review grant system, has protected the federal government from being accused of incompetence and inefficiency in its management of this remarkable undertaking.

I believe that this success is due less to the inherent capacity of government to act correctly than to the willingness of the academic community to identify with the process and to exercise its tremendous potential for leadership on this particular issue.

Next, let's look at how we have dealt with some of the ethical issues raised by biomedical research. These are difficult problems. We would like to protect society but, at the same time, we do not want to impose undue limitations on scientific inquiry. To deal with such areas as fetal research, the use of prisoners as guinea pigs, the protection of patients in behavioral research, we have established by legislation a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. This Commission, appointed by the President, has produced a series of reports, so widely acclaimed for them competence and fairness to both scientist and citizen, that they have effectively set the standards in these fields, and defused some potentially explosive societal bombs. Again, the guidelines for recombinant DNA research put out by NIH have been accepted as fair and reasonable by most scientists and citizen groups. So they have short-circuited what might have been hasty and overly restrictive legislation by the Congress.

Why were these efforts successful? First, it is clear that only the federal government could have tackled these problems. But most importantly, success was almost assured by the willingness of the academic biomedical community to become involved and to lend the process its energy, its wisdom and its prestige.

Now let us look at the role of the federal government in the broad issues of environmental health. Who is best equipped to assure the citizens of the United States that the air they breathe, the food they eat and the water they drink will be pure and safe? I think you would agree with me that the real experts in this area are not the bureaucrats in Washington, or even government scientists. The people who should know most about such dangers are the industrial chemists and health officers in the factories which synthesize these products and release them into our fields and streams and air; they are the sanitary engineers and other scientists who work in the factories that pour industrial waste into our rivers, and who work in the many small towns that pour their raw sewerage into those same rivers. In Washington, we had reached the point a few years ago where the Potomac River was so befouled even the fish had stopped swimming upstream.

But the question here is not whether all of these experts can do something "to promote the general welfare." Obviously, they can. The question is whether they will; whether they are willing to attack these dangerous pollution problems. And our experience has shown that they are not. So, I think the federal government has a real duty here to fill the gap.

I would be the first to admit that we may not do it as well as it might be done, but without the kind of cooperation and leadership I spoke of earlier—in fact, in the face of much foot-dragging and opposition—we do the best job that we can and we are slowly improving the system. At least the fish think so. They have returned to the Potomac in force and now it is no longer worth your life to fall in and swallow the water.

Finally, let us examine the role of the federal government in the most difficult of all the problems facing our health care system—the inflation in health care costs. The problem is unusually complex. It involves such factors as geographic and speciality maldistribution; duplications and underutilization of facilities; the high cost and occasional over-utilization of what Lewis Thomas has termed intermediate technologies—the list goes on and on.

The health care cost problem affects almost everything and everyone it touches, and probably accounts for one of the facts of life about the politics of national health insurance. I suspect that some sort of a national health insurance law would already have passed the Congress, except for one fact: fear that the cost would be excessive.

For a number of years the mood in the Congress was to wait until we had a handle on health care costs before passing such legislation. Now the mood in the Congress is changing. There is a growing realization that the inflation in health care costs is completely out of hand. There is more and more talk that the only way to control health care costs may be by a federal restructuring of the nation's health care delivery system. If that happens, we'd better all hold onto our hats.

I am sure you don't think the federal government can possibly cope with this complex situation in any reasonable way. And I'm sure you will claim that only the medical community has the competence to make any sense out of, or do anything about, these confusing issues. And, do you know what? I absolutely agree with you. So do many of my colleagues in the Congress. But I remind you, the question is not who can approach and solve this problem so vital to the public welfare—but who will do the job? Now we are getting close to the point that I have come 3,000 miles to make to you today.

Where are we to find the leadership and the competence to attack these pressing problems? I suggest that we look no further than the wards, the clinics, the laboratories, the classrooms and the administrative offices of this and the other academic medical and public health institutions in our country. That is where the talent and the competence required to solve these critical problems resides.

I know that medical schools lay claim to a three-fold mission: training first-class physicians; practicing first-class medicine, and producing first-class research. There is no question that you do these three things well, especially here. But your very excellence in these three areas uniquely qualifies you for a fourth responsibility—one you have been neglecting and one which is just as important to the public welfare as the other three.

This is the obligation to exercise the leadership at all levels in the American medical and health communities for which your scholarly accomplishments and academic prestige provide so strong a base.

I would be very much surprised and disappointed if the professors of medicine of the American medical schools, or the professors of psychiatry, or surgery, or pediatrics, could not do more than either the Congress or the federal government to set the professional tone and the standards of practice and of economy within their respective disciplines. I am sure that the deans and administrators of your university hospitals are in a better position than government bureaucrats to set the standards and devise the more efficient modes of operation and of health care delivery required to lead the rest of our health care system into more rational and economic modes of operation. Who, outside of the academic community, possesses both the professional prestige and the scholarly training to look beyond the parochial to the national solutions that the problems I have described demand?

I challenge you here at this medical school, and I challenge your colleagues at academic institutions throughout the country, to consider and to acknowledge this leadership obligation—and then to undertake to exercise it. This leadership and these innovations should be exercised not only within your own institutions in terms of your own practices, but also within your city, county, state, and national organizations.

I challenge you to join in a productive collaboration with those of us in the government who feel strongly about these problems, and who wish to solve them with fairness to all parties. For if you do not lead the way in putting the national health care system into better order and in showing the rest of the health care system how it can operate more efficiently and move effectively to meet our society's needs, who will? ●

INTERPRETATIVE RULINGS OF THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENSON. Mr. President, on behalf of the Select Committee on Ethics, I submit for the information of the Senate a number of the committee's interpretative rulings on the Senate Code of Ethics made pursuant to section 206 of Senate Resolution 110, 95th Congress.

These 47 rulings answer questions of general interest raised by or on behalf of Members, officers, and employees of the Senate. The queries are with reference to Senate rules 42–50, old rule 44 on financial disclosure, the franked mail statute and regulations, and other matters. They are presented chronologically by ruling number with clear reference to subject.

These rulings reflect committee action between March 7, 1978, and June 19, 1978.

The committee also responded by letter to 84 inquiries not herein submitted for publication. In a few instances these requests were too specialized to be of general assistance. In most cases, responses to these inquiries substantially duplicated the interpretations presented here. These committee actions number 4 with respect to foreign travel, 11 on gifts, 10 on conflict of interest, 13 on franking and letterhead, 31 on financial disclosure, and 15 on miscellaneous topics.

The committee staff is currently planning a looseleaf manual for distribution during the next Congress. The manual will contain interpretative rulings rendered since the committee was created. The manual will provide each Member's office with a ready reference to the committee's interpretations of rules, statutes, and regulations within its jurisdiction.

Interpretative rulings by the committee may be relied upon by an individual involved in a specific transaction or activity which is indistinguishable in all its material aspects from the facts on which a ruling has been rendered. The committee encourages written requests for rulings on specific situations not clearly covered by the Code of Conduct.

The committee will continue to respond to written requests for interpretations, treat such requests confidentially, and publish its rulings with appropriate deletions to protect the privacy of individuals who seek committee guidance.

The rulings of the Select Committee on Ethics are as follows:

INTERPRETATIVE RULING NO. 104

Date issued: March 7, 1978.
Applicable area: Franking.
Question considered:

Does a Member's photograph on the masthead of a newsletter count as one of the four pictures of the Member permitted under paragraph 12 of Chapter Two of The Regulations Governing the Use of The Mailing Frank promulgated May 13, 1974?

Ruling:

Title 39 U.S.C., Section 3210(a)(3)(J) of the franking statute authorizes the franking of a newsletter containing photographs of a Member as long as the size and frequency do not lead to the conclusion that the purpose is to advertise the Member rather than illustrate the accompanying text.

The use of the masthead photograph is a long standing practice that the Committee believes should be permitted to continue.

Upon consideration of the matter, however, the Committee concluded that the masthead photograph should count as one of the five personal references that may appear on a page in accordance with paragraph 4 of Chapter 2 of the above mentioned regulations as amended November 4, 1975.

Note: In its meeting of August 7, the Committee reconsidered the matter of the masthead photograph. The Committee concluded that such photograph, sketch or likeness of a Member on a newsletter masthead need not be counted as one of the five personal references allowable per page. See Dear Colleague letter from Senators Stevenson and Schmitt dated August 24, 1978.

INTERPRETATIVE RULING NO. 105

Date issued: March 9, 1978.
Applicable rule: 43.
Question considered:

May a staff person participate in separate programs on consecutive dates in two foreign countries, the necessary expenses of the first program being borne by a domestic (U.S.) sponsor and the expenses of the second by a foreign educational organization?

Ruling:

While paragraph 1(a) of Rule 43 on Gifts prohibits Members, officers and employees of the Senate from accepting gifts having a value in excess of $100 from a prohibited source and from foreign nationals, the "necessary expenses of travel" are excepted from the definition of gift under paragraph 2 of the Rule.

The legislative history of the Rule indicates that the necessary expenses of travel mean transportation, food, lodging and entertainment in connection with an appearance incident to official duties if furnished or paid for by the sponsoring entity. The legislative history does not differentiate between foreign and domestic travel paid for by a domestic organization.

The Rule itself bars the furnishing of or payment for travel by foreign nationals, except as provided by paragraph 4 of the Rule where the principal objective of the travel is educational, sponsored by a foreign educational organization, and the Select Committee on Ethics has determined that participation in such program is in the interests of the Senate and the United States, and proper notice is published in the Congressional Record.

The facts of the instant case state that there are two separate but related sponsoring organizations for two separate but related programs in different countries. The domestic organization will pay for travel to and from County A (plus, food and lodging) for purposes of its program. The foreign organization will pay for travel, food and lodging for purposes of its program in Country B.

The supervising Member indicated that he was of the opinion that both programs were related to the official Senate duties of the staff person and that attendance was in the interests of the Senate. The State Department advised the Committee that the foreign sponsor was an educational organization within the meaning of paragraph 4(a) of Rule 43.

The Committee found that participation in these programs was in the interests of the Senate and the United States and the acceptance was approved as being within the purview of Rule 43.

INTERPRETATIVE RULING NO. 106

Date issued: March 20, 1978.
Applicable Rule: 46.
Question considered:

What is an appropriate disposition of a small cash balance in an unofficial office account after December 31, 1977?

Ruling:

A Member voluntarily apprised the Committee of an oversight in connection with his failure to dispose of a cash balance in an unofficial office account in the amount of $26.78 prior to the December 31, 1977 deadline imposed by Rule 46 which prohibited expenditures from such an account thereafter.

The Member requested guidance from the Committee with respect to a proposed gift of the amount to the American Cancer Society in liquidation of the account.

The Committee concluded that this was a technical or de minimus violation of Rule 46 and approved the suggested plan of disposition.

INTERPRETATIVE RULING NO. 107

Date issued: March 21, 1978.
Applicable area: Nepotism.
Question considered:

Whether a Senator may appoint the son of another Senator to a Senate post at the latter Senator's request?

Ruling:

The federal anti-nepotism law (5 U.S.C. 3110) provides that an individual may not be employed in a government agency if his employment has been advocated by a public official serving in that agency who is a relative of the prospective employee. Under the circumstances, the Senator's son thus would be precluded from being appointed to the post in question.

INTERPRETATIVE RULING NO. 108

Date issued: March 22, 1978.
Applicable rule: 43.
Question considered:

May the spouse of a Member accept foreign travel furnished by a foreign educational organization for participation in an educa-

tional program within the purview of the paragraph 4 exception to the prohibition upon acceptance of Gifts from foreign nationals under Rule 43?

Ruling:

Paragraph 1(a) of Rule 43 provides that no Member, officer or employee of the Senate, or the spouse or dependent thereof may accept gifts with a value in excess of $100 from a foreign national unless, in an unusual case, a waiver is granted by the Select Committee on Ethics.

Paragraph 4(a) of the Rules states that notwithstanding the provisions of this rule, a Member, officer or employee may under certain circumstances (set forth therein), participate in educational programs sponsored by foreign educational organizations, but this exception does not include spouses or dependents. The legislative history of paragraph 1 does not authorize the grant of a waiver of the prohibition for this purpose.

INTERPRETATIVE RULING No. 109

Date issued: March 23, 1978.

Applicable rule: 45.

Question considered:

May a full-time employee on a Member's staff working in a district office serve, if elected, as a compensated member of the state legislature and continue to be a Senate employee?

Ruling:

Paragraph 3 of Rule 45 on Conflict of Interest states that no officer or employee shall engage in any outside business or professional activity or employment for compensation unless he has reported to his supervisor (see paragraph 12) in writing, when such activity commences and on each May 15th thereafter so long as it continues. The supervisor shall take such action as he considers necessary for the avoidance of a conflict of interest or interference with the staff Member's duties to the Senate.

The Committee cannot predict whether in fact this outside activity will result in actual conflict of interest in connection with a particular issue or will interfere with the performance of Senate duties.

It was stated that in addition to time away from Senate duties while campaigning, the legislature meets on four afternoons each week for four months out of the year. The supervisor advised the employee that he would monitor the situation and consider whether a salary adjustment or restriction of Senate duties would be appropriate.

The Committee concluded that this approach to the matter is in conformity with paragraph 3 of Rule 45.

INTERPRETATIVE RULING No. 110

Date issued: April 5, 1978.

Applicable rule: 44.

Question considered:

Whether "permission fees" and "reprint fees" are within the definition of royalty income for the purposes of the exception for royalty income to the limitation on outside earned income imposed under Senate Rule 44.

Ruling:

The Committee understands permission and reprint fees to be payments to an individual from authors and publishers who seek to reprint or quote from lectures, articles or books previously written by the individual. These fees are considered royalties by the publishing trade and are made a part of all royalty arrangements contracted for at the time a book is agreed to by an author and a publisher. As such, permission fees and reprint fees would fall within the royalty income exception of Rule 44, which becomes effective January 1, 1979.

INTERPRETATIVE RULING No. 111

Date issued: April 5, 1978.

Applicable rule: 49.

Question considered:

What, if any, restrictions does the Senate Code of Official Conduct place upon the use of interns?

Ruling:

The Code of Conduct was not intended to limit a Senator's ability to utilize interns. The Code of Conduct contains no specific reference either to interns or to internship programs. However, Paragraph 4 of Rule 49, does provide that a Senator may not utilize the full-time services of an individual for more than ninety days in a calendar year unless the individual agrees in writing to comply with the Senate Code of Official Conduct in the same manner and to the same extent as employees of the Senate.

Thus, an intern who worked for a Senator or for a Senate committee on a full-time basis for over ninety days would have to agree to abide by the provisions of the Code of Conduct, some of which apply to all Senate staff and others of which apply only to individuals paid in excess of a specified rate.

INTERPRETATIVE RULING No. 112

Date issued: April 7, 1978.

Applicable area: Franking.

Question considered:

(1) May the frank be used to send an autographed picture of a Senator in his former occupation in response to a request for the picture; and

(2) May the frank be used to send such an autographed picture along with a written response on a legislative matter; and

(3) May the frank be used to return an item which was sent to the Senator with a request for an autograph?

Ruling:

Title 39 U.S.C. 3210(a)(3)(J) provides that frankable mail includes mail matter "which contains a picture, sketch or other likeness . . . and which is so mailed as a part of a Federal publication or in response to a specific request therefor . . ." Thus, the statute specifically allows use of the frank on autographed photographs when in response to a specific request and, by implication the statute allows for the return of items having been autographed as requested. The statute does not appear to allow either autographed items or photographs to be routinely sent along with other franked mail absent a specific request for such an item.

INTERPRETATIVE RULING No. 113

Date issued: April 7, 1978.

Applicable rule: 48.

Questions considered:

(1) Is a mailing consisting of more than 500 "robo letters" which are being mailed to persons in response to their inquiries or requests a mass mailing for the purposes of Rule 48?

(2) Is a mass mailing limited to 500 pieces, in which the content is substantially identical, mailed in any one day? Does the addition of printed material, such as the reprint of a floor statement, transform a letter into a mass mailing?

Rulings:

(1) There is a specific statutory exception to the definition of mass mailings for a mailing, regardless of the number of pieces mailed, which is "in direct response to inquiries or requests from the persons to whom the matter is mailed." (39 U.S.C. 35210(a)(5)(D)). Subsequent letters mailed in response to an initial inquiry are not in "direct response" within the meaning of this provision and are therefore subject to the requirements imposed under Senate Rule.

(2) According to the Regulations promulgated by the Committee on Standards and Conduct, this Committee's predecessor Committee, a mass mailing is defined as a newsletter or similar mailing of more than 500 pieces, in which the content is substantially identical, mailed or delivered to a postal facility in a single day. The addition of printed material does not, of itself, make mailing material a mass mailing; rather the question of whether a particular mailing constitutes a mass mailing turns on the number of pieces mailed, the similarity of the contents and whether the mailing is initiated by the Senator or is being sent in direct response to an inquiry or request.

INTERPRETATIVE RULING No. 114

Date issued: April 7, 1978.

Applicable rule: 48.

Question considered:

What are the registration requirements imposed under Senate Rule 48 with respect to mass mailings?

Ruling:

Rule 48, which became effective January 1, 1978, requires a Senator who disseminates information under the frank by a mass mailing to register annually with the Secretary of the Senate such mass mailings. The Committee has determined that the first filing date for registration applicable to mass mailings sent during the 1978 calendar year shall be February 1, 1979, and on February 1 for each succeeding calendar year thereafter. A Senator may elect to register each mass mailing at the time it is mailed or may register all 1978 mass mailings at any time on or before February 1, 1979.

In the case of a Senator whose term of office expires on Jauary 3, 1979 and who does not seek reelection, the registration may be made at any time prior to January 3, 1979.

INTERPRETATIVE RULING No. 115

Date issued: April 7, 1978.

Applicable rule: 46.

Question considered:

Does Rule 46 on unofficial office accounts prohibit a newspaper in a Member's state from conducting a poll of his constituents to determine their views, for the Member's guidance, on the Panama Canal Treaties?

Ruling:

Rule 46 provides substantially that expenses incurred by a Member in connection with his official duties shall be defrayed with funds from four specific sources, none of which is applicable in this case.

The Committee views a poll such as this conducted by a newspaper to be a public service and as such neither to be a gift to the Member nor prohibited by Rule 46.

INTERPRETATIVE RULING No. 116

Date issued: April 10, 1978.

Applicable rule: Old Rule 44.*

Question considered:

If a Senate employee has received overtime pay which, when added to his annual compensation, amounts to pay in excess of $14,000 per year, must he file a financial disclosure statement under old Senate Rule 44?

Ruling:

Old Senate Rule 44 requires that disclosure statements be filed by Senate employees who are compensated "at a rate in excess of $15,000 a year." The Committee has determined that this refers to an employee's annual pay rate exclusive of overtime. Absent any evidence of an intent to evade the Rule, no filing would be required if the annual pay rate is $15,000 or less.

INTERPRETATIVE RULING No. 117

Date issued: April 10, 1978.

Applicable rule: 48.

Question considered:

Rule 48, paragraph 4(b), exempts from the restrictions on mass mailings any mailing under the frank which is "addressed to colleagues in Congress or to government officials (whether Federal, state or local)." What does the term "government officials (whether Federal, state or local)" mean?

Ruling:

*New Rule 42 superseded old Rule 44 on January 1, 1978. The reporting threshold under new Rule 42 is in excess of $25,000.

The Committee has determined that the definition of "government officials (whether Federal, state or local)" is as follows:

Government officials (whether Federal, state or local) include any elected or appointed official of the United States and of any state or territory or a political subdivision thereof.

INTERPRETATIVE RULING NO. 118

Dated issued: April 15, 1978.
Applicable rule: 48
Question considered:

Is the sixty-day moratorium on franked mass mailings complied with if a newsletter leaves the Senate Post Office no later than midnight of the sixty-first day before an election?

Ruling:

Rule 48 requires that the mass mailing be delivered to any postal facility no later than sixty days prior to a primary or general election. Thus, delivery by midnight of the sixty-first day before the election would be in compliance with Rule 48.

INTERPRETATIVE RULING NO. 119

Dated issued: April 17, 1978.
Applicable rules: 44 and 45.
Question considered:

May a staff member of a Senate Subcommittee serve as a part-time consultant for a scientific research academy? The position would involve providing consultation on legal and legislative matters, and would not require attention during regular Senate working hours.

Ruling:

Rules 45, paragraph 6 on Conflict of Interest prohibits employees of the Senate (who are compensated at a rate in excess of $25,000 per year and employed more than ninety days in a calendar year) from practicing a profession for compensation during regular Senate working hours. Paragraph 3 of Rule 45 requires that all Senate employees report compensated outside activities to supervising Senators and imposes upon the supervisor responsibility for the avoidance of conflict of interest by employees.

Moreover, Rule 44 on Outside Earned Income, effective January 1, 1979, states that Senate employees compensated at a rate in excess of $35,000 a year and employed for more than 90 days in a calendar year may not earn outside income during a calendar year that aggregates more than 15 percent of the Senate salary disbursed to the employee during that period.

INTERPRETATIVE RULING NO. 120

Date issued: April 25, 1978.
Applicable area: Franking.
Question considered:

Does the repeated use of a personal pronoun in a transcript of a Senate Subcommittee hearing affect the frankability of a mass mailing of an edited version of the transcript?

Ruling:

The Select Committee has previously ruled, with respect to material reprinted from the Congressional Record, that the personal pronoun rule has no bearing on the threshold question of whether the material meets the established criteria for frankability. As long as the content of the material to be mailed is otherwise frankable the number of personal references in a transcript of a Committee or Subcommittee hearing will not preclude the use of the mail frank.

We point out, however, that the emergence of a pattern of use of the Congressional Record that would indicate intent to circumvent the personal pronoun rule would be an abuse of the mail frank.

INTERPRETATIVE RULING NO. 121

Date issued: April 26, 1978.
Applicable rules: 49 and 45.
Question considered:

(1) Must a corporate executive who is a participant in the Congressional Assistant Program of the Conference Board be required to sign an agreement to comply with the Senate Code of Official Conduct under Rule 49, paragraph 4? If so, may a waiver be granted from this requirement?

(2) Must a participant in the Congressional Assistant Program of the Conference Board who is assigned to a Senate committee divest himself of substantial holdings affected by the actions of the committee to which he is assigned?

Ruling:

Paragraph 4 of Rule 49, prohibits any Member, officer or employee of the Senate from utilizing the full time services of any individual for more than 90 days in a calendar year unless his salary is disbursed by the Secretary of the Senate, he is an officer or employee of the Federal Government (other than the Senate) or unless he agrees to comply with the Code of Official Conduct. Paragraph 5 allows the Committee to grant waivers from any provision of the Code only to employees hired on a per diem or consultant basis. Thus, except in certain limited situations under Rules 42 and 43 concerning gifts (which must be approached on a case by case basis) the Committee has no authority to waive the requirement that this individual comply with the Code of Official Conduct.

In response to the question concerning the applicability of Rule 45.8 (Divestiture), the Committee has determined that the provisions of that paragraph do not cover this individual as that Rule applies only to actual Committee staff members.

INTERPRETATIVE RULING NO. 122

Date issued: April 26, 1978.
Applicable rule: 46.
Question considered:

May a Member transfer excess campaign funds to an account which will be used to defray otherwise unreimbursed expenses incurred in connection with his official duties? The excess campaign funds would be transferred from the Member's principle campaign committees authorized during previous Congressional elections.

Ruling:

Paragraph 46.1(c) provides that a Senator may use "funds derived from a political committee (as defined in Section 301(d) of the Federal Election Campaign Act of 1971)" to defray expenses incurred in connection with official duties. Therefore, the proposed transfer of funds would be permissible.

INTERPRETATIVE RULING NO. 123

Date issued: May 4, 1978.
Applicable Rules: 42, 43, 44, and 45.
Question considered:

May a Senate employee and his spouse take part-time employment as travel agents and accept complimentary accommodations from various hotels and airlines as part of the travel industry's promotional effort to induce travel agents to book clients with these establishments?

Ruling:

Regarding outside part-time employment, under Paragraph 3 of Rule 45 of the Code of Official Conduct, it is a Senator's responsibility to determine that outside commitments of his staff do not involve any conflict of interest or interfere with the conscientious performance of Senate duties.

In response to the question regarding acceptance of complimentary accommodations, paragraph 2(a) of Rule 43 provides an exception to the definition of a "gift" where "consideration of equal or greater value is received" by the donor. This exception would appear to apply in this case since the travel agency, which selects the recipient of the complimentary accommodation, receives consideration of an equal or greater value from the services of the staff member. In addition, paragraph 2(a)(7) of Rule 43 exempts "gifts" made to the spouse of a Senate employee by the spouse's employer "in recognition of the service provided by such spouse . . ."

The employee should also be aware that effective on January 1, 1979, Rule 44 will prohibit the aggregate outside earned income of employees compensated at a rate in excess of $35,000 per year and employed for more than ninety days in a calendar year from exceeding fifteen percent of the aggregate salary disbursed to him by the Secretary of Senate.

INTERPRETATIVE RULING NO. 124

Date issued: May 5, 1978.
Applicable rules: 42 and 43.
Question considered:

May a Senator who is planning to speak to a foundation accept hotel lodging for himself and his wife when the hotel accommodations have been made available to the foundation by the hotel and the foundation has the discretion to decide who may use the rooms?

Ruling:

The "necessary expenses" of travel provided by the sponsor of an event do not constitute a gift under the limitations of Rule 43 or the disclosure requirements of Rule 42. Therefore, the foundation, as sponsor of the event, may provide a hotel room to the Member and his wife, and Rules 42 and 43 would not apply.

INTERPRETATIVE RULING NO. 125

Date issued: May 5, 1978.
Applicable rule: 42.
Question considered:

Under the financial disclosure requirements of Rule 42, how should the following property interests be reported and evaluated:

(1) an undivided interest in several pieces of real property purchased on an installment basis, in part with cash, and the balance financed by a non-recourse loan against the property itself;

(2) a limited partnership in several real estate holdings which are secured solely by the land involved.

Ruling:

In the case of co-ownership of the undivided real property interests, the reporting individual's interests would be reported under the real property section, using as a method of valuation: an appraisal; the assessed value for tax purposes; the purchase price of the interest (i.e. the reporting individual's share of the down payement and the note) and date of purchase; or a good faith estimate of the value of the interest on January 1, 1978. Under the personal liability section the reporting individual's share of the notes involved would be reported, since he is personally obligated to pay his share of installments on the notes when due in order to avoid foreclosure and loss of the properties.

In the case of the limited partnerships in real estate ventures, these interests should be reported under the personal property section, and amy, by virtue of Paragraph 3(b) of Rule 42, utilize the purchase price and date of purchase as a method of valuation of the reporting individual's interests. The other valuation methods mentioned above may also be utilized. The resulting values should be reported by their appropriate cate-

gories of value. A limited partner who is not personally liable on the notes for certain properties would not be required to report any personal liabilities for these interests. See Senate Report Number 95–49, 95th Congress, 1st Session 22 (1977).

INTERPRETATIVE RULING No. 126

Date issued: May 5, 1978.
Applicable rule: 45.
Question considered:

Is there a conflict of interest presented by a staff member in a Senator's state office serving as an uncompensated member of the board of a local Chamber of Commerce during the time when the Chamber will be administering a federal grant to create an economic development plan for that locality? The supervising Senator has no committee assignments that would involve him in oversight of or appropriations for the federal agency providing the grant in this case.

Ruling:

The facts presented do not seem to indicate a conflict of interest under Rule 45. However, paragraph 3 of Rule 45 requires that the supervising Senator take such action as he considers necessary for the avoidance of conflict of interest or interference with duties to the Senate.

INTERPRETATIVE RULING No. 127

Date issued: May 12, 1978.
Applicable area: Franking.
Question considered:

A Senator had the Service Department prepare a large number of reprints from the Congressional Record and had his frank included on the printed material for mailing to constituents. A quantity of the reprints remained after the mailing was completed and the Senator inquired whether such unused reprints could be given to a state medical association for distribution to its members and other interested individuals?

Ruling:

Title 39 of the U.S. Code, section 3215 prohibits any person who is entitled to use the mailing frank from lending such frank or permitting the use of the frank by any other committee, organization, or association or from permitting another individual to use the frank for the benefit of such a committee, organization, or association. The Committee reiterates its position that because the opportunity for alteration of the material, misuse of the frank, or misidentification of the actual sponsor of the mailing is so great, franked material may not be processed, mailed, or distributed by an outside organization.

As to this particular situation, the Committee ruled that if the Senator's frank were obliterated from the reprint prior to delivery to the medical association, the prohibition on the loan of the frank would not be applicable.

INTERPRETATIVE RULING No. 128

Date issued: May 12, 1978.
Applicable rule: 45.
Question Considered:

A Senator is writing a book and wishes to utilize the services of a staff member as a consultant to the project. The Senator proposes to retain the aide on the Senate payroll at the minimum figure established by the Secretary of the Senate which will still entitle the aide to health and life insurance benefits. The aide will perform services, commensurate with his reduced salary, in the Member's office during Senate business hours. Work on the book will be undertaken during non-Senate hours. Would this arrangement conflict with the Code of Ethics?

Ruling:

Because the Senate payroll regulations do not provide for a "leave without pay" status, and because the Senate's health and life insurance programs are tied to the payroll regulations, a Senate employee must terminate his insurance protection if he leaves the payroll. In this instance, the Committee ruled that this aide could be retained on the payroll at the minimum level which would entitle him to insurance coverage, provided that the aide would continue to perform services, commensurate with his reduced salary, in the Senator's office during regular Senate business hours. The Committee agreed that any activity related to work on the Senator's book would have to be undertaken during non-Senate hours.

The Committee also recognized that the Senator in this instance was engaged in a campaign for re-election. Because of this factual distinction and because it might be argued that the book was related to the campaign and thus that the aide was working on a campaign-related activity while remaining on the Senate payroll, the Senator agreed that the book would not be published until after the general election.

In conclusion, the Committee reminded the Senator that while his proposal was not precluded by any specific Rule of the Code of Official Conduct, Rule 45, paragraph three places the responsibility on a Senator, as supervisor of his employees to take such action as is considered necessary for the avoidance of conflict of interest or interference with Senate duties.

INTERPRETATIVE RULING No. 129

Date issued: May 15, 1978.
Applicable rule: 42.
Question considered:

Is an independent candidate for the Senate who has not yet taken any action to qualify for nomination due to a restriction in state law still required to file a financial disclosure statement as a candidate?

Ruling:

Under applicable state law, an independent candidate may not begin to collect signatures for nomination until after the primary runoff date, which is two weeks after the May 15th date for filing of the financial disclosure statement with the Secretary of the Senate.

Rule 42, paragraph 1(c), requires any individual who is a candidate for nomination or election to the office of United States Senator to file a financial disclosure statement if he has either (1) taken the action necessary under state law to qualify for nomination or election, or (2) received political contributions or made expenditures, or given consent to another to do so, with a view to bringing about his nomination, or election, to such office. The definitions of the terms "candidate," "contribution," and "expenditure" for purposes of Rule 42 are identical to those terms under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 et seq).

The Committee ruled that if an individual meets either of the two stated criterion, he is a "candidate" and therefore required to file a financial disclosure statement under Rule 42 on May 15th or within thirty days of becoming a candidate.

INTERPRETATIVE RULING No. 130

Date issued: May 15, 1978.
Applicable area: Franking.
Question considered:

May a Senator use his frank to mail a *Congressional Record* reprint of a National Park Service pamphlet concerning handicapped visitors' use of national park facilities?

Ruling:

Title 39 U.S.C. 3210(a)(2) indicates the frank is to be used by Members of Congress to assist them in performance of official duties of the legislative branch. Reprints from the Congressional Record must meet the same standards for frankability.

The Committee has ruled that material inserted in the Record does not become frankable merely because it was reprinted in the Record. In this instance, the pamphlet in question was printed at the direction of the Park Service, not by order of the Congress, and in addition, it bears no direct relationship to any legislative matter. The Committee therefore ruled that the reprinted pamphlet was not frankable.

INTERPRETATIVE RULING No. 131

Date issued: May 15, 1978.
Applicable rule: 45.
Question considered:

May a staff member who terminates his Senate employment be retained on the Senate payroll for a period of time equal to the employee's unused annual leave, while also being employed and compensated by his new employer?

Ruling:

While no specific provision of the Code of Official Conduct would preclude this arrangement, Paragraph 3 of Rule 45 directs that a Senate employee report any outside employment for compensation to his supervisor and that it then becomes the responsibility of the supervisor to take such action as is necessary to prevent a conflict of interest or the appearance of a conflict. Paragraph 3 of Rule 45 does not prohibit a former employee from accepting compensation from his new employer during the period he remains on the Senate payroll to expend unused annual leave.

INTERPRETATIVE RULING No. 132

Date issued: May 15, 1978.
Applicable rule: 49.
Question considered:

Does the Committee possess the authority to grant a waiver to an employee, designated under Rule 49 to handle campaign contributions, from the requirement that such individual file a financial disclosure statement on a yearly basis or at such time as he leaves the Senate payroll?

Ruling:

Rule 49 requires that an employee designated under the Rule to handle campaign contributions must file a financial disclosure statement once a year and on his last day of Senate service. In this factual situation, the Senator designated an individual under the Rule and at a later date, consistent with earlier Committee rulings, removed the employee from the payroll, for several weeks, to allow the employee to work on the Senator's reelection campaign, with the understanding that the employee would subsequently return to the payroll. The Committee was asked to waive the requirement for filing of a financial disclosure statement in this instance.

The Committee ruled that it did not possess the authority to waive the filing requirement of Rule 49, though an extention of time was granted.

INTERPRETATIVE RULING No. 133

Date issued: May 18, 1978.
Applicable rules: 42 and 43.
Question considered:

May a Senator and his spouse accept the necessary expenses of travel (including transportation, food, lodging, and entertainment) from a group of private, non-government service organizations (such as the Grange, Kiwanis, and the Chamber of Commerce)

who have raised the funds in order to defray the expenses of an inspection trip to view a site which is the subject of legislation before the Congress?

Ruling.—This ruling is under review and not precedental:

Rule 43, Gifts, excludes from the definition of a "gift" the sponsoring organization's payment of the necessary expenses of travel, food, and lodging made in connection with the performance of a service by a Senator on behalf of the sponsoring organization.

Accordingly, the Committee ruled that the acceptance of such an invitation by a Senator and his spouse, if traveling in an official capacity, would not be in violation of Rule 43 and would not be reported under Rule 42, Public Financial Disclosure.

INTERPRETATIVE RULING No. 134

Date issued: May 18, 1978.
Applicable rules: 46 and 48.
Question considered:

May a Senator use his 10 percent discretionary funds to purchase a mailing list of registered voters from his state's election board, when the list is uncoded as to political affiliation?

Ruling:

Under Rule 46, the Committee has ruled that a Senator may not accept a mailing list free of charge since this would constitute a prohibited in-kind contribution to an unofficial office account. However, the 10 percent discretionary allowance, provided to each Senator in the 1978 Legislative Branch Appropriation Act, may be used to purchase such a list, when the list is used for the purpose of better communicating with constituents.

Paragraph 5 of Rule 48 does not contain any restriction on the source of a mailing list which is to be processed by the Senate computer facilities.

INTERPRETATIVE RULING No. 135

Date issued: May 22, 1978.
Applicable area: Franking.
Question considered:

May a Senator borrow a mailing list from a private organization, use the list in an otherwise frankable mailing, and return the list to the organization, with address corrections provided by the Postal Service at the Senator's direction, in exchange for the use of the list?

Ruling:

The regulations published by the Select Committee on Standards and Conduct governing the use of the mailing frank state that mailing lists may be corrected under Postal Service Regulation 122.5 by postmasters on request from a Member of Congress, but that "the frank shall not be used for any other means of correcting the mailing list of a Senator."

Additionally, the franking statute, 39 U.S.C. 3215 states that "a person entitled to use franked mail may not loan his frank or permit its use by any committee, organization, or association; or permit its use by any person for the benefit or use of any committee, organization, or association." The franking regulations employ similar language.

Based on these two restrictions, the Committee ruled that a Senator may not use the mailing list of a private organization in a franked mailing and subsequently communicate information to that organization to enable it to update its mailing list.

INTERPRETATIVE RULING No. 136

Date issued: May 22, 1978.
Date issued: May 22, 1978.
Applicable rule: 45.
Question considered:

Would paragraph 4 of Rule 45 prohibit a Senator from appointing a staff member to a position on a subcommittee which has jurisdiction over an area of legislation which is of interest to the staff member's father who heads a private consulting firm? The staff member is a passive, non-compensated officer of his father's firm.

Ruling:

Paragraph 4 of Rule 45, Conflict of Interest, provides that staff shall not aid the progress or passage of legislation, a principal purpose of which is to further his pecuniary interest or that of his immediate family or enterprises controlled by them. The Committee agreed that if the aide were assigned to the subcommittee, an argument could be made that he, or his father's firm, could stand to profit from the assignment and hence, an appearance of conflict of interest could arise.

Paragraph 3 of Rule 45 places the responsibility on the supervisor of a Senate employee for taking such action as is necessary to avoid a conflict of interest or the appearance of a conflict. The Committee suggested that in the discharge of this responsibility, it might be appropriate to suggest to the staff member that he sever his connection with his father's consulting firm.

INTERPRETATIVE RULING No. 137

Date issued: May 24, 1978.
Applicable rule: 48.
Question considered:

Do the restrictions of Rule 40 on the use of the Senate Recording Studio and "mass mailings" prior to an election in which a Senator is a candidate for a federal office apply to the sixty days immediately prior to a primary election when the Senator has received his party's nomination at a preprimary convention and under state law, such a nominee is not considered a candidate for the primary and the Senator's name will not appear on the primary ballot?

Ruling:

The Senator has been nominated by his party as its candidate for election to the Senate. This nomination was conferred at a party convention held prior to the date of the state's nominating primary election. Under state law, since the Senator had received the nomination and was the only candidate within his party for the office of Senator, he was declared the nominee and was thus no longer considered a candidate in the primary and his name was removed from the primary ballot.

Because of applicable state law, the Committee ruled that the Senator was not a candidate for the state primary and therefore that the restrictions of Rule 48 would not apply to the sixty day period immediately prior to the primary election.

INTERPRETATIVE RULING No. 138

Date issued: May 24, 1978.
Applicable area: Franking.
Question considered:

May a Senator mail under the frank to graduating high school seniors copies of The Declaration of Independence, Desiderata, The American's Creed, and The Pledge of Allegiance, along with a note of congratulations?

Ruling:

The Regulations governing the use of the mailing frank permit the use of the franking privilege to mail congratulations to graduating high school students which are accompanied by other matter such as a description of opportunities open to the graduates. See Chapter Two, Section 8, page 5. Pending review of these regulations, the Committee has determined that the proposed mailing is frankable.

INTERPRETATIVE RULING No. 139

Date issued: May 24, 1978.
Applicable rule: 42 and 43.
Question considered:

A Member has been invited to use a vacation house provided by a close friend. The house is owned jointly by the friend and three of the friend's brothers. The friend does not plan to be present during the time the Member will use the house. Is the use of the house reportable as a "gift" by the Member under Rule 42 in the Member's Public Financial Disclosure Report?

Ruling:

Rule 42, on Public Financial Disclosure, provides that accepting the "personal hospitality" of an individual is not reportable as a "gift."

The Committee has concluded that, in the case of Rule 43 on Gifts, the presence of a host is not an essential element of "personal hospitality" but that other facts and circumstances surrounding the ownership and use of the premises are relevant, i.e. whether the property is held primarily for the production of rental income or is used exclusively by the owners as a vacation home.

The Committee understands that the four brothers do not rent the property out, but use it themselves as a vacation home. Under these circumstances, the gift of its use constitutes "personal hospitality" within the meaning of Rule 42, and it is not reportable.

INTERPRETATIVE RULING No. 140

Date issued: May 25, 1978.
Applicable areas: Senate Code of Official Conduct and Foreign Gifts and Decorations Act.
Question considered:

Is the Vice President covered by the Senate Code of Conduct and is the Senate Select Committee on Ethics the Vice President's "employing agency" for purposes of the Foreign Gifts and Decorations Act?

Ruling:

Although the Vice President is a constitutional officer with the duty of presiding over the Senate, the Committee is of the opinion that he is not a Member, officer or employee of the Senate as those terms are used in the Code of Official Conduct. The term "officer" refers to those officers elected by the Senate. Thus, the Vice President is not within the class of persons covered by the Code of Official Conduct.

The Committee notes that the Foreign Gifts and Decorations Act (5 U.S.C. 7342) excepts the Vice President from a statutory definition of Members of Congress and has thus removed him from the jurisdiction of this Committee for the purposes of this Act.

INTERPRETATIVE RULING No. 141

Date issued: June 6, 1978.
Applicable rule 48.
Question considered:

What is the applicability of Rule 48 concerning the use of the mailing frank, to the "mass mailings" of a committee which utilizes the mail frank of the committee's chairman?

Ruling:

The Committee has determined that Rule 48 does not apply to the mass mailings of a Senate committee which are mailed under the frank of the committee's chairman. However, such mailings must relate only to the committee's business and may not focus on a Member in a manner that could reasonably be deemed to be personal or political.

INTERPRETATIVE RULING No. 142

Date issued: June 6, 1978.
Applicable rule: 45.
Question considered:

A Member who is the chairman of a committee requested the Ethics Committee's interpretation of paragraph 8 of Rule 45, on divestiture.

Ruling:

Paragraph 8 of Rule 45, effective April 1, 1978, provides:

An employee of the staff of a committee who is compensated at a rate in excess of $25,000 per annum and employed for more than ninety days in a calendar year, shall divest himself of any substantial holdings which may be directly affected by the actions of the committee for which he works, unless the Select Committee, after consultation with the employee's supervisor, grants permission in writing, to retain such holdings or the employee makes other arrangements acceptable to the Select Committee and the employee's supervisor to avoid participation in committee actions where there is a conflict of interest.

The Committee does not believe that the issuance of guidelines to be applied uniformly to all committee staff, in all situations, is practical due to the diversity of circumstances and jurisdictions. Committee Chairmen and Ranking Minority Members are expected to monitor possibilities of real or apparent conflicts of interest due to the holdings of committee staff. The Committee does offer the following interpretations for guidance.

The definition of "employee" in paragraph 8 of the Rule, includes staff on the payroll of a committee. Employees certified to a committee by a Senator, pursuant to Section 111 of the Legislative Branch Appropriation Act of 1978, are not employees for the purposes of paragraph 8.

"Directly affected by actions of the committee" is a phrase which must be given application by the Committee Chairman and the Ranking Minority Member as to the particular circumstances of each situation.

There is no basis for treating majority and/or minority staff directors and/or counsels differently from other members of committee staff.

Committee staff with only administrative duties are also covered by the Rule if they are compensated at a rate in excess of $25,000 and are employed for more than ninety days in a calendar year.

The Rule is not applicable to the property of a spouse or dependent though an employee's interest in jointly or severally held property would be covered by paragraph 8.

The Rule does not apply to an employee acting as trustee for an unrelated person if the employee retains no beneficial interest in the trust corpus. Bare legal title to the corpus of the trust is not sufficient to make paragraph 8 applicable.

If, in a particular instance, divestiture is indicated, a transfer of the assets in question to a spouse or dependent would not be considered divestiture for purposes of the Rule.

The Rule is applicable to all committees, whether or not they have legislative jurisdiction.

Committee inaction or mitigation of proposed regulatory actions is tantamount to "committee action" for purposes of the Rule.

Saving accounts, checking accounts, certificates of deposit, federal government bonds, Treasury bills and notes are not, ordinarily, "holdings which may be directly affected by the actions of a committee" for purposes of the Rule.

INTERPRETATIVE RULING NO. 143

Date issued: June 14, 1978.

Applicable Area: Foreign Gifts and Decorations Act.

Question considered:

May employees on the staff of a Member accept an offer made by the Ambassador of a foreign government to fly from the United States to that foreign country at the expense of the foreign government in order to attend a treaty ratification ceremony?

Ruling:

The Foreign Gifts and Decorations Act (5 U.S.C. 7342) prohibits federal employees from accepting gifts of travel from a foreign nation unless the Congress has consented. The Congress has given its consent to travel involving an international cultural exchange and travel taking place entirely outside the United States under certain circumstances. The Congress did not consent, in agreeing to the Foreign Gifts and Decorations Act, to the acceptance of foreign travel provided by a foreign government when such travel begins and ends within the United States, as does this proposed trip.

We do not find that the proposed travel fits within these Congressionally recognized exceptions and believe, therefore, that the offer of the Ambassador should be declined.

We have been informed by the Department of State that a similar offer of travel was made to personnel of the Department but that the offer was declined for reasons identical to those set forth above.

INTERPRETATIVE RULING NO. 144

Date issued: June 15, 1978.

Applicable rules: 44* and 45.

Question considered:

A Senate employee proposes to engage in outside teaching and publishing activities, and inquires about the effect of the Senate Code of Official Conduct on these proposed activities.

The employee proposes to teach classes in the field of his expertise during annual leave. He further proposes to develop a series of class notes which he would have printed and would sell to those persons taking his class. Finally, he plans to write a book or pamphlet, on his own time, describing careers in the field which he would then sell to the general public.

Ruling:

Paragraph 3 of Rule 45, Conflict of Interest, provides that no officer or employee of the Senate may engage in any outside business or employment for compensation unless he has reported that employment in writing to his supervisor. The report is to be made when the employment begins, and on May 15th of each year so long as the employment continues. The Rule provides that the employee's supervisor shall take such action as he considers necessary for the avoidance of conflict of interest or interference with the employee's duties to the Senate.

As to the sales of the proposed class notes and book, Rule 44* generally limits the outside earned income of Senate employees who are compensated at an annual rate in excess of $35,000 to 15 percent of their Senate salaries. However, the Committee believes that the sales would fall within the Rule 44, paragraph 3(b)(3) exception to the limitation on outside earned income as "proceeds from the sale of creative or artistic works" and therefore would not be subject to the earned income limitations of Rule 44.

The Committee understands that no government funds are being expended in the preparation of either the class notes or the career pamphlet.

INTERPRETATIVE RULING NO. 145

Date issued: June 15, 1978.

Applicable rule: 45.

Question considered:

May an employee of the Senate accept an offer from a law firm to join the firm in an uncompensated "of counsel" relationship while remaining as a Senate employee?

Ruling:

Paragraph 6 of Rule 45, Conflict of Interest, provides that no Member, officer, or employee of the Senate compensated at a rate in excess of $25,000 per year and employed for more than ninety days in a calendar year shall "permit that individual's name to be used by such a firm, partnership, association, or corporation . . ."

It is our opinion that the proposed relationship as uncompensated "of counsel" would conflict with paragraph 6 of Rule 45.

*Effective January 1, 1979.

INTERPRETATIVE RULING NO. 146

Date issued: June 16, 1978.

Applicable rules: 42 and 43.

Question considered:

An airline strike has interrupted travel service to a Member's home state. May the Member accept travel on a corporate plane that hauls freight on a regular basis to the home state?

Ruling:

The Committee has been informed by the CAB that no CAB regulation prohibits this arrangement. Reimbursing the corporation at the commercial rate for the travel would mean that there was no "gift" accepted by the Member under Rule 43. If the corporation declines reimbursement, the Member could accept the travel and report it as a gift under Rule 42, paragraph 2(c) so long as the corporation is not a prohibited source, which is defined as a corporation that maintains a political action committee or employs a registered lobbyist. If the corporation is a prohibited source, then there must be reimbursement or the travel must be declined.

INTERPRETATIVE RULING NO. 147

Date issued: June 19, 1978.

Applicable rule: 45.

Question considered:

The following questions concerning paragraph 8 of Rule 45 were submitted by Chairmen and Ranking Minority Members of Senate committees.

(1) What is meant by "substantial holdings?"

(2) Does paragraph 8 apply to S. Res. 4 (former S. Res. 60) staff persons?

(3) Whether the holdings of spouses and dependents are subject to divestiture;

(4) Whether the blind trust provisions of paragraph 3(d) of Rule 42, as amended, are available in order to avoid divestiture;

(5) What is meant by "holdings which may be directly affected by actions of the Committee?"

(6) Whether Committee inaction is tantamount to "action" as described in paragraph 8;

(7) What procedures should be followed to obtain permission to retain holdings affected by the Rule;

(8) What procedures will be utilized for consultation with an employee's supervisor under the Rule;

(9) Why do the disclosure provisions require disclosure as of January 1, when the divestiture provision becomes effective April 1, and filing is not required until May 15; and

(10) Since the staff director, general counsel and minority staff director must participate in all legislation before the Committee, would different guidelines be appropriate for them?

Ruling:

The Select Committee does not believe that the issuance of specific guidelines to be applied uniformly to all committee staff is practical due to the diversity of circumstance and jurisdiction of committees. Each chairman should initiate appropriate steps to ascertain the extent, if any, of the possibility of the appearance of a conflict of interest due to the holdings of committee staff persons, and in proper cases, should suggest a course of action he deems to be an acceptable solution. The Committee will assist with doubtful cases upon written request.

As for what constitutes "substantial holdings," the Select Committee agreed, at its April 6, 1978 meeting, that it cannot translate this into dollars in the absence of specific circumstances, as it is relative and what may be considered substantial in one instance may not be in another. However, the value and character of the holding in relation to the Committee's jurisdiction should be considered as well as the value of the individual's other assets. In a few cases,

the holding may constitute a substantial percentage of the equity ownership of the business, and therefore may be a factor to be considered.

Regarding the second question, concerning the definition of an employee on the staff of a committee, employees certified to a committee by a Member, pursuant to Section 111, of the Legislative Branch Appropriations Act of 1978, are not employees of the staff of a committee for purposes of paragraph 8 of Rule 45.

In answer to question three, the Select Committee has determined that the holdings of a spouse or dependent are not covered by the Rule although paragraph 8 would be applicable to a person's interest in jointly held property or to the entire property in those jurisdictions where property may be held jointly with rights of survivorship or the equivalent. The Committee has held that the term is not applicable to savings accounts in federally regulated banks or savings and loans; nor is the term applicable to real estate within the District of Columbia nor to property held in a fiduciary capacity for the benefit of others, where the employee retains no beneficial interest.

With respect to question four, a qualified blind trust may be an acceptable method of eliminating questions of conflict of interest. Before a qualified blind trust could become an acceptable alternative to divestiture, all the facts and circumstances surrounding the blind trust proposal would have to be examined by the Committee. The divestiture requirement of Rule 45 would not be met by a transfer of property by a committee staff employee to his or her spouse or dependent.

With respect to the fifth question as to the meaning of the phrase "directly affected by actions of the Committee," the phrase must be given application by the committee chairman and ranking minority member as to the particular circumstances of each situation.

In answer to question six, committee inaction or mitigation of the effect of a regulation is tantamount to action.

With regard to questions seven and eight, the Committee suggests that an employee who feels that paragraph 8 of Rule 45 may affect his or her financial situation bring the specifics of the situation to the attention of his supervisor. After attempting to reach a satisfactory solution, the staff member would then write to the Select Committee seeking permission to retain the holdings or proposing an alternative arrangement which might be acceptable to the Select Committee and the employee's supervisor.

With respect to question nine, legislative history sheds no light upon the answer as to why January 1, 1978 was selected. The practical solution to this question is to footnote on the disclosure form divestiture (after January 1 and before May 15) of assets held on January 1, 1978.

With respect to question 10, the Committee concluded that there is no basis in the rule for treating a staff director and counsel differently. They are in the class to which the provision is specifically intended to apply.

In conclusion, the Select Committee does not believe that the issuance of specific guidelines to be applied uniformly to all committee staff is practical due to the diversity of circumstances and jurisdictions of committees. Each chairman should initiate appropriate steps to ascertain the extent, if any, of the possibility of the appearance of a conflict of interest due to the holdings of committee staff persons, and in proper cases, should suggest a course of action he deems to be an acceptable solution.

INTERPRETATIVE RULING No. 148

Date issued: June 19, 1978.

Applicable rule: 45.

Question considered: May a member of a committee staff teach a course in public policy during the 1978–1979 academic year at a state university? The assignment will require that the staff member go to the state university campus one day per week during the school year.

Ruling: Rule 45.3 requires the supervisor to make the initial judgment that the outside activity presents no conflict of interest either in the time required to engage in the activity or due to the nature of the activity itself. Based upon the facts presented, this Committee has no reason to disagree with the supervising Senator's opinion that this arrangement would not present a conflict of interest.

INTERPRETATIVE RULING No. 149

Date issued: June 19, 1978.

Applicable rule: 48.

Question considered:

Rule 48 prohibits a Member from sending a "mass mailing" under the frank less than 60 days immediately before the date of any election in which the Member is a candidate, but permits a mailing under the frank which is sent "in direct response to inquiries or requests from persons to whom the matter is mailed."

How is the 60 days computed, and is a request for additional information from a recipient of a questionnaire an "inquiry or request?"

Ruling:

The 60-day limitation is computed by excluding the actual day of the election, whether it is a primary, general, regular, special, or runoff. For example, the last permissible date for delivering a "mass mailing" to a postal facility before a September 9, 1978 primary is July 11, 1978.

The Committee has previously ruled that the Rule 48 exception for any mailing sent "in direct response to inquiries or requests from persons to whom the matter is mailed . . ." would apply to a response sent by a Member to a recipient of a questionnaire, where the recipient of the questionnaire had indicated on a form or on a portion of the questionnaire a desire for additional information on a particular topic.

INTERPRETATIVE RULING No. 150

Date issued: June 19, 1978.

Applicable area: Franking.

Question considered:

May an announcement concerning a speakers program for summer interns be delivered in franked envelopes by interns in a Member's office to other Congressional offices?

Ruling:

The announcement may be hand-delivered in franked envelopes as long as each envelope is labeled so as to prevent any third party from re-using the envelope as such would be a loan of the frank, albeit inadvertent. The announcement could also be delivered by inside mail, as delivery of the announcement is a proper Senate service.●

ALASKA D–2 LANDS LEGISLATION

● Mr. STEVENS. Mr. President, at the end of the 95th Congress Members of the House and Senate and the Secretary of the Interior were working diligently to reach an agreement on the Alaska d–2 lands legislation. In a series of informal meetings, an ad hoc conference was held which virtually resolved the differences between the two bodies and produced a bill which we had hope would have been enacted into public law. However, this bill was not enacted into law and Alaska now faces potential withdrawals by Executive order of up to 100 million acres under a series of Federal authorities.

The future will speak for itself as to the ultimate disposition of the public lands in question, but I do not want the "d–2 accord" to be forgotten. This was a bill which was livable for Alaska, and I supported it. It is my hope that next year a bill similar to this can be enacted quickly to dispose of this issue. The d–2 issue is not one which will go away and is one which should be resolved by Congress and not by any arbitrary executive action. Mr. President, I would like to read the provisions of the d–2 accord and other related materials into the RECORD.

The material follows:

H.R. 39

(An act to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, together with the following table of contents, may be cited as the "Alaska National Interest Lands Conservation Act".

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Sec. 1405. Underselections.
Sec. 1406. Retained mineral estate.
Sec. 1407. Conveyance of partial estates.
Sec. 1408. Escrow account.
Sec. 1409. Selection requirements.
Sec. 1410. Fire protection.
Sec. 1411. Shareholder homesites.
Sec. 1412. Reconveyance to municipal corporations.
Sec. 1413. Limitations.

TITLE XV—NATIONAL CONSERVATION AREAS

Sec. 1501. Establishment.
Sec. 1502. Administrative provisions.
Sec. 1503. Establishment of White Mountains National Recreation Area.

TITLE I—FINDINGS, POLICY, AND DEFINITIONS

FINDINGS

SEC. 101. Congress finds and declares that—

(1) through passage of the Alaska Statehood Act and the Alaska Native Claims Settlement Act, the Congress established policies for the disposition of the public lands in Alaska and provided for future economic, social, and cultural development in Alaska and for the fair and just settlement of claims of Natives and Native groups based on aboriginal land claims, while reserving decision as to which of the public lands in Alaska should be reserved in the national interest;

(2) a prompt and thorough resolution of the status of the public lands in the State of Alaska, in accordance with established congressional policies, is in the best interests of all the people of the United States including residents of Alaska;

(3) certain public lands in the State of Alaska contain nationally and internationally significant scenic, historic, archeological, paleontological, scientific, cultural, recreational, wildlife, and wilderness resources, and these public lands represent a remarkable diversity of undisturbed ecosystems, including some not found elsewhere;

(4) wilderness is a distinguishing characteristic of public lands in Alaska, which affords an unrivaled opportunity for experiencing vast areas of land essentially unaltered by man's activities, and merits preservation for the benefit of future generations; but such wilderness is increasingly being altered and reduced by activities and intrusions associated with national and international demands for energy, mineral, and timber resources and other incompatible activities;

(5) several wildlife species, including species which are threatened, endangered, or depleted in other parts of the Nation and the world, are dependent for their survival on the maintenance of appropriate natural habitats on the public lands in the State of Alaska;

(6) selective representation of the diverse natural communities, including pristine, free-flowing rivers, on public land in the State of Alaska should be preserved as units of Federal land management conservation systems for the benefit of present and future generations; and

(7) at the accelerated pace of population growth, settlement and related consumption of raw materials, the world is losing natural habitats and associated values at an alarming rate, and therefore the wilderness and the wilderness habitats of certain public lands in Alaska assume global importance since they are among the few remaining areas of such vast extent and their permanent protection is a reasonable and attainable national objective.

POLICY

SEC. 102. In order to secure for the American people of this and future generations an enduring heritage of untrammeled environments in the State of Alaska and to aid in the fulfillment of international conservation commitments of the United States, it is hereby declared to be the policy of the Congress that—

(1) it is necessary to immediately designate public lands in Alaska for inclusion in the National Park, National Wildlife Refuge, Wild and Scenic Rivers, National Forest, National Trails, and National Wilderness Preservation Systems, which systems shall, in combination—

(A) preserve unrivaled scenic, geologic, and wildlife values associated with natural landscapes;

(B) perpetuate in their natural state significant and diverse ecosystems including but not limited to extensive unaltered arctic tundra, boreal forest, and coastal rainforest ecosystems;

(C) protect and preserve cultural values of Native and non-Native peoples and conserve renewable resources related to their subsistence needs;

(D) provide for the maintenance of sound populations of, and habitat for, fish and wildlife, including those species dependent on vast undeveloped areas, of inestimable value to the citizens of Alaska and the Nation;

(E) provide opportunities for compatible outdoor public recreation, protect and interpret historic, paleontological, and archeological sites, maintain wilderness resource values and related multiple watershed, flora, fauna, recreational, and subsistence resource values, and preserve free flowing rivers and associated resources;

(F) maintain opportunities for scientific research in undistributed ecosystems; and

(G) provide for the management of multiple values in a manner which will permit utilization of natural resources, where appropriate, consistent with sound ecological principles;

(2) in the planning, management, and administration of these conservation system units—

(A) intangible values shall be considered on an equal basis with quantifiable values;

(B) sound ecological principles shall be adhered to; and

(C) full public participation shall be encouraged;

(3) the public should have access to the public lands in Alaska, including access to those public lands which constitute conservation system units, consistent with the purposes for which those units are established;

(4) those persons now dependent upon subsistence uses of the public lands in Alaska should be enabled to continue in that lifestyle, to the extent they may choose to do so and to the extent that the renewable resources of those public lands permit such uses to be continued and, within conservation system units, in a manner consistent with the purposes for which the units are established or expanded; and

(5) in carrying out the provisions of this Act, the Secretary and other officers of the Federal Government are to give continuing consideration to the interest of the State of Alaska and its subdivisions and the Native Corporations in maintaining a viable economy and providing employment for citizens of Alaska.

DEFINITIONS

SEC. 103. As used in this Act—

(1) the term "land" means lands, waters, and interests therein.

(2) The term "Federal land" means land the title to which is in the United States after the date of enactment of this Act.

(3) The term "public lands" means land situated in Alaska which, after the date of enactment of this Act, are Federal lands, except—

(A) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(B) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(C) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(4) The term "fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(5) The term "take" or "taking", as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

(6) The term "plant" means any member of the plant kingdom, including seeds, roots, and other parts thereof.

(7) The term "conservation system unit" means any unit in Alaska of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, or National Wilderness Preservation System, including existing units, units established, designated, or expanded by or under the provisions of this Act, additions to such units, and any such unit established, designated, or expanded hereafter.

(8) The terms "administer" or "administration" and "manage" or "management", as used with respect to any land within a conservation system unit, means the operation, restoration, protection, maintenance, use, and preservation of lands within such unit in accordance with the purposes for which such unit was established or expanded.

(9) The term "Native Corporation" means any Regional Corporation, any Village Corporation, and any Urban Corporation.

(10) The term "Regional Corporation" has the same meaning as such term has under section 3(g) of the Alaska Native Claims Settlement Act.

(11) The term "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(12) The term "Urban Corporation" means those Native entities which have incorporated pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act.

(13) The term "Native land" means land owned by a Native Corporation or any Native group (as defined in section 3(d) of the Alaska Native Claims Settlement Act) and includes land which, as of the date of enactment of this Act, had been selected under the Alaska Native Claims Settlement Act by a Native Corporation or Native group and had not been conveyed by the Secretary (except to the extent such selection is determined to be invalid or has been relinquished) and land referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(14) The term "Secretary" means the Secretary of the Interior, except that when such term is used with respect to any unit of the National Forest System, such term means the Secretary of Agriculture.

(15) The term "national preserve" means a unit of the National Park System in Alaska administered and managed in the same manner as a national park, except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation.

(16) The terms "wilderness" and "National Wilderness Preservation System" have the same meaning as when used in the Wilderness Act (78 Stat. 890).

(17) The term "Alaska Statehood Act" means the Act entitled "An Act to provide for the admission of the State of Alaska into the Union", approved July 7, 1958 (72 Stat. 339).

(18) The term "State" means the State of Alaska.

(19) The term "Alaska Native" or "Native" has the same meaning as the term "Native" has in section 3(b) of the Alaska Native Claims Settlement Act.

(20) The term "Alaska Native Claims Settlement Act" means the Act entitled "An Act to provide for the settlement of certain land claims of Alaska Natives, and for other purposes", approved December 18, 1971 (85 Stat. 688).

TITLE II—NATIONAL PARK SYSTEM

ESTABLISHMENT OF NEW AREAS

SEC. 201. The following areas are hereby established as units of the National Park System and, subject to valid existing rights, shall be administered by the Secretary under the laws governing the administration of such units and under the provisions of this Act:

(1) Aniakchak National Monument, containing approximately one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred seventy-six thousand acres of public lands, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated March 1978. The monument and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: To preserve and maintain Aniakchak Caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams in their natural state; to maintain natural water quality and quantity; to study, interpret, and assure continuation of the natural processes of biological succession; to protect habitat for and populations of fish and wildlife, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to interpret geological and biological processes for visitors and provide opportunities for compatible outdoor recreation and environmental educational activities.

(2) Bering Land Bridge National Preserve, containing approximately two million four hundred and fifty-seven thousand acres of Federal land, as generally depicted on map numbered BELA–90,005, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret examples of arctic plant communities, volcanic lava flows, ash explosions, coastal formations, and other geologic processes; to protect habitat for internationally significant populations of migratory birds; to provide for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant and animal migration, including man, between North America and the Asian Continent; to protect habitat for, and populations of, fish and wildlife including, but not limited to, marine mammals, brown/grizzly bear, moose, and wolf; to continue reindeer grazing use, including necessary facilities and equipment, within the areas which on January 1, 1976, were subject to reindeer grazing permits, in accordance with sound range management practices; to protect the viability of subsistence resources; and in a manner consistent with the foregoing, to provide for outdoor recreation and environmental education activities including public access for recreational purposes to the Serpentine Hot Springs area. The Secretary shall permit the continuation of customary patterns and modes of travel within a one-hundred-foot right-of-way along either side of an existing route from Deering to the Taylor Highway, subject to such reasonable regulations as the Secretary may promulgate to assure that such travel is consistent with the foregoing purposes.

(3) Cape Krusenstern National Preserve, containing approximately five hundred and sixty thousand acres of Federal lands, as generally depicted on map numbered CAKR–90,007, and dated October 1978. The preserve shall be managed for the following purposes, among others: To protect and interpret a series of archeological sites depicting every known cultural period in arctic Alaska; to provide for scientific study of the process of human population of the area from the Asian Continent; in cooperation with Native Alaskans, to preserve and interpret evidence of prehistoric and historic Native cultures; to protect habitat for seals and other marine mammals; to protect habitat and populations of birds, and other wildlife and fish resources; and to protect the viability of subsistence resources.

(4) Gates of the Arctic National Park, containing approximately four million eight hundred and one thousand acres of Federal lands and Gates of the Arctic National Preserve, containing approximately three mil-

lion one hundred fifty one thousand acres of Federal lands, as generally depicted on map dated October 1978. The park and preserve shall be managed for the following purposes, among others: To maintain the wild and undeveloped character of the area, including opportunities for visitors to experience solitude, and the natural environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features; to protect habitat for and populations of fish and wildlife, including, but not limited to, caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds. Subsistence uses shall be permitted in the park where such uses are traditional in accordance with the provisions of title VII. Solely for purposes of title IX, the Western (Kobuck River) unit of the Preserve shall be considered to be a National Recreation Area.

(5) Kenai Fjords National Park, containing approximately four hundred thousand acres of Federal lands, as depicted on map dated October 1978. The park shall be managed for the following purposes, among others: To maintain unimpaired the scenic and environmental integrity of the Harding Icefield, its outflowing glaciers, and coastal fjords and islands in their natural state; to protect seals, sea lions, other marine mammals, and marine and other birds and maintain their hauling and breeding areas in their natural state free of human activity which is disruptive to their natural processes. In a manner consistent with the foregoing, the Secretary is authorized to develop access to the Harding Icefield and to allow use of recreation.

(6) Kobuk Valley National Monument, containing approximately one hundred ninety thousand acres of Federal lands, and Kobuk Valley National Preserve, containing approximately one million five hundred and twenty-one thousand acres of Federal lands, as generally depicted on map numbered KOVA–90,009, and dated October 1978. The monument and preserve shall be managed for the following purposes, among others: To maintain the environmental integrity of the natural features of the Kobuk River Valley, including the Kobuk, Salmon, and other rivers, the boreal forest, and the Great Kobuk Sand Dunes, in its undeveloped state; to protect and interpret, in cooperation with Native Alaskans, archeological sites associated with Native cultures; to protect migration routes for the Arctic caribou herd; to protect habitat for and populations of, fish and wildlife including but not limited to caribou, moose, black and grizzly bear, wolves, and waterfowl; and to protect the viability of subsistence resources. Subsistence uses shall be permitted in the monument in accordance with the provisions of title VII. Aircraft landing access to designated sites on the upper Salmon River and other designated areas shall be permitted.

(7) Lake Clark National Park, containing approximately two million four hundred and forty thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million and two hundred and ten thousand acres of public lands, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated March 1978. The Park and Preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others: to protect the watersheds necessary for perpetuation of the salmon fishery in Bristol Bay; to maintain unimpaired the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, free flowing rivers, lakes, waterfalls, and alpine meadows in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of all fish and wildlife, including but not limited to the Mulchatna caribou herd, Dall sheep, grizzly bear, bald eagle, and peregrine falcon; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible public uses and other compatible outdoor recreation and environmental education activities.

(8) Misty Fjords National Preserve containing approximately one million one hundred thousand acres of Federal lands, as generally depicted in map numbered MIFJ 90,001, and dated October 1978. The boundaries of the Tongass National Forest are hereby revised to exclude the lands, waters, and interests therein within the preserve. The preserve shall be managed for the following purposes, among others: To protect and interpret the high quality scenic features of the Coast Range including steep-walled fjords and valleys and peaks; to maintain that portion of the Unuk River within the preserve, together with the Chickamin River and other streams and lakes, in their natural state; to protect habitat for, and populations of fish and wildlife including but not limited to salmon, mountain goats, bear, moose, wolf and waterfowl, raptors, and other species of birds. For the purposes of right-of-way through the Unuk River Valley within the preserve, the access provisions of Title IX pertaining to National Recreation Areas shall apply. Aquacultural activities may be conducted within the Misty Fjords National Preserve under the provisions of subsection 612(b), notwithstanding any other provision of law or this Act.

(9) Noatak National Preserve containing approximately five million four hundred and ten thousand acres of public lands, and Noatak National Recreation Areas, containing approximately one million two hundred and seventy thousand acres of public lands, as generally depicted on a map entitled "Noatak National Preserve and Recreation Area", dated October 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to preserve the environmental integrity of the Noatak River and adjacent uplands within the preserve in such a manner as to assure the continuation of geological and biological processes unimpaired by adverse human activities and development; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the Arctic caribou herd, grizzly bear, Dall sheep, moose, wolves, waterfowl, raptors, and other species of birds; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for scientific research, and compatible outdoor recreation and environmental education activities. The recreation area shall be managed for the above purposes consistent with the provisions of section 1111. The Secretary shall establish a board consisting of scientists and other experts in the field of arctic research in order to assist him in the encouragement and administration of research efforts within the preserve. Subject to valid existing rights, the lands within the Recreation Area are hereby withdrawn from the mining and mineral leasing laws of the United States. All lands located east of the centerline of the main channel of the Noatak River which are—

(10) Wrangell-Saint Elias National Park, containing approximately eight million four hundred and ninety-six thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately two million four hundred and fifty-five thousand acres of public lands, as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated October 1978, and Wrangell-Saint Elias National Recreation Area, containing approximately one million two hundred and thirty-five thousand acres of Federal lands, as generally depicted on map numbered WRST–90–0006, and dated October 1978. The park and preserve shall be managed to maintain the diversity of natural values of the areas and also for the following purposes, among others; to preserve and maintain unimpaired the scenic beauty and quality of high mountain peaks, foothills, glacial systems, lakes and streams, valleys and coastal landscape in their natural state; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to marine mammals, caribou, grizzly bear, Dall sheep, moose, wolves, and trumpeter swans and other waterfowl; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a manner consistent with the foregoing, to provide opportunities for compatible outdoor recreation and environmental education activities.

(11) Yukon-Charley Rivers National Preserve, containing approximately one million seven hundred and ten thousand acres of public lands, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated March 1978, which shall be managed to maintain the diversity of natural values of the area and also for the following purposes, among others: to maintain the environmental integrity of the Charley River basin, including streams, lakes and other natural features, in its undeveloped natural condition for public benefit and use, including scientific study; to maintain natural water quality and quantity; to protect habitat for and populations of fish and wildlife, including but not limited to the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and, in a matter consistent with the foregoing, to protect and interpret historical sites and events associated with the gold rush on the Yukon River and the geological and paleontological history and cultural prehistory of the area, and to provide opportunities for compatible outdoor recreational and environmental education. Aircraft landing access to designated sites in the Upper Charley River drainage shall be permitted.

ADDITIONS TO EXISTING AREAS

SEC. 202. The following units of the National Park System are hereby expanded and redesignated:

(1) Mount McKinley National Park by the addition of an area containing approximately two million five hundred and eighty-seven thousand acres of Federal land, and an additional one million one hundred sixty-nine thousand acres of Federal land is hereby established as Mount McKinley National Preserve, as generally depicted on map numbered DENA–90,006, and dated October 1978. The park additions and preserve shall be managed for the purpose among others of protecting and interpreting the entire mountain massif and additional scenic mountain peaks and formations and to portect brown/grizzly bear, moose, caribou, Dall sheep, wolves, swans and other waterfowl, and their habitat. That portion of the Alaska Railroad right-of-way within the park shall be subject to such laws and regulations applicable to the protection of fish and wildlife and other park values as the Secretary, with the concurrence of the Secretary of Transportation, may determine. The Alaska Land Use Council shall, in cooperation with the Secretary, conduct a study of the Kantishna Hills and Dunkle Mine areas of the park, and report thereon to the Congress not later than three years from the date of enactment of

this Act. The study and report shall evaluate the resources of the area, including but not limited to, fish and wildlife, public recreation opportunities, wilderness potential, historic resources, and minerals, and may include recommendations with respect to such resources as the Council may determine.

(2) Glacier Bay National Monument by the addition of an area containing approximately five hundred and twenty-three thousand acres of Federal land, and an additional fifty-seven thousand acres of Federal land is hereby established as Glacier Bay National Preserve, as generally depicted on map numbered GLBA-90,004, and dated October 1978; furthermore, the management is hereby redesignated as "Glacier Bay National Park". The monument addition and preserve shall be managed for the purposes, among others, of protecting a segment of the Alsek River, animal habitat and migration routes, and a portion of the Fairweather Range including the northwest slope of Mount Fairweather.

(3) Katmai National Monument by the addition of an area containing approximately nine hundred and thirty-six thousand acres of public lands and an area of approximately four hundred and nine thousand acres of public land designate as the Katmai National Preserve, as generally depicted on a map entitled "Katmai National Park and Preserve", dated October 1978, for the purposes, among others, of protecting high concentrations of Alaskan brown bear and denning areas, and habitat for other fish and wildlife; to maintain the diversity of natural values and the environmental integrity of the area, including its rivers, lakes, and watersheds; to maintain unimpaired the natural water quality and quantity for significant salmon populations; to protect the viability of subsistence resources and provide the opportunity for continuation of the traditional subsistence uses of local residents; and to provide opportunities in the Alagnak addition for continuation of previously established subsistence uses. Furthermore, the monument is hereby redesignated as "Katmai National Park".

ADMINISTRATIVE PROVISIONS

SEC. 203. (a) GENERAL RULES.—The Secretary shall administer the lands, waters, and interests therein added to existing units, or established by the foregoing sections of the title, as new units of the National Park System in accordance with the provisions of law applicable to the National Park System and the provisions of Title IX respecting travel, the provisions of section 1109 respecting the taking of fish and wildlife, and other applicable provisions of this Act.

(b) KATMAI AND GLACIER BAY.—Lands, waters, and interests therein withdrawn or reserved for the former Katmai and Glacier Bay National Monuments are hereby incorporated within and made a part of Katmai National Park or Glacier Bay National Park, as appropriate. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

(c) VALID NATIVE SELECTIONS.—Valid Native selections, or lands identified for selection pursuant to section 17(d)(2)(E) of the Alaska Native Claims Settlement Act, within boundaries of the Gates of Arctic National Park and Preserve and Wrangell-Saint Elias National Park and Preserve as established under this Act, are hereby recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and this Act.

(d) COMMERCIAL FISHING.—With respect to Malaspina Glacier area of Wrangell-Saint Elias National Park and the Dry Bay area of Glacier Bay National Preserve, the Secretary may take no action to restrict unreasonably the exercise of valid commercial fishing rights or privileges obtained pursuant to State or Federal law, including the use of Federal lands for campsites, cabins, motorized vehicles and aircraft landings on existing airstrips, directly incident to the exercise of such rights or privileges, except that this prohibition shall not apply to activities which the Secretary, after conducting a public hearing in the affected locality, finds constitute a significant expansion of the use of park lands beyond the level of such use during 1978.

TITLE III—NATIONAL WILDLIFE REFUGE SYSTEM

DEFINITIONS

SEC. 301. For purposes of this title—

(1) The term "conserve" means to use, and the use of, such methods and procedures which are necessary to insure, to the maximum extent practicable, the protection, maintenance, and management of fish and wildlife and plants, their habitats, and the ecological systems of which they form a constituent element, for the ecological, educational, aesthetic, cultural, recreational, and scientific enrichment of mankind. Such methods and procedures may include any activity associated with modern scientific fish and wildlife management, such as research, census, monitoring, law enforcement, the acquisition, maintenance, and enhancement of habitat, information, education, and extension services, hunting, fishing, trapping, and transplantation.

(2) The term "existing", if used in referring to any unit of the National Wildlife Refuge System in the State, means the unit as it existed on the day before the date of enactment of the Alaska Native Claims Settlement Act.

(3) The term "refuge" means—

(A) any unit of the National Wildlife Refuge System established by section 304;

(B) any existing unit of the National Wildlife Refuge System not included within any unit referred to in subparagraph (A); or

(C) any unit of the National Wildlife Refuge System established in the State after the date of the enactment of this Act.

(4) The term "range" has the same meaning as that term has in the National Wildlife Refuge System Administration Act of 1966.

PURPOSES OF REFUGES

SEC. 302. The major purposes of each refuge are—

(1) to conserve the fish and wildlife and their habitat within the refuge which are designated in section 304 as significant fish and wildlife resources, as well as to conserve the other fish and wildlife and habitat within the refuge;

(2) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and habitat;

(3) to provide, in a manner consistent with the purposes set forth in paragraphs (1) and (2) above, the opportunity for continued subsistence uses by local residents;

(4) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (1), water quality and water quantity within the refuge; and

(5) to protect, maintain, or enhance, in a manner consistent with the purposes set forth in paragraphs (1) and (2) any special value of the refuge specified in section 304, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, or scenic value of the refuge.

ADMINISTRATION OF REFUGES

SEC. 303. (a) IN GENERAL.—Each refuge shall be administered by the Secretary, subject to valid existing rights, to achieve the major purposes set forth in section 302 and in accordance with the laws governing the administration of units of the National Wildlife Refuge System, the laws governing the conservation and protection of fish and wildlife and plants, and this Act.

(b) USES PERMITTED WITHIN REFUGES.—(1) The Secretary shall administer each refuge in order to provide opportunity for subsistence uses pursuant to title VII of this Act, but only to the extent that the provision of such opportunity is compatible with the major purposes of the refuge set forth in section 301.

(2) In applying section 4(d) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)) with respect to each refuge, the Secretary may not permit any use, or grant easements for any purpose, described in such section 4(d) unless such use (including but not limited to, any oil and gas leasing permitted under paragraph (3)) or purpose is compatible with the major purposes of the refuge set forth in section 304 and with the provision of opportunity for subsistence uses under paragraph (1) and with the provisions of section 1314 of this Act. The Secretary shall prescribe such regulations, and impose such terms and conditions, as may be necessary and appropriate to ensure that activities carried out under such use or easements are so compatible.

(3) All public lands in each refuge in Alaska are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws. The Secretary, however, may permit oil and gas leasing on such lands, except in wilderness, consistent with the National Wildlife Refuge Administration Act of 1966.

(c) REFUGE CONSERVATION PLANS.—(1) The Secretary shall prepare, and from time-to-time, revise, a comprehensive conservation plan (hereinafter in this subsection referred to as the "plan") for each refuge.

(2) Before developing a plan for each refuge, the Secretary shall identify and describe—

(A) the populations and habitats of the significant fish and wildlife resources of the refuge and of other important fish and wildlife within the refuge;

(B) the special values of the refuge, as well as any other archeological, cultural, ecological, geological, historical, paleontological, recreational, mineral, scenic, or wilderness values of the refuge;

(C) areas within the refuge that are suitable for use as administrative sites or visitor facilities, or for visitor services, as provided for in sections 1105 and 1106;

(D) present and potential requirements for access with respect to the refuge, as provided for in title IX; and

(E) significant problems which may adversely affect the populations and habitats identified and described under subparagraph (A).

(3) Each plan shall—

(A) based upon the identifications and the descriptions required to be made under paragraph (2)—

(i) designate areas within the refuge according to their respective resources and values,

(ii) specify the programs for conserving fish and wildlife, and the programs relating to the values referred to in paragraph (2)(B), proposed to be implemented within each such area, and

(iii) specify the uses within each such area which may be compatible with the major purposes of, and the opportunity for subsistence uses within, the refuge; and

(B) set forth those opportunities which will be provided within the refuge for recreation, ecological research, environmental education, and interpretation of refuge resources and values, if such recreation, research, education, and interpretation is com-

patible with the major purposes of the refuge.

(4) In order to insure that the terms and conditions of cooperative management agreements which may be entered into under section 305 with respect to the refuge are appropriate, the Secretary may treat, but only for purposes of preparing the plan, land that is within, or near or adjacent to, the refuge as being within the boundary of the refuge.

(5) In preparing each plan and revisions thereto, the Secretary shall consult with the appropraite State agencies and Native Corporations, and shall hold public hearings in such locations in the State as may be appropriate to insure that residents of Native villages and political subdivisions of the State which will be primarily affected by the administration of the refuge concerned have opportunity to present their views with respect to the plan of revisions.

(6) Before adopting a plan for any refuge, the Secretary shall publish notice of the proposed plan in the Federal Register, make copies of the plan available at each regional office of the United States Fish and Wildlife Service, and provide opportunity for public views and comment on the plan.

(7) The Secretary shall by regulation implement each plan prepared under this subsection.

(8) With respect to refuges established or redesignated by section 304, the Secretary shall prepare plans for—

(A) not less than five refuges within three years after the date of the enactment of this Act;

(B) not less than ten refuges within five years after such date; and

(C) all refuges within seven years after such date. With respect to any refuge established in the State after the date of the enactment of this Act, the Secretary shall prepare a plan for the refuge within two years after the date of its establishment.

ESTABLISHMENT OF REFUGES

SEC. 304. (a) ESTABLISHMENT.—The following are established as units of the National Wildlife Refuge System:

(1) ALASKA MARITIME NATIONAL WILDLIFE REFUGE.—(A) The Alaska Maritime National Wildlife Refuge shall consist of approximately two million nine hundred and eighty thousand acres of existing refuges specified in this paragraph, which shall be redesignated as subunits of the Alaska Maritime National Wildlife Refuge, and an addition thereto of approximately four hundred and sixty thousand acres of public lands as well as an addition of submerged public lands of unknown quantity within the former Chugach National Forest boundary around Afognak Island, to be included in the following described units consisting of islands, islets, offshore rocks, reefs, offshore spires, and designated capes, among other unnamed areas in the coastal waters and adjacent seas of Alaska as generally depicted on the map entitled "Alaska Maritime National Wildlife Refuge", dated October 1978.

(a) Chukchi Sea Unit—including Cape Lisburne, Cape Thompson, and the existing Chamisso National Wildlife Refuge, but excluding such other offshore public lands within the Bering Land Bridge National Preserve;

(b) Bering Sea Unit—including the existing Bering Sea and Pribilof (Walrus and Otter Islands and Sea Lions Rocks) National Wildlife Refuges, Hagemeister Island, those portions of Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Egg Island, Punuk Islands, and King Island not otherwise conveyed under the Alaska Native Claims Settlement Act, as amended, and all other public lands on islands, islets, offshore rocks, reefs, offshore spires, and designated capes;

(B) The significant fish and wildlife resources of the refuge are marine mammals, marine birds, and other migratory birds.

(C) Archeological resources and marine resources of offshore public lands within the refuge are special values of the refuge.

(D) The Secretary shall negotiate with the applicable Native Corporations for the conveyance of public lands or the provision of other valuable consideration or both, to such Corporations in exchange for the selection rights or title to the bird cliffs of Saint Paul and Saint George Islands. If the exchange is agreed upon, the Alaska Maritime National Wildlife Refuge shall include the bird cliffs of Saint Paul and Saint George Islands.

(2) ARCTIC NATIONAL WILDLIFE REFUGE.—(A) The Arctic National Wildlife Refuge shall consist of all lands within the existing Arctic National Wildlife Range and of the approximately eight million four hundred thousand acres of public lands generally depicted on the map entitled "Arctic National Wildlife Refuge", dated October 1978. Additions to Arctic National Wildlife Range to the southwest shall extend to the former Venetie Indian Reservation lands and share a common boundary.

(B) The significant fish and wildlife resources of the refuge are the Porcupine caribou herd, wolves, wolverines, barren-ground grizzly bears, musk-oxen, polar bears, Dall sheep, and peregrine falcons and other migratory birds.

(C) Representative unspoiled Arctic physiographic regions and recreation are special values of the refuge.

(3) BECHAROF NATIONAL WILDLIFE REFUGE.—(A) The Becharof National Wildlife Refuge shall consist of the approximately one million acres of public lands generally depicted on the map entitled "Becharof National Wildlife Refuge", dated October 1978. The wildlife refuge shall include all of the islands in the eastern end of Becharof Lake within the map boundary but shall not include the lake or submerged lands beneath the lake below the mean high water mark.

(B) The significant fish and wildlife resources of the refuge are brown bears, salmon, migratory birds, the Alaska Peninsula caribou herd and marine birds and mammals.

(C) The bear-denning islands of Becharof Lake are special values of the refuge.

(4) INNOKO NATIONAL WILDLIFE REFUGE.—(A) The Innoko National Wildlife Refuge shall consist of the approximately three million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Innoko National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Iditarod Trail is a special feature of the refuge.

(5) KANUTI NATIONAL WILDLIFE REFUGE.—(A) The Kanuti National Wildlife Refuge shall consist of the approximately one million four hundred and twenty thousand acres of public lands generally depicted on the map entitled "Kanuti National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, caribou, and furbearers.

(C) Sithylemenkat Lake and the Kanuti Canyon are special values of the refuge.

(6) KENAI NATIONAL WILDLIFE REFUGE.—(A) The Kenai National Wildlife Refuge shall consist of all lands within the existing Kenai National Moose Range and of the approximately two hundred and forty thousand acres of public lands generally depicted on the map entitled "Kenai National Wildlife Refuge", dated April 1978.

(B) the significant fish and wildlife resources of the refuge are mountain goats, moose, bears, salmon, Dall sheep, and migratory birds.

(C) Recreation is a special value of the refuge.

(7) KODIAK NATIONAL WILDLIFE REFUGE.—(A) The Kodiak National Wildlife Refuge shall consist of those public lands within the existing Kodiak National Wildlife Refuge, which shall be redesignated as the Kodiak Island Unit of the expanded Kodiak National Wildlife Refuge, and all other public lands on Afognak and Ban Islands of approximately fifty thousand acres as depicted on the map entitled "Kodiak National Wildlife Refuge", dated October 1978, including those puolic lands which become public lands through operation of section 1429 of this Act.

(B) The significant fish and wildlife of the refuge are Kodiak brown bears, salmonoids, sea otter, sea lions, and other marine mammals and migratory birds.

(C) Special values of the refuge are the scenic values and habitat associations of the Red Peaks area of Afognak Island.

(D) The identification of important brown bear use areas in cooperation with the Native corporations of Afognak Island shall be accomplished in a timely fashion and reviewed periodically.

(E) The significant fish and wildlife of the refuge are Kodiak brown bears, salmon, marine mammals, and migratory birds.

(8) KOYUKUK NATIONAL WILDLIFE REFUGE.—(A) The Koyukuk National Wildlife Refuge shall consist of the approximately three million five hundred and forty thousand acres of public lands generally depicted on the map entitled "Koyukuk National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, moose, furbearers, and salmon.

(C) The Nogahabara sand dunes and three Day Slough are special values of the refuge.

(9) NOWITNA NATIONAL WILDLIFE REFUGE.—(A) The Nowitna National Wildlife Refuge shall consist of the approximately one million four hundred and fifty thousand acres of public lands generally depicted on the map entitled "Nowitna National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, peregrine falcons, moose, and martens and other furbearers.

(C) The Nowitna Wild River is a special value of the refuge and that segment of the river referred to in the amendment made to the Wild and Scenic Rivers Act by title V of this Act shall be managed as a part of the refuge.

(10) SELAWIK NATIONAL WILDLIFE REFUGE.—(A) The Selawik National Wildlife Refuge shall consist of the approximately two million one hundred and fifty thousand acres of public lands generally depicted on the map entitled "Selawik National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, the Western Arctic caribou herd, and sheefish.

(C) Archeological resources are special values of the refuge.

(D) The Selawik River is a special value of the refuge and shall be managed as a wild river from its headwaters to the Kugarak River.

(E) Subject to such reasonable regulations as the Secretary may prescibe, reindeer grazing, including necessary facilities and equipment, shall be permitted within grazing lease units as they existed on January 1, 1976, in the refuge.

(11) TETLIN NATIONAL WILDLIFE REFUGE.—(A) The Tetlin National Wildlife Refuge shall consist of the approximately seven hundred and sixty-five thousand acres of public lands generally depicted on the map entitled "Tetlin National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife resources of the refuge are migratory birds, furbearers, and moose.

(C) Regardless of any requirements that a wilderness review be conducted of areas within the Tetlin National Wildlife Refuge in accordance with sections 3(c) and 3(d)

of the Wilderness Act, there may be authorized and granted rights-of-way for pipelines and other facilities that may be required pursuant to section 9 of the Alaska Natural Gas Transportation Act of 1976.

(12) YUKON DELTA NATIONAL WILDLIFE REFUGE.—(A) The Yukon Delta National Wildlife Refuge shall consist of all lands within the existing Clarence Rhode National Wildlife Range and the Hazen Bay and Nunivak National Wildlife Refuges and of the approximately thirteen million eight hundred and fifty thousand acres of public lands generally depicted on the map entitled "Yukon Delta National Wildlife Refuge", dated April 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, marine mammals, musk-oxen, and salmonoids.

(C) The Andreafsky Hills area and the marine resources of offshore public lands and the Cape Mendenhall area and Mount Roberts Volcanics of Nunivak Islands are special values of the refuge.

(13) YUKON FLATS NATIONAL WILDLIFE REFUGE.—(A) The Yukon Flats National Wildlife Refuge shall consist of the approximately seven million eight and eighty hundred thousand acres of public lands generally depicted on the map entitled "Yukon Flats National Wildlife Refuge", dated October 1978.

(B) The significant fish and wildlife of the refuge are migratory birds, the Porcupine caribou herd, moose, and wolves, wolverines, and other furbearers, and salmon.

(b) OTHER SIGNIFICANT FISH AND WILDLIFE RESOURCES.—The significant fish and wildlife resources of the Izembek National Wildlife Range (which is hereby redesignated as the Izembek National Wildlife Refuge), are migratory birds, brown bears, and salmonoids.

(c) TIMBER HARVESTING.—To the Maximum extent compatible with the purposes for which the unit is established, the Secretary of the Interior shall permit harvesting and other use of timber to meet local and regional needs and the use of rivers within the unit for transport of such timber. The Secretary of the Interior is authorized to enter into cooperative agreements with the Secretary of Agriculture, Native Corporations of the regions, and the State of Alaska to implement this subsection.

COOPERATIVE MANAGEMENT AGREEMENTS

SEC. 305. (a) IN GENERAL.—The Secretary shall undertake to enter into a cooperative management agreement with any Native Corporation, the State, any political subdivision of the State, or any other person owning land which is located within, or adjacent or near to, any refuge. Each cooperative management agreement (hereinafter in this section referred to as an "agreement") shall provide that the land subject to the agreement shall be managed by the owner in a manner compatible with the major purposes of the refuge to which such land pertains and in a manner which will not diminish opportunities for subsistence uses in the refuge.

(b) TERMS AND CONDITIONS.—Each agreement shall—

(1) set forth such uses of the land subject to the agreement which are compatible with the management goals set forth in subsection (a);

(2) permit the Secretary reasonable access to such land for purposes relating to the administration of the refuge and to carry out the obligations of the Secretary under the agreement;

(3) permit reasonable access to such land by officers of the State for purposes of conserving fish and wildlife;

(4) set forth those services or other consideration which the Secretary agrees to provide to the owner in return for the owner entering into the agreement, which services may include technical and other assistance with respect to fire control, trespass control, law enforcement, resource and land use planning, the conserving of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement;

(5) set forth such additional terms and conditions as the Secretary and the owner may agree to as being necessary and appropriate to carry out the management goals set forth in subsection (a); and

(6) specify the effective period of the agreement.

BARREN-GROUND CARIBOU STUDY

SEC. 306. The Congress finds that barren ground caribou are a migratory species deserving special protection and that the Western Arctic and Porcupine herds of such caribou are of national and international significance. The Secretary shall conduct, and the Governor of Alaska is urged to cooperate with the Secretary in conducting, a study of the barren-ground caribou herds north of the Yukon River in order to determine the migration patterns, reproduction rates, and habitat (including calving and feeding areas) that are critical to their natural stability and continued productivity, and the effects on the herds of development by man, predation, and disease. The Secretary, acting through the Secretary of State and in consultation with the Governor, shall initiate negotiations with the Government of Canada as soon as possible for the purpose of entering into a treaty to protect the Porcupine caribou herd and is habitat.

MISCELLANEOUS PROVISIONS

SEC. 307. All proclamations, Executive Orders, public land orders, and other administrative actions in effect on the day before the date of the enactment of this Act with respect to units of the National Wildlife Refuge System in the State shall remain in force and effect except to the extent that they are inconsistent with this Act or the Alaska Native Claims Settlement Act, and, in any such case, the provisions of such Acts shall prevail. All land within the boundaries described or depicted in any such action shall, if the unit of the Nationall Wildlife Refuge System concerned is incorporated within any refuge established or redesignated by section 304, be included within such refuge.

(2) All funds available on such date of enactment for administration of any refuge shall remain available for the administration of such refuge.

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

SEC. 401. (a) EXPANSION.—The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately one million four hundred and fifty thousand acres, as generally depicted on a map entitled "Additions to the Tongass National Forest" dated October 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1109.

(2) Chugach National Forest by the addition of three areas, Nellie Juan, College Fjord, and Copper River containing approximately one million five hundred and ninety thousand acres, as generally depicted on a map entitled "Chugach National Forest Additions Proposed" dated October 1978, which shall be filed and made available for public inspection in accordance with the provisions of section 1109.

(b) COPPER RIVER ADMINISTRATION.—Lands added to the Tongass and Chugach National Forests by this section shall be administered by the Secretary of Agriculture in accordance with the applicable provisions of this Act and the laws, rules, and regulations applicable to the national forest system: *Provided*, That the protection of fish and wildlife and their habitat shall be the primary purpose for the management of the Copper River addition and the Copper River-Bering River portion of the existing Chugach National Forest, as generally depicted on the map appropriately referenced and dated October 19788. Other multiple use activities shall be permitted in a manner consistent with the protection of fish and wildlife and their habitat as set forth in special regulations which shall be promulgated by the Secretary of Agriculture.

SEWARD NATIONAL RECREATION AREA

SEC. 402. There is hereby established within the Chugach National Forest the Seward National Recreation Area, containing approximately one million two hundred and fourteen thousand acres of Federal lands, as generally depicted on the map entitled "Seward National Recreation Area—proposed" and dated October 1978. The Secretary of Agriculture shall administer the recreation area in accordance with section 1111 and other applicable provisions of this Act, and the laws, rules, and regulations applicable to the National Forest System.

TITLE V—NATIONAL WILD AND SCENIC RIVERS SYSTEM

ADDITIONS TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM

SEC. 501. (a) ADDITIONS.—Section 3(a) of the Wild and Scenic Rivers Act is amended by adding the following new paragraph at the end thereof:

"(16) BIRCH CREEK, ALASKA.—The segment of the main stem from the south side of Steese Highway in township 7 north, range 10 east, Fairbanks meridian downstream to the Steese Highway Bridge to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(17) DELTA, ALASKA.—The segment from and including all of the Tangle Lakes to a point one-half mile north of Black Rapids; to be classified as a recreational river area except for the segment from the Tangle Lakes area to a point opposite milepost 212 on the Richardson Highway which shall be classified as a wild river area; to be administered by the Secretary of the Interior.

"(18) FORTYMILE, ALASKA.—The main stem within the State of Alaska; O'Brien Creek; South Fork; Napoleon Creek; Franklin Creek; Uhler Creek; Walker Fork downstream from the confluence of Liberty Creek; Wade Creek; Mosquito Fork downstream from the vicinity of Kechumstuck; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; Dennison Fork downstream from the confluence of West Fork Dennison Fork; Logging Cabin Creek; North Fork; Hutchinson Creek; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

MINING AND MINERAL LEASING ON CERTAIN NATIONAL FOREST LANDS

SEC. 403. Subject to valid existing rights, the minerals in Federal lands within the Copper River addition to the Chugach National Forest, are hereby withdrawn from location, entry, and patent under the United States mining laws. With respect to such area, the Secretary of Agriculture, under such reasonable regulations as he deems appropriate, may permit the removal of nonleaseable minerals from the lands in the manner prescribed by section 110 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387), and the removal of leasable minerals from such lands in accordance with the mineral leasing laws, if the Secretary of Agriculture finds that such disposition would not have significant adverse effects on the administration of the area. All receipts derived from disposal of nonleasable minerals under this section shall be paid into the same funds or accounts in

the Treasury of the United States and shall be distributed in the same manner as provided for receipts from national forests.

Creek; to be administered by the Secretary of the Interior and to be classified as a scenic river area except for the Wade Creek segment which shall be classified as a recreational river area and the following segments which shall be classified as wild river areas: Mosquito Fork downstream from the vicinity of Kechumstuck to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek. The classification of such segments of the Fortymile as wild river areas shall not preclude such access across such river segments as the Secretary determines to be reasonably necessary to permit commercial development of asbestos deposits in the North Fork drainage.

"(19) GULKANA, ALASKA.—The main stem from the outlet of Paxson Lake in township 12 north, range 2 west, Copper River meridian to the confluence with Sourdough Creek; the south branch of the west fork from the outlet of an unnamed lake in sections 10 and 15, township 10 north, range 7 west, Copper River meridian to the confluence with the west fork; the north branch from the outlet of two unnamed lakes, one in sections 24 and 25, the second in sections 9 and 10, township 11 north, range 8 west, Copper River meridian to the confluence with the west fork; the west fork from its confluence with the north and south branches downstream to its confluence with the main stem; the middle fork from the outlet of Dickey Lake in township 13 north, range 5 west, Copper River meridian to the confluence with the main stem; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(20) ALAGNAK, ALASKA.—The segment from where the river crosses the western boundary of the Katmai National Preserve (in township 12 south, range 38 west) to the western boundary of township 13 south, range 43 west to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(21) UNALAKLEET, ALASKA.—From the headwaters in township 13 south, range 3 west, Kateel River meridian, extending downstream approximately 65 miles to the western boundary of township 18 south, range 8 west; to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(22) YUKON (RAMPARTS SECTION), ALASKA.—The segment from the east boundary of township 12 north, range 11 west, to the west boundary of township 4 north, range 19 west, Fairbanks meridian, to be classified as a scenic river area and to be administered by the Secretary of the Interior.

"(23) The portions of the following rivers which form the boundary of, or are within, any national preserve or national park in Alaska: Alatna Alagnak, Aniakchak (including its major tributaries), Charley (including its major tributaries), Chilikadrotna, Chitina, John Kobuk, north fork of the Kayukuk Mulchatna, Noatak (that portion from the headwaters to the confluence with the Kelly), Salmon, Tmayguk, Tlikakila; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(24) The portions of the following rivers which form the boundary of, or are within, any national wildlife refuge in Alaska: Sheenjek (that portion north of 68 degree latitude), Andreafsky (including the east fork) Ivishak, Kisaralik, and Wind; each to be classified as a wild river area and to be administered by the Secretary of the Interior.

"(25) KISARALIK, ALASKA.—The segment which is within the Bristol Bay study area.

"(26) BEAVER CREEK, ALASKA.—The segment of the main stem from the vicinity of the confluence of the Bear and Champion Creeks downstream to its exit from the northeast corner of township 12 north, range 6 east, Fairbanks meridian within the White Mountains National Recreation Area, and the Yukon Flats National Wildlife Refuge, to be administered by the Secretary of the Interior.".

(b) BOUNDARIES AND DEVELOPMENT PLANS.—Section 3(b) of the Wild and Scenic Rivers Act is amended by striking out "(b) The agency" and substituting "(b)(1) Except as otherwise provided in this Act, the agency" and by adding the following new paragraph at the end thereof:

"(2) For those rivers in Alaska listed in paragraphs (16) through (20) and (21) and (22) of subsection (a), the detailed boundaries referred to in this section shall be established, and the development plans prepared and published, within such period after the date of the enactment of this paragraph as is specified in the following list:

"One year: Delta, Fortymile, and Gulkana.

"Two years: Birch Creek and Yukon (Ramparts section).

"Three years: Unalakleet.

The detailed boundaries for the rivers listed in paragraphs (23), (24), and (26) of subsection (a) shall be established, and the development plans for such rivers shall be prepared and published, at the same time as, and in coordination with—

"(A) the submission to the Congress of the applicable management plan under the Alaska National Interest Lands Conservation Act (in the case of a river associated with a national preserve), or

"(B) the preparation of the applicable conservation plan under such Act (in the case of a river associated with a national wildlife refuge).

There shall not be included within such boundaries lands selected by Native Corporations or other valid rights of Alaskan Natives to lands without the consent of such Corporations or Natives if such valid rights were in existence immediately before the date of the enactment of this paragraph, except to the extent any such selection or right may hereafter be relinquished.".

POTENTIAL ADDITIONS

SEC. 502. (a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act is amended by inserting after paragraph (58) the following new paragraphs:

"(59) Colville, Alaska.

"(60) Copper (Iliamna), Alaska.

"(61) Copper, Alaska: The segment from the confluence with the Chitina downstream to the mean high tide line.

"(62) Etiviluk-Nigu, Alaska.

"(63) Holitna-Hoholitna, Alaska.

"(64) Ikpikpuk, Alaska.

"(65) Koyuk, Alaska.

"(66) Kuskokwim (Middle), Alaska: The segment between McGarth and Stoney River.

"(67) Melozitna, Alaska.

"(68) Mulchatna, Alaska: The segment from the southwest boundary of the Lake Clark National Preserve to the confluence with the Nushagak River.

"(69) Nelchina-Tazlina, Alaska.

"(70) Nuyakuk, Alaska.

"(71) Situk, Alaska.

"(72) Utukok, Alaska.

"(73) Nowitna (that portion within the Nowitna Wildlife Refuge), Alaska.

"(74) Porcupine, Alaska.

"(75) Sheenjek (lower), Alaska.

"(76) Kanektok, Alaska.".

(b) STUDY PERIOD.—Section 5(b) of such Act is amended by adding the following new paragraph at the end thereof:

"(4) The studies of the rivers listed in paragraphs (59) through (76) shall be completed and reports thereon submitted—

"(A) for no less than five of such rivers within three years,

"(B) for no less than ten of such rivers within four years, and

"(C) for all of the remaining such rivers within five years,

after the date of enactment of this paragraph. The preceding sentence shall not apply to the rivers listed in paragraphs (59), (62), (64), and (72), and studies of such rivers shall be completed, and reports submitted not later than the time when the report in section 195(c) of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94-258) is required to be submitted.".

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) COOPERATIVE AGREEMENTS.—Section 10(e) of the Wild and Scenic Rivers Act is amended by adding the following at the end thereof: "In the case of rivers listed in paragraphs (16) through (26) of section 3(a), the Secretary may seek cooperative agreements with the owners of non-Federal lands adjoining such rivers to assure that the purpose of designating such rivers as wild and scenic rivers under this Act is served to the greatest extent feasible.".

(b) MINING AND MINERAL LEASING; STUDY RIVERS.—Section 9(b) of such Act is amended by adding the following at the end thereof: "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (76) of section 5(a), are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto, during the periods specified in section 7(b) of this Act.".

(c) INTERRELATIONSHIP OF APPLICABLE LAWS.—Section 10 of such Act is amended by inserting in the second sentence of section 10(c) before "and in the case of" the following: "(and the Acts under which particular national parks or preserves or wildlife ranges and refuges are established or enlarged)" and by striking out "these Acts" and substituting "this Act and such other Acts".

(d) ACQUISITION AUTHORITY.—Section 6 of such Act is amended by adding the following new subsection at the end thereof:

"(h) In the case of the rivers in Alaska listed in paragraphs (16) through (26), the provisions of section 1101 of the Alaska National Interest Lands Conservation Act shall apply in lieu of the provisions of this section.'.'

(g) PUBLIC LAND LAWS.—Section 8(b) of such Act is amended by adding the following at the end thereof "Notwithstanding the foregoing provisions of this subsection or any other provision of this Act, all public lands which constitute the bed or bank, or are within an area extending two miles from the bank of the river channel on both sides of the river segments referred to in paragraphs (59) through (76) of section 5(a) are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States for the periods specified in section 7(b) of this Act.".

TITLE VI—DESIGNATION OF WILDERNESS AND WILDERNESS STUDY WITHIN UNITS OR ADDITIONS TO UNITS OF THE NATIONAL PARK, NATIONAL WILDLIFE REFUGE, AND NATIONAL FOREST SYSTEMS

FINDING AND PURPOSES

SEC. 601. The Congress finds and declares that it is in the national interest that certain public lands in the State of Alaska within previously established units of the National Park, National Wildlife Refuge, and National Forest Systems and certain additions made to such systems by this Act be designated as wilderness and therefore as components of the National Wilderness Preservation System in order to preserve such areas as an enduring resource of wilderness

for the benefit of all the American people of present and future generations. The Congress further finds that certain other public lands within such national conservation systems are of evident wilderness resource value but require more thorough study prior to designation wilderness.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL PARK SYSTEM

SEC. 602. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Aniakchak National Monument and Preserve, Alaska, which comprise approximately two hundred and ninety thousand acres, as generally depicted on a map entitled "Aniakchak National Monument and Preserve", dated October 1978, and which shall be known as Aniakchak Wilderness.

(2) Certain lands in Gates of the Arctic National Park and Preserve, Alaska, which comprise approximately seven million twenty thousand acres, as generally depicted on a map entitled "Gates of the Arctic National Park", dated October 1978, and which shall be known as Gates of the Arctic Wilderness.

(3) Certain lands in Glacier Bay National Park, Alaska, which comprise approximately two million eight hundred and twenty thousand acres, as generally depicted on a map entitled "Glacier Bay National Park", dated October 1978, and which shall be known as Glacier Bay Wilderness.

(4) Certain lands in Katmai National Park and Preserve, Alaska, which comprise approximately three million six hundred and thirty thousand acres, as generally depicted on a map entitled "Katmai National Park and Preserve", dated October 1978, and which shall be known as Katmai Wilderness.

(5) Certain lands in Kobuk Valley National Park, Alaska, which comprise approximately one hundred and forty thousand acres, as generally depicted on a map entitled "Kobuk Valley National Park", dated October 1978, and which shall be known as Kobuk Valley Wilderness.

(6) Certain lands in Lake Clark National Park and Preserve, Alaska, which comprise approximately two million five hundred thousand acres, as generally depicted on a map entitled "Lake Clark National Park and Preserve", dated October 1978, and which shall be known as Lake Clark Wilderness.

(7) Certain lands in Noatak National Preserve, Alaska, which comprise approximately five million four hundred and ten thousand acres, as generally depicted on a map entitled "Noatak National Preserve", dated October 1978, and which shall be known as Noatak Wilderness.

(8) Certain lands in Wrangell-Saint Elias National Park and Preserve, Alaska, which comprise approximately four million seven hundred and eight five thousand acres as generally depicted on a map entitled "Wrangell-Saint Elias National Park and Preserve", dated October 1978, and which shall be known as Wrangell-Saint Elias Wilderness. Use of previously existing primitive fish camp sites and use of motorized vehicles in furtherance of local commercial fishing operations shall be permitted to continue subject to such reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(9) Certain lands in Yukon-Charley Rivers National Preserve, Alaska, which comprise approximately one million and forty thousand acres, as generally depicted on a map entitled "Yukon-Charley Rivers National Preserve", dated October 1978, and which shall be known as Yukon-Charley Wilderness.

DESIGNATION OF WILDERNESS STUDY WITHIN UNITS OF THE NATIONAL PARK SYSTEM

SEC. 603. In furtherance of the purposes of the Wilderness Act, the Secretary of the Interior shall review the nondesignated wilderness within the boundaries of each unit of the National Park System as established or as expanded by this Act, and shall report to the President and the Congress in accordance with section 3 (c) and (d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all roadless areas within these boundaries for preservation as wilderness. Any subsequent designation as wilderness shall be accomplished in accordance with such subsections of the Wilderness Act. Recommendations for such units shall be submitted to the Congress on such basis that—

(1) no less than four are submitted within two years,

(2) no less than eight within three years, and

(3) all within four years after the date of enactment of this Act.

DESIGNATION OF WILDERNESS WITHIN THE NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 604. In furtherance of the purposes of the Wilderness Act, and subject to valid existing rights, the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System;

(1) Certain land in the Alaska Maritime National Wildlife Refuge comprising approximately two million nine hundred thousand acres, as generally depicted on a map entitled "Alaska Maritime National Wildlife Refuge", dated October 1978, and which shall be known as Alaska Maritime Wilderness, Aleutian Islands Wilderness, Unimak Wilderness, and Semidi Wilderness.

(2) Certain land in the Arctic National Wildlife Refuge comprising approximately eleven million five hundred and thirty thousand acres, as generally depicted on a map entitled "Arctic National Wildlife Refuge", dated October 1978, and which shall be known as Arctic Wilderness.

(3) Certain land in the Innoko National Wildlife Refuge, comprising approximately one million two hundred and forty thousand acres, as generally depicted on a map entitled "Innoko National Wildlife Refuge", dated October 1978, and which shall be known as Innoko Wilderness.

(4) Certain land in the Izembek National Wildlife Refuge, comprising approximately three hundred thousand acres, as generally depicted on a map entitled "Izembek National Wildlife Refuge", dated October 1978, and which shall be known as Izembek Wilderness.

(5) Certain land in the Kanuti National Wildlife Refuge, comprising approximately two hundred and fifty thousand acres, as generally depicted on a map entitled "Kanuti National Wildlife Refuge", dated October 1978, and which shall be known as Kanuti Wilderness.

(6) Certain land in the Kenai National Wildlife Refuge, comprising approximately one million three hundred and ninety thousand acres, as generally depicted on a map entitled "Kenai National Wildlife Refuge", dated October 1978, and which shall be known as Kenai Wilderness.

(7) Certain land in the Selawik National Wildlife Refuge, comprising approximately two hundred and forty thousand acres, as generally depicted on a map entitled "Selawik National Wildlife Refuge", dated October 1978, and which shall be known as Selawik Wilderness.

(8) Certain lands in the Koyukuk National Wildlife Refuge, compromising approximately three hundred and seventy thousand acres, as generally depicted on a map entitled "Koyukuk National Wildlife Refuge", dated October 1978, and which shall be known as Selawik Wilderness.

(9) Certain lands in the Yukon Delta National Wildlife Refuge, compromising one million, eight hundred and eighty thousand acres, as generally depicted on a map entitled "Yukon Delta National Wildlife Refuge", dated October 1978, and which shall be known as Andreafsky Wilderness.

WILDERNESS REVIEWS WITHIN CONSERVATION SYSTEM UNITS OTHER THAN NATIONAL PARK SYSTEM UNITS

SEC. 605. (a) WILDERNESS REVIEW.—In furtherance of the purposes of the Wilderness Act and in accordance with the provisions of section 3(d) of that Act relating to public notice, public hearings, and review by State and other agencies, the Secretary of the Interior shall review, as to suitability or nonsuitability for preservation as wilderness, all lands within the conservation system units, other than those areas to be reviewed under section 603 and those areas designated as wilderness by this Act.

(b) DATES.—The Secretary of the Interior shall conduct his reviews, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3 (c) and (d) of the Wilderness Act. The Secretary shall complete his reviews and the President shall advise the Congress of his recommendations with respect to no less than one-third of areas within three years after the date of enactment of this Act and with respect to the other two-thirds within seven years after such date of enactment, except that the reviews required thereunder with respect to units of the National Wildlife Refuge System shall—

(1) be completed at the same time as the conservation plans for the units concerned are prepared under section 303(c), and

(2) be coordinated with such plans.

The Secretary shall give at least ninety days advance public notice of any hearing or other public meeting concerning such areas. Any recommendation of the President to the effect that such area or a portion thereof should be designated as wilderness shall become effective only if so provided by an Act of Congress.

(c) EFFECT ON NATIONAL WILDLIFE REFUGES.—Nothing in this section shall be construed as affecting the administration of any unit of the National Wildlife Refuge System in accordance with title III until Congress otherwise provides in taking action on any Presidential recommendation made under subsection (b).

DESIGNATION OF WILDERNESS WITHIN NATIONAL FOREST SYSTEM

SEC. 606. (a) Designation. In accordance with subsection 3(c), of the Wilderness Act (78 Stat. 892), the lands within the Tongass National Forest within the boundaries depicted as "Proposed Wilderness" on the maps referred to in the following paragraphs are hereby designated as wilderness, with the nomenclature and appropriate acreage as indicated below:

(1) Admiralty Island Wilderness of approximately five hundred and forty-one thousand acres, as generally depicted on a map entitled "Admiralty Island Wilderness", dated October 1978;

(2) Coronation Island Wilderness of approximately nineteen thousand one hundred and twenty-two acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands Wilderness", dated October 1978;

(3) Endicott River Wilderness of approximately ninety-four thousand acres, as generally depicted on a map entitled "Endicott River Wilderness", dated October 1978;

(4) Maurille Islands Wilderness of approximately four thousand, four hundred and twenty-four acres, as generally depicted on a

map entitled "Coronation Warren-Maurille Islands Wilderness", dated October 1978;

(5) Petersburg Creek-Duncan Salt Chuck Wilderness of approximately fifty thousand acres, as generally depicted on a map entitled "Petersburg Creek-Duncan Salt Chuck Wilderness", dated October 1978;

(6) Russell Fjord Wilderness of approximately three hundred and fifty thousand acres, as generally depicted on a map entitled "Russell Fjord Wilderness", dated October 1978;

(7) South Baranof Wilderness of approximately three hundred and fourteen thousand acres, as generally depicted on a map entitled "South Baranof Wilderness", dated October 1978;

(8) South Prince of Wales Wilderness of approximately ninety-seven thousand acres, as generally depicted on a map entitled "South Prince of Wales Wilderness", dated October 1978;

(9) Stikine-LeConte Wilderness of approximately four hundred and forty-three thousand acres, as generally depicted on a map entitled "Stikine-LeConte Wilderness", dated October 1978;

(10) Tebenkof Bay Wilderness of approximately sixty-five thousand acres, as generally depicted on a map entitled "Tebenkof Bay Wilderness", dated October 1978;

(11) Tracy Arm-Fords Terror Wilderness of approximately six hundred and seventy-eight thousand acres, as generally depicted on a map entitled "Tracy Arm-Fords Terror Wilderness", dated October 1978;

(12) Warren Island Wilderness of approximately eleven thousand, three hundred and fifty-three acres, as generally depicted on a map entitled "Coronation-Warren-Maurille Islands", dated October 1978;

(13) West Chichagof-Yakobi Wilderness of approximately two hundred and sixty-five thousand acres, as generally depicted on a map entitled "West Chichagof-Yakobi Wilderness", dated October 1978.

(b) Exchange.—(1) As provided under section 22(f) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture is specifically authorized and directed, if the shareholders of Kootznoowoo, Incorporated, so elect, to exchange the timber rights to those lands selected for the village of Angoon under section 16 of the Alaska Native Claims Settlement Act for timber rights elsewhere within the Tongass National Forest in areas not designated as wilderness or wilderness study under this Act or other provisions of law. If the shareholders of Kootznoowoo, Incorporated, so elect, the timber rights to lands selected by that Corporation under section 16 of the Alaska Native Claims Settlement Act shall be conveyed to the Secretary of Agriculture. Within one year after such conveyance, the Secretary of Agriculture shall convey to Kootznoowoo, Incorporated, timber rights under this section which are of equal value to those conveyed to the Secretary. The conveyance of timber rights to the Secretary of Agriculture shall be conditioned upon the conveyance to Kootznoowoo, Incorporated, by the Secretary of Agriculture of timber rights of equal value under this section, except that if, within one year after conveyance of timber rights to the Secretary of Agriculture, he cannot identify timber rights of equal value by mutual agreement, Kootznoowoo, Incorporated, at its election, may either rescind the conveyance or identify not more than twenty-three thousand and forty acres of land within the Tongass National Forest otherwise available for exchange under this paragraph and timber rights in lands so identified shall then be conveyed to Kootznoowoo, Incorporated, by the Secretary of Agriculture. Timber on Admiralty Island with respect to which the Secretary of Agriculture acquires title under this paragraph shall not be sold or otherwise cut or disturbed, except for subsistence uses or as otherwise provided by this Act. Notwithstanding the provisions of section 21(c) of the Alaska Native Claims Settlement Act, for the purposes of these timber rights exchange, the basis of valuation of the timber rights exchange, the basis of valuation of the timber rights granted Kootznoowoo, Incorporated, shall be the highest average market value of timber sold in Alaska during any one of the twenty years preceding the conveyance.

(2) As provided under sections 21(c), 21 Settlement Act, the Secretary of Agriculture may acquire by purchase the timber rights of Kootznoowoo, Incorporated, which are to be exchanged pursuant to paragraph (1) of this subsection.

(3) In order for the Secretary of Agriculture to proceed as expeditiously as possible, lands withdrawn for selection by the Angoon Corporation pursuant to the Alaska Native Claims Settlement Act shall remain open to selection by Kootznoowoo, Incorporated.

(4) In satisfaction of the rights of the Natives of Juneau and Sitka as provided by section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of Agriculture shall designate alternative lands of equal or greater timber value located in southeast Alaska other than Admiralty Island for the benefit of Shee Atika, Incorporated. For purposes of this section, corporations formed pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act shall be considered as Village Corporations formed pursuant to section 16 of that Act. Upon notice that any such land is acceptable to Shee Atika, Incorporated, the Secretary shall immediately convey the surface estate in such land to such corporation and shall immediately convey the subsurface estate to the SEAlaska Corporation. As a condition to such conveyance, Shee Atika, Incorporated, shall release any claim to land selections on Admiralty Island and SEAlaska Corporation shall release any claim to subsurface right on Admiralty Island which corresponds to the land selection rights so released by Shee Atika, Incorporated. In studying lands for designation as alternative selection lands under this subparagraph, the Secretary shall also attempt to locate national forest lands not on Admiralty Island suitable for an exchange of timber interests with Kootznoowoo, Incorporated, under paragraph (1). Nothing in this section shall be construed to affect any valid rights which Shee Atika, Incorporated, may have on Admiralty Island pursuant to section 14(h)(3) of the Alaska Native Claims Settlement Act nor shall it in any way be deemed to compel Shee Atika, Incorporated, to surrender any rights they may have on Admiralty Island prior to their voluntary acceptance of other land.

(5)(A)(i) Subject to the provisions of subparagraph (B) of this paragraph and further subject to all valid existing rights (including any valid mining claims), there is hereby vested in Goldbelt, Inc., all right, title and interest of the United States in and to the surface estate of the following described lands:

COPPER RIVER MERIDIAN

Township 37 South, Range 63 East, sections 1, 17, and 21;

Township 50 South, Range 76 East, sections 31 and 32;

Township 51 South, Range 74 East, section 2, S½; sections 10 and 11; section 12, S½; sections 13, 14, 23, 24, and 25;

Township 51 South, Range 75 East, section 1; section 2, NE¼, S½; section 3, SE¼; section 7, S½, NW¼; section 8, S½; sections 9 through 23; section 24, NW¼; section 26, W½; sections 27 through 29; section 31, S½; sections 32 through 35;

Township 51 South, Range 76 East, sections 5 and 6;

Township 52 South, Range 74 East, sections 1, 12, and 13;

Township 52 South, Range 75 East, section 4; section 5, N½; sections 6 and 7; section 8, NE¼; section 9, N½; section 18, SW¼; sections 19 and 20; section 21, NE¼, S½; sections 22, 26, 27, and 28;

Township 52 South, Range 76 East, sections 26, 34, 35, and 36;

Township 52 South, Range 77 East, section 29, section 32, N½; section 30, S½; section 31, W½;

Township 53 South, Range 77 East, section 2, section 3, N½.

Containing 27,774 acres more or less.

(ii) The conveyance under this subparagraph shall be subject to the terms and conditions of section 14(g) of the Alaska Native Claims Settlement Act and the right of the Secretary to identify and reserve easements provided in section 17(b) of the Alaska Native Claims Settlement Act and the right of the Secretary to include such reserved easements in the interim conveyance and patent of the lands conveyed in this paragraph. There is excepted from the conveyance in this subparagraph valid selections pursuant to section 14(h) of the Alaska Native Claims Settlement Act, any selection by the State of Alaska pursuant to section 6(a) of the Alaska Statehood Act which is hereafter approved by the Secretary of Agriculture, and any Native allotment application which is hereafter conveyed pursuant to the Act of May 17, 1906 (34 Stat. 197), and any valid existing right to the conveyance of title to any of the above described lands.

(B) A condition precedent to the grant and conveyance provided under subparagraph (A) of this paragraph is the adoption, within sixty (60) days after the date of this Act, of a resolution by the Board of Directors of Goldbelt, Incorporated: (i) accepting such grant and conveyance provided in subparagraph (A) of this paragraph in exchange for its selection on Admiralty Island, and (ii) waiving and releasing any right, claim or interest of Goldbelt, Incorporated in and to lands within Admiralty Island either selected by Goldbelt, Inc., or withdrawn for its selection pursuant to Public Land Order No. 5548. The acceptance of the conveyance authorized in subparagraph (A) of this paragraph and the additional conveyance of the surface estate of 3,422 acres of other land off Admiralty Island validly selected and previously filed with the Secretary will constitute full satisfaction of the land entitlement of the Natives of Juneau provided under section 14(h)(3) of the Alaska Native Claims Settlement Act. Upon adoption of such resolution by the Goldbelt Board, ownership of the land described in subparagraph (A)(i) of this paragraph shall be deemed to have vested in Goldbelt, Incorporated as of the date of enactment of this Act. The Secretary shall thereafter issue an interim conveyance and patent including the easements authorized to be reserved in subparagraph (A)(ii).

(C) Upon adoption by the Board of Directors of Goldbelt, Incorporated of the resolution specified in subparagraph (B) of this paragraph and subject to valid existing rights and the provisions of subparagraph (A)(ii) of this paragraph, there shall be vested in SEAlaska Corporation the right of selection to all right, title and interest in the subsurface estate of 19,618 acres within the lands described in paragraph (A)(i). The selection of such 19,618 acres is to be made by SEAlaska Corporation within two (2) years; such selection shall not exceed one contiguous reasonably compact tract in each of the four blocks of land described in subparagraph (A)(i) and shall, to the extent feasible, follow section lines except that contiguity may be broken when land is unavailable for selection. The Secretary shall adjudicate and convey such selections subject to the applicable provisions of the Alaska Native Claims Settlement Act,

including but not limited to section 14(g). Upon the adoption of the resolution by the Goldbelt Board provided for in subparagraph (B) of this paragraph, all right, claim or interest of SEAlaska Corporation to the subsurface estate of lands on Admiralty Island previously selected by Goldbelt, Incorporated shall be extinguished.

(D) All the lands described in subparagraph (A)(i) of this paragraph are hereby withdrawn from all forms of appropriation under the Public Land laws, including selection by the State of Alaska, and are reserved for use by the Secretary for the purposes authorized in this subsection. This withdrawal shall terminate if the resolution by the Goldbelt Board is not adopted.

(E) The Secretary of the Interior shall pay all reasonable costs, including consultant and attorney fees, incurred by Goldbelt, Incorporated in the identification of suitable lands for conveyance to Goldbelt, Incorporated outside Admiralty Island in exchange for its selection on Admiralty Island and in the negotiation of an exchange of its Admiralty Island selections. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.

(6) In recognition of the considerable land selection costs incurred by Shee Atika, Incorporated, Goldbelt, Incorporated, and Kootznoowoo, Incorporated, in determining the validity of land withdrawals on Admiralty Island under section 14(h)(3) of the Alaska Native Claims Settlement Act, the Secretary of the Interior shall pay those reasonable and necessary land selection costs, including all court costs and reasonable attorney's fees, incurred prior to the date of conveyance of land to the three Native Corporations. Authorization for payment of such land selection costs shall begin in the fiscal year 1980, but shall include earlier costs.

(c) Access to Tracy Arm-Fords.—For the purposes of providing for access, public safety, or public accommodation or services relative to recreational use of the Tracy Arm-Fords Terror Wilderness, the Secretary is authorized to use up to a total of one hundred and sixty acres at one or more sites at the western end of the wilderness in the vicinity of Sumdum, Williams Cove, or Harbor Island.

(d) Portage Equipment.—Existing mechanized portage equipment located at the head of Semour Canal on Admiralty Island may continue to be used.

DESIGNATION OF WILDERNESS STUDY AREA WITHIN NATIONAL FOREST SYSTEM

SEC. 607. In furtherance of the purposes of the Wilderness Act the Secretary of Agriculture shall review the lands depicted as "Wilderness Study" on the following described maps and within three years report to the President and the Congress in accordance with section 3 (c) and (4) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of all areas within such wilderness study boundaries for preservation of wilderness: Nellie Juan-College Fjord, Chugach National Forest as generally depicted on a map entitled "Nellie Juan-College Fjord Study Area", dated October 1978.

DESIGNATION OF SPECIAL MANAGEMENT AREAS WITHIN THE TONGASS NATIONAL FOREST

SEC. 608. There are herbey designated the following special management areas within the Tongass National Forest:

(1) Duncan Canal Special Management Area of approximatley ninety-one thousand acres as generally depicted on a map entitled "Duncan Canal Special Management Area", dated October 1978;

(2) Etolin Island Special Management Area of approximately eighty-two thousand acres as generally depicted on a map entitled "Etolin Island Special Management Area", dated October 1978;

(3) East Behm Canal Special Management Area of approximately two hundred and thirty-seven thousand acres as generally depicted on a map entitled "East Behm Canal Special Management Area", dated October 1978;

(4) Idaho Inlet-Mud Bay Special Management Area of approximately one hundred and nine thousand acres as generally depicted on a map entitled "Idaho Inlet-Mud Bay Special Management Area", dated October 1978;

(5) Karta Special Management Area of approximately forty-nine thousand acres as generally depicted on a map entitled "Karta Special Management Area", dated October 1978;

(6) Rocky Pass Special Management Area of approximately eighty-two thousand acres as generally depicted on a map entitled "Rocky Pass Special Management Area", dated October 1978;

(7) South Misty Fjords Special Management Area of approximately six hundred and twenty-three thousand acres as generally depicted on a map entitled "South Misty Fjords Special Management Area", dated October 1978;

(8) West Admiralty Island Special Management Area of approximately four hundred and sixty-seven thousand acres as generally depicted on a map entitled "West Admiralty Island Special Management Area", dated October 1978; and

(9) Yakutat Forelands Special Management Area of approximately two hundred and sixty-nine thousand acres as generally depicted on a map entitled "Yakutat Forelands Special Management Area", dated October 1978.

MANGEMENT RULES FOR SPECIAL MANAGEMENT AREAS

SEC. 609. (a) Applicable laws. Except as otherwise provided in this section, national forest system lands designated as special management areas under section 608 of this Act shall be managed in accordance with the laws applicable to such lands.

(b) Timber sales.—No timber located on national forest system lands in special management areas shall be sold, unless and until the requirements of subsections (d) and (e) of this section have been met. The timber volume on these lands shall be included in determining the annual allowable sale quantity on the Tongass National Forest. Nothing in this subsection shall prevent the Secretary from taking such measures as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.

(c) Withdrawals.—All national forest system lands in special management areas are hereby withdrawn, subject to valid existing rights, from location, entry, and patent under the United States mining laws (30 U.S.C. 22–54). Where consistent with the land management plan for the area, the Secretary may classify lands within special management areas as suitable for locatable mineral exploration and development and open such lands to location entry and patent under the United States mining laws (30 U.S.C. 22–54). Subject to valid existing rights, all mining claims located within any special management area shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe. With respect to those lands in the South Misty Fjords Special Management Area comprising the "Blossom and Wilson River Drainages", as depicted on the map referred to in section 608 (7), the Secretary is authorized and directed to promulgate such regulations as he determines necessary to protect the water quality and quantity of and to prevent any adverse environmental degredation of the streams and other bodies of water in such lands.

(d) Waiver.—The Secretary of Agriculture is directed to monitor timber supply and demand in southeastern Alaska. If, at any time after ten years after the date of enactment of the Act, the Secretary finds that timber in any special management area must be sold to maintain the timber supply to dependent industry at a rate of five hundred and twenty million board feet per year, he shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a request for a waiver of the prohibition on timber sales established in subsection (b) of this section. The proposed waiver shall describe the lands affected and the amount of timber on such lands which is anticipated to be sold. The request shall be accompanied by a report setting forth the basis for the Secretary's findings.

(e) Submission to Congress.—No waiver shall become effective unless within sixty calendar days of continuous session of the Congress after the request has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, the Senate and the House of Representatives pass a concurrent resolution approving such waiver.

(f) Applicable rules.—For purposes of this subsection (e)—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(3) the term "resolution" means a concurrent resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the waiver of the statutory prohibition on timber sales contained in the report of the Secretary of Agriculture submitted to the Congress on 19 ."; the blank space therein shall be filled with the date on which the Secretary submits his report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(g) Application of other provisions.—Except as otherwise provided in this section, provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(h) Standing of State.—At any time after ten years after date of enactment of the Act, the State of Alaska shall have standing to petition the appropriate Federal district court for an order directing the Secretary of Agriculture to make the finding required by subsection (d) of this section and to transmit a waiver request pursuant to such subsection.

NATIONAL FOREST TIMBER UTILIZATION PROGRAM

SEC. 610. (a) Special program. (1) The Secretary of Agriculture is authorized and directed to carry out a special program of construction and maintenance of forest development roads for the purpose of making timber supplies more readily available and otherwise improve access on the Tongass National Forest. Such roads may be constructed in advance of timber sale offerings or under terms of a sale contract. Such

authority is in addition to the authority set forth in the Act of October 13, 1964, (78 Stat. 1089; 16 U.S.C. 532–538).

(2) To accomplish the road construction and maintenance authorized by this subsection, and for precommercial thinning, the Secretary is hereby authorized to expend not to exceed $10,000,000 annually from National Forest Fund receipts not otherwise appropriated in addition to such sums as may otherwise be appropriated.

(b) LOANS.—(1) The Secretary of Agriculture is authorized and directed to establish a special program of insured or guaranteed loans to purchasers of national forest materials in Alaska to assist such purchasers in the acquisition of equipment and the implementation of new technologies which lead to the utilization of wood products which might otherwise not be utilized. The Secretary is authorized to promulgate such regulations as he deems appropriate to define eligibility requirements for the participation in the loan program and the terms and conditions applicable to loans made under the program. Except as otherwise provided in this section or regulations promulgated specifically for this loan program, such program shall be carried out in a manner which is consistent with other authorities available to the Secretary.

(2) To carry out the special loan program established by this section, there are hereby authorized to be appropriated $5,000,000 from National Forest Fund receipts not otherwise appropriated, to be deposited in a special fund in the Treasury of the United States to remain available until expended. Repayments of principal and interest and other recoveries on loans authorized by this section shall be credited to this fund and shall remain available until expended in order to carry out the purposes of this section.

(c) STUDY.—Within three years after the date of enactment of this Act, the Secretary of Agriculture shall prepare and transmit to the Senate and House of Representatives a study of opportunities (consistent with the laws and regulations applicable to the management of the National Forest System) to increase timber yields on national forest lands in Alaska.

INTERIM REPORT

SEC. 611. Within five years from the date of enactment of this Act and every two years thereafter, the Secretary shall review and report to Congress on the status of the Tongass National Forest in Southeastern Alaska. This report shall include, but not be limited to, (1) the timber harvest levels on the forest since the enactment of this Act; (2) the impact of wilderness designation on the timber, fishing, and tourism industry in southeast Alaska; (3) measures instituted by the Forest Service to protect fish and wildlife in the forest; (4) the status of the small business set aside program on the Tongass Forest; and (5) the kinds and level of uses taking place in the Special Management Areas designated by this Act. The study required by this section shall be conducted in cooperation and consultation with the State, affected native corporations, the southeast Alaska timber industry, the Southeast Alaska Conservation Council, and the Alaska Land Use Council.

SPECIAL PROVISIONS

SEC. 612. (a) APPLICATION ONLY TO ALASKA.—The provisions of this section are enacted in recognition of the unique conditions in Alaska. Nothing in this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act or the application or interpretation of such provisions with respect to lands outside of Alaska.

(b) AQUACULTURE.—In accordance with the goal of restoring and maintaining fish production in the State of Alaska to historic levels, and in a manner which adequately assures protection, preservation, enhancement, and rehabilitation of the wilderness resource, the Secretary of the Interior or the Secretary of Agriculture, as appropriate, may permit fishery research, management, enhancement, and rehabilitation activities within wilderness and wilderness study areas designated by this Act other than in units of the National Park System. Subject to reasonable regulations, permanent improvements and facilities such as fishways, fish weirs, fish ladders, fish hatcheries, spawning channels, stream clearance, egg planting, and other accepted means of maintaining, enhancing, and rehabilitating fish stocks may be permitted by the Secretary to achieve this objective. Any fish hatchery, fishpass or other aquaculture facility authorized for any such area shall be constructed, managed, and operated in a manner that minimizes adverse impacts on the wilderness character of the area. Developments for any such activities shall involve those facilities essential to these operations and shall be constructed in such rustic manner as to blend into the natural character of the area. Reasonable access solely for the purposes of this subsection, including use of motorized equipment shall be permitted in furtherance of research, management, rehabilitation and enhancement activities subject to reasonable regulations as the Secretary deems desirable to maintain the wilderness character, water quality, and fish and wildlife values of the area.

(c) FISHERY RESEARCH.—Only fishery research may be authorized, in wilderness or wilderness study areas within units of the National Park System, as the Secretary determines to be necessary and desirable to study, manage, protect, restore, augment, or sustain indigenous fish populations. Fishery research activities permitted within units of the National Park System shall be undertaken in a manner that is consistent with the purposes for which such units are established or expanded. The construction or erection of permanent structures in support of these activities in wilderness or wilderness study areas within units of the National Park System shall not be permitted.

(d) EXISTING CABINS.—Previously existing public use cabins within national forest wilderness designated by this Act, may be permitted to continue and may be maintained or replaced subject to such restrictions as the Secretary deems necessary to preserve the wilderness character of the area.

(e) NEW CABINS.—Within wilderness designated by this Act, the Secretary of the Interior or the Secretary of Agriculture as appropriate, is authorized to construct and maintain a limited number of new public use cabins and shelters if such cabins and shelters are necessary for the protection of the public health and safety. All such cabins or shelters shall be constructed of materials which blend and are compatible with the immediate and surrounding wilderness landscape. The Secretary of the Interior or the Secretary of Agriculture, as appropriate, shall notify the House Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources of his intention to remove an existing or construct a new public use cabin or shelter and no such cabin or shelter shall be removed or constructed until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to remove or construct has been submitted to such committees, unless each committee by resolution waives the waiting period.

(f) WITHDRAWALS.—Subject to valid existing rights, national forest wilderness established by this Act in the Tongass National Forest are hereby withdrawn from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including, in both cases, all amendments thereto, and from any right of mineral entry which would otherwise have been available hereafter under the Wilderness Act or any other provision of law.

(g) TAKING OF FISH AND WILDLIFE.—Within national forest wilderness designated by this Act, the Secretary of Agriculture shall permit taking of fish and wildlife on lands under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska, except that the Secretary may designate zones where, and establish periods when, no taking of fish and wildlife shall be permitted for reasons of public safety, administration, public use and enjoyment, or protection of subsistence resources.

ADMINISTRATION

SEC. 613. (a) IN GENERAL.—Except as otherwise expressly provided for in this Act, wilderness designated by this Act shall be administered in accordance with applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture for areas designated in sections 602, 603, and 604 shall, as applicable, be deemed to be a reference to the Secretary of the Interior.

(b) TIMBER CONTRACTS.—The Secretary of Agriculture is hereby directed to modify any existing national forest timber sale contracts applying to lands designated by this Act as wilderness by substituting, to the extent practicable, timber on the other national forest lands approximately equal in volume, species, grade, and accessibility for timber on relevant lands within such units.

ACQUISITION AUTHORITY

SEC. 614. The Secretary of Agriculture is authorized, in accordance with the provisions of section 1101, to acquire privately owned land within the boundary of any area designated as wilderness within the national forest by this Act.

TITLE VII—SUBSISTENCE MANAGEMENT AND USE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of the opportunity for subsistence uses by rural residents of Alaska, including both Natives and non-Natives, on the public lands and by Alaska Natives on their Native lands is essential to their physical, economic, traditional, and Native cultural existence;

(2) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses;

(3) continuation of the opportunity for subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, by increased accessibility of remote areas containing subsistence resources, and by taking of fish and wildlife in a manner inconsistent with recognized principles of fish and wildlife management;

(4) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and its constitutional authority under the property clause and the commerce clause to protect and provide the opportunity for continued subsistence uses on the public lands by Native and non-Native rural residents;

(5) the national interest in the proper regulation protection, and conservation of

fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) consistent with sound management principles, the utilization of the public lands in Alaska is to cause the least adverse impact possible on residents who depend upon subsistence uses of the resources of such lands; consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each unit established, designated, or expanded by or pursuant to this Act, the purpose of this title is to provide the opportunity for people engaged in a subsistence-oriented lifestyle to continue to do so;

(2) nonwasteful subsistence use of fish and wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife population or the continuation of subsistence uses of such population, the taking of such population for nonwasteful subsistence uses shall be given preference on the public lands over other consumptive uses; and

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska shall cooperate with adjacent landowners and land managers including Native corporations appropriate State and Federal agencies and other nations.

DEFINITIONS

SEC. 703. As used in this Act the term "subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, and for the customary trade, barter, or sharing for personal or family consumption. For the purposes of this section, the term—

(1) "family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "barter" means the exchange or trade of fish or wildlife or their parts, taken for subsistence uses—

(A) for other fish or game or their parts; or

(B) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

PREFERENCE FOR SUBSISTENCE USES

SEC. 704. Except as otherwise provided in this Act and other Federal laws, the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded preference over the taking on such lands of fish and wildlife for other purposes. Whenever it is necessary to restrict the taking of populations of fish and wildlife on such lands for subsistence uses in order to protect the continued viability of such populations, or to continue such uses, such preference shall be based on—

(1) customary and direct dependence upon the populations as the mainstay of livelihood;

(2) local residency; and

(3) the availability of alternative resources.

LOCAL AND REGIONAL PARTICIPATION

SEC. 705. (a) Regions.—Except as otherwise provided in subsection (d) of this section, one year after the date of enactment of this Act, the Secretary shall establish—

(1) at least five Alaska subsistence resource regions which, taken together, include all public lands. The number and boundaries of the regions shall be sufficient to assure that regional differences in subsistence uses are adequately accommodated;

(2) such local advisory committees within each region as he finds necessary at such time as he may determine, after notice and hearing, that the existing State fish and game advisory committees do not adequately perform the functions of the local committee system set forth in paragraph (3)(D)(iv) of this subsection; and

(3) a regional advisory council in each subsistence resource region.

Each regional council shall be composed of residents of the region and shall have the following functions:

(A) the review and evaluation of proposals for regulations, policies, management plans, and other matters relating to subsistence uses of fish and wildlife within the region;

(B) the provision of a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(C) the encouragement of local and regional participation in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(D) the preparation of an annual report to the Secretary which shall contain—

(i) an identification of current and anticipated subsistence uses of fish and wildlife populations within the region;

(ii) an evaluation of current and anticipated subsistence needs for fish and wildlife populations within the region;

(iii) a recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs; and

(iv) recommendations concerning policies, standards, guidelines, and regulations to implement the strategy. The State fish and game advisory committees or such local committees as the Secretary may establish pursuant to paragraph (2) of this subsection may provide advice to, and assist, the regional advisory councils in carrying out the functions set forth in this paragraph.

(b) Staff.—The Secretary shall assign adequate qualified staff to the regional advisory councils and make timely distribution of all available relevant technical and scientific support data to the regional advisory councils and the State fish and game advisory committees or such local committees as the Secretary may establish pursuant to paragraph (2) of subsection (a).

(c) Actions by Secretary.—The Secretary, in performing his monitoring responsibility pursuant to section 706 and in the exercise of his closure and other administrative authority over the public lands, shall be guided by the annual report and advice of the regional councils concerning the management of fish and wildlife on the public lands within their respective regions for subsistence uses. The Secretary shall follow the advice of such councils unless he determines in writing that such advice is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs.

(d) Implementation.—The Secretary shall not implement subsections (a), (b), and (c) of this section if within one year from the date of enactment of this Act, the State divides the public lands into at least five regions as set forth in subsection (a)(1); adequately maintains its local fish and game advisory committee structure; establishes a regional council in each region composed of residents of the region with duties and responsibilities analogous to those set forth in subsection (a)(3); assigns staff and distributes available support data to the local committees and regional councils as set forth in subsection (b); and provides that the State rulemaking authority shall consider the advice and recommendations of the regional councils concerning the taking of fish and wildlife populations on public lands within their respective regions for subsistence uses. The regional councils may present recommendations, and the evidence upon which such recommendations are based, to the State rulemaking authority during the course of the administrative proceedings of such authority. The State rulemaking authority may choose not to follow any recommendation which it determines is not supported by substantial evidence presented during the course of its administrative proceedings, violates recognized principles of fish and wildlife conservation or would be detrimental to the satisfaction of rural subsistence needs. If a recommendation is not adopted by the State rulemaking authority, such authority shall make findings of fact detailing the basis for its failure to adopt the recommendation.

(d) Reimbursement.—(1) The Secretary may reimburse the State, from funds appropriated to the Department of the Interior, for reasonable costs relating to the establishment and operation of the regional advisory councils established by the State in accordance with subsection (d) and the operation of the State fish and game advisory committees so long as such committees are not superseded by the Secretary pursuant to paragraph (2) of subsection (a). Such reimbursement may not exceed 50 per centum of such costs in any fiscal year. Such costs shall be vertified in a statement which the Secretary determines to be adequate and accurate. Sums paid under this subsection shall be in addition to any grants, payments, or other sums to which the State is entitled from appropriations to the Department of the Interior.

(2) Total payments to the State under this subsection shall not exceed the sum of $5,000,000 in any one fiscal year. The Secretary shall advise the Congress at least once in every five years as to whether or not the maximum payments specified in this subsection is adequate to ensure the effectiveness of the program established by the State to provide the preference for subsistence uses of fish and wildlife set forth in section 704.

FEDERAL MONITORING

SEC. 706. The Secretary shall monitor the provision by the State of the subsistence preference set forth in section 804 and shall advise the State and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate annually and at such other times as he deems necessary of his views on the effectiveness of the State in providing such preference, any exercise of his closure or other administrative authority to protect subsistence resources or uses, the views of the State, and any recommendations he may have.

JUDICIAL ENFORCEMENT

SEC. 707. In performance of his monitoring responsibilities required in section 706, if the Secretary and appropriate State agency are notified in writing by a local committee or regional council established by the Secretary or the State pursuant to section 705 that the preference for subsistence uses set forth in section 704 is not adequately

provided in its region, setting forth the facts upon which such belief is based and detailing efforts to obtain timely relief through available State grievance procedures, the Secretary shall investigate and report publicly on the results of his investigation. If the Secretary determines that the preference for subsistence uses is not adequately provided and that timely relief has not been obtained, he shall submit his views to the Governor and seek to ensure the adequate and timely provision of such preference through discussions with the State. The Secretary shall inform the committee or council which submitted the notification to him of the results of such discussions. If the Secretary determines that the State has failed to make adequate and timely provision for the preference for subsistence uses after having been provided a reasonable opportunity to do so and that such failure threatens the ability of subsistence-dependent Alaska residents to satisfy their subsistence needs, at the request of the committee or council which submitted the notification to him, the Secretary shall bring an action in the United States district court on behalf of such committee or council to require the State to take such actions as are necessary to provide such preference. Such action shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time and shall be expedited in every way by such court. Upon the filing of the complaint, if the pleadings indicate that the State has failed to adequately provide for the preference for subsistence uses, that such failure imminently threatens the ability of subsistence-dependent residents to satisfy their subsistence needs, that immediate relief is necessary to assure that these residents who may have been adversely affected by such failure are provided a timely opportunity to satisfy such needs, and that immediate relief will not threaten the continued viability of fish and wildlife populations toward which such relief may be directed, the district court shall issue an order directing the State to show cause why the features of the State's provision of the preference which render such provision inadequate should not be enjoined and the State be directed to permit the taking of such fish or wildlife populations only for subsistence uses by those residents who have been adversely affected by the State's failure to provide for the preference. No order granting such temporary relief shall be issued until the State has been provided an opportunity for hearing, and such order shall provide that such taking for subsistence uses shall be subject to regulation by the State in a manner which adequately provides for the satisfaction of the subsistence preference requirement. The court shall provide relief, other than temporary relief, by directing the State to submit regulations which satisfy the subsistence preference requirement. When approved by the court, such regulations shall be incorporated as part of the final judicial order. Such order shall be valid only for such period as normally provided for the regulations at issue by State law. This section shall constitute the sole Federal judicial remedy created by this title for a local committee or regional council which determines that the preference for subsistence uses set forth in subsection 704 has not been adequately provided by the State in its region.

PARK AND MONUMENT SUBSISTENCE RESOURCE COMMISSIONS

SEC. 708. (a) Commissions.—Within one year from the date of enactment of this Act, the Secretary and the Governor shall each appoint four members to a subsistence resources commission for each national park or monument within which subsistence uses are permitted by this Act. The regional council established pursuant to section 705 which has jurisdiction within the area in which the park or monument is located shall appoint four members to the commission each of whom is a member of either the regional council or a local committee within the region and also is a resident of a village within or adjacent to the park or monument or whose residents engage in subsistence uses within the park or monument. Within eighteen months from the date of enactment of this Act, each commission shall devise and recommend to the Secretary and the Governor a program for subsistence hunting within the park or monument. Such program shall be prepared using technical information and other pertinent data assembled or produced by necessary field studies or investigations conducted jointly or separately by the technical and administrative personnel of the State and the Department of the Interior, information submitted by, and after consultation with the appropriate local committees and regional councils, and any testimony received in a public hearing or hearings held by the commission prior to preparation of the plan at a convenient location or locations in the vicinity of the park or monument. Each year thereafter, the commission, after consultation with the appropriate local committees and regional councils, considering all relevant data and holding one or more additional hearings in the vicinity of the park or monument, shall make recommendations to the Secretary and the Governor for any changes in the program or its implementation which the commission deems necessary.

(b) Implementation.—The Secretary shall promptly implement the program and recommendations submitted to him by each commission unless he finds in writing that such program or recommendations violates recognized principles of wildlife conservation, threatens the continued viability of wildlife populations in the park or monument, are contrary to the purposes for which the park or monument is established, or would be detrimental to the satisfaction of subsistence needs. Upon notification by the Governor, the Secretary shall take no action on a submission of a commission for sixty days during which period he shall consider any proposed changes in the program or recommendations submitted by the commission which the Governor provides him.

(c) Interim period.—Pending the implementation of a program under subsection (a) of this section, the Secretary shall permit subsistence uses by local residents in accordance with the provisions of this title and other applicable Federal and State law.

COOPERATIVE AGREEMENTS

SEC. 709. The Secretary may enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State, Native Corporations, other appropriate persons and organizations, and, acting through the Secretary of State, other nations to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 710. (a) OTHER USES ETC.—In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the effect of such use, occupancy, or disposition on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy or disposition of such lands which would significantly restrict subsistence uses shall be effected until the head of such Federal agency—

(1) gives notice to the appropriate State agency and the appropriate local committees and regional councils established pursuant to section 705,

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands, (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition, and (C) adequate steps will be taken to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

(b) IMPACT STATEMENT.—If the Secretary is required to prepare an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act, he shall provide the notice and hearing and include the findings required by subsection (a) as part of such environmental impact statement.

(c) SAVINGS CLAUSE.—Nothing herein shall be construed to prohibit or impair the ability of the State or any Native Corporation to make land selections and receive land conveyances pursuant to the Alaska Statehood Act or the Alaska Native Claims Settlement Act.

ACCESS

SEC. 711. The Secretary shall ensure that persons engaged in subsistence uses shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 712. Notwithstanding and other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats, and other means of surface transportation traditionally employed for such purposes by local residents, subject to such regulations as are necessary to prevent waste, or damage to fish, wildlife, or terrain.

RESEARCH

SEC. 713. The Secretary, acting through the United States Fish and Wildlife Service and the National Park Service and in cooperation with the State and other appropriate Federal agencies, shall undertake research on fish and wildlife and subsistence uses on the public lands; seek data from, consult with and make use of, the special knowledge of subsistence users; and make the results of such research available to the State, the local and regional councils established by the Secretary or State pursuant to section 705, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 714. Within four years after the date of enactment of this Act, and within every three-year period thereafter, the Secretary, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the implementation of this title. The report shall include—

(1) an evaluation of the results of the monitoring undertaken by the Secretary as required by section 704;

(2) the status of fish and wildlife populations on public lands that are subject to subsistence uses;

(3) a description of the nature and extent of subsistence uses and other uses of fish and wildlife on the public lands;

(4) the role of subsistence uses in the economy and culture of rural Alaska;

(5) comments on the Secretary's report by the State, the local councils and regional councils established by the Secretary or the State pursuant to section 705, and other appropriate persons and organizations;

(6) a description of those actions taken, or which may need to be taken in the future, to permit the opportunity for continuation of activities relating to subsistence uses on the public lands; and

(7) such other recommendations the Secretary deems appropriate.

A notice of the report shall be published in the Federal Register and the report shall be made available to the public.

REGULATIONS

SEC. 715. Each Secretary shall prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

LIMITATIONS, SAVINGS CLAUSES

SEC. 716. Nothing in this Act shall be construed as—

(1) granting any property right in any fish or wildlife or other resource of the public lands or as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring during the ten-year period before January 1, 1978. No privilege which may be granted by the State to any individual with respect to subsistence uses may be assigned to any other individual;

(2) permitting any subsistence use of fish and wildlife on any portion of the public lands (whether or not within any conservation system unit) which was permanently closed to such uses on January 1, 1978, or as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands;

(3) enlarging or diminishing the responsibility and authority of the State of Alaska for management of fish and wildlife on public lands except as specifically provided in this Act, or as amending the Alaska constitution; or

(4) modifying or repealing the provisions of any Federal law governing the conservation or protection of fish and wildlife, including the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1151–1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361–1407), the Act entitled "An Act for the Protection of the Bald Eagle", approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 742a–754), the Migratory Bird Conservation Act (45 Stat. 1222; 16 U.S.C. 715–715s), the Federal Aid in Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669–669i), the Fishery Conservation and Management Act of 1976 (90 Stat. 331; 16 U.S.C. 1801–1882), the Federal Aid in Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777–777K), or any amendments to any one or more of such Acts.

CLOSURE TO SUBSISTENCE USES

SEC. 717. (a) PARKS AND MONUMENTS.—All national parks and monuments in Alaska shall be closed to the taking of wildlife except for subsistence uses to the extent specifically permitted by this Act. Subsistence and sport fishing shall be authorized in such areas by the Secretary and carried out in accordance with the requirements of this title and other applicable laws of the United States and the State of Alaska.

(b) AUTHORITY OF SECRETARY.—Except as specifically proved otherwise by this section, nothing in this title is intended to enlarge or diminish the authority of the Secretary to designate areas where, and establish periods when, no taking of fish and wildlife shall be permitted on the public lands for reasons of public safety, administration, or to assure the continued viability of a particular fish or wildlife population. Notwithstanding any other provision of this Act or other law, the Secretary, after consultation with the State and adequate notice and public hearing, may temporarily close any public lands (including those within any conservation system unit), or any portion thereof, to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. If the Secretary determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, the Secretary may immediately close the public lands, or any portion thereof, to the subsistence uses of such population and shall publish the reasons justifying the closure in the Federal Register. Such emergency closure shall be effective when made, shall not extend for a period exceeding sixty days, and may not subsequently be extended unless the Secretary affirmatively establishes, after notice and public hearing, that such closure should be extended.

TITLE VIII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCES TO VILLAGE CORPORATIONS

SEC. 801. (a) "CORE" TOWNSHIPS, ETC.—(1) (A) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), 14(b), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 803(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined by the Secretary to be eligible for land under sections 11 or 16 of the Alaska Native Claims Settlement Act, and which did not elect to acquire a former reserve under section 19(b) of such Act, all of the right, title and interest of the United States in and to the surface estate in the public lands, as defined in such Act, in the township or townships withdrawn pursuant to section 11(a)(1) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(B) Where two or more Village Corporations are entitled to the same land by virtue of the same township or townships embracing all or part of the Native villages, the conveyance made by paragraph (A) shall not be effective as to such lands until an arbitration decision or other binding agreement between or among the Corporations is filed with and published by the Secretary. Within thirty days of receipt of such decision or agreement, the Secretary shall publish notice of the decision or agreement in the Federal Register. Effective with such publication, title to the lands conveyed by subparagraph (A) shall vest in each Village Corporation as specified in the decision or agreement. For purposes of section 802, until title vests in the Village Corporation pursuant to this subparagraph, the Secretary shall consider the entire acreage involved chargeable to each Corporation's entitlement.

(2) Except to the extent that conveyance of a surface estate would be inconsistent with section 12(a), 14(a), or 22(l) of the Alaska Native Claims Settlement Act, subject to valid existing rights and section 803(a) of this Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined by the Secretary to be eligible for land under section 11 of such Act, and which did not elect to acquire a former Reserve under section 19(b) of such Act, all of the right, title, and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(2) of such Act in which all or any part of such village is located: *Provided*, That any such land reserved to or selected by the State of Alaska under the acts of March 4, 1915 (38 Stat. 1214), as amended, January 21, 1929 (45 Stat. 1091), as amended, or July 28, 1956 (70 Stat. 709) and lands selected by the State which have been tentatively approved to the State under section 6(g) of the Alaska Statehood Act and as to which the State, prior to December 18, 1971, had conditionally granted title to, or contracts to purchase, the surface estate to third parties, including cities and boroughs within the State, and such reservations, selections, grants and contracts had not expired or been relinquished or revoked by the date of this Act, shall not be conveyed by operation of this paragraph: *And provided further*, That the provisions of subparagraph (1)(B) of this subsection shall apply to the conveyances under this paragraph.

(3) Subject to valid existing rights and section 803(a) of this Act, there is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined by the Secretary to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act, all of the right, title, and interest of the United States in and to the estates in a reserve, as such reserve existed on December 18, 1971, which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act. Nothing in this paragraph shall apply to the Village Corporation for the Native Village of Klukwan, which Corporation shall receive those rights granted to it by the Act of January 2, 1976 (Public Law 94–204), as amended by the Act of October 4, 1976 (Public Law 94–456).

(4) Subject to valid existing rights and section 803(a) of this Act, and except where such lands are within a National Wildlife Refuge or the National Petroleum Reserve—Alaska, for which the Regional Corporation obtains in-lieu rights pursuant to section 12(a)(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by operation of paragraphs (1) and (2) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title, and interest of the United States in and to such subsurface estate.

(b) DOCUMENTS.—As soon as possible after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection, but title shall be deemed to have passed on the date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) RECONVEYANCES; DISPUTES.—A Village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Settlement Act shall arise only upon receipt of an interim conveyance or patent, whichever is earlier, under subsection (b) of this section or under such Act. For purposes of the Alaska Native Claims Settlement Act, legislative conveyances made by, or interim conveyances and patents issued pursuant to, this title shall have the same effect as if issued pursuant to sections 14(a), 14(b), 14(f), and 19(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) EXISTING RIGHTS.—All conveyances made by operation of this section or section

802 of this Act shall be subject to the terms and conditions of the Alaska Native Claims Settlement Act as if such conveyances or patents had been made or issued pursuant to that Act.

(e) DEFINITION.—Notwithstanding the provisions of section 102(6), for purposes of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group, as such term is defined under sections 3(d) and 14(h)(2) of the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) EXPEDITED PROCEDURES; SELECTION PRIORITIES.—(1) If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment of this Act or after the date of its eligibility determination, if subsequent thereto, such Corporation shall file with the Secretary a document or documents which lists in order of preference such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Corporation has selected under any one or another of the entitlement sections, subsections, or paragraphs of the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance of its total entitlement, less any lands conveyed pursuant to section 801, under the Alaska Native Claims Settlement Act.

(2) An election by a Native Corporation to utilize the expedited conveyance procedure provided by this section shall not affect any of its rights under the Alaska Native Claims Settlement Act except to the extent such Corporation receives a conveyance by operation of this Act.

(b) PRIORITY SELECTIVE AND CONVEYANCE PROCESS.—(1)(A) Within sixty days of the date of enactment of this Act, the Secretary shall publish in the Federal Register his best estimate of the total amount of land each Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

(B) If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (A), he shall, at least every six months thereafter, redetermine his best estimate of the total amount of such entitlement and publish in the Federal Register such estimate as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(C) For a period of thirty days after each date on which the Secretary publishes under subparagraph (B) of this subsection a revised estimate of the total amount of land a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place. In the event that a Native Corporation files under the preceding sentence amended priorities with respect to any land which has also been validly selected by any other Native Corporation, such other Corporation similarly may, during the same thirty-day period, file amended priorities with respect to such selected land and any other land not previously conveyed which such other Corporation previously designated as lower priority than such selected land.

(2) Within one year after (A) the date of enactment of this Act, (B) the date on which a Native Corporation, not determined eligible by the date of enactment of this Act, is determined eligible by the Secretary and files a list of priorities under subsection (a) of this section, or (C) a Native Corporation files a revised list of priorities as provided in subsection (b)(1)(C), whichever is later, the Secretary shall determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register.

(3) Subject to valid existing rights, on the forty-fifth day following each date on which the Secretary publishes under paragraph (2) of this subsection a determination of the validity of each land selection contained in the priority list of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there are hereby conveyed to and vested in such Corporation all of the right, title, and interest of the United States in and to those lands—

(A) which were determined by the Secretary to be validly selected by such Corporation under the Alaska Native Claims Settlement Act;

(B) which are of the highest priorities contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to the last estimate of entitlement published by the Secretary pursuant to paragraph (1) of this subsection—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by operation of this act or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (2)(A) that a land selecton contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and (B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation or (ii) the total acreage contained in such list of priorities, whichever is less, the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acerage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in paragraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by operation of paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation has also been validly selected under the Alaska Native Claims Settlement Act by one of more other Native Corporations, and

(B) that the cumulative total of acreages of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed (i) the most recent determination under paragraph (1) of the estimate of the total land entitlement of such Corporation, or (ii) the total acreage contained in such list of priorities, whichever is less, the total amount of lands to be conveyed by operation of paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A) until the Secretary receives in writing one of the items referred to in subparagraph (6) with respect to the determination referred to in subparagraph (A) or until an amendment is made in the list of priorities filed by such Corporation which has the effect of eliminating such reduction.

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corporation of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over whether a Native Corporation is entitled under the Alaska Native Claims Settlement Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection, subject to valid existing rights, all of the right, title, and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the acceptance, decision, or settlement are hereby conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance by operation of paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) LIMITATION.—Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act, except to the extent such conveyance reduces the Corporation's remaining acreage entitlement.

(d) REDUCTION OF OVERSELECTIONS.—(1) Within one hundred and twenty days after the date on which an interim conveyance or patent is issued to a Native Corporation pursuant to subsection (b)(7), but not sooner than ninety days after such date, the Secretary may reduce the remaining selections of such Corporation to an amount of acreage equal to 125 per centum of the difference between (A) the Corporation's maximum possible land entitlement, as determined by the Secretary, and (B) the total acreage of land previously conveyed to such Corporation: *Provided*, That any land deemed a part of such 125 per centum with respect to selections by a Native Corporation under any one entitlement section or subsection of the Alaska Native Claims Settlement Act may not be deemed a part of such 125 per centum with respect to selections by said Corporation under any other section or subsection of such Act or with respect to selections by any other Native Corporation: *Provided further*, That any selected land which is the subject of litigation to determine, or is otherwise in dispute concerning whether such land was validly selected shall not be deemed a part of such 125 per centum and shall remain withdrawn for selection in addition to such 125 per centum until the validity of such selection is finally determined.

(2) Reductions pursuant to this subsection shall be made by the Secretary by rejecting such selected lands as the Corporation shall specify in writing to the Secretary or, if the Secretary receives no such specification within ninety days after issuance of the interim conveyance or patent, by rejecting the lowest priority lands on the list or lists provided by the Corporation pursuant to subsection (a) or any subsequent revision, if any, of such list or lists pursuant to subsection (b)(1)(C).

(3) When conveyances have been made to the Corporation which total the Corporation's

total entitlement under the Alaska Native Claims Settlement Act, any remaining selections shall be rejected by the Secretary.

(e) Notwithstanding any other provision of this section, any Corporation which elects to use the expedited conveyance procedure provided by this section may at any time thereafter terminate said election by so advising the Secretary in writing, and such Corporation's remaining selections and any then remaining portion of its land entitlement shall be processed as if the Corporation had not elected the expedited process.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) 17(b) EASEMENTS ON "CORE" TOWNSHIP LANDS.—For a period of one year from the date of enactment of this Act, the Secretary may identify and issue a decision to reserve in the patent those easements, pursuant to section 17(b) of the Alaska Native Claims Settlement Act, which are described in section 17(b) of said Act on lands conveyed by section 901 of this Act: *Provided*, That the Secretary shall not reserve a greater number of easements or more land for a particular easement or easements than is reasonably necessary and he shall be guided by the principles of subsection (b). Upon the finality of the decision so issued, such easements shall be reserved in the conveyance document or documents issued by the Secretary as required by section 901(b).

(b) LIMITATIONS CONCERNING EASEMENTS.—With respect to lands conveyed to Native Corporations the Secretary shall reserve only those easements which are described in section 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on native life styles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are necessary for the purpose or purposes for which the easement is reserved.

(c) ACQUISITION OF FUTURE EASEMENTS.—Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act the Secretary determines that an easement not reserved at the time of conveyance or by operation of subsection (a) of this section is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act.

(d) STATUS OF CERTAIN LEASE OFFERS.—Offers for noncompetitive oil and gas leases under the Mineral Leasing Act of 1920 which were filed but which did not result in the issuance of a lease on or before December 18, 1971, on lands selected by, and conveyed before, on, or after the date of enactment of this Act to, Native Corporations or to individual Natives under paragraph (5) or (6) of section 14(h) as part of the entitlement to receive land under the Alaska Native Claims Settlement Act shall not constitute valid existing rights under section 14(g) of such Act or under this Act.

(e) LIMITATION.—This Act is not intended to modify, repeal, or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), as amended or supplemented by Public Laws 94–456 and 95–178, and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

TAX MORATORIUM EXTENSION

SEC. 804. Subsection (d) of section 21 of the Alaska Native Claims Settlement Act, as amended (85 Stat. 688, 713; 43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native group, Village or Regional Corporation or corporation established pursuant to section 14(h)(3) which are not developed or leased to third parties shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act (Stat.) or the date of issuance of an interim conveyance or patent, whichever is earlier, for those interests to such individual, group, or corporation: *Provided*, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: *Provided further*, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interests shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native group, Village or Regional Corporation, or corpoartion established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange.".

ALASKA NATIVE ALLOTMENTS

SEC. 805. (a)(1) Subject to valid existing rights, all Alaska Native allotment applications made pursuant to the Act of May 17, 1906 (34 Stat. 197, as amended) which were pending before the Department of the Interior on December 18, 1971, and which describe land that was unreserved on December 13, 1968, are hereby approved on the one hundred and eightieth day following the effective date of this Act, except where provided otherwise by paragraph (3), (4), (5), or (6) of this subsection, or where the land description of the allotment must be adjusted pursuant to subsection (b) of this section, in which cases approval pursuant to the terms of this subsection shall be effective at the time the adjustment becomes final. The Secretary shall cause allotments approved pursuant to this section to be surveyed and shall issue trust certificates therefor.

(2) All applications approved pursuant to this section shall be subject to the provisions of the Act of March 8, 1922 (42 Stat. 415; 43 U.S.C. 270–11).

(3) When on or before the one hundred and eightieth day following the effective date of this Act the Secretary determines by notice or decision that the land described in an allotment application may be valuable for minerals, excluding oil, gas, or coal, the allotment application shall be adjudicated pursuant to the provision of the Act of May 17, 1906, as amended, requiring that land allotted under said Act be nonmineral: *Provided*, That "nonmineral", as that term is used in such Act is defined to include land valuable for deposits of sand or gravel.

(4) Where an allotment application describes land within the boundaries of a unit of the National Park System established on or before the effective date of this Act and the described land was not withdrawn pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act, or where an allotment application describes land which on or before December 18, 1971, was selected by or tentatively approved or confirmed to the State of Alaska pursuant to the Alaska Statehood Act and was not withdrawn pursuant to section 11(a)(1)(A) of the Alaska Native Claims Settlement Act from those lands made available for selection by section 11(a)(2) of the Act by any Native Village certified as eligible pursuant to section 11(b) of such Act, paragraph (1) of this subsection shall not apply and the application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended.

(5) Paragraph (1) of this subsection and subsection (d) shall not apply and the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act—

(A) A Native Corporation files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application, and said land is withdrawn for selection by the corporation pursuant to the Alaska Native Claims Settlement Act; or

(B) The State of Alaska files a protest with the Secretary stating that the land described in the allotment application is necessary for access to lands owned by the United States, the State of Alaska, or a political subdivision of the State of Alaska, to resources located thereon, or to a public body of water regularly employed for transportation purposes, and the protest states with specificity the facts upon which the conclusions concerning access are based and that no reasonable alternatives for access exist; or

(C) A person or entity files a protest with the Secretary stating that the applicant is not entitled to the land described in the allotment application and that said land is the situs of improvements claimed by the person or entity.

(6) Paragraph (1) of this subsection and subsection (d) shall not apply to any application pending before the Department of the Interior on December 18, 1971, which was knowingly and voluntarily relinquished by the applicant thereafter.

(b) Where a conflict between two or more allotment applications exists due to overlapping land descriptions, the Secretary shall adjust the descriptions to eliminate conflicts, and in so doing, consistent with other existing rights, if any, may expand or alter the applied-for allotment boundaries or increase or decrease acreage in one or more of the allotment applications to achieve an adjustment which, to the extent practicable, is consistent with prior use of the allotted land and is beneficial to the affected parties: *Provided*, That the Secretary shall, to the extent feasible, implement an adjustment proposed by the affected parties: *Provided further*, That the Secretary's decision concerning adjustment of conflicting land descriptions shall be final and unreviewable in all cases in which the reduction, if any, of the affected allottee's claim is less than 30 percent of the acreage contained in the parcel originally described and the adjustment does not ex-

clude from the allotment improvements claimed by the allottee: *Provided further,* That where an allotment application describes more than one hundred and sixty acres, the Secretary shall at any time prior to or during survey reduce the acreage to one hundred and sixty acres and shall attempt to accomplish said reduction in the manner least detrimental to the applicant.

(c) An allotment applicant may amend the land description contained in his or her application if said description designates land other than that which the applicant intended to claim at the time of application and if the description as amended describes the land originally intended to be claimed. If the allotment application is amended, this section shall operate to approve the application or to require its adjudication, as the case may be, with reference to the amended land description only: *Provided,* That the Secretary shall notify the State of Alaska and all interested parties, as shown by the records of the Department of the Interior, of the intended correction of the allotment's location, and any such party shall have until the one hundred and eightieth day following the effective date of this Act or sixty days following mailing of the notice, whichever is later, to file with the Department of the Interior a protest as provided in subsection (a)(5) of this section, which protest, if timely, shall be deemed filed within one hundred and eighty days of the effective date of this Act notwithstanding the actual date of filing: *Provided further,* That the Secretary may require that all allotment applications designating land in a specified area be amended, if at all, prior to a date certain, which date shall be calculated to allow for orderly adoption of a plan of survey for the specified area, and the Secretary shall mail notification of the final date for amendment to each affected allotment applicant, and shall provide such other notice as the Secretary deems appropriate, at least sixty days prior to said date: *Provided further,* That no allotment application may be amended for location following adoption of a final plan of survey which includes the location of the allotment as described in the application or its location as desired by amendment.

(d) Where the land described in an allotment application pending before the Department of the Interior on December 18, 1971 (or such an application as adjusted or amended pursuant to subsection (b) or (c) of this section), was on that date withdrawn, reserved, or classified for powersite or power-project purposes, notwithstanding such withdrawal, reservation, or classification the described land shall be deemed vacant, unappropriated, and unreserved within the meaning of the Act of May 17, 1906, as amended, and, as such, shall be subject to adjudication or approval pursuant to the terms of this section: *Provided, however,* That if the described land is included as part of a project licensed under part I of the Federal Power Act of June 10, 1920 (41 Stat. 24), as amended, or is presently utilized for purposes of generating or transmitting electrical power or for any other project authorized by Act of Congress, the foregoing provision shall not apply and the allotment application shall be adjudicated pursuant to the Act of May 17, 1906, as amended: *Provided further,* That where the allotment applicant commenced use of the land after its withdrawal or classification for powersite purposes, the allotment shall be made subject to the right of reentry provided the United States by section 24 of the Federal Power Act, as amended: *Provided further,* That any right of reentry reserved in a certificate of allotment pursuant to this section shall expire twenty years after the effective date of this Act if at that time the allotted land is not subject to a license or an application for a license under part I of the Federal Power Act, as amended, or actually utilized or being developed for a purpose authorized by that Act, as amended, or other Act of Congress.

(e) Prior to issuing a certificate for an allotment subject to this section, the Secretary shall identify and adjudicate any record entry or application for title made under an Act other than the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or the Act of May 17, 1906, as amended, which entry or application claims land also described in the allotment application, and shall determine whether such entry or application represents a valid existing right to which the allotment application is subject. Nothing in this section shall be construed to affect rights, if any, acquired by actual use of the described land prior to its withdrawal or classification, or as affecting National Forest lands.

STATE SELECTIONS AND CONVEYANCES

SEC. 806. (a) EXTENSION OF SELECTION PERIOD.—(1) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, section 6(a) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(2) EXTENSION OF SELECTION PERIOD.—In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, section 6(b) of the Alaska Statehood Act is amended by substituting "thirty-five years" for "twenty-five years".

(b) SCHOOL LANDS SETTLEMENT.—(1) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915 (38 Stat. 1214), as confirmed and transferred in section 6(k) of the Alaska Statehood Act, the State is hereby granted seventy-five thousand acres which it shall be entitled to select until January 4, 1994, from vacant, unappropriated, and unreserved public lands. In exercising the selection rights granted herein, the State shall be deemed to have relinquished all claims to any right, title, or interest to any school lands which failed to vest under the above statutes at the time Alaska became a State (January 3, 1959), including lands unsurveyed on that date or surveyed lands which were within Federal reservations or withdrawals on that date.

(2) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole section requirement.

(2) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of subsections (j) and (k) of section 6 of the Alaska Statehood Act.

(c) PRIOR TENTATIVE APPROVALS.—(1) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title, and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; except that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority other than authority under section 11(a)(2), 12(a), or 12(b) of the Alaska Native Claims Settlement Act.

(2) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(4) Future tentative approvals of State land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection and shall be processed for patent by the same administrative procedures as specified in paragraphs (2) and (3) of this subsection.

(d) PRIOR STATE SELECTIONS.—(1) In furtherance of the State's entitlement to lands under Section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska, subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, all right, title and interest of the United States in and to all vacant, unappropriated, and unreserved Federal lands, including lands subject to subsection (1) of this section, which are specified in the list entitled "Prior State of Alaska Selections to be Conveyed by Congress", dated July 24, 1978, submitted by the State of Alaska and on file in the Office of the Secretary of the Interior, except those Federal lands which have been withdrawn by Public Land Order numbered _____ for utility corridor purposes and which lie in township 15 south, ranges 35 and 36 east, township 16 south, ranges 36, 37, and 38 east, township 17 south, ranges 36, 37, and 38 east (fractional), Umiat Meridian, and township 35 north, ranges 24–30 east, township 36 north, ranges 19–30 east, township 37 north, ranges 17–29 east (fractional), Fairbanks Meridian. Nothing in this section shall be construed as precluding any valid State selections of lands which are available for such selection or which have been validly selected in accordance with the Memorandum of Understanding between the State of Alaska and the United States dated September 1, 1972. If any of those townships listed above contain lands within the boundaries of any conservation system unit, National Conservation Area, National Recreation Area, new national forest or forest addition, established, designated, or expanded by this Act, then only those lands within such townships which have been previously selected by the State of Alaska shall be conveyed pursuant to this subsection.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such State selections as required by the Alaska Statehood Act and pursuant to subsection (1) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, such lands shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(5) Future valid State land selections shall be subject only to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act.

(e) FUTURE "TOP FILINGS".—Subject to

valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act, the State, at its option, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (b) of this section, for lands which are not, on the date of filing of such applications, available within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of subsections (a) or (b) of section 6 regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be refiled so as to become subject to the provisions of this subsection; except that no such refiling shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the Federal Government.

(f) RIGHT TO OVERSELECT.—(1) The State of Alaska may select lands exceeding by not more than 25 per centum in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or confirmation of lands to the State contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all sections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocs no larger than one township in size; except that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocs necessary to maintain a maximum excess selection of 25 per centum of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(2) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (b) of this section prior to receipt by the State of tentative approval, except that lands conveyed pursuant to subsection (g) of this section may not be relinquished pursuant to this paragraph.

(3) Section 6(g) of the Alaska Statehood Act is amended by adding at the end thereof the following new sentence: "As to all selections made by the State after January 1, 1979 pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where he determines that such a reduced selection size would be in the national interest and would result in a better land ownership pattern.".

(g) CONVEYANCE OF SPECIFIED LANDS.—In furtherance of the State's entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska all right, title, and interest of the United States in and to all vacant, unappropriated, and unreserved lands, including lands subject to subsection (e) of this section but which lie within those townships outside the boundaries of conservation system units, National Conservation Areas, National Recreation Areas, new national forests, and forest additions, established designated, or expanded by this Act, which are specified in the list entitled "State Selection Lands May 15, 1978", dated July 24, 1978, submitted by the State of Alaska and on file in the office of the Secretary of the Interior. The denomination of lands in such list which are not, on the date of enactment of this Act, available lands within the meaning of section 6(b) of the Alaska Statehood Act and this Act shall be treated as a future selection application pursuant to subsection (e) of this section.

(h) LIMITATION OF CONVEYANCES OF SPECIFIED LANDS; TENTATIVE APPROVALS; SURVEYS.—(1) Lands identified in subsection (g) are conveyed to the State subject to valid existing rights and Native selection rights under the Alaska Native Claims Settlement Act. All right, title, and interest of the United States in and to such lands shall vest in the State of Alaska as of the date of enactment of this Act, subject to those reservations specified in subsection (1) of this section.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (1) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(3) Upon approval of a land survey by the Secretary, those lands identified in subsection (g) shall be patented to the State of Alaska.

(4) If the State elects to receive patent to any of the lands which are identified in subsection (g) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the public land records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election.

(i) ADJUDICATION.—Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (g) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (b) of this section, or other law, prior to the issuance of tentative approval.

(j) CLARIFICATION OF LAND STATUS OUTSIDE UNITS.—As to lands outside the boundaries of a conservation system unit, National Recreation Areas, National Conservation Areas, new national forests and forest additions, the following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of vacant, unappropriated, and unreserved lands for the purposes of subsection (d) or (g) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (b) of this section:

(1) withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; except that, in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5187, 5190, 5194, and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection except as provided by subsection (e) of this Act;

(2) withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, which are not finally conveyed pursuant to section 12, 14, or 19 of such Act;

(3) classifications pursuant to the Classification and Multiple Use Act (78 Stat. 987); and

(4) classifications or designations pursuant to the Federal Land Policy and Management Act (90 Stat. 2743).

(k) INTERIM PROVISIONS.—Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State:

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way, or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; except that (A) the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under existing laws and regulations had the lands not been selected by the State, and (B) the State has concurred prior to such action by the Secretary.

(2) On and after the date of enactment of this Act, 90 per centum of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trepasses originating after the date of selection by the State be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands.

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(l) EXISTING RIGHTS.—(1) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or any other law, shall be subject to valid existing rights, to Native selection rights under the Alaska Native Claims Settlement Act, and to any right-of-way or easement reserved for or appropriated by the United States.

(2) Where, prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved, or appropriated.

Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor, permittor, or grantor, in any such contracts, leases, licenses, permits, rights-of-way, or easements, except those reserved to the United States in the tentative approval.

(3) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part.

(4) Where the lands tentatively approved do not include all of land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States unless the agency responsible for administration waives such administration.

(5) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) Extinguishment of Certain Time Extensions.—Any extensions of time periods granted to the State pursuant to section 17 (d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a) and (b) of this section shall hereafter be applicable to State selections.

(n) Effect on Third-Party Rights.—(1) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976 (Public Law 94–204), sections 4 and 5 of the Act of October 4, 1976 (Public Law 94–456), or section 3 of the Act of November 15, 1977 (Public Law 94–178).

(2) Any conveyance of land to or confirmation of prior selections of the State made by this Act or selections allowed under this Act shall be subject to the rights of Cook Inlet Region, Incorporated, to nominate lands outside of its region with such nominations to be superior to any selection made by the State after July 18, 1975, including any lands conveyed to the State pursuant to subsection (g) of this section, and to the duty of the Secretary, with consent of the State, to make certain lands within the Cook Inlet Region available to the Corporation, both in accordance with the provisions of section 12 (b) of the Act of January 2, 1976 (Public Law 94–204), as amended.

(3) Nothing in this title shall prejudice a claim of validity or invalidity regarding any third-party interest created by the State of Alaska prior to December 18, 1971, under authority of section 6(g) of the Alaska Statehood Act or otherwise.

(4) Nothing in this Act shall affect any right of the United States or Alaska Natives to seek and receive damages against any party for trespass against, or other interference with, aboriginal interests if any, occurring prior to December 18, 1971.

(o) Status of Lands Within Units.—(1) Notwithstanding any other provision of law, any land withdrawn pursuant to section 17 (d)(1) of the Alaska Native Claims Settlement Act and within the boundaries of any conservation system unit, National Recreation Area, National Conservation Area, new national forest, or forest addition, shall be added to such unit and administered accordingly unless, before, on, or after the date of the enactment of this Act, such land has been validly selected by and conveyed to a Native Corporation.

(2) Until conveyed, all Federal lands within the boundaries of a conservation system unit National Recreation Area, National Conservation Area, new national forest or forest addition, shall be administered in accordance with the laws applicable to such unit.

(p) PYK Line.—The second proviso of section 6(b) of the Alaska Statehood Act regarding Presidential approval of land selection north and west of the line described in section 10 of such Act shall not apply to any conveyance of land to the State pursuant to subsections (c), (d), and (g) of this section but shall apply to future State selections.

ALASKA LAND BANK

Sec. 807. (a) Establishment: Agreements.—(1) In order to enhance the quantity and quality of Alaska's renewable resources and to facilitate the coordinated management and protection of Federal, State, and Native and other private lands, there is hereby established the Alaska Land Bank Program. Any private landowner is authorized as provided in this section to enter into a written agreement with the Secretary if his lands adjoin, or his use of such lands would directly affect, Federal land, Federal and State land, or State land if the State is not participating in the program. Any private landowner described in subsection (c)(2) whose lands do not adjoin, or whose use of such lands would not directly affect either Federal or State lands also is entitled to enter into an agreement with the Secretary of the Interior. Any private landowner whose lands adjoin, or whose use of such lands would directly affect, only State, or State and private lands, is authorized as provided in this section to enter into an agreement with the State of Alaska if the State is participating in the program. If the Secretary is the contracting party with the private landowner, he shall afford the State an opportunity to participate in negotiations and become a party to the agreement. An agreement may include all or part of the lands of any private landowner: *Provided*, That lands not owned by landowners described in subsection (c)(2) shall not be included in the agreement unless the Secretary, or the State, determines that the purposes of the program will be promoted by their inclusion.

(2) If a private landowner consents to the inclusion in an argeement of the stipulations provided in subsections (b)(1), (b)(2), (b)(4), (b)(5), and (b)(7), and if such owner does not require on any additional terms which are unacceptable to the Secretary or the State, as appropriate, the owner shall be entitled to enter into an agreement pursuant to this section. If an agreement is not executed within one hundred and twenty days of the date on which a private landowner communicates in writing his consent to the stipulations referred to in the preceding sentence, the appropriate Secretary or State agency head shall execute an agreement. Upon such execution, the private owner shall receive the benefits provided in subsection (c) hereof.

(3) No agreement under this section shall be construed as affecting any land, or any right or interest in land, of any owner not a party to such agreement.

(b) Terms of Agreement.—Each agreement referred to in subsection (a) shall have an initial term of ten years, with provisions, if any, for renewal for additional periods of five years. Such agreement shall contain the following terms:

(1) The landowner shall not alienate, transfer, assign, mortgage, or pledge the lands subject to the agreement except as provided in section 14(c) of the Alaska Native Claims Settlement Act, or permit development or improvement on such lands except as provided in the agreement. For the purposes of this section only, each agreement entered into with a landowner described in subsection (c)(2) shall constitute a restriction against alienation imposed by the United States upon the lands subject to the agreement.

(2) Lands subject to the agreement shall be managed by the owner in a manner compatible with the management plan, if any, for the adjoining Federal or State lands, and with the requirements of this subsection. If lands subject to the agreement do not adjoin either Federal or State lands, they shall be managed in a manner compatible with the management plan, if any, of Federal or State lands which would be directly affected by the use of such private lands. If no such plan has been adopted, or if the use of such private lands would not directly affect either Federal or State lands, the owner shall manage such lands in accordance with the provisions of paragraph (1) of this subsection. Except as provided in (3) of this subsection, nothing in this section or the management plan of any Federal or State agency shall be construed to require a private landowner to grant public access on or across his lands.

(3) If the surface landowner so consents, such lands may be made available for local or other recreational use: Provided, That the refusal of a private landowner to permit the uses referred to in this subsection shall not be grounded for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(4) Appropriate Federal and/or State agency heads shall have reasonable access to such privately owned land for purposes relating to the administration of the adjoining Federal or State lands, and to carry out their obligations under the agreement.

(5) Reasonable access to such land by officers of the State shall be permitted for purposes of conserving fish and wildlife.

(6) Those services or other consideration which the appropriate Secretary or the State shall provide to the owner pursuant to subsection (c)(1) shall be set forth.

(7) All or part of the lands subject to the agreement may be withdrawn from the Alaska land bank program not earlier than ninety days after the landowner—

(A) submits written notice thereof to the other parties which are signatory to the agreement; and

(B) pays all Federal, State and local property taxes and assessments which, during the particular term then in effect, would have been incurred except for the agreement, together with interest on such taxes and assessments in an amount to be determined at the highest rate of interest charged with respect to delinquent property taxes by the Federal, State or local taxing authority, if any.

(8) The agreement may contain such additional terms, which are consistent with the provisions of this section, as seem desirable to the parties entering into the agreement: *Provided*, That the refusal of the landowner to agree to any additional terms shall not be grounds for the refusal of the Secretary or the State to enter into an agreement with the landowner under this section.

(c) Benefits to Private Landowners.—So long as the landowner is in compliance with the agreement, he shall, as to lands encompassed by the agreement, be entitled to the benefits set forth below:

(1) In addition to any requirement of applicable law, the appropriate Secretary is authorized to provide technical and other assistance with respect to fire control, resource and land use planning, the management of fish and wildlife, and the protection, maintenance, and enhancement of any special values of the land subject to the agreement, all with or without reimbursement as agreed upon by the parties.

(2) As to Native corporations and all other persons or groups that have received or will receive lands or interests therein pursuant to the Alaska Native Claims Settlement Act or sections 901 and 902 of this title, immunity from—

(A) adverse possession;

(B) real property taxes and assessments by the United States, the State, or any political subdivision of the State: *Provided*, That such immunity shall cease if the lands involved are leased or developed, as such terms are used in section 21(d) of the Alaska Native Claims Settlement Act.

(C) judgment in any action at law or

equity to recover sums owed or penalties incurred by any Native corporation or any officer, director, or stockholder of any such corporation. On or before January 31 of each year beginning the fourth year after the date of enactment of this Act, the Secretary shall publish in the Federal Register and in at least three newspapers of general circulation in the State the percentage of conveyed land entitlement which each Native corporation or group has elected to include in the Alaska Land Bank Program as of the end of the preceding year.

(3) If the State enacts laws of general applicability which are consistent with this section and which offer any or all of the benefits provided in subsection (c)(2) hereof, as to private landowners who enter into an agreement referred to in subsection (a) to which agreement the State is a party, such laws, unless and until repealed, shall supersede the relevant subparagraph of subsection (c)(2) and shall govern the grant of the benefit so provided: *Provided*, That the enactment of such State laws shall not be construed as repealing, modifying, or otherwise affecting the applicability of the immunity from Federal real property taxes and assessments provided in subsection (c)(2)(B) or the immunity from judgments in any Federal action at law or equity provided in subsections (c)(2)(C).

(4)(A) Except as provided in subsection (c)(2), nothing in this section shall be construed as affecting the civil or criminal jurisdiction of the State of Alaska.

(B) Privately owned lands included in the Alaska Land Bank Program shall be subject to condemnation for public purposes in accordance with applicable law.

(d) INTERIM GRANT OF BENEFITS.—Notwithstanding any other provision of this section, unless the landowner decides otherwise, the benefits specified in subsection (c)(2) shall apply to lands conveyed pursuant to the Alaska Native Claims Settlement Act, or sections 801 and 802 of this title for a period of three years from the date of conveyance the date of enactment of this Act, whichever is later.

(e) REVENUE-SHARING, FIRE PROTECTION, ETC.—The provisions of section 21(e) of the Alaska Native Claims Settlement Act shall apply to all lands which are subject to an agreement under this section so long as the parties to the agreement are in compliance therewith.

(f) EXISTING CONTRACTS.—Nothing in this section shall be construed as impairing, or otherwise affecting in any manner, any contract or other obligation which was entered into prior to the enactment of this Act or which (1) applies to any land which is subject to an agreement, and (2) was entered into before the agreement becomes effective.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 808. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "SEC. 15." and by adding at the end of such section the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by operation of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyances to all of the land to which it is entitled to receive under the appropriate section or subsection of this Act, for which the land was withdrawn or selected, no land in such a contingency area that has been withdrawn and selected, or selected, by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term 'contingency area' means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract.".

USE OF PROTRACTION DIAGRAMS

SEC. 809. With the agreement of the party to whom a patent is to be issued under this title, or the Alaska Native Claims Settlement Act, the Secretary, in his discretion, may base such patent on protraction diagrams in lieu of field surveys. Any person or corporation receiving a patent under this title or the Alaska Native Claims Settlement Act on the basis of a protraction diagram shall receive any gain or bear any loss of acreage due to errors, if any, in such portraction diagram.

STATUTE OF LIMITATIONS

SEC. 810. (a) Except for administrative determinations of navigability for purposes of submerged lands under the Submerged Lands Act, a decision of the Secretary under this title or the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within two years after the day the Secretary's decision becomes final or the date of enactment of this Act, whichever is later: *Provided*, That the party seeking such review shall first exhaust any administrative appeal rights.

(b) Decisions made by a Village Corporation to reconvey land under section 14(c) of the Alaska Native Claims Settlement Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year after the date of the filing of the map of boundaries as provided for in 43 C.F.R. 2650.5–4.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 811. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native corporations, pursuant to the Alaska Native Claims Settlement Act, as amended or this title. Nothing in this section shall be construed as affirming or denying the validity of any withdrawals by the Secretary under section 14(h)(3) of the Alaska Native Claims Settlement Act.

TECHNICAL AMENDMENT TO PUBLIC LAW 94–204

SEC. 812. Section 15(a) of the Act of January 2, 1976 (Public Law 94–204, 89 Stat. 1154–1155), is amended—

(1) by striking out the description beginning with "Township 36 south, range 52 west;" and all that follows through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S. M., Alaska, notwithstanding;" and inserting in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the north half of sections 25 through 28;

"Township 38, south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24, and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25, and 26;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24;

"Township 39 south, range 53 west, sections 33 through 36, and the south half of section 26;

"Township 40 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 40 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 40 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17, and 18;

"Township 41 south range 53 west, sections 1, 4, 5, 8, 9, 11, 12, and 16;

"Township 41 south, range 54 west, section 6, S.M., Alaska;"; and

(2) by striking out "The" in the undesignated paragraph immediately following such description and inserting in lieu thereof "Notwithstanding the ".

TITLE IX—TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS

RIGHTS-OF-WAY IN CONSERVATION SYSTEM UNITS

SEC. 901. (a) Authorizations: applicable law.—(1) Notwithstanding any other provision of law, rights-of-way (including easements, leases, licenses, or permits) to occupy, use, or traverse public land within conservation systems units in Alaska and the National Petroleum Reserve—Alaska for any of the transportation and utility systems set forth in subsection (b) may be authorized under this title. Application for any such rights-of-way shall be made only pursuant to this title.

(2) Following authorization of a right-of-way under this title, the provisions of law generally applicable to units of the appropriate conservation system or the National Petroleum Reserve—Alaska, or other applicable law, shall govern the issuance and administration of such right-of-way except with respect to those aspects of the issuance and administration of rights-of-way which are governed by this title. The provisions of title V of the Federal Land Policy and Management Act of 1976 shall apply to the issuance and administration of any such rights-of-way when no provision applicable to the same aspect of the issuance of administration of such rights-of-way is contained in this title or other applicable law (including any law generally applicable to units of the appropriate conservation system).

(b) Systems subject to title.—Transportation and utility systems subject to the provisions of this title are—

(1) canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water;

(2) pipelines and other systems for the transportation of other liquids and gases, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom;

With respect to any aspect of the issuance or administration of a right-of-way which is provided for in a provision of this title, such provision of this title shall apply in lieu of other provisions of law

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials;

(4) systems for transmission and distribution of electric energy;

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) improved rights-of-way for snow machines, air cushion vehicles, and other all-terrain vehicles; and

(7) roads, highways, railroads, tunnels,

tramways, and other systems of transportation.

PROCEDURES FOR CONSIDERATION OF RIGHTS-OF-WAY APPLICATIONS

Sec. 902. (a) Consolidated applications.—Within one year of the date of enactment of this Act, the Secretaries of the Interior, Agriculture, and Transportation in consultation with the appropriate Federal agencies, shall jointly prepare and publish a consolidated application form for a right-of-way to occupy, use, or traverse any conservation system unit in Alaska, or the National Petroleum Reserve—Alaska for each transportation or utility system set forth in section 901(b). Each such application form shall be designed to elicit all information necessary to meet fully the requirements of this title and all other applicable provisions of law.

(b) Filing.—Any applicant for a right-of-way for any transportation or utility system set forth in section 901(b) to occupy, use, or traverse a conservation system unit in Alaska or the National Petroleum Reserve—Alaska (hereinafter referred to as a "right-of-way subject to this title") shall file the completed application form prepared pursuant to subsection (a) with the appropriate Federal agency or agencies, including regulatory agencies, as provided in applicable law. In the case of any application for a right-of-way described in paragraphs (2), (3), or (7) of section 901(b) and any other right-of-way with report to which the Secretary of Transportation has program responsibility, the applicant shall also file an application with the Department of Transportation. All applications pursuant to this subsection shall be filed with the appropriate agency or agencies on the same day.

(c) Agency notice.—Within sixty days of the receipt of an application filed pursuant to subsection (b), each agency shall inform the applicant in writing that—

(1) the application appears on its face to contain the information required by this title, other applicable law, and regulations; or

(2) the application does not contain such information. In the latter instance, the agency shall specify what additional information the applicant must provide. This subsection shall not preclude an agency from requiring the submission of such additional information as becomes necessary for considering an application filed pursuant to subsection (b).

(d) Joint preparation of EIS. The Secretary of the Interior (or, where the proposed right-of-way would occupy, use, or traverse a unit of the National Wilderness Preservation System within a National Forest (hereinafter referred to as "national forest wilderness"), the Secretary of Agriculture) and the Secretary of Transportation (where the application is required to be filed with the Secretary of Transportation), together with the head of any regulatory agency which, in the absence of this title, would be designated the lead agency for the purposes of section 102(2)(C) of the National Environmental Policy Act of 1969, shall jointly prepare any environmental impact statement required by that section. Such statement shall be completed within one year, and the draft thereof within nine months of the receipt of the original application (or such longer periods as the Secretaries and any such agency head may establish for good cause shown in writing).

(e) Other views. During both the nine-month period and succeeding three-month period provided in subsection (d), the Secretaries and any such agency head shall solicit and consider the views of other Federal departments and agencies, the Alaska Land Use Council, the State of Alaska, affected units of local government, and affected corporations formed pursuant to the Alaska Native Claims Settlement Act, and, after public notice, shall receive and consider statements and recommendations submitted by interested individuals and organizations. Joint public hearings in the District of Columbia and an appropriate location in Alaska shall be held by the Secretaries and any such agency head on each draft joint environmental impact statement and the views expressed therein shall be considered by the Secretaries and any such agency head prior to publication of the final joint environmental impact statement.

(f) Decision of Secretaries. (1) Within four months of the publication of the final joint environmental impact statement the Secretaries, and any regulatory agency which has a statutory responsibility to make or participate in a decision to approve or deny the application, shall render such decision. Such decision shall be made in accordance with the criteria and procedures specified in this Act and other applicable law.

(2) The Secretaries and any agency head participating in the preparation of the joint environmental impact statement shall each in such preparation consider the items listed in paragraph (3) and such statement shall include discussion of such items. The Secretaries and any agency head making, or participating in, a decision to approve or deny the application shall each in reaching such decision consider and make detailed findings, supported by substantial evidence in the administrative record taken as a whole, on the items listed in paragraph (3).

(3) The items referred to in paragraph (2) are as follows:

(A) the presence of such proposed right-of-way in the statewide transportation study prepared pursuant to section 904;

(B) the need for, and economic feasibility of, the transportation or utility system which is the subject of the application;

(C) alternative routes and modes of access, including a determination with respect to whether there is any economically feasible and prudent alternative to the issuing of a right-of-way through a conservation system unit, and, if not, whether there are alternative routes or modes which would result in fewer or less severe adverse impacts upon the conservation system unit;

(D) the feasibility and impacts of including different transportation and/or utility systems in the same right-of-way;

(E) short- and long-term adverse environmental impacts, including impacts on wildlife and fish and their habitat, particularly wildlife and fish and habitat of importance for subsistence hunting and fishing;

(F) short- and long-term adverse social and economic impacts, particularly impacts on rural, traditional lifestyles;

(G) any impacts which would adversely affect or prohibit the achievement of the purposes for which the conservation system unit was established;

(H) measures which should be instituted to avoid or minimize the impacts identified in clauses (D) through (G); and

(I) the long-term public values which may be damaged or destroyed by issuance of the right-of-way versus the long- and short-term public benefits which may accrue from the existence of such right-of-way.

(g) ISSUANCE. (1) If the application for a right-of-way pursuant to this title to occupancy, use, or traverse any unit of the National Wildlife Refuge System, or National Wild and Scenic Rivers System, or the National Petroleum Reserve—Alaska or any National Recreation Area in Alaska is approved by the Secretaries of the Interior and Transportation (where the application is required to be filed with the Secretary of Transportation) and the appropriate regulatory agency, if any, the right-of-way shall be issued in accordance with applicable law and section 903. The preceeding sentence shall not apply to lands which are subject to subsection (h). No such application shall be approved unless the Secretary of the Interior, determines that such right-of-way would be compatible with the purposes for which the affected conservation system unit or the National Petroleum Reserve—Alaska was established and the Secretary of the Interior, or the Secretary of Transportation (where the application is required to be submitted to the Secretary of Transportation) determines there is no economically feasible and prudent alternative route and mode of access.

(2) If the application for such right-of-way is denied by the Secretary of Transportation (where the application is required to be submitted to the Secretary of Transportation), the appropriate regulatory agency or the Secretary of the Interior, the President of the United States shall, within three months of the decision to deny the application, decide in writing, whether the application should be approved or denied. In making his decision, the President shall consider any joint environmental impact statement prepared pursuant to subseciton (d), comments of the public and Federal agencies received during the preparation of such statement, and the findings and recommendations of the Secretaries and the appropriate regulatory agency, if any, who rendered a decision on the application. If the President decides the application should be approved, the right-of-way shall be issued in accordance with applicable law and section 903. If the President decides the application should be denied, the applicant for the right-of-way shall be deemed to have exhausted his administrative remedies and may file suit in any appropriate Federal court to challenge such decision.

(h) Presidential consideration. (1) After the Secretary of the Interior, or the Secretary of Agriculture where national forest wilderness is involved, the Secretary of Transportation (here the application is required to be submitted to the Secretary of Transportation), and the appropriate regulatory agency, if any, have rendered a decision to approve an application for a right-of-way pursuant to this title to occupy, use, or traverse any unit of the National Park System (except a National Recreation Area) or the National Wilderness Preservation System, such decisions shall be submitted to the President. The President shall consider such decisions and the findings and recommendations related thereto, any joint environmental impact statement prepared pursuant to subsection (d), and the comments of the public and Federal agencies submitted during the preparation of such statement, and determine whether such application should be approved or denied. The President shall make such determination and submit to the Congress his recommendation concerning whether the application should be approved or denied within three months of receipt of the decisions of the Secretaries and the appropriate regulatory agency, if any. Together with the recommendation, the President shall submit to the Congress—

(A) the application which is the subject of his recommendation;

(B) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(C) the joint environmental impact statement;

(D) a statement of the conditions and stipulations which would govern the use of the right-of-way if approved by the Congress.

(2) Any recommendation of the President submitted to the Congress pursuant to this subsection shall be considered received by both Houses for purposes of this subsection on the first day on which both are in session occurring after such recommendation is submitted.

(3) Any application transmitted to the Congress pursuant to this subsection shall be

deemed approved only upon enactment of a joint resolution by the Senate and House of Representatives approving such application within the first period of one hundred and twenty calendar days of continuous session of the Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such application.

(4) For purposes of this subsection—

(A) continuity of session of the Congress is broken only by an adjournment sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

(5) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of each House of the Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by paragraph (6) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(6) For purposes of this subsection, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the application for a right-of-way for under this title across submitted by the President to the Congress on , 19 ."; the first blank space therein to be filled in with the appropriate transportation or utility system, the second blank space therein to be filled in with the name of the appropriate conservation system unit in Alaska , and the third blank space therein to be filled with the date on which the President submits the application to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 with respect to the application.

(1) Except as otherwise provided in this section, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(8) In any case in which an application for a right-of-way on public lands within a conservation system unit in Alaska has been approved by the Congress under this subsection, the appropriate Secretary shall, immediately following the enactment of the joint resolution of congressional approval, issue the right-of-way in accordance with applicable law and section 903.

(i) Systems which do not require EIS.—If an environmental impact statement for a right-of-way pursuant to this title would not be required under the National Environmental Policy Act of 1969, the appropriate Secretary may issue the right-of-way pursuant to existing law and section 903 if he determines, after notice and opportunity for comment, that such right-of-way would be compatible with the purposes for which the affected conservation system unit was established and there is no economically feasible and prudent alternative route and mode of access.

RIGHTS-OF-WAY TERMS AND CONDITIONS

SEC. 903. (a) Terms and conditions.—The Secretary, or the Secretary of Agriculture where national forest wilderness is involved, shall include in any right-of-way issued pursuant to an application under this title, terms and conditions which shall include, but not be limited to (1) requirements to insure that the right-of-way is used in a manner compatible with the purposes for which the affected conservation system unit was established; (2) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (3) requirements to insure that activities in connection with the right-of-way will not violate applicable air and water quality standards and related facility siting standards established by or pursunt to law; (4) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; (5) requirements to protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes; and (6) requirements to employ measures to avoid or minimize and other environmental, social, or economic impacts identified pursuant to section 903(f)(2).

(b) WILD AND SCENIC RIVERS SYSTEM.—Any right-of-way issued pursuant to this title which occupies, uses, or traverses any area within the boundaries of a unit of the National Wild and Scenic Rivers System shall be subject to such conditions as may be necessary to assure that the stream flow of, and transportation on, such river are not interfered with or impeded, and that the transportation or utility system is located and constructed in an environmentally sound manner.

(c) PIPELINES.—In the case of a pipeline described in section 28(a) of the Mineral Leasing Act of 1920, a right-of-way issued pursuant to this title shall be issued in the same manner as a right-of-way is granted under section 28, and the provisions of subsection (c) through (j), (l) through (q), and (u) through (y) of such section 28 shall apply to rights-of-way issued pursuant to this title.

RIGHTS-OF-WAY

SEC. 904. Except for rights-of-way subject to section 902(i), no right-of-way shall be issued pursuant to this title after two years from the date of enactment of this Act unless the need for such right-of-way has been identified in a study of the regional requirements for rights-of-way for transportation and utility systems which—

(1) has been conducted by the State in consultation with the Secretaries of Transportation, the Interior, and Agriculture and the Alaska Land Use Council;

(2) is updated in a similar manner no less than biennially; and

(3) includes the considerations set forth in section 902(f)(1)(B) through (I).

SPECIAL ACCESS RIGHTS

SEC. 905. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on conservation system units, National Recreation Areas, National Conservation Areas, and the National Petroleum Preserve—Alaska, for traditional activities, where such activities are permitted by this Act or other law, and for travel to and from villages and homesites the use of snowmachines (during periods of adequate snow cover, or frozen river conditions in the case of wild and scenic rivers); motorboats; airplanes which may land on snow, ice, or water, or on designated sites, and nonmotorized surface transportation methods. Such use shall be subject to reasonable regulations by the Secretary to protect the values of the conservation system units, or National Conservation Areas and shall not be prohibited unless, after notice and hearing in the vicinity of the affected unit or area, the Secretary finds that such use would be detrimental to the resource values of the unit. Nothing in this section shall be construed as prohibiting the use of other methods of transportation for such travel and activities on conservation system lands where such use is permitted by this Act or other law.

TEMPORARY ACCESS

SEC. 906. (a) IN GENERAL.—Notwithstanding any other provision of this Act or other law the Secretary shall authorize and permit temporary access by the State or a private landowner to or across any conservation system unit, National Recreation Area, National Conservation Area, the National Petroleum Reserve—Alaska or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof in order to permit the State or private landowner access to its land for purposes of survey, geophysical, exploratory, or other temporary uses thereof whenever he determines such access will not result in permanent harm to the resources of such unit.

(b) STIPULATIONS AND CONDITIONS.—In providing temporary access pursuant to subsection (a), the Secretary may include such stipulations and conditions he deems necessary to insure that the private use of public lands is accomplished in a manner that is not inconsistent with the purposes for which the public lands are reserved and which insures that no permanent harm will result to the resources of the unit.

ACCESS TO INHOLDINGS

SEC. 907. Notwithstanding any other provision of this Act or other law in any case in which State owned or privately owned land or a valid mining claim or other valid occupancy is within one or more conservation system units, National Recreation Areas, National Conservation Areas, the National Petroleum Reserve in Alaska, or those public lands designated as wilderness study or managed to maintain the wilderness character or potential thereof, the State or private owner or occupier shall be given by the Secretary such rights as may be necessary to assure adequate access for economic and other purposes to the concerned land by such State or private owner or occupier and their successors in interest. Such rights shall be subject to reasonable regulations issued by the Secretary to protect the values of such lands.

NORTH SLOPE HAUL ROAD

SEC. 908. (a) IN GENERAL.—So long as that section of the North Slope Haul Road referred to in subsection (c) is closed to public use, but not including regulated local traffic north of the Yukon River, regulated industrial traffic and regulated high occupancy buses, such regulation to occur under State law, except that the Secretary, after consultation with the Secretary of Transportation, and the Governor of Alaska shall agree on the number of vehicles and seasonality of use, such section shall be free from any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulations thereunder. The State of Alaska shall have the authority to limit access, impose restrictions and impose tolls, notwithstanding any provision of Federal law.

(b) RELEASE.—The removal of restrictions shall not be conditioned upon repayment by the State of Alaska to the Treasurer of the United States of any Federal-aid highway funds paid on account of the section of highway described in subsection (c), and the obligation of the State of Alaska to repay these amounts is hereby released so long as the road remains closed as set forth in subsection (a).

(c) APPLICATION OF SECTION.—The provisions of this section shall apply to that section of the North Slope Haul Road, which extends from the southern terminus of the Yukon River Bridge to the northern terminus of the Road at Prudhoe Bay.

VALID EXISTING RIGHTS

SEC. 909. Nothing in this title shall be construed to adversely affect any valid existing right of access.

TITLE X—COORDINATION

ALASKA LAND USE COUNCIL

SEC. 1001. (a) ESTABLISHMENT.—There is hereby established the Alaska Land Use Council (hereinafter in this title referred to as the "Council").

(b) CO-CHAIRMEN.—The Council shall have Co-chairmen. The Federal Co-chairman shall be appointed by the President of the United States with the advice and consent of the Senate. The State Co-chairman shall be the Governor of Alaska.

(c) MEMBERS.—In addition to the Co-chairmen, the Council shall consist of the following members:

(1) the head of the Alaska offices of each of the following Federal agencies: National Park Service, United States Fish and Wildlife Service, United States Forest Service, Bureau of Land Management, Heritage Conservation and Recreation Service, National Oceanic and Atmospheric Administration, and Department of Transportation; and

(2) the Commissioners of the Alaska Departments of Natural Resources, Fish and Game, Environmental Conservation, Transportation, and Community and Regional Affairs.

Any vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(d) STATE DECISION NOT TO PARTICIPATE.—If the State elects not to participate on the Council or elects to end its participation prior to termination of the Council, the Council shall be composed of the Federal Co-chairman and the agencies referred to in subsection (c)(1). The Council, so composed, shall carry out the administrative functions required by this title and shall make recommendations to Federal officials with respect to the matters referred to in subsections (i) and (j). In addition, the Council may make recommendations from time to time to State officials and private landowners concerning such matters.

(e) COMPENSATION AND EXPENSES.—(1) The Federal Co-chairman shall be compensated at a rate to be determined by the President but not in excess of that provided for level IV of the Executive Schedule contained in title V, United States Code.

(2) The other members of the Council who are Federal employees shall receive no additional compensation for service on the Council.

(3) While away from their homes or regular places of business in the performance of services for the Council, members of the Council who are Federal employees shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(4) The State Co-chairman and other members of the Council referred to in subsection (c)(2) shall be compensated in accordance with applicable State law.

(f) ADMINISTRATIVE AUTHORITY.—(1) The Co-chairmen, acting jointly, shall have the authority to create and abolish employments and positions, including temporary and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension, and retirement rights of Council employees; and to procure needed office space, supplies, and equipment.

(2) The office of the Council shall be located in the State of Alaska.

(3) Except as provided in subsection (d), within any one fiscal year, the Federal Government shall pay only 50 per centum of the costs and other expenses other than salaries, benefits, et cetera of members, incurred by the Council in carrying out its duties under this Act.

(4) The Council is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement. Each department and agency of the Federal Government is authorized and directed to cooperate fully in making its services, equipment, personnel, and facilities available to the Council. Personnel detailed to the Council in accordance with the provisions of this subsection shall be under the direction of the Co-chairmen during any period such staff is so detailed.

(5) The Council is authorized to accept donations, gifts, and other contributions and to utilize such donations, gifts, and contributions in carrying out its functions under this Act.

(6) The Council shall keep and maintain ccmplete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(g) MEETINGS; AUTHORITIES; REPORTS.—(1) The Council shall meet at the call of the Co-Chairmen, but not less than four times each year.

(2) The Council may, for the purpose of carrying out the provisions of this section, hold such hearings, take such testimony, receive such evidence and print or otherwise reproduce and distribute reports concerning so much of its proceedings as the Council deems advisable.

(3) No later than February 1 of each calendar year following the calendar year in which the Council is established, the Co-chairmen shall submit to the President, the Congress, the Governor of Alaska, and the Alaska Legislature, in writing, a report on the activities of the Council during the previous year, together with their recommendations, if any, for legislative or other action in furtherance of the purposes of this section.

(h) RULES.—The Council shall adopt such internal rules of procedure as it deems necessary. All Council meetings shall be open to the public, and at least fifteen days prior to the date when any meeting of the Council is to take place the Co-chairmen shall publish public notice of such meeting in the Federal Register and in newspapers of general circulation in various areas throughout Alaska.

FUNCTIONS OF THE COUNCIL

SEC. 1002. (a) STUDIES; PLANNING.—The Council shall conduct studies and advise the Secretary, the Secretary of Agriculture, other Federal agencies, the State, local governments, and Native Corporations with respect to ongoing, planned, and proposed land and resources uses in Alaska, including transportation planning, land use designation, fish and wildlife management, tourism, agricultural development, coastal zone management, preservation of cultural and historical resources, and such other matters as may be submitted for advice by the members.

(b) RECOMMENDATIONS.—It shall be the function of the Council—

(1) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to improve coordination and consultation between said governments in wildlife management, transportation planning, wilderness review, and other governmental activities which appear to require regional or statewide coordination;

(2) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to ways to insure that economic development is orderly and planned and is compatible with State and national economic, social, and environmental objectives;

(3) to make recommendations to appropriate officials of the Government of the United States and the State of Alaska with respect to those changes in laws, policies, and programs relating to publicly owned lands and resources which the Council deems necessary;

(4) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the inventory, planning, classification, management, and use of Federal and State lands, respectively, and to provide such assistance to Native corporations upon their request;

(5) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to needed modifications in existing withdrawals of Federal and State lands; and

(6) to make recommendations to appropriate officials of the governments of the United States and the State of Alaska with respect to the programs and budgets of Federal and State agencies responsible for the administration of Federal and State lands; and

(7) to make recommendations to appropriate officials of the government of the United States, the State of Alaska, and Native Corporations for land exchanges between or among them.

(c) COOPERATIVE PLANNING-MANAGEMENT.—(1) The Council shall recommend cooperative planning and management zones, consisting of areas of the State in which the management of lands or resources by one member materially affects the management of lands or resources of another member or members. Federal members of the Council are authorized and encouraged to enter into cooperative agreements with Federal agencies, with State and local agencies, and with Native Corporations providing for mutual consultation, review, and coordination of resource management plans and programs within such zones.

(2) With respect to lands, waters, and interests therein which are subject to a cooperative agreement in accordance with this subsection, the Secretary, in addition to any requirement of applicable law, may provide technical and other assistance to the landowner with respect to fire control, trespass control, law enforcement, resource use, and planning. Such assistance may be provided without reimbursement if the Secretary determines that to do so would further the purposes of the cooperative agreement and would be in the public interest.

(d) NONACCEPTANCE OF COUNCIL RECOMMENDATIONS.—If any Federal or State agency does not accept a recommendation made by the Council pursuant to subsections (i) or (j), such agency, within thirty days of receipt of the recommendation, shall inform the Council, in writing, of its reason for such action.

TERMINATION; ADVISORY COMMITTEE

SEC. 1003. (a) FULL REPORT OF COUNCIL.—Unless extended by the Congress, the Council shall terminate ten years after the date of enactment of this Act. No later than one year prior to its termination date, the Co-chairmen shall submit in writing to the Congress a report on the accomplishments of the Council together with their recommendations as to whether the Council should be extended or any other recommendations for legislation or other action which they determine should be taken following termination of the Council to continue carrying out the purposes for which the Council was established.

(b) FEDERAL PARTICIPATION IN JOINT COMMISSION.—Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in section 17(a) of the Alaska Native Claims Settlement Act, shall cease upon the expiration of the ninety-day period following the date

of enactment of this Act or the ninety-day period following the date of appointment of the Federal Co-chairman of the Council, whichever is later; Provided, That in any event, the Commission shall terminate on June 30, 1979, as provided in section 17(a)(10) of the Alaska Native Claims Settlement Act.

(c) CITIZENS ADVISORY COMMITTEE.—The Council shall establish a committee of land-use advisors, made up of representatives of commercial and industrial land users in Alaska, recreational land users, wilderness users, environmental groups, Alaska Natives, local governments, and other citizens. The Co-chairman shall appoint the members of the Committee and, in so doing, shall to the maximum extent practicable provide a balanced mixture of national, state, and local perspective and expertise on land and resource use issues.

FEDERAL COORDINATION COMMITTEE

SEC. 1004. There is hereby established a Federal Coordination Committee composed of the Secretaries (or their designees) of Agriculture, Energy, the Interior, and Transportation; the Administrators of the Environmental Protection Agency, and the National Oceanic and Atmospheric Administration; and the Federal and State Cochairmen of the Council. Such Committee shall meet at least once every four months in order to coordinate those programs and functions of their respective agencies which could affect the administration of lands and resources in Alaska. The Federal Cochairman shall be the Chairman of the Committee. He shall be responsible for formulating an agenda for each meeting, after consultation with the other agency heads referred to herein, for providing any necessary staff support, and for preparing a brief summary of the disposition of matters discussed at each meeting. Such summary shall be published in the Federal Register.

BRISTOL BAY COOPERATIVE REGION

SEC. 1005. (a) DEFINITIONS.—For purposes of this section—

(1) The term "Governor" means the Governor of the State;

(2) The term "legislature" means the Alaska State Legislature; and

(3) The term "region" means the land (other than any land within the National Park System) within the Bristol Bay Cooperative Region as generally depicted on the map entitled "Bristol Bay-Alaska Peninsula", dated October 1978.

(b) PURPOSE.—The purpose of this section is to provide for the preparation and implementation of a comprehensive and systematic cooperative management plan (hereinafter in this section referred to as the "plan"), agreed to by the United States and the State—

(1) to conserve the fish and wildlife and other significant natural and cultural resources within the region;

(2) to ensure that any use within the region is carried out in a manner compatible with the conserving of such resources;

(3) to provide for such exchanges of land among the Federal Government, the State, and other public or private owners as will facilitate the carrying out of paragraphs (1) and (2);

(4) to identify land within the region which is appropriate for selection by the State under section 6 of the Alaska Statehood Act; and

(5) to identify any further lands within the region which may be appropriate for congressional designation as national conservation system units.

(c) FEDERAL-STATE COOPERATION IN PREPARATION OF PLANS.—If within three months after the date of enactment of this Act, the Governor notifies the Secretary that the State wishes to participate in the preparation of the plan, and that the Governor will, to the extent of his authority, manage State lands within the region to conserve fish and wildlife during such preparation, the Secretary and the Governor shall undertake to prepare the plan which shall contain such provisions as are necessary and appropriate to achieve the purposes set forth in subsection (b), including but not limited to—

(1) the identification of the significant resources of the region, including, but not limited to, fish and wildlife, mineral, geological, archeological, cultural, ecological, paleontological, recreational, scenic, river, wilderness, and historical resources;

(2) the identification of present and potential uses of land within the region;

(3) a determination with respect to which such uses are, or may be, compatible with the conserving of the fish and wildlife of the region;

(4) the designation of areas within the region according to their significant resources and the present or potential uses within each such area which are, or may be, compatible with the conserving of fish and wildlife;

(5) the identification of land (other than any land within the National Park System) which should be exchanged in order to facilitate the conserving of fish and wildlife and the management and development of compatible uses within the region;

(6) the identification of that land within the region which will be selected by the State under section 6 of the Alaska Statehood Act;

(7) identification of lands within the region which may be appropriate for congressional designation as national conservation systems units; and

(8) the specification of the activities that may be permitted in each area identified under paragraph (4) and the manner in which these activities shall be regulated by the Secretary or the State, as appropriate.

The plan shall also—

(A) specify those elements of the plan, and its implementation, which the Secretary and the Governor—

(i) may modify without prior approval of Congress and the State; and

(ii) may not modify without such prior approval; and

(B) include a description of the procedures which will be used to make modifications to which paragraph (A)(i) applies.

(d) TAKING EFFECT OF PLAN.—If within three years after the date of the enactment of this Act, a plan has been prepared under subsection (c) which is agreed to by the Secretary and the Governor, the plan shall take effect with respect to the United States and the State, if, and only if—

(1) copies of the plan are submitted to both Houses of Congress by the Secretary, and to both houses of the legislature by the Governor, on February 1 of the year after the year in which the plan is agreed to by the Secretary and the Governor, except that the copies shall be delivered to the Clerk of the United States House of Representatives if the House is not in session and to the Secretary of the United States Senate if the Senate is not in session.

(2) Congress approves the plan under the procedures set forth in subsection (e); and

(3) the State takes appropriate action, before the close of the period set forth in subsection (f), to give the plan force and effect under State law.

(e) EXPEDITED CONGRESSIONAL APPROVAL PROCEDURES.—(1) The plan prepared under subsection (c) may not be considered to be approved by the United States unless, before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are submitted to Congress under subsection (d)(1), Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval.

(2) For purposes of this subsection and subsection (g), the term "resolution of approval" means only a joint resolution, the matter after the resolving clause of which is as follows: "That Congress approves the taking effect of the Bristol Bay Cooperative Region plan submitted to Congress by the Secretary of the Interior on ,", the blank space therein being filled with the day and year.

(3) A resolution of approval, once introduced, shall be referred to one or more committees by the Speaker of fthe House of Representatives or the President of the Senate, as the case may be.

(4) Except as otherwise provided in this section, the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(5) This subsection is enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions of approval; and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutioanal right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(f) TIME PERIOD FOR ACTION BY STATE.—For purposes of subsection (d), the State must give force and effect to the plan under State law before the close of the one hundred and twentieth day after the day on which copies of the plan are submitted to the legislature under paragraph (1) of such subsection.

(g) ACTION BY SECRETARY IF STATE DOES NOT PARTICIPATE IN PLAN.—If—

(1) the Secretary does not receive notification under subsection (c) that the State will participate in the preparation of the plan; or

(2) after the State agrees to so participate, the Governor submits to the Secretary written notification that the State is terminating its participation;

the Secretary shall prepare a plan containing the provisions referred to in subsection (c)(1) through (7) (and containing a specification of those elements in the plan which the Secretary may modify without the prior approval of Congress), and submit copies of such plan to both Houses of Congress, as provided in subsection (d)(1), within three years after the date of the enactment of this Act. Such plan shall take effect with respect to the United States if before the close of the one hundred and twenty-day period beginning on the date on which copies thereof are so submitted to Congress, the Congress adopts, by an affirmative vote of a majority of those present and voting in each House, a resolution of approval. Subsection (e)(2) through (5) applies with respect to a plan prepared under this subsection.

(h) TRANSITIONAL PROVISIONS.—On the date of the enactment of this Act, all Federal land within the region, other than land within conservation system units, are hereby withdrawn from State selection and from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and shall be under the jurisdiction of the United States Fish and Wildlife Service and shall be administered in the same manner as if such land were included within a refuge established under section 304 until—

(1) the first day on which a plan is in effect with respect to both the United States and the State (in the case of a plan prepared under subsection (c)) or with respect to the United States (in the case of a plan prepared under subsection (g)) after which such land shall be administered as provided for in the plan; or

(2) the day—

(A) after the last day of the one hundred and twenty-day period provided for in subsection (e)(1) or subsection (g), as the case may be, if Congress does not approve the plan under the procedures set forth in subsection (e); or

(B) after the last day of the one hundred and twenty-day period provided for in subsection (f); if the State does not give force and effect to a plan under State law within such period; after which such land shall continue to be administered in the same manner as if it were included within a refuge established under section 304, except that any such land, not previously withdrawn from State selection under the Alaska Native Claims Settlement Act, may be selected by the State pursuant to section 6 of the Alaska Statehood Act.

TITLE XI—ADMINISTRATIVE PROVISIONS

LAND ACQUISITION AND EXCHANGES

SEC. 1101. (a) GENERAL AUTHORITY.—Except as otherwise provided in this Act, the Secretary is authorized, in order to carry out the purposes of this Act, to acquire by purchase, donation, exchange, or otherwise any lands within the boundaries of any conservation system unit. Any such land owned by the State, a political subdivision of the State, or a Native Corporation which has Natives as a majority of its stockholders may only be acquired for such purposes with the consent of the State, such political subdivision of the State, or such Native Corporation, as the case may be.

(b) IMPROVED PROPERTY.—No improved property shall be acquired under subsection (a) without the consent of the owner unless the Secretary first determines that such acquisition is necessary to the fulfillment of the purposes of this Act or to the fulfillment of the purposes for which the concerned conservation system unit was established or expanded.

(c) RETAINED RIGHTS.—The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(d) DEFINITION.—For the purposes of this section, the term "improved property" means—

(1) a detached single family dwelling, the construction of which was begun before January 1, 1978 (hereinafter in this section referred to as the "dwelling"), together with the land on which the dwelling is situated to the extent that such land—

(A) is in the same ownership as the dwelling or is Federal land on which entry was legal and proper, and

(B) is designated by the Secretary to be necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use,

together with any structures necessary to the dwelling which are situated on the land so designated, or

(2) property developed for noncommercial recreational uses, together with any structures accessory thereto which were so used on or before January 1, 1978, to the extent that entry onto such property was legal and proper.

In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed before such date.

(e) CONSIDERATION OF HARDSHIP.—The Secretary shall give prompt and careful consideration to any offer made by the owner of any property within a conservation system unit to sell such property, if such owner notifies the Secretary that the continued ownership is causing, or would result in, undue hardship.

(f) EXCHANGE AUTHORITY.—Notwithstanding any other provision of law, in acquiring lands for the purposes of this Act, the Secretary is authorized to exchange lands (including lands within conservation system units and within the National Forest System) or interests therein (including Native selection rights) with the corporations organized by the Native groups, Village Corporations, Regional Corporations, and the corporations organized by Natives residing in Juneau, Sitka, Kodiak, and Kenai, all as defined in the Alaska Native Claims Settlement Act, and other municipalities and corporations or individuals, the State (acting free of the restrictions of section 6(i) of the Alaska Statehood Act), or any Federal agency. Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchanged, except that if the parties agree to an exchange and the Secretary determines it is in the public interest, such exchanges may be made for other than equal value.

(g) ACQUIRED LANDS PART OF UNIT.—All lands, water, and interests therein acquired by the Secretary and located within the boundaries of any conservation system unit shall become part of such unit and subject to the laws and regulations applicable to such unit.

(h) SCENIC EASEMENTS.—The Secretary shall reserve all scenic easements which he determines to be necessary to protect the scenic and natural values of (1) Sukakpak Mountain and the other public lands within the area heretofore reserved for utility transmission systems, or (2) the public lands within the area described in section 1205(a). Scenic easements reserved or acquired under this subsection shall not unduly interfere with the construction, operation, or maintenance of any authorized utility transportation system or other authorized facility or development. In acquiring scenic easements pursuant to this subsection, the Secretary may utilize his authority under subsection (f) of this section or section 22(f) of the Alaska Native Claims Settlement Act.

ARCHEOLOGICAL AND PALEONTOLOGICAL SITES

SEC. 1102. Notwithstanding any acreage or boundary limitations contained in this Act with respect to the Cape Krusenstern National Preserve, the Bering Land Bridge National Preserve, the Yukon-Charley Rivers National Preserve, and the Kobuk Valley National Monument and Preserve, the Secretary may designate Federal lands or he may acquire by purchase with the consent of the owner, donation, or exchange any significant archeological or paleontological site in Alaska located outside of the boundaries of such areas and containing resources which are closely associated with any such area. If any such site is so designated or acquired, it shall be included in and managed as part of such area. Not more than seven thousand five hundred acres of land may be designated or acquired under this section for inclusion in any single area. Before designation or acquisition of any property in excess of one hundred acres under the provisions of this section, the Secretary shall—

(1) submit notice of such proposed designation or acquisition to the appropriate committees of the Congress; and

(2) publish notice of such proposed designation or acquisition in the Federal Register.

COOPERATIVE INFORMATION CENTERS

SEC. 1103. (a) ALASKA HIGHWAY CENTER.—The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of Federal or other land at a site adjacent to the Alaska Highway, an information and education center for visitors to Alaska. The Secretary shall seek participation in the program planning, construction, and operation of the center from appropriate agencies of the State and representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so.

(b) ESTABLISHMENT OF OTHER CENTERS.—The Secretary of the Interior is authorized to establish in both Anchorage and Fairbanks, Alaska, an information and education center for visitors to Alaska, and the Secretary of Agriculture is authorized to establish in Juneau, Alaska, Ketchikan, Alaska, or Sitka, Alaska, another such information and education center. Each Secretary shall seek participation from the State, units of local government, and representatives of Native groups in Alaska, and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alaska Highway Center. Before establishing any such center in any such city, the concerned Secretary shall notify the appropriate committees of the Congress of his intention to do so. Each Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in the concerned city, as may be necessary to carry out the purposes of this subsection, except that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) ADMINISTRATION.—Any centers and facilities established under this section shall be administered under applicable laws and in accordance with such special regulations as the Secretary may promulgate.

ADMINISTRATIVE SITES AND VISITOR FACILITIES

SEC. 1104. (a) ESTABLISHMENT.—In conformity with the conservation and manage-

ment plans prepared for each unit and the purposes of assuring the preservation, protection, and proper management of any conservation system unit, the Secretary may establish sites and visitor facilities—

(1) within the unit, if compatible with the purposes for which the unit is established, expanded, or designated by this Act, and the other provisions of this Act, or

(2) outside the boundaries of, and in the vicinity of, the unit.

To the extent practicable and desirable, the Secretary shall attempt to locate such sites and facilities on Native lands in the vicinity of the unit.

(b) AUTHORITIES OF SECRETARY.—For the purpose of establishing administrative sites and visitor facilities under subsection (a)—

(1) the Secretary and the head of the Federal agency having primary authority over the administration of any Federal land which the Secretary determines is suitable for use in carrying out such purpose may enter into agreements permitting the Secretary to use such land for such purposes;

(2) the Secretary, under such terms and conditions as he determines are reasonable, may lease or acquire by purchase, donation, exchange, or any other method (except condemnation) real property (other than Federal land) which the Secretary determines is suitable for carrying out such purposes; and

(3) the Secretary may construct, operate, and maintain such permanent and temporary buildings and facilities as he deems appropriate on land which is within, or in the vicinity of, any conservation system unit and with respect to which the Secretary has acquired authority under this subsection to use the property for the purpose of establishing an administrative site or visitor facility under subsection (a), except that the Secretary may not begin construction of buildings and facilities on land not owned by the United States until the owner of such land has entered into an agreement with the Secretary, the terms of which assure the continued use of such buildings and facilities in furtherance of the purposes of this Act.

REVENUE-PRODUCING VISITOR SERVICES

SEC. 1105. (a) CONTINUATION OF EXISTING VISITOR SERVICES.—Notwithstanding any other provision of law, the Secretary, under such terms and conditions as he determines are reasonable, shall permit any persons who, on or before January 1, 1978, were engaged in adequately providing any type of visitor service within any area established or added to a conservation system unit to continue providing such type of service and similar types of visitor services within such area if such service or services are consistent with the purposes for which such unit is established or expanded.

(b) PREFERENCE.—Notwithstanding provisions of law other than those contained in subsection (a), in selecting persons to provide (and in contracting for the provision of) any type of visitor service for any conservation system unit, the Secretary—

(1) shall give preference to the Native Corporation which the Secretary determines is most directly affected by the establishment or expansion of such unit by or under the provisions of this Act; and

(2) shall give preference to persons whom he determines, by rule, are local residents.

(c) DEFINITION.—As used in this section, the term "visitor service" means any service made available for a fee or charge to persons who visit a conservation system unit, including such services as providing food, accommodations, transportation, tours, and guides.

LOCAL HIRE

SEC. 1106. (a) PROGRAM.—The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) shall be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience,

(2) any such provision which provides an employment preference to any other class of applicant in such selection, and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) REPORTS.—The Secretary shall from time to time prepare and submit to the Congress reports indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

MANAGEMENT PLANS

SEC. 1107. (a) SUBMISSION OF PLANS.—Within five years after the date of the enactment of this Act, the Secretary shall submit, in writing, to the appropriate committees of the Congress plans for managing each of the conservation system units established or expanded by title II of this Act. At any time after submitting a plan under this subsection, the Secretary may revise such plan in accordance with the provisions of this section.

(b) COORDINATION.—The Secretary shall coordinate the development and preparation of management plans for conservation system units which have similar characteristics.

(c) PLAN REQUIREMENTS.—Each plan described in subsection (a) shall identify management practices which will carry out the policies of this Act and will accomplish the purposes for which the concerned conservation system unit was established or expanded and shall include at least the following:

(1) Maps indicating areas of particular importance as to wilderness, natural, historical, wildlife, cultural, archeological, paleontological, geological, recreational, and similar resources and also indicating the areas into which unit will be divided for administrative purposes.

(2) A description of the programs and methods that will be employed to manage fish and wildlife resources and habitats, cultural, geological, recreational, and wilderness resources, and how each conservation system unit will contribute to overall resources management goals of that region. Such programs should include research, protection, restoration, development, and interpretation as appropriate.

(3) A description of the areas of potential or proposed development, indicating types of visitor services and facilities to be provided, the estimated costs of such services and facilities, and whether or not such services and facilities could and should be provided outside the boundaries of such unit.

(4) A plan for access to, and circulation within, such unit, indicating the type and location of transportation routes and facilities.

(5) A description of the programs and methods which the Secretary plans to use for the purposes of (A) encouraging the recognition and protection of the culture and history of the individuals residing, on the date of the enactment of this Act, in such unit and areas in the vicinity of such unit, and (B) providing and encouraging employment of such individuals.

(6) A plan for acquiring land with respect to such unit, including proposed modifications in the boundaries of such unit.

(7) A description (A) of privately owned areas, if any, which are within such unit, (B) of activities carried out in, or proposed for, such areas, (C) of the present and potential effects of such activities on such unit, (D) of the purposes for which such areas are used, and (E) of methods (such as cooperative agreements and issuance or enforcement of regulations) of controlling the use of such activities to carry out the policies of this Act and the purposes for which such unit is established or expanded.

(8) A plan indicating the relationship between the management of such unit and activities being carried out in, or proposed for, surrounding areas and also indicating cooperative agreements which could and should be entered into for the purpose of improving such management.

(d) CONSIDERATION OF FACTORS.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall take into consideration at least the following factors:

(1) The specific purposes for which the concerned conservation system unit was established or expanded.

(2) Protection and preservation of the ecological, environmental, wildlife, cultural, historical, archeological, geological, recreational, wilderness, and scenic character of the concerned unit and of areas in the vicinity of such unit.

(3) Providing opportunities for native Alaskans residing in the concerned unit and areas adjacent to such unit to continue performing in such unit activities which they have traditionally or historically performed in such unit.

(4) Activities being carried out in areas adjacent to, or surrounded by, the concerned unit.

(e) HEARING AND PARTICIPATION.—In developing, preparing, and revising a plan under this section and any study under section 1205 of lands within a conservation system unit, the Secretary shall hold at least one public hearing in the vicinity of the concerned conservation unit, hold at least one public hearing in a metropolitan area of Alaska, and, to the extent practicable, permit the following persons to participate in the development, preparation, and revision of such plan:

(1) The Alaska Land Use Council and officials of Federal agencies whose activities will be significantly affected by implementation of such plan.

(2) Officials of the State and of political subdivisions of the State whose activities will be significantly affected by implementation of such plan.

(3) Officials of Native Corporations which will significantly be affected by implementation of such plan.

(4) Concerned local, State, and National organizations and interested individuals.

(f) ADVICE AND REPORTS.—During the period beginning on the date of the enactment of this Act and ending on the date the final plan described in subsection (a) is submitted to the appropriate committees of the Congress referred to in subsection (a), the Secretary—

(1) shall keep such committees advised of the status of the plans described in subsection (a), of activities being carried out under this section, and of any information which the Department of the Interior has pertaining to any conservation system unit; and

(2) shall, at least once every twelve months, submit to such committees a report indicating the status of the plan described in subsection (a), particular problems being encountered with respect to developing such plans and managing conservation system units, and the anticipated date of submission of such plans.

TAKING OF FISH AND WILDLIFE

SEC. 1108. (a) NATIONAL PARK SYSTEM.—All areas of the National Park System in the State shall be closed to the taking of fish and wildlife, except—

(1) for the taking of fish and wildlife for those subsistence uses authorized under title VII of this Act;

(2) for fishing authorized by the Secretary and carried out in accordance with applicable laws of the United States and the State; and

(3) for the taking of fish and wildlife for sport and other purposes which the Secretary may, by regulation, permit within areas established by or under this Act as national preserves and which is carried out in accordance with applicable laws of the United States and the State.

(b) OTHER CONSERVATION SYSTEM UNITS.—The taking of fish and wildlife in all conservation system units, other than those units in the National Park System, shall be subject to applicable provisions of Federal and State law.

MAPS

SEC. 1109. As soon as practicable after the date of enactment of this Act, a map and legal description of each conservation system unit, including each wilderness study area and each wilderness area, shall be filed with the appropriate committees of the Congress. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the appropriate offices of (1) the Director of the National Park Service, (2) the Director of the United States Fish and Wildlife Service, and (3) the Chief of the United States Forest Service, and appropriate offices of the Alaska field directors of such services. Following publication of notice in the Federal Register and reasonable notice in writing to the appropriate committees of the Congress of his intention to do so, the Secretary may make minor adjustments in the boundaries of any of the conservation system units. Whenever possible, such adjusted boundaries shall follow hydrographic divides or embrace other key topographic features in all cases where straight line map boundaries approximate such features. The boundaries of areas added to the National Park, National Wildlife Refuge and National Forest Systems in coastal areas, shall not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

MAJOR FEDERAL ACTION

SEC. 1110. No action concerning any conservation system unit in Alaska which is a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 may be taken by the Secretary unless, in addition to meeting the other requirements of such Act, a report explaining in detail the action (and the basis and reason therefore) and an environmental impact statement concerning such action, have been submitted to the appropriate committees of the Congress at least sixty days prior to the commencement of such action.

ADMINISTRATION OF NATIONAL RECREATION AREAS

SEC. 1111. (a) National recreation areas established by this Act shall be administered by the Secretary of the Interior or the Secretary of Agriculture as appropriate, in order to provide for public outdoor recreation use and enjoyment and for the conservation of the scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment of such areas. Except as otherwise provided in this Act, the appropriate Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits; (2) conservation of scenic, scientific, historic, fish and wildlife, and other values contributing to public enjoyment; and (3) such management, utilization, and disposal of natural resources and the continuation of such existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, fish and wildlife, or other values contributing to public enjoyment. In administering the recreation areas, the appropriate Secretary may utilize such statutory authorities pertaining to the administration of the National Park System, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith.

(b) The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws. Except with respect to the Noatak National Recreation Area, the Secretary under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the recreation areas in the manner described by section 10 of the Act of August 4, 1939, as amended (53 Stat. 1196; 43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(c) All receipts derived from permits and leases issued on lands or interests in lands within the recreation areas under the mineral leasing laws shall be disposed of as provided in such laws; and receipts from the disposition on nonleasable minerals within the recreation areas shall be disposed of in the same manner as moneys received from the sale of public lands.

ADMINISTRATION OF NATIONAL PRESERVES

SEC. 1112. (a) General administration. A National Preserve in Alaska shall be administered and managed as a unit of the National Park System in the same manner as a national park except as otherwise provided in this Act and except that the taking of fish and wildlife for sport and subsistence purposes shall be allowed in a national preserve under appropriate regulation, and applicable State and Federal law.

(b) Hunting in Preserve Wilderness—The designation of wilderness in national preserves shall not alter National Park Service management practices as regards sport hunting. Sport hunting, including but not limited to commercial guiding operations, shall not be precluded or unreasonably impaired as a result of wilderness designation in national preserves. Subject to reasonable regulation, the Secretary shall permit within wilderness in national preserves, among other things, the establishment of hunting camps, the landing of aircraft, and the maintenance of airstrips at a level appropriate to ensure public safety. Motorized uses authorized by the Secretary pursuant to this subsection shall be limited to those means of transportation specified in section 905.

GENERAL WILDERNESS REVIEW PROVISION

SEC. 1113. (a) Within five years from the date of enactment of this Act, the Secretary shall, in accordance with the provisions of section 3(d) of the Wilderness Act relating to public notice, public hearings, and review by State and other agencies, review, as to their suitability or nonsuitability for preservation as wilderness, all lands within National Parks, National Monuments and units of the National Wildlife Refuge System not designated as wilderness by this Act and report his findings to the President.

(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of sections 3(c) and (d) of the Wilderness Act. The President shall advise the Congress of his recommendations with respect to such areas within seven years from the date of enactment of this Act.

(c) Nothing in this section shall be construed as affecting the administration of any National Park, National Monument or units of National Wildlife Refuge Systems in accordance with titles II and III of this Act or other applicable provisions of law unless and until Congress provides otherwise by taking action on any Presidential recommendation made pursuant to subsection (b) of this section.

STATEWIDE CULTURAL ASSISTANCE PROGRAM

SEC. 1114. In furtherance of the national policy set forth in the first section of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666), and in furtherance of the need to protect and interpret for the public benefit cultural and archeological resources and objects of national significance relating to prehistoric and historic human use and occupation of lands and waters in Alaska, the Secretary may, upon the application of a Native corporation or Native group, provide advice, assistance, and technical expertise to the applicant in the preservation, display, and interpretation of cultural resources, without regard as to whether title to such resources is in the United States. Such assistance may include making available personnel to assist in the planning, design, and operation of buildings, facilities, and interpretive displays for the public and personnel to train individuals in the identification, recovery, preservation, demonstration, and management of cultural resources.

TITLE XII—MISCELLANEOUS

KLONDIKE GOLD RUSH NATIONAL HISTORICAL PARK

SEC. 1201. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the State of Alaska and Washington, and for other purposes", approved June 30, 1976 (90 Stat. 717), is amended to read as follows: "Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

NAVIGATION AIDS AND OTHER FACILITIES

SEC. 1202. (a) EXISTING FACILITIES.—Within areas added to the National Park, Wildlife Refuge, Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, existing air and water navigation aids, communications sites and related facilities and existing facilities for weather, climate, and fisheries research and monitoring shall be permitted in accordance with the laws and regulations applicable to units of such systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations

governing such facilities notwithstanding any other provision of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation and maintenance within wilderness areas designated by this Act.

(b) NEW FACILITIES.—The establishment, operation, and maintenance within any conservation system unit of new air and water navigation aids and related facilities, facilities for national defense purposes, and related air and water navigation aids, and facilities for weather, climate, and fisheries research and monitoring shall be permitted but only (1) after consultation with the Secretary or the Secretary of Agriculture, as appropriate, by the head of the Federal department or agency undertaking such establishment, operation, or maintenance and (2) in accordance with such terms and conditions as may be mutually agreed in order to minimize the adverse effects of such activities within such unit.

AMENDMENTS TO NAVAL PETROLEUM RESERVES PRODUCTION ACT OF 1976

SEC. 1203. Title I of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501–6507) is amended—

(1) by inserting "and the Committee on Merchant Marine and Fisheries of the House" immediately after "House of Representatives" each place it appears in section 104(d) and section 105 (b)(2) and (c)(3); and

(2) by further amending section 105 (c)—

(A) by inserting "archeological, paleontological," immediately after "historical," in paragraph (1)(B), and

(B) by striking out "within three years after the date of enactment of this title" in paragraph (3) and inserting in lieu thereof "on the same date as the study under subsection (b)".

WITHDRAWALS; MINERAL RIGHTS

SEC. 1204. Subject to valid existing rights, all public lands within the boundaries of any conservation system unit in Alaska are withdrawn from all forms of entry or appropriation under the mining laws and from the operation of the mineral leasing laws of the United States, except as otherwise specifically provided in this Act. All withdrawals and reservations of land for powersite purposes within the boundaries of a conservation system unit are hereby rescinded. In the case of lands in Alaska outside the boundaries of any such unit, if an applicant for any Native allotment within any withdrawal or reservation for powersite purposes has complied with all applicable requirements, the Secretary may—

(1) grant the application for such allotment, and

(2) make an appropriate conveyance of land to such applicant,

as if the Secretary had declared such lands open to location, entry, or selection under section 24 of the Federal Power Act (16 U.S.C. 818), subject to the reservations specified in such section.

SCENIC HIGHWAY STUDY

SEC. 1205. (a) WITHDRAWAL.—Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Mount McKinley National Park to the Talkeetna junction which is one hundred and thirty-six miles south of Cantwell, the Denali Highway between Cantwell and Paxson, the Richardson Highway and Edgerton Highway between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) STUDY.—During the three-year period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scenic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing a symbolic and actual physical connection between the national parks in south central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) COOPERATION NOTICE: HEARINGS.—In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and to the maximum extent practicable with the owner of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) REPORT.—Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) PERIOD OF WITHDRAWAL.—The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

BUREAU OF LAND MANAGEMENT LAND REVIEWS

SEC. 1206. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976 shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which he determines are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the National Wilderness Preservation System, pursuant to the provisions of the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with the applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values and recommending appropriate designations in the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the National Petroleum Reserves Production Act of 1976 (Public Law 94–258).

ALASKA NATURAL GAS TRANSPORTATION ACT

SEC. 1207. Nothing in this Act shall be construed as imposing any additional requirements in connection with the construction and operation of the transportation system designated by the President and approved by the Congress pursuant to the Alaska Natural Gas Transportation Act of 1976 (Public Law 94–586; 90 Stat. 2903), or as imposing any limitations upon the authority of the Secretary concerning such system.

AUTHORIZATION FOR APPROPRIATION

SEC. 1208. There are hereby authorized to be appropriated $800,000,000 to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1979 of which amount not more than $200,000,000 may be used for the establishment of public information and education sites and for construction of visitors facilities and related access to and within conservation system units established or expanded by this Act effective fiscal year 1979. No authority to enter into contracts or to make payments or to expend previously appropriated funds under this Act shall be effective except to the extent or in such amounts as are provided in advance in appropriation Acts.

LIMIT ON FUTURE WITHDRAWALS OR STUDIES

SEC. 1209. Notwithstanding any other provision of law, no further studies or withdrawals of Federal lands in Alaska except those authorized by this Act shall be conducted unless authorized by concurrent resolution of Congress.

TITLE XIII—MINERALS, ASSESSMENTS, EXPLORATION, DEVELOPMENT, AND EXTRACTION ON CONSERVATION SYSTEM UNITS

OIL AND GAS LEASE APPLICATIONS

SEC. 1301. (a) APPLICATIONS.—Notwithstanding any other provision of law or regulation, whenever the Secretary receives an application for an oil and gas lease pursuant to the Mineral Leasing Act of 1920 for lands in Alaska within a unit of the National Wildlife Refuge System which are not also part of the National Wilderness Preservation System he shall, in addition to any other requirements of applicable law, follow the procedures set forth in this section.

(b) DECISION.—Any decision to issue or not to issue a lease shall be accompanied by a statement setting forth the reasons for the decision, including the reasons why oil and gas leasing would be compatible or incompatible with the purposes of the refuge.

(c) TIME LIMITS.—If the Secretary determines that the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 do not apply to his decision, the Secretary shall render his decision within six months after receipt of a lease application. If such requirements are applicable to the Secretary's decision, he shall render his decision within three months after publication of the final environmental impact statement.

ALASKA MINERAL RESOURCE ASSESSMENT PROGRAM

SEC. 1302. (a) MINERAL ASSESSMENTS.—The Secretary of the Interior shall, to the full extent of his authority, assess the oil, gas, and other mineral potential on all public

lands in the State of Alaska in order to expand the data base with respect to the mineral potential of such lands. The mineral assessment program may include, but shall not be limited to, techniques such as side-looking radar imagery and, on public lands other than such lands within national parks and monuments, core and test drilling for geologic information, notwithstanding any restriction on such drilling under the Wilderness Act. In order to carry out mineral assessments authorized under this or any other law, including but not limited to, the National Uranium Resource Evaluation program, the Secretary shall allow for access by air for assessment activities permitted in this subsection to all public lands involved in such study. He shall consult with the Secretary of Energy and heads of other Federal agencies carrying out such programs, to determine such reasonable requirements as may be necessary to protect the resources of such area, including fish and wildlife. Such requirements may provide that access will not occur during nesting, calving, spawning or such other times as fish and wildlife in the specific area may be especially vulnerable to such activities. The Secretary is authorized to enter into contracts with public or private entities to carry out all or any portion of the mineral assessment program. This section shall not apply to the lands described in section 1307 of this Act.

(b) REGULATIONS.—Activities carried out in conservation system units under subsection (a) shall be subject to regulations promulgated by the Secretary. Such regulations shall ensure that such activities are carried out in an environmentally sound manner—

(1) which does not result in lasting environmental impacts which appreciably alter the natural character of the units or biological or ecological systems in the units; and

(2) which is compatible with the purposes for which such units are established.

PRESIDENTIAL REPORT

SEC. 1303. (a) On or before October 1, 1981, and annually thereafter, the President shall transmit to the Congress all pertinent public information relating to minerals in Alaska gathered by the United States Geological Survey, Bureau of Mines, and any other Federal agency.

(b) On or before October 1, 1981, the President shall conduct a study and transmit it, together with his recommendations, to the Congress concerning the advisability of private mineral exploration or extraction activities in conservation systems units where such activities would otherwise be prohibited and the circumstances, if any, and procedures and conditions under which such activities might be permitted.

AREAS SUBJECT TO THE NATIONAL NEED RECOMMENDATION PROCESS

S53. 1304. The process contained in this title shall apply to all public lands within Alaska except for lands within units of the National Park System, the National Wilderness Preservation System, and the Arctic National Wildlife Range.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 1305. (a) RECOMMENDATION.—At any time after the date of enactment of this Act the President may transmit a recommendation to the Congress that mineral exploration, development, or extraction not permitted under this Act or other applicable law shall be permitted in a specified area of the lands referred to in section 1304. Notice of such transmittal shall be published in the Federal Register. No recommendation of the President under this section may be transmitted to the Congress before ninety days after publication in the Federal Register of notice of his intention to submit such recommendation.

(b) FINDINGS.—A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on the information available to him—

(1) there is an urgent national need for the mineral activity and

(2) such national need outweighs the other public values of the public lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) REPORT.—Together with his recommendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendation;

(2) a statement of the conditions and stipulations which would govern the activity if approved by the Congress; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of such Act. In the case of any recommendation for which an environmental impact statement is not required under section 102(2)(C) of the National Environmental Policy Act of 1969, the President may, if he deems it desirable, include such a statement in his transmittal to the Congress.

(d) APPROVAL.—Any recommendation under this section shall take effect only upon enactment of a joint resolution approving such recommendation within the first period of one hundred and twenty calendar days of continuous session of Congress beginning on the date after the date of receipt by the Senate and House of Representatives of such recommendation. Any recommendation of the President submitted to Congress under subsection (a) shall be considered received by both Houses for purposes of this section on the first day on which both are in session occurring after such recommendation is submitted.

(e) ONE-HUNDRED-AND-TWENTY-DAY COMPUTATION.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the one-hundred-and-twenty-day calendar period.

EXPEDITED CONGRESSIONAL REVIEW

SEC. 1306. (a) RULEMAKING.—This subsection is enacted by Congress—

(1) as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by subsection (b) of this section and it supersedes other rules only to the extent that it is inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as those relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

(b) RESOLUTION.—For purposes of this section, the term "resolution" means a joint resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the recommendation of the President for ——— in ——— submitted to the Congress on ——— 19——.", the first blank space therein to be filled in with appropriate activity, the second blank space therein to be filled in with the name or description of the area of land affected by the activity, and the third blank space therein to be filled with the date on which the President submits his recommendation to the House of Representatives and the Senate. Such resolution may also include material relating to the application and effect of the National Environmental Policy Act of 1969 to the recommendation.

(c) REFERRAL.—A resolution once introduced with respect to such Presidential recommendation shall be referred to one or more committees (and all resolutions with respect to the same Presidential recommendation shall be referred to the same committee or committees) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(d) OTHER PROCEDURES.—Except as otherwise provided in this section the provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

FEDERAL NORTH SLOPE LANDS STUDY PROGRAM

SEC. 1307. (a) STUDY.—The Secretary shall initiate and carry out a study of all Federal lands (other than submerged lands on the Outer Continental Shelf) in Alaska north of 68 degrees north latitude and east of the western boundary of the National Petroleum Reserve—Alaska, other than wilderness areas and lands included in conservation system units established by this Act.

(b) INTERDISCIPLINARY APPROACH.—The study shall utilize a systematic interdisciplinary approach to—

(1) assess the potential oil and gas resources of these lands and make recommendations concerning future use and management of those resources including a evaluation of alternative transportation routes needed for oil and gas development;

(2) review the wilderness characteristics, and make recommendations for wilderness designation, of these lands; and

(3) study, and make recommendations for protection of, wildlife resources of these lands.

(c) FINDINGS.—After completion of the study, the Secretary shall make findings on—

(1) the potential oil and gas resources of these lands;

(2) the impact of oil and gas development on the wildlife resources on these lands, particularly the Arctic and Porcupine caribou herds and the polar bear;

(3) the national need for development of the oil and gas resources of all or any portion of these lands;

(4) the national interest in preservation of the wilderness characteristics of these lands; and

(5) the national interest in protection of the wildlife resources of these lands.

(d) CONSULTATION.—In the course of the study, the Secretary shall consult with the Secretary of Energy and other Federal agencies, the State of Alaska, Native Village and Regional Corporations, and the Alaska Land Use Council and the Government of Canada. The Secretary shall provide an opportunity for public review and comment on a draft study and proposed findings prior to their final approval.

(e) SUBMISSION OF STUDY.—The Secretary shall submit the study and his findings to the President and the Congress no later than eight years after the date of enactment of this Act. The Secretary shall submit annual reports to Congress on the progress in carrying out this title.

(f) Section 105 studies with respect to lands within the National Petroleum Reserve.—Alaska, the Secretary shall incorporate into the study the results of the studies required by section 105 of the Naval Petroleum Reserves Production Act of 1976. Nothing in this title shall relieve the Secretary of any responsibilities under that Act.

(g) Nothing in this title shall be construed as impeding, delaying, or otherwise affecting the selection and conveyance of land to the State pursuant to the Alaska Statehood Act, or any other Federal law referred to in section 102(3)(A) of this Act, and to the Natives pursuant to the Alaska Native Claims Settlement Act and this Act.

OIL AND GAS EXPLORATION OF ARCTIC NATIONAL WILDLIFE RANGE PORTION OF STUDY

SEC. 1308. (a) As part of the assessment of oil and gas potential called for in the study, the Secretary shall conduct an oil and gas exploration program on the nonwilderness portion of the Arctic National Wildlife Range. The program shall consist of geological and geophysical activities (including seismic surveys but not core drilling) designed to identify those lands within the range which have the greatest oil and gas potential.

(b) PLAN.—The Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives a plan for the oil and gas exploration program and any substantial amendments to such plan. The plan shall describe the exploration activities to be undertaken, estimate the cost of such activities, and indicate a time schedule for implementation. The initial plan shall be submitted to the Committees within six months after the date of enactment of this Act. Such plan or amendments shall not be implemented until sixty days after they have been submitted to such Committees. The Secretary is authorized to enter into contracts for the exploration of the range in accordance with the exploration plan.

(c) EXPLORATION ACTIVITIES.—Any exploration activities within the range shall be conducted in a manner which will assure the maximum protection of surface resource and wildlife values to the extent consistent with the requirements of this Act for the exploration of the range.

(d) REPORT.—No later than six years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a report containing—

(1) a description of the lands which have been indentified as having high potential for accumulation of oil and gas;

(2) estimates of the volume of such oil and gas;

(3) an evaluation of—

(i) the impacts on the wildlife using such lands which would result from further exploration for oil and gas, including core drilling; and

(ii) the impacts on such wildlife which would result from development and production of oil and gas; and

(4) a plan for core drilling on the lands described under paragraph (1), together with the Secretary's recommendation as to whether or not such drilling should be carried out.

No core drilling shall be carried out unless, within sixty calendar days of continuous session of the Congress after the plan has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, the Senate and the House of Representatives pass a concurrent resolution approving such plan. If such a concurrent resolution is approved, the Secretary shall carry out the plan.

(e) APPLICABLE RULES.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

(3) the term "resolution" means a concurrent resolution, the resolving clause of which is as follows: "That the House of Representatives and Senate approve the plan for core drilling contained in the report of the Secretary of the Interior submitted to the Congress on

19 .."; the blank space therein shall be filled with the date on which the Secretary submits his report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(f) OTHER PROVISIONS APPLICABLE.—Except as otherwise provided in this section, provisions of section 8(d) of the Alaska Natural Gas Transportation Act shall apply to the consideration of the resolution.

(g) NEPA.—The requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 shall not apply to exploration activities carried out under the authority of this section.

PROHIBITION ON DEVELOPMENT

SEC. 1309. Production of oil and gas from the Arctic National Wildlife Range is prohibited and no development leading to production of oil and gas from the range shall be undertaken until authorized by an Act of Congress.

WILDERNESS PORTION OF STUDY

SEC. 1310. (a) REVIEW.—As part of the study, the Secretary shall review the suitability or nonsuitability for preservation as wilderness of the Federal lands described in section 1307 and report his findings to the President.

(b) ADVICE.—The President shall advise the Senate and the House of Representatives of his recommendations with respect to the designation of the area or any part thereof as wilderness together with a map thereof and a definition of its boundaries.

(c) WILDERNESS STUDY AREA.—Subject to existing private rights and the provisions of section 1308 of this Act, the wilderness study area designated by this section shall, until Congress determines otherwise, be administered by the Secretary so as to maintain presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System. Already established uses may be permitted to continue, subject to such restrictions as the Secretary deems desirable, in the manner and degree in which the same were being conducted on the date of enactment of this Act.

WILDLIFE RESOURCES PORTION OF STUDY

SEC. 1311. The Secretary shall work closely with the State of Alaska and Native Village and Regional Corporations in evaluating the impact of oil and gas exploration, development, production, and transportation and other human activities on the wildlife resources of these lands, including impacts on the Arctic and Porcupine caribou herds, polar bear, muskox, grizzly bear, wolf, wolverine, seabirds, shore birds, and migratory waterfowl. In addition the Secretary shall consult with the appropriate agencies of the Government of Canada in evaluating such impacts particularly with respect to the Porcupine caribou herd.

TRANSPORTATION ALTERNATIVES PORTION OF STUDY

SEC. 1312. In studying oil and gas alternative transportation systems, the Secretary shall consult with the Secretary of Transportation and shall consider—

(1) the extent to which environmentally and economically feasible alternative routes could be established;

(2) the prospective oil and gas production potential of this area of Alaska for each alternative transportation route;

(3) the environmental and economic costs and other values associated with such alternative routes; and

(4) to the extent applicable, the rights-of-way study conducted pursuant to section 1105 of this Act.

OIL AND GAS LEASING PROGRAM FOR NON-NORTH SLOPE FEDERAL LANDS

SEC. 1313. (a) The Secretary shall establish, pursuant to the Mineral Leasing Act of 1920, an oil and gas leasing program on the Federal lands of Alaska not subject to the study required by section 1307 of this Act. Such program shall not be undertaken by the Secretary on those lands where applicable law prohibits such leasing or on those units of the National Wildlife Refuge System where the Secretary determines, after having considered the national interest in producing oil and gas from such lands, that the exploration for and development of oil or gas would be incompatible with the purpose for which such unit was established.

(b)(1)(A) In such areas as the Secretary deems favorable for the discovery of oil or gas, he shall conduct a study, or studies, or collect and analyze information obtained by permittees authorized to conduct studies under this section, of the oil and gas potential of such lands and those environmental characteristics and wildlife resources which would be affected by the exploration for and development of such oil and gas.

(B) The Secretary is authorized to issue permits for study, including geological, geophysical, and other assessment activities, if such activities can be conducted in a manner which is consistent with the purposes for which each affected area is managed under applicable law.

(2) The Secretary shall consult with the Secretary of Energy regarding the national interest involved in exploring for and developing oil and gas from such lands and shall seek the views of the Governor of the State of Alaska, Alaskan local governments, Native Regional and Village Corportions, the Alaska Land Use Council, representatives of the oil and gas industry, conservation groups, and other interested groups and individuals in determining which lands should be studied and/or leased for the exploration and development of oil and gas.

(3) The Secretary shall encourage the State to undertake similar studies on lands associated, either through geological or other land values or because of possible transportation needs, with Federal lands. The Secretary shall integrate these studies, to the maximum extent practicable, with studies on Federal lands so that needs for cooperation between the Federal Government and the State of Alaska in managing energy and other natural resources, including fish and wildlife, can be established early in the program.

(4) The Secretary shall report to the Congress by October 1, 1979, and yearly thereafter, on his efforts pursuant to this Act regarding the leasing of, and exploration and development activities on, such lands.

(c) At such time as the studies requested in subsection (b)(7) are completed by the Secretary, or at such time as the Secretary determines that sufficient interest has been indicated in exploring an area for oil or gas, and leasing should be commenced, he shall identify those areas which he determines to be favorable for the discovery of oil or gas, hereinafter to be known as favorable petroleum geological provinces. In making such determination, the Secretary shall utilize all information obtained in studies conducted under subsection (b) of this section as well as any other information he may develop or require by regulation to be transmitted.

(d) Pursuant to the Mineral Leasing Act of 1920, as amended, the Secretary is authorized to issue leases, on the Federal lands described in this section, under such terms and conditions as he may, by regulation, prescribe. Areas which are determined by the Secretary to be within favorable petroleum geological provinces shall be leased only by competitive bidding.

(e) At such time as paying quantities of oil or gas are discovered under a noncompetitive lease issued pursuant to the Mineral Leasing Act of 1920, the Secretary shall suspend all further noncompetitive leasing in the area and shall determine the favorable

petroleum geological province in proximity to such discovery. All further leasing in such area shall be in accordance with the requirements of subsection (d) of this section.

(f) Prior to any exploration activities on a lease issued pursuant to this section, the Secretary shall require the lessee to describe exploration activities in an exploration plan. He shall approve such plan if such activities can be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(g) Subsequent to a discovery of oil or gas in paying quantities, and prior to developing and producing such oil and gas, the Secretary shall require the lessee to describe development and production activities in a development and production plan. He shall approve such plan if such activities may be conducted in conformity with such requirements as may be made by the Secretary for the protection and use of the land for the purpose for which it is managed under applicable law.

(h) The Secretary shall monitor the performance of the lessee and, if he determines that due to significant changes in circumstances regarding that operation, including environmental or economic changes, new requirements are needed, he may require a revised development and production plan.

(i) If the Secretary determines that immediate and irreparable damage will result from continuation in force of a lease, that the threat will not disappear and that the advantages of cancellation outweigh the advantages of continuation in force of a lease, he shall suspend operations for up to five years. If such a threat persists beyond such five-year suspension period, he shall cancel a lease and provide compensation to the lessee under such terms as the Secretary establishes, by regulation, to be appropriate.

TITLE XIV—AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

STOCK ALIENATION

SEC. 1401. (a) Section 7(h)(3) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(3)(A) On December 18, 1991, all stock previously issued shall be deemed to be canceled, and shares of stock of the appropriate class shall be issued to each stockholder share for share subject only to such restrictions as may be provided by the articles of incorporation of the corporation, or agreements between corporations and individual shareholders.

"(B) If adopted by December 18, 1991, restrictions provided by amendment to the articles of incorporation may include, in addition to any other legally permissible restrictions—

"(i) the denial of voting rights to any holder of stock who is not a Native, or a descendant of a Native, and

"(ii) the granting to the corporation, or to the corporation and a stockholder's immediate family, on reasonable terms, the first right to purchase a stockholder's stock (whether issued before or after the adoption of the restriction) prior to the sale or transfer of such stock (other than a transfer by inheritance) to any other party, including a transfer in satisfaction of a lien, writ of attachment, judgment execution, pledge, or other encumbrance.

"(C) Notwithstanding any provision of Alaska law to the contrary—

"(i) any amendment to the articles of incorporation of a regional corporation to provide for any of the restrictions specified in clause (i) or (ii) of subparagraph (B) shall be approved if such amendment receives the affirmative vote of the holders of a majority of the outstanding shares entitled to be voted of the corporation, and

"(ii) any amendment to the articles of incorporation of a Native corporation which would grant voting rights to stockholders who were previously denied such voting rights shall be approved only if such amendment receives, in addition to any affirmative vote otherwise required, a like affirmative vote of the holders of shares entitled to be voted under the provisions of the articles of incorporation.".

(b) Section 8(c) of such Act is amended to read as follows:

"(c) The provisions concerning stock alienation, annual audit, and transfer of stock ownership on death or by court decree provided for regional corporations in section 7, including the provisions of section 7(h)(3), shall apply to Village Corporations; except that audits need not be transmitted to the Committee on Interior and Insular Affairs of the House of Representatives or to the Committee on Energy and Natural Resources of the Senate.".

(c) At the end of section 1696(h)(1) of title 43, United States Code, insert immediately before the period the words: "or by a stockholder who is a member of a professional organization, association, or board which limits the ability of that stockholder to practice his profession because of holding stock issued under this Act".

VESTING DATE FOR RECONVEYANCES

SEC. 1402. (a) Section 14(c)(1) of the Alaska Native Claims Settlement Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in the tract occupied".

(b) Section 14(c)(2) of such Act is amended by inserting "as of December 18, 1971" after "title to the surface estate in any tract occupied".

(c) Section 14(c)(4) of such Act is amended to read:

"(4) the Village Corporation shall convey to the Federal Government, State, or to the appropriate Municipal Corporation, title to the surface estate for airport sites, airway beacons, and other navigation aids as such existed on December 18, 1971, together with such additional acreage and/or easements as are necessary to provide related governmental services and to insure safe approaches to airport runways as such airport sites, runways, and other facilities existed as of December 18, 1971.".

BASIS IN THE LAND AND RESERVES FROM LAND

SEC. 1403. Section 21(c) of the Alaska Native Claims Settlement Act is amended to read as follows:

"(c)(1) The receipt of land or any interest therein pursuant to this Act or of cash in order to equalize the values of properties exchanged pursuant to subsection 22(f) shall not be subject to any form of Federal, State, or local taxation. The basis for computing gain or loss on subsequent sale or other disposition of such land or interest in land for purposes of any Federal, State, or local tax imposed on or measured by income shall, at the option of the recipient, be—

"(A) the fair market value of such land or interest in land at the time of receipt; or

"(B) the amount realized on the sale or other disposition of such land or interest in land adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of such land or interest in land;

adjusted as provided in section 1016 of the Internal Revenue Code of 1954 (relating to adjustments to basis).

"(2) All rents, royalties, profits, and other revenues or proceeds derived from real property interests received pursuant to this Act shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation: *Provided*, That with respect to any such revenues or proceeds received by a Native individual, Native group, or Village or regional Corporation with respect to which a deduction for depletion would otherwise be allowable under section 611 of the Internal Revenue Code of 1954 (relating to allowance of deduction for depletion) or any corresponding provision of State and local law, the amount of such deduction shall be the greater of—

"(A) an amount equal to the deduction as determined by such section 611, using as the basis on which the depletion is to be allowed with respect to any property that basis provided in section 21(c) of this Act for purposes of computing the gain or loss on subsequent sale or other disposition of such property; or

"(B) an amount equal to the amount of such revenue adjusted, by means of the price deflator index for the gross national product published by the United States Department of Commerce, to the time of receipt of the property interest from which the revenue is derived; or

"(G) an amount equal to the deduction computed pursuant to section 613 of the Internal Revenue Code of 1954 (relating to percentage depletion).".

TAXATION OF NATIVE CORPORATIONS

SEC. 1404. Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding two new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation establishment pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed ,selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with exploration on such lands for oil, gas or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This amendment shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed

to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation.".

UNDERSELECTIONS

SEC. 1405. Section 22(j) of the Alaska Native Claims Settlement Act is amended by identifying the existing paragraph as paragraph (1) and adding a paragraph (2) to read as follows:

"(2) Where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to subsection 11(a)(1), (11)(a) (3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections.".

RETAINED MINERAL ESTATE

SEC. 1406. Section 12(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1611 (c)) is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph it may select, within ninety days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than six hundred and forty acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act, and, where possible, all selections made under this section shall be contiguous to lands already selected by the Regional Corporation or a Village Corporation. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act.".

CONVEYANCE OF PARTIAL ESTATES

SEC. 1407. (a) Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge, when the cemetery or historical site is greater than 640 acres.".

(b) Sections 14(h)(2) and 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613 (h)(2) and (h)(5)) are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

(c) Section 14(h)(6) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(h)(6)) is modified by adding at the end thereof the following sentence: "Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94-204), as amended.".

(d) Section 14(h) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)) is amended by adding at the end thereof the following new paragraphs:

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and coneveyed pursuant to paragraph (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than six hundred and forty acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety days of receipt of notification from the Secretary.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

"(11) For purposes set forth in subsections (h)(1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist in the date of enactment of this Act.".

(e) Any Regional Corporation which asserts a claim with the Secretary to the subsurface estate of lands selectable under section 14(h) of the Alaska Native Claims Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu surface or subsurface estate provided by subsections 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within one hundred and eighty days after the date of enactment of this Act. Failure to assert such claim within the one-hundred-and-eighty-day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Alaska Native Claims Settlement Act.

ESCROW ACCOUNT

SEC. 1408. (a) Subsection (a) of section 2 of Public Law 94-204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance or this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short-term obligations of the United States prevailing at the time of payment: *Provided further*, That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: *And provided further*, That moneys for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease license, permit, rights-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, rights-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, rights-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, rights-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the pro-

ceeds, including a proportionate share of interest accrued, in relation to the damages occurring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act.".

(b) Section 2 of Public Law 94-204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purposes of this section.".

SELECTION REQUIREMENTS

SEC. 1409. Subsection (a)(2) of section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611(a)(2)), is amended by adding to the end of that subsection the following: "Provided that the Secretary, in his discretion and upon the request of the concerned Village Corporation, may waive the whole section requirement where—

"(A)(i) a portion of available public lands of a section is separated from other available public lands in the same section by lands unavailable for selection or by a meanderable body of water;

"(ii) such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(B) the remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act.".

FIRE PROTECTION

SEC. 1410. Subsection (e) of section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(e)) is amended by inserting the words "corporation organized under section 14(h)(3)," after "Native group," by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and by making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland".

SHAREHOLDER HOMESITES

SEC. 1411. Section 21 of the Alaska Native Claims Settlement Act is amended by adding a new subsection at the end thereof, as follows:

"(i) A real property interest distributed prior to December 18, 1991, by Village Corporation to a shareholder of such Corporation pursuant to a program to provide homesites to its shareholders, shall be deemed conveyed and received pursuant to this Act: *Provided*, That the land received is restricted by covenant for a period not less than ten years to single-family (including traditional extended family customs) residential occupancy, and by such other covenants and retained interests as the Village Corporation deems appropriate: *Provided further*, That the land conveyed does not exceed one and one-half acres: *Provided further*, That the shareholder receiving the homesite, if the shareholder subdivides the land received, shall pay all Federal, State, and local taxes which would have been incurred but for this subsection, together with simple interest at six percent per annum calculated from the date of receipt of the land to be paid to the appropriate taxing authority.".

RECONVEYANCE TO MUNICIPAL CORPORATIONS

SEC. 1412. Section 14(c)(3) of the Alaska Native Claims Settlement Act is amended by striking out the semicolon at the end and inserting in lieu thereof the following new language: "unless the Village Corporation and the Municipal Corporation or the State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: *Provided further*, That any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: *Provided, however*, That the word "sale", as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free use permits or other authorization for such purposes;".

LIMITATIONS

SEC. 1413. Except as specifically provided in this Act, (i) the provisions of the Alaska Native Claims Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

TITLE XV—NATIONAL CONSERVATION AREAS

ESTABLISHMENT

SEC. 1501. The following areas are hereby established as national conservation areas in order to provide for the immediate and future protection of the lands in Federal ownership within the framework of a program of multiple use and sustained yield and for the maintenance of environmental quality:

(1) Baird Mountains National Conservation Area, including approximately one million three hundred and ten thousand acres of Federal lands, as generally depicted on the map entitled "Baird Mountains National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and migration routes, the Squirrel River and vegetative and other natural and cultural values of scientific interest in the lower Noatak River Valley.

(2) Chandalar National Conservation Area, including approximately eight hundred eighty thousand acres of Federal lands, as generally depicted on the map entitled "Chandalar National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and migration routes.

(3) Steese National Conservation Area, including approximately one million two hundred twenty thousand acres of Federal lands, as generally depicted on the map entitled "Steese National Conservation Area—proposed", and dated October 1978. Special values to be considered in planning and management of the area are: caribou range and Birch Creek.

ADMINISTRATIVE PROVISIONS

SEC. 1502. (a) The Secretary, through the Bureau of Land Management, shall administer the national conservation areas established in section 1501 pursuant to the applicable provisions of the Federal Land Policy and Management Act of 1976 dealing with the management and use of land in Federal ownership, and shall, within five years of the date of enactment of this Act, develop a land use plan for each such area, and for the area established in section 1503.

(b) No public lands within any such national conservation area shall be transferred out of Federal ownership except by exchange pursuant to section 206 of the Federal Land Policy and Management Act. Where consistent with the land use plans for the area, mineral development may be permitted pursuant to the Mineral Leasing Act of 1920, as amended, and supplemented (30 U.S.C. 181-287) or the Materials Act of 1947, as amended (30 U.S.C. 601-603). Where consistent with the land use plan for the area, the Secretary may classify lands within national conservation areas as suitable for locatable mineral exploration and development and open such lands to entry, location, and patent under the United States mining laws (30 U.S.C. 22-54).

(c) Subject to valid existing rights, all mining claims located within any such unit shall be subject to such reasonable regulations as the Secretary may prescribe to assure that mining will, to the maximum extent practicable, be consistent with protection of the scenic, scientific, cultural, and other resources of the area and any patent issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such reasonable regulations as the Secretary may prescribe as aforesaid.

ESTABLISHMENT OF WHITE MOUNTAINS NATIONAL RECREATION AREA

SEC. 1503. There is hereby established the White Mountains National Recreation Area containing approximately one million acres of Federal lands, as generally depicted on the map entitled "White Mountains National Recreation Area—proposed", and dated October 1978. The Secretary shall administer the area in accordance with the provisions of section 1112 and other applicable provisions of this Act, the Federal Land Policy and Management Act of 1976, and other applicable law. In planning for the recreational use and management of this area, the Secretary shall work closely with the State of Alaska.

HIGHLIGHTS OF THE ACCORD

Access to State and private land guaranteed.—The bill includes language guaranteeing access to state and private lands through, from, and across d-2 areas. The bill's provision is intended to statutorily buttress, but not eliminate, rights of access currently accorded under the common law.

Transportation corridor process.—A special provision was enacted to greatly limit the existing discretion of Secretary of Interior concerning rights of way in parks, refuges, and wilderness areas in Alaska. Under the provision, the State of Alaska would develop a state-wide transportation plan that would be the basis for future transportation routes. The Department of Transportation would participate in rights-of-way decisions, and a refusal to grant a right-of-way would be challengeable in court, with the burden on the Secretary of Interior to justify why he refused the application.

"No more" provision.—Special language mandates that no more studies or withdrawals would be made outside of these d-2 designations without a concurrent resolution of Congress.

Alaska's economic future protected.—The existing economy throughout the state was protected through boundary and classification decisions with near-term and far-term areas classified to permit future use.

Amendments to ANCSA.—More than 20 amendments necessary to implement the Alaska Native Claims Settlement Act are included in the bill. These include amendments for Cook Inlet, Eklutna, Bering Strait, Ahtna, Koniag, Doyon, and Chugach Native Corporations.

Mining areas protected.—All seven of the mines identified by the Stanford Research Institute study (Borax, Inspiration, Greens Creek, Lik, Arctic, Picnic Creek and Eagle Asbestos) are excluded from d-2 classification and are available for development. The future of Alaska's mining industry depends on the ability to develop these mines and demonstrate the industry is competitive.

Future mining is made possible through designations of BLM Conservation Areas in the Brooks Range (Squirrel River and Chandalar River areas), by state selections

throughout the state, and by the designation of a National Recreation Area in the Wrangells.

Southeast economy protected—The timber industry is guaranteed by statute of the availability of 520 million board feet annually. This is the seven year average of the industry's annual cut. The Secretary of Agriculture is to monitor the cut and insure it is available. If not, he must recommend to Congress areas for cutting which are placed in a special management area called reserves. Also, the bill calls for special funding to increase the timber yield.

Sport hunting protected—All major areas of sport hunting in Alaska are left available, even when certain portions within an area are closed. There will continue to be hunting in the Gates of the Arctic, Wrangells, and Lake Clark areas, and in the additions to Mt. McKinley and Katmai. (These areas would be closed to hunting if designated national monuments.)

Alaska lifestyle protected—The bill preserves the right of existing users of federal land to continue to live their life, regardless of whether they have title to their improved property. The Secretary of Interior is directed to use exchanges, not condemnation, if changes are necessary.

Traditional transportation methods guaranteed—Special language guarantees continuation of traditional uses, including aircraft, snowmachines, and motor boat, over the d-2 lands. The secretary cannot prohibit these uses unless he first holds hearings and then proves damage to the area.

State regulation of fish and game is maintained—The Secretary of Interior is not given authority to take over fish and game management from the State of Alaska.

Immediate conveyance of State selections—All existing state selections (except for a small area in the former pipeline corridor to Canada) plus most state interest lands are immediately conveyed by legal description. This means there would be no question as to the title of nearly 95 million acres of state lands after this bill becomes law.

Native selections conveyed—All core townships are conveyed immediately and an expedited one year conveyance process is established for other selections. The total 44 million acre entitlement is conveyed by this bill.

Oil and gas study mandated—A special study of the oil and gas potential of the Arctic Wildlife Range is mandated.

A summary of the d-2 accord is available through Senator Stevens, Washington, D.C., and state offices.

SUMMARY OF ENERGY COMMITTEE'S DECISIONS ON ALASKA LANDS BILL

(With update by decisions of the ad hoc conference committee)

H.R. 39, the Alaska lands d-2 bill, was reported out October 5, 1978, by the Senate Energy and Natural Resources Committee. The Senate committee version of the bill differs substantially from the original H.R. 39, as introduced by Congressman Morris Udall, and it differs from the version passed last May by the House of Representatives.

This summary reviews the issues and the area-by-area decisions made by the Senate committee. The summary also compares the committee bill with the House-passed bill.

The Senate Energy Committee d-2 bill was modified by a so-called ad hoc conference committee, which attempted to agree to a bill that could be passed by Congress prior to adjournment. Participating in the ad hoc conference were Senator Stevens, Congressman Don Young, Energy Committee Chairman Henry Jackson, committee members Clifford Hansen (R-Wyoming) and John Durkin (D-New Hampshire), House Interior Committee Chairman Morris Udall (D-Arizona), Congressman John Seiberling (D-Ohio), and Secretary of Interior Cecil Andrus. Senator Gravel also attended. The understanding reached by the conference included some modifications to the Senate committee bill. These modifications are indicated in this summary in italics.

The Senate committee bill designated 96 million acres into eight management systems. The committee also created about 38 million acres of wilderness, most of which is in the park proposals. The eight management systems into which the d-2 lands are designated include:

National parks and monuments.—These are lands set aside to preserve outstanding scenic and natural values. These areas are managed by the National Park Service and provide camping, fishing, and various other visitor activities. Normally, mining, logging, trapping and hunting are not permitted in national park units. Approximately 20 million acres of d-2 lands are designated parks in the committee bill.

National park preserves—These are units administered and managed by the National Park Service in the same manner as a national park except that the taking of fish and wildlife for sport and subsistence purposes, including guided hunting, is permitted under appropriate state and federal regulations. The committee designated about 20 million acres in preserves.

National recreation areas—These are units administered by the Secretary of the Interior in order to provide for public outdoor recreation use and enjoyment—including hunting, fishing and camping—and for the conservation of the scenic, scientific, historic, and fish and wildlife of the area. Additionally, an NRA is managed to permit, under controlled circumstances, resource development. The secretary is authorized to permit the removal of the non-leasable minerals from the NRA in accordance with appropriate laws. The committee designated about 3 million acres of NRA units.

National wildlife refuges—Refuges are maintained for the fundamental purpose of wildlife conservation and rehabilitation. These units are established for the restoration, preservation, and management of wildlife and wildlife habitat; and for the protection and preservation of endangered, threatened species. Recreation activities, including, fishing and camping are permitted on refuges. Under controlled circumstances, oil and gas exploration is also allowed. Just under 35 million acres of d-2 lands were classified as refuges under the Senate committee proposal.

National forests—Forests are established for a number of purposes and are governed by a multiple use/sustained yield principle. A number of activities, including recreation, hunting, trapping, grazing, and mineral exploration, are allowed in national forests. The committee proposal creates one new forest in Alaska and adds units to existing forest units totalling just under 9 million acres.

National conservation areas—These areas are designated for the purpose of providing immediate and future protection of federal lands within the framework of a program of multiple use and sustained yield and for the maintneance of environmental quality. Administered by the Bureau of Land Management, these units are studied for a land use plan, and where consistent with that plan, areas within the conservation area may be classified as suitable for locatable mineral exploration and other resource uses. The Senate committee designated a little more than 8 million acres of d-2 lands as conservation areas.

Wild and scenic rivers—A wild and scenic river designation protects flowing rivers and the corridor of land along the banks from dam and other water resource development projects. Wild rivers are maintained in a primitive state and are accessible primarily by boat and trail. Scenic and recreational rivers are also protected from development projects, but under certain circumstances roads and other access are allowed to and from the river. The committee designated a little more than 1 million acres of wild and scenic rivers.

Bristol Bay/Alaska Peninsula Cooperative Study—A special three-year management study between the state and federal governments was established in the Bristol Bay/Alaska Peninsula region of southwest Alaska. A complex intermixing of state, federal, and private (mostly Native corporate holdings) lands necessitates the development of a plan for land exchanges, future state selections, and cooperative management. The State of Alaska and the Department of Interior would jointly prepare this plan and recommend it to the state legislature and to Congress.

While not altering the total amount of d-2 acreage designated, the ad hoc conference committee did agree to a number of classification changes in the Senate bill. These changes are summarized in the area-by-area description, beginning on page 8. The conference increased the amount of wilderness designations, primarily in the Arctic Wildlife Range and addition, to about 50 million acres.

THE ISSUES

State and Native selections: The Senate committee agreed with the State of Alaska and Alaska's Natives that legislative action could speed the process of conveying federal land in Alaska to the State of Alaska and to the Natives, and could provide added direction to administrative policies which were deemed to interfere with the rigid conveyancing of the state and native lands. Language adopted confirms immediate title to the so-called "core township" in which native village corporations are located. This same process applies to existing state selections which are listed by legal description in the legislative language. Additional selections identified recently by the State of Alaska were also approved and title confirmed by the language adopted by the committee.

The committee also adopted language enabling the native corporations to expedite conveyance upon submitting a list of priorities for selection. An existing moratorium on taxation of native lands was extended to 20 years after conveyance of the lands to conform with the conveyance delays. Twenty-one amendments to the Alaska Native Claims Settlement Act, requested by the native corporations, were included in the committee bill. These amendments were to facilitate land exchanges.

Oil and gas access: The committee adopted a special 8-year study of federal lands in the arctic. This study would focus on three items: oil and gas potential, wildlife values, and wilderness values. An ongoing study of the National Petroleum Reserve scheduled for completion in 1983 would be continued and made part of the proposed study. The study would require the Secretary of Interior, through existing federal agencies and private exploration under contracts, to evaluate the oil and gas potential of the arctic plain and the rest of the study area. Additionally, the secretary would be required to report to Congress on the suitability of the study area for wilderness designation and to recommend what actions should be taken to protect the wildlife of the area. The secretary was also required to report to Congress on what measures should be taken if drilling were authorized to protect the wildlife of the area, most specifically the Porcupine caribou herd.

Private oil and gas exploration and development on wildlife refuges, national forests and the public domain were also addressed. The committee adopted language for refuges giving the secretary six months to take action on an oil and gas lease application.

In making his decision, the secretary is required to state his reasons for denying an application, including whether the granting of the lease would be compatible or incompatible with the purpose of the refuge. On forests and public domain lands, a concept similar to that recently proposed for outer continental shelf exploration was adopted. Noncompetitive leasing would continue until a discovery of commercial value. Following a discovery, the secretary would determine the area of commercial viability and accept nominations for leasing on a competitive basis.

The ad hoc conference committee agreed to designate the major portion of the Arctic Wildlife Range and its addition as wilderness, but the committee agreed to keep the area along the foothills and coastal plains in the study area. This region of the Arctic Wildlife Range is where the most highly favorable prospects for oil and gas have been identified.

Hardrock Mineral Access: The committee adopted provisions to require continued mineral assessment of all public lands, including conservation system units in Alaska, and required a report to Congress by the President regarding the need to permit private mineral exploration or extraction in areas otherwise closed to such exploration or extraction.

Transportation and Utility Access: The committee adopted a transportation title which consolidates the authority for issuance of rights-of-way across d-2 lands into one statute. This title would require the preparation of a statewide transportation study by the State of Alaska in consultation with the Secretaries of Transportation, Interior, and Agriculture. The study would be updated every two years. Generally, only rights-of-way identified by the study would be eligible for application. Following application for a rights-of-way, an environmental impact statement would be prepared by the land managing agency, Interior or Agriculture Department, the Department of Transportation, and any regulatory agency involved in the process. This statement would be completed within one year of the application with a final decision on the application to be rendered within four months of completion of the statement. A series of detailed criteria, including economic feasibility, other alternatives and environmental and socio-economic effects, would be required to be addressed by the impact statement. On applications across wildlife refuges, wild and scenic rivers or national trails, if the secretaries and the agency head agreed, the application would be issued.

If the Secretary of Transportation or the regulatory agency involved disapproved the application, the applicant could appeal the decision directly to the courts. If the land managing agency denied the application, the decision would be reviewed by the President within three months. A denial by the President would be immediately reviewable by the court. Rights-of-way across national parks and wilderness areas could only be issued if approval was obtained from both the Secretary of Transportation and the secretary responsible for management of the particular land unit (i.e., agriculture for forest unit), and following presidential and congressional review under an expedited process.

The committee also provided specific language to guarantee access to state and privately owned in-holdings, including valid mining claims and other occupancies under the public land laws. This language is intended to statutorily buttress but not eliminate rights of access presently accorded under the common law. Finally, the committee adopted language permitting the continued use of traditional transportation vehicles, including snowmachines, powerboats, and airplanes, for travel to and from villages, homesites, and in all units established by the bill.

The ad hoc conference agreed to limit the participation of the Department of Transportation to rights-of-way applications for which it has program responsibility, such as highways, railroads, pipelines, and tramways.

Subsistence Hunting: The committee utilized part of the framework of the House bill including a subsistence preference under state regulation. However, the committee rejected the House concept of federal oversight, and agreed to authorize the secretary to represent subsistence users in federal court if after consultation with the state the problems remained in administrating the preference. In doing so, the Secretary or the State of Alaska would establish local and regional monitoring councils to provide a forum for subsistence users to communicate their concerns. A final change by the committee concerned subsistence hunting in parks and monuments. A special commission appointed by the governor and the Secretary of Interior was agreed to for each park or monument open to subsistence hunting. The commission's duty would be to prepare a separate management plan for subsistence hunting in these areas.

Wilderness Management: For the most part, the committee agreed that existing law and practice should govern management where wilderness is established. However, the committee did agree that a system of cabins for public use and safety should not only be maintained but also upgraded because of Alaska's climactic conditions and the size of the areas proposed. Additionally, specific provisions were made for the continued use of motorized equipment, including airplanes and motor boats, and for permanent facilities as part of fisheries enhancement work in wilderness areas.

The ad hoc conference reached an understanding to withdraw wilderness areas in the Tongass National Forest to future mining entry, subject to implementation of valid existing rights.

Cooperative Management: The committee agreed to the establishment of a federal-state coordination mechanism consisting of the heads of federal and state land and resource management agencies. The coordinating council would be chaired by a presidentially appointed federal co-chairman and the governor of Alaska.

A major role for the council would be participation in a land management study in the Bristol Bay/Alaska Peninsula area. The land ownership pattern in that area of the state is complex and the State of Alaska and the federal government have agreed to a special study to recommend land exchanges for ownership consolidation prior to final designation of state and federal management units. The council's recommendations would be advisory but its duties include the recommendation of other areas in Alaska suitable for cooperative management. Any council recommendation for the establishment of a cooperative management area would require public response by the agencies affected.

AREA-BY-AREA DESCRIPTION

1. National Park Service (Parks, Preserves, Monuments, and Recreation Areas)

a. Bering Land Bridge National Preserve: The Senate committee bill designates a 2.4 million acre national preserve on the northern Seward Peninsula. The purpose of the unit is to protect archeolcgical and paleontological values related to the migration of man from Asia to North America. The unit also encompasses the unique Imuruk Lava Fields and waterfowl habitat along the coast line.

The Senate version differs from the House-passed bill: approximately 60,000 acres of highly rated mineral lands are excised for state selection; continued use of the existing Deering to Taylor winter trail is assured; and there is no wilderness within the proposed unit.

b. Cape Krusenstern National Preserve: The Senate committee bill designates a 540,000 acre preserve in the coastal area just north of Kotzebue. The unit is designed to protect the archeological sites on the Cape itself and associated lands. Resource conflicts are virtually non-existent in this proposal.

The Senate version differs from the House bill in three respects: the House made the unit a monument closed to sport hunting and trapping—the Senate designated it a preserve to avoid conflicts with the lifestyle of the area residents; the eastern boundary is altered to eliminate any potential conflicts with a logical north-south transportation corridor near the Noatak River; and there is no wilderness in the proposal.

c. Noatak National Preserve/Recreation Area: The Senate committee bill designates a 5.4 million acre wilderness preserve and a 400,000 acre national recreation area in the Noatak River drainage in the western Brooks Range. The purpose of this unit is to protect the entire drainage of the Noatak River and the scientific, biolcgical, and recreational values associated with the drainage. Of particular importance is the Western Arctic caribou herd which migrates across the unit annually.

Resource conflicts are substantial as the highly rated Brooks Range mineral belts occur in both the northern and southern portions of the unit. Excellent potential for copper, lead, zinc, silver, cadmium, nickel, tin, and chrome is thought to exist in this area. In addition, two mountain passes in this proposal are considered prime locations for north-south transportation corridors linking the National Petroleum Reserve to the south.

The Senate committee bill differs from the House bill in the following respects: the Kelly River drainage (which abuts the highly mineralized "Red Dog" district) is made an NRA to serve as a buffer zone between the mining district and the wilderness; approximately 100,000 acres of highly mineralized lands on the western edge of the Noatak drainage are exercised for state and Native land selections; and the lower Noatak and the Agashashok River systems are placed in a BLM Conservation Area—H.R. 39 included this area in the preserve.

The ad hoc conference place in the Agashashok and lower Noatak river areas in a national recreation area closed to mineral development.

d. Gates of the Arctic National Park/Preserve/Recreation Area: The Senate committee bill places 7.9 million acres in the central Brooks Range under Park Service management. This unit is designed to protect the wild, scenic, recreational, and fish and wildlife values of the area. Many regard this area as the finest wildland left in the U.S. Of particular significance are the actual Gates of the Arctic on the North Fork of the Koyukuk, the Alatna River, the Arrigetch Peaks and Mt. Igikpak, and Walker Lake—all provide spectacular examples of Brooks Range scenery and topography.

The southern side of the proposal is crossed by a particularly rich mineral belt which has produced a series of major discoveries in those portions presently open to mineral entry. The northern side of the unit is thought to have similar geology and mineral potential. Besides mineral conflicts, the proposed unit includes some east-west river valleys which are considered prime locations for east-west transportation systems necessary to develop the minerals of the region. The so-called "boot" including the upper Kobuk River is the primary focus of the transportation issue. Sport hunting is also an issue as some of the finest moose, bear, and sheep hunting in the Brooks Range oc-

curs in this area. Hunting is centered on the John, Killik, and Chandler Rivers.

While the House created an 8.1 million acre wilderness park which overlapped nearly a million acres of state and native lands, the Senate committee took a very different approach. The Senate version excludes all existing state and regional corporation native lands, thus eliminating some major resource problems; creates two park units of 4.8 million acres centered on the Alatna River-Arrigetch Peaks area and on the Gates of the Arctic; designates a 1.9 million acre preserve between the parks—centered on the John and Chandler rivers—to permit sport hunting; creates two NRA's of 1.2 million acres in the southern portion of the unit where resource potential is greatest, developed recreation is most likely, and where proposed transportation routes are located; mandates a rights-of-way across the "boot" to facilitate access to the state owned Ambler mineral district; and excises approximately 75,000 acres of d-1 lands for state selection purposes.

The ad hoc conference designated the national recreation areas as preserves with specific direction that future transportation be considered as if the areas were a national recreation area. This would permit future access across the boot.

e. Yukon-Charley National Preserve: The Senate committee bill designates a 1.6 million acre preserve along the upper Yukon River near the border with Canada. The unit also includes the entire Charley River drainage. Primary values in this area are the outstanding recreational potential of the Charley system, the historic importance of the Yukon River, and abundant wildlife, including the endangered peregrine falcon.

The state has expressed interest in selecting lands along the Yukon because of the potential for forestry, agriculture, land settlement, recreation, and some mineral development. In addition, the proposed unit includes two historic and operating gold mining settlements at Woodchopper and Coal Creeks downstream from the confluence of the Yukon and Charley Rivers.

The Senate committee version differs from the House bill by excluding 75,000 acres at the far western end of the unit for state selection, providing protection for the high level of existing cabin use in the area. There is no wilderness within this preserve proposed by the committee.

f. McKinley National Park/Preserve: The Senate committee bill adds 3.7 million acres to the existing 1.9 million acre park. The purpose of this addition to the park is to include the entire McKinley massif, to include other portions of the Alaska Range including the Ruth Glacier and the Cathedral Spires, and to include virtually all of the northern range of the existing park's wildlife, such as grizzly bears, caribou, and wolves.

The committee's proposal includes the Kantishna Hills and Dunkle Mine areas in the park extension, but orders a special study to develop specific recommendations for managing these units; it excludes all existing state lands from the proposed boundaries (the House included these existing state lands); it excludes most of the Chulitna mineral district to permit state selection; it creates preserves in the Minchumina Flats area to permit existing trapping to continue and in the Yentna River area to permit existing sport hunting for moose to continue; and it designates the existing park (with a few exceptions) as wilderness.

g. Aniakchak National Monument/Preserve: The Senate committee bill creates a 510,000 acre Aniakchak unit on the Alaska Peninsula to protect the unique Aniakchak Caldera and associated geologic and volcanic features. It differs from the House measure in two respects: 140,000 acres are designated preserve, while the House designated 340,000 and 160,000 acres, respectively, and two half-townships of existing state land were excluded by the Senate from the House boundaries.

h. Katmai National Park/Preserve: The Senate committee bill designates 1.3 million acres for addition to the existing 2.7 million Katmai National Monument. The purpose of the extension is to include the abundant fish and wildlife areas of the Naknek Lake system drainage in the unit and add some important bear habitat in the Alagnak River and Kamishak River drainages farther to the north. Sport hunting is the only conflict affecting this proposal.

The Senate version adds 900,000 acres to the park and 400,000 acres as a preserve; the House designated 1.1 million and 200,000 acres, respectively. The major change from the House bill is that approximately 200,000 acres in the upper Alagnak drainage along Nonvianuk and Kulik Lakes is designated preserve instead of park. In addition, the Senate designates 3.5 million acres as wilderness as does the House.

i. Lake Clark National Park/Preserve: The Senate committee bill designates a 3.5 million acre park preserve around Lake Clark in south-central Alaska (2.4 million is park and 1.1 million preserve). The purpose of the proposal is to include Lake Clark, other alpine lakes in the area, the Iliamna and Mt. Redoubt volcanoes, and the river systems of the area in protective park status.

Resource conflicts are not that significant although there are some favorably rated mineral lands and some important hunting areas are included in the park. The major problems center around the extensive state, Native, and private land holdings in the area.

The Senate bill excludes all existing state lands from its boundaries. Such lands include those encompassing the Stony River, Chakachamna Lake, and the middle and lower reaches of the Mulchatna and Chilikadrotna Rivers. In addition, the Senate committee alters the boundary to exclude the village of Nondalton. The Senate also classified 2.45 million acres of the unit as wilderness.

A small area adjacent to Chakachamna Lake was included within the park by the ad hoc conference, but on the condition that it would not become part of the park without a land exchange between the state and the federal government.

j. Kenai Fiords National Park: The Senate committee bill designates a 420,000 acre park on the southern coast of the Kenai Peninsula. The primary values of this proposal are the scenery and recreational potential of the fiords and the marine mammal and seabird concentrations in the area. There are no significant resource conflicts in this area and the only differences between the Senate and House versions are that the Senate bill authorizes the Secretary of Interior to develop recreational access to the Harding Icefield and contains no wilderness.

k. Wrangells-St. Elias National Park/Preserve/Recreation Area: The Senate committee bill adopts the same external boundary set out by the House bill but significantly alters the land designations within the boundary. The 12 million acre Wrangells-St. Elias complex encompasses some of the most spectacular mountain scenery in all of North America. Its collection of high peaks, glaciers, gorges, glacial valleys, and rivers offer outstanding recreational opportunities, and most persons agree that part of the area deserves park designation.

However, resource conflicts exist in this area. The area supports the finest Dall sheep hunting in North America and over 400 guides are registered to hunt the region. In addition, locally important black bear, caribou, and moose hunting occurs. Minerals are also important as the original Kennecott Copper Mine is located in the upper Chitina Valley near McCarthy (in the heart of the proposal), and the mineral potential of the area is unquestioned. Two highly favorable mineral belts occur in the area: one in the Chitina Valley and another in the Nabesna-Chisana area on the north flank of the Wrangells. (The mineral values of this latter area induced the administration to originally recommend two mineral development zones within its park proposal.) Lastly, the land in the Chitina Valley and in the Nabesna area are well suited to land settlement and development since these lands are served by developed highways, and the state desires to select lands in these areas.

The Senate committee bill differs from the House bill by designating 8.4 million acres as park, 2.3 million as preserve, and 1.3 million acres as NRA; while the House designated 8.7 million acres of park and 3.4 million of preserve, with no NRA. The committee expanded the preserve to include the area north of the White River and the Drop Creek area. It designated the Nabesna-Chisana area as an NRA which permits mineral development, and it designated more than 9 million acres as wilderness, as did the House. The Senate committee measure, like the House bill, imposes wilderness on the preserve areas, which would seriously interfere with guided hunting in the area.

l. Kobuk Valley National Monument/Preserve: The Senate committee bill follows the same external boundary as the House bill in creating a 1.7 million acre unit but altered the classification. The purposes of this unit are to protect the unique Kobuk Sand Dunes, important caribou migration routes through the area, the recreational potential of the Salmon River, and unique archeological and biological features of this large arctic valley.

Resource conflicts are significant as a highly favorable mineral belt stretches across the northern portion of the unit and the Kobuk Valley is considered a likely place to locate any east-west transportation route to link the Kotzebue area with interior Alaska.

The Senate version restricts the monument to 170,000 acres around the dunes and makes the remaining 1.5 million acres a preserve (the House made the entire area a park). In addition, the Senate measure designates only the monument portion as wilderness, while the House created 1.5 million acres of wilderness within the unit.

m. Glacier Bay National Monument Addition: The Senate committee bill adds approximately 500,000 acres to the existing Glacier Bay Monument. The addition includes lands northwest of the present unit in the Barbazon Range and Alsek River areas. The major conflict is extending the unit to include Dry Bay which is the site of an existing commercial fishing operation. The Senate designated the Dry Bay area as a preserve and provides that the fishing operation can continue. The House deleted Dry Bay from the monument addition.

WILDLIFE REFUGES

a. Arctic Wildlife Range Addition: The Senate committee bill adds approximately 6 million acres to the existing range. Most of this land is in the Smith Mountains to the southwest of the range. The purpose of the addition is to protect a greater portion of the range of the Porcupine caribou herd and preserve a larger portion of the eastern Brooks Range in a wild state.

Significant resource conflicts affect this proposal. Within the existing range, the coastal plain is considered to be the finest onshore prospect for oil and gas in the U.S. The House bill made this area a wilderness, while the Senate measure sets out a special oil and gas evaluation procedure. In the Smith Mountains there are some areas with highly favorable mineral potential.

The Senate measure differs substantially from the House bill: it adds only 6 million acres to the range rather than 9.9 million acres; it creates no wilderness in this area while the House designated 14 million acres of wilderness; approximately 400,000 acres

in the Chandalar River drainage was excised for state selection; a BLM conservation area of approximately 1 million acres was created in the remainder of the Chandalar drainage (the House made this refuge); and approximately 2.5 million acres south of the present range was designated as part of a national forest (this area was added to the range by the House).

A portion of the Porcupine Forest was included in the Arctic Wildlife Range by the conference as an extension of the present range. Specific statutory directions would permit the development of timber for local and regional needs.

b. Selawik Wildlife Refuge: The Senate committee measure creates a 2 million acre refuge in the Selawik area southeast of Kotzebue. The purpose of the unit is to protect high density waterfowl nesting habitat near Selawik Lake and protect a portion of the winter range for the Western Arctic caribou herd.

There are resources conflicts with oil and gas, uranium, transportation routes and state interests lands. The entire Selawik basin overlays an identified oil and gas basin of moderate potential. The foothills which form the southern limit of the basin are rated extremely favorable for uranium potential. An area southeast of the lake is identified as logical location for a transportation system to link the Ambler mineral district with a seaport on Norton Sound. The state has indicated interest in selecting lands south and west of the lake for general purposes and transportation development.

The Senate version differs from the House bill by deleting the Squirrel River system which is unrelated to the Selawik Basin, but which was in the House version. The committee bill excludes the state selection interest lands near Kotzebue and most of the uranium rich lands to the south, as did the House version.

c. Yukon Flats Wildlife Refuge: The Senate committee bill establishes a 5.4 million acre wildlife refuge in the flats, which differs significantly from the House proposal. The primary purpose of the unit is to protect duck nesting habitat of the flats along the Yukon River.

Resource conflicts do exist as the flats is an area with multiple values. Excellent agricultural prospects, moderate oil and gas potential, locally important timber resources, good land settlement capabilities, some areas with mineral prospects for tungsten, uranium and gold, and transportation along the Yukon River are potentially in conflict with the refuge proposal. Additionally, the state has extensive selection interests in the flats and there are extensive native land holdings, including four native villages in the area.

Addressing these multiple values, the Senate designed a proposal with the following features: a 5.3 million acre refuge (the House has a 9.4 million refuge); approximately 3 million acres along the Porcupine River are designated as part of a new national forest (area included in the House bill refuge); the White Mountains area is designated a BLM national recreation area (House included this in the refuge); high priority state interest lands northeast of Circle were left undesignated for state selection while secondary state interest lands were restored to the refuge (the opposite of the House bill).

A portion of the Porcupine Forest was included in the Yukon Flats Wildlife Refuge by the ad hoc conference with specific directions to permit the development of timber for local and regional needs.

d. Kanuti Wildlife Refuge: The Senate committee bill designates a 1.4 million acre refuge in this area immediately south of Bettles. Primary purpose of the unit is to protect the waterfowl nesting habitat of the Kanuti Flats and some interesting geologic features south of the flats. Resource conflicts are limited to some mineral potential along the southeast portion of the proposal.

The Senate version of 1.4 million acres is 50,000 acres smaller than the House version. Changes include deletion of native lands near the villages of Bettles and Allakaket, deletion of much of the mineral potential to the southeast, and elimination of the 300,000 acres of House designated wilderness.

e. Koyukuk Wildlife Refuge: The Senate committee bill establishes a 3.6 million acre refuge which is virtually identical to that created by the House. The purpose of this unit—located north of the Yukon River near Galena—is to protect important waterfowl nesting habitat and upland habitat for moose and furbearers. The only appreciable resource conflicts are that the unit overlays an identified oil and gas basin, and there are some areas which contain locally important timber stands.

f. Innoko-Kaiyuh Wildlife Refuge: The Senate committee bill designates 2.7 million acres as refuge in two separate units along the east bank of the Yukon River downstream from Galena. The primary purpose of these units is to protect high density waterfowl nesting habitat and upland habitat for moose and furbearers. Resource conflicts with these proposals are insignificant. The Senate changed the House bill by restricting the refuge boundary to the east bank of the Yukon and removing state selection interest lands to permit state selection.

g. Clarence Rhodes Wildlife Range Addition (Yukon Delta): The Senate committee designated a 10.8 million acre addition to the present Clarence Rhodes Range in the Yukon and Kuskokwim river deltas. The purpose of the unit is to protect waterfowl and seabird habitat and the fisheries and upland habitat in the Andreafsky River system. The only resource conflicts are with oil and gas (a lowly rated basin underlies the area) and some favorable mineral prospects in the Kilbuck Mountains. The Senate committee deleted the Kilbuck Mountains from the refuge (which the House included) and put this area in the Bristol Bay Cooperative Management Study area.

The ad hoc conference committee agreed to accept the House passed boundary, which added acreage below the Kuskokwim to the wildlife range.

h. Becharof Wildlife Refuge: The Senate committee designated a 1-million acre Becharof Refuge immediately south of Katmai National Monument. The purpose of the unit is to protect the high density brown bear denning areas near Becharof Lake. Conflicts are limited to a possible north-south transportation access, state land selection interests, and state fishery enhancement activities. The committee bill excludes the south shore of the lake to facilitate the state's fishery management activities.

i. Kenai Moose Range Additions: The Senate added 250,000 acres to the present moose range. In addition, 1.38 million acres within the expanded range are designated wilderness.

j. Tetlin Wildlife Refuge: The Senate committee created a 765,000 acre refuge south of and along the Alaska Highway near the border with Canada. The primary purpose of the unit is to protect waterfowl nesting sites near the highway and some upland habitat.

k. Alaska Maritime Wildlife Refuge: The Senate committee bill adds 500,000 acres on assorted islands, rocks, capes, islets, etc. to the wildlife refuge system. The purpose of the designations are to protect marine mammal and seabird habitats. There are no significant resource conflicts with these units and the Senate action is identical to that taken by the House.

BLM CONSERVATION AREAS

a. Baird Mountains BLM Conservation Area: The Senate committee created a 2 million acre multiple-use BLM unit in the Baird Mountains south of the Noatak proposal and west of the Kobuk Valley Monument/Preserve. The primary values in this area are caribou migration through portions of the unit, some recreational potential along the rivers, and excellent hard rock mineral prospects. The House bill placed approximately half of this multiple-use unit in the Noatak Park Preserve and the remainder in the Selawik Wildlife Refuge.

The addition of the Agashashak River area to the Noatak National Recreation Area, reduced the size of the Baird Mountains Conservation Area to approximately 1 million acres. The major areas of mineral potential were left in the conservation area by the ad hoc conference.

b. Chandalar BLM Conservation Area: The Senate committee established a 900,000 acre Chandalar BLM unit in the upper Chandalar drainage in the eastern Brooks Range. The area offers good hunting, good recreational potential, has high value mineral prospects, and often harbors wintering caribou. The House added this area to the Arctic Wildlife Range.

c. Steese BLM Conservation Area: The Senate committee bill designated a 1.2 million acre BLM unit in the Birch and Preacher Creek drainages north of the Steese Highway near Circle. Primary values in this area are upland wildlife habitat, historic gold mining, recreation, and land settlement capabilities. Portions of this unit were included in the House bill's Yukon Flats Wildlife Refuge.

d. Nowitna BLM Conservation Area: The Senate committee designated a 3 million acre multiple-use unit in the Nowitna river drainage in central Alaska. This multiple value area, which both Secretary Morton and the LUPC recommended for Forest Service management, has wildlife habitat, timber potential, recreation values, land settlement capability, and moderate mineral prospects. The House created a 1.5 million acre wildlife refuge in this area.

The ad hoc conference designated part of the Nowitna area as a refuge and left the remainder of the area in the public domain under BLM management. Primary mineral areas were included in the public domain.

e. White Mountains BLM National Recreation Area: The Senate established a 1 million acre NRA in the White Mountains east of Fairbanks. The primary values in this area are recreational potential, minerals, and watershed protection. The House bill adds this area to the Yukon Flats Wildlife Refuge.

NATIONAL FORESTS

a. Porcupine National Forest: The Senate committee bill creates a 5.5 million acre national forest in interior Alaska along the Porcupine River. Primary values in this area—which both Secretary Morton and the Federal-State Land Use Planning Commission recommended for forest service management—are excellent waterfowl nesting habitat, upland habitat for moose and caribou, moderate oil and gas potential, highly favorable mineral lands, value interior forestry potential, agricultural possibilities, and recreation.

The House divided this area between the Arctic Wildlife Range Addition and the Yukon Flats Wildlife Refuge.

The ad hoc conference agreed to divide the Porcupine Forest between the two refuges but included specific direction to develop timber for local and regional needs.

b. Miscellaneous Additions to the Chugach and Tongass National Forests: Approximately 2.1 million acres are added by the Senate to the two existing national forests in Alaska. These additions consist primarily of rock and ice and are designed only to resolve boundaries which had created isolated sections of BLM lands in the forests.

c. Copper River Addition to Chugach Forest: The Senate committee adds approxi-

mately 900,000 acres of the lower Copper River area to the Chugach Forest. The primary values of this area are wildlife habitat, recreation, and some oil and gas potential. The Forest Service already manages the Copper River Delta adjacent to the Copper River unit.

The House bill redesignates the Delta as a refuge and adds the addition to create a wildlife refuge of more than 1 million acres.

WILD AND SCENIC RIVERS

The Senate committee identified six wild and scenic rivers and two "study" wild and scenic rivers that are outside existing or proposed parks and refuges. The six wild and scenic rivers include: the Lower Alatna River in the Gates of the Arctic NRA; the Koyukuk River in the Gates of the Arctic NRA; the Alagnak on the Alaska Peninsula; the Forty-Mile near Eagle; Birch Creek in a NRA; and Beaver Creek in a BLM Conservation Area. The two study rivers include the Porcupine and Sheenjek Rivers in the Porcupine Forest proposal.

The ad hoc conference agreed to designate the portion of the Yukon River flowing through the Ramparts Canyon as a wild river.●

BIOMEDICAL RESEARCH, COMMUNITY MENTAL HEALTH CENTERS, AND PROTECTION OF HUMAN SUBJECTS BILL (S. 2450)

● Mr. SCHWEIKER. Mr. President, S. 2450, the Community Mental Health Centers and Biomedical Research Extension Act, as it comes before the Senate today amended by the House of Representatives, represents a compromise between legislation passed earlier this session by the Senate and similar legislation reported by the House of Representatives Committee on Interstate and Foreign Commerce. Because of the lateness of the hour, no formal conference report or statement of managers has been filed on the amended bill. However, members of the Health Subcommittees with jurisdiction over the subject matter of the legislation did meet earlier to discuss the differences between the bills as considered by the two Houses. We agreed to propose the present version to our colleagues in both Houses today as a final compromise.

As the ranking Republican on the Health and Scientific Research Subcommittee of the Senate Human Resources Committee, I support the compromise we have worked out with our House counterparts. On behalf of myself and the chairman of the Health Subcommittee, (Mr. KENNEDY), I want to take this opportunity to set forth the legislative intent and history of S. 2450 by reading the following joint Senate-House summary and explanatory statement into the RECORD. It is my understanding that our counterparts in the House of Representatives have agreed to this approach.

The summary follows:

JOINT SENATE-HOUSE COMPARATIVE SUMMARY AND EXPLANATION OF SENATE BILL S. 2450, SIMILAR LEGISLATION AS REPORTED BY THE HOUSE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, AND THE HOUSE AMENDMENT TO S. 2450 IN THE NATURE OF A SUBSTITUTE

TITLE I—COMMUNITY MENTAL HEALTH CENTER EXTENSION ACT OF 1978

SHORT TITLE

Senate bill

The Senate bill provided for the short title "Community Mental Health Centers Extension Act of 1978".

House bill

The House bill as reported provided for the short title "Community Mental Health Centers Amendments of 1978".

House amendment

The House substitute contains the short title 'Community Mental Health Centers Extension Act of 1978".

AUTHORIZATIONS OF APPROPRIATIONS

Both the Senate bill and the House bill authorized line-item appropriations for several programs for fiscal year 1979. The House bill authorized appropriations for two additional fiscal years. The House amendment provides that authorizations for appropriations generally would be made for fiscal years 1979 and 1980. Table I sets forth the authorizations in the Senate bill, the House bill and the House amendment:

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS

	Senate bill	House bill	House amendment
202(d) CMHC planning:			
1979	1.93	1.0	1.5
1980		1.0	1.0
1981		1.0	.....
203(d) CMHC initial operations:			
1979	38.89	30.0	34.5
1980		35.0	35.0
1981		40.0	.....
204(c) CMHC—Consultation and education:			
1979	15.0	30.0	20.0
1980		3.0	3.0
1981		1.5	.....
205(c) CMHC conversion:			
1979	25.0	30.0	30.0
1980		25.0	25.0
1981			
213 CMHC financial distress:			
1979	13.5	25.0	25.0
1980			
1981			
215 Supplemental support:			
1979		30.0	.....
1980		45.0	.....
1981		50.0	.....
228 CMHC construction: 1979	2.50		
231(d) Rape prevention:			
1979	7.88	8.0	8.0
1980		9.0	9.0
1981		10.0	.....
Public Health Service Act, 314(g), State mental health programs:			
1979		10.0	5.0
1980		25.0	20.0
1981		28.0	25.0

SUPPLEMENTAL SUPPORT GRANTS

Senate bill

The Senate bill did not contain a supplemental support grant provision. Senate Report No. 95-838 to accompany S. 2450 stated "the Committee intends to address the question of funding beyond the eighth year of operation when it undertakes its detailed review of the legislation, but felt strongly that it would be inappropriate to make such a substantial change in the CMHC program in the absence of a comprehensive review of the program." The Senate bill provided for the continuation of the existing grant programs for consultation and education, conversion, and financial distress.

House bill

The House bill would provide for the replacement of three existing grant authorities—financial distress, conversion, and consultation and education—by one new authority, with an incremental repeal of those existing authorities. The new authority, Supplemental Support Grants would provide post-eighth year assistance in meeting the costs of nonreimbursable services (consultation and education; follow-up; and program administration) beginning in fiscal year 1979. The amount of each supplemental support grant to a center would be determined by the Secretary, but could not exceed $1 per capita for the catchment area served by the center. In exceptional circumstances, the Secretary would be authorized to make grants from the funds appropriated under this section to centers in their fifth through eighth year of operating to assist them in meeting the costs of providing consultation and education services.

The House bill would repeal the authorities for financial distress grants after fiscal year 1979; conversion grants after fiscal year 1980; and consultation and education grants after fiscal year 1981. This incremental repeal process would allow centers receiving, or eligible to receive such support, to continue to receive these grants until they are eligible for the new supplemental support program.

No limit has been set on the number of supplemental support grants a center may receive because the committee is desirous of assuring that those nonreimbursable services assisted by this grant be continued.

House amendment

The House amendment deletes the supplemental support grant provision of the House bill and continues the grant programs of consultation and education (C & E), conversion, and financial distress for two fiscal years. The authorization of appropriations for fiscal year 1980 for C & E was limited to $3.0 million and for financial distress was limited to zero by the nature of the Senate bill and House bill. Fiscal year 1980 authorizations of appropriations for these two grant programs will be reviewed again early in the 96th Congress.

Because of the large number of centers completing their eighth year of operations in 1978, the House substitute has authorized a significant increase in appropriations for financial distress grants to meet the needs of those centers while the larger question of post-eighth year funding is being reviewed. In addition, the House substitute extends from three to five the number of financial distress grants which may be made to any center.

ELIGIBILITY FOR FINANCIAL DISTRESS

Senate bill

No change in existing law.

House bill

The House bill included clarifying language as to the eligibility of established centers prior to the 1975 amendments to the CMHC Act for financial distress grants. The House bill intends that such centers are to be eligible to apply for and be considered for receipt of such grants upon termination of their full 8 years of operational funding based on the date that each such center received its first staffing grant. Subsequent awards for expansion of services under the old section 220 (as in effect prior to 1975) should not preclude a center from being eligible to apply for financial distress assistance once that center has received 8 years of staffing and/or operations grant support.

House amendment

The House substitute contains the language of the original House bill.

CMHC CONSTRUCTION

Senate bill

The Senate bill authorized appropriations of $2.5 million for CMHC construction for fiscal year 1979.

House bill

No provision.

House amendment

The House Amendment authorizes no funds for this purpose.

REQUIREMENTS FOR INITIAL OPERATIONS GRANTS

Senate bill

No change in existing law.

House bill

The House bill would allow new centers to begin with six basic services (inpatient; outpatient; emergency; screening and referral; follow-up; and consultation and education) and a plan, approved by the Secretary, for

providing all other mandated services within a three-year period.

House amendment

The House amendment contains the language of the House bill. While the new requirements for initial operations do not specifically call for either a program of specialized services for the mental health of children or of the elderly to be in place on the first day of operations, the six services required to be provided as of day one *are* to be provided to individuals of all ages.

SHARED SERVICES BETWEEN CATCHMENT AREAS

Senate bill

No provision.

House bill

The House bill would provide for the sharing of services between and among catchment areas.

House amendment

The House amendment provides that if local conditions merit, a center wishing to use inpatient, emergency, and/or transitional halfway home services provided by facilities outside its own catchment area but within geographic proximity of and accessible to the patients it serves, may do so, contingent upon the prior approval of the Secretary of the Department of Health, Education and Welfare. It is expected that the Secretary will review each request with care, considering such factors as ease of access to services, availability of transportation, and urban density, among others.

CMHC GOVERNING BOARDS

Senate bill

No change in existing law.

House bill

The House bill would allow community mental health centers operated by hospitals or governmental agencies to have citizen advisory boards rather than governing boards. The advisory committee required for such a center would have to meet the same composition requirements as the governing board of private, nonprofit community mental health centers and would have to approve each annual renewal grant for that center's operation before the application could be approved and funded.

House amendment

The House amendment contains the provisions of the House bill; however, the amendment requires that not more than 5 percent of the funds appropriated under sections 203, 204, and 205 (initial operations, consultation and education and conversion) in any fiscal year may be used in support of CMHCs operated by hospitals or governmental agencies having citizen advisory boards in lieu of the governing board requirement. Additionally, for those community mental health centers now affiliated with hospitals, the substitute provides two additional years to come into compliance with the governing board requirements.

HEALTH PLANNING REQUIREMENTS

Senate bill

No provision.

House bill

The House bill would make several changes to formalize the integration of mental health planning into the national health planning process established under Public Law 93-641, and to reduce the number of currently required federal mental health plans.

Specifically, the proposed legislation would: (1) add two mental health goal statements to the national health planning goals; (2) provide for the inclusion of goals for the delivery of mental health services in the health systems plan (HSP) of each health systems agency (HSA); (3) provide for the establishment of an advisory group or subcommittee to each HSA to make recommendations with respect to such goals; (4) provide for the inclusion (through consumer and provider members) of individuals knowledgeable about mental health on HSA boards; (5) provide for the State Health Authority, the State Mental Health Authority, and those other agencies of State government designated by the governor for such purposes, to make recommendations on the HSPs submitted to the State agency; (6) provide that the State Agency publish written statements of its reason for not taking action on any such recommendations; (7) allow the Statewide Health Coordinating Council (SHCC) to appoint a Mental Health Advisory Committee to assist it in plan review; (8) require the State Mental Health Authority to have an advisory committee to assist it in its planning and operations, responsibilities; and (9) provide that the plans required under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972 be consistent with the Title XV State Health Plan.

House amendment

Because similar provisions are contained in the 1978 amendments to the National Health Planning and Resources Development Act, the House substitute contains no such provisions.

MONITORING OF OPERATIONS GRANTS

Senate bill

No provision.

House bill

The House bill provides that up to one percent (1%) of the total amount appropriated under sections 203, 204, and 205 of the CMHC Act for any fiscal year shall be used by the Secretary to enter into contracts with State Mental Health Authorities to monitor federally funded mental health centers operations within their States.

House amendment

The House amendment contains the provisions of the House bill.

Serious concerns have been raised regarding the operational and administrative problems discussed in the September 1978 review of the CMHC Program undertaken by the General Accounting Office (GAO). It appears that responsibility for day-to-day operational aspects of the program, including the authority to award grants, is vested in the various PHS regional offices. However, these offices report only indirectly to the parent program, the National Institute of Mental Health (NIMH) which has overall responsibility for program direction and policy.

Current organizational arrangements may contribtue to the problems GAO identified. Clearly, the CMHC program should be operated in a manner providing the best possible administration and accountability. Therefore, the Secretary is requested to explain the existing division of responsibilities and delegations of authority, and encouraged to take whatever steps are necessary to make the responsibilities for this program as clear and direct as possible.

By way of this comment, the Secretary is asked to report to the appropriate Committees of the Congress on this matter in 60 days.

GRANT APPLICATION REVIEW FUNCTIONS OF THE NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Senate bill

No change in existing law.

House bill

The House bill would limit the applications that the National Advisory Mental Health Council must approve to (1) initial applications for operations, conversion, and consultation and education grants and (2) subsequent applications only when a center requests greater Federal support than projected in their initial application for such assistance.

House amendment

The House amendment contains the language in the House bill.

CATCHMENT AREA BOUNDARIES

Senate bill

No change in existing law.

House bill

The House bill provides that, to the extent practicable, CMHC catchment area boundaries not cross HSA boundaries.

House amendment

The House amendment contains the provisions of the House bill. In the event that a CMHC catchment area does cross HSA boundary lines, it is the intent, for purposes of HSA project review, that the HSAs involved coordinate their reviews, to the maximum extent possible, to reduce the time requirements on the Center staff in such review.

SECTION 237—STATE PLAN

Senate bill

No change in existing law.

House bill

The House bill would amend section 237 of the Community Mental Health Centers Act by: (1) renaming that section: State Mental Health Authority; (2) prescribing functions for such authority essentially as previously delineated in the current section 237 of the Community Mental Health Centers Act (State Plan), and section 314(d) of the Public Health Service Act (comprehensive public health services); and (3) relating these prescribed functions to the Title XV State Health Plan. In addition, it would require the State Mental Authority to designate a State Advisory Council to consult with it in carrying out the functions of section 237 and Title XV of the Public Health Service Act. The Council must include representation from entities concerned with planning and mental health service delivery, and the majority must be individuals who are not providers of health care.

House amendment

The House amendment provides no change in existing law.

RAPE CONTROL

Senate bill

No change in existing law.

House bill

The House bill would amend section 231(c) of the Community Mental Health Centers Act (rape prevention and control) to require that the recommendations of the Committee established by that section be submitted directly to the Secretary without review or revision without the consent of the Committee.

House amendment

The House amendment contains the same provision as in the original House bill.

STATE MENTAL HEALTH PROGRAMS

Senate bill

No provision.

House bill

The House bill would establish a new section 314(g) of the Public Health Service Act (to be named State mental health programs (which would provide authorizations for appropriations for those mental health services previously authorized under section 314(d) of the Public Health Service Act and for assistance in meeting the costs of the planning responsibilities required under amendments to the National Health Planning and Resources Development Act.

House amendment

The House amendment contains the same provision as in the original House bill.

MISCELLANEOUS AMENDMENT

Senate bill

No provision.

House bill

The House bill would amend section 504 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 by requiring the Secretary, insofar as practicable, to approve applications for national alcohol research centers in a manner which results in an equitable geographic distribution of such centers.

House amendment

The House amendment contains the same provision as in the original House bill.

CARRYOVER OF FUNDS

Both the Senate bill and the House bill provide for the carryover of Federal funds from one fiscal year to the next in certain defined circumstances. In addition, the House amendment provides that up to 5 percent of non-Federal grant funds generated in excess of that projected for any fiscal year may be retained by the Center for expansion or improvement of services, increasing the number of persons who can be served, facility modernization, or to establish a financial reserve to offset the decrease in percentage of Federal funds in future years. The Center must provide satisfactory assurances to the Secretary that such funds will be used for such purposes.

BIOMEDICAL RESEARCH AND RESEARCH TRAINING—AUTHORIZATIONS AND APPROPRIATIONS AND OTHER BUDGETARY INFORMATION

[In millions of dollars; fiscal years]

Program	1978—Existing law		1979 authorization		1980 authorization		1981 authorization		House amendment authorization		
	Authorizations	Appropriations	H.R. 12347	S. 2450	H.R. 12347	S. 2450	H.R. 12347	S. 2450	1979	1980	1981
National Library of Medicine: Library assistance program	14.6	7.987	15	15	16	17	17	20	15.0	16.5	18.5
National Cancer Institute:											
Cancer control programs	(84.56)	(64.5)	(96)	(85)	(103)		(110)		(90.5)	(103.0)	
Other cancer programs	(923.59)	(782.75)	(924)	(925)	(927)		(930)		(924.5)	(924.5)	
Total, cancer program	1,008.15	847.25	1,020	1,010	1,030		1,040		1,015.0	1,030.0	
National Heart, Lung and Blood Institute:											
Prevention and control programs	(30.0	(30.0)	(40)	(40)	(45)		(50)		(40.0)	(45.0)	
Other NHLBI programs	(426.32)	(392.56)	(470)	(470)	(515)		(560)		(470.0)	(515.0)	
Total, NHLBI programs	456.32	422.56	510	510	560		610		510.0	560.0	
National Research Service Awards	[1] 161.39	[1] 151.03	220	175	240	180	260	185	197.5	210.0	222.5
Total	1,640.46	1,428.827	1,765	1,710	1,846	197	1,927	205	1,737.5	1,816.5	241.0

[1] Does not include +$19,900,000 under old sec. 301 authority.

TITLE II—BIOMEDICAL RESEARCH EXTENSION

SHORT TITLE

The House committee bill, H.R. 12347, provides that the short title shall be the "Biomedical Research and Research Training Amendments of 1978."

The Senate bill provides that the short title shall be the "Biomedical Research Extension Act of 1978."

The House amendment conforms to the provision of the House committee bill.

PART A—LIBRARIES OF MEDICINE EXTENSION OF AUTHORIZATIONS

The House committee bill authorizes appropriations under section 309(c) of the Public Health Service Act (hereafter referred to as "the Act") at levels of $15,000,000 for fiscal year 1979, $16,000,000 for fiscal year 1980 and $17,000,000 for fiscal year 1981.

The Senate bill authorize appropriations for the programs of assistance to medical libraries under section 390(c) at levels of $15,000,000 for fiscal year 1979, $17,000,000 for fiscal year 1980 and $20,000,000 for fiscal year 1981.

The House amendment authorizes appropriations of $15,000,000 for fiscal year 1979, $16,500,000 for fiscal year 1980 and $16,500,000 for fiscal year 1981.

PART B—PROGRAMS OF THE NATIONAL HEART, LUNG AND BLOOD INSTITUTE

EXTENSION OF AUTHORIZATIONS

Heart, Blood Vessel, Lung, and Blood Disease Prevention and Control Program

The House committee bill extends, for three years, authorizations of appropriations for these programs. The proposed authorization level under section 414(b) of the Act, are $40,000,000 fiscal year 1979, $45,000,000 for fiscal year 1980 and $50,000,000 for fiscal year 1981.

The Senate bill extends the authorization of appropriations under this section only for fiscal year 1979, and at a level of $40,000,000.

The House amendment extends authorizations for two years, and adopts the House level of $45,000,000 for fiscal year 1980.

Heart, Blood Vessel, Lung and Blood Disease Research and Other Programs

The authorization of appropriations for these programs under section 419(b) of the Act are $470,000,000 for fiscal year 1979 in both the House committee bill and Senate bill. The House committee bill further provides for authorizations of appropriations of $515,000,000 for fiscal year 1980 and $560,000,000 for fiscal year 1981.

The House amendment provides for a two year extension of authorizations under section 419(b), and adopts the House level for fiscal year 1980.

SUBMISSION OF REPORTS

The House committee bill amends section 413(b)(2) of the Act by requiring the Director of the National Heart, Lung and Blood Institute to submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to Congress, rather than to submit a report to the President for transmittal to the Congress, as required under current law. The House committee bill also amends section 418(b)(2) to require that the National Heart, Lung and Blood Advisory Council's annual report is to be transmitted to the Secretary for his simultaneous transmittal to the President and Congress no later than November 30 of each year.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

INFORMATION PROGRAMS

The House committee bill amends section 412(5) of the Act to require that the information now required to be provided by the National Heart, Lung and Blood Institute's information center be made available "on a timely basis".

The House committee bill also amends section 413(d) to provide that the information to be disseminated under the Institute's prevention, education and control program be done so "on a timely basis" and include information on "nutrition and environmental pollutants".

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

The House committee bill adds a new subparagraph to section 415(a)(2) of the Act which requires heart, lung and blood centers to conduct continuing education programs for health professionals and to conduct information programs for the public.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill.

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

EXTENSION OF AUTHORIZATIONS

Cancer Control Programs

The House committee bill extends, for three years, authorizations of appropriations for cancer control programs under section 409(b) of the Act. Proposed levels are $96,000,000 for fiscal year 1979, $103,000,000 for fiscal year 1980 and $110,000,000 for fiscal year 1981.

The Senate bill extends, for one year, authorizations for this program at a proposed level of $85,000,000.

The House amendment provides for a two-year authorization for the cancer control programs, at levels of $90,500,000 in fiscal year 1979 and $103,000,000 in fiscal year 1980.

Research and Other Programs of the National Cancer Institute

The House committee bill extends, for three years, authorizations of appropriations under section 410(c) of the Act. Proposed levels are $924,000,000 for fiscal year 1979, $927,000,000 for fiscal year 1980 and $930,000,000 for fiscal year 1981.

The Senate bill extends the authorization of appropriations for these programs for one year at a proposed level of $925,000,000.

The House amendment provides for a two year extension of authorizations of appropriations under section 410(c) at levels of

$924,500,000 for fiscal year 1979, and $927,000,000 for fiscal year 1980.

APPOINTMENT OF THE DIRECTOR OF THE NATIONAL CANCER INSTITUTE

The House committee bill amends section 471 of the Public Health Service Act to delete the requirement under existing law that the Director of the National Cancer Institute be appointed by the President by and with the advice and consent of the Senate. The effect of this provision is to require the Secretary of Health, Education and Welfare to appoint the Director of the National Cancer Institute.

The Senate bill contains no comparable provision.

The House amendment deleted the provisions of the House committee bill.

NATIONAL CANCER ADVISORY BOARD

Appointment of Members

The House committee bill amends section 410(B) of the Act to require that members of the National Cancer Advisory Board be appointed by the Secretary of Health, Education and Welfare, rather than by the President as under current law.

The Senate bill contains no comparable provision.

The House amendment conforms to the Senate bill.

Ex-officio Members

The House committee bill amends section 410B(a) to add, as ex-officio members of the National Cancer Advisory Board, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency and the Chairman of the Consumer Product Safety Commission. The House committee bill further provides that all ex-officio members be non-voting.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

Qualifications of Members

The House committee bill amends section 410(B)(a)(2) to require that "not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)" and that "at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer."

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House Committee bill.

SUBMISSION OF REPORTS

Report of the National Cancer Advisory Board

The House committee bill amends section 410B(g) by requiring the National Cancer Advisory Board to submit "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to Congress, on the progress during the preceding fiscal year of the National Cancer Program." This would modify current law which requires that the above report be submitted to the President for transmittal to Congress not later than January 31 of each year. The House committee bill also amends section 410A(b) of the Act to require that the Director of the National Cancer Institute submit a report "to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress," on the progress and accomplishments of the National Cancer Program during the previous fiscal year.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

FUNCTIONS OF CENTERS

The House committee bill amends section 408 (a) and (b) of the Act by adding basic research and prevention to the functions of cancer centers, to provide that the centers support "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention and treatment methods for cancer."

The Senate bill adds only the function of basic research but otherwise retains the wording of the present section, to require that centers support "basic or clinical research, training and demonstration of advanced diagnostic and treatment methods relating to cancer."

The House committee bill, also under section 408(b), adds programs for "continuing education for health professionals and allied health professionals, and information programs for the public respecting cancer."

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

NATIONAL CANCER PROGRAM

Research and Training

The House committee bill adds to the provisions of the National Cancer Program in section 407(b)(1) of the Act the requirement that the National Concer Institute "implement an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens." The House committee bill further amends section 407(b) by including programs of continuing education for health professionals in the requirement of the National Cancer Program regarding education and training programs described in paragraph (7).

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

The President's Cancer Panel

The House committee bill amends section 407(c)(3) to require the President's Cancer Panel to meet a minimum of four times per year instead of a minimum of twelve times as required under current law.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill.

CANCER CONTROL PROGRAMS

The House committee bill revises section 409(a) of the Act to require the Director of the National Cancer Institute to establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. The programs are required to include—

(1) locally initiated education and demonstration programs (including regional networks of such programs), for physicians and other health professionals;

(2) the demonstration of and education of health professionals in, the early detection of cancer, and improved methods of patient referral; and

(3) the demonstration of new methods for providing public information concerning early detection and effective treatment of cancer.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill.

TECHNICAL REVISION

The House committee bill includes a complete technical redrafting of Part A of title IV (which would include all amendments contained in the House amendment). This revision is intended to provide a more organized, concise and logical statement of the existing National Cancer Act (sections 401 through 410 of the Public Health Service Act).

The Senate contains no comparable provision.

The House amendment adopts this provision of the House committee bill.

PART D—NATIONAL RESEARCH SERVICE AWARDS

Authorizations of Appropriations

The House committee bill extends for three years the authorizations of appropriations for National Research Service Awards as follows: $220,000,000 for fiscal year 1979, $240,000,000 for fiscal year 1980 and $260,000,000 for fiscal year 1981.

The Senate bill also extends the authorizations of appropriations for three years but for the following figures: $175,000,000 for fiscal year 1979, $180,000,000 for fiscal year 1980 and $185,000,000 for fiscal year 1981.

The House amendment extends the authorizations for three years at levels of $197,500,000 for fiscal year 1979, $210,000,000 for fiscal year 1980, and $222,500,000 for fiscal year 1981.

PERIOD OF AWARDS

The House committee bill amends section 472(b)(4) of the Act to extend from three to five years the maximum period during which predoctoral trainees can receive these awards.

The Senate bill contains no comparable provision.

The House amendment adopts this provision of the House committee bill.

ADJUSTMENTS IN ALLOWANCES

The House committee bill amends section 472(b)(5) of the Act to require that stipends and allowances awarded under this section be "adjusted periodically to reflect increases in the cost of living."

The Senate bill provides for the inclusion of "cost of living increase allowances" in addition to travel and subsistence expenses and dependency allowances.

While we recognize that the House and Senate provisions are essentially equivalent in intent, the House amendment adopts the House provision. We believe that the use of the word "periodically" implies that stipends should be examined at reasonable intervals to consider adjustments for changes in the cost of living.

We intend that changes in the cost of living be considered among other factors in the setting of stipend levels, and do not intend cost of living increases to result automatically in proportional stipend increases.

SERVICE OBLIGATION

Alternate Service in Geographic Areas of Need

The Senate bill deletes the provision in section 472(c)(1)(B) of the Act which would authorize the Secretary of Health, Education and Welfare to allow recipients of awards who are physicians, dentists, nurses or otherwise trained to provide health care to individual patients, to serve in their specialty in a geographic area of need, in lieu of the research service obligation usually required under this subsection.

The House committee bill has no comparable provision.

The House amendment conforms to the Senate bill. We note that the service option provided in the deleted section has never been utilized by NRSA recipients, nor has the Secretary issued regulations to govern the implementation of the provision.

Exemption for Service Requirement for Awards for Short Term Training

The House committee bill amends section 472(c)(2) to require service payback only for awards made for a period in excess of three months. This provision was included

to exempt from the service and payback requirements the recipients of awards for short-term training courses, usually offered during the summer months, for research scientists and trainees.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill, but with an amendment limiting to four percent of appropriated funds the amounts of money which may be obligated for training grants of less than three months duration.

Relief of Service Obligation or Payback in Hardship Cases

The House committee bill amends section 472(c)(5)(B) to delete the word "extreme" before "hardship", in order to soften the standard according to which the Secretary may waive or suspend a service or payback obligation under this section.

The Senate bill has no comparable provision.

The House amendment adopts the term "substantial hardship" as a legislative standard according to which the Secretary may waive a service or payback obligation. We wish to indicate that in modifying this waiver provision, we intend to provide the Secretary with more flexibility to take into account the individual circumstances of trainees who face a payback obligation. We do not intend the payback provision to be a punitive measure, or to inflict on trainees an unreasonable or excessively harsh payback requirement. However, the modification in the waiver standard should not be construed as altering the fundamental principle that recipients of NRSA support should be required to pay back in some way the support provided by Federal taxpayers.

RETROACTIVITY OF SERVICE OBLIGATION AND PAYBACK AMENDMENTS

The House committee bill specifies that the National Research Service Awards amendments, which liberalize the service and payback requirements and were agreed upon in the House amendment, should be effective upon the date of enactment.

The Senate bill provides that these amendments be made retroactive and apply to all previous awards made prior to the date of enactment as well.

The House amendment adopts the provisions of the House committee bill.

DETERMINATION OF SUBJECT AREAS FOR AWARDS

The House committee bill amends section 472(a)(3) of the Act to require the Secretary of Health, Education, and Welfare to determine the distribution of awards in different subject areas "after review of the most recent results of the study prescribed by section 473(a) of the Act", which refers to the National Academy of Sciences study on Personnel Needs and Training for Biomedical and Behavioral Research. This provision removes the mandatory character of the training priorities as described in the National Academy of Sciences annual report.

The Senate bill contains no similar provision.

The House amendment conforms to the Senate bill.

REPORTS ON PERSONNEL TRAINING NEEDS

The House committee bill amends section 473(C) of the Act, which now requires that the report on research personnel training needs, now prepared by the National Academy of Sciences annually, be required to be submitted "at least once every three years".

The Senate bill contains no comparable provision.

The House amendment requires this report to be submitted "at least once every two years."

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

The House committee bill amends section 301(h) of the Act to authorize the Secretary to make available to individuals and entities substances and organisms for biomedical and behavioral research if the Secretary determines either that these materials are not available in sufficient quantity or, that by promoting uniformity, the quality of the research is likely to be improved. The Secretary is empowered to set the terms for supplying such material, including payment.

The Senate bill amends section 301(b) to authorize the Surgeon General to make available "research chemicals and research animals" to appropriate public authorities, and to health officials and scientists engaged in special study.

The House amendment adopts the provision of the House committee bill requiring the Secretary to provide "substances and organisms" but deletes the conditional clauses concerning availability of substances or organisms or expectation of improved research results. The provision authorizing the Secretary to determine the conditions for supplying such material is retained.

The authority for the Secretary to provide research substances and organisms is included for several reasons: 1) to permit HEW to supply identical materials to several laboratories doing comparable research so that results of experiments can be validly compared; 2) to permit the Secretary to supply materials for research which are not commercially available; 3) to permit the Secretary to supply research materials when he is able to do so at significantly lower cost than any commercial manufacturer; and 4) to permit the Secretary to supply research substances and organisms when requiring the research laboratory to do so would constitute an unreasonable drain on the resources of the individual lab.

We intend that this provision be used with appropriate discretion by the Secretary. It is not intended that this provision result in the large scale production by the Secretary of substances or living organisms for research. It is further expected that the provision be used to supply commercial laboratories only for compelling reasons and then with appropriate compensation.

EXPANSION OF RESEARCH AND TESTING AUTHORITY

Testing Program for Toxicity and Carcinogenicity of Substances

The House committee bill amends section 301 of the Act to direct the Secretary to conduct and to support through grants and contracts, studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity and other harmful biological effects.

The Senate bill contains no comparable provision.

The House amendment adopts the House bill.

Research on the Biological Effects of Low-Level Ionizing Radiation

The House-passed substitute amends section 301 of the Act to require the Secretary to establish a comprehensive program of research into the biological effects of low-level ionizing radiation.

The House amendment also directs the Secretary to conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation. Since this provision was added to the House bill for the first time as part of the House amendment, the statements of the Chairman of the Subcommittee on Health and the Environment, Paul G. Rogers, and the Chairman of the Subcommittee on Environment and the Atmosphere, George E. Brown, clarify the intent of this provision.

The Senate bill contains no comparable provision.

The House amendment adopts the provision of the House bill.

Research on Human Nutrition

The House passed substitute amends section 301 of the Public Health Service Act to direct the Secretary to conduct and authorizes him to support through grants and contracts, research and studies on human nutrition. This provision also directs the Secretary to conduct information programs on human nutrition for both health professionals and the public.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House passed substitute.

Annual Report on Carcinogens

The House committee bill amends section 407(b) of the National Cancer Act by adding a new paragraph (10) which would require the Director of the National Cancer Institute to publish, as part of the National Cancer Program, an annual report on carcinogens which contains—

(A) A list of all known or suspected carcinogens,

(B) information concerning the nature of exposure and the number of individuals exposed, and

(C) an evaluation of the efficacy of existing regulatory standards.

The Senate bill contains no comparable provision.

The House amendment reflects most of the intent of the provisions of the House committee bill, but provides that the preparation and issuance of this annual report be the responsibility of the Secretary of Health, Education, and Welfare rather than the Director of the National Cancer Institute. The provision in the House amendment is thus drafted as an amendment to section 301 of the Act, rather than as an additional element of the National Cancer Program.

We intend this study to be undertaken within HEW with considerable input from the National Cancer Institute, but also with the added expertise of such other entities as the Food and Drug Administration and the National Institute of Environmental Health Sciences. The new Toxicology Board recently created within the Department of Health, Education, and Welfare to oversee and coordinate the testing of substances for carcinogenicity and other harmful biological effects is expected to play a major role in the preparation of the report.

Other changes include a replacement of the phrase "suspended carcinogens" with "substances . . . reasonably anticipated to be carcinogens", in order to make it absolutely clear in the statute that there must be reasonable ground for designating a substance as a putative carcinogen. The provision previously requiring an evaluation of existing regulatory standards for efficacy has been modified to require a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient or exposure standards has been established by a Federal agency and (ii) for each existing standard, the extent to which, on the basis of available data, such standard and its implementation by the appropriate agency, decreases the risk to public health. The report is also now required to include a description of each request from a Federal agency to conduct research or testing concerning the carciogenicity of substances, and the response to each such request.

We wish to avoid any duplication of effort between this study and other studies supported by the Department of Health, Education and Welfare. We recognize the possibility of overlap between this study and studies required under other legislation, and intend that the Secretary take steps to prevent unnecessary duplication of effort and ensure appropriate sharing of information in the preparation of this study and report and studies and reports being conducted under other authorities. In this regard we specifically direct the Secretary's at-

tention to section 7 of S. 2466 requiring the Secretary to conduct a study of the costs of diseases and adverse effects on humans which are environmentally related, and expect the Secretary to avoid overlap between that study and the study required under this subsection.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

The House committee bill amends section 472(a) of the Act which deals with peer review to include research grants under the Division of Nursing.

The Senate bill contains no comparable provision.

The House amendment adopts the provision of the House bill.

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

The House committee bill adds a new section 479 to the Act which authorizes the Director of the National Institutes of Health to obtain the services of experts and consultants, which may be hired for periods in excess of one year, for any entity within the National Institutes of Health (other than the National Cancer Institute and the National Heart, Lung and Blood Institute, which are already authorized to obtain such consultants), the number of which is not to exceed four percent of the number of permanent, full time employees employed during the previous fiscal year.

The Senate bill adds a new section 477 to the Act which authorizes the Director of the National Institutes of Health to obtain the services of not more than one hundred experts and consultants only for the fiscal year 1979 (exclusive of consultants for the National Cancer Institute and the National Heart, Lung and Blood Institute).

The Senate bill further provides for travel and moving expenses of consultants to both the National Cancer Institute (by amending section 404(b)(1)) and the National Heart, Lung and Blood Institute (by amending section 413(c)(1)), but not for those consultants authorized in the new section 477.

The House amendment incorporates the features of both bills in that it provides, with no time limit on this authority, for a maximum of 200 consultants for the National Institutes of Health (other than the National Cancer Institute and the National Heart, Lung and Blood Institute). Travel and moving expenses are provided for all consultants, including those for the National Cancer Institute and the National Heart, Lung and Blood Institute, but these expenses are authorized only for those who remain for at least one year, unless separated or reassigned for reasons beyond that individual's control.

EXTENSION OF DEADLINES FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

The House passed substitute amends section 301(1)(1) of the Arthritis Diabetes and Digestive Disease Amendments of 1976 (P.L. 94–562) by extending the report deadline for the National Commission on Digestive Diseases to February 1, 1979.

The Senate bill contains no comparable provision.

The House amendment adopts this provision of the House amendment.

AMENDMENT TO PROGRAMS ON ALCOHOL ABUSE AND ALCOHOLISM PREVENTION TREATMENT AND REHABILITATION

The Senate bill, S. 2450 contains as Title III, an amendment to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970. The purpose of this amendment is to extend such programs, where appropriate to a consideration of the impact of alcohol abuse and alcoholism on the families of both alcoholics and those who abuse alcohol.

The House committee bill contains no comparable provision.

The House amendment adopts the substantive provisions of the Senate bill, but redrafts them with minor revisions as a new section 268 to Title II of S. 2450 under part E—Miscellaneous Provisions.

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate passed a bill, S. 2579, which would establish the "President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research." This bill amends the Public Health Service Act to create a new title XVIII. An identical provision was included as Title IV to S. 2450.

No comparable legislation was reported by the House Committee. The House Amendment retains many of the provisions of the Senate bill, modifies or deletes others and includes some new provisions.

ESTABLISHMENT OF COMMISSION

The Senate bill provides for the establishment of a Commission to be known as the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

In view of the fact that the Senate bill covers many subject areas which go beyond the protection of human research subjects, the House committee members believed that the title of the Commission should be consistent with the broadened scope of its functions.

The House Amendment provides that there is to be established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

Fields of Expertise Represented by Commissioners

The Senate bill provides that the President shall appoint five of the eleven members of the Commission from those who are or who have been engaged in biomedical or behavioral research involving human subjects, the remaining six being individuals distinguished in the humanities, social sciences or natural sciences who have never been engaged in research involving human subjects.

The House amendment, in keeping with the broader mandate for the Commission, provides that three members of the Commission shall be distinguished in biomedical or behavioral research, three distinguished in the practice of medicine and five distinguished in other disciplines from the humanities, social sciences and other natural sciences.

Federal Employees

The Senate bill provides that no full-time employees of the United States may be appointed as a member of the Commission.

The House amendment adopts this provision of the Senate bill.

Liaison Representatives of Federal Agencies

The Senate bill provides that the Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to serve as a nonvoting, ex-officio advisor to the Commission.

The House Committee members were concerned that this provision might detract from the autonomy of the Commission.

The House amendment specifies that the cabinet and other agency heads listed above shall each designate an individual to provide liaison with the Commission.

Security Clearances

The Senate bill requires that any member of the Commission or any individual appointed or employed by the Commission must obtain the appropriate security clearances before having access to classified information.

It was agreed that the requirement for security clearances for any individual having access to classified information is already covered by executive order. However, it was felt that directions to the Commission to promptly arrange for security clearances to avoid unnecessary delays in examining pertinent classified information were appropriate.

The House amendment requires the Commission to "promptly arrange" for all appropriate security clearances of members and staff.

Interim Membership on Commission of Current Members of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

The Senate bill provides that the current members of the National Commission for the Protection of Human Subjects of Behavioral and Biomedical Research be deemed members of the Commission until the President appoints new members.

In view of the fact that the National Commission has already completed all its work and is presently disbanding, this provision was considered to be unnecessary.

The House amendment deletes this provision of the Senate bill.

Other Provisions Concerning Membership

The Senate bill contains several other provisions concerning the terms of office, the manner in which appointments are to be made, the appointment of a Chairman, and compensation.

Generally, these technical provisions were found to be acceptable.

The House amendment adopts the remainder of the provisions in the Senate bill concerning membership with the exception of the provision stating that four or fewer vacancies shall not affect the activities of the Commission, and the requirement for a Presidentially chosen Vice-Chairman, which were considered unnecessary.

DUTIES OF THE COMMISSION REPORT ON THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate bill requires that the Commission issue a report every two years on the protection of human subjects of biomedical and behavioral research. The Commission, in preparing this report, is required to periodically review the rules, policies, guidelines and regulations of each federal agency relevant to the conduct of research involving human subjects to determine their adequacy in protecting such subjects.

The Senate bill also authorizes the Commission to review in detail any program of any Federal department or agency to determine whether human research subjects are adequately protected. The Commission's report may include any appropriate recommendations for administrative or legislative action.

It was recognized that there is a need to review Federal policies concerning the protection of human research subjects and to evaluate the implementaion of rules, policies, guidelines and regulations, by the various Federal agencies and departments. However, the House committee members did not believe that this should be the primary function of the Commission. They also felt that the authority to review in detail any program of any agency was inappropriate for the Commission. The Senate, however, believed that such review should be a primary function and should be required in order to determine whether implementation was adequate.

In order to meet both concerns, the House amendment adopts a provision similar to that in the Senate bill requiring that a report on the protection of human subjects be issued every two years and shall include

a review of the adequacy and uniformity of (1) the rules, policies, guidelines and regulations of all Federal agencies (including the Central Intelligence Agency and the Department of Defense) regarding the protection of human subjects of biomedical and behavioral research which such agencies conduct or support, and (2) their implementation. The Commission is authorized to recommend whatever legislative or administrative action it considers to be necessary.

The House amendment deletes the provision of the Senate bill authorizing the Commission to review in detail any program of any Federal agency or department. In its place clause (2) above was included in order to retain authority to do what is necessary to evaluate the adequacy of implementation. This might from time to time require detailed review of the program in question.

FOLLOW-UP WORK OF NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate bill provides that the Commission shall complete any of the duties of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

It was noted that the National Commission has completed all of its duties as set forth in section 202 of Public Law 93-348 and that all that remains is the issuance of a report, now in the final stages of preparation. Therefore, this provision was considered to be unnecessary.

The House amendment deletes this provision of the Senate bill.

GENERAL STUDIES

The Senate bill provides that the Commission undertake studies of the ethical, social and legal implications of advances in biomedical and behavioral research and technology. This provision requires that the Commission consider a very broad spectrum of relevant issues.

It was noted that the provision is nearly identical to section 203 of the Public Law 93-348, as a directive to the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The National Commission has completed this study, the report on which is about to be issued. Therefore, this provision of the Senate bill is considered to be unnecessary.

The House amendment deletes this provision of the Senate bill.

STUDIES

The Senate bill specifies several studies in specific subject areas to be undertaken by the Commission. The subjects of these studies are:

(1) the requirements for informed consent by patients before they receive treatment;

(2) the matter of the definition of death and the development of a uniform definition of death;

(3) voluntary testing, counseling and information programs with respect to genetic diseases; and

(4) procedures and mechanisms designed to safeguard the privacy of research subjects and ensure the confidentiality of patient records.

The Senate bill also provides that the Commission may conduct any additional studies on its own initiative, at the request of the head of a federal agency or at the request of a committee of Congress. Reports to the President, appropriate federal agencies and appropriate committees of Congress, which should include any recommendations for legislative or administrative action, are required upon the completion of these studies.

The House committee members found these subject areas acceptable but wish to specify that it is the intent of Congress that the Commission's authority to conduct studies and make recommendations shall be limited to the consideration of ethical and legal problems connected with each of the subject areas to be considered by the Commission.

The House amendment adopts the provisions of the Senate bill with the limitation that all studies deal with the ethical and legal implication of the various subject areas and with the deletion of the provision that additional studies may be undertaken at the request of a Congressional committee.

The House amendment adds to the provisions of the Senate bill an additional subject area, the difference in availability of health services, as determined by the income or residence of the persons receiving such services. A study of the ethical issues raised by existing disparities in the distribution of health services, was considered to be of considerable relevance to national health policy.

The House amendment also adds the provision that the President could require the Commission to conduct additional studies.

The House amendment further adds a provision that permits the Commission to utilize a study or investigation conducted by another entity, in whole or in part, in lieu of a study undertaken under this subsection, in order to avoid duplication of efforts.

RECOMMENDATIONS TO AGENCIES

The Senate bill requires that any recommendation made by the Commission to a Federal agency shall be published in the Federal Register within sixty days of the receipt of such recommendation and provide a period for the public to comment on such recommendation. Within one-hundred-eighty days from the date of the Federal Register notice, the agency must determine whether or not the proposed recommendation is appropriate. If so, it should undertake such action "as expeditiously as is feasible", if not, it must publish this determination in the Federal Register together with the reasons for its determination.

The House amendment adopts this provision of the Senate bill.

ANNUAL REPORT

The Senate bill provides that the Commission shall publish an annual report on November first of each year, to be submitted to the President and appropriate Congressional committees, which includes:

(A) a complete list of all recommendations made to any Federal agency during the previous fiscal year;

(B) a description of subsequent administrative action taken; and

(C) a description of the reasons why an agency may have failed to take action.

The House amendment adopts the provisions of the Senate bill, with minor changes and additions. It requires that the report be on all the Commission's activities during the previous fiscal year and not limited to a discussion of the Commission's recommendations to Federal agencies. The House amendment further changes the report deadline to December 15, it being felt that one month may not allow the Commission sufficient time to prepare a thorough and competently done annual report. The report may include additional recommendations for administrative or legislative action.

ADMINISTRATIVE PROVISIONS

The Senate bill includes a number of provisions concerning the Commission's authority to hire staff and consultants, hold hearings, publish reports and disseminate information, determine the order in which studies are undertaken, and enter into contracts.

The House amendment adopts these provisions of the Senate bill, and adds the additional provision that the Commission may procure temporary and intermittent services of other appropriate Federal employees.

CONFIDENTIALITY

The Senate bill prohibits the Commission from disclosing information pertaining to trade secrets, citing the exemption from disclosure under the Freedom of Information Act (section 552(b)(4) of title V, United States Code), and information concerning "identifiable personal data", unless done under conditions which fully protect the rights of the individual. The Senate bill also prohibits the disclosure of classified information.

The House amendment adopts the first part of this provision concerning the disclosure of trade secrets, but substitutes for the remainder the prohibition to disclose information pertaining to the privacy of medical records, citing exemption of section 552(b)(6) of title V of the United States Code.

The language in the Senate bill was considered to pose some ambiguities of interpretation, particularly the definition of "identifiable personal data." However, it was believed that the intent of this provision of the Senate bill could be encompassed by prohibiting disclosure of data described in the appropriate section of the Freedom of Information Act. It was further believed that no reference to the disclosure of classified information was necessary, since by definition classified information is protected from disclosure.

AUTHORIZATION OF APPROPRIATIONS

The Senate bill authorizes appropriations of $6,000,000 per year for the four fiscal years beginning with 1979.

The House amendment authorizes $5,000-000 per year for the next four fiscal years.

TERMINATION OF COMMISSION

The Senate bill contains a so-called "sunset" provision which provides for the termination of the Commission after four years.

The House amendment adopts a provision similar to that in the Senate bill but with a drafting change to permit the Commission to complete its activities, under the authorizations provided in this bill, by December 31, 1982.

MISCELLANEOUS PROVISIONS

Initial Appointment of Members

The House amendment adds a provision not in the Senate bill requiring that the President appoint members of the Commission within ninety days of the date of enactment. Since the provision to permit present members of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to serve until members of the new Commission were appointed was stricken, it was considered important to require the appointment of the new Commission as soon as possible.

Repeal of Existing Statutory Provisions

The Senate bill specifically repeals section 217(f) of the Public Health Service Act, which creates a National Advisory Council for the Protection of Human Subjects of Biomedical and Behavioral Research. The Senate bill also repeals sections 221 and 213 of the National Research Act.

The House amendment adopts the first provision of the Senate bill respecting repeal of section 21(f) of the Public Health Service Act. However, the provisions of sections 211 and 213 of the National Research Act have expired. Therefore, these provisions of the Senate bill are deleted.●

PRODUCTIVITY IMPROVEMENT

● Mr. JAVITS. Mr. President, one of the most critical elements in reviving the U.S. economy and bringing inflation under control is much greater national emphasis on productivity growth. During the past 10 years, the average rate of annual productivity increase has only been one-half of the rate of the previous two decades. We must explore every means available to improve productivity as an integral part of the new Federal

effort to stem the devastating effect that inflation has on all American citizens.

Since the public sector at all levels, Federal, State, and local, now accounts for such a substantial part of our total economy, it must be joined with the private sector as a target of productivity improvement. This demands a systematic assessment of the administration of public facilities, personnel, and job responsibilities.

I note that the National Commission on Productivity and Quality of Working Life last year requested W. J. Usery, Jr., former Secretary of Labor, to ascertain the needs of labor and management in the public sector with regard to increasing productivity and to make recommendations to improve labor relations in this area.

I am pleased to call attention to the recommendations contained in his study entitled "An Approach to Increased Productivity in the Public Sector," presented in September 1978. A portion of the text is attached for the RECORD:

RECOMMENDATIONS

As a result of the research, individual meetings, and group discussions held by Bill Usery Associates, Inc., during the course of this study, the following recommendations are made:

I. ROLE OF THE FEDERAL GOVERNMENT

The degree of commitment necessary to make increased productivity a reality is extensive in the public sector. But as far-reaching as it may be, there is a starting block. It begins with the Federal government commitment, and, in turn, taking the leading role as an advocate to increase productivity in the country as a whole, and to the public sector in particular. The degree of commitment of management in Federal Regional offices will only be as strong as that agency's top official. And that top official will support what he knows national policy to be.

A sincere commitment is necessary from the top, in order for it to be passed through the ranks. If not, it will begin at the grass roots level in the form of more "Proposition 13's." The effort for organized productivity programs will be seriously hampered when local officials have limited time and few choices, but to reduce services to the public.

II. COORDINATING BODY

Because of the discontinuance of the National Center for Productivity and Quality of Working Life as of September 30, 1978, it is necessary to establish another catalyst in its place. Be it Federal, private, or foundation-supported, with the annual investment made in the public sector as a whole, the efforts and achievements made thus far must not be allowed to lose momentum. Rather, there must be an acceleration of programs, training and education into the public sector even more far-reaching. In order to achieve continuity, a neutral dissociative organization is necessary to work with local entities in an attempt to expand and enlarge current and past efforts within the public sector. Two such organizations, the American Productivity Center and Work in America Institute, are privately funded organizations dedicated to achieving increased productivity and the quality of working life in the Nation.

III. LABOR MANAGEMENT COMMITTEES

Since the consensus of learned opinions in this study perceives the most viable means of achieving labor-management cooperation is through the creation of labor-management committees at a local organizational level, it is timely to encourage and accelerate this concept on a wider basis.

There are numerous examples of successful labor-management committees in the public sector which can be gathered into a central compilation of experiences for review and evaluation. Since the Federal government spends $85 billion annually for State and local grant-in-aid support, Federal encouragement and a serious commitment is appropriate to lead the public sector toward specific programs to improved productivity and efficiency.

The underlying ability of labor-management committees to increase the level of communications and understanding, to encourage input from the workers themselves, and thereby improve the labor-management relations within an organization is definitely a major step in the framework of increasing productivity in the public sector.

IV. LABOR MANAGEMENT SEMINARS

Development of regionalized forums in an effort to encourage and strengthen a better understanding of productivity for union representatives, and the benefits to their members in achieving increased productivity in their workplace. These forums would focus entirely on the employee and the advantages to the worker who has been involved in productivity programs and include these guest speakers from the rank-and-file. In addition, utilization of the audio-visual aids (discussed further in Training and Education Recommendations) to dispel the negativism connected with discussions of productivity; to clarify the means of achieving increased productivity; and the benefits employees can derive in a productive and efficient environment.

Development of regionalized forums aimed at top management officials (elected, appointed, or career) in the public sector to assure a greater understanding for the need of productivity and the fiscal efficiency gains derived through increased productivity. Understanding through these seminars would increase the realization of these managers that the responsibility for guidance and leadership is upon them for productivity incentive. These seminars must provide the incentive for public sector managers to motivate employees working for them to the premise of increased productivity and the benefits to be gained from it.

Generate joint meetings (following the separate meetings) between leaders of labor unions and management officials in the public sector to provide a forum for exchange of ideas and views on the subject of productivity. Once a commitment and endorsement of working together to increase productivity can be established within local jurisdictions, the foundation for taking concrete and positive actions into the planning and executing of productivity programs, labor and management in concert, can actively begin.

V. TRAINING AND REGULATION

In the case of public sector organizations with bargaining units, supplemental training is needed in negotiating techniques and contract administration for all levels of management. Often times it is the first line supervisor who is dealing directly with members of the bargaining unit, but has little or no training, knowledge, or expertise in dealing with the employee concerns or problems under the contract.

Encouragement by top level officials for human relations training for all levels of management in the public sector. This is a necessary step in improving Employer-Employee relations whether the employees are represented by a labor organization or not.

The creation of training and educational aids specifically designed for instructional purposes within the public sector (i.e., Management Styles, Human Relations, Employer-Employee Relations, etc.). Because of the diversification of public sector jobs, these aids should be designed and categorized to fulfill the needs of the public sector employee, the public sector manager, and the public sector labor organization.

The development of a general educational film on productivity and the benefits derived therefrom, as well as improving labor relations in the public sector which could be distributed to all public sector agencies, departments, and levels of employees. Additional films which would be categorized into specific areas of public administration (State, City, County, etc.) and be more tangible educational tools for specialized instruction.●

PARAPLEGIA CURE RESEARCH

● Mr. MARK O. HATFIELD. Mr. President, one of mankind's most dreaded afflictions is paraplegia-paralysis and loss of function of two or more limbs. Because the human suffering and economic loss from this condition are enormous, for some time I have supported basic research in central nervous system regeneration needed to conquer it.

One of the leaders in advancing this cause, Mrs. Winthrop Gardiner of Palm Beach, Fla., established the William Wakeman Award in 1972 in memory of her husband, who was a paraplegic. On October 4 at Duke University, this prestigious, $10,000 award was presented to two of America's leading neuroscientists—Dr. Victor Hamburger of George Washington University, and Dr. Paul Weiss of Rockefeller Institute—for their contributions toward eventually liberating paraplegics from their wheelchairs through research in central nervous system regeneration. I personally join America's 150,000 paraplegics and the sufferers of related neurologic disorders who stand to benefit, in congratulating these scientists, Mrs. Gardiner, and Duke University for their dedication and vision.

On this occasion Mr. Alan Reich, an official of the U.S. Department of Commerce and himself a paraplegic, addressed the scientists and lay leaders in this field. Mr. Reich also serves as chairman of Paraplegia Cure Research, a Washington-based organization, whose sole purpose is to bring about a cure for paraplegia through research. In his remarks entitled, "Paraplegia Cure—CNS Regeneration," he summarized progress in this decade and presented a 10-point program for action. At least some of these suggestions could be made part of a permanent national program on paraplegia cure in the immediate future.

Mr. President, I commend Mr. Reich's remarks to my colleagues and urge all Senators to join me in the fight to eventually liberate paraplegics from their wheelchairs.

I ask that the remarks of Mr. Reich be printed in the RECORD.

The address follows:

REMARKS OF ALAN A. REICH

"PARAPLEGIA CURE—CNS REGENERATION"

Prior to World War II, there were few paraplegics. They simply did not survive. Medical science and the commitment of numerous dedicated people (including many here tonight) have made it possible for paraplegics to live and accommodate to wheelchair living. Rehabilitation has facilitated an increasingly normal existence and opportunity for personal fulfillment. In the United States more than in any other country, there has been a climate of encouragement for this

process. In March of 1970, the year the word "impossible" was redefined by landing a man on the Moon, at a conference sponsored by the National Paraplegia Foundation in Palm Beach, Florida, scientists overturned the old dogma that central nervous system regeneration was impossible. For the first time a group of neuroscientists declared, "the problem should no longer be considered hopeless; it is amenable to solution through basic research." This validation challenged the world's scientists and strengthened the hope of paraplegics.

At that time too Mrs. Gardiner established the Wakeman Award in memory of her paraplegic husband to stimulate central nervous system regeneration research aimed at curing paraplegics. Have her generosity and foresight brought results? The answer is a resounding yes! While we may not be able to make specific connections, I believe it is reasonable to attribute much of the progress to the momentum generated by the Wakeman Award process. That progress includes:

"In 1970 only a handful of scientific articles was published on central nervous system regeneration. Last year there were over 400. Many more investigators throughout the world are now working on the problem.

"Government funding by the National Institute of Neurological and Communicative Disorders and Stroke and by the Veterans Administration of regeneration research has increased from about two hundred thousand dollars in 1970 to about five million dollars last year. Both agencies have sponsored conferences.

"The National Paraplegia Foundation has held four international conferences on CNS Regeneration. Its new research division has published bibliographies and has initiated an existing fellowship program.

"The Paralyzed Veterans of America has created a new research foundation which has funded close to a quarter of a million dollars of CNS research.

"Several universities have started up regeneration research programs and laboratories.

"Six annual congressional luncheon reviews, hosted by Congressmen Orval Hansen and Bill Frenzel, have been held in The Capitol in Washington.

"The Government's Neurologic Institute sponsored an 18-month task force study by eminent neuroscientists who concluded 'the field is ripe for a push."

"The day after the last Wakeman Award banquet two years ago, a group of paraplegics and their families founded Paraplegia Cure Research, an advocacy group, with headquarters in Washington. Its Bermuda Conference and dynamic program have a momentum of their own. PCR fosters research, promotes public and private support, and generates a sense of urgency and purpose.

"Very significantly, the Wakeman Award process itself, under the able direction of Dr. Molly Brazier and Dr. Stanley Appel, has stimulated fruitful meetings and exchanges of ideas.

"Tomorrow's Wakeman Neurobiology Conference here at Duke Medical Center attests to this university's ongoing commitment."

I could go on, but most importantly, underlying this activity, there is solid scientific accomplishment toward Mrs. Gardiner's and our goal of liberating paraplegics from their wheelchairs through regeneration research.

Because, according to scientists, the research effort required will take time, we must have a long-range perspective. As one paraplegic said to me, "If we work on the problem, I may get out of my wheelchair. If we don't, I won't."

It will take understanding and commitment on the part of paraplegics as well as scientists. No longer can we allow the fear of raising false expectations to be an excuse for inaction. Paraplegics are realists, but they hope for and desire continuing commitment to the job at hand. The time is past when paraplegics inquiring about cure-oriented research can be put off by learned descriptions of paraplegia research in general. Paraplegics deserve in return for their patience, persistence and support science straight answers clearly distinguishing these areas of research from that aimed at a cure eventually liberating them from their wheelchairs. Paraplegics are less interested in research per se than in the very human results of research.

One must appreciate that scientists require freedom of inquiry so essential to the free flow and development of ideas; only in such an environment will basic science flourish. The scientists I have known in this enterprise are compassionate and also are motivated by a desire to improve the condition of their fellow man. We must recognize the complexity of this area of science. A scientist easily could spend his entire life on this problem without finding the answer. There must be understanding on both sides; paraplegics must respect the scientific approach, while scientists must appreciate the urgency felt by paraplegics. There must be continuing, purposeful, and realistic dialogue between the two communities.

The basic research effort must go on in parallel with other research whose purpose is better accommodation to wheelchair living. It is not a matter of one or the other; both are necessary. All the research on better facilities, devices, rehabilitation and surgical techniques, epidemiology, etc. is important; in fact it is vital and should be encouraged and expanded. It is not unlike working on improvements to the iron lung while developing the Salk Vaccine.

People ask how we can afford such a dual approach. My reply is how can we not afford it? The 1975 Regeneration Task Force report I mentioned estimated annual world-wide savings from a CNS research breakthrough might approximate $20 billion. In addition to the 150,000 American paraplegics and their counterparts throughout the world, scientists point to large numbers of sufferers of other neurological disorders who would benefit from such a breakthrough. They include many forms of stroke, focal epilepsy, chronic multiple sclerosis, cerebral palsy, and mental retardation. While the economic savings would be enormous, the potential savings in human suffering are incalculable. In view of this potential payoff, the current $5 million annual CNS regeneration research commitment of the U.S. Government is woefully inadequate!

As we recognize Dr. Hamburger and Dr. Weiss, two giants of neuroscience, we look back in awe at their enormous accomplishments. It is also fitting on this occasion to look forward, as our collective business remains unfinished. To help bring it to the ultimate conclusion we all seek, I urge the following ten-point program:

THE 10-POINT PROGRAM FOR ACTION

1. Form a strategy council of leading scientists from appropriate disciplines to monitor and guide the worldwide effort in regeneration research.

2. Bring about Presidential leadership of a major, coordinated "push" for regeneration to eventually cure millions.

3. Increase U.S. Government regeneration research support to $20 million annually.

4. Review regularly, formally, and critically the recommendations of the U.S. Government's 1975 task force which dealt with "high priority research areas," "training," "centers of excellence," and "planning and coordination."

5. Increase the awareness and support of the U.S. Congress and the American public.

6. Strengthen the commitment of concerned U.S. and international voluntary health organizations to advance regeneration research in a coordinated manner.

7. Increase the support of foundations, corporations, and other private sector groups having coincidence of interest and untapped potential.

8. Establish a private sector fund to take advantage of research "targets of opportunity" promptly as they may arise.

9. Institutionalize, for as long as necessary, the Wakeman Award and associated activities at Duke University; increase its visibility substantially; and orient it to ensure recognition of recent scientific contribution toward the donor's stated purpose of "liberating paraplegics from their wheelchairs through central nervous system regeneration research."

10. Review and publicize progress on this program on an annual basis until the solution is found.

I hope all of you here this evening will do all you can to further this noble effort. Thank you again, Mrs. Gardiner and Duke University, for leading the way. If ever there was an opportunity to alleviate human suffering, this is it.●

SENATOR FROM WYOMING BIDS FRIENDS GOODBYE

● Mr. HANSEN. Mr. President, serving as a Member of this body for these past 12 years has been the privilege of my lifetime—an honor accorded to few—and for which I owe thanks and gratitude to the citizens of Wyoming.

Even though I look forward to using the newfound time that retirement will bring to seek out new experiences, I would be less than forthright if I did not admit that I will miss being in the Senate.

I will miss the constant challenge, the intellectual stimulation, the excitement, the proximity to institutions and people of great influence, the opportunity to play a small part in the deciding of important national issues and a larger part in the deciding of vital Wyoming issues. I will miss the good people I have come to know during my time here.

When we return to our beloved Wyoming, we will take with us a kaleidoscope of memories. During the time it was our privilege to represent the people of Wyoming, we hope they might believe that we strove to the best of our ability to live up to their expectations.

I say "we," Mr. President, because although I owe a great deal to a lot of people, whatever good I may have accomplished during my political career, and, indeed, the fact that I even succeeded in pursuing such a career, are due in no small way to the support, advice, and encouragement of my wife, Martha. She has not cast any votes in the U.S. Senate, but her clear thinking and commonsense advice have influenced many of this politician's votes and have saved his hide many more times than once.

Going home will be a happy thing for us—a chance to renew friendships, to reacquaint ourselves with our town—to spend more time with those five grandchildren who seem to have grown up overnight. How can it be possible that the youngest one will soon go off to college?

And something else we will know when we leave that will make the going a natural and happy thing is that others

will take our place who will bring fresh ideas, a new approach, a better way, and the kind of zest for doing a job well that is especially characteristic of those newly elected by the people to do their work in Government.

This is a very good time, I believe, for an infusion of new ideas and fresh methods. I am encouraged to think there will be some exciting opportunities in the coming years to improve our Government that did not really exist when I came here 12 years ago.

I arrived in Washington in the middle of the "Great Society" era, when people's expectations had been raised to spectacular heights. They had been led to believe that Government could do for them all things; that poverty would be obliterated if enough "antipoverty" programs were approved; that everybody would have a job if enough Government jobs programs could be put into place; that all would be secure in their old age if the right senior citizens' programs were devised and the social security and welfare benefits were raised often enough; and that no problem was outside the jurisdiction of an all-knowing, central government with the power to tax the people and incur debt in their names.

Later, on top of the Great Society social programs were heaped the programs of the regulatory and environmental protection eras.

Today, thousands of regulations, platoons of bureaucrats and untold billions of dollars later, the mood of the people is finally beginning to change. They have come to realize and resent the fact that, far from delivering what it promised, Government has instead taken too much of their money, spent a lot of it foolishly, and then blatantly ignored the frustrations and concerns of an overtaxed, overregulated citizenry, staggering under the crushing weight of inflation. Their hopes have been dashed, their expections have turned sour, and they are surly and disillusioned.

Mr. President, let me take this means to reflect upon the strong attachment to many wonderful people; it has been a great experience to work with them and I wish them well.

As I express my confidence in the new faces and younger bodies, I want to reaffirm my conviction in the enduring soundness and the correctness of lessons civilization has long since learned.

No government can replace the need for self-motivation, nor can any system of statutory incentives successfully replace the inherent spirit of man to acquire, to improve himself, and to provide for his family.

This year, we have seen Americans direct us to change the emphasis of government back to the individual; to redirect the course from tax-financed and directed social programs to expanded action in the private sector by permitting people to keep more of what they earn.

Many of us still believe in the institution of government and have faith in it. The mechanism is there to accomplish important things.

But legislators must understand that the quality and soundness of laws are far more important than the quantity of legislation and indeed, that the mark of a good public servant may be achieved just as surely by preventing the passage of bad legislation as by cluttering statutes with concepts and ideas which fly in the face of human nature.

I leave the Senate with a feeling of optimism about our future, Mr. President.

I sense we may be about to enter a new era when there will be an honest reexamination of what we have wrought over the past couple of decades; when the opportunity will exist for reducing the size, cost and influence of government; when there will be a reaffirmation and revitalization of our free enterprise system; and when there will be a resurgence of faith and confidence in individual initiative and responsibility.

I believe the tenor of the times is again changing, but this time in a way that will do justice to the concepts and traditions on which this great country was founded and nurtured to world preeminence.

Mr. President, it has been a high honor and great personal privilege to be a Member of the U.S. Senate.

It is an institution like perhaps no other in the world. It will continue to be one of the guiding lights of our legislative process and I am grateful for having had the opportunity to be a part of its deliberations.●

SENATOR JAMES B. PEARSON

● Mr. HANSEN. Mr. President, I wish to express my regrets over the decision of Senator JAMES B. PEARSON of Kansas to retire from the Senate after some 18 years of useful and distinguished service.

While JIM PEARSON has ably represented the State of Kansas during this period, I think it interesting to note that he was not born and bred in Kansas but settled there after World War II upon receiving his law degree from the University of Virginia Law School. Soon thereafter he began his career of public service, serving as city attorney, probate judge, in the State legislature, and as chairman of the State Republican Committee before his appointment to and then election to the U.S. Senate in 1962.

JIM PEARSON ends his Senate service as the ranking Republican member of the Committee on Commerce, Science, and Transportation. In this capacity he has made important contributions in a wide variety of legislation concerning almost all phases of surface transportation and aviation. In the area of foreign affairs and national security he has served with ability and distinction as a member of the Foreign Relations Committee and also later as a member of the Select Committee on Intelligence.

Our country's energy resources have always been a concern to me and I would like to note that in 1975 JIM PEARSON authored with Senator BENTSEN an amendment that would provide for the deregulation of newly discovered natural gas and which he again offered in 1977. His approach, in my view, represented the most reasonable and practicable solution to one of the difficult problems facing this country today and I regret that it was not enacted into law.

While he is retiring from the Senate, I do hope that he will continue his public service in some capacity in the years ahead. I join with my colleagues in wishing him every success in his new undertakings.●

SENATOR WILLIAM L. SCOTT

● Mr. HANSEN. Mr. President, Senator WILLIAM SCOTT, by his own decision, will complete his service in the U.S. Senate at the end of this session after an extensive career of Federal Government service.

BILL SCOTT's government career began as a trial attorney in the Department of Justice where he served for over 25 years. In 1966 he was elected to his first term as Representative of the 8th District of Virginia and was reelected for 2 additional terms before his election to the Senate in 1972.

In the Senate his wide legal experience contributed to the work of the Judiciary Committee and particularly to the subcommittees on which he served. BILL SCOTT is a man of strong conviction and great dedication in his support of the causes and issues in which he believes.

As he leaves the Senate and returns to the practice of law in Fairfax County, Va., I wish him well and every success in his new endeavor.●

SENATOR JAMES O. EASTLAND

● Mr. HANSEN. Mr. President, I wish to join my colleagues in paying tribute to JIM EASTLAND upon his retirement as a Member and President pro tempore of the Senate at the conclusion of this Congress.

JIM EASTLAND has represented the State of Mississippi in the Senate well and ably for over 36 years. He came to the Senate in 1941 to fill the vacancy created by the death of Senator Pat Harrison, was elected in 1942 and reelected for successive terms.

During his service, JIM EASTLAND became chairman of the Judiciary Committee in 1956 and has administered the affairs of that committee with ability and with a sense of good management as we consider the volume of legislation that this committee reports each year. During his chairmanship he has had a profound and beneficial influence on the judiciary and our country's judicial system which will be felt for years to come. In addition to the Judiciary Committee he has served as ranking member of the Agriculture Committee for many years and his personal knowledge and expertise in farming and general agricultural matters have earned him deservedly a national reputation.

JIM EASTLAND is a man of strong conviction and beliefs which as a Member of the Senate he has upheld faithfully and with diligence. I wish him well and happiness in the years ahead.●

SENATOR JOHN SPARKMAN

● Mr. HANSEN. Mr. President, I wish to join my colleagues in paying tribute today to Senator JOHN SPARKMAN who is retiring from the U.S. Senate at the conclusion of this Congress.

JOHN SPARKMAN is completing a distinguished career of Congressional service spanning some 42 years. He was first elected to the House of Representatives in January, 1937 and after five terms as a Representative of Alabama's 5th Congressional District he was elected to fill the late Senator Bankhead's term in the U.S. Senate in 1946.

While JOHN SPARKMAN's contributions to legislation are many and varied and encompass an endless number of important subjects, there are two areas that I believe particularly bear his stamp and personal influence. As the first chairman of the Select Committee on Small Business in 1950 and later as chairman of the Senate Banking, Housing, and Urban Affairs Committee, and particularly as chairman of the Subcommittee on Housing, he has exercised a strong leadership role in the formulation of every major piece of legislation enacted by the Senate over the past 25-year period relating to our Nation's housing and the promotion of the role of small business.

In addition to the domestic field, JOHN SPARKMAN, through long years of service on the Foreign Relations Committee, has been a strong proponent of legislation and U.S. policies to uphold and carry out the leadership responsibilities of the United States as a world power. Since 1975 he has served ably as that committee's chairman.

During my 12 years of service in the Senate I have come to know JOHN SPARKMAN as a man of good judgment and good sense and at all times a person of thoughtful and courtly manner. I wish to extend to him my best wishes for good health and happiness in the years ahead.●

SENATOR JAMES ABOUREZK

● Mr. HANSEN. Mr. President, after only one term, the U.S. Senate is losing one of its most dedicated and endearing Democrats. Senator JAMES ABOUREZK is retiring.

Needless to say, JIM ABOUREZK and I very rarely saw eye-to-eye on any given issue. But opposing political philosophies aside, his dedication and willingness to work for his beliefs, whatever the cost, was rare. In a club whose members seem to value conformity, JIM ABOUREZK dared to remain a maverick.

He nettled us, kidded us, chided us, mocked us and kept us on our toes. He serenaded us, bullied us, joked with us and laughed with us. He may be the closest thing the U.S. Senate will ever have to a merry prankster.

More than once, we saw him make his appeals, sometimes with guitar and ballad, on our television sets and in our newspapers. Always with a sense of humor and never without a keen wit, he carried his convictions to the maximum, as demonstrated by his affection for the filibuster. I dare say he has brought new meaning to the term "flaming liberal," a distinction he probably welcomes.

Because JIM ABOUREZK approached his job in the Senate like no other, he will be remembered like no other. Perhaps his unique style arose from his decision to keep the job only one term. He toed the line for interests no matter what their popularity, be they consumers or Arabs. Having brought with him unconventionality and an almost adversary relationship with the role he entered 6 years ago, he sought periodically to remind us of its shortcomings and ironies, but never without a chuckle; we have ample opportunity to laugh at ourselves and the system was sparked by JIM ABOUREZK. Only history determines how each of us is remembered, but on this basis alone, JIM ABOUREZK will be remembered with affection.●

SENATOR CLIFFORD CASE

● Mr. METZENBAUM. Mr. President, I wish to associate myself with the many expressions of praise and genuine affection we have heard today for CLIFFORD P. CASE, of New Jersey, one of the finest men ever to have served in the Senate of the United States. I am honored to have known and to have worked with him and I offer him my thanks and my warmest good wishes as he returns to private life.

To me, CLIFFORD CASE represents much of what is best about our country and our people. He is a thoughtful man, a learned man, and, above all, he is a man of honor. For nearly a quarter of a century his sturdy presence in the Senate served the highest interests of the Nation. His career is proof that politics can and should be among the highest of callings.

The American people will have many reasons to remember CLIFFORD CASE.

They will remember him as a defender of the liberties that make this country what it is.

They will remember that he stood firmly for the rights of all Americans and that he devoted his formidable talent and influence to putting an end to racial and religious and sex discrimination.

They will remember his work to end corruption and conflict of interest in government.

They will remember his dogged efforts to bring to an end our disastrous involvement in Vietnam and Cambodia.

And above all, they will remember that he provided the highest standard of conduct and competence in public life.

CLIFFORD CASE has been one of the giants of this body. The Nation and the Senate have been fortunate to have had him here. He will be sorely missed.●

TRIBUTE TO SENATOR CLIFFORD HANSEN

● Mr. METZENBAUM. Mr. President, I want to join my colleagues on both sides of the aisle in expressing my respect and affection for CLIFFORD HANSEN of Wyoming—a good man, a formidable adversary, and an outstanding Senator.

It has been my pleasure to have served with this tough and articulate westerner on the Committee on Energy and Natural Resources. It is no secret that we often—indeed, usually—disagreed on the substances of the issues. I also hope it is no secret that I hold CLIFF HANSEN in the highest regard. He is a man whose great ability is matched by a taste for hard, detailed work. He is a man of principle, a man of honor, a man who keeps his word. He is, in other words, a true gentleman and an effective legislator.

As Senator HANSEN's distinguished career in public life draws to a close, I know that I express the feelings of all who have had the privilege of knowing and working with him when I say that I hope that the future will be filled with health and happiness for him and his loved ones.●

TRIBUTE TO SENATOR KANEASTER HODGES

● Mr. METZENBAUM. Mr. President, when Senator KANEASTER HODGES leaves office, the Senate will lose a man of truly extraordinary ability. In his brief term in office, this outstanding Arkansan has deeply impressed me and, I think, all of his Senate colleagues, with his formidable intelligence, his enormous energy and above all, with his uncompromising integrity. KANEASTER HODGES is a "natural," a man who understood the Senate instantly. He is a man who, if he were able to serve for a longer period of time, would certainly become a leader in this body.

KANEASTER HODGES, in other words, is a public servant of the highest caliber. I feel privileged to have had the opportunity to know him and to work with him. I am sure that there are many who will join me in expressing the hope that the end of his brief term will not mean the end of his public service. He is the kind of person our Nation needs and the kind of public official that we can ill afford to lose.●

TRIBUTE TO SENATOR MURIEL HUMPHREY

● Mr. METZENBAUM. Mr. President, I want to add my voice to the many others that have been raised to honor the great and gracious lady from Minnesota, Senator MURIEL HUMPHREY.

MURIEL HUMPHREY has not served long as a Senator, but her experience, her knowledge, and her involvement with the great issues of our times has been as deep and as profound as any here.

She was the wife of a great man—one of the greatest spirits that this country has produced—but she was and she is a formidable person in her own right. She is a woman of fine intellect, of compassion. And above all, she is a woman of vision. Like Hubert, MURIEL has never lost sight of what is truly important. And like him, she has never lost faith in her values and in the future of her country.

MURIEL HUMPHREY is one of the great people that it has been my good fortune to know. As she leaves the Senate, she carries with her my deep respect, my warmest affection, and my hope that the future will hold only the best of things for her and for her family.●

IN HONOR OF SENATOR CARL CURTIS, WHO IS RETIRING

● Mr. HAYAKAWA. Mr. President, I would like to take this opportunity to bid farewell to my good friend and colleague, the Honorable CARL T. CURTIS.

Senator CURTIS is a very loyal Republican, and a man who is well respected among his fellow Republicans in the Senate, and by all Members of the Senate. CARL has represented the State of Nebraska in the Senate for four consecutive terms, and before that in the House of Representatives for eight consecutive terms. I believe that Senator CURTIS' record of 40 consecutive years of service in the U.S. Congress, undefeated, speaks for itself.

Just for the record, I want to state that out of a total of 10,752 Members who have served in Congress since the first session was held in 1789, only 21 persons had more years of service than CARL CURTIS.

CARL is not a smooth, slick politician. He does not surpass all of his colleagues with charisma. I believe CARL's success is in his spiritual strength—in his honesty, his forthright nature, and in his commonsense.

I will miss my dear friend and colleague from Nebraska, who is retiring after 40 long and hectic years of service. I know he will enjoy being his own person once again after these many years of service to the public. But here in the Senate, he will be deeply missed. CARL's mark has been made in the Senate, and I think he leaves a part of himself behind. We will remember him.

I remember well his days of hard work, engaging with myself and others in colloquys on the Senate floor. We served together as members of the Senate Agriculture Committee, and we also worked hard together on Western issues of concern to both of our States.

I must say that I shall truly miss my dear friend CARL, as we all will. I wish him the best of luck and all good wishes for the future.●

DR. VICTORIA SCHUCK

● Mr. PERCY. Mr. President, the Washington community is enriched by the arrival of Dr. Victoria Schuck, who recently assumed the presidency of Mount Vernon College.

Dr. Schuck formerly served as a professor of political science at Mount Holyoke College in South Hadley, Mass. There she established the first Washington internship program in the Nation, paving the way for the creation of similar programs in dozens of other institutions and enriching the lives of hundreds of students. Through her leadership, enthusiasm, and concentration on scholarship achievement, her former students have been challenged successfully to participate in public life at all levels of government, as elected officials as well as administrators and professional staff.

I know directly of Dr. Schuck's record of instilling this drive and dedication in those under her tutelage—several of her former students at Mount Holyoke have served on my staff.

Dr. Schuck brings to Mount Vernon this same dedication to excellence in education—and women's education in particular—that she displayed at Mount Holyoke. She eloquently addressed her dedication to this goal in her inaugural speech at Mount Vernon and I commend her comments to my colleagues.

I ask that the text of Dr. Schuck's address, as well as an editorial from the Washington Star noting her appointment, be printed in the RECORD.

The material follows:

MOUNT VERNON AS HARBINGER

To the proliferating evidence that Washington is on the way up as a college town, add what's been happening at Mount Vernon. For five years now, this quondam "seminary" has been out of the junior category; it's a degree-granting four-year institution. Unlike many single-sex schools moving in that direction, though, it has not gone coed. Instead, it has shown a revitalized sense of itself as a woman's college. And it has just acquired Dr. Victoria Schuck as its president.

Finding Dr. Schuck for the job was a rare bit of match-making. Her own blend of qualities is, to a remarkable degree, an embodiment of Mount Vernon's achievements and aspirations.

The scholarly seriousness, to begin with. Mount Vernon always had more to offer than the dubious cultural frosting of a young ladies' finishing school. Headed by a political scientist of Dr. Schuck's depth and dynamism, it is bound to move toward still greater academic rigor and distinction.

However, Dr. Schuck is no mere library intellectual. She has always been to the front lines of the political process—most recently appointed by House Speaker O'Neill to the Commission on Administrative Review of the House of Representatives. Indeed, her creativeness as an educator has come out perhaps most vividly in the ways she found on the Mount Holyoke faculty to mesh book learning with community actualities for her students.

But it may be that the most significant coincidence of all has to do with Dr. Schuck's feminism and Mount Vernon's reaffirmation of its identity as a woman's college. After the first rush to let women into the men's schools, many of the people most concerned with bettering women's opportunities for intellectual development have had second thoughts about the desirability of universal coeducation. The opportunities for leadership experience a woman's college can give women, along with freedom from the social tensions of competition between the sexes can be shown to make all the difference in later achievement for some women.

Enough, at any rate, to justify the woman's college option in a pluralistic society. And enough to make Dr. Schuck's vision of Mount Vernon's peculiar contribution to higher education in D.C. a promise of enhancement for the capital city's growing stature as an intellectual center.

INAUGURAL SPEECH OF DR. VICTORIA SCHUCK

Madam chairperson, Rep. Brademas, Mr. Mayor, Distinguished Honorees, my colleagues in political science, Guests and Members of the Mount Vernon community.

I accept this presidency with great pleasure, humility, and a certain amount of gusto, realizing that it is indeed a sobering responsibility. No president can succeed alone. If my administration is a success, it will in no small measure be with your participation and assistance.

I should like to address the question today "Why a woman's college?" and then "What kind?" A theme comes from an epigraph I found in a recent book by Liva Baker who quotes an astronomy professor from 1865 to 1888—a woman at another woman's college—who wrote in her diary, "If the earth had waited for a precedent, it would never have turned on its axis." (She was commenting incidentally on how faculty meetings tried her—always adopting things other colleges had already done.)

Mount Vernon is the oldest continuing educational institution for women in the District of Columbia. Founded in 1875—the second Grant administration—when education for women was not entirely common and higher education still a radical idea, Mount Vernon has for more than a century been responsive to the needs of women.

First a seminary with two post secondary years and a selective curriculum in the 19th century, a widely recognized junior college granting the Associate in Arts degree in the 20th, only in the past six years has it become a full fledged four-year college. Its future role? To create the kind of curriculum and environment in higher education which will place it in the vanguard to meet the complexities women of all ages face not only in the last quarter of the 20th century, but also the 21st.

The founder of this institution Elizabeth Eddy Somers came to Washington at the age of twenty-six during the Civil War with her husband from the midwest where she had been educated at the Cincinnati Wesleyan Female College and had taught at Northwestern Female College and the Pittsburg Female Seminary. In Washington the experience of preparing the daughters of Judge Cooley, a friend from the midwest, to enter college led to the founding of Mount Vernon Seminary, the name not drawn from George Washington's home but from the Mount Vernon Church in Baltimore that had been the pastorate of a late brother. The original location, 204 F Street, was then in the midst of Washington's elite about three blocks from the Capitol; now in the middle of a freeway about 100 feet from Georgetown Law School and near the University of the District of Columbia.

The year was 1875. The Republic was making plans for the Centennial Year. The incumbent president's administration had gone sour with corruption—the Gilded Age so labeled by Mark Twain. The country was in a panic and Grant was asking Congress to devise a system of national currency to pay off foreign indebtedness. The District of Columbia already had advocates of home rule. Grant's last message, his 7th December 1875, urged the states to adopt universal public education.

There were in the country 222 women's colleges, and more than 1,200 academies and preparatory schools. It was, according to historian Woody, from the incorporated female seminary that the women's college in America would emerge. What was the education offered young women in the late nineteenth century? The earliest catalogue of Mount Vernon Seminary, that of the year 1878–79, lists these offerings: mental and moral philosophy, mathematics, Latin, natural sciences, history, literature, French, German, instrumental music, elocution, and gymnastics. By 1879 there was added the History of England, art criticism, geography, geology, and astronomy. Although a student was not to take more studies than she could carry without overtaxing herself, it was the oft quoted aim of the school "to secure for its pupils a thorough and symetrical development of their physical, mental, and moral natures."

Meanwhile back in the states, coeducational institutions, men's and women's colleges offered quite differing curricula. In the coed colleges, the courses within men's turf such as engineering were off limits for women. Women's courses looked to their compensative role, such as domestic science,

home management, music, arts, child care and elementary education. In men's colleges, students were prepared for what Yale University called "publick employment both in Church and State" through a strong classical education, including advanced Latin, Greek, and Mathematics. The center of the curriculum was moral philosophy. The textbooks of British and American theologians and philosophers drew an unflattering image of woman and arrogantly defined her gender as one of fixed absolutes.

The first women's colleges seeking access to knowledge took over the curriculum of the male institutions and with it the philosophers image of woman. Not only did they have to prove that women had brains but that they had the stamina for higher education, for attacks from at least one medical school sought to demonstrate that women were too fragile and if exposed to the rigors of higher education would be unable to carry on the functions of motherhood.

Industrialization and urbanization left the woman in the home and bolstered what became the Victorian image. And political economy writers reinforced arguments for her station. As the 19th century progressed—new issues, the Morrill Act, the elective system, diversified professional education occupied universities. New currents of thought came from England and Germany. Philosophy, once coextensive with all knowledge yielded to new disciplines: the biological and physical sciences, the humanities and social sciences. And the new disciplines either ignored woman or denegraded her. Historians rarely noticed women as they chronicled political regimes and military battles and produced multivolumed national histories. Economists left women in the household, while the founders of political science concentrated on governmental institutions placing women in the traditional mold or ignoring her. And such a giant as Darwin described man as having a larger brain and more inventive genius than woman. Sociology alone had a professional who offered some theoretical justification for a new role for woman.

The women's colleges throughout the 19th century were essentially conservative and imitative. They eschewed abolitionism and took no part in the origins of the women's movement or its revival after the Civil War—a movement which finally concentrated on winning the battle for suffrage.

Suffragists (two-thirds of them college graduates) attacked them for being self-serving and accused them of "half-hearted response and compromise with conventionality". Faculty members were divided, some speaking for the antisuffrage society. Commencement speakers declaimed passionately against suffrage. One speaking on Pathways of Life expressed the hope that no graduate's path would lead into politics and that none would ever be asked to be burdened with the ballot.

When the 19th amendment was approved, women thought they had it made, except for Alice Paul, proponent of the ERA, who from 1923 on, occupying the Belmont House on the Hill, had the ERA amendment introduced into Congress each session only to have nothing happen until just six years ago. Anxieties about what women would do with the vote were soon allayed: so few voted that the journalist Frank R. Kent wrote, "Don't worry about the women," and no one did. His contention: they loved their entrapment in the home.

But the 20's saw a buoyancy in women's education with new standards of scholarship, honors programs, and stringent admissions requirements to guarantee an elite. Graduates of women's colleges went off to win Ph.D.'s: a high proportion of those granted in that decade went to females. But where to go once having won a doctorate?

Universities did not think of appointing them and so they returned to the women's colleges for teaching and research. And their research? Almost more rigorous than that going on in the universities, for they were seeking parity with men. Academic women left writing on feminism to outsiders Mary Beard and Eleanor Flaxner—and to the popular magazines.

As to the disciplines in universities, they became more aloof than ever from the subject of women. The social sciences turned from social Darwinism to stark empiricism, although history was not as rigorous.

Social and economic events outside of academia eventually were to have another effect. First the depression: women were siphoned out of the work force under the policy of one job per family. Then as soon as World War II began, siphoned back into the work force. After the war, the glories of the home and the traditional role of women were reasserted. But the women stayed. More and more took jobs outside the home. Discrimination led to demands for civil rights and in the mid 60's the women's movement long latent, was again revived, the third round as it were, with calls for equality and autonomy.

This time academia was affected. You will recall the 60's with student protests against the war, affirmative action for women, open enrollments, courses coming and going on almost any subject, the elimination of grades, do it yourself majors, more vocationalism, and the beginning of the rush to coeducation.

The last was less related to educational conviction than to economics—namely how to adjust to the over expansion after the war.

In 1973 Mount Vernon College made two decisions: to remain a women's college and to become a four year institution to meet the needs of modern women. A conservative decision? Hardly. A new radicalism? Perhaps.

Beginning in 1973, academic researches began to publish the results of empirical studies on education in women's colleges—Tidball, Kistiakowsky, Asin and others. Their findings reveal that students have greater intellectual esteem and better interaction with the faculty, that women have more opportunities for leadership positions and that more complete their degrees than in coeducational institutions. Women educated in a women's college are more apt to select fields of concentration traditionally belonging to the domain of males, such as math, science and economics, and have a greater aspiration for graduate work. A significantly greater number complete Ph. D.'s in science and mathematics. And finally, they are twice as likely to be achievers and leaders with listings in *Who's Who of America* than graduates of coeducational institutions. Is it a coincidence that the first two women elected state governors in their own right and that the recent Nobel prize winner, a physicist, are graduates of women's colleges?

America is now engaged in a debate termed "educational reform". This college is not to be left out. Recently we have formed study groups of faculty and students to review our calendar, the content of the curriculum for the first two years, new majors, the Washington semester, and exchange programs, including internships for students from other women's colleges. We too are addressing the subject, what is an educated woman and what this means in the midst of, and I quote "the single most outstanding phenomenon of this century", deeply affecting the economy and society.

The present reform has been termed a return to basics. But a women's college cannot return to the 1950's. Students educated in the traditional manner where intellectual initiative is lacking cannot cope with the complexities and problems of the last third of the century. Women's colleges cannot continue to defend what has been essentially a 19th century curriculum. Training of the mind or the capacity to reason is not confined to the traditional disciplines. This college is committed to education for both professional and personal fulfillment and the integration of professional and liberal learning.

How can this be done?

I believe in strengthening the general studies curriculum so that we can ensure each student will have an understanding of the major fields of knowledge—the social and natural sciences, the humanities and their methodologies—yes, with a possible core foundation for the professional major. Students in the future will be short shrifted if they do not have speaking, writing and computational skills.

I hope that we can look forward to a new major at Mount Vernon relating traditionally separate disciplines, perhaps humanistic studies, social sciences and even professional areas. And I also hope that we can evolve a new method of teaching sciences not only to impart science literacy but a new major in the sciences.

In my view, students, whatever their career aspirations, will benefit from courses in common.

For seniors, I should like to experiment with problem solving seminars which will bring together students and faculty from various majors to tackle a problem, generating their own research and solutions. This could give undergraduate experience in applying knowledge and contribute toward freeing students from the perception of teacher as sole conveyor of knowledge.

I should like to see closer bonds with the political, business, arts, and letters so that they will become a part of us.

I envision strengthening our international dimensions and providing more opportunities for women from foreign countries, especially those from developing areas where their leadership will improve woman's condition.

Continuing education programs are already a part of the college. I should like to expand and strengthen these programs, looking toward the establishment of a center for life-long learning and the development of a curriculum for the part-time student—the woman who has been devoting time to a family, the woman who wishes to shift her profession, or to complete an unfinished degree.

Mount Vernon's Institute for Women in Politics which is related to our Public Affairs and Government program has become recognized for its workshops for women in or seeking public office. I look forward to the possibility of expanding its scope to include women in businesses which have relations with government (and what business does not) and to building an expertise and library collection for women at all levels of politics and government.

As to summer programs, I hope we can innovate short term programs for professionals who wish to study in the nation's capital and seminars for student interns.

And I think we all aspire to greater participation on the part of the college in the Washington Consortium of universities and colleges.

The college need not be chained to the past, whatever the legacy of the moral philosophers, early disciplines, and post-19th amendment journalists. Today it cannot be isolated from the women's movement. It must lead to understanding the new striving of women and provide leadership in study and research. Notable is the fact that Mount Vernon was the only college to have an official delegation at the Women's Conference in Houston. There were Board members, students, and the president among the delegates.

The argument that women's colleges should be retained to ensure pluralism in educational institutions in America, while of some

importance, is not enough (although we should note that the 222 women's colleges of 1875 have diminished to 97). The women's college is significant because it encourages greater intellectual confidence, a particular opportunity for the student to gain her own identity. It can contribute to the redefinition of woman and offers the best support services. It can remove for women the traditional barriers to leadership and provide her with role models of successful women and the support of her peers. It can foster the kind of environment which allows a woman to sort out her public and private goals, to be concerned with ethical standards and at this college to realize the founder's goal of education of the whole person and thereby produce the political and professional leaders.

There is nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in introducing a new order of things, said a Renaissance writer.

For us, there is a future of adventure, risks, and challenges. And now to return to precedents. Will we rely upon precedents when possible? Yes. But when there are no precedents for creative educational decisions? Let us establish them.●

THE OUTSTANDING PUERTO RICAN LEADERS OF CHICAGO

● Mr. PERCY. Mr. President, the estimated 250,000 Illinois residents who are proud to call themselves Puerto Ricans are fortunate to have in their ranks scores of leaders and organizations that have achieved major successes in improving Puerto Rican community and family life.

These citizens take just pride in both their American and Hispanic heritages which have blended together to produce the rich Puerto Rican culture.

It would be most difficult to name all the outstanding leaders of the Chicago Puerto Rican community. However, several persons stand out because of their personal assistance to me in my attempt to bring low-fare, competitive service between Chicago and San Juan. They are the Reverend Ruben I. Cruz and Andy Roman.

The Reverend Cruz is pastor of the First Spanish Christian Church of Chicago, 1507 West Sunnyside Avenue. In his capacity as chairman of the Midwest Puerto Rican Coalition, the Reverend Cruz gathered 10,000 signatures on petitions circulated throughout the Midwest asking the Civil Aeronautics Board to approve new, low-fare service to Puerto Rico from Chicago. The Reverend Cruz personally presented these petitions to CAB Chairman Alfred E. Kahn this summer. I am very hopeful that the Board will approve such service shortly and that the new service can begin by Christmas 1978 or shortly thereafter.

The Reverend Cruz was born in San Juan, Puerto Rico, on September 21, 1940, and moved to Chicago in 1958. He has an outstanding record of civic achievements that includes chairmanship of the Advisory Committee on Civil Rights for the State of Illinois to the U.S. Commission on Civil Rights. I have, indeed, been fortunate to be interviewed by the Reverend Cruz on "Weekend Edition," a popular news interview show over WLS–TV in Chicago, which the Reverend Cruz moderates. He is also president of the Spanish Caucus of the Christian Church Disciples of Christ in the United States, the Spanish Ministerial Association of Chicago, and Campfire Girls of Metropolitan Chicago, Spanish Committee. He is also a member of the Chicago Board of Health, Easter Seal Society of Metropolitan Chicago, and the Chicago chapter of UNICEF. He is married to Mrs. Karen Cruz, who teaches bilingual education at the LaFayette School in Chicago. They have two children, Ruben, Jr., and Jose.

Andy Roman is respected and loved in the Puerto Rican community. He is the president of San Juan Star Travel in Chicago, and is considered the leading travel agent in Chicago specializing in travel to Puerto Rico. He is also the president of the Excello Insurance Agency and partner in RCA Real Estate. Mr. Roman was born on December 2, 1930, in Arecivo, Puerto Rico, and moved to Chicago in 1956. He is truly a self-made man who has unselfishly served his community. Among some of his activities are:

The Puerto Rican Congress; Mr. Roman helped 27 years ago propel this organization into the lead service agency for the Puerto Rican community in Chicago.

The Knights of San Juan; he has helped found this Roman Catholic fraternal organization that today has 5,000 members and a successful credit union.

Roberto Clemente Association; over 1,000 persons participate in a wide-ranging athletic program sponsored by the association including softball league, and semifast baseball teams. He also helped form the Spanish-American League and Monchiele Conception. Both are athletic organizations.

Americana Savings and Loan Association, 2603 N. Milwaukee Avenue, Chicago; Mr. Roman helped organize this first Latino owned savings and loan association in Chicago together with Mr. Nelson Carlo. Mr. Roman also was instrumental in organizing the first Latino bank in Chicago—the Washington National Bank.

Mr. Roman is a warmhearted individual whose generosity is boundless. He is truly a friend to all who meet him. He works with his wife, Mrs. Aida Roman and their two lovely daughters, Leslie and Vicky, in the travel agency. They also have two sons, Andy, Jr., and Johnny.

I would also like to mention Ms. Irma Claudio who has been very active and effective in the community and who is a real friend. Additionally, these individuals should be commended: Mrs. Marie Walker, president of the Puerto Rican Teachers Association of Chicago and her husband John and Ms. Marian Malffulleda, secretary of the association.

We are, indeed, fortunate in Chicago to have this high caliber of leadership.●

THE KEYSTONE RADIOACTIVE WASTE MANAGEMENT DISCUSSION GROUP

● Mr. PERCY. Mr. President, the recent release of the Interagency Review Group report on nuclear waste management has again focused attention on the problem of nuclear waste disposal. I commend the members of the IRG, and especially their chairman, Dr. John Deutch, for their hard work in preparing this report.

I do not want to comment extensively on the report at this time. However, I would like to note that the report is not, nor was it intended to be, a definitive statement on the problem of nuclear waste disposal. Rather it is one step in what I hope will be an ongoing process of bringing new resources and broader perspectives to bear on the problem. That process must be continued, and must be broadened to allow organizations and citizens outside of the Federal Government to have more significant input into the shaping of Federal nuclear waste policy.

With that in mind, I wish to draw my colleagues' attention to an organization which has provided an important forum for the discussion of the nuclear waste problem. This organization is the Radioactive Waste Management Discussion Group of the Keystone Center in Keystone, Colo. The group consists of leading experts from industry, environmental, other public interest organizations, and academics. The group meets in an unpressured situation in which ideas can be freely exchanged and a consensus on difficult issues gradually arrived at. It thus provides a uniquely productive problem solving framework for a highly controversial subject.

The group has met several times in the last 5 months to review the documents prepared by the IRG. After those meetings, the group sent the IRG letters outlining its comments on the documents. Those letters were an important source of outside input for the members of the IRG.

The Keystone group is planning to meet again to discuss several important nuclear waste issues. The first such meeting will be held in early December and will focus on the storage of spent nuclear fuel. Among the issues to be discussed are the merits of expanding onsite storage of spent fuel in comparison to constructing new away-from-reactor storage facilities and the relationship of spent fuel storage, reprocessing, and nonproliferation. In addition, the group will meet in 1979 to discuss issues relating to reprocessing, nuclear waste repository site selection, and public understanding of and participation in the formation of Federal nuclear waste policy.

Efforts such as that being made by the Keystone group are vitally important. The Federal Government cannot solve the problem of nuclear waste disposal by itself. It needs a wide range of outside input if it is to develop a program which is both technically sound and responsive to public concerns. The Keystone group is a unique source of such input, and is worthy of broad support.●

BILL SCOTT REPORTS

● Mr. SCOTT. Mr. President, our office is preparing the last report to constituents and I ask that a copy be printed in the RECORD for the information of colleagues.

The report follows:

BILL SCOTT REPORTS

HIGHLIGHTS

This final newsletter is intended to highlight some of the issues that confronted the Senate during the year. One proposed constitutional amendment was passed and submitted to the state legislatures for consideration and an extension of time was authorized within which the state legislatures might consider ratification of another previously proposed amendment to the Constitution. We would like to highlight these and some of the other Senate activities not included in previous newsletters.

PROPOSED CONSTITUTIONAL AMENDMENT

The 95th Congress passed a joint resolution proposing a constitutional amendment that would treat the District of Columbia as a state for the purpose of representation in Congress. In order for the measure to become a part of the Constitution it must be ratified by the legislatures of three-fourths of the states within seven years.

Even the most popular floor amendment to the resolution did not receive the majority vote necessary for adoption. It would have allowed D.C. residents to vote for Senators in Maryland, the state of which the present District of Columbia was formerly a part, rather than to allow the city to have two Senators of its own.

Opponents of the proposed Constitutional amendment argued that Senators represent the states. They also brought out the fact that a federal city was established outside of any of the states so that decisions affecting the entire nation could be made by the Congress in an area under its control and free from undue influence, political entanglement, or harassment by an individual state or local government. The argument was made that to allow a non-state to be represented would deprive the states of their equal suffrage in the Senate without their consent.

One of the many criticisms of the proposed amendment is that unlike the states, the District is dominated by a single employer, the federal government, and the news media which espouses the viewpoint of city residents would work in tandem with its two Senators.

It should also be recalled that Washington is a city, not a state, that it elects its own school board, city council, mayor, and a delegate to the Congress. It also contributes only 29 cents to the federal treasury for every dollar received. With the second highest per capita income of any city in the country, it appears that city residents fare very well.

As ranking member of the Subcommittee on the Constitution, I was designated floor leader of the opposition to the amendment and copies of my remarks are available from the office. Of course, the proposed amendment must be ratified by 38 state legislatures before it can become a part of the Constitution.

ERA EXTENSION

When Congress in 1972 proposed a constitutional amendment so that "equal rights under the law shall not be denied or abridged by the United States or by any state on account of sex", a time limit of seven years was set for ratification.

In order not to clutter up the Constitution, the time limit was expressed in the preamble proposing the amendment, and was not included in the body of the amendment itself, as had been done on several occasions. Proponents, therefore, claimed that Congress by law, without a two-thirds vote could extend the time for ratification. Others believed the time limit to be an integral part of the proposed amendment which could not be altered without a two-thirds vote of both Houses of Congress, if it could be altered at all.

Under the original time limit, 38 states must ratify the ERA by March 22, 1979. To date, 35 state legislatures have ratified, but 4 of those have voted to rescind their ratifications. Opponents of the time extension pointed out the unfairness of extending the time without allowing states the right of rescission. Before adjourning, the 95th Congress passed a resolution by a simple majority which purports to extend the time for ERA ratification to June 30, 1982, without recognizing the right of states to rescind. The legality of this action will probably be tested in the courts although until recent years legislative or political questions were considered beyond the realm of judicial review.

As floor leader for the minority in opposition to this measure, my remarks on this subject were extensive and are available upon request.

ATTENDANCE RECORD

You may be interested in my attendance and voting record while serving in the Congress:

House of Representatives

	Percent
1967	92
1968	91
1969	97
1970	98
1971	95
1972	83

U.S. Senate

	Percent
1973	91
1974	84
1975	91
1976	84
1977	78
1978	83

This indicates an average attendance and voting record of 89 percent over the 12-year period.

TAX REDUCTION BILL

A lengthy and complicated tax revision bill has become law, apparently reflecting the desire of most taxpayers for some lessening of their tax burden. The size of the cuts, however, are not large enough to substantially increase most people's paychecks, but without them many citizens' taxes would have increased significantly. Although tax brackets were adjusted to lessen the impact of higher incomes due to inflation, as well as to compensate for scheduled Social Security tax increases, the significant reductions were in the tax treatment of capital gains. In addition, there are some tax rate reductions for small businesses.

Most of the provisions of the new law affect 1979 income, but two of the capital gains tax provisions have earlier effective dates. For homeowners age 55 or over, a once in a lifetime exemption from the capital gains tax is allowed on a gain of up to $100,000 for the sale of a personal residence, effective July 26, 1978. In addition, for all property, including personal residences, investment property, or stocks and bonds, the amount of gain which can be excluded from ordinary income is increased from 50 percent to 60 percent, effective November 1, 1978. Another provision of the law delays until 1980 the effective date of a previous law requiring heirs to pay capital gains tax on the gain from the sale of inherited property. Many people feel that this carryover provision was a mistake and should be repealed outright since heirs already pay inheritance and estate taxes.

Personal exemptions will be increased from $750, to $1,000 for taxable years following 1978. In addition, the deduction for state and local taxes on gasoline and other motor fuels is repealed for future years.

DIVERSITY OF CITIZENSHIP

Article III of the Constitution extends the judicial power of the United States to several classes of cases, including controversies between citizens of different states. This constitutional provision has been interpreted to mean that if Congress so chooses, it can permit these cases to be filed in federal courts. The first Judiciary Act in 1789 provided for so-called diversity of citizenship jurisdiction in our federal courts, and it has remained until this day.

The Department of Justice lobbied hard to have the diversity jurisdiction changed. But, the American Bar Association and Association of Trial Lawyers opposed their efforts on the grounds that there is often prejudice against persons from out of state and that diversity jurisdiction assures the rights of all citizens to fair trials, without the fear of prejudices in local courts.

Opponents of the measure to abolish the traditional diversity jurisdiction also say that with the appointment of 152 new federal judgeships under recent legislation, the federal courts have more time to handle these cases, and that shifting them to the state courts would add to the burdens of the state court systems. Proponents argue that local prejudice is no longer an important factor. They also point out that under the existing system federal judges must apply state law and that without this jurisdiction more authority would be transferred to the states.

The measure to reduce or eliminate federal diversity of citizenship cases came at a time when Congress had agreed upon additional judges. The Senate has also approved a bill to increase the jurisdiction of federal magistrates to further reduce the workload of the trial judges. Therefore it did not seem feasible to transfer a major segment of their cases to state courts. I prevented its consideration at one meeting of the Senate Judiciary Committee, filibustered it at the next weekly meeting and prevented it being acted upon directly in the Senate. When the measure was attached to a Senate-passed bill in the House, several Senators joined in defeating it in Conference.

TUITION TAX CREDIT BILL FAILS

The Senate and the House of Representatives were unable to agree upon a final version of the tuition tax credit bill which had previously passed both Houses in different forms. The House first passed a bill which included tax credits for elementary and secondary school tuition as well as for college tuition costs. However, the Senate eliminated tax credits for elementary and secondary tuition expenses while approving college and post-secondary vocational school credits beginning with a $250 maximum annual credit this year and increasing to $500 by 1980.

The two Houses were unable to reconcile their differences and the measure was still pending further action when the Congress finally adjourned. During the Senate's debate on this bill, I joined with the majority of the Senate and voted to eliminate elementary and secondary school credits and then supported passage of the bill which included only the college and post-secondary vocational school credits. Copies of my floor statement are available.

Proponents argue that tax relief is necessary to preserve diversity in the field of education and to insure competition and high standards of excellence, while opponents say that aid to sectarian schools would violate the Constitutional principle of separation of Church and State. Others, however, believed that financial assistance to students of private, public and church schools, directly or indirectly, would be wasteful and only public schools should be supported with tax funds. This important and controversial issue seems likely to be debated again next year.

Our mail this year has reflected the public desire for less government spending and lower taxes, coupled with less regulation and more incentives for private business expansion and productivity. While the budget submitted to the Congress by the President last January has been cut substantially, the government will still spend approximately

$40 billion more than it receives in taxes during this fiscal year and more than has been spent in any year in the Nation's history, with our national debt approaching $800,000,000,000 on which interest of more than $100,000 a minute is paid. It is apparent, therefore, that the President and the Congress are still not meeting the desire of the general public for the fiscal restraints necessary to relieve inflationary pressures of deficit spending, or that lead to a balanced budget.

You may be interested in knowing that the National Associated Businessmen this year awarded me a sixth consecutive biennial Watchdog of the Treasury Award; that the National Federation of Independent Business presented its second biennial Guardian of Small Business Award; that the National Taypayers' Union presented its Taxpayers' Responsibility Award; that the Virginia Farm Bureau Federation presented an award for outstanding service to Virginia in agriculture, that the U.S. Chamber of Commerce gave me a 94% rating on selected issues of concern to the business community; the American Conservative Union a 97% rating; and the Americans for Constitutional Action has presented an award for distinguished Congressional service for each of the 12 years of Congressional services, this year based on a 100% voting record on the preservation of the spirit and principles of the Constitution; and the American Security Council presented a special recognition award for a 100% voting record in favor of a strong national defense.

Some may criticize, even ridicule, this conservative and business-oriented voting record but I believe it is consistent with the basic philosophy of Virginians.

The Library of Congress indicates that since the founding of our Nation, 9,062 individuals have served in the House of Representatives, exclusive of Delegates from the territories, and 1,135 have served in the United States Senate. However, only 555 people have served in both bodies of the Congress. You have afforded me such an honor, and I have represented you in the House and the Senate to the best of my ability over the past 12 years.●

PLANS TO BAN THE USE OF NITRITE IN PRESERVED MEAT

● Mr. BAKER. Mr. President, it has recently come to my attention that considerable effort is being made within the Department of Agriculture to ban the use of nitrites pursuant to the provisions of the Food and Drug and Wholesome Meat and Poultry Acts. My understanding in that rationale for this ban would essentially be based on a single FDA study which links nitrites in preserved meat to cancer. For the administration to ask for a ban on the use of a substance so important to the meat industry so quickly and on the basis of one study is quite disturbing.

Concern over nitrites, an essential ingredient in cured meats for thousands of years, started about 1970 with a beginning awareness that nitrosamines, a known carcinogen in laboratory animals, might be present in meats cured with nitrites.

Much scientific investigation has established that nitrites in cured meats are vital in the prevention of botulism, a deadly form of bacterial food poisoning.

Further, it has been proven that cured meats are virtually free of nitrosamines except for bacon when cooked at very high temperatures. USDA and the American Meat Institute have worked to reduce the amount of nitrite in bacon. By combining nitrites at a lower level with sodium ascorbate (vitamin C), bacon can now be produced free of nitrosamines above the amount (10 parts per billion considered practical to detect.

Since the single study upon which the announced ban is being based was made public on August 11, several discrepancies have come to light which appear to make it invalid.

Most damaging was a report by FDA itself which showed that the study was conducted so carelessly that the validity of its results should be questioned. Further questions about the study by a number of expert scientists argue strongly that the study must not be the basis for significant regulatory action. At the very most, the study, as contradictory as it is of all previous research, should do no more than prompt further, more tightly controlled research into this matter.

Since the scientific evidence on the impacts of the use of nitrites is so widely criticized I believe it is incumbent on Government regulators not only to address this inadequacy of data but to make a careful examination of what a ban would mean to the preserved meat industry in this country.

If nitrites were banned from cured meats, consumers would face a health hazard from botulism. They would needlessly miss the flavor and color they are accustomed to.

Domestic production of cured meats is more than 9 billion pounds per year. Consumption is even higher because the United States is an importer of cured meats. The retail value of cured meats (most of which contain nitrite) sold in this country each year exceeds $12 billion.

If nitrite were no longer allowed in bacon, hog producers would have an annual income loss of at least $500 million. There would be fewer hog farmers and less employment in farming; less employment in meat packing, distribution and retail establishments; loss of export markets for pork; financial losses from the closing of facilities; less choice for consumers at the meat counter; and the loss of cash and future markets.

Much greater losses would occur if nitrite were to be banned in all cured meats. It would all but destroy the U.S. hog industry since nearly 70 percent of our pork ends up in processed meat products—mostly cured meats. Only about 30 percent is sold fresh.

A severe decline in hog farming would seriously affect the entire chain of production, including grain farmers, equipment manufacturers, food processors, distributors, and retailers. Hogs consume over one-third of the corn we feed to livestock each year. Cash receipts of farmers from the sale of hogs approach $7.5 billion annually. The retail value of pork production sold is estimated to be $15 billion annually—a huge market. Cattle markets would also be seriously affected since about 10 percent of beef goes into cured meats.

In summary then, nitrites have been used in cured meats, fish, and poultry for thousands of years. Evidence that there is a health problem in their proper use is inconclusive and does not warrant any action to ban the use of nitrite, particularly when one considers that only 2 percent of our exposure results from eating cured meats.

The botulism threat is a serious one and clearly warrants the continued prudent use of nitrite in cured meats at the reduced levels recommended by USDA's Expert Panel.

While possible nitrosamine formation in bacon cannot be totally ignored, the preponderance of evidence suggest that the meat industry has been successful on substantially blocking such formation and that the minute traces found in some severely fried bacon samples pose no health hazards to humans.

The economic upheaval which would result from a nitrite ban would be extremely costly to many thousands of Americans—farmers, workers, and consumers—and would have an undesirable impact on many foreign nations. Because of the unfounded fears that have been expressed, the futures market, the stock market, bankers, and others are becoming nervous about the situation, a development that will not be helpful to our economy and prospects for future production.

There is a definite need for continued research to learn more about the benefits and hazards associated with the use of nitrites. Further research should and will continue into methods that will eliminate nitrosamines from bacon or any other cured meat product. I will support these research efforts and will do all I can to insure the continued production of safe, wholesome, and high quality meat products, but I do not feel that a ban at this time is warranted or supportable.●

TRIBUTE TO SENATOR PAUL HATFIELD OF MONTANA

● Mr. KENNEDY. Mr. President, it is a pleasure to salute our distinguished colleague in the Senate, PAUL HATFIELD, who, regrettably, will not be back with us when the 96th Congress convenes in January.

Although his term in the Senate has been short, Senator HATFIELD wasted no time in proving to us that he is a man of outstanding integrity and political courage. We shall miss the diligence and perseverance that he displayed so often in recent months on the Senate floor and in his committee work.

Certainly, none of us will forget his courageous stand on the Panama Canal treaties. He became convinced that the treaties were in the best interests of the Nation and he held firm to that conviction throughout the difficult weeks of the debates, knowing that he was seriously jeopardizing his future career as a Member of the Senate. The narrow margin by which the treaties were ratified shows how critical his statesmanlike position was for the success of American foreign policy, and he deserves great credit for his action. Unlike others in the Senate who voted in favor of the treaties in spite

of great public opposition in their States, Senator HATFIELD had not served in the Senate long enough to have developed a cushion of other actions and service to his constituents to offset this highly visible and dramatic vote.

It was an honor for me to serve with Senator HATFIELD on the Senate Judiciary Committee. His broad background and experience as a State judge in Montana and then as chief justice of the Montana Supreme Court gave him an effective insight into many different aspects of the committee's work. He was one of the strongest proponents and supporters in the committee of our efforts to reform the antitrust laws and improve the Nation's basic system of competition and free enterprise. In particular, he worked effectively in the committee on the legislation to undo the unfortunate effects of the Supreme Court's decision in the Illinois Brick Case, and to allow consumers, farmers, small business persons and others to recover for damages they had suffered as victims of antitrust violations.

Senator HATFIELD was also an effective sponsor of the landmark Department of Justice authorization legislation enacted this year—the first such legislation for that department. As chairman of the Senate conferees on that important measure, Senator HATFIELD played an especially significant role in achieving its enactment.

In many other ways in his brief service in this Chamber, Senator HATFIELD has earned the respect and friendship of all of us. We wish him well in his return to Montana and in his future career, and we hope that his great abilities may again be called into the service of the Nation.●

TRIBUTE TO SENATOR JAMES ABOUREZK OF SOUTH DAKOTA

● Mr. KENNEDY. As Senator ABOUREZK retires from the U.S. Senate, I would like to pay tribute to a man who is my good friend and who enjoys the great respect of his colleagues in the Senate and his constituents in South Dakota.

The tragedy of his retirement is that he was only willing to spend one brief 6-year term with us. No colleague ever took a clearer stand on the issues, no matter how controversial, and it is a quality that we have all appreciated and will miss. Even those who have disagreed with him on issues have recognized the intensity of his beliefs, matched only by the intelligence that lay behind them. We admired his tenacity in upholding them, and counted him among the most effective advocates the Senate ever had.

His specialty was the defense of those in our society least able to defend themselves. Again and again, he has spoken out on their behalf—for civil rights, for Indian rights, for small farmers, for consumers threatened by hikes in oil prices, for all the poor and the disadvantaged in this country, for the cause of human rights abroad.

To name these causes for which he worked is to define the enormous gap he will leave in the Senate. We shall miss his active leadership in so many different attacks on the multitude of injustices in our society. His conscience was a beacon guiding all who care about the future of this Nation.

With his unconventional ways, he had a unique ability to stir people into action. He asked more than armchair sympathy for those suffering from injustice, oppression, or denial of opportunity. He demanded action and often got it. Yet his sense of purpose, his uncompromising honesty and integrity, was always leavened with a sense of humor that made his positions even more difficult to reject or ignore.

Uniquely, Senator ABOUREZK was about to prod the conscience of the Senate and move it forward on issues he cared about. His chief concern has not been making this body comfortable, but rendering it more responsive to the needs of the American people it serves. And his concern has stretched to cover the people of many other nations as well, especially in the area of human rights. The Senate is losing a brave fighter for human rights in the broadest sense of the term. Senator ABOUREZK has challenged the privileges of the few in the name of the many, and in doing so he has earned the great respect and affection of all those in this body he has tried so hard to move.●

TRIBUTE TO SENATOR MARYON ALLEN OF ALABAMA

● Mr. KENNEDY. Mr. President, at the end of this Congress, Senator MARYON ALLEN will be concluding her tenure with us as Senator from Alabama. Though her stay has been brief, it has been a distinguished and productive one, and she has earned the respect of all of us for her dedication and intelligence.

Her husband's sudden and tragic death earlier this year deprived the Senate of one of its most influential Members. In the few short months she has been with us, Mrs. ALLEN has been an able and effective representative of the people of Alabama and established a distinguished reputation in her own right as a Member of the Senate.

On many of the most important issues, she skillfully and proudly carried on her husband's philosophy. In every area, she demonstrated her great intellectual ability and the high reputation she had earned in her career in journalism.

Senator ALLEN is 1 of only 13 women to have ever served in the Senate in our Nation's history, and she is the only woman ever to have served on the Committee on the Judiciary.

It has been an honor for me to work with her as a member of that committee in recent months. Her service here has been a credit to the State of Alabama, and I commend her for her distinguished record as a Member of the Senate.●

TRIBUTE TO SENATOR DEWEY BARTLETT OF OKLAHOMA

● Mr. KENNEDY. Mr. President, in his book "Profiles in Courage," President Kennedy described some of the most famous examples in American history of individual courage in political life. Today I wish to pay tribute, on his retirement from this Chamber, to my colleague, Senator BARTLETT, who exemplifies that character of personal courage and who has been an inspiration to all of us.

As he leaves the Senate, I extend my warmest praise and congratulations to him for his fine work, both in the U.S. Senate and for the people of his State of Oklahoma.

Although Senator BARTLETT and I occasionally found ourselves on opposite sides of issues, I had great respect for his ability and for his genuine concern for his constituents in Oklahoma and for the citizens of our Nation.

Over the many years of his outstanding career in public life, Senator BARTLETT has recorded a number of outstanding achievements. As a member of the Armed Services Committee and the Energy Committee in the Senate, he has played a major role in the development of sound policies in the critical areas of national defense and energy. As a member of the Small Business Committee, he has been an active and respected representative of this important sector of our economy.

He was also an early champion of civil rights in Oklahoma, appointing Oklahoma's first black judge and supporting the opening of two black-owned banks in Oklahoma. He has served with distinction as the ranking Republican member of the Indian Affairs Committee. He has been instrumental in the passage of legislation to improve the health and education of Indians, has demanded Federal recognition for four Oklahoma tribes, and has worked toward solutions of problems involving Indian lands. He was commended by the Oklahoma Human Rights Commission for his positive actions in meeting the needs of minorities.

In areas where we have worked together, such as in our joint effort in the 94th Congress to improve the procedures for filing amendments to bills on which cloture may be invoked, he was an effective and persuasive partner.

Senator BARTLETT has been sensitive to the needs of his constituents, and he has always manifested great strength and determination. In promoting industrial growth in Oklahoma, he personally called upon many industrial leaders and traveled thousands of miles in order to maintain close contact with the citizens of his State.

Such persistence has characterized his entire career in public life, even as it has characterized his courageous fight against illness in recent months. Throughout his service here, he has been a formidable and valuable Member of the Senate, and I shall miss his perceptive contributions to our debates in the years to come.●

TRIBUTE TO SENATOR CLIFFORD CASE OF NEW JERSEY

● Mr. KENNEDY. Mr. President, I would like to take this opportunity to pay tribute to my outstanding colleague

from New Jersey, Senator CLIFFORD CASE. His 24 years of dedicated and distinguished service to New Jersey and the Nation have been filled with extraordinary landmarks.

Senator CASE has been perhaps best known for his commitment to integrity and efficiency in Government. His actions have always reflected the public good, regardless of partisan positions. Much of his legislation stems from his strong feeling that major governmental decisions must be subjected to public examination, discussion, and participation and that the key to wise public policy is wise procedure for arriving at positions.

In 1966, Senator CASE sponsored a bill to provide public access to all Government information except that which involves national security. He also sponsored the Case Act, which requires the President to notify Congress within 60 days of any major agreements made with foreign countries. In this way, Congress is able to consider the long-term effects of such executive agreements before final decisions are made. Through his leadership, Senator CASE has played an outstanding role in the long overdue effort to restore the balance between Congress and the executive branch in vital decisions of foreign policy.

In many other areas, Senator CASE has had a strong impact on both foreign and domestic affairs. As ranking Republican on the Senate Foreign Relations Committee, he has been deeply involved in all aspect of foreign policy. He was one of the earliest and most effective opponents of the Vietnam war, and the Case-Church amendment will always be remembered as one of the great landmarks in our efforts to end that long and tragic war.

More recently, Senator CASE has been influential in helping to develop a strong and responsible policy regarding the strife in Rhodesia. He was also one of the key spokesmen in support of barring the use of American forces in Angola.

On domestic issues, he has been a pioneer in many areas, supporting the great efforts in recent years in civil rights and voting rights and many other areas of reform. As a member of the Appropriations Committee, he has done his best to insure that Federal funds are adequately directed to meet the Nation's real priorities. And I had the privilege of working closely with him for many years on the Technology Assessment Board, as we sought to achieve a more responsible and effective policy toward the role of technology in our modern society.

These efforts of Senator CASE are but a few examples of the unfailing and highly effective work which he has performed throughout his brilliant 24-year career in the Senate. He has made enormous contributions to America's domestic and foreign policy. The people of New Jersey and the Nation are losing a fine public servant who has earned the respect of all his colleagues in both parties in the Senate. His advice, knowledge, and commitment will be greatly missed in this Chamber. We wish him well in his retirement as we commend him for his years of fine and honorable service to his State and country.●

TRIBUTE TO SENATOR CARL CURTIS OF NEBRASKA

● Mr. KENNEDY. Mr. President, after 40 years of service in the Congress of the United States—16 years in the House and now 24 years in the Senate—our distinguished colleague, Senator CARL CURTIS, has announced his retirement from the U.S. Senate.

Throughout his long and industrious career, Senator CURTIS has earned a reputation as a highly respected and influential Member of the Senate. He has been an effective voice for the American farmer. He has furthered the cause of the private and church colleges and universities. And he has been a staunch supporter of a fair deal for the American veteran.

As ranking Republican on the Senate Finance Committee, he is widely recognized as one of the outstanding authorities on taxation. In 1974 the Curtis Individual Retirement Act was passed. This act enabled farmers, businessmen, professionals, and other self-employed persons to gain a tax benefit for saving for their retirement. Thus, it was through Senator CURTIS' efforts that many in the population, who would otherwise be treated unfairly, were able to benefit from such a program.

Senator CURTIS has also worked tirelessly over the years in other major areas of the Finance Committee, especially on the social security and the welfare system. Although we have not always agreed on major issues in these and other areas, he has been a tireless advocate for his views and an effective representative of the people of Nebraska and the Nation.

During his distinguished career in the Senate, Senator CURTIS has served as ranking Republican on other committees as well, including the Rules Committee, the Space Committee, and the Agriculture Committee. In each of these areas, he has gained the respect and admiration of his colleagues. Through his work and commitment, he has earned the respect of all of us. It is an honor for me to take this opportunity to congratulate him for his valuable service to Nebraska, to the Senate, and to the Nation and to wish him good health and happiness in his retirement.●

TRIBUTE TO SENATOR JAMES EASTLAND, OF MISSISSIPPI

● Mr. KENNEDY. I wish to take this opportunity to recognize and pay tribute to a truly distinguished colleague, our President pro tempore, Senator JAMES O. EASTLAND, who is not seeking reelection to the Senate which he has served so faithfully and well for the past 37 years.

I have called Senator EASTLAND Mr. Chairman for my entire 16 years in the Senate, since the day I arrived in Washington in 1962 and was assigned to the Senate Judiciary Committee.

Senator EASTLAND was the youngest Senator ever to become chairman of that committee. He has served in that capacity since 1956, longer than any other Senator in history. As chairman, he enjoyed the affection and support of all of us, because of the scrupulously fair and evenhanded manner in which he presided over a committee of so many diverse viewpoints with so many complex issues before it.

As chairman of our committee he has had great influence on American jurisprudence and the role of the judiciary in our system of government. We have had our share of differences on issues over the years, but we have also shared many areas of agreement.

Senator EASTLAND also had an abiding interest in agriculture, and has been a ranking member of the Agriculture Committee for many years. He has always supported the small farmer and the preservation of the Nation's natural resources in the field of agriculture. Over the years he has been a strong advocate of rural development, the rebuilding and revitalization of the C. & G. Railroad, and the Tennessee-Tombigbee Waterway.

Perhaps no Senator retiring this year has been more of an institution in this body than our colleague from Mississippi. He could say more with a fleeting expression or raised eyebrow or brief comment than others could say in pages of the CONGRESSIONAL RECORD.

Few, if any, Senators in Washington have a greater commitment and dedication to public service and to the citizens of their States than Senator EASTLAND. He has earned the affection and respect of the people of Mississippi, and I am sure that he will cherish those memories in the years of his retirement. Mississippi may be losing a Senator, but seven grandchildren will be gaining a grandfather. In the future, Big JIM will be seeing a little more of Mary Elizabeth, of Kyle, and Chris, and Lane, and his namesake Jamie and the other Chris and little Benjy. And the farm at Doddsville and the offices in Ruleville will be seeing a little more of Senator EASTLAND. He has earned his retirement well by his long and faithful service.●

TRIBUTE TO SENATOR CLIFFORD HANSEN OF WYOMING

● Mr. KENNEDY. Mr. President, I would like to pay tribute to our distinguished Senator from Wyoming, CLIFFORD HANSEN, who is retiring after 12 years of dedicated service in the Senate.

Senator HANSEN's distinguished career in public service began when he was elected the 26th Governor of Wyoming in 1962. He was considered by many to be one of Wyoming's most progressive governors. His foresight in State politics enabled him to reorganize the structure of the government and its State institutions, to improve educational assistance, and change the tax structure of the State.

For the past 12 years, Senator HANSEN has been an outstanding Senator for the people of Wyoming and the Nation. On

the Senate floor, he has been an excellent debater. Although we found ourselves in disagreement on certain issues, he has always been a skillful and forceful advocate for his positions. His concern for the country's resources led him to active roles on both energy and environmental policy and he served as the chairman of the Subcommittee on Energy and Natural Resources on the Republican Policy Committee.

Senator HANSEN has also been a firm supporter of returning power to the State and local government. He has been a leading advocate in the struggle against inflation and to restore a healthy economic climate. And in this past Congress, his leadership on behalf of the Hansen-Steiger amendment was successful in achieving a key part of the recent tax bill, the reduction in tax on capital gains.

Senator HANSEN's retirement is a loss to the Senate, to the people of Wyoming, and to the country. He was an outstanding colleague and friend, and we wish him happiness and success in his retirement.●

TRIBUTE TO SENATOR KANEASTER HODGES OF ARKANSAS

● Mr. KENNEDY. Mr. President, unlike most of us here, KANEASTER HODGES did not gain his seat in the Senate through a successful political campaign. He arrived here as the appointee of the Governor of Arkansas to fill the vacancy created by the death of Senator John McClellan, who had done so much for so many years for the people of Arkansas and the Nation.

Immediately, on arriving here, however, Senator HODGES quickly established himself as an effective and extremely well-liked colleague with an unusually appealing personal touch. He lent a refreshing presence to this Chamber, which made all of us regret the Arkansas law that prevents him from returning to the Senate next year.

In his few short months with us, Senator HODGES has been an active force in the committees on which he has served: Agriculture, Nutrition, and Forestry, and Environment and Public Works. His approach to the problems facing these committees and the Senate as a whole has animated these Chambers with a personal concern whose absence will be deeply felt in the coming years. As much as any other colleague, he has emphasized to all of us that we serve the individual citizens of our States and Nation, not collective "interests." Perhaps it was his work in the ministry, providing help for those in personal anguish, which taught him the importance of each individual in our society; or perhaps it was his awareness of this unique importance of the individual which led him to the ministry. In either case, his personal zeal and commitment has infused a welcome new energy into the Senate's attempt to promote a better life for the American people.

As a farmer from a largely agricultural State, Senator HODGES based his diligent efforts on the Agriculture Committee on his own personal knowledge and observations of the needs of his constituents in farming and ranching. When legislation involving Alaska faced the Senate, Senator HODGES did not merely consider it abstractly, although his intelligence and education have qualified him eminently for perceiving such larger designs. He also traveled across that vast State with our distinguished colleague from Alaska, Senator STEVENS, to talk with the people and to see how our legislation might affect them. Similarly, when we were considering the Panama Canal Treaties, he went personally to Panama in order to see the impact of the issues on the people of that nation.

Another revealing instance of Senator HODGES' extraordinary personal approach occurred on the Senate floor during the debate on the extension of the time period for ratification of the equal rights amendment. In explaining his vote for the extension, he stated on the Senate floor:

> I am very close to both of my children. When my daughter, who is now nine, was seven years old, she picked out an office in our law building, claimed it as her own, and declared her intention to be a lawyer. One day she came to me with tears in her eyes. She had been told by her classmates at school that women could not be lawyers.

"What kind of social structure produces these results," was the question that the Senator asked the Senate. The force of his eloquence and logic was irresistible.

It was a difficult and courageous decision for him to make, a position which was not hailed in all quarters. But Senator HODGES decided that the Nation should make clear that women can be lawyers, by saying so in plain language in the Constitution through the Equal Rights Amendment.

That sort of eloquence and personal commitment became the hallmark of Senator HODGES in the all too brief period he has been serving with us. We are grateful for his friendship here. And I am confident, as he returns to his home in Newport, that Arkansas and the Nation will continue to benefit from this person of such uncommon talent, warmth, and commitment.●

TRIBUTE TO SENATOR MURIEL HUMPHREY OF MINNESOTA

● Mr. KENNEDY. MURIEL HUMPHREY, our friend and our colleague, is leaving the U.S. Senate. She has served the American people for the past 34 years not only as the wife of our distinguished colleague, the late Hubert H. Humphrey, but also in her own right as a dedicated colleague in the Senate.

Even after she had suffered the profound loss of the passing of her husband, her private life continued to be subordinated to the public's interest. With courage and perseverance, she came to the Senate to work for the principles and goals she had shared so long for all the people of this Nation.

Senator HUMPHREY's contributions to the Senate, both in domestic and in foreign policy, have been extremely valuable. In domestic areas, she focused her interests in the fields of education, health, women's rights, civil service reform, and, above all, the enactment of the Humphrey-Hawkins full employment bill.

In the field of health, she was instrumental in obtaining additional funding for the National Cancer Institute, to hasten the day when we shall find a cure for the disease that has tragically touched the lives of so many millions of Americans.

Because she saw a need for the education and the motivation of financially disadvantaged students, she incorporated into the Elementary and Secondary Education Act funding for college sponsored programs which would encourage high school students to pursue training for biomedical related careers.

Because MURIEL HUMPHREY was committed to improving the lives of others in need, she actively sought and encouraged the passage of the Comprehensive Rehabilitation Amendments of 1978, which will provide a wide range of new services for the handicapped and the retarded.

Her vigorous support of the legislation which extended the deadline for the States to ratify the Equal Rights Amendment was a major step forward for the Nation.

As a member of the Senate Governmental Affairs Committee, she introduced Civil Service Reform amendments to protect employees who provide information on illegal Government activities and on Government mismanagement. Her amendments later became the foundation of the "whistleblower" provisions which were ultimately incorporated into the bills passed by the House and Senate.

Most of all, MURIEL HUMPHREY was deeply committed to the Humphrey-Hawkins full employment bill, whose goal is to cut unemployment to 4 percent by 1981. Her efforts were rewarded during the final days of this session when the Humphrey-Hawkins bill was enacted by Congress and signed into law by President Carter.

Her sensitivity for others was real; her commitment to those in need was genuine; and her legislation was humanitarian in purpose. Now, as she leaves the Senate, she takes with her the respect and affection of all of us who have been privileged to serve with her. She embodies the spirit, the courage, and the hearts of the American people, and she has served her country and the people of Minnesota well.●

TRIBUTE TO SENATOR JAMES PEARSON OF KANSAS

● Mr. KENNEDY. When the 96th Congress convenes next January, it will be without the services of our fine Senator and distinguished colleague from Kansas, JAMES PEARSON, who is retiring this year after three decades of dedicated service to Kansas and the Nation. It has been a privilege for all of us to have had this distinguished statesman as a friend and colleague for 16 years in the Senate.

Throughout his career, Senator PEARSON was one of the ablest and most

thoughtful and most influential Member of this body. His positions were often courageous ones, reflecting the deep thought and convictions he brought to every issue. He was an early opponent of the Vietnam war, and in many other areas of foreign policy, as an outstanding member of the Foreign Relations Committee, he was an effective voice for our Nation in the world community.

As a member of the Commerce Committee, and as a special appointee to the National Transportation Policy Study Commission, Senator PEARSON worked vigorously to improve the quality of transportation in the Nation. And on the issue of natural gas deregulation he was an able and effective advocate of his views and played an outstanding role of leadership in the Senate.

I also remember how closely Senator PEARSON worked with Senator Robert Kennedy in drafting legislation to aid both rural and urban America. And he and I worked together on several occasions to reform the methods of funding political campaigns.

In many other ways, Senator PEARSON has served his constituency and his country well. I shall miss his profound commitment to the issues, and his dedication to integrity in public life.

We are saddened by his departure from this Chamber, but confident that his public service will continue in the future, for the benefit of all the people of the Nation.●

TRIBUTE TO SENATOR WILLIAM SCOTT OF VIRGINIA

● Mr. KENNEDY. When the 96th Congress convenes next January, one of our colleagues who will not be with us is Senator WILLIAM SCOTT of Virginia. After three terms in the House and one in the Senate, he has chosen to leave elective office to enter the private practice of law.

Senator SCOTT was elected to the Senate in 1972 and was appointed to two of the most important committees in the Senate—the Armed Service Committee and the Judiciary Committee. In the area of national defense, Senator SCOTT has been a consistent and effective advocate of the need of our country to maintain a strong military capability.

We have served together and worked together on the Judiciary Committee for the past 6 years. In his service on the committee, Senator SCOTT has worked on the many complex and vital national issues that have come before us. As ranking member on the Subcommittee on the Constitution, Senator SCOTT has worked with great energy and dedication in behalf of his deeply held views. I know that my colleagues join me in paying tribute to Senator SCOTT on his departure from these Chambers, and in wishing him well in his retirement from public office and in his future practice of law.●

TRIBUTE TO SENATOR JOHN SPARKMAN OF ALABAMA

● Mr. KENNEDY. It is an honor for me to pay tribute today to Senator JOHN SPARKMAN, who has given 42 outstanding years of public service to the people of Alabama and to many other Americans around the country. His brilliant career in Washington spanned 10 years in the House of Representatives, where he rose to the position of majority whip, and 32 years in the Senate.

Here in the Senate, he has truly been "Mr. Chairman." He serves as chairman of the Senate Foreign Relations Committee today. At various other times in his long career, he has also served as chairman of the Senate Housing Subcommittee, chairman of the Senate Banking Committee, and chairman of the Small Business Committee. Together, these are four of the most important chairmanships in the Senate, and Senator SPARKMAN has filled each of them with great distinction.

As a Representative and Senator, he has been especially influential in the development of his State and region. His ideas helped to lay the foundation in the postwar years for the great industrial revolution in Alabama and throughout the Sunbelt.

Senator SPARKMAN's dedication to his State is seen by the quality of the legislation which he authored to promote its prosperity. To help small business compete fairly with big business, he authored the Small Business Act of 1953 and the Small Business Investment Act of 1958; under the latter legislation 40,000 businesses in the United States have become the beneficiaries of the capital and credit which the act produced.

Other major legislation which he sponsored was designed to improve the economy of Alabama. As a result of his efforts, a number of industries such as paper, chemical, and shipbuilding located and prospered in Alabama. In addition, his emphasis on the construction of Alabama highways facilitated local and interstate transportation of his State's agricultural and industrial products. In turn, these new industries and facilities brought new capital and new job markets and new skills and new prosperity to the residents of Alabama. And much of that success can be traced directly to the leadership of Senator JOHN SPARKMAN.

He was also a strong supporter of the Commodity Credit Corporation, which has provided crop insurance and other safeguards against financial losses of crop damage and crop failure. With sort of protection from the fears of financial ruin, generations of American farmers have been encouraged to remain in agriculture.

Most of all, perhaps, Senator SPARKMAN has been respected by all of us as "Mr. Housing" in the Senate. For a quarter of a century, he has been a pioneer in the development and implementation of housing policy for the Nation, providing opportunities for decent homes and a better life for millions of Americans.

And over the past 4 years, he has crowned his brilliant career by his leadership in the field of foreign policy as chairman of the Foreign Relations Committee.

Finally, Mr. President, Senator SPARKMAN also earned the affection and respect of the Nation for his role in the 1952 Presidential campaign as the Vice Presidential nominee of our party.

Few if any of our colleagues will depart from this Chamber with a more distinguished reputation or a more outstanding record of dedicated service to the Nation. JOHN SPARKMAN will rank as one of the greatest Senators of our time, and I am proud to have served here with him.●

TRIBUTE TO SENATOR CLIFFORD CASE

● Mr. STEVENS. Mr. President, when we reconvene next year, one whose absence will be most strongly felt is Senator CASE. This distinguished Senator certainly ranks as one of the most knowledgeable, fairminded, and respected Members of Congress.

The breadth of the Senator's concerns and interest have been far ranging from his impact on this Nation's foreign policy to taking the time to visit with Alaskans in small communities to better understand my State's need for improved railroad service and maintenance.

Senator CASE has well served the Nation and the Senate, and I for one, will sorely miss his presence in this Chamber.●

TRIBUTE TO SENATOR PEARSON

● Mr. STEVENS. Mr. President, it is with sadness that I mark the departure of Senator JAMES B. PEARSON from the Senate. JIM is not only a good friend of mine, but he is probably one of the best liked and most respected Members of this body. A soft-spoken individual with a quick, dry wit, JIM PEARSON has been a unifying force in the Republican party and in the Senate. As the ranking minority member for the Senate Commerce, Science, and Transportation Committee, he has exercised quiet, but effective leadership in that Committee's achievements during his stewardship, most notably with legislation to reorganize the bankrupt Northeast rail system, to deregulate natural gas, to provide for airport-airway development, to deregulate the airline industry, and to reorganize the amateur sports community. He is a conciliator, a peacemaker, and a counselor of his colleagues.

The State of Kansas will sorely miss him, too. He has been a strong advocate for that State's interests, primarily in the fields of agriculture, natural resources and aviation. JIM PEARSON, truly a gentle man, has represented his people and his State well, making us ever aware of the needs and feelings of Kansans.

Our sincerest best wishes for the future go with you, JIM. I hope our paths cross often. The Senate has been made a better place by your service.●

FRED ROTHENBERG ON AMATEUR SPORTS

● Mr. STEVENS. Mr. President, I want to bring to the attention of my colleagues in the Senate and House, an excellent article written by Associated Press sports writer, Fred Rothenberg, on the Amateur

Sports Act of 1978. As you know, I have been an active and ardent supporter of this legislation to reorganize the amateur sports community because I believe the bill will create a sports system which will be more responsive to the need of this Nation's amateur athletes. Mr. Rothenberg has conducted an exhaustive study of the legislation, its roots in the President's Commission on Olympic Sports, and of the main characters and organizations surrounding the bill's preparation and passage through the Congress.

It is an accurate and thorough reflection of the many elements at work in the amateur sports community today. Many people, considering the problems for the first time, believe them to be easily solved. Those of us who have worked closely with the amateur sports community have found it to be a very complex structure involving tensions and disputes dating back to the turn of the century.

I believe that Fred Rothenberg's article correctly relates the issues we have had to face, and I hope my colleagues will take the time to read it for an ever better understanding of why this legislation is so badly needed.

I ask that it be printed in the RECORD.

The article follows:

[From the Colorado Springs (Colo.) Gazette Telegraph, Oct. 1, 1978]

PASS AMATEUR ATHLETIC ACT—FOR ATHLETES' SAKE

(By Fred Rothenberg)

NEW YORK.—The Amateur Athletic Act, which will restructure and begin unraveling the amateur sports mess in America, is an idea whose time has come.

Actually, the time came years ago.

The bill, which is designed to ultimately make United States Olympic and world-class competition more successful, has passed the Senate but supporters fear it might not make it through the House before Congress' scheduled adjournment Oct. 14.

That would be a shame because passage would mean the amateur sports community would finally be experiencing meaningful reform—in spite of itself. There are some on Capitol Hill who say the bill, representing as it does an acceptable compromise among longtime foes, is nothing short of a minor miracle.

"I've never seen such hatred, jealousy and resistance to working together in all my years here, and I've been involved in some pretty tough ones," said one Senate source, referring to the friction between America's top amateur sports groups, the NCAA and the AAU.

NCAA stands for the National Collegiate Athletic Association and it specializes in Saturday football with cheerleaders and Friday night basketball with cheerleaders.

But in the past few decades, the NCAA has been branching out into the international sports community—like the Olympic sports—coaching and developing athletes for the Olympic Games and other international competitions in such things as basketball, track and field, swimming, wrestling and gymnastics.

AAU stands for the Amateur Athletic Union and it specializes in a lot less than it used to. But the AAU is still a tremendous force in training, organizing and administering athletes and their competitions in such sports as track and field, swimming, boxing, wrestling, luge and judo.

The AAU doesn't have a football team, a national television network or cheerleaders.

The NCAA and the AAU, the Hatfields and McCoys, of the amateur sports set, have been feuding seemingly since George Washington won the coin-toss event across the Potomac. And it was the chore of the President's Commission on Olympic Sports to devise a plan to keep this rivalry from continuing to hinder Ame's sports efforts abroad, while at the same time broadening participation opportunities for athletes at all levels and all abilities.

After careful investigation, the PCOS' analysis was that many of the problems in American amateur sports resulted from its fragmentation—too many organizations working at cross purposes. For example, if an NCAA athlete competed in an AAU-sanctioned event, he often was harassed and punished by the college community. Equally often, the AAU would be the body that kept the athlete from competing.

The USOC, however, would not have any role in exclusively domestic events, like an NCAA basketball tournament.

The business of running these sports for international competition would fall to one and only one NGB for each Olympic sport, like swimming, basketball and wrestling. Non-Olympiad non-Pan-American sports, like football and golf, would not be covered by the reorganiaztion plan.

Each NGB would supervise and organize qualifying for national teams and the arrangements for those teams' competition in international events, like the Olympics and Pan-American Games.

The bill mandates that each NGB be composed of at least 20 percent athletes at all administrative and decision-making levels and that smaller national groups involved in the sport—like the YMCA and CYO for basketball, for example—have reasonable representation.

This is to make certain that the people in the know in each sport get to make its decisions.

"We're tired of some fat bureaucrat who couldn't jog around his desk making the decision affecting us," said Darman.

If there are rival organizations jockeying to become the most powerful influence in a particular NGB, the bill provides for an arbitrator to choose which body is best suited for the role.

Then there is the federal government debating whether to put $30 million in operation for ongoing USOC programs, like national training centers such as the one in Colorado Springs and a sports medicine program. The USOC would be charged with administering these funds.

The bill went to the full House last week, but it fell 24 votes short of the two-thirds needed for passage, 244–158, and so was sent to the Rules Committee to resume the normal legislative process.

If the bill does pass Congress in time, receive President Carter's signature—he reportedly is not opposed—and then does what it's supposed to do, Harrigan and his PCOS will have succeeded where others have failed. One president after another has called for a cease-fire between the NCAA, as have others like Douglas MacArthur and Bobby Kennedy, but to no avail.

Even with the PCOS reorganization plan and the rise of NCAA power in the amateur athletic community, the AAU is not going down without a fight.

The PCOS recommendation of giving fairer representation to the real powers in each sport was bound to damage the AAU, which has been the dominant voice, even while losing its power base over the years.

It is zealously guarding its fiefdom.

For example, the AAU refused to reform its basketball operation to give the NCAA a greater role, even though the colleges—and not the defunct AAU teams like the Phillips 66ers—were providing the bulk of the athletes for international competition.

So the NCAA, seeking to show that it was the basketball power in exile, would get huffy and, from time to time, try to embarrass the AAU by holding its players out of AAU events abroad.

When the athlete bucked the NCAA, there was hell to pay. Like when Jack Langer, a basketball player from Yale, defied the NCAA and competed in the Maccabiah Games in Israel in 1969. Yale stuck by Langer and was placed on two-year probation by the NCAA for it.

The AAU refused to change and, finally in 1973, the NCAA-backed Amateur Basketball Association of the USA gained control of the sport from the AAU. The AAU currently has three votes to the NCAA's eight on the 38-member governing body for amateur basketball.

With fairer representation in basketball's hierachy, athletes' rights problems in the sport have been minimized over the past few years. Last year, several college basketball teams played games against Cuba without a hitch.

On the other hand, track and field still has plenty of problems because the AAU runs the sport, and, one year ago, devised a plan which would have given the NCAA a humiliating six votes in the 300-member Men's Track and Field Committee.

The NCAA currently has no members on the committee, but if the bill is passed, the committee would be forced to realign its structure to allow fair and equitable representation of important organizations, like the NCAA.

And, because the PCOS concluded that the people most involved in the sport should make the decisions for the NGB, the PCOS recommended independence and autonomy for all NGBs. This proposal was opposed by the AAU, which longs for the days when it made the decisions from top to bottom for its sports.

"What we really want is for the National Governing Bodies to have true autonomy, and decide for themselves how they want to run their sports," says Joel Ferrell, president of the AAU. "If they want AAU help in administering their sports, they should be able to get it."

A source working for PCOS calls this "the AAU's unique definition of autonomy. To them, 'Autonomy is the right to become a slave'."

Ferrell rails at the criticisms of his organization.

"In the last four or five years, the AAU has been going more and more toward autonomy," he said. "We feel the federal government has gone too far. We've been in existence for 90 years, and the AAU has won 80 percent of America's medals in the Olympic Games.

"Our object is to protect athletes, but still we're the most misunderstood and underpublicized organization around."

So it's no surprise that the AAU, which had reversed its position on the bill numerous times, now opposes its passage. The grassroots levels of the AAU, where reorganization means the loss of jobs and power, had been opposed since Day One, although certain AAU leaders, like Bob Helmick, have been more progressive in their thinking.

"The AAU is not a monolithic organization," says Helmick, the AAU's first vice president and the AAU man who has worked most closely with the Congressional committees studying the legislation. "A lot of people in the local organizations are not willing to come along as fast as the top people."

Helmick's influence no doubt did help gain an AAU promise of non-opposition to the Senate-passed bill, but then, three weeks ago, the AAU's teetering position was pushed to opposition by amendments in the House subcommittee.

Of the amendments offered by Rep. Thomas Kindness, R-Ohio, that still exist in the House-passed bill, the one Helmick just couldn't accept was a technical addition that allowed the NCAA "exclusive" jurisdiction over its domestic events, while the AAU was only given shared jurisdiction elsewhere in the bill.

"We still support the bill," said Helmick. "We just don't support the amendments. We were in favor of tremendous compromises (in the Senate). Many elements in the AAU said we went far beyond what we should have.

"But these additional compromises are tantamount to blackmail."

A congressional source called the concern over the amendments "red herrings," except for the exclusive jurisdiction issue.

"I feel for them on that one," the source said. "Their concern about oneupsmanship with the NCAA is legitimate."

Kindness says he offered his amendments because he thought they improved the bill, not because of any external pressure. NCAA counsel Mike Scott, who made an agreement with Helmick not to push for more benefits in the House bill, said, "We are perfectly happy to have the statement of exclusive jurisdiction, but we didn't do it."

According to a House source, the AAU's final opposition really stemmed from the loss of its wrestling franchise.

"That reminded them that they would be hurt by progress," he said. "But they never were supportive of the bill anyway. I just think it was another excuse to kill the bill.

"We want their support, but the feeling of the subcommittee was that those amendments were major improvements on the bill. The bill won't die because of the AAU. They're just not that strong. But if the NCAA ever got mad at us, we'd be dead."

Keeping the NCAA happy involved the greatest amount of negotiating, befitting the NCAA's enormous power and its effective lobby on the hill. This need to gain NCAA support, or at least non-opposition, of the bill caused the legislation to gain attention for what it does not contain.

An athletes' bill of rights was compromised out of the legislation very early after tense negotiations between the USOC, the Athletes Advisory Council, the AAU and the NCAA.

The athletes' bill of rights, in its strongest version, would have given the athletes full control of the choice when there was an international meet and a school event being held at the same time.

The NCAA is opposed to this. Asks Walter Byers, executive director of the NCAA, "Does an athlete, when he becomes a member of an athletic team, have an obligation to observe the conditions which he agreed to when he became a member of the team?"

The NCAA obviously believes the answer is yes.

As a result of the compromise, a diluted version of the athletes' bill of rights will exist in the USOC constitution instead of federal law. It will be applicable to all USOC members, including the NCAA. The compromise got the NCAA back in the USOC—the NCAA left in 1972 because it claimed the AAU controlled the USOC—and it gained crucial NCAA support for the Amateur Athletic Act.

Ironically, the AAU now decries absence of an athletes' bill of rights.

"I thought the purpose of the legislation was to provide athletes the opportunity to participate," said Farrell. "Why have the legislation if you're not going to include athletes' rights?"

But some, particularly the athletes, are saying that the AAU "doth protest too much."

"It's very amusing to see the AAU fighting for our rights," said Darman. "There's got to be another reason."

Many people in the AAU sincerely care about athletes' rights, but several AAU and congressional sources revealed an AAU scheme for sabotaging the bill.

At an AAU executive committee session in Dallas in April, one man got up and said, "You want to kill the bill. You can do it with athletes' rights."

The plan, which by all counts only received minority support, called for the AAU to demand an athletes' rights section in the bill. That would force the NCAA to oppose the bill, in effect killing it.

It turns out that there could be a big benefit from the athletes' bill of rights being included in the USOC constitution rather than the bill itself—additional flexibility.

"We could get improvements in athletes' rights faster this way," said Baughman. "It's easier to change the constitution than federal law."

PCOS head Harrigan doesn't see athletes' rights as a major concern once the NGBs have the proper structure with people in the know making each sport's decisions. The problems in the past, he said, were mostly related to the NCAA-AAU feud anyway.

"Athletes' rights problems will just blow away," he said.

Just in case, though, the bill has a grievance procedure to protect the athletes.

First, the athletes can appeal to the USOC executive director, currently Don Miller, who works out of the center in Colorado Springs. If they don't get satisfaction there, their next step is the American Arbitration Association. The decision—whether they have been unfairly treated or deprived of a chance to compete, for example—would come within 48 hours.

Except for the AAU, nearly everybody in the amateur sports community likes the bill. Because of all the compromises, no one loves it, however. Still, it is far and away the best thing to happen to amateur sports since the sneaker.

"We have been losing prestige against countries that subsidize their athletes," said Rep. Ralph Metcalfe, D-Ill., an Olympic gold medal winner in track in 1936 and a sponsor of the bill. "One of the reasons is that we have not had the training facilities. We will be able to get some of them under this legislation.

"We think that our people are entitled to have the best athletes we can field."

The bill has been sent to the Rules Committee and supporters hope it will reappear, without substantial change, on the floor of the House late next week. A simple majority vote is all that will be needed this time around.

Time is the biggest obstacle to the bill's passage this year. And if the bill doesn't pass now, it may be years before the fragile coalition supporting the bill can be rebuilt; years before there is a unifying force in America's amateur athletics; years before this country's athletes can concentrate on sports rather than politics.●

CHICAGO'S WEIZMANN INSTITUTE DINNER

● Mr. PERCY. Mr. President, on October 8, 1978, I had the pleasure of attending an outstanding dinner in Chicago at which the Weizmann Institute of Science paid tribute to my longtime friend William B. Graham, chairman and chief executive officer of Baxter Travenol Laboratories.

For the information of my colleagues, I submit for publication in the RECORD the remarks made at the dinner by William Z. Novick, director of the Chicago Committee for the Weizmann Institute; Mr. Graham, and Dr. Zbigniew Brzezinski, Assistant to the President for National Security Affairs.

The remarks follow:

REMARKS BY WILLIAM Z. NOVICK

The Jewish people, intensely linked spiritually and emotionally with the land of Israel for so many thousands of years, have witnessed, most especially during the last 30 years, moments of great ecstasy and terrible anguish in their concern for the survival and well-being of this sacred land.

Thirty years ago, in 1948, the first president of Israel, the late Dr. Chaim Weizmann, universally acclaimed as a scientist-statesman, visited with President Truman at the White House. He came to express the appreciation of the Jewish people for President Truman's dejure recognition of the State of Israel, which came moments after the independence of the Jewish State was proclaimed in Tel Aviv on May 15, 1943.

In his meeting with President Truman, Dr. Weizmann told him that the Jewish people had no medals of honor or awards similar to those given by other nations, but they had a gift which was much more significant and long-lasting—the gift of memory; and so he pledged to President Truman, the eternal gratitude of the Jewish people for his act of courage in defiance of so many forces that did not wish to see the emergence of Israel as an independent nation.

Since then, President Truman remains a heroic figure, especially to the people of Israel and to the world Jewish community, who remain mindful of his outstanding act of courage.

Tonight we honor one of the most distinguished men of the City of Chicago; trained as a chemical scientist, having graduated at the top of his class in chemistry at the University of Chicago; trained as a lawyer, achieved distinction for his brilliant leadership of one of the giant corporations of America.

The honor we are paying him tonight is not because of these achievements; but because he has demonstrated to his peers and to all of us, that life, for him, constitutes the total needs of man; and so he has enriched the University of Chicago, the Evanston Hospital, the Lyric Opera, the Chicago Orchestral Society and so many other institutions to which he has given of his resources, but more importantly, of his extraordinary talents.

Ten years ago Mr. Graham visited Israel and the Weizmann Institute—together with Harold Perlman—and was shown through the Institute by the then president, Professor Albert Sabin, developer of the Sabin Vaccine. He was impressed with what he saw and since then has been a supporter of Weizmann.

At that time he demonstrated courage in the face of much opposition, in establishing a Baxter Travenol plant in Israel, which now employs hundreds of Israelis—and I might add that the price of Baxter stock has been going up steadily since.

And so tonight, dear friends, we honor Bill by establishing at the Weizmann Institute, in his name and in perpetuity, a Professional Chair to be known as the William B. Graham Chair; and we pledge, as did the late Dr. Weizmann to President Truman, our gift of memory. We pledge that the name of William B. Graham will be linked forever with scientific research at the Institute. We further pledge that somehow, somewhere, but forever, the leadership of Bill Graham will be remembered by the eternal people of this eternal land.

REMARKS BY WILLIAM B. GRAHAM

I am deeply honored to receive this recognition from the Weizmann Institute of Science.

There are few times in a man's life when he receives formal recognition for contributing to goals in which he so wholeheartedly believes. The inherent value of scientific research to mankind is limitless—whether that research is conducted in a fine institution such as the Weizmann Institute of Science or in the development laboratories of a company such as Baxter Travenol.

It is with deep pride that I realize that a scientist now will be able to concentrate in

pharmaceutial chemistry research because of the academic chair you have established in my name tonight. I sincerely hope that this research will in some small way improve human life, for such an achievement is far more significant than a man's name . . . or the funds contributed in his name.

Life-saving and life-enhancing research certainly transcends any one person. Mankind's research and discoveries about the world transcend even political borders. Discoveries in medicine or medical technology—those achievements with universal applications—are shared without thought to whether they will improve life for a friend or an adversary. Scientific knowledge is a form of communication that unites all men and women in a brotherhood of achievement and progress.

This sharing of universal knowledge is the lifeblood of the outstanding work of the Weizmann Institute of Science. The Institute's research is directed at discovering scientific solutions to improve the way people live around the world.

The Weizmann Institute's work is also reflected in the growth and prosperity of the Israeli nation. In 30 years, Israel has achieved remarkable industrial, economic and business growth . . . in large measure a tribute to the incessant devotion of her institutions and her people.

Baxter Travenol is proud of our working relationship with Israel. We have watched the town of Ashdod, where we established a manufacturing plant 12 years ago, rise from a barren desert to become a thriving industrial center.

I believe that, basically, all scientists are universalists at heart. They are happiest, the most creative, and the most successful when they solve problems and find practical, universal uses for their work.

One of the most powerful motivating forces for researchers at Baxter Travenol is the promise that their discoveries will improve the way men and women live. I have seen this determination to save lives result in our development of the first commercially-available artificial kidney.

I have seen this determination achieve another medical breakthrough—the "Bubble" oxygenator for heart-lung bypass. We have since developed a disposable membrane oxygenator, which more closely simulates the functions of the heart and lungs during surgery.

I have also seen this determination result in our development of the hemofil injection which now saves lives of thousands of hemophiliacs every year. There are many more examples at every level of research and development activity at Baxter Travenol.

The men and women of Baxter Travenol thrive on one very special reward. They know their work is universal—it helps save lives that would otherwise be lost, and improves health in ways not before possible. There is no politics in saving lives and improving health.

That is why I am so proud to be a representative of Baxter Travenol Laboratories and why I am so honored to be associated with the Weizmann Institute of Science.

I am confident that the work we do will *continue* to advance medical science in the world. May we hope and pray that the universal nature of our research discoveries will also contribute to bridging political borders . . . bring all nations closer to living in peace.

Thank you.

REMARKS OF DR. ZBIGNIEW BRZEZINSKI

I am grateful to you for having me here tonight. I cannot think of a better setting in which to speak of peace and national security. The career of Chaim Weizmann—scientist, statesman, nation builder—foreshadows the central concerns of our day. His research in pure and applied chemistry, his achievements in the search for peace, his inspiration in creating the Institute and setting its goals—all these reflect a broad mastery, perhaps unique in a single individual, of the varied sources of a nation's security.

Long before Israel's rebirth, Weizmann recognized that her security would one day depend on a strong defense and a healthy economy. From his training as a scientist, and with immense foresight, he concluded that both of these could spring only from a scientific base on a par with any in the world.

Weizmann also understood the currents of political change and the overriding need for peace. As the chief protagonist of the modern Zionist movement, he fought for his vision with a fierce dedication. But, at the same time, he knew that for either to prosper, Arab and Jew would have to find a way to live together. I have no doubt that Weizmann would have felt at home at Camp David!

Today, the Weizmann Institute is as important to the security of Israel as was the man himself to the Palestine of 40 years ago. Israel's base of excellence in the sciences, like her firm friendship with the United States, is a prime source of her strength. Her economy owes much of its vitality to the practical approach Weizmann advocated: solve every problem and seize every opportunity that the land offers. Above all, the security of Israel lies in the progress toward peace that Weizmann began nearly 60 years ago.

The same three imperatives shape our own foreign policy: the need for a strong national defense based on scientific and technological superiority; the need for economic stability; and the need for an understanding of the currents of global change.

In a world as interdependent as our own, our concept of national security must be a broad one.

National security is much more than military power, as important as that is. I think it is evident that peace in the world depends increasingly on the provision of a tolerable quality of life to all its peoples. American national security, therefore, requires a stable, productive, and just world economic order.

But it is not for this reason alone that our concept of national security must have a moral foundation. States, like men, do not live by bread alone. The vulgar interpreters of Marx—or Adam Smith—to the contrary notwithstanding, political action is not dictated wholly by material selfishness. It is founded ultimately on concepts of the good, the just, and the holy, and on theories of the future that embody these ideas. This is as true today as it has ever been—possibly more so. Accordingly, the national security policy of the United States seeks to enhance a sense of community with those who share our values. It seeks to encourage respect for the transcendental human aspirations for liberty and for self-definition. That is the meaning of our position on human rights.

Finally, in the most dynamic era yet seen in human history, national security means the management of change. For the world will inevitably change under the influence of forces over which no government has complete control. As we seek to manage change skillfully in ways that meet the legitimate hopes of people for peace, prosperity, justice and liberty, we must also recognize the fragility of the human institutions conceived to protect these values. America has a special role in helping to manage global change—for our country is not merely an organic projection of the past, but a compact with the future.

It is generally recognized that global change today runs both deeper and broader than at any point in history. That change defies easy definition. But for all its complexity, I think that its nature can be reduced to two essential themes:

The world's population is experiencing a political awakening on a scale without precedent in its history;

And, at the same time, the global system is undergoing a significant redistribution of political and economic power.

These two conditions are the outcome of some very basic transformations that have taken place within our own lifetimes. As recently as the eve of World War II, Europe-based colonial empires controlled much of the world's land mass and two-thirds of the world's population. These empires have vanished, giving way to many new nation-states. As a result of this political sea-change, the total number of nation-states in the world has more than tripled—to a total of over 160—in the course of a single generation.

Economic power has become similarly more dispersed. The influence of Western Europe and Japan has grown. The rise of OPEC has brought about a manifold increase in energy prices. The inflationary boom of 1972–73 and the subsequent recession have left a troubling legacy of stagflation in the industrial world. Some of the faster-growing developing countries, such as Brazil and Mexico, are playing increasing roles in the world economy. All in all, we are witnessing a significant devolution of economic power in the world, and it brings structural dislocations in its wake.

In this military sphere, nuclear parity between the two superpowers is complicated by the existence of several other nuclear states. Moreover, if nuclear proliferation is not averted, the number of nuclear states could easily triple in the next 10–15 years.

On the demographic front, explosive growth in population has imposed significant strains on the social structure of many parts of the world. Between 1900 and 1950, the world's population grew but just under 900 million, to a total of 2.5 billion people. But between 1950 and the year 2000, by moderate estimates, the world's population will have grown by an additional 3.5 billion, up to a total of 6 billion people—with roughly four-fifths of them located in what we now call the Third World. Never before in history has there been such intense growth in the number of people, with the resulting pressures on social, political, and economic institutions.

All this accompanied by a worldwide political awakening in mankind's outlook. Previously dormant peoples have become active, demanding, assertive. Under the impact of literacy and modern communications, hundreds of millions of people are becoming aware both of new ideas and global inequity. Under the impact of urbanization and population growth, the peoples of the congested cities of the Third World are growing increasingly susceptible to political and ideological mobilization. Nationalism is increasingly imbued with ideological content.

Our national security depends on our ability to give positive direction to this complicated and turbulent change. We can only do so by seeking to create for it a stable and increasingly cooperative framework. This is why the United States must be actively engaged in world affairs—and this is why the United States can enhance its historical relevance only by being committed to positive change. If we try to create artificial obstacles to change for the sake of the status quo, we will only isolate ourselves—and, eventually, threaten and undermine our own national security.

Responding to this challenge in a major speech last year at Notre Dame University, the President committed us clearly to a policy of constructive global engagement; a policy which responds to the new reality of a politically awakening world. To be sure, to be globally effective, the United States must be militarily secure. Hence the President also ordered, in Presidential Directive No. 18 issued in the summer of 1977, a comprehensive review of the U.S. military posture. At his direction, we will maintain

strategic equivalence, strengthen NATO, develop a more rapidly deployable force capable of defending our major interests worldwide—as for example in the Persian Gulf or in Korea—maintain an effective military presence both in the Far East and in the Atlantic; and reexamine our strategic doctrines in terms of the changed needs of the 1980s.

The basic and constructive priorities of the President's global agenda can perhaps be reduced to the following seven fundamental objectives:

1. To reinforce our traditional ties with our principal allies;

2. To enhance our cooperative relations also with the newly influential states;

3. To respond positively to the economic and moral challenge of the so-called North-South relationship;

4. To stabilize and reduce East-West strategic competition;

5. To help resolve the more threatening regional conflicts;

6. To cope with the new global threats of nuclear proliferation and arms dissemination;

7. To advance worldwide the cause of human rights.

I believe that we have made progress in seeking these basic seven goals, in spite of persisting difficulties and—though I hate to admit it—our own occasional shortcomings.

With respect to our first objective, the reinforcement of traditional ties with our allies, we have maintained and widened our consultations with them on almost every major policy issue (be it SALT, the Middle East, East-West relations, human rights, or international economics). The President has participated in three NATO meetings, in two economic summits, and he made the first visit ever by a U.S. President to the European Economy Community. The intensified emphasis on improving NATO's conventional forces, and our consultations with our allies on the so-called "gray areas" pertaining to theater nuclear forces have increased allied confidence. Trilateral cooperation is today a reality, and Japan is firmly related not only to the United States but to Western Europe as well.

With respect to our second objective, the widening of our international cooperation to include in it the newly influential states, I should note that the President's trips to Venezuela, Brazil, Nigeria, Saudi Arabia, Iran and India have symbolized our growing cooperation with nations whose increasing international roles have to be recognized. I believe that we have made special progress in improving relations with the African countries, which in the past have been suspicious of American motives. Regarding Latin America, we have abandoned any single all-embracing slogan, and we approach Latin American states in terms of their individual needs as well as their wider global developmental concerns. We are making a special effort to enhance our consultative and bilateral relations with the People's Republic of China. The President stressed more than a year ago that we see the American-Chinese relationship as a major element in our global policy, and we believe that a strong and secure China can contribute to international stability.

With respect to our third objective, pertaining to the North-South relationship, I believe it is fair to say that the hostility toward the United States, which was felt so strongly at the UN only two years ago, has dramatically declined. Most Third World countries perceive the United States today as sympathetic and positive in its attitude. We have made progress on a Common Fund to help stabilize commodity prices, and on the Witteveen facility designed to help countries meet their balance-of-payments difficulties. There is a new emphasis on Caribbean development, and new American support for the ASEAN countries, particularly Indonesia. Admittedly we still have a long way to go in fashioning an adequate response to the economic problems inherent in the North-South relationship. Our popular and Congressional attitudes clearly lag behind the felt need. The United States has not been setting the example that it should.

With respect to our fourth objective, involving the East-West strategic competition, our hope is to conclude a SALT agreement which will maintain the effectiveness of the U.S. strategic arsenal as a deterrent against nuclear war and a sufficient retaliatory capability in the event that such a war should ever break out; maintain the stability of the strategic balance between the United States and the Soviet Union; and provide for adequate verification in any agreement reached.

Foreign Minister Gromyko met again with the President last weekend in Washington. There was further progress, and the broad outlines of the agreement are now clear. While encouraged by the progress of these negotiations, we are concerned that global turbulence may be exploited by the Soviet Union in a manner not conducive to international peace and accommodation.

As President Carter put it at Annapolis, detente, "to be stable, to be supported by the American people and to be a basis for widening the scope of cooperation . . . must be broadly defined and truly reciprocal."

In seeking U.S.-Soviet detente, we have also attempted to foster greater American ties with Eastern Europe. We do not believe that our relations with Eastern Europe should be subordinated to our relationship with Moscow, and we are pleased by the progress that we have made in our relations with several East European countries.

With respect to our fifth objective, the resolution of the more threatening regional conflicts, the President has broken new ground in the Middle East through a determined, courageous, though often painful, effort to bring the parties together. The Camp David Summit was not only an exercise in political persuasion; it involved an act of moral leadership. Let us hope that the momentum thereby generated can now be continued, pointing not only to the rapid conclusion of the Israeli-Egyptian peace treaty but—to make that possible—also toward the constructive implementation of the extremely important agreements pertaining to the West Bank. With regard to Africa, we are seeking, through the energetic efforts of Secretary Vance and Ambassador Young, to achieve accommodation on both the Namibian and the Rhodesian issues. Our efforts have gained the appreciation of moderate African leaders, and we will persist in them. We hope that the extremist option, abetted from abroad, will not divert the parties concerned from the needed compromises.

With respect to our sixth objective, to cope with the challenges of nuclear proliferation and arms dissemination, some positive progress has been made in the last seventeen months. We have established for the first time comprehensive and consistent criteria to govern U.S. nuclear exports. The International Fuel Cycle Evaluation Program has started its work, and eight working groups are now analyzing every phase of the nuclear fuel cycle in the hope of finding constructive alternatives to reprocessing. We are also seeking to cope with the problem of arms transfer by limiting the introduction of advanced weapons technology to new areas of the world as well as by cutting down sales. Based on fiscal 1977 sales, the President has set a ceiling reduction of 8% for fiscal 1978 and we have met that ceiling. Moreover, we are negotiating with other arms exporters in the hope of establishing a common standard for the major sellers of arms, particularly to Third World countries.

Finally, in reference to our seventh objective, the advancement of human rights, we feel strongly that our commitment to this cause has identified the United States with an idea whose historical time has come. The increasing self-assertiveness of mankind on behalf of its own human rights is the historical inevitability of our times, and the United States would not be true to itself if it were not associated with this yearning.

The effort to differentiate between human rights as an essential standard of our foreign policy, while not establishing it as a precondition for relations with other countries, has been difficult and demanding, but we are making progress. When our relationship with another government includes economic and military assistance, we are prepared to take tangible steps to recognize good human rights performance or to manifest our concern over human rights violations. Thus we have made a decision to gradually channel a growing share of our economic human rights of their people.

We are also seeking tangible responses to human rights concerns by international organizations in the United Nations and in the Organization of American States. We have better information on conditions of human rights violations around the world than ever before. This in itself has been an incentive to create an atmosphere for human rights progress. No nation relishes being identified in the world community as a gross violator of human rights.

In effect, the United States today confronts both traditional and novel global challenges. We have to respond to the challenge posed by security problems as well as by the more elusive difficulties inherent in social and economic evolution. The world is undergoing a structural crisis and has entered clearly an era of unprecedented complexity. In that context, we recognize the difficulty of mobilizing adequate public opinion support for a foreign policy which respects complexity and is unwilling to reduce the nature of global change to a single goal or a single slogan.

The renovation of the international system through wider participation and more cooperation is the proper response to the novel condition of global political awakening. The United States can play a genuinely creative historical role contributing to the shaping of a world community no longer built on the domination of a single sector or culture but rather a community which draws on global diversity as the basis for a pluralistic and increasingly just global order. We genuinely believe that such a world of diversity and pluralism will be in keeping with our own values, and thus will best enhance our national security. It is to the shaping of such a world that this administration is committed.●

SENATOR JAMES B. PEARSON

● Mr. GRIFFIN. Regretfully, I bid farewell to my distinguished colleague from the State of Kansas, JAMES PEARSON.

JIM has a long record of distinguished service in this body, dating from his appointment in February 1962. Obviously the voters of Kansas have appreciated his efforts, too, because they returned him to the Senate three times.

As a fellow member of both the Foreign Relations and the Commerce Committees, I have had the pleasure of working closely with JIM PEARSON. He has a deep concern for his fellow man, which is evident in all areas, foreign and domestic, from African and East Asian affairs to rural development in the United States.

In his capacity as the ranking Republican on the Commerce Committee, Sen-

ator PEARSON has greatly influenced America's transportation policy. He has persevered in the area of deregulation, bringing greater competition to both the railroad and the commercial airline industries. He was instrumental in establishing ConRail.

JIM always has shown a keen interest in every aspect of our foreign policy. In particular, his expert knowledge of African affairs has been of great help to the newly independent countries of that continent in their seeking to find their niche in the world arena.

The Senator from Kansas has brought to this body and to his constituents the qualities of decency, candor, and compassion. I thank him both for his contributions and for his friendship.

To JIM and Martha, Marge and I extend our very best wishes for a bright and happy future.●

SENATOR CLIFFORD P. CASE

● Mr. GRIFFIN. I feel fortunate to have had the opportunity to serve with such an extraordinary Senator as CLIFF CASE.

CLIFF CASE possesses the very highest personal attributes. And I will admit that while our viewpoints on the Foreign Relations Committee did not always coincide, his skill in presentation and his sincere compassion for mankind lent a high degree of credence to his side, and often brought into harmony our divergent viewpoints. His great influence in the Senate grew out of those very essential qualities and abilities that have made him one of the very best Senators of our time.

CLIFF CASE also had made use of his position on the Appropriations Committee so that many and various needs might be fulfilled. Interested in human affairs and in the troubles and concerns of the American people, CLIFF CASE has been an important force in legislation concerning health, environment, the elderly, and the handicapped. His humanism has been a leveling force, at times bringing back to earth the issues of concern to all Americans.

Senator CASE leaves a legacy unparalleled in recent times. His departure will be a loss, not only for the Senate, but also for the people of New Jersey and, indeed, for the entire Nation.

Marge and I sincerely hope that the years to come will be filled with happiness for CLIFFORD and Ruth.●

SENATOR CLIFFORD P. HANSEN

● Mr. GRIFFIN. Mr. President, not only is CLIFF HANSEN an outstanding Senator, but he is an extraordinary person whom I regard as one of my closest friends.

CLIFF and I began our Senate careers at about the same time, and we have often viewed issues from about the same angle. We share a special feeling of closeness, and that is true also of the relationship between his wonderful wife Martha, and my wife, Marge.

Among many achievements in the Senate, CLIFF HANSEN has been particularly effective in the areas of energy and natural resources. He combined the realistic assessment that natural resources must be developed with a deep respect for the environment. Many Americans now can reap the benefits of his work, enjoying the national parks that his legislation created, while not feeling the sting of energy shortages, which he tried hard to prevent. Indeed, he was concerned about energy and the environment before they became popular issues.

CLIFF HANSEN's honesty and moral sense made him an effective voice in the Senate. Well-versed in the workings of our Government, his opinions have been highly valued by his colleagues here in the Senate.

I have stood together wtih CLIFF HANSEN on many issues, and I have nothing but respect and admiration for this man. He is much more than a senatorial colleague to me. I will miss him very much in the years ahead.

Mr. President, I am especially saddened that CLIFF HANSEN is leaving the Senate. His service here has certainly made this country a better place.

Marge and I wish CLIFF and Martha the very best in their new lives—and the best is what they both deserve.●

SENATOR WILLIAM L. SCOTT

● Mr. GRIFFIN. Senator BILL SCOTT leaves behind him a record of more than a third of a century of service to the Federal Government and a reputation as a fighter for a responsible and responsive bureaucracy. The people of Virginia, expressing these same concerns, elected BILL SCOTT in 1972 to be the first Republican sent to the U.S. Senate from Virginia.

During his 6 years among us, BILL SCOTT's voice was often one of dissent. From his position on the Judiciary Committee, he fought difficult battles over matters of constitutional significance. While his viewpoint often did not prevail, his challenges forced careful examination of important issues and thus contributed to the development of prudent legislation.

The presence of BILL SCOTT commanded that a responsible tack be taken, and this carried over into his work on the Armed Services Committee, where he was the concerned citizen on the committee, willing to challenge accepted standards and demand more efficiency from our defense dollars.

Senator SCOTT often fulfilled the role of political equalizer—a role that is important in every age and in every government. His voice will be missed by the Senate. I wish him well in his new life.●

SENATOR DEWEY F. BARTLETT

● Mr. GRIFFIN. Mr. President, I wish to express my appreciation and admiration for the Senator from Oklahoma, DEWEY BARTLETT.

His life has been one of dedicated service to others, as a Marine Corps pilot in World War II, a State senator, Governor, and finally, U.S. Senator. His warmth and compassion for others are well known to all those who have had the privilege of working with him.

While his tenure in office has been short, Senator BARTLETT has been extremely productive. He has been active in so many areas—Indian affairs, energy policy, armed services, to name a few—and he has made valuable contributions in each of them.

DEWEY BARTLETT brought to the Energy Resources Committee an intense personal interest and professional expertise in energy development. He worked diligently to introduce legislation to increase our domestic energy production and to decrease our reliance on imports. The energy bill developed by the committee certainly was better because of his work.

As a member of the Armed Services Committee, Senator BARTLETT consistently and effectively advocated a strong defense posture. He also urged a reevaluation of our role in the Pacific in the wake of the Vietnam conflict.

He rendered significant service to native Americans in his capacity as ranking minority member of the Senate Select Committee on Indian Affairs. He developed and supported several pieces of legislation to help citizens of Indian descent participate fully in all aspects of American life.

Senator BARTLETT now is waging a valiant personal battle. His faith and perseverance—which have marked his public life—are an inspiration to us all, and most assuredly will not fail him in the months and years ahead. I thank the Senator for what he has taught us about courage and dedication to duty. My prayers and best wishes go to him and his lovely wife Ann.●

SENATOR CARL T. CURTIS

● Mr. GRIFFIN. Mr. President, my friend and colleague, CARL CURTIS, is retiring after a full 40 years of service as both a Representative and a Senator from Nebraska. It is with profound regret that I observe Senator CURTIS' departure, for he has symbolized so many of the ideals that I, as a Republican from the Midwest, believe in. He has been a source of strength to me—exemplifying how a minority Senator can effectively relate his viewpoint.

Senator CURTIS consistently has fought for a smaller, more manageable and efficient Government. Every year since he was first elected in 1938, he has offered legislation calling for a balanced budget. As a ranking member on the Finance Committee, he became an expert on tax matters and he helped to save the taxpayers millions of dollars by his opposition to unsound programs. His work on the social security system and on the Individual Retirement Act, both regarded as the most significant legislation this body has provided concerning senior citizens, long will be remembered.

It has been his great objectivity that brought CARL CURTIS back to Congress for more years than any other Nebraskan. And, during these years, he has been able to integrate the various aspects of major issues to come up with proposals that will best serve the people.

Working with Senator CURTIS these past 12 years has been a pleasure that I shall not forget. Marge and I hope

that the future is long and happy for a distinguished, committed statesman—CARL CURTIS—and for his bride Mildred.●

SENATOR DEWEY BARTLETT

● Mr. STEVENS. I have spoken previously about my dear friend DEWEY BARTLETT but having had the opportunity to reflect upon the service of this special man let me just add a few more thoughts.

DEWEY BARTLETT is not the kind of Senator who demands or seeks media attention, but the people of Oklahoma and those of us in the Senate know him as a "workhorse." He is one who has led the fight in causes that might not warrant headlines, such as his role as an advocate of Indians' rights, yet are important nonetheless. He champions these causes because he believes in them and feels a certain commitment to represent those who may not have an organized, financed voice in Washington affairs.

The distinguished junior Senator from Oklahoma actively participated in every facet of the arduous legislative schedule that came before the Senate Energy Committee this past year. Probably more so than any other committee, the Energy Committee spent long and tiring hours on the Senate floor in discussion and explanation of matters within its area of expertise. DEWEY BARTLETT, even though the height of this activity came at a time when his personal health was in jeopardy, remained a full participant in the entire process. He contributed his share of committee responsibility and more, a remarkable feat in light of the circumstances surrounding his health.

DEWEY BARTLETT has a kind and gentle demeanor, yet he is tenacious when fighting for a cause in which he believes. Although he is soft spoken, his opponents listen attentively when he argues a point because they know how formidable he can be in Senate debate.

Regardless of the outcome of an issue in which he was involved, DEWEY always retained the admiration and respect of those on both sides due to his integrity and the excellence of his presentation. I am sure that when he leaves this body, his counsel will be sought by many of us on the matters in which he has proven to be so knowledgeable.

The people of Oklahoma are fortunate to have had his service, both as Governor and as U.S. Senator.

DEWEY BARTLETT has served his State and the Nation with courage and integrity. He is truly an "Okie for all seasons."

His personal courage in the face of terminal illness serves as an example for all of us. Oklahoma has many reasons to be proud of one of its greatest native sons and I consider it a real honor to have served with him in the U.S. Senate.

My wife Ann and I wish DEWEY and Ann the very best in their new life.●

SENATOR CARL CURTIS

● Mr. STEVENS. Mr. President, when the 96th Congress reconvenes in January 1979, many of our retiring friends will be conspicuously absent.

CARL CURTIS has given almost a half a century of his life in service to the people of Nebraska and the Nation. He served in the House of Representatives from 1938 to 1954, when he was then elected to the U.S. Senate. He has served continuously since that time as Nebraska's senior Senator.

His long and distinguished career has centered upon his position as the ranking member of the Senate Finance Committee. Along with Chairman RUSSELL LONG, Senator CURTIS has played a major role in restructuring this Nation's complex tax code.

This past session the Finance Committee, under the cooperative leadership of Senator LONG and CURTIS, completed action on two very important pieces of tax legislation, the energy tax bill and the tax cut bill, both of which are now public law.

Senator CARL CURTIS has worked tirelessly to help all American taxpayers achieve equity under our tax system. Perhaps the most important finance bill to be enacted in over two decades, the Tax Reform Act of 1976 required over half a year to complete final action. Throughout its long legislative process, from committee hearings to floor debate to conference action, Senator CURTIS worked with untiring commitment and dedication.

It came as no surprise then that CARL CURTIS' Republican colleagues would recognize his outstanding capabilities and elect him as chairman of the Senate Republican Conference. In my capacity as assistant minority leader, I have had the pleasure to work closely with my good friend on Republican leadership issues. He has served us all well and I thank him sincerely for his many contributions.

Finally let me commend Mildred Curtis whose encouragement and support for her husband largely contributed to his political success. During many late evening sessions Mildred could be found watching her husband at work from her seat in the family gallery.

Ann and I will miss CARL and Mildred dearly. We join all their friends in wishing them the very best in their new life.●

SENATOR WILLIAM L. SCOTT

● Mr. STEVENS. Mr. President, one of our colleagues who will not be with us in the 96th Congress is the junior Senator from Virginia, WILLIAM L. SCOTT. His announcement that he would not seek reelection was received with deep regret by those of us who have worked with him.

BILL SCOTT's remarkable insight with respect to governmental affairs has been gained from his years of service as a trial attorney with the Department of Justice, three terms in the House of Representatives, and one term in the U.S. Senate. The knowledge he has gained from this experience has enabled him to serve the people of his State well.

Because of his extensive legal experience, he welcomed the opportunity to serve on the Committee on the Judiciary; and as a member of that committee, he endeavored at all times to improve the Federal judiciary. As a member of the Committee on Armed Services, he has been untiring in his efforts to do his part in providing this Nation with a first-rate military force.

It is appropriate that he should serve on these committees, because it is his firm conviction that two prerequisites of this Nation's ability to preserve its freedom are a sound judiciary and a military force second to none.

BILL SCOTT has never wavered in his dedication to the interests of the people of his State, and he will be sorely missed by them as one of their representatives in the Senate. He has advocated and protected their interests unstintingly, and always has stated clearly and forthrightly his position on an issue.

The people of Virginia proudly boast that "Virginia is for Lovers"; but they also can boast, with even greater pride, that "BILL SCOTT is for Virginia."

His decision not to seek reelection will enable him to spend more time with his lovely wife, Ruth, and their family, and Ann and I wish them well.●

THE NEW ELITE

● Mr. STEVENS. Mr. President, recently, I came across an article which appeared in the August 29 edition of Esquire magazine written by David Lebedoff. The article points up the establishment of a "New Elite" based on intelligence which Mr. Lebedoff feels is a threat to American democracy.

I think Mr. Lebedoff makes some good points and even if one does not agree with it, it certainly is a thought-provoking article. I ask that it be printed in the RECORD.

The article follows:

THE DANGEROUS ARROGANCE OF THE NEW ELITE

(By David Lebedoff)

It was time for Thomas to get married. He was almost eighteen, his father had died, and the patch of land was now his. He needed a wife to help with the work, to cook and sew and bear children. He needed a wife as much as he needed the sun and the rain and the protection of his feudal lord. He wanted companionship, too, and sex. These needs were urgent and could not be postponed.

The problem was finding a bride. In Thomas's limited world there were three single women of marriageable age. One was sickly, one was strong, and one was beautiful. He married the one who was strong. There was really no other choice. The sickly woman could not work his poor land, and the beautiful one did not want to. She had other alternatives.

Thomas's bride was named Katherine. The couple got on very well; neither Thomas nor Katherine ever wondered who was smarter. Intelligence was not a factor in marital selection. There was no such thing as an IQ test. No one even suspected that intelligence could be measured. There would have been no point to such measurement. There was no social or economic mobility. A person was born to a certain role and stayed there. The great majority of people spent their lives on the land in harsh drudgery.

As it happened, Katherine was much the brighter of the two. By today's measurement, Thomas had an IQ of 105, and Katherine, 147. Which means that Thomas's intelligence was very near average (100) and Katherine's, close to genius. Neither suspected this disparity. Both were illiterate. Almost everyone was. The conditions of their lives did not recognize, let alone reward, Katherine's special gifts.

Thomas and Katherine lived in England

in the twelfth century, but the circumstances of their union would have been much the same in Italy or Russia or China, in the Middle Ages, or the Renaissance. From the dawn of time until the eighteenth century, the process of marital selection was very much the same. Spouses were chosen from the very small pool of those who happened to live nearby. They were chosen without regard to, and without any way of knowing, what their general intelligence might be.

This means that until fairly recently, intelligence was randomly scattered throughout the population. Almost all people were peasants, and that included most people with high IQs. Some members of the tiny ruling class were undoubtedly brighter than the average, just as some others most assuredly were not, but that class was so small that its composition could not affect the general distribution of intelligence throughout the total population. By and large, intelligence had nothing to do with one's station in life. A genius comparable to Einstein could die illiterate after a lifetime of serfdom in the fields. No one knew of his ability, and no one would have cared.

Until quite recently, most marriages were like that of Thomas and Katherine, but in the modern age all of this changed. The change began only a few hundred years ago, and three factors account for it. First, there is greater mobility now; the search for a spouse need not stop at the farm next door. A person can choose a marriage partner from hundreds of possibilities rather than two or three. Second, universal education has become the rule in the Western world. If everyone can read and write, everyone can be graded and tested. Children can be told precisely how smart they are supposed to be; and that information, accepted by both the child and society, helps determine the choice of a spouse. Third, and by far the most important, is that today, intellectual ability is rewarded. This is something very new in human history. Now, by and large, people can rise to the level that their talent permits. Those with high grades go on to college and to higher-status jobs. Those with lower scores leave school earlier and take other kinds of jobs. The son of a cobbler is no longer destined always to be a cobbler himself. People still marry within their social and economic class, but membership in such classes has come to depend more on measurable intelligence and less on the circumstances of birth. People of high IQ marry other people of high IQ no matter how disparate their parentage may be. Equality of opportunity has led to people being socially and economically stratified by virtue of their measured intelligence.

Some commentators feel the change is even more profound. Professor Richard Herrnstein of Harvard has written: "The message is so clear that it can be made in the form of a syllogism: If differences in mental abilities are inherited, and if success requires those abilities, and if earnings and prestige depend on success, then social standing (which reflects earnings and prestige) will be based to some extent on inherited differences among people."

If biological stratification has indeed taken place, the implications for our society are greater than those of any revolution that has ever occurred. What is happening now has never happened before, and its most ominous result could be the death of democracy.

It is important to note what was new about democracy. It was not the observation that ability is randomly distributed. It was the attachment of political significance to that observation. The political significance attached to the fact that all men are created equal is, therefore, that all men should be permitted to help choose their government. The will of the majority should prevail.

Majority rule was the radical message of democracy. At first it was a limited message, the franchise restricted to propertied males. Only a minority of the real populace could vote, but within that minority the majority prevailed. The idea became fixed and was adhered to, while the definition of citizenry slowly expanded. Eventually it was true majority that had the power to sanction social change.

The idea was not merely that the majority must decide. At the heart of the doctrine of majority rule was the conviction that the majority was right. The majority *should* rule, because it knew best.

Almost everyone used to believe this. It was the most basic assumption in political life. And it was not only the majority that believed in majority rule; the minority usually held with it too—even that tiniest of the minorities, the intellectual elite. Liberal intellectuals not only gave lip service to majoritarianism; their commitment to it was heartfelt, outspoken, and profound. Intellectuals knew that they had something very important in common with the mass of people: powerlessness. They saw that power had always been vested in the rich. The only effective force that could counter this power was the will of the majority, and the intelligentsia saw The People as its ally in the struggle for power. Belief in the wisdom of The People was almost an article of faith.

That faith also included the advancement of racial minorities and the protection of civil liberties, but there was no inconsistency in this. A written constitution that gave absolute protection to certain minority rights, regardless of the popular mood, was really a corollary to the belief in majority rule.

That belief, that faith, was nowhere as pronounced and fervent as in the United States. And this was true at least until the end of the Great Depression. It was the theme of all those Frank Capra films. Capra's heroes were John Doe and Mr. Smith; his villains were the rich, the owners of factories, of vast tracts of land, and, significantly, of newspapers.

But after the Second World War, this began to change. A new law was passed that may have altered American society more than any other piece of federal legislation in our history. It was known popularly as the GI Bill of Rights. The generous response of a grateful postwar public, it provided tuition money to any returning veteran who was able to go to college. There were twelve million returning veterans, and an extraordinary number of them took advantage of the new law. Immediately, the percentage of Americans who attended college doubled, and soon thereafter it doubled again. There were millions of new students on the campuses, most of them from economic backgrounds that once would have precluded attendance. Deans and professors consoled one another over an anticipated decline in standards, but the results astonished them: The new students were very good indeed. As a class, they were as good as the upper-income students, whose tuition was paid by their families. It was undeniably clear that general intelligence—or at least the ability to obtain good college grades—was very widely distributed throughout the American population, on all economic and social levels.

However, the principle established by this was not that all Americans have a right to a diploma but rather that every person has the right to be educated to the best of his or her ability. Only some people were qualified for the highest education. The GI Bill showed that the poor might be just as qualified as the rich; it was therefore only a question of finding which poor were qualified. It became a matter of testing. Once the proper tests were devised and given to all children, the ablest would be identified and educated accordingly. Money was no longer an insurmountable barrier: Vast new scholarship programs had supplanted the GI Bill.

Most young people with higher IQs have been first identified and then segregated on campuses during the years in which they choose their marriage partners. It is perfectly natural that they tend to choose each other, and their children tend to be brighter than the average.

"Brighter" and "more intelligent" are used here, it should be noted, for convenience only, as synonyms for "having higher IQs," even though it is understood that IQ tests probably measure only some aspects of intelligence, such as verbal skills, and certainly contain a cultural bias that unfairly penalizes those from deprived backgrounds. The point is not that the tests are accurate—they are not—but that they are mistakenly believed to be accurate and are therefore self-fulfilling. Something is being tested, and our society wrongly assumes that that something is general intelligence. By possessing that something, some people are told they are superior to others. It is that something that is rewarded by society. It is that something that is heritable.

The children born to bright parents are members of the new class, too, educated as highly as their parents and therefore likely to mate with others of similar background. The new class is self-perpetuating, and it is permanent.

And it is segregated as well. Once its members are off the campuses they usually work and live only with one another. When there is contact with others, the outsiders are usually in subservient roles—as janitors, domestic help, gas station attendants, taxi drivally in subservient roles—as janitors, dowho punch time clocks in factories, for instance—are never seen. It is impossible to exaggerate how insular this new class is. Its members talk only to one another. They have no idea of what the rest of the country is like.

This emergent class of those who believe themselves to be measurably brighter than everyone else can be known as the New Elite. Everyone not in this class can be referred to—in terms of the way the New Elite sees them—as the Left Behinds.

These terms are not near synonyms for older labels. The New Elite and the Left Behinds have no direct relationship to other pairs in confrontation: liberals and conservatives, Democrats and Republicans, upper middle class and lower middle class. Correlations may be found, but they are misleading and quick to change. One need not have finished college to be a member of the New Elite: a privileged dropout qualifies. And a professor of philosophy at Princeton could easily be one of the Left Behinds if his basic identity is with a traditional social or economic or ethnic group. The deciding point in every case is how each individual sees himself. If an individual has strong roots in a social class or religion, in the values of an urban neighborhood, say, or the farmland or country club life, then the fact that his intelligence has once been measured as above the average may not be a critical point in self-identity or allegiance. But if such roots are absent, or if they have been rejected, one may see himself as an individual of measured superiority and find his class allegiance with other individuals of similar measurement.

You can't be a member of the New Elite unless you see yourself primarily as intelligent rather than as something else. We all tend to think that society could benefit from the counsel of people like ourselves. Those who when they say "ourselves" mean those with the highest measurable intelligence are members of the New Elite. Those who when they say "ourselves" mean anything else—other businessmen or scientists or artists or women or Catholics or liberals or conservatives or Texans or Frenchmen or laborers or Mayflower descendants or farmers or dukes or

millionaires or We the People—are members of the Left Behinds. Rejection or roots is prerequisite for membership in the New Elite; adherence to roots (or class or caste or faith) is the primary barrier to such membership.

Often, one can tell the New Elite from the Left Behinds by what they do for a living. But it's not simply a question of how much intelligence is required to perform a certain job. The New Elite ranking of job status is based on how removed a person's work is from ratification by the public. Doctors, lawyers, architects, academicians, scientists, certain types of executives, the higher levels of government bureaucrats, journalists, and others who deal in verbal skills have all met the threshold test for the New Elite. Their professions employ testable skills.

People whose work does not require these skills are probably Left Behinds. This includes most small businessmen, retailers, manufacturers, manual and clerical workers, and salespeople. In a large corporation, the top executives and assembly line workers are Left Behinds, and the upper-middle ranks—analysts, lawyers, chemists—belong to the New Elite. The most Left Behind occupation of all is holding public office—or at least that's the way it's supposed to work.

The New Elite feels that it's good to have money, but not too much. It knows that really great wealth is seldom the salaried reward for testable skills. The nuclear physicist makes much less money than the owner of a uranium mine. Since great wealth suggests an occupation divorced from testable skills, the New Elite cultivates a life-style that connotes prosperity, not opulence. A Volvo wins more points than a Cadillac; a mink coat at a faculty party is a social disaster.

The real significance of the New Elite is political. Its members are the managers of society, the teachers, the journalists, the planners, the officials and executives, the articulators of thoughts and standards. In a society that rewards ability, the New Elite possesses influence far out of proportion to its numbers.

But it does not have political control. It has political power, certainly, but not political dominance. Democracy is based on majority rule, and the New Elite does not constitute a majority. To be sure, it is a large class and is growing while other classes are shrinking, but it's still a long, long way from fity percent and knows that it's unlikely ever to enjoy majority strength.

At first this was not a problem. So long as many recent members of the New Elite shared some background and values with the Left Behinds, they shared the same political goals too. But now most of its members are not the children of the working class but the children of the New Elite.

Those who are economically comfortable see things differently from those who are not. They are more concerned with halting inflation than with increasing the laborer's minimum wage. They can weather the economic costs of social change. This permits them to be, or at least to feel that they are, freer in their thinking, more dispassionate and just.

The first great issue that split the two classes was the civil rights movement. By and large, the New Elite was for much swifter and more comprehensive change than were many Left Behinds. A second major issue was the war in Vietnam. Generally, the New Elite opposed the war earlier than the Left Behinds did and was far more fervent in its opposition.

These issues had a profound impact on the political perceptions of the New Elite. The New Elite felt, correctly, that with regard to both issues it had been right, but on both matters it had faced what seemed at times to be not special-interest opposition but opposition from the majority. It was not the rich, not the great corporations, not a political cabal that formed the opposition; it was the majority of one's fellow citizens.

Both the civil rights movement and the peace movement had made efforts to win over the majority. Bright and principled young students had traveled to the South on behalf of racial justice and had rung doorbells in New Hampshire for the McCarthy presidential campaign. For the first time in many years, the New Elite was coming face to face with the Left Behinds. The meeting was not propitious. The Dartmouth junior rang doorbells, but he did not like the people who came to open the door. They were not at all like the people to whom he was accustomed. They did not always share his point of view. And, as often happens when others don't agree with us, he thought that they were stupid. Not frightened, not uninformed or misinformed, but stupid. Everything in his experience supported this conclusion. Their grammar was faulty; their syntax, laughable. If they read books and magazines, they were the wrong ones. Their taste was awful. They had plastic pink flamingos on their lawns and huge chrome gas eaters in their driveways. They were selfish, not altruistic; closed, not open; instinctive, not rational. They were stupid.

For the first time in the Western democratic tradition, many educated liberals no longer instinctively believe in majority rule. Subconsciously, they have begun to reject the most basic tenet of all. They no longer believe all men are created equal. That was merely a way of saying that ability was randomly scattered throughout all levels of society, and they can see this is no longer true of measured intelligence. But so inbred in our culture is the conviction that the majority is right that the new disbelief has remained beneath the surface of awareness. It has permeated attitude but not yet conscious thought.

The members of the New Elite are engaged in doublethink. They give lip service to the majoritarian principle and even invoke it with passion on those occasions when their side outnumbers the opposition. But in their actions they are antimajoritarian. In politics, their ceaseless strategy is inconsistent with their professed thought.

How can one profess to believe in majority rule and yet seek to subvert its result? The New Elite has developed a number of strategies for this purpose, and their use is growing. These strategies must be subtle enough to coexist with an expressed belief in what they seek to undermine and to permit those who employ them to ignore this basic contradiction.

The easiest of these is to identify a majority group and then claim to be speaking on behalf of all its members. A consumer advocate can claim to be speaking on behalf of all consumers, which is to say everybody. An environmentalist can oppose a new construction project in the name of all who live near the site. Never mind that he has neglected to obtain the consent of those he "represents." But, of course, people *do* mind, which limits the effectiveness of spokespersons such as Betty Friedan and Phyllis Schlafly.

Then there's the growing reliance on the doctrine of negative consent. It works like this: The members of a group, such as all the students on one campus, are informed that some individuals will be representing their interests. If a student does not want to be so represented, he must vote his disapproval at a designated time and place. Unless he does this, it is assumed that he has consented to the representation. This tactic is widely employed within the Public Interest Research Groups founded by the Nader organization on many campuses. It is similar to the Book-of-the-Month Club marketing technique, whereby anyone who doesn't indicate by a certain date that he is *not* going to purchase a certain book will be billed for it. (These book club contracts have been attacked by Nader as unfair to consumers.)

Through these kinds of tactics, it's not difficult for someone to claim to represent a multitude, if not a majority. It's a useful claim to make when lobbying at the statehouse.

But real power goes far beyond lobbying. Real power is transferred in elections. From the New Elite point of view, this arrangement has a tragic flaw: In general elections, the candidate with the most votes wins. This might seem an insurmountable barrier, but an opportunity has been seen and has been grasped. Elections may be decided by the people, but the candidates are chosen by political parties. If the New Elite can gain control of one, or both, of the political parties, it can choose the candidates itself.

This is to be accomplished by changing the rules. The basic idea is to achieve political party rules that minimize majority participation, thereby permitting a small faction to gain control of the whole. This process is well under way; it gained a presidential nomination for George McGovern and contributed to the surprising strength of Ronald Reagan.

The rule changes that have produced the most outcry are the use of quotas and the misuse of affirmative-action programs. But the greatest restriction on majority representation has come from a different quarter: the use of various formulas to apportion delegate votes. Those formulas were meant to avoid the old practice of winner-take-all and to give each candidate his fair share of delegates. However, in the hands of the New Elite they serve another purpose. Now rules have been introduced that are so complicated and difficult that only graduate students can understand them. Caucus democracy is no longer comprehensible to the average person. And so hundreds of thousands of people have been driven out of the political process. Labyrinthine rules and tiresome procedures are the poll tax that the New Elite has been imposing on everyone else.

The New Elite has made significant inroads into political parties, moving into all vacant spots as its bewildered victims leave. But this progress isn't fast enough; they see themselves frustrated by the majority will, prevented from achieving the power they want. So they are beginning to openly attack not merely the procedures but the idea of majority rule.

Their most successful tactic has been the appeal to moral right. This holds that a view should prevail if it is morally superior to an opposing view, regardless of the number of people who support either side of the issue.

The use of the moral argument was reinforced by recent history. The New Elite was morally right with regard to racial equality and the war in Vietnam. In both areas the New Elite saw itself outnumbered, and in both it eventually won much success. But the point—though the New Elite doesn't see this—is that that success came about because the majority came to be persuaded of the merits of each cause. The moral argument was accepted by the majority.

And it should be emphasized that some New Elitists were as responsible for starting the war in Vietnam as others were for ending it. It is no accident that one of the most effective indictments of those who planned our Vietnam involvement is called *The Best and the Brightest*. In that account of the architects of Vietnam, David Halberstam concludes that "if those years had any central theme, if there was anything that bound the men, their followers, and their subordinates together, it was the belief that sheer intelligence and rationality could answer and solve anything."

But the New Elite chooses to remember only the war resisters—and their tactics—not its response. They no longer limit that

tactic to truly moral issues, such as war and race. The word *immoral* is now used as a simple synonym for *wrong*. Any view not shared by the New Elite is immoral. A graduate-student delegate to a political convention in the Midwest denounces the use of pay toilets as "immoral," and his peers applaud the description. It's no longeer a queestion of converting the majority. The use of the word *moral* is not intended to win arguments but to preclude them.

Through this debasement of language, a priceless resource in the battle for liberal progress has been lost. If *moral* means everything, it means nothing. It is not possible to mobilize the citizenry against political torture in Chile with the same vocabulary that is used to denounce those who don't buckle their seat belts.

Everywhere in America today, there's an assault on the idea that the people can determine their own policies. That assault has had its effect on every institution in our society and on every branch of government. It explains why so much decision making has been plucked from the legislative branch and dropped on the federal courts. The rejection of the principle of judicial self-restraint coincided with the postwar rise of the influence of the New Elite. The emergent class did not share Justice Felix Frankfurter's faith in the wisdom of the majority. Its members were far more disposed to see weighty issues resolved by lifetime judges, who were gifted people like themselves. So courts today specify the number of showers and the amount of carpeting to be used in public institutions.

There are still other tactics for the avoidance of majority rule. There is the growth of support for "pluralism," the autonomous rule of specific constituencies. There is the effort to appropriate to one's cause all those votes that were never cast: "The sixty percent of the voters who stayed home were really supporting me."

But the fact that the New Elite is grasping for power on every front doesn't mean it has a specific platform it wishes to impose. Aside from a vague desire to limit the growth of society, to limit wealth and thereby weaken the link between wealth and status, it has no program, no ideology, no agenda. The ultimate political objective of the New Elite is not so much concerned with *what* government does as with *who* does the governing. The New Elite devoutly feels that what is best for society is that society be governed by the New Elite.

In politics, what matters to the New Elite is not much what a candidate is for as who he is. The critical thing is to find out whether he is a New Elitist himself. His intelligence, his education, his views on the issues, are not the only qualifications for support. These merely provide the threshold. What really matters is whether the candate thinks that human experience has a bearing on human problems. The New Elite refuses to balance reason with experience. It enshrines the former and rejects the latter.

This view and its rebuttal are conveyed in a famous anecdote in *The Best and the Brightest*. Halberstam relates that Lyndon Johnson, as Vice-President, attended the first meeting of the Kennedy cabinet and was overwhelmed by the credentials of its members. "Stunned by ttheir glamour and intellect, he had rushed back to tell (House speaker Sam) Rayburn, his great and crafty mentor, about them, about how brilliant each was, that fellow Bundy from Harvard, Rusk from Rockefeller, McNamara from Ford. On he went, naming them all. 'Well, Lyndon, you may be right and they may be every bit as intelligent as you say,' said Rayburn, 'but I'd feel a whole lot better about them if just one of them had run for sheriff once."

In the New Elite's determination of whom to support, details about the personal life of a candidate are very important. If he worships regularly at the same neighborhood church that his parents and grandparents attended, he is likely to be in thralldom to tradition. And vice versa. George McGovern impressed many supporters with his Japanese house. Life-style and appearance are thus very useful guides in determining who really belongs to the New Elite, and positions on the issues are almost irrelevant.

In politics, then, the New Elite is concerned with style over substance. The way to win over many of the best-educated voters is by emphasizing image, not issues. The Left Behinds, particularly the working class, are more likely to decide among candidates on the basis of the specific programs that they advocate, especially with regard to economic issues. But the Left Behinds, too, are increasingly concerned with image, desperately searching for candidates with the same roots and experience and values that they themselves have known.

It is possible for a candidate to appeal simultaneously to both groups. John F. Kennedy is the classic case. Many Left Behinds supported him because they could identify with his roots—his religion, the closeness of his family, the fact that his grandparents had been immigrants. They liked the fact that he listened to Kenny O'Donnell. The New Elite admired his style. They heard the accents of Harvard, not Boston. They liked his clothes and his wit, the quotes from Aeschylus, the cello concert in the East Room. They liked the fact that he listened to Arthur Schlesinger.

Thus Kennedy could make the supposed missile gap with the Soviet Union the central thrust of his campaign without sacrificing the votes, or enthusiasm, of the New Elite—most of whose members were supporting reductions in defense spending. And he could become a champion of the civil rights movement without alienating a large working-class following, whose own views on race were often narrow. What the candidate says he's for now counts for much less than who he seems to be.

The presidential election of 1976 provides a good example of the changes in structure and behavior that have been forced on our political system by the growth of the New Elite. Onto the Democratic battleground came no end of contestants. The crowded field became a national joke. The conventional wisdom was that no one candidate could gather anything near a majority of the delegate votes, and Jimmy Carter was probably last on the list of likely hopefuls. But in a nation torn between two competing perceptions, he was the logical candidate of the Left Behinds.

The Carters were clearly not just from but of Plains, Georgia. No one found it possible to describe Jimmy Carter without describing the town of Plains. The association of man and place was unavoidable and, to millions of voters, had enormous symbolic appeal. The attraction was not limited to those from the rural South. People in Iowa, too, felt they could perceive the values of a man who taught Sunday school in the church that his father had attended, and his father before him.

But that wasn't all. At least as important as who Carter was was the public's discovery of who he was not. He was not from Washington. This negative virtue proved to be the greatest single source of support. Virtually every other candidate in the crowded primary field was a longtime member of Congress. Humphrey, Jackson, Mondale, Bentsen, and Bayh were U.S. senators. Fred Harris was a former senator. Morris Udall had served in the House of Representatives for more than fifteen years. Terry Sanford, like Carter, had been a governor but was seen in his newer role of college president and chairman of the Democratic Party Charter Commission. Milton Shapp was the governor of Pennsylvania, but his campaign was slight and late. There was one other governor in the field, George Wallace, and his success at "sending a message" to the Washington establishment was so remarkable that many Democrats at the outset feared he could win their nomination.

Washington, D.C., is the perfect symbolic capital of the New Elite. Too few who live there have any roots in the place. It is a one-industry town, that industry being government, and most of its key personnel got their jobs on the basis of their measurable and measured ability. The insularity of these public servants from the popular mood is an open secret. The national opinion polls show without exception that the public's view of Washington fluctuates between hatred and alarm.

It was Plains versus Washington, and it wasn't even close. Apart from the Wallace threat, Carter's only serious competition in the primaries came, tellingly enough, from another governor, Jerry Bown of California, who was even more outspoken than Carter in his criticism of Washington types.

When Carter actually picked up the nomination in New York in July, his popularity was astonishingly high. The polls showed him leading his likely opponent, the incumbent President of the United States, by a margin of more than thirty percent. Seldom has a candidate left a convention with more impressive evidence of popular support.

And yet he nearly lost. Carter's sudden and accelerating plunge in the polls began just after the convention and continued unabated through an election so close that for twelve hours after the polls closed no one could be certain who won.

The same factors were at work after the convention as before. Image was the trigger of perception, as New Elite and Left Behinds each sought to find the candidate who was closer to their class. But now, Carter was perceived differently. The Left Behinds began to doubt that he was one of them. The problem stemmed from the nature of Carter's postconvention campaign.

One of the first things that candidate Carter did was meet with six Catholic bishops to discuss the issue of abortion. Carter's views on the subject, which were consistent with the Democratic party platform, were not acceptable to the bishops. And they said so. Publicly. The network news shows portrayed them rejecting Carter's stand. In that context, it looked a bit as if they were rejecting Carter, too. One bishop actually speculated on the air as to whether voting for Jimmy Carter might not be a mortal sin.

Shortly thereafter, Carter journeyed to the State of Washington to address the national convention of the American Legion. He repeated to the legionnaires his oftenstated intention to pardon draft resisters. He was resoundingly booed by the delegates.

Not much later, he had a well-publicized meeting with Ralph Nader, at the conclusion of which the nominee promised that when elected he would "out-Nader Nader."

These events, and others like them taken as a whole, contributed to a new perception of candidate Carter. Confusion and anxiety began to be felt by the Left Behinds.

It is important to note the exact cause of this distress. It has very little to do with the issues Carter was espousing. Indeed, if the polls were accurate, each of these positions Carter took was supported at the time by a majority of the population. If a climate existed in which issues were reviewed on their merits, Carter's pronouncements would have caused him little trouble. But that climate does not now exist. The Left Behinds have been forced into the same framework as their rivals. Image permeates issues, and the search is for personnel, not policies.

What people saw was not a majoritarian stand on abortion; they saw a candidate rebuffed by the elders of a church. They saw a candidate jeered at a convention whose del-

egates looked and argued much like they did themselves. However popular the phase of protecting consumer rights, the Nader proclamation suggested a zeal for social experiment that bordered on excess. Then came the *Playboy* interview. In light of the nature of current campaigns, and this campaign in particular, one can scarcely imagine a more disastrous event that could befall the candidate. The perception of a man who discussed sexual matters in a magazine of perfect symbolic offensiveness to those who hold with a traditional style of life and comment was at great variance with the earlier image of Carter. It is incredible that an incident of this sort should have so dominated the process of choosing a President, but it shows again the importance of image over issues.

It would be wrong to suggest that Carter's postnomination campaign consisted wholly of image disaster. Some things went very well. Most useful in gaining the final result was the time that the candidate spent at home. For a month following the Democratic convention, Carter very wisely spent most of that time in Plains. Every night the network news showed him walking in his fields, greeting his neighbors, draining his mother's pond. People in the South, and in small towns everywhere, were reassured by what they saw, and the background provided by Plains immunized him just enough from all the other media gaffes to eke out the final victory.

The campaign of 1976 was the counterattack of the Left Behinds. It is a mistake to view the campaign in terms of ideology at all. The controlling force was image. If issues alone had been what mattered, Carter's postnomination conduct would have won him more, not less, support. The country is not becoming more conservative, it is becoming more liberal—in terms of specific issues. The "hot" liberal issues—national health care, gun control, legalized abortion—enjoy the support of a majority of the public, and the polls show that support to be steadily growing. The shift to the right that so many commentators perceive is really something else. It is the revolt of the Left Behinds. Issues play a major role in this revolt only when they signal the presence of the enemy. Advocacy of a position that enjoys majority support can actually cost a candidate the support of the majority if people see the issue involved not on its merits but as a device of those who seek to restrict the right of majority rule. This is why the number of people who identify themselves to pollsters as "liberal" is declining, even as public support for liberal positions grows.

Everything that happens in American politics reflects the inroads of the New Elite or the reaction of the Left Behinds. Issues are almost irrelevant. Each new tremor in our public life is part of the battle between the two classes. Jerry Brown's enormous (initial) popularity is explainable by his simultaneous appeal to both classes: The blue-collar members of the Left Behinds see his abandonment of the governor's mansion as a repudiation of privilege; the privileged members of the New Elite view it as contempt for the material goals that are shared by most of the Left Behinds. The new class struggle explains as well the unexpected difficulties of the Equal Rights Amendment. A measure that is supported by a clear majority of Americans (and virtually every respected person in public life) has been stopped by the nascent fears of the Left Behinds, who have learned to distrust every measure that removes from public control a matter of social concern. Examples are everywhere. The Dade County rejection of gay rights was probably directed less toward gays than toward those who scoff at traditional values—and insist that others do, too. Bella Abzug's defeat by a Republican in an overwhelmingly Democratic congressional district is yet another case of backlash by the Left Behinds against the New Elite.

And, oh yes. So is the victory of Proposition 13. That victory, and the national tax revolt that it has spawned, is much more than a protest against high taxes. Angry as people are at the tax rate, they're angrier still that it was levied without their consent. The real slogan of this new revolution is "No taxation without representation." The political process has been crippled in its capacity to serve as a responsive link to government; people sense that all the channels have been plugged. So when an opening occurs, even as wide and rough an aperture as the Proposition 13 ballot initiative, people rush to fill it with accumulated protest. Most of the voters of California knew that Proposition 13 was not a responsible answer to their problems. But they felt that the responsible avenues had been closed to them, and so they took the only opportunity at hand.

All the strange new activity of the last ten years represents the efforts of the New Elite to deny the democratic process. The vilification of political parties, the ascendancy of image over issues, the disrespect for law (which is a codification of majority will), the substitution of stridency for debate, of rallies for elections, of rigidity for compromise, the shifting of power from Congress to the courts, the growth of interest groups that bypass and disdain the political process, the self-appointment of spokespersons, the denigration of popular culture, the rejection of traditional values, the enthronement of the "expert," the enactment of rules that limit political participation in the name of extending it—all these things are rooted in the new belief that the majority does not, cannot, know what's best, that there exists a group that is measurably superior to everybody else, and that no statute or habit or procedure must be allowed to stand between that group and dominance.

Our society has scarcely become aware of the nature of the threat against it. That awareness should bring both the will and the strength to respond, because the New Elite is wrong in its perception of democracy. The majority should prevail. This is as true today as it was before the introduction of the Stanford-Binet Test. It will always be true. It is true because the capacity to make broad political choices is not related to measurable intelligence. This was assumed by those who wrote "all men are created equal." If that phrase had meant that measurable intelligence is randomly scattered throughout the population, then it would indeed no longer be true. But it did not. It meant that ability is widely scattered, specifically the ability to make political judgments. And that is as true now as always. The eternal truth is that political wisdom is not an attribute of intelligence or education or class or gender or race. It is the response to experience. In terms of the capacity to make political choices, the most significant response to human experience is the view one comes to hold of human nature. No one person or group has the right to define what human nature is. Each view is burdened by personal experience. We cannot prove, by logic or calculation, just whose version is correct. Only the majority knows, because only the majority view approaches the aggregate of human experience. We must mine the whole vein. We must ask everyone's opinion, and let the majority prevail.●

SENATOR JAMES ABOUREZK

● Mr. GARN. Mr. President, in a time of phony, plastic politicians, the type who from their principles on the latest opinion poll, Senator JAMES ABOUREZK was a refreshing, if sometimes frustrating, exception. Although the Senator from South Dakota and I rarely agreed on an issue, I always appreciated his candid, "damn-the-torpedoes" approach.

Senator ABOUREZK will long be remembered for his impassioned, down-to-earth speeches on protecting the family-owned farm, combating drug abuse, tax reform, and of course, natural gas deregulation.

One statement, I believe, characterized the dedication and idealism which Senator ABOUREZK brought with him to the Senate. In the aftermath of the fall of South Vietnam, he noted that "We must get on with the job of building America." His blueprint for the job was uniquely his, but no one ever doubted that he had the best interests of the country at heart.

Mr. President, in looking over the Senator's legislative record, I was impressed with his effort to combat drug abuse. Two years before I joined this honorable body, he firmly supported a major piece of legislation, providing a national clearing house to aid States and communities in planning, funding, and managing comprehensive drug programs. Drug abuse is one of the major scourges of our Nation, and Senator ABOUREZK's untiring efforts to find a solution were extremely important.

No discussion of Senator ABOUREZK's Senate activity, however, would be complete without noting his tireless commitment to the native American. As Chairman of the Indian Affairs Committee, his deep personal commitment to Indian problems and his understanding of the Indian people has contributed to his many successful efforts at producing legislation beneficial to the needs of our native American.

But, after all is said about JAMES ABOUREZK, his most outstanding quality was his forthright approach. That will be missed.●

TRIBUTE TO SENATOR WILLIAM SCOTT

● Mr. GARN. I would like to honor a man who has become a strong conservative voice in the Senate during the past 4 years. Since his election as Virginia's first Republican Senator in more than a century, Senator WILLIAM SCOTT has served his country well. He is to be admired for his efforts to limit Federal spending and curb the national debt.

As a former trial attorney for the Department of Justice, Senator SCOTT was well-respected. His work as a Senator has included vigorous efforts to improve our judiciary system. He has stood for increasing judicial accountability while still maintaining the independence of this branch of Government, and striking this balance has remained one of Senator SCOTT's chief goals.

In his efforts to maintain the strength of our national defense, Senator SCOTT has been exemplary. His service as a key member of the Senate Armed Services Committee has been highlighted by tireless work on veterans' legislation. He has also stressed the necessity to expand insurance benefits within the military.

Senator SCOTT's sound philosophy has consistently emphasized that a strong national defense is a major deterrent to war.

As a native Virginian, Senator SCOTT has remained perceptive to the needs of farmers for a strong and sound agricultural economy. I can only echo his sentiment that less Government control is needed over the Nation's farmers. His vote for the 1973 farm bill which included higher price supports for agricultural products was a vote in the interest of farmers everywhere.

Senator SCOTT's service on the Public Works Committee has been characterized by efforts to modify constricting Government regulations, such as the Clean Air Act of 1970, to provide greater flexibility for State and local government.

His concern about the Federal Government extending too far into the private sector has led him to oppose legislation that would regulate land uses and shift State and local responsibilities to the Federal Government. Senator SCOTT has shown a particular understanding for the problems of Government overregulation, and the necessity of opposing further Federal control.

His respect for the problems of American taxpayer is evident in the priority he gives to tax relief legislation. Senator SCOTT has said that our long overdue solution is to collect on our foreign debts, and is urging the Treasury Department to begin consultations with foreign governments about this.

From his three-term service in the House of Representatives, to his illustrious service in the Senate of the 93d, 94th, and 95th Congresses, Senator WILLIAM SCOTT has had a praiseworthy career, marked by his sincerity and pugnacious commitment to principle. I wish him well in his retirement.●

TRIBUTE TO SENATOR CLIFFORD P. CASE

● Mr. GARN. Mr. President, I would like to take this opportunity to join with my colleagues in expressing my appreciation for the distinguished service which Senator CASE has rendered to the State of New Jersey and to this country during his tenure of 32 years in the Congress—8 in the House of Representatives and 24 in the Senate.

Senator CASE's long career in public life has accorded with the highest ethical standards, and reflects his efforts to combat public cynicism by promoting the integrity of elected officials in the eyes of all citizens. Senator CASE has long supported legislation that would require financial disclosure by all Members of Congress and their staffs, and to insure that this information be freely accessible to the press and the public.

As a member of the Appropriations Committee, Senator CASE has consistently demonstrated his concern for the general welfare of Americans by his work in the areas of health care, transportation, and air safety. Senator CASE has been a strong advocate of adequate funds for elementary, secondary, and higher education; his support in the field of education is founded on the conviction of our forefathers that an informed citizenry is the foundation of a democratic polity.

Widely acclaimed as a champion of civil rights since coming to the Congress in 1945, Senator CASE set a pattern for himself in 1947 when he introduced NAACP antilynching legislation which became part of President Truman's program a year later.

More recently, Senator CASE has emphasized that Congress must assert its constitutional responsibility for participating in the development of national security policy. As the ranking Republican on the Senate Foreign Relations Committee, Senator CASE has worked diligently to restore the constitutional balance between the executive and legislative branches in the area of foreign policy, particularly in the matter of restraining United States transfer of arms to developing countries.

In closing, Mr. President, I wish Senator CASE well in his future endeavors, and hope that he will enjoy a happy and healthy retirement.●

TRIBUTE TO SENATOR DEWEY F. BARTLETT

● Mr. GARN. Mr. President, I would like to take this opportunity to join with my colleagues in expressing my appreciation for the distinguished service which Senator BARTLETT has rendered to the State of Oklahoma and to this country during his tenure of 6 years in the Senate.

Senator DEWEY F. BARTLETT, a former State senator and Governor of Oklahoma, has made numerous contributions to Congress and to his constituency. Among such contributions are his work in the areas of foreign affairs and the national economy, and he has also placed emphasis on education and on the need for more and better jobs for Americans.

Senator BARTLETT most recently served on the Senate Armed Services Committee, the Senate Energy and Natural Resources Committee, the Select Committee on Indian Affairs, and the Select Committee on Small Business.

I have personally worked with Senator BARTLETT on the Armed Services Committee and have admired his efforts and contributions on national defense issues. Senator BARTLETT recently authored a perceptive analysis of the Carter administration's attempt to negotiate a comprehensive test ban treaty. He has also spent time in research and development in the areas of NATO and SALT.

Prior to his being elected to the U.S. Senate, Senator BARTLETT was a partner in the Keener Oil Co. of Tulsa. That, coupled with the fact that he graduated in the field of geological engineering from the Princeton University, gave him a particular interest in legislation dealing with energy and natural resources and the energy crisis.

Senator BARTLETT has also introduced legislation on prayer in schools, forced busing, and a bill to limit congressional spending.

Senator BARTLETT has committed himself to paying attention to his task in the Senate instead of his own personal ambition, demonstrating remarkable dedication to his Senate duties. His retirement will be a great loss for the Senate.

I personally extend my heartfelt best wishes to my esteemed colleague, Senator DEWEY F. BARTLETT, who will always have my utmost admiration.●

TRIBUTE TO SENATOR JAMES B. PEARSON

● Mr. GARN. Mr. President, Republican Senator JAMES B. PEARSON from Kansas has served as Senator since being appointed to that position on January 31, 1962. He was elected on November 6, 1962, and has since been reelected to continuous terms until the present.

Senator PEARSON, a former attorney and State senator, has made numerous contributions to Congress and his constituency. Among such contributions are his work in the areas of rural development, campaign financing legislation, education, energy, and foreign policy. He most recently served on the Senate Foreign Relations Committee, the Senate Commerce Committee, and the Select Committee on Intelligence.

Senator PEARSON has urged Congress to explore fully the crisis of massive urban concentration which threatens to offset the balanced economic growth in the United States. Through the legislative process, he has sought to bring a new priority at all levels of government for those policies which contribute to the development of economic, social, and cultural opportunities in rural America.

The Kansas Senator has noted that we presently suffer at both ends of the population scale, with pollution, crowded cities, slums, et cetera, on the urban end as well as the deserted farms and stagnated small towns in rural America.

One major bill proposed by Senator PEARSON, S. 346—the Rural Job Department Act, was successful in developing additional jobs in rural communities by using tax incentives to encourage the location of new business and industries in a rural setting.

Senator PEARSON has also introduced legislation to create a Rural Community Development Bank that would put private capital to work in assisting rural community development. Bills regarding rural health care, rural water and sewer systems, and other basic services to improve the quality of rural life are among his other contributions.

Another major area of consideration is Senator PEARSON's work on campaign financing legislation. He proposed the Campaign Finance Act of 1969, which was vetoed, and the Honest Elections Reform Act of 1971, which also failed, were efforts to return political campaigns to the people and to restore the confidence of the people in the integrity of politicians and their campaign expenditures.

The Federal Elections Campaign Act of 1971, which regulates the amount of political spending and reporting contributions, included a measure by Senator PEARSON to create an independent Federal Elections Commission to oversee the spending. The Federal Elections Campaign Act was signed into law; however, his section of the bill had been dropped

in conference. In 1974 an amendment to the act became law which included many of his past proposals, including the Independent Federal Elections Commission.

Senator PEARSON's tireless efforts as a legislator have also been felt strongly in the areas of education, foreign policy, and conservation and preservation of our natural resources.

Throughout a period of 17 years of active service in the U.S. Senate, Senator JAMES B. PEARSON has been influential and insightful in many legislative areas. His knowledge and dedication will certainly be missed.●

TRIBUTE TO SENATOR CARL T. CURTIS

● Mr. GARN. Mr. President, I would like to take this opportunity to pay tribute to a truly great conservative force in the U.S. Senate. At the conclusion of the 95th Congress, Senator CARL T. CURTIS will have represented the State of Nebraska for the past 40 years, with 8 terms in the House of Representatives, and 4 terms as a Member of this great body. No person from Nebraska has ever held the confidence of those citizens for such a length of time in Congress, or in any other statewide office. In fact, of the 10,739 persons who have served in Congress since our Nation's founding, only 21 have served longer than Senator CURTIS. This alone indicates that Senator CARL T. CURTIS is not an ordinary Senator. He is a giant.

During his 24 years in the Senate, he has been the ranking minority member of four full committees: Rules and Administration, Aeronautical and Space Science, Agriculture and Forestry, and the Committee on Finance.

In the Finance Committee he has distinguished himself as an expert in taxation and social security. During the 94th Congress, the Senator also chaired the Republican Conference with its many additional responsibilities.

However, more than simply filling important positions, Senator CURTIS has achieved some great victories for the American people. In 1976 he fought successfully to amend the Tax Reform Act of that year to provide for some measure of relief from Federal estate taxes.

Many Americans can thank Senator CURTIS for the ability to maintain possession of small businesses and farms which might otherwise become part of a forced sale to pay Federal estate taxes.

The Senator has distinguished himself for his service in the social security system. Years ago he raised a solitary voice to warn that the system would be in serious straits and would become a heavy burden to finance unless we planned then for the future. Time has proven that prediction to be accurate. Quoting Don Shasteen, his administrative assistant:

> Senator Curtis has voted for innumerable bills that have increased Social Security benefits. He has opposed some of those bills when he was convinced they were unsound or inadequately financed. In 1972 the Committee on Ways and Means of the House voted to raise Social Security benefits by 5 percent and provided the necessary revenues for the increase. Later the Senate voted to raise the Social Security benefits by 20 percent but made no provision for the extra revenue needed for the increase from 5 to 20 percent. Although the election of 1972 was at hand, Senator Curtis voted against the 20 percent increase in benefits because, in his opinion, it would jeopardize the Social Security Fund and was unfair to all citizens who look to the Social Security program for future benefits. The reserve in the Social Security Fund had dropped so low that the money there would pay benefits for less than a year.
>
> It is not always easy to take a stand for sound financing of Social Security. It is not always popular. It provides an opportunity for an irresponsible demagogue to charge falsely that a conscientious legislator is against Social Security.

Senator CURTIS was successful in helping to extend social security coverage to self-employed persons and to State and municipal employees. Speaking frankly he said:

> There isn't a college professor, school teacher, farmer or municipal employee in the State of Nebraska whose Social Security coverage was not brought about in part by my efforts.

He is justifiably proud of that accomplishment.

I am proud to be associated with a man who consistently fights against deficit spending, government expansionism, the welfare state, and the excesses of union leadership. These have become areas in which he is recognized as a valiant warrior. He continues to work for a balanced budget and the freedom we should rightfully expect from government intrusion in our lives. In his words:

> If the government in Washington must collect the taxes and end the borrowing, the Congress and the Executive will trim down and eliminate many government programs.

For over 25 years Senator CURTIS has urged the passage of a "pay-as-you-go" constitutional amendment. I am pleased to have been 1 of the 20 Senators who joined the able Senator in consponsoring his amendment in this Congress, and I sincerely hope that we will soon pass it. Mr. President, in an age when it seems fashionable to drift with the changing winds and flow with the swirling current, Senator CURTIS has consistently looked past the shouts of the noisy few to discern the will of the vast majority who are so often overlooked by those who would cater to the more vocal minority.●

TRIBUTE TO JOHN J. SPARKMAN

● Mr. GARN. Mr. President, I would like to take this opportunity, at the end of this 95th Congress, to recognize the fine achievements of a most distinguished colleague of mine. Senator JOHN J. SPARKMAN, who, after being elected to the Senate six times, will be retiring this year. From serving with him on the Senate Committee on Banking, Housing and Urban Affairs, I have been impressed with his strong moral character and his desire to better the living conditions in our Nation. In addition to his service with the Senate Committee on Banking, Housing and Urban Affairs; he chairs the Subcommittee on Financing and Investment of the Senate Small Business Committee, is vice chairman of the Joint Committee on Defense Production, is the chairman of the Foreign Relations Committee, and is senior member of the Joint Economic Committee. From these positions and others he has held throughout his distinguished career, Senator SPARKMAN has been able to actively utilize his expertise in housing and financial matters.

Senator SPARKMAN has had a tremendous influence on formulating this country's housing and urban renewal policies. Upon entering the Senate in 1947, his first housing experience was as floor leader of the landmark Housing Act of 1949. This act established the Federal urban renewal program, which was the basic blueprint for revitalizing urban America. The Senator's approach to urban renewal is that of "partnership" between the Federal and local government. He strongly believes, however, that Government should do everything in its power to encourage individual and private enterprise involvement. He has observed further that despite the millions of dollars spent to improve housing every year, the country's housing policy remains incomplete until a uniformed measure for determining adequate housing is developed.

Responding to a drastic decrease in the number of new housing starts which occurred from 1969 to 1970, the Senator sponsored the 1970 emergency housing finance bill. After it was enacted into law, this bill paved the way for an additional $20 billion in assistance to the housing industry.

Senator SPARKMAN has similarly responded with legislation to alleviate shortages and cutbacks in other industries which directly or indirectly affect housing. This type of foresight has greatly strengthened the foundation upon which the housing industry rests. For example, the Senator recognized the need for an efficient, long-ranged program to increase the Nation's supply of saw-timber and lumber. He believes that the recommendations made by the 1969 Presidential Task Force on Softwood Lumber and Plywood provide the best outline for improving both the short-range and long-range timber needs of our Nation.

The Senator has observed:

> In the long run I am convinced that we must take another look at our export policy; but most of all I go back to the recommendations of 1969 and see as the single most important solution the improved productivity of the nation's forest.

In 1950, Senator SPARKMAN was selected as chairman of the newly established Senate Select Committee on Small Business. Alben Barkley, as Vice President of the United States and President of the Senate, selected the Senator to this highly responsible position only 4 years after Mr. SPARKMAN had entered the Senate. He served in this capacity until 1967—except for 1953 and 1954 during the Republican-controlled 83d Congress—when he became the chairman of the Committee on Banking, Housing, and Urban Affairs.

From these two committee chair positions, Senator SPARKMAN has actively

supported tax and regulatory relief for our country's small business. He was a cosponsor and strong supporter of the small business tax simplification and reform bill introduced in the 93d Congress. Similarly, he assisted in passing into law the Small Business Tax Act of 1958.

In 1959, the Senator authored and successfully led the Sparkman Antitrust Act through both houses of Congress. This act gave the Federal Trade Commission its first tool for effective control of antitrust oppressors.

Among other measures which have helped small business, Senator SPARKMAN introduced legislation in 1973 to slow down the rate of small business failures, in 1969 to assist small firms with obtaining needed capital for business operation, and again in 1969 to retain investment tax credits for small firms up to the level of $150,000 of investment.

Throughout his 11 years of service in the House of Representatives and 31 years of service in the Senate, Senator SPARKMAN has displayed a skillful desire to improve the living and economic conditions of our great Nation. Mr. President, as a colleague and as a citizen of this country, I would like to thank Senator SPARKMAN for those years of service. I would also like to wish him the best of health and happiness in retirement.●

FAMILY CONSERVATION

● Mr. GARN. Mr. President, much has been said lately about the state of our economy and the severity of our tax burden. I recently reviewed a letter from a constituent in Salt Lake City, Utah, who has outlined the current efforts of his family to conserve. He also expresses his concern for another family member, named Uncle Sam, and his problems living on his allowance.

The letter is written to the President, but I recommend it to all of my colleagues and ask that it be printed in the RECORD.

The letter follows:

DEAR MR. PRESIDENT: It was just a little over a year ago I removed my pen, a slim golden shaft, from the protection of a locked drawer. I was grateful the ink flowed and my mind had not gone dry. I'm equally grateful today and happy once again to write.

I'm writing to seek your advice and help with a personal problem. I really hate to complain, but I'm sure I am not alone, so by helping me you'll also be helping a few others. Lately, (the last couple of years) I've been having a little difficulty making ends meet. Ever have that problem—not enough to go around? I don't believe I'm an extravagant spender but I probably could cut out a few more of the luxuries. We have stopped buying bread and milk. My wife grinds whole wheat and makes all sorts of great things. Whole wheat cereal, whole wheat pancakes, whole wheat waffles, whole wheat cookies, whole wheat bread, whole wheat muffins. You know, if we could afford that white stuff you buy in the store we wouldn't. I don't believe a little sacrifice hurt anyone and since we've converted to whole wheat—why giving up white bread is no sacrifice at all. It did take a little while (about two years) getting used to powdered milk and the savings have been—well— do you realize we have actually saved two ways by converting to powdered milk. First it's cheaper and second—you would never have thought of this—the neighbor kids have stopped asking for milk at our house. They would pull this funny face and say "YUK!"

Oh, we have done other things to—how do you say it—"economize"? We have a small garden and manage to grow a few vegetables. We've learned a great deal about canning, drying and freezing fruits and vegetables. Also my wife has become a pretty good barber and—do you believe—she even cuts her own hair. If we hadn't been forced into cutting back we would never have acquired some of our new skills. A little sacrifice never hurt anyone.

I don't want to appear haughty or boastful but I must admit I'm tickled pink with some of my new skills. I'm able to make certain car repairs—ever put in a new carburetor kit? Now, there's an experience! I must have spent 6 or 7 hours at that job and would you believe—the car works—better. I've added on a bedroom, a bathroom (not finished), a family room (with fireplace) and a double garage and I did it all myself. All, except the foundation. Why if I'd had the money I never would have acquired a little skill in cement work, carpentry, brick laying, electrical wiring, dry wall and window installation, carpet laying and painting. I've still got the plumbing to do but I'm sure I can do it because—well, is bathroom plumbing anything like installing a sprinkling system?

You know where else I've saved? I ride the bus or my bicycle to work. It is eight miles one way by bicycle—uphill going back. I never realized riding a bike could be so much fun and relaxing and it's better for me—look at the exercise I get while I'm saving all that money. There are hundreds of things you can do to cut back and save money. Everything from repairing old clothes to making new ones. You can even bring your home made lunch to work.

Mr. President, most of our new learned skills we owe to the lack of money, however, I still own a few luxuries. The swimming pool, my membership in the local tennis club and our small yacht. I feel my family is entitled to a few of the niceties of life, though the pool needs patching and I do get winded blowing it up.

Fifteen years ago, while playing tennis for my local university, I purchased a new tennis racket. I don't know how many times that racket has been restrung and though it has served me well (literally) I recently bought a new one. Actually it was a birthday present from my wife, my parents and my wife's parents. Otherwise I wouldn't have been able to afford a new one. Have you priced rackets lately? Mine has nylon strings, but that's O.K.—I don't hit the ball hard enough anymore for gut strings. I belong to the local Public Racket Club. Its membership is about 200,000 with approximately 75 tennis courts scattered throughout the valley. Membership fees are extremely low—just get up early and wait your turn.

My yacht really isn't a yacht (we just call it that—makes you somehow feel better) but rather a 16 foot aluminum canoe which I purchased at a Boy Scout auction. Mr. President, were you ever a Boy Scout? If so you may well picture what a "used" Boy Scout canoe looks like. Well, there you have it. My earthly luxuries. Oh! I forgot one. The "color" T.V. It didn't work and was given to us by my wife's relatives. We had it two years (worked nicely as a table) before my neighbor repaired it. Now we have a T.V. and an extra table.

You can see the luxuries I've kept and the luxuries I've given up don't really amount to a great deal but that, I believe, is because we have learned from them. You've heard the saying "When one door closes, another opens," well, we've discovered a lot of opened doors, but they're getting harder to find. Here's where I need your advice and help.

Would you recommend I take a second job. The paper is full of employment opportunities and I'm certain I need only to apply. However, a second job would require I give up time I presently spend elsewhere. The children have a wonderful mother and they could probably get along without me. Thousands, or is it hundreds of thousands, of families don't have a father at home. I would slip unnoticed into their bedrooms at night and kiss the children while they slept. They would never know I kissed them, but do they really need to? I have a seven-year-old son who thinks kissing is silly, so he would not miss it, would he? My daughter is six and in September will be in the first grade. She will probably miss my kiss, but maybe not. The baby, well, she's 18 months old and much too young to understand a kiss. As I see it, my family is a luxury—should I give it up? After all, a little sacrifice never hurt anyone.

A second job would also require I give up the time I volunteer to the Boy Scouts of America and to my church. The boys really don't need a Scoutmaster or Committee Chairman. They're good readers and the handbook is easy to understand. As for their camp, well, their fathers can take them and the scouts who don't have fathers at home are the boys who don't like camping anyway. They won't need me. As for the church—I'm not much of a teacher—I've not been trained for the ministry, the kids don't listen anyway, why with what little service I provide the church can get along without me and—don't worry, my wife will take the children to their Sunday School.

Mr. President, somehow I feel this particular priority is in order. No! An additional job is not the answer, I must cut back someplace else. What do you suggest? Wait a minute. There is another area I could cut back—no, I could completely eliminate it. Charitable organizations—that's it! I'll eliminate my contributions to charity.

The Boy Scouts of America can handle their finances through registration—so can the university. The United Fund, Cancer Drive, Indian School Programs, Blind Center and . . . well, all of these will manage. The little I give means nothing. It will never be missed. As for my church—you don't have to have a building to worship. I could worship at home or in the mountains. Look at the money that can be saved by not building any churches or temples. And why support the missionaries, are they really needed? Look around you—the world is at peace, crime is up a little, but there really is no need to spread the message of Christ. All is well. Religion is old fashioned, outdated and . . . who needs Christ?

Mr. President, I hate to say this, but . . . do you ever get the feeling your stay on earth is temporary? I don't want to sound pessimistic but someday we're gonna die. I don't know about you, but I'm no straight arrow and . . . and I think I have enough to answer for without trying to explain why I didn't contribute my "widows mite". No, the more I think about it, the more I believe this priority, charity, is in order. There must be another way.

Hold everything! I have it! Why didn't I think of it before! I know what the problem is—it's my uncle. I have to complain about a member of the family, but honestly I'm at my wits end. He has a part time job which isn't enough to keep him in spending money, so consequently I give him a healthy allowance. Money simply burns a hole through his pocket. He must be the world's worst budgetor! He's always spending! If only he'd buy the necessities, financially I'd be in good shape. You would think it impossible to spend so much on ice cream and cake. He really is a good soul though, he gives away a lot to the neighbors.

Sometimes I think my uncle isn't very smart and then again, maybe I'm the one who is kind of dumb. He's the greatest uncle

and I love him so, but somehow I have to cut down my allowance to him. One of these days, I'm going to die and I don't know who'll take care of him. I suppose he'll inherit some of my estate and then after that I reckon my children will care for him. I'd sure like to educate him while I'm alive. You would think with him being in the family he'd clearly see what to do, but he seems completely oblivious to the problem. Do you know what really scares me? I'm only 37 and I'm afraid he'll die before I do! I pray my Uncle Sam will be around for my children. Please can you help me?

Sincerely yours,

MONTE YEAGER.

SALT LAKE CITY, UTAH.

P.S.—You probably think I made this whole thing up, however, I assure you everything is as I said, except for the pen. It's not a golden shaft, but rather black plastic.●

SENATOR JAMES ABOUREZK

● Mr. MOYNIHAN. Mr. President, it is surely impossible to summarize the Senate career of JAMES ABOUREZK in the customary terms. A hard battler, tenacious, wholly unique, JIM ABOUREZK has played a conspicuous role in the Senate since his election in 1972. One could not help but develop an abiding awareness of the persistence with which Senator ABOUREZK fought for what he believed in. His was a forceful presence and his absence will be noted by a Senate which he so often sought to rouse.●

SENATOR MARYON ALLEN

● Mr. MOYNIHAN. Mr. President. We were deeply saddened by the loss of Senator James Allen during the 95th Congress. But Mrs. ALLEN was able to overcome her profound sense of loss, which we all shared, to assume the seat he left vacant, and to serve with charm, poise, grace, and wisdom. Hers was a refreshing presence, and, albeit brief, it demonstrated to us all that the noble aims of the United States Senate can be served equally well by a charming woman as by a fraternity of frequently cantankerous men. She returns to Alabama with our esteem and our deep affection.●

SENATOR DEWEY BARTLETT

● Mr. MOYNIHAN. Mr. President, DEWEY BARTLETT of Oklahoma, who retires from the Senate at the end of this session, has made a substantial contribution to our deliberations. He has been a valued member of the Armed Services Committee and has had a remarkable impact on the manner in which this body perceives the central military and strategic issues. His role in the modernization of our NATO contingents is especially noteworthy, for it was a role born of the cogency of mind he so evidently displayed. DEWEY BARTLETT is an insightful and courageous man. It may strike some as rather hackneyed to summon up the virtues one so readily associates with the American West and see in Senator BARTLETT their exemplar. And yet the appeal of that metaphor is overwhelming. DEWEY BARTLETT, without bombast and without pretense, was persuasive through the force of his character. We have profited from his initiatives, as have his constituents. It is my great privilege to have served with him in the Senate.●

SENATOR CLIFFORD P. CASE

● Mr. MOYNIHAN. Mr. President, it had been apparent for many years that CLIFFORD CASE is the embodiment of those virtues one associates with the Senate's high tradition. Having now served with him in one Congress, I am struck by the extraordinary fact that his reputation understated his honor and his intelligence. He was a representative of the best of internationalist and liberal sentiment, a colleague and partner of those giants who shaped the post-War world in a manner consistent with American tradition and value. I soon came to realize that CLIFFORD CASE was a rare constant in the changing world of politics; he was in fact an invaluable point of reference, a polar star if you will, whereby one could learn the honorable and decent approach to any matter pending in this body. The people of New Jersey four times chose him as their Senator, and for 24 years they profited immensely from those decisions. I truly regret that I shall not have him to rely on, and to learn from, in the legislative battles of the next Congress. Yet it will be remembered of CLIFFORD CASE that he was among that rare handful of men who indelibly defined his era.●

SENATOR CARL CURTIS

● Mr. MOYNIHAN, Mr. President, as a freshman Democrat on the Finance Committee, it was perhaps inevitable that one would become enthralled by the senior Republican members of that spirited institution. CARL CURTIS served with remarkable force as the ranking minority member of the committee. His approach to the business of the committee began with an assessment of what the Nation's interests required. He was wholly immune to the allure of contemporary cant, ever vigilant in the defense of the fundamental integrity of the legislative process. He was a man of plain principles, simply but powerfully expressed. He was, for me, an educator of sustantial value and appeal. He retires from the committee and from the Senate secure in the knowledge that his efforts have borne substantial fruit, for he leaves at a time when the issues of governmental growth and size, of budgetary restraint, of private initiative, have a force in our political life without precedent in this generation. He returns to Nebraska, reminding us of the capacity of the American plains to send to this body legislators of uncommon energy and intellect. He is, in the most fundamental respect, an irreplaceable man.●

SENATOR JAMES EASTLAND

● Mr. MOYNIHAN. Mr. President, Senator EASTLAND defines an era, for his long service in this body is as the history of the country in that same period. He came from a political tradition which guaranteed that he, in this body, would be involved in controversies, legislative and constitutional. I came to this Senate long after those battles were resolved, and must say that I found in Senator EASTLAND a man of unfailing courtesy and helpfulness. His experiences had given him perspective and vision, so that his opinions had a certain authenticity to them. They were opinions born of the real happenings of life, not abstractions. He understood the importance of the rules, and of the customs, and of common consent. Decades of service in this body have made him a legend of sorts. His service to the people of Mississippi was truly remarkable.●

SENATOR CLIFFORD HANSEN

● Mr. MOYNIHAN. Mr. President, the retirement of CLIFFORD HANSEN from the Senate strikes me as unusually significant. Having served with him on the Finance Committee, I can attest to the fact that the force of mind he brought to the enunciation of fiscal issues will not easily be replaced. The same may be said of his patience. For he was in his efforts a painstaking man, tireless in his willingness to elucidate for us the complexities of various issues. In his last months here, especially, he fulfilled an important role in debates over energy policy, tax reform, and fiscal policy. He embodied the traditional concerns of his party, and he presented them with scrupulous honor, with consideration, with unfailing good cheer. One soon learns that men of this caliber are national assets, to be valued and, unhappily, to be missed when they choose to embrace the ease they have earned. To have learned from CLIFFORD HANSEN has been a valuable part of the initiation of this new Senator.●

SENATOR PAUL HATFIELD

● Mr. MOYNIHAN. Mr. President, an accomplished jurist in his native Montana, Senator PAUL HATFIELD has been with us but a short time, having filled the void created in our ranks by the passing of our colleague, Lee Metcalf. In this brief space, however, Senator HATFIELD has greatly distinguished himself—as a member of the Judiciary and Armed Services Committees, and as a vigorous spokesman for his constituents. It was my privilege to cosponsor with Senator HATFIELD earlier in this session a resolution endorsing action by the United States and Canada to protect and enhance the quality of air resources along our border in an effort to promote mutual health and welfare. In this, as in many other endeavors during a short, but distinguished Senate career, he has shown himself to be acutely aware of the concerns of both his Montana constituency and of the larger constituency which we all serve.

For the admirable example which he has set, for the selfless service he has rendered, we are all in the debt of PAUL HATFIELD.●

SENATOR KANEASTER HODGES

● Mr. MOYNIHAN. Mr. President, KANEASTER HODGES is that rare breed of

man who rises to the service of this country in time of need, and, content with the completion of this purpose, turns back to the career he has pursued all his life. KANEASTER HODGES entered the U.S. Senate to fill the seat left vacant by the late John McClellan. His remarkable proficiency as a Senator seemed innate—there was no period of shaky transition that so often characterizes the initial days of a freshman Senator. Instead, this great country lawyer and minister rapidly became a vigorous, decent, and eloquent Senator. Now, his mission completed, he returns to Arkansas. But he, too, has left a deep impression upon us all, and we shall not soon forget him.●

SENATOR MURIEL HUMPHREY

● Mr. MOYNIHAN. Mr. President, when at the close of the 95th Congress, the Senate adopted the Humphrey-Hawkins full employment bill, it paid tribute to the vision and the tenacity of the late Senator Hubert Humphrey. The courage, the vigor, and the deep insight which defined the long career of Hubert Humphrey, we may now easily surmise, characterize his wife as well. MURIEL HUMPHREY courageously assumed his Senate seat after his death, and set about the task of seeing his dream fulfilled. Though all of us were profundly saddened by the loss of Humphrey Humphrey, MURIEL HUMPHREY demonstrated to us that the completion of his work could be a restorative, diminished as we were by his death. And so it became. We will remember MURIEL HUMPHREY as a woman of extraordinary charm, grace, and insight. Though her term was all too brief, her influence has been profound.●

SENATOR JAMES B. PEARSON

● Mr. MOYNIHAN. Mr. President, JIM PEARSON has served the U.S. Senate and the people of Kansas with characteristically prudent judgment and quick wit since 1962. It has been my privilege to serve with him on the Intelligence Committee, and I have observed with interest his contributions to the field of transportation policy—both as a member of the Committee on Commerce, Science, and Transportation and as a member of the National Transportation Policy Study Commission—as well as his work on the Committee on Foreign Relations. We have all profited from having known and worked with JIM PEARSON, whose skill and decency have earned him a place in the history of both his party and the Nation.●

SENATOR WILLIAM L. SCOTT

● Mr. MOYNIHAN. Mr. President, WILLIAM L. SCOTT is a man who exemplifies the best traditions of the State whence he hails. There can be no disagreement that his devotion to the great State of Virginia, and to its citizens, has been considerable. A man of gentility and grace, he has served the Federal Government for some 38 years. Since 1972, he has been a Member of this body, and we have all truly profited from his friendship.●

SENATOR JOHN SPARKMAN

● Mr. MOYNIHAN. Mr. President, for those whose introduction to politics was inseparable from the political campaigns of the 1950's, JOHN SPARKMAN holds a special fascination. A man of progressive and broad view, he anticipated by perhaps a generation the vast transformation of Southern politics which would transform, in turn, the politics of the country. Indeed, as Adlai Stevenson's Vice Presidential running mate in 1952, he could already lay claim to a distinguished public career. How much more remarkable that his service to the Nation would continue for another quarter century, such that his mark on domestic and foreign policy would remain indelible. I am honored to have served with an authentic hero of my party, a man so much the living history of our politics. His achievements were vast, and the impact of his mind can be felt in areas as diverse as banking reform and foreign assistance. He returns to Alabama secure in the respect of his colleagues and the gratitude of his constituents.●

MARYON ALLEN AND KANEASTER HODGES

● Mr. HAYAKAWA. Mr. President, I wish to pay tribute to two members of the majority party who, by happenstance, were seated on the minority side of the Senate Agriculture Committee. I have been charmed by MARYON ALLEN and delighted by KANEASTER HODGES. Each brought wit, candor and refreshing zest to the committee and to the United States Senate. Each expressed concern not only for Alabama and Arkansas agricultural interests, but also toward my State's specialty crops, bargaining issues, and farm labor.

On the floor, when either presided, I was amazed by their keen knowledge of the rules and their procedural skills. Each learned, cared, and acted in a manner which would have made Jim Allen and John McClellan proud.

MARYON ALLEN embodies the graciousness of the South, the cleverness of being a journalist/columnist/editor, and the competence she displayed as a public speaker. And, rather than repeat what has been said about the Senator from Arkansas, I just know that had he been here during the Continental Congress of 1776, we would all be signing our "Kaneaster Hodges" rather than our "John Hancock."

I admire, respect, and thank MARYON and KANEASTER. We have been privileged to serve, albiet it briefly, with each.●

SENATOR BARTLETT

● Mr. HAYAKAWA. Mr. President, the retirement of Senator DEWEY BARTLETT is a loss to the cause of good government. It is an understatement to say he will be missed in the Congress. He has been a man of principle, an exemplar of personal probity, and a gentleman, always a gentleman.

An individualist believing in the ability of the American people to solve their own problems without governmental control, an unabashed patriot willing to face the hard questions of national security at a time when many turn away from them, a Senator who has never put anything ahead of the welfare of his country, DEWEY BARTLETT has been the best public relations coup for the Sooner State since the musical, "Oklahoma." Indeed, his career in government can be summed up in one line from that musical, expanded to a national scale:

We know we belong to the land, and the land we belong to is grand.

Oklahoma, and America for that matter, is grand not because of its oil wells and cattle ranches and abundant harvests, but because it produces leaders like DEWEY. They are the true riches of this land.

When a Senator leaves office, his colleagues may be excused if they make public the kind of inside information about his virtues which, in other circumstances, would appear as flattery. In DEWEY's case, it is revealing that, while other Senators hold him in high regard, the staffers of Senators do, too. That may be the greater compliment. Anyone who is familar with Senate staffers knows that they realize, better than anybody else, the flaws and frailties which serve to remind Senators that we are, indeed, only human.

Senate staffers know DEWEY BARTLETT as a man who is kind and thoughtful in private as well as on camera. The gentle demeanor that has graced his public actions and his conduct on the Senate floor is the authentic expression of a character too solid for anger and too open for bitterness. That is why, entirely apart from his legislative endeavors, DEWEY will be sorely missed from this assembly.

It is all too common for public figures to "prepare a face to meet the faces that we meet." The plastic image, the synthetic smile, the artificial personality—these are the stock in trade of media politics. But they are entirely alien to the career of Senator BARTLETT. His political merchandise has been of an older, more reliable variety: Words simply spoken and sincerely meant, values candidly avowed and unoffendingly advocated, decisions conscientiously reached and unflinchingly declared.

Some will say that those are the antique paraphernalia of the old politics, out of date in this era of guesswork government. Perhaps, but I like to think that DEWEY's politics are the wave of the future: That the American people, turning back to things natural, unadulterated, and wholesome, will turn back as well to the political standards DEWEY represents.

That day cannot come too soon. When it does, the people of this Republic will fill this Senate with women and men in

the tradition of DEWEY BARTLETT. Toward that goal, let our tributes to him remind us all that the truest praise is emulation.●

A TRIBUTE TO SENATOR MURIEL HUMPHREY

● Mr. HAYAKAWA. Mr. President, few persons have earned as much respect and admiration from his fellow Americans as did our late colleague, Senator Hubert H. Humphrey. Throughout his great career in public life, as mayor of Minneapolis, U.S. Senator from Minnesota, and Vice President of the United States, he was, indeed, a "Happy Warrior," fighting relentlessly for that which he believed in, and never giving up.

It is said that behind every great man there is a woman. This great man had a remarkable woman; his wife, MURIEL.

Upon Hubert's death this past January, MURIEL, who on many occasions he had praised as a great inspiration to him, was appointed to fill his seat in the Senate. She has proved a very able choice.

As MURIEL retires at this, the close of the 95th Congress, I wish to note that she is a hard and dedicated worker, very much like Hubert. Although she served in this body for a very short time, MURIEL has left an impression on us which will last the rest of our lives, and an impression on the Senate which will last long after we have all gone.

MURIEL has carried on with many of the ideas which Hubert Humphrey believed in and fought for. She was very active in securing passage of the Humphrey-Hawkins bill.

MURIEL HUMPHREY has gained my respect and admiration. Her decision to leave the U.S. Senate is regretted by us all.

I wish MURIEL the best of luck, health, and happiness in the years ahead.●

NOISE CHARGES TO REDUCE AIRPORT NOISE

● Mr. CULVER. Mr President, Congress recently passed and sent to President Carter for his signature the Quiet Communities Act, S. 3083. This legislation was based on hearings by the Subcommittee on Resource Protection of the Committee on Environment and Public Works and reauthorizes the Noise Control Act of 1972 for 1 year. S. 3083 deals primarily with noise from sources other than aircraft and redirects our Federal efforts to assist State and local programs to reduce excessive noise levels.

Aviation noise is a serious problem and costs over $3 billion in decreased property values annually. The Noise Control Act required the Environmental Protection Agency (EPA) to recommend to the Federal Aviation Administration (FAA) regulations to control aircraft noise. In 1976, EPA proposed that airport proprietors be required to estimate noise levels and to submit to FAA a plan, based on 15 actions, for reducing noise. The 15 noise control actions listed by EPA fall into four groups: Changes in operating procedures, land use controls, curtailment of nighttime operations, and landing fees.

The Council on Wage and Price Controls has filed a report to the FAA on these proposals, focusing primarily on noise charges.

EPA suggested that airports could renegotiate landing fees for the actual noise they produce, with the charges variable by time of day and the nature of the aircraft. The Council's report on the merits of such a policy consists of a detailed analysis of the economic, legal, and environmental feasibility of noise charges. It suggests that noise fees should be considered as a workable alternative for aircraft noise abatement.

One of the principal authors of this study was Donald C. Cell, professor of economics at Cornell College, Mount Vernon, Iowa. Professor Cell worked with the staff of the Council on Wage and Price Stability while he was a guest scholar with the Brookings Institution.

Mr. President, I ask that the introduction of the Council's report to the FAA be printed in the RECORD at this point.

The material follows:

PROPOSED REGULATIONS ON AIRPORT NOISE REGULATORY PROCESS SUBMITTED TO THE FEDERAL AVIATION ADMINISTRATION BY THE ENVIRONMENTAL PROTECTION AGENCY

INTRODUCTION

On November 22, 1976 the Federal Aviation Administration (FAA) published in the Federal Register a Notice of Proposed Rulemaking containing the Environmental Protection Agency's (EPA) proposal to control and abate airport noise in and around airports (41 FR 51522). Section 611(c)(1) of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972 (P.L. 92–574), provides that EPA shall submit to the FAA recommended regulations to provide such control and abatement of airport noise and sonic boom as EPA determines is necessary to protect the public health and welfare. That Section also provides that FAA "shall consider such proposed regulations submitted by EPA" and shall publish the proposed regulations in a Notice of Proposed Rulemaking. The FAA invited interested persons to submit written data, views and arguments on or before March 24, 1977. The Council on Wage and Price Stability (Council) requested and obtained permission to file its comments late. The Council's comments herein are intended to be responsive to FAA's request for information on the "economic impact that might result from the adoption of the proposed rules. . . ." 41 FR 51522.

THE COUNCIL'S INTEREST

The Council was created by the Council on Wage and Price Stability Act of 1974.[1] The Council's purpose under the Act is, generally summarized, to monitor, evaluate, publicize, and have a salutary effect on the inflationary impact of activities in both the private and public sectors of the economy. With regard to the public sector, section 3(a) of the Act expressly directs the Council to:

(5) focus attention on the need to increase productivity in both the public and private sectors of the economy;

(7) review and appraise the various programs, policies and activities of the departments and agencies of the United States for the purpose of determining the extent to which those programs and activities are contributing to inflation; and

(8) intervene and otherwise participate on its own behalf in rulemaking, ratemaking, licensing and other proceedings before any of the departments and agencies of the United States, in order to present its views as to the inflationary impact that might result from the possible outcomes of such proceedings.

The Council has closely followed the development of aircraft noise abatement policy over the past several years and has previously filed comments before the FAA on the retrofit proposal[2] and the two-segment landing approach[3] and testified before the Secretary of Transportation on Federal financing of aircraft noise abatement.[4] These efforts as well as further study over the past few months have contributed to the recommendations detailed in this filing.

EPA should be commended for focusing attention upon the potential for aircraft noise reduction around airports. It is around airports, after all, that the substantial part of the public's noise exposure arises. The Council believes that Federal policy should promote a more comprehensive noise abatement effort that includes abatement programs at the impacted airports. Currently, Federal policy on aviation noise depends chiefly upon aircraft noise standards.[5] FAA hopes to accelerate the replacement and begin the retrofit of the many older aircraft that have been exempt from the existing (FAR 36) standards, and to raise these standards. In our view, it would be imprudent to depend too heavily upon aircraft noise standards which are presently enforceable chiefly by grounding, an extreme remedy which is costly to carriers and public.[6] And it would in any case not be efficient to rely too heavily upon a technological solution of mandated standards.

THE ERA PROPOSAL

EPA has proposed that airport proprietors be required to estimate noise levels within adjacent areas (contours), to evaluate a list of fifteen specific noise control actions, and to submit to FAA a plan for contracting the noise contours (41 FR 51524–26). Its proposed regulation would allow the FAA to disapprove any airport's plans that (a) may create a safety hazard, (b) may significantly disrupt the national air transportation system, or (c) was submitted without adequate public participation (41 FR 51527). In addition, the FAA may suspend the operating certificate of any airport which does not carry out the abatement plan as approved by the FAA (41 FR 52528).

The noise control actions which EPA lists fall into four groups. One group, operating procedures in the vicinity of airports, offers some relief. However most of these procedures are subject to safety considerations, and thus pilot discretion, which would reduce their effectiveness in reducing noise.

A second group, land use controls, includes zoning, building codes requiring insulation,

[1] Public Law 93–387, as amended by Public Law 94–78, 12 U.S.C. 1904 note.

[2] See "Comments of the Council on Wage and Price Stability Regarding Proposed Aircraft Noise Retrofit Requirements," CWPS–30, (April 7, 1975)

[3] See "Comments of the Council on Wage and Price Stability on EPA Proposal to Reduce Noise Level Surrounding Airports," CWPS–109 November 28, 1975).

[4] See Statement of James C. Miller III, Assistant Director of the Council on Wage and Price Stability before the Department of Transportation at the Public Hearing on "Financing of Aircraft Noise Reduction Requirements," CWPS–215 (December 1, 1976).

[5] Department of Transportation and Federal Aviation Administration, *Aviation Noise Abatement Policy*, November 18, 1976, p. 53.

[6] Other FAA remedies include civil penalties and, perhaps, criminal penalties (see 49 U.S.C. Sections 1431 and 1432).

and the purchase of adjacent land by airports and city governments. Zoning and codes tend to parallel the salutary market adjustment process that has been occurring near airports as activities and individuals less sensitive to noise replace those who are more sensitive, and as property owners voluntarily invest in noise insulation, air conditioning, etc. By purchasing adjacent property, airports presumably would try either to accelerate market adjustments or to carry land-use control beyond what the market would do. In the case of many airports, however, the outright purchase of developed land may not be cost-effective.

A third set of actions would be to force the carriers to reduce their nighttime operations and to fly less noisy aircraft into the airport. EPA suggests that airports can take a regulatory-type approach under their proprietary powers, ordering exclusions or quotas by aircraft type and time of day (curfews). Since present schedules and aircraft deployment were planned with regard to profits rather than noise effects, a rearrangement of schedules and deployments of aircraft would likely reduce noise exposure substantially around airports. However, the Federal government, through the FAA and the Civil Aeronautics Board (CAB), is neither equipped nor authorized to make the complex adjustments in schedules and deployment that would reduce noise exposure cost-effectively. Exclusions and quotas are crude and disruptive measures because of their costliness to airports, carriers and passengers alike.

Finally, as a fourth action, EPA suggests that airports could renegotiate landing fees to reflect either the noise characteristics of aircraft by type or the noise emissions of aircraft. In contrast to the first three groups of actions there has been little discussion of such noise charges by either EPA or FAA. Our chief objective in this filing is to summarize our findings as to the feasibility and probable advantages of noise charges administered by impacted airports, and to indicate how Federal policy might promote the adoption of noise charges by these airports. Our study has led us to conclude that noise charges offer a promising approach to noise control and deserve further study by FAA and EPA.

SUMMARY OF THE COUNCIL'S FINDINGS

First, we find that noise charges are workable in that five basic conditions can be satisfied.

(1) Technologically, according to our estimates the noise emission of specific aircraft can be reasonably well monitored by the impacted airports at moderate cost.

(2) Empirically, it is feasible to translate these noise measurements into a schedule of charges that would approximate the benefits to society of reducing aircraft noise and therefore offer an inducement to carriers to cost-effectively abate the noise. Recent studies have shown that the social benefits of noise abatement can be estimated with reasonable reliability. For illustrative purposes, we have calculated a schedule of charges for Logan International Airport based on decibel level and time of day.

(3) Legally, as documented in Appendix B, noise charges may be established by ordinance or by contracts and lie within the proprietary powers of airports, although in some cases long term contracts may delay imposition of noise charges. In many cases, this should not be an impediment. Charges as an alternative to aircraft exclusions, quotas, and curfews are far less disruptive to interstate commerce.

(4) Financially, the carriers could reduce substantially the charges they would pay by increasing their abatement efforts. Charges would also benefit the carriers because they are likely to be cost-effective compared to the alternative of the new restrictive regulation.

(5) Practically, it is possible to establish noise charges for an airport a year or so in advance of their imposition and in the interim to allow airlines to change their schedules and aircraft deployment in order to reduce noise exposure and thus lower the level of charges to be paid. Moreover, the noise charges would be updated periodically according to explicit and agreed upon principles.

Second, we find that a Federal-local noise abatement program that includes noise-charge incentives offers several real advantages as compared to a program that relies more exclusively upon regulatory controls.

(1) As a practical matter the addition of noise charges by the airports could accomplish more abatement than regulations and land-use controls alone could achieve. This is true because a cost-effective and comprehensive abatement program would be difficult to establish without the help of economic incentives that make it profitable for the carriers to take the initiative. In addition, far from conflicting with Federal noise regulations, economic incentives should promote compliance with both airport regulations and Federal aircraft noise standards.

(2) The unique contribution of noise charges would be to make it profitable for the carriers to themselves search for the lowest cost per unit of abatement they can devise. Lower costs per unit of abatement will help to reduce inflationary pressures as well as increase abatement efforts.

(3) Noise charges could be administered by impacted airports with minimal Federal oversight and would reduce the pressure to add overly specific and restrictive Federal regulations of carriers and airports.

Third, we recommend that both EPA and FAA begin a comprehensive study of how such a system could be implemented and how the FAA might facilitate local initiatives in this area. We have concluded that noise charges offer a promising approach to noise control which should be implemented by airports under the support and guidance of FAA and EPA. Since noise charges are initially harder for airports to implement, the assistance of these Federal agencies is particularly important. Without such assistance we think it is likely that noise charges would remain a theoretical concept rather than becoming the mainstay of the effort to control airport noise.

The specific airline actions which we anticipate would flow from the imposition of noise charges are set forth in the following table and are discussed more fully below. These actions, we believe, would lead to substantial reductions in airport noise exposure as follows:

ANTICIPATED AIRLINE ACTIONS IN RESPONSE TO NOISE CHARGES

Short run

1. rescheduling of flights at same airport
(a) reduction of annoying night flights
(b) utilization of quieter aircraft
2. rerouting of some flights to less noisy airports
3. inducing quieter landing and takeoff procedures

Long run

1. encouragement of purchases of quieter aircraft
2. encouragement of retrofit of older aircraft
3. stimulation of development of quieter aircraft
4. reduction of overall use of noisy airports

In the discussion which follows, we first review the general case for a noise charge approach. Then we present some illustrative calculations of how a charge system based on noise abatement benefit estimates might function. Third, we discuss some possible administrative and legal difficulties with the system. Fourth, we analyze how a noise charge approach would provide incentives to reschedule in order to reduce charges in the present regulatory environment and how, in comparison with the present system, deregulation of fares and route restrictions would improve the efficiency of a charge system. A fifth section discusses how a charge system would complement many existing local and Federal noise regulations while reducing the need for further regulations of a restrictive nature. A concluding section summarizes our findings and presents our recommendations. Finally, two appendices provide more detailed presentations of our calculations and analysis of some possible legal difficulties of implementing noise charges.●

SENATOR DEWEY BARTLETT

● Mr. CULVER. Mr. President, before coming to the Senate, DEWEY BARTLETT had already demonstrated the versatility of his interests and talents as a Marine Corps pilot, rancher, businessman, State legislator, and Governor of Oklahoma. The personal qualities which made him successful in those endeavors—intelligence, integrity, diligence, and courage of conviction—also marked his Senate service and earned him the esteem of his colleagues.

In my term in the Senate, I have had the privilege of serving with DEWEY BARTLETT on the Small Business Committee where his background and experience in industry made him an effective spokesman for America's business owners and operators. As members of the Senate Armed Services Committee, we had the opportunity to work together on a variety of issues. When we agreed, as, for example, on the need to improve NATO's defense posture through better standardization of its weapons, he was a resourceful and valuable ally. When we disagreed, he was a formidable adversary whom one respected for the unique way in which he managed to blend tenacious opposition with unfailing courtesy.

It is inevitable that a man whose legislative interests were as varied as were DEWEY BARTLETT'S will be admired for different things by different people. Undoubtedly some will cite his work on defense matters, others will emphasize his tireless advocacy of the interests of the Oklahoma Indians he represented so well, and others will value his extensive knowledge of energy policy. Transcending those matters, however, and knowing no boundaries of party or ideology among his fellow Senators is the high regard we have for the rare courage he has displayed over the last 2 years. Both his colleagues and his constituents would have understood had he reduced his customary hard work or waivered somewhat in his usual close attention to his Senate duties. That, however, was not the case. In this time of great personal trial, he has conducted himself with the same patient good humor and vigor that has always been his trademark.

In so doing, he has set an inspiring example for the rest of us. The Senate is a human institution as well as a political one. In paying tribute to DEWEY BARTLETT'S tenure here, I believe it only

fitting that we honor those personal qualities just as fully as his professional achievements.●

DR. RAY STENSVAD

● Mr. CULVER. Mr. President, Dr. Ray Stensvad, who served as superintendent of the Bettendorf School District for 8 years until his retirement in June 1977, died early this morning. He was a distinguished educator, a resourceful and successful administrator, and, most of all, a good friend and neighbor to the people of southeast Iowa. I take this opportunity to join them in mourning his passing and honoring his memory.

Dr. Ray, as he was affectionately known to friends, colleagues, and students, however, will be remembered far beyond that community. Before coming to Bettendorf, he was a respected educator in Minnesota for more than 30 years. He was called upon many times by the American Association of School Administrators to conduct leadership seminars all over the country, and was a visiting professor at major universities throughout the Nation.

Widely recognized as a creative theoretician in school finance, Ray Stensvad was often consulted by legislators at both the State and national levels. In the late 1960's, he was teaching school finance at the University of Minnesota. The Bettendorf School District, in fiscal difficulty, asked him to accept the challenge of solving its serious financial problems. Not only did he accomplish that goal, becoming known as a "financial wizard" in the process, but he also provided the leadership that resulted in a beautiful new high school and middle school physical education facility, and guided the development of educational programs in Bettendorf's schools to national recognition as model programs.

Woodrow Wilson, who was himself a noted educator as well as a statesman, once said that any system of education which relied solely on methods rather than persons could produce only mechanical effects. "Dr. Ray" must have agreed with him for he never lost sight of the fact through all his work, that education is primarily a human institution. Those who knew him well say that two questions: "Is it fair?" and "Is it good for the kids?" were the most often used phrases in his vocabulary. He asked them about every policy option or administrative decision he addressed and they are eloquent testimony to the preeminence which he assigned to the human effects of his work. They also go a long way toward explaining why his generosity of spirit will be remembered and missed even more than his substantial expertise.

I wish to take this opportunity to join the people of Bettendorf in extending my sincere sympathy to the Stensvad family.●

IOWA'S RAIL-BARGE TARIFF SYSTEM

● Mr. CULVER. Mr. President, the farmers of Iowa properly require an efficient and economical transportation system for moving grain and commodities to their markets. After overcoming shortages of raw material, high fuel costs, and uncertain weather, they still must have an adequate supply of hopper cars and barges to move their products to the Gulf of New Orleans.

The State of Iowa has developed an imaginative program for shippers to transport grain to southern ports quickly and profitably. Last spring, the Iowa Department of Transportation, in conjunction with the Milwaukee Railroad and the Alter Barge Co., developed a joint rail-barge tariff which saves Iowa shippers 2 cents to 3 cents per bushel in transporting corn and soybean to New Orleans for export to foreign markets. The innovative feature of this joint rail-barge venture is a single, nonfluctuating tariff rate which guarantees the shipment of grain from Iowa elevators by rail to the Mississippi River, and by barge to New Orleans.

Rates under this tariff are lower than rail-barge combination rates usually negotiated by shippers. This enables small elevators and shippers to rent 5, 10, or 15 railroad cars at rates similar to those established for larger trains that they have been unable to use.

The rail-barge tariff also substantially reduces the time it takes to move grain to market. Under this proposal, for example, 15 boxcars can transport 9,000 tons in the time that they can deliver only 1,500 tons to New Orleans. Consequently, 15 railcars can do the work of 90 at an estimated $3.2 million savings. This is a more economical use of cars at a time when much of the Midwest is plagued by a serious shortage of hopper cars.

About 3 million bushels of grain will be handled under this rail-barge system by the end of 1978. Next year, the program will be expanded to move about 15 million bushels. It shows that competing modes of transportation can cooperate to provide efficient service at reasonable costs. As a member of the Committee on Environment and Public Works, which oversees our inland waterways system, I believe this innovative and imaginative program greatly benefits both Iowa shippers and consumers, and could serve as a model for similar arrangements in other States.

Earlier this year, an article in Business Week described Iowa's combination rail-barge tariff, and I want to include this informative article in the RECORD.

The article follows:

A RAIL-BARGE VENTURE CUTS SHIPPING COSTS

Barge lines and railroads have always fought each other for business, but now the shipment of grain from western Iowa to the Gulf coast in a joint rail/water service may signal the beginning of more peaceful coexistence. Fifteen jumbo covered-hopper cars loaded with grain moved 350 mi. this week from Marathon to Davenport, Iowa, where the Chicago, Milwaukee, St. Paul & Pacific RR (Milwakee Road) turned the freight over to Alter Co., a barge operator, for the trip down the Mississippi River to Destrehan, La., for export. An all-rail shipment to the Gulf costs about $16 per ton, $5 per ton more than the rail-barge route.

The shipment utilizes the first through, joint rate offered by a railroad and unregulated barge company. It enables Alter to extend its market reach into western Iowa, beyond the usual 60 or 75 mi. range from the river where barges traditionally have been competitive with railroads. For the Milwaukee, the new service should provide improved utilization and increased revenues. First to use the service is the Farmers Cooperative Assn., of Marathon, and General Manager Philip Dukes figures the co-op will save "$40,000 to $60,000 this year over the all-rail freight rates."

Eastern Iowa shippers long have had access to lower-priced barge transportation, while those in the western part of the state—and in other locations far from water—had to use higher-cost railroads or trucks. Seeking to stabilize transportation costs, the Iowa Transportation Dept. brought the Milwaukee Road and Alter Co. together last year.

Higher railroad revenues. For the Milwaukee, the benefits of the joint service are immediate. With no lines of its own south of Kansas City, Mo., the Milwaukee has had to move its grain traffic to the Gulf over other rail lines. Its cars have many times been offline for weeks at a time, and the railroad has been able to get only the short-haul portion of the revenue.

Now, the railroad gets to keep its cars on its own tracks, and by "ping-ponging them back and forth," as one official calls it, produces more revenue per car. And with the new joint rail-water rates, the railroad hopes to attract traffic away from trucks, which have made significant inroads in the grain trade in recent years. "It ought to increase car utilization, and the total transit time should be shortened," says Martin E. Foley, director of the Interstate Commerce Commission's Bureau of Traffic in Washington.

"It's high time the railroads began competing with the trucks in gathering traffic to the waterways," says John Creedy, president of the Water Transport Assn., a leading barge trade group. Barge operators long have sought cooperative deals with railroads although their exemption from rate regulation for bulk goods has been a stumbling block. Most goods carried on the waterways are unregulated, even though shipping of the same commodities is regulated when the railroads are the carrier. A joint railbarge movement means the waterborne segment is also regulated by the ICC.

Regulated rates. Alter, with seven towboats and 250 barges, has not been regulated before, but Charles Glenn, manager of marine sales, says, "We are willing to stabilize rates and guarantee equipment because we are taking a long view. We want to get more of this kind of business." Coal, salt, fertilizer, ores, and liquids are commodities that lend themselves to such joint movements.

For its part, the Milwaukee, with 14 movements of 90 grain cars each already scheduled, is looking at similar deals for Montana grain moving west for export on the Columbia River, another area where truck-barge competition has been severe. Other railroads are in no hurry to jump on the bandwagon, but a spokesman for the Chicago & North Western Transportation Co. says his railroad is keeping an eye on the situation. "It might be the start of more such movements, if it goes," he says.●

SUICIDE AMONG YOUTH

● Mr. CULVER. Mr. President, the National Center for Health Statistics reports that suicide is now the third leading killer of teenagers (ages 15 to 19) in the United States. As a cause of death, it ranks just behind accidental injuries and homicide and ahead of cancer and heart disease. Last year 5,000 young peo-

ple under the age of 25 committed suicide. What is even more alarming, however, is that the rate of suicide among teenagers has almost tripled since 1950.

As chairman of the Subcommittee To Investigate Juvenile Delinquency, I have had a longstanding concern about the welfare of our Nation's youth, and I believe these startling statistics on youth suicide are very disturbing. Experts admit they have no simple explanation of or solution for teenage suicide, but there are many theories about what causes a teenager to commit suicide. We do know, however, that the suicidal young person has feelings of helplessness, hopelessness, and worthlessness which produce severe depressions.

In some cases, depression leading to suicide or attempted suicide may be a symptom of emotional disturbance. These teenagers may be undiagnosed manic depressives, suffering from a chemical imbalance which causes acute depression. Fortunately, this illness, which has only recently begun to be diagnosed in young people, can be successfully treated with drugs.

More often, though, teenage feelings of depression are the result of a variety of frustrations and fears stimulated by the pressures and stresses afflicting youth in our modern society. As Dr. Bruce J. Danto, the president of the American Association of Suicidology, has commented:

Kids feel confused and frightened about the future. If you go to school, it doesn't mean you'll get a job. If you get a job, it may not be a meaningful one. If you get married, it may not last.

High suicide rates among teenagers appear to be associated to some extent with the industrialization and urbanization of society. Modern societies often prolong the period of adolescence until an individual is in his or her twenties and deny young people the privileges and responsibilities of full adulthood such as jobs and parenthood.

High suicide rates among teenagers also appear to be related to the instability of family life. Families separated by divorce and plagued by conflict create a fertile field for suicide.

The first step in coping with the rising tide of youth suicide is to remove the taboos surrounding this subject. Knowledge about teenage suicide is protection against this problem. Almost all suicidal teenagers can be saved if they obtain help early enough.

It is important to realize that depression in young people may be masked by delinquent behavior, excessive use of alcohol and drugs, or sexual promiscuity. All too often, parents and teachers respond to the inappropriate behavior and overlook the fact that it may be reflective of an underlying depression.

The Washington Post recently published an article which examines the phenomenon of youth suicide and discusses the causes of this tragic problem. As the article indicates, if we are to protect the valuable resource of our Nation's youth, we must improve our methods of identifying potential suicides and providing them with assistance.

I ask that this article be printed in the RECORD.

The article follows:

SUICIDE AMONG OUR CHILDREN

(By Lois Timnick)

Now as I was young and easy under the apple boughs
About the lilting house and happy as the grass was green . . .
In the sun that is young once only,
Time let me play and be
Golden in the mercy of his means . . .
—DYLAN THOMAS, in "Fern Hill."

The 11-year-old has slashed his wrists.

"I want to go to heaven," he sobbed. "I can't stand these stomachaches and being unhappy . . . If I could only die . . . It's hard to live . . . Living is horrible. I just want to die because nobody cares if I die, so I just want to die."

Childhood, we are told, is supposed to be a time of joy and carefree innocence, but for this boy and many others it is so sad and painful they want to die. The poet's halcyon days of youth—easy, happy, golden—somehow elude them, and they want out of life even before they are old enough to understand the permanence of death.

For years the experts questioned whether young children could really suffer severe depression and intentionally seek death. Now it seems clear that they do both, and that many "accidents"—like swallowing poison or darting into heavy traffic—are in fact conscious or unconscious suicide attempts.

Consider, for example, these attempted suicides:

A 12-year-old girl hung her doll by its neck, drugged her little sister, cut both of her own legs with scissors, slashed her wrists and overdosed, on hypnotic drugs. "I would be better off dead," she explained. "Then no one will ever have to look at my ugly face again."

An 11-year-old boy tried to kill his dog, attempted to suffocate his baby brother with a pillow, and stabbed pins and needles into his own stomach. Asked why, he answered, "Because Mother dosen't have any love in her heart for me."

An 11-year-old boy, preoccupied with death and the idea of rejoining his dead grandmother, threatened to throw himself in front of a car, beat and disfigured his own face, and finally jumped out the window of a two-story building.

A 5-year-old girl burned her 3-year-old sister and tried to choke her with a shoestring, threatened her mother with a knife and fled from the house into heavy traffic.

A 6-year-old boy who wanted to die "because nobody loves me" first cut himself with his father's razor and was later found hanging from a second-story window.

THE TRAUMA OF FAMILY CONFLICT

The wish to die can be based on misconception—in some cases, it can be a wanting to be dead just for the moment, since most children don't comprehend the finality of death before about the age of 8.

But the medical psychologist who studied these suicidal children at the Neuropsychiatric Institute of the University of California at Los Angeles says his findings "demonstrate that pre-teen-age children can experience the pain of life to the point of wanting to die." Said the psychologist, Morris J. Paulson: "Aloneness, fear of rejection and threats of violence are as meaningful to a 4-year-old as to an adult."

Of the nearly 2,000 children and teen-agers in the United States who killed themselves in 1976 (the latest year for which figures are available), fewer than 200 were under 14. But many suicides go unreported, and Paulson says so-called accidental injury and poisonings in school-age children are often "purposeful self-destructive acts."

For example: One-fourth of the admissions to the psychiatric unit at Children's Hospital of Los Angeles-Edgemont Hospital during its first year of operation have involved suicide attempts or a preoccupation with self-destruction, according to Dr. Howard Hansen, head of the division of psychiatry there.

The suicidal children at UCLA were mostly boys. Nearly half were failing in school despite normal IQs. Many had no friends. Some complained of physical ailments, while others turned their inner hate and anger on others.

The economic level of the family—most were low-income, semi-skilled and with high school educations—did not seem to matter. Paulson and his colleague Dorothy Stone had found similarly suicidal children in an earlier study of more affluent families.

What did matter was the emotional poverty found in nearly all the families of suicidal children (some of whom had close relatives who had also attempted suicide); more than half the parents were separated or divorced; the remainder could hardly be said to be living in harmony.

As Paulson describes it: "For the younger aged children, the most frequent immediate event leading to referral [to the clinic for treatment] was perceived or imagined abandonment by a parent figure. For some families, divorce was the ultimate separation of a hostile, feuding, pathological relationship of violence between husband and wife."

In other families, Paulson said, the birth of a new brother or sister—a rival for the parents' love—and the mother's decision to go back to work were interpreted by the child as rejection.

"For many older children," Paulson continued, "the witnessing of family violence, both verbal and physical, precipitated acute panic, fear and concern that they also may be the next victim of violent assault."

Said an 8-year-old girl: "They don't like me. I wish I was dead."

And another: "I would rather die than be spanked. They want me dead."

A battered 10-year-old whose 13-year-old brother had committed suicide earlier was philosophical: "Everyone kills and everyone dies . . . There is no escape."

DEPRESSION IN CHILDREN?

Depression is the leading cause of suicide. The psychiatrist who heads the only U.S. hospital ward devoted to studying childhood depression, Dr. Joaqium Puig-Antich of Columbia University, estimates that at least 1 percent of all children are depressed. This is based, in turn, on estimates that 10 to 15 percent of children in urban areas have some psychiatric disorder and that in 5 to 10 percent of the cases the disorder is depression.

When psychiatrists talk about depression, however, they are talking about much more than just feeling blue. And sometimes much less than wanting to die.

No one denies that children feel sad or discouraged at times, says UCLA psychiatrist Dr. Gabrielle Carlson. Or that they may feel depressed at being separated from a loved one or at being trapped in a miserable environment. The controversy among professionals has centered on whether children can suffer adult-like psychiatric depression: an illness with definite signs and symptoms, a family history of related disorders, certain biochemical levels in the body and a predictable response to anti-depressant drugs.

Studies by Carlson, Puig-Antich and others show that they do; whether they will outgrow it or become depressed adults is another question that will require long-term follow-up studies, because depression most often first shows up when a person is in his 30s.

What, then, does a depressed child look like? Carlson says, for starters, that most will readily admit that they feel sad or down if

anyone bothers to ask. They may, however, also have a behavior disorder like hyperactivity that draws more attention: "When a kid comes in who's been burning down the house, you don't stop to do a depression inventory," Carlson notes.

The depressed child may also be irritable and weepy. Other symptoms include: thoughts of death or suicide, tiredness, withdrawal from other people or aggressiveness and getting into fights, loss of interest in things that used to be fun, guilt feelings, poor concentration (and consequently, poor performance in school), insomnia or sleeping a lot and, sometimes, changes in appetite and weight. If a child appears sad and has as many as five of these symptoms for more than a couple of weeks, chances are he is depressed.

HEREDITY PLUS TRAUMA

The current view of how depression develops in children goes like this: Depression runs in families. But children born with a susceptibility to the disorder—a "high genetic load," in scientific parlance—may not become depressed until later in life, if ever, unless they are also subjected to traumatic events—separation, divorce, cruelty, neglect, the death of someone close—during their first five years.

"The child has to be hit both ways," Puig-Antich explained.

Blood samples from severely depressed children have shown an excessive amount of cortisol, an essential hormone secreted by the adrenal gland whenever the pituitary gland releases a certain hormone. Measuring such hormone levels gives researchers a sort of window on the brain: The brain chemicals that have been implicated in adult depression—serotonin, norepinephrine and dopamine—and which are the targets of the anti-depressant drugs, regulate the limbic system, thought to be the seat of the emotions. The limbic system, in turn, regulates the pituitary. So the amounts of hormones in the blood and breakdown products of these brain chemicals in the urine provide clues as to what's going on up in the brain.

The drug that seems to wipe out depression in these children is imipramine (Tofranil). Imipramine is not used for more than three or four months, Puig-Antich said, and only to alleviate the depression so that other therapy can be started. "It's a losing ball game to try to treat with psychotherapy while they are still depressed," he explained.

Since interest in childhood depression only began in the 1970s, much remains to be learned about the illness and how to prevent or treat it.

But simply being on the lookout for what the experts now seem to agree is a not-so-rare illness is an important first step. Paying attention to "accidents" and indirect symptoms and school problems and loneliness and temper tantrum, UCLA's Paulson says, puts us "in a better position to intervene in the identification, early treatment and ultimate recovery of severely depressed children who say, 'I'm bad, and I want to die.' "●

FAREWELL SPEECH OF SENATOR CARL T. CURTIS

● Mr. CURTIS. Mr. President, for 40 years the taxpayers have had to pay the expenses of printing my speeches in the CONGRESSIONAL RECORD. Out of appreciation to them for doing this all these four decades, I am making this speech brief.

I wish to say to my colleagues that I think you are OK.

Mildred joins me in wishing for each of you a wonderful future of health and happiness and a Merry Christmas.●

HOUSE CONCURRENT RESOLUTION 760—ADJOURNMENT SINE DIE OF THE TWO HOUSES OF CONGRESS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Concurrent Resolution 760.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 760) providing for the sine die adjournment of the 2d Session, 95th Congress.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The concurrent resolution was considered and agreed to as follows:

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Sunday, October 15, 1978, and that when they adjourn on said day, they stand adjourned sine die.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE COMMITTEE TO NOTIFY THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, the committee consisting of the very distinguished acting Republican leader, Mr. STEVENS, and myself, have carried out our duties as authorized by the resolution and reported to the President that the Senate has completed its work and is prepared to adjourn sine die.

We asked if he had any wishes to express. He expressed, instead, his congratulations to Congress—to the Senate in particular, inasmuch as he was talking to the two Senate leaders—and stated that the Congress had been a very courageous one, had stood up to the tough issues, had been most cooperative in working with the President, and had produced a record of which the Nation could be proud.

He congratulated and thanked the Republican leadership and thanked Senator STEVENS, and asked Senator STEVENS to convey his thanks to the minority leader, Mr. BAKER.

We stated in terms that we felt that the record was good, very outstanding, the tough issues had been taken on head-on and met with courage, and that the record was one of cooperation but at the same time that Congress had made its unique contribution, especially the Senate, in the field of foreign affairs as well as in domestic affairs.

Mr. President, I yield to the distinguished acting Republican leader.

Mr. STEVENS. Mr. President, I feel I would be remiss in not pointing out that the majority leader was able to convey to the President a list of accomplishments that really are accomplishments of the joint leadership, primarily the majority leader. We all know of his determination to drive ahead on bills that involved great controversy and issues that involved great controversy, such as the Panama Canal issues, and I know that the relationship that he and Senator BAKER have had during this Congress has contributed to this accomplishment.

But I feel that all of us here in the Senate know that Senator ROBERT C. BYRD has now left his mark as a truly distinguished majority leader.

I have witnessed a lot of winding down now of sessions of Congress both from the floor here and in the galleries when I was in the executive branch, and I know of no majority leader that has been able to report to the President, I would say, almost 100-percent accomplishment of the President's legislative request as has the majority leader.

We have had our disagreements. We have had our very tough issues, and we have had I think probably more filibusters in one session of Congress than any Congress that I am familiar with. Maybe some historian will prove me wrong. But we have come through these very difficult times and at times very bitter disputes, but I know of no Senator who has left this Chamber with a bad feeling or without the spirit of friendship and cooperation that is necessary to make this institution one of the viable and vital portions of our democratic system.

I am proud to have been able to report to the President, along with Senator ROBERT C. BYRD, this accomplishment, and I am sure that the minority leader would express these same views if he were here.

So I thank you, Senator, and I join with all of us in wishing the occupant of the chair and everyone else, as I did the President, a Happy Thanksgiving and a Happy Christmas and urged him to see to it that we stayed with our families and not disapprove any of the vital legislation we have sent him.

The PRESIDING OFFICER. Amen.

Mr. ROBERT C. BYRD. Mr. President, having been in session now 19 hours and 14 minutes on the sabbath, and 34 hours and 14 minutes in one continuous session, I feel that I, also, wish to thank the distinguished Senator who presides over the Senate, Senator CANNON of Nevada, and then prepare to make the motion to stand in adjournment sine die.

ADJOURNMENT SINE DIE

Mr. ROBERT C. BYRD. Mr. President, the moment that we have been waiting for has come. I move that the Senate, in accordance with the provisions of House Concurrent Resolution 760 and House Joint Resolution 1173, stand in adjournment sine die until the hour of 12 o'clock noon on Monday, January 15, 1979.

The motion was agreed to, and at 7:16 p.m., the Senate adjourned sine die.

MESSAGES FROM THE HOUSE RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT—ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

Pursuant to the permission granted on October 14, 1978, the Secretary of the Senate subsequent to adjournment sine die received the following messages from the House of Representatives reporting that the Speaker had signed the following enrolled bills and joint resolutions:

On October 16, 1973:

H.R. 12929. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

(The enrolled bills were subsequently signed by the Vice President.)

On October 17, 1978:

H.J. Res. A joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

(The enrolled joint resolution was subsequently signed by the Vice President.)

On October 18, 1978:

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of United States agricultural commodities;

H.R. 8533. An act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes; and

H.R. 12250. An act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Mining Protection Area, and for other purposes.

(The enrolled bills were subsequently signed by the Vice President.)

On October 20, 1978:

S. 391. An act for the relief of Brigette Marie Harwood;

S. 579. An act for the relief of Imelda C. Jayag Potter;

S. 612. An act for the relief of Timmy Lao Olavere;

S. 995. An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy;

S. 1006. An act for the relief of Concrete Industries (Monier), Ltd.;

S. 1104. An act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania;

S. 1110. An act for the relief of Juanita Binabise;

S. 1154. An act for the relief of Jin Syen Suh;

S. 1484. An act for the relief of Michael Bruce Holland;

S. 1562. An act for the relief of Datronics Engineers, Inc.;

S. 1563. An act for the relief of Do Sook Park;

S. 1826. An act for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock;

S. 2248. An act for the relief of Susanna Shu-hui Jean;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley;

S. 2349. An act for the relief of Margaret Perry;

S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero;

S. 2446. An act for the relief of Caroline Valdez Sulfelix;

S. 2493. An act to amend the Federal Aviation Act of 1958 to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes;

S. 2509. An act for the relief of Rudolfo N. Arriola;

S. 2687. An act for the relief of Dr. Allan Joseph Cawley;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad;

S. 3051. An act for the relief of Tsutomu Tanaka;

S. 3066. An act for the relief of Yom Chong Ok;

S. 3109. An act for the relief of Ricardo Rosas Salazar;

S. 3336. An act to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner;

S. 3540. An act to rename the U.S. Federal building in Yakima, Wash., the "Justice William O. Douglas Federal Building";

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954; and

S. 3595. An act to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

H.R. 1392. An act for the relief of Maria Mirafior Carabbacan;

H.R. 1396. An act for the relief of Mrs. Sun Pok Winer;

H.R. 1400. An act for the relief of Stefan Kowalik;

H.R. 1402. An act for the relief of Rosario A. Calvin;

H.R. 1405. An act for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers);

H.R. 1406. An act for the relief of Lilia Araujo;

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 1428. An act for the relief of Mrs. Angelita Short;

H.R. 1446. An act for the relief of Lester Bruce Priday;

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1450. An act for the relief of Hildegard G. Blakeley;

H.R. 1748. An act for the relief of Carmela Scudieri;

H.R. 1750. An act for the relief of Anthony Rogers;

H.R. 1753. An act for the relief of Marina Houghton;

H.R. 1775. An act for the relief of Karin Ehard;

H.R. 1777. An act for the relief of Cathy Gee Yuen;

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt;

H.R. 1787. An act for the relief of Paz A. Norona;

H.R. 1798. An act for the relief of Kwong Lam Yuen;

H.R. 1931. An act for the relief of Juana Todd Atherley;

H.R. 1936. An act for the relief of Lee So Ryung;

H.R. 1938. An act for the relief of Santos Marquez Arellano;

H.R. 1940. An act for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos;

H.R. 2253. An act for the relief of Ruben P. Din;

H.R. 2256. An act for the relief of Edmundo Alfredo Oreiro Espinueva;

H.R. 2259. An act for the relief of Rogelio M. Encomienda;

H.R. 2291. An act for the relief of Carmen Cecilia Blanquicett;

H.R. 2292. An act for the relief of Boulos Stephan;

H.R. 2369. An act for the relief of Natividad Casing and Myrna Casing;

H.R. 2553. An act for the relief of Young Gun Kim;

H.R. 2558. An act for the relief of Dr. John Alexis L. S. Tam and Yeut Shum Tam;

H.R. 2658. An act for the relief of Nora L. Kennedy;

H.R. 2662. An act for the relief of Christopher Robert West;

H.R. 2756. An act for the relief of Marlene Holder;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandos;

H.R. 2939. An act for the relief of Derrick Mariano Tan;

H.R. 2940. An act for the relief of Daniel Crowley;

H.R. 2944. An act for the relief of Ricky Lee Trautvetter;

H.R. 3090. An act for the relief of Fidel Grosso-Padilla;

H.R. 3185. An act to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000,

H.R. 3217. An act for the relief of Meeja Sa Foster,

H.R. 3307. An act for the relief of Anthony Casamento;

H.R. 3613. An act for the relief of Irma Victoria Bolarte Alvarado;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 3625. An act for the relief of Peter Neal Smith;

H.R. 3835. An act for the relief of Pece D. Van Arsdol;

H.R. 4404. An act for the relief of Susan Spurrier;

H.R. 4530. An act for the relief of Elisabetta Basso Gallizio;

H.R. 4533. An act for the relief of Gary Daves and Marc Cayer;

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd;

H.R. 4727. An act to amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims;

H.R. 4875. An act for the relief of Elizabeth D. Yee Kraus;

H.R. 5163. An act for the relief of Marinelle Khristy Cruz;

H.R. 5230. An act for the relief of Jung In Bang;

H.R. 5933. An act for the relief of Jonathan Winston Max;

H.R. 6536. An act to establish an actuarially sound basis for financing retirement benefits for police officers, firefighters, teachers, and judges of the District of Columbia and to make certain changes in such benefits;

H.R. 6664. An act for the relief of Lily Lirio Galindo;

H.R. 6801. An act for the relief of Hye Jin Wilder;

H.R. 6934. An act for the relief of Donna Marainne Benney;

H.R. 7107. An act to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes;

H.R. 7296. An act to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, N.Y., as the "Charles A. Lindbergh Federal Building";

H.R. 7305. An act to designate a certain Federal building to Champaign, Ill., the "William L. Springer Building";

H.R. 7387. An act for the relief of Noel Abueg Emde;

H.R. 7419. An act for the relief of Vasilios Georgios Valcanos;

H.R. 7550. An act for the relief of Johanne Lapointe;

H.R. 7577. An act to amend the Economic Opportunity Act of 1964, and for other purposes;

H.R. 7604. An act for the relief of Margaret Somerville Jefferis;

H.R. 7653. An act for the relief of Jackson Armiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy;

H.R. 7795. An act for the relief of Veronica Judity Hudson;

H.R. 8192. An act for the relief of Andree Marie Helene Mcgiffin;

H.R. 8200. An act to establish a uniform Law on the Subject of Bankruptcies;

H.R. 8308. An act for the relief of Jae Keun Christianson;

H.R. 8751. An act for the relief of Francesco Giuttari;

H.R. 8810. An act for the relief of Kim In Hyung;

H.R. 8927. An act for the relief of Monika Grantz;

H.R. 9075. An act for the relief of John F. Johnson;

H.R. 9352. An act for the relief of James William Divven;

H.R. 9518. An act to amend the Shipping Act, 1916, to strengthen the provisions prohibiting rebating practices in the U.S. foreign trades to provide for the prompt and effective implementation of certain equal access, pooling, rationalization, apportionment, and related reciprocal ocean transportation agreements, and for other purposes;

H.R. 9568. An act for the relief of Renate Irene McCord;

H.R. 9610. An act for the relief of Raymond Vishnu Clemons;

H.R. 9611. An act for the relief of Craig Day;

H.R. 9613. An act for the relief of Eustace John D' Souza;

H.R. 10161. An act for the relief of Eastern Telephone Supply & Manufacturing, Inc., and other matters;

H.R. 10343. An act to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967;

H.R. 10407. An act for the relief of Ling-Yung Kung;

H.R. 11002. An act to provide for the resolution to claims and disputes relating to Government contracts awarded by executive agencies;

H.R. 11008. An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes;

H.R. 11092. An act to increase the authorization of appropriations under the Act of December 22, 1974 (88 Stat. 1712);

H.R. 11580. An act to amend title 18, United States Code, to allow the transportation or mailing to a foreign country of material concerning a lottery authorized by that foreign country, and for other purposes;

H.R. 11671. An act to designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building";

H.R. 11861. An act to amend the Merchant Marine Act, 1936, to direct the Secretary of Commerce to cooperate with the Secretary of the Navy and the maritime industry in establishing an adequate and well-balanced fleet;

H.R. 11945. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the German Navy seized by the U.S. Army at the end of World War II;

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Gathright Dam and Lake Moomaw;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes;

H.R. 12140. An act to amend the Federal Pollution Control Act to provide additional authorizations for certain programs under the act;

H.R. 12250. An act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Mining Protection Area, and for other purposes;

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to depart from the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction to the Nazi government of Germany and for other purposes;

H.R. 12605. An act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes;

H.R. 12634. An act to designate a building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center";

H.R. 13187. An act to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr., Federal Building";

H.R. 13372. An act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes;

H.R. 13416. An act to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes;

H.R. 13481. An act to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building";

H.R. 13514. An act to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building";

H.R. 13597. An act to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2, and for other purposes;

H.R. 13702. An act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes;

H.R. 13719. An act to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions;

H.R. 13808. An act to designate the "Omar Burleson Federal Building";

H.R. 13809. An act to designate the "George Mahon Federal Building";

H.R. 13892. An act to amend title 28 of the United States Code to provide that the requirement that each U.S. attorney and U.S. marshall reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district;

H.R. 13903. An act to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed;

H.R. 13972. An act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana;

H.R. 13989. An act to amend section 1445 (b) Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research;

H.R. 14145. An act to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York;

H.R. 14223. An act to designate a certain Federal building in Bloomington, Ill., the "Leslite C. Arends Building";

H.R. 14224. An act to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

H.R. 14295. An act to designate the "Paul G. Rogers Federal Building";

H.J. Res. 489. Joint resolution granting the status of permanent residence to certain aliens;

H.J. Res. 747. Joint resolution to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal stream and waters on lands granted or confirmed by such State;

H.J. Res. 816. Joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations; and

H.J. Res. 1147. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

(The enrolled bills and joint resolutions were signed by the Vice President on October 23, 1978.)

On October 25, 1978:

S. 142. An act for the relief of Gasper Louis Sayoc;

S. 337. An act for the relief of Miriama Jones;

S. 464. An act for the relief of Sameek Keshary Ray;

S. 555. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes;

S. 973. An act for the relief of Young-Shik Kim;

S. 976. An act to amend the Perishable Agricultural Commodities Act;

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities;

S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung);

S. 1166. An act for the relief of Maria Elena Jumalon;

S. 1403. An act to provide for conveyanace of certain lands near Dixon, N. Mex., to the University of New Mexico;

S. 1487. An act to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes;

S. 1618. An act for the relief of Sang Yun Yoon;

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States;

S. 1835. An act to establish a Rural Transportation Advisory Task Force, and for other purposes;

S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts;

S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service;

S. 2079. An act for the relief of Lawrence Youngman;

S. 2247. An act amending section 312 of the Immigration and Nationality Act;

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21;

S. 2539. An act to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students;

S. 2570. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes;

S. 2788. An act to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes;

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes;

S. 3081. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes;

S. 3106. An act for the relief of Debbie Agatta Hepburn;

S. 3371. An act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any territory of the United States; and

S.J. Res. 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to House a Museum of the Building Arts, and for other purposes.

H.R. 4319. An act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances may be eligible to retain their life and health benefits, and for other purposes;

H.R. 5029. An act to amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes;

H.R. 5646. An act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled, to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization;

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes.

H.R. 7971. An act to validate certain land conveyances, and for other purposes;

H.R. 9701. An act to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes;

H.R. 10178. An act to amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes;

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services;

H.R. 11733. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes;

H.R. 12393. An act to provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes.

H.R. 12467. An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Development Disabilities Services and Facilities Construction Act to revise and extend the program under that act, and for other purposes;

H.R. 12874. An act to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies;

H.R. 13500. An act to amend title 44 to insure the preservation of a public access to the official records of the President, and for other purposes; and

H.J. Res. 1173. Joint resolution relative to the convening of the 1st session of the 96th Congress, and for other purposes.

(The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. EASTLAND).)

ENROLLED BILLS AND JOINT RESOLUTIONS PRESENTED SUBSEQUENT TO SINE DIE ADJOURNMENT

Subsequent to sine die adjournment, the Secretary of the Senate reported that he presented the following enrolled bills and joint resolutions:

On October 16, 1978:

S. 1566. An act to authorize electronic surveillance to obtain foreign intelligence information; and

S. 3412. An act to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes.

On October 20, 1978:

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

On October 23, 1978:

S. 391. An act for the relief of Brigette Marie Harwood;

S. 579. An act for the relief of Imelda C. Jayag Potter;

S. 612. An act for the relief of Timmy Lao Glavere;

S. 995. On act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy;

S. 1006. An act for the relief of Concrete Industries (Monier), Ltd.;

S. 1104. An act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania;

S. 1110. An act for the relief of Juanita Binabise;

S. 1154. An act for the relief of Jin Syen Suh;

S. 1484. An act for the relief of Michael Bruce Holland;

S. 1562. An act for the relief of Datronics Engineers, Inc.;

S. 1563. An act for the relief of Do Sook Park;

S. 1826. An act for the relief of Kainpoosh-Fard Bullock and her son, Kami Bullock;

S. 2248. An act for the relief of Susanna Shu-hui Jean;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley;

S. 2349. An act for the relief of Margaret Perry;

S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero;

S. 2446. An act for the relief of Caroline Valdez Sulfelix;

S. 2493. An act to amend the Federal Aviation Act of 1958 to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes;

S. 2509. An act for the relief of Rudolfo N. Arriola;

S. 2687. An act for the relief of Dr. Allan Joseph Cawley;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad;

S. 3051. An act for the relief of Tsutomu Tanaka;

S. 3066. An act for the relief of Yom Chong Ok;

S. 3109. An act for the relief of Ricardo Rosas Salazar;

S. 3336. An act to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner;

S. 3540. An act to rename the U.S. Federal building in Yakima, Wash.; the "Justice William O. Douglas Federal Building";

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954; and

S. 3595. An act to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

On October 25, 1978:

S. 142. An act for the relief of Gasper Louis Sayoc;

S. 337. An act for the relief of Miriama Jones;

S. 464. An act for the relief of Sameek Keshary Ray;

S. 555. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes;

S. 973. An act for the relief of Young-Shik Kim;

S. 976. An act to amend the Perishable Agricultural Commodities Act;

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities;

S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung);

S. 1166. An act for the relief of Maria Elena Jumalon;

S. 1403. An act to provide for conveyance of certain lands near Dixon, N. Mex., to the University of New Mexico;

S. 1487. An act to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes;

S. 1618. An act for the relief of Sang Yun Yoon;

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States;

S. 1835. An act to establish a Rural Transportation Advisory Task Force, and for other purposes;

S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts;

S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service;

S. 2079. An act for the relief of Lawrence Youngman;

S. 2247. An act amending section 312 of the Immigration and Nationality Act;

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21;

S. 2539. An act to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students;

S. 2570. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes;

S. 2788. An act to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes;

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes;

S. 3081. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes;

S. 3106. An act for the relief of Debbie Agatta Hepburn;

S. 3371. An act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any territory of the United States; and

S.J. Res. 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to House a Museum of the Building Arts, and for other purposes.

On October 27, 1978:

S. 274. An act to amend title 10, United States Code, to prohibit union organization of the Armed Forces, membership in military labor organizations by members of the Armed Forces, and recognition of military labor organizations by the Government, and for other purposes;

S. 553. An act to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes;

S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes;

S. 990. An act to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians;

S. 1214. An act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes;

S. 1315. An act to provide more effectively for the use of interpreters in courts of the United States; and for other purposes;

S. 1401. An act for the relief of Elvi Engelsmann Jensen.

S. 1503. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes;

S. 2093. An act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes;

S. 2584. An act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes;

S. 2671. An act for the relief of Masami Yamada;

S. 2727. An act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes;

S. 2774. An act to extend the boundaries of Toiyabe National Forest in Nevada, and for other purposes;

S. 2981. An act to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes;

S. 3083. An act to extend provisions of the Noise Control Act of 1972 for one year, and for other purposes;

S. 3112. An act to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building; and

S. 3189. An act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201 (a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

On October 30, 1978:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho;

S. 1829. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to provide for the establishment of the San Antonio Missions National Historical Park, and for other purposes;

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes;

S. 2416. An act to amend title VIII of the Public Health Service Act to extend for two fiscal years the program of assistance for nurse training;

S. 2450. An act to amend the Community Mental Health Centers Act to revise and extend the programs under that act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes;

S. 2466. An act to amend the Public Health Service Act to revise and extend the authorities under that act relating to health statistics and to establish a National Center for Health Care Technology, and for other purposes;

S. 2474. An act to amend the Public Health Service Act and related health laws to revise and extend programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes;

S. 2522. An act to extend the programs of assistance under title X and part B of title XI of the Public Health Service Act;

S. 2534. An act to amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations;

S. 2796. An act to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes;

S. 2899. An act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions;

S. 3084. An act to amend and extend certain Federal laws relating to housing, communtiy, and neighborhood development and preservation, and related programs, and for other purposes;

S. 3085. An act to extend and amend the special supplemental food program and the child care food program, and for other purposes; and

S. 3151. An act to authorize appropriations for the purpose of carrying out activities of the Department of Justice for fiscal year 1979, and for other purposes.

APPROVAL OF BILLS AND JOINT RESOLUTIONS—MESSAGE FROM THE PRESIDENT RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

The President of the United States, subsequent to the sine die adjournment of the second session of the 95th Congress, notified the Secretary of the Senate that he had approved and signed the following acts and joint resolutions:

On October 14, 1978:

S. 2916. An act to amend the Drug Abuse Office and Treatment Act of 1972 to extend the programs of assistance under that Act for drug abuse prevention, education, treatment, and rehabilitation, and for other purposes.

S. 3384. An act to require foreign persons who acquire, transfer, or hold interests in agricultural land to report such transactions and holdings to the Secretary of Agriculture and to direct the Secretary to analyze information contained in such reports and determine the effects such transactions and holdings have, particularly on family farms and rural communities, and for other purposes.

On Octobber 17, 1978:

S.J. Res. 16. Joint resolution to restore posthumously full rights of citizenship to Jefferson F. Davis.

S. 415. An act to amend the Anadromous Fish Conservation Act to include fish in Lake Champlain that ascend streams to spawn.

S. 682. An act to amend the Ports and Waterways Safety Act of 1972, and for other purposes.

S. 1215. An act to provide for grants to tribally controlled community colleges, and for other purposes.

S. 2376. An act to authorize withholding from salaries disbursed by the Secretary of the Senate and from certain employees under the jurisdiction of the Architect of the Capitol for contribution to certain charitable organizations.

S. 2704. An act to promote a more adequate and responsive national program of water research and development, and for other purposes.

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building".

On October 20, 1978:

S. 1318. An act to permit the State of Hawaii to use the proceeds from the sale, lease, or other disposition of certain real property for any public purposes.

S. 3259. An act to authorize the permanent establishment of a system of Federal information centers.

S. 3373. An act to amend title 10, United States Code, to authorize the Secretary of Defense to provide transportation to the Girl Scouts of the United States of America in connection with International World Friendship Events or Troops on Foreign Soil meetings, and for other purposes.

S. 3486. An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

On October 21, 1978:

S. 1081. An act to amend certain laws relating to the Osage Tribe of Oklahoma, and for other purposes.

S. 2358. An act to declare that the United States holds in trust for the Pueblo of Zai certain public domain lands.

S. 2588. An act to declare that the United States holds in trust for the Pueblo of Santa Ana certain public domain lands.

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of United States agricultural commodities.

On October 24, 1978:

S. 2411. An act to amend chapter 315 of title 18, United States Code, to authorize payment of transportation expenses for persons released from custody pending their appearance to face criminal charges before that court, any division of that court, or any court of the United States in another Federal judicial district.

S. 2493. An act to amend the Federal Aviation Act of 1958, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes.

On October 25, 1978:

S. 1185. An act to regulate interstate commerce with respect to parimutual wagering on horseracing, to maintain the stability of the horseracing industry, and for other purposes.

S. 1566. An act to authorize electronic surveillance to obtain foreign intelligence information.

S. 1626. An act to clarify the status of certain legislative and judicial officers under the provisions of title 5, United States Code, relating to annual and sick leave, and for other purposes.

S. 3412. An act to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes.

On October 26, 1978:

S. 555. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes.

On October 27, 1978:

S. 1484. An act for the relief of Michael Bruce Holland.

S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before United States courts.

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21.

S. 2570. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

S. 3336. An act to enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner.

S. 3540. An act to rename the United States Federal building in Yakima, Washington, the "Justice William O. Douglas Federal Building".

On October 28, 1978:

S. 337. An act for the relief of Miriama Jones.

S. 579. An act for the relief of Imedia C. Jayag Potter.

S. 612. An act for the relief of Timmy Lao Olavere.

S. 973. An act for the relief of Young-Shik Kim.

S. 1110. An act for the relief of Juanita Binabise.

S. 1154. An act for the relief of Jin Syen Suh.

S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung).

S. 1166. An act for the relief of Maria Elena Jumalon.

S. 1315. An act to provide more effectively for the use of interpreters in courts of the United States, and for other purposes.

S. 1563. An act for the relief of Do Sook Park.

S. 1618. An act for the relief of Sang Yun Yoon.

S. 2248. An act for the relief of Susanna Shu-hui Jean.

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley.

S. 2446. An act for the relief of Caroline Valdez Sulfelix.

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad.

S. 3051. An act for the relief of Tsutomu Tanaka.

S. 3109. An act for the relief of Ricardo Rosas Salazar.

On October 30, 1978:

S. 142. An act for the relief of Gaspar Louis Sayoc.

S. 1006. An act for the relief of Concrete Industries (Monier), Limited.

S. 1403. An act to provide for conveyance of certain lands near Dixon, New Mexico, to the University of New Mexico.

S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero.

S. 2671. An act for the relief of Masami Yamada.

S. 2687. An act for the relief of Doctor Allan Joseph Cawley.

S. 3112. An act to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building.

S. 3189. An act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954.

On October 31, 1978:

S. 391. An act for the relief of Brigette Marie Harwood.

S. 995. An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

S. 1401. An act for the relief of Elvi Engelsmann Jensen.

S. 1826. An act for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock.

S. 3066. An act for the relief of Yom Chong Ok.

S. 3084. An act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

S. 3106. An act for the relief of Debbie Agatta Hepburn.

On November 1, 1978:

S. 976. An act to amend the Perishable Agricultural Commodities Act.

S. 1562. An act for the relief of Datronics Engineers, Incorporated.

S. 2534. An act to amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations.

S. 2539. An act to amend title IV of the Higher Education Act of 1956 to increase the availability of assistance to middle-income students.

S. 2788. An act to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes.

S. 3595. An act to amend section 202(d) of the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

On November 2, 1978:

S. 464. An act for the relief of Sameek Keshary Ray.

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities.

S. 1487. An act to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.

S. 1835. An act to establish a Rural Transportation Advisory Task Force, and for other purposes.

S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive

relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service.

S. 2079. An act for the relief of Lawrence Youngman.

S. 2247. An act amending section 312 of the Immigration and Nationality Act.

S. 2349. An act for the relief of Margaret Perry.

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and mainain new or modified features at existing Federal reclamation dams for safety of dams purposes.

S. 3081. An act to amend the Federal Railroads Safety Act of 1970 to authorize additional appropriations, and for other purposes.

S. 3371. An act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any Territory of the United States.

On November 4, 1978:

S.J. Res. 160, Joint Resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes.

S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes.

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States.

On November 6, 1978:

S. 990. An act to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians.

S. 2584. An act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

On November 8, 1978:

S. 274. An act to amend title 10, United States Code, to prohibit union organization of the armed forces, membership in military labor organizations by members of the armed forces, and recognition of military labor organizations by the Government, and for other purposes.

S. 553. An act to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.

S. 1214. An act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

S. 2093. An act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes.

S. 2522. An act to extend the programs of assistance under title X and part B of title XI of the Public Health Service Act.

S. 2727. An act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for United States amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes.

S. 2774. An act to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes.

S. 2981. An act to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes.

S. 3083. An act to extend provisions of the Noise Control Act of 1972 for one year, and for other purposes.

On November 9, 1978:

S. 2450. An act to amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.

S. 2466. An act to amend the Public Health Service Act to revise and extend the authorities under that Act relating to health services research and health statistics and to establish a National Center for Health Care Technology, and for other purposes.

S. 3151. An act to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

On November 10, 1978:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho.

S. 1829. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes.

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention of Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes.

S. 2474. An act to amend the Public Health Services Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes.

S. 2796. An act to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes.

S. 2899. An act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions.

S. 3805. An act to extend and amend the special supplemental food program and the child care food program, and for other purposes.

MESSAGES FROM THE PRESIDENT RECEIVED SUBSEQUENT TO SINE DIE ADJOURNMENT

Pursuant to the permission granted on October 14, 1978, the Secretary of the Senate subsequent to adjournment sine die received the following messages from the President of the United States:

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 1104, a bill that would authorize the establishment of the Legionville National Historic Site in the State of Pennsylvania. I am withholding my signature because I do not believe the Legionville site is of sufficient national significance to merit the cost of establishing and maintaining it as a national historic site.

The site does not meet the national significance criteria for historical areas established by the Department of the Interior. The Pennsylvania State Historic Preservation Office judged the site of only local significance. A National Park Service report made in June 1977 agreed. Further, the site has been altered by such modern intrusions as a railroad and an interstate highway.

The career of General "Mad" Anthony Wayne has been amply commemorated at other designated sites and I do not believe the added expense of acquiring and developing this site is a worthwhile expenditure of Federal funds.

JIMMY CARTER.

THE WHITE HOUSE, *November 2, 1978.*

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of S. 1503, a bill which would authorize Government indemnification, upon a judgment by the U.S. Court of Claims, of businesses which sustained losses as a result of the ban on the use of the chemical Tris in children's sleepwear.

In 1971 and 1974 the Government established strict fabric flammability standards on children's sleepwear to protect children against burns. To meet these flammability standards, the clothing industry treated fabric by using substantial quantities of the flame-retardant chemical Tris. In 1975, information became available that Tris was a carcinogenic risk to humans. Some firms stopped using Tris after this test information became available, but other firms did not.

On April 8, 1977, the Consumer Product Safety Commission ruled that children's sleepwear containing Tris was banned as a "hazardous substance" under the Federal Hazardous Substances Act. This led to the removal of Tris-treated children's sleepwear from the marketplace. Both the imposition of flammability standards and the subsequent ban on Tris-treated fabrics have caused expenditures and losses by industry.

The imposition of strict flammability standards to protect the Nation's children was fully justified. After it was discovered that Tris was hazardous to health, the removal of Tris-treated sleepwear from the marketplace, again to protect the Nation's children, was also fully justified.

S. 1503 would establish an unprecedented and unwise use of taxpayer's funds to indemnify private companies for losses incurred as a result of compliance with a federal standard. The Government could be placed in the position in the future of having to pay industry each time new information arises which shows that a product used to meet regulatory standards is hazardous. This would be wrong. Producers and retailers have a basic responsibility for insuring the safety of the consumer goods they market.

If this bill became law the potential would exist for compensation for firms who marketed Tris-treated material after they knew, or should have known, that such products constituted a hazard to the health of children. Extensive, costly, and time-consuming litigation would be required to determine, in each instance, the liability involved and the loss attributable to the ban action in April 1977, without regard to profits the claimants may have earned on Tris-treated garments in earlier years.

While it is most regrettable that losses have resulted from the regulatory actions taken to protect the safety and health of the Nation's children, no basis exists to require a potential Federal expenditure of millions of dollars when the actions of the Govern-

ment were fully justified. Accordingly, I am compelled to withhold my approval from this bill.

JIMMY CARTER.

THE WHITE HOUSE, *November 8, 1978.*

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from S. 2416, a bill that would extend a series of programs authorizing special Federal support for the training of nurses.

Although I support a number of its provisions, this bill would continue several Federal nurse training programs whose objectives have been accomplished and for which there is no longer a need. Moreover, the funding authorizations are excessive and unacceptable if we are to reduce the budget deficit to help fight inflation.

For the past 22 years, the Federal Government has provided substantial financial support for nursing education. From 1956 through 1977, almost $1.4 billion was awarded for student traineeships, loans, and scholarships; for construction and basic support for nursing education programs; and for projects to improve nursing education and recruitment.

With the help of this support, the number of active nurses has more than doubled since 1957 to over 1,000,000 in 1978. Ten years ago, in 1968, there were 300 active nurses per 100,000 population in the United States. By the beginning of 1977, this ratio had risen to 395 per 100,000 population.

The outlook is also good for adequate, sustained growth in the supply of nurses. There is, therefore, no reason for the government to provide special support to increase the total supply of professional nurses.

This year the Administration proposed to extend only the authorities for special projects in nursing education and for nurse practitioner training programs, in order to focus Federal nurse training support on areas of greatest national need. This proposal was based on the concept that future Federal assistance should be limited to geographic and specialty areas that need nurses most.

S. 2416 would authorize more than $400 million for fiscal years 1979 and 1980, mostly for continued Federal funding of a number of unnecessary special nurse training programs, at a potential cost to the taxpayer far above my budget. At a time of urgent need for budget restraint, we cannot tolerate spending for any but truly essential purposes.

I must point out that nursing training is primarily undergraduate education, and nursing students are eligible for the assistance made available by the government to all students, based on need. I recently signed into law the Middle Income Student Assistance Act, which will significantly expand our basic grant and student loan guarantee programs. Nursing students are also eligible for National Health Service Corps scholarships.

Disapproval of this bill will not cause an abrupt termination of funding of the nurse training programs, since funds are available for fiscal year 1979 under the continuing resolution.

If the Nation is to meet its health care needs at reasonable cost, Federal nursing and other health professions programs must make the greatest contribution to adequate health care at the most reasonable cost. This bill does not meet that test.

The Administration is now conducting a major review of its support for all health professions training, including nursing. Legislative proposals in this area will be made to the 96th Congress. These proposals will recognize the key role of nurses in our society and the need for nurses to play an even greater role in the efficient delivery of health care services.

JIMMY CARTER.

THE WHITE HOUSE, *November 10, 1978.*

PROGRESS ON CYPRUS NEGOTIATIONS—MESSAGE FROM THE PRESIDENT—PM 1

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the provisions of Public Law 95–384, I am reporting on progress made toward the conclusion of a negotiated solution to the Cyprus problem.

While direct negotiations between the two Cypriot communities under the auspices of the United Nations Secretary General have not yet resumed, there is a growing awareness, especially among the parties directly concerned, that the time is now ripe for determined action designed to break the Cyprus deadlock. Moreover, it is increasingly accepted that a just and lasting settlement can come only through intensive, sustained face-to-face negotiations. Public statements, general resolutions and intermittent talks are not adequate to solve the Cyprus problem. For this reason our recent efforts have concentrated on encouraging the two Cypriot parties to work with the Secretary General of the United Nations on an early reconvening of intercommunal talks. Repeal of the Turkish arms embargo has created fresh opportunities for progress on the Cyprus issue.

Secretary of State Vance spoke of this policy before the United Nations General Assembly on September 29, "We would welcome and actively support," he said, "a renewed effort by Secretary General Waldheim to help the parties reach agreement on a sovereign, bicommunal, nonaligned federal Republic of Cyprus." To back up this call, Administration officials have been conferring with high-level representatives of both Cypriot communities, with the Turkish, Greek and other friendly governments, and also with principal officers of the United Nations Secretariat. I had a useful discussion of the Cyprus issue with President Kyprianou on October 6, and Secretary Vance met with President Kyprianou, Turkish Cypriot leader Denktash, and the Foreign Ministers of Greece and Turkey on the margin of the United Nations General Assembly.

These contacts and many others have given us a fairly clear picture of the practical possibilities for forward movement and of the aims and objectives of the two sides. Both Greek and Turkish Cypriots have underscored to us their desire to see a resumption of negotiations, although they still differ on how to do it.

In our talks with the Cypriot parties and with United Nations officials, we have gone into some detail on how to bridge the gap between the parties, so as to arrive at a mutually acceptable basis for negotiations. We cannot yet tell whether the efforts of our government, Secretary General Waldheim, and other friendly governments will bear fruit, but we are doing our best to encourage regular intercommunal negotiations early in the new year.

After the arms embargo repeal, the Government of Turkey restated its desire to help negotiate a rapid resolution of the Cyprus problem. Moreover, in his speech to the United Nations General Assembly on October 3, Turkish Foreign Minister Okcun reconfirmed his Government's commitment to withdrawing all of its armed forces from Cyprus, except those mutually agreed upon by the parties concerned, in connection with a final settlement. We believe that Turkey will do its best to help the Secretary General bring about a resumption of the intercommunal negotiations.

The annual General Assembly debate on the Cyprus question took place in the United Nations during the week of November 6. The United States Representative stated that "enhancing the prospects for sustained and productive negotiations should be our foremost objective," and that, "All parties interested in promoting a settlement on Cyprus should now concentrate their efforts on encouraging these talks and fostering an atmosphere that will contribute to their success." The United States abstained on the resolution adopted by the General Assembly because it contained elements which were clearly not conducive to a resumption of negotiations. As this report was being prepared the Cyprus question was also being considered within the Security Council.

JIMMY CARTER.

THE WHITE HOUSE, *November 30, 1978.*

SPECIAL MESSAGE OF RESCISSIONS AND DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 2

The Vice President laid before the Senate the following message from the President of the United States, which referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Commerce, Science, the Committee on Armed Services, and the Committee on the Judiciary, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $75,000 in unneeded funds appropriated to the Foreign Claims Settlement Commission.

In addition, I am reporting four new deferrals of budget authority totaling $889 million and two revisions to previously transmitted deferrals increasing the amount deferred by $21.4 million in budget authority. These items involve the military assistance program and programs in the Departments of Commerce, Defense, Justice, and State.

The details of the rescission proposal and the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *November 30, 1978.*

REPORT OF DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 3

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, the Committee on Foreign Relations, the Committee on Finance, the Select Committee on Small Business, and the Select Committee on Indian Affairs, jointly, pursuant to order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report 10 new deferrals of budget authority totaling $110.6 million and four revisions to previously transmitted deferrals increasing the amount deferred by $3.3 million. The items involve the military education and training program and programs in the Departments of Agriculture, the Interior, State, and the Treasury, and several independent agencies.

The details of the deferrals are contained in the attached reports.

JIMMY CARTER.

THE WHITE HOUSE, *December 7, 1978.*

REPORT OF DEFERRALS—MESSAGE FROM THE PRESIDENT—PM 4

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was referred to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources, jointly, pursuant to order of January 30, 1975.

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report two new deferrals totaling $663.8 million and a revision to one previously transmitted deferral increasing the amount deferred by $0.2 million in budget authority. These items involve the foreign military credit sales program and programs in the Departments of Commerce and the Interior.

The details of the deferrals are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *December 12, 1978.*

CONFIRMATIONS

Executive nominations confirmed by the Senate October 15, 1978:

RURAL ELECTRIFICATION ADMINISTRATION

Robert W. Feragen, of Virginia, to be Administrator of the Rural Electrification Administration for a term of 10 years.

RAILROAD RETIREMENT BOARD

Earl Oliver, of Illinois, to be a member of the Railroad Retirement Board for a term of 5 years from August 29, 1978.

SECURITIES INVESTOR PROTECTION CORPORATION

Adoph Philip Schuman, of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1978.

Adolph Philip Schuman, of California, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1981.

NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS

The following-named persons to be members of the Board of Directors of the National Corporation for Housing Partnerships for the terms indicated:

Patricia K. Ritter, of Connecticut, for the term expiring October 27, 1980.

Kennon V. Rothchild, of Minnesota, for the term expiring October 27, 1979.

Herman J. Russell, of Georgia, for the remainder of the term expiring October 27, 1978.

Herman J. Russell, of Georgia, for the term expiring October 27, 1981.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 3066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 3066, in grade as follows:

To be lieutenant general

Maj. Gen. Pat William Crizer, [redacted], U.S. Army.

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. Charles James Simmons, [redacted] (Age 52), Army of the United States (major general, United States Army).

IN THE NAVY

The following-named officers of the U.S. Navy for permanent promotion to the grade of rear admiral, pursuant to title 10, United States Code, sections 5781 and 5791.

MEDICAL CORPS

Almon C. Wilson.
J. William Cox.

SUPPLY CORPS

Shirley D. Frost.
Gerald J. Thompson.

CIVIL ENGINEER CORPS

William M. Zobel.

DENTAL CORPS

John B. Holmes.

IN THE COAST GUARD

Coast Guard nominations beginning Richard B. Cole, to be lieutenant commander, and ending Robert W. Renoud, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Coast Guard nominations beginning Raymond E. Womack, to be captain, and ending Donald G. Kneip, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1978.

IN THE AIR FORCE

Air Force nominations beginning George A. Ferre, to be lieutenant colonel, and ending James C. Kasperbauer, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Air Force nominations beginning Kenneth S. Akom, to be first lieutenant, and ending Kent M. McLean, be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1978.

Air Force nominations beginning William E. Johns, to be captain, and ending Norman V. Blackmon, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 6, 1978.

IN THE ARMY

Army nominations beginning Thomas J. Egan, to be colonel, and ending Phillip E. Hadley, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Army nominations beginning James W. Abbott, to be first lieutenant, and ending Donald R. Weyhrich, to be first lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Army nominations beginning Joe D. Beasley, to be colonel, and ending David Young, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 2, 1978.

IN THE NAVY

Navy nominations beginning Ernesto A. Aban, to be chief warrant officer, W-2, and ending John A. Zembuch, to be chief warrant officer, W-2, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Navy nominations beginning Robert L. Black, to be lieutenant (j.g.), and ending Michael F. Runyan, to be lieutenant (j.g.), which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Navy nominations beginning Anthony P. Belmont, to be captain, and ending Maurice D. Ban, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Navy nominations beginning James F. Wetzel, to be captain, and ending Robert E. Osmon, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 6, 1978.

IN THE MARINE CORPS

Marine Corps nominations beginning Harry F. Barnes, to be colonel, and ending Eva G. Spelter, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 6, 1978.

Marine Corps nominations beginning Kelly R. Alexander, to be second lieutenant, and ending John F. Sherman, to be captain, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on September 25, 1978.

Marine Corps nominations beginning Tommy L. Adair, to be lieutenant colonel, and ending Mary S. League, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on October 6, 1978.

HOUSE OF REPRESENTATIVES—*Saturday, October 14, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*Well done, good and faithful servant * * * enter into the joy of your Lord.*—Matthew 25: 21.

Eternal God, our Father, our minds are restless until they find rest in You and our hearts are empty until they are filled with Your grace. In Your presence life becomes meaningful and with Your spirit our days are filled with goodness. May all our tasks be done as well as we can do them. In so doing may we ever be alive to the truth, alert to the right, and dedicated to You and the best interests of our country.

Bless those who serve in this House that they may serve You and our country wisely and well. Bind them together with one grand purpose to complete the work before them. At the end of the day, and we hope the end of this year's work, may they hear Your words: "Well done, good and faithful servants, enter into the joy of your Lord." To You be the praise and the glory, now and for ever more. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER REGARDING RETIREMENT OF THE CHAPLAIN, REV. EDWARD G. LATCH, D.D.

The SPEAKER. May the Chair make reference to the fact that Rev. Edward Latch, who has been the Chaplain of the House for many years, and whose talents we have all appreciated, is retiring at the end of the Congress and this very well may be his last day here.

On behalf of his colleagues and himself, the Chair wants to state to Dr. Latch that we have enjoyed his beautiful prayers and the manner in which he has conducted himself as an officer of the House of Representatives and that our undying thanks, love, and affection go with him as he leaves to take up a new life in retirement. We hope that his retirement will be a period of great happiness and contentment.

Without objection, all Members may revise and extend their remarks on the subject of the retirement of Dr. Latch.

The Chair now recognizes the minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. I appreciate the Speaker yielding to me and I, too, want to join the Speaker and the other Members of the House in extending our respects, our thanks, and our best wishes to our well-beloved Chaplain, Dr. Latch. He has served this House and its Members beyond the real capabilities of any ordinary human being. We will miss him terribly but we wish him and his good wife the best of everything as they go into their retirement and assure them that they leave many friends behind in the House of Representatives who hope to see them often in the future.

So, God bless you, Dr. Latch.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. May the Chair make the following announcement:

The leadership has known of Dr. Latch's retirement for some time and about 4 or 5 months ago the Chair appointed a committee, headed by the gentleman from Texas, Mr. MAHON, as chairman, the gentleman from Texas, Mr. WRIGHT, and the gentleman from Arizona, Mr. RHODES, as members of that committee. The committee has been diligent and yesterday they made their recommendation as to whom they thought the incoming Chaplain should be, and their recommendation will be presented at the caucuses on both sides when they meet in December, to take effect the first of the year.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on October 14, 1978, the President approved and signed bills of the House of the following titles:

H.R. 12603. An act to amend the Great Lakes Pilotage Act of 1960 in order to relieve the restrictive qualification standards for U.S. registered pilots on the Great Lakes; and

H.R. 13635. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 995) entitled "An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 50. An act to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government;

H.R. 1405. An act for the relief of Jennet Juanita Miller;

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 2756. An act for the relief of Marlene Holder;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 5551. An act to suspend until the close of June 30, 1980, the duty on 2-methyl, 4-chlorophenol;

H.R. 7305. An act to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building";

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 9610. An act for the relief of Raymond Vishnu Clemons;

H.R. 12349. An act to provide for the DuNoir Basin Addition to the Washakie Wilderness;

H.R. 12393. An act to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes; and

H.R. 13500. An act to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes.

The message also announced that the Senate agrees to the amendment of the House to a bill with an amendment of the Senate of the following title:

S. 553. An act to enlarge the boundary of the Cibola National Forest.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 857. An act to amend the act of September 30, 1950 (Public Law 874, 81st Congress) to provide education programs for Native Hawaiians, and for other purposes;

S. 876. An act to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States;

S. 1112. An act for the relief of Gladys Yan Chan Lu;

S. 1403. An act to provide for conveyance of certain lands near Dixon, N. Mex., to the University of New Mexico;

S. 3093. An act to provide for the seizure, forfeiture, and disposition of vehicles used to

illegally transport persons into the United States, and for other purposes.

STATUS OF THE CONGRESSIONAL BUDGET FOR FISCAL YEAR 1979

(Mr. GIAIMO asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GIAIMO. Mr. Speaker, the House Budget Committee has today notified the Speaker of the House on the current level of budget authority and estimated outlays and revenues in relation to the second budget resolution set in place on September 21. Throughout the year this current level will be updated and compared to the second resolution as Congress completes further spending actions.

In order to keep Congress advised of the effect of its spending and revenue actions compared to the overall totals set in the second budget resolution, section 308(b) of the Congressional Budget Act of 1974 requires periodic reports to be issued to the Congress. As chairman of the House Budget Committee, from time to time, I submit to Congress these parliamentarian's status reports reflecting the current level. Under the Budget Act, Congress is prohibited from considering any legislation that would cause the spending total in the second resolution to be exceeded or, the revenue floor to be breached.

Legislation beyond the conference agreement level or enacted since my last report which changes the current level for budget authority, outlays and revenues includes: Appropriations bills for the legislative branch, HUD-Independent agencies, Treasury-Postal Service, State-Justice-Commerce, Agriculture, Interior, and Defense. The public works appropriations bill was vetoed by the President and was sustained by the House on October 5. The scorekeeping rule for vetoed legislation requires that the amounts previously scored as conference action be deleted and shown as only outlays prior. Ten revenue bills totaling $83 million have been acted upon since my last report.

Amounts remaining include $66,913 million in budget authority, $28,375 million in outlays; and $21,817 million in revenues when compared to the aggregates in the second resolution.

A copy of my letter to the Speaker and of the committee's report are attached.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, D.C., October 13, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedures which it had adopted in connection with its responsibilities under Sec. 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending. I am herewith transmitting in the status report under H. Con. Res. 341, the Second Budget Resolution for FY 1978. This report reflects the resolution of September 21, 1977, and estimates of budget authority, outlays and revenues based on all completed action on spending and revenue measures as of close of legislative business, October 12, 1978.

Sincerely,

ROBERT N. GIAIMO,
Chairman.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1979 CONGRESSIONAL BUDGET ADOPTED IN H. CON. RES. 683

(Reflecting completed action as of October 13, 1978)

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	555,650	487,500	448,700
Current level	488,737	459,125	470,517
Amount remaining	66,913	28,375	21,817

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $66,913 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in H. Con. Res. 683 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $28,375 million for fiscal year 1979, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in H. Con. Res. 683 to be exceeded.

REVENUES

Any measure that would result in a revenue loss exceeding $21,817 million for fiscal year 1979, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in H. Con. Res. 683.

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 13, 1978.

Hon. ROBERT N. GIAIMO,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311(b) of the Congressional Budget Act, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays and estimated revenues in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1979 budget. This report for fiscal year 1979 is tabulated as of close of business October 12, 1978.

Changes since my last report are for the Defense Appropriation for 1979 which cleared for the President's signature and the effects of the Supplemental Security Income Program amendments included in H.R. 1337.

[In millions of dollars]

	Budget authority	Outlays	Revenues
1. Enacted	325,743	315,192	470,570
2. Entitlement authority and other mandatory items requiring further appropriation action	34,114	28,576	-------
3. Continuing resolution authority	-------	-------	-------
4. Conference agreements ratified by both Houses	128,880	115,357	−53
Current level	488,737	459,125	470,517
Second concurrent resolution	555,650	487,500	448,700
Amount remaining:			
Under ceiling	66,913	28,375	-------
Over floor	-------	-------	21,817

Sincerely,

ALICE M. RIVLIN,
Director.

PARLIAMENTARIAN STATUS REPORT SUPPORTING DETAIL, FISCAL YEAR 1979 AS OF CLOSE OF BUSINESS, OCT. 12, 1978

[In millions]

	Budget Authority	*Outlays*
I. Enacted:		
Permanent appropriations and trust funds	265,068	243,810
Outlays from balances of prior-year authority associated with appropriation bills not yet included in Parliamentarian Report:		
Public Works	—	4,455
Labor-HEW	—	21,084
Foreign assistance	—	2,623
Offsetting receipts (including amounts generated by current appropriation action)	−57,233	−57,233
Enacted this session:		
Appropriation legislation:		
Urgent supplemental appropriations, Agriculture, 1978 (P.L. 95-330)	—	7
Transportation appropriations, 1979 (P.L. 95-335)	8,802	15,493

	Budget Authority	Outlays
Black lung supplemental appropriations, 1978 (P.L. 95-332)	—	25
Second supplemental appropriations, 1978 (P.L. 95-355)	40	970
Military construction appropriations, 1979 (P.L. 95-374)	3,881	3,155
District of Columbia appropriations, 1979 (P.L. 95-373)	258	287
Legislative branch appropriations, 1979 (P.L. 95-391)	1,118	1,146
HUD, independent agencies appropriations, 1979 (P.L. 95-392)	67,911	44,788
Treasury, Postal Service appropriations, 1979 (P.L. 95-429)	8,983	8,898
State, Justice, Commerce appropriations, 1979 (P.L. 95-431)	8,515	11,111
Agriculture appropriations, 1979 (P.L. 95-448)	18,290	13,738
Other spending legislation:		
Emergency Agricultural Act (P.L. 95-279)	−42	699
Civil Service—survivor annuities (P.L. 95-317)	—	1
Civil Service—restoration of certain survivor annuities (P.L. 95-318)	3	5
Agricultural Credit Act (P.L. 95-334)	—	−16
New York City bonds loan guarantee fee collections (P.L. 95-339)	−3	−3
Outer Continental Shelf Lands Act amendments (P.L. 95-372)	150	150
Civil Service retirement credit for Japanese-Americans interned during World War I (P.L. 95-382)	1	*
Foreign Service Officers—special annuity computation (P.L. 95-426)	1	1
Total, enacted	325,743	315,192
II. Entitlement authority and other mandatory items requiring further appropriation action:		
Function 050:		
Civilian and military pay raises (anticipated supplemental)	2,177	2,120
Survivor benefit reforms, retired military personnel (P.L. 95-397) (anticipated supplemental)	17	17
Function 150:		
Payment to Foreign Service retirement trust fund	25	25
Offsetting receipts	−25	−25
Pay raise limitation: Export-Import Bank	—	1
Function 350:		
Pay raise limitation: Federal Crop Insurance Corporation	—	*
Function 370:		
Pay raise limitation:		
Federal Home Loan Banks	—	1
Federal Savings and Loan Insurance Corporation	—	*
Function 400:		
Pay raise limitation:		
Panama Canal	—	1
St. Lawrence Seaway Corporation	—	*
Function 500:		
Grants to States for social services	2,578	1,903
Human development, social services	[1] 785	[1] 785
Unemployment trust fund, training	—	723
Function 550:		
Retired pay, Public Health Service	65	46
Grants to States for medicaid	11,253	8,036
Payment to health care trust fund	7,764	7,764
Offsetting receipts	−7,764	−7,764
Pay raise limitation, hospital insurance trust fund	—	4
Function 600:		
Food stamp program (anticipated supplemental)	143	143
Food stamps savings (H.R. 1337)	−50	—
Child nutrition programs (anticipated supplemental)	96	—
Payment to social security trust fund (OASDI)	761	761
Offsetting receipts	−761	−761
Supplemental security income program	5,558	5,484
Supplemental security income amendments (H.R. 1337)	60	60
Special benefits for disabled coal miners	1,017	921
Assistance payments program	6,663	5,040
Federal unemployment benefits (FUBA)	885	870
Special benefits, DOL—retirement	3	3
Special benefits, DOL—Federal employees	228	228
Black lung disability trust fund	422	378
Offsetting receipts	−96	−96
Payment to railroad retirement trust fund	313	313
Offsetting receipts	−313	−313
Regional rail transportation protective account	25	25
Pay raise limitation:		
Social security trust fund (OASI)	—	74
Civil Service retirement trust fund	—	1
Railroad retirement trust fund	—	1
Railroad retirement account	—	1
Function 700:		
Veterans compensation and pensions (anticipated supplemental)	267	—
Veterans readjustment benefits (anticipated supplemental)	431	280
Veterans disability benefits increase, H.R. 11886 (anticipated supplemental)	563	520
Housing assistance for disabled veterans, H.R. 12028 (anticipated supplemental)	8	8
Function 750:		
Additional judgeships (H.R. 7843)	43	43
Function 800:		
Payment to civil service trust fund (anticipated supplemental)	301	301
Offsetting receipts	−301	−301
Function 920:		
Allowance for civilian agency pay raise (anticipated supplemental)	973	954
Total, entitlement authority	34,114	28,576
III. Continuing resolution authority	—	—
IV. Conference agreements ratified by both Houses:		
Interior appropriations, 1979 (H.R. 12932)	11,531	9,991
Supplemental security income amendments (H.R. 1337)	—	−50
Defense appropriations, 1979 (H.R. 13635)	117,341	105,408
Public range lands—loss of grazing fees (H.R. 10587)	8	8
Total, conference agreement	128,880	115,357
Total current level, as of October 12, 1978	488,737	459,125
Concurrent resolution of September 23, 1978	555,650	487,500
Amount remaining:		
Over ceiling	—	—
Under ceiling	66,913	28,375

NOTE.—Detail may not add due to rounding.

THE TRAGIC SITUATION EXISTING IN LEBANON TODAY

(Mr. KAZEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. KAZEN. Mr. Speaker, the needless deaths of thousands of innocent civilians in the recent clashes between so-called Syrian peacekeeping forces and the Christian forces are but a stark reminder of the tragic situation which exists in Lebanon today.

Although there prevails a shaky ceasefire, the debris of dozens of prior ceasefires are reminders of the volatile nature of this conflict. There has been and continues to be a need for a dispassionate peacekeeping force in Lebanon because of the continuing crisis which threatens not only the peace but the stability of that nation, and, in fact, of that entire region.

Unfortunately, the Syrians are no longer a disinterested party, and their continued presence no longer serves to further the attainment of peace.

Today, Mr. Speaker, over 223 Members of this House are expressing their deep concern to the President of the United States by sending him a resolution expressing to him the sense of the majority of this House of Representatives that something has to be done immediately to replace the Syrian forces by a United

Nations peacekeeping force, to disarm all factions, and help to plan for the rehabilitation of that once beautiful country, that oldest and once most peaceful democracy in that part of the world.

Mr. Speaker, in order that all Members may know the contents of the letter and the resolution, I ask unanimous consent to include them in the RECORD at this point.

(The letter and resolution to the President of the United States follow:)

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 13, 1978.

Hon. JIMMY CARTER,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: The needless deaths of thousands of innocent civilians in the recent clashes between Syrian peacekeeping forces and the Lebanese Front Forces (Christian forces) are but a stark reminder of the tragic situation that exists in Lebanon today. Although there prevails a shaky cease-fire, the debris of dozens of prior cease-fires are reminders of the volatile nature of the conflict.

There has been and continues to be a need for a dispassionate peacekeeping force in Lebanon, for the continuing crisis threatens not only the peace and stability of that nation, but that of the entire region. Unfortunately, the Syrians are no longer a disinterested party and their continued presence no longer serves to further the attainment of peace.

In the attached resolution, which we all support, we have expressed our deep concern over this highly critical situation and we urge your prompt action. Now is the time to take advantage of the cease-fire, to start the painstaking process to restore a secure, stable and independent Lebanon.

Due to the dwindling time remaining in this session and due to the crowded legislative calendar, it is virtually impossible to seek formal House approval of this resolution. However, the Members of this House who have co-signed this letter stress the importance which the Members of the House attach to this critical issue.

Sincerely,

———, ———.

RESOLUTION

Whereas, it is in the interest of all nations of the region that there exists a secure, independent, and stable Lebanon; and

Whereas, the presence of a dispassionate peacekeeping force in Lebanon would serve the interests of peace; and

Whereas, the continued presence of Syrian Troops in Lebanon no longer serve to further the attainment of peace in that country; and

Whereas, the continuing crisis in Lebanon threatens not only the peace and stability of that nation, but that of the entire region; and

Whereas, the recent tragic clashes between the predominately Syrian "peacekeeping" forces and the Lebanese Front Forces (Christian forces) in Beirut have resulted in the needless deaths of thousands of innocent civilians in Lebanon:

Now, therefore, be it resolved that we the undersigned Members of the House of Representatives urge the President to direct the Secretary of State to:

(1) Seek the withdrawal of all foreign troops from Lebanon with the exception of those specifically mandated by the U.N. peacekeeping effort;

(2) Support the Central Lebanese Government effort to disarm Palestinians and all other armed non-government groups presently operating within Lebanon;

(3) Seek an expanded role for the U.N. peacekeeping mandate to develop a credible trustworthy, and effective deterrence to violence;

(4) Seek the formation of a United Nations Commission to investigate and report upon conditions and developments in Lebanon with the objective of adopting specific steps for the economic and political rehabilitation of Lebanon.

Mr. LAGOMARSINO. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Speaker, I want to commend the gentleman for his statement and to say that I join him in complete support of it.

I think it is certainly time that we devote a lot more attention to the Syrian tragedy than we have in the past.

Mr. Speaker, I hope the resolution will be beneficial and will have some positive results.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. KAZEN. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I share the gentleman's sentiments as a cosigner of the resolution the gentleman referred to.

I think what the gentleman has said is most important, and I hope it will be heeded.

Mr. KAZEN. Mr. Speaker, I thank the gentlewoman from New Jersey (Mrs. FENWICK).

NEED FOR SUNSET LEGISLATION

(Mr. BLANCHARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BLANCHARD. Mr. Speaker, as we finish up the last days of the 95th Congress, I believe the need for sunset legislation is more clear cut and compelling than ever before.

We face a Federal budget that each year increases in size and decreases in flexibility. We face more and more evidence of Government programs that are not working well, or are working at cross-purposes. We face an economy seriously troubled, by both inflation and unemployment. And we face growing public concern about the quality of Government services.

Sunset legislation provides an appropriate response to these concerns, and it is time that we take the appropriation action and enact sunset.

The Senate has already given its endorsement, by an overwhelming vote of approval last Wednesday. It is time now for the House of Representatives to take this proposal seriously and to give it the full consideration that it deserves.

The depth of the problem is clear. Only one-fourth of today's Federal budget is controllable spending, a figure that is half what it was 10 years ago. And we are not only exercising less and less real control over the budget, but we face the prospect of increasingly tough choices about the budget in the years ahead. The Senate Budget Committee calculated a cost of $416 billion for new program initiatives between 1980 and 1983, but only $120 billion in additional revenue to pay for these new initiatives.

While we are obviously unprepared to make future budgetary choices, a close look shows that we are also unprepared in making current budget decisions. Two-thirds of the more than 1,200 Federal programs identified by the General Accounting Office are permanently authorized, meaning that they are never subject to any regular review or reconsideration by Congress. The programs that do expire and need periodic reauthorization—only the remaining one-third—however, usually expire at different times—so that there is little or no consideration of similar programs at the same time or in relation to one another.

This is a situation that cannot continue, and sunset offers us a solid opportunity to insure that it does not. The legislation which I have sponsored in the House and which Senator MUSKIE has sponsored in the Senate would make the structural change that is needed to provide both for long-term planning and for a systematic approach.

There are three basic parts to the sunset proposal:

The first is a regular review and reauthorization of Federal spending programs on a five-Congress, 10-year cycle.

The second is the consideration of programs according to budget function and subfunction so that programs with similar purposes are reviewed together.

The third is the idea of a fixed termination date, basically as an action-forcing mechanism, to guarantee that the review process is taken seriously.

The sunset bill has gone through many carefully considered refinements since it was first introduced 3 years ago. It has been the subject of hearings by four congressional panels: the Senate Governmental Affairs Committee, the Senate Rules Committee, the House Government Operations Committee, and the House Rules Committee.

It has been cosponsored by more than half the Members of the Senate and by 178 Members of the House (whose names I would like to list at the end of my statement).

It has been favorably reported by the two Senate committees and, as I said, just 3 days ago was passed in the Senate by a decisive vote of 87 to 1.

It is unfortunate that the crush of end-of-session business and the urgency of the energy and tax bills have prevented our bringing the sunset bill before the full House of Representatives for a vote before adjournment.

Yet, that being the case, it is now our responsibility to make a firm commitment to sunset. I urge the House to make it one of its top priorities for the 96th Congress to put the sunset concept into action—to give ourselves the budgetary tools we need to govern effectively.

SUNSET COSPONSORS IN THE 95TH CONGRESS—MUSKIE-BLANCHARD BILL

Jerome Ambro, Joseph Ammerman, Glenn Anderson, Mark Andrews, Douglas Applegate, Les AuCoin, Robert Badham, Doug Barnard, Max Baucus, Edward Beard, Robin Beard, Berkley Bedell, Adam Benjamin, Jr., Charles Bennett, Michael Blouin;

David Bonior, John Breaux, William Brodhead, Clair Burgener, J. Herbert Burke, Caldwell Butler, Bruce Caputo, Charles Carney, Bob Carr, John Cavanaugh, Shirley Chisholm, James Cleveland, William Cohen, Cardiss Collins;

Silvio Conte, John Conyers, Jr., Tom Corcoran, Robert Cornell, Baltasar Corrada, John Cunningham, Norman D'Amours, Dan Daniel, Robert Daniel, Jr., Mendal Davis, Ronald Dellums, Norman Dicks, Christopher Dodd, Thomas Downey, Robert Drinan;

John Duncan, Robert Duncan, Robert Edgar, Don Edwards, Mickey Edwards, David Emery, Glenn English, Allen Ertel, Billy Lee Evans, David Evans, Thomas Evans, Millicent Fenwick, Joseph Fisher, Floyd Fithian, James Florio;

Walter Flowers, Thomas Foley, Edwin Forsythe, Bill Frenzel, Don Fuqua, Bob Gammage, Richard Gephardt, Benjamin Gilman, Dan Glickman, William Goodling, Albert Gore, Jr., Willis Gradison, Charles Grassley, Tennyson Guyer;

Mark Hannaford, Tom Harkin, Augustus Hawkins, Margaret Heckler, Cecil Heftel, Elwood Hillis, Kenneth Holland, Harold Hollenbeck, Marjorie Holt, James Howard, Carroll Hubbard, Jerry Huckaby, William Hughes, Richard Ichord;

Andrew Jacobs, Jr., John Jenrette, Jr., Ed Jones, William Ketchum, Martha Keys, Dale Kildee, Thomas Kindness, Peter Kostmayer, John Krebs, John LaFalce, Robert Lagomarsino, Joseph LeFante, Jim Leach, William Lehman;

Elliott Levitas, Jim Lloyd, Marilyn Lloyd, Thomas Luken, Stanley Lundine, Edward Madigan, Andrew Maguire, James Mann, Edward Markey, Marc Marks, Romano Mazzoli, Paul McCloskey, Jr., Matthew McHugh, Barbara Mikulski, Dale Milford, Clarence Miller, George Miller;

Norman Mineta, Donald Mitchell, Joe Moakley, Sonny Montgomery, Austin Murphy, Stephen Neal, Lucien Nedzi, Henry Nowak, James Oberstar, Richard Ottinger, Leon Panetta, Jerry Patterson, Edward Pattison, Donald Pease, Claude Pepper;

Melvin Price, Joel Pritchard, Dan Quayle, Nick Joe Rahall II, Tom Railsback, Matthew Rinaldo, Fred Rooney, Harold Runnels, Marty Russo, Leo Ryan, Jim Santini, Ronald Sarasin, James Scheuer, Patricia Schroeder, John Seiberling;

Philip Sharp, Paul Simon, Gene Snyder, Gladys Noon Spellman, Arlan Stangeland, Tom Steed, Newton Steers, Jr., Dave Stockman, Louis Stokes, Gerry Studds, Bob Stump, Bob Traxler, Paul Trible, Jr., Paul Tsongas, Morris Udall;

Bruce Vento, Douglas Walgren, Robert Walker, William Walsh, William Wampler, Henry Waxman, Theodore Weiss, William Whitehurst, Charles Whitley, Charles Wilson, Larry Winn, Jr., Tim Wirth, Lester Wolff, Gus Yatron, Leo Zeferetti.

WASHINGTON POST DISTORTS POSITION OF CONGRESSMAN GONZALEZ

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, I rise on this occasion because it is the only forum that a Member of the House is afforded under the circumstances. In this morning's newspaper, the Washington Post, reporting in a byline article on the action in the matter of Congressman EDWARD ROYBAL my name was mentioned in one way only, and that was that I also had raised the inference of racial or ethnic discrimination involved in the verdict rendered by the Ethics Committee on the ROYBAL matter. This is simply not true. At no time have I ever raised that issue.

I appeared before the committee. I was the only one who did specifically, and never raised that issue. I never raised the issue, as I delineated during the debate yesterday on the resolution. But I take this occasion because it is the only means I have. I have had experience with the Post in which editorially positions attributed to me have been distorted and misstated and my letters in an effort to seek correction would not even be printed in the Letters to the Editor in the Post. But I do feel that the record must be corrected because at no time privately or publicly or in the forum of the House did I ever inject the ethnic or racial matter. I do not think it was proper. I do not think there was any reason to include it, and for that reason I never raised it.

MORE VOTES—MORE GOVERNMENT

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COLLINS of Texas. Mr. Speaker, this country has more government than the people want, more than they need, and more than they can pay for. What has caused this situation? Let us look at the increasing time Congress spends in session. In 1959–60, the Congress cast a total of 180 votes. The 91st Congress, which covered the years of 1969–70, cast 443 total votes. The current Congress, the 95th, has cast a total of 1,518 votes through October 13 (quorum calls not included).

With frantic activity, Congress is now spending more and more money. Congress has raised spending to $500 billion. Why does Congress stay in near-continual session and pass so many laws? It is said that Congress must provide regulations to cover your school, your home, your food, and your work. Others say it is because of the pressure of the Washington press, so that the journalists will have more to write about. Some others say it is because the Congressmen seek to justify their raised salaries and believe that working more hours in the Capitol will justify their pay.

A Government that takes 42 percent of our people's income is too large and oppressive. Inflation is the Nation's gravest problem and it is caused by congressional overspending with large budget deficits. In Texas we have a saying that "no man's life, liberty, or property is safe while the legislature is in session." How much truer is that saying of Congress.

I have introduced several bills which should be acted upon by the Congress soon. Parkinson's law says work tends to expand to fill available time. My bills apply the wisdom of this law to the Congress.

The first bill would cut the Washington bureaucracy in half by 1982. The second bill establishes a 10-year moratorium on building or leasing any additional Federal office space anywhere within a 50-mile radius of Washington. The third bill would cut legislation through a 50-percent reduction in the size of the congressional committee staffs. Too many new laws are written by committee staff to create work for themselves. My fourth bill limits the time the Congress can remain in session.

When Congress was in session in 1960, the U.S. Government was spending $98.2 billion, but with all the meeting and voting in 1978, the Congress authorized $500 billion.

Congressmen must spend more time back home in their districts. A big responsibility of all Congressmen is to actually see the cost of Government regulations, feel the headaches caused by excessive Government regulations, and learn that Thomas Jefferson was right when he said: "That government is best which governs least."

ACKNOWLEDGMENT OF GREAT CONTRIBUTIONS BY FAMILY TO A MEMBER'S EFFORT

(Mr. GARY A. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARY A. MYERS. Mr. Speaker, in this, my last legislative day as a Member of the U.S. House of Representatives I wish to proudly acknowledge the great contributions to my efforts as the Representative of the people in Pennsylvania's 25th District made by the sacrifices of my family, Elaine, Michele, and Mark.

VALIDATING CONVEYANCE OF CERTAIN LAND IN THE STATE OF CALIFORNIA BY SOUTHERN PACIFIC TRANSPORTATION CO.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7971), to validate the conveyance of certain land in the State of California by the Southern Pacific Transportation Co., with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

TITLE I—TO VALIDATE THE CONVEYANCE OF CERTAIN LAND IN THE STATE OF CALIFORNIA BY THE SOUTHERN PACIFIC TRANSPORTATION COMPANY

Page 1, line 3, strike out "That, subject to section 3," and insert:

"SEC. 101. Subject to section 103,".

Page 1, line 5, strike out "2," and insert "102,".

Page 2, line 9, strike out "2." and insert "102.".

Page 12, line 3, strike out "3." and insert "103.".

Page 13, after line 6, insert:

TITLE II—TO CONFIRM A CONVEYANCE OF CERTAIN REAL PROPERTY BY THE SOUTHERN PACIFIC RAILROAD COMPANY TO M. L. WICKS

SEC. 201. The conveyance described in section 202(a) of this Act involving certain real property in Los Angeles County, California, is hereby confirmed in the successors in interest to M. L. Wicks, the grantee in such conveyance, with respect to all interests of

the United States in the rights to the real property described in section 202(b) of this Act. Portions of the real property described in such section 202(b) formed part of the right-of-way granted to the Southern Pacific Railroad Company, a corporation, by the United States by the Act entitled "An Act to incorporate the Texas Pacific Railroad Company, and to and in the Construction of its Road, and for other purposes", approved March 3, 1871 (16 Stat. 573).

SEC. 202. (a) The conveyance confirmed by this Act was made by a deed dated May 4, 1887, by the Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, Trustees, to M. L. Wicks and recorded on May 9, 1887, in the office of the county recorder of Los Angeles County, in the Book of Official Records, Book 222 at page 172.

(b) The real property referred to in the first section of this Act is certain real property in the northwest quarter of the northwest quarter of section 15, township 7 north, range 12 west, San Bernardino Meridian, in Los Angeles County, California, more particularly described as follows:

Beginning at the intersection of the easterly line of Sierra Highway (formerly Antelope Avenue) 90 feet wide as shown on county surveyor's map numbered 8200 on file in the office of the surveyor of said county with the easterly prolongation of the northerly line of Jackman Street (formerly 8th Street); thence easterly along said prolongation to the westerly line of the right-of-way, 100 feet wide, as reserved in that certain deed dated May 4, 1887, from Southern Pacific Railroad Company, a corporation, and D. O. Mills and Gerrit L. Lansing, trustees to M. L. Wicks, recorded May 9, 1887, in Book 222 at page 172, official records of said county; thence northerly along said westerly right-of-way line 624.34 feet more or less to the southerly line of Avenue I (formerly Sierra Madre Road); thence westerly along said southerly line of Avenue I to the easterly line of said Sierra Highway; thence southerly along said easterly line of Sierra Highway to the point of beginning.

SEC. 203. (a) Nothing in this Act shall—

(1) diminish the right-of-way referred to in the first section of this Act to a width of less than 50 feet on each side of the center of the main tract or tracts established and maintained by the Southern Pacific Company on the date of the enactment of this Act; or

(2) validate or confirm any right or title to, or interest in, the land referred to in the first section of this Act arising out of adverse possession, prescription, or abandonment, and not confirmed by conveyance made by the Southern Pacific Company before the date of the enactment of this Act.

(b) There is reserved to the United States all oil, coal, or other minerals in the land referred to in the first section of this Act, together with the right to prospect for, mine, and remove such oil, coal, or other minerals under such rules and regulations as the Secretary of the Interior may prescribe.

Page 13, after line 6, insert:

TITLE III—TO PROVIDE FOR THE CONVEYANCE OF CERTAIN PUBLIC LANDS IN MONTANA TO THE OCCUPANTS OF THE LAND

SEC. 301. The Secretary of the Interior is hereby authorized to convey to Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, all right, title, and interest of the United States, except right, title, and interest in deposits of all minerals, in lands identified as tracts numbered 1, 2, and 3 in that part of the west half, southwest quarter of the northwest quarter, section 2, township 10 north, range 1 west, Montana principal meridian Lewis and Clark County, Montana, lying east of the "Erroneous Survey Line", lying north of the county road right-of-way as shown on Bureau of Reclamation drawing numbered 296–604–170, dated September 24, 1971, and as determined available for sale by the Secretary of the Interior. Such conveyance shall be made only upon applications by such aforementioned individuals therefor within six months after the date of this Act, and upon payment of the appraised fair market value of the land as of the date of sale plus the administrative costs, including costs of a land survey, of making the conveyance, as determined by the Secretary of the Interior within one year after notification by the Secretary of the Interior of the amount due. In determining the fair market value of the land, the Secretary of the Interior shall not include any values added to the land by Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest, or their heirs. Any conveyance made pursuant to this Act shall reserve to the United States all deposits of all minerals in the lands together with the right to mine and remove the same, under applicable laws and regulations established by the Secretary of the Interior.

SEC. 302. Acceptance of Francis T. Oleson and Zona I. Oleson, husband and wife; Dan Raymond and Elizabeth Louise Raymond, husband and wife; and Edward J. Bonderenko or their successors in interest of any conveyance made hereunder shall constitute a waiver and release by them of any and all claims against the United States arising out of the operation, maintenance, or construction of the Canyon Ferry Unit, Pick-Sloan Missouri Basin program, as now or hereafter authorized.

Page 13, after line 6, insert:

TITLE IV—TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO A TRACT OF LAND LOCATED IN THE FAIRBANKS RECORDING DISTRICT, STATE OF ALASKA, TO THE FAIRBANKS NORTH STAR BOROUGH

SEC. 401. The Secretary of the Interior is authorized to convey all right, title, and interest of the United States in and to the following described real property, located in the Fairbanks Recording District, to the Fairbanks North Star Borough without payment of consideration:

THE WEST PORTION OF BLOCK 209

A tract of land situated in the northwest quarter section 15, township 1 south, range 1 west, F.B. and M., also known as United States Survey 849 of the Homestead Claim of Stacia Rickert described as follows:

Commencing at corner number 3, United States Survey Numbered 849, thence south 89 degrees 57 minutes 14 seconds east, a distance of 2,300 feet, more or less; along a southerly line of said survey numbered 849 which lies between corners numbered 2 and 3; thence south 89 degrees 57 minutes 09 seconds east, a distance of 30 feet, more or less; thence north 0 degree 56 minutes 34 seconds west, a distance of 10 feet, more or less; to the true point of beginning; thence north 0 degree 56 minutes 34 seconds west, a distance of 337 feet, more or less; thence south 89 degrees 52 minutes 43 seconds east, a distance of 518 feet, more or less; thence south 0 degree 07 minutes 17 seconds west, a distance of 337 feet, more or less; thence north 89 degrees 57 minutes 09 seconds west, a distance of 510 feet, more or less, to the true point of beginning, and containing 173,218 square feet, more or less.

Page 13, after line 6, insert:

TITLE V—PROVIDING FOR REINSTATEMENT AND VALIDATION OF UNITED STATES OIL AND GAS LEASES NUMBERED U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, U–12881, AND U–13666

SEC. 501. Notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, subject to the requirements of section 502 of this Act:

(a) United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, and U–12881 shall be held not to have terminated by operation of law or otherwise on December 1, 1975, but shall be deemed to be in full force and effect for the term of said leases provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such leases.

(b) United States oil and gas lease numered U–13666 shall be held not to have terminated by operation of law, or otherwise on April 1, 1976, and the term of said lease is hereby extended to a date twenty-four months after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such lease.

SEC. 502. Within thirty days after the effective date of this Act, the Secretary shall give notice to the last record holder of the oil and gas leases listed in the first section of this Act of the amount of unpaid rental then accrued under said leases or that would have accrued had the leases not terminated. Within thirty days after receipt of such written notice, the last record holder of such leases, their successors or assigns, shall tender payment of the amount of rental to the Secretary. If payment is not made within the required time, the provisions of this Act shall terminate and be of no force and effect with respect to those leases for which payment was not made.

Page 13 after line 6, insert:

TITLE VI—FOR THE RELIEF OF MARIAN LAW SHALE HOLLOWAY, ADELINE MARY GILL CHARLES, AND ELIZA SHALE CARSTENS

SEC. 601. (a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay, out of any money appropriated to the Department of the Interior, to Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or to their estates) such sums as he determines each is legally and equitably entitled to as compensation for losses (including reasonable attorney fees) resulting from his erroneous approval of purported conveyances of parts or all of lot 6, section 35, township 24 north, range 13 west, Willamette meridian, containing eighteen and seventy-five hundredths acres, more or less, according to the Government survey thereof, such property being a portion of the allotment of Hattie Smith, deceased, Quinault allottee numbered 420, and which is not subject to homestead entry. Such property is situated in Jefferson County, State of Washington on the Quinault Indian Reservation.

(b) The payment and acceptance of such compensation pursuant to this Act shall be in full satisfaction of all claims (1) of the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens, against the United States or any officer or employee thereof arising out of or in connection with the purported conveyances of such property or portions thereof approved by or on behalf of the Secretary of the Interior on February 19, 1951, September 3, 1953, and April 19, 1955, and (2) by Adeline Mary Gill Charles and Eliza Shale Carstens against

Marian Law Shale Holloway arising out of or in connection with the purported conveyances of portions of such property approved by or on behalf of the Secretary of the Interior on September 3, 1953, and April 19, 1955.

(c) As a condition precedent to receiving payment of such compensation pursuant to this Act, the said Marian Law Shale Holloway, Adeline Mary Gill Charles, and Eliza Shale Carstens (or the executors of their estates) shall execute such releases and other documents as the Secretary of the Interior determines are necessary to fulfill the purpose of this Act and remove any cloud on the title of such property.

SEC. 602. No part of the amount appropriated by this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

Page 13, after line 6, insert:

TITLE VII—GOSPEL HUMP AREA BOUNDARY CHANGES

SEC. 701. Section 4(a)(1) of the Act of February 24, 1978 (16 U.S.C. 1132, Public Law 95-237) is amended by striking the words "January 1978" and inserting in lieu thereof "September 1978".

Page 13, after line 6, insert:

TITLE VIII—KALMIOPSIS WILDERNESS MAP DESIGNATION

SEC. 801. Section 3 of the Endangered American Wilderness Act of 1978, Public Law 95-237 (92 Stat. 43) is amended by adding a new subsection (f) as follows:

"(f) The map referenced in paragraph (a) of this section, depicting the boundaries of the Kalmiopsis Wilderness Additions is superseded by a map entitled 'Kalmiopsis Wilderness Additions—Proposed and dated October 1978, which is on file and available for public inspection in the office of the Chief of the Forest Service.".

Page 13, after line 6, insert:

TITLE IX—FRYINGPAN-ARKANSAS RECLAMATION PROJECT

SEC. 901. Subsection (a) of section 1 of the Act of August 16, 1962 (76 Stat. 389; 43 U.S.C. 616 et seq.), is amended by inserting after the words "Ruedi Dam and Reservoir, Colorado," the words "and as further modified and described in the description of the proposal contained in the final environmental statement for said project, dated April 16, 1975,".

SEC. 902. Subsection (e) of section 5 of such Act is amended by inserting after the word "therein" a comma and the words "including those laws of the State of Colorado relating to the establishment of minimum streamflows for the reasonable protection of the natural environment, to the extent that such laws are not inconsistent with the operating principles identified in subsection 3 (a) of this Act".

SEC. 903. Subsection (a) of section 3 of such Act is amended by inserting after the word "Congress" a semicolon and the words "and shall be further operated pursuant to diversion rates established under the laws of the State of Colorado: *Provided*, That the rate of project diversions from the Hunter Creek watershed shall not exceed an aggregate of 270 cubic feet of water per second of time. Waters so diverted may be utilized for all authorized project purposes as set forth in section 1(a) of this Act. Such waters, exclusive of the amount diverted for Roaring Fork exchanges provided for in subparagraph 9(1)(c) and paragraph 11 of the above referenced operating principles shall become part of the project water supply as limited by subparagraph 9(1)(a) of the above referenced operating principles. No diversions shall be made from the Hunter Creek watershed which will reduce the remaining streamflows at the points of diversion to less than 4 cubic feet per second on No Name Creek, 5 cubic feet per second on Midway Creek, and 12 cubic feet per second on Hunter Creek".

Page 13, line 6, insert:

TITLE X—TO CONVEY CERTAIN GEOTHERMAL RESOURCES TO THE CITY OF BOISE, IDAHO

SEC. 1001(a). The Congress hereby authorizes and directs that the rights to the geothermal resources, including mineral present in the geothermal fluid, presently vested in the United States of America in real property designated as Tract 37 (contained in secs. 2 and 11) consisting of 4.13 acres, more or less; Tract 38 (contained in secs. 1, 2, 11 and 12) consisting of 449.16 acres more or less; Tract 39 (contained in sec. 2) consisting of 14.64 acres, more or less; and Tract 40 (contained in sec. 11) consisting of 4.95 acres, more or less: all in T. 3N., R. 2E., B.M.; together with a parcel described as follows: Commencing at the southwest corner of the Old Fort Boise Military Reservation, thence north seventy degrees zero minutes east one thousand four utes east six hundred and twenty-seven feet to the true point of beginning; thence the following courses and distances: South eighty-seven degrees eight minutes west six hundred ninety-six and five-tenths feet; thence north twenty-one degrees two minutes west five hundred and thirty-two feet; thence south sixty-nine degrees four minutes west twenty-one and nine-tenths feet; thence north twenty-two degrees forty minutes west eighty-six and three-tenths feet; thence north eighty-four degrees fifty minutes east nine hundred ninety-three and six-tenths feet; thence south four degrees thirty-two minutes west six hundred twenty-four and ninety-five one-hundredths feet to the point of beginning; consisting of 11.53 acres, more or less (contained in sec. 11, T. N., R. 2E., B.M.); be transferred by the Secretary of the Interior in fee to the City of Boise upon payment by the City of Boise of the fair market value, as determined by the Secretary, of the rights conveyed.

(b). Development of geothermal resources pursuant to this Act shall not be grounds for the Secretary of the Interior to assert the reversionary interest of the United States in the subject lands.

SEC. 1002. Development of the geothermal resources conveyed by this Act shall not unreasonably interfere with development of other mineral interests retained by the United States. The City of Boise shall permit the United States, its lessees and agents access for exploration of mineral resources not conveyed to the City.

Page 13, after line 6, insert:

TITLE XI—TO ADD CERTAIN LANDS TO THE TARGHEE NATIONAL FOREST, IDAHO

SEC. 1101. The boundaries of the Targhee National Forest in Idaho are hereby modified to include within said national forest the following described lands: S½SW¼; W½ SE¼; and SE¼NE¼, all in Section 26, Township 13 North, Range 42 East, Boise Meridian, in Fremont Country, Idaho.

Page 13, after line 6, insert:

TITLE XII—GRAND CANYON NATIONAL PARK

"The Act of February 26, 1916, 40 Stat. 1177 (16 U.S.C. 222) is amended by adding the following sentence: 'Under such terms and conditions as he deems advisable and consistent with the requirements of Section 483a of Title 31 hereof, the Secretary is authorized, without derogation of any of the water rights of the United States and notwithstanding any provision of law to the contrary, to sell by contract water located within Grand Canyon National Park for the use of customers within Tusayan, Arizona to a nonprofit entity authorized to receive and distribute water within Tusayan, Arizona by the laws of the State of Arizona, upon his determination that such sale is not detrimental to the protection of the resources of Grand Canyon National Park or its visitors and that appropriate measures to provide for such protection, including a right of immediate termination, are included in the transaction.'"

Amend the title so as to read: "An Act to validate certain land conveyances, and for other purposes.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LAGOMARSINO. Reserving the right to object, and I reserve the right to object only to ask the gentleman from Arizona if he can assure the House that all of the Members who have an interest in this legislation are in support, or at least have been advised and are aware of the provisions of the bill.

Mr. UDALL. If the gentleman will yield, we tried to carefully clear this legislation with all Members affected. The majority and minority staffs have been working closely on this. One of the Senate amendments affects the gentleman from Colorado (Mr. JOHNSON) and he has been anxiously awaiting action on it. In the case of the other Members, I think the necessary clearance has been had.

Mr. LAGOMARSINO. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I would ask my colleague, the gentleman from Arizona, who has a long record of being straight and aboveboard, whether or not there are any Senate amendments to any of these bills to which the gentleman is going to ask unanimous consent to consider, that would be nongermane or what would be called outside the basic purpose.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, technically none of these amendments to the bill are technically germane to the particular California land conveyance. This is kind of a cleanup between our committee and the Senate committee. Four of them deal with minor land conveyances similar to this one. One provides to reinstate the oil and gas lease. We checked that out and it is entitled to reinstatement. These are all matters that have been considered and have passed the House in another form.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I understand what my colleagues is saying. He is usually open and forthright.

What I really mean is are there any amendments that are totally outside the basic purpose?

Mr. UDALL. No, there are none.

Mr. ASHBROOK. Mr. Speaker, I with-

draw my reservation of objection and thank the gentleman.

The SPEAKER. Is there objection to the request of the gentleman from Arizona (Mr. UDALL).

There was no objection.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the desk H.R. 7971 as amended by the Senate and concur in the Senate amendment with amendments.

The Senate amended H.R. 7971 by incorporating 12 noncontroversial measures into 1 omnibus bill. Five of these provisions have passed the House as separate bills. These are: First, validating the conveyance of certain land in California by the Southern Pacific Transportation Co., (H.R. 7971); second, confirming a conveyance of certain real property by the Southern Pacific Railroad Co., to M. L. Wicks (H.R. 7588); third, providing for the conveyance of certain public lands in Montana to the occupants of the land (H.R. 7849); fourth, authorizing the Secretary of Interior to convey a tract of land in Fairbanks Recording District, Alaska, to the Fairbanks North Star Borough (H.R. 6997); and fifth, providing for the reinstatement and validation of certain U.S. oil and gas leases in Utah (H.R. 6463).

The remaining issues have not passed the House, but are supported by the administration, and I believe merit our support in this session.

Title VI authorizes and directs the Secretary of Interior to pay, out of money appropriated to the Department, to certain named individuals such sums as he determines each is legally and equitably entitled to as compensation for losses resulting from the Secretary's "erroneous approval of purported conveyances" of some 18 acres of trust land located on the Quinault Indian Reservation in Washington. The administration recommends enactment of this provision.

Title VII amends that portion of the Endangered American Wilderness Act dealing with the Gospel-Hump area in north-central Idaho. This title changes the map reference from "January 1978" to "September 1978" in order to correctly reflect the intent that all planned and engineered timber sales along the western boundary of the wilderness area; the Bullion mine, mine shaft, and surrounding lands; and all private lands and patented mining claims in the Buffalo Hump mining region were to be excluded from the wilderness area. In addition, two timber sales were to be located in the "development areas" so that they might be made available immediately for sale. The preliminary maps did not accurately reflect those intentions thereby necessitating a new map. According to the Forest Service which assisted with the new map, the boundary now accurately reflects the original intent.

Title VIII also amends the Endangered American Wilderness Act in regard to the Kalmiopsis Wilderness. The minor boundary adjustment along the north side of the expanded wilderness is intended to insure that this boundary conforms to the hydrologic divide.

Title IX amends the act of August 16, 1962, which authorized the construction, operation, and maintenance by the Secretary of Interior of the Fryingpan-Arkansas declamation project in Colorado. The purpose of this title is to clarify the authorizing act in order that the Fryingpan-Arkansas project may be operated in accordance with applicable operating principles and State decrees.

Three amendments were added on the Senate floor which are supported by the administration. They are: to convey approximately 400 acres of geothermal resources to the city of Boise, Idaho; to add approximately 200 acres of land to the Targhee National Forest in Idaho to facilitate exchanges the Forest Service wishes to make; and to authorize the Secretary of the Interior make water available at a reasonable cost to Tustyan, Ariz.—a small isolated community near the Grand Canyon National Park.

Mr. Speaker, I urge my colleagues to support H.R. 7971 as amended by the Senate.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona?

There was no objection?

GREAT BEAR WILDERNESS

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 13972) to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 6, strike out "September" and insert "October".

Page 1, line 10, strike out "ninety thousand, five" and insert "eighty-five thousand, seven".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendments, and that they be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, and I reserve the right again only to ask the gentleman from Arizona if he will explain to us what the Senate amendments do to the bill?

Mr. UDALL. Mr. Speaker, the Senate version of the bill differs from the House version in that it reduces the acreage involved by about 4,800 acres. The amendments are technical changes in the bill which accomplishes this objective.

The gentleman from Montana (Mr. BAUCUS) has cleared this and he has no objection.

Mr. LAGOMARSINO. Mr. Speaker, further reserving the right to object, is it correct that the other gentleman from Montana (Mr. MARLENEE) is also in support of the bill?

Mr. UDALL. There is no problem on the other side.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

● Mr. BAUCUS. Mr. Speaker, for the second time in as many weeks, the House of Representatives has before it H.R. 13972, a proposal to designate as wilderness the Great Bear area of northwestern Montana.

I fully supported the House-passed version of the Great Bear wilderness bill. In my judgment, it reflected legitimate and documented criticism of the original Forest Service proposal. The amendments adopted by the House Interior Committee resulted after nearly 9 hours of Sunday hearings in Choteau, Mont.

I reluctantly accept the Senate amendments to the Great Bear proposal. I was not fully apprised of the specific Senate amendments or the total acreage deleted until the Senate had completed its consideration of the legislation. It is my hope that the 3,600 acres deleted by the Senate in the Morrison and Crescent Creek areas will not be forgotten. My greatest concern is that the integrity of the adjacent wilderness lands will not be undermined. Because the Senate boundary in the Morrison Creek area will be more difficult to manage, I urge the Forest Service to make a concerted effort to clearly mark the wilderness boundary in this area.

I urge my colleagues to support the Great Bear proposal in its present form. Wilderness designation for this area has been advocated for nearly two decades. The time has come to include this area into the National Wilderness Preservation System. I urge unanimous passage of the Great Bear Wilderness Act.●

The SPEAKER. Is there objection to the request of the gentleman from Arizona to dispense with the reading of the Senate amendments?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona (Mr. UDALL)?

There was no objection.

A motion to reconsider was laid on the table.

CIBOLA NATIONAL FOREST BOUNDARY

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 553) to enlarge the boundary of the Cibola National Forest, with a Senate amendment to the House amendment thereto and concur in the Senate amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Strike out all after the enacting clause, and insert:

That the exterior boundary of the Cibola National Forest in New Mexico be modified to include the following described lands:

A tract of land containing that part of the land described in the Elena Gallegos Grant, illustrated on maps on file with the Chief of the Forest Service, Department of Agriculture and the Director of the Bureau of Land Management, Department of the Interior, lying east of a line described as beginning at the closing corner between sections 35 and 36 of township 11 north, range 4 east on the south boundary of said grant and extending north 2,700 feet; thence east 1,515 feet; thence north 1,260 feet; thence

east 755 feet; thence north 11,386 feet; thence south 89 degrees 56 minutes 15 seconds west, 2,286.41 feet; thence north 0 degrees 3 minutes 45 seconds west, 4,164.89 feet to the closing corner between section 13 and 14 on the north boundary of said grant of said township; thence south 81 degrees 30 minutes east, 2,316.42 feet along the boundary of said grant to a point on the north boundary of said grant, which point lies north 81 degrees 30 minutes west, approximately 150 feet from the 7½-mile corner of said grant; consisting of 7,461.34 acres, more or less: *Provided, however,* That the tract of land described in this section shall not be included within the Cibola National Forest until the Secretary of Agriculture determines that the City of Albuquerque, New Mexico, has acquired a tract of land containing approximately 640 acres located immediately to the west of such tract for open space or city park use.

SEC. 2. For the purposes of section 7 of the Act of September 3, 1964 (78 Stat. 903, as amended; 16 U.S.C. 4601–9) the boundary of the Cibola National Forest, as modified by section 1 of this Act, shall be treated as if it were the boundary of that Forest on January 1, 1965.

SEC. 3. (a) Subject to valid existing rights, lands owned by the United States in the tracts of land described in section 1 are hereby added to the Cibola National Forest and shall be admfnistered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(b) Land acquired by the Secretary of the Interior within the boundaries of Cibola National Forest as extended by this Act shall be transferred to the Secretary of Agriculture, shall be added to the Cibola National Forest, and shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

SEC. 4. Effective October 1, 1979, there are authorized to be appropriated not more than $12,000,000 from the Land and Water Conservation Fund for the acquisition of lands added to the Cibola National Forest by section 1 of this Act.

Amend the title so as to read: "An Act to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes.".

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the Senate amendment to the House amendment, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, will the gentleman explain the changes that have been made in this bill?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this is a bill in which the gentleman from New Mexico (Mr. LUJAN) is vitally interested. He has advised that he is willing to compromise and does not object to the Senate amendment. The Senate amendment deletes section 2 of the House version of the bill. That section designated an area of 6,423 acres as "intended wilderness" which would, when acquired, become a part of the Sandia Mountain Wilderness Area.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona to dispense with further reading of the Senate amendment to the House amendment?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

LANDS FOR THE MILLE LACS BAND OF THE MINNESOTA CHIPPEWA INDIANS

Mr. UDALL. Mr. Speaker, I call up the bill (H.R. 14224) to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians, and ask unanimous consent for its immediate consideration.

The SPEAKER. Pursuant to the rule the Committee on Interior and Insular Affairs is discharged from further consideration of the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. LAGOMARSINO. Mr. Speaker, reserving the right to object, will the gentleman explain what is involved in this legislation?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this bill is designed to remedy a specific problem which has resulted from a mistake made back in the 1800's. Briefly, this is what apparently happened. The United States transferred certain lands to the State of Minnesota. They were subsequently sold to private parties and remain in private ownership. In the meantime, the Congress enacted legislation reserving the parcel involved in this bill as an Indian burial ground, but no action was taken to quiet the title to the land. Now, there is a cloud on the title which has hampered the owner's ability to use his land. This bill will provide the necessary authority to right that wrong.

Mr. LAGOMARSINO. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) the Secretary of the Interior is authorized and directed to acquire by purchase the following described lands, together with such lands adjacent thereto as the Secretary may determine necessary: Government lot 4, section 28, township 43 north, range 27 west, fourth principal meridian, Mille Lacs County, Minnesota.

(b) Lands acquired by the Secretary pursuant to subsection (a) shall be held by the United States in trust for, and for the benefit and use of, the Mille Lacs Band of the Minnesota Chippewa Indians.

SEC. 2. There is authorized to be appropriated such sum as may be necessary to carry out the purposes of this Act. The purchase price of said lands shall be an amount equal to their fair market value.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: Page 1, delete all of lines 4 through 6 and insert in lieu thereof: "ized, if he finds legal title to such lands to be in private ownership, to acquire by purchase the following described lands: Government Lot 4,".

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the four bills just considered by unanimous consent.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, D.C.,
October 14, 1978.

Hon. THOMAS P. O'NEILL, Jr.,
The Speaker, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I have the honor to transmit herewith a sealed envelope from the White House, received in the Clerk's Office at 9:05 a.m., on Saturday, October 14, 1978, and said to contain a message by the President wherein he transmits the annual reports of the six river basin commissions (Ohio, Missouri, Upper Mississippi, New England, Great Lakes, and Pacific Northwest).

With kind regards, I am,

Sincerely,

EDMUND L. HENSHAW, Jr., *Clerk, House of Representatives.*

ANNUAL REPORTS OF THE SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interior and Insular Affairs:

To the Congress of the United States:

I hereby transmit to the Congress the annual reports of the six river basin commissions, as required under section 204 (2) of the Water Resources Planning Act of 1965.

JIMMY CARTER.

THE WHITE HOUSE, *October 14, 1978.*

THIRTEENTH ANNUAL REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

I am pleased to transmit to you the 13th Annual Report of the Department of Housing and Urban Development. It contains a narrative record of major activities under all of the programs administered by HUD during 1977.

JIMMY CARTER.

THE WHITE HOUSE, *October 14, 1978.*

ANTARCTIC CONSERVATION ACT OF 1978

Mr. BOWEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7749) to implement the agreed measures for the conservation of Antarctic fauna and flora, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 24, after line 24, insert:

SEC. 14. (a) The first section of the Fishermen's Protective Act of 1967 (22 U.S.C. 1971) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other law, the documentation or certification of any such vessel shall not be considered to be affected, for the purposes of this Act, in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the fishery conservation zone (as defined in section 3(8) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802(8))), the vessel is commanded by other than a citizen of the United States.".

(b) The amendment made by subsection (a) shall take effect January 1, 1978.

Page 1, strike out lines 3 to 7, inclusive, and insert:

That section 2 of such Act of March 16, 1934 (16".

Page 2, line 22, strike out "(a)".

Page 3, strike out lines 10 to 18, inclusive.

Mr. BOWEN (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I do so only so that the gentleman can explain the Senate amendment that has been adopted to this House-passed bill.

I would ask my colleague if I am correct that this amendment is purely to straighten out an argument between the State Department and the Coast Guard on the documentation of vessels as they apply to the Fishermen's Protective Act.

Mr. BOWEN. Mr. Speaker, if the gentleman will yield, that is correct. I will be glad to answer the question posed by the gentleman from New Jersey (Mr. (FORSYTHE), the ranking minority member on the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

Mr. Speaker, H.R. 7749 passed the House by a voice vote on September 25, 1978, under suspension of the rules.

H.R. 7749 was jointly handled by the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology.

The purpose of H.R. 7749 is to provide for the conservation and protection of the animals and plants in Antarctica and of the ecosystems upon which they depend consistent with the provisions of the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora.

In accomplishing this purpose, H.R. 7749 directs the Director of the National Science Foundation to establish a permit system to control the taking of plants and animals native to Antarctica, the introduction of nonnative species into Antarctica, the disposal of pollutants in Antarctica, and the activities of U.S. citizens in certain areas of Antarctica. The cost of implementing the legislation is estimated to be $15,000 in the first year and $5,000 per year thereafter.

Mr. Speaker, H.R. 7749, passed the Senate, with an amendment, on October 13. As it passed the Senate, it retained the exact language of the House bill and added new language to amend the Fishermen's Protective Act, an act which falls under the jurisdiction of the Committee on Merchant Marine and Fisheries.

Mr. Speaker, since January 1978, approximately 15 shrimp vessels owned by citizens of the United States have been seized by the country of Brazil while supposedly fishing within the territorial waters of that nation under conitions which are not recognized by the United States. The Department of State, which is required to make a certification to the Secretary of Treasury as to the amount of fines, fees, and other direct charges actually paid by such vessel owners to obtain release of these vessels has raised a question as to whether the vessel owners are entitled to be reimbursed since at the time of the seizure of such vessels they were commanded by foreign captains rather than by U.S. citizens.

For the purposes of the Fishermen's Protective Act, the term "vessel of the United States" is defined to mean any private vessel documented or certificated under the laws of the United States. This definition makes it clear that so long as such a vessel is owned by a U.S. citizen and is documented or certificated then it should be reimbursed for any fines and fees paid by such owner unless the documentation or certification of such vessel had been revoked prior to the time of any seizure. Since none of such vessels seized by Brazil had had its documentation revoked, the committee is of the opinion that their documentations are still valid, and that the owners of such vessels are entitled to be reimbursed according to the provisions of the Fishermen's Protective Act.

However, in view of the fact there is still some question on the part of the Department of State as to whether a vessel is still considered to be documented for such purposes when it has on board a foreign captain, the language of the amendment to the Fishermen's Protective Act will make it clear that the documentation or certification of any vessel of the United States should not be considered to be affected in any manner or to any extent if at any time during any voyage for the purpose of fishing beyond the 200-mile fishery zone of the United States the U.S. vessel is commanded by other than a U.S. citizen.

The amendment would take effect January 1, 1978, and it would have the effect of providing for reimbursement of all future claims submitted under the act which fall within the purview of this section and of all prior claims which originated after January 1, 1978. It is estimated that the total claims involving the 15 vessels seized by Brazil range between $200,000 and $300,000, which would include the payments to be made under section 3 as well as the payments to be made under the section 7 insurance program.

Mr. Speaker, the amendment added by the Senate to H.R. 7749 has been cleared with representatives of the Department of State, the maritime unions, and other interested parties. It would result in no additional cost to the Federal Government, and I urge prompt passage of the bill, as amended.

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi that the Senate amendment be considered as read and printed in the RECORD?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 7749.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

DUCK STAMP ACT AMENDMENTS

Mr. BOWEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13372) to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, strike out lines 3 to 7, inclusive, and insert "That section 2 of such Act of March 16, 1934 (16".

Page 2, line 22, strike out "(a)".

Page 3, strike out lines 10 to 18, inclusive.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. FORSYTHE. Mr. Speaker, reserving the right to object, I do so in order that we can explain the Senate amendments to this bill.

As I understand it, these amendments really just lower the application of the duck stamps as it applies to ages below

16. I would ask the gentleman from Mississippi (Mr. BOWEN) if he would care to explain this further.

Mr. BOWEN. If the gentleman will yield, I will be happy to answer the question of the gentleman from New Jersey by saying that H.R. 13372 passed the House by voice vote on September 25, 1978, under Suspension of the Rules.

Mr. Speaker, the purpose of H.R. 13372 is to raise additional funds for acquiring this habitat for migratory waterfowl. In accomplishing this purpose, H.R. 13372, as it passed the House, would decrease from, 16 to 14 years, the minimum age of a person required to possess a valid duck stamp when hunting for migratory waterfowl. Also, it would authorize an increase in the price of the duck stamp from its present price of $5 to $7.50, whenever the Secretary of the Interior determines that all sums in the migratory bird conservation fund in the previous fiscal year have been obligated for migratory bird habitat acquisition. This increase in the price of the duck stamp should result in an increase in total receipts of around $3 to $4 million per year.

In addition, the bill has as its purpose to overcome the problem associated with the Governor's veto authorized under existing law. The bill would retain the Governor's veto authority but would condition it to provide that whenever the use of the moneys from the fund involves a transaction between a willing seller and the Secretary of the Interior, then the transaction would be allowed to go forward.

Mr. Speaker, the Senate passed the bill on October 7, 1978, with amendments, all of which were germane, and they would result in no additional cost to the Federal Government.

As amended, the bill retains the language of the House bill that would authorize an increase in the price of the duck stamp from $5 to $7.50 and eliminates the provisions having to do with the Governor's veto authority and the minimum age requirement for those duck hunters required to purchase a stamp.

Needless to say, I am disappointed that the Senate did not agree with the House on these two provisions but, in view of the circumstances and the time restraint imposed on us at this time, I think H.R. 13372, as amended by the Senate, is a good bill and I urge its passage.

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, can my colleague, the gentleman from Mississippi, assure the House that all Senate amendments are germane to the purpose of the bill?

Mr. BOWEN. If the gentleman will yield, they are germane to this bill. Absolutely germane.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for that assurance, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 13372.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

MAKING TECHNICAL CORRECTIONS IN NORTH PACIFIC FISHERIES ACT OF 1954

Mr. BOWEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3551) to make technical corrections in the North Pacific Fisheries Act of 1954, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mr. FORSYTHE. Reserving the right to object, I will ask the gentleman if it is not correct that this legislation is purely technical, correcting printing errors in the bill that came back from the Senate, and it is needed just to make the bill absolutely comply with the House language?

Mr. BOWEN. Mr. Speaker, if the gentleman will yield, the gentleman from New Jersey is absolutely correct.

Mr. Speaker, on June 28, 1978, after the House had taken final action on H.R. 12637, a bill to amend the North Pacific Fisheries Act of 1954, the House subsequently passed House Concurrent Resolution 653, to make two technical corrections in the enrollment of the bill.

For some unknown reason, the Senate failed to take action on the concurrent resolution and the bill became Public Law 95–326 with the two technical errors contained therein.

Mr. Speaker, S. 3551 will make the two technical corrections in the public law that were intended to be made by the concurrent resolution before it became public law.

The two corrections are as follows:

(1) In the first sentence of section 11(b)(2), on page 5 of the Public Law, the word "subsection" is stricken out.

(2) In section 14(a)(3) after the word "operations." on page 7 of the Public Law, the "period" is stricken out and a "semicolon" is substituted in lieu thereof.

Mr. FORSYTHE. There is nothing of a nongermane nature?

Mr. BOWEN. There is nothing of a nongermane character involved.

Mr. FORSYTHE. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 3551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Pacific Fisheries Act of 1954 (16 U.S.C. 1021 et seq.) is amended as follows:

(1) Paragraph (2) of subsection (b) of section 11 is amended by striking out the word "subsection"; and

(2) Paragraph (3) of subsection (a) of section 14 is amended by striking out the period and inserting in lieu thereof a semicolon.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BOWEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 3551.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ENACTMENT OF PROGRAM EVALUATION LEGISLATION CALLED FOR

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEPHARDT. Mr. Speaker, I rise to join my colleague in calling for enactment of legislation establishing a program evaluation process.

As the Members are well aware, earlier this week the Senate, by an overwhelming margin, passed S. 2, the proposed Sunset Act of 1978. Unfortunately, the Senate vote has come too late in the session to realistically expect the House to act on the measure before we adjourn. Nevertheless, I hope my colleagues will view Senate passage of S. 2 this year as the first step toward enactment of program evaluation legislation early in the 96th Congress. In light of growing Federal spending and declining public confidence in Government, no other measure could have higher priority.

As a recent Washington Post survey found, the growing taxpayers' revolt is not so much against the amount of taxes Americans have to pay as it is against the apparent lack of return on their investment. These findings should make clear to all of us the need to take greater care in approving spending measures. We must make sure the programs we are funding are, in fact, achieving their goals and providing the intended benefits and services in the most efficient way possible.

The present system does not adequately allow for that. While enactment of the budget review system under the Congressional Budget and Impoundment Control Act of 1974 has forced the Congress to look more closely at the implications of individual appropriations measures, it has also made clear that a growing amount of Government spending is beyond our control and rarely requires affirmative congressional action. In the

past decade, the Federal budget has grown from $180 billion to close to $500 billion. During that same period, the proportion of so-called uncontrollable spending has increased from 55 percent of the budget to 75 percent.

For fiscal 1979, the President requested budget increases totaling $40 billion over last fiscal year. Of that amount, fully three-fourths was automatically committed for entitlement programs like social security or welfare before the first budget decision was made. This leaves little room for existing programs to keep pace with inflation, let alone new initiatives for meeting arising needs. All the time, the Congress continually receives demands from constituents for more assistance for local projects or national problems. Clearly, we face a situation in which obsolete or ineffective programs have to be eliminated to make way for new ones.

Too little attention, however, is given to identifying those programs we can cut back or do without. During the 2d session of the 95th Congress, I have chaired a task force of the New Members' Caucus on Congressional Oversight. An inventory we have taken on oversight activities undertaken on programs up for reauthorization has revealed many instances in which only cursory if any evaluation of the effectiveness of such programs was carried out. Even though the House rules require all committees to conduct oversight on existing programs before deciding on continuing them, this requirement, if not ignored, is observed in no uniform way to make sure it is constructive or leads to better control over Government spending. For example, one subcommittee told by staff a reauthorization was just routine and required no oversight. I question whether any measure involving expenditure of tax dollars should be considered so routine that a careful examination of whether the expenditure would be warranted or worthwhile should not be carried out.

Our findings have convinced me that we must establish a system which guarantees the periodic review of all spending programs to determine their effectiveness and the need for them to be extended and amended.

Such a system, in my view, must include several features if it is going to improve congressional oversight activities.

First, a program evaluation system needs an internal enforcement mechanism. As I mentioned earlier, a mere requirement for program review, like the existing House oversight rule, is inadequate without some feature to make sure it is observed. The "sunset" approach of S. 2 is the best such mechanism proposed to date. The termination of all programs every few years, thereby requiring affirmative congressional action before expenditures under them are reauthorized, creates a strong incentive to conduct program review.

The Senate bill contains another provision which I believe would serve as an effective enforcement mechanism. This section would make it out of order for Congress to consider reauthorization of a program unless it has been reviewed and the report accompanying the measure addresses certain questions relating to continuation. This proposed rules change in conjunction with the "sunset" concept of termination assures not only that reconsideration of all programs will take place over a 10-year period but also that the review of these programs will be meaningful.

A second feature I believe necessary for a good evaluation system is a comprehensive approach. Including all expenditures would facilitate consideration of programs falling under the same budget functions together. The major cause of the meteoric rise in Government spending in the past decade has been the enactment of a vast array of categorical programs many of which are designed to accomplish similar goals but are fragmented and duplicated. By evaluating all such programs together, we can better determine which are the most effective in meeting needs, where they overlap and how they can be coordinated or consolidated.

For a comprehensive approach to program evaluation to be effective, in my view, it must include tax expenditures in the scope of the process.

The revenue loss through tax expenditures is the fastest growing part of the Federal budget. Ten years ago the loss to the Treasury from such provisions amounted to $35 billion. The budget for the current fiscal year is expected to show a loss of over $124 billion. Because tax expenditures result from efforts to accomplish certain policy goals not related to taxes, they should also be subjected to the same sunset and review requirements as regular spending programs so that periodically they, too, can be evaluated to determine if they are efficiently and effectively accomplishing goals still deemed to be appropriate national policy. By excluding tax expenditures from a program evaluation system, roughly one-fifth of the Federal budget would remain uncontrollable.

The last feature I have found to be essential for effective oversight or evaluation is an explicit but flexible procedure which includes a statement of program intent at the outset and a list of minimum criteria to be considered. The work of the New Members' Task Force on Oversight has revealed most clearly that it is necessary not only to require that oversight be carried out but to spell out how it should be done. As our inventory has shown, oversight means different things to different people. The extreme example of how oversight can fail is the case of one committee that considered a program coming up for extension. It held 1 day of hearings during which a total of 11 witnesses testified, all of whom had a vested interest in seeing the program continued and, not surprisingly, all of whom sang its praises. By requiring that the analysis include agreed upon standards against which program performance can be measured and specified steps for determining their effectiveness, we can prevent meaningless oversight and establish a program evaluation system which will lead to a more efficient and effective Federal Government.

Translating these principles into legislation that workable and acceptable will not be easy. Many questions about cost, time and staffing requirements, the scope of the system and jurisdictional differences that could be created will have to be resolved.

Nevertheless, I believe it is an effort that must be made. The growing disaffection and dissatisfaction with Government on the part of the American people is perfectly understandable as Government continues to expand, taking more and more of income through taxes with few noticeable benefits and too many apparent failures. It is incumbent on the Congress, in my view, to develop a system which will enable us to streamline the Government—cut out the waste and duplication and improve the delivery of services the public sector should provide. The failure to develop such a discipline means that a new initiative, however meritorious, can never be launched and that, ultimately, taxpayer disaffection will result in a blunderbuss proposition 13 for the Federal Government.

I urge my colleagues to join the gentleman from Michigan and other sponsors of program evaluation legislation, as well as the members of the Rules Committee, in developing this much needed system for effective oversight of Government programs.

INDIAN CHILD WELFARE ACT

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12533) to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12533, with Mr. GEPHARDT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill is the result of over 4 years of congressional hearings, oversight, and investigation. During that period, the House, the Senate, and the American Indian Policy Review Commission held days of hearings and heard from hundreds of witnesses on the subject of foster care and adoptive placement of Indian children.

The bill, in concept is supported unanimously by the Indian community; by several States, and by numerous private agencies involved in child welfare matters.

The record developed by this congressional oversight has disclosed a serious problem in Indian child welfare which approaches crisis proportions.

Studies have revealed that about 25 percent of all Indian children are removed from their homes and placed in some foster care or adoptive home or institution. This figure, standing by itself, is shocking.

In 1976, there were 54,709 Indian children under 21 in Arizona. Of these, 1,029 or 1 out of every 52 were placed for adoption. For non-Indians, the ratio was 1 out of every 220. In other words, 4.2 times more Indian children were placed for adoption in Arizona than non-Indian children. The foster care ratio was 1 out of every 98 Indians placed for foster care as opposed to 1 out of every 263 for non-Indians.

The statistics for other States surveyed were no less shocking. These figures not only show that Indian children are being removed from their families at alarming rates, but they also show that in the overwhelming majority of the cases, the children are placed in non-Indian homes.

Indian tribes and Indian people are being drained of their children and, as a result, their future as a tribe and a people is being placed in jeopardy.

There are several reasons for this crisis in the Indian community. One, obviously, is the general poverty existing in Indian communities. Because of their economic or social condition they sometimes find it difficult to adequately raise their children or, more often, this poverty is used by State welfare agencies and officials as prima facia evidence to take the children from their families.

Title II of the bill is aimed at this factor. It authorizes the Secretary of the Interior to make grants to Indian tribes and organizations to operate Indian child and family service programs. These programs would assist in stabilizing Indian families and provides support to alleviate conditions of poverty. In addition, it provides tools to protect and defend the Indian family from outside assault.

The most distressing and critical factor giving rise to this emerging crisis of Indian families has been the inability or unwillingness of State agencies or officials to understand the different cultural and social norms prevailing in the Indian world. The record shows that, in all too many cases, Indian parents have their children forcibly taken from them not because they are unfit parents or because they cannot adequately provide for those children as measured by the norms prevailing in the Indian community, but because they are Indians.

This is a shocking statement to make and, in this age of victory of racial civil rights, some members may not give it credence. Therefore, I will cite verbatim the findings of fact made by a State court which terminated the parental rights of an Indian woman to her child without finding that she was an unfit mother. I quote:

> The child has physical features, as observed by the Trial Court, of a non-Indian nature and her return to an environment consisting of primarily Indian people would subject her to being reared under unnatural conditions that would be detrimental and endanger her emotional well-being.

Solely on the grounds that she is an Indian living on an Indian reservation, this woman has been denied her child. After months of heartbreak and misery, this woman has had to petition the Supreme Court to review this holding and the case is now pending. We can only hope that they grant review and overturn the lower court decision.

One case of this kind would merit passage of this bill. But, all too often, Indian parents have had to chase their children from State to State—court to court—only to find the door slammed in their face by a denial of practical due process.

Title I of this bill addresses this factor. It clarifies the allocation of jurisdiction over Indian child custody proceedings between Indian tribes and the States. More importantly, it establishes minimum Federal standards and procedural safeguards to protect Indian families when faced with child custody proceedings against them in State agencies or courts.

Mr. Chairman, because of the trust responsibility owed to the Indian tribes by the United States to protect their resources and future, we have an obligation to act to remedy this serious problem. What resource is more critical to an Indian tribe than its children? What is more vital to the tribes' future than its children?

We have the constitutional power to act and we must do so.

I must raise the objections of the Department of Justice to this bill. Seeking a reason to oppose the legislation, Justice has timidly alleged that certain provisions of the bill are unconstitutional as an invasion of State prerogatives.

They offer no support for this position beyond the citation of a 1954 law review article. Eight pages of our committee report is devoted to a close analysis of the Supreme Court decisions in this area and it firmly supports the constitutionality of all the provisions of the bill. In addition, the American law division of the Library of Congress made a similar exhaustive analysis and arrived at the same conclusion.

Finally, I will address the cost factor of the bill. CBO has estimated that this bill will cost approximately $125,000,000 over 5 fiscal years. If that figure were accurate, I would still find the cost worth the goal to be achieved. But, as noted in the committee report, we take issue with some of CBO's assumption in making that estimate and find it too high.

However, I will offer an amendment which would have the result, assuming CBO's estimate is accurate, of reducing the cost of this bill by $80,000,000 over 5 years. The estimated cost would then be $44,000,000 or around $9,000,000 a year.

Mr. Chairman, I urge passage of this most vital legislation.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

I rise in support of H.R. 12533, the Indian Child Welfare Act of 1978.

This bill is directed at conditions which not only threaten the integrity and stability of Indian families and the future of American Indian tribes, but also guarantee a continual sad harvest of individual human suffering.

The record of nearly 5 years of congressional oversight on Indian child placements and adoptions shows a disproportionately high percentage of Indian families are broken up by the removal, often unwarranted, of their children by nontribal public and private agencies. More than 62,000 of the estimated 250,000 children whose parents live on or near reservations are currently in foster care or adoptive homes or institutions. Including those whose families live in urban areas or with rural nonrecognized tribes, the number is closer to 100,000 children.

An Indian child welfare statistical survey conducted by the Association on American Indian Affairs and published in July 1976, showed the rate of separation among Indians is much higher than in non-Indian communities. In Arizona 1 out of every 29 Indian children is placed for adoption as compared to 1 out of every 134 non-Indians. In Wisconsin it is 1 out of 14 as compared to 1 out of 251. This gross disparity is also true of foster care placement and the disparities are found in all of the 24 States surveyed. In some States as high as 95 percent of these children are placed in non-Indian foster or adoptive homes or institutions.

The reasons behind these statistics go beyond the general poverty prevalent in many Indian communities. Hearing witnesses reiterate time and again the failure or inability of State agencies, courts, and procedures to fairly consider the differing cultural and social norms in Indian communities and families. These failures frequently result in the effective denial of due process in Indian child custody proceedings.

The record shows that separations often occur where the natural parent does not understand the nature of the legal documents or proceedings involved; that only about 10 percent of Indian children and their parents are represented by counsel at involuntary placement proceedings. Regrettably, public and private agency officials are all too often unfamiliar with and/or disdainful of Indian culture and society. Often the conditions which lead to separation are not demonstrably harmful or are remediable or transitory in character. Generally, there are no requirements for responsible tribal authorities to be consulted about or even informed of child removal actions by nontribal government or private agents.

There is a clear consensus among Indians and professionals who have dealt with the problems stemming from separation of Indian children from their natural parents and placement in institutions or homes which do not meet their

special cultural needs. In short, it is socially and culturally undesirable.

For a child, separation can cause a loss of identity and self-esteem. The high number of separations undoubtedly contribute directly to the comparatively high rates among Indian children of school dropouts, alcoholism and drug abuse, suicides, and crime. Moreover, separation of an Indian child from his family leads to the loss of his right to share in the cultural and property benefits of membership in his tribe.

For parents, separation is likely also to result in a loss of self-esteem, which in turn can aggravate conditions, such as alcohol abuse, which may initially have led to a child's removal from the family.

For Indians generally and tribes in particular, the continued wholesale removal of their children by nontribal government and private agencies constitutes a serious threat to their existence as ongoing, self-governing communities.

The United States, as trustee for Indian tribal lands and resources, has a clear interest and responsibility to act to assist tribes in protecting their most precious resource, their children. H.R. 12533 is, therefore, designed to prevent the unnecessary and unjustifiable separation of Indian children from their families and tribal communities by providing for effective due process and equal protection under the law.

The bill clarifies jurisdiction over child custody proceedings relating to Indian children, establishes minimum procedural and evidentiary standards for the removal of Indian children from their families and placement in foster homes or institutions. In addition, it provides for grant assistance to Indian tribes and organizations for the operation of child and family service programs.

Mr. Chairman, the bill's provisions are well explained in the committee's report and I will not detail them here.

Suffice it to say that the bill as reported by the committee is the result of thorough and careful consideration of a broad range of viewpoints and proposals. The House bill is a rewrite of its Senate counterpart, S. 1214. Many suggestions of the Departments of Interior, Justice, and HEW have been included in the text. In fact, of some 30 specific suggestions made by Justice and Interior which are contained in their letters in the committee report, 22 are now part of the bill. Those not included were considered and found either unnecessary or not meritorious. On that point, I would like to express dismay at the persistence of the Department of Justice in alleging that this bill may have constitutional problems.

Justice originally raised its constitutional concerns months ago. The committee provided in its report an extensive analysis and rebuttal of these questions. Nevertheless, within the past few days the Department has contacted Members of the House making the same arguments it did months ago. It has made absolutely no effort to reply to the committee's position.

Mr. Chairman, at this point I include a letter written by Chairman UDALL to the Justice Department with respect to its conduct on this matter.

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., October 2, 1978.

Hon. PATRICIA M. WALD,
Assistant Attorney General,
Department of Justice,
Washington, D.C.

DEAR ATTORNEY GENERAL WALD: I have reviewed your letter of September 15 to Congressman Roncalio, which reiterates the objections of the Department of Justice to certain provisions of H.R. 12533, concerning Indian child welfare. The Committee very carefully considered the Department's concerns as set forth in your February 9 and May 23 letters, and amended the bill to meet some of the Department's objections. On other points, the Committee did not agree with your position.

You list three constitutional problems:

First, you express objection to section (4)(b). Since this is no more than a definition of a term, it has no substantive effect in and of itself. It relates to your third point and I discuss it below.

Secondly, you raise constitutional objections to section 102 regarding the imposition of Federal procedural and substantive standards on state courts. The only legal support you cite for your position is a 1954 Columbia Law Review article. The Committee has explored the case law at some length and has expressed its opinion on the matter on pages 12 through 19 of the Committee report. Enclosed is a copy to which I invite your attention.

Your third point, which is essentially the same as your first, questions the constitutionality of section 101(b) with respect to a non-tribal member custodian of an Indian child not a member of a tribe. I would first point out that section 101(b) deals with foster care placement and termination of parental rights. These are actions affecting parental, not custodial, rights. The subsection, as amended, also gives either parent a right to veto the transfer of a case to the tribal court. Secondly, as amended, the subsection would permit the state court to refuse to transfer the case for good cause. Finally, as noted on pages 16 and 20 of the Committee report, the Committee disagrees with the Department on the legal status of an Indian child who is "merely" eligible for enrollment in an Indian tribe.

You also find two technical problems with this legislation:

First, you object to the phrase in the declaration of purpose with respect to the "special responsibility and legal obligations" of the United States based upon the *White v. Califano* decision. While I do feel that such a responsibility exists under current law, I would not object to an amendment striking the phrase.

Secondly, you object to the definition of "reservation" in section 4(10) to the extent that it relates to reservation boundaries that have been disestablished. You state that it could be read to re-establish such boundaries without taking into account the impact on the residents in the areas to be affected. The only residents who would be affected would be members of Indian tribes and Indian children who are members of or eligible for membership in an Indian tribe. The Committee expressly took this into consideration and fully intends that the provisions have this impact. Non-Indians will no more be affected by this provision than are non-Indians who currently live within a reservation which has not been disestablished.

I firmly believe that a review of the legislative record on this bill will persuade one that a domestic crisis exists for Indian families and that state courts and agencies and their procedures share a large part of the responsibility for this crisis. I firmly believe that the future and integrity of Indian tribes and Indian families are in danger because of this crisis. I regret very much that the Department of Justice has not seen fit to cooperate fully with the Congress in resolving this crisis, but, rather has raised constitutional and other objections with little legal support for these positions.

I fully intend to seek House passage of this bill as reported by the Committee. While we may have to accept one or more amendments on the floor, I will strongly resist any amendments inconsistent with my strong views, above, particularly your third constitutional argument. Should this legislation be sent to the President for his signature, it would be a shame and a travesty for the Department to recommend a veto. The right of Indian tribes and Indian families to their children is a human right and the defense of human rights, like charity, begins at home.

Sincerely,

MORRIS K. UDALL,
Chairman.

Mr. LAGOMARSINO. Mr. Chairman, I yield back the balance of my time.

Mr. UDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. Under the rule it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill as an original bill for the purpose of amendment and said substitute shall be read by sections instead of by titles.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1978".

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibility and legal obligations to the American Indian people, to protect the best interests of Indian children

and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe;

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 697), as amended;

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father whose paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code. In any case were it has been judicially determined that a reservation has been diminished or the boundaries disestablished, the term shall include the lands within the last recognized boundaries of such diminished reservation prior to enactment of the statute which resulted in the diminishment or disestablishment;

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that all sections preceding title I be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer a technical amendment to the sections preceding title I.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 29, in line 24, strike the phrase "(85 Stat. 688, 697)" and insert, in lieu thereof, the phrase "(85 Stat. 688, 689)".

The amendment was agreed to.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The remainder of the bill is as follows:

TITLE I—CHILD CUSTODY PROCEEDNGS

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipts requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a

language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights, to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in paragraph (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ites.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, or biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by the Act of April 11, 1968 (82 Stat. 79), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population on homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement continues only for a reasonable time and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

SEC. 113. None of the provisions of this title, except section 101(a), shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the construction, operation, and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children are provided the same support as Indian foster children; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV–B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV–B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children are provided the same support as Indian foster children;

(2) the construction, operation, and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4 (c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401).

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain and affidavit of the biological parents or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (80 Stat. 381).

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

SEC. 302. (a)(1) Within six months from the date of this Act, the Secretary shall consult with Indian tribes, Indian organizations, and Indian interest groups in the consideration and formulation of rules and regulations to implement the provisions of this Act.

(2) Within seven months from the date of this Act, the Secretary shall present the proposed rules and regulations to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(3) Within eight months from the date of this Act, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

(4) Within ten months from the date of this Act, the Secretary shall promulgate rules and regulations to implement the provisions of this Act.

(b) The Secretary is authorized to revise and amend any rules and regulations promulgated pursuant to this section: *Provided*, That prior to any revisions or amendments to such rules and regulations, the Secretary shall present the proposed revision or amendment to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives and shall, to the extent practicable, consult with tribes, organizations, and groups specified in subsection (b)(1) of this section, and shall publish any proposed revisions or amendments in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and to receive comments from, other interested parties.

TITLE IV—PLACEMENT PREVENTION STUDY

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

(b) The Secretary is authorized and directed to prepare in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provisions of educational facilities for children in the elementary grades.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

TECHNICAL AMENDMENTS OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer certain technical amendments to title I, and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. UDALL: On page 31, in line 12, strike the period after the word "tribe" and insert, in lieu thereof, a comma.

On page 37, in line 3, strike the word "paragraph" and insert, in lieu thereof, the word "subsection".

On page 37, in line 23, strike the word "or" where it appears the first time and insert, in lieu thereof, the word "a".

On page 38, in line 20, insert the phrase "title IV of" after the word "by" and, in line 21, strike the phrase "(82 Stat. 79)" and insert, in lieu thereof, the phrase "(82 Stat. 73, 78)".

On page 39, in line 15, strike the word "on" and insert, in lieu thereof, the word "in".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, they are purely technical amendments. They have been cleared with the other side. I do not believe there is any controversy.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arizona (Mr. UDALL).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer technical amendments to title III.

The Clerk read as follows: On page 46, in lines 20 and 21, strike the phrase "(80 Stat. 381)" and insert, in lieu thereof, the phrase "(5 U.S.C. 552), as amended".

On page 48, in line 13, strike the phrase "subsection (b)(1)" and insert, in lieu thereof, the phrase "subsection (a)(1)".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent that these technical amendments be considered as read, printed in the RECORD, and considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I know of no controversy surrounding the amendments. I ask for their adoption.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arizona (Mr. UDALL).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment to title IV.

The Clerk read as follows:

Amendment offered by Mr. UDALL: On page 48, in line 19, strike the phrase "PLACEMENT PREVENTION STUDY" and insert, in lieu thereof, the word "MISCELLANEOUS".

On page 49, in line 7, strike the word "provisions" and insert, in lieu thereof, the word "provision".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of the title IV amendment and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, these are entirely technical in nature.

I ask for their adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer three further amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. UDALL: On page 41, in line 22, insert a comma after the word "child" and the phrase "who is a resident of or is domiciled on a reservation, but temporarily located off the reservation,".

On page 43, in line 6, strike the phrase "the construction, operation, and maintenance" and insert, in lieu thereof, the phrase "the operation and maintenance" and, on page 44, in line 24, strike the phrase "the construction, operation, and maintenance of" and insert, in lieu thereof, the phrase "the operation and maintenance of".

On pages 47 and 48, strike all of section 302 and insert, in lieu thereof, the following:

"SEC. 302. Within 180 days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act."

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of these amendments en bloc and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, where an Indian child is residing or domiciled off an Indian reservation the State has full jurisdiction over the child in a custody proceeding, including the power to remove the child from the parents on an emergency basis to protect the child.

Where the child is residing or domiciled on the reservation, there was some question about the power of the State to make an emergency removal and placement of such child who is temporarily within the State's jurisdiction. Section 112 was adopted by the committee to make it clear that the State would have that power.

However, the committee did not intend that the State could invade the jurisdiction of the tribe by going onto the reservation to make such an emergency removal. My amendment simply makes this clear.

Title II authorizes the Secretary to make grants to fund Indian child and family programs both on and off the reservation. Tribes and Indian organizations are authorized to use such funds to construct facilities to house the operation of these programs.

CBO estimated the cost of this bill at $125,000,000 spread over a 5-fiscal-year period. Approximately $80,000,000 of that estimate grows out of construction authorizations and assumptions about cost of construction of family centers and number constructed. While the committee disagreed with CBO's estimates and assumption, the construction authority would undoubtedly be considerable.

My amendment deletes all language from title II relating to construction authority. First, such authority might already exist under existing law and, second, most tribes and tribal organizations would find existing structures to house their family assistance programs.

Based upon CBO's estimates, my amendment would save $80,000,000 and result in a cost of the bill of approximately $44,000,000 over 5 fiscal years or about $9,000,000 per year.

Section 302, as reported, imposes tight time schedules and consulting requirements on the Secretary of the Interior in promulgating regulations implementing the legislation. These include consulting with pertinent congressional committees and with relevant Indian organizations. The Department of the Interior, in its report on the bill, objected to some provisions of this section.

The consulting and time requirements are burdensome and unnecessary. My amendment would simply require the Secretary to promulgate necessary regulations within 6 months of the act. However, I think that it should be clear that it is the intent of Congress that the Secretary consult fully with Indian tribes and organizations in drafting such rules and regulations.

While the committee disagreed with this estimate, the construction authority undoubtedly would be considerable, therefore I am deleting all language from title II relating to construction authority and, based on the estimates, my amendment would cut the cost by $80 million and make the estimated cost $44 million over 5 fiscal years at $9 million a year.

Mr. LAGOMARSINO. Mr. Chairman, the minority side has no objection to the amendments and will accept them.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Arizona (Mr. UDALL).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGOMARSINO:

On page 27, beginning on line 2, strike the comma after the word "nation" and delete the phrase "in fulfillment of its special responsibility and legal obligations to the American Indian people,".

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, section 3 of H.R. 12533 declares the policy of the United States to protect the best interests of Indian children "in fulfillment of its special responsibility and legal obligations to the American Indian people." The Department of Justice has expressed fear that this language may be used by a court to hold the United States liable for the financial support of Indian families far in excess of the provisions of title II of the bill, regardless of whether Congress has appropriated money for such purpose. Justice's concern stems from a Federal District Court ruling in the case of White against Califano holding that similar language in other legislation obligated the Federal Government to make support payments for Indians for mental health purposes.

This amendment would strike the phrase which Justice finds objectionable; however, I would emphasize that in so doing it would not in any way change the overall intent of the declaration of policy.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the amendment the gentleman offers has been prepared by the gentleman from Colorado (Mr. JOHNSON), our distinguished minority counterpart. We have discussed the amendment. I think it is a good amendment and I am prepared to accept the amendment as well as the remaining six amendments the gentleman from California is preparing to offer on behalf of the gentleman from Colorado (Mr. JOHNSON).

Mr. LAGOMARSINO. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LAGOMARSINO).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. LAGOMARSINO

Mr. LAGOMARSINO. Mr. Chairman, I offer the six remaining amendments and ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. LAGOMARSINO:

On page 27, line 19, after "institution" insert "or the home of a guardian or conservator."

On page 28 on line 22 strike the semicolon after the word "tribe" and add the following: "or who is an Alaska Native and a member of a Regional Corporation as defined in Section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689);".

On page 30, in line 7, strike the period after the word "Code", the phrase "In any", and all of lines 8 through 13 and insert, in lieu thereof, the following: "and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation".

On page 42, line 3, delete, "continues only for a reasonable period of time" and insert in lieu thereof "terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child".

On page 42, in line 9 add an "s" to the word "section" and insert after "101(a)" the phrase "108, and 109," and, in line 12, after the word "to", insert the phrase "one hundred and eighty days after".

On page 43, strike all of lines 20 through 22 and insert in lieu thereof the following: "(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs; and". On page 44, strike all of line 23 and insert in lieu thereof the following: "may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate state standards of support for maintenance and medical needs;"

Mr. LAGOMARSINO (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LAGOMARSINO. Mr. Chairman, the first amendment in this series is intended to correct an oversight in the definition of the term "foster care placement."

As reported, the bill defines foster care placement as any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution where the parent or custodian cannot have the child returned upon demand, but where parental rights have not been terminated.

In several States, temporary child placements are made to a guardian or conservator rather than to a foster care home or institution. Although the terminology used is different, the proceedings are essentially the same. My amendment merely provides that State proceedings for Indian child placement to temporary guardians and conservators are included under the appropriate provisions of this act.

Mr. Chairman, in explanation of the second amendment in this series, let me state that under the definition of an Indian in paragraph 3 of section 4 of H.R. 12533, Alaskan Natives who are at-large members of Native Regional Corporations or who are members of the 13th Regional Corporation for nonresident Alaskan Natives may be excluded from the protections of this act. Such exclusion would be unintentional on the committee's part and my amendment would make certain it would not occur.

This amendment does not alter the inclusion in the definition of the term Indian those Alaska Natives who are members of Alaska Native villages. Moreover, it does confer tribal status on the Regional Corporations.

Mr. Chairman, with reference to the third amendment in this series, paragraph 10 of section 4 of this bill defines the term "reservation" and includes language which would have the effect of reestablishing the diminished or disestablished boundaries of at least two reservations solely for the purpose of tribal jurisdiction over Indian child placements. The Department of Justice has expressed concern over constitutional and other problems which may result from the extension of jurisdiction in this manner.

While I do not agree that the existing provision raises constitutional problems, I believe the definition should be clarified. Therefore, my amendment strikes the sentence that Justice objects to and adds language providing for tribal jurisdiction within diminished reservations to extend only over lands held in trust or subject to a restriction against alienation by the United States for the benefit of an Indian tribe or individual.

Mr. Chairman, in explanation of the fourth amendment, section 112 of H.R. 12533 states that nothing in title I of the bill shall preclude State authorities from temporarily removing an Indian child from his parent or custodian when they are off reservation in order to prevent imminent physical damage or harm to the child. It provides that such emergency removals shall continue "only for a reasonable time," after which the State must either initiate formal custody proceedings or restore the child to his family.

Because what is "reasonable" is open to wide-ranging interpretation and abuse, this amendment clarifies the intent of the section by requiring an emergency placement to terminate when the reason for it no longer exists, specifically, when it is no longer necessary for the prevention of imminent physical harm to the child.

Mr. Chairman, in explanation of the fifth amendment, section 113 of H.R. 12533 provides for the procedural and evidentiary requirements for State court proceedings under title I to take effect immediately upon enactment. This provision creates the likelihood that many child custody proceedings involving Indian children, either in progress or about to begin, will be subject to litigation and invalidation for violating the provisions of this act.

My amendment is simply intended to avoid such disruptions by delaying for 180 days the effective date of the bill, except for three sections. The delay would also allow the States, the Interior Department and other parties time to familiarize themselves with the act's provisions.

The sections excepted by this amendment are: First, section 101(a), which states existing law with respect to tribal jurisdiction; second, section 108, which authorizes retrocession of child custody jurisdiction to tribes under certain circumstances; and, third, section 108, which authorizes tribes and States to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings.

Mr. Chairman, with reference to the last amendment in this series, let me state that title II of H.R. 12533 authorizes the Secretary of the Interior to make grants to Indian tribes to establish family service and maintenance programs. Grants could be used for a variety of purposes, including establishment of adoption subsidy programs under which Indian children could be provided the same support as foster children. These subsidies would enable foster care families in particular and Indian families in general to adopt children where they might otherwise not be financially able to do so.

Concern has been expressed that the language in sections 201(a)(7) and 202 is unclear as to the limits intended for such programs. My amendment provides that the level of adoptive subsidies would be comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenace and medical needs.

Thirty-five States and the District of Columbia now provide adoption subsidies, particularly for hard-to-place children and/or children who are already in foster care. Subsidies are usually limited to the amounts provided for foster care.

The record of State programs has shown that not only have adoption subsidies enabled many more children to grow up in family environments, but also that they have been able to do so at a cost far below that which would be required to maintain them in institutional care. Similar results could be expected from tribal programs.

I would like to ask the chairman of the committee if he agrees with my understanding that it is the committee's intent that neither the language of the bill nor any regulations promulgated by the Interior Department shall be construed as establishing any entitlement to an adoption subsidy and, further, that it is not intended that any adoption subsidies be provided where the adoptive family's economic conditions clearly do not warrant it.

These are also amendments that have been prepared by the minority ranking member, the gentleman from Colorado (Mr. JOHNSON). They have been cleared with the majority and I would hope that the Committee would accept these amendments.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, let me say that these amendments have indeed been cleared and they are satisfactory to me.

Mr. LAGOMARSINO. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. LAGOMARSINO).

The amendments were agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GEPHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12533) to establish standards for the placement of Indian chilren in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes, pursuant to House Resolution 1374, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 1374, the Committee on Interior and Insular Affairs is discharged from further consideration of the Senate bill (S. 1214) to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of the Senate bill S. 1214 and to insert in lieu thereof the provisions of H.R. 12533, as passed by the House, as follows:

HOUSE AMENDMENTS TO SENATE BILLS

S. 1214

Amendment offered by Mr. UDALL: Strike out all after the enacting clause of S. 1214 and insert in lieu thereof the provisions contained in H.R. 12533 as passed by the House.

That this Act may be cited as the "Indian Child Welfare Act of 1978".

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds—

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term—

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689);

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended;

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

(11) "Secretary" means the Secretary of the Interior; and

(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of

parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101

(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

SEC. 113. None of the provisions of this title, except sections 101(a), 108, and 109, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

(3) family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV–B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall be a basis for the denial or reduction of any assistance otherwise authorized under titles IV–B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, after-school care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended.

SEC. 204. For the purposes of section 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401).

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show—

(1) the name and tribal affiliation of the child;

(2) the names and addresses of the biological parents;

(3) the names and addresses of the adoptive parents; and

(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information in maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act.

TITLE IV—MISCELLANEOUS

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Commit-

tee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elmentary grades.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12533) was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

FEDERAL RECLAMATION DAMS SAFETY

Mr. MEEDS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11153) to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Washington (Mr. MEEDS).

The motion was agreed.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11153, with Mr. PICKLE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Washington (Mr. MEEDS) will be recognized for 30 minutes, and the gentleman from Idaho (Mr. SYMMS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and members of the Committee, I would, at the outset, like to express my deep appreciation to the ranking minority member, the gentleman from New Mexico (Mr. LUJAN) who, unfortunately, is not able to be here today, but who has been very helpful in the adoption and preparation of this legislation which we sponsored with 21 of our colleagues some time ago.

Mr. Chairman, this is a totally bipartisan bill, and I know of no opposition to the bill at all.

Mr. Chairman, H.R. 11153 would authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Bureau of Reclamation dams and related facilities to preserve their structural safety. This measure, which I had the honor to introduce, in cosponsorship with a bipartisan group of 22 of my colleagues, results from an executive recommendation of the Secretary of the Interior.

Through a program initiated in 1965—the examination of existing structures program—the Bureau of Reclamation has identified 27 Bureau dams which would not be able to withstand a maximum probable flood or a maximum credible earthquake and therefore in need of repair. Needed modifications have been completed on 10 of these 27 dams and are authorized and underway on 4 dams. However, authorization is still required for work on the remaining 13 dams. H.R. 11153, by authorizing to be appropriated "such sums as may be necessary" to carry out dam safety modifications. This legislation would enable the Secretary of the Interior to not only repair these 13 dams but also to repair any other dams the Bureau of Reclamation may discover in need of safety modifications.

The bill provides that these modifications are for safety purposes only and not for providing any additional benefits over and above those originally authorized and provided by the original dams and reservoirs. Also, this measure provides that the costs of modifying the dams shall be allocated among the authorized purposes served by the dams and reservoirs in accordance with standard cost allocation procedures. Costs allocated to irrigation shall be reimbursable only to the extent of the water users' ability to repay as determined by the Secretary.

In summary, this is an important measure that should be passed with dispatch; both from the urgency of the fiscal year 1979 budget cycle and from the standpoint of assuring that potential threats to life and property are eliminated at the earliest possible date. Accordingly, I urge all Members of this body to join with me in its passage.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I will be delighted to yield to the gentleman from New York.

Mr. WEISS. I appreciate the gentleman's yielding.

I have an indication that the National Wildlife Federation has some problem with this legislation, and I understand that the basis of their concern was whether there would be full cost recovery from the users of the dam for whom it was originally constructed. I wonder if the gentleman could enlighten us with respect to those concerns?

Mr. MEEDS. Yes. I am sure those concerns will be allayed by an amendment which I will offer which clarifies those concerns.

Mr. WEISS. I appreciate the gentleman's comments.

Mr. MEEDS. Mr. Chairman, I reserve the remainder of my time.

Mr. SYMMS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join the gentleman from Washington in support of this bill and I urge my colleagues on this side of the aisle to give it their support.

All we are doing here is giving the Secretary of the Interior the authority to repair or modify any Bureau of Reclamation dam that is found to be unsafe. And we give him a fund to work from. The amount he will need from the fund will be determined by the amount of work necessary on each dam. We have written into the bill a congressional review mechanism so the Congress can retain control over the purse strings and make certain that each job is absolutely necessary.

The administration, in keeping with its continuing vendetta against Western farmers, asked for two provisions that our committee refused to include in the bill. First, it asked for an open-ended appropriation authority so it could spend as much as it wanted on whatever projects it chose, with no congressional control over the projects or the cost; then it demanded that the farmers whose water is impounded by these dams be forced to pay 100 percent of those costs. If they refused to pay, of course, the Government could shut off their water.

Our committee was not about to leave the farmers that vulnerable to the Carter bureaucrats. Over the past 2 years, we have seen all too clearly what this administration has in mind for our Western agriculture and ranching community, and we wrote a different scenario into the bill.

First, we built a control into the bill so that each project will be reviewed by the Congress to determine its feasibility and its costs.

Second, we removed the "such as are necessary" language and authorized a specific ceiling on appropriations.

Third, we made the repair costs nonreimbursable so the Government will have to pay for its own mistakes. It just does not make sense for the Government to design a dam incorrectly, force the farmers to pay for it, then go back and correct its own mistakes and force the farmers to pay a second time for the correction. With that kind of a policy, there would be no incentive for the Government ever to make the dam totally safe. Whole generations of engineers could make a lifetime profession out of repairing, modifying, correcting, and rebuilding a single dam, all at the expense of the helpless farmer. And when the farmers go broke, the administration bureaucrats could go in and take over the farm and raffle it off in parcels in a national lottery as they have been trying to do for the past 2 years.

With those policy questions settled, there is no doubt about the need for this bill. The failure of the Teton Dam

pointed up the wisdom of dam inspections and repairs.

Over the past 13 years, the Bureau of Reclamation has been evaluating the safety of all of its dams in the light of new flood analysis criteria. These evaluations have identified 27 dams that need safety modifications. Of those 27 dams, 10 have already been modified and 4 are now in the process of modification. The remaining 13 are listed in the report accompanyng this bill and will be the first to be worked on as soon as the bill becomes law.

It is a good bill, a necessary bill, and I urge my colleagues to give it their support.

Mr. Chairman, I also at this time would like to wish my colleague, the gentleman from Washington (Mr. MEEDS) every success in whatever the future brings for him and to say what a pleasure it has been for me to work with him as chairman of the Water and Power Subcommittee, not only on this legislation but other legislation in my time here in the Congress.

Mr. MEEDS. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Chairman, I wish just to take a minute to express my support for H.R. 11153, the Reclamation Safety of Dams Act of 1978.

The purpose of this legislation is to authorize modification of Bureau of Reclamation dams for safety purposes. As part of the Bureau's periodic review of maintenance program, dams are regularly examined for safety in light of new technological knowledge. A recent evalution of the Stony Gorge and East Park Dams in California reveals a need for improved spillway facilities. Better understanding of weather patterns and climatic changes indicates that neither of these dams is currently designed to withstand a maximum probable flood. This legislation, as reported, would authorize the corrective action necessary to insure the safety of the dams and thereby the safety of the lands and people downstream from them.

I do not wish to cause alarm. These dams are basically very safe dams. They are built to withstand substantial flooding. Recent technological evaluations simply reveal that the present structures could not handle the worst possible flood.

The Stony Gorge Dam is one of the major structures in the Orland project in northern California. It is located on Stony Creek, about 40 miles southwest of the city of Orland. The Bureau of Reclamation reports that if the maximum probable flood were to come about on Stony Creek, the capacity of the spillway and outlet works built in 1928 would not be able to handle it. The great inflow of water would cause the water level to rise 4 to 5 feet, to a level higher than the crest of the dam. If this were to happen, the certain result would be an undermining of the buttresses and failure of the dam itself. This legislation therefore authorizes $2,600,000 for the construction of an additional spillway.

The East Park Dam is also a facility of the Orland project in California. It is located on Little Stony Creek some 31 miles southwest of Orland, Calif. According to the Bureau's technological experts, a maximum probable flood in this area would cause the water surface in the reservoir to rise to a level about 4 feet higher than the top of the dam. The flood would also cause the spillway structure to fail, as well as one or both of the dikes and the small retaining wall south of the dam. Recent testing of the spillway construction indicates that the occurrence of a maximum credible earthquake might well cause the spillway to fail due to its present structural instability. The legislation authorizes $3,900,000 for construction of a larger spillway to accommodate a maximum possible flood and withstand the maximum credible earthquake.

I have visited both of these facilities on several occasions throughout the years. I know that although they are older structures, they continue to provide important protection for the areas they serve. The proposed changes as outlined in the legislation are necessary to insure that these facilities will be able to continue to provide this protection. I encourage my colleagues to approve this legislation and authorize this work.

Mr. Chairman, I commend the chairman of the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs for bringing this bill to the floor. It has been a long time coming, but I think it is a very good program to clean up some unsafe dams that we have in the system.

Mr. SYMMS. Mr. Chairman, I yield back the balance of my time.

Mr. MEEDS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. There is hereby authorized to be appropriated such sums as may be necessary to accomplish the purposes of this Act. All costs heretofore or hereafter incurred in the modification of dams to insure their safety from failure shall be allocated among the authorized purposes served by the dams and related reservoirs in accordance with standard cost allocation procedures: *Provided, however,* That costs allocated to irrigation shall be reimbursable to the extent of the water users' ability to repay as determined by the Secretary of the Interior in the light of their outstanding repayment obligations.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, H.R. 11153 would authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Bureau of Reclamation dams and related facilities to preserve their structural safety. This measure, which I had the honor to introduce, in cosponsorship with a bipartisan group of 22 of my colleagues, results from an executive recommendation of the Secretary of the Interior.

Through a program initiated in 1965—the examination of existing structures program—the Bureau of Reclamation has identified 27 Bureau dams which would not be able to withstand a maximum probable flood or a maximum credible earthquake and, therefore, in need of repair. Needed modifications have been completed on 10 of these 27 dams and are authorized and underway on 4 dams. However, authorization is still required for work on the remaining 13 dams. H.R. 11153, by authorizing to be appropriated "such sums as may be necessary to carry out dam safety modifications, would enable the Secretary of the Interior to not only repair these 13 dams but also to repair any other dams the Bureau of Reclamation may discover in need of safety modifications.

The bill provides that these modifications are for safety purposes only and not for providing any additional benefits over and above those originally authorized and provided by the original dams and reservoirs. Also, this measure provides that the costs of modifying the dams shall be allocated among the authorized purposes served by the dams and reservoirs in accordance with standard allocation procedures. Costs allocated to irrigation shall be reimbursable only to the extent of the water users' ability to repay as determined by the Secretary.

In summary, this is an important measure that should be passed with dispatch; both from the urgency of the fiscal year 1979 budget cycle and from the standpoint of assuring that potential threats to life and property are eliminated at the earliest possible date. Accordingly I urge all Members of this body to join with me in its passage.

COMMITTEE AMENDMENT

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, beginning on line 11, strike out all of section 4 and insert in lieu thereof the following:

SEC. 4. All costs heretofore or hereafter incurred pursuant to this Act shall be nonreimbursable and nonreturnable under Reclamation law.

SEC. 5. There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be neces-

sary, but not to exceed $100,000,000, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act; *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, this is the amendment which I said earlier would allay the fears of those who were concerned about the reimbursability this year.

Mr. Chairman, the Committee on Interior and Insular Affairs adopted an amendment to H.R. 11153 to: First, authorize a specific sum of money as distinct from the open-ended authorization contained in the original bill; second, set forth the procedures for reporting to the Congress prior to initiation of construction; and third, conclusively establish that the costs of modification in the interest of safety shall be nonreimbursable in keeping with the policies established by the Congress within the last 5 years.

First, H.R. 11153 as introduced contained open-ended authorization. The Committee amendment replaces this with a lump sum authorization of $100 million to be available in fiscal year 1979 and ensuing fiscal years. It was felt that this sum, while placing fiscal restraint on the Department, would adequately provide for the accomplishment of the purposes of the legislation. It is estimated that the 13 dams I spoke of earlier will cost approximately $40 million to repair. The remaining $60 million of this authorization could then be utilized to repair any other dams the Bureau of Reclamation may find in need of repair.

Second, the bill as introduced failed to establish an effective means for congressional oversight over the activities authorized by this bill. The committee amendment corrects this deficiency by requiring the Secretary of the Interior to prepare an engineering report in which would be presented information on the need for structural modification of an existing dam, the corrective action found to be necessary, alternatives considered, the cost of needed modification, and the environmental consequences of the structural modifications. On the basis of this report, the Secretary will make a finding as to the necessary corrective modifications and transmit such findings, together with the aforementioned report, to the Congress for a waiting period of 60 "session days." At the expiration of the waiting period, construction contracts may be undertaken to accomplish the requisite modifications. The committee felt that this procedure will allow the Secretary ample latitude to move with dispatch while at the same time retaining in the Congress a degree of control to prevent abuse.

Finally, as I have just explained, H.R. 11153 as introduced provided that dam safety costs allocated to irrigation shall be reimbursable to the extent of water users' ability to repay as determined by the Secretary. The committee was of the belief that the dams to be repaired under this bill should have been built correctly originally and to burden water users with the costs of correcting these original mistakes would be inequitable. Consequently, the committee amendment clearly states that all of these costs shall be nonreimbursable and nonreturnable. The amendment to this committee amendment just adopted by this body does not alter this principle. It merely makes it clear that if the bill is read to allow dam repairs caused by normal wear and tear or improper maintenance, then these costs shall be reimbursable.

Mr. Chairman, I believe the committee's amendment as amended by my amendment does nothing to reduce the effectiveness of this measure. It only strengthens it and as such, I urge its adoption.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, one of the concerns that has been expressed is that this type of authorization is a recurring authorization. Do I understand the explanation now to be that the intent here is that of the total $100 million, that it is not a recurring authorization then, it is a one-time authorization that occurs here?

Mr. MEEDS. That is, indeed, the intent.

Mr. VENTO. Mr. Chairman, I thank the gentleman.

Mr. MEEDS. Mr. Chairman, it established that costs would be reimbursable under certain circumstances.

Now, as originally proposed by the administration and by myself, costs were reimbursable. We went into the subcommittee and the subcommittee by almost a unanimous vote, voted to make them nonreimbursable, because the history of all the price costs is that they have been nonreimbursable; so the bill was voted out of the subcommittee and out of the full committee unanimously making them reimbursable.

We were about to place the matter on the suspension calendar at that stage and I met and talked with Assistant Secretary Martin and we agreed upon that which will be my amendment, which explains how it made it reimbursable.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, when is the gentleman going to explain it?

Mr. MEEDS. At the time the amendment is offered.

Mr. CONTE. The gentleman has not offered the reimbursable amendment yet?

Mr. MEEDS. I was explaining the committee amendment and what we will do to it a little later.

AMENDMENT TO THE COMMITTEE AMENDMENT

Mr. MEEDS. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. MEEDS to the committee amendment: Strike out section 4 and insert a new section 4, as follows:

"SEC. 4(a). Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal maintenance of the structure by the operating entity shall be considered as projects costs and will be allocated to the purposes for which the structure was authorized initially to be constructed and will be reimbursable as provided by existing law.

(b) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes shall be nonreimbursable and nonreturnable under the Federal Reclamation law."

Mr. MEEDS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Chairman, this is the amendment which I discussed earlier under which agreement was arrived at between our committee and the Assistant Secretary in which we provide for the method of reimbursement.

It provides that where the modifications are the result of age and normal deterioration and nonperformance of normal maintenance of the structure, then those costs will be reimbursable and will be repaid by the user. But where the modification is caused by new hydrologic or seismic data or changes in state-of-the-art criteria for safety purposes, then that cost would not be reimbursable, as it would not in the initial dam.

So, Mr. Chairman, this really carries out what I think everyone intends the facts should be.

Mr. Chairman, as I will explain in more detail in a moment, the Interior and Insular Affairs Committee adopted an amendment to H.R. 11153 to accomplish three purposes. One of these purposes was to assure that all costs incurred pursuant to this measure will be nonreimbursable. As the Members will recall, H.R. 11153 as introduced provided that

costs of modifying the dams shall be allocated among the authorized purposes served by the dams in accordance with standard cost allocation procedures. Costs allocated to irrigation shall be reimbursable, but only to the extent of the water users' ability to repay as determined by the Secretary. The committee amendment merely makes these costs nonreimbursable also.

It is implicit in the bill and in our report and hearings that this program is intended to be used to correct conditions where new technology indicates spillways to have been inadequately designed and where new technology in the seismic sciences shows that steps need be taken to insure against earthquake damage. The committee never intended the program to be used to repair dams for normal wear and tear or for improper maintenance.

The administration position is that the costs incurred under the bill should be reimbursable by the water users. While I and the committee agree that costs to accomplish repairs to correct fair wear and tear and improper maintenance should be reimbursable—as they indeed are under existing law—we do not believe that costs incurred to rectify original design omission should be so reimbursable.

Mr. Chairman, the amendment which I offer to the committee amendment will make the above distinction. It clearly provides that costs incurred in the modification of structures under this bill, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes shall be nonreimbursable. At the same time it clearly provides that costs incurred in the modification of structures under this bill, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal maintenance of the structure shall be reimbursable as provided by existing law. In other words, this amendment will make explicit in the bill that which I and the committee believe is already implicit in the measure. I urge the adoption of this amendment to the committee amendment.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. Yes, I would be delighted to yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I strongly support this bill, but I am very concerned about the gentleman's amendment.

First of all, I am much more concerned about the bill itself without this amendment, and then I am concerned with the gentleman's section (b). It is my understanding that up to this point in the law the beneficiaries always paid for the repair of the dams.

The gentleman's section (b), to me, would be like a bulldozer going through a plate glass window. This is a real "porkaroo" if I ever saw one.

Mr. MEEDS. Mr. Chairman, I appreciate the gentleman's concern. The fact is that safety has never been a reimbursable item. This is plowing new ground by making it a reimbursable item under certain circumstances.

In all the other four authorizations and for the 14 that have either been repaired or are under repair right now, it is not reimbursable at all. We are for the first time by this legislation and by the amendment I am proposing making it reimbursable under proper circumstances. I am sure the gentleman would agree with that approach.

Mr. CONTE. Mr. Chairman, I certainly agree with the approach of making it reimbursable. But I do not agree with section (b), which I think just opens the floodgate here for everyone coming in for repair of dams that will be nonreimbursable. That bothers me. Everyone will say that it was the result of hydrologic or seismographic data or changes in the state-of-the-art criteria. There are too many cracks in the dam.

Mr. MEEDS. Mr. Chairman, the unfortunate thing is that, with the additional information, we are finding that a number of these dams were built incorrectly, in the first instance, which was the problem in the State of the gentleman from Idaho with the example of the Teton Dam. We do not feel that, since safety was not a reimbursable item in the first instance, it should be when it is discovered that it was not taken care of in the first instance. And that is the agreement we have with the administration.

Mr. CONTE. Mr. Chairman, I want the record to show that I certainly strongly oppose this measure.

Mr. SYMMS. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I only wish to say that I do think that this amendment is needed. It takes a step in the right direction, and it also recognizes the importance of safety and, in the long-range effects, that there has been evidence starting to show up now of faulty engineering. But we must remember that, when it is a Federal dam, the liability then lies with the Federal Government. I think it is important that this amendment be put in the bill and that we recognize that this is a taxpayers' saving measure and not an expense if we look down the road to the future.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not intend to tie up this House with any lengthy speech on this, but I certainly feel that this amendment is so far reaching that it may be establishing a precedent, and I certainly want to have a little more time to look into it. Therefore, when the vote comes on the amendment, I may have to ask for a rollcall on it, to give us a little time to look at it.

Mr. MEEDS. Mr. Chairman, I move to strike the requisite number of words, so that I may engage in colloquy with my friend, the gentleman from Massachusetts (Mr. CONTE).

Mr. Chairman, I understand the gentleman's concern, but I wish the gentleman would recognize that this is a departure, a very substantial departure, in the very direction that the gentleman wishes to go. The total history in the past has been for nonreimbursable for safety matters. And I think the gentleman will agree with me that all of the citizens of the United States profit from safety of dams. With regard to the Teton Dam in Idaho, the loss of lives and the millions of dollars of property damage that was caused, the emergency relief that went in from the Federal Government would easily have paid for almost all of the repairs we are seeking to make under this bill. Safety is a matter which is everyone's concern. Now, when the safety is threatened by things which should have been taken care of by the users, where it is ordinary wear and tear, then I agree wholeheartedly with the gentleman that it should be reimbursed. And that is the purport of this amendment. Without this amendment the gentleman would be very upset with this bill, if I understand him correctly, and I would implore the gentleman to understand the change that is being made here to go along with us in an effort to pass this bill.

Mr. Chairman, I will yield to the gentleman if he has a question.

Mr. CONTE. If the gentleman will yield, the gentleman knows my reservation. It is just unfortunate that the bill comes up at this late stage of the game and we are not able to look at it in depth. The bill also provides for expenditures of up to $100 million. I have no idea of what the projection is on the cost of repairing some of these dams and what happens with any balance of funds.

Is this money transferrable to other projects that the House here once felt unwarranted?

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Idaho.

Mr. SYMMS. We will have a study every time, and Congress will still retain the purse strings, as I said in my opening remarks during general debate. So, nothing is going to happen that the Congress does not have oversight and control over the purse strings on it.

Mr. MEEDS. I might explain further to the gentleman that in each instance, first, the report lays out fully the 13 projects and the cost that we have on those. Secondly, the bill requires——

Mr. CONTE. If the gentleman will excuse me, what is the estimated cost of the 13 projects?

Mr. MEEDS. Approximately $40 million.

Mr. CONTE. And what happens to the remaining $60 million?

Mr. MEEDS. The $60 million remains available for the purposes of repairing dams for safety purposes only.

Mr. CONTE. In no way will that money be transferrable to any other accounts?

Mr. MEEDS. Not at all. In fact, the Secretary has to lay before the Congress the engineering report and the study, and it has to lay before the Congress for 90 days before he can even proceed with that authority. The gentleman sits on the Appropriations Committee, where it is also subject to review. We have tried to make this a fail-safe system, I will tell the gentleman.

Mr. CONTE. I certainly have strong admiration for the gentleman from Washington, and I do not want to be an obstructionist. As the gentleman knows, I never have been.

Mr. MEEDS. I appreciate the gentleman's comment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I think we all must applaud the steps that the chairman has very ably taken here, and the ranking minority member, in saying that these costs must be paid by the users. I think what is dangerous here, as we know, is that we are moving into a whole new phase where dams are going to be reexamined not just for maintenance and operation, but for hydrologic and seismic costs. If we once start saying that hydrologic and seismic costs ought to be paid by the taxpayers, I think we are starting a very dangerous precedent.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Mr. Chairman, I think I have made my point.

Mr. MEEDS. I thank the gentlewoman from New Jersey, and I understand her concern.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman. I wonder if at this point I could repeat the question I asked earlier in general debate, and that is the expression of concern that came to my office from the National Wildlife Federation. Can the gentleman tell me whether in fact the specific amendment that he has offered has been discussed with that federation, and I wonder what the reaction is. Are they satisfied that this amendment covers the concern that they have expressed?

Mr. MEEDS. I would just say to the gentleman that I have not met personally with the National Wildlife Federation. I did not, indeed, even know of their concern, but information of that concern was expressed to the same thing by the Assistant Secretary for Water, Mr. Martin, with whom I met and with whom we fashioned and passed the amendment which I think, if the gentleman would like to contact him, would also allay the fears of the National Wildlife Federation, since it was the same problem.

Mr. WEISS. That is what the gentleman from Massachusetts is suggesting and what I am suggesting. The information I have is that when my office inquired of some of the subcommittee staff with regard to these expressions of concern, as to who is going to pick up what portion of the cost, the reports that came back to us were something to the effect that the only reasons those concerns are being expressed—I hope I am not misstating—was because some people did not want the Bureau of Reclamation to go forward with their work.

I do not find that a satisfactory response.

Mr. MEEDS. I do not agree with that either.

Mr. WEISS. Before this matter comes back to us again I hope we will get some view from the Secretary and other concerned parties.

The CHAIRMAN. The time of the gentleman from Washington has again expired.

(By unanimous consent, Mr. MEEDS was allowed to proceed for 2 additional minutes.)

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, in response to the question of the gentleman from New York, I saw a representative of the National Wildlife Federation not 20 minutes ago, and they are troubled by this amendment, because this amendment does shift a great part of hydrological and seismic costs onto the backs of the general public.

Mr. SIMON. I appreciate the comments of the gentlewoman.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I am told the parliamentary situation is certainly such that if I make a point of order that a quorum is not present, that it will knock off about 12 other bills, and certainly I do not want to be in that position, and I just will go along with this now very reluctantly—very, very reluctantly; but I do expect and I will insist that both the Authorizing Committee and the Appropriations Committee look into this next Congress.

Mr. MEEDS. I do appreciate that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. MEEDS) to the committee amendment.

The amendment to the committee amendment was agreed to.

The committee amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: Page 3, line 21, after section 5 add a new section 6;

"Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act."

Mr. UDALL. Mr. Chairman, last winter we had in Phoenix nearly an alltime record rainfall. The dams above Phoenix were all full. The Bartlett Dam, an ancient structure about 30 miles north of Phoenix, overflowed. At that time it was apparent the spillways were badly unsafe and in need of repairs. This would simply expedite that repair. It does not call for any additional expenditure. It simply means the repairs can be done this winter. In fact, they are already underway, so the city of Phoenix can have that protection.

Mr. Chairman, I do not know of any controversy about this.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, we have examined this amendment and have discussed it with the gentleman from Arizona. This dam would clearly qualify under this program. All this amendment does is allow the people in the covered area to advance the money for the repair and to be reimbursed later.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the committee chairman for yielding.

We have had an opportunity to examine the amendment. We are very happy to accept the amendment, and we agree with what the gentleman from Washington (Mr. MEEDS) just stated.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I am puzzled. I thought these dams were built with the idea, in the beginning at least, that the beneficiaries would pay for all this, for the maintenance and repair and any other costs.

Do I understand that correctly, or have I perhaps misunderstood? Are these costs the gentleman from Arizona (Mr. UDALL) referred to not going to be paid by the general taxpayer, or are they?

Mr. UDALL. No; those costs will be paid. These dams are constructed, built, and maintained by the Bureau of Reclamation. They have the responsibility for maintenance and operation.

The question is whether they have the money now or whether they will have to wait for the money to carry out this operation. But in any event it is repaid by the users of water at a later stage, so there is no cost to the general taxpayers.

Mrs. FENWICK. I see. Mr. Chairman, I thank the gentleman very much for his explanation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: On page 3, following line 21, insert the following new section:

SEC. 6. Notwithstanding any other provision of law, the Secretary of Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the act of December 28, 1973, (87 Stat. 904), to treat such costs as costs incurred under this act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

Mr. SYMMS (during the reading). Mr. Chairman, I ask unanimous consent

that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Idaho?

There was no objection.

Mr. SYMMS. Mr. Chairman, this amendment is consistent with the Udall amendment that the House just accepted a few moments ago. It applies to the American Falls reservoir in the American Falls in Idaho. This would put American Falls in the same category as the preceding amendment.

In 1973 Congress passed and the President signed into law a proposal to permit replacement and rehabilitation of American Falls dam in Idaho through the use of non-Federal financing by the American Falls Reservoir District. This action was necessitated by safety considerations caused by alkali-aggregate reaction resulting in deterioration of the concrete on this Bureau dam. When safety considerations led to restrictions on the storage capacity of the reservior in 1972, speedy action to repair the dam was vital. Because the Bureau refused to repair the dam, the Congress passed the above-mentioned proposal to allow the local irrigation district to assume the repair costs in conjunction with a private utility (Idaho Power) which installed hydroelectric generating facilities simultaneously with the dam repair project.

Now what this would do is take the space holders' share, not the power generating capacity share, and put it in where the Under Secretary would be able to put it in.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, we have examined the amendment and clearly this dam would also qualify under the same situation as the gentleman from Arizona said, and we would accept the amendment.

Mr. SYMMS. I thank the gentleman from Washington and wish him every good wish in the future and would say also that it has been my pleasure to work with him on this committee.

Mr. HANSEN. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Idaho.

Mr. HANSEN. Mr. Chairman, I rise in support of the amendment and applaud the ranking minority member, the gentleman from Idaho, and the subcommittee chairman, the gentleman from Washington (Mr. MEEDS), for their efforts in this regard.

This amendment will provide for repayment of $18 million to Idaho irrigators for their costs in repairing the American Falls dam which began to fail and become unsafe through no fault of their own.

This will compensate local water users for taking the initiative and rebuilding the dam and actually saving the taxpayers money by avoiding time delays with escalated costs or the tragedy of complete failure.

The proposed amendment is very much in the spirit of the mission of this safety of dams bill which we are considering and which I sponsored and have been working to implement for 2 years.

We are attempting to prevent further failures such as the Teton Dam disaster which occurred in my district and provide for appropriate Government safety measures and relief and reimbursement processes to deal with structural problems across the Nation such as with the American Falls, Island Park, and Jackson Lake Dams affecting my State of Idaho.

I strongly urge the adoption of this amendment.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SYMMS. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, as I understood it in discussing the dam in Arizona, as described by the gentleman from Arizona, those expenses would be reimbursable; in other words, the users would be paying back into the fund and the General Treasury funds would not be used. But if I understand it correctly, this is different. In other words, this amendment would provide that the costs would not be reimbursable and paid by the users but by the General Treasury funds.

Mr. SYMMS. Not entirely. Over half of it would be reimbursables and would be paid back by the power company. The space holders have already paid for it once and the reclamation people would just be meeting their part of the contract.

Mrs. FENWICK. I am not concerned about the power companies paying but I am concerned that more burden should not go over to be borne by the general taxpayers.

Under this amendment would the costs be borne by the general taxpayers?

Mr. SYMMS. It is a Government project in the first place, I would say to the gentlewoman from New Jersey, Mrs. FENWICK, and what is happening here is that the reclamation dam had faulty alkaline aggregate that was used to mix the cement that was used to construct the dam in 1929 when it was built. So there has been a deterioration that should not have taken place. So, as far as the contractual arrangement is concerned, the Bureau has been unable to meet its half of the contract. The spaceholders have been reimbursing the cost of the dam, they were not the ones who did the engineering, and rebuilt the dam. And when we could not get legislation to build the dam, because of the safety factors they went ahead because of the emergency situation.

So what we are doing now is to put the American Falls dam in the same category as these other projects that are in question. The generating facilites will be paid for by the users but not the spaceholders.

Mrs. FENWICK. In other words, the general taxpayers will be repairing the dam to fix the aggregate that was inadequate in the beginning?

Mr. SYMMS. That is basically correct, but the spaceholders do have a construction and operation and maintenance charge on the operation of the dam.

Mrs. FENWICK. How much is it estimated it is going to cost the taxpayers of this country?

Mr. SYMMS. It will cost $18 million.

Mrs. FENWICK. On the dam?

Mr. SYMMS. On this dam.

Mrs. FENWICK. What is the total?

Mr. SYMMS. The total is $38 million.

Mrs. FENWICK. Then the taxpayer's share is a little less than half?

Mr. SYMMS. A little less than half.

Mrs. FENWICK. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KREBS

Mr. KREBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KREBS: At the end of the bill add the following:

( ) The Congress hereby finds that the oversight provided for in section 3 of P.L. 95-46 has been accomplished with respect to the three temporary water service contracts between the United States and the Westlands Water District, as forwarded to Congress on October 4, 1978.

Mr. KREBS. Mr. Chairman, recently the Department of the Interior signed temporary water delivery contracts with the Westlands Water District, which many of you know is located in central California and located, furthermore, primarily in the congressional district of our colleague, the gentleman from California (Mr. SISK) and my own congressional district.

Under Public Law 95-46, these contracts have to be submitted to the Congress for oversight purposes. These contracts have indeed been submitted on October 4.

The purpose of this amendment is to certify that the oversight has been accomplished.

Mr. Chairman, this particular amendment has the support not only of the gentleman from California (Mr. SISK), and myself, but also the support of a long-time critic of the Westlands Water District, our colleague, the gentleman from California (GEORGE MILLER).

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I had the opportunity to be with the gentleman in Fresno this year in looking into the western water projects, and we had a great deal of testimony and investigation, and we support the amendment on this side and we are happy to accept it.

Mr. KREBS. I thank the gentleman.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. KREBS. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, we have examined the amendment and fully accept it.

Mr. KREBS. I thank the gentleman.

Mr. Chairman, since I have a couple of minutes remaining, I would like to use this opportunity to express my deep appreciation to the chairman of the Subcommittee on Water and Power Resources of the full Committee on Interior and Insular Affairs, our good friend and colleague, the gentleman from Washing-

ton, Mr. MEEDS, who unfortunately will be leaving us at the end of this session—voluntarily, I might add.

I have been deeply impressed by his sense of fairness, his hard work and his willingness to listen. I wish to thank him also for the help that he has given me personally throughout my relatively brief tenure on this subcommittee.

Mr. Chairman, if I may proceed for just 1 minute, this also happens to be the last day that my good friend and colleague, the Congressman of the district adjoining mine, the gentleman from California (Mr. SISK), will be here. He will be leaving us after 24 years of distinguished service in this body.

Mr. Chairman, since I have had the privilege of having voted for the gentleman from California (Mr. SISK) since his first election, and having now served with him for the past 4 years, I am very sad to see him leave us. I wish him and his family the best of everything in years to come.

Mr. Chairman, BERNIE SISK's contributions to this body and the people of the State of California will be long remembered; I know that his distinguished service to the people of the United States will continue long beyond retirement.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. KREBS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 3, line 22: At the end of the bill, add a new section to read as follows:

(a) The Secretary of the Interior, after October 1, 1979, shall make a full investigation and study to determine the feasibility of carrying out a project to rehabilitate and improve the existing Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, including—

(1) repairing and stabilizing the face of the dam;

(2) enlarging spillway capacity to insure the safety of the dam; and

(3) raising the dam to increase the storage capacity of Santa Cruz Reservoir.

(b) In carrying out the investigation and study authorized by subsection (a) the Secretary shall give full consideration to the potential for developing the Santa Cruz Dam and Reservoir as a unit or part of the San Juan-Chama project.

(c) The Secretary shall submit to the President and the Congress as soon as practicable the results of such investigation together with his recommendations.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this bill.

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, the amendment that I am offering on behalf of my colleague from New Mexico, Mr. LUJAN, is a very simple one. It merely adds to the measure that is now before us, the text of a bill passed by the Senate yesterday. My amendment will authorize a study of the Santa Cruz Dam in New Mexico, to determine whether it is feasible to rehabilitate the dam. The authorization amount is $350,000, a very small sum. The dam itself was built in 1929 and is used for water storage for irrigation water. The study will determine which of the available options is best:

First. To repair the dam face; or

Second. To repair the dam face and raise the level.

This amendment has been approved by the manager for the majority and I urge its adoption.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Washington.

Mr. MEEDS. Mr. Chairman, we have looked at the amendment, and it clearly comes within the scope of this bill. We are delighted to accept the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman from Alaska (Mr. YOUNG) for offering the amendment on behalf of the gentleman from New Mexico (Mr. LUJAN).

I have studied the amendment and discussed it with the gentleman from New Mexico (Mr. LUJAN). We accept it on this side of the aisle.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman.

In view of what has been said here previously, Mr. Chairman, I would like to take a little time to compliment my good friend, the gentleman from Washington (Mr. MEEDS).

Mr. Chairman, the gentleman from Washington is going to be a great loss to the State of Alaska. I have said this before. There is no one who knows the State of Alaska better than I do other than the gentleman from Washington (Mr. LLOYD MEEDS) himself.

Mr. Chairman, I encourage his involvement in the future in my State as he has been involved in the past, and I want to wish him all the luck and success possible in his future endeavors.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FOLEY

Mr. FOLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FOLEY: at the end of the bill add a new section as follows:

SEC. . The fourth sentence of section 201 of the Act of September 30, 1968 (Public Law 90-537), is amended by striking out "from the date of this Act" and by inserting in lieu thereof the following: "from the date of the enactment of the Reclamation Safety of Dams Act of 1978".

Redesignate the succeeding sections accordingly.

Mr. FOLEY. Mr. Chairman, this amendment would extend the law to a moratorium on inner basin studies for these projects and two others listed in section 201 of the act of September 30, 1968.

Mr. MEEDS. Mr. Chairman, if the gentleman will yield, we have examined the amendment and will agree to the amendment.

Mr. SYMMS. Mr. Chairman, I rise in support of the Foley amendment and ask for the Committee to support its adoption.

The Columbia Basin is a relatively new country. We still have a lot of land that could be developed and put into cultivation.

The State of Idaho alone has from 2 to 3 million acres of land and this alone will overallocate the Snake River.

In summary what I am saying is that it would be a total waste of the taxpayers' money to study transfer of water out of the Columbia Basin because we can already anticipate into the future the day when we will have no surplus of water in the entire basin.

● Mr. HANSEN. Mr. Chairman, I commend my colleague from Washington for offering this amendment which will provide for a second 10-year moratorium period forbidding any studies or plans for interbasin transfer of water, a measure which assures renewed protection of the waters and water rights of my home State and other areas of the Pacific Northwest.

I strongly support this amendment which I have previously sponsored in a bill with the chairman of the subcommittee, Mr. MEEDS. I was also a cosponsor of the legislation creating the previous 10-year moratorium which is now expiring.

Keeping the Columbia Basin water in its native habitat to provide for the growth and development of the States it serves and maintains the quality of our environment is a critical necessity which unites us as representatives of this prime area of this Nation.

I again strongly urge the adoption of this amendment.●

The CHAIRMAN. Does the minority seek recognition on the amendment? If not, the question is on the amendment offered by the gentleman from Washington (Mr. FOLEY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. AU COIN

Mr. AUCOIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. AUCOIN: At the end of the bill add a new section as follows:

"The Secretary of the Interior is hereby directed, notwithstanding the terms of the Contract Numbers 14-06-100-7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at federal expense pursuant to the authority of P.L. 89-596 which authorized the construction, operation and maintenance of the Tualatin Reclamation Project in Oregon."

Mr. AUCOIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AUCOIN. Mr. Chairman, my amendment quite simply clarifies the fact that the Bureau of Reclamation presently has authority to deal with a serious prob-

lem that has arisen in one of its reclamation projects in my district. This amendment serves the purpose of acting as a congressional instruction to the Bureau to proceed without delay in remedying road damage that has resulted from a special combination of geological and climatic conditions in and around the area where the Scoggins Dam has been constructed.

The Scoggins Dam and the reservoir impounded by it, known as Henry Hagg Lake, is nearing completion. Already the area has become very popular as a recreational resource for the citizens of metropolitan Portland, the lake being the closest impoundment to the city area. The full recreational potential of the reservoir cannot be realized, however, due to serious damage caused to the perimeter road last winter. A combination of two exceptionally dry summers followed by heavy rainfall last winter and a surface geology that is extremely susceptible to such rapid change, resulted in a series of landslides that in some places have sent the asphalted road sliding down the hill toward the lake shore. Repairs to the damaged sections of the road are estimated by the Bureau to cost $1,375,000.

The perimeter road was constructed by the Bureau to relocate an existing county road affected by the project. The contract between the Bureau and the county stated that the Bureau would construct and maintain the road for a period of 2 years prior to turning it over to the county for operation and maintenance. The 2-year provision contained in the contract is the equivalent of a warranty period whereby the Bureau agreed to pay for all extraordinary maintenance costs.

At the time this agreement was reached, it could not have been forseen that the most serious drought that the West has experienced in a century would make normal operating conditions for this road almost impossible. The first heavy rainfall following this abnormal drought activated six landslides affecting the road, four of them major.

The problem to which this amendment is addressed results from the fact that while the drought coincided with the warranty period allowed to the county, the first heavy rainfall occurred after the 2 years had expired. It is quite certain that the second party to the contract, Washington County, Oreg., did not receive full value from the warranty provisions of the contract. This amendment corrects that injustice by directing the Bureau of Reclamation to stabilize the slide areas and to provide road repair to the perimeter road.

Mr. Chairman, I should add that Senator HATFIELD has shared my concern over this project and has introduced an identical amendment to this bill which has been accepted by his Senate colleagues. We both agree that this amendment is required to clarify existing authority and to instruct the Bureau to correct this particular problem. The Commissioner of Reclamation, Commissioner Higginson, is on record before hearings conducted by the Senate Appropriations Subcommittee on Public Works as stating that:

It is our feeling that Washington County, through no fault of its own, did not receive full value from the warranty provision of the contract.

This amendment, by directing the Bureau to stabilize the slide areas and to provide road repair at the Tualatin project, simply translates the Commissioner's feeling into some direct action to help the county.

Mr. MEEDS. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Washington.

Mr. MEEDS. I thank the gentleman for yielding.

We have looked at this amendment. It is also in the Senate bill, and this will bring ours into conformity with that. We accept the amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I am pleased to yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

I share the comments the chairman of the subcommittee has just made. We accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. AUCOIN).

The amendment was agreed to.

Mr. MILLER of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak in favor of this legislation which I think is terribly important, especially the amendment to the legislation offered earlier dealing with the water contract for the Westlands Water District.

Mr. Chairman, these contracts are the culmination of several years of hard review of the San Luis unit by the Congress and the Department of Interior. The three contracts which were sent to us earlier this month for review, in accordance with section 3 of Public Law 95–46, represent some of the most significant reforms in Federal reclamation and water resource policy in recent memory, and the department and the Congress are to be congratulated for their thoroughness and commitment to resolving these issues.

When the subcommittee began its review of the Westlands Water District nearly 4 years ago, we had to get most of our information from the newspapers, because the oversight activities in Congress had not been utilized. We had received no assistance from the Department of the Interior. When we began to conduct oversight hearings, departmental representatives misled the Congress by failing to fully inform us about operations and contractual arrangements at Westlands.

It was not until early last year that we fortuitously had the opportunity to conduct a serious oversight campaign, and the situation which we uncovered is the best argument possible for a thorough review of Federal reclamation policy. Let me recall the scenario: Because of an error in the original authorizing legislation, Westlands discovered that they were out of construction funding in 1977, and they had to come before our subcommittee and request a reauthorization bill. Instead of the long-term funding they had requested, we authorized 1 additional year of funding. In addition, we established the San Luis task force, a select commission composed of representatives of the Federal Government, GAO, the State of California, the general public and the Westlands Water District, and we charged them with conducting the most intensive review of a reclamation project in history.

The report which was delivered to the subcommittee last January contains the documented history of abuses in the San Luis unit, abuses with significant financial implications for California, utility ratepayers, and the Federal taxpayers, all of whom will join in picking up the multibillion-dollar tab run up by the decades of subsidies enjoyed by Westlands. The political, accounting and legal sleights-of-hand were more fascinating than I had ever imagined they might be. The task force listed cases of excessive subsidies, unauthorized construction, additional lands having been included in the project, long delayed payments, supplemental water sales, project design modifications unauthorized by Congress, and almost unbelievable cost overruns.

One of the innovative features of Public Law 95–46 is the provision, in section 3, requiring congressional review of all water service contracts. Let me explain the necessity for this provision. Westlands has never received water under its long-term water service contract, the only water service contract which has been reviewed by Congress. Because of the unauthorized expansion of the service area requiring water, the district has entered into annual contracts for supplemental water delivery. Under the terms of these interim contracts, the amount of water delivered to Westlands soared from a ceiling of 1.008 million acre feet (MAF) in the 1963 water service contract, to in excess of 1.3 MAF in the year preceding the great drought of 1977.

Yet, when we held hearings on the water service contract question, the Bureau of Reclamation, under the previous administration, failed to inform the Congress of the existence of these interim contracts. The additional 300,000 AF of water is not an insignificant amount in a State like California, where there are many competing interests seeking water. But no one knew it was available. In addition, we did not have the ability to consider retaining a substantial portion of that "surplus" water for future use, which would have seemed wise given the predictions of drought.

One additional point about these interim contracts is important. The price charged for the 1.3 MAF was just $7.50 per AF, a price calculated by the Department of the Interior to be about half the price of delivery. That price had been set in the original feasibility study for the project in the mid-1950's, and is contained in the 40-year water service contract. There exists, in that contract, no provision for modifying that price on the basis of inflation. So, in 2004, Westlands would still be paying just $7.50 per AF for water which cost our Government many times that amount to deliver. The minimum subsidy for that provision is close to $300,000,000, which benefits the largest and one of the richest reclamation districts in the country.

Although the Department had had the opportunity to modify that price in the annual interim contracts, that had never been done, not even for that portion of the water in excess of the 1.008 MAF contained in the long term contract.

These contracts which the Department negotiated last month and which we have reviewed finally change that policy. In accordance with the review provision of section 3, we are all aware of the fact that the price of the water has been increased to $13.50 per AF for the agricultural irrigation water, and substantially more than that for the municipal and industrial supply. The savings to the taxpayers in the next year alone will be in excess of $8,000,000.

These contracts also contain provisions concerning the termination of water service in the event of drought to those portions of the district which have not been authorized for inclusion within the San Luis unit. This is a tremendously important provision for residents of the delta, and other legitimate water users in California, who for years have seen their dwindling and critical water supplies stolen by powerful interests in the Central Valley. These multi-billion-dollar water projects were built for the benefit and protection of the entire State, and not just to line the pockets of wealthy farmers with taxpayer-supplied subsidies. This legislation, and these contracts, help to right the balance after years of abuse.

Important as these contracts are, they only serve to begin the process of congressional review of these kinds of water projects. We took another major step when we upheld the President's courageous veto of the public works appropriations bill earlier this month, and in the compromise under consideration, we can see the emergence of a rational water resource policy for our country, based not on opposition to projects but upon a concern for the economic and environmental impacts of many of these projects. The work of the San Luis task force has already played a substantive role in helping both the Congress and the administration, and the general public, to appreciate the need to reevaluate and reform water resources policy. The contract review provisions of section 3 of Public Law 95-46 open up the long secretive contracting procedures to public review, and are therefore a major step in that reform process.

I would like to take a moment, Mr. Chairman, to pay tribute to a few people who sometimes are overlooked although their contributions to the legislative process in this field are critical. David Weiman of Agricultural Resources has developed an unparalleled understanding of reclamation law in general, and the Wetlands situation in particular. His contributions to this reform effort cannot be exaggerated. Indeed, failure to include him as one of the key figures in the reclamation debate would be an oversight of the most significant proportions.

In addition, I want to pay tribute to Bob Lane, the Special Assistant to Assistant Interior Secretary Guy Martin. Mr. Lane served as the staff director of the San Luis task force, a role he performed with great professionalism and fairness. We are in his debt for overseeing the work of that group, and for his continuing dedication to the public interest, as reflected in these contracts, which he helped to negotiate.

There are many others who have joined together to help redirect our efforts in this field, and to each of them I am most grateful, and I look forward to working with them in the future. I am also very pleased to be able to join together with my colleagues, Congressmen JOHN KREBS and BERNIE SISK, who also supported the creation of the task force and who today support this amendment.

I urge an aye vote in favor of the legislation.

The CHAIRMAN. Are there other amendments? If not, under the rule the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. PICKLE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11153) to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes, pursuant to House Resolution 1424, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MEEDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 11153, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. MEEDS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2820) to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes, a bill which is almost identical with the one we have just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I reserve the right to object in order to ask my colleague the usual question. With Halloween only 2 weeks off, it comes a little earlier for us; so that no tricks are played, when the gentleman says "almost identical," is there anything not germane to the basic purpose of this bill?

Mr. MEEDS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I am glad to yield to the gentleman.

Mr. MEEDS. Mr. Speaker, it is my hope and, indeed, my expectation that the Senate will take the bill we have just passed, and in no event will I be taking nongermane amendments from the Senate.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be cited as the "Reclamation Safety of Dams Act of 1978".

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the Act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this Act, and to enter into contracts to the extent and in the amounts provided in appropriations Acts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 5. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act.

SEC. 6. All costs heretofore or hereafter incurred pursuant to this Act shall be nonreimbursable and nonreturnable under reclamation law.

SEC. 7. There are hereby authorized to be appropriated, effective October 1, 1978, such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act: *Provided,* That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a date certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such findings shall be accompanied by a technical re-

port containing information on the need for structural modification, the corrective action deemed to be required. alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

SEC. 8. The Secretary of the Interior is hereby directed, notwithstanding the terms of the contract number 14-06-100-7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at Federal expense pursuant to the authority of Public Law 89-596 which authorized the construction operation and maintenance of the Tualatin Reclamation Project in Oregon.

SEC. 9. The Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required to provide safe public access to the existing public viewing areas of the Buffalo Bill Dam. Such modifications may be made from funds appropriated under section 7 of this Act.

SEC. 10. The proviso contained in section 201 of the Colorado River Basin Project Act (43 U.S.C. 1511) is amended by striking out "ten years" and inserting in lieu thereof "twenty years".

SEC. 11. Public Law 95-226 is amended by adding at the conclusion of the first section the following sentence: "There is authorized to be appropriated such funds as may be necessary, but under no circumstances, more than $1,500,000, to complete the following projects initiated under the Emergency Drought Act of 1977: Acoma Pueblo Project, Isleta Pueblo Project, San Ildefonso Pueblo Project, San Juan Pueblo Project, Taos Pueblo Project, Tesuque Pueblo Project, Zia Pueblo Project, Pala Mission Project, Rincon Mission Project, Morongo Mission Project, LaJoya Project, Pauma Project, San Carlos Apache Project, Gila River Project, Pyramid Lake Project, Summit Lake Project, and Yerington Pauite Project.".

SEC. 12. The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of—

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later),

but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures, May, 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraph.".

MOTION OFFERED BY MR. MEEDS

Mr. MEEDS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MEEDS moves to strike all after the enacting clause of the Senate bill, S. 2820, and to insert in lieu thereof the provisions of the bill, H.R. 11153, as passed by the House, as follows:

S. 2820

Amendment offered by Mr. MEEDS: Strike out all after the enacting clause of S. 2820 and insert in lieu thereof the provisions of H.R. 11153, as passed by the House, as follows:

That this Act shall be cited as the Reclamation Safety of Dams Act of 1978.

SEC. 2. In order to preserve the structural safety of Bureau of Reclamation dams and related facilities the Secretary of the Interior is authorized to perform such modifications as he determines to be reasonably required. Said performance of work shall be in accordance with the Federal reclamation laws (Act of June 17, 1902, 62 Stat. 388, and Acts amendatory or supplementary thereto).

SEC. 3. Construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.

SEC. 4. (a) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from age and normal deterioration of the structure or from nonperformance of reasonable and normal maintenance of the structure by the operating entity shall be considered as project costs and will be allocated to the purposes for which the structure was authorized initially to be constructed and will be reimbursable as provided by existing law.

(b) Costs heretofore or hereafter incurred in the modification of structures under this Act, the cause of which results from new hydrologic or seismic data or changes in state-of-the-art criteria deemed necessary for safety purposes shall be nonreimbursable and nonreturnable under the Federal reclamation law.

SEC. 5. There are hereby authorized to be appropriated for fiscal year 1979 and ensuing fiscal years such sums as may be necessary, but not to exceed $100,000,000, to carry out the provisions of this Act to remain available until expended if so provided by the appropriations Act: *Provided*, That no funds shall be obligated for carrying out actual construction to modify an existing dam under authority of this Act prior to sixty days (which sixty days shall not include days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) from the date that the Secretary has transmitted a report on such existing dam to the Congress. The report required to be submitted by this section will consist of a finding by the Secretary of the Interior to the effect that modifications are required to be made to insure the safety of an existing dam. Such finding shall be accompanied by a technical report containing information on the need for structural modification, the corrective action deemed to be required, alternative solutions to structural modification that were considered, the estimated cost of needed modifications, and environmental impacts if any resulting from the implementation of the recommended plan of modification.

SEC. 6. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to reimburse the Salt River Project for expenses incurred to modify the Bartlett Dam spillway and outfall channel, undertaken for safety of dam purposes pursuant to the provisions of this Act.

FEDERAL RECLAMATION DAMS SAFETY

SEC. 7. Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to pay and discharge that portion of the costs associated with the replacement of the American Falls Dam which the irrigation spaceholder contracting entities are obligated to pay pursuant to the implementation of the act of December 28, 1973 (87 Stat. 904), to treat such costs as costs incurred under this act, and to enter into contracts with the irrigation spaceholder contracting entities to accomplish the payment and discharge of such costs.

SEC. 8. The Congress hereby finds that the oversight provided for in section 3 of Public Law 95-46 has been accomplished with respect to the three temporary water service contracts between the United States and the Westland Water District, as forwarded to Congress on October 4, 1978.

SEC. 9. (a) The Secretary of the Interior, after October 1, 1979, shall make a full investigation and study to determine the feasibility of carrying out a project to rehabilitate and improve the existing Santa Cruz Dam and Reservoir, Santa Cruz Irrigation District, New Mexico, including—

(1) repairing and stabilizing the face of the dam;

(2) enlarging spillway capacity to insure the safety of the dam; and

(3) raising the dam to increase the storage capacity of Santa Cruz Reservoir.

(b) In carrying out the investigation and study authorized by subsection (a) the Secretary shall give full consideration to the potential for developing the Santa Cruz Dam and Reservoir as a unit or part of the San Juan-Chama project.

(c) The Secretary shall submit to the President and the Congress as soon as practicable the results of such investigation together with his recommendations.

(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this bill.

SEC. 10. The fourth sentence of section 201 of the Act of September 30, 1968 (Public Law

90–537) is amended by striking out "from the date of this Act" and by inserting in lieu thereof the following: "from the date of the enactment of the Reclamation Safety of Dams Act of 1978".

SEC. 11. The Secretary of the Interior is hereby directed, notwithstanding the terms of the Contract Numbers 14–06–100–7174, to make necessary repairs on the Scoggins Valley Road around Henry Hagg Lake, Oregon, at Federal expense pursuant to the authority of Public Law 89–596 which authorized the construction, operation and maintenance of the Tualatin Reclamation Project in Oregon.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11153) was laid on the table.

EXTENDING BOUNDARIES OF TOIYABE NATIONAL FOREST, NEVADA

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2774) to extend the boundaries of the Toiyabe National Forest in Nevada, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman from Arizona tell me whethere there is anything nongermane attached to this bill?

Mr. UDALL. Mr. Speaker, if the gentleman will yield? The answer is no. This is exactly like the bill out of the Committee on Interior and Insular Affairs which went to the Senate except it involves less acreage. Both involve lands near Lake Tahoe.

The Senate amendment reduces the acreage involved to 34½ acres, eliminating the acquisition of some potentially very expensive lands near Lake Tahoe. For that reason, I propose that we now accept the Senate bill. This has the support of our colleague, the gentleman from Nevada (Mr. SANTINI).

Mr. BAUMAN. Mr. Speaker, there are no nongermane amendments?

Mr. UDALL. No; the gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona.

There was no objection.

The Clerk read the Senate bill as follows:

S. 2774

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That to aid in the protection and management of the various resources of the lands, including the protection, improvement, and maintenance of the watershed, wildlife, recreation, and natural environment values thereof, situated in the Lake Tahoe Basin, and to promote the management and protection of such lands under principles of multiple use and sustained yield, the boundaries of the Toiyabe National Forest are hereby extended to include the area described in section 2 hereof. Subject to any valid claims.

SEC. 2. This Act shall be applicable to the following lands:

(a) a tract of land referred to as the "Whittell property", situated in section 10, lot 2, township 13 north, range 18 east, Mount Diablo, Meridian, Nevada, containing 34.4 acres more or less.

SEC. 3. Funds appropriated and available for acquisition of lands, waters, and interests therein, in the National Forest System pursuant to section 7 of the Act of September 3, 1964 (78 Stat. 903), shall be available for the acquisition of any lands, waters, and interests therein, within the area described in section 2 of this Act. In addition, the Act of August 5, 1970 (Public Law 91–372) is hereby amended to remove the limitation on expenditures of $12,500,000 as it applies to the area described in the Act of August 5, 1970 (84 Stat. 694).

● Mr. SANTINI. Mr. Speaker, I wish to speak in support of the unanimous consent for consideration of S. 2774. I do so with reluctance and disappointment, because a vital and important part of the House bill has been omitted in the Senate bill.

The omitted section would have provided the authority for expansion of the boundaries of the Toiyabe National Forest in order to include the Jennings and Kahle properties on the Nevada side of the Tahoe Basin. The two properties are proposed gaming sites that have been the subject of ongoing litigation.

Acquisition of these two properties by the U.S. Forest Service represents a critical first step in our effort to arrive at a rational and balanced administration within the Tahoe Basin. The proposed purchase is also a foundation stone for future basin management decisions.

The exclusion of the two gaming properties in the Toiyabe expansion is a regretable retreat within this legislation. The Jennings and Kahle properties are part of the original House bill which included acquisition of the 34-acre Whittel property and the elimination of the ceiling on financing of future Forest Service purchases in the Tahoe Basin.

Obtaining the two prospective gaming sites should have gone hand-in-hand with the rest of the legislative package which passed the House in August. A great deal of time, work, and energy was devoted to persuade the committee chairmen and Members of the House of Representatives to demonstrate the importance of this property acquisition.

I know my disappointment today is echoed by Chairman Bizz Johnson and Chairman JOHN MCFALL. They, too, worked very hard to achieve the legislative mandate necessary to allow the purchase of the Nevada gaming sites.

We are now left with the legislative alternative that is half a loaf. It is better than none. I appreciate the merit of that practicality, but regret the necessity of having to accept this retreat.

I would surmise that it will be necessary to reinstitute our efforts in behalf of the Jennings and Kahle properties in the next Congress. We have lost some valuable ground, and I earnestly hope it can be regained.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 2566 AMENDING PENNSYLVANIA AVENUE DEVELOPMENT PLAN

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2566) to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and borrowings from the U.S. Treasury for further implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes, with a Senate amendment to the House amendment thereto and agree to the conference asked by the Senate.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. CHAPPELL. Mr. Speaker, reserving the right to object, would the chairman of the committee explain this request? Is it the gentleman's understanding that the history behind this bill is that the Senate passed the bill dealing with the Pennsylvania Avenue Development plan?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, that is the basic bill; the authorization for the Pennsylvania Avenue Development Corporation is the basic bill.

Mr. CHAPPELL. Mr. Speaker, I understand then it came to the House and the House, after it had gone to the Committee on the Interior, amended the bill to add the project for the San Antonio Missions National Historic Park?

Mr. UDALL. The gentleman is correct.

Mr. CHAPPELL. And we sent it back to the Senate?

Mr. UDALL. The gentleman is correct.

Mr. CHAPPELL. Whereupon the Senate amended the House amendment, doing so with an amendment in the nature of a substitute. They added in essence a "Christmas tree" to it, including a number of projects, one of which was to establish the Legionville National Historic Site, one for the expansion of the Indiana Dunes National Lake Shore, and then one on the Cross-Florida Barge Canal, all of which amendments were nongermane to the House amendment.

Mr. UDALL. The gentleman is correct. It was a small "Christmas tree," but it is not the Christmas season.

Mr. CHAPPELL. Right. We are now at the point I believe, that the Senate has asked for a conference, and the gentleman is now asking that the House appoint the conferees?

Mr. UDALL. Mr. Speaker, all I am suggesting at this time is that we really should be in a position to go to conference to consider these matters. I know the gentleman's concern, and I personally share many of his concerns. All I am asking at this time is that we appoint conferees.

Mr. CHAPPELL. Mr. Speaker, is it the gentleman's understanding also that with reference to the Cross-Florida Barge Canal, while the Senate has had 2 years in this Congress to act upon this measure, it was only some 10 days ago

that they sent a bill to the House, which incidentally was by my understanding passed in the Senate, even without their realization that it had passed; and that bill now pends in the Committee on Public Works and Transportation in the House? Is that the gentleman's understanding?

Mr. UDALL. Mr. Speaker, will the gentleman yield further?

Mr. CHAPPELL. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, the gentleman is correct. Our Committee on Interior and Insular Affairs does not have jurisdiction over any deauthorization of the Cross-Florida Barge Canal. That troubles me.

I frankly say to the gentleman that we are dealing with another committee's jurisdiction and with the Senate's position, and I personally do not like this procedure.

Mr. CHAPPELL. Mr. Speaker, I would also like to make the comment that the Senate now, without any notice to any of us who represent districts in which this canal lies—and there are four of us—has taken this action. None of us had any notice whatsoever, and this matter was just stuck on a bill in a nongermane way.

None of us want to hold up this bill, because there are worthwhile projects in it. If we might have the assurance from the gentleman that he will do everything within his power to knock out the nongermane matter with reference to the Cross-Florida Barge Canal, and that he will do everything in his power, either there or here, to preserve the orderly procedure of having this matter considered by the appropriate committee and not through the back door, then I would be willing to withdraw my reservation of objection.

Mr. UDALL. Mr. Speaker, let me say to the gentleman from Florida (Mr. CHAPPELL), whom I greatly admire, and let me say also to the gentleman from Florida (Mr. BENNETT), who I think is one of the great people in the history of this institution, that I understand their concerns. I think they should have been consulted and I think this is an irregular procedure.

I personally think we ought to deauthorize this canal one of these days, and I would be for it at the proper time and in the regular procedure.

I do not pretend to control the other conferees, and I do not pretend to control the other body, but I will tell the gentleman I will do everything in my power to see that this item is deleted in any conference we have, because I do not think it belongs in this bill under this procedure.

Mr. CHAPPELL. Mr. Speaker, with that understanding, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, as I understand it, the basic bill provides for the extension of the Pennsylvania Avenue Development Corporation?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, it is an authorization bill. The authorization ran out. We started out with a simple bill to extend the authorization of the Pennsylvania Avenue Development Corporation.

Mr. ASHBROOK. Mr. Speaker, I think my colleague, the gentleman from Arizona (Mr. UDALL) has hit the nail on the head. We did start out with a simple little bill, and now it is going on and on and on.

I must say that I have to view this bill as one of the major business subsidies of our time. I have watched some of these business types as they operated this particular corporation. The gentleman may recall that I objected to the original consideration of the Pennsylvania Avenue Development Corporation bill some time ago, and I would be constrained to object at this time if the objection would have the purpose of killing the Pennsylvania Avenue Development Corporation.

Mr. UDALL. Mr. Speaker, we are trying to work out the gentleman's concern, and I hope the gentleman will not kill the whole bill.

The gentleman from Texas (Mr. KAZEN) has been working here almost continuously for the past 48 hours and he has an important rider on this bill that he is trying to get passed. Also involved in the bill is the Indiana Dunes National Lake Shore extension, in which the Indian delegation is greatly interested.

Mr. ASHBROOK. Mr. Speaker, I would still be constrained to object until we have a little better understanding of this matter.

Mr. Speaker, I object.

The SPEAKER pro tempore (Mr. MURTHA). Objection is heard.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. BOWEN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 14104) to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. BOWEN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 14104, with Mr. SISK in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Mississippi (Mr. BOWEN) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to comment briefly at this point that we have a statute which we have lived with since 1973. It was an attempt to balance environmental and developmental interests. I, frankly, am of the opinion that it has not been successful in that regard, and I think most of the Members of this House agree. For that reason, we have rewritten that legislation this year, and we have made a diligent effort to take into consideration more accurately the development needs of this Nation.

There are a number of things which this bill brings before the House which I think are substantial contributions in that direction. I guess it is often said that compromise is the soul of politics. And if that is true, certainly this bill has a great deal of soul, because it is very decidedly a compromise among a number of factors and forces. I would like to thank those representatives of what we might oversimplify by calling the environmental movement in the Nation, who have worked with us and tried to develop this bill, and, at the same time, those who represent the developmental interests of this country who have worked with Members and committee staff in order to devise a bill which does protect and preserve the endangered species of this Nation and at the same time provides an opportunity for human growth, development, and progress, which we feel is an absolutely vital consideration.

A number of questions which were raised last night during consideration of the rule were particularly directed in the area of what the bill does to insure that there can be economic growth and development in the country. I would like to direct my remarks in that direction. I know there will be others who will address other aspects of this legislation.

For the first time, we are going to have a bill which will provide actual notice to all local units of government. For the first time we are going to have a bill which will provide for publication of proposed listings. For the first time we are going to have mandatory public meetings and hearings. For the first time we are going to have current designation of critical habitat at the same time as the listings.

For the first time we are going to have proposed final regulations actually based on the best scientific data available—current, not old data, but current data. I might indicate that the gentleman from Texas (Mr. BROOKS), who is not in the Chamber at this time, asked a question about the Houston toad. That is a good example of the mistakes and, frankly, what I must consider the ineptitude we have seen from time to time on the part of many of the officials of the Office of Endangered Species. They did designate as the habitat of the Houston toad a paved parking lot in downtown Houston. When it was brought to their attention, they then discovered that their maps and research data were somewhat out of date. So, this legislation obviously goes to correct that kind of problem.

We have, of course, for the first time the all-important exemption process. There is no exemption process under present statute law—none at all. I recall

from the debate that took place before the Supreme Court on the Tellico Dam case that Mr. Justice Marshall, I believe it was, asked a question of one of the witnesses from the Department of the Interior as to whether or not, if he located a species in the basement of the building which was listed as endangered, and whose continued existence was jeopardized by the presence of the Supreme Court Building, would that mean that the building was going to have to be torn down. The answer was yes, the building would have to be torn down. Of course, there may be a number of people who would think that would be a good idea, but nevertheless that is an actual application of the way the present law could be administered. The courts made it clear that they can go no other way, as the law is now written; they cannot give us any relief.

Therefore, we have to revise the law. We have in this legislation a two-tier process which involves policy recommendations passed on findings on the part of a three-man review board. We have that decision reviewable by a six-man, cabinet-level committee, the ultimate political decision, as to whether an endangered species might be terminated, might be extinguished—a condition which we hope will not happen too frequently, but nonetheless we feel that process of exemption has to be established and it must be a fair and unbiased decisionmaking process.

We have a balanced six-man committee representing on the one hand the environmental interests, as we see it, the Interior Department, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality; and on the other hand the Department of the Army, representing the Corps of Engineers, the Department of Agriculture, and the Governor of the State where the affected project is located.

We have for the first time an administrative process which is consistent with that which is established in the Federal Administrative Procedure Act from the final decision. We have judicial review of the Endangered Species Committee. We feel that we have established in this bill a number of safeguards, a number of methods of review which have been demanded by people throughout the country.

So far as the economic aspect of this bill is concerned, I think most people can take heart. We have very explicitly spelled out that economic matters may be considered in the exemption processes. We have cited in our committee report the matters that are spelled out in OMB circular A–107 and Executive Order No. 11949. These are the required economic impact studies which have been ignored, unfortunately, by the Department of the Interior. We have spelled them out in the committee report in terms of those items which are to be considered in a balanced judgment between human needs and nonhuman needs. Some of them include the impact on consumers and business markets, local, State, and Federal Government; productivity of wage earners, businesses, government; the effect on competition; the effect on supplies and materials; products and services; the effect on employment; the effect on energy supply and demand.

We indicate particularly that national defense issues are important to the Nation. We also include esthetic, ecological, educational, historical, recreational, and scientific considerations and any other items which are deemed to be worthy to be reviewed and taken into the balance in determining whether or not the project shall proceed.

At the same time, Mr. Chairman, there are a number of amendments which will be offered here from the floor which may well improve the bill. There have been some agreements reached among the various parties who have been involved in the deliberations on this legislation, and I feel confident that many of the questions which were raised here last night during debate on the rule will be addressed by the amendments which have already been agreed to. These amendments, I think, will be offered shortly.

Supporters of this legislation include the following national and regional organizations:

National Association of Manufacturers.
Business Round Table.
National Environmental Development Association.
Association of General Contractors.
American Mining Congress.
American Association of Consulting Engineers.
National Forest Products Association.
American Public Power Association.
National Association of Realtors.
National Association of Home Builders.
American Road and Transportation Builders Association.
National Rural and Electric Cooperative Association.
American Waterways Operators.
National Housing Center.
National Limestone Institute.
Water Resources Council.
Tennessee River Valley Association.

Mr. Chairman, I would simply like to conclude by saying that I believe the committee has brought to us a balanced piece of legislation; not a perfect one. It is a compromise product. It may well be improved, and ought to be, by these amendments. It is a compromise product. It may well be improved and should be by these amendments.

I would like to conclude also by reminding the Members present that if we do nothing, we do not solve the problem. That question was raised as well last night: Why do we not just let this authorization expire? If we pass no legislation at all, we still have permanent legislation and two major barriers to progress with economic development. The law as it now stands requires consultation with the Department of the Interior before progress can take place of any kind of economic development project, whether it is a dam, a highway, a waterway, or anything, and there are a number of projects in the country right now which are frozen and are at a standstill because there is no money appropriated for the Department of the Interior to engage in the consultation process. In addition, no permits can be issued for import and export of products to be exempted from the Endangered Species Act.

That is a problem which we face if we pass no legislation. So it is not simply a matter of saying we will cure ourselves of this problem if we do nothing. The problem is with us. The law is permanent legislation. If we take no action we may end up paralyzing economic development throughout the country. For that reason we must act, and we hope we can act wisely. We feel we have brought to the floor a good bill. We commend it to the attention of the Members. I am quite confident that the House will act wisely in proceeding with this legislation.

I thank the Chairman.

Mr. FORSYTHE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think in a way this is a historic occasion. At the outset I want to pay my high respects to the gentleman who was just in the well, the gentleman from Mississippi (Mr. BOWEN), and to the gentleman on our side of the aisle, the gentleman from Tennessee (Mr. BEARD), and to the members of the Fish and Wildlife Subcommittee and the full Merchant Marine and Fisheries Committee, and the chairmen of both of those committees, because the product which we have before the House today was certainly the result of a very tedious and difficult process.

The views that were very firmly held first resulted in four different bills being sponsored. We suddenly found ourselves in a position where instead of four different positions we had two coalitions. Then after a period of very heavy discussions and negotiations we bring today a bill, one bill, which does have I think very broad support in the environmental community and in the developer community.

We know that it is not perfect. We know that we may well come back in the next Congress and need to take further action as a result of the GAO report, which was referred to in the debate on the rule earlier today—very early today—but I do not think that should really create the problems for us with the committe bill today as has been expressed a number of times.

The worst of all worlds would be to not have an extension of the authorization for the Endangered Species Act because it would leave us really completely defenseless.

It would leave those who are interested in the projects completely defenseless and the act would really be administered by the courts.

This would be, I should think, a very serious situation and, in a way, would be really chaos.

There is already an application of a constituent of a Member that has been routinely approved, that is being withheld because the agency is saying "Well, we have no funds, therefore we can't act."

These kind of things in just a matter of a very few months will be really quite serious.

So I urge quick and full support for the committee bill.

There are a small number of amendments that the committee is willing to accept. While I really would, in a way, welcome trying to make many more accommodations, I think our posture now should be to try and move so that we can

have this act signed to protect us in the interim. Then the commitment of the chairman of the committee I think is very firm, and I fully support it from the minority side, that we will take a very hard look in the Congress ahead so as to be able to find what necessary changes may be needed as a result of this further information which will not be officially available until about February of next year. And, realizing that even a 1-year extension, in truth, is only 2½ months from the improbable ability of Congress to act in its committees, about March 1, next year, to the cutoff of the authorizations of reported bills of May 15.

So, Mr. Chairman, I do think we have an agreement that I hope will be broadly supported, and that we will extend for 1½ years, or 18 months, which will give the Congress the opportunity to really review whatever other problems there are. We all know the horror stories that have been mentioned, and they are real.

I frankly believe that this bill, because of its real attention to the consultation process, which were well spelled out by my colleague, the gentleman from Mississippi (Mr. BOWEN) are the real secret of the usefulness of this legislation.

It does have the exemption procedure. But I think most of the problems have been begun because of the lack of really responsive communications and hearings and opportunity for people to get at the process early on, which could have prevented many of the stories that we have all heard about and we all know about.

I want to prevent this kind of thing as much as anybody else, but I do think that it is essential that we do complete our function here today.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Chairman, it is my impression that the entire membership is aware that the Endangered Species Act is seriously flawed and in need of amendment. Although the inflexibility of this act is frequently characterized by reference to the problems surrounding the Tellico Dam and the snail darter, it seems that every day since that decision I have heard a different Member call to my attention the occurrence of similar problems in his own district. Although the Tellico Dam is not in my district, the Duck River Dam in my district faces a similar threat.

Mr. Chairman, I had intended to offer a complete substitute to this bill. However last week I received a briefing by the General Accounting Office which cast a different light on this subject.

Briefly stated, the GAO is conducting a self-initiated study of the effectiveness of this act. Although a final report will not be available until February, all their field work has been concluded.

Mr. Chairman, preliminary findings over 6 months ago revealed so many management deficiencies in the Fish and Wildlife Service that GAO was not able to brief the committee before oversight hearings were held. GAO proceeded to spend more than 500 staff days constructing an audit.

The major result of that work indicates that the procedures used in listing new endangered species are so ineffective and inefficient that they entirely destroy the integrity of this act. This finding is critical, given that all efforts toward drafting amendments to the act to date, including those in H.R. 14104, have centered on section 7, concerning "interagency cooperation." It now seems clear that neither H.R. 14104 nor the substitute bill which I had intended to introduce to amend this act would solve the problems this committee faces.

Regarding the current Fish and Wildlife Service listing procedure, GAO has found that no official priority exists on the listings. The ones which do exist are based entirely on the whim of service biologists.

Additionally, some species have been kept off the list apparently under political pressure. This selective approach to administering the law has allowed the New Malones Lake project to approach completion, even though a species of harvestman "daddy long-legs" was discovered behind the dam then under construction. It is interesting to note that the Fish and Wildlife Service compiled more evidence indicating that this should be listed as endangered, more so than any other species ever listed. Even so, this arthropod has yet to be listed. New Malones Lake is a $500 million project near Sacramento with an impressive 1.7 to 1 benefit-cost ratio.

GAO also has found that the Fish and Wildlife Service is causing unnecessary cost and disruption to construction projects because of the inefficient way in which the list of proposed new listings is managed.

Many species are proposed to be classified as "threatened" or "endangered" and remain in that status indefinitely. Once a species is proposed for the list, Federal agencies with potential conflicts are rightfully reluctant to begin new projects which may be adversely impacted, or to ask for full funding for projects already begun. In essence, the Fish and Wildlife Service proposes new listings, but fails to follow through. Status reports are never even written up on the species.

In contrast to this situation, Fish and Wildlife is actively considering listing species which are not even threatened or endangered. Again, because of failure to conduct scientific assessments, Fish and Wildlife is purchasing what they suspect to be "critical habitat" for species which have fully recovered from prior threats of extinction. In one such instance, Fish and Wildlife planned to purchase a pond in Hawaii for $6.4 million until the GAO stopped them as a result of their study.

Finally, GAO has found 5,200 "consultations" which Fish and Wildlife offered as proof that the act is working, cannot be documented. Most of these consultations, at least in many cases, were merely telephone calls. In many instances a dozen of them were placed to the same agency, regarding the same project.

Mr. Chairman, because I believe that Congress should have the opportunity to amend the act next year to reflect GAO's final report, I have asked for and received assurances from Chairman MURPHY that a committee amendment will be offered or that they will accept my amendment to reauthorize this act only for 1½ years instead of 3 years, as called for by H.R. 14104.

I believe that with the adoption of the amendments which reflect GAO's concerns as expressed to me last week, together with the limited number of perfecting amendments, we will have a bill which should be satisfactory to all parties who have been vocal on these issues. I still believe that it would be wise to review the law next year and a year and a half from now, but any changes at that time probably should amount to no more than fine-tuning.

Mr. Chairman, this bill, as modified by my amendments and others, will constitute a long-overdue reform of the Endangered Species Act.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Chairman, it is my understanding that the review process the gentleman would set up will take a year or a year and a half. Would the gentleman agree?

Mr. BEARD of Tennessee. It possibly could take approximately 2 years from now for a project.

Mr. DUNCAN of Tennessee. Yes.

Mr. BEARD of Tennessee. The new review process can be quicker than that.

Mr. DUNCAN of Tennessee. Would the gentleman say 2 years, or, at a very minimum, 1 year?

Mr. BEARD of Tennessee. It could be a minimum of 1 year; the gentleman is correct.

Mr. DUNCAN of Tennessee. I thank the gentleman.

Mr. BEARD of Tennessee. Mr. Chairman, I would like to say and I would like to emphasize what my colleague, the gentleman from Mississippi (Mr. BOWEN), has pointed out. The reason I have somewhat changed my attitude, as it was pointed out last night, if the act remains unchanged as it has been for the past 3 years, we will not have any opportunity to review projects such as Tellico Dam or any other projects in other Members' districts.

At least, now we will have a format from which to try to conduct hearings and to try to exempt some of these projects. I do not say the bill is perfect, but I do feel that it is a much better bill than the one we have lived with for the past 3 years. I think the important thing that will have to be taken into consideration is with the completion of the GAO report consisting of 500 staff days of work this January the committee will have the opportunity to look at the GAO study and refine the bill even more next year. So I would urge that the Members of this House give us at least an opportunity to start trying to correct some of the problems that we have had to live with these past 3 years.

Mr. BOWEN. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. AuCoin).

Mr. AuCOIN. I appreciate the gentleman's yielding.

Mr. Chairman, I ask for this time to engage in a colloquy with the gentleman from Mississippi, the manager of the bill.

The report states on page 23 that there should be an evaluation of the nature as well as the scope of the project in the determination of whether an action is nationally or regionally significant. This language is extremely important in many western communities where there is extensive Federal land ownership, especially national forests. The concern of many of these timber-dependent communities is that while an individual Federal timber sale may not cover a large geographical area, the elimination of that sale would have an effect on a much larger area. In effect, it would reduce the timber inventory, thus decreasing the allowable harvest from the area. This, in turn, would impact many more communities in the region and, thus, could be of regional significance.

I would ask the gentleman from Mississippi if the committee feels this type of situation should receive consideration in line with the intent of the language in the conference report.

Mr. BOWEN. If the gentleman will yield, it would be my feeling that the gentleman is absolutely correct. Just as our good friends in the environmental movement have pointed out that a chain of life of vast importance may begin in one small spot with one small group of creatures, by the same token, I think a chain of economic development of vast importance to the country can be linked in the same manner. It is very clear in the committee report that the concept of regional impact does not mean multistate and, in fact, one of the examples used in the committee report is, I believe, the port of Sacramento, one limited area of economic development. I think we can identify a great many projects, whether they be waterways, whether they be dams, whether they be highways, whether they be forests, that can be identified as having an impact that it could clearly be considered regional. It is our firm intent that this legislation be interpreted in the direction of consideration of regional impact as meaning one narrow geographic range, and that by putting this language in, by putting the regional language in, we are trying to get away from the idea that we have got to demonstrate a broad national impact. "Regional" is to be interpreted clearly, in my opinion, as meaning a relatively limited area which could impact substantially upon lives and prosperity in the region affected.

Mr. AuCOIN. I thank the gentleman. I know the committee is concerned that consideration also be given to the cumulative impact that multiwithdrawals of land from the timber base would have on national wood supply and price and economic dynamics that go along with that. I would ask the gentleman if he feels that the intent of the committee's language in the conference report on page 23 dealing with regional impact would cover that set of circumstances.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BOWEN. I yield 1 additional minute to the gentleman from Oregon.

I would agree that it does. It is my very clear and firm opinion that such withdrawals of timberland would in the aggregate have a regional impact.

Mr. AuCOIN. I appreciate the gentleman's response.

Mr. BOWEN. Mr. Chairman, at this point I yield 4 minutes to the distinguished gentleman from Michigan (Mr. Dingell), chairman of the Subcommittee on Fisheries and Wildlife.

Mr. DINGELL. Mr. Chairman, I commend my friend and colleague, the gentleman from Mississippi (Mr. Bowen), my friend and colleague, the gentleman from New Jersey (Mr. Forsythe), and my friend and colleague, the gentleman from Tennessee (Mr. Beard), for their efforts in achieving this compromise, as well as the gentleman from California (Mr. Leggett), and the gentleman from New York (Mr. Murphy), chairman of the committee, for the very fine work they have done.

Mr. Chairman, when I authored the Endangered Species Act in 1973, my primary objective was protection of all species threatened or potentially threatened by man's development and overdevelopment. Many of you were present for the passage and enactment of this law. Many of you agreed that the protection of our species must be held in the highest priority. That is what the act is all about.

Since the passage of the Endangered Species Act several developments have occurred causing the Act to come under fire. We have witnessed the Tellico Dam case. And, it was the Tellico case that helped to ignite the major controversy that we are engaged in today. The Fisheries and Wildlife Subcommittee held 8 days of intensive oversight hearings—and, out of these hearings came some rather constructive criticism of how the act is being administered. On the other hand, there were unfounded charges that the foundation of the statute is not good. There is no question that the act is a good act and for the most part it has worked.

Yet, much of the criticism directed against the Endangered Species Act is based on the belief that the act puts the interest of "obscure" species ahead of the interests of man. That belief is erroneous. What the act really puts foremost is the long-term interest of human welfare—and the necessity that mankind is entitled to a habitable environment. This necessitates having a diverse pool of genetic resources to tap for medical, scientific, economic and other purposes. What the act makes secondary to that goal is the realization of short-term, shortsighted, and single-purpose goals that can only be accomplished by destroying the very life forms that could someday be of enormous benefit to mankind.

In 1973, I felt that this ordering of priorities was right. Today, I continue to feel that it is right. Those of you who ridicule the numerous so-called obscure species whose names sound so foreign fail to realize that some of these little-known species provide you and me with penicillin and a host of other crucial drugs; some of these species helped with the development of radar in World War II; other species provide the active ingredients for almost one-half of all medical prescriptions in the United States, and other substances which may someday unlock countless other mysteries of medicine and science.

I continue to feel the intentional obliteration of a unique life form is a matter of the utmost gravity and that we ought not to allow it—absent the most compelling and persuasive justification. The bill that we are considering today represents a qualification of the mandatory duties prescribed by the 1973 act. That qualification is carefully limited, however, so that the destruction of species will not be allowed except when there are no other alternatives to the accomplishment of some meritorious and necessary development action. The bill we consider here will also not allow the destruction of any species unless and until the consultation process has been given every opportunity to work.

In drafting this bill, we were mindful that the act's existing consultation process has been very successful in revolving potential conflicts that have arisen between endangered or threatened species and Federal projects. The Merchant Marine and Fisheries Committee did not intend to in any way limit the jurisdictional parameters of the 1973 act. Accordingly, we took great pains to insure that this consultation process continue to function in the effective manner that it has thus far functioned.

Thus, before a Federal action may be granted an exemption under this bill, it must first be established that the requirements of the consultation process have been carried out fully and in good faith. Further, this bill contains a new requirement designed to insure that the existence of endangered or threatened species in the area of a new Federal project will be identified at the earliest possible time—before construction of the project begins—and, thus, that consultation will have the greatest possible chance to succeed in identifying modifications or alternatives that will avoid adverse effects on endangered or threatened species.

If the consultation process has been exhausted to the fullest extent, this bill provides for a process whereby an exemption from section 7 of the act can be granted. But, it must be pointed out that in conjunction with granting such an exemption, there is a requirement that all reasonable mitigation and enhancement measures be established and that the agency being granted the exemption be required to include the costs of such mitigation and enhancement within the project costs. This procedure for exempted project actions is critical to this legislation. These provisions were included in this bill for the purpose of not only mitigating—or lessening—the adverse impact of an agency action on an endangered or threatened species, or its critical habitat, but in creating a process whereby the status of such species could be "en-

hanced" or improved. The concept of enhancement—as it is embodied in this legislation—is intended to be an asset to the Endangered Species Act. I included this provision in this compromise with the intent that "enhancement" be construed not merely as a restatement of "mitigation," but to go beyond the requirements of mitigation to actually improve the critical habitat and status of endangered or threatened species.

If we are to accept the responsibility of creating a mechanism that will possibly lead to the destruction of a species, we must also accept the responsibility of improving that which we have the potential to destroy.

We now face a major responsibility to pass this compromise, not because it is a total acceptable compromise, not because it answers all of the criticisms of the act, but because it is the most acceptable legislative statement of all who have been involved in shaping this bill.

Mr. Chairman, I would point out that the Endangered Species Act is not dead. The lapse of the authorization does not kill the substantive statute which remains fully alive and all the prohibitions will remain in full force and effect.

Mr. Chairman, the consequence of failure to adopt this legislation is to see to it that federally authorized and funded projects in the States may be affected or endangered because endangered species in its habitat cannot legally be found and cannot be proceeded on until the Fish and Wildlife Service has been consulted with. This could mean that almost any project inside the United States can be stopped until the statute is once again authorized. It is my hope that my colleagues will realize the hideous consequences to the development of this country stemming from the failure to pass this authorization legislation, so that consultation provisions in the statute may go forward.

It is with that additional observation that I urge my colleagues to consider favorably the early adoption of the legislation before us.

Mr. FORSYTHE. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I know that there has been a tremendous amount of controversy over this act, and there will be a number of Members who have already spoken who will speak again, believing that the act has to be substantially changed.

I have looked at the record, and I do not come to that conclusion. I believe that perhaps we are going too far. This is an act that has worked well, and to really try and redo it as we have may be going too far. But I am willing to accept the compromise brought about by the committee as I understand the dynamics of the situation.

At present we have a very rigid act, an act by which people use the courts to totally prevent development in many, many different situations. The decision of the Court was sound. We now have gone to the opposite extreme it seems to me. Not only do we not have the courts available except in instances of rare administrative law problems to preclude the extinction of a species, but we do not even have the legislative branch available to oversee the problems in the extinction of a species. We leave it to the boys downtown. Men that are not directly responsible to the people.

A very simple change here, which all the environmental groups believe is a reasonable one and which would only come about in the very rarest of circumstances, will solve this problem. I will offer an amendment to accomplish this. This amendment would provide that in the event that there will be an action taken by the boys downtown to extinguish a species, an action that will result in a species being destroyed from this earth, then, like many other things we do, we, the Congress, ought to have a review of such a decision. Then we can take a look at it, as we do under the Reorganization Act and a number of other things where we have much less important items to consider.

Then congressional committees can take a look at that, and if the committee disapproves the action of the boys downtown, a new approach could be taken, or if we decide, the species preserved and such other action taken as is appropriate. That would be done in order to assure that the general purposes of the act are carried out.

Mr. Chairman, I will offer this amendment, and I hope for support of the amendment at that time.

Mr. FORSYTHE. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, there is a Chinese proverb about a small carp that swam up a raging river, braving the rapids, and with great effort and courage he finally made it to the headwaters of that stream. And then as a reward for his heroic effort he was turned into a dragon, which to the Chinese is a symbol of power and a good thing.

In my area, there are two small minnowlike fish, the Cahaba Shiner and the Goldline Darter, that are in the process of being turned into "dragons." These species could have died in its track, half-a-billion dollars of orderly private development, even model development, in my area, if they are listed as is now proposed.

Mr. Chairman, I am very pleased that the House now has an opportunity to address problems with the Endangered Species Act of 1973. It is a fact that these problems can rapidly be brought to bear on any unfortunate district in the country.

Last November, the U.S. Fish and Wildlife Service proposed two small minnowlike fish, the Cahaba Shiner and the Goldline Darter, as endangered species and designated a portion of the district which I have the honor to represent as critical habitat.

From the beginning, legitimate questions were raised by many persons about the accuracy and objectivity of this proposal. Although the 1973 act requires that any such proposal be based on the best scientific data available, the Service was unable to provide any substantive evidence that the species in question were, in fact, endangered. Specific questions from this Member about the scientific validity of this proposal were either ignored or responded to on the basis of the personal observations of the author of the proposal—a Service biologist who has a long history of environmental activism in my State.

The combined efforts of the entire Alabama congressional delegation were required to obtain a public hearing on the proposal. Finally, after private interests conducted a very expensive biological study which contradicted the assumptions and conclusions of the proposal, the Service, at my insistence, agreed to conduct an analysis of the population dynamics and habitat requirements of these fish. This study is still in progress, but I very much fear that upon its completion, the Service will move to finalize the listing of these species, and that as a consequence more than a half billion dollars' worth of orderly, even model, private development will be stopped dead in its tracks in the Birmingham area.

The bill before us today, H.R. 14104, is an attempt to address such problems. For that, I commend subcommittee chairman, BOB LEGGETT; ranking minority member, ED FORSYTHE; our colleague, DAVID BOWEN; and the other Members who worked so hard to achieve this compromise bill. Many of the provisions of H.R. 14104 are thoughtful, well-reasoned changes which reflect the concerns which I and other Members have conveyed to the committee.

I will offer three amendments today. None of these amendments threatens the basic thrust or the integrity of the 1973 act, nor are they attempts to cut the bill before us. In many ways, they are technical, perfecting amendments.

As it now stands, the committee bill provides that the Secretary of the Interior is required to consider the economic impact of designating critical habitat for invertebrate animal species—beetles and other types of insects, mollusks, jellyfish, and the like. The Secretary is not required, however, to consider the economic impact of designating critical habitat for fish, mammals, reptiles, amphibians, birds, or plants.

I believe that the Congress should state specifically that the Secretary of the Interior should at least consider the economic impact of the designation of any area as critical habitat. I believe the persons living in such areas would support this idea. Therefore, at the appropriate time, I will offer an amendment to strike the words "invertebrate animal."

The second amendment is purely technical in nature and is designed to perfect language used in the bill. The committee bill contains a provision which requires any Federal agency receiving a section 7 exemption to conduct such "mitigation and enhancement" measures as are necessary and appropriate to minimize the adverse effects of the agency action on

the species in question. I do not quarrel with the merits of this section, but question the wisdom of using the words "mitigation and enhancement" in the same phrase. I believe the word "mitigation" is sufficient to accomplish the purpose of the committee in this section of the bill. Therefore, I will move to strike the words "and enhancement" from the bill.

The third amendment will delete the provision, added in full committee markup, requiring the permit or license applicant, who under this bill can also apply for a section 7 exemption, to pay for mitigation measures assumed by the Federal agency granting the permit or license. As the bill contains no provision for the permit or license applicant to participate in the consultation process between the Federal agency and the Department of the Interior, I believe it is unreasonble to require the applicant to pay for the required mitigation measures.

I want to emphasize that these are not attempts to gut the Endangered Species Act. These amendments are designed to help improve the administration of this act, which in the past has left a great deal to be desired. I believe they are reasonable amendments and ask for the support of my colleagues from both sides of the aisle.

Mr. BEVILL. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. Yes; I will be glad to yield to the gentleman from Alabama.

Mr. BEVILL. Mr. Chairman, I would like to commend the gentleman from Alabama (Mr. BUCHANAN) for his statement and endorse the statements he is making here regarding this matter.

We are delighted that this committee is now injecting some common horse sense into this legislation, and I know that the gentleman from Alabama has put in several very good amendments. Those amendments are pending here, and with reference to a couple of them, I want to ask the gentleman some questions.

On the invertebrate animal amendment the gentleman has introduced, am I correct that this amendment does not limit the Secretary's power to designate an area as a critical habitat?

Mr. BUCHANAN. Yes, that is correct. I do have pending three amendments, one of which would simply apply to all species. What the committee has already applied to invertebrate animal species. That is that the Secretary of the Interior is required to consider economic impact in the designation of a critical habitat. However, the amendment does not encroach upon the Secretary's authority to designate critical habitat for any species.

Mr. BEVILL. What are the benefits of having the Secretary consider the economic impact of the critical habitat designation?

Mr. BUCHANAN. I believe that this will cause the Secretary to be more judicious in specifying such a critical habitat.

At present there are no ground rules. For example, in our case, a small fish is typically found some 30 miles, downstream, from our district. Yet, the Service has designated critical habitat to come up to the mouth of a sewage treatment plant in the Birmingham area 30 miles upstream. This is the kind of interpretation of the act or enforcement of the act that could go to every district in this country. I doubt if there is a single district in the United States that does not have one or more mutations of small minnow-like fish about which the same standards could apply, and they would be in as much trouble as my district.

Mr. BEVILL. In other words, it could actually paralyze the construction of needed projects in every district in this country?

Mr. BUCHANAN. There is no question about it.

Mr. BEVILL. With respect to the gentleman's enhancement amendment, does this amendment change the meaning or even the tone of this section of the committee bill?

Mr. BUCHANAN. No, it does not. It seeks to implement the language defined in the committee report. I hope that the committee will give very careful attention to the very serious amendment which I will offer because, as I say, there is not a district in the country that will be immune from the kind of problem that we are facing unless the law is changed.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

Mr. Chairman, I would like to direct the attention of the gentleman and the committee to a couple of amendments which I will offer that address the problems which the gentleman raises and will attempt to redefine the term critical habitat and the definition of species.

Mr. FOYSYTHE. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Chairman, I take this time because I would like to indicate my appreciation for the very sincere and dedicated efforts that have been made, not only by the members of the committee of jurisdiction in this case, the Committee on Merchant Marine and Fisheries, but also other Members of the House, to bring out an acceptable bill that would indeed prevent the Endangered Species Act from expiring.

I would confess that, as I listened to the testimony when this matter was before my committee, the Committee on Rules, a few days ago, I did feel a genuine concern over the fact that a serious and a very lengthy study that I think was initiated by the GAO itself was apparently going to be bypassed in a rush to simply reauthorize for a 3-year period this legislation which became so controversial following the decision in the so-called Tellico Dam case.

But I think it is to the credit of the Members of this House, particularly those in charge of managing the bill, that they were willing to concede that, in a spirit of compromise, certain changes ought to be made, certain amendments ought to be accepted. And I have been informed that the amendments that are going to shortly be offered by my friend and distinguished colleague, the gentleman from Tennessee (Mr. BEARD), will in fact be accepted by the managers of the bill, and that with those amendments and with the very good work that the committee itself did in providing for an exemption procedure, some of the inflexibility that had taken place in the past administration of this act is going to be corrected. I do not think any of us want to see rare and endangered species of flora and fauna become extinct in this great country. And yet, as has been said over and over again, I think both during the time when we were discussing the rule last night and during the general debate today, some reasonable sense of balance and compromise is required between the legitimate energy needs of this country, about which a great deal will probably be said in several hours as we consider the energy package, some balance has to be drawn between the needs that exist in the area of energy, in the area of the growth and development of our country, and our desire to preserve our very precious and important natural heritage.

So I am satisfied that a good job has been done by those in charge of this legislation, and I look forward to an opportunity of casting my vote in favor of this bill.

Mr. BOWEN. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, my colleagues, this chart will be presented again at the time of offering an amendment, but I thought it might be appropriate, because of the fact that the attendance in the House does change from hour to hour, to review these facts now and have them presented again at the time of the offering of the amendment.

I am deeply touched, since I have been waiting for so long for this, by the logic and good sense advanced by every person speaking for this bill. The first reaction in Wyoming when the decision of the district court in Lincoln, Nebr., came out last week to stop a project that has been 3 years in construction, because 4 months ago, 2 years and 7 months after construction began, after the Corps of Engineers permit, after injunctions were discharged, a judge saw fit to cover an area 300 miles upstream on the South Platte River from the area of a 60-mile flyway that had just been designated last May as a stopover—not as a critical habitat, but one of 13 stopovers for sand cranes and whoopers migrating from Canada to Texas and from Texas back to Canada.

The first reaction of my people is to kill this abominable bill, but this bill must not be killed, because in Wyoming awful incidents took place which prompted my good friend from Michigan to put this bill on the statute books. We unfortunately had human beings in my State who thought they had a right to destroy a species. I know whereof I speak when I come to the duty of saving eagles from men who take it upon themselves to destroy a nonhuman life form. This must be kept on the books, but it

has to be administered with some degree of reason.

This is what I argue in the hope that an amendment I will offer later will protect the continuation of the Missouri Basin power project at Wheatland, Wyo., so that it might continue to be completed and remove the effects of a decision which ground to a halt the construction of the project 300 miles upstream last week.

My colleagues, this area I am alluding to is called Centennial Country by James Michener in his book. I hope all Members have a chance to read it without having to retire from Congress. "Centennial" proves that he who controls the water controls the land. You can have township after township in this grant, but it is to no avail to you if you do not control some water. The power generated by this station is used in an eight-State area, not just in Wyoming.

Senators in the other body from North Dakota, South Dakota, Montana, Wyoming, Nebraska—one from Nebraska—two from Colorado and one from Kansas, are adamant that something must be done to continue the work on this project. This project is $1,600 million of public obligations already purchased by nearly every bank and finance company in this area and in the Nation. Half of it is already completed, $800 million already spent. Two thousand one hundred men will be out of work because of this unfortunate decision which we can right, not by pushing aside the bill, but by adopting my amendment.

My amendment sets this plan out on water in the downstream area, and if it does in fact damage the existence of the whooping crane, then it can be compelled to change its cooling system in years to come. But, I must ask the Members to keep in mind that never in the history of this country has there been such, in my opinion, a horrendous outrage by counsel, a Mr. Houk.

He is the counsel for the National Wildlife Federation, and he walked out of this courtroom in Lincoln, Nebr., citing deficiencies in the environmental impact statement, deficiencies in the Endangered Species Act. When he came out he said to reporters of the Associated Press:

> The guts of this injunction is not in compliance with EIS. It is that we want more Wyoming water in Nebraska.

That is what he said. So, he is using this act and NEPA as a shield, and abuses both of them, and brought back those onerous water problems that have been settled since 1945.

Mr. ANDREWS of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from North Dakota.

Mr. ANDREWS of North Dakota. Mr. Chairman, I want to associate myself completely with the remarks of my good friend from Wyoming, and also point out that this delay is costing the consumers of our area millions of dollars each month. The consumers in this multi-State area will own this powerplant, because it is built by a cooperative. Actually, they have been planning for over a decade for this much-needed power to go on line. Everybody in the West knows the needs for water in our area and one of the priority uses is for the generation of the power needed to serve our farms and houses.

The CHAIRMAN. The time of the gentleman from Wyoming has expired.

Mr. BOWEN. Mr. Chairman, I yield 2 additional minutes to the gentleman from Wyoming.

Mr. ANDREWS of North Dakota. This, as my colleague from Wyoming knows so well, is what we are trying to do here, to remedy this terribly unfortunate situation by adding an amendment that will allow construction to proceed without prejudice to subsequent termination of water use, and without doing anything to adversely affect endangered wildlife.

I will rise in support of my colleague's amendment when it is offered. I hope we will have a good discussion when it is offered, and it deserves to be supported overwhelmingly by this House, because it means so much to the average consumer of much-needed electrical power in such a large sector of our country.

Mr. RONCALIO. I thank my colleague, the gentleman from North Dakota (Mr. ANDREWS), for those excellent remarks. We have gone over this legislation over and over again. We have checked it for germaneness and reasonableness with the environmental sources in the country. It is consistent with the provisions of the act. I hope the Members will give us their cooperation and not have a man leave after 10 years of work here to face over 2,000 people who will have no work, because of the determination that this is on line downstream. That has no application whatsoever. The Fish and Wildlife people could have designated the flyways over the last 5½ years since the gentleman from Michigan (Mr. JOHN DINGELL) got them the right to do that, instead of waiting until this plant is 50 percent constructed and then have them go to court and get an injunction against the plant, and have the general counsel leaving the court and talking about difficulties between the States. The Supreme Court of the United States settled that old and painful dispute between Nebraska and Wyoming in the neighborhood of Centennial Country, along these two beautiful rivers. We do not want to have at this point difficulty over some misadministration of the Endangered Species Act.

Mr. Chairman, under leave I will obtain in the House, I include the following:

[From the Denver Post]

ORDER TO STOP WORK ON DAM JOLTS WHEATLAND

WHEATLAND, WYO.—Effects of an order to halt work on the Grayrocks Dam—and possibly also the Laramie River Station power plant project—were being assessed Wednesday in Wheatland.

Missouri Basin Power Project officials said they were waiting to receive a Federal court order before halting construction of the dam and possibly the power plant.

Meanwhile, residents of this prairie boomtown of 5,000 wondered about the economic impact that could leave their community even drier than the Laramie River.

The two projects, being developed by a consortium of public utility cooperatives headquartered in Nebraska and North Dakota, employ more than 2,000 construction workers and have a monthly payroll of $3.5 million. The total project cost is $1.6 billion.

"It is total chaos in Wheatland," said Jack Branscom, managing editor of the Platte County Record-Times. "It's not that the town is falling apart, but no one knows what is happening."

The uncertainty seemed to be shared by Missouri Basin officials, who issued conflicting statements during the day Tuesday until agreeing they would wait to be served with the formal court order before deciding whether both projects or just the dam should be shut down.

About 180 workers are building the dam, which is to supply water for the 1,500-megawatt power plant complex. About 2,000 persons are working on the power plant itself, whose first two 500-megawatt units are 42 percent complete.

Wyoming Gov. Ed Herschler said he is "disappointed" in the federal court ruling and pledged the state's assistance to Basin Electric if it is needed.

"I think we need the construction of the plant very badly," Herschler said, adding the delay would be "very detrimental, not only to the firm (Basin Electric), but to Wyoming."

Herschler, other politicians and business groups were especially critical of the timing of the ruling, coming more than two years after the project was started.

[From the Denver Post]

SUIT HALTING DAM PROJECT DEFENDED

LINCOLN, NEBR.—The court order halting construction of the Grayrocks Dam and Reservoir and possibly the Laramie River Power Station near Wheatland, Wyo., isn't a clear-cut case of the environment versus consumers' electric bills, an attorney for the National Wildlife Federation said.

Oliver Houck, general counsel for the Washington-based wildlife group, said Tuesday that the "guts of the lawsuit isn't whether the environmental impact statement is accurate or inaccurate. It's whether we can get more water into Nebraska.

"It was our feeling that the project was water consumptive to the point of water wasteful. And this is terribly important when considering the environmental values that Nebraska has.

"And Nebraska also wants the water because of its need for agriculture," he said.

"Someone who thinks this case is about the theoretical perfection of an environmental impact statement is missing the point entirely. We want that water," Houck said.

U.S. District Judge Warren K. Urbom ordered a halt to construction of the eastern Wyoming project Monday. He also enjoined the Rural Electrification administration from making loan guarantees necessary to make the project financially workable.

Work on the power plant complex was about 50 percent complete, according to officials of Basin Electric Power Cooperative.

Basin plans to file an appeal of the federal court ruling, officials said. The cooperative also will file an immediate request of a stay of the injunction halting construction on the Grayrocks dam and reservoir.

Urbom ruled that the environmental impact statements drafted for the project failed to consider adequately the full impact of the project on Nebraska, Wyoming and Colorado supplies, migratory water fowl (including the endangered whooping crane), fish and agriculture.

The Laramie River is the water source affected by the dam and reservoir. It is a major tributary of the North Platte River, which provides the bulk of the water needed by Nebraska's largest surface irrigation project in the Holdrege area.

The North Platte also serves to recharge underground reservoirs.

Meanwhile, Lincoln Electric System Administrator Walter Canney said Tuesday he viewed the court order "with complete disappointment."

And a spokesman for the power cooperative building the $1.6 billion, 1,500-kilowatt project says consumers won't be the only people hurt by a project shutdown—the city of Wheatland, Wyo., will suffer, too.

Basin Electric Official Win Curtiss said the shutdown could cost Wheatland a monthly payroll of $3 million. He said a shutdown would put 2,150 construction workers out of work.

But Wheatland Mayor Charles Parsons isn't too concerned about the court order.

"I think it's just another delaying tactic," he said. "It seems like another of those political movies. It's just going to end up with the project costing a lot more money, right?"

RONCALIO AMENDMENT TO H.R. 14104

On page 32 add a new section (No. 12) as follows:

The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the National Environmental Policy Act, (42 USC Sec. 4321 et seq.) the Endangered Species Act (16 USC Sec. 1531 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. Sec. 1251 et seq.) as amended; and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the National Environmental Policy Act and the Endangered Species Act; *Provided*. That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Secretary of the Interior may determine are required to insure that actions authorized, funded or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after consultation as appropriate with the affected States.

FACT SHEET, GRAYROCKS PROJECT RESPONDING TO NATIONAL WILDLIFE FEDERATION OCTOBER 11 LETTER AND ITS ATTACHED "GRAYROCKS BRIEFING STATEMENT"

OCTOBER 12, 1978.

1. To keep the matter in perspective:

(a) The Grayrocks project, located in Wyoming on the Laramie River about 10 miles from the confluence of the Laramie and the North Platte Rivers, is some 275 miles above the designated critical whooping crane habitat on the Platte River between Lexington and Denham, Nebraska.

(b) At most, Grayrocks will deplete the flow of the Laramie River at Grayrocks Dam by 27,350 acre feet annually. The annual depletion will be approximately 18,000 acre feet. At the critical whooping crane area, the flow of the Platte River is about 800,000 acre feet annually. If the annual flow drops to as low as 420,000 acre feet, it is feared there would be an adverse effect on the critical habitat. Somewhere between 800,000 acre feet and 420,000 acre feet marks the point where absent other remedial measures, an adverse effect on the whooping crane habitat would be evident. Assuming there were no Grayrocks depletions, some of the water passing the Grayrocks site would be lost through river channel losses, evaporation, etc., before it reached the critical whooper area. This loss is estimated to be as much as 30 to 40 percent. Assuming, however, that if there were no Grayrocks depletion every drop of water passing the Grayrocks site would reach the critical habitat, and that the maximum depletion at Grayrocks of 27,000 acre feet occurs every year, and adding 3,000 feet to make up for annual evaporation from Grayrocks Reservoir, the depletion at the critical whooper site which could be attributed to Grayrocks is at most less than 4% (30,000 divided by 700,000).

(c) Almost 200 miles below Grayrocks, is Kingsley Dam on the North Platte River in Nebraska, with an original true storage capacity of 1,800,000 acre feet. (Grayrocks, by comparison, will have about 101,000 acre feet of true storage.) Kingsley Dam is not a federal project. It completely controls the flow of the North Platte downstream. It is operated without regard for downstream wildlife, including the critical whooper habitat. The effect of Grayrocks below Kingsley Dam will depend entirely upon how Kingsley Dam is operated. Kingsley Dam could be operated so as to entirely overcome, or at the very least substantially reduce, any effects of Grayrocks.

(d) The Final Environmental Impact Statement (FEIS) for the Missouri Basin Power Project of which Grayrocks is a part was issued in May of 1976. The FEIS contains over 10 pages of single spaced comment by the Department of the Interior, consisting of two letters dated March 11, 1976 and March 24, 1976. There is not one word in the Interior Department's comments which even suggest a possible impact of Grayrocks upon the whooping crane. This is not a case like the TVA's Tellico Dam where the existence of the endangered species (the snail darter) was not known until long after construction of Tellico Dam was undertaken. Protection of the whooping crane has been a primary concern of the Department of the Interior and its Fish and Wildlife Service for almost 50 years. In fact, in December of 1975, months before Interior's comments on the Draft Environmental Impact Statement for Grayrocks, Interior had proposed that the whopping crane habitat involved here be designated as critical habitat. At the time Interior commented on the EIS and said nothing about any problem concerning the whooping crane, Interior was aware both of the Grayrocks proposal and the importance of the Lexington-Denham area to the whooper. The District Court in its October 2 opinion notes that the whooping crane issue "was raised well after most the plans had been made and a great deal of money already spent." This "great deal of money" amounts to almost $500,000,000, all of it from non-federal investors.

2. The statement in the National Wildlife Federation letter of October 11, 1978 that the Grayrocks Project would "jeopardize the continued existence" of the whooping crane is pure conjecture. The District Court stated in its October 2 opinion that there had been no testimony that the Grayrocks Project would have any adverse effect on the whooping crane habitat. Further, the responsible officials of the Fish and Wildlife Service testified that they did not know whether there would be any adverse effect from Grayrocks, let alone whether that effect, even if adverse, would be serious. Their testimony was that it will require a three year study before the Fish and Wildlife Service can give a "biological opinion" as to what effect, if any, Grayrocks will have on the whooping crane and its critical habitat. The Court further stated that it might well be true that REA was justified in concluding that no adverse impact had been demonstrated.

3. The National Wildlife Federation briefing statement states that "the Court did not enjoin construction of the power plant." This is a misleading play on words. The Court enjoined and revoked the REA loan guarantee commitment under which nonfederal investors are lending the money to construct the power plant as well as Grayrocks Dam and Reservoir. It is in that context and on the basis of the above facts that the National Wildlife Federation's statement that it is "not out to kill" the Missouri Basin Power Project must be judged.

4. The National Wildlife Federation gives the impression that the Court for 42 pages was recounting violations of law, both procedurally and substantively, by the Project sponsors, the REA and the Corps of Engineers. This is far from the case. In fact, Judge Urbom decided many of the issues in favor of the Project, the REA and the Corps of Engineers. Specifically, Judge Urbom held that (a) the Grayrocks Reservoir is properly sized, (b) the Project was justified in not adopting "dry cooling towers", (c) the need for the power and the timing of the project to supply the power had been demonstrated, and (d) the Project had, in fact, obtained water supplies which curtail the demand the Project will make on the Laramie River.

We agree with counsel for the National Wildlife Federation in his statement that the principal issue in the case is the degree of adverse effect on the designated critical habitat of the whooping crane. I would add the words "if any."

5. The District Court's decision on the endangered species aspects of the case is grounded upon his reading of section 7 of the Endangered Species Act as requiring, even in the face of the facts noted here, that it had not been proven that the avoidance of any adverse impact on the whooping crane habitat "is assured."

6. To provide the "assurance" required by section 7, because the Fish and Wildlife Service will not complete its studies for another two or three years (assuming that funds for these studies are requested by the administration and provided by the Congress), the Corps of Engineers included in the Permit for Grayrocks Dam a condition giving notice that changes in Project operations may be ordered following completion of the studies. REA gave similar notice with respect to its continued funding. The District Court apparently concluded that these assurances were not strong enough. It is not clear whether the District Court's concern was with the form of the assurances or whether the Court concluded that no advance assurance could possibly comply with section 7 of the Endangered Species Act. The Court has been asked to clarify its position. If it is the latter, then no project, including no private project, can go forward if there is the slightest suspicion that an endangered species or critical habitat of an endangered species may be affected, no matter how long it will take to determine that fact and no matter whether that fact can ever be disproved. If that is the case, the Endangered Species Act requires that a negative be proved. This is well nigh impossible in most cases.

7. Finally, the Secretary of the Interior is now authorized by section 5 of the Endangered Species Act to acquire whatever lands, water, or water rights he determines to be appropriate to preserve and conserve endangered species. He is further authorized by section 5 to use money from the Land and Water Conservation Fund for those purposes. Therefore, the Secretary of Interior has at hand legal authority to protect the whooping crane and its habitat in Nebraska in the event there is established some limited adverse impacts from Grayrocks upon the whooper. Perhaps Congress should direct him to exercise that authority in this case.

ADDITIONAL STATEMENT OF HON. TENO RONCALIO ON AMENDMENT TO H.R. 14104

In the discussion of my amendment to H.R. 14104 I wish to make it clear that although the amendment will have the effect of lifting the pending injunction to allow for construction of the Missouri Basin Power Project to proceed, this is subject to possible future modifications in the operation of the Project to prevent any jeopardy to endangered or threatened species or their critical habitat. Specifically, if the U.S. Fish and Wildlife Service determines that the operation of the project may impair endangered or threatened species or their critical habitat, the Rural Electrification Administration and the Army Corps of Engineers will be required to take whatever action is necessary to prevent adverse impacts. The extent of such action as is necessary will be determined jointly by REA, the Corps of Engineers, and the Secretary of Interior. The inclusion of the Secretary of Interior in this determination is vital, as it insures that the interests, findings and recommendations of the Fish and Wildlife Service relating to the potential impact of the Project on endangered or threatened species are fully addressed in any modifications of the Project. In short, the Secretary of Interior will have a full voice and veto in the determination of whatsoever modifications may be required in the operation of the Project.

It should be fully understood by all concerned parties, that this proviso of my amendment may someday go as far as (1) requiring the retrofitting of some or all the 3 generating plants with dry or wet/dry cooling systems, (2) the complete or partial shutdown of one or more of the generating units for certain periods of time to allow for the water stored in the Gray Rocks Dam to be released for the downstream benefit of endangered or threatened species or their critical habitat; or (3) the release of surplus water in the Gray Rocks Dam for the benefit of endangered or threatened species. By the same token, it is entirely possible that the Fish and Wildlife Service will find that the operation of the Project, given other projects and withdrawals on the North and South Platte River systems, does not significantly contribute to the impairment of endangered species, and that no modification in the operation of the Missouri River Basin Project will be necessary. I am hopeful that this latter determination will be the one finally reached, but wish all parties to recognize that the proviso of my amendment may ultimately require minor or major modifications in the operation of the Project.

Mr. FORSYTHE. Mr. Chairman, I yield 3 minutes to the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, I want to follow up what the gentleman from Wyoming said, because it is not just the Grayrocks Dam which is endangered by the Endangered Species Act, but it is every project in the drainage area of the North and South Platte Rivers. That means every project from the hometown of Denver of the gentlewoman from Colorado, every project they propose, every water project or storage project in the towns along the rivers, everything they propose, every electrical generating plant is endangered by the provisions of this act.

The problem with the present bill—and I want to talk to the gentleman from Mississippi about this—is there is no provision limitation of area for the projects under study.

I spoke with a man from my hometown who is head of an environmental firm and they make environmental studies throughout the western area. They have just concluded a study for one generating plant near the Colorado-Wyoming border. It will take water out of the South Platte drainage system that ultimately runs into the North Platte and will have evidently the same problem with the whooping cranes that the Grayrocks Dam has. This man said:

How can somebody who is preparing an environmental impact statement know how far he has to go to make his study? How can we tell our customers, the various States and the local municipalities and the various agencies, how can we tell them how far we have to go before our environmental impact statement is limited?"

One of the major faults or weaknesses in this bill is that there is no limitation on size of the project area that has to be studied. Will the gentleman confirm there is no limitation on size of the project areas?

Mr. BOWEN. Mr. Chairman, if the gentleman realizes there is no way we can by statute define what the critical habitat will be. The present law provides no definition of what critical habitat is, and this law makes some step in that direction. It points out that the critical habitat for endangered species must include the range the loss of which would significantly decrease the likelihood of preserving such species. So we have given some fairly rigid guidelines.

I am in complete agreement with the gentleman, and I believe the majority of the house is in agreement on that, that the Office of Endangered Species has gone too far in just designating territory as far as the eyes can see and the mind can conceive. What we want that office to do is make a very careful analysis of what is actually needed for survival of this species.

Mr. JOHNSON of Colorado. I agree with the gentleman. The bill is an improvement over the present situation, but I am concerned about the discretion we are giving these individuals who manage this office and that such discretion is going to be exercised so as to result in the kind of Grayrocks decision which we cannot live with.

As was pointed out to the House, every project in northern Colorado, whether it is for storage of water, or electrical generation for communities, can be blocked under decisions similar to that of the Grayrocks decision .

Mr. DUNCAN of Oregon. The gentleman has put his finger on a very critical part of this bill, and I will offer an amendment at the appropriate time to define critical habitat to be that area essential to the preservation and conservation of the species, and I think that if we are concerned with critical habitat, that word "critical" implies essential to its survival.

Mr. JOHNSON of Colorado. Would the gentleman then say that that amendment would solve our problem so that we could build a project in northern Colorado?

Mr. DUNCAN of Oregon. I think it would come very close.

Mr. BOWEN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Chairman, I thank my colleague for yielding me this time.

Mr. Chairman, I rise in support of the Endangered Species Act Amendments of 1978.

At the outset, I must admit that I do so with some reservation. The Endangered Species Act, when it was enacted in 1973, represented a landmark measure in our efforts to slow the destruction of species threatened with extinction as a result of man's activities.

However, as the Supreme Court's decision in the Tellico Dam case indicates, the act did not set up any mechanism to resolve irreconcilable conflicts beween a Federal project and an endangered species. It was implicit that the public officials charged with administering the act make some effort to balance the competing interests when those rare cases of irreconcilable conflicts occur. But they have not done so.

Accordingly the bill before the House would set up such a mechanism. The bill is the result of many days of hearings and markups in which the Merchant Marine Committee, on which I serve, heard from all sides of the controversy. The resulting bill, in my opinion, represents a reasonable, although not perfect, compromise among the competing interests on this issue.

There are two provisions in the bill that are particularly troublesome to me. One provision would require that any litigation over an endangered species matter should receive preference over all other matters then pending in the Federal court in which the case is being heard. Such a provision, in my view, is extremely unwise. The Federal courts in this country already are struggling under very heavy caseloads. Criminal cases and other important cases should not be pushed back every time that an endangered species case comes before the court such action would be clearly unfair to the litigants in other cases.

The other provision of the bill that disturbs me is the provision that calls for the Secretary, in determining the critical habitat of any endangered or threatened invertebrate species, to consider the economic impact, and any other relevant impacts, of specifying any area as critical habitat. The Secretary then may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat. I think this provision should specifically spell out that the Secretary should consider all relevant impacts of specifying an area as a critical habitat. These impacts should include the social, ecological, economic, scientific, archeological, and national security impacts, as well as any other local or national concerns.

It is my hope that the bill will be amended either on the floor of the House or in conference to reflect these two serious flaws.

In any event, I feel this bill, on the whole, provides a reasonable balance among the competing interests. I urge my colleagues to support it.

Mr. FORSYTHE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think this debate has been a very, very useful debate. I hope that we can now quickly move to consideration of amendments, but I think that again the message is we do want to keep an Endangered Species Act. We do want to try and improve it so that it does not create some of the very difficult situations that we are well aware of and with still a commitment that there may be more work to be done when, in early next year, the GAO report is available. And that that is the time, if we do need amendments further than we have agreed to here today.

Mr. Chairman, I yield back the balance of my time.

● Mr. MURPHY of New York. Mr. Chairman, I rise in support of H.R. 14104. This bill was reported unanimously by the Committee on Merchant Marine and Fisheries after numerous markup sessions in both the subcommittee and the full committee. H.R. 14104 represents a balanced and reasonable solution to the endangered species issue. This bill introduces some needed flexibility into the Endangered Species Act without violating the integrity of the act in the process.

The Endangered Species Act was enacted in 1973 to establish a comprehensive program for the conservation of endangered and threatened species worldwide. The 1973 legislative action was a response to the alarming increase in the rate of extinction of plants and animals in the United States and around the world. The act stands today as the foremost statute for the protection of wildlife. I believe that the Endangered Species Act is basically sound. Nevertheless, we know that some problems have developed as a result of the act. This bill represents the committee's best attempt to resolve these problems in a responsible manner.

In developing this bill, the committee was guided by several important considerations. First, we believe that the need for the Endangered Species Act is as great today as it was in 1973. The Department of the Interior estimates that 20 species become extinct per decade in the United States, and an even greater number enter the endangered category. If this rate applies worldwide, an estimated 300 extinctions occur per decade. To a very real extent the Endangered Species Act is the only thing that stands between hundreds, if not thousands, of biologically and esthetically important species and extinction.

The process of extinction, of course, is a natural one. Throughout the history of the world, species of animals and plants have appeared, changed and disappeared. In recent time, however, the extinction process has changed dramatically. We have lost thousands of species over the last several hundred years, and the accelerated rate of extinction continues today. In fact, if anything, the rate of extinction will continue to increase as many lesser developed nations continue to clear their biologically rich tropical forests in a search for economic growth.

The real tragedy associated with massive species extinction is that we may never fully comprehend what we have lost. We know that many species can have significant biological and scientific value. Most of our drugs are produced from plants, for example. We also know that many species have a tremendous esthetic value which is difficult if not impossible to quantify. Who can quantify, for example, the value of the passenger pigeon, which once numbered in the millions and was a valuable food source, or the grizzly bear which is now reduced to remnant populations in the Continental United States. But for the vast majority of the species that have been driven to extinction over the last two centuries, we have absolutely no idea what scientific or esthetic values they contained. And, there is virtually no way for us to find out. They are simply gone.

The Endangered Species Act, in a small but significant way, attempts to slow the rate of extinction that we have witnessed over the last two centuries. The act does not attempt to end the process of extinction, however, or alter the normal evolutionary process. What it attempts to do is establish a program through which we can devote some resources for the conservation of endangered animals and plants. The experience with the act to date has taught us that most, if not all, conflicts between development activities and endangered species can be resolved through the consultation process provided in the act. In many cases, all that is required is a minor modification to the project to permit it to go forward in conformity with the Endangered Species Act. Just recently, for example, the U.S. Fish and Wildlife Service recommended a conservation program to the Corps of Engineers to permit the Corps' Dickey-Lincoln project in Maine to go forward despite the presence of the endangered furbish lousewort.

The second major consideration guiding the work of the committee was that although the Endangered Species Act is basically sound, there are some problems with it that need to be corrected. H.R. 14104 fully and adequately addresses these problems.

Section 7 of the Endangered Species Act requires all Federal agencies to insure that their actions do not jeopardize the continued existence of any endangered or threatened species or destroy or modify the critical habitat of any endangered or threatened species.

Section 7 provided the legal authority for the now famous suit against the Tellico Dam project in Tennessee. In June of this year, the U.S. Supreme Court affirmed the lower court's decision in the Tellico case holding that the dam could not be completed as planned because it would jeopardize the continued existence of the endangered snail darter. In reaching this conclusion, the Court indicated that the legislative history of the act indicated that Congress indeed intended to halt and reverse the trend toward species extinction—whatever the cost. The major problem with the act as I see it, is that as it is currently written, there is simply no way to balance the importance of conserving an endangered species against the critical need for many activities which may have an adverse impact on endangered species. This bill would resolve this problem by establishing a mechanism for exempting activities from the requirements of the act.

In brief, any application for exemption would be reviewed by a three-man Review Board. This Review Board would first determine whether the agency involved consulted with the Fish and Wildlife Service in a good-faith attempt to resolve the conflict. Having made a positive determination to that effect, the Review Board would then conduct a formal adjudicatory hearing on the issue of whether the action in question warranted an exemption from the Endangered Species Act.

The Review Board would make a recommendation to a cabinet level committee and the committee could grant an exemption from the Act if four out of the six members found that: First, there were no feasible and prudent alternatives to the agency action; second, the benefits of the action clearly outweigh the benefits of alternative courses of action consistent with conserving the species, and third, the action is of regional or national significance.

I want to emphasize that the Review Board does not duplicate the work of the Endangered Species Committee. Rather, the Review Board acts as a hearing examiner for the committee. This process will insure that the committee acts on the basis of a complete record developed before appointees of the Secretary and the Governor.

A second major problem associated with the act as currently written involves the notable lack of public input into the listing and designation process. We found in the course of our hearings that, all too often, the listing of a species or the designation of critical habitat occurs in a regulatory vacuum. There has been little or no effort made to publicize the regulatory proposal in the affected area or give the people most directly impacted by the proposed regulation an opportunity to effectively comment on it. The designation of critical habitat amounts to nothing less than a form of restricted zoning from Washington, D.C. Once an area has been designated critical habitat many activities, which may have been conducted in the area, could be precluded by the terms of the Endangered Species Act.

This bill cures this defect by requiring actual notice of regulatory proposals to all general local governments. In addition, the bill requires that proposed designations of critical habitat be published in a local newspaper in the affected area. Finally, the bill would require informal public meetings on proposed critical habitat designations in the area of the habitat and hearings in the State.

All of these provisions put together will help to insure that the Department of the Interior is not blindly listing species and designating critical habitat without consulting the views of the people of the affected area. In addition, these

provisions will serve to alert the Fish and Wildlife Service about possible conflicts between the listed species and human activities. Certainly it is in everybody's interest for conflicts between species and development activities to be discovered and resolved at the earliest possible opportunity.

The bill includes a number of other provisions which I will not attempt to summarize at this time. All of them, however, address issues that were raised during the lengthy set of oversight hearings conducted by the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

I believe that the provisions of this bill are exceedingly comprehensive. They were only adopted after a rigorous mark-up process and after lengthy hearings. Nevertheless, some Members are going to say that we are acting too fast—that we should slow down and wait for the anticipated GAO report on the operation of the act.

Well, we do not need to wait. We have enough information right now. More importantly, the GAO report is not going to say anything that we do not already know. The GAO has already briefed members of the committee on the results of their study. They have indicated to us that H.R. 14104 addresses nearly all of their major concerns. The GAO is concerned about the administration of the Endanged Species Office, but any administrative deficiences are more appropriately handled by good oversight, and not through legislation.

I believe that the committee has reported a good, balanced bill. I urge the House to adopt it.●

● Mr. LEGGETT. Mr. Chairman, I support H.R. 14104. This bill is a compromise—there is no secret about that. I doubt that any one Member that worked on this measure is totally satisfied with it. Nevertheless, H.R. 14104 introduces some needed flexibility into the Endangered Species Act where none currently exists.

We all agree that the Endangered Species program is worthwhile and ought to be continued. We have discovered, as a result of the Tellico decision, that one provision in the act is significantly devoid of the flexibility, however, and needs to be amended.

Section 7 of the Endangered Species Act prohibits any action authorized, funded or carried out by a Federal agency from adversely modifying the critical habitat of an endangered or threatened species. As the chairman of the committee has explained, the U.S. Supreme Court interpreted this provision to require Federal agencies to avoid adverse impacts on endangered species—no matter what the cost. The Supreme Court decision may be good law, but it is very bad public policy.

We know that there are few, if any, absolutes in this world. We should be concerned about the conservation of endangered species, but I, for one, am not prepared to say that we should be concerned about them above all else. One of the real anomalies of our wildlife statutes is that they permit entire runs of non-endangered salmon to be destroyed by development activities—and this has happened up and down the west coast—but they prohibit the taking of a single endangered snail darter. Clearly, we need to offer more protection for the salmon, and a little less protection for the snail darter.

The Subcommittee on Fisheries and Wildlife Conservation and the Environment, which I chair, developed the bill before the House today only after conducting an extensive set of oversight hearings on the Endangered Species Act. These hearings covered a period of 8 days and included testimony from 70 witnesses. We literally heard from everyone who wanted to testify on this subject.

In addition to the evidence developed during the oversight hearings, the committee has been briefed by the General Accounting Office which is conducting its own study of the administration of the Endangered Species Act.

In general, I believe that the evidence presented to the committee indicates that the Endangered Species Act has worked fairly well. Section 7 of the act has been the subject of litigation in four instances. Two projects, Tellico Dam and the Grayrocks Reservoir in Wyoming, have been enjoined as a result of section 7. One other project, an interchange on Interstate 10 in Mississippi, was modified as a result of section 7. In the fourth case the court decided that the project would not have an adverse impact on the species involved.

Thus, at this juncture only two projects have been enjoined as a result of the Endangered Species Act. And in fact, the court opinion on the Grayrocks Reservoir suggests that the refusal by the Rural Electrification Administration to consult with the Fish and Wildlife Service was largely responsible for the injunction in that instance.

Despite the small number of projects affected by the Endangered Species Act to date, the committee determined that there is a real potential for future conflicts under the act as currently written. Although the act has been in effect since 1974, the section 7 regulations were not promulgated until January of this year. Thus, all Federal agencies were not put on notice of the full meaning of section 7 until the Tellico decision in June of this year.

More importantly, only a handful of critical habitats for endangered species have been designated to date. As of August 1978, critical habitats had been designated for 32 separate species. An additional 56 critical habitats have been formally proposed for designation. In addition, there are some 140 domestic animal and plant species currently listed as either endangered or threatened for which no critical habitat has yet been proposed. Additionally, there are 156 animals and 1,850 plants formally proposed for listing as endangered or threatened. Many of these will ultimately have critical habitat designated for them.

The point of all of these figures is that there is some significant likelihood for conflicts under the act. It occurred to the committee that there is a need to develop a mechanism to resolve these conflicts and potential conflicts short of wholesale revision of the Endangered Species Act—an option that I am sure very few Members would endorse.

The chairman has already described the exemption process in H.R. 14104 at some length. I will not attempt to recover that ground here. I would like to focus on a couple of significant portions of that exemption process. First, in contrast to the Senate bill, H.R. 14104 would permit the Governor of the affected States, as well as Federal permit and license applicants to apply to the Endangered Species Committee for an exemption. We recognized that section 7 applies to more than just Federal agency actions. It applies to actions "authorized, funded or carried out" by Federal agencies. In many cases, of course, the relevant Federal agency may have little or no interest in the project at issue. The Corps of Engineers, for example, grants thousands of permits each year under section 404 of the Federal Water Pollution Control Act. The corps would apply for an exemption under our bill, but would have little if any interest in doing so. Likewise, the Secretary of Agriculture participates in numerous timber purchasing contracts, but the Secretary has no significant economic interest in these contracts. H.R. 14104 merely gives the timber purchaser, in addition to the Secretary, an opportunity to receive an exemption from the Endangered Species Act.

I want to emphasize that H.R. 14104 only gives the Federal agency, the Governor and the permit and license applicants an opportunity to receive an exemption from the Endangered Species Act. They can apply for an exemption, but they are not guaranteed to receive one. In order to receive an exemption under this bill, the applicant must satisfy a set of stringent criteria.

Most importantly the applicant has to convince the Review Board that they consulted with the Secretary in a good faith attempt to resolve the conflict. Consultation is the key to this process as it is to the entire act. We believe that many endangered species problems can be solved through consultation. An exemption procedure must insure that the Federal agency made a reasonable effort to resolve the issue at the consultation stage without resorting to the full exemption procedure.

If the Review Board determines that consultation was carried out in good faith, they can proceed to consider the merits of any exemption. To a large extent, the Review Board is acting as the hearing examiner for the Endangered Species Committee. We recognized that it will be exceedingly difficult to get the cabinet level committee members to devote a substantial amount of personal time to the collection of evidence on the merits of any exemption. Under the terms of H.R. 14104 the Review Board will do most of the work for them. The Review Board will conduct the formal adjudicatory hearing, evaluate the evidence presented during the hearing, and make a recommendation to the Endangered Species Committee. The committee will be expected to make its decision on the basis of the Board's recommenda-

tion as well as the evidence presented during the formal hearing.

At first blush, the procedure proposed in H.R. 14104 appears to be very long and complex. In fact, every effort has been made to streamline this process. We recognized that inordinate delays in the construction of projects can be devastating to them.

Thus, every stage of the procedure in H.R. 14104 has a time limitation associated with it. The limitations will insure the expeditious resolution of any exempties to be impacted by a critical habitat a limitation on the period of consultation. This bill requires the Secretary to issue his biological opinion within 90 days or within a time that is mutually agreeable to the Secretary and the Federal agency involved. Second, once an application for an exemption is presented to the Review Board, the Board would have only 60 days to decide whether the agency satisfied the consultation requirements of the act. If the agency had consulted properly, the Review Board would proceed to conduct a formal hearing and make a recommendation to the Endangered Species Committee. This recommendation would have to be issued within 180 days of the initiation of the hearing. Finally, .the committee would have 90 days to decide whether or not to grant the exemption.

The exemption procedure is an important part of this legislation, but it is far from the only part. The bill includes a number of other provisions which will serve to improve the administration of the act.

Most significantly, the bill includes a number of provisions which are intended to improve the notice procedures in the act and insure that those communities to be impacted by a critcal habitat proposal will have a chance to comment effectively on it. Unfortunately, the current notice and hearing procedures in the act have not sufficiently accommodated the interests of individuals outside of Washington, D.C.

Currently, proposals to list species or designate critical habitat are published in the FEDERAL REGISTER alone. Not surprisingly, many listings and designations are proposed and finalized without anyone knowing it. H.R. 14104 corrects this deficiency by requiring actual notice to all units of local government. It also requires proposals to designate critical habitat to be published in newspapers of general circulation in the vicinity of the proposed habitat. Finally, the bill mandates hearings on critical habitat proposals in the vicinity of the proposed habitat.

We believe that all of these requirements will enhance rather than detract from the endangered species program. All too often, those people that know the most about a species, or are more likely to perform an activity that is detrimental to the species, are the last ones to be consulted by the Washington bureaucracy. Certainly it is in everybody's interest for conflicts between species and development activities to be discovered and resolved at the earliest opportunity. These provisions will insure that this is the case.

The Endangered Species Act has been criticized because it allows for no consideration of the economic impact of listing a species or designating critical habitat. Although H.R. 14104 retains the act's stringent mandate, it does introduce a consideration of economic impacts in several respects. First, the consideration of economics is central to the exemption process. The Endangered Species Committee must determine whether the benefits of the agency action—including economic benefits—outweigh the benefits of alternatives which would conserve the species. Second, the bill includes a provision which requires the Secretary to evaluate the economic impact of designating critical habitat for invertebrate species. This provision authorizes the Secretary to alter the designation of critical habitat for these species if he determines that the benefits associated with excluding the habitat outweighs the benefits associated with the designation.

The ultimate goal of the Endangered Species Act is the conservation of the ecosystem on which all species, whether endangered or not, depend for survival. For this reason the Endangered Species Act protects all endangered and threatened members of the animal kingdom, not merely the so-called higher forms of life. Nevertheless, we recognized that the large number of invetebrate species could ultimately present serious conflicts with many Federal activities. This provision will continue full protection for all listed species, but will give the Secretary some much needed discretion in the designation of critical habitat.

H.R. 14104 includes a number of other provisions which will serve to improve the administration of the Endangered Species Act. The bill requires the Secretary to review the list every 5 years to determine if any species should be removed from the list. It also requires the Secretary to act on any regulatory proposal within 2 years. These two provisions are intended to make sure that the endangered species list is kept up to date and that the decision whether or not to list a species is made within a reasonable period of time.●

● Mr. LEHMAN. Mr. Chairman, the Endangered Species Act, enacted in 1973 has worked well, and there is no real need to amend this legislation. The Merchant Marine and Fisheries Committee, in an effort to address the criticism that this act is inflexible, has nevertheless reported out a compromise bill, H.R. 14104. As with any compromise legislation, this bill contains both positive and negative features, but I support its passage.

I am especially concerned about allowing the Secretary of the Interior to consider the economic impact of declaring a critical habitat for invertebrates, a procedure not required when declaring critical habitats for vertebrates. On the positive side, however, this bill includes requirements for recovery plans for all listed species, improved notice procedures for proposed listings and habitat designations and biological assessments before action begins on projects where endangered species are present.

All plants and animals have real, and in some cases still undiscovered, value for us. They are a source of food, and have already proven their value in medical research. They have set alarms for us, alerting us to the dangers of DDT. Many common weeds are already being tested as possible energy sources. Since all species are interdependent, it is impossible to determine the impact that the destruction of one could have on the balance of nature and thus our society.

The Endangered Species Act has been the backbone of our country's struggle to protect threatened or endangered wildlife from extinction. I therefore urge that the compromise committee version of H.R. 14104 be passed by the House, without any further weakening amendments.●

Mr. BOWEN. Mr. Chairman, I believe I have no further requests for time on this side.

I would simply ask the committee to proceed with the business at hand which is considering some very significant amendments which I think can improve this bill.

I want to remind the members of the committee that we have an agreement that at any point at which a recorded vote would occur that the committee will have to rise. So it is our hope that we can dispose of a few noncontroversial amendments so that we may conduct as much business of the committee as we can during this period of the day.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.";

(2) by adding at the end of subsection (b) the following new paragraph:

"(4) In determining the critical habitat of any endangered or threatened invertebrate animal species, the Secretary shall consider the economic impact, and any other relevant impacts, or specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat."

(3) by amending subsection (c)(1) by striking out "and shall", and by inserting immediately before the period the following: ", and specify any critical habitat within such range",

(4) by amending subsection (f)—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

"(i) shall publish notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat; and

"(ii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat;

"(iii) shall—

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation."; and

(B) by adding at the end thereof the following new paragraph:

"(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation."; and

(5) by adding at the end thereof the following new subsection:

"(g) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation or survival of endangered species and threatened species listed pursuant to this section. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.".

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) REVIEW BY SECRETARY.—The Secretary shall review all other programs administered by him and utilize such programs in furtherance of the purposes of this Act.

"(b) AGENCY CONSERVATION PROGRAMS.—Each Federal agency shall, after consultation with and with the assistance of the Secretary, utilize its authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4.

"(c) AGENCY ACTION.—(1) Each Federal agency shall insure that any action authorized, funded, or carried out by the agency (hereinafter in this section referred to as an 'agency action') does not result in species or habitat degradation unless an exemption has been granted by the Endangered Species Committee under subsection (f) with respect to such agency action.

"(2) If any Federal agency—

"(A) considers that any agency action over which it has jurisdiction may result in species or habitat degradation; or

"(B) is notified by the Secretary that the Secretary considers that such agency action may have such a result;

the Federal agency and the Secretary shall undertake immediate consultation with respect to the matter, including, but not limited to, consultation to determine if reasonable and prudent alternatives are available. Consultation under this paragraph with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary. Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing whether the agency action may result in species or habitat degradation and whether there are reasonable and prudent alternatives which would avoid species or habitat degradation which can be taken by the Federal agency in implementing the agency action.

"(3) To facilitate compliance with the requirements of paragraph (2)(A), each Federal agency shall, with respect to any action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any listed species may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(4) After initiation of consultation required under paragraph (2), the Federal agency shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid species or habitat degradation.

"(d) APPLICATION FOR EXEMPTION AND CONSIDERATION BY REVIEW BOARD.—(1) A Federal agency, the Governor of the State in which the Federal agency action will occur, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if after consultation under subsection (c)(2) the Secretary's opinion indicates that the agency may result in species or habitat degradation. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (f) after a recommendation is made by the review board.

"(2)(A) Any Federal agency, Governor, or permit or license applicant seeking an exemption under this subsection shall submit a written application to the Secretary, in a form prescribed by the Secretary, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the Federal agency, Governor, or permit or license applicant considers that the agency action meets the requirements for an exemption under this subsection.

"(B) Upon receipt of the application for exemption referred to in paragraph (1), the Secretary shall promptly notify the Governor or Governors of the affected States, and request that they appoint a member of the review board to be established under paragraph (3) in accordance with the provisions of such paragraph.

"(3)(A) A review board consisting of three members shall be established for purposes of considering an application for exemption and making recommendations to the Endangered Species Committee under this subsection as follows:

"(i) The Secretary and the Governor of the affected State shall each appoint one individual to the board not later than 15 days after a request is submitted pursuant to paragraph (2). If more than one State is affected by the agency action, the Governors of such States shall appoint one individual collectively.

"(ii) The two individuals appointed under clause (i) shall appoint one individual not later than 15 days after both of them have been appointed.

"(B) Members of a review board who are full-time officers or employers of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GE–18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

"(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (c)(2), and within 60 days after its appointment or within such longer time as is mutually agreed upon between the agency and the Secretary, to make a determination, by a majority vote, whether such agency has—

"(A) carried out its consultation responsibilities in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to its proposed action which will avoid species or habitat degradation;

"(B) conducted any biological assessment required of it by subsection (c)(3); and

"(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (c)(4).

Any determination by the review board that the agency has not met the requirements of subparagraph (A), (B), or (C) shall be con-

sidered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(6) If the review board makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to consider the application for exemption. In considering any application for an exemption, a review board shall take into account the reasons for an exemption set forth in the application of the Federal agency, Governor, or permit or license applicant, the views of the Secretary submitted under paragraph (4), and the views of other Federal and State agencies and appropriate persons. The review board shall recommend an exemption from the requirements of subsection (c)(1) for any agency action if, by a majority vote, it determines on the record after an opportunity for a hearing held in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5 of the United States Code, that—

"(A) there are no feasible and prudent alternatives to the agency action;

"(B) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(C) the action is of national or regional significance.

The review board shall recommend to the Endangered Species Committee whether or not to grant an exemption within 180 days after the hearing described in this paragraph is initiated, or within such other time as is mutually agreed upon by the applicant and a majority of the review board. If the review board recommends an exemption it shall include with its recommendation any reasonable mitigation and enhancement measures which should be considered by the Endangered Species Committee under subsection (f). The review board shall transmit the record of its proceedings and its recommendation to the Committee.

"(7) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

"(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

"(B) subject to the Privary Act of 1974, request of any Federal agency information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and

"(C) use the United States mails in the same manner and upon the same conditions as Federal agencies.

"(8) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carrying out its duties under this section.

"(9) The Administrator of the General Services shall provide to a review board, on a reimbursable basis, such administrative support services as the review board may request.

"(10) All meetings and records of review boards shall be open to the public.

"(e) ESTABLISHMENT OF COMMITTEE.—(1) There is established a Committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall be composed of six members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Secretary of the Interior.

"(D) The Administrator of the National Oceanic and Atmospheric Administration.

"(E) The Chairman of the Council on Environmental Quality.

"(F) The Governor of the States in which the Federal agency action for which an exemption is sought under this section will occur (or in the case of any agency action which will occur in more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee).

"(3) The Chairman of the Council on Environmental Quality shall be the Chairman of the Committee.

"(4) Members of the Committee shall receive no additional pay on account of their service on the Committee; except that while away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5) The Committee shall meet at the call of the Chairman or four of its members.

"(6) All meetings and records of the Committee shall be open to the public.

"(7) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as the Committee deems desirable.

"(f) EXEMPTION.—The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the recommendation of the review board under subsection (d)(6). The Committee shall grant an exemption from the requirements of subsection (c)(1) for an agency action if, by a vote of not less than four of its members voting in person—

"(1) it determines on the record, based on the recommendation and the record of the review board and on such other testimony or evidence as it may receive, that—

"(A) there are no feasible and prudent alternatives to the agency action;

"(B) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(C) the action is of regional or national significance; and

"(2) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned. Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(g) REVIEW BY SECRETARY OF STATE.—Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

"(h) COMMITTEE ORDERS.—(1) If the Committee determines under subsection (f) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (f) which shall be carried out and paid for by the Federal agency in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

"(2) The Federal agency receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any Federal agency may request the Secretary to carry out such mitigation measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the agency receiving the exemption. No later than one year after the granting of an exemption, the agency to which the exemption was granted shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the agency preparing such reports.

"(i) JUDICIAL REVIEW.—Any person, as defined by section 3(8) of this Act, may obtain judicial review, under chapter 7 of title 5 of the United States Code, of any decision of the Endangered Species Committee under subsection (f) in the district court of the United States for any district wherein the agency action concerned will be, or is being, carried out by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in, any action for review under this subsection.

"(j) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsection (f) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

"(k) SPECIAL PROVISIONS.—(1) An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

"(2) Notwithstanding sections 4(d) and 9(a), or any regulation issued to carry out such sections, no act or activity engaged in which is necessary to carry out any agency action for which an exemption is granted under this section shall be considered to be a taking of any endangered species or threatened species.

"(l) AUTHORIZATION.—There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (d), (e), and (f) of this section not to exceed $500,000 for fiscal year 1979, not to ex-

ceed $500,000 for fiscal year 1980, and not to exceed $500,000 in fiscal year 1981.".

SEC. 4. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 5. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (4) thereof the following new paragraphs:

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(6) The term 'critical habitat' for an endangered species or threatened species means any air, land, or water area (exclusive of those existing manmade structures or settlements which are not necessary to the survival and recovery of a listed species) and constituent elements thereof, the loss of which would significantly decrease the likelihood of conserving such species."; and

(2) by striking out paragraph (13), as redesignated by paragraph (5) of this section, and inserting in lieu thereof the following:

"(13) The term 'species' includes any subspecies of fish or wildlife or plants, and any distinct segment of the population of any species of vertebrate fish or wildlife which interbreeds when mature.";

(3) by striking out paragraph (15), as redesignated by paragraph (5) of this section, and inserting in lieu thereof the following:

"(15) The term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State.";

(4) by inserting at the end thereof the following new paragraphs:

"(19) The term 'species or habitat degradation' means either or both of the following effects:

"(A) The placing in jeopardy of the continued existence of any endangered species or threatened species listed pursuant to section 4.

"(B) The destruction or adverse modification of any critical habitat of any endangered species or threatened species so listed.

"(20) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency for which exemption is sought under section 7, any person whose application to such agency for a permit or license has been denied because of the application of section 7(c)(1) to such agency action;".

(5) by redesignating paragraphs (5) through (16) as paragraphs (7) through (18), respectively, and by redesignating any references thereto accordingly.

SEC. 6. Paragraph (3) of section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended to read as follows:

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.".

SEC. 7. Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (1) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident endangered or threatened species.".

SEC. 8. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended—

(1) in the first and second sentences of subsection (a)(1) by striking out "or who knowingly commits an act in the course of a commercial activity which violates" each place it appears and inserting in lieu thereof "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates";

(2) in the third sentence of subsection (a)(1) by striking out "$1,000" and inserting in lieu thereof "$500";

(3) in subsection (b)(1) by striking out "willfully commits an act which" each place it appears and inserting in lieu thereof "knowingly";

(4) in subsection (b)(2) by inserting "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" after "authorizing";

(5) in subsection (a) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good-faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.";

(6) in subsection (b) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution if the defendant committed the offense based on a good-faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species."; and

(7) in paragraph (4) of subsection (g) by striking out "any party" and inserting in lieu thereof "the prevailing party".

SEC. 9. That portion of subsection (a) of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534) which precedes paragraph (1) is amended to read as follows:

"(a) The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants including those which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such a program, the appropriate Secretary—".

SEC. 10. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b)" and by adding the following new paragraph:

"(2)(A) This section shall not apply to—

"(i) any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978; or

"(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

"(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as

being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

Mr. BOWEN (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

Mr. BOWEN. Mr. Chairman, I ask unanimous consent that the committee amendments be considered en bloc, be considered as read, and be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The committee amendments are as follows:

Page 2, line 24, insert "final" after "the".

Page 2, after line 25, insert the following:

(4) in subsection (c) by inserting at the end thereof the following new paragraph:

(4) The Secretary shall—

(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

(B) determine on the basis of such review whether any such species should—

(i) be removed from such list;

(ii) be changed in status from an endangered species to a threatened species; or

(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b).

Page 3, line 18, strike out "(4)" and insert in lieu thereof "(5)".

Page 4, line 16, strike out "paragraph" and insert in lieu thereof "paragraphs".

Page 5, line 25, strike out all that follows the period.

Page 5, after line 25, insert the following:

(5) A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (2)(A)(i). If a final regulation is not adopted within such two-year period, the Secretary shall wtihdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.

Page 6, line 19, strike out "(5)" and insert in lieu thereof "6".

Page 8, line 25, strike out "(2)(A)," and insert in lieu thereof "(1),".

Page 10, line 23, insert ", as determined by the Secretary," after "States".

Page 11, line 15, insert after the period the following:

If no appointment is made within such 15-day period, the Endangered Species Committee shall appoint, by a vote of a majority of the members of the Committee, one individual not later than 30 days after the end of such 15-day period.

Page 15, beginning on line 10, strike out "other Federal agencies." and insert in lieu thereof "a Federal agency.".

Page 19 line 24, insert "or the permit or license applicant" after "agency".

Page 20, line 10, insert after the period the following:

Any action for review under this subsection shall receive preference over other matters before the court and shall be heard and determined as expeditiously as the court considers practicable.

Page 25, line 3, strike out "action;" and insert in lieu thereof "action." and closing quotation marks.

Page 23, line 10, strike out "(c)" and insert in lieu thereof "(c) Cooperative Agreements.—".

Page 30, line 13, insert "PROGRAM.—" after "(a)".

Page 30, line 22, strike out "(b)" and insert in lieu thereof "(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—".

Page 31, after line 17, insert the following:

SEC. 11. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsection:

(h) CERTAIN ANTIQUE ARTICLES.—(1) Sections 4(d) and 9(a) do not apply to any article (other than scrimshaw) which—

(A) was made before 1830;

(B) is composed in whole or in part of any endangered species or threatened species listed under section 4;

(C) has not been repaired or modified with any part of any such species on or after the date of the enactment of this Act; and

(D) is entered at a port designated under paragraph (3).

(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1) (A), (B), and (C).

(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1) (A), (B), and (C) must be entered into the customs territory of the United States.

Mr. BURGENER. Mr. Chairman, I rise in strong support of the committee amendments on this question. We have had, for the past 5 years, too little commonsense in the enforcement of the Endangered Species Act.

Many zealous bureaucrats have discarded human needs from their considerations with regard to endangered species. The amendments to the act, for the first time, recognize that there are human considerations to be dealt with and people are an important factor in this equation.

In my own congressional district, which includes California's Imperial Valley, the Bureau of Land Management controls 70 percent of the land in that county. Because of the California desert study mandated under the Organic Act of 1976, it appears that thousands of acres will be withdrawn from public use. This is on top of other thousands of acres which have already been regulated as to use by the BLM.

Most recently, the Interior Department has proposed the addition to the endangered species list of the newly-discovered Andrews Dune Scarab Beetle, a beetle—one of thousands of species in the world—which apparently is unique to the Imperial Sand Dunes in eastern Imperial County.

The small remaining portion of the Imperial Sand Hills which are still open to public use are now in further danger of being closed down to the public. I would remind my colleagues that Imperial County offers some of the best recreational opportunities within a short commuting distance of the Nation's 2d and 9th largest cities, Los Angeles and San Diego. Further, the people of Imperial County, many of whom make their living from the land, revere the vast uniqueness their desert environment presents them.

I think the bill we have before us which makes important distinctions between vertebrate and invertebrate species is a good compromise. Under the bill, when determining the critical habitat for an endangered or threatened invertebrate species, the Interior Secretary must consider economic impact and any other relevant impacts before declaring the critical habitat.

This language would help the Imperial County situation which is developing, and I urge the language be maintained.

I also support the several amendments of the gentleman from Tennessee to bring to bear some further human consideration in enforcement of this act.

It appears that the endangered species amendments will restore some balance to the act, which was passed when environmental fervor in the Nation was at a high point. The only difficulty, Mr. Chairman, was that, in that fervor, people were forgotten altogether, and it is for that reason that the committee has had to make the corrections we have before us tonight.

The committee amendments were agreed to.

AMENDMENTS OFFERED BY MR. BEARD OF TENNESSEE

Mr. BEARD of Tennessee. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BEARD of Tennessee: Page 2, immediately after line 2 insert the following new paragraph (1) and renumber:

Section 4(c)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1533(c)(2)) is amended—

By inserting after "shall" the phrase "within 90 days of the receipt of," and striking the word "upon";

By inserting after "conduct" the phrase "and publish in the Federal Register";

By inserting after the word "of" the phrase "the status of"; and

By inserting after the final period, "Both such review and such finding must be made and published prior to the initiation of any procedures required under Section 4(b)(1) of this Act (16 U.S.C. 1533(b)(1)).

Page 9, line 5: Insert after the word "listed" the phrase "or proposed to be listed", and at page 9, line 17, insert after paragraph (3) the following new paragraph (4), and renumber:

(4) An exemption for an agency action granted under subsection (f) shall constitute a permanent exemption for the purposes of completing such agency action; Provided That a biological assessment has been conducted under paragraph (3).

Page 9, line 11: After the word "completed", add: "within 90 days after the date on which initiated or within such other period as is mutually agreed to by the Secretary and such agency, but not to exceed 180 days in total."

Page 14, line 3; and at page 17, line 23: Strike the word "feasible" and insert in lieu thereof the word "reasonable".

Page 17, line 23: Strike the word "feasible" and insert in lieu thereof the word "reasonable".

Page 22, line 7, strike out "$500,000" and all that follows through line 8, and insert in lieu thereof the following: "$250,000 for the period beginning October 1, 1979 and ending March 31, 1980."

Page 22, line 18, strike out "$25,000,000" and all that follows down through "September 30, 1981" on line 20 and insert in lieu thereof the following: "$12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980".

Page 23, line 3, strike out "$3,000,000" and all that follows down through "September 30, 1981" on line 5 and insert in lieu thereof the following: "$1,500,000 for the period beginning October 1, 1979 and ending March 31, 1980".

Mr. BEARD of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and be printed in the RECORD. I also ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BEARD of Tennessee. Mr. Chairman, I am including in the RECORD an explanation of each amendment designating the page number and line number involved.

The explanations are as follows:

Mr. Chairman, page 2, line 2, amendment providing for increased notice in the listing and delisting process: This amendment makes several changes to that section of the act which controls the procedures for listing and delisting species. All four changes proposed by this amendment serve to expedite that process.

The first one instructs the Secretary to conduct a review of any petition to list or delist species within 90 days of receipt of the petition.

The second and third changes require that results of status reviews of species proposed to be listed or delisted be published in the Federal Register.

Finally, the fourth change insures that the Secretary will not list any specie or change its status on his own initiative without first conducting the review mandated by this particular section of the act, as amended.

Page 9, lines 5 and 17, amendment regarding a one-time exemption: The purpose of this amendment is to insure that once a project is granted an exemption under the process set forth in this bill, it will not face the entire exemption procedure for a second, third, or fourth time as new species are added to the endangered or threatened lists, or species already on one of the lists are discovered within a project construction area.

The bill already calls for a biological assessment to be conducted for "listed" species. I am proposing that this be extended to a broader assessment, to include species which are only "proposed" to be listed as well. According to the GAO, this type of arrangement would preempt most confrontations between man and species.

Page 9, line 11, amendment to limit the time allowed for conducting a biological assessment: In the event that listed or proposed species are present within a proposed project area, this bill requires the agency involved to conduct a biological assessment to determine whether such species actually will be effected by the project.

However, the bill does not restrict the time period for conducting this assessment. My amendment will restrict the time to a reasonable length, thus assuring that the exemption process, when it is needed, is conducted as expeditiously as possible.

Page 14, line 3; and page 17, line 23, amendments regarding use of the word "feasible": The term "feasible and prudent" is a term of art. The Supreme Court in Citizens to Preserve Overton Park versus Volpe, in 1971 interpreted this phrase to mean virtually every conceivable alternative. The possibilities for alternatives which must be considered if this phrase is used are limited only by the imagination.

This terminology is extracted from the Federal-Aid Highway Act of 1968. Interpretation of this phrase by the Supreme Court and subsequent attempts by the State of Tennessee to comply with the impossible task which this interpretation demands has delayed completion of Interstate 40 through Memphis for over 10 years.

Inclusion of this phrase in H.R. 14104 would guarantee a litigative tool which could be used to delay indefinitely any granting of exemptions allowed under the provisions of this bill.

This amendment replaces the word "feasible" with the word "reasonable" which has no such court interpretation. My amendment would conform this part of the bill to the Senate's language.

Page 22, line 17; and page 23, line 2, amendment to authorize the act for 18 months: Preliminary findings by the General Accounting Office indicate that the Endangered Species Act is incredibly mismanaged and in need of reform. Although I have attempted to address several of GAO's concerns in the amendments I have offered thus far, I believe that the Congress should consider further amendments to the act once the GAO report is released. Accordingly, the committee has agreed to my suggestion for an 18-month reauthorization. This should give all interested parties the opportunity for careful scrutiny of the report and insure that the committee is given adequate time to conduct careful and thorough oversight hearings related to it.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, I rise to point out to the gentleman and to the Chair that these amendments are acceptable to our side of the aisle.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Mississippi (Mr. BOWEN).

Mr. BOWEN. Mr. Chairman, the gentleman's amendments are acceptable on this side of the aisle. I feel that these are very constructive amendments.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. BEARD of Tennessee. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, the gentleman from Tennessee (Mr. BEARD) has been eminently helpful and gracious in working with the committee.

I wish to commend him and I support his amendments.

Mr. BEARD of Tennessee. I thank my very fine friend, the gentleman from Michigan.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Tennessee (Mr. BEARD).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BOWEN

Mr. BOWEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOWEN: Page 10, strike out line 21 and all that follows down through line 2 on page 11 and insert in lieu thereof the following:

"(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly notify—

"(i) the Governor of each State in which the agency action will occur, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application.

Page 11, strike out line 7 and all that follows down through line 20 and insert in lieu thereof the following:

"(i) One individual shall be appointed to the board by the Secretary not later than 15 days after an application is submitted pursuant to paragraph (2).

"(ii) One individual shall be appointed to the board (I) by the President, not later than 30 days after an application is submitted pursuant to paragraph (2) and, after consideration of any recommendations received pursuant to paragraph (2)(B).

"(iii) One administrative law judge shall be selected to serve on the board by the Civil Service Commission in the same manner as administrative law judges are selected under section 3344 of title 5 of the United States Code to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

Page 16, strike out line 12 and all that follows down through line 17 and insert in lieu thereof the following:

"(F) The President, after consideration of any recommendations received pursuant to subsection (d)(2)(B), shall appoint one individual to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to paragraph (2).

Mr. BOWEN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. BOWEN. Mr. Chairman, my amendment is of a technical nature. It is intended to resolve a concern that has been raised by the Justice Department about the Governor's position on the Review Board and the committee. The Justice Department is concerned that, by placing the Governor of the affected State on the Endangered Species Committee and by permitting him to make appointments to the Review Board, the bill may violate the appointments clause to the Constitution. The appointments clause provides that Congress may vest the appointment of inferior officers of the United States in the President, heads of departments and courts of law.

The committee has reviewed this issue with both the Justice Department and the American Law Division of the Library of Congress. There is a significant amount of disagreement between the Library of Congress and the Justice Department on this issue. Nevertheless, we felt that it was wise to resolve this issue at this time, rather than have the exemption process subjected to a constitutional challenge at some later point.

The amendment is very simple. Instead of placing the Governor of the affected State on the Endangered Species Committee, the amendment would have the President appoint the sixth member of the committee after receiving the nominations of the Governor. In nearly all cases we would expect the Governor to nominate himself to be appointed by the President.

My amendment also makes a change in the nature of the Review Board. Under the amendment the Review Board would be composed of:

One person appointed by the Secretary;

One person nominated by the Governor and appointed by the President; and

An administrative law judge appointed by the Civil Service Commission.

This approach is faithful to the makeup of the Review Board found in the existing bill. The administrative law judge replaces the third appointee to the Review Board in order to obviate any conceivable constitutional violation.

I believe that this amendment should be entirely noncontroversial. It is simply necessary to insure that the exemption process we are creating in this bill is not vacated by a constitutional challenge.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. BOWEN. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. I thank the gentleman for yielding.

We have considered this amendment on this side, and we agree to the amendment.

Mr. BOWEN. It is basically of a technical nature to clear up a legal technicality that I think needs to be attended to, and I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Mississippi (Mr. BOWEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ANDERSON OF ILLINOIS

Mr. ANDERSON of Illinois. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ANDERSON of Illinois:

On page 32, after line 21, add the following new section:

"SEC. 12. Notwithstanding any provision of the Endangered Species Act of 1973 (16 U.S.C. 1631 et seq.) or any regulation promulgated or policy established thereunder, the Secretary of the Interior is authorized and directed to release to Doctor Eugene L. Vickery of Lena, Illinois, a narwhale (Monodon monocerus) tusk cane contained in a shipment consigned to him that was seized by agents of the United States Fish and Wildlife Service at O'Hare International Airport, Chicago, Illinois, on November 30, 1977. For purposes of section 9 and section 11 of such Act, Doctor Vickery shall be considered not to have violated any provision of such Act with respect to the importation of such narwhale tusk cane."

Mr. ANDERSON of Illinois (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ANDERSON of Illinois. Mr. Chairman, this is an amendment which I have discussed with the committee on both sides of the aisle. It involves what I think was an unfortunate and unnecessary application of a provision of an international convention on endangered species which has had an entirely inequitable result. It would provide a citizen of the United States with relief in that regard.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

This, I believe, is the amendment the gentleman has discussed with me?

Mr. ANDERSON of Illinois. I have discussed it with the gentleman.

Mr. DINGELL. I have no objection to the amendment and am happy to support it.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. I thank the gentleman for yielding.

We have also reviewed this amendment and have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ANDERSON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. RONCALIO: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the National Environmental Policy Act (42 D.S.C. 4321 et seq.) the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended; and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the National Environmental Policy Act, and the Endangered Species Act; *Provided*, That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Secretary of the Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after consultation as appropriate with the affected States."

Mr. RONCALIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

Mr. CAVANAUGH. I object.

The CHAIRMAN. Objection is heard.

The Clerk concluded reading the amendment.

Mr. CAVANAUGH. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Nebraska reserves a point of order.

Mr. RONCALIO. Mr. Chairman, before my time begins, I should like to be heard on the point of order.

The CHAIRMAN. The gentleman from Nebraska has reserved a point of order. Does the gentleman from Nebraska desire to state the point of order at this time?

Mr. CAVANAUGH. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will state the point of order.

POINT OF ORDER

Mr. CAVANAUGH. Mr. Chairman, I make a point of order against the amendment on the grounds it is not germane. The amendment deals with several statutes not before the House committee. It would affect the National Environment Policy Act, 42 U.S.C. 432; the Federal Water Pollution Control Act, 16 U.S.C. 531; the Rural Electrification Act and loan guarantees and approvals thereunder, and legislation creating the Missouri Basin power project.

The amendment could have gone to the Committees on the Interior and Public Works, as those are the committees with jurisdiction over the basic statutes cited.

The amendment imposes duties and burdens specifically on the Corps of En-

gineers and other agencies, such as the Environmental Protection Agency, which are not subject to specific mandate in the Endangered Species Act, which we are considering today.

The CHAIRMAN. Does the gentleman from Wyoming desire to be heard on the point of order?

Mr. RONCALIO. Yes, Mr. Chairman, I do desire to be heard.

In the first place, the amendment seeks to change none of the statutes which my good friend, the gentleman from Omaha, has cited.

The precedents are clearly established for comparable legislation. I shall read from the most recent one, from Deschler's Procedures in the U.S. House of Representatives, page 477, at which there is cited under the amendments and the germaneness rule:

§ 5.18 For a bill authorizing the construction of a trans-Alaska oil-gas pipeline pursuant to procedures—

That bill came out of this very body not 4 years ago—

promulgated by the Secretary of Interior and including a prohibition against judicial review on environmental impact grounds of any right-of-way or permit which might be granted, an amendment in the nature of a substitute containing a similar series of safeguards and including an exception from the prohibition against judicial review—to provide a mechanism for expediting other actions challenging pipeline permits—was held germane. 119 CONG. REC. 27673–75, 93d Cong. 1st Sess., Aug. 2, 1973.

The holding at that time survived a challenge against it and was held germane, even though there was a prohibition against providing a mechanism for expediting other actions challenging pipeline permits, whether they be for the Corps of Engineers or any others; so the amendment is clearly germane to the proceedings today.

The CHAIRMAN. Does the gentleman from Nebraska desire to be heard further on the point of order?

Mr. CAVANAUGH. Mr. Chairman, I just reiterate that the amendment does impose new duties and obligations upon agencies of Government not in consideration in this legislation, the National Environmental Protection Policy Act, the Federal Water Pollution Control Act, and the REA Act, and imposes new burdens and obligations upon those agencies not envisioned in this legislation.

Mr. RONCALIO. Mr. Chairman, may I respond?

The CHAIRMAN. The Chair will be happy to hear the gentleman from Wyoming, who has not had an opportunity to respond.

Mr. RONCALIO. Mr. Chairman, the amendment imposes no burden of any kind on anybody. It imposes no burden whatever on the staffers of any of the agencies mentioned by the gentleman from Nebraska. It lets them go about their work and do nothing. It does not impose a duty of any kind.

The CHAIRMAN. Do any other Members desire to be heard on the point of order? If not, the Chair is ready to rule.

The Chair, in exploring the amendment in the very brief time in which the Chair has had to look at this and exploring the cited examples, feels that this is not a question actually of waiver, but rather a question of the expanded authority and responsibility and obligation of the Departments cited by the gentleman from Nebraska in connection with his point of order, such as that calling for expanded authority on the part of the Army Corps of Engineers and the Rural Electrification Administration authorities not covered by the pending bill.

Therefore, based on the brief opportunity the Chair has had, the Chair would find it necessary to sustain the point of order.

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby ratified and shall be deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.) as amended; and the Rural Electrification Administration loan guarantee commitments and approvals associated therewith relating to the Missouri Basin Power Project are deemed to satisfy the requirements of the Endangered Species Act; *Provided*, That following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration and of the Army Corps of Engineers shall require such modifications in the operation of the Project as they and the Secretary of Interior may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is or has been determined to be critical, by the Secretary of the Interior, after consultation as appropriate with the affected States."

Mr. RONCALIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD, and that I be given an opportunity to explain the amendment, as I did the last one.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

Mr. CAVANAUGH. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. CAVANAUGH. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Nebraska (Mr. CAVANAUGH) reserves a point of order on the amendment.

The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I cannot imagine how a point of order could be reserved on the amendment at this point.

The precise objections to the last amendment were stricken from this amendment, and this amendment is left with a citation of only one statute, and that is the Endangered Species Act, which is precisely the statute before us at this time. I cannot imagine an attack on the germaneness provision at this point.

I have stricken from my first amendment all reference to the Army Corps of Engineers, all reference to the National Environmental Policy Act of 1969, and all reference to the Federal Water Pollution Control Act. There is only one act cited in the amendment, and that is precisely the one before us.

Mr. FORSYTHE. Mr. Chairman, may I ask, are there copies of the amendment available before us? We do not have a copy.

Mr. RONCALIO. Mr. Chairman, I will give the gentleman one if he will let me strike a few words out of the one he has now.

Mr. ROUSSELOT. Mr. Chairman, let the record show that.

The CHAIRMAN. It is the Chair's understanding that the gentleman from Nebraska (Mr. CAVANAUGH) reserves a point of order?

Mr. CAVANAUGH. I reserve a point of order on the amendment, Mr. Chairman.

Mr. DINGELL. With all due respect, Mr. Chairman, could we see a copy of the amendment? I ask that with the utmost respect for my friend, the gentleman from Wyoming (Mr. RONCALIO).

The CHAIRMAN. Let the Chair again ask the gentleman from Nebraska (Mr. CAVANAUGH), is he making his point of order?

Mr. CAVANAUGH. I reserve a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Wyoming (Mr. RONCALIO) is recognized for 5 minutes in support of his amendment.

Mr. RONCALIO. I thank the Chair.

Mr. Chairman, I ask unanimous consent that I may proceed for an additional 2 minutes. I believe I will have need for more time.

The CHAIRMAN. The Chair will inquire of the gentleman, what was his request again?

Mr. RONCALIO. Mr. Chairman, I ask unanimous consent that I may be granted 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The CHAIRMAN. The gentleman from Wyoming (Mr. RONCALIO) is recognized for 7 minutes in support of his amendment.

Mr. RONCALIO. Mr. Chairman, this amendment offered to the Endangered Species Act seeks to in fact put moot an injunction that has been delayed incidentally 7 days by the very judge himself. That injunction is for halting construction on a coal-fired generating project on the Laramie River in Wyoming, 300 miles upstream from a 60-mile strip of the Platte River near Kearney, Nebr., which was designated 6 months ago by the U.S. Fish and Wildlife Service as one of the 13 overnight stopovers, a proposed or designated critical habitat, actually a stopover, for the sandhill crane and the whooping crane on its annual migration from northern Canada to Texas and Louisiana.

The whooping crane is now up to 75 in population. There were only 20 when I was a kid. They are not being endangered or diminished if they have gone from 20 to 75. I have seen the whooping cranes in Yellowstone Park, and I love them. I would be the last one to do anything to diminish the whooping crane or the trumpeter swan or the sandhill crane, for that matter.

Nevertheless, certain environmental people, carried away against logical reason, went to court on the ground that the environmental statements were not adequate. The chief counsel for the National Wildlife Federation said the guts of this action, the guts of this injunction, is not whether or not the environmental impact statement has been compiled with, they want more water in Nebraska. That, I submit, Mr. Chairman, brings up the morality of this case to the floor of this House. We are the final arbiters of changing effect of judgments of the courts. We do it every other Monday morning when 10 or 15 consent bills are on the calendar. We do it every Tuesday with bills here on suspension of the rules on the floor of the House. We write law here constantly. The Constitution says we have a duty to do that. If we go too far, the final adjudicator is, of course, the U.S. Supreme Court, and it can and often does overrule us, or qualify our actions.

I am here on a proper basis asking that commonsense be returned to the administration of the Endangered Species Act. The judge in Nebraska did not even hold that this plant was constituting a danger to the whooping crane. He did not hold that. I will continue to state that the case has much more to do with an old water fight between Nebraska and Wyoming, and environmental law is being used as a ruse, as a device, for this action, thereby doing an enormous disservice to environmental protection in these States.

Obviously, nothing can be done with regard to the decision. It is another branch of Government. But we can adopt this amendment.

I am just another Member. I am following right behind the gentleman from Tennessee (Mr. BEARD) and the gentleman from Georgia who spoke last night, and nine other Members who are almost similarly situated. My facts are even more shocking. It is not even a critical habitat. It is an overnight stopover. Six hundred million dollars of taxpayers' money has already been spent on this program, two-thirds of it virtually completed. Yet we are in danger of a stop on something enormously improper and unfair in the administration of this act.

Now, it is admitted that this plant does not jeopardize the whooping crane.

I believe in the quest editorial in the current issue of "Frontiers," it says that the U.S. Supreme Court decision is environmentally correct in two fundamental grounds: First, none of us has a right to destroy a species of life and second, we must have respect for law. I submit that is what we are trying to reflect in this particular amendment. It does not go so far as to state that there is no responsibility on the part of this plant. Again, notice is short. As you look at this three-State area, you see a land so arid as to preclude sensible use of ground water in slurrying coal.

Wyoming and Nebraska farmers have installed irrigation systems for 300 miles along the Platte River. They have been doing that now for many years. The farmers use electricity generated by REA and REA's are scheduled for power from the plant now enjoined.

Water is becoming a most crucial crisis in the Rocky Mountain West. Yesterday we were talking about an energy crisis. The water crisis is equally upon us, my friends. My colleague and friend from Omaha would argue against it, yet he does not realize how critical water and power have become to all of us.

Do you want to send me back to Wyoming, after 10 years as your friend and colleague, to face 2,000 unemployed people in Wheatland on account of a totally unjustified thing like this, the Endangered Species Act?

I should hope not.

These 13 flystops for the whooping crane are located throughout the central flyway, which has long been familiar to duck hunters. The population of the whooper is up to 75 now, compared to 20 when I was a kid.

There are some who want to vote against this bill and kill it in almost an obscene manner, because of abuses and excesses in its administration.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Is the gentleman telling us that his amendment will not have an adverse impact upon the cranes?

Mr. RONCALIO. That is a fact, a fact sustained by the U.S. district court in Lincoln, Nebr. It did not find that the whooping crane is endangered by this project. It merely finds that the water levels are becoming low, and the sand benches in that area are getting low during the spring migration and fall return of the sand cranes in low water years, and once in a while you see a whooping crane among them.

Even the U.S. Fish and Wildlife Service says a 3-year study is necessary before that question can be answered adequately, either yes or no.

Mr. CHAIRMAN, my amendment to the Endangered Species Act of 1978 pertains only to a court decision that has all but halted construction on the Grayrocks Dam and Reservoir located on the Laramie River in Wyoming. My amendment, if adopted, would ratify the Corps of Engineers permit, issued March 23, 1978, as amended October 10, 1978, and would hold that the permit satisfies the requirements of the Endangered Species Act.

The need for this amendment arose from U.S. district court decision handed down last week at Lincoln, Nebr., ordering the Basin Electric Power Cooperative to halt work on the Grayrocks Dam and Reservoir, which is a part of the Missouri Basin power project that includes the Laramie River powerplant, now under construction in Wheatland, Wyo. Judge Urbom ruled that the environmental impact statements on the MBPP failed to consider the full impact of the project on Nebraska and Wyoming water supplies, migratory waterfowl, including the whooping crane, fish, and agriculture.

However, facts are that the decision in Nebraska had less to do with the effect upon water fowl and the whooping crane, than it has to do with trying to get more water from Wyoming for Nebraska. In his enthusiasm over the court injunction, Oliver Houck, general counsel for the Washington-based National Wildlife Federation said, in an Associated Press release from Lincoln:

> The guts of the lawsuit isn't whether the environmental impact statement is accurate or inaccurate, it's whether we can get more water into Nebraska.

Houck went on to say:

> Someone who thinks this case is about the theoretical perfection of an environmental impact statement is missing the point entirely.

It would appear that the plaintiffs were using the Endangered Species Act and NEPA as an excuse behind which to launch an assault on the long-established, settled water adjudication between Nebraska and Wyoming, which resulted from the famous U.S. Supreme Court decision, *Nebraska* v. *Wyoming* (325 US 589) handed down in 1945. If this is the case, Judge Urbom's decision should be set aside.

Obviously, Mr. Chairman, there is nothing that Congress can do in regard to that judicial decision, which is in an other branch of Government. What we can do is adopt my amendment to the Endangered Species Act, which will have a much more timely effect than is usually the case with long, drawnout litigation of this type.

I know that my colleagues will want to compare this court decision with the court injunction in Tennessee that halted construction of a nearly completed dam on the Little Tennessee River, because it would destroy the critical habitat of the snail darter. I want to point out to my colleagues that the Grayrocks Dam decision is in no way similar to the snail darter litigation.

In the Tennessee case, the habitat for the snail darter was an area directly above the dam and that habitat may occur no where else in the world. If it is the only habitat for the snail darter and that may well be in dispute, then the inundation of that area would critically affect the existence of the snail darter.

But in the Grayrocks case, a 60-mile stretch of the Platte River, which is over 300 miles from the Laramie River power station, is only one of several proposed or designated critical habitats along the central migratory flyway of the whooping crane and other migratory water fowl. These critical habitats provide protected overnight roosting sites and feeding stations along the flyway which stretches from Canada's Northwest territories to the gulf coast of Texas. There are at least 13 other proposed or designated critical habitats along this migratory route. I, myself, have seen whooping cranes on the Yellowstone Lake in years gone by. I believe that the Grayrocks

decision has virtually nothing in common with the snail darter case in Tennessee.

It is an admitted fact that it cannot be said that the Missouri Basin power project will jeopardize the whooper or its critical habitat. The judge made no such finding.

The Fish and Wildlife Service will not be able to give an opinion, so it says, on that question until 3 years of study are completed. In the meantime, the Court appears to have required that the project be shut down, because it cannot be determined until the studies are completed precisely what, if any, measure could or should be taken to insure that the project operates without adverse impacts on the whooper or its critical habitat. As matters now stand, the Court has concluded that neither the Rural Electrification Administration nor the Corps of Engineers reserved sufficient authority to require modifications that appear necessary to them after the 3-year study is completed.

My amendment speaks directly to that issue and provides the necessary recourse for requiring such modifications which are identified as necessary by the Fish and Wildlife Service to protect the whoopers and their habitat.

The decision in Nebraska jeopardizes the Missouri Basin power project, which has been under construction for over 2 years. The decision not only halts construction on the Grayrocks Dam and Reservoir, it could also halt construction on the Laramie River power station in Wheatland. These two projects have been developed by consumer-owned, rural electric cooperatives from an eight-State region. These two projects employ more than 2,000 construction workers and have a monthly payroll of $3.5 million. About 180 workers are building the dam, and another 2,000 persons are constructing the Laramie River power station, whose first two 500-megawatt units are 42 percent complete.

Over the weekend, my home phone in Cheyenne was ringing off the hook with calls from Wheatland, Wyo. residents who are most concerned about the future of the powerplant. Wheatland residents have been working with Basin Electric Power Cooperative officials over the past 4 years, to analyze and plan for the impact that would come with construction of the powerplant. In terms of impact concerns, the cooperation between Wheatland and the cooperative has been an outstanding example of what can be done to plan for and alleviate impact problems and needs before they become unmanageable.

The Nebraska case not only jeopardizes millions of dollars in construction costs; it also jeopardizes the economic well-being of a prairie boom town of over 5,000 residents, that has placed a large amount of time, effort, and financial resources to research and plan for the impact of the Laramie River powerplant.

I urge my colleagues to support my amendment, which affects only the Missouri Basin power project.

POINT OF ORDER

Mr. CAVANAUGH. Mr. Chairman, I make a point of order against the amendment on the basis that the amendment is not germane to the bill. The differences between this amendment and the amendment previously offered are that the gentleman from Wyoming has stricken specific references in the first portion of his amendment to the National Environmental Policy Act, the Federal Water Pollution Control Act, and the Rural Electrification Act, but the gentleman's amendment has not stricken new responsibilities imposed upon the Rural Electrification Administration, the Army Corps of Engineers, the Fish and Wildlife Service, and the Secretary of the Interior.

The amendment would continue to require biological opinion by the Fish and Wildlife Service, and require additional duties of responsible officers of the REA, the Corps of Engineers; to require modifications of the project.

In addition, it requires the Secretary of the Interior to consult with the appropriate affected States, which would also be a new obligation not envisioned in the act imposed upon agencies of Government. In addition to that, the amendment is not germane to the section. It appears as a new section following section 32, a section dealing with certain antique articles.

So, I would renew my point of order as to germaneness both to the bill and to the section.

The CHAIRMAN. The Chair is prepared to rule.

Actually, the amendment adds a new section, let the Chair say to the gentleman from Nebraska, which in the opinion of the Chair would need only be germane to the bill as a whole.

However, the earlier matter cited by the gentleman from Nebraska in his point of order dealing with the expanded authority and responsibilities and obligations of the Rural Electrification Administration and Army Corps of Engineers is still a part of the amendment as the Chair views it.

Therefore, the Chair would have to sustain the point of order on the basis that it would still expand authorities which are not within the coverage of the bill.

● Mr. PRESSLER. Mr. Chairman, I support the amendment being offered by my distinguished colleague from Wyoming (Mr. RONCALIO).

The future electric power needs of my home State, South Dakota, will depend on the supplies that will come from the Missouri Basin Power Project's Laramie River Station in Wyoming.

Careful environmental studies have been completed on the Missouri Basin Power Project; citizen comment was actively solicited; and every possible social and environmental impact of this project was thoroughly investigated. The evidence that this project would, indeed, be harmful to the whooping crane habitat is flimsy at best. The careful and painstaking work that went into the environmental impact statement for this project is being rewarded with increased delays and added costs solely on the basis of insubstantial evidence.

South Dakotans are concerned about preserving the habitat of wildlife. If the evidence supporting the idea that the Missouri Basin Power Project posed a threat to the habitat of the whooping crane, I am sure I would not be compelled to support this amendment. Indeed, if this were the case, I am sure this amendment would not even be offered. For the sake of rationality, and for the power needs of my home State, I ask my colleagues to support Mr. RONCALIO's amendment.●

AMENDMENT OFFERED BY MR. RONCALIO

Mr. RONCALIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RONCALIO: On page 32, after line 21, add new section (No. 12) as follows:

"The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.).

Mr. CAVANAUGH. Mr. Chairman, I reserve a point of order against the amendment.

Mr. RONCALIO. Mr. Chairman, this is a new amendment, in the third and I hope final form. I do not wish to add to the debate. Other Members have matters they want to bring up.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Nebraska (Mr. CAVANAUGH) desire to pursue his point of order?

Mr. CAVANAUGH. Mr. Chairman, I make a point of order against the amendment. The amendment is not germane to the section of the bill to which it is offered, and in addition it imposes duties upon the Secretary of Commerce that are nowhere else mentioned in the bill.

Mr. ANDREWS of North Dakota. Mr. Chairman, I would like to be heard briefly on this point of order.

If a project of this type is stopped because of an interpretation of an act of the Congress, how then can the rules of the Congress prohibit the same Congress from amending the action so that it does not affect a certain type of project? This is basically what the argument is all about. And to tie up projects which would prevent the homeowners from getting their electricity at a sensible cost because of the interpretation of the law—if it cannot be fixed in this body, where can it be fixed?

The CHAIRMAN. Does the gentleman from Colorado (Mr. EVANS) desire to be heard on the point of order?

Mr. EVANS of Colorado. Very briefly, Mr. Chairman.

I think the amendment now pending, offered by the gentleman from Wyoming, is clearly in order. The simple thing this amendment does is declare a legislative finding of fact relative to the Endangered Species Act. Thus it is clearly germane.

The CHAIRMAN. The Chair is ready to rule. This occupant of the Chair had, as indicated, to make a rather rapid analysis of the previous amendment, not having been aware of the questions at issue. The present amendment offered by the gentleman from Wyoming would appear, based on the information that the Chair has available and on the precedents available to him including the precedent cited by the gentleman from Wyoming, to be germane and completely in the proper form, and therefore over-

rules the point of order in connection with the amendment of the gentleman from Wyoming.

Mr. CAVANAUGH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all I want to say to my friend, the gentleman from Wyoming, I have no desire to send him home to 2,100 irate citizens. My opposition to this amendment I do not believe necessarily would have the effect of resulting in the eventual elimination of this project.

The facts of this project are simply stated. On October 2, 1978, the U.S. District Court for Nebraska enjoined further construction of the Grayrocks Dam on the Laramie River, Wyo., on the grounds that the Federal agencies which are responsible for authorizing and financially assisting the project, namely the Corps of Engineers and the Rural Electrification Administration, had violated section 7 of the Endangered Species Act, section 102 of NEPA, and section 404 of the Clean Water Act. Grayrocks is designed to serve as a water supply for a 1,500 megawatt powerplant—the Laramie River Station—being constructed by the Basin Electric Power Cooperative of Bismarck, N. Dak. The court did not enjoin construction of the powerplant.

The central issue in the case is the degree of adverse effect that the project will have upon the designated critical habitat of the endangered whooping crane. The whooper's critical habitat, which lies between Lexington and Denham, Nebr., on the Platte River, is maintained by high river stages which periodically scour the channel and recharge adjacent wetlands. These peak flows have been drastically reduced by existing upstream diversions; approximately 60 river miles of crane habitat have already been destroyed by cumulative streamflow depletions. There is no question that the project will impact the remaining habitat; the only question is how severe that impact will be. The court expressly found that "virtually any reduction is critical to the bird population."

The State of Nebraska is not out to kill this project. Rather it has pressed for the adoption of water conservation measures, such as dry cooling towers or replacement water, which would preserve the whooper's habitat while allowing completion of the powerplant. The project sponsors have resisted these modifications on economic grounds. The injunction was a last resort to force the responsive Federal officials to seriously consider the available water conservation options.

The violations which the court found are not technicalities. The court's detailed—48-page—decision recounts a deliberate and persistent disregard of the procedural and substantive requirements of important environmental planning laws. In reaching its decision to enjoin construction, the court carefully weighed all the evidence presented during 7 days of trial, replied to each of the legal arguments advanced, and fairly balanced the competing equities of the many parties. In short, the result is amply supported by the record.

The basic issue before us is whether or not we are going to overturn a reasonable procedure which is designed not to destroy this project but to assure that all of the equities involved, the water flow into Nebraska, the critical habitat, the power project, are accommodated, and they have not been accommodated through the volunteer actions of the project's sponsors up to this point.

Mrs. SMITH of Nebraska. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Chairman, I thank the gentleman for yielding. I would like to take this opportunity to speak against the adoption of the Roncalio amendment. The main concern here is one of water—the lifeblood of my home State of Nebraska.

I certainly recognize the need for additional power in western Nebraska and other Western States. I do not oppose the construction of the powerplant in Wyoming. The main question here, however, is how much will the construction of the Wyoming dam and the powerplant result in the loss of water in the Platte River as it runs through my home State? We do not know how much water levels will be affected. There are no assurances there will not be harmful effects on irrigation, wetlands, and wildlife habitat.

The purpose of this amendment is to nullify a judicial decision which has temporarily halted the construction of the powerplant in Wyoming. The amendment was hurriedly drafted; there have been no hearings on it; we do not know all of the ramifications. Before we act hastily on this very serious matter, we should have an opportunity to fully consider what we are doing.

Mr. JOHNSON of Colorado. Mr. Chairman, will the gentleman yield?

Mr. CAVANAUGH. I yield to the gentleman from Colorado.

Mr. JOHNSON of Colorado. Mr. Chairman, according to what the gentleman from Nebraska (Mr. CAVANAUGH) has just said, the State of Nebraska is in favor of certain modifications, but, according to the information that I have, and the gentleman might correct me, because what I have is a statement prepared by the counsel for the Missouri Basin project, in which it says that the judge found that:

(a) The Grayrocks Reservoir is properly sized, (b) the project was justified in not adopting "dry cooling towers", (c) the need for the power and the timing of the project to supply the power had been demonstrated, and (d) the project had, in fact, obtained water supplies which curtail the demand the project will make on the Laramie River.

That ties into everything, every point the gentleman has made with respect to the State of Nebraska. Are those statements in the judge's opinion?

Mr. CAVANAUGH. May I inquire the source of the gentleman's quotation?

Mr. JOHNSON of Colorado. I received a copy of a statement called "Fact Sheet, Grayrocks Project," which was prepared by counsel for the Missouri Basin project, power project, and it indicated the judge's opinion held those things that I just quoted to you.

Mr. CAVANAUGH. I have not read the entire 40-page opinion.

Mr. ROBERTS. Mr. Chairman, if the gentleman will yield, would the gentleman tell me how many whooper cranes they have in Nebraska? Have they even got one? They are all down in Texas because that is where the whooper reservation is. How many whoopers have ever been on this project?

Mr. CAVANAUGH. I have never conducted an inventory.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. ROBERTS and by unanimous consent, Mr. CAVANAUGH was allowed to proceed for 1 additional minute.)

Mr. ROBERTS. We have got one case in Texas where fish and wildlife wanted to stop a project because one whooper landed there. This may be a case in point. I hope we have judgment enough to stop cases like this.

Mr. BOWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although I have great personal sympathy with the problem which the gentleman from Wyoming faces, as manager of the bill I would like to state that, on behalf of the committee, we have clear objections to the amendment the gentleman from Wyoming (Mr. RONCALIO), has offered. The amendment does violate the principles of the bill. The bill itself has established an exemption procedure under which projects can be considered for exemption. We are trying diligently to establish a procedure to handle problems just like this one, and I sincerely hope that our bill arrives at that end.

We feel we have developed a bill which would allow those concerned with this project in the State of Wyoming to consult with the Interior Department to apply for exemption to a three-man board of review.

That Board of Review would make its recommendation ultimately to the six-man Cabinet-level committee, and thus ultimately a decision would be arrived at.

We feel that is the sound approach to use in addressing problems of this kind rather than to grant separate exemptions one after another by amendment or statute. I may well agree with some of the problems in the projects which are concerned. I simply state that this legislation is designed so that we do not have to come before Congress to get exemptions for each of the projects to be dealt with.

I imagine that one could ask whether or not there is any particular reason that this project should be dealt with any differently than any other project in the country which has an endangered species problem. This is not to belittle the importance or significance of it. I have personal sympathy with the gentleman's position; but there are other objections.

The court opinion in this case apparently has indicated that the REA has not

consulted with the Fish and Wildlife Service. The opportunity is still before the concerned parties in Wyoming to enter into the consultation process and to have it reviewed by the three-man board we are establishing in this legislation. Certainly, it would be my hope that they would rule favorably to the gentleman's position.

Mr. RONCALIO. Mr. Chairman, will the gentleman from Mississippi yield?

Mr. BOWEN. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I want to express my deep appreciation to the gentleman from Mississippi (Mr. BOWEN) and to concur in his observations on the difficulty in proceeding under a new law for 18 months and going through these proceedings. I agree that this is the route which should be taken. However, if there can be an end to the jeopardy to others, that would be the proper thing. They are not going to complete construction if they cannot get water to the projects, and the cost could be more than $1 billion.

Mr. Chairman, I would like to think that the amendment is not all that difficult to adopt.

Mr. BOWEN. It was my understanding that there were three different statutes which could provide jeopardy to the project, not only the Endangered Species Act, but the Federal Water Pollution Control Act and NEPA.

We can address the endangered species situations right here today, but would that help the gentleman out?

Mr. RONCALIO. It would indeed. It would very much. Obviously, they are going to be in court for a long time; and obviously, my amendment had language in it before which was, unfortunately and ill advisedly, stricken, and that was that there would be a duty on that power project to change in 5 or 6 years to a dry cooling tower if they had to. It could have been compelled under my amendment, but that was taken out.

I believe we are on the same track now. All I want is some language in this legislation to bring the parties closer together so they will negotiate their differences and use some reason with respect to their administration of the species.

Mr. BOWEN. I certainly hope the gentleman does have some success. My point of view is not a question of whether or not the project has merit, but whether or not we are to design a piece of legislation which provides an exemption process, and then whether the House should, item by item, provide exceptions to that. That is the issue which I think we are addressing at this moment.

Mr. JOHNSON of Colorado. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I think the gentleman from Mississippi (Mr. BOWEN) has made a statement and taken a position which is reasonable. However, the reason I disagree with it is because of the hundreds of millions of dollars which have already been spent on this particular project. I think the gentleman's position is totally reasonable prospectively, but to apply it retroactively, I think, is unreasonable and unfair in this particular case, and I think I can justify that to the gentleman.

The judge found in his opinion that there had been no testimony that the Grayrocks project would have any adverse effect on the whooping crane habitat. The testifying officials from the Fish and Wildlife Service testified that they did not know whether there would be any adverse effect.

Mr. Chairman, this is important to the State of Wyoming and to all of the Rocky Mountain West, including Nebraska, and I would ask the Members' indulgence. I realize it is a regional approach and a regional problem, but it is important to all of us from that area.

The judge ruled in essence that there had not been proven that the avoidance of any adverse impact on the whooping crane habitat was assured. That is the kind of an opinion that, if one is associated with the law, after awhile one wonders why did the judge make that kind of ruling. This is a judge from Lincoln, Nebr., Mr. Chairman.

Let me point out to the Members that we have interstate compacts between Wyoming and Nebraska and interstate compacts between Colorado and Nebraska. Colorado and Wyoming are not using all the water that they are entitled to under the interstate compacts. They have to put that water to beneficial use someplace along the line or they will lose it. Nebraska has been using the water that Colorado is entitled to under the compact with Nebraska, and Nebraska has been using water that Wyoming is entitled to under the compact between those two States.

Naturally, Nebraska—and I do not say this in any derogatory manner toward the gentleman from Nebraska (Mr. CAVANAUGH)—naturally the State of Nebraska will do anything that it possibly can to continue to get the use of that water. They have a compact. They have contract obligations. But if they can find any other legal means by which they will prevent the States of Wyoming or Colorado from utilizing that water, they will do that, and this is one of the weaknesses of this bill in that it allows other elements to be utilized in the operation of the act.

Let me tell the Members what is the real kicker in this thing. Two hundred miles below the Grayrocks Dam is an outfit called the Kingsley Dam on the North Platte River. It is located in Nebraska. It has a storage capacity of 1,800,000 acre-feet of water. Grayrocks has a storage capacity of 101,000 acre-feet of water. The Kingsley Dam, which is operated by the State of Nebraska, is not a Federal project. It completely controls the flow of the North Platte downstream from Grayrocks. It is operated without regard for downstream wildlife, including the so-called critical whooper habitat. The effect of Grayrocks will depend totally on how the Kingsley Dam is operated in Nebraska, and they utilize that for their own irrigation projects.

The judge that rendered that decision was, as I say, a judge from the State of Nebraska. He probably would have the same kind of problems with his home folks as a Colorado judge would have if he gave any more water to Nebraska or Arizona than he felt that he could and legally get away with it. But this is an example of how this bill, how this Endangered Species Act, is being utilized for purposes other than to protect endangered species.

In this case the studies have been done. It has been testified that there was no assurance that there was any kind of damage done to this critical habitat. The judge found in favor of the environmental impact statement—and we are talking about an area that is 275 miles away from the alleged critical area. There is no environmental student that I know of—and when I spoke to the Members earlier, I mentioned to them about the person from my hometown who does these kinds of studies, and he says it is impossible to study and make a clear determination as to what the effect will be on a habitat that is 250 or 300 miles away because we do not know what will occur in the process of the operation of the intervening projects in the operation of the river.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BOWEN, and by unanimous consent, Mr. JOHNSON of Colorado was allowed to proceed for 2 additional minutes.)

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

I am a strong supporter of the Endangered Species Act, and the whooping cranes of America have no better friend than MORRIS K. UDALL. But I am also a supporter of the gentleman from Wyoming, Mr. TENO RONCALIO, on this amendment. This does not involve amendment or undercutting or broad exemption of the Endangered Species Act. By a special, specific exemption of the act it takes care of a tough specific situation. If 225 miles away some damage might be done someday to the habitat of the whooping crane, the Secretary of the Interior is given the power and authority to protect the whooping crane, which comes first. If necessary the powerplant will be shut down, or they will have to modify its kind of operation.

Mr. Chairman, we want an Endangered Species Act. We are going to get ourselves in real trouble if we do not try to find some way of avoiding this kind of situation and keep it from occurring.

It gets the whole act into trouble and into disrepute. The situation just cries out for the kind of reasoned, sensible kind of compromise that the gentleman from Wyoming, Mr. TENO RONCALIO, is offering.

Mr. JOHNSON of Colorado. Mr. Chairman, I thank the gentleman. I agree totally.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Mississippi.

Mr. BOWEN. Mr. Chairman, I agree with the gentleman in some respects.

Unfortunately, the legislation we have on the statute books has been used for years mainly to get water projects and other kinds of important development projects in this country stopped, rather than to protect endangered species. That is why we wrote a bill to address this point. That is why I am simply standing before you today defending the integrity of the bill we are looking at in this committee, one which provides a procedure for exemptions that worthy projects can more forward.

Mr. JOHNSON of Colorado. Mr. Chairman, I do not disagree with the gentleman on other projects; but the one halfway completed, one stopped after studies have been made and money expended seems to me should be exempted.

Mr. BOWEN. Mr. Chairman, if the gentleman will yield further, the court has indicated they do not know whether there is any danger to the cranes. It shows if the REA would sit down with the Fish and Wildlife Service to consult, they might well win the case in this matter.

Mr. ABDNOR. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I really could not let this time go by without commending my esteemed colleague, the gentleman from Wyoming (Mr. RONCALIO) for the fine presentation the gentleman has made and the need for this amendment and compliment the gentleman for the perserverence he has had to get this thing acceptable to the legislation.

Mr. Chairman, South Dakota is rich in agricultural resources but poor in energy resources. We are growing, and we must have increased supplies of electric power to continue our efforts to produce food and fiber for the Nation and the world, and to help reduce our balance-of-payments deficit.

The rural electrics of my State are all part of the Basin Electric Power Cooperative system, and all are dependent for increased power supplies in the years to come on the Missouri Basin Power project's Laramie River Station in Wyoming. We have 35 rural electric distribution cooperatives, and 25 municipal electrical systems as well, which need this power and will be hurt if there are delays which magnify costs.

We, in South Dakota, as do the people in Wyoming, hold our environmental values high. In my opinion, the Laramie River Station is a model of environmental soundness.

In addition, planning for the project included probably an unprecedented effort to assist local citizens and leaders to alleviate socioeconomic problems which result when a major new construction project impacts on a small community, like Wheatland and I think my colleague from Wyoming will agree.

It would be a serious miscarriage of justice, I believe, if all the fine efforts to meet environmental and socioeconomic problems which have gone into this project were rewarded by enforced delays in construction and drawn-out litigation as costs rise and needed new power deliveries recede into the indefinite future.

Our esteemed colleague from Wyoming (Mr. RONCALIO) has offered an amendment which will correct this situation without endangering wildlife values. I hope our other colleagues will join us in supporting the Roncalio amendment.

Mr. THONE. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Nebraska.

Mr. THONE. Mr. Chairman, water, of course, is key in this dispute. Obviously, there is a complex problem here, a real serious problem needing a carefully thought out solution, but this last minute, this 13th-hour approach from the gentleman from Wyoming (Mr. RONCALIO), is not the answer.

The Governor of Nebraska has wired the Nebraska congressional delegation as follows:

> A congressional block, backed by the Basin Electric Power Group and their associates, not sympathetic to Nebraska's vital Platte River water resources are reportedly mustering support for amending H.R. 14104 to negate Nebraska's efforts to reasonably protect our water resources.
>
> They are attempting to rush through legislation in the last four days before adjournment to abridge our successful law suit challenging the issuance of the 404 permit by the Corps of Engineers and approval by REA of loan guarantees.
>
> I urge your joint and concentrated effort to prevent adoption of any such amendment.
>
> J. JAMES EXON,
> *Governor of Nebraska.*

Mr. BAUCUS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today to support the amendment offered by my colleague from Wyoming (Mr. RONCALIO). A large part of Montana is served with electricity by rural cooperatives which are dependent on two large wholesale generating cooperatives associated with the Missouri Basin power project.

Our 25 local cooperatives get their power through the Central Montana Electric G. & T. Cooperative at Billings and the Upper Missouri G. & T. Electric Cooperative at Sidney, both members of Basin Electric.

This amendment pertains only to litigation and a court decision that has all but halted construction on the Grayrocks Dam and Reservoir located on the Laramie River in Wyoming. If this amendment is adopted, it would ratify the Army Corps of Engineers permit issued to Basin Electric Cooperative for the Missouri Basin power project.

The gentleman from Wyoming (Mr. RONCALIO) has told you that construction on this project has been stopped after more than 2 years of work and an expenditure of $800,000,000 because of a recent Federal court decision.

The Federal District Judge ruled that the environmental impact statements on the MBPP failed to consider the full impact of the project on water supplies, migratory water fowl, including the whooping crane, fish and agriculture.

The Roncalio amendment speaks specifically to the issue of the impact of the Missouri Basin project on the critical habitat of the whooping cranes.

The point made by Mr. RONCALIO cannot be underestimated. The Fish and Wildlife Service has said that the Missouri River Basin project may or may not jeopardize the whooping crane or its North Platte habitat. The Fish and Wildlife Service has estimated it will take 2 to 3 years to complete the necessary studies to assess the impacts of the project. This amendment provides the necessary recourse for requiring such modifications which are identified as necessary by the Fish and Wildlife Service to protect the whoopers and their habitat. In addition, this amendment will allow the project to proceed.

Without this amendment, the entire Great Plains region will be adversely affected. I urge my colleagues to support this amendment, which affects only the Missouri Basin power project.

Mr. FORSYTHE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I regret that I do, because I fully recognize the very seriousness of the situation that exists with this particular project; but as has been said before, we are trying in this legislation to create the system with which these kinds of conflicts can be handled. This particular project, which has got an injunction at the district court level, has the appeals process open to it.

I do not think that we should start in this bill exempting specific projects from the Endangered Species Act and to try to do that here on the floor of the House when we really do not have all the facts in our hands and have the opportunity to balance the considerations that are involved as we move to these issues, as much as I know it is a problem for this project. And I understand there are some others that are going to be considered here yet this afternoon.

Mr. STUDDS. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Massachusetts.

Mr. STUDDS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I have a feeling that I know the result of this vote, partially, I think, because there are 70 cranes left and only one TENO RONCALIO. The affections of the House are quite clear.

Nonetheless I have to say that I agree with the gentleman from New Jersey (Mr. FORSYTHE), and I would ask the Members, those who intend to vote for this amendment, to think carefully about what it is they are saying as they approve this amendment. They are in effect saying that in the judgment of the Congress the crane is not endangered by this project.

I do not know whether it is or whether it is not. I dare say there is not a Member of this House who in all honesty could state categorically whether it is or whether it is not. We have to have procedures to resolve conflicts like this which demand a degree of expertise. I submit that all the Members of the U.S. Congress, in all humility, have no way of possessing such expertise.

I remind the Members that if we make an exception in this case, we are going to be asked again and again, whenever there is a controversy over a particular project, to determine whether or not in our collective wisdom a species is endangered.

Mr. Chairman, I suggest to the Members that we do not have that wisdom.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, let me only say to my good friend, the gentleman from Massachusetts (Mr. STUDDS), that the judge does not indicate in the ruling that there is any danger whatsoever of any kind to the whooper as a result of this. He found some failure to comply with respect to Nebraska waterfowl and migratory wildlife. There was no finding in this case that the whooper was endangered.

Mr. STUDDS. Mr. Chairman, if the gentleman will yield further, I just scanned the judge's ruling, and the judge found that the agencies which have the responsibilities to make that determination had failed to do so. The fact is that we do not know, which is precisely my point.

Mr. RONCALIO. Mr. Chairman, we are not in disagreement. I agree precisely with what the gentleman said, but he did not make the finding that there was any damage or that the species was threatened.

Mr. STUDDS. But we do not know, and that, it seems to me, is the situation.

Mr. FORSYTHE. Mr. Chairman, if I may be allowed to reclaim my time, I think the point is that the issue is really as to just how this problem was created. That is really what the problem is, and I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wyoming (Mr. RONCALIO).

The question was taken; and on a division (demanded by Mr. HUGHES) there were—ayes 29, noes 14.

So the amendment was agreed to.

AMENDMENT OFFERED BY MRS. BOGGS

Mrs. BOGGS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. BOGGS: On page 31, line 22 (after the figure "4(d)): Strike the word and figure "and 9(a)" and insert in lieu thereof a comma and the word and figures "9(a) and 9 (c)".

Mrs. BOGGS. Mr. Chairman, I would like, first of all, to compliment the subcommittee and the committee on bringing forth a fine piece of legislation.

Mr. Chairman, this amendment is but a perfecting amendment to a provision already included in section 11 of the bill before us today.

As the committee so ably explained in its report, the purpose of section 11 is to exempt bona fide antiques from coverage of the act if the articles in question were fabricated before 1830, are composed in whole or part of any listed species, and have not been repaired or modified with any listed species or product thereof.

The reason the date 1830 was selected is because experts in the antique field have indicated that articles produced prior to this date can be readily distinguished from those made after 1830.

I should point out that the legislation would mandate that items eligible for the exemption must enter the United States through one specified port in each of the eight U.S. Customs Service regions. The eight regions are headquartered in Boston, New York, Baltimore, Miami, New Orleans, Houston, Los Angeles, San Francisco, and Chicago. At each of these ports, the Customs Service working with the Interior Department, would have experts available to make determinations as to the eligibility of items for exemption from the act.

In addition to permitting the import of certain antiques otherwise covered by the act, this legislation would permit the sale or transfer of items composed in whole or in part from endangered species, if the items were fabricated prior to 1830 and have not been repaired or modified with any endangered species product prior to the enactment of the act—December 28, 1973.

Mr. Chairman, I commend the committee for their diligence in addressing a problem I have observed in the execution of the 1973 act. It is important for it to be understood that this legislation is not intended to weaken the Endangered Species Act in any way. I believe it is a fine piece of legislation that is serving the vital function as your Chairman has said of maintaining "a healthy diversity of wildlife species" and of conserving all of the important ecosystems on which the wildlife species of the world depend for survival. However, the bill, as reported only provides an exemption from those prohibited acts enumerated in section 9(a) of the 1973 act.

In addition, section 9(c) of the 1973 act makes it illegal to trade in species if they are listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora. My amendment would simply exempt bona fide antiques fabricated before 1830 which are composed of species on the Convention list to be imported and traded in the United States.

Mr. BOWEN. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Mississippi.

Mr. BOWEN. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to tell the gentlewoman that the committee has no objection to this amendment. It seems to be a very constructive amendment. I would also like to thank the gentlewoman for her suggestions for some of the language that is found in this Endangered Species Act.

Mrs. BOGGS. I thank the gentleman.

Mr. FORSYTHE. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we have looked at the amendment on this side, and we have no objection to it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Louisiana (Mrs. BOGGS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TREEN

Mr. TREEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TREEN: Page 32, after line 21, insert the following:

(b) Any person who imported, after December 27, 1973, and on or before the date of the enactment of this Act, any article which—

(1) meets the requirements set forth in section 10(h)(1) (A) and (B) of the Endangered Species Act of 1973 (as added by subsection (a));

(2) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 4 of such Act of 1973;

(3) was forfeited to the United States before the date of the enactment of this Act, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 11 of such Act of 1973; and

(4) is in the custody of the United States on such date of enactment;

may, before the close of the one year period beginning on the date of the enactment of this Act, make application to the Secretary concerned for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary concerned prescribes. If on the basis of any such application which is timely filed, the Secretary concerned is satisfied that the requirements of this subsection are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after date of return, be deemed to be a lawful importation under such Act of 1973.

Page 31, line 18, after "Sec. 11." insert "(a)".

Mr. TREEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. TREEN. Mr. Chairman, I rise to offer a technical amendment to a portion of H.R. 14104 which I sponsored in committee. Section 11 exempts antique articles made before 1830 from the provisions of this act as long as those articles have not been repaired since 1973 with parts of an endangered or threatened species. Congresswoman BOGGS had introduced similar legislation (H.R. 4658) which was the subject of hearings by the Subcommittee on Fisheries, Wildlife Conservation and the Environment.

My proposal was adopted in committee by voice vote. All of the witnesses at the hearings supported the concept of exempting antiques since the purpose of the endangered species is to protect living species rather than those that lived 150 years ago.

My amendment today will extend relief to those who imported antiques between the date of enactment of the Endangered Species Act of 1973 and the date of enactment of this legislation. However, it places the burden on the person importing the antique to prove to the appropriate Secretary's satisfaction that the item seized was a genuine antique. The amendment gives those individuals one year from enactment to apply for the return of antiques forfeited

during the 5 years since the 1973 act. Only those items in the custody of the United States as of the date of enactment of this legislation are affected by this amendment. As is the case under section 11, items which have been repaired since December 27, 1973, with any part of an endangered or threatened species are not exempt from the prohibitions of the Endangered Species Act.

I have discussed my amendment with attorneys for the National Marine Fisheries Service and the Fish and Wildlife Service as well as committee counsel. They agree that this amendment is workable. They feel that the 1-year period is needed not only to give adequate notice and opportunity to file to individuals who have forfeited antiques but to give the respective Secretaries time to promulgate guidelines after public comment.

Mr. BOWEN. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from Mississippi.

Mr. BOWEN. I thank the gentleman for yielding, and I wish to say that the committee has no objection to this amendment. It seems to be a sound amendment, and I hope it will be adopted by the Committee.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. TREEN. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we have looked at this amendment. We have no objection to it. We think it is a good amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. TREEN).

The amendment was agreed to.

Amendment offered by Mr. DUNCAN of Tennessee

Mr. DUNCAN of Tennessee. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Tennessee: Page 31, line 20, strike out "subsection" and insert in lieu thereof "subsections".

Page 32, line 21, strike out the closing quotation marks and the final period.

Page 32, after line 21, insert the following: "(i) Tellico Dam and Reservoir Project.—The provisions of this Act shall not apply with respect to the construction and operation of the Tellico Dam and Reservoir project in Tennessee. The harassment, harm, killing, or wounding, if any, of any endangered species or threatened species attributable to the construction or operation of such project shall not be deemed to be a taking of any endangered species within the meaning of section 9(a)(1) of this Act or the taking of any threatened species if a prohibition against the taking thereof is imposed by regulations pursuant to section 4(d) of this Act.".

Mr. DUNCAN of Tennessee (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN of Tennessee. Mr. Chairman, I rise to offer an amendment to H.R. 14104, the reauthorization legislation for the Endangered Species Act of 1973. My amendment specifically exempts the TVA's Tellico Dam and Reservoir project from the provisions of the Endangered Species Act, and nothing more.

Many of my colleagues are probably aware of the project I refer to, because it has gained national attention in recent months. But I would briefly like to refresh your memory as to the facts of this case.

First of all, this is not a project TVA started in violation of the act. Tellico was begun in 1967 after almost unanimous congressional authorization in 1966. The Endangered Species Act was not passed until 1973, and the snail darter was not listed until 1975. By this time 8 years had passed and many millions of dollars had been spent.

I would not be here today asking that Tellico be exempted, if it was not now nearing completion, but, my colleagues, it is 99 percent complete. Time and again Congress has stated that it intends for Tellico Dam and Reservoir be completed. Administration budget requests and actual appropriations over the years have included the Tellico project. More recently the House, on June 10, 1978, in its wisdom, spelled out in the appropriations legislation that $1,846,000 was for the completion of the Tellico Dam and Reservoir. Senator SASSER offered this same language in the Senate, and it was adopted by that body. The request for the Tellico funds had and was a part of President Carter's budget request.

To date, $107 million of taxpayers' money has been spent on this project.

Furthermore, this money was invested in good faith. Tellico Dam is located in an economically depressed area of east Tennessee. Jobs and industry are needed to stem the flow of outmigration by the young people of the area. Many people gave up their land and homes in the hope that they would receive something more in return.

Construction workers have been thrown out of work because of the court stoppage of the project. Labor, business, the media, and an overwhelming majority of the people in the area want the project completed. I might also say that this project will furnish electricity for 22,000 homes.

To me, all of this is ample justification for the amendment. However, I would like to also speak to the issue in view of the Endangered Species Act. In 1975, TVA, in cooperation with the Fish and Wildlife Service, began transplanting snail darters from the Little Tennessee River to the nearby Hiawassee River. Recently the Interior Department announced that those 710 transplanted darters have since multiplied to as many as 3,700. Also, the number of snail darters in the Little Tennessee has decreased to about 500, raising the very real possibility that the Hiawassee is now the snail darter's critical habitat.

Mr. Chairman, it is evident that the Little Tennessee can no longer be defended as the snail darter's critical habitat, and given this, there is no reason why Tellico Dam should not now be exempted from the Endangered Species Act, and completed so that its benefits may be brought to the people of this depressed area.

Time and money have been invested, commitments have been made. It is now time to reap the benefits of that investment and fulfill our commitments. Mr. Chairman, my amendment allows us to do that and I strongly urge my colleagues to support it. Thank you.

Mrs. LLOYD of Tennessee. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise in support of the amendment offered by my friend Mr. DUNCAN. This project which effects both of our districts has remained in a state of suspended animation since the ruling of the Sixth Circuit Court of Appeals. In affirming that lower court ruling, the Supreme Court made note that interpretation of the Endangered Species Act which precluded completion of the Tellico Dam was good law, but poor legislation.

As my friend has explained, the project is for all intents and purposes complete. The project was approved and begun prior to the enactment of the Endangered Species Act. Every indication available points to the fact that the snail darter is surviving and in fact prospering in habitats other than the Little Tennessee River. Specifically in the Hiawassee River.

The area surrounding this project lies within the definition of the Appalachian region. Unemployment is generally high, and there is a substantial out migration of younger workers. The area has an available labor force, rail, and utility interconnects. Completion of this project will contribute significantly to the economic viability of our region.

I would urge my colleagues on the basis of fundamental fairness to approve this amendment. I yield back my time.

Mr. DINGELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this probably is the most serious single aspect of the controversy which exists as regards the endangered species legislation. While I do not blame the gentleman from Tennessee and the gentlewoman from Tennessee who are offering the amendment, it should be known it is a bad amendment and goes far beyond the correction of the problem as it exists as regards Tellico.

I would like to break my discussion into two parts. The first is the question of the other parts which have carefully not been alluded to in the offering of the amendment. In point of fact, what the amendment says is that the harassment, harming, killing, or wounding of any endangered species or threatened species shall not be deemed to be a taking within the provisions of the Endangered Species Act.

So not only is the project being exempted but the whole definition of how one affects the endangered species in the area is being changed so that permission is being given here by legislative fiat to complete the Tellico Dam in spite of the fact that the court has held that it was being constructed in contravention of the law and without the required consultations which were supposed to take place to protect and to preserve the species.

But this goes still further. It says if we want to go out and hunt, if we want to seine, if we want to fish, if we want to dynamite or use a telephone in the old-fashioned and time-honored version of fishing long used in the area, we may do so without in any way contravening the provisions of the statute.

Everybody says Tellico is a bad situation. We have a $100 million dam sitting down there.

First of all, the dam was opposed from its inception by the overwhelming number of people in the area. It was opposed even by the Governor of the State, and it was opposed in hearings held in the area.

It is a proposal where we have what was at the time of the construction an outlaw agency which arrogantly, flagrantly, and vigorously disregarded what they knew to be the clear thrust of the law.

They arrogantly, flagrantly and vigorously disregarded what they knew to be the clear thrust of the law.

They simply, in their arrogance, said that the law does not apply to TVA. They refused to consult with TVA. They refused to take any steps which might enhance or mitigate or to obviate some of the adverse features which would occur with regard to this particular action. As a result, they wound up falling not only under the bane of the Endangered Species Act but also falling under the bane of the National Environmental Protection Act because they had refused to comply with that.

Now we find ourselves, when TVA has come forward and said that they can correct the problem—they are proceeding to transplant the species into another stream where there is a large number. They are at this time analyzing whether or not there is any advantage to the area on a cost-benefit basis of continuing with the closure of the dam.

Some of the benefits that were supposed to lie in connection with that particular project were the provisions which related as regards an industrial city which was supposed to be constructed. Boeing was supposed to construct the city. They have said, no, there is no cost benefit to this and we are not going to construct that city.

They have withdrawn.

Many of the industrial benefits remain available for roads and railway sites, which are currently available, and TVA has said they are going to do it. Immense value, even as regards tourism, as regards hunting and fishing, and as regards returning the massive amount of lands which would have been flooded, to produce virtually no electric power.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. You are talking about flooding some of the ancestral homelands of one of the great Indian nations of this country. But, more importantly, you are talking about destroying farmland where the topsoil is 15 feet deep.

There is a real question as to whether the cost-benefit ratio at this particular time is greater to stay with the closure of the dam and the flooding of the area or whether the Nation would be better served to simply disregard this ill-conceived project and proceed to return the land to agriculture for the benefit of the citizens of the area, for employment and for tourism because, as one opponent of the dam has pointed out, it is a whole lot easier to pick a tourist than it is to pick a bale of cotton.

Now, Mr. Chairman, I promised I would yield to the gentleman from Tennessee (Mr. DUNCAN) and I so yield.

Mr. DUNCAN of Tennessee. Mr. Chairman, the gentleman mentioned that the Governor of Tennessee was opposed to this project. The Governor of Tennessee is strongly in favor of the construction of this project. So is the legislature, they voted 90 to 0 that they wanted the project completed.

Mr. DINGELL. Mr. Chairman, for the benefit of the gentleman, permit me to say I said one of the Governors of Tennessee in its earlier days was opposed to the project, as was the majority of the legislature at that time.

What has happened is that TVA, with its usual bureaucratic use of public funds, has now wormed itself into a position where it has a project that now has public acceptance.

Mr. DUNCAN of Tennessee. Is the gentleman not also familiar with the report prepared by the Department of the Interior and the Tennessee Valley Authority, which says that the TVA did cooperate? The gentleman is also aware of the fact that in the committee hearing, the Department of Commerce people said that the TVA did what they were supposed to do, is he not?

Mr. DINGELL. No, that is not correct.

Mr. DUNCAN of Tennessee. The fact is that as long as the district court had held that they could continue the project, they continued the project.

Mr. DINGELL. They continued the project. They built that project in active violation of a court order. For 21 days they were in active violation of a court order, and that is on the records of the court. I am also familiar with it. The document referred to says that they have not been in cooperation with the Interior Department. They are now in cooperation, and they are suffering some vilification from the proponents of this particular project because they are now cooperating with Fish and Wildlife Service.

Mr. DUNCAN of Tennessee. Once the court held against them, they cooperated 100 percent.

Mr. DINGELL. No, that is not so.

Mr. DUNCAN of Tennessee. They did everything the circuit court of appeals said when it ruled the dam should not be completed.

Mr. DINGELL. The gentleman is totally in error. For 21 days they were building this project in open definance of the law.

Mrs. LLOYD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Chairman, I thank the gentleman for yielding.

My colleague Mr. DUNCAN and I happen to represent the area encompassing the Tellico Dam and know of the overwhelming support for the project and, Mr. Chairman, I would submit that the gentleman in the well has gone the full gamut of those so-called environmentalists objections to this vital source of energy and industry. We must move forward and complete the Tellico Dam which is now 90 percent complete.

Mr. DINGELL. Mr. Chairman, I would simply observe that the law now provides a mechanism for this project to go forward within the framework of the provision we have before us, and I would urge rejection of the amendment.

Mr. QUILLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to exempt Tellico Dam, in support of the amendment offered by my friend and neighbor, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from Tennessee, (Mrs. LLOYD).

Mr. Chairman, when this measure was before the Committee on Rules, I had a little 3-inch fish in one of the water pitchers at the committee table. It was only 3 inches long. I used it to demonstrate what the snail darter has done not only to the economy in Tennessee, but to power production in the valley. A dam has been stopped, because of this 3-inch fish which has been transplanted to another habitat, and it is living and progressing in its new environment. It is not in danger.

Mr. Chairman, later on this afternoon, we are going to have an energy bill before the House. The emphasis of this administration and of this country is to produce more power and more energy. I think if we let this little fish, this little 3-inch snail darter, which is living in another habitat and progressing and flourishing, stop the completion of this dam, we ought to look at the matter in all seriousness and face up to the reality of it.

We all must live in harmony with nature. We know that, but when we realize that this dam is not being completed as a result of this little fish, then we should take another look at the whole matter.

Mr. Chairman, I would urge my colleagues to support this amendment.

Mr. FORSYTHE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, again I reluctantly rise to oppose this amendment. It does again, as with the last amendment, I think, create a problem.

Mr. Chairman, there was reference to the report of the Tennessee Valley Authority and the Department of the Interior of August 10, 1978. I think the most significant line this whole report—and it was an indepth report—is in the introduction:

> It is entirely possible that the project can be completed as originally planned, by using the flexible approach engaged by the Endangered Species Act.

It is not yet determined as to whether the transplanting of the snail darter is actually effected, but it is well on its way, and to tear apart the Endangered Species Act to set a further precedent for a legislative treatment of a species I just do not think is the correct way to go. The wisdom of the author may not follow the line of the gentleman from Michigan that this is far more valuable to now convert this project on the current cost-benefit ratio to other uses. We must remember while much money has been spent, relatively little of that is in concrete. The overwhelming share of the money is in real estate, and this value is not to be lost if it is converted. So we do have, I think, an opportunity to give full consideration without this amendment. As has been said, this is just a procedure that we try to create in this legislation.

Mr. DUNCAN of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. I thank the gentleman for yielding. Would the gentleman agree that on the amendments offered by the gentleman from Tennessee (Mr. BEARD) and adopted, that it would take at least a year or more to implement the review process?

Mr. FORSYTHE. I suspect that time frame is not that far off.

Mr. DUNCAN of Tennessee. I think I have shown my friend the Tellico Dam, and the concrete is all in except about $1,800,000. It is ready to close. I could almost take my Boy Scouts down and close it myself. The gentleman said it is not much concrete. The concrete is there, and it is ready to close.

Mr. FORSYTHE. I said that the value of the $100-plus million is not that much in concrete itself. It is in all of the other things, particularly in land acquisition. I would ask if, for instance, the Tennessee Valley Authority has applied for a delisting on the basis of the transplantation of the snail darter that might solve the whole problem.

Mr. DUNCAN of Tennessee. They have not. Our people want to get back to work. The TVA did not stop the dam; the court stopped the dam. It is up to the TVA whether they want to finish it or not. Once we give them the authority to go, a court injunction is in force, and we would like to finish it and, as I say, get our people back to work.

Mr. FORSYTHE. As I said, the report indicates the TVA and the Department of the Interior think it can be done without legislation.

Mr. DUNCAN of Tennessee. We have the right to use our wisdom in the House, and it can shorten the process by several months.

Mr. FORSYTHE. The gentleman does not even need this amendment, if TVA comes into compliance as a result of the transplanting taking place and the delisting.

Mr. DUNCAN of Tennessee. We will starve to death by a year from now.

The CHAIRMAN. The time of the gentleman has expired.

Mr. RONCALIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to make a historical observation about these hallowed halls we work in and the ones on the other side of the Rotunda. Far and away the most famous American in the finest, most loyal, and dedicated sense, in my opinion, whoever came out of Nebraska was not William Jennings Bryan but George Norris. George Norris made great the ambition that made a politician out of me, because I worked for Senator Joseph C. O'Mahoney who worked with George Norris. He was the father of TVA, and the goodness that he brought was the preservation of our capitalistic system by giving it conscience and improving the balance between the social and the public and the private sector. I would be less than an ingrate if I sat down and did not speak for my friend, the gentleman from Tennessee, having just visualized his support for my dilemma in Wyoming against Nebraska, George Norris' home State.

I make this historical observation at this time as we carry on some 50 or 60 years later fighting over the very principles of law and need for law that Norris enunciated.

I do not know the answer to my dilemma and I do not know the answer here; but I believe my speaking here in behalf of my Tennessee friends is not inconsistent with my ideal that no one has the right to destroy species.

I read the report of the TVA that there are some 2,000 or 3,000 snail darters transported to Lake Hiawassee. If that is the fact situation, it ought to develop a quick decision by the Supreme Court or by the makers of the law here that they desire that direction to be taken.

Mr. STUDDS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I do not really think the question before us is who was the best Senator from Nebraska, or the historic merits or demerits of the Tennessee Valley Authority.

The question before us in this amendment is not whether or not the Tellico Dam ought to proceed. It is not even whether the conversations that have been going on may result in the resolution of this dispute without much further delay.

The question really is whether or not there is any point, I think, in our proceeding to debate the bill before us and, effectively and eventually, if we continue to adopt amendments like this, whether there is any point in extending the authorization of this statute.

Let me read again the amendment pending before us. It is only two sentences long. It is quite simple and straightforward. The first sentence states simply:

> The provisions of this Act shall not apply with respect to the construction and operation of the Tellico Dam and Reservoir project in Tennessee.

The second sentence reads:

> The harassment, harm, killing, or wounding, if any, of any endangered species or threatened species attributable to the construction or operation of such projects shall not be deemed to be a taking of any endangered species within the meaning of this Act.

It is a complete and total waiver of the Endangered Species Act. And it goes even beyond the preceding amendment of the gentleman from Wyoming and says that, even if the construction of this project does result in the harm or the killing of any endangered species, we will proceed in anv event.

I would suggest to this committee, as I say, regardless of whether or not a species is endangered by this project, and regardless of whether the project ought to proceed with construction, that Members ought to give very careful thought, indeed, before giving their support to an amendment which, in effect, constitutes a repeal of the heart and soul of this statute. Either we intend to continue with some respect for other forms of life and to continue our determination that we will not take the ultimate arrogant step, in my opinion, of consciously and deliberately exterminating other forms of life, or we do not.

I would ask, before voting on this amendment, that you read it with care. The whole purpose of the bill before the committee at this time is to establish a far more satisfactory procedure than we have had in the past for resolving the kind of dispute that has led to the Tellico Dam controversy in Tennessee. We do not need this procedure, we do not need this act if every time there is a dispute the Congress of the United States is going to waive all the provisions of the act and ignore all the resolution of conflict procedures which we have spent many months putting together and simply determine, as this amendment would have us do, that there is no endangered species. The amendment even goes further and says that even if there is an endangered species and if the project would kill it, we want to do it anyway.

I would like to think there is a certain amount of humility left in us and we ought to assert it by defeating this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. DUNCAN).

The question was taken; and on a division (demanded by Mr. DUNCAN of Tennessee) there were—ayes 34, noes 17.

RECORDED VOTE

Mr. STUDDS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 231, noes 157, not voting 42, as follows:

[Roll No. 920]

AYES—231

Abdnor	Bowen	Cleveland
Addabbo	Breaux	Cochran
Alexander	Breckinridge	Coleman
Anderson, Calif.	Brinkley	Collins, Ill.
	Brooks	Collins, Tex.
Anderson, Ill.	Broomfield	Conable
Andrews, N.C.	Brown, Ohio	Cornwell
Andrews, N. Dak.	Broyhill	Cotter
	Buchanan	Coughlin
Annunzio	Burgener	Cunningham
Archer	Burleson, Tex.	D'Amours
Ashbrook	Burlison, Mo.	Daniel, Dan
Barnard	Butler	Daniel, R. W.
Bauman	Caputo	de la Garza
Beard, Tenn.	Carter	Delaney
Benjamin	Cederberg	Dent
Bennett	Chappell	Derwinski
Bevill	Clausen, Don H.	Devine
Boggs		Dicks
Bolling	Clawson, Del	Dornan

Duncan, Oreg.	Jones, Tenn.	Robinson
Duncan, Tenn.	Kasten	Roncalio
Edwards, Ala.	Kazen	Rose
Edwards, Okla.	Kelly	Rostenkowski
English	Kemp	Rousselot
Erlenborn	Kindness	Runnels
Ertel	Krueger	Ruppe
Evans, Colo.	LaFalce	Santini
Evans, Del.	Lagomarsino	Satterfield
Evans, Ga.	Latta	Schroeder
Evans, Ind.	Leach	Schulze
Fary	Lederer	Sebelius
Findley	Levitas	Shuster
Flippo	Livingston	Sikes
Flood	Lloyd, Calif.	Simon
Flowers	Lloyd, Tenn.	Sisk
Foley	Long, La.	Skelton
Ford, Tenn.	Lott	Slack
Fountain	Luken	Smith, Nebr.
Fuqua	Lundine	Snyder
Gammage	McCormack	Spence
Gaydos	McDonald	Stangeland
Gephardt	McEwen	Stanton
Giaimo	McKay	Steed
Gibbons	Mahon	Stockman
Gilman	Marriott	Stump
Ginn	Martin	Symms
Goldwater	Mathis	Taylor
Gonzalez	Mattox	Thompson
Goodling	Mazzoli	Thone
Gore	Michel	Thornton
Grassley	Miller, Ohio	Trible
Gudger	Mollohan	Tucker
Guyer	Montgomery	Ullman
Hagedorn	Moore	Vander Jagt
Hall	Moorhead, Calif.	Volkmer
Hammer-schmidt	Moorhead, Pa.	Waggonner
Hanley	Murphy, Ill.	Walker
Hansen	Murtha	Walsh
Harrington	Myers, John	Wampler
Harsha	Natcher	Watkins
Hefner	Nix	White
Heftel	O'Brien	Whitehurst
Hightower	Oberstar	Whitley
Hillis	Perkins	Whitten
Holland	Pickle	Wiggins
Holt	Poage	Wilson, Bob
Horton	Pressler	Wilson, C. H.
Hubbard	Preyer	Wilson, Tex.
Huckaby	Price	Wright
Hyde	Quayle	Wylie
Jacobs	Quillen	Yatron
Jenkins	Rahall	Young, Alaska
Jenrette	Railsback	Young, Fla.
Johnson, Calif.	Regula	Young, Mo.
Johnson, Colo.	Rhodes	Young, Tex.
Jones, N.C.	Risenhoover	Zablocki
Jones, Okla.	Roberts	Zeferetti

NOES—157

Akaka	Eilberg	Meyner
Ambro	Emery	Mikulski
Ashley	Fascell	Miller, Calif.
Aspin	Fenwick	Mineta
AuCoin	Fish	Minish
Bafalis	Fisher	Mitchell, N.Y.
Baldus	Fithian	Moakley
Baucus	Florio	Moffett
Beard, R.I.	Ford, Mich.	Mottl
Bedell	Forsythe	Murphy, Pa.
Beilenson	Fowler	Myers, Gary
Biaggi	Fraser	Nedzi
Bingham	Frenzel	Nolan
Blanchard	Glickman	Nowak
Blouin	Gradison	Obey
Boland	Green	Ottinger
Bonior	Hamilton	Panetta
Bonker	Hannaford	Patten
Brademas	Harkin	Patterson
Brodhead	Harris	Pattison
Brown, Calif.	Hawkins	Pease
Brown, Mich.	Hollenbeck	Pepper
Burke, Mass.	Holtzman	Pike
Burton, John	Howard	Pritchard
Burton, Phillip	Hughes	Rangel
Carr	Jeffords	Reuss
Cavanaugh	Jordan	Richmond
Clay	Kastenmeier	Rinaldo
Conte	Keys	Rodino
Conyers	Kildee	Roe
Corcoran	Kostmayer	Rogers
Corman	Krebs	Rooney
Cornell	Leggett	Rosenthal
Danielson	Lent	Roybal
Davis	Long, Md.	Russo
Dellums	McClory	Ryan
Derrick	McCloskey	Sawyer
Dingell	McDade	Scheuer
Dodd	McHugh	Seiberling
Downey	McKinney	Sharp
Drinan	Madigan	Smith, Iowa
Early	Maguire	Solarz
Eckhardt	Mann	Spellman
Edgar	Markey	St Germain
Edwards, Calif.	Marks	Staggers
Stark	Udall	Whalen
Steers	Van Deerlin	Winn
Steiger	Vanik	Wirth
Stokes	Vento	Wolff
Stratton	Walgren	Wydler
Studds	Waxman	Yates
Traxler	Weaver	
Tsongas	Weiss	

NOT VOTING—42

Ammerman	Garcia	Murphy, N.Y.
Applegate	Heckler	Myers, Michael
Armstrong	Ichord	Neal
Badham	Ireland	Nichols
Burke, Calif.	Le Fante	Oakar
Burke, Fla.	Lehman	Pettis
Carney	Lujan	Pursell
Chisholm	McFall	Quie
Cohen	Marlenee	Rudd
Crane	Meeds	Sarasin
Dickinson	Mikva	Shipley
Diggs	Milford	Skubitz
Flynt	Mitchell, Md.	Teague
Frey	Moss	Treen

The Clerk announced the following pairs:

On this vote:

Mr. Crane for, with Mrs. Heckler against.
Mr. Dickinson for, with Mr. Garcia against.
Mr. Frey for, with Mr. Mikva against.
Mr. Rudd for, with Mrs. Burke of California against.

Messrs. MINISH, PATTEN, and WOLFF changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. MEYNER

Mrs. MEYNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. MEYNER: Page 30, strike out line 20 and all that follows through page 31, line 17.

My amendment is a simple one. It merely strikes section 10 from the bill. This provision exempts raptorial birds—birds of prey—from the protection of the Endangered Species Act. It is an unprecedented, unnecessary, and damning addition to a law that has been carefully drafted as a comprehensive national policy. Unlike the rest of this bill, and the Endangered Species Act itself, section 10 is a special interest provision that caters to those who wish to exploit the law for commercial purposes.

Section 10 asks us to include, for the first time, a legislatively mandated exemption to the act. The precedental value of this exemption is, at best, damaging. The listing of endangered species has always been within the jurisdiction of the Department of the Interior. If the evidence indicated compelling reasons to alter the classification of raptors, administrative mechanisms to accomplish that reclassification already exist.

Mr. Chairman, the section 10 exemption applies to raptors, and their progeny, held in captivity at the time of the enactment of H.R. 14104. Supporters of the exemption claim that since a bird must be captively bred or held at the time of enactment, the exemption will not have an effect on the populations of species in the wild. For this reason, they claim, the exemption does not contradict the intent of the Endangered Species Act. However, my amendment is prompted by the fact that it is almost impossible to prove that a bird has been stolen from the wild, if its owner claims that it was in captivity at the time the law was enacted. It is for this reason that Interior has not changed its regulations.

Raptors are valuable birds. Because they can be sold for as much as $5,000 per bird, there is a strong incentive to steal them from the wild. In fact, California conservationists have had to resort to installing electronic surveillance systems in nests to guard baby peregrine falcons from overzealous falconers.

Mr. Chairman, section 10 is supported by a small special interest group. I see no reason to enact a special provision for this group, many of whom have exploited raptorial birds in the past. One of the leading supporters of this exemption was convicted of illegal importation of peregrine falcons from Spain in 1974.

Mr. Chairman, I wish to emphasize that I am not attempting to outlaw falconry. There are plenty of unendangered species of birds that falconers are able to use.

The Endangered Species Act is crucial for the protection of all endangered species. It is contradictory to the intent of the act to begin granting exemptions.

I ask my colleagues to join me today in striking section 10, an unprecedented and unwarranted exemption to the existing law.

Mr. DRINAN. Mr. Chairman, will the gentlewoman yield.

Mrs. MEYNER. I yield to the gentleman from Massachusetts.

● Mr. DRINAN. Mr. Chairman, I rise in support of the amendment offered by my colleague, Mrs. MEYNER, to strike the exemption of raptors (birds of prey) from the provisions of the Endangered Species Act.

I want in no way to hinder the reauthorization of this Act, but I do hope that the Members of the House will make clear for the record their disapproval of this specific exemption for raptorial birds.

This exemption, which made its way into the Senate language, clearly does not speak to the controversial matters surrounding the authorization of the Endangered Species Act.

While the loss of protection is meant to be limited to those birds held in captivity, the poaching of these rare and valuable species is a worldwide concern. The specific exemption of raptors, such as the peregrine falcon, from the protection of the Endangered Species Act in international commerce can only exacerbate the problem.

I ask the support of my colleagues to strike this exemption.●

Mr. MAGUIRE. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, I thank the gentlewoman for yielding.

I also wish to associate myself with her remarks.

I think it is not only an excellent amendment; it is an absolutely essential amendment because some of these birds are in danger of becoming extinct. There is not any reason in the world that these particular birds should be excluded from the coverage of the act, and I do hope the House will join with the gentlewoman from New Jersey in closing what really

is a special-interest exemption, with no justification.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. MEYNER) has expired.

(On request of Mr. DERWINSKI and by unanimous consent, Mrs. MEYNER was allowed to proceed for 1 additional minute.)

Mr. DERWINSKI. Mr. Chairman, will the gentlewoman yield?

Mrs. MEYNER. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentlewoman for yielding.

Before I raise a question, I first wish to commend the gentlewoman from New Jersey for the cooperation on the project we shared together on the Committee on International Relations. But my question is, Does the gentlewoman's obviously heartfelt concern for endangered species extend to the Republican Party as well?

Mrs. MEYNER. It does extend to the Republican Party and to other forms of birds like the "Ruffled Spouse," the "Double-breasted Seersucker," the "Great American Regret," the "Morning Grouse," the "Midnight Bed Thrasher," and other such species.

The CHAIRMAN. The time of the gentlewoman has expired.

Mr. LEGGETT. Mr. Chairman, I rise in opposition to the amendment. This amendment would keep the Department of the Interior restriction from dealing with these peregrine falcons. For the Members' information, this is an endangered species bill. The peregrine falcon is an endangered species. There are currently 50 pairs in the wild and 200 pairs that are in private hands, in falconer hands.

People from Colorado and New Mexico and other parts of the country have come before our committee. This amendment to partially exempt the progeny of the 200 pairs currently legally held, allowing the trafficking in those birds, has received the unanimous support of the subcommittee that heard this matter and of our full committee. We thought that we ought to loosen up this act at least to this extent.

The gentleman from California (Mr. DORNAN), offered this amendment. I had it in my bill at one point.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I will yield to the gentleman from California, Mr. DORNAN, at this point to make further amplification.

Mr. DORNAN. I thank the gentleman.

Mr. Chairman, if our colleagues would just bear with us for a few more minutes, we have a peculiar situation. Everyone agrees upon one fact: We must protect these majestic native American birds, the peregrine falcons. But what we have is awful confusion about the way we should do it. The people who brought this amendment to me are falcon lovers—I am only their instrument. After years and years of work to save the falcon, they were the right folks to conclusively prove to me that the National Audubon Society, Cornell University, and their great team out in Denver, Colo., and everyone who is interested in saving peregrine falcons which are almost extinct, want this special language in the bill for the following very simple reason. Without it peregrines disappear from the face of the Earth. The bird is already extinct in all of our Eastern States, including the State of the distinguished gentlewoman from New Jersey. You made an eloquent plea, madame, but that bird is already lost to your fair State and the only way to get it back is through captive breeding.

In my massive State of California there are only two nests or aeries, one in northern California and one on the national landmark of Morro Rock by the Pacific. Two years ago on or near Morro Rock some jackass shot the male of the last surviving pair of the peregrine falcons there. This pair had just adopted two captively bred baby falcons. One of those little birds died because the mother had to perform the male role of food gathering. The mother managed to save one fortunately. The verifiable fact is that 100 pairs of captively bred birds have been turned loose in the wild to restock. The breeders of these birds love them. They have agreed to all of the Federal statutes involving reporting. They never will recapture a falcon turned into the wild. Without the National Audubon Society's leadership, without Cornell University, and without their team in Denver, these beautiful creatures are going to become extinct within the next 4 to 10 years.

If ever there was a crazy case of environmentalists in the name of saving something bringing about its death, this is it. Are some of you willing to see every last peregrine in the country die just to get at falconers. I have never seen a more confused last-minute attempt to foolishly kill something in the name of saving it. Those really are the facts folks. I have done extensive research on this issue. So have many others and our excellent staffs of both parties. Why do you think my amendment was a totally unanimous effort.

Mrs. MEYNER. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentlewoman from New Jersey.

Mrs. MEYNER. Mr. Chairman, I just want to point out to the gentleman from California that he makes some good points. The point of my argument is that the Endangered Species Act protects all; should protect all animals or winged killers. If we exempt the peregrine falcon on this, they are not going to be protected. The only way they are going to be protected is if they come under this act. Support for this exemption does not come from people that want to protect this bird. It comes from people who for their own selfish reasons want to steal the birds out of the nests in California and sell them. They are worth $5,000 apiece. As I pointed out, because there is so much stealing of the babies, they have had to put electronic devices into the nests of the babies.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. LEGGETT. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I am completely in accord with the gentlewoman's concern over the lovely rosy-breasted pushover and the very exciting midnight thrasher; but madame, these peregrine falcons that are now of such great concern to the gentlewoman from New Jersey are in imminent danger. To save these beautiful creatures it requires special legislation. We are almost beyond the point of no return. Total extinction. They simply must be bred in captivity. Please withdraw your well-meaning but counterproductive amendment.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the 1973 statute which I have in my hands permitted falconers and owners of raptors to continue in the possession and the enjoyment of those species. Not since that time has it been lawful to take wild raptors from the wild. That situation remains the same under the bill, which continues to outlaw the taking of wild falcons from the wild.

The function of the changes in the law that would be made by the committee bill are to permit breeders, that is, falconers and persons like that using lawfully held falcons, to engage in the breeding of these falcons for two purposes. One is for a continuation of the sport of falconry. The other is for a return of these populations to the wild. Because of genetics, it is impossible to continue to inbreed between a pair of falcons and have desirable animals; but with the ability to trade these animals back and forth among lawfully held populations whose forebears were taken into captivity before 1973, it is possible to not only continue the populations in captivity in a healthful state, but also to develop populations of falcons which can be returned to the wild.

The cost of this undertaking is large. It runs $5,000 to $10,000 per breeder. It also has afforded the release of over 100 pairs of these falcons, now extinct, in most of the United States to return to the wild.

The amendment, although well intentioned by the gentlewoman from New Jersey, does directly the opposite of the intention which she expresses and that is preservation and enhancement of the species of wild falcon.

Mr. McKAY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Utah.

Mr. McKAY. Mr. Chairman, I agree with the gentlewoman, that unless you have some crossbreeding from other species, you can wipe them out by inbreeding and you get to where they are very vulnerable.

Mr. DINGELL. That is right.

Mr. McKAY. The gentleman is absolutely correct. I have had experience with other animals, domesticated and some wild; but let me ask a question. The gentlewoman from New Jersey indicated that they could not tell whether they had been taken from the wild or whether they had been one or two generations bred from the people who had them.

The reason I ask the question, have we any protection or any way to tell, because there is a man in my State who has been breeding these falcons for two or three generations. He wound up being thrown in jail for 18 months because they could not prove whether they had been taken from the wild or not. When somebody makes a charge, how do we accommodate this situation?

Mr. DINGELL. Mr. Chairman, it is, I would say to the gentleman from Utah (Mr. McKAY), enormously difficult to establish whether they have been taken from the wild. It is difficult to tell between two birds whether one came from the wild or not, but there are stern strictures in the law against those who would raise nets.

If we are to continue to support the raising of falcons, if we have a sympathy for these great birds and we desire to have them developed and restored from populations which are released from captive birds into the wild, then we will vote against the amendment offered by the gentlewoman from New Jersey (Mrs. MEYNER) and vote for the carefully drawn exemptions in the 1973 act which have been afforded in the committee-passed bill.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, I think it is important to know how to differentiate between falcons held legally and those illegally. There are a number of ways, and some are provided in the bill, for example, records, inventory, and documentation. Banding, of course, is an important method that can be used in this kind of thing.

I would add that as much as I regret opposing the amendment offered by the gentlewoman from New Jersey (Mrs. MEYNER), I think we are in a situation—and we are definitely in this situation with the falcon, and we are going to be in it with other species—where we will have to find a way to promote private breeding of these species.

So, Mr. Chairman, I hope the amendment will be defeated, and I thank my colleague for yielding.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield briefly to the gentleman from California.

Mr. DORNAN. Mr. Chairman, let me state the reason that this amendment was adopted into the body of the language.

Mr. DINGELL. And it was, as I observed, adopted unanimously by the committee.

Mr. DORNAN. Yes, unanimously, without any controversy.

The reason was that we had available during those committee hearings the books, along with large color photographs, of the Cornell University operation and the operation in their extension out in Colorado. We saw the letters from the National Aubudon Society pleading this case.

Every single member of our Committee on Merchant Marine and Fisheries, in the subcommittee and in the full committee, agreed with the very reasonable position that if we do not allow the exception in the name of saving the very existence of peregrine falcons, one of the most majestic birds native to our North American Continent, we would drive them into extinction in the name of saving them.

Mr. DINGELL. Mr. Chairman, the gentleman is correct. The amendment would destroy the possibility of restoring the peregrine falcon to the wild.

Mr. JACOBS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there are three principal points that I think ought to be cleared up by the committee.

The first is the business of distinguishing the birds in captivity from the birds stolen from the wild. The gentleman from Michigan (Mr. DINGELL) just spoke of the peregrine falcon, and indeed I think it would be fair to characterize peregrine falcons as distinguished birds, whether they have been stolen from the wild, whether they have been sold, or whether they have been in captivity. The point is that we cannot tell now for certain.

The question was asked for our colleague, the gentleman from Utah (Mr. McKAY), whether there would be a problem. There is no law enforcement problem now because if anybody comes by one, it is presumed he came by it by illegal means, by stealing it, because it is not permitted to be sold now. So the protection is absolute in the law as it is.

The gentleman from Michigan (Mr. DINGELL) made the point that these birds need to be traded in order to propagate their kind. This provision does not just say, "traded." It says, "sold" at $5,000 a copy. Now, I wonder why the provision does not just say, "traded for mating purposes." As a matter of fact, I wonder whether that amendment would not be in order in case the amendment offered by the gentlewoman from New Jersey (Mrs. MEYNER) fails.

Let us just say, whether this is to make money or to make love, if it is for the latter purpose, it seems to me it would be sufficient to say these birds can be traded, not sold for 5,000 bucks to make a few dollars.

We just voted on an amendment that determined that the snail darter was not as important as a dam. I happen to have supported that amendment because I believe that is right. I happen to be a strict vegetarian, but I believe in the limits. I believe, when it comes to the human balance, if it is necessary to continue human life, or even necessary to make human life viable, then I think the priorities must be exercised. But here is a case where we are not talking about holding up the dam project. We are just talking about whether this species is going to be exposed to commercialism, whether it is going to be exposed to extinction.

So in sum, I would ask the committee to consider carefully whether it does not want to support the amendment offered by the gentlewoman from New Jersey. And if the committee should reject that, then it seems to me that it would be in order for the committee to entertain an amendment that would do exactly what the gentleman from Michigan says, permit these birds to be traded but not sold at $5,000 to make somebody rich.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. MEYNER).

The question was taken; and on a division (demanded by Mrs. MEYNER) there were—ayes 27, noes 53.

So the amendment was rejected.

Mr. LEGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it is my understanding that we have been considering this bill now for 4 hours. It is everybody's knowledge that we have to complete this bill before the session ends. We do not want to take all day on it.

Mr. Chairman, I ask unanimous consent that debate on all amendments and on the bill close in 30 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. DUNCAN of Oregon. Mr. Chairman, reserving the right to object, to my knowledge there are at least nine amendments left, all of which I think have probably been printed in the RECORD. I think the gentleman's objective is laudable. But this is a very important bill, and I do not know that we ought to be forced by the exigencies of time to waive reasonable debate on it.

Mr. Chairman, I would suggest the gentleman extend the time at least an hour.

Mr. LEGGETT. Mr. Chairman, I ask unanimous consent that debate on all amendments and on the bill close in 40 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BUCHANAN. Mr. Chairman, reserving the right to object, those of us who have amendments printed in the RECORD would, of course, be protected by the rules under the scenario?

The CHAIRMAN. Let the Chair state that that is correct, 5 minutes on each side.

Mr. BUCHANAN. I thank the Chair.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at time the unanimous-consent agreement was entered into will be recognized for 2½ minutes each.

The Chair recognizes the gentleman from New Jersey (Mr. HUGHES).

AMENDMENT OFFERED BY MR. HUGHES

Mr. HUGHES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HUGHES: Page 20, line 19, strike out all of the language from "Any" through "practicable." on line 22.

Mr. HUGHES. Mr. Chairman, I will not take very much time, but on page 20 of the bill there is a provision which says:

Any action for review under this subsection shall receive preference over other matters before the court and shall be heard and determined as expeditiously as the court considers practicable.

In the full committee I argued against this particular amendment because we should not be telling the court that these particular matters deserve preference over other matters before the court. We have a basic concept called the separation of powers, and I think it should fall to the court to determine the trial schedule for the judicial branch of our Government.

I urge my colleagues to support this amendment to strike this mandate to the courts.

Thank you.

Mr. FORSYTHE. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we accept the amendment on this side.

Mr. HUGHES. I thank the gentleman.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, we have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey (Mr. HUGHES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon: Page 23, strike out line 15 and all that follows down through line 22, and insert in lieu thereof the following:

"(6) The term 'critical habitat' for a threatened or endangered species means—

"(A) the specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) which are essential to the conservation of the species and (ii) which require special management consideration or protection; and

"(B) specific areas periodically inhabitated by the species which are outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act (other than any marginal habitat the species may be inhabiting because of pioneering efforts or population stress), upon a determination by the Secretary at the time it is listed that such areas are essential for the conservation of the species.

Mr. DUNCAN of Oregon (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objecion.

Mr. DINGELL. Mr. Speaker, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order on the amendment.

The gentleman from Oregon is recognized for 2½ minutes.

Mr. DUNCAN of Oregon. Mr. Chairman, this amendment is printed in the RECORD. I would like to have 5 minutes.

The CHAIRMAN. The gentleman's amendment was printed in the RECORD, and the gentleman insists, so he may have 5 minutes of time.

Mr. DUNCAN of Oregon. Mr. Chairman, we have spent a lot of time here this afternoon with specific exemptions from what is deemed by at least a majority of the members of this committee to be unreasonable restrictions imposed upon the activities of man by the rigid requirements of the Endangered Species Act.

The first amendment which I am offering goes to the heart—both amendments do—of the problems which have been raised by this bill. The committee in its report on page 7 recognizes that section 7 of the Endangered Species Act, requiring that Federal agencies insure that none of their actions jeopardize the continued existence of listed species, has developed into the most significant part of the entire statute.

There are two reasons in my judgment why this is so. One is the definition of critical habitat and the other is the definition of species. This first amendment addresses itself to the question of critical habitat.

In the original bill there was no definition of critical habitat at all. In its amendment the committee recognizes the problem and does define critical habitat. There being no definition in the original bill, the Department of the Interior issued a regulation which defined critical habitat for an endangered species as ". . . as any land, air, or water area . . . and constituent elements thereof, the loss of which would appreciably decrease the likelihood of conserving such species"; the committee in an effort to correct the problem changed only the word "appreciably" to the word "significantly". I think they recognized the problem and tried to address it but failed miserably in doing so.

This definition which I offer as a substitute defines critical habitat as the specific areas within the geographical area occupied by the species on which are found those physical or biological features which are essential to the conservation of the species and which require special management. In addition to that I include as critical habitat specific areas periodically inhabited by the species which are outside the geographic area occupied by the species (excluding marginal habitat) upon a determination by the Secretary that such areas are essential for the conservation of the species.

This is a definition of critical habitat. I think that in order to be consistent with the purposes of this bill to preserve critical habitat that there ought to be a showing that it is essential to the conservation of the species and not simply one that would appreciably or significantly decrease the likelihood of conserving it.

I think it goes to the heart of the problem which every Member has felt in his district. It is entirely consistent with good biological practices and furthermore it maintains intact the purpose of this bill, which is to prevent the extinction of species who require this critical habitat.

I think with one broad sweep here in this amendment and with the one that follows we will eliminate many of the problems and still give us an opportunity to preserve these species which none of us wants to become extinct.

The CHAIRMAN. Does the gentleman from Michigan wish to pursue his point of order?

Mr. DINGELL. Mr. Chairman, I am opposed to the amendment but I will not speak on it.

Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from Michigan withdraws his point of order.

The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DUNCAN OF OREGON

Mr. DUNCAN of Oregon. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DUNCAN of Oregon: Page 24, strike out line 1 and all that follows down through line 4, and insert in lieu thereof the following:

"(13) The term 'species' means a group of fish, wildlife, or plants, consisting of physically similar organisms capable of interbreeding but generally incapable of producing fertile offspring through breeding with organisms outside this group.";

Mr. DINGELL. Mr. Chairman, I reserve points of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves points of order against the amendment.

Mr. DUNCAN of Oregon. Mr. Chairman, without repeating the significance of these amendments that I have already discussed in connection with the first amendment to redefine "critical habitat," this one goes to the definition of "species." The committee bill, at the top of page 24, defines the term "species" as including any subspecies of fish or wildlife or plants, and any distinct segment of the population of any species of vertebrate fish or wildlife which interbreeds when mature.

Mr. Chairman, I would replace this with, again, a generally biologically accepted definition of "species," which would be defined to mean: "A group of fish, wildlife, or plants, consisting of physically similar organisms capable of interbreeding, but generally incapable of producing fertile offspring through breeding with organisms outside of this group."

The legislation before us today is entitled, and I think this is important, "The Endangered Species Act." It is not entitled, and I think this is important, "The titled "An Endangered Subspecies Act," or the "Endangered Variation-of-a-Species Act."

The amendment preserves, again, the integrity of the legislation while sufficiently tightening up the definitions so that we do not afford protection of this legislation, to the detriment of man, to every individual creature on the face of the Earth that might differ in one degree or another from one of its brothers.

Authorities at the Fish and Wildlife Service have estimated that there are approximately 1.4 million full species of animals, 600,000 full species of plants that have been cataloged so far in the world today, and if we get into subspecies then the estimate is that we have from three to five times as many. Approximately 10 percent of these are estimated to get some protection. The cost of even listing one of these is about $3,200 apiece, aside from the damage that it does to man's activities.

I think in the interest of good conservation and in the interest of preserving the endangered species and of avoiding the reaction which we have seen on this floor today to the unreasonable application of this act, a redefinition of the term "species" to limit it to species, not subspecies or mutations, is essential and I urge adoption of the amendment.

The CHAIRMAN. Does the gentleman from Michigan desire to insist upon his point of order?

Mr. DINGELL. No, I do not, I wish to speak in opposition to the amendment.

The CHAIRMAN. The gentleman from Michigan withdraws his point of order and is recognized for 2½ minutes.

Mr. DINGELL. Mr. Chairman, I observe that this amendment gives too much and too little protection. I would point out that two distinct species may have not only physical similarity so as to fall into the provision but may also produce fertile offspring when crossed, such as the buffalo and a cow. The provisions of the amendment offered by the gentleman from Oregon (Mr. DUNCAN) would say that if a buffalo and a cow occupy the same physical habitat that because they can produce fertile offspring they are cataloged as the same species. So if the buffalo is really approaching extinction and there are cows occupying the same range, the protections of the statute will not apply to the buffalo.

Obviously it goes beyond the intention of the gentleman and it is an incredibly bad amendment from that standpoint.

More importantly, the definition of species, as it is drawn, is such that it would change its application as to the buffalo as the law would be amended. Today the Secretary can declare the bald eagle in the lower 48 States to be endangered, as he has done, and to say that in Alaska the species is not endangered. Under the amendment offered by the gentleman from Oregon (Mr. DUNCAN) the Secretary could not say that the bald eagle is endangered in the lower 48 States and is not endangered in Alaska, he would have to either declare it endangered throughout the whole of its range, or not declare it endangered at all. An incredibly bad amendment and, what is more, it is one which is mischievous and which is totally out of conformity with the basic intentions of the language and the law.

Another species which would all into this vein is the alligator. It would have to be listed as threatened, or endangered and probably the hunting which now goes on under careful supervision over a part of its range would be precluded en toto.

One last thing should be kept in mind in connection with this mischievous amendment, which has not been well thought out and which is offered by a member of the committee who never considered or studied these matters, is the hard fact that it would limit the populations of wild animals which are threatened to very small geographical areas.

Mr. DUNCAN of Oregon. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I do not yield.

Mr. DUNCAN of Oregon. Mr. Chairman, I rise to a point of order.

Mr. DINGELL. Mr. Chairman, I ask for regular order.

Mr. DUNCAN of Oregon. Mr. Chairman, a point of order.

Mr. DINGELL. Mr. Chairman, I ask for regular order. I do not yield to the gentleman. He understands the rules.

POINT OF ORDER

Mr. DUNCAN of Oregon. Mr. Chairman, may I state a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DUNCAN of Oregon. Mr. Chairman, the point of order is——

Mr. DINGELL. Mr. Chairman, I do not yield for a point of order.

The CHAIRMAN. The Chair has stated that the gentleman will state his point of order.

Mr. DUNCAN of Oregon. Mr. Chairman, I have a point of order. The gentleman is addressing himself and his argument to the amendment——

Mr. DINGELL. Mr. Chairman, I do not yield to the gentleman from Oregon.

Mr. Chairman, I demand the protection of the Chair. This is a frivolous point of order. I do not yield for that purpose. I ask that the gentleman be instructed to take his seat and behave himself.

The CHAIRMAN. Will the gentleman from Michigan (Mr. DINGELL) please recognize that the Chair is trying to conform to the rules.

The gentleman has made a point of order; and of course, the Chair must recognize that point of order.

Mr. DINGELL. Mr. Chairman, I do not yield for the point of order.

The CHAIRMAN. The Chair will state that it is not necessary that the gentleman yield for that purpose. The Chair has a right at any time to recognize a Member on a point of order.

The gentleman from Michigan will continue to proceed in order.

Mr. DINGELL. I am proceeding in order, Mr. Chairman.

The CHAIRMAN. The gentleman will proceed.

Mr. DINGELL. Mr. Chairman, the function of this amendment is to constrict the populations of animals subject to protection to remnant populations and to make a mockery and a joke out of the legislation.

Mr. Chairman, this is an incredibly bad amendment, poorly thought out or mischievous in character. It should be rejected.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

Does any member of the committee desire to be heard in connection with this matter?

Mr. HUGHES. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. DUNCAN).

The CHAIRMAN. The Chair will advise the gentleman that he already used his time under the allocation.

Mr. HUGHES. Mr. Chairman, I had two amendments at the desk.

The CHAIRMAN. The gentleman has used his time.

The Chair was trying to be fair in recognizing either the chairman or the ranking member, if either desires to comment on the amendment.

PARLIAMENTARY INQUIRY

Mr. HUGHES. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HUGHES. Mr. Chairman, did I not have two amendments at the desk?

The CHAIRMAN. The Chair will state that the gentleman from New Jersey has already offered one. If he has another amendment which is printed in the RECORD, then he can be recognized when he offers that amendment. Otherwise, he has used his time.

The Chair is simply attempting to be fair with Members.

The Chair now recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, I just take this very, very brief time to make known to the committee that there is another problem, not only one with the birds we discussed here a while ago, but also with other domestic animals born in captivity. They cannot now be transferred from one place to another without a permit, and those permits are not forthcoming.

As an example, Mr. Chairman, I have a constituent who has a large ranch on which he has these animals which were born in captivity and have been domesticated. If he has five bulls and, say, three cows, and he wants to get rid of two bulls and send them somewhere else where they are needed, he cannot do it.

Actually, that is working against the theory that we want to preserve these species.

Mr. Chairman, I would hope that the committee will look into this and see whether or not in a future amendment this exemption can be placed along with the birds which have been born legally in captivity.

Mr. DUNCAN of Oregon. Mr. Chairman, the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Mr. Chairman, I would just like to say that the zeal and single-mindedness of my friend, the gentleman from Michigan (Mr. DINGELL), both constitute a source of my great admiration for him, but also a source of concern when I see his zeal exceeding what I think is prudent and in the national interest.

Most of his argument was directed against the definition of critical habitat which this committee has already accepted. With respect to the preservation of species, this amendment does preserve the gene pool, and that is the objective of the Endangered Species Act.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Chairman, I just want to state that in deference to the committee, who I think under the circumstances has done an outstanding job on this bill, I do not intend to offer my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. DUNCAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 2, line 15, strike out "invertebrate animal".

Mr. BUCHANAN. Mr. Chairman, when the proposal that two small fish, mutations of minnow-like fish, in my congressional district be listed was made, we said to the Department of the Interior, this action could result in stopping a half billion dollars' worth of orderly, model development, the loss of thousands of jobs and millions of dollars, and the bankruptcies of businesses. They said, we cannot consider economic impact in this decision.

Our committee has put into this bill a provision that the Secretary is ordered to consider economic impact in the case of invertebrates. However, curiously, vertebrates, which is where the problem has been—the minnow-like fish, the Houston toad, the furry bush lousewort, or plants are not included. I would simply eliminate this double standard and say that always the Secretary must consider economic impact. We do not limit his ability to make a decision; we only say, you shall look at the economic impact, not in just the case of invertebrates, which the committee included; but also those species that have cause much of the trouble: the little fish, the toads, the plants.

I urge adoption of my amendment.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

I would just like to say briefly that this amendment would make economic impact one of the factors on the projects in the Houston area where there are reputed to be those monstrous Houston toads that they have not located, but only come out at night, and they hunt for them between 4 and 6 o'clock in the morning when they can hear them, but they never have caught them.

It is a foolish sort of thing to think we would stop the commitment of millions of dollars and thousands of jobs and hundreds of homes because of this.

The CHAIRMAN. The time of the gentleman has expired.

The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. M'KAY

Mr. McKAY. Mr. Chairman, I offer two amendments.

The Clerk read as follows:

Amendments offered by Mr. McKAY: Page 31, line 20, strike out "subsection" and insert in lieu thereof "subsections".

Page 32, line 21, strike out the closing quotation marks and the final period.

Page 32, after line 21, insert the following:

"(1) MILITARY ACTIVITIES.—The provisions of this Act shall not apply to any action authorized, funded, or carried out by the Department of Defense, or by the Divisions of Naval Reactors and Military Application of the Department of Energy, as a part of their military functions. For purposes of this subsection, the term 'military functions' means military functions directly related to military preparedness.".

Mr. McKAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. McKAY. Mr. Chairman, as chairman of our Subcommittee on Military Construction, as we deal with military matters and the military preparedness of our country, there are things which come up from time to time, and I think this is a serious matter to deal with and, hopefully, we will solve.

Picture this serious, yet very possible set of circumstances: The Department of Defense plans a strategic war game to test the effectiveness of our Armed Forces in dealing with a national emergency. It is 2 years in the planning. Thousands of man-hours have been expended to stage a realistic alert circumstances and thousands of troops are involved. Millions of dollars' worth of material are specially assembled. The results of the exercise will determine in large part the response technique formally adopted by the Department of Defense.

Suddenly everything is put on hold. Planning is halted. Men and equipment are put on a travel freeze and the work of months is scrapped. Why? Because a red-cockaded woodpecker is sighted in the training area. Or because the troop transport through the base brooklet may adversely impact the spawning of a local population of rare minnows, or because a beetle variety inhabits a stand of trees in the training field.

If you think this is far-fetched, just call Eglund Air Force Base. An almost identical situation recently occurred there with an exercise called Bold Eagle. Or check with 15 or 20 army bases or marine camps, as I did. "Sure," you might say, "the President can suspend the operation of the Endangered Species Act in a national emergency." But I am talking about numerous examples which do not arise to a national emergency which nevertheless occur, which cost our country thousands of dollars, and which might conceivably impact on our ability, cumulatively, to respond to a national emergency.

My amendment will permit the defense establishment to conduct those activities which legitimately affect the ability of the Armed Forces to respond where military preparedness is concerned.

Some of you might be concerned that this represents a carte blanche for the military to ignore the ESA. This will not occur. The Defense Department has signed the Skyes agreement with the Department of the Interior which requires them to undertake all possible mitigation efforts when a conflict arises on a military base. Additionally, my language is very specific in only permitting the rigid requirements of the act to be waived when an activity occurs which directly affects our military preparedness and defense capabilities.

This would certainly not allow, for instance, an Army-Navy Country Club to be constructed without regard to the constraints of the ESA. But it would permit vital troop maneuvers, equipment testing, and personnel training which directly impact on our military preparedness.

Let me cite some actual cases where commonsense has been circumvented in the name of the Endangered Species Act.

First. Protection of Yuma clapper rail and black clapper rail halted mosquito spraying at the Yuma, Ariz., base, impacting on morale and posing a health hazard to the troops.

Second. Guns cannot be fired near streams at Fort Lewis, Wash., during certain seasons of the year so as to not disturb any fish which might be spawning.

Third. At Fort Stewart, Ga., Fort Gordon, Fort Jackson, Fort McClellan, and Fort Rucker, firing has been restricted during the breeding season of the red-cockaded woodpecker. With that woodpecker restricting so many forts, I wonder why it is listed as endangered in the first place.

Fourth. The presence of the red-cockaded woodpecker and the soft-shell sea turtle has impeded combat training at Camp Lejeune, N.C.

Fifth. At Vandenberg AFB, Calif., one subspecies of vegetation said to be on the candidate list for endangered species, the "lompoc yerba," was found growing in the tow path for the space shuttle. Rather than transplant the plant, the shuttle was shuttled on a new tow path.

Sixth. At Point Mugu, Calif., construction of a missile magazine was held up because it was to be built in a "lagoon habitat," possibly harboring unidentified endangered species.

What do these examples represent? In and of themselves they may be insignificant. But added together, cumulatively grouped, they have the potential to sometime, somewhere down the road, impact on the ability of this country to respond to a real national crisis.

I do not think the voters back home will take lightly to the thought that we have played loose and light with their possible security because of the three-spined stickleback and the Sacramento anthicid beetle.

I ask the Members support for my amendment.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. LEGGETT).

Mr. LEGGETT. Mr. Chairman, I rise to use 30 seconds of my time in opposition to the amendment.

Mr. Chairman, this matter has been thoroughly reviewed by the committee, and we have had the Department of Defense before the committee. Particularly we had Brig. Gen. R. A. Kuci from the U.S. Training Corps. We asked him a question along these lines, and this is what he said:

In response to your specific inquiry, the Office of the Secretary of Defense has received no official military complaints that the Act has either restricted training or otherwise had a deleterious effect on military operations. We have been able to accommodate the Act without adversely impacting on our effectiveness.

Mr. Chairman, he went on to indicate they are not for any amendments, and they do not favor this amendment.

The CHAIRMAN. The Chair will inquire if the gentleman from Michigan (Mr. DINGELL) desires to take a part of his allowable time in opposition to the amendment. As the Chair understands it, 5 minutes is allowed in support of the amendment, and 5 minutes is allowed to the committee if there is a desire on its part to oppose the amendment. The Chair is trying to protect the rights of the committee.

Mr. DINGELL. Mr. Chairman, I would like to use that 5 minutes, and I seek recognition for that purpose.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) is recognized.

Mr. DINGELL. Mr. Chairman, as just read by the chairman of the subcommittee, we had the Department of Defense before the subcommittee. An inquiry was directed to them as to whether in any of the undertakings of the Department of Defense that Agency felt it was inhibited in conducting operations in national defense by reason of the provisions of the Endangered Species Act. That Agency said that it did not find itself inhibited in carrying out is missions by reason of the Endangered Species Act.

Mr. Chairman, there is no example of a military function having been hindered by the application of the Endangered Species Act. The exemption process established by the bill will be workable for the military as well as for the nonmilitary, and no special exemption process, certainly not a flat, unqualified exemption of the type listed here, is needed for handling military matters.

The term "military function" and the term "military performance" are ambiguous and imprecise. When I was in the Army 30 years ago, as a part of our military preparedness program I built a swimming pool and a group of tennis courts. I built a swimming pool and tennis courts as a part of our military preparedness undertaking.

Moreover I think it is quite plain that the Secretary of the Army or any base commander or anybody else can decide what these words mean.

Mr. Chairman, this is a very nice sounding amendment. It can swathe itself very comfortably in the words, "national defense" and "national preparedness," but in point of fact it sanctifies a great amount of rascality, mischief, and disregard of endangered species

I would further point out that the term, "military function," even though limited by the term itself to meaning military functions as directly related to military preparedness, is also a weasel word, subject by definition to those who wish to disregard the requirements of this statute, which are the protection of species from being wiped from the face of the Earth.

I ask my colleagues to remember that in the last hundred years we have wiped out nearly 2,000 species of animals, hundreds of species of fish, and a large number of species of birds.

I would hope that this kind of an amendment, which is poorly thought out, written on the floor without any study, and full of weasel words, would be rejected.

If the gentleman from Utah (Mr. MCKAY) desires to bring before the committee a bill which would relate to this matter and give an opportunity to us to consider it, I would be delighted to ask that we hold hearings, and I am sure the chairman of our committee would see that such occurred. In the meantime, the House should reject this amendment, which is offered by a well-meaning Member of the House, one for whom I have great respect, I assure the gentleman, but one who has not considered this matter adequately.

Mr. MCKAY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. Now, Mr. Chairman, to that well-meaning Member who does not understand what he does, I am delighted to yield.

Mr. MCKAY. Mr. Chairman, with all those congratulatory words, I am sure that I ought to win this amendment.

Let me ask the gentleman, have there not been a number of species, regardless of man's actions, that die and disappear every year?

Mr. MCKAY. But we cannot slow down what nature does.

Mr. DINGELL. But this mischievous amendment does not accomplish that end.

Mr. MCKAY. Mr. Chairman, will the gentleman yield further?

Mr. DINGELL. I yield to the gentleman. The gentleman is making a bad case for a bad amendment.

Mr. MCKAY That is the gentleman's interpretation. The reason the military testified as they have is because they do not dare do otherwise.

Mr. DINGELL. We want them to tell the truth. They do not always choose to. Or else they will tell us one thing and turn around and tell the gentleman something else.

Mr. MCKAY. Dr. Ron Thomas, who was connected with the environmental control for the military, says that is not true, they would speak up if they dared. They do not because the administration will not let them.

Mr. DINGELL. We have offered them the opportunity to be heard. The gentleman does not want to tell me that somebody would come before the committee and not tell the truth?

Mr. MCKAY. Of course. The gentleman knows that, as well as I do.

Mr. DINGELL. I do not happen to know that. Maybe the gentleman does, but I do not.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Utah (Mr. MCKAY).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. M'KAY

Mr. MCKAY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will ask the gentleman from Utah whether this amendment has been printed in the RECORD.

Mr. MCKAY. Yes, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. MCKAY: Page 19, strike out line 5 and all that follows down through line 22 on page 20 and insert in lieu thereof the following:

"(h) JUDICIAL REVIEW.—Any real party in interest or the Federal agency involved may obtain review, under chapter 7 of title 5 of the U.S. Code, of—

"(1) any decision (including any decision with respect to mitigation measures) made by a review board under subsection (d) which is not disapproved by the Endangered Species Committee under subsection (e), and

"(2) any decision by the Endangered Species Committee to disapprove a decision of a review board under subsection (e),

in the United States court of appeals for any circuit wherein the agency action concerned will be, or is being, carried out, by filing a written petition for review in such court within 90 days after the last date on which the Committee may disapprove the review board's decision if it fails to disapprove such decision, as the case may be. Attorneys designated by the review board or the Committee may appear for, and represent the board or Committee, respectively, in, any action for review under this paragraph.

Page 20, line 23, strike out "(j)" and insert in lieu thereof "(i)".

Page 21, line 2, strike out "(f)" and in lieu thereof "(d)(6)".

Page 21, line 11, insert "review boards and" and "section".

Page 21, line 13, strike out "(k)" and insert in lieu thereof "(j)".

Page 21, line 14, insert "a review board or by" after "by".

Page 22, line 3, strike out "(l)" and insert in lieu thereof "(k)".

Page 22, beginning on line 5, strike out "subsections (d), (e), and (f) of".

Mr. MCKAY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. MCKAY. Mr. Chairman, I offer an amendment which will remove judicial review to the circuit court of appeals of the district wherein the particular project exists which has become the subject of an exemption challenge under the Endangered Species Act.

Under the provisions of the committee bill, an interested party is required to challenge a decision regarding an exemption in the Federal district court. Because of the incredible backlog of cases which exist at virtually every district court in the United States, the requirement to begin at the district court level is both time-consuming and expensive. It has, in the past, and in all likelihood will continue to be in the future, a dilitory technique

by the party most interested in delay, to delay review and postpone decisions.

By requiring that all challenges to exemption or nonexemption issues be instituted at the circuit court of appeals, thousands of dollars and months—perhaps even years—of unnecessary lower court review will be avoided. I say unnecessary lower court review because virtually every exemption or nonexemption issue will undoubtedly be appealed, in any event, to the circuit court.

There is ample precedent for original jurisdiction being vested in the circuit court of appeals in programs of this nature. The Federal Water Pollution Control Act vests similar authority on the circuit court of appeals and I understand that the procedure has worked remarkably well. It has provided a mechanism whereby speedy review has been obtained by a competent and impartial battery of qualified appellate judges at considerable cost savings to all litigating parties.

It is impossible to say how many years of litigation will be saved by this amendment, but it is certain that the resources of all potential litigants will be better utilized in good and positive ways, rather than being committed to storming the walls of the district courts.

Another aspect of the amendment is to provide that the judicial review occur at the circuit court of appeals "wherein the agency action concerned will be, or is being carried out." This means that if an exemption is granted in Utah, the 10th circuit in Denver will hear the case. If a decision is challenged in Honolulu, the ninth circuit court in San Francisco will hear the case. This will eliminate improper "forum-shopping" by clever attorneys who desire an unfair advantage by filing in the circuit where they are confident of a more sympathetic judge. It will also save attorneys, witnesses, and interested parties from having to travel, in some cases, thousands of miles to an unfamiliar area and an unfamiliar court to argue a case before a circuit which has no experience with the issues involved.

I want to point out again, and emphasize that competent judicial review can occur at immense savings without sacrificing any rights, interests, or issues. It is conservatively estimated that 2 to 3 years of expensive litigation will be eliminated for every challenge brought under the amended act. It just makes commonsense to provide a mechanism whereby the important decisions of the Endangered Species Committee can be quickly reviewed without sacrificing the interests of any party.

My amendment does that and I urge my colleagues to support the concept of judicial review by the circuit courts.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. McKAY. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, we accept the amendment on our side.

Mr. McKAY. I thank the gentleman.

Mr. FORSYTHE. Mr. Chairman, will the genteman yield?

Mr. McKAY. I yield to the gentleman from New Jersey.

Mr. FORSYTHE. Mr. Chairman, we accept the amendment.

Mr. McKAY. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah (Mr. McKAY).

The amendment was agreed to.

The CHAIRMAN. The Chair recognizes the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, it was with some reluctance that I intended to support the reauthorization of the Endangered Species Act as reported by the Merchant Marine Committee. While the bill (H.R. 14104) did not afford the degree of protection for threatened species provided in the original 1973 legislation, it did seem to me to be the best possible measure available at this time.

This compromise legislation contains the minimal acceptable safeguards for sparing endangered species. It establishes a two-step process for a project's exemption from the provisions contained in the original act. It mandates a thorough review of a Federal agency's effort to comply with the protection stipulations of the act. It also requires a Federal agency to undertake a "biological assessment" for endangered species at a site before a project can be initiated.

If a project is ultimately exempted from the act's requirements, the agency must develop "mitigation and enhancement procedures" for the endangered species. The bill would also require the Secretary of the Interior to formulate "recovery plans" for the revival and conservation of an endangered species.

These safeguards seemed to me to be sufficiently stringent to prevent wanton extinction of an endangered species. While the compromise legislation did not offer the certainty of protection provided in the original act, it did largely fulfill the aims of that most commendable measure.

Passage of the Endangered Species Act in 1973 was one of the major achievements of the 93d Congress. Enactment of that law demonstrated Congress' commitment to preserving the delicate and vulnerable ecological balance. The 95th Congress has an obligation to reaffirm that commitment and to renew this environmentally essential legislation.

Our ecosystem maintains a remarkable diversity of species. Each of these—whether it be the grizzly bear, the whooping crane and, yes, the snail darter—is an irreplaceable link in the biological chain of evolution. We are part of that chain and we are inextricably linked to every other species. Extinction of one is a threat to all. We should have moved to protect this fragile and unique chain by passing the bill as it was reported to us today.

Mr. Chairman, when this measure was brought to us earlier today, and when the discussion started last night, we were assured that a compromise had been worked out between all contending parties so that this measure could be adopted, as a temporary expedient and then we would have a GAO study that would provide the basis for longer lasting consideration. On the basis of what has happened on this floor this afternoon, especially in light of the last amendment that was adopted, which provides such a broad exemption for military activities—and what the gentleman from Michigan (Mr. DINGELL) said about it is quite true—I do not believe it is possible for any of us who are concerned about the basic legislation to support the bill in the form that it is in right now.

So, it seems to me that the opponents of this act who started out pretending that they were bound by some kind of compromise agreement have so overreached themselves that in good faith those of us who felt bound to support the compromise from an environmental point of view can no longer do so.

The CHAIRMAN. The Chair recognizes the gentleman from Indiana (Mr. JACOBS).

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: After last section insert a new section as follows:

"Nothing in this Act shall permit the sale of peregrine falcons; but such falcons may be traded for other such falcons without requirement of Interior Department permit for mating purposes.

The CHAIRMAN. The Chair will inquire of the gentleman from Indiana, has this amendment been printed in the RECORD?

Mr. JACOBS. No. Mr. Chairman.

The CHAIRMAN. The gentleman from Indiana will be recognized for 1½ minutes.

Mr. JACOBS. Obviously, Mr. Chairman, this amendment does nothing more than what I suggested earlier. It takes the profit out of the propagation of these birds. I hope that the committee will recognize the purpose, the announced purpose of the provision of the bill, can be accomplished by allowing this trade without obtaining a permit from the Interior Department.

Mr. Chairman, I would like to further say that the gentleman from Michigan a few moments ago asked if he could have the protection of the Chair, and since he approached me after he made that original talk in the well and yelled at me and used abusive language, perhaps I should have the protection of the Chair. But, I do not think I need it. I might add that somebody around here is about to be an endangered species if he comes up to me that way again without his pistol.

Mr. Chairman, I yield back the balance of my time.

Mr. FORSYTHE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana.

Mr. Chairman, this amendment, I think, is truly counterproductive. I do not think it really will accomplish the purposes of the basic provision. Furthermore, it has never been substantiated that the price for these birds is in this $5,000 area. It is more like $500, so I hope the amendment will be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, on that I demand a division.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. ASHBROOK. Mr. Chairman, I ask unanimous consent to withdraw my point of order of no quorum and to withdraw my request for a recorded vote.

The CHAIRMAN. The gentleman withdraws his point of order and his request.

Does the gentleman from Indiana still demand a division?

Mr. JACOBS. I do, Mr. Chairman.

The question was taken, and on a division (demanded by Mr. JACOBS) there were—ayes 22; noes 30.

So the amendment was rejected.

Mr. LATTA. Mr. Chairman, I make a point of order a quorum is not present and object to the vote on the ground that a quorum is not present.

The CHAIRMAN. That is not in order in the committee.

The amendment is now agreed to.

In order to conclude the debate, the gentleman from California has 1 minute, at the conclusion of which all time on this bill will have expired. Does the gentleman from California (Mr. LEGGETT) wish to use that time?

PARLIAMENTARY INQUIRY

Mr. BUCHANAN. Mr. Chairman, I have two other amendments which were printed in the RECORD. I wanted to call that to the attention of the Chair.

The CHAIRMAN. The gentleman from Alabama, of course, will be protected on those amendments printed in the RECORD.

All other time has expired.

PARLIAMENTARY INQUIRY

Mr. GARY A. MYERS. Mr. Chairman, what was the clock time when the time was to run out?

The CHAIRMAN. There was 40 minutes of debate time.

Mr. GARY A. MYERS. Forty minutes from what time?

The CHAIRMAN. It was 40 minutes of debate time.

Mr. GARY A. MYERS. At what time would that 40 minutes run out?

The CHAIRMAN. There was no time certain on the clock. It was 40 minutes of debate time.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: Page 14, beginning on line 17, strike out "and enhancement".

Page 18, beginning on line 8, strike out "and enhancement".

Page 19, line 9, strike out "and enhancement".

Page 19, line 12, strike out "and enhancement".

Page 19, line 16, strike out "and enhancement".

Page 20, beginning on line 3, strike out "and enhancement".

Page 20, beginning on line 5, strike out "and enhancement".

Mr. BUCHANAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read, and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. LEGGETT. Mr. Chairman, if the gentleman will yield, the committee is knowledgeable of the gentleman's amendment. At this point we can accept the gentleman's amendment.

The CHAIRMAN. Without objection, the amendment will be agreed to.

Mr. LEGGETT. Mr. Chairman, if the Chair will allow me, I have some understanding with my colleagues and I have to withdraw my consent.

The CHAIRMAN. The gentleman from Alabama is entitled to his 5 minutes.

Mr. BUCHANAN. Mr. Chairman, as I noted in my opening statement, this amendment is purely technical in nature and is designed to perfect the language of the bill. H.R. 14104 contains a provision which requires any Federal agency receiving a section 7 exemption to conduct such "mitigation and enhancement" measures as are necessary and appropriate to minimize the adverse effects of the agency action on the species in question. I do not quarrel with the merits of this section, but question the wisdom of using the words "mitigation and enhancement" in the same phrase.

The American Heritage Dictionary of the English language defines the word "enhance" to mean to "increase or make greater, as in value, cost, beauty, or reputation." The word "mitigate" is defined to mean "to moderate in force or intensity." In section 7(c)(2) of the committee bill, "mitigation and enhancement" measures are stated to be actions by the agency which are necessary and appropriate "to minimize the adverse effects of the agency action" on the species or habitat in question.

I believe the word "mitigate" is sufficient to accomplish the purpose of this section as explained in the bill. Furthermore, I question the wisdom of adding to this section such an unclear word as "enhancement' which could be the focus of litigation to determine how much the agency would be required to increase or make greater the species or its habitat. Therefore, I hope my colleagues will support this amendment.

Mr. GARY A. MYERS. Mr. Chairman, if the gentleman will yield, I do not want to speak for or against the amendment, but I would like to comment on the bill.

It should be pointed out that this bill deals only with those projects that are federally related or federally licensed. I think one of the disappointments that might occur after this bill is passed is that some private projects of significant size may not have any improved benefit under this bill. I would ask the next Congress to consider the fact that there may be some private projects that would need protection under provisions similar to this bill.

Mr. BUCHANAN. I appreciate the gentleman's vision. I would say in my own area some of the problems are in the private developments. However there are provisions in this bill that at least in part meet those problems, although not entirely.

I thank the gentleman from Pennsylvania.

Mr. Chairman, I ask for the adoption of the amendment.

Mr. FORSYTHE. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

Mr. FORSYTHE. Mr. Chairman, the phrase "reasonable mitigation and enhancement measures" is used in several places in H.R. 14104 to describe things a successful applicant for an exemption might be required to do as a condition of getting the exemption. The required actions would have to be reasonable with regard to things such as their cost, likelihood of protecting the listed species, and the availability of the technology required to make them effective.

Section 7(f)(2) of the bill makes it clear that "mitigation and enhancement measures" is a phrase which denotes those actions which must be taken by a successful exemption applicant because they are necessary and appropriate "to minimize the adverse effects of the agency action" on the species or habitat in question. Live propogation, transplantation, and habitat acquisition and and improvement are mentioned as specific examples of activities which might be required in response to the adverse effects of a particular exempted agency action.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was rejected.

The CHAIRMAN. Are there further amendments? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. SISK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 14104) to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes, pursuant to House Resolution 1423, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Mr. HUGHES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 384, nays 12, answered "present" 1, not voting 33, as follows:

[Roll No. 921]

YEAS—384

Abdnor	Emery	Long, La.
Addabbo	English	Long, Md.
Akaka	Erlenborn	Lott
Alexander	Ertel	Luken
Ambro	Evans, Colo.	Lundine
Anderson, Calif.	Evans, Del.	McClory
	Evans, Ga.	McCloskey
Anderson, Ill.	Evans, Ind.	McCormack
Andrews, N.C.	Fary	McDade
Andrews, N. Dak.	Fascell	McDonald
	Fenwick	McEwen
Annunzio	Findley	McHugh
Archer	Fish	McKay
Ashley	Fisher	McKinney
Aspin	Fithian	Madigan
AuCoin	Flippo	Maguire
Bafalis	Flood	Mahon
Baldus	Florio	Mann
Barnard	Flowers	Markey
Baucus	Foley	Marks
Bauman	Ford, Mich.	Marriott
Beard, R.I.	Ford, Tenn.	Martin
Beard, Tenn.	Forsythe	Mathis
Bedell	Fountain	Mattox
Benjamin	Fowler	Mazzoli
Bennett	Fraser	Meeds
Bevill	Frenzel	Meyner
Bingham	Fuqua	Michel
Blanchard	Gammage	Mikulski
Blouin	Gaydos	Milford
Boggs	Gephardt	Miller, Ohio
Boland	Giaimo	Mineta
Bolling	Gibbons	Minish
Bonker	Gilman	Mitchell, Md.
Bowen	Ginn	Mitchell, N.Y.
Brademas	Glickman	Moakley
Breaux	Goldwater	Moffett
Breckinridge	Gonzalez	Mollohan
Brinkley	Goodling	Montgomery
Brodhead	Gore	Moore
Brooks	Gradison	Moorhead, Calif.
Broomfield	Grassley	
Brown, Calif.	Green	Moorhead, Pa.
Brown, Mich.	Gudger	Mottl
Brown, Ohio	Guyer	Murphy, Ill.
Broyhill	Hagedorn	Murphy, N.Y.
Buchanan	Hall	Murphy, Pa.
Burgener	Hamilton	Murtha
Burke, Mass.	Hammer-schmidt	Myers, Gary
Burleson, Tex.		Myers, John
Burlison, Mo.	Hanley	Natcher
Butler	Hannaford	Neal
Caputo	Hansen	Nedzi
Carr	Harkin	Nichols
Carter	Harrington	Nix
Cavanaugh	Harris	Nolan
Cederberg	Harsha	Nowak
Chisholm	Hawkins	O'Brien
Clausen, Don H.	Heckler	Oakar
	Hefner	Oberstar
Clawson, Del	Heftel	Obey
Clay	Hightower	Ottinger
Cleveland	Hillis	Panetta
Cochran	Holland	Patten
Coleman	Hollenbeck	Patterson
Collins, Ill.	Holt	Pattison
Collins, Tex.	Horton	Pease
Conable	Howard	Pepper
Conte	Hubbard	Perkins
Corcoran	Huckaby	Pickle
Corman	Hughes	Pike
Cornell	Hyde	Poage
Cornwell	Ireland	Pressler
Cotter	Jeffords	Preyer
Coughlin	Jenkins	Price
Crane	Johnson, Calif.	Pritchard
Cunningham	Johnson, Colo.	Pursell
D'Amours	Jones, N.C.	Quayle
Daniel, Dan	Jones, Okla.	Quillen
Daniel, R. W.	Jones, Tenn.	Rahall
Danielson	Jordan	Railsback
Davis	Kasten	Rangel
de la Garza	Kastenmeier	Regula
Delaney	Kazen	Reuss
Dent	Kelly	Rhodes
Derrick	Kemp	Richmond
Derwinski	Keys	Rinaldo
Devine	Kildee	Roberts
Dicks	Kindness	Robinson
Dingell	Kostmayer	Rodino
Dodd	Krebs	Roe
Dornan	Krueger	Rogers
Downey	LaFalce	Roncalio
Drinan	Lagomarsino	Rooney
Duncan, Oreg.	Latta	Rose
Duncan, Tenn.	Leach	Rosenthal
Early	Lederer	Rostenkowski
Eckhardt	Leggett	Rousselot
Edgar	Lent	Roybal
Edwards, Ala.	Levitas	Runnels
Edwards, Calif.	Livingston	Ruppe
Edwards, Okla.	Lloyd, Calif.	Russo
Eilberg	Lloyd, Tenn.	Ryan
Santini	Steiger	Wampler
Sarasin	Stockman	Watkins
Satterfield	Stokes	Waxman
Sawyer	Stratton	Weaver
Scheuer	Studds	Whalen
Schroeder	Stump	White
Schulze	Symms	Whitehurst
Sebelius	Taylor	Whitley
Seiberling	Thompson	Whitten
Sharp	Thone	Wiggins
Shuster	Thornton	Wilson, Bob
Sikes	Traxler	Wilson, Tex.
Sisk	Treen	Winn
Skelton	Trible	Wirth
Slack	Tsongas	Wolff
Smith, Iowa	Tucker	Wright
Smith, Nebr.	Udall	Wydler
Snyder	Ullman	Wylie
Solarz	Van Deerlin	Yates
Spellman	Vander Jagt	Yatron
Spence	Vanik	Young, Alaska
St Germain	Vento	Young, Fla.
Staggers	Volkmer	Young, Mo.
Stangeland	Waggonner	Young, Tex.
Stanton	Walgren	Zablocki
Steed	Walker	Zeferetti
Steers	Walsh	

NAYS—12

Ashbrook	Burton, Phillip	Miller, Calif.
Beilenson	Conyers	Simon
Bonior	Dellums	Stark
Burton, John	Holtzman	Weiss

ANSWERED "PRESENT"—1

Jacobs

NOT VOTING—33

Ammerman	Diggs	Mikva
Applegate	Flynt	Moss
Armstrong	Frey	Myers, Michael
Badham	Garcia	Pettis
Biaggi	Ichord	Quie
Burke, Calif.	Jenrette	Risenhoover
Burke, Fla.	Le Fante	Rudd
Carney	Lehman	Shipley
Chappell	Lujan	Skubitz
Cohen	McFall	Teague
Dickinson	Marlenee	Wilson, C. H.

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Michael O. Myers.
Mr. Jenrette with Mr. Quie.
Mr. Garcia with Mr. Rudd.
Mr. Flynt with Mr. Marlenee.
Mr. Mikva with Mr. Skubitz.
Mr. Chappell with Mr. Lujan.
Mr. Carney with Mr. Frey.
Mrs. Burke of California with Mr. Cohen.
Mr. Applegate with Mr. Badham.
Mr. LeFante with Mr. Dickinson.
Mr. Ichord with Mr. Burke of Florida.
Mr. McFall with Mr. Teague.
Mr. Charles H. Wilson of California with Mr. Risenhoover.
Mr. Ammerman with Mr. Lehman.
Mr. Diggs with Mr. Moss.
Mr. Shipley with Mr. Armstrong.

Mrs. FENWICK and Mr. PURSELL changed their vote from "nay" to "yea."

Ms. HOLTZMAN, Mr. DELLUMS, and Mr. STARK changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such action, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (4) thereof the following new paragraphs;

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(6) The term 'critical habitat' for a threatened or endangered species means:

"(A) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) which require special management consideration or protection;

"(B) critical habitat for a threatened or endangered species may include specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, into which the species can be expected to expand naturally, upon a determination by the Secretary at the time it is listed, that such areas are essential for the conservation of the species;

"(C) critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraphs (A) and (B) of this paragraph; and

"(D) except in those circumstances determined by the Secretary, critical habitat will not include the entire geographical area which can be occupied by the threatened or endangered species.";

(2) by inserting after pragraph (7) thereof the following new paragraphs:

"(8) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

"(9) For purposes of subsection 7(e)(2)(C) the term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction"; and

(3) by renumbering the paragraphs thereof, including any references thereto, as paragraphs (1) through (20), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary after consultation as appropriate with the affected States, to be critical, unless such agency is

granted an exemption for such action by the Committee pursuant to subsection (e) of this section.

"(b)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall review any application submitted to it pursuant to subsection (d) of this section and determine in accordance with subsection (e) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

"(3) The Committee shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council on Environmental Quality.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior.

"(F) The Administrator of the National Oceanic and Atmospheric Administration.

"(G) The Governor of the State which is affected by the action for which an exemption is sought (or in the case of an action affecting more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee as determined among such Governors).

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

"(B) The Committee shall not grant any exemption from the requirements of subsection (a) of this section to the head of any Federal agency for any action authorized, funded, or carried out by such agency unless five members of the Committee vote to grant such exemption.

"(D) The Committee shall meet at the call of the Chairman or five of its members.

"(E) All meetings and records of the Committee shall be open to the public.

"(6) The Committee may appoint and fix the pay of such personnel as it deems desirable.

"(7) The staff of the Committee may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Service pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(8) The Committee may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(9) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(10)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as other Federal agencies.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(11) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

"(12) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(13) To the extent practicable within the time required for action under subsection (e) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under subsection (e) of this section shall be in accordance with sections 554, 555, and 556 of title 5, United States Code.

"(14) Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption, any application made to it, if the Secretary of State, after a review of the proposed Federal action and its potential implications, and after hearing, certifies, in writing, to the Committee within sixty days of any submission made under subsection (d)(1) of this section, that the granting of any such exemption and the carrying out of such proposed action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State, at the time of such certification, publish a copy thereof in the Federal Register.

"(15) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

"(16) Notwithstanding any other provision of this Act, in any case in which the National Security Council determines that the failure of the Committee to grant an exemption from the requirement of subsection (a) of this section to the head of a Federal agency in connection with any Federal action involving a critical military installation would have an adverse effect on the security of the United States, the National Security Council is authorized to notify the Committee, in writing, and upon the receipt of such notice the Committee shall give immediate consideration to such determination.

"(c) REGULATIONS.—Not later than ninety days after the date of enactment of this section, the Committee shall promulgate regulations which set forth the form and manner in which applications by the heads of the Federal agencies for review of actions by such agencies shall be submitted to the Committee and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any action of such agency include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of such Federal agency and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(d) SUBMISSION OF APPLICATIONS.—(1) The head of any Federal agency may submit an application for review of any action of such agency to the Committee if, in the opinion of the head of such agency, such agency has complied with the requirements of subsection (a) of this section and that an irresolvable conflict exists with respect to such action. Such application for review shall be submitted in accordance with the regulations promulgated by the Committee under subsection (c) of this section.

"(2) The Director of the Fish and Wildlife Service (or where appropriate the Administrator of the National Oceanic and Atmospheric Administration) shall prepare and submit to the Committee within thirty days of any submission made under paragraph (1) of this subsection his comments concerning such submission.

"(e)(1) REVIEW AND DETERMINATION.—After the Committee receives the application and comments submitted pursuant to subsection (d) of this section. the Committee shall review such application and comments and—

"(A) determine, with respect to the action which is the subject of such application, whether or not—

"(i) the requirements of the consultation process described in subsection (a) of this section have been met; and

"(ii) there has been a reasonable and responsible effort to resolve the conflicts which are known to exist, and the Federal agency requesting such exemption has made, subsequent to the initiation of the consultation under subsection (a) of this section, no irreversible or irretrievable commitment of resources which forecloses the consideration of modification or alternatives to such action; and

"(iii) an irresolvable conflict exists; and

"(B) if it makes positive determinations under clauses (i), (ii), and (iii) of subparagraph (A), determine and publish in the Federal Register, within one hundred and eighty days after receipt of the application and response required in subsection (d) of this section and after notice and public hearing on the record, whether or not to grant an exemption from the requirements of subsection (a) of this section to the head of such Federal agency for such action.

"(2) The Committee may only grant an exemption for any action under subsection (e) of this section if it determines on the record that—

"(A) there is no reasonable and prudent alternative to such action; and

"(B) the action is of national or regional significance; and

"(C) the benefits of such action clearly outweigh the benefits of alternative courses

of action consistent with conserving the species or its critical habitat, and that such action is in the public interest.

"(f) NATIONAL ENVIRONMENTAL POLICY ACT.—No final determination of the Committee under subsection (e) of this section shall be considered a major Federal action under the terms of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered and threatened species or their critical habitat shall have previously been prepared with respect to any Federal action exempted from the requirements of subsection (e) of this section by such final determination of the Committee.

"(g) MITIGATION.—In those instances where the Committee determines that an exception is warranted under subsection (e) of this section the Committee must assure that the action approved for such exemption incorporates all reasonable mitigation measures deemed necessary by the Secretary to minimize adverse impacts upon the affected endangered or threatened species or its critical habitat including but not limited to live propagation, transplantation, and habitat acquisition and improvement. The Federal agency or department receiving such exemption shall include the costs of such mitigation measures within the overall costs of continuing the proposed action.

"(h) NOTICE.—The sixty-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (e) of this section granting an exemption from the requirements of subsection (a) of this section.

"(i) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (e) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

"(j) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (e)(2) and (g) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974 or for any authorized Federal project, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to mitigate the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section; the Committee shall accept the determinations of the President under this subsection.

"(k) AUTHORIZATION.—There is authorized to be appropriated to carry out this section not to exceed $750,000 for fiscal year 1979, not to exceed $750,000 for fiscal year 1980, and not to exceed $750,000 for fiscal year 1981. The Chairman of the Committee shall furnish a report to the Congress at the end of fiscal year 1979. The report shall speak to the adequacy of the budget authority contained in this subsection.

"(l) The authority granted to the Endangered Species Committee established in this section shall terminate on September 30, 1981.".

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b)" and by adding the following new paragraph:

"(2) The provisions of this section shall not apply to any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978, or the domestic captive produced progeny of any legally held raptor: *Provided*, That such raptor has not been intentionally returned to a wild state. Persons holding such raptors must be able to demonstrate that the raptors do, in fact, qualify under the provisions of this paragraph. Such persons shall maintain and submit to the Secretary on request such inventories, documentation, and records as are reasonable and as the Secretary may by regulation require: *Provided*, That such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. The third sentence of section 11(a)(1) is amended by inserting the word "knowingly" after the word "otherwise".

SEC. 6. Section 11(a) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 7. Section 11(b) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to persecution if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 8. Section 15 of the Endangered Species Act of 1975 (16 U.S.C. 1542) is amended to read as follows:

"Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 9. (a) Section 16(c) of the Endangered Species Act of 1953 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively:

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (1) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (1) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident endangered or threatened species.".

(b) Paragraph (16) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) (formerly paragraph (13) and redesignated paragraph (16) by section 2 of this Act) is amended by striking out "fish or wildlife" and inserting in lieu thereof "fish, wildlife, or plant".

SEC. 10. Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new subsection as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status except in those cases when—

"(A) an emergency exists because no critical habitat information is available or there are other contingencies;

"(B) there are species listed before enactment of the Endangered Species Act of 1973.".

SEC. 11. Section 4(f)(2)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new paragraph (ii) as follows, and renumbering as appropriate:

"(ii) the Secretary shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in (i) above; and".

SEC. 12. Section 3(4) of the Endangered Species Act of 1973 (16 U.S.C. 1532(4)) is amended as follows: strike the words, "a significant portion", and insert "the essential portion".

SEC. 13. Section 3(15) of the Endangered Species Act of 1973 (16 U.S.C. 1532(15)) is amended as follows: strike the words, "a significant portion", and insert "the essential portion".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves to strike out all after the enacting clause of S. 2899 and insert in lieu thereof the provisions of H.R. 14104, as passed, as follows:

S. 2899

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by inserting after "shall" the phrase "within 90 days of the receipt of," and striking the word "upon";

(2) by inserting after "conduct" the phrase "and publish in the *Federal Register*";

(3) by inserting after the word "of" the phrase "the status of";

(4) by inserting after the final period, "Both such review and such finding must be made and published prior to the initiation of any procedures required under Section 4(b)(1) of this Act (16 U.S.C. 1533(b)(1)).";

(5) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.";

(6) by adding at the end of subsection (b) the following new paragraph;

"(4) In determining the critical habitat of any endangered or threatened species, the Secretary shall consider the economic impact, and any other relevant impacts, of specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat."

(7) by amending subsection (c)(1) by striking out "and shall", and by inserting immediately before the final period the following: ", and specify any critical habitat within such range";

(8) in subsection (c) by inserting at the end thereof the following new paragraph:

"(4) The Secretary shall—

"(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

"(B) determine on the basis of such review whether any such species should—

"(i) be removed from such list;

"(ii) be changed in status from an endangered species to a threatened species; or

"(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b).".

(9) by amending subsection (f)—

(A) by amending paragraph (2)(A) to read as follows:

"(2)(A) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

"(i) shall publish notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat; and

"(ii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat;

"(iii) shall—

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation."; and

(B) by adding at the end thereof the following new paragraphs:

"(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation.

"(5) A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (2)(A)(1). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment.".

(10) By adding at the end thereof the following new subsection:

"(g) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation or survival of endangered species and threatened species listed pursuant to this section. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.".

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) REVIEW BY SECRETARY.—The Secretary shall review all other programs administered by him and utilize such programs in furtherance of the purposes of this Act.

"(b) AGENCY CONSERVATION PROGRAMS.—Each Federal agency shall, after consultation with and with the assistance of the Secretary, utilize its authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4.

"(c) AGENCY ACTION.—(1) Each Federal agency shall insure that any action authorized, funded, or carried out by the agency (hereinafter in this section referred to as an 'agency action') does not result in species or habitat degradation unless an exemption has been granted by the Endangered Species Committee under subsection (f) with respect to such agency action.

"(2) If any Federal agency—

"(A) considers that any agency action over which it has jurisdiction may result in species or habitat degradation; or

"(B) is notified by the Secretary that the Secretary considers that such agency action may have such a result;

the Federal agency and the Secretary shall undertake immediate consultation with respect to the matter, including, but not limited to consultation to determine if reasonable and prudent alternatives are available. Consultation under this paragraph with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary. Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion and a summary of the information on which the opinion is based, detailing whether the agency action may result in species or habitat degradation and whether there are reasonable and prudent alternatives which would avoid species or habitat degradation which can be taken by the Federal agency in implementing the agency action.

"(3) To facilitate compliance with the requirements of paragraph (1), each Federal agency shall, with respect to any action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any listed or proposed to be listed species may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or

threatened species which is likely to be affected by such action. Such assessment shall be completed within 90 days after the date on which initiated or within such other period as is mutually agreed to by the Secretary and such agency, but not to exceed 180 days in total before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(4) An exemption for an agency action granted under subsection (f) shall constitute a permanent exemption for the purpose of completing such agency action; *Provided*, That a biological assessment has been conducted under paragraph (3).

"(5) After initiation of consultation required under paragraph (2), the Federal agency shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid species or habitat degradation.

"(d) APPLICATION FOR EXEMPTION AND CONSIDERATION BY REVIEW BOARD.—(1) A Federal agency, the Governor of the State in which the Federal agency action will occur, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if after consultation under subsection (c)(2) the Secretary's opinion indicates that the agency action may result in species or habitat degradation. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (f) after a recommendation is made by the review board.

"(2)(A) Any Federal agency, Governor, or permit or license applicant seeking an exemption under this subsection shall submit a written application to the Secretary, in a form prescribed by the Secretary, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the Federal agency, Governor, or permit or license applicant considers that the agency action meets the requirements for an exemption under this subsection.

"(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly notify—

"(i) the Governor of each State in which the agency action will occur, if any, as determined by the Secretary,

and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application.

"(3)(A) A review board consisting of three members shall be established for purposes of considering an application for exemption and making recommendations to the Endangered Species Committee under this subsection as follows:

"(i) One individual shall be appointed to the board (1) by the President, not later 15 days after an application is submitted pursuant to paragraph (2).

"(ii) One individual shall be appointed to the board (I) by the President, not later than 30 days after an application is submitted pursuant to paragraph (2) and, after consideration of any recommendations received pursuant to paragraph (2)(B).

"(iii) One administrative law judge shall be selected to serve on the board by the Civil Service Commission in the same manner as administrative law judges are selected under section 3344 of title 5 of the United States Code to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

"(B) Members of a review board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

"(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (c)(2), and within 60 days after its appointment or within such longer time as is mutually agreed upon between the agency and the Secretary, to make a determination, by a majority vote, whether such agency has—

"(A) carried out its consultation responsibilities in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to its proposed action which will avoid species or habitat degradation;

"(B) conducted any biological assessment required of it by subsection (c)(3); and

"(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (c)(4).

Any determination by the review board that the agency has not met the requirements of subparagraph (A), (B), or (C) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(6) If the review board makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to consider the application for exemption. In considering any application for an exemption, a review board shall take into account the reasons for an exemption set forth in the application of the Federal agency, Governor, or permit or license applicant, the views of the Secretary submitted under paragraph (4), and the views of other Federal and State agencies and appropriate persons. The review board shall recommend an exemption from the requirements of subsection (c)(1) for any agency action if, by a majority vote, it determines on the record after an opportunity for a hearing held in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5 of the United States Code, that—

"(A) there are no reasonable and prudent alternatives to the agency action;

"(B) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(C) the action is of national or regional significance.

The review board shall recommend to the Endangered Species Committee whether or not to grant an exemption within 180 days after the hearing described in this paragraph is initiated, or within such other time as is mutually agreed upon by the applicant and a majority of the review board. If the review board recommends an exemption it shall include with its recommendation any reasonable mitigation and enhancement measures which should be considered by the Endangered Species Committee under subsection (f). The review board shall transmit the record of its proceedings and its recommendation to the Committee.

"(7) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

"(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

"(B) subject to the Privacy Act of 1974, request of any Federal agency information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and

"(C) use the United States mails in the same manner and upon the same conditions as *a Federal agency*.

"(8) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimburseable basis, any of the personnel of such agency to the review board to assist it in carrying out its duties under this section.

"(9) The Administrator of the General Services shall provide to a review board, on a reimbursable basis, such administrative support services as the review board may request.

"(10) All meetings and records of review boards shall be open to the public.

"(e) ESTABLISHMENT OF COMMITTEE.—(1) There is established a Committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall be composed of six members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Secretary of the Interior.

"(D) The Administrator of the National Oceanic and Atmospheric Administration.

"(E) The Chairman of the Council on Environmental Quality.

"(F) The President, after consideration of any recommendations received pursuant to subsection (d)(2)(B), shall appoint one individual to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to paragraph (2).

"(3) The Chairman of the Council on Environmental Quality shall be the Chairman of the Committee.

"(4) Members of the Committee shall receive no additional pay on account of their service on the Committee; except that while away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5) The Committee shall meet at the call of the Chairman of four of its members.

"(6) All meetings and records of the Committee shall be open to the public.

"(7) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony and receive such evidence as the Committee deems desirable.

"(f) EXEMPTION.—The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the recommendation of the review board under subsection (d)(6). The Committee shall grant an exemption from the requirements of subsection (c)(1) for an agency action if, by a vote of not less than four of its members voting in person—

"(1) it determines on the record, based on the recommendation and the record of the review board and on other such testimony or evidence as it may receive, that—

"(A) there are no reasonable and prudent alternatives to the agency action;

"(B) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(C) the action is of regional or national significance; and

"(2) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(g) REVIEW BY SECRETARY OF STATE.—Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

"(h) JUDICIAL REVIEW.—Any real party in interest or the Federal agency involved may obtain review, under chapter 7 of title 5 of the U.S. Code, of—

"(1) any decision (including any decision with respect to mitigation measures) made by a review board under subsection (d) which is not disapproved by the Endangered Species Committee under subsection (e), and

"(2) any decision by the Endangered Species Committee to disapprove a decision of a review board under subsection (e),

in the United States court of appeals for any circuit wherein the agency action concerned will be, or is being, carried out, by filing a written petition for review in such court within 90 days after the last date on which the Committee may disapprove the review board's decision if it fails to disapprove such decision, as the case may be. Attorneys designated by the review board or the Committee may appear for, and represent the board or Committee, respectively, in, any action for review under this paragraph.

"(i) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsection (d)(6) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, review boards and the Committee shall accept the determinations of the President under this subsection.

(j) SPECIAL PROVISIONS.—(1) An exemption decision by a review board or by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

"(2) Notwithstanding sections 4(d) and 9(a), or any regulation issued to carry out such sections, no act or activity engaged in which is necessary to carry out any agency action for which an exemption is granted under this section shall be considered to be a taking of any endangered species or threatened species.

"(k) AUTHORIZATION.—There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under this section not to exceed $250,000 for the period beginning October 1, 1979 and ending March 31, 1980.".

SEC. 4. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in section 6 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $1,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 5. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (4) thereof the following new paragraphs:

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(6) The term 'critical habitat' for a threatened or endangered species means—

"(A) the specific areas within the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) which are essential to the conservation of the species and (ii) which require special management consideration or protection; and

"(B) specific areas periodically inhabitated by the species which are outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act (other than any marginal habitat the species may be inhabiting because of pioneering efforts or population stress), upon a determination by the Secretary at the time it is listed that such areas are essential for the conservation of the species."

(2) by striking out paragraph (13), as redesignated by paragraph (5) of this section, and inserting in lieu thereof the following:

"(13) The term 'species' means a group of fish, wildlife, or plants, consisting of physically similar organisms capable of interbreeding but generally incapable of producing fertile offspring through breeding with organisms outside this group.";

(3) by striking out paragraph (15), as redesignated by paragraph (5) of this section, and inserting in lieu thereof the following:

"(15) The term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State.",

(4) by inserting at the end thereof the following new paragraphs:

"(19) The term 'species or habitat degradation' means either or both of the following effects:

"(A) The placing in jeopardy of the continued existence of any endangered species or threatened species listed pursuant to section 4.

"(B) The destruction or adverse modification of any critical habitat of any endangered species or threatened species so listed.

"(20) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency for which exemption is sought under section 7, any person whose application to such agency for a permit or license has been denied because of the application of section 7(c)(1) to such agency action."

(5) by redesignating paragraphs (5) through (16) as paragraphs (7) through (18), respectively, and by redesignating any references thereto accordingly.

SEC. 6. Paragraph (3) of section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended to read as follows:

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the puposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.".

SEC. 7. Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c) COOPERATIVE AGREEMENTS.—";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident endangered or threatened species.".

SEC. 8. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended—

(1) in the first and second sentences of subsection (a)(1) by striking out "or who knowingly commits an act in the course of a commercial activity which violates" each place it appears and inserting in lieu thereof "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates";

(2) in the third sentence of subsection (a)(1) by striking out "$1,000" and inserting in lieu thereof "$500";

(3) in subsection (b)(1) by striking out "willfully commits an act which" each place it appears and inserting in lieu thereof "knowingly";

(4) in subsection (b)(2) by inserting "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" after "authorizing";

(5) in subsection (a) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good-faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.";

(6) in subsection (b) by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution if the defendant committed the offense based on a good-faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species."; and

(7) in paragraph (4) of subsection (g) by striking out "any party" and inserting in lieu thereof "the prevailing party".

SEC. 9. That portion of subsection (a) of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534) which precedes paragraph (1) is amended to read as follows:

"(a) PROGRAM.—The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants including those which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such a program, the appropriate Secretary—".

SEC. 10. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—" and by adding the following new paragraph:

"(2)(A) This section shall not apply to—

"(i) any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978; or

"(ii) any progeny of any raptor described in clause (i);

until such time as any raptor or progeny is intentionally returned to a wild state.

"(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 11. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN ANTIQUE ARTICLES.—(1) Sections 4(d), 9(a) and 9(c) do not apply to any article (other than scrimshaw) which—

"(A) was made before 1830;

"(B) is composed in whole or in part of any endangered species or threatened species listed under section 4;

"(C) has not been repaired or modified with any part of any such species on or after the date of the enactment of this Act; and

"(D) is entered at a port designated under paragraph (3).

"(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1)(A), (B), and (C).

"(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1)(A), (B), and (C) must be entered into the customs territory of the United States."

SEC. 12. Notwithstanding any provision of the Endangered Species Act of 1973 (16 U.S.C. 1631 et seq.) or any regulation promulgated or policy established thereunder, the Secretary of the Interior is authorized and directed to release to Doctor Eugene L. Vickery of Lena, Illinois, a narwhale (Monodon monocerus) tusk cane contained in a shipment consigned to him that was seized by agents of the United States Fish and Wildlife Service at O'Hare International Airport, Chicago, Illinois, on November 30, 1977. For purposes of section 9 and section 11 of such Act, Doctor Vickery shall be considered not to have violated any provision of such Act with respect to the importation of such narwhale tusk cane.

SEC. 13. The Department of the Army Permit to Basin Electric Power Cooperative for the Missouri Basin Power Project, issued on March 23, 1978, as amended October 10, 1978, is hereby deemed to satisfy the requirements of the Endangered Species Act (16 U.S.C. 1531 et seq.).

SEC. 14(a) Any person who imported, after December 27, 1973, and on or before the date of the enactment of this Act, any article which—

(1) meets the requirements set forth in section 10(h)(1)(A) and (B) of the Endangered Species Act of 1973 (as added by subsection (a));

(2) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 4 of such Act of 1973;

(3) was forfeited to the United States before the date of the enactment of this Act, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 11 of such Act of 1973; and

(4) is in the custody of the United States on such date of enactment;

may, before the close of the one-year period beginning on the date of enactment of this Act, make application to the Secretary concerned for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary concerned prescribes. If on the basis of any such application which is timely filed, the Secretary concerned is satisfied that the requirements of this subsection are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after date of return, be deemed to be a lawful importation under such Act of 1973.

SEC. 15. TELLICO DAM AND RESERVOIR PROJECT.—The provisions of this Act shall not apply with respect to the construction and operation of the Tellico Dam and Reservoir project in Tennessee. The harassment, harm, killing, or wounding, if any, of any endangered species or threatened species attributable to the construction or operation of such project shall not be deemed to be a taking of any endangered species within the meaning of section 9(a)(1) of this Act or the taking of any threatened species if a prohibition against the taking thereof is imposed by regulations pursuant to section 4(d) of this Act.

SEC. 16. MILITARY ACTIVITIES.—The provisions of this Act shall not apply to any action authorized, funded, or carried out by the Department of Defense, or by the Divisions of Naval Reactors and Military Application of the Department of Energy, as a part of their military functions. For purposes of this subsection, the term "military functions" means military functions directly related to military preparedness.

Amend the title so as to read: "An Act to authorize appropriations to carry out the En-

dangered Species Act of 1973 through fiscal year 1981, and for other purposes.".

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 14104) was laid on the table.

GENERAL LEAVE

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REQUEST FOR APPOINTMENT OF CONFEREES ON S. 2899, ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions, with House amendments thereto, insist on the House amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. LIVINGSTON. Mr. Speaker, I object.

Objection is heard.

REQUEST TO CONSIDER SENATE CONCURRENT RESOLUTION 113, RELATING TO H.R. 13511, REVENUE ACT OF 1978

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 113) relating to H.R. 13511.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I do so in order to allow the Chairman of the Committee on Ways and Means to explain Senate Concurrent Resolution 113.

Mr. ULLMAN. If the gentleman will yield, this is a resolution that originated in the Senate to correct an error and an omission in the tax bill that is now in conference. Due to this inadvertent omission when the Senate approved its amendment to H.R. 13511, the Revenue Act of 1978, a section which the Senate intended to include, was not included, a provision which provides for a simplified pension plan. It is not controversial, and Senate Concurrent Resolution 113 permits the conference on H.R. 13511 to consider the simplified pension provision as if it were part of the Senate amendment.

Mr. FRENZEL. Mr. Speaker, the distinguished gentleman's remarks are accurate.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

Mr. LIVINGSTON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2493) entitled "An act to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes."

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2474) entitled "An act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services: assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. KENNEDY, Mr. NELSON, Mr. HATHAWAY, Mr. PELL, Mr. CRANSTON, Mr. SCHWEIKER, Mr. JAVITS, and Mr. CHAFEE to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3084) entitled "An act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1631. An act for the relief of Chakrapani Sethumadhavan.

DIRECTING CLERK OF HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 8533

Mr. BRODHEAD. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 754) directing the Clerk of the House of Representatives to make corrections in the enrollment of the bill, H.R. 8533.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 754

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (H.R. 8533), to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, the Clerk of the House of Representatives shall make the following corrections:

(1) At the end of the bill, insert the following new title:

TITLE III—PROCEEDS FROM BINGO GAMES

SEC. 301. (a) Section 513 of the Internal Revenue Code of 1954 (defining unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN BINGO GAMES.—

"(1) IN GENERAL.—The term 'unrelated trade or business' does not include any trade or business which consists of conducting bingo games.

"(2) BINGO GAME DEFINED.—For purposes of paragraph (1), the term 'bingo game' means any game of bingo—

"(A) of a type in which usually—

"(i) the wagers are placed,

"(ii) the winners are determined, and

"(iii) the distribution of prizes or other property is made,

in the presence of all persons placing wagers in such game,

"(B) the conducting of which is not an activity ordinarily carried out on a commercial basis, and

"(C) the conducting of which does not violate any State or local law."

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

SEC. 302. (a) Paragraph (3) of section 527(c) of the Internal Revenue Code of 1954 (defining exempt function income) is amended by striking out "or" at the end of subparagraph (B), by adding "or" at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

"(D) proceeds from the conducting of any bingo game (as defined in section 513(f)(2)),".

(b)(1) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1974, except that not withstanding any other provision of law to the contrary, no amounts held at the date of enactment of this bill by an organization described in section 527(e)(1) of the Internal Revenue Code of 1954 in escrow, in separate accounts for the payment of Federal taxes, or in any other fund which are proceeds described in section 527(c)(3)(D) of such Code may be used, directly or indirectly, to make a contribution or expenditure (as defined in section 301 (e) and (f) of the Federal Election Campaign Act of 1971; 2 U.S.C. 431 (f)) in connection with any election held before January 1, 1979.

(2) Such amounts as described in (1) above shall not be considered as security or

collateral for any loan by any State or National bank or any other person or organization.

(3) Amend the title so as to read as follows: "A bill to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes."

Mr. BRODHEAD (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. FRENZEL. Mr. Speaker, reserving the right to object, I will yield to the gentleman from Michigan to describe the unanimous-consent request to revise the bingo bill, which has been inadvertently lost.

Mr. BRODHEAD. Mr. Speaker, I thank the gentleman for yielding to me. This concurrent resolution relates to income from bingo games conducted by tax exempt organizations, a bill which is not controversial and which passed this House by voice vote on September 25.

It went over to the Senate and was inadvertently, and through a clerical error, left off the bill when it was sent back over here. This is merely to put the bingo provision back into the bill. There is absolutely no controversy about the matter.

Mr. FRENZEL. Mr. Speaker, further reserving the right to object, I will yield to the gentleman from Michigan (Mr. TRAXLER), who is cosponsor.

Mr. TRAXLER. Mr. Speaker, the provisions in this resolution relating to the income from certain bingo games conducted by tax-exempt organizations and political organizations are substantially the same as passed by the House on September 25. However, a restriction on the use of proceeds of bingo games by political organizations has been added. In general, this restriction provides that if a political organization holds, at the date of enactment, amounts which are the tax-exempt proceeds of bingo games, these amounts cannot be used directly or indirectly to make a contribution or expenditure, as defined in the Federal Election Campaign Act, in connection with any election held before January 1, 1979.

I have no problem with the basic intent of this restriction as applied to funds which, on the date of enactment, are identifiable as tax-exempt proceeds of bingo games in the hands of the organization which conducted the games. However, I am concerned that this provision could be interpreted to affect amounts which have been distributed by the organization conducting the bingo games to a second political organization prior to the date of enactment. In such a case, even though both organizations were complying with the law in effect at the time the contributions were made, it might be possible to argue that contributions received by the recipient organization could not be expended by that organization.

Am I correct in understanding that this restriction is not intended to apply to amounts which are or may be held on the date of enactment by a political organization other than the organization which directly derived these proceeds from bingo games?

Mr. FRENZEL. That is correct. It is my understanding that this restriction does not apply if, prior to the date of enactment, the political organization which has received the proceeds of bingo games has also distributed to another organization these funds or funds which may be traceable to bingo operations.

Mr. BRODHEAD. I concur with Mr. FRENZEL.

Mr. FRENZEL. Mr. Speaker, I hope the unanimous-consent request will be allowed, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan to dispense with further reading of the concurrent resolution?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Michigan?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2584, NUCLEAR REGULATORY COMMISSION AUTHORIZATION

Mr. UDALL submitted the following conference report and statement on the Senate bill (S. 2584) to authorize appropriations for the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-1796)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2584), a bill to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. (a) There is hereby authorized to be appropriated to the Nuclear Regulatory Commission in accordance with the provisions of Section 261 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2017), and Section 305 of the Energy Reorganization Act of 1974, as amended (42 U.S.C. 5875), for the fiscal year 1979, to remain available until expended $333,007,000. Of such total amount authorized to be appropriated:

(1) not more than $47,162,000 may be used for "Nuclear Reactor Regulation"; of the total amount appropriated for this purpose, $2,080,000 shall be available for Advanced Reactors;

(2) not more than $38,760,000 may be used for "Inspection and Enforcement";

(3) not more than $14,945,000 may be used for "Standards Development"; of the total amount appropriated for this purpose, $650,000 shall be available for Low-Level Radiation activities, including those described in Section 5 of this Act;

(4) not more than $27,240,000 may be used for "Nuclear Material Safety and Safeguards"; of the total amount appropriated for this purpose, $8,127,000 shall be available for Nuclear Waste Disposal and Management activities;

(5) not more than $163,470,000 may be used for "Nuclear Regulatory Research"; of the total amount appropriated for this purpose, $1,500,000 shall be available for the implementation of the Improved Safety Systems Research plan required by Section 205(f) of the Energy Reorganization Act of 1974, as amended, $4,448,000 shall be available for Nuclear Waste research activities, and $18,333,000 shall be available for Advanced Reactor Research, including an authorization of $3,900,000 to accelerate the effort in gas-cooled thermal reactor safety research.

(6) not more than $13,480,000 may be used for "Program Technical Support";

(7) not more than $27,950,000 may be used for "Program Direction and Administration"; of the total amount appropriated for this purpose, $225,000 shall be available for equal employment opportunity activities, including support of four positions in the Office of Equal Employment Opportunity.

(b)(1) Not more than $14,285,000 of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a) may be used for contracts encompassing research, studies, and technical assistance on domestic safeguards matters.

(2) Of the aggregate amount authorized to be appropriated under paragraphs (1) through (7) of subsection (a), $1,000,000 shall be available for studies and analysis of alternative fuel cycles (including studies and analysis relating to licensing and safety, safeguards, and environmental aspects).

(c)(1) No amount appropriated pursuant to subsection (a) for purposes of subparagraphs (1) through (7) of such subsection, may be used for any function of the Commission in excess of the amount expressly authorized to be appropriated for functions referred to in such paragraphs, if such excess amount is in excess of $500,000, nor may the amount available from any appropriation for any function referred to in such subparagraphs be reduced by more than $500,000, unless

(i) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such committee has no objection to the proposed action.

(c)(2) Of the amounts authorized to be appropriated for the purposes set forth in paragraphs (1) through (7) of subsection (a) of this section, the amounts available for Advanced Reactors, Low-Level Radiation, Nuclear Waste Disposal and Management, Improved Safety Systems Research, and Nuclear Waste Research, or that specified in subsection (b)(2) of this section for Alternative Fuel Cycle activities shall not be reprogrammed, unless—

(i) a period 90 calendar days (not including any day in which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain or an adjournment sine die) has passed after the receipt by the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate of notice given by the Commission containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or

(ii) each such Committee before the expiration of such period has transmitted to the Commission, written notice stating in substance that such Committee has no objection to the proposed action.

(d) No amount authorized to be appropriated by this Act may be used by the Commission to enter into any contract, providing funds in excess of $20,000 encompassing research, study, or technical assistance on domestic safeguards matters except as directed by the Commission, by majority vote, following receipt by the Commission of a recommendation from the Executive Director for Operations supporting the need for such contract.

SEC. 2. Moneys received by the Commission for the cooperative nuclear research programs may be retained and used for salaries and expenses associated with those programs, notwithstanding the provisions of section 3617 of the Revised Statutes (31 U.S.C. 484), and shall remain available until expended.

SEC. 3. Transfers of sums from salaries and expenses may be made to other agencies of the Government for the performance of the work for which the appropriation is made and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SEC. 4. (a) Subsection (b) of section 209 of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof the following sentence: "Notwithstanding the preceding sentence, each such director shall keep the Executive Director fully and currently informed concerning the content of all such direct communications with the Commission."

(b) Section 209 of the Energy Reorganization Act of 1974, as amended, is amended, by adding a new subsection (c) to read as follows and redesignating existing subsection (c) accordingly:

"(c) The Executive Director shall report to the Commission at semiannual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts."

SEC. 5(a). The Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, are authorized and directed to conduct preliminary planning and design studies for epidemiological research on the health effects of low-level ionizing radiation. In the conduct of such studies, the Commission and the Environmental Protection Agency shall consult with appropriate scientific organizations and Federal and State agencies.

(b) Within thirty days after the date of enactment of this section, the Commission and the Environmental Protection Agency shall submit to the Congress a memorandum of understanding to delineate their responsibilities in the conduct of the planning studies authorized by subsection (a) of this section.

(c) On or before April 1, 1979, the Commission and the Environmental Protection Agency shall submit a report to the Congress containing an assessment of the capabilities and research needs of such agencies in the area of health effects of low level ionizing radiation.

(d) On or before September 30, 1979, the Commission and the Environmental Protection Agency, in consultation with the Secretary of Health, Education, and Welfare, shall submit a report to the Congress which includes a study of options for Federal epidemiological research on the health effects of low level ionizing radiation, with evaluations of the feasibility of such options. Such report shall be consistent with the findings of the assessment required by subsection (c) of this section.

(e) In carrying out the activities specified in subsections (c) and (d) such agencies shall:

(i) cooperate with appropriate scientific organizations and agencies involved in related research, and

(ii) furnish copies of the reports required by those subsections to the organizations and agencies referred to in subsection (e)(i).

SEC. 6. Section 209 of the Energy Reorganization Act of 1974 is amended by adding the following new subsection at the end thereof:

"(d) The Executive Director shall prepare and forward to the Commission an annual report (for the fiscal year 1978 and each succeeding fiscal year) on the status of the Commission's programs concerning domestic safeguards matters including an assessment of the effectiveness and adequacy of safeguards at facilities and activities licensed by the Commission. The Commission shall forward to the Congress a report under this section prior to February 1, 1979, as a separate document, and prior to February 1 of each succeeding year as a separate chapter of the Commission's annual report (required under section 307(c) of the Energy Reorganization Act of 1974) following the fiscal year to which such report applies.".

SEC. 7. The Commission is authorized and directed to undertake a comprehensive review of the existing process for selection and training of members of the Atomic Safety and Licensing Boards, including, but not limited to, the selection criteria, including qualifications, the selection procedures, and the training programs for Board members. The Commission shall report to the Congress on the findings of such review by January 1, 1979, and shall revise such selection and training process as appropriate, based on such findings.

SEC. 8. (a) Chapter 14 of the Atomic Energy Act of 1954 is amended by adding the following new section at the end thereof:

"SEC. 170A. Conflicts of Interest Relating to Contracts and Other Arrangements.—

"a. The Commission shall, by rule, require any person proposing to enter into a contract, agreement, or other arrangement, whether by competitive bid or negotiation, under this Act or any other law administered by it for the conduct of research, development, evaluation activities, or for technical and management support services, to provide the Commission, prior to entering into any such contract, agreement, or arrangement, with all relevant information, as determined by the Commission, bearing on whether that person has a possible conflict of interest with respect to—

"(1) being able to render impartial, technically sound, or objective assistance or advice in light of other activities or relationships with other persons, or

"(2) being given an unfair competitive advantage. Such person shall insure, in accordance with regulations prescribed by the Commission, compliance with this section by any subcontractor (other than a supply subcontractor) of such person in the case of any subcontract for more than $10,000.

"b. The Commission shall not enter into any such contract agreement or arrangement unless it finds, after evaluating all information provided under subsection a. and any other information otherwise available to the Commission that—

"(1) it is unlikely that a conflict of interest would exist, or

"(2) such conflict has been avoided after appropriate conditions have been included in such contract, agreement, or arrangement; except that if the Commission determines that such conflict of interest exists and that such conflict of interest cannot be avoided by including appropriate conditions therein, the Commission may enter into such contract, agreement, or arrangement, if the Commission determines that it is in the best interests of the United States to do so and includes appropriate conditions in such contract, agreement, or arrangement to mitigate such conflict.

"c. The Commission shall publish rules for the implementation of this section, in accordance with section 553 of title 5, United States Code (without regard to subsection (a)(2) thereof) as soon as practicable after the date of the enactment of this section, but in no event later than 120 days after such date.".

(d) The table of contents for such chapter 14 is amended by adding the following new item at the end thereof:

"SEC. 170A. Conflicts of interest relating to contracts and other arrangements.".

SEC. 9. The Commission shall monitor and assist, as requested, the International Fuel Cycle Evaluation and the studies and evaluations of the various nuclear fuel cycle systems by the Department of Energy in progress as of the date of enactment, and report to the Congress semiannually through calendar year 1980 and annually through calendar year 1982 on the status of domestic and international evaluations of nuclear fuel cycle systems. This report shall include, but not be limited to, a summary of the information developed by and available to the Commission on the health, safety and safeguards implications of the leading fuel cycle technologies.

SEC. 10. Title II of the Energy Reorganization Act of 1974, as amended, is amended by adding at the end thereof a new section to read as follows:

"EMPLOYEE PROTECTION

"SEC. 210. (a) No employer, including a Commission licensee, an applicant for a Commission license, or a contractor or a subcontractor of a Commission licensee or applicant, may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

"(1) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this Act or the Atomic Energy Act of 1954, as amended, or a proceeding for the administration or enforcement of any requirement imposed under this Act or the Atomic Energy Act of 1954 as amended;

"(2) testified or is about to testify in any such proceeding or;

"(3) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other manner in such a proceeding or in any other action to carry out the purposes of this Act or the Atomic Energy Act of 1954, as amended.

"(b)(1) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, within thirty days after such violation occurs, file (or have any person file on his behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the 'Secretary') alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint and the Commission.

"(2)(A) Upon receipt of a complaint filed under paragraph(1), the Secretary shall conduct an investigation of the violation alleged in the complaint. Within thirty days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting in his behalf) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this subparagraph. Within ninety days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by subparagraph (B) or denying the com-

plaint. An order of the Secretary shall be made on the record after notice and opportunity for public hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(B) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of subsection (a) has occurred, the Secretary shall order the person who committed such violation to (i) take affirmative action to abate the violation, and (ii) reinstate the complainant to his former position together with the compensation (including back pay), terms, conditions, and privileges of his employment, and the Secretary may order such person to provide compensatory damages to the complainant. If an order is issued under this paragraph, the Secretary, at the request of the complainant shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(c)(1) Any person adversely affected or aggrieved by an order issued under subsection (b) may obtain review of the order in the United States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within sixty days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the Secretary's order.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(d) Whenever a person has failed to comply with an order issued under subsection (b)(2), the Secretary may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief including, but not limited to, injunctive relief, compensatory, and exemplary damages.

"(e)(1) Any person on whose behalf an order was issued under paragraph (2) of subsection (b) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

"(2) The court, in issuing any final order under this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award is appropriate.

"(f) Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28 of the United States Code.

"(g) Subsection (a) shall not apply with respect to any employee who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of this Act or of the Atomic Energy Act of 1954, as amended.".

SEC. 11. The Commission shall report to the Congress on January 1, 1979, and annually thereafter on the use of contractors, consultants, and the National Laboratories by the Commission. Such report shall include, for each contract issued, in progress or completed during fiscal year 1978, information on the bidding procedure, nature of the work, amount and duration of the contract, progress of work, relation to previous contracts, and the relation between the amount of the contract and the amount actually spent.

SEC. 12. (a) The Commission, in cooperation with the Department of Energy, is authorized and directed to conduct a study of extending the Commission's licensing or regulatory authority to include categories of existing and future Federal radioactive waste storage and disposal activities not presently subject to such authority.

(b) Each Federal agency, subject to the provisions of existing law, shall cooperate with the Commission in the conduct of the study. Such cooperation shall include providing access to existing facilities and sites and providing any information needed to conduct the study which the agency may have or be reasonably able to acquire.

(c) On or before March 1, 1979, the Commission shall submit a report to the Congress containing the results of the study. The report shall include a complete listing and inventory of all radioactive waste storage and disposal activities now being conducted or planned by Federal agencies.

SEC. 13. Notwithstanding any other provision of this Act, no authority to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 14. (a) Any person, agency, or other entity proposing to develop a storage or disposal facility, including a test disposal facility for high-level radioactive wastes, non-high-level radioactive wastes including transuranium contaminated wastes, or irradiated nuclear reactor fuel, shall notify the Commission as early as possible after the commencement of planning for a particular proposed facility. The Commission shall in turn notify the Governor and the State legislature of the State of proposed sites whenever the Commission has knowledge of such proposal.

(b) The Commission is authorized and directed to prepare a report on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

And the House agree to the same.

MO UDALL,
JONATHAN B. BINGHAM,
PHILIP R. SHARP,
HARLEY O. STAGGERS,
JOHN D. DINGELL,
BOB BAUMAN,
CLARENCE J. BROWN,
Managers on the Part of the House.

GARY HART,
JENNINGS RANDOLPH,
PETE V. DOMENICI.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing vote of the two Houses on the amendment of the House to the bill, S. 2584 to authorize appropriations for activities of the Nuclear Regulatory Commission, and for other purposes, submit the following joint statement to the Senate and the House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all after the enacting clause and inserted a substitute text. The differences between the Senate bill and the House amendment are noted below, and the substitute agreed to in Conference is discussed. Minor, technical and clarifying changes are not discussed.

SECTION 1.—AUTHORIZATION

The conference report authorizes a total of $333,007,000 for the salaries and expenses of the Nuclear Regulatory Commission for fiscal year 1979. This represents a compromise between the House authorization of $332,107,000 and the Senate authorization of $336,395,000. The allocation of these funds by program is summarized in the table below:

NRC—FISCAL YEAR 1979, COMPARISON OF AUTHORIZATION AMOUNTS

	Request to Congress	Appropriation conference report	House	Senate	Conference agreement[1]
Nuclear reactor regulation	$46,010,000	$45,210,000	$47,162,000	$46,880,000	$47,162,000
Inspection and enforcement	38,760,000	38,560,000	38,760,000	38,760,000	38,760,000
Standards development	14,480,000	14,480,000	14,480,000	14,945,000	14,945,000
Nuclear materials safety and safeguards	26,600,000	26,585,000	26,885,000	27,240,000	27,240,000
Nuclear regulatory research	163,470,000	159,000,000	163,470,000	166,640,000	163,470,000
Program direction and administration	$27,950,000	$27,492,000	$27,950,000	$27,950,000	$27,950,000
Program technical support	13,400,000	13,064,000	13,400,000	13,480,000	13,480,000
Aid to impacted States				500,000	
Total	330,670,000	322,301,000	332,107,000	336,395,000	333,007,000

[1] The conference agreement also includes specific authorizations for certain activities identified in the bill to be conducted within the various program offices, as follows:

Nuclear reactor regulation:	
Advanced reactors	$2,080,000
(Expedite license amendments etc.	1,152,000)
Standards development: Low-level radiation	650,000
Nuclear materials safety and safeguards:	
(Nuclear export safeguards	285,000)
Nuclear waste	8,127,000
Nuclear regulatory research:	
Improved safety systems	$1,500,000
Nuclear waster	4,448,000
Advanced reactors	18,333,000
Program direction and administration: Equal employment opportunity	225,000
Agencywide:	
Alternate fuel cycle	1,000,000
Safeguards contracts	14,285,000

Note: Items in parenthesis are discussed in the statement of managers, but not in the statutory language itself.

SECTION 1(a)(1)—NUCLEAR REACTOR REGULATION

The House bill contained a total line-item authorization of $47,162,000 for the Office of Nuclear Reactor Regulation (NRR). H.R. 12355 earmarks up to $2,350,000 of this line-item to accelerate the effort in gas-cooled thermal reactor preapplication reviews. The House also intends that $1,152,000 of this line-item be provided in order to enable NRR to more effectively address the number of unresolved generic safety issues and reduce the existing backlog in license applications and amendments.

The Senate bill contained a total line-item authorization of $46,880,000 for NRR. The Senate bill further specified that of the total NRR authorization, $1,070,000 in addition to the level of activity in fiscal year 1978 was to be available for the Alternate Fuel Cycle activities described in section 5 of that Act. The Senate bill further specified that of the total NRR authorization, $2,080,000 was available exclusively for Advanced Reactors.

The conferees agreed to a total line-item authorization of $47,162,000, as in the House amendment, with $2,080,000 to be available for Advanced Reactors, as in the Senate bill. The conferees also intend that $1,152,000 of the line-item be applied to unresolved generic safety issues and the existing backlog in license applications and amendments, as discussed in the House report.

SECTION 1(a)(2)—INSPECTION AND ENFORCEMENT

The conference report contains an authorization of funds for the Office of Inspection and Enforcement that is identical to the amount specified in both the Senate and House bills.

SECTION 1(a)(3)—STANDARDS DEVELOPMENT

The Senate bill contained a total line-item authorization of $14,945,000 for the Office of Standards Development. The Senate bill specified that $650,000 of this total was available exclusively for Low-Level Radiation activities.

H.R. 12355 authorized $14,480,000 for the Office of Standards Development.

The conferees agreed to the Senate provision.

SECTION 1(a)(4)—NUCLEAR MATERIALS SAFETY AND SAFEGUARDS

The Senate bill contained a total line-item authorization of $27,240,000 for the Office of Nuclear Materials Safety and Safeguards (NMSS). Within the total NMSS authorization, the Senate earmarked two different categories of special funds: 1) $8,127,000 of the NMSS total was available exclusively for Nuclear Waste Disposal and Management activities; and, 2) $540,000 in addition to the level of activity in fiscal year 1978 for the Alternate Fuel Cycle activities described in section 5 of the Senate bill.

H.R. 12355 authorized $26,885,000 for the Office of Nuclear Materials Safety and Safeguards.

The Conferees agreed to a total line-item authorization of $27,240,000, as in the Senate bill, with $8,127,000 to be available for Nuclear Waste. The Conferees also intend that $285,000 of this line-item be applied to added efforts in safeguarding of nuclear exports, as discussed in the House report.

SECTION 1(a)(5)—NUCLEAR REGULATORY RESEARCH

H.R. 12355 contained a total line-item authorization of $163,470,000 for the Office of Nuclear Regulatory Research (RES). The House bill earmarked $3,900,000 of this line-item to be used to accelerate the effort in gas-cooled thermal reactor safety research.

The Senate bill contained a total line-item authorization of $166,640,000 for RES. Within the Senate's bill RES line-item were four different categories of specially earmarked funds, as follows: 1) $2,500,000 exclusively for the implementation of the Improved Safety Systems Research plan required by section 205(f) of the Energy Reorganization Act of 1974, as amended; 2) $4,448,000 for Nuclear Waste research activities; 3) $330,000 in addition to the level of activity in fiscal year 1978 for Alternate Fuel Cycle activities; and, 4) $18,833,000 for Advanced Reactor Research.

The conferees agreed to a total line-item authorization of $163,470,000, as in the House amendment, with $1,500,000 to be available for Improved Safety System, $4,448,000 for Nuclear Waste, and $18,333,000 for Advanced Reactors.

SECTION 1(a)(6)—PROGRAM TECHNICAL SUPPORT

The conferees agreed to a provision of the Senate bill which increased authorization for Program Technical Support to $13,480,000 in order to provide $80,000 additional resources to the Office of International Programs for their alternate fuel cycle activities.

SECTION 1(a)(7)—PROGRAM DIRECTION AND ADMINISTRATION

Both the Senate and the House bills authorized $27,950,000 for Program Direction and Administration. The Senate bill also earmarked $225,000 of this total to be used exclusively for equal employment opportunity activities including support of four positions in the Office of Equal Employment Opportunity. The conferees agreed to incorporate the equal employment opportunity provision.

SECTION 1(b)—SAFEGUARDS RESEARCH AND ALTERNATIVE FUEL CYCLE EVALUATION AUTHORIZATIONS

Section 1(a) of H.R. 12355 specified that the aggregate NRC authorization included $14,285,000 for contracts encompassing research, studies, and technical assistance on domestic safeguards matters. The Senate bill contained no similar provision.

The Senate bill earmarked funds for Alternative Fuel Cycle activities in paragraphs 1, 4, 5, and 6 of subsection 1(a). H.R. 12355 contained no similar provision.

The conferees agreed to a new subsection 1(b) which provides that: 1) $14,285,000 of the aggregate NRC authorization is for contracts encompassing research, studies, and technical assistance on domestic safeguards matters; and, 2) $1,000,000 of the aggregate amount is authorized for studies and analysis of alternative fuel cycles.

SECTION 1(c) REPROGRAMMING

The House amendment allowed reprogramming between program offices up to 15% of amounts specified for program offices. The Commission was required to inform appropriate Congressional committees prior to reallocation of amounts in excess of $500,000.

The Senate provision was similar to the House provision except that reallocation could not take place for 30 days unless each authorizing committee provided a written statement of no objection to reallocation. Reallocation could not be used to detract from sums for subprogram activities specified in Section 1(a).

The conferees agreed to the Senate provision, with modifications. This compromise permits the Nuclear Regulatory Commission to reprogram funds appropriated under this title. However, if the reprogramming would increase or decrease any line item by more that $500,000, the NRC must notify the House Interior and Insular Affairs Committee and the House Interstate and Foreign Commerce Committee and the Senate Committee on Environment and Public Works of the proposed reprogramming and provide information justifying the proposal. The NRC then must wait 30 calendar days and, in the case of funds earmarked for special purposes under each general program or Office in Section 1(a)(1) through (7), 90 calendar days, not including any period that either House is not in session for more than 3 calendar days, unless all Committees give written notice that they have no objection to the proposal. The provisions adopted by the Committees provide the NRC with flexibility and provide assurance that the Committees will be kept fully informed. Reprogramming is a valuable management tool, but, at times it has been overused and abused.

SECTION 1(d)—SAFEGUARDS CONTRACT APPROVAL

The conferees adopted this provision from the House bill which requires the Commission to formally approve any contract in excess of $20,000 for domestic safeguards research, studies or technical assistance before any authorized funds can be used for such contract. The Senate bill did not contain a similar provision.

IMPROVED SAFETY SYSTEMS RESEARCH

The House amendment contained no specific provision, while the Senate bill specifically authorized $2,500,000 within the Office of Nuclear Regulatory Research for improved reactor safety systems research as described in NRC's report to Congress of April 12, 1978.

The conferees adopted the Senate provision with an amendment reducing the authorization to $1,500,000 in view of total research budget constraints and the fact that this will be the first year of implementation of this program. Nevertheless, it appears that the Agency can begin at least two or three research projects in improved safety systems in fiscal year 1979.

ADVANCED REACTORS

The Senate bill authorized a $3 million increase to a total of $18,333,000 for research on advanced reactors. The increase was for safety research work on advanced reactor types which are not in NRC's current program and which have the potential for near-term and mid-term commercial availability in the United States, and for additional safety research activities for a specific reactor type in the event that NRC is advised that a request for a lead plant design review will be submitted in fiscal year 1979. The research in reactor types not in the current program might include heavy water reactors, spectral shift reactors, or light water breeder reactors. Part of this effort was to be used for scoping studies in connection with the Office of Nuclear Reactor Regulation. Part of this increase was to be used on actual research as opposed to planning studies only. In addition, the Senate bill included an increase of $740,000 for advanced reactors under Nuclear Reactor Regulation to allow for preapplication review of a lead plant design for a high temperature gas reactor or other advanced reactor. The additional research and pre-application review on a specific reactor type would commence only when NRC receives formal notification that review of a lead plant design will be requested in FY 1979.

The House amendment authorized increased efforts on high temperature gas reactors, including an increase of $1.5 million, to an amount not to exceed $2,350,000 in Nuclear Reactor Regulation and including an increase of $1.5 million to an amount not to exceed $3,900,000 for high temperature gas reactor research. The House expressed concern that the Commission give a higher priority to establishing the necessary regulatory framework so that anticipated license applications could be expeditiously reviewed.

The conferees agreed to the Senate provision for advanced reactors under Nuclear Reactor Regulation with a modification to require the Nuclear Regulatory Commission to expend the $740,000 additional funds for preapplication review work on a lead plant design for an advanced reactor in the event that NRC receives firm indications that a lead plant design will be submitted for NRC review in fiscal year 1980, in addition to fiscal year 1979.

The conferees agreed to authorize $18,333,000 for advanced reactor research. This represents a $2.5 million increase over the budget request, including $1.5 million for increased high temperature gas-cooled reactor

research, as authorized in the House amendment, and $1 million for safety research on advanced reactor types which are not in NRC's current program and which have the potential for near-term and mid-term commercial availability in the U.S., as authorized in the Senate bill.

However, the schedule for submission of a high temperature gas reactor lead plant design to NRC for review has apparently slipped by 6 months. Therefore, in spending funds for research on such reactors, the Nuclear Regulatory Commission is expected to take appropriate account of any changes in the schedule for submission of such a lead plant design.

SECTION 2—COOPERATIVE RESEARCH FUNDING

The conferees agreed to the House amendment, which was similar to the Senate provision. The compromise deletes the last sentence of the Senate provision.

SECTION 3—TRANSFER OF FUNDS

The conference report contains this provision, which is identical to that in both Senate and House bills.

SECTION 4(a)—EXECUTIVE DIRECTOR FOR OPERATIONS

The conferees agreed to the Senate provision which amends the Energy Reorganization Act of 1974 to require the office directors to keep the Executive Director for Operations fully and currently informed of the content of direct communications with the Commission.

SECTION 4(b)—EQUAL EMPLOYMENT OPPORTUNITY

The Senate bill required the Executive Director for Operations to report to the Commission at semi-annual public meetings on the problems, progress, and status of the Commission's equal employment opportunity efforts. Further, the Senate bill authorized $225,000 for the Commissions' equal employment opportunity activities.

The House report cited little improvement since last year in the Commission's Equal Employment Opportunity program and identified the need for greater effort in this area in the coming year.

The Conferees agreed to the Senate provisions and expressed their intent that funds authorized for equal employment opportunity activities should be used only for those purposes.

SECTION 5—LOW LEVEL RADIATION

The Senate bill required the Commission and the Environmental Protection Agency (EPA) to develop, with joint lead responsibilities, a preliminary planning study which would result in the design of a comprehensive Federal epidemiological study of the effects of low-level ionizing radiation. The planning study, to be carried out in consultation with appropriate Federal and State agencies, and scientific organizations, would culminate in a report to Congress by April 1, 1979. NRC and EPA were required to submit to Congress within 30 days of enactment a memorandum of understanding delineating the respective responsibilities and funds allocated for each agency for this effort. While the House amendment contained no similar provision, the House floor debate and the House report referred to ongoing and future Federal studies and the need to coordinate all Federal efforts in this area.

The conferees agreed to the Senate provision, with modifications. In view of the fact that the Department of Health, Education and Welfare, through the Bureau of Radiological health, regulates human exposure to medical radiation, the Conferees agreed that the agencies with regulatory responsibilities in the area of low-level ionizing radiation should be involved in carrying out the studies required by this section. It was agreed that NRC and EPA should be parties to the memorandum of understanding which must be submitted to Congress within thirty days of enactment of this legislation. Each agency will be expected to allocate appropriate funds for this effort from its own budget.

The conferees also expressed the intent that the studies mandated under this section be carried out in full cooperation with other Federal research efforts and research reviews in the area of low-level ionizing radiation, including the HEW/NAS review of all Federal radiation health effects research programs under Title II of the Biomedical Research and Research Training Amendments of 1978 (S. 2450), should that or similar legislation become law. It is expected that the HEW/NAS effort will take into account and review the needs assessment and study results provided by the regulatory agencies under this provision.

In view of the fact that epidemiological research studies are extremely time-consuming efforts, the conferees agreed that the regulatory agencies should be involved as soon as possible and to the fullest extent possible, in the formulation of a coordinated Federal approach to research on this problem. It is expected that the April 1 deadline for the needs assessment and the September 30 deadline for the feasibility and design study will, to the extent practicable, allow coordination with the concurrent research efforts of other scientific agencies and organizations.

SECTION 6—SAFEGUARDS REPORT

The conferees adopted this provision from the House bill which requires the NRC's Executive Director to prepare and forward to the Commission an annual report of the status of NRC's domestic safeguards programs. In turn, the Commission is required to report annually to the Congress. The Senate bill contained no similar provision. The conferees also agreed to the following two Senate proposals: (1) to change the section cited in the Energy Reorganization Act of 1974, as amended, from "section 309" to "section 307"; and, (2) to change "calendar year" to "fiscal year".

SECTION 7—ATOMIC SAFETY AND LICENSING BOARDS

The House amendment contained no provision concerning Atomic Safety and Licensing Board members.

The Senate bill required comprehensive review of the existing process for selection and training of Atomic Safety and Licensing Board members, and to report to Congress with findings of such review by January 1, 1979. Further, the Senate provision directed the Commission to revise the selection and training process, as appropriate. The conferees agreed to the Senate provision.

SECTION 8—CONFLICTS OF INTEREST

The conferees adopted this provision from the House bill which amends the Atomic Energy Act to require the Commission to determine if a prospective contractor has a possible conflict of interest in undertaking contracts and other arrangements for the NRC. This provision is identical to a provision in the Statement of Managers in the Conference Report on the fiscal year 1978 authorization for the Nuclear Regulatory Commission.

SECTION 9—ALTERNATE FUEL CYCLE EVALUATION

The House amendment contained no provision.

The Senate bill established on internal NRC Fuel Cycle Evaluation Task Force, reporting to the Executive Director for Operations, with NRC reporting to Congress semi-annually on the progress of domestic and international fuel cycle evaluations, including health, safety and safeguards implications of the leading nuclear fuel cycle technologies. $2.1 million was authorized for this activity, split among Nuclear Reactor Regulation, Nuclear Materials Safety and Safeguards, Nuclear Regulatory Research, and International Programs. These funds would allow NRC to conduct various useful activities, including: tracking NASAP and INFCE, commenting on study proposals and reports from other sources, doing studies in selected areas, and attending and participating fully in technical review meetings.

The conferees agreed to the Senate provision with amendments to:

(1) Delete from the statutory language the requirement to establish an NRC Task Force, in view of the fact that NRC has already taken a similar organizational step, as described in a June 22, 1978 memorandum from the Executive Director to the Commissioners which established a focal point in the Office of the Executive Director for Operations, with the Office of International Programs providing the principal staff contact for the International Fuel Cycle Evaluation (INFCE) and the Office of Management and Program Analysis doing the same for the Department of Energy studies, including the Non-Proliferation Alternative Systems Assessment Program (NASAP) and its successors, and in view of the fact that NRC has already been requested to participate in INFCE and NASAP and is doing so;

(2) Require semi-annual reports in 1979 and 1980 and annual reports in 1981 and 1982, with those reports containing, in addition to the information specified in the bill, a summary of all research activities relating to such matters, identification of areas of deficiency in such existing information and on-going efforts, and recommendations regarding matters which should be undertaken to minimize any potential adverse impact on matters within the Commission's jurisdiction;

(3) Delete the line items for this function under individual program offices, and replace them with an authorization of $1 million within the total authorization, leaving the Agency discretion as to the relative funding of the various offices; and

(4) If the NRC does not intend to expend the authorized funds, the 90 day reprogramming provision of Section 1(c)(2) must be followed.

SECTION 10—EMPLOYEE PROTECTION

The Senate bill amended the Energy Reorganization Act of 1974 to provide protection to employees of Commission licensees, applicants, contractors, or subcontractors from discharge or discrimination for taking part or assisting in administrative or legal proceedings of the Commission.

The House amendment contained no similar provision, and the conferees agreed to the Senate provision.

SECTION 11—CONTRACTORS AND CONSULTANTS

The conferees agreed to the Senate provision requiring the Commission to submit a comprehensive report to Congress on January 1, 1979 and annually thereafter on the Commission's use of contractors, consultants, and the National Laboratories.

SECTION 12—WASTE LICENSING AMENDMENT

The Senate bill included a requirement that the Commission conduct a study regarding its authority to license nuclear waste storage and management facilities operated by the Department of Energy. H.R. 12355 included no similar provision. The House conferees' proposal, which was accepted by the Senate conferees, modified the Senate provision to change the scope of the study and to ensure that the Commission be accorded access to the Department's facilities.

SECTION 13—APPROPRIATIONS

The conference report contains this provision, which is identical to that in both the Senate and House versions of the bill.

SECTION 14—AID TO IMPACTED STATES IN NUCLEAR WASTE LICENSING

The Senate bill authorized $500,000 to remain available until expended, for the purpose of providing grants to any State in which a long-term storage or disposal facility for certain specified radioactive wastes is proposed. Such individual grants, in amounts up to $500,000, made in accordance with regulations promulgated by NRC, would

have been provided to facilitate independent review by the State of a proposal to develop a waste disposal facility within its borders. In addition, the Senate bill provided a mechanism for notifying NRC and the affected State of any planned development of a nuclear waste storage or disposal facility. The House bill did not contain a similar provision.

The conferees agreed to a new section 14 which requires (1) notification to NRC and the affected State of the planned development of a nuclear waste storage or disposal facility, and (2) a report to the Congress by the Commission on means for improving the opportunities for State participation in the process for siting, licensing, and developing nuclear waste storage or disposal facilities. The conferees expressed their support for measures to improve such State participation. A similar measure, the provision of grants by NRC to the Agreement States for State programs regulating uranium mill tailings, has already been approved in other legislation by both the House and Senate. However, since no funds have been appropriated to provide grants to affected States for the purpose of conducting independent reviews of proposals to develop a nuclear waste storage or disposal facility, the conferees agreed to a detailed report by the Nuclear Regulatory Commission, rather than authorizing funds for grants to States. The report required by Section 14 will provide useful information to the respective Committees for future consideration of a program of grants to the States, as well as other alternatives for improving State participation.

NATIONAL VOTING

Section 4 of H.R. 12355 would amend the Energy Reorganization Act of 1974 to permit the Commission to take actions in certain circumstances without a quorum being physically present. This provision was incorporated in H.R. 12355 at the Commission's request; it would allow the "present" requirement to be waived when the Commissioners were unanimous both with regard to a "yea" or "nay" vote and with regard to waiving the requirement that they be present in order that the vote be taken. S. 2584 did not contain a similar provision.

The conferees agreed to omit this provision. The conferees stated that their respective Committees would consider revision of the "present" requirement in conjunction with their review of the NRC's fiscal year 1980 authorization request.

URANIUM MILL TAILINGS

The Senate bill contained a provision which increased Federal and State authority to regulate uranium mill tailings.

The House amendment contained no similar provision.

The conferees agreed to drop this provision, in light of other legislation before the Congress to regulate mill tailings.

MORRIS K. UDALL,
JONATHAN B. BINGHAM,
PHILIP R. SHARP,
HARLEY O. STAGGERS,
JOHN D. DINGELL,
BOB BAUMAN,
CLARENCE J. BROWN,
Managers on the Part of the House.

GARY HART,
JENNINGS RANDOLPH,
PETE V. DOMENICI,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 11733, SURFACE TRANSPORTATION ASSTANCE ACT OF 1978

Mr. JOHNSON of California submitted the following conference report and statement on the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 95–1797)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

SEC. 102. (a) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is amended by striking out "the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1980," and all that follows down through the period at the end of the sentence and by inserting in lieu thereof the following: "the additional sum of $3,250,000,000 for the fiscal year ending September 30, 1980, the additional sum of $3,500,000,000 for the fiscal year ending September 30, 1981, the additional sum of $3,500,000,000 for the fiscal year ending September 3, 1982, the additional sum of $3,200,000,000 for the fiscal year ending September 30, 1983, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1984, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1985, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1986, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1987, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1988, the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1989, and the additional sum of $3,625,000,000 for the fiscal year ending September 30, 1990.".

(b) Subsection (b) of section 108 of the Federal-Aid Highway Act of 1956, as amended, is further amended by adding at the end thereof the following: "Beginning with funds authorized to be appropriated for fiscal year 1980, no such funds shall be available for projects to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

SEC. 103. The Secretary of Transportation shall apportion for the fiscal year ending September 30, 1980, the sums authorized to be appropriated for such periods by section 108(b) of the Federal-Aid Highway Act of 1056, as amended, for expenditures on the National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

HIGHWAY AUTHORIZATION

SEC. 104. (a) For the purpose of carrying out the provisions of title 23, United States Code, the following sums are hereby authorized to be appropriated:

(1) For the Federal-aid primary system in rural areas, including the extensions of the Federal-aid primary system in urban areas, and the priority primary routes, out of the Highway Trust Fund, $1,550,000,000 for the fiscal year ending September 30, 1979, $1,700,000,000 for the fiscal year ending September 30, 1980, $1,800,000,000 for the fiscal year ending September 30, 1981, and $1,500,000,000 for the fiscal year ending September 30, 1982. For the Federal-aid secondary system in rural areas, out of the Highway Trust Fund, $500,000,000 for the fiscal year ending September 30, 1979, $550,000,000 for the fiscal year ending September 30, 1980, $600,000,000 for the fiscal year ending September 30, 1981, and $400,000,000 for the fiscal year ending September 30, 1982.

(2) For the Federal-aid urban system, out of the Highway Trust Fund, $800,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For forest highways, out of the Highway Trust Fund, $33,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For public lands highways, out of the Highway Trust Fund, $16,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For forest development roads and trails, $140,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For public lands development roads and trails, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(7) For park roads and trails, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(8) For parkways, $45,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. The entire cost of any parkway project on any Federal-aid system paid under the authorization contained in this paragraph shall be paid from the Highway Trust Fund.

(9) For Indian reservation roads and bridges, $83,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For economic growth center development highways under section 143 of title 23, United States Code, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(11) For necessary administrative expenses in carrying out section 131 and section 136 of title 23, United States Code, $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(12) For carrying out section 215(a) of title 23, United States Code—

(A) for the Virgin Islands, not to exceed $5,000,000, per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(B) for Guam, not to exceed $5,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(C) for American Samoa, not to exceed $1,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, September 30, 1981, and September 30, 1982.

Sums authorized by this paragraph shall be

available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(13) For the Commonwealth of the Northern Mariana Islands, not to exceed $1,000,000 per fiscal year for each of the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982. Sums authorized by this paragraph shall be expended in the same manner as sums authorized to carry out section 215 of title 23, United States Code. Sums authorized by this paragraph shall be available for obligation at the beginning of the period for which authorized in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code.

(14) For the Northeast corridor demonstration program under section 322 of title 23, United States Code, $45,000,000 for the fiscal year ending September 30, 1979, and $40,000,000 for the fiscal year ending September 30, 1980.

(15) For the Great River Road $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982 for construction or reconstruction of roads not on a Federal-aid highway system; and out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for construction or reconstruction of roads on a Federal-aid highway system.

(16) For control of outdoor advertising under section 131 of title 23, United States Code, $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981 and September 30, 1982.

(17) For safer off-system roads under section 219 of title 23, United States Code, $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(18) For access highways under section 155 of title 23, United States Code, $15,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(b)(1) For each of the fiscal years 1980, 1981, 1982, and 1983, no State, including the State of Alaska, shall receive less than one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5) of title 23, United States Code. Whenever amounts made available under this subsection for the Interstate System in any State exceed the estimated cost of completing that State's portion of the Interstate System, and exceed the estimated cost of necessary resurfacing, restoration, and rehabilitation of the Interstate System within such State, the excess amount shall be eligible for expenditure for those purposes for which funds apportioned under paragraphs (1), (2), and (6) of such section 104(b) may be expended and shall also be available for expenditure to carry out section 152 of title 23, United States Code. In order to carry out this subsection, and section 158 of the Federal-Aid Highway Act of 1973, there are authorized to be appropriated, out of the Highway Trust Fund, not to exceed $125,000,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

(2) In addition to funds otherwise authorized $85,000,000, out of the Highway Trust Fund, is hereby authorized for the purpose of completing routes designated under the urban high density traffic program prior to May 5, 1976. Such sums shall be in addition to sums previously authorized.

(c) In the case of priority primary routes, $125,000,000 per fiscal year of the sums authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, by subsection (a)(1) of this section for such routes, shall not be apportioned. Such $125,000,000 of each such authorized sum shall be available for obligation on the date of apportionment of funds for each such fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125,000,000 shall be available for obligation at the discretion of the Secretary of Transportation only for projects of unusually high cost or which require long periods of time for their construction. Any part of such $125,000,000 not obligated by such Secretary on or before the last day of the fiscal year for which authorized shall be immediately apportioned in the same manner as funds apportioned for the next succeeding fiscal year for primary system routes, and available for obligation for the same period as such apportionment.

(d)(1) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid primary system (including extensions in urban areas and priority primary routes) for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

(2) Twenty per centum or more of the apportionment for each fiscal year to each State of the sum authorized in paragraph (1) of subsection (a) of this section for the Federal-aid secondary system for such fiscal year shall be obligated in such State for projects for the resurfacing, restoration, and rehabilitation of highways on such system.

INTERSTATE SYSTEM RESURFACING

SEC. 105. In addition to any other funds authorized to be appropriated, there is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1980 and September 30, 1981, and not to exceed $275,000,000 per fiscal year for each of the fiscal years ending September 30, 1982 and September 30, 1983. Such sums shall be obligated for projects for resurfacing, restoring, and rehabilitating those lanes on the Interstate System which have been in use for more than five years and which are not on toll roads, except that where a State certifies to the Secretary that any part of such sums are excess to the needs of such State for resurfacing, restoring or rehabilitating Interstate System lanes and the Secretary accepts such certification, such State may transfer sums apportioned to it under section 104(b)(5)(B) to its apportionment under section 104(b)(1). Such sums may also be obligated for projects for resurfacing, restoring, and rehabilitating lanes in use for more than five years on a toll road which has been designated as a part of the Interstate System if an agreement satisfactory to the Secretary of Transportation has been reached with the State highway department and any public authority with jurisdiction over such toll road prior to the approval of such project that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any bonds outstanding at the time constituting a valid lien against it, and the cost of maintenance and operation and debt service during the period of toll collections. The agreement referred to in the preceding sentence shall contain a provision requiring that if, for any reason, a toll road receiving Federal assistance under this section does not become free to the public upon collection of sufficient tolls, as specified in the preceding sentence, Federal funds used for projects on such toll road pursuant to this section shall be repaid to the Federal Treasury.

DEFINITIONS

SEC. 106. (a) The definition of "construction" in section 101(a) of title 23 of the United States Code is amended by adding at the end thereof the following new sentence: "The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales (fixed and portable), scale pits, scale installation, and scale houses.".

(b)(1) The definition of "forest road or trail" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving the National Forest system and which is necessary for the protection, administration, and utilization of the National Forest system and the use and development of its resources.".

(2) The definition of "forest development roads and trails" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest development roads and trails' means a forest road or trail under the jurisdiction of the Forest Service.".

(3) The definition of "forest highway" in section 101(a) of title 23 of the United States Code is amended to read as follows:

"The term 'forest highway' means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.".

(4) Section 101(a) of title 23, United States Code, is amended by adding after the definition of the term "Federal-aid highways" the following new definition:

"The term 'highway safety improvement project' means a project which corrects or improves high hazard locations, eliminates roadside obstacles, improves highway signing and pavement marking, or installs traffic control or warning devices at high accident potential locations.".

COMPLETION OF INTERSTATE SYSTEM

SEC. 107. (a)(1) The fourth and fifth sentences of paragraph (2) of subsection (e) of section 103, of title 23, United States Code, are amended to read as follows: "The provisions of this title applicable to the Interstate System shall apply to all mileage designated under the third sentence of this paragraph. The Secretary shall not designate any Interstate route or portion thereof under authority of this paragraph after the date of enactment of the Federal-Aid Highway Act of 1978.

(2) The fourth sentence of section 103(e)(4) of title 23, United States Code, is amended to read as follows: "The Federal share of each substitute project shall not exceed 85 per centum of the cost thereof.".

(b) Paragraph (4) of subsection (e) of section 103, title 23, United States Code, is amended by inserting immediately after the second sentence the following: "Substitute projects under this paragraph may not be approved by the Secretary under this paragraph after September 30, 1983, and the Secretary shall not approve any withdrawal of a route under this paragraph after such date, except that this sentence shall not apply to any route which on the date of enactment of the Federal-Aid Highway Act of 1978 is under judicial injunction prohibiting its construction", and by adding at the end of such paragraph the following new sentences: "The provisions of section 3(e)(4) of the Urban Mass Transportation Act of 1964, as amended, shall apply in carrying out this paragraph. After the date of enactment of this sentence, the Secretary may not designate any mileage as part of the Interstate System pursuant to this paragraph or under any other provision of law.".

(c) The amendment made by subsection (a) of this section shall apply to each route or portion thereof designated under section 103(e)(2) of title 23, United States Code, be-

fore January 1, 1978, the construction of which was not complete on such date, and the Secretary of Transportation shall make such revisions in existing contracts and agreements as may be necessary to carry out this section and the amendment made by subsection (a) of this section.

(d) Notwithstanding any other provision of law, including but not limited to section 103 of title 23, United States Code and this section, no route or portion thereof shall be constructed on the National System of Interstate and Defense Highways with respect to which an environmental impact statement has not been submitted to the Secretary of Transportation in accordance with the National Environmental Policy Act of 1969 by September 30, 1983. Any such route or portion thereof shall thereupon be removed from designation as part of such Interstate System.

(e) By September 30, 1986, all routes or portions thereof on the Interstate System (for which the Secretary of Transportation finds that sufficient Interstate authorizations are available) and all Interstate substitute projects pursuant to subsection (e)(4) of section 103 of title 23, United States Code (for which the Secretary finds that sufficient Federal funds are available) must be under contract for construction or construction must have commenced. Immediately after such date, the Secretary shall remove from designation as part of the Interstate System each route or portion thereof not complying with this subsection and in the case of a substitute project the Secretary shall withdraw approval and no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code.

(f)(1) Section 103(e) of title 23, United States Code, is amended—

(A) in paragraph (4), by striking out "In the event a withdrawal of approval is accepted pursuant to this section, the State shall not be required to refund to the Highway Trust Fund any sums previously paid to the State for the withdrawn route or portion of the Interstate System so long as said sums were applied to a transportation project permissible under this title.".

(B) by redesignating paragraph (5) as paragraph (7); and

(C) by inserting after paragraph (4) the following new paragraphs:

"(5) Notwithstanding any other provision of law—

"(A) upon the withdrawal of approval of any route or portion thereof on the Interstate System under this section, a State, subject to the approval of the Secretary, shall not be required to refund to the Highway Trust Fund any sums paid to the State for intangible costs;

"(B) refund will not be required for the costs of construction items, materials, or rights-of-way of the withdrawn route or portion of the Interstate System which will be or have been applied (i) to a transportation project permissible under this title, (ii) to a public conservation or public recreation purpose, or (iii) to such other public purpose as may be determined by the Secretary to be in the public interest on condition that the State shall make assurances satisfactory to the Secretary that such construction items or materials or rights-of-way have been or will be so applied by the State of any political subdivision thereof to a project under clause (i), (ii), or (iii) within 10 years from the date of the withdrawal of approval; and

"(6) Nothing in this subsection shall in any way alter rights under State law of persons owning property within the right-of-way immediately prior to such property being obtained by the State. The Federal share of the cost of property sold or otherwise transferred to previous owners under State law shall be refunded and credited to the unobligated balance of the State's apportionment for interstate highways."

(2) The amendment made by paragraph (1) of this subsection shall apply to any withdrawal of approval before the date of the enactment of this subsection.

INTERSTATE COST ESTIMATES

SEC. 108. Section 104(b)(5)(A) of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "The Secretary shall not include in any estimate submitted under this provision after December 31, 1978, any cost of a project to expand or clear zones immediately adjacent to the paved roadway of routes designed prior to February, 1967.".

TRANSFERABILITY

SEC. 109. (a) Paragraph (1) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "40" each place it appears and inserting in lieu thereof at each such place "50".

(b) Paragraph (2) of subsection (d) of section 104 of title 23, United States Code, is amended by striking out "20" each place it appears and inserting in lieu thereof at each such place "50".

REPORT OF OBLIGATIONS

SEC. 110. Section 104 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall submit to Congress not later than the 20th day of each calendar monh which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.".

PROGRAM REQUIREMENTS

SEC. 111. Subsection (b) of section 105 of title 23, United States Code, is amended to read as follows:

"(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require that such projects be selected by the State highway department and the appropriate local officials in cooperation with each other, except in States where all public roads and highways are under the control and supervision of the State highway department such selection shall be made after consultation with appropriate local officials.".

PROGRAMS

SEC. 112. Subsection (g) of section 105 of title 23, United States Code, is amended by striking out "public airports and public ports for water transportation," and inserting in lieu thereof "public airports, public ports for water transportation, new town communities, and new town-intown communities,".

UTILITIES ON RIGHTS-OF-WAY

SEC. 113. Section 109 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) In determining whether any right-of-way on any Federal-aid system should be used for accommodating any utility facility, the Secretary shall—

"(A) first ascertain the effect such use will have on highway and traffic safety, since in no case shall any use be authorized or otherwise permitted, under this or any other provision of law, which would adversely affect any aspect of safety;

"(B) evaluate the direct and indirect environmental and economic effects of any loss of productive agricultural land or any impairment of the productivity of any agricultural land which would result from the disapproval of the use of such right-of-way for the accommodation of such utility facility; and

"(C) consider such environmental and economic effects together with any interference with or impairment of the use of the highway in such right-of-way which would result from the use of such right-of-way for the accommodation of such utility facility.

"(2) For the purpose of this subsection—

"(A) the term 'utility facility' means any privately, publicly, or cooperatively owned line, facility, or system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public; and

"(B) the term 'right-of-way' means any real property, or interest therein, acquired, dedicated, or reserved for the construction, operation, and maintenance of a highway.".

ACCESS TO RIGHTS-OF-WAY

SEC. 114. Section 111 of title 23, United States Code, is amended by adding at the end thereof the following new sentence: "Nothing in this section, or in any agreement entered into under this section, shall require the discontinuance, obstruction, or removal of any establishment for serving motor vehicle users on any highway which has been, or is hereafter, designated as a highway or route on the Interstate System (1) if such establishment (A) was in existence before January 1, 1960, (B) is owned by a State, and (C) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established for such a highway under this title.".

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

SEC. 115. (a) Section 118(b) of title 23, United States Code, is amended by striking the second and third sentences and inserting in lieu thereof the following sentences: "Except as provided in this subsection, sums apportioned for the Interstate System in any State shall remain available for expenditure in that State for the Interstate System until the end of the fiscal year for which authorized. Sums not obligated within the time period prescribed by the preceding sentence must be made available by the Secretary to any other State applying for such funds for the Interstate System, if the Secretary determines that the State has obligated all of its apportionments other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project on the Interstate System which has been submitted by such State to the Secretary for approval, and the applicant is willing and able to (1) obligate the funds within one year of the date the funds are made available; (2) apply them to a ready-to-commence project; and (3) in the case of construction work, begin work within ninety days of obligation. Sums made available under this subsection shall remain available until expended.

(b) Section 122 of title 23, United States Code, is amended by striking out "the retirement of the principal of such bonds", and by inserting in lieu thereof the following: "the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System"; and by striking out "This section shall not be construed as a commitment or obligation on the part of the United States to provide funds for the payment of the principal of any such bonds," and inserting in lieu thereof the following: "This section shall not be construed as a commitment or obligation on the part of

the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in connection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.".

(c) No interest shall be paid under authority of section 122 of title 23, United States Code, on any bonds issued prior to the date of enactment of this Act, unless such bonds were issued for projects which were under construction on January 1, 1978. Interest on bonds issued in any fiscal year by a State after the date of enactment of this Act may be paid under authority of section 122 of title 23, United States Code, only if (1) such State was eligible to obligate funds of another State under subsection (a) of this section during such fiscal year and (2) the Secretary of Transportation certifies that such eligible State utilized, or will utilize, to the fullest extent possible during such fiscal year its authority to obligate funds under such subsection (a) of this section. No interest shall be paid under section 122 of title 23, United States Code, on that part of the proceeds of bonds issued after the date of enactment of this Act used to retire or otherwise refinance bonds issued prior to such date.

INTERSTATE RESURFACING

SEC. 116. (a) Chapter 1 of title 23 of the United States Code is amended by inserting immediately after section 118 the following new section:

"§ 119. Interstate System resurfacing

"(a) Beginning with funds apportioned for fiscal year 1980, the Secretary may approve projects for resurfacing, restoring, and rehabilitating those lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978). Sums authorized to be appropriated for this section shall be out of the Highway Trust Fund and shall be apportioned in accordance with section 104(b)(5)(B) of this title and the Federal share shall be that set forth in section 120(a) of this title.

"(b) Not later than one year after the date of issuance of initial guidelines under section 109(m) of this title each State shall have a program for the Interstate system in accordance with such guidelines. Each State shall certify on October 1st of each year that it has such a program and the Interstate system is maintained in accordance with that program. If a State fails to certify as required or if the Secretary determines a State is not adequately maintaining the Interstate system in accordance with such program then the funds apportioned to such State for that fiscal year for the Interstate system shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title. If, within one year from the date the apportionment for a State is reduced under this subsection, the Secretary determines that such State is maintaining the Interstate system in accordance with the guidelines the apportionment of such State shall be increased by an amount equal to the reduction. If the Secretary does not make such a determination within such one year period the amount so withheld shall be reapportioned to all other eligible States.".

(b) The material following the colon in section 104(b)(5)(B) of title 23, United States Code, is amended to read as follows:

"Seventy five per centum is the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and twenty five per centum is the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each States bears to the total of all such vehicle miles in all States.".

(c) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"119. Repealed."

and inserting in lieu thereof:

"119. Interstate System resurfacing.".

(d) Section 109 of title 23, United States Code, is amended by adding at the end thereof the following subsection:

(m) The Secretary shall issue guidelines describing criteria applicable to the Interstate System in order to insure that the condition of these routes is maintained at the level required by the purposes for which they were designed. The initial guidelines shall be issued no later than October 1, 1979.

TRAFFIC CONTROL SIGNALIZATION

SEC. 117. Section 120(d) of title 23, United States Code, is amended by inserting after "section 130 of this title," the following: "and for any project for traffic control signalization,".

ADVANCES TO STATES

SEC. 118. Section 124 of title 23, United States Code, is amended by inserting immediately before the first sentence thereof the following: "(a)". Such section 124 is further amended by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a) of this section, if the Secretary of Transportation determines that any toll bridge, toll tunnel, or approach thereto, which meets the requirements of section 129 of this title is necessary to complete an essential gap in the Interstate System then, upon request of the State highway department, the Secretary shall, at any time during construction of such bridge, tunnel, or approach and for one year after it is opened to traffic, and subject to the conditions and limitations of such section 129, advance to such State 100 per centum of the cost of construction of such bridge, tunnel, or approach. So much of the amount so advanced that exceeds the Federal share of such construction cost shall be repaid to the United States as follows:

"(1) 50 per centum within one year of the date such bridge, tunnel, or approach is opened to traffic,

"(2) 25 per centum within two years of such date of opening, and

"(3) 25 per centum within three years of such date of opening.

Any advance made to a State under this subsection shall be from the funds apportioned to said State for the Interstate System. So much of any advance made to a State under this subsection required to be repaid shall be repaid with interest at a rate determined by the Secretary. If a State receives any advance under this subsection with respect to any toll bridge, tunnel, or approach thereto, then the provisions of section 103(e)(4) of this title shall not apply to such bridge, tunnel, or approach.".

EMERGENCY RELIEF

SEC. 119. The second sentence of subsection 125(a) of title 23, United States Code, is amended by—

(1) inserting the words "prior to the fiscal year ending September 30, 1978," immediately after "(2)"; and

(2) inserting the following words before the period at the end of the sentence: ", and for any fiscal year thereafter, 100 per centum of such expenditures are authorized to be appropriated out of the Highway Trust Fund".

TOLL BRIDGES STUDY

SEC. 120. Section 129 of title 23, United States Code, is amended by adding a new subsection (i) as follows:

"(i) Notwithstanding section 301 of this title, the Secretary may permit Federal participation, through funds for any Federal-aid system other than the Interstate System, in any engineering and fiscal assessments, traffic analyses, network studies, preliminary modification planning, and any other study necessary to determine whether a privately owned toll bridge should be acquired by a state or political subdivision thereof."

ADVERTISING BY NONPROFIT ORGANIZATIONS

SEC. 121. Section 131(c) of title 23; United States Code, is amended—

(1) by striking out "and (4)" and inserting in lieu thereof "(4)"; and

(2) by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (5) signs, displays, and devices advertising the distribution of nonprofit organizations of free coffee to individuals traveling on the Interstate System or the primary system. For the purposes of this subsection, the term 'free coffee' shall include coffee for which a donation may be made, but is not required.".

CONTROL OF OUTDOOR ADVERTISING

SEC. 122. (a) Subsection (g) of section 131, title 23, United States Code, is amended by striking the period at the end of the first sentence and adding the following "and not permitted under subsection (c) of this section, whether or not removed pursuant to or because of this section.".

(b) Subsection (k) of section 131, title 23, United States Code, is amended by striking the first word and inserting in lieu thereof the following: "Subject to compliance with subsection (g) of this section for the payment of just compensation, nothing".

(c) Clause (3) of subsection (c) of section 131 of title 23, United States Code, is amended by inserting immediately after "devices," the following: "including those which may be changed at reasonable intervals by electronic process or by remote control,".

(d) Subsection (j) of section 131 of title 23, United States Code, is amended by inserting immediately after "agreement" at the end of the first sentence, the following: ": *Provided*, That permission by a State to erect and maintain information displays which may be changed at reasonable intervals by electronic process or remote control and which provide public service information or advertise activities conducted on the property on which they are located shall not be considered a breach of such agreement or the control required thereunder.".

ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS

SEC. 123. (a) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary of Transportation, hereinafter referred to as the "Secretary", in consultation with each State shall inventory the existing system of penalties for violations of vehicle weight laws, rules, and regulations on any portion of any Federal-aid system in such State. Each State shall annually thereafter report to the Secretary its current inventory.

(b)(1) Not later than the one-hundred-eightieth day after the date of enactment of this section, the Secretary, in consultation with each State, shall inventory the existing system in such State for the issuance of special permits. Each State shall annually thereafter report to the Secretary its current inventory.

(2) For purposes of this subsection, the term "special permit" means a license or permit issued pursuant to State law, rule, or regulation which authorizes a vehicle to exceed the weight limitation for such vehicle established under State law, rule, or regulation.

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary

deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual certification submitted by each State required by section 141(b) of title 23, United States Code.

(d) Section 141 of title 23, United States Code, is amended to read as follows:

"§ 141. Enforcement of requirements

"(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.

"(b) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the Interstate System in accordance with section 127 of this title.

"(c)(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification of such State under subsection (b) of this section.

"(2) If a State fails to certify as required by subsection (b) of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, then Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

"(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.".

(e) Section 141(c) (2) and (3) of title 23, United States Code, shall be applicable to certifications required by such section 141 to be filed on or after January 1, 1980.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

SEC. 124. (a) Section 144 of title 23 of the United States Code is amended to read as follows:

"§ 144. Highway bridge replacement and rehabilitation program

"(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge replacement and rehabilitation program be established to enable the several States to replace or rehabilitate highway bridges over waterways, other topographical barriers, over highways, or railroads when the States and the Secretary find that a bridge is significantly important and is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.

"(b) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on any Federal-aid system which are bridges over waterways, other topographical barriers, other highways, and railroads; (2) classify them according to serviceability, safety, and essentiality for public use; (3) based on that classification, assign each a priority for replacement or rehabilitation; and (4) determine the cost of replacing each such bridge with a comparabe facility or of rehabilitating such bridge.

"(c)(1) The Secretary, in consultation with the States, shall (1) inventory all those highway bridges on public roads, other than those on any Federal aid-system, which are bridges over waterways, other topographical barriers, other highways, and railroads, (2) classify them according to serviceability, safety, and essentiality for public use, (3) based on the classification, assign each a priority for replacement or rehabilitation and (4) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.

"(2) The Secretary may, at the request of a State, inventory bridges, on and off the Federal-aid system, for historic significance.

"(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsection (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing or rehabilitating such bridge with a comparable facility. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State. In approving projects under this section, the Secretary shall give consideration to those projects which will remove from service those highway bridges most in danger of failure.

"(e) Funds authorized to carry out this section shall be apportioned on October 1 of the fiscal year for which authorized. Funds authorized to carry out this section for the fiscal year ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be apportioned to the States in accordance with revised table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives. Funds authorized to carry out this section which are apportioned under this section shall be available for expenditure for the same period as funds apportioned for projects on the Federal-aid primary system under this title. Any funds not obligated at the expiration of such period shall be reapportioned by the Secretary to other States in accordance with revised table 1 of Committee Print 95–49 of the Committee on Public Works and Transportation of the House of Representatives.

"(f) The Federal share payable on account of any highway bridge replaced or rehabilitated under this section shall be 80 per centum of the cost thereof.

"(g) To carry out this section, there is authorized to be appropriated out of the Highway Trust Fund, $100,000,000 for the fiscal year ending June 30, 1972, $150,000,000 for the fiscal year ending June 30, 1973, $25,000,000 for the fiscal year ending June 3, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $125,000,000 for the fiscal year ending June 30, 1976, to be available until expended. Of the amount authorized per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, authorized by paragraph (6) of section 202 of the Highway Safety Act of 1978, all but $200,000,000 per fiscal year shall be apportioned as provided in subsection (e) of this section. $200,000,000 per fiscal year of the amount authorized for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date except that the obligation of such $200,000,000 shall be at the discretion of the Secretary and shall be only for projects for those highway bridges the replacement or rehabilitation cost of each of which is more than $10,000,000. Not less than 15 per centum nor more than 35 per centum of the amount apportioned to each State in each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, shall be expended for projects to replace or rehabilitate highway bridges located on public roads, other than those on a Federal aid system.

The Secretary after consultation with State and local officials may, with respect to a State, reduce the requirement for expenditure for bridges not on a Federal aid system when he determines that such State has inadequate needs to justify such expenditure.

"(h) Notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525–533) shall apply to bridges authorized to be replaced, in whole or in part, by this section, except that subsection (b) of section 502 of such Act of 1946 and section 9 of the Act of March 3, 1899 (30 Stat. 1151) shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title, if such bridge is over waters which are not subject to the ebb and flow of the tide, and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

"(i) The Secretary shall report annually on projects approved under this section, shall annually revise and report the current inventories authorized by subsection (b) and (c) of this section, and shall report such recommendations as he may have for improvement of the program authorized by this section.

"(j) Sums apportioned to a State under this section shall be made available for obligation throughout such State on a fair and equitable basis.

"(k) Not later than six months after the date of enactment of this subsection, and periodically thereafter, the Secretary shall review the procedure used in approving or disapproving applications submitted under this section to determine what changes, if any, may be made to expedite such procedure. Any such changes shall be implemented by the Secretary as soon as possible. Not later than nine months after the date of enactment of this subsection, the Secretary shall submit a report to Congress which describes such review and such changes, including any recommendations for legislative changes.

"(l) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

"(m) As used in this section the term 'rehabilitate' in any of its forms means major repairs necessary to restore the structural integrity of a bridge as well as work necessary to correct a major safety defect.".

(b) The analysis of chapter 1 of title 23, United States Code, is amended by deleting:

"144. Special bridge replacement program."

and inserting in lieu thereof:

"144. Highway bridge replacement and rehabilitation program.".

(c) The Secretary of Transportation shall complete the requirements of subsection (c) of section 144 of title 23, United States Code, as amended by subsection (a) of this section not later than the last day of the second full calendar year which begins after the date of the enactment of this section.

(d) Subsection (d) of section 116 of title 23, United States Code, is amended (1) by striking out "on any of the Federal-aid highway system" at the end of the first sentence, and (2) by striking out "on the Federal-aid system" at the end of the last sentence.

SPUR HIGHWAYS—GREAT RIVER ROAD

SEC. 125. (a) Section 148 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(h) The Secretary is authorized to provide for the construction of such spur highways as he determines necessary to connect the Great River Road, by the most direct feasible routes, with existing bridges across the Mississippi for the purpose of providing persons traveling such road with access to significant scenic, historical, recreational, or archeological features on the opposite side of the Mississippi River from the Great River Road.".

(b) Section 148(a)(5) of title 23, United States Code, is amended to read as follows:

"(5) the provisions of section 129(a) of this title shall not apply to any bridge or tunnel on the Great River Road and no fees shall be charged for the use of any facility constructed with assistance under this section except for parks, recreational areas, and historical sites operated by State or local governments where admission fees may be charged to cover operational costs.".

CARPOOLS AND VANPOOLS

SEC. 126. (a) Chapter 1 of title 23, United States Code, is amended by adding after section 145 the following new section:

"§ 146. Carpool and vanpool projects

"(a) In order to conserve fuel, decrease traffic congestion during rush hours, improve air quality, and enhance the use of existing highways and parking facilities, the Secretary may approve for Federal financial assistance from funds apportioned under sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title, projects designed to encourage the use of carpools and vanpools. (As used hereafter in this section, the term 'carpool' includes a vanpool.) Such a project may include, but is not limited to, such measures as providing carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of convenient carpool opportunities, acquiring vehicles appropriate for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use as preferential parking for carpools.

and recommendations to the appropriate committees of Congress.

"(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of this title, except those provisions which the Secretary determines are inconsistent with this section.".

(b) Section 3 of the Emergency Highway Energy Conservation Act (Public Law 93–239), section 120 of the Federal-Aid Highway Amendments of 1974 (Public Law 93–643), and section 143 of the Federal-Aid Highway Act of 1976 (Public Law 94–280), are repealed.

(c) Section 203(b)(7a) of part II of the Interstate Commerce Act is amended by inserting after "aircraft" a semicolon and the following: "or (7b) vehicles carrying up to fifteen persons in a single daily roundtrip for the purpose of commuting to and from work;".

(d) It is hereby declared to be national policy that special effort should be made to promote commuter modes of transportation which conserve energy, reduce pollution, and reduce traffic congestion. The Secretary is directed to assist both public and private employers and employees who wish to establish carpooling and vanpooling programs where they are needed and desired, and to assist local and State governments, and their instrumentalities, in encouraging such modes by removing legal and regulatory barriers to such programs, supporting existing carpooling and vanpooling programs, and providing technical assistance, for the purpose of increasing participation in such modes.

(e) The Secretary of Transportation is authorized to make grants and loans to States, counties, municipalities, metropolitan planning organizations, and other units of local and regional government consistent with the policy of subsection (d) of this section. Such grants and loans shall be awarded in a manner which emphasizes energy conservation, although the Secretary may use other factors as he deems appropriate. The Federal share of the costs of any project approved under this subsection shall not exceed 75 per centum. No grant awarded under this subsection may be used for the purchase or lease of vehicles.

(f) There is hereby authorized to be appropriated, out of the Highway Trust Fund, not to exceed $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981, for expenditures incurred by the Secretary of Transportation in carrying out the provisions of subsection (d) of this section, and $3,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980, for the purpose of carrying out the program described in subsection (e) of this section.

(g) The Secretary of Transportation shall not approve any project under subsection (d) or (e) of this section or under section 146 of title 23, United States Code, which will have an adverse effect on any mass transportation system.

(h) The Secretary of Transportation is directed to study the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation, including programs of the Federal Highway Administration, the Urban Mass Transportation Administration, and the Office of the Secretary. Such study shall be completed no later than September 30, 1979. Upon completion of such study, the Secretary shall propose a plan to centralize or modify such programs to make delivery of services and grants more efficient, more cost-effective, and to avoid duplication of effort. Such plan shall list statutory changes needed to implement such a plan, which shall be sent to Congress no later than March 30, 1980.

PAVEMENT MARKING

SEC. 127. Section 151(e) of title 23, United States Code, is amended by striking the period at the end thereof and adding the following: "for the Federal-aid primary system. On October 1 of 1978, 1979, and 1980 the Secretary shall allocate the sums authorized to carry out this section for that fiscal year among the several States in such manner as he deems most appropriate to expedite the completion of pavement marking of all highways. Any amounts allocated to the States remaining unobligated at the end of the fiscal year following the fiscal year for which such amounts are authorized shall immediately be reallocated by the Secretary among the other States.".

BRIDGES ON DAMS

SEC. 128. (a) Subsection (d) of section 320 of title 23, United States Code, is amended by striking out "$50,000,000" and inserting in lieu thereof "$65,000,000".

(b) Sums appropriated or expended under authority of the increased authorization established by the amendment made by subsection (a) of this section shall be appropriated out of the Highway Trust Fund for the fiscal year ending September 30, 1978, and for subsequent fiscal years.

FEDERAL SHARE

SEC. 129. (a) The first sentence of subsection (a) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" each place it appears and inserting in lieu at each such place "75 per centum".

(b) Subsection (d) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(c) The first sentence of subsection (f) of section 120 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(d) Subsection (e) of section 148 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(e) Subsection (b) of section 155 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "75 per centum".

(f) Subsection (a) of section 215 of title 23, United States Code, is amended by striking out "70 per centum" and inserting in lieu thereof "100 per centum".

(g) The last sentence of subsection (c) of section 406 of title 23, United States Code, is amended by striking out "title shall not exceed 70 per centum" and inserting in lieu thereof "section shall not exceed 75 per centum".

(h) The amendments made by subsections (a) through (k) of this section shall take effect with respect to obligations incurred after the date of enactment of this section.

(i) Section 120 of title 23, United States Code, is amended by adding at the end thereof the following new subsection:

"(i) Notwithstanding any other provision of this section or of this title, the Federal share payable on account of any project under this title in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands shall be 100 per centum of the total cost of the project.".

BALTIMORE-WASHINGTON PARKWAY

SEC. 130. Section 146(a) of the Federal-Aid Highway Act of 1970 is amended (1) by striking out "to six lanes" and (2) by striking out "for the National System of Interstate and Defense Highways" and inserting in lieu thereof a comma and "agreed upon by the Secretary of Transportation and the Secretary of Transportation of the State of Maryland, which preserve the Parkway characteristics".

MULTIMODAL CONCEPT

SEC. 131. Section 143 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following new subsection:

"(c) Based upon the report submitted to Congress under subsection (b) of this section, the Secretary of Transportation is authorized to provide for the preparation of preliminary engineering and design plans and the construction of models in connection with the development of the multimodal concept along the route described in paragraph (1) of subsection (a) of this section. There is authorized to be appropriated, out of the Highway Trust Fund, not to exceed $9,000,000 to carry out this subsection.".

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

SEC. 132. Subsection (a) of section 147 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "A demonstration project shall be carried out under this section in and in the vicinity of the Sherman, Texas-Denison, Texas area.".

FRANCONIA NOTCH, NEW HAMPSHIRE

SEC. 133. Section 158 of the Federal-Aid Highway Act of 1973 is amended by adding at the end thereof the following: "Upon approval by the Secretary of such Franconia Notch parkway, there is authorized to be appropriated to the State of New Hampshire, out of the Highway Trust Fund, an amount equal to 90 per centum of the difference between the cost of such parkway as established in the 1979 Interstate System cost estimate and the cost of constructing a four-lane Interstate System highway at that location as such cost would be established in such 1979 cost estimate if such Interstate System highway were to be constructed. The funds authorized by the preceding sentence shall be available only for expenditure on highways on any of the Federal-aid highway system, other than the Interstate System, which serve as alternative routes around Franconia Notch. Such funds shall be available in the same manner and to the same extent as any of the funds authorized by section 104(b)(1) of the Federal-Aid Highway Act of 1978, shall be available until expended, and shall be subject to all other applicable provisions of chapter 1 of title 23, United States Code.".

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

S53. 134. (a)(1) Section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93–87) is amended by adding immediately after subsection (l) the following new subsection:

"(m) The Secretary of Transportation shall enter into such arrangements as may be necessary to carry out a demonstration project in Hammond, Indiana, for the relocation of railroad lines for the purposes of eliminating highway railroad grade crossings.".

(2) Existing subsections (m), (n), (o), and (p) of such section 163 are relettered as (n), (o), (p), and (q), respectively including any references thereto.

(b) Subsection (n) (as relettered by this section) of section 163 of the Federal-Aid Highway Act of 1973 (Public Law 93–87) is amended to read as follows:

"(n) The Federal share payable on account of such projects shall be 95 per centum of the cost.".

(c) Subsection (p) (relettered by this section) of such section 163 is amended by striking out "and $51,400,000 for the fiscal year ending September 30, 1978, except that" and inserting in lieu thereof the following: "$51,400,000 for the fiscal year ending September 30, 1978, $70,000,000 for the fiscal year ending September 30, 1979, and $90,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982, except that".

(d) Title III of the National Mass Transportation Systems Act of 1974 (Public Law 93–503) is hereby repealed.

OVERSEAS HIGHWAY

SEC. 135. Section 118(b) of the Federal-Aid Highway Amendments of 1974 (88 Stat. 2288, Public Law 93–643), as amended, is amended by striking "$109,200,000" and inserting in lieu thereof "$118,000,000".

ACCELERATION OF PROJECTS

SEC. 136. Section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444–445) is amended by adding at the end thereof the following new sentence: "Not later than six months after the completion of such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such project, recommendations for applying such methods to other highway projects, and any changes which may be necessary to existing law to permit further reductions in the time necessary to complete highway projects.".

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

SEC. 137. (a) Section 154(c) of the Federal-Aid Highway Act of 1976 is amended by striking out "December 31, 1978" and inserting in lieu thereof "July 1, 1979,".

(b)(1) Subsection (h)(1) of section 154 of the Federal Aid Highway Act of 1976 is amended by inserting after the second sentence thereof the following new sentence: "The personnel shall be entitled to reimbursement for travel expenses, per diem in accordance with the Rules of the House of Representatives or subsistence, and other necessary expenses incurred by them in performance of their duties as personnel of the Commission.".

(2) The amendment made by paragraph (1) of this subsection shall take effect on May 5, 1976.

APPALACHIAN DEVELOPMENT HIGHWAYS

SEC. 138. (a) Subsection (f) of section 201 of the Appalachian Regional Development Act of 1965 is amended to read as follows:

"(f) Federal assistance to any construction project under this section shall not exceed 80 per centum of the costs of such project.".

(b) The third sentence of section 201(a) of the Appalachian Regional Development Act of 1965 is amended by striking out "two thousand nine hundred miles." and inserting in lieu thereof "three thousand and twenty five miles.".

(c) In any case where an Appalachian development highway on the Federal-aid primary system, is the final section of an approved Appalachian development corridor highway within an urbanized area, transects an unincorporated jurisdiction, and is a necessary element of a flood control project for the protection of a commercially zoned area containing not less than seventy commercial and industrial establishments which is authorized under section 205 of the Flood Control Act of 1948, the Secretary of Transportation shall provide to the State highway department so much of the costs, not to exceed $1,800,000, as may be necessary to permit construction of that portion of such development highway as is necessary to permit completion of the flood control project. The Federal share of the total cost of any complete Appalachian development highway a portion of which receives assistance under this subsection shall not exceed (including all assistance under this subsection) that percentage of such total cost which, but for this subsection, would otherwise be applicable to such development highway.

USE OF TOLL RECEIPTS

SEC. 139. The second sentence of subsection (b) of section 2 of the Act entitled "An Act granting the consent of Congress to the State of California to construct, maintain, and operate a bridge across the Bay of San Francisco from the Rincon Hill district in San Francisco by way of Goat Island to Oakland", approved February 20, 1931, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and new approaches to the San Mateo Bridge in the San Francisco Bay Area.".

ROUTE DESIGNATION

SEC. 140. Notwithstanding the amendments made by section 107(b) of this Act, the Secretary of Transportation shall, not later than sixty days after the date of enactment of this Act, designate as routes on the National System of Interstate and Defense Highways 20.5 miles of existing State Route 11 in the city of Los Angeles, California, between FAI Route 10 and State Route 47/Community of San Pedro, 4.2 miles of the proposed Lockport Expressway in the town of Amherst, Erie County, New York, and 5.1 miles of proposed Interstate Route I–481, connecting Exit 34–A of I–90 to the Bear Road Interchange of I–81 in Onondaga County, New York.

BICYCLE PROGRAM

SEC. 141. (a) For the purposes of this section, the term

(1) "Secretary" means the Secretary of Transportation;

(2) "bikeway" means a new or improved lane, path, or shoulder, a traffic control device, lighting, or a shelter or parking facility for bicycles;

(3) "State" means any one of the fifty States, the District of Columbia, or Puerto Rico.

(b) The Secretary shall, by regulation, establish design and construction standards for bikeway construction projects for which grants are authorized in subsection (c) and section 217 of title 23, United States Code. Such regulations shall contain criteria for pavments, adequate widths, sight distances and lighting; appropriate design speeds and grades; and such other requirements as the Secretary may deem necessary.

(c) The Secretary is authorized to make grants to States and to political subdivisions thereof for (1) the construction of bikeways which (A) comply with regulations promulgated pursuant to subsection (b), or (B) prior to promulgation of such regulations, reflect current state of the art design standards, or (2) non-construction programs or projects which can reasonably be expected to enhance the safety and use of bicycles. Projects in urban areas financed with grants under this subsection shall be in accordance with the continuing, comprehensive planning process in section 134 of title 23, United States Code.

(d) The Federal share of any project or program for which a grant is made under subsection (c) shall not exceed 75 per cent.

(e) Grants made under this section shall be in addition to any sums available for bicycle projects under section 217 of title 23, United States Code.

(f) Section 109 (f) of title 23, United States Code, is amended by adding after the words "median strips," the following: "bikeways,".

(g) Section 109 of title 23, United States Code, is amended by adding a new subsection as follows:

"(n) The Secretary shall not approve any project under this title that will result in the severance or destruction of an existing major route for nonmotorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.".

(h) Section 217(a) of title 23, United States Code, is amended to read as follows:

"(a) To encourage energy conservation and the multiple use of highway rights-of-way, including the development, improvement, and use of bicycle transportation and the development and improvement of pedestrian walkways on or in conjunction with highway rights-of-way, the States, may, as Federal-aid highway projects, construct new or improved lanes, paths, or shoulders; traffic control devices, shelters or and parking facilities for bicycles; and pedestrian walkways. Sums apportioned in accordance with paragraphs (1), (2), and (6) of section 104(b) of this title shall be available for bicycle projects and pedestrian walkways authorized under this section and such projects shall be located and designed pursuant to an overall plan which will provide due consideration for safety and contiguous routes.".

(i) There is authorized to be appropriated to the Secretary to carry out subsection (c), for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, out of the Highway Trust Fund $10,000,000, and $10,000,000 out of any other money in the Treasury not otherwise appropriated.

RAIL OPERATION PROJECTS IN NONHIGHWAY AREAS

SEC. 142. (a) The Secretary may approve for Federal financial assistance from funds

apportioned for the Federal-aid primary system under section 104(b)(1) of title 23, United States Code, projects to provide such assistance for the operation of those portions of the Alaska Railroad from Whittier to Portage, Alaska for the purpose of linking up highways or other transportation modes receiving Federal financial assistance from funds apportioned under such section. Not more than 5 per centum of the funds apportioned for the Federal aid primary system under section 104(b)(1) of title 23, United States Code shall be expended in any fiscal year under this section.

Any such approval shall be subject to the conditions that—

(1) fares or other charges made in such operations shall be under the control of a Federal or State agency or official; and

(2) all revenues derived from operation of such portions shall be used to pay for the cost of construction or acquisition of the railroad (including equipment) involved in such operation, debt service thereon, and actual and necessary costs of operation, maintenance, repair, and replacement.

(b) A project authorized by this section shall be subject to and carried out in accordance with all provisions of title 23, United States Code, except those provisions which the Secretary determines are inconsistent with this section.

INTERSTATE ROUTE I–90

SEC. 143. (a) Notwithstanding section 129 of title 23, United States Code, or any regulation or agreement to the contrary, the Secretary of Transportation is authorized to approve projects on the Interstate System for the construction of approaches and interchanges connecting route I–88 to route I–90 if all lanes on I–90 between exits 25 and 26 are free of tolls and connecting and route I–87 to route I–90 if all lanes on I–90 between exits 24 and 26 are free of tolls, in New York State although such projects have no use other than as approaches to route I–90, if such projects are otherwise eligible for such approval.

(b) The Secretary of Transportation is authorized to approve as a project on the Interstate System the construction of an additional lane in each direction on route I–90 connecting route I–88 to such route I–90 between exits 25 and 26 on condition that all lanes on I–90 between exits 24 and 26 are free of tolls.

METRIC SYSTEM SIGNING

SEC. 144. (a) No Federal funds may be expended to construct, erect, or otherwise place any sign relating to any speed limit, any distance, or other measurement, on any highway if such sign establishes such speed limit, distance, or other measurement solely using the metric system, unless Congress after the date of enactment of this Act specifically authorizes such expenditure.

(b) No Federal funds may be expended to modify any sign relating to any speed limit, any distance, or any other measurement on any highway for the conversion of such sign solely to the metric system unless Congress, after the date of the enactment of this Act specifically authorizes such expenditure.

(c) For purposes of subsections (a) and (b)—

(1) the term "highway" means a highway as defined in section 101 of title 23, United States Code; and

(2) the term "metric system" means metric system of measurement as defined in section 4 of the Metric Conversion Act of 1975 (15 U.S.C. 205c).

THE MAINE TURNPIKE

SEC. 145. (a) Upon satisfaction by the State of Maine or the Maine Turnpike Authority of the following conditions and subject to the requirements of subsection (b), the State of Maine and the Maine Turnpike Authority shall be free of all restrictions with respect to the imposition and collection of tolls or other charges on the Maine Turnpike or for the use thereof contained in title 23, United States Code, or in any regulation or agreement thereunder:

(1) repayment by the State of Maine or the Maine Turnpike Authority to the Treasurer of the United States of the sum of $3,055,000 which is the amount of Federal-aid highway funds received for the construction of interchanges or connections with the Maine Turnpike at West Gardiner, Kennebec County, Maine, and at York, York County, Maine; and

(2) destruction and removal of any existing toll plaza and toll collection facility within three years after repayment of bonds outstanding with respect to the Maine Turnpike on Interstate 295 at a location known as Exit 6A to the Maine Turnpike.

The amount to be repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of the Federal-aid highway funds of the same class last apportioned to the State of Maine. The amount so credited shall be in addition to all other funds then apportioned to such State and shall be in addition to all other funds then apportioned to such State and shall be available for expenditure in accordance with the provisions of title 23, United States Code.

(b) The State of Maine and the Maine Turnpike Authority are deemed to be in compliance with section 129(c) of title 23, United States Code: *Provided*, That the conditions of subsection (a) are satisfied and that no toll shall be imposed or collected three years after repayment of bonds outstanding with respect to the Maine Turnpike by the State of Maine or the Maine Turnpike Authority for the use of the following interchange or connection with the Maine Turnpike: The segment of the National System of Interstate and Defense Highways in South Portland, Cumberland County, Maine, and Scarborough, Cumberland County, Maine, and identified as Interstate 295, connecting Interstate 295 and the Maine Turnpike.

FOREIGN BUILT HOVERCRAFT IN ALASKA

SEC. 146. (a) Effective during the five year period beginning on the date of enactment of this Act, nothing in section 27 of the Merchant Marine Act, 1920, or any other provision of law restricting the coastwise trade to vessels of the United States shall prohibit the transportation within the State of Alaska of merchandise or passengers by foreign built hovercraft.

(b) For the purpose of this section the term "hovercraft" means a vehicle which travels over land or water in a cushion of air generated by such vehicle.

ACCELERATION OF BRIDGE PROJECTS

SEC. 147. The Secretary of Transportation shall carry out two projects to construct or replace high traffic volume bridges located on the Federal-aid system and which traverse major bodies of water in order to demonstrate the feasibility of reducing the time required to replace unsafe bridges. One project shall demonstrate the feasibility of reducing the time required from the time of a request for project approval through completion of construction. The other project shall demonstrate the feasibility of reducing the time to complete construction of bridge projects on which all Federal environmental and navigational reviews and assessments have been completed. Not to exceed $54,000,000 of the amount authorized for the fiscal year ending September 30, 1979, by section 202(6) of the Highway Safety Act of 1978 to be apportioned under section 144(e) of title 23, United States Code, shall be set aside before any such apportionment and shall be available for obligation to carry out this section in the same manner and to the same extent as if such funds were apportioned under Chapter 1 of title 23, United States Code, except that such funds shall be available until expended. The Federal share of the projects authorized by this section shall be that provided in section 120(c) of title 23, United States Code. Not later than six months after completion of each such project, the Secretary of Transportation shall submit a report to Congress which includes, but is not limited to, a description of the methods used to reduce the time necessary for the completion of such bridge project, recommendations for applying such methods to other bridge projects, and any changes which may be necessary to existing laws to permit further reductions in the time necessary to complete bridge projects.

THOUSAND ISLANDS BRIDGE AUTHORITY

SEC. 148. The facility owned by the Thousand Islands Bridge Authority located in part on the right-of-way of Interstate Route I–81 in New York State six hundred feet from the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting certain commercial establishments on such rights-of-way. Such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for export and for consumption outside the United States.

BLOOMINGTON FERRY BRIDGE

SEC. 149. There is authorized to be appropriated to the Secretary of Transportation, out of the Highway Trust Fund, $200,000 for expenditure through the State of Minnesota in preparing environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minnesota. Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

ACCESS CONTROL DEMONSTRATED PROJECTS

SEC. 150. (a) The Secretary of Transportation is authorized to carry out access control demonstration projects designed to demonstrate whether preserving the capacity of existing highways to move traffic safely by acquiring and controlling the right of access to such a highway is a cost effective alternative to the construction of additional highways. Such demonstration projects shall be carried out (1) on highways which are on the Federal-aid primary or secondary system, and are well maintained and in good condition, and (2) in traffic corridors which are not already subject to heavy industrial, commercial, or residential development. The Secretary of Transportation shall carry out one such demonstration project in each of three States.

(b) On or before September 30, 1983, the Secretary shall report to Congress the results of the projects carried out under this section.

(c) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $10,000,000 for the fiscal year ending September 30, 1979, and $20,000,000 for the fiscal year ending September 30, 1980.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

CONNECTOR PRIMARY DEMONSTRATION

SEC. 151. (a) The Secretary of Transportation, in cooperation with the States of New Mexico and Texas, shall conduct a demonstration project to upgrade routes on the Federal-aid primary system between Los Cruces, New Mexico, and Amarillo, Texas, and between Lubbock, Texas, and Interstate Route 10. The project shall demonstrate means by which the service provided by the Interstate System can efficiently and effec-

tively be supplemented by such improvement.

(b) Funds to carry out the project authorized by subsection (a) shall come either (1) from funds apportioned to the States of New Mexico and Texas under section 104 (b) (1) of title 23, United States Code, with the Federal share of the project cost at 90 per centum, or (2) from funds available for obligation at the discretion of the Secretary of Transportation for priority primary routes with the Federal share of the project cost that applicable to such priority primary routes, without regard to whether such routes are in fact designated as priority primary routes.

DEMONSTRATION PROJECT—BYPASS HIGHWAY

SEC. 152. The Secretary of Transportation is authorized to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County, California, for the purpose of determining the extent such bypass highway will divert motor vehicle traffic around such park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. Such project shall be subject to the provisions of chapter 1 of title 23, United States Code, applicable to highway project on the Federal-aid sytem, except that the Federal share of the cost of such project shall not exceed 90 per centum. The Secretary shall report to Congress upon completion of the project the results of this demonstration project, together with any recommendations the Secretary deems necessary. There is authorized to be appropriated, out of the Highway Trust Fund, $5,000,000 for fiscal year 1979, $25,000,000 for fiscal year 1980, and $20,000,000 for fiscal year 1981, to carry out this section. Such sums shall remain available until expended.

DEMONSTRATION PROJECT—VENDING MACHINES

SEC. 153. The Secretary of Transportation shall carry out a demonstration project on the Interstate System, which, notwithstanding section 111 of title 23, United States Code, would permit the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on the rights-of-way of such System. The vending machines shall dispense such food, drink, and other articles as the Secretary of Transportation determines necessary to ascertain the need for, and desirability of, this service to the traveling public. The Secretary of Transportation shall report to Congress not later than two years after the date of enactment of this section on the results of the demonstration project authorized by this section together with any recommendations he deems necessary.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

SEC. 154. (a) The Secretary of Transportation is authorized to carry out a demonstration project of the use of a sophisticated automated roadway management system to increase the capacity and safety of automobile travel in high density travel corridors without providing additional lanes of pavement. The management system shall coordinate the traffic flow in major freeways and arterials servicing the travel corridor by use of an integrated system of vehicle sensors to monitor traffic, computers to assess traffic conditions throughout the corridor, and devices to communicate with drivers, police, and emergency equipment.

(b) There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund, not to exceed $1,500,000 for the fiscal year ending September 30, 1979, not to exceed $2,500,000 for the fiscal year ending September 30, 1980, and not to exceed $26,000,000 for the fiscal year ending September 30, 1981.

(c) The Federal share payable on account of any project authorized under this section shall not exceed 90 per centum of the total cost thereof.

(d) Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code except that the Federal share of the cost of any project under this section shall not exceed 90 per centum.

DEMONSTRATION PROJECT—RESTRICTED ACCESS

SEC. 155. (a) The Secretary of Transportation is authorized to carry out a demonstration project in a metropolitan area having a population of five hundred thousand, or more, to restrict the access of motor vehicles to the central business district of such area during hours of peak traffic for the purpose of determining the practicability of this method of reducing motor vehicle congestion in this area.

(b) The Secretary of Transportation shall submit a progress report annually on the project authorized by this section and a final report, together with his recommendations, not later than three years after the date of enactment of this Act.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, such sums as may be necessary to carry out this section.

ALASKA AND PUERTO RICO INTERSTATE STUDY

SEC. 156. The Secretary of Transportation shall study and report to the Congress by July 1, 1979, on the feasibility and desirability of designating routes in the State of Alaska and Commonwealth of Puerto Rico as part of the National System of Interstate and Defense Highways. The study shall consider the transportation needs in such areas and shall include, but not be limited to, necessity for intercity routes of a standard greater than the primary system, expected traffic volume, requirements for movement of goods, and need for connectivity. The Secretary shall also report on appropriate design standards required for Interstate routes in the State of Alaska.

EAST-WEST TOLL ROAD—INDIANA STUDY

SEC. 157. The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds and report the results of such study to the Congress by November 15, 1978. Such study shall be limited to the following:

(1) Additional Indiana East-West Toll Road entrances and exits in locations designated as metropolitan areas by the United States Census Bureau, 1970 census or cities of twenty-five thousand or more population, and the approximate cost and course of funding of each interchange.

(2) Methods of economic toll collections assuring fair and equitable payment from the individual user and ascertainment of urban toll free areas.

(3) Improvements necessary to insure compliance of the Indiana East-West Toll Road with Interstate Highway Standards and the approximate cost and source of payment for such improvements.

(4) Projection of maintenance costs and revenues of the Indiana East-West Toll Road until 1994 under various toll systems and charges.

(5) Formula of toll distribution by which Indiana communities directly affected by ingress to or egress from the Indiana East-West Toll Road (limited to Indiana communities within fifteen miles of the Indiana East-West Toll Road) may be reimbursed for costs incurred due to the toll road from revenues remaining after expenditures are made for the upgrading of the Indiana East-West Toll Road to Federal highway standards, the maintenance of the toll road, the construction of new interchanges and bond obligations, specifically including reserves.

(6) The total cost to the State highway commission if tolls are removed.

(7) An estimate of the time frame for the earliest construction of whatever improvements are recommended, based upon each of the following alternative methods of financing: by proceeds from the sale of toll supported bonds, by funds provided solely by the State of Indiana, and by funds principally provided by the Federal Government.

COLUMBIA RIVER BRIDGE STUDY

SEC. 158. The Secretary of Transportation, in cooperation with the States of Washington and Oregon, shall conduct a feasibility study of an additional bridge across the Columbia River between Vancouver, Washington, and Portland, Oregon. The Secretary shall report the results of such study, together with his recommendations, not later than January 1, 1979.

STUDY CONCERNING URBAN BLIGHT

SEC. 159. The Secretary shall conduct a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts, which shall include but not be limited to the following—

(a) a catalogue and evaluation of adverse impacts on adjacent land use:

(b) development of a list of potential ways that these adverse impacts could be eliminated or reduced;

(c) estimates of potential increases in value of adjacent land and air rights resulting from reduction of adverse highway impacts together with estimates of potential costs of highway improvements and related measures needed to reduce adverse impacts;

(d) an assessment of the feasibility of using air rights and adjacent land after the improvements are completed to contribute to urban employment, recreational opportunities, low and moderate income housing, and commercial, retail, institutional and higher income residential development;

(e) the development of financing proposals, including legislative proposals, involving all appropriate levels of government and private capital where appropriate, which would finance improvements identified as desirable;

(f) such other matters as the Secretary shall deem appropriate.

Such study shall be conducted in cooperation with appropriate State and local governments and shall be submitted to Congress two years after the date of enactment.

INTERDEPARTMENTAL COORDINATION STUDY

SEC. 160. (a) The Secretary of Transportation shall make a full and complete investigation and study with the cooperation of the Secretaries of the Departments of Energy, Housing and Urban Development, and Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget of—

(1) all those factors affecting the integration of the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws;

(2) the parallel among all rules, regulations, administrative reviews, and approvals pursuant to the Acts referred to in paragraph (1) of this subsection;

(3) all those factors affecting the availability and coordination of funding sources to achieve improved air quality, energy conservation, and transportation efficiency;

(4) the degree to which urban growth, development, and Federal funding to urban areas is predicated upon compliance with the Clean Air Act requirements and plans to attain air quality standards;

(5) the feasibility of permitting tolls and other user charges on roads and highways

on the Federal-aid systems as part of a State implementation plan under the Clean Air Act.

(b) The results of investigation and study described in subsection (a) of this section shall be reported to the President and the Congress no later than one year following the date of enactment of this section.

(c) Nothing in this section shall be construed to amend, stay, or in any other way restrict or limit any authority or duty under the Clean Air Act, the Energy Policy and Conservation Act, the Urban Mass Transportation Act of 1964, and title 23, United States Code and related highway laws.

VEHICLE WEIGHTS—INTERSTATE

SEC. 161. (a) (1) The Secretary of Transportation is hereby authorized and directed, in cooperation with other Federal officers and agencies, the State departments of transportation or highway departments, and other affected parties, to make a study and investigation of—

(A) the need for, and desirability of, uniformity in maximum truck size and weight limits throughout the United States;

(B) the effect upon the construction, reconstruction and maintenance of roads, upon the economy of a State or region upon energy consumption, and upon carriers of reducing to limits set forth in section 127, title 23, United States Code, those maximum size and weight limits currently higher than limits in such section;

(C) the relation of highway and bridge design, construction practices, and maintenance costs in those States with weights above the Federal maximum, including an analysis of the adequacy of such design practices for these weights, as compared to the same factors in States adhering to the weight limits set forth in section 127 of title 23, United States Code; and

(D) the adequacy of current highway and bridge design standards with respect to the present and future transportation needs, considering costs, economy of transportation and fuel efficiency.

(2) The Secretary shall report to the Congress the findings and recommendations of this study no later than January 15, 1981. Such report shall include recommendations on the desirability of uniform maximum truck weights and, if desirable, appropriate means to bring about such uniformity, and the appropriateness of current maximum vehicle weights.

IMPACT OF INCREASED UNIT TRAIN TRAFFIC

SEC. 162. (a) The Secretary of Transportation, in cooperation with the State highway departments, and appropriate officials of local government, is authorized and directed to undertake a comprehensive investigation and study of techniques for alleviating the environmental, social, economic, and developmental impacts of increased unit train traffic to meet national energy requirements in communities located along rail corridors experiencing such increased traffic. Such study and investigation shall include, but not be limited to, the following:

(1) identification of specific adverse impacts on affected communities;

(2) examination of specific techniques to alleviate such impacts, including but not limited to low cost systems management methods, grade crossing separation, and rail line relocation, together with an assessment of the cost and benefits of each such technique;

(3) delineation of criteria to determine whether grade crossing separation or rail line relocation is appropriate for a given location;

(4) determination of the proper share of the cost of implementation for each such technique to be borne by the railroad or railroads based on the net benefit derived; and

(5) determination of various costs for different types of separation construction based on such factors as number of rail lines and number of highway lanes intersecting at the crossing.

(b) In the conduct of the investigation and study authorized by subsection (a) of this section, the Secretary shall specifically consider the following rail corridors:

(1) the Burlington Northern mainline from Beach, North Dakota to Staples, Minnesota, from Staples, Minnesota, to Minneapolis/St. Paul, Minnesota and from Staples, Minnesota to Duluth, Minnesota/Superior, Wisconsin;

(2) the Burlington Northern line from Joder, Nebraska to Rulo, Nebraska;

(3) the Chicago Northwestern line from Harrison, Nebraska to Blair, Nebraska; and

(4) the Union Pacific line from Scottsbluff, Nebraska to Steele City, Nebraska.

(c) The Secretary shall report to the Congress on the results of the investiagtion and study authorized by subsection (a) of this section not later than March 31, 1979. Such report shall include the information required by subsection (a) together with the Secretary's conclusions and recommendations for appropriate legislation.

(d) There is hereby authorized to be appropriated not to exceed $350,000 to carry out this section.

BRIDGE DIVERSION STUDY

SEC. 163. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and ways and means of accomplishing, diverting a portion of the traffic from the bridges on the Interstate System across the Mississippi River presently operating above designed capacity to other bridges in the vicinity of any such Interstate System bridge. The Secretary shall report to Congress not later than two years after the date of enactment of this section the results of such investigations and study together with recommendations for necessary legislation.

BONDED INDEBTEDNESS STUDY

SEC. 164. The Secretary of Transportation shall conduct a study to determine the extent of outstanding bonded indebtedness for each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 29, 1956, for the construction of toll roads or portion thereof incorporated in the Interstate System. The study should determine a method of allocating bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and portions which remain free to public travel. The study should determine what specific encumbrances there are to expeditious removal of tolls and recommended alternative methods for equitable payment of debt service for the purpose of making toll roads incorporated into the Interstate System free to public travel. The Secretary shall report his findings to Congress not later than July 1, 1980.

DULLES AIRPORT HIGHWAY ACCESS STUDY

SEC. 165. The Secretary of Transporttaion shall, not later than 90 days after the date of enactment of this section, complete the ongoing study of commuter access to the Dulles Airport Access Highway and report the findings and recommendations to Congress.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

SEC. 166. The Secretary of Transportation shall make a full and complete investigation and study of all those factors affecting the safe and efficient operation of bridges, tunnels, and roads within the United States, including, but not limited to, structural, operational, environmental, and civil disturbance factors.

OBLIGATION LIMITATION

SEC. 167. (a) Notwithstanding any other provision of law, the total of all obligations for Federal-aid highways and highway safety construction programs for fiscal year 1979 shall not exceed $8,500,000,000. This limitation shall not apply to obligations for emergency relief under section 125 of title 23, United States Code.

(b) Notwithstanding the limitation contained in subsection (a) of this section, the Secretary shall not in any way control—

(1) the rate of obligation of such limitation by allocation of such limitation or in any other manner; and

(2) by priority or otherwise, programs or projects eligible for Federal financial assistance from those funds for such programs and projects which are subject to such limitation, if such programs or projects are otherwise eligible for such assistance under title 23, United States Code, or any other applicable provision of law.

HAZARD ELIMINATION PROGRAM

SEC. 168. (a) Section 152 of title 23, United States Code, is amended to read as follows:

"§ 152. Hazard elimination program.

"(a) Each State shall conduct and systematically maintain an engineering survey of all public roads to identify hazardous locations, sections and elements, including roadside obstacles and unmarked or poorly marked roads, which may constitute a danger to motorists and pedestrians, assign priorities for the correction of such locations, sections and elements, and establish and implement a schedule of projects for their improvement.

"(b) The Secretary may approve as a project under this section any highway safety improvement project.

"(c) Funds authorized to carry out this section shall be available solely for expenditure for projects on any Federal-aid system (other than the Interstate System) except in the Virgin Islands, Guam, and American Samoa.

"(d) The Federal share payable on account of any project under this section shall be 90 percent of the cost thereof.

"(e) Funds authorized to be appropriated to carry out this section shall be apportioned to the States as provided in section 402(c) of this title. Such funds shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under section 104(b)(1), except that the Secretary is authorized to waive provisions he deems inconsistent with the purposes of this section.

"(f) Each State shall establish an evaluation process approved by the Secretary, to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section. Such evaluation process shall develop cost-benefit data for various types of corrections and treatments which shall be used in setting priorities for highway safety improvement projects.

"(g) Each State shall report to the Secretary of Transportation not later than September 30 of each year, on the progress being made to implement highway safety improvement projects for hazard elimination and the effectiveness of such improvements. Each State report shall contain an assessment of the cost of, and safety benefits derived from, the various means and methods used to mitigate or eliminate hazards and the previous and subsequent accident experience at these locations. The Secretary of Transportation shall submit a report to the Congress not later than January 1 of each year on the progress being made by the States in implementing the hazard elimination program. The report shall include, but not be limited to, the number of projects undertaken, their distribution by cost range, road system, means and methods used, and the previous

and subsequent accident experience at improved locations. In addition, the Secretary's report shall analyze and evalaute each State program, identify any State found not to be in compliance with the schedule of improvements required by subsection (a) and include recommendations for future implementation of the hazard elimination program.

"(h) For the purposes of this section the term 'State' shall have the meaning given it in section 401 of this title."

(b) Section 153 of title 23, United States Code, is repealed.

(c) The analysis of chapter I of title 23 is amended by striking out:

"Projects for high-hazard locations."

and inserting in lieu thereof:

"Hazard elimination program."

and by striking out:

"153. Program for the elimination of roadside obstacles."

and inserting in lieu thereof:

"153. Repealed.".

(d) Subsection (c) of section 219 of title 23, United States Code, is amended by adding at the end thereof the following: "Not less than 50 per centum of the funds obligated in any State under this section in any fiscal year shall be obligated for highway safety construction projects.".

PLANNING

SEC. 169. (a) Section 134(a) of title 23, United States Code, is amended to read as follows:

"(a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than 50,000 population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems. After July 1, 1965, the Secretary shall not approve under section 105 of this title any program for projects in any urban area of more than fifty thousand population unless he finds that such projects are based on a continuing comprehensive transportation planning process carried on cooperatively by States and local communities in conformance with the objectives stated in this section. No highway projects may be constructed in any urban area of fifty thousand population or more unless the responsible public officials of such urban area in which the project is located have been consulted and their views considered with respect to the corridor, the location, and design of the project.".

(b) Section 134 is further amended by adding a new subsection (b) as follows and redesignating existing subsection (b) as subsection (c):

"(b)(1) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas, and in cooperation with the Governor, redesignate as the metropolitan planning organization any representative organization.

"(2) Except as provided in paragraph (1), after the date of enactment of this subsection designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.".

NATIONAL ALCOHOL FUELS COMMISSION

SEC. 170. (a)(1) There is hereby established a Commission to be known as the National Alcohol Fuels Commission hereinafter referred to as the "Commission".

(2) The Commission shall make a full and complete investigation and study of the long- and short-term potential for alcohol fuels, from biomass (including, but not limited to, animal, crop and wood waste, municipal and industrial waste, sewage sludge, and oceanic and terrestrial crops) and coal, to contribute to meeting the Nation's energy needs. It shall take into consideration the technical, economic, legal, environmental, and social factors associated with the production, manufacture, distribution, and use of such fuels. It will evaluate the costs and benefits of alternative feedstocks, and their possible end uses, and analyze the feasibility and desirability of converting these resources to alcohol fuels. Based on such study it shall recommend those policies, and their attendant costs and benefits, most likely to minimize our dependence on petroleum, insure adequate energy supplies, and contribute to the economic health of the Nation.

(3) Members of the Commission shall be appointed by February 1, 1979. The Commission shall be established within 60 days of being provided with funds. The Commission shall be comprised of nineteen members as follows:

(A) A Chairman and five members appointed by the President pro tempore of the Senate from the membership of the Committee on Energy and Natural Resources, the Committee on Appropriations, and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate;

(B) A Vice Chairman and five members appointed by the Speaker of the House of Representatives from the membership of the Committee on Appropriations, the Committee on Science and Technology, and the Committee on Agriculture of the United States House of Representatives; and

(C) seven members of the public appointed by the President, including a broad representation from industrial, labor, agricultural, small business and consumer groups.

(b) The Commission shall not later than 1 year after being established submit to the President and the Congress its final report including its findings and recommendations. The Commission shall cease to exist six months after submission of such report. All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the Archives of the United States.

(c) Such report shall include the Commission's findings and recommendations with respect to—

(1) the long and short term potential of alcohol fuels contributing to domestic energy supply;

(2) the relative costs and benefits of developing alcohol fuels from alternative feedstocks, taking into account technical, economic, legal, competitive, environmental, and social factors associated with their production, distribution and use; their most appropriate end uses; and a recommended time frame for their introduction into the Nation's energy mix;

(3) the existing policies and programs of the Federal Government which affect the development of such alternative fuels; and

(4) new policies and programs required to develop alcohol fuels from coal and alcohol and other fuels from the biomass to meet the Nation's projected short-term and long-term energy needs.

(d)(1) The Chairman of the Commission shall request the head of each Federal department or agency which has an interest in or a responsibility with respect to a national alcohol fuels policy to appoint, and the head of such department or agency shall appoint, a liason officer who shall work closely with the Commission and its staff in matters pertaining to this section. Such departments and agencies shall include, but not be limited to, the Department of Energy, the Department of Agriculture, the Department of Transportation, the Environmental Protection Agency, the Department of the Interior, the Department of Justice, the Department of the Treasury, and the Small Business Administration.

(2) In carrying out its duties the Commission shall seek the advice of various groups interested in a national alcohol fuel policy including, but not limited to, State and local governments, public and private organizations working in the fields of alternative fuel development, industry, labor, and the environment.

(e)(1) The Commission or, on authorization of the Commission, any committee of two or more members may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and places as the Commission or such authorized committee may deem advisable.

(2) the Commission is authorized to secure from any department, agency, or individual instrumentality of the executive branch of the Government any information it deems necessary to carry out its functions under this section and each department, agency, and instrumentality is authorized and directed to furnish such information to the Commission upon request made by the Chairman.

(f)(1) Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(2) Members of the Commission, except Members of Congress shall each receive compensation for such periods of time as they are engaged in the business of the Commission at a rate not in excess of the maximum rate of pay for GS–18 as provided in the General Schedule under section 5332 of title 5, United States Code, and shall be entitled to reimbursement for travel expenses, per diem in accordance with the rules of the Senate, or subsistence and other necessary expenses incurred by them in performance of duties while serving as a Commission member.

(g)(1) The Commission is authorized to appoint and fix the compensation of a staff director, and such additional personnel as may be necessary to enable it to carry out its functions. The Director and personnel may be appointed without regard to the provisions of title 5, United States Code, covering appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates. Any Federal employees subject to the civil service laws and regulations who may be employed by the Commission shall retain civil service status without interruption or loss of status or privilege. In no event shall any employee other than the staff director receive as compensation an amount in excess of the maximum rate for GS–18 of the General Schedule under section 5332 of title 5, United

States Code. In addition, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the maximum rate of pay for grade GS–18, as provided in the General Schedule under section 5332 of title 5, United States Code.

(2) The staff director shall be compensated at level II of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(3) The Director and Commission personnel shall be reimbursed for travel, per diem in accordance with the rules of the Senate, or subsistence, and other necessary expenses incurred by them in performance of duties while serving the Commission staff.

(h) The Commission is authorized to enter into contracts or agreements for studies and surveys with public and private organizations or consultants, and, if necessary, to transfer funds to and accept funds from Federal agencies from sums appropriated pursuant to this section to carry out such of its duties as the Commission determines can best be carried out in that manner.

(i) Any vacancy which may occur on the Commission shall not affect its powers or functions but shall be filled in the same manner in which the original appointment was made.

(j) Subject to the provisions of the Federal Advisory Committee Act, the Chairman may appoint advisory committees to aid in the work of the Commission.

(k) The Commission is exempt from the requirements of sections 4301–4308 of title 5, United States Code.

(l) There is hereby authorized to be appropriated for the fiscal year ending September 30, 1979, to the Commission not to exceed $1,500,000 to carry out the purposes of this section.

LIMITATIONS

SEC. 171. To the extent that any section of this Act provides new or increased authority to enter into contracts under which outlays will be made from funds other than the Highway Trust Fund, such new or increased authority shall be effective for any fiscal year only in such amounts as are provided in appropriations Acts.

TITLE II

SHORT TITLE

SEC. 201. This title may be cited as the "Highway Safety Act of 1978".

HIGHWAY SAFETY

SEC. 202. The following sums are hereby authorized to be appropriated:

(1) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund $175,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and $200,000,000 per fiscal year for each of the fiscal years ending September 30, 1981, and September 30, 1982.

(2) For carrying out section 403 of title 23, United States Code (relating to highway safety research and development), by the National Highway Traffic Safety Administration, out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(3) For carrying out section 402 of title 23, United States Code (relating to highway safety programs), by the Federal Highway Administration, out of the Highway Trust Fund, $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(4) For carrying out in accordance with section 402(c) of title 23, United States Code, section 154 of such title (relating to the national maximum speed limit), other than subsection (i), out of the Highway Trust Fund, $50,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1930, September 30, 1981, and September 30, 1982. For carrying out section 154(i) of such title, out of the Highway Trust Fund, $17,500,000 per fiscal year for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982.

(5) For carrying out sections 307(a) and 403 of title 23, United States Code (relating to highway safety research and development), by the Federal Highway Administration, out of the Highway Trust Fund, $10,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(6) For bridge reconstruction and replacement under section 144 of title 23, United States Code, out of Highway Trust Fund, $900,000,000 for the fiscal year ending September 30, 1979, $1,100,000,000 for the fiscal year ending September 30, 1980, $1,300,000,000 for the fiscal year ending September 30, 1981, and $900,000,000 for the fiscal year ending September 30, 1982.

(7) For carrying out section 151 of title 23, United States Code (relating to payment marking), out of the Highway Trust Fund, $65,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(8) For projects for elimination of hazards under section 152 of title 23, United States Code, out of the Highway Trust Fund, $125,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, and $200,000,000 for the fiscal year ending September 30, 1982.

(9) For carrying out section 406 of title 23, United States Code (relating to schoolbus driver training), out of the Highway Trust Fund $2,500,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

(10) For carrying out section 407 of title 23, United States Code (relating to innovative project grants), out of the Highway Trust Fund, $5,000,000 for the fiscal year ending September 30, 1980, $10,000,000 for the fiscal year ending September 30, 1981, and $15,000,000 for the fiscal year ending September 30, 1982.

RAIL-HIGHWAY CROSSINGS

SEC. 203. (a) Subsection (b) of section 203 of the Highway Safety Act of 1973 (Public Law 93–87), as amended by the Highway Safety Act of 1976 (Public Law 94–280), is amended to read as follows:

"(b) In addition to funds which may be otherwise available to carry out section 130 of title 23, United States Code, there is authorized to be appropriated, out of the Highway Trust Fund, for projects for the elimination of hazards of railway-highway crossings on any public road, $25,000,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, $75,000,000 for the fiscal year ending June 30, 1976, $125,000,000 for the fiscal year ending September 30, 1977, $125,000,000 for the fiscal year ending September 30, 1978, $190,000,000 for the fiscal year ending September 30, 1979, and $190,000,000 for each of the fiscal years ending September 30, 1980, September 30, 1981, and September 30, 1982. At least half of the funds authorized and expended under this section shall be available for the installation of protective devices at railway-highway crossings. Sums authorized to be appropriated by this subsection shall be available for obligation in the same manner as funds apportioned under section 104(b)(1) of title 23, United States Code.".

(b) Subsection (c) of section 203 of the Highway Safety Act of 1973 is hereby repealed.

(c) Subsection (d) of section 203 of the Highway Safety Act of 1973 is amended to read as follows:

"(d) 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(2) of title 23, United States Code, 25 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the same manner as sums authorized to be appropriated under section 104(b)(6) of title 23, United States Code, and 50 percent of the funds made available in accordance with subsection (b) shall be apportioned to the States in the ratio that total rail-highway crossings in each State bears to the total of such crossings in all States. The Federal share payable on account of any project shall be 90 percent of the cost thereof.".

NATIONAL DRIVER REGISTER STUDY

SEC. 204. The Secretary of Transportation shall make a full and complete investigation and study of the need for, and, if necessary, ways and means to establish, a national driver register to assist States in electronically exchanging information regarding motor vehicle driving records of certain individuals. Such investigation and study shall include, but not be limited to, the information to be placed in the register, the accessibility of such information (including privacy safeguards), the necessary computer-electronic equipment, and means of keeping such register current. The Secretary shall issue a final report to Congress on the results of such investigation and study, together with the recommendations of the Secretary, not later than one year after the date of enactment of this section.

NATIONAL MAXIMUM SPEED LIMIT

SEC. 205. Section 154 of title 23, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required, including data on the percentage of motor vehicles exceeding fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles.

"(f)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 70 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1981.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 60 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1982.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this

section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 50 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 5 per centum of the amount to be apportioned for the fiscal year ending September 30, 1983.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 40 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6) of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1984.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is greater than 30 per centum, the Secretary shall reduce the State's apportionment of Federal-aid highway funds under each of sections 104(b)(1), 104(b)(2), and 104(b)(6), of this title in an aggregate amount of up to 10 per centum of the amount to be apportioned for the fiscal year ending September 30, 1985, and for each succeeding fiscal year thereafter.

"(g) In any case where the Secretary determines, in accordance with criteria established by the Secretary, that a reduction in apportionment required by subsection (f) of this section would result in hardship to a State, the fiscal year apportionment reduced for such State shall be the apportionment for one fiscal year later than the fiscal year to which such reduction would apply under subsection (f) but for such hardship determination.

"(h) The Secretary shall promptly apportion to a State any funds which have been withheld pursuant to subsection (f) of this section if he determines that the percentage of motor vehicles in such State exceeding fifty-five miles per hour has dropped to the level specified for the fiscal year for which the funds were withheld.

"(i)(1) For the twelve-month period ending September 30, 1979, if the data submitted by a State pursuant to subsection (c) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 60 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1980.

"(2) For the twelve-month period ending September 30, 1980, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 50 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1981.

"(3) For the twelve-month period ending September 30, 1981, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 40 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1982.

"(4) For the twelve-month period ending September 30, 1982, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 30 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1983.

"(5) For the twelve-month period ending September 30, 1983, and for each succeeding twelve-month period thereafter, if the data submitted by a State pursuant to subsection (e) of this section for that year show that the percentage of motor vehicles exceeding fifty-five miles per hour is less than 20 per centum, the Secretary shall make an incentive grant to such State during fiscal year 1984 and succeeding fiscal years.

"(6) An incentive grant made to a State under this subsection shall be equal to 10 per centum of the apportionment to such State for the fiscal year on the basis of the data for which such incentive grant is to be made. The apportionment on which such incentive grant is based shall be that made under section 402(c) of this title for carrying out those provisions of section 402 relating to highway safety programs administered by the National Highway Traffic Safety Administration. Incentive grants made under this subsection may be expended for carrying out any provision of section 402 of this title.".

ACCIDENT DATA

SEC. 206. There is authorized to be appropriated, out of the Highway Trust Fund, to the Secretary of Transportation not to exceed $5,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, for the acquisition, storage, and retrieval of highway accident data and for establishing procedures for reporting accidents on a nationwide basis.

HIGHWAY SAFETY PROGRAMS

SEC. 207. (a) The last sentence of subsection (a) of section 402 of title 23, United States Code, is amended by inserting immediately after "one or more States," the following: "including, but not limited to, such programs for identifying accident causes, adopting measures to reduce accidents, and evaluating effectiveness of such measures,".

(b)(1) Subparagraph (A) of paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by striking out "State agency" and inserting in lieu thereof "State highway safety agency".

(2) The amendment made by paragraph (1) of this subsection shall take effect January 1, 1979.

(c) Paragraph (1) of subsection (b) of section 402 of title 23, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(G) provide for programs (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers of, and passengers in, motor vehicles."

(d) The first sentence of subsection (d) of section 402 of title 23, United States Code, is amended by inserting immediately after "State highway safety program" the following: "(other than planning and administration)" and by inserting immediately after "non-Federal share of the cost of any project under this section" the following: "(other than one for planning or administration)".

INNOVATIVE PROJECT GRANTS

SEC. 208. (a) Chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following new section:

"§ 407. Innovative project grants

"(a) In addition to other grants authorized by this chapter, the Secretary may make grants in any fiscal year to those States,, political subdivisions thereof, and nonprofit organizations which develop innovative approaches to highway safety problems in accordance with criteria to be established by the Secretary in cooperation with the States, political subdivisions thereof, and such nonprofit organizations as the Secretary deems appropriate.

"(b) The Secretary shall establish a procedure for the selection of grant applications submitted under this section. In developing such procedure, the Secretary shall consult with the States and political subdivisions thereof, appropriate Federal departments and agencies, and such other public and nonprofit organizations as the Secretary deems appropriate.

"(c) Any State, political subdivision thereof, and nonprofit organization may make an application under this section to carry out an innovative project described in subsection (a) of this section. Such application shall be in such form and contain such information as the Secretary, by regulation, prescribes.

"(d) Not to exceed 2 per centum of the funds authorized to be appropriated to carry out this section shall be available to the Secretary for the necessary costs of administering the provisions of this section.

"(e) The Secretary shall submit an annual report to the Congress which provides a description of each application received for a grant under this section and an evaluation of innovative projects carried out with grants made under this section.".

(b) The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end thereof the following:

"407. Innovative project grants.".

HIGHWAY SAFETY EDUCATION AND INFORMATION

SEC. 209. (a) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall carry out six pilot projects designed, through the use of television and radio, to develop and evaluate techniques, methods, and practices to achieve maximum measurable effectiveness in reducing traffic accidents, injuries, and deaths.

(b) Each pilot project authorized by this section shall be in operation not later than the one hundred and eightieth day after the date of the first appropriation of funds made under authority of this section, and shall be conducted for a one-year period. Not later than the ninetieth day after the end of each such one-year period, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall report to Congress the results of such project, including, but not limited to, an evaluation of the effectiveness of such project and a statistical analysis of the traffic accidents and fatalities within the project area during such one-year period.

(c) There is authorized to be appropriated, out of the Highway Trust Fund, to carry out subsections (a) and (b) of this section, $6,000,000, to remain available until expended.

(d) Not later than the one hundred and eightieth day after the date of submission of the final report to Congress required by subsection (b) of this section, and utilizing those techniques, methods, and practices determined most effective, the Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall conduct a national highway safety campaign utilizing the local and national television and radio to educate and inform the public of techniques, methods, and practices to reduce the number and severity of highway accidents.

(e) Such campaign is authorized to be conducted in cooperation with interested government and nongovernment authorities, agencies, organizations, institutions, businesses, and individuals, and shall utilize to the extent possible nongovernmental professional organizations equipped and experienced to conduct such campaign.

(f) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall engage such private firms or organizations as he determines necessary to conduct an on-going evaluation of the national campaign authorized by subsection (d) of this section to determine ways and means for encouraging

the participation and cooperation of television and radio station licensees, for measuring audience reactions to on-going highway safety programing for evaluating the effectiveness of such programs in terms of the number of lives saved and the reduction in injuries, and for the purpose of developing new programs for the promotion of highway safety. Such evaluation shall include determinations of those programs designed to encourage the voluntary use of safety belts which are most effective and shall include recommendations for new methods and approaches which will result in greater voluntary utilization of safety belts by the public.

(g) The Secretary of Transportation, acting through the Administrator of the Federal Highway Administration, shall submit a report to the Congress on July 1 of each year in which the campaign is in progress on the results of such evaluation and on the steps being taken by the Federal Highway Administration to implement the recommendations of such evaluation.

(h) For the purpose of carrying out subsections (d), (e), (f), and (g) of this section, there is authorized to be appropriated out of the Highway Trust Fund, $10,000,000, to remain available until expended.

MOTORCYCLE HELMET STUDY

SEC. 210. The Secretary of Transportation shall make a full and complete study of the effect of the provision contained in the eighth sentence of subsection (c) of section 402 of title 23 of the United States Code relating to requirements, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles. Such investigation and study shall include, but not be limited to, deaths, accidents, severity of injuries, length of time of recuperation, and permanent disabilities. The Secretary shall report the results of such study, together with his recommendations, to Congress not later than one year after the date of enactment of this section.

STUDY OF OUTSIZED VEHICLES

SEC. 211. The Secretary of Transportaion shall make a complete study of outsized vehicles for operation on the highways constructed in a manner which exceed the standardized industry configurations. The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this section.

MARIJUANA AND OTHER DRUG REPORT

SEC. 212. The Secretary shall report to Congress not later than December 31, 1979, concerning the progress of efforts to detect and prevent marijuana and other drug use by oeprators of motor vehicles. Such report shall include, but not be limited to, information concerning the frequency of marijuana and drug use by motor vehicle operators, capabilities of law enforcement officials to detect the use of marijuana and drugs by motor vehicle operators, and a description of Federal and State projects undertaken into methods of detection and prevention. The report shall include the Secretary's recommendations on the need for legislation and specific programs aimed at reducing marijuana and other drug use by motor vehicle operators. For the purpose of this section the term "drug" means a controlled substance within the meaning of section 102(6) of the Comprehnsive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802(6))

SAFETY BELT PROGRAM

SEC. 213. Each State shall expend each fiscal year not less than 2 per centum of the amount apportioned to it for such fiscal year of the sums authorized by section 202(1) of this title, for programs to encourage the use of safety belts by drivers of, and passengers in, motor vehicles.

SAFETY BELT STUDY

SEC. 214. The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation of methods of encouraging the use of safety belts by drivers of, and passengers in, motor vehicles, including, but not limited to, the use of various types of financial incentives and financial disincentives to encourage such use. In entering into any arrangement with the National Academy of Sciences for conducting such study and investigation, the Secretary shall request the National Academy of Sciences to report to the Secretary and the Congress not later than one year after the date of enactment of this Act on the results of such study and investigation, together with its recommendations. The Secretary shall furnish to such Academy at its request any information which the Academy deems necessary for the purpose of conducting the investigation and study authorized by this section.

PROHIBITION

SEC. 215. None of the funds authorized by this title (including any amendment made by this title) shall be expended for the purchase, directly or indirectly, of any passive restraint system for any motor vehicle owned by any State (including a political subdivision of a State) or by the United States, except for a motor vehicle primarily used in an educational program.

TITLE III—MASS TRANSPORTATION

SHORT TITLE

SEC. 301. This Act may be cited as the "Federal Public Transportation Act of 1978".

DISCRETIONARY GRANT OR LOAN PROGRAM

SEC. 302. (a) Section 3(a) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(a)(1) The Secretary is authorized, in accordance with the provisions of this Act and on such terms and conditions as the Secretary may prescribe, to make grants or loans (directly, through the purchase of securities or equipment trust certificates, or otherwise) to assist States and local public bodies and agencies thereof in financing—

"(A) the construction of new fixed guideway systems and extensions to existing fixed guideway systems, including the acquisition of real property, the initial acquisition of rolling stock needed for such systems, and the detailed alternative analyses relating to the development of such systems;

"(B) the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service and the coordination of such service with highway and other transportation. Eligible facilities and equipment may include personal property such as buses and other rolling stock, and rail and bus facilities, and real property and improvements (but not public highways other than fixed guideway facilities) needed for an efficient and coordinated public transportation system. No project for the replacement or purchase of buses and related equipment or the construction of bus-related facilities shall be approved unless the Secretary finds that such project cannot be reasonably funded out of the apportionments under section 5(a)(4) of this Act;

"(C) the introduction into public transportation service of new technology in the form of innovative and improved products;

"(D) transportation projects which enhance the effectiveness of any mass transportation project and are physically or functionally related to such mass transportation project or which create new or enhanced coordination between public transportation and other forms of transportation, either of which enhance urban economic development or incorporate private investment including commercial and residential development. The term "eligible costs" includes property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, and the acquisition, construction, and improvement of facilities and equipment for intermodal transfer facilities and transit malls, but does not include the construction of commercial revenue-producing facilities, whether publicly or privately owned, or of those portions of public facilities not related to mass transportation. The Secretary shall require that all grants and loans under this paragraph be subject to such terms, conditions, requirements, and provisions as the Secretary determines necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section. The Secretary shall require in all grants and loans under this subparagraph that any person or entity that contracts to occupy space in facilities funded under this subparagraph shall pay a fair share of the costs of such facilities, through rental payments and other means;

"(E) the modification of equipment and fixed facilities (other than stations) which the Secretary determines to be necessary to avoid any adverse effects resulting from the implementation of the Northeast Corridor project pursuant to title VII of Public Law 94-210. Notwithstanding the Federal share provisions of section 4(a) of this Act, the Secretary is authorized to make grants for 100 per centum of the net project cost of projects assisted under this subparagraph.

"(2)(A) No grant or loan shall be provided under this section unless the Secretary determines that the applicant has or will have—

"(i) the legal, financial, and technical capacity to carry out the proposed project; and

"(ii) satisfactory continuing control, through operation or lease or otherwise, over the use of the facilities and the equipment.

"(B) The Secretary may make loans for real property acquisition pursuant to subsection (b) upon a determination, which shall be in lieu of the determination required by subparagraph (A), that the real property is reasonably expected to be required in connection with a mass transportation system and that it will be used for that purpose within a reasonable period.

"(C) No grant or loan funds shall be used for payment of ordinary governmental or nonproject operating expenses, nor shall any grant or loan funds be used to support procurements utilizing exclusionary or discriminatory specifications.

"(3) The Secretary shall not approve a grant or loan for a project under this section unless the Secretary finds that such project is part of an approved program of projects required by section 8 of this Act.

"(4) The Secretary is authorized to announce an intention to obligate for a project under this section through the issuance of a letter of intent to the applicant. Such an action shall not be deemed an obligation as defined under section 1311 of the Act of August 26, 1954, as amended (31 U.S.C. 200), nor shall such a letter be deemed an administrative commitment. The letter shall be regarded as an intention to obligate from future available budget authority provided in an appropriation Act not to exceed an amount stipulated as the Secretary's financial participation in the defined project under this section. The amount stipulated in the letter, when issued for a fixed guideway project, shall be sufficient to complete an operable segment. No obligation or administrative commitment

may be made pursuant to such a letter of intent except as funds are provided in appropriations Acts. The total estimated amount of future Federal obligations covered by all outstanding letters of intent shall not exceed the amount authorized in section 4(c) of this Act, less an amount reasonably estimated by the Secretary to be necessary for grants under this section which are not covered by a letter of intent. The total amount covered by new letters issued shall not exceed any limitation that may be specified in an appropriations Act. Nothing in this paragraph shall affect the validity of letters of intent issued prior to the enactment of the Federal Public Transportation Act of 1978.".

(b) Section 3(b) of the Urban Mass Transportation Act of 1964 is amended by striking out "including the net cost of property management" and inserting in lieu thereof the following: "including reconstruction, renovation, and the net cost of property management".

(c) Section 3(e)(1) of the Urban Mass Transportation Act of 1964 is amended by striking out "the Secretary finds that such assistance is essential to a program, proposed or under active preparation, for a unified or officially coordinated urban transportation system as part of the comprehensively planned development of the urban area" and inserting in lieu thereof "the Secretary finds that such assistance is essential to the program of projects required by section 8 of this Act".

(d) Section 3(h) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(h) Notwithstanding any other provision of this Act, the Secretary, upon application by a local public body, may approve a project which utilizes funds available under sections 3 and 5 of this Act, but in any such project, none of the funds available under section 3 may be expended in connection with the acquisition of buses, bus equipment, or bus related facilities unless the combined project includes new buses, bus equipment, or bus related facilities the cost of which is at least equal to the total amount that reasonably could have been provided for such purposes with funds available under section 5(a)(4).".

AUTHORIZATIONS

SEC. 303. (a) The caption of section 4 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "NET PROJECT COST, FEDERAL SHARE, AND AUTHORIZATIONS".

(b) Section 4(a) of the Urban Mass Transportation Act of 1964 is amended by striking out the first three sentences.

(c) Section 4(c) of the Urban Mass Transportation Act of 1964 is amended by inserting "(1)" immediately after "(c)"; by inserting after the word "Act" the second time it appears in the first sentence the words "as it read prior to enactment of the Federal Public Transportation Act of 1978"; by striking out the last sentence; and by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding paragraph (1) of this subsection or any other provision of this Act, the unobligated balance of contract authority established pursuant to paragraph (1) shall not be available for administrative commitment after September 30, 1978, and shall lapse on September 30, 1980.

"(3)(A) To finance additional grants and loans under section 3 of this Act and to finance grants and contracts under subsection (i) of this section and section 8 of this Act, there are authorized to be appropriated not to exceed $1,375,000,000 for the fiscal year ending September 30, 1979; $1,410,000,000 for the year ending September 30, 1980; $1,515,000,000 for the year ending September 30, 1981; $1,600,000,000 for the fiscal year ending September 30, 1982; and $1,580,000,000 for the fiscal year ending September 30, 1983. In any fiscal year not more than five and one-half per centum of such fiscal years appropriation pursuant to this subparagraph shall be used for the purposes of subsection (i) of this section and section 8 of this Act. Appropriations pursuant to the authority of this paragraph and subsection (g) of this section may be in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation and shall remain available for three years following the close of the fiscal year for which such appropriation is made.

"(B) In each fiscal year, not more than $200,000,000 of the sums appropriated pursuant to subparagraphs (A) shall be available for grants and loans approved under section 3(a)(1)(D) of this Act.

"(C) Not more than $45,000,000 of the total sums appropriated pursuant to subparagraph (A) shall be available for grants approved under section 3(a)(1)(E) of this Act.

"(D) In each fiscal year, at least $350,000,000 of the sums appropriated pursuant to subparagraph (A) shall be available for grants for the reconstruction and improvement of existing public mass transportation systems.".

(d) Section 4(d) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(d) There are authorized to be appropriated $10,000,000 in each fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982, to carry out the functions of section 11(b) of this Act. Sums appropriated pursuant to this subsection shall remain available until expended.".

(e) Section 4 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsections:

"(e) To finance grants under section 18 of this Act, there are authorized to be appropriated not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $100,000,000 for the fiscal year ending September 30, 1980; $110,000,000 for the fiscal year ending September 30, 1981, and $120,000,000 for the year ending September 30, 1982. Sums appropriated pursuant to this subsection shall remain available until expended.

"(f) There are authorized to be appropriated to carry out the functions of this Act, other than sections 3, 5, 8, 11(b), 16(b), 18, 21, and 22, not to exceed $90,000,000 for the fiscal year ending September 30, 1979; $95,000,000 for the fiscal year ending September 30, 1980; $100,000,000 for the fiscal year ending September 30, 1981; and $105,000,000 for the fiscal year ending September 30, 1982. Sums appropriated pursuant to this subsection for financing projects funded under section 6 of this Act shall remain available until expended.

"(g) There are authorized to be appropriated such sums as may be necessary to carry out public transportation projects substituted for Interstate segments withdrawn under section 103(e)(4) of title 23, United States Code.

"(h)(1) On or before the twentieth day of each calendar quarter the Secretary shall submit to Congress a report on (1) obligations, commitments, and reservations by State, designated recipients, and applicant, made under authority of this Act; (2) the balance as of the last day of each quarter of the unobligated, uncommitted, and unreserved apportionments made under this Act; (3) the balance of unobligated, uncommitted, and unreserved sums available for expenditure at the discretion of the Secretary under this Act as of the end of such quarter; (4) a listing of letters of intent issued; and (5) a status report on all outstanding letters of intent.

"(2) On or before October 1, 1979, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1981 through 1984. On or before October 1, 1981, the Secretary shall report to Congress on authorization requests for sections 3 and 5 of this Act for fiscal years 1983 through 1986. Such authorization requests shall contain a description and analysis of the methods used and the assumptions relied upon by the Secretary.".

"(i) The Secretary is authorized to make grants to States and local public bodies, using sums available pursuant to section 4(c)(3)(A) of this section, for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. In each fiscal year grants for any one State shall not exceed twelve and one-half percentum of the funds available for the purposes of this subsection."

URBAN MASS TRANSIT PROGRAM

SEC. 304. (a) Subsections (a) and (b) of section 5 of the Urban Mass Transportation Act of 1964 are amended to read as follows:

"(a)(1)(A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in fiscal years 1975 through 1980 the sums authorized by subsection (c)(1) of this section and appropriated pursuant to subsection (c)(2) of this section. For subsequent fiscal years, the Secretary shall apportion the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) one-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, as designated by the Bureau of Census, bears to the total population of all the urbanized areas in all the States as shown by the latest available Federal census; and

"(ii) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in this section, the term 'density' means the number of inhabitants per square mile.

(B) There are authorized to be appropriated for the purposes of this paragraph, $900,000,000 in each fiscal year for the fiscal years ending September 30, 1981, and September 30, 1982.

"(2) (A) To make grants for construction or operating assistance purposes under this subsection, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (C) of this paragraph.

(i) Eighty-five per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of 750,000 or more, and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that ur-

banized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

(ii) Fifteen per centum of such sums shall be made available for expenditure in only those urbanized areas or parts thereof with a population of less than 750,000 and on the basis of a formula under which such urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(1) one-half of the total amount so apportioned multiplied by the ratio which the population of such an urbanized area or part thereof, as designated by the Bureau of the Census, bears to the total population of all such urbanized areas in all the States as shown by the latest available Federal census; and

"(2) one-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary.

As used in the preceding sentence, the term 'density' means the number of inhabitants per square mile.

(C) There are authorized to be appropriated for the purposes of this paragraph $250,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $250,000,000 for the fiscal year ending September 30, 1981; and $250,000,000 for the fiscal year ending September 30, 1982.

"(3)(A) To make grants for construction and operating assistance projects under this subsection involving commuter rail or other fixed guideway systems, the Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. Such sums shall be made available for expenditure in urbanized areas or parts thereof on the basis of a formula under which urbanized areas or parts thereof will be entitled to receive an amount equal to the sum of—

"(i) two-thirds of the total amount to be apportioned as follows: one-half multiplied by a ratio which the number of commuter rail train miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail train miles operated in or serving all urbanized areas in the prior fiscal year, and one-half multiplied by a ratio which the number of commuter rail route miles operated within or serving the urbanized area in the prior fiscal year bears to the total number of commuter rail route miles operated in or serving all urbanized areas in the prior fiscal year. No single eligible State's portion of an urbanized area shall receive in any fiscal year less than one-half per centum or more than thirty per centum of the sums appropriated for such fiscal years pursuant to this clause;

"(ii) one-third of the total amount to be apportioned multiplied by the ratio that the number of fixed guideway system route miles (excluding commuter rail route miles) in the urbanized area in the prior fiscal year bears to the total number of such fixed guideway system route miles (excluding commuter rail route miles) in all urbanized areas in the prior fiscal year. For the purposes of the calculation to be made under this subparagraph, no single State's portion of an urbanized area shall receive more than 30 per centum of the sums appropriated for such fiscal year pursuant to this clause.

Sums apportioned under this paragraph shall be available for expenditure only for capital or operating assistance projects involving commuter rail or other fixed guideway systems.

"(B) There are authorized to be appropriated for the purposes of this paragraph, $115,000,000 for the fiscal year ending September 30, 1979; $130,000,000 for the fiscal year ending September 30, 1980; $145,000,000 for the fiscal year ending September 30, 1981; and $160,000,000 for the fiscal year ending September 30, 1982.

"(4)(A) To make grants under this subsection for the purchase of buses and related equipment, or the construction of bus related facilities, the Secretary shall apportion in each fiscal year the sums appropriated pursuant to subparagraph (B) of this paragraph. In fiscal years 1979 and 1980, the apportionments shall be made in accordance with the population density formula set out in subsection (a)(1)(A) of this section. Sums apportioned under this paragraph shall be available only for projects for the purchase of buses and related equipment, in the construction of bus related facilities, except that projects assisted pursuant to section 3(h) of this Act may utilize funds apportioned under this section for any eligible construction project.

"(B) There are authorized to be appropriated for the purposes of this paragraph $300,000,000 for the fiscal year ending September 30, 1979; $300,000,000 for the fiscal year ending September 30, 1980; $370,000,000 for the fiscal year ending September 30, 1981; and $455,000,000 for the fiscal year ending September 30, 1982.

"(b)(1) The Governor, responsible local officials and publicly owned operators of mass transportation services, in accordance with the planning process required under section 8 of this Act, with the concurrence of the Secretary, shall designate a recipient or recipients to receive and dispense the funds apportioned under subsection (a) that are attributable to urbanized areas of two hundred thousand or more population. In any case in which a statewide or regional agency or instrumentality is responsible under State laws for the financing, construction and operation, directly, by lease, contract or otherwise, of public transportation services, such agency or instrumentality shall be the recipient to receive and dispense such funds. The term 'designated recipients' as used in this action shall refer to the recipient selected according to the procedures required by this paragraph.

"(2) Sums apportioned under subsection (a) not made available for expenditure by designated recipients in accordance with the terms of paragraph (1) of this subsection shall be made available to the Governor for expenditures in urbanized areas or parts thereof in accordance with the planning process required under section 8 of this Act and shall be fairly and equitably distributed. The Governor shall submit annually a report to the Secretary concerning the allocation of funds made available under this paragraph."

(b) Section 5(c)(2) of the Urban Mass Transportation Act of 1964 is amended to read as follows: "In addition to sums authorized in paragraph (1) of this subsection, there is authorized to be appropriated for the fiscal year ending September 30, 1980 the additional amount of $125,000,000. This amount shall be available for apportionment pursuant to subsection (a)(1) of this section.

(C) Section 5(c) of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new paragraphs:

"(3) Appropriations pursuant to this section shall be available until expended.

"(4) Sums apportioned under this section shall be available for obligation by the Governor or designated recipient for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be added to the amount available for apportionment under this section for the succeeding fiscal year, except that any funds authorized by section 5 (a)(3) and (4) which are so reapportioned shall remain subject to the limitations applicable to the original apportionment of such funds".

(e) Section 5(f) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(f) Federal funds available for expenditure for mass transportation projects under this section and apportioned for fiscal years ending prior to October 1, 1981, shall be supplementary to and not in substitution for the average amount of State and local government funds and other transit revenues such as advertising concessions, and property leases, excluding reimbursement payments for the transportation of schoolchildren, expended on the operation of mass transportation service in the area involved for the two fiscal years preceding the fiscal year for which the funds are made available; Provided however, That if such State and local government funds or other transit revenues are reduced, there shall be no loss of Federal assistance under this section if such reduction is offset by an increase in operating revenues through changes in fare structure. Nothing in the preceding sentence shall be construed as preventing State or local tax revenues which are used for the operation of mass transportation service in the area involved from being credited (to the extent necessary, toward the non-Federal share of the cost of the project. Where the Secretary finds that a recipient has reduced operating costs without reducing service levels the recipient shall be entitled to make a proportionate reduction in the amount of transit revenues required to be expended under this subsection.".

(f) Section 5(g) of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(g) The Secretary shall not approve a grant or loan for a project under this section unless he finds that such project is part of the approved program of projects required by section 8 of this Act, and that the applicant or responsible agency has or will have—

"(1) the legal, financial, and technical capacity to carry out the proposed project; and

"(2) satisfactory continuing control through operation or lease or otherwise, over the use of project facilities and equipment.".

(g) Section 5(i) of the Urban Mass Transportation Act of 1964 is amended by striking out "and (2)" and inserting in lieu thereof "(2)"; by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and (3) assurances satisfactory to the Secretary that any public mass transportation system receiving financial assistance under such project will not change any fare and will not substantially change any service except (A) after having held public hearings or having afforded an adequate opportunity for such hearings, after adequate public notice, (B) after having given proper consideration to views and comments expressed in such hearings, and (C) after having given consideration to the effect on energy conservation, and the economic, environmental, and social impact of the change in such fare or such service.".

PLANNING AND TECHNICAL STUDIES

SEC. 305. (a) Sections 8 and 9 of the Urban Mass Transportation Act are repealed.

(b) The Urban Mass Transportation Act is amended by inserting after section 7 the following new section:

"PLANNING AND TECHNICAL STUDIES

"SEC. 8. (a) It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To

accomplish this objective, the Secretary shall cooperate with the State and local officials in the development of transportation plans and programs which are formulated on the basis of transportation needs with due consideration to comprehensive long-range land use plans, development objectives, and overall social, economic, environmental, system performance, and energy conservation goals and objectives, and with due consideration to their probable effect on the future development of urban areas of more than 50,000 population. The planning process shall include an analysis of alternative transportation system management and investment strategies to make more efficient use of existing transportation facilities. The process shall consider all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

"(b)(1) The urbanized area planning process shall be carried on by local officials acting through a metropolitan planning organization in cooperation with the State.

"(2) Within one year after enactment of this subsection, in the absence of State law to the contrary, units of general purpose local government within an urbanized area or contiguous urbanized areas for which a metropolitan planning organization has been designated prior to enactment of this subsection, may by agreement of at least 75 per centum of the units of general purpose local government representing at least 90 per centum of the population of such urbanized area or areas and in cooperation with the governor, redesignate as the metropolitan planning organization any representative organization.

"(3) Except as provided in subparagraph (B), after the date of enactment of this subsection, designations of metropolitan planning organizations shall be by agreement among the units of general purpose local government and the Governor.

"(c) A program of projects eligible for assistance under this Act shall be submitted for approval to the Secretary. The Secretary shall not approve for an urbanized area any such program of projects in whole or in part unless (1) the Secretary finds that the planning process on which such program is based is being carried on in conformance with the objectives of this section, and (2) the Secretary finds that the program of projects is based on the planning process.

"(d) The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof for the planning, engineering, designing, and evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include (1) studies relating to management, operations, capital requirements, and economic feasibility; (2) preparation of engineering and architectural surveys, plans, and specifications; (3) evaluation of previously funded projects; and (4) other similar or related activities preliminary and in preparation for the construction, acquisition, or improved operation of mass transportation systems, facilities, and equipment. A grant or contract under this section shall be made in accordance with criteria established by the Secretary.

"(e) The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in mass transportation service in the urban area, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.".

FELLOWSHIP ASSISTANCE

SEC. 306. Section 10 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"GRANTS FOR TRAINING PROGRAMS

"SEC. 10. The Secretary is authorized to make grants to States, local public bodies, and agencies thereof (and operators of public transportation services) to provide fellowships for training of personnel employed in managerial, technical, and professional positions in the public transportation field. Fellowships shall be for not more than one year of training in public or private training institutions offering programs having application in the public transportation industry. The recipient of a fellowship under this section shall be selected by the grantee on the basis of demonstrated ability and for the contribution which the recipient can be reasonably expected to make to an efficient public transportation operation. The assistance under this section toward each fellowship shall not exceed the lesser of $24,000 or 75 per centum of the sum of (1) tuition and other charges to the fellowship recipient, (2) any additional costs incurred by the training institution in connection with the fellowship and billed to the grantee, and (3) the regular salary of the fellowship recipient for the period of the fellowship (to the extent that salary is actually paid or reimbursed by the grantee).".

TRANSPORTATION CENTERS

SEC. 307. Subsection (b) of section 11 of the Urban Mass Transportation Act of 1964 is amended to read as follows:

"(b)(1) In addition to grants authorized by subsection (a) of this section, the Secretary is authorized to make grants for the purpose of establishing and operating transportation centers at nonprofit institutions of higher learning.

"(2) The institutions receiving assistance under this subsection shall be selected by the Secretary, in coordination with State transportation agencies or departments, on the basis of demonstrated research and extension resources capable of contributing to the solution of State and regional transportation problems.

"(3) The responsibilities and duties of each transportation center shall include, but not be limited to, the conduct of competent research investigations, both scientific and policy oriented, and experiments of either a basic or practical nature in relation to transportation problems.

"(4) In order for an institution to receive Federal funds under this subsection, subject to the conditions set forth therein, such institution, in coordination with the State in which the institution is located (or, in the case of multi-institutional programs authorized under paragraph (6) of this subsection, in coordination with the States in which the participating institutions are located) shall submit to the Secretary for his approval a program or programs of proposed projects for the academic year for the utilization of such funds. The Secretary shall act upon programs submitted to him by March 15 preceding the fiscal year for which application for assistance is made (except in the case of fiscal year 1979, for which the Secretary shall act upon programs submitted to him as soon as practicable).

"(5) As a condition to project approval, the State in which a selected institution is located must equally match from other than Federal funds, the amount of the Federal grant.

"(6) Upon the joint application of two or more institutions of higher learning, the Secretary may approve a multi-institutional program to address regional transportation problems, subject to conditions set forth in this subsection.

"(7) On or before July 1 of each fiscal year for which funds have been appropriated under this subsection, each participating institution shall submit a report to the Secretary on its activities and progress in solving transportation problems. On or before October 1 of each such fiscal year, the Secretary shall submit a report to Congress on the activities and progress of the program authorized by this subsection in solving transportation problems and achieving national transportation policy objectives.".

DEFINITIONS AND GENERAL PROVISIONS

SEC. 308. Section 12 of the Urban Mass Transportation Act of 1964 is amended as follows:

(a) Subsection (b) is amended—

(1) by inserting "(1)" after "(b)";

(2) by adding at the end thereof following:

"(2) After September 30, 1979, contracts for the acquisition of rolling stock, including buses, which will result in the expenditure of Federal financial assistance under this Act, may be awarded based on consideration of performance, standardization, life-cycle costs, and other factors the Secretary may deem relevant, in addition to the consideration of initial capital costs. Where necessary, the Secretary shall assist grantees in making such evaluations.".

(b) Subsection (c) is amended to read as follows:

"(1) the term 'construction' means the supervising, inspecting, actual building, and all expenses incidental to the acquisition, construction, or reconstruction of facilities and equipment for use in public transportation, including designing, engineering, location surveying, mapping, acquisition of rights-of-way, relocation assistance, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing;

"(2) the term 'fixed guideway' means any public transportation facility which utilizes and occupies a separate right-of-way for the exclusive use of public transportation service including, but not limited to, fixed rail, automated guideway transit, and exclusive facilities for buses and other high occupancy vehicles;

"(3) the term 'Governor' means the ranking executive officer or his designate for each of the jurisdictions included in the definition of 'States';

"(4) the term 'handicapped person' means any individual who by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, including any person who is wheelchair bound or has semiambulatory capabilities, is unable without special facilities or special planning or design to utilize public transportation facilities and services effectively. The Secretary may, by regulation, adopt modifications of this definition for purposes of section 5(m) of this Act;

"(5) the term 'local public bodies' includes municipalities and other political subdivisions of States; public agencies and instrumentalities of one or more States, municipalities and political subdivisions of States; Indian tribes; and public corporations, boards, and commissions established under the laws of any State;

"(6) the term 'mass transportation' means transportation by bus, or rail, or other conveyance, either publicly or privately owned, which provides to the public general or special service (but not including school buses or charter or sightseeing service) on a regular and continuing basis;

"(7) the term 'public transportation' means mass transportation;

"(8) the term 'Secretary' means the Secretary of Transportation;

"(9) The term 'States' means the several States, the District of Columbia, the Com-

monwealths of Puerto Rico and the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands;

"(10) the term 'urban area' means any area that includes a municipality or other built-up place which is appropriate, in the judgment of the Secretary, for a public transportation system to serve commuters or others in the locality taking into consideration the local patterns and trends of urban growth; and

"(11) the term 'urbanized area' means an area so designated by the Bureau of Census, within boundaries which shall be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary, and which shall at a minimum, in case of any such area, encompass the entire urbanized area within a State as designated by the Bureau of Census.".

(c) Subsections (d) and (f) of Section 12 of the Urban Mass Transportation Act of 1964 are repealed and section 12(e) is redesignated as section 12(d).

(d) Section 12 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(e) None of the provisions of this Act shall be construed to authorize Federal financial assistance for the purpose of financing the acquisition by one public body of land, facilities, or equipment used in mass transportation from another public body in the same geographic area.

"(f)(1) A State or local public body may petition the Interstate Commerce Commission for an exemption from part II of the Interstate Commerce Act for mass transportation services provided by such State or local public body or provided to such State of local public body by contract. Not later than one hundred and eighty days after the date such petition is received by the Commission, the Commission shall, after notice and reasonable opportunity for a hearing on such petition, by order, exempt such State or local public body or contractor from part II of the Interstate Commerce Act with respect to such mass transportation services to the extent and for such time as it specifies in such order, unless the Commission finds that—

"(A) the public interest would not be served by such exemption,

"(B) the exemption requested would result in an undue burden on the interstate or foreign commerce, or

"(C) the mass transportation services, including rates, proposed to be exempt are not subject to regulation by any State or local public agency.

"(2) Any State or local public body granted an exemption under paragraph (1) of this subsection shall be subject to all applicable Federal laws pertaining to (A) safety, (B) the representation of employees for purposes of collective bargaining, (C) retirement, annuities, and unemployment systems, and (D) all other provisions of law relating to employee-employer relations. The Commission, upon its own initiative or upon petition of an interested party, may alter, amend, or revoke any exemption under paragraph (1) of this subsection if it subsequently finds that new evidence, material error, or changed circumstances exist which materially affect its original order.

"(g) In the case of any buses acquired with Federal financial assistance provided under this Act, the Secretary shall permit the State or local public body which is acquiring such buses to provide in advertising for bids for passenger seats functional specifications (which equal or exceed the performance specifications prescribed by the Secretary), based on that State or local body's determination of local requirements for safety, comfort, maintenance and life cycle costs. This subsection shall apply to the initial advertising for bids for the acquisition of buses occurring on or after the date of enactment of the Federal Public Transportation Act of 1978.".

PROCUREMENT STUDY

SEC. 309. The Secretary of Transportation shall make an evaluation of the procurement process utilized for the purchase of rolling stock and other technical equipment purchased with Federal financial assistance under the Urban Mass Transportation Act of 1964, and from whom purchased. Such evaluation shall consider the benefits of more widespread utilization of negotiated procurements. The Secretary shall, not later than July 1, 1979, report to Congress the results of such evaluation together with his recommendations for necessary legislation.

REPORTING SYSTEM

SEC. 310. Section 15 of the Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new subsection:

"(c) The Secretary shall, not later than July 1, 1979, report to Congress on the systems prescribed under authority of this section, together with his recommendations for any further legislation, if any, he deems necessary in connection with such systems.".

SET ASIDE FOR ELDERLY AND HANDICAPPED

SEC. 311. (a) The last sentence of subsection (b) of section 16 of the Urban Mass Transportation Act of 1964 is amended to read as follows: "Of the total amount authorized to be appropriated pursuant to section 4(c)(3) of this Act, 2 per centum may be set aside and used exclusively to finance the programs and activities authorized by this subsection (including administrative costs).".

(b) Section 16(d) of the Urban Mass Transportation Act of 1964 is repealed.

COMMUTER RAIL OPERATING ASSISTANCE

SEC. 312. (a) Section 17(d) of the Urban Mass Transportation Act of 1964 is amended by inserting the word "and" immediately after the semicolon in paragraph (3); by striking out "180-day period succeeding the period specified in subparagraph (3) of this subsection" and inserting "period ending September 30, 1978." in paragraph (4); and by striking out paragraph (5).

(b) Section 17(f) of the Urban Mass Transportation Act of 1964 is amended by striking out "$185,000,000" in the first sentence and inserting in lieu thereof "$125,000,000" and by amending the second sentence to read as follows: "There are authorized to be appropriated for liquidation of the obligations incurred under this section not to exceed $40,000,000 by September 30, 1976, $95,000,000 by September 30, 1977 and $125,000,000 by September 30, 1978, such sums to remain available until expended.".

(c) Section 18 of the Urban Mass Transportation Act of 1964 is repealed.

FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS

SEC. 313. (a) The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"SEC. 18. (a) The Secretary shall apportion for expenditure in each fiscal year the sums appropriated pursuant to section 4(e) of this Act. Such sums shall be made available for expenditure for public transportation projects in areas other than urbanized areas on the basis of a formula under which the Governor of each State will be entitled to receive an amount equal to the total amount so apportioned, multiplied by the ratio which the population of areas other than urbanized areas in such State, as designated by the Bureau of the Census, bears to the total population of areas other than urbanized areas in all the States as shown by the latest available Federal census. Appropriations pursuant to the authority of this section may be made in an appropriation Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation.

"(b) Funds made available under this section may be used for public transportation projects which are included in a State program of projects for public transportation services in areas other than urbanized areas. Such program shall be submitted annually to the Secretary for his approval. The Secretary shall not approve the program unless he finds that it provides for a fair and equitable distribution of funds within the State, including Indian reservations within the State, and provides for the maximum feasible coordination of public transportation services assisted under this section with transportation services assisted by other Federal sources.

"(c) Sums apportioned under this subsection shall be available for obligation by the Governor for a period of three years following the close of the fiscal year for which the sums are apportioned and any amounts remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year. States may utilize sums apportioned under this section for any projects eligible under this Act which are appropriate for areas other than urbanized areas, including purchase of service agreements with private providers of public transportation service, to provide local transportation service, as defined by the Secretary, in areas other than urbanized areas. Eligible recipients may include State agencies, local public bodies and agencies thereof, nonprofit organizations, and operators of public transportation services.

"(d) The Secretary may permit an amount, not to exceed 15 per centum of the amount apportioned, to be used by each State for administering this section and for providing technical assistance to recipients of funds under this section. Such technical assistance may include project planning, program development, management development, coordination of public transportation programs (public and private), and such research as the State may deem appropriate to promote effective means of delivering public transportation service in areas other than urbanized areas.

"(e) The Federal share under this Act for any construction project under this section shall not exceed 80 per centum of the net cost of such construction project, as determined by the Secretary. The Federal share under this Act for any project for the payment of subsidies for operating expenses, as defined by the Secretary, shall not exceed 50 per centum of the net cost of such operating expense project. At least 50 per centum of the remainder shall be provided in cash, from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement, or depreciation funds or reserves available in cash or new capital.

"(f) Grants under this section shall be subject to such terms and conditions (which are appropriate to the special needs of public transportation in areas other than urbanized areas) as the Secretary may prescribe. The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section. For the purposes of this section, the Secretary of Labor may waive any provisions of section 13(c) of this Act. Nothing under this subsection shall affect or discharge any responsibility of the Secretary under any other provision of Federal law.

"(g) The Secretary shall, in cooperation with State regulatory commissions, make an evaluation of the escalation of insurance rates for operators of public transportation in rural areas and for providers of special transportation services for elderly and handicapped persons. The Secretary shall, not later

than January 1, 1980, report to Congress the results of this evaluation together with his recommendations for necessary legislation.".

NONDISCRIMINATION

SEC. 314. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"NONDISCRIMINATION

"SEC. 19. (a)(1) GENERAL.—No person in the United States shall on the grounds of race, color, creed, national origin, sex, or age be excluded from participation in, or denied the benefits of, or be subject to the discrimination under any project, program, or activity funded in whole or in part through financial assistance under this Act. The provisions of this section shall apply to employment and business opportunities and shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

"(2) AFFIRMATIVE ACTION.—The Secretary shall take affirmative action to assure compliance with subsection (a)(1) of this section.

"(3) COMPLIANCE.—(A) Whenever the Secretary determines that any person receiving financial assistance, directly or indirectly, under this Act, has failed to comply with subsection (a)(1) of this section, with any Federal civil rights statute, or with any order or regulation issued under such statute, the Secretary shall give notice of such determination and shall require necessary action to be taken to assure compliance with such subsection.

"(B) If, within a reasonable period of time after receiving notification pursuant to paragraph (a) of this subsection, such person fails or refuses to comply with subsection (a)(1) of this section, the Secretary shall—

"(i) direct that no further Federal financial assistance under this Act be provided to such person;

"(ii) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(iii) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.); or

'(iv) take such other actions as may be provided by law.

"(4) CIVIL ACTION.—Whenever a matter is referred to the Attorney General pursuant to subsection (a)(3)(B)(ii) of this section, or whenever the Attorney General has reason to believe that any person is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may commence a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"(5) DEFINITION.—For purposes of this section, the term 'person' includes one or more governmental agencies, political subdivisions, authorities, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers.".

HUMAN RESOURCE PROGRAMS

SEC. 315. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"HUMAN RESOURCE PROGRAMS

"SEC. 20. The Secretary is authorized to undertake, or provide financial assistance by grant or contract for, national and local programs that address human resource needs as they apply to public transportation activities. Such programs may include but are not limited to employment training programs; outreach programs to increase minority and female employment in public transportation activities; research on public transportation manpower and training needs; and training and assistance for minority business opportunities. Such assistance may include assistance in seeking venture capital, obtaining surety bonding, obtaining management and technical services, and contracting with public agencies organized for such purposes.".

LOAN FORGIVENESS

SEC. 316. (a) The Secretary of Transportation may convert equipment and facilities loans heretofore made under section 3(a) of the Urban Mass Transportation Act of 1964 or title II of the Housing Amendments of 1955 (42 U.S.C. 14924), to grants under the conditions set forth below. A grant agreement for the acquisition, construction, reconstruction, or improvement of facilities and equipment under section 3(a) of the Urban Mass Transportation Act of 1964 may provide for forgiveness of principal and interest on a loan previously made in lieu of a cash grant in the amount forgiven. Such grant shall be subject to such terms and conditions as the Secretary may deem necessary and appropriate, taking into account the degree of completion of the project financed with the loan.

(b) In lieu of the local matching share otherwise required, the grant agreement may provide that State or local funds shall be committed to public transportation projects in the urbanized area, on a schedule acceptable to the Secretary, in an amount equal to the local share that would have been required had the amount of principal and interest forgiven been the Federal share of a capital grant made when the original loan was made. The State or local funds contributed under the terms of the preceding sentence shall be made available for capital projects eligible for funding under section 3(a) of the Urban Mass Transportation Act of 1964 and may not be used to satisfy the local matching requirements for any other grant project.

RETREAD TIRE MANUFACTURERS EXEMPTION FROM RECORDKEEPING

SEC. 317. Section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1418(b)) is amended by inserting ", except the manufacturers of tires which have been retreaded," immediately after "or tires" in the first and second sentences thereof.

BASIC TRANSPORTATION SYSTEM STUDY

SEC. 318. The Secretary of Transportation shall make a full and complete investigation and study of establishing and operating a mass transportation system, in whole or in part, which would provide basic services with a minimum of amenities, at low costs. The Secretary shall report to the Congress the results of such investigation and study not later than one year after the date of enactment of this section.

STUDIES OF DISTRIBUTION OF FUNDS

SEC. 319. (a) The Secretary of Transportation shall conduct a study of the alternative methods of distributing, by formula, funds apportioned for capital purposes under section 5(a)(4) of the Urban Mass Transportation Act of 1964. The study shall include an evaluation of the appropriate goals of a formula program for the distribution of such capital assistance and an analysis of the various factors which may be used to measure transit usage or need, including vehicle miles, seat miles, fleet or vehicle age, fleet size, population and population density, and such other factors as the Secretary considers necessary or appropriate to achieve such goals. The Secretary shall report to Congress the results of this study not later than January 1, 1980, together with his recommendations for legislation.

(b) The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs of the House of Representatives, on or before January 1, 1980, recommendations (including draft legislative proposals to accomplish such recommendations) as to ways and means by which Federal mass transit funds can be allocated on a basis which considers the nature and extent of air pollution as a criterion for the distribution of such funds. In formulating such recommendations, the Secretary (in consultation with the Administrator) shall consider and report back to such committees his finds with respect to, but not limited to, the following:

(1) the most appropriate and feasible standards of air quality to be utilized as a criterion of air pollution, including, but not limited to, standards for ozone, carbon monoxide, nitrogen oxide, and hydrocarbons;

(2) the most appropriate and reliable methods for measuring and monitoring the above air quality standards, including, but not limited to, measuring devices, placement of such devices, frequency of readings, and other procedures relating to measuring air quality;

(3) the most appropriate, feasible, and equitable manner in which air pollution measures can be adjusted to take into account seasonal, meteorological, and other variations so that air measures accurately reflect average air quality over a reasonable period of time;

(4) which Federal mass transit program funds should be allocated on a basis utilizing air pollution as a criterion, including, but not limited to, programs under sections 3 and 5 of the Urban Mass Transportation Act of 1964;

(5) the relative weight which such an air pollution criterion should be given for the purpose of allocating funds under the above Federal mass transit programs; and

(6) alternative approaches to modifying criteria for allocating Federal mass transit funds which would assure that areas with extensive air pollution receive a proportionately greater amount of funds than areas with a lesser extent of air pollution.

WATERBORNE TRANSPORTATION DEMONSTRATION PROJECT

SEC. 320. (a) The Secretary of Transportation shall carry out a demonstration project using high-speed waterborne transportation equipment and facilities and operating in, and in the vicinity of, New York, New York, for the purpose of determining the feasibility of utilizing this technology in providing certain public mass transportation service. The Secretary shall report to Congress the results of such project no later than September 30, 1981, together with his recommendations.

(b) There is authorized to be appropriated to carry out the provisions of subsection (a) not to exceed $25,000,000.

RAIL RETROFIT EVALUATION

SEC. 321. (a)(1) Beginning in fiscal year 1979, the Secretary of Transportation shall provide Federal financial assistance under section 8 of the Urban Mass Transportation Act of 1964 to operators of fixed-guideway public mass transportation systems for the purpose of developing detailed estimates of the cost of making improvements to existing fixed-guideway public mass transportation systems to make such systems accessible to and usable by handicapped persons. Not later than January 30, 1980, the Secretary shall compile the results of these evaluations and report to Congress the results, together with his recommendations for such legislation as may be necessary to finance the improvements set forth in the cost estimates.

(2) In developing detailed estimates of the cost of improvements needed to make exist-

ing fixed-guideway public mass transportation systems accessible to and usable by handicapped persons, operators of such system shall provide comments on the desirability of the improvements, taking into account projected use of the improvements, the operational characteristics of the system, and such other factors as the operators may deem appropriate. Under rules set forth by the Secretary of Transportation, operators shall submit all such comments and cost estimates to organizations representing handicapped persons. Such organizations shall be afforded ninety days to submit comments to the Secretary.

(3) Cost estimates developed with assistance under this section, to the extent they are not deemed unreasonable by the Secretary of Transportation, may serve as the basis for cost estimates in plans required by the Secretary for meeting the requirements of section 504 of the Rehabilitation Act of 1973.

(b) The Secretary of Transportation shall make an evaluation of the light-rail public mass transportation mode (including trolleys, streetcars, cablecars, and other fixed-guideway conveyances utilizing at-grade rights-of-way portions of which are shared with other street traffic) and the commuter rail public mass transportation mode to determine ways to make, and the desirability of making, such modes accessible to and usable by handicapped persons. The Secretary shall report to Congress the results of this evaluation not later than January 30, 1980, together with his recommendations for legislation necessary to clarify or to change Federal laws or provisions pertaining to accessibility requirements affecting the light-rail and commuter rail modes.

TERMINAL DEVELOPMENT PROGRAM

SEC. 322. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"TERMINAL DEVELOPMENT PROGRAM

"SEC. 21. (a) The Secretary is authorized, in accordance with this Act, and on such other terms and conditions as he may prescribe, to make grants to States and local bodies and agencies thereof to acquire, construct, or alter facilities (directly operated, operated through a lease, or otherwise) primarily for use in providing intercity bus service and in coordinating such service with other modes of transportation. Eligible facilities include, but are not limited to, real property, bus terminals, intermodal terminals, and bus passenger loading areas (including shelters). No grants shall be provided under this section unless the Secretary determines the applicant has or will have (1) the legal, financial, and technical capacity to carry out the proposed project, and (2) satisfactory continuing control, through operation, lease, or otherwise, over the use of the facilities.

"(b) No financial assistance shall be provided under this section to any State or local public body or agency thereof for the acquisition, construction, or alteration of eligible facilities unless the Secretary finds that fair and equitable arrangements have been made for the use of such facilities by privately owned bus companies. Assistance under this section shall encourage, to the maximum extent feasible, the participation of private enterprise and the use of the facilities assisted under this section by other modes of transportation.

"(c) A grant for a project under this section shall be for 80 per centum of the net project cost determined in accordance with section 4(a) of this Act. The remainder of the net project cost shall be provided, in cash, from sources other than Federal funds.

"(d) There is authorized to be appropriated to carry out subsection (a) of this section $40,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982.

"(e) The provisions of sections 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

INTERCITY BUS SERVICE

SEC. 323. The Urban Mass Transportation Act of 1964 is amended by adding at the end thereof the following new section:

"INTERCITY BUS SERVICE

"SEC. 22. (a) The Secretary is authorized to make grants for the initiation, improvement, or continuation of intercity bus service for residents of rural areas and residents of urban places designated by the Bureau of the Census as having a population of five thousand or more which are not within an urbanized area as defined in section 12 of this Act. As used in this subsection and subsection (b) of this section, the term 'intercity bus service' means transportation provided to the public as a private bus operator authorized to transport passengers in interstate commerce by the Interstate Commerce Commission or in intrastate commerce by a State regulatory commission or comparable State agency (1) between one urban place as designated under this subsection and another such urban place, (2) between an urban place designated in accordance with this subsection and an urbanized area, or (3) between one urbanized area and another urbanized area, through rural areas or urban places, or both. Such term does not include local service.

"(b) Grants for the initiation, improvement, or continuation of intercity bus service under subsection (a) of this section shall be made only to States and local public bodies and agencies thereof, only for payment of operating expenses incurred in furnishing such intercity bus service, and shall not exceed 50 per centum of the net cost of such an operating expense project. The remainder of such cost shall be provided in cash from sources other than Federal funds and other than revenues from the operation of such intercity bus service. Such grants shall be subject to such other terms, conditions, and requirements as the Secretary may deem necessary to promote the initiation, improvement, or continuation of privately owned and operated intercity bus service. To the maximum extent feasible assistance shall be distributed by the Secretary only for privately owned intercity bus companies to subsidize deficit operations considering the profitability of the route as a whole. The determination of profitability shall include all income generated by the route and only direct costs of the operation of the route. In making any such grant, preference shall be given to a private bus operator who lawfully has provided intercity bus service to a rural area or urban place during the one-year period preceding the date of application for such a grant over routes or within the general area for which financial assistance is to be provided, over any other operator to provide such service in such area or place.

"(c) There is authorized to be appropriated to carry out subsections (a) and (b) of this section not to exceed $30,000,000 per fiscal year for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, and Septembed 30, 1982.

"(d) The Secretary shall, in cooperation with States, local public bodies, and intercity bus carriers, make an evaluation of the needs of the intercity bus industry for public subsidy of expenses incurred in the provision of intercity bus service as it serves local transportation needs in areas other than urbanized areas. The Secretary shall, not later than September 30, 1979, report to Congress the result of this evaluation together with his recommendations for necessary legislation.

"(e) The provisions of section 13(c) and 3(e)(4) of this Act shall apply in carrying out projects under this section.".

BUY AMERICA

SEC. 401. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate any funds authorized to be appropriated by this Act or by any Act amended by this Act and administered by the Department of Transportation, whose total cost exceeds $500,000 unless only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States, and only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States, will be used in such project.

(b) The provisions of subsection (a) of this section shall not apply where the Secretary determines—

(1) their application would be inconsistent with the public interest;

(2) in the case of acquisition of rolling stock, their application would result in unreasonable cost (after granting appropriate price adjustments to domestic products based on that portion of project cost likely to be returned to the United States and to the States in the form of tax revenues;

(3) supplies of the class or kind to be used in the manufacture of articles, materials, supplies that are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 10 per centum.

TITLE V—HIGHWAY REVENUE ACT OF 1978

SEC. 501. SHORT TITLE.

This title may be cited as the "Highway Revenue Act of 1978".

SEC. 502. 5-YEAR EXTENSION OF THE TAXES WHICH ARE TRANSFERRED INTO THE HIGHWAY TRUST FUND.

(a) GENERAL RULE.—The following provisions of the Internal Revenue Code of 1954 are amended by striking out "1979" each place it appears and inserting in lieu thereof "1984":

(1) Section 4041(e) (relating to rate reduction).

(2) Section 4061(a)(1) (relating to imposition of tax on trucks, buses, etc.).

(3) Section 4061(b)(1) (relating to imposition of tax on parts and accessories).

(4) Section 4071(d) (relating to imposition of tax on tires and tubes).

(5) Section 4081(b) (relating to imposition of tax on gasoline).

(6) Section 4481(a) (relating to imposition of tax on use of highway motor vehicles).

(7) Section 4481(e) (relating to period tax in effect).

(8) Section 4482(c)(4) (defining taxable period).

(9) Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles).

(10) Section 6421(h) (relating to tax on gasoline used for certain nonhighway purposes or by local transit systems).

(b) AMENDMENT OF SECTION 4041(c)(3).—Paragraph (3) of section 4041(c) of such Code (relating to rate of tax) is amended to read as follows:

"(3) RATE OF TAX.—The rate of tax imposed by paragraph (2) is 3 cents a gallon."

(c) AMENDMENT OF SECTION 6412(a)(1).—Section 6412(a)(1) of such Code (relating to floor stocks refunds) is amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 503. 5-YEAR EXTENSION OF HIGHWAY TRUST FUND.

(a) HIGHWAY TRUST FUND.—Subsections (c), (e)(1), and (f) of section 209 of the Highway Revenue Act of 1956 (relating to the Highway Trust Fund; 23 U.S.C. 120 note) are amended—

(1) by striking out "1979" each place it appears and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

(b) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Subsection (b) of section 201 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–11) is amended—

(1) by striking out "1979" and inserting in lieu thereof "1984"; and

(2) by striking out "1980" each place it appears and inserting in lieu thereof "1985".

SEC. 504. BYRD AMENDMENT MADE APPLICABLE TO ALL APPORTIONMENTS.

(a) GENERAL RULE.—Subsection (g) of section 209 of the Highway Revenue Act of 1956 is amended to read as follows:

"(g) ADJUSTMENTS OF APPORTIONMENTS.—

"(1) ESTIMATES OF AMOUNT AVAILABLE FOR EXPENDITURE.—The Secretary of the Treasury shall from time to time, after consultation with the Secretary of Transportation, estimate the amounts which will be available in the Trust Fund (excluding repayable advances) to defray the expenditures which will be required to be made from the Trust Fund.

"(2) INITIAL PROCEDURE WHERE THERE IS SHORTFALL.—If the Secretary of the Treasury determines that, after all other expenditures required to be made from the Trust Fund have been defrayed, the amounts which will be available in the Trust Fund (excluding repayable advances) will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized to be appropriated from the Trust Fund for any fiscal year—

"(A) he shall so advise the Secretary of Transportation, and

"(B) he shall further advise the Secretary of Transportation as to the amount which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available in the Trust Fund (excluding repayable advances) to defray the expenditures required as a result of the apportionment to the States for such fiscal year.

"(3) DETERMINATION OF PERCENTAGE.—The Secretary of Transportation shall determine the percentage which the amount referred to in paragraph (2)(B) is of the amount authorized to be appropriated from the Trust Fund for such fiscal year for apportionment to the States.

"(4) ADJUSTMENT OF APPORTIONMENTS.—Not withstanding any other provision of law, the Secretary of Transportation shall (after determining a percentage for a fiscal year under paragraph (3)) apportion to the States for such fiscal year (in lieu of the amount which but for the provisions of this subsection would be so apportioned) the amount obtained by multiplying the amount authorized to be appropriated for such fiscal year by such percentage.

"(5) APPORTIONMENT OF AMOUNTS PREVIOUSLY WITHHELD FROM APPORTIONMENT.—Whenever the Secretary of the Treasury determines that there will be available in the Trust Fund (excluding repayable advances) amounts which, after all other expenditures required to be made from the Trust Fund have been defrayed, will be available to defray the expenditures required as a result of the apportionment of funds previously withheld from apportionment for any fiscal year, he shall so advise the Secretary of Transportation. The Secretary of Transportation shall apportion to the States such portion of the funds so withheld from apportionment as the Secretary of the Treasury has advised him may be so apportioned without causing expenditures from the Trust Fund to exceed amounts available in the Trust Fund (excluding repayable advances) to defray such expenditures. Any funds apportioned pursuant to the preceding sentence shall remain available for the period for which they would be available if such apportionment took effect with the fiscal year in which they are apportioned pursuant to the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1978.

SEC. 505. CREDIT REFUND FOR CERTAIN TAXICABS OF EXCISE TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) GENERAL RULE.—Section 6427 of the Internal Revenue Code of 1954 (relating to fuels not used for taxable purposes) is amended—

(1) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) USE IN CERTAIN TAXICABS.—

"(1) IN GENERAL.—Except as provided in subsection (h), if—

"(A) any gasoline on which tax is imposed by section 4081, or

"(B) any fuel on the sale of which tax is imposed by section 4041,

is used in a qualified taxicab while engaged exclusively in furnishing qualified taxicab services, the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline or fuel an amount equal to the aggregate amount of the tax imposed on such gasoline or fuel.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TAXICAB SERVICES.—The term 'qualified taxicab services' means the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who—

"(i) is licensed to engage in the trade or business of furnishing such transportation by a Federal, State, or local authority having jurisdiction over a substantial portion of such transportation furnished by such person, and

"(ii) is not prohibited under the laws, regulations, or procedures of such Federal, State, or local authority, and is not prohibited by company policy, from furnishing (with the consent of the passengers) shared transportation.

"(B) QUALIFIED TAXICAB.—Except as provided by subparagraph (C), the term 'qualified taxicab' means any land vehicle the passenger capacity of which is less than 10 adults, including the driver.

"(C) CERTAIN GAS-GUZZLING TAXICABS EXCLUDED.—The term 'qualified taxicab' does not include any vehicle if—

"(i) such vehicle was acquired by the person operating such vehicle after 1978,

"(ii) the model year of such vehicle is 1978 or later, and

"(iii) the fuel economy of the model type of such vehicle is less than or equal to the average fuel economy standard applicable under section 502(a) of the Motor Vehicle Information and Cost Savings Act to the model year of such vehicle.

The preceding sentence shall not apply to any vehicle manufactured by a manufacturer to which an exemption under section 502(c) of the Motor Vehicle Information and Cost Savings Act was granted (or on application could have been granted) for the model year of such vehicle. Terms used in this subparagraph shall have the same meaning as when used in title V of the Motor Vehicle Information and Cost Savings Act.

"(3) TERMINATION.—This subsection shall not apply after December 31, 1980."

(b) REFUND ALLOWED WHERE $50 OR MORE PAYABLE FOR CALENDAR QUARTER.—Subsection (f)(2) of section 6427 of such Code (as redesignated by subsection (a)) is amended to read as follows:

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If—

"(i) $1,000 or more is payable under subsections (a), (b), (d), and (e), or

"(ii) $50 or more is payable under subsection (e),

to any person with respect to fuel used during any of the first three quarters of his taxable year, a claim may be filed under this section by the purchaser with respect to fuel used during such quarter.

"(B) SPECIAL RULE.—If a claim may be filed by any person under subparagraph (A)(ii) but not under subparagraph (A)(i) for any quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts payable under subsection (e).

"(C) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed."

(c) TECHNICAL AMENDMENTS.—

(1) Subsections (a)(4) and (b) of section 39 of such Code are each amended by striking out "6427(g)" and inserting in lieu thereof "6427(h)".

(2) Subsections (a), (b)(1), (c), and (d) of section 6427 of such Code are each amended by striking out "(g)" and inserting in lieu thereof "(h)".

(3) Subsection (f)(1) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(a), (b), (c), or (d)" and inserting in lieu thereof "(a), (b), (c), (d), or (e)".

(4) Subsection (h)(2) of such section 6427 (as redesignated by subsection (a)) is amended by striking out "(e)(2)" and inserting in lieu thereof "(f)(2)".

(5) Sections 7210, 7603, 7604(b), and 7605(a) of such Code are each amended by striking out "6427(f)(2)" each place it appears and inserting in lieu thereof "6427(g)(2)".

(6) Sections 7604(c)(2), 7609(c)(1), and 7610(c) of such Code are each amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(g)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1979.

SEC. 506. REQUIREMENT FOR A COST ALLOCATION STUDY.

(a) STUDY DIRECTED.—The Secretary of Transportation is hereby authorized and directed, in cooperation with the State highway departments, to undertake a full and complete investigation and study of—

(1) the costs occasioned in design, construction, rehabilitation, and maintenance of Federal-aid highways by the use of vehicles of different dimensions, weights, and other specifications, and by the frequency of such vehicles in the traffic stream;

(2) the proportionate share of such design, construction, rehabilitation, and maintenance costs attributable to each class of persons and vehicles using such highways; and

(3) the need for long-term or continuous monitoring of roadway deterioration to determine the relative damage attributable to traffic and environmental factors.

(b) EVALUATION BY CONGRESSIONAL BUDGET OFFICE.—To assist the Secretary of Transportation in the conduct of the investigation and study authorized and directed by subsection (a) of this section, the Congres-

sional Budget Office is hereby authorized and directed to make an evaluation of—

(1) the procedures to be employed in determining the equitable allocation of highway costs;

(2) the information to be collected to apply the procedures identified pursuant to paragraph (1);

(3) any special studies essential to the conduct of the investigation which can be identified and completed within the deadlines established by this section; and

(4) the procedures to be employed to ensure a continuing equitable allocation of highway costs after study termination.

The Congressional Budget Office shall report its findings to the Congress and to the Secretary of Transportation within 90 days after the date of the enactment of this section. These findings shall be employed by the Secretary as guidelines in the design of the investigation and study authorized and directed by subsection (a) of this section.

(c) REPORTS.—

(1) Within 180 days after the date of the enactment of this section, the Secretary of Transportation shall report to the Congress on a plan for the investigation and study. Such plan shall include, but not be limited to, the data to be gathered; the sources of such data; the method to be used to allocate costs; the method to be used to attribute revenues; the criteria to be employed in arriving at an equitable distribution of the tax burden; the agency or agencies responsible for performance and review of the study; a projected schedule for study performance; and the estimated costs of the study.

(2) On or before January 15, 1980, and January 15 1981, the Secretary of Transportation shall report to the Congress the progress which has been made in carrying out the study and investigation required by this section. Such progress reports shall include, but not be limited to, a discussion of any changes from the study plan as submitted under provisions of this section and of preliminary findings of the investigation.

(3) The Secretary shall report to the Congress the findings and recommendations of the study no later than January 15, 1982. Such recommendations shall include any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among classes of persons and vehicles using Federal-aid highways, and the projected impact of such structures on affected industries and other users.

SEC. 507. STUDY OF EXISTING HIGHWAY EXCISE TAX STRUCTURE AND OF POSSIBLE ALTERNATIVES TO SUCH EXISTING STRUCTURE.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall—

(1) review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as ease or difficulty of administration of such tax and the compliance burdens imposed on taxpayers by such tax, and

(2) on or before April 15, 1982, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate as to the matters set forth in paragraph (1) and other findings, as well as recommendations on—

(A) improvements in excise taxation which would enhance tax administration, equity, and compliance, or

(B) a new system of raising revenues to fund the Highway Trust Fund which would meet the objectives set forth in subparagraph (A).

The recommendations described in paragraph (2) shall be formulated in conjunction with the recommendations of the cost allocation study under section 506 of the equitable distribution of the highway excise taxes.

(b) INTERIM REPORTS.—The Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on or before April 15, 1980, and a second interim report on or before April 15, 1981.

And the Senate agree to the same.

HAROLD T. JOHNSON,
RAY ROBERTS,
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
WILLIAM H. HARSHA,
BUD SHUSTER,
BARBER B. CONABLE, Jr.,
Managers on the Part of the House.

For consideration of title I only:
JENNINGS RANDOLPH,
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
QUENTIN N. BURDICK,
JOHN CULVER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
For consideration of title II only:
HOWARD W. CANNON,
WENDELL H. FORD,
WARREN G. MAGNUSON,
HARRISON SCHMITT,
For consideration of title III only:
HARRISON A. WILLIAMS, Jr.,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
JAKE GARN,
H. JOHN HEINZ III,
For consideration of title IV only, Senate engrossed amendment:
LLOYD BENTSEN,
For consideration of title IV only, House engrossed bill:
JENNINGS RANDOLPH,
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
QUENTIN N. BURDICK,
JOHN CULVER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
HOWARD W. CANNON,
WENDELL H. FORD,
WARREN G. MAGNUSON,
HARRISON SCHMITT,
HARRISON A. WILLIAMS, Jr.,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes submit the following joint statement to the House and report:

The Senate amendment to the text of the bill struck out all the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

Provides the bill may be cited as the "Federal-Aid Highway Act of 1978".

Senate amendment

Provides the amendment may be cited as the "Federal-Aid Highway Act of 1978".

Conference substitute

Same as both House and Senate.

REVISION OF AUTHORIZATION FOR APPROPRIATIONS FOR THE INTERSTATE SYSTEM

House bill

This section establishes authorizations at $3.7 billion annually through the fiscal year 1989 and $1,633,000,000 for fiscal year 1990.

The $3.5 billion of the $3.7 annual authorizations through the fiscal year 1983 are to be apportioned in accordance with the provisions of chapter 1 of title 23, United States Code. The remaining $200 million of such annual authorizations are also available for obligation in accordance with such chapter but at the discretion of the Secretary. One-half of such remainder is to be used in rural areas to complete essential parts of continuous sections of the Interstate and Defense Highway system or to complete parts of such system with respect to which a final environmental impact statement has been approved; priority is to be given projects on which construction can begin with the obligation period for such funds. The other half of the discretionary funds are to be used in urban areas on routes which are either of high cost or which take a long time in completion.

A project receiving assistance from the discretionary funds shall not be eligible for withdrawal under section 103(e) (2) or (4) of title 23, United States Code.

The discretionary funds shall only be available for obligation for 1 year, and those funds not obligated in that period shall be apportioned to the States in the normal manner.

Senate amendment

The Federal-Aid Highway Act of 1956, as amended in 1976, authorizes $3.625 billion for each fiscal year 1980 through 1990 for the Interstate System. The current annual authorization is $3.25 billion. This amendment decreases the fiscal years 1980 and 1981 authorization to $3.5 billion.

The amendment also authorizes that funds may be appropriated under such Act for carrying out highway assistance substitution projects under section 103(e)(4) of title 23, United States Code.

Funds apportioned to a State for Interstate construction cannot be expended to expand or clear areas adjacent to Interstate routes designed prior to February 1967.

This section changes the apportionment formula for Interstate funds by giving added weight to the cost to complete "essential gaps" in the Interstate System which are defined as: those routes identified in the Interstate Gap study submitted by DOT to Congress in accordance with the 1976 Federal-Aid Highway Act, all two-lane toll roads designated as part of the Interstate System and those routes in urban areas which are part of the Interstate System, which were constructed before 1960 without Federal financial assistance, which are substandard under the standards of the Interstate System, and which are determined jointly by the Governor and local governments to be essential to the sound functioning of the Interstate System.

A State's apportionment would be deter-

mined 50 percent on the cost to complete the Interstate in that State in relation to cost to complete the entire Interstate System and 50 percent on the cost to complete essential gaps in that State in relation to the cost of all essential gaps in the Interstate System.

The estimated cost to complete highway projects substituted under the Interstate transfer provision would be included in the Interstate apportionment formula.

Funds allocated to a State based on the essential gap factor must be spent for the completion of essential gaps in that State or to retire bonds issued to construct essential gap projects in that State, and these funds not so obligated after 1 fiscal year shall be available for reallocation to other States under the provisions of the third sentence of section 118(b) of title 23, United States Code.

One-half of 1 percent of the funds apportioned for the Interstate System may be obligated by each State for projects to resurface, restore, or rehabilitate sections of such system which have been in use for more than 5 years, which are essential to a unified and connected Interstate System, and which are deficient with respect to pavement or bridge deck serviceability. The part of a State's apportionment which is based on completion of estimated gaps may not be so obligated.

Conference substitute

The Conference substitute authorizes $3.25 billion for fiscal year 1980 and $3.5 billion for fiscal years 1981 and 1982 and $3.2 billion for fiscal year 1983. The funds authorized are to be apportioned in accordance with the provision of Chapter 1 of Title 23. The amount provided does not include any money for discretionary use.

The Conference substitute contains an acceleration program in lieu of the discretionary program that is contained in the House bill.

The Conference agreement retains the Senate provision prohibiting use of funds for clearing or expanding areas adjacent to an older Interstate route.

AUTHORIZATION OF USE OF COST ESTIMATES FOR APPORTIONMENT OF INTERSTATE FUNDS

House bill

This section approves the use of the apportionment factors contained in revised table 5 of Committee Print 95–49 of the House Committee on Public Works and Transportation for fiscal year 1980 Interstate fund apportionments.

Senate amendment

The fiscal year 1980 apportionment to the States (to be made October 1, 1978) would be based upon the cost estimate submitted by the Secretary in 1977 (House Committee Print 95–16), revised to include the cost of essential gaps and highway projects substituted under the Interstate transfer provision.

Conference substitute

Same as House provision.

HIGHWAY AUTHORIZATIONS

House bill

This bill provides authorizations out of the Highway Trust Fund for each of the fiscal years 1979, 1980, 1981, and 1982 for the Federal-aid primary system including the extensions in urban areas and the priority primary routes, rural secondary system, urban system, plus other authorizations for various types of highway programs financed either from the Highway Trust Fund or the general funds of the Treasury.

The primary system authorization is increased to $1.95 billion, from the 1978 level of $1.35 billion for each of the fiscal years 1979–82. The secondary system authorization is raised from the 1978 level of $400 million to $650 million for each of the 4 fiscal years and the urban system authorization for each of the 4 fiscal years of this bill will remain at $800 million, same as the 1978 level. The authorization for forest highways and public land highways, funded out of the Trust Fund, remain at the 1978 level, and most of the other general funds in this section would also receive an authorization at about the same level as in fiscal year 1978. The level of funds for traffic control signalization projects is increased to $75 million for each of the 4 fiscal years from the 1978 $40 million level.

Authorizations for the safer off-system roads program have been increased from $200 million annually to $300 million annually, and States will be required to spend 50 percent or more of each year's expenditures only for safety improvement projects.

The funds for the territorial program (23 U.S.C. 215) for Guam, the Virgin Islands, and American Samoa remain the same for the 4 fiscal years as the 1978 level. This section authorizes for the first time $1 million annually for the Commonwealth of the Northern Marianas. This section provides $1 million annually to be expended in the same manner as funds authorized to carry out the territorial highway program under 23 U.S.C. 215.

Also provided is a guarantee similar to that in the 1976 Highway Act that each State including the State of Alaska would receive a minimum of one-half of 1 percent of the total Interstate apportionment for each of the fiscal years 1980–83, except that whenever amounts available under this provision for the Interstate System in a State exceeds the estimated cost of completing that State's portion of the interstate and exceeds the estimated costs of necessary resurfacing, restoration, and rehabilitation of the interstate within such State, the estimated amount shall then be transferred to and added to the amount last apportioned to such State for the primary, secondary, and urban system and shall thereafter be available for expenditure in the same manner and to the same extent as the amount to which they were added. An authorization of $125 million for the minimum one-half of 1 percent provision remains at the same level as the 1978 authorization for each of the 4 fiscal years 1980–83. One change in the 1976 minimum provision is that the funds authorized shall also be available for carrying out section 158 of the Federal-Aid Highway Act of 1973 which authorizes the Secretary to approve construction of the Franconia Notch highway section in New Hampshire.

An additional $85 million out of the Highway Trust Fund is authorized for completing routes designated prior to May 5, 1976, under the urban high density traffic program.

In the case of priority primary routes for each of the fiscal years 1979–82, out of the primary authorization, the bill sets aside $125 million which shall not be apportioned. Such sum in each fiscal year shall be available for obligation on the date of apportionment of funds for the fiscal year, in the same manner and to the same extent as the sums apportioned on such date, except that such $125 million is available for obligation at the Secretary's discretion only for "projects of unusually high cost or which require long periods of time for their construction." If any part of the $125 million is not obligated by the last day of the fiscal year for which authorized, the Secretary shall immediately apportion it in the same manner as funds apportioned for the next succeeding fiscal year for such routes and it is available for obligation for the same period as such apportionment.

This section contains a new provision that 33 percent of a State's primary apportionment for each fiscal year shall be obligated for 3–R projects on the primary system, also a similar 33 percent must be spent on 3–R projects of the Federal-aid secondary system. Thirty-six percent is approximately the amount of increases in authorizations in this bill for these programs.

Authorizations for Federal domain roads total $357 million for each of the fiscal years 1979–82 for the following categories: Forest highways, public lands highways, forest development roads and trails, public lands development roads and trails, park roads and trails, parkways, and Indian reservation roads and bridges.

This section also authorized $15 million for each of fiscal years 1979–82 to continue the program of construction or reconstruction of access highways to public recreation areas on certain lakes and waterways, pursuant to section 155 of title 23.

Senate amendment

This section authorizes annually from the Trust Fund: $1.475 billion for the Federal-aid primary system; $675 million for the Federal-aid secondary system; and $700 million for the Federal-aid urban system.

For fiscal year 1979 and 1980, authorizations for chapter 2 highway programs are: $33 million for forest highways; $16 million for public lands highways; $140 million forest development roads and trails; $10 million public lands development roads and trails; $30 million park roads and trails; $45 million for parkways; and $83 million for Indian roads and bridges. Forest highways and public lands highways are funded from the Highway Trust Fund; the remaining programs from general revenue.

This section also authorizes for each of the fiscal years 1979 and 1980, $50 million from the Highway Trust Fund for the economic growth center development highway program; $25 million from the Highway Trust Fund and $10 million from general revenues for reconstruction of the Great River Road; $25 million from the Highway Trust Fund for highway-related safety requirements and guidelines promulgated under section 402 of title 23, United States Code; $40 million from general revenues for the control of outdoor advertising and junkyards; and $12 million from general revenues for the territorial highway program which includes $5 million for the Virgin Islands and Guam and $1 million for American Samoa and the Commonwealth of the Northern Mariana Islands.

For continuation of the Northeast corridor rail crossing demonstration project, $45 million is authorized from general revenues for fiscal year 1979 and $40 million for fiscal year 1980. Additionally, to complete routes designated under the urban high density traffic program $85 million is authorized from the Highway Trust Fund.

For fiscal years 1979 and 1980 each State, including Alaska, will receive a minimum of one-half of one percent of the total Interstate authorization. Once Interstate construction and rehabilitation needs are met, States receiving the minimum may use any excess funds for any purpose under Chapter 1 of title 23, United States Code (except replacement or rehabilitation of off-system bridges).

Conference substitute

The Conference substitute authorizes programs similar to the House levels with the following exceptions: the primary system is authorized at $1,500 million for fiscal year 1979, $1,700 million for fiscal year 1980, $1,800 million for fiscal year 1981 and $1,500 million for fiscal year 1982. The percentage for rehabilitation and restoration contained in the House bill is reduced to 20% of the apportionments in each year.

The requirement that at least 20 per centum of a state's apportionment for each fiscal year of sums authorized for the Federal-aid primary system (including extensions in urban areas and priority primary routes) is intended to apply only to that portion of a State's apportionment which is used for construction projects authorized after the enactment of the provision establishing this requirement.

The secondary authorization is $500 mil-

lion for fiscal year 1979, $550 million for fiscal year 1980, $600 million for fiscal year 1981 and $400 million for fiscal year 1982 with a reduction to 20% in the funds to be used for rehabilitation and resurfacing.

The Conference substitute also includes the Senate authorization for the Northeast Corridor rail crossing program. The Priority Primary is retained as in the House bill.

The Conference substitute retains the House provision on priority primary routes. In Florida, U.S. 19 from state road 50 to Interstate 275 via state road 688, should be considered for funding under this provision.

INTERSTATE SYSTEM RESURFACING AND REPAIR

House bill

Section 105 authorizes, out of the Highway Trust Fund, not to exceed $175 million for each of the fiscal years 1980 and 1981 and not to exceed $275 million for each of the fiscal years 1982 and 1983 for projects for resurfacing, restoring, and rehabilitating portions of the Interstate System in use for more than 5 years. For the last time, lanes in use for more than 5 years on toll roads designated part of the Interstate System would be eligible if an agreement is reached between the Secretary and the State highway department and any public authority with jurisdiction over the toll road, prior to approval of the project, that the toll road will become free to the public upon the collection of tolls sufficient to liquidate the cost of the toll road or any funds outstanding at the time of the agreement which constitute a valid lien on the toll road, and the cost of maintenance and operation and debt serviced during the period of toll collections.

Senate amendment

As first authorized in the 1976 Highway Act, $175 million is authorized for resurfacing, restoring and rehabilitating lanes on the Interstate in use for more than 5 years. A State may transfer surplus 3R funds to its primary account, if the Secretary is satisfied that its toll-free Interstate mileage is being properly maintained. Under this amendment, Interstate 3R funds are available for projects on toll roads designated part of the Interstate System, if the State and/or the toll authority agree to remove the tolls once the bonds are retired.

The Federal matching share for Interstate 3R projects is reduced from 90 percent to 70 percent.

This section also apportions .72 percent of the total Interstate 3R authorization to Alaska for 3R projects on its primary system.

This amendment also requires the Secretary to insure that the States commit adequate resources to Interstate rehabilitation. The Secretary must establish minimum standards to evaluate the condition of Interstate routes and annually inspect routes over five years old. If deficiencies are found, the State would be notified and given up to a year to make commitments to solve the problem. If not satisfied, the Secretary would suspend approval of the State's primary projects, until adequate commitments are made.

By October 1, 1980, the Secretary is directed to report to Congress the following: criteria and methods for Interstate inspection, the condition of routes inspected, and any problems the States have in complying with section.

Conference substitute

Similar to Senate provision with minor changes. The principal modification being that the Senate provision on Interstate maintenance requirement is changed to a State certification program.

DEMONSTRATION PROJECTS—RAILROAD HIGHWAY CROSSINGS

House bill

This section changes the Federal share from 70 percent to 95 percent of the cost of the demonstration work on projects which were authorized by section 140 of the 1976 Highway Act and authorizes appropriations of $90 million for fiscal year 1979 and $110 million for each of fiscal years 1980, 1981, and 1982.

Senate amendment

An authorization of $70 million per year is provided for continued work on previously authorized railroad relocation demonstration projects.

Conference substitute

House provisions with funding at $70,000,000 for fiscal year 1979, $90,000,000 for fiscal year 1980 and $100,000,000 for fiscal years 1981 and 1982. It is the intention of the conferees that all these projects be funded to completion.

DEFINITIONS

House bill

The definition of the term "construction" in section 101(a) of title 23, United States Code, would be amended to include items used in a State's vehicle weight enforcement program, such as scales, scale pits, scale installation, and scale houses. Such items are not eligible under existing law.

The definition of the term "forest road or trail" is limited to mean roads or trails on or adjacent to national forest lands which are necessary to the protection, administration, and utilization of such lands and the definitions of the terms "forest development roads and trails" and "forest highways" are accordingly expanded.

Senate amendment

The amendments contained in this section: (1) amend the definition of construction to include resurfacing to prevent water from entering the subsurface and causing potholes; (2) make the purchase and installation of scale equipment for vehicle weight enforcement eligible for Federal-aid highway construction funds; (3) define those activities eligible for funding under the consolidated highway safety construction program to include projects to improve high hazard locations, eliminate roadside obstacles, improve highway signing and pavement marking, or install traffic warning devices; and (4) remove objective of "simultaneous completion" of the Interstate.

It is also made national policy to relate annual authorizations from the Highway Trust Fund with annual receipts of the Fund.

Conference substitute

House provision with addition of Senate definitions on safety.

COMPLETION OF INTERSTATE SYSTEM

House bill

Section 103(e)(2) of title 23, known as the Howard-Cramer interstate transfer provision, is amended to prohibit any further such transfers effective January 1, 1978. The purpose of this action is to prevent the start of entirely new routes not now in the system which could cause extension of the interstate completion date.

All rural interstate routes identified in the 1977 cost estimates are declared essential as of the date of enactment, and the 103(e)(4) interstate transfer provision shall not apply to these routes.

All other routes identified in the 1977 cost estimate must also be constructed unless withdrawn under section 103(e)(4) before September 30, 1982. This shall not apply to any route in the category which is under injunction on the date of enactment.

In addition all routes approved by the Secretary after January 1, 1976, shall be constructed and section 103(e)(4) shall not apply. These routes are recently added routes which at this late stage in interstate development should not be candidates for withdrawal.

To further speed up decisionmaking with respect to completing the Interstate System, this section does not allow approval of substitute projects after September 30, 1982.

Also the Secretary is not allowed to designate mileage under 103(e)(4) or any other provision of law after the date of enactment of this section.

The labor provisions governing 103(e)(4) are reinstated after having been inadvertently removed in a previous act.

This section provides funding and authority to make such agreements and contract changes necessary to complete routes substituted under the Howard-Cramer provisions.

This section provides for submitting all environmental impact statements to the Secretary by September 30, 1984. Any route without such a submittal shall be removed from the system. If the right-of-way acquisition or construction has not been started by September 30, 1986, the route must also be removed from the system.

Withdrawal of approval of an interstate route shall not result in the State having to repay the Highway Trust Fund for intangible costs, if the Secretary approves, and for costs of construction items, materials or rights-of-way incurred for such route and which the State certifies will, within 10 years after the date of such withdrawal, be applied to transportation projects under title 23, United States Code, public conservation or recreation purposes, or other projects which the Secretary determines to be in the public interest. This provision applies to withdrawals of approval occurring before enactment.

The Federal share of the cost of property resold to previous owners of such property under State law shall be deposited in the State's apportionment for interstate highways.

Senate amendment

The amendment to the interstate transfer program increases to 90 percent the Federal matching share for any transit or highway projects substituted for Interstate mileage. Currently, the 90 percent Interstate share drops to whatever percentage is allowed for the substitute project (i.e., 80 percent for mass transit). Additionally, substitute highway projects would be funded out of the State's Interstate apportionment and substitute transit projects from the General Fund. The State's unobligated Interstate apportionments would be reduced in the proportion that the estimated cost of the substitute transit projects bears to the cost to complete all Interstate routes in that State.

The section also prohibits the redesignation of mileage withdrawn from the System.

Withdrawal of approval of an interstate route shall not result in the State having to repay the Highway Trust Fund for intangible costs, if the Secretary approves, and for the costs of rights-of-way incurred, or costs of construction and materials incurred before enactment of this provision, for such route and which the State certifies will, within 10 years after the date of such withdrawal, be applied to transportation projects under title 23, United States Code, public conservation or recreation purposes, or other projects which the Secretary determines to be in the public interest. Any sums owed to a State for costs described in the preceding sentence shall promptly be paid to the State. This provision applies to withdrawals of approval occurring before, on, or after the enactment of this provision.

This amendment to title 23 provides that the Secretary cannot approve a withdrawal of Interstate mileage and transfer of funds to public transportation or other highway purposes after September 20, 1982. In addition, after the same date, he cannot approve any Interstate project unless the EIS process is complete. Any segment of the Interstate for which such an approval were not made would be removed from the System. Moreover, all Interstate routes and substitute

projects must be under construction by the end of fiscal year 1986 or be removed from Interstate designation.

Following the 1982 cutoff, should an injunction prohibit construction of an Interstate segment with a completed EIS, that segment may be withdrawn following litigation. The 1986 requirement for construction would still apply to the Interstate route or any project substituted for it.

Conference substitute

The Conference substitute adopted the House provision with the following changes: all requirements that contain categories of routes must be constructed were dropped; the deadlines for withdrawals and substitutions under 103(e)(4) and for submission of environmental impact statements were changed to September 30, 1983; and the Federal share of substitute projects (highway or transit) was changed to 85%.

The deadline for approval of Interstate substitutions contemplates approval of an overall concept, not approval of detailed plans, specifications and estimates which will take more time to develop.

TRANSFERABILITY

House bill

Under existing law, it is possible to transfer up to 40 percent between the primary system and the secondary system. This transfer percentage would be increased to 50 percent. Also, the existing transferability allowed between the primary system and the urban system would be increased from 20 to 25 percent.

Certain restrictions are retained: (1) In the case of transfers between primary and secondary systems, such categories may not be increased or decreased by more than 50 percent in any fiscal year; (2) in the case of transfers between primary and urban systems, such categories may not be increased or decreased by more than 25 percent in any fiscal year; and (3) no category increased by a transfer from another category in any fiscal year.

Senate amendment

This section allows up to 50 percent of a State's primary, urban, or secondary apportionment to be transferred to one or more of the other categories. Urban system funds allocated to areas of 200,000 or more may not be transferred without the approval of local officials.

Conference substitute

Transferability is set at 50 percent for all categories and between systems as in existing law.

REPORT OF OBLIGATIONS

House bill

This section requires a monthly report on obligation and expenditures be submitted to the Congress.

Senate amendment

No comparable provision.

Conference substitute

House provision.

PROGRAMS

House bill

This section amends section 105(g) of title 23 to require that State highway departments give consideration in the development of their annual highway programs to projects which provide direct access to new town communities and new-town in-town communities.

Senate amendment

The Senate amendment requires that State highway departments give consideration in the development of highway programs to projects which provide access to designated new towns, requires that any project on the secondary system be selected by the State highway and local officials, and requires that any project on the urban system, whether or not in an urbanized area, be selected in accordance with the planning process of section 134 of title 23.

Conference substitute

Combination of both House and Senate provisions.

ACCESS TO RIGHTS-OF-WAY

House bill

This section amends 23 U.S.C. 111 to permit automotive service stations and other commercial establishments for serving motor vehicle users on the Interstate System to continue in operation (1) if the establishment (*a*) was in existence before January 1, 1960, (*b*) is owned by a State, and (*c*) is operated through concessionaries or otherwise, and (2) if all access to, and exits from, such establishment conform to the standards established under Title 23 of the United States Code.

Senate amendment

The Senate amendment is the same as the House provision.

Conference substitute

Same as both provisions.

INTERSTATE RESURFACING

House bill

This amendment would make the R.R. & R. program a permanent program, and would incorporate it as a new section in title 23, U.S.C. The provision would still only apply to routes in use for more than 5 years, but the provision is amended to make the section applicable also to interstate toll roads in use more than 5 years other than those lanes on toll roads not subject to a Secretarial agreement provided for in section 105 of this bill. That section allows toll roads designated as interstate to be eligible for R.R. & R. funds when an agreement provides that the toll road will become free upon collection of tolls sufficient to liquidate its cost, outstanding bonds and maintenance, operation, and debt service costs.

Section 104(b)(5) which contains apportionment formulas for highway projects would also be amended to provide a new formula based one-half on interstate lane miles and one-half on vehicle miles traveled on the Interstate System.

Senate amendment

Presently, 3R funds are apportioned in the ratio which the lane miles on the Interstate System in each State which have been in use for more than five years bears to the total of all such lanes on the System.

This section provides a new apportionment formula based 75 percent on Interstate lane miles in use more than five years and 25 percent on vehicle miles traveled on those routes.

Both factors in the new formula include those Interstate toll roads eligible for 3R assistance.

Conference substitute

The Conference substitute adopts the approach of the House in making this a permanent program in Title 23 and adopts the Senate provision on the apportionment formula.

ADVANCES TO STATES

House bill

This section requires the Secretary of Transportation, upon the request of the State highway department constructing a toll bridge, toll tunnel, or approach thereto, which is necessary to complete an essential gap in the Interstate System, to advance, out of funds appropriated to such State for the Interstate System, 100 percent of the costs of such construction. The State shall repay the portion of such advances which exceeds the Federal share of such costs on the following schedule: 50 percent of such portion within one year after the opening of the bridge, tunnel or approach to traffic; 25 percent, within 2 years after such opening; and 25 percent, within 3 years after such opening.

Senate amendment

No comparable provision.

Conference substitute

House provision with two minor modifications.

FEDERAL SHARE

House bill

This section increases the maximum Federal share payable on primary, secondary, and urban system projects from 70 percent of the costs of construction to 80 percent, on elimination of hazards of railway crossing from 70 percent of the costs of rights-of-way acquisition and property damage to 80 percent, on repair or reconstruction with emergency relief funds from 70 percent of the costs of such repair or reconstruction to 80 percent, on compensation for removal of outdoor advertising from 75 percent of such compensation to 80 percent, on junkyard relocation, removal, disposal, or landscaping from 75 percent of the costs of such relocation, removal, disposal, or landscaping to 80 percent, on the Great River Road from 70 percent of the costs of construction or reconstruction of any project for such Road which is not part of the Federal-aid system to 80 percent, on access highways to public recreation areas on lakes from 70 percent of the costs of construction or reconstruction of such highways to 80 percent, on the territorial highway program from 70 percent of the costs of any project under such program, to 80 percent, and on school bus driver training programs from 70 percent of the costs of such a program to 90.

This section also sets the Federal share payable on projects in the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands at 100 percent of the costs of any such project and on implementing a highway safety program at 90 percent of the costs of such implementation.

Senate amendment

No comparable provision.

Conference substitute

The conference agreement establishes the Federal share at 75 percent for Federal-aid highways and 80 percent for the bridge program.

CONTROL OF OUTDOOR ADVERTISING

House bill

Subsections (a) and (b) of this section would clarify existing law by clearly setting forth that just compensation must be paid upon the removal of any lawfully erected sign which is not permitted under subsection (c) of section 131, title 23, United States Code.

Subsection (c) amends subsection (o) of section 131 of title 23 to require the Secretary to approve State requests to retain directional signs erected lawfully under State law and to remove the limitation that only directional information signs located within the geographical limits of a specific economic hardship may be retained.

Senate amendment

The Senate amendment requires that compensation must be paid for the removal of signs which have at no time conformed to Federal beautification standards, regardless of the reason for their removal.

States may, however, impose stricter limitations on outdoor advertising than those established in the Highway Beautification Act. In which case, the Federal requirement for compensation would not apply.

Conference substitute

The Conference agreement accepted the House language on compensation and struck

all references to the economic hardship provision amendment contained in the House bill.

The conferees agreed not to amend subsection (o) of section 131 in the absence of experience that can be gained through its adequate implementation. When enacting subsection (o) in 1976, the Congress intended that it be administered by the Secretary in a meaningful way and that he approve the requests of States for the retention of signs, displays, and devices whenever the requests meet the requirements set forth in the subsection. The conferees emphasize that we expect the Secretary to expedite the implementation of subsection (o) to carry out this Congressional intent and to assist those States which desire to utilize its provisions in doing so.

ELECTRONIC SIGNS

House bill

The Department of Transportation has characterized as a flashing light electronic information displays which neither flash nor animate static information, but where the only movement is the periodic changing of information against a solid, colorless background. These displays are engineered for maximum legibility and readability, having constant light level controls and glare reducing screens. The Department's attempt to equate these devices with flashing signs would be prohibited under this section, and the Secretary would be required to revise existing bonus agreements to permit the display of these devices in on-premise areas.

The Secretary would also be required to revise agreements under 23 U.S.C. 131(d) relating to the display of outdoor advertising in commercial and industrial areas in any case where the same prohibitive standards are being applied to such devices.

Senate amendment

The Highway Beautification Act provides that just compensation be paid for the removal of billboards along Interstate and primary roads which do not conform to Federal criteria. Seventy-five percent of such compensation is provided by the Federal Government; the remainder is paid by the States.

This section further clarifies the Act's requirement for compensation. It stipulates that compensation must be paid for the removal of signs which have at no time conformed to Federal beautification standards, regardless of the reason for their removal.

States may, however, impose stricter limitations on outdoor advertising than those established in the Highway Beautification Act. In which case, the Federal requirement for compensation would not apply.

Conference substitute

Senate provision.

ADVERTISING BY NONPROFIT ORGANIZATIONS

House bill

This section permits advertising in distribution by nonprofit organizations of free coffee to travelers on the Interstate and primary systems.

Senate amendment

No comparable provision.

Conference substitute

House provision.

HIGHWAY BRIDGE REPLACEMENT PROGRAM

House bill

First, this section provides for an annual authorization of $2 billion.

The bill provides that $1.8 billion of the $2 billion be apportioned to each State yearly to replace, in whole or in part, deficit highway bridges on all public roads regardless of what they cross. The remaining $200 million shall be assigned, at the discretion of the Secretary, to those deficient highway bridges whose replacement costs are in excess of $10 million.

The information contained in table 1 of House Public Works and Transportation Committee Print 95–49 provides the basis for apportionment of the $1.8 billion for each of the fiscal years 1979, 1980, 1981, and 1982. The apportionment factors are based on the ratio of each State's deficient bridges on the Federal-aid system in terms of replacement costs. Each State is assured a minimum of one-half of 1 percent of the total apportioned and no State would receive more than 5 percent of the total apportioned.

Second, the section increases the Federal share of the Federal-State matching ratio from the current 75/25 percent to 90/10 percent.

This section provides that at least 25 percent and up to 35 percent of apportioned funds can be obligated for bridges on public roads which are off the Federal-aid system. An inventory of off-system bridges is also required so that priorities can be assigned to these bridges.

Subsection (k) requires the Secretary to review the procedures used in approving or disapproving applications submitted under the highway bridge replacement program to determine what changes, if any, may be made to expedite the approval/disapproval process. The Secretary must conduct an initial review within 6 months of the date of enactment of this subsection and periodically thereafter.

Additionally, the Secretary must submit a report to Congress within 9 months of the date of enactment of this subsection describing the review and including any recommendations for legislative changes.

Subsection (j) is intended to assure that apportioned funds for bridge replacement projects be fairly and equitably allocated in any given State.

Senate amendment

Funds from this program presently may be used only for replacement of bridges on the Federal-aid system. This amendment permits use of funds for bridge rehabilitation, and allows a State to use up to 30 percent of its apportionment for replacement and rehabilitation of off-system bridges. For bridges off the Federal-aid system, however, only structurally deficient bridges are eligible for assistance. The Federal share payable is decreased from 75 to 70 percent.

In addition. States are permitted to use these funds to inventory bridges of historical significance.

Another section authorizes a new bridge program for the construction or replacement of primary system bridges over major bodies of water. The Secretary will have available 2.5 percent of the sums authorized for the primary and the special bridge replacement and rehabilitation programs to obligate at his discretion.

Conference substitute

The Conference substitute provides an annual authorization for fiscal year 1979 of $900 million, $1,100 million for fiscal year 1980, $1,300 million for fiscal year 1981 and $900 million for fiscal year 1982. The Agreement also provides a retention of the $200 million discretionary fund established in the House bill.

The Conference substitute further provides that the apportionment shall be based upon the needs as determined by the states with a minimum percent of ¼ of 1% and a maximum of 8%. Further a minimum of 15% and a maximum of 35% shall be used on off-system needs with the Secretary waiving the minimum if he determines that a state does not require this amount.

$54 million of the sums available for apportionment in fiscal year 1979 are set aside to carry out the acceleration of bridge projects program.

In addition to bridges specified in the House reports as likely candidates for use of the discretionary funds the Jamestown Bridge in Rhode Island, the bridge at Keokuk, Iowa and a bridge in Portland, Maine should also be considered by the Secretary.

This section makes the Golden Gate Bridge, between San Francisco and Marin County, California eligible for Bridge Replacement or Rehabilitation funds. Although the Golden Gate Bridge is not technically designated on a Federal-aid system, it is directly connected to a road on the Federal-aid system and is a critical link in the efficient operation of the Federal-aid system, and is therefore among those bridges intended for high priority assistance from the Secretary's discretionary fund.

TRAFFIC CONTROL SIGNALIZATION

House bill

This section would enact a new section 146, title 23, United States Code, to provide an ongoing traffic signalization program. Projects would be selected by State highway departments in consultation with local officials with priority given to projects which provide coordinated signalization of two or more intersections. The Federal share of the cost of projects would be 90 percent, the same as for the Interstate System, and the sums authorized to carry out this section would be apportioned among the States at the beginning of each fiscal year according to the Federal-aid urban system apportionment formula. For each of fiscal years 1979, 1980, 1981 and 1982, $75 million would be authorized for this program.

In further recognition of the benefits to be derived from traffic control signalization projects, section 117 would amend section 120(d), title 23, United States Code, to permit not more than 10 percent of the Federal-aid system construction apportionments to be used to pay 100 percent of the cost of traffic control signalization projects, other than section 146 projects.

Senate amendment

No comparable provision.

Conference substitute

Adopts only House provision amending section 120(d), of title 23 U.S. Code.

SPUR HIGHWAY—GREAT RIVER ROAD

House bill

Current Federal Highway Administration regulations provide for "access spurs to areas of scenic enhancement proximate to the Mississippi," but prohibit participation in those spurs which connect to Mississippi River crossings. This provision specifically provides that access spurs may cross the river where necessary using existing bridges.

The scenic, historical, recreational, and archeological features being connected to the Great River Road must be no further from the river than the Great River Road is at its furthest point from the river.

The law is further amended to permit admission fees at parks and other areas operated by public entities.

Senate amendment

No comparable provision.

Conference substitute

Limits access spurs to connections with existing bridges and permits certain admission fees to be charged.

PAVEMENT MARKING

House Bill

The pavement marking demonstration program established by section 151, title 23, United States Code, is continued for an additional 4 years by authorizing $75 million for each of the fiscal years ending September 30, 1979, 1980, 1981, and 1982. To further expedite completion of pavement marking of all highways, section 121 of H.R. 11733 would amend section 151 to direct the Secretary to allocate the sums authorized among the

several States and to reallocate among other States any amount not obligated by a State within 2 years.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute is the same as the House provision except that funding is reduced to $65 million in each of fiscal years 1979, 1980 and 1981. No funding is provided for fiscal year 1982. It is the intent and expectation of the Conferees that the pavement marking demonstration program will terminate at the end of fiscal year 1981 and that after that time pavement marking projects will be carried out under the hazards elimination program.

ENERGY IMPACTED PUBLIC ROADS

House bill

This program will provide for the repair of public roads, including roads not on a Federal-aid system, necessary for meeting national energy requirements.

In order to prevent further deterioration of roads used for the transport of coal and other energy commodities and to insure that inadequate public roads do not place a constraint on domestic energy production, the section provides for each of fiscal years 1979, 1980, 1981, and 1982, $50 million to be used for this program.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

ENERGY IMPACTED RAIL HIGHWAY CROSSINGS

House bill

This section provides funds to the States for use in eliminating unacceptable delays to highway travel at public rail highway grade crossings brought about by increased coal train traffic. To insure that adequate highway mobility is maintained at these impacted crossings, highway-rail grade separations or rail relocations may be necessary.

Senate amendment

The Senate amendment authorizes study of techniques for alleviating impact of increased unit train traffic to meet national energy requirements in communities along rail corridors experiencing such increased traffic.

Conference substitute

Senate provision.

BRIDGES ON DAMS

House bill

This section increases the authorization for expenditures for bridges on Federal dams under 23 U.S.C. 320 from $50 million to $65 million from the Highway Trust Fund.

Senate amendment

No comparable provision.

Conference substitute

House provision.

APPALACHIAN DEVELOPMENT HIGHWAYS

House bill

Section 125 would amend existing law to permit financing the construction of the Appalachian highway system under a 90-10 percent Federal-State funding formula and add 150 miles to the system.

This section allows the total Federal share of funds for Appalachian highway projects to rise to a maximum of 90 percent when Federal-aid primary funds are combined with ARC highway funds.

Under this provision, the use of highway trust funds to take advantage of the higher Federal share would be at the discretion of the Governor of each of the Appalachian States. A State's share could range from the current level of 30 percent down to as low as 10 percent. Depending on the State's investment, the Federal share would range from 70 percent to 90 percent.

Senate amendment

No comparable provision.

Conference substitute

The Conference agreement provides that Appalachian Highways shall be funded at a Federal share of 80% with no transfer of primary apportionments to this category. The Agreement also provides an addition of 125 miles to the system which can be applied for by all of the 13 States in the Appalachian region. However, the conferees would expect the Appalachian Commission to consider the House report. The provision also retains the amendment with respect to a bridge on the Appalachian system which is part of a flood control project.

OVERSEAS HIGHWAY

House bill

The Federal-Aid Highway Amendments of 1974 authorized to be appropriated out of the Highway Trust Fund $109.2 million for reconstruction or replacement of deteriorated two-lane bridge structures on the Overseas Highway from the mainland to Key West, Fla.

This section increases the authorization for the Overseas Highway reconstruction program by $33.8 million based on a total estimated cost for the project of $179.4 million. The Federal share would be 80 percent or $143 million.

Senate amendment

The 5-year authorization for construction of the Overseas Highway in the Florida Keys is increased from $109.2 million to $118 million.

Conference substitute

Senate provision.

Funds are authorized for the purpose of completing the project including preliminary engineering, construction engineering inspection, reconstruction or replacement of bridges and relocation or replacement in kind of the aqueduct on those approaches and bridges which are replaced or reconstructed.

OBLIGATION LIMITATION

House bill

This section provides that the highway construction and safety program, function, and projects be approved in accordance with law, provided only that an obligation ceiling of $10.9 billion not be exceeded. Obligations for emergency relief under section 125 of title 23, United States Code, would be exempted from the limitation.

Senate amendment

No comparable provision.

Conference substitute

House provision with the limitation set at $8,500,000,000.

CARPOOL AND VANPOOL PROJECTS

House bill

This section amends the initial authority in the Emergency Highway Energy Conservation Act to use the two classes of highway funds for carpooling and vanpooling assistance by removing the demonstration connotation making certain that the assistance in acquiring vehicles only applies to passenger vans and not automobiles or buses, and making the Federal share consistent at 80 percent with most other Federal-aid highway programs.

Subsection (b) directs the Secretary of Transportation to serve as an advocate of carpooling and vanpooling by providing technical assistance, identifying and removing legal and regulatory barriers, and working with local and State governments as well as private and public employers and employees. There is authorized $1 million for each of the fiscal years 1979 through 1981 to carry out this advocacy role.

Subsection (c) authorizes a program of grants and loans at an 80-percent Federal share to States, counties, municipalities, units of regional government, and metropolitan planning organizations to fund carpool and vanpool activities. There is authorized $15 million for fiscal year 1979 and $20 million for fiscal year 1980 to carry out this grant and loan program. The existing authorization of $7.5 million for a similar purpose contained in section 120 of the 1974 Highway Amendments is repealed.

A study of the administrative effectiveness of carpooling and vanpooling programs within the Department of Transportation is called for with a report by September 30, 1979, and a plan by March 30, 1980, to centralize or modify programs within the Department to assure cost-effective delivery of ridesharing assistance and to avoid duplication of effort. A total of $125,000 is authorized to do this study and develop the plan.

Subsection (h) exempts from economic regulation by the Interstate Commerce Commission vehicles carrying up to 15 persons in a single daily roundtrip for the purpose of commuting to and from work.

Finally, subsections (a) and (f) specifically incorporate into the legislative intent the policy established in the Department of Transportation regulations relative to not approving projects which will have an adverse effect on public transportation.

Senate amendment

Existing carpool and vanpool demonstration programs are consolidated under this section, and funded out of regular Federal-aid system apportionments. In addition, carpools and vanpools are exempted from certain ICC regulations and the requirements of the Fair Labor Standards Act.

This amendment also consolidates provisions for fringe parking facilities under section 412, title 23, United States Code.

Conference substitute

The Conference substitute adopts a combination of House and Senate provisions with $4 million authorized for fiscal year 1979, $10 million for 1980, and $1 million for 1981.

The Senate provision exempting carpool and vanpool operations from requirements of the Fair Labor Standards Act was deleted based on the fact that in the opinion of the Department of Labor, operations intended to be exempted under the Senate bill are not subject to the Act.

The House provision prohibiting assistance to carpool or vanpool programs which adversely affect a mass transportation system is intended to preclude any assistance which will have an appreciable adverse impact on public transit. *De minimis* effects should not bar assistance.

ACCELERATION OF CONSTRUCTION OF INTERSTATE SYSTEM

House bill

This section provides a method by which funds already authorized can be reassigned to faster moving States by a "borrowing" procedure which still will not affect the ability of all States to utilize the interstate funds apportioned to them.

The procedure would allow any State, which has used up so much of its apportionment that they are incapable of awarding another contract, to "borrow" from already authorized funds any amount up to their next anticipated apportionment. The source of the funds would be those States which have not yet utilized any of the funds apportioned to them by the first day of the fiscal year for which apportioned.

A further alternative also allows the States to move faster by the use of bonding. This section allows for the first time the eligibil-

ity of interest on bonds for Federal participation. It is required that States must fully utilize the borrowing provisions provided under this section before interest becomes eligible for Federal participation, and further interest may only be paid on bonds issued after enactment of this act and shall not be paid on those issues which may have been utilized to retire or otherwise refinance bonds issued prior to enactment of the section.

Senate amendment

This section allows States which have obligated all of their present Interstate apportionments to obligate advances against their next annual apportionment.

The Secretary is restricted from allocating more funds to the States in advance of apportionment, than the total amount of Interstate funds estimated to remain unobligated at the end of that year. The Secretary must give priority to applications involving completion of essential gaps. If a State receives an advance, its next year's apportionment would be reduced proportionately.

States may use Federal Interstate funds to pay both principal and interest on bonds issued after the date of enactment for Interstate construction. To date the use of Federal money has been limited to the payment of bond principal. States may take advantage of this section only if all other opportunities for accelerated Interstate funding (i.e., advances and reallocation by the Secretary) has been fully utilized.

Presently, Interstate funds apportioned to the States remain available for 4 years after which time they lapse and are reapportioned according to formula. This section reduces the period of availability to 2 years. Funds which lapse would be allocated on a discretionary basis by the Secretary to States with ready-to-build Interstate projects with preference given to the completion of essential gaps.

Conference substitute

The Conference substitute provides a reduction in the period of availability of Interstate funds to two years. The funds which then lapse go into a pool from which all of the states which have used up their regular Interstate apportionments may draw on a first come-first serve basis. These funds would be used for projects which are ready to proceed. The Secretary shall have no discretion as to the allocation of these funds once applied for by the states. It is the intention of the Conferees that unused funds from this pool will continue to be available in future years and that additions will be made to the pool each year as funds lapse.

Examples of projects which the Conferees understand are in a position to use this provision are the West Virginia Turnpike, which carries two Interstate routes, and Interstate Route 75 in Florida. It is the intent and expectation of the Conferees that funds available under this provision be used to construct these routes.

The Agreement further accepts the House provision with respect to bonding for completion of the Interstate System.

This section is intended to permit the use of Federal funds to pay the principal on bonds issued for Interstate construction prior to the date of enactment of this Act.

ACCESS CONTROL DEMONSTRATION PROJECTS

House bill

Section 130 authorizes the Secretary of Transportation to carry out projects to demonstrate whether the capacity of existing highways to move traffic safely can be preserved, as a cost-effective alternative to extensive new construction, by imposition of access controls on existing highways on the Federal-aid primary and secondary systems which were constructed without such controls.

It authorizes the expenditure of $50 million for the 4-fiscal-year period ending September 30, 1982, for projects located in five States and involving highways which are in good condition and not already subject to heavy industrial, commercial, or residential development. Eligible project costs include both structural and nonstructural measures such as acquisition of land or rights of access to highways from owners of adjoining property, construction of service drives or access drives to local streets connecting with the highway, and tunneling or reconstruction of intersections.

Senate amendment

No comparable provision.

Conference substitute

House provision limited to three projects and funding at $30 million.

BIKEWAYS

House bill

This section authorizes $25 million for each of the fiscal years 1979–82, of which $12.5 million is from the Highway Trust Fund and $12.5 million from general funds, for expenditure in urban and rural areas. These funds are available for expenditure only for bikeway projects and are intended to be supplementary to funds under the ongoing program of 23 U.S.C. 217. The Federal share would be 80 percent of total project cost.

Section 109 of title 23, U.S.C., is amended to insure that routes heavily used by nonmotorized traffic and light motorcycles are not severed or destroyed by any project approved under title 23 unless such project provides a reasonably alternative route or such a route exists.

Senate amendment

This section establishes a new categorical grant program for the construction of bikeways, and the improvement of existing roads and transportation systems for bicycle and pedestrian traffic. $20 million is authorized annually from the Highway Trust Fund for these purposes.

In addition, the Secretary is prohibited from approving any Federal-aid project which would reduce present bicycle or pedestrian access to a greater extent than automobile access, unless a comparable route is provided or already exists. Bikelanes and various bicycle facilities may be approved as independent Federal-aid projects or parts of other improvements.

This section also requires the Secretary to establish standards for the design and construction of bicycle projects.

Conference substitute

Combines House and Senate provisions and authorizes $20 million annually, $10 million from the Highway Trust Fund and $10 million from general funds.

USE OF TOLL RECEIPTS

House bill

This section amends the act authorizing pooling of tolls on existing crossings of San Francisco Bay and other public transportation systems in the bay area. It amends that act to permit those tolls to pay the cost of constructing new approaches to the San Mateo Bridge in the San Francisco Bay area.

Senate amendment

No comparable provision.

Conference substitute

House provision.

LIMITATIONS

House bill

This section provides that to the extent that any section of this title provides new or increased contract authority under which outlays will be made from the general fund, such new or increased authority shall be effective only in such amounts as are provided in appropriations acts.

Senate amendment

No comparable provision.

Conference substitute

House provision.

STUDY—FACTORS AFFECTING TRANSPORTATION OPERATIONS

House bill

This section directs the Secretary of Transportation to make a full and complete investigation and study of the insurance problems affecting the safe and efficient operation of bridges, tunnels, and roads within the United States. The risk factors to be studied include, but are not limited to, structural, operational, environmental, and civil disturbance factors.

Senate amendment

No comparable provision.

Conference substitute

House provision.

BRIDGE DIVERSION STUDY

House bill

This section provides for a study of the need for, and ways and means of accomplishing, diverting some traffic from Interstate System bridges across the Mississippi River which are operating above design capacity to other bridges in the vicinity. A report is required within 2 years.

Senate amendment

This section authorizes Federal financial participation in analyses, studies, and planning to determine whether the public should acquire certain privately owned toll bridges.

Conference substitute

Both House and Senate provisions.

EAST-WEST TOLL ROAD—INDIANA STUDY

House bill

This section would require the Secretary, acting through the Federal Highway Administrator, to study the possibility of relieving the Indiana Toll Road Commission of obligations resulting from the use of certain Federal funds. The study will consider additional entrances and exits to the toll facility for metropolitan areas or cities of 25,000 or more population including their approximate cost and course of funding, methods of economical toll collections assuring fair and equitable payment from the users and ascertainment of urban toll-free areas. Further, the study will determine the approximate cost and source of funding for improvements necessary to bring the toll facility up to interstate highway standards. Projection of maintenance costs and anticipated revenues for the facility until 1994 under various toll systems and charges will be developed along with a formula of toll distribution by which nearby communities directly affected by access to the toll facility may be reimbursed for expenditures for new interchanges, upgrading to interstate standards, projected maintenance and bond obligations and reserves have been provided for.

The study will also consider the cost to the State highway commission should tolls be removed and an estimate of time required to complete the improvements based upon alternative methods of financing including proceeds from toll revenue bonds, State financing sources solely, and funding principally provided by the Federal Government.

The results of the study will be reported to Congress by November 15, 1978.

Senate amendment

No comparable provision.

Conference substitute

House provision.

The conferees agree that in the event the Indiana Toll Road Commission study currently underway on the effects of continuing tolls on the highway is approved by all parties by January 1, 1979, the Secretary of

Transportation is not required to conduct a study under this section.

BONDED INDEBTEDNESS STUDY

House bill

This section would require the Secretary to conduct a study leading to recommendations on alternative methods of making toll roads incorporated into the Interstate System prior to June 29, 1956, free to public travel. It would consider only that toll road mileage incorporated into the Interstate System prior to June 29, 1956, estimated in 1958 to comprise approximately 1,950 miles of toll roads, bridges, and tunnels in 26 States, and not the additional toll road mileage subsequently added to the present total of approximately 2,266 miles of toll facilities on the Interstate System. The study will determine the extent of outstanding bonded indebtedness of each State as of January 1, 1979, incurred by each State or public authority within each State prior to June 20, 1956, for the construction of toll roads or portions thereof incorporated into the Interstate System.

Further the study should determine a method of allocating the bonded indebtedness between portions of toll roads which have been incorporated into the Interstate System and those portions not included. Specific encumbrances preventing expeditious removal of tolls on the Interstate System's portion of these toll facilities shall be identified and recommended alternative methods for equitable payment of debt service for the purpose of making those portions incorporated into the Interstate System free to public travel determined.

Senate amendment

No comparable provision.

Conference substitute

House provision.

DEMONSTRATION PROJECT—RESTRICTED ACCESS

House bill

This section authorizes the Secretary of Transportation to carry out a demonstration project in a metropolitan area having a population of 500,000 or more to restrict access of motor vehicles to the central business district during peak traffic hours.

Senate amendment

No comparable provision.

Conference substitute

House provision.

DEMONSTRATION PROJECT—VENDING MACHINE

House bill

This section authorizes a demonstration project to permit the installation of vending machines in rest areas along the Interstate System. Such machines shall dispense food, drink, and other articles which the Secretary determines necessary to ascertain the need for, or the desirability of, providing this service to the traveling public.

This provision also directs the Secretary to issue a final report within 2 years of enactment on the results of the project, along with his recommendations.

Senate amendment

No comparable provision.

Conference substitute

House provision.

THOUSAND ISLANDS BRIDGE AUTHORITY

House bill

This section eliminates a restriction on Interstate Highway 81 near the Canadian border imposed by section 111 of title 23 restricting commercial activities within the right-of-way of the Interstate System.

Senate amendment

No comparable provision.

Conference substitute

House provision.

INTERSTATE ROUTE I–90

House bill

In completing the Interstate System the logical, least costly, and most efficient terminus of some toll-free interstate routes presently under construction is a connection to an existing toll facility on the Interstate System. Such a situation exists in the State of New York where I–88 joins I–90 and where I–87 joins I–90. This section provides that these connecting projects are authorized to be approved on the Interstate System not withstanding the provisions of section 129 of title 23. Similarly, the construction of an additional lane on I–90 to facilitate the I–88 traffic is authorized so long as that traffic can travel on I–90 between Interchanges 25 and 26 free of tolls.

Senate amendment

No comparable provision.

Conference substitute

The Conference agreement would permit Federal funds to build an interchange between I–88 and I–90 if tolls are eliminated for traffic between exits 25 and 26 on I–90 in New York.

In addition, Federal funds may participate in constructing two additional lanes on I–90 between exits 25 and 26, and in modifying the interchange joining I–90 and I–87, if tolls are removed for traffic traveling between exits 24 and 26 on I–90.

HUNTINGTON BRIDGE

House bill

The Secretary of Transportation is authorized by this section to reimburse the Federal share of the construction cost of the new Huntington, W. Va. toll bridge, construction of which (other than piers) is begun after October 1, 1978, but not the cost of toll collection or service facilities, on the same basis and in the same manner as in the construction of free highways under 23 U.S.C. chapter 1 upon compliance with conditions set forth in this section.

Reimbursement shall be the Federal share of the costs of construction as applicable to a project under 23 U.S.C. 120(a) from West Virginia's primary apportionment when the State enters into an agreement with the Secretary.

Such agreement shall require: (1) The State to do the construction in accordance with the Secretarial approval standards; (2) all tolls, less actual cost of operation and maintenance, shall be applied to the repayment of actual construction costs, except for an amount equal to the Federal share of the costs; and (3) no toll shall be charged after the Federal share has been paid and the bridge shall be maintained and operated as a free bridge.

The bridge shall be designated as on the primary system, but not the interstate part of that system, before payment of any Federal funds. The primary mileage limitations in 23 U.S.C. 103(b) shall not apply to this designation.

The Federal share shall be paid in not more than 15 annual installments from West Virginia's apportioned primary funds. The first installment is due 1 year after the project agreement. Each payment is to be applied against the bridge's outstanding obligations.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

House bill

This section changes the reporting date for the National Transportation Policy Study Commission from December 31, 1978, to July 1, 1979—an extension of 6 months—and clarifies the intent of Congress with regard to reimbursement for staff travel and per diem expenses.

Senate amendment

This section extends the reporting date, as does House provision, to July 1, 1979.

Conference substitute

House provision.

It is the intention of the Committee that those persons employed by the National Transportation Policy Study Commission pursuant to Section 154(h)(1) of P.L. 94–280, the Federal Aid Highway Act of 1976, shall not be denied the privilege of attaining the status of career tenure while employed by the Commission. A denial of such status for the employees of the Commission is one of the consequences that this section of the legislation sought to prohibit. The legislation was drafted with the intent of enabling the Commission to attract the most experienced and qualified persons by assuring that those employees subject to civil service laws and regulations would retain their civil service status without interruption or loss of status or privilege. To deny those employees the privilege of attaining career tenure status while employed with the Commission would inhibit the Commission in its efforts to attract and maintain qualified people and to provide the Congress and the President with the quality report mandated by the Federal Aid Highway Act of 1976.

METRIC SYSTEM SIGNING

House bill

This section prohibits the expenditure of Federal funds for the construction, installation, or modification of highway signs that will result in sign messages solely in the metric system, unless specifically authorized by Congress. Signs with dual legends in English and metric units would be permitted as long as the English units are given equal or greater emphasis.

Senate amendment

No comparable provision.

Conference substitute

House provision.

This provision prohibits the expenditure of Federal funds for the construction, installation, or modification of highway signs that will result in sign messages solely in the metric system, unless specifically authorized by Congress. Signs with dual legends in English and metric units would be permitted as long as the English units are given equal or greater emphasis.

ENFORCEMENT OF VEHICLES WEIGHT LIMITATIONS

House bill

This section of the bill requires the Secretary of Transportation in consultation with each State to inventory the system of penalties in each State for violation of State weight laws and also inventory the existing system of issuing special permits.

Not later than January 1, 1980, and each subsequent year, each State shall submit to the Secretary a report containing data determined by the Secretary to be necessary in order for him to make a determination of whether the State has enforced its vehicle weight laws with respect to the Federal-aid highway system.

The Secretary is then required to submit such recommendations as he deems necessary in an annual report to the Congress.

Failure to certify or a determination by the Secretary that a State is failing to enforce its size and weight laws results in a 10 percent reduction in the States apportionment under section 104 of title 23, U.S. Code. If thereafter a State enforces its laws the reduction is restored, if not, the reduction is reapportioned to other States.

Senate amendment

Under present law, Federal-aid projects in a State cannot be approved until the State

has certified to the Secretary that its vehicle weight and size limitation on its Federal-aid road systems are being enforced. This section clarifies the ability of the Secretary to administer the Federal weight limitations by requiring that such certification must be to the satisfaction of the Secretary.

Conference substitute

Same as House provision.

FRANCONIA NOTCH

House bill

This section to finance improvements of highways on Federal-aid systems serving as alternative routes around Franconia Notch in the State of New Hampshire for traffic whose use of such routes is occasioned by construction of Interstate route 93 through the Notch to less than full interstate standards. For this purpose, the provision authorizes the use of Interstate System funds in an amount representing the difference between the Federal share of the costs of a conventional, four-lane interstate facility and that of a modified design developed for the Franconia Notch Parkway.

Senate amendment

No comparable provision.

Conference substitute

House provision.

LOTTERY TICKETS

House bill

This section directs the Secretary of Transportation to carry out a demonstration project permitting a State which runs a lottery to sell its own lottery tickets by means of State employees or vending machines at publicly owned and controlled rest and recreation areas and in safety rest areas on the rights-of-way of the Interstate System in such State.

The provision also requires that any agreement previously entered into by the State and the Secretary which would prohibit such a demonstration be modified to permit such a project.

State amendment

No comparable provision.

Conference substitute

No comparable provision.

BYPASS HIGHWAY

House bill

This section authorizes the Secretary of Transportation to carry out a demonstration project on the Federal-aid primary system for the construction of a bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County, Calif. The purpose of the demonstration project is to determine the extent to which the bypass highway will direct motor vehicle traffic around the park so as to best serve the needs of the traveling public while preserving the natural beauty of the park. The section provides $50 million from the Highway Trust Fund for this purpose.

Senate amendment

No comparable provision.

Conference substitute

The Conference agreement modifies the House provision to limit the Federal share to 90 percent and provides that the funding be $10 million for fiscal year 1979 and $20 million for each of the succeeding two fiscal years.

COLUMBIA RIVER BRIDGE STUDY

House bill

This section requires that a feasibility study of the additional bridge across the Columbia River with recommendations be submitted not later than January 1, 1979.

Senate amendment

No comparable provision.

Conference substitute

House provision.

RURAL HIGHWAY PUBLIC TRANSPORTATION DEMONSTRATION PROJECT

House bill

This section amends the existing authorization in section 147 of the Federal-Aid Highway Act of 1973 to carry out demonstration projects for public transportation on highways in rural and small urban areas by directing that a rural highway public transportation demonstration project consisting of express and scheduled bus service be carried out in and in the vicinity of the Sherman-Denison, Tex., area to Dallas-Fort Worth.

Senate amendment

No comparable provision.

Conference substitute

House provision.

It is the intention of the Conferees that if funds and authority are not available under Section 147 of the Federal-aid Highway Act of 1973 then the funding of the project shall be carried out under Section 315 of Title III of this Act.

MULTIMODAL CONCEPT

House bill

This section authorizes $9 million out of the Highway Trust Fund for the preparation of preliminary engineering and design plans and the construction of models in connection with the Brunswick, Ga., to Kansas City, Mo., route described in section 143(a)(1) of the Federal-Aid Highway Act of 1973.

Senate amendment

No comparable provision.

Conference substitute

House provision.

ACCELERATION OF PROJECTS

House bill

This section requires that the Secretary submit a report to Congress on the results of the demonstration project authorized by section 141 of the Federal-Aid Highway Act of 1976 (90 Stat. 444–445).

Senate amendment

No comparable provision.

Conference substitute

House provision.

BLOOMINGTON FERRY BRIDGE

House bill

This section makes available $200,000 from the Highway Trust Fund to the State of Minnesota for the purpose of preparing any environmental impact statements required by Federal law in connection with the construction of the Scott County-Hennepin County Highway 18 Bridge (Bloomington Ferry Bridge) in the vicinity of Bloomington, Minn.

Senate amendment

No comparable provision.

Conference substitute

The Conferees adopted the House provision, however, it is the intent of the Conferees that this providing of funds for completion of the Environmental Impact Statement be limited to this one case.

DEMONSTRATION PROJECT OF INTEGRATED MOTORIST INFORMATION SYSTEM

House bill

This section authorizes the Secretary to engage in a demonstration using sophisticated roadway management technologies to coordinate traffic flows on major and arterial roads within a high-density traffic corridor.

Federal share in the project is set at $30 million for the 4 fiscal years ending September 30, 1982, and covers all costs related to construction and design of the project.

Senate amendment

This section authorizes $1.5 million for fiscal year 1979 and $28.5 million for fiscal year 1980 for a traffic management demonstration project. The Secretary is directed to conduct an investigation of the use of automated roadway management system to increase traffic capacity and driver safety in heavily traveled transportation corridors. The Federal share payable is 90 percent.

Conference substitute

The Conferees adopted the Senate provision with a modification of funding to provide that funds be authorized at the level of $1.5 million for fiscal year 1979, $2.5 million for fiscal year 1980 and $26 million for fiscal year 1981.

DULLES AIRPORT HIGHWAY ACCESS

House bill

This section will permit carpools and vanpools to utilize the Dulles Airport Access Highway during rush hours to improve the flow of traffic entering and leaving the Nation's Capital. The section requires the use of existing access points.

Senate amendment

This section requires completion of the ongoing study of commuter access to the Dulles Road within 90 days.

Conference substitute

Senate provision.

MAINE TURNPIKE

House bill

This section will permit the State of Maine to continue to impose and collect tolls on the Maine Turnpike provided the State meets specified requirements similar to those imposed upon other States in the past.

The State of Maine must repay to the Federal Government the sum of $3,055,000, representing the Federal share of the cost of constructing two interchanges or connections with the turnpike. These interchanges, at West Gardiner in Kennebec County and York in York County, were constructed with Federal assistance on the condition that the facility become toll free upon the retirement of bonds issued to finance its construction.

In the case of a third connection, constructed with Federal assistance, at a location known as exit 6A on the turnpike, the State must remove any toll-collection facility on Interstate 295 at that point. The State of Maine and its turnpike authority also must enter into an agreement assuring the toll-free operation of a specified interchange or connection with the Maine Turnpike.

Senate amendment

The State of Maine expended Federal-aid highway funds to construct two interchanges along the Maine Turnpike. In order to be eligible for Federal highway assistance, the State and the Toll Authority agreed to lift the tolls upon retirement of revenue bonds.

The State has now decided to retain tolls on the turnpike following retirement of the turnpike bonds. This amendment allows the State to repay to the Highway Trust Fund Federal funds received for construction of the interchanges.

The State is also given 3 years following bond retirement to remove tolls from an interchange connecting Interstate 295 and the Maine Turnpike in order to comply with section 129(c), title 23, United States Code.

Conference substitute

Senate provision.

INTERDEPARTMENTAL COORDINATION STUDY

House bill

This section calls for a study by the Secretary of Transportation through the Fed-

eral Highway Administration and in cooperation with the Secretaries of the Departments of Energy, Housing and Urban Development, Commerce, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget. The study would consider all factors involving the Clean Air Act Amendments of 1977, the Energy Policy and Conservation Act, the National Mass Transportation Assistance Act of 1974, and this act, the Federal Aid Highway Act of 1978.

This study is to examine the need to reconcile the various requirements of each of these laws, and if conflicts exist between their requirements, to identify them and investigate possible legislative or other alternatives to resolve such conflicts.

Senate amendment

No comparable provision.

Conference substitute

The Conferees adopted the House provision with the addition of a requirement to study the effects of imposing tolls as a means of reducing vehicle traffic and air pollution.

INCLUSION OF ROUTES IN INTERSTATE SYSTEM

House bill

This section requires the Secretary of Transportation to make a full and complete investigation and study of whether Alaska and Puerto Rico should have routes on Interstate System and report to the Congress promptly by January 1, 1979.

Senate amendment

The Secretary is instructed to report to Congress by January 15, 1980, the desirability of designating Interstate routes in Alaska and Puerto Rico. The study shall assess the need for redesigning intercity routes to greater than Federal-aid primary standards in both of these areas.

Conference substitute

Senate provision with reporting date set at July 1, 1979.

ROUTE DESIGNATION

House bill

The Secretary of Transportation is directed to designate specified and named routes as part of the Interstate System not later than 60 days after the date of enactment of this act.

Senate amendment

No comparable provision.

Conference substitute

House provision.

ACCELERATION OF BRIDGE PROJECTS

House bill

This section authorizes a demonstration project on the feasibility of reducing the time between a request for project approval through completion of construction of replacement bridge projects. There is authorized $30 million and required a detailed report.

Senate amendment

No comparable provision.

Conference substitute

The Conference substitute is the same as the House provision except that two projects are authorized instead of one, funding is increased by $24 million and the Federal share is 90 percent. It is the intent and expectation of the Conferees that the projects approved under this provision will be the U.S. Grant Bridge in the vicinity of Portsmouth, Ohio, and the east end bridge over the Ohio River at Huntington, West Virginia. $54 million of the sums available for apportionment under the bridge program in fiscal year 1979 is set aside to carry out this program.

SYSTEM DESIGNATION

House bill

No comparable provision.

Senate amendment

The Federal-aid secondary system is presently limited to "rural major collector routes" in areas less than 5,000 in population. All other areas are eligible for urban highway assistance on arterial and collector routes. This section limits the Federal-aid urban system to areas of $50,000 or more and amends the definitions of the secondary and urban systems to reflect this change.

Conference substitute

No comparable provision.

URBAN AND SECONDARY SYSTEMS APPORTIONMENT

House bill

No comparable provision.

Senate amendment

To maintain consistency with the proposed population cutoff for urban highway assistance, the population factor in the apportionment formula for secondary road funds is enlarged to include the population in areas between 5,000 and 50,000.

Conference substitute

No comparable provision.

EMERGENCY RELIEF

House bill

No comparable provision.

Senate amendment

Federal financial assistance for emergency repair and reconstruction of roads on the Federal-aid systems is presently funded 40 percent from the general funds and 60 percent for the trust fund. This section funds the program entirely from the trust fund.

Conference substitute

Senate provision.

SECONDARY SYSTEM—TRANSIT

House bill

No comparable provision.

Senate amendment

Secondary system highway funds, like urban system funds, are made available for public transportation projects. Operating expenses are eligible for assistance.

Conference substitute

No comparable provision.

URBAN SYSTEM ALLOCATION

House bill

No comparable provision.

Senate amendment

For urbanized areas of 200,000 or more, States are instructed to allocate their Federal urban system funds according to population, unless the State chooses to use an alternative formula approved by the Secretary. Cities of 200,000 or more within urbanized areas must receive fair and equitable treatment.

States shall distribute funds to urbanized areas of less than 200,000 population on a fair and equitable basis.

Conference substitute

No comparable provision.

ELIMINATION OF CATEGORIES

House bill

No comparable provision.

Senate amendment

For the purposes of consolidation and flexibility, three special categories are repealed: Access highways to lakes, highways crossing Federal projects, safer off-system roads, and priority primary.

Conference substitute

No comparable provision.

TOLLS FOR CLEAN AIR PURPOSES

House bill

No comparable provision.

Senate amendment

Title 23, United States Code, states that, with the exception of certain toll bridges and tunnels, all highways constructed with Federal-aid funds shall be free from tolls. This section changes that criterion to permit the imposition of tolls on urban highways where the tolls are part of a State implementation plan, required by the Clean Air Act.

Conference substitute

Senate provision included as part of interdepartmental study.

CONNECTOR PRIMARY DEMONSTRATION

House bill

No comparable provision.

Senate amendment

The Secretary, in cooperation with the States of New Mexico and Texas, is directed to carry out a demonstration project to upgrade primary routes between Los Cruces, N. Mex., and Amarillo, Tex., and between Lubbock, Tex., and Interstate 10. The project is designed to demonstrate ways in which Interstate System service can be supplemented by improving heavily traveled primary routes.

The States will use their regularly apportioned primary funds to carry out the program. In order to give these routes priority consideration, the Federal matching share is increased to 90 percent.

Conference substitute

The Senate provision was accepted with the following modifications. Any portion or segment of the two Connector Primary Demonstration projects (Lubbock, Texas to Interstate 10; Las Cruces, New Mexico to Amarillo, Texas) can be funded by either of two mechanisms: (1) the state can use its regularly apportioned primary funds with a 90 percent Federal share, or (2) the state can use funds awarded by the Secretary through the priority primary discretionary program established in Section 104(c) of this bill at a 75 percent Federal share even though the route is not a designated priority primary route. The exact location of these routes will be determined by the states. Once funds are obligated for any portion or segment of these programs the funding mechanism cannot be changed for that portion or segment.

TECHNICAL AMENDMENTS

House bill

No comparable provision.

Senate amendment

A reference to the priority primary section, which has not been reauthorized, is deleted from title 23, United States Code in this section.

Conference substitute

No comparable provisions.

UTILITIES ON RIGHTS-OF-WAY

House bill

No comparable provision.

Senate amendment

This section requires that in determining whether any right-of-way on a Federal-aid system should be used for accommodating any utility facility, the Secretary is to evaluate a number of factors including loss of agricultural land and environmental and economic effects.

Conference substitute

Senate provision modified to require Secretary primarily to consider safety.

COASTWISE TRADE

House bill

No comparable provision.

Senate amendment

This section provides that for 5 years, no provision of law shall prohibit the transportation within Alaska of persons or cargo by foreign-built hovercraft.

Conference substitute

Senate provision.

BALTIMORE-WASHINGTON PARKWAY

House bill

No comparable provision.

Senate amendment

This section amends existing law to remove the requirement that the reconstruction of the Baltimore-Washington Parkway to be six lanes. In addition, it permits the geometric and construction standards to be those agreed upon by the Secretary of Transportation and the Secretary of Transportation of the State of Maryland.

Conference substitute

Senate provision.

STUDY—URBAN BLIGHT REDUCTION

House bill

No comparable provision.

Senate amendment

This section requires a study of the potential for reducing urban blight adjacent to Federal-aid primary and interstate highways located in central business districts.

Conference substitute

Senate provision.

RAIL OPERATION PROJECTS IN NONHIGHWAY AREAS

House bill

No comparable provision.

Senate amendment

This section authorizes the Secretary to approve the use of funds apportioned under section 104 of title 23, United States Code, for projects for operating the Alaska Railroad for purposes of linking with highways or other transportation modes receiving Federal financial assistance from these funds.

Conference substitute

Senate provision modified to limit expenditures to 5 percent of primary system apportionments.

COMMISSION

The Conference agreement establishes a National Commission to study the potential for alcohol fuels and formulate the policy for the development of such fuels as an energy source.

TITLE II—HIGHWAY SAFETY ACT OF 1978

SHORT TITLE

House bill

This section provides that the title may be cited as the "Highway Safety Act of 1978".

Senate amendment

No comparable provision.

Conference substitute

House provision.

HIGHWAY SAFETY AUTHORIZATIONS

House bill

Appropriations are authorized for a 4-year period from fiscal year 1979 through fiscal year 1982.

The basic authorization for programs under section 402 would be $200 million per year for those areas administered by the National Highway Traffic Safety Administration and $25 million per year for those areas administered by the Federal Highway Administration.

The authorization for the bridge replacement program has been increased from $180 million annually to $1.5 billion annually. The authorization for carrying out 23 U.S.C. 151 relating to pavement marking has been increased to $75 million annually. The authorization for carrying out 23 U.S.C. 152 (high-hazard locations) and 23 U.S.C. 153 (roadside obstacles) has been increased to $150 million annually.

This provision also has authorized out of the highway trust fund $75 million annually for enforcement of the 55-mile-per-hour speed limit.

The authorization for research and development programs would be $50 million per year for the National Highway Traffic Safety Administration and $10 million for the Federal Highway Administration. The authorization for schoolbus driver training would be $7.5 million annually. This section also provides $5 million in fiscal year 1980, $10 million in fiscal year 1981, and $15 million in fiscal year 1982 for carrying out the innovative grants program.

Senate amendment

Section 412(a) authorizes to be appropriated, for carrying out the purposes of section 402 relating to highway safety programs, by the National Highway Traffic Safety Administration, out of the highway trust fund, $175 million for fiscal year 1979, $175 million for fiscal year 1980, $200 million for fiscal year 1981, and $200 million for fiscal year 1982.

Section 412(b) provides that funds in accordance with section 151 of title 23 of the United States Code shall be available for carrying out the provisions of section 402 by the Federal Highway Administrator.

Section 412(c) authorizes to be appropriated, for carrying out the provisions of section 411, relating to highway safety research and development, by the National Highway Traffic Safety Administration, out of the highway trust fund, $50 million for each of the 4 fiscal years beginning with 1979 and continuing through 1982.

For fiscal years 1979 and 1980 $25 million per year is authorized for implementation of section 402 safety requirements and guidelines.

Section 4 authorizes to be appropriated for carrying out sections 307(c) and 411 of title 23, United States Code (relating to highway safety research and development) by the Federal Highway Administration, out of the highway trust fund, $10 million for each fiscal year beginning in 1979 and continuing through 1982.

For fiscal years 1979 and 1980 $525 million per fiscal year is authorized for bridge rehabilitation and replacement.

For fiscal years 1979 and 1980 $265 million per fiscal year is authorized for the highway safety improvement program.

Conference substitute

The authorizations are as contained in the Senate amendment except as hereafter noted. For 55 mile per hour enforcement, $50 million is authorized for FY 1979 and $67.5 million for each of the fiscal years 1980, 1981 and 1982. The authority for enforcement and incentive grants in connection with the 55 mile per hour speed limit does not permit the contractual obligation of the U.S. but requires a specific appropriation prior to any such expenditure. School bus driver training is authorized at $2.5 million annually. $20 million is authorized for accident data acquisition and $16 million for safety education.

For the bridge program, $900 million is authorized in FY 1979, $1.1 billion in FY 1980, $1.3 billion in 1981 and $900 million in FY 1982. For hazard elimination, $125 million is authorized in FY 1979, $150 million for each of the fiscal years 1980 and 1981, and $200 million for FY 1982. The increased authorization for FY 1982 is provided in anticipation of the elimination of the separate pavement marking category to be folded into the hazard elimination category in FY 1982. For rail highway crossings, $190 million is authorized for the combined on and off-system rail highway crossing category.

All other safety authorizations are the same in both bills.

RAIL-HIGHWAY CROSSINGS

House bill

The authorization from the highway trust fund for rail-highway crossing projects on the Federal-aid system would be increased to $150 million annually. The authorization from the general fund for rail-highway crossing projects off the Federal-aid system would be increased to $100 million annually.

In addition, the section permits certain unobligated amounts available for rail-highway crossings to be reapportioned to States who have obligated all of their apportionment for that period. Future-year apportionments are equalized accordingly.

Senate amendment

This section consolidates the two existing rail-highway crossing categories for on-system and off-system roads and provides an authorization of $190 million.

Rail safety projects (including the separation or reconstruction of grade crossings and the relocation of highways) are eligible items for Federal-aid highway funds. In cases where a hazardous crossing can be improved less expensively by relocating a segment of railway, the Secretary may approve the use of Federal-aid highway funds for this purpose.

Conference substitute

Senate provision.

MINIMUM APPORTIONMENT

House bill

This section would amend subsection (c) of section 402 by striking the language which limits the Virgin Islands, Guam, and American Samoa to receiving one-third of 1 percent of the total highway safety apportionment. The amendment would increase the share of each of these territories to one-half of 1 percent, the current minimum apportionment for each State.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

NATIONAL MAXIMUM SPEED LIMIT

House bill

This section amends section 154 of title 23, United States Code (national maximum speed limit), to establish a graduated system of minimum standards to measure the effectiveness of State speed limit programs, and a sliding scale penalty to supplement the section 141 sanction for States failing to meet published compliance standards.

It provides for a penalty, on a sliding scale, affecting a maximum of 5 percent of the apportionment funds under section 104 (b)(1), (b)(2), and (b)(6) of title 23, United States Code, for fiscal years 1980–82 and a maximum of 10 percent of such apportionments thereafter. Any apportionment withheld from a State would be restored at such time as the speeds on the State's public highways have fallen to the level specified for the year for which the apportionment was withheld.

Conversely, the provision also provides for incentive grants where the speeds on a State's public highways are below the fixed percentage for that period.

Senate amendment

The national speed limit provisions of section 154 of title 23, United States Code, are amended to require States to submit data on the percentage of vehicles exceeding the 55-mile-per-hour speed limit.

If, at the beginning of fiscal year 1980, a State has not achieved a 40-percent compliance rate, its fiscal year 1981 Federal-aid primary, secondary, and urban system funds will be reduced up to 5 percent. The next year the compliance rate must be 50 percent, and the next, 60 percent. In 1982, States must attain a 75-percent compliance rate, or be subject to a 10-percent reduction in their Federal-aid funds (other than Interstate).

Conference substitute

Accepted the House provision except that the amount of the incentive grant is reduced

from 12.5 percent to 10 percent. It is the intention of the Conferees that the effectiveness of the incentive grants program be evaluated during the next four years in order to assist the Congress in deciding whether to continue the program in the subsequent years.

ACCIDENT DATA

House bill

This section would authorize to be apportioned to the Secretary of Transportation from the highway trust fund $10 million in each of fiscal years 1979 through 1982, to advance the National Highway Traffic Safety Administration's accident data system for the acquisition, storage, and retrieval of highway accident statistics, and particularly the advancement of an accident sampling procedure for the reporting of highway accidents on a nationwide basis.

Senate amendment

No comparable provision.

Conference substitute

The conference substitute adopts the House provision with the funding level reduced to $5,000,000 per fiscal year.

HIGHWAY SAFETY PROGRAMS

House bill

Subsection (a) of this section amends section 402 of title 23, United States Code, to make it clear that the Secretary has the authority to amend or waive standards on a temporary basis for the purpose of evaluating programs by States that employ a process of identifying the causes of accidents, adopting measures to reduce the frequency and severity of accidents, and evaluating the results of these measures.

Subsection (b) amends 23 U.S.C. 402 to make it clear that the highway safety program should be administered through a State highway safety agency. This takes effect January 1, 1979.

In addition, the State safety program is to provide for programs encouraging the use of safety belts.

Senate amendment

Chapter 4 of title 23, United States Code, is completely revised. As revised, section 402 directs each State to have a highway safety program designed to reduce traffic deaths and injuries by identifying the cause of motor vehicle accidents, by adopting measures to reduce the frequency and severity of accidents and by evaluating the effectiveness of such measures. Each State highway program shall achieve uniformity through compliance with standards issued by the Secretary in the following areas: Data collection in driver licensing, vehicle titling and registration, theft prevention, and traffic records; laws and practices that affect interstate motorists; rules of the road; traffic control devices; and highway design, construction, and maintenance. As part of its highway program, each State shall consider guidelines which the Secretary is authorized to issue on all aspects of highway safety including traffic safety education, motorcycle safety, pedestrian safety, emergency medical service, traffic adjudication systems, vehicle inspection and maintenance, pupil transportation, and identification of high-accident-rate locations. The standards shall be developed by the Secretary in cooperation with the public and private sectors.

Conference substitute

The Conferees agreed to the House language regarding Highway Safety Programs in light of a basic agreement in principle between the Senate and the House that States should have flexibility to tailor highway programs to their individual needs and the stated intent of the House to review the desirability of whether to retain as mandatory the existing standards.

INNOVATIVE PROJECT GRANTS

House bill

This section would add a new section 407 to title 23, United States Code, to authorize the Secretary to make grants to States for the development of innovative approaches to highway safety problems It is intended that the Federal share of these projects be the same as those projects carried out under section 402. In administering the grants, the Secretary would be directed to devise criteria and procedures after consulting with the States, their political subdivisions, Federal departments and agencies, and such other public and private organizations as he deems appropriate. Application for a project would be made by a State in such form and with such information as the Secretary would prescribe. The Secretary would be directed to report annually on the projects carried out under this section.

Senate amendment

No comparable provision.

Conference substitute

House provision.

HIGHWAY SAFETY EDUCATION AND INFORMATION

House bill

This section authorizes a total of $16 million for a national highway safety campaign to vigorously promote the cause of highway safety through the use of mass media, including radio and television.

The Secretary of Transportation, acting through the Federal Highway Administration, shall carry out six pilot projects to develop and evaluate techniques, methods, and practices to achieve the most effective means of reducing traffic accidents, injuries, and deaths.

Each pilot project is to be in operation not later than 180 days after funds are appropriated and is to be conducted for a 1-year period. The Secretary, through the Federal Highway Administration, is to report to Congress within 90 days following the 1-year pilot project period on the results of the project, including but not limited to, an evaluation of the effectiveness and a statistical analysis of the traffic accidents and fatalities within the project area during the 1-year study period. The sum of $6 million is authorized to be appropriated out of the highway trust fund to carry out the pilot projects and required reports, evaluations, and analyses. These funds are to remain available until expended.

A report on the evaluation and on steps taken by the Federal Highway Administration to implement the recommendation of such evaluation is to be submitted to Congress by the Secretary, acting through the Federal Highway Administration, on July 1 of each year in which the campaign is in progress. The sum of $10 million is authorized to be appropriated from the highway trust fund for carrying out the campaign, evaluation, and the necessary report. These funds shall remain available until expended.

Senate amendment

No comparable provision.

Conference substitute

House provision.

MOTORCYCLE HELMET STUDY

House bill

This section directs the Secretary of Transportation to make a full and complete study of the effect of the provision of the Highway Safety Act of 1976 relating to the requirement, or lack thereof, concerning the wearing of safety helmets by operators and passengers on motorcycles.

Senate amendment

No comparable provision.

Conference substitute

House provision.

STUDY OF OUTSIZED VEHICLES

House bill

This section requires a study by the Secretary of "outsized vehicles constructed in a manner which exceed the standardized industry configurations." One type of highway vehicle of concern is the double-bottom tanker which is used in several States. The stability of this type of vehicle has been questioned and Congress needs further information in this regard.

Senate amendment

No comparable provision.

Conference substitute

House provision.

NATIONAL DRIVER REGISTER

House bill

Sections 220 through 230 establish a fully automated national driver register (NDR) within the Department of Transportation to: (1) meet the longstanding need for a technologically improved register that can provide a rapid response to the inquiries of State licensing authorities who are concerned about identifying problem drivers, and (2) assist the State in electronically information regarding the motor vehicle driving records of certain problem drivers.

Senate amendment

No comparable provision.

Conference substitute

Some States have expressed concern about the problems that may be associated with full State participation in a mandatory National Driver Register system. Accordingly, the conference substitute directs the Secretary, in cooperation with the States, to conduct a one-year study of these problems including the cost of the automatic data processing and electronic communications equipment that would be needed by the States and the Department of Transportation to meet the requirements of the House bill.

Under present law, State participation in the National Driver Register is voluntary. The conferees believe this study should particularly examine the effect that making the system mandatory might have on the cost and effectiveness of the NDR system. As the Congress has a significant interest in this issue, it is hoped that the Department of Transportation can rapidly provide an interim report to the Congress on these matters.

MARIJUANA REPORT

House bill

This section requires a report to Congress by December 31, 1979, concerning efforts to detect and prevent marijuana use by operators of motor vehicles.

Senate amendment

No comparable provision.

Conference substitute

The Conference Committee accepted the House provision with an addition suggested by the Senate that the Secretary of Transportation would have discretion to report on other controlled substances that might adversely affect driver behavior. The conferees intend that the Department of Transportation use existing research on marijuana and other controlled substances carried out by other Federal agencies and in the private sector, in order not to duplicate already existing studies. The conferees further intend that the Department of Transportation coordinate with other agencies such as the Department of Health, Education, and Welfare, and the Drug Enforcement Agency so that any information gained from this study may be useful to as many agencies as possible.

SAFETY BELT PROGRAM

House bill

This section requires each State to spend at least 3 percent of its apportionment for

each fiscal year of the amounts authorized to carry out section 402 of title 23 of the United States Code relating to highway safety programs for programs to encourage the use of safety belts.

Senate amendment

No comparable provision.

Conference substitute

House provision with required percentage reduced to 2 percent.

SAFETY BELT STUDY

House bill

This section provides for a National Academy of Sciences study of means of encouraging use of safety belts.

Senate amendment

No comparable provision.

Conference substitute

House provision.

PROHIBITION

House bill

This section prohibits the use of moneys authorized by this title for the purchase of passive restraint systems for State-owned motor vehicles (including political subdivisions thereof) except for vehicles used in educational programs.

Senate amendment

No comparable provision.

Conference substitute

House provision.

Conferees want to clarify in regard to section 233 that the purchase of a vehicle with Title II funds that comes equipped with a passive restraint system is not prohibited by this provision. The provision bans retrofitting vehicles with passive restraint systems with funds from Title II and using Title II funds for passive restraints on vehicles purchased with non-Title II funds. Also, section 233 clearly excludes from its coverage "a motor vehicle primarily used in an educational program."

EFFECTIVE DATE

House bill

Sections 220 through 233 are to take effect October 1, 1978.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

HIGHWAY SAFETY IMPROVEMENT PROGRAM

House bill

No comparable provision.

Senate amendment

Three existing highway safety construction programs (pavement marking, elimination of high hazards, and roadside obstacles) are combined into a consolidated safety program. States are required to develop and implement a continuous highway safety improvement program which includes procedures for selection, scheduling, construction, and evaluation of highway safety construction projects; 30 percent of a State's apportionment must be spent off the Federal-aid system.

Conference substitute

The Conference agreement consolidates the high hazard and roadside obstacle programs but continues the separate pavement marking demonstration for three years. It is the intent to end the pavement marking program after the three-year period and fund this activity under the new consolidated hazard elimination program and the safer off-system road program.

Under the consolidated hazards elimination program each State is required to conduct an engineering survey of all public roads to compile a full and complete inventory of hazards to motorists and pedestrians.

The conferees intend that in compiling the inventory, the best available data, information, techniques, and devices be used, including, but not limited to, accident, police and citizen reports, and on-site inspections by qualified engineering personnel. The inventory should be continuously updated and should serve as the basis for establishing priorities for each State's hazards elimination program. At a minimum, each State program should include the following: replacement of existing sign and light supports which are not designed to yield or break away on impact with yielding or breakaway sign and light supports and the installation of appropriate signs, markings, and other warning devices at curves, blind intersections, and narrow bridges and their approaches.

Funds authorized to carry out this section would be available for highway safety improvement projects as defined in chapter 1 of title 23, United States Code. The conferees do not intend that the funds for fiscal years 1979, 1980, and 1981 be used for pavement marking projects since the pavement marking demonstration program has been extended through fiscal year 1981. Pavement marking projects would be eligible after fiscal year 1981 and funding for the hazard elimination program has been adjusted accordingly.

CHAPTER 4—REVISION

House bill

No comparable provision.

Senate amendment

This section amends and revises chapter 4, title 23 of the United States Code.

Section 401 directs the Secretary of Transportation to assist and cooperate with the public and private sector to increase highway safety. "State" is defined as including the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa.

Section 402 directs each State to have a highway safety program designed to reduce traffic deaths and injuries by identifying the cause of motor vehicle accidents, by adopting measures to reduce the frequency and severity of accidents and by evaluating the effectiveness of such measures. Each State highway program shall achieve uniformity through compliance with standards issued by the Secretary in the following areas: Data collection in driver licensing, vehicle titling and registration, theft prevention, and traffic records; laws and practices that affect interstate motorists; rules of the road; traffic control devices; and highway design, construction, and maintenance. As part of its highway program, each State shall consider guidelines which the Secretary is authorized to issue on all aspects of highway safety including traffic safety education, motorcycle safety, pedestrian safety, emergency medical services, traffic adjudication systems, vehicle inspection and maintenance, pupil transportation, and identification of high-accident-rate locations. The standards shall be developed by the Secretary in cooperation with the public and private sectors.

Section 403 sets out the formula for apportioning funds. Under section 403(a) funds authorized to be appropriated to carry out section 402 of this chapter are to be used to aid the States to conduct highway safety programs approved in accordance with section 406 relating to program submission and approval and shall be subject to a deduction not to exceed 5 percent for administrative costs. The remainder shall be apportioned among the States as follows: 75 percent of the funds shall be apportioned in the ratio which the population of each State bears to the total population of all States; and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States. "Public road" means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage is to be determined as of the end of the calendar year preceding the year in which funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 percent of the total apportionment, except that the apportionments to the Virgin Islands, Guam and American Samoa shall not be less than one-third of 1 percent of the total apportionment.

Section 403(b) permits the Secretary to apportion to the States up to 25 percent of the highway safety funds appropriated to carry out high-priority safety programs, including enforcement of the 55-mile-an-hour speed limits and programs to increase safety belt use.

Section 403(c) directs the Secretary to apportion the highway safety funds on October 1 of each fiscal year at which time the funds shall be available for obligation under section 406.

Section 403(d) states that sums apportioned to a State for its highway safety program are available to that State for 3 years after the close of the fiscal year for which such sums are authorized.

Section 403(e) states that funds available in this chapter shall not be appropriated for highway construction maintenance or design (other than design of safety features of highways).

Section 404 requires each State to provide that the Governor of the State be responsible for the State's highway safety program and that the program be administered through a highway safety agency which has the authority, facilities, and organization to carry out the highway safety program to the satisfaction of the Secretary.

Section 405(a) authorizes State political subdivisions to develop and carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such highway safety programs are approved by the Governor. States are required to assist political subdivisions in identifying highway safety problems and developing measures to reduce the frequency and severity of accidents.

Section 405(b) provides that States shall expend not less than 40 percent of Federal funds apportioned to the States under section 403 in political subdivisions to carry out local highway safety programs.

Section 405(c) permits the Secretary to waive section 405(b) when he determines that there is an insufficient number of local highway safety programs to justify the expenditure in such State of such percentage of Federal funds during the fiscal year.

Section 406 (a), (b), and (c) details a program approval process. Each year the State highway safety agency shall submit to the Secretary for approval a proposed highway safety program for the ensuing year together with a projection of future highway safety efforts. The Secretary is to promptly review the State's compliance with the program development process specified by section 402 and the State's compliance with the uniform requirements issued pursuant to such section. The Secretary may then approve the program in whole or in part and such approval shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. The Secretary is not allowed to withhold approval of a State's program in its entirety except upon a finding that the State is failing to make reasonable implementation of the requirements specified in section 402, considered as a whole or upon a finding that the State's performance has been substantially deficient in identifying highway safety problems, developing countermeasures, and evaluating results.

Section 407 provides that the Federal share payable on account of any program

shall not exceed 70 percent of the total cost of such program except as provided in section 409 relating to Indian programs.

Section 408 allows the Secretary to make arrangements with other Federal departments and agencies for assistance in the preparation of uniform requirements for the highway safety programs contemplated by section 402 and in the administration of such programs. Such departments and agencies are directed to cooperate in such preparation and administration.

Section 409 provides for the application of chapter 4 of title 23 to Indian reservations. "State" and "Governor of a State" includes the Secretary of Interior: "political subdivision of a State" includes an Indian tribe except that, notwithstanding section 405(b), 95 percent of the funds apportioned to the Secretary of Interior for these purposes shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions.

Section 410(a) authorizes the Secretary to use funds appropriated to carry out this subsection to carry out safety research which he is authorized to conduct by section 307(a) of title 23 of the United States Code. In addition, the Secretary may use funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for making grants to or contracting with State or local agencies, institutions, and individuals for: (1) training or education of highway safety personnel, (2) research fellowships in highway safety, (3) development of improved accident investigation procedures, (4) emergency service plans, (5) demonstration projects, and (6) related activities which the Secretary deems will promote the purposes of this section.

Section 410(b) authorizes the Secretary to carry out safety research on the following: (1) The relationship between drug use, highway safety, and drivers of motor vehicles; (2) driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver accident involvement to highway safety.

Section 410(c) authorizes the Secretary to make grants and contracts available to public and private agencies, institutions, and individuals to carry out section 410(b) research.

Section 410(d) authorizes the Secretary, where he deems it to be in furtherance of the purposes of section 402, to vest in State or local agencies title to equipment purchased for demonstration projects with funds authorized by this section.

Section 410(e) directs the Secretary to make grants each fiscal year to those States which develop the most innovative approaches to highway safety problems in accordance with criteria to be devised by the Secretary in consultation with the States, their political subdivisions, appropriate Federal department and agencies, and private sector organizations. There are authorized to carry out the purposes of this subsection, not to exceed $5 million for fiscal year 1980, $10 million for fiscal year 1981, and $15 million for fiscal year 1982.

Section 411 establishes in the Department of Transportation a National Highway Safety Advisory Committee, composed of the Secretary, the Federal Highway Administrator, the National Highway Traffic Safety Administrator, and 35 members appointed by the President. Members of the Committee who are not employees of the United States shall, while engaged in the business of the Committee, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding $100 per diem. The purpose of the Committee is to advise, consult with, and make recommendations to, the Secretary on matters relating to highway safety. The Committee is authorized (1) to review research projects in the field of highway safety and make recommendations to the Secretary and (2) review, prior to issuance, requirements proposed to be issued by order of the Secretary under the provisions of section 402 and to make recommendations thereon. The recommendations are to be published with the Secretary's determination or order.

Section 412(a) authorizes to be appropriated, for carrying out the purposes of section 402 relating to highway safety programs, by the National Highway Traffic Safety Administration, out of the highway trust fund, $175 million for fiscal year 1979, $175 million for fiscal year 1980, $200 million for fiscal year 1981, $200 million for fiscal year 1982.

Section 412(b) provides that funds in accordance with section 151 of title 23 of the United States Code shall be available for carrying out the provisions of section 402 by the Federal Highway Administrator.

Section 412(c) authorizes to be appropriated, for carrying out the provisions of section 411, relating to highway safety research and development, by the National Highway Safety Administration, out of the highway trust fund, $50 million for each of the 4 fiscal years beginning with 1979 and continuing through 1982.

Conference substitute

No comparable provision.

TITLE III—URBAN MASS TRANSPORTATION

SHORT TITLE

The short title of the House bill is cited as "The Urban Mass Transportation Act Amendments of 1978." The short title of the Senate amendment is cited as "The Federal Public Transportation Act of 1978."

Conference substitute

The Conference Substitute retains the Senate short title.

FINDINGS AND PURPOSES

The House bill contains no statement of Congressional findings. The Senate amendment contains a statement of findings and purposes regarding the Federal public transportation program.

Conference substitute

The Conference report deletes the Senate provision.

SECTION 3*—DISCRETIONARY GRANT PROGRAM

The House bill amends section 3 to add a category of joint development and urban initiative projects, related to mass transportation projects, which enhance coordination between forms of transportation and which enhance urban economic development. The House bill also amends section 3 to allow funds under the advance land acquisition loan program to be used for reconstruction and renovation of facilities.

The Senate amendment restructures the section 3 program to be the source of grants for the construction of new fixed guideway systems or extensions, the modernization of existing systems, the acquisition of rolling stock, the introduction of new technology, joint development projects and urban initiative projects, and projects made necessary by the Northeast Corridor project.

The Senate amendment also contains provisions requiring a designated recipient for major fixed guideway projects, allowing the Secretary to determine the appropriate remedy for violations of schoolbus operation agreements under section 3(g) of the Act, and a provision allowing the Secretary to approve projects using funds from both sections 3 and 5. References to planning in section 3 are revised to conform to the planning provisions of the Senate planning amendment.

Section 3(h), which allowed capital funds to be used for operating purposes, is repealed in both the House bill and Senate amendment.

Conference substitute

As in the Senate amendment, the conference substitute provides more specificity than exists at present with regard to the activities eligible under Section 3. The types of projects which could be financed with section 3 funds would include the construction of new fixed guideway systems and extensions, the acquisition, construction, and reconstruction of mass transportation facilities and equipment, the introduction of new technology into public transportation service, joint development and urban initiative activities, and the mitigation of any adverse effects resulting from the implementation of the Northeast Corridor project. The conference substitute adopts the language of the House bill concerning joint development and urban initiative activities. Explicit references to section 13(c) of the Act from the Senate amendment are unnecessary in the conference substitute since the present law requires the application of section 13(c) to all projects funded under the provisions of section 3.

The conference substitute permits the use of advance land acquisition loans for facility reconstruction and renovation as provided in the House bill, deletes the designated recipient from the Senate amendment, retains the Senate provisions establishing a letter of intent procedure, deletes the Senate amendments to section 3(g), and clarifies the Secretary's authority to approve applications for comprehensive programs encompassing section 3 and 5 eligible activities.

SECTION 4—AUTHORIZATIONS

Both the House bill and the Senate amendment amend section 4 to prohibit the obligation of remaining section 4(c) contract authority after September 30, 1978. The House bill authorized $1,675,000,000 per year for fiscal years 1979 through 1983 for the discretionary capital program and the section 9 program. The Senate version authorized the following appropriations for section 3: $1,250,000,000 for fiscal year 1979, $1,324,000,000 for fiscal year 1980, $1,405,000,000 for fiscal year 1981, $1,490,000,000 for fiscal year 1982, and $1,580,000,000 for fiscal year 1983.

Of these amounts, up to $200 million would be earmarked annually for joint development/urban initiative projects, and no more than $45 million of the total section 3 authorization would be available for Northeast Corridor projects.

The House bill earmarks the percentage of each year's authorization which may be used for each major category of section 3 programs and allows some transferability between categories.

The Senate amendment consolidates and centralizes the authorizations for all other sections of the UMTA program within section 4. The House bill leaves intact each program's authorization as part of its enabling section or in section 12(d).

Interstate transfer

The House bill contains an annual authorization of $675 million for interstate transfer substitute transit projects. The Senate amendment contains no specific ceiling and authorizes such sums as may be appropriate.

Planning set-aside

The Senate amendment provides a 2 per cent set-aside from each year's appropriation for sections 3, 5 and 18 to be used for planning and technical studies. Up to 1½ per cent of the section 5 appropriation may be set aside for the deployment of innovative techniques and methods and for incentive grants to particularly effective transit systems. The Senate amendment deletes plan-

*All section references, unless otherwise noted, are to the Urban Mass Transportation Act of 1964, as amended by this Act.

ning language from existing section 4 to conform to the new planning section in the Senate amendment.

Reporting requirements

The House bill requires annual reports on the level of need for transit expenditures for the subsequent 10 year period as well as monthly financial reports on the status of the UMTA program. The Senate amendment requires an annual report on the status of the UMTA program, including the financial status, and a biennial report on projected authorization requests for sections 3 and 5.

Conference substitute

The conference substitute follows the Senate amendment with regard to the structure of section 4, except that authorizations for section 5, 21 (Terminal Development), and 22 (Intercity bus operating assistance) are located in those sections. All other authorizations under the Act (sections 3, 11(b), 18 and miscellaneous) are consolidated into section 4.

The conference substitute does not contain categories within the section 3 program. However, it requires that at least $350 million must be expended for the reconstruction and improvement of existing public mass transit systems. As used in this program, the terms "reconstruction" and "improvement" are intended to mean the modernization and rehabilitation of facilities and equipment in all types of transit systems. As in the Senate amendment, the conference substitute earmarks up to $200 million annually for joint development/urban initiative projects and $45 million of the section 3 authorization for Northeast corridor projects.

The conference substitute authorizes up to 5½ percent of the section 4(c)(3) appropriation to fund the section 8 planning and technical studies program, as well as the program for deployment of innovative techniques and methods in the management and operation of transit services. These projects may involve capital or operating assistance or other activities eligible under the Act. The conference substitute does not adopt the incentive grant portion of the Senate provision.

The Interstate transfer provision in the conference substitute does not contain any limit on the amounts which may be appropriated each year.

The conference substitute requires a biennial report on sections 3 and 5 authorization requests and requires periodic financial reports on a quarterly basis. The conferees intend that this quarterly report should be structured so as to give the appropriate Congressional committees a full description of the financial status of the UMTA program and a regular update on the status of UMTA's intentions regarding major spending commitments.

The following chart sets out authorization levels contained in the conference substitute for all programs authorized in section 4.

[In millions]

	1979	1980	1981	1982	1983
Sec. 3	1,375	1,410	1,515	1,600	1,580
Sec. 5	1,515	1,580	1,665	1,765	------
Sec. 18	90	100	110	120	------
Miscellaneous	90	95	100	105	------
Transportation centers	10	10	10	10	------

SECTION 5.—URBAN MASS TRANSIT PROGRAM

Both the House bill and the Senate amendment substantially revise the section 5 formula program to provide additional operating assistance and constitute the source of routine capital activities, primarily bus purchases under the UMTA grant program.

The House bill leaves intact the existing basic formula grant program of $850 million in 1979 and $900 million in 1980, authorizes an additional $125 million to replace funds used during the Transition Quarter, and authorizes $900 million per year for fiscal years 1981 and 1982. It also adds two new components to the basic program. The first, authorized at $250 million, is a "second-tier" of operating and capital assistance, 85 percent of which is targeted at urbanized areas of over 750,000 in population. The second is a formula program, only for bus purchases to be apportioned on a population/population density formula.

The Senate amendment substantially restructures existing section 5 to consolidate various categorical programs into one section, incorporating several new apportionment factors in addition to population and population density. The new formula divides up a single annual section 5 authorization as follows: 54 percent apportioned on the basis of population and population density, 4.5 percent on the basis of commuter rail train mileage, 4.5 percent on the basis of fixed guideway route mileage, 14 percent as a "second tier" of which 85 percent would go to urbanized areas over 750,000, and 23 percent on the basis of factors for bus seat miles and bus age. These latter funds are only useable for capital projects, primarily bus purchase and related facilities.

The annual authorizations in the Senate amendment are from new budget authority; any remaining contract authority is frozen and will lapse in 1980.

Both the House bill and the Senate amendment allow unobligated apportionments to be recycled, although the House bill requires the recycled bus funds to be reapportioned subject to the original limitation on their use.

The Senate amendment deletes the existing Federal share of 50 percent of operating deficits, replacing it with a one-third limitation on Federal participation in total operating costs. The Senate amendment also makes changes in the present maintenance-of-effort requirement. The maintenance-of-effort provision is terminated after fiscal year 1981. This provision is also revised to remove the current requirement that Federal funds are to be "supplementary" to local funds, to exclude reimbursements for transportation of school children from maintenance-of-effort calculation, to allow revenues from fare increases to substitute for reduced local subsidies, and to allow proportionate reductions in maintenance-of-effort contributions where local cost efficiencies are achieved. The House bill excludes the school transportation reimbursements from the maintenance-of-effort calculation.

The Senate amendment conforms the planning requirements in section 5 to the new UMTA planning section. The Senate amendment also includes a provision, identical to a provision in section 3, requiring that an applicant have legal, technical and financial capacity, and that there be satisfactory continuing control of project facilities and equipment.

The House bill requires a section 5 applicant to give the Secretary assurances that no fare increases or substantial service changes will occur unless notice and opportunity for a hearing are given, and the energy, economic, environmental, and social impacts of such change have been considered.

Conference substitute

The conference substitute combines elements of both the House bill and the Senate amendment. As in the House bill, the base formula program is retained, using remaining contract authority for 1979 and 1980. Separately authorized second tier and capital programs are created. The second tier program is apportioned on a population and population density basis, with 85 percent of the funds going to urbanized areas over 750,000 in population, and 15 percent of the funds going to urbanized areas under 750,000 in population. Second-tier apportionments are intended to be made by taking a ratio of the urbanized area's population/density against that of all urbanized areas in the size category (over or under 750,000) in which that urbanized area falls.

The eligible uses of bus capital program funds include bus purchases, related equipment, and construction of bus related facilities. However, combined section 3 and 5 projects authorized by the amended section 3(h) would be able to use bus capital program funds for other eligible capital projects.

An apportionment formula based on population and population/density is provided for only the first two years of the bus capital program. The Secretary is required to study alternative approaches for the distribution of bus formula funds. The apportionment factors for subsequent years of the program will be considered by Congress prior to fiscal year 1981, following receipt of the Secretary's study.

The Conference substitute contains a new fixed guideway/commuter rail portion of the program to replace the current section 18 commuter rail program in the House bill. Two-thirds of the funds appropriated for this program will be apportioned on a commuter rail train mile/route mile formula, and one-third will be apportioned on a fixed guideway route mile basis. Apportioned funds may be used for any eligible capital or operating assistance project on any fixed guideway system in the urbanized area.

The structure of section 5 as revised by this bill requires separate calculations of apportionments for each portion of the program. However, the Secretary has the flexibility to structure the grant process so that grants may be made combining funds apportioned under different portions of the program, as long as restrictions on eligible uses of apportioned funds are observed.

Authorization levels for each portion of the section 5 program in the Conference substitute are as follows:

	1979	1980	1981	1982
Base	850	900	900	900
Second tier	250	250	250	250
Commuter rail/fixed guideway	115	130	145	160
Bus capital	300	300	370	455

The Conference substitute retains the current law concerning the limitations on Federal participation in operating costs.

It also incorporates the maintenance of effort provision of the Senate amendment as modified. The provision retains the "supplementary to and not in substitution for" language of existing law. The conferees recognize the need to reverse an UMTA policy which requires a total loss of section 5 funds for any failure to meet the required maintenance-of-effort and it is their intent that the existing language be interpreted to allow less drastic sanctions in such instances. For example, it would permit the Secretary to reduce Federal section 5 assistance in an amount commensurate to the amount by which the locality falls short of meeting its maintenance-of-effort requirement.

The conference substitute conforms the planning and programming requirements to new section 8 of the UMT Act.

It also adopts the House provision which requires public hearings before fare increases or substantial service changes. This section recognizes that major changes in either transit fares or services can have serious consequences for the millions of citizens who rely on public transit systems throughout the country. It is the intent of the conferees in accepting the House language, that public hearings be held prior to increases in general levels of fare and prior to any substantial change in general levels of service."

SECTION 8—PLANNING

The House bill contains a new planning provision, in addition to the existing planning provision found in sections 3, 4, 5, and 9. The new planning section contains new basic goals for the planning process, requires the planning process to be carried on by responsible local officials in cooperation with the State, and further requires that a program of projects be submitted for approval of the Secretary.

The Senate amendment deletes existing planning requirements in sections 3, 4, and 5 in their entirety and repeals existing section 9. In place of these scattered requirements, the Senate amendment establishes a single planning requirement and authorization section. The basic planning goals are similar to those in the House bill. A program of projects is required to be submitted for the Secretary's approval.

The Senate amendment also clarifies that the local planning process in urbanized areas is to be carried on by the metropolitan planning organization in cooperation with the State. Outside urbanized areas, the planning process is to be carried out by the State in consultation with local officials. It also provides a one year period for a redesignation process whereby a different metropolitan planning organization can be designated solely by agreement of 75 percent of the units of local government representing 90 percent of the population. After the one year period, redesignation would be accomplished by joint agreement among the Governor and units of local government.

Conference substitute

The conference substitute adopts the House language on basic planning goals, deletes existing planning requirements, and repeals section 9. It incorporates the provisions of the Senate amendment regarding the conduct of the planning process in an urbanized area. Redesignation of metropolitan planning organizations during the one year period would be allowed, if done in cooperation with the Governor.

The conference substitute revises the redesignation provision to clarify that the redesignation standards apply to contiguous urbanized areas represented by a single metropolitan planning organization.

FELLOWSHIP ASSISTANCE

Both the House bill and the Senate amendment remove many restrictions on the existing section 10 program for training fellowships. The House bill retains a limit of $12,000 on Federal participation in each fellowship.

Conference substitute

The House provision is adopted, with a limitation of $24,000.

TRANSPORTATION CENTERS

The House bill establishes a program of grants for the purpose of establishing and operating Transportation Research Centers at non-profit institutions of higher learning authorized at $10 million per year.

Conference substitute

The House provision is adopted.

DEFINITIONS AND GENERAL PROVISIONS

Both the House bill and the Senate amendment consolidate into section 12 of the Act, definitions presently contained in various other sections of the Act and thereby makes them applicable to the entire Act. In addition, both the bill and the Senate amendment add new subsections to existing law.

The House bill amends section 12 to permit the Secretary to require the recipients of UMTA funds to award contracts based on factors other than initial costs such as consideration of performance, standardization, life cycle costs, and other factors the Secretary may determine relevant. It also requires the Secretary to evaluate the procurement process used by recipients of UMTA funds to purchase all types of rolling stock and other technical equipment.

Both the House bill and the Senate amendment allow a State or local public body to petition the Interstate Commerce Commission for an exemption from the Interstate Commerce Act for mass transportation services operated by State or local bodies or provided by contract for states or local public bodies across State lines.

The House bill contains an amendment to section 12 of the Act to permit a local public body, in advertising for bids for buses or light rail vehicles, to provide specifications based upon its determinations of local requirements for safety, comfort, maintenance and life cycle costs for all passenger amenities, including passenger seats and interior lighting.

Conference substitute

The conference substitute adopts the Senate definitions with House modifications.

The conference substitute adopts the language of the House bill concerning the exemption from the Interstate Commerce Commission which the conferees believe better achieves their purpose by leaving it to the discretion of the Interstate Commerce Commission to determine on a case-by-case basis whether the application for an exemption meets the criteria of the provision. Under the language of this provision, the Interstate Commerce Commission has the power to restrict exemptions to a particular service or portion of a service. For example, exemption to be restricted so as to include an intercity bus carrier from being completely deregulated through the expediency of signing a contract with a local public body.

The conference substitute also includes provisions from the House amendment concerning the use of specifications in connection with grant activity under the Act. The conference substitute limits the scope of the original provision to contracts for the acquisition of seats for buses and requires that those specifications be functional specifications.

REPORTING SYSTEM

The House bill requires the Secretary to report to Congress by January 1, 1979, on the systems prescribed under section 15 of the UMT Act.

Conference substitute

The Conference substitute retains this provision, but changes the reporting date to July 1, 1979.

SECTION 16 ELDERLY AND HANDICAPPED PROGRAM

The House bill amends section 4 of the UMT Act to continue the funding for the section 16(b) special transportation program out of section 3 authorizations. The Senate amendment ends this separate set-aside, requires that a portion of each urbanized area's section 5 apportionment, determined jointly by the recipient and the Secretary, be used for section 16(b) projects. The Senate amendment also deletes the definition of "handicapped person" which is moved to section 12.

Conference substitute

The Conference substitute adopts the House provision with regard to the funding source and deletes the definition of "handicapped person" in section 16.

COMMUTER RAIL PROGRAM

The House bill repeals section 17 and revises section 18 to be a categorical program of capital and operating assistance for all commuter rail systems. The Senate amendment terminates the Section 17 program as of September 30, 1978 and repeals the section 18 program in favor of including commuter rail assistance within the section 5 formula program. This language would not preclude reimbursement for eligible section 17 services operated prior to the termination date of the program.

Conference substitute

The conference substitute accepts the Senate amendment.

FORMULA GRANT PROGRAM FOR AREAS OTHER THAN URBANIZED AREAS

Both the House bill and the Senate amendment create categorical programs for capital and operating assistance for areas not within urbanized areas.

The provisions of both bills apportioned funds to each State on a formula based on non-urbanized area population. The Senate amendment apportioned funds to each State for distribution by the Governor pursuant to a plan and program for non-urbanized area public transportation services. Two percent of each year's appropriation would be set aside for planning purposes. The House bill provides that up to 15 percent of each State's apportionment may be used for administration and technical assistance in lieu of a planning requirement.

Section 13(c) of the Act is applicable to the small urban and rural program under both bills and each permits a waiver by the Secretary of Labor. The House bill also allows the Secretary of Transportation to waive other provisions of the Act which are inconsistent with the needs of public transportation in areas other than urbanized areas. The House bill requires the Secretary to conduct an evaluation of rising insurance rates for rural and special services.

Conference substitute

The conference substitute creates a "formula grant program for areas other than urbanized areas" under which funds will be apportioned to the Governor based on non-urbanized area population. Funds will be available for projects included in a program of projects submitted to the Secretary for his approval. The Secretary must approve the program based on a finding that it provides a fair and equitable distribution within the State, including the State's Indian reservations, and provides for coordination of other federally-assisted transportation projects.

Eligible recipients under the conference substitute include public bodies, non-profit organizations and operators of services. Private providers of service are eligible through purchase of service agreements with a local public body for the provision of public transportation services.

Up to 15 percent of the apportionment may be used for planning, administration, coordination, and technical assistance.

The conference substitute contains the House provision on local share as well as the provision of the Senate amendment allowing other unrestricted Federal funds to constitute up to 50 percent of the local match.

The Secretary is authorized to establish terms and conditions of this program which are appropriate to the special needs of public transportation in rural and small urban areas. The Secretary is instructed to develop requirements for this new program which are simplified, contain a minimum of red tape, and which will facilitate the prompt and orderly implementation of the program. The conferees are concerned that ongoing programs receiving Federal assistance should not be adversely affected by delays resulting from the implementation of this program. It is also the intent of this provision that the Secretary's flexibility in adopting the terms and conditions of this program would allow individual modifications or waivers of the program's requirements where justified by the unique nature of the program. However, the Secretary would not be authorized to waive or modify basic provisions of the Act, such as sections 3(f) and 3(g),

nor is the language to be interpreted to affect or discharge the Secretary's responsibilities under other provisions of Federal law.

The purpose of the provisions granting the Secretary of Labor authority to waive application of section 13(c) in regard to particular grants of assistance to non-urbanized areas is to eliminate bureaucratic red tape and avoid delay in cases and situations where section 13(c) protections are not appropriate.

NONDISCRIMINATION

The Senate amendment consolidates into one new section of the Act the Urban Mass Transportation Administration's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.

Conference substitute

The conference substitute retains this provision.

HUMAN RESOURCE PROGRAM

The Senate amendment authorizes the Secretary to undertake or assist programs, such as employment training, minority and female employment, and minority business enterprise, addressing human resource needs in the field of public transportation.

Conference substitute

The conference substitute retains this provision.

LOAN FORGIVENESS

Both the House bill and the Senate amendment contain a provision authorizing the Secretary to convert outstanding capital loans to grants under certain circumstances. The House bill requires that such a loan may be converted only to a section 3 grant; the Senate amendment allows the loan to be converted to either a section 3 or section 5 capital grant.

Conference substitute

The House language is adopted.

NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT

The Senate amendment exempts manufacturers of retreaded tires from certain reporting requirements of section 158(b) of the National Traffic and Motor Vehicle Safety Act of 1956.

Conference substitute

The Senate provision is adopted.

BASIC TRANSPORTATION SYSTEM STUDY

The House bill requires the Secretary to report to Congress, within one year, the results of an investigation and study of establishing a "no frills" low-cost, basic mass transportation system.

Conference substitute

The House provision is accepted.

WATERBORNE DEMONSTRATION PROJECT

The House bill authorizes $25 million for a high-speed, over-the-water demonstration project in the New York metropolitan area. There is no similar Senate provision.

Conference substitute

The House provision is accepted; however, the date of the Secretary's report to the Congress is extended one year.

STUDY OF DISTRIBUTION OF FUNDS

The Senate amendment requires the Secretary of Transportation, in consultation with the Environmental Protection Agency to prepare and submit to the Congress, within one year of the date of enactment of the Federal Public Transportation Act of 1978, recommendations concerning the use of the nature and extent of air pollution as a criterion in the distribution of Federal mass transit funds. As part of this study, the Secretary is to make findings with respect to alternative approaches to developing criteria for allocating mass transit funds which would assure that areas with extensive air pollution receive proportionately greater amounts of funds than areas with a lesser extent of air pollution.

Conference substitute

The conference substitute requires the Secretary to complete this study by January 1, 1980.

The conference substitute also requires the Secretary to conduct a study of alternative methods of distributing, by formula, funds apportioned under section 5(a)(4) of the Urban Mass Transportation Act of 1964 as amended by this Act. As adopted by the Conference Committee, this provision requires the Secretary to report back to the Congress his findings concerning a fair and equitable formula program for the distribution of such capital assistance, including the evaluation of factors such as vehicle miles, seat miles, fleet size, population and population density, and such other factors as the Secretary may consider necessary or appropriate to achieve the goals. The conferees further agree to an interim population density formula for fiscal years 1979 and 1981 pending completion of the study by the Secretary. Congress will enact a new formula or reenact the interim formula for fiscal year 1981 and subsequent years, based in part or in whole, on the Secretary's formula.

RAIL RETROFIT EVALUATION AND LIGHT RAIL EVALUATION

The House bill contains two provisions requiring the evaluation of systems with respect to compliance with the requirements of section 504 of the Rehabilitation Act of 1973. One requires the Secretary to provide assistance to operators of fixed guideway systems to develop detailed estimates of the cost of making such systems accessible to handicapped persons; the other requires the Secretary to evaluate light rail and commuter rail modes to determine the desirability of, and methods for, making such modes accessible to handicapped persons. During this latter study, projects involving construction of, or improvements to, such modes could not be disapproved or delayed because of failure to meet accessibility requirements as long as the use of such facilities by handicapped persons in the future is not precluded.

The Senate amendment contained no similar provisions.

Conference substitute

The House provision is accepted with an amendment deleting the exemption provision.

TERMINAL DEVELOPMENT PROGRAM

The House bill contained provisions establishing a new grant program for the Urban Mass Transportation Administration. Under the provisions, the Secretary would be permited to make capital grants to states and local bodies to acquire, construct, or alter facilities that are used primarily for intercity bus services and to coordinate intercity bus service with other modes of transportation. Forty million dollars per year for fiscal years 1979 through 1982, was authorized for this transit-related development program of terminal construction.

Conference substitute

The House provision is accepted.

INTERCITY BUS SERVICES

The House bill created a new operating assistance program to provide Federal assistance to state and local public bodies to pay up to 50 percent of the net cost of purchase of service agreements with private intercity bus companies for service to rural areas and small urban communities. The term "intercity bus" was defined in the House bill. In addition, the House bill required the Secretary of Transportation to study and evaluate the needs of the intercity bus industry for subsidies for services provided outside urbanized areas.

Conference substitute

The House provision is accepted with an amendment concerning deficit operations and route related costs and profits.

This criterion is intended to assure that funds will not be siphoned off from profitable routes of an intercity bus company. This would not preclude addition of service which would otherwise not be commercially profitable.

AMTRAK PROVISION

The Senate amendment contained a provision to require that proper notice would be served in connection with the proposed discontinuance of any trains or routes under the Final Route Reexamination Recommendations. In addition, the provision permitted a State, region or local agency to request a continuation of the service provided that the National Railroad Passenger Corporation was reimbursed for any operating losses and capital loss associated with the continued service. The House bill contained no similar provision.

Conference substitute

The conference substitute does not include this provision.

TITLE IV—PLANNING

PLANNING

House bill

The planning requirements of the section generally follow those in existing law with continued cooperation between State and local officials and the Secretary and are only intended to apply to urbanized areas as in existing law. The transportation planning process for urbanized areas themselves will continue to be carried on cooperatively between the States and responsible local officials.

The general planning provisions for both highway programs under section 134 of title 23 and a new section 8 of the Urban Mass Transportation Act are almost identical. The new section 8 further adds a proviso for the maximum participation of private enterprise and an authorization for the Secretary to conduct certain planning studies.

Senate amendment

This section of the bill would amend the highway planning provisions in 23 U.S.C. 134 and add a new public transportation planning section in the Urban Mass Transportation Act to create parallel planning requirements for both programs. This amendment would consolidate all existing UMT Act planning requirements into a new section 8.

The same language in the new section 8 would be incorporated into section 134 of title 23 to subject the highway and public transportation projects in urbanized areas to the same statutory planning requirements. This new planning section would formalize the joint administration of the planning process.

New section 8(a) would require transportation plans and programs to be based on considerations of transportation needs, land use plans, development objectives, and overall social, economic, environmental system performance, and energy conservation goals and objectives. It would require review of alternative operating strategies and investment potentials to make more efficient use of existing resources and to provide a basis for the selection of major transportation investments. It would also require the planning effort to be continuing, cooperative and comprehensive to the degree appropriate for the complexity of an area's transportation problems.

Conference substitute

The provisions relating to planning are contained in titles I and III. The provision

in title I is a revision of subsection (a) of section 134 of title 23, U.S. Code as in House bill and of subsections (b) and (c) of such section 134 as in Senate Amendment, with clarifying changes in subsection (b) as it applies to urbanized areas.

BUY AMERICAN

House bill

This section provides that all articles, materials and supplies purchased with grant funds authorized by this act shall have been mined, produced, or manufactured in the United States, unless a waiver is granted by the Secretary when he determines such requirement to be inconsistent with the public interest or when cost, availability, or quality factors make it unreasonable.

Senate amendment

This section prohibits the Secretary from obligating funds authorized by this act for any project, unless the materials used in construction are produced in the United States. The domestic preference requirement only applies to projects whose total cost exceeds $1 million.

Several other exceptions exist, including the stipulation that using American goods will not increase the cost of the project more than 10 percent.

Conference substitute

Senate provision with a reduction to $500,000 on the minimum amount of cost to which this provision applies and the coverage of the provision is made coextensive with that of the House provision.

RULES AND REGULATION REVIEW

House bill

This section provides that simultaneously with the promulgation or repromulgation of any rule or regulation under title 23, United States Code, the Urban Mass Transportation Act of 1964, any other act amended by the Surface Transportation Assistance Act of 1978, or of the Surface Transportation Assistance Act of 1978, the Secretary of Transportation shall transmit a copy of any such rule or regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

The rule or regulation would become effective at the end of 60 calendar days of continuous session of Congress if no committee of either House has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution. A rule or regulation that would not become effective at the end of 60 days of continuous session, under the criteria stated above, would become effective at the end of 90 calendar days of continuous session if not disapproved by Congress. Disapproval by Congress would be accomplished by both Houses of Congress adopting a resolution of disapproval within 90 calendar days of continuous session or by one House adopting a resolution of disapproval within 60 calendar days of continuous session that is not then disapproved by the other House within 30 days of continuous session.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

RESTRICTION ON USE OF FUNDS

House bill

This section prohibits the use of any funds authorized to be appropriated pursuant to part II of the Interstate Commerce Act, as amended, for the purpose of enforcing the antilock requirements contained in Federal motor vehicle safety standard (FMVSS) 121 (40 CFR 571.121), during the 2-year period beginning on the date of enactment of this act.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

FMVSS 121 became effective for air-braked trailers on January 1, 1975 and for air-braked trucks and buses on March 1, 1975. The Standard establishes requirements for the service, emergency and parking brake systems of these vehicles, including a requirement that the vehicles stop without uncontrolled lock-up of the wheels. This in effect generally requires an "anti-lock" device to comply with the "no lock-up" requirements.

FMVSS 121 has been an extremely controversial Standard. It was conceived out of a legitimate concern over skidding and difficulty in stopping buses and trucks, and jackknifing in the case of the latter. But its history has been marked by significant controversy.

On April 17, 1978, the U.S. Court of Appeals for the Ninth Circuit overturned the Standard based primarily on inadequate reliability testing. The petition of the National Highway Traffic Safety Administration for certiorari was denied by the U.S. Supreme Court.

It is the intent and expectation of the Conferees that Congressional hearings will be held on this subject in the 96th Congress. The deletion of the House provision is not to be construed as an endorsement of the Standard.

IMPROVED MANAGEMENT

House bill

This provision requires the Secretary of Transportation, under his regulatory authority, to establish timetables for the various classes of proceedings used to carry out the highway and public transportation programs. These must be reviewed annually and modified, replaced or supplemented as the findings of such reviews warrant.

As an incentive to adherence to such timetables, this provision also requires that, at any time the Secretary determines that the established deadline will not be met, he must publish the reasons for such noncompliance in the Federal Register along with a revised timetable for the given proceeding.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

JOINT STATEMENT OF MANAGERS REGARDING THE CONFERENCE AGREEMENT ON THE HIGHWAY TRUST FUND PROVISIONS OF H.R. 11733 ("HIGHWAY REVENUE ACT OF 1978"—TITLE V OF THE HOUSE BILL AND TITLE IV OF THE SENATE BILL)

A. FIVE-YEAR EXTENSION OF HIGHWAY TRUST FUND TAXES

House bill

The House bill extends the existing highway excise taxes allocated to the Highway Trust Fund at the present law rates for 5 years; that is, the rate reductions or expirations of highway taxes now scheduled for October 1, 1979, are deferred until October 1, 1984.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement includes this provision.

B. FIVE-YEAR EXTENSION OF HIGHWAY TRUST FUND

House bill

The House bill extends the Highway Trust Fund for 5 years, or from September 30, 1979, through September 30, 1984.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement includes this provision.

C. MODIFICATION OF THE TRUST FUND "BYRD AMENDMENT"

House bill

The House bill modifies the operation of the present trust fund "Byrd Amendment," which currently provides for reductions in apportionments only for the Interstate System when anticipated trust fund revenues will be inadequate to cover existing expenditures, so that any reduction would be made on a *pro rata* basis from all apportioned highway trust fund programs. This provision applies to fiscal years beginning after September 30, 1978.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement includes this provision.

D. EXEMPTION FROM FUEL TAXES FOR TAXICABS

House bill

Under present law, gasoline and other motor fuels used in taxicabs are subject to the current Federal excise taxes of 4 cents per gallon.

The House bill provides an exemption from (or refund or credit of) the 4-cents-per-gallon excise taxes on gasoline and other motor fuels for fuels used in taxicabs for qualified taxicab services if certain conditions are met. First, it applies if the taxicabs are not prohibited from ride sharing (under company policy or the rules of a Federal, State or local authority having jurisdiction over a subsubstantial portion of the transportation furnished by the taxicabs). (However, shared rides are not to be required without the consent of passengers.) Second, in the case of 1978 or later model taxicabs acquired after 1978, the fuel economy of the model type of vehicle must exceed the fleet average fuel economy standard applicable under the Motor Vehicle Information and Cost Savings Act (as amended).

This exemption applies only to fuel used in furnishing qualified taxicab services, which means generally the furnishing of nonscheduled passenger land transportation for a fixed fare by a taxicab which is operated by a person who is licensed to engage in the trade or business of furnishing this transportation by Federal, State, or local authority having jurisdiction over a substantial portion of this type of transportation furnished by this person.

Senate amendment

No provision.

Conference agreement

The conference agreement, with one exception, follows the House bill in determining which taxicabs and taxicab services will not bear the burden of the 4-cents-per-gallon tax. The conference agreement provides an exception to the requirement that new taxicabs be fuel-efficient for vehicles manufactured by small manufacturers (that is, manufacturers who produce less than 10,000 vehicles per year).

The conference agreement deletes the provision of the House bill which allows tax-free sales of fuel and provides only a refund or credit procedure for the tax paid on fuel used in providing qualified taxicab services.

A purchaser who uses the fuel for qualified taxicab services may file for a refund for any quarter if the refund of tax due is $50 or more as of the end of the quarter. Only one claim for refund may be filed for any one quarter to reduce paperwork and facili-

tate the administration of this provision. Any amounts not otherwise refunded may be claimed on the purchaser's income tax return for the year.

The conference agreement follows the House bill in beginning the exemption of 1979, but it provides the exemption from the fuel tax for taxicabs for only two years, 1979 and 1980. This two-year limitation on the fuel tax exemption is intended to permit the Congress to determine the effectiveness of the exemption in encouraging more energy-efficient taxicabs and in removing barriers to ride sharing. This determination is to assist the Congress in deciding whether the exemption is to be extended or not. The conferees expect that the Treasury Department and the taxicab industry will determine, and report to the tax-writing committees before the end of the two-year exemption period, the extent to which government (and other) barriers to ride sharing have been removed and more energy-efficient vehicles purchased. It is further expected that the taxicab industry will make available to the Treasury Department its findings in these areas to permit Treasury time to evaluate the findings prior to their presentation to the Congress.

The conference agreement is expected to reduce budget receipts by $15 million in fiscal year 1979, $35 million in fiscal year 1980, and $20 million in fiscal year 1981.

E. HIGHWAY COST ALLOCATION STUDY

House bill

The House bill contains a requirement for a highway cost allocation study by the Secretary of Transportation (with assistance of the Congressional Budget Office in designing the study), which is to determine the costs of Federal-aid highways occasioned by the use of different types of vehicles and the proportionate share of such highway costs attributable to each category of users and vehicles. A final report is due to the Congress on or before January 15, 1982, with progress reports due on or before January 15, 1980, and January 15, 1981.

The final report by the Secretary of Transportation is to include recommendations regarding any alternative tax structures which the Secretary believes would more nearly achieve an equitable distribution of the tax burden among persons and vehicles using Federal-aid highways, and include the projected impact of such tax structures on affected industries and other users.

Senate amendment

Title IV of the Senate amendment contains the same provision. Title I of the Senate amendment (sec. 122) provides for the same type of cost allocation study, with a final report to the Congress on or before January 15, 1982.

Conference agreement

The conference agreement includes the House provision, which is the same as the Title IV provision of the Senate amendment. The term "Federal-aid highways" used in the context of the cost allocation study provision is intended to include all programs and projects financed by the Highway Trust Fund.

F. STUDY OF HIGHWAY EXCISE TAX STRUCTURE

House bill

The House bill directs the Secretary of the Treasury, in consultation with the Secretary of Transportation and the staff of the Joint Committee on Taxation, to review and analyze each excise tax now dedicated to the Highway Trust Fund with respect to such factors as the ease or difficulty of administration and compliance burdens. This study is to be conducted in conjunction with the cost allocation study. A final report (to the House Ways and Means and Senate Finance Committees) is due on or before April 15, 1982, with interim reports due on or before April 15, 1980, and April 15, 1981.

The final report is also to include recommendations regarding possible improvements in excise taxation which would enhance tax administration, equity and compliance, as well as any recommendations on a new system of raising revenues to fund the Highway Trust Fund which would meet the aforementioned objectives concerning tax administration, equity and compliance.

Senate amendment

Same as the House bill.

Conference agreement

The conference agreement includes this provision.

HAROLD T. JOHNSON,
RAY ROBERTS,
JAMES J. HOWARD,
GLENN M. ANDERSON,
ROBERT A. ROE,
AL ULLMAN,
DAN ROSTENKOWSKI,
JAMES C. CORMAN,
WILLIAM H. HARSHA,
BUD SHUSTER,
BARBER B. CONABLE, Jr.,
Managers on the Part of the House.

For consideration of title I only:
JENNINGS RANDOLPH,
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
QUENTIN N. BURDICK,
JOHN CULVER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
For consideration of title II only:
HOWARD W. CANNON,
WENDELL H. FORD,
WARREN G. MAGNUSON,
HARRISON SCHMITT,
For consideration of title III only:
HARRISON A. WILLIAMS, Jr.,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
JAKE GARN,
H. JOHN HEINZ III,
For consideration of title IV only, Senate engrossed amendment:
LLOYD BENTSEN,
For consideration of title IV only, House engrossed bill:
JENNINGS RANDOLPH,
LLOYD BENTSEN,
DANIEL PATRICK MOYNIHAN,
QUENTIN N. BURDICK,
JOHN CULVER,
ROBERT T. STAFFORD,
JOHN H. CHAFEE,
HOWARD W. CANNON,
WENDELL H. FORD,
WARREN G. MAGNUSON,
HARRISON SCHMITT,
HARRISON A. WILLIAMS, Jr.,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
EDWARD W. BROOKE,
JAKE GARN,
H. JOHN HEINZ III,
Managers on the Part of the Senate.

PROVIDING FOR GRATUITY TO BEVERLY BARTON BUTCHER BYRON, WIDOW OF THE LATE HONORABLE GOODLOE E. BYRON

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 1436) providing for payment out of the contingent fund of the House a sum equal to the annual compensation of a Representative in Congress as a gratuity to Beverly Barton Butcher Byron, widow of the Honorable Goodloe E. Byron, late a Representative from the State of Maryland.

The Clerk read the resolution, as follows:

H. RES. 1436

Resolved, That there shall be paid out of the contingent fund of the House a sum equal to the annual compensation of a Representative in Congress as a gratuity to Beverly Barton Butcher Byron, widow of the Honorable Goodloe E. Byron, late a Representative from the State of Maryland.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR GRATUITY TO MADELYNN FAY YOUNG METCALFE, WIDOW OF THE LATE HONORABLE RALPH H. METCALFE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the resolution (H. Res. 1437) providing for payment out of the contingent fund of the House a sum equal to the annual compensation of a Representative in Congress as a gratuity to Madelynn Fay Young Metcalfe, widow of the Honorable Ralph H. Metcalfe, late a Representaive from the State of Illinois.

H. RES. 1437

Resolved, That there shall be paid out of the contingent fund of the House a sum equal to the annual compensation of a Representative in Congress as a gratuity to Madelynn Fay Metcalfe, widow of the Honorable Ralph H. Metcalfe, late a Representative from the State of Illinois.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF S. 1829—JEAN LAFITTE NATIONAL PARK

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1829) to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

The Clerk proceeded to read the title of the Senate bill.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the title be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SEBELIUS. Mr. Speaker, I have always been a supporter of the Pennsylvania Avenue Development effort, and I rise in support today of this bill which will advance that activity.

As the implementation of the development plan moves forward, it will likely

bring a profound change to the appearance of Pennsylvania Avenue. In this regard, I do want to point out that there has long been a strong concern in the city of Washington over the height of buildings. It is my understanding that the current Pennsylvania Avenue development plan may contemplate permitting building heights to violate the long-honored standard of not exceeding 130 feet. This raises some serious questions as to adverse impacts to the esthetics and historic integrity of the avenue. We must not forget that much of the avenue area to be affected is designated as the Pennsylvania Avenue National Historic Site, and we must be sure that we honor the appropriate standard of protection of the historical integrity of this part of the avenue, as the implementation of the plan progresses.

It is also important to note that the law requires that any substantial changes in the plan be submitted for congressional review. I am not certain at the moment as to just what the exact status of this matter is, but I am concerned about the implications of this height rise, not only for the avenue, but in terms of the precedent it may set for the rest of the city to follow.

I believe this matter should be looked into early next Congress by the subcommittee. I would like to submit for the RECORD, a letter received by the Subcommittee on National Parks and Insular Affairs from the Committee of 100 on the Federal City. This letter expresses the concern I have just mentioned.

The letter follows:

COMMITTEE OF 100 ON
THE FEDERAL CITY,
Washington, D.C., September 29, 1978.

Hon. PHILLIP BURTON,
Chairman, Subcommittee on National Parks and Insular Affairs, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Committee of 100 on the Federal City has voted to register its opposition to proposals by the Pennsylvania Avenue Development Corporation (PADC) to construct 160' high commercial buildings on Pennsylvania Avenue between 10th and 15th Streets. The opposition is based on two fundamental principles of long standing.

1. To maintain the dominance of the U.S. Capitol and the prominence and dignity of the monumental government buildings that distinguish the skyline and appearance of the Nation's Capital, the height limit of 130' established by the 1910 Height of Buildings Act should continue to be observed without exception.

2. To secure a balanced frame for the vista along the Avenue between the Capitol and the White House, the height of commercial buildings on the north side should not exceed 130', with the usual setback above the 110' level, so as to be in reasonable scale with the Federal Triangle buildings on the south side where corresponding roof and parapet heights are 119 and 95 feet respectively.

We recognize that the 1910 Act allows, as an exception, 160' on the north side of the Avenue, but recall that until the PADC invoked this exception, the height of commercial buildings has been restricted uniformly to 130' since adoption of zoning in 1920. Thus to raise now the height selectively for a part of the business district would invite inevitably pressures to amend the 1910 Act.

The enclosed Committee report to the National Capital Planning Commission expands on the above principles and their application and suggests a way to harmonize the height for any new construction adjacent to the historic Willard Hotel.

The Committee of 100, as the oldest citizens planning organization in Washington, asks consideration and support of its views by your subcommittee in its role of providing oversight of the PADC Plan.

Respectfully yours,
Mrs. JAMES H. ROWE, Jr.,
Chairman.

Mr. SEBELIUS. Mr. Speaker, reserving the right to object, and I do so, so that the Members may know exactly what is in the bill and amendment, and I yield to the gentleman from California so he may explain.

Mr. PHILLIP BURTON. Mr. Speaker, the amendment to S. 1829 substitutes a new text for the measure which includes several items.

The first of these is the extension of the authority for the Pennsylvania Avenue Development Corporation. This is language requested by the administration to continue the work of the corporation in restoring America's main street between Capitol Hill and the White House.

This section also includes a referenced map to expand Manassas National Battlefield Park in Virginia. The map incorporates a revised version of this much needed expansion which among other things, designates certain areas for easement acquisition only, thus guaranteeing the property rights of existing homeowners in the area, and also indicates an area through which a road right-of-way may be located to assist traffic flow patterns through and around the park. Representative HERB HARRIS has grappled with this difficult issue during the last two Congresses and I commend him for his extraordinary efforts to resolve the conflicting interests surrounding this proposal. The Senate has not taken action on the Manassas expansion as yet, although the Senate Energy and Natural Resources Committee has held hearings on the measure this year. I am hopeful that Congressman HARRIS' continued diligent efforts will at last bear fruit in this Congress.

Section 101 of the revised text also includes an adjustment to the boundaries of the Golden Gate National Recreation Area, to restore the map and boundaries for this area as it earlier passed the House of Representatives. This would have the effect of forestalling development on the northernmost block of the old Playland-by-the-Sea site in San Francisco, and would protect this block within the Golden Gate National Recreation Area.

The other major item in our text would establish the San Antonio Missions National Historical Park in Texas. This important reminder of the 16th century Spanish presence in our great southwest would be preserved as a unit of the National Park System. Representatives ABRAHAM KAZEN, HENRY GONZALEZ, and BOB ECKHARDT have championed this proposal for several years, and their diligent efforts should now be recognized by our approval of this legislation.

Mr. Speaker, I urge my colleagues to join me in this worthwhile measure.

Mr. Speaker, this amendment proposes to strike out all after the enacting clause on this previously passed Senate bill and to send it to the Senate for their disposition up or down of items that the House has passed before, some of which were in conference, a conference we have been unable to reach.

Mr. SEBELIUS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I kind of get the feeling that was not a great and lucid description of what we are really doing. My colleague, the gentleman from California, is capable of a lot more than that, I am sure.

Mr. PHILLIP BURTON. Mr. Speaker, if the gentleman will yield, actually this includes the PAVC, including the San Antonio Missions, and it puts the House in the following position: Either these matters will be accepted or not by the Senate, but we will not be going to the conference on the other items which had some protection.

Mr. ASHBROOK. I get the picture. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. LIVINGSTON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

REQUEST TO CALL PRIVATE CALENDAR

Mr. BOLAND. Mr. Speaker, I ask unanimous consent to call up the Private Calendar now.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PRIVATE CALENDAR

The SPEAKER pro tempore. The Clerk will call the first individual bill on the Private Calendar.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ROLANDO R. GAZA AND TERESITA C. GAZA

The Clerk called the bill (H.R. 2655) for the relief of Rolando R. Gaza and Teresita C. Gaza.

There being no objection, the Clerk read the bill as follows:

H.R. 2655

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct the required numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of each alien's birth under section 203(a) of the Immigration and Nationality Act and, if applicable, from the total number of such visas and entries which are made available to such natives under section 202 (e) of such Act.

With the following committee amendments:

On page 1, line 4, strike out "and Teresita C. Gaza" and insert in lieu thereof of the following: "Teresita C. Gaza, and Rolynne Therese Gaza".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Rolando R. Gaza, Teresita C. Gaza, and Rolynne Therese Gaza."

A motion to reconsider was laid on the table.

CONCRETE INDUSTRIES (MONIER), LTD.

The Clerk called the Senate bill (S. 1006) for the relief of Concrete Industries (Monier), Ltd.

There being no objection, the Clerk read the Senate bill as follows:

S. 1006

Be it enacted by the Senate and House of Revresentatives of the United States of America in Congress assembled, That, in accordance with the opinion, findings of fact, and conclusions of the review panel of the commissioners of the United States Court of Claims in Congressional Reference Case No. 6–70, Concrete Industries (Monier), Limited against the United States, filed December 13, 1974, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Concrete Industries (Monier), Limited, the sum of $1,022,714, representing the amount to which Concrete Industries (Monier), Limited, is equitably entitled as compensation for costs incurred in performing United States Navy Contract numbered NBY 48950 awarded July 19, 1963.

SEC. 2. No part of the amount appropriated in this Act in excess of 15 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same is unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed $1,000.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DATRONICS ENGINEERS, INC.

The Clerk called the Senate bill (S. 1562) for the relief of Datronics Engineers, Inc.

There being no objection, the Clerk read the Senate bill as follows:

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Review Panel of the United States Court of Claims having considered the case of Datronics Engineers, Incorporated against United States (Congressional Reference Case Numbered 8–72), and having determined that Datronics Engineers, Incorporated, has an equitable claim against the United States in the amount of $23,752, the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Datronics Engineers, Incorporated, such amount in full settlement for all claims against the United States arising in connection with the unjustified termination of such company's subcontracts for the erection of steel towers at a VLF radio facility which the prime contractor was constructing in Australia for the United States Navy.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LAWRENCE YOUNGMAN

The Clerk called the Senate bill (S. 2079) for the relief of Lawrence Youngman.

There being no objection, the Clerk read the Senate bill as follows:

S. 2079

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of money in the Treasury not otherwise appropriated, the sum of $47,250 to Lawrence Youngman, of Fort Peck Indian Reservation, Montana, that amount representing the present fair market value, and rents and interests since 1930, on three hundred and twenty acres of upland grazing land and forty acres of river bottom land on Fort Peck Indian Reservation, Montana, which were not allotted to him under the allotment schedule of 1929 authorized by the Act of August 1, 1914 (38 Stat. 593), because of an erroneous administrative report stating that he had died as an infant. That payment is in full settlement of all claims against the United States for compensation for the loss of the allotment which occurred on January 13, 1930.

SEC. 2. No part of the amount appropriated by this Act in excess of 10 percentum thereof shall be paid, delivered to, or received by an agent or attorney on account of services rendered, in connection with this claim. Any person violating the provisions of this Act is guilty of a misdemeanor and may be fined in a sum not to exceed $1,000.

SEC. 3. Of the amount appropriated by this Act, $33,600 shall not be subject to Federal or State taxation. This amount reflects the current value of the land exclusive of rents and interest.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSELYN BUCCAT LALLEY AND JODELYN BUCCAT LALLEY

The Clerk called the Senate bill (S. 2294 for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley.

There being no objection, the Clerk read the Senate bill as follows:

S. 2294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Joselyn Buccat Lalley and Jodelyn Buccat Lalley may be classified as children within the meaning of section 101 (b) (1) (F) of the Act, upon approval of petitions filed in their behalf by Mr. and Mrs. John Anthony Lalley, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUSANNA SHU-HUI JEAN

The Clerk called the Senate bill (S. 2248) for the relief of Susanna Shu-Hui Jean.

There being no objection, the Clerk read the Senate bill as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Susanna Shu-hui Jean may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Jong Ho Jean and Fu-mei Jean, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such a relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SANG YUN YOON

The Clerk called the Senate bill (S. 1618) for the relief of Sang Yun Yoon.

There being no objection, the Clerk read the Senate bill as follows:

S. 1618

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Sang Yun Yoon may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. William Voelker, citizens of the United States, pursuant to section 204 of this Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DO SOOK PARK

The Clerk called the Senate bill (S. 1563) for the relief of Do Sook Park.

There being no objection, the Clerk read the Senate bill as follows:

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Do Sook Park may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Frank Donnelly, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ELVI ENGELSMANN JENSEN

The Clerk called the Senate bill (S. 1401) for the relief of Elvi Engelsmann Jensen.

There being no objection, the Clerk read the Senate bill as follows:

S. 1401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Elvi Engelsmann Jensen may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed on her behalf by Mr. and Mrs. Donald Jensen, citizens of the United States, pursuant to section 204 of such Act. The parents, brothers, and sisters of the said Elvi Engelsmann Jensen shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARIA ELENA JUMALON

The Clerk called the Senate bill (S. 1166) for the relief of Maria Elena Jumalon.

There being no objection, the Clerk read the Senate bill as follows:

S. 1166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Maria Elena Jumalon may be classified as a child within the meaning of section 101(b)(1)(E) of such Act upon approval of a petition filed in her behalf by Generoso Erejil Jumalon, a citizen of the United States, and his wife, Demetria Jumalon, a lawful permanent resident, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Maria Elena Jumalon shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CHESTER CHUN KET YOUNG (ALSO KNOWN AS CHUN-KIT YEUNG)

The Clerk called the Senate bill (S. 1165) for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung).

There being no objection, the Clerk read the Senate bill as follows:

S. 1165

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Chester Chun Ket Young (also known as Chun-Kit Yeung), may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed on his behalf by Mr. and Mrs. Kwan Loy Young, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother or sister, or prior adoptive parent, of Chester Chun Ket Young (also known as Chun-Kit Yeung), shall, by virtue of such relationship, be accorded any right, privilege, or status under such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JIN SYEN SUH

The Clerk called the Senate bill (S. 1154) for the relief of Jin Syen Suh.

There being no objection, the Clerk read the Senate bill as follows:

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for purposes of the Immigration and Nationality Act, Jin Syen Suh may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Major and Mrs. Jerry M. Free, citizens of the United States, pursuant to section 204 of the Act. The parents, brothers, and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JUANITA BINABISE

The Clerk called the Senate bill (S. 1110) for the relief of Juanita Binabise.

There being no objection, the Clerk read the Senate bill as follows:

S. 1110

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Juanita Binabise may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Mateo Laem Binabise, citizens of the United States, pursuant to section 204 of such Act. The natural parents, brothers, and sisters of the said Juanita Binabise shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YOUNG-SHIK KIM

The Clerk called the Senate bill (S. 973) for the relief of Young-Shik Kim.

There being no objection, the Clerk read the Senate bill as follows:

S. 973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Young-Shik Kim shall be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in his behalf by Tae Hyung Kim and his wife Kyung Sook Kim, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the national parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship be accorded any right, privilege or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TIMMY LAO OLAVERE

The Clerk called the Senate bill (S. 612) for the relief of Timmy Lao Olavere.

There being no objection, the Clerk read the Senate bill as follows:

S. 612

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Timmy Lao Olavere may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in his behalf by Samuel M. Olavere, a citizen of the United States, and his wife, Elsa Olavere, a lawfully admitted resident alien, pursuant to section 204 of such Act. The natural parents and brothers and sisters, if any, of Timmy Lao Olavere shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time,

and passed, and a motion to reconsider was laid on the table.

IMELDA C. JAYAG POTTER

The Clerk called the Senate bill (S. 579) for the relief of Imelda C. Jayag Potter.

There being no objection, the Clerk read the Senate bill as follows:

S. 579

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Imelda C. Jayag Potter may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. William Potter, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. My parliamentary inquiry is this, what is the calendar number that we are on at the present time?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Maryland (Mr. BAUMAN) that we have just passed Calendar No. 188.

Mr. BAUMAN. Mr. Speaker, in view of the fact that the objectors on this side of the aisle have reviewed all of the bills, and I understand there are no amendments to the bills, except for Calendar No. 200, I would propose asking unanimous consent for the consideration en bloc of Calendar Nos. 189 through 199.

The SPEAKER pro tempore. The Chair would advise the gentleman from Maryland (Mr. BAUMAN) that the Chair is of the opinion that we should go through the calendar.

Mr. BAUMAN. I always defer to the gentleman from Kentucky.

The SPEAKER pro tempore. The Clerk will report the next bill on the Private Calendar.

MIRIAMA JONES

The Clerk called the Senate bill (S. 337) for the relief of Miriama Jones.

There being no objection, the Clerk read the Senate bill, as follows:

S. 337

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Miriama Jones may be classified as an orphan within the definition of section 101(b)(1)(F) of such Act and a petition filed in her behalf by Mr. and Mrs. David Lyman, citizens of the United States, pursuant to section 204 of such Act, shall be approved upon compliance with the remaining requirements of said section 101(b)(1)(F). The natural parents, brothers and sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MICHAEL BRUCE HOLLAND

The Clerk called the Senate bill (S. 1484) for the relief of Michael Bruce Holland.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1484

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That, notwithstanding the provisions of section 212(a)(23) of the Immigration and Nationality Act, Michael Bruce Holland may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsidered was laid on the table.

BRIGITTE MARIE HARWOOD

The Clerk called the Senate bill (S. 391) for the relief of Brigitte Marie Harwood.

There being no objection, the Clerk read the Senate bill, as follows:

S. 391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (9) and (23) of section 212(a) of the Immigration and Nationality Act, Brigitte Marie Harwood may be admitted to the United States for permanent residence if she is found to be otherwise admissible under the provisions of such Act. This Act applies solely to the grounds for exclusion under such paragraphs known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GASPAR LOUIS SAYOC

The Clerk called the Senate bill (S. 142) for the relief of Gaspar Louis Sayoc.

There being no objection, the Clerk read the Senate bill, as follows:

S. 142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provision of section 212(a)(23) of the Immigration and Nationality Act, Gaspar Louis Sayoc may be issued a visa and admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

KAINOOSH-FARD BULLOCK AND HER SON, KAMI BULLOCK

The Clerk called the Senate bill (S. 1826) for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock.

There being no objection, the Clerk read the Senate bill, as follows:

S. 1826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the proviso of section 201(b) and the provisions of section 204 of the Immigration and Nationality Act, Kainoosh-Fard Bullock and her son, Kami Bullock, shall be held and considered to be immediate relatives for purposes of such Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JESUSA NAVARRO ROMERO AND ANTONIO ANGELES ROMERO

The Clerk called the Senate bill (S. 2379) for the relief of Jesusa Navarro Romero and Antonio Angeles Romero.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Jesusa Navarro Romero and Antonio Angeles Romero shall be held and considered to have been lawfully admitted to the United States for permanent resident as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent resident to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers, during the current fiscal or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RODOLFO N. ARRIOLA

The Clerk called the Senate bill (S. 2509) for the relief of Rodolfo N. Arriola.

There being no objection, the Clerk read the Senate bill, as follows:

S. 2509

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of the Immigration and Nationality Act, Rodolfo N. Arriola shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fee. Upon the

granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

HERMINA JORMIGOS

The Clerk called the bill (H.R. 9660) for the relief of Hermina Jormigos.

There being no objection, the Clerk read the bill, as follows:

H.R. 9660

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Hermina Jormigos may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on her behalf by Charles A. Cudahy and Fe P. Cudahy, citizens of the United States, pursuant to section 204 of such Act, except that the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JESUS REVELES y RIVERA

The Clerk called the bill (H.R. 1424) for the relief of Jesus Reveles y Rivera.

There being no objection, the Clerk read the bill, as follows:

H.R. 1424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Jesus Reveles y Rivera may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in his behalf by Mr. and Mrs. Cliff Rodrigues, citizens of the United States, pursuant to section 204 of the Act.

With the following committee amendment:

On page 1, line 8, strike out the word "Act." and insert in lieu thereof the following: "Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right privilege, or status under the Immigation and Nationality Act.".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LUNETTE JOYCE CLARKE

The Clerk called the bill (H.R. 11953) for the relief of Lunette Joyce Clarke.

There being no objection, the Clerk read the bills, as follows:

H.R. 11953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Lunette Joyce Clarke may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Maud Lyn Clarke, citizen of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, before the word "citizen" insert the word "a".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARYROSE AND ROSEMARY EVANGELISTA

The Clerk called the bill (H.R. 11405) for the relief of Maryrose and Rosemary Evangelista.

There being no objection, the Clerk read the bill, as follows:

H.R. 11405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maryrose and Rosemary Evangelista may be classified as children within the meaning of section 101 (b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Frank and Noemi Quijano, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

With the following committee amendment:

On page 1, line 7, strike out the name "'Noemi Quijano" and insert the name "Noemi Quijano,".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YOM, CHONG OK

The Clerk called the bill (H.R. 12431) for the relief of Yom, Chong Ok.

There being no objection, the Clerk read the bill, as follows:

H.R. 12431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Yom, Chong Ok may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Heinritz, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Amend the title so as to read: "A bill for the relief of Yom, Chong Ok.".

With the following committee amendments:

On page 1, line 4, strike out the name "Yom, Chong Ok" and substitute the name "Yom Chong Ok".

On page 1, line 7, strike out the name "Heinritz" and substitute the name "Heinritz,".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "For the relief of Yom Chong OK."

A motion to reconsider was laid on the table.

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate Bill (S. 3066) for the relief of Yom Chong Ok, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WYLIE. Reserving the right to object, as I understand it, Mr. Speaker, S. 3066 is an identical bill to H.R. 12431, which we just passed?

Mr. RODINO. If the gentleman will yield, that is correct.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3066

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Yom Chong Ok may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Ronald Heinritz, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12431) was laid on the table.

EUGENIA CORTES

Mr. RODINO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 2247) for the relief of Eugenia Cortes, as reported from the Committee on the Judiciary.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there

objection to the request of the gentleman from New Jersey?

Mr. WYLIE. Reserving the right to object, I reserve the right to object merely for an explanation as to what the bill does.

Mr. RODINO. If the gentleman will yield, S. 2247 was a private bill. It has been amended to substitute language amending section 312 of the Immigration and Nationality Act to provide that applicants for U.S. citizenship over the age of 50 who have resided in the United States for over 20 years subsequent to a lawful admission for permanent residence may be naturalized, notwithstanding their inability to read or write the English language.

I would like to point out to the gentleman and the House that similar legislation has been approved by the House of Representatives in four prior Congresses.

Mr. WYLIE. That was my understanding, that we had already acted on the bill four different times, and now the Senate has finally gotten around to acting on it.

Mr. RODINO. That is correct.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Eugenia Cortes shall be held and considered to be within the purview of the first proviso to section 312(1) of that Act and may be naturalized upon compliance with all of the other requirements of title III of that Act.

SEC. 2. That no financial or other consideration shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with the enactment of this Act, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined $1,000.

COMMITTEE AMENDMENT

The SPEAKER pro tempore. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: At the end of Senate bill S. 2247 add the following:

That, the first proviso contained in paragraph (1) of section 312 of the Immigration and Nationality Act (8 U.S.C. 1423) is amended by striking out "or to any person who, on the effective date of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years" and by inserting in lieu thereof the following: "or to any person who, on the date of the filing of his petition for naturalization as provided in section 334 of this Act, is over fifty years of age and has been living in the United States for periods totaling at least twenty years sugsequent to a lawful admission for permanent residence".

The committee amendment was agreed to.

The Senate bill was ordered to be read a third time, was read a third time, and passed.

The title was amended so as to read: "Amending section 312 of the Immigration and Nationality Act."

A motion to reconsider was laid on the table.

DR. ALLAN JOSEPH CAWLEY

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2687) for the relief of Dr. Allan Joseph Cawley, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I take this reservation for the purpose of making a point of congratulating the Committee on the Judiciary. If the Members will note in the RECORD at D1554 yesterday, the Senate took 69 private bills which had been, let us say, pigeonholed for quite a while and passed them. I think all of us have worked on private bills. We have been working on private bills this afternoon, and I think we ought to congratulate those who went to work in the last couple of weeks and made sure the Senate acted on these bills. There was some danger they would die.

I would like to congratulate the chairman of the committee, and in particular my colleague, the gentleman from Maryland. I know in the last week or so he spent a great amount of time in making sure the Members' private bills did not die in the Senate. I think we ought to be very proud of what our Committee on the Judiciary did and what the gentleman from Maryland did. This happens to be a bill of Mr. EASTLAND'S, so I would ask if my colleague would explain what this bill is.

Mr. RODINO. If the gentleman will yield, the bill is a private measure that would give relief to Dr. Allan Joseph Cawley, a Canadian citizen, who resides presently in Mississippi.

He is director of the veterinary medical teaching hospital at the State University of Mississippi. He has been in the United States over a period of time. The time he has been in the United States, when taken all together, really provides the amount of time that would give him the constructive residence required under the Immigration and Nationality Act, to give him citizenship. There is a need for him, because of his specialist ability and his expertise in the area of radiology and surgery in veterinary work.

Mr. Speaker, for this reason, I urge adoption of the bill.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I merely wanted to make the point that Members of the Committee on the Judiciary on both sides worked very hard on these private bills. I did not happen to have a private bill this year, but I think it is a fine effort when 69 bills that were worked on so hard by the gentleman and the committee did not die. I think those who went to work to make sure they did not die went to work for all of us, even though we did not have any private bills ourselves this year.

Mr. RODINO. Mr. Speaker, I would like to commend the members of the Committee on the Judiciary and those other Members who worked on this to assure that this kind of work be successful. I think it is an accomplishment which we can all be proud.

Mr. ASHBROOK. Mr. Speaker, further reserving the right to object, I want to indicate again that my colleague, the gentleman from Maryland (Mr. BAUMAN) who has often been singled out as one who opposes or stops things, has been most instrumental in securing the passage of these bills. He is to be commended for his work. He did the lion's share of the unplugging of the Senate logjam.

Mr. Speaker, I withdraw my reservation of objection.

Mr. EDWARDS of Oklahoma. Mr. Speaker, reserving the right to object, I do so only to concur in what the gentleman from Ohio has said. So many of us have a vital interest in these kinds of bills and they get hung up and we really get in a mess because of the logjam at the end of the session. We often lose bills that are very important us to.

Mr. Speaker, I would like to commend the committee and the gentleman from Maryland (Mr. BAUMAN). I have observed the way the gentleman worked to break the logjam and it has been tremendously impressive.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey (Mr. RODINO)?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of Immigration and Nationality Act, Doctor Allan Joseph Cawley shall be held and considered to have satisfied the requirements of section 316 of that Act relating to required periods of residence and physical presence within the United States and may be naturalized at any time after the date of enactment of this Act if he is otherwise eligible for naturalization under the migration and Nationality Act.

SEC. 2. Upon compliance with the provisions of section 1 of this Act, Doctor Allan Joseph Cawley shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required periods of residence and physical presence within the United States and may be naturalized at any time thereafter if he is otherwise eligible for naturalization under the Immigration and Nationality Act.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Mr. RODINO moves to strike all after the enacting clause of the Senate bill, S. 2687, and insert in lieu thereof the following:

S. 2687

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the

purposes of Immigration and Nationality Act, Doctor Allan Joseph Cawley shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence as of the date of the enactment of this Act the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

SEC. 2. Upon compliance with the provisions of section 1 of this Act, Doctor Allan Joseph Cawley shall be held and considered to have satisfied the requirements of section 316 of the Immigration and Nationality Act relating to required period of residence and physical presence within the United States and may be naturalized at any time thereafter if he is otherwise eligible for naturalization under the Immigration and Nationality Act.

The amendment was agreed to.

The Senate bill was ordered to be read the third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JENNET JUANITA MILLER

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1405) for the relief of Jennet Juanita Miller, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Amend the title so as to read: "An Act for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers).".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. WYLIE. Mr. Speaker, reserving the right to object, I do this to find out what the Senate did, whether all the amendments are germane.

Mr. RODINO. Mr. Speaker, if the gentleman will yield, all of these concurrences have been technical in nature, changes in name and misspelling, et cetera. This is an effort to correct those minor errors.

Mr. WYLIE. Mr. Speaker, does that include H.R. 1405, H.R. 1422, H.R. 2756, H.R. 3618, and H.R. 9610?

Mr. RODINO. That is correct.

Mr. WYLIE. Those are all technical, corrective amendments?

Mr. RODINO. Yes, they are all merely technical.

Mr. WYLIE. And they are all germane?

Mr. RODINO. That is correct.

Mr. WYLIE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

JULIO ORTIZ-MEDINA

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 1422) for the relief of Julio Ortiz-Medina, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

H.R. 1422

Page 1, line 3, strike out "provision of section 212(a)(31)" and insert "provisions of paragraph (17) and (31) of section 212(a)".

Page 1, lines 7 and 8, strike out "this exemption" and insert "these exemptions".

Page 1, line 8, strike out "ground" and insert "grounds".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

MARLENE HOLDER

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2756) for the relief of Marlene Holder, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, lines 8 and 9, strike out "Act, and the provisions of section 245(c) of the Act shall be inapplicable in this case" and insert "Act".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

MARTHA CASTRO FITZ MAURICE

Mr. RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 3618) for the relief of Martha Castro Fitz Maurice, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 1, line 4, strike out "Martha Castro Maurice" and insert "Martha Castro Fitz Maurice".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

RAYMOND VISHNU CLEMONS

Mr RODINO. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9610) for the relief of Raymond Vishnu Clemons, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, strike out lines 1 to 3, inclusive, and insert: "right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

A motion to reconsider was laid on the table.

MARGARET PERRY

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2349) for the relief of Margaret Perry, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, will the gentleman from New Jersey (Mr. RODINO) assure us that there are no nongermane amendments on any of these bills?

Mr. RODINO. Mr. Speaker, if the gentleman will yield, that is correct. I want to assure the gentleman that this bill and the following bills, which are of the same nature and urgency, have been cleared by the Subcommittee on Immigration, Citizenship, and International Law and the full Committee on the Judiciary. They were approved by the Senate following the last meeting of the subcommittee, and they could not be formally reported by the Committee on the Judiciary. They have been carefully reviewed. They are within the rules of the committee, and bills similar to these have been approved by the full House.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, these bills primarily relate to adopted children?

Mr. RODINO. The gentleman is correct.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Margaret Perry may be classified as a child within the meaning of section 101(b)(1)(F) of such Act upon approval of a petition filed in their behalf by Mr. and Mrs. Michael Perry, citizens of the United States, pursuant to section 204 of such Act. The natural brothers and sisters of the said Margaret Perry shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

AMENDMENT OFFERED BY MR. RODINO

Mr. RODINO. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RODINO: Page 1, line 8: after the words, "The natural", insert "parents or".

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAROLINE VALDEZ SULFELIX

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 2446) for the relief of Carolina Valdez Sulfelix, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2446

Be it enacted by the Senate and House of Representatives of the Untied States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Caroline Valedz Sulfelix shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Simon Sulfelix, a lawful permanent resident and a citizen of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MASAMI YAMADA

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 2671) for the relief of Masami Yamada.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 2671

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Immigration and Nationality Act, Masami Yamada shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by Mr. and Mrs. Raymond Itsuo Yamada, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARY JO NATIVIDAD AND REGINA NATIVIDAD

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 3042) for the relief of Mary Jo Natividad and Regina Natividad.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Mary Jo Natividad and Regina Natividad may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by John M. Phelan and Jane J. B. Phelan, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

TSUTOMU TANAKA

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 3051) for the relief of Tsutomu Tanaka, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Tsutomu Tanaka shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by Mr. and Mrs. Timothy M. Killian, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Tsutomu Tanaka shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEBBIE AGATTA HEPBURN

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 3106) for the relief of Debbie Agatta Hepburn.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3106

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Debbie Agatta Hepburn shall be classified as a child within the meaning of section 101(b)(1)(E) of such Act, upon approval of a petition filed on her behalf by the Reverend and Mrs. Israel W. Hepburn, a citizen and a lawful permanent resident of the United States, respectively, pursuant to section 204 of such Act. The natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RICARDO ROSAS SALAZAR

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from the further consideration of the Senate bill (S. 3109) for the relief of Ricardo Rosas Salazar, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3109

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of sections 203(a)(1) and 204 of the Immigration and Nationality Act, Ricardo Rosas Salazar shall be held and considered to be the natural-born alien son of Mr. and Mrs. Charles Edwin Olsen, citizens of the United States. The natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR CONSIDERATION OF S. 464, FOR THE RELIEF OF SAMEEK KESHARY RAY

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 464) for the relief of Sameek Keshary Ray, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. LIVINGSTON. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

DR. KA CHUN WONG, AND HIS WIFE, MARILYN WONG

Mr. RODINO. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the bill (H.R. 11672) for the relief of Dr. Ka Chun Wong, and his wife, Marilyn Wong, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The Clerk read the bill, as follows:

H.R. 11672

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Ka Chun Wong, and his wife, Marilyn Wong, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct two numbers from the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202(e) of such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JEAN LAFITTE NATIONAL PARK AND PRESERVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1829) to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve for the education, inspiraton, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park"). The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this Act.

SEC. 2. (a) Within the Barataria Marsh Unit the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in the first section of this Act, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this Act, the Secretary may not acquire rights to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this Act.

(b) With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in the first section of this Act, the Secretary shall, no later than six months from the date of enactment of this Act, in consultation with the affected State and local units of government, develop a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

(c) The purpose of any guideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biological systems; and

(4) water and air quality.

(d) Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

(e) The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

(f) The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

SEC. 3. Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a year-round basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs first, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, year-round dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupany of the dwelling.

SEC. 4. In furtherance of the purposes of this Act, and after consultation with the Commission created by section 7 of this Act, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of the first section of this Act, pursuant to which the Secretary may mark, interpret, restore, and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 6 of this Act. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

SEC. 5. Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 2(c) of this Act, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only

after consultation with the appropriate fish and game agency of Louisiana.

SEC. 6. The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 8, sufficient lands and interest therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to section 4. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this Act, the Act of August 25, 1916 (39 Stat. 535), the Act of August 21, 1935 (49 Stat. 666), and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

SEC. 7. (a) There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the major of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

(b) Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

(c) The function of the Commission shall be to assist and advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

(d) The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use of development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

SEC. 8. (a) There is authorized to be appropriated, to carry out the provisions of this Act, not to exceed $50,000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of esential facilities: *Provided*, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(b) Within three years from the date of enactment of this Act, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and,

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Strike out all after the enacting clause, and insert:

SEC. 101. The Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92–578; 86 Stat. 1266), as amended, is further amended as follows:

(1) By striking—

(a) in paragraph (c) of section 3: "(6) The Commissioner of the District of Columbia;" and by substituting in lieu thereof "(6) The Mayor of the District of Columbia;"; and by inserting "The Mayor" in lieu of "The Commissioner" of the District of Columbia, wherever it occurs in this Act;

(b) in paragraph (c) of section 3: "(7) The Chairman, District of Columbia Council;" and by inserting in lieu thereof "The Chairman, Council of the District of Columbia";

(c) in paragraph (g) of section 3: "(8) The Chairman of the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "(8) The Director of the District of Columbia Department of Housing and Community Development.";

(d) in paragraph (a) of section 4: "subchapter 53" and by inserting in lieu thereof "subchapter III of Chapter 53";

(e) in paragraph (f) of section 5: "The District of Columbia government, and the District of Columbia Redevelopment Land Agency." and by inserting in lieu thereof "and the District of Columbia government.";

(f) in paragraph (b) of section 8: "Redevelopment Land Agency" wherever it occurs and by inserting in lieu thereof "government."

(2) by striking in paragraph (10) of section 6 of the figure $50,000,000" and inserting in lieu thereof "$100,000,000" and by striking in that paragraph the following sentence: "The authority of the Corporation to issue obligations hereunder shall expire June 3, 1980, except that obligations may be issued at any time after the expiration of said period to provide funds necessary for the performance of any contract entered into by the Corporation, prior to the expiration of said period." and inserting in lieu thereof "The authority of the Corporation to issue obligations hereunder shall remain available without fiscal year limitation.".

(3) By redesignating paragraphs "(19)" through "(22)" in section 6 as paragraphs "(21)" through "(24)" and by inserting the following new paragraphs:

"(19) shall request the Council of the District of Columbia, when required for implementation of the development plan, to close any street, road, highway, alley, or any part thereon in the development area. If the title to the street, road, highway, or alley so closed is in the United States, the Mayor of the District of Columbia shall convey the title to the land on behalf of the United States to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative expenses of the action. If the title to the street, road, highway or alley so closed is not in the United States, the Mayor shall convey title to the land on behalf of the District of Columbia to the Corporation, without cost, except that the Corporation shall reimburse the District of Columbia for the administrative costs of the action: *Provided*, That if the land would have reverted to a private abutting property owner under otherwise applicable law of the District of Columbia, the Corporation shall pay such owner the fair market value of the land that would have reverted to him.

Notwithstanding any other provision of law, the map in subsection 2(a) of the Act of October 27, 1972 (86 Stat. 1299) is to be that referenced as NRA–GG–80, 003–J and dated May 5, 1978, and the penultimate sentence of said subsection is deleted.

"(20) may transfer title to, interests in, or jurisdiction over real property which has been acquired by the Corporation and is to be devoted to public uses under the development plan, to any agency of the United States or the District of Columbia. Agencies of the United States or the District of Columbia may accept such transfers under this paragraph, and shall thereafter administer and maintain the property in accordance with the development plan and the terms of any transfer agreement. The Director of the National Park Service may transfer title to or interest in public reservations, roadways, spaces, or parks under his jurisdiction within the development area to the Corporation to facilitate implementation of the development plan; and, notwithstanding any other provision of law, the Corporation may utilize such transferred property for any public or private development consistent with the plan. Notwithstanding any other provision of law, the Secretary is authorized to acquire the lands and interests generally limited and depicted in the map numbered 379–80, 005–G and dated July 1978.".

(4) By striking in subsection 17(a) all after the world "Corporation" and inserting in lieu thereof "$3,000,000 for the fiscal year ending September 30, 1979; $3,200,000 for the fiscal years ending September 30, 1980, and September 30, 1981; and $3,500,000 for the fiscal years ending September 30, 1982, and September 30, 1983."; and, by adding to subsection 17(b) after the amount $38,-800,000," the following: "for fiscal year 1979, $15,000,000, for fiscal year 1980, $35,000,000 for fiscal year 1981, $25,000,000 for fiscal year 1982, $30,000,000, and, for fiscal 1983, $35,-000,000."; and by striking the following, "to remain available without fiscal year limitation through September 30, 1990:" and, by inserting in lieu thereof: "For the authorizations made in this subsection, any amounts authorized but not apropriated in any fiscal year shall remain available for appropriation in succeeding years. Any amounts appropriated under this subsection shall remain available without fiscal year limitation.".

SEC. 201 (a) In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park",

numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(F) Mission San Juan Capistrano;

(E) Espada Dam and Aqueduct;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removel of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided*, That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the constitutional provisions regarding the separation of church and state.

(c) (1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467).

(e) (1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b) (2);

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public. The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after the date of the enactment of this Act and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f) (1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.

Mr. PHILLIP BURTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "to continue the authorization for the Pennsylvania Avenue Development Corporation, to establish the San Antonio Missions National Historical Park in Texas, to provide for a study of the historic values of Camden, South Carolina, and for other purposes".

A motion to reconsider was laid on the table.

AUTHORIZING PRINTING OF ADDITIONAL COPIES OF JUDICIARY COMMITTEE DOCUMENT

Mr. MANN. Mr. Speaker, I offer a resolution (H. Res. 1438) authorizing the printing of additional copies of a Judiciary Committee document regarding the general revision of the U.S. Criminal Code, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

Mr. HYDE. Mr. Speaker, reserving the right to object, I do so only for the purpose of yielding to the gentleman from South Carolina (Mr. MANN) for a brief explanation of this resolution.

Mr. MANN. Mr. Speaker, the Subcommittee on Criminal Justice has worked this entire Congress on the revision of the U.S. Criminal Code. There is tremendous interest in this endeavor. It is believed that the request for copies will far exceed those authorized and, therefore, these additional copies are requested.

Mr. HYDE. Further reserving the right to object, Mr. Speaker, I simply take this time to say that the distinguished and able gentleman from South Carolina (Mr. MANN) will be sorely missed as chairman of the Subcommittee on Criminal Justice. In every sense of the word he is what my ideal of a lawyer should be, and it has been an honor to work with the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 1438

Resolved, That there shall be printed for the use of the Committee on the Judiciary of the House of Representatives such number of additional copies of the committee document which is a report on the work of the Subcommittee on Criminal Justice with regard to the general revision of the United States criminal code as does not exceed a cost of $1,200.

The resolution was agreed to:

A motion to reconsider was laid on the table.

WILLIAM L. SPRINGER BUILDING

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 7305) to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building," with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 1, line 3, after "That" insert "(a)".

Page 1, after line 8, insert:

(b) This Act shall become effective on April 12, 1979.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the matter just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING SMITHSONIAN INSTITUTION TO CONSTRUCT MUSEUM SUPPORT FACILITIES

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1029) to authorize the Smithsonian Institution to construct museum support facilities, with a Senate amendment, to the House amendment, and concur in the Senate amendment to the House amendment.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendment to the House amendment, as follows:

Page 1, lines 11 and 12, of the House engrossed amendment, strike out "by resolution, approves" and insert "and the Committee on Rules and Administration of the Senate, by resolution, approve".

Mr. MINETA (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment to the House amendment be dispensed with, and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MINETA. Mr. Speaker, the House on September 25, 1978, passed and sent back to the Senate S. 1029, with an amendment. The bill authorizes the Regents of the Smithsonian Institution to construct a museum support facility on federally owned land in the Washington metropolitan area at a cost not to exceed $21.5 million. The legislation prohibits the provision of appropriations until such time as the Committee on Public Works and Transportation has an opportunity to review the plans and specifications and approve them by resolution.

The Senate on October 2, 1978, passed S. 1029, with an amendment which merely states that the Committee on Rules and Administration shall also have an opportunity to approve the final plans and specifications.

I urge my colleagues to support S. 1029.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

There was no objection.

● Mr. SKUBITZ. Mr. Speaker, this statement is the last one that I shall give in support of a bill that I have introduced. I am giving this statement with full knowledge that—realistically speaking—no action will be taken on the bill in these closing hours of the 95th Congress.

But just because no action will be taken tonight, certainly does not mean that those who are Members of the 96th Congress will not act on my bill.

It is enough for me to light the spark. I will leave to others the job of fanning the flames until legislation of this nature is enacted into law.

My bill provides that all gifts and decorations of foreign governments to the President and his wife, the Vice President and his wife, and the Secretary of State and his wife must be turned over to the Smithsonian for public display. The measure provides that all such gifts and decorations now on loan to Federal agencies, museums, and other entities must also be turned over to the Smithsonian.

I am introducing this legislation, because in my travels I have never ceased to be amazed at the collections of the world's great museums. I sincerely believe that our own great Smithsonian Institution would have its collection upgraded, if we make available to it the gifts of foreign nations to our highest Government officials.

A matter which has concerned me for some time is the security procedures protecting the Smithsonian collection. This legislation would require an examination of any such gift or decoration turned over to the Smithsonian—to determine its genuineness. Obviously, should any discrepancies occur, the matter would be turned over to the Justice Department.

Following, is a report prepared for me by the Library of Congress which I believe amply illustrates why gifts and decorations of foreign nations to our high officials should be turned over to the Smithsonian:

OCTOBER 14, 1978.

To the Honorable Joe Skubitz.
Attn. James Rinker.

From Government Division, Daniel Mulhollan, Analyst in American National Government.

Subject: Present procedure for the disposal of foreign gifts covered by the Foreign Gifts and Decorations Act, as amended.

This memorandum is being forwarded in response to your inquiry as to the procedure for the disposal of foreign gifts covered by the Foreign Gifts and Decorations Act, as amended. Public Law 95-105 (enacted on August 17, 1977) amended Section 7342 of title 5, United States Code, to read, in part, as follows:

"(e) Gifts and decorations that have been deposited with an employing agency for disposal shall be (1) returned to the donor, or (2) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949."

Although the Administrator of GSA has the authority for the disposal of such gifts, no gifts or decorations deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. The Chief of Protocol within the Department of State has general administrative authority with regard to this determination.

In order to determine if any changes had been made in the procedure for disposal of foreign gifts, we contacted, with your assistance, Mr. Richard Gookin of the Chief of Protocol. Mr. Gookin stated that the Department of State had issued new procedures for the disposition of gifts and decorations since the 1977 amendments but that these regulations were probably not yet codified in the Code of Federal Regulations. As a result, we are unable to provide you with the Department's relevant regulations today. However, with regard to your specific inquiry as to the availability of foreign gifts to museums, Mr. Gookin maintained that the GSA has a "very conscientious, active, and effective program" for the dissemination of foreign gifts to public and private museums. With respect to the Department of State, Mr. Gookin stated that "there is presently no exhibition of gifts" retained by the Department.

Mr. Gookin referred us to Ms. Jane Guilbault, also with the Chief of Protocol, for further information as to GSA disposition of foreign gifts. Ms. Guilbault works directly with the Administrator of GSA regarding the disposition of foreign gifts. She noted that after Federal agencies report to GSA, and forward gifts not retained by the respective agency, GSA makes every attempt to "find a home" for the gift in a Federal agency or in public and private museums. Ms. Guilbault continued that GSA takes "steps to circularize" the availability of foreign gifts and that GSA "has been placing a great many gifts in museums and appears to be no problem." Ms. Guilbault referred us to Stanley Duda, Director of the Utilization Division

of the Office of Personal Property Disposal within GSA, for further information as to the procedures used by GSA in the disposal of foreign gifts to museums. Mr. Duda was not available for comment.

The General Accounting Office issued a report entitled "Actions Recommended to Make the Foreign Gifts and Decorations Act More Effective" shortly before the passage of the 1977 amendments to the Act (June 23, 1977). Within this report, GAO focused upon the implementation of the Act by the Chief of Protocol and the State Department's actions on recommendations earlier transmitted by GAO. Inasmuch as we have been unable to determine any codified regulations issued since the enactment of Public Law 95-105 regarding the disposition of foreign gifts, the GAO's description of the procedures utilized by GSA may prove to be useful:

"Generally, the General Services Administration advises suitable Government units, such as museums, that items are available. If there are no requests, the items may be sold.

"As of September 1, 1974, 433 gifts had been turned over to the General Services Administration. Of these, 283 were on hand and 143 were transferred, with the remaining seven being sold by the Administration.

"One museum, to which gifts had been transferred, had exchanged or sold 26 items. Better control over disposition of gifts is needed. (p. 11)"

We trust the above information will be of some assistance. If you have any further questions, please call me at 426-6539.

Mr. Speaker, colleagues, future Members of the 96th Congress, and to my successor in this great body—I urge the adoption of my bill.●

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the measure just considered.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RESTORATION AND RENOVATION OF PENSION BUILDING IN WASHINGTON, D.C.

Mr. MINETA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate joint resolution (S.J. Res. 160) to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, D.C., to house a Museum of the Building Arts, and for other purposes.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, could the gentleman explain to us what the joint resolution does and whether there are any nongermane amendments attached to it?

Mr. MINETA. If the gentleman will yield, first of all there are no nongermane amendments.

Mr. Speaker, Senate Joint Resolution 160, as amended, would state the Congress interest in the restoration of the historic Pension Building in Washington, D.C., and would call for further information on a specific proposal to restore the Pension Building for use as a Museum for the Building Arts.

Mr. Speaker, the Pension Building is a truly remarkable historic building which is federally owned, and there is no question of the Federal Government's interest in its restoration, preservation, and continued use. However, several questions remain regarding a specific proposal which has been made to the Congress that this building be restored for use as a Museum of the Building Arts.

This bill, Senate Joint Resolution 160, would elicit the answers to these questions from the agencies which have specific expertise in these areas and who are, therefore, in a position to know the answers. For example, GSA, which controls the building, would be asked to report on the building's condition and on the estimated cost of renovation. The National Endowment for the Arts would be asked to report on the degree of private support such a museum could reasonably expect.

And the Smithsonian Institution would be asked to report on several questions relating to the viability of museum operations.

This bill would give the Congress the information it needs on which to base a decision regarding the Museum of the Building Arts proposal, and it would give it to us without requiring any additional authorizations.

I urge my colleagues to support Senate Joint Resolution 160, as amended.

● Mr. WALSH. Mr. Speaker, I rise in support of the comments and recommendations of the distinguished gentleman from California (Mr. MINETA).

Senate Joint Resolution 160 simply directs the Administrator of the General Services Administration to prepare a study and the drawings, along with the cost that would be involved in restoring and utilizing the pension building.

This study will give specific details of the proposed project so that the Members of this body may determine if it would be appropriate to house a Museum of the Building Arts in the Pension Building.

Mr. Speaker, I urge the passage of this resolution.●

Mr. JOHNSON of California. Mr. Speaker, the Pension Building in Washington, D.C., is a beautiful and historic 19th century Federal building. In recent years it has been occupied by the District of Columbia courts, but they have now moved to their new building.

It has been proposed that the Federal Government restore this building for use as a Muesum of the Building Arts. While this proposal appears to have considerable merit, the committee believes that questions remain regarding certain aspects of that proposal. We need to know more about the condition of the building and the cost of its renovation. We need to know what degree of private support we could expect for the operational costs of the proposed museum.

We need to know more about the potential visitation for such a museum, and we need to know more about its organizational relationship to other museums in town.

The committee has, therefore, reported Senate Joint Resolution 160, as amended, calling for the necessary feasibility studies from the General Services Administration, the National Endowment for the Arts, and Smithsonian Institution. Each of these organizations would be directed to provide the Congress with the relevant information within its area of expertise. There is no new authority in this bill; each agency can make its report to the Congress within the funds already available. The Congress would have the necessary information on which to base its decision by the beginning of the 96th Congress.

I urge the adoption of Senate Joint Resolution 160, as amended.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 160

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that the Federal Building in the District of Columbia, operated and managed by the General Services Administration and known as the Pension Building, is unique, historic, constitutes an architectural treasure belonging to the people of the United States, and must be restored and properly utilized.

(b) The Congress further declares that the Pension Building would most appropriately be dedicated to the public use as the Nation's Museum of the Building Arts, benefiting this and future generations.

SEC. 102. The Administrator of General Services is authorized and directed to prepare an existing conditions study of the Pension Building, located in the block bounded by Fourth Street, Fifth Street, "F" Street, and "G" Street, Northwest, in the District of Columbia. After consultation with the Secretary of the Smithsonian Institution and the Chairman of the National Endowment for the Arts, he shall prepare drawings, together with preliminary cost estimates, for the restoration and renovation of the Pension Building, in its entirety, to house the Museum of the Building Arts. Such drawings shall be consistent with and provide space for the functions and facilities proposed in the report of the Committee for a National Museum of the Building Arts, Incorporated, dated January 1978, and on file at the National Endowment for the Arts, including alternative treatment of the facilities listed in subsection 104(d) which may require structural modifications of the Pension Building. Such drawings and estimates, together with the existing conditions study, shall be submitted to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than January 1, 1979.

SEC. 103. The Chairman of the National Endowment for the Arts is requested to report to the Committee on Environment and Public Works of the Senate, and to the Committee on Public Works and Transportation of the House of Representatives, not later than January 1, 1979 his initial observations and opinions with respect to—

(a) the prospects for private funding of museum operations, including an appraisal listing the potential sources of financial support, together with a preliminary estimate of the amount of such support which might reasonably be anticipated; and

(b) such other factors as, in his opinion, may contribute to the feasibility of the proposed museum.

SEC. 104. The Secretary of the Smithsonian Institution is requested to report to the Committee on Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House of Representatives, not later than January 1, 1979, his initial comments and opinions concerning—

(a) the potential for visitation at the proposed museum, compared to visitation at Smithsonian museums in recent years;

(b) the potential for interaction between the proposed museum and existing collections and programs of the Smithsonian;

(c) the proportion of total space (based on the Secretary's experience with such Smithsonian Museums as Air and Space, Arts and Industries, and History and technology) required for (i) inactive storage, (ii) the study of collections housed in the museum; (iii) staff offices; and (iv) public/exhibition use;

(d) the value and approximate costs of providing facilities to accommodate (i) food service; (ii) a museum shop; (iii) a computer service or center; and (iv) an auditorium, together with recommendations for optimum size and desirable features of such facilities.

SEC. 105. As used in this joint resolution, the term—

(a) "building arts" encompasses all practical and scholarly aspects of architecture; and landscape architecture; engineering; building and construction; urban planning, design, physical development, and renewal; and historic preservation;

(b) "museum" means the Museum of the Building Arts, as generally proposed by the Committee for a National Museum of the Building Arts, the primary purpose of which shall be (i) to create in the Nation's Capital a center to exhibit, demonstrate, and encourage contributions to the building arts and sciences, with an emphasis on American initiatives; (ii) to establish and operate a building arts documents archive, and a building arts reference library for citizens and public and private institutions; and (iii) to foster educational programs, to provide a forum for information exchange among professionals in the building arts, and to enhance understanding and appreciation of all facets of the building arts and sciences;

(c) "Administrator" means the Administrator of General Services;

(d) "Chairman" means the Chairman of the National Endowment for the Arts; and

(e) "Secretary" means the Secretary of the Smithsonian Institution.

SEC. 106. The Administrator shall insure that any occupants of the Pension Building shall be temporary pending establishment and occupancy of the building by the National Museum of the Building Arts; and that such occupants shall in no way conflict with, interfere with, or cause to delay efforts toward the restoration and renovation of the building to house the museum.

SEC. 107. (a) For the purposes of section 102 of this joint resolution, the Administrator is authorized and directed to expend not to exceed $60,000 from funds available to him for the alteration and repair of buildings.

(b) For the purposes of section 103 of this joint resolution, the Chairman shall expend not more than $10,000 from funds available to him.

(c) For the purposes of section 104 of this joint resolution, the Secretary shall expend not more than $10,000 from funds available to him.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

URANIUM MILL TAILINGS CONTROL ACT OF 1978

Mr. DINGELL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13650) to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment with three House amendments to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the House amendments to the Senate amendment, as follows:

Strike out subsection (c) of section 107 of the Senate amendment.

In subsection (b) of section 108 of the Senate amendment, insert after the fifth sentence thereof the following: "After payment of such share to the United States under this subsection, such person shall pay to the State in which the residual radioactive materials are located a share of the net profits derived from such recovery, as determined by the Secretary."

Strike title II of the Senate amendment to H.R. 13650 and insert the following:

TITLE II—URANIUM MILL TAILINGS LICENSING AND REGULATION DEFINITION

SEC. 201. Section 11e. of the Atomic Energy Act of 1954, is amended to read as follows:

"e. The term 'byproduct material' means (1) any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material, and (2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content."

CUSTODY OF DISPOSAL SITE

SEC. 202. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 83. OWNERSHIP AND CUSTODY OF CERTAIN BYPRODUCT MATERIAL AND DISPOSAL SITES.

"a. Any license issued or renewed after the effective date of this section under section 62 or section 81 for any activity which results in the production of any byproduct material, as defined in section 11e. (2), shall contain such terms and conditions that the Commission determines to be necessary to assure that, prior to termination of such license—

"(1) the licensee will comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission for sites (A) at which ores were processed primarily for their source material content and (B) at which such byproduct material is deposited, and

"(2) ownership of any byproduct material, as defined in section 11e.(2), which resulted from such licensed activity shall be transferred to (A) the United States or (B) the State in which such activity occurred if such State exercise the option under subsection b.(1) to acquire land used for the disposal of byproduct material.

Any license in effect on the date of the enactment of this section shall either contain such terms and conditions on renewal thereof after the effective date of this section, or comply with paragraphs (1) and (2) upon the termination of such license, whichever first occurs.

"(b)(1)(A) The Commission shall require by rule, regulation, or order that prior to the termination of any license which is issued after the effective date of this section, title to the land, including any interests therein, (other than land owned by the United States or by a State) which is used for the disposal of any byproduct material, as defined by section 11e.(2), pursuant to such license shall be transferred to

"(A) the United States, or

"(B) the State in which such land is located, at the option of such State,

"(2) unless the Commission determines prior to such termination that transfer of title to such land and such byproduct material is not necessary or desirable to protect the public health, safety, or welfare or to minimize or eliminate danger to life or property. Such determination shall be made in accordance with section 181 of this Act. Notwithstanding any other provision of law or any such determination, such property and materials shall be maintained pursuant to a license by the Commission pursuant to section 84(b) in such manner as will protect the public health, safety, and the environment.

"(B) If the Commission determines by order that use of the surface or subsurface estates, or both, of the land transferred to the United States or to a State under subparagraph (A) would not endanger the public health, safety, welfare, or environment, the Commission, pursuant to such regulations as it may prescribe, shall permit the use of the surface or subsurface estates, or both, of such land in a manner consistent with the provisions of this section. If the Commission permits such use of such land, it shall provide the person who transferred such land with the right of first refusal with respect to such use of such land.

"(2) If transfer to the United States of title to such byproduct material and such land is required under this section, the Secretary of Energy or any Federal agency designated by the President shall, following the Commission's determination of compliance under subsection c., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such Secretary or Federal agency shall maintain such material and land in such manner as will protect the public health and safety and the environment. Such custody may be transferred to another officer or instrumentality of the United States only upon approval of the President.

"(3) If transfer to a State of title to such byproduct material is required in accordance with this subsection, such State shall, following the Commission's determination of compliance under subsection d., assume title and custody of such byproduct material and land transferred as provided in this subsection. Such State shall maintain such material and land in such manner as will protect the public health, safety, and the environment.

"(4) In the case of any such license under section 62, which was in effect on the effective date of this section, the Commission may require, before the termination of such license, such transfer of land and interests therein (as described in paragraph (1) of this subsection) to the United States or a State in which such land is located, at the option of such State, as may be necessary to protect the public health, welfare, and the environment from any effects associated with such byproduct material. In exercising the authority of this paragraph, the Commission shall take into consideration the status of the ownership of such land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State.

"(5) The Commission may, pursuant to a license, or by rule or order, require the Secretary or other Federal agency or State having custody of such property and materials to undertake such monitoring, main-

tenance, and emergency measures as are necessary to protect the public health and safety and such other actions as the Commission deems necessary to comply with the standards promulgated pursuant to section 84 of this Act. The Secretary or such other Federal agency is authorized to carry out maintenance, monitoring, and emergency measures, but shall take no other action pursuant to such license, rule or order, with respect to such property and materials unless expressly authorized by Congress after the date of enactment of this Act.

"(6) The transfer of title to land or byproduct materials, as defined in section 11e.(2), to a State or the United States pursuant to this subsection shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

"(7) Material and land transferred to the United States or a State in accordance with this subsection shall be transferred without cost to the United States or a State (other than administrative and legal costs incurred in carrying out such transfer). Subject to the provisions of paragraph (1)(B) of this subsection, the United States or a State shall not transfer title to material or property acquired under this subsection to any person, unless such transfer is in the same manner as provided under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978.

"(8) The provisions of this subsection respecting transfer of title and custody to land shall not apply in the case of lands held in trust by the United States for any Indian tribe or lands owned by such Indian tribe subject to a restriction against alienation imposed by the United States. In the case of such lands which are used for the disposal of byproduct material, as defined in section 11e.(2), the licensee shall be required to enter into such arrangements with the Commission as may be appropriate to assure the long-term maintenance and monitoring of such lands by the United States.

"c. Upon termination of any license to which this section applies, the Commission shall determine whether or not the licensee has complied with all applicable standards and requirements under such license.".

(b) This section shall be effective three years after the enactment of this Act.

(c) The table of contents for chapter 8 of the Atomic Energy Act of 1954, is amended by inserting the following new item after the item relating to section 82:

"SEC. 83. Ownership and custody of certain byproduct material and disposal sites.".

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

SEC. 203. Section 161 of the Atomic Energy Act of 1954, is amended by adding the following new subsection at the end thereof:

"x. establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure.

"(1) that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11e. (3), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

"(2) that—

"(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long term maintenance and monitoring of such sites, structures and equipment after termination of such license will be minimized and, to the maximum extent practicable, eliminated; and

"(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material as defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring, except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.".

COOPERATION WITH STATES

SEC. 204. (a) Section 274 b. of the Atomic Energy Act of 1954, is amended by adding "as defined in section 11 e. (1)" after the words "byproduct materials" in paragraph (1) by renumbering paragraphs (2) and (3) as paragraphs (3) and (4); and by inserting the following new paragraph immediately after paragraph (1):

"(2) byproduct materials as defined in section 11 e. (2);".

(b) Section 274 d. (2) of such Act is amended by inserting the following before the word "compatible": "In accordance with the requirements of subsection o. and in all other respects".

(c) Section 274 n. of such Act is amended by adding the following new sentence at the end thereof: "As used in this section, the term 'agreement' includes any amendment to any agreement.".

(d) Section 274 j. of such Act is amended—

(1) by inserting "all or part of" after "suspend";

(2) by inserting "(1)" after "finds that"; and

(3) by adding at the end before the period the following: ", or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.".

(e) (1) Section 274 of such Act is amended by adding the following new subsection at the end thereof:

"o. In the licensing and regulation of byproduct material, as defined in section 11e. (2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and

"(3) procedures which—

"(A) in the case of licenses, provide procedures under State law which include

"(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

"(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 11 e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission."

(f) Section 274 c. of such Act is amended by inserting the following new sentence after paragraph (4) thereof: "The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11 e. (2).".

(g) Nothing in any amendment made by this section shall preclude any State from exercising any other authority as permitted under the Atomic Energy Act of 1954 respecting any byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954.

(h) (1) On or before the date three years after the date of the enactment of this Act, notwithstanding any amendment made by this title, any State may exercise any au-

thority under State law respecting byproduct material, as defined in section 11 e. (2) of the Atomic Energy Act of 1954, in the same manner, and to the same extent, as permitted before the enactment of this Act.

(2) An agreement entered into with any State as permitted under section 273 of the Atomic Energy Act of 1954 with respect to byproduct material as defined in section 11 e. (2) of such Act, may be entered into at any time after the date of the enactment of this Act but no such agreement may take effect before the date three years after the date of the enactment of this Act.

AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 205. (a) Chapter 8 of the Atomic Energy Act of 1954, is amended by adding the following new section at the end thereof:

"SEC. 84. AUTHORITIES OF COMMISSION RESPECTING CERTAIN BYPRODUCT MATERIAL.—

"a. The Commission shall insure that the management of any byproduct material, as defined in section 11 e. (2), is carried out in such manner as—

"(1) the Commission deems appropriate to protect the public health and safety and the environment from radiological and nonradiological hazards associated with the processing and with the possession and transfer of such material,

"(2) conforms with applicable general standards promulgated by the Administrator of the Environmental Protection Agency under section 275, and

"(3) conforms to general requirements established by the Commission, with the concurrence of the Administrator, which are, to the maximum extent practicable, at least comparable to requirements applicable to the possession, transfer, and disposal of similar hazardous material regulated by the Administrator under the Solid Waste Disposal Act, as amended.

"b. In carrying out its authority under this section, the Commission is authorized to—

"(1) by rule, regulation, or order require persons, officers, or instrumentalities exempted from licensing under section 81 of this Act to conduct monitoring, perform remedial work, and to comply with such other measures as it may deem necessary or desirable to protect health or to minimize danger to life or property, and in connection with the disposal or storage of such byproduct material; and

"(2) make such studies and inspections and to conduct such monitoring as may be necessary.

"Any violation by any person other than the United States or any officer or employee of the United States or a State of any rule, regulation, or order or licensing provision, of the Commission established under this section or section 83 shall be subject to a civil penalty in the same manner and in the same amount as violations subject to a civil penalty under section 234. Nothing in this section affects any authority of the Commission under any other provision of this Act.".

(b) The first sentence of Section 81 of the Atomic Energy Act of 1954, is amended to read as follows: "No person may transfer or receive in interstate commerce, manufacture, produce, transfer, acquire, own, possess, import, or export any byproduct material, except to the extent authorized by this section, section 82 or section 84.

(c) The table of contents for such chapter 8 is amended by inserting the following new item after the item relating to section 83:

"SEC. 84. Authorities of Commission respecting certain byproduct material."

AUTHORITY OF ENVIRONMENTAL PROTECTION AGENCY RESPECTING CERTAIN BYPRODUCT MATERIAL

SEC. 206. (a) Chapter 19 of the Atomic Energy Act of 1954, is amended by inserting after section 274 the following new section:

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS FOR URANIUM MILL TAILINGS.—

"a. As soon as practicable, but not later than one year after the date of enactment of this section, the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uraniunm Mill Tailings Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. The Administrator may periodically revise any standard promulgated pursuant to this subsection.

"b. (1) As soon as practicable, but not later than eighteen months after the enactment to this section, the Administator shall, by rule, promulgate standards of general application for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with the processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material.

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Disposal Act, as amended, which are applicable to such hazards: *Provided, however,* That no permit issued by the Administrator is required under this Act or the Solid Waste Disposal Act, as amended, for the processing, possession, transfer, or disposal of byproduct material, as defined in section 11 e. (2) of this Act. The Administrator may periodically revise any standard promulgated pursuant to this subsection. Within three years after such revision of any such standard, the Commission and any State permitted to exercise authority under section 274 b. (2) shall apply such revised standard in the case of any license for byproduct material as defined in section 11 e. (2) or any revision thereof.

"c. (1) Before the promulgation of any rule pursuant to this section, the Administrator shall publish the proposed rule in the Federal Register, together with a statement of the research, analysis, and other available information in support of such proposed rule, and provide a period of public comment of at least thirty days for written comment thereon and an opportunity, after such comment period and after public notice, for any interested person to present oral data, views, and arguments at a public hearing. There shall be a transcript of any such hearing. The Administrator shall consult with the Commission and the Secretary of Energy before promulgation of any such rule.

"(2) Judicial review of any rule promulgated under this section may be obtained by any interested person only upon such person filing a petition for review within sixty days after such promulgation in the United States court of appeals for the Federal judicial circuit in which such person resides or has his principal place of business. A copy of the petition shall be forthwith transmitted by the clerk of court to the Administrator. The Administrator thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which such rule was based as provided in section 2112 of title 28, United States Code. The court shall have jurisdiction to review the rule in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. The judgment of the court affirming, modifying, or setting aside, in whole or in part, any such rule shall be final, subject to judicial review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) Any rule promulgated under this section shall not take effect earlier than sixty calendar days after such promulgation.

"d. Implementation and enforcement of the standards promulgated pursuant to subsection b. of this section shall be the responsibility of the Commission in the conduct of its licensing activities under this Act. States exercising authority pursuant to section 274 b. (2) of this Act shall implement and enforce such standards in accordance with subsection o. of such section.

"e. Nothing in this Act applicable to byproduct material, as defined in section 11 e. (2) of this Act, shall affect the authority of the Administrator under the Clean Air Act of 1970, as amended, or the Federal Water Pollution Control Act, as amended.".

(b) The table of contents for chapter 19 of the Atomic Energy Act is amended by inserting the following new item after the item relating to section 274:

"SEC. 275. Health and environmental standards for uranium mill tailings.".

AUTHORIZATION OF APPROPRIATION FOR GRANTS

SEC. 207. There is hereby authorized to be appropriated for fiscal year 1980 to the Nuclear Regulatory Commission not to exceed $500,000 to be used for making grants to States which have entered into agreements with the Commission under section 274 of the Atomic Energy Act of 1954, to aid in the development of State regulatory programs under such section which implement the provisions of this Act.

EFFECTIVE DATE

SEC. 208. Except as otherwise provided in this title the amendments made by this title shall take effect on the date of the enactment of this Act.

CONSOLIDATION OF LICENSES AND PROCEDURES

SEC. 209. The Nuclear Regulatory Commission shall consolidate, to the maximum extent practicable, licenses and licensing procedures under amendments made by this title with licenses and licensing procedures under other authorities contained in the Atomic Energy Act of 1954.

Mr. DINGELL. Mr. Speaker, the first amendment strikes from section 107 of the Senate amendment a provision extending the 90–10 cost-sharing formula to the so-called "Grand Junction" program authorized by Public Law 92–314. The remedial work under that law is nearly finished. We should not go back now and give one State a windfall of over $1.3 million from the National Treasury.

The second amendment is technical. It reinstates a sentence that appears to have been inadvertently dropped by the other body.

The third amendment is a substitution for title II of the Senate amendment. Many of the changes are technical to correct errors in the amendment, such as the deletion of unnecessary words.

The amendment also makes three substantive changes concerning title to land upon termination of a license, bonding, and cross-examination.

All of these amendments are agreed to by the minority and by the chairman of the Committee on Interior and Insular Affairs.

Mr. Speaker, I express my deep appreciation to Chairman UDALL and Congressmen BROWN of Ohio and BAUMAN and their staffs for their cooperation and efforts in trying to obtain enactment this year of this public health protection bill. It is my hope that the Senate will accept these amendments and send the bill to the President.

Mr. Speaker, the Senate amendment includes a number of changes in titles I and II of the bill. Many of these changes were discussed, in advance, with me and the staff of the two House committees with jurisdiction over this matter. We indicated that the House could quite probably accept many of these changes, although with some great reluctance in some cases.

SITE DESIGNATION

The Senate amendment makes it clear that the DOE will designate processing sites at the locations recently studied under contract with ERDA. It also includes a site at Slick Rock, Colo. The provision adequately meets the concerns expressed by our committee in its September 30, 1978, report on the bill (H. Rept. 95–1480, part 2). The processing sites to be designated at the named locations must meet the definition limitations for processing sites.

The Senate amendment also retains the priority provisions of the bill concerning designated processing sites, but adds clarifying language to make it clear that the DOE be flexible in negotiating cooperative agreements and undertaking remedial action. Health concerns are to be given the highest priority, but clearly the House does not expect the DOE to rigidly adhere to these priorities to the detriment of the program.

Another very useful addition is the requirement that the DOE give consideration to the potential problem of a property owner gaining a windfall profit under this program. Clearly, none want this to occur.

DOE MAINTENANCE SITES

The Senate amendment revises section 104(f)(2) to make it clear that the NRC cannot require, nor can the DOE on its own undertake, major additional remedial action after completion of remedial action without further action by the Congress. That change is welcome. It is consistent with the House view. Normal maintenance and monitoring is not a problem. Even expenditures in significant amounts under emergency conditions are probably warranted. However, additional and costly remedial action must be authorized by Congress through the appropriate committees with legislative jurisdiction.

FINANCIAL ASSISTANCE

Initially, the administration sought legislation authorizing 75–25 cost sharing. This percentage is identical to that now authorized for the similar Grand Junction program. Because of concerns that some States may not undertake the program with this cost-sharing formula, our committee raised the percentage to a maximum of 90–10. At that time, both Congressman BROWN of Ohio and I stressed that we would not agree to any cap on a State share or any lessening of that share below a minimum of 10 percent.

Subsequently, Senator HASKELL, who chairs the subcommittee considering title I, through his staff and others expressed concern that a maximum 90 percent Federal share would lead to inequities and encourage the DOE to treat one State differently than another. Most importantly, he indicated that if his State was required to pay more than 10 percent, the program might never be initiated. That is a real concern. Accordingly, I have indicated to the Senate that a guaranteed 90 percent was reasonable and would probably be acceptable to the House.

However, the Senate amendment also extends this 90–10 cost sharing to the Grand Junction program. That action would result in a gift of over $1 million to one State from the taxpayers of the entire Nation. When I conveyed my objections to this provision to the other body earlier this week and indicated that I would oppose the bill with this provision, I learned from one person that the other body intended to "call my bluff." I do not bluff and I hope that those in the other body who believe otherwise will now understand.

I believe that this bill addresses a worthy issue. The program is needed from a public health standpoint. I have agreed to many changes by the other body in a spirit of cooperation and desire to obtain enactment of this bill. However, if the other body does not accept this amendment concerning the Grand Junction program, as well as the revised title II of this bill, I will have no recourse but to object to its enactment, without a conference, in the 95th Congress.

AGREEMENT STATES

Mr. Speaker, under the Atomic Energy Act of 1954, States may enter into agreements with the NRC under which they are permitted to license certain activities. Amendments by this bill extend this authority to byproduct material as defined in section 11e.(2) of the 1954 act.

The House provisions sought to make it clear that mills located in agreement States would be treated no differently than those located in other States where NRC is the regulator. For competition reasons alone, we believed that this approach was sought.

The House bill would have required adjudicatory procedures, including a right to present direct and rebuttal evidence to subpena and depose witnesses and a NEPA-like analysis by agreement States in considering licenses for activities subject to the new provisions. The Senate indicated some concern about these provisions. In staff discussions, we tried to allay these fears, but the Senate insisted on revisions.

The Senate proposal that requirement for adjudicatory procedures not be required and recognition that State law will apply is acceptable. Also, the deletion of a requirement for direct and rebuttal evidence is reluctantly acceptable to use. However, we believe that even in nonadjudicatory proceedings some opportunity for cross-examination is essential when we are dealing with complex technical problems and serious health hazards. Thus, our amendment adds back an opportunity for cross-examination. However, again, I stress Chairman UDALL and I do not intend any trappings of adjudicatory proceedings in adding this provision.

The Senate amendment deletes any reference to NEPA, but adds several minimum requirements for the analysis required by the bill. These requirements are consistent with the principles of NEPA, accordingly they are acceptable to me.

TRANSFER OF TITLE TO LAND AND BYPRODUCT MATERIALS

Mr. Speaker, this provision is particularly troublesome partly because it is full of technical drafting errors. It is also inconsistent with other provisions of title II. It fails to recognize the fact developed at our subcommittee hearings that current mill owners do not always have title to the surface of the lands on which byproduct material is located and in even fewer cases they do not hold title to the subsurface minerals. Yet, the Senate amendment requires all licensees to transfer title of such land to the United States or a State, "unless the Commission determines * * * that such transfer of title is not necessary or desirable to protect health or minimize danger to life or property." This clause would not enable the NRC to conclude that a licensee who does not own the surface need not transfer it because ownership has nothing to do with the need to protect health, and so forth.

Furthermore, it seeks to reserve in the transferor, who could be someone other than the mill operator, with no technical or other knowledge concerning tailings or their hazards, the absolute right to use the surface and subsurface estates for any purpose. Such a reservation is also provided for the byproduct material which in earlier part of this provision it is stated that title to such material shall be in the United States. Such a reservation is inconsistent with that requirement. There are other problems also.

We are sympathetic to the desires of the Senate to preserve property rights in individuals and in the States. At the same time, I think that the Senate should understand that we are concerned about maintaining these tailings, after a license is terminated and the mill operations cease, in a stabilized condition so as to prevent hazards and the need for another costly remedial program. Our amendment seeks to mesh these concerns and eliminate the problems I just mentioned.

The amendment provides for transfer of title of land to a State, at its option,

or the United States, just as the Senate proposed. It includes the clause allowing the NRC not to require such transfer if NRC determines that it is not necessary to protect health, et cetera. Such determination would be made in accordance with section 181 of the 1954 act.

This provision applies to future licenses. In the case of existing licensees, the NRC is given discretion to determine whether or not such transfer is required, taking into consideration the practical problem of who owns the land.

The amendment also establishes a procedure whereby the NRC can permit the use of the surface and subsurface by order if it is consistent with public health, safety, et cetera, requirements. The transferor would be first to obtain the right of such use.

We have made some other technical changes, such as making it clear that a State, like the United States, gets the land free. The Senate amendment failed to do this.

Mr. Speaker, I believe we have developed a reasonable and sound alternative that I hope the other body will accept. I think that the affected States and their citizens want a bill that is reasonable and that works. Most importantly, they want to deal now with this serious problem.

AUTHORITY TO ESTABLISH CERTAIN REQUIREMENTS

Also included is a clarifying amendment to section 203 relating to the need for long-term maintenance and monitoring of disposal sites. It is not our intention to impose an unreasonable or unachievable burden upon the industry, but merely to insure that, at the time the license is terminated and title is transferred to the United States or the State, the licensee is in compliance with all applicable NRC standards and regulations effective on the date of such transfer. Thus, compliance with all NRC standards and regulations at the time of the transfer will be presumed to be sufficient to minimize and, to the maximum extent practicable, eliminate the need for long-term maintenance and monitoring.

At this time, Mr. Speaker, I want to commend Chairman UDALL and Congressmen BAUMAN and BROWN of Ohio for working closely with me in trying to enact a bill that many of our colleagues feel is essential. Their cooperation has been very helpful in resolving some difficult problems in a short time.

I also want to express my appreciation to Senators JACKSON, RANDOLPH, HASKELL, DOMENICI, and MCCLURE and others who have worked tirelessly to develop a good and sound bill. I think H.R. 13650 with these Senate amendments and these three additional amendments is just that.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

● Mr. UDALL. Mr. Speaker, I rise in support of the motion. The gentleman from Michigan, the chairman of the Commerce Committee and I have worked together to produce a piece of legislation that would provide a thorough and fair solution to the problems presented by the hundreds of thousands of tons of uranium mill tailings that are now stored with variable levels of protection around the United States. We have done our best work with the Senate to reach compromises. The Senate has returned to the House a bill that is unacceptable, and now request that the House return the bill to the Senate with amendments.

I would like to acknowledge the distance which the Senate has come on certain issues to meet us on this legislation, and thank them for that effort. I want to make clear, however, the aspects of their bill which I find not to be in the best interests of fairness, the public health and safety, or the uranium milling industry itself.

First, H.R. 13650 included a requirement that the Nuclear Regulatory Commission and the States, in their uranium milling licensing activities, insure, to the maximum extent practicable, that when licenses for the production and disposal of uranium mill tailings terminate, the resulting tailings storage sites will not necessarily require in all cases attention and maintenance.

The Senate amendments to our bill repetitively assert that the Commission's philosophy should be to begin with a premise that long-term maintenance of the sites will be required. This approach is not only unfair to future generations; it is so misconceived that it will, in fact, place a burden on the uranium milling industry. Under the Senate version, the Commission and the States will have no choice but to require that companies somehow provide financial security to take care of the future costs of maintenance. I pity the company, particularly if it is small, that has to go out and procure a bond or make some arrangement for adequate funds to remain available for thousands of years.

My colleague Mr. DINGELL, and I, and both of our committees, have reached a clear understanding of what this provision should mean with respect to implementation. The Commission and the States, through their enforcement of regulatory standards promulgated pursuant to State or Federal law, should begin with the premise that where steps can be taken to remove the necessity for long-term maintenance, they should be taken. We recognize that our understanding of the nature of the mill tailings management problem; our ability to provide engineering methods to accomplish our goals, and the limitations of economics which must be considered if a milling and disposal project is to be viable, all preclude elimination of long-term maintenance requirements all across the board. Where making long-term care unnecessary is not practicable, the Commission and the States, with the industry, must be pledged to minimize the necessity for such care.

It is also our intention that the Commission and the States, in implementing standards and regulations for mill tailings control, consider possible differences in applicability of such requirements to existing tailings sites relative to new tailings sites.

My second major concern is the Senate's reluctance to provide to the public the right to cross-examine witnesses at public licensing hearings. I thank the Senate, and acknowledge its wisdom, for agreeing that public hearings and thorough environmental reviews are necessary parts of any licensing process which has a significant impact on public health and the environment. I do not agree with them that a simple opportunity for members of the public to question in any formal or informal way which a State deems adequate and pursuant to State law, the data and assertions of hearing participants. This is the offer the Senate refused in our negotiations.

I should emphasize that neither Mr. DINGELL and I, our committees nor the House has asked the States to meet the full-blown adjudicatory rules of Federal administrative procedures. Rather, the pending amendment calls for an opportunity for cross-examination and other procedures, including a written determination and findings based upon the evidence presented during the public comment period. I believe that this proposal is responsive to the Senate's concerns and should be accepted by that body.

Our new amendments to title II of H.R. 13650 also included technical changes which would remove ambiguities and internal inconsistencies contained in the Senate bill.

The bill we sent to the Senate, Mr. Speaker, was fair. We offered the States what will probably amount to close to $200 million in aid to pay 90 percent of the costs of cleaning up the hazards of thousands of tons of tailings left over from our less thoughtful regulatory days. We protected the rights of States to license the uranium milling process, and reinforced the authority of both the States and the Commission to control the active production and disposal of tailings. We gave flexibility and certainty to the uranium milling industry. Today's amendments take a step further toward the Senate position, and we can move toward them no more.

I urge the House to accept these amendments and return the bill to the Senate, bearing in mind that we are acting on a major issue in national nuclear waste management.

Thanks to my colleague, Mr. DINGELL, for standing firm on these issues, to Mr. MARRIOTT for his hard and sensible work, to our ranking minority Member, Mr. BAUMAN, for his support, to Mr. MCKAY for his substantial contribution to the movement of this legislation, and to their respective staffs.●

A motion to reconsider was laid on the table.

MOTION TO DISAGREE TO SENATE AMENDMENT NO. 103 TO H.R. 12929, LABOR-HEW APPROPRIATIONS, FISCAL YEAR 1979

Mr. FLOOD. Mr. Speaker, I again move to take from the Speaker's desk the bill (H.R. 12929) making appropriations for the Departments of Labor, and Health,

Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes, with Senate amendment No. 103 thereto and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read Senate amendment No. 103 as follows:

Page 40, strike out lines 1 to 4, inclusive, and insert:

SEC. 210. None of the funds provided for in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate amendment which we will now consider.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FLOOD. Mr. Speaker, I have moved to disagree to the Senate amendment.

The SPEAKER. That motion is now pending.

PREFERENTIAL MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a preferential motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate.

The SPEAKER. The gentleman from Pennsylvania (Mr. Flood) is recognized for 1 hour.

Mr. FLOOD. Mr. Speaker, I am very sorry that we put the Members of the House through the agony again of voting on this highly emotional and very controversial subject, but the situation is as follows.

The fiscal year 1978 began on October 1, which, of course, the Members know. The Departments of Labor and Health, Education, and Welfare, and the related agencies have been operating without appropriations since that time. As Members have heard, I am sure, many of the employees of these departments will receive only a partial paycheck next week.

The House on Thursday, Members may recall, adopted a conference report on the Labor-HEW Appropriation bill, and the House by a vote of 188 to 216 insisted on its disagreement to the Senate amendment No. 103, which deals with payments for abortions. On Thursday evening the Senate also adopted the conference report but amended its language with respect to abortions and sent the bill back to the House. Therefore the abortion issue is the only matter on which the House and the Senate have not agreed and it is the only issue which is before us tonight. The Senate is very anxious for the House to vote directly on the proposed language, which is exactly the same language which the Congress adopted for fiscal year 1978. I do not believe that the House will adopt the same language. I myself intend to vote against it for the reasons which I have stated so many times.

However I am willing to cooperate in any effort which will move the Labor-HEW appropriation bill toward enactment. I believe that if the House reaffirms its rejection of the Senate language, then the Senate will pass the continuing resolution which the House passed on September 26. The continuing resolution provides funding for all of the agencies contained in the House bill, as Members very well know.

Mr. Speaker, I urge all Members to vote to disagree to the Senate amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. MICHEL) for 30 minutes.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, there is no need for us to go through this agony once more. We are being asked to go over the top and charge again on this issue that we have voted on repeatedly in prior years and this year. The fact is we passed a concurrent resolution some days ago. The Senate has passed a concurrent resolution, I understand, or is certainly able to at a moment's notice, but once more they want to force a vote at the 11th second of the 11th hour. We have energy to debate tonight. We have tax reform to debate tonight. We have a whole litany of important legislation, but, no, the gentlemen in the other body want us once more to vote on this very difficult issue. I think it is an imposition. I think it is very unfortunate. In addition I think it is ironic. I think it gives a new dimension to the term "irony," that we are being asked to vote on funding the killing of prenatal children—prenatal life, especially after we have just spent a few hours debating the salvation of the red-crested woodpecker and the ruby throated hummingbird, and regarding any number of other endangered species. It seems to me that our priorities in the realm of life sometimes get a little confused.

We are now asked to accept the language the Senate is proposing to us because abortions are down 98 percent. We will hear that the statistics show that there were only about 2,800 abortions that have been performed pursuant to this law in the past year.

I suggest to you that is unfair, and that is highly inaccurate because we do not have the statistics.

California, a great consumer State when it comes to abortions, New York, a great consumer State when it comes to abortions, have not had their statistics submitted. We do not know how many abortions will be claimed, how many vouchers will be submitted under this law.

So, to cite fractional statistics that are available now is to mislead—I do not say intentionally mislead—but when you do not have all the facts, you ought not to assert that one has the facts.

I also think it comes in poor grace to charge those of us who resisted the use of tax dollars to exterminate unborn children, that because we went along with the military on the same language so we ought to go along with the same thing here.

I do not think it is fair to those of us who tried to be as reasonable as we could under the most difficult circumstances imposed on us by the other body.

The SPEAKER. The time of the gentleman has expired.

Mr. HYDE. Would the gentleman yield me 1 additional minute?

Mr. MICHEL. I will be happy to yield the gentleman 2 minutes.

Mr. HYDE. I thank the gentleman.

Mr. Speaker, I submit that the regulations that will be drafted by the Department of Defense ought to be a little closer to the legislative intent of this body, than the regulations issued by HEW that totally capitulated to the other body.

So we do not have the statistics. We need those statistics. The House has voted repeatedly that we are only going to fund abortions where the life of the mother is endangered and not for other reasons that invite fraud.

I submit this is an imposition on us. I hope the Members join in the sentiments of the chairman of the subcommittee and vote "no."

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. YOUNG).

Mr. YOUNG of Missouri. Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FLOOD) for yielding to me, and I rise in opposition to the motion before us.

Mr. Speaker, if this language passes, then I believe it is critically important that Secretary Califano know what the intention of the House is respecting the language's interpretation and enforcement. I am asking then that the February 22, 1978 letter to Secretary Califano, signed by 50 of our colleagues and representing both parties and liberals and conservatives, be included in the RECORD as legislative history respecting the position of the House on the matter.

FEBRUARY 22, 1978.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: As you know, on December 7, 1977, the U.S. Congress passed the following language on a Continuing Resolution, for the Department of Health, Education and Welfare for the 1978 fiscal year. The purpose of this resolution is to limit HEW funding for abortions:

"None of the funds provided for in this paragraph shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures

necessary for the victims of rape or incest, when such rape or incest has been reported promptly to a law enforcement agency or public health service; or except in those instances where severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term when so determined by two physicians.

"Nor are payments prohibited for drugs or devices to prevent the implantation of the fertilized ovum or for medical procedures necessary for the termination of an ectopic pregnancy.

"The Secretary shall promptly issue regulations and establish procedures to ensure that the provisions of this section are rigorously enforced" (Section 101 of Public Law 95-205).

On January 26th, 1978, HEW issued regulations respecting the implementation of the above law.

In arriving at these regulations, your office had a series of basic policy regulations to decide. As Attorney General Bell correctly noted in his letter to you respecting the new regulations: ". . . for the most part, neither the language of the section nor its legislative history provides clear answers." The Attorney General further noted that you had broad discretion on deciding these basic policy issues.

In the opinion of the undersigned, you as Secretary of HEW used your broad discretion to resolve each of the basic questions of law in favor of the permissive position advocated by the Senate, as opposed to the far more restrictive position continually maintained in the House. But beyond this overly expansive rendering of the provisions of the new law, of equal or greater concern is the fact that the regulations do not provide for the enforcement of the provisions of the law (even liberally interpreted) in terms of: a) determining whether abortions are being performed for actual or fictitious serious physical health conditions, or b) for actual or fictitious incidents of rape or incest. Even assuming that HEW launches a major auditing effort to guarantee that federal funds are being expended only after signed certificates from physicians are received, there can be little hope that such an effort will reduce, by one, the number of fraudulent claims for reimbursement for abortions performed on healthy women; the same applies in cases of rape or incest reports. Finally, the regulations fail to provide for the needs of actual rape and incest victims after the abortion.

While, strictly speaking, the regulations do not in every instance fall outside the letter of the law, they most certainly violate the intent, purpose and spirit of the law; and in so doing they render meaningless the oft repeated commitment of the Carter administration to a strict limitation on the use of federal funds for abortion.

Specific concerns with the regulations follow:

(A) The regulations are overly permissive in regard to each of the key provisions of the new law:

(1) "Medical procedures" are interpreted to include abortions. HEW could have interpreted medical procedures not to include abortion. To support such an interpretation, you could have cited the history of the use of the phrase "medical procedures" in a) last year's conference report, in b) this year's evolving floor language, and c) as the words were understood by the author of the final language that became law.

(2) Rape is interpreted as including statutory rape. The regulations could have limited rape to forced rape. To support such an interpretation HEW could have referred to Congressman George Mahon, Chairman of the House Appropriations Committee, when he said on the floor on December 7, that, "If I know anything about words, 'rape' means 'force,' . . ."

(3) Reporting requirements for rape and incest victims are lax and ineffective.

(a) Anyone can report the crime, even the secretary of an abortion clinic; and the report can be made after the abortion has been completed.

(b) The report can be made up to two months after the crime was allegedly committed. Here is a case where both the language in the law and the legislative history were very clear. Nevertheless, HEW adopted the weaker position. The law requires that incidents of rape and incest be "promptly reported." However, the regulations define the word "promptly" to mean a full 60 days. Inclusion of the word "promptly" was first proposed by Senator Helms who said that, "placing the word 'promptly' before the word 'reported' will eliminate the possibility that 2 or 3 months after the fact, a supposed victim could claim to have been raped when as a matter of fact she had not." The Senate initially defeated inclusion of the word because it was too strong, but later in an effort to come up with compromise language that the House would accept, they included it.

But in including it, Senators Metzenbaum, Brooke and Magnuson said it did not mean what its original author, Helms, had said, but rather it meant months, even 90 days or more. When the House considered and debated the word "promptly", three leaders of the compromise forces, Chairman Mahon of the Appropriations Committee, Robert Michel, Minority Leader of the Labor/HEW Subcommittee, and Representative Don Bonker all indicated that "promptly" meant precisely that, promptly. Representative Michel referred to a 30-day range and Congressman Bonker said, "promptly does not mean it would be done 4 or 5 weeks later and thus qualify for Medicaid abortion." In drafting the regulations, HEW disregarded the common sense understanding of the word "promptly," disregarded the intent of the original author of the language, disregarded the intent of the compromise forces in the House who accepted and defined the language, and instead went along with the interpretation provided by the pro-abortion leaders in the Senate.

(c) The report of the crime of rape or incest can even be made by mail, and need only include the victim's name, not address. Nowhere in the law or the legislative history is it indicated that the victim's address need not be reported. Inclusion of the victims address was specifically referred to by Congressman Michel on the floor (12/6/77 Cong. Rec. 38395). Congressman Michel also said, "and then I would expect . . . some exchange or confirming of interrogation that would take place." (38394). Yet not even the address is required by HEW.

(B) The regulations fail to establish any procedures requiring accountability on the part of physicians who perform abortions on their patients. Thus, HEW will be unable to determine if the abortions are allegedly performed for reasons of: a) danger to the life of the mother; b) physical health damage; or c) rape or incest, are actually being done for these reasons. (The potential for abuse in this area by physicians who perform abortions is not remote. Consider the following: In 1967 the state of California adopted an abortion statute that contained a mental health exception. In four years the number of legal abortions skyrocketed going from 700 a year to 116,749. Well over 90 percent of these abortions were done for reasons of mental health. The California General Assembly had attempted to avoid this abuse by defining mental health to mean "mental illness to the extent that the woman is dangerous to herself or to the person or property of others and is in need of supervision or restraint." In addition, the California statute required three physicians certify that the abortion is necessary. Nevertheless, by 1971 well over 100,000 abortions were being performed, for this reason, annually in California. New York state didn't require the subterfuge of "mental health" in its statute. It reported only 2 percent done for this reason.) Consequently, rather than discouraging abuse in the area of abortion funding, the regulations invite abuse.

(1) It can reasonably be argued that the HEW regulations could have required that the health conditions that warrant an abortion must be a) pre-existing, or b) present when the abortion occurs. Then HEW could have indicated that its officials would randomly check medical records in order to:

(a) Ascertain if, in fact, doctors were abiding by the regulations; and if not,

(b) Take remedial action whenever abuse was detected.

Instead, HEW requires no medical documentation to support the need for an abortion and accepts as final the doctor's signature that the abortion was necessary. Furthermore, a high-ranking HEW official was quoted as saying, ". . . that checking up on 'fraud' would not include second guessing of doctors' medical decisions, by either state or federal officials". (Washington Post 1/27/78).

It is important to note here, that in an effort to justify this lack of accountability by physicians, the regulations misuse statements made by pro-life Congressmen. During the debate on the House floor, Congressmen Hyde of Illinois and Bauman of Maryland, expressed the concern that the exception of "severe and long-lasting physical health damage" would be abused. Congressman Hyde said, "The long and short of it is, whatever is serious, whatever is long-lasting, is up to the doctor to decide. It can be a migraine headache or it could be varicose veins; it could be any condition that, in the doctor's medical judgment, is serious and would be long-lasting." (Cong. Rec. 12/6/77).

Congressman Bauman said: ". . . as to the mother's health exception it would be left to the doctor." (Cong. Rec. 12/7/77). HEW included these quotes in its regulations not in the context of accepting them as a warning, signaling the need to formulate regulations that would prevent abuse by holding physicians accountable, but rather as a justification for not requiring any concrete documentation of the need for the abortion at all.

(2) HEW could have required that the reporting of the crime of rape or incest include enough information so appropriate authorities could randomly investigate to see if the complaints of a crime were supported by any evidence. This would serve as a deterrent to anyone who would consider making a false complaint of being a victim of rape or incest. Instead, all that HEW requires is for the name of the individual to be sent by mail (by anyone) to a designated law enforcement agency or public health entity. What those institutions can do with only names is obvious, nothing.

(C) Finally, HEW showed an alarming lack of understanding in respect to the kinds of help the actual victims of rape and incest need; and what its responsibility to society in this area should be. In its exercise of tunnel vision to protect an individual from ever having to justify a claim of rape or incest in order to obtain a Medicaid abortion, HEW has effectively precluded the automatic involvement of responsible authorities, legal and social service, to intervene in an attempt to:

(1) Determine if, in fact, there has been the commission of a crime;

(2) If possible get the rapist off the street, so that other girls/women will not be victimized;

(3) Get the victim of an incestuous relationship out of the home; and

(4) Provide counseling where necessary for the victims of rape or incest.

HEW had the opportunity to come up with tight regulations that would have effectively limited federal funding to abortions that actually fit within the stipulations of the law as intended by Congress. By adopting stricter regulations HEW might have limited the number of federally funded abortions to 20,000 or less. In rejecting this possibility, HEW has opened the door to massive abuse.

Instead of implementing a compromise that would be observed and a statistical experience developed, the HEW regulations have nullified the House's efforts and fueled more controversy in the immediate future.

We respectfully urge you to re-draft these regulations more in keeping with the intent expressed by the amendment's author and the House.

Sincerely,

Tennyson Guyer, Larry McDonald, Frank Annunzio, Robert E. Badham, James A. Burke, Thomas N. Kindness, David C. Treen, Harold L. Volkmer, Robert A. Young, Delbert L. Latta, Joseph M. Gaydos, Trent Lott, Donald J. Mitchell, Romano L. Mazzoli, Tom Corcoran, Samuel L. Devine;

Marty Russo, David E. Bonior, Louis Frey, Jr., John G. Fary, James L. Oberstar, Robert K. Dornan, Richard Nolan, Gunn McKay, Henry J. Hyde, Edward J. Derwinski, Bruce F. Vento, Dale E. Kildee, Robert L. Livingston, Harold Runnels, Joseph M. McDade, G. William Whitehurst;

Billy Lee Evans, Bob Wilson, Robert E. Bauman, Joshua Eilberg, John H. Rousselot, Philip M. Crane, Leo Zeferetti, Henry J. Nowak, Robert S. Walker, Robert J. Cornell, Jim Leach, Richard Kelly, Alan Stangeland, Bill Chappell, Jr., Mickey Edwards, Thomas Luken.

Mr. MICHEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as has been alluded to by our subcommittee chairman and the gentleman from Illinois (Mr. HYDE) here we are again with the traditional controversy on the HEW bill having to do with abortion.

I am in a quandary here this evening because it just so happens that the language which comes back to us from the Senate is that which I authored in the bill last year. That is what we are operating under today.

I did make mention, however, during consideration of the bill when it was originally considered here in the House, that I was trusting to the Department to write strong regulations to implement what we were talking about, particularly with respect to prompt reporting of rape and incest.

It was because of that failure on the part of the administration to draw those strong regulations that I backed up to a stronger position, which was taken by the House as our bill originally passed this body, simply saying:

None of the funds provided in this Act shall be used to perform abortions except where the life of the mother would be in danger if the fetus were carried to term.

Subsequently, there was a continuing resolution for both the Department of Health, Education, and Welfare and the Defense Department. It just so happened that to be consistent, we adopted that language for both Departments in the continuing resolution.

There is a feeling on the part of some of us that it is more acceptable to have that in the Department of Defense because we have already had indications that they intend to administer it much more tightly than has the Department of Health, Education, and Welfare; and so, because of that, I still have that bit of a reservation about it.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I asked the gentleman to yield in order to expand on what the gentleman has said.

I understand fully the concern the gentleman from Illinois has had about the HEW regulations and about the language now pending, which the other body suggests we accept.

Mr. Speaker, as the gentleman from Missouri just noted, some 50 Members of the House signed a letter protesting the manner in which these regulations were written as being inconsistent with congressional intent.

Am I not correct that the gentleman's intention, as author of the current language in the law was to strictly limit abortion funding rather than creating a series of loopholes permitting a great number of abortions?

Mr. MICHEL. That is correct.

Mr. BAUMAN. I would also like to ask the gentleman this question. I know he spoke a number of times in debate before the House about his intention regarding those who were victims of rape or incest and that the medical procedures which would follow after an event like that ought to be administered within a matter of hours or days and not a month or several months after the fact, in effect, creating another means to provide more abortions. Is that an accurate statement?

Mr. MICHEL. I believe I made mention of that earlier in my remarks, but that was my position; and that kind of interpretation was that which I preferred, yes.

Mr. BAUMAN. One of the problems which has arisen, as these regulations are written and issued by the Secretary, regards the reporting of rape and incest, which this language requires; and as I understood it, the reporting requirement was put in so that there would be criminal prosecution and so that the victim would have immediate access to any social services that would be necessary.

Could the gentleman tell me, in his view, what HEW's responsibility should be at that point?

Mr. MICHEL. I would expect that the Department of Health, Education, and Welfare would randomly check these reports to determine whether the agencies receiving them are acting to help the victims and help prevent, as best they can, a recurrence of the crime.

Mr. BAUMAN. That was the view of the gentleman from Maryland; and, of course, the regulations did not go that far.

The last point I would like to raise with the gentleman is the interpretation he placed on the exception that was in the language requiring severe and long-lasting physical health damage to the mother as one of the determinants of whether or not an abortion would be permitted. I assumed, and I think perhaps the gentleman and other assumed, that there would be some documentation made of the past health condition of the person. At the present time no documentation of the health condition based on medical records is demanded and physicians are performing and being paid for abortions on persons who have no such condition.

However, as interpreted, apparently HEW only requires the signature of 2 physicians and no proof of condition is required. I would hope that what could be provided under these regulations if they are to be revised is a documented medical record justifying the existence of such a previous condition.

Mr. MICHEL. The gentleman will recall in the debate even last year I had expressed the hope and the view that we were going to do much better by way of gathering statistics in order for us to make a more valued judgment on the effectiveness of the language. While the gentleman from Illinois (Mr. HYDE) alluded to it as being somewhat incomplete, it seems to me that HEW should require medical records justifying the abortion and should regularly check them as part of their auditing procedures, and that is what I would expect them to do.

Mr. BAUMAN. I appreciate the gentleman's response, if he would yield to me momentarily.

I would also like to encourage the Members of the House to vote against the motion to concur as offered by the gentleman from Texas. I think it is unfortunate that this matter has been brought before us at this time for no reason except to satisfy the members of the other body who demand another vote. They have an avenue to resolve this: the continuing resolution, which has been referred to by others in debate, which could be adopted, and that would resolve the issue. I hope that we would strongly reject the motion to concur and go on with other business.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, it really does not matter what happens on this bill tonight, and I think Members ought to be aware of that. The only question that faces us is whether the Departments of Labor and HEW will be funded under the regular process of a regular appropriation bill, or whether they will be funded under the irregular process of a continuing resolution, which in fact gives departments an excuse to squirrel out from whatever recommendations and admonitions we lay down in our reports on regular appropriation bills. To that extent, to the extent that they think it does that, it guarantees less adherence to congressional intent. That is the only real question at stake here tonight.

There is no issue left on abortion. This House already passed the continuing

resolution which contains the exact language that would be offered by the gentleman from Texas (Mr. MAHON) the chairman of the committee. This House adopted that continuing resolution on a record vote of 349 to 30, so the House has already acquiesced in the continuing of last year's language on the abortion question.

I would suggest that it would do the dignity of this House much better if we would insist that we fund every department of Government through the regular appropriation process, which means that we drop this sham that we are going through here tonight.

I would also make the point that I do not think it is very easy to justify allowing the Department of Defense to have this identical language which the gentleman from Texas (Mr. MAHON) is trying to get the House to adopt on this bill, but not allowing that same language for Labor-HEW. Despite the protestations of the gentleman from Illinois, the fact is that if you work in Paris or Strasbourg for the Pentagon, you will be able to have an abortion if you are the victim of rape or incest, or if you are subject to a health condition which in the opinion of two doctors will result in long-term health damage, such as serious kidney disease. If you are under the Pentagon, if you work in any of the glamorous cities around the world and work for the Pentagon, you will be able to get that abortion, but unless the amendment of the gentleman from Texas is adopted, we will not apply the same standards to Americans here at home, and I do not think that is justified.

Before last year's limitation was adopted, there were over 250,000 abortions funded under medicaid in this country.

With the adoption of the language that the House passed last year and which the House has already approved in the continuing resolution, we dropped if the figures are accurate, to an estimated 2,300—not 23,000, but 2,300 abortions. That is a 99-percent reduction if these figures prove to be accurate.

It is true, as the gentleman says, at least I think it is, that the figures from California and New York are not yet in; but the fact is that they belong to the same country as every other State. The regulations required by HEW ought to be the same for all States. No matter what the numbers are, it cannot be denied there has been a massive—a massive reduction in the number of abortions under the language proposed by the gentleman from Texas.

I would urge the House to drop the charade and pass the language we have already approved on the continuing resolution so that we can, at least, have the dignity of funding the Labor-HEW bill in a regular dignified manner. The only way we can do that is to pass the amendment of the gentleman from Texas.

Mr. MICHEL. Mr. Speaker, will the gentleman yield briefly?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, the points the gentleman makes are well taken. Cannot we really sum it up this way, the continuing resolution having the same language runs until March 31. If we go the route of the regular bill, we go to September 30; so the only difference we are talking about here is whether or not we have this language prevailing through March 31, or whether or not it is for the balance of the year.

Mr. OBEY. Well, no. I do not think that is the only difference. I think the difference is whether this issue will be addressed, frankly, before the election or after the election. That is the real issue. As I pointed out, this House has already approved the language which the gentleman from Texas is asking us to approve and 349 Members of this House voted for it.

Mr. MICHEL. Mr. Speaker, if the gentleman will yield further, there is no question about that; I was just helping the gentleman make his case. What this narrows down to right now is this: Are we going to make the decision for the whole fiscal year or only through March 31? That is where I have the particular problem. I do not know that there is all that much difference.

Mr. OBEY. That may be a consideration for some. I doubt it is the consideration of very many people on this floor. I think it is merely an inconvenient rollcall that most Members would not like to make until after the election.

Mr. FLOOD. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, this is a repeat of the extended debate we had on the same subject last year. The one difference is that last year we had no facts and we had no statistics to really make a determination on the effect of this new language. This year we do have the benefit of that information. In fiscal year 1976, before the adoption of this language, the Federal Government was involved in approximately 261,000 abortions that were partially funded by the Federal Government. This data is based on State by State surveys and is the only data we have available at this time. In the period between February 14, 1978, and June 30, 1978, HEW estimates that only 739 abortions were performed which were eligible for Federal funding. On that annual basis this works out to be approximately 1,600 abortions. That is less than 1 percent of the abortions that were previously allowed before the adoption of this language.

Moreover, of the 739 abortions reported for that period of time, just 49 were allowed either for severe or long-lasting damage or for cases involving rape. Nearly all the remainder of these abortions would have qualified under the so-called Hyde language which is the basis of our discussion this evening.

Now, Mr. Speaker, I am one of several who have consistently supported the gentleman from Illinois (Mr. HYDE) because of my own strong feelings about this particular subject, but I felt that last year we had arrived at language that was moderate, reasonable, and acceptable. I helped to influence a number of Members to switch their vote, which made possible our adoption of the present language and breaking this long-lasting deadlock.

Mr. HYDE. Mr. Speaker, will the gentleman yield?

Mr. BONKER. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding.

I just want to discuss one thing for a few seconds.

We were told the statistics have been recited to us. I have heard them, and, of course, if I could accept those, I would be a very happy person because we would have saved an awful lot of unborn lives.

But do we not agree that those statistics are so fractional, so incomplete that it would be unwise and certainly inaccurate to rely on them? I say that because California, New York, and many other States have not reported because they do not have to report as yet. We have a gubernatorial race in New York, and we have a gubernatorial race in California, and why should they report inflammatory statistics and raise this issue?

I do not think we can rely on them. But if we do go under the continuing resolution, by next March the full statistics should be in, and then we will really know we are not just leaping in the dark as we are being asked to do tonight.

Mr. BONKER. Mr. Speaker, I ask that we concur with the Senate language on this issue.

Mr. FLOOD. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I am not going to take the full 2 minutes.

As I understand the language that we are discussing here, it is not only the language that is in the continuing resolution but it is also the language that was sought to be inserted last Thursday. We just voted on this very same language just on Thursday of this week and rejected it.

It is going to be interesting to me, Mr. Speaker, to see how the Members vote today in comparison to their vote last Thursday. I think that the House should vote again, as has been brought out here, that it is time to reject this language for the permanent bill for the full year, and that we continue with the continuing resolution. As has been stated here, we can wait and get all the statistics in and then come back and see where we are. We can come back in March and review it at that time.

Mr. Speaker, I urge a strong "no" vote against the motion offered by the gentleman from Texas (Mr. MAHON).

Mr. RUSSO. Mr. Speaker, once again I feel it necessary to rise and speak against that portion of the Labor-HEW appropriations bill that would permit the U.S. Government to spend any of the taxpayers' money on programs which would mean the end of a human life through abortion.

As a supporter of the equal rights amendment, I stand firmly behind the belief that to not give the unborn child the same rights given all other individ-

uals is a miscarriage of justice. For as surely as I stand here before you, the small little heartbeat of a human fetus is as important as yours or mine. Just because there is no vocal outcry or other visual sign of life, does not mean that the unborn is not a real living person capable someday of making decisions, making choices, and yes, making mistakes occasionally even as we, here in this Chamber, sometimes do.

I ask this body, my esteemed colleagues, not to make one of those mistakes tonight as we approach the closing hours of this session. Our colleagues in the Senate have been more lenient in their interpretation of when an abortion would be acceptable. We cannot afford to relax under the pressure of the moment and allow words to slip through; words which we do not mean, words which we will regreat tomorrow in this conference report.

There have been many statistics cited on both sides. Statistics which include the number of unwed mothers on welfare, or abused or unwanted children, and the incidence of incest. These may well be accurate figures, but even so, are these reasons why we should have the power to say "statistics indicate that this fetus would probably end up on welfare or become a victim of crime, therefore, it is better that this child not live at all?"

What about the many individuals who have come from less than desirable circumstances and who have gone on to make outstanding contributions to mankind? There have been composers, artists and scientists who were illegitimate or abandoned as infants. What a loss if their mothers had opted for an abortion, supplied by the Government, at the taxpayer's expense.

Mr. Speaker, I ask the men and women in this chamber—who have the power in their votes to say, "yes, I believe in life"—to act prudently as they weigh carefully their decision here this evening.

● Mr. BAUCUS. Mr. Speaker, I am extremely pleased that the conference report on H.R. 5037, which is part of the energy package now under consideration, contains the Solar Energy for Homes Act which I introduced early in this session.

My bill amended the National Housing Act to permit Federal housing loans to increase by up to 20 percent to cover the cost of solar energy equipment. This conference report contains a similar provision.

The genesis of my bill was very simple. Contractors had complained to me that their customers were often unable to install solar equipment because of the liimts on Federal home loans. Increasing these limits by 20 percent to cover the costs of such equipment seemed like a simple step that would greatly encourage the use of solar power.

When I introduced this bill, I also introduced legislation containing similar provisions for Veterans' Administration loans and a bill amending the Consolidated Farm and Rural Development Act to explicitly include solar equipment among the items for which farm improvement loans could be made or guaranteed. The latter bill was included in the 1977 Farm Act. My Veterans' Administration legislation never made it out of committee, but I hope to reintroduce it next year.

I am a strong proponent of solar energy. The clear skies of Montana plus its copper industry make my State ideally suited for development of this valuable resource. The State of Montana is a national leader in promoting solar energy and the National Center for Appropriate Technology in Butte, Mont., is doing valuable work developing application of solar energy that all homeowners can afford.

While it is only a small part of the important and complex energy legislation before you, my Solar Energy for Homes Act represents a significant Federal commitment toward enabling Americans to enjoy the benefits of safe, clean, and efficient solar power.

Mr. Speaker, I also want to use this occasion to cite serious failures by the Department of Housing and Urban Development (HUD) in protecting consumers from fraudulent home insulation claims and in taking timely, commonsense action to promote better public knowledge of the value of proper insulation in homes. In contrast, the Federal Trade Commission (FTC) has been working effectively to aid homebuyers and homeowners and in helping sound industrial efforts to conserve energy used in residential homes.

With the enactment of the National Energy Act, there is an excellent opportunity for the President, through his Domestic Policy Staff, to direct HUD to begin actually helping consumers from home insulation fraud.

For example, in the case of manufactured housing, HUD issues what it terms a structural engineering bulletin or SEB, which covers factory-built homes. HUD claims it deals only with structural characteristics, even though it may be a sealed panel home with insulation already in it. HUD says that thermal characteristics are considered in the local HUD field office in examining each separate application for Federal Housing Administration (FHA) mortgage insurance. In contrast, HUD's own manual on manufactured housing states that all aspects of manufactured housing must comply with the minimum property standards and quality control procedures at the factory are an integral part of this.

A firm can claim that its home will use 40 percent less energy than any other home no matter how insulated. Unfortunately, HUD's only concern is whether the home being presented for mortgage insurance complies with the FHA minimum property standards for wall, floor, and roof insulation and window-to-wall ratios. No matter how exaggerated and false the claims of a firm, HUD will maintain its SEB.

A firm can make the claim that its roof overhang saves 10 percent on energy costs, even though a room overhang could only save on cooling costs, and it will increase heating costs, yet HUD will maintain the firm's SEB.

A company can claim that the vapor barrier belongs only in the middle of the insulation, when in the opinion of qualified engineers, this could cause structural damage to the dwelling, damage to the insulation and increase heat consumption, yet HUD will maintain the firm's SEB.

HUD can find a firm making exaggerated claims about its home, its "R" value and energy consumption. HUD can send this to the Federal Trade Commission, yet HUD will still keep the SEB on its active list.

HUD has a distinct responsibility to homeowners. It has an Office of Consumer Affairs. As now constituted, that office only suggests to a HUD agency such as FHA, that it ought to cancel a SEB due to improper advertising claims. There is no HUD public interest protection process.

The October 2, 1978, Washington Post pointed out that an "FHA 'Inspection' of a Home Doesn't Mean it's Sound." This article described a family who bought a home after it was appraised and approved by FHA based on an inspection. This home was so defective that the forced air furnace did not even have cold air returns. FHA refused to take any action despite the need for $4,000 worth of repairs including the roof which had been certified as sound. It took White House intervention with HUD to even get attention to the situation. Then all that HUD would do is take over the mortgage and set up a deferred payment schedule which allowed the owner to take out an additional $4,000 mortgage to finance repairs.

FHA appraisals are only for the protection of the bank and the Government insurance program, even though the buyer pays for it.

What the President needs to do, beyond treating an individual problem such as the one the Post cited, is direct HUD to represent the homeowner in promoting more effective energy conservation through better housing.

The Federal Trade Commission has before it a new proposed regulation on insulation energy conservation claims. I was shocked to discover this statement in the Presiding Officer's report in this thermal insulation rule.

"Government. Participation from this sector was particularly low." He said that only one Government representative made an appearance. He termed this regrettable since participation would have been helpful in terms of actions other agencies may be taking. No one from HUD even participated.

Upon signing this bill into law, the President should direct HUD to meet its obligations for consumer protection and energy conservation in housing. HUD should take positive action, especially in the case of manufactured housing to decertify firms that make thermal insulation, energy saving and other claims that are not supported by tests and sound evidence. There is already a line of FTC decisions that HUD can use as guides, which are entirely appropriate since they deal with energy conservation claims. HUD should encourage home builders, within the FTC rules, to clearly show the thermal insulation properties of their homes and the likely energy use. The Of-

fice of Consumer Protection in HUD should be given distinct responsibilities to assure that FHA is meeting its public interest obligations.

HUD should also cooperate with the Federal Trade Commission so that each is aware of opportunities to effectively inform consumers and homeowners of real energy saving homes and how consumers can avoid being misled.●

Mr. FLOOD. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Speaker, there are about a million Americans who are in some degree of jeopardy because the HEW bill has not been cleared and sent to the President. There are about 250,000 families directly involved. Only one thing stands between their welfare and their support, and that is the House of Representatives in its vote here tonight.

The whole matter of the bill and the amendment has been cleared by the other body, and if we take favorable action on the motion which I have offered, this bill will go to the White House tonight, or it should go to the White House tonight because that is the only problem involved.

I would point out to those who have been discussing this matter that I am a little weary of the subject. I am more than a little weary of the subject, but I have tried to make a note of some things that might be of some interest to the Members.

We did not vote on this issue on Thursday. I tried to give the Members a chance to vote on this issue on Thursday. I offered a motion to recede and concur in the Senate language or what was equivalent to the Senate language, but my motion was divided. And what did we vote on last Thursday? We voted on the motion to recede. The motion was just to recede from the House position, and, of course, many of the Members did not want to recede from the House position without knowing to what position we were going to recede. But that is not the issue today. The issue now is: Do we concur in the Senate amendment?

The issue today is: Do we concur in the language that we agreed to in the defense appropriation bill and which has gone to the President? Do we concur in the continuing resolution which passed this House? Do we concur in it? That is the issue. And the same issue was approved last year. It is the law. It is really ridiculous that we are pursuing this matter further, especially in view of the jeopardy which is being faced by so many American citizens who are in need. And I just hope that the House would decide to give the committee headed by the gentleman from Pennsylvania (Mr. FLOOD) a chance to have its own bill enacted into law. It was not enacted last year. We went on a Mahon continuing resolution. We can do that again this year, if we want to swallow our pride and delay the support which these millions of Americans require. We can do that, but I think it would be most ill-advised. And undoubtedly preliminary figures, which are not altogether trustworthy—but certainly they are somewhat correct—indicate that these abortions have been reduced by as much as 90 percent. I detect, from listening to the arguments of the opponents of my motion but they are against the Department of HEW because they do not think the Department of HEW is correctly and carefully administering the present law.

On Monday I am going to talk to the President of the United States and I will tell him what some of my colleagues are telling me, and I somewhat agree with them in some respects, that this legislation is not being properly administered, that the regulations are not being enforced as they should be enforced, and I am going to tell the President that I would hope he would do something about the matter. I am going to tell the Secretary of HEW to get on the ball and to do his duty and follow the intent of the law. I think my collegues who have spoken in opposition would be pleased, because there is no use for us to handle matters in a businesslike and appropriate way if they are not administered properly. We have the right to depend upon the President to instruct his Secretary to handle this thing as Congress intends it to be handled and that there be no unnecessary wholesale abortion program and that the law of the land as now approved should be applied.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding. First, I would like to restate my strong opposition to the gentleman's motion. But I do want to thank the chairman of the Committee on Appropriations for his forceful statement regarding the loose and mistaken interpretation of the regulations by HEW. I know, from extensive private conversations on this issue, that many of the concerns that I have are shared by the gentleman, and his statement underscores what we all felt and what was demonstrated in the colloquy between the gentleman from Illinois and myself, that the will of the Congress on this issue has been thwarted by HEW's regulation. We appreciate the gentleman's pledge to contact the President and the Department and make his views known.

Mr. MAHON. I appreciate the gentleman's statement.

I hope we can send this bill to the White House tonight. This is the last hurdle it has to make.

I have no pride in this matter. Except for the fact that I am chairman of the Appropriations Committee—and this is an Appropriations Committee matter—I probably would not be standing here. But in the name of commonsense and the appropriate legislative process, it seems to me that we ought to do our duty and dispose of this matter, concur in the Senate language which we approved last year, which we approved in the defense appropriation bill, which we approved in the continuing resolution. It seems so simple that I hardly see how one can get sufficiently emotional to undertake to rebut the argument that I have undertaken to make, that we should send this bill to the White House and take care of the needy people whose welfare is involved.

Mr. FLOOD. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the preferential motion.

The previous question was ordered.

The SPEAKER. The question is on the preferential motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. MAHON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 195, not voting 37, as follows:

[Roll No. 922]

YEAS—198

Addabbo	Fowler	Ottinger
Akaka	Fraser	Panetta
Alexander	Frenzel	Patterson
Anderson, Calif.	Fuqua	Pattison
	Giaimo	Pease
Anderson, Ill.	Gilman	Pepper
Andrews, N.C.	Ginn	Perkins
Ashley	Glickman	Pickle
AuCoin	Gonzalez	Pike
Baldus	Green	Poage
Baucus	Gudger	Preyer
Bedell	Hamilton	Pritchard
Bellenson	Hannaford	Pursell
Bennett	Harkin	Rahall
Bingham	Harris	Railsback
Blanchard	Hawkins	Rangel
Bolling	Hefner	Reuss
Bonker	Heftel	Richmond
Brademas	Hightower	Risenhoover
Breckinridge	Holland	Roberts
Brinkley	Hollenbeck	Rogers
Brodhead	Holtzman	Roncalio
Brooks	Horton	Rose
Brown, Calif.	Howard	Rosenthal
Broyhill	Hughes	Roybal
Buchanan	Ireland	Ryan
Burton, John	Jacobs	Santini
Burton, Phillip	Jeffords	Sarasin
Butler	Jenrette	Scheuer
Carr	Johnson, Calif.	Schroeder
Carter	Johnson, Colo.	Seiberling
Chappell	Jones, N.C.	Sharp
Chisholm	Jones, Tenn.	Sikes
Clay	Jordan	Simon
Cleveland	Kastenmeier	Sisk
Collins, Ill.	Keys	Slack
Conable	Kostmayer	Smith, Iowa
Corman	Krebs	Solarz
Cornwell	Krueger	Spellman
Coughlin	Leach	St Germain
Danielson	Levitas	Stark
Davis	Lloyd, Calif.	Steed
Dellums	Long, Md.	Steers
Derrick	Lundine	Stockman
Dicks	McCloskey	Stokes
Dingell	McCormack	Studds
Dodd	McHugh	Thompson
Downey	McKinney	Thornton
Drinan	Maguire	Tsongas
Duncan, Oreg.	Mahon	Tucker
Eckhardt	Mann	Udall
Edgar	Martin	Ullman
Edwards, Calif.	Mathis	Van Deerlin
Evans, Del.	Mattox	Walgren
Fascell	Meeds	Waxman
Fenwick	Mikulski	Weaver
Findley	Milford	Weiss
Fish	Miller, Calif.	Whitley
Fisher	Mineta	Wiggins
Flippo	Mitchell, Md.	Wilson, Bob
Florio	Moffett	Wilson, Tex.
Flowers	Mollohan	Wirth
Foley	Moorhead, Pa.	Wolff
Ford, Mich.	Neal	Wright
Ford, Tenn.	Nedzi	Yates
Forsythe	Nix	
Fountain	Obey	

NAYS—195

Abdnor	Annunzio	Bafalis
Ambro	Archer	Barnard
Andrews, N. Dak.	Ashbrook	Bauman
	Aspin	Beard, R.I.

Beard, Tenn.	Hagedorn	O'Brien
Benjamin	Hall	Oakar
Bevill	Hammer-schmidt	Oberstar
Blouin		Patten
Boggs	Hanley	Pressler
Boland	Hansen	Price
Bonior	Harsha	Quayle
Bowen	Heckler	Quillen
Breaux	Hillis	Regula
Broomfield	Holt	Rhodes
Brown, Mich.	Hubbard	Rinaldo
Brown, Ohio	Huckaby	Robinson
Burgener	Hyde	Rodino
Burke, Mass.	Jenkins	Roe
Burleson, Tex.	Jones, Okla.	Rooney
Burlison, Mo.	Kasten	Rostenkowski
Caputo	Kazen	Rousselot
Cavanaugh	Kelly	Runnels
Cederberg	Kemp	Ruppe
Clausen, Don H.	Kildee	Russo
	Kindness	Satterfield
Clawson, Del	LaFalce	Sawyer
Cochran	Lagomarsino	Schulze
Coleman	Latta	Sebelius
Collins, Tex.	Le Fante	Shuster
Conte	Lederer	Skelton
Corcoran	Lent	Smith, Nebr.
Cornell	Livingston	Snyder
Cotter	Lloyd, Tenn.	Spence
Crane	Long, La.	Staggers
Cunningham	Lott	Stangeland
D'Amours	Luken	Stanton
Daniel, Dan	McClory	Steiger
Daniel, R. W.	McDade	Stump
de la Garza	McDonald	Symms
Delaney	McEwen	Taylor
Dent	McKay	Thone
Derwinski	Madigan	Treen
Devine	Markey	Trible
Dornan	Marks	Vander Jagt
Duncan, Tenn.	Marriott	Vanik
Early	Mazzoli	Vento
Edwards, Ala.	Michel	Volkmer
Edwards, Okla.	Miller, Ohio	Waggonner
Eilberg	Minish	Walker
Emery	Mitchell, N.Y.	Walsh
English	Moakley	Wampler
Ertel	Montgomery	Watkins
Evans, Ga.	Moore	Whalen
Evans, Ind.	Moorhead, Calif.	White
Fary		Whitehurst
Fithian	Mottl	Whitten
Flood	Murphy, Ill.	Winn
Gammage	Murphy, N.Y.	Wydler
Gaydos	Murphy, Pa.	Wylie
Gephardt	Murtha	Yatron
Gibbons	Myers, Gary	Young, Alaska
Goldwater	Myers, John	Young, Fla.
Goodling	Myers, Michael	Young, Mo.
Gore	Natcher	Zablocki
Gradison	Nichols	Zeferetti
Grassley	Nolan	
Guyer	Nowak	

NOT VOTING—37

Ammerman	Evans, Colo.	Moss
Applegate	Flynt	Pettis
Armstrong	Frey	Quie
Badham	Garcia	Rudd
Biaggi	Harrington	Shipley
Burke, Calif.	Ichord	Skubitz
Burke, Fla.	Leggett	Stratton
Carney	Lehman	Teague
Cohen	Lujan	Traxler
Conyers	McFall	Wilson, C. H.
Dickinson	Marlenee	Young, Tex.
Diggs	Meyner	
Erlenborn	Mikva	

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Quie.
Mr. Applegate with Mr. Rudd.
Mrs. Burke of California with Mr. Stratton.
Mr. Carney with Mr. Erlenborn.
Mr. Mikva with Mr. Dickinson.
Mr. Shipley with Mr. Cohen.
Mr. Ammerman with Mr. Badham.
Mr. Ichord with Mr. Burke of Florida.
Mr. McFall with Mr. Lujan.
Mr. Traxler with Mr. Skubitz.
Mr. Conyers with Mr. Frey.
Mr. Garcia with Mr. Harrington.
Mr. Leggett with Mr. Marlenee.
Mr. Evans of California with Mr. Flynt.
Mr. Charles H. Wilson of California with Mr. Teague.
Mr. Lehman with Mr. Diggs.
Mr. Moss with Mr. Armstrong.
Mrs. Meyner with Mrs. Pettis.

Mr. GUDGER changed his vote from "nay" to "yea."

Mr. PATTEN changed his vote from "yea" to "nay."

So the preferential motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DESIGNATING CERTAIN LANDS FOR INCLUSION AND POTENTIAL INCLUSION IN NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 658) to designate certain lands for inclusion and potential inclusion in the National Wilderness Preservation System, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. YOUNG of Alaska. Reserving the right to object, Mr. Speaker, I do so for a point of clarification.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Arizona.

Mr. UDALL. I thank the gentleman for yielding.

Earlier this year the House passed H.R. 39, the Alaska lands bill. We attempted in rather tense negotiations during the last 2 days to get a settlement of that bill so we could present it before adjournment. We failed. We have, therefore, agreed with the gentleman from Alaska—myself, Mr. YOUNG, Mr. SEIBERLING, the Alaska coalition for the conservation groups, and the senior Senator from Alaska—to have what is essentially a 1-year extension of the existing time limitation on the famous d–2 lands in Alaska. I will send an amendment to the desk in a moment which has been agreed to by all the parties, which will amount to preserving the status quo on the lands in the House and Senate bills for 1 year so we can deal with the subject next year. There are several carefully negotiated provisions all designed to make sure that no advantage can be taken by any groups or individuals, or the U.S. Government.

Mr. YOUNG of Alaska. Further reserving the right to object, Mr. Speaker, and I shall not object, I want to concur in what the Chairman of the full committee has said. We spent 17 months in the House and accomplished a great deal, and accomplished a great deal in the Senate, and until as late as today at noon we thought we had a bill. That was not achieved because of some action that took place. I am in support of this proposal which has been brought forth at this time. I compliment the chairman of the full committee, and the chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING), who has worked very hard on this issue.

Mr. UDALL. Mr. SEIBERLING negotiated and drafted this amendment. I have asked him in his extension of remarks to explain on behalf of him and me the purpose and interpretation of these provisions.

Mr. SEIBERLING. Mr. Speaker, first of all, let me extend my sincere commendation to the gentleman from Arizona (Mr. UDALL), the gentleman from Alaska (Mr. YOUNG), Senator TED STEVENS, Senator HENRY JACKSON, Senator JOHN DURKIN, and Secretary of Interior Cecil Andrus for 3 days and nights of heroic efforts to agree on a proposed compromise between the House-passed version and the Senate Energy Committee version of the Alaska lands legislation (H.R. 39).

They were matched by the flawless and unflagging support of Harry Crandell and Mike Harvey, the respective heads of the House and Senate staffs, and all the other staff members who participated in this marathon negotiation.

It is unfortunate, in the extreme, that just as these efforts appeared to have reached fruition, they were blocked by a series of new demands on the part of the other Senator from Alaska. For the members of the Interior Committee, who spent many months drafting a carefully crafted and grounded bill, for the House itself which passed it overwhelmingly last May, for the many thousands of private citizens all over this country who worked to help advance the cause of Alaska land conservation, this frustrating result is deeply disappointing.

But for the people of Alaska, who deserved to have the question of which Federal land in Alaska should be reserved for parks, refuges and wilderness areas, and which opened for development, this failure is sad indeed. I have no doubt that the will of the overwhelming majority of the American people will eventually prevail, and that their heritage—the "crown jewels" of Federal lands in Alaska—will be protected. I am also convinced that this protection will be of great benefit, most of all, to the people of Alaska. In the meantime, however, until the matter is settled, the uncertainty as to the final nature of this settlement will continue to hold back the economic development of Alaska.

After the failure of the compromise effort, the participant agreed, as the gentleman from Arizona has said, to propose legislation protecting, for a period of 1 year following December 18, 1978, all the lands covered by either the House or the Senate Energy Committee versions of H.R. 39. The purpose of the proposal was to protect the status quo as to those lands long enough to enable Congress to act on them next year.

This bill would do that. It would also direct the managing agencies to manage these lands so as not to impair their suitability for preservation as directed in the House and the Senate Energy Committee versions of H.R. 39, but subject to valid existing rights. Such rights include, for example, patented mining claims, but not mineral entry.

The bill also makes it clear that this preservation requirement is not to be construed in such a way as to interfere

with any timber harvest permitted under existing national forest timber sales contracts.

At the request of Senator STEVENS, this language was expanded to prohibit the preservation requirement from being construed so as to reduce the total potential timber yield in the existing national forest in Alaska. We accepted this additional language upon the assurance of Senator STEVENS that it was not intended to grant any additional rights to obtain any timber beyond that covered by existing contracts.

The language of the bill also makes it clear that the authority of the managing agencies to manage the public lands, the National Petroleum Reserve, or the national forests in Alaska are not diminished, except as specifically provided in the bill.

Finally, the bill preserves the authority of the President, and the Secretaries of Interior and Agriculture, to withdraw or classify Federal land in Alaska under any other provision of law, so long as such action is compatible with the preservation mandated by the bill. For example, the President would still retain his full powers, under the Antiquities Act of 1906, to designate national monuments on Federal lands in Alaska, and to segregate or withdraw such lands under the Federal Land Policy and Management Act of 1976.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill as follows:

S. 658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be known as the Oregon Omnibus Wilderness Act of 1977.

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890), the following lands are hereby designated as wilderness and, therefore, as components of the national wilderness preservation system:

(1) certain lands within the Umpqua National Forest, Oregon, which comprise about nineteen thousand two hundred acres, are generally depicted on a map dated June 1977, and entitled "Boulder Creek Proposed Wilderness", and shall be known as the Boulder Creek Wilderness;

(2) certain lands within the Siskiyou National Forest, which comprise about eighty-two thousand, four hundred acres, are generally depicted on a map dated June 1977, and entitled "Kalmiopsis Wilderness Additions", and shall be included as a part of the Kalmiopsis Wilderness;

(3) certain lands within the Umatilla National Forest, Oregon and Washington, which comprise about one hundred and eighty-five thousand acres, are generally depicted on a map dated June 1977, and entitled "Wenaha-Tucannon Wilderness—Proposed", and shall be known as the Wenaha-Tucannon Wilderness;

(4) certain lands within the Mount Hood National Forest, Oregon, which comprise about thirty-three thousand acres, are generally depicted on a map dated June 1977, and entitled "Mount Hood (Zigzag) Proposed Wilderness" and shall be known as the Mount Hood Wilderness Additions.

(b) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by section 2 with the Interior and Insular Affairs Committee of the House of Representatives and the Energy and Natural Resources Committee of the Senate. Such legal description and map shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal description and map may be made.

(c) Each wilderness area designated by section 2 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 3. (a) In furtherance of the purposes of the Wilderness Act, the Secretary of Agriculture shall review as to its suitability for preservation as wilderness certain lands within the Mount Hood National Forest and the Willamette National Forest, Oregon, which comprise about forty-nine thousand acres, are generally depicted on a map dated June 1977, and entitled "Bull of the Woods (Hidden) Proposed Wilderness".

(b) In accordance with the provisions of the Wilderness Act, the Secretary shall complete his review and report his findings to the President and the President shall advise the Congress of his recommendations with respect to the designation of the Hidden Wilderness Study Area as wilderness not later than two years after the date of enactment of this Act.

(c) Subject to existing private rights, the area to be studied by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain its presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System, except that such management requirement shall not extend beyond a period of four years from the date of submission to the Congress of the President's recommendation concerning said area. Already established uses may be permitted to continue, subject to such restrictions as the Secretary of Agriculture deems desirable, in the manner in and degree to which the same was being conducted on the date of enactment of this Act.

(d) Nothing in this Act shall be construed to (1) limit the President in proposing, as part of his recommendation to the Congress, the alteration of existing boundaries of the area designated for study by this section or recommending the addition to such area of any continguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and the Congress with respect to additional wilderness study areas within national forests in the State of Oregon.

AMENDMENT OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UDALL: Page 1, line 3, strike all after the enacting clause and insert:

That (a) in order to provide interim protection for the scenic, historic, scientific, archeological, fish and wildlife, and other natural and cultural resources of certain lands, waters, and interests therein in the State of Alaska, effective midnight, eastern standard time, on December 18, 1978, the Federal lands within the boundaries of the areas referred to in subsection (b) are, subject to valid existing rights, withdrawn from all forms of appropriation under the public land laws and from location and entry under the United States mining laws and from selection by the State of Alaska under any other provisions of law. The withdrawal made by this Act shall continue in effect with respect to such lands unless and until it is rescinded or modified by Act of Congress, but not to exceed one year from the effective date of the withdrawal.

(b) The lands subject to the withdrawal made by this Act are all Federal lands proposed to be included within—

(1) one or more units of the national park system, national wildlife refuge system, national forest system, wild and scenic rivers system, or national wilderness preservation system, or

(2) any national conservation area, special management area, national recreation area, wilderness study area, or the Bristol Bay Cooperative Region,

under the bill H.R. 39 as passed by the United States House of Representatives on May 19, 1978 or under the amendment to such bill as reported by the Committee on Energy and Natural Resources of the United States Senate on October 9, 1978 (Senate Report number 95–1300), or under both such bill and such amendment. Such lands shall be as depicted on the appropriate maps specified in such bill or amendment, or on a map depicting withdrawals under the Alaska Native Claims Settlement Act, as the case may be. The boundaries of the withdrawals referred to in the preceding sentence shall be determined as of the date of enactment of this Act. The foregoing maps shall be on file and available for public inspection in the Offices of the Secretary of the Interior in the District of Columbia and in Alaska.

(c) During the period of the withdrawal made by subsection (a) of this Act, the Secretary of the Interior (or the Secretary of Agriculture where National Forest lands are involved) shall manage the lands within the boundaries depicted on the maps described in subsection (b) of this Act, and within the National Petroleum Reserve—Alaska, in such manner as will, subject to the implementation of valid existing rights as provided by law, preserve the scenic, historic, scientific, archeological, fish and wildlife, and other natural and cultural resources so as not to impair the suitability of such areas for preservation as units of the systems referred to the subsection (b).

SEC. 2. Nothing in this Act shall be construed to enlarge or diminish the authority of the President of the United States, the Secretary of the Interior, or the Secretary of Agriculture, with respect to the withdrawal or classification of any Federal lands, waters, or interests therein in Alaska under any other provision of law, except that any such withdrawal or classification of areas depicted on the maps referred to in subsection (b) of the first section of this Act shall be consistent with the management of such areas pursuant to subsection (c) of such section.

SEC. 3. Nothing in this Act shall be construed to interfere with any timber harvest permitted under existing national forest timber sale contract nor reduce the total potential yield.

SEC. 4. Except as specifically provided in this Act, nothing in this Act shall enlarge or diminish the authority of the Secretary of the Interior under the Federal Policy and Management Act of 1976 or the Naval Petroleum Reserve Production Act of 1976, or of the Secretary of Agriculture under the Forest and Rangelands Renewable Resources Planning Act of 1976 or the National Forest Management Planning Act.

Mr. UDALL (during the reading). Mr. Speaker, I ask unanimous consent to dispense with further reading of the amendment and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Arizona (Mr. UDALL).

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the title be amended to read: "A bill to provide, pending congressional action, interim protection for areas recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems in the State of Alaska, and for other purposes."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2584, AUTHORIZING APPROPRIATIONS TO THE NUCLEAR REGULATORY COMMISSION FOR FISCAL YEAR 1979

Mr. UDALL. Mr. Speaker, I call up the conference report on the Senate bill (S. 2584) to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule previously adopted, the conference report is considered as read.

(For conference report and statement see proceedings of the House of October 13, 1978.)

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized for 30 minutes.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have before us the conference report and statement of managers on the conference report on the fiscal year 1979 authorization for the Nuclear Regulatory Commission.

I believe this report represents a reasonable compromise between the authorization bills passed by the House and Senate. I would like to call attention to the most important of agreements made by the conferees.

The conferees agreed on a total authorization of $33,007,000 which is a compromise between the House authorization of $332,107,000 and the Senate authorization of $336,395,000.

The conferees agreed to a series of provisions which were in the House authorization bill but not in the authorization passed by the Senate. These include the following:

A requirement that the NRC prepare an annual report assessing the adequacy of safeguards at facilities regulated by the NRC;

Earmarking of $285,000 for the Office of Nuclear Materials and Safeguards that will help to assure that the NRC is able to fulfill its responsibilities with regard to safeguarding of nuclear exports;

Earmarking of $1,152,000 for activities relating to resolution of unresolved safety issues;

Conflict of interest provisions pertaining to the Commission's contracting activities; and

Provisions requiring more careful scrutiny by the Commission of proposed activities involving contracts for the study of domestic safeguards matters.

The conferees agreed to several provisions which had been included in the Senate authorization but not in the House bill. These include the following:

An additional authorization of $225,000 for the Commission's equal opportunity programs;

Earmarking of $650,000 for preliminary studies of the hazards of low-level radiation;

A requirement that the NRC prepare a report concerning ways in which States might participate in the siting, licensing, and development of nuclear waste storage or disposal facilities.

A requirement that the NRC review the process for selecting and training of Atomic Safety and Licensing members;

A requirement that NRC office directors keep the Executive Director for Operations fully informed of their communications with the Commission; and

Earmarking of $1 million for studies and evaluations of alternative fuel cycles.

The conferees agreed to reduce somewhat funds that the House had earmarked for NRC activities in the area of gas-cooled reactors. This reduction reflects a revision in plans for construction of the next gas reactor. We continue to believe that the gas reactor technology should be thoroughly explored.

The conferees agreed to omit the provision of the House bill that provided for the Commission to vote on certain matters without the presence of a quorum in circumstances when the Commissioners were unanimous both with regard to a "yea" or "nay" vote and with regard to waiving the requirement that a quorum be present in order that the vote be taken. The conferees further agreed that their respective committees would consider revision of the "present" requirement in conjunction with their review of the NRC's fiscal year 1980 authorization request.

Finally, I would like to call attention to the fact that the Senate provisions increasing Federal and State authority to regulate mill tailings was dropped in light of this matter being the subject of separate legislation.

I urge adoption of the conference report on the fiscal year 1979 NRC authorization.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

I want to concur in the gentleman's statement.

Mr. BAUMAN. Mr. Speaker, as a conferee representing the minority members of the House Interior and Insular Affairs Committee, I am pleased to join my conference colleagues in the House and Senate in supporting the acceptance of this conference report.

The conference report authorizes a total of $333,007,000 for the salaries and expenses of the Nuclear Regulatory Commission for fiscal year 1979. This represents a compromise between the House authorization of $332,107,000 and the Senate authorization of $336,395,000. I will not take the time of the House, with such a busy schedule, to go into specifics on this measure but will simply urge my colleagues to support it.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the two bills just considered, S. 658 and the conference report on S. 2584.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

SAMEEK KESHARY RAY

Mr. FISH. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be discharged from consideration of the Senate bill (S. 464) for the relief of Sameek Keshary Ray, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 464

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, the periods of time Sameek Keshary Ray has resided in the United States since August 10, 1970, shall be held and considered to meet the residence and physical presence requirements of section 316 of the said Act.

The Senate bill was ordered to be read a third time, was read a third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING THE "LESLIE C. ARENDS BUILDING"

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transporation may be discharged from further consideration of the bill (H.R. 14223) to designate a certain Federal building in Bloomington, Ill., the "Leslie C. Arends Building."

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1511 East Empire Street in Bloomington, Illinois, is hereby designated as the "Leslie C. Arends Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Leslie C. Arends Building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DESIGNATING THE "PAUL G. ROGERS FEDERAL BUILDING"

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Committee on Public Works and Transporation may be discharged from further consideration of the bill (H.R. 14295) to designate the "Paul G. Rogers Federal Building" and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 14295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Federal building located at 700 Clematis Street, West Palm Beach, Florida, is hereby designated as the "Paul G. Rogers Federal Building". Any reference in any law, regulation, document, record, map, or other paper of the United States to such building shall be considered to be a reference to the Paul G. Rogers Federal Building.

SEC. 2. This Act shall take effect on January 4, 1979.

Mr. MINETA. Mr. Speaker, for 24 years now PAUL ROGERS has served the people of his congressional district, those of the State of Florida and indeed, the American public.

As a young member he worked on the Public Works Committee and helped to design the interstate highway program which was the blueprint for this Nation's highway system. He also helped author the central and south Florida flood control program which provided for a continuing source of water for the people of south Florida and at the same time insured that natural disasters such as hurricanes would not disrupt water supplies and threaten human health.

After this, however, he moved to the Interstate and Foreign Commerce Committee and in the following years built a reputation as the expert in the House on issues of health and the environment. Again, the legislation he fashioned served his constituents as well as all Americans.

Such landmark legislation as the National Cancer Act; the National Heart, Lung, and Blood Act; the Health Professions Education Act; the Migrant Health Act; the Clean Air Act; the National Health Service Corps Act; and the National Health Planning Act; all reflect the work of PAUL ROGERS.

PAUL ROGERS has announced that he is not standing for reelection and I feel most will join me in expressing regret over his decision.

He has served well and the people of the 11th Congressional District responded during the last election by giving him 91 percent of the vote.

At this time I would like to ask my colleagues to join with me in showing their appreciation of PAUL ROGERS' efforts by giving unanimous consent that the Federal Building in West Palm Beach, Fla., PAUL's hometown, he renamed the Paul G. Rogers Federal Building.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 14295.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING AUTHORIZATION

Mr. MINETA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3112) to amend the Act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I just wanted to ask the gentleman from California what this legislation does?

Mr. MINETA. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman.

Mr. MINETA. Mr. Speaker, S. 3112 would increase the present authorization limit of $123 million for the Library of Congress James Madison Memorial Building to $133 million, in order to provide for the completion of the final phase of this project.

The increase has come about largely because of congressionally mandated changes in the mission of the Library of Congress. These changes include increased reliance on the Congressional Research Service, beginning with the Legislative Reorganization Act of 1970, and increased roles for the Library under the revisions of the Copyright Act and by the creation of the American Television and Radio Archives within the Library.

Completion of this building, scheduled for 1980, would allow Library operations to move out of 12 widely scattered leased locations, at an estimated annual savings of $4 million.

The Architect of the Capitol listed specific remaining needs totaling $7.67 million. His request, however, was for $10 million.

The committee on the House side has been reluctant to authorize the higher figure without the demonstration to the Congress of the specific need. The Senate has passed the higher figure.

We now feel that we cannot accept the Senate authorization level without lifting the requirement on the Architect to demonstrate specific need for funds over $7.67 million. If the Architect is to receive the balance of the $10 million he must come back to the Congress for the additional authorization and must specifically justify that request at that time.

Mr. Speaker, I, therefore, support passage of S. 3112, as amended.

Mr. BAUMAN. Mr. Speaker, let me ask, if this matter does not come up now, what harm will it do to wait until January?

Mr. MINETA. Mr. Speaker, the problem is that there is certain work that would otherwise have to be done for which appropriations are no longer available. The time for completion of the work would then stretch out, and with the cost of construction going up approximately 1 percent a month, we are afraid that in the longrun it would be more costly and, therefore, the gentleman from New York (Mr. WALSH) has an amendment he will offer to the bill.

Mr. BAUMAN. Did we not pass a bill here a few months ago raising their authorization? Is this the same bill?

Mr. MINETA. No; we have not considered that bill itself on the floor.

Mr. BAUMAN. Mr. Speaker, I believe the gentleman and I discussed some matters relating to that building at least twice this year.

Mr. MINETA. That is right. I will say to the gentleman that we did discuss the $7.6 million figure on the House side during consideration of the conference report on H.R. 13467, the second supplemental appropriation bill for fiscal year 1978.

Mr. BAUMAN. And it is now going to $10 million?

Mr. MINETA. The Senate bill that we are considering here that has been taken from the Speaker's desk is for $10 million, and that is why the gentleman from New York (Mr. WALSH) has an amendment to take the figure down from $10 million in order to agree with the House figure which is contained in H.R. 12342.

Mr. BAUMAN. I see. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the joint resolution entitled "Joint resolution to authorize the Architect of the Capitol to construct the third Library of Congress building in square numbered 732 in the District of Columbia to be named the James Madison Memorial Building and to contain a Madison Memorial Hall, and for other purposes", approved October 19, 1965

(79 Stat. 986; Public Law 89-260), is amended by striking out "$123,000,000" and inserting in lieu thereof "$133,000,000".

AMENDMENT OFFERED BY MR. WALSH

Mr. WALSH. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALSH: Page 1, line 11; strike "$133,000,000" and insert in lieu thereof "$130,675,000".

Mr. WALSH. Mr. Speaker, this is a very simple amendment. The Committee on Public Works and Transportation and its Subcommittee on Public Buildings and Grounds considered H.R. 12342, and this approved a request for $2,325,000 less than the present Senate bill. Our house bill provided for the present appropriation, which my amendment will authorize.

My amendment simply cuts the $10 million provided in the Senate bill back to the proper figure that was approved originally by the Public Works Committee. It takes $2,325,000 out of the Senate bill and restores the authorization as previously approved by the committee to $130,675,000.

Mr. MINETA. Mr. Speaker, if the gentleman will yield, I fully concur with the remarks of the gentleman from New York (Mr. WALSH) and urge the adoption of the amendment by the House.

The amendment was agreed to.

● Mr. JOHNSON of California. Mr. Speaker, I would like to commend the chairman of the Subcommittee on Public Buildings and Grounds, Mr. MINETA, and the Ranking Minority Member of the Subcommittee, Mr. WALSH, for their hard work on this legislation.

The Library of Congress is the Nation's intellectual treasure house containing more than 85 million books, prints, and other items. It is of indispensable assistance to Congress itself through factual analyses of legislative issues and provides the public with specialized services too numerous to mention.

S. 3112 as amended would authorize to be appropriated an additional $7,675,000 to the Architect of the Capitol providing for completion of the Madison Library. The building is in its final stage of construction consisting of interior and related work which remains to be contracted and constructed. The Architect of the Capitol now estimates that to complete the project, based on projected expenditures for the final stage of construction and other requirements, will require an additional $7,675,000. This increase is required to cover the cost of necessary changes in the building, resulting from expansion of functions of certain units of the Library, many of which are the outgrowth of recent legislative actions, and also from change orders issued, or to be issued, and soaring construction costs due to inflation. This legislation, prior to transmittal to the committee, was approved by the House Office Building Commission and the Joint Committee on the Library.

There have been a number of changes in the mission of the Library over the past few years mandated by Congress. Accordingly, the Library found it necessary to request changes in order to fulfill the mission of the Library due to new requirements.

There are four significant areas of major growth in the Library's programs that have resulted in increases in personnel and the need for adjustment of space in the Madison Building. These are the Congressional Research Service, the Copyright Office, computer facilities, and television capability. For the most part, these changes have occurred since the requirements for the bidding for the final phase of work on the Madison Building were prepared and were fixed by the bidding documents. Consequently, since the award of the phase IV contract, it has been necessary to request certain adjustments that have added to the cost of the contract.

Mr. Speaker, I urge my colleagues to support S. 3112 as amended which will allow for completion of the James Madison Memorial Library. The building is scheduled for completion in early 1980 at which time it will offer the conditions needed to preserve, store, and efficiently use the information in its valued collections.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12342) was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 11274, MIDDLE INCOME STUDENT ASSISTANCE ACT

Mr. DODD. Mr. Speaker, I call up House Resolution 1425 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1425

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11274) to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students and to amend section 1208 of such Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11274, it shall be in order in the House to take from the Speaker's table the bill S. 2539 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof the provisions contained in H.R. 11274 as passed by the House.

The SPEAKER pro tempore. The gentleman from Connecticut (Mr. DODD) is recognized for 1 hour.

Mr. DODD. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1425 provides for the consideration of H.R. 11274, the Middle-Income Student Assistance Act. This resolution provides for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. This resolution, in addition, provides that it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule.

The resolution also provides for one motion to recommit with or without instructions. Finally, this resolution provides that after the passage of H.R. 11274 it shall be in order to take from the Speaker's table the bill S. 2539 and to move to strike out all after the enacting clause of the said bill and to insert in lieu thereof the provisions contained in H.R. 11274 as passed by the House.

Mr. Speaker, the purpose of H.R. 11274 is to provide needed financial assistance to students from middle-income families to meet the already high and constantly growing cost of obtaining a higher education.

As you are well aware, the financial burden placed on low- and middle-income families to send their children to postsecondary schools has been great in the past and is quickly becoming unbearable in many cases. From 1967 to 1976, alone, the cost of a college education increased 77 percent.

Mr. Speaker, the Middle-Income Student Assistance Act is directed at alleviating this burden and providing the means for continuing education in cases where without assistance it might otherwise be impossible. H.R. 11274 (MISSA) is a balanced and coordinated package of Federal college grant, loan, and work-study programs. The expansion of these existing programs will provide financial assistance to millions of middle-income students who are now ineligible for most financial aid programs. It is noteworthy to add that in realizing this endeavor, the level of Federal assistance to students from low-income families is not reduced. Rather, it too is increased.

Mr. Speaker, H.R. 11274 is supported in every sector of the postsecondary education community. This legislation represents the biggest single infusion of funding for middle-income college students since the adoption of the GI bill at the end of World War II. It responds to the needs of hard-pressed middle-income students by authorizing up to $4.7 billion in fiscal year 1979 within the framework

of existing student assistance programs. Importantly, it does not create any new programs, bureaucracies, or firms.

Mr. Speaker, the House Committee on Education and Labor and the Senate Committee on Human Resources held a hearing to receive administration testimony on this legislation and the House Subcommittee on Postsecondary Education held extensive hearings on the provisions of this bill during which representatives of postsecondary education institutions testified as well as representatives of State postsecondary education agencies, student groups, student aid administrators, postsecondary education research institutions, the banking community, and administration officials and Members of Congress. The full Education and Labor Committee ordered the bill reported by a vote of 32 to 3.

Mr. Speaker, I request that we adopt House Resolution 1425 so that we may proceed to the consideration of this important bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of H.R. 11274, the Middle-Income Student Assistance Act. The rule provides for 1-hour of general debate, and makes in order the committee amendment in the nature of a substitute as an original bill for the purpose of amendment. This is a completely open rule. The only unique features of the rule are provisions dispensing with the first reading of the bill, and making it in order to take the Senate counterpart bill, S. 2539, from the Speaker's table once we have passed the House bill, and inserting the House-passed language under the Senate bill number.

Mr. Speaker, this bill has had a somewhat rocky road to the House floor. The President sent his proposals for expending student assistance to students from middle income families last February, partially in response to growing support for tuition tax credits. The Committee on Education and Labor reported this bill on March 8 by a vote of 32 to 3. The Rules Committee first considered a request for a rule on the bill of March 16th, but took no final action after an amendment was threatened to make in order consideration of tuition tax credit legislation.

Then, without any advance notice, the leadership permitted the calling up of the bill under a suspension of the rules on March 20. For a variety of reasons, the House refused to order a second on the bill by a vote of 156 to 218. I think the House acted correctly in refusing to consider a bill of this importance under suspension which allows for only 40-minutes of debate and no amendments. I also think the refusal to order a second was a warning to the leadership not to bring matters up under this abbreviated procedure without adequate notice. This was clearly an abuse of the suspension procedure and one which the House should not stand for.

Now that we have acted on the conference report providing tuition tax credits for higher education I think the climate is more conducive for considering this legislation. The Rules Committee resumed its consideration of a rule request for this bill on Thursday, October 5, and, after hearing testimony from Representatives FORD of Michigan, ERLENBORN, and BUCHANAN, adopted the rule as requested by voice vote.

Mr. Speaker, I am pleased to support this rule and the bill it makes in order. The bill would expand the five existing programs of student financial assistance: The basic educational opportunity grants (BEOG's); the guaranteed student loan program (GSLP); the supplemental educational opportunity grants (SEOG); the college work-study program (CWSP); and the State student incentive grants (SSIG). Among other things the bill would make BEOG's available to students from families with incomes up to $26,000, whereas the present eligibility cutoff level is $15,000. In addition, the bill removes entirely the present $25,000 income eligibility limit for subsidized interest payments on guaranteed student loans.

The Congressional Budget Office estimates that the additional costs of this legislation will be $155 million in fiscal 1979, close to $1.3 billion in fiscal 1980, $319 million in fiscal 1981, $193 million in fiscal 1982, and $250 million in fiscal 1983.

I might point out that a House Republican Policy Committee statement issued last March 20, the day this bill was brought up under suspension, expressed opposition to considering this bill under suspension and support for the tuition tax credit approach. But the statement went on, and I quote:

> The Policy Committee believes that assistance in some form must be given to students and families who bear the ever-increasing costs of education. The Policy Committee supports the objectives of H.R. 11274 but strongly opposes its consideration under procedures which prevent amendments to be offered to the bill and the full and complete debate of a major issue.

And the policy statement concluded—

> On this issue Congress must work its will—the will of the people—and not be proscribed by autocratic rule.

I am pleased this bill is now being brought to the House under normal procedure, under this open rule. The House will now have that opportunity to fully debate and amend the bill and to work its will. I strongly urge adoption of this rule.

Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I would simply strongly associate myself with the remarks of the distinguished gentleman from Illinois. He has spoken the case well. We ought to vote for this rule, and I hope Members will vote for the bill.

Mr. DODD. Mr. Speaker, I have no further requests for time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, I rise in opposition to the rule on H.R. 11274, the Middle-Income Student Assistance Act.

On numerous occasions, the House has expressed its preference for tuition tax credits as a method of providing assistance for higher education. Last June, tax credits for tuition costs were approved by the House by a vote of 237 yeas to 158 nays. Today, the House will vote on the conference report accompanying the legislation.

On the other hand, the House refused, by a vote of 156 yeas to 218 nays, and 1 present, to order a second to suspend the rules and consider the Middle-Income Student Assistance Act, a hastily concocted program admittedly designed to sidetrack tuition tax credits.

Passage of the Middle-Income Student Assistance Act is an open invitation to President Jimmy Carter to veto tax credits despite the fact that this is the program for which Congress has repeatedly expressed strong support.

Tax credits allow the individual family to retain control of some of its own money, and have privacy and predictability in planning for educational expenses. The Middle-Income Student Assistance Act taxes citizens and then passes their tax dollars through three layers of bureaucracy to be doled out only if family personal finances are bared, complicated eligibility requirements met and applications are completed correctly. Let us make no mistake; this is a Rube Goldberg-type operation that takes taxpayer dollars in through the Internal Revenue Service to the Department of Treasury which, in turn, transfers some of it to the Department of Health, Education, and Welfare which, in turn, plays Big Daddy by passing it out to those deemed eligible.

Obviously, the administration does not want to recognize the superiority of tuition tax credits or their overwhelming base of support in the Congress. The entire Califano machinations show clearly and unmistakeably that middle-income student assistance is a device to head off tuition tax credits—to thwart the will of the majority of Congress. Do not give the administration the opportunity to pull off this blatant maneuver by passing its jerry-devised Middle-Income Student Assistance Act.

Let us for a moment review the administration's sudden concern for middle income student assistance.

In February of the year, the Secretary of Health, Education, and Welfare, Joseph Califano, sent a memo to the President on the subject of "Alternatives to Tuition Tax Credit Proposals."

In this memo, little is mentioned on genuine need to help middle income families but plenty is mentioned about the administration's assessment of the Congress and tuition tax credits. The memorandum specifically slights the many Members of Congress who, in good conscience, have been working for years on behalf of their constituents to get a fair hearing on the vital issue of education assistance.

I quote from this confidential memo to the President:

The purpose of this memorandum is to present a proposed increase in existing student aid programs in order to meet the needs of middle income families *and* (emphasis in original memo) to counter Congressional proposals for tuition tax credits advanced by. . .

We must move quickly if we are to seize the initiative on this very hot issue. (Emphasis in original memo.) Leading education Representatives . . . will, on Tuesday, announce a $2 billion dollar student assistance plan. And, as you know, I have to testify three times within the next two weeks on alternatives to the tax credit. *The Congressional Education Committees are so fearful of losing jurisdiction over education finance that they will go without us—and at a high price.* (Emphasis in original memo.)

Subject to your approval, we have tentatively agreed with . . . to a fiscal 1979 $1.2 billion student assistance package that combines grant, loan and work study programs. The Administration and the Members could announce this proposal jointly on Tuesday.

I recommend that you adopt the proposal—and that you personally make the announcement on Tuesday at the White House with me and . . . (emphasis in original memo). Although the $1.2 billion proposal is $500 million over the $700 million allocated in your budget for this program, I believe that the extra commitment of funds is well worth it.

I read these portions of this memo into the RECORD to remind my colleagues of the administration's original purpose in proposing this program. The purpose was not to assist middle-income parents with the cost of escalating tuition but to stop tuition tax credits. At least the sponsors of tuition tax credit legislation truly believe that the goal of their program is simple relief from tuition costs. They have not introduced and passed legislation as a mechanism to stop another idea, to stifle congressional initiative, nor to gain credit for a program which might be enacted without their support.

Since President Carter now admits and touts the fact that middle-income families do, indeed, need help in providing their children with higher education, why does not the President allow families to keep more of their own earnings? Basically, this is what a college tuition tax credit would do: reduce the family's average tax burden and free more funds for higher education expenses.

It is ironic that a President who campaigned against the ever-increasing problems of big government would want taxpayers to fill out more Government forms, reveal their personal finances and assets to a Federal bureaucrat, and prove they deserve a Government education assistance grant which they finance in the first place through their own tax money.

H.R. 11274, as reported, does make some improvements in the President's program but many of these improvements will be struck by the committee from the bill and the middle-income student assistance program will become a program that HEW formulates, devises by regulation, and administers.

Some individuals have estimated that of every $1 of Federal education aid money that is budgeted by the Department of Health, Education, and Welfare, only 50 cents worth reaches the needy student.

Because of the concern over the state of the Federal education financial assistance programs, the Secretary of Health, Education, and Welfare during the past administration ordered an independent study of student aid programs by the Student Financial Assistance Study Group with special concern devoted to management issues and fraud and abuse within the programs. The findings of the study are reported in a June 1977 document entitled "Report to the Secretary—Recommendations for Improved Management of the Federal Student Aid Programs."

The study concluded that—

In addition to these visible costs, a massive bureaucracy is being created within the Federal and State governments, educational institutions, and lending institutions to administer the programs. The programs grow ever more complex in sincere attempts to treat all students and institutions fairly, while curbing abuse. The group believes it is time to reexamine the extent to which, and how, financial aid should be provided and to define the respective responsibilities of the Federal Government, State governments, institutions and students and their parents for sharing the cost of education and training.

It is interesting to note that HEW was, in February 1978, trying to collect on as many as 350,000 Government-guaranteed student loans from people who have now graduated from school and defaulted on their payments. Federal defaults at that time totaled $430 million—which the taxpayers have to pay.

Nearly 6,800 of those who had defaulted on their loans at that time were working for the Federal Government—316 in HEW alone. Attempts are being made to track these individuals down and gain repayment. But my point is, should we at this point infuse more money into these programs, with new formulae for distribution and disbursement, when the basic faults of the present program remain unchanged?

For a President who has pledged to reduce unnecessary Government regulation and involvement, the idea of funneling additional student aid through the Federal Government, further enlarging the administrative overhead, is both abhorrent and inconsistent with his avowed policies. Further, for a President who has based his administration on openness and candor, the administrative maneuvering which has surrounded H.R. 11274, including secret memos and quiet visits to the White House, smacks of chicanery.

I hope that the House defeats the rule so that a clear signal will be sent to the administration that the Congress will not stand by and let the Department of Health, Education, and Welfare and the White House succeed in their attempts to dictate a bureaucratic program and ram it through the House.

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to my friend, the gentleman from Illinois.

Mr. RAILSBACK. Mr. Speaker, I listened very carefully to what the gentleman had to say, and I agree. I agree with his recitation of the sequence of events. I am very much aware of the memo to which the gentleman referred, which I really thought was very ill advised and poorly motivated by Secretary Califano.

But at the same time many of us in supporting the tuition tax credit never intended that it be a complete replacemen or alternative for the kind of assistance included in the loan and grant assistance programs.

So my feeling is that although I share with the gentleman in the well the concerns he has expressed, at the same time I feel the bill—I have had a chance to look at it—really is going to be very helpful to middle-income families.

Mr. COUGHLIN. I agree with the gentleman from Illinois, it was never the purpose of the tuition tax credit to replace the existing grant programs, because the two can work in tandem and in harmony.

Existing grant programs are very important for those on the very lowest level of the income scale but it is equally important to provide middle-income Americans who are struggling during the particular time in their life when they are hardest hit by the cost of education, in trying to provide some assistance to them.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. RAILSBACK. Mr. Speaker, will the gentleman yield?

Mr. COUGHLIN. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding to me.

Let me just say again that let the blame fall on the shoulders of the President for doing what he has done in regard to tuition tax credits. But, at the same time I guess what I am saying to the gentleman in the well is I wonder if we should let our decision on how we vote on this be governed by what the President has opted to do on tuition tax credits if, as many of us do, we support both.

In other words, we support this other kind of middle-income assistance as we do the tuition tax credits.

Mr. COUGHLIN. Let me say to my friend from Illinois, Mr. RAILSBACK, that I support both approaches too, but passage of this legislation at this hour is an open invitation to President Carter to veto any tuition tax legislation that might come before him. That is the crux of the issue right now.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I rise with mixed emotions concerning the rule on the Middle-Income Student Assistance Act. As the gentleman who just preceded me in the well said, I could support both of these approaches. But, let

us understand why this bill is before us today.

First of all, the bill would not have been prepared and introduced on behalf of the administration unless tuition tax credits were moving and the administration was fearful that tuition tax credits were going to be adopted and sent to the President for his signature.

So the genesis of this bill is the attempt by the administration to try to head off tuition tax credits.

The ploy that was used is that when the bill was brought out of the Committee on Education and Labor, in rather expeditious fashion, it then was brought to the floor of the House in March of this year, as my colleague, the gentleman from Illinois mentioned, under suspension of the rules. It was brought to the floor under suspension because the managers of the bill knew that they could not get a rule from the Committee on Rules because of the feeling in the House in preference for tuition tax credits.

Knowing that this bill was a ploy to head off tuition tax credits at that time, Mr. Speaker, I asked for a recorded vote on the question of ordering a second for consideration of this bill under suspension of the rules. And by a very wide margin this House voted down the second and the House decided that they did not want to consider middle income student assistance because of the fact that it would interefere with the opportunity of having enacted and signed into law the tuition tax credits.

I do not think the situation has changed too much since that time.

We now have had the House pass the tuition tax credit bill which came up subsecond to the consideration of this bill under suspension, of the rule. The House passed the tuition tax credit bill by a wide margin, including elementary and secondary, as well as higher education. When the conference on the differences between the two Houses decided to strike the primary and secondary tuition tax credit approach.

That conference has now again reported a bill which includes not primary, but secondary as well as post-secondary tuition tax credits.

That bill can go to the President. The President has announced his intention to veto the bill.

The passage of this Middle-Income Student Assistance Act, which the President wanted as an alternative to the tuition tax credits, will be an open invitation for the President to veto tuition tax credits and sign into law this which he wanted as an alternative.

Besides that, there are some provisions of the bill under consideration which I object to, and I will have amendments to offer if we get to that point. However, as I say, I do rise with mixed emotions.

There are those among my colleagues who favor both, and there are those who have sponsored both; but what they are doing is making the enactment of tuition tax credit inevitably impossible this year if we consider this bill and send this bill to the President.

Mr. Speaker, I hope we do not do that because I think tuition tax credits are a preferable approach to extending help to middle-income families who are trying to furnish post-secondary education opportunities to their children.

As the gentleman from Pennsylvania so aptly put it, why should we send our money to Washington through taxes? We know the kind of tax revolt we are facing today. Why should we send our money to Washington through taxes, hiring a bunch of bureaucrats to handle that money, to look at the application forms, massage them, send them back, remassage them, and then possibly, if a citizen qualifies, he may get part of his tax dollar back. I repeat, he may get part of his tax dollar back, but a good deal of our tax dollars will be spent in the bureaucratic process of collecting the taxes, looking at the forms, looking at the applications for grants, and loans, and then possibly giving a subsidy, a loan, or a grant to that poor taxpayer who gets only a part of his funds back.

I think the tax credit approach shows that we have faith in our voters and faith in the fact that our constituents know how to spend their hard-earned dollars for the education of their children.

Mr. Speaker, I hope that the Members will favor that approach.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, I would simply underline that some 17 members of the House Committee on Education and Labor indicated that, in fact, they did favor both approaches. Many had cosponsored this legislation, including the ranking minority member on the House Committee on Education and Labor, who is at this moment in process of being elected Governor of Minnesota. I wish he could be here to say for himself what I will say for him.

Mr. Speaker, we do not have to choose. This is a chance to go on record for a good program, as the gentleman from Illinois has said. It is not in conflict with a Member's vote on tax credits, I say to those Members who support that approach. The President will act on that legislation on its merits, regardless of what we do here. He can implement—because the appropriation is there—substantial portions of this program, whatever we may do here. However, this is our chance to influence the nature of this program and also our chance to register our support for middle-income assistance.

Mr. Speaker, I would urge the Members to follow the leadership of that overwhelming majority of the members of the Committee on Education and Labor who voted for this bill and the 17 members, those who support tax credits, who said, "Yes, we want this legislation," and "Yes, we want tax credits as well."

Mr. DODD. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ERLENBORN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 342, nays 38, not voting 50, as follows:

[Roll No. 923]

YEAS—342

Abdnor	Dingell	Jones, Tenn.
Addabbo	Dodd	Jordan
Akaka	Dornan	Kastenmeier
Alexander	Downey	Kazen
Ambro	Drinan	Kelly
Anderson, Calif.	Duncan, Oreg.	Kemp
Anderson, Ill.	Duncan, Tenn.	Keys
Andrews, N.C.	Early	Kildee
Andrews, N. Dak.	Eckhardt	Kostmayer
Annunzio	Edgar	Krebs
Ashbrook	Edwards, Calif.	Krueger
Ashley	Edwards, Okla.	LaFalce
Aspin	Eilberg	Lagomarsino
AuCoin	Emery	Le Fante
Bafalis	English	Leach
Baldus	Ertel	Lederer
Barnard	Evans, Del.	Leggett
Baucus	Evans, Ind.	Lent
Bauman	Fary	Levitas
Beard, Tenn.	Fascell	Lloyd, Calif.
Bedell	Fenwick	Lloyd, Tenn.
Beilenson	Findley	Long, La.
Benjamin	Fish	Long, Md.
Bennett	Fisher	Lott
Bevill	Fithian	Lundine
Bingham	Flippo	McClory
Blanchard	Flood	McCloskey
Blouin	Florio	McCormack
Boggs	Flowers	McDade
Boland	Foley	McHugh
Bolling	Ford, Mich.	McKay
Bonior	Ford, Tenn.	McKinney
Bonker	Fountain	Madigan
Bowen	Fowler	Maguire
Brademas	Frenzel	Mahon
Breaux	Fuqua	Mann
Breckinridge	Gammage	Markey
Brinkley	Garcia	Marks
Brodhead	Gaydos	Marriott
Brooks	Gephardt	Martin
Broomfield	Gibbons	Mattox
Brown, Ohio	Gilman	Mazzoli
Broyhill	Ginn	Meeds
Buchanan	Glickman	Meyner
Burgener	Goldwater	Michel
Burke, Mass.	Gonzalez	Mikulski
Burlison, Mo.	Goodling	Mineta
Burton, Phillip	Gore	Minish
Butler	Gradison	Mitchell, Md.
Caputo	Grassley	Mitchell, N.Y.
Carr	Green	Moakley
Carter	Gudger	Moffett
Cavanaugh	Guyer	Mollohan
Cederberg	Hagedorn	Montgomery
Chappell	Hall	Moore
Chisholm	Hamilton	Moorhead, Calif.
Clausen, Don H.	Hammer-schmidt	Moorhead, Pa.
Clay	Hanley	Mottl
Cleveland	Hannaford	Murphy, Ill.
Cochran	Hansen	Murphy, N.Y.
Cohen	Harkin	Murphy, Pa.
Coleman	Harris	Myers, Gary
Collins, Ill.	Hawkins	Myers, John
Conte	Heckler	Myers, Michael
Corman	Hefner	Natcher
Cornell	Heftel	Neal
Cornwell	Hightower	Nedzi
Cotter	Hillis	Nichols
Crane	Holland	Nix
Cunningham	Hollenbeck	Nolan
D'Amours	Holt	Nowak
Daniel, Dan	Holtzman	O'Brien
Daniel, R. W.	Horton	Oakar
Danielson	Howard	Oberstar
Davis	Hubbard	Obey
de la Garza	Hughes	Ottinger
Dellums	Hyde	Panetta
Dent	Jacobs	Patten
Derrick	Johnson, Calif.	Patterson
Dicks	Johnson, Colo.	Pattison
	Jones, N.C.	Pease
	Jones, Okla.	Pepper

Perkins	Schulze	Van Deerlin
Pickle	Sebelius	Vanik
Pike	Seiberling	Vento
Pressler	Sharp	Volkmer
Preyer	Sikes	Waggonner
Price	Simon	Walgren
Pritchard	Sisk	Walsh
Pursell	Skelton	Wampler
Rahall	Skubitz	Watkins
Railsback	Slack	Weaver
Rangel	Smith, Iowa	Weiss
Regula	Snyder	Whalen
Reuss	Solarz	White
Rhodes	Spellman	Whitehurst
Richmond	Spence	Whitley
Rinaldo	Staggers	Whitten
Roberts	Stanton	Wiggins
Robinson	Steed	Wilson, Bob
Rodino	Steers	Wilson, Tex.
Roe	Steiger	Wirth
Roncalio	Stokes	Wolff
Rooney	Studds	Wright
Rose	Stump	Wydler
Rosenthal	Taylor	Wylie
Roybal	Thompson	Yates
Runnels	Thone	Yatron
Ruppe	Traxler	Young, Alaska
Ryan	Treen	Young, Fla.
Santini	Trible	Young, Mo.
Sarasin	Tsongas	Young, Tex.
Sawyer	Tucker	Zablocki
Scheuer	Udall	Zeferetti
Schroeder	Ullman	

NAYS—38

Archer	Forsythe	Quayle
Beard, R.I.	Jeffords	Quillen
Burleson, Tex.	Jenrette	Rousselot
Clawson, Del	Kasten	Satterfield
Collins, Tex.	Kindness	Shuster
Conable	Latta	St Germain
Corcoran	Livingston	Stangeland
Coughlin	Luken	Stockman
Delaney	McDonald	Symms
Derwinski	McEwen	Vander Jagt
Devine	Miller, Ohio	Walker
Edwards, Ala.	Murtha	Winn
Erlenborn	Poage	

NOT VOTING—50

Ammerman	Fraser	Moss
Applegate	Frey	Pettis
Armstrong	Giaimo	Quie
Badham	Harrington	Risenhoover
Biaggi	Harsha	Rogers
Brown, Calif.	Huckaby	Rostenkowski
Brown, Mich.	Ichord	Rudd
Burke, Calif.	Ireland	Russo
Burke, Fla.	Jenkins	Shipley
Burton, John	Lehman	Smith, Nebr.
Carney	Lujan	Stark
Conyers	McFall	Stratton
Dickinson	Marlenee	Teague
Diggs	Mathis	Thornton
Evans, Colo.	Mikva	Waxman
Evans, Ga.	Milford	Wilson, C. H.
Flynt	Miller, Calif.	

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Dickinson.

Mr. Evans of Colorado with Mr. Burke of Florida.

Mr. Miller of Colorado with Mr. Frey.

Mr. Mikva with Mr. Marlenee.

Mr. Huckaby with Mr. Badham.

Mr. Giaimo with Mr. Rudd.

Mr. Jenkins with Mr. Lujan.

Mr. John L. Burton with Mr. Quie.

Mr. Rostenkowski with Mrs. Smith of Nebraska.

Mr. Flynt with Mr. Harsha.

Mr. Rogers with Mr. Ammerman.

Mr. Evans of Georgia with Mr. Brown of California.

Mr. Applegate with Mr. Conyers.

Mrs. Burke of California with Mr. Brown of Michigan.

Mr. Carney with Mr. McFall.

Mr. Mathis with Mr. Fraser.

Mr. Lehman with Mr. Harrington.

Mr. Ichord with Mr. Milford.

Mr. Ireland with Mr. Stratton.

Mr. Waxman with Mr. Teague.

Mr. Thornton with Mr. Shipley.

Mr. Russo with Mr. Risenhoover.

Mr. Charles H. Wilson of California with Mr. Moss.

Mr. Stark with Mr. Diggs.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2899, ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. MURPHY of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions, with House amendments thereto, insist on the House amendments, and request a conference with the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York? The Chair hears none, and, without objection, appoints the following conferees: Messrs. MURPHY of New York, DINGELL, LEGGETT, BOWEN, GINN, RUPPE, FORSYTHE, and BEARD of Tennessee only for consideration of his amendments to sections 3 and 4 of the House amendment relating to the 18-month extension of the program or modifications thereof committed to conference.

There was no objection.

PROVIDING FOR CONVEYANCE OF CERTAIN LANDS NEAR DIXON, N. MEX., TO UNIVERSITY OF NEW MEXICO

Mr. RONCALIO. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 1403) to provide for conveyance of certain lands near Dixon, N. Mex., to the University of New Mexico.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to the conditions and limitations specified in this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to convey at fair market value to the University of New Mexico all right, title, and interest of the United States in the following described land comprising approximately one hundred and ten acres:

Southeast quarter of the southwest quarter; south half of the northeast quarter of the southwest quarter; southwest quarter of the southeast quarter; and the southwest quarter of the northwest quarter of the southeast quarter, section 29, township 23 north, range 11 east, New Mexico principal meridian.

SEC. 2. Conveyance under this Act shall be made only (a) upon the University of New Mexico providing satisfactory assurances to the Secretary that no valid mining claims exist on the described lands, other than the patented mining claims of Doctor Arthur Montgomery; and (b) upon the condition that the described land shall be held and used by the University of New Mexico and shall not be conveyed by the university, and the minerals thereunder shall not be mined and sold in commercial quantities: *Provided,* That if the Secretary of the Interior determines that mining of the minerals contained in the described lands is necessary for the security of the United States, the University of New Mexico shall lease the lands for mining to such person as may be designated by the Secretary under the terms of a lease to be prepared by the Secretary, with any royalties to be paid to the United States. The patent conveying the lands to the University of New Mexico shall contain such provision.

SEC. 3. No conveyance shall be made unless application for conveyance is filed by the university with the Secretary within six months of the date of approval of this Act.

SEC. 4. The Secretary may in his discretion require that he be furnished a perimeter survey of the described lands. All costs of obtaining such survey and any costs of supplying the Secretary with the proof that no valid unpatented mining claims, exist on the property, shall be borne by the university.

SEC. 5. No conveyance shall be made under this Act until the university has shown to the satisfaction of the Secretary that all right, title, and interest of Doctor Arthur Montgomery to unpatented mining claims and the existing patented mining claim in the above described lands have been conveyed to the University of New Mexico.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MIDDLE-INCOME STUDENT ASSISTANCE ACT

Mr. FORD of Michigan. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11274) to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students and to amend section 1208 of such act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. FORD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11274, with Mr. MITCHELL of Maryland in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan (Mr. FORD) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Chairman, I will be as brief as I possibly can, without being cryptic, and I would hope that my colleagues understand that it

is not in any way an attempt to denigrate the importance of debate on this issue, but I feel that prolonged debate would serve little purpose at this time.

This legislation, which has been discussed for a long time, has been considered in a variety of ways by the Committee on Education and Labor over some years. This is the first time that this proposal has been brought together in one package.

I am sorry he is not here this evening, but the gentleman from Minnesota (Mr. QUIE), the ranking Republican on the committee; and the gentleman from Kentucky (Mr. PERKINS), the chairman of our committee, were original sponsors of this legislation, together with the gentleman from Alabama (Mr. BUCHANAN), the ranking minority member of the Subcommittee on Postsecondary Education; along with 54 of our colleagues.

We all collaborated in the construction of the legislation. We collaborated in the hearings and in the development of the legislation in the subcommittee. The subcommittee, with a quorum present, reported this bill out by unanimous vote. Subsequently, the full Committee on Education and Labor reported the bill out by a vote of 32 to 3.

I think that the gentleman from Illinois (Mr. ANDERSON) has already put on the record a better explanation of the need for this legislation that I might make at this late time in the evening, and I am willing to stand on what he said. It would be my intention to ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks at this point in the RECORD.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I would like to express my appreciation to the chairman of the subcommittee on which I serve and to reiterate and importance of this legislation. I quite agree that the gentleman from Illinois (Mr. ANDERSON) expressed it extremely well.

This is really landmark legislation. It is enormously important. It has been, in a sense, misrepresented because it will not do what some people say. But it will, indeed, help thousands and thousands of youngsters and their families to pursue their educations.

I have been on the Committee on Education and Labor long enough to have seen all of the recent landmark legislation. In my considered judgment, this has been something which has been really needed to complete and round out the picture as it relates to higher education.

Mr. Chairman, I would like to commend the gentleman from Michigan (Mr. FORD), the gentleman from Illinois (Mr. ANDERSON) and others who have associated themselves with this legislation, and urge my colleagues to pass it.

Mr. BRADEMAS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Chairman, I want to join my colleague from New Jersey (Mr. THOMPSON) in commending our colleague, the gentleman from Michigan (Mr. FORD), the chairman of the Postsecondary Education Subcommittee, on the superb leadership he has given in bringing this legislation to the floor. I have been a member of that subcommittee for 20 years now, and I think I can, therefore, speak from experience as well when I say that BILL FORD has done a magnificant job on this legislation, in which I am proud to be a cosponsor.

Mr. Chairman, I want also to commend the ranking minority member, the gentleman from Alabama (Mr. BUCHANAN), as well as the gentleman from Minnesota (Mr. QUIE) on their contributions to this fine piece of legislation.

Mr. Chairman, H.R. 11274, the Middle-Income Student Assistance Act, is a $1.5 billion measure designed to provide financial assistance to students from middle-income families.

This bill is based on the proposal announced by President Carter on February 28. In his remarks at the White House, the President said:

> Increasingly, the middle-income families, not just lower-income families, are being stretched to their financial limits by. . . new and growing costs of a university or college education. No one should be denied the opportunity for a college education for financial reasons alone. And our Nation has long recognized our obligation to help lower-income families in this educational area. Now we must increasingly take steps to help middle-income families as well.

This bill, Mr. Chairman, takes not only steps but long strides toward the goal of aiding students from middle-income families.

H.R. 11274 expands eligibility for participation in existing student assistance programs to students from middle-income families, many of whom have not been eligible to receive Federal assistance for their college educations.

H.R. 11274 has three basic components:

First, Mr. Chairman it expands eligibility for participation in the basic educational opportunity grant program to students from middle-income families. If we are talking about an average family of four with one student in college, the current basic grant program serves about 2.2 million students from families with incomes up to about $15,000. The expanded program, provided for in this bill, will serve an additional 1.5 million students from families with incomes up to $25,000. To give a concrete example, a student from a typical family with an income of $18,000 receives nothing under the current basic grant program. Under this bill, the same student may receive a grant of more than $800.

Mr. Chairman, the second component guaranteed student loan program. Currently, under this program, students from families with incomes up to $25,000 are automatically eligible to receive a subsidized loan of up to $2,500 a year. A student who receives the interest subsidy pays no interest while in school and pays only 7 percent on the loan after leaving school. These interest subsidy benefits are worth over $400 a year for an undergraduate who borrows the maximum amount. Mr. Chairman, this bill makes all students regardless of their families' income eligible for a guaranteed student loan. The bill also provides new incentives to encourage lenders to make loans to students.

Mr. Chairman, the third component of the bill is an expansion of two of the campus-based programs, College work-study and supplemental educational opportunity grants. These programs increasingly serve students from middle-income families.

Mr. Chairman, consider these points:

This bill was developed with close bipartisan cooperation.

This bill is cosponsored by 54 Members, including the ranking minority member of the full Education and Labor Committee, Mr. QUIE, and the ranking minority member of the Subcommittee on Postsecondary Education, Mr. BUCHANAN.

This bill received enthusiastic support from students and representatives of the higher education community in 4 days of hearings.

This bill was reported unanimously from the Subcommittee on Postsecondary Education.

This bill was reported from the Education and Labor Committee by a vote of 32 to 3.

This bill is strongly supported by the President.

I know of no significant objections to this bill on its merits.

I urge my colleagues to support H.R. 11274, to provide needed assistance to students from middle-income families.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, the gentleman was gracious enough to mention the ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE), who, as has been described before, is engaged in other pursuits today. I have been talking to him regularly. Our most recent conversation was today.

The gentleman from Michigan has described Mr. QUIE's enthusiasm for this bill correctly. He does endorse it very strongly, and commends the gentleman in the well for his fine work. The gentleman from Minnesota and the gentleman from Michigan have been working on this concept for years, and their work has been a credit to all of us.

I hope the bill will be promptly passed. I thank the gentleman for yielding to me.

Mr. FORD of Michigan. I thank the gentleman for his comments.

Mr. CARR. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to my colleague from Michigan.

Mr. CARR. Mr. Chairman, I would like to add my commendation to the gentleman from Michigan, my dear friend and colleague, for his leadership. This is

landmark legislation, as the gentleman from New Jersey has said.

The people in my district, particularly Michigan State University, and hearings and thousands of inquiries I have had inside the 4 years I have been in the Congress, indicate to me that this legislation is going to go far toward solving the crisis of financial aid for students who really want to get ahead, who want to take on the responsibility themselves and do not want to slough it off on their parents, and want to get out there and earn their way.

I commend the gentleman and associate myself with his remarks.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding. I commend him for his efforts as well as the other Members and the ranking minority Member, the gentleman from Minnesota (Mr. QUIE), for their efforts in working out this program.

It has been a long time since there has been a readjustment to reach the middle-income levels. This will provide the maximum opportunity for postsecondary education in a meaningful way and be very helpful to our students. It is a very well-thought-out effort that has gone into this bill. I commend the gentleman for his work.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Washington.

Mr. McCORMACK. Mr. Chairman, I commend the gentleman for bringing this legislation to the floor. It is important for all Members to understand that we do not at the present time know whether the tuition tax credit will be passed or vetoed. Even if it becomes law there will still be numerous cases where the programs in the bill before us can be of extreme help.

A number of years ago I had the privilege of teaching in higher education and I found these programs for student assistance to be of great value to many students.

I want not only to commend the gentleman, but also seriously to commend this legislation to all Members of the House no matter what they think about a tuition tax credit, and whether they oppose or support the tuition tax credit program, I urge that they support this bill now.

Mr. FORD of Michigan. I thank the gentleman.

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for yielding and I commend the gentleman and the members of the committee for bringing this bill to the floor.

As the gentleman from Washington pointed out, regardless of how someone may feel about tuition tax credits, that is one issue, but this is a very important piece of legislation which affects a lot of needy and deserving students. I commend the gentleman for their support in bringing this bill to us and I urge our colleagues to vote in favor of it.

I thank the gentleman for yielding.

Mr. CORRADA. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the Resident Commissioner from Puerto Rico.

Mr. CORRADA. Mr Chairman, I would like to express my full endorsement and support for H.R. 11274, the Middle-Income Student Assistance Act. Many times I have replied to a student who inquires about Federal student assistance programs, that they are unavailable, because even though the family income was modest, it was too large for purposes of receiving a Federal grant or loan. I think that this bill is a giant step in bringing these programs closer to the needs of our hard-pressed middle class.

The bill expands the eligibility criteria for the BEOG program, making approximately 1.5 million students eligible, it insures that lower income students are fully funded, establishes a $1,800 maximum BEOG grant, and eliminates current discriminations against self-supporting students.

The bill also increases the threshold levels for the college work study program and the supplemental educational opportunity grants (SEOG). By increasing the minimum funding level of CWS we will be creating an estimated 145,000 jobs, and by similarly increasing the threshold funding for SEOG, we will be providing close to 135,000 new grants.

With respect to the guaranteed student loan program, we lift the income ceiling, so that any student attending an institution of postsecondary education is eligible for subsidized interest payments on guaranteed student loans.

As a cosponsor of H.R. 11274, I urge my colleagues to approve this initiative, so we do not end up making a college education a scarce commodity, or the factor that forces a family into financial problems or insolvency.

Mr. FORD. I thank the Delegate from Puerto Rico.

Mr. Chairman, H.R. 11274, the Middle-Income Student Assistance Act, represents a bipartisan effort to provide over $1.2 billion in financial assistance for college students from hard-pressed working class and middle-income families. It was cosponsored by 54 Members, including the ranking minority member of our full committee (Mr. QUIE) and the ranking minority member of the subcommittee on Postsecondary Education (Mr. BUCHANAN), as well as the chairman of our full committee (Mr. PERKINS).

It was reported unanimously from the subcommittee, and it was reported by the full committee by a rollcall vote of 32 to 3. To the best of my knowledge, there is no organized opposition to the substance of this bill. It is supported by the entire education community—by all major associations representing colleges and universities, by the student groups and by the professional association of student financial aid officers. It is also supported by the National Education Association, the American Federation of Teachers, the AFL–CIO, and the UAW.

Mr. Chairman, the issue now before us is a very simple one: Whether or not we want to expand existing student assistance programs so that we can relieve the financial burden on middle-income and working-class students who want to go to college. This legislation is the biggest infusion of funding for middle-income college students since the GI bill at the end of World War II. Without creating any new programs, forms, or bureaucracies this legislation expands participation in the basic educational opportunity grant program to provide outright grants to an additional 1.5 million students, and it liberalizes the treatment of independent students. For example, a student from the typical family of four, having an income of $25,000, with one child in college would be eligible for a basic grant of approximately $250. Students from families with higher incomes would also be eligible for basic grants depending on the family circumstances. For example, in the rather common case of a family with two wage earners making a gross income of $40,000 having four children, two of whom are in college, each of the children would receive a basic grant of $250.

The bill also significantly expands the existing campus-based grant and work-study programs so more funds will be available for middle-income students who have heretofore been sent away from their campus student aid office empty-handed. Every full-time and half-time college student in the country will be eligible to receive federally subsidized interest payments on a guaranteed student loan during the time they are attending school and up to 9 months after graduation. Students will be able to receive a loan of up to $2,500 per year. The interest subsidy benefits alone are worth over $400 per year for the student who takes out the maximum amount of loans.

Mr. Chairman, I want to emphasize once again that the legislation before us today involves only one simple issue: Whether or not we want to substantially increase Federal student assistance to students from hard-pressed middle-income families.

I hope my colleagues from both sides of the aisle will support this legislation so that we can get these students assistance dollars out to the people who have demonstrated so clearly their urgent need.

Mr. Chairman, I would like to make one further point to the members of the committee, and that is as soon as we begin under the 5-minute rule I will offer on behalf of the committee an amendment in the nature of a substitute which has been worked out with the gentleman from Alabama (Mr. BUCHANAN). We have reason to believe if that amendment is adopted and we send the bill in that form to the other body which has passed a

similar bill, it will be accepted without the necessity of a conference and it can be on its way to the President very shortly.

Mr. Chairman, I reserve the balance of my time.

Mr. BINGHAM. Mr. Chairman, I rise to express my support for H.R. 11274, the Middle-Income Student Assistance Act, and strongly urge my colleagues to vote for passage of this legislation because it provides meaningful, not token, assistance to students from lower- and middle-income families so they may attend institutions of higher education.

By contrast H.R. 12050, the tuition tax credit proposal, H.R. 12050, which the House with my support voted to send back to conference last night, would provide only token assistance. As originally reported by the conference committee, H.R. 12050 offers taxpayers a maximum Federal income tax credit per eligible student of between $100 and $250 phased in over the next 3 years to offset up to 35 percent of tuition costs per undergraduate college or postsecondary vocational student dependent of the taxpayer. This credit would be allowed regardless of the taxpayer's income, and would terminate after December 31, 1981. This is a paltry amount of aid when one considers that in 1978 the average annual bill for tuition, and other education-related costs in a public college or university is $2,500 and it is almost $4,800 for tuition, room, and board in a private institution. A tax refund of $100 or $250 in April is going to be small comfort to a taxpayer who had to meet a $2,500 or $4,800 college bill for his dependent the previous September. And can we in Congress really justify allowing taxpayers, who have high incomes and can take advantage of numerous tax shelters to avoid income taxes, another tax break? For these reasons the tax credit approach to student aid for higher education makes no sense to me.

What does make sense is to expand present Federal student financial assistance programs to include more middle-income families who because of inflation now need the aid, and to improve the benefits to those families already receiving aid. This is what H.R. 11274 proposes to do.

The Middle-Income Student Assistance Act Expands and improves five existing educational aid programs—basic educational opportunity grants (BEOG), the guaranteed student loan program (GSLP), supplemental educational opportunity grants (SEOG), college work-study program (CWSP), and the State student incentive grants (SSIG)—as follows:

BEOG

Under the BEOG program this bill would make students from families with incomes between $16,000 and $26,000 eligible for basic grants for the first time beginning in the academic year 1979–80. The maximum amount of the grant under this improved BEOG program would be $1800 and the minimum grant would be $200. Under H.R. 11274 the specific amount granted to any individual student is determined by subtracting the "expected family contribution" from the maximum grant of $1,800. The "expected family contribution" is in turn determined by a formula which takes into account family income, size, assets and extraordinary and necessary expenses including tuition costs for private elementary and secondary education of another child. H.R. 11274 improves this formula by lowering the family contribution assessment rate to 10.5 percent of discretionary income from the present 20 percent (under $5,000) and 30 percent for income ($5,000 and above). This improvement in itself will bring approximately 1½ million additional students into the program. I support efforts to fully fund this liberalization of BEOG's and will oppose an expected amendment to increase the assessment rate to 12 percent or higher.

Briefly to give you examples of how the BEOG's would be improved under this bill, an eligible student from a family of four with $14,000 in income and no unusual assets or expenses would receive a grant of $462 under the current program and $1,158 under H.R. 11274; a student from a family of four with $20,000 in income would be ineligible under present law but would receive a $669 BEOG under H.R. 11274. In addition, many educational institutions offer needy students BEOG's as part of a package of aid which may also include loans, grants, and employment opportunities to make up any short fall between student assets and actual college costs. In my view, there is no comparison between this kind of extensive and flexible aid and $100 to $250 in delayed tax credits.

As for financially independent students, this bill redresses several long-standing inequities in their treatment under this program, particularly those independent students with dependents of their own. These changes have the effect of expending the eligibility of these students.

GUARANTEED STUDENT LOAN PROGRAM

Under current law, the guaranteed student loan program is the primary source of Federal aid for students from middle-income families; it provides interest subsidies and guarantees for payment for loans given by banks to students from families with adjusted incomes no greater than $25,000. Without these subsidies and guarantees many students would not be able to obtain loans to cover their higher education costs. Today, in the tight money market, even students from families with substantial income are having trouble securing enough loan money to attend college. In response to this growing problem, the committee has wisely included in H.R. 11274 a provision removing the $25,000 eligibility limit entirely. This will save considerable administrative costs and paperwork and greatly simplify the present loan application form—a move I know we all can applaud. So, if this legislation is enacted, every eligible full-time or half-time student in the country would be entitled to receive federally subsidized interest payments on a guaranteed loan during the time the student is attending a post-secondary institution and up to a grace period of 9 months thereafter. The bill also makes several improvements which should make participation in the GSLP more attractive to lending institutions and increase the availability of capital. While I am on this subject, I note with pleasure that Secretary of HEW, Joseph Califano has pledged to redouble his Department's effort to eliminate fraud, abuse and waste in this aid and other student aid programs. I am confident these programs can be made to work as they were designed.

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

The supplemental educational opportunity grants (SEOG) program is administered by educational institutions and provides supplemental grants to qualified undergraduate students with inadequate assets, grants, or loans to meet the full cost of higher education. With college costs increasing 77 percent over the last 10 years, it is not surprising that more and more middle-income students are applying to participate in this program which was originally designed to help only low-income students. Educational experts have urged an increase in funding for this program to accommodate this demand and I am pleased the committee has responded by raising the fiscal year 1979 SEOG mandate appropriations level to $340 million, a $70 million increase over the current level. This increase is expected to provide an additional 133,945 awards at an average grant of $530. Also, the bill raises the fiscal year 1980 to $90 million above the fiscal year 1979 level for a total of $450 million.

STATE STUDENT INCENTIVE GRANTS

The State student incentive grant (SSIG) program provides Federal matching funds within limits to States for State need based student grant programs to encourage maximum State participation in this Government effort to assist students. In the first academic year (1973–74) of the SSIG 31 States provided $364.2 million in such grants. In the last academic year (1977–78), more than $750 million was appropriated by the States for programs eligible for partial SSIG Federal matching. Clearly, this incentive program is highly successful. Noting this, the committee has increased the Federal funding level under this program by $10 million for a total of $87 milion for fiscal year 1979. Presently, 35 of the 53 States and territories participating in the program are overmatching the Federal contribution so this new money plus a change in the present law allocating the SSIG money to States should encourage additional State student aid.

COLLEGE WORK STUDY PROGRAM

The college work-study program is another institution-administered program, but it is designed to provide part-time employment for needy students who require an opportunity to earn money to help pay for their undergraduate education. It is often made part of a student financial aid package which may include loans and grants offered by the educational institution. The college work study program is important especially to students who want to avoid ex-

cessive indebtedness. As in the other student aid programs I have discussed, the demand for participation in this program by middle-income students has been growing. So the committee has recommended a $70 million funding increase for CWS program raising the fiscal year 1979 level to $550 million, with an additional increase mandated in fiscal year 1980 to raise the level to $600 million.

Taking all of these program expansions into account, H.R. 11274, represents the biggest single infusion of funding for middle income college students since the adoption of the GI bill at the end of World War II. The amount of aid in loans, grants, and employment opportunities made available under these programs bears some resemblance to the actual costs of higher education. The $100 to $250 proposed as tuition tax credits to offset such costs do not. Under H.R. 11274, students that might not be able to go on to college because of limited family assets will be able to go. Under the conference committee version of H.R. 12050, the tuition tax credits provided are clearly not enough to make the difference between going to college and not going. If a Federal budget choice has to be made between H.R. 11274 and the conference committee version of H.R. 12050, then in my judgment there is only one reasonable choice—H.R.11274. The benefits of the latter far outweigh those of the former. This position is supported by the administration and almost every educational institution and student organization I heard from on this issue—in fact, by virtually every sector of the postsecondary education community. It is also supported by the AFL–CIO, the United Auto Workers, and the American Bankers Association. I urge my colleagues to heed this general wisdom and vote for passage of H.R. 11274, the Middle-Income Student Assistance Act.

One final word on the matter of tuition tax credits proposed by the conference committee in their version of H.R. 12050. While I do not support tax credits for higher education tuition costs, I do support them for private, nondiscriminatory elementary and secondary education. That is why I voted with the majority of my colleagues last night in favor of the motion to recommit H.R. 12050 with instructions to report back with the provision previously approved by the House allowing such tax credits.

I sincerely hope that the Senate, which voted to drop tax credits for elementary and secondary education, will reconsider and allow the will of the House to prevail in this matter. If there are budget problems with enacting proposals providing both tuition tax credits and and an expansion of Government student assistant programs, then I urge retention of tax credits for private elementary and secondary education costs and elimination of the credits for higher education costs. Why? Because parents who choose to send their children to private elementary and secondary schools are long overdue a tax break for the double education payments for their children they have been burdened with. Under present tax law, these parents are not even allowed a deduction for these educational costs which can be as high as $1,000 per child, in addition to any State and local taxes they pay to support the public schools which they do not use. Surely, justice demands we allow these parents to keep a small portion of their income not to be paid in Federal income taxes to offset a portion of this double payment burden. As for those who cry that such a tax break is indirect Federal aid to church-supported institutions, I call on them to allow the proper institution—the Supreme Court—to decide this weighty constitutional issue, and remind them that a provision was included in the House version of H.R. 1250 to expedite such a Court test if the bill is enacted. If limited tax credits for private elementary and secondary education costs should be declared unconstitutional, I believe the ideal solution would be to provide tax credits to parents of both public and private schoolchildren targeted to those with income below a certain level. I understand this concept was rejected on the Senate floor. Perhaps it is an idea whose time has not yet come.

Mr. BUCHANAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 11274, Middle-Income Student Assistant Act of 1978, and urge my colleagues to overwhelmingly support its passage. I commend the outstanding leadership provided by the distinguished chairman of the full committee (Mr. PERKINS) and the Subcommittee on Postsecondary Education (Mr. FORD) in recognizing the need for this legislation and persevering in bringing it to the floor today.

The ranking minority member of the Education and Labor Committee (Mr. QUIE) should also be complimented for the many contributions he made to perfect H.R. 11274. For 20 years he has been a leading proponent of education legislation and his knowledge will be greatly missed by the House of Representatives.

I want to associate myself with the remarks made by the gentleman from Michigan. This bill has traveled a long and torturous path over the past 8 months. Although late in coming, I thank the Committee on Rules for granting a rule which allows members of this body to amend the bill if they want. Bills of this magnitude ($1.4 billion) should be debated openly and I hope that those Members who are uncertain about how they should vote will be convinced that this bill is not only necessary, but is long overdue.

I am aware of many major proposals which would significantly alter the existing student aid programs. I caution my colleagues against offering major amendments which have not been given adequate consideration by the Subcommittee on Postsecondary Education and may jeopardize passage of the bill. As you are well aware, time is precious during these last few days of the 95th Congress. Next year Congress will reauthorize the Higher Education Act of 1965, as amended. In preparation for this reauthorization, the subcommittee will conduct extensive hearings on the programs authorized by the act. I assure my colleagues that I will work closely with the subcommittee chairman (Mr. FORD) to provide an opportunity for new proposals to be heard next year.

Due to the lateness in the session that this bill is considered, a committee amendment has been prepared which merges the similar provisions in the House and Senate bills and eliminates those provisions which may be controversial. Our purpose in offering this amendment is to preclude the necessity for a conference. Senate sponsors have indicated they will accept our bill as amended by the committee amendment and I urge its acceptance by this body.

The Middle Income Student Assistance Act was reported by a 32-to-3 vote in March. This overwhelming support for H.R. 11274 was indicative of the committee's concern over the rising costs of college tuition and its impact on middle-income families. A recent library of Congress study shows that while after tax income rose 66.8 percent between 1967 and 1976, the total student charges rose 74.2 percent for public colleges and 76.7 percent for private colleges during the same period. A private financial firm estimated last year that by 1990 the 4-year cost of sending a student to a public college will be $47,300 and to a private college the cost will be $82,830. The rich can afford to pay the high student costs and the poor are generally provided Government assistance to allow them to attend college. This bill's objective is to ease the burden on those taxpayers who are already overtaxed—the middle class.

Expanding existing student aid programs is the best approach for the Government to assist in paying college costs. Student aid programs embodied in title IV of the Higher Education Act are need based. Moneys are distributed to those students who have the greatest need and not indiscriminately to persons who may be able to pay for a college education. Because the programs are need based, the student is given the option to choose between private and public, 2-year and 4-year, and low- and high-cost institutions.

This bill creates no new bureaucracies nor is additional paperwork required. In fact, in the guaranteed student loan program required family financial data is vastly reduced. By expanding the authorizations for two of the campus based programs—supplemental educational opportunity grants (SEOG) and college works study (CWS)—we provide greater flexibility to the colleges to meet an individual student's financial needs.

My distinguished colleague from Kentucky (Mr. PERKINS) and from Michigan (Mr. FORD) have detailed the specific provisions of the bill. I will not duplicate their comments, but I would point out some of the provisions which I feel are important. The committee took great care to insure that, in expanding the basic grant program to an additional 1.5 million students in the middle-income category, lower income recipients would not be adversely affected. During less than full funding of BEOG's, low-income

students are guaranteed a greater percentage of the grant for which they are eligible than is provided by the reduction formula in existing law.

The bill provides more liberal treatment for self-supporting (independent) students by protecting their assets and subsistence income costs from assessment in the same manner as those of other students and their families. While I agree that the treatment of independent students needed to be changed to more accurately reflect their true costs of living, I believe that the committee must closely monitor whether this provision unduly increases the incentive for students to declare their independence.

One of the provisions that will be struck by the committee amendment was one I offered during subcommittee markup. My amendment would have established a new base year for all funds appropriated over $75 million for the State student incentive grant (SSIG) program. The SSIG program provides Federal funds to States for the purpose of matching, on a one-to-one basis, State expenditures for State need-based student grants. At present over 35 States are overmatching the Federal contribution and thus have no incentive to increase their spending for State grants. My amendment would have provided an additional incentive to these overmatched States. The second tier for SSIG is not without controversy, however, and therefore I have acceded to its deletion from this bill. I do hope that we can hold hearings on this subject next year during reauthorization.

A significant proportion of this Nation's students will be aided by this legislation. In Alabama alone, over 22,000 new students will be eligible for basic grants. Many new families will now be eligible for interest subsidized guaranteed student loans. These changes are needed now and I urge my colleagues to support this bill.

Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. ERLENBORN).

Mr. ERLENBORN. Mr. Chairman, I think it is quite obvious from the vote on the rule for the consideration of this bill that this bill is favored by the vast majority of the Members of the House and I think that without any question the bill will be enacted shortly after we finish the amending process.

I noted the gentleman from Michigan (Mr. FORD) said that there would be an amendment in the nature of a substitute offered which will conform the bill to the bill as passed in the other body. I do not think we need to accept the bill as written by the other body. We have the expertise on our floor in this House to write the bill as we think that it should be written. I do not think that that necessarily means that the bill will suffer because of the late hour if the amendments that are adopted here are reasonable, as I am sure they will be, I am certain that they could be adopted by the Senate when the version passed by the House is sent over to the other body.

One of the amendments that I hope will be adopted is one that will put a cap on family income for subsidized guaranteed student loans. I will not go into a complete explanation of my reasons for this, but to say that there is only a certain amount of money available for guaranteed student loans. There is not an inexhaustible amount of money. I was quite aware of this when I drafted the legislation that created the Student Loan Marketing Association, called Sallie-Mae, which provides a secondary market for guaranteed student loans to expand the amount of money that is available for students seeking loans.

In spite of the fact that Sallie-Mae has been quite successful, there is still a limited amount of money available.

Now in the financial institutions it is quite obvious they would prefer to make a loan to those that have the best of credit, that have the best opportunity of repaying the loan and those, of course, would be the higher income students. If we remove the income cap altogether, this means more students from higher income families will become eligible for guaranteed student loans subsidized by the Federal Government. If these students do get the loans the final impact I will predict will mean that lower income students will be denied loans because the amount of money, as I say, is not inexhaustible.

So I do hope that my amendment to reinstate a cap on the family income level will be supported.

The cap was $15,000 until 2 years ago when it was raised to $25,000. The present bill would remove the cap altogether. I would propose to put a $40,000 family income cap for eligibility to guaranteed student loans.

Guaranteed loans without subsidy are available regardless of family income.

The second amendment I will offer would repeal the teacher cancellation. Many years ago we tried to encourage people to go into teacher education when they were in school, so as to be qualified as teachers because we had a teacher shortage many, many years ago. That shortage ceased to exist and I do not think we should have this encouragement in our guaranteed student loan program.

There is no reason to treat these two groups of students, who as a group are not different and as individuals are not different, to treat them differently as to the amount of interest that they should pay.

Mr. Chairman, I hope that these amendments will be supported. I do not intend to delay the consideration of this bill by the House.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, H.R. 11274, as it will be amended here tonight, provides very needed financial aid for students from working class families.

Initially, I wish to compliment the distinguished chairman of the Subcommittee on Postsecondary Education, BILL FORD, for the great leadership and effort he has exerted on behalf of this bill. Chairman FORD's subcommittee reported this legislation unanimously and the full committee approved the bill by a vote of 32 to 3 more than 7 months ago. It has indeed been unfortunate that there has been such a long delay. But for the determined efforts of BILL FORD we might not even have this opportunity tonight to consider and approve what is clearly landmark legislation in the field of student aid.

Mr. Chairman, I also wish to mention the ranking minority member of the committee, AL QUIE, and of the subcommittee, JOHN BUCHANAN. This has truly been a bipartisan effort. All Members of the committee from both sides of the aisle are to be congratulated.

It is late in the session, but I want to assure my colleagues that this bill can become law. We have already worked out an agreement with the other body and the amendments we will add tonight will make the bill acceptable to the Senate. We are assured that the other body will accept our version and thus there will be no need for a conference.

Quite frankly, I am somewhat troubled by a few of the amendments we will accept. I am in agreement, however, that the basic thrust of this bill is so important and so worthwhile that we must make a few concessions.

As my colleagues know, the Labor-HEW appropriations conference report debated earlier, in part, addresses some of the issues involved in this legislation. I only wish that the situation would have been such that those issues could have been handled exclusively in the authorizing process where they properly belong. Conditions dictated otherwise, however.

There is still some question in my mind as to the impact on the poorest students of what is proposed with the mandatory 10.5 percent assessment rate in the BOG program and what occurred with respect to that program in the appropriations conference report. I understand that promises of support for a supplemental appropriation for the BOG program were made during the debate on the HEW appropriations bill. Not only will I support such efforts, I will actively work to make sure that the BOG program is funded at a level where there can be no question as to the impact on the poorest of students.

Mr. Chairman, the chairman of the subcommittee has already adequately and fully explained how far-reaching this legislation is. It continues a balanced program of student aid which we established in 1972. The greatest expansion being proposed is in the BOG program and this is proper for it is this program which is the foundation program of student aid. Program growth will not be, however, at the expense of other necessary programs such as the direct loan program work-study and supplemental grants. To the contrary, the bill requires funding at existing levels or at increased levels for these programs.

Finally, Mr. Chairman, a very significant change is proposed for the insured loan program. We eliminate entirely an income test as a basis for Federal interest subsidy payment on insured loans. Under this bill, thousands and thousands of

students who were not able to obtain insured loans in the past will be able to not only obtain a loan but also Federal interest subsidy payments.

Mr. Chairman, H.R. 11274 does not propose new programs and hence no new bureaucracy. As a practical matter, the bill will reduce paperwork both for families and at the Federal level because no longer will a needs test be required for the insured loan program.

In this regard I should like to comment on the proposed amendments just discussed by the gentleman from Illinois (Mr. ERLENBORN). Quite frankly, I cannot understand the gentleman's position. If we were to restore a cap of $40,000, it would stimulate an enormous amount of paperwork. I think this body wants to do away with unnecessary paperwork and redtape. I think we can do this by preserving the committee amendment.

Mr. Chairman, this bill is little more than keeping up with inflation. With it we can have some assurance that even in this inflationary period college students will have reasonable basic grants and insured loans. I was greatly distressed to hear the gentleman from Illinois urge an increase in interest rates on direct loans. In my judgment, if we undertook to raise the interest rate to 7 percent we would destroy a program which the Congress has consistently fought for over the years. If Members just asked higher education administrators in their own states how the direct loan program is working, they would get a very very favorable report.

Mr. Chairman, the committee bill is well thought out and we should move forward with it as quickly as possible. The amendments just proposed were not offered in committee. I think we should dispose of them in short order. We have too much business to transact here this evening and I would hope we could approve this legislation as soon as possible.

I urge all my colleagues to vote no on the amendments and aye on the committee bill.

Mr. BUCHANAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, as we discussed in the debate on the rule, a program for assistance to students in higher educational facilities should include a balanced program of grants, tuition tax credits, and loans.

We have no objection to the program for increasing the level of income at which individual families may receive loans. We feel, however, that the grant program should be balanced with a tuition tax credit program which would allow people to keep some of their own funds with which to educate their children.

I feel, in addition, that it is important that the loan program be emphasized to allow people to really get a chance to finance a higher education through that loan program. At the appropriate time I may have amendments to raise the yearly and the aggregate amounts that an undergraduate and a graduate student may receive under the loan program, and also an amendment to provide for a merging of the tuition tax credit proposal and the basic educational opportunity grants program. These two amendments would help to make a complementary program which would merge the interests of loans, grants, and credits into one whole kind of program that I think would be most beneficial to the middle-income families of the country.

Mr. Chairman, I yield back the remainder of my time.

● Mrs. COLLINS of Illinois. Mr. Chairman, my very deep concern over reports of the hardships experienced by families sending their children through school and of the deteriorating quality of education in our Nation's public school systems has caused me to spend many long hours reviewing and analyzing the two separate legislative approaches to ameliorating these problems that are now before the U.S. House of Representatives.

As a result of my very careful study of these legislative measures, I am convinced that H.R. 12050, Tuition Tax Credit Act, is not the best method for easing the problem of financing education. For example, the debate earlier this year over H.R. 12050 sparked the introduction of an alternative approach, H.R. 11274, Middle-Income Student Assistance Act (MISA) which would extend existing Federal aid programs such as the basic and supplemental educational opportunity grant programs (BEOG and SEOG) to cover many millions of students who are not now eligible because the incomes of their parents exceed the maximum in today's guidelines.

One advantage of MISA is that funds would be given directly to students according to actual need at the time they pay their tuitions and fees; whereas tuition tax credits would provide financial relief several months after college costs were due. Far more money would go to middle-income families under this method than under the Tuition Tax Credit Act. To illustrate, under MISA it is estimated that in 1979 a typical family of four with one child in college and an income of $16,000 per year will receive an $875 BEOG grant—compared with a $150 credit under the tuition tax credit bill. Thus, the added benefit to the family under H.R. 11274 would be $725 greater than under the tax credit method.

After discovering that H.R. 11274 offered the superior plan for effective delivery of financial assistance, I turned to the issue of what would be the effect of implementation of H.R. 12050 on the quality of public school education and subsequently on the lives of the millions of children who have no other educational alternative if assistance to elementary and secondary schools is included in the final version of this bill. In my view, tuition tax credit for private education would have a harmful effect on public elementary and secondary schools by diminishing the base of support for public schools at a time when public education is in desperate need of assistance because many State and Federal funds are allocated to public schools largely on the basis of enrollment.

Further, the U.S. Commission on Civil Rights analyzed H.R. 12050 and determined that "it would unconstitutionally subsidize private schools which have been established to circumvent the desegregation of public schools." That conclusion was based on the fact that the Internal Revenue Service has continued to furnish tax exemptions to schools which have been barred by the Federal courts from receiving State support because of their discriminatory conduct.

Given these considerations, I voted against H.R. 12050 when the House debated the bill on June 1 and against an amendment by Congressman VANIK, which passed by a vote of 209 to 194, to extend tax credits to elementary and secondary schools. I am convinced not only that the granting of tuition tax credits for elementary and secondary schools will foster an increase in racial segregation in the education of our children but that the most effective direction of financial assistance to families is contained in H.R. 11274.

I am certain that insuring equal educational opportunity for all children as well as providing the most effective delivery system of financial assistance to all parents who must face the rising costs of educating their youngsters are goals I share with many of my colleagues. In my view, H.R. 11274 is the most direct and effective road to achieving these goals and for these reasons my colleagues will see the wisdom of lending their support to this critical measure.●

● Mr. OTTINGER. Mr. Chairman, I rise in support of H.R. 11274, the Middle-Income Student Assistance Act, which expands and modifies the five existing student financial aid programs.

During the past 10 years, college costs have soared. I have talked to many, many middle-income families who have real fears that they will not be able to afford the education their children want and deserve.

The urgency of the situation is very clear to me. Each year I sponsor a financial aid forum for residents of my district who are interested in learning about sources of financial assistance for higher education. I invite financial aid experts from the State and Federal Governments, and a local college financial aid officer to describe the various aid programs and answer questions from the audience. Almost 1,000 people attended this year's forum held in New Rochelle, N.Y. This number is far more than anticipated and twice the number that attended the year before. I believe this is a very clear indication of the increased interest in and real need for financial assistance to help meet college costs.

The bulk of the assistance provided in H.R. 11274 will benefit middle income families with children in college. This is the group that pays the majority of the taxes yet receives none of the benefits of the programs for which they pay. Under H.R. 11274, millions of students from middle-income families will for the first time become eligible for Federal student financial assistance.

This bill significantly expands the basic education opportunity grant program (BEOG), the Government's principal students assistance program which provides aid to students based on family income and cost of college attendance. Under the present program, no family with an income higher $15,167 can qualify for a BEOG. Under this bill, the income ceiling would rise to $26,117, bringing approximately 1.5 million more students into the program.

The guaranteed student loan program currently provides interest subsidized loans (while the student is in school) for students from families with an adjusted gross income of $25,000 or less. This bill removes the income eligibility ceiling for receiving the loan so that any citizen will be eligible for this student loan program. Removal of the income ceiling also results in the elimination of a large amount of paperwork previously a concern for students and the lending institutions.

The supplemental education opportunity grant program (SEOG) serves students with extraordinary financial need. SEOG targets aid to individuals who attend high cost colleges, both public and private. This bill raises the funding level of this program.

Finally, the college work/study program, which allows students to earn money with part-time jobs that help them pay for college in addition to gaining skills, will be expanded to include as many as 400,000 new college work/study jobs.

In conclusion, Mr. Chairman, I strongly support the passage of the Middle-Income Student Assistance Act to help insure that the lack of money alone does not stand in the way of any student who desires a higher education.●

● Mr. BIAGGI. Mr. Chairman, I rise as an original cosponsor and ardent supporter of H.R. 11274. In addition to the clear merits of this legislation, let us examine this issue from another perspective—that of legislative reality.

The President of the United States has stated on numerous occasions, his opposition to tuition tax credits. I make this statement as one who was supportive of the House-passed bill, primarily because it contained needed aid for parents of children attending elementary and secondary schools. Notwithstanding this position, we know of the administration's wholehearted support of this legislation. I was in attendance with other senior members of the Committee when President Carter and Secretary Califano announced the initative which led to this bill. Are we going to play a gamblers game and not pass this bill? I urge support for this bill and let the President be faced with the final decision.

This legislation aims its relief at that group—most in need of aid—the middle income student. Inflation has turned the middle class of this nation into shambles—high taxes have placed the middle class in a near revolt stage. The cost of education has skyrocketed in the past 10 years on the average exceeding gains in personal income by 10 to 15 percent.

Enrollments among middle-income students have shown an alarming decrease. Education is becoming a luxury for the middle class and some relief is needed.

H.R. 11274 provides the most practical and logical type of assistance. Tuition tax credits have their strong points, I have always felt this. However H.R. 11274 addresses itself to reforming those programs which have been responsible for providing millions of students with the means to an education, including large numbers of the middle class.

The heart of this legislation is the revisions it makes in the basic educational opportunity grants (BEOG) program. The eligibility levels are increased from $15,000 to $25,000 per family. This is achieved by a lowering of the percentage of discretionary income that a family is expected to contribute toward a child's education. This provision alone is expected to add 1.5 million students to the eligibility ranks for BEOG's.

Other improvements are made in the supplemental educational opportunity grants program and the college work study program as well as the guaranteed student loan program.

These are proven programs, they exist—they work—they merely need to be made more reflective of today's economic times. Our other option, tuition tax credits provides no guarantees of any new students getting an education rather it merely makes it easier for those presently enrolled to have their costs provided for.

This legislation enjoys widespread support. In addition to having the unqualified support of the administration it is backed by all major educational organizations and in my mind most importantly by students themselves. This legislation makes sense—it can leave here and we can be assured it will be signed into law. We will not have been legislating in vain.

I consider legislation of this type to be an investment in the future of this Nation. The education we provide our young people today translates into their later becoming contributors to our society. To deny a person an education today can present untold problems for their future. Let us not let inflation keep the doors of our schools closed for another student. Let us respond to this situation affirmatively and realistically and enact H.R. 11274.●

Mr. BUCHANAN. Mr. Chairman, I have no further requests for time and yield back the remainder of my time.

Mr. FORD of Michigan. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled, That this Act may be cited as the "Middle Income Student Assistance Act".

SEC. 2. (a)(1) Section 411(a)(3)(B) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new division:

"(iv)(I) Except as provided in subdivision (II), in determining the expected family contribution under this subparagraph for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.

"(II) For any academic year after academic year 1978–1979 for which funds available for payments under this subpart are not sufficient to satisfy fully all entitlements under this subpart determined in accordance with subdivision (I), an assessment rate of 12 per centum shall be applied to such income.".

(2) Section 411(b)(3)(B)(i) of the Act is amended by inserting "determined on the basis of the assessment rate specified in subsection (a)(3)(B)(iv)(II)" immediately after "under this subpart".

(b) Section 411(a)(3)(C) of the Act is amended by adding at the end thereof the following: "In addition, such regulations shall—

"(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under subdivision (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

"(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents.".

(c) Section 411(b)(3)(B)(i) is amended—

(1) by redesignating subdivisions (II), (III), and (IV) as subdivisions (IV), (V), and (VI), respectively; and

(2) by striking out subdivision (I) and inserting in lieu thereof the following:

"(I) the full amount in the case of any entitlement which exceeds $1,600;

"(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

"(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;".

(d) Section 411(b)(5) of the Act is amended—

(1) by striking out "$130,093,000" in subparagraph (A) and inserting in lieu thereof $340,093,000"; and

(2) by striking out "$237,400,000" in subparagraph (B) and inserting in lieu thereof "$520,000,000".

(e) Section 411(b) of the Act is amended by adding at the end thereof the following new paragraph:

"(6) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

"(A) the appropriation for making grants under subpart 2 of this part does not at least equal $450,000,000;

"(B) the appropriation for work-study payments under section 441 of this title does not at least equal $600,000,000; and

"(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.".

SEC. 3. Paragraph (5) of section 415C(b) is amended to read as follows:

"(5) provides that—

"(A) in any fiscal year for which the total

appropriation for this program does not exceed $75,000,000, the payment of the non-Federal portion of such grants from funds supplied by such State shall represent an additional expenditure for such year by such State for grants for students attending institutions of higher education over the amount expended by such State for such grants, if any, during the second fiscal year preceding the fiscal year in which such State initially received funds under this subpart;

"(B) in the first fiscal year in which the total appropriation for this program equals or exceeds $75,000,000, the amount of funds expended by each State for the non-Federal portion of awards from allotments based on the entire amount appropriated shall be governed by subparagraph (A), and in any subsequent fiscal year in which the amount appropriated equals or exceeds $75,000,000, the amount of funds expended by each State for the non-Federal portion of awards made from allotments based on funds appropriated in excess of $75,000,000 (exclusive of funds required for purposes of section 415E) shall represent an additional expenditure for that year by such State over the amounts, if any, expended by such State for student grants during the second fiscal year preceding the fiscal year in which such State initially received funds under this subparagraph (B); and

"(C) the amount of funds expended by the State for the non-Federal portion of grants made pursuant to section 415E shall also be governed by subparagraph (A); and".

SEC. 4. Section 417B(b) of the Higher Education Act of 1965 is amended by inserting immediately after paragraph (5) the following new sentence:

"No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age.".

SEC. 5. Paragraph (3) of section 420(a) of the Act is amended to read as follows:

"(3) With respect to any academic year beginning on or after July 1, 1978, and ending on or before September 30, 1980, each institution which has qualified for payment under this section for the preceding year shall be entitled during such period, notwithstanding paragraph (1)(A), to a payment under this section, if the Commissioner determines that such institution is making a good faith effort to continue to enroll veterans in the educational programs of that institution.".

SEC. 6. (a) Section 422(c)(5) of the Act is amended by striking out "the effective date of this subsection" each place it appears in subparagraphs (A) and (B) and inserting in lieu thereof "the date of enactment of this subsection".

(b)(1) Section 427(a)(2)(C)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(2) Section 428(b)(1)(M)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(c)(1) Section 428(a)(2) of the Act is amended by redesignating subparagraph (C) as subparagraph (B), by striking out subparagraph (D), and by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) sets forth such student's estimated financial assistance.".

(2) Section 425(a)(1)(A) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(3) Section 428(a)(2)(B) (as redesignated by subparagraph (A) of this paragraph) of the Act is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period and by striking out clause (iv) of such section.

(4) Section 428(a) of the Act is amended by striking out paragraph (9).

(5) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(d) Section 438(b)(2) of the Act is amended—

(1) by striking out "3.5 per centum from such average" in subparagraph (A)(ii) and inserting in lieu thereof "3 per centum from such average for any loan which was in a period of repayment or subtracting 3.5 per centum from such average for any other loan";

(2) by striking out "(i)" in subparagraph (B);

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) Except as provided in paragraph (4), if the special allowance computed according to subparagraph (A) would (i) cause the special allowance for any twelve-month period to exceed 5.5 per centum in the case of loans which were in a period of repayment or to exceed 5 per centum in the case of any other loans, the special allowance rate to be paid for such three-month period shall be reduced to the highest one-eighth of 1 per centum rate which would not cause such excess; or (ii) cause such allowance for any such three-month period to be less than 1.5 per centum in the case of loans which were in a period of repayment or less than 1 per centum in the case of other loans, the special allowance rate to be paid for such three-month period shall be increased to the lowest one-eighth of 1 per centum rate which would not cause such difference.

"(D) For purposes of this paragraph, the term 'period of repayment' means any period during which any installment of principal has become due in accordance with section 427(a)(2)(B) or 428(b)(1)(E) and such installment is not deferred pursuant to section 427(a)(2)(C) or 428(b)(1)(M).".

(e) Section 439(d)(2) of the Act is amended by striking out "80 per centum" and inserting in lieu "100 per centum".

SEC. 7. Section 491(b)(3) of the Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.".

SEC. 8. Section 497 of the Act is amended by adding after subsection (c) thereof the following new subsection:

"(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.".

SEC. 9. (a) Section 1208 of the Act is amended by striking out ", part C of title VII," each place it appears in subsections (a) and (b).

(b) Section 1208(b) of the Act is amended by striking out "$215,000,000" and inserting in lieu thereof "$50,000,000".

SEC. 10. The amendments made by this Act shall take effect upon enactment, except that—

(1) the amendments made by subsections (a), (b), and (c) of section 2 shall be effective with respect to periods of enrollment beginning on or after August 1, 1979;

(2) the amendments made by subsections (d) and (e) of section 2 shall be effective October 1, 1978;

(3) the amendment made by section 3 shall be effective October 1, 1979;

(4) the amendments made by subsection (c) of section 6 shall become effective with respect to loans disbursed on or after October 1, 1978, to cover the costs of education for periods of enrollment beginning on or after August 1, 1978; and

(5) the amendments made by subsection (d) of section 6 shall become effective with respect to fiscal quarters beginning on or after October 1, 1978.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. FORD of Michigan:

Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Middle Income Student Assistance Act".

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new division:

"(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.".

(b) Section 411(a)(3)(C) of the Act is amended by adding at the end thereof the following:

"In addition, such regulations shall—

"(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

"(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent stu-

dents and for independent students who have dependents.".

(c) Section 411(b)(3)(1) is amended—

(1) by redesignating subdivisions (II), (III), and (IV) as subdivisions (IV), (V), and (VI), respectively; and

(2) by striking out subdivision (I) and inserting in lieu thereof the following:

"(I) the full amount in the case of any entitlement which exceeds $1,600;

"(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

"(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;".

(d) Section 411(b)(5) of the Act is amended to read as follows:

"(5) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

"(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

"(B) the appropriation for work-study payments under section 441 of this title does not at least equal $500,000,000; and

"(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.".

SEC. 3. Section 415C(b)(4) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State".

SEC. 4. Section 417B(b) of the Higher Education Act of 1965 is amended by inserting immediately after paragraph (5) the following new sentence:

"No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38, United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age.".

SEC. 5. (a)(1) Section 427(a)(2)(C)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(2) Section 428(b)(1)(M)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(b)(1) Section 428(a)(2) of the Act is amended—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) sets forth such student's estimated financial assistance."; and

(B) by redesignating subparagraph (C) as subparagraph (B) and by striking out subparagraph (D).

(2) Section 425(a)(1)(A) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(3) Section 428(a)(2)(B) of the Act (as redesignated by paragraph (1)(A) of this subsection) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period and by striking out clause (iv) of such section.

(4) Section 428(a) of the Act is amended by striking out paragraph (9).

(5) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

SEC. 6. Section 491(b)(3) of the Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.".

SEC. 7. Section 497 of the Act is amended by adding after subsection (c) thereof the following new subsection:

"(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.".

SEC. 8. The amendments made by this Act shall take effect upon enactment, except that the amendments made by subsections (a), (b), and (c) of section 2 shall be effective with respect to periods of enrollment beginning on or after August 1, 1979.

Mr. FORD of Michigan (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment in the nature of a substitute be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, I will explain the amendment.

Mr. Chairman, this substitute incorporates eight changes in the bill designed to modify in light of legislation adopted since the bill was reported by the Education and Labor Committee on March 8. The substitute also brings the bill into closer conformity with the companion bill that has passed the other body, S. 2539, the College Opportunity Act of 1978. The substitute makes largely technical and conforming changes. In the interest of saving time, I am offering the substitute rather than eight separate amendments which would accomplish the same objectives. I will briefly describe the changes made by the substitute.

The first change strikes from the bill the 12-percent assessment rate on discretionary family income in the basic grant program. This 12-percent rate was to take effect when there were inadequate appropriations to fully fund the 10.5-percent assessment rate. This change brings the bill into line with the Senate-passed bill. The 10.5-percent assessment rate, when combined with the new reduction schedule in the bill, which protects the grants of the lowest income students, will assure both that 1.5 million new students will be brought into the program and that no student will get a smaller award than they received last year.

Of course, one must assume a reasonable level of appropriations such as provided for in the House version of the Labor-HEW appropriations bill.

The second change strikes from the bill the fiscal 1979 funding thresholds for the supplemental educational opportunity grant program and the college work study program. These are thresholds that must be met before any payments can be made under the basic educational opportunity grant program. Since both Houses have already acted on the fiscal 1979 appropriations for these programs and since both Houses have included appropriations meeting the fiscal 1979 thresholds in the committee bill, these thresholds are no longer necessary. The amendment also reduces the fiscal 1980 thresholds in the committee bill for the supplemental educational opportunity grant program and the college work study program. The threshold figure for the SEOG program is reduced from $450 million to $370 million. The threshold figure for the college work study program is reduced from $600 million to $500 million. While the committee believes that both of these programs should be funded in excess of the threshold amounts, these fiscal 1980 thresholds represent a reasonable expectation for a base of funding for the programs.

The third change strikes from the bill a provision which establishes a new base period for the calculation of funds to be received by States under the State student incentive grant program. This, I might say, was an amendment offered in the committee by the gentleman from Alabama (Mr. BUCHANAN). We recognized very fully that it is something that has to be done. As we looked at it in conjunction with what the Senate did, we decided it would be better to take it up next year as we are reenacting all of the Higher Education Act of 1965, and the striking of this language from the bill is in no way intended to indicate that we think this is not the right thing to do. We are just not sure we did it in the best way possible, and we are in complete agreement with what the gentleman from Alabama intended with his amendment as something which should be very seriously considered in the reauthorization.

I now yield to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, the gentleman is telling it like it is. I concur that it is better to hold hearings and take a hard look next year and take up this matter next year, as I am confident we shall. Indeed, as the gentleman is making clear, this entire substitute does seek to draw the best elements of thought from both bodies. It does embrace something of a compromise itself and I believe it is good legislation.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman. I would also express my appreciation to the gentleman from Ohio (Mr. MOTTL) for bringing to my attention the amendment in the Senate bill which preserves in the SSIG program those States with constitutional

bars to making all nonprofit postsecondary institutions eligible for the program. This Senate amendment is in the substitute.

Mr. Chairman, the fourth change strikes a hold harmless provision that applied to the veterans cost of instruction program. A similar provision has been enacted as part of the Alcohol and Drug Abuse Education Act amendments already signed into law (Public Law 95-336).

The fifth change strikes a provision relating to the eligibility of new State guarantee agencies for the payment of Federal advances. This amendment was included in the conference report soon to be adopted on H.R. 15, the Elementary and Secondary Education Amendments Act and is not necessary.

The sixth change strikes two revisions in the special allowance payments to lenders participating in the guaranteed student loan program as well as striking a change in the warehousing requirement of the Student Loan Marketing Association. It is my belief that the guaranteed student loan program will be thoroughly reviewed during the reauthorization of the Higher Education Act and that the consideration of these changes is more appropriately reserved for that time.

The seventh change strikes a revision of the funding requirement contained in section 1208 of the Higher Education Act. Since fiscal 1979 is the last year that this funding requirement is in effect, this revision is irrelevant given the adoption by the House of the fiscal year 1979 appropriations bill to which this requirement applies.

The eighth change simply conforms the effective dates to the changes made by the other amendments.

Mr. Chairman, I have had strong indications that adoption of these amendments will make this bill acceptable to the other body and that there will therefore be no need to have a conference. I urge the adoption of the amendments.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORD OF MICHIGAN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment in the nature of a substitute offered by Mr. FORD of Michigan: Page 6, immediately after line 9, insert the following new section and redesignate accordingly:

SEC. 7. Part B of title IV of the Act is further amended by inserting after section 439A the following new section:

"SEC. 439B. Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A, C and E of this title, notwithstanding any other provisions of parts A, C and E."

Mr. ERLENBORN. Mr. Chairman, let me explain this amendment very briefly. There is now pending a proposed regulation from the Office of Education that would distinguish between loans under the guaranteed student loan program as to their eligibility for being counted as part of the expected family contribution for purposes of the basic education opportunity grants program.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I would be happy to yield.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Illinois has been gracious in submitting the amendment to us and discussing it in full before we proceeded this evening.

The majority has no objection to the amendment. We think it improves the bill.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, the minority certainly concurs with the majority view and supports the gentleman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. FORD).

The amendment to the amendment in the nature of a substitute was agreed to.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORD OF MICHIGAN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment in the nature of a substitute offered by Mr. FORD of Michigan: Page 4, strike line 14 through line 3 of page 5 and insert in lieu thereof the following:

(c)(1) Section 428 (2)(B) of the Act is amended to read as follows:

"(B) For the purposes of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) if such student's adjusted family income at the time of execution of the note or written agreement evidencing such loan—

"(i) is less than $40,000, or

"(ii) is equal to or greater than $40,000 and the eligible institution has provided the lender with a statement evidencing a determination of need and recommending a loan in the amount of such need.

The Commissioner shall by June 30 of each year, adjust the income level which determines eligibility for interest subsidies by an amount equal to the percentage increase in the Consumer Price Index as published by the Secretary of Commerce for the preceding calendar year, rounded off to the nearest $100 amount.".

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, this amendment is the one that I mentioned a moment ago during general debate. This amendment would put a $40,000 family adjusted gross income cap on the eligibility determination for subsidized guaranteed student loans.

As I mentioned, up until 1976 there was an adjusted family gross income cap of $15,000. It was quite obvious that the Congress had determined that with a limited pool of resources in the educational and financial institutions to make guaranteed student loans and that subsidized loans should be made to the lower income families. Therefore we made the subsidy available only to those with family adjusted gross incomes under $15,000.

We determined a few years ago that because of inflation and because of the increasing burdens on the higher yet middle-income families, that test should be increased, and it was increased to $25,000 in 1976, just 2 years ago.

Now, the bill before us removes that test altogether so that all loans under the guaranteed student loan program will be subsidized loans.

I would like to read at least part of a Wall Street Journal article that refers to this proposition. The article is by Robert W. Hartman, and it appeared in the April 13, 1978, edition. It says:

The U.S. Congress is about to pass legislation that will pay each and every one of you lucky enough to have a son or daughter in college over $400 for each college year—no questions asked.

This sum comes from an interest subsidy on federally guaranteed bank loans, the eligibility for which is broadened in legislation that has already passed the House Education and Labor and the Senate Human Resources Committees.

Then, skipping down a little farther in the article, the author says this:

If the laws pass, getting you $400 per college year will take a little doing, but the American taxpayer will help those who help themselves. Here is what you must do:

Each year, send junior to your bank to borrow $2,500 under the federal government's guaranteed loan program. He can do this for three years, until the debt cumulates to $7,500. (If he goes to graduate school, the limit is even higher.)

During the four-year college stint no repayments are due and the U.S. Treasury generously pays the interest on the loans, so junior can deposit the money in a local savings and loan and earn 6 percent interest.

Nine months after the end of the senior year the deposits will have grown to $9,113. Repay the $7,500 loan at that point and there will still be $1,613 in the account. That's $403 for each year that each one of your kids hangs in there.

The author goes on to point out what I said a moment ago about the fact that not everyone is going to be able to get a loan. Banks in particular have only a certain percentage of their portfolio of loans that go to the guaranteed student loan program. They are different than normal loans; they are not paid back immediately. They are paid back over a longer period of time than most commercial loans. Most banks, when they get to a limited figure of guaranteed student loans in their portfolio, are going to stop making more loans. In determining who gets a piece of the portfolio that is available, they are, of course, going to choose the student from families who are doing business with the bank as well as the fellow who owns a business and has a business account in the bank or the one from a family that has a fairly good yearly income and good assets.

After all, they want to be quite sure that the loan is going to be repaid promptly.

Certainly it is a guaranteed loan, and Uncle Sam will pay it if Junior does not. And, of course, we all know there have been too many defaults in this guaranteed student loan program. But do we really want to deny loans to the lower income students? Do we want to make this a subsidy out of the Treasury for upper middle income and wealthy families? I do not think we should, and the way we can stop that from happening is to adopt this amendment and say that if the adjusted family gross income is $40,000 or less, they can get a subsidized loan. That may be a maximum income of $50,000 or more, depending upon expenses. That is certainly sufficient.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. ERLENBORN) has expired.

Mr. FORD of Michigan. Mr. Chairman, I would first take note that the gentleman from Illinois is one of the most skilled members on the Committee. He has been very diligent in trying to work out the problems, but there is a gross inconsistency in his argument. Earlier this evening he said that his concern for adopting this legislation was his great preference for tax credits as the best way to provide additional college money for people who needed it the most.

There was no $40,000 cap proposed in tax credits, and one of the complaints that many people had about tax credits was that it had nothing to do with need and went to the wealthier people. There was no suggestion that tax credits should be given only to low-income or middle-income people, the Rockefellers get tax credits along with everybody else. This House voted several times in favor of unlimited tax credits.

Let me say that what we are talking about here is a paperwork issue. When the committee originally drafted the bill, we had put a $40,000 adjusted family income cap on the guaranteed student loans. That is a guaranteed loan made by banks. We guarantee we subsidize the interest rates collected by the banks. So, the cap generated by this type of loan is a cap on loans coming from private lending institutions, not where there is Federal money loaned out.

The adjusted gross family income of $40,000 is really $47,000, because of the way in which you adjust it. We were brought up short by one of the Members of the other body when he asked us the question, "Now that you have gone that far, and we recognize that only 25 percent of the families in this country have a combined income exceeding $25,000, how many people are over $47,000?" What we found was that 97 percent of the families in the Nation have a gross family income of $47,000 or less. So what we are talking about is giving access for loans to the final 3 percent of the population that would not have such access with a $40,000 cap. Well, if that is so, then why do it? Very simple. Because if you had a $10,000 family income or a $200,000 family income, you would still have the same problem. Everybody who applies for a loan has to troop down to the local bank to establish a family income. And this is one of the things that has bothered the bankers, and others, about making student loans. They say there is too much paperwork.

We estimate that if we take the cap off altogether so that they do not have to file all that proof, we save as much in administrative and paperwork costs as the cost of subsidizing the loans for students from families with income above $47,000. So, that is why we took the cap off. You can believe BILL FORD was not trying to fight to give Rockefeller's kids a student loan, but it just made plain, ordinary horsesense to us after we saw what the figures were. We were discriminating against a group that was not going to feel it in the first instance, but at the expense of paperwork for everybody else that participated.

Let me emphasize that no matter where we set the level or cap, everybody has to prove their worth. I urge defeat of the amendment.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is some merit in the argument of the gentleman from Illinois, and indeed I started out on the side of a cap, as most of us did over here. As the gentleman from Michigan said, however, we began to analyze the additional people who would qualify if we took the cap off. We found that group to be so small that it seemed hardly to warrant the heavy paperwork burden laid upon all who might really need it by keeping the cap in.

I would point out that even in families of relatively high income it is not necessarily abuse. They can use this program if one has two or three persons in college. For example, I personally had a wife in postgraduate work and a daughter in college at once, and even at our high income it took a toll on the family resources in terms of cash flow. There are persons above this limit but of a lower income than those of us in this body who may be put in an honest bind by having more than one person in school at the same time in that family, and this may honestly be of help to them and may serve some social purpose.

It certainly does relieve all those who have participated in this program from a paperwork burden, and I believe the net cost to this Government will be less rather than greater by removing the cap.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for yielding. I would like to say that I see the logic in both sides regarding this issue and the problems involved. I have seen eye to eye, I think throughout this last 2 years, with my colleague from Illinois on almost every major issue. I do not think we have disagreed once, but I think in this particular case I would have to say to my colleague from Michigan that I think the balance of merits are on the side of the arguments he has presented.

All of us here from time to time address the problem of paperwork. If it were going to cost $50 million, $200 million, $300 million, we would probably draw the line and say "keep the cap on." It is only a matter of $10 million we are talking about—we spill that much on the floor every afternoon, but, it still is a lot of money, but for this body it is not. However, for $10 million I think we would alleviate more than that in paperwork so the merit would seem to me to be on the side of removing the cap, not adding a cap as my friend from Illinois would do by his amendment.

For that reason, I do support the committee position, and I will vote against the amendment of my colleague from Illinois reluctantly, because I think in 2 years it is the first time we have disagreed on any major issue.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, there is simply one point my colleague from Illinois mentioned that has not been touched on. That is, if his amendment is not adopted, we are going to be denying loans to low-income families. In fact, that is not the case. If we get rid of paperwork for both bankers and students and families, it is going to be more accessible to everyone.

Mr. ERLENBORN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just play with figures just a moment. I think the gentleman from Michigan said that only 3 percent of the students would be above the $40,000 cap. I understand there are about 10 million students in college at the present time; 3 percent of that number would be 300,000 students. Only about 1 million students annually get guaranteed student loans, so do not compare that 3 percent to the 100 percent of everyone in college. The 3 percent you are making eligible for guaranteed student loans subsidized by the Government could be approximately one-third of the total of the loans that are made each year.

Now, this is what I am talking about when I say we may be denying loans to those who need them the most. Remember this: Guaranteed student loans are available to all today regardless of income. What we are talking about now is the subsidy, the interest paid during the school years by the U.S. Treasury. So, do not think that that 3 percent is a very minor figure.

Those students from high income families will be the prime credit risks, the ones most likely to get the loans, and they could constitute almost one-third of the total number of loans available. These are people that are not getting them today. If we had all the money in the world and we did not worry about all the loans that were asked for; had all the money in the world in the Treasury, there would be no problem. But, if you want to throw out about one-third of the low-income students getting loans and assist high-income students, you can support the committee bill. Otherwise, please support my amendment.

Mr. EDWARDS of Oklahoma. Mr.

Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois. The amendment would prohibit subsidized student loans to the children of families with adjusted incomes of more than $40,000 a year. The gentleman has made a very valid and important point here. We are not just talking about including subsidies to just an additional 3 percent of students—3 percent is kind of a meaningless number unless you know what it is 3 percent of. We are talking about the taxpayers subsidizing loans to more than 300,000 people who do not need them. The point of the matter is that we in this Congress can properly show our concern and our compassion for people who are poor, for people who need help, for people who cannot survive without assistance, but this is not a matter of directing assistance and help to the people who are poor, this is suddenly a new philosophy coming from the other side, a philosophy that goes beyond dipping into the pockets of the taxpayers to take care of the poor and the needy, those that need our help, but now would dip into the pockets of the taxpayers to help the wealthy.

While we may go to the average working man down the street and tell him his compassion and his humanitarianism require him to make some sacrifice for those who need help, this is going just a little too far to go to him and say: "There is a guy down the street, a Congressman or a physician or a businessman, who is making $100,000 a year and say we want you to guarantee a loan to help his kid go to college." I think that is taking a good thing and carrying it to an extreme. I urge a vote in support of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. FORD).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 17, noes 21.

RECORDED VOTE

Mr. ERLENBORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 86, noes 301, answered "present" 1, not voting 42, as follows:

[Roll No. 924]

AYES—86

Abdnor	Derwinski	Jenkins
Anderson, Ill.	Devine	Jenrette
Archer	Duncan, Oreg.	Kasten
Barnard	Duncan, Tenn.	Kemp
Beard, R.I.	Edwards, Okla.	Kindness
Bennett	Emery	Lagomarsino
Broomfield	English	Leach
Brown, Mich.	Erlenborn	Livingston
Brown, Ohio	Evans, Del.	Lott
Burgener	Fenwick	McClory
Butler	Findley	McDade
Cederberg	Fountain	McEwen
Clawson, Del	Goldwater	Madigan
Cleveland	Goodling	Marriott
Cohen	Grassley	Martin
Coleman	Guyer	Michel
Conable	Hammer-schmidt	Miller, Ohio
Conte	Hillis	Mitchell, N.Y.
Corcoran	Hyde	Moorhead, Calif.
Coughlin	Jeffords	Myers, John
Daniel, R. W.	Pepper	Ruppe
Pike	Satterfield	Volkmer
Pressler	Schulze	Walker
Quayle	Sebelius	Wampler
Quillen	Shuster	Wiggins
Rangel	Spence	Wilson, Bob
Regula	St Germain	Winn
Rhodes	Stangeland	Wylie
Robinson	Steiger	

NOES—301

Addabbo	Foley	Moffett
Akaka	Ford, Mich.	Mollohan
Alexander	Ford, Tenn.	Montgomery
Ambro	Forsythe	Moore
Anderson, Calif.	Fraser	Moorhead, Pa.
Andrews, N.C.	Frenzel	Mottl
Andrews, N. Dak.	Fuqua	Murphy, Ill.
Annunzio	Gammage	Murphy, N.Y.
Ashbrook	Garcia	Murphy, Pa.
Ashley	Gaydos	Murtha
Aspin	Gephardt	Myers, Gary
AuCoin	Giaimo	Natcher
Bafalis	Gibbons	Neal
Baldus	Gilman	Nedzi
Baucus	Ginn	Nichols
Bauman	Glickman	Nix
Beard, Tenn.	Gonzalez	Nolan
Bedell	Gore	Nowak
Bellenson	Gradison	O'Brien
Benjamin	Green	Oakar
Bevill	Gudger	Oberstar
Blanchard	Hagedorn	Obey
Blouin	Hall	Ottinger
Boggs	Hamilton	Panetta
Boland	Hanley	Patten
Bolling	Hannaford	Patterson
Bonior	Hansen	Pattison
Bonker	Harkin	Pease
Bowen	Harris	Perkins
Brademas	Harsha	Pickle
Breaux	Hawkins	Poage
Breckinridge	Heckler	Preyer
Brinkley	Hefner	Price
Brodhead	Heftel	Pritchard
Brooks	Hightower	Pursell
Brown, Calif.	Holland	Rahall
Broyhill	Hollenbeck	Reuss
Buchanan	Holt	Richmond
Burke, Mass.	Holtzman	Rinaldo
Burleson, Tex.	Horton	Risenhoover
Burlison, Mo.	Howard	Roberts
Burton, John	Hubbard	Rodino
Burton, Phillip	Huckaby	Roe
Caputo	Hughes	Rogers
Carr	Jacobs	Roncalio
Carter	Johnson, Calif.	Rooney
Cavanaugh	Johnson, Colo.	Rose
Chappell	Jones, N.C.	Rosenthal
Chisholm	Jones, Okla.	Rostenkowski
Clay	Jones, Tenn.	Rousselot
Cochran	Jordan	Roybal
Collins, Ill.	Kastenmeier	Runnels
Collins, Tex.	Kazen	Russo
Corman	Kelly	Ryan
Cornell	Keys	Santini
Cornwell	Kildee	Sarasin
Cotter	Kostmayer	Sawyer
Crane	Krebs	Scheuer
Cunningham	Krueger	Schroeder
D'Amours	LaFalce	Sharp
Daniel, Dan	Latta	Simon
Danielson	Le Fante	Sisk
Davis	Lederer	Skelton
de la Garza	Leggett	Slack
Delaney	Lent	Smith, Iowa
Dellums	Levitas	Snyder
Dent	Lloyd, Calif.	Solarz
Derrick	Lloyd, Tenn.	Spellman
Dicks	Long, La.	Staggers
Dingell	Long, Md.	Stanton
Dodd	Luken	Steed
Dornan	Lundine	Steers
Downey	McCloskey	Stokes
Drinan	McCormack	Studds
Early	McDonald	Stump
Eckhardt	McHugh	Symms
Edgar	McKay	Taylor
Edwards, Ala.	McKinney	Thompson
Edwards, Calif.	Maguire	Thornton
Eilberg	Mahon	Traxler
Ertel	Mann	Treen
Evans, Ga.	Markey	Trible
Evans, Ind.	Marks	Tsongas
Fary	Mathis	Tucker
Fascell	Mattox	Udall
Fish	Mazzoli	Ullman
Fisher	Meeds	Van Deerlin
Fithian	Meyner	Vander Jagt
Flippo	Mikulski	Vanik
Flood	Miller, Calif.	Vento
Florio	Mineta	Waggonner
Flowers	Minish	Walgren
	Mitchell, Md.	Walsh
	Moakley	Watkins
Waxman	Wilson, C. H.	Yatron
Weaver	Wilson, Tex.	Young, Alaska
Weiss	Wirth	Young, Fla.
Whalen	Wolff	Young, Mo.
White	Wright	Young, Tex.
Whitehurst	Wydler	Zablocki
Whitley	Yates	Zeferetti

ANSWERED "PRESENT"—1

Railsback

NOT VOTING—42

Ammerman	Flynt	Quie
Applegate	Fowler	Rudd
Armstrong	Frey	Seiberling
Badham	Harrington	Shipley
Biaggi	Ichord	Sikes
Bingham	Ireland	Skubitz
Burke, Calif.	Lehman	Smith, Nebr.
Burke, Fla.	Lujan	Stark
Carney	McFall	Stockman
Clausen, Don H.	Marlenee	Stratton
Conyers	Mikva	Teague
Dickinson	Milford	Thone
Diggs	Moss	Whitten
Evans, Colo.	Myers, Michael	
	Pettis	

Mr. GEPHARDT and Mr. BROYHILL changed their vote from "aye" to "no."

Mr. VOLKMER and Mr. MARRIOTT changed their vote from "no" to "aye."

So, the amendment to the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

Mr. RHODES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inquire of the distinguished majority leader as to the plans for the remainder of the evening, and hopefully, not too long into the morning.

Mr. WRIGHT. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Chairman, I appreciate the gentleman's inquiring, because a number of Members have been inquiring individually.

There are two things that remain so imperative that they must be done before we can adjourn. The one is the Tax Reduction Act on which the conference has made great progress, and work is being done in the preparation of that conference report to bring it to our body, which will act first upon that conference report. While it is not possible to say with certainty the precise hour when the necessary technical work may be completed, I think it likely to assume that this could come within the next hour or hour and a half. I know that no Member wants to adjourn sine die without having taken action on the Tax Reduction Act.

The other matter, of course, is the energy program. The House voted on yesterday to consider it as one package consisting of five parts. Two or three Members of the other body, apparently intent upon having their way, although repeatedly voted down by the majority, are laboring under the assumption that if they can just hold out long enough, notwithstanding the vote of cloture, the House will cave in and not allow us to wait long enough to take the fifth component, once it has been inevitably voted and approved by the other body.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me at that point?

Mr. WRIGHT. The gentleman from Arizona has the time, and I am sure he will yield to the gentleman.

Mr. RHODES. Mr. Chairman, I will further to the majority leader, and if he desires me to yield to others, I will be glad to do so.

Mr. WRIGHT. If in the discretion of the distinguished minority leader he sees fit to yield to the chairman of the Committee on Education and Labor, he may do so.

Mr. RHODES. Mr. Chairman, my discretion tells me that I should certainly yield to the gentleman.

Mr. PERKINS. Mr. Chairman, let me say to both the distinguished majority leader and the minority leader that I understand the holdup over in the other body to be that they are insisting on a tax credit on wood-burning stoves.

Mr. RHODES. Mr. Chairman, if the gentleman from Kentucky (Mr. PERKINS) is implying that we may have reached a new low, I think there will be a lot of us who will agree with him.

Mr. WRIGHT. Mr. Chairman, in that specific connection it is correct that the provision to which the gentleman from Kentucky (Mr. PERKINS) refers was embodied in a piece of legislation which some few Members of the other body seem to feel they could at this late minute require the House to accept as a substitute for that delicately hammered out tax measure which was the product of some 20 months of labor between our body and theirs. I hope they have been disabused of that impression.

Nevertheless there are two or three Members of the other body who seem to think that if they can just be obstreperous long enough—let me correct the word—if they will be insistent long enough, the House will fold up and let them have their way, although they do not represent anybody in the Senate but two or three Members.

Mr. RHODES. Mr. Chairman, I am afraid there are quite a few Members of the House who would rather have a tax on wood stoves than on the gasoline consumption of automobiles.

Mr. ROONEY. Mr. Chairman, I wonder if the distinguished majority leader would yield to me?

Mr. WRIGHT. The gentleman from Arizona (Mr. RHODES) has the time.

Mr. RHODES. Mr. Chairman, if the gentleman from Pennsylvania desires, I would be happy to yield to him.

Mr. ROONEY. I thank the gentleman very much. I appreciate the gentleman from Arizona's yielding to me.

Mr. Chairman, one of the most important issues before this body tonight, other than the energy legislation and the tax bill, I think, is the future of the railroads, and I am talking about ConRail. I am talking about the ConRail authorization, which is a very important subject that faces not only this body but the country. I think it is imperative that we pass this authorization tonight.

Mr. WRIGHT. Mr. Chairman, if the gentleman from Arizona would yield further, perhaps I could elucidate further with respect to how we might use our time while awaiting the conference report on the tax reduction and awaiting the Senate's resolution of the five components of the energy tax bill.

I was present in the Senate not long ago when the majority leader of the Senate announced to that body that they would take up no other business until they concluded action and voted on that conference committee report. So we can be patient. It is beyond our control.

The leadership is asking the House to move ahead and do what we can with respect to the rest of the schedule. Further advice will be announced later as knowledge comes to us. It is likely or at least possible that we may be voting on the Tax Reduction Act before we vote on the energy bill.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

The CHAIRMAN. The time of the gentleman from Arizona (Mr. RHODES) has expired.

Mr. RHODES. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection?

Mr. RHODES. Mr. Chairman, I yield to the gentleman from Michigan (Mr. BROWN).

Mr. BROWN of Michigan. Mr. Chairman, I was very fascinated by the discussion with the gentleman who thought there was something strange about giving a tax credit for wood burning stoves.

I submit that another centerpiece of the President's energy program and the majority leader's energy program was for the use of coal and coal conversion. Maybe I do not understand things, but can we renew coal better than we can renew wood?

Mr. ROBERTS. Mr. Chairman, would the distinguished minority leader yield to me?

Mr. BROWN of Michigan. Mr. Chairman, I was addressing the majority leader. I was wondering if wood was not considered a renewable resource.

Mr. RHODES. I yield briefly to the gentleman from Texas.

Mr. ROBERTS. Mr. Chairman, I thank the distingiushed minority leader for yielding.

I want to advise my colleagues that we still have a conference on veterans' pensions and compensation which is still pending. Without that conference report, every veteran who is on compensation or pension will be deprived of it.

Mr. WRIGHT. Mr. Chairman, will the minority leader yield further?

Mr. RHODES. I yield to the gentleman from Texas.

Mr. WRIGHT. Mr. Chairman, it will be the purpose of the House leadership to proceed immediately upon completion of this legislation presently under discussion to the conference committee reports, including, but not necessarily limited to, those listed upon the sheet which is available to the minority leader.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to ask the majority leader a question, because I am not sure whether I understand what the position is here. If the tax bill, that is, the major tax reform bill, tax reduction bill, as it is called, comes to the floor of the House and we accept it and the Senate accepts it, and what is going on over there stands in the way of that action, because, as I understand, they can interrupt whatever it is, the filibuster, to do that——

Mr. WRIGHT. If the gentleman will yield, they will not. The majority leader of the Senate has made it quite clear that no other legislation will be considered until the Senate completes action on the conference committee report presently before it.

Mr. BROWN of Ohio. However, that is the prerogative of the majority leader of the Senate, is it not?

The CHAIRMAN. The time of the gentleman from Arizona (Mr. RHODES) has again expired.

Mr. RHODES. I thank the Chair.

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I agree wholeheartedly with what the gentleman from Pennsylvania (Mr. ROONEY), Chairman of the Subcommittee on Transportation, said regarding the ConRail bill. Unless this body acts tonight ConRail and the whole rail system in the Northeast will be in a state of chaos.

AMENDMENT OFFERED BY MR. ERLENBORN TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. FORD OF MICHIGAN

Mr. ERLENBORN. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN to the amendment in the nature of a substitute offered by Mr. FORD of Michigan: On page 6, after line 9, insert the following new section:

"SEC. . Section 465 of the Act is hereby repealed."

And redesignate accordingly.

Mr. ERLENBORN. Mr. Chairman, first, let me say that I will not offer any additional amendments after this. I will be very brief in explaining this amendment. This has reference to the national direct student loan program.

Mr. Chairman, this used to be called the national defense student loan program. It was the first of the student financial aid programs enacted by the Congress. This was enacted back in the 1950's in response to Sputnik, and at that time we had a teacher shortage. It was the policy of the United States, as enunciated by the Congress at that time, to encourage young people to enter college and prepare for a teaching career.

Mr. Chairman, today in contrast to the teacher shortage of those days, we have a teacher surplus. We have a dwindling school-age population, and we have people waiting in line 10 and 15 deep for the few available teacher positions that there are. In many cases, with the shrinking population, teachers who have already been working in the field are being laid off.

In spite of that, we still have this teacher cancellation benefit in the national direct school loan program. I think

this could be described as an archaic anachronism. It probably is one of the prime examples of the Congress failing to conduct the oversight we should to see that programs that have served their purpose and are no longer useful are no longer left in place.

This amendment would strike the teacher cancellation provision so that we would not lure into the teaching profession young people who are beginning their college careers.

One last observation, Mr. Chairman: The only people that get the cancellation, by the way, are those who might be fortunate enough to get a job teaching, so we now encourage people to go into the teaching profession, but if in this market they are unable to get a job teaching, they do not get their loan canceled. They have to repay the loan. It seems to me this is a cruel hoax. My amendment will not cost one dime. It will save money, and I would hope the committee would adopt this amendment.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

When we originally enacted the direct loan program, we established a forgiveness feature for all teachers; 50 percent of their indebtedness was forgiven. We have greatly modified those provisions over the years, and they are more limited today.

Let me state that Mr. ERLENBORN, the gentleman from Illinois, never offered any amendment of this type before the full Committee on Education and Labor this year. At this late hour he offers an amendment that needs to be carefully considered. Many of our best teachers today in the poorer inner city sections and in the rural areas are there because of the forgiveness feature. The same is true for teachers of handicapped pupils.

I would think that we would do grave injustice if we jerked the rug out from under those students who desire to teach in the inner city areas, the blighted areas, the most blighted areas of the country and the most poor rural areas. I think it would be a bad mistake if we adopted the gentleman's amendment, and I would hope for the welfare of the teachers, for the schools in the inner city sections, and the rural areas of the country, that the gentleman's amendment be voted down. The forgiveness provision, limited as it is, should be retained.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN) to the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. FORD).

The question was taken; and on a division (demanded by Mr. ERLENBORN) there were—ayes 9, noes 63.

So the amendment to the amendment in the nature of a substitute was rejected.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have a number of amendments that are both printed in the RECORD and also at the desk, but I believe I detect a mood in the House that would preclude the really fair consideration of these amendments and I will refrain from offering them.

Mr. JEFFORDS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to give the Members a slightly different version from what they may have been told with respect to the status of the tax credits. It is important for the Members to understand what the situation is because they may be asked to vote on things which may affect them and the members of their districts.

There are other options than what the majority leader told the Members about. There is a resolution of our problems at the desk passed by the Rules Committee on the bill H.R. 112. This resolution and the bill will give Members solar tax credits, in fact better aspects of solar tax credits than will come from the tax credit conference report. Most importantly it will give Members tax credits for insulation at 20 percent, the rate we told everybody we would be giving them a couple of years ago, and not the 15 percent which is in the version of the tax credits in the conference report.

Also along with that, to help the people who have furnaces and boilers which need to be replaced, there is a provision in H.R. 112 that will give them a tax credit up to $400 to help them replace burners and boilers. And there is a tax credit which is very important to many people around the country, especially the poor low-income people, a credit for wood stoves. These provisions will save another 500,000 barrels of oil a day by 1985 and be a substantial benefit to the energy package.

All the leadership has to do is make H.R. 112 a part of the package, a fifth part of that package, or pass it, and give us the other four pieces, rather than waiting for the Senate version. These options are readily available.

That is what the Senate is filibustering on, just to give the Members those options which are better for your people and for my people than what we will get faced with if we are required to accept the tax credit conference report.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I personally agree with the gentleman because I represent a great number of rural people, and I know it is just a matter of time, the way the cost of living is escalating, that we are going to be in this body trying to pass a fuel stamp bill giving the poor people of this country fuel stamps. I hate to see that day come about, and anything we can enact by giving a tax credit to save fuel on wood-burning stoves certainly will be helpful to the poor people of this country.

Mr. JEFFORDS. I thank the chairman. I agree with him wholeheartedly. They are the people having the most difficulty facing the energy crisis. We are giving them no help in this bill without this provision. That is why we should insist on H.R. 112.

The CHAIRMAN. There being no further amendments, the question is on the amendment offered by the gentleman from Michigan (Mr. FORD) in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. The question now is on the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore, Mr. WRIGHT, having assumed the chair, Mr. MITCHELL of Maryland, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11274, to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students and to amend section 1208 of such act, pursuant to House Resolution 1425, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students."

A motion to reconsider was laid on the table.

Mr. FORD of Michigan. Mr. Speaker, pursuant to the provisions of House Resolution 1425, I call up from the Speaker's table for immediate consideration the Senate bill (S. 2539) to amend the Higher Education Act of 1965 to improve the basic educational opportunity grants program, and for other purposes.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer a motion.

The Clerk read as follows:

S. 2539

Mr. FORD moves to strike out all after the enacting clause of S. 2539 and to insert in lieu thereof the provisions of H.R. 11274 as passed by the House.

That this Act may be cited as the "Middle Income Student Assistant Act".

SEC. 2. (a) Section 411(a)(3)(B) of the Higher Education Act of 1965 (hereinafter in this Act referred to as the "Act") is amended by adding at the end thereof the following new division:

"(iv) In determining the expected family contribution under this subparagraph for any academic year after academic year 1978–1979, an assessment rate of not more than 10.5 per centum shall be applied to parental discretionary income.".

(b) Section 411(a)(3)(C) of the Act is amended by adding at the end thereof the

following: "In addition, such regulations shall—

"(i) provide that the portion of assets which shall be exempt from assessment for contribution for an independent student who has one or more dependents shall be the same as the portion so exempt for the family of a dependent student;

"(ii) provide that the rate of assessment for contribution on that portion of assets of such an independent student which is not exempt under division (i) shall be the same as the rate applied to the comparable portion of assets of the family of a dependent student; and

(iii) in establishing a portion of effective family income which shall be exempt from assessment for contribution by reason of subsistence requirements of independent students who have no dependents, use the same method for computation of such portion for such students as is used for dependent students and for independent students who have dependents.".

(c) Section 411(b)(3)(B)(i) is amended—

(1) by redesignating subdivisions (II), (III), and (IV) as subdivisions (IV), (V), and (VI), respectively; and

(2) by striking out subdivision (I) and inserting in lieu thereof the following:

"(I) the full amount in the case of any entitlement which exceeds $1,600;

"(II) in the case of any entitlement which exceeds $1,200 but does not exceed $1,600, 90 per centum thereof;

"(III) in the case of any entitlement which exceeds $1,000 but does not exceed $1,200, 75 per centum thereof;".

(d) Section 411(b)(5) of the Act is amended to read as follows:

"(5) No payment may be made on the basis of entitlements established under this subpart during the fiscal year ending September 30, 1980, if, for such fiscal year—

"(A) the appropriation for making grants under subpart 2 of this part does not at least equal $370,000,000;

"(B) the appropriation for work-study payments under section 441 of this title does not at least equal $500,000,000; and

"(C) the appropriation for capital contributions to student loan funds under part E of this title does not at least equal $286,000,000.".

SEC. 3. Section 415C(b)(4) of the Act is amended by inserting before the semicolon at the end thereof a comma and the following: "except in any State in which participation of nonprofit institutions of higher education is in violation of the constitution of the State".

SEC. 4. Section 417B(b) of the Higher Education Act of 1965 is amended by inserting immediately after paragraph (5) the following new sentence: "No individual who is an eligible veteran, as that term is defined by section 1652(a) of title 38 United States Code, shall be deemed ineligible to participate in any program under this subsection by reason of such individual's age.".

SEC. 5. (a)(1) Section 427(a)(2)(C)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following: "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner.".

(2) Section 428(b)(1)(M)(i) of the Act is amended by striking out "or" and by inserting immediately after "Commissioner," the following; "or pursuant to a rehabilitation training program for disabled individuals approved by the Commissioner,".

(b)(1) Section 428(a)(2) of the Act is amended—

(A) by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(2)(A) Each student qualifying for a portion of an interest payment under paragraph (1) shall have provided to the lender a statement from the eligible institution, at which the student has been accepted for enrollment, or at which he is in attendance in good standing (as determined by the institution), which—

"(i) sets forth such student's estimated cost of attendance, and

"(ii) sets forth such student's estimated financial assistance."; and

(B) by redesignating subparagraph (C) as subparagraph (B) and by striking out subparagraph (D).

(2) Section 425(a)(1)(A) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

(3) Section 428(a)(2)(B) of the Act (as redesignated by paragraph (1)(A) of this subsection) is amended by striking out the semicolon at the end of clause (iii) and inserting in lieu thereof a period and by striking out clause (iv) of such section.

(4) Section 428(a) of the Act is amended by striking out paragraph (9).

(5) Section 428(b)(1)(A)(i) of the Act is amended by striking out "section 428(a)(2)(C)(i)" and inserting in lieu thereof "section 428(a)(2)(B)(i)".

SEC. 6. Section 491(b)(3) of the Act is amended by inserting immediately after the first sentence thereof the following new sentence: "Such term also includes a proprietary educational institution in any State which, in lieu of the requirement in clause (1) of section 1201(a), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution.".

SEC. 7. Section 497 of the Act is amended by adding after subsection (c) thereof the following new subsection:

"(d) Any determinations of need made for the purposes of part C or part E of this title shall include considerations of the factor described in section 413C(a)(2)(v). Nothing in this subsection shall be deemed to prohibit the taking into account for the purposes of such parts of other factors used for the determination of need under other parts of this title.".

SEC. 8. Part B of title IV of the Act is further amended by inserting after section 439A the following new section:

"SEC. 439B. Any loan under this part may be counted as part of the expected family contribution in the determination of need for parts A, C, and E of this title, notwithstanding any other provisions of parts A, C, and E.".

SEC. 9. The amendments made by this Act shall take effect upon enactment, except that the amendments made by subsections (a), (b), and (c), of section 2 shall be effective with respect to periods of enrollment beginning on or after August 1, 1979.

Amend the title of S. 2539 so as to read: "A bill to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 11274) was laid on the table.

CONFERENCE REPORT ON H.R. 10173, VETERANS' AND SURVIVORS' PENSION IMPROVEMENT ACT OF 1978

Mr. MONTGOMERY. Mr. Speaker, I call up the conference report on the bill (H.R. 10173) to amend title 38, United States Code, to improve the pension programs for veterans and survivors of veterans of the Mexican border period. World War I, World War II, the Korean conflict, and the Vietnam era, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as read.

(For conference report and statement see proceedings of the House of October 12, 1978.)

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 30 minutes, and the gentleman from Akansas (Mr. HAMMERSCHMIDT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after 2 days of negotiations in conference between the House and Senate Committee of Veterans' Affairs, we have reached an agreement on a major veterans pension reform measure which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express my appreciation for the efforts of all members of the Committee on Veterans' Affairs who have worked so hard in bringing about this reform legislation that will benefit so many needy veterans and their families.

I want to especially acknowledge, Mr. Speaker, the leadership of our great chairman of the Committee on Veterans' Affairs, the gentleman from Texas, Mr. ROBERTS, and the distinguished ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), Mr. Speaker, I would also like to express my deep appreciation for the outstanding work of the ranking minority member of our Subcommittee on Compensation, Pension, and Insurance, the very able gentleman from Ohio, Mr. WYLIE, and, of course Mr. Speaker, I would like to thank the other members of our committee who served as conferees on this measure, Mr. TEAGUE, Mr. BRINKLEY, Mr. HEFNER, Mr. HALL, Mr. EDGAR, and Mr. GUYER.

I also want to acknowledge those Senate Members of the conference committee as well, particularly the distinguished chairman of the committee, the gentleman from California, (Mr. CRANSTON), the very able ranking minority member of the committee, the gentleman from Vermont (Mr. STAFFORD), and the other Senate conferees, Mr. TALMADGE, Mr. RANDOLPH, Mr. STONE, Mr. DURKIN, Mr. MATSUNAGA, Mr. THURMOND, and Mr. HANSEN. There could not have been better cooperation among Members than that displayed in this conference.

The conference report, Mr. Speaker, is very similar in many respects to the bill as originally passed the House by an overwhelming margin of 398 to 5. The conference report, like the House bill, would restructure the non-service-connected pension program for needy war-

time veterans who are permanently and totally disabled from non-service-connected causes or age 65 and over and needy survivors of wartime veterans. The proposed new pension program would replace the current method of determining the veteran's or surviving spouse's pension amount by using a maximum monthly rate, reduced by the other income of the veteran or surviving spouse according to rate decrement income limitation formulae. Under the conference report, there would be a maximum annual rate of pension, reduced dollar for dollar by the other income of the pensioner, including, generally, the income of all family members for whom additional pension is paid.

In addition, it would provide fewer allowable exclusions from other income which are permitted under the current pension program. The conference report provides for maximum annual rates for veterans and surviving spouses according to family size; higher rates for those veterans who are in need of regular aid and attendance for permanently housebound; higher rates for surviving spouses in need of regular aid and attendance; and maximum annual rates for the surviving children of veterans in cases where there is no surviving spouse or the child is not in the custody of the surviving spouse.

Mr. Speaker, what the conference report really does is provide a maximum Federal support level for all eligible veterans and survivors. It is designed to help those who are most in need.

Mr. Speaker, I am pleased to say that we have brought forth a forward-looking and responsive pension reform bill that will provide for a support level well above poverty level.

From the beginning, the House approached the problem of reforming the pension system with clear objectives. The first objective was to eliminate disparate and unfair features that had crept into the current pension law. Chiefly, this related to the matter of how income is counted for pension purposes.

Over the years, a substantial number of exceptions to counting all income were added. This resulted in payment of pension to similarly situated veterans with widely differing family incomes available for support. Under the House concept, the reform measure was designed to establish the highest support level consistent with the obligations of the Nation to its needy wartime veterans and to the taxpayers who support the program with their earnings.

Originally, the House established a basic level of $4,000 for a veteran without a wife or child. At the same time, a provision was made to include as income all recurring payments received by the veteran and to offset against the $4,000 annual support levels on a dollar-for-dollar basis all funds the veteran enjoyed for support from other sources.

The $4,000 level was arrived at by consideration of numerous factors. The so-called poverty level was one consideration. The Committee on Veterans' Affairs has always held the view that veterans should have a standard of living above the so-called poverty level. Other considerations included the pending President's proposal for reform of the welfare program; the levels of support now assured persons eligible to receive supplemental security income and the present pension levels currently expressed as maximum income limitations. These are $3,770 for a single veteran and $5,070 for a veteran with a dependent.

The House committee in developing the reform program, sought to solve once and for all the most vexing problem being brought to the Members of Congress by a concerned constituency. This problem is the problem inherent in a formula type pension program such as current law. The current program has many desirable features and in many ways provides equitable support to needy veterans. Nonetheless, each January thousands of veterans and their survivors found their pension checks reduced because their social security payments had been increased. The pension adjustments required by the current law always resulted, so long as a pensioner retained eligibilty for pension, in no diminution of combined family income. However, the reoccurring complaint that the Government was giving with one hand and taking away with the other hand had grown to such proportions that the very existence of the pension program as a needs-based system was being seriously challenged.

The House proposals sought equitable treatment as between entitled veterans and survivors. The proposals seek to establish the concept of supporting these individuals at a level well above the level required for a reasonable existence yet, considering the funds available from all sources, to assure that family resources be the controlling factor in setting the amount of pension provided not the source of income.

With resolution of the major differences between the bill as passed by the House and by the Senate in the matter of what counts as income, it was possible to move to the issue of basic support levels to be provided each class of pensioner. The Senate amendments to the bill established a support level for the veterans without dependents at $3,240 annually. It is readily apparent that this constituted a major departure from the House provision of a $4,000 annual support level.

In a spirit of conciliation and in an effort to assure that the President have a bill that he would not veto, the House yielded in some degree to the other body's attempt to keep tne support level as near $3,240 as possible. The resulting agreement of $3,550 annually for veterans alone is above currently announced poverty levels and above the SSI annual payment to disabled persons without income. It is not too far off the income limitations currently applying for the payment of minimum pension benefits.

Other key rates developed from the agreement provided a support level which will assure that our pensioners and their survivors may live in dignity without the necessity of seeking welfare assistance. These rates are compared with the original House and Senate rates in the following table:

	House	Senate	Conference
Pension rates for veterans:			
Veteran without dependent spouse or child	$4,000	$3,240	$3,550
Veteran with 1 dependent (spouse or child)	5,200	4,284	4,651
Veteran in need of regular aid and attendance without dependents	6,160	5,340	5,680
Veteran in need of regular aid and attendance with 1 dependent	7,360	6,384	6,781
Veteran permanently housebound without dependents	4,804	4,016	4,340
Veteran permanently housebound with 1 dependent	6,004	5,060	5,441
2 veterans married to one another	No provision	4,284	4,651
Increase for each additional dependent child	600	660	600

	House	Senate	Conference
Pension rates for surviving spouse:			
Surviving spouse without dependent children	$3,000	$2,172	$2,379
Surviving spouse with 1 dependent child	3,900	2,868	3,116
Surviving spouse in need of regular aid and attendance without dependent child	4,488	5,340	3,806
Surviving spouse in need of regular aid and attendance with 1 dependent child	5,388	6,384	4,543
Surviving spouse permanently housebound without dependent children	No provision	No provision	2,908
Surviving spouse permanently housebound with 1 dependent child	No provision	No provision	3,645
Increase for each additional dependent child	600	660	600
Additional pension for elderly (including World War I) veterans	(1)	(2)	800

[1] Up to $800. [2] 25 percent of base pension.

Review of the rate structure provided above will show the answer to another difference existing between the House and Senate versions of H.R. 10173. This difference constituted the way in which Congress seeks to take care of the special needs of the older veteran. In the 94th Congress, the current pension program was amended to reflect the consensus of the Members that the attainment of advanced years was generally accompanied by increased needs. The recognition then of the special needs of the older veterans resulted in a provision that the pension rate of any veteran 78 years of age or older would be increased by 25 percent.

A further study of the matter and attention devoted to the issue by the Subcommittee on Compensation, Pension, and Insurance which I have the privilege to chair resulted in a provision being incorporated in the House-passed H.R. 10173 that provided an increase of $804 in the base rate of veterans attaining age 80.

The Senate bill provided benefits for veterans of periods of war for whom educational and loan guarantee benefits had not been made available. This effectively limited these payments to veterans of World War I and prior periods. The amount of benefit authorized by the Senate was to be set at a level 25 percent

above the calculated pension rate. In conference, the House insisted upon the $800 support level approach but did recede to the extent of limiting the benefit to earlier war veterans as provided by the Senate.

The conference agreement solves a most serious constituent problem—that is, the matter of complaints by pensioners that their veterans' pension is reduced each January because their social security benefits increased because of inflation. The conference agreement addresses that problem. It is intended to assure that no pensioner will suffer a reduction in benefits because of a cost-of-living increase in social security. On the contrary, the agreement is designed to provide for an increase in pension payments as well as in social security payments from the same day that social security benefits are increased under the formula contained in their letter.

In an effort to be sure that the language used in the bill would achieve this purpose, the committee engaged in correspondence with the General Counsel of the Veterans' Administration. The General Counsel replied that the language in H.R. 10173 was adequate to serve as the basis for regulations implementing annual pension adjustments under the new pension program to provide that the monthly rate payable to certain pension recipients on July 1 will be identical to the rate payable on the subsequent January 1, so long as there is no other change in income.

The same assurance has been provided by the Veterans' Administration as to the agreement reached in conference.

The interrelationship of the new pension system with social security benefits is, perhaps, best explained by the following example:

Assume that a veteran with neither wife nor child is receiving social security benefits at an annual rate of $2,000. Under the provision of H.R. 10173 assuring him an annual support level of $3,550, he would be entitled to $1,550 annually in Veterans' Administration pension.

Assume, further, that in July after enactment of the bill into law, the Consumer Price Index triggered an automatic 5 percent cost-of-living increase in social security benefits. This would result in an increase in the annual social security benefit for this veteran to $2,100. Simultaneously, the law would result in an increase in the Veterans' Administration annual support level to $3,728 from $3,550.

With the provision for adjustment at once on an annualized basis, the Veterans' Administration pension rate would be adjusted to an annual rate of $1,628 for this individual assuring a 5-percent increase in the pension rate being received along with a 5-percent increase in income from social security.

This provision, applied as the committee is assured by the General Counsel of the agency that it will be applied, will provide one of the primary results sought by the committee when the sweeping improvements made by the conference report are signed into law. That result is the achievement of a program which will guarantee that no pensioner will have his pension amount reduced because of a cost-of-living increase in social security payments but, rather, that pension and social security would each be increased in the same percentage amount and from the same day.

Mr. Speaker, I have not taken the time to explain in detail all of the provisions embodied in the conference report. Those are spelled out in great detail in the Joint Explanatory Statement which appears in the October 12, 1978, CONGRESSIONAL RECORD, beginning on page 36377. In order to expedite the proceedings in the House, I have only highlighted a few of the major provisions of the agreement.

We have agreed to a measure that will, in my opinion, be signed by the President. The President had expressed his concern about the cost of the House and Senate passed bills. The Congressional Budget Office had projected the net cost of H.R. 10173 as passed by the House at $740 million in fiscal year 1979. The reform measure as agreed to in conference would require about $466 million in additional Federal outlays during the next fiscal year. With projected cost savings from other Federal programs (supplemental security income, aid for dependent children, and medicaid) additional net outlays under the restructured program during the next fiscal year would be about $343 million.

There follows a detailed cost estimate submitted by the Congressional Budget Office on the agreement:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., October 6, 1978.

Hon. RAY ROBERTS,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 10173, the Veterans' and Survivors' Pension Improvement Act of 1978, as agreed upon in Conference.

Should the Committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

COST ESTIMATE, OCTOBER 6, 1978

1. Bill No.: H.R. 10173.

2. Bill title: The Veterans' and Survivors' Pension Improvement Act of 1978.

3. Bill status: As agreed upon in Conference, October 3, 1978.

4. Bill purpose: The bill would establish a new non-service-connected pension program for the veterans and survivors of the Mexican Border Period, World War I, World War II, the Korean Conflict, and the Vietnam Era. The new program, which would take effect on January 1, 1979, would operate concurrently with the existing program. Those individuals who are receiving benefits under the existing program on the effective date of the bill would have the option of selecting whichever program offered them the higher benefit. The pension payable to a beneficiary electing to remain under the current program would not be adjusted for changes in income unless the income of the beneficiary exceeded the income limits for the current program. These income limits, however, would be adjusted annually for inflation in the same manner as rates under the reform program. Election of the reformed program, however, would be irrevocable, and all new cases would only be eligible for the reformed pension.

The maximum benefit levels set by H.R. 10173 would be $3,550 annually for a veteran with no dependents and $4,651 for a veteran with one dependent. A surviving spouse would be paid at rates that are two-thirds those for veterans ($2,379 annually for a surviving spouse without dependents, and $3,116 for a surviving spouse with a child). The benefit level for all pensioners would be increased by $600 a year for each dependent after the first. All rates under the reformed pension program would be adjusted annually for increases in the cost-of-living using the same percentage by which social security benefits are raised. Such increases would be effective at the same time as social security increases.

The treatment of non-pension income under the reformed program would be based on the family-income concept, whereby the incomes of all beneficiaries in the family are treated the same. Under current law, for example, social security survivors' benefits paid to dependent children of surviving spouses or to children alone are not counted against their pension payment, on the theory that this money is considered a trust for the child's education. The reformed pension, however, would treat the income of children in the same fashion as the income of other family members to the extent that such income is reasonably available to the veteran or surviving spouse.

Many of the exclusions of non-pension income permitted under current law would not be allowed in the reformed program. The exclusion of 10 percent of retirement or annuity income would no longer be permitted. The current provisions dealing with the income of a veteran's spouse would also be discontinued.

Whereas the current pension program uses a formula rate structure to determine the payment level, the reformed program would employ the single-variable method now utilized by the Supplemental Security Income program. The pension payment would be calculated by subtracting countable income from the maximum benefit level.

H.R. 10173 would also increase the benefits payable to parents under Disability and Indemnity Compensation by 7.1 percent. In future years these benefits would be indexed by the same increases as apply to reform pension rates.

5. Cost estimate:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Benefit costs:					
Outlays	465.8	947.0	1,268.0	1,648.1	2,041.4
Savings:					
SSI	−56.9	−102.6	−153.2	−208.9	−270.7
AFDC	−15.2	−22.7	−31.0	−40.0	−50.0
Medicaid	−50.3	−90.9	−137.6	−190.8	−251.5
Net outlays	343.4	730.8	946.2	1,208.4	1,469.2
Required budget authority	523.4	966.8	1,294.2	1,678.9	2,072.9
Savings:					
SSI	−56.9	−102.6	−153.2	−208.9	−270.7
AFDC	−15.2	−22.7	−31.0	−40.0	−50.0
Medicaid	−50.3	−90.9	−137.6	−190.8	−251.5
Net required budget authority	401.0	750.6	972.4	1,239.2	1,500.7

The costs of this bill fall within budget function 700. The offsetting savings in the AFDC and SSI programs apply to function 600 and the offsetting savings in Medicaid to function 550.

6. Basis for estimate—Cost model for VA benefit costs: The gross program costs of this bill were estimated through the use of a microsimulation model. The data base for this computer model is a one percent sample of all veteran and surviving spouse cases receiving pension under the currently active VA pension program. The sample, which includes the records of nearly 20,000 cases, was extracted from the master file of pension cases in March, 1977. Each record contains, in addition to statistical data such as age, number of dependents, and period of military service, detailed data on the amounts and sources of income received by the case.

To compute the cost of pension program alternatives, the model operates on each of the 20,000 records individually. A case is first aged and mortality assumptions are applied. The non-pension income reported by the case is then updated, using specific economic indicators for each source of income. If the case is a current pension recipient, the model determines which pension program would return the highest payment amount. The case is then assigned to the most advantageous program and recycled through the procedures until all five years of the simulation have been completed. Once the model "switches" a case from the existing pension to reform pension, the model assumes the case to be ineligible under the old program in future years.

When the entire data base has been analyzed to estimate how current beneficiaries would behave given the choice of new or old pension benefits, the process is reinitiated to select new cases. An estimated number of new cases that could be expected to accede to the current program is used to represent the number of potential applicants to the reformed system. This number of cases, once it has been reduced to correspond to the sample size, is randomly selected from the data base of current recipients. These "new" cases are then analyzed in the same manner as current beneficiaries, with the exception that they are assumed to be eligible for the reformed pension only. Counts are kept of the movement and disposition of cases at every stage of the model operation by period of service, type of beneficiary, and year. These counts are then inflated to the full population size to calculate the cost of the proposal.

Other factors: It is not practical to show the cost of H.R. 10173 on a section-by-section basis, because a change in one section will affect the number of individuals who switch to the new program and, thereby, change the cost of other sections. A few sections which could not be handled by the microsimulation model, however, are discussed below.

Payments to institutionalized pensioners: H.R. 10173 would increase from $50 to $60 the maximum pension payable to a veteran with no dependents who is being furnished hospital, nursing home, or domiciliary care by the VA. This section also provides that full pension benefits could be paid for as long as six months in the case of hospital and nursing home patients if it is shown that the extension of full benefits would facilitate the veteran's ability to return to the community. Based on information from VA that there were 7,430 such institutionalized pensioners in June 1977, the estimated cost of this provision is shown below:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Outlays	1	1.1	1.2	1.3	1.4
Required budget authority	1	1.1	1.2	1.3	1.4

Counting childrens' income: In keeping with the family-income concept on which the reformed pension is based, H.R. 10173 provides that all income of dependent children and children alone (those children not in the custody of an eligible surviving spouse) would be considered in determining their pension benefit level. Although no data are currently available on the incomes of pension children, as they are not required to submit an annual income questionnaire, it is expected that the vast majority of children alone and dependent children of widows receive social security benefits in amounts sufficient to render the cases ineligible under the reformed program. Those children cases presently receiving pension would, therefore, remain under the existing pension program and have no impact on the cost of the new program. There would, however, be substantially fewer new children cases under the reformed program than would be expected under the current program. The amount of the resulting savings cannot be determined with any precision given the data available.

DIC parents program: H.R. 10173 would index the benefits for Dependency and Indemnity Compensation for increases in the cost of living. Based on an April, 1977 income distribution of these beneficiaries, the estimated cost of this provision would be as follows:

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Outlays	4.0	11.0	15.8	20.2	24.4
Required budget authority	4.5	11.4	16.2	20.5	24.8

"Grandparenting" current recipients: In addition, H.R. 10173 would allow individuals who are receiving benefits under the current program on the effective date of the bill to remain under the provisions of current law or to elect to receive the new program as they see fit. Election of the reformed program can be made at any time, but once made, the switch is irrevocable. A similar election provision was contained in P.L. 86–211, which established the present pension program in 1960. A study made by the VA in 1966, six years after the enactment of the program, found that there were still over 100,000 cases who were losing money through failure to elect the new program. Unfortunately, there is insufficient data to determine what percentage this represents of the total number of pensioners who were initially expected to benefit from switching to the new program. Based on what little information is available from this study, it can be expected that some number of persons will choose not to elect the reformed program even though it would provide them with higher benefits.

The experience of P.L. 89–211 will not correspond directly to what would be expected to occur following the enactment of H.R. 10173, however. Under the provisions of the earlier law, there were several reasons for some pensioners to refuse election. In some cases a pensioner could have lost money in the long-run by switching to P.L. 86–211 pension, even though the benefits were higher at the time of election, because of changes in the sources of the veteran's income. For this reason the veterans' service organizations did not support P.L. 86–211 and did not encourage the pensioners in their membership to elect it.

Situations of this sort should not occur in the reformed pension program. If an individual is ever better off under reformed pension, that individual should always be better off under that program. Therefore, although the rate of switching to the reformed program will not be 100 percent of those who would benefit, it should be higher than the rate experienced after enactment of P.L. 86–211.

This estimate assumes that every pensioner who would benefit by $1 or more from electing the reformed pension program will make the switch. Because past experience suggests that this may not happen for reasons which cannot be predicted, it is possible that the costs of H.R. 10173 could be lower than estimated for the first five years.

Budget authority: Although this bill would result in additional future federal liabilities through an extension of an existing entitlement, the bill would require subsequent appropriation action to provide the necessary budget authority. These figures shown in the cost estimate above as "Required Budget Authority" represent that amount of budget authority needed to cover the estimated outlays that would result from enactment of H.R. 10173.

The outlays shown in this estimate are lower than the budget authority, because pension benefits paid in any given month are the result of beneficiary entitlement in the prior month. The obligations created in each September, therefore, would not outlay until October, which would be in the next fiscal year.

VA costs assuming inflation in the current program: Although veterans benefits are not indexed for inflation, the non-service-connected pension program has received legislated cost-of-living increases every year except one since 1971. Given this precedent, it may be of value to examine the cost of H.R. 10173 over the cost of the current program with annual cost-of-living adjustments. These costs are shown below for informational purposes only. They do not reflect the budgetary impact of H.R. 10173.

[By fiscal years; in millions of dollars]

	1979	1980	1981	1982	1983
Gross outlays assuming inflation in the current program [1]	258.2	416.3	431.3	492.7	561.6

[1] These are gross outlay estimates only. The offsets shown on page 3 do not correspond to these figures.

7. Estimate comparison: A VA cost estimate of the conference version of H.R. 10173 was not available in time for inclusion here.

8. Previous CBO estimate: CBO has provided numerous cost estimates of pension reform proposals to both Veterans' Affairs Committees. The same methodology, however, was employed for all such estimates. Any variances would be attributable to changes in provisions or economic assumptions.

9. Estimate prepared by: K. W. Shepherd (225–7766).

10. Estimate approved by C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

Mr. Speaker, the proposed new pension program will favorably impact on the lives of more than 1 million veterans and over 1½ million eligible widows and children. I urge the adoption of the conference report.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for 30 minutes.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I rise in support of the conference report on H.R. 10173. The approval of this report will represent the culmination of many long hours of discussion and debate over the relative merits of two pension reform bills, the provisions of which were poles apart. I

would like to point out that the excellent leadership of chairman ROBERTS, as well as the subcommittee chairman SONNY MONTGOMERY and its ranking member, my colleague from Ohio, CHALMERS WYLIE, were most instrumental in achieving the results contained in this conference report.

We have finally reached an accommodation and the result is a pension reform measure that provides a substantial increase in monthly benefits for veterans with little or no income from other sources, a monthly pension supplement for World War I veterans and a protection for those veterans who find it to their advantage to remain under the current pension law.

Widows also will receive a substantial increase in monthly payments should their income from other sources be limited. In fact, Mr. Speaker, the widows' pension program is similar to the veterans' program except that the amounts are different.

Dependent parents of veterans who were killed in action or died as the result of service-connected disabilities receive a cost-of-living increase under the compromise.

One of the most important features of this bill, Mr. Speaker, is a provision that permits monthly pension payments to be automatically adjusted or "indexed" on an annual basis to accommodate increases in income from social security annuities. Members have undoubtedly received more mail on this subject than on any single provision of veterans law. The compromise will permit the timely receipt of social security increases with no adverse effect upon the amount of pension being received.

I am particularly pleased, Mr. Speaker, that this measure recognizes the financial plight of veterans of World War I. Under the provisions of the compromise, the measure authorizes an increase of $800 in the rate of pension payable to these elderly veterans who sacrificed so much to preserve our national freedom in time of war. The addition of this supplement to the basic pension payable to veterans of all wars is just one expression of a Nation's thanks to its World War I veterans for a job well done.

Mr. Speaker, the chairman's explanation, the conference report, and the joint explanatory statement accompanying it will provide all the details of the compromise.

That concludes my personal remarks on this measure, Mr. Speaker. I urge that the conference report be adopted.

On behalf of Mr. WYLIE, Mr. GUYER and myself, the minority members of the committee of conference, I make the following statement:

We have signed the conference report and the joint explanatory statement because the conference report preserves the philosophy and most of the provisions of the original House passed bill intact and we do not wish to delay a pension increase.

We must, however, articulate our strong opposition to the language of the joint statement that suggests the conferees have agreed to request in writing that the Comptroller General, in consultation with the Director of the Office of Management and Budget, conduct a study, initially contained in the Senate version of H.R. 10173 of "how the Veterans' Administration and the Social Security Administration coordinate the delivery of veterans pension benefits, social security retirement and disability benefits, and supplemental security income benefits to elderly and disabled persons." The requested study further mandates recommendations for improving coordination among these programs together with an assessment of the feasibility and desirability of reconciling unjustifiable differences between veterans pension, social security, and supplemental security income.

Mr. Speaker, such a study can only be viewed as one more attempt in the continuing battle to merge veterans benefits—in this case pension—into the many programs, loosely referred to as social welfare, administered by that bureaucratic giant, the Department of Health, Education, and Welfare.

The first step will be to coordinate delivery. Next, HEW would issue the checks and finally, HEW would administer the program.

Mr. Speaker, the pension program is being administered soundly and efficiently. It does not require the expenditure of taxpayers' funds to be studied. We have grave reservations about such a study and its results and express our strong opposition to both the study and the language contained in the joint statement setting forth provisions relating thereto. As three of the conferees, we have not agreed to the requested study and have, in fact, refused to sign the letter requesting this study.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the distinguished ranking member of the subcommittee, the gentleman from Ohio (Mr. WYLIE).

Mr. Speaker, I rise to urge support for the compromise conference agreement on H.R. 10173, a pension reform bill entitled, "Veteran's and Survivors' Pension Improvement Act of 1978." I want to express my high regard and compliments to Congressmen ROBERTS, MONTGOMERY, and HAMMERSCHMIDT for the excellent work they have done on this bill and express my appreciation to Congressman MONTGOMERY and Congressman HAMMERSCHMIDT for their compliments as to my participation.

The version of H.R. 10173 we have before us today is different in some respects from the one we sent to the other body in June. I will not take the time to set forth each change in its entirely, Suffice it to say that the bill as amended continues to provide for a significant increase in the pension rates for both the veteran and his survivors. Future increases in VA pension benefits will be tied to the schedule governing social security benefits. Thus, future increases in pension benefits will be based on the same rate percentage and become effective on the same date as social security increases rather than at the end of the year as has been the custom heretofore. The effect of this is to insure that no reduction in VA pension benefits will result solely because of an increase in social security benefits. This will serve to eliminate the complaints we have received in the past concerning a reduction in pension benefits as a result of social security increases.

H.R. 10173, as amended, also increases from $500 to $1,000 the amount by which the income of a veteran in need of aid and attendance benefits may exceed the otherwise applicable income limitation and still be furnished drugs and medicines by the Veterans' Administration.

This revised bill also contains a provision increasing the income limitation for World War I veterans by $800. This will result in their entitlement to up to an additional $800 a year in pension benefits. Since this group of older veterans did not receive the educational benefits or home loan benefits extended to veterans of later wars, this pension supplement seems equitable.

The Veterans' and Survivors' Pension Improvement Act of 1978 also provides that pension rates payable under the presently existing pension program will be "grandfathered"—that is, the rates will remain the same and not be subject to reduction when social security benefits are increased for those who elect to remain under existing law. An exception to this protection is where employability is regained, a dependent no longer exists, a significant change in net worth occurs, or income other than social security causes the income to exceed the limitation. Pensioners currently receiving benefits will have a right to elect payment under the bill presently under consideration but once an election is made, it is irrevocable.

This provision of this conference report represents an immense improvement over the current program by removing many of the inconsistencies inequities and anomalies heretofore present.

I urge you to vote with me in support of this measure.

Mr. WYLIE. I thank the gentleman from Arkansas for yielding.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of this conference report on this excellent legislation, of which I was pleased to be a cosponsor. Our distinguished colleagues, the chairman of the committee (Mr. ROBERTS), the ranking minority member (Mr. HAMMERSCHMIDT), the chairman of the subcommittee, the distinguished gentleman from Mississippi (Mr. MONTGOMERY), and the distinguished ranking minority member of the subcommittee (Mr. WYLIE), have all done a yeoman's job on this legislation, and they are to be especially commended for the outstanding expertise they displayed in arriving at this conference report with Members from the other body.

This was the second Congress in which I urged the passage of this vital, overdue legislation. The fundamental purpose of

this bill is to insure that every veteran and survivor pensioner receives an allowance sufficient to keep him above the poverty level. To this end, it provides increases in pensions to make up for past inflation.

The principal provision of this legislation remedies the old problem of nonservice-connected pension benefits being reduced when social security benefits are increased. The conference report agreement automatically indexes pension rates to the Consumer Price Index on the same basis as social security so that, effective January 1, 1979, VA pension benefits will never be reduced solely as a result of cost-of-living increases in social security payments.

Other major provisions of the legislation would:

First, provide an additional $800 per year for eligible World War I veterans electing to receive pension benefits under the restructured program from the VA;

Second, provide for the first time a housebound rate of $45 monthly for disabled eligible widows;

Third, increase from $500 to $1,000 the amount by which income of veterans receiving aid and attendance may exceed the maximum income limitation and continue to be furnished drugs and medicine by the VA; and

Fourth, increase dependency and indemnity compensation for dependent parents by 7.1 percent, effective January 1. In addition, it would automatically index such income limits, no longer requiring annual adjustments by the Congress.

Mr. Speaker, this legislation is not only necessary, it is long, long overdue. This is probably the most important veterans reform measure that has been adopted by the House in decades. Not only have our colleagues on the committee done an outstanding job in ironing out the differences between the House and Senate versions of this bill, but have also put together a conference report which the President is sure to sign.

This legislation will impact an estimated 1 million veterans and over 1½ million eligible widows and children.

Mr. Speaker, I urge all of our colleagues to join with us in supporting this vital measure.

Mr. SAWYER. Mr Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Michigan.

Mr. SAWYER. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of the conference report.

Mr. MILLER of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from Ohio, (Mr. MILLER.)

Mr. MILLER of Ohio. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of the conference report on the Veteran's and Survivor's Pension Improvement Act of 1978, legislation to improve the non-service-connected pension program for veterans of all wars.

The bill is long overdue, and creates a new veterans pension plan that assures veterans and their survivors will live their lives in dignity with incomes above the minimum subsistence level.

For example, veterans with no dependents and no income would have their pension increased from the current $2,364 level to $3,550 annually. All other categories of veterans and their survivors would have their pension rates similarly adjusted on the basis of need. In doing so we can prevent the veteran or his widow from having to live under great economic hardship.

Most importantly, this measure allows that when social security benefits are increased, the VA pensioner's check would not be reduced or terminated. The pensioner will never have his or her check reduced again because of a social security increase.

In addition, dependent parents drawing dependency or indemnity compensation will receive a 7.1 percent cost-of-living increase January 1, 1979, and any World War I veteran eligible for a pension under the new program will receive an additional $800 a year.

Finally, pension rates would be adjusted automatically to provide cost-of-living increases just as social security benefits are indexed.

I commend the committee for its thorough evaluation of the current system and much needed changes it has reported to make pension entitlements fairer and more adequate. The conference agreement includes higher payments to veterans of 80 years and older and increases payments for veterans of a period of war who were not made eligible for VA educational assistance or home loan benefits.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time and yield back the remainder of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the chairman of the committee, the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. I appreciate the gentleman's yielding.

Mr. Speaker, I strongly support the conference report on H.R. 10173. I commend the distinguished chairman of our Subcommittee on Compensation, Pension, and Insurance, Mr. MONTGOMERY, for his leadership in bringing about this pension reform measure. The new pension program will favorably affect more than 1 million veterans and 1½ million of their dependents. It does away with some of the inequities that now exist under the law and will provide an adequate level of benefits for our most needy veterans and their dependents. It raises them above the poverty level.

Not only do I commend the gentleman from Mississippi (Mr. MONTGOMERY), I also want to extend my deep appreciation to the ranking minority member of the full committee, the gentleman from Arkansas (Mr. HAMMERSCHMIDT), for his dedication and support. No man has given more time and effort to working out the complex issues in this bill than Mr. HAMMERSCHMIDT.

Mr. Speaker, I want to thank each of the other members of the House conference committee: Mr. TEAGUE, Mr. BRINKLEY, Mr. HEFNER, Mr. HALL, Mr. EDGAR, Mr. WYLIE, and Mr. GUYER. All of them played an important role in finding the middle ground between the House and Senate committees. Through their efforts, we now have a worthwhile program.

Mr. Speaker, since the gentleman from Mississippi has provided us with a detailed explanation of the agreement, I want to comment on only two or three aspects of the bill.

First, I agree with the gentleman from Mississippi that we have solved a major problem of many years standing in the pension program. This measure will assure that no one drawing a pension and also receiving social security will suffer a reduction in the pension as a result of a rise in the cost of living. The Federal support level in this bill is automatically indexed by law. Each year any change in the cost-of-living index will be reflected in the maximum level of pension paid.

Second, the agreement reached with the other body provides that World War I veterans who become eligible under the new program will receive, in addition to their basic pension, an additional $800 per year in their support level. As my colleagues will recall, under the House-passed bill additional benefits would have been paid to any eligible veteran upon reaching the age of 80 years. It was not limited to a specific war, theater of action, or type of service.

I support the provision as agreed to in conference; however, I regret, Mr. Speaker, that the House had to recede to the Senate in limiting these benefits to a specific group of war veterans. In my opinion, such benefits should go to any eligible veteran in need, regardless of the period of war in which such veteran may have served. To do otherwise, Mr. Speaker, violates a longstanding principle that the Nation provide equal benefits for equal service.

It seems to me, Mr. Speaker, that the House position was the correct one. I do not deny that age brings infirmities and these, in turn, bring about extra costs for health care. If we recognize that additional benefits should be available because of advanced age, then these benefits should be made available to any individual whether he served in World War I, World War II, or any other wartime period.

Having expressed this reservation though, I think we have reached agreement on a measure that will benefit the veterans and members of their families who are in need. It is, in fact, a thorough restructuring of the pension program. I strongly support the adoption of the conference report.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of the conference report. I would like to commend the gentleman from Mississippi (Mr. MONTGOMERY), the chairman of the full committee, the gentleman from Texas (Mr. ROBERTS), and all of the members of the Committee on Veterans' Affairs for bringing forth this report.

I would like to offer a budgetary perspective on the conference report on H.R.

10173, the Veterans' and Survivors' Pension Improvement Act of 1978.

The CBO estimate of the cost of this bill is $523 million in budget authority and $466 million in outlays, down about $400 million in budget authority and outlays from the House-passed bill. The bill also is below amounts assumed in the second budget resolution.

A more detailed staff analysis of the budgetary impact of this bill is submitted for the RECORD:

I. SPENDING ACTION COMPARED TO TARGET

This bill is below amounts assumed in the Second Budget Resolution.

The bill is measured against the First Resolution in the tables below because it was reported by the Committee prior to final approval of the Second Budget Resolution. This conference agreement also is within the 302(b) allocation made by the Veterans' Affairs Committee subsequent to the First Resolution.

[In millions of dollars]

	Budget authority	New entitlement authority	Outlays
1. Committee subdivision target (by subcommittee)		(1,244)	
2. Less: Amount in reported bill		(446)	
3. Previously enacted or passed House		(520)	
4. Spending action compared to target:			
Over target			
Under target		(258)	

II. PROJECTION

No further bills affecting the compensation and pension programs are anticipated.

[In millions of dollars]

	Budget authority	New entitlement authority	Outlays
1. Amount remaining within subcommittee target		(258)	
2. Less: Amounts assumed in the resolution, but not yet considered		(...)	
3. Assuming no changes from remaining budget resolution assumptions:			
Over subcommittee target		(...)	
Under subcommittee target		(258)	

A. Amounts Assumed in the Budget Resolution but not yet Considered—None.

III. PERSPECTIVE ON FUNCTION TOTALS

This bill pertains to Function 700: Veterans Benefits And Services, and is within the totals for this function. The higher benefits resulting from this bill would reduce spending in the AFDC, SSI, and Medicaid programs (Functions 600 and 550) by $122 million in budget authority and outlays. These savings, not shown in the preceding tables, were assumed in the Second Resolution.

The Second Resolution included an allowance of $1,393 million in budget authority and $1,232 million in outlays for appropriations to cover this bill and the conference agreements on H.R. 11886 (veterans compensation) and H.R. 12028 (veterans housing). The latter two conference agreements have passed the House. The three conference agreements sum to $1,095 million in budget authority and $994 million in outlays—less than the Second Resolution allowance.

IV. COMPARISON WITH THE PRESIDENT'S BUDGET

The President's January budget included $111 million for a cost-of-living increase or other improvements in the veterans pension program. In the OMB Mid-Session Review, the figure was raised to about $500 million.

V. BACKGROUND

This bill provides substantial increases in pension benefits, provides automatic cost-of-living increases which would be effective at the same time as annual social security increases, changes the program to treat the incomes of all beneficiaries in the family in the same way, and simplifies benefit computation provisions. Maximum basic benefits for a single veteran would be $3,550 per year, compared with $2,364 under current law and $4,000 under the House-passed bill. Maximum basic benefits for a veteran with one dependent would be $4,651, compared with $2,544 under current law and $5,200 under the House-passed bill.

Mr. MONTGOMERY. I thank the gentleman.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from New Jersey.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I rise in support of a bill that is long overdue. This conference report on the Veterans' and Survivors' Pension Improvement Act marks a new era for many of our veterans.

The World War I veteran has been too often overlooked when it comes to granting benefits. The legislation we are asked to approve tonight remedies this oversight. With the adoption of this conference report, eligible World War I veterans will receive an additional $800 a year in benefits.

I am delighted that the conferees have held fast and retained the House provision which removes the quirk in the law that reduces veterans' benefits whenever a social security cost-of-living increase is granted. This is a move that I have supported since my election to Congress and I am sure that all veterans, but particularly the older ones, will breathe a collective sigh of relief when their benefit checks reflect this fact.

I also commend the conferees for their foresight in providing a maximum Federal support level to those veterans and widows who have little or no income. This recognition by the Congress of the hardships facing these Americans is a step in the right direction. It is also a sign that we have not forgotten the tremendous debt that we owe the many men and women who selflessly gave so much for their country.

I would hope that all Members vote aye on the conference report to the bill, H.R. 10713.

● Mr. TEAGUE. Mr. Speaker, no program has received more attention down through the years than pension assistance for non-service-connected veterans who are permanently and totally disabled, and their dependents. Congress has structured this program on the philosophy that the larger pension payments should go to those in the greatest need.

Today, we are considering a conference report which has been agreed to by the Senate. This report represents the culmination of many hours, days, and weeks of hearings, deliberations, and negotiations both in the House with the Veterans' Affairs Committee and with our Senate colleagues. I want to especially commend the chairman of the Veterans' Affairs Committee, the Honorable RAY ROBERTS, and the ranking minority member, the Honorable JOHN PAUL HAMMERSCHMIDT, for their leadership in bringing this legislation to a successful conclusion. I also want to highly commend the chairman of the Subcommittee on Compensation, Pension and Insurance, the Honorable G. V. "SONNY" MONTGOMERY, and the ranking minority member, the Honorable CHALMERS P. WYLIE of Ohio, who worked long and hard to develop and recommend the pension bill to our committee and were successful in having it overwhelmingly approved by the House.

I am pleased that H.R. 10173, as approved by the conferees, has addressed itself to many of the pressing problems regarding the pension program. Most important is the elimination of the almost annual ritual of having the veterans' pension payments reduced because social security payments have increased. Now there will be no reduction in future years of pensioners' VA payments when there is a social security increase under the provisions of this bill.

I am also highly pleased that Congress, in approving H.R. 10173, will be reaffirming the long held philosophy of the pension program; namely, that it is based on those with the least income receiving the larger amounts of pension assistance.

Finally, this is a veterans' program, and in approving H.R. 10173, we are telling these veterans who are entitled to pension assistance, that their Government has not forgotten the sacrifice made by veterans when called upon to serve in the Armed Forces during wartime. Adoption of the conference report on H.R. 10173 by the House will go a long way toward solving many problems which have caused so many Members much concern during recent years, and at the same time, vastly improve the pension program which will meet the critical needs of permanently and totally disabled and elderly veterans and their dependents.●

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and I make the

point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 387, nays 1, not voting 42, as follows:

[Roll No. 925]

YEAS—387

Abdnor	Delaney	Huckaby
Addabbo	Dent	Hughes
Akaka	Derrick	Hyde
Alexander	Derwinski	Ireland
Ambro	Devine	Jacobs
Anderson, Calif.	Dicks	Jeffords
	Dingell	Jenkins
Anderson, Ill.	Dodd	Jenrette
Andrews, N.C.	Dornan	Johnson, Calif.
Andrews, N. Dak.	Downey	Johnson, Colo.
	Drinan	Jones, N.C.
Annunzio	Duncan, Oreg.	Jones, Okla.
Archer	Duncan, Tenn.	Jones, Tenn.
Ashley	Early	Jordan
Aspin	Eckhardt	Kasten
AuCoin	Edgar	Kastenmeier
Bafalis	Edwards, Ala.	Kazen
Baldus	Edwards, Calif.	Kelly
Barnard	Edwards, Okla.	Kemp
Baucus	Eilberg	Keys
Bauman	Emery	Kildee
Beard, R.I.	English	Kindness
Beard, Tenn.	Erlenborn	Kostmayer
Bedell	Ertel	Krebs
Beilenson	Evans, Del.	Krueger
Benjamin	Evans, Ga.	LaFalce
Bennett	Evans, Ind.	Lagomarsino
Bevill	Fary	Latta
Bingham	Fascell	Le Fante
Blanchard	Fenwick	Leach
Blouin	Findley	Lederer
Boland	Fish	Leggett
Bolling	Fisher	Lent
Bonior	Fithian	Levitas
Bonker	Flippo	Livingston
Bowen	Flood	Lloyd, Calif.
Brademas	Florio	Lloyd, Tenn.
Breaux	Flowers	Long, La.
Breckinridge	Foley	Lott
Brinkley	Ford, Mich.	Luken
Brodhead	Ford, Tenn.	Lundine
Brooks	Forsythe	McClory
Broomfield	Fountain	McCloskey
Brown, Calif.	Fowler	McCormack
Brown, Mich.	Fraser	McDade
Brown, Ohio	Frenzel	McDonald
Broyhill	Fuqua	McEwen
Buchanan	Gammage	McHugh
Burgener	Garcia	McKay
Burke, Mass.	Gaydos	McKinney
Burleson, Tex.	Gephardt	Madigan
Burlison, Mo.	Giaimo	Maguire
Burton, John	Gibbons	Mahon
Burton, Phillip	Gilman	Mann
Butler	Ginn	Markey
Caputo	Glickman	Marks
Carr	Goldwater	Marriott
Carter	Gonzalez	Martin
Cavanaugh	Goodling	Mathis
Cederberg	Gore	Mattox
Chappell	Gradison	Mazzoli
Chisholm	Grassley	Meeds
Clausen, Don H.	Green	Meyner
	Gudger	Michel
Clawson, Del	Guyer	Mikulski
Clay	Hagedorn	Miller, Calif.
Cleveland	Hall	Miller, Ohio
Cochran	Hamilton	Mineta
Cohen	Hammer-schmidt	Minish
Coleman		Mitchell, Md.
Collins, Ill.	Hanley	Mitchell, N.Y.
Collins, Tex.	Hannaford	Moakley
Conable	Hansen	Moffett
Conte	Harkin	Mollohan
Conyers	Harris	Montgomery
Corcoran	Harsha	Moore
Corman	Hawkins	Moorhead, Calif.
Cornell	Heckler	
Cornwell	Hefner	Moorhead, Pa.
Cotter	Heftel	Mottl
Coughlin	Hightower	Murphy, Ill.
Crane	Hillis	Murphy, Pa.
Cunningham	Holland	Murtha
D'Amours	Hollenbeck	Myers, Gary
Daniel, Dan	Holt	Myers, John
Daniel, R. W.	Holtzman	Myers, Michael
Danielson	Horton	Natcher
Davis	Howard	Neal
de la Garza	Hubbard	Nedzi
Nix	Rostenkowski	Treen
Nolan	Rousselot	Trible
Nowak	Roybal	Tsongas
O'Brien	Ruppe	Tucker
Oakar	Russo	Udall
Oberstar	Santini	Ullman
Obey	Sarasin	Van Deerlin
Ottinger	Satterfield	Vander Jagt
Panetta	Sawyer	Vanik
Patten	Scheuer	Vento
Patterson	Schroeder	Volkmer
Pattison	Schulze	Waggonner
Pease	Sebelius	Walgren
Pepper	Seiberling	Walker
Perkins	Sharp	Walsh
Pickle	Shuster	Wampler
Pike	Simon	Watkins
Poage	Sisk	Waxman
Pressler	Skelton	Weaver
Preyer	Skubitz	Weiss
Price	Slack	Whalen
Pritchard	Smith, Iowa	White
Pursell	Snyder	Whitehurst
Quayle	Solarz	Whitley
Quillen	Spellman	Whitten
Rahall	Spence	Wiggins
Railsback	St Germain	Wilson, Bob
Rangel	Staggers	Winn
Regula	Stangeland	Wirth
Reuss	Stanton	Wolff
Rhodes	Stark	Wright
Richmond	Steers	Wydler
Rinaldo	Steiger	Wylie
Roberts	Stockman	Yates
Robinson	Stokes	Yatron
Rodino	Studds	Young, Alaska
Roe	Stump	Young, Fla.
Rogers	Symms	Young, Mo.
Roncalio	Taylor	Young, Tex.
Rooney	Thompson	Zablocki
Rose	Thornton	Zeferetti
Rosenthal	Traxler	

NAYS—1

Nichols

NOT VOTING—42

Ammerman	Flynt	Quie
Applegate	Frey	Risenhoover
Armstrong	Harrington	Rudd
Ashbrook	Ichord	Runnels
Badham	Lehman	Ryan
Biaggi	Long, Md.	Shipley
Boggs	Lujan	Sikes
Burke, Calif.	McFall	Smith, Nebr.
Burke, Fla.	Marlenee	Steed
Carney	Mikva	Stratton
Dellums	Milford	Teague
Dickinson	Moss	Thone
Diggs	Murphy, N.Y.	Wilson, C. H.
Evans, Colo.	Pettis	Wilson, Tex.

The Clerk announced the following pairs:

Mr. Mikva with Mr. Dickinson.

Mr. Steed with Mr. Burke of Florida.

Mr. Sikes with Mr. Ashbrook.

Mr. Ichord with Mr. Badham.

Mr. Biaggi with Mr. Frey.

Mr. Dellums with Mr. Lujan.

Mr. Carney with Mr. Marlenee.

Mrs. Boggs With Mr. Quie.

Mrs. Burke of California with Mr. Rudd.

Mr. Murphy of New York with Mrs. Smith of Nebraska.

Mr. Charles Wilson of Texas with Mr. Thone.

Mr. Stratton with Mr. Runnels.

Mr. Charles H. Wilson of California with Mr. Shipley.

Mr. Flynt with Mr. Risenhoover.

Mr. Harrington with Mr. Lehman.

Mr. Long of Maryland with Mr. McFall.

Mr. Teague with Mr. Ryan.

Mr. Evans of Colorado with Mr. Ammerman.

Mr. Applegate with Mr. Moss.

Mr. Diggs with Mr. Milford.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MONTGOMERY. Mr. Speaker, I appreciate the great vote we received on this veterans' pension bill. The gentleman from Alabama (Mr. NICHOLS) I am sure, voted "aye." The electronic voting machine shows him voting no. Mr. NICHOLS is one of our great military supporters and is himself highly decorated. I want the record to show that the "no" vote is a mistake of the electronic voting machine.

CONFERENCE REPORT ON S. 3151, DEPARTMENT OF JUSTICE AUTHORIZATIONS, 1979

Mr. RODINO. Mr. Speaker, I call up the conference report on the Senate bill (S. 3151) to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see Proceedings of the House of October 12, 1978.)

The SPEAKER pro tempore (Mr. WRIGHT). Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from New Jersey (Mr. RODINO) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, I yield myself such time as I may consume.

The conference report on the bill S. 3151 represents truly landmark legislation.

Never before in the more than one-century-old existence of the Department of Justice have that agency's appropriations been specifically authorized.

It has been 108 years since the Department was established by act of Congress in 1870. And under rule X, legislative jurisdiction over nearly every activity within the Department reposes in the Judiciary Committee. Yet the Department, previously, had never been required to come before the Judiciary Committee, nor indeed even before the full Congress for authorization of its annual appropriations.

The act of 1870 creating the Department, and the subsequent creation of subdivisions within the Department and the authorization of certain activities of the Department were treated in themselves as the requisite authorization of appropriations.

In 1976, however, all of that changed —by law. And the Congress enacted the 1976 statute largely because the Judiciary Committee believed it could not adequately or responsibly discharge its oversight responsibilities without the lever of budgetary authorization. This first exercise of our new responsibility, to be sure, has not been completely smooth—we need, for example, to insure a more rational scheduling process in the future, so that the authorizing process will truly precede the appropriat-

ing process—but other efforts are nonetheless an important beginning.

Earlier this year, the House passed a bill authorizing $1.65 billion for the Department's fiscal 1979 activities. Those moneys did not include funds for LEAA and DEA which each had been previously authorized by statute. The Senate-passed figure was a bit higher. Compared to the House total of $1.65 billion, the Senate authorized about $1.70 billion.

The conference report we bring up today strikes a reasonable balance at $1.68 billion. And it relates sensibly and rationally to the $1.63 billion already enacted by the appropriations legislation.

(The total appropriated amount for the Department, of course, is a bit higher—$2.47 billion—but that figure includes LEAA and DEA, not addressed by this bill).

The conferees did not have before them disputes on moneys relating to general administration, fees, and expenses on witnesses, support of U.S. prisoners or the community relations service. But there were differences between the two Houses on moneys to be authorized for general legal activities, for the Antitrust Division, for U.S. attorneys and marshals, for the FBI, for the Immigration and Naturalization Service, and for the Federal prison system.

With regard to general legal activities, the conferees agreed to a compromise figure of just above $95 million—more than the House figure, but less than the $98 million sought by the Senate. The moneys included an additional $3.31 million for the Criminal Division and an extra $2.26 million for the Civil Rights Division.

Regarding the Antitrust Division, the House receded to the slightly higher Senate figure of $47 million, but the Senate receded to the House's figure of $320 million for the Immigration Service, an increase of $22 million over the Senate level. The conferees felt the House was correct in believing that this increased amount is needed to improve efforts to control illegal aliens and to reduce the adjudication and naturalization backlog in the various field offices around the country.

With regard to the FBI, the Senate figure of $564 million compared to the House's total of $560 million. The conferees compromised at $561.3 million.

The compromised figure on U.S. attorneys and marshals was $221 million, somewhat above the House amount, but on the Federal prison system the Senate receded to the lower figure of the House—$362.6 million and agreed to an additionally authorized $1 million, passed by the House, for fire prevention expenditures in the prisons.

The conferees also accepted the House provision calling upon the Attorney General to take steps necessary to acquire or construct a Federal detention center in Los Angeles County.

The conference committee reached agreement on other, more technical aspects of the Department's policy responsibilities, including language requiring communication between the Department of Justice and the Congress on any reprograming of funds and on certain undercover investigative activities of the FBI. All matters resolved between the Houses, of course, are outlined in the conference report and accompanying joint explanatory statement of managers.

The Senate receded to the House regarding the Special Prosecutor provisions in the Senate bill because the matter was addresed by other legislation and included in the conference report on S. 555. The House, in turn, receded to the Senate on a provision which amends the Civil Rights Act of 1974 relating to consultant fees for the Community Relations Service.

Mr. Speaker, all in all this conference report is a reasonable, even excellent compromise. I am hopeful, of course, that in the 96th Congress the process of authorization can be made even stronger. But I am satisfied that we have successfully taken the first difficult steps.

I want to thank and commend all the members of the Judiciary Committee for their cooperation and in many cases, their leadership.

The gentleman from Texas (Mr. BROOKS) especially, is to be commended for assisting me in channeling this legislation at a time when my own participation in the process was limited by personal circumstances. And our subcommittee chairmen, Mr. KASTENMEIER, Mr. EDWARDS, Mr. EILBERG, Mr. CONYERS, Mr. MANN, and Mr. DANIELSON brought to bear on this bill and on this conference report their many years of expertise on the various activities of the Department. And, as always, our ranking minority member, Mr. MCCLORY was of tremendous assistance in our efforts.

Mr. Speaker, we have a good bill at last. The conferees reached agreement on Thursday and the other body has already acted to approve the conference report. I urge the adoption of the conference report by the House as well.

Mr. MCCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have no objection whatever to the conference report insofar as the funding levels are concerned. I think they are entirely appropriate.

As the distinguished chairman of the committee, the gentleman from New Jersey (Mr. RODINO), has stated, this is the first time that the Judiciary Committee has considered the overall subject of authorizations for the Department of Justice. I commend the committee for that initiative.

However, I am opposed to the conference report for one specific reason, the deletion of the House provision on merit selection. We have acted three times now on the subject of merit selection of Federal judges. This House instructed its conferees on the omnibus judgeship bill to insist upon an amendment that was offered to the bill to require the adoption of procedures for the merit selection of Federal judges. On this measure, the gentleman from Ohio (Mr. SEIBERLING) and I cooperated in authoring an amendment to accomplish this objective.

Let me say that amendment was dropped in its entirety by the conferees, and I think it is an offense to the House. I think it is inconsistent with the intentions of the House, and I think for that reason the House should not support the conference report.

In view of the fact that Congress has already appropriated funds for the Department of Justice for fiscal year 1979, this legislation is not necessary to keep the Department in operation. In the main, this legislation authorizes an appropriation which has already occurred. Thus not a single paycheck or program would be stopped by the defeat of this conference report.

Therefore, this legislation must be judged for how it directs the Department to spend or not spend appropriated funds. Since the conference substitute completely eliminates from this legislation the House provision regarding merit selection of district court judges, I find that this omission far outweighs the benefits of this legislation.

The Members will recall that the House first agreed to support merit selection in the omnibus judgeship bill, which has not passed both Houses. By a vote of 321 to 19, the House voted to instruct its conferees to insist on the merit selection provision "as passed." But the House conferees did not uphold those instructions, as I indicated in some detail when the House passed the judgeship bill on October 4, 1978. Instead, the conferees agreed that "standards and guidelines" would be applied. But that does not really differ from the status quo.

For under the present patronage system, the custom is that Senators from the State involved indicate to the President which individual they would like to have nominated for a district court judgeship. Then, the Associate Attorney General reviews the qualifications of the prospective nominee to determine if certain minimal standards are met regarding age, health, trial experience, and reputation for integrity. If the minimal standards are deemed met, the name of the individual is then formally submitted to the Senate for its advice and consent.

Thus, all that the judgeship bill requires is that these informal standards be made public. But that does not change anything. This was made clear earlier this week as newspaper accounts proclaimed that certain Senators had already announced their selections "in the traditional manner."

So I ask you not to be deceived. If you read the debates in the other body on this issue, you will see that not a single Senator suggested that the "standards and guidelines" requirement means "merit selection." They know what it means, and I think we know what it means.

When it became clear that the conferees on the judgeship bill would not accept the House merit selection proposal, it became necessary to amend this authorization legislation. And on September 26, 1978, by a vote of 206 to 151, the House once again agreed to an amendment requiring the implementation of merit selection procedures. But once again in conference, the will of the House was thwarted. This time more clearly: The language was stricken in toto.

The purpose of the merit selection provision is to raise the quality of justice by giving notice that highly qualified individuals will be eligible even though they do not know their Senators on a personal basis. The provision places no legal limitations on the President or the Senate in their respective roles. But it would politically inhibit them. For if individuals of merit were identified but not chosen and a Senator's less qualified friend were chosen instead, there would be political consequences. The people would know—and they would react. The purpose of the merit selection provision is not to transfer authority to anyone other than the President and the Senate. The purpose is to create political pressure to be responsible. The purpose is to create political sanctions for the exercise of discretion contrary to the public interest.

Merit selection is not opposed because it is an empty phrase or cosmetic or unworkable or useless. No; it is opposed because it will break up the patronage system by which we fill the third branch of Government. It is opposed because it would work.

If merit selection were merely cosmetic, then there would be no reason to so vigorously oppose it. But the fact that it is opposed is itself an endorsement that it would jeopardize the 117 patronage plums we have recently created and throw open these positions to men and women of merit.

All sorts of excuses were made in conference in opposition to the provision. It was argued that we already enacted merit selection as part of the judgeship bill. But that is hardly the case. We gutted merit selection there. We took out the requirement of "procedures" for the impartial identification of individuals of merit—the essence of merit selection. Moreover, the provision in this legislation—now stricken—would have applied to all judgeships and not merely those newly created.

It was argued that it is inappropriate to designate in statutory form a role for the Justice Department in the selection process. This is laughable. The Department has always exercised this role. Everyone knows that it does. For it is a matter of official record. Then why is it inappropriate to speak the truth when legislating?

Finally, it was argued that it is unconstitutional to inform the Senate of highly qualified possible nominees. That underscores how desperate the opposition is. I suggest that the communication of information to the Senate is not unconstitutional but is itself a constitutionally protected right.

There is a great deal at stake here, Mr. Speaker. Do we wish to increase the quality of justice or do we wish to prepetuate the patronage system? The conference substitute takes the wrong stand on that question. The conference substitute must be defeated. And if in the process we fail to get a bill, that is no problem—this bill is otherwise unnecessary.

Let us send a message on merit selection. I urge a "no" vote on this report.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, first of all I would like to say I do commend the gentleman from Illinois, the ranking minority member of the committee, for the work that he has done. He made a great contribution to this conference and to the adoption of the authorization bill as it was processed through the committee.

I joined the gentleman in support of the merit selection system when we were considering it properly in the judgeship bill, in the omnibus judgeship bill. And let me say this to the gentleman from Illinois whom I admire.

The Senate conferees refused to concur in the section relative to the Attorney General's role in merit selection of nominees for U.S. district court judgeships and the House receded from its position.

The House receded for the following reasons:

First, the Senate conferees felt and we had to agree that this language is first of all redundant. The omnibus judgeship bill already enacted contains "merit selection" language aimed at the constitutionally responsible individual—the President.

Second, the Senate conferees argued and the House agreed that this language created a statutory role for the Attorney General which may not be envisioned by the President when he promulgates his standards and guidelines mandated by the omnibus judgeship bill.

Third, this language provides for the submission of names by the Attorney General to the President and the Senate with respect to each vacancy of the U.S. district court. This could certainly be violative of article II of the Constitution in which the power of nomination or appointment is vested in the Chief Executive with advice and consent of the Senate.

I appreciate the sincerity of those Members who are interested in the merit selection of judges. All of us or most of us have supported those efforts and there is language in the omnibus judgeship bill which reflects those concerns but in our zeal for this concept, it simply does not make sense to add language wherever it appears even fleetingly suitable to merely continue to beat a dead horse.

Reiteration in a form which legislatively directs the Attorney General to acts which heretofore he has only performed at the request of the President and as his agent does not appear wise.

I urge my colleagues to support the conference report.

Mr. McCLORY. Let me say in response to the gentleman that the amendment we offered here, and which was adopted here, was entirely germane and appropriate. We did provide in that amendment that we were not denying to the President any of his constitutional authority insofar as the merit selection procedures to identify individuals of exceptional ability would not limit the President in nominating anyone he pleases as a legal matter. However, it is true that the existence of such procedures would prompt him to act responsibly. This provision is appropriate in this legislation for reasons that the gentleman from Ohio and I gave when the House adopted it.

I have been asked to yield to the gentleman from Texas (Mr. COLLINS) and I yield the gentleman from Texas 5 minutes.

Mr. COLLINS of Texas. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

I rise in opposition to this conference report. It is an example of what happens the last days of Congress. This is the sixth term that I have served here and this is the sixth time, as always, it has happened. We get back many of the controversial bills and we then see all the changes. On the last night of the session we find ourselves in a straitjacket.

This particular Justice authorization legislation has followed a most unusual process. Congress has already passed the appropriation bill for Justice. Appropriation has already been passed before we review the authorization bill. It seems that over and over again we are following this procedure, which is certainly the case of putting the cart before the horse. But, regardless of this system we should at this time seriously get the message to Justice that the House expresses definite guidelines when we write an authorization bill.

In this authorization bill we provided very, very clearly that the House objected to the policy where Justice was now undertaking to mandate the busing of schoolchildren.

When we passed the HEW bill last year, it prohibited HEW from interceding to bus schoolchildren. HEW simply called two blocks down the street and the Justice Department said, "We will pick busing up." So the Justice Department is doing what we had told HEW they could not do.

When we brought the bill before the House we passed a section known as section 18. It was the overwhelming will of this House that:

> No sums authorized to be appropriated by this Act shall be used to bring any sort of action to require directly or indirectly the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education as a result of being mentally or physically handicapped.

One major reason was because of energy conservation. Sixty percent of the schoolbuses today are forced to provide this unneeded transportation. Sixty percent of the energy is thereby being wasted on schoolbusing. This is with children that do not need to be bused because they could have walked to the schools nearest to their homes.

We specified clearly and distinctly. Yet the conferees in their hurried session eliminated this very vital section of the bill.

I realize the appropriation has been made, and this is a delayed authorization—but I think the House must reject because a rejection of this conference report to the Department of Justice would provide the signal, so they will know how to follow out the dictates of the Congress. Let us not quickly ratify the conference report.

Time and time again when you go home you hear people objecting to the bureaucrats writing the laws. That is true if Congress allows an appropriation bill to be the law that gives these Justice people the money carte blanche, unless Congress writes the rules, then we have abrogated our responsibility.

Congress does not want busing of children beyond the school nearest their homes. The Justice Department has no limitation provision within the appropriation bill. Unless we reject the conference authorization we will not be able to deliver our view on busing.

● Mr. FISH. Mr. Speaker, the conference language on Cambodian refugees in the Department of Justice authorization bill is not inconsistent nor incompatible with the sense of Congress language that has previously appeared in the State, Justice, and Commerce appropriation bill.

As my colleagues will recall, that language expressed the sense of the Congress that 15,000 Cambodian refugees shall be paroled or admitted into the United States over the next 2 fiscal years. The language in this bill on the other hand, is mandatory in that it requires the Attorney General to consult with the Congress on the development of special criteria which will enable a larger number of Cambodians to come to the United States. I should remind my colleagues that the House floor manager of the House appropriations conference report stated that "if this bill ever becomes law in this Congress, that will have priority. This is a mere sense of Congress resolution."

I find nothing inconsistent with establishing specific guidelines and criteria to admit Cambodian refugees to this country, whether it be 15 refugees, 1,500, or 15,000. We must have a program that is governed by a list of priorities or preferences with regard to deciding "who" shall be admitted and "when" they shall be admitted. In other words, the conference language will require the Attorney General to establish specific criteria which will enable us to prioritize the classes of refugees that will be admitted, as well as to prioritize the actual movement of those refugees who are selected. In conclusion, I believe that this provision is a necessary and reasonable supplement to the language on Cambodian refugees that was approved by the Congress in its considerations of the appropriations bill. ●

Mr. McCLORY. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

Mr. RODINO. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes have it.

Mr. COLLINS of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 93, not voting 66, as follows:

[Roll No. 926]

YEAS—271

Abdnor	Fowler	Nedzi
Addabbo	Fraser	Nichols
Akaka	Frenzel	Nix
Alexander	Fuqua	Nowak
Ambro	Garcia	O'Brien
Anderson, Ill.	Gaydos	Oberstar
Andrews, N.C.	Gephardt	Ottinger
Andrews, N. Dak.	Giaimo	Panetta
	Gilman	Patten
Annunzio	Ginn	Patterson
Ashley	Gonzalez	Pease
Aspin	Gore	Pepper
Bafalis	Gradison	Perkins
Baldus	Gudger	Pickle
Barnard	Hamilton	Pike
Baucus	Hammer-schmidt	Pressler
Beard, R.I.		Preyer
Bedell	Hanley	Price
Bellenson	Hannaford	Quayle
Benjamin	Harkin	Quillen
Bennett	Harris	Rahall
Bevill	Harsha	Railsback
Bingham	Hawkins	Rangel
Blanchard	Hefner	Reuss
Blouin	Heftel	Rhodes
Boggs	Hightower	Richmond
Boland	Hillis	Rinaldo
Bolling	Holland	Rodino
Bonker	Hollenbeck	Roe
Brademas	Horton	Rogers
Breaux	Howard	Rooney
Breckinridge	Huckaby	Rose
Brodhead	Hughes	Rosenthal
Brooks	Ireland	Rostenkowski
Broomfield	Jenkins	Roybal
Broyhill	Jenrette	Ryan
Buchanan	Johnson, Calif.	Santini
Burke, Mass.	Johnson, Colo.	Sarasin
Burlison, Mo.	Jones, N.C.	Sawyer
Burton, Phillip	Jones, Tenn.	Scheuer
Butler	Jordan	Schroeder
Carr	Kastenmeier	Seiberling
Carter	Kazen	Sharp
Cavanaugh	Kelly	Sikes
Cederberg	Kildee	Simon
Chisholm	Kostmayer	Skelton
Clay	Krebs	Slack
Cohen	Krueger	Smith, Iowa
Coleman	Le Fante	Solarz
Collins, Ill.	Leach	Spellman
Conte	Lederer	Spence
Conyers	Levitas	St Germain
Corcoran	Livingston	Staggers
Corman	Lloyd, Calif.	Stangeland
Cornell	Long, La.	Stanton
Cornwell	Long, Md.	Steed
Cotter	Luken	Steiger
Coughlin	Lundine	Stokes
D'Amours	McCloskey	Studds
Daniel, R. W.	McCormack	Thompson
Danielson	McDade	Traxler
Davis	McEwen	Trible
de la Garza	McHugh	Tsongas
Delaney	McKay	Tucker
Dellums	McKinney	Udall
Dent	Madigan	Ullman
Derrick	Mahon	Van Deerlin
Dodd	Mann	Vanik
Duncan, Oreg.	Markey	Vento
Duncan, Tenn.	Marks	Volkmer
Early	Marriott	Walgren
Eckhardt	Mazzoli	Walsh
Edgar	Meeds	Wampler
Edwards, Ala.	Meyner	Watkins
Edwards, Calif.	Michel	Waxman
Eilberg	Mikulski	Whalen
Emery	Miller, Calif.	White
English	Mineta	Whitehurst
Erlenborn	Minish	Whitley
Ertel	Mitchell, Md.	Wiggins
Fary	Mitchell, N.Y.	Wilson, Bob
Fascell	Moakley	Wilson, Tex.
Findley	Mollohan	Wirth
Fish	Moore	Wolff
Fisher	Moorhead, Pa.	Wright
Fithian	Murphy, Ill.	Yates
Flippo	Murphy, Pa.	Yatron
Flood	Murtha	Young, Mo.
Florio	Myers, Michael	Young, Tex.
Foley	Natcher	Zablocki
Fountain	Neal	Zeferetti

NAYS—93

Anderson, Calif.	Grassley	Myers, Gary
	Green	Myers, John
Archer	Guyer	Oakar
Bauman	Hagedorn	Poage
Brinkley	Hall	Regula
Brown, Mich.	Hansen	Roberts
Brown, Ohio	Holt	Robinson
Burgener	Holtzman	Rousselot
Caputo	Hubbard	Runnels
Chappell	Hyde	Russo
Clausen, Don H.	Jacobs	Satterfield
	Jeffords	Schulze
Clawson, Del	Jones, Okla.	Sebelius
Cleveland	Kasten	Shuster
Cochran	Kemp	Snyder
Collins, Tex.	Keys	Stark
Conable	Kindness	Stockman
Crane	Lagomarsino	Stump
Cunningham	Latta	Symms
Daniel, Dan	Lent	Taylor
Derwinski	Lloyd, Tenn.	Treen
Devine	Lott	Vander Jagt
Dornan	McClory	Waggonner
Drinan	McDonald	Walker
Edwards, Okla.	Martin	Weaver
Evans, Del.	Mattox	Weiss
Evans, Ind.	Milford	Whitten
Fenwick	Miller, Ohio	Winn
Gammage	Montgomery	Wydler
Glickman	Moorhead, Calif.	Wylie
Goldwater		Young, Alaska
Goodling	Mottl	Young, Fla.

NOT VOTING—66

Ammerman	Evans, Ga.	Murphy, N.Y.
Applegate	Flowers	Nolan
Armstrong	Flynt	Obey
Ashbrook	Ford, Mich.	Pattison
AuCoin	Ford, Tenn.	Pettis
Badham	Forsythe	Pritchard
Beard, Tenn.	Frey	Pursell
Biaggi	Gibbons	Quie
Bonior	Harrington	Risenhoover
Bowen	Heckler	Roncalio
Brown, Calif.	Ichord	Rudd
Burke, Calif.	LaFalce	Ruppe
Burke, Fla.	Leggett	Shipley
Burleson, Tex.	Lehman	Sisk
Burton, John	Lujan	Skubitz
Carney	McFall	Smith, Nebr.
Dickinson	Maguire	Steers
Dicks	Marlenee	Stratton
Diggs	Mathis	Teague
Dingell	Mikva	Thone
Downey	Moffett	Thornton
Evans, Colo.	Moss	Wilson, C. H.

The Clerk announced the following pairs:

On this vote:

Mr. Beard of Tennessee for, with Mr. Ashbrook against.

Mr. Steers for, with Mr. Badham against.

Mr. Dickinson for, with Mr. Lujan against.

Until further notice:

Mr. Dingell with Mrs. Heckler.

Mr. John L. Burton with Mr. Forsythe.

Mr. Ichord with Mr. Frey.

Mr. Flowers with Mr. Marlenee.

Mr. Mikva with Mr. Rudd.

Mr. Murphy of New York with Mr. Ruppe.

Mr. Downey with Mr. Skubitz.

Mrs. Burke of California with Mrs. Smith of Nebraska.

Mr. Biaggi with Mr. Thone.

Mr. Carney with Mr. Quie.

Mr. Dicks with Mr. Pursell.

Mr. Charles H. Wilson of California with Mr. Pritchard.

Mr. Burleson of Texas with Mr. Burke of Florida.

Mr. AuCoin with Mr. Moffett.

Mr. Evans of Colorado with Mr. Stratton.

Mr. Brown of California with Mr. Shipley.

Mr. Roncalio with Mr. Pattison of New York.

Mr. Obey with Mr. Teague.

Mr. Evans of Georgia with Mr. Maguire.

Mr. Ammerman with Mr. Bonior.

Mr. Bowen with Mr. Ford of Tennessee.

Mr. Flynt with Mr. Gibbons.

Mr. Applegate with Mr. Ford of Michigan.

Mr. Mathis with Mr. Leggett.

Mr. LaFalce with Mr. McFall.

Mr. Nolan with Mr. Risenhoover.

Mr. Moss with Mr. Thornton.

Mr. Sisk with Mr. Harrington.

Mr. Diggs with Mr. Lehman.

Messrs. RUSSO, LENT, BURGENER, GLICKMAN, and VANDER JAGT changed their vote from "yea" to "nay."

Mr. SHARP and Mr. WHITE changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. NICHOLS. Mr. Speaker, on the previous vote on H.R. 10173, I evidently pressed the wrong button and voted "no." I appreciate my colleague's calling that to my attention.

My intention was, of course, to vote "aye" on the veterans' bill, and I ask that this statement appear in the RECORD.

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore, Mr. NATCHER). The gentleman will state his parliamentary inquiry.

Mr. DERWINSKI. Mr. Speaker, could the Chair advise us if we are following any special order in considering the bills on this list? Could we have some idea of the schedule? Are we going right down the line?

Can the Chair verify that for us?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Illinois (Mr. DERWINSKI) that the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. RODINO), has one additional conference report which we will take up next.

Then we will go down to the suspension part of the whip notice, and we will take up two bills there. Then we will come back to the conference reports and proceed from that point where we left off with the committee on the Judiciary. That is the order in which we will proceed at this time.

Mr. DERWINSKI. At some point we will get to the White House authorization? That is something we have to do for the President before we adjourn.

The SPEAKER pro tempore. The Chair will advise the gentleman from Illinois that the odds are that we will reach that point.

Mr. DERWINSKI. I thank the Chair.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CONFERENCE REPORT ON H.R. 7010, VICTIMS OF CRIME ACT OF 1977

Mr. MANN. Mr. Speaker, I call up the conference report on the bill (H.R. 7010) to provide for grants to States for the payment of compensation to persons injured by certain criminal acts and omissions; and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER pro tempore. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from South Carolina (Mr. MANN) will be recognized for 30 minutes, and the gentleman from California (Mr. WIGGINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from South Carolina (Mr. MANN).

Mr. MANN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Members will recall that this bill provides for a 25-percent matching Federal program for those States which adopt programs for the compensation of innocent victims of crime. The bill passed by the House attempted to retain a maximum of flexibility for the States to determine the details of their criteria and the details of administration of their programs.

I am pleased to report to the House that the conference with the Senate has resulted generally in the House position prevailing, with two exceptions that I frankly do not consider highly significant, but which should be mentioned.

First, the House bill put a limit of $25,000 on any one claim in which the Federal Government would participate, meaning to the extent of $6,250. The Senate bill provided for $50,000, and this was resolved at $35,000, so that Federal participation in any one case would not exceed $8,750.

The other provision related to an amendment adopted on the floor of the House, which generally was referred to as the "Son of Sam" amendment proposed by the gentleman from Virginia (Mr. BUTLER), in which a specialized restitution arrangement was proposed to escrow funds received by a criminal whose publicity caused him to reap some windfall profits.

The bill contains a general restitution provision, and the Senate raised two or three questions concerning the specialized restitution that the "Son of Sam" bill would have proposed.

One was a constitutional question which, frankly, we were aware of, because the American Law Division of the Congressional Research Service had furnished the gentleman from Virginia (Mr. BUTLER) with a memorandum which indicated there was some question about the constitutionality.

So that matter was resolved by providing that the Attorney General would study the problem and make a report to the Congress within 2 years concerning the feasibility of requiring such a specialized restitution program by the States.

I would assert, Mr. Speaker, that, otherwise, the House position prevailed. The bill remains a very limited participation on the part of the Federal Government, but one which is hoped will reduce the alienation that has eroded respect for law, frankly, as we try to treat victims like human beings and try to exercise responsibility toward them.

If Mr. BIAGGI were here, he would point out how beneficial the bill is for the elderly and those who can ill afford the losses that are caused by violent crime, and I would point out before concluding that there is nothing in this bill that would compensate anyone for property loss or for pain and suffering. It would provide only for out-of-pocket medical and loss-of-work expenses caused by violent crime.

Mr. Speaker, I sincerely suggest that the bill is an acceptable one to the House, and recommend its approval.

Mr. WIGGINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. HAMMERSCHMIDT).

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise in support of the conference report to accompany H.R. 7010, the Victims of Crime Act of 1978.

As the ranking minority member of the Housing and Consumer Interests Subcommittee of the Select Committee on Aging, I am pleased to note that the final version of the bill included recommendations from our subcommittee report entitled "In Search of Security: A National Perspective on Elderly Crime Victimization".

This study revealed that although the elderly are not victimized disproportionately to their numbers in the population, they do have a significant crime problem. There is also substantial evidence that older Americans suffer more than any other age group in qualitative measures of victimization. Physically and emotionally they are the least able to cope with economic losses of injuries that result from crime. Sixteen percent of the elderly live below the poverty line. If we include those who are within 125 percent of the poverty level we find that approximately 25 percent of all elderly persons are poor. These older persons are the least able to recover from any financial loss.

In the original version of this bill passed by the House over a year ago, payments to claimants of less than $100 or for lost earnings computed on the basis of less than 5 work days were excluded from eligibility. For older persons on limited, and frequently fixed incomes, these small losses constitute a significant proportion of their monthly incomes.

I commend the House conferees for accepting an amendment which allows claimants 62 years of age and older to receive awards for amounts less than $100 or for lost earnings or loss of support computed on the basis of less than 5 days work.

The conference report also encourages States to provide emergency compensation to crime victims who are in great financial need. This again is very beneficial to elderly victims of crime who frequently have no resources to draw upon and would instead be forced to wait for the arrival of their social security or SSI checks in the following month.

I would like to mention two features that I hope will, at some further time, be incorporated into the victim compensation legislation. The first, which was a part of the original House bill, required

that law enforcement agencies and officials publicize the existence of victim compensation programs and the procedure for applying for the award. I feel that it is very unfortunate that this section was deleted from the final bill. Many elderly people, who have the greatest need for assistance, frequently are unaware of the benefits to which they are entitled. This is true for SSI, food stamps, income tax deductions, and others. I feel that we are being negligent and remiss in our responsibilities in enacting legislation that omits this vital outreach component.

Finally, the study completed by the subcommittee revealed that although the elderly do not appear to be victims of violent crimes to a greater degree than the general population, they are frequently the victims of property crimes—burglary, robbery, and larceny with contact. They do not have the resources to replace stolen items or repair damaged property. Even the loss of $20, an amount of money that does not register on the FBI Crime Index, can represent a much greater relative loss to the older person on a small, fixed income. This amount of money can deny food, or essential drugs, or cause a utility bill to go unpaid. For these reasons, I believe it is necessary to include a section in the victim compensation bill that will alleviate the distresses of property loss and damage to the needy elderly victim. Therefore, I would like to reiterate the subcommittee proposal that persons 62 years of age or older with taxable incomes of $3,280 a year or less ($6,076 for a couple) be compensated for the loss of essential property up to a maximum of $1,000. Only property which is necessary to the well-being and security of the individual will be eligible for reimbursement.

A victim compensation bill that addresses the special needs of the elderly is one which, I believe, deserves the support of this Congress.

Mr. WIGGINS. Mr. Speaker, a scant 2 weeks ago this House considered the victims legislation, and after a full and fair debate it passed 192 for, 173 votes against. One hundred and seventy-three of you are recorded against the bill that passed the House. Now, let me tell you what has happened to it within the last 2 weeks.

The cost is changed from a $90 million 3-year program when it left the House to a $120 million program as it comes back to you after conference. As I recall, the uncertain cost of this new program—and it is indeed a brand-new program—was of considerable concern to the Members of the House when this issue was debated 2 weeks ago. If you were concerned then, I must tell you that you have every reason to have greater concern now.

Second, Mr. Speaker, an amendment was proposed by our colleague from Virginia, Mr. BUTLER, known as the "Son of Sam" amendment, which was described by the chairman of the subcommittee, an amendment which I personally did not support. But, the House voted for it overwhelmingly, by a vote of over two to one. This bill comes back from conference with that House provision deleted.

All that can be said about the conference is that certain technical changes were made in the language of the bill which did not change it in substance, other than the deletion of the amendment which was approved by the House, and that it is more costly by about 25 percent.

In a few moments after other Members have had an opportunity to speak, I am going to ask for a vote on this conference report. I want 173 of you to know that you are already on record against a bill which was better than the one before us now. So, I think I start with 173 votes. Let me talk now to those other 192 Members who voted in support of the bill. If you were concerned then about the cost of this new start, you have some evidence of the escalating nature of this new program. We are already up to $120 million in authorization for 3 years, and I predict with great confidence that this will become the food stamp program of the Department of Justice; that it will become the Snail Darter that brings the Department of Justice to a standstill.

It is a growth program, and we have just seen the tip of the iceberg. The time to kill it is now. I urge you to vote against the conference report.

Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. BUTLER).

Mr. BUTLER. Mr. Speaker, I will not take the full 5 minutes but I would like to reiterate the points made by the gentleman from California. The gentleman is entirely correct in his remarks but it was 1 year and 2 weeks ago that we did pass this.

Mr. WIGGINS. Mr. Speaker, if the gentleman will yield, it was 1 year and 2 weeks ago when this measure was considered. I thank the gentleman for correcting the record.

Mr. BUTLER. Mr. Speaker, I thank the gentleman for correcting the record. But the point is it has been on my mind ever since, as it has been on the gentleman's mind.

But the real point is it passed in the House by a vote with a difference of only 19 votes. In the conference they raised the authorization by 25 percent, from $90 million to $120 million, and they had the temerity to reject an amendment which I offered on the floor of this House. What do Members think about that? I will tell this body. We adopted this amendment by a vote of 234 to 113. It was a beautiful amendment. It made the difference for those people that voted for it before. I am sure the bill would not have been passed by the narrow margin by which it passed if that amendment had not been in.

The amendment was a very sensible one. It said if States were going to have a victims of crime program and would get Federal money, then they had to figure out a way to make sure that the criminal did not profit from his crime, like the Son of Sam who was prepared to write a book and make a lot of money. We provided in the amendment that the money should be held in escrow for the benefit of the victims of the crime. It is a sensible thing to do.

That alone would be a reason to vote for a motion to recommit and stand our ground, but rather than that I think it would be more appropriate to reject the conference report at this time, because this significant part of the bill is no longer there, and it passed by such a narrow margin to begin with and the authorization has increased by such a large amount.

But why vote for it in the first place? Basically what we have here is a new Federal program to do something that the States ought to be doing by themselves. If we leave the States alone and do not tell them the Federal Government is thinking about doing this, they will go ahead and do it themselves. Twenty States have their own programs.

My suggestion to the body is: Do not authorize this expensive new Federal program. We talk about and we have made commitments in this House that we are going to cut down on Federal spending. But the way to cut down on Federal spending is not to have new expensive programs in the first place, like this one. So I urge the Members to vote against this conference report and put an end to this new expensive Federal program.

Mr. WIGGINS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Speaker, I am reluctant to sound a dissident chord to the orchestration on my side of the aisle, but I support this program.

I think we ought to point out a couple of things. Number 1, I do not think it is going to be as expensive as people say because first of all it is matching State funds, and we do know the States have limited amounts of funds. This is simply an encouragement to the States to introduce a program, to do something for the victims of crime. The States and the Federal Government spend millions of dollars in penal institutions attempting to rehabilitate criminals and we spend money to send them to school and to give them psychological treatment and vocational training.

We spend money to place them in halfway houses and we try to understand the problems of rehabilitating the criminal but we do zero for the victim who may be elderly and have to sit in a little room, paralyzed, alone and penniless.

This is simply an effort at balance and to do something for the victim when we do so much for the criminal.

It is not going to be expensive and, while yes, it is a new program, the problem of crime and poverty among victims of crime is an old one.

I simply say that this is a worthwhile program that we can afford and we ought to support it.

Mr. WIGGINS. Mr. Speaker, I will conclude the debate on my side just with an observation. We have all heard the argument, which has a great emotional appeal, that we ought to do something for the victim when we do so much for the criminal. Well, my colleagues, the full panoply of Federal programs are available to the lame, the sick, and the disabled—whether or not the cause of the disability was a criminal act.

We spend billions of dollars for hospitals. We spend billions of dollars for medical research, the whole medicaid program is available to an indigent person if he is injured as a result of a criminal act.

The irony here, Mr. Speaker, is that we select a single class, the criminal victim, for a special program; but the innocent person who falls and bumps his head and suffers severe injury as a result, has no special program. That does not make any sense at all. If we are going to have compassion for those who are injured, let us have it equally for others who are injured.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I certainly want to associate myself with the remarks made by my colleague, the gentleman from California (Mr. WIGGINS) but, more than that, I want to take this opportunity to say that I will personally miss the perceptive, intuitive voice of my colleague in the years ahead.

I am one of those Members who is here to what they call the bloody end. I listen to special orders every night for the Members who are retiring and, indeed, we are going to miss many Members here, but to paraphrase something you hear in the advertising, "When CHUCK WIGGINS speaks, people listen."

I think the reason why is because CHUCK WIGGINS is learned, he is one of the best constitutional lawyers that we have in the House. He always takes a reasoned position regardless of what the popular position might be.

I merely want to have the record reflect that for those of us who hope to be back here that we are going to miss the voice of CHUCK WIGGINS. He is, indeed, one of the giants in the House.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman for yielding, and I think it is appropriate, as my colleague, the gentleman from Ohio (Mr. ASHBROOK) has done, to say to the gentleman from California that we appreciate the service he has given us. He really has been our good lawyer from California who keeps us all out of jail, hopefully, and we appreciate it.

Aside from that, as my colleague the gentleman from Ohio (Mr. ASHBROOK) has already stated you can count on the advice he gives. You may not agree with it but it is always very sound.

I too want to say to my former Congressman, we do appreciate the job you have done.

Mr. WIGGINS. I thank the gentleman.

Mr. Speaker, I yield back the balance of my time.

Mr. MANN. Mr. Speaker, I support the conference report on H.R. 7010, the "Victims of Crime Act of 1978." The bill passed the House in September of last year, and the other body just recently passed it, with an amendment, by voice vote. Its version of the bill is substantially similar to our version. The conference report fairly resolves all the differences between the two Houses and is deserving of our final approval.

The purpose of this legislation is quite simple—to assist the States in helping innocent crime victims. What sort of help to victims is involved? We are talking about payments to victims to cover what would otherwise be unreimbursed medical expenses and lost wages. In other words, we are dealing with situations where innocent crime victims have suffered a financial loss because of doctor and hospital bills and because they are forced to miss work, and this loss has not been covered by other sources, like insurance or worker's compensation. We are not talking about payment to cover stolen TV's and stereo sets.

What sort of crime victims are involved? First, they are innocent crime victims; that is, victims who themselves were not contributorily at fault. Second, they are victims who were physically injured, or claimants who are survivors of victims who died, as the result of the crime. Third, they are victims who cooperated with the reasonable requests of law enforcement authorities in their attempt to catch the wrongdoer.

What must a State do in order to qualify for a grant? It must meet the qualifications set forth in section 4 of the conference report. A State must, for example, be subrogated, to the extent of any award to a victim, to any claim that the victim has against the wrongdoer. All States with operating programs presently meet this requirement, for it is a way that they can hold down costs and also make sure that, wherever possible, the wrongdoer pays for the victim's loss, not society as a whole. That concept is also carried through in the requirement of section 4(7) that the State must be able to impose restitution upon a convicted wrongdoer. Again, it appears that all States with operating programs presently meet this requirement.

What is the Federal share under the legislation, and how much will it cost the Federal Government? The Federal share under the formula in the legislation works out to be about 25 percent of the money actually paid by the State program to crime victims. A State program will not be reimbursed for its administrative costs or for certain other costs, such as payments to victims who did not promptly report the crime to law enforcement authorities.

As to the cost to the Federal Government, the Congressional Budget Office estimates costs for fiscal year 1979 at about $13 million; for fiscal 1980, at about $16 million; and for fiscal 1981, at about $20 million. A survey conducted by the staff of a Member of the other body suggests that the costs may even be lower. That survey sets forth, for each State with a crime victim compensation program, the amount of compensation paid to victims in that State's last budget year for which data was available. The total amount paid to victims was not quite $17.5 million. Under this legislation, the cost to the Federal Government would have been under $4.4 million. See CONGRESSIONAL RECORD, September 11, 1978, p. 28690.

That, in brief, is how State crime victims compensation programs operate and how this legislation will assist them. This legislation leaves the States with maximum flexibility to shape and administer their own programs.

The State programs are diverse. In some States, the awards are made by a court, with the Attorney General as well as the claimant involved. Some States use an independent, specialized agency to make awards. Other States tie in their victim compensation program to another service agency, such as a worker's compensation agency, and use that agency's tables and schedules in determining the amount of an award. The legislation prohibits none of these approaches.

The legislation specifically provides that the Federal administrator "shall not have the power to modify the disposition of any individual claim that has been processed by any State program" (section 3(a)). I am confident and expect that when deciding whether a State program qualifies, when deciding a question pertaining to the limitations in section 5, or when interpreting another part of the legislation, the Federal administrator will keep in mind the extensive legislative history that indicates the intention to give States maximum freedom and flexibility to shape and administer their own programs.

I think a particularly noteworthy feature of the legislation is the attention it gives to the elderly crime victims. There is language in both the conference report and the joint statement of managers that underscores the special problems and needs of elderly crime victims. The amount of a grant to a State program is based upon that program's cost of paying compensation. Section 5 of the legislation provides that several items of expense are not to be included in the cost of paying compensation. The particular needs of the elderly are recognized in that part of section 5 which provides that awards of less than $100, or awards for lost wages or loss of support calculated on the basis of less than 5 working days, are not counted in the State program's cost of paying compensation—unless the award is to a victim who is 62 years of age or older.

Let me outline some aspects of the conference report. While, as I indicated previously, the House and Senate versions of H.R. 7010 are substantially similar, there were some differences. The other body deleted two provisions of the House version that set forth qualifications that a State program must meet in order to be eligible for grants under the legislation.

The first concerns restitution. The other body dropped the requirement in the House version that the State be able to impose restitution upon convicted criminal wrongdoers (section 4(8) of the House version) and added restitution language to another part of the bill. The conference adopted the House version and restored the restitution language to the qualifications section.

It should be noted at the outset that restitution, as a practical matter, will not help most crime victims. To begin with, far too many criminals escape apprehension. Further, the majority of those who are caught and convicted are financially unable to make restitution. The restitution language was restored to the qualifications section because it is important to recognize that restitution and victim compensation are complementary concepts.

The restitution requirement is broadly stated so that it will be easy for the States to comply with the provision. The provision does not require the imposition of a restitution obligation on the wrongdoer as a precondition for compensation to a particular victim. Rather, the provision requires that, at some point in the State's criminal justice system, criminal wrong-doers can be required to make restitution to the victims of their crimes.

The second qualification that the other body deleted was, in essence, a specialized restitution provision (section 4(9) of the House version). It provided that in order for a State program to be eligible for grants under the legislation, that State must have a statute which requires that any person who contracts directly or indirectly with a person charged with or convicted of a crime for an interview, statement or article relating to the crime, must turn over to the State any money due the person charged or convicted. The State is to hold the money in escrow for a reasonable period and can use the money only to pay claims perfected by the victims of the wrongdoer's crime, if the wrongdoer is convicted.

This provision in the House bill reflects a concern that a criminal wrongdoer is unjustly enriched is he profits financially as the result of the publicity surrounding his crime. The House provision is modeled after a New York statute, although the provisions of the New York statute would not appear to meet the conditions set forth in the House provision.

This kind of specialized restitutionary provision raises serious constitutional questions. See the study of the New York statute done by the American Law Division of the Library of Congress Congressional Research Service, dated September 8, 1977. This kind of provision also raises policy questions for a State. A State legislature might conclude, for example, that there are not enough situations where criminals receive significant amounts of money as the result of their crimes so that it is not worthwhile for the State to establish and pay the cost of operating the machinery necessary to administer such legislation.

The impact of the House provision was to disqualify nearly every existing State program. While the House provision, therefore, would have been destructive of the ends of the legislation, the conferees recognized that the House provision expresses a real concern. The conferees decided that it would be appropriate to have the Attorney General conduct a study of this kind of legislation. This study will involve analysis of the constitutional and policy questions raised by the various State laws of this kind. At the end of the study, the Attorney General is to recommend whether a State ought to be required to enact such a provision in order to be eligible for grants under the legislation. I would assume that in making such a recommendation, the Attorney General will take into account how many States have adopted and how many States have rejected such restitutionary provisions. In addition, the level of the Federal grant would also be relevant to the Attorney General's recommendation.

The Senate version of H.R. 7010 contained two qualifications that the House version did not. The first prohibited a State from employing a financial means test in determining whether a claimant would receive compensation. Several States presently use such tests, and their purpose in doing so is to hold down the cost of their victim compensation programs and insure that their programs' limited resources are used for those crime victims most in need.

A manager on the part of the other body believes quite strongly that the means test should be prohibited. That manager's views are briefly set forth in the joint statement of managers. In summary, that manager sees the means test as discriminatory, demeaning, and discouraging victims from applying for compensation. That manager, moreover, questions whether such tests are really cost-effective.

It is my equally strong belief that each State should be able to decide for itself whether it wants to use a means test. The factors identified by the manager on the part of the other body are certainly important considerations for a State to take into account when deciding whether to have a means test, or what kind of means test to have. A State may conclude, for example, that the test of "serious financial hardship" is too stringent and that the test of "financial hardship" more closely meets its needs. Or, a State may conclude that a means test discriminates against wealthier individuals but that such discrimination is permissible in order to insure that other segments of society are more fully taken care of. The bottom line is that it should be up to each State to weigh the considerations involved and reach its own decision as to whether it will employ a means test and, if it decides to do so, what kind of means test to employ.

The conferees agreed not to prohibit States from utilizing a means test. The Attorney General, however, is directed to collect data on the utilization and impact of means tests.

The second qualification added by the Senate version provides that a State program cannot require the apprehension, prosecution, or conviction of the wrongdoer as a precondition to compensating a victim. A person can be a victim of a crime even though the criminal is never caught or, if the criminal is caught, is not prosecuted or convicted. There are any number of reasons why the wrongdoer cannot be caught, prosecuted, or convicted. The victim and witnesses may not have gotten a good enough view of the wrongdoer to make an identification and there are no physical clues that will aid in the identification. The wrongdoer may turn out to be a juvenile who State law will not permit to be criminally prosecuted. The wrongdoer may be acquitted on the basis of insanity. The conference report, therefore, retains the Senate provisions.

The House and Senate versions differed on the effective date. Under the House version the legislation was effective on the date of enactment and grants to States could be made covering their awards to victims made in Federal fiscal year 1978 and after. Under the Senate version, grants to States could be made covering their awards made in Federal fiscal year 1980 and after. The conferees agreed that the grants should cover awards made starting in Federal fiscal year 1979. Thus, the legislation will take effect upon enactment, and qualifying State programs will receive grants covering awards of compensation made on and after October 1, 1978.

Mr. Speaker, this legislation has been widely endorsed by such diverse organizations and groups as the Department of Justice, the American Bar Association, the National Conference of State Legislatures, the National District Attorneys Association, the National Conference of Mayors and U.S. League of Cities, the National Council on Crime and Delinquency, the National Retired Teachers Association and American Association of Retired Persons, the United Automobile Workers Union, the International Association of Chiefs of Police, Americans for Democratic Action, the Fraternal Order of Police, the International Conference of Police Associations, the National Moratorium on Prison Construction and Americans for Effective Law Enforcement. I urge support for the conference report.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman for yielding.

The only thing which confuses me a bit is the compelling need for Federal assistance in the area. The programs may be good, but what is the reasoning behind the Federal Government getting into it? Is it to encourage States or is it because States have wanted the Federal Government to come in to help them fund programs which they should be funding on their own?

Mr. MANN. It is a substantial dose of both. There are States which have passed the program, with the effective dates being delayed until the institution of the Federal Government program. That is one situation.

The other situation is that all of the States—rather, I would qualify that by saying most of the States which have programs, have requested Federal assistance in the carrying out of the programs. However, the real bottom line is that the program is felt to have such merit that a Federal incentive is important to help solve this program of alienation which exists in this country.

Mr. GLICKMAN. May I ask one more question. I am wondering whether any of these States which requested Federal help have budget surpluses. That is, even though the incentive may be proper, we may be beginning to talk about a ques-

tion of budget priorities. I do not doubt the good intentions of the program.

Mr. MANN. I would like to make one point which has been obscured. This program had a lot of momentum for a while as a Federal program. By that I mean it would cover Federal court situations only. We have drawn this bill in such a manner that it is the State's responsibility to take care of victims of violent Federal crime, so that is one of the reasons that Federal participation is indicated.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman's yielding.

I recall working on this kind of legislation as a State legislator.

One of the issues which came up repeatedly was the fact that here was a different program. In other words, a person would not have to go to apply for a welfare program or a medicare program. There is nothing wrong with applying on that basis, but we felt there ought to be a specific program which dealt with a specific class of individuals, victims of crime, because they were unique with respect to certain characteristics in the way they were affected.

One of the first negative things we ran into was the fact that most of the other Federal programs were being funded on an 80 to 20 ratio, 20 percent State or local, and 80 percent Federal.

So the logical thing to do, I suppose, would have been to say we do not want a specific program. We do not want to put a tool in the hands of law enforcement officers to help encourage cooperation. We do not want a specific program for those individuals. Rather we would let the Federal Government with their type of welfare programs dictate what we did want.

I think the real question today is, Do we want a specific program? Here is an idea that grew up from the grassroots, from the bottom up at the local to the Federal level. Can we be flexible enough at the Federal level to see a good program, a creative program, that meets the needs in a different way, that prevents people from falling between the cracks, and grants to States who want this program, a program that costs us less than the welfare program, to prevent people crime victims from falling between the cracks.

I hope those 173 who voted the other way in the initial instance will think about that factor and think about the fact that we can stimulate new programs, greater programs that meet needs in a different way. Indeed, this program does. If we look at the goals of this program in terms of giving to law enforcement officers something besides a hat in their hand when they go to crime victims, I think that is positive. I think it is positive that we are given time to extend the assistance. Talk to some law enforcement officials who have worked with them. This would provide assistance. I hope we can vote here today and pass this. It has passed the Senate three times, and I think it deserves the support of this House.

I thank the gentleman for yielding.

I urge my colleagues to support the conference report on H.R. 7010, the Crime Victims Reparation Act. This bill is of utmost importance if we are going to mitigate what has been described as the "national disgrace of our criminal justice system" and provide actual assistance to the thousands of people who are victims of crime every year.

The conference report deals with crime victims reparations fairly and with great sensitivity. Many of the key provisions contained in the House version have been retained.

Crime victims will be compensated for losses of more than $100 except for elderly citizens who will be compensated for the entire loss. The maximum award is set at $35,000 to enable States to help as many victims as possible.

Criminals will be required to make restitution, but a criminal's apprehension is not required to assist the victims. States will receive compensation up to 25 percent of the claim costs, and separate provision is made for their administrative costs in setting up and running the programs. States retain the authority to define the scope of their programs and which types of crimes will be covered so they can easily control the extent of their participation.

Finally, two controversial provisions—the financial means test and the "Son of Sam" requirement—will be studied by the U.S. Attorney General, who will be required to report back to Congress with his recommendations. States can use a financial means test to deterimne if a victim qualifies for reparation, but they do not have to create an escrow fund for profits from publicity. I personally believe that this is a reasonable approach and leaves ample opportunity for amendment after the Attorney General's study.

Before closing, I want to add a personal note. As a State legislator, I sponsored Minnesota's Crime Victims Act. That program has been so successful, the legislature has tripled the appropriations for it without controversy or serious opposition. In its first 3 years of existence, more than 1,000 people were helped. These are people who otherwise would have likely received nothing—those who did not have any alternatives such as compensation from medicare, medical or health insurance, or income protection insurance. These are the people the Minnesota program was designed to help and it is these victims who should be the main focus of the Federal Crime Victims Act.

Because of my experience with the Minnesota program, I was asked to work with the House Judiciary's Criminal Justice subcommittee on the Federal bill. The bill before us, even though it was revised by the Conference Committee, still maintains the essential ingredients and I support it wholeheartedly.

It is time we realized that crime victims need more than a few words of encouragement. Every year, the actual costs to those people unfortunate enough to be victimized by criminals exceeds $10 billion. Yet in half of the States, there is absolutely no program to help them.

Minnesota adopted a crime victims program not because our crime rates are extremely high or crime is all-pervasive, but because of a sense of decency and morality about the poor hapless victims, many of whom are elderly. The United States spends billions for criminal justice programs but less than one per cent of that goes to help the poor man or woman who gets mugged or robbed and has medical bills or loses time from work.

Criminals are not selective. Everyone is a potential victim. The question is whether this country is large enough and the problem serious enough to justify prudent expenditures for both crime fighting and crime victims. I say it is.

Mr. MANN. It should also be pointed out that subrogation and third-party provisions of this bill would take care of all of those situations where funds from other sources are available, or might be available by state action, and only those who fall through the cracks would be covered by this program, as matter of fact.

Mr. RODINO. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the Chairman of the committee, the gentleman from New Jersey (Mr. RODINO).

Mr. RODINO. Mr. Speaker, first of all I want to commend the chairman of the subcommittee for the diligence with which he pursued this piece of legislation. I think it is long past due.

Mr. Speaker, as the sponsor of the original bill and a conferee, I am pleased to come before the House in support of the conference report on H.R. 7010, the Victims of Crime Act of 1978.

House and Senate Conferees have agreed upon what I believe is a greatly improved bill to provide for grants to States operating programs to financially assist innocent persons who suffer physical injury as a result of criminal acts of violence or their surviving dependents.

The House and Senate versions of H.R. 7010 were substantially the same and therefore very few issues had to be resolved in conference. The agreements reached with respect to each issue were based upon decisions that give maximum consideration to the interests of both the Federal and State governments. And yet, these decisions were made without sacrificing the interests of the true beneficiaries of this legislation—the innocent victims of crime or their surviving dependents. Some 25 States are presently operating programs to compensate crime victims on their surviving dependents. And, it is a primary goal of this legislation to assist those States and to encourage others to establish this type of program.

Mr. Speaker, in recent years the United States has witnessed an alarming and continuous increase in the rate of criminal activity. Annually thousands of innocent persons are killed or maimed as a result of crime victimization. Victims of personal injury are not statistics compiled and classified annually for national victimization reports. They are contributing members of society whose lives have been tragically altered because they have had the misfortune to become the victims of criminal acts of violence.

The trauma of the brutal criminal experience is very often just the beginning of the tremendous suffering endured by

victims. Frequently there are enormous medical expenses, long-term or permanent physical disabilities, lost earnings, and severe psychological injuries. And to compound their problems, many victims or their survivors are made to suffer the further injury of being left to cope with their substantial burdens as best they can in a society which acts unsympathetically to their plight. The time has come when Government—at both the Federal and State levels—must recognize and address the problem of crime victimization with an enlightened attitude which reflects compassion for the victim and an understanding of the importance of the victim's role to the proper functioning of the criminal justice system. Paying compensation to assist victims of criminal injury reconstruct their shattered lives or the lives of their survivors is one important means by which Government must begin to deal with the problems of crime victimization.

Ironically, in a society where we, quite properly, make every effort to insure that imprisoned offenders are treated humanely and provided with medical attention, decent housing, food and clothing, innocent victims of the criminal offenders too often must care for their injuries unassisted. Millions of taxpayer dollars are spent to rehabilitate offenders in an attempt to ensure that they do not reenter society embittered and angry; yet, little has been done to counter those same feelings in innocent victims.

Government programs to compensate victims of criminal injury have the direct benefit of financially assisting victims. However, the existence of these programs may have greater implications for the criminal justice system. For example, the effectiveness of the criminal justice system is substantially hampered by the growing number of crimes not reported and the unwillingness of many victims to cooperate with law enforcement authorities. Compensation programs may generate increased reporting of crime and victim cooperation by program requirements as conditions of eligibility for benefits. More importantly, the mere existence of these programs may revitalize public confidence in the criminal justice system. Restoring public confidence in the criminal justice system is an integral aspect of Government's capacity to fulfill its law enforcement function by encouraging the kind of citizen participation needed at all levels of the criminal justice process.

Government providing compensation to victims of crime does not represent the single solution to the problem of crime victimization. Reforms are needed throughout the criminal justice system.

I believe that Government's ability to substantially reduce the rate of crime victimization can only be enhanced by the adoption of a new attitude which reflects compassion for and consideration of the innocent victim of the criminal offense and an understanding of the importance of the victim's participation in the criminal justice system. However, a continued overlooking of the crime victim can only result in disadvantage to the criminal justice system and to society.

What this bill is about is compassion. To neglect that fact is to overlook the plight of individuals who need not be alienated from our society, who have been innocent victims but whom we can help at a minimal cost. Mr. Speaker, we should adopt this conference report.

Mr. BROWN of Michigan. Mr. Speaker, will the gentleman yield?

Mr. MANN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Speaker, I would be remiss if I sat here this evening and heard the comments with respect to this legislation, but more importantly, the comments of commendation that have been given to the gentleman from California, without adding my own. I have always considered myself a reasonably decent attorney. I would have to say that in the discussions I have had with the gentleman from California (Mr. WIGGINS), even on those occasions when we may have differed with respect to legal conclusions, that I have never questioned the depth of thought, the understanding and the sincerity of the conclusions he had reached.

CHUCK, you will be sorely missed in this body. I think when gentlemen such as yourself leave this Chamber, not only the House of Representatives and the Congress suffer, but the Nation suffers. I think for you to take the postures you have taken many times, which obviously were not popular, sometimes might not have appeared to be compassionate, that really it was a more deep-seated compassion that did not lend itself to almost popular sympathy. I think you happen to have made some very telling, cogent, and I think convincing remarks with respect to this legislation. I think other gentlemen have also.

Mr. Speaker, there is no question but what the States from a fiscal standpoint are in a better position to conduct these programs than is the Federal Government. There is no question that the gentleman from California is right, that this program will not stop at its present level. There is no question also that this program really is rather discriminatory, because it decides that the victims of crime are really more proper recipients of our compassion and benefaction than are those who may have suffered very severely from toxic substances, for instance, as many of my Michigan colleagues know, maybe from certain diseases, or uninsured motorists.

I wonder, if not the Committee on the Judiciary, but some other committee will step forward tomorrow and make sure that the victims of, for instance, PBB in Michigan, are properly compensated, indemnified, or in some way recognized as we are recognizing victims of crimes this evening.

Mr. Speaker, I thank the gentleman for yielding and, CHUCK, once again, I say to you, it has been a pleasure being with you.

Mr. MANN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, I would like to join with those who have commended the gentleman from California (Mr. WIGGINS) for his work in the Congress. As someone who has served with the gentleman on the Committee on the Judiciary, I can attest to the learning and the perceptiveness he has brought to the committee's deliberations.

I also want to take this opportunity to share with my colleagues the great respect I have for the chairman of the Subcommittee on Criminal Justice the gentleman from South Carolina (Mr. MANN), who has shown extraordinary leadership, extraordinary courage. He is a fine lawyer and one of the finest Members of this body. I will miss him and, I am sure, the rest of you will as well.

Mr. Speaker, I hope we pass this conference report to accompany H.R. 7010—the Victims of Crime Act of 1978. It is an important bill for the Nation. Victims of crime are often forgotten people. This bill will encourage States to create programs to help compensate victims of crime or, if they already have programs, to help insure their fiscal viability. Under the conference report, States that have programs to compensate victims of crime will receive 25 percent Federal reimbursement for awards they make up to $35,000 per claimant. This will mean, for example, that my own State, New York, should receive about $1.5 million under this bill, of which about $1 million should reach New York City crime victims.

This is an important bill, not only because it is compassionate, not only because it helps the crime victim, but because of its importance to law enforcement. No victim will receive any money under this bill unless that person reports the crime and cooperates with the law enforcement officials. Everybody must recognize that without the cooperation of the victims we cannot effectively prosecute crimes.

The objections that have been raised to the bill are unpersuasive and easily rebutted. First, the cost of the bill according to the Congressional Budget Office is, in fact, very small—less than $50 million over a 3-year period. Second, this bill does not really create new spending. Right now 25 States have their own crime victims compensation programs; so the question is not whether victims will be compensated but who will pay the cost—the Federal Government or the States.

I think it is important that the Federal Government help pay part of the national costs of victim compensation to help improve the quality of law enforcement. If there is one thing the people expect of government, it is the ability to make sure laws are properly enforced. The Federal Government has an enormous responsibility in that regard.

Mr. Speaker, the Victims of Crime Compensation Act of 1978 will go a long way toward improving law enforcement throughout the country and at a very small price. It ought to be adopted.

● Mr. CORRADA. Mr. Speaker, during our previous consideration of this bill last May, I supported this bill on the floor, and am still firmly committed to its goals. I would like at this time to reinsert my original statement of support for the record, and urge my colleagues to endorse this bill which comes to grips with a very complex and perva-

sive social problem: that of domestic violence.

Statement follows:

Mr. CHAIRMAN: I would like to add my endorsement of H.R. 12299, which is a bold initiative to deal with the complex social problem of domestic violence. This phenomenon is characterized by the lack of information to the general public, misunderstanding and apprehension of many in dealing with it, and the lack of alternatives for the victim. The problem is further aggravated by the fact that it involves the privacy of the family and the home, and penetration by outsiders, however well intentioned, may be looked upon with suspicion, or may be shunned.

The bill provides a federal office which can gather and disseminate data on the subject, and orient programs. It establishes a Council on Domestic Violence to award grants for community programs to prevent domestic violence and to offer assistance once it has occurred. Additionally, personnel training and technical assistance for domestic violence services are instituted.

In my district, several entities, notably the Instituto del Hogar, have been involved with family discord problems for many years. Instances of crimes of passion, suicide, disturbance of the peace, and cruelty and neglect of minors, are widespread manifestations of deep rooted family problems. Many times we observe the treatment bestowed upon our aged, mentally and physically handicapped, which borders on cruel and inhuman punishment. It is indeed a problem of great magnitude which is difficult to handle because to lend a helping hand may be looked upon as invading the inner sanctum of the family. It is therefore significant in how we approach domestic violence. This bill foments the acquisition of data and knowledge on the subject, to recognize that it exists, to look at its causes and solutions. It stresses prevention, and in the alternative, services to its victims. It encourages the capacity building of personnel who can effectively deal with this problem. In my estimation, this bill is long overdue.

I wish to thank Ms. Mikulski and Mrs. Boggs, Mr. Steers, as well as my colleagues on the Committee on Education and Labor, George Miller and John Brademas for their leadership in this area, and urge all others to support this measure.●

● Mr. BIAGGI. Mr. Speaker, we are about to achieve a historic moment in this Congress with the enactment of this conference report. Upon its adoption we will have given final approval to the first Federal program to assist compensating victims of crime. I am proud to be an original cosponsor of this legislation and consider its approval today to be one of the highest priorities of the 95th Congress.

As I reflect on the long history involved with this legislation, I cannot help but make reference to another historical fact. The concept we are about to formalize in legislation is by no means new. The Ancient Code of Hammurabi of the Nation of Babylonia had a program of compensating those of its citizens victimized by crime. That my colleagues was more than 4,000 years ago. It has taken this so-called enlightened Nation that long to adopt something similar in its laws.

Under the terms of this legislation, those 27 States which have ongoing programs to provide compensation for victims of crime would be eligible for a grant of assistance equal to 25 percent of the cost of paying compensation to victims of State crime and 100 percent of compensation for victims of Federal crimes.

The maximum Federal grant provided would be $35,000 and generally would compensate for medical injuries and loss of earnings.

The bill provides for $120 million over 3 years. This figure is quite modest when we consider that the entire criminal justice system costs in excess of $17 billion a year. Of that $17 billion less than 1 percent goes to aid victims of crime. This bill may be a first step in removing this bias.

My interest in this legislation far precedes my time in the Congress. I came here after a 23-year career in the New York City Police Department. I have seen the traumas of crime victims, the physical trauma and the economic devastation. Since coming to Congress I have been actively involved in this issue and in the past two have conducted and testified at several hearings on this legislation. I have a special interest in this bill as it pertains to perhaps the most vulnerable of all groups to crime victimization, the elderly. The impact of crime on the elderly transcends that of others from a variety of standpoints. This legislation is vitally needed for all crime victims but especially the elderly.

I urge the House complete action on this legislation. It has wide support in this Congress and among the public. It is a demonstration of our belief in domestic human rights. For too long the crime victim has been forgotten. We must raise our national consciousness and begin the long overdue commitment to aiding crime victims instead of abandoning them in their time of need.●

Mr. MANN. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WIGGINS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 184, nays 199, not voting 47, as follows:

[Roll No. 927]

YEAS—184

Addabbo	Boggs	Danielson
Akaka	Bolling	Delaney
Alexander	Bonior	Dellums
Ambro	Bonker	Dent
Anderson, Calif.	Brademas	Derwinski
Anderson, Ill.	Breaux	Dicks
Andrews, N. Dak.	Brinkley	Dodd
Annunzio	Brodhead	Drinan
Aspin	Brown, Calif.	Eckhardt
Baldus	Burke, Mass.	Edgar
Baucus	Burton, John	Edwards, Calif.
Beard, R.I.	Burton, Phillip	Eilberg
Bedell	Caputo	Ertel
Beilenson	Carr	Evans, Del.
Benjamin	Chisholm	Evans, Ga.
Bingham	Clay	Fary
Blanchard	Coleman	Fascell
	Collins, Ill.	Fenwick
	Coughlin	Findley
	Danielson	Fish
	Delaney	Fisher
	Dellums	Flood
	Dent	Florio
	Derwinski	Ford, Tenn.
	Dicks	Fraser
	Dodd	Garcia
	Drinan	Gaydos
	Eckhardt	Gonzalez
	Edgar	Gore
	Edwards, Calif.	Green
	Eilberg	Gudger
	Ertel	Hammer-schmidt
	Evans, Del.	Hanley
	Evans, Ga.	Harkin
	Fary	Harris
	Fascell	Hawkins
	Fenwick	Heckler
	Findley	Hefner
	Fish	Heftel
	Fisher	Holland
	Flood	Hollenbeck
	Florio	Holtzman
	Ford, Tenn.	Howard
	Fraser	Hughes
	Garcia	Hyde
	Gaydos	Jacobs
	Gonzalez	Jeffords
	Gore	Jenrette
	Green	Jordan
	Gudger	Kazen
	Hammer-schmidt	Keys
	Hanley	Kildee
	Harkin	Kostmayer
	Harris	LaFalce
	Hawkins	Le Fante
	Heckler	Lederer
	Hefner	Lent
	Heftel	Lloyd, Calif.
	Holland	Long, La.
	Hollenbeck	Long, Md.
	Holtzman	Lundine
	Howard	McCloskey
	Hughes	McHugh
	Hyde	McKinney
	Jacobs	Maguire
	Jeffords	Mann
	Jenrette	Markey
	Jordan	Marks
	Kazen	Mathis
	Keys	Mattox
	Kildee	Mazzoli
	Kostmayer	Meyner
	LaFalce	Mikulski
	Le Fante	Mineta
	Lederer	Minish
	Lent	Mitchell, Md.
	Lloyd, Calif.	Mitchell, N.Y.
	Long, La.	Moakley
	Long, Md.	Moorhead, Pa.
	Lundine	Mottl
	McCloskey	Murphy, Ill.
	McHugh	Murphy, N.Y.
	McKinney	Murphy, Pa.
	Maguire	Myers, Gary
	Mann	Myers, Michael
	Markey	Natcher
	Marks	Neal
	Mathis	Nedzi
	Mattox	Nix
	Mazzoli	Nolan
	Meyner	Nowak
	Mikulski	Oakar
	Mineta	Oberstar
	Minish	Ottinger
	Mitchell, Md.	Panetta
	Mitchell, N.Y.	Patten
	Moakley	Patterson
	Moorhead, Pa.	Pepper
	Mottl	Perkins
	Murphy, Ill.	Preyer
	Murphy, N.Y.	Price
	Murphy, Pa.	Pritchard
	Myers, Gary	Rangel
	Myers, Michael	Regula
	Natcher	Richmond
	Neal	Rinaldo
	Nedzi	Rodino
	Nix	Roe
	Nolan	Roncalio
	Nowak	Rose
	Oakar	Rosenthal
	Oberstar	Roybal
	Ottinger	Russo
	Panetta	Ryan
	Patten	Sawyer
	Patterson	Scheuer
	Pepper	Schroeder
	Perkins	Seiberling
	Preyer	Sikes
	Price	Simon
	Pritchard	Smith, Iowa
	Rangel	Solarz
	Regula	Spellman
	Richmond	Spence
	Rinaldo	St Germain
	Rodino	Staggers
	Roe	Steers
	Roncalio	Stokes
	Rose	Studds
	Rosenthal	Thompson
	Roybal	Thornton
	Russo	Traxler
	Ryan	Tsongas
	Sawyer	Udall
	Scheuer	Vanik
	Schroeder	Vento
	Seiberling	Walgren
	Sikes	Walker
	Simon	Waxman
	Smith, Iowa	Weiss
	Solarz	Whalen
	Spellman	Wirth
	Spence	Wolff
	St Germain	Yates
	Staggers	Yatron
	Steers	Young, Tex.
	Stokes	Zablocki
	Studds	Zeferetti
	Thompson	
	Thornton	
	Traxler	
	Tsongas	
	Udall	
	Vanik	
	Vento	
	Walgren	
	Walker	
	Waxman	
	Weiss	
	Whalen	
	Wirth	
	Wolff	
	Yates	
	Yatron	
	Young, Tex.	
	Zablocki	
	Zeferetti	

NAYS—199

Abdnor	Emery	McEwen
Andrews, N.C.	English	McKay
Archer	Erlenborn	Madigan
Ashbrook	Evans, Ind.	Mahon
Ashley	Fithian	Marriott
AuCoin	Flippo	Martin
Bafalis	Foley	Michel
Barnard	Fountain	Milford
Bauman	Fowler	Miller, Ohio
Beard, Tenn.	Frenzel	Moffett
Bennett	Fuqua	Mollohan
Bevill	Gammage	Montgomery
Blouin	Gephardt	Moore
Boland	Giaimo	Moorhead, Calif.
Bowen	Ginn	Murtha
Breckinridge	Glickman	Myers, John
Brooks	Goldwater	O'Brien
Broomfield	Goodling	Pattison
Brown, Mich.	Gradison	Pease
Brown, Ohio	Grassley	Pickle
Broyhill	Guyer	Pike
Buchanan	Hagedorn	Poage
Burgener	Hall	Pressler
Burleson, Tex.	Hamilton	Pursell
Burlison, Mo.	Hannaford	Quayle
Butler	Hansen	Quillen
Carter	Harsha	Rahall
Cavanaugh	Hightower	Railsback
Cederberg	Hillis	Reuss
Chappell	Holt	Rhodes
Clausen, Don H.	Horton	Roberts
Clawson, Del	Hubbard	Robinson
Cleveland	Huckaby	Rogers
Cochran	Ireland	Rooney
Cohen	Jenkins	Rostenkowski
Collins, Tex.	Johnson, Calif.	Rousselot
Conable	Johnson, Colo.	Runnels
Conte	Jones, N.C.	Ruppe
Corcoran	Jones, Okla.	Santini
Corman	Jones, Tenn.	Sarasin
Cornell	Kasten	Satterfield
Cornwell	Kastenmeier	Schulze
Cotter	Kelly	Sebelius
Crane	Kemp	Sharp
Cunningham	Kindness	Shuster
D'Amours	Krebs	Sisk
Daniel, Dan	Lagomarsino	Skelton
Daniel, R. W.	Latta	Slack
de la Garza	Leach	Snyder
Derrick	Leggett	Stangeland
Devine	Levitas	Stanton
Dornan	Livingston	Steed
Downey	Lloyd, Tenn.	Steiger
Duncan, Oreg.	Lott	Stockman
Duncan, Tenn.	Luken	Stratton
Early	McClory	Stump
Edwards, Ala.	McCormack	Symms
Edwards, Okla.	McDade	Taylor
	McDonald	

Treen	Wampler	Wilson, Bob
Trible	Watkins	Wilson, Tex.
Tucker	Weaver	Winn
Ullman	White	Wydler
Van Deerlin	Whitehurst	Wylie
Vander Jagt	Whitley	Young, Alaska
Volkmer	Whitten	Young, Fla.
Waggonner	Wiggins	Young, Mo.

NOT VOTING—47

Ammerman	Ford, Mich.	Nichols
Applegate	Forsythe	Obey
Armstrong	Frey	Pettis
Badham	Gibbons	Quie
Biaggi	Gilman	Risenhoover
Burke, Calif.	Harrington	Rudd
Burke, Fla.	Ichord	Shipley
Carney	Krueger	Skubitz
Conyers	Lehman	Smith, Nebr.
Davis	Lujan	Stark
Dickinson	McFall	Teague
Diggs	Marlenee	Thone
Dingell	Meeds	Walsh
Evans, Colo.	Mikva	Wilson, C. H.
Flowers	Miller, Calif.	Wright
Flynt	Moss	

The Clerk announced the following pairs:

On this vote:

Mr. Applegate for, with Mr. Dickinson against.

Mr. Mikva for, with Mr. Burke of Florida against.

On this vote:

Mr. Biaggi with Mr. Frey.
Mr. Dingell with Mr. Rudd.
Mr. Flowers with Mrs. Smith of Nebraska.
Mr. Flynt with Mr. Thone.
Mr. Ichord with Mr. Walsh.
Mr. Gibbons with Mr. Quie.
Mr. Nichols with Mr. Marlenee.
Mr. Wright with Mr. Skubitz.
Mr. Teague with Mr. Lujan.
Mr. Stark with Mr. Gilman.
Mr. Moss with Mr. Forsythe.
Mr. Obey with Mr. Badham.
Mr. Shipley with Mr. Risenhoover.
Mr. Miller of California with Mr. Lehman.
Mr. Krueger with Mr. Harrington.
Mr. Ford of Michigan with Mr. Evans of Colorado.
Mr. Davis with Mr. Carney.
Mr. Conyers with Mrs. Burke of California.
Mr. Ammerman with Mr. Meeds.
Mr. McFall with Mr. Armstrong.
Mr. Diggs with Mr. Charles Wilson of California.

Mr. LLOYD of California changed his as above recorded.

The result of the vote was announced

So the conference report was rejected. vote from "nay" to "yea."

CONFERENCE REPORT ON H.R. 9251, TAX TREATMENT EXTENSION ACT OF 1971

Mr. WAGGONNER submitted the following conference report and statement on the bill (H.R. 9251) relating to extensions of time for the existing tax treatment of certain items:

CONFERENCE REPORT (H. REPT. No. 95–1798)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9251) relating to extensions of time for the existing tax treatment of certain items, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 4, 5, 6, 7, and 8.

That the House recede from its disagreement to the amendment of the Senate numbered 3 and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 201. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Earned Income Act of 1978".

(b) AMENDMENTS OF 1954 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS

(a) SECTION 911 EXCLUSION.—Subsection (a) of section 911 (relating to earned income from sources without the United States) is amended to read as follows:

"(a) GENERAL RULE.—In the case of an individual described in section 913(a) who, because of his employment, resides in a camp located in a hardship area, the following items shall not be included in gross income and shall be exempt from taxation under this subtitle:

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—If such individual is described in section 913(a)(1), amounts received from sources within a foreign country or countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the period of bona fide residence. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

"(2) PRESENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—If such individual is described in section 913(a)(2), amounts received from sources within qualified foreign countries (except amounts paid by the United States or any agency thereof) which constitute earned income attributable to services performed during the 18-month period. The amount excluded under this paragraph for any taxable year shall be computed by applying the special rules contained in subsection (c).

An individual shall not be allowed as a deduction from his gross income or as a credit against the tax imposed by this chapter any credit for the amount of taxes paid or accrued to a foreign country or possession of the United States, to the extent that such deduction or credit is properly allocable to or chargeable against amounts excluded from gross income under this subsection, other than the deductions allowed by sections 217 (relating to moving expenses)."

(b) LIMITATIONS ON AMOUNT OF EXCLUSION.—Paragraph (1) of section 911(c) (relating to special rules) is amended to read as follows:

"(1) LIMITATIONS ON AMOUNT OF EXCLUSION.—

"(A) IN GENERAL.—The amount excluded from the gross income of an individual under subsection (a) for any taxable year shall not exceed an amount which shall be computed on a daily basis at an annual rate of $20,000 for days during which he resides in a camp.

"(B) CAMP.—For purposes of this section, an individual shall not be considered to reside in a camp because of his employment unless the camp constitutes substandard lodging which is—

"(i) provided by or on behalf of the employer for the convenience of the employer because the place at which such individual renders services is in a remote area where satisfactory housing is not available on the open market,

"(ii) located, as near as practicable, in the vicinity of the place at which such individual renders services, and

"(iii) furnished in a common area (or enclave) which is not available to the public and which normally accommodates 10 or more employees."

"(C) HARDSHIP AREA.—For purposes of this section, the term 'hardship area' has the same meaning as in section 913(h)."

(c) BUSINESS PREMISES OF THE EMPLOYER.—Subsection (c) of section 911 (relating to special rules) is amended by inserting after paragraph (6) the following new paragraph:

(7) BUSINESS PREMISES OF THE EMPLOYER.—In the case of an individual residing in a camp who elects the exclusion provided in this section for a taxable year, the camp shall be considered to be part of the business premises of the employer for purposes of section 119 for such taxable year."

(d) SECTION NOT TO APPLY.—

(1) IN GENERAL.—Section 911 is amended by striking out subsections (d) and (e) and inserting in lieu thereof the following new subsection:

"(d) SECTION NOT TO APPLY.—An individual entitled to the benefits of this section for a taxable year may elect, in such manner and at such time as shall be prescribed by the Secretary, not to have the provisions of this section apply for the taxable year."

(2) CONFORMING AMENDMENT.—Subsection (f) of section 911 (relating to cross references) is redesignated as subsection (e).

(e) REMOVAL OF REQUIREMENT AS TO PLACE OF RECEIPT.—Paragraph (8) of section 911 (c) (relating to requirement as to place of receipt) is hereby repealed.

(f) CLERICAL AMENDMENTS.—

(1) The section heading for section 911 is amended to read as follows:

"SEC. 911. INCOME EARNED BY INDIVIDUALS IN CERTAIN CAMPS."

(2) The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 911 and inserting in lieu thereof the following:

"Sec. 911. Income earned by individuals in certain camps."

(3) The heading of subpart B of part III of subchapter N of chapter 1 is amended by striking out "Citizens" and inserting in lieu thereof "Citizens or Residents".

(4) The table of subparts for part III of subchapter N of chapter 1 is amended by striking out "citizens" in the item relating to subpart B and inserting in lieu thereof "citizens or residents".

(5) Sections 43(c)(1)(B), 1302(b)(2)(A)(i), 1304(b)(1), 1402(a)(8), 6012(c), and 6091(b)(1)(B)(iii) are each amended by striking out "relating to earned income from sources without the United States" and inserting in lieu thereof "relating to income earned by employees in certain camps".

SEC. 203. DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.

(a) ALLOWANCE OF DEDUCTION.—Subpart B of part III of subchapter N of chapter 1 (relating to earned income of citizens and residents of United States) is amended by adding at the end thereof the following new section:

"SEC. 913. DEDUCTION FOR CERTAIN EXPENSES LIVING ABROAD.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual who is—

"(1) BONA FIDE RESIDENT OF FOREIGN COUNTRY.—A citizen of the United States and who establishes to the satisfaction of the Secretary that he has been a bona fide resident of a foreign country or countries for an uninterrupted period which includes an entire taxable year, or

"(2) PRESIDENCE IN FOREIGN COUNTRY FOR 17 MONTHS.—A citizen or resident of the United States and who during any period of 18 consecutive months is present in a foreign country or countries during at least 510 full days in such period,

there shall be allowed as a deduction for such taxable year or for any taxable year which contains part of such period, the sum of the amounts set forth in subsection (b).

"(b) AMOUNTS.—The amounts referred to in this subsection are:

"(1) The qualified cost-of-living differential.

"(2) The qualified housing expenses.

"(3) The qualified schooling expenses.

"(4) The qualified home leave travel expenses.

"(5) The qualified hardship area deduction.

"(c) DEDUCTION NOT TO EXCEED NET FOREIGN SOURCE EARNED INCOME.—

"(1) IN GENERAL.—The deduction allowed by subsection (a) to any individual for the taxable year shall not exceed—

"(A) such individual's earned income from sources outside the United States for the portion of the taxable year in which such individual's tax home is in a foreign country, reduced by

"(B) the sum of—

"(i) any earned income referred to in subparagraph (A) which is excluded from gross income under section 119, and

"(ii) the allocable deductions.

"(2) ALLOCABLE DEDUCTIONS DEFINED.—For purposes of paragraph (1)(B)(ii), the term 'allocable deductions' means the deductions properly allocable to or chargeable against the earned income referred to in paragraph (1)(A), other than the deduction allowed by this section.

(d) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified cost-of-living differential' means a reasonable amount determined under tables (or under another method) prescribed by the Secretary establishing the amount (if any) by which the the general cost of living in the foreign place in which the individual's tax home is located exceeds the general cost of living for the metropolitan area in the continental United States (excluding Alaska) having the highest general cost of living. The tables (or other method) so prescribed shall be revised at least once during each calendar year.

"(2) SPECIAL RULES.—For purposes of paragraph (1)—

"(A) COMPUTATION ON DAILY BASIS.—The differential shall be computed on a daily basis for the period during which the individual's tax home is in a foreign country.

"(B) DIFFERENTIAL TO BE BASED ON DAILY LIVING EXPENSES.—An individual's cost-of-living differential shall be determined by reference to reasonable daily living expenses (excluding housing and schooling expenses).

"(C) BASIS OF COMPARISON.—The differential prescribed for any foreign place—

"(i) shall vary depending on the composition of the family (spouse and dependents) residing with the individual (or at a qualified second household), and

"(ii) shall reflect the costs of living of a family whose income is equal to the salary of an employee of the United States who is compensated at a rate equal to the annual rate paid for step 1 of grade GS–14.

"(D) STATE DEPARTMENT'S INDEX MAY BE TAKEN INTO ACCOUNT.—The Secretary, in determining the qualified cost-of-living differential for any foreign place, may take into account the Department of State's Local Index of Living Costs Abroad as it relates to such place.

"(E) NO DIFFERENTIAL FOR PERIODS DURING WHICH INDIVIDUAL IS ELIGIBLE UNDER SECTION 119.—Except as provided in subsection (i)(1)(A)(ii) an individual shall not be entitled to any qualified cost-of-living differential for any period for which such individual's meals and lodging are excluded from gross income under section 119.

"(e) QUALIFIED HOUSING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified housing expenses' means the excess of—

"(A) the individual's housing expense, over

"(B) the individual's base housing amount.

"(2) HOUSING EXPENSES.—

"(A) IN GENERAL.—For purpose of paragraph (1), the term 'housing expenses' means the reasonable expenses paid or incurred during the taxable year by or on behalf of the individual for housing for the individual (and, if they reside with him, for his spouse and dependents) in a foreign country. Such term—

"(i) except as provided in clause (ii), includes expenses attributable to the housing (such as utilities and insurance), and

"(ii) does not include interest and taxes of the kind deductible under section 163 or 164 or any amount allowable as a deduction under section 216(a).

"(B) PORTION WHICH IS LAVISH OR EXTRAVAGANT NOT ALLOWED.—For purposes of subparagraph (A), housing expenses shall not be treated as reasonable to the extent such expenses are lavish or extravagant under the circumstances.

"(3) BASE HOUSING AMOUNT.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The term 'base housing amount' means 20 percent of the excess of—

"(i) the individual's earned income (reduced by the deductions properly allocable to or chargeable against such earned income (other than the deduction allowed by this section)), over

"(ii) the sum of—

"(I) the housing expenses taken into account under paragraph (1)(A) of this subsection,

"(II) the qualified cost-of-living differential,

"(III) the qualified school expenses,

"(IV) the qualified home leave travel expenses, and

"(V) the qualified hardship area deduction.

"(B) BASE HOUSING AMOUNT TO BE ZERO IN CERTAIN CASES.—If, because of adverse living conditions, the individual maintains a household for his spouse and dependents at a foreign place other than his tax home which is in addition to the household he maintains as his tax home, and if his tax home is in a hardship area as defined in subsection (h), the base housing amount for the household maintained at his tax home shall be zero.

"(4) PERIODS TAKEN INTO ACCOUNT.—

"(A) IN GENERAL.—The expenses taken into account under this subsection shall be only those which are attributable to housing during periods for which—

"(i) the individual's tax home is in a foreign country, and

"(ii) except as provided in subsection (i)(1)(B)(iii), the value of the individual's housing is not excluded under section 119.

"(B) DETERMINATION OF BASE HOUSING AMOUNT.—The base housing amount shall be determined for the periods referred to in subparagraph (A) (as modified by subsection (i)(1)(B)(iii)).

"(5) ONLY ONE HOUSE PER PERIOD.—If, but for this paragraph, housing expenses for any individual would be taken into account under paragraph (2) of subsection (b) with respect to more than one abode for any period, only housing expenses with respect to that abode which bears the closest relationship to the individual's tax home shall be taken into account under such paragraph (2) for such period.

"(b) QUALIFIED SCHOOLING EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified schooling expenses' means the reasonable schooling expenses paid or incurred by or on behalf of the individual during the taxable year for the education of each dependent of the individual at the elementary or secondary level. For purposes of the preceding sentence, the elementary or secondary level means education which is the equivalent of education from the kindergarten through the 12th grade in a United States-type school.

"(2) EXPENSES INCLUDED.—For purposes of paragraph (1), the term 'schooling expenses' means the cost of tuition, fees, books, and local transportation and other expenses required by the school. Except as provided in paragraph (3), such term does not include expenses of room and board or expenses of transportation other than local transportation.

"(3) ROOM, BOARD, AND TRAVEL ALLOWED IN CERTAIN CASES.—If an adequate United State-type school is not available within a reasonable commuting distance of the individual's tax home, the expenses of room and board of the dependent and the expenses of the transportation of the dependent each school year between such tax home and the location of the school shall be treated as schooling expenses.

"(4) DETERMINATION OF REASONABLE EXPENSE.—If—

"(A) there is an adequate United States-type school available within a reasonable commuting distance of the individual's tax home, and

"(B) the dependent attends a school other than the school referred to in subparagraph (A),

then the amount taken into account under paragraph (2) shall not exceed the aggregate amount which would be charged for the period by the school referred to in subparagraph (A).

"(5) PERIOD TAKEN INTO ACCOUNT.—An amount shall be taken into account as a qualified schooling expense only if it is attributed to education for a period during which the individual's tax home is in a foreign country.

"(g) QUALIFIED HOME LEAVE TRAVEL EXPENSES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified home leave travel expenses' means the reasonable amounts paid or incurred by or on behalf of an individual for the transportation of such individual, his spouse, and each dependent from the location of the individual's tax home outside the United States to—

"(A) the individual's present (or, if none, most recent) principal residence in the United States, or

"(B) if subparagraph (A) does not apply to the individual, the nearest port of entry in the continental United States (excluding Alaska)

and return.

"(2) ONE TRIP PER 12-MONTH PERIOD ABROAD.—Amounts may be taken into account under paragraph (4) of subsection (b) only with respect to one round trip per person for each continuous period of 12 months for which the individual's tax home is in a foreign country.

"(h) QUALIFIED HARDSHIP AREA DEDUCTION.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified hardship area deduction' means an amount computed on a daily basis at an annual rate of $5,000 for days during which the individual's tax home is in a hardship area.

"(2) HARDSHIP AREA DEFINED.—For purposes of this section, the term 'hardship area' means any foreign place designated by the Secretary of State as a hardship post where extraordinarily difficult living conditions, notably unhealthful conditions, or excessive physical hardships exist and for which a post differential of 15 percent or more—

"(A) is provided under section 5925 of title 5, United States Code, or

"(B) would be so provided if officers and employees of the Government of the United States were present at that place.

"(i) SPECIAL RULES WHERE INDIVIDUAL MAINTAINS SEPARATE HOUSEHOLD FOR SPOUSE AND DEPENDENTS BECAUSE OF ADVERSE LIVING CONDITIONS AT TAX HOME.—

"(1) IN GENERAL.—For any period during which an individual maintains a qualified second household—

"(A) QUALIFIED COST-OF-LIVING DIFFERENTIAL.—

"(i) ALLOWANCE DETERMINED BY REFERENCE TO LOCATION OF QUALIFIED SECOND HOUSEHOLD.—Paragraph (1) of subsection (d) shall be applied by substituting 'the qualified second household' for 'the individual's tax home'.

"(ii) DISREGARD OF SECTION 119 RULE.—Subparagraph (E) of subsection (d)(2) shall not apply with respect to the spouse and dependents.

"(B) QUALIFIED HOUSING EXPENSES.—

"(i) EXPENSES WITH RESPECT TO QUALIFIED SECOND HOUSEHOLD TAKEN INTO ACCOUNT.—For purposes of subsection (e), the expenses for housing of an individual's spouse and dependents at the qualified second household shall be treated as housing expenses if they would meet the requirements of subsection (e)(2) if the individual resided at such household.

"(ii) SEPARATE APPLICATION OF SUBSECTION (e).—Subsection (e) shall be applied separately with respect to the housing expenses for the qualified second household; except that, in determining the base housing amount, the housing expenses (if any) of the individual for housing at his tax home shall also be taken into account under subsection (e)(3)(A)(ii).

"(iii) CERTAIN RULES NOT TO APPLY.—Paragraphs (4)(A)(ii) and (5) of subsection (e) shall not apply with respect to housing expenses for the qualified second household.

"(C) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—

"(i) IN GENERAL.—The requirement of subsection (j)(3) that the dependent or spouse of the individual (as the case may be) reside with the individual at his tax home shall be treated as met if such spouse or dependent resides at the qualified second household.

"(ii) SUBSTITUTION OF HOUSEHOLD FOR TAX HOME.—In any case where clause (i) applies, paragraphs (3) and (4) of subsection (f), and paragraph (1) of subsection (g), shall be applied with respect to amounts paid or incurred for the spouse or dependent by substituting the location of the qualified second household for the individual's tax home.

"(2) DEFINITION OF QUALIFIED SECOND HOUSEHOLD.—For purposes of this section, the term 'qualified second household' means any household maintained in a foreign country by an individual for the spouse and dependents of such individual at a place other than the tax home of such individual because of adverse living conditions at the individual's tax home.

"(j) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) DEFINITIONS.—For purposes of this section—

"(A) EARNED INCOME.—The term 'earned income' has the meaning given to such term by section 911(b) (determined with the rules set forth in paragraphs (2), (3), (4), and (5) of section 911(c)), except that such term does not include amounts paid by the United States or any agency thereof.

"(B) TAX HOME.—The term 'tax home' means, with respect to any individual, such individual's home for purposes of section 162(a)(2) (relating to traveling expenses while away from home). An individual shall not be treated as having a tax home in a foreign country for any period for which his abode is within the United States.

"(C) RESIDENCE AT TAX HOME.—A household or residence shall be treated as at the tax home of an individual if such household or residence is within a reasonable commuting distance of such tax home.

"(D) ADVERSE LIVING CONDITIONS.—The term 'adverse living conditions' means living conditions which are dangerous, unhealthful, or otherwise adverse.

"(E) UNITED STATES.—The term 'United States', when used in a geographical sense, includes the possessions of the United States and the areas set forth in paragraph (1) of section 638 and so much of paragraph (2) of section 638 as relates to the possessions of the United States.

"(2) LIMITATION TO COACH OR ECONOMY FARE.—The amount taken into account under this section for any transportation by air shall not exceed the lowest coach or economy rate at the time of such transportation charged by a commercial airline for such transportation during the calendar month in which such transportation is furnished. If there is no such coach or economy rate or if the individual is required to use first-class transportation because of a physical impairment, the preceding sentence shall be applied by substituting 'first-class' for 'coach or economy'.

"(3) REQUIREMENT THAT SPOUSE AND DEPENDENTS RESIDE WITH INDIVIDUAL FOR PURPOSES OF SCHOOLING AND HOME LEAVE.—Except as provided in subsection (i)(1)(C)(i), amounts may be taken into account under subsection (f) with respect to any dependent of the individual, and under subsection (g) with respect to the individual's spouse or any dependent of the individual, only for the period that such spouse or dependent (as the case may be) resides with the individual at his tax home.

(k) CERTAIN DOUBLE BENEFITS DISALLOWED.—An individual shall not be allowed—

"(1) as a deduction (other than the deduction under section 151),

"(2) as an exclusion, or

"(3) as a credit under section 44A (relating to household and dependent care services),

any amount to the extent that such amount is taken into account under subsection (d), (e), (f), or (g).

"(l) APPLICATION WITH SECTION 911.—An individual shall not be allowed the deduction allowed by subsection (a) for any taxable year with respect to which he elects the exclusion provided in section 911.

"(m) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations providing rules.—

"(1) for cases where a husband and wife each have earned income from sources outside the United States, and

"(2) for married individuals filing separate returns."

(b) DEDUCTION ALLOWED IN DETERMINING ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CERTAIN EXPENSES OF LIVING ABROAD.—The deduction allowed by section 913."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter N of chapter 1 is amended by adding at the end thereof the following:

"Sec. 913. Deduction for certain expenses of living abroad."

SEC. 204. MOVING EXPENSES.

(a) SPECIAL RULES FOR FOREIGN MOVES.—Section 217 (relating to moving expenses) is amended by redesignating subsection (h) as subsection (j) and by inserting after subsection (g) the following new subsections:

"(h) SPECIAL RULES FOR FOREIGN MOVES.—

"(1) INCREASE IN LIMITATIONS.—In the case of a foreign move—

"(A) subsection (b)(1)(D) shall be applied by substituting '90 consecutive days' for '30 consecutive days',

"(B) subsection (b)(3)(A) shall be applied by substituting '$4,500' for '$1,500' and by substituting '$6,000' for '$3,000', and

"(C) subsection (b)(3)(B) shall be applied as if the last sentence of such subsection read as follows: 'In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting "$2,250" for "$4,500", and by substituting "$3,000" for "$6,000".'

"(2) ALLOWANCE OF CERTAIN STORAGE FEES.—In the case of a foreign move, for purposes of this section, the moving expenses described in subsection (b)(1)(A) include the reasonable expenses—

"(A) of moving household goods and personal effects to and from storage, and

"(B) of storing such goods and effects for part or all of the period during which the new place of work continues to be the taxpayer's principal place of work.

"(3) FOREIGN MOVE.—For purposes of this subsection, the term 'foreign move' means the commencement of work by the taxpayer at a new principal place of work located outside the United States.

"(4) UNITED STATES DEFINED.—For purposes of this subsection and subsection (i), the term 'United States' includes the possessions of the United States.

"(i) ALLOWANCE OF DEDUCTIONS IN CASE OF RETIREES OR DECEDENTS WHO WERE WORKING ABROAD.—

"(1) IN GENERAL.—In the case of any qualified retiree moving expenses or qualified survivor moving expenses—

"(A) this section (other than subsection (h)) shall be applied with respect to such expenses as if they were incurred in connection with the commencement of work by the taxpayer as an employee at a new principal place of work located within the United States, and

"(B) the limitations of subsection (c)(2) shall not apply

"(2) QUALIFIED RETIREE MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified retiree moving expenses' means any moving expenses—

"(A) which are incurred by an individual whose former principal place of work and former residence were outside the United States, and

"(B) which are incurred for a move to a new residence in the United States in connection with the bona fide retirement of the individual.

"(3) QUALIFIED SURVIVOR MOVING EXPENSES.—For purposes of paragraph (1), the term 'qualified survivor moving expenses' means moving expenses—

"(A) which are paid or incurred by the spouse or any dependent of any decedent who (as of the time of his death) had a principal place of work outside the United States, and

"(B) which are incurred for a move which begins within 6 months after the death of such decedent and which is to a residence in the United States from a former residence outside the United States which (as of the time of the decedent's death) was the residence of such decedent and the individual paying or incurring the expense."

SEC. 205. MEALS OR LODGING FURNISHED TO EMPLOYEES UNDER CERTAIN CONDITIONS.

Section 119 (relating to meals or lodging furnished for the convenience of the employer) is amended—

(1) by striking out "furnished to him by his employer for the convenience of the employer" and inserting in lieu thereof "furnished to him, his spouse, or any of his dependents by or on behalf of his employer for the convenience of the employer", and

(2) by striking out "There shall" and inserting in lieu thereof "(a) MEALS AND LODGING FURNISHED TO EMPLOYEES, HIS SPOUSE, AND HIS DEPENDENTS, PURSUANT TO EMPLOYMENT.—There shall".

SEC. 206. SUSPENSION OF RUNNING OF THE PERIOD UNDER SECTION 1034 FOR PURCHASING A NEW PRINCIPAL RESIDENCE.

Section 1034 (relating to sale or exchange of residence) is amended by redesignating subsection (k) as subsection (l) and by in-

serting after subsection (j) the following new subsection:

"(k) INDIVIDUAL WHOSE TAX HOME IS OUTSIDE THE UNITED STATES.—The running of any period of time specified in subsection (a) or (c) (other than the 18 months referred to in subsection (c)(4)) shall be suspended during any time that the taxpayer (or his spouse if the old residence and the new residence are each used by the taxpayer and his spouse as their principal residence) has a tax home (as defined in section 913(j)(1)(B)) outside the United States after the date of the sale of the old residence; except that any such period of time as so suspended shall not extend beyond the date 4 years after the date of the sale of the old residence."

SEC. 207. MISCELLANEOUS AMENDMENTS.

(a) WAGE WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking out the period at the end of paragraph (17) and inserting in lieu thereof "; or" and by adding at the end thereof the following new paragraph:

"(18) to or on behalf of an employee if (and to the extent that) at the time of the payment of such remuneration it is reasonable to believe that a corresponding deduction is allowable under section 913 (relating to deduction for certain expenses of living abroad)."

(b) PLACE FOR FILING RETURNS.—Clause (iii) of section 6091(b)(1)(B) (relating to place for filing tax returns) is amended by inserting "section 913 (relating to deduction for certain expenses of living abroad)," before "section 931".

(c) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—Section 6011 (relating to general requirement of return, statement, or list) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY TO REQUIRE INFORMATION CONCERNING SECTION 912 ALLOWANCES.—The Secretary may by regulations require any individual who receives allowances which are excluded from gross income under section 912 for any taxable year to include on his return of the taxes imposed by subtitle A for such taxable year such information with respect to the amount and type of such allowances as the Secretary determines to be appropriate."

SEC. 208. REPORTS BY SECRETARY.

(a) GENERAL RULE.—As soon as practicable after the close of the calendar year 1979 and after the close of each second calendar year thereafter, the Secretary of the Treasury shall transmit a report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate setting forth with respect to the preceding 2 calendar years—

(1) the number, country of residence, and other pertinent characteristics of persons claiming the benefits of sections 911, 912, and 913 of the Internal Revenue Code of 1954,

(2) the revenue cost and economic effects of the provisions of such sections 911, 912, and 913, and

(3) a detailed description of the manner in which the provisions of such sections 911, 912, and 913 have been administered during the preceding 2 calendar years.

(b) INFORMATION FROM FEDERAL AGENCIES.—Each agency of the Federal Government which pays allowances excludable from gross income under section 912 of such Code shall furnish to the Secretary of the Treasury such information as he determines to be necessary to carry out his responsibility under subsection (a).

SEC. 209. EFFECTIVE DATES.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c) the amendments made by this title shall apply to taxable years beginning after December 31, 1977.

(b) WAGE WITHHOLDING.—The amendment made by section 207(a) shall apply to remuneration paid after the date of the enactment of this Act.

(c) ELECTION OF PRIOR LAW.—

(1) A taxpayer may elect not to have the amendments made by this title apply with respect to any taxable year beginning after December 31, 1977, and before January 1, 1979.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year beginning after December 31, 1977.

SEC. 210. APPLICATION OF TITLE I.

(a) IN GENERAL.—Title I of this Act (other than sections 4 and 5 thereof) shall cease to have effect on the day after the date of the enactment of this Act.

(b) SPECIAL RULE FOR SECTION 5.—Section 5 of this Act shall not apply with respect to any type of plan for any period for which rules for that type of plan are provided by the Revenue Act of 1978.

And the Senate agree to the same.

Amend the title so as to read: "An Act to change the tax treatment of income earned abroad by United States citizens and residents, and for other purposes."

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
JOE D. WAGGONNER, Jr.,
JAMES C. CORMAN,
BARBER B. CONABLE, Jr.,
BILL FRENZEL,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
ABE RIBICOFF,
HARRY F. BYRD, Jr.,
WILLIAM HATHAWAY,
PAT MOYNIHAN,
BOB PACKWOOD,
BILL ROTH,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the 2 Houses on the amendment of the Senate to the bill (H.R. 9251) to amend the Internal Revenue Code of 1954 to provide for extensions of time for the existing tax treatment of certain items, submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

A. TAX TREATMENT OF AMERICANS WORKING ABROAD

1. Delay of effective date of 1976 Act

House bill.—The House bill delays the effective date of the changes made by the 1976 Act to the taxation of individuals working abroad so that the changes do not apply until taxable years beginning after December 31, 1977. However, the provision permits those individuals who do not claim the exclusion to claim both the foreign tax credit and the zero bracket amount (i.e., the standard deduction) in 1977.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference substitute.—The conference substitute follows the House bill and the Senate amendment.

2. Earned income exclusion for employees in camps

House bill.—The House would repeal the changes in the earned income exclusion (section 911) made by the 1976 Act. The exclusion would generally be calculated under methods in effect prior to enactment of the 1976 Act. However, the exclusion would generally be available only to persons working in countries other than Canada or those in Western Europe.

Senate amendment.—The Senate amendment would repeal the earned income exclusion.

Conference substitute.—The conference substitute would allow a $20,000 annual exclusion to employees residing in camps in hardship areas who are bona fide residents of a foreign country for the entire taxable year or who are present in a foreign country 17 out of 18 months. Employees who elect the benefits of this exclusion are ineligible for the deductions for excess foreign living costs provided by the conference substitute.

3. Deduction for excess foreign living costs

The House bill, the Senate amendment, and the conference substitute all provide for a deduction for excess foreign living costs, the specific terms of which are as follows:

a. Eligibility

House bill.—The House bill provides that those persons eligible for the deduction are citizens and residents of the United States whose "tax home" is in a foreign country (including Canada or the Western European countries). Resident aliens may qualify.

Senate amendment.—The Senate amendment provides that those persons eligible for the deduction will generally be the same as are now eligible for the earned income exclusion (those present overseas for 17 out of 18 months or bona fide residents overseas).

Conference substitute.—The conference substitute provides that those persons eligible for the deduction are individuals who are *bona fide* residents of a foreign country or are present (including resident aliens) in a foreign country 17 out of 18 months.

b. Excess cost of living

House bill.—The House bill provides that this element of the deduction consists of an amount determined under IRS tables showing the excess cost of living in various foreign places for families of various sizes. It is based on the excess of costs in the foreign place over costs in the highest cost metropolitan area in the continental United States (excluding Alaska). The deduction would be proportional to the spendable income of the taxpayer (i.e., larger for high-income taxpayers than for low-income taxpayers).

Senate amendment.—The Senate amendment is substantially the same as the House bill, except that the deduction is based on the excess of costs in the foreign place over costs in the United States, and the deduction would be based on the spendable income of a person paid the salary of a GS–12, step 1 (currently $23,087), regardless of the taxpayer's actual income.

Conference substitute.—The conference substitute provides that the deduction would be based on the spendable income of a person paid the salary of a GS–14, step 1 (currently $32,442) regardless of the taxpayer's actual income. It would be determined with reference to the highest cost metropolitan area in the continental United States (excluding Alaska).

c. Excess housing costs

House bill.—The House bill provides that this element of the deduction is an amount equal to the excess of the individual's housing expenses over the individual's base housing amount.

The individual's "base housing amount" is generally one-sixth of the individual's "base compensation" under any qualified pension plan which covers the taxpayer (or would cover him but for age or service requirements). If no pension plan applies, his base housing amount is one-eleventh of the excess of his earned income (minus certain allocable business deductions) over his deductible excess foreign living costs (that is, one-eleventh of his net earned income).

A deduction is allowed for the full cost of the taxpayer's own housing rather than just the excess over his base amount if the individual maintains a separate household for his spouse and dependents because of liv-

ing conditions which are dangerous, unhealthful, or otherwise adverse or for the convenience of his employer.

In addition, the taxpayer receives a deduction for the excess costs of maintaining the qualified second household.

Senate amendment.—The Senate amendment is generally the same as the House bill, except that the individual's "base housing amount" is one-sixth of the excess of his earned income (minus certain allocable business deductions) over his deductible excess foreign living costs (that is, one-sixth of his net earned income), and there is no provision for separate households.

Conference substitute.—The conference substitute generally follows the House bill, but adopts the Senate version of the base housing amount. The provision for separate households is to be available if the taxpayer's tax home is in a hardship area and the taxpayer's family does not live in the United States. This provision is available where the employee maintains a separate household for his family because of adverse living conditions of his place of employment and it is intended that this requirement be liberally construed.

d. Educational costs

House bill.—The House bill provides that this element of the deduction consists of the reasonable schooling expenses for the education of the taxpayer's dependents at the elementary and secondary level. Generally, the cost of tuition, fees, books, and local transportation and of other expenses required by the school are deductible. Reasonable schooling expenses are determined with reference to the least expensive adequate U.S.-type school available within a reasonable commuting distance of the individual's tax home.

If an adequate United States-type school is not available within a reasonable commuting distance, deductible schooling expenses include room and board and transportation costs. Generally, the deduction is allowed only if dependent lives with taxpayer, but if there is no adequate school, the dependent may attend school anywhere in the world.

Senate amendment.—The Senate amendment provides that, generally, the amount deductible is the cost of tuition, books, and local transportation but limited to the amount set forth in an IRS table showing reasonable educational costs for that foreign place.

If an adequate U.S.-type school is not available, costs of room and board are also deductible. The deduction is allowed if the dependent attends school anywhere outside the United States.

Conference substitute.—The conference substitute follows the House bill.

e. Home leave transportation

House bill.—The House bill provides that this element of the deduction consists of the reasonable costs of one round trip annually for the taxpayer, his spouse, and each dependent from the location of his tax home outside the United States to any place in the United States. The deduction is limited to coach fare when available.

Senate amendment.—No provision.

Conference substitute.—The conference substitute generally follows the House bill, but a deduction is allowed for transportation to the location of the taxpayer's last principal residence in the U.S. or, if there is none, to the nearest port of entry in the continental U.S. (other than Alaska) and return.

f. Hardship post deduction

House bill.—No provision. However, the House bill provides an exclusion from gross income of $20,000 or $25,000 annually for individuals who are *bona fide* residents of, or are present 17 out of 18 months in, foreign countries other than Canada or those in Western Europe.

Senate amendment.—No provision.

Conference substitute.—The conference substitute provides a hardship deducation of $5,000 a year for employees working in hardship areas. Hardship areas are those areas where United States Government employees would qualify for a post-differential of 15 percent or more of salary.

g. Special rules

House bill.—The House bill provides special rules that apply if the taxpayer maintains a separate household for his spouse and dependents in a foreign country at a place other than his tax home because of living conditions at his tax home which are dangerous, unhealthful, or otherwise adverse. In general, the special rules base the computations of the various elements of the deduction on the qualified second household, rather than the tax home.

The House bill does not limit the deduction amounts reimbursed by the employer.

Senate amendment.—The Senate amendment provides that each element of the deduction would be limited to the amount reimbursed by the taxpayer's employer for that purpose in excess of the taxpayer's normal compensation. Employer certification of the amounts reimbursed would be required. Special rules apply to self-employed individuals and employees of foreign businesses (other than U.S. controlled foreign businesses).

The Senate amendment does not provide rules for separate households.

Conference substitute.—The conference substitute follows the House bill.

h. Interaction with zero bracket amount (standard deduction)

House bill.—The House bill makes the deduction for excess foreign living costs a deduction from gross income in determining adjusted gross income. As a result, a taxpayer will be able to claim the deduction for additional foreign living costs without being required to itemize deductions.

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute follows the House bill and the Senate amendment.

4. Individuals residing in camps

House bill.—The House bill provides that the value of meals or lodging furnished to an employee at a foreign location by or on behalf of his employer is to be excluded from gross income if either the general requirements of section 119 are satisfied, or the meals or lodging are camp-style meals or lodging.

Lodging is camp-style lodging if the requirements of any of the following three provisions are met:

(1) Two or more unrelated employees are required by the employer to share the same living quarters.

(2) The lodging is furnished in a common area not available to the public which common area normally accommodates 10 or more employees.

(3) In the case of housing located outside Canada and Western Europe, (a) the housing is assigned on the basis of family size or other nonincome, nonjob description bases, (b) the employer assigns housing in the immediate geographic area to 100 or more employees who are United States citizens or residents, and (c) the employee lives in housing occupied solely by employees (and their families) of the employer.

Meals are camp-style meals if (1) they are furnished in a common eating area which normally serves 10 or more employees and is not available to the public and (2) the employee is furnished lodging the value of which is excludable from gross income.

Senate amendment.—Employees who reside in camps because of their employment, and employees who would qualify under section 119 for exclusion of employer-supplied housing, are provided (instead of their actual reimbursed excess foreign living costs) a deduction equal to the average deductions claimed for cost of living, housing, and education by all other taxpayers in that foreign place for the previous year (the educational deduction is limited to the amount actually expended). Appropriate average deduction tables are to be issued by the IRS.

These average deductions are available only if an election is made not to claim the section 119 exclusion for meals and lodging.

In order to qualify for the special treatment, the value of the camp housing provided must qualify for exclusion from the employee's income under section 119 in all respects other than location on the business premises of the employer, and the camp must be located, as near as practicable, in the vicinity of the employer's business premises or the place where the taxpayer renders services.

In addition to satisfying all the requirements of section 119 other than the business premises test, housing in fact must be camp-type housing in order to qualify for the special treatment. Camp housing means housing furnished in a common area or enclave of employees apart from housing in foreign cities or towns. Camp housing includes living quarters which the employee is required by the employer to share with unrelated co-employees (for example, barracks). However, camp housing is not intended to be limited to temporary structures.

Conference substitute.—The conference substitute provides an election for employees in camps to claim an exclusion for the value of their lodging and an annual exclusion of $20,000 (as described above in "2. EARNED INCOME EXCLUSION FOR EMPLOYEES IN CAMPS") in lieu of the excess foreign living expense deductions. A camp for this purpose refers to substandard housing provided in enclaves in remote hardship areas close to the job site where alternative housing is not available on the open market.

5. Deduction for moving expenses

House bill.—In the case of moves to foreign work locations, the House bill would increase the period during which the cost of temporary living arrangements are allowed as deductible moving expenses from 30 days to 90 days, and would raise the ceiling on those temporary living costs from $1,500 to $4,500. Moving expenses would include the cost of storing goods while abroad. The moving expenses deduction is also expanded to permit bona fide retirees returning to the United States after working abroad and survivors of Americans who die while working overseas to deduct the cost of moving back to the United States, subject to the regular limitations.

Senate amendment.—No provision.

Conference substitute.—The conference substitute follows the House bill.

6. Suspension of period to reinvest proceeds from sale of home

House bill.—The House bill provides that, in general, the running of the 18- or 24-month time periods is to be suspended during any time that the taxpayer has a tax home outside the United States; except that the suspension period is not to extend more than 4 years after the date of the sale of the old residence.

Senate amendment.—No provision.

Conference substitute.—The conference substitute follows the House bill.

7. Reports on exclusions and deductions of private and civilian government employees working abroad

House bill.—The House bill requires that, as soon as possible after the close of 1979 and after the close of every second year thereafter; the Treasury submit a report to the tax-writing committees setting forth the number of, and the countries of residence of, persons benefiting from the provisions dealing with the taxation of Americans working abroad (sections 911, 912, and 913) and the

revenue cost and the economic effects of those provisions.

The bill would authorize the Treasury to require by regulations that civilian employees of the U.S. Government provide information on their returns disclosing the amount and type of any allowances they receive which are excluded from gross income under section 912.

Senate amendment.—No provision.

Conference substitute.—The conference substitute follows the House bill.

8. Effective date

House bill.—The House bill provides that the law prior to the 1976 Act would be extended through taxable years beginning in 1977; and the other changes in the tax treatment of Americans working abroad would be effective for taxable years beginning after December 31, 1977.

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute follows the House bill and the Senate amendment, but, for taxable years beginning in 1978, taxpayers may elect to be taxed under the law in effect prior to the date of enactment (that is, the law as amended by the Tax Reform Act of 1976).

In the case of taxpayers affected by the change in law applicable to 1977, it is anticipated that the Internal Revenue Service will not impose late filing penalties under section 6651(a) if the returns are filed within a reasonable time after the enactment of this bill.

B. TAX TREATMENT OF AWARDS UNDER THE PUBLIC HEALTH SERVICES ACT

House bill.—No provision.

Senate bill.—The bill provides that National Research Service Awards are to be treated as scholarships or fellowships under section 117 of the Code.

(A Senate floor amendment to the Revenue Act of 1978, H.R. 13511, is substantially the same as this provision but would apply to amounts received under awards first made during calendar years 1974 through 1979.)

Conference substitute.—The conference substitute omits this provision.

C. COMMUTING EXPENSES

House bill.—The House bill requires that the income tax, FICA, FUTA, and withholding provisions relating to the treatment of transportation expenses paid or incurred after 1976 and before May 1, 1978, in traveling between a taxpayers' residence and place of work are to be applied without regard to Revenue Ruling 76–453 and fully in accordance with the rules in effect prior to the issuance of Revenue Ruling 76–453.

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute omits this provision.

D. SALARY REDUCTION PLANS, CASH OR DEFERRED PROFIT-SHARING PLANS, AND CAFETERIA PLANS

House bill.—On December 6, 1972, the Internal Revenue Service issued proposed regulations which would have changed the tax treatment of employees under salary reduction plans, and which called into question the tax treatment of employees under cash or deferred profit-sharing plans and so-called cafeteria plans. The Employee Retirement Income Security Act of 1974 froze the tax treatment of these plans for 2 years, and the Tax Reform Act of 1976 extended the freeze until December 31, 1977.

Under the House bill, the "freeze" on existing tax treatment of salary reduction plans, cash or deferred profit-sharing plans and "cafeteria" plans is extended until January 1, 1980.

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute follows the House bill and the Senate amendment, but the freeze is not to apply to any type of plan for any period for which rules for that type of plan are provided by the Revenue Act of 1978.

E. SPECIAL LIMITATIONS ON NET OPERATING LOSS CARRYOVERS

House bill.—The House bill postpones for two years the effective dates of provisions of the Tax Reform Act of 1976 concerning limitations on carryovers of net operating losses. Thus, the 1976 Act provisions would not take effect until January 1, 1980, with respect to plans of reorganization adopted on or after that date, or until June 30, 1980, with respect to sales or exchanges in taxable years beginning after that date.

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute omits this provision.

F. EMPLOYEE FRINGE BENEFIT REGULATIONS

House bill.—The House bill precluded the IRS from issuing final regulations prior to July 1, 1978, which would govern the income tax treatment of fringe benefits. (P.L. 95–427 precludes the IRS from issuing regulations affecting the taxation of fringe benefits prior to 1980.)

Senate amendment.—Same as the House bill.

Conference substitute.—The conference substitute omits this provision.

G. APPLICATION OF SECTION 117 TO CERTAIN EDUCATION PROGRAMS FOR MEMBERS OF THE UNIFORMED SERVICES

House bill.—During calendar years 1973, 1974, 1975, and 1976, amounts received from appropriated funds as a scholarship (including the value of contributed services and accommodations) by a member of a uniformed service who was receiving training under the Armed Forces health professions scholarship program (or any other similar program, as determined by the Secretary of the Treasury) were specifically excluded from gross income by Congressional action.

The 1976 exclusion was adopted in the Tax Reform Act of 1976, which provided that students entering the scholarship program in 1976 could exclude such health professions scholarships through 1979.

The House bill extends the exclusion for new entrants for 2 more years, so that amounts received in 1977 through 1982 will be excluded from income by members enrolling in the program before 1979.

This provision has already been enacted as P.L. 95–171.

Senate amendment.—No provision.

Conference substitute.—The conference substitute omits the provision.

H. EXTENSION OF 5-YEAR AMORTIZATION FOR LOW-INCOME RENTAL HOUSING

House bill.—Under the Code, special depreciation rules are provided for expenditures to rehabilitate low-income rental housing (section 167(k)) under which taxpayers can elect to compute depreciation on certain rehabilitation expenditures under a straight-line method over a period of 60 months if the additions or improvements have a useful life of 5 years or more. The House bill would extend the expiration date for this provision from December 31, 1977, to December 31, 1978.

This provision has already been enacted as P.L. 95–171.

Senate amendment.—No provision.

Conference substitute.—The Conference substitute omits this provision.

I. STATE LEGISLATORS TRAVEL EXPENSES AWAY FROM HOME

House bill.—No provision.

Senate amendment.—Extends for one year the period during which a State legislator may elect to treat his place of residence in his legislative district as his tax home.

This provision was enacted as P.L. 95–258.

Conference substitute.—The conference substitute omits this provision.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLIE A. VANIK,
JOE D. WAGGONNER, Jr.,
JAMES C. CORMAN,
BARBER B. CONABLE, Jr.,
BILL FRENZEL,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
ABE RIBICOFF,
HARRY F. BYRD, Jr.,
WILLIAM HATHAWAY,
PAT MOYNIHAN,
BOB PACKWOOD,
BILL ROTH,
Managers on the Part of the Senate.

PRESIDENTIAL RECORDS ACT OF 1978

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 13500) to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 4, line 3, after "relating" insert "exclusively"

Page 7, line 2, after "President." insert "The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act."

Page 10, line 20, after "'(c)" insert "(1)".

Page 10, line 23, after "Code," insert "except that paragraph (b)(5) of that section shall not be available for purposes of withholding any presidential record,".

Page 11, after line 2, insert:

(2) Nothing in this Act shall be construed to confirm, limit, or expand any constitutionally based privilege which may be available to an incumbent or former President.

● Mr. BROOKS. Mr. Speaker, on Tuesday the House adopted H.R. 13500 by voice vote. The Senate has adopted the House approved bill with four minor changes. The amendments added by the Senate last night have the approval of the administration and change only slightly the Presidential records bill approved by the House. With one minor exception, the amendments simply put into statutory language the substance of several of the colloquies which preceded House approval of the bill.

The four changes are very straightforward. Section 2203(f)(1) is amended, by adding the following sentence:

The Archivist shall have an affirmative duty to make such records available to the public as rapidly and completely as possible consistent with the provisions of this Act.

This language is virtually the same as that which I used on the floor Tuesday. It clarifies that the Archivist is to treat the Presidential records which are to come into his custody at the conclusion of a President's tenure, in virtually the same manner as other Federal records transferred to Archives, which are all subject to the statutory presumption of public availability set forth in the Freedom of Information Act. So that there is no doubt, the Archivist is charged wtih a statutory obligation to process and make public as quickly as possible the Presidential records over which he has

responsibility, consistent with the mandatory restrictions the former President may have placed upon their availability, as provided for in this act, or the discretionary withholding exemptions of the Freedom of Information Act.

Section 2204(c)(1) has been strengthened by clarifying that the (b)(5) exemption of the Freedom of Information Act dealing with inter- and intragency memorandums and letters is not available for withholding documents covered by this act. This had been made clear in the House Government Operations Committee report and in the colloquy between Mr. BRADEMAS and Mr. PREYER on the floor Tuesday. If the President has not made provision while still in office to impose mandatory access restriction on material, dealing with confidential communications between the President and/or his advisers, that material cannot be withheld by the Archivist from the public unless the material falls within another restrictive category chosen by the President or it falls within a Freedom of Information exemption other than the fifth exemption.

Section 2204(c)(1) is also amended to include the substance of the exchange between Mr. BRADEMAS and Mr. PREYER regarding the fact that the bill is not to be construed as either confirming, limiting, or expanding any constitutionally based privilege which may be available to the incumbent President or a former President relative to access to certain executive branch records.

The final change clarifies the line to be drawn between official records and certain personal records, as defined in the bill. Section 2201(c) modified with the addition of the word "exclusively" to clarify that only those records pertaining exclusively to a President's election or reelection are to be considered personal records. I have studied Senator PERCY'S statement made on the Senate floor last night relative to the interpretation of this section, and agree completely with his remarks.

As I indicated on Tuesday, the bill represents the culmination of an extraordinary effort by the principal sponsors of the bill, the Committee on Government Operations, the House Administration Committee, the Department of Justice, and the White House, and now, the Senate. It has enjoyed overwhelming bipartisan support. I urge my colleagues to accept the bill as amended by the Senate.●

● Mr. THOMPSON. Mr. Speaker, I support the motion of the gentleman from Texas (Mr. BROOKS) and concur in his explanation of the importance of this legislation and the impact of the Senate amendments. They change little, if anything, in the substance of the bill as unanimously passed by the House earlier this week. The preservation and guarantee of public access of the official papers and records of the President, the Vice President, and White House staff personnel is of vital importance to historians and scholars in the reconstruction and public understanding of decisionmaking events in which our Nation's leaders have participated. For the first time in our history, such records will belong to the American people, with adequate safeguards to protect unusually sensitive personal information that may be contained or which might endanger our national security, if prematurely released. I commend it to our colleagues and hope that it will receive overwhelming approval.●

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1487, ELIMINATING RACKETEERING IN THE SALE OF CIGARETTES

Ms. HOLTZMAN. Mr. Speaker, I call up the conference report on the Senate bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes.

The clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule previously adopted, the conference report is considered as read.

(For conference report and statement see proceedings of the House of October 12, 1978.)

The SPEAKER pro tempore. The gentlewoman from New York (Ms. HOLTZMAN) will be recognized for 30 minutes and the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. HOLTZMAN).

Ms. HOLTZMAN. Mr. Speaker, this conference report accompanies the bill S. 1487, which is designed to create a Federal statutory framework that will enable the U.S. Government to fight the problem of interstate racketeering in cigarettes.

Cigarette bootlegging is a serious problem that affects many States and deprives many States, including my own, of substantial tax revenues—an estimated $400 million annually—from the sale of cigarettes. The lucrative profits have attracted organized crime and cigarette bootlegging now provides a major source of income for organized crime groups.

The conference report basically adopts the framework of the House bill which I was proud to author. The major issues about which there was disagreement were resolved as follows:

First, the term "contraband cigarettes" is defined in the conference report as a quantity of 60,000 or more cigarettes, which is the Senate provision.

Second, the penalties are basically those contained in the Senate bill. The Senate had established a fine of up to $100,000 or imprisonment for not more than 5 years, or both, for persons who knowingly possess, sell, distribute, carry, transport, purchase or receive contraband cigarettes. The House had called for less severe penalties.

The major conflict in conference was over recordkeeping and reporting requirements. The conference report eliminates any requirement that anyone report to the Secretary of the Treasury. It does retain, however, a recordkeeping requirement—not the one originally promulgated by the House, which was exceedingly broad, but one which requires that specific information be kept about transactions involving 60,000 cigaretes or more. The conference report stated that—

> To the extent this information is contained on existing business records, no additional records shall be required by the Secretary of the Treasury.

I will be offering a concurrent resolution containing a substitute provision cleared with all the conferees. That provision states:

> Such information shall be contained on business records kept in the normal course of business.

It is my understanding that this new language would require the keeping of business records in the normal course of business so that the requisite information about transactions in 60,000 or more cigarettes could be recorded.

I particularly want to commend my distinguished colleague and good friend, the gentleman from Illinois (Mr. RAILSBACK) for his tireless efforts in behalf of this bill. Without his support, this measure could not have been enacted.

I also want to thank the distinguished chairman of the Committee on the Judiciary (Mr. RODINO) for his assistance, and my colleague from New York (Mr. FISH) for cosponsoring the House bill and providing help whenever it was needed.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to join with and associate myself with the remarks of the gentlewoman from New York (Ms. HOLTZMAN) and also to compliment the gentlewoman from New York for the fine work which she has done. I also compliment the gentleman from New York (Mr. FISH).

Mr. Speaker, it pleases me greatly to rise in support of the conference committee report before us. Since Ms. HOLTZMAN and I introduced virtually identical bills, H.R. 8853, and H.R. 9885, in mid-1977, a great deal has been discovered about the business of cigarette bootlegging.

In February and March of this year, the Subcommittee on Crime heard testimony on the Holtzman-Railsback contraband approach to combat the bootlegging problem. We heard from the Advisory Commission on Intergovernmental Relations, when their executive director Wayne Anderson testified in favor of the development of a national thrust to outlaw interstate transportation of cigarettes which have not been taxed by the proper authority. On March 8 of this year, we heard from Department of Treasury officials who testified in support of this concept as well. At that time, the International Association of Chiefs of Police told us that they too favored our legislation. That organization endorsed my bill, H.R. 9885, because, in addition to the provisions in H.R. 8853, my legislation contained certain recordkeeping requirements, as well as reporting requirements to require persons engaged in cigarette commerce to make information available to the Secretary of the Treasury.

Since that hearing on March 8, I have modified my opinion of the need for such open-ended recordkeeping and reporting requirements.

The Subcommittee on Crime discovered, during hearings conducted in June, that the very agency which would enforce the cigarette bootlegging statute had engaged in broad overreaching of its authority in another area. Members will recall the Bureau of Alcohol. Tobacco and Firearms efforts to create a central registry of firearms transactions. It was my belief during those hearings that the Treasury had far overreached its authority. Congressional history bears out the need for concern of blanket authority by the Secretary of the Treasury.

While I am not a smoker, I believe it is the right of the small business people involved in cigarette commerce to engage in their business without harsh paperwork requirements. We need only see Secretary Califano's activism against smoking to realize the impact that one member of the Federal administrative bureaucracy can have on an industry. While Secretary Califano might be correct in his view of the harms of smoking by administrative rule are, I believe, improper. Were the Secretary of the Treasury to create overburdensome paperwork for retailers in cigarette commerce, consumer cost of cigarettes could skyrocket substantially. We already see what the cost of the Federal regulation has been to the medical profession. A recent report by a New York hospital study group shows that 25 percent of the patients' cost are attributable to compliance with governmental regulation.

I am pleased that the conferees accepted by compromise language which struck a needed balance between overbroad, blanket administrative authority to require recordkeeping and reporting, and the rights of people engaged in legitimate commerce. The Secretary of the Treasury will be permitted to require any of the reports which we found to be necessary as a result of our investigations and hearings. We have enumerated those reports, and have added the caveat that this information shall be contained on business records kept in the normal course of business. It is the intention of the conference committee that the Secretary shall require no additional records beyond these normal business records, and further, that absolutely no reporting to the Secretary by persons engaged in this commerce will be required. Thus, records will be maintained by the businesses on their own premises, and will be available for inspection.

The responsibility for investigation and prosecution of this type of crime is our greatest concern. and we have achieved this result by the compromise agreement. We will not unduly burden persons engaged in the commerce by these requirements, nor will we restrict effective enforcement, which could have been the case had the Senate not receed from its limits.

Our committee has not been alone in efforts to stem this $330 million per year State revenue loss. The Subcommittee on Miscellaneous Revenue Measures of the House Committee on Ways and Means conducted hearings last March. These hearings examined the good efforts of Messrs. DRINAN, JONES, and PATTISON, all of whom provided excellent leadership in alternative measures to fight the bootlegging problem. During hearings before that committee as well as our committee, James Tulley, New York State Commissioner, strongly endorsed the uniform tax approach, in which the Federal Government would apply a uniform tax so as to eliminate the disparity between States and municipalities. Mr. Tulley spoke of the wide differences between such States as North Carolina, which levys a 2-cent tax per pack of cigarettes, to 23 cents in New York City. In fact, during Mr. Tulley's testimony, the chairman of our subcommittee, Mr. CONYERS, indicated a great deal of sentiment for such an approach.

However, it is a recognition of the individual State's rights and responsibilities to create its own taxing structures that I have advocated the Federal contraband approach. While some may disagree, I believe that our approach has sufficient history in other areas of criminal law enforcement to be worth attempting. For example, just 3 years ago, one of the biggest roadside industries was the sale of bootleg tape recorded music. Every truck stop along the highway visibly displayed counterfeit tapes which everyone knew were underground copies of the originally produced musical recordings. It was through the action of the Congress that the copyright laws were altered so as to prohibit the sale and distribution of bootleg cassettes. Since the time we passed these laws, a substantial reduction in these sales has occurred. The penalties alone have served as an effective deterrent.

Similarly, in the creation of a Federal law prohibiting transportation of untaxed cigarettes, we create a strict deterrent. The penalties of up to 5 years imprisonment and $100,000 fine for violation of the act are going to be effective. The provisions of the bill permitting the Treasury Department and the FBI to enforce the act will create a strong, unified Federal thrust to combat cigarette bootlegging, a much needed response to this form of racketeering in which top organized crime figures have participated.

It is my hope that legislation upon which we are voting will encourage continued State action in enforcement and proper tax administration. At the present time, the States do not rely upon the Federal Government for enforcement. They presently have their own structures of law enforcement. It would be my hope that they continue to act positively to stop illicit cigarette trade. It would also be my hope that the States and municipalities do not take this legislation as a signal to begin raising taxes to create a higher threshold of profit. If the disparity between high and low tax areas continues to widen, some criminals will remain in the business regardless of the penalties. Our legislation encourages cooperation between the Federal Government and the States and among the States themselves to cooperate in law enforcement efforts. Let us hope that our goal is now met.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, I merely want to add the one observation that in all the legislation we have passed this year, I think we could differ as to whether most of it was needed or not. Many times we argue whether we need a new program; however, I think here is one case where we have a specific Federal responsibility, a responsibility that is necessary to be executed to help out States, States which are the victims of interstate illegal bootlegging.

Mr. Speaker, I want to commend my colleague, the gentleman from Illinois (Mr. RAILSBACK), who has carried the ball on this legislation. I think the product we see now is basically a committee product; yet, at the same time, it was the original idea of my colleague, the gentleman from Illinois, and is here in final form because of his diligent efforts.

Mr. Speaker, we are passing a bill—and I am sure it will be adopted—which we can say at the end of this session, "Here is one law really needed by the States. Here is one which does not create a brand new unnecessary program. Here is a bill which epitomizes the Federal system which requires that the Federal Government act."

Mr. Speaker, I think from every standpoint we can be proud of this particular piece of legislation, this conference report.

I want to commend my colleague from New York and in particular my colleague from Illinois, whose basic idea this bill embodies.

Mr. RAILSBACK. Mr. Speaker, I thank the gentleman from Ohio very much.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. SAWYER).

Mr. SAWYER. Mr. Speaker, I rise in support of the conference report.

Mr. RAILSBACK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I simply want to commend my colleague, the gentlewoman from New York (Ms. HOLTZMAN), and the gentleman from Illinois (Mr. RAILSBACK) on this legislation.

This problem of cigarette bootlegging has been a very difficult one for my State, New York, one which has caused us very considerable losses of tax revenues.

Mr. Speaker, I very much appreciate what they have done in putting together this legislation to try to deal with that problem.

Ms. HOLTZMAN. Mr. Speaker, I yield 1 minute to my distinguished colleague, the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Speaker, I would also like to enthusiastically support the conference report.

I want to point out that we have a particular problem in my district, on the boundary between the States of Ohio and Kentucky. In that kind of situation we have a particular problem. Therefore, Mr. Speaker, I want to associate myself with the remarks that have been made.

Mr. Speaker, everyone agrees that cigarette smuggling is a serious problem which is virtually impossible for the single State to control. We should not put off taking action any longer.

The States have been unable to control cigarette smuggling because cigarettes are relatively easy to transport across open State borders. In addition, more and more criminals are being attracted into this activity because the profits are so high due to the existing tax differentials between States. These differentials can run as high as 19 cents per pack of cigarettes. Cigarette smuggling also is attractive because the current penalties are generally very light and although it is an interstate problem it is not a Federal offense.

For these reasons, I believe that it is time for the Federal Government to come to the aid of the States by taking strong action to make the smuggling of cigarettes a Federal offense with a fine of $10,000 or 2 years imprisonment. I am a sponsor of a piece of legislation, H.R. 10322, which seeks to do precisely this.

This problem is becoming more and more controlled by organized crime. There has been testimony presented in recent hearings that proves organized crime is receiving tens of millions of dollars for cigarette smuggling, and that it is their second highest source of revenue. The only activity from which they earn more is narcotics sales. The money they earn from cigarette smuggling goes to finance their other activities such as gambling, and prostitution. We cannot allow this activity to continue, and indirectly condone it by failing to enact strict Federal laws, and by not making it a Federal offense.

Testimony has shown that revenue losses from uncollected taxes to individual States has approached $400,000. The losses to my own State of Ohio has exceeded $30,000. Some States on the east coast such as New York and Pennsylvania have lost even more than Ohio.

In addition to the revenue losses of the States, cigarette smuggling is driving honest, legitimate wholesalers out of business. In some areas it has been estimated that more than one-third of all wholesalers have folded due to cigarette smuggling. Honest businessmen who have to cope with rising prices and the general ill-effects of inflation should not have to put up with having their businesses destroyed due to cigarette smuggling.

The problem of cigarette smuggling has become so pervasive and involves so many dollars that even the Departments of Justice and Treasury, who in the past have opposed making cigarette smuggling a Federal crime, have now come out in favor of such legislation. This is an important development because it shows that Federal agencies have become aware of the extent and criminal implications of allowing cigarette smuggling to continue unimpeded by Federal legislation. This legislation is desperately needed and should not be put off any longer.

I would like to make one additional observation before closing. Some Members of this Congress are against legislation to make cigarette smuggling a Federal crime because they feel the problem will be solved by legislation which will do away with the extremes in tax differentials between States. I agree that this type of legislation is also needed, but we have no assurances that this legislation could possibly be enacted this session. I am in favor of making cigarette smuggling a Federal crime now so that our law enforcement officers and the States will have immediate help to deal with the problem.

The Congress and the rest of the country is agreed on the extent of the problem and on the need for legislation, let us not hesitate any longer before enacting it. The honest people of this Nation should not be pawns in this smuggling racket. Every day we wait only drains needed money from the paychecks of honest people, and fills the pockets of organized crime.

I urge passage of the bill.

Ms. HOLTZMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 0, not voting 64, as follows:

[Roll No. 928]

YEAS—366

Abdnor	Brodhead	D'Amours
Addabbo	Brooks	Daniel, Dan
Akaka	Broomfield	Daniel, R. W.
Alexander	Brown, Calif.	Danielson
Ambro	Brown, Mich.	de la Garza
Anderson, Calif.	Brown, Ohio	Delaney
Anderson, Ill.	Broyhill	Dellums
Andrews, N.C.	Buchanan	Dent
Andrews, N. Dak.	Burgener	Derrick
Annunzio	Burke, Mass.	Derwinski
Archer	Burleson, Tex.	Devine
Ashbrook	Burlison, Mo.	Dicks
Ashley	Burton, Phillip	Dodd
Aspin	Butler	Dornan
AuCoin	Carr	Downey
Bafalis	Carter	Drinan
Baldus	Cavanaugh	Duncan, Tenn.
Barnard	Cederberg	Early
Baucus	Chappell	Eckhardt
Bauman	Chisholm	Edgar
Beard, R.I.	Clausen, Don H.	Edwards, Ala.
Bedell	Clawson, Del	Edwards, Calif.
Beilenson	Clay	Edwards, Okla.
Benjamin	Cleveland	Eilberg
Bennett	Cochran	Emery
Bevill	Cohen	English
Bingham	Coleman	Erlenborn
Blanchard	Collins, Ill.	Ertel
Boggs	Collins, Tex.	Evans, Del.
Boland	Conable	Evans, Ind.
Bolling	Conte	Fary
Bonker	Corcoran	Fascell
Bowen	Corman	Fenwick
Brademas	Cornell	Findley
Breaux	Cornwell	Fish
Breckinridge	Cotter	Fisher
Brinkley	Crane	Fithian
	Cunningham	Flippo
	D'Amours	Flood
	Daniel, Dan	Florio
	Daniel, R. W.	Foley
	Danielson	Ford, Tenn.
	de la Garza	Fountain
	Delaney	Fowler
	Dellums	Fraser
	Dent	Frenzel
	Derrick	Fuqua
	Derwinski	Gammage
	Devine	Garcia
	Dicks	Gaydos
	Dodd	Gephardt
	Dornan	Giaimo
	Downey	Gibbons
	Drinan	Gilman
	Duncan, Tenn.	Ginn
	Early	Glickman
	Eckhardt	Goldwater
	Edgar	Gonzalez
	Edwards, Ala.	Goodling
	Edwards, Calif.	Gore
	Edwards, Okla.	Gradison
	Eilberg	Grassley
	Emery	Green
	English	Gudger
	Erlenborn	Guyer
	Ertel	Hagedorn
	Evans, Del.	Hall
	Evans, Ind.	Hamilton
	Fary	Hammer-schmidt
	Fascell	Hanley
	Fenwick	Hannaford
	Findley	Hansen
	Fish	Harris
	Fisher	Harsha
	Fithian	Hawkins
	Flippo	Heckler
	Flood	Hefner
	Florio	Heftel
	Foley	Hightower
	Ford, Tenn.	Hillis
	Fountain	Holland
	Fowler	Hollenbeck
	Fraser	Holt
	Frenzel	Holtzman
	Fuqua	Horton
	Gammage	Howard
	Garcia	Hubbard
	Gaydos	Huckaby
	Gephardt	Hughes
	Giaimo	Hyde
	Gibbons	Ireland
	Gilman	Jacobs
	Ginn	Jeffords
	Glickman	Jenkins
	Goldwater	Jenrette
	Gonzalez	Johnson, Calif.
	Goodling	Johnson, Colo.
	Gore	Jones, N.C.
	Gradison	Jones, Okla.
	Grassley	Jones, Tenn.
	Green	Jordan
	Gudger	Kastenmeier
	Guyer	Kazen
	Hagedorn	Kelly
	Hall	Kemp
	Hamilton	Keys
	Hammer-schmidt	Kildee
	Hanley	Kindness
	Hannaford	Kostmayer
	Hansen	Krebs
	Harris	LaFalce
	Harsha	Lagomarsino
	Hawkins	Latta
	Heckler	Le Fante
	Hefner	Leach
	Heftel	Lederer
	Hightower	Lent
	Hillis	Livingston
	Holland	Lloyd, Calif.
	Hollenbeck	Lloyd, Tenn.
	Holt	Long, La.
	Holtzman	Long, Md.
	Horton	Lott
	Howard	Luken
	Hubbard	Lundine
	Huckaby	McClory
	Hughes	McCloskey
	Hyde	McCormack
	Ireland	McDade
	Jacobs	McDonald
	Jeffords	McEwen
	Jenkins	McHugh
	Jenrette	McKay
	Johnson, Calif.	McKinney
	Johnson, Colo.	Madigan
	Jones, N.C.	Maguire
	Jones, Okla.	Mahon
	Jones, Tenn.	Mann
	Jordan	Markey
	Kastenmeier	Marks
	Kazen	Marriott
	Kelly	Martin
	Kemp	Mattox
	Keys	Mazzoli
	Kildee	Meyner
	Kindness	Michel
	Kostmayer	Mikulski
	Krebs	Miller, Calif.
	LaFalce	Miller, Ohio
	Lagomarsino	Mineta
	Latta	Minish
	Le Fante	Mitchell, N.Y.
	Leach	Moakley
	Lederer	Moffett
	Lent	Mollohan
	Livingston	Montgomery
	Lloyd, Calif.	Moore
	Lloyd, Tenn.	Moorhead, Calif.
	Long, La.	Moorhead, Pa.
	Long, Md.	Mottl
	Lott	Murphy, Ill.
	Luken	Murphy, N.Y.
	Lundine	Murphy, Pa.
	McClory	Murtha
	McCloskey	Myers, Gary
	McCormack	Myers, John
	McDade	Myers, Michael
	McDonald	Natcher
	McEwen	Neal
	McHugh	Nedzi
	McKay	Nichols
	McKinney	Nix
	Madigan	Nolan
	Maguire	Nowak
	Mahon	O'Brien
	Mann	Oberstar
	Markey	Ottinger
	Marks	Panetta
	Marriott	Patten
	Martin	Patterson
	Mattox	Pattison
	Mazzoli	Pease
	Meyner	Pepper
	Michel	Perkins
	Mikulski	Pickle
	Miller, Calif.	Pike
	Miller, Ohio	Poage
	Mineta	Pressler
	Minish	Preyer
	Mitchell, N.Y.	Price
	Moakley	Pritchard
	Moffett	Pursell
	Mollohan	Quayle
	Montgomery	Quillen
	Moore	Rahall
	Moorhead, Calif.	Railsback
	Moorhead, Pa.	Rangel
	Mottl	Regula
	Murphy, Ill.	Reuss
	Murphy, N.Y.	Rhodes
	Murphy, Pa.	Richmond
	Murtha	Rinaldo
	Myers, Gary	Roberts
	Myers, John	Robinson
	Myers, Michael	Rodino
	Natcher	Roe
	Neal	Rogers
	Nedzi	Rooney
	Nichols	Rose
	Nix	Rosenthal
	Nolan	Rostenkowski
	Nowak	Rousselot
	O'Brien	Roybal
	Oberstar	Ruppe
	Ottinger	Russo
	Panetta	Santini
	Patten	Sarasin
	Patterson	Satterfield
	Pattison	Sawyer
	Pease	Scheuer
	Pepper	Schroeder
	Perkins	Schulze
	Pickle	Sebelius
	Pike	Seiberling
	Poage	Sharp
	Pressler	Shuster
	Preyer	Sikes
	Price	Simon
	Pritchard	Sisk
	Pursell	Skelton
	Quayle	Skubitz
	Quillen	Slack
	Rahall	Smith, Iowa
	Railsback	Snyder
	Rangel	Solarz
	Regula	Spellman
	Reuss	Spence
	Rhodes	St Germain
	Richmond	Staggers
	Rinaldo	Stangeland
	Roberts	Stanton
	Robinson	Stark
	Rodino	Steers
	Roe	Steiger
	Rogers	Stokes
	Rooney	Stratton
	Rose	Studds
	Rosenthal	Stump
	Rostenkowski	Symms
	Rousselot	Taylor
	Roybal	Thompson
	Ruppe	Thornton
	Russo	Traxler
	Santini	Trible
	Sarasin	Tsongas
	Satterfield	Tucker
	Sawyer	Ullman
	Scheuer	Van Deerlin
	Schroeder	Vander Jagt
	Schulze	Vanik
	Sebelius	Vento
	Seiberling	Volkmer
	Sharp	Waggonner
	Shuster	Walgren
	Sikes	Walker
	Simon	Walsh
	Sisk	Wampler
	Skelton	Watkins
	Skubitz	Waxman
	Slack	Weaver
	Smith, Iowa	Weiss
	Snyder	Whalen
	Solarz	White
	Spellman	Whitehurst
	Spence	Whitley
	St Germain	Whitten
	Staggers	Wiggins
	Stangeland	Wilson, Bob
	Stanton	Winn
	Stark	Wirth
	Steers	Wolff
	Steiger	Wright
	Stokes	Wydler
	Stratton	Wylie
	Studds	Yates
	Stump	Yatron
	Symms	Young, Alaska
	Taylor	Young, Fla.
	Thompson	Young, Mo.
	Thornton	Zablocki
	Traxler	Zeferetti
	Trible	
	Tsongas	
	Tucker	
	Ullman	
	Van Deerlin	
	Vander Jagt	
	Vanik	
	Vento	
	Volkmer	
	Waggonner	
	Walgren	
	Walker	
	Walsh	
	Wampler	
	Watkins	
	Waxman	
	Weaver	
	Weiss	
	Whalen	
	White	
	Whitehurst	
	Whitley	
	Whitten	
	Wiggins	
	Wilson, Bob	
	Winn	
	Wirth	
	Wolff	
	Wright	
	Wydler	
	Wylie	
	Yates	
	Yatron	
	Young, Alaska	
	Young, Fla.	
	Young, Mo.	
	Zablocki	
	Zeferetti	

NAYS—0

NOT VOTING—64

Ammerman	Davis	Kasten
Applegate	Dickinson	Krueger
Armstrong	Diggs	Leggett
Badham	Dingell	Lehman
Beard, Tenn.	Duncan, Oreg.	Levitas
Biaggi	Evans, Colo.	Lujan
Blouin	Evans, Ga.	McFall
Bonior	Flowers	Marlenee
Burke, Calif.	Flynt	Mathis
Burke, Fla.	Ford, Mich.	Meeds
Burton, John	Forsythe	Mikva
Caputo	Frey	Milford
Carney	Harkin	Mitchell, Md.
Conyers	Harrington	Moss
Coughlin	Ichord	Oakar

Obey	Ryan	Treen
Pettis	Shipley	Udall
Quie	Smith, Nebr.	Wilson, C. H.
Risenhoover	Steed	Wilson, Tex.
Roncalio	Stockman	Young, Tex.
Rudd	Teague	
Runnels	Thone	

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Quie.
Mr. Krueger with Mr. Stockman.
Mr. Shipley with Mr. Thone.
Mr. Charles Wilson of Texas with Mrs. Smith of Nebraska.
Mr. Udall with Mr. Dickinson.
Mr. Leggett with Mr. Lujan.
Mr. Teague with Mr. Treen.
Mr. Ryan with Mr. Coughlin.
Mr. Steed with Mr. Caputo.
Mr. Roncalio with Mr. Burke of Florida.
Mr. Obey with Mr. Beard of Tennessee.
Mr. Charles H. Wilson of California with Mr. Forsythe.
Ms. Oakar with Mr. Badham.
Mr. Dingell with Mr. Frey.
Mr. Carney with Mr. Marlenee.
Mr. Ichord with Mr. Kasten.
Mr. Ford of Michigan with Mr. Levitas.
Mr. Davis with Mr. Meeds.
Mr. Mathis with Mr. Lehman.
Mr. Flynt with Mr. Milford.
Mr. Mikva with Mr. Evans of Colorado.
Mr. Mitchell of Maryland with Mr. McFall.
Mr. Flowers with Mrs. Burke of California.
Mr. Applegate with Mr. Blouin.
Mr. Bonior with Mr. Diggs.
Mr. John L. Burton with Mr. Ammerman.
Mr. Conyers with Mr. Harrington.
Mr. Duncan of Oregon with Mr. Moss.
Mr. Evans of Georgia with Mr. Harkin.
Mr. Runnels with Mr. Rudd.
Mr. Risenhoover with Mr. Armstrong.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REQUEST TO CONSIDER HOUSE CONGRESSIONAL RESOLUTION 755, AUTHORIZING CORRECTION IN ENROLLMENT OF S. 1487, ELIMINATING RACKETEERING IN SALE AND DISTRIBUTION OF CIGARETTES

Ms. HOLTZMAN. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 755) directing the Secretary of the Senate to make a correction in the enrollment of the Senate bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, the Secretary of the Senate shall make the following correction:

In section 2343 (a) of title 18, United States Code, as added by the first section of the bill, strike out "To the extent that such information is contained in existing business records, no additional records shall be required by the Secretary." and insert in lieu thereof "Such information shall be contained on business records kept in the normal course of business.".

Ms. HOLTZMAN. (during the reading). Mr. Speaker, I ask uanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded reading the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York for the immediate consideration of House Concurrent Resolution 755?

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO H.R. 14279 WITH AMENDMENTS

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 1439) providing for concurring in the Senate amendments to the bill (H.R. 14279) with amendments.

The Clerk read as follows:

H. RES. 1439

Resolved, That upon the adoption of this resolution the bill (H.R. 14279) to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions, with the Senate amendments thereto, is taken from the Speaker's table to the end (1) that the House concur, and it does hereby, in the Senate amendment to the title with an amendment as follows:

"A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Financial Institutions Examination Council, and for other purposes."

; and (2) that the House concur, and it does hereby, in the Senate amendment to the text with an amendment as follows: In view of the matter proposed by the Senate:

That this Act may be cited as the "Financial Institutions Regulatory and Interest Rate Control Act of 1978".

TITLE I—SUPERVISORY AUTHORITY OVER DEPOSITORY INSTITUTIONS

SEC. 101. The Federal Reserve Act is amended by redesignating sections 29 and 30 as sections 30 and 31, respectively, and by inserting after section 28 a new section as follows:

"SEC. 29. (a) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of section 22 or 23A of this Act, or any regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, or the Board in the case of a State member bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(b) In determining the amount of the penalty the Comptroller of the Currency or the Board, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(c) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (d). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(d) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency or the Board, as the case may be. The Comptroller of the Currency or the Board, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Comptroller of the Currency or the Board, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(e) If any member bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency or the Board, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(f) The Comptroller of the Currency and the Board shall promulgate regulations establishing procedures necessary to implement this section.

"(g) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 102. Section 19 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(j)(1) Any member bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such member bank who violates any provision of this section, or any regulation or order issued by the Board pursuant thereto, shall forfeit and pay a civil money penalty of not more than $100 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect

to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The member bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in paragraph (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any member bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The Board shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Board shall be set aside if found to be unsupported by substantial evidence as provided by section 706 (2) (E) of title 5, United States Code.

"(5) If any member bank or person fails to pay an assessment after it has become a final and unappealable order or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Board shall promulgate regulations estbalishing procedures necessary to implement this subsection.

"(7) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

SEC. 103. Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting "(a)" immediately after "SEC. 5239." and by inserting at the end thereof the following new subsection:

"(b) (1) Any national banking association which violates, or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such association who violates any of the provisions of this chapter, or any regulation issued pursuant thereto, shall forfeit and pay a civil money penalty of not more than $1,000 per day for each during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Comptroller shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The association or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5. The agency determinations shall be made by final order which may be reviewed only as provided in subsection (4). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller. The Comptroller shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28. The findings of the Comptroller shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2) (e) of title 5.

"(5) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(6) The Comptroller may, in his discretion, compromise, modify, or remit any civil money penalty which is subject to imposition or has been imposed under this section.

"(7) The Comptroller shall promulgate regulations establishing procedures necessary to implement this subsection.

"(8) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

SEC. 104. Section 22 of the Federal Reserve Act is amended by adding at the end thereof the following new subsection:

"(h) (1) No member bank shall make any loan or extension of credit in any manner to any of its executive officers, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to any company controlled by such an executive officer or person, or to any political or campaign committee the funds or services of which will benefit such an executive officer or person or which is controlled by such an executive officer or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer or person and to all companies controlled by such executive officer or person and to all political or campaign committees the funds or services of which will benefit such executive officer or person or which are controlled by such executive officer or person, would exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes, as amended. For purposes of this paragraph, the provisions of section 5200 of the Revised Statutes, as amended, shall be deemed to apply to a State member bank as if such State member bank were a national banking association.

"(2) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such an executive officer, director, or person, or to any political or campaign committee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person, where the amount of such loan or extension of credit, when aggregated with the amount of all other loans or extensions of credit then outstanding by such bank to such executive officer, director, or person and to all companies controlled by such executive officer, director, or person and to all political or campaign committees the funds or services of which will benefit such executive officer, director, or person or which are controlled by such executive officer, director, or person, would exceed $25,000, unless such loan, line of credit, or extension of credit is approved in advance by a majority of the entire board of directors with the interested party abstaining from participating directly or indirectly in the voting.

"(3) No member bank shall make any loan or extension of credit in any manner to any of its executive officers or directors, or to any person who directly or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, or to any company controlled by such executive officer, director, or person, or to any political or campaign commitee the funds or services of which will benefit such executive officer, director, or person or which is controlled by such executive officer, director, or person, unless such loan or extension of credit is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(4) No member bank may pay an overdraft on an account at such bank of an executive officer or director.

"(5) For purposes of this subsection, an executive officer, director, or person shall be considered to have control of a company if such executive officer, director, or person, directly or indirectly or acting through or in concert with one or more other persons—

"(A) owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the company;

"(B) controls in any manner the election of a majority of the directors of the company; or

"(C) has the power to exercise a controlling influence over the management or policies of such company.

"(6) For the purposes of this subsection—

"(A) the term 'person' means an individual or company;

"(B) the term 'company' means any corporation, partnership, business trust, association, joint venture, pool syndicate, sole proprietorship, unincorporated organization, any other form of business entity not specifically listed herein, or any other trust, but shall not include any insured bank or any corporation the majority of shares of which is owned by the United States or by any State;

"(C) the term 'extension of credit' has the same meaning assigned such term in the fourth paragraph of section 23A of this Act;

"(D) a person shall be deemed to be a 'director' of a member bank or a 'person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has power to vote more than 10 per centum of any class of voting securities of a member bank' if such person has such relationship with any bank holding company of which such member is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(E) a person shall be deemed to be an 'officer' of a member bank if such person is an officer of any bank holding company of which such member bank is a subsidiary, as defined by the Bank Holding Company Act (12 U.S.C. 1841), or with any other subsidiary of such bank holding company;

"(F) the term 'executive officer' has the same meaning assigned such term under section 22(g) of this Act; and

"(G) the term 'pay an overdraft on an account' means the payment by a member bank of an amount for an account holder in excess of the funds on deposit in the account and does not include a payment of funds by the member bank in accordance with either a written preauthorized, interest-bearing extension of credit specifying a method of repayment or a written preauthorized transfer of funds from another account of the account holder at that bank.

"(7) The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it deems necessary to effectuate the purposes and to prevent evasions of this subsection. The Board may further prescribe rules providing a reasonable period of time after the date of enactment of this subsection within which the amount of outstanding loans or extensions of credit made prior to such date of enactment shall be reduced so as to conform to the limitations of this subsection.".

SEC. 105. (a) Section 5 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844), is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act, the Board may, whenever it has reasonable cause to believe that the continuation by a bank holding company of any activity or of ownership or control of any of its nonbank subsidiaries, other than a nonbank subsidiary of a bank, constitutes a serious risk to the financial safety, soundness, or stability of a bank holding company subsidiary bank and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the bank holding company or any such nonbank subsidiaries, after due notice and opportunity for hearing, and after considering the views of the bank's primary supervisor, which shall be the Comptroller of the Currency in the case of a national bank or the Federal Deposit Insurance Corporation and the appropriate State supervisory authority in the case of an insured nonmember bank, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Board may direct in unusual circumstances) its ownership or control of any such subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the bank holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing bank holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

"(2) The Board may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the holding company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in section 9 of this Act, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(b)(1) Section 408(h) of the National Housing Act (12 U.S.C. 1730a(h)) is amended by adding immediately after "under subsection (a)(2)(D)" in paragraphs (3)(A) and (3)(B) of subsection (h) the phrase "or under subsection (h)(5)" and is amended by redesignating paragraph (h)(5) as (h)(6) and by adding a new paragraph (h)(5) to read as follows:

"(5)(A) Notwithstanding any other provision of this section, the Corporation may, whenever it has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary insured institution and is inconsistent with the sound operation of an insured savings and loan institution or with the purposes of this section or with the Financial Institutions Supervisory Act, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within one hundred and twenty days or such longer period as the Corporation directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.".

"(B) The Corporation may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith, but except as provided in subsection (k), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.".

(2) Section 406(f) of the National Housing Act (12 U.S.C. 1729(f)) is amended to read as follows:

"(f)(1) In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation, the Corporation is authorized, in its discretion and upon such terms and conditions as it may determine, to make loans to, to purchase the assets of, or to make a contribution to, an insured institution or an insured institution in default.

"(2) Whenever an insured institution is in default or, in the judgment of the Corporation, is in danger of default, the Corporation may, in order to facilitate a merger or consolidation of such insured institution with another insured institution or the sale of the assets of such insured institution and the assumption of its liabilities by another insured institution and upon such terms and conditions as the Corporation may determine, purchase any such assets or assume any such liabilities, or make loans to such other insured institution, or guarantee such other insured institution against loss by reason of its merging or consolidating with or assuming the liabilities and purchasing the assets of such insured institution in or in danger of default.

"(3) No contribution or guarantee shall be made pursuant to paragraphs (1) or (2) of this subsection (f) in an amount in excess of that which the Corporation finds to be reasonably necessary to save the cost of liquidating such insured institution in or in danger of default, but if the Corporation determines that the continued operation of such institution is essential to provide adequate savings or home financing services in its community, such limitation upon amount of a contribution or guarantee shall not apply.".

SEC. 106. (a) Section 8 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1847), is amended by redesignating "SEC. 8." as "SEC. 8. (a)" and by adding a new subsection (b) to read as follows:

"(b)(1) Any company which violates or any individual who participates in a violation of any provision of this Act, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than 1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(2) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(3) The company or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in section 9. If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(4) If any company or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Board, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(5) The Board shall promulgate regulations establishing procedures necessary to implement this subsection.

"(6) All penalties collected under authority of this subsection shall be covered into the Treasury of the United States.".

(b) Section 5 of the Bank Holding Company Act is amended by adding the following new paragraph:

"(f) In the course of or in connection with an application, examination, investigation or other proceeding under this Act, the Board, or any member or designated representative thereof, including any person designated to conduct any hearing under this Act, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations to effectuate the purposes of this subsection. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this Act may apply to the United States District Court for the District of Columbia, or the United States District Court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for the enforcement of any subpena or subpena

duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any service required under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide. Any court having jurisdiction of any proceeding instituted under this subsection may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper. Any person who wilfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpena of the Board, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(c) Section 408(j) of the National Housing Act (12 U.S.C. 1730a(j)), is amended by adding thereto a new paragraph (j)(4) to read as follows:

"(4)(A) Any company which violates or any individual who participates in a violation of any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in the section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the company or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The company or person assessed shall be afforded an apportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any company or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the company is located, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any company or person fails to pay an assessment after it has become final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States District Court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 107. (a)(1) Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended to read as follows:

"(b)(1) If, in the opinion of the appropriate Federal banking agency, any insured bank, bank which has insured deposits, or any director, officer, employee, agent, or other person participating in the conduct to the affairs of such a bank is engaging or has engaged, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank or any written agreement entered into with the agency, the agency may issue and serve upon the bank or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of any party so served. Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such bank to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(e) of the National Housing Act (12 U.S.C. 1730(e)) is amended to read as follows:

"(e)(1) If, in the opinion of the Corporation, any insured institution, institution which has insured accounts or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution or any written agreement entered into with the Corporation, including any agreement entered into under section 403 of this title, the Corporation may issue and serve upon the institution or such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution or directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such institution to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

"(3) This subsection and subsections (f), (g), (h), (j), (k), (m)(3), (n), (o), (p), and (q) of this section shall apply to any savings and loan holding company, and to any subsidiary (other than an insured institution) of a savings and loan holding company, as those terms are defined in section 408 of this title, and to any affiliate service corporation of an insured institution in the same manner as they apply to insured institutions.".

(3) Section 5(d)(2) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(2)), is amended to read as follows:

"(2)(A) If, in the opinion of the Board, any association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is engaging or has engaged, or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to engage, in an unsafe or unsound practice in conducting the business of such association, or is violating or has violated or the Board has reasonable cause to believe that the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association is about to violate, a law, rule, or regulation, or charter, or any condition imposed in writing by the Board in connection with the granting of any application or other request by the association or any written agreement entered into with the Board, the Board may issue and serve upon the association of such director, officer, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association or the director, officer, employee, agent, or other person participating in the conduct of the affairs of such association. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association or the director, officer, employee, agent, or other participating in the conduct of the affairs of such association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association or its directors, officers, employees, agents, and other persons participating in the conduct of the affairs of such association to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association or the party or parties so served (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

"(C) This paragraph and paragraphs (3), (4), (5), (7), (8), (9), (10), (12) (A) and (B), (13), and (14) of this subsection (d) shall apply to any savings and loan holding company or to any subsidiary (other than an association) of a savings and loan holding company, as those terms are defined in section 408 of the National Housing Act (12 U.S.C. 1730a), as amended, and to any affiliate service corporation of an association in the same manner as they apply to an association.".

(4) Section 206(e) of the Federal Credit Union Act (12 U.S.C. 1786(e)(1)) is amended to read as follows:

"(e)(1) If, in the opinion of the Administrator, any insured credit union, credit union which has insured accounts, or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union or such director, officer, committee member, employee, agent, or other person a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease-and-desist therefrom should issue against the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of any party so served. Unless the party or parties so served shall appear at the hearing by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the Administrator shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union or the director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the credit union or its directors, officers, committee members, employees, agents, and other persons participating in the conduct of the affairs of such credit union to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

"(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the credit union or other person concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(b) Section 8(b)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)(3)) is amended to read as follows:

"(3) This subsection and subsections (c) through (f) and (h) through (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a bank holding company, as those terms are defined in the Bank Holding Company Act of 1956, and to any organization organized and operated under section 25A of the Federal Reserve Act or operating under section 25 of the Federal Reserve Act, in the same manner as they apply to a State member insured bank. Nothing in this subsection or in subsection (c) of this section shall authorize any Federal banking agency, other than the Board of Governors of the Federal Reserve System, to issue a notice of charges or cease-and-desist order against a bank holding company or any subsidiary thereof (other than a bank or subsidiary of that bank).".

(c)(1) Sections 8(c) (1) and (2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c) (1) and (2)) are amended to read as follows:

"(c)(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to seriously weaken the condition of the bank or otherwise seriously prejudice the interests of its depositors prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (b) of this section, the agency may issue a temporary order requiring the bank or such director, officer, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the bank or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank or such director, officer, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the bank concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such bank has been served with a temporary cease-and-desist order, the bank or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.".

(2) Section 407(f) (1) and (2) of the National Housing Act (12 U.S.C. 1730(f) (1) and (2)) is amended to read as follows:

"(f)(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution or any institution any of the

accounts of which are insured pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the institution, or is likely to seriously weaken the condition of the institution or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (c) of this section, the Corporation may issue a temporary order requiring the institution or such director, officer, employee, agent, or other person to cease-and-desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the institution and/or such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the institution or such director, officer, employee, agent, or other person, until the effective date of any such order.

"(2) Within ten days after the institution concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution has been served with a temporary cease-and-desist order, the institution or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the Distict of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution or such director, officer, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(3) Section 5(d)(3) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(3) (A) and (B)), is amended to read as follows:

"(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to seriously weaken the condition of the association or otherwise seriously prejudice the interests of its savings account holders prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this subsection the Board may issue a temporary order requiring the association or such director, office, employee, agent, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the association of such director, officer, employee, agent, or other person participating in the conduct of the affairs of such institution and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the association or such director, officer, employee, agent, or other person, until the effective date of such order.

"(B) Within ten days after the association concerned or any director, officer, employee, agent, or other person participating in the conduct of the affairs of such association has been served with a temporary cease-and-desist order, the association or such director, officer, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank or such director, officer, employee, agent, or other person under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.".

(4) Sections 206(f) (1) and (2) of the Federal Credit Union Act (12 U.S.C. 1786(f) (1) and (2)) are amended to read as follows:

"(f)(1) Whenever the Administrator shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the credit union or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union pursuant to paragraph (1) of subsection (e) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to seriously weaken the condition of the credit union or otherwise seriously prejudice the interests of its insured members prior to the completion of the proceedings conducted pursuant to paragraph (1) of subsection (e) of this section, the Administrator may issue a temporary order requiring the credit union or such director, officer, committee member, employee, agents, or other person to cease and desist from any such violation or practice and to take affirmative action to prevent such insolvency, dissipation, condition, or prejudice pending completion of such proceedings. Such order shall become effective upon service upon the credit union or such director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administration shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the credit union or such director, officer, committee member, employee, agent, or other person, until the effective date of such order.

"(2) Within ten days after the credit union concerned or any director, officer, committee member, employee, agent, or other person participating in the conduct of the affairs of such credit union has been served with a temporary cease-and-desist order, the credit union or such director, officer, committee member, employee, agent, or other person may apply to the United States district court for the judicial district in which the home office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union or such director, officer, committee member, employee, agent, or other person under paragraph (1) of subsection (e) of this section, and such court shall have jurisdiction to issue such injunction.".

(d)(1) Section 8(e) of the Federal Deposit Insurance Act, as amended (13 U.S.C. 1818 (e)), is amended to read as follows:

"(e)(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or office has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstates a willful or continuing disregard for the safety or soundness of the bank, the agency may serve upon such director or officer a written notice of its intention to remove him from office.

"(2) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured bank, by conduct or practice with respect to such bank or other insured bank or other business instituion which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

"(3) In respect to any director or officer of an insured bank or any other person referred to in paragraph (1) or (2) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of

removal or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice have been established, the agency may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. In any action brought under this section by the Comptroller of the Currency in respect to any director, officer or other person with respect to a national banking association or a District bank, the findings and conclusions of the Administrative Law Judge shall be certified to the Board of Governors of the Federal Reserve System for the determination of whether any order shall issue. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.".

(2) Section 407(g) (1) and (2) of the National Housing Act (12 U.S.C. 1730(g) (1) and (2)) is amended to read as follows:

"(g)(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty or that the director or officer has received financial gain by reason of such violation or practice or breach of fiducary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or one which demonstrates a willful or continuing disregard for the safety or soundness of the institution, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.

"(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to continue as a director or officer and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and in addition, has evidenced his unfitness to participate in the conduct of affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the institution.".

(3) Section 5(d)(4) (A) and (B) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(d)(4) (A) and (B)) is amended to read as follows:

"(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, or a willful or continuing disregard for the safety or soundness of the association, the Board may serve upon such director or officer a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.

"(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced either his personal dishonesty or a willful or continuing disregard for its safety and soundness, and, in addition, has evidenced his unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office or to prohibit his further participation in any manner in the conduct of the affairs of the association.".

(4) Section 206(g) (3) through (4) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(g) (3) through (4)), is amended to read as follows:

"(3) In respect to any director, committee member, or officer of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its members, by written notice to such effect served upon such director, committee member, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice, or, if an order of removal and prohibition is issued against the director, committee member, or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, committee member, or officer or in the conduct of whose affairs he has participated.

"(4) A notice of intention to remove a director, committee member, officer, or other person from office or to prohibit his participation in the conduct of the affairs of an insured credit union, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Administrator at the request of (A) such director, committee member, or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, committee member, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice have been established, the Administrator may issue such orders of suspension or removal from office, or prohibition from participation in the conduct of the affairs of the credit union, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, committee member, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.".

(e)(1) Section 8(i) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1818 (i)), is amended by redesignating section 8(i) as 8(i)(1) and by adding at the end thereof a new paragraph as follows:

"(2)(i) Any insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such a bank who violates the terms of any order which has become final and was issued pursuant to subsection (b) or (c) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the appropriate Federal banking agency by written notice. As used in this section, the term 'violates'

includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the appropriate Federal banking agency shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The insured bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 or title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any insured bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The agency shall promptly certify and file in such Court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any insured bank or person fails to pay an assessment after it has become a final and unappeable order, or after the court of appeals has entered final judgment in favor of the agency, the agency shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) Each Federal banking agency shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.".

(2) Section 407(k) of the National Housing Act (12 U.S.C. 1730(k)) is amended by adding a new paragraph (k)(3) to read as follows:

"(3)(A) Any insured institution or any institution any of the accounts of which are insured which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an institution who violates the term of any order which has become final and was issued pursuant to subsection (e) or (f) of this section shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured institution or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured institution or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(D) Any insured institution or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured institution is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured institution or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(3) Section 5(d)(8) of the Home Owners' Loan Act, as amended (12 U.S.C. 1464(5)(d)(8)), is amended by redesignating section 5(d)(8) as 5(d)(8)(A) and by adding the following new paragraph:

"(B)(i) Any association which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such an association who violates the terms of any order which has become final and was issued pursuant to paragraph (2) or (3) of this subsection, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Board by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bring about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Board shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the association bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The association or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any association or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the association is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Board. The agency shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the agency shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any association or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Board shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Board shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(vii) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

(4) Section 206(j) of the Federal Credit Union Act, as amended (12 U.S.C. 1786(j)), is amended by redesignating section 206(j) as 206(j)(1) and by adding a new paragraph as follows:

"(2)(A) Any insured credit union which violates or any officer, director, committee member, employee, agent, or other person participating in the conduct of the affairs of such a credit union who violates the terms of any order which has become final and was issued pursuant to subsection (e) or (f) of this section, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Administrator by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty, the Administrator shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the insured credit union or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The insured credit union or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The Administrator's determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided, the as-

sessment shall constitute a final and unappealable order.

"(D) Any insured credit union or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the insured credit union is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Administrator. The Administrator shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Administrator shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any insured credit union or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action, the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Administrator shall promulgate regulations establishing procedures necessary to implement this paragraph.

"(G) All penalties collected under authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 108. Section 18(j) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1828(j)), is amended by redesignating section 18(j) as "18(j)(1)" and by adding at the end thereof the following:

"(2) The provisions of section 22(h) of the Federal Reserve Act, as amended, relating to limits on loans and extensions of credit by a member bank to its executive officers or directors or to any person who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of such member bank, except in the case of such a bank located in a city, town, or village with less than thirty thousand in population, in which case such per centum shall be 18 per centum, or to companies controlled by such an executive officer, director, or person, or to political or campaign committees the funds or services of which will benefit such an officer, director, or person or which are controlled by such an officer, director, or person and relating to board of directors' approval of and terms of such loan, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a State member bank.

"(3)(A) Any nonmember insured bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such nonmember insured bank who violates any provision of section 23A or 22(h) of the Federal Reserve Act, as amended, or any lawful regulation issued pursuant thereto, shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Corporation by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(B) In determining the amount of the penalty the Corporation shall take into account the appropriateness of the penalty with respect to the size of financial resources and good faith of the member bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(C) The nonmember insured bank or person charged shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subparagraph (D). If no hearing is requested as herein provided the assessment shall constitute a final and unappealable order.

"(D) Any nonmember insured bank or person against whom an order imposing a civil penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the member bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States Code. The findings of the Corporation shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(E) If any nonmember insured bank or person fails to pay an assessment after it has become a final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Corporation shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(F) The Corporation shall promulgate regulations establishing procedures necessary to implement this paragraph

"(G) All penalties collected under the authority of this paragraph shall be covered into the Treasury of the United States.".

SEC. 109. Any amendment made by this title which provides for the imposition of civil penalties shall apply only to violations occurring or continuing after the date of its enactment.

SEC. 110. Section 22(g) of the Federal Reserve Act, as amended (12 U.S.C. 375a), is amended by inserting the figure "$60,000" in lieu of the figure "$30,000" in paragraph (2), and by inserting the figure "$20,000" in lieu of the figure "$10,000" in paragraph (3); and by inserting the figure "$10,000" in lieu of the figure "$5,000" in paragraph (4).

SEC. 111. (a)(1) Section 8(g) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)) is amended to read as follows:

"(g)(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the appropriate Federal banking agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, by written notice served upon such director, officer, or other person, suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may, if continued service or participation by the individual may pose a threat to the interests of the bank's depositors or may threaten to impair public confidence in the bank, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the agency.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the agency to show that the continued service to or participation in the conduct of the affairs of the bank by such individual does not, or is not likely to, pose a threat to the interests of the bank's depositors or threaten to impair public confidence in the bank. Upon receipt of any such request, the appropriate Federal banking agency shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the agency to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the agency shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the bank will be continued, terminated, or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such in-

dividual from further participation in any manner in the conduct of the affairs of the bank will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the agency's decision, if adverse to the director, officer or other person. The Federal banking agencies are authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (g)(3) of this section)".

(3) Section 8(j) of the Federal Deposit Insurance Act (12 U.S.C. 1818(j)) is amended by striking out "(e)(5), (e)(7), (e)(8)" and inserting in lieu thereof "(e)(3), (e)(4)".

(4) Section 8(k) of the Federal Deposit Insurance Act (12 U.S.C. 1818(k)) is amended by striking out "paragraph (1) of subsection (g)" and inserting in lieu thereof "paragraph (1) or (3) of subsection (g)".

(5) Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended by adding at the end thereof the following new sentence: "Any person who willfully shall fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records, if in such person's power so to do, in obedience to the subpoena of the appropriate Federal banking agency, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for a term of not more than one year or both.".

(b)(1) Section 407(h) of the National Housing Act (12 U.S.C. 1730(h)) is amended to read as follows:

"(h)(1) Whenever any director or officer of an insured institution, or other persons participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonestry or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may, if continued service or participation by the individual may pose a threat to the interests of the institution's depositors or may threaten to impair public confidence in the institution, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Corporation.

"(2) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, officer, or other person concerned may request in writing an opportunity to appear before the Corporation to show that the continued service to or participation in the conduct of the affairs of the institution by such individual does not, or is not likely to, pose a threat to the interests of the institution's depositors or threaten to impair public confidence in the institution. Upon receipt of any such request, the Corporation shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the Corporation or designated employees of the Corporation to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearings, the Corporation shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the institution will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the institution will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Corporation's decision, if adverse to the director, officer, or other person. The Corporation is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 407(j)(1) of such Act (12 U.S.C. 1730(j)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(2) of this section)".

(3) Section 407(j)(2) of such Act (12 U.S.C. 1730(j)(2)) is amended by inserting "(1)" after "subsection (h)".

(c)(1) Section 5(d)(5) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(5)) is amended to read as follows:

"(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Board, may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, by written notice served upon such director, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such crime is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association, issue and serve upon such director, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall also be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office or to prohibit further participation in association affairs, pursuant to subparagraph (A), (B), or (C) of paragraph (4). Any notice of suspension or order of removal issued under this subparagraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board.

"(B) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this section, the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the association and their respective successors take office.

"(C) Within thirty days from service of any notice of suspension or order of removal issued pursuant to subparagraph (A), the director, officer, or other person concerned may request in writing an opportunity to appear before the Board to show that the continued service to or participation in the conduct of the affairs of the association by such individual does not, or is not likely to, pose a threat to the interests of the association's depositors or threaten to impair public confidence in the association. Upon receipt of any such request, the Board shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, officer, or other person) and place at which the director, officer, or other person may appear, personally or through counsel, before one or more members of the agency or designated employees of the Board to submit written materials (or, at the discretion of the agency, oral testimony) and oral argument. Within sixty days of such hearing, the Board shall notify the director, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the association will be continued, terminated or otherwise modified, or whether the order removing said director, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the association will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Board's decision, if adverse to the director, officer, or other person. The Board is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 5(d)(7)(A) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(d)(7)(A)) is amended by inserting after "Any hearing provided for in this subsection (d)" the following: "(other than the hearing provided for in paragraph (5)(C) of this section)".

(3) Section 5(d)(12)(A) of such Act (12 U.S.C. 1464(d)(12)(A)) is amended by striking "or 5(A)" and inserting in lieu thereof the following: "5(A), or 5(C)".

(4) Section 5(d)(13)(A)(1) of such Act (12 U.S.C. 1464(d)(13)(A)(1)) is amended by inserting after "paragraph (5)(A)" the following: "or (C)".

(d)(1) Section 206(h) of the Federal Credit Union Act (12 U.S.C. 1786(h)) is amended to read as follows:

"(h)(1) Whenever any director, committee member, or officer of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such director, committee member, officer, or other person suspend him from office or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such crime is entered against such director, committee member, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may, if continued service or participation by the individual may pose a threat to the interests of the credit union's depositors or may threaten to impair public confidence in the credit union, issue and serve upon such director, committee member, officer, or other person an order removing him from office or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, committee member, or officer shall cease to be a director, committee member, or officer of such credit union. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, committee member, officer, or other person from office or to prohibit further participation in the affairs of the credit union, pursuant to subsection (g) of this section. Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) hereof unless terminated by the Administrator.

"(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

"(3) Within thirty days from service of any notice of suspension or order of removal issued pursuant to paragraph (1) of this subsection, the director, committee member, officer, or other person concerned may request in writing an opportunity to appear before the Administrator to show that the continued service to or participation in the conduct of the affairs of the credit union by such individual does not, or is not likely to, pose a threat to the interests of the credit union's members or threaten to impair public confidence in the credit union. Upon receipt of any such request, the Administrator shall fix a time (not more than thirty days after receipt of such request, unless extended at the request of the concerned director, committee member, officer, or other person) and place at which the director, committee member, officer, or other person may appear, personally or through counsel, before the Administrator of his designee to submit written materials (or, at the discretion of the Administrator, oral testimony) and oral argument. Within sixty days of such hearing, the Administrator shall notify the director, committee member, officer, or other person whether the suspension or prohibition from participation in any manner in the conduct of the affairs of the credit union will be continued, terminated, or otherwise modified, or whether the order removing said director, committee member, officer, or other person from office or prohibiting such individual from further participation in any manner in the conduct of the affairs of the credit union will be rescinded or otherwise modified. Such notification shall contain a statement of the basis for the Administrator's decision, if adverse to the director, committee member, officer, or other person. The Administrator is authorized to prescribe such rules as may be necessary to effectuate the purposes of this subsection.".

(2) Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended by inserting after "Any hearing provided for in this section" the following: "(other than the hearing provided for in subsection (h)(3) of this section)".

(3) Section 206(i)(2) of such Act (12 U.S.C. 1786(i)(2)) is amended by inserting "(1)" after "subsection (h)".

SEC. 112. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended by striking out "The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of the Internal Revenue Code of 1954," and inserting in lieu thereof the following: "The prohibitions in this section shall not apply to (i) any company that was on January 4, 1977, both a bank holding company and a labor, agricultural, or horticultural orgnization exempt from taxation under section 501 of the Internal Revenue Code of 1954, or to any labor, agricultural, or horticultural organization to which all or substantially all of the assets of such company are hereafter transferred.'.

SEC. 113. The third sentence of the second paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 412) is amended by striking the words "direct obligations of the United States" and inserting in lieu thereof the words "any obligations which are direct obligations of, or are fully guaranteed as to principal and interest by, the United States or any agency thereof".

TITLE II—INTERLOCKING DIRECTORS

SEC. 201. This title may be cited as the "Depository Institution Management Interlocks Act".

SEC. 202. As used in this title—

(1) the term "depository institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank, or a credit union;

(2) the term "depository holding company" means a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956, a company which would be a bank holding company as defined in section 2(a) of the Bank Holding Company Act of 1956 but for the exemption contained in section 2(a)(5)(F) thereof, or a savings and loan holding company as defined in section 409(a)(1)(D) of the National Housing Act;

(3) the characterization of any corporation (including depository institutions and depository holding companies), as an "affiliate of," or as "affiliated" with any other corporation means that—

(A) one of the corporations is a depository holding company and the other is a subsidiary thereof, or both corporations are subsidiaries of the same depository holding company, as the term "subsidiary" is defined in either section 2(d) of the Bank Holding Company Act of 1956 in the case of a bank holding company or section 408(a)(1)(H) of the National Housing Act in the case of a savings and loan holding company; or

(B) more than 50 per centum of the voting stock of one corporation is beneficially owned in the aggregate by one or more persons who also beneficially own in the aggregate more than 50 per centum of the voting stock of the other corporation; or

(C) one of the corporations is a trust company all of the stock of which, except for directors qualifying shares, was owned by one or more mutual savings banks on the date of enactment of this Act, and the other corporation is a mutual savings bank; or

(D) one of the corporations is a bank, insured by the Federal Deposit Insurance Corporation and chartered under State law, the voting securities of which are held by other banks, as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by any such other bank in excess of 5 per centum of the paid-in capital and 5 per centum of the surplus of such other bank; or

(E) one of the corporations is a bank, chartered under State law and insured by the Federal Deposit Insurance Corporation, the voting securities of which are held only by persons who are officers of other banks as permitted by State law, and which bank is primarily engaged in providing banking services for other banks and not the public: *Provided, however*, That in no case shall the voting securities of such corporation be held by such officers of other banks in excess of 6 per centnm of the paid-in capital and 6 per centum of the surplus of such a bank.

(4) the term "management official" means an employee or officer with management functions, a director (including an advisory or honorary director) a trustee of a business

organization under the control of trustees, or any person who has a representative or nominee serving in any such capacity: Provided, That if a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank is specifically authorized under the laws of the State in which said institution is located to serve as a trustee, director, or other officer of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons, then, for the purposes of this title, such corporator, trustee, director, or other officer shall not be deemed to be a management official of such trust company: And provided further, That if a management official of a State-chartered trust company which does not make real estate mortgage loans and does not accept savings deposits from natural persons is specifically authorized under the laws of the State in which said institution is located to serve as a corporator, trustee, director, or other officer of a State-chartered savings bank or cooperative bank, then, for the purposes of this title, such management official shall not be deemed to be a management official of any such savings bank or cooperative bank; and

(5) the term "office" used with reference to a depository institution means either a principal office or a branch.

SEC. 203. A management official of a depository institution or a depository holding company may not serve as a management official of any other depository institution or depository holding company not affiliated therewith if an office of one of the institutions or any depository institution that is an affiliate of such institutions is located within either—

(1) the same standard metropolitan statistical area as defined by the Office of Management and Budget, except in the case of depository institutions with less than $20,000,000 in assets in which case the provision of paragraph (2) shall apply, as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or

(2) the same city, town, or village as that in which an office of the other institution or any depository institution that is an affiliate of such other institution is located, or in any city, town, or village contiguous or adjacent thereto.

SEC. 204. If a depository institution or a depository holding company has total assets exceeding $1,000,000,000, a management official of such institution or any affiliate thereof may not serve as a management official of any other nonaffiliated depository institution or depository holding company having total assets exceeding $500,000,000 or as a management official of any affiliate of such other institution.

SEC. 205. The prohibitions contained in sections 203 and 204 shall not apply in the case of any one or more of the following or subsidiary thereof:

(1) A depository institution or depository holding company which has been placed formally in liquidation, or which is in the hands of a receiver, conservator, or other official exercising a similar function.

(2) A corporation operating under section 25 or 25A of the Federal Reserve Act.

(3) A credit union being served by a management official of another credit union.

(4) A depository institution or depository holding company which does not do business within any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands except as an incident to its activities outside the United States.

(5) A State-chartered savings and loan guaranty corporation.

(6) A Federal Home Loan Bank or any other bank organized specifically to serve depository institutions.

SEC. 206. A person whose service in a position as a management official began prior to the date of enactment of this title and was not immediately prior to the date of enactment of this title in violation of section 8 of the Clayton Act is not prohibited by section 203 or section 204 of this title from continuing to serve in that position for a period of ten years after the date of enactment of this title. The appropriate Federal banking agency (as set forth in section 209) may provide a reasonable period of time for compliance with this title, not exceeding fifteen months, after any change in circumstances which makes such service prohibited by this title.

SEC. 207. This title shall be administered and enforced by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies,

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies,

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administrtaion, and

(6) Upon referral by the agencies named in the foregoing paragraphs (1) through (5), the Attorney General shall have the authority to enforce compliance by any person with this title.

SEC. 208. (a) Section 8(e) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)) is amended by adding at the end thereof the following new paragraph:

"(5) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of a bank under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(b) Section 5(d) of the Homeowners' Loan Act (12 U.S.C. 1464(d)) is amended by adding at the end thereof the following new paragraph:

"(15) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

(c) Section 407(q) of the National Housing Act is amended by adding at the end thereof the following:

"(4) For the purpose of enforcing any law, rule, regulation, or cease-and-desist order in connection with an interlocking relationship, the term 'officer' as used in this subsection means an employee or officer with management functions, and the term 'director' includes an advisory or honorary director, a trustee of an association under the control of trustees, or any person who has a representative or nominee serving in any such capacity.".

SEC. 209. Rules and regulations to carry out this title, including rules or regulations which permit service by a management official which would otherwise be prohibited by section 203 or section 204, may be prescribed by—

(1) the Comptroller of the Currency with respect to national banks and banks located in the District of Columbia,

(2) the Board of Governors of the Federal Reserve System with respect to State banks which are members of the Federal Reserve System, and bank holding companies.

(3) the Board of Directors of the Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation,

(4) the Federal Home Loan Bank Board with respect to institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, and savings and loan holding companies, and

(5) the National Credit Union Administration with respect to credit unions the accounts of which are insured by the National Credit Union Administration.

TITLE III—FOREIGN BRANCHING

SEC. 301. (a) Section 3(o) of the Federal Deposit Insurance Act (12 U.S.C. 1813(o)) is amended—

(1) by inserting "domestic" immediately before "branch" the first place it appears; and

(2) by inserting before the period at the end thereof a semicolon and the following: "and the term 'foreign branch' means any office or place of business located outside the United States, its territories, Puerto Rico, Guam, American Samoa, or the Virgin Islands, at which banking operations are conducted".

(b) Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by inserting "domestic" between "new" and "branch";

(3) by inserting "such" between "any" and "branch"; and

(4) by adding at the end thereof the following new paragraph:

"(2) No State nonmember insured shall establish or operate any foreign branch, except with the prior written consent of the Corporation and upon such conditions and pursuant to such regulations as the Corporation may prescribe from time to time.".

(c) Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end thereof the following new subsection:

"(l) When authorized by State law, a State nonmember insured bank may, but only with the prior written consent of the Corporation and upon such conditions and under such regulations as the Corporation may prescribe from time to time, acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks or other entities organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Directors, shall be incidental to the international or foreign business of such foreign bank or entity; and, notwithstanding the provisions of subsection (j) of this section, such State nonmember insured bank may, as to such foreign bank or entity, engage in transactions that would otherwise be covered thereby, but only in the manner and within the limits prescribed by the Corporation by general or specific regulation or ruling.".

SEC. 302. The sixth sentence of section 7(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(3)) is amended to read as follows: "The correctness of said report of conditions shall be attested by the signatures of at least two directors or trustees of the reporting bank other than the officer making such declaration, with a declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.".

SEC. 303. Section 8(n) of the Federal Deposit Insurance Act (12 U.S.C. 1818(n)) is amended—

(1) by inserting in the first sentence after "this section," the first place it appears therein the following: "or in connection with any claim for insured deposits or any examination or investigation under section 10(c),";

(2) by inserting "examination, or investigation or considering the claim for insured deposits," in the first sentence after "proceeding," the second place it appears therein;

(3) by striking out "proceedings" at the end of the first sentence thereof and inserting in lieu thereof "proceedings, claims, examinations, or investigations";

(4) by inserting "such agency or any" after "Any" at the beginning of the third sentence thereof; and

(5) by striking out "section" and inserting in lieu thereof "subsection" in the fourth sentence thereof.

SEC. 304. Section (8)(q) of the Federal Deposit Insurance Act (12 U.S.C. 1818(q)) is amended to read as follows:

"(q) Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract (1) the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption; (2) the separate insurance of all deposits so assumed shall terminate at the end of six months from the date such assumption takes effect or, in the case of any time deposit, the earliest maturity date after the six-month period; and (3) the assuming or resulting bank shall give notice of such assumption to each of the depositors of the bank whose liabilities are so assumed within thirty days after such assumption takes effect. Where the deposits of an insured bank are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.".

SEC. 305. (a) Section 10 (b) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (b)) is amended by inserting "or other institution" in the first sentence after the words "any State nonmember bank" and by striking out the last two sentences of that subsection.

(b) Section 10 (c) and (d) of the Federal Deposit Insurance Act (12 U.S.C. 1820 (c) and (d)) are amended to read as follows:

"(c) In connection with examinations of insured banks, State nonmember banks or other institutions making application to become insured banks, and affiliates thereof, or with other types of investigations to determine compliance with applicable law and regulations, the appropriate Federal banking agency, or its designated representatives, are authorized to administer oaths and affirmations, and to examine and to take and preserve testimony under oath as to any matter in respect to the affairs or ownership of any such bank or institution or affiliate thereof, and to exercise such other powers as are set forth in section 8(n) of this Act.

"(d) For purposes of this section, the term 'affiliate' shall have the same meaning as in section 23A of the Federal Reserve Act, except that the term 'member bank' in such section 23A and in section 2(b) of the Bank-an insured bank.".

SEC. 306. Section 18(c)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (c)(1)(B)) is amended by inserting after the word "deposits" the following: "(including liabilities which would be 'deposits' except for the proviso in section 3(1)(5) of this Act)".

SEC. 307. Section 1114 of title 18, United States Code, is amended by inserting before "shall be punished" the following: "or any attorney, liquidator, examiner, claim agent, or other employee of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, any Federal Reserve bank, or the National Credit Union Administration engaged in or on account of the performance of his official duties".

SEC. 308. Section 5 of the Bank Service Corporation Act (12 U.S.C. 1865) is amended to read as follows:

"SEC. 5. Whenever any bank which is regularly examined by a Federal supervisory agency, or any subsidiary or affiliate of such bank which is subject to examination by that agency, causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if the services were being performed by the bank itself on its own premises, and

"(2) the bank shall notify such agency of the existence of a service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.".

SEC. 309. The last sentence of section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) is amended to read as follows:

"Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this Act or of any other law which it has the responsibility of administering or enforcing (except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to any other regulatory agency).".

SEC. 310. (a) Section 7(a)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1817 (a)(4)) is amended by adding at the end thereof the following new sentence: "Deposits which are accumulated for the payment of personal loans and are assigned or pledged to assure payment of loans at maturity shall not be included in the total deposits in such reports, but shall be deducted from the loans for which such deposits are assigned or pledged to assure repayment.".

(b) Section 7(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(5)) is amended by striking out "deposits accumulated for the payment of personal loans," in the second sentence thereof.

(c) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended by striking out subparagraph (B), and redesignating subparagraphs (C) and (D) as (B) and (C), respectively.

SEC. 311. Section 9 of the International Banking Act of 1978 (P.L. 95-369) is amended by inserting "(a)" immediately after "Sec. 9." and by inserting at the end thereof the following new subsection:

"(b)(1) Every branch or agency of a foreign bank and every commercial lending company controlled by one or more foreign banks or by one or more foreign companies that control a foreign bank shall conduct its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against any individual or other person on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which such branch or agency or commercial lending company, as the case may be, is doing business.

"(2) No application for a branch or agency shall be approved by the Comptroller or by a State bank supervisory authority, as the case may be, unless the entity making the application has agreed to conduct all of its operations in the United States in full compliance with provisions of any law of the United States or any State thereof which—

"(A) prohibit discrimination against individuals or other persons on the basis of the race, color, religion, sex, marital status, age, or national origin of (i) such individual or other person or (ii) any officer, director, employee, or creditor of, or any owner of any interest in, such individual or other person; and

"(B) apply to national banks or State-chartered banks doing business in the State in which the entity to be established is to do business.".

TITLE IV—AMERICAN ARTS GOLD MEDALLIONS

SEC. 401. This title may be cited as the "American Arts Gold Medallion Act".

SEC. 402. The Secretary of the Treasury (hereinafter referred to as the "Secretary") shall, during each of the first five calendar years beginning after the date of enactment of this title, strike and sell to the general public, as provided by this title, gold medallions (hereinafter referred to as "medallions") containing, in the aggregate, not less than one million troy ounces of fine gold, and commemorating outstanding individuals in the American arts.

SEC. 403. (a) Medallions struck under authority of this title shall be minted in two sizes containing, respectively, one troy ounce and one-half troy ounce of fine gold. During the first year in which such medallions are struck, at least five hundred thousand troy ounces of fine gold shall be struck in each size of medallions authorized by this subsection. In succeeding years, the proportion of gold devoted to each size of medallions shall be determined by the Secretary on the basis of expected demand.

(b) Medallions struck under authority of this title shall be of such fineness that, of one thousand parts by weight, nine hundred shall be of fine gold and one hundred of alloy. Medallions shall not be struck from ingots which deviate from the standard of this subsection by more than one part per thousand.

(c) Medallions struck under the authority of this title shall bear such designs and inscriptions as the Secretary may approve subject to the following—

(1) during the first calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Grant Wood on the obverse side and one-half ounce medallions shall be struck with a picture of Marian Anderson on the obverse side;

(2) during the second calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Mark Twain on the obverse side and one-half ounce medallions shall be struck with a picture of Willa Cather on the obverse side;

(3) during the third calendar year beginning after the date of enactment of this

title, one ounce medallions shall be struck with a picture of Louis Armstrong on the obverse side and one-half ounce medallions shall be struck with a picture of Frank Lloyd Wright on the obverse side;

(4) during the fourth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Robert Frost on the obverse side and one-half ounce medallions shall be struck with a picture of Alexander Calder on the obverse side; and

(5) during the fifth calendar year beginning after the date of enactment of this title, one ounce medallions shall be struck with a picture of Helen Hayes on the obverse side and one-half ounce medallions shall be struck with a picture of John Steinbeck on the obverse side.

The reverse side of each medallion shall be of different design, shall be representative of the artistic achievements of the individual on the obverse side, and shall include the inscription "American Arts Commemorative Series".

SEC. 404. Dies for use in striking the medallions authorized by this title may be executed by the engraver, and the medallions struck by the Superintendent of coining department of the mint at Philadelphia, under such regulations as the Superintendent, with the approval of the Director of the Mint, may prescribe. In order to carry out this title, the Secretary may enter into contracts: *Provided*, That suitable precautions are maintained to secure against counterfeiting and against unauthorized issuance of medallions struck under authority of this Title.

SEC. 405. For purposes of section 485 of title 18 of the United States Code, a coin of a denomination of higher than 5 cents shall be deemed to include any medallion struck under the authority of this title.

SEC. 406. (a) Medallions struck under authority of this title shall be sold to the general public at a competitive price equal to the free market value of the gold contained therein plus the cost of manufacture, including labor, materials, dies, use of machinery, and overhead expenses including marketing costs. In order to carry out the purposes of this section, the Secretary shall enter into such arrangements with the Administrator of General Services (hereinafter referred to as the "Administrator") as may be appropriate.

(b) The Administrator shall make such arrangements for the sale of medallions as will encourage broad public participation and will not preclude purchases of single pieces.

(c) The Administrator may, after consultation with the Secretary, issue rules and regulations to carry out this section.

SEC. 407. This title shall take effect on October 1, 1979.

TITLE V—CREDIT UNION RESTRUCTURING

SEC. 501. Section 102 of the Federal Credit Union Act (12 U.S.C. 1752a) is amended to read as follows:

"CREATION OF ADMINISTRATION

"SEC. 102. (a) There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration. The Administration shall be under the management of a National Credit Union Administration Board.

"(b) The Board shall consist of three members, who are broadly representative of the public interest, appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the Board, the President shall designate the Chairman. Not more than two members of the Board shall be members of the same political party.

"(c) The term of office of each member of the Board shall be six years, except that the terms of the two members, other than the Chairman, initially appointed shall expire one upon the expiration of two years after the date of appointment, and the other upon the expiration of four years after the date of appointment. Board members shall not be appointed to succeed themselves except the initial members appointed for less than a six-year term may be reappointed for a full six-year term and future members appointed to fill unexpired terms may be reappointed for a full six-year term. Any Board member may continue to serve as such after the expiration of said member's term until a successor has qualified.

"(d) The management of the Administration shall be vested in the Board. The Board shall adopt such rules as it sees fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the Board shall constitute a quorum. Not later than April 1 of each calendar year, and at such other times as the Congress shall determine, the Board shall make a report to the President and tc the Congress. Such a report shall summarize the operations of the Administration and set forth such information as is necessary for the Congress to review the financial program approved by the Board.

"(e) The Chairman of the Board shall be the spokesman for Board and shall represent the Board and the National Credit Union Administration in its official relations with other branches of the Government. The Chairman shall determine each Board members area of responsibility and shall review such assignments biennially. It shall be the Chairman's responsibility to direct the implementation of the adopted policies and regulations of the Board.

"(f) The financial transactions of the Administration shall be subject to audit on a calendar year basis by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.".

SEC. 502. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by striking out clause (2) and inserting in lieu thereof the following:

"(2) the term 'Chairman' means the Chairman of the National Credit Union Administration Board;";

(2) by inserting "Administration" after "Union" in clause (4).

(b) The Federal Credit Union Act is amended by striking out "Administrator" each place it appears and inserting in lieu thereof "Board", and by striking out the personal pronouns "he", "him", and "his" when referring to the Administrator and inserting in lieu thereof "it", "them", and "its" as appropriate wherever such words appear therein.

(c) Section 5108(a) of title 5, United States Code, is amended by changing the number "3,301" in the first sentence to read "3,310".

(d) Section 5314 of title 5, United States Code, is amended by adding the following new paragraph:

"(66) Chairman, National Credit Union Administration Board.".

(e) Section 5315 (93) of title 5, United States Code, is amended by striking out "Administrator of the National Credit Union Administration" and inserting in lieu thereof "Members, National Credit Union Administration Board (2)".

SEC. 503. (a) Paragraph (4) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752) which begins with "The terms 'member account'" is redesignated paragraph "(5)" and the succeeding paragraphs numbered (5) through (8) are redesignated as paragraphs (6) through (9), respectively.

(b) Paragraph (5) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by subsection (a) of this section, is amended—

(1) by striking "(when referring to the account of a member of credit union)";

(2) by striking "share, share certificate, or share deposit" each time it appears therein and inserting "share or share certificate" in lieu thereof;

(3) by striking "those" and inserting "share or share certificate" in lieu thereof; and

(4) by striking all language after "political subdivisions thereof" and inserting "enumerated in section 207 of this Act: *Provided*, That for purposes of insured States credit unions, reference in this paragraph to 'share' or 'share certificate' accounts includes, as determined by the Board, the equivalent of such accounts under State law;" in lieu thereof.

(c) Paragraph (9) of section 101 of the Federal Credit Union Act (12 U.S.C. 1752), as redesignated by (a) of this section, is amended by—

(1) inserting ", including the trust territories," after "several territories"; and

(2) adding the following new sentence: "The term 'branch' also includes a suboffice, operated by a Federal credit union or by a credit union authorized by the Department of Defense, located on an American military installation in a foreign country or in the trust territories of the United States.".

SEC. 504. (a) Subsection (a) of section 201 of the Federal Credit Union Act (12 U.S.C. 1781) is amended by inserting ", including the trust territories," after "several territories".

(b) Paragraph (b)(7) of such section is amended by inserting "except for accounts authorized by State law for State credit unions" before the semicolon.

(c) Such section is further amended by striking all of subsection (d) and redesignating subsection (e) as (d).

SEC. 505 (a) Section 202 of the Federal Credit Union Act (12 U.S.C. 1782) is amended by striking out "his" in the fifth sentence of paragraph (a)(1) and inserting "such officer's" in lieu thereof.

(b) Subsection (h)(3) of such section is amended to read as follows:

"(3) The term 'member account' when applied to the premium charge for insurance of accounts shall not include amounts received from other federally insured credit unions in excess of the insured account limit set forth in section 207(c)(1).".

SEC. 506. Section 208 of the Federal Credit Union Act (12 U.S.C. 1788) is amended by striking out "SPECIAL ASSISTANCE TO AVOID LIQUIDATION" and inserting "SPECIAL ASSISTANCE FOR FEDERALLY INSURED CREDIT UNIONS" in lieu thereof.

SEC. 507. Section 105 of the Federal Credit Union Act (12 U.S.C. 1755) is amended to read as follows:

"FEES

"SEC. 105. (a) In accordance with rules prescribed by the Board, each Federal credit union shall pay to the Administration an annual operating fee which may be composed of one or more charges identified as to the function or functions for which assessed.

"(b) The fee assessed under this section shall be determined according to a schedule, or schedules, or other method determined by the Board to be appropriate, which gives due consideration to the expenses of the Administration in carrying out its responsibilities under this Act and to the ability of Federal credit unions to pay the fee. The Board shall, among other things, determine

the periods for which the fee shall be assessed and the date or dates for the payment of the fee or increments thereof.

"(c) If the annual operating fee is composed of separate charges, no supervision charge shall be payable by a Federal credit union, and the Board may waive payment of any or all other charges comprising the fee, with respect to the year in which its charter is issued, or in which final distribution is made in its liquidation or the charter is canceled.

"(d) All operating fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Board to defray the expenses incurred in carrying out the provisions of this Act including the examination and supervision of Federal credit unions.".

SEC. 508. Section 106 of the Federal Credit Union Act (12 U.S.C. 1756) is amended to read as follows:

"REPORTS AND EXAMINATIONS

"SEC. 106. Federal credit unions shall be under the supervision of the Board, and shall make financial reports to it as and when it may require, but at least annually. Each Federal credit union shall be subject to examination by, and for the purpose shall make its books and records accessible to, any person designated by the Board.".

SEC. 509. The amendments made by this title take effect upon the effective date of this Act, except that the functions of the Administrator of the National Credit Union Administration under the provisions of the Federal Credit Union Act, as in effect on the date preceding the date of enactment of this title, shall continue to be performed by him in accordance with such provisions until such time as all the members of the National Credit Union Administration Board, established under the amendments made by this title, take office. All rules, regulations, policies, and procedures of the Administrator in effect on the date of enactment of this title shall remain in effect until amended, superseded, or repealed.

TITLE VI—CHANGE IN BANK CONTROL ACT

SEC. 601. This title may be cited as the "Change in Bank Control Act of 1978".

SEC. 602. Subsection (j) of section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)) is amended to read as follows:

"(j) (1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured bank through a purchase, assignment, transfer, pledge, or other disposition of voting stock of such insured bank unless the appropriate Federal banking agency has been given sixty days' prior written notice of such proposed acquisition and within that time period the agency has not issued a notice disapproving the proposed acquisition or extending for up to another thirty days the period during which such a disapproval may issue. The period for disapproval may be further extended only if the agency determines that any acquiring party has not furnished all the information required under section (j) (6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the agency issues written notice of its intent not to disapprove the action. For purposes of this subsection (j), the term 'insured bank' shall include any 'bank holding company', as that term is defined in section 2 of the Bank Holding Company Act, which has control of any such insured bank, and the appropriate Federal banking agency in the case of bank holding companies shall be the Board of Governors of the Federal Reserve System.

"(2) Upon receiving any notice under this subsection, the appropriate Federal banking agency shall forward a copy thereof to the appropriate State bank supervisory agency if the bank the voting shares of which are sought to be acquired is a State bank, and shall allow thirty days within which the views and recommendations of such State bank supervisory agency may be submitted. The appropriate Federal banking agency shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (j) (2), if the appropriate Federal banking agency determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the bank involved in the proposed acquisition, such Federal banking agency may dispense with the requirements of this subsection (j) (2) or, if a copy of the notice is forwarded to the State bank supervisory agency, such Federal banking agency may request that the views and recommendations of such State bank supervisory agency be submitted immediately in any form or by any means acceptable to such Federal banking agency.

"(3) Within three days after its decision to disapprove any proposed acquisition, the appropriate Federal banking agency shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the appropriate Federal banking agency. At the conclusion thereof, the appropriate Federal banking agency shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

"(5) Any person whose proposed acquisition is disapproved after agency hearings under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the bank to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the appropriate Federal banking agency shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

"(6) Except as otherwise provided by regulation of the appropriate Federal banking agency, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular notice.

"(7) The appropriate Federal banking agency may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and need of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or

"(E) any acquiring person neglects, fails or refuses to furnish the appropriate Federal banking agency all the information required by the appropriate Federal banking agency.

"(8) For the purposes of this subsection, the term—

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"(B) 'control' means the power, directly or indirectly, to direct the management or poli-

cies of an insured bank or to vote 25 per centum or more of any class of voting securities of an insured bank.

"(9) Whenever any insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured bank, the president or other chief executive officer of the lending bank shall promptly report such agency of the bank whose stock secures the loan or loans upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized bank prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the appropriate Federal banking agency may require by regulation or by specific request in connection with any particular report.

"(11) The Federal banking agency receiving a notice or report filed pursuant to paragraph (1) or (9) shall immediately furnish to the other Federal banking agencies a copy of such notice or report.

"(12) Whenever such a change in control occurs, each insured bank shall report promptly to the appropriate Federal banking agency any changes or replacement of its chief executive officer or of any director occuring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

"(13) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection.

"(14) Within two years after the effective date of the Change in Bank Control Act of 1978, and each year thereafter in each appropriate Federal banking agency's annual report to the Congress, the appropriate Federal banking agency shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the appropriate Federal banking agency would be desirable.

"(15) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the appropriate Federal banking agency pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The appropriate Federal banking agency shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and any data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a trial de novo.

"(16) This subsection shall not apply to a transaction subject to section 3 of the Bank Holding Company Act of 1956 (12 U.S.C. 1842) or section 18 of this Act (12 U.S.C. 1828).".

TITLE VII—CHANGE IN SAVINGS AND LOAN CONTROL ACT

SEC. 701. This title may be cited as the "Change in Savings and Loan Control Act of 1978".

SEC. 702. Paragraph (6) of section 407(1) of the National Housing Act (12 U.S.C. 1730 (l)(6)) is amended to read as follows:

"(6) As used in this subsection, the term 'stock' means rights, interests, or powers with respect to a mutual institution and the term 'insured institution' means a mutual insured institution.".

SEC. 703. Section 407 of the National Housing Act (12 U.S.C. 1730) is amended by redesignating section 407(q) as 407(r) and inserting immediately after "(p)" the following:

"(q)(1) No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any insured institution through a purchase assignment, transfer, pledge, or other disposition or voting stock of such insured institution unless the Corporation has been given sixty days' prior written notice of such proposed acquisition and within that time period the Corporation has not issued a notice disapproving the proposed acquisition or extending up to another thirty days the period during which a disapproval may issue. The period for disapproval may be further extended only if the Corporation determines that any acquiring party has not furnished all the information required under subsection (q)(6) or that in its judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the Corporation issues written notice of its intent not to disapprove the action. For purposes of this subsection (q), the term 'insured institution' shall include any 'savings and loan holding company', as that term is defined in section 408 of the National Housing Act, which has control of any such insured institution.

"(2) Upon receiving any notice under this section, the Corporation shall forward a copy thereof to the appropriate State savings and loan association supervisory agency if the insured institution the voting shares of which are sought to be acquired is a State chartered institution, and shall allow thirty days within which the views and recommendations of such State supervisory agency may be submitted. The Corporation shall give due consideration to the views and recommendations of such State agency in determining whether to disapprove any proposed acquisition. Notwithstanding the provisions of this subsection (q)(2), if the Corporation determines that it must act immediately upon any notice of a proposed acquisition in order to prevent the probable failure of the institution involved in the proposed acquisition, the Corporation may disperse with the requirement of this subsection (l)(2) or, if a copy of the notice is forwarded to the State supervisory agency, the Corporation may request that the views and recommendations of such State supervisory agency be submitted immediately in any form or by any means acceptable to the Corporation.

"(3) Within three days after its decision to disapprove any proposed acquisition, the Corporation shall notify the acquiring party in writing of the disapproval. Such notice shall provide a statement of the basis for the disapproval.

"(4) Within ten days of receipt of such notice of disapproval, the acquiring party may request an agency hearing on the proposed acquisition. In such hearing all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The length of the hearing shall be determined by the Corporation. At the conclusion thereof, the Corporation shall by order approve or disapprove the proposed acquisition on the basis of the record made at such hearing.

"(5) Any person whose proposed acquisition is disapproved after agency hearing under this subsection may obtain review by the United States court of appeals for the circuit in which the home office of the institution to be acquired is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Corporation. The Corporation shall promptly certify and file in such court the record upon which the disapproval was based. The findings of the Corporation shall be set aside if found to be arbitrary or capricious or if found to violate procedures established by this subsection.

"(6) Except as otherwise provided by regulation of the Corporation, a notice filed pursuant to this subsection shall contain the following information:

"(A) The identity, personal history, business background, and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a State or Federal court.

"(B) A statement of the assets and liabilities of each person by whom or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

"(C) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

"(D) The identity, source, and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

"(E) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the institution, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

"(F) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

"(G) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

"(H) Any additional relevant information in such form as the Corporation may require by regulation or by specific request in connection with any particular notice.

"(7) The Corporation may disapprove any proposed acquisition if—

"(A) the proposed acquisition of control would result in a monopoly or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States;

"(B) the effect of the proposed acquisition of control in any section of the country may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade, and the anticompetitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served;

"(C) the financial condition of any acquiring person is such as might jeopardize the financial stability of the institution or prejudice the interests of the depositors of the institution;

"(D) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the institution or in the interest of the public to permit such person to control the institution; or

"(E) any acquiring person neglects, fails, or refuses to furnish the Corporation all the information required by the Corporation.

"(8) For the purposes of this subsection, the term—

"(A) 'person' means an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and

"(B) 'control' means the power, directly or indirectly, to direct the management or policies of an insured institution or to vote 25 per centum or more of any class of voting securities of an insured institution.

"(9) Whenever any insured institution or an insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured institution, the president or other chief executive officer of the lending insured institution or insured bank shall promptly report such fact to the Corporation upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more or where the stock is that of the newly organized institution prior to its opening.

"(10) The reports required by paragraph (9) of this subsection shall contain such of the information referred to in paragraph (6) of this subsection, and such other relevant information, as the Corporation may require by regulation or by specific request in connection with any particular report.

"(11) Whenever a change in control occurs, each insured institution shall report promptly to the Corporation any changes or replacement of its chief executive officer or of any director occurring in the next twelvemonth period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officers or directors.

"(12) Without limitation by or on the foregoing provisions of this subsection, the Corporation may require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, as defined by the Corporation, to provide, in such manner as the Corporation may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

"(13) As used in this subsection, the term 'stock' means such stock or other equity securities or equity interests in an insured institution which is a stock company, or rights, interests, or powers with respect thereto.

"(14) The Corporation is authorized to issue rules and regulations to carry out his subsection.

"(15) Within two years after the effective date of the Change in Savings and Loan Control Act of 1978 and each year thereafter in the Corporation's annual report to the Congress, the Corporation shall report to the Congress the results of the administration of this subsection, and make any recommendations as to changes in the law which in the opinion of the Corporation would be desirable.

"(16) Any person who willfully violates any provision of this subsection, or any regulation or order issued by the Corporation pursuant thereto, shall forfeit and pay a civil penalty of not more than $10,000 per day for each day during which such violation continues. The Corporation shall have authority to assess such a civil penalty, after giving notice and an opportunity to the person to submit data, views, and arguments, and after giving due consideration to the appropriateness of the penalty with respect to the size of financial resources and good faith of the person charged, the gravity of the violation, and data, views, and arguments submitted. The agency may collect such civil penalty by agreement with the person or by bringing an action in the appropriate United States district court, except that in any such action, the person against whom the penalty has been assessed shall have a right to a trial de novo.

"(17) This subsection shall not apply to a transaction subject to section 408 of this Act (12 U.S.C. 1730a).".

TITLE VIII—CORRESPONDENT ACCOUNTS

SEC. 801. Section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) is amended by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, by inserting "1" immediately after "(b)", and by inserting at the end thereof the following new paragraph:

"(2)(A) No bank which mantains a correspondent account in the name of another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment of present other unfavorable features.

"(B) No bank shall open a correspondent account at another bank while such bank has outstanding an extension of credit to an executive officer or director of, or other person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, the bank desiring to open the account, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(C) No bank which maintains a correspondent account at another bank shall make an extension of credit to an executive officer or director of, or to any person who directly or indirectly acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, such other bank, unless such extension of credit is made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(D) No bank which has outstanding an extension of credit to an executive officer or director of, or to any person who directly or indirectly or acting through or in concert with one or more persons owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of, another bank shall open a correspondent account at such other bank, unless such extension of credit was made on substantially the same terms, including interest rates and collateral as those prevailing at the time for comparable transactions with other persons and does not involve more than the normal risk of repayment or present other unfavorable features.

"(E) For purposes of this paragraph, the term 'extension of credit' shall have the same meaning given it in section 23A of the Federal Reserve Act and the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

"(F)(i) Any bank which violates or any officer, director, employee, agent, or other person participating in the conduct of the affairs of such bank who violates any provision of section 106(b)(2) shall forfeit and pay a civil penalty of not more than $1,000 per day for each day during which such violation continues. The penalty shall be assessed and collected by the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, or the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank, by written notice. As used in this section, the term 'violates' includes without any limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(ii) In determining the amount of the penalty the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall take into account the appropriateness of the penalty with respect to the size of the financial resources and good faith of the bank or person charged, the gravity of the violation, the history of previous violations, and such other matters as justice may require.

"(iii) The bank or person assessed shall be afforded an opportunity for agency hearing, upon request made within ten days after issuance of the notice of assessment. In such hearing, all issues shall be determined on the record pursuant to section 554 of title 5, United States Code. The agency determination shall be made by final order which may be reviewed only as provided in subsection (iv). If no hearing is requested as herein provided, the assessment shall constitute a final and unappealable order.

"(iv) Any bank or person against whom an order imposing a civil money penalty has been entered after agency hearing under this section may obtain review by the United States court of appeals for the circuit in which the home office of the bank is located, or the United States Court of Appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within ten days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be. The Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall promptly certify and file in such court the record upon which the penalty was imposed, as provided in section 2112 of title 28, United States

Code. The findings of the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall be set aside if found to be unsupported by substantial evidence as provided by section 706(2)(E) of title 5, United States Code.

"(v) If any bank or person fails to pay an assessment after it has become final and unappealable order, or after the court of appeals has entered final judgment in favor of the agency, the Comptroller of the Currency, the Board or the Federal Deposit Insurance Corporation, as the case may be, shall refer the matter to the Attorney General, who shall recover the amount assessed by action in the appropriate United States district court. In such action the validity and appropriateness of the final order imposing the penalty shall not be subject to review.

"(vi) The Comptroller of the Currency, the Board and the Federal Deposit Insurance Corporation shall promulgate regulations establishing procedures necessary to implement this section.

"(vii) All penalties collected under authority of this section shall be covered into the Treasury of the United States.

(G)(1) Each executive officer and each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of an insured bank shall make a written report to the board of directors of such bank for any year during which such executive officer or shareholder has outstanding an extension of credit from a bank which maintains a correspondent account in the name of such bank. Such report shall include the following information:

"(1) the maximum amount of indebtedness to the bank maintaining the correspondent account during such year of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder, or which is controlled by such executive officer or stockholder;

"(2) the amount of indebtedness to the bank maintaining the correspondent account outstanding as of a date not more than ten days prior to the date of filing of such report of (a) such executive officer or stockholder of record, (b) each company controlled by such executive officer or stockholder, or (c) each political or campaign committee the funds or services of which will benefit such executive officer or stockholder;

"(3) the range of interest rates charged on such indebtedness of such executive officer or stockholder of record; and

"(4) the terms and conditions of such indebtedness of such executive officer or stockholder of record.

"(ii) Each insured bank shall compile the reports filed pursuant to subparagraph (G)(i) and forward such compilation to the Comptroller of the Currency in the case of a national bank, the Board in the case of a State member bank, and the Federal Deposit Insurance Corporation in the case of an insured nonmember State bank.

"(iii) Each insured bank shall include in the report required to be made under subsection (k)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(k)(1)) a list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank who files information required by subparagraph (G)(i) and the aggregate amount of all extensions of credit by correspondent banks to such executive officers or stockholders of record, any company controlled by such executive officers or stockholders, and any political or campaign committee the funds or services of which will benefit such executive officers or stockholders, or which is controlled by such executive officers or stockholders.".

TITLE IX—DISCLOSURE OF MATERIAL FACTS

SEC. 901. Section 7 of the Federal Deposit Insurance Act (12 U.S.C. 1817) is amended by adding at the end thereof the following new subsection:

"(k)(1) Each insured bank shall make to the appropriate Federal banking agency an annual report which shall contain the following information with respect to the preceding calendar year:

"(A) A list by name of each stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank.

"(B) A list by name of each executive officer or stockholder of record who directly or indirectly owns, controls, or has the power to vote more than 10 per centum of any class of voting securities of the bank and the aggregate amount of all extensions of credit by such bank during such year to: (i) such executive officers or stockholders of record, (ii) any company controlled by such executive officers, or stockholders, or (iii) any political or campaign committee the funds or services of which will benefit such executive officer or stockholders, or which is controlled by such executive officers or stockholders.

"(2) For purposes of this subsection, the term 'executive officer' shall have the same meaning given it under section 22(g) of the Federal Reserve Act.

"(3) The appropriate Federal banking agencies are authorized to issue rules and regulations to carry out this subsection, including authority to incorporate the information required to be filed by this subsection in any other report required to be filed by all insured banks which would be available in its entirety to the public upon request.

"(4) Copies of any report required to be filed under this subsection shall be made available, by the appropriate Federal banking agency or by the bank, upon request, to the public.".

TITLE X—FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

SEC. 1001. This title may be cited as the "Federal Financial Institutions Examination Council Act of 1978".

PURPOSE

SEC. 1002. It is the purpose of this title to establish a Fnancial Institutions Examination Council which shall prescribe uniform principles and standards for the Federal examination of financial institutions by the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Home Loan Bank Board, and the National Credit Union Administration and make recommendations to promote uniformity in the supervision of these financial institutions. The Council's actions shall be designed to promote consistency in such examination and to insure progressive and vigilant supervision.

DEFINITIONS

SEC. 1003. As used in this title—

(1) the term "Federal financial institutions regulatory agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration;

(2) the term "Council" means the Financial Institutions Examination Council; and

(3) the term "financial institution" means a commercial bank, a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, or a credit union;

ESTABLISHMENT OF THE COUNCIL

SEC. 1004. (a) There is established the Financial Institutions Examination Council which shall consist of—

(1) the Comptroller of the Currency,

(2) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation,

(3) a Governor of the Board of Governors of the Federal Reserve System designated by the Chairman of the Board,

(4) the Chairman of the Home Loan Bank Board, and

(5) the Chairman of the National Credit Union Administration Board.

(b) The members of the Council shall select the first chairman of the Council. Thereafter the chairmanship shall rotate among the members of the Council.

(c) The term of the Chairman of the Council shall be two years.

(d) The members of the Council may, from time to time, designate other officers or employees of their respective agencies to carry out their duties on the Council.

(e) Each member of the Council shall serve without additional compensation but shall be entitled to reasonable expenses incurred in carrying out his official duties as such a member.

EXPENSES OF THE COUNCIL

SEC. 1005. One-fifth of the costs and expenses of the Council, including the salaries of its employees, shall be paid by each of the Federal financial institutions regulatory agencies. Annual assessments for such shares shall be levied by the Council based upon its projected budget for the year, and additional assessments may be made during the year if necessary.

FUNCTIONS OF THE COUNCIL

SEC. 1006. (a) The Council shall establish uniform principles and standards and report forms for the examination of financial institutions which shall be applied by the Federal financial institutions regulatory agencies.

(b)(1) The Council shall make recommendations for uniformity in other supervisory matters, such as, but not limited to, classifying loans subject to country risk, identifying financial institutions in need of special supervisory attention, and evaluating the soundness of large loans that are shared by two or more financial institutions. In addition, the Council shall make recommendations regarding the adequacy of supervisory tools for determining the impact of holding company operations on the financial institutions within the holding company and shall consider the ability of supervisory agencies to discover possible fraud or questionable and illegal payments and practices which might occur in the operation of financial institutions or their holding companies.

(2) When a recommendation of the Council is found unacceptable by one or more of the applicable Federal financial institutions regulatory agencies, the agency or agencies shall submit to the Council, within a time period specified by the Council, a written statement of the reasons the recommendation is unacceptable.

(c) The Council shall develop uniform reporting systems for federally supervised financial institutions, their holding companies, and nonfinancial institution subsidiaries of such institutions or holding companies. The authority to develop uniform reporting systems shall not restrict or amend the requirements of section 12(i) of the Securities Exchange Act of 1934.

(d) The Council shall conduct schools for examiners and assistant examiners employed by the Federal financial institutions regulatory agencies. Such schools shall be open

to enrollment by employees of State financial institutions supervisory agencies under conditions specified by the Council.

(e) Nothing in this title shall be construed to limit or discourage Federal regulatory agency research and development of new financial institutions supervisory methods and tools, nor to preclude the field testing of any innovation devised by any Federal regulatory agency.

(f) Not later than April 1 of each year, the Council shall prepare an annual report covering its activities during the preceding year.

STATE LIAISON

SEC. 1007. To encourage the application of uniform examination principles and standards by State and Federal supervisory agencies, the Council shall establish a liaison committee composed of five representatives of State agencies which supervise financial institutions which shall meet at least twice a year with the Council. Members of the liaison committee shall receive a reasonable allowance for necessary expenses incurred in attending meetings.

ADMINISTRATION

SEC. 1008. (a) The Chairman of the Council is authorized to carry out and to delegate the authority to carry out the internal administration of the Council, including the appointment and supervision of employees and the distribution of business among members, employees, and administrative units.

(b) In addition to any other authority conferred upon it by this title, in carrying out its functions under this title, the Council may utilize, with their consent and to the extent practical, the personnel, services, and facilities of the Federal financial institutions regulatory agencies, Federal Reserve banks, and Federal Home Loan Banks, with or without reimbursement therefor.

(c) In addition, the Council may—

(1) subject to the provisions of title 5, United States Code, relating to the competitive service, classification, and General Schedule pay rates, appoint and fix the compensation of such officers and employees as are necessary to carry out the provisions of this title, and to prescribe the authority and duties of such officers and employees; and

(2) obtain the services of such experts and consultants as are necessary to carry out the provisions of this title.

ACCESS TO INFORMATION BY THE COUNCIL

SEC. 1009. For the purpose of carrying out this title, the Council shall have access to all books, accounts, records, reports, files, memorandums, papers, things, and property belonging to or in use by Federal financial institutions regulatory agencies, including reports of examination of financial institutions or their holding companies from whatever source, together with workpapers and correspondence files related to such reports, whether or not a part of the report, and all without any deletions.

AUDITS BY THE COMPTROLLER GENERAL

SEC. 1010. Section 117 of the Accounting and Auditing Act of 1950, as amended by the Federal Banking Agency Audit Act (Public Law 95-320), is further amended by:

(1) redesignating clauses (A), (B), and (C) of subsection (e)(1) as (B), (C), and (D), respectively, and inserting in subsection (e)(1) the clause "(A) of the Financial Institutions Examination Council" immediately following "audits"; and

(2) striking out in subsection (e)(2) "and (C)" and inserting in lieu thereof "(C), and (D)".

TITLE XI—RIGHT TO FINANCIAL PRIVACY

SEC. 1100. This title may be cited as the "Right to Financial Privacy Act of 1978".

DEFINITIONS

SEC. 1101. For the purpose of this title, the term—

(1) "financial institution means any office of a bank, savings bank, card issuer as defined in section 103 of the Consumers Credit Protection Act (15 U.S.C. 1602(n)), industrial loan company, trust company, savings and loan, building and loan, or homestead association (including cooperative banks), credit union, or consumer finance institution, located in any State or territory of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) "financial record" means an original of, a copy of, or information known to have been derived from, any record held by a financial institution pertaining to a customer's relationship with the financial institution;

(3) "Government authority" means any agency or department of the United States, or any officer, employee, or agent thereof;

(4) "person" means an individual or partnership of five or fewer individuals;

(5) "customer" means any person or authorized representative of that person who utilized or is utilizing any service of a financial institution, or for whom a financial institution is acting or has acted as a fiduciary, in relation to an account maintained in the person's name;

(6) "supervisory agency" means, with respect to any particular financial institution any of the following which has statutory authority to examine the financial condition or business operations of that institution—

(A) the Federal Deposit Insurance Corporation;

(B) the Federal Savings and Loan Insurance Corporation;

(C) the Federal Home Loan Bank Board;

(D) the National Credit Union Administration;

(E) the Board of Governors of the Federal Reserve System;

(F) the Comptroller of the Currency;

(G) the Securities and Exchange Commission;

(H) the Secretary of the Treasury, with respect to the Bank Secrecy Act and the Currency and Foreign Transactions Reporting Act (Public Law 91-508, title I and II); or

(I) any state banking or securities department or agency; and

(7) "law enforcement inquiry" means a lawful investigation or official proceeding inquiring into a violation of, or failure to comply with, any criminal or civil statute or any regulation, rule, or order issued pursuant thereto.

CONFIDENTIALITY OF RECORDS—GOVERNMENT AUTHORITIES

SEC. 1102. Except as provided by section 1103 (c) or (d) 1113, or 1114, no Government authority may have access to or obtain copies of, or the information contained in the financial records of any customer from a financial institution unless the financial records are reasonably described and—

(1) such customer has authorized such disclosure in accordance with section 1104;

(2) such financial records are disclosed in response to an administrative subpena or summons which meets the requirements of section 1105;

(3) such financial records are disclosed in response to a search warrant which meets the requirements of section 1106;

(4) such financial records are disclosed in response to a judicial subpena which meets the requirements of section 1107; or

(5) such financial records are disclosed in response to a formal written request which meets the requirements of section 1108.

CONFIDENTIALITY OF RECORDS—FINANCIAL INSTITUTIONS

SEC. 1103. (a) No financial institution, or officer, employee, or agent of a financial institution, may provide to any Government authority access to or copies of or the information contained in, the financial records of any customer except in accordance with the provisions of this title.

(b) A financial institution shall not release the financial records of a customer until the Government authority seeking such records certifies in writing to the financial institution that it has complied with the applicable provisions of this title.

(c) Nothng in this title shall preclude any financial institution, or any officer, employee, or agent of a financial institution, from notifying a Government authority that such institution, or officer, employee, or agent has information which may be relevant to a possible violation of any statute or regulation.

(d)(1) Nothing in this title shall preclude a financial institution, as an incident to perfecting a security interest, proving a claim in bankruptcy, or otherwise collecting on a debt owing either to the financial institution itself or in its role as a fiduciary, from providing copies of any financial record to any court or Government authority.

(2) Nothing in this title shall preclude a financial institution, as an incident to processing an application for assistance to a customer in the form of a Government loan, loan guaranty, or loan insurance agreement, or as an incident to processing a default on, or administering, a Government guaranteed or insured loan, from initiating contact with an appropriate Government authority for the purpose of providing any financial record necessary to permit such authority to carry out its responsibilities under a loan, loan guaranty, or loan insurance agreement.

CUSTOMER AUTHORIZATIONS

SEC. 1104. (a) A customer may authorize disclosure under section 1102(1) if he furnishes to the financial institution and to the Government authority seeking to obtain such disclosure a signed and dated statement which—

(1) authorizes such disclosure for a period not in excess of three months;

(2) states that the customer may revoke such authorization at any time before the financial records are disclosed;

(3) identifies the financial records which are authorized to be disclosed;

(4) specifies the purposes for which, and the Government authority to which, such records may be disclosed; and

(5) states the customer's rights under this title.

(b) No such authorization shall be required as a condition of doing business with any financial institution.

(c) The customer has the right, unless the Government authority obtains a court order as provided in section 1109, to obtain a copy of the record which the financial institution shall keep of all instances in which the customer's record is disclosed to a Government authority pursuant to this section, including the identity of the Government authority to which such disclosure is made.

(d) All financial institutions shall promptly notify all of their customers of their rights under this title. The Board of Governors of the Federal Reserve System shall prepare a statement of customers' rights under this title. Any financial institution that provides its customers a statement of customers' rights prepared by the Board shall be deemed to be in compliance with this subsection.

ADMINISTRATIVE SUBPENA AND SUMMONS

SEC. 1105. A Government authority may obtain financial records under section 1102(2) pursuant to an administrative subpena or summons otherwise authorized by law only if—

(1) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena or summons has been served upon the customer or

mailed to his last known address on or before the date on which the subpena of summons was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached subpena or summons are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts:_____

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to _____

"4. Be prepred to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer."; and

(3) ten days have expired from the date of service of the notice or fourteen days have expired from the date of mailing the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

SEARCH WARRANTS

SEC. 1106. (a) A Government authority may obtain financial records under section 1102 (3) only if it obtains a search warrant pursuant to the Federal Rules of Criminal Procedure.

(b) No later than ninety days after the Government authority serves the search warrant, it shall mail to the customer's last known address a copy of the search warrant together with the following notice:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date) for the following purpose: . You may have rights under the Right to Financial Privacy Act of 1978.".

(c) Upon application of the Government authority, a court may grant a delay in the mailing of the notice required in subsection (b), which delay shall not exceed one hundred and eighty days following the service of the warrant, if the court makes the findings required in section 1109(a). If the court so finds, it shall enter an ex parte order granting the requested delay and an order prohibiting the financial institution from disclosing that records have been obtained or that a search warrant for such records has been executed. Additional delays of up to ninety days may be granted by the court upon application, but only in accordance with this subsection. Upon expiration of the period of delay of notification of the customer, the following notice shall be mailed to the customer along with a copy of the search warrant:

"Records or information concerning your transactions held by the financial institution named in the attached search warrant were obtained by this (agency or department) on (date). Notification was delayed beyond the statutory ninety-day delay period pursuant to a determination by the court that such notice would seriously jeopardize an investigation concerning . You may have rights under the Right to Financial Privacy Act of 1978.".

JUDICIAL SUBPENA

SEC. 1107. A Government authority may obtain financial records under section 1102 (4) pursuant to judicial subpena only if—

(1) such subpena is authorized by law and there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry;

(2) a copy of the subpena has been served upon the customer or mailed to his last known address on or before the date on which the subpena was served on the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached subpena are being sought by this (agency or department or authority) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of the _____ Court.

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to _____

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights."

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(3) ten days have expired from the date of service or fourteen days from the date of mailing of the notice to the customer and within such time period the customer has not filed a sworn statement and motion to quash in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

FORMAL WRITTEN REQUEST

SEC. 1108. A Government authority may request financial records under section 1102 (5) pursuant to a formal written request only if—

(1) no administrative summons or subpena authority reasonably appears to be available to that Government authority to obtain financial records for the purpose for which such records are sought;

(2) the request is authorized by regulations promulgated by the head of the agency or department;

(3) there is reason to believe that the records sought are relevant to a legitimate law enforcement inquiry; and

(4)(A) a copy of the request has been served upon the customer or mailed to his last known address on or before the date on which the request was made to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions held by the financial institution named in the attached request are being sought by this (agency or department) in accordance with the Right to Financial Privacy Act of 1978 for the following purpose:

If you desire that such records or information not be made available, you must:

"1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the government and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

"2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts: _____

_____

"3. Serve the Government authority requesting the records by mailing or delivering a copy of your motion and statement to_____.

"4. Be prepared to come to court and present your position in further detail.

"5. You do not need to have a lawyer, although you may wish to employ one to represent you and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or fourteen days from the date of mailing of this notice, the records or information requested therein may be made available. These records may be transferred to other government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer;" and

(B) ten days have expired from the date of service or fourteen days from the date of mailing of the notice by the customer and within such time period the customer has not filed a sworn statement and an application to enjoin the Government authority in an appropriate court, or the customer challenge provisions of section 1110 have been complied with.

DELAYED NOTICE—PRESERVATION OF RECORDS

SEC. 1109. (a) Upon application of the Government authority, the customer notice required under section 1104 (c), 1105(2), 1106 (c), 1107(2), 1108(4), or 1112(1) may be delayed by order of an appropriate court if the presiding judge or magistrate finds that—

(1) the investigation being conducted is within the lawful jurisdiction of the Government authority seeking the financial records;

(2) There is reason to believe that the records being sought are relevant to a legitimate law enforcement inquiry; and

(3) there is reason to believe that such notice will result in—

(A) endangering life or physical safety of any person;

(B) flight from prosecution;

(C) destruction of or tampering with evidence;

(D) intimidation of potential witnesses; or

(E) otherwise seriously jeopardizing an investigation or official proceeding or unduly delaying a trial or ongoing official proceeding to the same extent as the circumstances in the preceding subparagraphs.

An application for delay must be made with reasonable specificity.

(b)(1) If the court makes the findings required in paragraphs (1), (2), and (3) of subsection (a), it shall enter an ex parte order granting the requested delay for a period not to exceed ninety days and an order prohibiting the financial institution from disclosing that records have been obtained or that a request for records has been made, except that, if the records have been sought by a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)), the International Emergency Economic Powers Act (title II, Public Law 95–223), or section 5 of the United Nations Participation Act (22 U.S.C. 287c), and the court finds that there is reason to believe that such notice may endanger the lives or physical safety of a customer or group of customers, or any person or group of persons associated with a customer, the court may specify that the delay be indefinite.

(2) Extensions of the delay of notice provided in paragraph (1) of up to ninety days each may be granted by the court upon application, but only in accordance with this subsection.

(3) Upon expiration of the period of delay of notification under paragraph (1) or (2), the customer shall be served with or mailed a copy of the process or request together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Records or information concerning your transactions which are held by the financial institution named in the attached process or request were supplied to or requested by the Government authority named in the process or request on (date). Notification was withheld pursuant to a determination by the (title of court so ordering) under the Right to Financial Privacy Act of 1978 that such notice might (state reason) . The purpose of the investigation or official proceeding was.".

(c) When access to financial records is obtained pursuant to section 114(b) (emergency access), the Government authority shall, unless a court has authorized delay of notice pursuant to subsections (a) and (b), as soon as practicable after such records are obtained serve upon the customer, or mail by registered or certified mail to his last known address, a copy of the request to the financial institution together with the following notice which shall state with reasonable specificity the nature of the law enforcement inquiry:

"Record concerning your transactions held by the financial institution named in the attached request were obtained by (agency or department) under the Right to Financial Privacy Act of 1978 on (date) for the following purpose: . Emergency access to such records was obtained on the grounds that (state grounds).".

(d) Any memorandum, affidavit, or other paper filed in connection with a request for delay in notification shall be preserved by the court. Upon petition by the customer to whom such records pertain, the court may order disclosure of such papers to the petitioner unless the court makes the findings required in subsection (a).

CUSTOMER CHALLENGE PROVISIONS

SEC. 1110. (a) Within ten days of service or within fourteen days of mailing of a subpena, summons, or formal written request, a customer may file a motion to quash an administrative summons or judicial subpena, or an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request, with copies served upon the Government authority. A motion to quash a judicial subpena shall be filed in the court which issued the subpena. A motion to quash an administrative summons or an application to enjoin a Government authority from obtaining records pursuant to a formal written request shall be filed in the appropriate United States District Court. Such motion or application shall contain an affidavit or sworn statement—

(1) stating that the applicant is a customer of the financial institution from which financial records pertaining to him have been sought; and

(2) stating the applicant's reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this title.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this title. For the purposes of this section, "delivery" has the meaning stated in rule 5(b) of the Federal Rules of Civil Procedure.

(b) If the court finds that the customer has complied with subsection (a), it shall order the Government authority to file a sworn response, which may be filed in camera if the Government includes in its response the reasons which make in camera review appropriate. If the court is unable to determine the motion or application on the basis of the parties' initial allegations and response, the court may conduct such additional proceedings as it deems appropriate. All such proceedings shall be completed and the motion or application decided within seven calendar days of the filing of the Government's response.

(c) If the court finds that the applicant is not the customer to whom the financial records sought by the Government authority pertain, or that there is a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, it shall deny the motion or application, and, in the case of an administrative summons or court order other than a search warrant, order such process enforced. If the court finds that the applicant is the customer to whom the records sought by the Government authority pertain, and that there is not a demonstrable reason to believe that the law enforcement inquiry is legitimate and a reasonable belief that the records sought are relevant to that inquiry, or that there has not been substantial compliance with the provisions of this title, it shall order the process quashed or shall enjoin the Government authority's formal written request.

(d) A court ruling denying a motion or application under this section shall not be deemed a final order and no interlocutory appeal may be taken therefrom by the customer. An appeal of a ruling denying a motion or application under this section may be taken by the customer (1) within such period of time as provided by law as part of any appeal from a final order in any legal proceeding initiated against him arising out of or based upon the financial records, or (2) within thirty days after a notification that no legal proceeding is contemplated against him. The Government authority obtaining the financial records shall promptly notify a customer when a determination has been made that no legal proceeding against him is contemplated. After one hundred and eighty days from the denial of the motion or application, if the Government authority obtaining the records has not initiated such a proceeding, a supervisory official of the Government authority shall certify to the appropriate court that no such determination has been made. The court may require that such certifications be made, at reasonable intervals thereafter, until either notification to the customer has occurred or a legal proceeding is initiated as described in clause (A).

(e) The challenge procedures of this title constitute the sole judicial remedy available to a customer to oppose disclosure of financial records pursuant to this title.

(f) Nothing in this title shall enlarge or restrict any rights of a financial institution to challenge requests for records made by a Government authority under existing law. Nothing in this title shall entitle a customer to assert the rights of a financial institution.

DUTY OF FINANCIAL INSTITUTIONS

SEC. 1111. Upon receipt of a request for financial records made by a Government authority under section 1105 or 1107, the financial institution shall, unless otherwise provided by law, proceed to assemble the records requested and must be prepared to deliver the records to the Government authority upon receipt of the certificate required under section 1103(b).

USE OF INFORMATION

SEC. 1112. (a) Financial records originally obtained pursuant to this title shall not be transferred to another agency or department unless the transferring agency or department certifies in writing that there is reason to believe that the records are relevant to a legitimate law enforcement inquiry within the jurisdiction of the receiving agency or department.

(b) When financial records subject to this title are transferred pursuant to subsection (a), the transferring agency or department shall, within fourteen days, send to the customer a copy of the certification made pursuant to subsection (a) and the following notice, which shall state the nature of the law enforcement inquiry with reasonable specificity: "Copies of, or information contained in, your financial records lawfully in possession of ---------- have been furnished to ---------- pursuant to the Right of Financial Privacy Act of 1978 for the following purpose: ---------- If you believe that this transfer has not been made to further a legitimate law enforcement inquiry, you may have legal rights under the Financial Privacy Act of 1978 or the Privacy Act of 1974."

(c) Notwithstanding subsection (b), notice to the customer may be delayed if the transferring agency or department has obtained a court order delaying notice pursuant to section 1109 (a) and (b) and that order is still in effect, or if the receiving agency or department obtains a court order authorizing a delay in notice pursuant to section 1109 (a) and (b). Upon the expiration of any such period of delay, the transferring agency or department shall serve to the customer the notice specified in subsection (b) above and the agency or department that obtained the court order authorizing a delay in notice pursuant to section 1109 (a) and (b) shall serve to the customer the notice specified in section 1109(b).

(d) Nothing in this title prohibits any supervisory agency from exchanging examination reports or other information with another supervisory agency. Nothing in this title prohibits the transfer of a customer's financial records needed by counsel for a Government authority to defend an action brought by the customer. Nothing in this title shall authorize the withholding of information by any officer or employee of a supervisory agency from a duly authorized committee or subcommittee of the Congress.

EXCEPTIONS

SEC. 1113. (a) Nothing in this title prohibits the disclosure of any financial records or information which is not identified with or identifiable as being derived from the financial records of a particular customer.

(b) Nothing in this title prohibits examination by or disclosure to any supervisory agency of financial records or information in the exercise of its supervisory, regulatory, or monetary functions with respect to a financial institution.

(c) Nothing in this title prohibits the disclosure of financial records in accordance with procedures authorized by the Internal Revenue Code.

(d) Nothing in this title shall authorize the withholding of financial records or information required to be reported in accordance with any Federal statute or rule promulgated thereunder.

(e) Nothing in this title shall apply when financial records are sought by a Government authority under the Federal Rules of Civil or Criminal Procedure or comparable rules of other courts in connection with litigation to which the Government authority and the customer are parties.

(f) Nothing in this title shall apply when financial records are sought by a Government authority pursuant to an administrative subpena issued by an administrative law judge in an adjudicatory proceeding subject to section 554 of title 5, United States Code, and to which the Government authority and the customer are parties.

(g) The notice requirements of this title and sections 1110 and 1112 shall not apply when a Government authority by a means described in section 1102 and for a legitimate law enforcement inquiry is seeking only the name, address, account number, and type of account of any customer or ascertainable group of customers associated (1) with a financial transaction or class of financial transactions, or (2) with a foreign country or subdivision thereof in the case of a Government authority exercising financial controls over foreign accounts in the United States under section 5(b) of the Trading with the Enemy Act (50 U.S.C. App. 5(b)); the International Emergency Economic Powers Act (title II, Public Law 95-223); or section 5 of the United Nations Participation Act (22 U.S.C. 287(c)).

(h)(1) Nothing in this title (except sections 1103, 1117 and 1118) shall apply when financial records are sought by a Government authority—

(A) in connection with a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records or at a legal entity which is not a customer; or

(B) in connection with the authority's consideration or administration of assistance to the customer in the form of a Government loan, loan guaranty, or loan insurance program.

(2) When financial records are sought pursuant to this subsection, the Government authority shall submit to the financial institution the certificate required by section 1103(b). For access pursuant to paragraph (1)(B), no further certification shall be required for subsequent access by the certifying Government authority during the term of the loan, loan guaranty, or loan insurance agreement.

(3) After the effective date of this title, whenever a customer applies for participation in a Government loan, loan guaranty, or loan insurance program, the Government authority administering such program shall give the customer written notice of the authority's access rights under this subsection. No further notification shall be required for subsequent access by that authority during the term of the loan, loan guaranty, or loan insurance agreement.

(4) Financial records obtained pursuant to this subsection may be used only for the purpose for which they were originally obtained, and may be transferred to another agency or department only when the transfer is to facilitate a lawful proceeding, investigation, examination, or inspection directed at the financial institution in possession of such records, or at a legal entity which is not a customer, except that—

(A) nothing in this paragraph prohibits the use or transfer of a customer's financial records needed by counsel representing a Government authority in a civil action arising from a Government loan, loan guaranty, or loan insurance agreement; and

(B) nothing in this paragraph prohibits a Government authority providing assistance to a customer in the form of a loan, loan guaranty, or loan insurance agreement from using or transferring financial records necessary to process, service or foreclose a loan, or to collect on an indebtedness to the Government resulting from a customer's default.

(5) Notification that financial records obtained pursuant to this subsection may relate to a potential civil, criminal, or regulatory violation by a customer may be given to an agency or department with jurisdiction over that violation, and such agency or department may then seek access to the records pursuant to the provisions of this title.

(6) Each financial institution shall keep a notation of each disclosure made pursuant to paragraph (1)(B) of this subsection, including the date of such disclosure and the Government authority to which it was made. The customer shall be entitled to inspect this information.

"(1) Nothing in this title (except sections 1115 and 1120) shall apply to any subpena or court order issued in connection with proceedings before a grand jury.

(j) This title shall not apply when financial records are sought by the General Accounting Office pursuant to an authorized proceeding, investigation, examination or audit directed at a government authority.

SPECIAL PROCEDURES

SEC. 114. (a)(1) Nothing in this title (except sections 1115, 1117, 1118, and 1121) shall apply to the production and disclosure of financial records pursuant to requests from—

(A) a Government authority authorized to conduct foreign counter- or foreign positive-intelligence activities for purposes of conducting such activities; or

(B) the Secret Service for the purpose of conducting its protective functions (18 U.S.C. 3056; 3 U.S.C. 202, Public Law 90-331, as amended).

(2) In the instances specified in paragraph (1), the Government authority shall submit to the financial institution the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) No financial institution, or officer, employee, or agent of such institution, shall disclose to any person that a Government authority described in paragraph (1) has sought to obtain access to a customers financial records.

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

(b)(1) Nothing in this title shall prohibit a Government authority from obtaining financial records from a financial institution if the Government authority determines that delay in obtaining access to such records would create imminent danger of—

(A) physical injury to any person;

(B) serious property damage; or

(C) flight to avoid prosecution.

(2) In the instances specified in paragraph (1), the Government shall submit to the financial institution of the certificate required in section 1103(b) signed by a supervisory official of a rank designated by the head of the Government authority.

(3) Within five days of obtaining access to financial records under this subsection, the Government authority shall file with the appropriate court a signed, sworn statement of a supervisory official of a rank designated by the head of the Government authority setting forth the grounds for the emergency access. The Government authority shall thereafter comply with the notice provisions of section 1109 (c).

(4) The Government authority specified in paragraph (1) shall compile an annual tabulation of the occasions in which this section was used.

COST REIMBURSEMENT

SEC. 1115. (a) Except for records obtained pursuant to section 1103(d) or 1113(a) through (h), or as otherwise provided by law, a Government authority shall pay to the financial institution assembling or providing financial records pertaining to a customer and in accordance with procedures established by this title a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching for, reproducing, or transporting books, papers, records, or other data required or requested to be produced. The Board of Governors of the Federal Reserve System shall, by regulation, establish the rates and conditions under which such payment may be made.

(This section shall take effect on October 1, 1979.)

JURISDICTION

SEC. 1116. An action to enforce any provision of this title may be brought in any appropriate United States district court without regard to the amount in controversy within three years from the date on which the violation occurs or the date of discovery of such violation, whichever is later.

CIVIL PENALTIES

SEC. 1117. (a) Any agency or department of the United States or financial institution obtaining or disclosing financial records or information contained therein in violation of this title is liable to the customer to whom such records relate in an amount equal to the sum of—

(1) $100 without regard to the volume of records involved;

(2) any actual damages sustained by the customer as a result of the disclosure;

(3) such punitive damages as the court may allow, where the violation is found to have been willful or intentional; and

(4) in the case of any successful action to enforce liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) Whenever the court determines that any agency or department of the United States has violated any provision of this title and the court finds that the circumstances surrounding the violation raise questions of whether an officer or employee of the department or agency acted willfully or intentionally with respect to the violation, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the agent or employee who was primarily responsible for the violation. The Commission after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(c) Any financial institution or agent or employee thereof making a disclosure of financial records pursuant to this title in good-faith reliance upon a certificate by any Government authority shall not be liable to the customer for such disclosure.

(d) The remedies and sanctions described in this title shall be the only authorized judicial remedies and sanctions for violations of this title.

INJUNCTIVE RELIEF

SEC. 1118. In addition to any other remedy contained in this title, injunctive relief shall be available to require that the procedures of this title are complied with. In the event of any successful action, costs together with reasonable attorney's fees as determined by the court may be recovered.

SUSPENSION OF STATUTES OF LIMITATIONS

SEC. 1119. If any individual files a motion or application under this title which has the effect of delaying the access of a Government authority to financial records pertaining to such individual, any applicable statute of limitations shall be deemed to be tolled for the period extending from the date such motion or application was filed until the date upon which the motion or application is decided.

GRAND JURY INFORMATION

SEC. 1120. Financial records about a customer obtained from a financial institution pursuant to a subpena issued under the authority of a Federal grand jury—

(1) shall be returned and actually presented to the grand jury;

(2) shall be used only for the purpose of considering whether to issue an indictment or presentment by that grand jury, or of prosecuting a crime for which that indictment or presentment is issued, or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure;

(3) shall be destroyed or returned to the financial institution if not used for one of the purposes specified in paragraph (2); and

(4) shall not be maintained, or a description of the contents of such records shall not be maintained by any Government authority other than in the sealed records of the grand jury, unless such record has been used in the prosecution of a crime for which the grand jury issued an indictment or presentment or for a purpose authorized by rule 6(e) of the Federal Rules of Criminal Procedure.

REPORTING REQUIREMENTS

SEC. 1121. (a) In April of each year, the Director of the Administrative Office of the United States Courts shall send to the appropriate committees of Congress a report concerning the number of applications for delays of notice made pursuant to section 1109 and the number of customer challenges made pursuant to section 1110 during the preceding calendar year. Such report shall include: the identity of the Government authority requesting a delay of notice; the number of notice delays sought and the number granted under each subparagraph of section 1109(a)(3); the number of notice delay extensions sought and the number granted; and the number of customer challenges made and the number that are successful.

(b) In April of each year, each Government authority that requests access to financial records of any customer from a financial institution pursuant to section 1104, 1105, 1106, 1107, 1108, 1109, or 1114 shall send to the appropriate committees of Congress a report describing requests made during the preceding calendar year. Such report shall include the number of requests for records made pursuant to each section of this title listed in the preceding sentence and any other related information deemed relevant or useful by the Government authority.

SEC. 1122. The Securities and Exchange Commission shall not be subject to the provisions of this title for a period of two years from the date of enactment of the title.

TITLE XII—CHARTERS FOR THRIFT INSTITUTIONS

SEC. 1201. Section 2(d) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1462(d)) is amended to read as follows:

"(d) The term 'association' means a Federal savings and loan association or a Federal mutual savings bank chartered by the Board under section 5, and any reference in any other law to a Federal savings and loan association shall be deemed to be also a reference to a Federal mutual savings bank, unless the context indicates otherwise.".

SEC. 1202. Section 5(a) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(a)) is amended to read as follows:

"SEC. 5. (a) In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as 'Federal Savings and Loan Associations', or 'Federal mutual savings banks' (but only in the case of institutions which, prior to conversion, were State mutual savings banks located in States which authorize the chartering of State mutual savings banks, provided such conversion is not in contravention of State law), and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States. An association which was formerly organized as a savings bank under State law may not convert from the mutual to the stock form of ownership." An association which was formerly organized as a savings bank under State law may, to the extent authorized by the Board, continue to carry on any activities it was engaged in on December 31, 1977, and to retain or make any investments of a type it held on that date, except that its equity, corporate bond, and consumer loan investments may not exceed the average ratio of such investments to total assets for the five-year period immediately preceding the filing of an application for conversion and such an association which was formerly organized as a savings bank under State law shall only be permitted to establish branch offices and other facilities in accordance with the limitations imposed by State law controlling applications of a saving bank organized under such State law, provided that such an association: (1) shall be exempt from any numerical limitations of State law on the establishment of branch offices and other facilities, and (2) may, in any case, subject to the approval of the Board, establish branch offices and other facilities in its own Standard Metropolitan Statistical Area, its own county or within 35 miles of its home office, but only in its State of domicile. An association which was formerly organized as a savings bank under State law shall be subject to the requirements of State law (including any regulations promulgated thereunder and any sanction for the violation of any such law or regulation) in effect at the time of conversion, in the State of its original charter—

"(1) pertaining to discrimination in the extension of home mortgage loans or adjustment in terms of mortgage instruments based on neighborhood or geographical area,

"(2) pertaining to requirements imposed under the Consumer Credit Protection Act.

if the Board determines that State law and regulations impose more stringent requirements than Federal law and regulations.".

SEC. 1203. Section 403(a) of the National Housing Act (12 U.S.C. 1726(a)) is amended by inserting after "Federal savings and loan associations" the following: "and Federal mutual savings banks".

SEC. 1204. The first paragraph of section 5(i) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(i)) is amended by inserting "(including a savings bank)" after "member of a Federal Home Loan Bank".

SEC. 1205. The Federal Deposit Insurance Act is amended by adding at the end thereof the following new section:

"CONVERSION OF MUTUAL SAVINGS BANKS

"SEC. 26. With respect to any State-chartered insured mutual savings bank which converts into a Federal savings bank or merges or consolidates into a Federal savings bank or a savings bank which is (or within sixty days after the merger or consolidation becomes) an insured institution within the meaning of section 401 of the National Housing Act, the Corporation shall indemnify the Federal Savings and Loan Insurance Corporation against any losses incurred by it which arise out of losses incurred by the converting bank prior to conversion as follows: One hundred per centum of such losses incurred by the Federal Savings and Loan Insurance Corporation during the first two years after conversion, 75 per centum during the third year, 50 per centum during the fourth year, and 25 per centum during the fifth year. The Corporation and the Federal Savings and Loan Insurance Corporation shall, within six months after enactment hereof, mutually agree on what shall be treated as 'losses incurred by it which arise out of losses incurred by the converting bank prior to conversion' for purposes hereof and, failing such agreement, the General Accounting Office shall prescribe the meaning of those terms. Any conversion, merger, or consolidation covered by this section shall not be deemed a termination of insured status under section 8(a) of this Act.".

TITLE XIII—NOW ACCOUNTS

SEC. 1301. Section 2(a) of Public Law 93-100 (12 U.S.C. 1832(a)) is amended by inserting "New York," after "Vermont,".

SEC. 1302. This title shall take effect upon enactment.

TITLE XIV—INSURANCE OF IRA AND KEOGH ACCOUNTS

SEC. 1401. (a) Section 11(a) of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1821(a)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this Act or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, time and savings deposits in an insured bank made pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, or made in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(b) Section 405(d) of the National Housing Act, as amended (12 U.S.C. 1728(d)), is amended by adding at the end thereof the following new paragraph:

"(3) Notwithstanding any limitation in this title or in any other provisions of law relating to the amount of deposit insurance available for any one account, funds invested in an insured institution pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in an insured institution in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(c) Section 207(c) of the Federal Credit Union Act, as amended (12 U.S.C. 1787(c)), is amended by adding at the end thereof the following paragraph:

"(3) Notwithstanding any limitation in this title or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, funds invested in a credit union insured in accordance with this title pursuant to a pension or profit-sharing plan described in section 401(d) of the Internal Revenue Code of 1954, as amended, and funds invested in such an insured credit union in the form of individual retirement accounts as described in section 408(a) of the Internal Revenue Code of 1954, as amended, shall be insured in the amount of $100,000 per account. As to any plan qualifying under section 401(d) or section 408(a) of the Internal Revenue Code of 1954, the term 'per account' means the present vested and ascertainable interest of each beneficiary under the plan, excluding any remainder interest created by, or as a result of, the plan.".

SEC. 1402. This title shall take effect upon enactment.

TITLE XV—MISCELLANEOUS PROVISIONS

SEC. 1501. Paragraph (2) of section 3(c) of Public Law 94–222 (15 U.S.C. 1666f note) is amended to read as follows:

"(2) The amendment made by paragraph (1) shall cease to be effective on February 27, 1981.".

SEC. 1502. Section 803 of Public Law 95–128 (12 U.S.. 2902) is amended by adding at the end thereof the following new subsection:

"(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity."

SEC. 1503. The last sentence of section 245 of the National Housing Act is amended by inserting immediately before "limiting the amount of interest" "(1)" and by inserting immediately before the period of the end thereof the following: ", or 2) requiring a minimum amortization of principle or otherwise relating to the amortization of principal under the mortgage or loan".

SEC. 1504. Section 5169 of the Revised Statutes (12 U.S.C. 27) is amended by adding at the end thereof the following new sentence: "A National Bank Association, to which the Comptroller of the Currency has heretofore issued or hereafter issues such certificate, is not illegally constituted solely because its operations are or have been required by the Comptroller of the Currency to be limited to those of a trust company and activities related thereto."

SEC. 1505. This title shall take effect upon enactment.

TITLE XVI—INTEREST RATE CONTROL

SEC. 1601. Section 7 of the Act of September 21, 1966 (Public Law 89–597) is amended by striking out "December 15, 1978" and inserting in lieu thereof "December 15, 1980".

SEC. 1602. Section 102 of Public Law 94–200 (12 U.S.C. 461 note) is amended by adding at the end thereof the following new subsection:

"(c) In any State where any provision of State or Federal law authorizes any savings and loan, building and loan, or homestead association (including any cooperative bank) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), to offer any third-party payment account, there shall be no differential in the maximum interest rate payable between (1) banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation, and (2) savings and loan, building and loan, or homestead associations (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or mutual savings banks, as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), with respect to savings deposits or accounts from which automatic transfers to the institution itself or to a demand or other deposit account of the same depositor or accountholder at such institution may be made as a normal practice, pursuant to a prearranged agreement with the depositor or accountholder to make such transfers to cover checks, drafts, or similar instruments drawn by the depositor or accountholder on such institution. Notwithstanding any of the provisions of subsection (b) of this section, the maximum rate of interest payable on a savings deposit or account described in the preceding sentence shall be the rate which banks (other than mutual savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation may pay on such accounts.".

SEC. 1603. This title shall take effect upon enactment.

TITLE XVII—FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY

SEC. 1701. With the exception of undesignated paragraphs 15, 17, and 23, section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended to read as follows:

"(C) An association may, to such extent, and subject to such rules and regulations as the Board may prescribe from time to time invest in, sell, or otherwise deal with the following loans, or other investments:

"(1) LOANS OR INVESTMENTS WITHOUT PERCENTAGE OF ASSETS LIMITATION.—Without limitation as a percentage of assets, the following are permitted:

"(A) SAVINGS ACCOUNT LOANS.—Loans on the security of its savings accounts.

"(B) SINGLE FAMILY AND MULTIFAMILY MORTGAGE LOANS.—Loans on the security of first liens upon residential real property within one hundred miles of its home office or within the State in which such home office is located; loans so secured shall not exceed $60,000 in principal amount (except that with respect to residential real estate in Alaska, Guam, and Hawaii the foregoing limitation may be increased by not to exceed 50 per centum) for each single family dwelling nor exceed such amount per room within the limits allowable (at the time of the loan) in section 207(c)(3) of the National Housing Act for any other dwelling unit covered by such lien.

"(C) UNITED STATES GOVERNMENT SECURITIES.—Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

"(D) FEDERAL HOME LOAN BANK AND FEDERAL NATIONAL MORTGAGE ASSOCIATION SECURITIES.—Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

"(E) FEDERAL HOME LOAN MORTGAGE CORPORATION INSTRUMENTS.—Investments in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

"(F) OTHER GOVERNMENT SECURITIES.—Investments in obligations, participations, securities, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or the Government National Mortgage Association, or any other agency of the United States and an association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act.

"(G) BANK DEPOSITS.—Investments in the time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

"(H) STATE SECURITIES.—Investments in general obligations of any State or any political subdivision thereof.

"(I) PURCHASE OF INSURED LOANS.—Purchase subject to all the provisions of paragraph (1)(B), except the area restrictions, loans secured by first liens on improved real estate which are insured under provisions of the National Housing Act, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38 of the United States Code.

"(J) HOME IMPROVEMENT AND MOBILE HOME LOANS.—Loans made for the repair, equipment, alteration, or improvement of any residential real property, and loans made for the purpose of mobile home financing.

"(K) INSURED LOANS TO FINANCE THE PURCHASE OF FEE SIMPLE.—Loans as to which the association has the benefit of insurance under section 240 of the National Housing Act, or of a commitment or agreement therefor.

"(L) LOANS TO FINANCIAL INSTITUTIONS, BROKERS, AND DEALERS.—Loans to financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which the association has the statutory authority to invest directly.

"(M) LIQUIDITY INVESTMENTS.—Investments which, at the time of making, are assets eligible for inclusion toward the satisfaction of any liquidity requirement imposed by the Board pursuant to section 5A of the Federal Home Loan Bank Act, but only to the extent that the investment is permitted to be so included under regulations of the Board or is otherwise authorized.

"(N) INVESTMENT IN THE NATIONAL HOUSING PARTNERSHIP CORPORATION, PARTNERSHIPS, AND JOINT VENTURES.—Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968, and investments in any partnership, limited partnership or joint venture formed pursuant to section 907(a) or 907(c) of that Act.

"(O) HOUSING AND URBAN DEVELOPMENT GUARANTEED INVESTMENTS.—Loans as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968 or under part B of the Urban Growth and New Community Development Act of 1970 or under section 802 of the Housing and Community Development Act of 1974 as now or hereafter in effect, or of a commitment or agreement therefor.

"(P) STATE HOUSING CORPORATION INVESTMENTS.—Investments in, commitments to invest in, loans to, or commitments to lend to any State housing corporation, provided that such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act, as amended, and that in the event of default, the holder of such obligations or loans would have the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

"(2) LOANS OR INVESTMENTS LIMITED TO 20 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but authority conferred in the following subparagraphs is limited to not in excess of 20 per centum of the assets of the association for each subparagraph:

"(A) OTHER REAL ESTATE LOANS.—Loans on security of first liens upon improved real estate; but the amount deemed to be loaned in transactions which, except for excess in

amount, would be eligible for such association under subparagraphs (1)(B) or (1)(I) shall be only the outstanding amount of such excess.

"(B) PARTICIPATION LOANS.—Without regard to the area restriction contained in subparagraph (1)(B), investments for the making or purchase of participation interests in first liens on residential real property.

"(3) LOANS OR INVESTMENTS LIMITED TO 5 PER CENTUM OF ASSETS.—The following loans or investments are permitted, but the authority conferred in the following subparagraphs is limited to not in excess of 5 per centum of assets of the association for each subparagraph:

"(A) EDUCATION LOANS.—Loans made for the payment of expenses of college, university, or vocational education.

"(B) LAND ACQUISITION.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, subject to the area restriction contained in subparagraph (1)(B), loans to finance the acquisition and development of land for primary residential usage.

"(C) HOUSING FACILITIES FOR THE AGING.—Subject to the area restriction contained in subparagraph (1)(B), amortized loans which are secured by first liens upon improved real estate used to provide housing facilities for the aging.

"(D) COMMUNITY DEVELOPMENT INVESTMENTS.—Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974, as amended but no investment in real property may exceed an aggregate investment of 2 per centum of the assets of the association.

"(E) NONCONFORMING LOANS.—Loans upon the security of or respecting real property or interests therein used for primarily residential or farm puposes that do not comply with the limitations of this section.

"(F) CONSTRUCTION LOANS, WITH OR WITHOUT SECURITY.—Subject to the area restriction of subparagraph (1)(B), investments not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 5 per centum of the assets of the association, in loans the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party, and, in either case described in clause (i) (ii), regardless of whether or not the association takes security; and investments under this subsection shall not be included in any percentage of assets or other percentage referred to in this subsection.

"(4) OTHER LOANS AND INVESTMENTS.—The following additional loans and other investments to the extent authorized below:

"(A) BUSINESS DEVELOPMENT CREDIT CORPORATIONS.—An association whose general reserves, surplus and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, lend to, or to commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings and loan associations chartered by such State are authorized, but the aggregate amount of such investments, loans, and commitments of any such association shall not exceed one-half of 1 per centum of the total outstanding loans of the association or $250,000, whichever is less.

"(B) SERVICE CORPORATIONS.—Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of the State and by Federal associations having their home offices therein, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of the association.

"(C) FOREIGN ASSISTANCE, CERTAIN GUARANTEED LOANS.—(i) Loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (ii) acquire and hold investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 or loans having the benefit of any guaranty under section 224 of such Act, or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans having the benfit of any guaranty under section 221 or 222 of such Act as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this section. Investments under clause (ii) of this subparagraph shall not exceed, in the case of any association, 1 per centum of the assets of such association.

"(D) STATE AND LOCAL GOVERNMENT OBLIGATIONS.—An association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in obligations which constitute prudent investments, as defined by the Board, of its home State and political subdivisions thereof (including any agency, corporation, or instrumentality): *Provided*, That the proceeds of such obligations are to be used for rehabilitation, financing, or the construction of residential real estate: *And provided further*, That the aggregate amount of all investments under this subparagraph shall not exceed the amount of the association's general reserves, surplus, and undivided profits.

"(5) CONVERTED STATE-CHARTERED ASSOCIATIONS.—Any association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter.

"(6) DEFINITIONS.—As used in this section—

(A) the terms 'residential real property' or 'residential real estate' include leaseholds and mean homes (including condominiums and cooperatives except that in connection with loans on individual cooperative units, the first lien requirement shall not apply but such loans shall be adequately secured as defined by the Board), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use;

"(B) the term 'loans' includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment; and

"(C) the term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and any territory or possession of the United States.".

(b) Undesignated paragraph 15 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) and redesignated as subsection (m) of that section, undesignated paragraph 17 of such section 5(c) is transferred to the end of section 5 of the Home Owners' Loan Act of 1933 and redesignated as subsection (l) of that section, and undesignated paragraph 23 of such section 5(c) is transferred to the end of section 5(b) of the Home Owners' Loan Act of 1933 and redesignated as section 5(b)(3).

SEC. 170. Section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by adding the following at the end thereof: The term "residential mortgage" is also deemed to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a "residential mortgage" as defined under the first sentence of this subsection. The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations. A 'secured loan or advance of credit' is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property.

SEC. 1703. This title shall take effect upon enactment.

TITLE XVIII—NATIONAL CREDIT UNION CENTRAL LIQUIDITY FACILITY

SEC. 1801. This title may be cited as the "National Credit Union Central Liquidity Facility Act".

SEC. 1802. The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—CENTRAL LIQUIDITY FACILITY

"SEC. 301. The Congress finds that the establishment of a National Credit Union Central Liquidity Facility is needed to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

"DEFINITIONS

"SEC. 302. As used in this subchapter, the term—

"(1) 'liquidity needs' means the needs of credit unions primarily serving natural persons for—

"(A) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

"(B) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans; and

"(C) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

"(2) 'Central Liquidity Facility' or 'Facility' means the National Credit Union Central Liquidity Facility;

"(3) 'paid-in and unimpaired capital and surplus' means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undi-

vided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Reserve shall not be considered as part of surplus, and

"(4) 'member' means a Regular or an Agent member of the Facility.

"ESTABLISHMENT OF THE NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

"SEC. 303. There is hereby created the National Credit Union Administration Central Liquidity Facility. The Central Liquidity Facility shall exist within the National Credit Union Administration and be managed by the Administrator. The United States district courts shall have original jurisdiction over any case to which the Administrator on behalf of the Facility is a party, without regard to the amount in controversy.

"MEMBERSHIP

"SEC. 304. (a) A credit union primarily serving natural persons may be a Regular member of the Facility by subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the credit union's paid-in and unimpaired capital and surplus.

"(b) A credit union or group of credit unions, primarily serving other credit unions, may be an Agent member of the Facility by—

"(1) obtaining the approval of the Administrator;

"(2) subscribing to the capital stock of the Facility in an amount not less than one-half of 1 per centum of the paid-in and unimpaired capital and surplus of all those credit unions which primarily serve natural persons, which are members of such credit union or of any credit union comprising such credit union group, and which are not regular members;

"(3) agreeing to comply with rules and regulations the Administrator shall prescribe with respect to, but not limited to, management quality, asset and liability safety and soundness, internal operating and control practices and procedures, and participation of natural persons in the affairs of such credit union or credit union group; and

"(4) agreeing to submit to the supervision of the Administrator which shall include, but not be limited to, reporting requirements and periodic unrestricted examinations.

"(c) Stock subscriptions provided for in subsections (a) and (b)(2) of this section shall be—

"(1) based on an arithmetic average of paid-in capital and surplus over the six months preceding application and membership; and

"(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in capital and surplus over a period determined by the Administrator.

"(d) An Agent member of the Facility shall perform for its member credit unions those functions required by the Administrator to carry out this subchapter.

"(e)(1) A member of the Facility whose capital stock subscription constitutes less than 5 per centum of such stock outstanding, may withdraw from membership in the Facility six months after notifying the Administrator of its intention to do so.

"(2) A member of the Facility whose capital stock subscription constitutes 5 percentum or more of such stock outstanding, may withdraw from membership in the Facility twenty-four months after notifying the Administrator of its intention to do so.

"(3) The Administrator may terminate membership in the Facility if, after opportunity for a hearing, the Administrator determines a member has failed to comply with any provision of this subchapter or regulation issued pursuant thereto.

"CAPITAL STOCK

"SEC. 305. (a) As soon as practicable, the Administrator shall open books for subscriptions to the capital stock of the Facility. The minimum subscription shall be $50.

"(b) The capital stock of the Facility—

"(1) shall be divided into shares having a par value of $50 each;

"(2) shall be paid for with cash or with securities of the United States or any Agency thereof in accordance with requirements the Administrator may impose;

"(3) shall share in dividend distributions without preference and at rates to be determined by the Administrator; and

"(4) shall not be transferred or hypothecated except as provided for herein.

"(c) When circumstances require that all or a portion of a member's stock be redeemed by the Facility, the Administrator shall pay an amount equal to what the member originally paid for the stock less any amount owed by the member to the Facility.

"(d) At least one-half of the payment for the subscription amount required for membership under section 304 of this subchapter shall be transferred to the Facility. The remainder may be held by the member on call of the Administrator and shall be invested in assets designated by the Administrator.

"(e) A credit union or credit union group that becomes a member of the Facility later than six months after the date the Administrator opens books for capital stock subscriptions, may not borrow or receive advances from the Facility without approval by the Administrator for a period of six months after becoming a member.

"EXTENSIONS OF CREDIT

"SEC. 306. (a)(1) A member may apply for an extension of credit from the Facility to meet its liquidity needs, the Administrator shall approve or deny any such application within five working days after receiving it. The Administrator shall not approve an application for credit the intent of which is to expand credit union portfolios.

"(2) The Administrator may advance funds to a member on terms and conditions prescribed by the Administrator after giving due consideration to creditworthiness.

"(3) The Administrator shall not advance funds for the benefit of a credit union whose share or deposit accounts are insured by a State share or deposit guaranty credit union, insurance corporation, or guaranty association, without consultation with the appropriate State share or deposit guaranty credit union, insurance corporation, or guaranty association.

"(b) The Secretary of the Treasury is authorized to lend to the Facility up to 500,000,000, in the event the Administrator certifies to the Secretary that the Facility does not have sufficient funds to meet liquidity needs of credit unions. Any such loan shall bear an interest rate not greater than one-eighth of 1 per centum above the current average market yield on outstanding obligations of the United States with remaining time to maturity comparable to the maturity of such loan. The authority of the Secretary to lend under this subsection shall be limited to such extent or in such amounts as are provided in advance in appropriation Acts.

"POWERS OF THE ADMINISTRATOR

"SEC. 307. The Administrator on behalf of the Facility shall have the ability to—

"(1) prescribe the manner in which the general business of the Facility shall be conducted;

"(2) prescribe rules and regulations to carry out this subchapter;

"(3) determine the expenditures incurred by the Administration to carry out this subchapter, and the expenditures incurred by the Facility to carry out subchapters I and II of this chapter, and annually assess the Facility and the Administration accordingly;

"(4) borrow from—

"(A) any source, provided that the total face value of these obligations shall not exceed twelve times the subscribed capital stock and surplus of the Facility; and

"(B) the National Credit Union Share Insurance Fund up to $500,000 to defray initial organizational and operating expenses of the Facility at such rates and terms consistent with prevailing market conditions;

"(5) guarantee performance of the terms of any financial obligation of a member but only when such obligation bears a clear and conspicuous notice on its face that only the resources of the Facility underlie such guarantee;

"(6) purchase any asset from a member with the member's endorsement;

"(7) invest in obligations of the United States or any agency thereof;

"(8) make deposits in federally insured financial institutions and make investments in shares or deposits of credit unions;

"(9) sue and be sued, complain, and defend, in any State or Federal court;

"(10) adopt a seal;

"(11) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

"(12) appoint officers and employees to assist in carrying out this subchapter, who shall be appointed subject to the provisions of title 5, United States Code;

"(13 conduct business, carry on operations, have offices, and exercise the powers granted by this subchapter in any State or territory;

"(14) lease, purchase, or otherwise acquire and own, hold, improve, use, or otherwise deal in and with property, real, personal, or mixed or any interest therein, wherever situated;

"(15) enter into contracts with any public or private organization, partnership, corporation, or individual, to the extent or in such amounts as are provided in advance in appropriation Acts; and

"(16) advance funds on a fully secured basis to a State credit union share or deposit insurance corporation, guaranty credit union, or guaranty association. Such advance shall not exceed twelve months in maturity, shall be relent at an interest rate not exceeding that imposed by the Facility, and shall not be renewable.

"DEPOSITORIES, CUSTODIANS, AND FISCAL AGENTS

"SEC. 308. The Federal Reserve Banks are authorized to act as depositories, custodians and/or fiscal agents for the Central Liquidity Facility in the general performance of its power conferred by this subchapter. Each Federal Reserve Bank when designated by the Administrator as fiscal agent for the Central Liquidity Facility, shall be entitled to be reimbursed for all expenses incurred as such fiscal agent."

"AUDIT OF FINANCIAL TRANSACTIONS

"SEC. 309. The Comptroller General of the United States shall audit the Central Liquidity Facility under such rules and regulations as the Comptroller may prescribe.

"ANNUAL REPORT

"SEC. 310. The annual report required by section 102(e) shall include a full report of the activities of the Facility.".

SEC. 1803. (a) Paragraph (6) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757) is amended by inserting "from the Central Liquidity Facility," after "prescribed,".

(b) Paragraph (7) of such section is amended by striking the word "and" preceding "(H)", and adding at the end thereof the following: "and (J) in the capital stock of the National Credit Union Central Liquidity Facility;".

(c) Paragraph (9) of such section is amended by inserting ", except as authorized by the Administrator in carrying out the provisions of subchapter III," after "exceeding".

SEC. 1804. Section 709 of title 18 of the United States Code is amended by striking the fourth paragraph and inserting in lieu thereof the following new paragraph:

"Whoever, other than a bona fide organization or association of Federal or State credit unions or except as permitted by the laws of the United States, uses as a firm or business name or transacts business using the words 'National Credit Union', 'National Credit Union Administration', 'National Credit Union Board', 'National Credit Union Share Insurance Fund', 'Share Insurance', or 'Central Liquidity Facility', or the letters 'NCUA', 'NCZSIF', or 'CLF', or any other combination or variation of those words or letters alone or with other words or letters, or any device or symbol or other means, reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from, the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertises or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, which does not in fact exist, or falsely advertise or otherwise represents by any device whatsoever that his or its business, product, or service has been in any way endorsed, authorized, or approved by the National Credit Union Administration, the Government of the United States, or any agency thereof, or falsely advertise or otherwise represents by any device whatsoever that his or its deposit liabilities, obligations, certificates, shares, or accounts are insured under the Federal Credit Union Act or by the United States or any instrumentality thereof, or being an insured credit union as defined in that Act falsely advertises or otherwise represents by any device whatsoever the extent to which or the manner in which share holdings in such credit union are insured under such Act; or".

SEC. 1805. Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended—

(1) by striking out "and" before "(8)"; and

(2) by inserting before the period at the end thereof a comma and the following: "and (9) the National Credit Union Administration Central Liquidity Facility".

SEC. 1805. This title shall take effect on October 1, 1979.

TITLE XIX—EXPORT-IMPORT BANK ACT AMENDMENTS

SEC. 1901. That this Title may be cited as the "Export-Import Bank Act Amendments of 1978."

PRENOTIFICATION

SEC. 1902. Section 2(b)(3) of the Export-Import Bank Act of 1945 is amended—

(1) by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided by the fourth sentence of this paragraph, no";

(2) by striking out "$60,000,000" in the first sentence and inserting in lieu thereof "$100,000,000"; and

(3) by adding at the end thereof the following: "If the Bank submits a statement to the Congress under this paragraph and either House of Congress is in an adjournment for a period which continues for at least 10 days after the date of submission of the statement, then any such loan or guarantee or combination thereof may, subject to the second sentence of this paragraph, be finally approved by the Board of Directors upon the termination of the 25-day period referred to in the first sentence of this paragraph or upon the termination of a 35-calendar-day period (which commences upon the date of submission of the statement), whichever occurs sooner".

FRACTIONAL CHARGES

SEC. 1903. Section 2(c)(1) of the Export-Import Bank Act of 1945 is amended by striking out "$20,000,000,000" and inserting in lieu thereof "$25,000,000,000".

DENIAL OF EXPORT APPLICATIONS

SEC. 1904. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by striking out the remainder of the paragraph after "and employment in the United States," and inserting in lieu thereof "and shall give particular emphasis to the objective of strengthening the competitive position of United States exporters and thereby of expanding total United States exports. Only in cases where the President determines that such action would be in the national interest and where such action would clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights, should the Export-Import Bank deny applications for credit for non-financial or non-commercial considerations".

AUTHORIZATION

SEC. 1905. Section 7(a) of the Export-Import Bank Act of 1945 is amended by striking out "$25,000,000,000" and inserting in lieu thereof "$40,000,000,000".

EXTENSION OF AUTHORITY

SEC. 1906. Section 8 of the Export-Import Bank Act of 1945 is amended by striking out "December 31, 1978" and inserting in lieu thereof "September 30, 1983".

ENERGY POLICY

SEC. 1907. (a) Section 2(b)(1) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(C) Consistent with the policy of section 501 of the Nuclear Non-Proliferation Act of 1978 and section 119 of the Foreign Assistance Act of 1961, the Board of Directors shall name an officer of the Bank whose duties shall include advising the President of the Bank on ways of promoting the export of goods and services to be used in the development, production, and distribution of non-nuclear renewable energy resources, disseminating information concerning export opportunities and the availability of Bank support for such activities, and acting as a liaison between the Bank and the Department of Commerce and other appropriate departments and agencies.".

(b) Section 9(b) of such Act is amended by adding at the end thereof the following: "In addition, the Bank shall include in the report a description of specific activities and programs undertaken by it to achieve the policy of section 501 of the Nuclear Non-Proliferation Act of 1978, and section 119 of the Foreign Assistance Act of 1961, as required by section 2(b)(1)(C) of this Act.".

EXPORT CREDIT COMPETITION

SEC. 1908. (a) The President is authorized and requested to begin negotiations at the ministerial level with other major exporting countries to end predatory export financing programs and other forms of export subsidies, including mixed credits, in third country markets as well as within the United States. The President shall report to the Congress prior to January 15, 1979, on progress toward meeting the goals of this section.

(b) The Export-Import Bank of the United States is authorized to provide guarantees, insurance, and extensions of credit at rates and terms and other conditions which are, in the opinion of the Board of Directors of the Bank, competitive with those provided by the government-supported export credit instrumentalities of other nations.

SEC. 1909. Section 2(b) of the Export-Import Bank Act of 1945 is amended by inserting at the end thereof the following new paragraph:

"(7) The Bank shall supplement but not compete with private capital and the programs of the Commodity Credit Corporation to ensure that adequate financing will be made available to assist the export of agricultural commodities, except that, consistent with Section 2(b)(1)(A) of this Act, the Bank in assisting any such export transactions shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing, and shall, in cooperation with other appropriate United States Government agencies, seek to reach international agreements to reduce government subsidized export financing. In order to carry out the purposes of this subsection, the Bank shall consult with the Secretary of Agriculture and where the Secretary of Agriculture has recommended against Bank financing of the export of a particular agricultural commodity, shall take such recommendation into consideration in determining whether to provide credit or other assistance for any export sale of such commodity, and shall consider the importance of agricultural commodity exports to the United States export market and the nation's balance of trade in deciding whether or not to provide assistance under this subsection. The Bank shall include in the report to Congress under Section 9(a) of this Act a description of the measures undertaken by it pursuant to this subsection.".

SEC. 1910. Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 is amended by striking the words "goods and related services" in the first sentence and inserting in lieu thereof "manufactured goods, agricultural products, and other goods and services".

SEC. 1911. The Bank shall implement such regulations and procedures as may be appropriate to insure that full consideration is given to the extent to which any loan or financial guarantee is likely to have an adverse effect on industries, including agriculture, and employment in the United States, either by reducing demand for goods produced in the United States or by increasing imports to the United States. To carry out the purposes of this subsection, the Bank shall request, and the United States International Trade Commission shall furnish, a report assessing the impact of the Bank's activities on industries and employment in the United States. Such report shall include an assessment of previous loans or financial guarantees and shall provide recommendations concerning general areas which may adversely affect domestic industries, including agriculture, and employment.

SEC. 1912(a)(1). Upon receipt of information that foreign sales to the U.S. are being offered involving foreign official export credits which exceed limits under existing standstills, minutes, or practices to which the U.S. and other major exporting countries have agreed, the Secretary of the Treasury shall immediately conduct an inquiry to determine whether "non-competitive financing" is being offered.

(2) If the Secretary determines that such foreign "non-competitive" financing is being offered, he shall request the immediate withdrawal of such financing by the foreign official export credit agency involved.

(3) If the offer is not withdrawn or if there is no immediate response to the with-

drawal request, the Secretary of the Treasury shall notify the country offering such financing and all parties to the proposed transaction that the Eximbank may be authorized to provide competing U.S. sellers with financing to match that available through the foreign official export financing entity.

(b) The Secretary of the Treasury shall only issue such authorization to the Bank to provide guarantees, insurance and credits to provide guarantees, insurance and credits to that:

(1) the availability of foreign officials non-competitve financing is likely to be a determining factor in the sale, and

(2) the foreign non-competitive financing has not been withdrawn on the date the Bank is authorized to provide competitive financing.

(c) Upon receipt of authorization by the Secretary of the Treasury, the Export-Import Bank may provide financing to match that offered by the foreign official export credit entity, provided however that loans, guarantees and insurance provided under this authority shall conform to all provisions of the Export-Import Bank Act of 1945, as amended.

SEC. 1913. No environmental rule, regulation, or procedure shall become effective with regard to exports subject to the provisions of 22 U.S.C. 3201 et seq., the Nuclear Non-Proliferation Act of 1978, until such time as the President has reported to Congress on the progress achieved pursuant to Sec. 407 of the Act (42 U.S.C. 2153e) entitled "Protection of the Environment" which requires the President to seek to provide, in agreements required under the Act, for cooperation between the parties in protecting the environment from radioactive, chemical or thermal contaminations arising from peaceful nuclear activities.

SEC. 1914. Section 7(a) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following: "All spending authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.".

SEC. 1915. Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting at the end thereof the following new paragraph:

"(8) In no event shall the Bank guarantee, insure, or extend credit or participate in the extension of credit (a) in support of any export which would contribute to enabling the Government of the Republic of South Africa to maintain or enforce apartheid; (b) in support of any export to the Government of the Republic of South Africa or its agencies unless the President determines that significant progress toward the elimination of apartheid has been made and transmits to the Congress a statement describing and explaining that determination; or (c) in support of any export to other purchasers in the Republic of South Africa unless the United States Secretary of State certifies that the purchaser has endorsed and has proceeded toward the implementation of the following principles: nonsegregation of the races in all work facilities; equal and fair employment for all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare nonwhite South Africans for supervisory, administrative, clerical, and technical jobs; increasing the number of nonwhites in management and supervisory positions; a willingness to engage in collective bargaining with labor unions; and improving the quality of life for employees in such areas as housing, transportation, schooling, recreation, and health facilities.".

SEC. 1916. Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 is amended by inserting after "in matters affecting small business concerns;" the following: "that the Bank should give emphasis to assisting new and small business entrants in the agricultural export market, and shall, in cooperation with other relevant Government agencies, including the Commodity Credit Corporation, develop a program of education to increase awareness of export opportunities among small agribusinesses and cooperatives;".

SEC. 1917. This title shall take effect upon enactment.

TITLE XX—ELECTRONIC FUND TRANSFERS

SEC. 2001. The Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IX—ELECTRONIC FUND TRANSFERS

"§ 901. Short title

"This title may be cited as the 'Electronic Fund Transfer Act'.

"§ 902. Findings and purpose

"(a) The Congress finds that the use of electronic systems to transfer funds provides the potential for substantial benefits to consumers. However, due to the unique characteristics of such systems, the application of existing consumer protection legislation is unclear, leaving the rights and liabilities of consumers, financial institutions, and intermediaries in electronic fund transfers undefined.

"(b) It is the purpose of this title to provide a basic framework establishing the rights, liabilities, and responsibilities of participants in electronic fund transfer systems. The primary objective of this title, however, is the provision of individual consumer rights.

"§ 903. Definitions

"As used in this title—

"(1) the term 'accepted card or other means of access' means a card, code, or other means of access to a consumer's account for the purpose of initiating electronic fund transfers when the person to whom such card or other means of access was issued has requested and received or has signed or has used, or authorized another to use, such card or other means of access for the purpose of transferring money between accounts or obtaining money, property, labor, or services;

"(2) the term 'account' means a demand deposit, savings deposit, or other asset account (other than an occasional or incidental credit balance in an open end credit plan as defined in section 103(i) of this Act), as described in regulations of the Board, established primarily for personal, family, or household purposes, but such term does not include an account held by a financial institution pursuant to a bona fide trust agreement;

"(3) the term 'Board' means the Board of Governors of the Federal Reserve System;

"(4) the term 'business day' means any day on which the offices of the consumer's financial institution involved in an electronic fund transfer are open to the public for carrying on substantially all of its business functions;

"(5) the term 'consumer' means a natural person;

"(6) the term 'electronic fund transfer' means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, direct deposits or withdrawals of funds, and transfers initiated by telephone. Such term does not include—

"(A) any check guarantee or authorization service which does not directly result in a debit or credit to a consumer's account:

"(B) any transfer of funds, other than those processed by automated clearinghouse, made by a financial institution on behalf of a consumer by means of a service that transfers funds held at either Federal Reserve banks or other depository institutions and which is not designed primarily to transfer funds on behalf of a consumer;

"(C) any transaction the primary purpose of which is the purchase or sale of securities or commodities through a broker-dealer registered with or regulated by the Securities and Exchange Commission;

"(D) any automatic transfer from a savings account to a demand deposit account pursuant to an agreement between a consumer and a financial institution for the purpose of covering an overdraft or maintaining an agreed upon minimum balance in the consumer's demand deposit account; or

"(E) any transfer of funds which is initiated by a telephone conversation between a consumer and an officer or employee of a financial institution which is not pursuant to a prearranged plan and under which periodic or recurring transfers are not contemplated;

as determined under regulations of the Board;

"(7) the term 'electronic terminal' means an electronic device, other than a telephone operated by a consumer, through which a consumer may initiate an electronic fund transfer. Such term includes, but is not limited to, point-of-sale terminals, automated teller machines, and cash dispensing machines;

"(8) the term 'financial institution' means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an acconut belonging to a consumer;

"(9) the term 'preauthorized electronic fund transfer' means an electronic fund transfer authorized in advance to recur at substantially regular intervals;

"(10) the term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing; and

"(11) the term 'unauthorized electronic fund transfer' means an electronic fund transfer from a consumer's account initiated by a person other than the consumer without actual authority to initiate such transfer and from which the consumer receives no benefit, but the term does not include any electronic fund transfer (A) initiated by a person other than the consumer who was furnished with the card, code, or other means of access to such consumer's account by such consumer, unless the consumer has notified the financial institution involved that transfers by such other person are no longer authorized, (B) initiated with fraudulent intent by the consumer or any person acting in concert with the consumer, or (C) which constitutes an error committed by a financial institution.

"SEC. 904. Regulations

"(a) The Board shall prescribe regulations to carry out the purposes of this title. In prescribing such regulations, the Board shall:

"(1) consult with the other agencies referred to in Section 917 and take into account, and allow for, the continuing evolution of electronic banking services and the technology utilized in such services, and

"(2) prepare an analysis of economic impact which considers the costs and benefits to financial institutions, consumers, and other users of electronic funds transfers, including the extent to which additional docu-

mentation, reports, records, or other paper work would be required, and the effects upon competition in the provision of electronic banking services among large and small financial institutions and the availability of such services to different classes of consumers, particularly low income consumers.

"(3) to the extent practicable, the Board shall demonstrate that the consumer protections of the proposed regulations outweigh the compliance costs imposed upon consumers and financial institutions.

"(4) any proposed regulations and accompanying analyses shall be sent promptly to Congress by the Board.

"(b) The Board shall issue model clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of section 905 and to aid consumers in understanding the rights and responsibilities of participants in electronic fund transfers by utilizing readily understandable language. Such model clauses shall be adopted after notice duly given in the Federal Register and opportunity for public comment in accordance with section 553 of title 5, United States Code. With respect to the disclosures required by section 905(a) (3) and (4), the Board shall take account of variations in the services and charges under different electronic fund transfer systems and, as appropriate, shall issue alternative model clauses for disclosure of these differing account terms.

"(c) Regulations prescribed hereunder may contain such classification, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of electronic fund transfers, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate compliance therewith. The Board shall by regulation modify the requirements imposed by this title on small financial institutions if the Board determines that such modifications are necessary to alleviate any undue compliance burden on small financial institutions and such modifications are consistent with the purpose and objective of this title.

"(d) In the event that electronic fund transfer services are made available to consumers by a person other than a financial institution holding a consumer's account, the Board shall by regulation assure that the disclosures, protections, responsibilities, and remedies created by this title are made applicable to such persons and services.

"§ 905. Terms and conditions of transfers

"(a) The terms and conditions of electronic fund transfers involving a consumer's account shall be disclosed at the time the consumer contracts for an electronic fund transfer service, in accordance with regulations of the Board. Such disclosures shall be in readily understandable language and shall include, to the extent applicable—

"(1) the consumer's liability for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of prompt reporting of any loss, theft, or unauthorized use of a card, code, or other means of access;

"(2) the telephone number and address of the person or office to be notified in the event the consumer believes that an unauthorized electronic fund transfer has been or may be effected;

"(3) the type and nature of electronic fund transfers which the consumer may initiate, including any limitations on the frequency or dollar amount of such transfers, except that the details of such limitations need not be disclosed if their confidentially is necessary to maintain the security of an electronic fund transfer system, as determined by the Board;

"(4) any charges for electronic fund transfers or for the right to make such transfers;

"(5) the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure to initiate such a stop payment order;

"(6) the consumer's right to receive documentation of electronic fund transfers under section 906;

"(7) a summary, in a form prescribed by regulations of the Board, of the error resolution provisions of section 908 and the consumer's rights thereunder. The financial institution shall thereafter transmit such summary at least once per calendar year;

"(8) the financial institution's liability to the consumer under section 910; and

"(9) under what circumstances the financial institution will in the ordinary course of business disclose information concerning the consumer's account to third persons.

"(b) A financial institution shall notify a consumer in writing at least twenty-one days prior to the effective date of any change in any term or condition of the consumer's account required to be disclosed under subsection (a) if such change would result in greater cost or liability for such consumer or decreased access to the consumer's account. A financial institution may, however, implement a change in the terms or conditions of an account without prior notice when such change is immediately necessary to maintain or restore the security of an electronic fund transfer system or a consumer's account. Subject to subsection (a)(3), the Board shall require subsequent notification if such a change is made permanent.

"(c) For any account of a consumer made accessible to electronic fund transfers prior to the effective date of this title, the information required to be disclosed to the consumer under subsection (c) shall be disclosed not later than the earlier of—

"(1) the first periodic statement required by section 906(c) after the effective date of this title; or

"(2) thirty days after the effective date of this title.

"§ 906. Documentation of transfers; periodic statements

"(a) For each electronic fund transfer initiated by a consumer from an electronic terminal, the financial institution holding such consumer's account shall, directly or indirectly, at the time the transfer is initiated, make available to the consumer written documentation of such transfer. The documentation shall clearly set forth to the extent applicable—

"(1) the amount involved and date the transfer is initiated;

"(2) the type of transfer;

"(3) the identity of the consumer's account with the financial institution from which or to which funds are transferred;

"(4) the identity of any third party to whom or from whom funds are transferred; and

"(5) the location or identification of the electronic terminal involved.

"(b) For a consumer's account which is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once in each successive sixty-day period, except where the payor provides positive notice of the transfer to the consumer, the financial institution shall elect to provide promptly either positive notice to the consumer when the credit is made as scheduled, or negative notice to the consumer when the credit is not made as scheduled, in accordance with regulations of the Board. The means of notice elected shall be disclosed to the consumer in accordance with section 905.

"(c) A financial institution shall provide each consumer with a periodic statement for each account of such consumer that may be accessed by means of an electronic fund transfer. Except as provided in subsection (d) and (e), such statement shall be provided at least monthly for each monthly or shorter cycle in which an electronic fund transfer affecting the account has occurred, or every three months, whichever is more frequent. The statement, which may include information regarding transactions other than electronic fund transfers, shall clearly set forth—

"(1) with regard to each electronic fund transfer during the period, the information described in subsection (a), which may be provided on an accompanying document;

"(2) the amount of any fee or charge assessed by the financial institution during the period for electronic fund transfers or for account maintenance;

"(3) the balances in the consumer's account at the beginning of the period and at the close of the period, and

"(4) the address and telephone number to be used by the financial institution for the purpose of receiving any statement inquiry or notice of account error from the consumer. Such address and telephone number shall be preceded by the caption 'Direct Inquiries To:' or other similar language indicating that the address and number are to be used for such inquiries or notices.

"(d) In the case of a consumer's passbook account which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, a financial institution may, in lieu of complying with the requirements of subsection (c), upon presentation of the passbook provide the consumer in writing with the amount and date of each such transfer involving the account since the passbook was last presented.

"(e) In the case of a consumer's account, other than a passbook account, which may not be accessed by electronic fund transfers other than preauthorized electronic fund transfers crediting the account, the financial institution may provide a periodic statement on a quarterly basis which otherwise complies with the requirements of subsection (c).

"(f) In any action involving a consumer, any documentation required by this section to be given to the consumer which indicates that an electronic fund transfer was made to another person shall be admissible as evidence of such transfer and shall constitute prima facie proof that such transfer was made.

"§ 907. Preauthorized transfers

"(a) A preauthorized electronic fund transfer from a consumer's account may be authorized by the consumer only in writing, and a copy of such authorization shall be provided to the consumer when made. A consumer may stop payment of a preauthorized electronic fund transfer by notifying the financial institution orally or in writing at any time up to three business days preceding the scheduled date of such transfer. The financial institution may require written confirmation to be provided to it within fourteen days of an oral notification if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent.

"(b) In the case of preauthorized transfers from a consumer's account to the same person which may vary in amount, the financial institution or designated payee shall, prior to each transfer, provide reasonable advance notice to the consumer, in accordance with regulations of the Board, of the amount to be transferred and the scheduled date of the transfer.

"§ 908. Error resolution

"(a) If a financial institution, within sixty days after having transmitted to a consumer documentation pursuant to section 906(a), (c), or (d) or notification pursuant to section 906(b), receives oral or written notice in which the consumer—

"(1) sets forth or otherwise enables the financial institution to identify the name and account number of the consumer.

"(2) indicates the consumer's belief that the documentation, or, in the case of notification pursuant to section 906(b), the consumer's account, contains an error and the amount of such error; and

"(3) sets forth the reasons for the consumer's belief (where applicable) that an error has occurred,

the financial institution shall investigate the alleged error, determine whether an error has occurred, and report or mail the results of such investigation and determination to the consumer within ten business days. The financial institution may require written confirmation to be provided to it within 10 business days of an oral notification of error if, when the oral notification is made, the consumer is advised of such requirement and the address to which such confirmation should be sent. A financial institution which requires written confirmation in accordance with the previous sentence need not provisionally recredit a consumer's account in accordance with subsection (c), nor shall the financial institution be liable under subsection (e), if the written confirmation is not received within the ten day period referred to in the previous sentence.

"(b) If the financial institution determines that an error did occur, it shall promptly, but in no event more than one business day after determination, correct the error, subject to section 909, including the crediting of interest where applicable.

"(c) If a financial institution receives notice of an error in the manner and within the time period specified in subsection (a), it may, in lieu of the requirements of subsections (a) and (b), within ten business days after receiving such notice provisionally recredit the consumer's account for the amount alleged to be in error, subject to section 909, including interest where applicable, pending the conclusion of its investigation and its determination of whether an error has occurred. Such investigation shall be concluded not later than forty-five days after receipt of notice of the error. During the pendency of the investigation, the consumer shall have full use of the funds provisionally recredited.

"(d) If the financial institution determines after its investigation pursuant to subsection (a) or (c) that an error did not occur, it shall deliver or mail to the consumer an explanation of its findings within 3 business days after the conclusion of its investigation, and upon request of the consumer promptly deliver or mail to the consumer reproductions of all documents which the financial institution relied on to conclude that such error did not occur. The financial institution shall include notice of the right to request reproductions with the explanation of its findings.

"(e) If in any action under section 915, the court finds that—

"(1) the financial institution did not provisionally recredit a consumer's account within the ten-day period specified in subsection (c), and the financial institution (A) did not make a good faith investigation of the alleged error, or (B) did not have a reasonable basis for believing that the consumer's account was not in error; or

"(2) the financial institution knowingly and willfully concluded that the consumer's account was not in error when such conclusion could not reasonably have been drawn from the evidence available to the financial institution at the time of its investigation, then the consumer shall be entitled to treble damages determined under section 915(a)(1).

"(f) For the purpose of this section, an error consists of—

"(1) an unauthorized electronic fund transfer;

"(2) an incorrect electronic fund transfer from or to the consumer's account;

"(3) the omission from a periodic statement of an electronic fund transfer affecting the consumer's account which should have been included;

"(4) a computational error by the financial institution;

"(5) the consumer's receipt of an incorrect amount of money from an electronic terminal;

"(6) a consumer's request for additional information or clarification concerning an electronic fund transfer or any documentation required by this title; or

"(7) any other error described in regulations of the Board.

"§ 909. Consumer liability for unauthorized transfers

"(a) A consumer shall be liable for any unauthorized electronic fund transfer involving the account of such consumer only if the card or other means of access utilized for such transfer was an accepted card or others means of access and if the issuer of such card, code, or other means of access has provided a means whereby the user of such card, code, or other means of access can be identified as the person authorized to use it, such as by signature, photograph, or fingerprint or by electronic or mechanical confirmation. In no event, however, shall a consumer's liability for an unauthorized transfer exceed the lesser of—

"(1) $50; or

"(2) the amount of money or value of property or services obtained in such unauthorized electronic fund transfer prior to the time the financial institution is notified of, or otherwise becomes aware of, circumstances which lead to the reasonable belief that an unauthorized electronic fund transfer involving the consumer's account has been or may be effected. Notice under this paragraph is sufficient when such steps have been taken as may be reasonably required in the ordinary course of business to provide the financial institution with the pertinent information, whether or not any particular officer, employee, or agent of the financial institution does in fact receive such information.

Notwithstanding the foregoing, reimbursement need not be made to the consumer for losses the financial institution establishes would not have occurred but for the failure of the consumer to report within sixty days of transmittal of the statement (or in extenuating circumstances such as extended travel or hospitalization, within a reasonable time under the circumstances) any unauthorized electronic fund transfer or account error which appears on the periodic statement provided to the consumer under section 906.

In addition, reimbursement need not be made to the consumer for losses which the financial institution establishes would not have occurred but for the failure of the consumer to report any loss or theft of a card or other means of access within two business days after the consumer learns of the loss or theft (or in extenuating circumstances such as extended travel or hospitalization, within a longer period which is reasonable under the circumstances), but the consumer's liability under this subsection in any such case may not exceed a total of $500, or the amount of unauthorized electronic fund transfers which occur following the close of two business days (or such longer period) after the consumer learns of the loss or theft but prior to notice to the financial institution under this subsection, whichever is less.

"(b) In any action which involves a consumer's liability for an unauthorized electronic fund transfer the burden of proof is upon the financial institution to show that the electronic fund transfer was authorized or if the electronic fund transfer was unauthorized, then the burden of proof is upon the financial institution to establish that the conditions of liability set forth in subsection (a) have been met, and, if the transfer was initiated after the effective date of section 905, that the disclosures required to be made to the consumer under section 905(a)(1) and (2) were in fact made in accordance with such section.

"(c) In the event of a transaction which involves both an unauthorized electronic fund transfer and an extension of credit as defined in section 103(e) of this Act pursuant to an agreement between the consumer and the financial institution to extend such credit to the consumer in the event the consumer's account is overdrawn, the limitation on the consumer's liability for such transaction shall be determined solely in accordance with this section.

"(d) Nothing in this section imposes liability upon a consumer for an unauthorized electronic fund transfer in excess of his liability for such a transfer under other applicable law or under any agreement with the consumer's financial institution.

"(e) Except as provided in this section, a consumer incurs no liability from an unauthorized electronic fund transfer.

"§ 910. Liability of financial institutions

"(a) Subject to subsections (b) and (c), a financial institution shall be liable to a consumer for all damages proximately caused by—

"(1) the financial institution's failure to make an electronic fund transfer, in accordance with the terms and conditions of an account, in the correct amount or in a timely manner when properly instructed to do so by the consumer, except where—

"(A) the consumer's account has insufficient funds;

"(B) the funds are subject to legal process or other encumbrance restricting such transfer;

"(C) such transfer would exceed an established credit limit;

"(D) an electronic terminal has insufficient cash to complete the transaction; or

"(E) as otherwise provided in regulations of the Board;

"(2) the financial institution's failure to make an electronic fund transfer due to insufficient funds when the financial institution failed to credit, in accordance with the terms and conditions of an account, a deposit of funds to the consumer's account which would have provided sufficient funds to make the transfer, and

"(3) the financial institution's failure to stop payment of a preauthorized transfer from a consumer's account when instructed to do so in accordance with the terms and conditions of the account.

"(b) A financial institution shall not be liable under subsection (a)(1) or (2) if the financial institution shows by a preponderance of the evidence that its action or failure to act resulted from—

"(1) an act of God or other circumstance beyond its control, that it exercised reasonable care to prevent such an occurrence, and that it exercised such diligence as the circumstances required; or

"(2) a technical malfunction which was known to the consumer at the time he attempted to initiate an electronic fund transfer or, in the case of a preauthorized transfer, at the time such transfer should have occurred.

"(c) In the case of a failure described in subsection (c) which was not intentional and which resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error, the financial institution shall be liable for actual damages proved.

"§ 911. Issuance of cards or others means of access

"(a) No person may issue to a consumer any card, code, or other means of access to such consumer's account for the purpose of initiating an electronic fund transfer other than—

"(1) in response to a request or application therefor; or

"(2) as a renewal of, or in substitution for, an accepted card, code, or other means of access, whether issued by the initial issuer or a successor.

"(b) Notwithstanding the provisions of subsection (a), a person may distribute to a consumer on an unsolicited basis a card, code, or other means of access for use in initiating an electronic fund transfer from such consumer's account, if—

"(1) such card, code, or other means of access is not validated;

"(2) such distribution is accompanied by a complete disclosure, in accordance with section 905, of the consumer's rights and liabilities which will apply if such card, code, or other means of access is validated;

"(3) such distribution is accompanied by a clear explanation, in accordance with regulations of the Board, that such card, code, or other means of access is not validated and how the consumer may dispose of such code, card, or other means of access if validation is not desired; and

"(4) such card, code, or other means of access is validated only in response to a request or application from the consumer, upon verification of the consumer's identity.

"(c) For the purpose of subsection (b), a card, code, or other means of access is validated when it may be used to initiate an electronic fund transfer.

"§ 912. Suspension of obligations

"If a system malfunction prevents the effectuation of an electronic fund transfer initiated by a consumer to another person, and such other person has agreed to accept payment by such means, the consumer's obligation to the other person shall be suspended until the malfunction is corrected and the electronic fund transfer may be completed, unless such other person has subsequently, by written request, demanded payment by means other than an electronic fund transfer.

"§ 913. Compulsory use of electronic fund transfers

"No person may—

"(1) condition the extension of credit to a consumer on such consumer's repayment by means of preauthorized electronic fund transfers; or

"(2) require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of employment or receipt of a governmental benefit.

§ 914. Waiver of rights

"No writing or other agreement between a consumer and any other person may contain any provision which constitutes a waiver of any right conferred or cause of action created by this title. Nothing in this section prohibits, however, any writing or other agreement which grants to a consumer a more extensive right or remedy or greater protection that contained in this title or a waiver given in settlement of a dispute or action.

§ 915. Civil liability

"(a) Except as otherwise provided by this section and section 910, any person who fails to comply with any provision of this title with respect to any consumer, except for an error resolved in accordance with section 908, is liable to such consumer in an amount equal to the sum of—

"(1) any actual damage sustained by such consumer as a result of such failure;

"(2)(A) in the case of an individual action, an amount not less than $100 nor greater than $1,000; or

"(B) in the case of a class action, such amount as the court may allow, except that (i) as to each member of the class no minimum recovery shall be applicable, and (ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same person shall not be more than the lesser of $500,000 or 1 per centum of the net worth of the defendant; and

"(3) in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) in any individual action under subsection (a)(2)(A), the frequency and persistence of noncompliance, the nature of such noncompliance, and the extent to which the noncompliance was intentional; or

"(2) in any class action under subsection (a)(2)(B), the frequency and persistence of noncompliance, the nature of such noncompliance, the resources of the defendant, the number of persons adversely affected, and the extent to which the noncompliance was intentional.

"(c) Except as provided in section 910, a person may not be held liable in any action brought under this section for a violation of this title if the person shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) No provision of this section or section 916 imposing any liability shall apply to—

"(1) any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board to issue such interpretations or approvals under such procedures as the Board may prescribe therefor; or

"(2) any failure to make disclosure in proper form if a financial institution utilized an appropriate model clause issue by the Board,

notwithstanding that after such act, omission, or failure has occurred, such rule, regulation, approval, or model clause is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

"(e) A person has no liability under this section for any failure to comply with a requirement under this title if, prior to the institution of an action under this section, the person notifies the consumer concerned of the failure, complies with the requirements of this title, and makes an appropriate adjustment to the consumer's account and pays actual damages or, where applicable, damages in accordance with section 910.

"(f) On a finding by the court that an unsuccessful action under this section was brought in bad faith or for purposes of harassment, the court shall award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(g) Without regard to the amount in controversy, any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

"§ 916. Criminal liability

"(a) Whoever knowingly and willfully—

"(1) gives false or inaccurate information or fails to provide information which he is required to disclose by this title or any regulation issued thereunder; or

"(2) otherwise fails to comply with any provision of this title;

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

"(b) Whoever—

"(1) knowingly, in a transaction affecting interstate or foreign commerce, uses or attempts or conspires to use any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument to obtain money, goods, services, or anything else of value which within any one-year period has a value aggregating $1,000 or more; or

"(2) with unlawful or fraudulent intent, transports or attempts or conspires to transport in interstate or foreign commerce a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(3) with unlawful or fraudulent intent, uses any instrumentality of interstate or foreign commerce to sell or transport a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained; or

"(4) knowingly receives, conceals, uses, or transports money, goods, services, or anything else of value (except tickets for interstate or foreign transportation) which (A) within any one-year period has a value aggregating $1,000 or more, (B) has moved in or is part of, or which constitutes interstate or foreign commerce, and (C) has been obtained with a counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(5) knowingly receives, conceals, uses, sells, or transports in interstate or foreign commerce one or more tickets for interstate or foreign transportation, which (A) within any one-year period have a value aggregating $500 or more, and (B) have been purchased or obtained with one or more counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument; or

"(6) in a transaction affecting interstate or foreign commerce, furnishes money, property, services, or anything else of value, which within any one-year period has a value aggregating $1,000 or more, through the use of any counterfeit, fictitious, altered, forged, lost, stolen, or fraudulently obtained debit instrument knowing the same to be counterfeit, fictitious, altered, forged, lost, stolen; or fraudulently obtained—

shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) As used in this section, the term 'debit instrument' means a card, code, or other device, other than a check, draft, or similar paper instrument, by the use of which a person may initiate an electronic fund transfer.

§ 917. Administrative enforcement

"(a) Compliance with the requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Board;

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

"(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of

the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union.

"(4) the Federal Aviation Act of 1958, by the Civil Aeronautics Board, with respect to any air carrier or foreign air carrier subject to that Act; and

"(5) the Securities Exchange Act of 1934, by the Securities and Exchange Commission, with respect to any broker or dealer subject to that Act.

"(b) For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforming compliance with any requirement imposed under this title, any other authority conferred on it by law.

"(c) Except to the extent that enforcement of the requirements imposed under this title is specifically committed to some other Government agency under subsection (a), the Federal Trade Commission shall enforce such requirements. For the purpose of the exercise by the Federal Trade Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a violation of a requirement imposed under that Act. All of the functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person subject to the jurisdiction of the Commission with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act.".

"§ 918. Reports to Congress

"(a) Not later than twelve months after the effective date of this title and at one-year intervals thereafter, the Board and the Attorney General shall, respectively, make reports to the Congress concerning the administration of their functions under this title, including such recommendations as the Board and the Attorney General, respectively, deem necessary or appropriate. In addition, each report of the Board shall include its assessment of the extent to which compliance with this title is being achieved, and a summary of the enforcement actions taken under section 917 of this title. In such report, the Board shall particularly address the effects of this title on the costs and benefits to financial institutions and consumers, on competition, on the introduction of new technology, on the operations of financial institutions, and on the adequacy of consumer protection. The report of the Attorney General shall also contain an analysis of the impact of this title on the operation, workload, and efficiency of the Federal courts.

"(b) In the exercise of its functions under this title, the Board may obtain upon request the views of any other Federal agency which, in the judgment of the Board, exercises regulatory or supervisory functions with respect to any class of persons subject to this title.

"§ 919. Relation to State laws

"This title does not annul, alter, or affect the laws of any State relating to electronic fund transfers, except to the extent that those laws are inconsistent with the provisions of this title, and then only to the extent of the inconsistency. A State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection afforded by this title. The Board shall, upon its own motion or upon the request of any financial institution, State, or other interested party, submitted in accordance with procedures prescribed in regulations of the Board, determine whether a State requirement is inconsistent or affords greater protection. If the Board determines that a State requirement is inconsistent, financial institutions shall incur no liability under the law of that State for a good faith failure to comply with that law, notwithstanding that such determination is subsequently amended, rescinded, or determined by judicial or other authority to be invalid for any reason. This title does not extend the applicability of any such law to any class of persons or transactions to which it would not otherwise apply.

"§ 920. Exemption for State regulation

"The Board shall by regulation exempt from the requirements of this title any class of electronic fund transfers within any State if the Board determines that under the law of that State that class of electronic fund transfers is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

"§ 921. Effective date

"This title takes effect upon the expiration of eighteen months from the date of its enactment, except that sections 909 and 911 take effect upon the expiration of ninety days after the date of enactment.".

TITLE XXI—EFFECTIVE DATE

SEC. 2101. Except as otherwise provided herein, this Act shall take effect upon the expiration of one hundred and twenty days after the date of its enactment.

The SPEAKER pro tempore. Is a second demanded?

Mr. ROUSSELOT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. BAUMAN and Mr. ST GERMAIN.

The House divided, and the tellers reported that there were—yeas 74, noes 7.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 331, nays 14, answered present 6, not voting 79 as follows:

[Roll No. 929]

YEAS—331

Abdnor	Annunzio	Beard, R.I.
Addabbo	Archer	Bedell
Akaka	Ashbrook	Benjamin
Alexander	Ashley	Bennett
Anderson, Calif.	Aspin	Bevill
	AuCoin	Bingham
Anderson, Ill.	Bafalis	Blanchard
Andrews, N.C.	Baldus	Blouin
Andrews, N. Dak.	Barnard	Boggs
	Baucus	Boland
Bolling	Hanley	Patterson
Bonior	Hannaford	Pattison
Brademas	Hansen	Pepper
Breaux	Harkin	Perkins
Breckinridge	Harrington	Pickle
Brinkley	Harris	Pike
Brodhead	Hawkins	Poage
Brooks	Heckler	Pressler
Broomfield	Hefner	Preyer
Brown, Ohio	Heftel	Price
Broyhill	Hightower	Pritchard
Buchanan	Hillis	Pursell
Burgener	Holland	Rahall
Burke, Mass.	Hollenbeck	Railsback
Burlison, Mo.	Holt	Regula
Burton, Phillip	Holtzman	Reuss
Butler	Horton	Rhodes
Caputo	Howard	Richmond
Carr	Hubbard	Rinaldo
Carter	Hughes	Roberts
Cavanaugh	Hyde	Robinson
Chappell	Ireland	Rodino
Chisholm	Jacobs	Roe
Clausen, Don H.	Jeffords	Rogers
	Jenkins	Rooney
Cochran	Jenrette	Rosenthal
Cohen	Johnson, Calif.	Rousselot
Coleman	Johnson, Colo.	Roybal
Collins, Ill.	Jones, N.C.	Ruppe
Collins, Tex.	Jones, Okla.	Russo
Conable	Jones, Tenn.	Ryan
Conte	Jordan	Santini
Corcoran	Kastenmeier	Sarasin
Cornell	Kazen	Satterfield
Cotter	Kemp	Sawyer
Coughlin	Keys	Scheuer
Crane	Kildee	Schroeder
Cunningham	Kindness	Schulze
D'Amours	Kostmayer	Sebelius
Daniel, Dan	Krebs	Seiberling
Daniel, R. W.	LaFalce	Sharp
Danielson	Lagomarsino	Sikes
Davis	Latta	Sisk
de la Garza	Le Fante	Skelton
Dellums	Leach	Skubitz
Dent	Lederer	Slack
Derrick	Lent	Smith, Iowa
Devine	Levitas	Smith, Nebr.
Dicks	Livingston	Snyder
Dodd	Lloyd, Tenn.	Solarz
Downey	Long, La.	Spellman
Drinan	Long, Md.	Spence
Duncan, Tenn.	Lott	St Germain
Eckhardt	Luken	Staggers
Edgar	Lundine	Stangeland
Edwards, Ala.	McClory	Stanton
Edwards, Okla.	McCloskey	Stark
Eilberg	McCormack	Steiger
Emery	McDade	Stratton
English	McEwen	Studds
Erlenborn	McHugh	Stump
Ertel	McKay	Symms
Evans, Del.	McKinney	Taylor
Evans, Ind.	Madigan	Thompson
Fary	Maguire	Thornton
Fascell	Mahon	Traxler
Fenwick	Mann	Trible
Findley	Markey	Tsongas
Fish	Marks	Tucker
Fisher	Marriott	Van Deerlin
Fithian	Martin	Vander Jagt
Flippo	Mattox	Vanik
Flood	Meyner	Vento
Florio	Michel	Volkmer
Flowers	Mikulski	Waggonner
Foley	Miller, Calif.	Walgren
Ford, Tenn.	Miller, Ohio	Walker
Fountain	Mineta	Wampler
Fowler	Minish	Watkins
Fraser	Mitchell, N.Y.	Weiss
Frenzel	Moakley	Whalen
Fuqua	Moffett	White
Gammage	Mollohan	Whitehurst
Garcia	Montgomery	Whitley
Gaydos	Moore	Whitten
Gephardt	Moorhead, Calif.	Wiggins
Giaimo		Wilson, Tex.
Gilman	Moorhead, Pa.	Winn
Ginn	Motti	Wirth
Glickman	Murtha	Wolff
Goldwater	Myers, John	Wright
Gonzalez	Natcher	Wydler
Gore	Neal	Wylie
Gradison	Nedzi	Yates
Grassley	Nichols	Yatron
Green	Nix	Young, Alaska
Gudger	Nolan	Young, Fla.
Guyer	Nowak	Young, Mo.
Hagedorn	Oakar	Zablocki
Hall	Oberstar	Zeferetti
Hamilton	Ottinger	
Hammer-schmidt	Panetta	
	Patten	

NAYS—14

Bauman	Kelly	Myers, Michael
Clawson, Del	Lloyd, Calif.	Shuster
Derwinski	McDonald	Simon
Dornan	Murphy, Pa.	Wilson, Bob
Goodling	Myers, Gary	

ANSWERED "PRESENT"—6

Cleveland	O'Brien	Steers
Edwards, Calif.	Quillen	Walsh

NOT VOTING—79

Ambro	Early	Obey
Ammerman	Evans, Colo.	Pease
Applegate	Evans, Ga.	Pettis
Armstrong	Flynt	Quayle
Badham	Ford, Mich.	Quie
Beard, Tenn.	Forsythe	Rangel
Bellenson	Frey	Risenhoover
Biaggi	Gibbons	Roncalio
Bonker	Harsha	Rose
Bowen	Huckaby	Rostenkowski
Brown, Calif.	Ichord	Rudd
Brown, Mich.	Kasten	Runnels
Burke, Calif.	Krueger	Shipley
Burke, Fla.	Leggett	Steed
Burleson, Tex.	Lehman	Stockman
Burton, John	Lujan	Stokes
Carney	McFall	Teague
Cederberg	Marlenee	Thone
Clay	Mathis	Treen
Conyers	Mazzoli	Udall
Corman	Meeds	Ullman
Cornwell	Mikva	Waxman
Delaney	Milford	Weaver
Dickinson	Mitchell, Md.	Wilson, C. H.
Diggs	Moss	Young, Tex.
Dingell	Murphy, Ill.	
Duncan, Oreg.	Murphy, N.Y.	

Mr. STANGELAND and Mr. LEVITAS changed their vote from "nay" to "yea."

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 20 minutes, and the gentleman from California (Mr. ROUSSELOT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island, Mr. ST GERMAIN.

PERSONAL STATEMENT

Mr. CHAPPELL. Mr. Speaker, I was absent today on rollcall No. 921. Had I been present, I would have voted "aye."

AUTHORIZING CORRECTIONS IN ENROLLMENT OF S. 1487, ELIMINATING RACKETEERING IN SALE AND DISTRIBUTION OF CIGARETTES

Ms. HOLTZMAN. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 755) directing the Secretary of the Senate to make a correction in the enrollment of the Senate bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, and ask unanimous consent for its immediate consideration.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 755

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill (S. 1487) to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes, the Secretary of the Senate shall make the following correction.

In section 2343 (a) of title 18, United States Code, as added by the first section of the bill, strike out "To the extent that such information is contained in existing business records, no additional records shall be required by the Secretary" and insert in lieu thereof "Such information shall be contained on business records kept in the normal course of business.".

PARLIAMENTARY INQUIRY

Mr. ROUSSELOT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. ROUSSELOT. Mr. Speaker, can we have another matter called up with one matter pending?

The SPEAKER pro tempore. The Chair will advise the gentleman from California that it has to be called up by unanimous consent, which was the request.

Mr. ROUSSELOT. I thank the Speaker.

Ms. HOLTZMAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the concurrent resolution be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do not object to the consideration of the concurrent resolution. I do object to dispensing with reading of the concurrent resolution.

The SPEAKER pro tempore. Objection is heard.

The Clerk concluded reading the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from New York?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONCURRING IN SENATE AMENDMENTS TO H.R. 14279 WITH AMENDMENTS

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the passage of this bill is necessary if the 95th Congress is to write a record on financial regulatory reform.

If the House acts, we have reason to believe that the Senate later will accept the package and send it to the President for signature.

Mr. Speaker, I want to assure the Members that the titles relating to regulatory reform, insider lending, interlocking directorates, regulation of changes of control of financial institutions, disclosure, correspondent accounts, the establishment of an examination council, privacy, and Federal chartering of mutual savings bank were all adopted by the House on Thursday, October 5. They are part of the original Financial Institutions Regulatory Act (H.R. 13471) and we are simply substituting these House-passed titles for S. 71 which the Senate passed for a second time Thursday night and sent back to the House. When the House adopted these 12 titles on October 5, a number of Members clarified the legislative history through colloquies in the general debate and in the amendatory process. Clearly this legislative history carries forward to the bill before us since we are, indeed, readopting the same titles approved on that date.

In addition to the S. 71 regulatory bill, the Senate also incorporated a number of other issues separate from the long-debated and much-considered financial reform package.

Some of these additional issues have been adopted by the Subcommittee on Financial Institutions Supervision, Regulation and Insurance after extensive hearings. One of the titles included in the Senate bill involved Electronic Fund Transfers and, as my colleagues remember, the House has already adopted an EFT bill worked out in the Consumer Affairs Subcommittee chaired by our colleague, FRANK ANNUNZIO. Another involves an extension of the Export-Import Bank authority which passed the House earlier this session. And of course, the package contains an extension of regulation Q—the flexible interest rate authority—which passed the House twice this week.

So, my colleagues, the amendment to the Senate bill melds the House-passed provisions and the provisions considered and approved previously in the subcommittee with the Senate version.

The bill, with the amendment, would:

First. Provide the financial institution supervisory agencies with improved and additional powers over depository institutions (civil money penalties, cease-and-desist orders, removal and suspension of insiders) and place limits on loans by commercial banks to insiders—that is, executive officers, directors and 10-percent shareholders;

Second. Prohibit interlocking directors among depository institutions in the same geographic area and for large financial institutions regardless of geographic area;

Third. Improve the Federal Deposit Insurance Act—that is, FDIC approval of foreign branches of State nonmember banks, subpoena power of supervisory agencies, protection for examiners and other supervisory personnel;

Fourth. Provide for the striking and public sale of gold medallions commemorating outstanding individuals in the American arts;

Fifth. Create a three-member board to supervise insured credit unions;

Sixth. Require that Federal banking agencies be given prior notice of proposed changes in control of insured banks or holding companies and gives agencies authority to disapprove the acquisition on criteria specified in title;

Seventh. Require that the Federal Home Loan Bank Board be given prior notice of proposed change in control of insured savings and loan or holding company and gives FHLBB authority to disapprove the acquisition on criteria specified in title;

Eighth. Prohibit preferential treatment in loans to insiders by correspondent banks and require reporting of such loans by insiders and banks;

Ninth. Require banks to report a list of major stockholders and aggregate amount of insider loans to agencies and public;

Tenth. Establish a Federal Financial Institutions Examination Council;

Eleventh. Right to Financial Privacy Act, would give the individual notice of, and a chance to challenge, Federal agency requests for an individual's bank records and establish five procedures to govern access to individual bank records, including a new SEC administrative subpena with no prenotification for criminal investigations and other purposes. Information may be used or retained only for the purpose for which it was obtained and may be transferred to another agency only with statutory authorization, but supervisory agencies may share information;

Twelfth. Provide mutual savings banks the option of FHLBB charter;

Thirteenth. Amends Public Law 93-100 to allow NOW accounts in the State of New York;

Fourteenth. Increase the deposit insurance for $40 to $100 thousand for IRA and Keogh accounts;

Fifteenth. Extends the prohibition on merchant credit card surcharges for 2 years, extends the FHA experimental mortgage program to Massachusetts and defines "community" for depository institutions serving military personnel;

Sixteenth. Extends regulation Q for 2 years and eliminates the differential on savings accounts linked to a transaction account through an automatic transfer of funds.

Seventeenth. Simplifies the investment authority for Federal savings and loan associations, gives such associations more authority to invest in urban areas, and creates a secondary market for rehabilitation loans through the Federal Home Loan Mortgage Corporation;

Eighteenth. Creates in the National Credit Union Administration a Central Liquidity Facility for credit unions;

Nineteenth. Extends the Export-Import Bank for 5 years;

Twentieth. Provides for consumer rights and safeguards in electronic fund transfer systems and creates a framework defining the liabilities and responsibilities of all participants in electronic fund transfers.

It is to state the obvious to say that the hour is late. It is clear that these issues cannot be dealt with in this Congress unless the House acts today. There will not be time for more consideration, no time for more amendments to be passed between the two Houses.

The core provisions of the Financial Institutions Regulatory Act are extremely important—essential if we are to meet our responsibility to assure a safe, sound and responsive financial system.

The bill before us contains a workable and equitable solution to nagging bank regulatory problems—problems which in recent years have threatened to erode the banking industry's number one asset—public confidence.

A great number of the titles of this bill have been worked out with the Treasury Department and have the full backing of the administration. Many of the provisions have been sought for a number of years by the regulatory agencies. Even the American Bankers Association and the Independent Bankers Association have recognized that the time for a change has arrived and have supported major provisions of H.R. 13471 which are incorporated in this bill today.

Mr. Speaker, the regulatory features of this bill represent literally years of work—extending back to the early 1970's. The provisions have been debated and redebated. There is a 3,400-page hearing record, 3 weeks plus of markup in subcommittee and full committee of the regulatory provisions. And behind all this are studies and investigations by the committee, by the regulatory agencies, the General Accounting office, and the mass of findings that have flowed from the failures of such banks as U.S. National in San Diego, the Franklin National in New York, the Hamilton National Bank in Tennessee, and many smaller banks. And all of us are aware of the major banking questions raised in the Bert Lance case just last year.

Mr. Speaker, it would be a serious mistake for the House to fail to act. Again, let me remind my colleagues that we have no time to rehash this issue through another exchange with the Senate. I urge that we adopt this package and send it to the Senate.

I want to return for a moment to the CLF issue. In addition to the definition of "liquidity needs", the Facility's lending authority is further circumscribed by a nonexpansionary provision which reads:

> The Administrator shall not approve an application for credit the intent of which is to expand credit union portfolios.

This provision is the result of an amendment to H.R. 11310 which reflects extensive discussions among the National Credit Union Administration, Department of the Treasury, Federal Reserve Board, and House Committee on Banking, Finance and Urban Affairs. The committee well recognized that the emergency, seasonal, and protracted lending authority contained in this title would necessarily cause an increase in the loan base of a credit union recipient of facility funds. The committee, nevertheless, feels that if the facility maintains a policy of lending at competitive rates with timely repayment, such loan base expansions will not constitute an unlawful pattern of facility lending; that is, a pattern of lending "the intent of which is to expand credit union portfolios."

Mr. Speaker, I yield to the gentleman from New York (Mr. HANLEY).

Mr. HANLEY. Mr. Speaker, just to clarify the matter with respect to the mutual savings banks, I want to just say again tonight what I said last Thursday night with regard to that question.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman suspend for a moment for a question?

Mr. HANLEY. Surely, I am glad to.

Mr. ST GERMAIN. I would like to ask the gentleman from New York, who authored the Federal chartering legislation for mutual savings banks, about that series of amendments which he offered and which were adopted last Thursday evening by the House. Simply put I would ask if it was the intent of the gentleman that anything in those amendments would be a guide or directive of this House to the Federal Home Loan Bank Board in its regulation and enforcement of laws as they may apply to savings and loan associations under its jurisdiction? I am particularly interested in the section referring to the ownership conversion option, that is that conversion from a mutual to a stock form of ownership would be prohibited for any federalized mutual savings bank. Would you infer or intend that this prohibition would be a precedent for the FHLBB attitude toward Federal S. & L.S. insofar as allowing or disallowing such an option for those institutions is concerned?

Mr. HANLEY. The gentleman raises a question which I think has been addressed in the floor colloquy of last Thursday. The answer now, as then, would be that the intent of my amendments is quite restrictive in its application only to converted Federal mutual savings banks. There is no desire or wish to apply these restraints to S. & L.S. Nor is there any desire to make any judgment in having addressed the mutual savings bank situation that would by indirection or omission be interpreted as a permission for the FHLBB to allow to others an opportunity denied by my amendment to a Federal mutual savings bank. The net effect of my amendments is to be moot on the conduct of bank board policy toward S. & L.S. That has been the intent and that remains the intent.

Mr. ROUSSELOT. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, the other body sent us a package of bills which included a truth in lending simplification bill. The truth in lending simplification bill which was passed by the other body is an excellent bill and is almost identical to a bill which I introduced early on in this Congress. I am disappointed that it is not a part of this package.

Truth in lending has become a nightmare for borrowers and lenders because of the promulgation of regulation Z and the complicated provisions established by the Federal Reserve Board through regulation Z. But because of the intransigence of the gentleman from Illinois (Mr. ANNUNZIO), the truth in lending simplification bill is not a part of this package. However, I do understand the gentleman's position and his reasons for it.

I will say the gentleman has been very fair with me as the ranking minority member of the Subcommittee on Consumer Affairs on legislation which has come before our subcommittee. We have been able to work together to write good legislation, Chairman ANNUNZIO has assured me that a truth in lending simplification bill will be reported out of his subcommittee by March or April in the 96th Congress.

Otherwise the package which has been sent to us or which we have gotten together here tonight is an excellent package, addressing much needed legislation. The package before us this evening has an excellent electronic fund transfer bill in it, in which I have a personal interest, and it is almost identical to a bill which was passed by this House by a vote of 314 to 2.

So I suggest to the Members of the House that we accept this package this evening because it does contain much needed legislation, and we can go on from there.

Mr. ROUSSELOT. Mr. Speaker, I yield 4 minutes to the distinguished ranking minority member of the committee, the gentleman from Ohio (Mr. STANTON).

Mr. STANTON. Mr. Speaker, there is an obvious time when you take the well and you notice that the clapping is missing. But what you have to do, I think, is to explain something that is almost unexplainable. What we are hoping for is that the Members will buy in the next 15 or 20 minutes what took place in the last 2 years in our committee, and that is exactly what it amounts to—a 2-year effort on behalf of the majority and the minority. I would like to make point No. 1, that on the minority side, and handling this legislation tonight, is not a man who is leaving this body, but a man who is leaving our committee of his own free will. I think he will speak against this legislation, and I hope he will do it so forcefully that he might get a little mad and maybe in the next couple of months he will change his mind and he will come back. But to the best of my knowledge this is the last legislation that JOHN ROUSSELOT will work on as a member of our committee. The minority and the majority will miss him, because he has made a great impression on our committee.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. STANTON. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Will the gentleman from California also be resigning from the Interior Committee?

Mr. STANTON. I do not want to get into other things, but I want to explain to the Members that this legislation, which I support, and which the majority on our side supports, a consensus legislation for the package of the nine bills, which includes such things as the 2-year regulation Q extension, to the IRA-Keogh amendments, the Eximbank legislation with House amendments rather than Senate, and I could go on and on, but we have spent literally hundreds and hundreds of hours and days and days of preparation in bringing you this legislation. Truthfully, all the Members can do is maybe take our word for it here tonight that we think truly it is in the best interest of the United States and our citizens and our taxpayers to support this legislation.

Mr. ROUSSELOT. Mr. Speaker, I yield 2 minutes to our distinguished colleague, the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Speaker, I could not go through this debate, after all of the hours we have spent, without saying that my good friends, the gentleman from Nebraska (Mr. CAVANAUGH), the gentleman from California (Mr. PATTERSON), and (Mr. GOLDWATER) have put in a lot of work on the privacy section of the Banking Act, which is still in this bill. Believe me, Mr. Speaker, we spent many hours trying to find out what is in this bill. It is sort of a tragedy that we sit here at 10 minutes of 2. I will sit down and revise my remarks, but I will say that it is a great privacy bill and I hope the Members will vote for the entire package. In all honesty, despite my strong urging if any of you know what we are doing in the entire package, you have amazingly astute intellectual powers.

Mr. ROUSSELOT. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GOLDWATER), who has had a long-time interest in the privacy section of this bill, along with many others of us.

Mr. GOLDWATER. Mr. Speaker, in 1976, or thereabouts, the U.S. Supreme Court altered greatly the way in which we look upon bank records, and it was because of this particular decision that the committee found fit to study and to modify the records kept by banks.

As a result of that effort by Mr. STARK of California, Mr. CAVANAUGH, Mr. PATTISON of New York, my friend Mr. ROUSSELOT, and others, we created title XI. I would ask the chairman, can he assure us that in this particular measure title XI, as passed by the House, is retained in its entirety?

Mr. ST GERMAIN. As I stated to the gentleman earlier, title XI in this bill is title XI as adopted by the House last Thursday evening but for the one change as to the SEC which eliminates the coverage of SEC for 2 years after the date of enactment. But, after the 2-year period, the SEC automatically comes within the purview of the title.

Mr. GOLDWATER. I thank the chairman. I would compliment the committee for these provisions, because it once again puts bank customers back in control of their own bank records. I think it is a move in the right direction. I compliment all those who had anything to do with moving in this direction.

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I just wanted to assure the gentleman that I talked with the distinguished gentleman from Texas (Mr. ECKHARDT), and we are in agreement.

I again want to thank Mr. ST GERMAIN, of Rhode Island, the chairman of the committee, the gentleman from Wisconsin (Mr. REUSS), Mr. PATTERSON of California, Mr. CAVANAUGH, Mr. ROUSSELOT, the ranking minority member and the gentleman from California for all the good work they have done to bring this to fruition.

Mr. ROUSSELOT. Mr. Speaker, I yield such time as he may consume to our distinguished colleague from Idaho (Mr. HANSEN).

Mr. HANSEN. Mr. Speaker, I thank my colleague for yielding. As an original sponsor of the gold coinage legislation included in this bill, I am hopeful this provision can now become a reality for the benefit of American citizens who need a workable hedge against inflation and the same right to own gold as the citizens of most other free-world nations.

Last year, Mr. Speaker, Americans bought more than 1½ million ounces of gold coins from overseas sources, contributing more than a quarter of a billion dollars to our balance of trade deficit. At the same time, the Treasury has been auctioning gold, and nearly all of it has gone abroad, largely, so we hear, to German banks buying for Arabian customers.

The reason Americans do not buy Treasury gold is simple—the Treasury sells in minimum units of 400 ounces, which means an investment of over $80,000. The reason Americans buy Krugerrands is also simple—they are widely available in small, easily authenticated units offered at competitive prices.

I cannot think of any good reason to leave this trade to South Africans. I cannot see why Americans should be limited to buying foreign gold while their own Treasury is shipping the stuff overseas in wholesale lots.

It was in light of the Treasury sales that I introduced H.R. 13309, which calls for striking of gold pieces that would compete head-on with the Krugerrand. Other bills have been introduced, and now it appears that the Senate will adopt our directions to the Treasury to strike and sell such pieces so we ought to specify the key features we want.

The amendment covers what I believe to be the critical areas I have insisted on. It assures, as I think the Senate language does not, that the pieces issued will be easily authenticated, and fraud and counterfeiting effectively prevented. Moreover, it makes it clear that there should be quality pieces, reflecting well on the prestige of the United States.

I am delighted to be able to speak in favor of this amendment, and I urge my colleagues to vote for its adoption. It is the last step in the full rationalization of gold, completing the work started when we permitted Americans to own gold and continued when we permitted them to deal in gold. A measure which I also sponsored. Now, we assure that the U.S. gold stock will go, in part at least, to Americans.

As ranking minority member of the Domestic Monetary Subcommittee with jurisdiction in this area, I commend the gentleman from Iowa (Mr. LEACH), who, as ranking minority member of this Coinage Subcommittee also having juris-

diction, did yeoman service in bringing U.S. gold coin medallion to reality.

Mr. Speaker, I also support the amendment to the bill before us to expand the class of securities eligible as collateral for Federal Reserve notes. The present law was passed before purchase of agency obligations was contemplated, so this amendment could be regarded as nothing more than a conforming change resulting from a drafting oversight.

Furthermore, present law has an anomaly in that discounted bank paper which is secured by agency obligations can be used as collateral, while the obligations themselves, if held directly by the Fed, cannot. This amendment corrects that anomaly.

I would just like to point out also that this matter has become more pressing since our subcommittee considered it in hearings. Since that time, it has become clear that something is going to be done about Fed membership, and this will involve, it seems, a contraction in the asset side of the Fed's balance sheet. This will bring closer the day when issuance of notes demanded by the banking public will be limited by the availability of assets for collateral, so I believe we ought to act on this now.

I again thank my colleague for yielding.

Mr. ROUSSELOT. Mr. Speaker, I yield such time as he may consume to my distinguished colleague from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, on October 5, 1978, when the House considered amendments to H.R. 13471, the Financial Institutions Regulatory Act of 1978, I was unavoidably absent from the floor. Since no pairs were available for Members who did not vote on the three amendments on which votes were recorded, I am taking this opportunity to state my position on the issues discussed.

Record vote 881 concerned an amendment offered by Mr. KINDNESS which would have authorized the payment of attorneys' fees and court costs to persons prevailing in appeals from cease-and-desist orders, and from civil money damages. This amendment failed 153 to 222 with 11 voting present. I would have voted in favor of this amendment.

First, I do not favor the title I grant of increased supervisory power to the agencies regulating financial institutions; I believe that the agencies have sufficient power at present, and that if wrongdoing has taken place, the reason is not lack of power, but instead lack of proper enforcement.

Second, the new supervisory power is all the more subject to mistake and abuse. To defend against a wrongly imposed cease-and-desist order or a wrongly imposed fine is a burden all too expensive to impose, especially when imposed on the small or independent bank or on the individual lacking in great wealth. Thus, I extend my support for this amendment.

Record vote 882 concerned an amendment offered by Mr. MATTOX which struck from the bill language exempting the Securities and Exchange Commission from privacy act provisions. This amendment passed 328 to 26 with 5 voting present. I favored this amendment. The SEC is charged with the protection of the integrity of the Nation's financial markets, and I do not believe this responsibility is inconsistent with the protection of the privacy of the Nation's citizens. The SEC has sufficient investigatory power to perform its statutory responsibilities, and, thus, the privacy act should apply to the SEC.

Record vote 883 concerned an amendment by Mr. HANLEY which deleted from the bill the grandfathering of bank holding companies which have applied for authority to engage in insurance activity prior to June 6, 1978. The amendment passed 252 to 72 with 9 voting present. I would have voted in favor of this amendment. I agree strongly that bank holding companies should be prohibited from engaging in insurance activities except for those directly related to banking activities.

Mr. ROUSSELOT. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding. I would like to ask the chairman handling the bill a question. Last Thursday night we adopted the Hanley amendment, which insurance agents of America, life underwriters, and independent agents, were interested in protecting the agents against the bank holding companies going into the insurance business. That was title XIII. Is this title in this bill?

Mr. ST GERMAIN. Mr. Speaker, if the gentleman from California will yield, as I told the gentleman earlier, it was not contained because we had not completed consideration of title XIII when we were forced to rise last Thursday night. We will have hearings early, as soon as we reorganize the subcommittee in the next Congress.

Mr. MONTGOMERY. It seems like most of the titles have been brought forward, and I am concerned that no interest was shown in title XIII and that it was left out. It was the Hanley amendment. There were only 98 votes against the amendment and over 300 of the House Members voted for the amendment.

Mr. ROUSSELOT. Mr. Speaker, while "sweeping up" at the House Banking Committee, we found a number of bills lying around, and we present them to our colleagues today in one glorious package, with the following contents:

The first 12 titles are the same as the first 12 titles of the Financial Institutions Regulatory Act, as passed on the House floor on October 5, 1978, with changes as noted:

Title I: Supervisory authority over depository institutions. An addition to this title will add to eligible collateral any obligations which are direct obligations of a Federal agency or which are fully guaranteed as to principal and interest by such an agency.

Title II: Interlocking directorates.

Title III: Foreign branching.

Title IV: American Arts Gold Medallions. This title was substituted for title IV of the original bill, which was deleted. That title dealt with conflicts of interest on the part of members of the agencies which regulate and supervise depository institutions and has been superseded by the Government-wide provisions of H.R. 1/S. 555.

The new title IV is a very important provision which will require the Treasury to make available to the American public up to 1 million ounces of gold in a form which makes it practical for the average American to buy it; namely, half-ounce and 1-ounce medallions. I believe that it is foolish for the Treasury to engage in the wholesale disposal of the U.S. gold reserves, but if Treasury insists on selling gold, then the American public should have an opportunity to participate, just as it has participated in the gold market in the past by buying gold coins issued by South African and other foreign countries.

Title V: Credit union restructuring.

Title VI: Change in Bank Control Act.

Title VII: Change in Savings and Loan Control Act.

Title VIII: Correspondent accounts.

Title IX: Disclosure of material facts.

Title X: Federal Financial Institutions Examination Council.

Title XI: Right to financial privacy. This bill reinserts a provision exempting the Securities and Exchange Commission from the restrictions on access by Government agencies to the financial records of individuals. The deletion of this exemption was accomplished by an overwhelming vote in the House, and I believe that its reinsertion, presumably at the instance of our colleagues in the other body is unjustified and that it is likely to give rise to a flood of demands for exemptions from Federal agencies. Agencies we never even knew existed will probably be petitioning the Banking Committees of Congress before long if this exemption remains in the bill.

Title XII: Charters for thrift institutions.

The following titles have been added to the FIRA package and the gold medallion title, for a grand total of 21 titles:

Title XIII NOW accounts. Authority to offer negotiable order of withdrawal accounts would be extended to New York.

Title XIV: Insurance of IRA and Keogh accounts. The present limit of $40,000 for insurance for these accounts would be raised to $100,000.

Title XV: Miscellaneous provisions. There are four miscellaneous provisions:

First. Extension to February 27, 1981, of the current prohibition on credit card surcharges.

Second. Exemption from the Community Reinvestment Act for military banks.

Third. Authority for graduated payment mortgages to be offered in Massachusetts despite the prevailing usury ceiling.

Fourth. Authority for a national bank to retain its certification despite the fact

that the Comptroller of the Currency has limited its activities to those of a trust company.

Title XVI: Interest rate control. A 2-year extension of interest rate control authority, with the quarter-point differential not to apply to savings accounts from which automatic transfers may be made to transaction accounts. The removal of the differential applies to automatic transfers which will be permitted if the regulations of the Federal banking agencies go into effect as scheduled on November 1. This depends upon the outcome of litigation which is now in the Federal courts.

Title XVII: Federal Savings and Loan Investment Authority. A nonsubstantive rewrite of section 5(c) of the Home Owners Loan Act of 1933, which is the basic investment authority for savings and loans, as well as enlargement of this authority to permit investments in: First, urban areas participating in community development block grant or other Federal city aid programs; second, rehabilitation and home improvement loans; and third, State and local sponsored housing finance agencies. This portion of the bill also contains authority for savings and loans to buy second mortgages and mortgages on cooperatives and for the Federal Home Loan Mortgage Corporation to buy such mortgages from savings and loans.

Title XVIII: National Credit Union Central Liquidity Facility Authority for the establishment of a central liquidity facility for credit unions, to enable them to better cope with the new powers, including home mortgages, credit cards, and unsecured lines of credit, which Congress granted to credit unions under Public Law 95-22.

Title XIX: Export-Import Bank Act amendments. A bill similar to H.R. 12157, which the House passed on July 27, 1978, and which would extend the life of the Export-Import Bank for 5 years through September 30, 1983, and increase its total lending authority from $25 to $40 billion.

Title XX: Electronic fund transfers. A bill similar to H.R. 13007, which the House passed on August 11, 1978.

Title XXI: Effective date. Except as otherwise provided, the bill would become effective 120 days after enactment.

Mr. Speaker, now that this large bill has been reviewed, I will be brief. This is a rather large bill. It is true, as my colleague from Rhode Island (Mr. ST GERMAIN), has stated, that some of it we worked on and some of it we have not, but we thought about it a lot in committee. Some of it we voted down and some of it we voted up. I have very mixed feelings about this for a lot of reasons.

The Senate gave us a title and sent it to us with regulations to amend truth-in-lending provisions. Mr. WYLIE has already spoken of that title. We have had hearings in the House that showed how the truth-in-lending amendments would reduce the unnecessary paperwork now required under present law. Mr. WYLIE discussed how these changes in the law would reduce a tremendous burden on the retail businesses of this country. I think it is too bad that because we could not quite arrive at agreement, that this was not included in the package of titles.

I am also very disappointed that the holding company amendments relating to the small independent insurance companies—was also dropped rather unceremoniously. We could take care of all these other little pieces but failed the same independent insurance agents. In the negotiations, quite a few important items fell through the crack.

So, Mr. Speaker, I am not going to vote for this report. I regret not doing so, because I think that the request we made when we were asked by Mr. ST GERMAIN as to what might be included, it was left out. We are in the minority; we understand that, and so we accept that.

But I also reserve the right then not to support something if it does not meet my highest expectations.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. DERRICK).

Mr. DERRICK. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I ask the support of the Members on this legislation. This legislation represents the culmination of 2 years of, I think, thoughtful deliberation on the part of the Banking and Currency Committee and I think it addresses many of the areas of statutory regulation of our financial institutions whose shortcomings were brought to our attention with some force this year.

I recommend the legislation to the body and ask the support of the Members for it.

Mr. ROUSSELOT. Mr. Speaker, I forgot to mention a title called alternative mortgages instruments, which we passed out of the committee. We did not have a chance to vote on it in the full House. The other body in the Banking Committee has voted for a similar position to allow Federal institutions that compete with State institutions the same rights to offer alternative mortgage instruments that State institutions enjoy, subject to elaborate consumer protections. There are about five States where Federal institutions may now be competitively disadvantaged by their inability to offer these instruments and the competitive disparity will worsen as State institutions in other States which permit these instruments become more active in offering them.

I know that issue was addressed. It does affect the State of California, so I do have some interest, but it affects several other States most notably Connecticut, Ohio, Wisconsin, and Massachusetts, and I regret that was not allowed to come to full fruition here on the floor. That was another of the things that fell through the cracks.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. LA FALCE).

Mr. LAFALCE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I support this bill.

Mr. ST GERMAIN. Mr. Speaker, I want to say I too regret the fact that we are going to lose the gentleman from California, Mr. JOHN ROUSSELOT, on the subcommittee as well as the full committee.

I too regret that the gentleman regrets, but it is still good legislation and I hope the full House will support this legislation. It will do great credit to the full House.

Mr. ROUSSELOT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. PICKLE), who has an important question.

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I want to address a question to the chairman of the subcommittee again about this matter of the insurance agents with respect to the holding companies involving themselves in this business. The gentleman commented to the other gentleman (Mr. MONTGOMERY) that we were going to hold hearings. I think the House would like to have a fuller statement about what the gentleman intends to do, when he intends to do it, and why this amendment was not included in the bill.

Mr. ST GERMAIN. Mr. Speaker, I would say to the gentleman that I was aware of this probably long before it came to the attention of the gentleman and I have been one of the supporters of the insurance people, but there are times when one cannot do everything he wants to do, and I intend to support action by our subcommittee on this at the earliest possible moment. There is no one who feels more strongly about this than I do.

Mr. PICKLE. I do not question the intention of the gentleman and I do not think anybody in the House intends to, but we are entitled to have an answer to this question whether the gentleman is going to have hearings on this as soon as possible in the next session, so that the House will have the opportunity to take similar action as we did on this amendment last week.

Mr. ST GERMAIN. Yes, certainly.

● Mr. HANLEY. Mr. Speaker, as some of our colleagues have noted there is a major segment of the Financial Institutions Restructuring Act which has not been included in this compromise version which we are considering tonight. This is not for lack of a strong sentiment for action by this House on the issues involved in the absent title, but is due to the exigencies of legislative pragmatism. I refer to the insurance activities prohibition amendment which I offered in our subcommittee on financial institutions as title XIII of the then called Safe Banking Act, and which was part of the FIRA bill before us last week.

As Members will recall, the original insurance prohibition was couched among other sections of the original title XIII which applied to the conduct of bank holding companies. The overall

intent and design of those sections was to tighten and constrain the expansionist impulse of nonbanking activities of bank holding companies. Such limitations were an outgrowth of the skepticism which many legislators and regulators and private entities developed about the safety and soundness of the financial institutions engaged in activities far afield of banking and of the associated concern that the financial muscle of bank holding companies could lead to a dominance of businesses outside the scope of banking itself.

Even as the surrounding sections of the original title XIII were stripped away and jettisoned, the insurance prohibition concept was ratified again and again as a desired goal of the banking committee. Indeed, even as it was amended, there was virtual unanimity that bank holding companies should not be engaged in certain insurance activities in the future. Again, as is characteristic of the legislative process, the adjustment of a conceptual ideal to the realities of legislative enactment seemed to warrant an accommodation of the disparate interests associated with the issue involved. Compromise and good faith negotiations resulted in what all parties expected to be a title insuring the integrity of the prohibition ideal while at the same time assuring that dislocations and disadvantages to the existing bank holding company subsidiaries engaged in certain insurance activities would be minimized.

Suffice to say that the committee transcripts and the legislative history of the banking committee report make clear the intent and desire of the majority of the members of the committee. Simply put, it is "stop bank holding company involvement in anything except credit life and credit disability insurance from June 6, 1978 onward."

The time of the House was consumed last Thursday evening in an involved and complicated dispute involving the nature of the grandfathering of allowed activities under the prohibition language of the title as reported by the committee to the floor. I refer our colleagues to the record of October 5, 1978, page H 11746, for a full explanation of that matter and do not intend to rehash that matter tonight.

What I will say about the events last Thursday is that the House went on record decisively in opposition to any bank holding company insurance activities beyond those engaged in on the date certain of June 6 of this year. That 252-to-72 vote is ample demonstration that the House favors legislation which limits bank holding company growth into certain nonbank areas. That vote sets the tone for future inquiries into other bank holding company activities.

Building upon the recent new-found hesitancy of former Federal Reserve Board Chairman Arthur Burns toward the whole panoply of bank holding company involvements—even to the point that Dr. Burns urged a go slow approach to bank holding company development—this House has stricken the first blow in what could be a barrage of punches at the inflated holding company balloon. Notice has been served upon the Federal Reserve Board and upon the holding companies that more strict accounting will be demanded of such organizations insofar as community benefits and competitive impact of their activities is concerned.

To our colleagues who resent the deletion of the insurance prohibition in this bill I must say that no one is saddened more than I that a legislative consensus could not be reached to allow the House the satisfaction of its own will.

I do promise this, however; that I will join Chairman ST GERMAIN and the overwhelming majority of both parties on the banking committee in pushing for early passage in the next Congress of strong legislation—even stronger than that which we accepted last Thursday night—which will protect the public and protect legitimate competitive enterprise in many more sectors of the economy than insurance.

This is not a sad end to limiting bank holding company intrusion into sectors of our business life for which no affinity or natural domain has been demonstrated. This marks a resurgence of pointed and critical analysis of just what bank holding companies do and what they should be allowed to do.

Congress shall be the final arbiter on this issue. The issue is far from settled tonight by the failure to act upon the title XIII language as part of the compromise package. I urge our colleagues to remember last Thursday, remember that vote, remember that decision by this body, for that is the true expression of the House, that is the legislative history, that is the launching pad for next year's followthrough on what was delayed but not defeated by what we do here tonight.●

● Mr. ANNUNZIO, Mr. Speaker, during my 14 years in Congress never have I seen a piece of legislation that contains as many consumer benefits as H. Res. 1439. In too many cases during the closing hours of a Congress special interest legislation has been pushed through to benefit one or two large corporations or lobbying groups.

This morning we are pushing through a bill that will have long lasting positive effects on consumers. There are actually four separate consumer benefits to this legislation but two of them are important not because they are contained in the bill, but rather because they are not in the bill.

The first consumer benefit of the legislation is that it contains the Electronic Fund Transfer Act which for the first time establishes important consumer safeguards in the new field of electronic fund transfers (EFTS), the so-called cashless and checkless society. Under EFTS systems banking is conducted through the use of a plastic card which activates a computer that transfers funds from one account to another so that no cash exchange takes place. Without this legislation consumers could lose their entire life's savings without any hope of having it replaced.

The Consumer Affairs Subcommittee which I chair has already received numerous cases of individuals who have lost thousands of dollars through electronic fund transfer systems and have no way to recover the money. This legislation would limit such losses to a maximum of $50 in most cases, unless the consumer took little action to safeguard his or her funds.

The legislation would also prohibit the sending of unsolicited debit cards—the plastic card used to activate electronic fund terminals. Such a ban is necessary because in the past there have been cases where debit cards and the secret number used in connection with the card called a PIN—personal identification number—have been intercepted in the mail and have been used to wipe out a consumer's account.

The second consumer benefit in the legislation is a 2-year extension of the credit card surcharge ban. At the present time there are more than 600 million credit cards in circulation in this country and we have truly become a credit card economy. It is impossible to rent a car, check into a hotel room or even get a check cashed without a credit card. Credit cards are no longer a luxury, they are a necessity. The subcommittee has found, however, that some business firms have charged consumers an extra fee when they pay with a credit card rather than with cash or check. I do not want to get into the debate as to whether cash customers subsidize credit card customers or whether it is the reverse, but I do know that it is not fair to require a credit card customer to pay more than the regular price solely because a credit card is involved.

I would also point out that legislation is still in effect that would allow merchants to give cash customers a discount of up to 5 percent off the regular price. I think this is an extremely good compromise in that it prohibits credit card customers from paying more than the regular price but allows cash paying customers to pay less than the regular price, in no case can anyone be charged more than the regular price.

Unless the surcharge ban is extended it will expire at the beginning of next year and while I want a permanent ban on credit card surcharges, the Senate sought only a 2-year ban so that further studies could be made in this area.

Let me turn now to the two highly important consumer aspects of the legislation that you will not find in the bill.

There had been extreme pressure to include in this package a provision to allow federally chartered savings and loan associations to issue variable rate mortgages—mortgages in which the interest rate is increased or decreased as the cost of money rises and falls. On paper variable rate mortgages look like a good deal because a consumer theoretically could start with a high mortgage and as the cost of money to the financial institution decreased the monthly payment on the mortgage would decrease.

In practice though, the variable rate mortgage or VRM as they are called, is like an up escalator in that it moves in

only one direction. I know of no case where a variable rate mortgage has ever been decreased.

The variable rate mortgages have been denounced by every consumer group in the country as well as organized labor and the National Association of Home Builders. They are the most anticonsumer type of home financing ever invented and, therefore, it is highly significant to consumers across the country that they are not made a part of this package.

The final consumer benefit is also one that is a benefit because it is not in the legislation. The Senate earlier this year passed a truth in lending simplification bill which was designed to ease the paperwork requirement surrounding the centerpiece of most consumer legislation, the Truth in Lending Act. The thought behind the legislation is to make it easier for businesses to comply with the law and to make the law easier for consumers to understand. But like so many other well-intended projects something happened between the idea stage and the building stage.

It is my feeling that the Senate-passed bill goes too far in simplifying the law and may actually be removing important consumer safeguards. My belief is shared by consumer groups across the country which violently oppose this legislation. Truth in lending took 7 years to reach enactment and has been on the law books for another 10 years. It has become a cumbersome law to administer because of its many complexities but it is a law that should not be hastily reworked.

I favor simplifying not only truth in lending but all legislation, and to that end I have announced that between now and the start of the 96th Congress the staff of the Consumer Affairs Subcommittee will work on a draft of a simplification bill which I will introduce on the first day of the new Congress. We will hold hearings on that legislation as soon as the subcommittee is reformed and I hope to have a bill through the House and ready for Senate action in early summer. Certainly we can wait a few months to come up with a good bill, one that will benefit business and consumers alike, rather than dealing with a bill that has little support outside certain segments of the business community.

Mr. Speaker, this morning has been an important time for consumers. There have been some charges that this is not a consumer Congress. I do not know whether those charges are true, but I do know that this morning this has been a very good consumer Congress.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island, Mr. ST GERMAIN, that the House suspend the rules and agree to the resolution (H. Res. 1439).

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—yeas 146, nays 11.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 341, nays 32, "present" 9, not voting 48, as follows:

[Roll No. 930]

YEAS—341

Abdnor	Early	Leach
Addabbo	Eckhardt	Lederer
Akaka	Edgar	Lent
Alexander	Edwards, Ala.	Levitas
Ambro	Edwards, Calif.	Lloyd, Calif.
Anderson, Calif.	Eilberg	Lloyd, Tenn.
Anderson, Ill.	Emery	Long, La.
Andrews, N.C.	Erlenborn	Long, Md.
Andrews, N. Dak.	Ertel	Lott
Annunzio	Evans, Del.	Luken
Archer	Evans, Ga.	Lundine
Ashley	Evans, Ind.	McClory
Aspin	Fary	McCloskey
AuCoin	Fascell	McCormack
Bafalis	Fenwick	McDade
Barnard	Findley	McHugh
Baucus	Fish	McKay
Bauman	Fisher	McKinney
Beard, R.I.	Fithian	Madigan
Beard, Tenn.	Flood	Maguire
Bedell	Florio	Mahon
Beilenson	Flowers	Mann
Bennett	Foley	Markey
Bevill	Ford, Tenn.	Marks
Bingham	Forsythe	Marriott
Blanchard	Fountain	Martin
Blouin	Fowler	Mathis
Boggs	Fraser	Mattox
Boland	Frenzel	Mazzoli
Bolling	Fuqua	Meeds
Bonior	Garcia	Meyner
Bonker	Gaydos	Michel
Bowen	Gephardt	Mikulski
Brademas	Giaimo	Miller, Calif.
Breaux	Gilman	Miller, Ohio
Breckinridge	Glickman	Mineta
Brinkley	Goldwater	Minish
Brodhead	Gonzalez	Mitchell, N.Y.
Brooks	Goodling	Moakley
Broomfield	Gore	Moffett
Brown, Calif.	Gradison	Mollohan
Brown, Ohio	Green	Montgomery
Broyhill	Gudger	Moore
Buchanan	Guyer	Moorhead, Calif.
Burgener	Hagedorn	Moorhead, Pa.
Burke, Mass.	Hamilton	Murphy, Ill.
Burlison, Mo.	Hanley	Murphy, N.Y.
Burton, Phillip	Hannaford	Murphy, Pa.
Butler	Hansen	Murtha
Caputo	Harkin	Myers, John
Carr	Harrington	Myers, Michael
Carter	Harris	Natcher
Cavanaugh	Harsha	Neal
Cederberg	Hawkins	Nedzi
Chisholm	Heckler	Nix
Clausen, Don H.	Hefner	Nolan
Clay	Heftel	Nowak
Cochran	Hightower	Oakar
Cohen	Hillis	Oberstar
Coleman	Holland	Obey
Collins, Ill.	Hollenbeck	Ottinger
Conable	Holt	Panetta
Conte	Holtzman	Patten
Corcoran	Horton	Patterson
Corman	Howard	Pattison
Cornell	Hubbard	Pease
Cornwell	Huckaby	Pepper
Cotter	Hughes	Perkins
Coughlin	Hyde	Pickle
Cunningham	Ireland	Pike
D'Amours	Jacobs	Pressler
Daniel, Dan	Jeffords	Preyer
Daniel, R. W.	Jenrette	Price
Danielson	Johnson, Calif.	Pritchard
Davis	Johnson, Colo.	Pursell
de la Garza	Jones, N.C.	Rahall
Dellums	Jones, Tenn.	Railsback
Dent	Jordan	Regula
Derrick	Kasten	Reuss
Derwinski	Kastenmeier	Rhodes
Devine	Kazen	Richmond
Dicks	Kemp	Rinaldo
Dingell	Keys	Roberts
Dodd	Kildee	Robinson
Dornan	Kostmayer	Rodino
Downey	Krebs	Roe
Drinan	Krueger	Roncalio
Duncan, Tenn.	LaFalce	Rooney
	Lagomarsino	Rose
	Latta	Rosenthal
	Le Fante	Rostenkowski
	Leggett	Roybal
	Levitas	Runnels
	Lloyd, Calif.	Ruppe
	Lloyd, Tenn.	Russo
	Long, La.	Ryan
	Long, Md.	Santini
	Lott	Sarasin
	Luken	Satterfield
	Lundine	Sawyer
	McClory	Scheuer
	McCloskey	Schroeder
	McCormack	Schulze
	McDade	Seiberling
	McHugh	Sharp
	McKay	Shuster
	McKinney	Sikes
	Madigan	Simon
	Maguire	Sisk
	Mahon	Skubitz
	Mann	Slack
	Markey	Smith, Iowa
	Marks	Snyder
	Marriott	Solarz
	Martin	Spellman
	Mathis	Spence
	Mattox	St Germain
	Mazzoli	Staggers
	Meeds	Stangeland
	Meyner	Stanton
	Michel	Stark
	Mikulski	Steed
	Miller, Calif.	Steiger
	Miller, Ohio	Stockman
	Mineta	Stokes
	Minish	Stratton
	Mitchell, N.Y.	Studds
	Moakley	Taylor
	Moffett	Thompson
	Mollohan	Traxler
	Montgomery	Treen
	Moore	Trible
	Moorhead, Calif.	Tsongas
	Moorhead, Pa.	Tucker
	Murphy, Ill.	Van Deerlin
	Murphy, N.Y.	Vander Jagt
	Murphy, Pa.	Vanik
	Murtha	Vento
	Myers, John	Volkmer
	Myers, Michael	Waggonner
	Natcher	Walker
	Neal	Wampler
	Nedzi	Weaver
	Nix	Weiss
	Nolan	Whalen
	Nowak	White
	Oakar	Whitehurst
	Oberstar	Whitley
	Obey	Whitten
	Ottinger	Wiggins
	Panetta	Wilson, Tex.
	Patten	Wirth
	Patterson	Wolff
	Pattison	Wright
	Pease	Wydler
	Pepper	Wylie
	Perkins	Yates
	Pickle	Yatron
	Pike	Young, Alaska
	Pressler	Young, Fla.
	Preyer	Young, Mo.
	Price	Zablocki
	Pritchard	
	Pursell	
	Rahall	
	Railsback	
	Regula	
	Reuss	
	Rhodes	
	Richmond	
	Rinaldo	
	Roberts	
	Robinson	
	Rodino	
	Roe	
	Roncalio	
	Rooney	
	Rose	

NAYS—32

Ashbrook	Ginn	Mottl
Benjamin	Grassley	Myers, Gary
Brown, Mich.	Hall	Nichols
Burleson, Tex.	Hammer-schmidt	Poage
Chappell	Jenkins	Rousselot
Clawson, Del	Jones, Okla.	Sebelius
Collins, Tex.	Kelly	Stump
Crane	Kindness	Symms
Edwards, Okla.	Livingston	Thornton
Flippo	McDonald	Watkins
Gammage		Wilson, Bob

ANSWERED "PRESENT"—9

Cleveland	Quillen	Steers
McEwen	Rogers	Walsh
O'Brien	Skelton	Winn

NOT VOTING—48

Ammerman	Evans, Colo.	Quayle
Applegate	Flynt	Quie
Armstrong	Ford, Mich.	Rangel
Badham	Frey	Risenhoover
Baldus	Gibbons	Rudd
Biaggi	Ichord	Shipley
Burke, Calif.	Leggett	Smith, Nebr.
Burke, Fla.	Lehman	Teague
Burton, John	Lujan	Thone
Carney	McFall	Udall
Conyers	Marlenee	Ullman
Delaney	Mikva	Walgren
Dickinson	Milford	Waxman
Diggs	Mitchell, Md.	Wilson, C. H.
Duncan, Oreg.	Moss	Young, Tex.
English	Pettis	Zeferetti

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Dickinson.
Mr. Mikva with Mr. Burke of Florida.
Mrs. Burke of California with Mr. Frey.
Mr. Ullman with Mr. Lujan.
Mr. Diggs with Mr. Quayle.
Mr. Risenhoover with Mr. Marlenee.
Mr. Applegate with Mr. Badham.
Mr. John L. Burton with Mr. Quie.
Mr. Charles H. Wilson of California with Mr. Rudd.
Mr. Conyers with Mrs. Smith of Nebraska.
Mr. Teague with Mr. Baldus.
Mr. Shipley with Mr. Thone.
Mr. Ammerman with Mr. Carney.
Mr. Flynt with Mr. English.
Mr. Evans of Colorado with Mr. Duncan of Oregon.
Mr. Ichord with Mr. Leggett.
Mr. Zeferetti with Mr. Milford.
Mr. Delaney with Mr. Udall.
Mr. Walgren with Mr. Rangel.
Mr. Gibbons with Mr. Waxman.
Mr. Mitchell of Maryland with Mr. Ford of Michigan.
Mr. Lehman with Mr. Moss.
Mr. McFall with Mr. Armstrong.

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5262) entitled "An act to suspend until the close of June 30, 1980, the duty on certain bicycle parts."

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

AUTHORIZING CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN HOUSE RESOLUTION 1439

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the Clerk may have authority to make such technical and conforming changes as are necessary in the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

PROVIDING NATIONWIDE SERVICE OF SUBPENAS IN SUITS INVOLVING THE FALSE CLAIMS ACT

Mr. DANIELSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 12393) to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The clerk read the Senate amendment as follows:

Page 1, after line 9, insert:

SEC. 2. Section 274 of the Immigration and Nationality Act (8 U.S.C. 1324) is amended by redesignating subsection (b) as subsection (c) and adding a new subsection (b) as follows:

"(b)(1) Any vessel, vehicle, or aircraft which is used in the commission of a violation of subsection (a) shall be subject to seizure and forfeiture, except when—

"(A) the owner, master, or other person in charge of such vessel, vehicle, or aircraft, was not, at the time of the alleged illegal act, a consenting party or privy thereto; or

"(B) the alleged illegal act occurred while such vessel, vehicle, or aircraft was in the illegal possession of any person other than the owner, as established by the criminal laws of the United States, or of any States.

"(2) The Attorney General shall, within one hundred and eighty days from the date of enactment of this Act, promulgate regulations setting forth procedures for the expeditious return to the owner, master, or other person in charge of any vessel, vehicle, or aircraft seized in violation of paragraph (1). In any such case, the owner, master, or other person in charge of such vessel, vehicle, or aircraft shall not incur any expenses, including costs of transportation, storage, damage, and attorney fees, associated with such seizure and forfeiture. In the case of a vehicle seized and forfeited pursuant to paragraph (1) subject to a valid lien or other third-party interest, the regulations shall provide for satisfaction of the third party interest without expense to the interestholder.

"(3) Any conveyance subject to seizure under this section may be seized without a warrant if there is probable cause to believe the conveyance has been used in violation of subsection (a) and circumstances exist where a warrant is not constitutionally required.

"(4) All provisions of law relating to the seizure, forfeiture, and disposition of vessels, vehicles, and aircraft for violations of customs law shall apply to violations of the provisions of this chapter: *Provided*, That—

"(A) duties imposed on customs officers or other persons regarding the seizure of such conveyances under customs law shall apply to seizures carried out under the provisions of this section by such officers or persons authorized for that purpose by the Attorney General; and

"(B) proceedings instituted under this subsection respecting vessels shall be subject to the Supplemental Rules of Certain Admiralty and Maritime Claims.".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. WIGGINS. Mr. Speaker, reserving the right to object. I do not intend to object, but since this bill is, in part, new legislation not previously considered by the House, I yield to the gentleman from California to explain the legislation to the Members.

Mr. DANIELSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the bill as it left the House contained a provision which expanded the jurisdiction for service of certain subpenas. That portion of the bill has not been changed in any respect.

The Senate amended the bill by adding a provision. The provision which was added amends the law relating to the smuggling of aliens into the United States and adds to the bill a provision which is comparable to the provisions in our customs laws which provide for the seizure and forfeiture of vehicles and vessels which are used in the illegal smuggling of aliens into the United States.

Mr. WIGGINS. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, since that portion of the bill dealing with seizure and forfeiture of vessels, vehicles, and aircraft is in my opinion inartfully drawn, I should like to engage in a very brief colloquy with my friend, the gentleman from California (Mr. DANIELSON), to establish clearly the intent of the legislation.

Is it not true that the legislation intends to exempt from seizure and forfeiture those vehicles, vessels, and aircraft which may be seized if the owner thereof is truly innocent of any involvement in the criminal act which resulted in the seizure?

Mr. DANIELSON. Mr. Speaker, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from California.

Mr. DANIELSON. Mr. Speaker, the answer to the gentleman's question is yes. As I read the language of the legislation, the forfeiture or the seizure can take place only in those situations in which the owner was a party to the illegal act or was privy to it, one or the other.

Mr. WIGGINS. Mr. Speaker, in addition, is it not clear that the innocent owner, in order to avoid a forfeiture, need not be in charge of the vehicle, vessel or aircraft at the time of its seizure?

Mr. DANIELSON. That is correct. If the owner of the vehicle, vessel, or aircraft is not a party—not a "consenting party" is the language used, but that means, as I understand it, a party who understands fully the use to which the instrumentality is being put—then the vehicle, vessel, or aircraft cannot be seized.

Mr. WIGGINS. Finally, Mr. Speaker, is it not clear that a guilty owner, that is, one who is involved either by reason of his knowledge or by reason of his consent to the illegal act, may have his vehicle forfeited even though the person in charge of the vehicle was in all respects innocent.

Mr. DANIELSON. The gentleman is absolutely correct. An owner with guilty knowledge, who has consented or is privy to the illegal act, is the owner of a vehicle which is subject to seizure and forfeiture.

Mr. WIGGINS. Mr. Speaker, I withdraw my reservation, and I urge the Members to accept the legislation. It is imperfectly drawn, as I have said, but it is clearly a step forward to providing some relief to owners who have been, in my judgment, subject to arbitrary action by various agencies of the Government with respect to seizures of property in the past.

Mr. SEIBERLING. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from California: has he described all of the provisions of this bill as amended by the Senate, or are there any other provisions, either germane or otherwise?

Mr. DANIELSON. If the gentleman will yield, yes, I have described them. The only thrust of the bill is to permit the seizure of the vehicle, vessel or aircraft in a situation where the owner is a consenting party or privy to the illegal act of smuggling aliens.

Mr. SEIBERLING. I thank the gentleman.

Mr. Speaker, I intend to ask the same question on every bill that comes back from the Senate for the rest of the evening, because we are now at the witching hour, or at the bewitching hour, and we have a lot of things coming from the other end, where their huge caldrons are stewing up a beautiful brew, and we have to keep our eyes open and our noses unblocked.

Mr. DANIELSON. I am all for unblocking noses, indeed, I am.

Mr. SEIBERLING. Mr. Speaker, I withdraw my reservation of objection.

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I would like to ask my colleague, the gentleman from California, a question. Incidentally, I agree that this legislation is not only salutary

but necessary. But we did not get an exact answer to the question of our colleague, the gentleman from Ohio, as to whether there are any nongermane amendments.

Mr. DANIELSON. If the gentleman will yield, I said that there are not. I have read this carefully, along with our distinguished colleague, the gentleman from California, and we have come to a consensus there are none.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

Mr. DE LA GARZA. Mr. Speaker, reserving the right to object, I would like to ask the gentleman what provision is made about lien holders.

Mr. DANIELSON. The vessel can be seized only from an owner who is a consenting party or is privy to the use of the vehicle for smuggling. A lien holder would be protected if the owner of the vehicle is a person who has consented to utilizing the vessel, vehicle, or aircraft for illegal purposes. You are talking about a person with a chattel mortgage, for example?

Mr. DE LA GARZA. Yes, I am. I am speaking about a bank, or such similar institution. Most of the vehicles are not really owned by the person using them.

Usually it is borrowed, or 95 percent is owed to a bank.

Mr. DANIELSON. Will the gentleman yield briefly?

Mr. DE LA GARZA. I will be happy to.

Mr. DANIELSON. There is a proviso that in the case of a vehicle seized or forfeited pursuant to this law which is subject to a valid lien or other third party interest, the regulations for seizure shall provide for satisfaction of the third party interest without expense to the interest holder.

Mr. WIGGINS. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. WIGGINS. Mr. Speaker, that section is intended to protect lienholders, but it is a demonstration of the poor draftsmanship involved in this bill. Obviously, it does not mean what it says. Clearly, the lienholder is to be satisfied only to the extent of the value of the asset seized. It does not mean that the U.S. Government is going to hold the lienholder harmless for the total balance due on his lien if the asset is damaged or destroyed and not adequate to satisfy the debt.

Mr. DE LA GARZA. Again, I think all of us agree with the thrust of the amendment. I do not think there is any problem there, but if the way it is handled by Customs is any criteria, it will be doing great harm to many innocent people because, one, it takes time; and two, they seem to be insensitive to the trials and tribulations of an honest lienholder, and at times the car is taken into possession and put into use without knowledge of the lienholder, or so I have been informed.

Mr. DANIELSON. If the gentleman will yield further, I believe this amendment takes care of that as far as is possible. Obviously, if the vehicle is not worth the amount of the lien, the Government need not pay the shortage to the lienholder.

Mr. DE LA GARZA. But the legislative history of the subject the gentleman is managing is that a lienholder would have immediate right to redress if the vehicle is seized as per the amendment to the law.

Mr. DANIELSON. That is correct.

Mr. DE LA GARZA. And would the gentleman add that it would be done expeditiously by the agency? Is that the intent of the law?

Mr. DANIELSON. That is the intent of the law. That is absolutely the intent of the law, and to the extent there would be any conflict between this and Customs law, this would supersede.

Mr. DE LA GARZA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. DANIELSON) that the reading of the Senate amendment be dispensed with?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2474, HEALTH SERVICES EXTENSION ACT OF 1978

Mr. ROGERS submitted the following conference report and statement on the Senate bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95–1799)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE; REFERENCE TO ACT

SECTION 1. (a) This Act may be cited as the "Health Services and Centers Amendments of 1978".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Services Act.

TITLE I—HEALTH CENTERS AND PRIMARY HEALTH CARE

PART A—MIGRANT HEALTH CENTERS AND COMMUNITY HEALTH CENTERS

SHORT TITLE

SEC. 101. This part may be cited as the "Migrant and Community Health Centers Amendments of 1978".

REDESIGNATION OF MIGRANT HEALTH CENTERS PROVISION

SEC. 102. (a) Section 319 is redesignated as section 329 and is transferred and inserted before section 330.

(b)(1) Section 217(g) is amended by striking out "319" and inserting in lieu thereof "329" each place it appears.

(2) Section 6(b) of the Health Maintenance Organization Act of 1973 (Public Law 93–222) is amended by striking out "310" and inserting in lieu thereof "329".

(3) Section 1903(m)(2)(B)(i) of the Social Security Act is amended by striking out "scetion 319(d)(1)(A)" and inserting in lieu thereof "section 329(d)(1)(A)".

AMENDMENTS TO MIGRANT HEALTH CENTERS PROGRAM

SEC. 103. (a)(1)(A) Paragraph (1) of subsection (a) of section 329 (as redesignated by section 102(a) of this part) is amended by inserting "(as determined by the centers)" after "as may be appropriate for particular centers" in subparagraphs (D) and (E).

(B) Subparagraph (G) of such paragraph is amended to read as follows:

"(G) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals,".

(C) Such paragraph is further amended by inserting the following before the period at the end thereof: "and individuals who have previously been migratory agricultural workers but can no longer meet the requirements of paragraph (2) of this subsection because of age or disability and members of their families within the area it serves".

(2) Paragraph (6) of such subsection is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(3) Paragraph (7) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services"; and

(C) by striking out subparagraphs (I) and (N), by inserting "and" at the end of subparagraph (L), and by redesignating subparagraphs (J), (K), (L), and (M), as subparagraphs (I), (J), (K), and (L), respectively.

(b) The second sentence of subsection (b)(1) of such section is amended to read as follows: "The highest priorities for such assistance shall be assigned to areas where the Secretary determines the greatest need exists.".

(c) Subsections (a)(5), (c)(1)(B), and (d)(1)(C) of such section are each amended by striking out "six thousand" and inserting in lieu thereof "four thousand".

(d)(1) Subparagraph (B) of subsection (d)(1) of such section is repealed and subparagraph (C) of such subsection is redesignated as subparagraph (B).

(2)(A) Paragraph (2) of subsection (d) of such section is amended by striking out "or (1)(B)".

(B) Paragraphs (1) and (3) of subsection (f) of such section are each amended by striking out "(d)(1)(C)" and inserting in lieu thereof "(d)(1)(B)".

(C) Subsection (h)(2) of such section is amended by striking out "(d)(1)(C)" each place it appears and inserting in lieu thereof "(d)(1)(B)".

(3)(A) Subsection (d)(1) of such section is amended by inserting after subparagraph (B), as so designated, the following new subparagraph:

"(C) The Secretary may make grants to migrant health centers to enable the centers to plan and develop the provision of health services on a prepaid basis to some or to all of the individuals for which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (f)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to the management of the provision of health services on a prepaid basis.".

(B) The fourth sentence of subsection (h)(2) of such section is amended by inserting before the period the following: ", and not more than 5 per centum of such funds may be made available for grants under subsection (d)(1)(C)".

(e) Subsection (d) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) Not more than two grants may be made under paragraph (1)(C) for the same entity.

"(4)(A) The amount of any grant made in any fiscal year under subparagraph (A) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements,

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subparagraph (D) or (E) of subsection (a)(1) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (J), or (L) of subsection (a)(7), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provide the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in clauses (i) and (ii) of subparagraph (A) of this paragraph received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible under subsection (a) to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(f) Subsection (f) of such section is amended—

(1) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (6), respectively;

(2) by inserting after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) of subsection (d)(1) for a migrant health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subparagraphs (D) and (E) of subsection (a)(1) and in subparagraphs (B), (F), (J), and (L) of subsection (a)(7),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health service described in subsection (a) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant."; and

(3) by inserting after paragraph (4), as so redesignated, the following new paragraph:

"(5) The Secretary, in making a grant under this section to a migrant health center for the provision of environmental health services described in subsection (a)(1)(D), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.".

(g)(1)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of subsection (f) of such section is amended to read as follows: "(ii) selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body of the center has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) Such paragraph is amended by adding at the end after and below subparagraph (J) the following sentence: "For purposes of subparagraph (G) and subsection (h)(4), the term 'public center' means a migrant health center funded (or to be funded) through a grant under this section to a public agency.".

(C) The change in the governing board requirements for migrant health centers made by the amendment by subparagraph (A) to section 329(f)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public migrant health center which met the governing board requirements in effect under section 319(f)(2)(G)(ii) of such Act before October 1, 1978.

(2) Subparagraph (H) of subsection (f)(3) of such section is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(h) Subsection (g) of such section is amended—

(1) by inserting "(1)" after "(g)", and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(i)(1)(A) The first sentence of subsection (h)(1) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$2,200,000 for the fiscal year ending September 30, 1979, $2,500,000 for the fiscal year ending September 30, 1980, and $2,900,000 for the fiscal year ending September 30, 1981".

(B) The second sentence of such subsection is amended by striking out "two fiscal years" and inserting in lieu thereof "five fiscal years".

(2)(A) The first sentence of subsection (h)(2) of such section is amended by striking out "and" after "1977," and by inserting

before the period a comma and the following: "$40,800,000 for the fiscal year ending September 30, 1979, $46,000,000 for the fiscal year ending September 30, 1980, and $52,100,000 for the fiscal year ending September 30, 1981".

(B) The third sentence of such subsection is amended by striking out "fiscal years ending September 30, 1977, and September 30, 1978" and inserting in lieu thereof "any fiscal year".

(3) Subsection (h)(3) of such section is amended to read as follows:

"(3) In any fiscal year, the Secretary shall obligate for payments under grants and contracts in such fiscal year under subsection (d)(1) for the provision of inpatient and outpatient hospital services not less than 10 per centum of the amount appropriated in such fiscal year under paragraph (2).".

(4) Subsection (h) of such section is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (f)(3)) the governing boards of which (as described in subsection (f)(3)(C)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

(j) The amendments made by this section shall apply with respect to grants and contracts made under section 329 of the Public Health Service Act from appropriations for the fiscal years ending after September 30, 1978.

COMMUNITY HEALTH CENTERS

SEC. 104. (a) Paragraph (4) of subsection (a) of section 330 is amended to read as follows:

"(4) environmental health services, including, as may be appropriate for particular centers (as determined by the centers), the detection and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, housing, and other environmental factors related to health, and".

(b)(1) Paragraph (1) of subsection (b) of such section is amended (A) by striking out "and" at the end of subparagraph (E), (B) by striking out the period at the end and inserting in lieu thereof "; and", and (C) by inserting after subparagraph (F) the following new subparagraph:

"(G) pharmaceutical services, as may be appropriate for particular centers.".

(2) Paragraph (2) of such subsection is amended—

(A) by striking out "(including nutrition education and social services)" in subparagraph (K) and inserting in lieu thereof "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and followup services)";

(B) by inserting "(including nutrition education)" in subparagraph (M) after "health education services";

(C) by striking out "outreach workers" in subparagraph (N) and inserting in lieu thereof "appropriate personnel"; and

(D) by striking out subparagraph (I) and by redesignating subparagraphs (J) through (N) as subparagraphs (I) through (M), respectively.

(c)(1)(A) Paragraph (1) of subsection (d) of such section is amended by adding at the end the following new subparagraph:

"(C) The Secretary may make grants to community health centers to enable the centers to plan and develop the provision of health services on a prepaid basis to some or to all of the individuals which the centers serve. Such a grant may only be made for such a center if—

"(i) the center has received grants under subparagraph (A) of this paragraph for at least two consecutive years preceding the year of the grant under this subparagraph;

"(ii) the governing board of the center (described in subsection (e)(3)(G)) requests, in a manner prescribed by the Secretary, that the center provide health services on a prepaid basis to some or to all of the population which the center serves; and

"(iii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis will not result in the diminution of health services provided by the center to the population the center served prior to the grant under this subparagraph.

Any such grant may include the acquisition and modernization of existing buildings and providing training related to management of the provision of health services on a prepaid basis.".

(B) Paragraph (2) of such subsection is amended by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A) or (1)(B)".

(C) Paragraph (3) of such subsection is amended by inserting "or (1)(C)" after "(1)(B)".

(2) Paragraph (4) of such subsection is amended to read as follows:

"(4)(A) The amount of any grant made in any fiscal year under paragraph (1) (other than subparagraph (C)) to a community health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

"(i) the State, local, and other funds, and

"(ii) the fees, premiums, and third-party reimbursements,

which the center may reasonably be expected to receive for its operations in such fiscal year. In determining the amount of such a grant for a center, if the application for the grant requests funds for a service described in subsection (a)(4) (other than to the extent the funds would be used for the improvement of private property) or a supplemental health service described in subparagraph (B), (F), (L), or (M) of subsection (b)(2), the Secretary shall include, in an amount determined by the Secretary and to the extent funds are available under appropriation Acts, funds for such service unless the Secretary makes a written finding that such service is not needed and provides the applicant with a copy of such finding.

"(B) Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way or reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments, except that if in any fiscal year the sum of—

"(i) the total of the amounts described in causes (i) and (ii) of subparagraph (A) received by a center in such fiscal year, and

"(ii) the amount of the grant to the center in such fiscal year,

exceeded the costs of the center's operation in such fiscal year because the amount received by the center from fees, premiums, and third-party reimbursements was greater than expected, an adjustment in the amount of the grant to the center in the succeeding fiscal year shall be made in such a manner that the center may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such a center) it is able to serve, (III) to construct and modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish the financial reserve required for the furnishing of services on a prepaid basis. Without the approval of the Secretary, not more than one-half of such retained sum may be used for construction and modernization of its facilities.".

(d)(1) Paragraph (2) of subsection (e) of such section is amended—

(A) by striking out "and" at the end of subparagraph (I),

(B) by strking out the period at the end of subparagraph (J) and inserting in lieu thereof "; and", and

(C) by adding at the end the following new subpargraph:

"(K) the center, in accordance with regulations prescribed by the Secretary, has developed an on-going referral relationship with one or more hospitals.".

(2) Such subsection is amended by redesignating paragraph (2) as paragraph (3) and by adding after paragraph (1) the following new paragraph:

"(2) An application for a grant under subparagraph (A) or (B) of subsection (d)(1) for a community health center shall include—

"(A) a description of the need in the center's catchment area for each of the health services described in subsection (a)(4) and in subparagraphs (B), (F), (L), and (M) of subsection (b)(2),

"(B) if the applicant determines that any such service is not needed, the basis for such determination, and

"(C) if the applicant does not request funds for any such service which the applicant determines is needed, the reason for not making such a request.

In considering an application for a grant under subparagraph (A) or (B) of subsection (d)(1), the Secretary may require as a condition to the approval of such application assurance that the applicant will provide any specified health services described in subsection (a) or (b) which the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided the applicant.".

(3)(A) Clause (ii) of subparagraph (G) of paragraph (3) (as so redesignated) of such subsection is amended to read as follows: "(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and if the application is for a second or subsequent grant for a public center, the governing body has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;".

(B) Such paragraph is amended by adding at the end after and below subparagraph (K) the following sentence: "For purposes of subparagraph (G) and subsection (g)(4), the term 'public center' means a community health center funded (or to be funded) through a grant under this section to a public agency.".

(C) The change in the governing board requirements for public community health centers made by the amendment by subparagraph (A) to section 330(e)(3)(G)(ii) of the Public Health Service Act shall not apply with respect to any public community health center which met the governing board requirements in effect under section 330(e)(2)(G)(ii) of such Act before October 1, 1978.

(4) Subparagraph (H) of such paragraph is amended (A) by striking out "and (IV)" and inserting in lieu thereof "(IV)", and (B) by inserting before the semicolon at the end

the following: ", and (V) expenditures made from any amount the center was permitted to retain under subsection (d)(4)(B)".

(5)(A) Paragraph (2) of subsection (e) of such section is amended by inserting "paragraph (1)(A) or (1)(B) of" before "subsection (d) unless".

(B) Such subsection is further amended by adding at the end the following new paragraphs:

"(4) The Secretary shall approve applications for grants under paragraph (1)(A) or (1)(B) of subsection (d) for community health centers which—

"(A) have not received a previous grant under such paragraph, or

"(B) have applied for such a grant to expand their services,

in such a manner that the ratio of the medical underserved populations in rural areas which may be expected to use the services provided by such centers to the medical underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

"(5) The Secretary, in making a grant under this section to a community health center for the provision of environmental health services described in subsection (a)(4), may designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a hazard to the health of those residing on, or otherwise using, the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement under a grant only after the Secretary has specifically approved such expenditure and has determined that funds for the improvement are not available from any other source. The Secretary shall annually notify the appropriate committees of Congress of the amounts so expended and the improvements for which they were spent.".

(e) Subsection (f) of such section is amended—

(1) by inserting "(1)" after "(f)", and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall make available to each grant recipient under this section a list of available Federal and non-Federal resources to improve the environmental and nutritional status of individuals in the recipient's catchment area.".

(f)(1) Paragraph (1) of subsection (g) of such section is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$6,300,000 for the fiscal year ending September 30, 1979, $7,500,000 for the fiscal year ending September 30, 1980, and $9,000,000 for the fiscal year ending September 30, 1981".

(2) Paragraph (2) of such subsection is amended by striking out "and" after "1977," and by inserting before the period a comma and the following: "$341,700,000 for the fiscal year ending September 30, 1979, $397,500,000 for the fiscal year ending September 30, 1980, and $463,000,000 for the fiscal year ending September 30, 1981".

(3) Such paragraph is amended by adding at the end thereof the following sentence: "The Secretary may not expend for grants under subsection (d)(1)(C) in any fiscal year an amount which exceeds 5 per centum of the funds appropriated under this subsection for that fiscal year.".

(4) Such subsection is amended by adding at the end thereof the following new paragraph:

"(4) The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (e)(3)) the governing boards of which (as described in subsection (a)(3)(G)(ii)) do not establish general policies for such centers, an amount which exceeds 5 per centum of the funds appropriated under this section for that fiscal year.".

(g) The amendments made by this section shall apply with respect to grants made under section 330 of the Public Health Service Act from appropriations for fiscal years ending after September 30, 1978.

REDESIGNATION OF OTHER PROVISION

SEC. 105. (a) Section 339 is amended—

(1) by amending its heading to read as follows:

"RECEIPT, APPREHENSION, DETENTION, TREATMENT, AND RELEASE OF LEPERS";

(2) by inserting "(a)" after "SEC. 339.";

(3) by inserting at the end thereof the following new subsection:

"(b) The Surgeon General may provide by regulation for the apprehension, detention, treatment, and release of persons being treated by the Service for leprosy."; and

(4) by redesignating such section as section 320 and inserting it in subpart I of part C of title III immediately before section 321.

(b) Section 340 and the heading to part D of title III are repealed.

TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

SEC. 106. (a) Part C of title III is amended by adding after section 338 the following new section:

"TECHNICAL ASSISTANCE DEMONSTRATION GRANTS AND CONTRACTS

"SEC. 340A. (a)(1) The Secretary may make grants to, and enter into contracts with, public and private entities to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or in any combination of such activities) of migrant health centers under section 329, community health centers under section 330, or any other centers for the delivery of primary health care. The technical assistance with respect to which a grant may be made under this paragraph includes—

"(A) assistance in the selection of sites for such centers,

"(B) assistance in the selection of governing boards for such centers,

"(C) assistance in the management of the service programs of such centers,

"(D) assistance in the recruitment, selection, and retention of personnel (including members of the National Health Service Corps) for such centers,

"(E) assistance in financial management of such centers, and

"(F) assistance in the procurement of facilities, equipment, and supplies for such centers.

"(2) In making grants and contracts under paragraph (1), the Secretary shall make such grants to, and enter into such contracts with—

"(A) entities which will provide technical assistance on a statewide basis for the planning, development, and operation of centers to provide primary health care in urban and rural areas,

"(B) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in large, densely populated areas,

"(C) entities which will provide technical assistance solely for the planning, development, and operation of centers to provide primary health care in rural areas,

"(D) entities which will provide technical assistance for the planning, development, and operation of centers to provide primary health care on a regional basis in large States, and

"(E) entities which will provide technical assistance within several contiguous States for the planning, development, and operation of centers to provide primary health care.

Grants and contracts under paragraph (1) (other than those described in subparagraph (E) of this paragraph) to private entities may only be made to such entities to provide technical assistance in the States in which they are primarily engaged in business.

"(b)(1) No grant may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require by regulation.

"(2) The amount of any grant or contract under subsection (a) shall be determined by the Secretary, except that no grant or contract to any entity in any fiscal year may exceed $500,000.

"(c) The Secretary shall establish a Primary Health Care Advisory Committee (hereinafter in this subsection referred to as the 'Committee') to make recommendations respecting—

"(1) the capabilities of applicants for grants and contracts under subsection (a) to effectively carry out the projects for which the grants and contracts would be made;

"(2) the renewal of grants and contracts under such subsection; and

"(3) the evaluation to be made under section 106(b) of the Migrant and Community Health Centers Amendments of 1978.

The Committee shall consist of five members appointed by the Secretary, in accordance with section 222, from individuals who are not officers or employees of the Federal Government and who because of their expertise in providing technical assistance to primary health care centers are particularly qualified to serve on the Committee.

"(d)(1) For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,000,000 for the fiscal year ending September 30, 1981.

"(2) The authority of the Secretary to enter into contracts under subsection (a) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(b) Not later than March 1, 1981, the Secretary of Health, Education, and Welfare shall submit a report to Congress—

(1) on the effectiveness of the entities assisted under section 340A of the Public Health Service Act—

(A) in establishing centers which meet the requirements of section 329 or 330 of the Public Health Service Act or other centers for the provision of primary health care,

(B) in improving the acceptability, in the communities served, of migrant health centers, community health centers, and other centers engaged in the delivery of primary health care,

(C) in improving the ability of such centers to attract and retain health professions personnel, and

(D) in assisting such centers in reducing their dependence on public funding;

(2) on the extent to which the effectiveness of entities assisted under grants and contracts under such section 340A depends on (A) the type of area to be served by the centers for which planning, development, and operation assistance was provided by such entities, and (B) the organizational structure of such entities;

(3) comparing the effectiveness of entities assisted under such section 340A with the effectiveness of other entities assisted under other provisions of title III of the Public Health Service Act in providing technical assistance described in paragraph (1); and

(4) recommending the most effective methods for providing technical assistance described in paragraph (1).

(c) The Secretary of Health, Education, and Welfare shall conduct an assessment of the various types of continuing education programs available for health professions personnel serving medical underserved populations and the effect such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care to such populations, the Secretary shall report the results of such assessment to Congress not later than January 1, 1980.

MISCELLANEOUS

SEC. 107. The first sentence of section 1313 is amended by inserting "(except as provided in sections 329, 330, and 340)" after "Act".

PART B—PRIMARY HEALTH CARE

SHORT TITLE

SEC. 111. (a) This part may be cited as the "Primary Health Care Act of 1978".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 112. (a) Congress finds that—

(1) although the achievement of equal access to quality health care at a reasonable cost is a priority of the Federal Government, there remains a wide disparity throughout the Nation regarding the cost, quality, and availability of primary health services;

(2) despite Federal financing programs designed to eliminate barriers to primary health services for the poor and the elderly, there remains a shortage of health resources to provide such services, especially in medically underserved urban and rural areas; and

(3) residents of urban and rural medically underserved areas lack the availability of basic and appropriate services for health promotion, disease prevention, and primary care.

(b) It is the purpose of this part—

(1) to alleviate the shortage of health resources for the provision of primary health services to urban and rural medical undeserved populations in the United States; and

(2) to provide authorities for research and demonstration projects which develop innovative approaches for the organization and delivery of primary health services.

DESIGNATION OF PRIMARY HEALTH CARE PART IN TITLE III OF PUBLIC HEALTH SERVICE ACT

SEC. 113. (a) Title III is amended—

(1) by striking out the heading to subpart I of part C;

(2) by redesignating section 328 as section 327A; and

(3) by inserting before section 329 (as redesignated by section 102(a) of this Act) the following heading:

"PART D—PRIMARY HEALTH CARE

"Subpart I—Primary Health Centers".

(b) Sections 751(f) and 752(d) are each amended by striking out "subpart II of part C" each place it appears and inserting in lieu thereof "subpart II of part D".

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

SEC. 114. Subpart I of part D of title III (as provided for under section 113(a) of this Act) is amended by inserting before section 329 the following new section:

"HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

"SEC. 328. (a) For purposes of this section:

"(1) The term 'community hospital' means a—

"(A) public general hospital owned and operated by a State, county, or local unit of government or by a public benefit corporation, or

"(B) private nonprofit hospital,

which primarily serves a medical underserved population (as defined in section 330(b)(3)).

"(2) The terms 'hospital-affiliated primary care center' and 'primary care center' mean a distinct administrative unit of a community hospital which is located in or adjacent to the hospital and which—

in lieu of one of the primary care physicians required in such a combination there may be a nurse practitioner or physician assistant.

"(4) The term 'primary care resident' means a graduate physician in a training program which (A) is in primary care (as defined in section 722(b)(2)(F)(ii)), (B) is approved by an appropriate certifying body, and (C) requires that at least one-third of the time in the last two years of residency training (or in the case of the osteopathic general practice resident, the last year of residency training) be spent in an ambulatory care setting.

"(5) The terms 'primary health services' and 'supplemental health services' have the meanings given such terms in paragraphs (1) and (2) of section 330(b), respectively.

"(b)(1) The Secretary may make grants to community hospitals to support demonstration projects in the planning, development, and operation of hospital-affiliated primary care centers. To the extent feasible, the Secretary shall not make a grant for such a center to serve a population whose need for primary health services is being met by a community health center, migrant health center, or other health care provider.

"(A) provides primary health services (except that emergency medical services shall be provided to the extent practicable through referral to the emergency room of the community hospital) to a catchment area which is determined by the hospital and approved by the Secretary;

"(B) provides, as may be appropriate for particular centers, supplemental health services necessary for the adequate support of primary health services;

"(C) provides referral to providers of supplemental health services and payment, appropriate and feasible, for their provision of such services;

"(D) provides for, when the center is closed, at least referral to emergency medical services and authorized access to patient medical records on a twenty-four-hours-a-day, seven-days-a-week basis; and

"(E) provides information on the availability and proper use of health services provided by the community hospital and the center.

"(3)(A) The term 'primary care group practice' means, with respect to a primary care center affiliated with a community hospital, any combination of physicians and other health care providers that includes at least three primary care physicians (as defined in section 771(b)(2)(F)(ii))—

"(i) which combination is organized to provide primary health services in a manner which is consistent with the needs of the population to be served by the center, and which uses, where practicable in the provision of such services, nonphysician providers (particularly physician assistants and nurse practitioners) in concert with the physicians of the group practice;

"(ii) which combination is located in or adjacent to the community hospital;

"(iii) the physicians of which have admitting privileges to the community hospital;

"(iv)(I) the primary care physicians of which are salaried and full time in the hospital and a majority of whom practice full time in the primary care center, or (II) which combination is organized into a partnership, corporation, or professional association which has an agreement with the hospital to fulfill the obligations described in subparagraphs (A) and (C) of subsection (b)(3); and

"(v) the primary care physician of which are not all personnel serving with the National Health Service Corps;

except that in the case of such a combination serving a health manpower shortage area (designated under section 332),

"(2) No grant may be made under paragraph (1) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe. Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable distribution of primary care centers among urban and rural areas.

"(3) The Secretary may not approve an application for a grant under paragraph (1) with respect to a primary care center affiliated with a community hospital unless the Secretary has made the following determinations:

"(A) The primary health services of the center will be provided through a primary care group practice, and may be provided by a primary care resident if (i) such services are provided under the direction of a member of the practice who is a primary care physician, and (ii) provision of such services by the resident are credited toward the resident's fulfilling the requirement of the residency training program described in subsection (a)(4)(C).

"(B) Except under unusual circumstances (as established by the Secretary by regulation), primary health services provided by the community hospital will be provided only through the center, and qualified personnel trained in triage will be placed in the hospital's emergency room, outpatient department, and in the primary care center to screen and direct patients to the appropriate location for care.

"(C) Each patient of the center will have an identified primary care physician who is member of the primary care group practice and who is responsible for continuous management of the patient, including the referral of the patient for inpatient, outpatient, or emergency services.

"(D) To the extent practicable, existing facilities and equipment which are in or owned by the community hospital, which are not required for the delivery of inpatient or emergency services, and which are needed in the primary care center will be converted for the use of the primary care center.

"(E) The hospital and primary care center will avoid unnecessary duplication of facilities and equipment, except that the primary care center may install appropriate support equipment for the provision of routine primary health services.

"(F) The primary care center will be maintained as a separate and distinct cost and revenue center for accounting purposes. Any costs which are not directly associated with the operation of the center (including inpatient-related costs) will not be assigned to the center. Costs associated with the education and training of residents and medical and other health science students will not be calculated into the costs of operating the primary care center, except that the salaries and other costs associated wtih the provision of services by residents may be calculated into the costs of operating the center as long as such costs are proportional to the actual percentage of time spent by the resident in the provision of services in the primary care center.

"(G) The primary care center will be operated in accordance with all the requirements of section 330(e)(3) (other than subparagraph (G) thereof) applicable to community health centers.

"(H) Unless the community hospital has a governing board described in subparagraphs (G) of section 330(e)(3) for the primary care center, the application for the grant has been reviewed and approved by an advisory board which is established by the community hospital and which—

"(i) is composed of individuals a majority of whom are being served by the center and

who, as a group, represent the individuals being served by the center,

"(ii) participates in the development of the application for the grant under this section and in the development of any application for the renewal of such a grant, and

"(iii) once the primary care center becomes operational, meets at least six times each year to review the operations of the center and to develop recommendations to the hospital's governing board concerning the types of services to be provided by, and the operations of, the center.

"(I) The primary care center will provide for an information program for its patients under which patients are fully informed of the covered professional services and referral services offered by the center and of the methods by which patient grievances respecting billing for such services, or the quality of such services, may be resolved.

"(J) The operating hours of the primary care center will include those periods when the community hospital's emergency room and outpatient department are most utilized.

"(4) In reviewing and approving applications for grants under this section, the Secretary shall give priority to the application of any community hospital—

"(A) which (i) is located in a State whose laws do not prohibit the hospital from establishing a governing board for its affiliated primary care center which board meets the requirements of subparagraph (G) of section 330(e)(3) for the governing board of a private community health center, and (ii) has established such a governing board, or

"(B) which is located in a State whose laws prohibit the hospital from establishing such a board.

"(5) Grants under this subsection may be used for covering the costs of planning, developing, and operating hospital-affiliated primary care centers, including the costs of acquiring and modernizing existing buildings or space located in or adjacent to the community hospital (including the costs of amortizing the principal of, and paying interest on, loans).

"(c) The Secretary may provide (either through the Department of Health, Education, and Welfare or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to a community hospital to assist it in developing plans for, and in operating, a primary care center. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) Not later than March 1, 1981, the Comptroller General shall submit a report to Congress evaluating the operation of hospital-affiliated primary care centers, including, with their voluntary participation, those centers not assisted under this section. With respect to such centers the Comptroller General shall—

"(1) assess the costs of such centers and their methods of allocating costs between the centers and their affiliated hospitals;

"(2) assess the methods of reimbursement used (particularly under title XVIII and XIX of the Social Security Act) for services provided by such centers;

"(3) compare the cost and effectiveness of providing primary health services through such centers with the cost and effectiveness of providing such services through community health centers and other entities providing similar services, and

"(4) assess the degree to which the hospitals provided assistance under this section are complying with the requirements specified under subsection (b)(3).

"(e) There are authorized to be appropriated for the purpose of making payments for grants under subsection (a) and for the provision of assistance under subsection (c)—

"(1) for the planning and development of primary care centers, $5,000,000 for the fiscal year ending September 30, 1979, and

"(2) for the planning, development, and operation of primary care centers, $25,000,000 for the fiscal year ending September 30, 1980, and $30,000,000 for the fiscal year ending September 30, 1981.

Not more than $150,000 may be used for the planning and development of any single primary care center.".

RESEARCH AND DEMONSTRATION PROJECTS FOR PRIMARY CARE

SEC. 115. Part D of title III is further amended—

(1) by adding after section 338 the following subpart heading:

"Subpart IV—Research and Demonstration Projects in Primary Care"; and

(2) by after such subpart heading the following new section:

"PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

"SEC. 340. (a) The Secretary may make grants to, and enter into contracts with, public and private entities which provide health services—

"(1) to demonstrate new and innovative methods for the provision of primary health services and dental health services, or

"(2) to conduct research on such methods or on existing methods for the provision of primary health services and dental health services,

to medical underserved populations or to such other populations as the Secretary determines are necessary to demonstrate or conduct research on particular methods.

"(b) Grants and contracts may be made under subsection (a) to demonstrate and conduct research on—

"(1) methods of attracting and retaining primary care physicians, dentists, physician assistants, nurse practitioners, and other health professionals, both individually and as teams, to train and practice among medically underserved populations;

"(2) differing types of organizational models and relationships, including federations of health service centers, designed to meet unique primary health and dental health service needs;

"(3) management and technological improvements (including new or improved methods for biomedical communication and medical and financial recordkeeping and billing systems to increase the productivity, effectiveness, efficiency, and financial stability of primary health and dental health service providers;

"(4) methods of providing health promotion, disease prevention, and health education programs, including school health programs;

"(5) methods of identifying, coordinating, and integrating existing primary health and dental health service programs with mental health and social service programs to maximize use of available resources, avoid duplication of effort, and ensure a coordinated, comprehensive care system;

"(6) specific services or mixtures of services are appropriate for a given area, including ambulatory care, home health care, environmental health services (described in section 330(a)(4)), community outreach activities, transportation services, and other supplemental health services (as defined in section 330(b)(2));

"(7) the effect of availability of primary health and home health services in terms of reduction of emergency room visits, hospitalizations, and institutionalization in long-term care facilities;

"(8) the use of mobile health screening clinics to provide preventive health care services to meet the needs of medical underserved populations; and

"(9) such other projects as the Secretary determines to be necessary to further the purposes of this section.

"(c)(1) The Secretary may not make a grant or enter into a contract under this section for a project if the project can be carried out under the authority of any other provisions (other than section 301) of this Act.

"(2) The Secretary shall, to the extent feasible, coordinate demonstration and research projects carried out such project area, the reasons for such concentration of expenditures; and

"(3) any recommendations resulting from the conduct of such projects.

In the first such report, the Secretary shall include the number of demonstration projects which were funded under section 1110 of the Social Security Act during the fiscal year ending September 30, 1978, which were related to health services in rural medically underserved areas, and which could have been assisted under this section during the fiscal year ending September 30, 1979, but for subsection (c)(1) of this section.

"(f) As used in this section, the term 'medical underserved population' has the meaning given such term in section 330(b)(3).

"(g)(1) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in areas that are not urbanized areas (as defined by the Census Bureau) $18,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $22,000,000 for the fiscal year ending September 30, 1981.

"(2) There are authorized to be appropriated for the purposes of funding grants and contracts under this section in urbanized areas (as defined by the Census Bureau) under this section with any demonstration and research projects carried out under the Social Security Act for the reimbursement of services which are the subject of projects under this section.

"(d)(1) No grant may be made under this section unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

"(2) The amount of any grant or contract under this section shall be determined by the Secretary.

"(3) The Secretary may make payments under this section in advance or by way of reimbursement, and at such intervals and on such conditions as the Secretary may find necessary.

"(e) The Secretary shall submit an annual report to Congress not later than March 1 of each year (beginning with 1979) describing—

"(1) the projects conducted under this section during the fiscal year ending in the previous year and why they could not be assisted under the authority of other provisions of this Act;

"(2) the amount of funds expended in such fiscal year for each project area set forth in subsection (b) and, if more than 20 per centum of the amount appropriated for this section was expended on any single $4,000,000 for the fiscal year ending September 30, 1979, $4,500,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

"(3) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(4) The Secretary may continue to support, out of funds appropriated under this

section, those demonstration projects which, were funded under section 1110 of the Social Security Act, during the fiscal year ending September 30, 1978, and which are related to health services in rural medically underserved areas, but only if such projects can not be carried out under the authority of any other provision (other than section 301) of this Act.".

SPECIAL REPORTS ON PRIMARY HEALTH CARE NEEDS OF IMMIGRANTS, NATIVE INDIANS, AND ALASKAN ESKIMOS AND ON THE FUTURE OF THE NATIONAL HEALTH SERVICE CORPS

SEC. 116. (a) Not later than June 30, 1979, the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall submit to Congress a special report on the primary health care needs of immigrants. The report shall be developed through consultation with the Commissioner of the Immigration and Naturalization Service, with leaders in the health care area, and with representatives of immigrants. The report shall contain (1) an assessment of the access of (and barriers to) immigrants in receiving health care services, (2) an assessment of the health needs of such immigrants, and (3) specific recommendations for the development of a national strategy to address these needs, taking into account the fact that significant numbers of immigrants reside in a select number of specific States.

(b)(1) Not later than June 30, 1979, the Secretary shall submit to Congress a special report on the primary health care needs of each of the specific tribes of American Indians and Alaskan Natives. Such report shall be developed with the consultation of the Director of the Indian Health Service, with leaders in the field of health care, and with representatives of tribes of American Indians and of Alaskan Natives and of national Indian organizations. Such report shall contain (1) an assessment of the access of (and barriers to) American Indians and Alaskan Natives in receiving health care services, (2) an examination of the types of alternative health delivery systems (such as mobile health care services) existing or needing to be developed to provide appropriate access of American Indians and Alaskan Natives who are medical underserved populations (as defined in section 330(b)(3) of the Public Health Service Act) to health services, (3) an examination of the types of alternatives to institutionalization existing or needing to be developed for such populations, and (4) specific recommendations on each such issue.

(c) Not later than February 1, 1979, the Secretary shall submit to Congress a special report on the present and future direction of the National Health Service Corps, particularly (1) its roles as a health manpower program and as a health services delivery program, (2) the use and placement of members of the Corps in different types of health manpower shortage areas (described in section 332(a)(1) of the Public Health Service Act) in meeting urban and rural health needs, (3) the different types of health professionals which are needed to meet urban and rural health needs and which should be encouraged to participate in the Corps, and (4) the projected size, composition, and use of the manpower of the Corps through 1985. Such report shall be developed through consultation with the National Advisory Council on the National Health Service Corps (established under section 337 of the Public Health Service Act) and with the National Advisory Council on Health Professions Education (established under section 702 of the Public Health Service Act).

PART C—MISCELLANEOUS PROVISIONS

SPECIAL PROJECTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

SEC. 121. Section 792(b) is amended to read as follows:

"(b) The Secretary may make grants to assist educational institutions in meeting the costs of special projects in—

"(1) biostatistics or epidemiology,

"(2) health administration, health planning, or health policy analysis and planning,

"(3) environmental or occupational health, or

"(4) dietetics and nutrition.".

INCREASE IN AUTHORIZATION FOR NATIONAL HEALTH SERVICE CORPS

SEC. 122. Section 338(a) is amended by striking out "$57,000,000" and inserting in lieu thereof "$64,000,000".

TITLE II—HEALTH SERVICES EXTENSION

SHORT TITLE

SEC. 200. This title may be cited as the "Health Services Extension Act of 1978".

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

SEC. 201. (a)(1) Section 314(d)(7)(A) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $103,000,000 for the fiscal year ending September 30, 1979".

(2) Section 314(d)(7)(B) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "and $20,000,000 for the fiscal year ending September 30, 1979".

(b)(1) The Congress finds and declares that—

(A) individual health status can be effectively and economically improved through an adequate investment in community public health programs and services;

(B) the Federal Government and the States and their communities share in the financial responsibility for funding public health programs;

(C) the Federal contribution to funds for public health programs should serve as an incentive to an additional investment by State and local governments;

(D) existing categorical programs of Federal financial assistance to combat specific public health problems should be supplemented by a national program of stable generic support for such public health activities as the prevention and control of environmental health hazards, prevention and control of diseases, prevention and control of health problems of particularly vulnerable population groups, and development and regulation of health care facilities and health services delivery systems; and

(E) the States and their communities, not the Federal Government, should have primary responsibility for identifying and measuring the impact of public health problems and the allocation of resources for their amelioration.

(2) Effective October 1, 1979, section 314(d) is amended to read as follows:

"COMPREHENSIVE PUBLIC HEALTH SERVICES

"(d)(1) The Secretary shall make grants to State health authorities to assist in meeting the costs of providing comprehensive public health services.

"(2) No grant may be made under paragraph (1) to the State health authority of any State unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurance satisfactory to the Secretary that—

"(A) the comprehensive public health services which will be provided within the State with funds under a grant under paragraph (1) will be provided in accordance with the State health plan in effect under section 1524(c);

"(B) funds received under grants under paragraph (1) will—

"(i) be used to supplement the level of non-Federal funds that would otherwise be made available for the comprehensive public health services for which the grant funds are provided, and

"(ii) not be used to supplant such non-Federal funds,

except that the Secretary may in exceptional circumstances waive clause (i) or (ii) or both clauses;

"(C) the State health authority for which the application is submitted will—

"(i) provide for such fiscal control and fund acounting procedures as may be necessary to assure the proper disbursement of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, as prescribed by the Secretary, report to the Secretary (through a uniform national reporting system and by such categories as the Secretary may prescribe) a description of the comprehensive public health services provided in the State in the fiscal year for which the grant applied for is made and the amount and source of funds expended in that fiscal year and in the preceding fiscal year for the provision of each such category of services; and

"(iii) make such other reports (in such form and containing such information as the Secretary may prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports; and

"(D) the State health authority for which the application is submitted will have in effect a method satisfactory to the Secretary which will assure equitable distribution of funds under grants under paragraph (1) among State and local public health entities within the State which have made expenditures which may be used under paragraph (4) to compute the amount of such grants and which method provides that within the limit of the amount of funds received by the State health authority under such grants—

"(i) each local public health entity which makes such expenditures shall receive from such funds in the fiscal year for which grants are made an amount which is equal to the lesser of—

"(I) the product of the total amount of such expenditures in such fiscal year and the applicable grant computation percentage, or

"(II) the product of $1.50 and the population of the area served by such entity (as such population and area may be determined pursuant to guidelines established by the Secretary); and

"(ii) amounts which a local public health entity would receive under clause (i)(I) which are in excess of the applicable amount computed under clause (i)(II) shall be distributed for comprehensive public health services within communities which have the greater need for such services as determined by the State health authority pursuant to guidelines established by the Secretary.

For purposes of subparagraph (D)(i)(I), the term 'applicable grant computation percentage' means the percentage applicable under paragraph (4)(A)(i)(II) to the computation of the amount of a grant under paragraph (1).

"(3)(A) The Secretary shall review annually the activities undertaken by each State health authority with an approved application under this subsection to determine if the authority complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) that the State health authority for which the application was submitted

did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) that he cannot be assured that the authority will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or in his discretion that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant or shall limit payment under such grant to activities in which there is no such failure.

"(4)(A) The total amount of grants received by a State health authority under paragraph (1) in any fiscal year shall be the greater of the amount determined under clause (i) or (ii) as follows:

"(i) The total amount of grants to a State health authority in a fiscal year shall be the lesser of—

"(I) an amount determined by the Secretary which may not be less than the product of $1.00 and the population of the State served by such authority or more than the product of $1.50 and such population, or

"(II) in the case of the fiscal year ending September 30, 1980, 10 percent of the amount of State and local expenditures for comprehensive public health services within the State in the State's fiscal year which ended on or before July 1, 1979, in the case of the fiscal year ending September 30, 1981, 15 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1980, and in the case of the fiscal year ending September 30, 1982, 20 percent of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1981.

In determining the amount of a grant to a State health authority under subclause (I), the Secretary shall take into account the financial need of such State and the level of State and local expenditures for comprehensive public health services (as defined in subparagraph (C)). In determining the financial need of a State, the Secretary shall consider, as major factors, the proportion of the State's population whose income level is below the poverty income level established by the Secretary and the proportion of its population which is living in medically underserved areas.

"(ii) The total amount of grants to a State health authority in a fiscal year may not be less than the greater of—

"(I) the total amount of grants received by such authority under paragraph (1) for the fiscal year ending September 30, 1979, or

"(II) the product of $1 and the population of the State served by such authority.

Notwithstanding clauses (i) an (ii), if for any fiscal year the amount appropriated for that fiscal year under paragraph (6) is less than the amount needed to make grants in that fiscal year in accordance with such clauses to all State health authorities with approved applications, the total amount of grants in that fiscal year for a State health authority shall not be less than an amount which bears the same ratio to the amounts determined for such authority in accordance with the applicable clause as the amount appropriated under such paragraph bears to the amount needed to make grants in accordance with such clauses in such fiscal year to all State health authorities with approved applications.

"(B) The Secretary, at the request of a State health authority, may reduce the amount of the grants to it under paragraph (1), by—

"(i) the fair market value of any supplies (including vaccines and other prevention agents) or equipment furnished the State health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State health authority and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of the State health authority and for the purpose of carrying out a program with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State health authority.

"(C) For purposes of subparagraph (A)(i)(II), the term 'State and local expenditures for comprehensive public health services' means expenditures by State and local public health authorities for public health services designated by the Secretary, but excludes expenditures by such authorities—

"(i) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(ii) for operating inpatient care facilities, construction, or mental health programs.

"(D) For purposes of subparagraph (A) and paragraph (2)(D), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(5) The Secretary may make payments under grants under paragraph (1) on the basis of such estimates and in such installments as appropriate with adjustments for any previous overpayments or underpayments.

"(6)(A) For the purpose of making grants under this subsection there are authorized to be appropriated $150,000,000 for the fiscal year ending September 30, 1980, and $170,000,000 for the fiscal year ending September 30, 1981.

"(B) Of the amount appropriated under subparagraph (A) for any fiscal year, the Secretary shall obligate not more than $1,000,000 for the uniform national health program reporting system referred to in paragraph (2)(C)(ii).

"(7) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State health authorities. The Secretary shall consult with such conference prior to the publication of proposals for such regulations or amendments.".

Project Grants for Preventive Health Services

SEC. 202. Effective October 1, 1979, section 317 is amended to read as follows:

"Project Grants for Preventive Health Services

"SEC. 317. (a) The Secretary may make grants—

"(1) to State health authorities to assist them in meeting the costs of establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, hypertension; and

"(2) to States and, in consultation with State health authorities, to political subdivisions of States and to other public entities to assist them in meeting the costs of establishing and maintaining preventive health service programs (other than programs described in paragraph (1)).

"(b) No grant may be made under section (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the program for which the applicant is seeking a grant under subsection (a);

"(2) with respect to each such program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting period for the provision of such program, (B) a description of the services provided by the applicant in such program in such period, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes;

"(3) assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c) and in those cases where the applicant is a State, that such program will be provided, where appropriate, in a manner consistent with any plans in effect under an application approved under section 315.

"(4) assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines—

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant.

"(d) The amount of a grant under subsection (a) shall be determined by the Secretary. Payments under such grants may be

made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(e) The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies (including vaccines and other preventive agents) or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(f)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(g)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this section shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(h) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the diseases and conditions referred to in subsection (j); on the amount of funds obligated under grants under subsection (a) in the preceding fiscal year for each of the programs listed in subsection (j); and on the effectiveness of the activities assisted under grants under subsection (a) in controlling such diseases and conditions.

"(i) The Secretary may provide technical assistance to States, State health authorities, and other public entities in connection with the operation of their preventive health service programs.

"(j)(1)(A) Subject to subparagraph (B), for purposes of grants under subsection (a) for preventive health service programs to immunize children against immunizable diseases (including measles, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and mumps) and for purposes of grants under such subsection for the fiscal year ending September 30, 1979, for preventative health service programs to immunize individuals against influenza, there are authorized to be appropriated $51,000,000 for the fiscal year ending September 30, 1979, $39,500,000 for the fiscal year ending September 30, 1980, and $45,000,000 for the fiscal year ending September 30, 1981.

"(B) No funds appropriated under subparagraph (A) may be obligated for grants for preventive health service programs to immunize individuals against influenza until the Secretary submits to the Committees on Human Resources and Appropriations of the Senate and the Committees on Interstate and Foreign Commerce and Appropriations of the House of Representatives the following:

"(i) Not later than June 30, 1979, a complete report on the results of the influenza immunization activities in 1978 and 1979 under funds appropriated under Public Law 95-355, which report shall include information with respect to adverse effects associated with influenza immunization, any known liability arising out of such immunization, any report received by the Secretary on the safety and effectiveness of the vaccine used to provide such immunization, the number of persons immunized, and other experiences with such activities.

"(ii) A report on the current status of the immunization program conducted under the amendment made to this Act by the National Swine Flu Immunization Program of 1976 (Public Law 94-380), including the status of any claims still pending under the program and the Secretary's plans for dealing with such claims.

"(iii) As they become available, all reports and information from studies conducted by or under contract with the Secretary with respect to liability arising out of personal injuries or deaths in connection with immunization programs, protection against such liability, and methods of compensation for such injuries and any other reports and information respecting such matters which are available to the Secretary.

"(iv) Specific interim recommendations of the Secretary with respect to the matters referred to in clause (iii).

"(v) A copy of the information which will be distributed to individuals before they receive any influenza immunization under a preventive health service program for which a grant is made under subsection (a).

"(2) For the purpose of grants under subsection (a) for preventive health service programs for the control of rodents there are authorized to be appropriated $14,500,000 for the fiscal year ending September 30, 1979, $15,500,000 for the fiscal year ending September 30, 1980, and $17,000,000 for the fiscal year ending September 30, 1981. Funds appropriated under this paragraph may be used to make grants to nonprofit private entities for any program or project for rodent control for which a grant was made under section 314(e) for the fiscal year ending June 30, 1975. A grant to such an entity shall be made in the same manner as a grant under subsection (a).

"(3) For the purpose of grants under subsection (a) for programs for hypertension there are authorized to be appropriated $24,500,000 for the fiscal year ending September 30, 1980, $29,000,000 for the fiscal year ending September 30, 1981.

"(4) For the purpose of grants under subsection (a) for preventive health service programs for which appropriations are not authorized by paragraph (1), (2), or (3) there are authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,000,000 for the fiscal year ending September 30, 1981. No funds appropriated under this paragraph may be used for grants for immunization against influenza.".

FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

SEC. 203. Title III of the Public Health Service Act is amended by adding after section 314 the following new section:

"FORMULA GRANTS TO STATES FOR PREVENTIVE HEALTH SERVICE PROGRAMS

"SEC. 315. (a) The Secretary shall make grants to States to assist them in planning for and developing, and in providing (directly and through grants or contracts, or both, the public health authorities of political subdivisions of the States, other public entities, and private entities) preventive health service programs—

"(1) which shall be designed to reduce, through primary or secondary prevention of risk factors and causative conditions, the mortality rate for one or more of the five leading causes of death in a State, and

"(2) which the State receiving a grant under this subsection may design to also reduce, through primary or secondary prevention of risk factors and causative conditions, the burden of illness associated with one or more of the five leading causes of morbidity in the State.

"(b) No grant may be made under subsection (a) for a preventive health service program unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide (other than in an application for a planning and developing grant)—

"(1) a detailed plan of the program for which the applicant is seeking a grant under subsection (a), which plan—

"(A) shall require the use, to the extent practicable, of all relevant professional disciplines;

"(B) may, at the option of the State, describe a program or programs that are targeted toward a particular age group;

"(C) shall set forth quantitatively the current relevant rates of mortality or of morbidity, as the case may be, in the State measured and reported in accordance with regulations of the Secretary;

"(D) shall set forth the quantitative goals for reduction in the relevant rates of mortality and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of death in the State;

"(E) shall, if the applicant program also concerns morbidity, set forth the quantitative goals for reduction in the relevant rates of morbidity and reduction in the risk factors or causative conditions associated with one or more of the five leading causes of morbidity in the State;

"(F) shall require a separate health communications component in the program or programs which shall include a description of how the communications media, including the electronic media, will be used to effectuate the purposes of the programs;

"(G) shall identify a specific institutional entity in the State that will be responsible for accomplishing through contracts with private entities and through other means the requirements of subparagraph (F); and

"(H) shall contain such other information as the Secretary may by regulation prescribe;

"(2) with respect to each of the major causes of mortality and morbidity included in the program (A) the amount of Federal, State, and other funds obligated by the applicant in its latest annual accounting pe-

riod with respect to such cause, (B) a description of the services provided by the applicant in such program in such period with respect to such cause, (C) the amount of Federal funds needed by the applicant to continue providing such services in such program, and (D) if the applicant proposes changes in the provision of the services in such program, the priorities of such proposed changes, reasons for such changes, and the amount of Federal funds needed by the applicant to make such changes:

"(3) assurances satisfactory to the Secretary that the program which will be provided with funds under a grant under subsection (a) will be provided in a manner consistent with the State health plan in effect under section 1524(c);

"(4) assurances satisfactory to the Secretary that the applicant will provide for such fiscal control and fund accounting procedures as the Secretary by regulation prescribes to assure the proper disbursement of and accounting for funds received under grants under subsection (a);

"(5) assurances satisfactory to the Secretary that the applicant will provide for periodic evaluation of its program or programs;

"(6) assurances satisfactory to the Secretary that the applicant will make such reports (in such form and containing such information as the Secretary may by regulation prescribe) as the Secretary may reasonably require and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(7) assurances satisfactory to the Secretary that the applicant will comply with any other conditions imposed by this section with respect to grants; and

"(8) such other information as the Secretary may by regulation prescribe.

"(c)(1) The Secretary shall not approve an application submitted under subsection (b) for a grant for a program for which a grant was previously made under subsection (a) unless the Secretary determines—

"(A) the program for which the application was submitted is operating effectively to achieve its stated purpose,

"(B) the applicant complied with the assurances provided the Secretary when applying for such previous grant, and

"(C) the applicant will comply with the assurances provided with the application.

"(2) The Secretary shall review annually the activities undertaken by each recipient of a grant under subsection (a) to determine if the program assisted by such grant is operating effectively to achieve its stated purposes and if the recipient is in compliance with the assurances provided the Secretary when applying for such grant.

"(3) Whenever the Secretary finds with respect to funds paid to it under a grant under subsection (a) for a program, that the program is not operating effectively to achieve its stated purposes or that there is a failure to comply substantially with assurances provided with respect to the receipt of such grant, the Secretary shall notify the State that further payments will not be made to it under such grant (or in his discretion that further payments will be reduced), until he is satisfied that the program will operate effectively or there will no longer be such a failure. Until he is so satisfied, the Secretary shall make no payment or, in his discretion, reduce payments to the State from such grant.

"(d)(1) The total amount of grants made under subsection (a) in the fiscal year ending September 30, 1980, to any State under subsection (a) to assist it in planning and developing a program described in such subsection shall be determined by the Secretary, except that it may not be less than the product of $0.10 and population of the State. Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for the fiscal year ending September 30, 1980, under subsection (l) is less than the amount needed to make grants for that fiscal year in accordance with such sentence to all States with approved applications, the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with the preceding sentence as the amount appropriated under subsection (l) bears to the amount needed to make grants in accordance with such sentence for such fiscal year to all States with approved applications.

"(2) The total amount of grants made to any State under subsection (a) for any fiscal year to assist it in providing a program described in such subsection shall be determined by the Secertary, except that it—

"(i) may not exceed the lesser of—

"(I) the product of $0.50 and the population of the State, or

"(II) in the case of the fiscal year ending September 30, 1982, 5 per centum of the amount of State and local expenditures for preventive health services within the State in the State's fiscal year which ended on or before July 1, 1981; in the case of the fiscal year ending September 30, 1983, 7½ per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1982; and, in the case of the fiscal year ending September 30, 1984, 10 per centum of the amount of such expenditures in the State's fiscal year which ended on or before July 1, 1983; and

"(ii) may not be less than the product of $0.25 and the population of the State, except as provided in subsection (c)(3)

Notwithstanding the preceding sentence, if for any fiscal year the amount appropriated for that fiscal year under subsection (l) is less than the amount needed to make grants for that fiscal year in accordance with such sentence to all States with approved application the total amount of grants for that fiscal year for a State shall not be less than an amount which bears the same ratio to the amounts determined for such State in accordance with such sentence as the amount appropriated under subsection (b) bears to the amount needed to make grants in accordance with this section for such fiscal year to all States with approved application.

"(e) Payments under grants under subsection (a) may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(f) The Secretary, at the request of a State which is a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such State and for the purpose of planning or carrying out a program with respect to which a grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State.

"(g)(1) Each State which is a recipient of a grant under subsection (a) shall keep such records as the Secretary shall by regulation prescribe, including records which fully disclose the amount and disposition by such State of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and record of each State which is a recipient of a grant under subsection (a) that are pertinent to such grant.

"(h)(1) Nothing in this section shall limit or otherwise restrict the use of funds which are granted to a State or to an agency or a political subdivision of a State under provisions of Federal law (other than this section) and which are available for the conduct of preventive health service programs from being used in connection with programs assisted through grants under subsection (a).

"(2) Nothing in this subsection shall be construed to require any State or any agency or political subdivision of a State to have a preventive health service program which would require any person, who objects to any treatment provided under such a program, to be treated or to have any child or ward treated under such program.

"(i) The Secretary shall include, as part of the report required by section 1705, a report on the extent of the problems presented by the causes of mortality and morbidity referred to in subsection (a); on the amount of funds obligated under grants under such subsection in the preceding fiscal year to assist the States in operating programs described in such subsection; and on the effectiveness of the programs assisted under grants under such subsection.

"(j)(1) For purposes of subsection (a), the term 'primary prevention of causative conditions' means the prevention of the development of the causative conditions in healthy individuals.

"(2) For purposes of subsection (a), the term 'secondary prevention of causative conditions' means the early detection, referral for diagnosis and treatment, or follow-up for compliance with treatment of the causative conditions in asymptomatic individuals.

"(3) For purposes of subsection (d)(2), the term 'State and local expenditures for preventive health services' means expenditures by State and local public health authorities for preventive health services but excludes expenditures by such authorities.

"(A) specifically required by Federal statutory law as a condition to the receipt of Federal financial assistance, or

"(B) for operating inpatient care facilities or construction.

"(4) For purposes of subsection (d), populations shall be determined on the basis of the latest figures available from the Department of Commerce.

"(k)(1) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of planning and developing programs described in such subsection. there are authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1980.

"(2) For the purpose of making payments under grants under subsection (a) to assist States in meeting the costs of providing the programs described in such subsection, there are authorized to be appropriated $60,000,000

for the fiscal year ending September 30, 1981, and $75,000,000 for the fiscal year ending September 30, 1982.

"(3) Not less than 20 per centum of the total amount of grants received by a State under subsection (a) for providing a program described in such subsection shall be obligated by the State for operating the health communications component of such program. No funds appropriated under this paragraph shall be used (A) to assist States in meeting the costs of traditional law enforcement activities (including the prevention of homicide) as defined in regulations of the Secretary, or (B) for construction.".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF VENEREAL DISEASE

SEC. 204. (a) The Congress finds and declares that—

(1) the number of reported cases of venereal disease persists in epidemic proportions in the United States;

(2) the number of persons affected by venereal disease and reported to public health authorities is only a fraction of those actually affected;

(3) the incidence of venereal disease continues to be particularly high among American youth, ages fifteen to twenty-nine, and among populations in metropolitan areas;

(4) venereal disease accounts for severe permanent disabilities and sometimes death in newborns and causes reproductive dysfunction in women of childbearing age;

(5) it is conservatively estimated that the public cost of health care for persons suffering from complications of venereal disease exceeds one-half billion dollars annually;

(6) the number of trained Federal venereal disease prevention and control personnel has fallen to a dangerously inadequate level;

(7) no vaccine for syphilis, gonorrhea, or any other venereal disease has yet been developed, nor does a blood test for the detection of asymptomatic gonorrhea in women exist, nor are safe and effective therapeutic agents available for some other venereal diseases;

(8) school health education programs, public information and awareness campaigns, mass diagnostic screening and case followup have all been found to be effective venereal disease prevention and control methodologies;

(9) skilled and knowledgeable health care providers, informed and concerned individuals and active, well-coordinated voluntary groups are fundamental to venereal disease prevention and control;

(10) biomedical research toward improved diagnostic and therapeutic tools is of singular importance to the elimination of venereal disease; and

(11) an increasing number of sexually transmissible diseases besides syphilis and gonorrhea have become a public health hazard.

(b)(1) Subsection (f) of section 318 is repealed and subsections (g) and (h) of such section are redesignated as subsections (f) and (g), respectively.

(2) Subsection (g)(2) of section 317 is amended by striking out "Except as provided in section 318, no funds" and inserting in lieu thereof "No funds".

(c)(1) Subsection (d)(1) of section 318 is amended by inserting after "(1)" the following: "For the purpose of making grants under subsections (b) and (c) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1979, $51,500,000 for the fiscal year ending September 30, 1980, and $59,000,000 for the fiscal year ending September 30, 1981. For grants under subsection (b) in any fiscal year, the Secretary shall obligate not less than 5 per centum of the amount appropriated for such fiscal year under the preceding sentence."

(2) Subsection (b) of such section is (amended (1) by striking out "(1)" and paragraph (2), (2) by inserting "and public information and" after demonstrations," and (3) by striking out "and training".

(d)(1) Section 318(c) is amended—

(A) by inserting "also" after "The Secretary is" in paragraph (1),

(B) by striking out "and public" in clause (D) of paragraph (1) and inserting in lieu thereof "(including appropriate allied health personnel)", and

(C) by inserting ", training and clinical skills improvement" before "activities" in clause (D) of paragraph (1).

(2) Section 318(c) is further amended (A) by striking out paragraph (2), (B) by striking out "(1)", and (C) by redesignating subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) as paragraphs (1), (2), (3), (4), and (5), respectively.

GENETIC DISEASES

SEC. 205. (a) Section 402 of the National Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs, and Genetic Diseases Act is amended by striking out all following "diseases," and substituting "and genetic conditions, such as Sickle Cell Anemia, Cooley's Anemia, Tay-Sachs disease, cystic fibrosis, dysautonomia, hemophilia, retinitis pigmentosa, Huntington's chorea, muscular dystrophy, and genetic conditions leading to mental retardation or genetically caused mental disorders.".

(b) Section 1101(a) is amended by inserting "plan," after "projects to" in paragraph (1).

(c)(1) Section 1104(a) is amended by inserting the following before the period at the end of the first sentence: ", including assurances for an evaluation whether performed by the applicant or by the Secretary. Such grant or contract may be made available on less than a statewide or regional basis".

(2) Section 1104 is amended by adding at the end thereof the following new subsection:

"(d) In making any grant or entering into any contract under section 1101 the Secretary shall have developed a procedure under which persons from among members of the general public and from among leading medical or scientific authorities (acting as an advisory group, task force, or other entities appointed by the Secretary) knowledgeable about genetic diseases or conditions will have the opportunity on a regular basis to make recommendations to the Secretary.".

(d)(1) Part A of title XI is amended by adding after section 1106 the following new section:

"APPLIED TECHNOLOGY

"SEC. 1107. The Secretary, acting through an identifiable administrative unit, shall—

"(1) conduct epidemiological assessments and surveillance of genetic diseases to define the scope and extent of such diseases and the need for programs for the diagnosis, treatment, and control of such diseases, screening for such diseases, and the counseling of persons with such diseases;

"(2) on the basis of the assessments and surveillance described in paragraph (1), develop for use by the States programs which combine in an effective manner diagnosis, treatment, and control of such diseases, screening for such diseases, and counseling of persons with such diseases; and

"(3) on the basis of the assessments and surveillance described in paragraph (1), provide technical assistance to States to implement the programs developed under paragraph (2) and train appropriate personnel for such programs.

In carrying out this section, the Secretary may, from funds appropriated under section 1101(b), make grants to or contracts with public or nonprofit private entities (including grants and contracts for demonstration projects).".

(2) Section 1101(b) is amended by inserting "and section 1107" after "this section".

(e)(1) Section 1101(b) is amended (A) by striking out "and" and "1977,", and (B) by inserting before the period a comma and the following: "$17,500,000 for the fiscal year ending September 30, 1979, $21,500,000 for the fiscal year ending September 30, 1980, and $26,000,000 for the fiscal year ending September 30, 1981".

HEMOPHILIA

SEC. 206. (a) Section 1131(f) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "$4,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981".

(f) Section 1132(e) is amended (1) by striking out "and" after "1977,", and (2) by inserting before the period a comma and the following: "$2,500,000 for the fiscal year ending September 30, 1979, $3,000,000 for the fiscal year ending September 30, 1980, and $3,500,000 for the fiscal year ending September 30, 1981".

HOME HEALTH SERVICES

SEC. 207. (a) Part D of title III (as amended by section 113(a) of this Act) is amended by inserting after subpart II the following:

"Subpart III—Home Health Services.

"HOME HEALTH SERVICES

"SEC. 339. (a)(1) For the purpose of demonstrating the establishment and initial operation of home health agencies (as defined in section 1861(o) of the Social Security Act) which will provide home health services (as defined in section 1861(m) of the Social Security Act) in areas in which such services are not otherwise available, the Secretary may, in accordance with the provisions of this section, make grants to public and nonprofit private entities to meet the initial costs of establishing and operating such agencies and expanding the services available through existing agencies, and to meet the costs of compensating professional and paraprofessional personnel during the initial operation of such agencies or the expansion of services of existing agencies. Demonstration projects and programs are to be conducted, to the extent practicable, in rural and urban areas, in sparsely and densely populated areas, and in areas with inadequate means of transportation.

"(2) In making grants under this subsection, the Secretary shall consider the relative needs of the several States for home health services and preference shall be given to areas within a State in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or both.

"(3) Applications for grants under this subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(4) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(5) There are authorized to be appropriated for grants under this subsection $14,000,000 for the fiscal year ending September 30, 1979, $16,100,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981.

"(b)(1) The Secretary may make grants to and enter into contracts with public and nonprofit private entities to assist them in demonstrating the training of professional and paraprofessional personnel to provide home health services (as defined in section 1861(m) of the Social Security Act).

"(2) Applications for grants under this

subsection shall be in such form and contain such information as the Secretary shall by regulation prescribe.

"(3) Payments under grants under this subsection may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. The authority of the Secretary to enter into contracts under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"(4) There are authorized to be appropriated for grants under this subsection $1,500,000 for the fiscal year ending September 30, 1979, $2,000,000 for the fiscal year ending September 30, 1980, and $2,500,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1978, section 602 of Public Law 94-63 is repealed.

LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

SEC. 208. (a) Part A of title III is amended by adding after section 315 (added as section 203 of this Act) the following new section:

"LEAD-BASED PAINT POISONING PREVENTION PROGRAMS

"SEC. 316.(a)(1)(A) The Secretary may make grants to agencies of units of general local governments and to private nonprofit entities to assist them in meeting the costs of providing lead-based paint poisoning prevention programs.

The Secretary may also make such grants to an agency of State government in any case where State government provides direct services to citizens in local communities or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose.

"(B) Each program for which a grant is made under this subsection shall afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

"(2) For purposes of this section—

"(A) the term 'lead-based paint poisoning prevention program' means any program which provides for—

"(i) educational programs intended to communicate to parents, educators, and local health officials the health danger and prevalence of lead-based paint poisoning among children;

"(ii) the development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents and to insure prompt medical treatment for such afflicted individuals;

"(iii) the development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment;

"(iv) the establishment of centralized laboratory facilities for analyzing biological and environmental dead specimens; and

"(v) any other actions which will reduce or eliminate lead-based paint poisoning; and

"(B) the term 'units of general local government' means (i) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (ii) any combination of units of general local government in one or more States, (iii) an Indian tribe, and (iv) with respect to lead-based paint poisoning elimination activities, in their urban areas, the territories and possessions of the United States.

Follow-up programs described in subparagraph (A)(iii) shall include programs to eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, including programs to provide for such purpose financial assistance to the owners of such units or houses who are financially unable to eliminate such hazards from their units or houses. In administering programs for the elimination of such hazards, priority shall be given to the elimination of such hazards in residential dwelling units or houses in which reside children with diagnosed lead-based paint poisoning.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and be submitted in such manner as the Secretary shall by regulation prescribe and shall provide—

"(1) a complete description of the type and extent of the lead-based paint poisoning prevention program which is to be provided by or through the applicant with a grant under subsection (a);

"(2) assurances satisfactory to the Secretary that the program to be provided under the grant applied for will be provided in accordance with the State health plan in effect under section 1524(c);

"(3) assurances satisfactory to the Secretary that the applicant will make such reports respecting the program as the Secretary may require; and

"(4) such other information as the Secretary may by regulation prescribe.

No grant may be made under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made, and will in no event supplant such State, local, and other non-Federal funds.

"(c) The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by the way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(d)(1) Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of grants under subsection (a) that are pertinent to such grants.

"(e) The Secretary may provide technical assistance to recipients of grants under subsection (a) in connection with the operation of their lead-based paint poisoning prevention programs.

"(f) The Secretary shall submit annually to the Congress a report (1) on the extent of the problems presented by lead-based paint, and (2) on the effectiveness of the programs assisted under grants under subsection (a).

"(g) There are authorized to be appropriated for grants under subsection (a) $14,000,000 for the fiscal year ending September 30, 1979, $14,000,000 for the fiscal year ending September 30, 1980, and $15,000,000 for the fiscal year ending September 30, 1981.".

(b) Effective October 1, 1979, titles I and II and sections 504 and 505 of the Lead-Based Paint Poisoning Prevention Act are repealed, and section 506 of such Act is redesignated as section 504.

EFFECT OF LEAD ON CHILD DEVELOPMENT

SEC. 209. The Secretary of Health, Education, and Welfare shall conduct a study to determine the long-term effect on child development of various levels of lead in blood. The Secretary shall report the results of such study to the Congress together with recommendations for such legislation as the Secretary determines is appropriate.

EMERGENCY MEDICAL SERVICES SYSTEMS

SEC. 210. (a) Section 1203(c) is amended (1) effective June 30, 1975, by striking out the first sentence of paragraph (2), (2) by striking out paragraph (3), and (3) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) Effective June 30, 1975, the first sentence of section 1204(b)(1) is repealed.

(c) Subparagraph (B) of section 1206(b)(1) is amended to read as follows:

"(B) No applicant may receive more than a total of five grants, contracts, or grants and contracts under this part, except that in determining the number of grants and contracts which an applicant received under this part, the Secretary shall not include any grant or contract received under section 1202(b)(1) or 1205.".

(d)(1) Section 1207(a)(1) is amended by striking out "sections 1203 and 1204" and inserting in lieu thereof "sections 1202, 1203, and 1204".

(2) Section 1207(a)(5) is amended by striking out "for the succeeding fiscal year" and inserting in lieu thereof "for each of the two succeeding fiscal years".

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

SEC. 211. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall establish within the Office of the Secretary a Select Panel for the Promotion of Child Health (hereinafter in this section referred to as the "panel").

(b)(1) The panel, after reviewing all the significant medical, scientific, behavioral, and epidemiological studies concerning the promotion of child health and the prevention of childhood diseases and concerning the efficacy and efficiency of child health programs, shall—

(A) formulate specific goals with respect to the promotion of the health status of children and expectant mothers in the United States;

(B) develop a comprehensive national plan for achieving these goals and otherwise promoting the health of children in the United States; and

(C) transmit to the Secretary, to the Committee on Interstate and Foreign Commerce of the House of Representatives, and to the Committee on Human Resources of the Senate, not later than eighteen months after the date of the enactment of this Act, a report detailing the comprehensive national plan it has developed and recommendations for such administrative, legislative, and other actions as it deems appropriate to implement this plan and to otherwise promote the health of children in the United States.

(2) The panel shall include in its comprehensive national plan (developed under paragraph (1)(B)) recommendations with respect to—

(A) the appropriate type and quantity of preventive health care and other health services needed by children in general and by particular types of children at risk;

(B) the appropriate methods (and providers) for delivering and financing the delivery of such services;

(C) the appropriate methods for coordinating and consolidating, within an agency and between agencies the administration of child health promotion programs;

(D) the need for research into the delivery of such services and the promotion of child health;

(E) the appropriate methods for instructing children and parents in methods of maintaining their health;

(F) the encouragement of innovative programs to promote child health;

(G) the appropriate methods (including demonstration programs) for applying research findings to delivery of health services to children and otherwise to promoting the health of children;

(H) the appropriate relationship between child health promotion programs and health planning organizations;

(I) the appropriate support of training of health personnel for child health promotion programs; and

(J) the appropriate technical assistance to States to implement child health promotion programs.

(c)(1) The panel shall be composed of the Assistant Secretary for Health and the Assistant Secretary for Planning and Evaluation, who shall serve as ex officio members, and of fifteen other members who shall be appointed by the Secretary not later than sixty days after the date of the enactment of this Act. Among members of the panel appointed by the Secretary, the Secretary shall appoint not less than three, nor more than five, individuals employed by the Department of Health, Education, and Welfare, and shall appoint representatives from the scientific, medical, dental, allied health, mental health, preventive health, public health, and education professions, as well as consumers and representatives from State and local health agencies.

(2) The Secretary shall designate, at the time of appointment of members of the panel, one member to serve as chairperson and another to serve as vice chairperson of the panel.

(3) Members of the panel shall serve for the life of the panel and the Secretary shall appoint individuals to fill vacancies on the panel as they may arise.

(4) Each member of the panel (who is not a full-time officer or employee of the United States) shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which the member is engaged in the actual performance of duties vested in the panel. All the members of the panel shall be allowed, while away from their homes or regular places of business in the performance of service for the panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon the request of the panel, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the panel to assist the panel in carrying out its functions.

(2) The Secretary shall provide the panel with such administrative services and facilities as may be required to carry out its functions.

(e)(1) The panel may, for purposes of carrying out its functions, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and appoint such advisory committees as it may deem advisable.

(2) The panel may secure directly from any department or agency of the United States information necessary to carry out its functions. Upon request of the chairperson of the panel, the head of each such department or agency shall, to the extent permitted by law, furnish the information and otherwise cooperate with the panel.

(f) The panel shall cease to exist ninety days after the date of submittal of the report described in subsection (b)(1)(C).

(g) There is authorized to be appropriated $1,000,000 for the fiscal year ending September 30, 1979, to carry out this section. Sums appropriated under this subsection shall remain available for expenditure until the date the panel ceases to exist.

TITLE III—REVIEW

REVIEW

SEC. 301. A grant or contract made under this Act shall be considered, for purposes of sections 1513(e) and 1524(c)(6) of the Public Health Service Act, to be a grant or contract made under that Act.

TITLE IV—RESOURCES FOR DISEASE PREVENTION AND HEALTH PROMOTION

SEC. 401. (a) The Secretary of Health, Education, and Welfare shall undertake or support (through grants or contracts or both) five intensive and comprehensive community based programs in both rural and urban areas for the purpose of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

(b) The Secretary shall submit to the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on January 1, 1981, and on January 1 of every second year thereafter a report on the programs undertaken or supported under subsection (a) including, but not limited to, a detailed description and an evaluation of the effectiveness of each such program.

(c) For the purpose of undertaking or supporting demonstrations and evaluations pursuant to subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1980, $8,000,000 for the fiscal year ending September 30, 1981, and $8,000,000 for the fiscal year ending September 30, 1982.

SEC. 402. (a) The Secretary of Health, Education, and Welfare, after consultation with appropriate public and private entities, shall establish a comprehensive program designed to deter smoking and the use of alcoholic beverages among children and adolescents. Such a program shall include—

(1) the undertaking or support (through grants or contracts or both) of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking and the use of alcoholic beverages among children and adolescents, with special emphasis on children aged twelve or below; and

(2) grants to States or political subdivisions of States to assist them in meeting the costs of demonstrations and evaluations of community or school-based programs designed to deter smoking and the use of alcoholic beverages among children and

(b) With respect to grants under paragraph (a)(2) the Secretary and each grant applicant and recipient must comply with the provisions of subsections (b), (c), (d), (e), (f), (g), and (h) of section 317.

(c)(1) For the purpose of making payments for the undertaking or support of research under paragraph (a)(1), there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1980, and $5,000,000 for the fiscal year ending September 30, 1981.

(2) For the purpose of making payments under paragraph (a)(2), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1980, and $10,000,000 for the fiscal year ending September 30, 1981.

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall conduct, or arrange for the conduct of, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine, and carbon monoxide; and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

(b) Within two years of the date of enactment of this part, the Secretary shall report to the Congress the results of the study or studies conducted pursuant to subsection (a) and any recommendations for legislative or administrative action.

SEC. 404. (a) The Secretary, acting through the National Center for Health Statistics, shall submit to Congress on December 1, 1980, and on December 1 of every third year thereafter, a national disease prevention data profile in order to provide a data base for the effective implementation of this Act and to increase public awareness of the prevalence, incidence, and any trends in the preventable causes of death and disability in the United States. Such profile shall include at a minimum—

(1) mortality rates for preventive diseases;

(2) morbidity rates associated with preventable diseases;

(3) the physical determinants of health of the population of the United States and the relationship between these determinants of health and the incidence and prevelance of preventable causes of death and disability; and

(4) the behavioral determinants of health of the population of the United States including, but not limited to, smoking, nutritional and dietary habits, exercise, and alcohol consumption, and the relationship between these determinants of health and the incidence and prevalence of preventable causes of death and disability.

(b) In preparing the profile required by subsection (a), the Secretary, acting through the National Center for Health Statistics, shall comply with all relevant provisions of sections 306 and 308 of the Public Health Service Act.

TITLE V—OFFICE OF PHYSICAL FITNESS AND SPORTS MEDICINE

ESTABLISHMENT OF OFFICE

SEC. 501. Section 1706 of the Public Health Service Act (42 U.S.C. 3000–5) is amended to read as follows:

"OFFICE OF HEALTH INFORMATION, HEALTH PROMOTION AND PHYSICAL FITNESS AND SPORTS MEDICINE

"SEC. 1706. (a) The Secretary shall establish within the Office of the Assistant Secretary for Health an Office of Health Information, Health Promotion and Physical Fitness and Sports Medicine which shall—

"(1) coordinate all activities within the Department which relate to health information and health promotion, preventive health services, and education in the appropriate use of health care;

"(2) coordinate its activities with similar activities of organizations in the private sector;

"(3) establish a national information clearinghouse to facilitate the exchange of information concerning matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, and to assist in the analysis of issues and problems relating to such matters; and

"(4) support projects, conduct research, and disseminate information in the areas of physical fitness and sports medicine.

"(b) The Office shall also—

"(1) assist, and foster research, investigations, and model projects on the nature of physical fitness, the development of physical fitness, and the relation of physical fitness to health;

"(2) assist, and foster research and investigations into the utilization of sports medi-

cine, the development of sports medicine techniques, and the application of sports medicine throughout organized systems of athletic competition and in personal physical fitness development activities at every age and competition level;

"(3) foster and assist research into the proper role of nutrition in physical fitness programs;

"(4) promote the coordination of research and model programs conducted by the Office with similar programs conducted by other agencies of the Federal Government and other public and private organizations;

"(5) communicate the results of the studies in the widest possible manner to the American people and to special groups with particular interests and special needs in the development of physical fitness, such as young children, the handicapped, senior citizens, and workers in occupations which present special risks of physical disability; and

"(6) have a Director appointed by the Secretary.

"(c) The President's Council on Physical Fitness shall serve as the Advisory Body of the Office on all matters related to physical fitness. The activities of the Office and guidelines for the physical fitness programs supported by the Office shall be in conformance to guidelines developed by the President's Council on Physical Fitness.

SEC. 502. Title XVII of the Public Health Service Act is amended by adding at the end thereof the following new sections:

"PROJECT GRANTS TO STATE COUNCILS ON PHYSICAL FITNESS FOR PHYSICAL FITNESS IMPROVEMENT

"SEC. 1707. (a) The Office may make grants to each State for the establishment by the Governor of a State Council on Physical Fitness or appropriate similar administrative unit.

"(b) The State Council shall consist of at least fifteen members, chosen by the Governor to serve terms of four years, and appointed from among persons who have distinguished records in the areas of physical fitness, sports medicine, public health, athletic competition, education, labor, business management, and nutrition.

"(c) It shall be the duty of the State Council on Physical Fitness to—

"(1) promote the development of physical fitness with the assistance of local health and educational agencies, business, labor unions, health action and advocacy groups, religious, fraternal and social organizations, community based multiservice recreational agencies, and health maintenance organizations;

"(2) assess the physical fitness and nutrition status of residents of the State;

"(3) plan and administer a program of grants-in-aid to support physical fitness projects, research projects, and public information efforts to promote the development of physical fitness for the residents of the State;

"(4) evaluate and improve the availability and quality of sports medicine and athletic trainer programs in the State.

"(d) Each State shall be eligible for a grant under this section in an amount which is equal to not less than 1 per centum of the funds appropriated for the purposes of this section. The first $75,000 of grant funds to each State under this section shall not be made until an amount equal to the amount of the grant is made available to the State for the purposes of this section from non-Federal sources.

"(e) Funds made available for the purposes of this section shall not be used to supplant non-Federal funds.

"(f) Fifty per centum of the funds appropriated under section 503(d) of this Act shall be allocated for the purposes of this section.

"(g) In submitting an annual application for funds under this section the applicant must provide a description of all projects intended to be funded under subsection (c)(3).

"PROJECT GRANTS FOR PHYSICAL FITNESS IMPROVEMENT AND RESEARCH PROJECTS

"SEC. 1708. (a) The Director of the Office may make grants or enter into contracts with public or private entities to conduct research and establish model projects with regard to improvement of physical fitness.

"(b) Projects encompassed under this section may encompass—

"(1) entire small communities, both urban and rural,

"(2) educational settings for a variety of age groups,

"(3) occupational settings,

"(4) groups of handicapped individuals, and

"(5) groups of senior citizens.

"(d) There are authorized to be appropriated for the purposes of section 1707, section 1706, and this section $6,000,000 for the fiscal year ending September 30, 1980, and $6,000,000 for the fiscal year ending September 30, 1981.

"NATIONAL PROGRAM ON SPORTS MEDICINE RESEARCH

"SEC. 1709. (a) The Office shall establish a program of project grants to conduct research into the problem of athletic injuries with specific concentration on frequency of injuries, seriousness of injuries, the development of training and conditioning techniques and the development of athletic protective equipment to enable participants to avoid injuries to the maximum extent feasible, recovery rates, and problems associated with full recovery from athletic injuries.

"(b) The Office shall, in cooperation with the President's Council on Physical Fitness, establish a Clearinghouse on Sports Medicine Research to disseminate the results of that research to practitioners in relevant fields of health care and physical fitness.

"(c) There are authorized to be appropriated to carry out the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, and $1,500,000 for the fiscal year ending September 30, 1981.

"CONFERENCE ON EDUCATION IN LIFETIME SPORTS

"SEC. 1710. (a) The Office and the Office of Education of the Department of Health, Education, and Welfare shall conduct a joint conference during 1979 on the teaching and support of educational programs in lifetime sports by secondary and postsecondary educational institutions.

"(b) The purpose of the Conference shall be to explore current programs on lifetime sports within these institutions and to support the expansion of such educational programs in other institutions of secondary and postsecondary education.".

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low-birthweight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing schooling; a greater likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefore should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

(b) Therefore, the purposes of this Act are—

(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

(2) to expand the availability of such services that are essential to the objective; and

(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services.

DEFINITIONS

SEC. 602. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(2) "eligible person" means—

(A) with regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of the services described in paragraph (4)(A), (4)(B), and (4)(G) and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) "eligible grant recipient" means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network through which all core services would be provided;

(4) "core services" means those services which shall be provided by all grantees which are—

(A) pregnancy testing, maternity counseling, and referral services;

(B) family planning services, except that such services for nonpregnant adolescents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

(C) primary and preventive health services including pre- and post-natal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services in sexuality and family life (including sex education), and including family planning information;

(H) referral to appropriate educational and vocational services;

(I) adoption counseling and referral services; and

(J) referral to other appropriate health services.

(5) "supplemental services" means those services which may be provided and are—

(A) child care sufficient to enable the adolescent parent to continue her education or to enter into employment;

(B) consumer education and homemaking;

(C) counseling for extended family members of the eligible person;

(D) transportation; and

(E) such other services consistent with the purposes of this Act as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(6) "adolescent parent" means a parent under the age of 21.

AUTHORITY TO MAKE GRANTS

SEC. 603 The Secretary may make grants to further the purposes of this Act to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 606 for projects which the Secretary determines will help communities provide core and supplemental services in easily accessible locations, assure a continuity of services and appropriate assistance, and coordinate, integrate, and establish linkages among such services. Projects shall, as appropriate, provide, supplement, or improve the quality of such services, and in providing services, give primary emphasis to adolescents who are 17 years of age or under and are pregnant or who are parents.

USES OF GRANTS

SEC. 604. (a) Funds provided under this Act may be used by grantees only to—

(1) provide core services to eligible persons;

(2) coordinate, integrate, and provide linkages among providers of core, supplemental, and other services for eligible persons in furtherance of the purposes of this Act;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention and pregnancy-related services for adolescents (including family life and sex education), which will further the objectives of this Act; and

(5) fulfill assurances required for grant approval by section 606.

(b) Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 606, which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 605. (a) In approving applicants for grants under this Act, the Secretary shall give priority to applicants who—

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;

(3) show evidence of having the ability to bring together a wide range of needed care and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;

(4) will utilize to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and

(7) have involved the community to be served, including public and private agencies, adolescents, and families, in the planning and implementation of the project.

(b)(1) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served, and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such services.

(c)(1) A grantee may not receive funds under this Act for a period in excess of 5 years.

(2) Subject to paragraph (3), a grant made under this Act may not exceed 70 percent of the costs of a project assisted under this Act for the first and second years of the project. In each year succeeding the second year of the project the amount of the Federal grant under this Act shall decrease by no less than 10 percent of the amount of the Federal grant under this Act in the preceding year.

(3) The Secretary may waive the limitation specified in paragraph (2) in any year in accordance with criteria established by regulation.

REQUIREMENTS FOR GRANT APPROVAL

SEC. 606. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention and pregnancy-related services (including family life and sex education), and including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of how all of the core services will be provided in the project using funds under this Act or otherwise provided by the grantee, to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how access and appropriate referral to those services (such as medicaid; public assistance; employment services; child care services for adolescent parents; and other city, county, and State programs related to adolescent pregnancy) will be provided including a description of the plan to coordinate such services with activities funded under this Act;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived, together with assurances that the applicant will make every reasonable effort to collect reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program;

(8) a description of the grantee's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(9) a description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services, and the general public in the geographic area to be served, of the proposed use of the funds provided under a grant provided under this Act and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) assurances that the applicant will have an ongoing quality assurance program;

(12) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(13) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(14) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement; will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(16) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under title XX of the Social Security Act;

(17) assurances that the applicant (A) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (B) has made and will continue to make every reasonable effort (i) to secure from patients payment for services in accordance with such schedules, and (ii) to collect reimbursement for health or other services on the basis of the full amount of fees and payments for such services without application of any discount, and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

(18) assurances that the applicant will make maximum use of funds available under title X of the Public Health Service Act;

(19) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(20) assurances that fees collected by the applicant for services rendered in accordance with this Act shall be used by the applicant to further the purposes of this Act;

(21) assurances that unemancipated minors requesting services from the applicant will be encouraged, whenever feasible, to consult with their parents with respect to such services;

(22) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options, regarding her pregnancy;

(23) assurances that primary emphasis for services paid for with funds under this Act shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means; and

(24) assurances that funds received under this Act shall not supplant funds received from any other Federal, State, or local program or any private sources of funds.

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

(c) The Secretary shall provide the Governor of each State copies of applications received for grants under this Act from applicants within such State. The Governor shall have a period of 60 days from receipt of such copies to review and submit comments to the Secretary.

(d) No application submitted for a grant under this Act may be approved unless the Secretary is satisfied that core services shall be available through the grantee within a reasonable time after such grant is received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980, and $75,000,000 for the fiscal year ending September 30, 1981.

FUND RESTRICTION

SEC. 608. No funds for grants made under the provisions of this Act may be used for payment for the performance of an abortion.

TITLE VII—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 701. (a) The Secretary shall coordinate, consistent with provisions of other Federal law respecting coordination of such policies and programs, Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall—

(1) require that grantees under title VI report periodically on Federal, State, and local programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents;

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the State and local level will be facilitated;

(3) recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing Federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related services.

(b) A State using funds provided under title VI to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title VI.

(c) The Secretary shall set aside, in each fiscal year, not less than 1 per centum nor more than 3 per centum of the funds appropriated under this Act for evaluation of activities under titles VI and VII and shall designate a program unit to carry out such evaluations, which shall be a program unit other than the unit having primary administrative responsibility for carrying out the grant program authorized by this Act. The Secretary shall submit to the appropriate committees of the Congress, not later than February 1, 1981, and periodically thereafter copies of summaries of all such evaluations.

(d) The program unit responsible for carrying out the activities under titles VI and VII shall report directly to the Assistant Secretary for Health in consultation and in coordination with the Deputy Assistant Secretary for Population Affairs.

TITLE VIII—STUDY OF ADOLESCENT PREGNANCY

SEC. 801. (a) The Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies. The study shall evaluate the effectiveness of existing programs relating to health, education, and public welfare, as they relate to this problem, and shall include suggestions as to the most effective means for reducing or eliminating unwanted adolescent pregnancies. The Secretary shall report the results of such study to the Congress not later than one year after the date of the enactment of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID E. SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

TED KENNEDY,
GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM HATHAWAY,
HARRISON A. WILLIAMS,
RICHARD S. SCHWEIKER,
JACOB K. JAVITS,
JOHN H. CHAFEE,
ALAN CRANSTON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to veneral disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

MIGRANT HEALTH

Environmental Health Services

Senate Bill

The Senate bill amends the definition of environmental health services to specifically allow improvements to private property when the written consent of the owner has been obtained and when such improvements are necessary to alleviate a health hazard. (section 105(a)).

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement permits the Secretary, in making a grant to a migrant health center for the provision of environmental health services, to designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a health hazard to the health of those residing on or otherwise using the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement only after the Secretary has specifically approved the expenditure and has determined that monies for the improvement are not available from any other source. The Secretary will annually notify the appropriate committees of Congress of the amounts expended under this authority and the improvements for which they were spent. (section 103(b)(3))

The conferees recognize the importance of eliminating the source of a health hazard instead of just providing medical care to those individuals affected by the health hazard. If the hazard to be eliminated requires the improvement of private property the conferees have agreed that the hazard must be to the health of persons residing on or using the property *and* to other persons in the center's catchment area who are subject to the hazard either directly or indirectly. In determining the availability of funds to eliminate the hazard the Secretary should, among other alternatives, determine if Federal, State or local funds are available. (section 103(f)(3))

DEFINITION OF MIGRANT HEALTH CENTER

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment amends the definition of migrant health center to include services which promote and facilitate opti-

mal use of health services, including appropriate personnel fluent in the language of individuals of limited English speaking ability. (section 102(a))

Conference Agreement

The conference agreement conforms to the House amendment. (section 103(a)(1)(B))

PERSONS ELIGIBLE TO USE CENTER

Senate Bill

The Senate bill expands the persons eligible to receive the services of migrant health centers and projects. Individuals who have been previously employed as migratory or seasonal agricultural workers but who no longer meet the requirements for eligibility under the migrant health program because of age or disability will be eligible. The members of the families of these individuals will also be eligible. (section 105(b))

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate bill expect that eligibility is extended only to former migrant agricultural workers and members of their families. This is consistent with the current emphasis on migrants and the conferees desire to continue focusing the limited resources of the program on migrants. (section 103(a)(1))

PRIMARY HEALTH SERVICES

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment amends the services which comprise primary health services by deleting preventive dental services (including it as a supplemental health service) and by including pharmaceutical services. (section 102(a))

Conference Agreement

The conference agreement does not delete preventive dental services and includes "pharmaceutical services, as may be appropriate for particular centers". The conferees believe that prescription drugs are an essential part of delivering primary health services; however, the conferees recognize that it might not be necessary for every migrant health center to have such drugs *on-site*. If prescription drugs are readily available to the center's patients through contracts or cooperative arrangements (on accordance with section 319(a)(1)) with other providers of such services, then the center would be making pharmaceutical services available to its patients and be complying with the intent of Congress. (section 103(a)(2))

SUPPLEMENTAL HEALTH SERVICES

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment includes preventive dental services with dental services, redefines public health services, and includes nutrition education in health education services. (section 102(a))

Conference Agreement

The conference agreement redefines public health services to include "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and follow up services)", and includes nutrition education in health education services. (section 103(a)(3))

PRIORITY SUPPLEMENTAL SERVICES

Senate Bill

The Senate bill has no priority for any of the supplemental services.

House Amendment

The House amendment requires an applicant to determine the need for certain environmental and supplemental health services. If the Secretary decides to award funds to an applicant, and if the applicant determined the need for and requested funds for these certain environmental and supplemental health services, the Secretary must either include funds for such services (in an amount determined by the Secretary) or make a written finding that such services are not intended. (sections 102 (a), (d), and (e))

Conference Agreement

The conference agreement conforms to the House amendment (section 103(f)). The conferees do not intend that the determinations required to be made by this section should involve conducting special studies or generating special forms.

HIGH IMPACT AREAS

Senate Bill

The Senate bill redefines "high impact area" by reducing from 6,000 to 4,000 the number of migratory and seasonal agricultural workers which must reside within the area for more than two months.

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate bill. (section 103(c))

PRIORITY FOR GRANTS

Senate Bill

The Senate bill provides that the Secretary shall determine where the greatest need for programs exist and assign the highest priority for assistance to those areas. (section 105(d))

House Amendment

The House amendment provides that a non-high impact area (an area in which fewer than 6,000 migratory and seasonal agricultural workers reside for more than two months a year) which has fewer than 1,000 migrants residing in the area will not have priority over any high impact area (more than 6,000 migratory and seasonal agricultural workers) which has fewer migrants residing in the area. (section 102(b))

Conference Agreement

The conference agreement conforms to the Senate bill. Even though the conferees have repealed the current priority which is based upon the number of migrants residing in an area, the priorities for assistance will still be based upon the needs of migrants for migrant health services. (section 103(b))

REPEAL OF CONVERSION AUTHORITY

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment repeals section 319(d)(1)(B). (section 102(c))

Conference Agreement

The conference agreement conforms to the House amendment. (section 103(d)(1))

INCENTIVES FOR IMPROVED PERFORMANCE

Senate Bill

The Senate bill authorizes the Secretary to establish by regulation a plan allowing migrant health centers to retain earned income from center operations if that income is used to expend or improve the center's service, increase the population eligible for the services, make managerial or physical improvements to the center, or establish a reserve fund for use in conversion to services on a prepaid basis (except that not more than 20 percent of the amount of earned income so retained may be used for the reserve fund). (section 105 (g))

House Amendment

The House amendment provides that if the money collected during the year by the center from fees to patients and third parties is greater than the amount projected at the beginning of the year, the center will be allowed to keep one-half of the excess as an incentive for outstanding management. The moneys may be used by the center to expand or improve its services, to increase the number of persons it serves, to construct and modernize its facilities, to improve the administration of its services, and to establish the financial reserve required for the furnishing of services on a prepaid basis. Expenditures of moneys so retained must be reported to the Secretary. (section 102(d) and (f))

Conference Agreement

The conference agreement conforms to the House amendment, except that it permits "not less than one-half" of the excess to be retained and requires the center, if it desires to use more than 50 percent of its retained moneys for construction, to gain the approval of the Secretary for such construction project. The conferees intend for the Secretary to use the flexibility of this language, which allows a center to retain one-half or more of its excess, to design appropriate rewards and incentives for improved management and performance. (section 103(e))

PREPAID OPERATIONS

Senate Bill

The Senate bill authorizes the Secretary to make grants to public and non-profit private migrant health centers to convert and to plan to convert to the provision of health services on a prepaid basis for some or for all of the population it serves. The center must have previously received two consecutive operational grants; the governing board of the center must request the grant; and the center must provide assurances that the provision of services on a prepaid basis will not result in the diminution of health services provides previous to such conversion to prepaid services. The Secretary is authorized to expend for such conversion grants not more than 5% of the funds appropriated for operations of migrant health centers. (Section 105(h) and 213).

House Amendments

The House amendment is in H.R. 13655, the "Health Maintenance Organization Amendments of 1978." It permits funds under section 319 to be used for grants to an entity, other than a health maintenance organization, for the planning, development or provision of health services on a prepaid basis. (Section 8)

Conference Agreement

The conference agreement conforms to the Senate bill with technical and conforming changes. The conferees intent, in permitting the use of funds to convert to prepaid services, is to encourage centers to assume the risk for the costs of providing health services to their patients. The services for which a center's patient prepays should include inpatient hospital services unless the center has unusual circumstances which prevent such services from being offered. The conferees have taken note that recent studies indicate that the savings realized in HMO's is a result of reduced hospitalization rates for the members of the HMO. The conferees intend that any grant for the operation of a center, which has converted some or all of its services to a prepaid basis, will be based (for those services provided on a prepaid basis) upon the amount of the annual premiums which enrolled individuals (who are eligible for discounts due to their level of income, in accordance with section 329(f)(2)(F)) cannot afford to pay. This basis will ensure the center that it will receive 100% of its premiums; and it will place the center at risk to provide all covered services for the prospectively paid premium. The conferees

also intend that a center not receive any additional grants for the same prepaid health services. The center should receive its support for prepaid services on a prospective basis only. (Section 103(d)(3))

GOVERNING BOARD

The Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment permits the public agency which sponsors a migrant health center to retain the establishment of general policies; requires it to delegate the functions specified in section 319(f)(2)(G), and permits it to delegate at its discretion any other functions. In addition, the governing board of the public migrant health center must approve all renewal applications for the center by the public agency. This amendment does not apply to any public agency currently receiving a grant for a migrant health center. (section 102(f))

Conference Agreement

The conference agreement conforms to the House amendment but provides that the total amount of grants to public agencies, including hospitals owned and operated by units of government, which have governing boards as provided in this amendment may not exceed 5% of appropriations for section 329. In accordance with the House amendment, any public agency currently receiving grant funds will not be eligible to use this exception to the governing board requirement and will not be counted toward the limit of 5% of appropriations. (section 103(g)(1))

AUTHORIZATIONS

Senate Bill (Section 105 (i), (j), and (k))

[In millions]

	FY '79	FY '80	FY '81
Planning/ development	$3.6	$3.6	$3.6
Operations	36.0	40.5	45.6
Hospital Services	5.4	5.9	6.8
Total	45.0	50.0	56.0

House Amendment (Section 102(g))

[In millions]

	FY '79	FY '80	FY '81
Planning/ development	$2.2	$2.5	$2.9
Operations*	38.8	44.6	51.3
Total	41.0	47.1	54.2

*Authorizations for hospital services are included in the authorizations for operations with the requirement that the Secretary obligate not less than 10%, and not more than $5 million, of the appropriations for operations for the provision of hospital services.

Conference Agreement

[In millions]

	FY '79	FY '80	FY '81
Planning/ development	$2.2	$2.5	$2.6
Operations*	40.8	46.0	42.1
Total	43.0	48.5	55.0

*The Secretary shall obligate not less than 10% of the appropriations for operations for the provision of hospital services. (Section 103(i))

COMMUNITY HEALTH CENTERS— ENVIRONMENTAL SERVICES

Senate Bill

The Senate bill defines environmental health services to include the identification, detection and assistance and alleviation of unhealthful conditions associated with water supply, sewage treatment, solid waste disposal, rodent and parasitic infestation, field sanitation, and other environmental factors related to health as well as improvements to private property when the written consent of the owner has been obtained and when such improvements are necessary to eliminate a health hazard. (section 106(a))

House Amendment

The House amendment makes no change in existing law.

Conference Agreement

The conference agreement accepts the definition of environmental health services and permits the Secretary, in making a grant to a community health center for the provision of environmental health services, to designate a portion of the grant to be expended for improvements to private property for which the written consent of the owner has been obtained and which are necessary to alleviate a health hazard to the health of those residing on or otherwise using the property and of other persons in the center's catchment area. A center may make such an expenditure for an improvement *only* after the Secretary has specifically approved the expenditure and has determined that monies for the improvement are not available from any other source. The Secretary will annually notify the appropriate committees of Congress of the amounts expended under this authority and the improvements for which they were spent. (section 104(b)(5))

The conferees recognize the importance of eliminating the source of a health hazard instead of just providing medical care to those individuals affected by the health hazard. If the hazard to be eliminated requires the improvement of private property the conferees have agreed that the hazard must be to the health of persons residing on or using the property *and* to other persons in the center's catchment area who are subject to the hazard either directly or indirectly. In determining the availability of funds to eliminate the hazard the Secretary should, among other alternatives, determine if Federal, state or local funds are available. (Section 104(d)(5))

PRIMARY HEALTH SERVICES

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment amends the services which comprise primary health services to include pharmaceutical services and to delete preventive dental services. (section 103(b))

Conference Agreement

The conference agreement does not delete preventive dental services and includes "pharmaceutical services, as may be appropriate for particular centers". The conferees believe that prescription drugs are an essential part of delivering primary health services; however, the conferees recognize that it might not be necessary for every community health center to have such drugs *on-site*. If prescription drugs are readily available to the center's patients through contracts or cooperative arrangements (in accordance with section 330(a)) with other providers of such services, then the center would be making pharmaceutical services available to its patients and be complying with the intent of Congress. (section 104(b)(1))

SUPPLEMENTAL HEALTH SERVICES

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment includes preventive dental services with dental services, redefines public health services, includes nutrition education in health education services and permits the use of appropriate personnel, instead of just outreach workers, who are fluent in the language spoken by non-English speaking patients. (section 103(c))

Conference Agreement

The conference agreement does not include preventive dental services as a primary health service, redefines public health services to include "(including, for the social and other nonmedical needs which affect health status, counseling, referral for assistance, and follow-up services)", and otherwise conforms to the House amendment. (section 104(b)(2))

PRIORITY SUPPLEMENTAL SERVICES

Senate Bill

The Senate bill requires an applicant to determine the need for environmental and four supplemental health services. If the Secretary decides to award funds to an applicant, and if the applicant determined the need for and requested funds for these certain environmental and supplemental health services, the Secretary must either include funds for such services (in an amount determined by the Secretary) or make a written finding that such services are not needed. The Secretary is prohibited from requiring a comprehensive range of services in rural areas areas where such services are not practical. (section 106(b) and (c))

House Amendment

The House amendment contains a similar provision which includes four supplemental services. (section 103(a)(d) and (e))

Conference Agreement

The conference agreement conforms to the House amendment. Dental services are included and public health services are excluded from priority supplemental services. (section 104(d)(2))

HOSPITAL REFERRAL

Senate Bill

The Senate bill requires a center, in accordance with regulations promulgated by the Secretary, to develop an ongoing referral relationship with one or more hospitals. (section 106(c))

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate amendment. (Section 104(d)(1))

INCENTIVES FOR IMPROVED PERFORMANCE

Senate Bill

The Senate bill authorizes the Secretary to establish by regulation a plan to allow community health centers to retain earned income from the operations of the center if the income is used to expand or improve the center's services, increase the population eligible to utilize the services, make managerial or physical improvements to the center, or establish a reserve fund for use in conversion to services on a prepaid basis (except that not more than 20% of the amount of earned income so retained may be used for the reserve fund). (section 106(c))

House Amendment

The House amendment provides that if the money collected during the year by the center from fees to patients and third parties is greater than the amount projected at the beginning of the year, the center will be allowed to keep one half of the excess as an

incentive for outstanding management. The monies may be used by the center to expand or improve its services, to increase the number of persons it serves, to construct and modernize its facilities, to improve the administration of its services, and to establish the financial reserve required for the furnishing of services on a prepaid basis. Expenditures of monies so retained must be reported to the Secretary. (section 103 (d) and (e))

Conference Agreement

The conference agreement conforms to the House amendment, except that it permits "not less than one-half" of the excess to be retained and requires the center, if it desires to use more than 50% of its retained monies for construction to gain the approval of the Secretary for such construction. The conferees intend for the Secretary to use the flexibility of this language, which allows a center to retain one-half or more of its excess, to design appropriate rewards and incentives for improved management and performance. (section 104(c)(2))

FEDERAL RESOURCES FOR ENVIRONMENTAL AND NUTRITIONAL STATUS

Senate Bill

The Senate bill requires the Secretary to make available to each grant recipient under this section a list of all available Federal and non-Federal resources to improve the environment and nutritional status of individuals in the catchment area of the grant recipient.

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate amendment but strikes the word "all". (section 104(e))

PREPAID OPERATIONS

Senate Bill

The Senate bill authorizes the Secretary to make grants to public and non-profit private community health centers to convert and to plan to convert to the provision of health services on a prepaid basis for some or for all of the population it serves. The center must have previously received two consecutive operational grants: the governing board of the center must request the grant: and the center must provide assurances that the provision of services on a prepaid basis will not result in the diminution of health services provided previous to such conversion to prepaid services. The Secretary is authorized to expend for such conversion grants not more than 5% of the funds appropriated for operations of migrant health centers. (sections 106(c) and 213).

House Amendment

The House amendment is in H.R. 13655, the "Health Maintenance Organization Amendments of 1978." It permits funds under section 319 to be used for grants to an entity, other than a health maintenance organization, for the planning, development or provision of health services on a prepaid basis. (section 8)

Conference Agreement

The conference agreement conforms to the Senate bill with technical and conforming changes. The conferees intent, in permitting the use of funds to convert to prepaid services, is to encourage centers to assume the risk for the costs of providing health services to their patients. The services for which a center's patient prepays should include inpatient hospital services unless the center has unusual circumstances which prevent such services from being offered. The conferees have taken note that recent studies indicate that the savings realized in HMO's is a result of reduced hospitalization rates for the members of the HMO. The conferees intend that any grant for the operation of a center, which has converted some or all of its services to a prepaid basis, will be based (for those services provided on a prepaid basis) upon the amount of the annual premiums which enrolled individuals (who are eligible for discounts due to their level of income, in accordance with section 330(e)(2)(F)) cannot afford to pay. This basis will ensure the center that it will receive 100 per cent of its premiums; and it will place the center at risk to provide all covered services for the prospectively paid premium. The conferees also intend that a center not receive any additional grants for the same prepaid health services. The center should receive its support for prepaid services on a prospective basis only (section 104(c)(1))

GOVERNING BOARD

Senate Bill

The Senate bill makes no change in existing law.

House Amendment

The House amendment permits the public agency which sponsors a community health center to retain the establishment of general policies; requires it to delegate the functions specified in section 330(e)(2)(G), and permits it to delegate at its discretion any other functions. In addition, the governing board of the public community center must approve all renewal applications for the center by the public agency. The amendment does not apply to any public agency currently receiving a grant for a community health center.

Conference Agreement

The conference agreement conforms to the House amendment but provides that the total amount of grants to public agencies, including hospitals owned and operated by units of government, which have governing boards as provided in this amendment may not exceed 5 percent of appropriations for section 330. In accordance with the House amendment, any public agency currently receiving grant funds will not be eligible to use this exception to the governing board requirement and will not be counted toward the limit of 5 percent of appropriations. (Sections 104(d)(3), 104(f)(4)).

NEW SERVICES: RURAL/URBAN

Senate Bill

The Senate bill has no provision.

House Amendment

The House amendment requires the Secretary to approve applications for the establishment of new community health centers and for the expansion of existing community health centers so that the number of urban and rural people who will have access to these new services is relatively equal. Of the total number of new users no less than 40 percent and no more than 60 percent may be urban and no less than 40 percent and no more than 60 percent may be urban.

Conference Agreement

The conference agreement conforms to the House amendment. The conferees agree that the goal of this amendment is to ensure that legislatively equal numbers of rural and urban medically underserved populations receive assistance. (Section 104(d)(5))

AUTHORIZATIONS

Senate Bill (Sections 106 (d) and (e))

[In millions]

	FY '79	FY '80	FY '81
Planning/ Development	$10.0	$10.0	$10.0
Operations	320.0	361.0	407.0
Total	330.0	371.0	417.0

House Amendment (Section 103(f))

[In millions]

	FY '79	FY '80	FY '81
Planning/ Development	$6.3	$7.5	$9.0
Operations	359.7	431.5	518.0
Total	366.0	439.0	527.0

Conference Agreement (Section 104(f))

[In millions]

	FY '79	FY '80	FY '81
Planning/ Development	$6.3	$7.5	$9.0
Operations	341.7	397.6	463.0
Total	348.0	405.0	472.0

TECHNICAL ASSISTANCE DEMONSTRATION

Senate Bill

The Senate bill has no provision.

House Amendment

The House amendment authorizes the Secretary to make grants to entities of State governments and to non-profit private agencies to provide technical assistance to community health centers, migrant health centers and any other centers which deliver primary health care. Assistance includes planning, developing, and operating the centers. Grants will be made to different organizations and for different types of areas to be served. Authorizations are $3,000,000 a year for three years with a limit per grant of no more than $500,000. A primary health care advisory committee is established to review applications for such demonstrations and to recommend applicants to the Secretary. A report is required by March 1, 1981 on the effectiveness of the demonstration. (section 104)

Conference Agreement

The conference agreement conforms to the House amendment with several additions. Contracts are authorized; and any private entity is eligible for a contract. Grants may be made or contracts entered into with an entity which provides technical assistance to a region of the United States. The Secretary is also required to include in his report to Congress (1) a comparison of the effectiveness of entities assisted under this demonstration grant program with entities which are currently providing technical assistance to health centers, and (2) recommendations as to the most effective methods for providing technical assistance to health centers. (section 106)

DESIGNATION OF PRIMARY HEALTH CARE SECTION

Senate Bill

The Senate bill provides for a new part which will be entitled "primary health care". It redesignates the National Health Service Corps as "Health Professionals for Medically Underserved Areas."

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate bill without changing the name of the National Health Service Corps. (section 113)

HOSPITAL-AFFILIATED PRIMARY CARE CENTERS

Senate bill

The Senate bill authorizes the Secretary to make grants to public and private non-profit community hospitals which primarily serve medically underserved populations to assist them in planning, developing and operating

primary care centers located in or adjacent to the hospital. The Secretary may not make a grant for such a center where existing community health centers, migrant health centers or other health care providers are adequate to meet the needs of the medically underserved population. Grantee hospitals must operate the center as a distinct administrative unit of the hospital and must deliver primary health services and, as may be appropriate for particular centers, supplemental health services (as defined in Sec. 330 of the Public Health Service Act).

The primary care center must be staffed by a primary care group practice consisting of at least three primary care physicians (as defined in Sec. 771(b)(2)(F)(ii) of the Public Health Service Act). National Health Service Corps personnel may be used to fulfill the requirements of the group practice except that the physician staff may not be composed entirely of National Health Service Corps personnel. Where the minimum requirement of three primary care physicians cannot be met, one physician assistant or one nurse practitioner can be substituted for one physician member of the group. Graduate physicians in training in a primary care specialty may also be used in the center with certain restrictions. Other physician specialists may be added to the group as necessary.

Each patient of the primary care center shall have an identified primary care physician member of the group practice who is responsible for continuous management of the patient's health care needs, including the referral of the patient for inpatient, outpatient or emergency services.

Authorizations for the three fiscal years beginning October 1, 1978 are $35,000,000, $40,000,000 and $45,000,000; one project may use no more than $500,000 for planning and development. (section 205)

The Senate bill also contains a provision requiring the Comptroller General to conduct a study evaluating and comparing the operations of hospital-affiliated primary care centers and community health centers. (section 211)

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate provision with the following changes (section 114):

(1) The program will be conducted on a demonstration basis at the following authorization levels:

FY 1979—$5 million for planning and development grants only.

FY 1980—$25 million for planning, development and operations.

FY 1981—$30 million for planning, development and operations.

In addition the ceiling on planning and development grants has been lowered from $500,000 per project to $150,000 per project.

(2) To the extent practicable, grants will be awarded in a manner which assures an equitable distribution between urban and rural medically underserved areas.

(3) With respect to the provision of emergency medical services, the intent of the requirement that emergency medical services be provided in the emergency room of the affiliated hospital is to avoid duplication of facilities and equipment between the primary care center and the emergency room. It is in no way intended to prohibit the provision of medical services in the primary care center in the event of a medical emergency in the primary care center.

(4) The contents of the GAO study are defined more explicitly. With respect to the evaluation of any privately funded hospital-affiliated primary care center, the evaluation shall occur only if the center voluntarily agrees to participate. In the evaluation of these privately funded centers, the Comptroller General shall, in his report, note specifically the differences between these centers and the requirements defined in this program and whether such differences affect the evaluation.

PRIMARY CARE RESEARCH AND DEMONSTRATION PROJECTS

Senate Bill

The Senate bill authorizes the Secretary to make grants to and to enter into contracts with public and private non-profit organizations and individual providers of health and dental care to demonstrate new, improved or expanded primary health and dental care delivery mechanisms in a community setting for medically underserved populations and other populations as designated by the Secretary. Grants and contracts are permitted to examine and develop eleven different categories of activities; and the Secretary is required to fund projects relating to the first ten categories of activities. The Secretary is authorized to continue supporting projects which are currently funded under the research and demonstration program authorized by section 1110 of the Social Security Act (commonly known as the Health in Underserved Rural Areas Program). Authorizations for rural areas (areas which are not urbanized as defined by the Bureau of the Census) for the three fiscal years beginning October 1, 1978 are $18,000,000, $20,000,000 and $22,000,000; and authorizations for urban areas (areas which are urbanized as defined by the Bureau of the Census) for the three fiscal years beginning October 1, 1978 are $5,000,000, $5,500,000 and $6,000,000. (section 207)

House Amendment

The House amendment authorizes the Secretary to make grants and contracts to (1) public and non-profit private entities which (a) received grants during fiscal year 1978 to carry out demonstration projects under section 1110 of the Social Security Act related to health services in medically underserved areas and (b) before September 30, 1978 had applications approved for fiscal year 1979, and (2) any other public and non-profit entity which before September 30, 1978, had an application approved for fiscal year 1979. Authorizations are $13,500,000 for the fiscal year ending September 30, 1979. (section 105)

Conference Agreement

The Conference agreement conforms to the Senate bill with amendments. The Secretary is authorized to make grants and contracts to public and private entities which provide health services to:

(1) demonstrate new and innovative methods for the provision of primary health and dental health services, and;

(2) to conduct research on such methods or on existing methods for the provision of primary health and dental health services.

To be eligible an entity must serve a medically underserved population or other populations if the Secretary determines that such a grant or contract is necessary to demonstrate or to conduct research on a particular method for the delivery of primary health or dental health care services. Demonstrations and research may be conducted respecting 9 different category of activities; however, the Secretary may not make a grant or enter into a contract if the activities to be funded could be carried out under any other authority, except section 301, of the Public Health Service Act. The Secretary would not be permitted, in demonstrating or conducting research on environmental health services, to make improvements to private property. He would be required, to the extent feasible, to coordinate demonstrations and research projects under this authority with any demonstration or research projects conducted under the Social Security Act for the reimbursement of health services.

Authorizations for rural areas are unchanged but authorizations for urban areas are reduced for the three fiscal years beginning October 1, 1978 to $4,000,000, $4,500,000 and $5,000,000. The conferees have agreed to a reduced urban program because urban areas were not included in the Health in Underserved Rural Areas program. (Section 115)

SPECIAL PROJECTS WITH REGARD TO GRADUATE PROGRAMS AND HEALTH ADMINISTRATION

Senate Bill

The Senate bill repeals the requirements relating to accreditation in section 792(b)(2.)

House Amendment

The House amendment has no similar provision.

Conference Agreement

The conference agreement conforms to the Senate bill. The conferees are aware that the conference agreement expands the number of institutions eligible for a small amount of funds. The conferees intend for the Secretary to give priority to applications for institutions which previously received grants under section 313. (Section 121)

NATIONAL HEALTH SERVICE CORPS

Senate Bill

The Senate bill increases current authorizations under section 338(a) for fiscal year 1979 by $7,000,000. The Secretary is required to submit a special report to Congress by February 1, 1979. It will be developed after consultation with the National Advisory Council on the National Health Service Corps and will describe (1) the present and future directions of the National Health Service Corps, (2) its role as a health manpower program and as a health service program, (3) the use of National Service Corps personnel in various health service delivery settings, (4) its role in meeting urban and rural health needs, and (5) estimates of the Corps' manpower and their use through 1985. Certain specialties are permitted to defer service for more than 3 years as long as such deferments are no more than 5% of the total number of deferrals granted.

House Amendment

The House amendment has no similar provision.

Conference agreement

The conference agreement provides the additional authorizations and requires the special report to be submitted to Congress. (Sections 116(c), 122.)

STUDIES

Senate Bill

The Senate bill requires the Secretary to conduct three new studies. By June 30, 1979, the Secretary should submit a report to the appropriate committees of Congress on the health care needs of (1) Immigrants, (2) American Indians and (3) Alaskan natives.

House Amendment

The House amendment requires the Secretary to conduct and access the various types of continuing education programs available for health professions personnel in medically underserved areas and the effects such types of programs have on the retention of such personnel by centers engaged in the delivery of primary health care. The Secretary shall report the results to Congress not later than January 1, 1980.

Conference Agreement

The conference agreement requires that all four studies be performed. (Sections 116 (a) and (b))

AUTHORIZATIONS OF APPROPRIATIONS

Both the Senate bill and the House amendment authorized line-item appropriations for several programs for three or more fiscal years, beginning with fiscal year 1979. Table I sets forth the authorizations contained in the Senate bill, the House amendment, and the conference substitute.

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS

[In millions]

	Fiscal year 1979			Fiscal year 1980			Fiscal year 1981		
	Senate	House	Conference	Senate	House	Conference	Senate	House	Conference
Formula grants to States	102.0	103.5	103.0						
Health incentive grants				112.0	218.0	150.0	123.0	257.0	170.0
Hypertension programs	15.0	25.0	20.0	20.0	28.8	24.5	25.0	33.0	29.0
Home health services:									
Demonstration	6.5	14.0	11.0	7.0	16.0	12.0	8.0	18.5	13.0
Training	1.5	2.0	1.5	2.0	2.5	2.0	2.0	3.0	2.5
Lead-based paint poisoning prevention	11.0	14.0	14.0	11.5	16.1	14.0	12.0	18.5	15.0
Immunization program	35.0	51.0	51.0	39.0	40.25	39.5	43.0	46.28	45.0
Rodent control	14.0	15.0	14.5	14.0	17.3	15.5	14.0	19.9	17.0
Other disease control		5.8	1.0		6.7	1.0		7.7	1.0
Venereal disease control	44.5	45.0	45.0	50.0	53.0	51.5	56.0	62.0	59.0
Generic disease programs	15.0	20.0	17.5	20.0	23.0	21.5	25.0	26.5	26.0
Hemophilia programs	4.0	3.5	4.0	5.0	4.0	5.0	6.0	5.0	6.0
Blood separation centers	2.0	2.5	2.5	2.0	3.0	3.0	2.0	3.5	3.5
Select panel for the promotion of child health		1.0	1.0						
Community health centers:									
Planning	10.0	6.3	6.3	10.0	7.5	7.5	10.0	9.0	9.0
Operation	320.0	359.7	341.7	361.0	431.5	397.5	407.0	518.0	463.0
Technical assistance		3.0	3.0		3.0	3.0		3 0	3.0
Migrant health centers:									
Planning	3.6	2.2	2.2	3.6	2.5	2.5	3.6	2.9	2.9
Operation	36.0	38.8	40.8	40.5	44.6	46.0	45.6	51.3	52.1
Hospitalization	5.4			5.9			6.8		
National Health Service Corps	7.0		7.0						
Hospital affiliated primary care centers	35.0		5.0	40.0		25.0	45.0		30.0
Primary care research and demonstration:									
Rural	18.0	13.5	18.0	20.0		20.0	22.0		22.0
Urban	5.0		4.0	5.5		4.5	6.0		5.0
Formula grants for preventive health services [1]				20.0		20.0	60.0		60.0
Fluoridation				5.0		5.0	5.0		5.0
Comprehensive prevention demonstrations	6.0		6.0	8.0		8.0	8.0		8.0
Determinants of smoking (and alcohol) research				5.0		5.0	5.0		5.0
Prevention of childhood and adolescent smoking (and alcohol)				10.0		10.0	10.0		10.0
Promotion of physical fitness				6.0		6.0	6.0		6.0
Sports medicine research				1.5		1.5	1.5		1.5
Adolescent pregnancy prevention and health care services	60.0		50.0	70.0		65.5	80.0		75.0
Study of adolescent pregnancy	.5		.5						
Total	757.0	725.8	770.5	894.5	917.75	966.5	1,037.5	1,085.08	1,144.5

[1] The legislation also authorizes $75,000,000 in fiscal year 1982 for formula grants for preventive health services.

HEALTH INCENTIVE GRANTS FOR COMPREHENSIVE PUBLIC HEALTH SERVICES

Senate Bill

The Senate bill continued for one year the existing authority for formula grants to States for comprehensive public health services. For the next three years, it established a new formula under which States would receive not more than $1.00 per capita and not less than $.50 per capita or the amount which it received under appropriations for fiscal year 1979 under the authority of section 314(d) of the Public Health Service Act, whichever is greater. In addition, provision was made for the Secretary to consider State fiscal need in awarding formula grants.

House Amendment

The House amendment would continue for one year the current formula grants to States for comprehensive public health services. For the next three years, it would establish health incentive grants to States for such services. Each State would receive not less than the greater of $1.00 per capita, or the amount which the State received under section 314(d) appropriations for fiscal year 1979. Each State would receive not more than the lesser of $1.50 per capita, or a legislatively prescribed percentage of the amount of State and local expenditures for such services within that State, with a provision for the Secretary to consider State financial need in awarding amounts between $1.00 and $1.50 per capita.

Conference Agreement

The conference substitute contains the provisions of the House amendment except that it provides authorizations of appropriations under the new authority for two, rather than three, fiscal years.

PROJECT GRANTS FOR PREVENTIVE HEALTH SERVICES

Hypertension

Senate Bill

The Senate bill provided for a three-year program of project grants to States for establishing and maintaining programs for screening, detection, diagnosis, prevention referral for treatment and follow-up for compliance with the treatment of hypertension.

House Amendment

The House amendment provided for a one-year continuation of the present hypertension formula grant program to States followed by three years of project grants to States for providing programs for screening, and the detection, diagnosis, prevention, and control (including referral for treatment) of hypertension.

Conference Agreement

The conference substitute provides for a one-year continuation of the existing hypertension formula grant program to States, followed by two years of project grants to States for providing programs of screening for, and the detection, diagnosis, prevention, referral for treatment of and follow-up for compliance with treatment of hypertension. The conferees believe that with the limited funds available for this program, diversion of any money for direct treatment is inappropriate. Treatment is obviously an important element of the continuum established by this grant program, but is more properly handled by third party payment mechanisms, including titles XIX and XX of the Social Security Act.

Fluoridation

Senate Bill

The Senate bill amended section 317 of the Public Health Service Act to authorize the Secretary to make grants to States and political subdivisions of States or other public entities, for establishing and maintaining community and school-based fluoridation programs.

House Amendment

The House amendment contained no comparable provision.

Conference Substitute

The conference substitute conforms to the Senate provision.

Voluntary programs of high risk influenza immunization

Senate Bill

The Senate bill contained a specific prohibition against carrying out flu immunization programs under the authority of section 317(g) (Disease Control Programs—programs to immunize children against immunizable diseases) of the Public Health Service Act.

House Amendment

The House amendment provided specific authorization under section 317(g) of the Public Health Service Act for disease control programs to immunize individuals against influenza for fiscal year 1979.

Conference Agreement

The conference substitute retains the authorization for a program of influenza immunization for fiscal year 1979 as provided in the House amendment. However, the conference substitute requires that no funds appropriated for that authorization may be obligated until the Secretary submits to the Congress all of the following:

(i) Not later than June 30, 1979, a complete report on the results of the influenza immunization activities in 1978 and 1979 under funds appropriated under Public Law 95–355, which report shall include information with respect to adverse effects associated with influenza immunization, any known liability arising out of such immunization, any report received by the Secretary on the safety and effectiveness of the vaccine used to provide such immunization, the number of persons immunized, and other experiences with such activities.

(ii) A report on the current status of the immunization program conducted under the amendment made to this Act by the National Swine Flu Immunization Program of 1976 (Public Law 94–380), including the status of any claims still pending under the program and the Secretary's plans for dealing with such claims.

(iii) As they become available, all reports

and information from studies conducted by or under contract with the Secretary with respect to liability arising out of personal injuries or deaths in connection with immunization programs, protection against such liability, and methods of compensation for such injuries and any other reports and information respecting such matters which are available to the Secretary.

(iv) Specific interim recommendations of the Secretary with respect to the matters referred to in clause (iii).

(v) A copy of the information which will be distributed to individuals before they receive any influenza immunization under this program.

The Conferees wish to emphasize that no other authority which may be contained in the Public Health Service Act or other law is to be used by the Department to initiate programs of influenza immunization.

The Conferees are particularly concerned by the failure of the Secretary to provide specific recommendations to deal with the unresolved questions of liability and compensation in federally sponsored immunization programs. The Conferees cannot overstate their concern that the Department has not completed action on recommendations on liability and compensaton issues, despite repeated requests and a requirement in the National Swine Flue Immunization Program (P.L. 94–380) that the Secretary fully explore and report to the Congress on these issues no later than August, 1977.

The Conferees were dismayed to learn that efforts to secure information necessary for these recommendations have just begun, in September, 1978. In light of this dismal record and past experience with Federally supported influenza immunization, the Conferees have provided limited one-year authorization. The Conferees expect the Secretary not only to submit interim recommendations in this regard, but to complete and submit a final report in the immediate future. In addition, the Conferees wish to stress their intent that the Secretary make a maximum effort to ensure that, if an influenza program is undertaken under this authority, resources are not diverted from important childhood immunization activities.

Venereal disease control

Senate Bill

The Senate bill specifically authorized the Secretary to provide "professional (including appropriate allied health personnel) venereal disease education, training and clinical skills improvement activities;" under section 318 (venereal disease control) of the Public Health Service Act.

House Amendment

The House amendment contained no similar provision.

Conference Agreement

The House recedes.

Genetic diseases

Senate Bill and House Amendment

The Senate bill contained the following administrative provisions:

(1) it expanded the definition of section 402 of the Health Research and Health Services Amendments of 1976 by adding "and genetic conditions leading to mental retardation or mental illness, and conditions requiring genetic services"; (2) it provided that funds under this title could be used by grantees to plan as well as establish and operate voluntary programs; (3) it authorized grants of contracts to be awarded on a less than statewide or regional basis; and (4) it required the Secretary to develop a procedure under which persons knowledgeable and experienced in genetic diseases or conditions will have an opportunity to make recommendations to the Assistant Secretary for Health regarding the award of grants or contracts under Part A of this title. The House amendments contained no such provisions.

Further, the Senate bill authorized the Secretary to enter into grants and contracts for "(A) planning, establishing, demonstrating, and developing special programs for the training of genetic counseling, social and behavioral scientists and other health professionals, and (B) the development of programs to educate practicing physicians, other health professionals, and the public regarding the nature of the genetic processes, the inheritance patterns of genetic diseases, and the means, methods, and facilities available to diagnose, control, counsel, and treat genetic diseases." The Senate bill also contained provisions concerning referral for treatment of genetic conditions and pilot programs relative to effective means of delivering genetic services in the existing health care system. Finally, the Senate bill called for a genetics study by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The House amendment contained none of these provisions. The House believes that adequate authority exists in the 'applied technology' section of both the Senate bill and the House amendment to provide necessary service relating training and demonstration projects.

Conference Agreement

The conference substitute contains only the four administrative provisions of the Senate bill, with a minor change in the definition.

Lead-based paint poisoning prevention programs

Senate Bill

The Senate bill made no substantive change in existing law.

House Amendment

The House amendment consolidated and transferred titles I and II of the Lead-Based Paint Poisoning Prevention Act into the Public Health Service Act. In addition, the House amendment required the Secretary to conduct a study of the long-term effect on child development of various levels of lead in blood.

Conference Agreement

The conference substitute conforms to the provisions of the House amendment except that it includes provisions of existing law which were inadvertently omitted in the consolidation of the existing law.

FORMULA GRANTS FOR PREVENTIVE HEALTH SERVICES

Senate Bill

The Senate bill amended subsection 314 (d) of the Public Health Service Act to require the Secretary to assist the States in planning for and meeting the costs of providing preventive health services. The bill provided that no grant shall be made under this new authority unless the application for that grant includes a detailed plan of a program designed to reduce, through primary or secondary prevention of the causative condition, the mortality rates for one or more of the five leading causes of death within the State. At the option of the State, it may also include a detailed plan of a program designed to reduce, through primary or secondary prevention of causative conditions, the burden of illness associated with one or more of the five leading causes of morbidity in the State. The State, at its option, may target the program or programs toward a particular age group. To be eligible for the grant, the plan must set forth quantitatively the current relevant rates of mortality, and where appropriate, morbidity in the State, measured and reported in accordance with regulations of the Secretary, and must set forth quantitative goals for reduction in morbidity and mortality, or in the risk factors for or causative conditions of morbidity and mortality. The plans are required to have a separate health communications component in an identifiable institutional entity within the State.

The bill further outlined a formula for the distribution of these preventive health service funds. This provided for a minimum of $.25 per capita per State, and a maximum of $.50 per capita, with the actual per capita contribution dependent on the level of State contribution to preventive health services.

House Amendment

The House amendment contained no comparable provisions.

Conference Substitute

The conference substitute adopts the Senate provisions.

RESOURCES FOR DISEASE PREVENTION

Demonstration programs

Senate Bill

The Senate bill required the Secretary to undertake and support five intensive and comprehensive community based programs in both rural and urban areas for the purposes of demonstrating and evaluating optimal methods for organizing and delivering comprehensive preventive health services to defined populations.

House Amendment

The House amendment contained no comparable provision.

Conference Agreement

The conference substitute adopts the provision of the Senate bill.

Childhood and adolescent smoking

Senate Bill

The Senate bill required the Secretary to establish a comprehensive program designed to deter smoking among children and adolescents. It specified that the program shall include: (1) the undertaking or support of biomedical and behavioral research designed to increase understanding of the biological and behavioral determinants of smoking among children and adolescents and (2) grants to States or political subdivisions of States to assist them in meeting the cost of demonstrations and evaluations of community or school-based programs designed to deter smoking among children and adolescents.

House Amendment

The House amendment contained no comparable provisions.

Conference Substitute

The conference substitute adopts the provisions of the Senate bill with an amendment requiring the Secretary to establish a comprehensive program designed to deter smoking and "the use of alcoholic beverages" among children and adolescents.

Secretarial study

Senate Bill

Th Senate bill required the Secretary to arrange for, and report to the Congress within two years on, a study or studies of (1) the relative health risks associated with smoking cigarettes of varying levels of tar, nicotine and carbon monoxide; and (2) the health risks associated with smoking cigarettes containing any substances commonly added to commercially manufactured cigarettes.

House Amendment

The House amendment contained no comparable provision.

Conference Substitute

The conference substitute conforms to the provision of the Senate bill.

Prevention data profile

Senate Bill

The Senate bill required the Secretary, acting through the National Center for Health Statistics, to submit to the Congress

on December 1, 1980, and every third year thereafter, a national disease prevention data profile.

House Amendment

The House amendment contained no comparable provisions.

Conference Substitute

The conference substitute adopts the provisions of the Senate bill.

PROGRAMS FOR PHYSICAL FITNESS AND SPORTS MEDICINE

Senate Bill

The Senate bill required the Secretary to establish in the Department of Health, Education, and Welfare an Office of Physical Fitness and Sports Medicine to support projects, conduct research, and disseminate information in the areas of physical fitness and sports medicine. The legislation specified that the President's Council on Physical Fitness shall serve as the advisory body to the Office. The Senate bill further specified that: (1) the Office may make grants to each State for the establishment by the Governor of a State Council on Physical Fitness in each State; (2) the Director of the Office may make grants or enter into contracts to conduct research and establish model projects with regard to improvement of physical fitness; (3) the Office shall establish a program of project grants to conduct research into the problem of athletic injuries; and (4) the Office and the Office of Education of the Department of Health, Education, and Welfare shall conduct a joint conference during 1979 on the teaching and support of educational programs in lifetime sports by secondary and postsecondary educational institutions.

House Amendment

The House amendment contained no comparable provisions.

Conference Substitute

The conference substitute conforms to the Senate bill with amendments. The substitute, while it does not establish a new Office, retains the mandate of the Office and its programs, and incorporates that mandate and those programs into the existing Office of Health Information and Health Promotion established under section 1706 of the Public Health Service Act. The Office of Health Information and Health Promotion is retitled the Office of Health Information, Health Promotion, Physical Fitness, and Sports Medicine. The remaining provisions of the Senate bill are incorporated into title XVII of the Public Health Service Act.

SELECT PANEL FOR THE PROMOTION OF CHILD HEALTH

Senate Bill

No provision.

House Amendment

The House amendment would require the Secretary of Health, Education, and Welfare to establish within his office a Select Panel for the Promotion of Child Health. That panel would be charged with: (1) formulating specific goals with respect to the health status of children and expectant mothers in the United States, (2) developing a comprehensive National plan for achieving these goals and otherwise promoting the health of children in the United States, and (3) making a report within 18 months to the Secretary and the Congress detailing a comprehensive National plan with its recommendations for legislation, and other actions it deems appropriate to implement this plan.

The Panel would be authorized for an eighteen month period.

Conference Substitute

The conference substitute conforms to the House amendment. It is the intent of the conferees that the panel, in exercising its responsibilities, will take into consideration the health care needs of expectant mothers as they relate to fetal development and the future of their children.

EMERGENCY MEDICAL SERVICES

Senate Bill

The Senate bill provides that the current 5-year limitation on grant or contract support under Title XII, Part A, does not include the time in which unexpended balances are expended for such grant or contract support.

House Amendment

The House amendment changes the "five-year" limitation for such Title XII, Part A, grant or contract support to a "five grant" limitation.

Conference Agreement

The conferees have accepted the language of the House amendment with the intent that expenditures of unexpended balances shall not constitute a year of grant or contract assistance under this part.

ADOLESCENT PREGNANCY

Senate Bill

Titles VI, VII, and VIII of the Senate bill contain provisions relating to adolescent pregnancy.

Titles VI and VII provided for Federal funds to assist in the establishment of networks of community-based services ior adolescents at risk of unwanted initial and repeat pregnancies, pregnant adolescents, and adolescent parents, particularly those 17 years of age or under. The bill describes the findings of Congress regarding the high risk of unwanted pregnancies among adolescents, the severe adverse health, social and economic consequences of adolescent pregnancy and parenthood, and the lack of availability and the fragmentation of services to assist these adolescents. The bill stated that Federal policy should encourage the development of appropriate health, educational and social services for pregnant adolescents and adolescent parents and better coordination of existing services to prevent unwanted initial and repeat pregnancies and help adolescents to become productive, independent contributors to family and community life.

Title VIII of the Senate bill established that the Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies.

House Amendment

The House amendment contained no comparable provisions.

Conference Agreement

The conference substitute generally conforms to the provisions of the Senate bill. Changes agreed to by the conferees include requiring coordination and consultation with the Deputy Assistant Secretary for Population Affairs, deleting the requirement concerning parental notification, and reducing the levels of authorizations of appropriations to $50 million for fiscal year 1979, $65 million for fiscal year 1980, and $75 million for fiscal year 1981 for the program in titles VI and VII.

HARLEY O. STAGGERS,
PAUL G. ROGERS,
DAVID SATTERFIELD,
RICHARDSON PREYER,
JAMES H. SCHEUER,
TIM LEE CARTER,
JAMES T. BROYHILL,
Managers on the Part of the House.

TED KENNEDY,
GAYLORD NELSON,
CLAIBORNE PELL,
WILLIAM HATHAWAY,
HARRISON A. WILLIAMS,
RICHARD S. SCHWEIKER,
JACOB JAVITS,
JOHN H. CHAFEE,
ALAN CRANSTON,
Managers on the Part of the Senate.

REQUEST TO CONSIDER SENATE AMENDMENT TO H.R. 9937, AMENDING BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

Mr. REUSS. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 9937) to amend the Bank Holding Company Act Amendments of 1970, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, after line 12, insert:

SEC. 3. Section 127(b) of the Trade Act of 1974 (19 U.S.C. 2137) is amended by inserting immediately following "section 203 of this Act": ", section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), insofar as such section relates to textile and textile products,".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. STANTON. Mr. Speaker, reserving the right to object, and I shall not object, but I do take the time so that our chairman can explain to the members of the committee what this legislation is. Is this the Carson City coin bill, passed unanimously out of our committee, and what form is it in now?

Mr. REUSS. The Carson City coin bill, which passed unanimously through this body, simply allows the Treasury to sell Carson City Mint silver coins which have considerable numismatic value. It is estimated this will save the Treasury and taxpayers $21 million.

To that there was attached in the Senate an amendment having to do with textiles. It is a nongermane amendment and I think, with the permission of the gentleman from Ohio, I will ask the gentleman from South Carolina (Mr. HOLLAND) to explain the Senate nongermane amendment.

Mr. STANTON. Mr. Speaker, under the reservation I yield to the gentleman from South Carolina (Mr. HOLLAND).

Mr. HOLLAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the amendment which was passed on two previous occasions by the Senate is the so-called Holland-Broyhill bill which does nothing more or less than classify textiles and fabrics for import. It is estimated by the manufacturers that 2 million jobs are related to it. About 220 Members have supported this bill. We are told by the Office of Trade that this is infinitely small in importance. The negotiations are going on now in the trade negotiations in Geneva.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin (Mr. REUSS)?

Mr. GIBBONS. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

Mr. ASHLEY. Mr. Speaker, pursuant to House Resolution 1434, I call up the conference reports on the bills (H.R.

4018) to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics, (H.R. 5037) for the relief of Jack R. Misner, (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, (H.R. 5289) for the relief of Joe Cortina of Tampa, Fla., and (H.R. 5263) to suspend until the close of June 30, 1980, the duty on certain bicycle parts.

The Clerk read the titles of the bills.

The SPEAKER pro tempore. Pursuant to House Resolution 1434, the gentleman from Ohio (Mr. ASHLEY) will be recognized for 2 hours and the gentleman from Illinois (Mr. ANDERSON) will be recognized for 2 hours.

The Chair will recognize the gentleman from Ohio (Mr. ASHLEY) and the gentleman from Illinois (Mr. ANDERSON) for 30 minutes to debate the conference report on H.R. 5289.

PARLIAMENTARY INQUIRY

Mr. BAUMAN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BAUMAN. Mr. Speaker, my parliamentary inquiry is this:

Under the rule governing the conference reports, it made the fifth conference report dealing with energy tax credits subject to consideration contingent upon consideration by the other body and its availability. Do I understand from the reading that this fifth conference report is also included in the motion of the gentleman from Ohio (Mr. ASHLEY)?

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Maryland (Mr. BAUMAN) that the message was just received from the Senate.

Mr. BAUMAN. So that all five conference reports are available?

The SPEAKER pro tempore. That is correct.

Mr. BAUMAN. And we have the papers for that conference report at this time?

The SPEAKER pro tempore. The papers are here at the Speaker's table.

Mr. BAUMAN. May I further inquire of the Chair whether the first hour of debate is to be directed to the natural gas conference report and not to the other four conference reports?

The SPEAKER pro tempore. The gentleman is correct.

Mr. BAUMAN. Only to the natural gas conference report?

The SPEAKER pro tempore. The gentleman is correct.

Mr. BAUMAN. Would it be out of order to discuss the other parts during that time?

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the Chair would have to rule as points along that line are brought to the attention of the Chair.

Mr. BAUMAN. I thank the Speaker.

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the resolution provides the first hour of which shall be confined solely to the conference report on the bill H.R. 5289.

The Chair now recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, here we are. We are nearing the end of a long and tortuous road. We have before us, for an up-and-down vote, the conference reports containing the five parts of the Natioal Energy Act of 1978.

Mr. Speaker, we certainly do not need a great deal of rhetoric at this juncture.

We have been locked in conference with the Senate for an unprecedented period of time, 1 full year. Millions of words have been exchanged. Millions of words have been printed. Millions of words have been spoken on this floor and in the other body. Now is the time to declare.

We have an energy bill which can be translated into a comprehensive national energy policy. It will reassure our citizenry, our allies and perhaps it will demonstrate even to our critics that we are able to move on this all-important energy issue.

Let us not forget why we began all of this in the first place: The 90 days of frantic drafting by the administration; the President's urgent message to this Congress a year and a half ago; the creation of a 40 member Ad Hoc Committee on Energy; the deadlines against which the standing committees raced to bring forth a bill; the passage of that bill 1 year ago August; the interminable, endless conferences; the division in the Committee on Rules; and finally, yesterday's one vote margin here in the House that made today's vote possible.

This tortuous sequence of events has taken place because we have a serious, urgent, and critical energy problem facing us today, tomorrow, 20 years from now, and perhaps longer.

Mr. Speaker, we have the job of doing something about it. We are here to stop the fatal hemorrhaging of U.S. dollars for foreign oil. We are here to stop the downslide of the U.S. dollar. We are here to enact a national energy policy or at least to get a good running start on one.

Mr. Speaker, this bill will save 2.5 million barrels of oil per day when it is fully operational in 1985. It is all of a piece: conservation, coal conversion, utility rates, natural gas, tax incentives, and penalties. The President submitted it as one piece. This House dealt with it as one piece. We vote on it today as one piece.

Mr. Speaker, we all know that the fundamental problem for U.S. energy policy is the insecurity of our oil supply. This insecurity, serious enough in itself, is a serious potential threat to our economy as well.

The facts are clear that domestic demand for oil has been growing, while total domestic production, has been declining. Consequently, the Nation's oil imports have increased to the point where we imported almost 50 percent of our oil supplies last year, up from 23 percent in 1970 when domestic oil production peaked. We are importing oil at a $5 million an hour rate and paying almost $45 billion for these imports this year, almost twice our projected trade deficit.

Yet if present policies were to be continued, our relianace on imported oil would be certain to increase dramatically.

Such an increase in our reliance on oil imports would be clearly unacceptable. It would greatly constrain our foreign policy and could do considerable damage to our economy in the future.

The potential for sudden disruptive price increases, accompanied by arbitrary curtailments of supply, would be unacceptably high. This is a situation the whole world must strive to avoid and the United States must take the lead in this effort.

The choice is clear: Either we begin now, of our own volition and with a certain amount of lead time, to change the way Americans use energy, or the Nation can wait until the need for change is suddenly thrust upon it from external sources, with the enormous economic and political disruption that would involve.

Five years ago, almost to the day, we faced such an event. In October of 1973 the Arab oil embargo was accompanied by the quadrupling of OPEC's oil prices over a period of just 3 months. This shock helped cause a severe world recession, a recession which was accompanied by a vigorous oil-induced inflation. The recession was so strong that only recently have we begun to approach previous economic output levels, while much of the inflation still persists. We are still grappling with this problem.

The problem facing the United States, it seems clear, is the need to make the transition from an era of energy abundance, cheap energy supplies, to one of expensive energy supplies. And, because of the long lead time involved, the transitions must be started now, in a deliberate fashion, so as to avoid future shocks to the Nation and its economy.

The National Energy Act which is now before us represents an initial effort to adopt a comprehensive set of energy policies which will provide our economy with the time needed to make this transition an orderly one.

This bill, 526 pages long, provides an initial foundation for a national energy policy, and is designed to help reduce our oil imports by over 2.1 million barrels a day by 1985, and thus reduce our dependence on an uncertain supply of foreign oil.

Let me review some of the National Energy Act's provisions.

The energy conservation bill will save 400,000 barrels a day and contains a series of incentive and information programs to encourage homeowners to better insulate their homes. It includes weatherization grants for the poor, a subsidized loan program for moderate income families to weatherize their homes operated through the GNMA, and funds for weatherizing public housing units. There are programs to help schools, hospitals, and local governments weatherize their buildings. Also, the bill provides for standards for the

efficiency of appliances, as well as funding for solar heating and cooling, and photovoltaic demonstrations in Federal buildings, as well as for improving their conservation of energy.

The coal conservation bill will save 300,000 barrels a day by requiring that certain electric plants and major fuel burning industrial installations burn coal and other resources, rather than oil and gas.

The electric utility ratemaking reform bill will encourage the States to adopt progressive ratemaking techniques that will help conserve fuels.

The natural gas bill will save 1 million barrels a day of oil imports and provides that interstate consumers of gas will have access to new gas supplies equal to that of intrastate consumers. Interstate consumers, such as those in Ohio, New York, and Arkansas will once again be able to obtain new gas supplies rather than experience the shortages and curtailments of the past decade. And our consumers will be able to buy this gas at reasonable prices far below the prices of the oil, of the synthetic and liquefied gas, and of the electricity supplies they would have had to purchase if this bill were not to pass.

At the same time, this bill will open up vast new markets for gas producers to sell to and provide incentive prices sufficient for them to find and develop extensive new gas supplies.

Finally, the energy tax bill will save 400,000 barrels a day of oil imports and provide a series of tax incentives and penalty measures to encourage homeowners and businesses to conserve energy, and use more solar energy; as well as for producers to increase their production of energy.

Mr. Speaker, this bill represents a solid foundation for a national energy policy, one which we can be proud of and on which we can build for generations to come.

To discuss the specifics of the National Energy Act, I turn to the chairman of the conference and the chairman of the Committee on Interstate and Foreign Commerce, Mr. STAGGERS, chairman of Ways and Means, Mr. ULLMAN, and to the chairman of the Subcommittee on Energy and Power, Mr. DINGELL, both of whom have done incredibly valuable work in bringing this bill to the floor of the House. No bill has had a longer or harder road to travel. I cannot speak too highly of the job done by these chairmen, and all the members of the conference committee. I believe it will stand in the records of the House along with our proudest achievements.

Mr. Speaker, I will refrain at this time from going into the separate provisions of the conference report because the distinguished gentleman who Chaired the full conference committee and the Subcommittee on Energy and Power will be heard from immediately. No two people in the House of Representatives are more able to present the case than the gentleman from West Virginia (Mr. STAGGERS), the chairman of the full committee, and the gentleman from Michigan (Mr. DINGELL), the chairman of the Subcommittee on Energy and Power.

Mr. Speaker, I simply want to make this plea to my colleagues: Let us act and show the Nation and the world that we do have the will and the resolve to tackle the thankless task of fashioning a national energy policy, and let us do this today.

Now, Mr. Speaker, I am going to yield such time as he may consume to Chairman STAGGERS. In doing so, I would like to take just a moment because I think that all Members of this body, whether they be in the majority or the minority, owe a great debt of gratitude to this singular American. This is the football season, and we hear of people who play while hurt. Let me tell the Members that I sat with Chairman STAGGERS at the time when he injured his eye, almost to the point of losing the sight in that eye. He pursued his duties of his chairmanship despite the torment and the pain that he was suffering, and he chaired the conference on all four regulatory parts of this measure.

Mr. Speaker, it has been estimated that on these four parts in conference there were some 4,000 substantive issues in disagreement. On all of these he presided over the debate, the give and the take that was necessary to bring about a resolution of these issues. He accomplished this task with manifest fairness, not just to the minority, but to the majority members who were in disagreement with the position which he felt was best.

So, Mr. Speaker, I would hope that others would join with me in extending quietly, or, however they wish, a tribute to a gallant, splendid chairman who has done so much for the House of Representatives, Chairman STAGGERS.

The SPEAKER pro tempore. The Chair recognizes the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. I thank the Speaker. I thank my colleague, the gentleman from Ohio (Mr. ASHLEY) for those very complimentary remarks. I shall be brief.

Mr. Speaker, the Members of the House have before them the product of almost 20 months of work. The five conference reports represent the congressional action to the President's national energy plan.

During the last 20 months, I have served as chairman of the Interstate and Foreign Commerce Committee from which four of the five conference reports before you originated. I also was a member of the Ad Hoc Committee on Energy under the chairmanship of Mr. ASHLEY of Ohio. Finally, I served as chairman of the conferences of four of the five bills before you today.

This is a product of the best efforts of many men and women of different minds and philosophies but who shared one common goal: persevere and do what is right for America.

All of you know of my past views on many of the issues before you today. I personally have never favored deregulation of natural gas, however, I think the compromise we have reached here is good for this country. Finally we will have one national market for natural gas. Until 1985, we will have price controls on this vital resource so important to the lives of our citizens. After that time, the bill calls for deregulation of certain categories of natural gas, but I assure my colleagues who have stood with us over the years on this matter that if an orderly market is not present at that time, the Congress will act to prevent excessive price increases to our Nation's consumers.

I want to remind my colleagues that even under its history of regulation of interstate prices we have seen dramatic increases from 29 cents per mcf to $1.50 per mcf over a very short number of years. This bill will guarantee greater interstate supply with a moderate price escalator that we can be sure of, not left to the whim of administrators downtown.

Let me also say to the gas producers of this Nation: we have given you generous price incentives to produce. Your industry is affected with the public interest and the public and its elected representatives in the Congress will be watching your actions. Do not disappoint the American people by withholding gas from the marketplace in order to achieve windfall profits. We must unite as a nation and all do what is right for America to help reduce our dependence on imported oil.

The other conference reports before you today represent great steps toward reducing this unacceptable dependence on foreign oil and wasteful use of our own domestic energy resources. One of the conference reports, the Powerplant and Industrial Fuel Use Act, will help to convert America's powerplants and major fuel burning installations to coal, our most plentiful domestic energy resource. Another conference report before you today, the National Energy Conservation Policy Act, will foster insulation of homes, schools, hospitals, and other public buildings and help to make consumer products more energy efficient. Still another conference report before you today, the Public Utility Regulation Policy Act, will foster energy conservation and efficiency in the generation and distribution of electronic power and equity in rates to America's 84 million electric consumers. These four conference reports, together with the energy tax conference report, establish a firm foundation on which to begin the difficult task of reducing America's dependence on foreign oil and the drain on the dollar caused by our purchase of foreign oil.

Mr. Speaker, in closing I would like to say a few remarks about a few people who have been involved in this process. No committee chairman could have as hard working and as capable a subcommittee chairman to deal with these matters as we have had in Mr. DINGELL of Michigan. He and his staff have performed in an outstanding manner and he deserves the praise of all his colleagues.. We have worked together on energy issues for many years and under the difficult time constraints and in the emo-

tionally charged atmosphere of these issues, and he has always acted in the best interest of the Nation.

Let me compliment the Speaker on his choice of LUD ASHLEY of Ohio to be chairman of the Ad Hoc Committee on Energy. He walked into the lion's den and walked out, a rare accomplishment in this area. He was at all times respectful of the jurisdictional committees and their longstanding concerns in these conference reports and acted in a way which facilitated our progress toward our common goal, the enactment of these five conference reports. He coordinated our progress and pushed us forward when we reached impasses.

Lastly, I wish to compliment the President of the United States. He chose early in his presidency at great risk to deal with an issue that has been the source of great controversy for years and years. He exercised leadership, not to champion the popular and the easy, but to face up to the difficult and the necessary. He and Secretary Schlesinger have been our silent partners throughout the congressional deliberation, at all times respectful of our legislative prerogatives.

I hope that at the end of all this time that all of our colleagues in the House will see that this is the best thing we could come up with. We have wrestled with every issue and have had one of the largest conferences, if not the longest, and I think it is the best we could do even if we worked for years on it; so I hope my colleagues will vote for the conference report.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, I do not issue the following words lightly.

A grave injustice was perpetrated yesterday in this very Chamber, when the rule for consideration of the National Energy Act was accepted as requested by committee.

By a hair-thin margin of one vote, the determination was thus made that the elected representatives of this Nation were to be denied the fundamental right—and responsibility—to pass on the laws of this land objectively and thoughtfully and fairly.

Instead, under unprecedented lobbying and pressure, this body has permitted itself to be cowed into the most unseemly submission by a leadership that resorts to procedural railroading when it doubts it can prevail in a consideration based on substance.

Mr. Speaker, whatever one thinks of the administration's natural gas bill—whether one would have voted for it or against it, were the issue posed so that one could choose freely—surely all of us should find ourselves united on a basic matter of fairness: that the Members of this House, as well as the people they represent, are entitled to debate such momentous issues on their merits, to put them finally to up or down votes, and then to live with the results, for better or worse, of our democratic processes.

The Founding Fathers of this Nation conceived of the Congress of the United States as a great deliberative body, and not as an actor in a charade.

Mr. Speaker, I am sorry to have to dwell on an action that is already behind us, but I am afraid that otherwise there may be serious misinterpretation of the action we take today.

If the national energy act finally passes, and with it the natural gas component, it will be largely for the fact that men of conscience who oppose the natural gas bill are nonetheless faced with the prospect of returning home to their concerned constituents and having to tell them they cast their vote against a national energy policy, a policy that admittedly has many good points and which had been 1½ years in the making.

It is no secret that the rule we adopted yesterday was intended for no other purpose than to put opponents of the natural gas bill in that unfair and unnecessary dilemma, and indeed that this was the logic of the administration and the Democratic leadership in throwing their full weight behind the rule.

It is no small measure of the inadequacy of the natural gas bill that an administration which advertises itself as so ethical has resorted so brazenly to such back-door tactics.

But this is, fair to say, only in keeping with the high tradition for tactical maneuver and hypocrisy that has characterized the administration's approach on natural gas during the long national debate on it. Jimmy Carter the candidate originally pledged deregulation, then in the spring of his first term unveiled a grand design for no less than full-scale regulation. Later, as COET and other former "centerpieces" of his energy policy fell by the wayside, he seized on a feeble natural gas compromise as his own so that if it passed he could claim, however misleadingly, that he had fulfilled his greatest legislative objective in establishing a new national energy policy.

Rather than representing a serious and meritorious response to our pressing national energy needs, the natural gas conference report has become merely a convenient vehicle for the President to prove his supposed new dynamism, macho, and legislative competence. It should not be surprising if Mr. Gerald Rafshoon is already dusting off a shelf in the trophy room for this political football that he hopes the House will bronze for him today.

But anyone who saw Kerblock's rendition of the White House trophy room the other day will recognize the President's prospective victory as a very hollow one, indeed. No one should be fooled to think that the natural gas bill in any way resembles at this point the sort of proposal the administration originally advocated. It will be remembered that once upon a time the President spoke only for conserving gas, and not emphasizing the importance of producing it as he does now. When the President unveiled his energy package in April of 1977, he estimated that the tax component of it would account for 43 percent of the projected savings of oil; that coal conversion would account for 37 percent; that conservation would account for 19 percent; that the electric utility rate reform proposal would account for 1 percent; and that the natural gas bill would account for absolutely nothing.

It is more than coincidental that with the demise of the well-head tax, originally conceived as the biggest energy saver, we began hearing optimistic new ideas from the Department of Energy and the Energy Information Administration as to the benefits that might be reaped from a gas bill. When conferees agreed finally to a bill in July, DOE estimated possible savings no longer at zero, but at 300,000 barrels a day. By September, the estimate reached 500,000; then 1 million; and finally 1.4 million barrels a day by 1985. Clearly, the importance of the natural gas bill has mainly been a figment of the President's political imagination. In truth, it bears no relation to our real-life energy situation.

If the President needed to demonstrate he was taking decisive action on the energy front, it might have been hoped he would fasten on something with more inherent merit. The natural gas bill as it stands today will not achieve its intended purposes, and will probably prove counterproductive. It will not encourage more production because the higher prices it offers as an inducement are more than offset by the disincentive of excessive regulation it also provides.

The bill is, indeed, a marvel of tangled regulation, and bureaucracy at its worse. It is an irony as tragic as it is ridiculous that something being touted as a step toward deregulation will in fact, require at least 800 more regulators to be implemented and enforced, and that the Division of Enforcement of the Federal Energy Regulatory Commission itself predicts that the bill will tie the courts up in knots and border on the unadministrable. It is bad enough that such regulation is being imposed at a time that the President is promising to streamline Government operations; and that such added costs are being levied at a time when the President is claiming to do battle with inflation; and that such Government intervention is being countenanced at a time when the President has argued for fostering more freedom and competition in the marketplace. These things are bad enough. But the straw that ought to break Congress back is that policy being trumpeted as the answer to the energy crisis—which, you may recall, is said to be the moral equivalent of war—will, in fact, only serve to aggrevate it.

It is not surprising that, failing to make the case on merits, the administration has been busy conjuring up the spectre of the terrible damage a vote may have on the psychology of international money markets and the value of the dollar. The fact is, our adverse balance of payments position has little to do with "dollar psychology," which has only superficial and short-term effects.

Instead, it is influenced much more by underlying trends in our productivity,

economic growth and output; in our level of inflation; and in the comparative positions of our allies. In short, the problems are to be found in our current fiscal and monetary policies, and not, per se, in our oil imports. This really is the only way to explain why Japan and West Germany—to take only two examples of industrialized nations which have a much higher foreign oil dependence than we—are nonetheless able to run payments surpluses, and their currencies to enjoy substantial appreciation against the dollar.

The administration, meantime, has been indulging the Congress in self-fulfilling prophecy, making our vote look like a test of national will just because the President keeps saying it is. It is not as though Members of Congress who oppose the natural gas bill are blind to the exigencies of our energy situation or to the need for serious and timely action.

It is incredible to say we have fashioned an energy policy simply because a conference report has been signed by only the slimmest majority, only after months of bitter dispute, only after unprecedented pressure was applied to conferees at the 11th hour, only after secret meetings to which some of the conferees were not allowed to be party, only after the supposedly independent Federal Reserve Chief was trotted in to White House meetings to give testimony as to the connection between the energy bill and the dollar, and only after rumors of exchanges of winks as to what is being promised cooperative Senators and Representatives in return for votes. That this can now be held up to the world as evidence of rational and decisive national energy policy, which must be passed or else, will fool no one but ourselves.

Except for those interested to deal merely in images and illusions—to be able to return home this election season and reassure our concerned citizens that all is finally well on the energy front—really no serious legislator can maintain that the answer to public problems is to pass bad laws.

Yet the stark, absolutely unbelievable fact is that even the proponents of the natural gas bill admit it is not in truth a good bill; and that it deserves to be enacted for no greater virtue than the sad fact that, at this point, it is the only bill in town. Mr. Speaker, my memory is not so clouded by all the confusing positions the White House has taken that I do not still vividly recall our Presidential Press Secretary, Mr. Jody Powell, standing before us not so very long ago saying quite clearly and emphatically that no bill would be preferable to a bad bill.

The inequity among regions of the country that will be caused by the incremental pricing provisions of this bill, applying only to industrial users supplied by interstate pipelines; the increased prices to consumers and industrial users without assurance of increased supply; the possibility that regulation on much, if not most gas, will continue well beyond 1985; the momentous problems of enforcement that this bill threatens; surely these should mean as much as the mere opportunity for the President to add one more feather in his cap, claiming as he is sure to do on the morrow of passing the energy package, that this is another victory for the Nation—and by implication, our successful President.

Mr. MOFFETT. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Connecticut.

Mr. MOFFETT. I thank the gentleman for yielding.

Mr. Speaker, some of the proponents, most of the proponents, of this legislation like to say that those people, such as the gentleman from Illinois, who favors deregulation, and the gentleman from Connecticut, myself, who does not, are together on this, that it means that the extremes are really against the bill and there is a great middle position in between.

Is it not true—the gentleman has raised several of these points—that we agree not only that it is an administrative nightmare, not only that the incremental pricing discriminates against major industrial users in the North, but also that the smallest producers are bound to be tied up with litigation and delay and the hiring of petroleum engineers, accountants, and more lawyers, and do we not also agree, those of us who oppose the bill, that it is going to increase the cost to consumers without getting more production or without cutting oil imports?

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 2 additional minutes.

Mr. Speaker, the gentleman has made the point I would make myself. I would be willing to see higher energy prices in this country if they would elicit the kind of supply response that we need to meet the energy crisis. But this bill is going to force higher prices on the backs of the American consumers, and it will not—I repeat, it will not—produce the additional supplies of energy that this country needs.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from New York.

Mr. HORTON. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the gentleman for the excellent statement he has made in the very brief time he has had to sum up the difficulty with this natural gas bill. It certainly is going to cause great injustice, as far as the Northeast, Midwest, and the Mid-Atlantic States are concerned.

Mr. Speaker, I want to agree with the gentleman, and I rise in opposition to these conference reports.

Mr. HORTON. Mr. Speaker, I rise in opposition to the conference reports.

I have two fundamental difficulties with the package of energy bills before us. It does very little to solve our energy problems, but adds substantially to the energy bureaucracy in Washington. And the way in which the legislation has been presented to the House has left little opportunity for participation by the Members.

It has been nearly 18 months since Mr. Carter presented us with a blueprint for solving the energy crisis. His grand design was based on conservation and massive new taxes. The General Accounting Office and the Congressional Budget Office, two impartial observers, soon concluded that even if the President's plan were enacted as proposed, it would save far less energy than its author had alleged. Then the Congress, at various times and in various ways, eliminated virtually all of the new taxing authorities. In all our machinations, though, we never once added to the plan a vital element which was missing in the original proposal—incentives for greater production of energy. So after much action and even more rhetoric, we face, after enactment of these conference reports, an energy crisis just as bad as the one we had before this fuss began.

Many of us wanted to do more for America than these bills do. We took the President at his word that we faced the "moral equivalent of war" and tried our best to write beneficial, bipartisan legislation. But we were frustrated at every turn by procedural roadblocks thrown up by the Democratic leadership. In the Ad Hoc Energy Committee, we sped through hundreds of pages of legislation in just 3 days. Before every key vote, the Democratic members of the committee would, in caucus, bind themselves to vote in a bloc sufficiently large to give their majority a victory. On the House floor, a modified closed rule restricted us to very few votes on amendments. In conference with the Senate, many Democratic members met in secret with like-minded Senators to write compromise language on highly disputed issues.

Yesterday, of course, an unprecedented rule which denied Members of Congress the basic right to vote on individual bills before them was imposed on us. Throughout this process, Republican and independent Democratic members were not allowed to participate.

So, Mr. Speaker, I am not particularly enthusiastic about the package that has been placed before us today. I am especially disturbed by the bill regulating the price of natural gas, which has two major failings:

First, it would cause prices of natural gas to consumers and industrial users to increase significantly, but would bring about little if any additional gas supplies. According to a study made by the Department of Energy, the compromise bill would cause natural gas prices to increase by $29 billion over the next 7 years—more than those prices would increase under present law, under the bill that passed the House, or under the bill that passed the Senate. Because of the way in which the incremental pricing provision is drawn, factories and jobs—and ultimately, residential consumers—located in the Northeast and Midwest would be particularly hard hit.

Second, the gas bill would create a costly administrative nightmare. The conference report creates at least 23

categories of natural gas, each of which differs from the others in price treatment. Approximately, 10,000 new gas wells are drilled in this country every year. The bill would potentially subject each of them to a multilayered decision-making process involving State agencies, the Federal Energy Regulatory Commission, courts, and appellate courts, before price treatment could be determined.

One FERC official has written, "The proposal is so complex, ambiguous and contradictory that it would be virtually impossible for the Commission to enforce it in a conscientious and equitable manner." Even the Chairman of the FERC says his agency would need at least 800 new employees—and $30 million a year to administer the bill. Those numbers of people and dollars, of course, do not include the cost to private industry of complying with the requirements that the bill and FERC impose.

Thus, what the gas bill would give us is bigger government and more expensive gas—but no more energy.

I'm also distressed by the bill which mandates Federal involvement in State regulation of public utilities. On this measure, the conferees were faced with the problem of reconciling a House bill which provided for a virtual Federal takeover of utility rate regulation and a Senate bill which left that responsibility with the States. The compromise promises extensive Federal intervention in the State regulatory process, but decision-making to remain, for the most part, with the States. As a result, we will have at best vastly longer and more expensive rate-making procedures—which will be paid for by consumers and taxpayers—and at worst Federal assumption of decisions about which local people know best.

The gas guzzler provision in the tax portion of this package troubles me, too. This new tax may well never take effect, because it would only be imposed on cars which get less than specified mileage per gallon, and manufacturers say that the mileage per gallon of future cars will very likely exceed those specifications. But insofar as the impost will have any effect, by increasing the price of large cars, it will persuade people to keep their old, less efficient automobiles longer, and place a new financial burden on large families, which need bigger cars.

Because we have reacted so poorly in this Congress to the important energy issues facing our country, the subjects on which we vote today will undoubtedly require our attention in the next several years. I would like to be able to say, during that time, something more constructive about our actions of the past two years than "I told you so." I fervently hope that next time, those of us who vote "no" today will be consulted and given the opportunity to help write constructive laws. With her consciousness raised by the present rhetoric America will demand more responsible effort.

Mr. MOTTL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding.

Mr. Speaker, I rise reluctantly to oppose the energy package because of the deregulation of natural gas which is included therein. This legislation is anti-consumer. It would raise gas prices without expanding production, includes hopelessly complex and confusing provisions, and would unfairly penalize users in the Northeast and the Midwest who depend on interstate suppliers.

DOE calculates that over the next 6 years consumers will pay producers $29 billion more than they do now with the present pricing system. The average cost to a family of four would be $800 more in 1985 over what they would pay without this bill.

The price per thousand cubic feet (mcf) of gas will climb from the present $1.54 to $3.86 by 1985—252 percent of its present price and over 700 percent of the 1975 price of $0.52. The bill is widely inflationary because it would directly increase the cost of natural gas, which makes up 27 percent of our total energy consumption.

The natural gas segment of the energy bill is detrimental to the consumer and will not only fuel the flames of inflation, but will be a bureaucratic nightmare.

Most of the other provisions of the energy bill are constructive, but because of the provision to deregulate natural gas I will reluctantly have to vote against the energy bill.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 8 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, as we all know, the National Energy Act passed the House yesterday—by one vote. Technically, of course, the final passage vote will occur today, but I am politically correct because I am enough of a realist to know that a majority of my colleagues will find it impossible to vote against "an energy bill", regardless of how ill-conceived and counterproductive the bill may be. I will not urge them to vote against this measure, although I intend to do so, but I will tell them why they should if they have an eye to the future.

This legislation has emerged from one of the most unique and unfortunate processes I have ever witnessed in my 13 years in the House. From the original closed rule under which the legislation went to the floor, to the closed conferences and the political deals, this legislative process has been a travesty. I hope that the procedures and methods that have been used to shove this legislation down the throats of the American people are never again repeated. These methods in my view have cast a shadow over the Congress and the executive branch and have surely made the American people even more cynical about the legislative process than they are now.

Several months ago when staff work was completed on the natural gas legislation, industrial user and producer opposition to the bill was virtually unanimous. Lobbyists swarmed the Hill complaining that the energy proposal would be adverse to the Nation's interest and to their own. The industrial community argued that the gas bill would reduce America's domestic energy production by tying up in redtape those independent gas producers who find almost all the new gas supplies in our Nation. They suggested that a sixfold increase in the cost of gas regulation would add to the already swollen bureaucracy and would further increase the cost of Government to the taxpayer. They also talked of lost jobs and higher costs of American manufactured products.

In mid-August, the smart money was betting that Congress would vote down the natural gas legislation. But that was before the White House invited the chief executive officers of major U.S. corporations to Washington for a little straight talk about the realities of doing business in a federally-regulated environment. For instance, the steel industry was told, according to press reports, that if they did not back off opposition to the administration's flawed energy package, the administration might not set a high priority on the problems of the steel industry when tariff negotiations began with the Japanese. Textile companies were similarly reminded that the administration could be very helpful to them in stemming competition from foreign imports. I could continue with dozens of other examples, but I think the message is clear. That message is that the stalwart free-enterprise leaders of America's largest industries have been threatened, promised, and cajoled into passive opposition, silence or grudging support of this legislation. I think their capitulation has been a disservice to the country, their stockholders, employees, and customers. They deserve what they will get under this bill. But why should the rest of us have to suffer, too.

Mr. Speaker, I will confine the rest of my remarks to the problems that I see with the natural gas legislation.

This legislation has four major defects: it is hopelessly complex and confusing; it increases prices to industrial users and consumers without any assurances of significant additional supplies; it will unfairly discriminate against industrial users served by interstate pipelines, and it will not contribute to the development of the sound energy policy which we so desperately need.

The Federal Energy Regulatory Commission, which will have to administer this legislation, has labeled the proposal "so complex, ambiguous, and contradictory that it would be virtually impossible for the Commission to enforce it in a conscientious and equitable manner." The chairman of the FERC later said that, sure, FERC can administer this bill, but it will take 800 more Federal regulators at a first year cost of $30 million.

Mr. Speaker, I ask unanimous consent that the full text of the FERC report and Chairman CURTIS' testimony be inserted into the RECORD at this point.

AUGUST 14, 1978.

Memorandum to: Charles B. Curtis, Chairman.

From: Sheila S. Hollis, Director, Office of Enforcement.

Subject: Administrative Implementation of Proposed Natural Gas Policy Act of 1978 From Office of Enforcement Perspective.[1]

I. ADMINISTRATIVE INFEASIBILITY: AN OVERVIEW

The proposed "Natural Gas Policy Act of 1978" (the NGPA), now pending before Congress, is an extremely intricate legislative effort. In order to assess the bill from an enforcement perspective, OE staff members have reviewed the proposal in detail. On the basis of that review, the Office has concluded that the proposal is so complex, ambiguous and contradictory that it would be virtually impossible for this Commission to enforce it in a conscientious and equitable manner.[2]

This conclusion is not lightly reached. The office is fully aware of the pressing need to formulate a coherent national policy on energy. Nevertheless, the national interest will not be served by adoption of legislation which creates an administrative structure which is simply unenforceable.

It bears emphasizing that this conclusion is not based on a judgment as to whether the bill is either overly generous to producers or parsimonious. Indeed, the provisions are so involved that OE fails to understand how any reasonably accurate assessment of the price and revenue impact could be made. Rather, as shown by the detailed discussion below, the conclusion that the bill is unworkable derives from the simple fact that it would impose an impossible administrative burden on the Commission in general and on this Office in particular. Put another way, the bill is not necessarily a "good" bill or a "bad" bill; it is merely impossible to administer conscientiously.

Two key points should be noted at the outset. First, the NGPA imposes no explicit obligation on state regulatory bodies to make the initial determinations required by pricing classifications under the Act. Moreover, the Commission has no explicit authority to review pricing classifications unless and until a state agency makes the initial determination. In other words, the entire structure of administrative enforcement at the Federal level may be essentially irrelevant. Second, the Commission's continuing Natural Gas Act (NGA) jurisdiction over flowing gas—kept largely intact by the NGPA as presently drafted—is based on the present definition of "committed or dedicated to interstate commerce" in Section 2(18). Proposed changes in that definition must be carefully scrutinized to avoid eliminating large volumes of flowing gas from Commission jurisdiction under the NGA.

The key to analyzing the NGPA is Section 601, "Coordination with the Natural Gas Act." The general thrust of Section 601 is to eliminate the Commission's NGA jurisdiction over a variety of producer sales and over certain types of interstate pipeline transportation, although, as noted above, the Commission's NGA authority over flowing gas remains largely intact. In place of the Commission's present plenary jurisdiction, designed to fill the preexisting "regulatory gap," the NGPA substitutes a number of very narrow and specific powers over producer activities.

For example, § 601(a)(1)(B) provides for deregulation of various categories of natural gas which are presently subject to regulation under the Natural Gas Act. The Commission thus would lose all non-price authority as well as the power to issue certificates authorizing the sale, to order refunds of excessive rates and to regulate the abandonment of sales. Of particular concern from the enforcement perspective, the Commission would also lose its authority: (a) under Section 8 of the Natural Gas Act to require the keeping of records and accounts and to inspect such books, records and accounts; (b) under Section 10, to require filing of various reports; and (c) under Section 14, which confers broad investigatory powers.

Apart from the fact that these provisions deprive the Commission of many of its regulatory powers under the Natural Gas Act, the enforcement problems are compounded by the opaque quality of many of the pricing provisions. At best, such legislation would require lengthy litigation—including in all likelihood a number of Supreme Court decisions—before the meaning of the provisions is reasonably settled.

The Commission lacks explicit refund authority over large volumes of gas under the bill. Page 100 of the Joint Explanatory Statement of the Committee on Conference (Managers' Report) indicates an intent to allow the Commission "to establish rules concerning the collection and accounting for monies paid [pending final determinations under Section 503], the effect of a preliminary reversal, and the adjustment of prices and monies upon any final determination different from that under which the parties were initially operating." However, such an intent to provide for "adjustments" or refunds is nowhere spelled out in the proposed legislative language. What is clear, however, is that the Commission's existing power to provide for refunds under Section 4(e) of the Natural Gas Act is eliminated with respect to the categories of gas to which Section 601(a) of the NGPA applies. As a result, there would be no mechanism to remedy erroneous (or even fraudulent) pricing classifications which are employed pending or following final Commission determination.

The potential for abuse is thus enormous, particularly in view of the fact that each producer is responsible for designating the pricing categories into which production from each source falls. Because of the economic incentives to classify production in the highest priced category, every ambiguity will become an obstacle to fair and effective enforcement of the pricing structure.[3] Moreover, as indicated below, in many cases the bill prescribes reservoir-by-reservoir price regulation. The practical difficulties involved in such an approach recall the FPC's futile attempt in the 1950's to regulate producers on a company-by-company basis.

Some uncertainty is inherent in passing any piece of new legislation. But the proposed NGPA is so marred by such uncertainties that it will be literally impossible to administer. As the Office charged by the Commission as primarily responsible for assuring compliance with statutes administered by the Commission, the Office of Enforcement feels constrained to set out the numerous difficulties with the bill at the present time and indicate those areas where amendments are absolutely essential.

II. APPARENT LACK OF DETERMINATION MECHANISM AT THE STATE LEVEL

The conferees have assumed that a procedure presently exists at the State level by which the numerous factual determinations required for price classification under the proposed Act will be made. At page 97 of the Managers' Report, the conferees explain:

"The State or Federal agency with natural gas under its regulatory jurisdiction determines whether certain natural gas satisfies the required factual determinations to be classified as new natural gas . . . new onshore production wells . . .; high-cost natural gas . . .; and stripper well natural gas . . . . The State or Federal agency determination shall apply the definitions specified in the appropriate section, as may be further defined by the Commission."

Yet there is no provision in the proposed legislation that requires a State regulatory body to make the necessary factual determinations. Section 503(a)(1) simply provides that *"if"* any appropriate agency makes a final "determination" for the purposes of the Act, then the determination is subject to review by the Commission and the courts. The bill imposes no obligation to make such a determination however. While Section 503(c)(1) explicitly confers on States the *authority* to make the necessary determinations, it fails to *require* the States to so act. Further, Section 503(c)(2) provides that States may make written waivers of the authority to make factual determinations but does not deal with the case of a State which declines both to make the necessary determinations and to submit a written waiver in accordance with Section 503(c)(2).[4] If no such determination is made, however, then there is no opportunity under the proposal for review by the Commission, nor even any requirement that the pricing classifications be reported to the Commission.

It is apparent, however, that even if producers reported the information required to justify each and every pricing classification made under this Act, there is no way in which the Commission can adequately review the decisions so made. First, the statute imposes an impossibly short 45-day period to reach an interim judgment and a 120-day period for final determinations. Second, even were the time periods extended substantially, it would simply be impossible to review the factual basis of each pricing classification decision. In 1977, there were approximately 29,000 oil or gas well completions[5] in the country as a whole. From the beginning of 1970 (the date used as the cut off for marker wells) through 1977 there have been roughly 163,000 such completions. Each of these is presumably a separate "completion location" within the meaning of Section 2(7)

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[1] While a number of very serious administrative and enforcement problems would be created at the pipeline and distributor levels by the adoption of proposed Title II "Incremental Pricing" and Title IV "Natural Gas Curtailment Policies," the instant memorandum is limited to a discussion of the difficulties posed by the bill concerning producer matters only.

[2] The confines of this memorandum deal with the substantive and procedural difficulties envisioned by OE in administering the Act. We have not taken into account additional funding and personnel obviously essential to even a modest administrative effort.

[3] Because of the requirement of title II of the bill that the Commission shall provide for automatic passthrough by interstate pipelines of all increased costs incurred as a result of the price increases collected by producers under title I thereof, the Commission cannot scrutinize producer sales in pipeline rate proceedings in order to protect consumers from overcharges for improperly classified gas. Thus, the Commission has even less authority than it possessed before the U.S. Supreme Court's 1954 *Phillips* decision, which upheld the Commission's jurisdiction over producer rates under the NGA. Prior to the *Phillips* case, the Commission could at least refuse to permit pipelines to passthrough to consumers costs which were not just and reasonable or not prudently incurred by the pipelines.

[4] As noted below, even *reviewing* pricing determinations made by the States would be next to impossible. If the Commission were required to make the *initial determination* instead the situation would be even worse.

[5] Independent Petroleum Association of America, *United States Petroleum Statistics, 1978 (Preliminary)*.

of the proposed Act, from which various distance measurements may have to be made. In view of the continuing upturn in drilling, the 11,000 *gas well* completions in 1977 can be expected to increase in 1978. Under the pricing approach taken by the proposed legislation, each of these completion locations may have to be separately considered for pricing purposes. Even if only a tiny percentage of these decisions are contested at the Commission level, effective administration will be made extremely difficult, if not impossible. It should be remembered, too, that the legislation apparently does not provide the Commission with refund and suspension powers over revenues produced as a result of sale of most of the volumes.

Moreover, it is our understanding that the Commission has proposed to attempt to cope with its review responsibility by requiring that each State first obtain approval from the Commission of its plan for making determinations, including the data required to be part of the proof submitted by the producer and the criteria to be considered by the State in its decision-making process. The Commission would then limit its review of State determinations to analyzing specific complaints and making spot checks.

However, under the language of proposed Section 503(c)(3), the Commission would lack the authority to prescribe procedures which the States must utilize in making determinations, assuming *arguendo* that the State must make any determinations at all. That subsection declares that in making determinations, the State or Federal agency shall be required to utilize only:

". . . the procedures generally applicable to such agency for the making of such determinations or comparable determinations under the provisions of Federal or State law, as the case may be, pursuant to which they exercise their regulatory jurisdiction."

Accordingly, the States need not employ any procedures not already being used in "exercis[ing] their regulatory jurisdiction," and it may be safely presumed that no State already has in force procedures (1) for gathering the information necessary to make and (2) for actually making all the various determinations which the NGPA would require.

III. INADEQUACIES IN ENFORCEMENT PROVISIONS

Section 503(d) provides that final determinations as to pricing classification which are no longer subject to review by the Commission (or subject to judicial review) shall be "binding." This language seems to provide no mechanism for the Commission to review determinations which are based on deliberately misleading information provided to the state agency upon which the FERC relies. We strongly urge that the language should be modified to provide for subsequent review by the Commission (and ultimately the courts) where the Federal or State agency determination was based on any omission or untrue statement as to material facts. In addition, we believe that such untrue statements and omissions submitted in support of the initial determination should fall within the scope of 18 U.S.C. Section 1001, concerning fraudulent statements or entries submitted to the Federal Government. Accordingly, we suggest the following language:

"503(d) Effect of Determinations. For purposes of this Act, any final determination referred to in subsection (a)(1) made by a Federal or State agency (or by the Commission under subsection (c)(2)) which relates to any natural gas and which is no longer subject to review by the Commission under this section or to judicial review shall thereafter be binding with respect to such natural gas. The preceding sentence shall not apply to any final determination (1) if in making such determination such State or Federal agency (or if in reviewing such determination, the Commission) relied on any untrue statement of a material fact or (2) if there was omitted a statement of material fact necessary in order to make the statements made not misleading in light of the circumstances under which they were made to either the Federal or State agency in making such formal determination or to the Commission in reviewing such determination.

"For purposes of this Act, any untrue statement or omission of material fact to a Federal or State agency upon which the Commission relied shall be deemed to be a statement or entry under 18 U.S.C. 1001."

This additional language as to untrue statements and omissions is, of course, patterned on Rule 10b-5 of the Securities and Exchange Commission, 17 C.F.R. § 240.10b-5. Use of the 10b-5 standard should allow the Commission to rely on a well-developed body of court decisions regarding such misstatements and omissions, and therefore should minimize the likelihood of additional litigation.

Similarly, the statute of limitations, Section 504(b)(6) (D), should be amended as set forth below:

"Sec. 504(b)(6)(D) Statute of Limitations. No person shall be subject to any civil penalty under this paragraph with respect to any violation occurring more than 3 years before the date on which such person is provided notice of the proposed penalty under subparagraph (E). The preceding sentence shall not apply in any case in which an untrue statement of material fact was made to the Commission or a State or Federal agency with respect to the acts or omissions constituting such violation, or where there was omitted a material fact necessary in order to make the statement made with respect to such acts or omissions not misleading in light of the circumstances under which they were made."

A second area of concern relates to Section 504(b) dealing with civil enforcement in federal district court. Section 504(b)(1) appears to track the language of Section 20 of the Natural Gas Act. However, the proposed language deletes the specific reference in Section 20 to the Federal District Court of the District of Columbia. We believe that Section 504(b)(1) should be amended to make it clear that the United States District Court of the District of Columbia does have jurisdiction in enforcement actions where venue otherwise lies. This could be accomplished in the following manner:

"(1) In general.—Except as provided in paragraphs (2) and (3), whenever it appears to the Commission that any person is engaged or about to engage in any act or practice which constitutes or will constitute a violation of any provision of this Act, or of any rule or order thereunder, the Commission may bring an action in the appropriate district court of the United States, including the District Court of the United States for the District of Columbia, to enjoin such act or practice and to enforce compliance with this Act, or any rule or order thereunder."

A third cause of concern is the relationship between the civil penalties provided for in Section 504(b)(6) and the Commission's refund authorities. We believe that language should be added to make clear that the civil penalty is not the exclusive remedy of the Commission. This should be done both because the civil penalties are very small in relation to potential benefit which a party may derive from non-compliance and because the Commission's refund powers should be available to correct the abuses and make whole those consumers who may have suffered as a result of such noncompliance.

On page 143 and 146 of the proposed legislation the term "knowing" (or "knowingly") has been defined to include "construcutive knowledge determined to be possessed by a reasonable individual who acts under similar circumstances.". Sections 504(b)(6)(B) and 504(c)(5)(B). The proof of a "knowing" violation is in and of itself a hindrance to successful assessment of civil penalties. However, the further definition of "knowing" to include constructive knowledge as defined in Sections 504(b)(6)(B)(ii) and 504(c)(5)(B) may make proof yet more difficult. We would recommend eliminating the requirement that a violation be "knowing" in order for the Commission to assess civil penalties. Alternatively, however, the concept of constructive knowledge might be left undefined or defined in such a manner as to allow potentially broader application.

Finally, there is a point which needs some clarification in Section 504(c)(1) and (2). In both paragraphs (1) and (2) on page 145 there is reference to "violations covered under paragraph (B)." It is not clear which paragraph (B) is meant to be referred to in this context. This provision should therefore be redrafted to eliminate the potential for serious confusion.

IV. CONTINUING COMMISSION NGA JURISDICTION UNDER NGPA

One area of the Commission's present Natural Gas Act jurisdiction which is left largely intact by the provisions of the conference draft of the Natural Gas Policy Act of 1978 is the Commission's authority over gas which is "committed or dedicated to interstate commerce." Section 2(18) of the bill states that all gas which if sold, "is required to be sold in interstate commerce (within the meaning of the Natural Gas Act) under the terms of any law, any contract, or any certificate under the Natural Gas Act, or otherwise" is "committed or dedicated." Under this language, all offshore OCS gas and all of the so-called Southland gas, i.e., gas which has at any time been sold and/or certificated in interstate commerce, but which has been withdrawn or diverted from interstate commerce without obtaining abandonment authorization from the Commission under Section 9(b) of the Natural Gas Act, is "committed or dedicated to interstate commerce."

The importance of gas being designated as "committed or dedicated" can be seen by reviewing Section 601(a)(1). That subsection sets forth those categories of gas to which the Natural Gas Act ceases to apply either on the date of enactment or at stated times subsequent thereto. Section 601(a)(1)(A) immediately upon the date of enactment makes the Natural Gas Act inapplicable to all gas "not committed or dedicated to interstate commerce as of the day before the date of the enactment of this Act." In addition, certain "committed or dedicated" gas, i.e., high-cost natural gas, new natural gas and new onshore production wells, ceases to be subject to Natural Gas Act judisdiction at certain times in the future. All other "committed or dedicated" gas, including all of the Southland-type gas and all other gas already sold and/or certificated in interstate commerce, remains fully under Natural Gas Act jurisdiction for all non-price regulation purposes (and for most of the gas, for price regulation purposes as well).

This continuing Natural Gas Act nonprice jurisdiction of the Commission includes, *inter alia*, the requirement of Section 7(b) of the Act that abandonment authorization must be obtained from the Commission before the gas may be lawfully withdrawn from interstate commerce. Hence, even after the end of the term of a contract for sale between a producer and an interstate pipeline or of a producer's lease, the gas must continue to be sold to the interstate pipeline unless and until Section 7(b) abandonment authorization is obtained.

In this light, Section 315(b) of the conference draft of the Natural Gas Policy Act of 1978—which provides for a right of first refusal by the purchasing interstate pipeline

to obtain a new contract to continue purchasing gas at the end of the term of the then existing contract if the producer chooses to continue selling the gas at all—is a provision which applies *only* to gas which is *not* protected by the stronger Section 7(b) abandonment protection of the Natural Gas Act. Since Section 7(b) of the Natural Gas Act gives greater protection to the purchasing pipeline and the interstate consumers it serves than does the Section 315(b) right of first refusal, Section 7(b) controls.

This is made clear by the "Joint Explanatory Statement of the Committee on Conference" (p. 85) which states that:

"The right of first refusal provided in this section [i.e., Section 315(b)] is *in addition to the applicable certificate and abandonment requirements of the Natural Gas Act.*" [Emphasis supplied.]

Since the applicable abandonment requirements of Section 7(b) of the Natural Gas Act provide more protection than Section 315(b), this latter section adds nothing to the Natural Gas Act powers of the Commission in regard to already certificated gas, already flowing gas, and *Southland*-type gas, and therefore does not apply.

Moreover, any attempt to limit the protection of "committed or dedicated gas", not specifically exempted from Natural Gas and jurisdiction by Section 601(a)(1), to the right of first refusal language of Section 315(b) rather than to the strict abandonment requirements of Section 7(b) of the Natural Gas Act would also be inconsistent with Section 106 of the conference draft bill concerning the ceiling price for sales under interstate rollover contracts. Section 106 ratifies in statutory language the Commission's present treatment under the Natural Gas Act, of sales made under rollover contracts after the termination of the earlier contract term, of permitting a maximum lawful price of 54 cents per Mcf plus upward inflation adjustments. By its terms, Section 106 applies to "any rollover contract of natural gas which was committed or dedicated to interstate commerce on the day before the date of enactment of this Act."

The Commission's treatment of rollovers has been premised upon the fact that the gas in question must continue to be sold in interstate commerce to the same pipeline after the end of the original contract term at whatever rate was previously permitted by the Commission unless and until Section 7(b) abandonment authorization is obtained. In order to permit the producer to collect a higher rate, the Commission has determined that if the producer and pipeline execute a renewal or rollover contract, an increase to a 54¢ per Mcf rate would be considered just and reasonable. The concept of a right of first refusal to a subsequent contract if the producer determines in its discretion that it wishes to continue selling the gas at all, as embodied in Section 315(b), is simply inconsistent with the treatment of rollover contracts under Section 106.

In summary, under the conference draft bill, all certificated gas, all flowing gas and all *Southland*-type gas which does not specifically fall within the exempted categories of high-cost natural gas, new natural gas, or new, onshore production wells under Section 601(a)(1)(B) of that bill remains under the jurisdiction of the Natural Gas Act for certificate and abandonment purposes. This continued authority is essential to assure a constant and dependable supply of natural gas to the interstate market at the appropriate, lawful price.

It is our understanding, however, that language may have been proposed which would significantly alter the substance of the conference draft bill by drastically restricting the Commission's continued Natural Gas Act jurisdiction even beyond the narrow limits already prescribed by the conference bill, as outlined above. We understand that the new proposal would modify the conference bill to terminate all Natural Gas Act jurisdiction over high-cost natural gas, new natural gas, and new onshore production wells effective on the date of enactment of the Natural Gas Policy Act of 1978. More importantly for purposes of the discussion here, the conference bill might be amended to totally eliminate, as of the date of enactment, all of the Commission's Natural Gas Act jurisdiction, *including abandonment authority*, over all gas flowing in interstate commerce without an extant contract and over all *Southland*-type gas.

This would be accomplished by an amendment to Section 601(a)(1) of the conference bill limiting Natural Gas Act jurisdiction to only that interstate gas which is already covered by an existing original or rollover contract. The adoption of this proposed amendment would result in the elimination of jurisdiction over all gas unlawfully withdrawn or diverted from interstate commerce without the abandonment authorization required by Section 7(b) of the Natural Gas Act, *i.e.* over all *Southland*-type gas.

Those proposing to substantively amend the conference bill seemingly recognized that their amended language is repugnant to and inconsistent with the agreement of the conferees as to what constitutes gas "committed or dedicated to interstate commerce" and how such gas should be treated, since they have also proposed to radically alter the conference bill's definition of that term in Section 2(18) by limiting its coverage to only natural gas which is subject to the Commission's Natural Gas Act jurisdiction. Such an amendment would serve to remove all *Southland*-type gas from the definition of "committed or dedicated" because under the proposed change in Section 601(a)(1)'s language discussed above, this gas would no longer be subject to the jurisdiction of the Commission under the Natural Gas Act.

V. AMBIGUITIES IN PRICE CATEGORY DESCRIPTIONS

There are a number of instances in the various gas classification sections of Title I of the bill where the language used is unclear or differs from the intent of the proposal as set forth in the Managers' Report. Some of the principal examples are examined below.

A. Distance of new well from marker well

The intent of the bill, as indicated by the Managers' Report, is to allow new gas price treatment to new wells drilled more than 2.5 miles from present wells or extended deeper than 1,000 feet below presently known, producing horizons. However, although the Managers' Report (page 19) explains that new gas may come from a new completion more than 1,000 feet below the deepest location in "all" marker wells within 2.5 miles, the proposed legislation uses the term "any" marker well. Section 102(c)(1)(B)(ii). This could provide the basis for interpreting the bill to allow a producer to choose, as the point of reference, the marker well within 2.5 miles with the shallowest "deepest completion location."

Moreover, Section 102(c)(4), which provides that the term "deepest completion location" may refer to "any subsurface location" from which gas was earlier produced, allows a producer to designate a shallow, old, depleted reservoir as the "deepest completion location" for the purposes of applying the "1,000 feet deeper" rule of § 102(c)(1)(B)(ii).

These provisions are apparently not consistent with the conferees' intent in adopting the marker well concept as the basic point of reference.

Finally, there appears to be nothing which precludes a producer from treating a well as its own marker well in cases where it benefits the producer.

B. Elimination of the "behind-the-pipe" exclusion

Section 102(c)(1)(C) allows for reservoirs penetrated by a producing well to be treated as "new onshore reservoirs" qualifying as "new gas" because they are reservoirs from which gas was not produced in commercial quantities before April 20, 1977, unless excluded by the "behind-the-pipe" or the "withheld gas" provisions.

For example, assume a well which penetrates several reservoirs but which is currently producing only from the bottom reservoir. The higher reservoirs—which appear at first to be "behind-the-pipe" and excluded from new gas treatment—will be produced in turn as the lower reservoirs are depleted and the well is plugged back to the next higher location.

Superficially, there could hardly be a clearer case of where the behind-the-pipe exclusion should apply, thereby barring "new gas" treatment. The loophole, however, is the requirement of § 102(c)(1)(C)(ii)(II) that the natural gas from the behind-the-pipe reservoirs "could have been produced in commercial quantities from such reservoir through such old well before April 20, 1977."

This language allows several arguments to be made. First, the producer could argue that production was *physically* impossible, for example, since the well was not equipped to produce from the higher reservoirs at the same time as from the lower reservoir. Moreover, the producer could assert that production in *commercial* quantities was not possible before April 20, 1977 since, at the then prevailing rates, production would not have been commercially viable. Presumably, the producer would further assert that production in commercial quantities means production at a price allowing full recovery of all sunk costs plus a 15 percent rate of return. Any of these interpretations would take reservoirs outside the scope of the behind-the-pipe exclusion and convert them from old gas to new. More importantly, the availability of such arguments runs the risk of converting a seemingly simple determination into a separate producer rate proceeding, in many cases.

C. Elimination of the "withheld gas exclusion"

This provision, section 102(c)(1)(C)(iii), is designed to bar new gas treatment for gas produced through old wells from known reservoirs where suitable facilities for production and delivery to a pipeline were in existence on April 20, 1977. Section 102(c)(1)(C)(iv) provides that the "facilities test" is not satisfied if the facilities were installed to carry out emergency sales under § 6 of the ENGA or the Commission's 60-day emergency regulations.

Thus as a practical matter, the withheld gas exclusion will almost never apply, i.e., suitable facilities for production and delivery will not be installed unless production and deliveries are taking place. Indeed, the only time a producer would have suitable facilities in place but not be delivering gas would be where the facilities were installed pursuant to an emergency sales agreement—thereby excepted from the exclusion and qualifying for the new gas price.

VI. COMMISSION APPROVAL OF SALES BY INTRASTATE PIPELINES

Under Section 311(b)(1) the Commission may authorize intrastate pipelines to sell natural gas to interstate pipelines and certain local distribution companies. The price for such a sale may include an "adjustment" prescribed by Section 311(b)(2)(C). This adjustment can only be granted, however, if the seller acquires gas "in excess of that which such pipelines would otherwise have acquired." Section 311(b)(2)(C)(i)(I). Presumably, of course, the potential seller would not acquire volumes "in excess of that which

[it] would otherwise have acquired" unless it had a market in mind.

Unfortunately, if the seller attempts to qualify for the adjustment by acquiring excess supplies for resale, he thereby loses the right to make the sale. This "catch-22" situation is created by Section 311(b)(8)(A) under which the Commission "shall disapprove" the application to make such sale if the gas was "acquired by the intrastate pipeline involved solely or primarily for the purpose of resale of such natural gas pursuant to a sale authorized under [Section 311(b)(1)].[6] It should be emphasized that the Commission has no discretion in the matter, but is *required* to disapprove applications.

CONCLUSION

The memorandum we have submitted which discusses potential problem areas in the NGPA is not intended to be all inclusive or conclusive. Rather, our purpose is to provide an overview from this Office's perspective of the uncertainties and difficulties which are likely to be encountered by the Commission in attempting to administer the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BROWN of Ohio. Today, FERC has a total staff of about 1,200 people and spends about $6 million per year for natural gas regulation. If this legislation passes, FERC's budget for natural gas regulation will increase five-fold. The entire FERC budget, which in fiscal year 1978 was $34 million, will increase by about 100 percent.

Mr. Speaker, in this election year, our constituents are fed up with the negative impact of the Federal Government on their lives. They are fed up with unnecessary Government spending, inflation, overregulation, and programs that do not work. If there was ever a legislative proposal that embraced all these flaws, it is this bill.

Nearly 10,000 successful natural gas wells are drilled every year in this country. The conference agreement subjects each of these to a multilayered decisionmaking process involving the States, FERC and the courts. This decisionmaking process may take as much as a year or more during which time the producer will have no idea of whether he is complying with the maximum lawful prices established in the bill or not.

A hypothetical example will help illustrate the problem. Assume that we have a typical small independent gas producer with a large mortgage at the bank. This producer has been fortunate enough to discover natural gas with the last well that he has drilled, but unfortunate enough to have discovered the gas after the date of enactment of the gas bill. As the bill is currently written, our hypothetical producer will have to measure the depth of his well, its distance from other production wells in the same field, and determine whether or not he has struck the same reservoir of natural gas from which some of his neighbors are producing. He will have to pack up this information, along with his core samples, the results of any production tests, and his drilling logs, and cart all of this material to the State agency that has been delegated the responsibility for determining which one of the numerous categories of gas that his well will qualify for.

Once the State agency makes its determination—and, importantly, there are no time limits placed on the States for making this decision—the Federal Energy Regulatory Administration will have the opportunity to review and reverse the State decision if it is not supported by "substantial evidence." In order to reverse a State, the FERC must make a preliminary finding of reversal within 45 days and a final determination within 120 days after the date of the proposed reversal. If the FERC so desires, it may remand the matter back to the State for a further determination where the whole procedure begins anew. Once the FERC has made a final determination, its action is reviewable in the appropriate U.S. Court of Appeals. No State judicial review is permitted even though questions and interpretations of State law may be involved. During the entire time that our producer is trying to get a definitive answer from the State, the FERC, and the courts, as to what price he may lawfully charge for his gas, his mortgage remains unpaid, and the bank begins to wonder if he is such a good credit risk after all. If the review period takes as long as I suspect that it will, I have the feeling that we may see our independents selling out to some larger company which finds it easier to comply with Federal regulations.

From the State viewpoint, this legislation is just as complex and unworkable. Implementation of this legislation is premised on receiving close cooperation and assistance from the States. However, I seriously doubt that this assistance will be forthcoming. In a letter to FERC Commissioner Smith, Governor Bennett of Kansas indicated that the regulatory burdens imposed by this legislation upon the States would be so great that many States would have little or no interest in carrying out the functions of the bill. Governor Bennett went on further to indicate that if the bill becomes law within the next 45 days, there will be 1,700 applications for certification pending from the State of Louisiana alone. Texas estimates 3,000 hearings a year. Other States will have corresponding burdens. The Ohio Department of Natural Resources indicates that the bill will be "impossible to administer" even with a substantial addition to its current staff of 34 full-time personnel.

Mr. Speaker, I insert at this point Governor Bennett's letter, and correspondence from the Ohio Department of Natural Resources.

The letter follows:

INTERSTATE OIL COMPACT COMMISSION,
Oklahoma City, Okla., September 19, 1978.

Hon. DON SMITH,
Commissioner, Federal Energy Regulatory Commission, Washington, D.C.

DEAR MR. SMITH: Since there is some probability that the Congress is preparing to adopt the Natural Gas Pricing Bill, and since you were designated by Chairman Curtis as liaison between FERC and the IOCC for the purpose of implementing state regulatory agency functions under the bill, I believe that you should be made aware of the attude of a number of the oil and gas producing states toward certain aspects of this legislation.

As you know, the most recent measure which came out of Congress delegated to the state oil and gas regulatory agencies certain certification functions relative to natural gas pricing. Several months ago, when the present agreement was in memorandum form and not in final draft legislation, cooperative talks were held between the staffs of the Federal Energy Regulatory Commission and the Interstate Oil Compact Commission. It was a mutual goal at that time to urge the states to carry out their responsibilities under the act. The staff conferences indicated that most state regulatory agencies were in a position to fold the certification process into their present operations and that each state would be permitted to use its own system, within parameters, to carry out the responsibilities. We believe that it was in the best interests of the conservation of oil and gas and the orderly development of the resources to assist in these functions.

The staff advises me that the most recent draft, that is the draft presently being considered by the Congress, has made material changes from the assumptions made at the original staff conferences referred to above. Consequently, many of the states have indicated to the IOCC staff that they have little or no interest in being of assistance in carrying out these functions. We apprehend that the Congress has imposed upon FERC the duty to prepare the program without flexibility; draft the necessary forms; and become the "big brother" to all of the state oil and gas agencies.

On the other hand, the state regulatory official faces a huge volume of work for which he has received no appropriation, will expect no praise, and will probably get a certain amount of calumny. One state regulatory official has already written his Attorney General seeking an opinion as to whether his state (Oklahoma) can carry out a federally mandated program without the approval of the Legislature of the State of Oklahoma. Others are considering a similar approach.

If these agencies continue to reject being the certifying agency, then obviously this is of serious consequences to you. In view of the previous staff conversations, I thought that it would be fair to advise you. For example, if the bill becomes law within the next 45 days there will be 1,700 applications for certification pending from the State of Louisiana alone. Texas estimates 3,000 hearings a year. Other states will have corresponding volumes.

Do not construe this letter as one that rejects cooperation between the IOCC and the FERC. Quite the contrary. It is because of our long cooperative association that I feel it a proper thing to do to advise you of the attitude of the states. If we can assist you and your commission in any way in this matter or in any others—keeping in mind that we are restricted by the desires of our member states—please advise me.

Sincerely,

ROBERT F. BENNETT,
Governor of Kansas.

Perhaps as important as the regulatory nightmare which this legislation will create is the detrimental impact that this bill will have on residential consumers and industrial users of natural gas. The Congressional Budget Office concludes that this bill will cost consumers from $8 to $16 billion more through 1985 than current policy. For this $8 to $16 billion cost, the CBO projects only .7 trillion cubic feet of additional natural gas production through 1985.

Costs to industrial users under this legislation will increase the most because all the cost of higher-priced gas is to be charged to the industrial user before it is charged to residential con-

[6] Similarly, under Section 311(b)(7)(A)(ii), the Commission is required to terminate an ongoing sale if the same situation is obtained.

sumers. In addition, because of the incremental pricing provisions, this legislation will create tremendous inequities among regions of the country and among classes of consumers of natural gas. Factories and jobs located in the Northeast and Midwest will be particularly hard hit.

Now let me address several of the arguments the administration has been making in favor of passage of this bill. We have been told by the administration that this bill is necessary to shore up the collapsing dollar in foreign money markets. This is utter nonsense. Energy costs did not cause the balance of payments problem. Our balance of payments deterioration and dollar decline did not begin with quadrupling of OPEC oil prices in 1974. The U.S. trade surplus rose in 1974 from $1.7 billion to $18.4 billion in 1985, and the dollar generally rose against most currencies. The U.S. trade balance did not shift into red until late 1976, but it deteriorated sharply thereafter. Increased oil import costs contributed to only 17 percent of total increase in imports. Thus, oil imports did not destroy the balance of payments.

Every other major industrialized country has the same increased oil import costs. Most of these—including Japan and West Germany—face a greater burden from high priced oil imports than we do. How can these nations have currencies in better shape than ours? Japan and West Germany control inflation and so their currencies rise while the dollar falls.

Not only is energy not the chief cause of our balance of payments deficit, but this bill will not cure that deficit. No energy bill can reverse inflation—but a counterproductive energy bill certainly will not.

Foreign financiers are not fools and will not believe the United States has solved its trade deficit problems. The underlying weaknesses of the dollar will not be corrected by this bill. This bill could lead to international distrust of America's willingness to seriously address its inflation and energy problems. This bill is being pushed by the administration as a "geopolitical gesture."

The administration has also argued that passage of this regulatory nightmare is necessary to insure building of the Alaska natural gas pipeline. Having carefully analyzed this legislation, I find there is nothing in this bill which will insure the building of this enormously expensive and risky project. Testimony from financiers appearing before the Energy and Power Subcommittee last year indicated that it will be most difficult to obtain financing for this multibillion dollar white elephant.

Mr. Speaker, this bill has no constituency. Consumer groups, labor unions, manufacturers, commercial establishments, and independent gas producers oppose this legislation. Mr. Speaker, I ask unanimous consent that a list of organizations originally opposing this legislation be inserted into the RECORD at this point:

ORGANIZATIONS AND COMPANIES ACTIVELY OPPOSING THE NATURAL GAS COMPROMISE

Independent Petroleum Association of America; Chamber of Commerce of the United States; International Association of Machinists; United Auto Workers; California Independent Producers Association; Independent Oil and Gas Association of West Virginia; Republic Steel Company; Owens-Corning Fiberglas; AFL-CIO; International Association of Sheet Metal Workers; Independent Oil Producers Tri-State, Inc.; Independent Petroleum Association of Mountain States; Georgia-Pacific Corporation; National Steel Corporation; American Federation of State, County and Municipal Workers; Libby-Owens-Ford; Johns-Manville; Armco Steel; Husky Oil Company; Getty Oil Company; Kansas Independent Oil and Gas Association; Kentucky Oil and Gas Association; Hercules Corporation; Owens-Illinois; Louisiana Association of Independent Producers and Royalty Owners; Michigan Oil and Gas Association; National Stripper Well Association.

Standard Oil of Indiana; Marathon Oil Company; National Football League Players Association; Dow Chemical; Union Camp; Alton Box Corporation; North Texas Oil and Gas Association; Ohio Oil and Gas Association; Oklahoma Independent Petroleum Association; Bethlehem Steel Corporation; General Motors Corporation; Pittsburgh Plate Glass; Sun Company, Inc.; Pennzoil Company; Panhandle Producers and Royalty Owners Association; Pennsylvania Grade Crude Oil Association; Permian Basin Petroleum Association; Tennessee Oil and Gas Association; Continental Oil Company; West Central Texas Oil and Gas Association; Virginia Oil and Gas Association; Texas Independent Producers and Royalty Owners Association; Stauffer Chemical; Celanese Corporation; American Farm Bureau Federation; Consumer Federation of America; Energy Action; CSG Corporation; Glass Packaging Institute; American Can; Alcoa; U.S. Gypsum; Forest Products Federation; Newark Boxboard; Hammermill Paper; Gilman Paper; American Paper Institute; U.S. Steel; Cast Metal Federation.

Really the only constituent that this bill has is the administration, the leadership of the House, and the pipelines who do not care how much natural gas costs. Because this bill has no constituency, and because it is a badly-flawed piece of legislation which does not adequately address our energy problem nor contribute to the enactment of a sound and equitable energy policy, I had hoped that the House would defeat this most counterproductive measure. As we all know, however, the rule that passed yesterday has made defeat of this measure virtually impossible.

The following correspondence urging opposition to this legislation comes from the Ohio Department of Natural Resources, and from the Governor of Ohio:

OHIO DEPARTMENT OF NATURAL RESOURCES,
Columbus, Ohio, October 6, 1978.

Hon. CLARENCE J. BROWN,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN BROWN: The attached expresses our concerns with the proposed conference report on H.R. 5289, the Natural Gas Policy Act of 1978.

Briefly we find that:

1. The bill discourages expanded natural gas production. The fixed price system will destroy the tremendously successful Ohio industrial "self help" program.

2. The bill will cost us jobs. Ohio has 10,000 employees in the oil and gas industry. These small and independent operators will be overwhelmed by the administrative requirements of the bill. We estimate a 25% reduction in producers.

3. The bill will be too costly to administrate. Additional funds are not available. Our current staff is already overtaxed. We estimate an additional $300,000 will be required to administer the new act.

4. The bill is impossible to administer. We lack the data to classify our wells in accordance with the act. It will take years to acquire this data. In some cases the data is not available.

We would fully support a good natural gas bill. However, we believe that before a good bill can be developed, producing states must be heard. We have not been afforded that opportunity.

Sincerely,

ROBERT W. TEATER,
Director.

IMPACT ON OHIO OF NATURAL GAS POLICY ACT OF 1978

THE BILL WILL DESTROY OHIO'S SELF-HELP PROGRAM

Due to Ohio's almost unique status as a large industrial state and a gas producing state, a very important impetus to gas producing has developed. Spurred by the curtailment of gas deliveries by the gas utility companies to industries, businesses, schools, these customers have sought out private supplies of gas. Ohio government and industry developed the sophisticated self-help program where end users contract directly with independent gas producers to purchase gas supplies. The gas is then transported by utilities to the user.

Since late 1973 there have been over 230 such arrangements, involving over 1400 wells, wherein industries, businesses and schools have been kept open because of supplemental self-help gas supplies.

Self-help gas sales are more complex for producers than direct sales to utilities. Therefore, self-help gas prices have historically been higher than the utility market prices.

The proposed gas pricing plan will destroy the Ohio self-help program and in fact, the entire intrastate market. With the institution of maximum lawful prices, willing buyers and sellers will be unable to negotiate freely. The higher prices paid for self-help gas have encouraged producers to expand gas development and explore areas which otherwise would not have been economically feasible. With the price incentive gone, exploration will necessarily diminish. The end of self-help would dramatically affect the business sector of this state, particularly in the event of severe natural gas curtailments.

INCREASED BURDEN ON OHIO INDEPENDENT OPERATORS

The Ohio oil and gas business is made up of small independent operators. Most Ohio oil and gas wells are funded by investors with a share of each well owned by the operator. The small independent operators each produce less than FERC small producer level (10 billion cubic feet per year). The over 800 Ohio producers range in size from the one-man shop, run out of a basement, up to the independent company with a staff of approximately 30. Of the nation's major oil companies, only one has production in Ohio with no new producing wells drilled since 1972.

Ohio production is from geologic formations contained in the Appalachian Basin. These formations also cover portions of West Virginia, Pennsylvania, New York, Maryland and eastern Kentucky. Production in the Appalachian Basin is from the Mississippian (e.g. Berea Sand 400 to 2,500 feet); Devonian Shale (300 to 3,000 feet); Silurian (e.g. Clinton Sandstone group, 2,400 to 7,000 feet); Ordovician (e.g., Trenton dolomite, 1,200 to 1,900 feet); and Cambrian

(e.g. Trempealeau dolomite, 2,800 to 3,800 feet). The Appalachian Basin is generally characterized by marginal production and is different from the major producing areas of the country. Most current Ohio wells are drilled to the Clinton Sandstone group. The Clinton Sandstone group is composed of low risk, low yield reservoirs that can be drilled by small independents.

The Ohio small independent operator, producing from the Appalachian Basin, lacks the staff and experience to deal with complex federal price schemes. Under the proposed law all Ohio producers will need to apply to the Division of Oil and Gas, subject to FERC review, for the proper classification of each new well. Most Ohio producers have never been subject to direct governmental price regulations since most Ohio gas sales are made to intrastate pipelines. Ohio gas producers will be overwhelmed by the administrative complexity of the proposed regulatory program.

The new administrative burden will drive many small Ohio independents out of the oil and gas business. The complex appeals in the Act will be beyond the sophistication of most Ohio producers. Ohio has approximately 10,000 people employed in oil and gas and related industies. If the bill merely closes 200 of the over 800 marginal Ohio gas producers, a significant number of Ohio jobs will be lost.

COST OF ADMINISTRATION OF THE ACT

The Ohio Division of Oil and Gas has 34 full-time personnel. Twenty of these positions are field oil and gas inspectors and supervisors, four administer a severance tax funded orphan and idle well plugging fund, one is a pilot, and the remaining nine positions are administrative and technical support personnel. The primary function of the oil and gas well inspector is to supervise the field drilling operations, protect the state's potable waters by the supervision of well construction, and the prevention of contamination and pollution. The administrative and technical support personnel issue permits for drilling, insure compliance with the statewide spacing regulations, and approve proposed casing programs to insure protection of the waters, as well as the routine administrative burden of the organization.

At the present time the staff is working under an approximate 50 percent overburden due to the recent tremendous increase in drilling activity. In calendar year 1977, 5101 drilling permits were issued and 4172 permits were issued for the first nine months of 1978. There has not been a commensurate increase in personnel.

Drilling activity in 1977 increased 38.37% over the previous year, and 1978 activity is increased approximately 16% over 1977. It is readily apparent that the Division is not capable of implementing the provisions of the proposed law without a significant increase in staff. The funding for such an increase is not anticipated on the state level.

The proposed law does not include provisions for federal monetary assistance for implementation. Estimated cost figures of $300,000 reflect a start up program, five new employees, conversion program, and one year's annual fixed cost, but do not address many unknown or undetermined cost areas.

This cost burden when passed on to the industry and the public is inflationary and counterproductive in nature, as it will force marginal producers to terminate operations and other producers to incease the cost of gas to the consumer.

AREAS OF CONFUSION AND CONFLICT IN THE ADMINISTRATION AND APPLICATION OF THE PROPOSED LAW TO OHIO

It is apparent that the proposed law was not created with Ohio in mind. Set forth below are a number of examples which show how sections of the law are in conflict with established Ohio gas industry practices. References are to specific sections of the law.

Sec. 2(5). Marker well.—No records are available, either at the Division or from private sources, to determine the number and location of all wells producing gas in the specified time period.

Sec. 2(6). Reservoir.—Drilling locations are not assigned based upon geologic definitions of reservoirs but rather predetermined acreage allocations as a function of well depth.

Sec. 2(11), (12), (13), (14) Contracts.—Most contracts with utilities are for the life of the wells and therefore not for definite terms. Self-help contracts often contain "evergreen clauses", so the concept of fixed terms is detrimental to Ohio gas producers.

Sec. 2(30). BTU.—Gas in Ohio is measured and sold on an MCF basis; the heating value for each well would have to be determined for the first time and all billing would have to be converted to a BTU basis.

Sec. 101. By selling gas in the intrastate market, operators were not faced with regulated prices, which were computed. Now each operator will have to determine the change in price monthly. Price schedules may be in error if the federal oil pricing schedules are any indication.

Sec. 102. The new gas price is not generally applicable to Ohio because less than 5% of new wells drilled are expected to be 2.5 miles from a marker well or 1000' deeper than a marker well.

Sec. 103. New Onshore Production Wells.—This is the anticipated classification of most new Ohio wells; but this classification would permit only a slight increase in prices paid by the utilities and in fact would cause a reduction in the price for most self-help gas. Thus there will be little or no compensation for the cost of the complex regulatory scheme.

Sec. 105, 106. Existing and Rollover Contracts—Ambiguous as to how this applies to existing Ohio self-help wells; impacts upon existing agreements, negate privately negotiated escalator terms and "most favored nations" clause.

Sec. 107. High Cost Gas.—The law does not specifically provide that Ohio production qualifies for the high cost gas price. However, like Devonian Shale, Ohio's production is generally characterized by high cost, low production wells from formations with low primary porosity and permeability.

Sec. 108. Stripper Well Gas.—The classification almost totally excludes Ohio production by requiring the wells be non-associated, i.e. not producing oil; while most Ohio wells are "classic stripper wells" producing less than 60 Mcf/d, they do produce some oil which varies during the life of the well.

SUMMARY

The general destruction of the more elastic intrastate market eliminates the required aggressive attitude of the operator to press gas exploration in a marginal market. The law, if passed, will cause a tremendous disincentive to the production of Ohio gas because of low price, massive regulatory burden, ambiguities, and gas operator inability to predict future developments.

WESTERN UNION TELEGRAM,
Columbus, Ohio.

Representative CLARENCE J. BROWN,
House Office Building,
Washington, D.C.:

Urge you oppose the Natural Gas Policy Act because it adversely affects Ohio. The bill would place Ohio production under regulation by the Federal Energy Regulatory Commission. This will effectively eliminate the self help natural gas program in Ohio because of the delays and bureaucracy involved in FERC regulation. This bill will also dramatically increase the Federal and State bureaucracy to administer the terms of this bill. Our purpose is to reduce State employees not increase.

JAMES A. RHODES,
Governor, State of Ohio.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, I have no objection to the gentleman's unanimous-consent request.

Mr. BROWN of Ohio. I have already received that consent.

Mr. ASHLEY. Why does the gentleman not be specific as to which report from Mr. CURTIS he is referring to? Is it the first one or second one?

Mr. BROWN of Ohio. I am referring to the first one. The second one, as I understand, went through five drafts before Miss Hollis finally got it right.

Mr. ASHLEY. But the gentleman wants the first one, not the second one?

Mr. BROWN of Ohio. I quoted from the first report. Miss Hollis' second report said essentially the same thing, but she said it in much gentler terms, as the first was considered to be so devastating by the bill's supporters in revealing what this natural gas bill is that she was told to rewrite it.

Mr. ASHLEY. The first report the gentleman wants in the RECORD refers to a draft that was not accepted, is that not correct?

Mr. BROWN of Ohio. No, it is not correct. It refers to a report she submitted to Mr. CURTIS, and Mr. CURTIS seemed very embarrassed by it, I expect, because it told what her opinion was of the legislation, and she is the head of the compliance section of FERC.

The SPEAKER pro tempore. The time of the gentleman from Ohio has expired.

Mr. ASHLEY. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the subcommittee, the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank my distinguished friend from Ohio (Mr. ASHLEY) for his kindness in yielding to me. I would like to begin by complimenting all of my colleagues who have worked to bring about the conference agreements forming the National Energy Act; this is a great legislative accomplishment. I wish to pay particular tribute to the gentleman from Ohio (Mr. ASHLEY) for the patience and fairness with which he has conducted these affairs.

Also I commend my dear friend, the chairman of the Committee on Interstate and Foreign Commerce, the distinguished gentleman from West Virginia (Mr. STAGGERS). In addition I commend all of my colleagues who served on the Interstate and Foreign Commerce Committee, the Committee on Ways and Means, and the other committees, including the Ad Hoc Committee on Energy, which have labored so hard on this legislation. A special word is in order for the conferees who labored long and hard to bring this legislation to the point where it can be brought before the House. Also to be commended are people who receive small notice in this matter and who deserve thanks for their labors. I refer to the distinguished staff which has worked so hard under difficult conditions to bring about the completion of the legislative process so far, and hopefully will contribute

to the completion of the legislative process so this matter will be placed on the President's desk for signature.

Mr. Speaker, I would point out that at the desk of the committee can be found a number of position papers which might be of help to my colleagues. The first relates to incremental pricing; the second relates to the cost impact of the legislation on residential gas users; the third is a response to the "Dear Colleague" letter put out in opposition to the Natural Gas Policy Act; the fourth is a very carefully prepared economic analysis of the impact of the Natural Gas Policy Act; and finally there is an explanatory statement setting forth detailed explanations of provisions of the legislation which lies before us.

I pay tribute to my minority colleagues, the gentleman from Ohio (Mr. BROWN) and the gentleman from Illinois (Mr. ANDERSON), and others who have labored with us on this matter. We have not always been in agreement; at times our positions have led us to rather heated disagreement. However, my minority colleagues have proceeded with rare patience, though they were not always correct in their positions and have fought with some diligence to see to it that the public interest as they perceived it was served. This has been an essential part of the testing process which has a necessary function in these undertakings.

Over 1 year ago the House and Senate approved radically different bills providing for modification of the present system of regulation under the Natural Gas Act. The House bill would have extended Federal price controls to previously unregulated markets; the Senate bill would have deregulated all new gas production from Federal price controls. The conferees on this legislation worked diligently over a 10-month period to develop a reasonable and responsible compromise of the House and Senate bills, which may put to rest the 30-year debate over natural gas pricing policy.

Following an extensive debate of the legislation, the Senate recently approved the natural gas conference report. Today the House begins consideration of the several related energy bills which, together with previously enacted legislation, make up the national energy plan.

I believe that the bill, while not perfect, establishes a supportable natural gas pricing policy, especially when compared to the unacceptable alternatives of continued regulation under the Natural Gas Act or immediate deregulation. Moreover, I am confident that dispassionate, reasoned debate of the bill's merits will ultimately lead to its approval by the House.

The need to compare the conference compromise to alternative policies is all too often overlooked. Basically only two alternatives exist. The first is a continuation of the present bifurcated system of natural gas pricing under the Natural Gas Act. That system has resulted in shortages in the interstate system, along with the economic dislocation created by increasing levels of curtailments, and growing reliance upon premium priced, short-term emergency purchases of gas. The second is immediate deregulation of new gas. The latter policy would cause severe economic consequences: first to producing States as gas starved interstate pipelines outbid intrastate customers and drain gas supplies away from producing State markets; second, to interstate industrial users forced off of natural gas as its price rises above the level of substitute fuels; and third, to residential interstate consumers forced to bear the brunt of the wellhead price increases which would flow from deregulation as well as an increasing share of pipeline costs resulting from conversion by industrial users to cheaper alternate fuels.

By steering clear of the extremes presented by these policy alternatives, the Natural Gas Policy Act successfully avoids the deleterious consequences of either policy alternative. It is noteworthy that the bill's opponents, supporting polar alternatives, are united solely in their opposition to this bill, having been unable to reach consensus regarding the form and content of a moderate policy alternative capable of generating broad-based support.

The most important provisions of the bill are those which deal with wellhead pricing. These establish a schedule of price ceilings applicable to specifically defined categories of gas production. The result is creation of a single, national market for natural gas and an end to the economic distortions which accompanied the outdated mode of regulation under the Natural Gas Act.

The bill's price ceilings increase over time to reflect inflation and, in certain cases, to provide an incentive to spur increased investment in exploration for, and development of, our Nation's natural gas resources. A key aspect of the conference report is the focusing of price increases on categories of production which promise the greatest supply response at the lowest cost to consumers. The deregulation provisions provide the incentives required for producers to undertake investments in production projects which, due to the long lead times involved, will not result in production until the 1980's, when the gas will be sorely needed.

In the past I have vigorously opposed immediate deregulation due to its unacceptably harsh economic consequences and opportunity for windfall profits. Phased deregulation as set forth in the conference report avoids both of these objectionable results.

First, by delaying price deregulation until the mid-1980's the bill allows sufficient time for gradual interim pricing mechanisms to raise the price of new gas from historically underpriced levels to a point where the market can clear. However, because the bill does not "vintage" gas by year, it does not create incentives for producers to withhold sales of gas in anticipation of qualifying for deregulation in the future.

Second, windfall profits are avoided. Phased deregulation in the mid-1980's under this bill will avoid a transitional bump in prices which would be caused by deregulation and would generate windfall profits. In addition, the bill specifically excludes withheld gas from qualifying for deregulation. I believe the manner in which the bill's deregulation mechanisms will operate, including a safety-net mechanism permitting rapid Presidential or congressional reimposition of controls, overcomes the objections on which my previous opposition to deregulation was based. Yet the bill offers the incentives which supporters of deregulation have advocated in the past. For these reasons, I believe the bill to be a workable compromise of competing concerns.

Third, incremental pricing is substituted for wellhead price controls as a market ordering device. The delay of deregulation is necessary to enable this substitute mechanism to eliminate present-day market distortions prior to deregulation.

Incremental pricing will put an upper limit on the prices pipelines will be willing to pay for gas supplies. The ability of gas-hungry interstate pipelines to average-in comparatively small volumes of deregulated supplies of new gas with far greater volumes of cheaper old gas would result in a bidding war between pipelines for new gas supplies. This bidding war would be exacerbated by current pipeline rate regulation which ties profitability to throughput volumes. Thus, the price of deregulated new gas would be bid to excessively high levels as pipeline managers seek to maximize throughput volumes and, thereby, pipeline profits .

Incremental pricing solves this problem by focusing initial price increases on the pipelines' most price sensitive customers: historically underpriced industrial users. By allowing the delivered price of these customers' gas to rise to the level of alternative fuels, incremental pricing limits the ability of the pipeline to pass through high prices for new gas. Constrained by the limits this places upon the passthrough of increased costs of gas, pipelines will be forced to bid responsibly for deregulated supplies of gas or face a loss of customers and an associated reduction in throughput volumes and profits.

A highly beneficial side effect of the bill's incremental pricing provisions is that they will protect residential gas users from sharp price increases. In fact, although residential gas bills will rise under the bill, in 1985 they will actually be lower under the bill than under a continuation of present law.

Under present law, interstate new gas prices at the wellhead have risen rapidly over the past several years and these prices have been passed through to residential consumers. In the future, regulated interstate prices would almost certainly continue to rise under the status quo, with residential consumers once again bearing the brunt of those increases but without any assurance that the interstate system would obtain increased supplies.

The Natural Gas Policy Act initially focuses wellhead price increase upon the historically underpriced industrial users of gas. As a result, in 1985, delivered residential gas prices under the bill are forecast to be actually $.04 to $.48 Mcf less under the bill than they would be under present law, assuming only moderate wellhead price increases under a continuation of the status quo.

Equally important is the effect of incremental pricing on the price of gas to industrial users. While protecting residential gas consumers from rapid price increases, the bill does not drive industry off natural gas and onto other fuels because gas will remain less expensive than alternate fuels. In contrast, the Senate deregulation bill, with or without incremental pricing, would have raised industrial gas users' prices far above those reached under this bill.

The natural gas conference report will not drive industrial users off natural gas and onto other fuels. Such a result would be contrary to the very purposes of the bill's provisions. Incremental pricing is not intended to achieve conservation of natural gas through forced conversions of industrial users to other fuels. Instead, it is intended to apply the leverage industrial customers have over pipeline management in such a way that pipelines will be forced to bid responsibly for new supplies of gas. Residential natural gas consumers are thereby protected from sharp increases in gas prices which would otherwise accompany deregulation. If incremental pricing in fact drove industrial users to other fuels, the leverage these users have with pipeline managements would be lost and the consumer protection aspects of incremental pricing would be seriously impaired. The conferees have provided several statutory guarantees against such an unintended result.

First, the mandatory requirements of incremental pricing apply only to boiler fuel users. Any broadening of incremental pricing to a broader universe of industrial users is subject to congressional review and single House veto.

Second, industrial boiler fuel use of gas represents only approximately 10 percent of total interstate gas deliveries. This 10 percent of use can exert the leverage necessary for incremental pricing to achieve its purposes. Yet the volume is not so large that pipeline management would be unable to compensate for a loss of even a substantial portion of these users.

Third, a broadening of incremental pricing to other industrial users will give added assurances against forced conversions. With more users sharing the load it is less likely that the price to any single user will get high enough to force conversion. Moreover, many industrial process and feedstocks users are dependent upon the clean burning characteristics of natural gas or its value as a feedstock. These users will pay a premium for their essential supplies of natural gas.

Fourth, under the bill incremental pricing is capped at the price of alternative fuels. Thus, natural gas will remain an attractively priced fuel even for incrementally priced industrial users.

Fifth, adequate flexibility exists for local distribution companies to engage in historical load balancing sales. The incremental pricing surcharge received by a local distribution company, based upon the volumes of gas sold by it to incrementally priced users, must be passed through to that class of users. However, so long as this class of users pays the surcharge (and not residential users), each member of the class of incrementally priced users need not share equally in the payment of the surcharge. Therefore, load balancing sales can still be accomplished. Residential and industrial consumers alike will share in the cost of reductions achieved by the transportation of additional volumes of traditionally intrastate gas which the bill will make avaliable to the interstate system.

The Natural Gas Policy Act provides reasonable price incentives, while avoiding windfall profits, and focuses the wellhead price increases on industrial users in such a fashion as to protect residential consumers from rapid price increases without driving industrial users away from natural gas. The bill also contains provisions which vest broad emergency powers in the President to deal with any future natural gas supply emergency. Agricultural users of natural gas are given greater protection against future curtailment of their essential natural gas supplies. Burdensome nonprice regulation of producers under the Natural Gas Act is eliminated with respect to future production. These and the other provisions of the bill contribute to a comprehensive set of natural gas policies reaching across a broad spectrum of energy issues.

This bill represents a balanced policy. I believe it offers the Congress and the Nation a singular opportunity to put to rest the divisive debate which has characterized U.S. natural gas pricing policy for nearly 30 years. I urge its adoption.

Mr. Speaker, during the hiatus since the conference report on natural gas was filed in the Senate, a number of questions have arisen regarding the meaning of certain sections. Therefore, Representatives STAGGERS, ASHLEY, ECKHARDT, and WILSON of Texas have joined with me in preparing a comprehensive explanatory statement addressing these questions. It is my hope that this statement will assist Members of the House during their consideration of this most important legislation:

EXPLANATION STATEMENT

DEFINITION OF NATURAL GAS

The bill defines the term "natural gas" identically to the Natural Gas Act definition in order to assure proper coordination between these related pieces of legislation. However, one aspect of the definition requires further explanation. Under the Natural Gas Act definition of "natural gas", artificial gas is not "natural gas" but a commingled stream of naturally produced gas and artificial gasses. One purpose of utilizing the Natural Gas Act definition was to prevent circumvention of the ceiling price rules by the simple expedient of commingling small quantities of artificial gas with naturally produced gas. If the definition of natural gas did not apply to such a commingled stream, a question could arise as to whether the ceiling prices of the bill applied to the sale of naturally produced gas contained in the commingled stream. Moreover if no sale of the naturally produced gas occurred prior to the commingling, a question could arise regarding the applicability of the bill at all. Furthermore, if the gas were sold in intrastate commerce, the just and reasonable standard of the Natural Gas Act would not apply, and circumvention of the bill might indeed succeed. The definition utilized in the bill prevents such a result.

One possible side effect of the use of this definition should be discussed in order that an unintended consequence not result. The use of the Natural Gas Act definition of "natural gas" assures that the bill's ceiling prices will not apply to sales of artificial natural gas not mixed with naturally produced gas. However, the question arises whether the ceiling prices will apply to the "first sale" of the mixture of artificial gas and naturally produced gas. It was not intended that the bill's ceiling prices, which are generally applicable to field sales, should be broadened to cover pipeline sales solely because the pipeline made bona fide purchases of artificial gas and commingled it with naturally produced gas purchased in the field. (The foregoing is in no way intended as a limitation upon FERC's authority under section 2(21)(A)(v).) Rather, application of the exclusion of section 2(21)(B) from the definition of the term "first sale" appears to indicate that any such unintended consequence will not arise. If a ceiling price did extended to the "first sale" of such a commingled stream, and assuming of course that no circumvention of ceiling prices is involved, FERC can deal with the matter through its flexible high-cost gas pricing authority and, to a somewhat lesser degree, through its discretionary authority to grant ceiling price adjustments under section 110. Even more directly, FERC can deal with this matter through its application of the definition of the term "first sale" so as to be consistent with the intent of the conferees.

SOUTHLAND PROVISIONS

Section 2(18(B)(iii) establishes an exemption from the definition of the term "committed or dedicated" which is used throughout the bill. The purpose of this provision is to deal with issues raised by the Supreme Court's decision in *California* v. *Southland Royalty Co.*, decided May 31, 1978.

The potential for extension of the holding of the *Southland* case has cast a cloud of uncertainty over the question whether natural gas production is interstate or intrastate in character. This in turn may hamper financing of new natural gas wells and cause disruption of gas supplies to intrastate natural gas consumers.

This legislation is intended to substitute a uniform natural gas pricing policy for the bifurcated system of regulation under the Natural Gas Act. The legislation seeks to encourage expanded exploration for, and development of, the Nation's natural gas resources and provide reliable supplies of gas to both interstate and intrastate markets. These objectives would be frustrated if the uncertainties created by the *Southland* case were not addressed.

Section 2(18)(B)(iii), in conjunction with the provisions of titles I and VI, especially sections 104, 105, and 601(a)(1)(A), prospectively resolve the question of the status of natural gas production. These provisions are intended to remove the cloud of uncertainty which would influence future investment decisions, hamper development of the Nation's natural gas resources, and impair the continuity of natural gas supplies to intrastate markets.

Recently some question has arisen respecting the scope of the bill's language dealing with *Southland*. It has been accurately pointed out that the bill's provisions are prospective only in their application and do not directly address the question of civil penalties, criminal prosecutions, and obligations for pay back for violations of the Natural Gas Act occuring prior to date of enactment. This has raised concerns that too much uncertainly remains. These concerns are unfounded for several reasons.

First, no civil penalty authority of any form exists under the Natural Gas Act.

Second, criminal sanctions under the Natural Gas Act may only be imposed for knowing and willful violations. It is generally

acknowledged that, prior to the *Southland* decision, producers did not normally regard their gas as dedicated to interstate commerce by the action of an earlier lessee whose lease had terminated. Thus, as both a practical and legal matter it is hard to conceive of instances in which the fact situations affected by an extension of the *Southland* decision could give rise to criminal penalities under the knowing and willful standard of the Natural Gas Act.

Third, the unavailability of the data respecting past dedications of gas to interstate commerce, which gives rise to the *Southland* problems, will as a practical matter also limit the ability of the Federal Energy Regulatory Commission to prove past violations of the Natural Gas Act. This very point has been conceded by FERC Chairman Curtis as confronting the Commission with "difficult policy choices in determining whether to allocate significant staff resources to search out and bring enforcement and remedial actions . . . in these cases."

Moreover, one further point should be considered. While the *Southland* provisions of this legislation prospectively immunize producers from enforcement actions brought under the Natural Gas Act based upon an extension of the principles of the *Southland* case, additional flexibility was needed respecting enforcement of past violations of requirements of the Natural Gas Act, for example in cases where the producer who had commenced deliveries of gas to interstate commerce diverted that gas to intrastate commerce. A Federal enforcement policy directed towards recovering a payback of natural gas volumes in conjectural circumstances (especially where it is clear the producer acted in good faith and without knowledge or notice that his gas might be regarded as dedicated due to the action of an earlier lessee under an expired lease) could frustrate the objectives of this bill. Producers faced with possible payback exposure would not be free to reinvest in new drilling activities the revenues derived from sales of historically intrastate gas. If this traditional financing mechanism is eliminated or seriously impaired, the supply objectives of this bill cannot hope to be achieved. Sudden supply disruptions in the intrastate market which could result from such an enforcement policy would also be inconsistent with the objectives of the legislation. With respect to past violations of the Natural Gas Act, it is appropriate that enforcement be accomplished through development of judicious enforcement policies by the Federal Energy Regulatory Commission in consideration of the objectives of the Natural Gas Policy Act. If FERC were to fail to consider the policy objectives of the Natural Gas Policy Act in its administration of related provisions of the Natural Gas Act, the Commission would not be carrying out its responsibilities under the Natural Gas Policy Act. The FERC will certainly bear these considerations in mind as it develops a policy of enforcement of the Natural Gas Act consistent with implementation of the Natural Gas Policy Act of 1978.

In addition, technical questions regarding the details of section 2(18)(B)(iii) have also arisen. Questions exist regarding the relationship between the terms "reversion" and "successor-in-interest".

The term "successor in interest" is intended to include any heir or assignee of a mineral interest of the person whose actions caused the commitment or dedication of the gas to interstate commerce. The term "successor in interest" is also intended to include a holder of a right to explore for, develop, produce or sell natural gas under a farm-out arrangement with the person whose actions cause the commitment or dedication of the gas to interstate commerce.

However, as indicated on page 71 of the Statement of Managers, the term "successor in interest" excludes "any interest owner who acquires his right pursuant to the reversion or any other termination of a natural gas leasehold interest, or any subsequent grantee of such interest owner who acquires his interest after the date of such reversion or other termination." Thus the term "reversion", as utilized in section 2(18)(B)(iii) is intended to include any process by which a natural gas leasehold interest or part thereof terminates and the lessee loses the right to explore for, develop, produce or sell natural gas from the acreage formerly covered by such lease or part thereof. Such processes include termination by voluntary release, by a judicial cancellation decree, or under the provisions of a lease which require termination if production is not established or if production is not maintained in paying quantities.

Thus, the successor in interest chain is intended to be broken upon reversion of the leasehold interest to the landowner. The term would then not apply to either the landowner, or a subsequent lessee who is not affiliated with the person by whose action the gas was dedicated to interstate commerce.

A technical question has arisen respecting the reason for applying the limitation "other than by means of any reversion of a leasehold interest" to the term "including any successor in interest" in the parenthetical modification of the term "person" used in section 2(18)(B)(iii). To understand the reason for this construction, it must be recognized that the "person" referred to in subclause (I) of clause (iii) is the same "person" previously referred to in clause (iii). Therefore, if a lessee has dedicated gas to interstate commerce and a successor to the leasehold interest of that person has the right to produce natural gas on May 31, 1978, the exception set forth in clause (iii) would not apply to the definition of committed or dedicated under section 2(18)(A). However, it was not intended that a landowner who has leased mineral interests should be considered a "successor in interest" upon expiration or reversion of the leasehold. Because state property law governs the status of the reversion of any leasehold interest, the conferees provided for the exclusionary language in question to assure that the landowner would not be considered a "successor in interest" under federal law even if there were not a merger of the leasehold interest with the underlying fee interest upon termination or reversion of the leasehold. Otherwise it was considered possible that under some state law a lessor-landowner might have been deemed to be a successor to the interest of his own lessee following termination of the lease. This was not intended to be the case for purposes of federal law. Finally, the exclusionary limitation "other than by means of any reversion of a leasehold interest" applies solely to the term "including any successor in interest" and is not an exclusion of lessors, who regain the mineral interests through reversion of a mineral lease, from the term "person". Clearly, if a person reacquired mineral rights through a reversion and thereafter dedicated the gas to interstate commerce, the exception set forth in clause (iii) would be inapplicable if that person, or any successor in interest of that person, had the right to produce the gas on May 31, 1978.

Some questions have also arisen concerning the meaning of the term "sold in interstate commerce" in section 2(18)(B)(iii)(II). This clause is intended to be based on the actual sale of gas in interstate commerce. Thus a contract and a certificate of public convenience and necessity authorizing the sale of gas that may be produced from a lease do not alone constitute natural gas being "sold in interstate commerce." The question is a factual one based upon whether actual sales of natural gas in interstate commerce had commenced and were ongoing on May 31, 1978. It should also be noted that gas being sold on May 31, 1978, within the meaning of section 2(18)(B)(iii)(II), may, in certain cases, include gas which was sold before and after May 31, 1978, but not on May 31, 1978, itself. For example, if gas were contracted for interstate sale before May 31, 1978, and deliveries commenced before May 31, 1978, and continued after May 31, 1978, with routine breaks in deliveries due to normal operational factors, including a break on the specific day of May 31, 1978, the gas was "being sold" in interstate commerce on May 31, 1978, although no "sale" occurred on that date.

The application of section 2(18) to natural gas subject to an option is the subject of other inquiries. Basically the resolution of this question depends upon the construction and legal effect of the "option". If the option is in the nature of a contractual obligation binding the producer to sell the gas to an interstate purchaser, it would appear that by its terms section 2(18) would apply to the gas. If not, section 2(18) might not apply. In either event, the question is largely academic since under section 601(a)(1)(B) nonprice regulation over the gas under the Natural Gas Act is terminated if the gas is new gas, high-cost gas, or produced from a new, onshore production well. In almost every case, the new gas or new, onshore production well category will apply. In such cases, the non-price regulation which would remain applicable would be the regulatory requirements imposed under section 315. The requirements of that section are far less burdensome than the certification, rate filing, and abandonment requirements of the Natural Gas Act.

DEFINITION OF NEW LEASE

The term "new lease" when used with respect to the Outer Continental Shelf is defined as "a lease, entered into on or after April 20, 1977, of submerged acreage." The question has arisen whether a lease issued after April 20, 1977, of previously leased OCS acreage, with respect to which a prior lease has expired, can qualify as a new lease. Under the definition such a lease is a new lease. In fact the Conference Report does not include a limitation contained in the definition in the House bill which would have excluded a subsequent lease of previously leased acreage from qualifying as a new lease. The limitation of the House bill was deleted in the belief that the recently enacted revision of the OCS laws is adequate to prevent abuses. The conferees anticipated that by regulating bidder eligibility and obtaining all relevant geological and geophysical data regarding the leased acreage from the original lessee, USGS can prevent abuses arising from efforts to achieve a price advantage by returning acreage to the government as unproductive and thereafter reacquiring drilling rights if the acreage is subsequently reoffered for lease. Other federal statutes, including the antitrust laws, racketeering statutes, and mail fraud provisions of the criminal code, provide additional protections against collusion by potential bidders seeking to obtain a price advantage by converting old OCS leases to new lease status. One additional point should be made in connection with the definition of the term "new lease". When the Conference Report utilized the term "lease", the conferees were referring to a lease issued by the Secretary of the Interior and *not* a sublease or farm out under that primary lease. Only new OCS leases directly with the U.S. government were intended to qualify for new gas treatment.

SECTION 101

Questions have arisen regarding the meaning of section 101(b)(5). This rule is intended to facilitate resolution of which ceiling price may apply if more than one ceiling price rule appears applicable. Whichever ceiling price could result in the highest price is the applicable maximum lawful price. Of course this does not impose

upon either the FERC or any state agency an affirmative obligation to identify which of several potential classifications should apply. It is up to the producer to apply for whatever designation he determines is most likely to be of greatest benefit to him (in most cases that will be the designation which also yields the highest price). If the state agency determines (and is not reversed by FERC) that the producer's gas satisfies the statutory requirements applicable to the category for which designation was sought, the producer may then charge up to the statutory maximum lawful price applicable to the category. It may also be possible for FERC and state agency implementing rules to permit a producer to seek and obtain more than one designation. Thus, a producer might be permitted to apply for both new, onshore production well status and new gas status. Assuming that the former will be relatively easy for the producer to demonstrate, and for the state agency to determine, satisfaction of the statutory requirements, such dual filing could permit the producer to collect the section 103 price applicable to gas produced from new, onshore production wells pending resolution of perhaps more difficult issues associated with the new gas determination. Another way in which dual determination requests could be appropriate would be in cases in in which one determination would yield a short term benefit, while another a long term advantage. Such could be the case where a new well produces new gas and also qualifies as a stripper well. A single proceeding to determine qualification for both designations would permit the producer to obtain stripper well pricing under section 108 prior to January 1, 1985, and deregulation as new gas thereafter. In the long run a single state proceeding might present less administrative burdens than a subsequent proceeding in which a classification not previously requested is sought. However, FERC is in the best position to determine whether administrative and enforcement difficulties would be presented by applications for, and approval of, multiple designations. Therefore this issue is one which FERC will certainly address as part of its implementing regulations.

Section 101(b)(9) sets forth the relationship between the ceiling prices established under the bill and contract terms. Questions have arisen regarding the application of section 101(b)(9) to sections 104 and 105. It is especially important, in terms of the transition from the present system to the national market established under this bill, that producers be able to continue their deliveries of gas to interstate and intrastate customers. Therefore the relationship between the bill and existing contractual arrangements covered by these sections is an important one. The rule set forth in section 101(b)(9) is that the legislation establishes *ceiling* prices. Contract prices may be lower than the federal maximum lawful price. In such cases the contractual arrangement between the parties continues to govern their relationship and is not superceded by the federal ceiling prices. Thus contract prices are superceded only in those instances in which the ceiling price is less than the contract price.

The FERC is intended to play an enforcement role with respect to the ceiling prices, not with respect to enforcement of private contracts per se. FERC has no direct enforcement duties under section 109(b)(9) since the provision merely sets forth a rule of construction and does not, in and of itself establish any requirements or ceiling prices. Of course, in some cases, for example under section 105, the statutory ceiling prices and contract prices will coincide. In those cases FERC's enforcement responsibilities under this legislation may require an inquiry regarding the meaning of contractual provisions. This inquiry is essential if FERC is to enforce the ceiling price where that price is based upon a contract between private parties. Nevertheless, it is contemplated that FERC's implementation of the bill will be accomplished with minimal interference with contractual relationships.

In particular, enactment of this legislation does not mean that sales of gas covered by sections 104 and 105 must terminate until FERC acts to authorize continued deliveries. Nor does enactment of the legislation mean that sales under existing intrastate contracts at prices higher than that provided in section 109 ($1.45 as of April 1977) will be rolled back to this level through the operation of section 503(e) until an FERC determination is made. It is contemplated that sales subject to these sections will continue without interruption. FERC can adequately fulfill its administrative and enforcement responsibilities by mechanisms other than certification prior to commencement of deliveries.

SECTION 102

There has been some discussion whether "new reservoirs" on "old OCS leases" in the Baltimore Canyon would be deregulated under the Natural Gas Policy Act. "New reservoirs discovered on or after July 27, 1976) on "old OCS leases" (leases entered into before April 20, 1977) would qualify for the new gas ceiling price under section 102(d). However, such gas would not be deregulated for pricing or non-pricing purposes.

On the other hand, "new gas", that is, gas produced from a "new lease" as defined under section 102(c), would be deregulated for pricing purposes under section 121(a)(1) as of January 1, 1985. This category of gas would also be deregulated for non-pricing purposes under section 601(a)(1)(B)(ii), effective as of the first day of the first month beginning after date of enactment.

SECTION 104

Section 104 establishes the ceiling price mechanisms applicable to natural gas dedicated to interstate commerce prior to enactment of the bill and for which a just and reasonable rate had been established under the Natural Gas Act. The applicable just and reasonable rate in effect in April 1977 is referenced as the base price to which the inflation adjustment factor is applied to yield the maximum lawful price in any future month.

The just and reasonable rate under FPC Opinion 770–A applicable to wells spudded on or after January 1, 1975, includes a $.01 escalator each calendar quarter. Moreover, technically speaking, Opinion 770–A establishes a just and reasonable rate of $1.62 per Mcf for this vintage. The $1.42 per Mcf price most commonly referred to is merely the base rate allowed under the decision discounted to its then present value. The $.01 per quarter escalator is designed to yield an average $1.62 per Mcf rate over the projected life of the average reservoir.

Accordingly, a question has arisen whether the just and reasonable rate referenced in section 104(b)(1)(A)(i) is to include the $.01 quarterly adjustment in the inflation adjustment under section 104(b)(1)(A)(ii). The answer is an emphatic NO. The conferees did not intend a double dip. The "just and reasonable rate * * * applicable * * * on April 20, 1977" is intended to incorporate by reference the $1.45 per Mcf price permitted in April 1977. This price is to be adjusted thereafter only pursuant to the inflation adjustment provided in section 104(b)(1)(A)(ii). (Moreover, lest there be any doubt, the conferees did not intend the reference to be to the $1.62 price either.) That the conferees intended to reference the $1.45 per Mcf price is supported by the construction of section 109, wherein the $1.45 price is set forth. Section 104 deals with area rates, national rates of several vintages, and special relief pricing. Therefore it was not possible or practical to specify each rate. Incorporation by reference was required. In the case of section 109, a specific rate was possible and the rate selected was the just and reasonable rate under Opinion 770–A applicable on April 20, 1977, i.e., $1.45 per Mcf. This assured that these sections would be consistent with one another.

A question has arisen respecting the pricing of interstate gas, presently subject to contract, including a warranty contract, at a price lower than the just and reasonable rate presently applicable to the gas, following expiration of that contract. As the preceeding paragraphs indicate, sections 104 and 106 would be applicable. Under section 101(b)(5), the section yielding the higher price would establish the maximum lawful price. If a contract is being satisfied with gas produced from wells of a vintage for which a higher just and reasonable rate has been established by the Commission, that just and reasonable rate is referenced as the basis for the maximum lawful price under section 104. Moreover, once the existing contract no longer limits the price (see section 101(b)(9)), the producer could charge and the purchaser could pay any amount up to the maximum lawful price which, under both sections 104 and 106, would be based upon the just and reasonable rate which, but for enactment of this legislation, would have been applicable. The exceptions to this rule are where the gas would qualify for price treatment as new natural gas, gas produced from a new, onshore production well, high-cost natural gas, or gas produced from a stripper well. In such cases the maximum lawful price would be established by sections 102, 103, 107 or 108, respectively.

SECTION 105

Another question has arisen relating to contract terms. Under section 105, a distinction is made for ceiling price purposes between, on the one hand, contracts under which the price paid for deliveries of gas on the date of enactment is greater than the new gas ceiling price on that date under section 102 and, on the other hand, contracts under which the price paid for deliveries of gas on that date is less than the new gas ceiling price.

The ceiling price mechanism under section 105(b)(1) is based upon "the terms of the existing contract . . . in effect on [date of enactment]". This phrase must be distinguished from the phrase "contract price" used in section 105(b)(2). The latter is date specific, referring to the price paid under the contract for gas deliveries on date of enactment. The phrase "the price under the terms of the . . . contract" used in section 105(b)(1) refers to the contract schedule of prices or contract mechanism for establishing prices *over time*. This schedule or mechanism is given effect with the single limitation that the price so established may not exceed the new gas ceiling price established under section 102. The contract price terms in effect on date of enactment would then be honored up to the new gas ceiling price.

The ceiling price mechanism under section 105(b)(2) is based upon the "contract price" on date of enactment. The "contract price" as used in this paragraph is defined in section 105(c) as the price paid under a contract for deliveries on that date. The annual inflation adjustment factor is applied to this base price to establish ceiling prices for future months. These ceiling prices supercede any future higher price which might be established under the contract. However, the new gas ceiling price under section 102, which is utilized as a ceiling price cap under section 105(b)(1), contains a more rapid price escalator than the annual inflation adjustment factor utilized in section 105(b)(2). Therefore, provision is made in section 105(b)(2) to switch from a ceiling price mechanism based upon the contract price on date of enactment (escalated only by the annual inflation adjustment factor) to a ceiling price mechanism based upon the new

gas ceiling price, when the ceiling price under the latter mechanism exceeds the ceiling price under the former mechanism.

While on the subject of section 105, it should be noted that the limitation on the operation of indefinite price escalator clauses under section 105(b)(3) does not take effect until January 1, 1985. Neither subparagraph (A) nor subparagraph (C) of section 105(b)(3) is effective until 1985 and the limitation set forth in subparagraph (C) of section 105(b)(3) is applicable solely for purposes of subparagraph (A) of section 105(b)(3). Section 105(b)(3) was included to limit the impact of deregulation in 1985 of intrastate contracts in existence on date of enactment. The conferees were concerned that, following deregulation, the operation of indefinite price escalator clauses, in existence on May 3, 1978, and contained in certain existing intrastate contracts, could operate to increase rapidly intrastate gas prices following deregulation. Section 105(b)(3)(A) puts a lid on that escalation. Subparagraph (C) of section 105(b)(3) was included solely to prevent modification in the operation of existing intrastate contracts containing such clauses on May 3, 1978, if the modification, by amendment or otherwise, would result in prices exceeding the limitation set forth in section 105(b)(3)(A). In such cases, the modification is to be disregarded and section 105(b)(3)(A) would limit the prices which could be charged under the indefinite price escalator clause of the contract in the same manner as if the modification had not occurred. Section 105(b)(3)(C) does not limit, or authorize FERC to limit, the future use of indefinite price escalators in new contracts. Under section 105(b) indefinite price escalators contained in an existing intrastate contract on date of enactment are to be given effect, up to the limitations set forth in sections 105(b)(1) and 105(b)(2). Indefinite price escalator clauses added to existing contracts after date of enactment may not affect the application of section 105(b) since under that section it is the terms of the contract in effect on date of enactment which govern. If the indefinite price escalator clause is contained in an existing intrastate contract on date of enactment, but was not contained in the contract on May 3, 1978, the limitation of section 105(b)(3)(A) would apply after 1984 but section 105(b)(3)(C) would be inapplicable.

SECTION 106

With respect to implementation of section 106, which, like sections 104 and 105, does not require any state agency determination under section 503, it was similarly intended that FERC's implementation of the requirements of the legislation not be burdensome. In particular, it was intended that section 106 should be implemented with minimal interference in the contractual relationships which exist at the time of rollover. To the extent similar situations exist, the principles which the conferees should guide FERC in implementation of sections 104 and 105 were intended to be applicable to implementation of section 106 as well.

Section 106(a) broadens the definition of the term "rollover contract", only for purposes of subsection (a), to include any contract which would have been a rollover contract but for the fact that the expiration of the previous contract occurred prior to enactment. Of course the generally applicable definition of a "rollover contract" is set forth in section 2(12) and limits the phrase to contracts which succeed a contract which expires on or after enactment of the bill. The broadening language of section 106(a) is merely a drafting device designed to avoid an anomaly which would otherwise occur. For example, but for the expressed applicability of section 106(a) to interstate contracts which expired before enactment any succeeding contract entered into after enactment would be held to the $.295 per Mcf rate for flowing gas, adjusted only for inflation under section 104. Since producers would be entitled to $.54 per Mcf rate under existing FERC regulations upon negotiation of a new contract, such a result would have been anomalous.

In determining the maximum lawful price applicable to an interstate rollover contract, it might appear that a potential for a price rollback exists under section 106(a). The provisions of section 104 provide for an escalation of the just and reasonable rate with inflation. At the time of rollover, the maximum lawful price determined under section 106(a) would be the applicable just and reasonable rate at the time of rollover (assuming that rate exceeds $.54 plus inflation). If the just and reasonable rate established by the Commission has escalated at a slower rate than inflation, the initial price for the rollover contract under section 106(a) would be lower than the maximum lawful price applicable to the expiring contract under section 104.

This apparent price rollback anomaly is avoided by the broad application of section 104. Section 104 is not limited to existing contracts and successors to existing contracts but is applicable to any interstate gas for which a just and reasonable rate exists. Therefore, section 104 can apply to interstate rollover contracts as well. In contrast, section 105 is limited in application to existing intrastate contracts and successors to existing intrastate contracts. Prices for rollovers of existing intrastate contracts are determined exclusively by section 106(b). Thus price determinations for interstate rollovers can be made under section 104 or section 106(a). Therefore, if, at the time of rollover, section 106(a) would result in a price rollback, section 104 remains applicable (in accordance with section 101(b)(5) and no rollback occurs.

SECTION 108

In section 108, the term "non-associated" gas is utilized. The conferees did not anticipate that this would be a burdensome standard for FERC to apply. State agency rules of thumb in this area may, especially at the outset, prove to be of valuable assistance to FERC. For example, in Texas a gas well is defined as one which produces at least 100 Mcf of gas per barrel of condensate or crude oil. A well with a greater ratio of oil to gas is classified as an oil well and the associated gas production is denominated casinghead gas. The Statement of Managers explains that *de minimus* amounts of oil production are not intended to disqualify gas from being deemed by FERC to be non-associated gas. Thus, coordination of the federal definition of "non-associated" gas with parallel concepts embodied in existing state regulatory practices could facilitate the initial implementation of the bill. If evidence gained from experience indicates a need for modification, FERC could then depart from existing state practices as it determines appropriate.

The intention of the conferees to respect and rely upon state agency determinations in areas of their historical expertise is demonstrated by the reference in section 108(b)(3)(A)(ii) to conservation practices "recognized or approved by the state agency having jurisdiction over the production of natural gas".

Section 108 also refers to "recognized enhanced recovery techniques". It was the intent of the conferees that, in giving definition to these terms under section 501, FERC should look to state agency recognition of certain techniques as enhanced recovery techniques for guidance.

SECTION 110

With respect to section 110, it has been correctly observed that the authority to permit adjustments is discretionary. However, by authorizing discretionary adjustments the conferees did not intend to authorize a refusal to grant appropriate allowances where such refusal would be an abuse of discretion. Thus, if the function performed is not usually performed by the producer without provision being made for compensation over and above the amount paid for the gas, prevailing industry practice may guide FERC to approve ceiling price adjustments which the Commission determines appropriate and consistent with the purposes of the legislation. For example, if the producer undertakes to compress the gas to pipeline pressure, and if an allowance is customarily made by the pipeline for such compression, the conferees anticipated that FERC would consider approval of an appropriate allowance under section 110. However administrative flexibility was deemed important. Therefore it was also intended that FERC could selectively focus on the areas which appear appropriate for approval of adjustments under section 110 in such a manner that the implementation of the section would not become administratively burdensome.

SECTION 202

Section 202 requires the Commission to prescribe an amendment to the incremental pricing rule required by section 201. The amendment is required to apply to the industrial use of natural gas, including boiler fuel use of natural gas by any industrial boiler fuel facility (as defined in section 201(c)(1)) and any industrial facility which is not exempt under section 206.

Because of the manner in which the section is written, some observers have questioned whether the reference in subsection 202(b) to "(as defined in section 201(C)(2))" could be read to require the expanded application to cover all natural gas boiler fuel use, and not just boiler fuel use by any industrial boiler fuel facility. The reference in subsection 202(b) has no operative effect unless read in conjunction with either paragraph 202(b)(1) or 202(b)(2). Therefore, any reading of the subsection which does not include the additional detail provided by the two paragraphs is incorrect. In other words, the expanded application required by subsection 202(b) is limited to boiler fuel use by any industrial boiler fuel facility. It is not intended to cover all natural gas boiler fuel use.

The same construction applies to the cross reference in subsection 204(h).

SECTION 311

Section 311 authorizes sales by intrastate pipelines to interstate pipelines or local distribution companies. A question of interpretation is presented by the language of sections 311(b)(2)(C) and 311(b)(7)(B). In section 311(b)(2)(C), FERC is required to permit an adjustment to the maximum fair and equitable price permitted to be charged by the intrastate pipeline so as to increase the revenue derived from the sale to offset certain added costs incurred by the intrastate pipeline in order to make the sale. These added costs must result from an increase in the intrastate pipeline's weighted average acquisition cost of gas due to the purchase of the volumes resold in the transaction authorized under section 311. On the other hand, under section 311(b)(7)(B), FERC is required to disapprove any application for an authorization of a sale under the section if FERC determines that the sale would involve natural gas "acquired solely or primarily" for the purpose of resale under the section. The Statement of Managers, at page 107, gives an illustration of what is intended by section 311(b)(2)(C). Thus, it is intended that intrastate pipelines, which have existing contracts or negotiate contracts containing provisions either for take-or-pay volumes or for higher volumes (than are currently being taken) to be available upon demand, should be allowed to take these volumes under the terms of the contract if the terms were negotiated without regard to the possibility of disposing of the additional volumes through sales authorized under sec-

tion 311(b). This is consistent with section 311(b)(7) since FERC could make a determination that these volumes were not acquired "solely or primarily" for the purpose of resale under section 311(b). Another distinction that may be useful in applying sections 311(b)(2)(C) and 311(b)(7)(B) is that section 311(b)(2)(C) deals with the price effect of increased deliveries necessary to carry out a sale under section 311(b), while section 311(b)(7)(B) deals with the purpose for contracting for gas supplies.

Section 311(b) gives FERC authority to authorize intrastate pipelines to sell natural gas to interstate pipelines and local distribution companies under certain conditions. Section 311(2)(A) provides that the selling pipeline's price shall not exceed the sum of its weighted average acquisition cost of natural gas plus two additional adjustments. In some cases, the selling intrastate pipeline company owns or controls several pipeline systems which are not interconnected and gas from these systems is not commingled. The question has arisen as to whether FERC could permit the selling company to sell gas from such separate and distinct pipeline systems at the weighted average acquisition cost of the separate system from which the gas is actually sold.

The authority of section 311 is broad and is supplemented by the general rulemaking powers vested in the Commission in section 501 of the Act. It is anticipated that this authority, in conjunction with the authority to define terms used in the legislation, will afford FERC substantial discretion with respect to the implementation of section 311 in particular cases. Therefore, FERC could make such a determination with respect to the treatment of weighted average acquisition costs.

SECTION 315

Questions have arisen respecting the implementation of section 315. This section was included principally to assure a degree of continuity of gas supplies to the interstate system despite non-price deregulation of certain categories of gas, including new gas, previously dedicated to interstate commerce. Pipeline investments and commitments to users have been predicated upon the volume of dedicated gas, not merely on the volume of presently flowing gas. It has been correctly observed that, in conjunction with the Commission's authority under sections 501 and 503, section 315 provides a mechanism to protect the security of present interstate pipeline supplies. A concern has been expressed, however, that these authorities could be used by the Federal Energy Regulatory Commission to apply non-price requirements to sales of intrastate gas to the same degree that such requirements are applied to sales of gas previously dedicated to interstate commerce. This construction would go far beyond the purpose of section 315. The non-price regulatory powers exclusively over previously dedicated gas given the Commission under section 315 were not intended to authorize the imposition of non-price conditions on sales of previously intrastate gas by applying to such sales the same non-price conditions authorized under section 315 for dedicated interstate gas. The Commission's authority to impose non-price regulatory requirements under section 315 on intrastate gas is limited to prescribing minimum contract duration under section 315(a) and requiring the filing of contracts and ancillary agreements under section 315(c). Of course, the Commission's authority over price-related matters is not so limited.

Although the provisions of section 315(b) are intended to provide mechanisms to assure continuity of adequate supplies of previously dedicated gas to interstate pipelines, the provisions of section 315(b) do not apply to gas produced from the OCS which was not dedicated to interstate commerce under the Natural Gas Act prior to enactment. Of course, the Commission's authority remains intact, a point underscored limited. Some concern has been expressed that consequently FERC will be unable to assure continued deliveries of gas produced from the OCS. This concern is not well founded for two reasons. First, under this bill, FERC can prescribe the minimum contract duration. Second, FERC retains its transportation certification authority under section 7 of the Natural Gas Act. That authority was relied upon by both FERC and its predecessor, the FPC, to impose a wide range of conditions upon the transportation of gas in interstate commerce. This authority remains intact, a point underscored by the Statement of Managers language on page 111.

SECTION 503

With respect to section 503(e), it is intended that a concurrent resolution make section 503(e)(1)(B)(ii) applicable on a permanent basis, and not merely during the 90 day period following enactment. The refund requirement of section 503(e)(3)(B) is intended to apply to any funds collected in excess of the maximum lawful price for which the gas qualifies. In the event a concurrent resolution does not remove the 90 day limitation upon the applicability of section 503(e)(1)(B)(ii), it is anticipated that the FERC will promptly act under the authority of section 503(e)(2) to provide a replacement interim collection mechanism upon expiration of section 503(e)(1). Moreover, it is anticipated that FERC could, under its rulemaking authority under section 501, condition availability of the alternate interim collection mechanism under section 503(e)(2) upon an agreement by the producer to refund amounts collected, pursuant to section 503(e)(3), in excess of the applicable maximum lawful price and not merely the section 109 price.

In section 503(e)(1), with regard to collection of the section 109 price prior to a determination under section 503(a)(1), the bill states that collection of such price is subject to refund to the extent that the maximum lawful price for the gas is determined to be lower than the section 109 price. Although there is no requirement in section 503(e)(1) that the Commission establish procedures to assure that adequate funds for any such refund are available (as there is for the second interim collection mechanism in section 503(e)(2)), the conferees intend that, under the general rulemaking authority of section 501, the Commission will establish such procedures as are necessary to assure an adequacy of funds. No negative inference should be drawn from the absence of such a requirement in section 503(e)(1).

In addition, a number of questions have arisen regarding the relationship between FERC and the state agencies to which significant responsibility is entrusted under section 503. It must be acknowledged that cooperation between the Commission and state regulatory agencies will be essential to the successful implementation of the bill. It may be anticipated that the state agencies with specialized expertise and years of practical experience in related forms of regulation can and will properly discharge their responsibilities. Unnecessary federal interference with state agencies could undermine the cooperative spirit necessary for implementation of the bill and commencement of the rationalization of the Nation's natural gas pricing policy. It is the intention of the conferees that FERC implement the bill with an awareness of this fact.

Moreover, cooperation between FERC and state regulatory agencies may greatly simplify FERC's task of implementing the bill. For example, recognition of state agency practices in applying the technical concept of true vertical depth, could minimize interference with present industry practices, avoid wasteful expenditures and facilitate attainment of the objectives of the legislation. Absolute certainty in this area it is not required (and may not be possible). Substantial evidence of depth will suffice. The legislation is flexible enough to enable FERC to determine that certain evidence, although not conclusive of depth due to normal, allowable deviations from the vertical occurring during drilling, is adequate for a determination under section 503 to be based upon it.

Similarly, with repect to determining whether production in commercial quantities has occurred, the implementation of the bill could be simple or very complex, depending upon the degree of federal-state cooperation. A rebuttable presumption is established under section 101(b)(2) that, if the gas was not sold, production did not occur in commercial quantities. However, this presumption could be rebutted, for example, through a showing that the gas was produced but not sold because it was used by the producer for a nonfield use, e.g., to fuel a crude oil refinery or petrochemical plant. A corollary rule, drawn from state regulatory practices could simplify determinations where the gas has been sold. The bill does not contemplate that a profitability inquiry would be required to determine whether gas was produced in commercial quantities from each of the 250,000 potential marker wells in Texas alone. Instead, at least for purposes of establishing on a prima facie basis that a well must be considered to be a marker well, state regulatory practices could be relied upon. On that basis, evidence of the sale of the gas and payment of severance tax thereon would suffice, absent evidence to the contrary, to show prior commercial production.

The legislation does not contemplate that FERC will intrude into the traditional conservation functions performed by the states. This is a matter reserved to the state agencies who, in the exercise of their historical powers, will continue to regulate such matters as drilling locations, completion techniques, production rates, etc. Of course, the Secretary of Energy is authorized under section 505 to intervene as a matter of right in state prorationing proceedings. This intervention authority, however, does not grant the Secretary any substantive powers or displace any state authority.

SECTION 504

Section 504(b) lists various types of civil enforcement actions which may be instituted by the FERC. With respect to certain of these actions, section 504(b) specifically provides that the FERC may initiate enforcement action in the U.S. District Court for the District of Columbia, among others. With respect to other enforcement actions, however, there is no specific reference to the U.S. District Court for the District of Columbia. While it is appropriate that the FERC have the specific option to initiate certain enforcement actions in the U.S. District Court for the District of Columbia, the lack of a specific reference to such court should not be construed to mean that the FERC would be *precluded* from initiating action in that forum. Subject to the normal rules of venue, the U.S. District Court for the District of Columbia may be an appropriate court for the initiation of any enforcement action.

With respect to the standard of culpability required for criminal prosecution under the Natural Gas Policy Act, a question has arisen as to the meaning of the term "willfully" in section 504(c). As noted on page 122 of the Joint Statement of Managers, it is intended that the phrase have the same meaning as in section 21 of the Natural Gas Act. Accordingly, the term "willfully" does not imply that the accused must have had a bad or evil purpose; rather, it means that the accused acted intentionally, voluntarily, or with a careless disregard or indifference to statutory obligations. Earlier debate in the Senate which

seemed to imply a higher standard of culpability, such as that at page S. 15219 of the *Congressional Record* was directed to the intentional nature of the conduct and should be read in that context.

SECTION 506

Section 506(a)(1) does not now fully reflect the separate judicial review procedures established under section 503. Section 506(a)(1) should have included a paranthetical exclusion "(other than a final finding by the Commission under section 503(b)(1), an order assessing a civil penalty under section 504(b)(6), or an order under section 302 or 303)". A similar exclusion "(other than an order under section 504(b)(6) assessing a civil penalty)" should appear in section 506(b). However, the conferees are confident that these modifications are not essential to the proper operation of section 506 judicial review provisions. Applying the rule of statutory construction that the specific controls the general, the conferees believe that the courts will properly apply these sections in a manner consistent with the explanation found on pages 118–119 of the Joint Statement of Managers. In particular the judicial review requirements of section 503(b) are intended to be distinct from the judicial review provisions set forth in section 506. Accordingly, section 503(c)(4) specifically provides that judicial review of section 503 determinations is to be available only under the provisions of section 503(b).

Similarly, the trial de novo judicial enforcement mechanism of section 504(b)(6)(F) is intended to be the exclusive mechanism for judicial review of FERC orders assessing a civil penalty.

SECTION 601

Section 601(b)(1)(E) of the Natural Gas Policy Act of 1978 provides that, for the purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if the price paid does not exceed the applicable maximum lawful price and, in the case of an affiliate sale, "such amount does not exceed the amount paid in comparable first sales between persons not affiliated. . . ."

In discussing section 601(c), the following statement appears on page 124 of the statement of managers on this Conference Report:

The conference agreement guarantees that interstate pipelines may pass through costs of natural gas purchases if the price of the purchased natural gas does not exceed the ceiling price levels established under the legislation which are deemed "just and reasonable" for purposes of the Natural Gas Act. . . . The conferees do not intend to guarantee passthrough of costs of natural gas purchases in cases of fraud or abuse as determined by the Commission. This recovery must be consistent with the incremental pricing provisions of Title II; however, Title II is structured to permit recovery of all costs which a pipeline is entitled to recover.

This statement is clear. The recovery for affiliate production, to which a pipeline is entitled under section 601(b)(1)(E), is assured if it meets the tests of section 601(b). However, there is language appearing in section 203(b)(2) (relating to incremental pricing) which could be misinterpreted. Under the headnote "Interstate Pipeline Production," paragraph (2) of such subsection reads as follows:

For purposes of this section, in the case of any natural gas produced by any interstate pipeline or any affiliate of such pipeline, the first sale acquisition cost of such natural gas shall be determined in accordance with rules prescribed by the Commission.

Under section 203(b)(2), the authority of the Commission is clearly limited to promulgate rules "for the purposes of this section". As the statement of managers makes clear, the rules promulgated to implement incremental pricing under Title II must be consistent with the guarantee contained in Title VI that interstate pipelines may pass through all prices paid that are just and reasonable under sections 4 and 5 of the Natural Gas Act. Therefore, the language that appears in section 203(b)(2) is limited in its applicability to the requirement that the Commission establish rules to implement the incremental pricing authority contained in Title II.

Finally, Mr. Speaker, a number of questions have arisen respecting technical problems in the legislation. It is my intention to introduce a concurrent resolution to correct these. The following is an explanation of the typographical and other technical corrections which the concurrent resolution is intended to make.

The matter after the enacting clause and before section 1—relating to the short title and table of contents—should be struck. This should be done for H.R. 5037, H.R. 5146, and H.R. 5289 to avoid duplicative enactment of private relief measures contained in the original House bills to which the Senate added its energy bills for purpose of facilitating a conference. The matter to be deleted has already been separately enacted on other legislation. Because of the limitation of the scope of the conference, the problem could not have been addressed in the conference report.

In section 2(12), definition of a rollover contract, the words "the day before" should be inserted after the words "in effect on" to conform with the definition of "rollover contract" with the definition of "existing contract."

In section 107(c)(4) the "and" should be an "or". Similarly in section 110(c)(1), the "and" should be an "or". In each case the disjunctive construction was intended.

In section 121(a)(3)(B) the word "which" should be inserted before the phrase "would have been." This is purely a correction of a typographical omission.

In section 204(c)(5) the words "for purposes of apply subsection (d)(2)" should be struck. They add no meaning. Section 204(c)(5) is not used for that purpose, so the phrase is somewhat confusing and should be deleted.

In title III, the definition of high priority user is found in section 303. That term is used in sections 301 and 302 as well. The definition in section 303 was intended to apply to those sections and not merely section 303. The definition should be made applicable to these sections.

In section 315(a)(3), the cross reference to section "102(b)" should be to section "102(c)."

In sections 503(b)(4)(A), 503(b)(4)(B), and 506(a)(4), the "District of Columbia circuit" should read the "District of Columbia Circuit." The word "circuit" should be capitalized.

In section 503(e)(2)(B), a comma should be inserted after the phrase "title I."

In section 504(b)(6)(D), the word "which" should appear before "such statement." This is purely a correction of a typographical omission.

In section 504(c)(2), the cross reference to subsection "(b)(4)(E)" is intended to be to subsection "(b)(6)(E)."

In section 601(b)(1)(A) the cross reference to "paragraph (4)" is intended to be to "subparagraph (E)."

With respect to section 503(e), it is intended that a concurrent resolution make section 503(e)(1)(B)(ii) applicable on a permanent basis, and not merely during the 90-day period following enactment. The refund requirement of section 503(e)(3)(B) is intended to apply to any funds collected in excess of the maximum lawful price for which the gas qualifies. In the event a concurrent resolution did not remove the 90-day limitation upon the applicability of section 503(e)(1)(B)(ii), it is anticipated that the FERC would promptly act under the authority of section (e)(2) to provide a replacement interim collection mechanism upon expiration of that provided by section 503(e)(1). Moreover, it is anticipated that FERC could, under its rulemaking authority under section 501, condition availability of the alternate interim collection mechanism under section 503(e)(2) upon an agreement by the producer to refund amounts collected, pursuant to section 503(e)(3), in excess of the applicable maximum lawful price and not merely the section 109 price. Therefore, both modifications are purely technical.

HISTORY OF LEGISLATION

Mr. Speaker, I want also to discuss several features of this legislative package other than natural gas. But before doing so, I want to provide some history about this legislation for future legislative history purposes.

After President Carter sent his proposal to Congress on April 20, 1977, it was introduced on May 5, 1977, as H.R. 6831. This bill was referred to four committees. These committees filed reports on the bill in July 1977 (see H. Rept. 95–496, parts I through IV). The Commerce Committee's report is part IV. Thereafter, H.R. 6831 was combined with another bill, introduced as H.R. 8444, and referred to the ad hoc committee. That bill was reported on July 27, 1977 (H. Rept. 95–543). It included the Commerce Committee legislation almost unchanged. On August 5, 1977, H.R. 8444 passed the House.

In the Senate the parts of H.R. 8444 that originated in the Commerce Committee were separated and added to four private relief bills (H.R. 5146, H.R. 5289, H.R. 5037, and H.R. 5289). After Senate passage of these bills and H.R. 5263, the House added H.R. 8444 to each of these bills and asked for a conference. We are considering the conference reports on these bills today.

I stress that the Commerce Committee's report of July 19, 1977, on these parts is still quite pertinent to many of the provisions of these reports, particularly in the area of coal conversion and appliances.

COAL CONVERSION—THE POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

EFFECTIVE DATE

This bill, H.R. 5146, is effective 180 days after enactment. However, the bill provides, in a number of provisions, that the DOE and others must adopt regulations of rules prior to this date in order to implement the act. I stress that the conference report (S. Rept. 95–988) has

been available in the Senate for some time. Therefore, it should not be difficult for the DOE to carry out this responsibility in a timely fashion. Those rules must be published in accordance with 5 United States Code 533.

ADMINISTRATIVE PROCEDURES

The conference agreement provides specific procedures for issuing prohibition orders and rules and for granting petitions for exemptions. These procedures are to be used in lieu of section 501 of the Department of Energy Organization Act.

The procedures are designed to insure that all persons, including opponents and proponents of a proposed prohibition or exemption, have a full opportunity to express their views and to challenge the DOE and others. The DOE is given 6 months to decide on a petition, once the public comment period is completed. This deadline can be extended. However, generally 6 months after the full public comment period should be sufficient, provided, of course, that the participants do not use delaying tactics.

INFORMATION

I want to stress that the conference agreement makes it clear that section 11(d) of ESECA, not the Federal Energy Administration Act, applies to information collected for this program. I sincerely hope that no one at the DOE will seek to circumvent this requirement as has been done in the case of other data.

CONSERVATION IN FEDERAL FACILITIES, ET CETERA

The conference agreement provides that Federal facilities comply with this title to the same extent as would be the case of a nongovernmental entity. Such facilities will be subject to the statutory prohibitions and the prohibitions by rule and order. They are also eligible for exemptions.

In addition, a Presidential order is required within 30 days after the effective date requiring all Federal agencies provide financial aid to anyone to promulgate regulations to effectuate the purposes of this act, particularly sections 102(b) (6) and (9).

Of particular concern to me is the extent to which EPA funds the use of natural gas and petroleum to incinerate sludge, unless, of course, such gas or methane is entirely derived from the treatment process itself. In July 1977, the EPA said:

Of the 135 existing incinerators in operation, 9 use both gas and oil, 61 use gas, 57 use oil, 2 are electrically powered and 6 have alternate fuel arrangements such as solid waste utilization or reliance on self-sustaining operation;

Of the 92 future incinerators being planned, 14 will use both oil and gas, 16 will use gas, 38 will use oil, 10 will be electric and 14 will have alternate fuel arrangements;

There are at least 25 existing incinerators not in operation;

The present annual fuel consumption of the incinerators is 4,696 million cubic feet of gas, 15,358 thousand gallons of oil and 2,458 thousand KWH of electricity; and

The known additional future fuel consumption for incinerators is projetced to be 1,368 million cubic feet of gas, 24,684 thousand gallons of oil and 2,612 thousand KWH of electricity on an annual basis.

I believe that this is a misuse of natural gas and expect that the EPA regulations will deal with this problem. I look forward to them.

IMPACT ASSISTANCE

The language in section 601(a), titled assistance to areas impacted by increased coal or uranium production, specifies that an area within a State may be eligible for assistance in one of two ways. First, coal or uranium related employment has increased for the most recent calendar year by at least 8 percent from the immediately preceding year.

The 8-percent criterion was developed in 1977 after examining the employment patterns of 1975 and 1976. The purpose was to provide assistance to communities facing the most severe impacts at that time from expanding coal development. These communities continue to need assistance like that provided in this bill. Additional communities facing more recent growth impacts may become eligible based on 1976–77 changes in employment levels. The actual employment situation varies greatly not only from State to State, but from county to county. The conferees intend that the Secretary of Agriculture, in prescribing rules on eligibility for assistance, shall permit flexibility, to the greatest degree possible, in qualifying for assistance under this criterion.

The section also contains a second criterion on eligibility for assistance, under which the Governor of a State may designate an area as eligible if coal or uranium related employment is projected to increase by at least 8 percent during each of the 3 following years.

The Governor of a State was given the discretion to elect either of these criteria, depending upon his judgment of the situation in his own State. If the first criterion cannot be satisfied in retrospect, but the second criterion can be satisfied prospectively, then the second is sufficient for purposes of the section. Since the second criterion requires the Governor to project employment increases for the next 3 years, the conferees intend that the Governor be required to give his best estimate, but recognize that certainty about future data projections is impossible. Once the Governor has designated an area and satisfied the Federal administrative requirements set out in the bill, then the Secretary of Energy, after consultation with the Secretary of Agriculture, must approve the Governor's designation. The conferees also intend that, to the greatest extent possible, these Federal administrative requirements not be unduly complex or burdensome.

AUTOMOBILE MINIMUM STANDARDS

Mr. Speaker, the conservation conference agreement (H.R. 5037) includes a provision which I drafted in the conference concerning increases by the Secretary of DOT of civil penalties for violations of EPCA's fuel economy standards. Before exercising this authority, the DOT Secretary must first publish a proposed rule. This requirement applies to the first rule and any amendment thereof. This publication must include a detailed statement of the basis for the rule. By this we mean that the DOT must provide the data and analysis it has developed to support the rule and any proposed findings.

Thereafter, there is an opportunity for the public to submit written comments on the proposed rule and findings. After this written comment period, an opportunity must be provided for the public to request public hearings. Once requested, the DOT must hold them, including possible hearings, outside Washington, D.C.

At these hearings, the participants will have an opportunity to cross-examine various consultants or experts, including those of the DOT and, of course, the manufacturers. The DOT has some authority to limit questioning where duplicative or not likely to result in timely and effective resolution. He must act reasonably in exercising that authority.

The rule and findings must be based on the entire public record and it must be supported by reliable, probative, and substantial evidence. The findings are of equal importance. One should not be given greater weight over the other. I cannot stress too greatly the importance of these findings and the procedures we established. I expect that will be adhered to.

H.R. 4018—PUBLIC UTILITIES REGULATORY POLICIES ACT

Mr. Speaker, the conference report on the bill, H.R. 4018, relates to the public utility sector of the energy industry. This conference report represents the results of long and hard work by many Members of the House and Senate to begin to address the vital issues of energy conservation, increased efficiency in the use of facilities and resources, and equity in the rates charged, by public utilities.

The main focus of the conference report is with regard to electric utilities, a sector of our economy which consumes over 28 percent of our primary energy resources, supplying about 12 percent of the national end-use demand for energy. The electric utility industry is one of the most capital-intensive industries in the United States, using approximately 30 percent of all new capital raised by private industry.

The President, the House, and the Senate have all been in agreement that efficiency in the generation, transmission, and use of electric energy is critical to this Nation's attempt to reduce imports of foreign oil. In 1975 alone, 510 million barrels of crude oil were consumed by electric utilities, which amount was approximately 11 percent of our total U.S. consumption of crude oil in that year. Not only do utilities consume vast amounts of crude oil and petroleum products to generate electricity but also they consume vast amounts of natural gas, in 1975, approximately 3.2 trillion cubic feet or 16 percent of total U.S. consumption of natural gas.

We are dealing with an industry where electric consumption has doubled every 10 years in the recent past and where most demand projections show average annual growth of 5 or 6 percent in electric energy consumption over the next decade or double the growth projections for energy demand in general.

At the same time, costs have risen dra-

matically. Average rates have grown over 38 percent in the recent 2-year period of 1973–75. Over the 8-year period of 1961–68, regulators across the Nation granted rate increases of about $16 million per year, or $126 million total, to the investor-owned utilities. During the most recent 8-year period — 1969–76, State commissions allowed $1.4 billion per year in rate increases, for a total of $11 billion—reflecting much higher costs of providing service.

Therefore, the reduction in efficiency and the extraordinary rise in costs experienced by electric utilities in recent years have resulted in developments which concern us all. First, higher costs have meant much higher electric bills for the consuming public. The impact of higher bills has been most severe on low income families, requiring a greater percentage of their disposable income to be spent in meeting energy needs. Second, increasing use of relatively energy-intensive capacity for peaking due to nonuniform loads has resulted in consumption of scarce fuels, thereby exacerbating the already serious problems of declining domestic revenues of such fuels and increasing reliance by the United States on imported fuels. Third, declining load factors have resulted in costly, and perhaps unnecessary, expansion of capacity.

Not only have the President and the Congress been concerned with conserving energy use by electric utilities and increasing efficiency in the operations of electric utilities. We are also concerned with the need for equitable rates to the over 84 million electric customers throughout the United States, rates which do not discriminate against certain classes of users by providing unjustifiable subsidies to other classes of users, subsidies which not only are inequitable but also encourage the wasteful use of this energy resource.

We, in the Congress, have been made aware in our hearings and otherwise that in order to serve America's need for electric energy, this industry will be required to build new and expensive facilities. Without some reduction in the growth of demand for electricity and a consequent lessening in the rapid need for new facilities, the financing of any program under the Power Plant and Industrial Fuel Use Act—a conference report before you today—would be extremely difficult and expensive. The conference report on the bill H.R. 4018, the Public Utility Regulatory Policies Act, is designed to lower the need for new facilities and reduce energy consumption by making more efficient the generation and delivery of power by utilities and the consumption by making more efficient the generation and delivery of power by utilities and the consumption of power by its customer.

Many have asked why the President's National Energy Act included provisions with regard to electric utility rate reform. Let me quote from the national energy plan of the President:

> The smallest users commonly pay the highest unit price due to practices such as declining block rates. Rates often do not reflect the costs imposed on society by the actions of utility consumers. The result is waste and inequity.
>
> Electric energy is difficult and expensive to store, so a utility's need for plant and equipment is determined by its peake demand. If electricity consumption during peak periods were reduced, fewer costly new additions to utility capacity would be needed. Equally important since peaking units commonly burn oil and gas, a reduction in peak demand would have these scarce fuels.
>
> In an era when economies of scale reduced costs for additional supplies, promotional block rates may have made good economic sense, but in a time of increasing costs of new capacity and high fuel costs, these concepts must be reexamined.

In the House of Representatives, this issue has been under intensive consideration for a number of years. In 1976, the Congress enacted a provision of law, title II of the Energy Conservation and Production Act, which called for a study of rate reform policies and authorized the Secretary of Energy to intervene in rate proceedings to advocate rate reform. Three years ago, I introduced a comprehensive public utility regulatory policies bill. After 2 weeks of hearings in the 94th Congress on that bill, I reintroduced a rewritten bill in the 95th Congress. Other Members of this body and the Senate have been similarly trying to deal with this issue in legislative proposals.

With respect to this conference report before you today, the House and the Senate had sharply different methods for dealing with this common goal of increasing efficiency in the generation, transmission, and use of electric energy.

The House bill contained provisions: establishing national minimum retail electric rate design standards and policies; expanding the authority of the Federal Energy Regulatory Commission to prescribe rules and procedures regarding improved efficiency and competition in generation and transmission of electricity at the wholesale level; authorizing the Department of Energy to make certain grants to assist the States to carry out the requirements of the bill; and authorizing the Department of Energy and consumer participants to intervene in State proceedings.

The Senate bill set forth three broad national purposes and three purposes related to lifeline rates which were to be advocated by the Secretary of Energy through intervention as a party in ratemaking proceedings before State regulatory authorities. The Senate bill also contained provisions with respect to giving the Federal Energy Regulatory Commission the authority to order interconnections among electric utilities.

The conference report is a compromise between the House and Senate versions in the truest sense of the word. Neither the House nor the Senate retained the provisions of their own bills but a melding of the underlying philosophies of the two bills took place. The House did not prevail in its efforts to establish mandatory Federal standards with regard to retail rates of electric utilities but the House did move the Senate to a position as stated in the conference agreement by which there will be mandatory consideration of retail ratemaking concepts. The Senate accepted the House position with regard to consumer intervention, participation, and compensation so that, in proceedings at the State level, issues which relate to the standards or other concepts which carry out the purposes of the act can be effectively raised. With regard to the provisions of the bill relating to authorities of the Federal Energy Regulatory Commission to order interconnection, wheeling arrangements, and pooling arrangements, again the conference report represents a middle ground whereby orders with respect to interconnection and wheeling can be issued if energy would be conserved, efficiencies in the operation of facilities and resources would occur, or reliability would be increased.

Let me address a few minor points which I think deserve clarification. With regard to one particular provision in title I of the conference report, some questions have been asked about the conference committee's intentions with respect to the termination of service provisions in section 115(g). I would like to clarify the conferees' intentions in this respect. The standard in the bill would prohibit termination of service during any period when it would be especially dangerous to health, and the consumer demonstrates that he is unable to pay his bill on time. The State regulatory authority would be expected to determine, in accordance with the circumstances prevailing in its State, the particular periods of time when termination is especially dangerous to health.

The conferees intend that this standard, if adopted by a State regulatory authority, will serve the humane purpose of avoiding termination of service, especially where elderly or handicapped persons are involved, during those times when serious adverse health effects would result from such termination. The conferees do not intend by this provision that inability to pay for service should prevent termination when the especially dangerous period has ended.

The underlying philosophy of this bill is that consumers should pay for the cost of the electricity they consume. In recognizing that termination of service can at certain times be especially dangerous to health, the conferees have attempted to provide a narrow exception to this philosophy dictated by humane concerns.

With regard to another provision of the conference agreement found in section 202, I would like to clarify one point for the purpose of making legislative history. Section 202 amends the Federal Power Act by adding a new section 210 to that act dealing with interconnections. Subsection (c)(2)(C) of this new section describes improvement in reliability as one basis for an interconnection order and uses language about "the reliability of any electric utility system to which the order applies." The conferees intend that the word "applies" is meant to cover utilities on either side of the interconnection rather than merely the utility or utilities which might be named in the order.

I think I should clarify the intention of the conferees with regard to section 212(f) of the Federal Power Act as added by section 204 of the conference report. The conferees intended that the Tennessee Valley Authority, as any other utility, would be subject to interconnec-

tion and wheeling orders under sections 210 and 211 of the Federal Power Act, as added by sections 202 and 203 of the conference report. However, it was brought to the attention of the conferees that the third sentence of section 15d(a) of the Tennessee Valley Authority Act of 1933 contained a limitation with respect to the TVA making contracts for the sale or delivery of power which would have the effect of making it a source of power supplies outside the area for which it was the primary source of power supply.

The conferees do not intend to override this sentence of the TVA Act. The conference report and the statement on the part of the managers are clear in this matter that the restriction on putting into effect orders with regard to the TVA be barred with reference to the limitations contained in that sentence. The limitation, however, does not go beyond this sentence. It does not affect the exchange provisions of the act. If TVA is directed, pursuant to an order under section 210 or 211, to transmit electric energy which is purchased by any person from a seller of electric energy—other than the TVA or its distributors, I do not believe that the conferees intend and I as one conferee certainly did not intend that this transmission by itself be construed to make the TVA or its distributors, directly or indirectly, a source of power supply for the purpose of the prohibition contained in the third sentence of section 15d(a) of the TVA Act.

Another point of clarification that I would like to make deals with section 211(b) of the Federal Power Act, as added by section 203 of the conference agreement. I believe that the intention of the conferees was to authorize wheeling orders under subsection (b) when the utility's supplier gives actual or constructive notice that he is unwilling or unable to supply the electric service desired by the applicant and the applicant has requested the other utility to provide wheeling services. The term "electric service" is not meant to mean any electric service but rather electric service adequate to meet the needs of the applicant.

Just one last thing should be noted. With some regret I observe that my dear friend, the gentleman from Ohio (Mr. BROWN) has not cited the most recent remarks upon the subject of this legislation and on the subject of the drafting of the legislation on which we labored, since the gentleman has had the misfortune not to be able to comment on the most recent draft or report of this legislation. I will assure the gentleman that I have a copy of each here at the committee table, which I will be most delighted to make available to him in order that in his contemplation of this legislation he will have the opportunity, and the ability, to give to us the benefit of his views on the most recent and current information on this matter.

I do this out of the great affection and respect which I bear for my dear friend, the gentleman from Ohio (Mr. BROWN).

Last of all, I do observe, with some distress that our colleagues on the other side have spent a great deal of time denouncing the President and denouncing a number of others. It is regrettable that they have done this. I would urge that in their contemplation of this legislation, and in the discussion on the floor, they devote themselves to the substantive discussion of this legislation in order that we might create better legislative history and so that their remarks might be kindly read in history.

Now, Mr. Speaker, since I have mentioned the name of my dear friend, the gentleman from Ohio (Mr. BROWN) I will be most happy to yield to him before or after he has seen the latest draft of the legislation or the most recent comments of the staff and the Chairman of the FERC.

Mr. BROWN of Ohio. Mr. Speaker, I thank the gentleman for yielding.

I doubt that I will get the opportunity to see the latest draft of the legislation before it passes because I understand it is still in the process of being drafted. That is part of the history of this legislation.

Mr. DINGELL. The gentleman is entirely in error. The latest copy is printed. I have indicated to him that a copy thereof is available at the committee table. We will be delighted to make it available to the gentleman.

Mr. BROWN of Ohio. But, my dear, affectionate friend, what about the current resolution which the gentleman tried to stick upon the rule in the Committee on Rules that had all that phrasing in it about "language to be supplied." Was that not an indication that the drafting was not complete?

Mr. DINGELL. The gentleman is always able to make a mountain out of a molehill. I would be happy to comment by observing that we will be more than pleased to make a copy of that available to him. He will find that it is simply a collection of a number of printer's errors and technical errors in the draft legislation.

Mr. BROWN of Ohio. If the gentleman will yield further, I think the errors were not made by the printers, but by the drafters.

However, let me also observe, we spend our time in condemning the process, which is significant, with reference to the legislation, because something is wrong when such rotten processes are used to try to get legislation passed.

By contrast the folks on the other side of the aisle have been spending their time eulogizing each other.

Mr. DINGELL. I have eulogized the gentleman from Ohio (Mr. BROWN), for whom I have the greatest affection, even when he is in error, I observe.

Mr. BROWN of Ohio. I would eulogize everyone, including the chairman of the Ad Hoc Energy Committee (Mr. ASHLEY), the chairman of the committee, the gentleman from West Virginia (Mr. STAGGERS) and the chairman of the subcommittee (Mr. DINGELL). They are all fine, honorable men.

However, the legislation, is rotten; and I know we will use the next 2 or 3 hours to point that out.

Mr. DINGELL. I would be delighted to listen to the denunciations in more detail; but in fairness, we should devote the time to a consideration of the substance of the legislation.

For that reason, I regretfully decline to yield further.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. Yes, I will shortly yield briefly to the gentleman from Ohio, but first I wish to observe that some appear intent upon developing criticism of the legislation through obfuscatory and confusing readings of the legislation.

Some members of the conference and of the House have not signed the conference report concerning natural gas, and have opposed the natural gas legislation on the floor. Efforts of some of these members to confuse the legislative history of this bill should be viewed in light of these facts.

Now I will yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman from Michigan (Mr. DINGELL) because he is the first speaker whom we have had so far who started, at least in part of his address, to discuss the actual facts of this legislation.

Mr. DINGELL. I thank the gentleman.

Mr. SEIBERLING. I have been sitting here now for 50 minutes hoping to hear the specifics of this legislation.

I would just like to ask the gentleman a question dealing with a specific point, which is of great concern to his State and to mine.

I have seen a graph which was in what I understand was a draft of the conference report and was later taken out. It was prepared supposedly by the staff of the House committee. It showed that under the incremental pricing provisions of this bill, industrial users using interstate gas, by 1985, would be paying, in 1985 dollars, $5.60 per thousand cubic feet, whereas intrastate industrial users, who are not subject to incremental pricing under this bill, would be paying $3.30 per thousand cubic feet. On the other hand, if this bill were not enacted, the same graph shows that by 1989, industrial users using interstate gas would be paying an average of $2.70 per thousand cubic feet, and interstate users using interstate gas would be paying $2.90.

If those facts are correct or even approximately correct, that would mean that, by 1985, many industries in Ohio, Michigan, and other States which are net consumers of interstate gas will be paying a substantially higher price for their gas than the same kind of industries in the producing States.

I would like to ask the gentleman whether that is an approximately correct statement of the facts; and if so, how he rationalizes that result in terms of the economic interests of our section of the country.

Mr. DINGELL. If the gentleman would permit, I would observe that the graph the gentleman refers to is page 18 of the Economic Analysis prepared by the committee staff of the Subcommittee on Energy and Power.

I would point out to the gentleman that the analysis is available at the committee table. There are going to be some striking increases in all energy costs. The history of energy prices since 1972 will indicate that price increases of natural gas and other fuels will continue to be a matter of severe concern to everybody. But to

deal with the specific question of incremental pricing, let me advise the gentleman that incremental pricing of natural gas will only go as high as the price of No. 2 or No. 6 petroleum products and will come about under two rules which will be promulgated by FERC. The first rule applies to boiler fuel use by nonelectrical generating utilities. The second rule, if enacted, would broaden the category of incrementally priced users, resulting in a sharing of the incremental surcharge and lower interstate industrial prices than if only the first rule is adopted. But I wish to point out that the incremental pricing language in the bill does not require interstate industrial prices to be driven beyond the price of alternative fuels. The analysis points out that such higher prices could result, but again, it should be emphasized that they are not required.

In any event, there is a large element of rolled-in pricing which will keep natural gas prices for nonincrementally priced industry at a much lower level than would be the case without incremental pricing. In fact, the price to nonincrementally priced interstate industrial customers will be less than the intrastate industrial price.

The SPEAKER pro tempore. The time of the gentleman has expired.

The time of the gentleman from Ohio (Mr. ASHLEY) has expired.

The Chair now recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker. I urge my colleagues to vote for passage of the natural gas pricing compromise because of its importance to solving our energy problem and because of its importance to the future of the Alaska Gas Pipeline project.

Without the gas pricing compromise, the energy legislation passed by this Congress would accomplish little in the way of meeting our goals of reducing our dependence on foreign oil. With the provision, new sources of domestic natural gas, especially Alaskan natural gas, will find their way to the U.S. market.

The most important means by which this is accomplished is in a section in the compromise which expedites the construction of a natural gas pipeline from the North Slope oil and gas fields. This section sets a wellhead price for Prudhoe Bay Gas at $1.45 per million Btu's plus inflator, and also institutes a "rolled-in" pricing mechanism which insures the marketability of the gas by averaging the cost of transportation into consumer gas prices.

These two provisions will have a tremendous effect on U.S. energy supplies in the coming decade. Alaskan supplies constitute a significant percentage of total domestic known sources of natural gas. The pipeline from Prudhoe Bay alone will deliver 26 trillion cubic feet of gas, and according to a study conducted by the Congressional Research Service, this gas promises to compare favorably in terms of supply reliability with other possible sources of gas such as SNG and LNG.

By paving the way for the private financing, construction could start by 1980, with deliveries in the market reaching 0.8 trillion cubic feet of gas per year. It is not difficult to imagine the beneficial effects such supplies will have on our dependence on foreign oil, balance of trade deficit, and national security position.

Without congressional action, the responsibility for setting a pricing mechanism for North Slope gas lies in the hands of the Federal Energy Regulatory Commission. (FERC). I am told that since the FERC has been awaiting congressional action, they have delayed consideration of this issue themselves. It would be at least a year before a final decision could be reached, and since a number of parties are expected to contest any decision, court action could easily delay final action considerably beyond that.

With inflation increasing the potential costs of construction for each month that the start-up date is delayed, it is critical that we act before it is too late. Furthermore, with the lead time necessary before supplies can come on line, the longer we delay the decision, the closer we come to serious natural gas shortages.

With this in mind, congressional negotiators have worked closely with the financing experts on Wall Street and in the banking community to set up a mechanism that makes it attractive enough for private interests to invest in the pipeline. It appears that the provision for a wellhead price on North Slope gas and the "rolled-in" pricing mechanism will do much to assure the banking community that the Federal Government intends to see to it that the gas is marketable and that the rate of return on the investment will be sufficient. Current uncertainties surrounding pricing preclude that assurance, especially when combined with investors' fear of possible litigation and the accompanying added costs of construction resulting from delay.

Probably the most serious argument that detractors of this legislation make is that this new energy will cost more to the consumer. The fear is strong that the negative effect of the increase in cost will more than offset the positive effect of new sources of energy.

And yet, short of Federal subsidy for energy sources, it is simply not possible to get at the new energy without spending more of the consumer dollar to do so. The Prudhoe Bay gas is a good example. Gathering and processing of North Slope gas for delivery to the lower 48 States is more expensive and complex than preparing gas for transportation elsewhere. The facilities required for this process will be expensive. The cost must be factored into consumer prices for gas, which is why Congress chose the "rolled-in" and incremental methods of pricing. This will require that only consumers of gas pay for the increased cost instead of all taxpayers regardless of their personal consumption of gas.

I think it would be appropriate at this point to address myself to recent arguments made by certain opponents of the gas pricing provisions. While they do not question the advantage of transporting Prudhoe Bay gas to the lower 48, they do question whether the bill's provisions would have the desired effect. Four arguments are made:

First, that the authority for construction of the pipeline has already been given by the Congress;

Second, that the wellhead and incremental pricing structure will not be sufficient to make the gas commercially marketable;

Third, that the bill does not reduce the scope of FERC decisionmaking, and therefore does not reduce the amount of potential delay;

And fourth, that the gas pricing provisions do not provide an absolute guarantee for the construction.

It is true that the Congress has already granted authority for the pipeline without the pricing mechanisms.

In the bill, however, that authority would be meaningless as current pricing uncertainties preclude financing. It is also true that the setting of the wellhead price and a provision for incremental pricing are not by themselves sufficient to make the gas marketable. That is the very reason that the conferees included a "rolled-in" pricing provision, which "rolls in" the wellhead price and transportation costs to the price for all users. Other costs over and above $1.45 ceiling would have to be incrementally priced.

Finally, the court review provision in the bill, as well as a number of pricing sections, substantially reduce the potential for delay in the decisionmaking process at the FERC. All of this substantially enhances the chances that the pipeline will be financed, according to financial experts that have worked closely to drafters of this bill.

I cannot overemphasize to my colleagues the importance of the natural gas supply issue. Natural gas supplies are dropping at the rate of 5 to 10 per cent a year, and shortages among high priority industrial users of gas will arise with increasing frequency. By 1985, severe disruptions in the market will be felt as nonconvertible users are forced to shut down because of shortages. The economic consequences could be serious.

While North Slope gas is not the final solution to the problem, the pipeline does promise to deliver up to 5 percent of all known domestic gas reserves to the market. Furthermore, the construction of this pipeline should spark new exploration efforts into seven other sedimentary basins in Alaska which have supply potential. Early indications are that this potential exists in areas such as the Beaufort Sea, the Arctic Wildlife Range, and the Pet-4 Field. Such areas will be of critical importance to our long term-energy supply capabilities, and with the lead time necessary to develop new fields, anything that the Congress can do to expedite such exploration should be beneficial.

For these reasons, it is crucial that we enact the gas pricing compromise provisions. None of the alternatives before us is without certain disadvantages, but the Nation has reached the point where it is going to have to swallow a bitter pill in some form before a sound national energy program can be developed. And in

voting for the gas bill, Congress can take an opportunity to make a real as well as a symbolic step forward toward minimizing the adverse economic and environmental effects of the energy crunch to come.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I have two points that I want to make, and the first one I will make very briefly because it seems that nobody in this body is seriously concerned about it except me, but I think it should not pass unnoticed. That is the fact that clearly, constitutionally, this body, despite its frequent use of such powers, does not have within it the right to regulate intrastate commerce. We have had many occasions in the past when by various legal fictions we have managed to regulate intrastate commerce by pretending it is interstate commerce. But I just want to share with the Members my concern about the attempt we are making here to directly extend regulation to intrastate commerce, which clearly is not within the constitutional authority of this House.

Now the gentleman from Michigan (Mr. DINGELL) says we should talk about the substance of the legislation. I agree. Let us talk about it. Two of the announced goals of the President's National Energy Plan are a reduction in the use of imported energy and the increased development of our domestic energy resources.

After more than a year and a half, we are presented now with a conference report that meets neither one of these goals.

This conference report will raise the price of natural gas for residential and industrial users. Now, I believe American consumers would be willing to pay somewhat higher prices if they could be assured that their schools and factories would not be shut down due to gas shortages, or that we would provide more energy for economic growth or new jobs; but this conference report will significantly raise consumer prices without assuring any additional supplies. The Congressional Budget Office estimates that this bill is going to increase natural gas supplies by 7/10 of a trillion cubic feet of natural gas between now and the year 1985. My own home State of Oklahoma produces more than twice that much every year in an unregulated intrastate market and that amounts to less than 9 percent of the Nation's natural gas production.

What benefit is the Nation going to receive from a bill that increases natural gas supplies over the next 7 years by an amount that Oklahoma produces in less than 6 months in an unregulated market?

What benefits are the consumers of the cities of the Northeast and the Midwest going to receive for the additional money, the billions of dollars, they are going to have to pay between now and 1985 for natural gas, with no guarantee of adequate production?

The answer is, obviously—nothing.

I want to talk about the incremental pricing provisions in this conference report, because they, also, are going to hurt consumers. The additional cost of higher-priced gas is allocated to industrial users or local distribution companies that are served by interstate pipelines. Incremental pricing applies only to the interstate gas system, and therefore will result in great inequities among regions and among customers, because pipelines that have large numbers of residential customers or small numbers of industrial customers will have to pass these higher costs directly on to residential customers.

In addition, incremental pricing will force many industrial users to switch from using natural gas to other sources of energy, such as residual heating oil. This will have the effect of placing even more of the burden of higher gas prices on the residential customer, causing more people to switch to oil, and will increase oil demand, oil consumption, and oil imports.

Now, I want to say to those who are primarily concerned with the interests of the consumer—and even with those of us who represent production States most of the people living in our districts are consumers, not producers—if you want to represent the best interests of the consumer, you are going to have to vote against this report, because it does all the wrong things and it does not meet any of the goals the President laid out in April last year.

The final judges of this bill will be your constituents, the consumers. They are going to pass their judgment on the basis of their gas and electric bills.

I believe that the pro-consumer vote, as well as the pro-production vote, on this bill is "no."

Why are people upset about inflation? People willingly pay more if they get more in return. They will pay a higher price to get more value, but what this bill does is like inflation. This bill raises prices without giving you anything in return, and I urge a "no" vote.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. GRADISON).

Mr. GRADISON. Mr. Speaker, I thank the gentleman for yielding. I rise to engage in a brief colloquy with the gentleman from Michigan (Mr. DINGELL), if I might have his attention for just a moment.

I am sure that the gentleman is aware that, under this bill, the Secretary is directed to prohibit the use of natural gas for decorative outdoor lighting. The bill defines outdoor lighting as lighting by any stationary source which is not located inside any building. As I understand it, the prohibition would cover the installation of new outdoor lighting and, in the case of existing units, would also reach the sale of natural gas to residential, commercial, and industrial customers for use in outdoor lighting. The bill directs the Secretary to issue a rule prohibiting such use within 6 months after the enactment of this act.

I also understand that the Secretary shall by order exempt from this prohibition new or existing memorial lights or lights of historical significance. To qualify for this exemption, a Federal, State, or local government agency, or an appropriate historical association, must petition the Secretary and certify that the lights in question meet this standard. A similar exemption is available for existing commercial lighting units which are of traditional nature and which conform with cultural or architectural styles of an area where the light is located.

In my district of Cincinnati, Ohio, gas lights in residential areas have existed within the city limits for generations. To date, several hundred have been certified by the Ohio Historical Society and are presently being considered for nomination to the National Register. I gather that such designation by a local, State, or national historical society would result in an exemption by the Secretary for such units.

I appreciate any thoughts the gentleman may have regarding the intent of the "historical significance" exemption. I understand that the committee, in drafting the prohibition, sought to reduce natural gas consumption without compromising the historical or cultural value of many gaslights to citizens across the country.

Mr. Speaker, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentleman from Ohio (Mr. GRADISON) for highlighting the specifics of the historical significance exemption. His statement of the intent of Congress with respect to the exemption is correct, and I would observe that it could result in exemptions for the units to which the gentleman has alluded. Under the assumptions he makes, I believe that the exemption could be granted on application.

Mr. GRADISON. Mr. Speaker, I thank the gentleman from Michigan (Mr. DINGELL) for his comments, and I thank the gentleman from Illinois (Mr. ANDERSON) for yielding this time to me.

The SPEAKER pro tempore. The Chair would like to advise the gentleman from Illinois (Mr. ANDERSON) that he has 3 minutes remaining.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, a few minutes ago the gentleman from Ohio (Mr. SEIBERLING) expressed some concerns about the incremental pricing provisions of this legislation, and, frankly, I do not believe that the answer he received was on all fours with the information that I have on the impact that this part of the bill will have on industry and consumers generally, particularly in the Middle West and in the Northeast.

On the 13th of October Members received a letter on the letterhead of the gentleman from California (Mr. Moss). That was a letter that he signed, along with the gentleman from California (Mr. PHILLIP BURTON), as well as myself, the gentleman from Ohio (Mr. BROWN), and the gentleman from Connecticut (Mr. MOFFETT).

In the letter we pointed out that according to Energy Daily of September 21, several interstate pipeline companies are making plans already to deal with the movement of industry from their service industries because of incremental pricing. Northern Illinois Gas Co., which

serves my immediate area, foresees large employers shifting production or new expansion to gas-producing States where incremental pricing is not required by the legislation. At the same time the impact of all of this, with the loss of that industrial load, is going to result in my service area in an increased cost of $70 per year for each of the 1,200,000 residential space heating customers of the Northern Illinois Gas Co.

In other words, the much vaunted ability of incremental pricing to shift the burden of higher cost gas from so-called low-priced users to industrial users is simply not going to relieve consumers, that is, the residential users of gas from the higher prices that are going to be required as we find that shift in use taking place.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I think there is one point the gentleman from Ohio (Mr. SEIBERLING) brought up that has not been addressed, and that is that by 1985, when this price of natural gas gets up that high—and those figures were accurate; they were in the original draft of the report in the Committee on Interstate and Foreign Commerce, and they were also expunged because they were a little embarrassing to some of the people who were involved in the legislation—when those prices get up that high, there may very well be a switch to oil by some of those companies up in the Northeast that do not move to the South. That is not what we are trying to accomplish.

But oil by that time might be cheaper in that area than incrementally priced gas. If they switch to oil then we are going to have not only an adverse result to our national interest of importing more oil, but we will have what the gentleman from Illinois (Mr. ANDERSON) pointed out, and that is higher costs to the residential user.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) has consumed 30 minutes. The gentleman from Illinois (Mr. ANDERSON) has consumed 30 minutes.

The Chair will now recognize the gentleman from Ohio (Mr. ASHLEY) for 1½ hours, and the Chair will recognize the gentleman from Illinois (Mr. ANDERSON) for 1½ hours for debate upon the balance of the conference reports.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I cannot let the statement of the gentleman from Oklahoma go without correction. It seems that many persons critical of this bill simply do not recognize the difference between the cumulative production response and the 1985 response. When he was referring to 0.7 Tcf, he was referring to the estimate of the Congressional Budget Office of 0.7 Tcf to a 0.8 Tcf production response solely in the year 1985. That is not the response over the entire period of time. The Congressional Budget Office did not make a cumulative estimate. And the Congressional Budget Office's estimate is extremely low compared to every other one.

The Energy Information Administration estimates a 1985 response of 1 Tcf and a cumulative response of 4.7 Tcf.

The draft economic analysis of House conferees is 1.4 Tcf for 1985 and 6 Tcf for the entire period.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, I have asked the gentleman to yield so that I might make a unanimous-consent request that I think might clear up the whole thing, and that is that I put into the RECORD at this point that report of the Congressional Budget Office, so that we can see what it is.

Mr. ECKHARDT. If the gentleman wants to do that on his own time, he can do it.

Mr. BROWN of Ohio. I would be delighted to do it if the gentleman does not want it in the RECORD at this point.

Mr. ECKHARDT. Mr. Speaker, I have no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The report of the Congressional Budget Office is as follows:

THE NATURAL GAS COMPROMISE

(By the Natural Resources and Commerce Division, Congressional Budget Office, August 2, 1978)

The CBO has not performed an independent analysis of the Natural Gas Policy Act of 1978. Instead we have reviewed the two existing studies which compare current policy to the House and Senate passed bills as well as to the Conference report. These two studies are: The Joint Explanatory Statement of the Committee on Conference (received July 31, 1978), and the Pricing Proposals by the Energy Information Administration (dated June 14, 1978; updated August 1, 1978). Given that review and our previous background in the natural gas area, we have made a number of qualitative and quantitative judgments regarding the potential impact of the Conference report. Essentially three topics are addressed in this overall review:

1. The objectives of the new legislation on natural gas pricing and the extent to which H.R. 5289 attains those objectives.

2. The current policy problem, that is, what should be assumed about future natural gas supplies, allocation of those supplies, and prices in the absence of new legislation.

3. A brief review of some of the strengths and weaknesses of the quantitative analysis contained in the Conference Committee Explanatory Statement.

THE GOALS OF NEW LEGISLATION

The principal objectives of H.R. 5289 are:

1. To permit interstate pipelines to compete with intrastate pipelines for new supplies of natural gas.

2. To increase the incentives for exploration and production of new natural gas.

3. To incrementally price at least some gas users who have realistic fuel alternatives so they will convert to coal or oil. This provision should also prevent wellhead prices from rising above the levels of competing fuels when deregulation finally takes effect.

4. To accomplish the above objectives with the minimum impact on the overall rate of inflation and, specifically, with the minimum impact on the prices paid for natural gas by residential users who, in general, are unable to switch to other fuels.

Advantages.—CBO believes that H.R. 5289 accomplishes these goals reasonably well. The Conference agreement ends the price discrepancies between the intra and interstate markets and thereby enables the two groups to compete equally for new gas. Thus, gas curtailments, common in recent years in parts of the country served by interstate pipelines, will be reduced and possibly eliminated. Further, regions of the country not hitherto served by gas pipelines may have the opportunity to obtain natural gas.

H.R. 5289 raises the price for new interstate gas up to the approximate price of intrastate gas and allows for an orderly and predictable rise in prices over the next eight years. These price rises, combined with the special pricing provisions for high cost gas, should increase the supply of domestically produced gas by about .7 to .8 trillion cubic feet in 1985. This increase in domestic production could, in turn, reduce the demand for costly LNG imports and for other higher cost energy sources, including electricity. H.R. 5289 contains incremental pricing provisions that should transfer a portion of the new higher prices onto interstate boiler fuel users. This is the same group that is the target of the coal conversion portions of the Natural Energy Act. More than any other single group of fuel users outside the utility sector, industrial boiler fuel users have the technical potential to replace gas boiler with coal fired units. The advantage of these incremental pricing provisions is therefore not only to protect residential consumers from rapid large price increases, but it allocates the high cost gas to those consumers who can shift from natural gas to other fuels (principally oil and coal). Thus, at least a partial ceiling will be placed on the prices of new gas once complete deregulation takes effect.

Although the original analysis by the Energy Information Administration indicated that the Senate bill would have lower prices to residential consumers than the Conference agreement, CBO believes that their interpretation of the incremental pricing provision in the Senate bill was in error. A letter to the Chairman of the Energy and Power Subcommittee of House Interstate and Foreign Commerce from the EIA Administration dated August 1, 1978 acknowledged the misinterpretation in the EIA analysis).

It is also important to note that the legislation gives the Federal Energy Regulatory Commission the right to extend the incremental pricing provision to all interstate industrial users which would, in turn, provide greater protection to residential consumers. Whether or not this will be implemented, however, is difficult to determine.

Disadvantages.—H.R. 5289 has three major disadvantages. First it represents a wealth transfer from consumers of gas to producers of gas. This transfer goes beyond the high prices paid for truly new gas and includes, in many cases, higher prices for already flowing gas. The Conference Committee has estimated these costs to be no more than $11 billion from now until 1985. In the view of the CBO, this $11 billion estimate is most likely an underestimate, but probably by no more than $9 billion. That is, the transfer from consumers to natural gas producers over the next 7 years is unlikely to exceed $20 billion. After consumer savings resulting from the increased domestic production are included, the net costs to consumers are unlikely to exceed $16 billion between now and 1985. (Details discussed in the last section of this paper.)

Second, by immediately deregulating the prices for high cost gas, while retaining controls on all other gas, there is a possibility that the price of the high cost gas will in-

crease dramatically. If such were the case, producers might channel their investment funds into these high cost resources and pass over lower cost and more accessible gas that was still under price controls. In such a situation, producers would be profiting at the expense of consumers who would be denied access to lower cost gas.

Third, the Natural Gas Policy Act of 1978 is extremely complex and, therefore, there are likely to be implementation problems. Despite the good intentions of the bill's authors, it is fair to say that this bill may allow abuse and legal challenge by producers. The extent of this abuse is, however, difficult to estimate at this time.

The current policy problem

A major difficulty in estimating the consumer cost of H.R. 5289 is the great uncertainty over what gas prices would be in the absence of new legislation. Unlike oil and coal prices, where the major uncertainties evolve around OPEC prices and energy demands, interstate gas prices are regulated by the FERC. The current pricing policy used by the FERC (opinion 770 A) provides for increases in interstate gas price of one cent for each calendar year quarter.

Nevertheless, many experts believe that, in the absence of new legislation FERC would diverge from this current policy and follow previously announced pricing formulas, thereby increasing interstate prices significantly. Other experts feel that the FERC would try to keep regulated prices constant in real terms. Further, those pricing decisions depend on the future price in the intrastate market. Given the great uncertainty with respect to pricing policies in future years, most analyses (including CBO) have assumed that gas prices will remain approximately constant in real terms in the absence of any new legislation. However, it is possible that without new legislation average gas prices would rise dramatically in real terms over the next decade. Were that to be the case, of course, H.R. 5289 could hold down consumer costs for natural gas.

Strength and weaknesses of the conference committee report

In the opinion of the CBO, the economic analysis contained in the Conference Committee is technically competent and relatively unbiased. It addresses the major sections of an extremely complex bill and makes reasonable estimates of the bill's impact.

Producer revenues and consumer costs.—The principal conclusion of the Conference Committee's economic analysis is that, H.R. 5289 will increase producer revenues (for the same quantity of gas) by $7.4 to 10.8 billion from now until 1985. However, according to the Conference Report, consumers won't pay all these costs because H.R. 5289 will also stimulate .7–1.4 TCF of new natural gas production which will replace more expensive alternative energy sources, thereby reducing consumer costs to a net amount of $1–5 billion from now until 1985. On the basis of these calculations, the report concludes that the overall macroeconomic reports are virtually zero.

While CBO agrees with the direction of the estimates in the Conference report, we believe that total consumer costs could be some what higher but no more than $8–16 billion higher than the projections of current policy, over the 7 year period. The details of these differences are as follows:

1. The economic analysis of H.R. 5289 makes a complex set of assumptions regarding the volume of gas that would qualify for deregulation under the high cost provisions and for relatively high (regulated) prices under, for example, the stripper provisions. While this is difficult to forecast, the CBO's judgment is that the Committee may have understated the volumes of gas qualifying for the high priced categories, particularly for deep gas and for the stripper wells. Recent growth in the number of oil wells qualifying for the stripper provisions of EPCA would support such a conclusion. Therefore, the CBO believes that producers' revenues for this category may be understated slightly in the Conference report—possibly on the order of $3–5 billion from now until 1985.

2. The Committee seems to have made a strong effort to minimize the possibility that producers will take advantage of H.R. 5289 in a way not intended by its principal authors. Yet, in light of the extreme complexity of this bill, the possibility remains that producers will find a way to increase their revenues above the levels predicted by the Committee. CBO has no special knowledge in this area but believes that it is important to recognize the possibility of abuse under H.R. 5289.

3. The ranges of truly new production forecast by the Committee are, in the opinion of the CBO, too optimistic. We believe that additional production on the order of .7 TCF in 1985, which corresponds to the conservative estimate presented in the Conference Committee report, is the most likely outcome.

In summary, CBO believes that the likely increase in producer revenues over the 7 year period would range from $12–20 billion more than current policy. Offsetting those revenues by $4 billion in consumer savings from new gas production, the likely consumer costs range from $8–16 billion.

A final point that may be important regarding price changes for a particular region. The high wellhead price of gas in 1985 in the intrastate market which is claimed in the EIA report under the terms of Conference agreement is, in the view of CBO, misleading. Because the compromise regulates gas prices until 1985 it is true that there is the potential for large increases thereafter to clear the market. However, the alternative proposed by the Senate is to allow prices to rise in the earlier years and thereby reduce potential price rises in the later years. The key point is that the consumer is not concerned solely with the new price in 1985. It is the average price that really matters and there is no doubt but that the Compromise agreement provides for lower consumer prices in 1985 then does the Senate bill. Examination of Table 2 in EIA's August 1, 1978 supplement clearly supports that statement.

Macro-economic impacts.—Depending on the extent to which increased producer revenues are funneled into productive investments, the overall effects could be either slightly positive or slightly negative. However, in a $2 trillion economy, the effect would be relatively small in any event.

Regarding inflation, the effects are also likely to be small. If the increased consumer cost for gas were spread out evenly over the 7 year period, we expect the rate of increase of the GNP deflator would increase by a maximum of .05–.1 of one percent per year. If, as seems likely, the effects are very low in the initial years and build up in the later years, then we could see slightly larger inflation impacts in the 1982–1985 period.

FEDERAL ENERGY
REGULATORY COMMISSION,
Washington, D.C., September 8, 1978.

Hon. HENRY M. JACKSON,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In the last few weeks, a number of members have questioned whether the proposed Natural Gas Policy Act (NGPA) can be effectively administered and enforced by the Federal Energy Regulatory Commission. These concerns, in large measure, arise from an August 14, 1978 memorandum from the Director of the Commission's Office of Enforcement which concluded that the July 31 draft of the conference report would be impossible to enforce or administer in a conscientious and equitable manner.

The Congress, indeed each angency of government, has the responsibility to assure that the laws of the United States are workable and capable of effective administration. As you may know, I have received requests from several of your colleagues to state my views on this matter and to prepare an analysis of the final conference report (S. Rep. No. 95–1126). That task has been recently completed and I am pleased to provide you with a copy of the analysis. You may also be interested in reviewing a copy of a memorandum prepared by the Director of the Commission's Office of Enforcement concerning this subject, which is also enclosed.

The enclosed analysis is not intended, nor should it be viewed, as a comment on the policy considerations which are involved in the proposed resolution of the natural gas pricing controversy. Instead the attempt has been made to focus solely on administrative and enforcement considerations.

As the section-by-section analysis indicates, a detailed review of this character tends to focus on the problems encountered in statutory interpretation. For the most part, however, it should be acknowledged that the legislative draftsmen have done a truly outstanding job in giving statutory expression to the conference agreement.

From an administrative and enforcement standpoint, the final conference report is substantially improved when compared to the July 31 draft. Under the NGPA, the Commission is to be vested with an array of administrative and enforcement devices traditionally given to regulatory agencies. Principal among these are the enforcement mechanisms which will allow the Commission to compel compliance with the Act through injunctive actions in the courts and to impose civil and criminal penalties for violations of the requirements of the Act or regulations of the Commission. In a number of respects, these mechanisms are more substantial than those available to the Commission at present under the Natural Gas Act. Moreover, the Commission has been given certain administrative powers, which exceed those currently available to the Commission under existing laws. Most importantly, the authority to gather information and to conduct necessary on-site inspections is more flexible and significantly broader in scope. I would also call your attention to the opportunity to delegate certain functions to a State agency, with its concurrence, under Section 501(c); and provisions of Section 506(b) which limits a reviewing court's ability to stay or otherwise postpone the effectiveness of Commission rules and orders pending conclusion of the review proceedings.

As you will note, the conference report is set out in elaborate detail. If one accepts the policy conclusions of the conferees as given, the question still remains whether the Act can be effectively administered and enforced. It is my basic conclusion that it can be. I could not have made the same judgment with respect to the July 31 draft.

I must responsibly point out, however, that the task of administration and enforcement of the statutory scheme will be most difficult. The legislation will necessitate an augmentation of Commission personnel and financial resources, a sustained and dedicated effort by members of the Commission and its staff and a high degree of cooperation of the various State and Federal agencies who are assigned responsibilities under it.

The NGPA will undoubtedly engender a significant number of court actions before the full expression of the statutory requirements are defined and understood. One must recall that this is a highly litigious subject and many millions of dollars and substantial volumes of one of this Nation's most precious resources are at stake. Extensive court litiga-

tion is most likely to attend any legislative effort to resolve the natural gas pricing controversy, however detailed or carefully written it may be. For example, the Natural Gas Act has been a part of the laws of the United States for 40 years, yet it still accounts for a large part of the work of the Supreme Court and the United States Court of Appeals. You may be interested to know that as of September 1, 1978 the Commission is currently involved as a litigant in four cases before the Supreme Court involving Natural Gas Act issues; 84 cases in the Court of Appeals; and nine cases before the District Courts.

As the section-by-section analysis indicates, the legislation is not problem free. But on balance, assuming that the Congress will appropriate adequate resources to the Commission and that I am correct in my interpretation of the breadth and flexibility of the administrative mechanisms which have been woven into the proposed legislation, it is my view that the Commission will be able to effectively administer the NGPA and give effect to the policy conclusions which it embodies.

Sincerely,

CHARLES B. CURTIS,
Chairman.

Mr. ECKHARDT. Mr. Speaker, the Department of Energy estimate is 2 Tcf cumulative, 7 to 8 over the entire period.

The American Gas Association is 2.3 Tcf in 1985, cumulative 7.5.

The Independent Gas Producers committee's estimate is 5 Tcf in 1985, cumulative 12 Tcf.

So I think we must distinguish between the cumulative figure and the 1985 figure.

There is another point that the gentleman from Ohio raised with me earlier, and I will now yield to the gentleman if he would like to make a comment.

Mr. SEIBERLING. I thank the gentleman for yielding.

Mr. Speaker, in some of the materials that have been put out by opponents to this legislation they make the statement that FERC Opinions 10 and 10–A, which ruled that Outer Continental Shelf gas could not be used in the intrastate market for direct use, would be superseded by this legislation.

Now, I am not clear what the word "superseded" means in this context, but this is an important point, because, as I understand it, the Federal Power Commission, the predecessor to FERC, had authorized some of the companies operating offshore gas wells to use that gas in their local refineries, which is a diversion from interstate use. FERC has now said they are going to bring it back into the interstate market, and that could be a substantial addition to the interstate market. What is the gentleman's view as to whether this bill wipes out FERC's power to require such gas to be returned to the interstate market?

Mr. ECKHARDT. The basic question is whether or not FERC would have authority under this bill to require that gas produced in OCS be directed to the interstate market. The question had been raised by some that section 315(b) did not include Outer Continental Shelf gas, which is true. The point is that FERC has authority under other devices to require that gas produced in OCS go into the interstate market. One mechanism available to the Commission is the definition of contract term and duration. The Commission also maintains under the act its certificate authority under section 7 of the Natural Gas Act.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. DINGELL. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas.

Mr. ECKHARDT. In the past, both the Federal Power Commission and the Federal Energy Regulatory Commission has relied upon this to impose conditions as to price, use, and purchaser of volumes to be transported in interstate commerce. This authority remains intact, and it permits the Commission to regulate the sales and transportation of gas produced in the OCS. The Commission will clearly be able to assure such deliveries under the provisions of the act.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I concur fully in the gentleman's comments, and I observe that this is set forth in detail in a statement placed in the RECORD by and on behalf of myself, the gentleman from Texas now in the well, Mr. STAGGERS, Mr. ASHLEY, and Mr. WILSON regarding this point, and I make a copy available to my dear friend from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. This is an obvious attempt to make legislative history, and I must say the gentleman from Ohio does not concur with the conclusion raised by the gentleman on that side of the aisle.

The SPEAKER. The time of the gentleman from Texas has again expired.

Mr. ASHLEY. Mr. Speaker, I yield 3 additional minutes to the gentleman from Texas.

Mr. DINGELL. Mr. Speaker, will the gentleman from Texas yield for a brief comment?

Mr. ECKHARDT. I yield.

Mr. DINGELL. Much as we love our dear friend from Ohio, (Mr. BROWN) and despite our very best efforts, we were unable to get him to participate in many of the discussions which transpired on this matter; and therefore, while he is most knowledgeable, I suspect his——

Mr. BROWN of Ohio. Will the gentleman yield, having mentioned my name?

Mr. ECKHARDT. No; I do not yield because I did not mention the gentleman's name, and I cannot give a whole minute for you all to love each other.

Mr. BROWN of Ohio. That was not my intention, I wish to assure the gentleman in the well.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ECKHARDT) has the floor.

Mr. ECKHARDT. Mr. Speaker, this does not just appear in the interpretation that Mr. DINGELL has referred to. It also appears at page 111 of the joint explanatory statement by a clear assumption in which it is said:

The right of first refusal provided in this section—

That is, in 315(b)—

is in addition to any certificate and abandonment requirements of the Natural Gas Act. . . .

So, clearly the certificate and abandonment requirements of the Natural Gas Act applicable to interstate transportation of gas continue both with respect to gas which is not OCS gas and to gas which is OCS.

Mr. Speaker, I further yield to the gentleman from Ohio.

Mr. SEIBERLING. Well, do I understand that the gentleman is saying that this bill would not overrule, supersede, or repeal those powers of the Commission?

Mr. ECKHARDT. Exactly. It would not supersede or overrule the power of the Commission to direct that OCS gas go into interstate commerce.

Mr. SEIBERLING. I think that is a very important point. I am delighted the gentleman has clarified it.

Mr. ECKHARDT. I thank the gentleman.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, the very dangerous thing about this piece of legislation of course is that much of it was done in general terms in the conference and the conferees did not get back together to approve the legislative language. I would have to say that therefore individual interpretations by single Members are perhaps most inappropriate about what that language means. The colloquy that just went on is an effort to identify one of these sections and try to refine that language.

As one of the conferees I do not make that same interpretation and think it would be improper for any court to make any similar kind of interpretation based on the understanding between themselves of one or two Members but not of all the conferees and I feel this kind of thing is imperfect, and should not be used for judicial interpretation.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 10 minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I rise in opposition to the conference report primarily because despite all the claims to the contrary the conference report is not a coherent energy policy. In fact it does not even begin to come close.

I would like to suggest to the House tonight that nowhere is that more apparent than in the case of the so-called Natural Gas Policy Act. I would like to suggest that instead of a policy or instead of a coherent approach to the whole gas pricing problem, what we have instead is a jigsaw puzzle that is scrambled into a 66-page statutory box to be shipped down to the Department of Energy where over a period of 7 to 8 years an attempt will be made, in hundreds of rulings and thousands of individual case decisions and thousands of pro-

ceedings before State regulatory bodies all over the country, an effort will be made to put that jigsaw puzzle back together again, and only after that process will we have any idea whether or not we have a coherent natural gas pricing policy.

It has been pretty obvious to most people that one of the primary things we have to do in natural gas pricing policy is to end the dual market. This bill widens the dual market and exacerbates it.

The economic dislocations that have come from that have never been a problem as far as the residential gas user is concerned. People do not make their location decisions on the basis of their heating fuel cost as compared to what it might cost some place else. And obviously the commercial buildings do not; doctors locate where their people are and so do insurance offices.

The economic dislocation that has stemmed from the dual market has been only in the industrial sector. I would suggest to the House if we look at the way gas is going to be priced for industrial users in the interstate market in the next 8 or 9 years compared to the intrastate market, we can only come to the conclusion that the dual market will be widened and there will be even greater incentives for industrial relocation or dislocation than there is today.

As has been stated by speakers before, incremental pricing of gas in the interstate pipelines will drive up prices of gas in the North and the Northeast to the price of No. 2 oil. And assuming we do something intelligent about decontrolling domestic oil in the years ahead, that will cause incrementally priced industrial gas in the interstate market to rise even higher.

By contrast, the price of gas flowing from existing contracts in the intrastate market is frozen in this bill at a relatively low level compared to what the interstate users will pay in the future. Almost all new gas found in this country since 1970 has been dedicated to the intrastate market.

Eighty or ninety percent of onshore gas. All that gas is now under contract, either below a dollar and therefore it could never go above a dollar or in the range of $1 to $1.90, where it will be frozen permanently in real terms. Thus, upon this bill there is going to be a $1 or a $2 differential between the price of the gas that will be available to industrial users in the intrastate market relative to the interstate market. That is important to fuel-intensive industries and process industries, where there is a high use of natural gas. So we have not solved that problem at all.

This does not add much to incentive for drilling and the production and location of new reserves and new flowing gas.

I think sometimes we have forgotten in this whole debate that FERC now has a procedure, that was validated by the Supreme Court, called procedure 770–A, which would require that they establish a new price every 2 years for new gas committed to the interstate market. Anybody who has taken a look at the 770–A procedure, realizes even if we do nothing on natural gas, if we reject the compromise, the price for new gas that would likely come out of the 770–A procedure would not be appreciably different than the price schedule contained in this bill.

So again, in terms of price incentives for new drilling, we do not have much change.

I happen to think, because this compromise does not abandon the cost-based, utility-type regulation we have had in the past, that again no progress has been made.

The point I want to focus on in the remaining time is simply the enormous bureaucratic and regulatory burden the compromise will create. I know that many are skeptical of the argument. The response that is given is that this is a complex problem and therefore you have to have complex solutions.

So although there are a lot of categories and a lot of classifications, we cannot avoid the complicated world in which we live, we must find ways to make this mechanism workable. But I would suggest anybody who believes that should sit down and read the language, the 66 pages of definitions and price schedules and their interrelationships, and I would guarantee that they could not sustain or maintain that position or opinion.

If you sit down and read the different types of wells that will have to be sorted out, you will find that there are marker wells, new wells, old wells, behind-the-pipe wells, should have been produced wells, new reservoir wells, new lease wells, old lease wells, deeper completion location wells, shallower completion wells, new onshore production wells, mandatory proration unit wells, voluntary proration unit wells, commercial quantity wells, noncommercial quantity wells—and you could go on and on in this respect with other types of wells plus a whole variety of permutations and combinations.

Once you begin to fix all of these categories and classifications of wells in your mind, you have not even found out what your price is going to be because it is clear by the bill that more than one kind of gas can flow out of each kind of well.

If you were a producer, for instance, and you wanted to find out whether you have an old well, you might turn to section 2, paragraph (B) and find the definition of an old well there, and what does it say? You will find these very helpful words:

> The term old well means any well other than a new well.

So the only way you will find out what an old well is is to find out what a new well is. Now, chances are you have an old well because 2 million wells have been drilled through history in this country. Nevertheless, you hope that you do not have an old well because hopefully, if by some means you can prove you have a new well you get a better price. So we will make a tremendous effort to find out whether it is a new well.

If one wants to sit down and find out whether he has a new well or not, he reads the statute. He finds out, first of all, that he needs a lawyer because there are a number of different classifications of gas that may come out of new wells.

If he is just a plain, old, average producer on the onshore, not involved in anything exotic like offshore production, then you will find out that out of the new well you might get either "new natural gas," or you might get out of that new well something called new onshore production well gas. That will be an important distinction to make because in the schedules there is a dollar difference between the two.

Now what is the test for a new well. One is if you happen to be in the vicinity of a marker well, then you have a new well; or if you happen to have a well lodged in a new reservoir, you have a new well.

Let us just assume that you want to find out whether you have a marker well. If you want to find out whether you have a marker well, again you are going to have to need a lawyer because over the entire 120-year history of the oil industry nobody has ever heard about a marker well, which is a term invented by a committee staffer a few months ago. If you study the oil industry, you find out that they have all kinds of colorful terms. Any operator knows how to spud a well, how to complete a well, how to recomplete a well, how to fracture a well, how to acidize a well and how to cap a well. He can distinguish readily between a beam well, a disposal well, a flowing well, a test well, a service well, and a multiple completion well.

However, he does not know what a marker well is because it has never been heard of in the industry before. Therefore, he gets out his statute books again to fix very clearly in his mind what a marker well is.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Michigan (Mr. STOCKMAN).

Mr. STOCKMAN. Mr. Speaker, I thank the gentleman for yielding me this additional time.

As I was saying, Mr. Speaker, if he gets out his statute books he can try to find out clearly and precisely what a marker well is. Let us hope that he is not careless. Let us hope that he does not flip open the book and stumble across section 102, paragraph (4), headed "New Wells Which Are Also Marker Wells."

That is going to cause a bit of consternation for the producer because he was only trying to find out whether he did or did not have old gas by first seeing whether he had new gas from a new well, as determined by the completion location or distance from the marker well. However, now he finds out that a new well and a marker well might be one and the same thing, so his next task is to sort out the precise area in which a marker well is not a new well. He finds out that there are even further complications, and that generally marker wells are wells producing gas which was sold in commercial quantities between January 1, 1970, and April 20, 1977, except if it was drilled after January 19, 1977,

then it is not a marker well even if gas is sold in commercial quantities before April 20, 1977, unless—and here is an exception from the exception—unless the drilling which occurred after February 19 was not a new hole but a 1,000-foot extension of an existing hole. But even in that case there might be an exception if there had been a previous hole plugged below that depth.

Mr. Speaker, I would suggest that this is only one possible train of decisions that one would have to go through in this whole complicated bill. This is only one-tenth of the complexity involved in trying to sort out all these different types of wells, all these different types of gas, on all of these different price schedules.

Therefore, Mr. Speaker, I go back to my original point. We do not have a policy at all; we have a jigsaw puzzle.

The SPEAKER pro tempore. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Michigan (Mr. STOCKMAN).

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I first want to compliment the gentleman on his very good statement and carry what he said just one step further.

The point I made before was that even though this bill drives up prices, it produces nothing in return. Even though we hear all this talk about decontrol and about all this money going to producers, a person who might otherwise be willing to invest with a small producer is going to be reluctant to do it because a producer is not going to know what kind of well gas he is going to find. Consequently, he does not know what price he is going to get for the gas he finds. So I think the gentleman from Michigan has made a very good point. The confusion has many ramifications, and one of them is that there will be less investment in exploration and drilling by the small producers who discover most of this country's oil and gas and therefore there will be less gas found and produced.

Mr. BROWN of Ohio. Mr. Speaker, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. I thank the gentleman for yielding.

In the meantime his interest is running at the bank at double-digit inflation rates, and he has the gas in the well but cannot sell it because the State utilities commission has to make a decision which they do not have the manpower to make.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Texas (Mr. CHARLES WILSON).

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield for a possibly facetious remark?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

That was a remarkable tour de force that we had in the well just now. It reminded me of that famous poem by Edgar Allen Poe in which there is a line that goes (with slight changes):

"To the tintinnabulation that so musically wells.

"From the wells, wells, wells; from the tingling and the jingling of the wells."

Mr. CHARLES WILSON of Texas. Mr. Speaker, I would like to engage in colloquy with the gentleman from Michigan (Mr. DINGELL).

In the explanatory statement inserted in the CONGRESSIONAL RECORD at the time of the filing of the conference report, the application of the term "committed or dedicated" to certain types of "option" contracts is discussed. The statement makes it clear that the applicability of the statutory definition to an "option" depends upon the interpretation of the document and its legal effect, not upon the name given the document.

Would the gentleman from Michigan agree that the definition of "committed or dedicated" used in the act is broader than merely gas "certificated" under the Natural Gas Act?

Mr. DINGELL. Would the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman.

Mr. DINGELL. That is correct. The definition is based upon contractual commitment of gas to interstate commerce; and the definition covers OCE gas whether or not under contract of certificate for interstate sale.

Mr. CHARLES WILSON of Texas. I am concerned about the first aspect of the definition. Would the gentleman describe the fact situations which the broadening of the definition was intended to deal with?

Mr. DINGELL. Will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman.

Mr. DINGELL. I thank the gentleman for yielding. Certainly. Two principle circumstances were intended to be covered. First are cases in which an advance payment to explore and develop for the gas has been made by the pipeline, giving it an enforceable contractual right to demand drilling and sale to it of any gas found. Second, the broadening is intended to cover circumstances in which a producer has dedicated acreage to an interstate pipeline. Only a portion of the acreage may be actually producing gas and be covered by a certificate. However, if the remaining portion of the acreage produces in the future the contractual commitment of that gas to the interstate pipeline was intended to be covered.

Mr. CHARLES WILSON of Texas. I thank the gentleman. Is this what is meant by an option being covered by the term "committed or dedicated"?

I yield to the gentleman.

Mr. DINGELL. The answer is correct. The discussion of this question in the explanatory statement is intended to indicate that the gas in the previous example would be "committed or dedicated" although the contractual commitment of the gas is called an "option." Thus, the gas would not be excluded from being considered as "committed or dedicated" because the gas is not presently covered by a certificate.

Mr. CHARLES WILSON of Texas. With the gentleman's forbearance, one final question. Is the discussion of the applicability of the term "committed or dedicated" to "options" intended to broaden the application of the term to cases in which a pipeline may have an arrangement whereby it obtains a first call on some future production but no certificate has been issued under the Natural Gas Act for any gas covered by the first call option, no gas is presently being sold in interstate commerce from the field, reservoir, or acreage to which the call is applicable and no advance payment has been made to the producer to explore for and develop the gas?

Mr. DINGELL. Will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman.

Mr. DINGELL. Such gas would not normally be considered as committed or dedicated to interstate commerce and the discussion in the explanatory statement was not intended to broaden the term "committed or dedicated" to cover such gas.

Mr. CHARLES WILSON of Texas. I have one final colloquy to enter into with the gentleman.

Mr. Speaker, I would like to ask the gentleman from Michigan one final question.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. ASHLEY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas (Mr. CHARLES WILSON).

Mr. CHARLES WILSON of Texas. Mr. Speaker, on page 6 of the committee print describing the natural gas pricing agreement adopted by the conferees on H.R. 5289, the term "proration unit" is defined for the purpose of determining when a new well is eligible for pricing as a new onshore production well. In the conference report on H.R. 5289, section 103 and definition in section (2) (8) provide the legislative language to carry out the agreement of the conferees relative to wells qualifying as onshore production units. Unfortunately, the legislative language is not as straight-forward or as easily understood as the language used in the agreement. This is because the legislative language had to follow a format that was consistent with the format used throughout the conference report. The statement of managers, on page 31, in the third full paragraph from the bottom gives a good explanation of the effect of the definition of "proration unit" in determining when a new well is a new, onshore production well. That explanation is very helpful.

My question is this: In order to remove any question about the definition of proration unit, I ask the distinguished chairman of the Subcommittee on Energy and Power of the Interstate and Foreign Commerce Committee if the following description is correct: Any new well which does not qualify for new gas price treatment will qualify as a new, on-

shore production well if it is outside the area—designated by the appropriate Federal or State agency—which will be effectively and efficiently drained by an existing well as defined in section 103(c)(3). In other words, the critical element in the application of the term "proration unit" to the determination of onshore production classification, is that the appropriate Federal or State agency have made a determination that the existing well would not effectively or efficiently drain the area to be drained by the new well.

Mr. PHILLIP BURTON. Mr. Speaker, a point of order. Would the gentleman talk a little more slowly so we could absorb these very simple questions he is asking?

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) has the time.

Mr. PHILLIP BURTON. Mr. Speaker, doses the gentleman have another copy of these questions and answers?

Mr. SPEAKER pro tempore. The gentleman from Texas (Mr. CHARLES WILSON) has the floor.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I do not yield.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Michigan.

Mr. DINGELL. The gentleman from Texas is correct.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I ask unanimous consent to proceed for additional seconds.

Mr. PHILLIP BURTON. Mr. Speaker, I object.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHLEY) has control of the time.

Mr. ASHLEY. Mr. Speaker, I yield 30 additional seconds to the gentleman from Texas.

Mr. CHARLES WILSON of Texas. Mr. Speaker, I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I would only add that the agency determination that the area to be drained by the new well would not be drained by the existing well must be made before the new well is drilled.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I think the remarkable performance we have just witnessed, where 2 of the 42 conferees have attempted to put a demonstration of what this law does or does not mean is a perfect illustration of what the gentleman from Michigan said a few minutes ago in the well of this House, that this bill is nothing but a masterpiece of confusion. It is so murky in its utter complexity, other than being a lawyers' and accountants' relief act, that it does nothing to advance the energy policy of this country.

I want the transcript, the record of these proceedings, to show that there are two Members on the majority side of the aisle trying to tell this House of 435 Members what this law means; but their interpretation is not one that is shared on the minority side of the aisle. They speak for themselves and themselves alone.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. ANDERSON) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 1 additional minute.

I yield to the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I would hope the gentleman from Illinois would not restrict this just to the minority side.

Does the gentleman from Texas have copies of these questions and answers? I, for one, have not had copies. Were they distributed?

It sounded like a nicely orchestrated script. I would think my colleagues would believe they should have copies of this kind of information made available to them before hand, so if there were any questions about the interpretations that then they would be subject to challenge.

I do not know, for example, whether or not under the unanimous-consent request to revise and extend whether the questions asked or answered are embellished upon in some places in the following statement, or even put in the RECORD.

I just think it fair to note that this kind of history can have little or no meaning at the hour of 4:20 in the morning with 35 or 40 people on the floor, with none of us knowing what the questions were. The answers were fairly clear, but I do not know what the questions were.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Idaho (Mr. SYMMS).

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman from California (Mr. PHILLIP BURTON) has made a good point in many respects, and in one respect particularly. I have been nere throughout the 2 hours of debate—it is almost 2 hours—and I do not think there have ever been more than 50 Members on the floor, and most of the time it has been in the neighborhood of 20, about the equal of the number of staff.

Mr. Speaker, on the basis of the fact that this is considered to be such important legislation, the most important bill we face in this session of Congress, I would move a call of the House.

The SPEAKER pro tempore. The Chair will state to the gentleman that he cannot recognize the gentleman from Maryland (Mr. BAUMAN) for that request at this time.

The gentleman from Illinois (Mr. ANDERSON) has yielded 10 minutes to the gentleman from Idaho (Mr. SYMMS), and the Chair recognizes the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I think what we are witnessing here is that there is a big hue and cry around the country that what we need is an energy policy, an what this House is about to do, if it passes this legislation, is to make the energy policy that we already have, which is a bad energy policy and one that is antiproducer, even worse.

I think the reason we are about to do this is that the premise, in my opinion, on which this legislation is based is faulty. I think there must be too many people in that conference who have spent too much time reading those sheets of gloom and doom and pessimism, the Washington Post, and others.

First we are told we have a dollar crisis in this country; therefore, we are exporting too much of our money to the Middle East, and so we must do something to curb the dollar crisis.

It is very interesting that when the majority leader took the well yesterday and discussed how we had to do something to plug the blood that is running out of this country, causing the dollar to go down in the European and Japanese markets, no one was able to get time to point out that in Japan and Germany, instead of their importing 50 percent of their petroleum, as we do in this country, they import nearly 100 percent of their petroleum. Yet the yen goes up every day on the foreign monetary markets, and the German mark goes up every day.

I would say to the ladies and gentlemen in this House, Mr. Speaker, that we do not have an energy crisis; we have an energy production crisis that has been brought about by excessive regulation in our already overregulated economy.

The experts say that we have somewhere between a 300- and a 600-year supply of coal in this country. They say we have anywhere from a 60-year to a 150-year supply of oil and gas in this country. In fact, this Dr. McKelvey—former head of USGS—had the audacity to say that if we decontrolled the price of natural gas in this country, in Louisiana, Texas, and Mississippi alone there might be as much as a 1,000 years of natural gas supply, but not at the price of $1.52 per thousand cubic feet; it would have to be more in the range of $3.25 per thousand cubic feet.

They also tell me this is the fact: The American Nuclear Council at Oakridge, Tenn., in the matter of U-238, has stated they have supplied and stored and have on hand 1,000 to 1,200 trillion kilowatt hours of electricity from nuclear power; we use 2 trillion a year—a 600-year supply.

So what happens? I think what we are seeing, with the whole premise on which this legislatiton is based, is a gloom-and-doom mentality.

It was only 1 month or 2 ago up in Princeton that they discovered how to make, for about one-twentieth of a sec-

ond a new source of energy, and they produced fusion at a temperature of 60 million degrees, centigrade.

What happened? I saw this in the Washington Post. When Dr. Schlesinger was asked, "Should we have a press conference and announce this to the public, that fusion is now a reality?" What fusion means is plenty of energy for everyone.

Mr. Speaker, fusion has now reached about the same level that Wilbur Wright and Orville Wright reached when they flew at Kitty Hawk. Yes, it took about 50 years after that happened before we had jet travel and went coast to coast. That is true. But Dr. Schlesinger's answer was: "Don't have the press conference."

That is because our politics, our plan, is pessimism, gloom and doom, and scarcity. That is what they are trying to preach, there is no question about that. It is the deindustrialization of America that we are talking about.

There is no limit to what Americans can do if we allow them to work in some kind of an area of freedom and let the profit and loss incentive system offer their reward to people who produce. We have sources of oil and gas. We have not scratched the surface. In my own State they are now making discoveries of oil and gas. They are doing it in many, many other places in this country. We do not know what we can do if we allow people to operate in some sort of freedom.

I will just review with the Members: coal, oil and gas, nuclear, there is no shortage, just a production crisis brought about because of the failure of this Congress to face reality and reward people with incentives. We are signing contracts with foreign countries for prices well above the domestic price of oil and gas. In fact it is interesting that the U.S. Government allows us to pay OPEC countries $13 a barrel for oil but American producers less than $7 a barrel.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

Mr. Speaker, I am very interested in the last statement the gentleman made concerning a total energy policy and the various alternatives we have to oil and gas.

My understanding is that in this package there is enunciated a national policy of conversion to the use of coal. Yet on my subcommittee, on which the gentleman serves, we have heard witness after witness come and tell us the goal for the production of coal that has been set for 1985 will not be met by that time simply because of EPA, OSHA, and a bunch of other elements, including the freezing of leases, the freezing of coal leases.

So where is the logic of having a national policy that says "convert to coal" and yet the coal is not going to be produced?

Mr. SYMMS. I think the gentleman makes an excellent point, and I think the gentleman's point goes exactly with what the gentleman from Idaho is making. We already have a lousy energy policy and we are about to make it worse.

In fact this Congress has passed legislation that make strip mining of coal prohibitive in some areas.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from New York.

Mr. KEMP. I thank the gentleman for yielding.

Mr. Speaker, I think the gentleman has made a very important contribution tonight, particularly in that he points out that this bill is predicated upon a very pessimistic view of the future of this Nation and our ability to develop resources.

The former Director of the U.S. Geological Survey, Dr. McKelvey gave a speech at MIT last summer and suggested, that there may be as much as 900 years' supply of natural gas in geopressurized methane sources in the gulf coast region of the United States. He talked about many other new sources of energy, now and in the future, from fossil fuels on into less conventional sources. Now he is no longer the Director of the U.S. Geological Survey because he was too bullish about the future of our Nation and its source of energy.

Mr. Speaker, I oppose this whole bill but, the Natural Gas Policy Act of 1978 would do the following things:

First it would extend gas price controls over the intrastate market.

Second. It would establish between 17 and 23 different tiers of gas prices—(depending on how different people read the act. Very complex regulations. Price depends on depth of drilling and distance from existing wells. Federal Energy Regulatory Commission would have to approve price at each well. Now 165,000 marker wells; 11,000 added yearly. Producers say this will force exploration into prospects that have lowest legal risks, downgrade prospects that have high legal risk.

Third. It would deregulate newly discovered natural gas in 1985—one of the 17 or 23 categories—but with standby controls that could keep prices even on this category to 1989. All gas discovered within this period, to 1985, will continue to be price controlled.

Four. Incremental pricing. New, higher cost gas will be segregated, paid by industrial/commercial users, low-cost gas paid by residential. Rationale: Industries can switch to coal, homes cannot. Producers say switching already underway, not to coal but to oil. Nation underproducing gas, buying foreign oil.

President Carter and the majority party give the following arguments for this bill.

First. He needs energy bill for his image vis-a-vis European leaders.

Two. This compromise is the best that can be gotten. If no bill this year, no bill for several years.

Third. Bill needed to rescue falling dollar, that is, by restoring confidence in United States ability to deal with energy imports.

Mr. Speaker, the arguments against this bill are profound and compelling.

This bill will retard gas exploration. The 10,000 independent drillers who drill 90 percent of exploration wells do not have resources to handle legal complexities and many will leave business. Some rough estimates say as many as 5,000 will abandon business.

FERC itself, in August 14, 1978 memo from Sheila Hollis, Director of Office of Enforcement, says "the office has concluded that the proposal is so complex, ambiguous, and contradictory that it would be virtually impossible for this Commission to enforce it in a conscientious and equitable manner." James Schlesinger discounts FERC report, says problems cleared up. But producers say no: Price still has to be determined for each well, "A bureaucratic nightmare," says Conoco.

This bill does not deregulate. Producers cite FERC study showing that today 60 percent gas regulated, 40 percent not. With status quo—no bill—by 1985, 45 percent gas regulated, 55 percent not. With bill, 56 percent gas will be regulated—under median geology assumptions.

This bill permits controlled price up to $1.75 per mcf plus inflation factor, but most price benefit to majors—Exxon, et cetera—who are permitted to sell gas from flowing wells at higher price. No real incentive to explore for new gas. Also, bureaucrats can keep price paid to $1.50 and put burden of legal proof on producers to show why they should get $1.75.

With no bill, FPC must next year adjust current price of $1.45 per mcf. Under methodology used last year, price would go to $2.45, which would effectively deregulate since producers say market cannot sustain that price—now $1.85 in intrastate market.

Who is for the bill? Exxon, Mobil, Shell, Arco, Chevron, Utilities.

Who is against: Independents, Texaco, Conoco, Amoco, Getty, Pennzoil, Sun, Marathon, Phillips, Tenneco, Naderites, AFL–CIO, paper industry, textile industry, most steel and glass.

General Motors was lobbying against the bill, but after meeting with Carter have pulled back.

This bill is 171 pages in length. FERC has 20,000 cases backlogged in disputes over prices on present regulations. Producers say enormous increase in backlog, court suits will follow passage of this bill. In order to get compromise, says one, bill drafters had to purposefully be contradictory from one section to another to appeal to all groups, leaving it to bureaucrats and courts to sort things out. What a mess, what is a disservice to the American people. Let us fight this out and come back to restore incentive to production and output.

Mr. Speaker, as I said, the Federal Energy Regulatory Commission, which will have to administer this legislation, has called the proposal "so complex, ambiguous, and contradictory that it would be virtually impossible for the Commission to enforce it in a conscientious and equitable manner." The Chairman of the FERC later said that, sure, FERC can administer this bill, but it will take 800 more Federal regulations at a first year cost of $30 million.

Today, FERC has a total staff of about 1,200 people and spends about $6 mil-

lion per year for natural gas regulation. If this legislation passes, FERC's budget for natural gas regulation will increase fivefold. The entire FERC budget, which in fiscal year 1978 was $34 million, will increase by about 100 percent.

Mr. Speaker, Americans are fed up with the negative impact of the Federal Government on their lives. They are fed up with unnecessary Government spending, taxes, inflation, overregulation, and programs that are counterproductive. If there was ever a legislative proposal that embraced all these flaws, it is this bill.

Perhaps as important as the regulatory nightmare which this legislation will create is the detrimental impact that this bill will have on residential consumers and industrial users of natural gas. The Congressional Budget Office concludes that this bill will cost consumers from $8 to $16 billion more through 1985 than current policy. For this $8 to $16 billion cost, the CBO projects only .7 trillion cubic feet of additional natural gas production through 1985.

Costs to industrial users under this legislation will increase the most because all the cost of higher-priced gas is to be charged to the industrial user before it is charged to residential consumers. In addition, because of the incremental pricing provisions, this legislation will create tremendous inequities among regions of the country and among classes of consumers of natural gas. Factories and jobs located in the Northeast will be particularly hard hit and the Sunbelt will benefit at the expense of New York.

We have been told by the administration that this bill is necessary to save the collapsing dollar in foreign money markets. Wrong! Energy costs did not cause the balance-of-payments problem. Our balance-of-payments deterioration and dollar decline did not begin with quadrupling of OPEC oil prices in 1974. The U.S. trade surplus rose in 1974 from $1.7 billion to $18.4 billion in 1985, and the dollar generally rose against most currencies. The U.S. trade balance did not shift into red until late 1976, but it deteriorated sharply thereafter. Increased oil import costs contributed to only 17 percent of total increase in imports. Thus, oil imports did not destroy the balance of payments.

Every other major industrialized country has the same increased oil import costs. Most of these—including Japan and West Germany—face a greater burden from high priced oil imports than we do. How can these nations have currencies in better shape than ours? Japan and West Germany control inflation and so their currencies rise while the dollar falls.

Not only is energy not the chief cause of our balance-of-payments deficit, but this bill will not cure that deficit.

The underlying weaknesses of the dollar will not be corrected by this bill. This bill will lead to international disbelief of America's desire to address its inflation and energy problems. This bill is being pushed by the administration as a "political posture."

Mr. SYMMS. The Secretary of the Interior squeezed him out.

Mr. SANTINI. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Speaker, I rise in reluctant support of the Energy package. The disputed issue has been the natural gas compromise. I supported natural gas deregulation through committee and on the House floor. The natural gas compromise is not a good one. There are many flaws. But the total legislative package must be evaluated.

Through all of the written and verbal discussion, I am not convinced that this compromise can stimulate exploration and production of new natural gas. I hope my pessimism is misplaced. The consumer is not protected. The producer is not protected. In fact the only people who are protected are the 800 bureaucrats whose jobs this legislation will create. With the uncertainty of new production, the gas bill will not be in the best interests of the consumers of my State. We may face the dismal prospect of higher gas prices and no new gas. I very much wish we could have separated the natural gas section from this otherwise good bill. That is the reason for my no vote on the rule yesterday.

However, tonight, we face an even larger question than the natural gas issue. Tonight we must decide whether this Nation will have a clear directive from the Congress of the United States, in response to the energy crisis. We cannot ignore this problem. In summary analysis the good outweighs the bad.

The natural gas provisions are not good. However, the rest of this legislative package takes some decisive steps forward in our quest to become energy independent. The magnitude of the problem confronting us reaches beyond simple pricing and supply. If we are to hold our credibility as the defender of the beliefs of freedom and justice worldwide, then we cannot be a Nation that relies upon the whims of foreign suppliers for its energy. We must become energy dependent simply to survive in the rapidly changing political fortunes of this world. The will of our people must be preserved. And energy independence is a keystone of that preservation.

This package provides us with the mechanism to begin the conversion to our most abundant fuel resource, coal. Through equitable provisions that will benefit all, we will be able to develop this nationally abundant source of fuel.

We will begin to recognize the contribution of our constituents, the taxpayers, through development of alternative energy sources for their homes. At the same time we will be able to provide loans to those who could not otherwise afford weatherization, and thus energy savings, in their homes.

We will be able to assist schools and hospitals in their quest to reduce their energy consumption. The benefits will be twofold. Not only will we benefit from the consumption reduction, but our public facilities will set the example for the private individual who wonders if he is really standing alone in this war on energy dependence.

It is really redundant to further elaborate on the many provisions of this bill which will serve the fight for us to reduce our dependence on foreign fuel imports.

Let it suffice to say that as a legislator who is very definitely against the compromise on natural gas, I can see that the benefits of this entire package, for our constituents, nationwide, far outweigh the bad. I urge that all our colleagues support this important first salvo in the battle for energy independence.

Mr. Speaker, I share with the gentleman in the well the reservations about the specific section to which he has referred in his observations this evening. I shared them to the point of voting against the rule yesterday. But what concerns this particular Member is that whatever the virtues or deficiencies of the natural gas section may be—and I felt the deficiencies outweighed the virtues—it seems to me that we have other substantial virtues in the proposed energy package.

I add that with the fact that our alternative to rejecting this package is, to me, the abysmal alternative of doing nothing, because I project in that context that this body will find itself for the next year, 2 years, 3 years, or 4 years, laboring with the same kind of dialog and distress that we are examining here this evening, and doing nothing.

To my mind, in the final analysis doing nothing—and I would appreciate the gentleman's response—doing nothing projects that nothingness for 1, 2, 3, 4, 5 years, however long we would proceed before arriving at a conclusion that that would be the ultimate efficiency in legislative response. For that reason, I am disposed at this point to vote for the package. Just doing nothing does not seem right.

Mr. SYMMS. I thank the gentleman very much and say, stop the remedies. I think the problem is, we are not facing the reality, the illusion. In politics many things are what people think, but the reality is something else; what we need is to repeal and remove existing barriers to production—both in pricing system and prohibitive land regulations.

The SPEAKER pro tempore. The time of the gentleman from Idaho has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Idaho.

Mr. SYMMS. I would say to my friend from Nevada that the premise here is one that is based on pessimism, of the bottom of the barrel, "We are at the bottom of the barrel; it is all over." It is not all over, ladies and gentleman.

Mr. Speaker, ladies and gentlemen, I would say that the future is great. We have had 201 glorious years in this country based on providing incentives in our society so that people can have incentives and rewards. But, what are we doing here? We are saying that we are at the bottom of the barrel. I am saying that we are not at the bottom of the barrel, we are not at the end of the road, the future is bright; all we have to do is have a little faith in the future and in individual enterprise.

If we compare the problems we have today with those of our predecessors, at Valley Forge, for example, what happened when they ran out of wood? They ran out of corn and all food, because they had price controls and the farmers could not afford to sell corn to them, but when they ran out of wood Washington said:

Here are the axes, there is the forest; go get it.

Two hundred years later President Carter says "tax the firewood."

We have coal, we have oil and gas, plus nuclear energy. We do not know how much. There is plenty of it at some price.

Mr. KEMP. Mr. Speaker, will the gentleman yield further?

Mr. SYMMS. I yield.

Mr. KEMP. Mr. Speaker, our friend from Nevada talks about doing nothing. We could do something. We could decontrol the price of new natural gas and encourage new suppliers of energy.

Mr. SYMMS. That makes so much sense as always does the gentleman from New York.

Mr. KEMP. I think one of the most interesting experiments going on in America today is the fact that we have decontrolled to a certain extent the airlines. That move was a very positive application of the premise that we are talking about tonight. By bringing about more competition in the airlines industry, we now have lower prices for the consumers, higher profits for the airlines, that is, the producers. More people are traveling on planes, and it has brought about a greater degree of economic activity. I would even suggest that revenues coming into the Treasury, total revenues to Government, are probably higher today at lower prices than at the older higher level which proves the thesis that there is a law of diminishing returns to prices as well as taxes. We need more competition, not less, and it will be to the benefit of the consumer.

The SPEAKER pro tempore. The time of the gentleman from Idaho has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Idaho.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. SYMMS. I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would like first of all to say in response to our mutual friend the gentleman from Nevada, that the ultimate failure of responsibility is not to do nothing, but to do the wrong thing, to do something that is harmful to the people of this country. And if we do nothing, it does not mean we will not do nothing forever, because there will be a 96th Congress, God willing.

The gentleman from Idaho talked about the Luddites, and he makes a beautiful point. The disadvantaged people in this country, the blacks in this country need an energy policy that will give them economic opportunity and growth, and that is why so many of them have opposed this program.

Mr. SYMMS. I thank the gentleman. I say, Mr. Speaker, that as we approach that median income goal and as the blacks are starting to rise and approach median incomes of whites, what does the President say? He says:

We are at the bottom of the barrel; the American dream is dead.

The American dream is not dead. We should not continue to kill it as we are doing tonight. I would urge my colleagues to vote "No".

Mr. ASHLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I rise in support of this conference report. I voted for deregulation in the form of the Krueger amendment, when it was before the House last year, but I share the view of my senior Senator from Kansas, JIM PEARSON, who was one of the original sponsors of deregulation in the Senate. He called this bill a classic compromise between two incredibly conflicting positions that are virtually incapable of compromise.

From my standpoint, as representing a State with perhaps the largest number of independent oil and gas producers, let me give the Members some reasons why I support this. I believe this bill will provide producers with higher prices than they get now and will assure them a market for their gas they have not had up until now because of the general elimination of the distinction between intrastate and interstate markets.

I have heard the gentleman from Michigan (Mr. STOCKMAN) give us a very Orwellian thesis of how complicated the bill is, and there are no doubt some serious complications in the bill, but the bill eliminates much of the uncertainty under existing law which permits gas contracts to have escalator provisions and redetermination clauses. Let me go over what is under existing law, because I think that is very important to tell the Members how complicated it is now.

Under existing law gas contracts have unclear escalator provisions, redetermination clauses, FERC judgments of fair and reasonable rates, all of which causes untold litigation in determining what is a fair price, and creates massive uncertainty for producers.

This bill provides certainty of price for most categories of gas. We will make it very difficult to sue on the basis of price, therefore eliminating contingent liabilities for refunds. We provide the certainty we need to get the gas out of the ground and into the interstate market. For the first time in our history, it establishes the intent to deregulate gas in 1985. Granted, it is not as immediate as my friend, the gentleman from New York (Mr. KEMP) would like, but it is a start and the first time in American history we have had this start.

There is more regulation in this bill than I would like to see, but with this we have the intent to deregulate and also we have an enhanced market for most producers in my particular area and an enhanced price and the enhanced shift in regulation from FERC to the State regulatory agencies to handle some of the issues my friend, the gentleman from Michigan, talked about as regards definitions between old gas and new gas.

Dealing with a problem as terribly complex as this and the exaggerations which are floating out of the mouth of proponents and opponents of this bill, I think we have to come to the situation where we have a start on deregulation with appropriate protection for producers and consumers and for the first time a situation where producers in my State of Kansas will be assured of gas at higher prices than at present and an assured market.

There are many people in this room that want to see no deregulation of gas at all. I would say to them that without the gradual elimination of controls on gas and oil, that all the money we spend on alternative energy resources will be worthless because there will be no market incentive for people to shift to solar and other energy sources. That is one argument for enactment of this compromise.

The bill has pluses and minuses, but on balance this bill gets us on the right foot to develop a more responsible policy toward gas and oil in the next Congress.

And this compromise is far from one-sided. It will mean considerable benefits for American consumers. First, it brings intrastate gas into the same regulatory framework as interstate gas. That will eliminate the present artificial distinction that has resulted in gluts of gas in producing areas and shortages in parts of the country where it has been in short supply in recent years. That will mean more stable markets for producers and increased access to gas by consumers. I am sure we all remember the factory closings in recent winters when natural gas was not available to keep them going. This bill, by bringing intrastate gas into the wider marketplace, will go a long way toward alleviating that problem and preserving those jobs. I cannot imagine that workers who were out of work because of regional gas shortages in the past few winters would object to that goal.

Second, the pricing provisions are not as drastic as some have portrayed them to be. It is important to remember that the bill does not deregulate "old" gas, and that the incremental pricing mechanism would place a heavier burden on industrial users than on residential consumers. It will also mean savings by cutting back on consumption of expensive foreign imports.

One final point. I received a letter from the Chairman of the Federal Reserve Board and I ask unanimous consent to include it at this point with my statement.

The SPEAKER. Is there objection to the request of the gentleman from Kansas?

There was no objection.

The letter is as follows:

BOARD OF GOVERNORS,
FEDERAL RESERVE SYSTEM,
Washington, D.C., October 13, 1978.

Hon. DAN GLICKMAN,
House of Representatives,
Washington, D.C.

DEAR DAN: Thanks for your letter of September 15 requesting my views on the eco-

nomic effects of the proposed natural gas pricing legislation. Approval of an effective energy program is essential if we are to deal responsibly with a number of critical U.S. economic problems—growing dependence on foreign energy sources, vulnerability to energy supply shortages and embargoes, depreciation of the dollar, and reluctance of business to invest in a climate of considerable uncertainty. The natural gas pricing bill as reported out of the conference committee on H.R. 5289 is an important part of such a program.

The proposed bill is designed to achieve three important objectives: (1) remove the distinction between interstate and intrastate natural gas markets, (2) conserve supplies of natural gas, and (3) provide incentives to increase the supply of natural gas. While this legislation may not be perfect in every detail, it is important that a bill be passed which contributes toward achieving these objectives.

The proposed Natural Gas Policy Act would allow newly produced gas to be sold at the BTU equivalent price of domestic oil, with a provision for the ceiling price to escalate at the overall inflation rate plus a real growth factor of 3½ to 4 percent. This would exert some gradual upward pressure on the aggregate price level for natural gas, although the bill will delay the impact on residential gas consumers for some time. However, in order to assess the inflationary consequences, it is necessary to compare such expected gradual price changes from enactment of the bill with energy price increases from maintaining the status quo. With the bill, more gas will be available in the interstate industrial markets, thus reducing the requirements for alternate, more expensive imported oil. Also, there will be reduced needs for much more costly imported liquified natural gas (LNG). It should also be remembered that some interstate gas price increases can be expected under the present regulatory regime. The net of all this, based on most likely estimates, is that the proposed natural gas bill would not add to the inflationary pressures that would otherwise exist under present law.

Enactment of the natural gas bill should also have a favorable impact on the value of the dollar. The decline of the dollar over the past year has added at least 1 per cent to our inflation rate—a cruel tax on all Americans. The weakness of the dollar results from our high inflation rate and large current account deficit with other nations. Passage of the natural gas bill would be an important step in reducing our international deficit by reducing the amount of imported oil and LNG below what it otherwise would be, and this in turn would help strengthen the dollar. A stable dollar would reduce the inflation which results from the higher costs of imports when the dollar declines in value.

Because of the diversity of America, the difficulties of arriving at a consensus for energy certainly is understandable. The natural gas proposal represents a compromise that is well worth adopting as a fundamental step in the continuing process of building a responsible and effective energy program. I appreciate the opportunity to offer these comments.

Best wishes.

Sincerely,

G. WILLIAM MILLER,
Chairman.

Mr. GLICKMAN. Mr. Speaker, the letter indicates the passage of the bill will be an important step in reducing our international deficit by reducing the amount of imported oil and strengthening the dollar.

Mr. Speaker, I urge adoption of the conference report.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I will be happy to yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, let me say that I respect the gentleman from Kansas (Mr. GLICKMAN) who just addressed the House, but I find it impossible to understand his confidence in this bill being able to spur production and provide this great incentive. I have in front of me a list of the associations which are in opposition, all out opposition, to this bill, and one of them is the Kansas Independent Oil and Gas Association.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield since he mentioned my name?

Mr. LIVINGSTON. Ordinarily I would be pleased to yield but I do not have very much time allotted to me.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from Connecticut.

Mr. McKINNEY. I thank the gentleman for yielding.

Mr. Speaker, today I will reluctantly vote in favor of the conference report to accompany the National Energy Act. I say reluctantly, because clearly the proposal before us now is far from the vigorous and comprehensive energy legislation which the President introduced April 20 last year. What began as a worthy stride in the right direction is today not much more than a stumble forward. But, forward motion, whether striding or stumbling, is progress. And perhaps most important, Mr. Speaker the progress we have made in energy legislation has been made over the obstacles presented by a naive White House and one of the most effective lobbying campaigns in history. The projected 4.5 million barrel per day reduction in oil consumption of the original bill has been whittled down to 2.2 million barrels per day. Realistic oil pricing changes and programs to encourage greater use of coal in industry have been eliminated. But progress has been made nonetheless. Two years ago Congress made a commitment to initiate changes in energy management, pricing, and use. It has kept that commitment and today I am voting to endorse that accomplishment.

The enactment of some of these significant changes in domestic energy policy is a testament to the Congress' endurance, if not its wisdom. The bill has survived some bad decisionmaking, not the least of which was to the decision to grant the conference report a rule under which the entire "package" will be approved in one vote. When Congress first created the House Select Committee on Energy it instructed its members to consider the bill as one package. Since that time however the bill has undergone some significant changes and that mandate has come back to haunt us. In fact, the changes have so altered the substance of the bill, that each of its five parts should now be considered separately and each should stand or fall on its own merits.

For those of us who spent long hours to insure the passage of the original package, the substance of the now-final product is a disappointment. I used my positions as cochairman of the energy task forces of the New England Caucus and the Northeast-Midwest Economic Advancement Coalition to document the importance of the bill as introduced. The work conducted by the caucus task force included the publication of a detailed report of the regional affects of mandatory conversion to coal. According to that study, despite higher projects by the administration the New England region would gain little from coal conversion efforts. Such a program would result in only a 2 to 7 percent reduction in Northeast oil dependence. The coalition task force, like the caucus, spent months researching and publishing issue briefs on the regional effects of utility rate reform, crude oil equalization taxes and natural gas deregulation. One of those studies demonstrated the significant contribution ($407 million) that a home heating oil rebate would have made to the Northeast region. Suffice to say that those people share my frustration over the outcome of the final product, but would be as likely to endorse the fulfillment of our commitment to a better energy future.

In several instances the fierce objection of lobbying interests and weak support by the administration resulted in the loss of worthwhile energy initiatives. The Crude Oil Equalization Tax, designed to bring the domestic price of oil in line with world costs and thereby reflect the true replacement costs of that resource, met a sound defeat in the Senate. The oil and gas users tax, the heart of the energy plan's coal conversion program, would have contributed a savings of approximately 1.5 million barrels of oil every day. But like the COET it was eliminated. The Nation's utility companies successfully reduced mandatory reforms of rate structures and power distribution to mere recommendations that the State utility commissions will consider, we hope.

And, ironically, the one provision of the National Energy Act on which both the House and Senate totally concurred, tax credits to encourage home insulation, was cut by 25 percent in the conference committee. We have for years been encouraging the American public to heat their homes more efficiently. The National Energy Act took the first tangible step toward that goal by offering each homeowner $400 in tax credits to insulate. But despite the two Houses' concurrence on substance and amount, the credit has been reduced by 25 percent. Clearly, this bill, the National Energy Act, has been battered and twisted around and yet it has sufficiently survived to warrant both a vote of support and a certain sense of satisfaction in having taken the first step toward energy reform.

Despite the obstacles faced by our first attempt at comprehensive energy legislation, we have emerged with a natural gas proposal that will contribute an estimated $6–8 billion annual reduction in the cost of petroleum imports to this country. The proposal will free significant additional supplies to the interstate market and do so at a cost of less than $50 more to a residential user in New England. The bill also retains financial incentives for solar and insulation applications for the homeowner. The bill also mandates energy saving programs for public buildings and institutions. And perhaps most important, the passage of this legislation will persuade the world that this Nation is willing to redress its mistakes in energy management and use.

Finally Mr. Speaker, this legislation, though far from the answer to our energy future, will provide us with a starting point for more vigorous energy initiatives in the 96th Congress. In May of next year domestic controls on the price of oil will expire and we will again be faced with the task of improving our artificial oil pricing system. With that expiration we will also have the opportunity to rid ourselves of the hopelessly confused entitlements program. And, after the inevitable 10-percent increase in OPEC oil costs (expected to be announced in December), we may also find ourselves addressing the need for expanded domestic refining capacity in this country. So, I will vote for this bill today both as an endorsement of our commitment and as a starting point for more vigorous activity in the 96th Congress. However, next year we must seize opportunity to implement the energy policies which were so skillfully eliminated from this bill.

Mr. LIVINGSTON. Mr. Speaker, I rise in opposition to the national energy plan as presented in these conference reports. The administration's energy policy was fatally flawed from the very outset, and months of compromise and added complexity have made little improvement. The original bill submitted to the House was produced by people, many of whom could hardly be called energy experts, working under arbitrary and unreasonable time pressures. Little or no input was allowed from energy-producing States. The conference reports attempt to use much of that unsound framework to accommodate a myriad of special interest groups. This approach simply will not work.

First, I must strongly protest the lack of an opportunity to vote separately on the natural gas conference report. This is one of the most complex, controversial, yet ultimately significant pieces of legislation to come before the U.S. Congress. Surely if such a bill is deserving of passage, it should stand on its own merits rather than disguised and protected by essentially unrelated legislation. This is the type of wheeler-dealer—"We'll take anything if it sounds good"—politics that reaffirms an already poor perception of this body among the American people.

Of course, this tactic is being invoked because the proposed Natural Gas Policy Act of 1978 constitutes a regulatory jungle which will result in higher prices without providing sufficient incentive to assure more nautral gas. The only long-term benefit from the bill will be several hundred additional jobs to be created for bureaucrats and attorneys at the Federal Energy Regulatory Commission. Even with that additional layer of bureaucracy, FERC's Enforcement Division has termed the bill's provisions "impossible to administer." For those who hope that the bill is a step toward a market approach in nautral gas pricing, I point out that under current law, 45 percent of all gas sales are already deregulated. After a few years under the provisions of this act, only 37 percent of gas sales will be deregulated.

The coal conversion and electric rate reform bills, while more palatable, still represent unnecessary and counterproductive approaches to our energy problems. The coal conversion provisions with their endless exemptions and exceptions are almost as complex as the natural gas bill. And, I find it hard to believe that we should substitute our judgment in place of that of local businessman on the question of what types of fuel are the most efficient, available and cost effective for his particular business.

As for the electric rate/utility reform section, I can only say that this is a dangerous precedent involving Federal intrusion into an area historically reserved for the States. Granting the Department of Energy the right to intervene and appeal the decisions of State public utility commissions can only lead to needless delay and controversy in local rate cases.

While the conservation section of this package may well contain some useful incentives for energy-saving devices and insulation, the entire package, taken as a whole, is a step backward. The predominant philosophy is clearly oriented toward "sharing the shortage" instead of increased energy production. If this package is passed, Congress is once again signaling the American people that all wisdom resides in Washington. Innovative local and State level solutions, as well as the productive genius of private enterprise, are to be submerged in a wave of DOE and FERC paperwork, regardless of our need for international self-sufficiency in the field of energy. If we are to ever produce a streamlined, efficient, equitable national energy policy, we must allow the marketplace to work for us. We must allow the States to work for us. Only then will we convince the American people—and the international community—that the energy problem can be solved.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. LIVINGSTON. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate the gentleman's yielding.

I want to compliment the gentleman from Louisiana (Mr. LIVINGSTON) on his statement. I particularly appreciate the point which he has made with regard to the cumbersome and counterproductive regulatory burden which this bill will impose on production, but particularly upon the small independent producers of energy in this country.

I represent a State and an area of that State which is consumption oriented. The people of the Northeast recognize intuitively that by increasing the price without increasing the supply is absolutely counterproductive, as the gentleman pointed out, and will do nothing but compound the problem of Northeast consumers and industry moving to the "sunbelt." Incremental pricing only adds to the problem.

However, there is one further dimension to this whole question to which I would like to mention. That is, the people I represent of western New York and Buffalo understand clearly there is no way they can benefit by a law that wipes out half the independent producers in this Nation who do more than half the exploration in this country.

They want legislation which will encourage production, not discourage it; and this bill will literally wipe out about 50 percent of the independent producers of energy of which there are about 5,000. Since the 1950's we have lost probably 10,000 to 15,000 "independents" and this bill will help Exxon but not consumer and entrepreneurs.

Mr. Speaker, I thank the gentleman from Connecticut for the statement he has made. I agree with him and believe that the only long term result of this deal will be the addition of several hundred people being placed in the Federal bureaucracy, and additional ones in the Federal Regulatory Commission.

Mr. ASHLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Connecticut (Mr. MOFFETT).

In so doing, on my own time, Mr. Speaker, I want to simply say what an enormously valuable member of our Ad Hoc Committee on Energy the gentleman from Connecticut has been for the past 2 years and to tell him how much I appreciate the many, many contributions he has made.

He represents a different point of view, in some respects, than I do; but I suspect that our commonality is much greater than our differences.

I simply want to say, Mr. Speaker, that the gentleman from Connecticut (Mr. MOFFETT) has been a most valuable member, not just during the period when he was with some of us in the philosophy that we espoused, but even after he reached the point when he took occasion to separate himself from the position taken by many of us. He continued to serve his interests and his people and, I think, the people of this Nation with remarkable integrity.

Mr. Speaker, I just wanted to let the gentleman know that I appreciate that very much, indeed.

Mr. MAGUIRE. Mr. Speaker. will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I am very pleased that the gentleman from Ohio (Mr. ASHLEY) made the remarks that the just made, because I felt that

earlier on when compliments were being passed around, the gentleman from Connecticut certainly ought to have been included. He has represented the kind of leadership which many of us in the House and the country have great respect for, and the work that he has done on this very difficult, complex issue for over 2 years, I think, deserves the gratitude of all of us. I thank the gentleman for myself and for many others.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. MOFFETT) now in the well.

Mr. MOFFETT. I thank the gentleman for yielding.

Mr. Speaker, it is very difficult to be extremely critical after such a kind introduction by the gentleman from Ohio. I had planned on beginning my remarks by saying what I have said many times before. I want to say it again, that I think that the Speaker and the gentleman from Ohio deserve a great deal of credit for the manner in which they launched the congressional action on energy in May of 1977. I do not think it is any secret that I was a very enthusiastic supporter of the bill that we passed on August 5 of 1977. Nor is it a secret that somewhere along the way I decided that the natural gas portion particularly was not worth supporting. I think that the Speaker and the gentleman from Ohio and the distinguished chairman, the gentleman from West Virginia, and the gentleman from Michigan, and the chairman of the Subcommittee on Energy and Power have acted with a great deal of sincerity, indeed, in their push for a bill. I think the President, who is now enjoying an increased reputation for strong leadership, acted and has acted out of great sincerity. But we have before us a measure that comes to us on a very tainted, tarnished, unfair rule, one that was defeated once and then after who knows what promises were made, it was changed and brought to the floor. Unfortunately, we lost that rule, and that is behind us now.

But now under the guise of heriosm and courage and strengthening the dollar, at 10 minutes of 5 a.m., after 20 months or so, we are being asked to pass a bill which really should be, first of all, debated separately in terms of gas as so many of us believe and, second, it should be debated in daylight when we have the press here and we have our colleagues who are here, even if they are watching the debate on television. I know some of my colleagues might be quick to say, "Well, if it had not been for old ABOUREZK, we would not be here at this hour." One of the problems with the process is that fingers begin to be pointed at the Abourezks and the Metzenbaums along about December as people who were trying somehow to sabotage this process. And shortly after they began their filibuster over in the other body, and they began to question the impact of this bill on the consumer, the conference went behind closed doors. It was just too difficult to deal with those Senators. They were unreasonable, and they talked too much about the consumer.

I think we have now the product of a secret conference, a product of a conference in which the consumer impact was not discussed very much.

I was in the early caucuses during the early portions of the deadlock, and the interests of the producers—the big producers most notably, but the producers—were discussed much more than the consumers. Let us remember that 80 percent of the American public spend 70 percent of their disposable income on the basic necessities: energy, health, housing, and food. And let us stop for just a second because I think it will be the first time in this debate tonight—let us stop for just a second and think about the individual people who heat with gas and what impact this bill is going to have on those people.

We do not know how many people are going to be driven onto welfare by this bill. I think we ought to know. We do not know how many people who are on the margin now are going to be pushed further into debt by this bill. The conferees do not know that. There are no analyses.

I say to my friend from Kansas, who talked about a letter from the Fed supporting this bill, has Mr. Miller of the Fed presented any analyses of the inflationary impact of this legislation? Can the managers of the bill tell me if they have ever seen an inflationary analyses of this bill by Mr. Miller of the Fed? The answer is no.

We have asked, and I see the staff as we go around shaking their heads no. There is no inflationary impact analysis of this bill.

For the categories of gas deregulated, I sat in the room once, twice, a hundred times, and asked, what is the cost of production of geopressurized brine? We do not know, but we are going to give them a higher price. There was some talk that once Chevron made its profit back on geopressurized brine, it would come down; but that was on speculation. The moves were all more and more toward the producer and farther and farther from the consumer in secret sessions by well-intentioned people sincerely believing they were doing their duty.

They shut out the minority. I came to appreciate what happens to the minority. I think all of us when we are in the majority should stop and think, and I am beginning to learn how we treat the minority and how we treat the minority within the majority, because I do not think the treatment was very good.

The gentleman from Ohio (Mr. BROWN), who is not here at this moment, was criticized for not taking part in the process very much. He was not invited into the process very much after December and for the months ahead.

We are dealing with a measure which more than anything involves imagery in terms of the dollar. It may have a short-term impact, but it will not be much more than that.

The gentleman from Michigan (Mr. DINGELL), for whom I have great admiration, said dramatic increases in all fuel prices are inevitable. Well, why are we facing dramatic increases in all fuel prices? It is because this Congress sanctions it, and each one of us supporting this, buying this bill when they give us nothing in return, as this coalition agrees, in the way of increased supplies.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to commend our distinguished colleague in the well for taking so much of his time on energy when more of us should have been sharing that workload.

This bill is going to take the American people to the cleaners. It is a total outrage. If we were not on the floor of the House, I might describe it in more customary terms that I use in other forums.

I commend the gentleman thoroughly. I regret this matter has come up in such a period in this long workday that most of us have a good deal of trouble getting what is said, including the nuances.

Mr. Speaker, I hope we will kill this turkey.

Mr. MOFFETT. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, I quote from the report of the Budget Office, that this bill represents a transfer from consumers to producers of gas. It goes beyond the high prices for new gas. It includes in many cases higher prices for already floating gas.

There was some talk about the percentage of deregulated gas after 1985. All the gas from wells drilled after February 19, 1977, below 15,000 feet would be deregulated. That is a major category of gas.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Connecticut.

Mr. MOFFETT. When you add up the gas that is regulated, you have to ask this question. Where are the analyses after 1985? What have we heard about? What happens after 1985 in terms of consumer impact? We have varying estimates, $9 billion from the subcommittee staff, $50 billion from other sources as to what this bill will cost by 1985. What happens after 1985? Where is the protection for the consumer?

I was willing to support the natural gas bill and, in fact, was supporting one proposal in December last year in the conference that dramatically escalates prices and had the floating cap at the end, where the price could go up or down; but at least there was some protection, and when the effort came to take the lid off in 1985, I said why can't we put in one thing, some finding that an orderly market exists, some finding that we have equilibrium between supply and demand in the market. The conferees on our side would not buy that, because they did not think they had the votes for it.

So I think there has been a spirit of compromise here, but part of this compromise has gone much too far. The irony of it is that the small producers

are not going to benefit. The real small producers are going to be so tied up with trying to hire petroleum engineers, lawyers, and accountants that what will happen next year is that we will be right back here amending this legislation. I guarantee we will.

So all this talk about "this is the only chance" and "this is way to get rid of this issue once and for all" means nothing, because we are going to be back on this issue next year and the following year and the year after that. All this talk is a lot of nonsense. We are going to be dealing with natural gas for months and years on a regular basis, and this bill assures that that is going to take place.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. COLLINS).

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I would like to join in commending my colleague, the gentleman from Connecticut (Mr. MOFFETT), for his great work on this bill and join in opposition to the legislation.

Mr. Speaker, I rise in strong opposition to this legislation, which we are told we must support because it has been labeled as creating a national energy policy, despite the facts that it will decrease gas production and increase our dependence on imports of foreign oil—the antithesis of the energy policy we need. I refuse to participate in this hypocrisy.

The Nation desperately needs a national energy policy that will reduce our oil imports significantly and the huge outflow of dollars that accompanies these imports. That is why I have pushed so hard for the President to impose oil import quotas, for stringent conservation measures and rapid development of alternative resources of every production.

In summary, I oppose this legislation for the following reasons:

First. It will increase our dependence on foreign imports because oil will be cheaper than gas for many industries. As a result, it will worsen our domestic inflation, further weaken the dollar, and impose further dangers to our national security.

Second. It will result in the transfer of more than $200 billion from consumers to producers, sending energy and all other prices soaring.

Third. It will be a bureaucratic nightmare, creating 29 categories of gas pricing, requiring more than 300 new Federal employees to administer, thus even further contributing to its cost.

Fourth. It will result in production of less, not more, natural gas because it will drive many of the small, independent producers which do most of the exploration for new gas, out of business.

Fifth. It will hand huge windfall profits to the giant energy companies and contribute to their already unconscionable and unhealthy domination of the energy marketplace.

The gas provisions are so counterproductive to our energy policy needs and so economically ruinous, as to make the whole bill unsupportable, despite good provisions in other sections of the bill. It is a travesty that these provisions could not be considered separately.

This is not anything like the National Energy Act which the House passed 14 months ago; it is a complete reversal and distortion of that legislation. Its substance was butchered by the Senate, and the conference delivered substantially the butchered product. It is not an even-handed energy program, but a lopsided nightmare. Its few good provisions no longer justify supporting the entire package. Had the leadership provided the Members of the House with the opportunity to act on each part separately, some of the provisions might have been salvaged. As it stands now, with but one whole package before us for one vote, I must vote against passage and hope that my colleagues will do so as well.

THE NATURAL GAS ACT IS DEVASTATINGLY INFLATIONARY

According to the Department of Energy's own information administration, the natural gas portion of this package will cost at least $29 billion over present law. Other estimates of the cost go as high as $50 billion. The effect of these skyrocketing costs will be reflected in all the goods and services in our economy, rippling throughout and raising all our costs, not just our direct energy costs. And those estimates do not even take into account the massive cost of deregulation in 1985. The net result of these huge costs will be continuing double-digit inflation—a shock which our still-shaky economy cannot afford.

And the Natural Gas Act will do virtually nothing to shore up our weakened dollar. As the Wall Street Journal editorialized on August 21, 1978:

> The dollar fell not primarily because the U.S. imports too much oil, but because the U.S. created too many dollars. . . . If the expansion of world dollar reserves is not arrested, it would continue to fuel world inflation even if the energy problem could be solved tomorrow.

And as Eliot Janeway wrote in September of this year:

> . . . it is my considered judgment that passage of the pending gas bill will make no contribution whatever toward restabilizing the dollar. On the contrary, it will advertise the strangulation of our regulatory procedures in red tape and it will accelerate the liquidation of independent gas producing enterprises, thereby weakening the dollar further. The Natural Gas Act is unadminsterable, a bureaucratic nightmare.

On top of this devastation to our economy, the gas act part of this package will fuel our growing Federal bureaucracy. Federal Energy Regulatory Commission (FERC) Chairman Charles Curtis estimates that his Commission alone will need $30 million and at least 300 new staff—on top of the 500 new staff to be provided under the Energy Department authorization to enable FERC to catch up on its backlog—just for attempting to administer the gas act. Chairman Curtis said in a recent speech in Topeka, Kans., that the gas act will be "extremely difficult to enforce. It's a complex bill,' said, "one that puts burdens on the Commission that I am less than confident we can perform."

In addition to increased bureaucracy at the FERC, it is estimated that the Department of Energy, too, will be needing more personnel—on top of its already bloated 20,000-person bureaucracy. The message from citizens all across the Nation during the past few years has been loud and clear: We must make drastic cuts in the enormous Federal bureaucracy. And yet here we are today, on this supposedly last day of the 95th Congress, being asked to make significant new additions to the Federal Government's payrolls. I cannot support that.

THE NATURAL GAS ACT WILL NOT INCREASE SUPPLY, AND WILL INCREASE IMPORTS

Indications are that the Natural Gas Act will mean virtually no increase in the domestic production of natural gas. Under Secretary of Energy, John O'Leary said in September:

> I think the resource has had it. Even raising prices will not greatly increase the supply.

The administration now claims that the compromise will bring on an additional 2.8 trillion cubic feet of new gas production; this despite contentions just a year ago that $1.75 was very generous but that no price increase would effectively increase production. As the President said in September of 1977, even if—

> We tripled the price of oil and natural gas, there could be no substantial increase in the rate of exploration. It would just be an enormous windfall of profit.

Because the complex pricing mechanisms contained in the gas compromise will, as is well established, raise prices substantially even in the short term before the 1985 deregulation goes into effect, it is estimated by many that the Gas Act will actually increase oil imports. This is because a higher gas price in the interstate market will make oil cheaper than gas for many industries.

And the prestigious Wall Street investment banking firm of Smith, Barney, Harris, Upham & Co. predicted last month that the gas bill would increase oil imports by 2 million barrels per day in 1985. Standard Oil of Indiana, through its senior economist, Ted Eck, indicated that "the gas bill could result in more oil imports." In a recent Washington Post analysis, the administration is cited as uncertain as to what effect the legislation might have on future consumption and imports. Increasing imports by enacting this bill would contradict the very reason for a national energy policy and add to our already staggering economic burden of paying out $45 billion this year for oil imports, a condition that could ruin our economy and the value of the dollar.

THE NATURAL GAS ACT WILL GIVE ASTRONOMICAL PROFITS TO ENERGY INDUSTRIES

The $1.75 price which the administration advocated as more than generous in 1977 will be, under the gas compromise, $2.06 immediately and more thereafter. The Department of Energy states that the current $1.50 price provides a 15 percent rate of return—and that is a high level for any industry. More than that is certainly out of line. Over all, the gas

compromise would increase producer revenues by $200 billion over the next 7 years.

Inexplicably, the DOE continues to support the compromise even though, by its own estimates, gas production will decline by 16 percent even in the face of the 325 percent increase in revenue. This is because many small, independent producers who do most of the exploration for new supplies will be driven out of business. The energy giants, then, would be reaping huge windfall profits, which the consumer would pay, and there will be less natural gas produced.

In sum, nothing in the reasonable sections of the Natural Energy Act now before us can even come close to mitigating the harm it will cause. I urge all of my colleagues to think very hard about this bill before casting their vote. An energy policy, yes. But a counter-productive piece of the legislation which will wreck our economy and increase our dependence on imported oil, just because it is labeled an energy policy, no.

Mr. COLLINS of Texas. Mr. Speaker, we have a lot of debate that has been going on for a year-and-a-half on this emergency gas bill. One thing I have noticed is that there has not been a single soul who has ever referred to the fact that he supported the national emergency oil bill of 1973 because 5 years ago, when we had an emergency oil situation, Congress came out with what was known as the emergency oil bill. Yet not one soul that voted for that emergency oil bill has with pride said, "I was one Member who brought that piece of legislation to this Congress and to this country."

As all of us know, what that emergency oil bill did was to solve no problem and do absolutely nothing except create economic chaos within this country.

At the time we had the emergency oil bill we were importing each year $5 billion in oil, and today we are importing $50 billion in oil. Today over half the oil that is used in this country is imported oil. Now we are going to start in on gas. Congress is reversing all the basic economics. We are reversing every fundamental fact of business that this country has ever learned or that we should know from commonsense.

Basically, the approach is that some way or another there is something wrong about big oil companies or that big oil companies have made gigantic profits.

Well, I wanted to investigate that allegation. I took the 35 largest oil companies because they are the ones that are always criticized so vigorously. I wanted to see how much money they made and how much money the stockholders received, because, after all, in the oil business the stockholders from coast to coast own these companies. Let us find out how much they have been making out of all this profit bonanza we have heard so much about. I took the year 1976, which is the last year for which we have complete records, to see how much they made. The dividends paid to stockholders were $4,554 million. To repeat, that is $4,554 million.

What is interesting is that these same companies had paid to employees in the way of payrolls and in benefits $15 billion. In other words, every time the stockholders made a dollar the employees were getting $3.

But do the Members know who was making most of the money from the oil companies? It was taxes, taxes, taxes. The taxes were so tremendous I could hardly visualize it. They had paid taxes on dividends, they had paid taxes on their employees' share of earnings, they had paid excise taxes, and then they had paid all the other forms of taxes that exist.

From revenues of these 35 oil companies with their operations, $53.7 billion went for taxes.

Now, I want the Members to think about that for a minute. While the stockholders got $4.5 billion, taxes were getting $53.7 billion. On its very face it is obvious that anytime anything in this country is generated in the way of money, for every $1 going to the stockholder $12 is going in the form of taxes to government.

Mr. ECKHARDT. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Speaker, I was wondering if the gentleman from Texas (Mr. COLLINS) had perhaps made this speech for some other occasion. I was wondering if the gentleman feels that we are giving or providing too little an amount for gas pricing.

The last gentleman in the well thought we were giving too much, and both gentleman seem somehow to agree in an ultimate conclusion, but I am not quite sure on what basis they are agreeing.

Mr. COLLINS of Texas. I would say to the gentleman that I think the real alternative that really exists is to pay where it costs more to produce, to pay more, because the alternative, if we do not buy gas based on domestic cost is to buy gas where it costs more and that is foreign gas.

Mr. ECKHARDT. Will the gentleman yield just a moment on that point? Is that not precisely what we are doing here, where it costs more to produce at 15,000 feet than it did to bring in a well some years ago? We provide a higher price, is that not what we are doing?

Mr. COLLINS of Texas. Let me reclaim my time and get to this point right now. What we are doing here is, we are creating a bureacracy where we are going to spend more for the bureaucracy to produce regulations than we pay for the private oil and gas industry to pay to produce all of the oil and gas in this country. I checked the figures on totals, because I see the point the gentleman is raising. The question is what happens when cost of production means more cost. I think the best alternative for energy is a reinvestment tax credit. In other words, we should have a tax credit which would encourage oil and gas operators to put every nickel back into exploration and development. We checked the figures on what are the costs for drilling oil and gas. As the Members know, when you drill for oil, you sometimes get gas; when you drill for gas, you sometimes get oil. It is an interchangeable kind of industry. Also when they drill for oil or gas sometimes all they get is a dry hole.

First, I want to talk about energy: When we talk about energy in the United States, 75 percent of the energy in the United States is oil and gas. We talk about solar, we talk about water power, and we talk about nuclear. But 75 percent of energy is oil and gas. Here is the amazing figure, and it is a matter of actual record, it is there. It costs $11.3 billion in total to produce all of the oil and gas in this country. That is not only the cost for new oil and gas, but it also provides for the 500,000 old oil and gas wells industry has to work over. It costs $11.3 billion a year. The gentleman will recall what the congressional authorization was for the energy bill. It took care of nothing but bureaucrats and gobbledygook and planning. DOE was $12.6 billion. That is amazing. For $11.3 billion business ran the entire oil and gas industry, and yet this FREC, needed authorization of $12.6 billion. I want to go into that. This Carter energy plan costs more money for bureaucracy and planning than the oil and gas industry spent in getting their production job done.

Oil and gas private industry costs are $11.3 billion a year to produce. The Department of Energy authorization for 1979, which is now pending with the President, is $12.6 billion. The Energy Agency is appropriated $4.8 billion in the Department of Interior appropriations bill, and $6.84 billion in the Energy and Water Development Appropriations Act, which was recently vetoed by the President, but the energy section is to remain intact.

This is a total of $12.6 billion authorized to the Energy Department, while private industry uses only $11.3 billion to produce your oil and gas.

ENERGY BUREAUCRACY

This Carter energy plan costs more money for bureaucracy and planning than the oil and gas industry spent in getting their production job done.

Oil and gas private industry costs are $11.3 billion a year to produce—1976 figures are the most current. The Department of Energy authorization for 1979 is $12.6 billion. The Energy Agency is appropriated $4.803 billion in the Department of Interior appropriations bill (H.R. 13932) and $6.84 billion in the Energy and Water Development Appropriations Act (H.R. 12928) recently vetoed by the President, but the energy section is to remain intact.

Compare it. A total of $12.6 billion authorized to the Energy Department while private industry uses only $11.3 billion to produce your oil and gas.

Let me total these oil and gas figures for you.

EXPENDITURES BY PRIVATE INDUSTRY TO PRODUCE OIL AND GAS

[Dollar amounts in billions]

All Oil and Gas Wells—New and Reworked	$6.6
All Dry Holes Drilled	1.8
Leasing Equipment	1.5
Geological and Geophysical Research	.7
Lease Rents and Land Producing	.7
Total	11.3

Now let us look at the totals for the DOE budget for 1979.

[Dollar amounts in billions]

Department of Energy Authorization (Interstate and Foreign Commerce Committee, Interior and Insular and Affairs Committee, Committee on Science and Technology)	$12.6

BREAKDOWN OF APPROPRIATIONS FOR DEPARTMENT OF ENERGY

DEPARTMENT OF INTERIOR APPROPRIATIONS—H.R 13932

[Dollar amounts in millions]

Fossil Energy Research and Development	$594,753
Fossil Energy Construction	163,919
Energy Production Demonstration and Distribution	188,581
Energy Conservation	754,031
Economic Regulatory Administration	94,733
Strategic Petroleum Reserve	3,006,854
Total	4,802,871

ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT—H.R. 12928

[Dollar amounts in billions]

Total Operating Expenses	$4.818
Plant and Capital Equipment Costs	1.068
Power Marketing Administration	.145
Federal Energy Regulatory Commission	.051
Special Foreign Currency	.002
Total	6.084

What this points out so clearly is the fact that you can spend more for bureacracy and for nothing than you can to run the entire private oil and gas industry in this country.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I will be glad to yield to the gentleman from New York.

Mr. GILMAN. Mr. Speaker, I certainly want to associate myself with the remarks of the gentleman from Texas. During the prior session of Congress, I introduced a measure that would have provided an excess profits tax, with a tax credit to provide incentives for the industry to engage in research, development, and more domestic productivity.

Does the gentleman feel that that kind of a thrust would be more helpful rather than this complicated measure?

Mr. COLLINS of Texas. I want to tell the gentleman from New York (Mr. GILMAN) that is the only workable, practical, and the best solution the gentleman could ever recommend.

The SPEAKER pro tempore. The time of the gentleman from Texas has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS. Mr. Speaker, I want to say this: If the Nation's dependence on foreign energy is to be solved, the oil and gas industry between now and 1985 will have to spend another $230 billion to drill 500,000 new oil and gas wells. Capital expenditures and drilling at those levels somewhat more than 165 trillion cubic feet of additional natural gas could be produced. Remember this, when you use capital you are putting people to work, you are putting pipe to work, you are putting transportation to work, you are putting America to work.

Under the pricing provisions, however, capital available would only be $134 billion. We need to get 60 percent more in the form of wells. We need 18 trillion cubic feet of natural gas which is now being lost to the consumer because we know that foreign gas on LGN is always selling for twice as much.

(Mr. COLLINS of Texas asked and was given permission to revise and extend his remarks.)

Mr. Speaker, as Congress readies itself to go home, many of us will be facing long hours of campaigning in the weeks to come. One bill I feel my colleagues should know well is the National Energy Act—President Carter's proposal for solving our energy problems. I am sure most of my colleagues will agree that this is the most controversial piece of legislation we have debated in many years. I want to emphasize that many of the people back home will be asking about this bill. It will affect their home life, jobs and economic security for many years to come. I would like to review some of the basic points of this Energy Plan.

When President Carter introduced the National Energy Act in April 1977, he stated

> The United States must solve its energy problems in a manner that is equitable to all regions, sectors and income groups.

These goals have not been achieved in the present form of his plan.

First of all, this bill does nothing to reduce oil imports. The President has tried to use price control on energy resources as the means of achieving this reduction. We know from past experience that price control does not work. The Emergency Petroleum Allocation Act of 1973 set domestic oil prices at $5.25 a barrel. These controls have remained the same while the prices for foreign oil imports have risen to $14.50 a barrel. In 1972, we were importing $5 billion of oil. Today, we are importing $50 billion. Foreign oil is now over half of the oil used in this country.

Oil and gas is the only commodity in this country under price control. It is also the only commodity in short supply. The Carter energy plan proposes to make the same mistake with natural gas that has caused our dependency on foreign oil. This bill proposes price controls which will mean that America will be importing more and more of its gas. There will also be less domestic gas produced due to the lack of incentive caused by price control. The Carter energy plan is so complex that the President created a new Washington bureaucracy to administer the energy regulations. This new agency competes well with its bureaucratic brothers. It employed 19,767 people this year. Its 1979 budget will be $12.6 billion. Compare this with the fact that the cost of all drilling for gas and oil in the United States for an entire year is $11.3 billion. This figure includes the cost of reworking 500,000 present oil and gas wells plus drilling new ones for a combined total of $6.6 billion; plus $1.8 billion for dry holes drilled; $1.5 billion to lease equipment; $.7 billion to lease acreage; and $.7 billion for geological research. The 1979 budget is an increase of 19 percent over last year's budget. This budget doubles the 1976 earnings of the seven largest oil companies and exceeds the total earnings of the top 20 companies by almost $2 billion.

To add to all the non-productive DOE controls, the Carter Energy bill creates 29 new categories of natural gas. The complexity of determining the price levels of each type of gas will hold up production for months and years. Not even the bureaucrats want to work with this bill. An official at the Federal Energy Regulatory Commission, the DOE department administrating gas regulation, has said the bill is "so complex, ambiguous, and contradictory that it will be virtually impossible for this Commission to enforce it in a conscientious and equitable manner."

FERC Chairman Charles Curtis estimated that the Commission would be required to employ 800 regulators at a first-year cost of $20 million to determine these natural gas categories. FERC already has a backlog of 20,000 cases. State agencies, FERC and the courts will all be involved before a new well is drilled. In Texas alone, they estimate holding over 4,000 gas hearings a year. No one will be making a profit except the Washington lawyers. This bill will do more to increase the supply of gas attorneys than it will to increase our reserves of natural gas.

Price controls under this bill are extended to the intrastate gas market for the first time.

I do not see how the word "equitable" can be used when we have direct Government allocation of natural gas. We have all seen the complications of gasoline rationing. If the Government takes over natural gas distribution and starts determining priorities, who will you sponsor?

The lowest priority in the bill is for the industrial users of natural gas. The extra cost of high gas prices will be born by the industries which are served by interstate pipelines. The homeowners will continue to have a low heating bill while the industrial plants will bear the extra financial burden of reduced consumer costs. Plants will close down as over half of the natural gas is used for industry. Workers will be able to stay at home in a warm house, but without a paycheck.

In addition, this incremental pricing will increase oil imports, not reduce them anywhere near the 4.5 million barrels a day the administration originally proposed. The Wall Street firm of Smith, Barney, Harris, Upham and Co. recently completed a study which predicted that the gas bill would actually increase imports by 2 million barrels a day by 1985. The analysis predict that the heavy burden placed on industrial users will force them to switch to oil. With the short supply of domestic oil caused by price controls, most of these industries will increasingly depend on foreign imports for their fuel.

The Carter energy bill will produce no more gas supplies. New gas reserves are very deep and expensive to drill. There are also many old gas fields that have low reserves, but could be productive under a reasonable price. Total deregulation would eliminate this problem by increasing the amount of energy produced in our country. Under the current low price levels—$5.50 per barrel for oil, $1.42

per mcf for gas, it purely and simply costs an oil producer more to extract the oil or natural gas than the Government is willing to allow him to charge. The energy is available, but it is deeper in the ground than before. The average well below 15,000 feet costs $2 million to drill. For wells shallower than 15,000 feet, the average drilling price is $157,000. As you can clearly see, the average deep well costs nearly 13 times more to drill; but the American producers are not allowed to reflect that price difference in what they charge. The oil and gas is there, the Government just will not allow it to be produced. All the while the import dependency grows worse.

This energy plan is a certain failure. It will not solve our short supply of energy which is the main problem. Those who vote against it will find their votes justified month in and month out. The only guarantee in this bill is economic chaos with less energy production. We must look again at the cost of Government bureaucracy. Today the $12.6 billion allocated in the energy authorization is more than the $11.3 billion which is the total cost of operating the entire oil and gas industry in the United States.

There is only one answer to the energy situation. The answer is a plowback tax credit. This credit would provide that any oil or gas operator who earned additional profits would be taxable up to 95 percent. However, it would further provide that the operators could have 100-percent tax credit on the earnings that are reinvested in exploration, development, pipelines, and refineries for more oil and gas production. Operators could put all of their increased profits back into energy development with full productivity.

To sum up the basic facts of the Carter plan, it will not produce any significant new gas supply nationwide. The Congressional Budget Office, the Department of Energy and the conference committee staff project minimal increases in the nationwide gas supply if this bill becomes law. It does not provide any significant supply of new natural gas to consumers in either the interstate or intrastate markets, while intrastate gas consumers will pay $7 billion more for their gas in the next 7 years than under a continuation of the present unregulated market systems.

This is an unwise and unnecessary bill. Increasing supply is the key to solving the energy crisis. When an energy plan calls for no new energy and $2,000 a year per family in additional taxes, something is wrong with the thinking that produced it. These taxes, which amount to a 25-percent Federal tax increase, will help to pay for a 20,000-man energy bureaucracy, but they will not solve the energy shortage.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11733) entitled "An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12467) entitled "An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and joint resolution of the House of the following titles:

H.R. 8729. An act to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes; and

H.J. Res. 1139. Joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. Con. Res. 114. Concurrent resolution directing the Secretary of the Senate to make certain corrections in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

Mr. ASHLEY. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, sections 202, 203 and 204 of the energy conference report on public utilities (H.R. 4018) adding new sections 210, 211, and 212, to the Federal Power Act, provide authority for the Federal Energy Regulatory Commission to issue orders to the Tennessee Valley Authority which might in some instances be in potential conflict with section 15(d) of the Tennessee Valley Authority Act as amended in 1959.

Section 204 of the conference report, adding new Federal Power Act section 212(f), specifically deals with this potential conflict. Since my committee has jurisdiction over matters affecting the TVA, I would like to make clear my understanding of how this legislation relates to the TVA.

First, it is my understanding that this legislation does not purport to amend the Tennessee Valley Authority Act and, specifically, that it is the intention of of the conferees that none of the prohibitions against service outside the established Tennessee Valley Authority service area as stated in section 15(d) of that act, are reduced or modified.

Second, section 212(f)(2)(B) of the Federal Power Act, as added by section 204 of this conference report, indicates that Congress may, by enacting special legislation, authorize the Tennessee Valley Authority to interconnect or wheel in accordance with a Federal Energy Regulatory Commission order issued under the cited sections of this conference report even where such arrangement might be in conflict with the prohibitions of section 15(d) of the TVA Act. Section 212(f)(2)(B) is a restatement of similar language in section 15(d) of the TVA Act. My understanding is that if such special legislation is considered by the House that committee jurisdiction for such action would remain with the Public Works Committee.

Mr. ASHLEY. Mr. Speaker, I yield 1 minute to the gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman for yielding. Mr. Speaker, I have a question with regard to the priority for agricultural use.

The conference report with respect to section 401 of title IV which provides gas for essential agricultural uses states that the conference agreement includes the Senate provisions on this issue with certain modifications. While the Senate bill explicitly extended agricultural priorities to agricultural food packaging uses for which natural gas is necessary, the conference agreement defines the term "agricultural use" to include "food quality maintenance." My question to the gentleman from Michigan is: "What was the intent of the conference report in deleting the term "food packaging" and replacing it with "food quality maintenance."

Mr. DINGELL. There was a danger that much of the food packaging for which a priority might have been requested, in fact was not necessary for food quality maintenance. It was felt by the committee that the more general phraseology of "food quality maintenance" would cover packaging materials essential to food quality maintenance, and the Secretary of Agriculture can apply this where appropriate.

Mr. ASHLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Speaker—

This is our playes last scene, here heavens appoint
Our pilgrimages last mile; and our race
Idly, yet quickly run, hath this last pace
Our spans last inch; our minute's latest point . . .

The wheel has come full circle. We have now come to the end of this year's debate on a question that has proved so divisive for the Congress over the past few years: What we should do about the Nation's energy policy. There are those who would argue that it is better to do a bad thing than to do nothing; that it is better to make a misstep now than to delay to allow us to step in a better direction at another time. I am not among them. To go forward with this bill will cause us to retrace our steps in the years ahead, because this bill heads us down the wrong road. I should like to make a few comments to set this matter in some perspective.

The seeds of our present dilemma were sown in 1954 when the Supreme Court decided that the Congress did not understand its own intent when it wrote the

Natural Gas Act in 1938, and that it actually intended to regulate the prices paid to producers for natural gas at the well-head, if that gas was to be sold into interstate commerce. All this, even though the Natural Gas Act clearly exempted producers from such federal regulation. Two years later, in 1956, the Congress passed a bill to deregulate natural gas, or to remove those federal price controls. Unfortunately, President Eisenhower vetoed that bill, and for the first time political considerations intruded into an issue which had formerly been subject only to the considerations of the marketplace.

Since that time, political decisions, rather than sound economic judgments, have figured most prominently in Federal energy policymaking.

The matter slept until 1976, when Congressman BROWN and I offered the first natural gas deregulation bill to be considered in the House in 20 years. The decision went against us by a margin of 205 to 201, and in consequence I believe that the Nation lost a chance for establishment of a really sound energy policy. Nevertheless, we have come some distance even since those days in February 1976 when that battle was fought so closely.

Several of us argued then that natural gas needed to be priced at the cost of replacing the fuel that we use today, rather than on a faulty historical cost-based method. We argued that 52 cents, the maximum then allowed by the Federal Power Commission for interstate sales of new natural gas, was insufficient to bring on new gas production. However, many of my colleagues then took the position that 52 cents was all that was needed. The close vote in the House, coupled with a vote in the Senate for deregulation, helped the Federal Power Commission to realize that there was a growing understanding across the land that this most precious of fossil fuels should be priced at a cost which more nearly approximated its replacement cost. Within a few months the FPC allowed a price of $1.42 on sales of new natural gas.

And only a year later, in 1977, the same people who in 1976 argued that 52 cents was all that was necessary to elicit new supplies of natural gas were advocating $1.75. They had not yet accepted the need for market pricing, but they had at least come to understand the need for pricing a commodity at its replacement cost. The first step in the energy education of the Congress had been taken.

The second step was evidenced by a shift in the opposing position. For the first time the other side acknowledged that, as we had urged in 1976, to assess the real cost of deregulation one must compute the cost of fuels necessary to replace gas which will not be produced and used if deregulation did not take place. The economic analysis of the proposed gas bill prepared by the House-Senate conference committee finally accepts the validity of this point. As a result, the committee staff determined that the bill before us would cost consumers of intrastate natural gas some $7 billion more than would the status quo. At least $3 billion of this sum would be borne by Texas natural gas consumers. Thus, consumers in producing States who have paid market prices and for the exploration necessary to find new gas reserves, and who have been paying prices as much as two times higher for their gas as do interstate gas consumers, now find that the proposed legislation will cost them even more in the future. And in all probability they will see a decrease in the available gas supply.

Currently, consumers in the unregulated intrastate market pay from $1.70 to $1.80 for supplies of new gas. The present bill would immediately increase that price to over $2 for consumers in Texas and other States. The new bill would immediately be costlier to consumers than the status quo.

The third important consideration is the long-term cost of regulation itself. We are told that an immediate $30 million will be needed by DOE to add hundreds of additional staff members. Not many people realize that the current budget for the Department of Energy ($12.6 billion) is twice as much as is paid each year to those who supply the Nation with 15 percent of its energy—the interstate natural gas producers. They receive only $6 billion each year for their product. Thus, the regulators have succeeded in securing for their own uses more than twice as much as the suppliers of interstate gas. What do we have to show for this $12.6 billion expenditure? Only mounds of paperwork, and its resultant confusion. By the way, paper when burned causes more pollution than does natural gas, and it has a low heat content. Any way you look at it, the taxpayers are getting a bad bargain.

The legislation before us suffers from the fact that it was initially designed in less than 90 days: It was presented to Congress on April 20, 1977, by an administration that took office on January 20 of the same year. Congress has spent more than 500 days trying to improve upon its initial, faulty design. But it is difficult to improve an unseaworthy vessel once it is afloat. I have little doubt that, if this bill is passed, we shall return in an attempt to amend later some of its flawed design. My only hope is that we could have the courage, patience, and temerity to pause now that we have learned already three things in the course of our deliberations: One, that we need to price fuels at their replacement value; two, we must take into account the cost of substitute fuels if we do not provide for adequate production of a cheap fuel source such as natural gas; and three, the very real, though hidden, costs to consumers that are imposed by the present bill's regulatory scheme. If we recognize these costs, I believe that we will decide to postpone until next year the creation of a final new energy policy. That would be in the interest of the American people. If we do not do so, we shall be back, and I trust that in some point in the future will recognize the very simple need of treating the energy industry in the energy-producing States like any others; to allow them to sell their commodities at market prices, free of Federal price controls but in marketplace conditions in which strong antitrust measures are endorsed. When we do that, we will achieve a genuinely good design. The Congress has gone through a long and helpful dialog on energy questions. We have enlarged our own expertise through this process, and can continue to improve our legislative design for the future. That design should be one that would encourage maximum energy production at the lowest cost to consumers with minimal reliance on other nations. That policy would be in our national interest, and I hope that we can move next year and in the years ahead to bring a real and worthy finish to our deliberations on this subject.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

I rise in opposition to the conference reports on energy. Mr. Speaker, within the past 4 years our country has been faced with the ever increasing implications of a nationwide energy crisis. More recently, the American public, as well as the legislative and executive branches of the Federal Government have been attempting to mold an energy policy that would not only meet the immediate demands of our country, but also allow sufficient flexibility for alternate means of energy sources.

Mr. Speaker, it is, indeed, a priority of unprecedented magnitude that we come up with a viable policy in very short order, nevertheless, many of my colleagues urge for further research and debate on this issue. Understandably so. The energy issue is multifaceted, polyproblematic and its success is directly contingent upon the very careful orchestration of our natural resources and present capacity of energy utilization. Unfortunately, the House has decided to vote on the various aspects of the energy bill as one collective energy package.

Reducing this energy package to its lowest common denominator, we are faced with a complex proposal that incorporates, by far, more ill-conceived legislation than the few provisions in it that will ostensibly reduce our Nation's dependence on oil, gas, and electricity.

Mr. Speaker, among the worst features of this energy package are the following:

First. The "compromise" would create economic havoc in the consumer market. There is no question that consumer prices will soar. DOE speculates that within the next 6 years consumers will conceivably pay producers of natural gas $29 billion more than if the present system of natural gas pricing remains in effect. This increased revenue will be derived from a complicated pricing system which threatens to be yet another administrative monstrosity; the Director of Enforcement for the Federal Energy Regulatory Commission (FERC) having referred to this bill as "complex, ambiguous, and contradictory" and "impossible to administer conscientiously."

Second. Residential customers will be badly hurt by this package. A poorly constructed utility rate reform bill would require State utility commissions to consider a variety of rate reforms, none of which will have any immediate effect on the fixed income groups of this country. Winter is just around the corner, with present rates having increased, in cer-

tain cases, by an outrageous 400 percent. Contrary to the intent of this energy package, the proposed natural gas pricing mechanism will cause the prices of gas for residential consumers to rise sharply. The low income and the elderly with the least ability to pay will be the hardest hit.

Third. The coal conversion bill which will not have much of an impact on reducing imported oil because the plan calls for coal conversion on new plants that, ironically enough, are already under severe attack by environmentalists, and whose final form of construction is by no means firmly established.

Mr. Speaker, the only attractive component in this entire package is the energy tax credit which provides a $300 maximum tax credit to homeowners for installing conservation equipment and a $2,200 maximum tax credit for solar energy. I am fully in favor of that portion of the energy package. However, bearing the other parts in mind, it would amount to virtually throwing out the baby with the bathwater if because of this one saving grace I were to urge support of the collective bill.

Overall, this bill is anathema to the best interests and demands of the hard-working American consumer. I see no rationale for supporting this hasty compromise when so many of us who are seeking solutions are frustrated, but nevertheless willing to pursue with unquestionable dedication, an energy policy that will, without a doubt, prove to be a catalyst of reflective progress, rather than this cloaked instigator of future economic havoc and further personal hardship. I caution my colleagues not to rush headlong into a further energy disaster for the sake of producing some product—any product—at this late hour in the 95th session.

Mr. Speaker, I urge my colleagues to oppose this ill-conceived energy hodgepodge.

Mr. ASHLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Speaker, I congratulate the ad hoc committee, the chairman, the gentleman from Ohio (Mr. ASHLEY), and all who have worked so long and so hard on this bill.

I voted for the House version of this bill last year, and for the Krueger amendment to phase out the regulation of the wellhead price of natural gas. I will vote for this bill today. I support many of the provisions in this bill.

However, we should not pretend that this bill will solve the major problems of the energy crisis.

We have heard comments that this is the most important bill of the century. I do not agree. I do not think this bill is even the most important bill of this session. I think the Public Works bill that was vetoed by the President was a more important energy bill than this.

Mr. Speaker, when Secretary Schlesinger testified before the Committee on Science and Technology last January, the administration's energy policies and programs were, to put it mildly, sharly criticized by most of the committee members. This bipartisan criticism was directed toward the fact that the national energy policy, essentially the material in this bill except for the natural gas compromise, paid no attention to the most critical needs of this Nation with regard to the energy crisis; the production of energy from domestic sources.

Secretary Schlesinger recognized this fatal flaw in the administration policies, and promised the Committee on Science and Technology a second energy plan, NEP II, to deal with energy production from domestic sources.

Unfortunately, the President refused to honor Secretary Schlesinger's promise, but in May did agree to add about $100 million to the administration's research, development, and demonstration requests, spread among solar and geothermal energy, low-head hydroelectricity and bioconversion, all of which, except for the low-head hydroelectricity, were less than the Committee on Science and Technology had already added to the administration's requests.

So, Mr. Speaker, we are left with this bill, with one-half an administration energy policy and with one-half of an administration energy program. This would not be so serious if the administration did not pretend that this bill will solve or even start to solve our major problems. However, we have been inundated for a year by news releases from the White House, slavishly reproduced by the press without thinking, to lead the public into believing that this bill will solve our energy problems.

With such a myopic perspective, this Nation continues to slide toward catastrophe; and passage of this bill will have almost no impact at all on that slide.

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. McCORMACK) has expired.

Mr. ASHLEY. Mr. Speaker, I yield 30 additional seconds to the gentleman from Washington (Mr. McCORMACK).

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

The SPEAKER pro tempore. The gentleman from Washington (Mr. McCORMACK) is recognized for an additional 1½ minutes.

Mr. McCORMACK. To continue, Mr. Speaker, we have ample and stark evidence of the fact that we are in trouble. Immediately following the recent summit conference in Bonn, at which time the President explained his energy policy to the other national leaders of the Western industrialized nations, the value of the dollar fell by 5 or 10 percent. This happened almost immediately after the President explained to our friends what he proposes to do to reduce our imports.

Mr. Speaker, the fact is that those leaders of the Western industrialized nations and the leaders of OPEC know that under the administration's energy plans and policies, and under this bill, our imports of petroleum must be higher in 1985 than they are today. The best estimate is that our imports will increase from about 9 million barrels of oil today to about 10.5 million barrels in 1985, under this bill.

Early in 1977, the President proposed that we limit our energy consumption growth rate for the balance of this century to an average of less than 2 percent per year, thus reducing our projected total energy consumption from 84 million barrels of oil equivalent per day in the year 2000, as it would be if we were to continue our contemporary growth rate of about 3.6 percent per year, down to 56 million barrels of oil a day. This would constitute a reduction of one-third in our consumption. It is critically important to understand, however, that reducing our consumption to 56 million barrels of oil per day—two-thirds of what it would be with contemporary growth rates—would still require doubling our present domestic energy production capacity by the year 2000, assuming little or no available petroleum imports at that time. Present U.S. energy consumption is about 37 million barrels of oil per day equivalent. Present imports are about 9 million barrels of oil per day. Present domestic production is therefore about 28 million barrels of oil per day, or one-half of the President's goals of 56 million barrels of oil per day equivalent consumption in the year 2000, assuming that his extremely optimistic conservation goals are realized.

Even if we were to maintain our imports at the present unacceptable level of 9 million barrels of oil per day in the year 2000, it would still be necessary to increase our domestic energy production capacity by 70 percent—just to meet the President's optimistic goal.

So solving the energy crisis, or reducing our oil imports, or stopping the decline of the value of the dollar—involves not imposing regulations—or creating new bureaucracies as this bill does.

It involves stimulating oil and gas production, onshore and off; and dramatically increasing our coal and nuclear energy programs. It involves opening hundreds of new mines which meet high standards of environmental protection, and public health and safety, creating a massive industrial complex to produce clean liquid and gaseous fuels from coal, initiating a vigorous program to get more nuclear plants on the line.

The nuclear powerplants that are on the line in this country today, regularly produce the equivalent of 1.3 million barrels of oil per day. By 1985, they will produce the energy equivalent of about 4.3 million barrels of oil per day. The tragedy of this situation is that we could have been producing the energy equivalent of 7.5 million barrels of oil per day by 1985 except for meaningless delays.

We must have a new nuclear licensing law to reduce the leadtime required to get a plant on the line from 12 to 8 years and to eliminate the uncertainty which utilities now face from capricious law suits and unpredictable court rulings concerning them. We must provide storage for our spent nuclear fuel. This is simple to do and constitutes no unusual technological or environmental problem. It should be done at once.

We need realistic administration leadership for establishing reprocessing nuclear fuel and for a nuclear breeder program.

We need to amend the NEPA and the Clean Air Act so that we can use them to protect the environment so that they

cannot be used as weapons to prevent energy production or harass utilities.

We need to provide massive capital support for our energy production programs.

We need aggressive research, development, and demonstration programs in solar energy, such as the solar photovoltaic energy bill which this House passed night before last.

We need an aggressive research program for nuclear fusion energy and for materials testing for nuclear fusion reactors. This is the true energy source of the future, and it must not be delayed or inhibited in any way.

Unfortunately, none of these critical needs are even considered in the bill which we will be voting. This is why it does not really provide an answer to the energy crisis.

Nevertheless, we should pass this bill. But we should not kid ourselves, and let us not try to kid the public. This bill will do almost nothing to solve our energy problems.

If we pass it now, we can come back next year, ready to face up honestly to solving the energy crisis with a massive, crash program for the production of energy from domestic sources.

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. McCORMACK) has again expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Speaker, a bad energy bill is worse than no energy bill.

If our energy crisis is "the moral equivalent of war," then the natural gas compromise sends us into battle with a toy gun.

It makes a lot of noise, but fools no one.

It offers the worst of both worlds—to consumers and to energy producers alike.

It will not fool the sophisticated international money market into placing more faith in the battered dollar.

It will prove costly to consumers.

It will tie up energy producers in complex and costly new Government redtape without any fundamental incentive to produce more domestically.

It will expand an already-bloated bureaucracy into an even bigger morass of departments and paper at a high cost to the taxpayers.

And, perhaps worst of all, this legislation could produce the exact opposite of what we want—an increase in oil imports as gas prices rise while redtape and delays beset producers.

How this so-called natural gas compromise can be justified as a centerpiece of energy legislation in the 95th Congress defies logic, commonsense, and the facts.

With the administration muscling firms and corporations to line up in support of this alleged compromise, the truth is relatively simple: this bill differs in almost every important respect from the one proposed by President Carter in April 1977.

The original bill would have continued Federal regulation of the wellhead price of nautral gas. The conference report provides for deregulation in 1985.

The original bill would have established a tax on domestic oil to raise it to the world market price. The conference report does not do this.

The original bill would have required utility companies to install improved insulation in customers' homes. The conference report does not do this.

The litany could go on, but this report bears little or no resemblance to what Mr. Carter proposed in his impassioned days of energy crisis 18 months ago.

I do not necessarily support many of the provisions in his original bill, but with so many changes and contradictions of what he originally wanted, I ask how can he expect us to believe this is the centerpiece of the energy legislation before us?

While the American people are realistic enough to recognize higher prices are coming if we are to encourage more domestic natural gas production, they should not be required to suffer escalating prices at the same time new Government laws and regulations stifle domestic production.

The conference report would, as admitted by the Department of Energy's Energy Information Administration, cost consumers some $29 billion more than a continuation of the present law, place the greatest burden of higher prices on the residential consumer, and only increase our supply of natural gas by a fractional amount of less than one-half of 1 percent of total consumption between now and 1985.

The cockeyed direction of this legislation is evidenced even more in the incremental pricing provisions which could, figuratively and literally, produce disaster in consuming States such as Pennsylvania. Industrial users in producing States could buy natural gas at lower prices than industrial users in other States. This is opposite of today's pricing mechanism. Now, industrial users buying from intrastate markets are paying more for natural gas while users in other States are paying less in the interstate market.

To attempt to cure this by the provisions drafted in this bill may help kill off more industry in the beleaguered Northeastern States. It is encouraging industries to relocate to producing States to take advantage of lower gas prices. As a Congressman from Pennsylvania, I find this to be particularly bad practice. I can understand the need for equity, but I cannot understand this blatant discrimination.

As for the complexity of the proposed law, it boggles the imagination. Coming from a President who decries bureaucratic intervention and redtape, this legislation could well develop into the most costly and tangled bureaucratic morass of all times. The Department of Energy is costing $10 billion annually and I challenge anyone to tell me what the taxpayers are getting for their money.

Already, the Federal Energy Regulatory Commission estimates it will need 33 percent more money or some $9 million to pay 400 new staff members and $10 million to contract for other services to implement this legislation. These 400 new employees would be added for 2 years to 323 employees the agency expects to hire to cut its present backlog of 20,000 cases.

In proposing major changes in the regulatory system to cut redtape, this legislation actually would establish 23 different categories of new gas. Officials charged with administering regulations admit it is so complex and confused that they could not conscientiously do the job—that it is an "administrative nightmare."

Further, one of the basic benefits in the original House-passed bill was the expressed authority of the President to distribute gas from both the interstate and intrastate markets to meet the needs of homes, schools and hospitals during emergencies. This was placed in the bill since the President's existing authority will expire. The conference report, however, limits this authority to just the interstate market—the market which traditionally experiences natural gas shortages.

A direct effect will be a situation we want to avoid—homeowners actually will be denied access to nearly 40 percent of all the gas produced in the country during emergencies.

The defects, false assumptions, contradictory provisions and complex regulations contained in this legislation fly in the face of reality.

But, of all the most specious and illogical arguments used to ram this so-called natural gas compromise down our windpipes is the appeal to save the U.S. dollar.

The President and his supporters have wrapped themselves in the flag. Without this gas bill, they cry, the dollar will continue to decline against major currencies of the world. They tell us the international community is watching us to see if we can forge an energy policy that will help reduce our balance-of-payments deficit and bring balance to our role in international trade.

I submit that calling a turkey an energy policy is going to fool no one. Do we take the heads of states, the economic experts, the energy specialists and the world bankers for a bunch of fools? They are not fooled nor will be fooled one whit by natural gas legislation that not only is unproductive to a realistic energy policy, but, in fact, threatens further deterioration of our overall energy position.

Yes, I favor tax credits for insulation, taxes on gas-guzzling cars and other provisions that make energy sense.

But, I refuse to be stampeded into voting for bad legislation. And that is what this whole package deal is, based on the so-called natural gas compromise.

Remember, if this legislation is passed and signed into law, you will be called to account by an army of consumers, industries and businesses and energy producers.

This legislation is worse than no legislation at all.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I want to first commend the gentleman from Ohio (Mr. ASHLEY) and all of the members

from the four or five different committees that have worked on this matter very diligently. It has been probably the toughest congressional challenge that we have had certainly since I have been in the Congress. The bill, the total bill that is brought before you is a rather monumental piece of legislation.

Mr. Speaker, I would like to summarize the conference agreement on the energy tax bill (H.R. 5263). This bill is the fifth one of the 5-bill package that makes up the National Energy Act.

RESIDENTIAL INSULATION AND CONSERVATION CREDITS

The conferees agreed to a 15-percent credit on expenditures up to $2,000 (for a maximum $300 credit) for installation of insulation and several kinds of conservation equipment; for example, replacement burners, automatic furnace ignition systems, storm doors and windows and automatic energy-saving thermostats. The credits are available for installation on a taxpayer's principal residence—whether owned or rented. The credit is available for all installations up to a $2,000 total through December 31, 1985. Credits are available for installations after April 19, 1977, and 1977 credits may be used to reduce tax liability on 1978 tax returns. Credits earned in later years which exceed tax liability may be carried over to the next taxable year, and unused credits as of December 31, 1985, may be carried over for 2 more taxable years. The basis of property receiving these credits will be reduced by the amount of the credits.

RESIDENTIAL SOLAR, WIND AND GEOTHERMAL EQUIPMENT

The House receded in this area, and accepted the provisions that were in the bill reported by the Finance Committee—the equipment, rates of credit, and amount of expenditures covered. The Senate receded to the extent that the credits are not refundable and the items added on the Senate floor are not included. The provision allows a 30-percent credit on the first $2,000 and 20 percent on the next $8,000 for a maximum credit of $2,200 on $10,000 expenditures. Eligible items include solar, wind and geothermal equipment which can be used to heat or cool or provide hot water to a dwelling. Any of these credits earned after April 19, 1977, in 1977 will be applied against the tax liability on the 1978 return. In subsequent years, there is a 1-year carryover, and a 2-year carryover after December 31, 1985, when the credit will terminate. The same basis adjustment is required as in residential insulation credits.

Solar equipment includes so-called passive solar components so long as they do not serve a structural function.

For insulation, energy conserving equipment and solar and geothermal equipment, the Secretary of Treasury will issue regulations which specify the criteria for energy efficiency or heating, cooling or providing hot water that must be met by additional items of equipment in order to be placed on the list of eligible equipment.

TRANSPORTATION TAXES

The gas guzzler tax is the major element of the transportation tax changes, and it is the only new tax levied in this bill. The Senate receded on this provision after the House agreed to several modifications. The tax does not apply until model year 1980. The mileage standards and tax rates that would have applied to model year 1979, under the House bill, will apply to model year 1980. The same 1-year deferral of mileage standards and tax rates will apply to each subsequent model year. In addition, beginning with model year 1983 the applicable fuel efficiency standards are further reduced by 1 mile per gallon. In the conference agreement, the fuel efficiency standards generally start between 4 and 6.5 miles per gallon below the fleetwide standards under EPCA.

The lowest tax rates for each model year start at $200 for model years 1980 through 1982 and rise to $500 for model years 1983 and thereafter. Maximum rates start at $550 for 1980 models and increase to $3,850 for 1986 and later models. The top rates apply to autos which get less than 12.5 to 13 miles per gallon.

Other transportation actions generally involve tax reductions. The excise taxes on buses is repealed, as of April 20, 1977, and the excise taxes on bus parts and other related equipment are repealed on enactment. The full 10-percent investment credit will be available for employers who purchase new vans—seating 9 or more persons, including the driver—for vanpooling. Gasohol blends are exempted from the 4-cents-per-gallon excise tax when the alcohol is ethanol produced from grain.

The gasoline tax refund of 2 cents per gallon for motorboats, lawnmowers, and similar nonhighway uses is repealed after 1978.

BUSINESS TAX CREDITS

There will be an additional 10-percent investment tax credit for investment in alternative energy property, specially defined energy property, and equipment for recycling, producing shale oil and producing natural gas from geopressured brine. These additional credits may be offset against 100 percent of tax liability and may be applied above the limitation for the regular investment credit after that limitation has been fully used. The additional credit for solar and wind energy equipment, however, will be refundable. Public utilities, as defined in section 46(f)(5) of the Internal Revenue Code, are not eligible for these credits. Only half of the additional credit, 5 percent, will be available to taxpayers who finance all or part of the acquisition of this property with industrial development bonds.

The Secretary of the Treasury may add eligible property to the specially defined energy property list. The principal purpose of such equipment is to be reducing the amount of energy consumed in any existing industrial, agricultural, or commercial process when the equipment is installed in connection with an existing industrial, agricultural, or commercial facility. The Secretary is expected to consult with other agencies, such as the Department of Energy and the Bureau of Standards, in determining whether other equipment should be made eligible for the additional credit.

The House receded with respect to the recycling credit which makes it available for equipment used through the production of the first marketable product; that is, paperboard or textile fibers. For recycling iron and steel, however, the House position prevailed; under it, the credit does not include equipment used to reduce iron and steel solid waste to a molten state or in any process from that point.

This credit will be available for equipment placed in service after September 30, 1978, and before January 1, 1983. For equipment under construction on the effective date, the credit is available for the construction after that date under the usual rules for the investment credit. Similarly, the usual rules apply as of the termination date for equipment under construction at that time.

ALTERNATIVE ENERGY SOURCES

Taxpayers engaged in the development and exploitation of geothermal resources will be eligible for deduction of intangible drilling expenses and for a depletion allowance: 22 percent in 1978 through 1980; 20 percent in 1981; 18 percent in 1982; 16 percent in 1983; and 15 percent in all subsequent years. A 10-percent depletion allowance will be allowed for natural gas from geopressured brine from wells drilled in the United States or its possessions within 5 years of the date of enactment.

The conference agreement accepted the House provisions which clarified certain points relating to the deduction of intangible drilling costs for oil and gas wells, including natural gas from geopressured brine.

OTHER PROVISIONS

The conference agreement includes a provision which removes the excise tax on re-refined lubricating oil. The investment credit accelerated depreciation will be denied for various items, including oil and gas boilers, which have not been exempted under various regulatory and other provisions.

DELETED FROM THE CONFERENCE AGREEMENT

All the items in either bill which were not mentioned in the summary were deleted by the conference. Some of those items were in the bills passed by both Houses, but the unique, formal character of the conference left the conference with authority to range between no bill and the Senate-passed bill.

Thus, the business use tax on oil and gas was deleted by the conference, even though it was included in the different bills passed by each House.

The crude oil equalization tax, which was in the House-passed bill, also was deleted. Deletion of this provision meant that no revenues would be available for any of the credits that were added by each House.

Similarly, the trust fund for retirement of the national debt with the revenue from the gas guzzler tax was also deleted because the tax is not expected to raise any meaningful amount of revenue for this purpose.

The revenue loss under this bill is $1 billion in fiscal year 1979. In the next 4 fiscal years, the fiscal year revenue loss is not substantially different: $847 million in 1980, $956 million in 1981; $1.1 billion in 1982 and $1 billion in 1983.

Mr. Speaker, there are several minor matters regarding the gas guzzler tax that should be clarified. First, the gas guzzler tax is applied on a model-type-by-model-type basis. The testing to determine the applicability of the gas guzzler tax is to be done by the Environmental Protection Agency (EPA), which is to report the results to the Secretary of the Treasury. The bill prescribes specific testing procedures, which are the same procedures that have been employed by the EPA Administrator for the 1975 model year and subsequent model years (weighted 55 percent urban cycle and 45 percent highway cycle), or procedures which yield comparable results. The bill also gives the EPA Administrator authority to define the term "model type" by regulation. However, it is intended that this authority to define model type cannot be used to affect the testing procedures for fuel economy, since (as under section 501 of the Motor Vehicle and Cost Savings Act) these procedures are to be the procedures utilized for model year 1975 (or procedures which yield comparable results).

Second, it should be noted that the regulations defining nonpassenger automobiles which are reprinted in the statement of managers have recently been amended. In general, these amendments change the term "nonpassenger automobile" to "light truck" and make certain minor language changes, but the amendments do not change the description of the vehicles referred to in that section. Thus, the conferees wish to make it clear that vehicles currently referred to as light trucks (under 48 C.F.R. 523.5) are not subject to the gas guzzler tax.

Finally, the statement of managers indicates that, for the 1986 model year and later model years, a passenger automobile with a mileage ruling of at least 22.5, but less than 23.5, miles per gallon would be subject to a gass guzzler tax of $400. This is incorrect; as the statutory language indicates, for model year 1986 and later model years, no tax is imposed on a passenger automobile which has a mileage rating of at least 22.5 miles per gallon.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SCHEUER).

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9251) entitled "An act relating to extensions of time for the existing tax treatment of certain items."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2474) entitled "An act to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 12140. An act to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the Act.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 2899) entitled "An Act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CULVER, Mr. MUSKIE, Mr. HODGES, Mr. WALLOP, and Mr. CHAFEE to be the conferees on the part of the Senate.

ENERGY CONFERENCE REPORTS

Mr. SCHEUER. Mr. Speaker. I rise to support the legislative package which represents a national energy policy. It seems to me that the principal goal of such a policy should be to provide ample supplies of energy, secure against foreign threats and pressures, and at the lowest possible costs.

In certain respects, the national energy policy before us today meets the above-stated objectives. Because it represents an achievable consensus at this time, I will support it, albeit reluctantly. I am influenced by the strong possibility that failure to enact energy legislation during this Congress would gravely harm our international credibility, and particularly damage the foreign exchange value of the U.S. dollar. We must present to the world the image of a Congress, an administration, a Nation able to face up to its energy problem and cope effectively in the management of its own affairs.

Nevertheless, I have serious reservations about one of the basic principles upon which the policy is based. It appears that a basic assumption underlying this policy — though apparently valid at the time of its conception—no longer is correct. Specifically, while estimates of world oil supplies formulated and published in the immediate aftermath of the oil crisis of 1973–74 indicated that we would soon run out of oil, current assessments suggest that the world will have adequate supplies for some generations to come; a recent CIA report last spring indicates world supplies of oil sufficient to last us another 60 to 90 years.

Moreover, the national energy policy is defective in vital areas such as the development of an effective international oil strategy: we do not seem to be pressing hard—as we should be, in my view—in encouraging every potential oil producer to bring supplies "on line" at the earliest possible moment. We seem to be willing to remain a hostage for reasons which I do not fully understand to OPEC; we have constructed a national energy policy, the main effect of which will be to reinforce OPEC's monopoly power over the price and supply of crude oil.

The evidence is becoming clear that Mexico has enormous oil resources, comparable to those of Saudi Arabia. Mexico also needs vast funds for economic development in order to provide jobs for a rapidly growing population. It has been reported that Mexico is interested in pursuing high-level agreements on oil and gas in exchange for accommodations with the United States on greater access to U.S. markets for Mexican farm and factory products, immigration, and long-term development financing. Yet, the American people were not informed of these Mexican resources while the energy plan was being debated, despite the enormous geopolitical and economic significance of their existence. Indeed, there is some reason to believe that the information was deliberately suppressed.

By ignoring Mexico—and other countries—as potential large-scale oil producers, the administration apparently has committed us to rely on Persian Gulf crude oil. This supply source cannot be considered entirely reliable for a number of reasons, including the complexities of Middle Eastern politics on the one hand, and the likely interruption of supplies in the event of a Soviet-American confrontation, on the other.

During a national emergency, there would be almost no way for the U.S. Navy to insure delivery of oil from the Persian Gulf; from the African countries such as Libya, Algeria, or Nigeria, or even from Indonesia for ourselves, or for our allies in Europe or Japan. The huge, lumbering supertankers would be sitting ducks for an enemy missile, bomb, or torpedo. However, we can receive oil from Mexico by pipeline, or by tanker via a very short and easily and inexpensively defensible coastal shipping route.

The newly discovered oil now being developed, and lifted in the North Sea and China also enormously augments the supplies available to us and to our allies during periods of emergency. And without going into details today there are huge potentialities for additional oil production at competitive costs in many parts of the world, South America (Venezuela, Argentina), North America (Canada), and parts of Africa. There is enough oil—and enough countries who have oil and who need money—to make stronger attempts to develop a competitive international market in oil. This might well reduce the monopolistically

determined price of oil by $4 to $6 per barrel, resulting in total world savings on the order of $50 billion per year. This would have an enormous beneficial impact on the economies of many non-oil-producing industrialized and developing countries, including many very poor ones, and bring about a drop in the rates of inflation and unemployment.

A creative and aggressive U.S. international oil policy would afford us and the other oil-consuming nations greater freedom in dealing with the Middle Eastern oil producers. Currently, their petroleum resources are indeed essential to us and must be kept out of the control of radical revolutionary expansionists who are threatening the Persian Gulf from Syria, Iraq, Ethiopia, and Yemen. Inhibiting this Soviet-supported expansion is in the interests of the Middle East oil producers as well as those of the United States. But the point remains that the Middle East is not a region on which our national security should depend so firmly as it now does.

Of the oil we now import, approximately 19 percent comes from Saudi Arabia, 16 percent from Nigeria, and in the vicinity of 10 percent each from Libya, Iran, Algeria, and Indonesia. This distribution pattern is not the result of the producing nations' resource endowments, or the level of price which prevails. Rather, it is the result of agreements between the main oil companies—the so-called Seven Sisters—Exxon, Mobil, Texaco, Socal, Gulf, Shell, and BP—and the governments of the oil-producing states. These agreements specify how much oil is to be lifted; it is up to the companies to sell that oil.

A major point is that these agreements, and the resulting import pattern, are strongly influenced by oil company and oil producer interests. Strong efforts must be made to change the current import pattern so that it is more consonant with U.S. national interests, and long-term goals.

We should not hesitate to import oil if this is the cheapest source of energy. After all, Japan imports almost 100 percent of its energy, and Germany almost as much; both have substantial surpluses on the trade account. However, we should simultaneously continue with our research and development programs on low-cost alternatives to imported oil, against the time when these processes become economic. For example, the very heavy oil of the type found in Venezuela and Canada should be a prime candidate for cooperative R. & D. efforts with these countries. Some estimates suggest that this oil could be brought in profitably at $8 to $9 per barrel.

In looking at the high-cost alternatives, one sees that fuels produced by processes involving the use of shale and coal are approximately twice as costly as oil. It would be politically and economically disastrous for the United States to switch to these processes prematurely. However, we should expedite research and development on them. We should also work on other promising, long-term alternatives such as nuclear, geothermal, and solar power.

It is also time to recognize that nuclear power is cheaper in most parts of the country than other alternatives, that it is more environmentally acceptable than coal, and probably safer when one takes into account the deaths and injuries to coal miners, and the damage to the atmosphere resulting from the burning of coal, even with environmental safeguards.

We should expedite the construction of nuclear powerplants. Why should it take us 12 years from start to finish, when the Japanese can complete the work, essentially using the same technology, in half the time? These delays simply increase the costs to the consumer.

In summing up, I emphasize the following points:

Clearly, energy costs, unless checked or decreased, will continue to fuel worldwide inflation.

If only for national security reasons, we should take strong measures to encourage the further development of low-cost oil and gas resources in this hemisphere. Specifically, we should diligently pursue Mexican interest in exchanging oil and gas for more favorable arrangements on trade and tariffs, technology, legal immigration. and attractive financing arrangements.

Because the basic premise of the present energy policy that we will soon run out of oil no longer seems valid, we should take a careful new look at our overall energy strategy.

We should scrutinize carefully those policies which are based on reliance on Persian Gulf supplies of crude oil. These policies greatly enhance the ability of the OPEC cartel to maintain a stranglehold over the world price and supply of crude oil.

As called for in the national energy policy before us today, we should continue our own concerted efforts to conserve energy. Such measures are absolutely crucial; every barrel of imported oil means paying out dollars to someone, be it in the Middle East or elsewhere. The development of major new sources of supply should not lead us to think for a moment that we can go on an "oil binge," that we can recommence the production of "gas-guzzler" cars.

Finally, while I support the legislation today with grave reservations I raise these questions for further examination in the next Congress:

First, why is the Department of Energy so firmly wedded to reliance on Persian Gulf crude oil as a major element in our national energy policy?

Second, why has the Department of Energy appeared to be reluctant to work with Mexico on the development of her natural gas and oil resources?

Third, why has the Department of Energy not attempted to direct our energy research and development work toward low-cost alternative fuels?

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. SCHEUER) has expired.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 calendar days in which to revise and extend their remarks in the RECORD on the legislation under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I want to thank the distinguished gentleman from Michigan, the chairman of the Energy and Power Subcommittee, for his statement concerning the manner in which the Tennessee Valley Authority is affected by sections 201 through 204 of the Public Utility Regulatory Policies Act. I believe he has accurately expressed the will of the conferees in stating that any restrictions on TVA refer only to the third sentence of section 15d(a) of the TVA Act.

I am very concerned that nothing in this bill be construed in a way that would limit TVA's effectiveness in meeting President Carter's goal of making TVA a model for energy efficiency in the country. TVA's future is bright. Its Chairman, S. David Freeman, is breathing new life into a previously lethargic agency. TVA has become a vibrant, innovative, responsive, and sensitive agency. There is no other agency or utility that can match TVA's zeal in developing new approaches to meet the energy needs of its customers. And TVA is already meeting with unprecedented success, which it is eagerly sharing with other utilities in the Nation. Congress certainly should do nothing to reverse the trend of innovation and enthusiasm within TVA.

The gentleman from Michigan correctly recognizes that the original intent of the bill was to include all utilities under the wheeling, pooling, and interconnection provisions. It reflected the belief that the Nation's largest utility should not be restricted from these sections when FERC determines that interconnection, wheeling, and pooling of TVA facilities promote energy conservation goals and is in the national interest.

It is important to reiterate Mr. DINGELL's remarks that the language of the bill and the report of the conferees specfiically state that any restrictions on TVA pursuant to section 212(f) relate only to the third sentence of section 15d (a) of the TVA Act.

The conferees recognized the legitimate interest of Congress in the third sentence which would require TVA to come back to Congress to gain a waiver of the 15d(a) restrictions. But the conferees insist that this restriction does not go beyond the third sentence. For example, these sections will permit TVA to make exchange power arrangements with other power generating organizations.

I believe it is also important to restate the conferees' intentions with respect to wheeling. If TVA were transmitting power between utilities A and B which were outside TVA's imaginary wall, TVA would not be prohibited from the wheeling of this power. This would be true even if the power coming from utility A displaced some of TVA's power before it was wheeled on to utility B in the original quantity. Thus wheeling orders from FERC to TVA would not be within the limitation of the third sentence.

I hope this discussion will help emphasize that any restrictions on TVA of the kind referred to are intended to be construed as narrowly as possible. There are many cases where TVA could be an invaluable help to electricity consumers in surrounding areas and would be just plain bad public policy to restrict the Nation's largest utility from acting in the public interest.

Mr. YOUNG of Missouri. Mr. Speaker. will the gentleman yield?

Mr. GORE. I yield to the gentleman from Missouri.

Mr. YOUNG of Missouri. Mr. Speaker, I rise in opposition to the National Energy Act. Although there are many good parts of this bill, the merits do not outweigh the problems that the natural gas section would cause. This section is a subterfuge that will place tremendous costs on the American public under the guise of increased production, and I will have no part of it.

Instead of providing an incentive to increase production, the bill provides an incentive to withhold production over the next 7 years. The guarantee of substantial increases in price ceilings each year will encourage producers to hold off each year for next year's higher prices. An additional distincentive to production is the fact that price deregulation will come in 1985, allowing ever higher prices.

The production of gas will also be delayed and discouraged by the regulatory complexity of the bill. The accounting and legal costs of the new policy would take capital away from exploratory investments. And the uncertainty created by the new policy will further inhibit gas production.

The argument that we need the bill to insure the construction of the Alaskan gas pipeline is absolutely untrue. Construction of the pipeline was made possible by the Alaskan Natural Gas Transportation Act of 1976. The President selected an Alaskan natural gas transportation system in September of 1977, and the Congress ratified his decision. The main obstacle now is the financing for this project, and the legislation contains no provisions toward this end.

The natural gas policy would be less effective at stimulating production than our current law. About 2 years ago, the Federal Energy Regulatory Commission began administering a policy which has greatly increased the exploration of new supplies. New gas finds began to approach the level of replacement for gas consumed for the first time in years.

In addition to being counterproductive to our goal of increasing supplies, the natural gas plan is tremendously costly. The Department of Energy estimates that by 1985, the new policy would cost consumers $29.5 billion more than the current law.

Laclede Gas Co. of eastern Missouri had the foresight to explore and develop its own reserves years ago. The purpose of these efforts was to protect its customers from any decline in supply and rapid price escalation of gas from other sources. Despite these efforts, Laclede's customers are facing staggering rate increases. Over the next 3 years, they will have to pay $46 million more for their fuel bills under current law, or $111 million more if the compromise is enacted.

For the last 2 years, Congress has had to throw together emergency legislation for a crisis intervention program to help the poor, and now the middle-income people, pay their winter fuel bills. Although Missouri received a large amount of grant money from this program, the funds available only paid a partial amount of the outstanding bills. Laclede Gas Co. worked out arrangements with many of its customers to pay the remaining amount over a period of several months. Many of these people are still paying off their debt.

This year, we have no authorization for crisis intervention funds. The natural gas compromise is certain to inflate fuel prices and increase the financial hardship on gas consumers. And yet, the compromise totally ignores the question of how low- and middle-income people are going to pay their fuel bills to survive the winter.

For these and other reasons, I strongly oppose the natural gas compromise contained in the National Energy Act. I urge my colleagues to vote against this costly and unproductive legislation.

Mr. GORE. Mr. Speaker, almost all the debate has been on the natural gas portion of this legislation. There is a lot more in the bill that should be discussed at length, but it unfortunately will not be.

In the utility rate reform section I particularly want to thank the distinguished gentleman from Michigan (Mr. DINGELL), the chairman of the Subcommittee on Energy and Power, for his statement concerning the manner in which the Tennessee Valley Authority is affected by sections 201 to 204 of the Public Regulatory Policies Act. I believe he has accurately expressed the will of the conferees in stating that any restrictions on TVA refer only to the third sentence of section 15d(a) of the TVA Act.

I am very concerned that nothing in this bill be construed in a way that would limit TVA's effectiveness in meeting President Carter's goal of making TVA a model for energy efficiency in the country. TVA's future is bright. Its Chairman, S. David Freeman, is breathing new life into a previously lethargic agency. TVA is becoming a more innovative, responsive, and sensitive agency. There is no other agency or utility that can match TVA's zeal in developing new approaches to meet the energy needs of its customers. And TVA is already meeting with unprecedented success, which it is eagerly sharing with other utilities in the Nation. Congress certainly should do nothing to reverse the trend of innovation and enthusiasm within TVA.

The gentleman from Michigan correctly recognizes that the original intent of the bill was to include all utilities under the wheeling, pooling, and interconnection provisions. It reflected the belief that the Nation's largest utility should not be restricted from these sections when FERC determines that interconnection, wheeling, and pooling of TVA facilities promote energy conservation goals and is in the national interest.

It is important to reiterate Mr. DINGELL's remarks that the language of the bill and the report of the conferees specifically state that any restrictions on TVA pursuant to section 212(f) relate only to the third sentence of section 15d (a) of the TVA Act.

The conferees recognized the legitimate interest of Congress in the third sentence which would require TVA to come back to Congress to gain a waiver of the 15d(a) restrictions. But the conferees insist that this restriction does not go beyond the third sentence. For example, these sections will permit TVA to make exchange power arrangements with other power generating organizations.

I believe it is also important to restate the conferees' intentions with respect to wheeling. If TVA were transmitting power between utilities A and B which were outside TVA's imaginary wall, TVA would not be prohibited from the wheeling of this power. This would be true even if the power coming from utility A displaced some of TVA's power before it was wheeled on to utility B in the original quantity. Thus wheeling orders from FERC to TVA would not be within the limitation of the third sentence.

I hope this discussion will help emphasize that any restrictions on TVA of the kind referred to are intended to be construed as narrowly as possible. There are many cases where TVA could be an invaluable help to electricity consumers in surrounding areas and would be just plain bad public policy to restrict the Nation's largest utility from acting in the public interest.

Mr. Speaker, I would like to address most of my remarks to the gas bill, because it is, of course, the most controversial element. I worked hard on the House version of the bill in the Energy and Power Subcommittee. I was proud of the bill that we passed when it came out of the House of Representatives. Nothing really remains of that bill, unfortunately.

I tried hard to see my way clear to support this bill. I analyzed it very carefully. I read as much as I could get my hands on and talked with people from both ends of the spectrum, but I just cannot support it. It calls for enormous price increases to the users of natural gas. The very first ceiling price under this bill is higher than the current price in the intrastate market.

We refused in this body to index the minimum wage, but we now index natural gas prices. We more than index them; we say they are going up by the rate of inflation plus 3½ percent each

year for 6 years. Then we deregulate them completely. This bill is inflationary, in my opinion. The people who pay the bills will shortly see how inflationary it is. And in return we are promised a supply response, a promise that is indeed illlusory.

History shows that the dramatic price increases in the last 15 years have not brought that supply response. Indeed, we already have frenzied drilling activity at the current levels. We are not getting what we are being asked to pay for.

And, in the final analysis, after 6 years, this bill deregulates natural gas. This point has not been addressed very clearly, because those of our allies in of deregulation are impatient to get on opposition to this bill who are in favor with this unpleasant chore.

For myself, I am totally opposed to deregulation. And this bill accomplishes it, make no mistake about it. This is the final decision on deregulation of natural gas. This morning we vote to deregulate natural gas. Some will say that we have an opportunity to turn that decision around. But any such movement faces a filibster in the other body. It cannot be done, as a practical matter. This is the final vote on deregulation of natural gas, and those who oppose it should vote "no" on this bill.

The SPEAKER pro tempore. The time of the gentleman from Tennessee (Mr. GORE) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished gentleman in the well, the gentleman from Tennessee (Mr. GORE), for his remarks. I think they are excellent. We had this bill in our committee for quite a while, at least portions of it. Certainly I am opposed to deregulation, which is quite contrary to the way some of the people feel here tonight.

Could the gentleman tell me what the cost per thousand cubic feet of natural gas is at the present time?

Mr. GORE. The regulated price ceiling is around $1.47. The average price, with old contracts and new contracts, is far lower than that.

Mr. CARTER. If we pass this, how much would the first increase be per thousand cubic feet?

Mr. GORE. It would go to $2.06.

Mr. CARTER. Immediately. That is a 33-percent increase to every homeowner in Kentucky and in this country.

Mr. GORE. I would like to reclaim my time so that I may finish my statement, because I have only a few moments remaining.

Tennessee uses 1½ percent of all the natural gas consumed in this country. Fifty percent of our supply of natural gas is consumed by 27,000 industrial customers; the rest is consumed in residential use. The Tennessee Energy Office has estimated that adoption of the compromise natural gas bill will cost Tennesseans between $435 and $750 million through 1985.

The incremental pricing section of the bill will place a greater burden on Southern industries and, in particular, Tennessee industries than on industries in other parts of the country.

Incremental pricing is designed to protect residential consumers by placing the burden of higher natural gas prices on large industrial customers. Residential customers will begin to pay the higher prices only when the prices paid by large industrial customers reach the price equivalency of oil.

Incremental prices are passed through to industrial customers on a pipeline by pipeline basis. Most northern industrial customers that use natural gas are already at or very near the oil equivalency price, because their transportation costs are much higher than customers farther down the pipeline. Thus, higher prices would not be passed on to Northern industries, but could and would be passed on to Tennessee industries. Enactment of this bill will eliminate any gas transportation cost advantage Tennessee industries now properly enjoy and could act as a deterrent to future growth and relocation plans.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding. I would like to continue the colloquy with the distinguished gentleman from Tennessee, if I may have his attention. Again, I want to commend him on his statement.

The gentleman says this would be inflationary, and I agree that it would. It would certainly have a disastrous effect on people on fixed incomes, would it not?

Mr. GORE. I think most surely it would.

Mr. CARTER. What would be the effect on the cost of ammonium nitrate, which is made from natural gas? It would go up tremendously, would it not?

Mr. GORE. Tremendously.

Mr. CARTER. And that would affect our farmers adversely, every one of them who use ammonium nitrate.

To go on just a little bit further, what about the effect on petrochemicals and things made from them; for instance, on nylon and orlon?

Mr. GORE. These prices too would rise.

Mr. CARTER. It would be inflationary indeed. All right, do our oil and gas companies in this country need this incentive? Are they in trouble, in financial difficulty?

Mr. GORE. It would not appear to be so.

Mr. CARTER. They do not need any help. What about our oil rigs? Another gentleman says this would provide more money for exploration. Is it not true that every oil rig in this country is at this time drilling? They are in my section of the United States. I do not think they need any more assistance.

Mr. GORE. Drilling activity is at a 15-year high. The number of rigs is at a high. The number of rigs under construction is at a high point. This activity is, as I said in my statement earlier, frenzied at current price levels.

Mr. CARTER. I want to thank the distinguished gentleman for his statement and for the colloquy we have had. I certainly do oppose increasing the price to poor people. I want to represent the people of this country, and not the big oil companies or the big gas companies, but the people. We should represent our people. There are 546,000 homeowners who use natural gas. Their bills would go up by one-third. If this bill passes, there will be a consumer revolt.

Mr. ASHLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I appreciate the gentleman yielding for a few quick responses.

I respect the gentleman from Kentucky. He has always shown a remarkable concern for the consumer of this country, but I think there is a misunderstanding in the colloquy of some of the facts.

First of all, of course, the assumption that the $2.06 price suddenly becomes the price of gas in this country is just totally unfounded. We are talking about new supplies of gas. We are talking about maybe at most, if we are lucky, 10 percent of the gas supply.

Mr. CARTER. Did the gentleman ask for my attention?

Mr. SHARP. No; I have my own time.

Second, the gentleman was very concerned about what would happen to fertilizer, because naturally he is concerned, as we all are, about the food supply. This bill does not allow for incremental pricing for the food supply. It is why this bill, for the first time, gives proper protection for the food supply in the event we do turn up short of gas, so that it would not be curtailed as it might have been 2 years ago.

Third, I would like to say that the macroeconomics effect of this bill on inflation has been grossly distorted. The Congressional Budget Office estimates the high—the high possibility of inflation in this country, because of the natural gas bill is maybe one-tenth of 1 percent of inflation per year. They really estimate that it will probably be one-twentieth of 1 percent of inflation.

I think we have to get this in perspective. Yes, the price of new natural gas will go up. That appears to be inescapable whether we pass this bill or whether we do not. That is going to happen. But, the fact is the gross impact is going to be nothing like what the gentleman says it is going to be.

Mr. ASHLEY. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. HUGHES).

Mr. HUGHES. Mr. Speaker, I rise in support of the National Energy Act.

I do so from the difficult position of one who has been a staunch opponent of deregulation. Like many of you, I have been deeply concerned about the impact of unregulated energy prices upon the Nation's consumers, upon the elderly who live on fixed incomes, and upon our

fragile economic recovery. I remain unpersuaded by arguments that natural gas prices must rise to the Btu equivalent of the world price of oil, set by the OPEC cartel, in order to attract the exploration and development we need.

Nevertheless, I am persuaded that the national interest requires that we pass this conference report. It has been a very difficult soul-searching task to bring myself to this decision. But I am convinced that, in the long run, that decision on balance will prove to be the right one.

I am not supporting this measure because it is the perfect response to our Nation's energy problems. It is not. Like most Members here, I feel that I could have written a bill more to my own individual liking.

But the problem with that approach is that we would wind up with 435 different energy bills, and we would be no further along than we have been for the past 25 years that this debate has raged.

Today, we do not have all those different options before us. We have just one. And that one is the product of the very best efforts we have been able to muster since the President first sent us his energy message on April 20, 1977.

I am not suggesting that we should act just for the sake of passing a bill. I am suggesting that, while this bill does not give anyone everything they want, it is better than what we have now—or what we can reasonably be expected to achieve in the foreseeable future.

The alternative is to defeat this bill and simply continue the status quo, until we take up the issue once again. That is not much of an option.

Some Members are planning to vote against this bill in hopes that a bill more to their liking may come out of the next Congress. Next year we will have at least 60 or 70 new Members. I do not think that either the supporters or the opponents of deregulation can say, with any degree of certainty, that they will get a better bill if we wait. In fact, depending upon the philosophy of a majority of those new Members, this bill could look very good compared to what we might get next year.

But let us take a moment to look at the unholy alliance that has formed to defeat this bill. There is no consensus among the opposition to the National Energy Act. In fact, it is composed of two very divergent groups—those who want to bring all gas under a permanent system of regulation, and those who want immediate deregulation of all gas.

Those who want continued regulation hope that the Federal Energy Regulatory Commission (FERC) will do a better job than the old FPC. But they ignore the fact that FERC will still have to deal with the basic structural deficiencies of the two-tier pricing system. And those who would defeat this bill in hopes of getting total deregulation forget that this only means continuing under the present system, which is inimical to the interests of producers as well as consumers.

Like many others here, I am troubled by other provisions of the bill, particularly incremental pricing and the definition of new gas. But there are so many pluses in the bill that, on balance, a compelling case is made for your support.

The bill recognizes that we cannot continue to have two markets in natural gas—one regulated and the other unregulated—without continuing to create severe distortions in the supply picture. This bill gives us parity between the two markets, and eliminates the substantial disadvantage that many sections of our country face as they compete for an adequate supply of natural gas for their industrial and residential customers.

The bill will bring more intrastate gas into the interstate system, thereby lessening the danger that we will be forced to rely upon expensive substitutes, such as LNG or SNG that cost $4 or $5 per thousand cubic feet. It will help bring Alaskan natural gas to the lower 48 States, and otherwise reduce our imports by 1 million or more barrels of oil per day by 1985. It will create a climate of certainty and thereby assist the leaders of business and industry to make long-range decisions.

Passage of the bill today would also send a signal to the nations of the world that we are committed to getting our energy house in order. It will ease some of the downward pressure on the dollar and reduce our trade deficit by some $6 or $8 billion a year.

I think this bill represents a way for us to reconcile our basic difference over this issue. It is a step in the right direction—not a final step—but an important beginning step. Passage of this bill by no means forecloses further action. If in fact we determine that the program is not working as well as it should, we will have an ample opportunity to amend it in the years ahead.

But if we fail—if we go home empty-handed—we will be spending yet another winter or longer with a program that we know does not work—a program which is inherently deficient.

If we have learned anything from the past 17 months of debate, and the 25 years of controversy that preceded it, it is that there is no easy or simple solution to this issue. More importantly, I do not think we can afford to gamble with the energy needs of this Nation for another decade. That is how much longer we may be debating this issue if we do not act positively today.

The Nation needs it. The Nation expects no less from us than our very best effort to deal with the energy issue. And that is what this bill represents—our very best effort.

I urge my colleagues to support this measure and send it to the President for his signature. It is a vast improvement over the alternative of continuing with a program that does not work.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARCHER).

CONFERENCE REPORT ON H.R. 13511, REVENUE ACT OF 1978

Mr. ULLMAN submitted the following conference report and statement on the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes:

CONFERENCE REPORT (H. REPT. 95-1800)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Revenue Act of 1978".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendment of 1954 Code.
Sec. 3. Policy with respect to additional tax reductions.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax reductions and extensions

Sec. 101. Widening of brackets; rate cuts in certain brackets; increase in zero bracket amounts.
Sec. 102. Personal exemptions increased to $1,000.
Sec. 103. Earned income credit made permanent.
Sec. 104. Increase in and simplification of the earned income tax credit.
Sec. 105. Advance payment of earned income credit.
Sec. 106. Application of certain changes in the case of fiscal year taxpayers.

Subtitle B—Itemized deductions

Sec. 111. Repeal of nonbusiness deduction for State and local taxes on gasoline and other motor fuels.
Sec. 112. Unemployment compensation.

Subtitle C—Credits

Subtitle D—Deferred compensation

PART I—DEFERRED COMPENSATION PROVISIONS

Sec. 131. Deferred compensation plans with respect to service for State and local governments.
Sec. 132. Certain private deferred compensation plans.
Sec. 133. Clarification of deductibility of payments of deferred compensation, etc., to independent contractors.
Sec. 134. Tax treatment of cafeteria plans.
Sec. 135. Certain cash or deferred arrangements.

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

Sec. 141. ESOPS.
Sec. 142. Certain lump sum distributions excluded from gross estate where recipient elects not to apply 10-year averaging.
Sec. 143. Qualified plans required to pass through voting rights on employer securities.

SUBTITLE E—RETIREMENT PLANS

Sec. 152. Simplified employee pensions.
Sec. 153. Defined benefit plan limits.
Sec. 154. Custodial accounts for regulated investment company stock.
Sec. 155. Pension plan reserves.
Sec. 156. Rollover of section 403(b) annuities permitted.
Sec. 157. Individual retirement account technical changes.

Subtitle F—Other Individual Items

Sec. 161. Certain Government scholarship and award programs.
Sec. 162. Cancellation of student loans.
Sec. 163. Tax counseling for the elderly.

Sec. 164. Exclusion of value of certain educational assistance programs.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related to At Risk Rules

Sec. 201. Extension of section 465 at risk rules to all activities other than real estate.
Sec. 202. Extension of at risk provisions to closely held corporations.
Sec. 203. Recapture of losses where amount risk is less than zero.
Sec. 204. Effective dates.

Subtitle B—Partnership Provisions

Sec. 211. Penalty for failure to file partnership return.
Sec. 212. Extension of statute of limitations in the case of partnership items.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

Sec. 311. 10-percent investment tax credit and $100,000 limitation on used property made permanent.
Sec. 312. Increase in limitation on investment credit to 90 percent of tax liability.
Sec. 313. Investment credit for pollution control facilities.
Sec. 314. Investment credit for certain single purpose agricultural or horticultural structures.
Sec. 315. Investment credit allowed for certain rehabilitated buildings.
Sec. 316. Tax treatment of the investment credit in the case of cooperative organizations.
Sec. 317. Transfers to ConRail not treated as dispositions for purposes of the investment credit.

Subtitle C—Targeted Jobs Credit; WIN Credit

Sec. 321. Targeted jobs credit.
Sec. 322. Work incentive program credit changes.

Subtitle D—Tax Exempt Bonds

PART I—INDUSTRIAL DEVELOPMENT BONDS

Sec. 331. Increase in limit on small issues of industrial development bonds.
Sec. 332. Local furnishing of electric energy.
Sec. 333. Industrial development bonds for water facilities.

PART II—OTHER TAX-EXEMPT BOND PROVISIONS

Sec. 336. Declaratory judgment procedure for judicial review of determinations relating to governmental obligations.
Sec. 337. Disposition of amounts generated by advance refunding of certain governmental obligations.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

Sec. 341. Subchapter S corporations allowed 15 shareholders.
Sec. 342. Permitted shareholders of subchapter S corporations.
Sec. 343. Extension of period for making subchapter S elections.
Sec. 344. Effective date.

PART II—OTHER PROVISIONS

Sec. 345. Small business corporation stock.

Subtitle F—Accounting Provisions

Sec. 351. Treatment of certain closely held farm corporations for purposes of rule requiring accrual accounting.
Sec. 352. Accounting for growing crops.
Sec. 353. Treatment of certain farms for purposes of rule requiring accrual accounting.

Subtitle G—Other Business Provisions

Sec. 361. Disallowance of certain deductions for yachts, hunting lodges, etc.
Sec. 362. Deficiency dividend procedure for regulated investment companies.
Sec. 363. Real estate investment trust provisions.
Sec. 364. Contributions in aid of construction.
Sec. 365. Liabilities of controlled corporations.
Sec. 366. Medical expense reimbursement plans.
Sec. 367. Three-year extension of provision for 60-month depreciation of expenditures to rehabilitate low-income rental housing.
Sec. 368. Delay in application of new net operating loss rules.
Sec. 369. Use of certain expired net operating loss carryovers.
Sec. 370. Income from certain railroad rolling stock treated as income from sources within the United States.
Sec. 371. Net operating losses attributable to product liability losses.
Sec. 372. Exclusion from gross income with respect to magazines, paperbacks, and records returned after the close of the taxable year.
Sec. 373. Qualified discount coupons redeemed after close of taxable year.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

Sec. 401. Repeal of alternative tax on capital gains of individuals.
Sec. 402. Increased capital gains deductions for individuals.
Sec. 403. Reduction of alternative capital gains tax for corporations.
Sec. 404. One-time exclusion of gain from sale of principal residence by individual who has attained age 55.
Sec. 405. Waiver of certain 18-month rules of section 1034 when sale of residence is connected with commencing work at new place.

Subtitle B—Minimum Tax Provisions

Sec. 421. Alternative minimum tax for taxpayers other than corporations.
Sec. 422. Treatment of intangible drilling costs for purposes of the minimum tax.

Subtitle C—Maximum Tax Provisions

Sec. 441. Treatment of capital gains for purposes of the maximum tax.
Sec. 442. Determination of personal service income from non-salaried trade or business activities.

TITLE V—OTHER TAX PROVISIONS

Subtitle A—Administrative Provisions

Sec. 501. Reporting requirements with respect to charged tips.
Sec. 502. Extension of optional small tax case procedures and expansion of authority of commissioners of Tax Court.
Sec. 503. Disclosure of return information to certain Federal officers and employees for purposes of tax administration, etc.
Sec. 504. Refund adjustments for amounts held under claim of right.

Subtitle B—Estate and Gift Tax Provisions

Sec. 511. Reduction of value taken into account for estate tax purposes where spouse of decedent materially participated in farm or other business.
Sec. 512. Treatment of certain interests held by decedent's family for purposes of the extension of time for payment of estate tax provided by section 6166.
Sec. 513. Subordination of special liens for additional estate tax attributable to farm, etc., valuation.
Sec. 514. Amendment of governing instruments to meet requirements for gifts of split interest to charity.
Sec. 515. Deferral of carryover basis rules.

Subtitle C—Other Excise Tax Provisions

Sec. 520. Reduction of administration tax on private foundations.
Sec. 521. Excise tax on certain gaming devices.
Sec. 522. Treatment of certain private foundations for purposes of section 4942.

Subtitle D—Income Tax Provisions

Sec. 530. Controversies involving whether individuals are employees for purposes of the employment taxes.
Sec. 531. Certain original stockholders of cooperative housing corporations.

Subtitle E—Other Income Tax Provisions

Sec. 540. Deposits in certain branches of Puerto Rican savings and loan associations.
Sec. 541. Taxation of Alaska Native Claims Settlement Act corporations.
Sec. 542. Replacement of livestock with other farm property where there has been environmental contamination.
Sec. 543. Certain payments not included in gross income.

Subtitle F—Studies

Sec. 551. Study of simplification of tax returns.
Sec. 552. Study of tax incentives for expenditures required by Occupational Safety and Health Administration and Mining Health and Safety Administration.
Sec. 553. Study of taxation of nonresident alien real estate transactions in the United States.
Sec. 554. Report on effectiveness of jobs credit.
Sec. 555. Study of effects of changes in the tax treatment of capital gains on stimulating investment and economic growth.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

Sec. 601. Establishment and taxation of general stock ownership corporations and their shareholders.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

Sec. 701. Technical amendments to income tax provisions and administrative provisions.
Sec. 702. Technical, clerical, and conforming amendment to estate and gift tax provisions.
Sec.703. Corrections of punctuation, spelling, incorrect cross references, etc.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

Sec. 801. Grants to States for social services.
Sec. 802. Change in public assistance matching formula, and increase in amount of public assistance dollar limitations, for Puerto Rico, the Virgin Islands, and Guam in fiscal year 1979.

SEC. 2. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 3. POLICY WITH RESPECT TO ADDITIONAL TAX REDUCTIONS.

As a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed one percent per year between fiscal year 1979 and fiscal year

1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the Federal budget should be balanced in fiscal years 1982 and 1983. If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these tax reductions are justified in the light of prevailing and expected economic conditions.

TITLE I—PROVISIONS PRIMARILY AFFECTING INDIVIDUAL INCOME TAX

Subtitle A—Tax Reductions and Extensions

SEC. 101. WIDENING OF BRACKETS; RATE CUTS IN CERTAIN BRACKETS; INCREASE IN ZERO BRACKET AMOUNTS

(a) RATE REDUCTION.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxpayable income of—

"(1) every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,400	No Tax.
Over $3,400 but not over $5,500	14% of excess over $3,400.
Over $5,500 but not over $7,600	$294, plus 16% of excess over $5,500.
Over $7,600 but not over $11,900	$630, plus 18% of excess over $7,600.
Over $11,900 but not over $16,000	$1,404, plus 21% of excess over $11,900.
Over $16,000 but not over $20,200	$2,265, plus 24% of excess over $16,000.
Over $20,200 but not over $24,600	$3,273, plus 28% of excess over $20,000.
Over $24,600 but not over $29,900	$4,505, plus 32% of excess over $24,600.
Over $29,900 but not over $35,200	$6,201, plus 37% of excess over $29,900.
Over $35,200 but not over $45,800	$8,162, plus 43% of excess over $35,200.
Over $45,800 but not over $60,000	$12,720, plus 49% of excess over $45,800.
Over $60,000 but not over $85,600	$19,678, plus 54% of excess over $60,000.
Over $85,600 but not over $109,400	$33,502, plus 59% of excess over $85,600.
Over $109,400 but not over $162,400	$47,544, plus 64% of excess over $109,400.
Over $162,400 but not over $215,400	$81,464, plus 68% of excess over $162,400.
Over $215,400	$117,504, plus 70% of excess over $215,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,000 but not over $4,400	14% of excess over $2,300.
Over $4,400 but not over $6,500	$294, plus 16% of excess over $4,400.
Over $6,500 but not over $8,700	$630, plus 18% of excess over $6,500.
Over $8,700 but not over $11,800	$1,026, plus 22% of excess over $8,700.
Over $11,800 but not over $15,000	$1,708, plus 24% of excess over $11,800.
Over $15,000 but not over $18,200	$2,476, plus 26% of excess over $15,000.
Over $18,200 but not over $23,500	$3,308, plus 31% of excess over $18,200.
Over $23,500 but not over $28,800	$4,951, plus 36% of excess over $23,500.
Over $28,800 but not over $34,100	$6,859, plus 42% of excess over $28,800.
Over $34,100 but not over $44,700	$9,085, plus 46% of excess over $34,100.
Over $44,700 but not over $60,600	$13,961, plus 54% of excess over $44,700.
Over $60,600 but not over $81,800	$22,547, plus 59% of excess over $60,600.
Over $81,800 but not over $108,300	$35,055, plus 63% of excess over $81,800.
Over $108,300 but not over $161,300	$51,750, plus 68% of excess over $108,300.
Over $161,300	$87,790, plus 70% of excess over $161,300.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	14% of excess over $2,300.
Over $3,400 but not over $4,400	$154, plus 16% of excess over $3,400.
Over $4,400 but not over $6,500	$314, plus 18% of excess over $4,400.
Over $6,500 but not over $8,500	$692, plus 19% of excess over $6,500.
Over $8,500 but not over $10,800	$1,072, plus 21% of excess over $8,500.
Over $10,800 but not over $12,900	$1,555, plus 24% of excess over $10,800.
Over $12,900 but not over $15,000	$2,059, plus 26% of excess over $12,900.
Over $15,000 but not over $18,200	$2,605, plus 30% of excess over $15,000.
Over $18,200 but not over $23,500	$3,565, plus 34% of excess over $18,200.
Over $23,500 but not over $28,800	$5,367, plus 39% of excess over $23,500.
Over $28,800 but not over $34,100	$7,434, plus 44% of excess over $28,800.
Over $34,100 but not over $41,500	$9,766, plus 49% of excess over $34,100.
Over $41,500 but not over $55,300	$13,392, plus 55% of excess over $41,500.
Over $55,300 but not over $81,800	$20,982, plus 63% of excess over $55,300.
Over $81,800 but not over $108,300	$37,677, plus 68% of excess over $81,800.
Over $108,300	$55,697, plus 70% of excess over $108,300.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	14% of excess over $1,700.
Over $2,750 but not over $3,800	$147, plus 16% of excess over $2,750.
Over $3,800 but not over $5,950	$315, plus 18% of excess over $3,800.
Over $5,950 but not over $8,000	$702, plus 21% of excess over $5,950.
Over $8,000 but not over $10,100	$1,132.50, plus 24% of excess over $8,000.
Over $10,100 but not over $12,300	$1,636.50, plus 28% of excess over $10,100.

"If taxable income is:	The tax is:
Over $12,300 but not over $14,950	$2,252.50, plus 32% of excess over $12,300.
Over $14,950 but not over $17,600	$3,100.50, plus 37% of excess over $14,950.
Over $17,600 but not over $22,900	$4,081, plus 43% of excess over $17,600.
Over $22,900 but not over $30,000	$6,360, plus 49% of excess over $22,900.
Over $30,000 but not over $42,800	$9,839, plus 54% of excess over $30,000.
Over $42,800 but not over $54,700	$16,751, plus 59% of excess over $42,800.
Over $54,700 but not over $81,200	$23,772, plus 64% of excess over $54,700.
Over $81,200 but not over $107,700	$40,732, plus 68% of excess over $81,200.
Over $107,700	$58,752, plus 70% of excess over $107,700.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust available under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $1,050	14% of taxable income.
Over $1,050 but not over $2,100	$147, plus 16% of excess over $1,050.
Over $2,100 but not over $4,250	$315, plus 18% of excess over $2,100.
Over $4,250 but not over $6,300	$702, plus 21% of excess over $4,250.
Over $6,300 but not over $8,400	$1,132.50, plus 24% of excess over $6,300.
Over $8,400 but not over $10,600	$1,636.50, plus 28% of excess over $8,400.
Over $10,600 but not over $13,250	$2,252.50, plus 32% of excess over $10,600.
Over $13,250 but not over $15,900	$3,100.50, plus 37% of excess over $13,250.
Over $15,900 but not over $21,200	$4,081, plus 43% of excess over $15,900.
Over $21,200 but not over $28,300	$6,360, plus 49% of excess over $21,200.
Over $28,300 but not over $41,100	$9,839, plus 54% of excess over $28,300.
Over $41,100 but not over $53,000	$16,751, plus 59% of excess over $41,100.
Over $53,000 but not over $79,500	$23,772, plus 64% of excess over $53,000.
Over $79,500 but not over $106,000	$40,732, plus 68% of excess over $79,500.
Over $106,000	$58,752, plus 70% of excess over $106,000.".

(b) INCREASE IN ZERO BRACKET AMOUNT.—Subsection (d) of section 63 (defining zero bracket amount) is amended—

(1) by striking out "$3,200" and inserting in lieu thereof "$3,400",

(2) by striking out "$2,200" and inserting in lieu thereof "$2,300", and

(3) by striking out "$1,600" and inserting in lieu thereof "$1,700".

(c) FILING REQUIREMENTS.—Paragraph (1) of section 6012(a) (relating to persons required to make returns of income) is amended—

(1) by striking out "$2,950" and inserting in lieu thereof "$3,050",

(2) by striking out "$3,950" and inserting in lieu thereof "$4,150", and

(3) by striking out "$4,700" and inserting in lieu thereof "$4,900".

(d) TECHNICAL AMENDMENTS.—

(1) Subparagraph (C) of section 402(e)(1) (relating to tax on lump sum distributions) is amended by striking out "$2,200" and inserting in lieu thereof "$2,300".

(2) Paragraph (3) of section 1302(b) (relating to transitional rule for determining base period income) is amended to read as follows:

"(3) TRANSITIONAL RULE FOR DETERMINING BASE PERIOD INCOME.—The base period income (determined under paragraph (2)) for any taxable year beginning before January 1, 1977, shall be increased by—

"(A) $3,200 in the case of a joint return or a surviving spouse, (as defined in section 2(a)),

"(B) $2,200 in the case of an individual who is not married (within the meaning of section 143) and is not a surviving spouse (as so defined), or

"(C) $1,600 in the case of a married individual (within the meaning of section 143) filing a separate return.

For purposes of this paragraph, filing status shall be determined as of the computation year."

(e) WITHHOLDING AMENDMENTS.—

(1) WITHHOLDING TABLES.—Subsection (a) of section 3402 (relating to requirement of withholding) is amended by striking out the second and third sentences and inserting in lieu thereof the following new sentence: "With respect to wages paid after December 31, 1978, the tables so prescribed shall be the same as the tables prescribed under this subection which were in effect on January 1, 1975, except that such tables shall be modified to the extent necessary to reflect the amendments made by sections 101 and 102 of the Tax Reduction and Simplification Act of 1977 and the amendments made by section 101 of the Revenue Act of 1978."

(2) WITHHOLDING ALLOWANCES BASED ON ITEMIZED DEDUCTIONS.—Subparagraph (B) of section 3402(m)(1) (relating to withholding allowances based on itemized deductions) is amended—

(A) by striking out "$3,200" and inserting in lieu thereof "$3,400", and

(B) by striking out "$2,200" and inserting in lieu thereof "$2,300".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (e) shall apply to remuneration paid after December 31, 1978.

SEC. 102. PERSONAL EXEMPTIONS INCREASED TO $1,000.

(a) GENERAL RULE.—Section 151 (relating to allowance of deductions for personal exemptions) is amended by striking out "$750" each place it appears and inserting in lieu thereof "$1,000".

(b) FILING REQUIREMENTS.—

(1) Paragraph (1) of section 6012(a) (relating to persons required to make returns of income), as amended by section 101(c) of this Act, is amended by striking out "$750", "$3,050", "$4,150", and "$4,900" each place they appear and inserting in lieu thereof "$1,000", "$3,300", $4,400", and "$5,400", respectively.

(2) Subparagraph (A) of section 6013(b)(3) (relating to assessment and collection in the case of certain returns of husbands and wife) is amended by striking out "$750" and "$1,500" each place they appear and inserting in lieu thereof "$1,000" and "$2,000", respectively.

(c) WITHHOLDING REQUIREMENTS.—

(1) Paragraph (1) of section 3402(b) (relating to percentage method of withholding income tax at source) is amended by striking out the table and inserting in lieu thereof the following:

"PERCENTAGE METHOD WITHHOLDING TABLE

"Payroll period	Amount of one withholding exemption
Weekly	$19.23
Biweekly	38.46
Semimonthly	41.66
Monthly	83.33
Quarterly	250.00
Semiannual	500.00
Annual	1,000.00
Daily or miscellaneous (per day of such period)	2.74".

(2) Paragraph (1) of section 3402(m) (relating to withholding allowances based on itemized deductions) is amended by striking out "$750" and inserting in lieu thereof "$1,000".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1978.

(2) WITHHOLDING AMENDMENTS.—The amendments made by subsection (c) shall apply with respect to remuneration paid after December 31, 1978.

SEC. 103. EARNED INCOME CREDIT MADE PERMANENT.

(a) GENERAL RULE.—Subsection (b) of section 209 of the Tax Reduction Act of 1975 is amended by striking out ", and before January 1, 1979".

(b) TECHNICAL AMENDMENT.—The second sentence of section 401(e) of the Tax Reform Act of 1976 (as added by section 103 of the Tax Reduction and Simplification Act of 1977) is amended by striking out ", and shall cease to apply to taxable years beginning after December 31, 1978".

SEC. 104. INCREASE IN AND SIMPLIFICATION OF THE EARNED INCOME TAX CREDIT.

(a) INCREASE IN CREDIT.—Subsection (a) of section 43 (relating to earned income credit) is amended—

(1) by striking out "chapter" and inserting in lieu thereof "subtitle", and

(2) by striking out "$4,000" and inserting in lieu thereof "$5,000".

(b) REVISION OF THE LIMITATION.—Subsection (b) of section 43 is amended to read as follows:

"(b) LIMITATION.—The amount of the

credit allowable to a taxpayer under subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(1) $500, over

"(2) 12.5 percent of so much of the adjusted gross income (or, if greater, the earned income) of the taxpayer for the taxable year as exceeds $6,000."

(c) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—Section 43 is amended by adding at the end thereof the following new subsection:

"(f) AMOUNT OF CREDIT TO BE DETERMINED UNDER TABLES.—

"(1) IN GENERAL.—The amount of the credit allowed by this section shall be determined under tables prescribed by the Secretary.

"(2) REQUIREMENTS FOR TABLES.—The tables prescribed under paragraph (1) shall reflect the provisions of subsections (a) and (b) and shall have income brackets of not greater than $50 each—

"(A) for earned income between $0 and $10,000, and

"(B) for adjusted gross income between $6,000 and $10,000.".

(d) EXCLUDABLE EARNED INCOME TAKEN INTO ACCOUNT.—Subparagraph (B) of section 43(c)(2) (defining earned income) is amended by striking out clause (i) and by redesignating clauses (ii), (iii), and (iv) as clauses (i), (ii), and (iii), respectively.

(e) DEFINITION OF ELIGIBLE INDIVIDUAL.—Paragraph (1) of section 43(c) (defining eligible individual) is amended to read as follows:

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means an individual who, for the taxable year—

"(i) is married (within the meaning of section 143) and is entitled to a deduction under section 151 for a child (within the meaning of section 151(e)(3)),

"(ii) is a surviving spouse (as determined under section 2(a)), or

"(iii) is a head of a household (as determined under subsection (b) of section 2 without regard to subparagraphs (A)(ii) and (B) of paragraph (1) of such subsection).

"(B) CHILD MUST RESIDE WITH TAXPAYER IN THE UNITED STATES.—An individual shall be treated as satisfying clause (i) of subparagraph (A) only if the child has the same principal place of abode as the individual and such abode is in the United States. An individual shall be treated as satisfying clause (ii) or (iii) of subparagraph (A) only if the household in question is in the United States.

"(C) INDIVIDUAL ENTITLED TO EXCLUDE INCOME UNDER SECTION 911 NOT ELIGIBLE INDIVIDUAL.—The term 'eligible individual' does not include an individual who, for the taxable year, is entitled to exclude any amount from gross income under section 911 (relating to earned income from sources without the United States) or section 931 (relating to income from sources within the possessions of the United States)."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 105. ADVANCE PAYMENT OF EARNED INCOME CREDIT.

(a) COORDINATION OF CREDIT WITH ADVANCE PAYMENTS.—Section 43 (relating to earned income credit) is amended by adding at the end thereof the following new subsection:

"(h) COORDINATION WITH ADVANCE PAYMENTS OF EARNED INCOME CREDIT.—

"(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made to the individual by an employer under section 3507 during any calendar year, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

"(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under this subpart.".

(b) ADVANCE PAYMENT OF EARNED INCOME CREDIT.—

(1) IN GENERAL.—Chapter 25 (general provisions relating to employment taxes) is amended by adding at the end thereof the following new section:

"SEC. 3507. ADVANCE PAYMENT OF EARNED INCOME CREDIT.

"(a) GENERAL RULE.—Except as otherwise provided in this section, every employer making payment of wages to an employee with respect to whom an earned income eligibility certificate is in effect shall, at the time of paying such wages, make an additional payment to such employee equal to such employee's earned income advance amount.

"(b) EARNED INCOME ELIGIBILITY CERTIFICATE.—For purposes of this title, an earned income eligibility certificate is a statement furnished by an employee to the employer which—

"(1) certifies that the employee will be eligible to receive the credit provided by section 43 for the taxable year,

"(2) certifies that the employee does not have an earned income eligibility certificate in effect for the calendar year with respect to the payment of wages by another employer, and

"(3) states whether or not the employee's spouse has an earned income eligibility certificate in effect.

For purposes of this section, a certificate shall be treated as being in effect with respect to a spouse if such a certificate will be in effect on the first status determination date following the date on which the employee furnishes the statement in question.

"(c) EARNED INCOME ADVANCE AMOUNT.—

"(1) IN GENERAL.—For purposes of this title, the term 'earned income advance amount' means, with respect to any payroll period, the amount determined—

"(A) on the basis of the employee's wages from the employer for such period, and

"(B) in accordance with tables prescribed by the Secretary.

"(2) ADVANCE AMOUNT TABLES.—The tables referred to in paragraph (1)(B)—

"(A) shall be similar in form to the tables prescribed under section 3402 and, to the maximum extent feasible, shall be coordinated with such tables, and

"(B) if the employee is not married, or if no earned income eligibilty certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of not more than 10 percent of the first $5,000 of earned income, which

"(ii) phases out between $6,000 and $10,000 of earned income, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 43 as if it were a credit—

"(i) of not more than 10 percent of the first $2,500 of earned income, which

"(ii) phases out between $3,000 and $5,000 of earned income.

"(d) PAYMENTS TO BE TREATED AS PAYMENTS OF WITHHOLDING AND FICA TAXES.—

"(1) IN GENERAL.—For purposes of this title, payments made by an employer under subsection (a) to his employees for any payroll period—

"(A) shall not be treated as the payment of compensation, and

"(B) shall be treated as made out of—

"(i) amounts required to be deducted and withheld for the payroll period under section 3401 (relating to wage withholding), and

"(ii) amounts required to be deducted for the payroll period under section 3102 (relating to FICA employee taxes), and

"(iii) amounts of the taxes imposed for the payroll period under section 3111 (relating to FICA employer taxes), as if the employer had paid to the Secretary, on the day on which the wages are paid to the employees, an amount equal to such payments.

"(2) ADVANCE PAYMENTS EXCEED TAXES DUE.—In the case of any employer, if for any payroll period the aggregate amount of earned income advance payments exceeds the sum of the amounts referred to in paragraph (1)(B), each such advance payment shall be reduced by an amount which bears the same ratio to such excess as such advance payment bears to the aggregate amount of all such advance payments.

"(3) EMPLOYER MAY MAKE FULL ADVANCE PAYMENTS.—The Secretary shall prescribe regulations under which an employer may elect (in lieu of any application of paragraph (2))—

"(A) to pay in full all earned income advance amounts, and

"(B) to have additional amounts paid by reason of this paragraph treated as the advance payment of taxes imposed by this title.

"(4) FAILURE TO MAKE ADVANCE PAYMENTS.—For purposes of this title (including penalties), failure to make any advance payment under this section at the time provided therefor shall be treated as the failure at such time to deduct and withhold under chapter 24 an amount equal to the amount of such advance payment.

"(e) FURNISHING AND TAKING EFFECT OF CERTIFICATES.—For purposes of this section—

"(1) WHEN CERTIFICATE TAKES EFFECT.—

"(A) FIRST CERTIFICATE FURNISHED.—An earned income eligibility certificate furnished the employer in cases in which no previous such certificate had been in effect for the calendar year shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished (or if later, the first day of the calendar year for which furnished).

"(B) LATER CERTIFICATE.—An earned income eligibility certificate furnished the employer in cases in which a previous such certificate had been in effect for the calendar year shall take effect with respect to the first payment of wages made on or after the first status determination date which occurs at least 30 days after the date on which such certificate is so furnished, except that at the selection of the employer such certificate may be made effective with respect to any payments of wages made on or after the date on which such certificate is so furnished. For purposes of this section, the term 'status determination date' means January 1, May 1, July 1, and October 1 of each year.

"(2) PERIOD DURING WHICH CERTIFICATE REMAINS IN EFFECT.—An earned income eligibility certificate which takes effect under this section for any calendar year shall continue in effect with respect to the employee during such calendar year until revoked by the employee or until another such certificate takes effect under this section.

"(3) CHANGE OF STATUS.—

"(A) REQUIREMENT TO REVOKE OR FURNISH NEW CERTIFICATE.—If, after an employee has furnished an earned income eligibility certificate under this section, there has been a change of circumstances which has the effect of—

"(i) making the employee ineligible for the credit provided by section 43 for the taxable year, or

"(ii) causing an earned income eligibility certificate to be in effect with respect to the spouse of the employee,

the employee shall, within 10 days after such change in circumstances, furnish the employer with a revocation of such certificate or with a new certificate (as the case may be). Such a revocation (or such a new certificate) shall take effect under the rules provided by paragraph (1)(B) for a later certificate and shall be made in such form as the Secretary shall by regulations prescribe.

"(B) CERTIFICATE NO LONGER IN EFFECT.—If, after an employee has furnished an earned income eligibility certificate under this section which certifies that such a certificate is in effect with respect to the spouse of the employee, such a certificate is no longer in effect with respect to such spouse, then the employee may furnish the employer with a new earned income eligibility certificate.

"(4) FORM AND CONTENTS OF CERTIFICATE.—Earned income eligibility certificates shall be in such form and contain such other information as the Secretary may by regulations prescribe.

"(5) TAXABLE YEAR DEFINED.—The term 'taxable year' means the last taxable year of the employee under subtitle A beginning in the calendar year in which the wages are paid.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following new item:

"Sec. 3507. Advance payment of earned income credit.".

(c) INFORMATION SHOWN ON W-2.—The first sentence of section 6051(a) (relating to receipts for employees) is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following new paragraph:

"(7) the total amount paid to the employee under section 3507 (relating to advance payment of earned income credit).".

(d) REQUIREMENT OF RETURN.—Subsection (a) of section 6012 (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph:

"(8) Every individual who receives payments during the calendar year in which the taxable year begins under section 3507 (relating to advance payment of earned income credit).".

(e) CROSS REFERENCE.—Section 6302 (relating to mode or time of collection) is amended by adding at the end thereof the following new subsection:

"(d) CROSS REFERENCE.—

"For treatment of payment of earned income advance amounts as payment of withholding and FICA taxes, see section 3507(d).".

(f) DISREGARD TO TERMINATE IN 1980.—Section 2(d) of the Revenue Adjustment Act of 1975 (relating to disregard of refund) is amended—

(1) by inserting before "shall not be taken into account" the following: ", and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit)", and

(2) by inserting after "shall not be taken into account" the following: "in any year ending before 1980".

(g) EFFECTIVE DATE.—

(1) The amendments made by subsections (a) and (d) shall apply to taxable years beginning after December 31, 1978.

(2) The amendments made by subsections (b), (c), and (e) shall apply to remuneration paid after June 30, 1978.

(3) Subsection (f) shall take effect on the date of the enactment of this Act.

SEC. 106. APPLICATION OF CERTAIN CHANGES IN THE CASE OF FISCAL YEAR TAXPAYERS

Section 21 (relating to effects of changes in rate of tax) is amended by adding at the end thereof the following new subsection:

"(f) CHANGES MADE BY REVENUE ACT OF 1978.—In applying subsection (a) to a taxable year which is not a calendar year—

"(1) the amendments made by sections 101, 102, and 301 of the Revenue Act of 1978 (and no other amendments made by such Act, and

"(2) the expiration of section 42 (relating to general tax credit),

shall be treated as a change in a rate of tax."

Subtitle B—Itemized Deductions; Etc.

SEC. 111. REPEAL OF DEDUCTION FOR STATE AND LOCAL TAXES ON GASOLINE AND OTHER MOTOR FUELS.

(a) REPEAL.—Paragraph (5) of section 164(a) (relating to deduction for taxes) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) The heading of paragraph (5) of section 164(b) is amended by striking out "AND GASOLINE TAXES."

(2) The text of such paragraph (5) is amended by striking out "or of any tax on the sale of gasoline, diesel fuel, or other motor fuel".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 112. TAXATION OF UNEMPLOYMENT COMPENSATION BENEFITS AT CERTAIN INCOME LEVELS.

(a) INCLUSION IN GROSS INCOME.—Part II of subchapter B of chapter 1 (relating to amounts specifically included in gross income) is amended by adding at the end thereof the following new section:

"SEC. 85. UNEMPLOYMENT COMPENSATION.

"(a) IN GENERAL.—If the sum for the taxable year of the adjusted gross income of the taxpayer (determined without regard to this section and without regard to section 105(d)) and the unemployment compensation exceeds the base amount, gross income for the taxable year includes unemployment compensation in an amount equal to the lesser of—

"(1) one-half of the amount of the excess of such sum over the base amount, or

"(2) the amount of the unempolyment compensation.

"(b) BASE AMOUNT DEFINED.—For purposes of this section, the term 'base amount' means—

"(1) except as provided in paragraphs (2) and (3), $20,000,

"(2) $25,000, in the case of a joint return under section 6013, or

"(3) zero, in the case of a taxpayer who—

"(A) is married at the close of the taxable year. (within the meaning of section 143) but does not file a joint return for such year, and

"(B) does not live apart from his spouse at all times during the taxable year.

"(c) UNEMPLOYMENT COMPENSATION DEFINED.—For purposes of this section, the term 'unemployment compensation' means any amount received under a law of the United States or of a State which is in the nature of unemployment compensation."

(b) REPORTING OF UNEMPLOYMENT COMPENSATION PAYMENTS.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons) is amended by adding at the end thereof the following new section:

"SEC. 6050B. RETURNS RELATING TO UNEMPLOYMENT COMPENSATION.

"(a) REQUIREMENT OF REPORTING.—Every person who makes payments of unemployment compensation aggregating $10 or more to any individual during any calendar year shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amounts of such payments and the name and address of the individual to whom paid.

"(b) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Every person making a return under subsection (a) shall furnish to each individual whose name is set forth in such return a written statement showing—

"(1) the name and address of the person making such return, and

"(2) the aggregate amount of payments to the individual as shown on such return. The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was made. No statement shall be required to the furnished to any individual under this subsection if the aggregate amount of payments to such individual shown on the return made under subsection (a) is less than $10.

"(c) DEFINITIONS.—For purposes of this section—

"(1) UNEMPLOYMENT COMPENSATION.—The term 'unemployment compensation' has the meaning given to such term by section 85(c).

"(2) PERSON.—The term 'person' means the officer or employee having control of the payment of the unemployment compensation, or the person appropriately designated for purposes of this section."

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for part II of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 85. Unemployment compensation."

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following new item:

"Sec. 6050B. Returns relating to unemployment compensation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments of unemployment compensation made after December 31, 1978, in taxable years ending after such date.

SEC. 113. REPEAL OF DEDUCTION FOR POLITICAL CONTRIBUTIONS; INCREASE IN CREDIT.

(a) REPEAL OF DEDUCTION.—

(1) REPEAL.—Section 218 (relating to deduction for contributions to candidates for public office and newsletter funds) is hereby repealed.

(2) CONFORMING AMENDMENTS—

(A) The table of sections for part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by striking out the item relating to section 218.

(B) Section 642 (relating to special rules for credits and deductions of estates and trusts) is amended by striking out subsection (i) and by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

(c) INCREASE IN AMOUNT OF CREDIT.—Paragraph (1) of section 41(b) (relating to maximum credit) is amended by striking out "$25" and "$50" and inserting in lieu thereof "$50" and "$100", respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions the payment of which is

made after December 31, 1978, in taxable years beginning after such date.

Subtitle C—Credits

SEC. 131. PAYMENTS TO RELATED INDIVIDUALS UNDER CHILD CARE CREDIT.

(a) IN GENERAL.—Paragraph (6) of section 44A(f) (relating to payments to related individuals) is amended to read as follows:

"(6) PAYMENTS TO RELATED INDIVIDUALS.—No credit shall be allowed under subsection (a) for any amount paid by the taxpayer to an individual—

"(A) with respect to whom, for the taxable year, a deduction under section 151(e) (relating to deduction for personal exemptions for dependents) is allowable either to the taxpayer or his spouse, or

"(B) who is a child of the taxpayer (within the meaning of section 151(e)(3)) who has not attained the age of 19 at the close of the taxable year.

For purposes of this paragraph, the term 'taxable year' means the taxable year of the taxpayer in which the service is performed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1978.

Subtitle D—Deferred Compensation

PART I—DEFERRED COMPENSATION PROVISIONS

SEC. 131. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable years for which gross income included) is amended by adding at the end thereof the following new section:

"SEC. 457. DEFERRED COMPENSATION PLANS WITH RESPECT TO SERVICE FOR STATE AND LOCAL GOVERNMENTS.

"(a) YEAR OF INCLUSION IN GROSS INCOME.—In the case of a participant in an eligible State deferred compensation plan, any amount of compensation deferred, under the plan, and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary.

"(b) ELIGIBLE STATE DEFERRED COMPENSATION PLAN DEFINED.—For prposes of this section, the term 'eligible State deferred compensation plan' means a plan established and maintained by a State—

"(1) in which only individuals who perform service for the State may be participants,

"(2) which provides that (except as provided in paragraph (3)) the maximum that may be deferred under the plan for the taxable year shall not exceed the lesser of—

"(A) $7,500, or

"(B) 33⅓ percent of the participant's includible compensation,

"(3) which may provide that, for 1 or more of the participant's last 3 taxable years ending before he attains normal retirement age under the plan, the ceiling set forth in paragraph (2) shall be the lesser of—

"(A) $15,000, or

"(B) the sum of—

"(i) the plan ceiling established for purposes of paragraph (2) for the taxable year (determined without regard to this paragraph), plus

"(ii) so much of the plan ceiling established for purposes of paragraph (2) for taxable years before the taxable year as has not theretofore been used under paragraph (2) or this paragraph,

"(4) which provides that compensation will be deferred for any calendar month only if an agreement providing for such deferral has been entered into before the beginning of such month,

"(5) which does not provide that amounts payable under the plan will be made available to participants or other beneficiaries earlier than when the participant is separated from service with the State or is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary by regulation), and

"(6) which provides that—

"(A) all amounts of compensation deferred under the plan,

"(B) all property and rights purchased with such amounts, and

"(C) all income attributable to such amounts, property, or rights,

shall remain (until made available to the participant or other beneficiary) solely the property and rights of the State (without being restricted to the provision of benefits under the plan) subject only to the claims of the State's general creditors.

A plan which is administered in a manner which is inconsistent with the requirements of any of the preceding paragraphs shall be treated as not meeting the requirements of such paragraph as of the first plan year beginning more than 180 days after the date of notification by the Secretary of the inconsistency unless the State corrects the inconsistency before the first day of such plan year.

"(c) INDIVIDUALS WHO ARE PARTICIPANTS IN MORE THAN ONE PLAN.—

"(1) IN GENERAL.—The maximum amount of the compensation of any one individual which may be deferred under subsection (a) during any taxable year shall not exceed $7,500 (as modified by any adjustment provided under subsection (b)(3)).

"(2) COORDINATION WITH SECTION 403(b).—In applying paragraph (1) of this subsection and paragraphs (2) and (3) of subsection (b), an amount excluded during a taxable year under section 403(b) shall be treated as an amount deferred under subsection (a). In applying clause (ii) of section 403(b)(2)(A), an amount deferred under subsection (a) for any year of service shall be taken into account as if described in such clause.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) STATE.—The term 'State' means a State, a political subdivision of a State, and an agency or instrumentality of a State or political subdivision of a State.

"(2) PERFORMANCE OF SERVICE.—The performance of service includes performance of service as an independent contractor.

"(3) PARTICIPANT.—The term 'participant' means an individual who is eligible to defer compensation under the plan.

"(4) BENEFICIARY.—The term 'beneficiary' means a beneficiary of the participant, his estate, or any other person whose interest in the plan is derived from the participant.

"(5) INCLUDIBLE COMPENSATION.—The term 'includible compensation' means compensation for service performed for the State which (taking into account the provisions of this section and section 403(b)) is currently includible in gross income.

"(6) COMPENSATION TAKEN INTO ACCOUNT AT PRESENT VALUE.—Compensation shall be taken into account at its present value.

"(7) COMMUNITY PROPERTY LAWS.—The amount of includible compensation shall be determined without regard to any community property laws.

"(8) INCOME ATTRIBUTIBLE.—Gains from the disposition of property shall be treated as income attributable to such property.

"(9) SECTION TO APPLY TO RURAL ELECTRIC COOPERATIVES.—

"(A) IN GENERAL.—This section shall apply with respect to any participant in a plan of a rural electric cooperative in the same manner and to the same extent as if such plan were a plan of a State.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization described in section 501(c)(12) which is exempt from tax under section 501(a) and which is engaged primarily in providing electric service, and

"(ii) any organization described in section 501(c)(6) which is exempt from tax under section 501(a) and all the members of which are organizations described in clause (i).

"(e) TAX TREATMENT OF PARTICIPANTS WHERE PLAN OR ARRANGEMENT OF STATE IS NOT ELIGIBLE.—

"(1) IN GENERAL.—In the case of a plan of a State providing for a deferral of compensation, if such plan is not an eligible State deferred compensation plan, then—

"(A) the compensation shall be included in the gross income of the participant or beneficiary for the first taxable year in which there is no substantial risk of forfeiture of the rights to such compensation, and

"(B) the tax treatment of any amount made available under the plan to a participant or beneficiary shall be determined under section 72 (relating to annuities, etc.).

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan or contract described in section 403,

"(C) a qualified bond purchase plan described in section 405(a),

"(D) that portion of any plan which consists of a transfer of property described in section 83, and

"(E) that portion of any plan which consists of a trust to which section 402(b) applies.

"(3) DEFINITIONS.—For purposes of this subsection.—

"(A) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement.

"(B) SUBSTANTIAL RISK OF FORFEITURE.—The rights of a person to compensation are subject to a substantial risk of forfeiture if such person's rights to such compensation are conditioned upon the future performance of substantial services by any individual."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 457. Deferred compensation plans with respect to service for State and local governments."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

(2) TRANSITIONAL RULES.—

(A) IN GENERAL.—In the case of any taxable year beginning after December 31, 1978, and before January 1, 1982—

(i) any amount of compensation deferred under a plan of a State providing for a deferral of compensation (other than a plan described in section 457(e)(2) of the Internal Revenue Code of 1954), and any income attributable to the amounts so deferred, shall be includible in gross income only for the taxable year in which such compensation or other income is paid or otherwise made available to the participant or other beneficiary, but

(ii) the maximum amount of the compensation of any one individual which may be excluded from gross income by reason of clause (i) and by reason of section 457(a) of such Code during any such taxable year shall not exceed the lesser of—

(I) $7,500, or

(II) 33⅓ percent of the participant's includible compensation.

(B) APPLICATION OF CATCH-UP PROVISIONS IN CERTAIN CASES.—If, in the case of any participant for any taxable year, all of the plans are eligible State deferred compensation plans, then clause (ii) of subparagraph (A) of this paragraph shall be applied with the

modification provided by paragraph (3) of section 457(b) of such Code.

(C) APPLICATIONS OF CERTAIN COORDINATION PROVISIONS.—In applying clause (ii) of subparagraph (A) of this paragraph and section 403(b)(2)(A)(ii) of such Code, rules similar to the rules of section 457(c)(2) of such Code shall apply.

(D) MEANING OF TERMS.—Except as otherwise provided in this paragraph, terms used in this paragraph shall have the same meaning as when used in section 457 of such Code.

SEC. 132. CERTAIN PRIVATE DEFERRED COMPENSATION PLANS.

(a) GENERAL RULE.—The taxable year of inclusion in gross income of any amount covered by a private deferred compensation plan shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

(b) PRIVATE DEFERRED COMPENSATION PLAN DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "private deferred compensation plan" means a plan, agreement, or arrangement—

(A) where the person for whom the service is performed is not a State (within the meaning of paragraph (1) of section 457(d) of the Internal Revenue Code of 1954) and not an organization which is exempt from tax under section 501 of such Code, and

(B) under which the payment or otherwise making available of compensation is deferred.

(2) CERTAIN PLANS EXCLUDED.—Paragraph (1) shall not apply to—

(A) a plan described in section 401(a) of the Internal Revenue Code of 1954 which includes a trust exempt from tax under section 501(a) of such Code,

(B) an annuity or contract described in section 403 of such Code.

(C) a qualified bond purchase plan described in section 405(a) of such Code,

(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof) of such Code, and

(E) that portion of any plan which consists of a trust to which section 402(b) of such Code applies.

(c) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after February 1, 1978.

SEC. 133. CLARIFICATION OF DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS

(a) IN GENERAL.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by inserting after subsection (c) the following new subsection:

"(d) DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION, ETC., TO INDEPENDENT CONTRACTORS.—If a plan would be described in so much of subsection (a) as precedes paragraph (1) thereof (as modified by subsection (b)) but for the fact that there is no employer-employee relationship, the contributions or compensation—

"(1) shall not be deductible by the payor thereof under section 162 or 212, but

"(2) shall (if they would be deductible under section 162 or 212 but for paragraph (1)) be deductible under this subsection for the taxable year in which an amount attributable to the contribution or compensation is includible in the gross income of the persons participating in the plan.

(b) CLARIFICATION OF SECTION 404(b).—Subsection (b) of section 404 (relating to method of contributions, etc., having the effect of a plan) is amended by striking out "similar plan" and inserting in lieu thereof "other plan".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deductions for taxable years beginning after December 31, 1978.

SEC. 134. TAX TREATMENT OF CAFETERIA PLANS

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 125 as section 126 and by inserting after section 124 the following new section:

"SEC. 125. CAFETERIA PLANS

"(a) IN GENERAL.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan.

"(b) EXCEPTION FOR HIGHLY COMPENSATED PARTICIPANTS WHERE PLAN IS DISCRIMINATORY.—

"(1) IN GENERAL.—In the case of a highly compensated participant, subsection (a) shall not apply to any benefit attributable to a plan year for which the plan discriminates in favor of—

"(A) highly compensated individuals as to eligibility to participate, or

"(B) highly compensated participants as to contributions and benefits.

"(2) YEAR OF INCLUSION.—For purposes of determining the taxable year of inclusion, any benefit described in paragraph (1) shall be treated as received or accrued in the participant's taxable year in which the plan year ends.

"(c) DISCRIMINATION AS TO BENEFITS OR CONTRIBUTIONS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan does not discriminate where nontaxable benefits and total benefits (or employer contributions allocable to nontaxable benefits and employer contributions for total benefits) do not discriminate in favor of highly compensated participants.

"(d) CAFERERIA PLAN DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'cafeteria plan' means a written plan under which—

"(A) all participants are employees, and

"(B) the participants may choose among two or more benefits.

The benefits which may be chosen may be nontaxable benefits, or cash, property, or other taxable benefits.

"(2) DEFERRED COMPENSATION PLANS EXCLUDED.—The term 'cafeteria plan' does not include any plan which provides for deferred compensation.

"(e) HIGHLY COMPENSATED PARTICIPANT AND INDIVIDUAL DEFINED.—For purposes of this section—

"(1) HIGHLY COMPENSATED PARTICIPANT.—The term 'highly compensated participant' means a participant who is—

"(A) an officer,

"(B) a shareholder owning more than 5 percent of the voting power or value of all classes of stock of the employer,

"(C) highly compensated, or

"(D) a spouse or dependent (within the meaning of section 152) of an individual described in subparagraph (A), (B), or (C).

"(2) HIGHLY COMPENSATED INDIVIDUAL.—The term 'highly compensated individual' means an individual who is described in subparagraph (A), (B), (C), or (D) of paragraph (1).

"(f) NONTAXABLE BENEFIT DEFINED.—For purposes of this section, the term 'nontaxable benefit' means any benefit which, with the application of subsection (a), is not includible in the gross income of the employee.

"(g) SPECIAL RULES.—

"(1) COLLECTIVELY BARGAINED PLAN NOT CONSIDERED DISCRIMINATORY.—For purposes of this section, a plan shall not be treated as discriminatory if the plan is maintained under an agreement which the Secretary finds to be a collective bargaining agreement between employee representatives and one or more employers.

"(2) HEALTH BENEFITS.—For purposes of subparagraph (B) of subsection (b)(1), a cafeteria plan which provides health benefits shall not be treated as discriminatory if—

"(A) contributions under the plan on behalf of each participant include an amount which—

"(i) equals 100 percent of the cost of the health benefit coverage under the plan of the majority of the highly compensated participants similarly situated, or

"(ii) equals or exceeds 75 percent of the cost of the health benefit coverage of the participant (similarly situated) having the highest cost health benefit coverage under the plan, and

"(B) contributions or benefits under the plan in excess of those described in subparagraph (A) bear a uniform relationship to compensation.

"(3) CERTAIN PARTICIPATION ELIGIBILITY RULES NOT TREATED AS DISCRIMINATORY.—For purposes of subparagraph (A) of subsection (b)(1), a classification shall not be treated as discriminatory if the plan—

"(A) benefits a group of employees described in subparagraph (B) of section 410(b)(1), and

"(B) meets the requirements of clauses (i) and (ii).

"(i) No employee is required to complete more than 3 years of employment with the employer or employers maintaining the plan as a condition of participation in the plan, and the service requirement for each employee is the same.

"(ii) Any employee who has satisfied the employment requirement of clause (i) and who is otherwise entitled to participate in the plan commences participation no later than the first day of the first plan year beginning after the date the service requirement was satisfied unless the employee was separated from service before the day of that plan year.

"(4) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or (c) of section 414 shall be treated as employed by a single employer for purposes of this section.

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 124 and inserting in lieu thereof the following:

"Sec. 125. Cafeteria plans.

"Sec. 126. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 135. CERTAIN CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—Section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by redesignating subsection (k) as (l) and by inserting after subsection (j) the following new subsection:

"(k) CASH OR DEFERRED ARRANGEMENT.—

"(1) GENERAL RULE.—A profit-sharing or stock bonus plan shall not be considered as not satisfying the requirements of subsection (a) merely because the plan includes a qualified cash or deferred arrangement.

"(2) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—A qualified cash or deferred arrangement is any arrangement which is part of a profit-sharing or stock bonus plan which meets the requirements of subsection (a)—

"(A) under which a covered employee may elect to have the employer make payments

as contributions to a trust under the plan on behalf of the employee, or to the employee directly in cash;

"(B) under which amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election may not be distributable to participants or other beneficiaries earlier than upon retirement, death, disability, or separation from service, hardship or the attainment of age 59½, and will not be distributable merely by reason of the completion of a stated period of participation or the lapse of a fixed number of years; and

"(C) which provides that an employee's right to his accrued benefit derived from employer contributions made to the trust pursuant to his election are nonforfeitable.

"(3) APPLICATION OF PARTICIPATION AND DISCRIMINATION STANDARDS.—

"(A) A qualified cash or deferred arrangement shall be considered to satisfy the requirements of subsection (a)(4), with respect to the amount of contributions, and of subparagraph (B) of section 410(b)(1) for a plan year if those employees eligible to benefit under the plan satisfy the provisions of subparagraph (A) or (B) of section 410(b)(1) and if the actual deferral percentage for highly compensated employees (as defined in paragraph (4)) for such plan year bears a relationship to the actual deferral percentage for all other eligible employees for such plan year which meets either of the following tests:

"(i) The actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 1.5.

"(ii) The excess of the actual deferral percentage for the group of highly compensated employees over that of all other eligible employees is not more than 3 percentage points, and the actual deferral percentage for the group of highly compensated employees is not more than the actual deferral percentage of all other eligible employees multiplied by 2.5.

"(B) For purposes of subparagraph (A), the actual deferral percentage for a specified group of employees for a plan year shall be the average of the ratios (calculated separately for each employee in such group) of—

"(i) the amount of employer contributions actually paid over to the trust on behalf of each such employee for such plan year, to

"(ii) the employee's compensation for such plan year.

For purposes of the preceding sentence, the compensation of any employee for a plan year shall be the amount of his compensation which is taken into account under the plan in calculating the contribution which may be made on his behalf for such plan year.

"(4) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subsection, the term 'highly compensated employee' means any employee who is more highly compensated than two-thirds of all eligible employees, taking into account only compensation which is considered in applying paragraph (3)."

(b) TAXABILITY OF BENEFICIARIES.—Subsection (a) of section 402 is amended by adding at the end thereof the following new paragraph:

"(8) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 1979.

(2) TRANSITIONAL RULE.—In the case of cash or deferred arrangements in existence on June 27, 1974—

(A) the qualification of the plan and the trust under section 401 of the Internal Revenue Code of 1954;

(B) the exemption of the trust under section 501(a) of such Code;

(C) the taxable year of inclusion in gross income of the employee of any amount so contributed by the employer to the trust; and

(D) the excludability of the interest of the employee in the trust under sections 2039 and 2517 of such Code,

shall be determined for plan years beginning before January 1, 1980 in a manner consistent with Revenue Ruling 56-497 (1956-2 C.B. 284), Revenue Ruling 63-180 (1963-2 C.B. 189), and Revenue Ruling 68-89 (1968-1 C.B. 402).

PART II—EMPLOYEE STOCK OWNERSHIP PLANS

SEC. 141. ESOPS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to general rule for pension, profit-sharing, stock bonus plans, etc.) is amended by adding at the end thereof the following new section:

"SEC. 409A. QUALIFICATIONS FOR ESOPS.

"(a) ESOP DEFINED.—Except as otherwise provided in this title, for purposes of this title, the term 'ESOP' means a defined contribution plan which—

"(1) meets the requirements of section 401(a),

"(2) is designed to invest primarily in employer securities, and

"(3) meets the requirements of subsections (b), (c), (d), (e), (f), (g), and (h) of this section.

"(b) REQUIRED ALLOCATION OF EMPLOYER SECURITIES.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if—

"(A) the plan provides for the allocation for the plan year of all employer securities transferred to it or purchased by it (because of the requirements of section 48(n)(1)(A)) to the accounts of all participants who are entitled to share in such allocation, and

"(B) for the plan year the allocation to each participant so entitled is an amount which bears substantially the same proportion to the amount of all such securities allocated to all such participants in the plan for that year as the amount of compensation paid to such participant during that year bears to the compensation paid to all such participants during that year.

"(2) COMPENSATION IN EXCESS OF $100,000 DISREGARDED.—For purposes of paragraph (1), compensation of any participant in excess of the first $100,000 per year shall be disregarded.

"(3) DETERMINATION OF COMPENSATION.—For purposes of this subsection, the amount of compensation paid to a participant for any period is the amount of such participant's compensation (within the meaning of section 415(c)(3)) for such period.

"(4) SUSPENSION OF ALLOCATION IN CERTAIN CASES.—Notwithstanding paragraph (1), the allocation to the account of any participant which is attributable to the basic ESOP credit may be extended over whatever period may be necessary to comply with the requirements of section 415.

"(c) PARTICIPANTS MUST HAVE NONFORFEITABLE RIGHTS.—A plan meets the requirements of this subsection only if it provides that each participant has a nonforfeitable right to any employer security allocated to his account.

"(d) EMPLOYER SECURITIES MUST STAY IN THE PLAN.—A plan meets the requirements of this subsection only if it provides that no employer security allocated to a participant's account under subsection (b) may be distributed from that account before the end of the 84th month beginning after the month in which the security is allocated to the account. To the extent provided in the plan, the preceding sentence shall not apply in the case of separation from service, death, or disability.

"(e) VOTING RIGHTS.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if it meets the requirements of paragraph (2) or (3), whichever is applicable.

"(2) REQUIREMENTS WHERE EMPLOYER HAS A REGISTRATION-TYPE CLASS OF SECURITIES.—If the employer has a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which employer securities which are entitled to vote and are allocated to the account of such participant are to be voted.

"(3) REQUIREMENT FOR OTHER EMPLOYERS.—If the employer does not have a registration-type class of securities, the plan meets the requirements of this paragraph only if each participant in the plan is entitled to direct the plan as to the manner in which voting rights under employer securities which are allocated to the account of such participants are to be exercised with respect to a corporate matter which (by law or charter) must be decided by more than a majority vote of outstanding common shares voted.

"(4) REGISTRATION-TYPE CLASS OF SECURITIES DEFINED.—For purposes of this subsection, the term 'registration-type class of securities' means—

"(A) a class of securities required to be registered under section 12 of the Securities Exchange Act of 1934, and

"(B) a class of securities which would be required to be so registered except for the exemption from registration provided in subsection (g)(2)(H) of such section 12.

"(f) PLAN MUST BE ESTABLISHED BEFORE EMPLOYER'S DUE DATE.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection for a plan year only if it is established on or before the due date for the filing of the employer's tax return for the taxable year (including any extensions of such date) in which or with which the plan year ends.

"(2) SPECIAL RULE FOR FIRST YEAR.—A plan which otherwise meets the requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely because it was not established by the close of the first taxable year of the employer for which an ESOP credit is claimed by the employer.

"(g) TRANSFERRED AMOUNTS MUST STAY IN PLAN EVEN THOUGH INVESTMENT CREDIT IS REDETERMINED OR RECAPTURED.—A plan meets the requirement of this subsection only if it provides that amounts which are transferred to the plan (because of the requirements of section 48(n)(1)) shall remain in the plan (and, if allocated under the plan, shall remain so allocated) even though part or all of the ESOP credit is recaptured or redetermined.

"(h) RIGHT TO DEMAND EMPLOYER SECURITIES; PUT OPTION.—

"(1) IN GENERAL.—A plan meets the requirements of this subsection if a participant who is entitled to a distribution from the plan—

"(A) has a right to demand that his benefits be distributed in the form of employer securities, and

"(B) if the employer securities are not readily tradable on an established market, has a right to require that the employer repurchase employer securities under a fair valuation formula.

"(2) PLAN MAY DISTRIBUTE CASH IN CERTAIN CASES.—A plan which otherwise meets the

requirements of this section shall not be considered to have failed to meet the requirements of section 401(a) merely because under the plan the benefits may be distributed in cash or in the form of employer securities.

"(i) REIMBURSEMENT FOR EXPENSES OF ESTABLISHING AND ADMINISTERING PLAN.—A plan which otherwise meets the requirements of this section shall not be treated as failing to meet such requirements merely because it provides that—

"(1) EXPENSES OF ESTABLISHING PLAN.—As reimbursement for the expenses of establishing the plan, the employer may withhold from amounts due the plan for the taxable year for which the plan is established (or the plan may pay) so much of the amounts paid or incurred in connection with the establishment of the plan as does not exceed the sum of—

"(A) 10 percent of the first $100,000 which the employer is required to transfer to the plan for that taxable year under section 48(n)(1), and

"(B) 5 percent of any amount so required to be transferred in excess of the first $100,000; and

"(2) ADMINISTRATIVE EXPENSES.—As reimbursement for the expenses of administering the plan, the employer may withhold from amounts due the plan (or the plan may pay) so much of the amounts paid or incurred during the taxable year as expenses of administering the plan as does not exceed the lesser of—

"(A) the sum of—

"(i) 10 percent of the first $100,000 of the dividends paid to the plan with respect to stock of the employer during the plan year ending with or within the employer's taxable year, and

"(ii) 5 percent of the amount of such dividends in excess of $100,000 or

"(B) $100,000.

"(j) CONDITIONAL CONTRIBUTIONS TO THE PLAN.—A plan which otherwise meets the requirements of this section shall not be treated as failing to satisfy such requirements (or as failing to satisfy the requirements of section 401(a) of this title or of section 403(c)(1) of the Employee Retirement Income Security Act of 1974) merely because of the return of a contribution (or a provision permitting such a return) if—

"(1) the contribution to the plan is conditioned on a determination by the Secretary that such plan meets the requirements of this section,

"(2) the application for a determination described in paragraph (1) is filed with the Secretary not later than 90 days after the date on which an ESOP credit is claimed, and

"(3) the contribution is returned within 1 year after the date on which the Secretary issues notice to the employer that such plan does not satisfy the requirements of this section.

"(k) REQUIREMENTS RELATING TO CERTAIN WITHDRAWALS.—Notwithstanding any other law or rule of law—

"(1) the withdrawal from a plan which otherwise meets the requirements of this section by the employer of an amount contributed for purposes of the matching ESOP credit shall not be considered to make the benefits forfeitable, and

"(2) the plan shall not, by reason of such withdrawal, fail to be for the exclusive benefit of participants or their beneficiaries, if the withdrawn amounts were not matched by employee contributions or were in excess of the limitations of section 415. Any withdrawal described in the preceding sentence shall not be considered to violate the provisions of section 403(c)(1) of the Employee Retirement Income Security Act of 1974:

"(l) EMPLOYER SECURITIES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) which is readily tradable on an established securities market.

"(2) SPECIAL RULE WHERE THERE IS NO READILY TRADABLE COMMON STOCK.—If there is no common stock which meets the requirements of paragraph (1), the term 'employer securities' means common stock issued by the employer (or by a corporation which is a member of the same controlled group) having a combination of voting power and dividend rights equal to or in excess of—

"(A) that class of common stock of the employer (or of any other such corporation) having the greatest voting power, and

"(B) that class of stock of the employer (or of any other such corporation) having the greatest dividend rights.

"(3) PREFERRED STOCK MAY BE ISSUED IN CERTAIN CASES.—Noncallable preferred stock shall be treated as meeting the requirements of paragraph (1) if such stock is convertible at any time into stock which meets the requirements of paragraph (1) and if such conversion is at a conversion price which (as of the date of the acquisition by the ESOP) is reasonable.

"(4) CONTROLLED GROUP OF CORPORATIONS DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a) (determined without regard to subsections (a)(4) and (e)(3)(C) of section 1563).

"(B) COMMON PARENT MAY OWN ONLY 50 PERCENT OF FIRST TIER SUBSIDIARY.—For purposes of subparagraph (A), if the common parent owns directly stock possessing at least 50 percent of the voting power of all classes of stock and at least 50 percent of each class of nonvoting stock in a first tier subsidiary, such subsidiary (and all other corporations below it in the chain which would meet the 80 percent test of section 1563(a) if the first tier subsidiary were the common parent) shall be treated as includible corporations.

"(m) CONTRIBUTIONS OF STOCK OF CONTROLLING CORPORATION.—If the stock of a corporation which controls another corporation or which controls a corporation controlled by such other corporation is contributed to an ESOP of the controlled corporation, then no gain or loss shall be recognized, because of that contribution, to the controlled corporation. For purposes of this subsection, the term 'control' has the same meaning as that term has in section 368(c).

"(n) CROSS REFERENCES.—

"(1) For requirements for allowance of ESOP credit, see section 48(n).

"(2) For assessable penalties for failure to meet requirements of this section, or for failure to make contributions required with respect to the allowance of an ESOP credit, see section 6699."

(b) AMENDMENT OF INVESTMENT CREDIT RULES.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (n) as subsection (p) and by inserting after subsection (m) the following new subsections:

"(n) REQUIREMENTS FOR ALLOWANCE OF ESOP PERCENTAGE.—

"(1) IN GENERAL.—

"(A) BASIC ESOP PERCENTAGE.—The basic ESOP percentage shall not apply to any taxpayer for any taxable year unless the taxpayer on his return for such taxable year agrees, as a condition for the allowance of such percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to 1 percent of the amount of the qualified investment (as determined under subsections (c) and (d) of section 46) for the taxable year, and

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(B) MATCHING ESOP PERCENTAGE.—The matching ESOP percentage shall not apply to any taxpayer for any taxable year unless the basic ESOP percentage applies to such taxpayer for such taxable year, and the taxpayer on his return for such taxable year agrees, as a condition for the allowance of the matching ESOP percentage—

"(i) to make transfers of employer securities to an ESOP maintained by the taxpayer having an aggregate value equal to the sum of the qualified matching employee contributions made to such ESOP for the taxable year, and

"(ii) to make such transfers at the times prescribed in subparagraph (C).

"(C) TIMES FOR MAKING TRANSFERS.—The aggregate of the transfers required under subparagraph (A) and (B) shall be made—

"(i) to the extent allocable to that portion of the ESOP credit allowed for the taxable year or allowed as a carryback to a preceding taxable year, not later than 30 days after the due date (including extensions) for filing the return for the taxable year, or

"(ii) to the extent allocable to that portion of the ESOP credit which is allowed as a carryover in a succeeding taxable year, not later than 30 days after the due date (including extensions) for filing the return for such succeeding taxable year.

The Secretary may by regulations provide that transfers may be made later than the times prescribed in the preceding sentence where the amount of any credit or carryover or carryback for any taxable year exceeds the amount shown on the return for the taxable year.

"(D) ORDERING RULES.—For purposes of subparagraph (C), the portion of the ESOP credit allowed for the current year or as a carryover or carryback shall be determined—

"(i) first by treating the credit or carryover or carryback as attributable to the regular percentage,

"(ii) second by treating the portion (not allocated under clause (i)) of such credit or carryover or carryback as attributable to the basic ESOP percentage, and

"(iii) finally by treating the portion (not allocated under clause (i) or (ii)) as attributable to the matching ESOP percentage.

"(2) QUALIFIED MATCHING EMPLOYEE CONTRIBUTION DEFINED.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified matching employee contribution' means, with respect to any taxable year, any contribution made by an employee to an ESOP maintained by the taxpayer if—

"(i) each employee who is entitled to an allocation of employer securities transferred to the ESOP under paragraph (1)(A) is entitled to make such a contribution,

"(ii) the contribution is designated by the employee as a contribution intended to be taken into account under this paragraph for the taxable year.

"(iii) the contribution is paid in cash to the employer or plan administrator not later than 24 months after the close of the taxable year, and is invested forthwith in employer securities, and

"(iv) the ESOP meets the requirements of subparagraph (B).

"(B) PLAN REQUIREMENTS.—For purposes of subparagraph (A), the ESOP meets the requirements of this subparagraph if—

"(i) participation in the ESOP is not required as a condition of employment and the ESOP does not require matching employee contributions as a condition of participation in the ESOP.

"(ii) employee contributions under the ESOP meet the requirements of section 401(a)(4), and

"(iii) the ESOP provides for allocation of all employer securities transferred to it or purchased by it (because of the requirements

of paragraph (1)(B) to the account of each participant in an amount equal to such participant's matching employee contributions for the year.

"(3) CERTAIN CONTRIBUTIONS OF CASH TREATED AS CONTRIBUTIONS OF EMPLOYER SECURITIES.—For purposes of this subsection, a transfer of cash shall be treated as a transfer of employer securities if the cash is, under the ESOP, used within 30 days to purchase employer securities.

"(4) ADJUSTMENTS IF ESOP CREDIT RECAPTURED.—If any portion of the ESOP credit is recaptured under section 47 of the ESOP credit is reduced by a final determination—

"(A) the employer may reduce the amount required to be transferred to the ESOP under paragraph (1) for the current taxable year or any succeeding taxable year by an amount equal to such portion (or reduction), or

"(B) notwithstanding the provisions of paragraph (5) and to the extent not taken into account under subparagraph (A), the employer may deduct an amount equal to such portion (or reduction), subject to the limitation of section 404.

"(5) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed under section 162, 212, or 404 for amounts required to be transferred to an ESOP under this subsection.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE SECURITIES.—The term 'employer securities' has the meaning given to such term by section 409A(1).

"(B) VALUE.—The term 'value' means—

"(i) in the case of securities listed on a national exchange, the average of closing prices of such securities for the 20 consecutive trading days immediately preceding the due date for filing the return for the taxable year (determined with regard to extensions), or

"(ii) in the case of securities not listed on a national exchange, and fair market value as determined in good faith and in accordance with regulations prescribed by the Secretary.

"(o) CERTAIN CREDITS DEFINED.—For purpose of this title—

"(1) REGULAR INVESTMENT CREDIT.—The term 'regular investment credit' means that portion of the credit allowable by section 38 which is attributable to the regular percentage.

"(2) ENERGY INVESTMENT CREDIT.—The term 'energy investment credit' means that portion of the credit allowable by section 38 which is attributable to the energy percentage.

"(3) ESOP CREDIT.—The term 'ESOP credit' means the sum of—

"(A) the basic ESOP credit, and

"(B) the matching ESOP credit.

"(4) BASIC ESOP CREDIT.—The term 'basic ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the basic ESOP percentage.

"(5) MATCHING ESOP CREDIT.—The term 'matching ESOP credit' means that portion of the credit allowable by section 38 which is attributable to the matching ESOP.

"(6) BASIC ESOP PERCENTAGE.—The term 'basic ESOP percentage' means the 1-percent ESOP percentage set forth in section 46(a)(2)(E)(i).

"(7) MATCHING ESOP PERCENTAGE.—The term 'matching ESOP percentage' means the additional ESOP percentage (not to exceed ½ of 1 percent) set forth in section 46(a)(2)(E)(ii)."

(c) ASSESSABLE PENALTIES.—

(1) IN GENERAL.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6699. ASSESSABLE PENALTIES RELATING TO ESOP.

"(a) IN GENERAL.—If a taxpayer who has claimed an ESOP credit for any taxable year—

"(1) fails to satisfy any requirement provided by section 409A, or

"(2) fails to make any contribution which is required under section 48(n) within the period required for making such contribution.

the taxpayer shall pay a penalty in an amount equal to the amount involved in such failure.

"(b) NO PENALTY WHERE THERE IS TIMELY CORRECTION OF FAILURE.—Subsection (a) shall not apply with respect to any failure if the employer corrects such failure (as determined by the Secretary) within 90 days after the Secretary notifies him of such failure.

"(c) AMOUNT INVOLVED DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'amount involved' means an amount determined by the Secretary.

"(2) MAXIMUM AND MINIMUM AMOUNT.—The amount determined under paragraph (1)—

"(A) shall not exceed the amount determined by mutliplying the qualified investment of the employer for the taxable year to which the failure relates by the ESOP percentage claimed by the employer for such year, and

"(B) shall not be less than the product of one-half of 1 percent of the amount referred to in subparagraph (A), multiplied by the number of months (or parts thereof) during which such failure continues."

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6699. Assessable penalties relating to ESOP."

(d) REGULAR TAX DEDUCTION FOR PURPOSES OF THE MINIMUM TAX DETERMINED WITHOUT REGARD TO ESOP PERCENTAGE.—Subsection (c) of section 56 (defining regular tax deduction) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the amount of the credit allowable under section 38 shall be determined without regard to the ESOP percentage set forth in section 46(a)(2)(E)."

(e) ESOP CREDIT EXTENDED FOR 3 YEARS.—Subparagraph (E) of section 46(a)(2) (relating to amount of business investment credit for current taxable year) is amended by striking out "and ending on December 31, 1980," each place it appears and inserting in lieu thereof "December 31, 1983".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsections (d), (e), and (f) of section 301 of the Tax Reduction Act of 1975 are hereby repealed.

(2) Subparagraph (E) of section 46(a)(2) is amended—

(A) by striking out "section 301(e) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 48(n)(1)(B)", and

(B) by striking out "section 301(d) of the Tax Reduction Act of 1975" and inserting in lieu thereof "section 409A".

(3) Paragraph (21) of section 401(a) is amended to read as follows:

"(21) A trust forming part of an ESOP shall not fail to be considered a permanent program merely because employer contributions under the plan are determined solely by reference to the amount of credit which would be allowable under section 46(a) if the employer made the transfer described in section 48(n)(1)."

(4) The last sentence of section 1504(a) (defining affiliated group) is amended to read as follows:

"As used in this subsection, the term 'stock' does not include nonvoting stock which is limited and preferred as to dividends, employer securities (within the meaning for section 409A(l) while such securities are held under an ESOP, or qualifying employer securities (within the meaning of section 4975(e)(8)) while such securities are held under a leveraged employee stock ownership plan which meets the requirements of section 4975(s)(7)."

(5) Paragraph (7) of section 4975(e) (defining employee stock ownership plan) is amended—

(A) by striking out "EMPLOYEE" in the paragraph heading and inserting in lieu thereof "LEVERAGED EMPLOYEE", and

(B) by striking out "employee" in the text and inserting in lieu thereof "leveraged employee", and

(C) by adding at the end thereof the following new sentence:

"A plan shall not be treated as a leveraged employee stock ownership plan unless it meets the requirements of subsections (e) and (h) of section 409A."

(6) Paragraph (3) of section 4975(d) is amended by striking out "employee" and inserting in lieu thereof "leveraged employee".

(7) Subparagraph (B) of section 415(c)(6) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) the term 'employee stock ownership plan' means a leveraged employee stock ownership plan (within the meaning of section 4975(e)(7)) or an ESOP,

"(ii) the term 'employer securities has the meaning given to such term by section 409A,".

(8) The table of sections for part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 409 the following new item:

"Sec. 409A. Qualification for ESOPs."

(9) Section 404(a)(2) and section 805(d) are each amended by striking out "and (20)" and inserting in lieu thereof "(20), and (22)".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section other than by subsection (f)(3) shall apply with respect to qualified investment for taxable years beginning after December 31, 1978. The amendment made by subsection (f)(7) shall apply to years beginning after December 31, 1978.

(2) RETROACTIVE APPLICATION OF AMENDMENT MADE BY SUBSECTION (d).—In determining the regular tax deduction under section 6 of the Internal Revenue Code of 1954 for any taxable year beginning before January 1, 1979, the amount of the credit allowable under section 38 shall be determined without regard to section 46(a)(2)(B) of such Code (as in effect before the enactment of the Energy Tax Act of 1978).

SEC. 142. CERTAIN LUMP SUM DISTRIBUTIONS EXCLUDED FROM GROSS ESTATE WHERE RECIPIENT ELECTS NOT TO APPLY 10-YEAR AVERAGING.

(a) IN GENERAL.—Subsection (c) of section 2039 (relating to rexemption of annuities under certain trusts and plans) is amended by striking out "(other than a lump sum distribution described in section 402(e)(4), determined without regard to the next to the last sentence of section 402(e)(4)(A))" and inserting in lieu thereof "(other than an amount described in subsection (f))".

(b) DEFINITIONS.—Section 2039 is amended by adding at the end thereof the following new subsection:

"(f) LUMP SUM DISTRIBUTIONS.—

"(1) IN GENERAL.—An amount is described in this subsection if it is a lump sum distribution described in section 402(e)(4) (determined without regard to the next to the last sentence of section 402(e)(4)(A))

"(2) EXCEPTION WHERE RECIPIENT ELECTS NOT TO TAKE 10-YEAR AVERAGING.—A lump sum distribution described in paragraph (1) shall be treated as not described in this subsection if the recipient elects irrevocably (at such time and in such manner as the Secretary may by regulations prescribe) to treat the distribution as taxable under section 402(a) without the application of paragraph (2) thereof."

(c) EFFECTIIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after December 31, 1978.

SEC. 143. QUALIFIED PLANS REQUIRED TO PASS THROUGH VOTING RIGHTS ON EMPLOYEE SECURITIES.

(a) IN GENERAL.—Subsection (a) of section 401 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (21) the following new paragraph:

"(22) If a defined contributions plan—

"(A) is established by an employer whose stock is not publicly traded, and

"(B) after acquiring securities of the employer, more than 10 percent of the total assets of the plan in securities of the employer,

any trust forming part of such plan shall not constitute a qualified trust under this section unless the plan meets the requirements of subsection (e) of section 409A."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acquisitions of securities after December 31, 1979.

Subtitle E—Retirement Plans

SEC. 152. SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN MAXIMUM LIMITATION UNDER SECTION 408 TO $7,500.—Section 408 (relating to individual retirement account) is amended by redesignating subsection (j) as subsection (m) and by inserting after subsection (i) the following new subsection:

"(j) INCREASE IN MAXIMUM LIMITATIONS FOR SIMPLIFIED EMPLOYEE PENSIONS.—In the case of a simplified employee pension, this section shall be applied by substituting '$7,500' for '$1,500' in the following provisions:

"(1) paragraph (1) of subsection (a),

"(2) paragraph (2) of subsection (b), and

"(3) paragraph (5) of subsection (b)."

(b) SIMPLIFIED EMPLOYEE PENSION DEFINED.—Section 408 is amended by inserting after subsection (j) the following new subsection:

"(k) SIMPLIFIED EMPLOYEE PENSION DEFINED.—

"(1) IN GENERAL.—For purposes of this title, the term 'simplified employee pension' means an individual retirement account or individual retirement annuity with respect to which the requirements of paragraphs (2), (3), (4), and (5) of this subsection are met.

"(2) PARTICIPATION REQUIREMENTS.—This paragraph is satisfied with respect to a simplified employee pension for a calendar year only if for such year the employer contributes to the simplified employee pension of each employee who—

"(A) has attained age 25, and

"(B) has performed service for the employer during at least 3 of the immediately preceding 5 calendar years.

(3) CONTRIBUTIONS MAY NOT DISCRIMINATE IN FAVOR OF THE HIGHLY COMPENSATED, ETC.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a simplified employee pension for a calendar year if for such year the contributions made by the employer to simplified employee pensions for his employees do not discriminate in favor of any employee who is—

"(i) an officer,

"(ii) a shareholder,

"(iii) a self-employed individual, or

"(iv) highly compensated.

"(B) SPECIAL RULES.—For purposes of subparagraph (A)—

"(i) there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(2), and

"(ii) an individual shall be considered a shareholder if he owns (with the application of section 318) more than 10 percent of the value of the stock of the employer.

"(C) CONTRIBUTIONS MUST BEAR A UNIFORM RELATIONSHIP TO TOTAL COMPENSATION.—For purposes of subparagraph (A), employer contributions to simplified employee pensions shall be considered discriminatory unless contributions thereto bear a uniform relationship to the total compensation (not in excess of the first $100,000) of each employee maintaining a simplified employee pension.

"(D) TREATMENT OF CERTAIN CONTRIBUTIONS AND TAXES.—Except as provided in this subparagraph, employer contributions do not meet the requirements of this paragraph unless such contributions meet the requirements of this paragraph without taking into account contributions or benefits under chapter 2 (relating to tax on self-employment income), chapter 21 (relating to Federal Insurance Contribution Act), title II of the Social Security Act, or any other Federal or State law. Taxes paid under section 3111 (relating to tax on employers) with respect to an employee may, for purposes of this paragraph, be taken into account as a contribution by the employer to an employee's simplified employee pension. If contributions are made to the simplified employee pension of an owner-employee, the preceding sentence shall not apply unless taxes paid by all such owner-employees under chapter 2, and the taxes which would be payable under chapter 2 by such owner-employees but for paragraphs (4) and (5) of section 1402(c), are taken into account as contributions by the employer on behalf of such owner-employees.

"(4) WITHDRAWALS MUST BE PERMITTED.—A simplified employee pension meets the requirements of this paragraph only if—

"(A) employer contributions thereto are not conditioned on the retention in such pension of any portion of the amount contributed, and

"(B) there is no prohibition imposed by the employer on withdrawals from the simplified employee pension.

"(5) CONTRIBUTIONS MUST BE MADE UNDER WRITTEN ALLOCATION FORMULA.—The requirements of this paragraph are met with respect to a simplified employee pension only if employer contributions to such pension are determined under a definite written allocation formula which specifies—

"(A) the requirements which an employee must satisfy to share in an allocation, and

"(B) the manner in which the amount allocated is computed.

"(6) DEFINITIONS.—For purposes of this subsection and subsection (l)—

"(A) EMPLOYEE, EMPLOYER, OR OWNER-EMPLOYEE.—The terms 'employee', 'employerer', and 'owner-employee' shall have the respective meanings given such terms by section 401(c).

"(B) COMPENSATION.—The term 'compensation' means, in the case of an employee within the meaning of section 401(c)(1), earned income within the meaning of section 401(c)(2).

"(l) SIMPLIFIED EMPLOYER REPORTS.—An employer who makes a contribution on behalf of an employee to a simplified employee pension shall provide such simplified reports with respect to such contributions as the Secretary may require by regulations. The reports required by this subsection shall be filed at such time and in such manner, and information with respect to such contributions shall be furnished to the employee at such time and in such manner, as may be required by regulations."

(c) MAXIMUM DEDUCTION UNDER SECTION 219.—Subsection (b) of section 219 (relating to maximum deduction in the case of retirement savings) is amended by adding at the end thereof the following new paragraph:

"(7) SIMPLIFIED EMPLOYEE PENSIONS.—In the case of an employer contribution on behalf of the employee to a simplified employee pension, paragraph (2) shall not apply with respect to the employer contribution and the limitation under paragraph (1) shall be the lesser of—

"(A) 15 percent of compensation includible in the employee's gross income for the taxable year (determined without regard to the employer contribution to the simplified employee pension), or

"(B) the sum of—

"(i) the amount contributed by the employer to the simplified employee pension and included in gross income (but not in excess of $7,500), and

"(ii) $1,500, reduced (but not below zero) by the amount described in clause (i).

In the case of an employee who is an officer, shareholder, or owner-employee described in section 408(k)(3), the amount referred to in subparagraph (B) shall be reduced by the amount of tax taken into account with respect to such individual under subparagraph (D) of section 408(k)(3)."

(d) EMPLOYEES OF ENTERPRISES UNDER COMMON CONTROL.—Subsections (b) and (c) of section 414 are each amended by inserting "408(k)," after "401,".

(e) SIMPLIFIED EMPLOYEE PENSION MAY BE TAKEN INTO ACCOUNT IN DETERMINING WHETHER EMPLOYER MEETS CERTAIN OTHER NONDISCRIMINATION PROVISIONS.—Paragraph (5) of section 401(a) is amended by adding at the end thereof the following new sentence: "For purposes of determining whether one or more plans of an employer satisfy the requirements of paragraph (4) and of section 410(b), an employer may take into account all simplified employee pensions to which only the employer contributes."

(f) EMPLOYER DEDUCTIONS.—Section 404 (relating to deduction for contributions of an employer) is amended by adding the following new subsection at the end thereof:

"(h) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(1) IN GENERAL.—Employer contributions to a simplified employee pension shall be treated as if they are made to a plan subject to the requirements of this section. Employer contributions to a simplified employee pension are subject to the following limitations:

"(A) Contributions made for a calendar year are deductible for the taxable year with which or within which the calendar year ends.

"(B) Contributions made within 3½ months after the close of a calendar year are treated as if they were made on the last day of such calendar year if they are made on account of such calendar year.

"(C) The amount deductible in a taxable year for a simplified employee pension shall not exceed 15 percent of the compensation paid to the employees during the calendar year ending with or within the taxable year. The excess of the amount contributed over the amount deductible for a taxable year shall be deductible in the succeeding taxable years in order of time, subject to the 15 percent limit of the preceding sentence.

"(2) EFFECT ON STOCK BONUS AND PROFIT-SHARING TRUST.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable limitations in subsection (a)(3)(A) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(3) EFFECT ON LIMIT ON DEDUCTIONS.—For any taxable year for which the employer has a deduction under subparagraph (1), the otherwise applicable 25 percent limitations in subsection (a)(7) shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to participants in the stock bonus or profit-sharing trust.

"(4) EFFECT ON SELF-EMPLOYED INDIVIDUALS.—The limitations described in paragraphs (1), (2)(A), and (4) of subsection (e) for any taxable year shall be reduced by the amount of the allowable deductions under subparagraph (1) with respect to an employee within the meaning of section 401(c)(1)."

(g) AMENDMENTS TO SECTION 415.—Section 415 (relating to limitations on benefits and contributions under certain plans) is amended—

(1) by redesignating subparagraphs (E) and (F) of subsection (a)(2) and subparagraphs (F) and (G) and by inserting after subparagraph (D) the following new subparagraph:

"(E) a simplified employee pension,";

(2) by inserting "408(k)," after "408(b),"in the material immediately following subparagraph (G) of section 415(b)(2);

(3) by inserting "any simplified employee pension," after "section 408(b)," in section 415(e)(5); and

(4) by striking out "or" in section 415(k)(1)(F), by redesignating subparagraph (G) of section 415(k)(1) as subparagraph (H), and by inserting after section 415(k)(1)(F) the following new subparagraph:

"(G) a simplified employee pension, or".

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 153. DEFINED BENEFIT PLAN LIMITS.

(a) IN GENERAL.—Subsection (b) of section 415 (relating to limitation for defined benefit plans) is amended by adding at the end thereof the following new paragraph:

"(7) BENEFITS UNDER CERTAIN COLLECTIVELY BARGAINED PLANTS.—For a year, the limitation referred to in paragraph (1)(B) shall not apply to benefits with respect to a participant under a defined benefit plan—

"(A) which is maintained for such year pursuant to a collective bargaining agreement employee representatives and one or more employers,

"(B) which, at all times during such year, has at least 100 participants,

"(C) benefits under which are determined by multiplying a specified amount (which is the same amount for each participant) by the number of the participant's years of service,

"(D) which provides that an employee who has at least 4 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions, and

"(E) which requires, as a condition of participation in the plan, that an employee complete a period of not more than 60 consecutive days of service with the employer or employers maintaining the plan.

This paragraph shall not apply to a participant whose compensation for any 3 years during the 10-year period immediately preceding the year in which he separates from service exceeded the average compensation for such 3 years of all participants in such plan. For any year for which the paragraph applies to benefits with respect to a participant, paragraph (1)(A) and subsection (d)(1)(A) shall be applied with respect to such participant by substituting '37,500' for '75,000'."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 1978.

SEC. 154. CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.

(a) AMENDMENT OF SECTION 403.—Subparagraph (A) of section 403(b)(7) (relating to custodial accounts for regulated investment company stock) is amended to read as follows:

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfied the requirements of section 401(f)(2) shall be treated as amounts contributed by him for an annuity contract for his employee if—

(i) the amounts are to be invested in regulated investment company stock to be held in that custodial account, and

(ii) under the custodial account no such amounts may be paid or made available to any distributee before the employee dies, attains age 59½, separates from service, becomes disabled (within the meaning of section 72(m)(7)), or encounters financial hardship."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 155. PENSION PLAN RESERVES.

(a) IN GENERAL.—Subsection (d) of section 805 (relating to pension plan reserves) is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(6) purchased by—

"(A) a governmental plan (within the meaning of section 414(d)), or

"(B) the Government of the United States, the government of any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, for use in satisfying an obligation of such government, political subdivision, or agency or instrumentality to provide a benefit under a plan described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1978.

SEC. 156. ROLLOVER OF SECTION 403(b) ANNUITIES PERMITTED.

(a) GENERAL RULE.—Subsection (b) of section 403 (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(8) ROLLOVER AMOUNTS.—

"(A) GENERAL RULE.—If—

"(i) the balance to the credit of an employee is paid to him in a qualifying distribution,

"(ii) the employee transfers any portion of the property he receives in such distribution to an individual retirement plan or to an annuity contract described in paragraph (1), and

"(iii) in the case of a distribution of property other than money, the property so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) QUALIFYING DISTRIBUTION DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualifying distribution' means 1 or more distributions from an annuity contract described in paragraph (1) which would constitute a lump sum distribution within the meaning of section 402(e)(4)(A) (determined without regard to subparagraphs (B) and (H) of section 402(e)(4)) if such annuity contract were described in subsection (a).

"(ii) AGGREGATION OF ANNUITY CONTRACTS.—For purposes of this paragraph, all annuity contracts described in paragraph (1) purchased by an employer shall be treated as a single contract, and section 402(e)(4)(C) shall not apply.

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B), (C), and (E)(i) of section 402(a)(5) and of paragraphs (6) and (7) of section 402(a) shall apply for purposes of subparagraph (A)."

(b) TREATMENT OF ROLLOVER CONTRIBUTIONS.—Section 403(b)(1) (relating to annuities purchased by certain exempt organizations and public schools) is amended by adding at the end thereof the following new sentence: "For purposes of applying the rules of this subsection to amounts contributed by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph (8) of this subsection or section 408(d)(3)(A)(iii) or 409(d)(3)(C) shall not be considered contributed by such employer."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 408(d)(3) is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii)(I) the entire amount received (including money and other property) represents the entire interest in the account or the entire value of the annuity,

"(II) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution from an annuity contract described in section 403(b) and any earnings on such rollover, and

"(III) the entire amount thereof is paid into another annuity contract described in section 403(b) (for the benefit of such individual) not later than the 60th day after he receives the payment or distribution."

(2) Subparagraph (C) of section 409(b)(3) is amended—

(A) by striking out "or an annuity plan described in section 403(a)" in the first sentence and inserting in lieu thereof "an annuity plan described in section 403(a), or an annuity contract described in section 403(b)", and

(B) by adding at the end thereof the following new sentence: "This subparagraph does not apply in the case of a transfer to an annuity contract described in section 403(b) unless no part of the value of such proceeds is attributable to any source other than a rollover contribution from such an annuity contract."

(3) Sections 219(b)(4), 220(b)(5), 408(a)(1), 409(a)(4), and 4973(b)(1)(A) are each amended by inserting "403(b)(8)," after "403(a)(4)," each place it appears.

(4) Section 2039(e) is amended by inserting after "403(a)(4)," the following: "section 403(b)(8) (but only to the extent such contribution is attributable to a distribution from a contract described in subsection (c)(3)),".

(5) Section 4973(c)(1) is amended by inserting after "account" the following: "(other than a rollover contribution described in section 403(b)(8), 408(d)(3)(A)(iii), or 409(d)(3)(C))".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions or transfers made after December 31, 1978, in taxable years beginning after such date.

SEC. 157. INDIVIDUAL RETIREMENT ACCOUNT TECHNICAL CHANGES.

(a) EXTENSION OF PERIOD FOR MAKING INDIVIDUAL RETIREMENT PLAN CONTRIBUTIONS.—

(1) AMENDMENT OF SECTION 219(c)(3).—Paragraph (3) of section 219(c) (relating to time when contributions deemed made in the case of retirement savings) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)".

(2) AMENDMENT OF SECTION 220(c)(4).—Paragraph (4) of section 220(c) (relating to time when contributions deemed made in the case of retirement savings for certain married individuals) is amended by striking out "not later than 45 days after the end of such taxable year" and inserting in lieu thereof "not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1977.

(b) EXCESS CONTRIBUTIONS MAY BE DEDUCTED IN SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

(1) AMENDMENT OF SECTION 219.—Subsection (c) of section 219 (relating to definitions and special rules for retirement savings) is amended by adding at the end thereof the following new paragraph.

"(5) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 220 for a prior taxable year for which the period for assessing deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

(2) AMENDMENT OF SECTION 220.—Subsection (c) of section 220 (relating to definitions and special rules for retirement savings for certain married individuals) is amended by adding at the end thereof the following new paragraph:

"(6) EXCESS CONTRIBUTIONS TREATED AS CONTRIBUTION MADE DURING SUBSEQUENT YEAR FOR WHICH THERE IS AN UNUSED LIMITATION.—

"(A) IN GENERAL.—If for the taxable year the maximum amount allowable as a deduction under this section exceeds the amount contributed, then the taxpayer shall be treated as having made an additional contribution for the taxable year in an amount equal to the lesser of—

"(i) the amount of such excess, or

"(ii) the amount of the excess contributions for such taxable year (determined under section 4973(b)(2) without regard to subparagraph (C) thereof).

"(B) AMOUNT CONTRIBUTED.—For purposes of this paragraph, the amount contributed—

"(i) shall be determined without regard to this paragraph, and

"(ii) shall not include any rollover contribution.

"(C) SPECIAL RULE WHERE EXCESS DEDUCTION WAS ALLOWED FOR CLOSED YEAR.—Proper reduction shall be made in the amount allowable as a deduction by reason of this paragraph for any amount allowed as a deduction under this section or section 219 for a prior taxable year for which the period for assessing a deficiency has expired if the amount so allowed exceeds the amount which should have been allowed for such prior taxable year."

(3) AMENDMENT OF SECTION 4973.—Paragraph (2) of section 4973(b) (defining excess contributions) is amended to read as follows:

"(2) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(A) the distributions out of the account for the taxable year which were included in the gross income of the payee under section 408(d)(1),

"(B) the distributions out of the account for the taxable year to which section 408(d)(5) applies, and

"(C) the excess (if any) of the maximum amount allowable as a deduction under section 219 or 220 for the taxable year over the amount contributed (determined without regard to sections 219(c)(5) and 220(c)(6)) to the accounts or for the annuities or bonds for the taxable year."

(4) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this subsection shall apply to the determination of deductions for taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—If, but for this subparagraph, an amount would be allowable as a deduction by reason of section 219(c)(5) or 220(c)(6) of the Internal Revenue Code of 1954 for a taxable year beginning before January 1, 1978, such amount shall be allowable only for the taxpayer's first taxable year beginning in 1978.

(c) ADDITIONAL PERIOD TO RECTIFY CERTAIN EXCESS CONTRIBUTIONS.—

(1) GENERAL RULE.—Subsection (d) of section 408 (relating to tax treatment of distributions) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) CERTAIN DISTRIBUTIONS OF EXCESS CONTRIBUTIONS AFTER DUE DATE FOR TAXABLE YEAR.—

"(A) IN GENERAL.—In the case of any individual, if the aggregate contributions (other than rollover contributions) paid for any taxable year to an individual retirement account or for an individual retirement annuity do not exceed $1,750, paragraph (1) shall not apply to the distribution of any such contribution to the extent that such contribution exceeds the amount allowable as a deduction under section 219 or 220 for the taxable year for which the contribution was paid—

"(i) if such distribution is received after the date described in paragraph (4),

"(ii) but only to the extent that no deduction has been allowed under section 219 or 220 with respect to such excess contribution.

"(B) EXCESS ROLLOVER CONTRIBUTIONS ATTRIBUTABLE TO ERRONEOUS INFORMATION.—If—

"(i) the taxpayer reasonably relies on information supplied pursuant to subtitle F for determining the amount of a rollover contribution, but

"(ii) such information was erroneous, subparagraph (A) shall be applied by increasing the dollar limit set forth therein by that portion of the excess contribution which was attributable to such information."

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by paragraph (1) shall apply to distributions in taxable years beginning after December 31, 1975.

(B) TRANSITIONAL RULE.—In the case of contributions for taxable years beginning before January 1, 1978, paragraph (5) of section 408(d) of the Internal Revenue Code of 1954 shall be applied as if such paragraph did not contain any dollar limitation.

(d) REQUIREMENT THAT ANNUITY CONTRACTS WILL QUALIFY AS INDIVIDUAL RETIREMENT ANNUITY ONLY IF THE PREMIUMS ARE FLEXIBLE.—

(1) IN GENERAL.—Paragraph (2) of section 408(b) (defining individual retirement annuity) is amended to read as follows:

"(2) Under the contract—

"(A) the premiums are not fixed,

"(B) the annual premium will not exceed $1,500, and

"(C) any refund of premiums will be applied before the close of the calendar year following the year of the refund toward the payment of future premiums or the purchase of additional benefits."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts issued after the date of the enactment of this Act.

(3) TAX RELIEF FOR FIXED PREMIUM CONTRACTS HERETOFORE ISSUED.—In the case of any annuity or endowment contract issued on or before the date of the enactment of this Act which would be an individual retirement annuity within the meaning of section 408(b) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) but for the fact that the premiums under the contract are fixed, at the election of the taxpayer an exchange before January 1, 1981, of that contract for an individual retirement annuity within the meaning of such section 408(b) (as amended by paragraph (1)) shall be treated as a nontaxable exchange which does not constitute a distribution.

(e) CLARIFICATION OF DOLLAR LIMIT IN THE CASE OF INDIVIDUAL RETIREMENT ANNUITIES AND RETIREMENT BONDS.—

(1) IN GENERAL.—

(A) AMENDMENT OF SECTION 408(b)(2).—Subparagraph (B) of section 408(b)(2) (as amended by paragraph (1) of subsection (d)) is amended by inserting "on behalf of any individual" after "annual premium".

(B) AMENDMENT OF SECTION 409(a)(4).—Paragraph (4) of section 409(a) (relating to retirement bonds) is amended by inserting "on behalf of any individual" after "May not contribute".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(f) ROLLOVER OF PROCEEDS FROM SALE OF PROPERTY PERMITTED.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUSTS AND ANNUITIES.—Paragraph (6) of section 402(a) (relating to special rollover rules) is amended by adding at the end thereof the following new subparagraph:.

"(D) SALES OF DISTRIBUTED PROPERTY.—For purposes of subparagraphs (5) and (7)—

"(i) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(ii) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(iii) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEED ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this clause for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(iv) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under clause (iii) within the time provided therein, then—

"(I) the portion of the money or other property which is to be treated as attributable to employee contributions, and

"(II) the portion of the money or other property which is to be treated as included in the rollover contribution

shall be determined on a ratable basis.

"(v) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in clause (i), to the extent that an amount equal to the

proceeds is transferred pursuant to paragraph (5)(B) or (7)(B) (as the case may be), neither gain nor loss on such sale shall be recognized."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to qualifying rollover distributions (as defined in section 402(a)(5)(D)(i) of the Internal Revenue Code of 1954) completed after December 31, 1978, in taxable years ending after such date.

(g) DISTRIBUTION FROM EMPLOYEES' QUALIFIED PLAN OR ANNUITY TO SPOUSE MAY BE ROLLOVER CONTRIBUTION TO AN INDIVIDUAL RETIREMENT PLAN.—

(1) ROLLOVERS FROM QUALIFIED EMPLOYEES' TRUST.—Subsection (a) of section 402 (relating to taxability of beneficiary of exempt trust) is amended by adding at the end thereof the following new paragraph:

"(7) ROLLOVER WHERE SPOUSE RECEIVES LUMP-SUM DISTRIBUTION AT DEATH OF EMPLOYEE.—

"(A) GENERAL RULE.—If—

"(i) any portion of a lump-sum distribution from a qualified trust is paid to the spouse of the employee on account of the employee's death,

"(ii) the spouse transfers any portion of the property which the spouse receives in such distribution to an individual retirement plan, and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraphs (B) through (E) of paragraph (5) and of paragraph (6) shall apply for purposes of this paragraph."

(2) ROLLOVER FROM QUALIFIED ANNUITY PLANS.—Subparagraph (B) of section 403(a)(4), as amended by section 21(b), is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraphs (6) and (7)".

(3) NO ROLLOVER TO QUALIFIED PLAN OR ANNUITY FROM IRA TO WHICH SPOUSE MADE ROLLOVER CONTRIBUTION.—Subparagraph (B) of section 408(d)(3) is amended by adding at the end thereof the following: "Clause (ii) of subparagraph (A) shall not apply to any amount paid or distributed out of an individual retirement account or an individual retirement annuity to which an amount was contributed which was treated as a rollover contribution by section 402(a)(7) (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B))."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to lump-sum distributions completed after December 31, 1978, in taxable years ending after such date.

(h) REMOVAL OF CERTAIN REQUIREMENTS.—

(1) DISREGARD OF 5-YEAR MINIMUM PARTICIPATION RULE FOR PURPOSES OF ROLLOVERS.—Subclause (II) of section 402(a)(5)(D)(i) is amended by striking out "subsection (e)(4)(B)" and inserting in lieu thereof "subparagraphs (B) and (H) of subsection (e)(4)".

(2) REDUCTION OF REQUIRED PERIOD BETWEEN ROLLOVER CONTRIBUTIONS FROM 3 YEARS TO 1 YEAR.—The first sentence of subparagraph (B) of section 408(d)(3) is amended by striking out "3-year period" and inserting in lieu thereof "1-year period".

(3) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendments made by this section shall apply to payments made in taxable years beginning after December 31, 1977.

(B) TRANSITIONAL RULE.—In the case of any payment which is described in section 402(a)(5)(A) or 403(a)(4)(A) of the Internal Revenue Code of 1954 by reason of the amendments made by this section, the applicable period specified in section 402(a)(5)(C) of such Code (or in the case of an individual retirement annuity, such section as made applicable by section 403(a)(4)(B) of such Code) shall not expire before the close of December 31, 1978.

(i) WAIVER OF EXCISE TAX ON CERTAIN ACCUMULATIONS IN INDIVIDUAL RETIREMENT ACCOUNTS OR ANNUITIES.—

(1) GENERAL RULE.—Section 4974 (relating to excise tax on certain accumulations in individual retirement accounts or annuities) is amended by adding at the end thereof the following new subsection:

"(c) WAIVER OF TAX IN CERTAIN CASES.—If the taxpayer establishes to the satisfaction of the Secretary that—

"(1) the shortfall described in subsection (a) in the amount distributed during any taxable year was due to reasonable error, and

"(2) reasonable steps are being taken to remedy the shortfall,

the Secretary may waive the tax imposed by subsection (a) for the taxable year."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1975.

(j) REMOVAL OF CERTAIN LIMITATIONS ON PROVISION ALLOWING CORRECTION OF EXCESS CONTRIBUTIONS.—

(1) GENERAL RULE.—The last sentence of section 4973(b) (defining excess contributions) is amended to read as follows: "For purposes of this section, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made for taxable years beginning after December 31, 1977.

(k) SIMPLIFICATION OF RETURN REQUIREMENTS WITH RESPECT TO INDIVIDUAL RETIREMENT PLANS.—

(1) IN GENERAL.—Section 6058 (relating to information required in connection with certain plans of deferred compensation) is amended by redesignating subsection (d) as subsection (f) and by striking out subsection (c) and inserting in lieu thereof the following new subsections:

"(c) EMPLOYER.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement plan.

"(d) COORDINATION WITH INCOME TAX RETURNS, ETC.—An individual who establishes an individual retirement plan shall not be required to file a return under this section with respect to such plan for any taxable year for which there is—

"(1) no special IRP tax, and

"(2) no plan activity other than—

"(A) the making of contributions (other than rollover contributions), and

"(B) the making of distributions.

"(e) SPECIAL IRP TAX DEFINED.—For purposes of this section, the term 'special IRP tax' means a tax imposed by—

"(1) section 408(f),

"(2) section 409(c),

"(3) section 4973, or

"(4) section 4974.".

(2) INDIVIDUAL RETIREMENT PLAN DEFINED.—Subsection (a) of section 7701 (relating to definitions of general application throughout the Code) is amended by adding at the end thereof the following new paragraph:

"(37) INDIVIDUAL RETIREMENT PLAN.—The term 'individual retirement plan' means—

"(A) an individual retirement account described in section 408(a),

"(B) an individual retirement annuity described in section 408(b), and

"(C) a retirement bond described in section 409."

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to returns for taxable years beginning after December 31, 1977. The amendment made by paragraph (2) shall apply to taxable years beginning after December 31, 1974.

Subtitle F—Other Individual Items

SEC. 161. CERTAIN GOVERNMENT SCHOLARSHIP AND AWARD PROGRAMS.

(a) GOVERNMENT HEALTH PROFESSION SCHOLARSHIP PROGRAMS.—Subsection (c) of section 4 of the Act entitled "An Act to suspend until the close of June 30, 1975, the duty on certain carboxymethyl cellulose salts, and for other purposes" (Public Law 93-483; 88 Stat. 1457) approved October 26, 1974, is amended—

(1) by striking out "1979" and inserting in lieu thereof "1980", and

(2) by striking out "1983" and inserting in lieu thereof "1984".

(b) NATIONAL RESEARCH AWARDS.—

(1) GENERAL RULE.—Any amount paid to, or on behalf of, an individual from appropriated funds as a national research service award under section 472 of the Public Health Service Act shall be treated as a scholarship or fellowship grant under section 117 of the Internal Revenue Code of 1954.

(2) EFFECTIVE DATE.—The provisions of subsection (b) shall apply to awards made during calendar years 1974 through 1979.

SEC. 162. CANCELLATION OF STUDENT LOANS.

Subsection (c) of section 2117 of the Tax Reform Act of 1976 (relating to cancellation of certain student loans) is amended by striking out "January 1, 1979" and inserting in lieu thereof "January 1, 1983".

SEC. 163. TAX COUNSELING FOR THE ELDERLY.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

(1) AGREEMENTS.—The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns.

(2) OTHER ASSISTANCE.—In addition to any other forms of technical assistance provided under this section, the Secretary may provide—

(A) preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(B) material to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and

(C) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—In carrying out his responsibilities under this section, the Secretary is authorized—

(1) to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;

(2) to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;

(3) to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;

(4) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public

agencies with their consent, with or without reimbursement therefor; and

(5) to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) IN GENERAL.—Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

(2) EXPENSES.—Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1954.

(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPROTANT TO THE ELDERLY.—The Secretary shall, from time to time, undertake to direct the attendtion of elderly individuals to those provisions of the Internal Revenue Code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1954.

(e) DEFINITIONS.—For purpose of this section—

(1) The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) The term "elderly individual" means an individual who has attained the age of 60 years as of the close of his taxable year.

(3) The term "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual chapter 1 of such Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out the provisions of this section $2,500,000 for the fiscal year ending September 30, 1979, and $3,500,000 for the fiscal year ending September 30, 1980.

SEC. 164. EXCLUSION OF VALUE OF CERTAIN EDUCATIONAL ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 127 as 128 and by inserting after section 126 the following new section:

"SEC. 127. EDUCATIONAL ASSISTANCE PROGRAMS.

"(a) GENERAL RULE.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for educational assistance to the employee if the assistance is furnished pursuant to a program which is described in subsection (b).

"(b) EDUCATIONAL ASSISTANCE PROGRAM.—

"(1) IN GENERAL.—For purposes of this section an educational assistance program is a separate written plan of an employer for the exclusive benefit of his employees to provide such employees with educational assistance. The program must meet the requirements of paragraphs (2) through (6) of this subsection.

"(2) ELIGIBILITY.—The program shall benefit employees who qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of employees who are officers, owners, or highly compensated, or their dependents. For purposes of this paragraph, there shall be excluded from consideration employees not included in the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if there is evidence that educational assistance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

"(3) PRINCIPAL SHAREHOLDERS OR OWNERS.—Not more than 5 percent of the amounts paid or incurred by the employer for educational assistance during the year may be provided for the class of individuals who are shareholders or owners (or their spouses or dependents), each of whom (on any day of the year) owns more than 5 percent of the stock or of the capital or profits interest in the employer.

"(4) OTHER BENEFITS AS AN ALTERNATIVE.—A program must not provide eligible employees with a choice between educational assistance and other remuneration included in gross income. For purposes of this section, the business practices of the employer (as well as the written program) will be taken into account.

"(5) NO FUNDING REQUIRED.—A program referred to in paragraph (1) is not required to be funded.

"(6) NOTIFICATION OF EMPLOYEES.—Reasonable notification of the availability and terms of the program must be provided to eligible employees.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) EDUCATIONAL ASSISTANCE.—The term 'educational assistance' means—

"(A) the payment, by an employer, of expenses incurred by or on behalf of an employee for education of the employee (including, but not limited to, tuition, fees, and similar payments, books, supplies, and equipment), and

"(B) the provision, by an employer, of courses of instruction for such employee (including books, supplies, and equipment), but does not include payment for, or the provision of, tools or supplies which may be retained by the employee after completion of a course of instruction, or meals, lodging, or transportation. The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any course or other education involving sports, games, or hobbies.

"(2) EMPLOYEE.—The term 'employee' includes, for any year, an individual who is an employee within the meaning of section 401(c)(1) (relating to self-employed individuals).

"(3) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer. A partnership shall be treated as the employer of each partner who is an employee within the meaning of paragraph (2).

"(4) ATTRIBUTION RULES.—

"(A) OWNERSHIP OF STOCK.—Ownership of stock in a corporation shall be determined in accordance with the rules provided under subsections (d) and (e) of section 1563 without regard to section 1563(e)(3)(C)).

"(B) INTEREST IN UNINCORPORATED TRADE OR BUSINESS.—The interest of an employee in a trade or business which is not incorporated shall be determined in accordance with regulations prescribed by the Secretary, which shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(5) CERTAIN TESTS NOT APPLICABLE.—An educational assistance program shall not be held or considered to fail to meet any requirements of subsection (b) merely because—

"(A) of utilization rates for the different types of educational assistance made available under the program; or

"(B) successful completion, or attaining a particular course grade, is required for or considered in determining reimbursement under the program.

"(6) RELATIONSHIP TO CURRENT LAW.—This section shall not be construed to affect the deduction or inclusion in income of amounts (not within the exclusion under this section) which are paid or incurred, or received as reimbursement, for educational expenses under section 117, 162 or 212.

"(7) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed under any other section of this chapter for any amount excluded from income by reason of this section.

"(d) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 1983."

(b) TREATMENT OF EMPLOYER EDUCATIONAL ASSISTANCE BENEFITS FOR PURPOSES OF WITHHOLDING, UNEMPLOYMENT TAXES, AND SOCIAL SECURITY TAXES.—

(1) Section 3401(a) (relating to the definition of wages for purposes of collection of income tax at the source) is amended—

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of paragraph (17); and

(C) by adding at the end thereof the following new paragraph:

"(18) for any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.".

(2) Section 3306(b) (relating to the definition of wages for purposes of the Federal Unemployment Tax Act) is amended—

(A) by striking out "or" at the end of paragraph (11);

(B) by striking out the period at the end of paragraph (12) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(13) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.".

(3) Section 3121(a) (relating to the definition of wages for purposes of the Federal Insurance Contributions Act) is amended—

(A) by striking out "or" at the end of paragraph (16);

(B) by striking out the period at the end of subparagraph (17) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(18) any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.".

(4) Section 209 of the Social Security Act is amended—

(A) by striking out "or" at the end of subsection (o);

(B) by striking out the period at the end of subsection (p) and inserting in lieu thereof "; or"; and

(C) by inserting after subsection (p) and before the sentence beginning with "For purposes of this title, in the case of domestic service" the following new subsection:

"(q) Any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 of the Internal Revenue Code of 1954.".

(c) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking

out the item relating to section 124 and inserting in lieu thereof the following:
"Sec. 124. Educational assistance programs.
"Sec. 125. Cross references to other Acts."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after December 31, 1978.

TITLE II—TAX SHELTER PROVISIONS

Subtitle A—Provisions Related to at Risk Rules

SEC. 201. EXTENSION OF SECTION 465 AT RISK RULES TO ALL ACTIVITIES OTHER THAN REAL ESTATE.

(a) EXTENSION.—Subsection (c) of section 564 (relating to activities to which section applies) is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO OTHER ACTIVITIES.—

"(A) IN GENERAL.—In the case of taxable years beginning after December 31, 1978, this section also applies to each activity—

"(i) engaged in by the taxpayer in carrying on a trade or business or for the production of income, and

"(ii) which is not described in paragraph (1).

"(B) AGGREGATION OF ACTIVITIES WHERE TAXPAYER ACTIVELY PARTICIPATES IN MANAGEMENT OF TRADE OR BUSINESS.—Except as provided in subparagraph (C), for purposes of this section, activities described in subparagraph (A) which constitute a trade or business shall be treated as 1 activity if—

"(i) the taxpayer actively participates in the management of such trade or business, or

"(ii) such trade or business is carried on by a partnership or electing small business corporation (as defined in section 1371(b)) and 65 percent or more of the losses for the taxable year is allocable to persons who actively participate in the management of the trade or business.

"(C) AGGREGATION OR SEPARATION OF ACTIVITIES UNDER REGULATIONS.—The Secretary shall prescribe regulations under which activities described in subparagraph (A) shall be aggregated or treated as separate activities.

"(D) EXCLUSIONS.—

"(i) REAL PROPERTY.—In the case of activities described in subparagraph (A), the holding of real property (other than mineral property) shall be treated as a separate activity, and subsection (a) shall not apply to losses from such activity. For purposes of the preceding sentence, personal property and services which are incidental to making real property available as living accommodations shall be treated as part of the activity of holding such real property.

"(ii) EQUIPMENT LEASING BY CLOSELY-HELD CORPORATIONS.—

"(I) In the case of a corporation described in subsection (a)(1)(C) actively engaged in leasing equipment which is section 1245 property, the activity of leasing such equipment shall be treated, for purposes of subsection (a), as a separate activity and subsection (a) shall not apply to losses from such activity.

"(II) A corporation described in subsection (a)(1)(C) shall not be considered to be actively engaged in leasing such equipment unless 50 percent or more of the gross receipts of the corporation for the taxable year are attributable, under regulations prescribed by the Secretary, to leasing and selling such equipment.

"(III) For purposes of this paragraph, the leasing of master sound recordings, and other similar contractual arrangements with respect to tangible or intangible assets associated with literary, artistic, or musical properties shall not be treated as leasing equipment which is section 1245 property.

"(IV) In the case of a controlled group of corporations (within the meaning of section 1563(a)), this paragraph shall be applied by treating the controlled group as a single corporation.

"(E) APPLICATION OF SUBSECTION (b)(3).—In the case of an activity described in subparagraph (A), subsection (b)(3) shall apply only to the extent provided in regulations prescribed by the Secretary."

(b) REPEAL OF SECTION 704(d) AT RISK RULES.—

(1) IN GENERAL.—Subsection (d) of section 704 is amended by striking out the last 2 sentences.

(2) TRANSITIONAL RULE.—In the case of a loss which was not allowed for any taxable year by reason of the last 2 sentences of section 704(d) of the Internal Revenue Code of 1954 (as in effect before the date of the enactment of this Act), such loss shall be treated as a deduction (subject to section 465(a) of such Code) for the first taxable year beginning after December 31, 1978. Section 465(a) of such Code (as amended by this section) shall not apply with respect to partnership liabilities to which the last 2 sentences of section 704(d) of such Code (as in effect on the day before the date of enactment of this Act) did not apply because of the provisions of section 213(f)(2) of the Tax Reform Act of 1976.

(c) CLERICAL AMENDMENTS.—

(1) The heading of section 465 is amended to read as follows:

"SEC. 465. DEDUCTIONS LIMITED TO AMOUNT AT RISK."

(2) The table of sections for subpart C of part II of subchapter E of chapter 1 is amended by striking out "in case of certain activities" in the item relating to section 465.

SEC. 202. EXTENSION OF AT RISK PROVISIONS TO CLOSELY HELD CORPORATIONS.

Subsection (a) of section 465 (relating to deductions limited to amount at risk) is amended to read as follows:

"(a) LIMITATION TO AMOUNT AT RISK.—

"(1) IN GENERAL.—In the case of—

"(A) an individual,

"(B) an electing small business corporation (as defined in section 1371(b)), and

"(C) a corporation with respect to which the stock ownership requirement of paragraph (2) of section 542(a) (determined by reference to the rules contained in section 318 rather than under section 544) is met,

engaged in an activity to which this section applies, any loss from such activity for the taxable year shall be allowed only to the extent of the aggregate amount with respect to which the taxpayer is at risk (within the meaning of subsection (b)) for such activity at the close of the taxable year.

"(2) DEDUCTION IN SUCCEEDING YEAR.—Any loss from an activity to which this section applies not allowed under this section for the taxable year shall be treated as a deduction allocable to such activity in the first succeeding taxable year."

SEC. 203. RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.

Section 465 (relating to deductions limited to amount at risk) is amended by adding at the end thereof the following new subsection:

"(e) RECAPTURE OF LOSSES WHERE AMOUNT AT RISK IS LESS THAN ZERO.—

"(1) IN GENERAL.—If zero exceeds the amount for which the taxpayer is at risk in any activity at the close of any taxable year—

"(A) the taxpayer shall include in his gross income for such taxable year (as income from such activity) an amount equal to such excess, and

"(B) an amount equal to the amount so included in gross income shall be treated as a deduction allocable to such activity for the first succeeding taxable year.

"(2) LIMITATION.—The excess referred to in paragraph (1) shall not exceed—

"(A) the aggregate amount of the reduction required by subsection (b)(5) with respect to the activity for all prior taxable years beginning after December 31, 1978, reduced by

"(B) the amounts previously included in gross income with respect to such activity under this subsection."

SEC. 204. EFFECTIVE DATES.

(a) IN GENERAL.—The amendments made by this subtitle shall apply to taxable years beginning after December 31, 1978.

(b) TRANSITIONAL RULES.—

(1) RECAPTURE PROVISIONS.—If the amount for which the taxpayer is at risk in any activity as of the close of the taxpayer's last taxable year beginning before January 1, 1979, is less than zero, section 465(e)(1) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) shall be applied with respect to such activity of the taxpayer by substituting such negative amount for zero.

(2) SPECIAL TRANSITIONAL RULES FOR LEASING ACTIVITIES.—

(A) RULE FOR LEASES.—In the case of any activity described in section 465(c)(1)(C) of such Code in which a corporation described in section 465(a)(1)(C) of such Code is engaged, the amendments made by this section shall not apply with respect to—

(i) leases entered into before November 1, 1978, and

(ii) leases where the property was ordered by the lessor or lessee before November 1, 1978.

(B) HOLDING OF INTERESTS FOR PURPOSES OF SUBPARAGRAPH (A).—Subparagraph (A) shall apply only to taxpayers who held their interests in the property on October 31, 1978.

Subtitle B—Partnership Provisions

SEC. 211. PENALTY FOR FAILURE TO FILE PARTNERSHIP RETURN.

(a) GENERAL RULE.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6698. FAILURE TO FILE PARTNERSHIP RETURN.

"(a) GENERAL RULE.—In addition to the penalty imposed by section 7203 (relating to willful failure to file return, supply information, or pay tax), if any partnership required to file a return under section 6031 for any taxable year—

"(1) fails to file such return at the time prescribed therefor (determined with regard to any extension of time for filing), or

"(2) files a return which fails to show the information required under section 6031,

such partnership shall be liable for a penalty determined under subsection (b) for each month (or fraction thereof) during which such failure continues (but not to exceed 5 months), unless it is shown that such failure is due to reasonable cause.

"(b) AMOUNT PER MONTH.—For purposes of subsection (a), the amount determined under this subsection for any month is the product of—

"(1) $50, multiplied by

"(2) the number of persons who were partners in the partnership during any part of the taxable year.

"(c) ASSESSMENT OF PENALTY.—The penalty imposed by subsection (a) shall be assessed against the partnership.

"(d) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 68 is amended by adding at the end thereof the following new item:

"SEC. 6698. Failure to file partnership return."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to returns for taxable years beginning after December 31, 1978.

SEC. 212. EXTENSION OF STATUTE OF LIMITATIONS IN THE CASE OF PARTNERSTIP ITEMS.

(a) ASSESSMENT OF DEFICIENCIES.—Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) SPECIAL RULES FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—In the case of any tax imposed by subtitle A with respect to any person, the period for assessing a deficiency attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date on which the partnership return of the federally registered partnership for the partnership taxable year in which the item arose was filed (or, later, if the date prescribed for filing the return), or

"(B) if the name or address of such person does not appear on the partnership return, the date which is 1 year after the date on which such information is furnished to the Secretary in such manner and at such place as he may prescribe by regulations.

"(2) PARTNERSHIP ITEM DEFINED.—For purposes of this subsection, the term 'partnership item' means—

"(A) any item required to be taken into account for the partnership taxable year under any provision of subchapter K of chapter 1 to the extent that regulations prescribed by the Secretary provide that for purposes of this subtitle such item is more appropriately determined at the partnership level than at the partner level, and

"(B) any other item to the extent affected by an item described in subparagraph (A).

"(3) EXTENSION BY AGREEMENT.—The extensions referred to in subsection (c)(4), insofar as they relate to partnership items, may, with respect to any person, be consented to—

"(A) except to the extent the Secretary is otherwise notified by the partnership, by a general partner of the partnership, or

"(B) by any person authorized to do so by the partnership in writing.

"(4) FEDERALLY REGISTERED PARTNERSHIP.—For purposes of this subsection, the term 'federally registered partnership' means, with respect to any partnership taxable year, any partnership—

"(A) interests in which have been offered for sale at any time during such taxable year or a prior taxable year in any offering required to be registered with the Securities and Exchange Commission, or

"(B) which, at any time during such taxable year or a prior taxable year, was subject to the annual reporting requirements of the Securities and Exchange Commission which relate to the protection of investors in the partnership."

(b) CREDITS AND REFUNDS.—

(1) IN GENERAL.—Section 6511 (relating to limitations on credit or refund) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULE FOR PARTNERSHIP ITEMS OF FEDERALLY REGISTERED PARTNERSHIPS.—

"(1) IN GENERAL.—The case of any tax imposed by subtitle A with respect to any person, the period for filing a claim for credit or refund of any overpayment attributable to any partnership item of a federally registered partnership shall not expire before the later of—

"(A) the date which is 4 years after the date prescribed by law (including extensions thereof) for filing the partnership return for the partnership taxable year in which the item arose, or

"(B) if an agreement under the provisions of section 6501(c)(4) extending the period for the assessment of any deficiency attributable to such partnership item is made before the date specified in subparagraph (A), the date 6 months after the expiration of such extension.

In any case to which the preceding sentence applies, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'partnership item' and 'federally registered partnership' have the same meanings as such terms have when used in section 6501(q)."

(2) TECHNICAL AMENDMENT.—Paragraph (2) of section 6512(b) (relating to overpayment determined by Tax Court) is amended by striking out "(c), or (d)" each place it appears and inserting in lieu thereof "(c), (d), or (g)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership items arising in partnership taxable years beginning after December 31, 1978.

TITLE III—PROVISIONS PRIMARILY AFFECTING BUSINESS INCOME TAX

Subtitle A—Corporate Rate Reductions

SEC. 301. CORPORATE RATE REDUCTIONS.

(a) IN GENERAL.—Section 11 (relating to the tax imposed on corporations) is amended to read as follows:

SEC. 11. TAX IMPOSED.

"(a) CORPORATIONS IN GENERAL.—A tax is hereby imposed for each taxable year on the taxable income of every corporation.

"(b) AMOUNT OF TAX.—The amount of tax imposed by subsection (a) shall be the sum of—

"(1) 17 percent of so much of the taxable income as does not exceed $25,000;

"(2) 20 percent of so much of the taxable income as exceeds $25,000 but does not exceed $50,000;

"(3) 30 percent of so much of the taxable income as exceeds $50,000 but does not exceed $75,000;

"(4) 40 percent of so much of the taxable income as exceeds $75,000 but does not exceed $100,000; plus

"(5) 46 percent of so much of the taxable income as exceeds $100,000.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to a corporation subject to a tax imposed by —

"(1) section 594 (relating to mutual savings banks conducting life insurance business),

"(2) subchapter L (sec. 801 and following, relating to insurance companies), or

"(3) subchapter M (sec. 851 and following, relating to regulated investment companies and real estate investment trusts).

"(d) FOREIGN CORPORATIONS.—In the case of a foreign corporation, the tax imposed by subsection (a) shall apply only as provided by section 882."

(b) CONFORMING AMENDMENTS.

(1) CROSS REFERENCES RELATING TO CORPORATIONS.—Paragraph (7) of section 12 (relating to cross references relating to tax on corporations) is amended to read as follows:

"(7) For limitation on benefits of graduated rate schedule provided in section 11(b), see section 1551."

(2) MINIMUM TAX.—Subparagraph (B) of section 57(a)(9) (relating to capital gains preference for corporations) is amended by striking out "the sum of the normal tax rate and the surtax rate under section 11" each place it appears and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(3) DIVIDENDS RECEIVED ON CERTAIN PREFERRED STOCK.—Subparagraph (B) of section 244(a)(2) (relating to dividends received on certain preferred stock) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(4) DIVIDENDS PAID ON CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES.—Subparagraph (B STOCK OF PUBLIC UTILITIES.—Subparagraph (B) of section 247(a)(2) (relating to dividends paid on certain preferred stock of public utilities) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year specified in section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)".

(5) TAX ON UNRELATED BUSINESS INCOME OF CHARITABLE, ETC., ORGANIZATIONS.—

(A) IMPOSITION OF TAX.—Paragraph (1) of section 511(a) (relating to charitable, etc., organizations taxable at corporation rates) is amended by striking out "a normal tax and a surtax" and inserting in lieu thereof "a tax".

(B) ORGANIZATIONS SUBJECT TO TAX.—Paragraph (2) of section 511(a) is amended by striking out "taxes" each place it appears and inserting in lieu thereof "tax".

(6) POLITICAL ORGANIZATIONS.—Paragraph (1) of section 527(b) (relating to tax imposed) is amended to read as follows:

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the political organization taxable income of every political organization. Such tax shall be computed by multiplying the political organization taxable income by the highest rate of tax specified in section 11(b)."

(7) HOMEOWNERS ASSOCIATIONS.—Paragraph (1) of section 528(b) (relating to tax imposed) is amended to read as follows:

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the homeowners association taxable income of every homeowners association. Such tax shall be computed by multiplying the homeowners association taxable income by the highest rate of tax specified in section 11(b)."

(8) LIFE INSURANCE COMPANIES.—Paragraph (1) of section 802(a) (relating to tax imposed) is amended by striking out "a normal tax and surtax" and inserting in lieu thereof "a tax".

(9) MUTUAL INSURANCE COMPANIES.—

(A) IN GENERAL.—Subsections (a) of section 821 (relating to tax on mutual insurance companies to which part II applies) is amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the mutual insurance company taxable income of every mutual insurance company (other than a life insurance company and other than a fire, flood, or marine insurance company subject to the tax imposed by section 831). Such tax shall be computed by multiplying the mutual insurance company taxable income by the rates provided in section 11(b).

"(2) CAP ON TAX WHERE INCOME IS LESS THAN $12,000.—The tax imposed by paragraph (1) shall not exceed 34 percent of the amount by which the mutual insurance company taxable income exceeds $6,000."

(B) SMALL COMPANIES.—Paragraph (1) of section 821(c) (relating to alternative tax for certain small companies) is amended to read as follows:

"(1) IMPOSITION OF TAX.—

"(A) IN GENERAL.—There is hereby imposed for each taxable year on the income of every mutual insurance company to which this subsection applies a tax (which shall be in lieu of the tax imposed by subsection (a)). Such tax shall be computed by multiplying the taxable investment income by the rates provided in section 11(b).

"(B) CAP WHERE INCOME IS LESS THAN $6,000.—The tax imposed by subparagraph (A) shall not exceed 34 percent of the amount

by which the taxable investment income exceeds $3,000."

(10) ELECTION BY MUTUAL INSURANCE COMPANY WHICH IS A RECIPROCAL.—Paragraph (1) of section 826(c) (relating to exception) is amended to read as follows:

"(1) is subject to the tax imposed by section 11;".

(11) REGULATED INVESTMENT COMPANIES.—Paragraph (1) of section 852(b) (relating to method of taxation of companies and shareholders) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REGULATED INVESTMENT COMPANIES.—There is hereby imposed for each taxable year upon the investment company taxable income of every regulated investment company a tax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11."

(12) REAL ESTATE INVESTMENT TRUSTS.—Paragraph (1) of section 857(b) (relating to imposition of normal tax and surtax on real estate investment trusts) is amended to read as follows:

"(1) IMPOSITION OF TAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a tax computed as provided in section 11, as though the real estate investment trust taxable income were the taxable income referred to in section 11."

(13) TAX ON INCOME OF FOREIGN CORPORATIONS CONNECTED WITH UNITED STATES BUSINESS.—The heading of subsection (a) of section 882 (relating to tax on income of foreign corporations connected with United States business) and the heading of paragraph (1) of such subsection are amended to read as follows:

"(a) IMPOSITION OF TAX.—

"(1) IN GENERAL.—".

(14) FOREIGN TAX CREDIT.—Paragraph (2) of section 907(a) (relating to reduction in amount allowed as foreign tax under section 901) is amended to read as follows:

"(2) the percentage which is equal to the highest rate of tax specified in section 11 (b)."

(15) SPECIAL DEDUCTION FOR WESTERN HEMISPHERE TRADE CORPORATION.—Subparagraph (B) of section 922(a)(2) (relating to general rule) is amended by striking out "the sum of the normal tax rate and the surtax rate for the taxable year prescribed by section 11" and inserting in lieu thereof "the highest rate of tax specified in section 11(b)."

(16) ELECTION BY INDIVIDUALS TO BE SUBJECT TO TAX AT CORPORATE RATES.—Subsection (c) of section 962 (relating to surtax exemption with respect to individuals subject to tax at corporate rates) is amended to read as follows:

"(c) PRO RATION OF EACH SECTION 11 BRACKET AMOUNT.—For purposes of applying subsection (a)(1), the amount in each taxable income bracket in the tax table in section 11(b) shall not exceed an amount which bears the same ratio to such bracket amount as the amount included in the gross income of the United States shareholder under section 951(a) for the taxable year bears to such shareholder's pro rata share of the earnings and profits for the taxable year of all controlled foreign corporations with respect to which such shareholder includes any amount in gross income under section 951 (a)."

(17) TREATMENT OF RECOVERIES OF FOREIGN EXPROPRIATION LOSSES.—Paragraph (4) of section 1351(d) (relating to adjustment for prior tax benefits) is amended to read as follows:

"(4) SUBSTITUTION OF CURRENT TAX RATE.—For purposes of this subsection, the rates of tax specified in section 11(b) for the taxable year of the recovery shall be treated as having been in effect for all prior taxable years."

(18) AMENDMENTS OF SECTION 1551.—

(A) Subsection (a) of section 1551 (relating to disallowance of surtax exemption and accumulated earnings credit) is amended—

(i) by striking out "disallow the surtax exemption (as defined in section 11(d))" and inserting in lieu thereof "disallow the benefits of the rates contained in section 11(b) which are lower than the highest rate specified in such section", and

(ii) by striking out "such exemption or" and inserting in lieu thereof "such benefits or".

(B) The section heading of section 1551 is amended to read as follows:

"SEC. 1551. DISALLOWANCE OF THE BENEFITS OF THE GRADUATED CORPORATE RATES AND ACCUMULATED EARNINGS CREDIT."

(C) The table of sections for part I of subchapter B of chapter 6 is amended by striking out the item relating to section 1551 and inserting in lieu thereof the following new item:

"Sec. 1551. Disallowance of the benefits of the graduated corporate rates and accumulated earnings credit."

(19) LIMITATIONS ON CERTAIN MULTIPLE TAX BENEFITS IN THE CASE OF CERTAIN CONTROLLED CORPORATIONS.—

(A) IN GENERAL.—Subsection (a) of section 1561 (relating to limitations on certain multiple tax benefits in the case of certain controlled corporations) is amended—

(i) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) amounts in each taxable income bracket in the tax table in section 11(b) which do not aggregate more than the maximum amount in such bracket to which a corporation which is not a component member of a controlled group is entitled,",

(ii) by striking out "amount" each place it appears in the second sentence and inserting in lieu thereof "amounts", and

(iii) by striking out the last sentence.

(B) CERTAIN SHORT TAXABLE YEARS.—Paragraph (1) of section 1561(b) (relating to certain short taxable years) is amended to read as follows:

"(1) the amount in each taxable income bracket in the tax table in section 11(b),".

(20) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(A) Subsection (c) of section 6154 (defining estimated tax) is amended to read as follows:

"(c) ESTIMATED TAX DEFINED.—For purposes of this title, in the case of a corporation the term 'estimated tax' means the excess of—

"(1) the amount which the corporation estimates as the amount of the income tax imposed by section 11 or 1201(a), or subchapter L of chapter 1, which is applicable, over

"(2) the amount which the corporation estimates as the sum of the credits against tax provided by part IV of subchapter A of chapter 1."

(B) Subsection (e) of section 6655 (defining tax) is amended to read as follows:

"(e) DEFINITION OF TAX.—For purposes of subsections (b) and (d), the term 'tax' means the excess of—

"(1) the tax imposed by section 11 or 1201 (a), or subchapter L of chapter 1, whichever is applicable, over

"(2) the credits against tax provided by part IV of subchapter A of chapter 1."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

Subtitle B—Credits

SEC. 311. 10-PERCENT INVESTMENT TAX CREDIT AND $100,000 LIMITATION ON USED PROPERTY MADE PERMANENT.

(a) 10-PERCENT INVESTMENT CREDIT.—Subparagraph (B) of section 46(a)(2) (defining regular percentage) is amended to read as follows:

"(B) REGULAR PERCENTAGE.—For purposes of this paragraph, the regular percentage is 10 percent."

(b) $100,000 LIMITATION ON USED PROPERTY.—Paragraph (2) of section 301(c) of the Tax Reduction Act of 1975 (relating to effective date for increase of dollar limitation on used property) is amended by striking out ", and before January 1, 1981".

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 46(c)(3) (relating to public utility property, is amended by striking out "For the period beginning on January 1, 1981" and inserting in lieu thereof "To the extent that the credit allowed by section 38 with respect to any public utility property is determined at the rate of 7 percent".

(2) The first sentence of section 46(f)(8) (relating to prohibition of immediate flow through) is amended by striking out "and the Energy Tax Act of 1978" and inserting in lieu thereof "the Energy Tax Act of 1978, and the Revenue Act of 1978".

SEC. 312. INCREASE IN LIMITATION ON INVESTMENT CREDIT TO 90 PERCENT OF TAX LIABILITY.

(a) INCREASE IN GENERAL LIMITATION.—Paragraph (3) of section 46(a) (relating to amount of credit) is amended to read as follows:

"(3) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 38 for the taxable year shall not exceed—

"(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

"(B) the following percentage of so much of the liability for tax for the taxable year as exceeds $25,000:

"If the taxable year ends in:	*The percentage is:*
1979	60
1980	70
1981	80
1982 or thereafter	90."

(b) SPECIAL RULES FOR CERTAIN UTILITIES, RAILROADS, AND AIRLINES.—

(1) UTILITIES.—Paragraph (7) of section 46(a) (relating to alternative limitation in the case of certain utilities) is amended to read as follows:

"(7) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN UTILITIES.—

"(A) IN GENERAL.—If, for the taxable year ending in 1979—

"(i) the amount of the qualified investment of the taxpayer which is attributable to public utility property is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent,

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage for any taxpayer for any taxable year ending in 1979 is—

"(i) 50 percent, plus

"(ii) that portion of 20 percent which the taxpayer's amount of qualified investment which is public utility property bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent or more, the applicable percentage of the taxpayer for the year shall be 70 percent.

"(C) PUBLIC UTILITY PROPERTY DEFINED.—For purposes of this paragraph, the term 'public utility property' has the meaning given to such term by the first sentence of subsection (c)(3)(B)."

(2) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—Subsection (a) of section 46 is amended by striking out paragraphs (8) and (9) and by insert-

ing in lieu thereof the following new paragraph:

"(8) ALTERNATIVE LIMITATION IN THE CASE OF CERTAIN RAILROADS AND AIRLINES.—

"(A) IN GENERAL.—If, for a taxable year ending in 1979 or 1980—

"(i) the amount of the qualified investment of the taxpayer which is attributable to railroad property or to airline property, as the case may be, is 25 percent or more of his aggregate qualified investment, and

"(ii) the application of this paragraph results in a percentage higher than 60 percent (70 percent in the case of a taxable year ending in 1980),

then subparagraph (B) of paragraph (3) of this subsection shall be applied by substituting for '60 percent' ('70 percent' in the case of a taxable year ending in 1980) the taxpayer's applicable percentage for such year.

"(B) APPLICABLE PERCENTAGE.—The applicable percentage of any taxpayer for any taxable year under this paragraph is—

"(i) 50 percent, plus

"(ii) that portion of the tentative percentage for the taxable year which the taxpayer's amount of qualified investment which is railroad property or airline property (as the case may be) bears to his aggregate qualified investment.

If the proportion referred to in clause (ii) is 75 percent more, the applicable percentage of the taxpayer for the taxable year shall be 90 percent (80 percent in the case of a taxable year ending in 1980).

"(C) TENTATIVE PERCENTAGE.—For purposes of subparagraph (B), the tentative percentage shall be determined under the following table:

"If the taxable year ends in:	*The tentative percentage is:*
1979	40
1980	30

"(D) RAILROAD PROPERTY DEFINED.—For purposes of this paragraph, the term 'railroad property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of operating a railroad (including a railroad switching or terminal company).

"(E) AIRLINE PROPERTY DEFINED.—For purposes of this paragraph, the term 'airline property' means section 38 property used by the taxpayer directly in connection with the trade or business carried on by the taxpayer of the furnishing or sale of transportation as a common carrier by air subject to the jurisdiction of the Civil Aeronautics Board or the Federal Aviation Administration.

(c) REPEAL OF CERTAIN OBSOLETE PROVISIONS.—

(1) Subsections (h), (i), and (j) of section 48 and sections 49 and 50 are hereby repealed.

(2) Paragraphs (1) and (2) of section 46 (f) and subparagraph (B) of section 48(a) (7) are each amended by striking out "described in section 50".

(3) Subparagraph (A) of section 48(a)(7) is amended by striking out "(other than pretermination property)".

(4) Subsection (i) of section 167 is hereby repealed.

(5) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by striking out the items relating to sections 49 and 50.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1978.

SEC. 313. INVESTMENT CREDIT FOR POLLUTION CONTROL FACILITIES.

(a) IN GENERAL.—Paragraph (5) of section 46(c) (relating to applicable percentage in the case of certain pollution control facilities) is amended to read as follows:

"(5) APPLICABLE PERCENTAGE IN THE CASE OF CERTAIN POLLUTION CONTROL FACILITIES.—

"(A) IN GENERAL.—Notwithstanding paragraph (2), in the case of property—

"(i) with respect to which an election under section 169 applies, and

"(ii) the useful life of which (determined without regard to section 169) is not less than 5 years,

100 percent shall be the applicable percentage for purposes of applying paragraph (1) with respect to much of the adjusted basis of the property as (after the application of section 169(f)) constitutes the amortizable basis for purposes of section 169.

"(B) SPECIAL RULE WHERE PROPERTY IS FINANCED BY INDUSTRIAL DEVELOPMENT BONDS.—To the extent that any property is financed by the proceeds of an industrial development bond (within the meaning of section 103 (b)(2)) the interest on which is exempt from tax under section 103, subparagraph (A) shall be applied by substituting '50 percent' for '100 percent'."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to—

(1) property acquired by the taxpayer after December 31, 1978, and

(2) property the construction, reconstruction, or erection of which was completed by the taxpayer after December 31, 1978 (but only to the extent of the basis thereof attributable to construction, reconstruction, or erection after such date).

SEC. 314. INVESTMENT CREDIT FOR CERTAIN SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) GENERAL RULE.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or" and by inserting after subparagraph (C) the following new subparagraph:

"(D) single purpose agricultural or horticultural structures."

(b) DEFINITION OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.—Section 48 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term "single purpose agricultural or horticultural structure' means—

(A) a single purpose livestock structure, and

"(B) a single purpose horticultural structure.

"(2) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term 'single purpose livestock structure' means any enclosure or structure specifically designed, constructed, and used—

"(A) for housing, raising, and feeding a particular type of livestock and their produce, and

"(B) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subparagraph (A).

"(3) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term 'single purpose horticultural structure' means—

"(A) a greenhouse specifically designed, constructed, and used for the commercial production of plants, and

"(B) a structure specifically designed, constructed and used for the commercial production of mushrooms.

"(4) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

"(A) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

"(B) the maintenance of the enclosure or structure, and

"(C) the maintenance or replacement of the equipment or stock enclosed or housed therein.

"(5) SPECIAL RULE FOR APPLYING SECTION 47.—For purposes of section 47, any single purpose agricultural or horticultural structure shall be treated as meeting the requirements of this subsection for any period during which such structure is held for the use under which it qualified under this subsection.

(c) LIVESTOCK.—The term 'livestock' includes poultry."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after August 15, 1971.

SEC. 315. INVESTMENT CREDIT ALLOWED FOR CERTAIN REHABILITATED BUILDINGS.

(a) IN GENERAL.—Paragraph (1) of section 48(a) (defining section 38 property) is amended by striking out the period at the end of subparagraph (D) and by inserting in lieu thereof "; or" and the following new subparagraph:

"(E) in the case of a qualified rehabilitated building, that portion of the basis which is attributable to qualified rehabilitation expenditures (within the meaning of subsection (g))."

(b) QUALIFIED REHABILITATED BUILDINGS DEFINED.—Section 48 is amended by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR QUALIFIED REHABILITATED BUILDINGS—For purpose of this subpart—

"(1) QUALIFIED REHABILITATED BUILDING DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components)—

"(i) which has been rehabilitated,

"(i) which was placed in service before the beginning of the rehabilitation, and

"(iii) 75 percent or more of the existing external walls of which are retained in place as external walls in the rehabilitation process.

"(B) 20 YEARS MUST HAVE ELAPSED SINCE CONSTRUCTION OR PRIOR REHABILITATION.—A building shall not be a qualified rehabilitated building unless there is a period of at least 20 years between—

"(i) the date the physical work on this rehabilitation of the building began, and

"(ii) the later of—

"(I) the date such building was first placed in service, or

"(II) the date such building was placed in service in connection with a prior rehabilitation with respect to which a credit was allowed by reason of subsection (a)(1)(E).

"(C) MAJOR PORTION TREATED AS SEPARATE BUILDING IN CERTAIN CASES.—Where there is a separate rehabilitation of a major portion of a building, such major portion shall be treated as a separate building.

"(D) REHABILITATION INCLUDES RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account which is incurred after October 31, 1978—

"(i) for property (or additions or improvements to property) with a useful life of 5 years or more, and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—

The term 'qualified rehabilitation expenditure' does not include—

"(i) PROPERTY OTHERWISE SECTION 38 PROPERTY.—Any expenditure for property which constitutes section 38 property (determined without regard to subsection (a)(1)(E)).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or any interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of the existing building.

"(iv) CERTIFIED HISTORIC STRUCTURES.—Any expenditure attributable to the rehabilitation of a certified historic structure (within the meaning of section 191(d)(1)), unless the rehabilitation is a certified rehabilitation (within the meaning of section 191(d)(4)).

"(3) PROPERTY TREATED AS NEW SECTION 38 PROPERTY.—Property which is treated as section 38 property by reason of subsection (a)(1)(E) shall be treated as new section 38 property."

(c) TECHNICAL AMENDMENT.—Paragraph (8) of section 48(a) (relating to amortized property) is amended by striking out "or 188" and inserting in lieu thereof "188, or 191".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 31, 1978; except that the amendment made by subsection (c) shall only apply with respect to property placed in service after such date.

SEC. 316. TAX TREATMENT OF THE INVESTMENT CREDIT IN THE CASE OF COOPERATIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 46 (relating to amount of credit) is amended by adding at the end thereof the following new subsection:

"(h) SPECIAL RULES FOR COOPERATIVES.—In the case of a cooperative organization described in section 1381(a)—

(1) that portion of the credit allowable to the organization under section 38 which the organization cannot use for the taxable year to which the qualified investment is attributable because of the limitation contained in subsection (a)(3) shall be allocated to the patrons of the organization,

"(2) section 47 (relating to certain dispositions, etc., of section 38 property) shall be applied as if any allocated portion of the credit had been retained by the organization, and

"(3) the rules necessary to carry out the purposes of this subsection shall be determined under regulations prescribed by the Secretary."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 46(e) (relating to limitations in case of certain persons) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out "and" at the end of subparagraph (B), and

(C) by striking out subparagraph (C).

(2) Paragraph (2) of section 46(e) is amended—

(A) by adding "and" at the end of subparagraph (A),

(B) by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and

(C) by striking out subparagraph (C).

(3) Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end thereof the following new subsection:

"(j) Cross Reference.—

"For provisions relating to the apportionment of the investment credit between cooperative organizations and their patrons, see section 46(h)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after October 31, 1978.

SEC. 317. TRANSFERS TO CONRAIL NOT TREATED AS DISPOSITIONS FOR PURPOSES OF THE INVESTMENT CREDIT.

(a) IN GENERAL.—Subsection (b) of section 47 (relating to certain dispositions, etc., of section 38 property) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by inserting after paragraph (2) the following new paragraph:

"(3) a transfer to which subsection (c) of section 374 (relating to exchanges under the final system plan for ConRail) applies."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years ending after March 31, 1976.

Subtitle C—Targeted Jobs Credit; WIN Credit

SEC. 321. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Section 51 (relating to amount of credit) is amended to read as follows:

"SEC. 51. AMOUNT OF CREDIT.

"(a) DETERMINATION OF AMOUNT.—The amount of credit is amended to read as 44B for the taxable year shall be the sum of—

"(1) 50 percent of the qualified first-year wages for such year, and

"(2) 25 percent of the qualified second-year wages for such year.

"(b) QUALIFIED WAGES DEFINED.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'qualified wages' means the wages paid or incurred by the employer during the taxable year to individuals who are members of a targeted group.

"(2) QUALIFIED FIRST-YEAR WAGES.—The term 'qualified first-year wages' means, with respect to any individual, qualified wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer (or, in the case of a vocational rehabilitation referral, the day the individual begins work for the employer on or after the beginning of such individual's rehabilitation plan).

"(3) QUALIFIED SECOND-YEAR WAGES.—The term 'qualified second-year wages' means, with respect to any individual, the qualified wages attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such individual determined under paragraph (2).

"(4) ONLY FIRST $6,000 OF WAGES PER YEAR TAKEN INTO ACCOUNT.—The amount of the qualified first-year wages, and the amount of the qualified second-year wages, which may be taken into account with respect to any individual shall not exceed $6,000 per year.

"(c) WAGES DEFINED.—For purposes of this subpart—

"(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (h)(2), the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

"(2) EXCLUSION FOR EMPLOYERS RECEIVING ON-THE-JOB TRAINING PAYMENTS.—The term 'wages' shall not include any amounts paid by an employer for any period to an individual for whom the employer receives federally funded payment for on-the-job training of such individual for such period.

"(3) INDIVIDUALS FOR WHOM WIN CREDIT CLAIMED.—The term 'wages' does not include any amount paid or incurred by the employer to an individual with respect to whom the employer claims credit under section 40.

"(4) TERMINATION.—The term 'wages' shall not include any amount paid or incurred after December 31, 1980.

"(d) MEMBERS OF TARGETED GROUPS.—For purposes of this subpart—

"(1) IN GENERAL.—An individual is a member of a targeted group if such individual is—

"(A) a vocational rehabilitation referral,

"(B) an economically disadvantaged youth,

"(C) an economically disadvantaged Vietnam-era veteran,

"(D) an SSI recipient,

"(E) a general assistance recipient, or

"(F) a youth participating in a cooperative education program, or

"(G) an economically disadvantaged ex-convict.

"(2) VOCATIONAL REHABILITATION REFERRAL.—The term 'vocational rehabilitation referral' means any individual who is certified by the designated local agency as—

"(A) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment, and

"(B) having been referred to the employer upon completion of (or while receiving) rehabilitative services pursuant to—

"(i) an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973, or

"(ii) a program of vocational rehabilitation carried out under chapter 31 of title 38, United States Code.

"(3) ECONOMICALLY DISADVANTAGED YOUTH.—

"(A) IN GENERAL.—The term 'economically disadvantaged youth' means any individual who is certified by the designated local agency as—

"(i) meeting the age requirements of subparagraph (B), and

"(ii) being a member of an economically disadvantaged family (as determined under paragraph (9)).

"(B) AGE REQUIREMENTS.—An individual meets the age requirements of this subparagraph if such individual has attained age 18 but not age 25 on the hiring date.

"(4) VIETNAM VETERAN WHO IS A MEMBER OF AN ECONOMICALLY DISADVANTAGED FAMILY.—The term 'Vietnam veteran who is a member of an economically disadvantaged family' means any individual who is certified by the designated local agency as—

"(A)(i) having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, any part of which occurred after August 4, 1964, and before May 8, 1975, or

"(ii) having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability if any part of such active duty was performed after August 4, 1964, and before May 8, 1975,

"(B) not having any day during the preemployment period which was a duty of extended active duty in the Armed Forces of the United States,

"(C) being a member of an economically disadvantaged family (determined under paragraph (9)), and

"(D) not having attained the age of 35 on the hiring date.

For purposes of subparagraph (B), the term 'extended active duty' means a period of more than 90 days during which the individual was on active duty (other than active duty for training).

"(5) SSI RECIPIENTS.—The term 'SSI recipient' means any individual who is certified by the designated local agency as receiving supplemental security income benefits under title XVI of the Social Security Act (including supplemental security benefits of the type described in section 1616 of such Act or section 212 of Public Law 93-66) for any month ending in the preemployment period.

"(6) GENERAL ASSISTANCE RECIPIENTS.—

"(A) IN GENERAL.—The term 'general assistance recipient' means any individual who is certified by the designated local agency

as receiving assistance under a qualified general assistance program for any period of not less than 30 days ending within the preemployment period.

"(B) QUALIFIED GENERAL ASSISTANCE PROGRAM.—The term 'qualified general assistance program' means any program of a State or a political subdivision of a State—

"(i) which provides general assistance or similar assistance which—

"(I) is based on need, and

"(II) consists of money payments, and

"(ii) which is designated by the Secretary (after consultation with the Secretary of Health, Education, and Welfare) as meeting the requirements of clause (i).

"(7) ECONOMICALLY DISADVANTAGED EX-CONVICT.—The term 'economically disadvantaged ex-convict' means any individual who is certified by the designated local agency—

"(A) as having been convicted of a felony under any statute of the United States or any State,

"(B) as being a member of an economically disadvantaged family (as determined under paragraph (9)), and

"(C) as having a hiring date which is not more than 5 years after the last date on which such individual was so convicted or was released from prison.

"(8) YOUTH PARTICIPATING IN A QUALIFIED COOPERATION EDUCATION PROGRAMS.—

"(A) IN GENERAL.—The term 'youth participating in a qualified cooperative education program' means any individual who is certified by the school participating in the program as—

"(i) having attained age 16 and not having attained age 19,

"(ii) not having graduated from a high school or vocational school, and

"(iii) being enrolled in and actively pursuing a qualified cooperative education program.

"(B) QUALIFIED COOPERATIVE EDUCATION PROGRAM DEFINED.—The term 'qualified cooperative education program' means a program of vocational education for individuals who (through written cooperative arrangements between a qualified school and 1 or more employers) receive instruction (including required academic instruction) by alternation of study and school with a job in any occupational field (but only if these 2 experiences are planned by the school and employers so that each contributes to the student's education and employability).

"(C) QUALIFIED SCHOOL DEFINED.—The term 'qualified school' means—

"(i) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market,

"(ii) the department of a high school exclusively or principally used for providing vocational education to persons who are available for study in preparation for entering the labor market, or

"(iii) a technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market.

A school which is not a public school shall be treated as a qualified school only if it is exempt from tax under section 501(a).

"(D) INDIVIDUAL MUST BE CURRENTLY PURSUING PROGRAM.—Wages shall be taken into account with respect to a qualified cooperative education program only if the wages are attributable to services performed while the individual meets the requirements of subparagraph (A).

"(9) MEMBERS OF ECONOMICALLY DISADVANTAGED FAMILIES.—An individual is a member of an economically disadvantaged family if the designated local agency determines that such individual was a member of a family which had an income during the 6 months immediately preceding the month in which the hiring date occurs, which, on an annual basis would be less than 70 percent of the Bureau of Labor Statistics lower living standard.

"(10) PREEMPLOYMENT PERIOD.—The term 'preemployment period' means the 60-day period ending on the hiring date.

"(11) HIRING DATE.—The term 'hiring date' means the day the individual is hired by the employer.

"(12) DESIGNATED LOCAL AGENCY.—The term 'designated local agency' means the agency for any locality designated jointly by the Secretary and the Secretary of Labor to perform certification of employees for employers in that locality.

"(e) QUALIFIED FIRST-YEAR WAGES CANNOT EXCEED 30 PERCENT OF FUTA WAGES FOR ALL EMPLOYEES.—The amount of the qualified first-year wages which may be taken into account under subsection (a)(1) for any taxable year shall not exceed 30 percent of the aggregate unemployment insurance wages paid by the employer during the calendar year ending in such taxable year. For purposes of the preceding sentence, the term 'unemployment insurance wages' has the meaning given to the term 'wages' by section 3306(b).

"(f) REMUNERATION MUST BE FOR TRADE OR BUSINESS EMPLOYMENT.—

"(1) IN GENERAL.—For purposes of this subpart, remuneration paid by an employer to an employee during any year shall be taken into account only if more than one-half of the remuneration so paid is for services performed in a trade or business of the employer.

"(2) SPECIAL RULE FOR CERTAIN DETERMINATION.—Any determination as to whether paragraph (1), or subparagraph (A) or (B) of subsection (h)(1), applies with respect to any employee for any year shall be made without regard to subsections (a) and (b) of section 52.

"(3) YEAR DEFINED.—For purposes of this subsection and subsection (h), the term 'year' means the taxable year; except that, for purposes of applying so much of such subsections as relates to subsection (e), such term means the calendar year.

"(g) SECRETARY OF LABOR TO NOTIFY EMPLOYERS OF AVAILABILITY OF CREDIT.—The Secretary of Labor, in consultation with the Internal Revenue Service, shall take such steps as may be necessary or appropriate to keep employers apprised of the availability of the credit provided by section 44B.

"(h) SPECIAL RULES FOR AGRICULTURAL LABOR AND RAILWAY LABOR.—For purposes of this subpart—

"(1) UNEMPLOYMENT INSURANCE WAGES.—

"(A) AGRICULTURAL LABOR.—If the services performed by any employee for an employer during more than one-half of any pay period (within the meaning of section 3306(d)) taken into account with respect to any year constitute agricultural labor (within the meaning of section 3306(k)), the term 'unemployment insurance wages' means, with respect to the remuneration paid by the employer to such employee for such year, an amount equal to so much of such remuneration as constitutes 'wages' within the meaning of section 3121(a), except that the contribution and benefit base for each calendar year shall be deemed to be $6,000.

"(B) RAILWAY LABOR.—If more than one-half of remuneration paid by an employer to an employee during any year is remuneration for service described in section 3306(c)(9), the term 'unemployment insurance wages' means, with respect to such employee for such year, an amount equal to so much of the remuneration paid to such employee during such year which would be subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) if the maximum amount subject to such contributions were $500 per month.

"(2) WAGES.—In any case to which subparagraph (A) or (B) of paragraph (1) applies, the term 'wages' means unemployment insurance wages (determined without regard to any dollar limitation)."

(b) JOBS CREDIT MADE ELECTIVE.—

(1) Section 44(B) (relating to credit for employment of certain new employees) is amended—

(A) by striking out "There shall be allowed" in subsection (a) and inserting in lieu thereof "At the election at the taxpayer, there shall be allowed", and

(B) by adding at the end thereof the following new subsection:

"(c) ELECTION.—

"(1) TIME FOR MAKING ELECTION.— An election under subsection (a) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(2) MANNER OF MAKING ELECTION.—Any election under subsection (a) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe."

(2) Section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new subsection:

"(q) DEFICIENCY ATTRIBUTABLE TO ELECTION UNDER SECTION 44B.—The period for assessing a deficiency attributable to any election under section 44B (or any revocation thereof) shall not expire before the date 1 year after the date on which the Secretary is notified of such election (or revocation)."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS OF SECTION 52.—

(A) Section 52 (relating to special rules for computing credit for employment of certain new employees) is amended—

(i) by striking out subsections (c), (e), (i), and (j), and

(ii) by redesignating subsections (d), (f), (g), and (h) as subsections (c), (d), (e), and (f), respectively.

(B) Subsections (a) and (b) of section 52 are each amended by striking out "proportionate contribution to the increase in unemployment insurance wages" and inserting in lieu thereof "proportionate share of the wages".

(C) Subsection (e) of section 52 (as redesignated by subparagraph (A)) is amended—

(i) by adding "and" at the end of paragraph (1);

(ii) by striking out ", and" at the end of paragraph (2) and inserting a period; and

(iii) by striking out paragraph (3).

(2) AMENDMENTS OF SECTION 53.—

(A) Subsection (a) of section 53 is amended by striking out "the amount of the tax imposed by this chapter for the taxable year, reduced by" and inserting in lieu thereof "90 percent of the excess of the tax imposed by this chapter for the taxable year over the sum of".

(B) Section 53 (relating to limitation based on amount of tax) is amended by striking out subsection (b) and by redesignating subsection (c) as subsection (b).

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to amounts paid or incurred after December 31, 1978, in taxable years ending after such date.

(2) SPECIAL RULES FOR NEWLY TARGETED GROUPS.—

(A) INDIVIDUAL MUST BE HIRED AFTER SEPTEMBER 26, 1978.—In the case of a member of a newly targeted group—

(i) such individual shall be taken into account for purposes of the credit allowable by

section 44B of the Internal Revenue Code of 1954 only if such individual is first hired by the employer after September 26, 1978, and

(ii) such individual shall be treated for purposes of such credit as having first begun work for the employer not earlier than January 1, 1979.

(B) MEMBER OF NEWLY TARGETED GROUP DEFINED.—For purposes of subparagraph (A), an individual is a member of a newly targeted group if—

(i) such individual meets the requirements of subparagraph (A), (C), (D), (E), (F), or (G) of section 51(d)(1) of such Code, and

(ii) in the case of an individual meeting the requirements of subparagraph (A) of such section 51(d)(1), a credit was not claimed for such individual by the taxpayer for a taxable year beginning before January 1, 1979.

(3) TRANSITIONAL RULE.—In the case of a taxable year which begins in 1978 and ends after December 31, 1978, the amount of the credit allowable by section 44B of the Internal Revenue Code of 1954 (determined without regard to section 53 of such Code) shall be the sum of—

(A) the amount of the credit which would be so allowable without regard to the amendments made by this section, plus

(B) the amount which would be so allowable by reason of the amendments made by this section.

(4) SUBSECTION (c)(2).—The amendments made by subsection (c)(2) shall apply to taxable years beginning after December 31, 1978.

SEC. 322. WORK INCENTIVE PROGRAM CREDIT CHANGES.

(a) CHANGES IN AMOUNT OF CREDIT.—Section 50A(a) (relating to amount of credit) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to the sum of—

"(A) 50 percent of the first-year work incentive program expenses, and

"(B) 25 percent of the second-year work incentive program expenses.

"(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the amount of the credit allowed by section 40 for the taxable year shall not exceed the liability for tax for the taxable year."

(b) CHANGES IN LIMITATIONS.—Subsection (a) of section 50A is amended by striking out paragraphs (4), (5), and (6) and by inserting immediately after paragraph (3) the following new paragraph:

"(4) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—

"(A) IN GENERAL.—In the case of any work incentive program expenses paid or incurred by the taxpayer during the taxable year to eligible employees whose services are not performed in connection with a trade or business of the taxpayer—

"(i) paragraph (1)(A) shall be applied by substituting 35 percent for 50 percent,

"(ii) subparagraph (B) of paragraph (1) shall not apply, and

"(iii) the aggregate amount of such work incentive program expenses which may be taken into account under paragraph (1) for such taxable year may not exceed $12,000.

"(B) DEPENDENT CARE CREDIT MAY NOT BE CLAIMED.—No credit shall be allowed under section 44A with respect to any amounts paid or incurred by the taxpayer with respect to which the taxpayer is allowed a credit under section 40.

"(C) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, subparagraph (A) shall be applied by substituting $6,000 and $12,000. The preceding sentence shall not apply if the spouse of the taxpayer has no work incentive program expenses described in such subparagraph for the taxable year."

(c) REPEAL OF PROVISIONS PERMITTING RECOVERY OF CREDIT.—Section 50A is amended by striking out subsections (c) and (d).

(d) CHANGES IN DEFINITIONS AND SPECIAL RULES.—

(1) Subsection (a) of section 50B (relating to work incentive program expenses) is amended to read as follows:

"(a) WORK INCENTIVE PROGRAM EXPENSES.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'work incentive program expenses' means the amount of wages paid or incurred by the taxpayer for services rendered by eligible employees.

"(2) FIRST-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'first-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day the eligible employee begins work for the taxpayer.

"(3) SECOND-YEAR WORK INCENTIVE PROGRAM EXPENSES.—The term 'second-year work incentive program expenses' means, with respect to any eligible employee, work incentive program expenses attributable to service rendered during the one-year period which begins on the day after the last day of the one-year period described in paragraph (2).

"(4) LIMITATION ON AMOUNT OF WORK INCENTIVE PROGRAM EXPENSES.—The amount of the work incentive program expenses taken into account with respect to any eligible employee for any one-year period described in paragraph (2) or (3) (as the case may be) shall not exceed $6,000."

(2) Subsection (c) of section 50B is amended by striking out paragraphs (1) and (4) and by redesignating paragraphs (2), (3), and (5) as paragraphs (1), (2), and (3), respectively.

(3) Subsection (e) of section 50B (relating to estates and trusts) is amended—

(A) by inserting "and" at the end of paragraph (1),

(B) by striking out ", and" at the end of paragraph (2) and inserting in lieu thereof a period, and

(C) by striking out paragraph (3).

(4) Section 50B is amended by redesignating subsections (g) and (h) as subsections (h) and (i), respectively, and by inserting after subsection (f) the following new subsection:

"(g) SPECIAL RULES FOR CONTROLLED GROUPS.—

"(1) CONTROLLED GROUP OF CORPORATIONS.—For purposes of this subpart, all employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single employer. In any such case, the credit (if any) allowable by section 40 to each such member shall be its proportionate share of the work incentive program expenses giving rise to such credit. For purposes of this subsection, the term 'controlled group of corporations' has the meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(2) EMPLOYEES OF PARTNERSHIPS, PROPRIETORSHIPS, ETC., WHICH ARE UNDER COMMON CONTROL.—For purposes of this subpart, under regulations prescribed by the Secretary—

"(A) all employees of trades or business (whether or not incorporated) which are under common control shall be treated as employed by a single employer, and

"(B) the credit (if any) allowable by section 40 with respect to each trade or business shall be its proportionate share of the work incentive programs expenses giving rise to such credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles which apply in the case of paragraph (1).".

(5) Paragraph (1) of subsection (h) (as redesignated by paragraph (4)) of section 50B (relating to eligible employee) is amended to read as follows:

"(1) ELIGIBLE EMPLOYEE.—For purposes of this subpart the term 'eligible employee' means an individual—

"(A) who has been certified by the Secretary of Labor or by the appropriate agency of State or local government as—

"(i) being eligible for financial assistance under part A of title IV of the Social Security Act and as having continually received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the employer, or

"(ii) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act,

"(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

"(C) who has not displaced any other individual from employment by the taxpayer, and

"(D) who is not a migrant worker.

The term 'eligible employee' includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.".

(d) DEDUCTION FOR WAGES REDUCED BY AMOUNT OF CREDIT.—

(1) Section 280C (relating to portion of wages for which credit is claimed under section 44B) is amended—

(A) by striking out "SECTION 44B" in the caption and inserting in lieu thereof "SECTION 40 OR 44B",

(B) by inserting "(b) RULE FOR SECTION 44B CREDIT.—" immediately before "No deduction",

(C) by striking out "this section shall be applied" and inserting in lieu thereof "this subsection shall be applied" in the second sentence, and

(D) by inserting immediately after the caption of such section the following new subsection:

"(a) RULE FOR SECTION 40 CREDIT.—No deduction shall be allowed for that portion of the work incentive program expenses paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under section 40 (relating to credit for expenses of work incentive programs) determined without regard to the provisions of section 50A(a)(2) (relating to limitation based on amount of tax). In the case of a corporation which is a member of a controlled group of corporations (within the meaning of section 50B(g)(1)) or a trade or business which is treated as being under common control with other trades or businesses (within the meaning of section 50B(g)(2), this subsection shall be applied under rules prescribed by the Secretary similar to the rules applicable under paragraphs (1) and (2) of section 50B(g).".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to work incentive program expenses paid or incurred after December 31, 1978, in taxable years ending after such date; except that so much of the amendment made by subsection (a) as affects section 50A(a)(2) of the Internal Revenue Code of 1954 shall apply to taxable years beginning after December 31, 1978.

(2) SPECIAL RULES FOR CERTAIN ELIGIBLE EMPLOYEES.—

(A) ELIGIBLE EMPLOYEES HIRED BEFORE SEPTEMBER 27, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired before September 27, 1978, no credit shall be allowed under section 40 with respect to second-year work incentive program expenses (as defined in section 50B(a)) attributable to service performed by such employee.

(B) ELIGIBLE EMPLOYEES HIRED AFTER SEPTEMBER 26, 1978.—In the case of any eligible employee (as defined in section 50B(h)) hired after September 27, 1978, such individual shall be treated for purposes of the credit allowed by section 40 as having first begun work for the taxpayer not earlier than January 1, 1979.

Subtitle D—Tax-Exempt Bonds

PART I—INDUSTRIAL DEVELOPMENT BONDS

SEC. 331. INCREASE IN LIMIT ON SMALL ISSUES OF INDUSTRIAL DEVELOPMENT BONDS.

(a) GENERAL RULE.—Subparagraph (D) of section 103(b)(6) (relating to $5,000,000 limit in certain cases) is amended by striking out "$5,000,000" in the heading and in the text and inserting in lieu thereof "$10,000,000".

(b) TREATMENT OF CERTAIN URBAN DEVELOPMENT ACTION GRANTS.—Paragraph (6) of section 103(b) (relating to exemption for certain small issues) is amended by adding at the end thereof the following new subparagraph:

"(I) AGGREGATE AMOUNT OF CAPITAL EXPENDITURES WHERE THERE IS URBAN DEVELOPMENT ACTION GRANT.—In the case of any issue substantially all of the proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (D)(ii)."

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall apply to—

(A) obligations issued after December 31, 1978, in taxable years ending after such date, and

(B) capital expenditures made after December 31, 1978, with respect to obligations issued before January 1, 1979.

(2) The amendment made by subsection (b) shall apply to—

(A) obligations issued after September 30, 1979, in taxable years ending after such date, and

(B) capital expenditures made after September 30, 1979, with respect to obligations issued after such date.

SEC. 332. LOCAL FURNISHING OF ELECTRIC ENERGY.

(a) IN GENERAL.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (E) the local furnishing of electric energy from a facility shall include furnishing solely within the area consisting of a city and 1 contiguous county."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after April 30, 1968, but only with respect to obligations issued after such date.

SEC. 333. INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES.

(a) IN GENERAL.—Subparagraph (G) of section 103(b)(4) (relating to industrial development bonds) is amended to read as follows:

"(G) facilities for the furnishing of water for any purpose if—

"(i) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

"(ii) either the facilities are operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act in taxable years ending after such date.

PART II—OTHER TAX-EXEMPT BOND PROVISIONS

SEC. 336. DECLARATORY JUDGEMENT PROCEDURE FOR JUDICIAL REVIEW OF DETERMINATIONS RELATING TO GOVERNMENTAL OBLIGATIONS.

(a) IN GENERAL.—Part IV of subchapter C of chapter 76 (relating to declaratory judgments) is amended by adding at the end thereof the following new section:

"SEC. 7478. DECLARATORY JUDGMENTS RELATING TO STATUS OF CERTAIN GOVERNMENTAL OBLIGATIONS.

"(a) CREATION OF REMEDY.—In a case of actual controversy involving—

"(1) a determination by the Secretary whether prospective obligations are described in section 103(a), or

"(2) a failure by the Secretary to make a determination with respect to any matter referred to in paragraph (1),

upon the filing of an appropriate pleading, the Tax Court may make a declaration whether such prospective obligations are described in section 103(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(b) LIMITATIONS.—

"(1) PETITIONER.—A pleading may be filed under this section only by the prospective issuer.

"(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies with respect to a failure of the Secretary to make a determination with respect to an issue of obligations at the expiration of 180 days after the date on which the request for such determination was made if the petitioner has taken, in a timely manner, all reasonable steps to secure such determination.

"(3) TIME FOR BRINGING ACTION.—If the Secretary sends by certified or registered mail notice of his determination as described in subsection (a)(1) to the petitioner, no proceeding may be initiated under this section unless the pleading is filed before the 91st day after the date of such mailing."

(b) AUTHORITY OF TAX COURT TO ASSIGN PROCEEDINGS TO COMMISSIONERS.—

(1) IN GENERAL.—Subsection (c) of section 7456 (relating to commissioners of the Tax Court) is amended by adding at the end thereof the following new sentence: "The chief judge may assign proceedings under sections 7428, 7476, 7477, and 7478 to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to such proceedings, subject to such conditions and review as the court may by rule provide."

(2) TECHNICAL AMENDMENTS.—

(A) Section 7476 is amended by striking out subsection (c) and by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(B) Section 7477 is amended by striking out subsection (c).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 7482(b) (relating to venue for appeal of decision of Tax Court) is amended—

(A) by striking out "provided in paragraph (2)" in paragraph (1) and inserting in lieu thereof "provided in paragraphs (2) and (3)", and

(B) by adding at the end thereof the following new paragraph:

"(3) DECLARATORY JUDGMENT ACTIONS RELATING TO STATUS OF CERTAIN GOVERNMENTAL OBLIGATIONS.—In the case of any decision of the Tax Court in a proceeding under section 7478, such decision may only be reviewed by the Court of Appeals for the District of Columbia."

(2) The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Sec. 7478. Declaratory judgments relating to status of certain governmental obligations."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to requests for determinations made after December 31, 1978.

SEC. 337. DISPOSITION OF AMOUNTS GENERATED BY ADVANCE REFUNDING OF CERTAIN GOVERNMENTAL OBLIGATIONS.

(a) GENERAL RULE.—The payment to a charitable organization of a refund profit held in a trust fund or escrow arrangement, or held by an underwriter or other person under a qualified agreement in accordance with that agreement—

(1) shall not cause the refunding obligations out of which the refund profit arose to be treated as arbitrage bonds (within the meaning of section 103(c) of the Internal Revenue Code of 1954) and

(2) may be paid without penalty imposed on the issuer of such obligations.

(b) RULE FOR GOVERNMENTS WHICH HAVE ALREADY PAID ARBITRAGE PROFITS TO THE UNITED STATES.—In the case of a State or local government which, before January 1, 1977—

(1) requested in writing a ruling by the Internal Revenue Service with respect to the tax consequences of paying refund profit to charitable organizations,

(2) failed to receive a favorable ruling and did not pay the refund profit to a charitable organization, and

which accounted to the United States for refund profit by direct payment to the United States, or by the purchase of low-interest United States obligations, the Secretary of the Treasury shall pay, out of any amounts in the Treasury not otherwise appropriated, an amount equal to the refund profit for which the State or local government has accounted to the United States. Amounts paid to a State or local government under this subsection shall be distributed to such charitable organizations within 90 days after the date on which the payment is received by the State or local government in the same manner as if the refund profit had not been paid to the United States and met the requirements of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) REFUND PROFIT.—The term "refund profit" means interest, profit, or other amounts generated by, or arising out of, the advance refunding, before September 24, 1976, of an obligation of a State or local government described in section 103 of such Code.

(2) CHARITABLE ORGANIZATION.—The term "charitable organization" means an organiza-

tion described in section 501(c)(3) of such Code and exempt from taxation under section 501(a) of such Code other than an organization described in section 509(a) of such Code.

(3) QUALIFIED AGREEMENT.—The term "qualified agreement" means an agreement (whether or not enforceable) which provides for, or contemplates, the payment of refund profit to one or more charitable organizations.

(4) LOW-INTEREST UNITED STATES OBLIGATIONS.—The term "low-interest United States obligations" means United States obligations which bear an interest rate lower than the highest rate of interest borne by public debt securities generally available for purchase at the time such obligations were purchased.

Subtitle E—Small Business Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S

SEC. 341. SUBCHAPTER S CORPORATIONS ALLOWED 15 SHAREHOLDERS.

(a) GENERAL RULE.—Paragraph (1) of section 1371(a) (defining small business corporation) is amended to read as follows:

"(1) have more than 15 shareholders;".

(b) TECHNICAL AMENDMENTS.—

(1) Section 1371 is amended by striking out subsection (e) and by redesignating subsection (f) as subsection (e).

(2) Paragraph (2) of section 1371(a) is amended by striking out "subsection (f)" and inserting in lieu thereof "subsection (e)".

SEC. 342. PERMITTED SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS.

(a) HUSBAND AND WIFE TREATED AS ONE INDIVIDUAL.—Subsection (c) of section 1371 (relating to stock owned by husband and wife) is amended to read as follows:

"(c) STOCK OWNED BY HUSBAND AND WIFE.—For purposes of subsection (a)(1), a huband and wife (and their estates) shall be treated as one shareholder."

(b) GRANTOR OF GRANTOR TRUST TREATED AS THE SHAREHOLDER.—Subsection (e) of section 1371 (as redesignated by section 331(b)(1) of this Act) is amended by inserting after the first sentence the following new sentence: "In the case of a trust described in paragraph (1), the grantor shall be treated as the shareholder."

SEC. 343. EXTENSION OF PERIOD FOR MAKING SUBCHAPTER S ELECTIONS.

(a) GENERAL RULE.—Subsection (c) of section 1372 (relating to when and how subchapter S election may be made) is amended to read as follows:

"(c) WHEN AND HOW MADE.—

"(1) IN GENERAL.—An election under subsection (a) may be made by a small business corporation for any taxable year—

"(A) at any time during the preceding taxable year, or

"(B) at any time during the first 75 days of the taxable year.

"(2) TREATMENT OF CERTAIN LATE ELECTIONS.—If—

"(A) a small business corporation makes an election under subsection (a) for any taxable year, and

"(B) such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year,

then such election shall be treated as made for the following taxable year.

"(3) MANNER OF MAKING ELECTION.—An election under subsection (a) shall be made in such manner as the Secretary shall prescribe by regulations."

(b) TECHNICAL AMENDMENTS.—

(1) The second sentence of section 1372(a) is amended to read as follows: "Such election shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election."

(2) Subparagraph (A) of section 1372(e)(1) is amended to read as follows:

"(A) An election under subsection (a) made by a small business corporation shall terminate if any person who was not a shareholder in such corporation on the day on which the election is made becomes a shareholder in such corporation and affirmatively refuses (in such manner as the Secretary may by regulations prescribe) to consent to such election on or before the 60th day after the day on which he acquires the stock."

(3) Subparagraph (C) of section 1372(e)(1) is amended by inserting "(or, if later, the first taxable year for which such election would otherwise have been effective)" after "in the corporation".

SEC. 344. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1978.

PART II—OTHER PROVISIONS

SEC. 345. SMALL BUSINESS CORPORATION STOCK.

(a) INCREASE TO $1,000,000 AMOUNT OF STOCK POTENTIALLY SUBJECT TO ORDINARY LOSS TREATMENT; REMOVAL OF EQUITY CAPITAL TEST.—Subsection (c) of section 1244 (relating to losses on small business stock) is amended by striking out paragraph (2) and inserting in lieu thereof the following:

"(3) SMALL BUSINESS CORPORATION DEFINED.—

"(A) IN GENERAL.—For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed $1,000,000. The determination under the preceding sentence shall be made as the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

"(B) AMOUNT TAKEN INTO ACCOUNT WITH RESPECT TO PROPERTY.—For purposes of subparagraph (A), the amount taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation."

(b) INCREASE IN MAXIMUM AMOUNT TREATED AS ORDINARY LOSS FOR ANY TAXABLE YEAR.—Subsection)b) of section 1244 is amended—

(1) by striking out "$25,000" in paragraph (1) and inserting in lieu thereof "$50,000", and

(2) by striking out "$50,000" in paragraph (2) and inserting in lieu thereof "$100,000".

(c) REMOVAL OF REQUIREMENT THAT STOCK ISSUANCE BE PURSUANT TO PLAN.—Subsection (c) of section 1244 (defining section 1244 stock) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—For purposes of this section, the term 'section 1244 stock' means common stock in a domestic corporation if—

"(A) at the time such stock is issued, such corporation was a small business corporation,

"(B) such stock was issued by such corporation for money or other property (other than stock and securities), and

"(C) such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

"(1) RULES FOR APPLICATION OF PARAGRAPH (1)(c).—

"(A) PERIOD TAKEN INTO ACCOUNT WITH RESPECT TO NEW CORPORATIONS.—For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

"(i) the period of the corporation's taxable years ending before such date, or

"(ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

"(B) GROSS RECEIPTS FROM SALES OF SECURITIES.—For purposes of paragraph (1)(C), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.

"(C) NONAPPLICATION WHERE DEDUCTIONS EXCEED GROSS INCOME.—Paragraph (1)(C) shall not apply with respect to any corporation if, for the period taken into account for purposes of paragraph (1)(C), the amount of the deductions allowed by this chapter (other than by sections 172, 243, 244, and 245) exceeds the amount of gross income."

(d) TECHNICAL AMENDMENTS.—Paragraph (2) of section 1244(d) (relating to special rules) is amended—

(1) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (C)", and

(2) by striking out "paragraphs (1)(E) and (2)(A)" and inserting in lieu thereof "paragraphs (1)(C) and (3)(A)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

Subtitle F—Accounting Provisions

SEC. 351. TREATMENT OF CERTAIN CLOSELY HELD FARM CORPORATIONS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by adding at the end thereof the following new subsection:

"(h) EXCEPTION FOR CERTAIN CLOSELY HELD CORPORATIONS.—

"(1) IN GENERAL.—This section shall not apply to any corporation if, on October 4, 1976, and at all times thereafter—

"(A) members of 2 families within the meaning of subsection (d)(1) have owned (directly or through the application of subsection (d)) at least 65 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 65 percent of the total number of shares of all other classes of stock of such corporation; or

"(B)(i) members of 3 families (within the meaning of subsection (d)(1)) have owned (directly or through the application of subsection (d)) at least 50 percent of the total combined voting power of all classes of stock of such corporation entitled to vote, and at least 50 percent of the total number of shares of all other classes of stock of such corporation; and

"(ii) substantially all of the stock of such corporation which is not so owned (directly or through the application of subsection (d) by members of such 3 families is owned directly—

"(I) by employees of the corporation or members of their families (within the meaning of section 267(c)(4)), or

"(II) by a trust for the benefit of the employees of such corporation which is described in section 401(a) and which is exempt from taxation under section 501(a).

"(2) STOCK HELD BY EMPLOYEES, ETC.—For purposes of this subsection, stock which—

"(A) is owned directly by employees of the corporation or members of their families (within the meaning of section 267(c)(4)) or by a trust described in paragraph (1)(B)(ii)(II), and

"(B) was acquired on or after October 4, 1976, from the corporation or from a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) of paragraph (1),

shall be treated as owned by a member of a family which, on October 4, 1976, was described in subparagraph (A) or (B)(i) paragraph (1).

"(3) CORPORATION MUST BE ENGAGED IN FARMING.—This subsection shall apply only in the case of a corporation which was, on October 4, 1976, and at all times thereafter, engaged in the trade or business of farming."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1977.

SEC. 352. ACCOUNTING FOR GROWING CROPS.

(a) APPLICATION OF SECTION.—This section shall apply to a taxpayer who—

(1) is a farmer, nurseryman, or florist,

(2) is on an accrual method of accounting, and

(3) is not required by section 447 of the Internal Revenue Code of 1954 to capitalize preproductive period expenses.

(b) TAXPAYER MAY NOT BE REQUIRED TO INVENTORY GROWING CROPS.—A taxpayer to whom this section applies may not be required to inventory growing crops for any taxable year beginning after December 31, 1977.

(c) TAXPAYER MAY ELECT TO CHANGE TO CASH METHOD.—A taxpayer to whom this section applies may, for any taxable year beginning after December 31, 1977, and before January 1, 1981, change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops.

(d) SECTION 481 OF CODE TO APPLY.—Any change in the way which a taxpayer accounts for the costs of growing crops resulting from the application of subsection (b) or (c)—

(1) shall not require the consent of the Secretary of the Treasury or his delegate, and

(2) shall be treated, for purposes of section 481 of the Internal Revenue Code of 1954, as a change in the method of accounting initiated by the taxpayer.

(e) GROWING CROPS.—For purposes of this section, the term "growing crops" does not include trees grown for lumber, pulp, or other nonlife purposes.

SEC. 353. TREATMENT OF CERTAIN FARMS FOR PURPOSES OF RULE REQUIRING ACCRUAL ACCOUNTING.

(a) GENERAL RULE.—Section 447 (relating to method of accounting for corporations engaged in farming) is amended by striking out "nursery" in subsection (a) thereof and adding in lieu thereof "nursery or sod farm".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1976.

Subtitle G—Other Business Provisions

SEC. 361. DISALLOWANCE OF CERTAIN DEDUCTIONS FOR YACHTS, HUNTING LODGES, ETC.

(a) EXTENSION OF RULE DISALLOWING DEDUCTIONS FOR FACILITIES.—So much of paragraph (1) of section 274(a) (relating to disallowance of certain entertainment, etc., expenses) as follows subparagraph (A) is amended to read as follows:

"(B) FACILITY.—With respect to a facility used in connection with an activity referred to in subparagraph (A).

In the case of an item described in subparagraph (A), the deduction shall in no event exceed the portion of such item which meets the requirements of subparagraph (A).".

(b) COUNTRY CLUBS.—Paragraph (2) of section 274(a) (relating to special rules) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of a country club, paragraph (1)(B) shall apply unless the taxpayer establishes that the facility was used primarily for the furtherance of the taxpayer's trade or business and that the item was directly related to the active conduct of such trade or business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to items paid or incurred after December 31, 1978, in taxable years ending after such date.

SEC. 362. DEFICIENCY DIVIDEND PROCEDURE FOR REGULATED INVESTMENT COMPANIES.

(a) GENERAL RULE.—Subchapter M of chapter 1 (relating to regulated investment companies and real estate investment trusts) is amended by adding at the end thereof the following new part:

"PART III—PROVISIONS WHICH APPLY TO BOTH REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

"SEC. 860. DEDUCTION FOR DEFICIENCY DIVIDENDS.

"(a) GENERAL RULE.—If a determination with respect to any qualified investment entity results in any adjustment for any taxable year, a deduction shall be allowed to such entity for the amount of deficiency dividends for purposes of determining the deduction for dividends paid (for purposes of section 852 or 857, whichever applies) for such year.

"(b) QUALIFIED INVESTMENT ENTITY DEFINED.—For purposes of this section, the term 'qualified investment entity' means—

"(1) a regulated investment company, and

"(2) a real estate investment trust.

"(c) RULES FOR APPLICATION OF SECTION.—

"(1) INTEREST AND ADDITIONS TO TAX DETERMINED WITH RESPECT TO THE AMOUNT OF DEFICIENCY DIVIDEND DEDUCTION ALLOWED.—For purposes of determining interest, additions to tax, and additional amounts—

"(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the qualified investment entity for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

"(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(b)) for the taxable year with respect to which the determination is made, and

"(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

"(2) CREDIT OR REFUND.—If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

"(d) ADJUSTMENT.—For purposes of this section—

"(1) ADJUSTMENT IN THE CASE OF REGULATED INVESTMENT COMPANY.—In the case of any regulated investment company, the term 'adjustment' means—

"(A) any increase in the investment company taxable income of the regulated investment company (determined without regard to the deduction for dividends paid (as defined in section 561)),

"(B) any increase in the amount of the excess described in section 852(b)(3)(A) (relating to the excess of the net capital gain over the deduction for capital gain dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(2) ADJUSTMENT IN THE CASE OF REAL ESTATE INVESTMENT TRUST.—In the case of any real estate investment trust, the term 'adjustment' means—

"(A) any increase in the sum of—

"(i) the real estate investment trust taxable income of the real estate investment trust (determined without regard to the deduction for dividends paid (as defined in section 561) and by excluding any net capital gain), and

"(ii) the excess of the net income from foreclosure property (as defined in section 857(b)(4)(B)) over the tax on such income imposed by section 857(b)(4)(A),

"(B) any increase in the amount of the excess described in section 857(b)(3)(A)(ii) (relating to the excess of the net capital gain over the deduction for capital gains dividends paid), and

"(C) any decrease in the deduction for dividends paid (as defined in section 561) determined without regard to capital gains dividends.

"(e) DETERMINATION.—For purposes of this section, the term 'determination' means—

"(1) a decision by the Tax Court, or a judgment, decree, or other order by any court of competent jurisdiction, which has become final;

"(2) a closing agreement made under section 7121; or

"(3) under regulations prescribed by the Secretary, an agreement signed by the Secretary and by, or on behalf of, the qualified investment entity relating to the liability of such entity for tax.

"(f) DEFICIENCY DIVIDENDS.—

"(1) DEFINITION.—For purposes of this section, the term 'deficiency dividends' means a distribution of property made by the qualified investment entity on or after the date of the determination and before filing claim under subsection (g), which would have been includible in the computation of the deduction for dividends paid under section 561 for the taxable year with respect to which the liability for tax resulting from the determination exists if distributed during such taxable year. No distribution of property shall be considered as deficiency dividends for purposes of subsection (a) unless distributed within 90 days after the determination, and unless a claim for a deficiency dividend deduction with respect to such distribution is filed pursuant to subsection (g).

"(2) LIMITATIONS.—

"(A) ORDINARY DIVIDENDS.—The amount of deficiency dividends (other than deficiency dividends qualifying as capital gain dividends) paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the sum of—

"(i) the excess of the amount of increase referred to in subparagraph (A) of paragraph (1) or (2) of subsection (d) (whichever applies) over the amount of any increase in the deduction for dividends paid computed without regard to capital gain dividends) for such taxable year which results from such determination, and

"(ii) the amount of decrease referred to in subparagraph (C) of paragraph (1) or (2) of subsection (d) (whichever applies).

"(B) CAPITAL GAIN DIVIDENDS.—The amount of deficiency dividends qualifying as capital gain dividends paid by a qualified investment entity for the taxable year with respect to which the liability for tax resulting from the determination exists shall not exceed the amount by which (i) the increase referred to in subparagraph (B) of paragraph (1) or (2) of subsection (d) (whichever applies), exceeds (ii) the amount of any dividends paid during such taxable year which are

designated as capital gain dividends after such determination.

"(3) EFFECT ON DIVIDENDS PAID DEDUCTION.—

"(A) FOR TAXABLE YEAR IN WHICH PAID.—Deficiency dividends paid in any taxable year shall not be included in the amount of dividends paid for such year for purposes of computing the dividends paid deduction for such year.

"(B) FOR PRIOR TAXABLE YEAR.—Deficiency dividends paid in any taxable year shall not be allowed for purposes of section 855(a) or 858(a) in the computation of the dividends paid deduction for the taxable year preceding the taxable year in which paid.

"(g) CLAIM REQUIRED.—No deficiency deduction shall be allowed under subsection (a) unless (under regulations prescribed by the Secretary) claim therefor is filed within 120 days after the date of the determination.

"(h) SUSPENSION OF STATUE OF LIMITATIONS AND STAY OF COLLECTION.—

"(1) SUSPENSION OF RUNNING OF STATUTE.—If the qualified investment entity files a claim as provided in subsection (g), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

"(2) STAY OF COLLECTION.—In the case of any deficiency established by a determination under this section—

"(A) the collection of the deficiency, and all interest, additions to tax, additonal amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

"(B) if claim for a deficiency dividend deduction is filed under subsection (g), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

"(i) DEDUCTION DENIED IN CASE OF FRAUD.—No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

"(j) PENALTY.—

"For assessable penalty with respect to liability for tax of a qualified investment entity which is allowed a deduction under subsection (a), see section 6697.".

(b) ASSESSABLE PENALTIES.—Section 6697 (relating to assessable penalties with respect to liability for tax of real estate investment trusts) is amended to read as follows:

"SEC. 6697. ASSESSABLE PENALTIES WITH RESPECT TO LIABILITY FOR TAX OF QUALIFIED INVESTMENT ENTITIES.

"(a) CIVIL PENALTY.—In addition to any other penalty provided by law, any qualified investment entity (as defined in section 860(b)) whose tax liability for any taxable year is deemed to be increased pursuant to section 860(c)(1)(A) (relating to interest and additions to tax determined with respect to the amount of the deduction for deficiency dividends allowed) shall pay a penalty in an amount equal to the amount of interest (for which such entity is liable) which is attributable solely to such increase.

"(b) 50-PERCENT LIMITATION.—The penalty payable under this section with respect to any determination shall not exceed one-half of the amount of the deduction allowed by section 860(a) for such taxable year.

"(c) DEFICIENCY PROCEDURE NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedure for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a)."

(c) LATE DESIGNATION AND PAYMENT OF CAPITAL GAIN DIVIDEND.—The first sentence of subparagraph (C) of section 852(b)(3) (defining capital gain dividend) is amended by inserting before the period at the end thereof the following: "; except that, if there is an increase in the excess described in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 860(e)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 316(b) (relating to deficiency dividend distributions by a real estate investment trust) is amended—

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)", and

(B) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(2) Paragraph (25) of section 381(c) is amended—

(A) by striking out "section 859(d)" and inserting in lieu thereof "section 860(f)",

(B) by striking out "section 859" and inserting in lieu thereof "section 860", and

(C) by striking out "REAL ESTATE INVESTMENT TRUST" in the paragraph heading and inserting in lieu thereof "REGULATED INVESTMENT COMPANY OR REAL ESTATE INVESTMENT TRUST".

(3) Subparagraph (C) of section 857(b)(3) is amended by striking out "section 859(c)" and inserting in lieu thereof "section 860(e)".

(4) Sections 6422(14) and 6515(5) are each amended—

(A) by inserting "regulated investment company or" before "real estate investment trust", and

(B) by striking out "859" and inserting in lieu thereof "860".

(5) Paragraph (5) of section 6503(i) is amended to read as follows:

"(5) Deficiency dividends in the case of a regulated investment company or a real estate investment trust, see section 860(h)."

(6) Part II of subchapter M of chapter 1 is amended by striking out section 859 and redesignating section 860 as section 859.

(7) The table of sections for part II of subchapter M of chapter 1 is amended by striking out the items relating to sections 859 and 860 and inserting in lieu thereof the following:

"Sec. 859. Adoption of annual accounting period."

(8) The table of parts of subchapter M of chapter 1 is amended by adding at the end thereof the following new item:

"Part III. Provisions which apply to both regulated investment companies and real estate investment trusts."

(9) The table of sections for subchapter B of chapter 68 is amended by striking out the item relating to section 6697 and inserting in lieu thereof the following:

"Sec. 6697. Assessable penalties with respect to liability for tax of qualified investment entities."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations (as defined in section 860(d) of the Internal Revenue Code of 1954) after the date of the enactment of this Act.

SEC. 363. REAL ESTATE INVESTMENT TRUST PROVISIONS.

(a) LIMITATIONS.—

(1) Section 856(c)(2) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

(2) Section 856(c)(3) (relating to limitations) is amended by striking out the word "and" at the end of subparagraph (F), by inserting the word "and" at the end of subparagraph (G), and by adding the following new subparagraph at the end thereof:

"(H) gain from the sale or other disposition of a real estate asset which is not a prohibited transaction solely by reason of section 857(b)(6);".

(3) Subparagraph (B) of section 856(c)(4) (relating to limitations) is amended to read as follows:

"(B) property in a transaction which is a prohibited transaction; and".

(b) PROHIBITED TRANSACTIONS.—Paragraph (6) of section 857(b) (relating to income from prohibited transactions) is amended by adding the following subparagraphs at the end thereof:

"(C) CERTAIN SALES NOT TO CONSTITUTE PROHIBITED TRANSACTIONS.—For purposes of this part, the term 'prohibited transaction' does not include a sale of property which is a real estate asset as defined in section 856(c)(6)(B) if—

"(i) the trust has held the property for not less than 4 years;

"(ii) aggregate expenditures made by the trust, or any partner of the trust, during the 4-year period preceding the date of sale which are includible in the basis of the property do not exceed 20 percent of the net selling price of the property;

"(iii) during the taxable year the trust does not make more than 5 sales of property (other than foreclosure property); and

"(iv) in the case of property, which consists of land or improvements, not acquired through foreclosure (or deed in lieu of foreclosure), or lease termination, the trust has held the property for not less than 4 years for production of rental income.

"(D) SPECIAL RULES.—In applying subparagraph (C) the following special rules apply:

"(i) The holding period of property acquired through foreclosure (or deed in lieu of foreclosure), or termination of the lease, includes the period for which the trust held the loan which such property secured, or the lease of such property.

"(ii) In the case of a property acquired through foreclosure (or deed in lieu of foreclosure), or termination of a lease, expenditures made by, or for the account of, the mortgagor or lessee after default became imminent will be regarded as made by the trust.

"(iii) Expenditures (including expenditures regarded as made directly by the trust, or indirectly by any partner of the trust, under clause (ii)) will not be taken into account if they relate to foreclosure property and did not cause the property to lose its status as foreclosure property.

"(iv) Expenditures will not be taken into account if they are made solely to comply with standards or requirements of any gov-

ernment or governmental authority having relevant jurisdiction, or if they are made to restore the property as a result of losses arising from fire, storm or other casualty.

"(v) The term 'expenditures' does not include advances on a loan made by the trust.

"(vi) The sale of more than one property to one buyer as part of one transaction constitutes one sale.

"(vii) The term 'sale' does not include any transaction in which the net selling price is less than $10,000.

"(E) SALES NOT MEETING REQUIREMENTS.—In determining whether or not any sale constitutes a 'prohibited transaction' for purposes of subparagraph (A), the fact that such sale does not meet the requirements of subparagraph (C) of this paragraph shall not be taken into account; and such determination, in the case of a sale not meeting such requirements, shall be made as if subparagraphs (C) and (D) had not been enacted."

(c) EXTENSIONS.—Paragraph (3) of section 856(e) (relating to extensions) is amended to read as follows:

"(3) EXTENSIONS.—If the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period is necessary for the orderly liquidation of the trust's interests in such property, the Secretary may grant one or more extensions of the grace period for such property. Any such extension shall not extend the grace period beyond the date which is 6 years after the date of such trust acquired such property."

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after the date of the enactment of this Act. The amendment made by subsection (c) shall apply to extensions granted after the date of the enactment of this Act with respect to periods beginning after December 31, 1977.

SEC. 364. CONTRIBUTIONS IN AID OF CONSTRUCTION.

(a) IN GENERAL.—Section 118(b) (relating to contributions in aid of construction) is amended—

(1) by striking out "water" in the portion of paragraph (1) preceding subparagraph (A) thereof and inserting in lieu thereof "electric energy, gas (through a local distribution system or transportation by pipeline), water,";

(2) by striking out "water" in paragraph (1)(B) and inserting in lieu thereof "electric energy, gas, steam, water,";

(3) by striking out "water" in paragraph (2)(A)(ii) and by inserting in lieu thereof "electric energy, gas, steam, water,";

(4) by striking out "property" in paragraph (3)(A) and by inserting in lieu thereof "line" and by striking out "a main water or sewer line" in paragraph (3)(A) and by inserting in lieu thereof "an electric line, a gas main, a steam line, or a main water or sewer line"; and

(5) by amending paragraph (3)(C) to read as follows:

"(C) REGULATED PUBLIC UTILITY.—The term 'regulated public utility' has the meaning given such term by section 7701(a)(33); except that such term shall not include any such utility which is not required to provide electric energy, gas, water, or sewerage disposal services to members of the general public (including in the case of a gas transmission utility, the provision of gas services by sale for resale to the general public) in its service area."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after January 31, 1976.

SEC. 365. LIABILITIES OF CONTROLLED CORPORATIONS.

(a) IN GENERAL.—Subsection (c) of section 357 (relating to assumption of liability) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN LIABILITIES EXCLUDED.—

"(A) IN GENERAL.—If—

"(i) the taxpayer's taxable income is computed under the cash receipts and disbursements method of accounting, and

"(ii) such taxpayer transfers, in an exchange to which section 351 applies, a liability which is either—

"(I) an account payable payment of which would give rise to a deduction, or

"(II) an amount payable which is described in section 736(a),

then, for purposes of paragraph (1), the amount of such liability shall be excluded in determining the amount of liabilities assumed or to which the property tranferred is subject.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any liability to the extent that the incurrence of the liability resulted in the creation of, or an increase in, the basis of any property."

(b) BASIS OF DISTRIBUTES.—Subsection (d) of section 358 (relating to basis to distributees) is amended to read as follows:

"(d) ASSUMPTION OF LIABILITY.—

"(1) IN GENERAL.—Where, as part of the consideration to the taxpayer, another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall, for purposes of this section, be treated as money received by the taxpayer on the exchange.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the amount of any liability excluded under section 357(c)(3)."

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to transfers occurring on or after the date of the enactment of this Act.

SEC. 366. MEDICAL EXPENSE REIMBURSEMENT PLANS.

(a) GENERAL RULE.—Section 105 (relating to accident and health plans) is amended by adding at the end thereof the following:

"(h) AMOUNT PAID TO HIGHLY COMPENSATED INDIVIDUALS UNDER A DISCRIMINATORY SELF-INSURED MEDICAL EXPENSE REIMBURSEMENT PLAN.—

"(1) IN GENERAL.—In the case of amounts paid to a highly compensated individual under a self-insured medical reimbursement plan which does not satisfy the requirements of paragraph (2) for a plan year, subsection (b) shall not apply to such amounts to the extent they constitute an excess reimbursement of such highly compensated individual.

"(2) PROHIBITION OF DISCRIMINATION.—A self-insured medical reimbursement plan satisfies the requirements of this paragraph only if—

"(A) the plan does not discriminate in favor of highly compensated individuals as to eligibility to participate; and

"(B) the benefits provided under the plan do not discriminate in favor of participants who are highly compensated individuals.

"(3) NONDISCRIMINATORY ELIGIBILITY CLASSIFICATIONS.—

"(A) IN GENERAL.—A self-insured medical reimbursement plan does not satisfy the requirements of subparagraph (A) of paragraph (2) unless such plan benefits—

"(i) 70 percent or more of all employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all employees are eligible to benefit under the plan; or

"(ii) such employees as qualify under a classification set up by the employer and found by the Secretary not to be discriminatory in favor of highly compensated participants.

"(B) EXCLUSION OF CERTAIN EMPLOYEES.—For purposes of subparagraph (A), there may be excluded from consideration—

"(i) employees who have not completed 3 years of service;

"(ii) employees who have not attained age 25;

"(iii) part-time or seasonal employees;

"(iv) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and one or more employers which the Secretary finds to be a collective bargaining agreement, if accident and health benefits were the subject of good faith bargaining between such employee representatives and such employer or employers; and

"(v) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(b)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

"(4) NONDISCRIMINATORY BENEFITS.—A self-insured medical reimbursement plan does not meet the requirements of subparagraph (B) of paragraph (2) unless all benefits provided for participants who are highly compensated individuals are provided for all other participants.

"(5) HIGHLY COMPENSATED INDIVIDUAL DEFINED.—For purposes of this subsection, the term 'highly compensated individual' means an individual who is—

"(A) one of the 5 highest paid officers,

"(B) a shareholder who owns (with the application of section 318) more than 10 percent in value of the stock of the employer, or

"(C) among the highest paid 25 percent of all employees (other than employees described in paragraph (3)(B) who are not participants).

"(6) SELF-INSURED MEDICAL REIMBURSEMENT PLAN.—The term 'self-insured medical reimbursement plan' means a plan of an employer to reimburse employees for expenses referred to in subsection (b) for which reimbursement is not provided under a policy of accident and health insurance.

"(7) EXCESS REIMBURSEMENT OF HIGHLY COMPENSATED INDIVIDUAL.—For purposes of this section, the excess reimbursement of a highly compensated individual which is attributable to a self-insured medical reimbursement plan is—

"(A) in the case of a benefit available to a highly compensated individual but not to a broad cross-section of employees, the amount reimbursed under the plan to the employee with respect to such benefit, and

"(B) in the case of benefits (other than benefits described in subparagraph (A) paid to a highly compensated individual by a plan which fails to satisfy the requirements of paragraph (2), the total amount reimbursed to the highly compensated individual for the plan year multiplied by a fraction—

"(i) the numerator of which is the total amount reimbursed to all participants who are highly compensated individuals under the plan year, and

"(ii) the denominator of which is the total amount reimbursed to all employees under the plan for such plan year.

In determining the fraction under subparagraph (B), there shall not be taken into account any reimbursement which is attributable to a benefit described in subparagraph (A).

"(8) CERTAIN CONTROLLED GROUPS.—All employees who are treated as employed by a single employer under subsection (b) or (c) of section 414 shall be treated as employed by a single employer for purposes of this section.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(10) TIME OF INCLUSION.—Any amount paid for a plan year that is included in income by reason of this subsection shall be treated as received or accrued in the taxable year of the participant in which the plan year ends."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1979.

SEC. 367. THREE-YEAR EXTENSION OF PROVISION FOR 60-MONTH DEPRECIATION OF EXPENDITURES TO REHABILITATE LOW-INCOME RENTAL HOUSING.

Subsection (k) of section 167 (relating to depreciation of expenditures to rehabilitate low-income rental housing) is amended by striking out "January 1, 1979" each place it appears and inserting in lieu thereof "January 1, 1982".

SEC. 368. DELAY IN APPLICATION OF NEW NET OPERATING LOSS RULES.

(a) IN GENERAL.—Except as provided in subsection (b), paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Code) are amended by striking out "1978" each place it appears and inserting in lieu thereof "1980".

(b) ELECTION OF PRIOR LAW.—

(1) A taxpayer may elect not to have the amendment made by subsection (a) apply with respect to any acquisition or reorganization occurring before the end of the taxpayer's first taxable year beginning after June 30, 1978, where such acquisition or reorganization occurs pursuant to a written binding contract or option to acquire stock or assets which was entered into before September 27, 1978.

(2) An election under this subsection shall be filed with a taxpayer's timely filed return for the first taxable year in which a reorganization or acquisition described in paragraph (1) occurs, or, if later, within 90 days after the date of enactment of this Act. Such election shall apply to all acquisitions and reorganizations to which, but for such election, subsection (a) would apply.

SEC. 369. USE OF CERTAIN EXPIRED NET OPERATING LOSS CARRYOVERS.

(a) IN GENERAL.—Clause (iv) of section 374(e)(1)(A) (relating to use of expired net operating loss carryovers to offset income arising from certain railroad reorganization proceedings) is amended to read as follows:

"(iv) a redemption of a certificate of value of the United States Railway Association issued under section 306 of such Act to such corporation (or issued to another member of the same affiliated group (within the meaning of section 1504) as such corporation for their taxable years which included March 31, 1967),".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after March 31, 1976.

SEC. 370. INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

(a) GENERAL RULE.—Section 861 (relating to income from sources within the United States) is amended by adding at the end thereof the following new subsection:

"(f) INCOME FROM CERTAIN RAILROAD ROLLING STOCK TREATED AS INCOME FROM SOURCES WITHIN THE UNITED STATES.

"(1) GENERAL RULE.—For purposes of subsection (a) and section 862(a), if—

"(A) a taxpayer leases railroad rolling stock which is section 38 property (or would be section 38 property but for section 48(a)(5)) to a domestic common carrier by railroad or a corporation which is controlled, directly or indirectly, by one or more such common carriers, and

"(B) the use under such lease is expected to be use within the United States,

all amounts includible in gross income by the taxpayer with respect to such railroad rolling stock (including gain from sale or other disposition of such railroad rolling stock) shall be treated as income from sources within the United States. The requirements of subparagraph (B) of the preceding sentence shall be treated as satisfied if the only expected use outside the United States is use by a person (whether or not a United States person) in Canada or Mexico on a temporary basis which is not expected to exceed a total of 90 days in any taxable year.

"(2) PARAGRAPH (1) NOT TO APPLY WHERE LESSOR IS A MEMBER OF CONTROLLED GROUP WHICH INCLUDES A RAILROAD.—Paragraph (1) shall not apply to a lease between two members of the same controlled group of corporations (as defined in section 1563) if any member of such group is a domestic common carrier by railroad or a switching or terminal company referred to in subparagraph (B) of section 184(d)(1).

"(3) DENIAL OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any payments to foreign countries with respect to any amount received by the taxpayer with respect to railroad rolling stock which is subject to paragraph (1).".

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all railroad rolling stock placed in service with respect to the taxpayer after the date of the enactment of this Act.

(2) ELECTION TO EXTEND SECTION 861(f) TO RAILROAD ROLLING STOCK PLACED IN SERVICE BEFORE DATE OF ENACTMENT.

(A) IN GENERAL.—At the election of the taxpayer, the amendment made by subsection (a) shall also apply, for taxable years beginning after the date of the enactment of this Act, to all railroad rolling stock placed in service with respect to the taxpayer on or before such date of enactment. Such an election may not be revoked except with the consent of the Secretary of the Treasury or his delegate.

(B) MANNER AND TIME OF ELECTION AND REVOCATION.—An election under subparagraph (A), and any revocation of such an election, shall be made in such manner and at such time as the Secretary of the Treasury or his delegate may by regulations prescribe.

SEC. 371. NET OPERATING LOSSES ATTRIBUTABLE PRODUCT LIABILITY LOSSES.

(a) 10-YEAR CARRYBACK.—

(1) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end thereof the following new subparagraph:

"(H) PRODUCT LIABILITY LOSSES.—In the case of a taxpayer which has a product liability loss (as defined in subsection (i)) for a taxable year beginning after September 30, 1979 (referred to in this subparagraph as the 'loss year'), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year."

(2) CONFORMING AMENDMENT.—Clause (i) of section 172(b)(1)(A) is amended by striking out "and (G)" and inserting in lieu thereof "(G), and (H)".

(b) RULES RELATING TO PRODUCT LIABILITY LOSSES.—Section 172 is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) RULES RELATING TO PRODUCT LIABILITY LOSSES.—For purposes of subsection (b)—

"(1) PRODUCT LIABILITY LOSS.—The term 'product liability loss' means, for any taxable year, the lesser of—

"(A) the net operating loss for such year reduced by any portion thereof which is attributable to a foreign expropriation loss, or

"(B) the sum of the amounts allowable as deductions under sections 162 and 165 which are attributable to—

"(ii) expenses incurred in the investigation or settlement of, or opposition to, claims against the taxpayer on account of product liability.

"(2) PRODUCT LIABILITY.—The term 'product liability' means—

"(A) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer, but only if

"(B) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(3) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(c) APPLICATION OF ACCUMULATED EARNINGS TAX TO PRODUCT LIABILITY LOSS RESERVES.—Subsection (b) of section 537 (relating to special rules) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) PRODUCT LIABILITY LOSS RESERVES.—The accumulation of reasonable amounts for the payment of reasonably anticipated product liability losses (as defined in section 172(i)), as determined under regulations prescribed by the Secretary, shall be treated as accumulated for the reasonably anticipated needs of the business."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years beginning after September 30, 1979.

SEC. 372. EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

(a) IN GENERAL.—Subpart B of part II of subchapter E of chapter 1 (relating to taxable year for which items of gross income included) is amended by adding at the end thereof the following new section:

"SEC. 458. MAGAZINES, PAPERBACKS, AND RECORDS RETURNED AFTER THE CLOSE OF THE TAXABLE YEAR.

"(a) EXCLUSION FROM GROSS INCOME.—A taxpayer who is on an accrual method of accounting may elect not to include in the gross income for the taxable year the income attributable to the qualified sale of any magazine, paperback, or record which is returned to the taxpayer before the close of the merchandise return period.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) MAGAZINE.—The term 'magazine' includes any other periodical.

"(2) PAPERBACK.—The term 'paperback' means any book which has a flexible outer cover and the pages of which are affixed directly to such outer cover. Such term does not include a magazine.

"(3) RECORD.—The term 'record' means a disc, tape, or similar object on which musical, spoken, or other sounds are recorded.

"(4) SEPARATE APPLICATION WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORDS.—If a taxpayer makes qualified sales of more than one category of merchandise in connection with the same trade or business, this section shall be applied as if the qualified sales of each such category were made in connection with a separate trade or business. For purposes of the preceding sentence, magazines, paperbacks, and records shall each be treated as a separate category of merchandise.

"(5) QUALIFIED SALE.—A sale of a magazine, paperback, or record is a qualified sale if—

"(A) at the time of sale, the taxpayer has a legal obligation to adjust the sales price

of such magazine, paperback, or record if it is not resold, and

"(B) the sales price of such magazine, paperback, or record is adjusted by the taxpayer because of a failure to resell it.

"(6) AMOUNT EXCLUDED.—The amount excluded under this section with respect to any qualified sale shall be the lesser of—

"(A) the amount covered by the legal obligation described in paragraph (5)(A), or

"(B) the amount of the adjustment agreed to by the taxpayer before the close of the merchandise return period.

"(7) MERCHANDISE RETURN PERIOD.—

"(A) Except as provided in subparagraph (B), the term 'merchandise return period' means, with respect to any taxable year—

"(i) in the case of magazines, the period of 2 months and 15 days first occurring after the close of taxable year, or

"(ii) in the case of paperbacks and records, the period of 4 months and 15 days first occurring after the close of the taxable year.

"(B) The taxpayer may select a shorter period than the applicable period set forth in subparagraph (A).

"(C) Any change in the merchandise return period shall be treated as a change in the method of accounting.

"(8) CERTAIN EVIDENCE MAY BE SUBSTITUTED FOR PHYSICAL RETURN OF MERCHANDISE.—Under regulations prescribed by the Secretary, the taxpayer may substitute, for the physical return of magazines, paperbacks, or records required by subsection (a), certification or the evidence that the magazine, paperbacks, or record has not been resold and will not be resold if such evidence—

"(A) is in the possession of the taxpayer at the close of the merchandise return period, and

"(B) is satisfactory to the Secretary.

"(9) REPURCHASE BY THE TAXPAYER NOT TREATED AS RESALE.—A repurchase by the taxpayer shall be treated as an adjustment of the sales price rather than as a resale.

"(c) QUALIFIED SALES TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified sales of magazines, paperbacks, or records, as the case may be, if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such sales are made. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified sales of magazines, paperbacks, or records, as the case may be, made in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall be effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(d) 5-YEAR SPREAD OF TRANSITIONAL ADJUSTMENTS FOR MAGAZINES.—In applying section 481(c) with respect to any election under this section which applies to magazines, the period for taking into account any decrease in taxable income resulting from the application of section 481(a)(2) shall be the taxable year for which the election is made and the 4 succeeding taxable years.

"(e) SUSPENSE ACCOUNT FOR PAPERBACKS AND RECORDS.—

"(1) IN GENERAL.—In the case of any election under this section which applies to paperbacks or records, in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

"(2) INITIAL OPENING BALANCE.—The opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the largest dollar amount of returned merchandise which would have been taken into account under this section for any of the 3 immediately preceding taxable years if this section had applied to such preceding 3 taxable years. This paragraph and paragraph (3) shall be applied by taking into account only amounts attributable to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount excluded from gross income for the taxable year under subsection (a), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount excluded from gross income for the taxable year under subsection (a), over,

"(ii) the opening balance of the account for the taxable year.

"(4) GROSS INCOME ADJUSTMENTS.—

"(A) REDUCTIONS EXCLUDED FROM GROSS INCOME.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be excluded from gross income for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year. If the initial opening balance exceeds the dollar amount of returned merchandise which would have been taken into account under subsection (a) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary."

(b) CLERICAL AMENDMENTS.—The table of sections for such subpart B is amended by adding at the end thereof the following:

"Sec. 458. Magazines, paperbacks, and records returned after the close of the taxable year."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 1979.

SEC. 373. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

(a) GENERAL RULE.—Subpart C of part II of subchapter E of chapter 1 of the Internal Revenue Code of 1954 (relating to taxable year for which deductions taken) is amended by adding at the end thereof the following new section:

"SEC. 466. QUALIFIED DISCOUNT COUPONS REDEEMED AFTER CLOSE OF TAXABLE YEAR.

"(a) ALLOWANCE OF DEDUCTION.—At the election of a taxpayer whose taxable income is computed under an accrual method of accounting, the deduction allowable under this chapter coupons shall be an amount equal to the sum of—

"(1) such costs incurred by the taxpayer with respect to coupons—

"(A) which were outstanding at the close of the taxable year, and

"(B) which were received by the taxpayer before the close of the redemption period for the taxable year, plus

"(2) such costs (other than costs properly taken into account under paragraph (1) for a prior taxable year) incurred by the taxpayer during the taxable year.

"(b) QUALIFIED DISCOUNT COUPONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified discount coupon' means a discount coupon which—

"(A) was issued by the taxpayer,

"(B) is redeemable by the taxpayer, and

"(C) allows a discount on the purchase price of merchandise or other tangible personal property.

"(2) METHOD OF ISSUANCE NOT TAKEN INTO ACCOUNT.—The determination of whether or not a discount coupon is a qualified discount coupon shall be made without regard to whether the coupon was issued through a newspaper, magazine, or other publication, by mail, on the pack or in the pack of merchandise, or otherwise.

"(3) DISCOUNT ON ITEM CANNOT EXCEED $5.—A coupon shall not be a qualified discount coupon if—

"(A) the face amount of such coupon is more than $5, or

"(B) such coupon may be used with other coupons to bring about a price discount of more than $5 with respect to any item.

"(4) THERE MUST BE REDEMPTION CHAIN.—A coupon shall not be a qualified discount coupon if the issuer directly redeems such coupon from the person using the coupon to receive a price discount. For purposes of the preceding sentence, corporations which are members of the same controlled group of corporations (within the meaning of section 1563(a) as the issurer shall be treated as the issuer.

"(5) REDEEMABLE BY TAXPAYER.—A coupon is redeemable by the taxpayer if the terms of the coupon require the taxpayer to redeem the coupon when presented for redemption in accordance with its terms.

"(c) REDEMPTION COSTS; REDEMPTION PERIOD.—For purposes of this section—

"(A) the lesser of—

"(i) the amount of the discount provided by the terms of the coupon, or

"(ii) the amount incurred by the taxpayer for paying such discounts, plus

"(B) the amount incurred by the taxpayer for a payment to the retailer (or other person redeeming the coupon from the person receiving the price discount), but only if the amount so payable is stated on the coupon.

"(2) REDEMPTION PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the redemption period for any taxable year is the 6-month period immediately following the close of the taxable year.

"(B) TAXPAYER MAY SELECT SHORTER PERIOD.—The taxpayer may select a redemption period which is shorter than 6 months.

"(C) CHANGE IN REDEMPTION PERIOD.—Any change in the redemption period shall be treated as a change in the method of accounting.

"(d) QUALIFIED DISCOUNT COUPONS TO WHICH SECTION APPLIES.—

"(1) ELECTION OF BENEFITS.—This section shall apply to qualified discount coupons if and only if the taxpayer makes an election under this section with respect to the trade or business in connection with which such coupons are issued. An election under this section may be made without the consent of the Secretary. The election shall be made in such manner as the Secretary may by regulations prescribe and shall be made for any taxable year not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof).

"(2) SCOPE OF ELECTION.—An election made under this section shall apply to all qualified discount coupons issued in connection with the trade or business with respect to which the taxpayer has made the election.

"(3) PERIOD TO WHICH ELECTION APPLIES.—An election under this section shall apply to the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the consent of the Secretary to the revocation of such election.

"(4) TREATMENT AS METHOD OF ACCOUNTING.—Except to the extent inconsistent with the provisions of this section, for purposes of this subtitle, the computation of taxable income under an election made under this section shall be treated as a method of accounting.

"(e) SUSPENSE ACCOUNT.—

"(1) IN GENERAL.—In the case of any election under this section which (but for this subsection) would result in a net decrease in taxable income under section 481(a)(2), in lieu of applying section 481, the taxpayer shall establish a suspense account for the trade or business for the taxable year for which the election is made.

"(2) INITIAL OPENING BALANCE.—The initial opening balance of the account described in paragraph (1) for the first taxable year to which the election applies shall be the amount by which—

"(A) the largest dollar amount which would have been taken into account under subsection (a)(1) for any of the 3 immediately preceding taxable years if this section had applied to such 3 preceding taxable years, exceeds

"(B) the sum of the increases in income (and the decreases in deductions) which (but for this subsection) would result under section 481(a)(2) for such first taxable years.

This subsection shall be applied by taking into account only amounts attributal to the trade or business for which such account is established.

"(3) ADJUSTMENTS IN SUSPENSE ACCOUNT.—At the close of each taxable year, the suspense account shall be—

"(A) reduced by the excess (if any) of—

"(i) the opening balance of the suspense account for the taxable year, over

"(ii) the amount deducted for the taxable year under subsection (a)(1), or

"(B) increased (but not in excess of the initial opening balance) by the excess (if any) of—

"(i) the amount deducted for the taxable year under subsection (a)(1), over

"(ii) the opening balance of the suspense account for the taxable year.

"(4) INCOME ADJUSTMENTS.—

"(A) REDUCTIONS ALLOWED AS DEDUCTION.—In the case of any reduction under paragraph (3)(A) in the account for the taxable year, an amount equal to such reduction shall be allowed as a deduction for such taxable year.

"(B) INCREASES ADDED TO GROSS INCOME.—In the case of any increase under paragraph (3)(B) in the account for the taxable year, an amount equal to such increase shall be included in gross income for such taxable year.

If the amount described in paragraph (2)(A) exceeds the dollar amount which would have been taken into account under subsection (a)(1) for the taxable year preceding the first taxable year for which the election is effective if this section had applied to such preceding taxable year, then an amount equal to the amount of such excess shall be included in gross income for such first taxable year.

"(5) SUBCHAPTER C TRANSACTIONS.—The application of this subsection with respect to a taxpayer which is a party to any transaction with respect to which there is nonrecognition of gain or loss to any party to the transaction by reason of subchapter C shall be determined under regulations prescribed by the Secretary.

"(f) 10-YEAR SPREAD OF ANY NET INCREASE IN TAXABLE INCOME UNDER SECTION 481(a)(2).—In the case of any election under this section which results in a net increase in taxable income under section 481(a)(2), under regulations prescribed by the Secretary, such net increase shall (except as othewise provided in such regulations) be taken into account by the taxpayer in computing taxable income in each of the 10 taxable years beginning with the year for which the election is made."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart C is amended by adding at the end thereof the following new item:

"Sec. 466. Qualified discount coupons redeemed after close of taxable year."

(C) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978.

(2) APPLICATION TO CERTAIN PRIOR TAXABLE YEARS.—

(A) IN GENERAL.—If—

(i) the taxpayer makes an election under section 466 of the Internal Revenue Code of 1954 for his first taxable year ending after December 31, 1978, and

(ii) for a continuous period of 1 or more taxable years each of which ends on or before December 31, 1978, the taxpayer used a method of accounting with respect to any type of discount coupons which was reasonably similar to the method of accounting provided by section 1.451–4 of the Income Tax Regulations,

then the taxpayer may make an election under this paragraph to have the method of accounting which he used for such continuous period treated as a valid method of accounting with respect to each such type of discount coupons for such period for purposes of the Internal Revenue Code of 1954. A taxpayer may make an election under this paragraph with respect to only one such continuous period.

(B) CERTAIN AMOUNTS TO WHICH METHOD OF ACCOUNTING APPLIES.—An accounting method which the taxpayer used for the period described in subparagraph (A) may include—

(i) costs of the type permitted by section 1.451–4 of the Income Tax Regulations to be included in the estimated average cost of redeeming coupons, plus

(ii) any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

(C) SUSPENSE ACCOUNT NOT REQUIRED IN CERTAIN CASES.—A taxpayer whose election under this paragraph applies to all types of discount coupons which he issued during the continuous period referred to in subparagraph (A)(ii) shall not be required to establish a suspense account under section 466(e) of the Internal Revenue Code of 1954.

(D) RULES RELATING TO ELECTION UNDER THIS SUBSECTION.—An election under this paragraph may be made only before the expiration of the period for making an election under section 466 of the Internal Revenue Code of 1954 for the taxpayer's first taxable year ending after December 31, 1978. An election under this paragraph shall be made in such a manner and form as the Secretary of the Treasury or his delegate may by regulations prescribe. For purposes of the Internal Revenue Code of 1954, such an election shall be treated as a method of accounting, except that the approval of the Secretary of the Treasury or his delegate to the making of the election may not be required.

TITLE IV—CAPITAL GAINS; MINIMUM TAX; MAXIMUM TAX

Subtitle A—Capital Gains

SEC. 401. REPEAL OF ALTERNATIVE TAX ON CAPITAL GAINS OF INDIVIDUALS.

(a) GENERAL RULE.—Section 1201 (relating to alternative tax) is amended—

(1) by striking out subsections (b) and (c),

(2) by redesignating subsection (d) as subsection (b), and

(3) by amending the section heading to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3(b) is amended by striking out subparagraph (B) and by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Subsection (a) of section 5 is amended by striking out paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(3) Paragraph (1) of section 871(b) is amended by striking out "section 1, 402(e)(1), or 1201(b)" and inserting in lieu thereof "section 1 or 402(e)(1)".

(4) Paragraph (1) of section 911(d) is amended—

(A) by striking out "section 1 or section 1201" each place it appears and inserting in lieu thereof "section 1", and

(B) by striking out "(whichever is applicable)" each place it appears.

(5) Subsection (b) of section 1304 is amended—

(A) by adding "and" at the end of paragraph (2),

(B) by striking out paragraph (3), and

(C) by redesignating paragraph (4) as paragraph (3).

(6) The table of sections for part I of subchapter P of chapter 1 is amended by striking out the item relating to section 1201 and inserting in lieu thereof the following:

"Sec. 1201 Alternative tax for corporations."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 402. INCREASED CAPITAL GAINS DEDUCTION FOR INDIVIDUALS.

"(a) IN GENERAL.—If for any taxable year

(a) GENERAL RULE.—Section 1202 (relating to deduction for capital gains) is amended to read as follows:

"SEC. 1202. DEDUCTION FOR CAPITAL GAINS.

"(a) IN GENERAL.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 60 percent of the amount of the net capital gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) TAXABLE YEARS WHICH INCLUDE NOVEMBER 1, 1978.—If for any taxable year beginning before November 1, 1978, and ending after October 31, 1978, a taxpayer other than a corporation has a net capital gain, the

deduction under subsection (a) shall be the sum of—

"(1) 60 percent of the lesser of—

"(A) the net capital gain for the taxable year, or

"(B) the net capital gain taking into account only sales and exchanges after October 31, 1978, plus

"(2) 50 percent of the excess of—

"(A) the net capital gain for the taxable year, over

"(B) the amount of net capital gain taken into account under paragraph (1)."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 57(a)(9) (relating to treatment of capital gains for purposes of the minimum tax) is amended to read as follows:

"(A) INDIVIDUALS.—In the case of a taxpayer other than a corporation, an amount equal to the net capital gain deduction for the taxable year determined under section 1202."

(2) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "50 percent" and inserting in lieu thereof "40 percent".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b)(1) shall apply to taxable years ending after October 31, 1978.

(2) The amendment made by subsection (b)(2) shall apply to contributions made after October 31, 1978.

SEC. 403. REDUCTION OF ALTERNATIVE CAPITAL GAINS TAX FOR CORPORATIONS

(a) GENERAL RULE.—Paragraph (2) of section 1201(a) (relating to alternative tax for corporations) is amended by striking out "30 percent" and inserting in lieu thereof "28 percent".

(b) TRANSITIONAL RULE.—Section 1201 is amended by adding at the end thereof the following new subsection:

"(c) TAXABLE YEARS WHICH INCLUDE JANUARY 1, 1979.—If for any taxable year beginning before January 1, 1979, and ending after December 31, 1978, a corporation has a net capital gain, then subsection (a) shall be applied by substituting for the language of paragraph (2) the following:

"(2)(A) a tax of 28 percent of the lesser of—

"(i) the net capital gain for the taxable year, or

"(ii) the net capital gain taking into account only sales and exchange after December 31, 1978, plus

"(B) a tax of 30 percent of the excess of—

"(i) the net capital gains for the taxable year, over

"(ii) the amount of net capital gain taken into account under subparagraph (A)."

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 170(e)(1) (relating to charitable deduction for contributions of capital gain property) is amended by striking out "62½ percent" and inserting in lieu thereof "$^{28}/_{46}$".

(2) Subparagraph (B) of section 528(b)(2) (relating to tax imposed on certain homeowners associations) is amended to read as follows:

"(B) an amount determined as provided in section 1201(a) on such gain."

(3) Clause (ii) of section 857(b)(3)(A) (relating to tax on real estate investment trusts) is amended by striking out "a tax of 30 percent of" and inserting in lieu thereof "a tax determined at the rate provided in section 1201(a) on".

(4) Subsection (b) of section 904 (relating to taxable income for computing the limitation on foreign tax credits) is amended—

(A) by striking out "three-eighths" wherever it appears and inserting in lieu thereof "the rate differential portion"; and

(B) by striking the period at the end of subparagraph (D) of paragraph (3), inserting in lieu thereof a comma, and inserting immediately thereafter the following new paragraph to read as follows:

"(E) RATE DIFFERENTIAL PORTION.—The 'rate differential portion' of foreign source net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(d) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply to taxable years ending after December 31, 1978.

(2) The amendment made by paragraph (1) of subsection (c) shall apply to gifts made after December 31, 1978.

(3) The amendments made by paragraphs (2), (3), and (4) of subsection (c) shall take effect on the date of the enactment of this Act.

SEC. 404. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

(a) GENERAL RULE.—The section heading and subsections (a) and (b) of section 121 are amended to read as follows:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55.

"(a) GENERAL RULE.—At the election of the taxpayer, gross income does not include gain from the sale or exchange of property if—

"(1) the taxpayer has attained the age of 55 before the date of such sale or exchange, and

"(2) during the 5-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating 3 years or more.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the gain excluded from gross income under subsection (a) shall not exceed $100,000 ($50,000 in the case of a separate return by a married individual).

"(2) APPLICATION TO ONLY 1 SALE OR EXCHANGE.—Subsection (a) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under subsection (a) with respect to any other sale or exchange is in effect.

"(3) ADDITIONAL ELECTION IF PRIOR SALE WAS MADE ON OR BEFORE JULY 26, 1978.—In the case of any sale or exchange after July 26, 1978, this section shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date."

(b) TRACKING OF HOLDING PERIOD IN CASE OF INVOLUNTARY CONVERSIONS.—Subsection (d) of section 121 (relating to special rules) is amended by adding at the end thereof the following new paragraph:

"(8) PROPERTY ACQUIRED AFTER INVOLUNTARY CONVERSION.—If the basis of the property sold or exchanged is determined (in whole or in part) under subsection (b) of section 1033 (relating to basis of property acquired through involuntary conversion), then the holding and use by the taxpayer of the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 121(d) is amended by striking out "8-year period" and inserting in lieu thereof "5-year period".

(2) Paragraph (5) of section 121(d) is amended—

(A) by striking out "8-year period" and inserting in lieu thereof "5-year period", and

(B) by striking out "5 years" and inserting in lieu thereof "3 years".

(3) The table of sections for part III of subchapter B of chapter 1 is amended by striking out the item relating to section 121 and inserting in lieu thereof the following:

"SEC. 121. ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE BY INDIVIDUAL WHO HAS ATTAINED AGE 55."

(4) Paragraph (3) of section 1033(g) (relating to cross references) is amended to read as follows:

"(3) For one-time exclusion from gross income of gain from involuntary conversion of principal residence by individual who has attained age 55, see section 121."

(5) Subsection (k) of section 1034 (relating to cross references) is amended to read as follows:

"(k) CROSS REFERENCE.—

"For one-time exclusion from gross income of gain from sale of principal residence by individual who has attained age 55, see section 121."

(6) Section 1038(e)(1)(A) is amended by striking out "relating to gain from sale or exchange of residence of an individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

(7) Section 1250(d)(7)(B) is amended by striking out "relating to gains from sale or exchange of residence of individual who has attained the age of 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

(8) Section 6012(c) is amended by striking out "relating to sale of residence by individual who has attained age 65" and inserting in lieu thereof "relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to sales or exchanges after July 26, 1978, in taxable years ending after such date.

(2) TRANSITIONAL RULE.—In the case of a sale or exchange of a residence before July 26, 1981, a taxpayer who has attained age 65 on the date of such sale or exchange may elect to have section 121 of the Internal Revenue Code of 1954 applied by substituting "8-year period" for "5-year period" and "5 years" for "3 years" in subsections (a), (d)(2), and (d)(5) of such section.

SEC. 405. WAIVER OF CERTAIN 18-MONTH RULES OF SECTION 1034 WHEN SALE OF RESIDENCE IS CONNECTED WITH COMMENCING WORK AT NEW PLACE.

(a) IN GENERAL.—Subsection (d) of section 1034 (relating to sale or exchange of residence) is amended to read as follows:

"(d) LIMITATION.—

"(1) IN GENERAL.—Subsection (a) shall not apply with respect to the sale of the taxpayer's residence if within 18 months before the date of such sale the taxpayer sold at a gain other property used by him as his principal residence, and any part of such gain was not recognized by reason of subsection (a).

"(2) SUBSEQUENT SALE CONNECTED WITH COMMENCING WORK AT NEW PLACE.—Paragraph (1) shall not apply with respect to the sale of the taxpayer's residence if—

"(A) such sale was in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work, and

"(B) if the residence so sold is treated as the former residence for purposes of sec-

tion 217 (relating to moving expenses), the taxpayer would satisfy the conditions of subsection (c) of section 217 (as modified by the other subsections of such section)."

(b) RELATED TECHNICAL AMENDMENT.—Paragraph (4) of section 1034(c) is amended by adding at the end thereof the following new sentence: "If a principal residence is sold in a sale to which subsection (d)(2) applies within 18 months after the sale of the old residence, for purposes of applying the preceding sentence with respect to the old residence, the principal residence so sold shall be treated as the last residence used during such 18-month period."

(c) CLERICAL AMENDMENTS.—

(1) The section heading of section 1034 is amended to read as follows:

"SEC. 1034. ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE."

(2) The table of sections for part III of subchapter O of chapter 1 is amended by striking out the item relating to section 1034 and inserting in lieu thereof the following new item:

"Sec. 1034. Rollover of gain on sale of principal residence."

(3) Subparagraph (B) of section 1038(e)(1) (relating to certain acquisitions of real property) is amended by striking out "relating to sale or exchange of residence)" and inserting in lieu thereof "(relating to rollover of gain on sale of principal residence)".

(4) Subparagraph (A) of section 1250(d)(7) (relating to gain from dispositions of certain depreciable realty) is amended by striking out "relating to sale or exchange of residence" and inserting in lieu thereof "relating to rollover of gain on sale of principal residence".

(5) Subparagraph (C) of section 6212(c)(2) (relating to cross references) is amended by striking out "personal residence" and inserting in lieu thereof "principal residence".

(6) Paragraph (4), of section 6504 (relating to cross references) is amended by striking out "residence" and inserting in lieu thereof "principal residence".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges of residences after July 26, 1978, in taxable years ending after such date.

Subtitle B—Minimum Tax Provisions

SEC. 421. ALTERNATE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

(a) IN GENERAL.—Part VI of subchapter A of chapter 1 (relating to minimum tax for tax preferences) is amended by inserting immediately before section 56 the following new section:

"SEC. 55. ALTERNATIVE MINIMUM TAX FOR TAXPAYERS OTHER THAN CORPORATIONS.

"(a) ALTERNATE MINIMUM TAX IMPOSED.—In the case of a taxpayer other than a corporation, if—

"(1) an amount equal to the sum of—

"(A) 10 percent of so much of the alternative minimum taxable income as exceeds $20,000 but does not exceed $60,000 plus

"(B) 20 percent of so much of the alternative minimum taxable income as exceeds $60,000 but does not exceed $100,000, plus

"(C) 25 percent of so much of the alternative minimum taxable income as exceeds $100,000, exceeds

"(2) the regular tax for the taxable year, then there is imposed (in addition to all other taxes imposed by this title) a tax equal to the amount of such excess.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ALTERNATIVE MINIMUM TAXABLE INCOME.—The term 'alternative minimum taxable income' means gross income—

"(A) reduced by the sum of the deductions allowed for the taxable year,

"(B) reduced by the sum of any amounts included in income under section 667, and

"(C) increased by an amount equal to the sum of the tax preference items for—

"(i) adjusted itemized deductions (within the meaning of section 57 (a) (1)), and

"(ii) capital gains (within the meaning of section 57 (a) (9)).

"(2) REGULAR TAX.—The term 'regular tax' means the taxes imposed by this chapter for the taxable year (computed without regard to this section and without regard to the taxes imposed by sections 72(m)(5)(B), 402(e), 408(f), and 667(b)), reduced by the sum of credits allowable under subpart A of part IV of this subchapter (other than under sections 31, 39 and 43).

"(c) CREDITS.—

"(1) CREDITS OTHER THAN THE FOREIGN TAX CREDIT NOT ALLOWABLE.—For purposes of determining the amount of any credit allowable under subpart A of part IV of this subchapter (other than the foreign tax credit allowed under section 33(a)), the tax imposed by this section shall not be treated as a tax imposed by this chapter.

"(2) FOREIGN TAX CREDIT ALLOWED AGAINST ALTERNATIVE MINIMUM TAX.—The total amount of the foreign tax credit which can be taken against the tax imposed by subsection (a) shall be determined under section 901 and section 903 through 908. For purposes of this determination—

"(A) the amount of taxes paid or accrued to foreign countries or possessions of the United States in the taxable year shall be deemed to include an amount equal to the lesser of (i) the foreign tax credit allowed under section 33(a) in computing the regular tax for the taxable year, or (ii) the tax imposed under subsection (a);

"(B) the limitation of section 904(a) shall be an amount equal to the same proportion of the sum of the tax imposed by this section against which such credit is taken and the regular tax (excluding the tax imposed by section 56) which the taxpayer's alternative minimum taxable income from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income) bears to his entire alternative minimum taxable income for the same taxable year. For purposes of the preceding sentence, the entire alternative minimum taxable income shall be reduced by an amount equal to the zero bracket amount;

"(C) the term 'alternative minimum taxable income from sources without United States' means the excess of the items of gross income from sources without the United States over that portion of the deductions taken into account in computing alternative minimum taxable income which are deducted from those items of gross income in computing taxable income from sources without the United States; for purposes of this subparagraph, and except as provided in section 904, gross and taxable income from sources without the United States shall be determined under part I of subchapter N of chapter 1; and

"(D) the amount of foreign taxes paid during the taxable year which may be deemed to be paid in a preceding or succeeding year under section 904 (c), the limitation of section 904 (a) shall be increased by the lesser of (i) the amount described in subparagraph (B) or (ii) the tax imposed under subsection (a).

"(3) CARRYOVER AND CARRYBACK OF CERTAIN CREDITS.—In any taxable year in which a tax is imposed by this section (referred to as the current taxable year)—

"(A) EMPLOYMENT CREDIT.—For purposes of determining under section 53(c) the amount of any jobs credit carryback or carryover to any other taxable year, the amount of the limitation under section 53(a) for the current taxable year shall be deemed to be—

"(i) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 44B for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year.

"(B) WORK INCENTIVE PROGRAM CREDIT.—For purposes of determining under section 50A(b) the amount of any work incentive program credit carryback or carryover to any other taxable year, the amount of the limitation under section 50A(a)(2) for the current taxable year shall be deemed to be—

"(i) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 40 for the current taxable year without regard to this subparagraph, or, (II) the net tax imposed by this section for the current taxable year reduced by the amount of reduction described in clause (ii) of subparagraph (A).

"(C) INVESTMENT CREDIT.—For purposes of determining under section 46(b) the amount of any investment credit carryback or carryover to any other taxable year, the amount of the limitation under section 46(a)(3) for the current taxable year shall be deemed to be

"(i) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, reduced by

"(ii) the amount equal to the lesser of (I) the amount of the credit allowable under section 38 for the current taxable year without regard to this subparagraph, or (II) the net tax imposed by this section for the current taxable year reduced by the sum of the amounts of reduction described in clause (ii) of subparagraphs (A) and (B).

"(D) NET TAX IMPOSED BY THIS SECTION.—For purposes of this paragraph, the term 'net tax imposed by this section' means the tax imposed by this section reduced by the foreign tax credit allowed under section 33(a), as modified by paragraph (2).

(b) AMENDMENT OF SECTION 57.—Section 57 (relating to items of tax preference) is amended—

(1) by adding the following at the end of paragraph (9) of subsection (a):

"(D) PRINCIPAL RESIDENCE.—For purposes of subparagraph (A), gain from the sale or exchange of a principal residence (within the meaning of section 1034) shall not be taken into account.",

(2) by striking out the last sentence of subsection (a) and inserting in lieu thereof the following: "Paragraphs (3) and (11) shall not apply to a corporation other than an electing small business corporation (as defined in section 1371(b)) and a personal holding company (as defined in section 542). For purposes of section 56, in the case of a taxpayer other than a corporation, the adjusted itemized deductions described in paragraph (1) and capital gains described in paragraph (9) shall not be treated as items of tax preference."

(3) by striking out subsection (b)(1) and inserting the following in lieu thereof:

"(1) IN GENERAL.—For purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the itemized deductions (as defined in section 63(f)) other than—

"(A) the deduction for State and local taxes provided by section 164(a),

"(B) the deduction for medical, dental, etc., expenses provided by section 213,

"(C) the deduction for casualty losses described in section 165(c)(3), and

"(D) the deduction allowable under section 691(c),

exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in subparagraphs (A) through (D) for the taxable year.", and

(4) by striking out subparagraph (A) of subsection (b)(2), as amended by section 701 of this Act, and inserting in lieu thereof the following:

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

"(iii) the deduction for casualty losses described in section 165(c)(3),

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c),

"(v) the deduction for State and local taxes provided by section 164(a), and

"(vi) the deductions allowable to a trust under section 642 (c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662 (a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trust ends,

exceeds 60 percent of the adjusted gross income reduced by the items in clauses (i) through (vi) for the taxable year."

(c) AMENDMENTS OF SECTION 58.—Section 58 (relating to rules for application of part) is amended—

(1) by adding at the end of subsection (a) the following new sentence: "In the case of a married individual who files a separate return for the taxable year, the amount determined under paragraph (1) of section 55(a) shall be an amount equal to one-half of the amount which would be determined under such paragraph if the amount of the individual's alternative minimum taxable income were multiplied by 2.";

(2) by amending subsection (c) to read as follows:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust—

"(1) the sum of the items of tax preference for any taxable year of the estate or trust shall be appropriated between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

"(2) the $10,000 amount specified in section 56 applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $10,000 as the portion of the sum of the items of tax preference allocated to the estate or trust under paragraph (1) bears to such sum, and

"(3) the liability for the tax imposed by section 55 (a) shall be determined as in the case of a married individual filing separately.", and

(3) by deleting subsection (i) (relating to the definition of corporation).

(d) TAXES TAKEN INTO ACCOUNT IN CASE OF ACCUMULATION DISTRIBUTIONS BY TRUSTS.—The second sentence of section 666(b) (relating to total taxes deemed distributed) as amended by striking out "taxes" and inserting in lieu thereof "taxes (other than the tax imposed by section 55)".

(e) TECHNICAL AMENDMENTS.—

(1) Paragraph (4) of section (5)(a) (as redesignated by section 401 of this Act) (relating to cross references relating to tax on individuals) is amended to read as follows:

"(4) For minimum tax for taxpayers other than corporations, see section 55.".

(2) Subsection (d) of section 443 (relating to adjustment in computing minimum tax for short periods) is amended to read as follows:

"(d) ADJUSTMENT IN COMPUTING MINIMUM TAX FOR TAX PREFERENCES.—If a return is made for a short period by reason of subsection (a), then—

"(1) in the case of a taxpayer other than a corporation, the alternative minimum taxable income for the short period shall be placed on an annual basis by multiplying that amount by 12 and dividing the result by the number of months in the short period, and the amount computed under paragraph (1) of section 55(a) shall be the same part of the tax computed on the annual basis as the number of months in the short period is of 12 months; and

"(2) in the case of a corporation, the $10,000 amount specified in section 56 (relating to minimum tax for tax preferences), modified as provided by section 58, shall be reduced to the amount which bears the same ratio to such specified amount as the number of days in the short period bears to 365.".

(3) Subsection (d) of section 511 (relating to tax preferences) is amended to read as follows:

"(d) TAX PREFERENCES.—

"(1) ORGANIZATIONS TAXABLE AT CORPORATE RATES.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (a), the tax imposed by section 56 shall apply to such organizations with respect to items of tax preference which enter into the computation on the unrelated business taxable income in the same manner as section 56 applies to corporations.

"(2) ORGANIZATIONS TAXABLE AS TRUSTS.—If an organization is subject to tax on unrelated business taxable income pursuant to subsection (b), the taxes imposed by section 55 and section 56 (as the case may be) shall apply to such organization with respect to items of tax preference which enter into the computation of unrelated business taxable income."

(4) Paragraph (1) of section 871(b) relating to tax on nonresident alien individuals) is amended by inserting ", section 55," after "section 1".

(5) Subsection (b) of section 877 (relating to expatriation to avoid tax) is amended by inserting ", section 55," after "section 1".

(6) Section 904(h) (relating to cross references) is amended to read as follows:

"(h) CROSS REFERENCES.—

"(1) For instance of limitation under subsection (a) for taxes paid with respect to amounts received which were included in the gross income of the taxpayer for a prior taxable year as a United States shareholder with respect to a controlled foreign corporation, see section 960(b).

"(2) For modification of limitation under subsection (a) for purposes of determining the amount of credit which can be taken by an individual against the alternative minimum tax, see section 55(c).".

(7) Paragraph (1) of section 6015(c) (defining estimated tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(8) Subparagraph (A) of section 6362(b) (relating to qualified individual income taxes) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(9) Paragraph (1) of section 6654(f) (relating to tax computed after applications of credit against tax) is amended by striking out "section 56" and inserting in lieu thereof "section 55 or 56".

(f) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter A of chapter 1 is amended by adding at the beginning thereof the following new item:

"SEC. 55. Alternative Minimum Tax for Taxpayers other than Corporations.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978, except that the amendment made by paragraph (1) of subsection (b) shall apply to sales and exchanges made after July 26, 1978, in taxable years ending after such date.

SEC. 422. TREATMENT OF INTANGIBLE DRILLING COSTS FOR PURPOSES OF THE MINIMUM TAX.

Subsection (b) of section 308 of the Tax Reduction and Simplification Act of 1977 is amended by striking out ", and before Janury 1, 1978".

SEC. 423. AMENDMENT TO DEFINITION OF FOREIGN SOURCE CAPITAL GAIN TAX PREFERENCES.

(a) GENERAL RULE.—Section 58(g)(2) (relating to capital gains and stock options) is amended by striking out the period at the end of the last sentence thereof, and inserting the following: "; except that, for purposes of subparagraph (B), preferential treatment shall be deemed not to be accorded to capital gain recognized on the receipt of property (other than money) in exchange for stock of a corporation which is engaged in the active conduct of a trade or business within one or more foreign countries or possessions if (i) such exchange is described in section 332, 351, 354, 355, 356 or 361, (ii) such exchange is made in the foreign country or possession in which such corporation's business is primarily carried on, (iii) such exchange is not subject to tax by such foreign country or posession because it is regarded under the laws of such country or possession as a transaction in which gain or loss is either not realized or not recognized, and (iv) such gain, if it had been realized and recognized under the laws of such country or possession, would not have been accorded preferential treatment and would have been subject to tax at a rate of at least 28 percent (30 percent if the exchange occurs before January 1, 1979). For purposes of computing the minimum tax, if any, which may be payable on a subsequent transaction involving any property received upon the exchange of stock described in the preceding sentence, the property received shall be treated as having the same basis in the taxpayer's hands immediately after such exchange as such stock had immediately before such exchange."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

Subtitle C—Maximum Tax Provisions

SEC. 441. TREATMENT OF CAPITAL GAINS FOR PURPOSES OF THE MAXIMUM TAX.

(a) GENERAL RULE.—Subparagraph (B) of section 1348(b)(2) (relating to definition of personal service income) is amended by striking out "items of tax preference (as defined in section 57)" and inserting in lieu thereof "items of tax preference described in subsection (a) (other than paragraph (9)) of section 57".

(b) EFFECTIVE DATE.—

(1) GENERAL RULE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after October 31, 1978.

(2) TRANSITIONAL RULES.—In the case of a taxable year which begins before November 1, 1978, and ends after October 31, 1978, the amendment made by subsection (a) shall apply with respect to so much of the net capital gain of the taxpayer for the taxable year as is attributable to sales or exchanges after October 31, 1978.

SEC. 442. DETERMINATION OF PERSONAL SERVICE INCOME FROM NONSALARIED TRADE OR BUSINESS ACTIVITIES.

(a) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (relating to personal

service income) is amended by adding at the end thereof the following: "For purposes of this subparagraph, section 911(b) shall be applied without regard to the phrase ', not in excess of 30 percent of his share of the net profits of such trade or business,'.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1978.

TITLE V—OTHER TAX PROVISIONS

Subtitle A—Administrative Provisions

SEC. 501. REPORTING REQUIREMENTS WITH RESPECT TO CHARGED TIPS.

(a) RECORDS.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended by adding at the end thereof the following: "The only records which an employer shall be required to keep under this section in connection with charged tips shall be charge receipts and copies of statements furnished by employees under section 6053(a)."

(b) RETURNS.—Section 6041 (relating to information at source) is amended by redesignating subsection (d) as subsection (c) and by adding at the end thereof the following new subsection:

"(d) SECTION DOES NOT APPLY TO CERTAIN TIPS.—This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after December 31, 1978.

SEC. 502. EXTENSION OF OPTIONAL SMALL TAX CASE PROCEDURES AND EXPANSION OF AUTHORITY OF COMMISSIONERS OF TAX COURT.

(a) EXTENDING THE OPTIONAL SMALL TAX CASE PROCEDURES TO ADDITIONAL TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of subsection 7463 (relating to small tax cases) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) $5,000 for any one taxable year, in the case of the taxes imposed by subtitle A,

"(2) $5,000, in the case of the tax imposed by chapter 11, or

"(3) $5,000 for any one calendar year, in the case of the tax imposed by chapter 12,".

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 7463 is amended by striking out "$1,500" and inserting in lieu thereof "$5,000".

(B) The table of sections for part II of subchapter C of chapter 76 is amended by striking out "$1,500" in the item relating to section 7463 and inserting in lieu thereof "$5,000".

(b) AUTHORITY TO ASSIGN SMALL TAX CASES TO COMMISSIONERS.—Section 7463 (relating to small tax cases) is amended by adding at the end thereof the following new subsection:

"(g) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings conducted under this section to be heard by the commissioners of the court, and the court may authorize a commissioner to make the decision of the court with respect to any such proceeding, subject to such conditions and review as the court may by rule provide."

(c) AUTHORITY OF TAX COURT COMMISSIONERS TO ADMINISTER OATHS, PROCURE TESTIMONY, ETC.—Subsection (a) of section 7456 (relating to the administration of oaths and testimony) is amended—

(1) by striking out "any judge of the Tax Court" each place it appears and inserting in lieu thereof "any judge or commissioner of the Tax Court"; and

(2) by striking out "by the judge" and inserting in lieu thereof "by the judge or commissioner".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on the first day of the first calendar month beginning more than 180 days after the date of the enactment of this Act.

(2) SUBSECTIONS (b) AND (c).—The amendments made by subsection (b) and (c) shall take effect on the date of the enactment of this Act.

SEC. 503. DISCLOSURE OF RETURN INFORMATION TO CERTAIN FEDERAL OFFICERS AND EMPLOYEES FOR PURPOSES OF TAX ADMINISTRATION, ETC.

(a) IN GENERAL.—Paragraph (2) of section 6103(h) (relating to Department of Justice) is amended—

(1) by striking out "A" after the heading, and inserting in lieu thereof "In a matter involving tax administration, a",

(2) by striking out "attorneys" after "open to inspection by or disclosure to", in paragraph (2) and inserting in lieu thereof "officers and employees",

(3) by inserting "any proceeding before a Federal grand jury or" before "preparation for any proceeding" in paragraph (2),

(4) by striking out "in a matter involving tax administration" after "or any Federal or State court".

(b) APPLICATION TO TAXPAYER.—

(1) Section 6103(h)(2) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is or may be a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;"

(2) Section 6103(a)(4) is amended by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) the taxpayer is a party to the proceeding, or the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal liability, or the collection of such civil liability in respect of any tax imposed under this title;".

SEC. 504. REFUND ADJUSTMENTS FOR AMOUNTS HELD UNDER CLAIM OF RIGHT.

(a) IN GENERAL.—Section 6411 (relating to application for adjustment) is amended by adding at the end thereof the following new subsection:

"(d) TENTATIVE REFUND OF TAX UNDER CLAIM OF RIGHT ADJUSTMENT.—

"(1) APPLICATION.—A taxpayer may file an application for a tentative refund of any amount treated as an overpayment of tax for the taxable year under section 1341(b)(1). Such application shall be in such manner and form as the Secretary may prescribe by regulation and shall—

"(A) be vertified in the same manner as an application under subsection (a),

"(B) be filed during the period beginning on the date of filing the return for such taxable year and ending on the date 12 months from the last day of such taxable year, and

"(C) set forth in such detail and with such supporting data as the Secretary by such regulations prescribe—

"(i) the amount of the tax for such taxable year computed without regard to the deduction described in section 1341(a)(2),

"(ii) the amount of the tax for all prior taxable years for which the decrease in tax provided in section 1341(a)(5)(B) was computed,

"(iii) the amount determined under section 1341(a)(5)(B),

"(iv) the amount of the overpayment determined under section 1341(b)(1); and

"(v) such other information as the Secretary may require.

"(2) ALLOWANCE OF ADJUSTMENTS.—Within a period of 90 days from the date on which an application is filed under paragraph (1), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for taxable year in which the overpayment occurs, whichever is later, the Secretary shall—

"(A) review the application,

"(B) determine the amount of the overpayment, and

"(C) apply, credit, or refund such overpayment in a manner similar to the manner provided in subsection (b).

"(3) CONSOLIDATED RETURNS.—The provisions of subsection (c) shall apply to an adjustment under this subsection to the same extent and manner as the Secretary may by regulations provide.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) The heading for section 6411 is amended by inserting "AND REFUND" after "CARRYBACK".

(B) The table of sections for subchapter B of chapter 65 is amended by inserting "and refund" after "carryback" in the item relating to section 6411.

(2) Paragraph (3) of section 6213(b) (relating to assessments arising out of tentative carryback adjustments) is amended—

(A) by inserting "or refund" after "carryback" in the heading; and

(B) by inserting "or the amount described in section 1341(b)(1)" after "carryback".

(3) Subsection (m) of section 6501 (relating to tentative carryback adjustment period) is amended by inserting "and refund" after "carryback the first place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to tentative refund claims filed on and after the date of the enactment of this Act.

Subtitle B—Estate and Gulf Tax Provisions

SEC. 511. REDUCTION OF VALUE TAKEN INTO ACCOUNT FOR ESTATE TAX PURPOSES WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OR OTHER BUSINESS.

(a) IN GENERAL.—Section 2040 (relating to joint interests) is amended by adding at the end thereof the following new subsection:

"(c) VALUE WHERE SPOUSE OF DECEDENT MATERIALLY PARTICIPATED IN FARM OR OTHER BUSINESS.—

"(1) IN GENERAL.—Nothwithstanding subsection (a), in the case of an eligible joint interest in section 2040(c) property, the value included in the gross estate with respect to such interest by reason of this section shall be—

"(A) the value of such interest, reduced by

"(B) the sum of—

"(i) the section 2040(c) value of such interest, and

"(ii) the adjusted consideration furnished by the decedent's spouse.

"(2) LIMITATIONS.—

"(A) AT LEAST 50 PERCENT OF VALUE TO BE INCLUDED.—Paragraph (1) shall in no event result in the inclusion in the decedent's gross estate of less than 50 percent of the value of the eligible joint interest.

"(B) AGGREGATE REDUCTION.—The aggregate decrease in the value of the decedent's gross estate resulting from the application of this subsection shall not exceed $500,000.

"(3) ELIGIBLE JOINT INTEREST DEFINED.—For purposes of paragraph (1), the term 'eligible joint interest' means any interest in property held by the decedent and the decedent's spouse as joint tenants or as tenants by the entirety, but only if—

"(A) such joint interest was created by the decedent, the decedent's spouse, or both, and

"(B) in the case of a joint tenancy, only the decedent and the decedent's spouse are joint tenants.

"(4) SECTION 2040(c) PROPERTY DEFINED.—For purposes of paragraph (1), the term 'section 2040(c) property' means any inter-

est in any real or tangible personal property which is devoted to use as a farm or used for farming purposes (within the meaning of paragraphs (4) and (5) of section 2032A(e)) or is used in any other trade or business.

"(5) SECTION 2040(c) VALUE.—For purposes of paragraph (1), the term 'section 2040(c) value' means—

"(A) the excess of the value of the eligible joint interest over the adjusted consideration furnished by the decedent, the decedent's spouse, or both, multiplied by

"(B) 2 percent for each taxable year in which the spouse materially participated in the operation of the farm or other trade or business but not to exceed 50 percent.

"(6) ADJUSTED CONSIDERATION.—For purposes of this subsection, the term 'adjusted consideration' means—

"(A) the consideration furnished by the individual concerned (not taking into account any consideration in the form of income or gain from the business of which the section 2040(c) property is a part) determined under rules similar to the rules set forth in subsection (a), and

"(B) an amount equal to the amount of interest which the consideration referred to in subparagraph (A) would have earned over the period in which it was invested in the farm or other business if it had been earning interest throughout such period at 6 percent simple interest.

"(7) MATERIAL PARTICIPATION.—For purposes of paragraph (1), material participation shall be determined in a manner similar to the manner used for purposes of paragraph (1) of section 1402(a) (relating to net earnings from self-employment).

"(8) VALUE.—For purposes of this subsection, except where the context clearly indicates otherwise, the term 'value' means value determined without regard to this subsection.

"(9) ELECTION TO HAVE SUBSECTION APPLY.—This subsection shall apply with respect to a joint interest only if the estate of the decedent elects to have this subsection apply to such interest. Such an election shall be made not later than the time prescribed by section 6075(a) for filing the return of tax imposed by section 2001 (including extensions thereof), and shall be made in such manner as the Secretary shall by regulations prescribe."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to estates of decedents dying after December 31, 1978.

SEC. 512. TREATMENT OF CERTAIN INTERESTS HELD BY DECEDENTS FAMILY FOR PURPOSES OF THE EXTENSION OF TIME FOR PAYMENT OF ESTATE TAX PROVIDED BY SECTION 6166.

(a) INTEREST HELD BY MEMBER OF DECEDENT'S FAMILY TREATED AS HELD BY DECEDENT.—Paragraph (2) of section 6166(b) (relating to definitions and special rules) is amended by adding at the end thereof the following new subparagraph:

"(D) CERTAIN INTERESTS HELD BY MEMBERS OF DECEDENT'S FAMILY.—All stock and all partnership interests held by the decedent or by any member of his family (within the meaning of section 267(c)(4)) shall be treated as owned by the decedent."

(b) ELECTION FOR PURPOSES OF THE 20-PERCENT REQUIREMENTS WITH RESPECT TO PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT TRADABLE.—Subsection (b) of section 6166 (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(7) PARTNERSHIP INTERESTS AND STOCK WHICH IS NOT READILY TRADABLE.—

"(A) IN GENERAL.—If the executor elects the benefits of this paragraph (at such time and in such manner as the Secretary shall by regulations prescribe), then—

"(i) for purposes of paragraph (1)(B)(i) or (1)(C)(i) (whichever is appropriate) and for purposes of subsection (c), any capital interest in a partnership and any nonreadily-tradable stock which (after the application of paragraph (2)) is treated as owned by the decedent shall be treated as included in determining the value of the decedent's gross estate,

"(ii) the executor shall be treated as having selected under subsection (a)(3) the date prescribed by section 6151(a), and

"(iii) section 6601(j) (relating to 4-percent rate of interest) shall not apply.

"(B) NON-READILY-TRADABLE STOCK DEFINED.—For purposes of this paragraph, the term 'non-readily-tradable stock' means stock for which, at the time of the decedent's death, there was no market on a stock exchange or in an over-the-counter market."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 513. SUBORDINATE OF SPECIAL LIENS FOR ADDITIONAL ESTATE TAX ATTRIBUTABLE TO FARM, ETC., VALUATION.

(a) GENERAL RULE.—Subsection (d) of section 6325 (relating to subordination of lien) is amended by striking out "or" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", or", and by adding at the end thereof the following new paragraph:

"(3) In the case of any lien imposed by section 6324B, if the Secretary determines that the United States will be adequately secured after such subordination."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to the estates of decedents dying after December 31, 1976.

SEC. 514. AMENDMENTS OF GOVERNING INSTRUMENTS TO MEET REQUIREMENTS FOR GIFTS OF SPLIT INTEREST TO CHARITY.

(a) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF ESTATE TAX.—The first sentence of paragraph (3) of section 2055(e) is amended to read as follows: "In the case of a will executed before December 31, 1977, or a trust created before such date, if a deduction is not allowable at the time of the decedent's death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1978, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1978 (which are required to amend or conform the governing instrument), become final, so that interest is in a trust which meets the requirements of such subparagraph (a) or (B) (as the case may be), a deduction shall nevertheless be allowed."

(b) CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN THE CASE OF INCOME AND GIFT TAXES.—Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1954.

SEC. 515. DEFERRAL OF CARRYOVER BASIS RULES.

The following provisions are each amended by striking out "December 31, 1976" and inserting in lieu thereof "December 31, 1979":

(1) the caption and text of section 1014(d) (relating to basis of property acquired from the decedent);

(2) section 1016(a)(23) (relating to adjustments to basis);

(3) the heading of section 1023 (relating to carryover basis for certain property);

(4) section 1023(a) (relating to general rule for carryover basis);

(5) the item relating to section 1023 in the table of sections for part II of subchapter O of chapter I; and

(6) section 2005(f)(1) of the Tax Reform Act of 1976 (relating to effective dates for carryover basis provisions).

Subtitle C—Other Excise Tax Provisions

SEC. 520. REDUCTION OF ADMINISTRATION TAX ON PRIVATE FOUNDATIONS.

(a) IN GENERAL.—Subsection (a) of section 4940 (relating to excise tax based on investment income) is amended by striking out "4 percent" and inserting in lieu thereof "2 percent".

(b) EFFECTIVE DATE.—The amendment made by the first section of this Act shall apply to taxable years beginning after September 30, 1977.

SEC. 521. EXCISE TAX ON CERTAIN GAMING DEVICES.

(a) INCREASE IN CREDIT FOR STATE TAX.—Paragraph (2) of section 4464(b) (relating to limitations on the credit for State-imposed taxes) is amended by striking out "80 percent" in the heading and text thereof and inserting in lieu thereof "95 percent".

(b) REPEAL OF OCCUPATIONAL TAX.—Subchapter B of chapter 36 is repealed.

(c) CONFORMING AMENDMENTS.—

(1) Section 4402(2) (relating to exemptions from taxes on wagering) is amended to read as follows:

"(2) COIN-OPERATED DEVICES.—On any wager placed in a coin-operated device (as defined in section 4462 as in effect for years beginning before July 1, 1980), or on any amount paid, in lieu of inserting a coin, token, or similar object, to operate a device described in section 4462(a)(2) (as so in effect), or".

(2) Subsection (a) of section 4901 (relating to payment of occupational tax) is amended by striking out "or 4461(a)(1) (coin-operated gaming devices)".

(d) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply with respect to years ending June 30, 1979, and June 30, 1980.

(2) The amendments made by subsections (b) and (c) shall apply with respect to years beginning after June 30, 1980.

SEC. 522. TREATMENT OF CERTAIN PRIVATE FOUNDATIONS FOR PURPOSES OF SECTION 4942.

(a) GENERAL RULE.— Subsection (j) of section 4942 (relating to other definitions) is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN ELDERLY CARE FACILITIES.—For purposes of this section (but no other provision of this title), the term 'operating foundation' includes any organization which, on May 26, 1969, and at all times thereafter before the close of the taxable year, operated and maintained as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children but only if such organization meets the requirements of paragraph (3)(B)(ii)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1969.

Subtitle D—Income Tax Provisions

SEC. 530. CONTROVERSIES INVOLVING WHETHER INDIVIDUALS ARE EMPLOYEES FOR PURPOSES OF THE EMPLOYMENT TAXES.

(a) TERMINATION OF CERTAIN EMPLOYMENT TAX LIABILITY FOR PERIODS BEFORE 1980.—

(1) IN GENERAL.—If—

(A) for purposes of employment taxes, the taxpayer did not treat an individual as an

employee for any period ending before January 1, 1980, and

(B) in the case of periods after December 31, 1978, all Federal tax returns (including information returns) required to be filed by the taxpayer with respect to such individual for such period are filed on a basis consistent with the taxpayer's treatment of such individual as not being an employee,

then, for purposes of applying such taxes for such period with respect to the taxpayer, the individual shall be deemed not to be an employee unless the taxpayer had no reasonable basis for not treating such individual as an employee.

(2) STATUTORY STANDARDS PROVIDING ONE METHOD OF SATISFYING THE REQUIREMENTS OF PARAGRAPH (1).—For purposes of paragraph (1), a taxpayer shall in any case be treated as having a reasonable basis for not treating an individual as an employee for a period if the taxpayer's treatment of such individual for such period was in reasonable reliance on any of the following:

(A) judicial precedent, published rulings, technical advice with respect to the taxpayer, or a letter ruling to the taxpayer;

(B) a past Internal Revenue Service audit of the taxpayer in which there was no assessment attributable to the treatment (for employment tax purposes) of the individuals holding positions substantially similar to the position held by this individual; or

(C) long-standing recognized practice of a significant segment of the industry in which such individual was engaged.

(3) CONSISTENCY REQUIRED IN THE CASE OF 1979 TAX TREATMENT.—Paragraph (1) shall not apply with respect to the treatment of any individual for employment tax purposes for any period ending after December 31, 1978, and before January 1, 1980, if the taxpayer (or a predecessor) has treated any individual holding a substantially similar position as an employee for purposes of the employment taxes for any period beginning after December 31, 1977.

(4) REFUND OR CREDIT OF OVERPAYMENT.—If refund or credit of any overpayment of an employment tax resulting from the application of paragraph (1) is not barred on the date of the enactment of this Act by any law or rule of law, the period for filing a claim for refund or credit of such overpayment (to the extent attributable to the application of paragraph (1)) shall not expire before the date 1 year after the date of the enactment of this Act.

(b) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—No regulation or Revenue Ruling shall be published on or after the date of the enactment of this Act and before January 1, 1980 (or, if earlier, the effective date of any law hereafter enacted clarifying the employment status of individuals for purposes of the employment taxes) by the Department of the Treasury (including the Internal Revenue Service) with respect to the employment status of any individual for purposes of the employment taxes.

(c) DEFINITIONS.—For purposes of this section—

(1) EMPLOYMENT TAX.—The term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1954.

(2) EMPLOYMENT STATUS.—The term "employment status" means the status of an individual, under the usual common law rules applicable in determining the employer-employee relationship, as an employee or as an independent contractor (or other individual who is not an employee).

SEC. 531. CERTAIN ORIGINAL STOCKHOLDERS OF COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Subsection (b) of section 216 (relating to deduction of taxes, interest, and business depreciation by cooperative housing corporation tenant-stockholder) is amended by adding at the end thereof the following new paragraph:

"(6) STOCK OWNED BY PERSON FROM WHOM THE CORPORATION ACQUIRED ITS PROPERTY—

"(A) IN GENERAL.—If the original seller acquires any stock of the corporation—

"(i) from the corporation by purchase, or

"(ii) by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest in such stock held by the original seller,

the original seller shall be treated as a tenant-stockholder for a period not to exceed 3 years from the date of acquisition.

"(B) ORIGINAL SELLER MUST HAVE RIGHT TO OCCUPY APARTMENT OR HOUSE.—Subparagraph (A) shall apply with respect to any acquisition of stock only if, together with such acquisition, the original seller acquires the right to occupy an apartment or house to which such stock is appurtenant. For purposes of the preceding sentence, there shall not be taken into account the fact that, by agreement with the corporation, the original seller or its nominee may not occupy the house or apartment without the prior approval of the corporation.

"(C) ORIGINAL SELLER DEFINED.—For purposes of this paragraph, the term 'original seller' means the person from whom the corporation has acquired the apartments or houses (or leaseholds therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to stock acquired after the date of the enactment of this Act.

Subtitle E—Other Income Tax Provisions

SEC. 540. DEPOSITS IN CERTAIN BRANCHES OF PUERTO RICAN SAVINGS AND LOAN ASSOCIATIONS.

(a) IN GENERAL.—Subparagraph (F) of section 861(a)(1) (relating to income from sources within the United States) is amended to read as follows:

"(F) interest—

"(i) on deposits with a foreign branch of a domestic corporation or a domestic partnership if such branch is engaged in the commercial banking business, and

"(ii) on amounts satisfying the requirements of paragraph (2) of subsection (c) which are paid by a foreign branch of a domestic corporation or a domestic partnership,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 541. TAXATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT CORPORATIONS

Section 21 of the Alaska Native Claims Settlement Act (43 U.S.C. 1620) is amended by adding three new subsections at the end thereof, as follows:

"(g) In the case of any Native Corporation established pursuant to this Act, income for purposes of any form of Federal, State, or local taxation shall not be deemed to include the value of—

"(1) the receipt, acquisition, or use of any resource information or analysis (including the receipt of any right of access to such information or analysis) relating to lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act;

"(2) the promise or performance by any person or by any Federal, State, or local government agency of any professional or technical services relating to the resources of lands or interests therein conveyed, selected but not conveyed, or available for selection pursuant to this Act, including, but not limited to, services in connection with exploration on such lands for oil, gas, or other minerals; and

"(3) the expenditure of funds, incurring of costs, or the use of any equipment or supplies by any person or any Federal, State, or local government agency, or any promise, agreement, or other arrangement by such person or agency to expend funds or use any equipment or supplies for the purpose of creating, developing, or acquiring the resource information or analysis described in paragraph (1) or for the purpose of performing or otherwise furnishing the services described in paragraph (2): *Provided*, That this paragraph shall not apply to any funds paid to a Native Corporation established pursuant to this Act or to any subsidiary thereof.

This subsection shall be effective as of December 18, 1971, and, with respect to each Native Corporation, shall remain in full force and effect for a period of twenty years thereafter or until the Corporation has received conveyance of its full land entitlement, whichever first occurs. Except as set forth in this subsection and in subsection (d) hereof, all rents, royalties, profits, and other revenues or proceeds derived from real property interests selected and conveyed pursuant to sections 12 and 14 shall be taxable to the same extent as such revenues or proceeds are taxable when received by a non-Native individual or corporation.

"(h)(1) Notwithstanding any other provision of law, each Native Corporation established pursuant to this Act shall be deemed to have become engaged in carrying on a trade or business as of the date it was incorporated for purposes of any form of Federal, State, or local taxation.

"(2) All expenses heretofore or hereafter paid or incurred by a Native Corporation established pursuant to this Act in connection with the selection or conveyance of lands pursuant to this Act, or in assisting another Native Corporation within or for the same region in the selection or conveyance of lands under this Act, shall be deemed to be or to have been ordinary and necessary expenses of such Corporation, paid or incurred in carrying on a trade or business for purposes of any form of Federal, State, or local taxation."

"(i) PERSONAL HOLDING COMPANY ACT EXEMPTION.—No Corporation created pursuant to the Alaska Native Claims Settlement Act shall be considered to be a personal holding company within the meaning of section 542 (a) of the Internal Revenue Code of 1954 prior to January 1, 1992."

SEC. 542. REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION.

(a) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) REPLACEMENT OF LIVESTOCK WITH OTHER FARM PROPERTY WHERE THERE HAS BEEN ENVIRONMENTAL CONTAMINATION.—For purposes of subsection (a), if, because of soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1974.

SEC. 543. CERTAIN PAYMENTS NOT INCLUDED IN GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 (relating to items specifically excluded from gross income) is amended by redesignating section 126 as 127 and by in-

serting immediately after section 125 the following new section:

"SEC. 126. CERTAIN COST-SHARING PAYMENTS.

"(a) GENERAL RULE.—Gross income does not include the excludable portion of payments received under—

"(1) The rural clean water program authorized by section 208(j) of the Federal Water Pollution Control Act (33 U.S.C. 1288 (j)).

"(2) The rural abandoned mine program authorized by section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236).

"(3) The water bank program authorized by the Water Bank Act (16 U.S.C. 1301 et seq.).

"(4) The emergency conservation measures program authorized by title IV of the Agricultural Credit Act of 1978.

"(5) The agricultural conservation program authorized by the Coil Conservation and Domestic Allotment Act (16 U.S.C. 590a).

"(6) The great plains conservation program authorized by section 16 of the Soil Conservation and Domestic Policy Act (16 U.S.C. 590p (b)).

"(7) The resource conservation and development program authorized by the Bankhead-Jones Farm Tenant Act and by the Soil Conservation and Domestic Allotment Act (7 U.S.C. 1010; 16 U.S.C. 590a et seq.).

"(8) The forestry incentives program authorized by section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

"(9) Any small watershed program administered by the Secretary of Agriculture which is determined by the Secretary of the Treasury to be substantially similar to the type of programs described in paragraphs (1) through (8).

"(10) Any State program under which payments are made to individuals primarily for the purpose of conserving soil, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

"(b) EXCLUDABLE PORTION.—For purposes of this section, the term 'excludable portion' means that portion (or all) of a payment made to any person under any program described in subsection (a) which—

"(1) is determined by the Secretary of Agriculture to be made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife, and

"(2) is determined by the Secretary of the Treasury as not increasing substantially the annual income derived from the property.

"(c) APPLICATION WITH OTHER SECTIONS.—No deduction or credit allowable under any other provision of this chapter shall be allowed with respect to any expenditure made with the use of payments described in subsection (a) or with respect to any property acquired with any payment described in subsection (a) (to the extent that the basis is allocable to the use of such payments). Notwithstanding any provision of section 1016 to the contrary, no adjustment to basis shall be made with respect to property acquired through the use of such payments, to the extent that such adjustment would reflect the amount of such payment."

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 126. Certain cost-sharing payments.
"S53. 127. Cross reference to other Acts."

(c) RECAPTURE OF GAIN FROM DISPOSITION OF PROPERTY.—

(1) Part IV of subchapter P of chapter 1 (relating to special rules for determining capital gains and losses) is amended by adding at the end thereof the following:

"SEC. 1255. GAIN FROM DISPOSITION OF SECTION 126 PROPERTY.

"(a) GENERAL RULE.—

"(1) ORDINARY INCOME.—Except as otherwise provided in this section, if section 126 property is disposed of, the lower of—

"(A) the applicable percentage of the aggregate payments, with respect to such property, excluded from gross income under section 126, or

"(B) the excess of—

"(i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of such section 126 property (in the case of any other disposition), over

"(ii) the adjusted basis of such property, shall be treated as ordinary income.

"(2) SECTION 126 PROPERTY.—For purposes of this section, 'section 126 property' means any property acquired, improved, or otherwise modified by the application of payments excluded from gross income under section 126.

"(3) APPLICABLE PERCENTAGE.—For purposes of this section, if section 126 property is disposed of less than 10 years after the date of receipt of payments excluded from gross income under section 126, the applicable percentage is 100 percent. If section 126 property is disposed of more than 10 years after such date, the applicable percentage is 100 percent reduced (but not below zero) by 10 percent for each year or part thereof, in excess of 10 years such property was held after the date of receipt of the payments.

"(b) SPECIAL RULES.—Under regulations prescribed by the Secretary—

"(1) rules similar to the rules applicable under section 1245 shall be applied for purposes of this section, and

"(2) amounts treated as ordinary income under this section shall be treated in the same manner as amounts treated as ordinary income under section 1245."

(2) The table of sections for such part is amended by adding at the end thereof the following new item:

"Sec. 1255. Gain from disposition of section 126 property."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to grants made under the programs after September 30, 1979.

Subtitle F—Studies

SEC. 551. STUDY OF SIMPLIFICATION OF TAX RETURNS.

(a) STUDY.—The Secretary of the Treasury shall conduct a full and complete study and investigation with respect to—

(1) provisions of the Internal Revenue Code of 1954 which, due to their complexity, may hamper the ability of individuals to prepare accurate and complete Federal income tax returns, and

(2) methods of simplifying Federal income tax return forms and instructions accompanying such forms.

(b) TASK FORCE.—

(1) IN GENERAL.—The Secretary of the Treasury shall establish a task force to assist him in the conduct of the study and investigation under subsection (a).

(2) REPORTS OF TASK FORCE.—The task force shall report from time to time on its progress directly to the Secretary and shall submit a final report to the Secretary which includes its findings with respect to such study and investigation and any recommendations with respect thereto. Such final report shall be submitted by such time as is necessary to enable the Secretary to file the report called for in subsection (c) of this section.

(3) AUTHORITY TO HIRE.—The Secretary is authorized to appoint such employees, not in excess of 10, as may be necessary to carry out the functions of the task force without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, except that such employees shall not be paid at a rate in excess of the annual rate of pay under grade GS-18 of the General Schedule under section 5332 of such title 5.

(c) REPORT.—The Secretary, after studying the reports and recommendations of the task force under subsection (b), shall, not later than 2 years after the date of the enactment of this Act, submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report on the study and investigation conducted under this section, together with such recommendations for legislation as he finds necessary.

SEC. 552. STUDY OF TAX INCENTIVES FOR EXPENDITURES REQUIRED BY OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION AND MINING AND SAFETY ADMINISTRATION.

(a) STUDY.—The Secretary of the Treasury shall make a full and complete study and investigation with respect to the appropriateness of providing additional tax incentives for expenditures required by the Occupational Safety and Health Act (OSHA) and the Mining Safety and Health Administration (MSHA) of the Department of Labor.

(b) REPORT.—Before April 1, 1979, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report of its study and investigation together with its recommendations for legislation.

SEC. 553. STUDY OF TAXATION OF NONRESIDENT ALIEN REAL ESTATE TRANSACTIONS IN THE UNITED STATES.

(a) STUDY.—The Secretary of the Treasury shall make a full and complete study and analysis of the appropriate tax treatment to be given to income derived from, or gain realized on, the sale of interests in United States property held by nonresident aliens or foreign corporations.

(b) REPORT.—The Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a final report of its study, together with its recommendations, no later than 6 months from the date of enactment of this Act.

SEC. 554. REPORT OF EFFECTIVENESS OF JOBS CREDIT.

(a) REPORT ON TARGETED JOBS CREDIT.—Not later than June 30, 1981, the Secretary of the Treasury and the Secretary of Labor shall jointly submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

(1) the effectiveness of the targeted jobs credit provided by the amendments made by this section in improving the employment situation of the targeted groups, and

(2) the types of employers claiming such credit.

(b) GENERAL JOBS CREDIT.—The report required under paragraph (1) shall also include an evaluation of—

(1) the effectiveness of the general jobs credit provided by section 44B of the Internal Revenue Code of 1954 for 1977 and 1978 in stimulating employment and enhancing economic growth, and

(2) the types of employers claiming such credit.

SEC. 555. STUDY OF EFFECTS OF CHANGES IN THE TAX TREATMENT OF CAPITAL GAINS ON STIMULATING INVESTMENT AND ECONOMIC GROWTH.

Not later than September 30, 1981, the Secretary of the Treasury shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a report on the effectiveness of the changes made by this title

in the tax treatment of capital gains of individuals and corporations in stimulating investment and increasing the rate of economic growth. The report shall also include an analysis of the effects these changes had on employment growth and on income tax revenues.

TITLE VI—GENERAL STOCK OWNERSHIP CORPORATIONS

SEC. 601. ESTABLISHMENT AND TAXATION OF GENERAL STOCK OWNERSHIP CORPORATIONS AND THEIR SHAREHOLDERS.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter U—General Stock Ownership Corporations

"Sec. 1391. Definitions.
"Sec. 1392. Election by general stock ownership corporation.
"Sec. 1393. Corporation taxable income taxed to shareholders.
"Sec. 1394. Rules applicable to distributions of electing general stock ownership corporations.
"Sec. 1395. Adjustments to basis of stock of shareholders.
"Sec. 1396. Minimum distribution.
"Sec. 1397. Special rules applicable to earnings and profits of an electing general stock ownership plan.

"Sec. 1391. DEFINITIONS.

"(a) GENERAL STOCK OWNERSHIP CORPORATION.—For purposes of this subchapter, the term 'general stock ownership corporation' (hereinafter referred to as a 'GSOC') means a domestic corporation which—

"(1) is not a member of an affiliated group (as defined in section 1504), and

"(2) is chartered and organized after December 31, 1978, and before January 1, 1984;

"(3) is chartered by an act of a State legislature or as a result of a State-wide referendum;

"(4) has a charter providing—

"(A) for the issuance of only 1 class of stock,

"(B) for the issuance of shares only to eligible individuals (as defined in subsection (c));

"(C) for the issuance of at least one share to each eligible individual, unless such eligible individual elects within one year after the date of issuance not to receive such share;

"(D) that no share of stock shall be transferable—

"(i) by a shareholder other than by will or the laws of descent and distribution until after the expiration of 5 years from the date such stock is issued by the GSOC except where the shareholder ceases to be a resident of the State;

"(ii) to any person other than a resident individual of the chartering State;

"(iii) to any individual who, after the transfer, would own more than 10 shares of the GSOC;

"(E) that such corporation shall qualify as a GSOC under the Internal Revenue Code;

"(5) is empowered to invest in properties (but not in properties acquired by it or for its benefit through the right of eminent domain).

For purposes of this subsection, section 1504 (a) shall be applied by substituting '20 percent' for '80 percent' wherever it appears.

"(b) ELECTING GSOC.—For purposes of this subchapter, the term 'electing GSOC' means a GSOC which files an election under section 1392 which, under section 1392, is in effect for such taxable year.

"(c) ELIGIBLE INDIVIDUALS.—For purposes of subsection (a), the term 'eligible individual' means an individual who is, as of a date specified in the State's enabling legislation for the GSOC, a resident of the chartering State and who remains a resident of such State between that date and the date of issuance.

"(d) TREATED AS PRIVATE CORPORATION.—For purposes of this title, a GSOC shall be treated as a private corporation and not as a governmental unit.

"(e) STUDY OF GENERAL STOCK OWNERSHIP CORPORATIONS.—The staff of the Joint Committee on Taxation shall prepare a report on the operation and effects of this subchapter relating to GSOC's. An interim report shall be filed within two years after the first GSOC is formed and a final report shall be filed by September 30, 1983.

"SEC. 1392. ELECTION BY GSOC.

"(a) ELIGIBILITY.—Except as provided in section 1393, any GSOC may elect, in accordance with the provisions of this section, not to be subject to the taxes imposed by this chapter.

"(b) EFFECT.—If a GSOC makes an election under subsection (a) then—

"(1) with respect to the taxable years of the GSOC for which such election is in effect, such corporation shall not be subject to the taxes imposed by this chapter and, with respect to such taxable years and all succeeding taxable years, the provisions of section 1396 shall apply to such GSOC, and

"(2) with respect to each such taxable year, the provisions of section 1393, 1394, and 1395 shall apply to the shareholders of such GSOC.

"(c) WHERE AND HOW MADE.—An election under subsection (a) may be made by a GSOC at such time and in such manner as the Secretary shall prescribe by regulations.

"(d) YEARS FOR WHICH EFFECTIVE.—An election under subsection (a) shall be effective for the taxable year of the GSOC for which it is made and for all succeeding taxable years of the GSOC, unless it is terminated under subsection (f).

"(e) TAXABLE YEAR.—The taxable year of a GSOC shall end on October 31 unless the Secretary consents to a different taxable year.".

"(f) TERMINATION.—The election of a GSOC under subsection (a) shall terminate for any taxable year during which it ceases to be a GSOC and for all succeeding taxable years. The election of a GSOC under subsection (a) may be terminated at any other time with the consent of the Secretary, effective for the first taxable year with respect to which the Secretary consents and for all succeeding taxable years.

"SEC. 1393. TAXABLE INCOME TAXED TO SHAREHOLDERS.

"(a) GENERAL RULE.—The taxable income of an electing GSOC for any taxable year shall be included in the gross income of the shareholders of such GSOC in the manner and to the extent set forth in this subsection.

"(1) AMOUNT INCLUDED IN GROSS INCOME.—Each shareholder of an electing GSOC on any day of a taxable year of such GSOC shall include in his gross income for the taxable year with or within which the taxable year of the GSOC ends the amount he would have received if, on each day of such taxable year, there had been distributed pro rata to its shareholders by such GSOC an amount equal to the taxable income of the GSOC for its taxable year divided by the number of days in the GSOC's taxable year.

"(2) TAXABLE INCOME DEFINED.—For purposes of this section, the term 'taxable income' of a GSOC shall be determined without regard to the deductions allowed by part VIII of subchapter B (other than deductions allowed by section 248, relating to organizational expenditures).

"(b) SPECIAL RULE FOR INVESTMENT CREDIT.—The investment credit of an electing GSOC for any taxable year shall be allowed as a credit to the shareholders of such corporation in the manner and to the extent set forth in this subsection.

"(1) CREDIT.—There shall be apportioned among the shareholders a credit equal to the amount each shareholder would have received if, on each day of such taxable year, there had been distributed pro rata to the shareholders the electing GSOC's net investment credit divided by the number of days in the GSOC's taxable year.

"(2) NET INVESTMENT CREDIT.—For purposes of this paragraph the term 'net investment credit' means the investment credit of the electing GSOC for its taxable year less any tax from recomputing a prior year's investment credit in accordance with section 47.

"(3) RECAPTURE.—There shall be apportioned among the shareholders of a GSOC, in the manner described in paragraph (1), an additional tax equal to the excess of any tax resulting from recomputing a prior year's investment credit in accordance with section 47 over the investment credit of the GSOC for it's taxable year.

"SEC. 1394. RULES APPLICABLE TO DISTRIBUTIONS OF AN ELECTING GSOC'S

"(a) SHAREHOLDER INCOME ACCOUNT.—An electing GSOC shall establish and maintain a shareholder income account which account shall be—

"(1) increased at the close of the GSOC's taxable year by an amount equal to the GSOC's taxable income for such year, and

"(2) Decreased, but not below zero, on the first day of the GSOC's taxable year by the amount of any GSOC distribution to the shareholders of such GSOC made or treated as made during the prior taxable year.

"(b) TAXATION OF DISTRIBUTIONS.—Distributions by an electing GSOC shall be treated as—

"(1) a distribution of previously taxed income to the extent such distribution does not exceed the balance of the shareholder income account as of the close of the taxable year of the GSOC, and

"(2) a distribution to which section 301(a) applies but only to the extent such distribution exceeds the balance of the shareholder income account as of the close of the taxable year of the GSOC.

"(c) DISTRIBUTIONS NOT TREATED AS A DIVIDEND.—Any amounts includible in the gross income of any individual by reason of ownership of stock in a GSOC shall not be considered as a dividend for purposes of section 116.

"(d) REGULATIONS.—The Secretary shall have authority to prescribe by regulation, rules for treatment of distributions in respect of shares of stock of the GSOC that have been transferred during the taxable year.".

"SEC. 1395. ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS.

"The basis of a shareholder's stock in an electing GSOC shall be increased by the amount includible in the gross income of such shareholder under section 1393, but only to the extent to which such amount is actually included in the gross income of such shareholder.

"SEC. 1396. MINIMUM DISTRIBUTIONS.

"(a) GENERAL RULE.—A GSOC shall distribute at least 90 percent of its taxable income for any taxable year by January 31 following the close of such taxable year. Any distribution made on or before January 31 shall be treated as made as of the close of the preceding taxable year.

"(b) IMPOSITION OF TAX IN CASE OF FAILURE TO MAKE MINIMUM DISTRIBUTION.—If a GSOC fails to make the minimum distribution requirements described in subsection (a), there is hereby imposed on the GSOC a tax equal to 20 percent of the excess of the amount required to be distributed over the amount actually distributed.

"SEC. 1397. SPECIAL RULES APPLICABLE TO AN ELECTING GSOC.

"(a) GENERAL RULE.—The current earnings and profits of an electing GSOC as of the close of its taxable year shall not include the amount of taxable income for such year which is required to be included in the gross income of the shareholders of such GSOC under section 1393(a).

"(b) SPECIAL RULE FOR AUDIT ADJUSTMENTS.—

"(1) TAXABLE INCOME.—Taxable income of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to taxable income for a prior taxable year.

"(2) INVESTMENT CREDIT.—The investment credit of an electing GSOC shall, in the year of final determination, be increased or decreased, as the case might be, by any adjustment to the net investment credit for a prior taxable year.

"(3) METHOD OF MAKING ADJUSTMENTS.—An electing GSOC shall include in gross income for the year of an adjustment the amount described in paragraph (1) and shall take into account the adjustment described in paragraph (2), and shall be liable for payment of interest in the amount that would have been payable by the GSOC under section 6601 (relating to interest on underpayment, nonpayment or extensions of time for payment, of tax) or receivable by the GSOC under section 6611 (relating to interest on overpayments) if such GSOC had been a corporation other than an electing GSOC."

(b) TECHNICAL AMENDMENTS.—

(1) NET OPERATING LOSS DEDUCTION.—Paragraph (1) of section 172(b) (relating to net operating loss carrybacks and carryovers) is amended by adding at the end thereof the following new subparagraph:

"(H) In the case of an electing GSOC which has a net operating loss for any taxable year such loss shall not be a net operating loss carryback to any taxable year preceding the year of such loss, but shall be a net operating loss carryover to each of the 10 taxable years following the year of such loss."

(2) INCOME TAX COLLECTED AT SOURCE.—Section 3402 (relating to income collected at source) is amended by adding at the end thereof the following new subsection:

"(r) EXTENSION OF WITHHOLDING TO GSOC DISTRIBUTIONS.—

"(1) GENERAL RULE.—An electing GSOC making any distribution to its shareholders shall deduct and withhold from such payment a tax in an amount equal to 25 percent of such payment.

"(2) COORDINATION WITH OTHER SECTIONS.—For purposes of sections 3403 and 3404 and for purposes of so much of subtitle F (except section 7205) as relates to this chapter, distributions of an electing GSOC to any shareholder which are subjust to withholding shall be treated as if they were wages paid by an employer to an employee."

(3) ADJUSTMENTS TO BASIS.—Section 1016 (a) (relating to adjustments of basis) is amended by redesignating paragraph (23) as (22) and by inserting after paragraph (20) the following new paragraph:

"(21) to the extent provided in section 1395 in the case of stock of shareholders of a general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392; and".

(4) RETURN OF GENERAL STOCK OWNERSHIP CORPORATION.—Subpart A of part III of subchapter A of Chapter 61 (relating to information returns) is amended by adding at the end thereof the following new section:

"SEC. 6039B. RETURN OF GENERAL STOCK OWNERSHIP CORPORATION.

"Every general stock ownership corporation (as defined in section 1391) which makes the election provided by section 1392 shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the amount of investment credit or additional tax, as the case may be, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, and such other information, for the purpose of carrying out the provisions of subchapter U of chapter 1, as the Secretary may by regulation prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012. Every GSOC shall file an annual report with the Secretary summarizing its operations for such year."

(c) CLERICAL AMENDMENTS.—

(1) The table of subchapters for chapter 1 is amended by adding at the end thereof the following:

"SUBCHAPTER U.—General stock ownership plans."

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by adding at the end thereof the following:

"Sec. 6039B. Return of general stock ownership corporation."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to corporations chartered after December 31, 1978, and before January 1, 1984.

TITLE VII—TECHNICAL CORRECTIONS OF THE TAX REFORM ACT OF 1976

SEC. 701. TECHNICAL AMENDMEN.S TO INCOME TAX PROVISIONS AND ADMINISTRATIVE PROVISIONS.

(a) AMENDMENTS RELATING TO RETENTION OF PRIOR LAW FOR RETIREMENT INCOME CREDIT UNDER SECTION 37(e).—

(1) CLARIFICATION THAT SPOUSE UNDER AGE 65 MUST HAVE PUBLIC RETIREMENT SYSTEM INCOME.—Paragraph (2) of section 37(e) (relating to election of prior law with respect to public retirement system income) is amended by striking out "who has not attained age 65 before the close of the taxable year" and inserting in lieu thereof "who has not attained age 65 before the close of the taxable year (and whose gross income includes income described in paragraph (4)(B))".

(2) CLARIFICATION THAT QUALIFYING SERVICES MUST HAVE BEEN PERFORMED BY TAXPAYER OR SPOUSE.—Subparagraph (B) of section 37(e)(4) (defining retirement income) is amended by inserting "and who performed the services giving rise to the pension or annuity (or is the spouse of the individual who performed the services)" after "before the close of the taxable year".

(3) DISREGARD OF COMMUNITY PROPERTY LAWS.—Subsection (c) of section 37 (relating to election of prior law with respect to public retirement system income) is amended—

(A) by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) COMMUNITY PROPERTY LAWS NOT APPLICABLE.—In the case of a joint return, this subsection shall be applied without regard to community property laws.",

(B) by striking out "paragraph (8)(A)" in paragraph (4)(B) and inserting in lieu thereof "paragraph (9)(A)"; and

(C) by striking out "paragraph (8)(B)" in paragraph (5)(B) and inserting in lieu thereof "paragraph (9)(B)".

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraphs (1) and (2) shall apply to taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (3) shall apply to taxable years beginning after December 31, 1977.

(b) AMENDMENTS RELATING TO THE MINIMUM TAX.—

(1) SPECIAL RULES FOR MINIMUM TAX IN THE CASE OF SUBCHAPTERS CORPORATIONS AND PERSONAL HOLDING COMPANIES.—

(A) Paragraph (1) of section 57(a)(relating to adjusted itemized deductions) is amended by striking out "An amount" and inserting in lieu thereof "In the case of an individual, an amount".

(B) The last sentence of section 57(a) (relating to items of tax preference) is amended by striking out "Paragraphs (1), (3), and" and inserting in lieu thereof "Paragraphs (3) and".

(2) DIVISION OF $10,000 AMOUNT AMONG MEMBERS OF CONTROLLED GROUPS.—Subsection (b) of section 58 (relating to members of controlled groups) is amended to read as follows:

"(b) MEMBERS OF CONTROLLED GROUPS.—In the case of a controlled group of corporations (as defined in section 1563(a)), the $10,000 amount specified in section 56 shall be divided among the component members of such group in proportion to their respective regular tax deductions (within the meaning of section 56(c)) for the taxable year."

(3) COMPUTATION OF ADJUSTED ITEMIZED DEDUCTIONS IN THE CASE OF ESTATES AND TRUSTS.—Paragraph (2) of section 57(b) (relating to computation of adjusted itemized deductions in the case of estates and trusts) is amended to read as follows:

"(2) SPECIAL RULES FOR ESTATES AND TRUSTS.—

"(A) IN GENERAL.—In the case of an estate or trust, for purposes of paragraph (1) of subsection (a), the amount of the adjusted itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

"(i) the deductions allowable in arriving at adjusted gross income,

"(ii) the deduction for personal exemption provided by section 642(b),

"(iii) the deduction for casualty losses described in section 165(c)(3),

"(iv) the deductions allowable under section 651(a), 661(a), or 691(c), and

"(v) the deductions allowable to a trust under section 642(c) to the extent that a corresponding amount is included in the gross income of the beneficiary under section 662(a)(1) for the taxable year of the beneficiary with which or within which the taxable year of the trusts ends,

exceeds 60 percent (but does not exceed 100 percent) of the adjusted gross income of the estate or trust for the taxable year.

"(B) DETERMINATION OF ADJUSTED GROSS INCOME.—For purposes of this paragraph, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(i) the deductions for costs paid or incurred in connection with the administration of the estate or trust, and

"(ii) to the extent provided in subparagraph (C), the deductions under section 642(c),

shall be treated as allowable in arriving at adjusted gross income.

"(C) TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS.—For purposes of this paragraph, the following deductions under section 642(c) (relating to deductions for amounts paid or permanently set aside for charitable purposes) shall be treated as deductions allowable in arriving at adjusted gross income:

"(i) deductions allowable to an estate,

"(ii) deductions allowable to a trust all of the unexpired interests in which are devoted to one or more of the purposes described in section 170(c)(2)(B),

"(iii) deductions allowable to a trust which is a pooled income fund within the meaning of section 642(c)(5),

"(iv) deductions allowable to a trust which are attributable to transfers to the trust before January 1, 1977, and

"(v) deductions allowable to a trust, all of the income interest of which is devoted solely to one or more of the purposes described in section 170(c)(2)(B), which are attributable to transfers pursuant to a will or pursuant to an inter vivos trust in which the grantor had the power to revoke at the date of his death."

(4) SECTION 691(c) DEDUCTION NOT TAKEN INTO ACCOUNT FOR DETERMINING ADJUSTED ITEMIZED DEDUCTIONS.—Paragraph (1) of section 57(b) is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) the deduction allowable under section 691(c),".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by section 301 of the Tax Reform Act of 1976.

(c) SICK PAY.—

(1) IN GENERAL.—Section 105(d) is amended by striking out paragraphs (4) and (6), by redesignating paragraph (5) as paragraph (4) and paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) SPECIAL RULES FOR MARRIED COUPLES.—

"(A) MARRIED COUPLE MUST FILE JOINT RETURN.—Except in the case of a husband and wife who live apart at all times during the taxable year, if the taxpayer is married at the close of the taxable year, the exclusion provided by this subsection shall be allowed only if the taxpayer and his spouse file a joint return for the taxable year.

"(B) APPLICATION OF PARAGRAPHS (2) AND (3).—In the case of a joint return—

"(i) paragraph (2) shall be applied separately with respect to each spouse, but

"(ii) paragraph (3) shall be applied with respect to their combined adjusted gross income.

"(C) DETERMINATION OF MARITAL STATUS.—For purposes of this subsection, marital status shall be determined under section 143(a).

"(D) JOINT RETURN DEFINED.—For purposes of this subsection, the term 'joint return' means the joint return of a husband and wife made under section 6013."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c)(3) of section 505 of the Tax Reform Act of 1976 (relating to disability retirement) is amended by striking out "section 105(d)(5)" and inserting in lieu thereof "section 105(d)(4)".

(B) Subsections (c) and (e)(1) of section 301 of the Tax Reduction and Simplification Act of 1977 (relating to effective date of changes in the exclusion for sick pay) are each amended by striking out "section 105(d)(7)" and inserting in lieu thereof "section 105(d)(6)".

(3) EFFECTIVE DATE.—

(A) The amendments made by paragraphs (1) and (2)(A) shall take effect as if included in section 105(d) of the Internal Revenue Code of 1954 as such section was amended by section 505(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2)(B) shall take effect as if included in section 301 of the Tax Reduction and Simplification Act of 1977.

(d) NET OPERATING LOSSES.—

(1) AMENDMENT OF SECTION 172(b)(1)(B).—The second sentence of subparagraph (B) of section 172(b)(1) (relating to years to which net operating losses may be carried) is amended by striking out "and (F)" and inserting in lieu thereof "(F), and (G)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to losses incurred in taxable years ending after December 31, 1975.

(e) EFFECTIVE DATE FOR FISCAL YEAR TAXPAYERS FOR CONSTRUCTION PERIOD INTEREST AND TAXES.—Paragraph (1) of section 201(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) in the case of nonresidential real property, if the construction period begins on or after the first day of the first taxable year beginning after December 31, 1975,".

(f) CLARIFICATION OF PROVISIONS PROVIDING TAX INCENTIVES TO ENCOURAGE THE PRESERVATION OF HISTORIC STRUCTURES.—

(1) DEFINITION OF CERTIFIED HISTORIC STRUCTURES.—Subsection (d) of section 191 (relating to amortization of certain rehabilitation expenditures for certified historic structures) is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) CERTIFIED HISTORIC STRUCTURE.—The term 'certified historic structure' means a building or structure which is of a character subject to the allowance for depreciation provided in section 167 and which—

"(A) is listed in the National Register, or

"(B) is located in a register historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(2) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(A) any district listed in the National Register, and

"(B) any district—

"(i) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(ii) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register."

(2) AMENDMENT OF CROSS REFERENCES.—Subsection (g) of section 191 (relating to cross references) is amended to read as follows:

"(g) CROSS REFERENCES.—

"(1) For rules relating to the listing of buildings, structures, and historic districts in the National Register, see the Act entitled 'An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes', approved October 15, 1966 (16 U.S.C. 470 et seq.).

"(2) For special rules with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see sections 1245 and 1250."

(3) SPECIAL RULES FOR RECAPTURE OF AMORTIZATION DEDUCTION.—

(A) Paragraph (2) of section 1245(a) (relating to gain from dispositions of certain depreciable property) is amended—

(i) by striking out "190, or 191" the first place it appears and inserting in lieu thereof "or 190" and

(ii) by striking out "190, or 191" the second and third place it appears and inserting in lieu thereof "190, or (in the case of property described in paragraph (3)(C)) 191".

(B) Subparagraph (D) of section 1245(a)(3) (relating to gain from dispositions of certain depreciable property) is amended by striking out "190, or 191" and inserting in lieu thereof "or 190".

(C) Paragraph (3) of section 1250(b) (relating to depreciation adjustments) is amended by striking out "190 or 191" and inserting in lieu thereof "or 190".

(D) Paragraph (2) of section 57(a) (relating to items of tax preference) is amended by inserting "or 191" after "167(k)".

(E) Paragraph (4) of section 1250(b) (relating to definition of additional depreciation) is amended—

(i) by inserting "or amortization" after "depreciation" the second and third places it appears, and

(ii) by inserting "or 191" after "167(k)" each place it appears.

(4) STRAIGHT LINE METHOD IN CERTAIN CASES.—Subsection (n) of section 167 is amended to read as follows:

"(n) STRAIGHT LINE METHOD IN CERTAIN CASES.—

"(1) IN GENERAL.—In the case of any property in whole or in part constructed, reconstructed, erected, or used on a site which was, on or after June 30, 1976, occupied by a certified historic structure (or by any structure in a registered historic district) which is demolished or substantially altered after such date—

"(A) subsections (b), (j), (k), and (l) shall not apply, and

"(B) the term 'reasonable allowance' as used in subsection (a) means only an allowance computed under the straight line method.

The preceding sentence shall not apply if the last substantial alteration of the structure is a certified rehabilitation.

"(2) EXCEPTIONS.—The limitations imposed by this subsection shall not apply—

"(A) to personal property, and

"(B) in the case of demolition or substantial alteration of a structure located in a registered historic district, if—

"(i) such structure was not a certified historic structure,

"(ii) the Secretary of the Interior certified to the Secretary that such structure is not of historic significance to the district, and

"(iii) if the certification referred to in clause (ii) occurs after the beginning of the demolition or substantial alteration of such structure, the taxpayer certifies to the Secretary that, at the beginning of such demolition or substantial alteration, he in good faith was not aware of the requirements of clause (ii).

"(3) DEFINITIONS.—For purposes of this subsection, the terms 'certified historic structure', 'registered historic district', and 'certified rehabilitation' have the respective meanings given such terms by section 191(d)."

(5) DEMOLITION OF CERTAIN HISTORIC STRUCTURES.—Subsection (b) of section 280B (relating to special rule for registered historic districts) is amended to read as follows:

"(b) SPECIAL RULE FOR REGISTERED HISTORIC DISTRICTS.—For purposes of this section, any building or other structure located in a registered historic district (as defined in section 191(d)(2)) shall be treated as a certified historic structure unless the Secretary of the Interior has certified that such structure is not a certified historic structure, and that such structure is not of historic significance to the district, and if such certification occurs after the beginning of the demolition of such structure, the taxpayer has certified to the Secretary that, at the time of such demolition, he in good faith was not aware of the certification requirement by the Secretary of the Interior."

(6) SUBSTANTIALLY REHABILITATED HISTORIC PROPERTY.—

(A) Paragraph (1) of section 167(o) (relating to substantially rehabilitated historic property) is amended by inserting "(other than property with respect to which an amortization deduction has been allowed to the taxpayer under section 191)" after "substantially rehabilitated historic property".

(B) Paragraph (2) of section 167(o) is amended by striking out "section 191(d)(3)" and inserting in lieu thereof "section 191(d)(4)".

(7) AMORTIZATION ALLOWABLE TO PERSONS WITH CERTAIN LEASE INTERESTS.—Section 191(f) (relating to treatment of life tenants and

remaindermen) is amended to read as follows:

"(f) SPECIAL RULES FOR CERTAIN INTERESTS.—

"(1) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

"(2) CERTAIN LESSEES.—

"(A) IN GENERAL.—In the case of a lessee of a certified historic structure who has expended amounts in connection with the certified rehabilitation of such structure which are properly chargeable to capital account, the deduction under this section shall be allowable to such lessee with respect to such amounts.

"(B) AMORTIZABLE BASIS.—For purposes of subsection (a), the amortizable basis of such lessee shall not exceed the sum of the amounts described in subparagraph (A).

"(C) LIMITATION.—Subparagraph (A) shall apply only if the date of the certified rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) extends—

"(i) beyond the last day of the useful life (determined without regard to this section) of the improvements for which the amounts described in subparagraph (A) were expended, and

"(ii) for not less than 30 years.".

(8) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the respective provisions of the Internal Revenue Code of 1954 to which such amendments relate, as such provision were added to such Code, or amended, by section 2124 of the Tax Reform Act of 1976.

(g) FOREIGN CONVENTIONS.—

(1) DEDUCTIONS NOT DISALLOWED TO EMPLOYER WHERE EMPLOYEE INCLUDES AMOUNTS IN GROSS INCOME.—Subparagraph (D) of section 274(h)(6) (relating to application of subsection to employer as well as to traveler) is amended to read as follows:

"(D) SUBSECTION TO APPLY TO EMPLOYER AS WELL AS TO TRAVELER.—

"(i) Except as provided in clause (ii), this subsection shall apply to deductions otherwise allowable under section 162 or 212 to any person, whether or not such person is the individual attending the foreign convention. For the purposes of the preceding sentence such person shall be treated, with respect to each individual, as having selected the same 2 foreign conventions as were selected by such individual.

"(ii) This subsection shall not deny a deduction to any person other than the individual attending the foreign convention with respect to any amount paid by such person to or on behalf of another person if includible in the gross income of such other person. The preceding sentence shall not apply if such amount is required to be included in any information return filed by such person under part III of subchapter A of chapter 61 and is not so included.".

(2) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—Section 274(h)(6) is amended by adding at the end thereof the following new subparagraph:

"(E) INDIVIDUALS RESIDING IN FOREIGN COUNTRIES.—For purposes of this subsection, in the case of an individual citizen of the United States who establishes to the satisfaction of the Secretary that he was a bona fide resident of a foreign country at the time that he attended a convention in such foreign country, such individual's attendance at such convention shall not be considered as attendance at a foreign convention.".

(3) TECHNICAL AMENDMENT.—The first sentence of section 274(h)(3) is amended by striking out "more than one-half" and inserting in lieu thereof "at least one-half".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to conventions beginning after December 31, 1976.

(h) RENTAL OF FORMER PRINCIPAL RESIDENCE.—

(1) IN GENERAL.—Subsection (d) of section 280A (relating to use of residence for personal purposes) is amended by adding at the end thereof the following new paragraph:

"(3) RENTAL OF PRINCIPAL RESIDENCE.—

"(A) IN GENERAL.—For purposes of applying subsection (c)(5) to deductions allocable to a qualified rental period, a taxpayer shall not be considered to have used a dwelling unit for personal purposes for any day during the taxable year which occurs before or after a qualified rental period described in subparagraph (B)(i), or before a qualified rental period described in subparagraph (B)(ii), if with respect to such day such unit constitutes the principal residence (within the meaning of section 1034) of the taxpayer.

"(B) QUALIFIED RENTAL PERIOD.—For purposes of subparagraph (A), the term 'qualified rental period' means a consecutive period of—

"(i) 12 or more months which begins or ends in such taxable year, or

"(ii) less than 12 months which begins in such taxable year and at the end of which such dwelling unit is sold or exchanged, and for which such unit is rented to a person other than a member of the family (as defined in section 267(c)(4)) of the taxpayer, or is held for rental, at a fair rental."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 280A of the Internal Revenue Code of 1954, as such provision was added to such Code by section 601(a) of the Tax Reform Act of 1976.

(i) CLARIFICATION OF LAST SENTENCE OF SECTION 337(c)(2).—

(1) IN GENERAL.—Subsection (c) of section 337 (relating to limitations on application of section 337) is amended by striking out the last sentence of paragraph (2) and by adding at the end of such subsection the following new paragraph:

"(3) SPECIAL RULE FOR AFFILIATED GROUP.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to a sale or exchange by a corporation (hereinafter in this paragraph referred to as the 'selling corporation') if—

"(i) within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

"(ii) none of the complete liquidations referred to in clause (i) is a liquidation with respect to which section 333 applies.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) The term 'distributee corporation' means a corporation in the chain of includible corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in subparagraph (A)(i).

"(ii) The term 'chain of includible corporation' includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includible corporations for purposes of section 1504(a) (determined without regard to the exceptions contained in section 1504(b)). Such term includes, where appropriate, the common parent corporation."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1975.

(j) CERTAIN TRANSACTIONS INVOLVING 2 OR MORE INVESTMENT COMPANIES.—

(1) AMENDMENTS OF SECTION 368(a)(2)(F).—

(A) The first sentence of clause (iii) of section 368(a)(2)(F) is amended—

(i) by striking out "more than 50 percent" and inserting in lieu thereof "50 percent or more"; and

(ii) by striking out "more than 80 percent" and inserting in lieu thereof "80 percent or more."

(B) The first sentence of clause (vi) of section 368(a)(2)(F) is amended by striking out "is not diversified within the meaning" and inserting in lieu thereof "does not meet the requirements".

(C) The second sentence of such clause (vi) is amended to read as follows: "If such investment company acquires stock of another corporation in a reorganization described in section 368(a)(1)(B), clause (i) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange."

(D) Subparagraph (F) of section 368(a)(2) is amended by adding at the end thereof the following new clauses:

"(vii) For purposes of clauses (ii) and (iii), the term 'securities' includes obligations of State and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940 (15 U.S.C. 80a-2(36)).

"(viii) In applying paragraph (3) of section 267(b) in respect of any transaction to which this subparagraph applies, the reference to a personal holding company in such paragraph (3) shall be treated as including a reference to an investment company and the determination of whether a corporation is an investment company shall be made as of the time immediately before the transaction instead of with respect to the taxable year referred to in such paragraph (3)."

(2) EFFECTIVE DATES.—

(A) Except as provided in subparagraphs (B) and (C), the amendments made by paragraph (1) shall apply as if included in section 368(a)(2)(F) of the Internal Revenue Code of 1954 as added by section 213 (a) of the Tax Reform Act of 1976.

(B) Clause (viii) of section 368(a)(2)(F) of the Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to losses sustained after September 26, 1977.

(C) Clause (vii) of section 318(a)(2)(F) of Internal Revenue Code of 1954 (as added by paragraph (1)) shall apply only with respect to transfers made after September 26, 1977.

(k) AT RISK PROVISIONS.—

(1) CLERICAL AMENDMENT TO EFFECTIVE DATE.—Subparagraph (A) of section 204(c)(3) of the Tax Reform Act of 1976 is amended by striking out "section 465(c)(1)(B)" and inserting in lieu thereof "section 465(c)(1)(C)".

(2) CLARIFICATION OF SECTION 465(d).—Subsection (d) of section 465 (defining loss for purposes of the at risk provisions) is amended by striking out "(determined without regard to this section)" and inserting in lieu thereof "(determined without regard to the first sentence of subsection (a))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(l) AMENDMENTS RELATING TO USE OF ACCRUAL ACCOUNTING FOR FARMING.—

(1) AUTOMATIC 10-YEAR ADJUSTMENT PERIOD FOR FARMING CORPORATIONS REQUIRED TO USE ACCRUAL ACCOUNTING.—Paragraph (3) of section 447(f) (relating to coordination with section 481) is amended—

(A) by striking out "(except as otherwise provided in such regulations)", and

(B) by inserting "(or the remaining tax-

able years where there is a stated future life of less than 10 taxable years)" after "10 taxable years".

(2) AUTOMATIC 10-YEAR ADJUSTMENT FOR FARMING SYNDICATES CHANGING TO ACCRUAL ACCOUNTING.—If—

(A) a farming syndicate (within the meaning of section 464(c) of the Internal Revenue Code of 1954) was in existence on December 31, 1975, and

(B) such syndicate elects an accrual method of accounting (including the capitalization of preproductive period expenses described in section 447(b) of such Code) for a taxable year beginning before January 1, 1979,

then such election shall be treated as having been made with the consent of the Secretary of the Treasury or his delegate and, under regulations prescribed by the Secretary of the Treasury or his delegate, the net amount of the adjustments required by section 481 (a) of such Code to be taken into account by the taxpayer in computing taxable income shall be taken into account in each of the 10 taxable years (or the remaining taxable years where there is a stated future life of less than 10 taxable years) beginning with the year of change.

(3) EXTENDING FAMILY ATTRIBUTION TO SPOUSE IN THE FARMING SYNDICATE RULES.—

(A) Subparagraph (E) of section 404(c) (2) (defining farming syndicate) is amended by striking out "(within the meaning of section 267(c)(4))" and inserting in lieu therof "(or a spouse of any such member)".

(B) Paragraph (2) of section 464(c) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'family' has the meaning given to such term by section 267(c)(4)."

(4) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (3) shall take effect as if included in section 447 or 464 (as the case may be) of the Internal Revenue Code of 1954 at the time of the enactment of such sections.

(m) EXTENSION OF CERTAIN PROVISIONS TO FOREIGN PERSONAL HOLDING COMPANIES.—

(1) SECTION 189.—Subsection (a) of section 189 (relating to amortization of real property construction period interest and taxes) is amended—

(A) by striking out "an electing small business corporation (within the meaning of section 1371(b)), or personal holding company (within the meaning of section 542),"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(2) SECTION 280.—Subsection (a) of section 280 (relating to certain expenditures incurred in production of films, books, records, or similar property) is amended—

(A) by striking out "Except in the case of a corporation (other than an electing small business corporation (as defined in section 1371(b)) or a personal holding company (as defined in section 542) and except" and inserting in lieu thereof "In the case of an individual, except"; and

(B) by adding at the end thereof the following new sentence: "For purposes of this section, an electing small business corporation (as defined in section 1371(b)), a personal holding company (as defined in section 542), and a foreign personal holding company (as defined in section 552) shall be treated as an individual."

(4) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall take effect as if included in the amendment made by section 201(a) of the Tax Reform Act of 1976.

(B) The amendments made by paragraph (2) shall take effect as if included in the amendment made by section 210(a) of the Tax Reform Act of 1976.

(n) DEFINITION OF CONDOMINIUM MANAGEMENT ASSOCIATION.—

(1) IN GENERAL.—Paragraph (2) of section 528(c) (defining condominium management association) is amended by striking out "as residences" and inserting in lieu thereof "by individuals for residences".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1978.

(o) DEFINITION OF PERSONAL HOLDING COMPANY.—

(1) IN GENERAL.—The last sentence of section 542(a)(2) of the Internal Revenue Code of 1954 (relating to stock ownership requirement) shall not apply in the case of an organization or trust organized or created before July 1, 1950, if at all times on or after July 1, 1950, and before the close of the taxable year such organization or trust has owned all of the common stock and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(2) EFFECTIVE DATE.—The provisions of paragraph (1) shall apply with respect to taxable years beginning after December 31, 1976.

(p) SPECIAL RULE FOR GAIN ON PROPERTY TRANSFERRED TO TRUST AT LESS THAN FAIR MARKET VALUE.—

(1) ADDITIONAL TAX TO APPLY ONLY TO RECOGNIZED GAINS.—

(A) IN GENERAL.—Subsections (a)(1), (a)(2), and (b)(1) of section 644 (relating to special rule for gain on property transferred to trust at less than fair market value) are each amended by striking out "gain realized" each place it appears and inserting in lieu thereof "gain recognized".

(B) SPECIAL RULE FOR SUBSTITUTED BASIS PROPERTY.—Subsection (d) of section 644 (relating to special rule for short sales) is amended to read as follows:

"(d) SPECIAL RULES.—

"(1) SHORT SALES.—If the trust sells the property referred to in subsection (a) in a short sale within the 2-year period referred to in such subsection, such 2-year period shall be extended to the date of the closing of such short sale.

"(2) SUBSTITUTED BASIS PROPERTY.—For purposes of this section, in the case of any property held by the trust which has a basis determined in whole or in part by reference to the basis of any other property which was transferred to the trust—

"(A) the initial transfer of such property in trust by the transferor shall be treated as having occurred on the date of the initial transfer in trust of such other property,

"(B) subsections (a)(1)(B) and (b)(2) shall be applied by taking into account the fair market value and the adjusted basis of such other property, and

"(C) the amount determined under subsection (b)(2) with respect to such other property shall be allocated (under regulations prescribed by the Secretary) among such other property and all properties held by the trust which have a basis determined in whole or in part by reference to the basis of such other property."

(2) TREATMENT OF NET OPERATING LOSSES, CAPITAL LOSSES, ETC., WHICH MAY AFFECT TRANSFEROR'S TAX IN OTHER YEARS.—Section 644(a)(2) (relating to additional tax on gain on property transferred to trust at less than fair market value) is amended by adding at the end thereof the following new sentence: "The determination of tax under clause (i) of subparagraph (A) shall be made by not taking into account any carryback, and by not taking into account any loss or deduction to the extent that such loss or deduction may be carried by the transferor to any other taxable year."

(3) TECHNICAL AMENDMENT.—Paragraph (1) of section 644(f) is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) (other than the 2-year requirement of paragraph (1)(A) thereof)".

(4) CONFORMING AMENDMENT TO REVISION OF SECTION 644.—Section 1402(b)(1) of the Tax Reform Act of 1976 (relating to holding period for long-term capital gains treatment) is amended by striking out subparagraph (K) thereof.

"(5) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendment made by this subsection shall apply to transfers in trust made after May 21, 1976.

(B) The amendment made by paragraph (4) shall take effect on October 4, 1976.

(q) ALLOWANCE OF FOREIGN TAX CREDIT FOR ACCUMULATION DISTRIBUTIONS.—

(1) SPECIAL RULES FOR FOREIGN TRUST.—

(A) Subsection (d) of section 665 is amended to read as follows:

"(d) TAXES IMPOSED ON THE TRUST.—For purposes of this subpart—

"(1) IN GENERAL.—The term 'taxes imposed on the trust means the amount of the taxes which are imposed for any taxable year of the trust under this chapter (without regard to this subpart or subpart A of part IV of subchapter A) and which, under regulations prescribed by the Secretary, are properly allocable to the undistributed portions of distributable net income and gains in excess of losses from sales or exchange of capital assets. The amount determined in the preceding sentence shall be reduced by any amount of such taxes deemed distributed under section 666 (b) and (c) or 660 (d) and (e) to any beneficiary.

"(2) FOREIGN TRUSTS.—In the case of any foreign trust, the term 'taxes imposed on the trust includes the amount, reduced as provided in the last sentence of paragraph (1), of any income, war profits, and excess profits taxes imposed by any foreign country or possession of the United States on such foreign trust which, as determined under paragraph (1), are so properly allocable."

(B) Section 667 is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULES FOR FOREIGN TRUST.—

"(1) FOREIGN TAX DEEMED PAID BY BENEFICIARY.—

"(A) IN GENERAL.—In determining the increase in tax under subsection (b)(1)(D) for any computation year, the taxes described in section 665(d)(2) which are deemed distributed under section 666 (b) or (c) and added under subsection (b)(1)(C) to the taxable income of the beneficiary for any computation year shall, except as provided in subparagraphs (B) and (C), be treated as a credit against the increase in tax for such computation year under subsection (b)(1)(C).

"(B) DEDUCTION IN LIEU OF CREDIT.—If the beneficiary did not choose the benefits of subpart A of part III of subchapter N with respect to the computation year, the beneficiary may in lieu of treating the amounts described in subparagraph (A) (without regard to subparagraph (C)) as a credit may treat such amounts as a deduction in computing the beneficiary's taxable income under subsection (b)(1)(C) for the computation year.

"(C) LIMITATION ON CREDIT; RETENTION OF CHARACTER.—

"(i) LIMITATION ON CREDIT.—For purposes of determining under subparagraph (A) the amount treated as a credit for any computation year, the limitations under subpart A of part III of subchapter N shall be applied separately with respect to amounts added under subsection (b)(1)(C) to the taxable income of the beneficiary for such computa-

tion year. For purposes of computing the increase in tax under subsection (b)(1)(D) for any computation year for which the beneficiary did not choose the benefits of subpart A of part III of subchapter N, the beneficiary shall be treated as having chosen such benefits for such computation year.

"(ii) RETENTION OF CHARACTER.—The items of income, deduction, and credit of the Trust shall retain their character (subject to the application of section 904(f)(5)) to the extent necessary to apply this paragraph.

"(D) COMPUTATION YEAR.—For purposes of this paragraph, the term 'computation year' means any of the three taxable years remaining after application of subsection (b)(1)(B).".

(C) The last sentence of section 667(b)(1) is amended by inserting "(other than the amount of taxes described in section 665(d)(2))" after "taxes".

(2) RECAPTURE OF OVERALL FOREIGN LOSS.—Section 904(f) is amended by adding at the end thereof the following new paragraph:

"(5) ACCUMULATION DISTRIBUTIONS OF FOREIGN TRUST.—For purposes of this chapter, in the case of amounts of income from sources without the United States which are treated under section 666 (without regard to subsections (b) and (c) thereof if the taxpayer chose to take a deduction with respect to the amounts described in such subsections under section 667(d)(1)(B)) as having been distributed by a foreign trust in a preceding taxable year, that portion of such amounts equal to the amount of any overall foreign loss sustained by the beneficiary in a year prior to the taxable year of the beneficiary in which such distribution is received from the trust shall be treated as income from sources within the United States (and not income from sources without the United States) to the extent that such loss was not used under this subsection in prior taxable years, or in the current taxable year, against other income of the beneficiary.".

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(B) The amendments made by paragraph (2) shall take effect as if included in section 904(f) of the Internal Revenue Code of 1954, as such provision was added to such Code by section 1032(a) of the Tax Reform Act of 1976.

(r) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—

(1) IN GENERAL.—Section 667 (relating to treatment of amounts deemed distributed by trust in preceding years) is amended by adding at the end thereof the following new subsection:

"(e) RETENTION OF CHARACTER OF AMOUNTS DISTRIBUTED FROM ACCUMULATION TRUST TO NONRESIDENT ALIENS AND FOREIGN CORPORATIONS.—In the case of a distribution from a trust to a nonresident alien individual or to a foreign corporation, the first sentence of subsection (a) shall be applied as if the reference to the determination of character under section 662(b) applied to all amounts instead of just to tax-exempt interest."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to distributions made in taxable years beginning after December 31, 1975.

(s) EXEMPT INTEREST DIVIDENDS OF REGULATED INVESTMENT COMPANIES.—

(1) TREATMENT OF TAX-EXEMPT INTEREST FOR PURPOSES OF THE 90-PERCENT AND 30-PERCENT TESTS.—Subsection (b) of section 851 (relating to limitations on the definition of regulated investment company) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (2) and (3), amounts excludable from gross income under section 103(a)(1) shall be treated as included in gross income."

(2) LOSSES ATTRIBUTABLE TO TAX-EXEMPT INTEREST WHERE STOCK IS HELD LESS THAN 31 DAYS.—Paragraph (4) of section 852(b) (relating to loss on sale or exchange of stock held less than 31 days) is amended to read as follows:

"(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—

"(A) LOSS ATTRIBUTABLE TO CAPITAL GAIN DIVIDEND.—If—

"(i) under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain, and

(ii) such share is held by the taxpayer for less than 31 days,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

"(B) LOSS ATTRIBUTABLE TO EXEMPT-INTEREST DIVIDEND.—If—

"(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

"(ii) such share is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

"(C) DETERMINATION OF HOLDING PERIODS.—For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days; except that '30 days' shall be substituted for the number of days specified in subparagraph (B) of section 246(C)(3)."

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1975.

(t) AMENDMENTS RELATING TO REAL ESTATE INVESTMENT TRUSTS.—

(1) ANNUAL ACCOUNTING PERIOD.—Section 859 (relating to adoption of annual accounting period), as redesignated by the Act, is further amended to read as follows:

"SEC. 859. ADOPTION OF ANNUAL ACCOUNTING PERIOD.

"For purposes of this subtitle—

"(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

"(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976."

(2) AMENDMENT OF SECTION 856(C)(3)(D).—Subparagraph (D) of section 856(c)(3) is amended by inserting "(other than gain from prohibited transactions)" after "and gain".

(3) EXCISE TAX ON REIT UNDISTRIBUTED INCOME.—

(A) Paragraph (3) of section 6501(e) (relating to limitations an assessment and collection) is amended by striking out "or 43" and inserting in lieu thereof "43, or 44".

(B) Subsection (b) of section 1605 of the Tax Reform Act of 1976 (relating to technical amendments) is amended by striking out paragraph (1) thereof.

(C) Subparagraph (D) of section 1605(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(D) by striking out 'of chapter 43 tax for the same taxable years,' in subsection (c)(1) and inserting in lieu thereof 'of chapter 43 tax for the same taxable year, of chapter 44 tax for the same taxable year,'."

(4) CORRECTION OF CROSS REFERENCE.—Subparagraph (B) of section 859(b)(2) is amended by striking out "section 6601(c)" and inserting in lieu thereof "section 6601(b)".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 4, 1976.

(u) AMENDMENTS RELATING TO TREATMENT OF FOREIGN INCOME.—

(1) FOREIGN TAX CREDITS NOT DISALLOWED ON CERTAIN DISTRIBUTIONS MADE BY POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Paragraph (1) of section 901(g) (relating to certain taxes paid with respect to distributions from possessions corporations) is amended to read as follows

"(1) IN GENERAL.—For purposes of this chapter, any tax of a foreign country or possession of the United States which is paid or accrued with respect to any distribution from a corporation—

"(A) to the extent that such distribution is attributable to periods during which such corporation is a possessions corporation, and

"(B) (i) if a dividends received deduction is allowable with respect to such distribution under part VIII of subchapter B, or

"(ii) to the extent that such distribution is received in connection with a liquidation or other transaction with respect to which gain or loss is not recognized,

shall not be treated as income, war profits, or excess profits taxes paid or accrued to a foreign country or possession of the United States, and no deduction shall be allowed under this title with respect to any amount so paid or accrued."

(B) DEFINITION OF POSSESSIONS CORPORATION.—Paragraph (2) of section 901(g) (defining possessions corporation) is amended—

(i) by striking out "or during which section 931" and inserting in lieu thereof ", during which section 931", and

(ii) by inserting before the period at the end thereof the following: ", or during which section 957(c) applied to such corporation".

(C) EFFECTIVE DATES.—The amendment made by subparagraph (A) shall apply as if included in section 901(g) of the Internal Revenue Code of 1954 as added by section 1051(d)(2) of the Tax Reform Act of 1976. The amendments made by subparagraph (B) shall apply to distributions made after the date of the enactment of this Act in taxable years ending after such date.

(2) FOREIGN TAX CREDIT ADJUSTMENTS FOR CAPITAL GAINS.—

(A) IN GENERAL.—Paragraph (2) of section 904(b) (relating to treatment of capital gains for purposes of the foreign tax credit limitation) is amended by striking out "For purposes of subsection (a)—" and inserting in lieu thereof "For purposes of this section—".

(B) SOURCE RULE.—Subparagraph (C) of section 904(b)(3) is amended by striking out "For purposes of this paragraph, there" and inserting in lieu thereof "There".

(C) SOURCE RULE FOR LIQUIDATIONS OF CERTAIN FOREIGN CORPORATIONS.—Paragraph (3) of section 904(b) (relating to source rules for gain from the sale of certain personal property) is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) GAIN FROM LIQUIDATION OF CERTAIN FOREIGN CORPORATIONS.—Subparagraph (C) shall not apply with respect to a distribution in liquidation of a foreign corporation to which part II of subchapter C applies if such corporation derived less than 50 percent of its gross income from sources within the United States for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year during which the distribution occurred."

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1975.

(3) TREATMENT OF CERTAIN CAPITAL LOSS CARRYOVERS AND CARRYBACKS FOR PURPOSES OF THE LIMITATION ON CREDIT FOR FOREIGN TAXES.—

(A) IN GENERAL.—Clause (iii) of section 904(b)(2)(A) (relating to treatment of capital gains of corporations for purposes of the foreign tax credit limitation) is amended by striking out "any net capital loss" and inserting in lieu thereof "for purposes of determining taxable income from sources without the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a))".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(4) TREATMENT OF CAPITAL LOSS CARRYOVERS FOR PURPOSES OF FOREIGN LOSS RECAPTURE.—

(A) IN GENERAL.—Subparagraph (a) of section 904(f)(2) (defining overall foreign loss) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(B) FOREIGN OIL RELATED LOSSES—Subparagraph (1) of section 904 (f)(4) (relating to determination of foreign oil related loss where section 907 applies) is amended by striking out "or any capital loss carrybacks and carryovers to such year under section 1212".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply—

(i) to overall foreign losses sustained in taxable years beginning after December 31, 1975, and

(ii) to foreign oil related losses sustained in taxable years ending after December 31, 1975.

(5) EFFECTIVE DATE FOR RECAPTURE OF FOREIGN OIL RELATED LOSSES.—

(A) IN GENERAL.—Paragraph (1) of section 1032(c) of the Tax Reform Act of 1976 is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraphs (2), (3), and (5), the amendment made by subsection (a) shall apply to losses sustained in taxable years beginning after December 31, 1975. The amendment made by subsection (b)(1) shall apply to taxable years beginning after December 31, 1975. The amendment made by subsection (b)(2) shall apply to losses sustained in taxable years ending after December 31, 1975."

(B) FOREIGN OIL RELATED LOSSES.—Subsection (c) of section 1032 of the Tax Reform Act of 1976 is amended by adding at the end thereof the following new paragraph:

"(5) FOREIGN OIL RELATED LOSSES.—The amendment made by subsection (a) shall apply to foreign oil related losses sustained in taxable years ending after December 31, 1975."

(6) TRANSITIONAL RULES FOR CERTAIN MINING OPERATIONS.—The second sentence of paragraph (2) of section 1031(c) of the Tax Reform Act of 1976 is amended to read as follows: "In the case of a loss sustained in a taxable year beginning before January 1, 1979, by any corporation to which this paragraph applies, if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 304(f) of such Code shall be applied with respect to such loss under the principles of such section 904(a)(1)."

(7) TRANSITIONAL RULES FOR RECAPTURE OF CERTAIN FOREIGN LOSSES.—

(A) COMPUTATION OF DEFICIT IN EARNINGS AND PROFITS FOR PURPOSES OF THE RECAPTURE OF CERTAIN FOREIGN LOSSES.—Paragraph (4) of section 1032(c) of the Tax Reform Act of 1976 (relating to limitation based on deficit in earnings and profits for purposes of the recapture of foreign losses) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, there shall be taken into account only earnings and profits of the corporation which (A) were accumulated in taxable years of the corporation beginning after December 31, 1962, and during the period in which the stock of such corporation from which the loss arose was held by the taxpayer and (B) are attributable to such stock."

(B) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

(i) Subsection (c) of section 1032 of the Tax Reform Act of 1976 (relating to effective dates for recapture of foreign losses) is amended by adding at the end thereof the following new paragraph:

"(6) RECAPTURE OF POSSESSION LOSSES DURING TRANSITIONAL PERIOD WHERE TAXPAYER IS ON A PER-COUNTRY BASIS.—

"(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply if—

"(i) the taxpayer sustained a loss in a possession of the United States in a taxable year beginning after December 31, 1975, and before January 1, 1979,

"(ii) such loss is attributable to a trade or business engaged in by the taxapayer in such possession on January 1, 1976, and

"(iii) the taxpayer chooses to have the benefits of subpart A of part III of subchapter N apply for such taxable year and section 904(a)(1) of the Internal Revenue Code of 1954 (as in effect before the enactment of this Act) applies with respect to such taxable year.

"(B) NO RECAPTURE DURING TRANSITION PERIOD.—In any case to which this paragraph applies, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979, section 904(f) of the Internal Revenue Code of 1954 shall not apply with respect to the loss described in subparagraph (A)(i).

"(C) RECAPTURE OF LOSS AFTER THE TRANSITION PERIOD.—In any case to which this paragraph applies—

"(i) for purposes of determining the liability for tax of the taxpayer for taxable years beginning after December 31, 1978, section 904(f) of the Internal Revenue Code of 1954 shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of section 904(a)(1) of such Code (as in effect before the enactment of this Act), but

"(ii) in the case of any taxpayer and any possession, the aggregate amount to which such section 904(f) appl' s b. reason of clause (i) shall not exceed the sum of the net incomes of all affiliated corporations from such possession for taxable years of such affiliated corporations beginning after December 31, 1975, and before January 1, 1979.

"(D) TAXPAYERS NOT ENGAGED IN TRADE ON BUSINESS ON JANUARY 1, 1976.—In any case to which this paragraph applies but for the fact that the taxpayer was not engaged in a trade or business in such possession on January 1, 1976, for purposes of determining the liability for tax of the taxpayer for taxable years beginning before January 1, 1979; if section 904(a)(1) of such Code (as in effect before the enactment of this Act) applies with respect to such taxable year, the provisions of section 904(f) of such Code shall be applied with respect to the loss described in subparagraph (A)(i) under the principles of such section 904(a)(1).

"(E) AFFILIATED CORPORATION DEFINED.—For purposes of subparagraph (C)(ii), the term 'affiliated corporation' means a corporation which, for the taxable year for which the net income is being determined, was not a member of the same affiliated group (within the meaning of section 1504 of the Internal Revenue Code of 1954) as the taxpayer but would have been a member of such group but for the application of subsection (b) of such section 1504."

(ii) Paragraph (3) of section 1031(c) of the Tax Reform Act of 1976 is amended by striking out the last sentence.

(8) LIMITATIONS ON FOREIGN TAX CREDIT WHERE INDIVIDUAL HAS FOREIGN OIL AND GAS EXTRACTION INCOME.—

(A) REDUCTION IN FOREIGN TAX CREDIT FOR CERTAIN INDIVIDUALS HAVING FOREIGN OIL AND GAS EXTRACTION INCOME.—Subsecton (a) (as amended by this Act) of section 907 (relating to special rules in case of foreign oil and gas income) is further amended to read as follows:

"(a) REDUCTION IN AMOUNT ALLOWED AS FOREIGN TAX UNDER SECTION 901.—In applying section 901, the amount of any oil and gas extraction taxes paid or accrued (or deemed to have been paid) during the taxable year which would (but for this subsection) be taken into account for purposes of section 901 shall be reduced by the amount (if any) by which the amount of such taxes exceeds the product of—

"(1) the amount of the foreign oil and gas extraction income for the taxable year,

"(2) multiplied by—

"(A) in the case of a corporation, the percentage which is equal to the highest rate of tax specified under section 11(b), or

"(B) in the case of an individual, a fraction the numerator of which is the tax against which the credit under section 901(a) is taken and the denominator of which is the taxpayer's entire taxable income."

(B) APPLICATION OF SECTION 904 SEPARATELY TO FOREIGN OIL RELATED INCOME OF INDIVIDUALS.—Subsection (b) of section 907 (relating to application of section 904 limitation) is amended to read as follows:

"(b) APPLICATION OF SECTION 904 LIMITATION.—The provisions of section 904 shall be applied separately with respect to—

"(1) foreign oil related income, and

"(2) other taxable income."

(C) TECHNICAL AMENDMENT.—Paragraph (4) of section 904(f) (relating to recapture of overall foreign loss) is amended by striking out "In the case of a corporation to which section 907(b)(1) applies" and inserting in lieu thereof "In making the separate computation under this subsection with respect to foreign oil related income which is required by section 907(b)".

(D) EFFECTIVE DATES.—

(i) The amendments made by this paragraph shall apply, in the case of individuals, to taxable years ending after December 31, 1974, and, in the case of corporations, to taxable years ending after December 31, 1976.

(ii) In the case of any taxable year ending after December 31, 1975, with respect to foreign oil related income (within the meaning of section 907(c) of the Internal Revenue Code of 1954), the overall limitation provided by section 904(a)(2) of such Code shall apply and the per-country limitation provided by section 904(a)(1) of such Code shall not apply.

(9) EFFECTIVE DATE FOR DISALLOWANCE OF FOREIGN TAX CREDIT FOR CERTAIN PRODUCTION-SHARING CONTRACTS.—The second sentence of paragraph (3) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended to read as follows: "A contract described in the preceding sentence shall be taken into account under paragraph (1) only with respect to amounts (A) paid or accrued to the foreign government before January 1, 1978, and (B) attributable to income earned before such date."

(10) FOREIGN TAXES ATTRIBUTABLE TO SECTION 911 EXCLUSION.—

(A) IN GENERAL.—The last sentence of section 911(a) (relating to earned income from sources without the United States) is amended to read as follows:

"An individual shall not be allowed as a deduction from his gross income any deductions (other than those allowed by section 151, relating to personal exemptions), to the extent that such deductions are properly allocable to or chargeable against amounts excluded from gross income under this subsection. For purposes of this title, the amount of the income, war profits, and excess profits taxes paid or accrued by any individual to a foreign country or possession of the United States for any taxable year shall be reduced by an amount determined by multiplying the amount of such taxes by a fraction—

"(A) the numerator of which is the tax determined under subsection (d)(1)(B), and

"(B) the denominator of which is the sum of the amount referred to in subparagraph (A), plus the limitation imposed for the taxable year by section 904(a).".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1976.

(11) SALE OF ASSETS BY A POSSESSIONS CORPORATION.—

(A) IN GENERAL.—Subsection (a) of section 936 (relating to Puerto Rico and possession tax credit) is amended by redesignating paragraph (2) as paragraph (3) and by amending so much of paragraph (1) as precedes subparagraph (A) thereof to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (3), if a domestic corporation elects the application of this section and if the conditions of both subparagraph (A) and subparagraph (B) of paragraph (2) are satisfied, there shall be allowed as a credit against the tax imposed by this chapter an amount equal to the portion of the tax which is attributable to the sum of—

"(A) the taxable income, from sources without the United States, from—

"(i) the active conduct of a trade or business within a possession of the United States, or

"(ii) the sale or exchange of substantially all of the assets used by the taxpayer in the active conduct of such trade or business, and

"(B) the qualified possession source investment income.

"(2) CONDITIONS WHICH MUST BE SATISFIED.—The conditions referred to in paragraph (1) are:".

(B) INCOME FROM SALE OF CARRYOVER BASIS PROPERTY NOT TAKEN INTO ACCOUNT.—

(i) Subsection (d) of section 936 (relating to definitions) is amended by adding at the end thereof the following new paragraph:

"(3) CARRYOVER BASIS PROPERTY.—

"(A) IN GENERAL.—Income from the sale or exchange of any asset the basis of which is determined in whole or in part by reference to its basis in the hands of another person shall not be treated as income described in subparagraph (A) or (B) of subsection (a)(1).

"(B) EXCEPTION FOR POSSESSIONS CORPORATIONS, ETC.—For purposes of subparagraph (A), the holding of any asset by another person shall not be taken into account if throughout the period for which such asset was held by such person section 931, this section, or section 957(c) applied to such person.".

(ii) The heading of such subsection (d) is amended to read as follows:

"(d) DEFINITIONS AND SPECIAL RULES.—".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply as if included in section 936 of the Internal Revenue Code of 1954 at the time of its addition by section 1051(b) of the Tax Reform Act of 1976.

(12) GAIN ON DISPOSITION OF STOCK IN A DISC.—

(A) DELAY IN EFFECTIVE DATE.—Paragraph (4) of section 1101(g) of the Tax Reform Act of 1976 (relating to effective date for amendment relating to gain or disposition of DISC stock) is amended by striking out "December 31, 1975" and inserting in lieu thereof "December 31, 1976".

(B) TECHNICAL AMENDMENT.—Paragraph (1) of section 995(c) (relating to gain on disposition of stock in a DISC) is amended by adding at the end thereof the following new sentence:

"Subparagraph (C) shall not apply if the person receiving the stock in the disposition has a holding period for the stock which includes the period for which the stock was held by the shareholder disposing of such stock."

(C) EFFECTIVE DATE.—The amendment made by subparagraph (B) shall apply to dispositions made after December 31, 1976, in taxable years ending after such date.

(13) LIMITATION ON PARTNER'S TAX WHERE PARTNER RECEIVES AMOUNT TREATED AS SALE OF SECTION 1248 STOCK.—

(A) IN GENERAL.—Section 751 (relating to unrealized receivable and inventory items) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON TAX ATTRIBUTABLE TO DEEMED SALES OF SECTION 1248 STOCK.—For purposes of applying this section and sections 731, 736, and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporation)."

(B) CROSS REFERENCE.—Section 736 (relating to payments to a retiring partner or a deceased partner's successor in interest) is amended by adding at the end thereof the following new subsection:

"(c) CROSS REFERENCE.—

"For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e)."

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date.

(14) EXCISE TAX ON TRANSFERS OF PROPERTY TO FOREIGN PERSONS TO AVOID FEDERAL INCOME TAX.—

(A) TRANSFERS INVOLVING ESTATES.—Section 1491 (relating to tax on transfers to avoid income tax) is amended by striking out "trust" each place it appears therein and inserting in lieu thereof "estate or trust".

(B) CLARIFICATION OF PARAGRAPH (3) OF SECTION 1492.—Paragraph (3) of section 1492 (relating to nontaxable transfers) is amended to read as follows:

"(3) To a transfer described in section 367; or".

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to transfers after October 2, 1975.

(15) ELECTION TO TREAT NONRESIDENT ALIEN INDIVIDUAL AS RESIDENT OF THE UNITED STATES.—

(A) PROVISIONS AFFECTED BY ELECTION.—Paragraph (1) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended to read as follows:

"(1) IN GENERAL.—A nonresident alien individual with respect to whom this subsection is in effect for the taxable year shall be treated as a resident of the United States—

"(A) for purposes of chapters 1 and 5 for all of such taxable year, and

"(B) for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year."

(B) CONFORMING AMENDMENT.—Paragraph (5) of section 6013(g) (relating to termination of election by Secretary) is amended by striking out "chapter 1" and insert in lieu thereof "chapters 1 and 5".

(C) YEAR OF RESIDENCY.—Paragraph (1) of section 6013(h) (relating to return for year nonresident alien becomes resident) is amended—

(i) by striking out "chapter 1" and inserting in lieu thereof "chapters 1 and 5", and

(ii) by inserting before the period at the end thereof the following: ", and for purposes of chapter 24 (relating to wage withholding) for payments of wages made during such taxable year".

(D) CERTAIN AMOUNTS WITHHELD UNDER CHAPTER 3 TREATED AS OVERPAYMENTS OF TAX.—Subsection (b) of section 6401 (relating to excessive credits) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, any credit allowed under paragraph (1) of section 32 (relating to withholding of tax on nonresident aliens and on foreign corporations) to a nonresident alien individual for a taxable year with respect to which an election under section 6013 (g) or (h) is in effect shall be treated as an amount allowable as a credit under section 31."

(E) EFFECTIVE DATES.—The amendments made by this paragraph—

(i) to the extent that they relate to chapter 1 or 5 of the Internal Revenue Code of 1954, shall apply to taxable years ending on or after December 31, 1975, and

(ii) to the extent that they relate to wage withholding under chapter 24 of such Code, shall apply to remuneration paid on or after the first day of the first month which begins more than 90 days after the date of the enactment of this Act.

(16) NONRESIDENT ALIEN INDIVIDUAL ALLOWED TO BE TREATED AS RESIDENT OF THE UNITED STATES.—

(A) IN GENERAL.—Paragraph (2) of section 6013(g) (relating to election to treat nonresident alien individual as resident of the United States) is amended by striking out "who, at the time an election was made under this subsection," and inserting in lieu thereof "who, at the close of the taxable year for which an election under this subsection was made,".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1975.

(v) AMENDMENT OF SECTION 1239(a).—

(1) IN GENERAL.—Subsection (a) of section 1239 (relating to gain from sale of depreciable property between certain related taxpayers) is amended by striking out "subject to the allowance for depreciation provided in section 167" and inserting in lieu thereof "of a character which is subject to the allowance for depreciation provided in section 167".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1954 by section 2129(a) of the Tax Reform Act of 1976.

(w) RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS.—

(1) IN GENERAL.—Subparagraph (C) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to contracts transferred) is amended to read as follows:

(C) PREVIOUSLY UNRECAPTURED DEPRECIATION WITH RESPECT TO CONTRACTS TRANSFERRED.—For purposes of subparagraph (A)(ii), the term 'previously unrecaptured depreciation' means the amount of any deduction allowed or allowable to the taxpayer transferor for the depreciation of any contracts involved in such transfer."

(2) RECAPTURE OF DEPRECIATION WITH RESPECT TO INITIAL CONTRACTS.—Subparagraph (B) of section 1245(a)(4) (defining previously unrecaptured depreciation with respect to initial contracts) is amended—

(A) by inserting "attributable to periods after December 31, 1975," after "depreciation" in clause (i),

(B) by inserting "incurred after December 31, 1975," after "losses" in clause (i), and

(C) by inserting "described in clause (i)" after "amounts" in clause (ii).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers of player contracts in connection with any sale or exchange of a franchise after December 31, 1975.

(x) TREATMENT OF PENSIONS AND ANNUITIES FOR 50-PERCENT MAXIMUM RATE ON PERSONAL SERVICE INCOME.—

(1) IN GENERAL.—Subparagraph (A) of section 1348(b)(1) (defining personal service income) is amended by striking out "pension or annuity" and inserting in lieu thereof "pension or annuity which arises from an employer-employee relationship or from tax-deductible contributions to a retirement plan".

(2) TECHNICAL AMENDMENT.—The last sentence of section 1348(b) is amended by striking out "earned income" and inserting in lieu thereof "personal service income".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1976.

(y) CHANGES IN THE SUBCHAPTER S PROVISIONS.—

(1) GRANTOR TRUST MAY BE TREATED AS PERMITTED SHAREHOLDER AFTER DECEDENT'S DEATH; GRANTOR OR GRANTOR TRUST MUST BE INDIVIDUAL.—Paragraph (1) of subsection (e) of section 1371 (as redesignated by this Act) is amended to read as follows:

"(1)(A) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under subpart E of part I of subchapter J of this chapter.

"(B) A trust which was described in subparagraph (A) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includible in the gross estate of the grantor, the preceding sentence shall be applied by substituting '2-year period' for '60-day period'."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1976.

(z) WITHHOLDING OF FEDERAL TAXES ON CERTAIN INDIVIDUALS ENGAGED IN FISHING.—

(1) IN GENERAL.—Section 1207(f)(4) of the Tax Reform Act of 1976 (relating to effective date of provisions relating to withholding on certain individuals engaged in fishing) is amended by striking out "December 31, 1971" each place it appears and inserting in lieu thereof "December 31, 1954".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on October 4, 1976.

(aa) WITHDRAWALS FROM INDIVIDUAL RETIREMENT ACCOUNTS, ETC.—

(1) IN GENERAL.—The last sentence of section 4973(b) (relating to excess contributions to individual retirement accounts, etc.) is amended by striking out "solely because of employer contributions to a plan or contract described in section 219(b)(2)" and inserting lieu thereof "solely because of ineligibility under section 219(b)(2) or section 220(b)(3)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in section 1501 of the Tax Reform Act of 1976 at the time of the enactment of such Act.

(bb) AMENDMENTS RELATING TO DISCLOSURE OF TAX RETURNS.—

(1) DISCLOSURE OF MAILING ADDRESS FOR PURPOSES OF COLLECTING CERTAIN STUDENT LOANS.—

(A) Subsection (m) of section 6103 (relating to disclosure of taxpayer identity information) is amended to read as follows:

"(m) DISCLOSURE OF TAXPAYER IDENTITY INFORMATION.—

"(1) TAX REFUNDS.—The Secretary may disclose taxpayer identity information to the press and other media for purposes of notifying persons entitled to tax refunds when the Secretary, after reasonable effort and lapse of time, has been unable to locate such persons.

"(2) FEDERAL CLAIMS.—Upon written request, the Secretary may disclose the mailing address of a taxpayer to officers and employees of an agency personally and directly engaged in, and solely for their use in, preparation for any administrative or judicial proceeding (or investigation which may result in such a proceeding) pertaining to the collection or compromise of a Federal claim against such taxpayer in accordance with the provisions of section 3 of the Federal Claims Collection Act of 1966.

"(3) NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH.—Upon written request, the Secretary may disclose the mailing address of taxpayers to officers and employees of the National Institute for Occupational Safety and Health solely for the purpose of locating individuals who are, or may have been, exposed to occupational hazards in order to determine the status of their health or to inform them of the possible need for medical care and treatment.

"(4) INDIVIDUALS WHO HAVE DEFAULTED ON STUDENT LOANS.—

"(A) IN GENERAL.—Upon written request by the Commissioner of Education, the Secretary may disclose the mailing address of any taxpayer who has defaulted on a loan made from the student loan fund established under part E of title IV of the Higher Education Act of 1965 for use only for purposes of locating such taxpayer for purposes of collecting such loan.

"(B) DISCLOSURE TO INSTITUTIONS.—Any mailing address disclosed under subparagraph (A) may be disclosed by the Commissioner of Education to any educational institution with which he has an agreement under part E of title IV of the Higher Education Act of 1965 only for use by officers, employees or agents of such institution whose duties relate to the collection of student loans for purposes of locating individuals who have defaulted on student loans made by such institution pursuant to such agreement for purposes of collecting such loans."

(B) Paragraph (3) of section 6103(a) is amended by inserting ", subsection (m)(4)(B)," after "subsection (e)(1)(D)(iii)".

(C) Paragraph (2) of section 7213(a) (relating to penalties for unauthorized disclosure of information is amended—

(i) by striking out "or any local" and inserting in lieu thereof ", any local";

(ii) by inserting ", or any educational institution" after "enforcement agency"; and

(iii) by striking out "section 6103(d) or (l)(6)" and inserting in lieu thereof "subsection (d), (l)(6), or (m)(4)(B) of section 6103".

(2) DISCLOSURE OF TAX RETURN INFORMATION REGARDING SPECIAL FUEL EXCISE TAXES.—Subsection (d) of section 6103 (relating to disclosure to State tax officials) is amended by inserting "31," after "24,".

(3) RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION.—Paragraph (2) of section 6103(i) (relating to return information other than taxpayer return information) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, the name and address of the taxpayer shall not be treated as taxpayer return information."

(4) DISCLOSURE OF RETURN INFORMATION CONCERNING POSSIBLE CRIMINAL ACTIVITIES.—Paragraph (3) of section 6103(i) (relating to disclosure of return information concerning possible criminal activities) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the name and address of the taxpayer shall not be treated as taxpayer return information if there is return information (other than taxpayer return information) which may constitute evidence of a violation of Federal criminal laws."

(5) DISCLOSURE UNDER TAX CONVENTIONS.—Section 6103(k)(4) (relating to disclosure of return information under income tax conventions) is amended—

(A) by striking out "income" in the caption thereof,

(B) by inserting "or gift and estate tax" after "income tax", and

(C) by inserting ", or other convention relating to the exchange of tax information," after "convention" the first place it appears.

(6) CRIMINAL PENALTY FOR UNAUTHORIZED DISCLOSURE OF INFORMATION.—Section 7213(a) (relating to unauthorized disclosure of information) is amended—

(A) by striking out "to disclose" in paragraphs (1), (2), and (5) and inserting in lieu thereof "willfully to disclose",

(B) by striking out "to thereafter print or publish" in paragraph (3) and inserting in lieu thereof "thereafter willfully to print or publish", and

(C) by striking out "to offer" in paragraph (4) and inserting in lieu thereof "willfully to offer".

(7) NO CIVIL LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION OF DISCLOSURE REQUIREMENTS.—Section 7217 (relating to civil damages for unauthorized disclosure of return and return information) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(B) by inserting after subsection (a) the following new subsection:

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103."; and

(C) by striking out "An action" in subsection (d) (as so redesignated) and inserting in lieu thereof "PERIOD FOR BRINGING ACTION.—An action".

(8) EFFECTIVE DATES.—

(A) as provided in subparagraph (B), the amendments made by this subsection shall take effect January 1, 1977.

(B) The amendments made by paragraph (7) shall apply with respect to disclosures made after the date of the enactment of this Act.

(cc) AMENDMENTS RELATING TO INCOME TAX RETURN PREPARERS.—

(1) NEGOTIATION OF CHECKS BY BANK.—Subsection (f) of section 6695 (relating to negotiation of check) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply with respect to the deposit by a bank (within the meaning of section 581) of the full amount of the check in the taxpayer's account in such bank for the benefit of the taxpayer."

(2) DEFINITION.—Clause (iii) of section 7701(a)(36)(B) (relating to exceptions from the definition of income tax return preparer) is amended to read as follows:

"(iii) prepares as a fiduciary a return or claim for refund for any person, or".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to documents prepared after December 31, 1976.

(dd) CLARIFICATION OF DECLARATORY JUDGMENT PROVISIONS WITH RESPECT TO REVOCATIONS OF OR OTHER CHANGES IN THE QUALIFICATIONS OF CERTAIN ORGANIZATIONS.—

(1) QUALIFICATION OF CERTAIN RETIREMENT PLANS.—Subsection (a) of section 7476 (relating to declaratory judgments relating to qualification of certain retirement plans) is

amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification includes any revocation of or other change in a qualification."

(2) CLASSIFICATION OF ORGANIZATIONS UNDER SECTION 501(c)(3), ETC.—Subsection (a) of section 7428 (relating to declaratory judgments relating to status and classification of organizations under section 501(c)(3), etc.) is amended by adding at the end thereof the following new sentence: "For purposes of this section, a determination with respect to a continuing qualification or continuing classification includes any revocation of or other change in a qualification or classification."

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in section 7476 or 7428 of the Internal Revenue Code of 1954 (as the case may be) at the respective times such sections were added to such Code.

(ee) CONTRIBUTIONS OF CERTAIN GOVERNMENT PUBLICATIONS.—

(1) IN GENERAL.—Paragraph (1) of section 1231(b) (relating to definition of property used in trade or business) is amended—

(A) by striking out "or" at the end of subparagraph (B),

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma and "or", and

(C) by adding at the end thereof the following new subparagraph:

"(D) a publication of the United States Government (including the Congressional Record) which is received from the United States Government, or any agency thereof, other than by purchase at the price at which it is offered for sale to the public, and which is held by a taxpayer described in paragraph (6) of section 1221.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to sales, exchanges, and contributions made after October 4, 1976.

(ff) EXEMPTION FOR LIGHT-DUTY TRUCK PARTS.—

(1) IN GENERAL.—Section 4063 (relating to exemption of motor vehicles and parts) is amended by adding at the end thereof the following new subsection:

"(e) PARTS FOR LIGHT-DUTY TRUCKS.—The tax imposed by section 4061(b) shall not apply to the sale by the manufacturer, producer, or importer of any article which is to be resold by the purchaser on or in connection with the first retail sale of a light-duty truck, as described in section 4061(a)(2), or which is to be resold by the purchaser to a second purchaser for resale by such second purchaser on or in connection with the first retail sale of a light-duty truck."

(2) CONFORMING AMENDMENTS.—

(A) Section 4221(c) (relating to manufacturer relieved from liability in certain cases) is amended by inserting "4063(e)," after "4063(b),".

(B) Section 4222(d) (relating to registration in the case of tax-free sales) is amended by inserting "4063(e)," after "4063(b),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the first day of the first calendar month beginning more than 20 days after the date of the enactment of this Act.

SEC. 702. TECHNICAL, CLERICAL, AND CONFORMING AMENDMENTS TO ESTATE AND GIFT TAX PROVISIONS.

(a) AMENDMENTS RELATING TO TREATMENT OF SECTION 306 STOCK.—

(1) APPLICATION OF "FRESH START" TO SECTION 306 STOCK.—Subsection (a) of section 306 (relating to disposition of certain stock) is amended by adding at the end thereof the following new paragraph:

"(3) ORDINARY INCOME FROM SALE OR REDEMPTION OF SECTION 306 STOCK WHICH IS CARRYOVER BASIS PROPERTY ADJUSTED FOR 1976 VALUE.—

"(A) IN GENERAL.—If any section 306 stock was distributed before January 1, 1977, and if the adjusted basis of such stock in the hands of the person disposing of it is determined under section 1023 (relating to carryover basis), then the amount treated as ordinary income under paragraph (1)(A) of this subsection (or the amount treated as a dividend under section 301(c)(1)) shall not exceed the excess of the amount realized over the sum of—

"(i) the adjusted basis of such stock on December 31, 1976, and

"(ii) any increase in basis under section 1023(h).

"(B) REDEMPTION MUST BE DESCRIBED IN SECTION 302(B).—Subparagraph (A) shall apply to a redemption only if such redemption is described in paragraph (1), (2), or (4) of section 302(b)."

(2) CLARIFICATION THAT SECTION 303 OVERRIDES SECTION 306.—Subsection (b) of section 306 (relating to exceptions) is amended by adding at the end thereof the following new paragraph:

"(5) SECTION 303 REDEMPTIONS.—To the extent that section 303 applies to a distribution in redemption of section 306 stock.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1979.

(b) COORDINATION OF DEDUCTION FOR ESTATE TAXES ATTRIBUTABLE TO INCOME IN RESPECT OF A DECEDENT WITH THE CAPITAL GAIN DEDUCTION, ETC.—

(1) IN GENERAL.—Subsection (c) of section 691 (relating to deduction for estate taxes in the case of income in respect of decedents) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH CAPITAL GAIN DEDUCTION, ETC.—For purposes of sections 1201, 1202, and 1211, and for purposes of section 57(a)(9), the amount of any gain taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to decedents dying after the date of the enactment of this Act.

(c) AMENDMENTS RELATING TO CARRYOVER BASIS.—

(1) AMENDMENTS RELATING TO THE POSTPONEMENT OF THE EFFECTIVE DATE OF CARRYOVER BASIS PROVISIONS.—

(A) FAIR MARKET VALUE WHERE FARM VALUATION ELECTED.—Subsection (a) of section 1014 (relating to basis of property acquired from a decedent) is amended to read as follows:

"(a) IN GENERAL.—Except as otherwise provided in this section, the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged, or otherwise disposed of before the decedent's death by such person, be—

"(1) the fair market value of the property at the date of the decedent's death, or

"(2) in the case of an election under either section 2032 or section 811(j) of the Internal Revenue Code of 1939 where the decedent died after October 21, 1942, its value at the applicable valuation date prescribed by those sections, or

"(3) in the case of an election under section 2032.1, its value determined under such section."

(B) GENERATION-SKIPPING TRANSFERS.—The second sentence of section 2614(a) (relating to basis adjustments in connection with generation-skipping transfers) is amended to read as follows: "If property is transferred in a generation-skipping transfer subject to tax under this chapter which occurs at the same time as or after, the death of the deemed transferor, the basis of such property shall be adjusted—

"(1) in the case of such a transfer occurring after June 11, 1976, and before January 1, 1980, in a manner similar to the manner provided under section 1014(a), and

"(2) in the case of such a transfer occurring after December 31, 1979, in a manner similar to the manner provided by section 1023 without regard to subsection (d) thereof (relating to basis of property passing from a decedent dying after December 31, 1979)."

(2) MINIMUM CARRYOVER BASIS FOR TANGIBLE PERSONAL PROPERTY.—

(A) IN GENERAL.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(3) MINIMUM BASIS FOR TANGIBLE PERSONAL PROPERTY.—

"(A) IN GENERAL.—If the holding period for any carryover basis property which is tangible personal property includes December 31, 1976, then, for purposes of determining gain and applying this section, the adjusted basis of such property immediately before the death of the decedent shall be treated as being not less than the amount determined under subparagraph (B).

"(B) AMOUNT.—The amount determined under this subparagraph for any property is—

"(i) the value of such property (as determined with respect to the estate of the decedent without regard to section 2032), divided by

"(ii) 1.0066 to the nth power where n equals the number of full calendar months which have elapsed between December 31, 1976, and the date of the decedent's death."

(B) CONFORMING AMENDMENT.—Paragraph (3) of section 1023(g) (relating to decedent's basis unknown) is amended by striking out "to the person acquiring such property from the decedent" and inserting in lieu thereof "and cannot be reasonably ascertained".

(3) TREATMENT OF INDEBTEDNESS.—

(A) IN GENERAL.—Paragraph (1) of section 1023(g) (defining fair market value) is amended by inserting "(without regard to whether there is a mortgage on, or indebtedness in respect of, the property)" after "chapter 11".

(B) TECHNICAL AMENDMENT.—Subsection (g) of section 1023 (relating to other special rules and definitions) is amended by striking out paragraph (4).

(4) ONLY ONE FRESH START WITH RESPECT TO CARRYOVER BASIS PROPERTY HELD ON DECEMBER 31, 1976.—Subsection (h) of section 1023 (relating to adjustment to basis for December 31, 1976, fair market value) is amended by adding at the end thereof the following new paragraph:

"(4) ONLY ONE FRESH START.—There shall be no increase in basis under this subsection by reason of the death of any decedent if the adjusted basis of the property in the hands of such decedent reflects the adjusted basis of property which was carryover basis property with respect to a prior decedent."

(5) AUTOMATIC LONG-TERM STATUS FOR GAINS AND LOSSES ON CARRYOVER BASIS PROPERTY.—Subparagraph (A) of section 1223(11) is amended by inserting "or 1023" after "section 1014".

(6) CLARIFICATION THAT ADJUSTED BASIS IS INCREASED FOR STATE ESTATE TAXES.—

(A) Subsection (c) of section 1023 (relating to increase in basis for Federal and State estate taxes attributable to appreciation) is amended to read as follows:

"(c) INCREASE IN BASIS FOR FEDERAL AND STATE ESTATE TAXES ATTRIBUTABLE TO APPRECIATION.—

"(1) FEDERAL ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to the tax imposed by section 2001 or 2101 in the hands of the person acquiring it from the decedent

shall be increased by an amount which bears the same ratio to the Federal estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the tax imposed by section 2001 or 2101.

"(2) STATE ESTATE TAXES.—The basis of appreciated carryover basis property (determined after any adjustment under subsection (h)) which is subject to State estate taxes in the hands of the person acquiring it from the decedent shall be increased by an amount which bears the same ratio to the State estate taxes as—

"(A) the net appreciation in value of such property, bears to

"(B) the fair market value of all property which is subject to the State estate taxes."

(B) The second sentence of paragraph (2) of section 1023(f) (defining net appreciation) is amended by striking out "For purposes of subsection (d)," and inserting in lieu thereof "For purposes of paragraph (2) of subsection (c), such adjusted basis shall be increased by the amount of any adjustment under paragraph (1) of subsection (c), for purposes of subsection (d),".

(C) Paragraph (3) of section 1023(f) (defining Federal and State estate taxes) is amended to read as follows:

"(3) FEDERAL AND STATE ESTATE TAXES.—For purposes of subsection (c)—

"(A) FEDERAL ESTATE TAXES.—The term 'Federal estate taxes' means the tax imposed by section 2001 or 2101, reduced by the credits against such tax.

"(B) STATE ESTATE TAXES.—The term 'State estate taxes' means any estate, inheritance, legacy, or succession taxes, for which the estate is liable, actually paid by the estate to any State or the District of Columbia."

(7) CLARIFICATION OF INCREASE IN BASIS FOR CERTAIN STATE SUCCESSION TAXES.—Paragraph (2) of section 1023(e) (relating to further increase in basis for certain State succession tax paid by transferee of property) is amended by striking out "for which the estate is not liable".

(8) CLARIFICATION OF APPLICATION OF FRESH START.—Paragraphs (1) and (2)(A) of section 1023(h) (relating to adjustment to basis for December 31, 1976, fair market value) are each amended by striking out "for purposes of determining gain" and inserting in lieu thereof "for purposes of determining gain and applying this section".

(9) TECHNICAL AMENDMENT WITH RESPECT TO CERTAIN TERM INTERESTS.—Paragraph (1) of section 1001(e) (relating to certain term interests) is amended by striking out "section 1014 or 1015" and inserting in lieu thereof "section 1014, 1015, or 1023".

(10) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments and additions made by, and the appropriate provisions of the Tax Reform Act of 1976.

(d) AMENDMENTS RELATING TO VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY.—

(1) CLARIFICATION THAT SPECIAL VALUATION APPLIES ONLY TO INTERESTS PASSING TO QUALIFIED HEIRS.—Paragraph (1) of section 2032A (b) (defining qualified real property) is amended by striking out "real property located in the United States" and inserting in lieu thereof "real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and".

(2) PROPERTY RECEIVED IN SATISFACTION OF PECUNIARY BEQUEST.—Subsection (e) of section 2023A (relating to definitions and special rules for farm valuation property) is amended by adding at the end thereof the following new paragraph:

"(9) PROPERTY ACQUIRED FROM DECEDENT.—Property shall be considered to have been acquired from or to have passed from the decedent if—

"(A) such property is so considered under section 1014(b) (relating to basis of property acquired from a decedent),

"(B) such property is acquired by any person from the estate in satisfaction of the right of such person to a pecuniary bequest, or

"(C) such property is acquired by any person from a trust in satisfaction of a right (which such person has by reason of the death of the decedent) to receive from the trust a specific dollar amount which is the equivalent of a pecuniary bequest."

(3) USE OF FARM VALUATION PROPERTY TO SATISFY PECUNIARY BEQUEST.—Subsection (a) of section 1040 (relating to use of certain appreciated carryover basis property to satisfy pecuniary bequest) is amended by inserting "(determined without regard to section 2032A)" after "chapter 11".

(4) TREATMENT OF CERTAIN COMMUNITY PROPERTY.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(10) COMMUNITY PROPERTY.—If the decedent and his surviving spouse at any time held qualified real property as community property, the interest of the surviving spouse in such property shall be taken into account under this section to the extent necessary to provide a result under this section with respect to such property which is consistent with the result which would have obtained under this section if such property had not been community property."

(5) SUBSTITUTION OF BOND FOR PERSONAL LIABILITY OF QUALIFIED HEIR FOR THE RECAPTURE TAX WITH RESPECT TO FARM VALUATION PROPERTY.—

(A) IN GENERAL.—Paragraph (6) of section 2032A(c) is amended to read as follows:

"(6) LIABILITY OF TAX; FURNISHING OF BOND.—The qualified heir shall be personally liable for the additional tax imposed by this subsection with respect to his interest unless the heir has furnished bond which meets the requirements of subsection (e)(11)."

(B) BOND REQUIREMENTS.—Subsection (e) of section 2032A is amended by adding at the end thereof the following new paragraph:

"(11) BOND IN LIEU OF PERSONAL LIABILITY.—If the qualified heir makes written application to the Secretary for determination of the maximum amount of the additional tax which may be imposed by subsection (c) with respect to the qualified heir's interest, the Secretary (as soon as possible, and in any event within 1 year after the making of such application) shall notify the heir of such maximum amount. The qualified heir, on furnishing a bond in such amount and for such period as may be required, shall be discharged from personal liability for any additional tax imposed by subsection (c) and shall be entitled to a receipt or writing showing such discharge."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(e) AMOUNT OF SECURITY REQUIRED FOR EXTENDED PAYMENT PROVISIONS FOR CLOSELY HELD BUSINESSES.—

(1) IN GENERAL.—

(A) Paragraph (2) of section 6324A(e) (defining aggregate interest amount) is amended to read as follows:

"(2) REQUIRED INTEREST AMOUNT.—The term 'required interest amount' means the aggregate amount of interest which will be payable over the first 4 years of the deferral period with respect to the deferred amount (determined as of the date prescribed by section 6152(a) for the payment of the tax imposed by chapter 11)."

(B) Subparagraph (B) of section 6324A (b)(2) (relating to maximum value of required property) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(C) Paragraph (5) of section 6324A(d) (relating to special rules) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(D) Paragraph (4) of section 6324A(e) (relating to application of definitions in case of deficiencies) is amended by striking out "aggregate interest amount" and inserting in lieu thereof "required interest amount".

(2) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after December 31, 1976.

(f) CLARIFICATION OF THE $3,000 ANNUAL EXCLUSION FROM THE RULE INCLUDING IN GROSS ESTATE TRANSFERS WITHIN 3 YEARS OF DEATH.—

(1) AMENDMENT OF SECTION 2035(b).—Subsection (b) of section 2035 (relating to adjustments for gifts made within 3 years of decedent's death) is amended to read as follows:

"(b) EXCEPTIONS.—Subsection (a) shall not apply—

"(1) to any bona fide sale for an adequate and full consideration in money or money's worth, and

"(2) to any gift to a donee made during a calendar year if the decedent was not required by section 6019 to file any gift tax return for such year with respect to gifts to such donee.

Paragraph (2) shall not apply to any transfer with respect to a life insurance policy."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to the estates except that it shall not apply to transfers of decedents dying after December 31, 1976, made before January 1, 1977.

(g) AMENDMENTS RELATING TO ESTATE TAX MARITAL DEDUCTION.—

(1) DEDUCTION NOT REDUCED FOR GIFT TO SPOUSE WHICH IS INCLUDED IN DONOR'S ESTATE BY REASON OF SECTION 2035.—Subparagraph (B) of section 2056(c)(1) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, a gift which is includible in the gross estate of the donor by reason of section 2035 shall not be taken into account."

(2) REDUCTION FOR GIFT TAX MARITAL DEDUCTION IN EXCESS OF 50 PERCENT OF THE VALUE OF GIFTS TO A SPOUSE.—Clause (ii) of section 2056(c)(1)(B) (relating to adjustment to estate tax marital deduction for certain gifts to spouse) is amended by inserting "required to be included in a gift tax return" after "with respect to any gift".

(3) EFFECTIVE DATE.—The amendment made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(h) COORDINATION OF SECTIONS 2513 AND 2035.—

(1) IN GENERAL.—Section 2001 (relating to imposition and rate of estate tax) is amended by adding at the end thereof the following new subsection:

"(e) COORDINATION OF SECTIONS 2513 AND 2035.—If—

"(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

"(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035, such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift."

(2) CONFORMING AMENDMENT.—Subparagraph (C) of section 2602(a)(1) (relating to amount of tax on generation-skipping trans-

fers) is amended by striking out "section 2001(b))" and inserting in lieu thereof "section 2001(b), as modified by section 2001(e))".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.

(i) INCLUSION IN GROSS ESTATE OF STOCK TRANSFERRED BY THE DECEDENT WHERE THE DECEDENT RETAINS OR ACQUIRES VOTING RIGHTS.—

(1) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) VOTING RIGHTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(1), the retention of the right to vote (directly or indirectly) shares of stock of a controlled corporation shall be considered to be a retention of the enjoyment of transferred property.

"(2) CONTROLLED CORPORATION.—For purposes of paragraph (1), a corporation shall be treated as a controlled corporation if, at any time after the transfer of the property and during the 3-year period ending on the date of the decedent's death, the decedent owned (with the application of section 318), or had the right (either alone or in conjunction with any person) to vote stock, possessing at least 20 percent of the total combined voting power of all classes of stock.

"(3) COORDINATION WITH SECTION 2035.—For purposes of applying section 2035 with respect to paragraph (1), the relinquishment or cessation of voting rights shall be treated as a transfer of property made by the decedent."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 2036 is amended by striking out the last sentence thereof.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transfers made after June 22, 1976.

(j) AMENDMENTS RELATING TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—

(1) APPLICATION OF ESTATE TAX EXCLUSION TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—Subsection (e) of section 2039 (relating to exclusion of individual retirement accounts, etc.) is amended by striking out "section 219" each place it appears and inserting in lieu thereof "section 219 or 220".

(2) TRANSFERS TO INDIVIDUAL RETIREMENT ACCOUNTS, ETC. FOR SPOUSE TREATED AS TRANSFERS OF PRESENT INTERESTS.—Section 2503 (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(d) INDIVIDUAL RETIREMENT ACCOUNTS, ETC., FOR SPOUSE.—For purposes of subsection (b), any payment made by an individual for the benefit of his spouse—

"(1) to an individual retirement account described in section 408(a),

"(2) for an individual retirement annuity described in section 408(b), or

"(3) for a retirement bond described in section 409,

shall not be considered a gift of a future interest in property to the extent that such payment is allowable as a deduction under section 220".

(3) EFFECTIVE DATES.—

(A) The amendment made by paragraph (1) shall apply to the estates of decedents dying after December 31, 1976.

(B) The amendment made by paragraph (2) shall apply to transfers made after December 31, 1976.

(k) PROVISIONS RELATING TO TREATMENT OF JOINT INTERESTS.—

(1) REMOVAL OF REQUIREMENT OF ACTUARIAL COMPUTATIONS FOR JOINT INTERESTS IN PERSONAL PROPERTY.—

(A) IN GENERAL.—Subchapter (B) of chapter 12 (relating to transfers for purposes of the gift tax) is amended by inserting after section 2515 the following new section:

"SEC. 2515A. TENANCIES BY THE ENTIRETY IN PERSONAL PROPERTY.

"(a) CERTAIN ACTUARIAL COMPUTATIONS NOT REQUIRED.—In the case of—

"(1) the creation (either by one spouse alone or by both spouses) of a joint interest of a husband and wife in personal property with right of survivorship, or

"(2) additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise,

the retained interest of each spouse shall be treated as one-half of the value of their joint interest.

"(b) EXCEPTION.—Subsection (a) shall not apply with respect to any joint interest in property if the fair market value of the interest or of the property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses."

(B) CHANGE IN SECTION 2515 HEADING.—The heading for section 2515 is amended to read as follows:

"SEC. 2515. TENANCIES BY THE ENTIRETY IN REAL PROPERTY."

(C) CLERICAL AMENDMENTS.—The table of sections for subchapter B of chapter 12 is amended by striking out the item relating to section 2515 and inserting in lieu thereof the following:

"Sec. 2515. Tenancies by the entirety in real property.
"Sec. 2515A. Tenancies by the entirety in personal property.

(D) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to joint interests created after December 31, 1976.

(2) EXTENSION OF FRACTIONAL INTEREST RULE TO CERTAIN JOINT INTERESTS IN REAL OR PERSONAL PROPERTY CREATED BEFORE 1977.—Section 2040 (relating to joint interests) as amended by this Act, is further amended by adding at the end thereof the following new subsections:

"(d) JOINT INTERESTS OF HUSBAND AND WIFE CREATED BEFORE 1977.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—In the case of any joint interest created before January 1, 1977, which (if created after December 31, 1976) would have constituted a qualified joint interest under subsection (b)(2) (determined without regard to clause (ii) of subsection (b)(2)(B)), the donor may make an election under this subsection to have paragraph (1) of subsection (b) apply with respect to such joint interest.

"(2) TIME FOR MAKING ELECTION.—An election under this subsection with respect to any property shall be made for the calendar quarter in 1977, 1978, or 1979 selected by the donor in a gift tax return filed within the time prescribed by law for filing a gift tax return for such quarter. Such an election may be made irrespective of whether or not the amount involved exceeds the exclusion provided by section 2503(b); but no election may be made under this subsection after the death of the donor.

"(3) TAX EFFECTS OF ELECTION.—In the case of any property with respect to which an election has been made under this subsection, for purposes of this title—

"(A) the donor shall be treated as having made a gift at the close of the calendar quarter selected under paragraph (2), and

"(B) the amount of the gift shall be determined under paragraph (4).

"(4) AMOUNT OF GIFT.—For purposes of paragraph (3)(B), the amount of any gift is one-half of the amount—

"(A) which bears the same ratio to the excess of (i) the value of the property on the date of the deemed making of the gift under paragraph (3)(A), over (ii) the value of such property on the date of the creation of the joint interest, as

"(B) the excess of (i) the consideration furnished by the donor at the time of the creation of the joint interest, over (ii) the consideration furnished at such time by the donor's spouse, bears to the total consideration furnished by both spouses at such time.

"(5) SPECIAL RULE FOR PARAGRAPH (4)(A).—For purposes of paragraph (4)(A)—

"(A) in the case of real property, if the creation was not treated as a gift at the time of the creation, or

"(B) in the case of personal property, if the gift was required to be included on a gift tax return but was not so included, and the period of limitations on assessment under section 6501 has expired with respect to the tax (if any) on such gift,

then the value of the property on the date of the creation of the joint interest shall be treated as zero.

"(6) SUBSTANTIAL IMPROVEMENTS.—For purposes of this subsection, a substantial improvement of any property shall be treated as the creation of a separate joint interest.

"(e) TREATMENT OF CERTAIN POST-1976 TERMINATIONS.—

"(1) IN GENERAL.—If—

(A) before January 1, 1977, a husband and wife had a joint interest in property with right of survivorship,

"(B) after December 31, 1976, such joint interest was terminated, and

"(C) after December 31, 1976, a joint interest of such husband and wife in such property (or in property the basis of which in whole or in part reflects the basis of such property) was created.

then paragraph (1) of subsection (b) shall apply to the joint interest described in subparagraph (C) only if an election is made under subsection (d).

"(2) SPECIAL RULES.—For purposes of applying subsection (d) to property described in paragraph (1) of this subsection—

"(A) if the creation described in paragraph (1)(C) occurs after December 31, 1979, the election may be made only with respect to the calendar quarter in which such creation occurs, and

"(B) the creation of the joint interest described in paragraph (4) and (5) of subsection (d) is the creation of the joint interest described in paragraph (1)(A) of this subsection."

(l) AMENDMENTS RELATING TO ORPHANS' EXCLUSION.—

(1) ORPHANS' EXCLUSION WHERE THERE IS A TRUST FOR MINOR CHILDREN.—Section 2057 (relating to bequests, etc., to certain minor children) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) QUALIFIED MINORS' TRUST.—

"(1) IN GENERAL.—For purposes of subsection (a), the interest of a minor child in a qualified minors' trust shall be treated as an interest in property which passes or has passed from the decedent to such child.

"(2) QUALIFIED MINORS' TRUST.—For purposes of paragraph (1), the term 'qualified minors' trust' means a trust—

"(A) except as provided in subparagraph (D), all of the beneficiaries of which are minor children of the decedent,

"(B) the corpus of which is property which passes or has passed from the decedent to such trust,

"(C) except as provided in paragraph (3), all distributions from which to the beneficiaries of the trust before the termination of their interests will be pro rata,

"(D) on the death of any beneficiary of which before the termination of the trust, the beneficiary's pro rata share of the corpus and accumulated income remains in the

trust for the benefit of the minor children of the decedent who survive the beneficiary or vests in any person, and

"(E) on the termination of which, each beneficiary will receive a pro rata share of the corpus and accumulated income.

"(3) CERTAIN DISPROPORTIONATE DISTRIBUTIONS PERMITTED.—A trust shall not be treated as failing to meet the requirements of paragraph (2)(C) solely by reason of the fact that the governing instrument of the trust permits the making of disproportionate distributions which are limited by an ascertainable standard relating to the health, education, support, or maintenance of the beneficiaries.

"(4) TRUSTEE MAY ACCUMULATE INCOME.—A trust which otherwise qualifies as a qualified minors' trust shall not be disqualified solely by reason of the fact that the trustee has power to accumulate income.

"(5) COORDINATION WITH SUBSECTION (c).—In applying subsection (c) to a qualified minor's trust, those provisions of section 2056(b) which are inconsistent with paragraph (3) or (4) of this subsection shall not apply.

"(6) DEATH OF BENEFICIARY BEFORE YOUNGEST CHILD REACHES AGE 23.—Nothing in this subsection shall be treated as disqualifying an interest of a minor child in a trust solely because such interest will pass to another person if the child dies before the youngest child of the decedent attains age 23."

(2) AGE 23 FOR TERMINABLE INTEREST RULE IN THE CASE OF ORPHANS' EXCLUSION.—The second sentence of subsection (c) of section 2057 (relating to limitation in the case of life estate or other terminable interest) is amended by striking out "21" and inserting in lieu thereof "23".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to the estates of decedents dying after December 31, 1976.

(m) DISCLAIMER BY SURVIVING SPOUSE WHERE INTEREST PASSES TO SUCH SPOUSE.—

(1) IN GENERAL.—Paragraph (4) of section 2518(b) (defining qualified disclaimer) is amended to read as follows:

"(4) as a result of such refusal, the interest passes without any direction on the part of the person making the disclaimer and passes either—

"(A) to the spouse of the decedent, or

"(B) to a person other than the person making the disclaimer."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers creating an interest in the person disclaiming made after December 31, 1976.

(n) AMENDMENTS RELATING TO TAX ON GENERATION-SKIPPING TRANSFERS.—

(1) EFFECTIVE DATE OF GENERATION-SKIPPING TRANSFER PROVISIONS.—Section 2006(c) of the Tax Reform Act of 1976 (relating to effective date of generation-skipping transfer provisions) is amended by striking out "April 30, 1976" each place it appears and inserting in lieu thereof "June 11, 1976".

(2) CERTAIN POWERS OF INDEPENDENT TRUSTEES NOT TREATED AS POWERS.—Subsection (e) of section 2613 (relating to definitions for purposes of the tax on generation-skipping transfers) is amended to read as follows:

"(e) CERTAIN POWERS NOT TAKEN INTO ACCOUNT.—

"(1) LIMITED POWER TO APPOINT AMONG LINEAL DESCENDANTS OF THE GRANTOR.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiaries who are lineal descendants of the grantor assigned to a generation younger than the generation assignment of such individual.

"(2) POWERS OF INDEPENDENT TRUSTEES.—

"(A) IN GENERAL.—For purposes of this chapter, an individual shall be treated as not having any power in a trust if such individual—

"(i) is a trustee who has no interest in the trust,

"(ii) is not a related or subordinate trustee, and

"(iii) does not have any present or future power in the trust other than a power to dispose of the corpus of the trust or the income therefrom to a beneficiary or a class of beneficiary designated in the trust instrument.

"(B) RELATED OR SUBORDINATE TRUSTEE DEFINED.—For purposes of subparagraph (A), the term 'related or subordinate trustee' means any trustee who is assigned to a younger generation than the grantor's generation and who is—

"(i) the spouse of the grantor or of any beneficiary,

"(ii) the father, mother, lineal descendant, brother, or sister of the grantor or of any beneficiary,

"(iii) an employee of a corporation in which the stockholdings of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of voting control,

"(iv) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive."

"(v) a partner of a partnership in which the interest of the grantor, the trust, and the beneficiaries of the trust are significant from the viewpoint of operating control or distributive share of partnership income,".

"(vi) an employee of a corporation in which the grantor or any beneficiary of the trust is an executive, or

"(vii) an employee of a partnership in which the grantor or any beneficiary of the trust is a partner.".

(3) CLARIFICATION OF SECTION 2613(b)(2)(B).—Subparagraph (B) of section 2613(b)(2) (defining taxable termination for purposes of the tax on generation-skipping transfer) is amended—

(A) by striking out "an interest and a power" and inserting in lieu thereof "a present interest and a present power", and

(B) by striking out "interest or power" and inserting in lieu thereof "present interest or present power".

(4) ALTERNATE VALUATION IN CERTAIN CASES WHERE THERE IS A TAXABLE TERMINATION AT DEATH OF OLDER GENERATION BENEFICIARY.—

(A) IN GENERAL.—Subparagraph (A) of section 2602(d)(1) (relating to alternate valuation) is amended by inserting "(or at the same time as the death of a beneficiary of the trust assigned to a higher generation than such deemed transferor)" after "such deemed transfer".

(B) SPECIAL RULES.—Subparagraph (A) of section 2602(d)(2) (relating to special rules for alternate valuation) is amended by inserting "or beneficiary)" after "the deemed transferor".

(5) EFFECTIVE DATE.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as it included in chapter 13 of the Internal Revenue Code of 1954 as added by section 2006 of the Tax Reform Act of 1976.

(B) The amendment made by paragraph (1) shall take effect on October 4, 1976.

(o) ADJUSTMENT IN INCOME TAX ON ACCUMULATION DISTRIBUTIONS FOR PORTION OF ESTATE AND GENERATION-SKIPPING TRANSFER TAXES.—

(1) IN GENERAL.—Subsection (b) of section 667 (relating to tax on accumulation distribution) is amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT IN PARTIAL TAX FOR ESTATE AND GENERATION-SKIPPING TRANSFER TAXES ATTRIBUTABLE TO PARTIAL TAX.—

"(A) IN GENERAL.—The partial tax shall be reduced by an amount which is equal to the predeath portion of the partial tax multiplied by a fraction—

"(i) the numerator of which is that portion of the tax imposed by chapter 11 or 13, as the case may be, which is attributable (on a proportionate basis) to amounts included in the accumulation distribution, and

"(ii) the denominator of which is the amount of the accumulation distribution which is subject to the tax imposed by chapter 11 or 13, as the case may be.

"(B) PARTIAL TAX DETERMINED WITHOUT REGARD TO THIS PARAGRAPH.—For purposes of this paragraph, the term 'partial tax' means the partial tax imposed by subsection (a)(2) determined under this subsection without regard to this paragraph.

"(C) PRE-DEATH PORTION.—For purposes of this paragraph, the pre-death portion of the partial tax shall be an amount which bears the same ratio to the partial tax as the portion of the accumulation distribution which is attributable to the period before the date of the death of the decedent or the date of the generation-skipping transfer bears to the total accumulation distribution."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply—

(A) in the case of the tax imposed by chapter 11 of the Internal Revenue Code of 1954, to the estates of decedents dying after December 31, 1979, and

(B) in the case of the tax imposed by chapter 13, to any generation-skipping transfer (within the meaning of section 2611(a) of such Code) made after June 11, 1976.

(p) RELIEF OF EXECUTOR FROM PERSONAL LIABILITY IN THE CASE OF RELIANCE ON GIFT TAX RETURNS.—

(1) IN GENERAL.—Section 2204 (relating to discharge of fiduciary from personal liability) is amended by adding at the end thereof the following new subsection:

"(d) GOOD FAITH RELIANCE ON GIFT TAX RETURNS.—If the executor in good faith relies on gift tax returns furnished under 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

"(1) are made more than 3 years before the date of the decedent's death, and

"(2) are not shown on such returns.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to the estates of decedents dying after December 31, 1976.

(q) INDEXING OF FEDERAL TAX LIENS.—

(1) IN GENERAL.—Paragraph (4) of section 6323(f) (relating to indexing of tax liens) is amended to read as follows:

"(4) INDEXING REQUIRED WITH RESPECT TO CERTAIN REAL PROPERTY.—In the case of real property, if—

"(A) under the laws of the State in which the real property is located, a deed is not valid as against a purchaser of the property who (at the time of purchase) does not have actual notice or knowledge of the existence of such deed unless the fact of filing of such deed has been entered and recorded in a public index at the place of filing in such a manner that a reasonable inspection of the index will reveal the existence of the deed, and

"(B) there is maintained (at the applicable office under paragraph (1)) an adequate system for the public indexing of Federal tax liens,

then the notice of lien referred to in subsection (a) shall not be treated as meeting the filing requirements under paragraph (1) unless the fact of filing is entered and recorded in the index referred to in subparagraph (B) in such a manner that a reasonable inspection of the index will reveal the existence of the lien."

(2) REFILING OF NOTICE OF LIEN.—Section 6323(g)(2)(A) (relating to refiling of notice of lien) is amended to read as follows:

"(A) if—

"(i) such notice of lien is refiled in the office in which the prior notice of lien was filed, and

"(ii) in the case of real property, the fact of refiling is entered and recorded in an index to the extent required by subsection(f)(4); and".

(3) EFFECTIVE DATE.—

(A) The amendments made by this subsection shall apply with respect to liens, other security interests, and other interests in real property acquired after the date of the enactment of this Act.

(B) If, after the date of the enactment of this Act, there is a change in the application (or nonapplication) of section 6323(f)(4) of the Internal Revenue Code of 1954 (as amended by paragraph (1)) with respect to any filing jurisdiction, such change shall apply only with respect to liens, other security interests, and other interests in real property acquired after the date of such change.

(r) CLERICAL AMENDMENTS.—

(1) CLERICAL AMENDMENTS WITH RESPECT TO SECTION 6694.—

(A) IN GENERAL.—Section 6694 (relating to falure to file information with respect to carryover basis property) which was added by section 2005(d)(2) of the Tax Reform Act of 1976 is redesignated as section 6698.

(B) DEFICIENCY PROCEDURES NOT TO APPLY.—Section 6698 (as redesignated by subparagraph (A)) is amended by adding at the end thereof the following new subsection:

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect to the assessment or collection of any penalty imposed by subsection (a)."

(C) TABLE OF SECTIONS.—The table of sections for subchapter B of chapter 68 is amended by striking out

"Sec. 6694. Failure to file information with respect to carryover basis property."

And inserting in lieu thereof the following:

"Sec. 6698. Failure to file information with respect to carryover basis property."

(2) CLERICAL AMENDMENT TO SECTION 2051.—Section 2051 (defining taxable estate) is amended by striking out "exemption and".

(3) CLERICAL AMENDMENT TO SECTION 1016(a).—Subsection (a) of section 1016 (relating to adjustments to basis) is amended by redesignating paragraph (23) as paragraph (21).

(4) CLERICAL AMENDMENT TO SECTION 6324B(b).—Subsection (b) of section 6324B (relating to period of lien for additional estate tax attributable to farm, etc., valuation) is amended by striking out "qualified farm real property" and inserting in lieu thereof "qualified real property".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to estates of decedents dying after December 31, 1976.

SEC. 703. CORRECTIONS OF PUNCTUATION, SPELLING, INCORRECT CROSS REFERENCES, ETC.

(a) ERRONEOUS CROSS REFERENCE IN INVESTMENT CREDIT.—

(1) AMENDMENT OF SECTION 46(f)(8).—The first sentence of paragraph (8) of section 46(f) is amended by striking out "subsection (a)(6)(D)" and inserting in lieu thereof "subsection (a)(7)(D)".

(2) AMENDMENT OF SECTION 46(g)(5).—Paragraph (5) of section 46(g) (relating to definitions) is amended by striking out "Merchant Marine Act, 1970" and inserting in lieu thereof "Merchant Marine Act, 1936".

(3) AMENDMENT OF SECTION 48(d)(1)(B).—Subparagraph (B) of section 48(d)(1) is amended by striking out "section 46(a)(5)" and inserting in lieu thereof "section 46(a)(6)".

(4) AMENDMENT OF SECTION 48(d)(4)(D).—Subparagraph (D) of section 48(d)(4) is amended by striking out "section 57(c)(2)" and inserting in lieu thereof "section 57(c)(1)(B)".

(b) PREPAID LEGAL SERVICES.—

(1) Paragraph (2) of section 214(e) of the Tax Reform Act of 1976 is amended by striking out "section 120(d)(6)" and inserting in lieu thereof "section 120(d)(7)".

(2) Paragraph (20) of section 501(c) is amended by striking out "section 501(c)(20)" and inserting in lieu thereof "this paragraph".

(c) AMENDMENTS RELATING TO SECTIONS 219 AND 220.—

(1) AMENDMENT OF SECTION 219(c)(4).—Paragraph (4) of section 219(c) (relating to participation in governmental plans by certain individuals) is amended by striking out "subsection (b)(3)(A)(iv)" each place it appears and inserting in lieu thereof "subsection (b)(2)(A)(iv)".

(2) AMENDMENT OF SECTION 220(b)(1)(A).—Subparagraph (A) of section 220(b)(1) (relating to retirement savings for certain married individuals) is amended by striking out "amount paid to account or annuity, or for the bond" and inserting in lieu thereof "amount paid to the account, for the annuity, or for the bond".

(3) AMENDMENT OF SECTION 220(b)(4).—Paragraph (4) of section 220(b) is amended by inserting "described in subsection (a)" after "any payments".

(4) AMENDMENT OF SECTION 408(d)(4).—Subparagraph (A) of section 1501(b)(5) of the Tax Reform Act of 1976 is amended to read as follows:

"(A) by inserting 'or 220' after '219' each place it appears, and".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(d) ACCRUAL ACCOUNTING FOR FARM CORPORATIONS.—Subsections (a) and (g)(2) of section 447 are each amended by striking out "preproductive expenses" and inserting in lieu thereof "preproductive period expenses".

(e) AMENDMENT OF SECTION 911.—Subsection (c) of section 911 is amended by redesignating paragraph (8) as paragraph (7).

(f) TRANSITION RULE FOR PRIVATE FOUNDATIONS.—Subparagraph (F) of section 101(l)(2) of the Tax Reform Act of 1969 (relating to private foundations savings provisions) is amended by striking out the period at the end of clause (i) and inserting in lieu thereof a comma.

(g) LOBBYING BY PUBLIC CHARITIES.—

(1) LOBBYING NONTAXABLE AMOUNT.—Paragraph (2) of section 4911(c) (defining lobbying nontaxable amount) is amended by striking out "proposed expenditures" in the heading of the table contained in such paragraph and inserting in lieu thereof "exempt purpose expenditures".

(2) TECHNICAL AMENDMENTS RELATING TO SECTION 501.—

(A) Section 2(a) of Public Law 94–568 is amended by striking out "subsection (h) as subsection (i) and by inserting after subsection (g)" and inserting in lieu thereof "subsection (i) as subsection (j) and by inserting after subsection (h)".

(B) Subsection (g) of section 501 of the Internal Revenue Code of 1954 (as inserted by section 2(a) of Public Law 94–568) is redesignated as subsection (i).

(C) The amendments made by this paragraph shall take effect on October 20, 1976, as if included in Public Law 94–568.

(h) AMENDMENTS TO FOREIGN TAX PROVISIONS.—

(1) Paragraph (2) of section 1035(c) of the Tax Reform Act of 1976 (relating to tax credit for production-sharing contracts) is amended—

(A) by inserting "(as defined in section 907(c) of such Code)" after "gas extraction income" in subparagraph (A), and

(B) by striking out "(as defined in section 907(c)(1) of such Code)" in subparagraph (B) and inserting in lieu thereof "(as so defined)".

(2) Paragraph (1) of section 999(c), (relating to international boycott factor) is amended by striking out "995(b)(3)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(3) Paragraph (2) of section 999(c) is amended by striking out "995(b)(1)(D)(ii)" and inserting in lieu thereof "995(b)(1)(F)(ii)".

(i) AMENDMENTS TO DISC PROVISIONS.—

(1) The last two sentences of section 995(b)(1) (relating to deemed distributions to shareholders of a DISC) are amended—

(A) by striking out "gross income (taxable income in the case of subparagraph (D))" and inserting in lieu thereof "income"; and

(B) by striking out "subparagraph (E)" and inserting in lieu thereof "subparagraph (G)".

(2) Subparagraph (G) of section 995(b)(1) is amended by striking out "subsection (D)" and inserting in lieu thereof "subsection (d)".

(3) Paragraph (2) of section 996(a) (relating to qualifying distributions) is amended by striking out "section 995(b)(1)(E)" and inserting in lieu thereof "section 995(b)(1)(G)".

(4) Paragraph (5) of section 1101(g) of the Tax Reform Act of 1976 is amended by striking out "section 993(e)(3)" and inserting in lieu thereof "section 995(e)(3)".

(j) AMENDMENTS RELATING TO DEADWOOD PROVISIONS.—

(1) TAX EXEMPT GOVERNMENTAL OBLIGATIONS.—

(A) the heading of paragraph (1) of section 103(b) is amended to read as follows:

"(1) SUBSECTION (a) (1) OR (2) NOT TO APPLY.—".

(B) Paragraph (1) of section 103(c) is amended by striking out "(a) (1) or (4)" each place it appears (including in the paragraph heading) and inserting in lieu thereof "(a)(1) or (2)".

(C) Subparagraph (A) of section 103(c)(2) is amended by striking out "subsection (a)(1) or (2) or (4)" and inserting in lieu thereof "subsection (a)(1) or (2)".

(D) Paragraph (5) of section 103(c) is amended by striking out "subsection (d)(2)(A)" and inserting in lieu thereof "paragraph (2)(A)".

(E) Subsection (d) of section 103 is amended by striking out "subsection (c)(4)(G)" and inserting in lieu thereof "subsection (b)(4)(G)".

(2) AMENDMENTS RELATING TO SECTION 311(d)(2).—

(A) Subsection (b) of section 2 of the Bank Holding Company Tax Act of 1976 is amended—

(i) by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (E)", and

(ii) by striking out "subparagraph (G)" and inserting in lieu thereof "subparagraph (F)".

(B) Subparagraph (H) of section 311(d)(2) is redesignated as subparagraph (G).

(C) The amendments made by this paragraph shall take effect as if included in section 2(b) of the Bank Holding Company Tax Act of 1976.

(3) AMENDMENT TO SECTION 453(c).—Paragraph (3) of section 453(c) is amended—

(A) by striking out "(or by the corres-

ponding provisions of prior revenue laws)" in the first sentence, and

(B) by striking out the last sentence.

(4) AMENDMENT OF SECTION 801(g).—Paragraphs (1)(B)(ii) and (7) of section 801(g) are each amended by striking out "subparagraph (A), (B), (C), (D), or (E) of section 805(d)(1)" and inserting in lieu thereof "any paragraph of section 805(d)".

(5) AMENDMENT OF SECTION 1033(a)(2).—Clause (ii) of section 103(a)(2)(A) is amended by striking out "subsection (c)" and inserting in lieu thereof "subsection (b)".

(6) AMENDMENT OF SECTION 1375(a). Paragraph (2) of section 1375(a) is amended by striking out "such excess" each place it appears and inserting in lieu thereof "such gain".

(7) AMENDMENT OF SECTION 1561(b)(3). Paragraph (3) of section 1561(b) is amended by striking out "804(a)(4)" and inserting in lieu thereof "804(a)(3)".

(8) AMENDMENTS OF SECTION 1402.—

(A) The last paragraph of section 1402(a) of the Internal Revenue Code of 1954 (definition of net earnings from self-employment) is amended by striking out "subsection (i)" each place it appears and inserting in lieu thereof "subsection (h)".

(B) Section 1402(c)(6) of such Code (definition of trade or business) is amended by striking out "subsection (h)" and inserting in lieu thereof "subsection (g)".

(9) AMENDMENT OF SECTION 26(a).—Subparagraph (C) of section 1901(b)(1) of the Tax Reform Act of 1976 is amended by striking out "Section 46(a)(3)" and inserting in lieu thereof "Section 46(a)(4)".

(10) AMENDMENT RELATING TO SECTION 6504.—Subparagraph (D) of section 1901(b)(37) of the Tax Reform Act of 1976 is amended by striking out "6515" and inserting in lieu thereof "6504".

(11) TERRITORIES.—Subsection (c) of section 1901 of the Tax Reform Act of 1976 (relating to Territories) is amended by striking out paragraph (1) thereof.

(12) ESTATE AND GIFT TAXES EFFECTIVE DATE.—Subsection (c) of section 1902 of the Tax Reform Act of 1976 is amended to read as follows:

"(c) EFFECTIVE DATES.—

"(1) ESTATE TAX AMENDMENTS.—The amendments made by paragraphs (1) through (8), and paragraphs (12) (A), (B), and (C), of subsection (a) and by subsection (b) shall apply in the case of estates of decedents dying after the date of the enactment of this Act, and the amendment made by p ragraph (9) of subsection (a) shall apply in the case of estates of decedents dying after December 31, 1970.

"(2) GIFT TAX AMENDMENTS.—The amendments made by paragraphs (10), (11), and (12) (D) and (E) of subsection (a) shall apply with respect to gifts made after December 31, 1976."

(13) EFFECTIVE DATE FOR AMENDMENT MADE BY SECTION 1904(a)(22)(A).—Notwithstanding section 1904(d) of the Tax Reform Act of 1976, the amendment made by section 1904(a)(22)(A) of such Act shall take effect on the date of the enactment of such Act.

(14) AMENDMENTS TO SOCIAL SECURITY ACT.—

(A) Section 202(v) of the Social Security Act is amended by striking out "section 1402(h)" each place it appears and inserting in lieu thereof "section 1402(g)".

(B) Section 205(p)(3) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(C) Section 210(a)(6)(B)(v) of such Act is amended by striking out "Secretary of the Treasury" and inserting in lieu thereof "Secretary of Transportation".

(D) Section 211(a)(2) of such Act is amended by striking out "(other than interest described in section 35 of the Internal Revenue Code of 1954)".

(E) Section 211(c)(6) of such Act is amended by striking out "section 1402(h)" and inserting in lieu thereof "section 1402(g)".

(k) CAPITAL LOSS CARRYOVERS.—Clause (ii) of section 1212(a)(1)(C) (relating to capital loss carryovers for foreign expropriation losses) is amended by striking out "exceeding the loss year" and inserting in lieu thereof "succeeding the loss year".

(l) AMENDMENTS RELATING TO CERTAIN AIRCRAFT MUSEUMS.—

(1) Paragraph (2) of section 4041(h) (defining aircraft museum) is amended by striking out "term 'aircraft' means" and inserting in lieu thereof "term 'aircraft museum' means".

(2) Subsection (i) of section 4041 (as added by section 1904(a)(1)(C) of the Tax Reform Act of 1976) is redesignated as subsection (j).

(3) Subsection (d) of section 6427 (relating to repayment of tax on fuels used by certain aircraft museums) is amended by striking out "Secretary or his delegate" and inserting in lieu thereof "Secretary".

(4) Paragraph (1) of section 7609(c) (defining summons to which section applies) is amended by striking out "6427(e)(2)" and inserting in lieu thereof "6427(f)(2)".

(m) INSPECTION BY COMMITTEE OF CONGRESS.—Paragraph (2) of section 6104(a) (relating to inspection by committee of Congress) is amended by striking out "Section 6103(d)" and inserting in lieu thereof "Section 6103(f)".

(n) AMENDMENT OF SECTION 6501.—Subsections (h), (j), and (o) of section 6501 are each amended by striking out "section 6213(b)(2)" and inserting in lieu thereof "section 6213(b)(3)".

(o) CONFORMING AMENDMENTS TO NEW DEFINITION OF TAXABLE INCOME.—

(1) Subparagraph (A) of section 443(b)(2) (relating to computation based on 12-month period) is amended—

(A) by striking out "taxable income" the second and third places it appears in clause (i) and inserting in lieu thereof "modified taxable income", and

(B) by amending clause (ii) to read as follows:

"(ii) the tax computed on the sum of the modified taxable income for the short period plus the zero bracket amount."

(2) Paragraph (1) of section 443(b) is amended by striking out "gross income for such short period (minus the deductions allowed by this chapter for the short period, but only the adjudicated amount of the deductions for personal exemptions)" and inserting in lieu thereof "modified taxable income for such short period".

(3) Subsection (b) of section 443 is amended by adding at the end thereof the following new paragraph:

"(3) MODIFIED TAXABLE INCOME DEFINED.—For purposes of this subsection the term 'modified taxable income' means, with respect to any period, the gross income for such period minus the deductions allowed by this chapter for such period (but, in the case of a short period, only the adjusted amount of the deductions for personal exemptions)."

(4) The amendments made by this subsection shall apply to taxable years beginning after December 31, 1976.

(p) CONFORMING AMENDMENTS TO REPEAL OF SECTION 317 OF TRADE EXPANSION ACT OF 1962.—

(1) AMENDMENTS OF SECTION 172.—

(A) Subparagraph (A) of section 172(b)(1) (relating to years to which loss may be carried) is amended to read as follows:

"(A) Except as provided in subparagraphs (D), (E), (F), and (G), a net operating loss for any taxable year shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year for such loss."

(B) Paragraph (3) of section 172(b) (relating to special rules) is amended by striking out subparagraph (A) and (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (A), (B), and (C), respectively.

(C) Subparagraph (B) of section 172(b)(3) (as redesignated by subparagraph (B)) is amended by striking out "subparagraph (C)(iii)" each place it appears and inserting in lieu thereof "subparagraph (A)(iii)".

(2) AMENDMENT OF SECTION 6501(h).—Subsection (h) of section 6501 (relating to net operating loss or capital loss carryback) is amended by striking out the last sentence.

(3) AMENDMENT OF SECTION 6511(d)(2).—The first sentence of section 6511(d)(2)(A) (relating to special period of limitation for net operating loss or capital loss carrybacks) is amended by striking out "except that—" and all that follows down through the period at the end of such sentence and inserting in lieu thereof the following: "except that with respect to an overpayment attributable to the creation of, or an increase in a net operating loss carryback as a result of the elimination of excessive profits by a renegotiation (as defined in section 1481(a)(1)(A), the period shall not expire before the expiration of the 12th month following the month in which the agreement or order for the elimination of such excessive profits becomes final."

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to losses sustained in taxable years ending after the date of the enactment of this Act.

(q) CONFORMING AMENDMENT TO REPEAL OF SECTION 2 OF THE EMERGENCY INSURED STUDENT LOAN ACT OF 1969.—

(1) IN GENERAL.—Paragraph (5) of section 103(d) (relating to arbitrage bonds) is amended by striking out "section 2 of the Emergency Insured Student Loan Act of 1969" and inserting in lieu thereof "section 438 of the Higher Education Act of 1965".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to payments made by the Commissioner of Education after December 31, 1976.

(r) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall take effect on October 4, 1976.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT

SEC. 801. GRANTS TO STATES FOR SOCIAL SERVICES.

(a) AMOUNT TO BE ALLOCATED TO STATES.—Section 2002(a)(2)(A) of the Social Security Act is amended—

(1) by striking out $2,500,000,000" and inserting in lieu thereof "the amount specified in clause (ii)";

(2) by inserting "(i)" after "(2)(A)"; and

(3) by adding the following clause at the end thereof:

"(ii) The amount specified for purposes of clause (i) is $2,500,000,000 for fiscal years prior to fiscal year 1979, $2,700,000,000 for fiscal year 1979, and $2,500,000,000 for fiscal years after fiscal year 1979.".

(b) ADDITIONAL AMOUNT FOR CHILD DAY CARE SERVICES IN FISCAL YEAR 1979.—Section 3 of Public Law 94-401 is amended—

(1) in the matter preceding paragraph (1) of subsection (a)—

(A) by striking out the word "and" which appears after "1977,", and

(B) by inserting after "1978," the following: "and the fiscal year ending September 30, 1979,",

(2) in subsection (a)(1), by adding after and below subparagraph (B) the following new subparagraph:

"(C) 107.407 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1979, or",

(3) in subsection (a)(2), by striking out

"or either such fiscal year" and inserting in lieu thereof "or any such fiscal year",

(4) in subsection (b), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year",

(5) in subsections (c)(1) and (c)(2)(A), by striking out "or either fiscal year" and inserting in lieu thereof "or any fiscal year (other than the fiscal year ending September 30, 1979)",

(6) in subsection (d)(1)—

(A) by striking out the word "or" which appears after "1977,", and

(B) by inserting after "1978" the following: ", or the fiscal year ending September 30, 1979", and

(7) in subsection (d)(2), by striking out "for either such fiscal year" and inserting in lieu thereof "for any such fiscal year".

SEC. 802. CHANGE IN PUBLIC ASSISTANCE MATCHING FORMULA, AND INCREASE IN AMOUNT OF PUBLIC ASSISTANCE DOLLAR LIMITATIONS, FOR PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM IN FISCAL YEAR 1979.

(a) PUBLIC ASSISTANCE MATCHING FORMULA.—Section 1118 of the Social Security Act is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the term 'Federal medical assistance percentage' shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum when applied to quarters in the fiscal year ending September 30, 1979.".

(b) DOLLAR LIMITATIONS.—Subsection (a) of section 1108 of such Act is amended—

(1) in paragraph (1)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the semicolon at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) $72,000,000 with respect to the fiscal year 1979;",

(2) in paragraph (2)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out "; and" at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) $2,400,000 with respect to the fiscal year 1979;", and

(3) in paragraph (3)—

(A) by striking out "or" at the end of clause (D),

(B) by striking out the period at the end of clause (E) and inserting in lieu thereof "other than the fiscal year 1979, or"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) $3,300,000 with respect to the fiscal year 1979.".

And the Senate agree to the same.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
JAMES C. CORMAN,
OMAR BURLESON,
SAM GIBBONS,
JOE D. WAGGONNER, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
ABRAHAM RIBICOFF,
HARRY F. BYRD, Jr.,
GAYLORD NELSON,
MIKE GRAVEL,
LLOYD BENTSEN,
SPARK MATSUNAGA,
DANIEL PATRICK MOYNIHAN,
CARL T. CURTIS,
CLIFFORD P. HANSEN,
BOB PACKWOOD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF THE CONFERENCE

The Managers on the part of the House and Senate at the conference on the disagreeing votes of the two houses on the amendments of the Senate to the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, submit the following joint statement to the House and the Senate as an explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

I. INDIVIDUAL TAX REDUCTIONS AND REVISIONS

A. Individual tax reductions and extensions

1. Widening Tax Brackets, Rate Cuts in Certain Brackets, and Increase in Zero Bracket Amount

House bill.—Under present law, individual income tax rates begin at 14 percent on taxable income in excess of $3,200 on a joint return and $2,200 on a single return, and a head of household return. There is no tax on the first tax bracket, referred to as the "zero bracket amount." This amount is also a floor under itemized deductions.

Individual tax rates range up to 70 percent on taxable income in excess of $203,200 for joint returns and $102,200 for single returns. Present law also provides different rate schedules for heads of households, married couples filing separately, and estates and trusts. There are 25 tax brackets.

Increase in zero bracket amount.—The House bill increases the zero bracket amount from $3,200 to $3,400 for joint returns and from $2,200 to $2,300 for single persons. For heads of households, the increase is also $100 to $2,300. For married persons filing separate returns, the increase is from $1,600 to $1,700.

Widening of tax brackets.—The second rate schedule change is that the size of the tax brackets (in excess of the zero bracket) are increased by 6 percent. For example, under present law, the zero bracket amount is $3,200 and the first tax bracket is from $3,200 to $4,200, or $1,000 wide. Under the bill, the zero bracket amount is $3,400 and the bracket width is increased by 6 percent of $1,000 (or $60) to $1,060, so that the first income bracket range is from $3,400 to $4,460. The same principle applies throughout the rate schedule.

Reduction in certain tax rates.—The House bill also reduces, for married individuals filing jointly, the present 19, 22 and 25 percent rates one point to 18, 21 and 24 percent, respectively, for the present law taxable income range $7,200 to $19,200. The change in the tax rate schedule, including the higher zero bracket amount, is effective for taxable years beginning after December 31, 1978.

Senate amendment.—Increase in zero bracket amount.—Same as the House bill, except that the increase for heads of households is to $3,000, not $2,300.

Widening of tax brackets.—A new tax rate schedule is provided with 15 instead of 25 tax brackets for married individuals filing jointly, and 16 brackets for single individuals, with wider brackets, particularly the top brackets.

Reduction in certain tax rates.—The rate reductions are directed more toward the lower- and middle-income tax brackets than in the House bill. Six tax rates are reduced compared to present law (joint return schedule): the 14-percent rate to 13, the 15, 16 and 17 percent rate to 14, the 19 percent rate to 16 and the 22 percent rate to 21—this covers the first $15,000 of taxable income under present law. One tax rate is increased: the 28 percent rate to 29 which covers the present law taxable income range $19,200 to $23,200. These changes are effective for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement retains the tax brackets of the Senate amendment, but the zero bracket amount for heads of households is the $2,300 of the House bill rather than the $3,000 of the Senate amendment. The conference agreement modifies the Senate bill rate reductions so that they yield a tax reduction $1 billion more than the House bill rather than the $2 billion more of the Senate amendment.

2. Increase in the Personal Exemption

House bill.—Under present law, the amount of the personal exemption is $750 for the taxpayer, his or her spouse, and each dependent whose gross income is less than $750 (unless the dependent is the taxpayer's child and is either under age 19 or a student). An additional exemption is provided for a taxpayer who is blind or age 65 or over. Present law also provides a general tax credit, which is the larger of $35 per exemption or 2 percent of the first 9,000 of taxable income (in excess of the zero bracket amount), with a maximum credit of $180. The credit is scheduled to expire at the end of 1978.

The House bill provides a permanent increase in the personal exemption from $750 to $1,000, and increases the gross income limit for a dependent from $750 to $1,000. The general tax credit is allowed to expire at the end of 1978. The increase in the personal exemption is effective for taxable years beginning after December 31, 1978. The general tax credit will no longer apply for taxable years ending after December 31, 1978.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

3. Additional Personal Exemption for the Handicapped

House bill.—No provision.

Senate amendment.—Under present law, there is no extra personal exemption provided for handicapped persons (as there is in the case of those who are blind or age 65 and over).

The Senate amendment provides an additional personal exemption to a handicapped taxpayer. Handicapped means permanently and totally disabled.

The additional exemption would not be available to an individual, however, if he or she received benefits as a disabled veteran, a disabled civil service employee, or receives cash benefits as a disabled person under the Social Security Act or other Federal, State or local government program. In addition, the extra exemption would not be available with respect to anyone age 65 or over.

The additional personal exemption is to be $500 for 1979 and 1980 and is to be increased to $1,000 for 1981 and thereafter.

Conference agreement.—The conference agreement does not contain this provision.

4. Changes in Filing Requirements and Withholding Changes

House bill.—Under present law, a tax return must be filed by a single person and a head of household if his or her income is $2,950 or more a year and by a married couple under age 65 filing a joint return if their income is $4,700 or more. The House bill increases the filing levels for a single person and a head of household to $3,300 and to $4,500 for a married couple (under age 65).

The withholding tax rates reflect the present law tax rates, the zero bracket amount, and the amount of the personal exemption. Under the House bill, the withholding rates and tables are to be changed by the Secretary of the Treasury to reflect the increase in the zero bracket amount and the personal exemption.

The change in the filing requirement is effective for taxable years beginning after December 31, 1978, and the withholding changes apply to wages paid after December 31, 1978.

Senate amendment.—The Senate amendment is the same as the House bill, except the filing requirement for heads of households is increased to $4,000.

The withholding changes are to be the same as the House bill except to reflect the higher zero bracket amount for heads of households and the different tax rate reductions.

The date for the filing requirement change is the same as the House bill, but the withholding changes are to apply to wages paid after July 31, 1978.

Conference agreement.—The conference agreement is the same as the House bill except the withholding changes are to reflect the larger rate reductions than in the House bill.

5. Earned Income Credit

House bill.—Under present law, a refundable credit is allowed against income tax equal to 10 percent of the first $4,000 of earned income (a maximum of $400). The credit phases out between $4,000 and $8,000 of adjusted gross income (or, if higher, earned income). The credit generally is allowed to taxpayers who live with children, and is due to expire at the end of 1978.

The House bill makes the earned income credit permanent, and modifies the credit in several respects to make it easier for taxpayers to compute the credit and to enable the Internal Revenue Service to allow the credit to taxpayers who qualify but neglect to claim the credit on their tax return. Generally, under the House bill, any individual who is considered to be married and who is entitled to a dependency exemption, under section 151 of the Code, for a child living with the individual and surviving spouse, and any head of household will be eligible for the earned income credit.

Senate amendment.—The Senate amendment makes the credit permanent, and simplifies the determination of the amount of, and eligibility for, the credit in a manner similar to the House bill. In addition, the Senate amendment increases the amount of the credit to 12 percent of the first $5,000 of earned income (a maximum of $600) phased out between $6,000 and $11,000 of adjusted gross income (or, if higher, earned income). These dollar amounts are adjusted upward by the ratio of the poverty line for any noncontiguous State to the poverty line for the 48 contiguous States, if this ratio is 15 percent or greater.

Under the Senate amendment, employees could elect to have advance payments of the earned income credit added to their paychecks each pay period. The amount of the payment would be determined from tables which take into account the amount of wages paid and whether or not an employee's spouse was also claiming advance payments. Employers would reduce their liability for income tax withholding and FICA taxes for the aggregate amount of advance payments made to employees in any pay period.

Also, under the Senate amendment, the credit would be taken into account for purposes of Federal or Federally aided assistance programs. In addition, the Social Security Act would be amended to provide specifically that the earned income credit, and advance payments of the credit, be treated as earned income for purposes of the aid to families with dependent children program (AFDC) and supplemental security income (SSI) programs.

Conference agreement.—The conference agreement makes the earned income credit permanent, and simplifies the determination of the amount of, and eligibility for, the credit in a manner similar to both the House bill and the Senate amendment. Under the conference agreement, the credit is 10 percent of the first $5,000 of earned income (a maximum of $500) and is phased out between $6,000 and $10,000 of adjusted gross income (or, if higher, earned income).

The conference agreement provides that, as of July 1, 1979, employees may elect to have advance payments of the earned income credit added to their paychecks each pay period. The amount of advance payment would be determined from tables which take into account the amount of wages paid and whether or not an employee's spouse was also claiming advance payments. Employers would reduce their liability for income tax withholding and FICA taxes for the aggregate amount of advance payments made to employees in any pay period.

In addition, the conference agreement requires the credit to be taken into account for purposes of Federal or Federally aided assistance programs, effective January 1, 1980. Further, the Social Security Act will be amended, effective January 1, 1980, to provide specifically that the earned income credit, and advance payments of the credit, be treated as earned income for purposes of the aid to families with dependent children program (AFDC) and supplemental security income (SSI) programs.

B. Itemized deductions and individual tax credits

6. Repeal of deduction for State and local nonbusiness gasoline and other motor fuel taxes

House bill.—Under present law, an individual who itemizes deductions can deduct State and local taxes imposed on gasoline, diesel, and other motor fuels not used in business or investment activities.

The House bill repeals the itemized deduction for State and local taxes on gasoline, diesel, and other motor fuels not used by the taxpayer in business or investment activities.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

7. Revision of deduction for medical, dental, etc., expenses

House bill.—Under present law, an individual who itemizes deductions generally can deduct unreimbursed medical and dental expenses paid for the medical care of the individual, and his or her spouse and dependents, to the extent that the total of such expenses exceeds 3 percent of adjusted gross income. Amounts paid for medicine and drugs may be counted toward the deductible amount only to the extent they exceed one percent of adjusted gross income. In addition, one-half of the amount of medical insurance premiums (up to $150) can be deducted by itemizers without regard to the 3-percent limitation. The balance of medical insurance premiums is added to other medical expenses and is subject to the 3-percent limitation.

The House bill repeals the itemized deduction for one-half of the amount of medical insurance premiums (up to $150) without regard to the 3-percent limitation. In addition, the House bill repeals the special limitation in present law which permits deduction of prescription and nonprescription medicine and drug costs only to the extent they exceed one percent of adjusted gross income, and provides that only "prescribed drugs" and insulin are eligible for the medical expense deduction.

Senate amendment.—No provision.

Conference agreement.—The conference agreement retains the provisions of present law.

8. Political Contributions

House bill.—Under present law, an individual who itemizes deductions can deduct political or newsletter fund contributions of up to $100 per year ($200 in the case of a joint return). Contributions eligible for the deduction may be made to (1) candidates for nomination or election to Federal, State, or local office in general, primary, or special elections; (2) committees sponsoring such candidates; (3) national, State, or local committees of a national political party; and (4) newsletter funds of an official or candidate.

Alternatively, a taxpayer can elect an income tax credit equal to one-half of such political and newsletter fund contributions, but not more than $25 ($50 in the case of a joint return).

The House bill repeals the itemized deduction for political or newsletter fund contributions. The income tax credit for such contributions, however, would remain available to taxpayers as under present law.

Senate amendment.—The Senate amendment, which is effective for taxable years beginning after December 31, 1978, increases the maximum amount of the income tax credit for political contributions from $25 to $50 ($100 in the case of a joint return). In all other respects, the amendment retains the limitations of present law on the credit's availability, and does not modify the alternative deduction for political contributions.

Conference agreement.—The conference agreement follows the provisions of the House bill and the Senate amendment. It repeals the deduction for political contributions, and increases the maximum amount of the income tax credit from $25 to $50 ($100 in the case of a joint return). In all other respects, the conference agreement retains the limitations of present law on the credit's availability.

9. Increase in Tax Credit for the Elderly

House bill.—No provision.

Senate amendment.—Under present law, an individual taxpayer age 65 or older is entitled to a tax credit equal to 15 percent of the credit base minus certain offsets. Currently, the credit base is:

$2,500—Single individual or joint return where only one spouse is eligible;

$3,750—Joint return where both the spouses are eligible; or

$1,875—Married individuals filing a separate return.

This credit base is reduced by certain amounts received as a tax-free pension or annuity (for example, under Social Security or the Railroad Retirement System). The credit base also is reduced by one-half of the adjusted gross income in excess of certain limitations. These limitations are:

$7,500—Single individuals;

$10,000—Joint returns; or

$5,000—Married individuals filing separate returns.

The Senate amendment increases the credit base to $3,000 for a single person, $4,500 for a married couple where both spouses are age 65 or over, and to $2,250 for married individuals filing a separate return.

The Senate amendment also increases the income limitation to $15,000 for a single person and $17,500 for a married couple where both spouses are age 65 or over and to $8,750 for a married individual filing separately. The provision is effective for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement does not contain this provision.

10. Credit for Child Care Services

House bill.—No provision.

Senate amendment.—Under present law, payments for child care services by a taxpayer to certain relatives qualify for the child care credit only if the services constitute "employment," as defined for Social Security purposes. Under the Social Security definition, child care services rendered by a grandparent generally do not constitute employment.

The Senate amendment provides generally that payments to grandparents for care of their grandchildren may qualify for the child care credit. This provision is effective for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

11. Tuition Tax Credit

House bill.—No provision.

Senate amendment.—Under present law, there is no tax credit for personal educational expenses.

The Senate amendment provides a nonrefundable tax credit equal to 35 percent of the tuition paid to one or more institutions of higher education or postsecondary vocational schools by an individual for himself, his spouse, or his dependents.

The maximum allowable credit for tuition paid to any one institution is:

(1) $100 for calendar year 1978,

(2) $150 for calendar year 1979, and

(3) $250 for calendar years 1980 and 1981.

The credit applies to amounts paid for education on or after August 1, 1978, for education furnished on or after that date. Expenses of half-time students are eligible for the credit as of January 1, 1980. The credit will remain in effect through calendar year 1981.

Conference agreement.—The conference agreement omits this provision.

C. Deferred compensation plans

12. State and Local Government Deferred Compensation Plans

House bill.—Under present law, a cash method taxpayer generally is not required to include compensation in income until it is actually received or otherwise made available. Compensation generally is considered made available to the taxpayer if there are no substantial restrictions on the right to receive it.

If a taxpayer enters into an agreement with a payor to receive compensation on a deferred basis, rather than currently, the taxpayer generally will not be in constructive receipt of that compensation (i.e., it is not considered to be made available) so long as the agreement is made before the taxpayer obtains an unqualified and unconditional right to the compensation.

On February 3, 1978, the Internal Revenue Service issued proposed regulations which provided generally that, if payment of an amount of a taxpayer's fixed basic or regular compensation is deferred at the taxpayer's individual election to a taxable year later than that in which the amount would have been payable but for the election, the deferred amount would be treated as received in the earlier taxable year. These proposed regulations would apply to plans maintained by States and local governments and tax-exempt organizations as well as plans maintained by taxable employers.

The House bill provides that amounts of compensation deferred by a participant in an eligible deferred compensation plan maintained by a State or local government unit or a tax-exempt rural electric cooperative (and certain tax-exempt affiliates), plus any income attributable to the investment of such deferred amounts, will be includible in the income of the participant or his beneficiary only when such amounts are paid or otherwise made available. This rule will apply whether the participants are employees of the State or are independent contractors performing services for the State.

To qualify as an eligible deferred compensation plan, the plan must not allow the deferral of more than $7,500, or 33⅓ percent of the participant's includible compensation for the taxable year, whichever is less. Participants in these plans must reduce the $7,500 and 33⅓ percent limitations by the amounts deferred under any tax-sheltered annuity program which is excludable from income under section 403(b). In addition, the plan must satisfy other requirements relating to (1) the time an election to defer must be made (except in the case of new employees or newly implemented plans, the election to defer compensation must be made before the beginning of the plan year for which the deferral election is to be effective), (2) the time distributions can be made under the plan, and (3) the ownership of investments made with deferred amounts. The plan can provide an increased limitation in the 3 years before a participant retires.

All plans to which this provision applies will have until January 1, 1982, to satisfy the plan requirements for classification as an eligible State deferred compensation plan. However, the limitations on amounts that can be deferred under such a plan will apply for all taxable years beginning after December 31, 1978.

Senate amendment.—The Senate amendment would provide the same limitations on deferral as the House bill for employees or independent contractors who are participants in an unfunded deferred compensation arrangement maintained by a State or local government unit. However, the Senate amendment would not apply to participants in a plan maintained by a tax-exempt rural electric cooperative or any of its tax-exempt affiliates. In addition, the Senate amendment would permit plan participants to make monthly, rather than annual, elections to defer compensation.

Conference agreement.—The conference agreement generally follows the House bill except that it permits monthly, rather than annual, elections to defer compensation.

13. Private Nonqualified Plans

House bill.—The present law tax treatment of participants in unfunded deferred compensation arrangements maintained by taxable entities is the same as the tax treatment of participants in such arrangements maintained by States and local government units.

The House bill provides that the taxable year for including compensation deferred under a deferred compensation plan maintained by a taxable entity is to be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

Senate amendment.—The Senate amendment is the same as the House bill, except that it applies also to participants in plans maintained by tax-exempt organizations.

Conference agreement.—The conference agreement follows the House bill.

14. Payments to Independent Contractors

House bill.—Under present law, an employer generally is permitted a deduction for deferred compensation provided under a nonqualified plan in the year that such compensation is includible in the employee's gross income, even though the employer is on the accrual basis and normally would be entitled to a current deduction. This rule applies to any method of contributions or compensation having the effect of a plan deferring the receipt of compensation.

Under present law, the rule permitting a deduction for deferred compensation only when there is a corresponding income inclusion by a plan participant applies only where there is an employer-employee relationship. Thus, an accrual basis taxpayer generally is able to establish an unfunded deferred compensation plan for a cash basis independent contractor and obtain a deduction for such liability in accordance with the usual accrual accounting rules.

The House bill adds a new provision, effective for taxable years beginning after December 31, 1978, which denies a deduction for deferred compensation provided under a nonqualified plan to nonemployee participants until that compensation is includible in the gross income of the participants.

The House bill also clarifies current law by providing that a method of compensation or employer contributions having the effect of a plan deferring the receipt of compensation does not have to be similar to a stock bonus, pension, profit-sharing, or annuity plan to be subject to the deferred compensation deduction-timing rules.

Senate amendment.—The Senate amendment is the same as the House bill with minor technical changes.

Conference agreement.—The conference agreement is the same as the Senate amendment.

15. Tax Treatment of "Cafeteria Plans"

House bill.—Under a "cafeteria" of "flexible benefit" plan an employee may choose from a package of employer-provided fringe benefits, some of which may be taxable and some of which may be nontaxable. Under a provision of the Employee Retirement Income Security Act of 1974 (ERISA), an employer contribution made before January 1, 1977, to a cafeteria plan in existence on June 27, 1974, is required to be included in an employee's gross income only to the extent that the employee actually elects taxable benefits. In the case of a plan not in existence on June 27, 1974, the employer contribution is required to be included in income to the extent the employee could have elected taxable benefits. Under the Tax Reform Act of 1976, these rules apply with respect to employer contributions made before January 1, 1978.

The House bill provides that employer contributions under a cafeteria plan generally are excluded from the employer's gross income to the extent that nontaxable benefits are elected. However, in the case of a highly compensated employee, amounts contributed under a cafeteria plan will be included in gross income for the taxable year in which the plan year ends, to the extent the individual could have elected taxable benefits unless the plan meets specified antidiscrimination standards with respect to coverage and eligibility and with respect to contributions or benefits. These rules apply for taxable years beginning after December 31, 1978.

Senate amendment. The Senate amendment is the same as the House bill except for changes adding clarifying language, and making it clear that a plan must be in writing to be subject to the cafeteria plan rules. Thus, this provision will apply only when there is a written plan which provides employees a choice between taxable and nontaxable benefits. The taxation of benefits provided under other types of arrangements will be determined under existing law.

Conference agreement.—The conference agreement follows the Senate amendment.

16. Tax Treatment of Cash or Deferred Profit-Sharing Plans

House bill.—Under present law, the tax treatment of amounts contributed by an employer, to a cash or deferred profit-sharing plan, at the election of an employee, depends upon when the plan was established. Under a provision of the Employee Retirement Income Security Act of 1974 (ERISA), as amended by the Tax Reform Act of 1976, the tax treatment of contributions to cash or deferred profit-sharing plans in existence on June 27, 1974, is governed (until January 1, 1978) under the law as it was applied prior to 1972. (Under the rules in effect then, an employee was not taxed currently on amounts he chose to have contributed to a tax-qualified cash or deferred profit-sharing plan.) In the case of plans not in existence on June 27, 1974, contributions to a cash or deferred profit-sharing plan are treated as employee contributions (until January 1, 1978, or until new regulations are prescribed in this area.)

The House bill changes present law with respect to new cash or deferred profit-sharing plans by permitting those plans to be tax-qualified (for taxable years beginning after December 31, 1977) provided the plans satisfy the law with respect to cash or deferred profit-sharing plans as it was administered before January 1, 1972.

Senate amendment.—The Senate amendment provides that a participant in a qualified cash or deferred arrangement will not have to include in income any employer contribution to the plan merely because he could

have elected to receive such amount in cash instead. For the cash or deferred arrangement to be a tax-qualified plan, it must satisfy the normal pension plan qualification rules. In addition, it must satisfy the following requirements: (1) it must not permit the distribution of amounts attributable to employer contributions merely because of the completion of a stated period of plan participation or the passage of a fixed period of time, and (2) all amounts contributed by the employer pursuant to an employee's election must be nonforfeitable at all times.

Special nondiscrimination rules are provided for these arrangements to test for discrimination as to actual plan participation or as to the amount of contributions to the plan. Under these rules, a cash or deferred arrangement will meet the nondiscrimination requirements for qualification for a plan year if (1) the actual deferral percentage for the highest paid one-third of all eligible employees does not exceed the actual deferral percentage for the other eligible employees by more than 50 percent, or (2) the actual deferral percentage for the highest paid one-third of all eligible employees does not exceed the actual deferral percentage of the other eligible employees by more than three percentage points. (If this latter test is used, the actual deferral percentage for the highest paid one-third cannot exceed the actual deferral percentage of all other eligible employees by more than 150 percent.)

The Senate amendment is effective for taxable years beginning after December 31, 1979; however, a transitional rule is provided for those cash or deferred arrangements in existence on January 27, 1974 under which their qualified status for plan years beginning before January 1, 1980 shall be determined in a manner consistent with Rev. Rul. 56-497 (1956-2 C.B. 284), Rev. Rul. 63-180 (1963-2 C.B. 189), and Rev. Rul. 68-89 (1968-1 C.B. 402).

Conference agreement.—The conference agreement follows the Senate amendment.

D. Employee stock ownership plans

17. Employee stock ownership plans

House bill.—No provision.

Senate amendment.—(a) *Expiration date of TRASOP provisions.*—The Senate amendment makes the TRASOP provisions, as amended, part of the Code for the first time and makes them permanent by repealing the present law December 31, 1980, expiration date.

(b) *Qualification requirements for TRASOPs.*—The Senate amendment requires that all TRASOPs are to be tax-qualified plans if contributions are made for plan years beginning after December 31, 1978.

(c) *Date by which a TRASOP must be established for a plan year.*—The Senate amendment provides that a TRASOP may be treated as tax-qualified from its effective date even though the TRASOP is not actually established until the date for filing the employer's tax return for its taxable year (including extensions) in which the effective date falls.

(d) *Allocation of TRASOP contributions.*—Under present law, an employee who participates in a TRASOP at any time during the year for which an employer contribution is made is entitled to an allocation of the contribution. Under the Senate amendment, employer contributions to a TRASOP for a plan year generally are to be allocated in accordance with the rules governing the allocation of contributions to tax-qualified plans. In addition, the Senate amendment retains the present law requirement that the allocation of employer contributions to a TRASOP for a year must be made in proportion to total compensation of all participants sharing in the allocation for the plan year, taking into account only the first $100,000 of compensation for an employee.

(e) *Provisions relating to voting of employer securities by plan.*—The Senate amendment provides that if an ESOP or TRASOP holds employer stock issued by a corporation whose stock is "publicly traded," the plan must provide that the stock is to be voted by the plan participants. In addition, under the Senate amendment, the plan must provide for voting and dividend rights equivalent to rights possessed by shareholders of the highest class of stock of the issuing corporation which is "readily available" on a public market. The Senate amendment provides that a tax qualified defined contribution plan which, following any acquisition of employer securities after December 31, 1979, holds more than 10 percent of its assets in employer securities must provide that the plan participants are entitled to exercise voting rights with respect to any of such acquired stock which is issued by a corporation which is closely held on any corporate issue which must by law (or charter) be decided by more than a majority vote of common shareholders voting on the issue. The Senate amendment also provides that a TRASOP which holds employer stock issued by a corporation which is closely held must provide that the plan participants are entitled to exercise voting rights with respect to the stock on the same types of corporate issues.

(f) *Treasury Department study with respect to voting rights by participants in ESOPs and TRASOPs.*—The Senate amendment requires the Treasury Department (working with representatives of private businesses, Congressional staffs and the Department of Labor) to institute a one-year study and to report to the Senate Finance Committee on the extent to which voting rights and different forms of financial disclosure should be given to participants in ESOPs and TRASOPs with which hold employer stock issued by closely held corporations, and on the resale rights which should be available to a participant (or a beneficiary) who receives a distribution of employer stock from an ESOP, TRASOP, or stock bonus plan.

(g) *Definition of employer securities for leveraged ESOPs and TRASOPs.*—The Senate amendment provides that, in the case of a TRASOP or a leveraged ESOP, the only types of employer securities which may be acquired and held by the plan are common stock of the issuing corporation and preferred stock of the issuing corporation which is readily convertible into its common stock. In addition in the case of a TRASOP, the Senate amendment applies a 50-percent test in lieu of the present law 80-percent test in determining whether a parent corporation is a member of the same parent-subsidiary controlled group of corporations as a subsidiary corporation.

(h) *Nonrecognition of gain or loss on contribution of stock of parent to TRASOP.*—The Senate amendment provides that where a parent corporation and a subsidiary corporation (including a second-tier subsidiary) are members of an affiliated group of corporations, the subsidiary corporation will not recognize gain or loss on a contribution to a TRASOP maintained by it of stock in the parent corporation.

(i) *Minimum tax.*—The Senate amendment provides that additional investment tax credit attributable to a TRASOP contribution will not result in the imposition of any additional minimum tax on the employer.

(j) *Special rule for contributions attributable to one-half percent TRASOP credit.*—The Senate amendment requires that the employer TRASOP contribution attributable to extra additional investment tax credit (up to one-half of one percent) for a qualified investment must be made to the extent that matching employee contributions are made, and must be made for the period in which the employee contributions are made.

(k) *Deduction of TRASOP contributions.*—The Senate amendment provides that, where the credit for a TRASOP contribution expires, a deduction is allowed for the amount of the expired credit in the year in which the credit expires.

(l) *Prohibition of withdrawal of TRASOP contributions on recapture.*—The Senate amendment provides that a TRASOP contribution made with respect to a particular qualified investment may not be withdrawn if all or a portion of the credit is later recaptured due to an early disposition of the qualified investment.

(m) *Distribution from ESOPs and TRASOPs.*—The Senate amendment provides that a participant in an ESOP or TRASOP who is entitled to a distribution under the plan must be given the right to require that the distribution be made in the form of employer securities. Subject to such right, the plan may elect to distribute the participant's interest to him in cash, in employer securities, or partially in cash and partially in employer securities.

(n) *Put option on ESOP or TRASOP stock.*—The Senate amendment requires that participants or beneficiaries receiving a distribution of employer stock from a leveraged ESOP or TRASOP must generally be given a "put option," for the stock which meets specified requirements, in the case of an employer whose stock is subject to a trading limitation or is not publicly traded at the time of the distribution.

(o) *Estate tax exclusion for qualified plan distributions not subject to 10-year averaging.*—The Senate amendment provides that a death benefit under a qualified plan, which is eligible to be treated as a lump sum distribution, is excludible from the estate of the deceased plan participant if the recipient of the distribution agrees in writing not to elect to treat the distribution as a lump sum distribution eligible for special, favorable income tax treatment.

(p) *Rollover of proceeds from the sale of employer securities distributed from a qualified plan.*—The Senate amendment permits an employee who receives employer securities as part of a lump sum distribution from a qualified plan, or as part of a complete distribution upon termination of a qualified plan, to sell the employer securities and receive tax-free rollover treatment by contributing all of the proceeds from the sale, plus any other assets received as part of the distribution to an IRA, within 60 days from the date of the distribution.

Conference agreement.—The conference agreement follows the Senate amendment except that (1) the TRASOP provisions are not made permanent, but rather, the expiration date of those provisions is extended for three years until December 31, 1983, and (2) the provision for rollover of proceeds from the sale of distributed employer securities is omitted from the ESOP provisions because the substance of the provision is covered elsewhere in the conference agreement.

E. Retirement plan provisions

18. Deduction for Certain Employee Retirement Savings Contributions

House bill.—No provision.

Senate amendment.—Present law allows a deduction for a contribution to an IRA (an individual retirement account, annuity, or bond) for the lesser of 15 percent of earned income or $1,500 ($1,750 in the case of spousal IRAs). The deduction is not allowed to an active participant in a tax-qualified pension plan, a tax-sheltered annuity, or a governmental plan. No deduction is allowed for employee contributions to a qualified plan or a group retirement trust (a pre-1974 private annuity program under which benefits are fully vested and which is financed solely

by employee contributions). Amounts held in an IRA are subject to an additional 10 percent income tax if distributed before age 59½, death, or disability.

The Senate amendment allows a deduction to an active participant in a private qualified pension plan, a group retirement trust, or an IRA of the lesser of 10 percent of earned income or $1,000. No more than $100 is allowed as a deduction for mandatory contributions to a pension plan. Employers would be required to accept employee contributions to a plan. The deductible employee contributions could not discriminate in favor of officer, shareholders, or highly compensated employees. Deductible employee contributions would be tested for discrimination as if they were employer contributions. The Senate amendment applies for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement omits this provision.

19. Simplified Pension Plan

House bill.—No provision.

Senate amendment.—Under present law, the requirements that must be met by a qualified pension plan are considerably more complex and burdensome than the requirements applicable to individual retirement accounts or individual retirement annuities.

The Senate amendment raises the usual deduction limit for contributions to an individual retirement account or annuity to $7,500 or 15 percent of compensation, whichever is less, if the account or annuity qualifies as a simplified employee pension. The $7,500 limit applies only with respect to employer contributions to an individual retirement account or annuity maintained by an employee and only if the employer contributions are made under a written allocation formula which is not discriminatory in favor of employees who are officers, shareholders, self-employed, or highly compensated. Also, each employee who has attained age 25 and has performed service for the employer for the current calendar year and at least 3 of the 5 preceding calendar years must be entitled to employer contributions. The conferees do not intend the $7,500 limitation as a precedent for establishing reduced limitations on contributions under qualified plans of small businesses employers or other employers.

An amount contributed to a simplified employee pension by an employer would be fully nonforfeitable (vested), and would be subject to the usual rules for individual retirements accounts or annuities. Also, an employee's right to withdraw amounts held in the account or annuity cannot be restricted by the employer. Reporting and disclosure requirements would be reduced.

If the employer contribution is a simplified employee pension is less than the amount the employee could deduct for a contribution under the usual IRA rules, the employee could make up the difference.

Employer contributions to simplified employee pensions could be taken into account in determining whether an employer's pension plan meets the nondiscrimination requirements for tax qualification. The Senate amendment applies for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

20. Defined Benefit Plan Limits

House bill.—No provision.

Senate amendment.—Under present law, benefits under a qualified defined benefit pension plan are limited to the lesser of 100 percent of pay or $75,000 per year, adjusted for inflation since 1974 ($90,150 for 1978).

The Senate amendment provides that the 100-percent-of-pay limit is disregarded in the case of an employee under a collectively bargained plan with at least 100 participants where (1) benefits for a particular of an employee's service are the same for all participants regardless of the participant's other compensation, (2) benefits are fully nonforfeitable after not more than 4 years of service, (3) employees participate in the plan after not more than 60 days of service, and (4) the employee is not a participant in any other plan of a sponsoring employer. The $75,000 limit on annual benefits is reduced to $37,500 (adjusted for inflation) for an employee if the 100-percent-of-pay limit is disregarded. The Senate amendment applies for years beginning after December 31, 1978.

Conference agreement—The conference agreement follows the Senate amendment.

21. Custodial Accounts for Regulated Investment Companies

House bill.—No provision.

Senate amendment.—Under present law, amounts paid by a tax-exempt charitable organization or an educational institution to purchase an annuity contract or stock in a regulated investment company (a mutual fund or a closed-end investment company) for an employee can be excluded from the employee's income under the tax-sheltered annuity rules. To qualify under the tax-sheltered annuity rules, an annuity contract or stock must be purchased to provide a retirement benefit. Because State law generally requires that the cash value of an annuity contract must be payable in the event the contract is surrendered before annuity payments begin, employees are able to use annuity contracts to save for purposes other than retirement. However, under proposed Treasury regulations stock of a regulated investment company cannot be distributed before the employee attains age 65 unless the employee dies or becomes disabled and can be distributed on account of a separation from service only if the employee has attained age 55.

The Senate amendment permits distributions of stock of a regulated investment company after an employee dies, becomes disabled, separates from service, attains age 59½, or encounters financial hardship. Under the "financial hardship" rule, stock in a regulated investment company could be distributed to an employee if the hardship is such that it would permit a distribution from a qualified profit-sharing plan which provides for distributions in the event of financial hardship. In some cases the "financial hardship" rule for stock would permit distributions to an employee for the purpose of purchasing a residence or to provide higher education for the employee's children. The Senate amendment applies for taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees are concerned, however that if a financial hardship standard is applied under tax-favored retirement arrangements, the Congressional purpose for providing favorable tax treatment can be frustrated. Accordingly, the conferees believe that consideration should be given to provisions which withdraw the favorable tax treatment where funds are distributed for purposes other than retirement, to an employee who has not become disabled or died.

22. Pension Plan Reserves

House bill.—No provision.

Senate amendment.—Present law provides that the income of a life insurance company from its reserves for annuity contracts sold a qualified pension plan, or sold for use as individual retirement annuities or tax-sheltered annuities is subject to more favorable tax treatment than income from reserves for other annuity contracts.

Under the Senate amendment, income of a life insurance company from reserves for an annuity contract sold to a governmental pension plan (whether or not qualified) or to a government for use under an unfunded plan of deferred compensation plan would be accorded the same tax treatment as income from its reserves for annuities sold to a qualified plan. The Senate amendment applies for taxable years beginning after December 31, 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

23. Rollover of Distributions From a Tax-Sheltered Annuity

House bill.—No provision.

Senate amendment.—Under present law, the recipient of a "lump-sum distribution" from a tax-qualified pension, profit-sharing, stock bonus, or annuity plan may defer tax on the receipt of such distribution by rolling over the proceeds (net of any employee contributions) within 60 days of receipt to an individual retirement arrangement or to another employer-sponsored qualified retirement plan. In lieu of rolling over the distribution to an individual retirement arrangement, the recipient of a lump-sum distribution (other than a lump-sum distribution caused by plan termination) may elect to compute his tax on the distribution by using special 10-year income averaging.

Recipients of distributions under a tax-sheltered annuity purchased by an employer that is a tax-exempt organization or a public school are taxed under the usual annuity rules (section 72). They are not eligible for special 10-year averaging, and they are not eligible to roll distributions over to an individual retirement arrangement or to another tax-sheltered annuity.

The Senate amendment permits recipients of a "lump-sum distribution" from a tax-sheltered annuity to defer tax on the distribution by rolling it over within 60 days of receipt to an individual retirement arrangement or to another tax-sheltered annuity. This provision will apply to distributions or transfers made after December 31, 1977, in taxable years beginning after that date.

Conference agreement.—The conference agreement follows the Senate amendment but makes technical changes to coordinate the Senate amendment with the technical changes to the individual retirement account provisions made by another provision of the bill. Thus, under the conference agreement, the recipient of a lump-sum distribution from an annuity contract described in section 403(b)(1) or a custodial account which meets the requirements of section 403(b)(7) will be eligible to completely or partially roll over the otherwise taxable portion of such distribution to an individual retirement plan. Subsequently, the amount rolled over to the individual retirement plan plus earnings, could be rolled over to another annuity contract or custodial account, but could not be rolled into a tax-qualified retirement plan.

F. Unemployment compensation

24. Taxation of Unemployment Compensation

House bill.—Under present law, based upon a series of Internal Revenue Service rulings, unemployment compensation is excluded from adjusted gross income.

The House bill phases out the current exclusion from adjusted gross income for unemployment compensation paid pursuant to government programs at higher levels of income. The amount of unemployment compensation excluded would be reduced by one-half of the excess of gross income (including unemployment compensation) over $20,000 for single taxpayers, over $25,000 for married taxpayers filing jointly and over zero for married taxpayers filing separately.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill, with a technical amendment providing that any person who makes unemployment compensation payments, pursuant to a government program, to any individual during any cal-

endar year will be required to provide the Secretary of the Treasury with a return setting forth the amount of such payments and the name and address of the individual to whom paid. Any individual who has received such payments also must be furnished with a written statement setting forth the name and address of the person who made the unemployment compensation payments and the total amount of such payments.

G. Other individual income tax provisions

25. Uniformed Services Health Professions Scholarship Programs

House bill.—No provision.

Senate amendments.—Under present law, participants in the Uniformed Services Health Professions Scholarship Program (including the Armed Forces and Public Health Services programs) entering before 1979 may exclude from their income amounts received under these programs through 1982.

The Senate amendment extends the exclusion for 1 year to cover scholarships received by students entering these programs in 1979 and to apply for amounts received by such students under these programs through 1983. This provision is effective with respect to students entering programs in 1979, and applies for amounts received through 1983.

Conference agreement.—The conference agreement follows the Senate amendment.

26. National Research Service Awards

House bill.—No provision.

Senate amendments.—Certain amounts received in connection with education may be excluded from income as scholarships or fellowships. In Rev. Rul 77–319, the Service ruled that amounts received as National Research Services Awards under the Public Health Service Act of 1974 (42 U.S.C. section 2891), which have no specific statutory exemption, are not excludible scholarships or fellowship grants.

The Senate amendment provides tax-exempt scholarship treatment for National Research Services Awards made through 1979. The exemption applies to amounts received under awards made during calendar years 1974 through 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

27. Cancellation of Certain Student Loans

House bill.—No provision.

Senate amendment.—The Tax Reform Act of 1976 provided that no amount is to be included in gross income by reason of the discharge of all or part of a student loan if, pursuant to the loan agreement, such discharge is made if the individual works for a certain period of time in certain geographical areas, or for certain classes of employers. This exclusion applies only to loans made by a governmental agency and is effective for discharge of such indebtedness if made before January 1, 1979.

The Senate amendment extends the exclusion provided in present law to the discharge of such student loan indebtedness made before January 1, 1983. The amendment applies with respect to loans forgiven prior to January 1, 1983.

Conference agreement.—The conference agreement follows the Senate amendment.

28. Employer Educational Assistance Programs

House bill.—No provision.

Senate amendment.—Under present law, employer-provided educational assistance is includible in an employee's income and is subject to tax unless the education is "job-related." Educational expenditures generally are deductible if they are for education that (1) maintains or improves skill required by the individual's employment or other trade or business, or (2) meets the express requirements of the individual's employer or the requirements of applicable law or regulations imposed as a condition to the retention of an established employment relationship, status or rate of compensation.

The Senate amendment excludes from an employees' income educational assistance provided by an employer under a qualified program. Excludible "educational assistance" includes tuition, fees, books, course supplies and similar items, but does not include personal living expenses nor any benefits for instruction involving sports, games, or hobbies.

A qualified program must be—

(1) a separate written plan of an employer;

(2) for the exclusive benefit of his employees; and

(3) nondiscriminatory with respect to eligibility and participation.

No more than 5 percent of an employer's annual costs for a program may benefit officers, highly compensated individuals, or owners of more than 5 percent of the employer's stock capital, or profits interests. Employees may not elect taxable compensation in lieu of educational assistance. No deduction or credit can be claimed with respect to any amount excluded under this provision.

Excludible assistance also is exempt from employment taxes.

This provision applies to taxable years beginning after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment, except that the provision is temporary. The exclusion applies to taxable years beginning after December 31, 1978, and ending before January 1, 1984.

29. Tax Counseling for the Elderly

House bill.—No provision.

Senate amendment.—Present law contains no provision specifically authorizing tax counseling for the elderly. However, the Internal Revenue Service has established a Volunteer Income Tax Assistance Program, which is designed specifically to provide assistance to low-income taxpayers and others.

The Senate amendment authorizes the Secretary of the Treasury, through the Internal Revenue Service, to enter into training and technical assistance agreements with private or public non-profit agencies and organizations to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation of their Federal income tax returns. Under the amendment, an "elderly individual" is defined as a person who has attained the age of 60.

The amendment authorizes the Service to provide reimbursement to volunteers for transportation, meals, and other expenses incurred by the volunteers during the course of training or in providing counseling assistance. The amendment also authorizes the appropriation of $2.5 million for fiscal year 1979, and $3.5 million for fiscal year 1980 to implement this provision. The provision is to be effective from the date of enactment.

Conference agreement.—The conference agreement adopts the Senate amendment.

30. Study by the Treasury Department of Simplifying the Filing of Federal Income Tax Returns

House bill.—No provision.

Senate amendment.—The Senate amendment requires the Treasury Department to study methods by which the process of filing Federal income tax returns could be made simpler and requires the Secretary of the Treasury to submit to the Senate Finance Committee and the House Ways and Means Committee a final report of its study, together with its recommendations, no later than six months from the date of enactment of this Act.

Conference agreement.—The conference agreement follows the Senate amendment.

II. TAX SHELTER AND PARTNERSHIP PROVISIONS

31. Modiifications of at Risk Provisions

House bill.—Present law contains two "at risk" rules which are designed to prevent a taxpayer from deducting losses in excess of his actual economic investment in the activity involved. The specific at risk rule applies to four specified activities: (1) farming; (2) exploring for, or exploiting, oil and natural gas resources; (3) holding, producing, or distributing motion picture films or video tapes; and (4) leasing of personal property. The specific at risk rule applies to all types of taxpayers other than regular corporations (that is, corporations which are not subchapter S corporations or personal holding companies). Losses which may not be deducted for any taxable year because of the specific at risk rule are deferred and may be deducted in any subsequent year in which this at risk limitation does not prevent the deduction. The partnership at risk rule applies generally to activities engaged in through partnerships. This rule provides that, for purposes of the limitation on allowance of partnership losses, the adjusted basis of a partner's interest does not include any portion of any partnership liability with respect to which the partner has no personal liability. However, the rule does not apply (1) to any activity to the extent that the specific at risk rule applies, or (2) to any partnership the principal activity of which is investing in real property (other than mineral property).

The House bill extends the specific at risk rule to all activities except real estate and repeals the partnership at risk rule. Separate rules for aggregation and separation of activities are provided for the activities to which the at risk rule is extended. The House bill also extends the at risk rule to all corporations in which five or fewer individuals own more than 50 percent of the stock and requires the recapture of previously allowed losses when the at risk amount is reduced below zero. However, the amount recaptured is limited to the excess of the losses previously allowed in that activity over any amounts previously recaptured. The provision applies to taxable years beginning after December 31, 1978.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill, with certain modifications.

First, at the risk rule is not to apply to closely held corporations (i.e., where five or fewer individuals own 50 percent or more of the stock of the corporation) to the extent they are actively engaged in easing equipment which is section 1245 property. A closely held corporation will not be considered to be actively engaged in equipment leasing unless 50 percent or more of its gross receipts for the taxable year are attributable to equipment leasing. For purposes of this test, gross receipts are to include gross receipts from the sale or the servicing of the same type of equipment leased by the corporation.[1] "Equipmnt leasing" includes the leasing of such tangible personal property as com-

[1] For example, the gross receipts from the sale of computers would be included if the corporation also leased computers, notwithstanding that the computers involved had different functional capacities. The gross receipts from the sale and lease of office equipment would be combined for purposes of this test, as would the gross receipts from the sale and lease of automobiles.

puters,[2] copiers, calculators, airplanes, automobiles, tractors, cranes, railroad cars, and furniture. "Equipment leasing" does not include the leasing of master recordings and other similar contractual arrangements made with respect to tangible or intangible assets associated with literary, artistic, or musical properties (such as books, lithographs of works of art, or musical tapes). Equipment leasing would also not include any lease activity which is described in section 465 (C)(1) (A), (B), or (D) (relating to motion picture films or video tapes, farming, and oil and gas property). Thus, for example, the lease of a video tape (which is described in section 465(C)(1)(A)) would not be considered equipment leasing.

Losses attributable to an equipment leasing activity which were suspended as a result of the application of the at risk rule, are to become fully deductible for the first taxable year in which the corporation meets the 50 percent or more gross receipts requirement. For the first taxable year in which a corporation fails to meet the 50 percent or more gross receipts requirement, the at risk basis in the equipment leasing activity is to be computed in accordance with the rules (including transitional rules[3]) normally applicable to computing at risk basis for the first year that an activity is subject to the at risk rule.

Second, in determining whether 5 or fewer individuals own 50 percent or more of the stock of a corporation (thus, making the corporation subject to the at risk rule), the attribution rules of section 318, not section 544, are to apply.

Third, the at risk rule is not to apply to partnership liabilities which were not subject to section 704(d) (as in effect before the date of the enactment of this Act) by reason of section 213(f)(2) of the Tax Reform Act of 1976 (P.L. 94-455).

Fourth, with respect to leasing activities conducted by a closely held corporation which are subject to the at risk rule, the at risk rule will not apply to any type of leasing transaction where the property was either leased or ordered (by the lessor or lessee) before November 1, 1978, but only for those taxpayers who owned their interests in the property on October 31, 1978. For purposes of these transitional rules, an order, a lease, and the acquisition of an interest in the property will not be considered to have occurred until they are evidenced by binding and legally enforceable agreements which are complete as to all relevant terms. However, a lease agreement will be considered binding on the relevant dates under the above provisions even though it is later modified to increase (but not decrease) the lease term.

Fifth, the loss recapture provision is to apply only to losses which were allowed and reduced the taxpayer's at risk basis in the activity involved for taxable years beginning after December 31, 1978.

32a. Penalty for Failure To File Return

House bill.—The House bill imposes a penalty on partnerships for failure to timely file a complete partnership information return. The penalty is $50 per month (or fraction of a month) that the return is late or incomplete, multiplied by the number of partners in the partnership. The penalty is assessed against the partnership, and the partners are individually liable to the extent they are liable for partnership debts generally. The penalty will not be imposed if the partnership can show reasonable cause for failure to file a complete or timely return. Smaller partnerships (those with 10 or fewer partners) will not be subject to the penalty under this reasonable cause test so long as each partner fully reports his share of the income, deductions and credits of the partnership. The House bill is effective for partnership returns due for taxable years beginning after December 31, 1978.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

32b. Extension of Statute of Limitations for Partnership Items

House bill.—Under present law, the Internal Revenue Service may assess an additional tax, or a taxpayer may claim a refund, generally within 3 years from the date the tax return is filed. Items of partnership income, deduction and credit are treated the same under these rules as other items on a taxpayer return. This period of limitations begins to run on the due date (or date filed, if later) of the partner's own income tax return. The due date of the partnership information return does not affect the statutory period. In order to extend the period of limitations, the Service must obtain the consent of the individual taxpayer involved. The consent to extend generally relates to all items on the taxpayer's return.

The House bill extends generally to 4 years the period of time in which assessments of deficiencies and claims for refund of tax attributable to partnership items may be made. This rule applies only to partnership items attributable to a "federally registered partnership." A federally registered partnership means any partnership the interests in which have been offered for sale prior to the close of the taxable year in an offering required to be registered with the Securities and Exchange Commission, or any partnership that is or has been subject to the annual reporting requirements of the Securities and Exchange Commission.

The 4-year period of limitations under the House bill begins to run on the due date (or date filed, if later) of the partnership information return for the federally registered partnership in which the item arose. However, this special period of limitations does not expire in any event until at least 1 year after the partner's name and address is provided to the Service in the manner prescribed by regulations.

This special period of limitations may be extended as to all partners by any general partner of the partnership or by any other person authorized to do so by the partnership in writing.

This provision is effective for partnership items arising in partnership taxable years beginning after December 31, 1978.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill, with a minor change. The conferees intend that only the annual reporting requirements of the SEC relating to protection of investors in the partnership will cause the partnership to be a federally registered partnership. For example, the reports required to be filed with the SEC by a brokerage firm (organized as a partnership) for regulatory purposes do not make the brokerage firm a federally registered partnership under this provision.

III. GENERAL STOCK OWNERSHIP PLANS

33. General Stock Ownership Corporations

House bill.—No provision.

Senate amendment.—Under present law, there are no special provisions relating to the establishment of a private corporation for the benefit of the residents of a State. The Senate amendment authorizes a State to establish a General Stock Ownership Corporation ("GSOC") for the benefit of its citizens. In order to qualify for the special treatment accorded GSOCs, its charter must meet certain statutory provisions and make an irrevocable election. If a GSOC meets these requirements, it is not subject to Federal income tax. Instead, the shareholders of the GSOC are taxable on their daily pro rata share of the GSOP's taxable income. The GSOC computes its taxable income in the same manner as a regular corporation; but is not eligible for the dividends received deduction. Also, the GSOCs losses do not flow through to its shareholders. However, such losses are allowed as a 10-year net operating loss carryforward.

The GSOC is also required to distribute to its shareholders 90 percent of its taxable income. Such distributions are tax-free when received by the GSOC shareholders to the extent they have been previously taxed to them. The GSOC is required to withhold 30 percent of every shareholder distribution which has been made from such previously taxed income.

Conference agreement.—The conference agreement follows the Senate amendment.

IV. BUSINESS TAX REDUCTIONS AND EXTENSIONS

A. Corporate rate reductions

34. Corporate Rate Reductions

House bill.—Under present law, corporate income is subject to a normal tax of 20 percent on the first $25,000 of taxable income and 22 percent on taxable income in excess of $25,000. In addition, a surtax of 26 percent is imposed on corporate taxable income in excess of $50,000. For taxable years ending after December 31, 1978, the normal tax will be 22 percent on all corporate income and the surtax will be 26 percent on taxable income in excess of $25,000. The House bill replaces the present normal tax and surtax with the following rate schedule:

Taxable income:	Percent
$0 to $25,000	17
$25,000 to $50,000	20
$50,000 to $75,000	30
$75,000 to $100,000	40
Over $100,000	46

The rates would be effective for taxable years beginning after December 31, 1978.

Senate amendment.—The Senate amendment is the same as the House bill except the top rate would be reduced to 45 percent in 1980, and to 44 percent beginning in 1981.

Conference agreement.—The conference agreement follows the House bill.

B. Investment tax credit provisions

35. Permanent Extension of 10-Percent Rate and $100,000 Used Property Limitation for Investment Credit

House bill.—Present law provides a permanent investment credit of 7 percent (4 percent for certain utility property) for qualified investment. This rate was temporarily increased to 10 percent for all taxpayers in 1975. The annual limitation on used property was also temporarily increased from $50,000 to $100,000 in 1975. These temporary increases are scheduled to expire in 1981.

The House bill makes permanent the 10-percent investment credit rate and the $100,000 used property limitation.

Senate amendment.—The Senate amendment is the same as the House bill.

[2] For the purposes of this provision, computer software is to be considered equipment.

[3] Thus, amounts paid or incurred with respect to the equipment leasing activity for taxable years beginning prior to the year of disqualification, and deducted in such taxable years, will generally be treated as reducing first that portion of the taxpayer's basis which is attributable to amounts not at risk. On the other hand, withdrawals made in taxable years beginning before the year of disqualification will be treated as reducing the amount which the taxpayer is at risk.

Conference agreement.—The conference agreement follows the House bill and Senate amendment.

36. Increase in Tax Liability Limitation for Investment Credit

House bill.—Under persent law, taxpayers generally may use investment credits to apply against the first $25,000 of tax liability, plus 50 percent of tax liability in excess of $25,000. Special temporary increases in the 50 percent limitation are presently provided for taxpayers with utility property, airline property and railroad property.

The House bill increases the 50-percent limitation to 90 percent, to be phased-in at 10 additional percentage points per year beginning with taxable years which end in 1979. The limitation will reach the permanent 90-percent level beginning with taxable years which end in 1982.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and Senate amendment.

37. Increased Investment Credit for Pollution Control Facilities

House bill.—Under present law, the investment credit is allowed for only one-half of a taxpayer's investment in a pollution control facility where the taxpayer has elected 5-year amortization for the facility.

The House bill generally allows the credit for the full investment in a pollution control facility where 5-year amortization has been elected. However, where the facility has also been financed by tax-exempt industrial development bonds, the credit is available for only one-half of the investment to the extent it is subject to 5-year amortization. These provisions would be effective after December 31, 1978.

Senate amendment.—Same as the House bill, except the Senate amendment eliminates the limitation of one-half of the credit where a facility is both amortized and financed with industrial development bonds.

Conference agreement.—The conference agreement follows the House bill.

38. Investment Credit for Rehabilitation Expenditures for Certain Structures

House bill.—Under present law, buildings and their structural components are not eligible for the investment credit, nor are expenditures for rehabilitating or renovating existing structures.

The House bill extends the investment credit to rehabilitation expenditures for all types of business and productive buildings, except those, such as apartments, which are used for residential purposes. Eligible buildings include factories, warehouses, hotels, and retail and wholesale stores. Qualifying expenditures are depreciable rehabilitation costs incurred after July 26, 1978, in connection with a building which has been in use for at least five years, for the interior or exterior renovation, restoration or reconstruction of the building. Costs for acquiring or completing a building, or for the replacement or enlargement of a building, are excluded. If more than 25 percent of the exterior walls are replaced, the costs will not qualify. The costs must have useful lives of at least five years and the credit will be determined using the present limitations applicable to useful lives. In addition, the costs must be incurred at least five years after the last prior qualifying rehabilitation (if any) was completed. The credit is not available where 5-year amortization has been elected for rehabilitation costs on a certified historic structure. This provision is effective for qualifying expenditures incurred after July 26, 1978.

Senate amendment.—The Senate amendment is the same as the House bill except that the expenditures must be incurred after September 1, 1979, and the building must have been in use for at least 20 years before rehabilitation costs will qualify for the investment credit. In addition, the costs must be incurred at least 20 years after the last qualifying rehabilitation was completed. The Senate amendment will apply to qualifying expenditures incurred after September 1, 1979.

Conference agreement.—The conference agreement modifies and follows the House bill. Under the conference agreement, a building must have been in use for at least 20 years, and the costs must be incurred at least 20 years after the last rehabilitation was completed, in order to qualify for the credit. In addition, under the conference agreement, rehabilitation expenditures in connection with a certified historic structure must themselves be certified as appropriate by the Secretary of the Interior in order to qualify for the investment credit in those situations where the taxpayer elects to claim the credit rather than 5-year amortization. These provisions will be effective for qualifying expenditures incurred after October 31, 1978.

39. Investment Credit for Single Purpose Agricultural Structures

House bill.—No provision.

Senate amendment.—Under present law, buildings and their structural components are not eligible for the investment credit. However, certain tangible property (which may be categorized as buildings under local law) is eligible for the credit if used for productive purposes, including farming. The Internal Revenue Service has disallowed the credit for certain special purpose poultry, hog and greenhouse structures which are specifically designed and constructed for the purpose for which they are used. Generally, the tests applied by the Service are whether the structure is so integrally related to the equipment that it will be abondoned or destroyed when the equipment is worn out and whether the structure provides regular working space for employees. Taxpayers have successfully litigated this issue in some cases.

The Senate amendment makes specifically eligible for the investment credit those structures, including poultry and livestock structures and greenhouses, which are specifically designed, constructed and used for single purpose food and plant production. The amendment clarifies how the law was intended to be interpreted when the credit was restored on August 15, 1971, and applies to taxable years ending after that date.

Conference agreement.—The conference agreement modifies the Senate amendment to specifically extend the investment credit to special purpose structures used for livestock and horticultural products and to adopt the general conditions and requirements of H.R. 12846, as passed by the House of Representatives on October 13, 1978.

In order to be included under this provision, a livestock structure must be specifically designed, constructed, and used for the housing, raising and feeding of livestock and their produce. The term "livestock" for this purpose includes poultry. The full range of livestock breeding, raising and production activities is intended to be included so that special purpose structures will qualify for credit if used, for example, to breed chickens or hogs, to produce milk from dairy cattle, or to produce feeder cattle or pigs, broiler chickens, or eggs. In addition, the structure or enclosure must be designed and used to house equipment necessary to feed and care for the livestock. As a result, such facilities must include, as an integral part of the structure or enclosure, equipment to contain the livestock and to provide water, feed and temperature control, if necessary.

Similarly a horticultural structure is made specifically eligible for the credit under this provision if it has been designed, constructed, and used for the commercial production of plants, including mushrooms.

The issues which have arisen concerning allowance of the credit under present law are also resolved by providing that the life of the structure need not be contemporaneous with the equipment it houses. In addition, working space is permitted within an eligible structure. Under this latter rule, the property will be eligible for the credit even if working space is provided for caring for the livestock or plants or for gathering their produce (such as eggs, tomatoes or flowers). In addition, working space may be provided to maintain the structure and to maintain or replace the equipment within the structure.

It should be emphasized that the structure must be used exclusively for the purpose for which it was specifically designed and constructed. As a result of this requirement, a hog structure will not be eligible property, for example, if it is used for the housing and feeding of poultry or cattle or if more than incidental use of a structure is made to store feed or machinery. (However, mere vacancy of the facility will not violate this usage test.) Similarly, the use of part of a greenhouse for the purpose of selling plants or their produce, such as by installation of a check-out stand, will make the greenhouse ineligible for the credit. If a single purpose structure becomes ineligible because of this usage test within seven years from the time it was placed in service, investment credits claimed on the structure may be partially or entirely recaptured under the investment credit recapture rules in present law. In addition, the conferees wish to emphasize that the specific provisions concerning the eligibility of these structures for the investment credit are not to create a negative inference regarding the eligibility of other special purpose agricultural and productive structures for the credit under existing law.

40. Investment Credit for Cooperatives

House bill.—No provision.

Senate amendment.—Under present law, cooperatives are generally taxed like corporations, but are allowed to deduct certain payments made to patrons and shareholders. The amount of investment credit available for cooperatives is reduced proportionate to the reduction in taxable income because of the special deductions. These otherwise allowable credits expire and are not passed through to the patrons or shareholders.

The Senate amendment allows taxable cooperatives (those defined in Code section 1381 (a)) the full investment credit for taxable years ending after December 31, 1978. The credit is not reduced proportionate to the reduction in taxable income because of deductions for payments made to patrons and shareholders. In addition, these cooperatives are allowed an irrevocable annual election to apportion all or part of the credit they have earned each taxable year to their patrons proportionate to patronage business done with the patron during the year.

Conference agreement.—Under the conference agreement, the special limitations on the investment credit by cooperatives are eliminated. Cooperatives will be permitted to use the investment credit in the year property is placed in service to the same extent as corporations generally. To the extent a cooperative cannot use an investment credit in the current year, the credit will not be carried back or carried forward but will be allocated to the patrons of the cooperative. Any recapture of investment credits including credits allocated to patrons, will be effected at the level of the cooperative. These rules will apply for taxable years ending after October 31, 1978. The Secretary is authorized to promulgate regulations to effect the purposes of this section. For this purpose, it is anticipated that the allocation of the credit to patrons will be on a basis similar to that used for patronage dividends under section 1388(a)(1). The rules will provide for the

treatment of carryovers of investment credits from years prior to the effective date of this provision which are not to be allocated to patrons of the cooperative.

41. Investment Credit for Horses

House bill.—No provision.

Senate amendment.—Under present law, livestock is specifically eligible for the investment credit if it otherwise qualifies as eligible property. Horses, however, are not considered livestock for this purpose and, as a result, are not eligible for the credit.

The Senate amendment extends the investment credit to horses used for working or breeding purposes. Horses used for sporting purposes (such as race or show horses) would not be eligible for the credit. These provisions would apply to horses which become qualifying property after December 31, 1978.

Conference agreement.—The conference agreement omits the Senate amendment.

42. Additional Carryover Year for Investment Credits Expiring in 1977

House bill.—No provision.

Senate amendment.—Under present law, the investment tax credit for any year generally cannot exceed the first $25,000 of tax liability plus 50 percent of the tax liability in excess of $25,000. If the amount of investment tax credit for any year exceeds the applicable limitation based on the amount of tax liability for that year, the excess is generally an investment credit carryback to each of the 3 preceding taxable years and an investment credit carryover to each of the seven following taxable years and, subject to certain limitations, is included in the amount allowable as a credit for those years (sec. 46(b)). However, pre-1971 investment credits are allowed a 10-year carryover. Carryover credits from prior taxable years—beginning with the earliest eligible preceding year—are to be used first in the current year before any credits arising in the current year—or any carryback from future years. If any portion of a credit remains unused after application of the carryback and carryover periods, the unused portion expires and cannot be used subsequently by the taxpayer.

Under the Senate amendment, one additional carryover year is allowed for investment credits which could be carried to a taxable year ending in 1977, but which expire unused after that taxable year.

Conference agreement.—The conference agreement omits the Senate amendment.

43. Investment Credit for Manufacturer-Lessors of Railroad Property

House bill.—No provision.

Senate amendment.—Under present law, special tax liability limitations apply with respect to the investment tax credit for railroads. Taxpayers with railroad property are allowed, under provisions enacted in the Tax Reform Act of 1976, to take credits up to 100 percent of tax liability for 1977 and 1978 with annual reductions of 10 percentage points thereafter until the limitation returns to 50 percent of tax liability in excess of $25,000 in 1983. Only the operator of a railroad, and not a lessor of railroad property, is eligible for the special increased limitation.

The Senate amendment provides that the tax liability limitation applicable to taxpayers with railroad property would also apply to investment tax credits applicable to railroad rolling stock placed in service by a taxpayer who manufactured the rolling stock and leases it out to others. Manufacturer-lessors would be eligible for the increase to the same extent as operators of railroads.

Conference agreement.—The conference agreement omits this provision.

44. Investment Credit Recapture Under the ConRail Reorganization

House bill.—No provision.

Senate amendment.—Present law includes provisions which deal with the tax consequences of the April 1, 1976, ConRail reorganization under which the railroad properties of eleven bankrupt railroads were transferred to ConRail for ConRail stock and certain "certificates of value." The rules applicable to this special reorganization provide that the transfer of rail properties to ConRail is treated like reorganizations in general (and other bankrupt railroad reorganizations in particular) so that the transferor companies and their shareholders and security holders do not recognize gain or loss on the transfer and ConRail receives a carryover basis in the properties its acquired. However, these rules do not deal with investment credit recapture which may arise to the transferor railroads because of the ConRail reorganization. In contrast, present law generally provides an exemption from investment credit recapture where assets are transferred in a tax-free reorganization.

The Senate amendment adds an exception to the investment credit recapture rules so that a transferor railroad will not be subject to additional tax on its transfer of rail properties to ConRail. This amendment applies to taxable years ending after March 31, 1976.

Conference agreement.—The conference agreement follows the Senate amendment. The conferees intend that investment credits which are not subject to recapture because of this provision shall be treated as "other benefits" to the same extent that any other tax benefits are so treated for purposes of the special court's determination of compensation to the transferor railroads under sections 303 and 306 of the Regional Rail Reorganization Act of 1973.

C. Jobs tax credit and WIN tax credit

45. Targeted Jobs Credit

House bill.—Present law contains a general jobs credit, due to expire at the end of 1978, equal to 50 percent of the increase in each employer's FUTA base above 102 percent of that wage base in the previous year. This amount is subject to certain limitations. The present law jobs credit also contains an additional credit equal to 10 percent of the first $4,200 of FUTA wages paid to handicapped individuals who receive vocational rehabilitation.

Under the House bill, a permanent tax credit of 50 percent of the first $6,000 of wages per employee for the first year of employment and 16⅔ percent of such wages for the second year of employment would be provided for hiring: (1) AFDC recipients who register for the WIN program, (2) recipients of Supplemental Security Income (SSI), (3) handicapped individuals, (4) individuals of ages 18 through 24 who are members of households receiving food stamps, (5) Vietnam veterans who are members of households receiving food stamps, (6) recipients of general assistance for 30 or more days, and (7) individuals of ages 16 through 18 who are participants in a high school or vocational school sponsored or cooperative education program. Wages eligible for the credit would be limited to 30 percent of the total FUTA wages paid by an employer.

The House bill further provides that certification of eligible employees is to be performed by an agency designated by the Secretary of Labor. The amount of credit would be limited to 100 percent of tax liability, and and employer's deduction for wages would be reduced by the amount of the credit.

The current general jobs tax credit would be allowed to expire at the end of 1978.

The Secretaries of Treasury and Labor would be required to submit a report to Congress by June 30, 1981, on the effectiveness of the general jobs credit in stimulating employment in 1977 and 1978 and of the targeted jobs credit, as provided in the bill, in improving the employment situation of the targeted groups.

Senate amendment.—The Senate amendment provides a tax credit of 50 percent of the first $6,000 of wages per employee for the first year of employment, 33⅓ percent of such wages for the second year of employment, and 25 percent of such wages for the third year of employment. The credit would be provided for hiring: (1) disabled recipients of Supplemental Security Income (SSI), (2) handicapped individuals undergoing vocational rehabilitation, (3) economically disadvantaged youths, (4) Vietnam-era veterans under the age of 35 who are members of economically disadvantaged families, (5) recipients of general assistance for 30 or more days, and (6) convicts who are members of economically disadvantaged families. Wages eligible for the credit would be limited to 20 percent of the total FUTA wages paid by an employer.

Under the Senate amendment, the credit could not be claimed with respect to employees for whom the employers receive on-the-job training payments. In addition, the credit would not be available with respect to employees who work for the employer less than 75 days in the first year of employment.

The Senate amendment further provides that certification of eligible employees is to be performed by one certification agency in each locality jointly designated by the Secretaries of Labor and Treasury. The amount of the credit would be limited to 90 percent of tax liability, and an employer's deduction for wages would be limited by the amount of the credit.

The credit provided by the Senate amendment would be effective for taxable years after December 31, 1978, and before January 1, 1982, generally for employees hired after September 26, 1978.

Conference agreement.—The conference agreement replaces the present law general jobs credit with a targeted jobs credit, equal to 50 percent of the first $6,000 of wages for the first year of employment and 25 percent of such wages for the second year of employment, for hiring: (1) recipients of Supplemental Security Income (SSI), (2) handicapped individuals undergoing vocational rehabilitation, (3) individuals at least 18 but not over age 25, who are members of economically disadvantaged families (defined as families with income during the preceding 6 months which on an annual basis was less than 70 percent of Labor Statistics lower living standard), (4) Vietnam-era veterans under the age of 35 who are members of economically disadvantaged families, (5) recipients of general assistance for 30 or more days, (6) individuals of ages 16 through 18 who are participants in a qualified cooperative education program, and (7) convicts who are members of economically disadvantaged families (if they are hired within 5 years of the date of release from prison or date of conviction).

Under the conference agreement, the credit is not allowed with respect to employees for whom employers receive on-the-job training payments. Certification of eligible employees is to be performed by one certification agency in each location jointly designated by the Secretaries of Labor and Treasury.

Qualified wages of first-year employees is limited to 30 percent of aggregate FUTA wages for all employees. In addition, an employer's deduction for wages is reduced by the amount of the credit, and the credit is limited to 90 percent of tax liability.

The Secretaries of Labor and Treasury are required to submit a report to the Congress by June 30, 1981, on the effectiveness of the general and targeted jobs credit.

The credit will apply for taxable years beginning after December 31, 1978, and before January 1, 1982, generally for employees hired after September 26, 1978.

46. WIN-Welfare Recipient Tax Credit

House bill.—Present law provides a 20-percent credit, plus full deduction, for wages paid in the first year of employment to AFDC recipients who receive assistance for at least

90 days or who register for the WIN program. The amount of credit is limited to $50,000 of tax liability plus one-half of tax liability in excess of $50,000. Generally, up to $5,000 of wages paid for nonbusiness employment are eligible for the credit.

The House bill terminates the separate WIN-welfare recipient tax credit. However, AFDC recipients who register for the WIN program are an eligible group under the targeted jobs credit provided in the House bill.

Senate amendment.—The Senate amendment modifies the present law WIN-welfare recipient tax credit so that employers who hire AFDC recipients who register for the WIN program, or who receive assistance for at least 90 days, are entitled to a credit equal to 75 percent of up to $6,000 of wages for the first year of employment, 65 percent of such wages for the second year of employment, and 55 percent of such wages for the third year of employment. An employer's deduction for wages is reduced by the amount of the credit. The $6,000 wage base of the Senate amendment would be increased to $7,000 for years of employment beginning in 1981 and thereafter.

In addition, the Senate amendment provides that, for employment not in a trade or business, the credit is to be 50 percent of the first $6,000 of wages for the first year of employment ($7,000 for years of employment beginning in 1981 and thereafter). Eligible nonbusiness wages are limited to $12,000 for any employer ($14,000 for 1981 and thereafter).

The Senate amendment would not allow the credit for (1) expenses reimbursed by a grant, (2) employees who work for the employer less than 30 days on a substantially full-time basis, (3) employees who displace other employees from employment, (4) migrant workers, or (5) employees who are close relatives, dependents, or major stockholders of the employer.

The WIN-welfare recipient tax credit would be nonrefundable.

Conference agreement.—The conference agreement generally follows the Senate amendment. Under the conference agreement, employers who hire AFDC recipients who register for the WIN program, or who receive assistance for at least 90 days, are entitled to a credit equal to 50 percent of up to $6,000 of wages for the first year of employment and 25 percent of such wages for the second year of employment. An employer's deduction for wages is reduced by the amount of the credit.

For employment not in a trade or business, the credit is 35 percent of the first $6,000 of wages for the first year of employment. Eligible nonbusiness wages are limited to $12,000 for any employer.

No credit would be allowed for: (1) expenses reimbursed by a grant, (2) employees who work for the employer less than 30 days on a substantially full-time basis, (3) employees who displace other employees from employment, (4) migrant workers, or (5) employees who are close relatives, dependents, or major stockholders of the employer.

The WIN-welfare recipient tax credit is limited to 100 percent of tax liability.

47. Extension of General Jobs Credit

House bill.—No provision.

Senate bill.—Present law contains a general jobs credit equal to 50 percent of the increase in each employer's wage base under the Federal Unemployment Tax Act (FUTA) above 102 percent of that wage base in the previous year. The FUTA base of 1977 consisted of wages paid of up to $4,200 per employee. The credit for 1978 uses a similar base. The employer's deduction for wages is reduced by the amount of the credit.

The total amount of the credit has four limitations: (1) the credit cannot be more than 50 percent of the increase in total wages paid by the employer for the year above 105 percent of total wages paid by the employer in the previous year, (2) the base of the credit must be no more than 50 percent of the current year's FUTA wages, (3) the credit for a year cannot exceed $100,000, and (4) the credit cannot exceed the taxpayer's tax liability. Credits which exceed tax liability for a year may be carried back for 3 years and carried forward for 7 years.

Present law also provides an additional nonincremental credit equal to 10 percent of the first $4,200 of FUTA wages paid to handicapped individuals (including handicapped veterans) who receive vocational rehabilitation. The credit for handicapped workers cannot be greater than one-fifth of the regular 50-percent new jobs credit which would have been allowable without regard to the $100,000 limitation. However, the special 10-percent credit is not itself subject to any specific dollar limitation.

The Senate amendment would extend the general jobs credit for two years and would make several changes. The amount of the credit would be equal to 35 percent of up to $6,000 of wages per employee. Unlike the present law general jobs credit, the total amount of the credit would not be limited to a percentage of the increase in an employer's total wages over total wages in the previous year. Further, the credit for an employer would be reduced by the amount of targeted jobs credit allowed that employer.

In addition, the Senate amendment would make the credit elective and extend the credit to employment on American vessels.

Conference agreement.—The conference agreement follows the House bill, except that the credit is made elective for taxable years beginning after December 31, 1976.

D. Industrial development bond provisions

48. Small Issues Exception to Industrial Development Bond Tax Treatment

House bill.—Under present law, interest on industrial development bonds is, in general, taxable. However, interest on certain small issues of industrial development bonds is tax-exempt. Small issues are isssues of $1 million or less the proceeds of which are used for the acquisition or construction of depreciable property or land. At the election of the issuer, the $1 million limitation can be increased to $5 million. If this election is made, capital expenditures and the total of a series of small issues for a project cannot exceed $5 million.

Under the House bill the $5 million elective limitation is increased to $10 million, and applies only to bonds issued after December 31, 1978.

Senate amendment.—The amendment increases both the $1 million and $5 million limitation to $2 million and $12 million respectively. In addition, the amendment is in general effective for bonds issued after December 31, 1978. It also specifies that the higher limitation is to apply to capital expenditures made after December 31, 1978, with respect to bonds that were issued prior to December 31, 1978. Finally, with respect to bonds issued after December 31, 1978, the $12 million limitation is to apply by taking bonds issued prior to December 31, 1978, into account in determining the amount of bonds that can be issued after December 31, 1978.

Conference agreement.—The conference agreement follows the House bill with the Senate amendment effective date.

49. Advance Refunding of Industrial Development Bonds for Certain Public Projects

House bill.—No provision.

Senate amendment.—Under present law, certain industrial development bonds qualify for tax-exemption where substantially all the proceeds of the bonds are used to provide certain "exempt activities" facilities. Such facilities include convention and trade show facilities (sec. 103(b)(4)(C)) airports, docks, wharves, and facilities for mass commuting, parking, or storage and training directly related to those installations (sec. 103(b)(4)(D)).

However, under present law, it is unclear whether a refunding issue of an exempt activity industrial development bond also qualifies for tax-exemption. The Senate amendment provides that a refunding issue of a tax-exempt industrial development bond will qualify for tax-exemption where substantially all the proceeds of the refunded issue were used to provide a qualified public facility. Qualified public facilities are defined as (1) public airports, (2) public docks, or wharves, (3) public mass commuting facilities, (4) public convention or trade show facilities, or (5) public facilities for parking, storage or training that are related to any of the facilities described in (1), (2), or (3).

Moreover, under the amendment a refunding issue of bonds used to provide property functionally related and subordinate to a qualified public facility will not qualify for tax-exemption unless the property itself is generally available to use by the general public. On the other hand, where the bonds for the qualified public facility are redeemed and the bonds for the subordinate facility are also redeemed in a multi-issue redemption, then, in general, the entire refunding issue will qualify for tax-exemption.

The amendment applies to refunding bonds issued after the date of enactment.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, it places a further requirement that a facility will constitute a qualified public facility only if it is generally available for use by the general public. Thus, an advance refunding issue of bonds used to provide facilities such as hangers will not meet the requirements of this provision if the hanger is only available for use by a non-exempt person. In addition, a multi-issue advance refunding issue will not be tax-exempt under the conference agreement unless substantially all the proceeds of the refunded issues (taken as a whole) were used to provide qualified public facilities.

The conference agreement further provides that a substantial user is prohibited from holding any advance refunding issues issued under this provision.

50. Advance Refunding of Certain Other Industrial Development Bonds

House bill.—No provision.

Senate amendment.—Prior to 1968 interest on industrial development bonds was tax-exempt. In 1968 the interest on most industrial development bonds was made taxable. However, a transitional rule provided that interest on industrial development bonds issued prior to May 1, 1968, was to remain tax-exempt.

Prior to November 4, 1977, it was unclear under the then existing proposed Treasury regulations whether a refunding issue with respect to pre-1968 industrial development bonds qualified for tax-exemption where it had the effect to extending the maturity date to the refunded pre-1968 issue.

On November 4, 1977, the Treasury announced that it would propose amendments to the regulation which would substantially restrict current and advance refunding of pre-1968 and post-1968 industrial development bonds. The proposed regulations were published December 6, 1977, and were made effective as of November 4, 1977.

The Senate amendment provides transitional rules for the refunding of pre-1968 industrial development bonds.

The amendment would not apply in a case where the refunding bonds are held by a substantial user of the facility financed by the refunded bonds (or by a related person).

The amendment also provides a general rule with respect to refunding issues of post-1968 industrial development bonds. Under the amendment a bond issue that refunds a previously issued industrial development bond will qualify for tax-exempt status if it

satisfies conditions prescribed or proposed to be prescribed by the Secretary of the Treasury prior to the date on which the refunding obligation is issued. This provision of the amendment applies to any refunding obligation issued to refund any obligation with respect to which paragraph (4), (5), or (6) of section 103(b) of the Code applied.

Conference agreement.—The conference agreement omits the Senate amendment.

51. Income Tax Exemption for Bonds for Water Facilities

House bill.—No provision.

Senate amendment.—Under present law, an industrial development bond will qualify for tax-exemption where substantially all the proceeds of the bond are used to provide facilities for the furnishing of water if available on reasonable demand to members of the general public. In recent years the Internal Revenue Service has been reluctant to rule that business and commercial users of water constitute members of the general public. In addition, under present law considerable uncertainty exists over whether bonds used to finance a portion of a water facility (such as water lines) qualify for tax-exemption unless the segment to be financed itself serves the general public, not-withstanding that the segment may be part of an overall facility serving the general public.

The amendment provides that an industrial development bond the proceeds of which are used to provide government operated facilities for the furnishing of water to the general public for any purpose will qualify for tax-exemption.

The amendment imposes three requirements which the facility must satisfy in order for the bonds to qualify for tax-exemption. First, the facility must be for the furnishing of water. Thus, a facility cannot be one that uses water in the production process, such as a cooling pond. Second, the facility must be operated by a governmental unit. In general, this requirement will be satisfied if a governmental unit is responsible for maintenance and repair of the facility. Finally, the facility must make or will make water available to members of the general public. For purposes of this provision the general public includes agricultural, industrial, commercial and electric utility users. Under the amendment a facility cannot deny access to water to members of the general public in its service area. However, a portion of the water of a facility may be committed to a limited number of users, provided other members of the general public in the service area (including residential users and municipal water districts) are granted access to a substantial portion of the water.

The amendment applies to obligations issued after the date of enactment.

Conference agreement—The conference agreement generally follows the Senate amendment with certain technical changes.

The Senate amendment provides tax-exempt status for bonds used to provide facilities for the furnishing of water to the general public only if the facilities are government operated. Under present law, in certain instances, bonds used to provide facilities for furnishing water to the general public which are operated by an investor-owned regulated public water utility may qualify as tax-exempt bonds. The conference agreement provides that facilities operated by investor-owned regulated public utilities are to be granted the same treatment as government operated water facilities.

In addition, the conferees make it clear that in order to satisfy the first requirement of the Senate amendment, that a facility be a facility for the furnishing of water, it must be a component of a system or project which furnishes water. Ordinarily, such a system or project would include only those components necessary for the collection, treatment and distribution of water to a service area, and any other functionally related and subordinate components. For example, a reservoir and its functionally related and subordinate components will constitute a single system. Thus, if a governmental unit operates such a system, an individual water line, canal, or the like for transportation of water from the main system to a single industrial user will constitute a facility for the furnishing of water.

On the other hand, a series of dams will not, in general, constitute a single system, but rather a series of individual systems. In order for any one of these individual systems to qualify under the provision, it must individually satisfy the requirements of the provision.

Further, the fact that an electric utility is a customer of a governmental unit which operates facilities for the furnishing of water does not, in general, transform those water facilities into facilities for the furnishing of electric energy. Thus, a reservoir or dam would not be denied tax-exempt financing merely because one of the uses of the water is for the production of hydroelectricity. Tax exempt financing will be allowed if substantially all of the water is used for other purposes in addition to the production of hydroelectricity. However, in no event will tax-exempt financing be allowed for the hydroelectric facility itself, such as for the generators and turbines, unless the local furnishing test is satisfied.

Finally, a reservoir does not have to provide water to all segments of the public to qualify for tax-exempt financing. For example, a reservoir that provides water to residential or industrial users is not ineligible for tax-exempt financing merely because the reservoir does not also furnish water for agricultural or irrigation purposes. In addition, the water does not have to be made available to all residential users in the service area.

52. Income Tax Exemption for Bonds for Facilities for Furnishing Electric Energy

House bill.—No provision.

Senate amendment.—Under present law, interest earned on obligations of a State or local government generally is exempt from Federal income tax. This rule does not extend to industrial development bonds, the proceeds of which are used by a taxpaying enterprise in its trade or business, except where the proceeds of the bonds are used for specified exempt purposes, and except for certain small issues.

Although the use of facilities for the local furnishing of electric energy is one specified exempt purpose for industrial development bonds (sec. 103(b)(4)(E)), many bond issues for electric energy facilities cannot qualify for the exemption under current Treasury Department regulations (§ 1.103-8(f)(2)(iii)(d)), which interpret the term "local furnishing" to mean, in general, furnishing electric energy to no more more two contiguous counties (or political equivalents). This bars exempt status for bonds issued for facilities serving a larger area.

The amendment provides that industrial development bonds substantially all the proceeds of which are used to provide certain electric energy facilities will qualify for tax-exemption where certain requirements are met. The first requirement is that the energy from the facilities be sold to a regulated public utility having a customer service area with a territory no greater than one city and one contiguous county. Under this requirement the energy from the facility must also be sold within the one city-one county area.

The second requirement provides that with respect to pumped storage, other hydroelectric facilities or electrical transmission facilities construction of which is completed after October 1, 1977, that they be operated by a State agency which was in existence prior to January 1, 1935, whose governing body was appointed by the governor of such state and which was authorized prior to October 1, 1977, to develop such projects.

The amendment also provides tax-exemption for bonds substantially all the proceeds of which were used to provide certain other facilities for the furnishing of electric energy. This provision imposes the one city and one county requirement and also imposes a second requirement that a Federal or State agency license or certification authorizing construction be issued or first applied for prior to October 1, 1977, by a State agency which was in existence prior to January 1, 1935, whose governing body was appointed by the governor of such state and which was authorized prior to October 1, 1977, to develop such projects.

Finally, under the amendment an issuer may elect to have the provisions apply to obligations issued prior to the date of enactment provided that the facility with respect to which the obligations were issued meet the requirements for pumped storage facilities or meet the requirements for other facilities.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, under the conference agreement, the one city and one contiguous county definition of "local furnishing" would apply generally for facilities for the local furnishing of electric energy, without regard to the date of authorization or completion of the facility, and without regard to the histrionics of the agency operating the facility.

The conferees wish to make it clear that their agreement that local furnishing includes a city and a contiguous county provides an exception from the general rule that local furnishing means a service area comprising no more than two contiguous counties (or a political equivalent). Thus, under the conference agreement local furnishing includes an area comprising no more than two contiguous counties, or one city and a contiguous county.

The conference agreement also modifies the effective date of the Senate amendment. Under the conference agreement, the provision applies to taxable years ending after April 30, 1968, but only with respect to obligations issued after that date.

E. Other tax-exempt bond provisions

53. Declaratory Judgments Relating to the Status of State and Local Government Obligations

House bill.—No provision.

Senate amendment.—Present law provides that interest on State and local government obligations is, in general, tax-exempt. However, tax-exempt status is denied to arbitrage bonds and certain industrial development bonds. Moreover, in order for an obligation to be tax-exempt it must have been issued by a State or local government or issued by an authority "in behalf of" a State or local government.

As a practical matter, an issuer has no appeal from a Service private letter ruling (or failure to issue a private letter ruling) that a proposed issue of municipal bonds is taxable. In addition, it is impossible for an issuer to question the Service's rulings and regulations directly.

The amendment authorizes the Tax Court, Court of Claims and U.S. district courts to issue declaratory judgments with respect to the tax-exempt status of proposed bond issues. However, relief under the amendment is available only to the proposed bond issuer and only if: (1) the proposed issuer has requested a private letter ruling from the IRS (2) the IRS has acted adversely on the request or has failed to act within 60 days (3) and the proposed issuer has otherwise exhausted all administrative remedies.

The amendment applies to requests for de-

terminations (private ruling requests) filed with the Internal Revenue Service after December 31, 1978.

Conference agreement.—The conference agreement generally follows the Senate amendment. However, the agreement provides that (1) jurisdiction under this provision is to lie exclusively with the United States Tax Court; (2) a proposed issuer will not be deemed to have exhausted its administrative remedies before the expiration of 180 days where a request for a determination has been made and the Service has failed to act; (3) appeal of the decision of the Tax Court will lie exclusively with the United States Court of Appeals for the District of Columbia Circuit; and (4) the Tax Court determination is to be based on any facts or arguments which the Service and/or the proposed issuer wish to introduce at the time of trial.

Further, the conferees wish to make it clear that while it is anticipated the Tax Court will expedite resolution of these cases, such treatment will be at the discretion of the Tax Court so as not to restrict the Court's flexibility in handling the remainder of its already heavy caseload.

54. Treatment of Certain Arbitrage Profits From Advance Refunding of State and Local Government Obligations

House bill.—No provision.

Senate amendment.—Prior to 1969 State and local governments were able to earn arbitrage profits through investing the proceeds of their tax-exempt bonds in higher yielding Treasury obligations. In 1969 tax-exempt status was denied to State and local government obligations (arbitrage bonds) the proceeds of which are invested in materially higher yielding securities or the proceeds of which are used to replace funds which were used to acquire materially higher yielding obligations.

These yield restrictions which were placed on State and local government obligations created a situation where some State and local governments attempted to divert arbitrage profits to third parties which in some instances were charities.

On September 24, 1976, the Treasury announced regulations which would effect bonds issued after that date. These regulations in general were designed to prevent issuers from diverting arbitrage profits to underwriters and third parties.

The amendment, in general, prohibits the Treasury from applying the position taken by the regulations retroactively to prevent arbitrage profits from being donated to an exempt organization described in section 501 (c). In addition, where arbitrage profits were put into escrow pending donation and then were paid over to the Treasury Department because of the Internal Revenue Service rulings policy, the provision directs the Treasury to return the profits so that it can be given within 90 days to the intended beneficiary.

The amendment is effective on the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment with certain technical modifications.

Under the conference agreement payment of a refund profit in accordance with a qualified agreement shall not cause the refunding obligation (which gave rise to the refund profit) to be treated as an arbitrage bond or cause the issuer to be "blacklisted" if pursuant to the qualified agreement the refund profit is held (1) in a trust fund, (2) in an escrow account, or (3) by an underwriter or other person.

The conference agreement further provides that in certain instances in which a State or local government accounts to the United States for the refund profit by direct payment or by purchase of low-interest United States obligations, that the Treasury shall repay such accounted for refund profits to the designated charitable organizations. The repayment shall be paid out of unappropriated Treasury funds. In addition, only charitable organizations described in sec. 501(c) (3) other than an organization described in sec. 509(a) shall be eligible to receive such refund profits.

Repayment by the Treasury shall be required under the conference agreement only if on or before January 1, 1977, the State or local government which entered into a qualified agreement requested, in writing, a ruling from the Internal Revenue Service on the tax consequences of paying refund profits to charitable organizations and failed to receive a favorable ruling, and did not pay the refund profit to a charitable organization.

F. Small business corporations

55. Subchapter S Corporations Allowed 15 Shareholders

House bill.—Under present law, a subchapter S corporation may have 10 shareholders, and after 5 years the number of shareholders may be increased by inheritance to 15. The House bill would allow subchapter S corporations to have 15 shareholders initially.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

56. Permitted Shareholder of Subchapter S Corporations

House bill.—Under present law, a husband and wife owning stock jointly are counted as one shareholder for purposes of determining the number of shareholders of the corporation for purposes of subchapter S eligibility. The House bill counts a husband and wife (and their estates) as one shareholder in all situations for purposes of determining the number of shareholders.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

57. Time for Making a Subchapter S Election

House bill.—Under present law, a subchapter S election may be made at any time during a 2-month period beginning one month before the start of the taxable year. Under the House bill, the period for making an election would be extended to the entire previous taxable year and the first 75 days of the current taxable year.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

58. "Simple" Trusts Permitted as Subchapter S Shareholders

House bill.—No provision.

Senate amendment.—Under present law, a trust (with limited exceptions) may not be a shareholder in a subchapter S corporation. The Senate amendment allows domestic trusts required to currently distribute all their income (including all income passed through from the subchapter S corporation) to be shareholders in a subchapter S corporation.

Conference agreement.—The conference agreement omits this provision.

59. Small Business Corporation Stock

House bill.—Under present law, ordinary loss, rather than capital loss, treatment is provided in certain cases for small business corporation stock (section 1244 stock) which is disposed of at a loss by individual shareholders to whom the stock was issued. The maximum amount of ordinary loss from the disposition of section 1244 stock that may be claimed in any taxable year is $25,000 ($50,000 in the case of a joint return). Excess losses are treated as capital losses.

Under present law, in addition to certain other requirements, the following requirements must be met for stock to qualify as section 1244 stock: (1) The corporation issuing the stock must adopt a written plan under which the stock will be issued; (2) the amount of section 1244 stock issued by the corporation may not exceed $500,000, and the total stock issued plus the equity capital of the corporation may not exceed $1,000,000; (3) no prior offering of stock of the corporation or any portion of a prior offering of stock may be unissued.

The House bill increases the maximum amount an individual may treat as an ordinary loss on section 1244 stock for any taxable year from $25,000 to $50,000 ($100,000 in the case of a joint return) and also increases the amount of section 1244 stock that a qualified small business corporation may issue from $500,000 to $1,000,000. Additionally, the House bill repeals the: (1) written plan requirement, (2) equity capital limitation, and (3) no prior stock offering limitation. The provision applies to common stock issued after the date of enactment of this Act.

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

G. Farm accounting rules

60. Accrual Accounting for Farming Corporations

House bill.—With certain exceptions, the Tax Reform Act of 1976, required corporations (and partnerships in which nonexcepted corporations are partners) engaged in farming to use an accrual method of accounting and to capitalize preproductive period expenses. However, subchapter S corporations, family corporations (in which one family owns at least 50 percent of the stock), corporations with annual gross receipts of $1 million or less, and nurseries are not required to use the accrual method of accounting or to capitalize preproductive period expenses.

The 1976 Act provisions generally are effective for taxable years beginning after December 31, 1976. However, the Tax Reduction and Simplification Act of 1977 postponed the effective date of the required accrual accounting provision until taxable years beginning after December 31, 1977, for certain farming corporations controlled by two or three families.

The House bill provides exceptions to the required accrual accounting and capitalization of preproductive period expenses rules for certain corporations which are controlled by two or three families. The provisions requiring accrual accounting and the capitalization of preproductive period expenses will not apply to any farm corporation if, as of October 4, 1976, and at all times thereafter, either (1) two families own (directly or through attribution) at least 65 percent of the total combined voting power of all classes of stock of the corporation entitled to vote and at least 65 percent of the total number of shares of all other classes of stock of the corporation or (2)(a) members of three families own (directly or through attribution) at least 50 percent of the total combined voting power of all classes of stock entitled to vote and at least 50 percent of the total number of shares of all other classes of stock and (b) substantially all of the remaining stock is owned by corporate employees or by their family members or by a tax-exempt employees' trust for the benefit of the corporation's employees.

The House bill provides that, with respect to corporations described in the preceding paragraph, stock acquired after October 4, 1976, by the corporation's employees, their families, or a tax-exempt trust for their benefit will be treated as owned by one of the two or three families whose combined stock ownership was used to establish the initial qualification for this provision (as of

October 4, 1976). The provision requires that corporations must have been engaged in the trade or business of farming on October 4, 1976, and at all times thereafter, to qualify for this exception.

Senate amendment.—The Senate amendment provides the same exception for corporations which are controlled by two or three families.

In addition, the Senate amendment excepts sod farms from the provisions requiring accrual accounting and capitalization of preproductive period expenses.

Conference agreement.—The conference agreement follows the Senate amendment.

61. Accounting for Costs of Growing Crops

House bill.—Prior to 1976, farmers, nurserymen, and florists were not required to inventory growing crops regardless of the method of accounting they used for income tax purposes. However, in 1976 the Internal Revenue Service ruled that an accrual method farmer, nurseryman, or florist would be required to inventory growing crops. The changes made by this ruling are to be for taxable years beginning on or after January 1, 1978.

Under present law, corporations and partnerships (in which non-excepted corporations are partners) engaged in farming are required to use the accrual method of accounting and to capitalize preproductive period expenses (sec. 447). However, subchapter S corporations, family corporations (in which one family owns at least 50 percent of the stock), corporations with annual gross receipts of $1 million or less, and nurseries are not required to use the accrual method of accounting or to capitalize preproductive period expenses. In general, the requirement that preproductive period expenses be capitalized would have the effect of requiring taxpayers to inventory (or capitalize) the costs of growing crops.

The House bill permits a farmer, nurseryman, or florist who is on an accrual method of accounting and is not required by section 447 of the Code to capitalize preproductive period expenses to be exempt from the requirement that growing crops be inventoried.

The House bill also allows those farmers, nurserymen, or florists who are eligible to use an accrual method of accounting without inventorying growing crops to elect, without the prior approval of the IRS, to change to the cash receipts and disbursements method of accounting with respect to any trade or business in which the principal activity is growing crops. This election may be initiated only with respect to a taxable year beginning after December 31, 1977, and before January 1, 1981.

Senate amendment.—The Senate amendment is identical to the House bill.

Conference agreement.—The conference agreement is the same as the House bill and the Senate amendment.

H. Depreciation provisions

62. Depreciation for Small Business

House bill.—Under present law, there are no special provisions exclusively applicable to the depreciation of assets by a small business. Although not limited to small businesses, the provision for additional first-year depreciation (sec. 179) was enacted to provide a special incentive for small businesses to make investments in depreciable property. Under this provision, a deduction is allowed for additional first-year depreciation in an amount not exceeding 20 percent of the cost of eligible property. In general, depreciable property placed in service during a taxable year is eligible under the provision if it is tangible personal property with a useful life of 6 years or more. The cost of the property which may be taken into account may not exceed $10,000 ($20,000 for individuals who file a joint return). Thus, the maximum additional first-year depreciation deduction is limited to $2,000 ($4,000 for individuals filing a joint return).

The House bill increases the allowable additional first-year depreciation percentage from 20 to 25 percent and increases the limitation on eligible property from $10,000 to $20,000 ($20,000 to $40,000 for individuals filing joint returns). Also, the additional first-year depreciation is limited to small businesses by providing that additional first-year depreciation is to be available only for taxpayers (including a controlled group of corporations) with depreciable assets whose adjusted basis as of the beginning of the taxable year is less than $1 million.

Senate amendment.—The Senate amendment would permit a taxpayer to elect to depreciate up to $25,000 in annual acquisitions of depreciable property over a 3 year period under the straight-line method and to obtain the benefit of the full investment tax credit (based on the regular useful life of the property) with respect to property for which an election is made. Property which is depreciated under this provision is not eligible for additional first-year depreciation under section 179, but no other changes affecting section 179 are made.

Conference agreement.—The conference agreement omits both the provision of the House bill and the provision of the Senate amendment.

63. Treasury Study of Tax Treatment of Certain Government-Mandated Equipment

House bill.—No provision.

Senate amendment.—The Treasury Department is required to conduct a study to determine the tax treatment of various expenditures incurred by a taxpayer to comply with rules and regulations of the Occupational Safety and Health Act (OSHA) and the Mining Safety and Health Administration (MSHA) of the Department of Labor. The study is to focus on the feasibility of providing rapid 5-year amortization and special tax credit provisions. The report is to be submitted to Congress before April 1, 1979.

Conference agreement.—The conference agreement adopts the Senate amendment.

64. Five-Year Amortization for Low-Income Housing

House bill.—Under present law, special 5-year amortization is provided for certain expenditures to rehabilitate low-income housing. These special rules are scheduled to expire on December 31, 1978. The House bill extends the provision for 3 years (until January 1, 1982).

Senate amendment.—The Senate amendment is the same as the House bill.

Conference agreement.—The conference agreement follows the House bill and the Senate amendment.

I. Other business provisions

65. Entertainment Facility Expenses

House bill.—No provision.

Senate amendment.—Under present law, deductions are allowable for ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business or for the production of income (secs. 162 and 212). Whether an expense is ordinary and necessary depends largely upon the particular facts and circumstances involved in each case. Ordinary and necessary business expenses which are deductible may include the cost of clubs dues or fees, and certain other expenditures relating to facilities. However, these expenses are deductible only if they both satisfy certain substantiation requirements (sec. 274(d)), and met the other prerequisites for deductibility.

Generally, no deduction is allowed for entertainment expenses unless the taxpayer substantiates by adequate records, or by sufficiently corroborative evidence, (1) the amount of the expense, (2) the time and place of its occurrence, (3) its business purpose, and (4) the business relationship to the taxpayer of the person or persons entertained (sec. 274(d)). In addition, ordinary and necessary expenses are deductible only if the expenses are allocable to the taxpayer's business, and are reasonable in amount, i.e., not lavish or extravagant.

Expenses with respect to entertainment "facilities" may be deductible if (1) they are ordinary and necessary, (2) the facility is used primarily for the furtherance of the taxpayer's business (i.e., more than 50 percent of the time that it is used), and (3) the expense in question is "directly related" to the active conduct of the taxpayer's business.

For this purpose, an entertainment facility is any item of personal or real property owned, rented, or used by a taxpayer during the taxable year for, or in connection with, any activity which is of a type generally considered to constitute entertainment, amusement, or recreation. For example, entertainment facilities include yachts, hunting lodges, fishing camps, swimming pools, tennis courts, bowling alleys, automobiles, airplanes, apartments, hotel suites, and vacation homes. However, a facility is not considered to be an "entertainment facility" if it is used only incidentally during a taxable year in connection with entertainment, and that use is insubstantial in relation to its business use. In the case of individuals and subchapter S corporations, apartments, hotel suites, vacation homes, and boats also may be subject to "vacation home" special disallowance rules if there is a certain amount of personal use of the facility, i.e., the personal use exceeds the greater of 14 days or 10 percent of rental days (sec. 280A).

If an item of property is considered to be an entertainment facility, the expenditure subject to the special entertainment facility rules include depreciation, rent, utility charges, maintenance and repair expenses, insurance premiums, salaries for caretakers and watchmen, and losses realized on the sale or other disposition of the property. These expenditures also include dues and fees paid to any social, athletic, or sporting club or organization.[1] However, expenditures are not treated as being made with respect to a facility of they are out-of-pocket expenses, e.g., nonoperating costs such as expenditures for food and beverages. In addition, expenses attributable to a nonentertainment use of a facility are not treated as being expenses with respect to an "entertainment" facility, e.g., the use of an automobile or airplane for business travel purposes. Finally, expenses which are deductible without regard to their connection with a taxpayer's trade or business are not considered to be expenditures with respect to an entertainment facility, e.g., taxes, interest, and casualty losses.

In determining whether an entertainment facility is used primarily for business purposes, all the ordinary and necessary business use of the facility may be taken into account even though the use is not "directly

[1] While dues or fees paid to any social, athletic, or sporting club or organization are considered to be expenses incurred with respect to an entertainment facility, clubs operated solely to provide lunches under circumstances generally considered to be conducive to business discussions are exempted. Treas. Regs. § 1.274-2 (e)(3)(ii). In addition, dues paid to professional associations and civil organizations generally are exempt. Rev. Rul. 63-144, 1963-2 C.B. 129, 138-139. An initiation or similar fee which is payable only upon joining a club, and the useful life of which extends over more than one year, is a nondeductible capital expenditure. *Kennth D. Smith*, 24 TCM 899 (1965).

related to" or "associated with" the active conduct of the taxpayer's profit-seeking activities. (Rev. Rul. 63-144, 1963-2 CB 129, 137). However, only the portion of the expenses which are "directly related" to the active conduct of the taxpayer's trade or business are deductible. Thus, the use of the facility in providing entertainment "associated with" the active conduct of a trade or business is taken into account in determining if the facility is used primarily for business purposes, but only those expenses attributable to a use which is "directly related" to the active conduct of a trade or business are deductible.

The amendment, which is effective for expenditures paid or incurred after December 31, 1978, in taxable years ending after that date, provides that no deduction is allowed for any expense paid or incurred with respect to a facility which is used in conjunction with an activity which is of a type generally considered to constitute entertainment, amusement, or recreation.[2]

Generally, the term "facility" includes any item of real or personal property which is owned, rented, or used by a taxpayer in conjunction or connection with an entertainment activity. Thus, expenses incurred with regard to entertainment facilities which are disallowed, include yachts, hunting lodges, fishing camps, swimming pool, tennis courts, and bowling alleys. Facilities also may include airplanes, automobiles, hotel suites, apartments, and houses (such as beach cottages and ski lodges) located in recreational areas. However, the deduction is not affected unless the property is used in connection with entertainment. Expenses of an automobile or an airplane used on business trips will continue to be allowed. In addition, as under present law, the term "facility" includes dues or fees paid to any social, athletic, or sporting club or organization.

If otherwise deductible, the amendment would not apply to dues or fees which are paid to civic or professional organizations, or to those which are paid to business luncheon clubs. Nevertheless, the bill would not preclude an otherwise allowable deduction for business meals merely because the expense was incurred in the dining room of a club or organization with respect to which no deduction is allowed for dues or fees.

Similarly, the amendment would disallow an otherwise allowable deduction for items relating to bona fide business expenses incurred while away from home overnight. For example, the amendment generally would not apply to expenses incurred by an individual away from home at a bona fide business, trade, or professional organization meeting or convention. These expenses, however, would continue to be subject to the generally applicable rules relating to the deductibility of business travel, convention, and entertainment activity expenses.

The provisions of the amendment also would be inapplicable to expenditures for tickets to sporting and theatrical events, regardless of whether the tickets are purchased individually, in a series or by the season, or by an equivalent fee which entitles the taxpayer to use a seat, sky-box, lounge, box, or other similar facility which provides a viewing area for such an event. Ticket costs generally would be subject either to the provisions of present law relating to entertainment activities, or to those which govern the deductibility of business gifts.

In addition, the amendment would continue a number of the present statutory exceptions to the facility expense rules. Thus, for example, otherwise allowable deductions for expenditures relating to the following items would not be covered by the amendment: (1) facilities located on the taxpayer's business premises and used in connection with furnishing food, (2) certain employee recreational facilities, (3) facility expenses treated as employee compensation, (4) facilities made available to the general public, (5) facilities used in connection with a taxpayer's trade or business of selling entertainment for adequate and full consideration in bona fide transactions, and (6) facilities actively used in the taxpayer's business of selling such facilities. The amendment, however, also continues any applicable present law limitations on these exceptions, including those pertaining to allocation of expenses.

In addition to the above enumerated expenses, the disallowance rule would not apply to the extent that a portion of the facility otherwise qualified as one which was not an entertainment facility, or to the extent that a facility with respect to which expenses ordinarily would be denied as deductions, qualifies under one of the above exceptions. Similarly, expenses incurred with respect to certain transportation facilities, for example automobiles and airplanes, would be allowed provided that the taxpayer establishes that the facility was used primarily for the furtherance of a trade or business, and that the expenses otherwise met the ordinarily applicable rules with respect to business deductions.

Although the amendment disallows deductions which are predicated upon a profit-seeking intent, it does not apply to any deduction allowable without regard to the taxpayer's trade or business or income producing activity, e.g., interest (sec. 163), taxes (sec. 164), or casualty losses (sec. 165).

In addition, the generally applicable investment credit and depreciation recapture rules are not to apply simply due to the characterization of a facility as a nontrade or business asset. These rules, however, remain effective with respect to all other events which ordinarily would require recapture.

Conference agreement.—The conference agreement follows the Senate amendment, but excludes dues or fees paid to country clubs from the disallowance rules.

Moreover, the deductions for otherwise allowable business entertainment activities and business meals are not affected by this legislation. For example, if a salesman took a customer hunting for a day at a commercial shooting preserve, the expenses of the hunt (such as hunting rights, dogs, a guide, etc.) would be deductible provided that the current law requirements of substantiation, adequate records, ordinary and necessary, directly related, etc. are met. However, if the hunters stayed overnight at a hunting lodge on the shooting preserve, the cost attributable to the lodging would be non-deductible but expenses for any meals would be deductible if they satisfied the requirements of current law. The shooting preserve should provide the taxpayer with an allocation of charges attributable to the overnight lodging for the taxpayer and guests.

The provisions of the bill also would be inapplicable to expenditures for tickets to sporting and theatrical events, regardless of whether the tickets are purchased individually, in a series or by the season, or by an equivalent fee which entitles the taxpayer to use a seat, sky-boxes, lounges, boxes or other similar facilities which provide a viewing area for such an event. These costs generally would be subject either to the provisions of present law relating to entertainment activities, or to those which govern the deductibility of business gifts.

[2] Such a facility would be considered to be an asset which is used for personal, living, or family purposes, and not as an asset used in the taxpayer's trade or business, or in a profit-seeking endeavor. As such, the investment tax credit would not be available upon the acquisition of such a facility.

66. Deficiency Dividend Procedure for Regulated Investment Companies

House bill.—No provision.

Senate amendment.—The Senate amendment provides a deficiency dividend procedure for regulated investment companies under which the corporation could make qualifying distributions after the normal period for making distributions when an adjustment by the Internal Revenue Service occurs that either increases the amount which the corporation is required to distribute to meet the distribution requirements or decreases the amount of dividends previously distributed for that year.

Conference agreement.—The conference agreement follows the Senate amendment.

67. Safe Harbor Rule for Real Estate Investment Trusts

House bill.—No provision.

Senate amendment.—Under present law, a 100-percent penalty tax is imposed on the gain of a real estate investment trust (commonly called a "REIT") from certain property primarily held for sale to customers in the ordinary course of the REIT's trade or business. In addition, in lieu of the 100 percent tax, the normal corporate income tax is imposed upon certain income from property acquired by foreclosure for a period of two years (with permissible extensions by the IRS for another two years.)

The Senate amendment provides a safe harbor rule for real estate investment trusts which would exempt from the 100-percent tax on prohibited transactions any gain from the sale of a real estate asset where (1) the property was held by the real estate investment trust for a minimum of four years, (2) the real estate investment trust made no more than five sales of property in the taxable year, (3) the real estate investment trust did not make improvements to the property during the four-year period prior to sale in excess of 20 percent of the net selling price, and (4) the property generally was held for rent by the real estate investment trust for at least four years. In addition, the Senate amendment would increase the additional period that the IRS may grant to a REIT to hold foreclosure property from two years to four years (for a total of six years that foreclosure property may be held).

Conference agreement.—The conference agreement follows the Senate agreement with minor technical changes.

68. Contributions in Aid of Construction

House bill.—No provision.

Senate amendment.—Under present law, contributions to the capital of a corporation, whether or not contributed by a shareholder, are not includible in the gross income of the corporation (sec. 118). Nonshareholder contributions of property to the capital of a corporation have a zero basis to the corporation. If money is contributed by a nonshareholder, the basis of any property acquired with the money during the 12-month period beginning on the date the contribution is received, or of certain other property, is reduced by the amount of the contribution (sec. 362(c)).

Generally, the Tax Reform Act of 1976 provided that contributions in aid of constructions (other than customer connection fees) to regulated public water and sewerage utilities are to be treated as nontaxable contributions to capital by nonshareholders. The 1976 Act did not affect the treatment of contributions to utilities other than water and sewerage utilities. The treatment of contributions in aid of construction to such other utilities is unclear under present law.

The Senate amendment extends the present law provision on contributions in aid of construction to water and sewerage utilities (sec. 118(b)) to regulated public gas and electric utilities. Under that provision, contributions

in aid of construction to regulated public gas and electric utilities are treated as nontaxable contributions to capital by nonshareholders.

Conference agreement.—The conference agreement follows the Senate amendment.

69. Treatment of Certain Liabilities on Incorporation of a Trade or Business

House bill.—No provision.

Senate amendment.—Under present law, upon incorporation of a business no gain or loss is generally recognized as a result of the transfer of property to the corporation provided the transferors own 80 percent of the stock of the corporation immediately following the transfer. An exception applies where the corporation assumes a liability or acquires property subject to a liability, and the total amount of these liabilities exceeds the adjusted basis of the property transferred to the corporation. In this situation, the difference between the liabilities over the adjusted basis of the assets is considered as taxable gain to the transferor.

This provision has caused unintended tax difficulties not certain cash-basis businesses. The problem is caused by the fact that these businesses may have large amounts of trade accounts payable and trade accounts receivable. The trade accounts receivable have a zero adjusted basis in the hands of the transferor, and the accounts payable are not deductible until paid and are thus carried on the taxpayers books until payment. Upon incorporation, if the trade accounts payable are treated as liabilities then the transferor may have taxable gain if the total liabilities transferred to the corporation exceeds the total of the adjusted basis of the assets transferred to the corporation.

Under the amendment, in determining (for purposes of section 357(c)) the amount of liabilities assumed or to which the property transferred is subject, the amount of a liability could be excluded for a cash basis transferor to the extent payment thereof by the transferor would have given rise to a deduction or would have constituted certain payments to partners under section 736(a). However, the amount of any liability excluded under this general rule would be included for purposes of section 357(c) computation to the extent that the incurrence of such obligation resulted in the creation of, or an increase in, the basis of any property.

Finally, under the amendment the amount of such excluded liabilities would not reduce the transferor's basis in stock received in the exchange.

The amendment applies to transfers of property to corporations made on or after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

70. Medical Expense Reimbursement Plans

House bill.—No provision.

Senate amendment.—Under present law, gross income does not include amounts received under a self-insured accident or health plan for employees as reimbursement for employee medical expenses, unless the expenses were deducted in a prior taxable year.

Under the Senate amendment, self-insured medical reimbursement plans would be subject to rules forbidding discrimination in favor of employees who are officers, shareholders, or highly paid. Part-time and seasonal employees, as well as certain employees in a collective bargaining unit and employees who are nonresident aliens with no U.S. earned income from the employer would be excluded from a plan.

Plan benefits would be required to extend to a nondiscriminatory group of employees. Also benefits provided by a plan would be subject to a nondiscrimination test. Amounts paid under a discriminatory benefit to an officer, etc., would be includible in income. Also, benefits paid to an officer, etc., under a plan which does not cover a nondiscriminatory group of employees would be partially includible in income. The Senate amendment would apply for taxable years beginning after December 31, 1979.

Conference agreement.—The conference agreement generally follows the Senate amendment.

Under the conference agreement, an employee who qualifies for benefits under a medical reimbursement plan on the date of enactment of the Act and who is not employed by the employer after that date, would not be considered in testing a plan for prohibited discrimination. Also, under the conference agreement, employees whose customary weekly employment is for less than 35 hours would be considered part-time and employees whose customary annual employment is for less than 9 months would be considered seasonal.

In addition, the conference agreement provides that amounts reimbursed under a medical reimbursement plan would not be subject to withholding tax or social security tax.

Although no advance rulings from the Internal Revenue Service would be required, the conferees expect that in a typical case, advance rulings will be available. The conferees also expect that a determination by the Service that a plan is discriminatory will not be applied retroactively where the plan has made reasonable efforts to comply with tax discrimination rules.

The conference agreement authorizes the Secretary of the Treasury to prescribe necessary regulations. The conferees expect that these regulations will provide that reimbursement for diagnostic procedures (medical examinations, X-rays, etc.) need not be considered by an employer to be a part of a medical reimbursement plan. However, this exception is to apply only for diagnostic procedures performed at a facility which provides no services other than medical services and ancillary services and applies to travel expenses only to the extent such expenses are ordinary and necessary.

Under the conference agreement, an employer's plan will not violate the discrimination rules merely because benefits under the plan are offset by benefits paid under a self-insured or insured plan of the employer or another employer, or by benefits paid under Medicare or other Federal or State law.

Under the conference agreement, if a self-insured medical reimbursement plan is included in a "cafeteria plan", the medical reimbursement plan rules would determine the status of a benefit as a taxable or nontaxable fringe benefit and the cafeteria plan rules would determine whether an employee would be taxed as though he elected all available taxable benefits (including taxable benefits under a discriminatory medical reimbursement plan). The conference agreement applies to claims filed and paid in taxable years beginning after December 31, 1979.

71. Postponement of Effective Date for Special Limitations on Net Loss Carryovers

House bill.—No provision.

Senate amendment.—Under present law, the 1976 Act extensively revised the Code provisions dealing with the carryover of net operating losses in cases of acquisitions of loss corporations. The limitations on loss carryover attributes apply to acquisitions made by purchase or through corporate reorganizations. The new provisions changed the basic concept underlying the rules by deleting continuity of business requirements for purchases and establishing a new continuity of ownership test applicable to both purchases and reorganizations. These new provisions apply to plans of reorganization adopted on or after January 1, 1978, and to sales or exchanges in taxable years beginning after June 30, 1978.

The Senate amendment delays the effective date of the 1976 change until January 1, 1980, with respect to plans of reorganization adopted on or after that date, or until June 30, 1980, with respect to sales or exchanges occurring in taxable years beginning after that date. It also permits taxpayers to elect to have the 1976 changes apply to any acquisition or reorganization occurring before the close of the taxpayer's first taxable year beginning after June 30, 1978. This election applies only if the acquisition or reorganization occurs pursuant to a contract or option to acquire stock or assets entered into before September 30, 1978.

Conference agreement.—The conferences agreement follows the Senate amendment.

72. Redemptions of United States Railway Certificates of Value

House bill.—No provision.

Senate amendment.—Under present law, tax attributes (including net operating losses) of a predecessor corporation generally carry over to a successor corporation in a tax-free reorganization. Special net operating loss rules apply to railroads which transfer property under the ConRail reorganization (i.e., otherwise expired net operating losses are revived to the extent any income is realized eventually from certificates of value issued for the transfer of property). Present law does not deal specifically with the effect of the tax-free reorganization on the special net operating loss rule for ConRail transferor corporations.

The Senate amendment provides that the special treatment of net operating losses of transferor railroads and redemptions of certificates of value is not to be affected by a tax-free reorganization of a transferor railroad and another member of its affiliated group of corporations. This provision is effective for taxable years ending after March 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

73. Source of Income From Rental of Railroad Rolling Stock

House bill.—No provision. (However, the House has passed a bill, H.R. 12352, which is substantially the same as the Senate amendment.)

Senate amendment.—Under present law, a lessor of railroad rolling stock may lose foreign tax credits if the lease produces a tax loss for the year and the cars are used outside the United States, because the loss is treated as a foreign source loss in proportion to the time during the year that the car is used outside the United States. Some lessors have required railroads which lease the cars from them to agree to indemnify them for these adverse tax consequences. The potential liability under these indemnity agreements has deterred the railroads from allowing the lease-financed rolling stock to be used outside the United States and therefore has resulted in inefficient utilization and routing of the rolling stock.

The Senate amendment provides that the income or loss from the rental of rolling stock to railroads is to be U.S. source income or loss if the rolling stock is not used outside the United States except on a temporary basis not expected to exceed 90 days. This modification of the source rules for income and loss from the rental of rolling stock would prevent the potential loss of lessors' foreign tax credits.

The amendment is effective with respect to rolling stock placed in service after the date of enactment. At the election of the lessor, the provision also applies to railroad rolling stock placed in service on or before the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

V. CAPITAL GAINS PROVISIONS

74. Capital Gains Deduction for Individuals

House bill.—No provision.

Senate amendment.—Under present law, a noncorporate taxpayer deducts from gross income 50 percent of the amount of any net capital gain for the taxable year, and the balance is included in income and taxed at the regular rates.

The Senate amendment provides that a noncorporate taxpayer may deduct from gross income 70 percent of the amount of any net capital gain for the taxable year, and that the remaining 30 percent is includible in income and subject to the regular tax rates.

The provision is effective for taxable transactions occurring, and installment payments received, after October 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment, but increases the amount of any net capital gain which a noncorporate taxpayer may deduct from gross income from 50 to 60 percent. The remaining 40 percent of the net capital gain is includible in gross income and subject to tax at the otherwise applicable rates. The deducted gain is classified as a tax preference item for minimum tax purposes (*see below*), but not for purposes of reducing the amount of personal service income which is eligible for the maximum tax (*see below*). The provisions of the conference agreement are effective for taxable transactions occurring, and installment payments received, after October 31, 1978.

The conference agreement also coordinates the increased capital gains deduction with the rules applicable to charitable contributions of property. It provides that the amount of certain charitable contributions of capital gains property is to be reduced by 40, rather than 50, percent of the gain which would have been long-term capital gain if the property contributed had been sold by the taxpayer at its fair market value.

The conference agreement does not change the present law treatment of a noncorporate taxpayer's capital losses.

As a transition rule for 1978, the conference agreement generally provides that a noncorporate taxpayer may deduct from gross income 60 percent of the post-October, and one-half of the pre-November, capital gains. Under this rule, the 60 percent deduction will apply to the net capital gains in excess of any pre-November capital losses taking into account only sales or exchanges (including short-term transactions) after October 31, 1978. In computing the post-October net gain, no capital loss carryover is taken into account. These rules are intended to make the appropriate differentiation between pre- and post-effective date gains and losses.

75. Alternative Tax for Capital Gains of Individuals

House bill.—Under present law, a noncorporate taxpayer deducts from gross income 50 percent of the amount of any net capital gain for the taxable year, and the balance is includable in gross income and taxed at the regular rates. In lieu of taxing 50 percent of net capital gains at the regular rates, a partial alternative tax of 25 percent on the first $50,000 of net capital gains applies if it results in lower tax rates than that produced by the regular method.

The House bill repeals the alternative tax for taxable years beginning after December 31, 1978.

Senate amendment.—Same as the House bill, except that the alternative tax would be repealed for taxable years beginning after October 31, 1978.

Conference agreement.—The conference agreement adopts the House bill and the Senate amendment, effective for taxable years beginning after December 31, 1978.

76. Corporate Alternative Capital Gains Tax

House bill.—No provision.

Senate amendment.—Under present law, an alternative tax of 30 percent applies to corporate net capital gains if that rate is less than its regular tax rates. No special deduction for corporate capital gains is available.

The Senate amendment reduces the corporate alternative tax rate from 30 percent to 28 percent.

This change is effective with respect to sales occurring, and installment payments received, after December 31, 1978.

Conference agreement.—The conference agreement adopts the provisions of the Senate amendment.

77. Indexing of Capital Assets for Purposes of Gain on Sale

House bill.—The House bill provides for the indexing for inflation of the basis of common stock, real estate and tangible personal property for purposes of determining gain (or loss) on sale.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not contain this provision.

78. Exclusion of Gain on Residential Sales

House bill.—Under present law, the entire amount of gain or loss realized on the sale or exchange of property generally is recognized. However, under a "rollover" provision of the Code, gain is not recognized on the sale or exchange of a taxpayer's principal residence if a new principal residence, at least equal in cost to the adjusted sales price of the old residence, is purchased and used by the taxpayer as his or her principal residence within a period beginning 18 months before, and ending 18 months after, the date of the sale of the old residence. The basis of the new residence then is reduced by the amount of gain not recognized on the sale of the old residence. When the purchase price of the new residence is less than the adjusted sales price of the old residence, gain is recognized only to the extent that the adjusted sales price of the old residence exceeds the taxpayer's cost of purchasing the new residence.

If, however, an individual realizes gain on the sale or exchange of a residence and fails to satisfy the rollover requirements, then the gain generally is taxable pursuant to the usual rules of the Code to the extent the exclusion for sales of residences by elderly taxpayers does not apply.

In addition, under present law, an individual who has attained the age of 65 may elect to exclude from gross income, on a one-time basis, the entire gain realized on the sale of his or her principal residence if the adjusted sales price is $35,000 or less. If the adjusted sales price exceeds $35,000 the amount excludable is that portion of the gain which is determined by multiplying the total gain by a fraction, the numerator of which is $35,000, and the denominator of which is the adjusted sales price of the residence. The exclusion is not available unless the property was owned and used by the taxpayer as his or her principal residence for 5 years or more during the 8-year period preceding the sale. Due to this actual use and occupancy requirement, the holding period of a condemned or involuntarily converted residence is not added to that of a replacement residence for purposes of having gain on the sale of the latter property qualify for the exclusion.

A taxpayer who has attained the age of 65 may utilize the special exclusion and then use the generally available rollover provision with respect to the balance of any gain.

The House bill repeals the provision of present law relating to gain realized on the sale of a principal residence by a taxpayer 65 and over. It provides that an individual, regardless of age, may elect to exclude from gross income up to $100,000 ($50,000 in the case of married individuals who file separate returns) of any gain realized on the sale or exchange of his or her principal residence. The exclusion applies only once in a taxpayer's lifetime, and the provisions relating to rollover of gain on the sale of a principal residence would not apply to any sale or exchange of the principal residence with respect to which this election is made. The exclusion applies only with respect to gain realized on the sale or exchange of a residence which the taxpayer has owned and occupied as his or her principal residence for periods aggregating two years out of the three-year period which immediately precedes the sale. The definition of a taxpayer's principal residence is that presently used for the rollover provision.

There is to be only one lifetime election with respect to married taxpayers, i.e., the election does not apply separately to each spouse, if, however, each of two parties have made elections independently prior to becoming married, there is to be no recapture of the taxes attributable to the gain excluded with respect to the sale of one of the residences. If spouses make an election during marriage, and subsequently become divorced, no further elections are available to either of them or to their spouses should they marry.

Gain realized on the sale of a taxpayer's principal residence is not a tax preference item.

Senate amendment.—The amendment modifies the provision of present law relating to the exclusion of gain realized on the sale of a principal residence by an individual 65 and over. Generally, the amendment extends the availability of the special exclusion provision to all taxpayers who either have attained the age of 55 or who are totally and permanently disabled (within the meaning of code section 105(d)(5)), and increases the numerator of the ratio formula from $35,000 to $100,000. It also removes all gain recognized on the sale of a principal residence from the maximum tax. In addition, the amendment provides that the holding period of a condemned or involuntarily converted residence may be tacked to that of a replacement residence for purposes of having gain on the sale of the latter property qualify for the exclusion.

The amendment's exclusion applies only with respect to gain realized on the sale or exchange of a principal residence (including condominiums and stock of a tenant-shareholder of a cooperative housing corporation) which the taxpayer has owned and occupied as his or her principal residence for a period aggregating two years out of the three-year period which immediately precedes the sale. However, the amendment provides two exceptions to the generally applicable ownership and occupancy rules. The first exception is a limited transition rule which provides that individuals who can, or could have, satisfied the age, ownership and use requirements of present law (5 years or more out of the 8-year period which precedes the sale) will have until July 27, 1981, to qualify for the exclusive either under the new ownership and occupancy test or that of the present law. The second exception provides that the holding period of a condemned or involuntarily converted residence may be tacked to that of a replacement residence for purposes of having gain on the sale of the latter property qualify for the exclusion.

If a taxpayer makes an election to exclude gain realized on the sale of his or her principal residence, and subsequently purchases a new residence, the amount of any gain excluded on the prior sale will not reduce his or her basis for the new residence.

The amount also provides that no amount of gain realized on the sale or exchange of an individual's principal residence, whether or not excludable under the amendment, is a tax preference subject to the minimum tax, or to the alternative minimum tax. Gain recognized on the sale of a residence which is not the taxpayer's principal residence remains an item of tax preference.

The election is allowed only once, and must be made in accordance with regulations prescribed by the Secretary.

This provision is effective for sales and exchanges after July 26, 1978.

Conference agreement.—The conference agreement repeals the provision of present law which relates to the exclusion of gain on the sale of a residence by an individual who has attained the age of 65. The agreement provides that an individual who has attained the age of 55 may exclude from gross income, on a one-time elective basis, up to $100,000 of gain from the sale of his or her principal residence. The exclusion would be available only in the case of gain from the sale of a principal residence which the individual owned and occupied as his or her principal residence for a period aggregating 3 out of the 5 years which precedes the sale. (However, a special transition rule is provided by the conference agreement for individuals eligible under the present law test.) Consequently, except in the case of a principal residence which has been involuntarily converted, no tacking of holding periods is allowed with respect to the exclusion.

There is to be only one lifetime election with respect to married individuals, i.e., the election does not apply separately to each spouse. However, if each of two parties have made the election independently prior to becoming married, there is to be no recapture of the taxes attributable to the gain excluded with respect to the sale of one of the residences.

Gain realized on the sale of a taxpayer's principal residence is not an item of tax preference.

As under the present law applicable to residential sales by individuals who have attained the age of 65, taxpayer's eligible for the election contained in the conference agreement may use it in conjunction with the residential rollover provision.

The election, which is effective for sales and exchanges after July 26, 1978, must be made in accordance with regulations prescribed by the Secretary.

79. Rollover of Gain on Residential Sales

House bill.—Under present law, gain realized from the sale of a taxpayer's principal residence generally is not recognized where the taxpayer purchases and uses a new principal residence, at least equal in cost to the sale price of the old residence, within a period beginning 18 months before, and ending 18 months after, the sale. Only the last principal residence purchased and used during this replacement period constitutes the new residence for purposes of the rollover provision.

The bill generally provides for the rollover of gain realized on the sale of more than one principal residence where an individual relocates for employment purposes more than once within a period beginning 18 months from the time that his or her first principal residence is sold. Taxpayers generally will be allowed the benefits of this multiple rollover provision where there was a reasonable expectation at the time of the relocation that the taxpayer would be employed, or remain, at the new location for a substantial period of time.

Thus, where the taxpayer is entitled to deduct moving expenses with respect to a relocation falling within the 18-month period, the multiple rollover provision would be available so as to allow the nonrecognition of gain on the sale of a principal residence occupied by the taxpayer of, in fact, the taxpayer subsequently relocated within the 18-month period for employment purposes and acquired a new principal residence. However, in order to qualify for such treatment, a sale must be in connection with the commencement of work by the taxpayer as an employee or as a self-employed individual at a new principal place of work and the taxpayer must satisfy both the geographic and length of employment requirements for deductibility of moving expenses.

The provision is effective for sales and exchanges of principal residence after July 26, 1978.

Senate amendment.—Same as the House bill.

Conference agreement.—The conference agreement adopts the provisions of the House bill and the Senate amendment.

80. Capital Gains Study

House bill.—Under present law, the Treasury Department is not required to submit reports to Congress on the effectiveness of specific tax provisions in accomplishing the purposes for which they were enacted.

The House bill requires the Treasury Department to prepare, and submit to Congress, a report on the effectiveness of the reductions of both the individual and corporate capital gains tax rates in stimulating investment, increasing the rate of economic growth, increasing employment, and of the effects of these reductions on income tax revenues.

The report is to be made by September 30, 1981.

Senate amendment.—No provision.

Conference agreement.—The conference agreement follows the House bill.

VI. MINIMUM AND MAXIMUM TAX PROVISIONS

A. Minimum tax provisions

81a. Minimum Tax for Individuals

House bill.—Present law (sec. 56 of the Code) provides a minimum tax on certain tax preferences of individuals and corporations. The minimum tax for individuals amounts to 15 percent of the sum of an individual's (or estate or trusts') tax preferences in excess of one-half of regular income taxes paid or, if greater, $10,000.

The tax preference items included in this base of the minimum tax for individuals are:

(1) Accelerated depreciation on real property in excess of straight-line depreciation;

(2) Accelerated depreciation on personal property subject to a lease in excess of straight-line depreciation;

(3) Amortization of certified pollution control facilities (the excess of 60-month amortization (sec. 169) over depreciation otherwise allowable (sec. 167));

(4) Amortization of railroad rolling stock (the excess of 60-month amortization (sec. 184) over depreciation otherwise allowable (sec. 167));

(5) Qualified stock options (the excess of the fair market value at the time of exercise over the option price);

(6) Percentage depletion in excess of the adjusted basis of the property;

(7) The deduction for long-term capital gains;

(8) Amortization of child care facilities (the excess of 60-month amortization (sec. 188) over depreciation otherwise allowable (sec. 167));

(9) Itemized deductions (other than medical and casualty loss deductions) in excess of 60 percent of adjusted gross income; and

(10) Intangible drilling costs on oil and gas wells in excess of the amount amortizable with respect to those costs and, for 1977, in excess of net income from oil and gas production.

The House bill removes capital gains as an item of tax preference subject to the existing 15-percent minimum tax. However, the bill provides for the imposition of an alternative minimum tax at a rate of 10 percent on one-half of a noncorporate taxpayer's net capital gains (not including any gain recognized on the sale of the taxpayer's principal residence), reduced by a $10,000 exemption, if this amount exceeds the taxpayer's regular tax liability as computed after the application of tax credits. The tax applies to individuals, estates and trusts.

Under the bill, noncorporate taxpayers who realize capital gains would compute their regular tax liability, and compare this amount with that calculated under the alternative minimum tax. These amounts would be compared prior to being increased by the amount, if any, of the existing 15-percent minimum tax. For this purpose, regular tax liability is computed before subtraction of the credit for withheld tax (sec. 31), the credit for refunds of taxes on gasoline, etc. (sec. 39), and the earned income credit (sec. 43), but after the subtraction of other credits.

Where the alternative minimum tax exceeds the regular tax, no credits generally will be allowable against the alternative minimum tax liability. However, certain refundable credits will be allowed against the alternative minimum tax (i.e., the credit for withheld taxes, the credit for refunds of gasoline and other fuel taxes, and the earned income credit), because the amounts involved would be available as refunds to the taxpayer in any event.

Senate amendment.—The Senate amendment repeals the present law minimum tax for individuals beginning in 1979 and establishes an alternative minimum tax, under which a taxpayer pays the alternative minimum tax only where it exceeds the taxpayer's regular income tax.

Generally, the tax base for the alternative minimum tax is taxable income plus the taxpayer's preference items for the year. This amount then is reduced by a $20,000 exemption and subject to the following minimum tax rates:

	Percent
0–$40,000	10
$40,000–$80,000	20
over $80,000	25

The amount of minimum tax is the amount by which the tax computed under this rate schedule exceeds the taxpayer's regular tax. Thus, although the tax is in effect a true alternative tax, in the sense that it is paid only when the amount of tax computed under the above schedule exceeds regular tax, technically the taxpayer's regular tax continues to be imposed and the amount of alternative minimum tax is the excess of the amount computed under the minimum tax rate table over the amount of the regular tax.

The provision then allows a foreign tax credit and the refundable credits against this tax is the amount in excess of the taxpayer's regular tax.

In general the preferences for purposes of the new alternative minimum tax are the same as under present law. The preference for excluded gain from the sale or exchange of a capital asset is increased, however, to conform to the higher capital gains deduction. (This change in the capital gains preference also is made with respect to the increased deduction provided for gains from sales or exchanges occurring in November and December 1978, which is treated as a preference under the present law minimum tax.) Also, gain from the sale of principal residences is not included as a preference under the alternative minimum tax (or under the add-on minimum tax for sales in November or December 1978).

In addition, the amendment makes permanent the preference for intangible drilling costs in excess of oil income as modified by the Tax Reduction and Simplification Act

of 1977 and as agreed to by both the House and Senate in their versions of the energy tax legislation of this Congress. Under the amendment, intangible drilling cost deductions for oil and gas wells would be included in the minimum tax base of individuals only to the extent that intangible drilling and development costs, over the amount of those costs amortizable on the basis of a 10-year life or under cost depletion, exceed the net taxpayer's income from oil and gas properties.

In addition, the amendment significantly modifies the preference for adjusted itemized deductions. Under the amendment, itemized deductions subject to the preference would exclude medical and casualty deductions (as under present law) plus State and local tax deductions and, in the case of income in respect of decedents, amounts deducted (under sec. 691(c)) for estate taxes. The remaining itemized deductions are preferences to the extent they exceed sixty percent of adjusted gross income minus the medical and casualty deductions, State and local taxes and the estate tax described above.

The provision contains two special elections to allow taxpayers to avoid claiming an item of tax preference to reduce their regular tax. First, the amendment allows a taxpayer, in the manner prescribed by the Secretary, to elect to capitalize intangible drilling costs with respect to any oil and gas property. This property by property election replaces the election under present law which once made by a taxpayer applies for all oil and gas properties for all years of that taxpayer. Second, the amendment includes a provision allowing any recipient of a stock option which continues to meet the requirements for preferential treatment provided in (secs. 422 or 424 of the Code) under transitional rules provided in the 1976 Tax Reform Act to be treated as nonqualified options and taxed under section 83 of the Code.

Finally, the amendment provides that certain charitable lead trusts which received transfers of property prior to January 1, 1977, would not be subject to the preference for adjusted itemized deductions for contributions attributed to that property.

The amount of income subject to the alternative minimum tax is gross income reduced by all deductions (other than any net operating loss deduction) and by any nonpreferential net operating loss and increased by the amount of tax preferences. This net amount, reduced by a $20,000 exemption is subject to the alternative minimum tax rates described above.

The alternative minimum tax is paid only to the extent that it exceeds an individual's regular tax. A a taxpayer's regular tax means the taxes imposed by chapter 1 of the Code other than the alternative minimum tax and the penalty taxes applicable in certain circumstances. These taxes are to be reduced by all nonrefundable credits including the foreign tax credit (sec. 33). Thus, taxpayers paying the alternative minimum tax are not to obtain the benefit of nonrefundable credits other than the foreign tax credit to the extent of that taxpayer's alternative minimum tax. However, the amendment provides that in the case of certain credits, any credit carryovers to future years from a year in which the taxpayer is liable for some amount of alternative minimum tax are not to be reduced to the extent of the taxpayer's alternative minimum tax liability.

The foreign tax credit is to be allowed against the alternative minimum tax. Under the provision the amount of credit allowed is to be determined under the normal foreign tax credit limitation rules (sec. 904), but the computation of the limit is to be modified to include preference items which are added back in computing income subject to minimum tax. Thus, a taxpayer's foreign source income on which foreign tax credits are allowed is to be increased by any preference attributable to foreign sources (or, in the case of deduction preferences, those properly allocated or apportioned to foreign source income) and a taxpayer's entire taxable income is to be increased by all preferences.

Under special rules for net operating losses, a taxpayer's income for alternative minimum tax purposes is to be reduced by net operating loss deductions only to the extent of the taxpayer's "nonpreferential net operating loss deduction," which is defined as the net operating loss deduction computed without regard to items preference included in that deduction. Thus, a taxpayer is allowed to reduce income subject to the new alternative minimum tax only by any net operating loss deduction to the extent of nonpreference losses making up the deduction.

The provision also includes special rules for the application of the alternative minimum tax in the case of trusts. First, the $20,000 exemption from the tax is to be allocated in the case of trusts. Second, in the case of a trust making current distributions of tax preferences which are items of deductions other than depletion and depreciation (e.g., intangible drilling costs) are to be allocated to beneficiaries where appropriate under regulations prescribed by the Secretary. (Of course, a trust is to receive the same deduction for alternative minimum tax purposes for the amount of income currently distributed as is received for regular tax purposes.)

Finally, in the case of accumulation distributions from a trust, the amount of taxes deemed imposed on the trust is not to be increased by any alternative minimum tax in excess of the trust's regular tax liability. Thus, no credit is available to pay any beneficiary of an accumulation distribution for any minimum tax paid by the trust with respect to that distribution; however, under the normal trust rules, no amount received by that beneficiary is treated as an item preference to the beneficiary.

In general, the provision is effective for taxable years beginning after 1978. In addition, the provision is not to be treated as a change of the rate of tax (under sec. 21 of the Code). Thus, fiscal year taxpayers are to first be subject to the new minimum tax for their taxable year beginning in 1979.

However, the provisions changing the effective date for the preferences for capital gains (to 60 percent of net capital gain) for purposes of the present law minimum tax is to apply for all sales or exchanges taking place after October 31, 1978.

For purposes of both effective dates payments received after the effective date with respect to pre-effective date installment sales are to be taxed under the new provisions applicable generally to sales made after the effective date.

Conference agreement.—The conference agreement adopts a modified form of the provisions contained in the House bill and the Senate amendment. It retains the present law minimum tax with respect to all preference items except the deducted amount of capital gains and excess itemized deductions. In addition, it provides for an alternative minimum tax which is paid by an individual only to the extent that it exceeds regular tax paid as increased by the present add-on minimum tax. Under the conference agreement, noncorporate taxpayers would compute regular tax liability and increase it by the amount of any add-on minimum tax liability. This sum then would be compared to the amount of tax computed under the alternative minimum tax formula. The alternative minimum tax, the computation of which generally follows that contained in the Senate amendment, is based on the sum of an individual's taxable income (as computed under present law), adjusted itemized deductions, and the amount of any capital gains deduction. This total would be subject to the tax rates contained in the Senate amendment. If liability computed under the alternative minimum tax exceeds that calculated under the present regular income tax, as increased by the present add-on minimum tax, the individual would pay the greater amount.

For the alternative minimum tax the conference agreement adopts the exemption, rates, and computation methods contained in the Senate amendment. In addition, it follows the Senate amendment's definition of adjusted itemized deductions. Thus, under the conference agreement, itemized deductions subject to the preference would exclude medical and casualty deductions (as under present law) plus State and local tax deductions, and, in the case of income in respect of decedents, amounts deducted (under section 691(c)) as estate taxes. The remaining itemized deductions are preferences only to the extent that they exceed 60 percent of adjusted gross income reduced by the medical and casualty deductions, State and local taxes, and the estate tax deduction previously described.

The conference agreement also retains those provisions of the Senate amendment which relate to certain charitable lead trusts and tax credits. Thus, the foreign tax credit is to be allowed against the alternative minimum tax. However, individuals paying the alternative minimum tax are not to obtain the benefit of nonrefundable credits other than the foreign tax credit to the extent of that individual's alternative minimum tax. Investment credit and jobs credit carryovers to future years, from a year in which the taxpayer is liable for some amount of alternative minimum tax, are not to be reduced to the extent the alternative minimum tax liability reduced the benefit of these credits.

In the case of trusts and estates, the conference agreement provides special rules for the reduction of the exemption and the treatment of preference items.

Because the conference agreement retains the present add-on minimum tax with respect to deferral preferences, the agreement does not adopt that part of the Senate amendment which would allow new elections in the case of intangible drilling costs and stock options.

The conference agreement makes permanent the preference for intangible drilling costs in excess of oil income which was adopted for 1977 by the Tax Reduction and Simplification Act of 1977. Under the conference agreement, intangible drilling costs deductions would be included in the minimum tax base of individuals only to the extent that those costs, over the portion of those costs amortizable on the basis of a 10-year life or under cost depletion, exceed the taxpayer's income from oil and gas properties. Income from oil and gas properties is to be determined first with regard to the rules for determining gross income from oil and gas properties for purposes of percentage depletion (sec. 613(a) of the Code, without regard to the limitations under sec. 613A). Net income from oil and gas properties is gross income from those properties reduced by the amount of deductions (other than intangible drilling costs subject to the preference) properly attributable to that gross income. The conferees also clarified that under the provision deductions attributable to properties with no gross income are not to be taken into account for purposes of computing net income from oil and gas properties.

The conference agreement follows the House bill and the Senate amendment in providing that no amount of gain from the sale of principal residence is included as a preference item under the alternative minimum tax (or under the present minimum tax for sales in November and December, 1978).

The capital gains preference is conformed to the increased capital gains deduction provided in the conference agreement. (This

change in the capital gains preference also is made with respect to the increased deduction allowed for gains from sales or exchanges occurring in November and December 1978, which is treated as a preference under the present law minimum tax.)

In general, the conference agreement is effective for taxable years beginning after 1978. In addition, the provision is not to be treated as a change of the tax rate (under sec. 21 of the Code). Consequently, fiscal year taxpayers are to be subject first to the alternative minimum tax for their taxable years beginning in 1979. The conference agreement provisions changing the effective date for the capital gains preference (to 60 percent of net capital gain) for purposes of the present minimum tax is to apply for all sales and exchanges taking place after October 31, 1978.

For purposes of both effective dates, payments received after the effective date with respect to pre-effective date installment sales are to be taxed under the new provisions applicable generally to sales made after the effective date.

81b. Corporate Minimum Tax

House bill.—Under present law, a 15 percent minimum tax is imposed on the sum of a corporation's tax preferences less the greater of $10,000 or the full amount of the corporation's regular tax. Generally, the tax preference items are the same for corporations as they are for individuals. However, corporate minimum tax preference items differ in the following respect: (1) the capital gains preference is 18/48th of net capital gains, (2) certain reserves for losses on bad debts of financial institutions are preference items, and (3) the individual preferences for itemized deductions, accelerated depreciation on leased personal property, and intangible drilling costs do not apply to corporations.

The House bill, for taxable years beginning after December 31, 1978, eliminates corporate capital gains as an item of tax preference.

Senate amendment.—No provision.

Conference agreement.—The conference agreement does not contain this provision, and thus corporate capital gains remain an item of tax preference.

B. Maximum tax provisions

82a. Limitation on Personal Service Income

House bill.—No provision.

Senate amendment.—Under present law the maximum marginal tax rate on taxable income for personal services is 50 percent. Income from personal services includes wages, salaries, professional fees and other compensation for personal services. In the case of an individual engaged in a trade or business where both personal services and capital are material income producing factors, a reasonable allowance for personal services is treated as personal service income but the amount cannot exceed 30 percent of the income from the business.

The Senate amendment, effective for taxable years beginning after December 31, 1978, removes the 30-percent limitation on the amount of income from a trade or business that can be treated as personal services income where capital is an income-producing factor. Instead, individual taxpayers would receive the benefits of the 50-percent maximum tax on earned income only for income that constitutes a reasonable compensation for the services they actually render whether or not they conduct their businesses in corporate form. In making this determination, the reasonable compensation paid for personal services actually rendered would be allowed. However, an individual would not be permitted to convert into personal service income passive income on investments or assets held or used in a trade or business. Whether there has been such a conversion of passive income to personal service income must be determined by reference to all the facts of each case. For example, a sole proprietor of a small manufacturing business cannot treat dividend and interest income received on investments held by him as personal service income. If passive income is derived from investments held by a trade or business, expenses of the trade or business must be allocated between such passive income and the income available for payment as personal service income.

Conference agreement. The conference agreement adopts the provisions of the Senate amendment.

82b. Tax Preference Offset

House bill.—Under present law the highest marginal tax rate of personal service income is 50 percent. However, the amount eligible for this maximum tax rate is reduced dollar-for-dollar by the individual's items of tax preference, including capital gains, for the year.

The House bill removes the capital gains tax preference offset of the amount eligible for the maximum tax. This provision is effective for taxable years beginning after December 31, 1978.

Senate amendment.—Same as the House bill, except that the provision is effective with respect to sales and exchanges after October 31, 1978 in taxable years ending after that date.

Conference agreement.—The conference agreement adopts the provisions of the House bill and the Senate amendment, effective with respect to sales and exchanges after October 31, 1978 in taxable years ending after that date.

VII. OTHER TAX PROVISIONS

83. Employment Status of Independent Contractors and Employees

House bill.—No provision.

Senate amendment.—Under present law, the classification of particular workers or classes of workers as employees or independent contractors for purposes of Federal income tax withholding, social security (FICA) taxes and unemployment (FUTA) taxes is made under the common law test of control.

The Senate amendment prohibits the IRS from applying any new or changed position with respect to an individual's status for employment tax purposes, if the position is inconsistent with a pre-1976 general audit position, ruling, or regulation. The amendment also prohibits IRS reclassifications of individuals whom taxpayers in good faith treated as independent contractors provided the taxpayers fulfilled tax filing requirements. These provisions apply for all calendar quarters, for which as of date of enactment, an assessment or refunds with respect to employment taxes is not barred.

Conference agreement.—The conference agreement is substantially the same as the Senate amendment. However, for technical reasons, the agreement generally follows the text of H.R. 14159, reported by the Committee on Ways and Means on October 10, 1978 (H. Rept. No. 95–1748). The agreement terminates pre-1979 employment tax liabilities of taxpayers who had a reasonable basis for treating workers other than as employees and who file all required federal tax returns for periods after December 31, 1978; (2) extends relief prospectively through 1979 for taxpayers having a reasonable basis for their classifications of workers; and (3) prohibits the issuance of regulations and Revenue Rulings on common law employment status before 1980. The provision becomes effective upon enactment.

84. Employer Reporting Requirements With Respect to Charged Tips

House bill.—No provision.

Senate amendment.—Present law requires an employee to report tips, including charged tips, to his or her employer. The employer must report to the IRS tips actually reported to the employer by the employee and, under IRS rulings issued in 1975 and 1976, any charge account tips not reported to the employer by the employee. In the Tax Reform Act of 1976, the Congress prohibited the IRS from following, prior to 1979, these rulings.

The Senate amendment provides that the only employee tips which an employer must report to the IRS are those reported to the employer by employees. Also, the amendment provides that, with respect to the amount of tips paid to a particular employee, the only records of charged tips which an employer may be required to keep are charge receipts and copies of tip statements furnished by employees.

Conference agreement.—The conference agreement follows the Senate amendment.

85. Deferral of Carryover Basis Rules

House bill.—No provision.

Senate amendment.—Under the Tax Reform Act of 1976, the basis of property passing from a decedent is "carried over" from the decedent to the estate or heir. Adjustments to basis are made for death taxes, pre-1977 appreciation, and a $60,000 minimum basis. The provision applies with respect to property passing from decedents dying after December 31, 1976. The Senate amendment postpones the effective date of the carryover basis provisions so that they will only apply to property passing from decedents dying after December 31, 1979.

For estates of decendents dying after 1976 and before the date of enactment of the bill, an executor is permitted to elect the carryover basis rules. If elected, the basis of all property passing from the decedent would be determined under the carryover rules (including property that is not sold or distributed before the date of enactment of the bill). The election is to be irrevocably made within 120 days following the date of enactment of the bill and in the manner prescribed by the Secretary of the Treasury.

Conference agreement.—The conference agreement follows the Senate amendment for the postponement of the carryover basis provisions but eliminates the election.

86. Jointly Owned Farms and Closely Held Businesses

House bill.—No provision.

Senate amendment.—Under present estate tax law, the value of a joint tenancy with rights of survivorship is included in the joint tenant's gross estate except for the portion of the value shown to be attributable to consideration furnished by the surviving joint tenant. The Senate amendment provides a special rule for excluding a portion of the value of jointly owned property used in a farm or other business. The exclusion is based on the number of years the surviving joint tenant martially participated in the business. The provision applies only to a joint interest in property held by a husband and wife.

The amount excludible would be determined by applying a percentage rate of 2 percent for each year the surviving spouse materially participated in the business (not to exceed 50 percent) to the excess of the value of the joint interest over the amount attributable to the original consideration furnished. For this purpose, the amount attributable to the original consideration would consist of the amount of that consideration plus assumed appreciation at the rate of 6 percent simple interest for the period of investment of the consideration.

The amount by which the value of a joint interest includible in the gross estate may be reduced under the Senate amendment is limited to $500,000.

The provision is to apply if elected by the executor of the estate not later than the time for filing the estate tax return (including extensions) and in the manner prescribed under Treasury regulations.

The provision is to apply with respect to estates of decedents dying after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

87. Source of Interest Income on Puerto Rican Branches of U.S. Savings and Loan Associations

House bill.—No provision. (However, the House has passed H.R. 13758, the same as the Senate provision.)

Senate amendment.—U.S. citizens and resident aliens residing in Puerto Rico generally are subject to U.S. tax on all of their income other than Puerto Rican source income. U.S. corporations qualifying under section 396 are entitled to a "possessions" credit against any U.S. tax on foreign source income of their U.S. possessions businesses, and on certain investment income from U.S. possession sources.

Generally, interest received from a U.S. corporation is treated entirely (or, in some cases, partially) as U.S. source income and thus does not qualify for the special tax treatment described above. However, interest on deposits with a foreign branch of a U.S. commercial bank, including a branch located in Puerto Rico, is treated as income from sources within that foreign locality. As a result, interest paid by Puerto Rico branches of a U.S. commercial bank generally qualifies for the special treatment provided Puerto Rican residents and possessions corporations. This exception for foreign branches of U.S. banks does not extend to similar branches of U.S. savings and loan associations.

The Senate amendment extends the special source rule for interest on deposits in foreign branches of U.S. commercial banks to interest on deposits in similar branches of U.S. savings and loan associations. As a result, interest from Puerto Rican branches of U.S. savings and loan associations will be treated as Puerto Rican source income, and thus will qualify for special treatment afforded Puerto Rican source income. The amendment is effective for taxable years of recipients of the interest beginning after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

88. Reduction in Excise Tax on Investment Income of Private Foundations

House bill.—No provision. (However, H.R. 112, as passed by the House, would reduce the rate of the excise tax on the net investment income of domestic private foundations from 4 percent to 2 percent.)

Senate amendment.—The Senate amendment reduces the rate of the excise tax on the net investment income of domestic private foundations from 4 percent to 2 percent.

Conference agreement.—The conference agreement follows the Senate amendment.

89. State Tax Credit Against Federal Slot Machine Tax

House bill.—No provision.

Senate amendment.—Under present law, there is an annual Federal excise tax of $250 on each slot machine or other coin-operated gaming device. Up to 80 percent of the Federal tax can be offset by similar State taxes. The Senate amendment increases the Senate credit against the Federal slot machine excise tax from 80 to 95 percent for years ending June 30, 1979, and June 30, 1980. The Federal excise tax is repealed after June 30, 1980.

Conference agreement.—The conference agreement follows the Senate amendment.

90. Study of Taxation of Foreign Owners of U.S. Real Estate

House bill.—No provision.

Senate amendment.—Under the Code, nonresident aliens and foreign corporations are subject to a flat 30-percent tax on their gross current income from U.S. real estate investments not connected with an active business in the United States. However, they are exempt from capital gains tax on the sale of capital assets generally, and nonbusiness U.S. real estate in particular. They may elect to be taxed on a net basis on their current income from nonbusiness real estate in the same manner as U.S. persons but, as a condition, must agree to be taxable on any gains from the sale of that real estate. Foreign investors can generally avoid most or all U.S. taxes on U.S. real estate, including both taxes on current income and gain on the sale, by utilizing U.S. tax treaties.

The Senate amendment directs the Treasury Department to submit a study to Congress within 6 months of the date of enactment on the taxation of foreign owners of U.S. property for the purpose of determining the appropriate tax treatment of income or gain from U.S. property.

Conference agreement.—The conference agreement follows the Senate amendment.

91. Excessive Government Spending Surtax

House bill.—No provision.

Senate amendment.—Under present law, tax changes generally are not related directly to government spending levels, except that certain trust fund taxes have been changed when related expenditures have been increased or decreased.

The Senate amendment imposes an income tax surcharge if Federal spending, except in the case of war or recession, exceeds specified limits. The surtax is to be the rate necessary to finance the Federal spending in excess of the limit, after adjustment for inflation. The provision is to be effective upon enactment, but no surtax could apply prior to calendar year 1980.

Conference agreement.—The conference agreement does not contain this provision.

92. Charitable Split Interest Trusts

House bill. No provision.

Senate amendment.—The Tax Reform Act of 1969 imposed new requirements that must be met in order for a charitable deduction to be allowed for income, gift, and estate tax purposes for the transfer of a split interest to charity (i.e., part charitable and part noncharitable). In the case of a remainder interest in trust, the interest passing to charity must be in either a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund. In the case of an "income" interest passing to charity (i.e., a charitable lead trust), the "income" interest must be either a guaranteed annuity or a fixed percentage of the fair market value of the trust (determined at least annually).

Many persons have created instruments that do not comply with these new requirements. As a result, Congress provided, as early as 1974, that the governing instruments of charitable remainder trusts could be amended to meet the new rules within certain time limitations for estate tax purposes. The latest extension of these time limitations was made by the Tax Reform Act of 1976 which permitted amendment of charitable remainder trusts until December 31, 1977, in order to qualify the trust for the charitable estate tax deduction. However, it provided this relief only in the case of the charitable deduction for estate tax purposes and only for remainder interests passing to charity. No relief was provided for the charitable deduction for income or gift tax purposes or for "income" interests passing to charity for income, gift or estate tax purposes.

The Senate amendment would extend until December 31, 1978, the time to amend (or to commence judicial proceedings to amend) instruments establishing charitable remainder trusts which were enacted before December 31, 1977, to comply with the requirements of the Tax Reform Act of 1969 in order for a charitable deduction to be allowed for estate tax purposes. The amendment also provide that instruments establishing charitable lead trusts and charitable remainder trusts in the case of income and gift taxes, which were created before December 31, 1977, could be amended to comply with the requirements of the 1969 Act if the instrument is amended (or judicial proceedings to amend are commenced) by December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

93. Attribution Rules for Extension of Time To Pay Estate Tax

House bill.—No provision.

Senate amendment.—Under present law, an executor can elect a 15-year period for the payment of the estate tax attributable to the decedent's interest in a closely held business if the value of that interest exceeds 65 percent of the value of the gross estate. Pursuant to such an election, principal (but not interest) payments may be deferred for up to 5 years from the date of the estate tax return, and a special 4-percent interest rate is allowed on the estate tax attributable to the first $1 million of the business interest. For this purpose, a closely held business means an interest as (1) a sole proprietorship, (2) a partner in a partnership (a) having 15 or fewer partners, or (b) in which the decedent owned 20 percent or more of the capital, or (3) stock in a corporation (a) having 15 or fewer shareholders, or (b) in which the decedent owned 20 percent or more of the voting stock.

In determining the number of partners or shareholders, each individual is counted once without regard to any attribution rules.

In addition, if the value of the business is in excess of either 35 percent of the value of the gross estate or 50 percent of the value of the taxable estate, a 10-year extended payment period may be used.

Moreover, where reasonable cause for an extension exists, the Service has the discretion to extend the payment period for up to 10 years.

94. Exemption from Private Foundation Tax for Failure to Distribute Income

House bill.—No provision.

Senate amendment.—Under present law the term "private foundation" means any charitable, educational, religious, or other organization described in section 501(c)(3), *other than* certain specified categories of organizations (sec. 509(a) of the Code). These categories (known as "public charities") include churches, schools, hospitals or certain medical research organizations, certain other organizations which receive specified "public" support, and organizations which are "supporting" organizations to other public charities. For this purpose, under Treasury regulations, the term "hospital" does not include "convalescent homes or homes for children or the aged, nor does the term include institutions whose principal purpose or function is to train handicapped individuals to pursue some vocation" (Reg. sec. 1.170A-9(c)(1)).

In addition to other restrictions on private foundations, a private foundation is required to make annual expenditures or distributions for exempt purposes generally equal to the net income of the private foundation. However, an exception to this rule is provided for certain private foundations known as operating foundations." A private foundation may qualify as an "operating" foundation if it spends directly for the active conduct of its exempt-purpose activities amounts which are at least equal to 85 percent of its adjusted net income, and which are at least equal to 3⅓ percent of its net endowment assets, or if the foundation meets certain other tests (sec. 4942(j)(3)).

In general, the rules relating to income tax deductions by individuals for contributions to public charities or to private operating foundations are more favorable to the donor than the rules relating to the deducti-

bility of contributions to private nonoperating foundations (sec. 170).

The Senate amendment provides that stock or partnership interests held by the decedent's family is to be treated as being held by a single shareholder or partner for purposes of determining eligibility for the extended estate tax payment provisions.

This provision applies to the estates of decedents dying after the date of enactment.

Conference agreement.—The conference agreement adopts the provisions of the Senate amendment.

The Senate amendment provides that certain private foundations which provide long-term care facilities are not subject to the general requirement that a private foundation spend its net income for exempt purposes (sec. 4942). However, all of the other rules governing private foundations (including rules governing deductibility of contributions) will continue to apply. In order to qualify for this exception the private foundation must, on or before May 26, 1969, and continuously thereafter to the close of the taxable year, operate and maintain as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children.

Conference agreement.—The conference agreement basically adopts the Senate amendment. Under the conference agreement, for purposes of the distribution requirements of section 4942, an "operating foundation" includes a private foundation which, on or before May 26, 1969, and continuously thereafter to the close of the taxable year, operates and maintains as its principal functional purpose facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children if the foundation meets the distribution requirements applicable to operating foundations (sec. 4942(j)(3)(B)(ii)). Since this rule applies only for purposes of the distribution requirement, the rules for deductibility of contributions to such an organization will be determined as if the organization is a nonoperating private foundation (unless it meets the regular definition of a public charity or operating foundation).

95. Small Tax Case Procedures Before the Tax Court

House bill.—No provision.

Senate amendment.—Under present law, taxpayers who file a petition with the Tax Court for a redetermination of income, estate, or gift tax deficiencies or overpayments have the option of having their cases heard as small tax cases under an expedited and simplified procedure (sec. 7463). The option, however, is available only where the amount of the deficiency, or claimed overpayment, does not exceed $1,500, and where the cases are approved by the Tax Court. Trials of these cases are conducted informally. The rules of evidence are relaxed and neither party is required to file a brief. In addition, neither party may appeal, and decisions in these cases are not treated as precedents for any other case or purpose.

Typically, small tax cases are heard by commissioners appointed by the chief judge of the Tax Court (sec. 7456(c)). However, the law which provides for the appointment of commissioners does not specifically authorize them to administer oaths, issue subpoenas or examine witnesses. Under present law, judges and certain other employees, are authorized to administer oaths and issue subpoenas, but only judges are authorized to examine witnesses (sec. 7456(a)).

Following the hearing in small tax cases, the commissioners file reports which, upon review by the chief judge, may be adopted as reports of the Court. After a report is filed by the Court, a decision will be entered. The decision is based on the report and is comprised of a computational determination of the deficiency or overpayment.

Under present law, the decision in a small tax case must be entered by a judge, rather than by a commissioner, in accordance with the report of the Tax Court (sec. 7459(a)).

The amendment, in general, increases the jurisdictional amount for election of the small case procedure from $1,500 to $5,000. In the case of a deficiency or overpayment in income taxes, the jurisdictional amount is applicable to each taxable year in dispute. In the case of a gift tax deficiency or overpayment, the jurisdictional amount is applicable with respect to each calendar year. Finally, in the case of an estate tax deficiency or overpayment, the jurisdictional amount is applicable to the total amount of deficiency or overpayment in dispute.

Use of this procedure would continue to be optional with the taxpayer unless the Tax Court decided before the hearing that the case should be heard under normal procedures and should be subject to appeal. Presently, the Tax Court rules provide that the Commissioner of Internal Revenue may file a motion requesting that a small tax case be removed from that category. In view of the proposed increase in the small case jurisdictional amount to $5,000 it is contemplated that, the Tax Court will give careful consideration to a request by the Commissioner of Internal Revenue to remove a case from the small case procedure when the orderly conduct of the work of the Court or the administration of the tax laws would be better served by a regular trial of the case. Thus, in some situations, proper Court management may require the removal of a case from the small case procedures so that it can be consolidated with a regular case involving common facts or a common issue of law. Similarly, removal of the case from the small case category may be appropriate where a decision in the case will provide a precedent for the disposition of a substantial number of other cases or where an appellate court decision is needed on a significant issue.

Most of the small tax cases are handled by commissioners. It is contemplated that such cases will, in general, continue to be tried before the commissioners, with the Court continuing to have the power to authorize the commissioners to hear other cases (e.g., small tax cases where the taxpayers have not elected the simplied procedures), as was the situation after the enactment of the Tax Reform Act of 1969.

In order to alleviate any uncertainty which exists under present law as to the authority of commissioners to administer oaths, issue subpoenas and to prepare reports of small tax cases proceedings that they conduct, the amendment expressly authorizes commissioners to perform such functions and duties. In addition, in order to further clarify the law with respect to the authority of commissioners, the amendment authorizes commissioners to examine witnesses. Finally, under the amendment, the Tax Court may authorize a commissioner to enter a decision in a small tax case proceeding subject to such conditions of review as the Court may impose by an appropriate rule, directive or order, whether or not published.

The provision of the amendment increasing the jurisdictional amount in small tax cases from $1,500 to $5,000 will be effective on the first day of the first calendar month beginning more than 180 days after the date of the enactment of the bill. The provisions of the bill relating to the powers of commissioners will be effective on the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

96. Tax Treatment of Cooperative Housing Corporations

House bill.—No provision.

Senate amendment.—Under present law, a tenant-stockholder in a cooperative housing corporation is entitled to deduct amounts paid to the corporation which represents his or her proportionate share of allowable real estate taxes and interest relating to the corporation's land and buildings. (In addition, to the extent a tenant-stockholder uses depreciable property leased from the cooperative housing corporation in a trade or business or for the production of income, the tenant-shareholder is allowed to take depreciation deductions with respect to the stock the ownership of which gives the tenant-stockholder the right to lease such property.) In general, for an organization to qualify to pass through these deductions to tenant-stockholders, 80 percent or more of the gross income of the cooperative housing corporation must have been derived from individual tenant-stockholders. However, for purposes of determining whether the 80 percent test has been satisfied, stock owned and dwelling units leased by governmental entities for the purpose of providing housing facilities are not taken into account. Further, banks and other lending institutions which obtain stock in a cooperative housing corporation through foreclosures are treated as tenant-stockholders for up to three years after the date of acquisition.

The Senate amendment provides that if a person (including a corporation) who conveys the houses, apartment building or leasehold thereof to a cooperative housing corporation acquires stock in the corporation by purchase or foreclosure, together with a lease or right to occupy the house or apartment, such person would be treated as a tenant-stockholder for up to three years from the date of acquisition. This provision would apply even though such person or any purchaser from such person could not occupy the apartment or house without prior approval of the corporation or its managing agent.

Conference agreement.—The conference agreement follows the Senate amendment.

97. Tax Exemption for Certain Mutual Deposit Guaranty Organizations

House bill.—No provision.

Senate amendment.—Present law provides an exemption from Federal income taxation for State-chartered, nonprofit mutual corporations or associations organized before September 1, 1957, which provide reserve funds for, and insurance of shares or deposits in, State-chartered (1) domestic building and loan associations ("savings and loan associations"), (2) certain cooperative banks, or (3) mutual savings banks (section 501(c)(14)(B)). The Senate amendment extends Federal income tax exemption retroactively (to 1968) to any State-chartered organization created before January 1, 1969, which provides reserve funds for, and insurance of shares or deposits in, State-chartered savings and loan associations, cooperative banks, or mutual savings banks. The Senate amendment prospectively provides Federal income tax exemption for certain State-chartered organizations created before January 1, 1969, which provide reserve funds for, and insurance of shares or deposits in, both State-chartered credit unions and State-chartered savings and loan associations.

Conference agreement.—The conference agreement omits this provision of the Senate amendment.

98. Tax Treatment of Magazines, Etc., Returned After the Close of the Accounting Year

House bill.—No provision.

Senate amendment.—Under present law, sellers of merchandise who use an accrual method of accounting generally must include sales proceeds in income for the taxable year when all events have occurred that fix the right to receive the income and the amount can be determined with reasonable

accuracy. The Internal Revenue Service has taken the position that accrual-basis publishers and distributors of magazines, paperbacks, or records must include the sales proceeds of these items in income when they are shipped to purchasers, and may reduce income for returns only in the year the items are returned unsold by the purchaser.

The Senate amendment permits an accrual-basis publisher or distributor of magazines, paperbacks, or records to elect to exclude from income amounts attributable to qualifying items returned within the merchandise return period, which is 2 months and 15 days in the case of magazines, and 4 months and 15 days in the case of paperbacks and records, after the close of the taxable year in which the sales of the items were made. The taxpayer may initially select a shorter merchandise return period, but is required to consistently use the shorter period.

Also under present law, when a taxpayer changes a method of accounting, certain adjustments (called transitional adjustments) are often required to prevent the duplication or omission of an item of income or deduction. These transitional adjustments are subject to special rules that generally prescribe that the amount of adjustment is to be taken into income (or claimed as a deduction) ratably over 10 years, beginning with the year in which the change in method of accounting occurs.

The election of the method of accounting provided in the Senate amendment is a change in method of accounting that gives rise to a transitional adjustment. However, instead of applying the rules of present law regarding the treatment of transitional adjustments, the Senate amendment provides special rules. Under the amendment, the transitional adjustment (usually a deduction under this election) attributable to magazines is amortized over 5 years and the transitional adjustment attributable to paperbacks and records is placed in a suspense account. The effect of the suspense account is to defer the deduction of the transitional adjustment until the taxpayer is no longer in the trade or business of publishing or distributing paperbacks or records. The purpose of the suspense account is to reduce the revenue loss on provisions that allow taxpayers to more nearly conform their tax and financial accounting.

The Senate amendment is effective for taxable years beginning after September 30, 1979. The amendment is identical to a House passed bill (H.R. 3050), except for the effective date and a minor change that allows taxpayers to initially select a shorter merchandise return period, even though regulations have not been issued.

Conference agreement.—The conference agreement follows the Senate amendment.

99. Accounting Treatment for Discount Coupons Redeemed After the Close of the Taxable Year

House bill.—No provision.

Senate amendment.—Under present Treasury regulations specifying the appropriate taxable year for inclusion of income items, accrual-basis issuers of premium coupons with sales may reduce gross receipts by the estimated cost of redeeming such coupons outstanding at the close of the taxable year (plus the cost of redeeming coupons during the taxable year that have not previously been taken into account.) The term "premium coupon" is not defined in the regulations, and the courts have not directly addressed the question of what constitutes a premium coupon. The Internal Revenue Service has issued two revenue rulings that deny the application of the regulation to two types of coupons that give consumers "cents off" or other discounts on the purchase price of specified merchandise.

The Senate amendment provides a special accounting rule that allows certain issuers of qualified discount coupons to elect to deduct for a taxable year the cost of redeeming qualified discount coupons that are (1) outstanding at the close of the taxable year, and (2) redeemed within 6 months after the close of the taxable year, plus the cost (if not previously taken into account) of redeeming discount coupons received during the year. This rule only applies to discount coupons and does not affect the tax treatment of premium coupons.

Also under present law, when a taxpayer changes a method of accounting, certain adjustments (called transitional adjustments) are often required to prevent the duplication or omission of an item of income or deduction. These transitional adjustments are subject to special rules that generally prescribe that the amount of adjustment is to be taken into income (or claimed as a deduction) ratably over 10 years, beginning with the year in which the change in method of accounting occurs.

The election of the method of accounting provided in the Senate amendment is a change in method of accounting that gives rise to a transitional adjustment. However, instead of applying the rules of present law regarding the treatment of transitional adjustments, the Senate amendment provides special rules. Under the amendment a transitional adjustment that would increase taxable income is taken into income ratably over a period of 10 years, beginning with the year in which the change in method of accounting occurs. A transitional adjustment that would decrease taxable income is placed in a suspense account. The effect of the suspense account is to defer the deduction of the transitional adjustment until the taxpayer no longer issues discount coupons in connection with his trade or business. The purpose of the suspense account is to reduce the revenue loss on provisions that allow taxpayers to more nearly conform their tax and financial accounting.

The Senate amendment also allows taxpayers who, in prior years, have accounted for discount coupons under the existing premium coupon regulations to elect to treat their method of accounting as a proper method for those years. If a taxpayer makes this second election within a specified period of time, and it covers all discount coupons issued in those prior years, then he will not be required to establish the suspense account. Instead, the present law rules relating to transitional adjustments would apply to the transitional adjustment.

The Senate amendment is effective for taxable years ending after December 31, 1978. The amendment is identical to a House passed bill (H.R. 13047).

Conference agreement.—The conference agreement follows the Senate amendment.

100. Exemption From Highway Use Tax for Certain Farm and Soil and Water Conservation Trucks

House bill.—No provision.

Senate amendment.—Under present law, an annual highway use tax of $3 per 1,000 pounds is imposed on the use of highway motor vehicles having a group weight in excess of 26,000.

The Senate amendment exempts certain farm and soil and water conservation trucks from the highway use tax. The exemption would not apply to any vehicle registered in the name of a corporation the gross receipts of which for the last taxable year exceeded $950,000, or which derived more than 50 percent of its gross receipts for the year from activities other than farming or soil and water conservation.

This provision applies to uses after the first day of the first month which begins more than 30 days after the date of enactment.

Conference agreement.—The conference agreement does not contain this provision.

101. Taxation of Foreign Investors on Sale of Certain U.S. Real Estate

House bill.—No provision.

Senate amendment.—Under the Code, nonresident aliens and foreign corporations are subject to a flat 30-percent tax on their gross current income from U.S. real estate investments not connected with an active business in the United States. However, they are exempt from capital gains tax on the sale of capital assets generally, and nonbusiness U.S. real estate in particular. They may elect to be taxed on a net basis on their current income from nonbusiness real estate in the same manner as U.S. persons but, as a condition, must agree to be taxable on any gains from the sale of that real estate. Foreign investors can generally avoid most or all U.S. taxes on U.S. real estate, including both taxes on current income and gain on the sale, by utilizing U.S. tax treaties.

The Senate amendment provides that nonresident aliens and foreign corporations would be taxed on gains from the sale of farmland and other rural land (as defined in the Consolidated Farm and Rural Development Act) which is not connected with an active business in the United States. These changes would apply to sales of stock in a corporation formed or availed of to acquire, hold, or sell such land.

The amendment generally is effective for sales in taxable years beginning after December 31, 1978. However, there is a 5-year delay for sales of property acquired prior to enactment if there is a contrary U.S. tax treaty obligation.

Conference agreement.—The conference agreement omits the Senate amendment.

102. Alaska Native Claims Settlement Act Corporations

House bill.—No provision.

Senate amendment.—Corporations formed pursuant to the Alaska Native Claims Settlement Act (ANCSA) received money from the United States and the right to select Alaskan land. The shareholders are Alaska Natives. The IRS has held that (1) the value of surveys of the land made by oil companies to assist the corporations in making their selections is income to the corporations; (2) land selection costs incurred by the corporations are not deductible but must be added to the basis for the land; and (3) other expenses of the corporations are nondeductible "start-up" costs because the corporations have not yet begun business. Because many Native shareholders are related to one another, some corporations may meet the definition of personal holding companies.

The Senate amendment provides that ANCSA corporations (1) do not include in income the value of outside surveys; (2) may deduct land selection costs; (3) are deemed to have begun business; and (4) are not personal holding companies.

The amendment is effective as of December 18, 1971. The survey income provision would remain in effect until the earlier of 1991 or the date the corporation has received all its land under ANCSA. The personal holding company provision would remain in effect until 1991.

Conference agreement.—The conference agreement follows the Senate amendment.

103. Technical Corrections to the Tax Reform Act of 1976

House bill.—No provision.

Senate amendment.—The Tax Reform Act of 1976 made numerous changes to the Internal Revenue Code of 1954. H.R. 6715, the Technical Corrections bill, which has passed the House, would make technical, clerical, conforming, and clarifying amendments to the provisions enacted by the Tax Reform Act of 1976. The Senate amendment includes the provisions of H.R. 6715, as passed by the

House, with a number of modifications. The principal modifications are as follows:

The effective date for the provision under which community property laws are to be disregarded for purposes of determining eligibility for, and the amount of, the elderly credit would be postponed for one year so that it would apply to taxable years beginning after 1977 (rather than 1976).

The exemption for minimum tax preference treatment of excess itemized deductions for charitable deductions from a trust would be changed to apply to deductions attributable to transfers before 1977 (rather than before 1976).

Charitable distributions by certain testamentary trusts would not be treated as an itemized deduction for purposes of the minimum tax preference for excess itemized deductions.

In certain limited circumstances, retroactive decertification of buildings without historic significance would be permitted so that disallowance of deductions for the demolition of a historic structure would not apply.

Rapid amortization would be allowed with respect to rehabilitation expenditures incurred by certain long-term lessees of historic structures.

A U.S. citizen residing abroad would not be subject to the foreign convention rules with respect to a convention held in the country in which the citizen resides.

An exception to the vacation home disallowance rules would be provided so that personal use of a residence would not be taken into account for a taxable year in which the residence is converted to rental property.

The real estate exception from the partnership at risk rules would be clarified to make it clear that the exception applies where services are rendered in connection with providing living accommodations, i.e., to hotels, motels, and similar establishments.

The provision of the House bill which would have restricted the 6-month long-term capital gain holding period to agricultural commodities futures contracts is deleted so that all commodities futures contracts are eligible for the 6-month holding period rule.

The amount recaptured as ordinary income under the special rules for depreciable player contracts sold by a sports franchise would be limited to depreciation allowable after 1975.

The treatment of certain members of a fishing boat crew as self-employed individuals would be extended to cover services performed prior to 1972.

The penalty imposed upon income tax return preparers for the intentional disregard of rules and regulations would not apply with respect to an Internal Revenue Service ruling.

A technical change would be made to make it clear that capital asset treatment would not apply to U.S. Government publications which are received by a taxpayer free of charge or at a reduced rate.

The amendment would permit the tax-free sale of a truck part if it is to be resold by the purchaser in connection with the first retail sale of a light-duty truck.

Conforming changes would be made to reflect the postponement of the carryover basis provisions under another provision of the Senate amendment.

The effective date of the generation-skipping provisions of the 1976 Act would be changed to apply to transfers made after June 11, 1976 (rather than April 30, 1976).

Technical changes are made to the definition of a "subordinate trustee" for purposes of excepting a power held by an independent trustee under the generation-skipping transfer provision.

The time for conforming governing instruments for split-interest trusts for charitable deduction purposes would be extended until the end of 1978 (rather than 1977). The provision would not apply to charitable remainder trusts with respect to the estate tax charitable deduction. (However, another Senate amendment provides a similar extension for these trusts and for charitable remainder trusts.)

The effective dates of the amendment generally are the same as the respective effective dates of the Tax Reform Act of 1976.

Conference agreement.—The conference agreement follows the Senate amendment but for two exceptions. Since the date for conforming governing instruments for charitable split-interest trusts is extended through 1978 under another provision of the bill, the similar provision under the technical corrections title is deleted.

In addition, the Senate amendment provision relating to tax return preparers is deleted. It is intended that if a preparer in good faith and with reasonable basis takes the position that a rule or regulation does not accurately reflect the Code and does not follow it, the preparer has not negligently or intentionally disregarded the rule or regulation. This test shall be applied in the same manner as it applied under section 6653(a) and the regulations thereunder (relating to disregard of rules and regulations by taxpayers). For example, if a preparer reasonably takes the position in good faith that a revenue ruling does not accurately reflect the Code, the preparation of a return or claim for refund by the preparer in conflict with the revenue ruling is not a negligent or intentional disregard of th revenue ruling. For purposes of section 6694(a), the view of the taxpayer concerning a rule or regulation is not material.

The conferees further direct that the Internal Revenue Service shall reasonably interpret section 6694(a) according to the standards of section 6653(a) and in light of all the facts and circumstances of each case, taking into account any and all mitigating factors.

104. Industrial Development Bonds for Urban Development Action Grant (UDAG) Facilities

Senate amendment.—Under present law interest on individual development bonds is, in general, taxable. However, interest on certain small issues of industrial development bonds is tax-exempt. Small issues are issues of $1 million or less the proceeds of which are used for the acquisition, construction of land, or depreciable property. At the election of the issuer the $1 million limitation can be increased to $5 million. If this election is made, capital expenditures and the total of a series of small issues for a project cannot exceed $5 million.

Section 321 of the House bill increases the amount of the elective small issue limitation from $5 million to $10 million. Senate Amendment Number 49 increases the amount of this limitation for $5 million to $12 million. This Senate amendment provides that the total amount of capital expenditures with respect to certain facilities financed with tax-exempt "small issue" industrial development bonds shall be $20 million. However, the limitation on elective small issues would continue to apply to limit the amount of these capital expenditures which could be financed with tax-exempt bonds.

However, the amendment would apply only with respect to a small issue substantially all the proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made.

The amendment applies to taxable years ending after October 1, 1979, but only with respect to obligations issued after such date.

It also specifies that the higher limitation is to apply to capital expenditures made after October 1, 1979, with respect to bonds that were issued prior to October 1, 1979.

Conference agreement.—The conference agreement follows the Senate amendment under which the capital expenditure limitation test for urban development action grant facilities is $20 million. As indicated under Senate Amendment No. 48, the conferees agreed to increase the elective small issue limitation to $10 million. Under that $10 million limitation up to $10 million of tax-exempt small issue industrial development bonds could be issued to finance an urban facility action grant facility. In addition to this $10 million exempt bond financing the principal user of the facility could also make capital expenditures of $10 million financed with funds received from sources other than tax-exempt bonds.

105. Subordination of Special Liens for Additional Estate Tax Attributable to Special Valuation Property

House bill.—No provision.

Senate amendment.—Present law provides an estate tax election pursuant to which certain qualifying property may be valued at actual use rather than at its fair market value (sec. 2032A). Where this election is made, a special lien arises on the property (sec. 6324B), and continues until the earlier of the recapture of the tax benefit, or the termination of potential liability for recapture (*i.e.*, the death of a qualified heir, or the expiration of a 15-year period from the decedent's death). The Treasury Department is to issue regulations under which other security could be substituted for the real property.

The Senate amendment, effective with respect to estates of decedents who die after December 31, 1976, permits the subordination of the special lien for additional estate tax attributable to the special valuation of a farm or other qualified real property where the Secretary of the Treasury is satisfied that the interests of the U.S. are protected adequately after the subordination.

Conference agreement.—The conference agreement adopts the Senate amendment.

106. 10-Year Carryback of Product Liability Net Operating Losses

House bill.—No provision.

Senate amendment.—Under present law, net operating losses incurred in a taxable year generally may be "carried back" and offset against taxable income of the 3 years first preceding the year of loss and, if not fully absorbed, "carried forward" and offset against taxable income of the 7 years next succeeding the year of loss. Losses offset against taxable income in carryback years generally result in tax refunds, and losses offset against taxable income in future years generally result in decreases in tax liabilities for those years.

Under the Senate amendment, the amount of a net operating loss that is attributable to a product liability loss could be carried back an additional 7 years. Thus, in total, the product liability loss could be carried back to 10 years first preceding the loss year and carried forward to the 7 years next succeeding the loss year. A taxpayer could elect not to apply this special carryback rule and, instead, to carry the entire net operating loss back 3 years and forward 7 years as under present law. The amount of a net operating loss that is attributable to a product liability loss is the lesser of (1) the sum of the product liability losses deductible for the taxable year, or (2) the net operating loss (reduced by any portion thereof that is attributable to a foreign expropriation loss) for the taxable year.[1]

[1] The operation of this rule is illustrated as follows: Assume a taxpayer incurs a net operating loss for the taxable year of $80,000, of which $60,000 is attributable to a product liability loss. Assume further that taxable income for each of the 10 years immediately preceding the loss year is $5,000. The product

Product liability losses include not only the liability for damages under product liability claims, but also the expenses incurred in the investigation or settlement of, or opposition to, product liability claims. Indirect corporate expense, or overhead, is not to be allocated to product liability claims so as to become a product liability loss. Only expenses directly incurred in connection with the product liability claim are to be included in determining the amount of the product liability losses for the year.

The definition of product liability under the Senate amendment is intended to include the kinds of damages that are recoverable under prevelant theories of product liability. The laws of the several states regarding product liability are not uniform, but it is believed that the definition of product liability provided in the amendment is sufficiently broad to encompass the kinds of damages that may be recovered under product liability theories in most states. If a type of injury or damage included within the definition of the amendment (such as emotional harm without physical injury) it is to be considered a product liability loss (assuming it otherwise qualifies) even though it may not be recoverable under State law. Thus, if a taxpayer settles out of court on such a claim, the payment may be classified as a product liability loss even though the law of the State would not then have allowed recovery.

The definition of product liability in the amendment does not include liabilities arising under warranty, which essentially are contract liabilities. Nor does the definition include liabilities based on services performed by the taxpayer. For example, medical or legal malpractice is not a product liability under the definition. Where both product and services are an integral part of the transaction, such as in the sale and installation of a boiler by the taxpayer, no product liability arises under the definition until all operations have been completed (or terminated) and the taxpayer has relinquished possession of the product. If the loss occurs prior to that point in time, it is not a product liability loss under the definition.

The Senate amendment also makes it clear that self-insurance of product liability risks is a business need for which earnings and profits may be accumulated to a reasonable extent without imposition of the tax on unreasonable accumulation of earnings. This amendment is consistent with, and merely clarifies, present law. Under the amendment, the Secretary of the Treasury will prescribe regulations regarding the determination of the amount that may reasonably be accumulated to meet product liability self-insurance needs. It is expected that the regulations will provide that in determining what is a reasonable accumulation, it is appropriate to take into account the taxpayer's product liability experience, the extent of its commercial coverage for product liability, and the tax consequences of the taxpayer's ability to deduct product liability losses and related expenses for income tax purposes. Estimates of product liability claims that may be made against the taxpayer in the future must be reasonable both as to probability of occurrence and amount.

The Senate amendment would be effective for product liability losses deductible in taxable years beginning after September 30, 1979.

Conference agreement.—The conference agreement follows the Senate amendment.

107. Certain Costs Sharing Payments

House bill.—No provision.

Senate amendment.—Under the Senate amendment, an exclusion from gross income would be provided for certain payments received under a number of Federal and State cost-sharing conservation programs. The exclusion would apply to the extent that the Secretary of Agriculture determines that the payment is made primarily for conservation, etc., purposes and only to the extent the Secretary of the Treasury determines that the payment does not increase substantially the annual income of the recipient. Neither a current deduction, depreciation, amortization, depletion, nor the investment credit may be claimed with respect to amounts excluded under this provision. The basis of any property acquired or improved with such payments would not reflect the amount of such payments. Ordinary income recapture is provided (to the extent of the lesser of the income recognized or the excluded payments) where the property or improvements purchased with such payments are disposed of before the expiration of 20 years. The amount recaptured is reduced 10 percent per year after the first ten years.

Conference agreement.—The conference agreement generally follows the Senate amendment with certain technical changes. The most significant of these changes provides that a payment (or a portion of a payment) will be excluded from income if the Secretary of the Treasury determines that the payment will not increase substantially the annual income from the property with respect to which the payment is made.[1]

108. Claim of Right Carryback

House bill.—No provision.

Senate amendment.—If a taxpayer includes in income for a prior year an amount received or accrued under a 'claim of right," and it subsequently is determined that no such "claim of right" existed then a deduction is allowed for the amount restored to another. This situation may arise, for example, when a utility bills customers based on a temporary rate schedule, and after the rates are finalized by a utility commission in a subsequent year must make rebates to its customers.

The tax benefit (i.e., reduction in current year taxes) that is attributable to this deduction is the greater of the tax reduction that would be realized by treating the item as a deduction in (1) the year it originally was included in income, or (2) the subsequent year in which it was discovered that the claim of right did not exist.

If the greater tax benefit is realized by treating the item as a deduction in the prior year, it may result in a tax benefit greater than the entire tax liability otherwise due in the current year. In this case, the excess benefit is treated as an overpayment of tax in the current year and is refundable. Under present law, however, this refund may not be received for several years, since it is treated as an overpayment of tax for the current year and payment may be postponed until the return for the year is audited.

The Senate amendment provides that a taxpayer may apply for a tentative refund of the amount of an overpayment for a taxable year that is attributable to a claim of right adjustment. The application for tentative refund may not be filed before the taxpayer has filed its income tax return for the taxable year, and must be filed within 12 months after the close of the taxable year. The amendment specifies certain information that must be provided in connection with the application.

Within 90 days after the application is filed (or, if later, within 90 days after the last day of the month in which the tax return for the year in which the overpayment occurs must be filed, including extensions) the Secretary of the Treasury must review the application, determine the amount of the overpayment and apply credit or refund the overpayment to the taxpayer.

This application for tentative refund will be administered in a manner similar to the manner prescribed under present law for tentative refunds due to carryback of net operating losses, investment tax credit, etc. Thus, special rules may need to be prescribed by the Secretary of the Treasury to take into account special problems involving consolidated returns.

The amendment applies to tentative refund claims filed on and after the date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

109. Revision of Disability Income Exclusion for Married Taxpayers

House bill.—No provision.

Senate amendment.—Under present law, a disability income exclusion generally is available to taxpayers who have not attained age 65 before the close of the taxable year and who have retired because of permanent and total disability. This exclusion is limited to $100 per week (a maximum of $5,200 a year). The amount of the exclusion is phased out on a dollar-for-dollar basis for taxpayers with adjusted gross incomes greater than $15,000. Thus, a taxpayer with $20,200 or more of adjusted gross income is not entitled to an exclusion.

In order to claim the disability income exclusion, a taxpayer who is married at the close of a taxable year must file a joint return with his or her spouse, unless they have lived apart at all times during that year.

The Senate amendment eliminates the requirement under present law that married taxpayers claiming the disability income exclusion must file a joint return. Thus, under the Senate amendment, if a married taxpayer filed a separate return, the phase-out of the exclusion for adjusted gross income over $15,000 would be computed without regard to any income of the other spouse.

Conference agreement.—The conference agreement does not contain this provision.

110. Conditional Tax Reductions Based on Limited Federal Spending

House bill.—No provision.

Senate amendment.—Under present law, individual income tax rate reductions are not linked directly to Federal spending.

The Senate amendment provides individual income tax reductions for 1980–1983 if: (1) total Federal outlays, as agreed to in the appropriate fiscal year budget resolution, do not exceed the following percentages of the projected gross national product:

Fiscal year	*Percent*
1980	21.0
1981	20.3
1982	19.6
1983	19.0

(2) the increase in Federal outlays specified in the budget resolution for a fiscal year does not exceed the previous year's outlays by more than the percentage increase in prices plus one percent; (3) for fiscal year

liability loss of $60,000 may first be carried back to the 10th through the 4th preceding years, thus absorbing $35,000 of the loss. The remaining $25,000 of product liability loss is added to the "regular" net operating loss of $20,000 (for a total of $45,000) and is carried to the 3rd through 1st preceding years, which utilizes $15,000 of the loss. The remaining loss ($30,000) is carried forward to future years under present law rules, without regard to the source of the loss. Of course, in computing the amount of loss that may be carried from one preceding year to another, the normal adjustments under section 172 (such as the adjustment for the capital gain exclusion or excess of nonbusiness deductions over nonbusiness income) would continue to be applicable even in the extended carryback years.

[1] The comparable restriction in the Senate amendment indicated that a payment would be excludible only if the Secretary of the Treasury determines that the payment would not increase substantially the annual income of the recipient.

1982 only total Federal outlays do not exceed total revenues, as specified in the Second Concurrent Budget Resolution.

Conference agreement.—The conference agreement provides that as a matter of national policy the rate of growth in Federal outlays, adjusted for inflation, should not exceed one percent per year between fiscal year 1979 and fiscal year 1983; Federal outlays as a percentage of gross national product should decline to below 21 percent in fiscal year 1980, 20.5 percent in fiscal year 1981, 20 percent in fiscal year 1982 and 19.5 percent in fiscal year 1983; and the Federal budget should be balanced in fiscal years 1982 and 1983. If these conditions are met, it is the intention that the tax-writing committees of Congress will report legislation providing significant tax reductions for individuals to the extent that these tax reductions are justified in the light of prevailing and expected economic conditions.

111. Sense of the Senate Regarding Revenue Loss for Fiscal Years After 1979

House bill.—No provision.

Senate amendment.—The Senate amendment expresses the sense of the Senate that the conferees on the part of the Senate shall limit, to an extent that is practical and reasonable, the revenue loss for the fiscal years following 1979.

Conference agreement.—The conferees agreed to the principles contained in the sense of the Senate regarding limiting the revenue loss for the fiscal years following 1979.

112. Study by the Treasury on Ways to Simplify Federal Individual Income Tax Return Forms and Instructions

House bill.—No provision.

Senate amendment.—The Senate amendment provides for the establishment of a Treasury Department task force to study the simplification of individual income tax returns and related instructions. Graphic and communication experts would be used in this study. Interim reports would be made to the Secretary, and a final report, with recommendations, would be made to the Congress not later than 2 years after date of enactment.

Conference agreement.—The conference agreement follows the Senate amendment.

113. Involuntary Conversion of Livestock

House bill.—No provision.

Senate amendment.—Under present law, taxpayers may elect not to recognize gain realized on the involuntary conversion of certain property if property similar or related in service or use to the property converted is acquired by the taxpayer within the replacement period. In such a situation, gain is recognized only to the extent that the amount realized exceeds the cost of the replacement property. The basis of the replacement property is that of the converted property, decreased by any gain not recognized.

In the case of involuntarily converted livestock, the replacement property satisfies the "similar or related in service or use" requirement for nonrecognition only if the new livestock is functionally the same as that converted.

The Senate amendment provides that gain realized on the involuntary conversion of livestock will qualify for nonrecognition if property, which is to be used for farming purposes (including farm land), is acquired by the taxpayer. All other rules of present law would continue to apply. The provision is effective for taxable years beginning after December 31, 1974.

Conference agreement.—The conference agreement follows the Senate amendment, except that gain realized from the involuntary conversion of livestock can be rolled over into other farming property only if the conversion of the livestock was due to environmental contamination. In all other cases, the provisions of present law would continue to apply with respect to gain realized on the involuntary conversion of livestock.

114. Tax Credit for 1976 Minimum Tax on Intangible Drilling Costs

House bill.—No provision.

Senate amendment.—The 1976 Tax Reform Act made certain excess intangible drilling costs an item of preference subject to the minimum tax for individuals. The 19-7 Tax Reduction and Simplification Act modified the formulation of the tax preference for 1977 so that it would apply only to the extent that excess intangible drilling costs exceeded oil income. This modification would be continued under both the House and the Senate versions of the energy tax act, and also is contained in the Senate amendment to the House bill.

The Senate amendment provides a tax credit for individuals whose regular tax, increased by their 1976 minimum tax on intangible drilling costs, exceeded their taxable income. The credit generally would be equal to the 1976 minimum tax on intangible drilling costs. However, no credit would be available unless the taxpayer's intangible drilling costs for the year in question are at least equal to 110 percent of his or her 1976 intangible drilling costs. This provision is effective for taxable years beginning after December 31, 1977, and before January 1, 1982.

Conference agreement.—The conference agreement does not contain this provision.

115. Minimum Tax on 5-Year Amortization of Low-Income Housing

House bill.—No provision.

Senate amendment.—Under present law, special depreciation rules for certain low-income rental property allow taxpayers to elect to compute depreciation on eligible rehabilitation expenditures under a straight-line method over a period of 60 months.

For purposes of the minimum tax, excess depreciation on real property is an item of tax preference. Excess depreciation generally is that amount by which the deduction allowable for the taxable year exceeds the depreciation deduction which would have been allowable for that year had the taxpayer depreciated the property under the straight-line method for each taxable year of its useful life. The amount of any excess depreciation is determined without regard to the special election allow for low-income rental property.

The Senate amendment provides that in a case of an election to depreciate certain low-income rental housing under the special depreciation rules, the amount treated as an item of tax preference will not exceed the amount which would have been treated as an item of tax preference if the taxpayer had claimed as a depreciation deduction an allowance computed under the declining balance method using a rate not in excess of twice the rate which would have been used had the allowance been computed under the straight-line method. Thus, only the excess depreciation over that which would have been allowed had the double declining balance method been used would be a tax preference item. This provision is effective for taxable years ending after December 31, 1978.

Conference agreement.—The conference agreement does not contain this provision.

116. Individual Retirement Accounts Technical corrections

House bill.—No provision.

Senate amendment.—The Senate amendment makes several changes to the provisions of the Code dealing with IRAs (individual retirement accounts, individual retirement annuities, and retirement bonds). These changes generally affect (1) the timing of IRA contributions, (2) IRA penalty tax liability, and, (3) rollovers of plan and IRA distributions to IRAs and to other qualified plans. The Senate amendment is essentially the same as the bill reported from the House Ways and Means Committee on October 6, 1978, H.R. 13619. The provisions generally apply to taxable years beginning after December 31, 1978, however, some provisions contain retroactive amendment dates.

Conference agreement.—The conference agreement follows the Senate amendment except that the effective dates of the provisions were changed to conform with those set forth in H.R. 13619. The conferees agree with the interpretation of the provisions as set forth in the House Ways and Means Committee report, 95-1739.

The only clarification made by the conferees concerns the portion of money or other property to be treated as attributable to the employee contributions where property received in the distribution is sold and a partial rollover of the distribution is made. The conferees have agreed that employee contributions should come first from the ordinary income portion of the amount of the distribution retained.

117. Disclosure of Tax Return Information to the Department of Justice in Tax Administration Matters

House bill.—No provision.

Senate amendment.—Under present law, in tax administration matters, returns and return information are generally made available to attorneys of the Department of Justice (including United States attorneys) in preparation for any proceeding (or investigation which may result in such a proceeding) before a Federal grand jury or any Federal or State court. One of the requirements to be met before the return is made available in these situations is that the taxpayer whose return is the subject of disclosure either be or may be a party to the proceeding involved. The return of a third party could also be made available to the Department of Justice in preparation for a tax proceeding where the third party's return or return information relates or may relate to a transaction between the third party and the taxpayer whose tax liability is or may be at issue, and the return information pertaining to the transaction may affect the resolution of an issue of the taxpayer's liability. The disclosure of a third party return in a tax proceeding is subject to the same transactional tests, described above, except that the transactions must have a direct relationship to the resolution of an issue of the taxpayer's liability.

The Senate amendment modifies present law in three respects. First, the return of a taxpayer who is not a party to the proceeding may be made available to the Department of Justice if the proceeding arose out of, or in connection with, determining the taxpayer's civil or criminal tax liability or the collection of civil tax liability. This provision would apply in such situations as where the taxpayer's liability may have given rise to transferee liability or where taxpayer did not (or was unable to) intervene in a summons enforcement case.

The second modification makes it clear that disclosures of third party returns made to the grand jury in tax cases are investigative disclosures and, thus, not subject to the more restrictive requirements applicable to disclosures of third party returns in tax proceedings.

The third modification allows disclosure of returns to officers and employees of the Department of Justice, rather than just the attorneys of the Department of Justice.

This provision applies to disclosures made after December 31, 1978.

Conference agreement.—The conference agreement follows the Senate amendment.

VIII. PROVISIONS RELATING TO SOCIAL SECURITY ACT PROGRAMS

118. Title XX Social Services Programs

a. Ceiling on Federal Title X Funds

House bill.—No provision.

Senate amendment.—Under existing law there is a permanent annual ceiling of $2.5 billion on Federal matching funds for the state Title XX social services programs. Since October 1, 1976 an additional $200 million of Federal Title XX funds has been available to states on a non-matching basis. To qualify for their portion of the $200 million states have to spend for day care under Title XX an amount equal to their additional allotment under the temporary $200 million. Authority for this $200 million expired September 30, 1978.

The Senate amendment increases the permanent ceiling to $2.9 billion beginning with fiscal year 1979. $200 million of the Title XX funds would be designated for child care services with no state matching requirement in Fiscal year 1979.

Conference agreement.—The conference agreement follows the Senate amendment except that the increase in the ceiling to $2.9 billion is for one year only (fiscal year 1979). After 1979, the ceiling reverts to $2.5 billion.

b. Multiyear Planning Program

House bill.—No provision.

Senate amendment.—Present law requires states to develop an annual services plan for the title XX program in the state. The Senate amendment provides the option for a state to establish either a one, two or three year Title XX program period.

Conference agreement.—The conference agreement does not include this provision.

c. Program Year Used by States

House bill.—No provision.

Senate amendment.—Under present law states must use either the Federal or state fiscal year as their program year for their Title XX social services program year. The Senate amendment would also give states the option to establish their social services program plans according to the fiscal year which applies to counties in the state.

Conference agreement.—The conference agreement does not include this provision.

119. AFDC Management Information System

House bill.—No provision.

Senate amendment.—Present law provides that states receive 50 percent Federal matching for the cost of administering their AFDC programs. The Senate amendment provides 90 percent Federal matching to states for the costs of developing and implementing computerized AFDC management information systems and 75 percent for the cost of their operation. HEW would be required to approve state systems as a condition of Federal matching (both initially and on a continuing basis). A state system would have to include certain specified characteristics, including ability to provide data on AFDC eligibility factors, capacity for verification of factors with other agencies, capability for notifying child support, food stamps, social services and Medicaid programs of changes in AFDC eligibility and benefit amount, compatibility with systems in other jurisdictions, and security against unauthorized access to or use of data in the system. HEW would be required to provide technical assistance to the states. Increased matching would be payable for quarters beginning January 1, 1979.

Conference agreement.—The conference agreement does not include this provision.

120. Amendments to AFDC Employment Requirements under WIN Program

a. Employment Search Requirement

House bill.—No provision.

Senate amendment.—Present law provides that AFDC recipients who are not specifically exempt are required to register for manpower services, training and employment as a condition of AFDC eligibility. The Senate amendment adds "other employment related activities" to the types of activities for which recipients must register. Requires that necessary social and supportive services be provided during employment search.

Conference agreement.—The conference agreement does not include this provision.

b. Termination of Assistance

House bill.—No provision.

Senate amendment.—Present law provides assistance is to be terminated for so long as an individual (who has been certified by the welfare agency as ready for employment or training) refuses without good cause to participate in WIN. There is a 60 day counseling period during which assistance may not be terminated despite an individual's refusal to participate in WIN so long as the individual accepts counseling and other services aimed at persuading the individual to participate in a WIN program.

The Senate amendment eliminates provision for the 60 day counseling period. It also authorizes the Secretaries of Labor and HEW to establish by regulation the period of time during which an individual will not be eligible for assistance in the case of refusal without good cause to participate in a WIN program.

Conference agreement.—The conference agreement does not include this provision.

c. Support Units

House bill.—No provision.

Senate amendment.—Present law requires states to have special units to provide social and supportive services to enable WIN registrants to engage in seeking and retaining employment.

The Senate amendment requires that these special units be colocated with the WIN manpower units to the maximum extent feasible.

Conference agreement.—The conference agreement does not include this provision.

d. Matching Funds

House bill.—No provision.

Senate amendment.—Present law provides that states must provide 10% of the cost of the WIN program. Matching for manpower activities may be in cash or in-kind, but matching for the supportive services must be in cash.

The Senate amendment would allow state matching for the supportive services to be in cash or in-kind.

Conference agreement.—The conference agreement does not include this provision.

e. Treatment of Public Service Employment Earnings

House bill.—No provision.

Senate amendment.—Current law makes it unclear whether income from public service employment is excluded in determining AFDC benefits.

The Senate amendment clarifies that income from public service employment is not excluded in determing AFDC benefits.

Conference agreement.—The conference agreement does not include this provision.

f. Individuals Exempt From WIN

House bill.—No provision.

Senate amendment.—Present law provides that certain categories of AFDC recipients are exempted from the WIN registration requirement, including children under 16; persons caring for a child under 6; persons who are ill or needed as caretaker of someone in the home who is ill; or persons who are remote from a WIN project.

The Senate amendment adds to the individuals who are exempted from registration for WIN individuals who are working at least 30 hours a week.

Conference agreement.—The conference agreement does not include this provision.

121. Incentive for AFDC Recipients to Report Earnings

House bill.—No provision.

Senate amendment.—Present law requires AFDC recipients to report earnings to the welfare agency. There is provision for disregarding portions of earned income in determining eligibility for and amount of the AFDC payment. When unreported earnings resulting in overpayments are discovered, the earned income disregards are applied to the unreported earnings in calculating the amount of the overpayment.

The Senate amendment provides that, if a recipient fails without good cause to make a timely report of earnings, the recipient would not have the benefit of having the earned income disregards applied to such unreported earnings.

Conference agreement.—The conference agreement does not include this provision.

122. Matching for Child Support Costs of Court Personnel

House bill.—No provision.

Senate amendment.—Under present law State plans under the Title IV–D child support enforcement program must provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. The law provides for entering into financial arrangements with courts and officials. HEW regulations prohibit Federal matching for salaries of judges and their support staff.

The Senate amendment authorizes matching for compensation for judges and other support and administrative personnel of courts who perform Title IV–D functions, but only for those functions specifically identifiable as IV–D functions. Matching would be provided only for expenditures in excess of levels of spending in the state for these activities in 1976.

Conference agreement.—The conference agreement does not include this provision.

123. Increase in Federal Funding for Territorial Assistance Programs

House bill.—No provision.

Senate amendment.—Under present law, public assistance programs in Puerto Rico, Guam and the Virgin Islands qualify for Federal matching at a 50 percent rate and are subject to dollar limits on the amount of Federal funding available. The annual limit is $24 million for Puerto Rico, $800,000 for the Virgin Islands and $1.1 million for Guam.

The Senate amendment would increase the Federal matching rate for public assistance programs (aid to the aged, blind and disabled and AFDC) to 75 percent and would triple the maximum annual amount of Federal funding to $72 million for Puerto Rico, $2.4 million for the Virgin Islands, and $3.3 million for Guam.

Conference agreement.—The conference agreement follows the Senate amendment, except that the increase in the matching rate and ceilings is effective only for one year—fiscal year 1979.

124. Northern Mariana Island Provisions

House bill.—No provision.

Senate amendment.—In present law, the covenant establishing the Commonwealth of the Northern Marianas specifically extended the supplemental security income (SSI) program to that jurisdiction and implicitly extends other public assistance programs. Statutory provisions do not specifically include the Marianas under any Social Security Act programs.

The Senate amendment provides for bringing the Mariana Commonwealth under the Social Security Act public assistance programs in a manner compatible to the other territories. This would allow the Commonwealth to provide assistance and social services under state plan programs of the aged, blind and disabled and aid to families with dependent children. Coverage under the med-

ical assistance (Medicaid) program would also be provided. Under the Senate amendment, the SSI program would no longer be applicable in the Marianas.

Conference agreement.—The conference agreement does not include this provision.

125. Foster Care, Adoption Assistance, and Child Welfare Services

a. Ceiling on Federal AFDC Foster Care Funds

House bill.—No provision.

Senate amendment.—Under present law Title IV–A authorized open-ended Federal matching for use by states to provide foster care payments for the care of children who (1) meet the state AFDC eligibility requirements and (2) have been removed from their homes as the result of judicial determination. Federal matching rate is the same as for AFDC income maintenance payments.

The Senate amendment creates a new Part E of Title IV "Federal Payments for Adoption Assistance and Foster Care" and amends the child welfare services program. It also establishes a ceiling on Federal foster care funding. The state's fiscal year 1978 expenditures of Federal funds for foster care would be the base and the allotment for each state could not exceed an additional 20 percent in 1979 and 10 percent per year in each of the next 4 years. To provide room for growth in states with small programs an alternative ceiling could be provided equal to each state's share of $100 million based on state population under age 21. States that did not use their full allotment for foster care could use excess funds for IV–B child welfare services.

Conference agreement.—The conference agreement does not include this provision.

b. Foster Care Provided in Institutions

House bill.—No provision.

Senate amendment.—Present law provides that Federal foster care matching funds are available for foster care provided in institutions only in the case of nonprofit private institutions.

Th Senate amendment allows funding of foster care maintenance payments for children in public facilities, but only if the public institution serves no more than 25 children. Funding would not be available for children in such institutions prior to enactment of these provisions.

Conference agreement.—The conference agreement does not include this provision.

c. Adoption Assistance

House bill.—No provision.

Senate amendment.—Under present law Federal AFDC matching funds are not available for adoption subsidies.

The Senate amendment authorizes states to make assistance payments to parents who adopt "hard-to-place" children. The matching rate would be the same as under the AFDC program. States would have to find that the child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that after making a reasonable effort consistent with the child's needs, the child has not been adopted without offering of financial assistance. The determination of whether a child is difficult to place would have to be made by the state based on a specific fact or condition because of which it is reasonable to conclude that the child cannot be adopted without adoption assistance.

Families would be eligible for an adoption subsidy so long as their income does not exceed 115 percent of the median family income for a family of four in the state, adjusted to reflect family size. The amount of the subsidy would be agreed on by the family and the agency but could not exceed the amount paid for foster care (in a foster family home) and would be terminated when the child reached 18 or the family's income exceeded the specified limits. A child with a medical disability that existed at the time of adoption would continue to be covered under medicaid for treatment related to that medical disability. States would be permitted to make an adopted child with a pre-existing medical condition eligible for treatment under medicaid for other medical conditions as well. Matching for adoption subsidies would not be provided for adoption agreements entered into after January 1, 1983.

Conference agreement.—The conference agreement does not include this provision.

d. Federal Funds for Child Welfare Services

House bill.—No provisions.

Senate amendment.—Present law authorizes $266 million (of which $56.5 million was appropriated for fiscal year 1978) in Federal matching funds to be alloted to the States for a wide range of child welfare services and for foster care payments. The theoretical Federal matching rate ranges from 33⅓ to 66⅔ percent. There are no prohibitions on the use of funds for foster care maintenance payments.

The Senate amendment retains the present law authorization of up to $266 million for child welfare services, but increases the Federal matching to 75 percent, and provides that funds appropriated in future years that are above the amount appropriated for fiscal year 1978 ($56.5 million) may not be used for foster care maintenance payments.

Conference agreement.—The conference agreement does not include this provision.

e. Foster Care Protections

House bill.—No provision.

Senate amendment.—There is no provision in present law. The Senate amendment permits States to use child welfare service funds for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. The amendment allows the Congress to designate that any new funding be specifically used for these purposes. In the first year for which a State receives funds for these purposes it would be allowed to use them to conduct an inventory of children who have been in foster care for 6 months preceding the inventory, and to design and develop a statewide information system for children in foster care, a case review system for each child, and a service program designed to help children remain with their families.

Conference agreement.—The conference agreement does not include this provision.

126. AFDC Earned Income Disregard

House bill.—No provision.

Senate amendment.—Under present law, in determining the amount of benefits to be paid to an AFDC recipient with earnings the following formula is used: Disregard (1) $30 a month in earnings, (2) one-third of remaining earnings, and (3) the amount of work related expenses.

The Senate amendment provides for disregarding from earned income (1) an amount equal to reasonable child care expenses (subject to limitation prescribed by HEW), (2) from the remaining income $60 a month in the case of an individual working full time and $30 in the case of an individual working part-time (3) one-third of the next $300 of monthly earnings, and (4) one-fifth of the remaining earnings.

Conference agreement.—The conference agreement does not include this provision.

APPENDIX:

BUDGET EFFECTS OF HOUSE, SENATE AND CONFERENCE VERSIONS OF H.R. 13511

[In millions of dollars]

Part A.—Tax reductions and Revisions

Item	House					Senate					Conference				
	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983
Individual Tax Reduction and Revisions															
Bracket widening, rate cuts, and increase zero bracket amount	−6,549	−11,608	−13,440	−15,587	−18,104	−8,571	−22,049	−23,453	−27,842	−33,099	−7,317	−13,057	−15,453	−18,317	−21,742
Exemption related provisions:															
Repeal general tax credit	7,278	10,809	11,428	12,097	12,818	7,278	10,809	11,428	12,097	12,818	7,278	10,809	11,428	12,097	12,818
$1,000 personal exemption	−8,177	−12,171	−12,902	−13,677	−14,497	−8,177	−12,171	−12,902	−13,677	−14,497	$ −8,177	−12,171	−12,902	−13,677	−14,497
Additional exemption for disabled						−121	−248	−379	−519	−546					
Earned income credit provisions:															
Simplify earned income credit		−17	−16	−16	−15		−17	−16	−16	−15		−17	−16	−16	−15
Increase earned income credit						−110	−1,969	−1,624	−1,588	−1,497	−82	−1,210	−960	−921	−885
Itemized deductions and tax credits:															
Repeal gasoline tax deduction	471	1,237	1,458	1,720	2,029	471	1,237	1,458	1,720	2,029	471	1,237	1,458	1,720	2,029
Revise medical expense deduction	16	43	51	60	71										

Item	House					Senate					Conference				
	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983
Disability income exclusion						−26	−14	−15	−16	−17					
Repeal political contributions deduction	2	6	7	8	10							−20	−33	−20	−28
Increase political contribution credit							−16	−26	−16	−16					
Increase elderly credit						−104	−278	−278	−278	−278					
Credit for child care services						−5	−38	−39	−40	−39	−5	−38	−39	−40	−39
Tuition tax credit						−330	−539	−968	−845						
Tax certain unemployment benefits		251	261	259	263							251	261	259	263
Deferred compensation provisions						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Pension plan provisions:															
Additional contributions to pension plans						−144	−352	−425	−487	−536					
IRA pension plans						−6	−18	−29	−39	−49	−6	−18	−29	−39	−49
Rollover of annuities						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
IRA technical provisions						−25	−12	−12	−12	−12	−25	−12	−12	−12	−12
Total, individual	−6,959	−11,450	−13,153	−15,136	−17,425	−9,870	−25,675	−27,280	−31,558	−35,754	−7,863	−14,246	−16,297	−18,966	−22,149
Business tax Reductions and Revisions															
Tax rates on corporate income	−2,281	−5,286	−5,788	−6,338	−6,940	−2,281	−6,109	−8,616	−10,558	−11,561	−2,281	−5,286	−5,788	−6,338	−6,940
Investment tax credit provisions:															
Increase limitation to 90%	−129	−441	−872	−1,015	−782	−129	−441	−872	−1,015	−782	−129	−441	−972	−1,015	−782
Investment credit for pollution control facilities	−6	−18	−42	−76	−104	−10	−34	−85	−156	−211	−6	−18	−42	−76	−104
Investment credit for certain food and plant production						[3] −53	−33	−22	−24	−26	[3] −53	−33	−22	−24	−26
Investment credit for farm cooperatives						−15	−33	−35	−37	−39	−20	−33	−35	−37	−39
Investment credit for breeding and draft horses						−6	−16	−17	−19	−21					
Extend 1 yr carryover period for unused credits						(2)	(2)	(2)	(2)	(2)					
Modify credit limitation for lessors of railroad cars						−4	−5	(1)	2	2	−4	−5	(1)	2	2
Credit recapture on property transfers to Con-Rail						−3					−3				
Investment credit for rehabilitated structures	−84	−259	−292	−318	−340	−9	−52	−190	−215	−234	−67	−181	−205	−222	−238
Jobs credit provisions:															
Repeal general jobs credit	689	2,458	2,458	2,458	2,458	689	2,458	2,458	2,458	2,458	689	2,458	2,458	2,458	2,458
Targeted jobs credit	−189	−602	−745	−824	−875	−129	−455	−601	−560	−85	−141	−483	−651	−426	−86
WIN credit						−58	−223	−314	−370	−422	−39	−136	−197	−234	−264
Extend general jobs credit in modified form						−360	−1,350	−990							
Industrial development bond provisions:															
Small issues exception to IDB tax treatment	(1)	−3	−13	−22	−30	(1)	−4	−17	−29	−39	(1)	−3	−13	−22	−30
Bonds for certain qualified public facilities						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Advance refundings of certain other IDB's						(1)	−8	−9	−9	−9					
Bonds for water projects						(1)	−6	−26	−49	−65	(1)	−7	−31	−59	−78
Industrial development bonds for facilities involving urban grants							(1)	−1	−5	−9		(1)	−1	−4	−7
IDB use for local furnishing of electricity by State power authority						(1)	−3	−10	−18	−23	(1)	−3	−10	−18	−23
Subchapter S corporations	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Small business corporation stock	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Accrual accounting for farm corporations	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Accounting for costs of growing crops	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Small business depreciation	−148	−357	−305	−263	−232	−37	−421	−1,439	−2,374	−2,376					
Denial of deduction for expenditures on entertainment facilities						51	116	126	138	151	13	29	31	34	38
Deficiency dividend procedure for regulated investment companies						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Safe harbor rule for REIT's						(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Contributions in aid of construction [5]						(2)	−50	−100	−100	−100	(2)	−50	−100	−100	−100
Treatment of certain liabilities on incorporation of trade or business						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Medical reimbursement plan							(2)	(2)	(2)	(2)		(2)	(2)	(2)	(2)
Postponement of effective date for special limit on NOL's						(2)	(2)	(2)	(2)	(2)	(2)	(2)	([3])	(2)	(2)
Redemptions of U.S. Railway certificates of value						(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Railroad rolling stock (Sec. 861)						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)

Footnotes at end of table.

APPENDIX:—Continued

BUDGET EFFECTS OF HOUSE, SENATE AND CONFERENCE VERSIONS OF H.R. 13511—Continued

Part A.—Tax reductions and revisions—Continued

Item	House					Senate					Conference				
	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983
Industrial development bond provisions: Con. Tax shelter provisions	2	14	10	8	5						2	13	9	7	5
Total, business	−2,146	−4,494	−5,589	−6,390	−6,840	−2,354	−6,669	−10,760	−12,940	−13,391	−2,039	−4,179	−5,469	−6,074	−6,214
Capital Gains Reductions and Revisions															
Individuals revisions: Repeal alternative tax	(1)	133	143	154	166	20	133	143	154	166	20	133	143	154	166
Remove capital gains from preferences	(1)	−1,327	−1,459	−1,605	−1,766										
Capital gains exclusion						−250	−3,394	−3,648	−3,922	−4,214	−131	−1,763	−1,895	−2,037	−2,190
Exclude gains from sale of personal residence	−282	−745	−820	−901	−992	−161	−322	−354	−388	−426	−165	−415	−457	−502	−552
Sale of personal residence within 18 months	−2	−3	−3	−3	−3	−2	−3	−3	−3	−3	−3	−4	−4	−4	−4
Postponement of carryover basis						−36	−93	−162	−185	−190	−36	−93	−162	−185	−190
Index the basis of certain capital assets		(1)	−409	−1,396	−2,082										
Corporate provisions: Remove capital gains from preferences		−95	−104	−114	−125										
Index basis of certain capital assets		−58	−263	−583	−977										
Reduce alternative tax rate on capital gains						−53	−125	−141	−155	−170	−53	−125	−141	−155	−170
Tax increase from induced capital gains realizations						85	1,092	1,173	1,261	1,356	37	738	799	864	1,011
Total, Capital gains	−284	−2,095	−2,915	−4,448	−5,779	−397	−2,712	−2,992	−3,238	−3,483	−331	−1,529	−1,717	−1,865	−1,929
Minimum and Maximum Tax Provisions															
Repeal existing minimum tax							−1,566	−1,722	−1,894	−2,083		−1,274	−1,401	−1,541	−1,695
Alternative minimum tax							1,603	1,763	1,939	2,133		739	813	894	984
Alternative minimum tax on capital gains	(1)	172	190	209	230										
Intangible drilling costs in minimum tax						−51	−61	−73	−84	−97	−51	−61	−73	−84	−97
Intangible drilling cost tax credit from 1976 liability						−15	−5	−3							
Limitation on personal service income						−21	−59	−69	−79	−91	−21	−59	−69	−79	−91
Tax preference offset						−6	−52	−57	−63	−69	−6	−52	−57	−63	−69
Total, minimum and maximum tax	(1)	172	190	209	230	−93	−140	−161	−181	−207	−78	−707	−787	−873	−968
Other Tax Provisions															
Independent contractor status[6]						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)		
Reporting of tips[7]						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Revised estate tax for joint farm and business						(1)	−41	−43	−46	−48	(1)	−41	−43	−46	−48
Puerto Rico S & L associations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Reduce excise tax on foundation investment income						−40	−40	−40	−40	−40	−40	−40	−40	−40	−40
Excise tax on gaming machines phased out						−5	−6	−7	−7	−7	−5	−6	−7	−7	−7
Excessive Government spending surtax						(4)	(4)	(4)	(4)	(4)					
Charitable lead trusts						[3] −15					[3] −15				
Attributable rules for extension of time to pay estate tax						(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Exemption from private foundation tax for failure to distribute						(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
Small tax case procedures before tax court						(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)
Tax treatment of cooperative housing corporations						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Tax exemption for certain mutual guaranty organizations						[3] −5	(1)	(1)	(1)	(1)	[3] −5	(1)	(1)	(1)	(1)
Tax accounting rules for magazines, etc							−5	−11	−12	−13		−5	−11	−12	−13
Tax accounting rules for discount coupons							[9] −103	−10	−10	−10		[9] −103	−10	−10	−10
Exempts farm and soil and water conservation trucks from use tax						−12	−20	−20	−20	−20					
Taxes foreign investors on sale of farmland						(2)	(2)	(2)	(2)	(2)					
Alaskan Native Claims Settlement Act						(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)	(5)
Conditional tax reductions						(4)	(4)	(4)	(4)	(4)					
Technical corrections to the Tax Reform Act of 1976						[3] −8		(1)	−7	−10	[3] −8		(1)	−7	−10
Certain cost sharing payments							−28	−77	−78	−79		−28	−77	−78	−79

Item	House					Senate					Conference				
	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983
Involuntary conversion of livestock						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Claim of right						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Product liability carryovers						(1)	(2)	−7	−8	−9	(1)	(2)	−7	−8	−9
Uniformed services scholarship exclusion						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
National research service awards						[3] −52	−18	−10	(2)		−52	−18	−10	(2)	
Cancellation of student loans						(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Employer educational assistance						−18	−28	−31	−35	−39.	−18	−28	−31	−35	−39
Total, other tax provisions						−155	−289	−256	−263	−275	−143	−269	−235	−243	−255
Total, tax reductions and revisions	−9,387	−17,867	−21,465	−25,765	−29,814	−12,869	−35,485	−41,449	−48,180	−53,110	−10,454	−20,930	−24,506	−28,021	−31,515

[1] Less than $1,000,000.
[2] Less than $5,000,000.
[3] Includes liabilities of prior years.
[4] No direct revenue effect is expected.
[5] The estimates were derived assuming that the position taken by the IRS is the correct one. The figures do not allow for revenue effects of additional charges the utilities may make in order to get reimbursement for the additional taxes payable under IRS ruling.
[6] The revenue effect cannot be estimated because the provision affects liabilities being contested by taxpayers in administrative and judicial proceedings.
[7] This provision has the effect of overturning Revenue Rulings 75-400 and 76-231. If the employer reporting requirements contained in these rulings were to take effect, increases in budget receipts could be substantial. This revenue is not being collected at the present time, therefore no change in budget receipts is estimated.
[8] Settlement of the contested issues is not expected to result in a significant impact on budget receipts through 1983.
[9] It is assumed the Service's position will be upheld by the courts in 1980.

PART B.—ESTIMATED REVENUE EFFECT OF EXTENDING OR MAKING PERMANENT EXISTING TEMPORARY INCOME TAX REDUCTION PROVISIONS, FISCAL YEARS 1979-83

[In millions of dollars]

Provision	House					Senate					Conference				
	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983	1979	1980	1981	1982	1983
Individual income taxes:															
Per capita credit[1]	−4,514	−6,583	−6,780	−6,984	−7,194	−4,514	−6,583	−6,780	−6,984	−7,194	−4,514	−6,583	−6,780	−6,984	−7,194
Optional taxable income credit[1]	−2,764	−4,226	−4,648	−5,113	−5,624	−2,764	−4,226	−4,648	−5,113	−5,624	−2,764	−4,226	−4,648	−5,113	−5,624
Earned income credit		−1,061	−1,019	−978	−938		−1,061	−1,019	−978	−938		−1,061	−1,019	−978	−938
Investment tax credit at 10-percent rate			−271	−741	−794			−271	−741	−794			−271	−741	−794
Amortization for low-income rate	(2)	−2	−6	−11	−14	(2)	−2	−6	−11	−14	(2)	−2	−6	−11	−14
Jobs tax credit[3]	−125	−983	−983	−983	−983	−125	−983	−983	−983	−983	−125	−983	−983	−983	−983
Total, individual income taxes	−7,403	−12,855	−13,707	−14,810	−15,547	−7,403	−12,855	−13,707	−14,810	−15,547	−7,403	−12,855	−13,707	−14,810	−15,547
Corporation income taxes:															
Rate reductions	−927	−2,148	−2,352	−2,575	−2,819	−927	−2,148	−2,352	−2,575	−2,819	−927	−2,148	−2,352	−2,575	−2,810
Investment tax credit at 10-percent rate			−1,800	−4,460	−5,489			−1,800	−4,460	−5,489			−1,800	−4,460	−5,489
TRASOP investment credit at 1½-percent rate								−178	−446	−545			−178	−446	−545
Amortization for low-income housing	(2)	−2	−5	−8	−10	(2)	−2	−5	−8	−10	(2)	−2	−5	−8	−10
Jobs tax credit[3]	−564	−1,475	−1,475	−1,475	−1,475	−564	−1,475	−1,475	−1,475	−1,475	−564	−1,475	−1,475	−1,475	−1,475
Total, corporation income taxes	−1,491	−3,625	−5,632	−8,518	−9,793	−1,491	−3,625	−5,810	−8,964	−10,338	−1,491	−3,625	−5,810	−8,964	−10,338
Total, temporary tax reduction extensions	−8,894	−16,480	−19,339	−23,328	−25,340	−8,894	−16,480	−19,517	−23,774	−25,885	−8,894	−16,480	−19,517	−23,774	−25,888
Grand total, tax reductions, revisions, and extensions	−18,283	−34,347	−40,804	−49,093	−55,154	−21,763	−51,965	−60,966	−71,954	−78,995	−19,348	−37,410	−44,023	−51,795	−57,400

[1] These items are not extended by H.R. 13511, but are allowed to expire after 1978 and are replaced by an increase in the personal exemption from $750 to $1,000.
[2] Less than $500,000.
[3] The expiring general jobs tax credit is not extended and an offsetting entry is shown in part A of this table.

4. Changes in Filing Requirements and Withholding Changes

House bill.—Under present law, a tax return must be filed by a single person and a head of household if his or her income is $2,950 or more a year and by a married couple under age 65 filing a joint return if their income is $4,700 or more. The House bill increases the filing levels for single person and a head of household to $3,300 and to $4,500 for a married couple (under age 65).

The withholding tax rates reflect the present law tax rates, the zero bracket amount, and the amount of the personal exemption. Under the House bill, the withholding rates and tables are to be changed by the Secretary of the Treasury to reflect the increase in the zero bracket amount and the personal exemption.

The change in the filing requirement is effective for taxable years beginning after December 31, 1978, and the withholding changes apply to wages paid after December 31, 1978.

Senate amendment.—The Senate amendment is the same as the House bill, except the filing requirement for heads of households is increased to $4,000.

The withholding changes are to be the same as the House bill except to reflect the higher zero bracket amount for heads of households and the different tax rate reductions.

The date for the filing requirement change is the same as the House bill, but the withholding changes are to apply to wages paid after July 31, 1978.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
JAMES C. CORMAN,
OMAR BURLESON,
SAM M. GIBBONS,
JOE D. WAGGONNER, Jr.,
JOHN J. DUNCAN,
BILL ARCHER,
Managers on the Part of the House.
RUSSELL B. LONG,
HERMAN TALMADGE,
ABRAHAM RIBICOFF,
HARRY F. BYRD, Jr.,
GAYLORD NELSON,
MIKE GRAVEL,
LLOYD BENTSEN,
SPARK MATSUNAGA,
DANIEL PATRICK MOYNIHAN,
CARL T. CURTIS,
CLIFFORD P. HANSEN,
BOB PACKWOOD.
Managers on the Part of the Senate.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

Mr. ARCHER. Mr. Speaker, I did not sign the conference report on the Energy Production and Conservation Tax Incen-

tives Act, and I do not support its adoption here today.

The distinguished chairman of the Ways and Means Committee, Mr. ULLMAN, has carefully outlined what the conference report contains. What he has not outlined, and what I think is by far more significant, is what is not contained in the energy tax conference report.

Remember a year and a half ago—before proposition 13 and tax cut fever spread through the land? Remember when a sweater-clad President Carter presented his Rube Goldberg contraption of an energy plan to the Nation and the Congress, complete with a crackling fireplace for public relations effect?

The bill contained a $40 billion tax on crude oil, a $25 billion tax on industrial use of oil and natural gas, and a $50 billion a year tax on gasoline. The revenues from this proposal, as submitted, were so astonishingly large as to stagger the imagination. But the Carter administration wanted them—and Democrats who control an overwhelmingly majority in this House, supported his crude oil and industrial use taxes.

What the conferees have produced is not a meaningful energy tax bill. The best that can be said is that it is not as abominable as that which was submitted by the President.

But it will not help to reduce our dependence on imported oil. We can only do that through conservation and increased production of oil and natural gas in this country and increased utilization of other resources. The free market mechanism provides the only rational way to deal with these matters.

Someone once said: "The proper memory for a politician is one that knows what to remember and what to forget."

As we stand here today in this House about to vote on these conference reports, I simply want everyone here to remember what a dismal legislative failure this entire package has been. If the House insists on passing this conference report—it might really be more proper to do so in special session on November 23d. The package started out as a turkey, it is now leftover turkey hash and turkey soup.

Mr. ASHLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, 1 year ago yesterday President Carter pinpointed what is at issue here when he said:

> Billions and billions of dollars are at stake: whether that money should * * * be grabbed by the oil companies at the expense of the American consumer.

Tragically these wise words have been forgotten by us and by the President resulting in this monstrous natural gas proposal, hidden in a package, which would transfer billions of dollars from the pocketbooks of consumers to the hands of big oil and gas producers. Not the small, independent producers who oppose this report, but Exxon, Mobil, Texaco, and the other major producers.

This report does not create a unified national market for gas. It allows allocation only from the interstate market. Incremental pricing is imposed upon industrial users only in the interstate market. Thus, gas will be cheaper for industries in the producing States, further encouraging the flight of industries from the Northeast and Midwest to the Sunbelt. The adoption of this report will cause the loss of jobs in the consuming States.

The gas report would add to unemployment, massively fuel the fires of inflation and create an administrative nightmare so complicated as to be a virtual mandate for fraud and abuse.

It would create bad law. Like all bad laws, it can only serve to breed contempt for the law. Its passage would harm consumers and independent producers and help only the Exxons, Mobils, and Shells. The choice is clear—this package must be rejected.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 2 minutes.

I wonder if I could have the attention of the gentleman from Michigan (Mr. DINGELL).

I have a question with respect to the agreement that was reached by the conferees on the subject of coal conversion, and specifically with respect to the cost concept of section 103 of the Coal Conversion Act.

I have the following understandings:

That the Secretary will include in the determinations of cost all reasonably likely operating costs, including the cost of meeting all applicable Federal, State, and local environmental and other legal requirements. Such costs would include, for example, flue gas desulfurizers, particulate removal systems, the acquisition of air pollution offsets, and the capacity and operating losses resulting from the operation of the abatement facility.

Second, in calculating costs, the Secretary will determine the reasonably likely expected capacity factor of the particular unit at issue, as that is determined by the Secretary.

Third, in predicting the future costs of fuel, that the Secretary will use the best economic evidence available so as to account for the most likely future conditions of supply, demand, and price and their necessary relationships to one another.

I wonder whether the distinguished gentleman from Michigan (Mr. DINGELL) could confirm for me that the understandings which I have set forth with respect to that cost concept of section 103 of the Coal Conversion Act are, in fact, his understandings as well.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I believe the statements made by the gentleman from Illinois (Mr. ANDERSON) on this matter are generally correct.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Michigan.

Mr. ASHLEY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr Speaker, I would like to ask the distinguished chairman of the Subcommittee on Energy and Power, Mr. DINGELL, a question regarding the status under the Coal Conversion Act of a powerplant in my district, operated by the town of Wallingford.

Now, it is my understanding that in each of the past 5 years this plant has been operated for less than 574 annual hours at the equivalent of its design capacity output.

Would such a plant receive an exemption under the act from the prohibition orders on the burning of oil or gas?

Mr. DINGELL. If the gentleman will yield, yes, such a plant would qualify for a peakload powerplant exemption so long as the operator certified to the Secretary that it was to be operated for less than 1,500 annual hours at the equivalent of its design capacity output.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, a few minutes ago one of the previous speakers stood in the well and he referred to the fact that we have to pass this bill, even though he thought it was not a good bill, because we need to worry about our image and about what the rest of the world is going to think if we do not pass some kind of energy bill.

Mr. Speaker, I want to suggest to the Members of this House that it is the ultimate in chauvinism to believe that we are so much smarter than the Germans, the Japanese, the Dutch, or the rest of the world that we can sit here and think that we can pass this absurd bill and have them think that we have created a goose which lays a golden egg. We have not. We have created a turkey, and we will have laid an egg. Let no one think that the rest of the world is not going to know it because they can read, too.

I want to make another point. A little while ago a speaker got up, and he referred to this coalition that is taking place here. He referred to the gentleman from Louisiana (Mr. LIVINGTON) and the gentleman from Connecticut (Mr. MOFFETT) and wondered what they had in common because they were coming at this from two different approaches. What they have in common is this, the common-thread is this: this bill does nothing for anybody but it raises prices for consumers who have to purchase and use natural gas. This is, as somebody mentioned before, a bill for the big gas companies and the big oil companies. It does not help the small independent producers who are the people who produce the oil and gas in this country. It hurts the consumer by raising prices. And that is why there is a coalition across party lines and across ideological lines in opposing this bill.

I would like finally to address myself to the political question because so many people on both sides of the aisle are saying, as one gentleman said earlier, "I am going to put on a clothespin, and I am going to vote for this. It is a bad bill, but I am going to vote for it because I cannot go home and face my voters and say I did not vote for an energy policy. I had to vote for an energy policy."

Let me suggest to the Members that if their opponents know anything at all, if the Members vote for this bill, the political question the Members are going to

be faced with us, "Why did you go to Congress and vote to raise my gas prices when I am struggling under all other kinds of inflation? Why did you go to Congress and raise my price for natural gas and give me nothing in return?"

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman.

I wonder if the gentleman from Ohio (Mr. BROWN) would be prepared to answer a question. Secretary Schlesinger says that one of the important features of this bill is that without it we will not get the financing to build the Alaska natural gas pipeline which, of course, is extremely important to our region of the country. I wonder if the gentleman could respond to that.

Mr. BROWN of Ohio. If the gentleman will yield, I will respond in two ways. First, I would like to say to the gentleman from Ohio that the Secretary has always been a little loose in his interpretation of just what the bill does or does not do. I think all of us who have the experience to do this would relate our experience in the same way. Let me say that there is nothing in the natural gas bill that will assure the gentleman of the natural gas pipeline.

The SPEAKER pro tempore. The time of the gentleman has expired.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I yield myself 2 minutes.

I am going to have a question for the gentleman from Michigan (Mr. DINGELL) which I might point out for the record, has been distributed to the minority.

The conference report specifies that the Secretary of Energy will, within 120 days, set out a curtailment priority for essential agricultural uses of natural gas. Even though there is no such specific target date for the Secretary issuing the curtailment priority for essential industrial process and feedstock uses of gas, would the gentleman agree that the conferees expected the Secretary to proceed promptly to make such a rule effective?

Mr. DINGELL. Will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

The answer is "Yes." The conferees fully intend prompt action on the part of the Secretary toward implementing the curtailment priority for uses of gas which are essential for the process or feedstock use in question.

Mr. ASHLEY. I have another unrelated question. The incremental pricing provisions, about which we have heard so much this evening, of the conference report require FERC to fashion a rule imposing incremental pricing on all industrial uses of natural gas, including essential process uses of natural gas, beyond those specifically exempted by the act.

Now, there is concern among process users of gas that too strict an application of this rule could unfairly impact on them. The conferees have given general directives to FERC to implement incremental pricing so as not to cause customers to leave the interstate pipeline system. Would it not also be possible for FERC, under section 206(d) of the act to also exempt from the incremental pricing rule any industrial facility or category of use, such as essential process uses of gas?

Mr. DINGELL. Yes, the FERC clearly has the authority to grant exemptions under section 206(d) for essential process uses of natural gas.

Mr. ASHLEY. Would the gentleman also agree that it would be important for FERC to give appropriate consideration, when implementing this rule, to its possible impacts on essential industrial process uses of natural gas?

Mr. DINGELL. Yes, it would be proper for FERC to give appropriate consideration, when implementing incremental pricing, to situations in which essential process uses of natural gas have no technically or economically feasible alternative fuels.

Mr. ASHLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to direct a question to my good friend, the gentleman from Michigan (Mr. DINGELL). A number of industrial users in my district have attempted to offset pipeline curtailments of natural gas by acquiring self-help gas supplies. These self-help supplies, whether acquired through direct purchases from intrastate producers or through the purchase of gas reserves-in-place, have been transported in interstate commerce under the FPC's Order 533 and FERC Order No. 2. While the volumes of self-help gas obtained through these methods are relatively small, the benefits have been very large, indeed, since they have permitted these companies to continue operations even during the most severe periods of natural gas curtailment. Indeed, the FERC recently extended the program indefinitely and found that under the FPC Order 533 program more than 215,000 workers remained employed during the severe winter of 1976–77. Accordingly I would like to ascertain what impact this legislation will have on the continued availability of these self-help options.

Mr. DINGELL. The conferees anticipate that curtailment will be reduced by this bill, because additional supplies will become available. However, self-help programs may continue to be essential to offset localized shortages or periods of curtailments caused by severe weather or other conditions in future years. Accordingly the conferees do not intend for this legislation to restrict the direct access of industrial users to self-help supplies. In fact, we believe that the continuation of direct purchases by end-users may be desirable and in the overall national interest. Therefore, end-users are permitted to pay the same price for gas supplies at interstate and intrastate pipelines. If for unforseen reasons a natural gas supply shortage occurs in the future, the act authorizes the President to allocate self-help gas. However, we have attempted, to the best of our abilities, to make self-help gas the last gas to be taken under the President's allocation authority in the event of such an emergency. Only as a last resort will self-help gas be taken, and then only to the extent that is required for the protection of high priority users identified in section 303 of the bill for the period of the emergency.

Mr. ROSTENKOWSKI. Self-help gas supplies are a matter of importance to many of my constituents as well, because these supplies have allowed industrial users to remain open and to avoid layoffs of employees during periods of severe natural gas shortages. Is my understanding correct that the provisions of this legislation, such as the extension of price controls to the intrastate market, will not impair the effectiveness of the order 533 program and other self-help programs?

Mr. DINGELL. Yes, that is completely correct. The conferees in agreeing to this legislation were well aware of the many benefits of self-help programs. Nothing in the natural gas conference report disturbs in any way the authority of FERC to continue to authorize the interstate transportation of this gas. As a matter of fact, the Public Utility Rate Reform Act (which is a part of this package) specifically authorizes FERC to continue the program now in effect. As long as curtailments of essential process and feedstock use continue on the interstate pipeline system, the present FERC program under order No. 2 may continue to be important in order that these industrial users will be able to continue to operate their plants at full capacity and to protect the jobs of the workers whom they employ.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, as we all know, the National Energy Act passed the House yesterday—by one vote. Technically, of course, the final passage vote will occur today, but I am politically correct, because I am enough of a realist to know that a majority of my colleagues will find it impossible to vote against "an energy bill," regardless of how ill conceived and counterproductive the bill may be. I will not urge them to vote against this measure, although I intend to do so and I will tell them why they should if they have an eye to the future.

This legislation has emerged from one of the most unique and unfortunate processes I have ever witnessed in my 13 years in the House. From the original closed rule under which the legislation went to the floor, to the closed conferences and the political deals, this legislative process has been a travesty. I hope that the procedures and methods that have been used to shove this legislation down the throats of the American people are never again repeated. These methods in my view have case a shadow over the Congress and the executive branch and have surely made the American people even more cynical

about the legislative process than they are now.

Several months ago when staff work was completed on the natural gas legislation, industrial user and producer opposition to the bill was virtually unanimous. Lobbyists swarmed the Hill complaining that the energy proposal would be adverse to the Nation's interest and to their own. The industrial community argued that the gas bill would reduce America's domestic energy production by tying up in redtape those independent gas producers who find almost all the new gas supplies in our Nation. They suggested that a sixfold increase in the cost of gas regulation would add to the already swollen bureaucracy and would further increase the cost of Government to the taxpayer. They also talked of lost jobs and higher costs of American manufactured products.

In mid-August, the smart money was betting that Congress would vote down the natural gas legislation. But that was before the White House invited the chief executive officers of major U.S. corporations to Washington for a little straight talk about the realities of doing business in a federally regulated environment. For instance, the steel industry was told, according to press reports, that if they did not back off opposition to the administration's flawed energy package, the administration might not set a high priority on the problems of the steel industry when tariff negotiations began with the Japanese. Textile companies were similarly reminded that the administration could be very helpful to them in stemming competition from foreign imports. I could continue with dozens of other examples, but I think the message is clear. That message is that the stalwart free-enterprise leaders of America's largest industries have been threatened, promised, and cajoled into passive opposition, silence, or grudging support of this legislation. I think their capitulation has been a disservice to the country, their stockholders, employees, and customers. They deserve what they will get under this bill. But why should the rest of us have to suffer, too.

Mr. Speaker, I will confine the rest of my remarks to the problems that I see with the natural gas legislation.

This legislation has four major defects: It is hopelessly complex and confusing; it increases prices to industrial user and consumers without any assurances of significant additional supplies; it will unfairly discriminate against industrial users served by interstate pipelines, and it will not contribute to the development of the sound energy policy which we so desperately need.

The Federal Energy Regulatory Commission, which will have to administer this legislation, has labeled the proposal "so complex, ambiguous, and contradictory that it woud be virtually impossible for the Commission to enforce it in a conscientious and equitable manner." The Chairman of the FERC later said that, sure, FERC can administer this bill, but it will take 800 more Federal regulators at a first year cost of $30 million.

Mr. Speaker, I ask unanimous consent that the full text of the FERC report and Chairman CURTIS' testimony be inserted into the RECORD at this point.

Today, FERC has a total staff of about 1,200 people and spends about $6 million per year for natural gas regulation. If this legislation passes, FERC's budget for natural gas regulation will increase fivefold. The entire FERC budget, which in fiscal year 1978 was $34 million, will increase by about 100 pecrent.

Mr. Speaker, in this election year, our constituents are fed up with the negative impact of the Federal Government on their lives. They are fed up with unnecessary Government spending, inflation, overregulation, and programs that do not work. If there was ever a legislative proposal that embraced all these flaws, it is this bill. The evidence is the extended effort of my colleagues to try to revive the legislation on the floor through strained colloques that attempt to explain detailed situations and then relate hem to arcane language in the bill.

The gentleman from Tennessee (Mr. GORE) has just inserted in the RECORD a colloquy on the TVA provisions of section 212(f) of the Public Utility Regulatory Policies Act. Once again I am constrained to point out that the statements made represent the views of only one Member who was not even a conferee and do not create legislative history and are contrary to the understandings of other conferees and the Senate. And more specifically, the content of the sixth paragraph was specifically stricken from the final draft of the conference report.

Nearly 10,000 successful natural gas wells are drilled every year in this country. The conference agreement subjects each of these to a multilayered decisionmaking process involving the States, FERC, and the courts. This decisionmaking process may take as much as a year or more during which time the producer will have no idea of whether he is complying with the maximum lawful prices established in the bill or not.

A hypothetical example will help illustrate the problem. Assume that we have a typical small independent gas producer with a large mortgage at the bank. This producer has been fortunate enough to discover natural gas with the last well that he has drilled, but unfortunate enough to have discovered the gas after the date of enactment of the gas bill. As the bill is currently written, our hypothetical producer will have to measure the depth of his well, its distance from other production wells in the same field, and determine whether or not he has struck the same reservoir of natural gas from which some of his neighbors are producing. He will have to pack up this information, along with his core samples, the results of any production tests, and his drilling logs, and cart all of this material to the State agency that has been delegated the responsibility for determining which one of the numerous categories of gas that his well will qualify for.

Once the State agency makes its determination—and, importantly, there are no time limits placed on the States for making this decision—the Federal Energy Regulatory Administration will have the opportunity to review and reverse the State decision if it is not supported by "substantial evidence." In order to reverse a State, the FERC must make a preliminary finding of reversal within 45 days and a final determination within 120 days after the date of the proposed reversal. If the FERC so desires, it may remand the matter back to the State for a further determination where the whole procedure begins anew. Once the FERC has made a final determination, its action is reviewable in the appropriate U.S. Courts of Appeals. No State judicial review is permitted even though questions and interpretations of State law may be involved. During the entire time that our producer is trying to get a definitive answer from the State, the FERC, and the courts, as to what price he may lawfully charge for his gas, his mortgage remains unpaid, and the bank begins to wonder if he is such a good credit risk after all. If the review period takes as long as I suspect that it will, I have the feeling that we may see our independents selling out to some larger company which finds it easier to comply with Federal regulations.

From the State viewpoint, this legislation is just as complex and unworkable. Implementation of this legislation is premised on receiving close cooperation and assistance from the States. However, I seriously doubt that this assistance will be forthcoming. In a letter to FERC Commissioner Smith, Governor Bennett of Kansas indicated that the regulatory burdens imposed by this legislation upon the States would be so great that many States would have little or no interest in carrying out the functions of the bill. Governor Bennett went on further to indicate that if the bill becomes law within the next 45 days, there will be 1,700 applications for certification pending from the State of Louisiana alone. Texas estimates 3,000 hearings a year. Other States will have corresponding burdens. The Ohio Department of Natural Resources indicates that the bill will be "impossible to administer" even with a substantial addition to its current staff of 34 full-time personnel.

Perhaps as important as the regulatory nightmare which this legislation will create is the detrimental impact that this bill will have on residential consumers and industrial users of natural gas. The Congerssional Budget Office concludes that this bill will cost consumers from $8 to $16 billion more through 1985 than current policy. For this $8 to $16 billion cost, the CBO projects only 0.7 trillion cubic feet of additional natural gas production through 1985.

Costs to industrial users under this legislation will increase the most, because all the cost of higher priced gas is to be charged to the industrial user before it is charged to residential consumers. In addition, because of the incremental pricing provisions, this legislation will create tremendous inequities among regions of the country and among classes of consumers of natural gas. Factories and jobs located in the Northeast and Midwest will be particularly hard hit.

Now let me address several of the arguments the administration has been mak-

ing in favor of passage of this bill. We have been told by the administration that this bill is necessary to shore up the collapsing dollar in foreign money markets. This is utter nonsense. Energy costs did not cause the balance-of-payments problem. Our balance-of-payments deterioration and dollar decline did not begin with quadrupling of OPEC oil prices in 1974. The U.S. trade surplus rose in 1974 from $1.7 billion to $18.4 billion in 1985, and the dollar generally rose against most currencies. The U.S. trade balance did not shift into red until late 1976, but it deteriorated sharply thereafter. Increased oil import costs contributed to only 17 percent of total increase in imports. Thus, oil imports did not destroy the balance of payments.

Every other major industrialized country has the same increased oil import costs. Most of these—including Japan and West Germany—face a greater burden from high-priced oil imports than we do. How can these nations have currencies in better shape than ours? Japan and West Germany control inflation and so their currencies rise while the dollar falls.

Not only is energy not the chief cause of our balance-of-payments deficit, but this bill will not cure that deficit. No energy bill can reverse inflation—but a counter-productive energy bill certainly will not.

Foreign financiers are not fools and will not believe the United States has solved its trade deficit problems. The underlying weaknesses of the dollar will not be corrected by this bill. This bill could lead to international distrust of America's willingness to seriously address its inflation and energy problems. This bill is being pushed by the administration as a "geopolitical gesture."

The administration has also argued that passage of this regulatory nightmare is necessary to insure building of the Alaska natural gas pipeline. Having carefully analyzed this legislation, I find there is nothing in this bill which will insure the building of this enormously expensive and risky project. Testimony from financiers appearing before the Energy and Power Subcommittee last year indicated that it will be most difficult to obtain financing for this multi-billion-dollar white elephant.

Mr. Speaker, this bill has no constituency. Consumer groups, labor unions, manufacturers, commercial establishments, and independent gas producers oppose this legislation. Mr. Speaker, I ask unanimous consent that a list of organizations originally opposing this legislation be inserted into the RECORD at this point. Really the only constituent that this bill has is the administration, the leadership of the House, and the pipelines, who do not care how much natural gas costs. Because this bill has no constituency, and because it is a badly flawed piece of legislation which does not adequately address our energy problem nor contribute to the enactment of a sound and equitable energy policy, I had hoped that the House would defeat this most counterproductive measure. As we all know, however, the rule that passed yesterday has made defeat of this measure virtually impossible.

Mr. Speaker, because the House is forced by the rule to cast a single vote on the passage of these five energy bills, I intend to vote against them, as I said earlier. I do not oppose all five.

The conservation bill, H.R. 5037, is a workable, useful piece of legislation which will assist our Nation's energy conservation efforts. Although I do not believe that this bill will result in the magnitude of energy savings the administration claims, the minimum fuel economy standard established for appliances and the residential energy conservation program will assist energy consumers in cutting their energy consumption. In addition, the bill provides $900 million in 50 percent matching grants to States, schools, and health care facilities to be used to retrofit facilities for better energy efficiency. These programs are meritorious, and for this reason, I signed the conference report on H.R. 5037.

The public utility regulatory policies bill, H.R. 4018, was a bill that I strenuously opposed as it was considered by the House in August of 1977. The conferees, however, have reported a vastly more reasonable version of the House-passed bill, and my opposition has likewise diminished.

Basically, the major provisions of this conference report deal with methods of modifying retail rates of electric utilities and with some amendments to the Federal Power Act in order to encourage conservation of energy.

Under the provisions of title I of H.R. 4018, the State reglatory authorities are required to consider and determine the appropriateness of implementing so-called ratemaking "standards" relating to cost of service, declining block rates, time-of-day rates, seasonal rates, interruptible rates, and load management techniques. In making this determination as to the appropriateness of implementing the standards, the State regulatory authority has wide discretion, and nothing in this bill requires the State regulatory authority to implement any of these so-called "standards." Similarly, the State regulatory authority is also required to hold a hearing to determine whether it is appropriate to adopt any of a second set of so-called "standards" in this bill. These include so-called "standards" for master metering, automatic adjustment clauses, information to retail consumers, procedures for termination of service, and advertising by electric utilities. Again, even though the word "standard" is used in the bill, the State regulatory authority's sole obligation is to consider each standard in a hearing. The State regulatory agency may accept or reject the suggested standard. The standards are not mandatory, and the State regulatory authority may reject any or all of them if it determines them appropriate. The Secretary of DOE and the public is granted a right of intervention before the State regulatory authority to participate in the consideration of each standard. Finally, judicial review is provided for these determinations of both sets of standards (section 111(d) and 113(b) standards), but that review is exclusively in State courts except with respect to Federal agencies that are electric utilities and appeal by writ of certiorari to the Supreme Court from the highest State court.

Because the mandatory Federal ratemaking standards of the House-passed bill have been eliminated by the conference in its report on H.R. 4018, the States retain their traditional authority to set retail electric utility rates. Nevertheless, this conference report provides for a greater Federal role in the retail rate-setting process than ever before, and that concerns me very much.

While the electorate is becoming increasingly dissatisfied with Federal Government intrusions into their daily lives, the administration and the Congress seem to be ignoring this growing public sentiment and marching off in a different direction providing for more Federal controls and programs. Utility rate reform is an example of this and the coal conversion bill is an even more oppressive example. I only hope that the electric utility bill will not so encumber the States that their ratemaking process will become as muddled as FERC's where the average rate case currently takes 38 months to resolve (more than twice as long as the average rate case takes currently before the Ohio Public Utilities Commission, for instance).

Title II's major provisions grant the Federal Energy Regulatory Commission authority, for the first time, to order mandatory interconnection and wheeling of power between utility companies if certain findings are first made by FERC after evidentiary hearing. In addition, FERC is required under this bill to promulgate rules for the buying and selling of electric energy between cogenerators and electric utilities. These rules are then to be implemented by the State regulatory authorities.

Several Members have expressed concern over how the wheeling and interconnection authority granted in this bill affects the Tennessee Valley Authority (TVA) and the companies serving adjacent to it. Section 212(f) specifically provides that the limitations on the TVA's marketing area established by the third sentence of 15d(a) of the TVA Act are not superseded by the conference report. Thus, neither the TVA nor any utility may use interconnection and wheeling orders to expand TVA's service area beyond the TVA Act's geographic limitations. Finally, the conference agreement does not address the wheeling by TVA of power for other utilities outside the TVA's geographic limitations and existing law would apply to such wheeling.

The third conference report, H.R. 5146, the coal conversion bill, establishes a complex regulatory mechanism under which electric utilities and major fuel-burning installations in the United States will be required to convert from the use of oil and natural gas to coal and other alternate fuels. The legislation is comprehensive in nature, and its major defect is that most facilities will be subject to conversion unless they can prove, to the Department of Energy after an expensive and time-consuming adminis-

trative process, and possibly to a Federal district court in a judicial review, that they qualify for one of the statutory exemptions from conversion.

This conference report is the most potentially dangerous "sleeper" in this energy package. Like the gas bill, it is a regulatory monster and a boon to the legal profession and this Nation's already bloated Federal bureaucracy.

The regulatory maze established by this bill means that the burner-tip decision on which fuel to use in every electric plant and major industrial plant in the United States will be made right here in Washington, D.C., by some bureaucrat in the DDE or by a Federal judge.

Instead of letting the utilities and industries continue to switch from oil and natural gas to coal and alternate fuels on the basis of the distilling logic of costs set by market economies, as testimony before our subcommittee indicated U.S. energy consumers are already doing, because of oil and gas costs and related supply uncertainties and environmental constraints, this legislation will force them to replace generation facilities that are not worn out or fully depreciated and modify energy use patterns and costs by bureaucratic decision rather than economic logic. This will cause tremendous capital expenditures at a time when our Nation's limited investment capital could be more wisely spent on modernization and increased productivity. When the Clean Air Act and other conflicting Federal requirements are also thrown into the equation, it is no wonder that U.S. industry is falling behind the Japanese and West Germans.

The coal strike of last winter and the impending rail strike this winter should also make us wary of the energy source policies in this bill. The State of Ohio and other areas in the Northeast and Midwest almost closed down last winter, because of that coal strike. If the supply of coal is that volatile, I, for one, am hard pressed to argue to my constituents that converting to coal, with all its supply uncertainty and clean air problems, is the best policy.

Almost a decade ago, the U.S. Congress undertook the worthy motive of trying to save or improve the Nation's environment through passage of the Clean Air Act. However, the economic impact was to virtually outlaw the use of coal in our industrialized society. It was this Federal interference which, in fact, stimulated much more widespread use of oil and gas, the fuels which the legislation now before us is trying to discourage. But the difficulty is that the legislation we are considering—particularly when the arcane tax aspects are thrown in—uses such a maze of tax incentives and discouragements, regulatory stimuli and delays, price controls and cost creators, production and consumption inhibitors and encouragements, that the whole net result becomes almost totally unpredictable. The cost of fuel is only a part of the decision relating to the modernization, abandonment, or construction of an industrial plant. Environmental costs and constraints, labor supply, access to markets, availability of raw materials, accumulated depreciation of existing equipment, and many other aspects—all energy related—will also play a part. This bill, seeking to make that burner-tip fuel decision bureaucratically in Washington, has such great potential for mischief with reference to our Nation's future ability to compete rationally in a world where we are clearly being challenged that it boggles the mind. Secretary Schlesinger, Chairman CURTIS, President Carter, and the leadership of this Democratic Congress may have total confidence in their ability to address the issue in Washington. I do not share this confidence.

Mr. Speaker, this energy package is not a very solid foundation on which to build our Nation's energy policy. Rather, it will result in regulatory mayhem, wasted dollars, energy shortages, and a further worsening of the U.S. economic position in the world. Even though I firmly believe that will be the result of enactment of these bills, I earnestly hope that someone will be able to tell me in 5 years that my predictions were wrong, because if I am right, our Nation and its people will suffer a great deal as a result of this legislation.

THE OIL SUPPLY SITUATION

Under the provisions of the Energy Policy and Conservation Act (EPCA) of December 1975, the Federal price control scheme, first enacted under the Emergency Petroleum Allocation Act of 1973, was continued in a modified form. EPCA provided for a mandatory scheme of Federal price controls on crude oil to continue for 39 months (through May 1979) with a provision that the President may, in his discretion, continue such controls through September 1981. Many of the Members who supported the Energy Policy and Conservation Act did so because they felt that Federal price controls were necessary for a temporary period to protect the consumer, and that any price control mechanism should last for as short a period as possible, gradually moving controlled prices toward market levels and providing appropriate price certainty for the producer.

The clearly stated policy of the Carter administration in submitting its energy program to Congress was to retain Federal price controls on oil as long as world oil prices are subject to OPEC's determination. This policy of continuing domestic oil price controls indefinitely will have a disastrous impact upon our energy supply. Federal price controls under the Emergency Petroleum Allocation Act have been a dismal failure for several reasons: First, domestic production has drastically declined under oil price controls; second, the certainty that is necessary to provide proper signals for investment in domestic production has been absent; and third, the consumer has not been protected, contrary to the desires of the strongest advocates of crude oil price controls.

With respect to domestic production, while some decline may have been inevitable, even without Federal price controls, the counterproductive effect of the Emergency Petroleum Allocation Act has been to magnify the rate at which this decline has taken place. In 1973, when Federal price controls were first enacted, our average domestic production was 9.2 million barrels per day. By January of 1977, domestic production had declined to 7.8 million barrels per day. The latest available figures from DOE for June of 1978 indicate domestic production to be 8.9 million barrels per day. That is still 30,000 barrels per day below preprice control production—even with the addition of Alaskan oil production of 1.2 million barrels per day.

With respect to certainty for producers, the intent of the EPCA amendments to EPAA was to try to create a mechanism whereby, although there would be price controls, there would be steady and definite increases in the controlled price that the producer was permitted to receive for his efforts. The complete opposite has been the case—the history of Federal price controls under EPCA has been a continued series of rollbacks and price freezes with the attendant result that the March 1977 controlled price of new oil was $11.03 or 25 cents less than the price of $11.28 that the producer was receiving under the old EPAA system in effect at the time of the enactment of EPCA in December 1975. The reason for this was bureaucratic bungling.

The EPCA composite price of $7.66 had been predicated upon information provided to Congress by FEA that 60 percent of our domestic oil was old oil, selling at $5.25, and 40 percent was new oil, selling at $12.60. Subsequently, in June 1976, FEA discovered that the figures on which Congress had based its decision were incorrect—that in fact the actual proportion of lower tier to upper tier was 57 percent to about 43 percent, and that lower tier oil was really averaging about $5.07. The result of this million dollar bureaucratic blunder was that crude oil prices in February 1976 and subsequent months had exceeded the statutory composite allowed for those months. As a result, a crude oil price freeze was imposed for July and August to allow the upward moving statutory composite price to catch up to real prices.

Later, in 1976, stripper well production was completely exempted from the composite price allowed for domestic oil by Federal controls. Congress took such action in the Energy Conservation and Production Act. The net result of this was that much less oil was classified as lower tier than had originally been anticipated. Therefore, actual prices continued to considerably exceed the statutory composite. At a result, the crude price freeze was extended through November, and in December of 1976, upper tier prices were actually rolled back an additional 20 cents. The result was that upper tier oil sold at $11.35 in January of 1977 rather than $12.05 as originally had been projected. The problem was exacerbated by a situation with respect to the confused interpretation of the definition of a "producing property," the keystone upon which all calculations as to the breakdown between old and new oil is based. Due to a change by FEA in the regulations defining producing property, even less oil was in the lower tier than before.

Thus, at a time when our oil policy should have encouraged production, the prices of domestically produced oil have been decreasing—a clear disincentive to producers to seek and produce more domestic oil.

Finally, with respect to consumer impacts, the basic goal of enacting price controls in the first place—to protect the consumer from excessive OPEC-dictated price increases by holding down the price of oil—has not been met. Under the price control schemes of EPAA and EPCA, the volume of our imports and outflow of dollars to pay for these imports had skyrocketed. In 1972, just prior to the imposition of price controls on crude oil, the United States imported 2.2 million barrels of oil per day at an annual cost of $3 billion. In 1974, 1 year after the imposition of price controls and the Arab oil embargo, our imports averaged 3.5 barrels per day at an annual cost of $24 billion. At the end of this past year, 1976, U.S. imports were 5 million barrels per day at an annual cost of over $46.5 billion.

The significant failure of our crude oil pricing policy begs for a solution. It is a problem basic to our whole energy crisis. The administration has turned its back on this problem; however, significant adjustment is necessary in the oil price control mechanism to meet the original goals that the architects of EPAA and EPCA desired—protecting the consumer from excessive energy price increases while at the same time providing appropriate incentives and certainty for the producers.

The Carter administration has the flexibility under EPCA to administratively rectify part of this entire problem by providing the oil industry with the full 10-percent production incentive and inflation adjustment increase in prices to encourage production of domestic supplies. But instead of using it, the administration did nothing in order to try to coerce the oil industry to support the crude oil equalization tax. Even now, when COET is clearly politically dead, the administration will not use its full pricing flexibility and is thus depriving our Nation's consumers and economy of much needed domestic oil to shove out higher cost imported oil. And in July, when the House was scheduled to have an opportunity to vote on an amendment that would have encouraged additional domestic oil production and helped the President reach his goal of U.S. oil prices at the world level, the bill to which the amendment was to be offered was pulled from the floor. Majority Leader WRIGHT's amendment to decontrol deep stripper oil was added to the bill authorizing funds for the Department of Energy for fiscal year 1979, beginning October 1, 1978. That bill was deferred at the request of the administration and Senator JACKSON, who argued that the passage of the Wright amendment—which seemed assured—would, in some mysterious way, endanger the natural gas compromise. This was just 1 day after President Carter announced at the Bonn summit that U.S. oil prices would be at world price levels by the end of 1980.

Where does all this leave U.S. energy policy? Obviously in a very confused and counterproductive state. The oil price controls under EPCA come off and revert to standby basis in May of next year, but the President has authority to continue controls through September 1981, which authority the President has already announced he will use. Because of the uncertainty on Capitol Hill as to how and in what form the Carter administration will continue controls past May 1979, I feel certain that the oil-pricing issue will be addressed early in the next Congress and that it will be the next major energy battle.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Ohio. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I just wondered if the gentleman would like to complete his comments on the Alaska gas pipeline?

Mr. BROWN of Ohio. Yes. Mr. Speaker, this legislation does not add to FERC's existing authority over producer rates, and it will have little effect with respect to Alaska natural gas. In fact, the legislation raises certain questions about whether gas from the Prudhoe Bay area will ever be shipped to the lower 48 States.

This statement can be made for three reasons. First, the price of Alaska natural gas is never deregulated. Second, the bill sets the price at $1.45, and this price may prove to be too low in the future for gas producers to be able to receive on the Prudhoe Bay gas.

Finally, certain costs, that is, the cost of gathering, conditioning, and so forth, are subject to incremental pricing changes in the bill. Therefore, the natural gas may never reach industrial users. If that incremental price is higher than the price of other source gas or other energy, customers are likely to buy their natural gas from other pipelines, and so there may not be a market for the higher priced Alaskan gas.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. BROWN of Ohio. Yes, very briefly.

Mr. SEIBERLING. I understand from Secretary Schlesinger the producers say that unless we take this and give them the price of $1.45, they cannot get the financing to build a pipeline, and the implication is that if we do this, they can.

Mr. BROWN of Ohio. The fact that may be overlooked is that the price of $1.45 may be too high at the time that pipeline is built, or it may be too low for the gas producers to make money. FERC can set that price under the authority it now has, so that is not necessary in the bill.

Mr. SEIBERLING. But they say it will take 2 or 3 years to get that done.

Mr. BROWN of Ohio. Mr. Speaker, in this election year our constituents are fed up with the negative impact of the Federal Government on their lives, and it will take many more years to build a pipeline than to study and set the price of the gas to the customer.

Mr. ASHLEY. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Speaker, I rise to address a question to the distinguished gentleman from Michigan.

I would like to clarify two points with the distinguished chairman of the Subcommittee on Energy and Power, Mr. DINGELL, concerning section 107 of the Natural Gas Policy Act. Section 107 specifically states that:

> If any credit * * * or comparable adjustment applicable to the computation of any Federal tax is specifically allowable with respect to any high-cost natural gas under any provision of law enacted after date of enactment of this Act, the * * * [deregulation] provisions of subtitle B shall not apply to such natural gas * * * unless an election to have such provisions apply (in lieu of such credit * * * or adjustment) is filed with the Commission.

If a production tax credit or another type of high-cost credit, deduction, or exemption was enacted next year or thereafter, could a producer receive both the comparable adjustment and deregulated treatment under section 121 (a), (b), or (c)?

Mr. DINGELL. No; the producer could not receive both deregulated treatment and the comparable adjustment. The language of section 107 is clear and precise. It applies to any comparable adjustment under any provision of law enacted after the date of enactment of this act. The intent of the conferees was to provide the stimulus of deregulated treatment to encourage production of high-cost gas resources. However, incentives beyond this deregulated price were not appropriate and therefore, an election procedure was prescribed.

Mr. ECKHARDT. Section 121 authorizes deregulated treatment for the first sale of natural gas described in section 107(c)(2)—natural gas produced from geopressured brine. Section 501 authorizes the Commission to define by rule technical terms used in the act. Is it intended that the Commission will define the term geopressured brine by rule?

Mr. DINGELL. Yes. The conferees intend that the Commission define the term geopressured brine by rule for purposes of section 107(c)(2) of the Natural Gas Policy Act as well as for purposes of sections 301, 401, and 403 of the Energy Tax Act. In defining this term, the Commission is not bound by the language of the earlier Senate report on the Energy Production and Conservation Tax Incentive Act.

Mr. BROWN of Ohio. Mr. Speaker, once more I have to get on my feet and say that this discussion between two members of a 42-member conference does not make legislative history, and does not change the law. I would have to say that the conversation that was just held does not square with the conversation held in the conference. It does not square with the discussions among the staff, and does not square with the legislation as it was written. That is what is wrong with this bill.

That is what is wrong with this bill. There are so many flaws between provisions written in this bill because of the nature in which the conference was conducted that we have to have efforts like this to try to get some special twist of meaning on the floor of the House. It is a poor method by which to operate, and a

good argument for voting against the bill.

Mr. ECKHARDT. I have supplied the gentleman's side with the colloquy ahead of time. If he has a different opinion, he is perfectly at liberty to talk about it on the floor.

Mr. BROWN of Ohio. I just did so. I told you what I thought. I do not agree with this interpretation of what is in that bill.

Mr. ECKHARDT. I thank the gentleman, but I only read the provisions of the act itself and repeated the discussion we had in conference, and the gentleman knows it.

Mr. BROWN of Ohio. That is not correct. I will be glad to yield but I think that is not correct.

Mr. ECKHARDT. I think the gentleman is not correct himself.

Mr. BROWN of Ohio. The lawyers will fight it out, and that is what this bill is all about. It is going to be a bill lawyers will work over for years.

Mr. ASHLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, we are confronted in this country with the very tough question of how do we get a national market in natural gas, because our experience has been one of hurt for the economy, of hurt for the consumers, by having a situation in which we have a half regulated market and a half unregulated market.

We have a system of deep disparity between supplies in the interstate market and supplies in the intrastate market. We have a situation of deep disparity between prices in the interstate market and prices in the intrastate market. We have a situation no one knows how to easily and simply get out of, but everyone knows we must act upon it because failure to act leads to consequences which are going to grow worse than they have already been. We know the present system of half regulated and half unregulated markets is leading to relocation of industry in the North into the producing States.

We know that plans for expansion are being developed by our industries in the North as they look to the assured supplies in producing States. We know that people have been out of work in North Carolina, in Ohio, in Indiana, in many States in this country, because gas was short and those consumers paid more in lost income when they were out of work than they will pay under this bill in the next 10 years.

We know people have lost considerably under the present system, and we know consumers of gas in the interstate market are every year paying more for their transportation costs than they should have to pay because the pipelines are carrying less gas, and there are fewer customers among whom to spread the cost of that transportation.

Prices unnecessarily rise. We know the consumers in New York State, in New Jersey, in Maryland, in California, are paying the highest prices they will ever pay for gas when they import it from Algeria or Indonesia or around the world and add to our balance of payments problem by paying for far higher prices for liquefied natural gas than they will pay under this bill. We know consumers in the country are paying and will pay more for synthetic natural gas than they will pay under this bill.

We know when they cannot get those additional supplies of gas what they must turn to as they are turning to every day in this country. They turn to oil which is more expensive than gas under this bill. They turn to electricity which is far more expensive than anything under this bill.

Mr. Speaker, our failure to act, the failure of Congress to act, is hurting the American consumer. Let there be no doubt about where the responsibility lies. We have a situation created by the Congress and the courts many years ago and the solution has to come from us. So when we say "no" to action, we are saying OK to a deteriorating situation for the American consumer and a very costly one.

What we are proposing to do and asking Members to act upon is not a perfect solution. What we are asking Members to act upon is immediately, within a matter of a couple of months, maybe 30 days, to create a national market for the pipelines. There is surplus gas now in Texas and the producing States. Gas can flow as soon as anybody can write a contract. We know that gas we can have.

The dispute is over how much new gas we can have, but we will get more gas under this bill. Make no mistake about it. We will have a national market, which we do not have now, not by the perfect nor the best means, perhaps, but we will have that.

Second, what we are asking Members to do is to focus the price increases where we think they will do the most good for the people of the country. We fought some of the price increases in this bill in the conference. We fought hard. We did not always win, but we did manage to get price increases focused where we think they will do the greatest good.

Where there is the greatest risk, and we hope to God the greatest potential for gas, we gave them the highest price. We gave them the highest incentive. We say: "Go find it. Get it if you can. We will put no restriction on it. Get it if you can because we need it."

The SPEAKER pro tempore. The time of the gentleman from Indiana (Mr. SHARP) has expired.

Mr. ASHLEY. Mr. Speaker, I yield the gentleman from Indiana (Mr. SHARP) 3 additional minutes.

Mr. SHARP. Mr. Speaker, we put the highest incentive where the highest risks are and where the greatest gains might come from. The next highest incentives are where there are new gas supplies and major risks, but we think there are pretty good chances that gas can be found.

We tried to see to it that we were protecting the consumers from paying the highest prices where it was not deserved. We tried to focus those price incentives where they would do the most good.

Third, we tried to focus the cost to the consumer where they can bear it best and the fastest, and that is in the boiler fuel users and the industrial market. We tried to help the consumers and the food suppliers in this country.

The bill is not perfect. Let the opponents asks why it is the utilities companies who have the most to lose if that does not work, ask them why they are willing to swallow that. It is because they know it is not as fearsome as the opponents say.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, under this bill we will be getting gas from Alaska. Some people were saying the people in the Pacific Northwest are not in favor of that. We want that, and we want it if we can get the price down and if we do not have to go through the long Federal regulatory proceeding.

Mr. SHARP. Mr. Speaker, I thank the gentleman.

The gentleman is absolutely correct. No one can guarantee the pipeline will be built, but we can guarantee major delays and it probably will not be built if we fail to pass this legislation. For every month that passes it means an additional $50 million that the consumers must pay to build the pipeline because of the delays that will occur without this legislation.

But, Mr. Speaker, let me summarize by suggesting what we think some of the impacts of the bill will be. We cannot project, of course, as to exactly what is going to happen, but this is the best judgment that we have come up with from a variety of sources who have looked at it from a variety of objectives.

First, Mr. Speaker, we think there will be more gas. The moderate prospect is that there will be a 30-percent increase in the gas supply in the interstate market, 30 percent more than what we would have otherwise by 1985. Some of the gas producers say, "You are pikers. It will be much higher than that. We can produce more."

Second, the estimated cost to consumers, because of what happens to them if we do not act on this, is believed to be either negligible or an additional $3 billion on the economy between now and 1985. True, the consumer is going to bear higher costs but he is going to pay higher costs anyway.

The Congressional Budget Office has indicated that the macroeconomic impact of this legislation on natural gas to be at maximum an increase of one-tenth of 1 percent in inflation.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 30 seconds. I do so to point out to the gentleman from Indiana (Mr. SHARP) that his 30-percent figure seems to be a little bit ambitious. The CBO estimates the increase in gas by 1985 as a result of this bill will be 3 percent of our current production.

Let me also say that on page 77 of the conference report you will discover that the price for gas, estimated by the con-

ferees who favor this report, on October 1, 1978, under controls, will be $2.057. The price of natural gas in Texas today, in the deregulated market, the free market, is $1.68.

Mr. ASHLEY. Mr. Speaker, I want to yield time to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT), in just a moment, but before I do so, I wonder if I might take a moment to say to the gentleman who just left the well, the gentleman from Indiana (Mr. SHARP), that he has the most profound respect of the membership, of those with whom he has served on the Committee on Interstate and Foreign Commerce, and on the Ad Hoc Committee on Energy; his contributions have been absolutely invaluable.

I rather suspect that I speak for members of the minority as well as the majority when I say that.

We all owe him, as we do others, a debt of gratitude for the kind of contribution that he has made. We are deeply grateful.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Speaker, I would like to echo what the gentleman from Ohio (Mr. ASHLEY) has just said. The gentleman from Indiana (Mr. SHARP) has made an invaluable contribution to this and we who serve with him on the Committee on Interstate and Foreign Commerce are proud of his labor in this as well as in all other matters.

Mr. ASHLEY. Mr. Speaker, I yield 5 minutes to the distinguished majority leader, the gentleman from Texas (Mr. WRIGHT).

Mr. WRIGHT. Mr. Speaker, we come within a few moments to the end of a very long road. For the better part of these past 2 years, this issue has dominated the consideration of most of our Members.

Under no circumstances could we claim that we have truly solved or even addressed the problems which confront this country were we to go home without enacting this bill. It is not a perfect bill. It does not satisfy all the regional objectives. Perhaps it satisfies none of them completely. It was not possible to draft the kind of legislation which would be entirely favorable to everyone and still do any good.

I realize that there are various facets of this legislation which are highly controversial. There are those in certain parts of the country who insist that we must never, under any circumstances, deregulate natural gas at the wellhead. There are others in other parts of the country who just as dogmatically insist that we must deregulate natural gas immediately and totally, and that anything less than that should be rejected.

Obviously, they cannot both be right. Obviously, they cannot both have their way. Neither has had its way entirely.

It is estimated that gradual, phased deregulation of natural gas, by providing a light at the end of the tunnel and incentives for those who have to go out and explore to find additional supplies, will save, in and of itself, approximately 1 million barrels of oil daily by 1985. It is estimated that other stimuli in the bill, both production and conservation, will save an additional 1.5 million barrels of oil a day. It is a realistic expectation that this legislation, when fully implemented, will save 2.5 million barrels of imported oil every day.

That is not utopian. It does not fully solve our problem. It does not make us completely energy independent.

We must do three things, and this bill gives us a start on the first two. We must conserve, waste less. That is the first objective. Ours has been a wasteful society, and this is the first serious attempt we have made to curb wasteful usage. That buys us time to do the other two things.

The second of our main objectives is to stimulate more discovery and more recovery of that domestic oil and gas which under the present situation is not being found or not being produced. This bill contains some incentives to start us on that road. But that second objective also only buys us some additional time. Ultimately, according to the experts, we shall run out of oil and gas. I cannot tell the Members when—the experts disagree—but in another 25, 30, 35, or perhaps 40 years, our voracious appetite for energy shall inexorably have eaten its way through those finite reserves which it took Nature some 6 million years to lay beneath the surface of the Earth.

So we must be mindful that there is a third objective of which we must not lose sight while we are doing these things in conservation and in stimulation of additional exploration and recovery of domestic oil and gas.

Next year we really must plow ahead with great earnestness in developing additional sources from alternate supplies such as coal gasification and liquefaction or, ultimately, solar power and all the other sources which give promise.

If we do not have those on line in sufficient quantity and in actual production before we run out of oil and gas, then we shall have committed a grave crime against the future.

The legislation before us today is a useful start, long delayed, toward the right objective.

Mr. Speaker, I ask the Members to think of the future and to vote "aye" on this legislation today.

Mr. O'NEILL. Mr. Speaker, I rise to urge all my colleagues on both sides of the aisle to vote for the adoption of this important conference report.

We have struggled with this issue now for 18 months. The Congress has spent more floor hours, more committee hours, more conference hours, and more task force hours on this legislation than it has on any other issue before the 95th Congress. Because we did not heed the warnings of the Paley report and other scientific reports 25 years ago, this Nation is facing a serious energy crisis. We have been forced to accomplish in 18 months what we should have been working toward for 25 years. As a result, we have had to legislate immediate and far-reaching solutions to a national and international emergency. This has not been an easy task for any of us.

The House-Senate conferees deliberated for 8 months before they negotiated a compromise on the most controversial part of the package—deregulation of natural gas. I appreciate the courage of the vote the majority of you cast yesterday in support of the natural gas compromise.

The entire package is a compromise. I realize that none of you is completely satisfied with this energy bill—and that none is completely dissatisfied with it. But, the conference report is the best possible compromise we could arrive at to insure that in the years ahead the citizens of our country will have an adequate supply of energy.

It is the most difficult issue that has been faced by any Congress in this century. For many of you, it is perhaps the most difficult vote you will ever have to cast in your political career. Certainly it is the most significant and far-reaching.

I am asking you this morning to put aside your parochial interests—now is the time to act with political courage, to act in a responsible manner. The art of compromise is the essence of the political process.

My distinguished colleague, RICHARD BOLLING, pointed out yesterday during the debate on the rule to this conference report that what was at stake here was the national interest—not the parochial interests—and not the sum of the special interests. These do not add up to the national interest.

The issue is the same this morning. Let us act responsibly, let us act in the national interest—let us act with political courage. The entire world is watching and waiting for us to act.

I urge all of you to vote "aye" on this conference report.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, a year ago Secretary Schlesinger was saying that if the price of gas went above $1.75, there would not be any more gas forthcoming in the United States because there was no more gas. Now we hear a different story. Now the Secretary says, let us set the controlled price of gas at $2.06 right now when the gas price in the Texas market where it is not controlled is $1.68.

I do not quite understand that kind of economics. In the interstate market we are going to control the price at $2.06 but in the free market it is $1.68.

The CBO says that we will get no more than 700 million more cubic feet of gas—that is 3 percent of our current use—by this new energy bill that we have got here, this new natural gas bill. But we will have a sixfold increase in regulatory costs, 800 more personnel in an agency that only has 1,200 personnel altogether, including the janitors and secretaries and everybody else—800 more people to do more regulation. Then by 1989 we will have deregulated about the same amount of gas as is currently deregulated. That is not deregulation; that is

reregulation, because right now we take everything and regulate it, and we have to do it quickly because the free market is lower in price than the controlled market. That is what is wrong with this legislation.

Incidentally, when we get through with it, we keep that 60 percent that will be regulated in 1989. We keep it regulated forever. I just do not understand legislation like that. I think it is very poor legislation because it does not get us the production we need, and it raises the price for the consumer. That is why we have got this strange coalition of liberals and conservatives, of people who believe in the free market and people who have more confidence in Federal regulation, opposing this silly bill.

Go ahead and vote for it. We have to have an energy bill, do we not, even if it does the wrong things, even if it hurts this energy situation that we have in this country, does not produce, and raises prices? Is that what your people expect of you? It certainly is not what mine expect of me. We went through those cold winters because of regulation when we did not have the gas and closed our schools and industries.

This is a silly bill. It is worse than that—it is a damaging bill to our future economy.

Vote for it, if you will. I cannot.

THE WRONG CULPRIT: CARTER'S FOLLY IN BONN

OVERVIEW

During the recent summit conference in Bonn, President Carter proposed a grand solution to the economic difficulties confronting the United States and its major industrial trading partners. He properly recognized that the recent huge U.S. balance-of-payments deficit and the consequent dramatic decline of the dollar against other major currencies is not only a serious problem for the United States, but also poses an increasing threat to the future growth and prosperity of the entire free world economy. The recent dollar-fed monetary turbulence is hindering the expansion of trade and investment, imposing burdensome currency market intervention costs on West Germany and Japan, and placing severe financial strains on the export industries of our major trading partners.

Unfortunately, the administration's grand solution is premised on a fundamentally mistaken analysis of the problem. The administration's diagnosis is that the United States is importing too much oil and that the major industrial economies, especially West Germany and Japan, are growing too slowly. The former factor allegedly bloats the U.S. import bill, while the latter retards U.S. export growth. Under the administration theory, the consequences are a huge U.S. payments outflow, a glut of dollars on international currency markets, and a severe downward adjustment in the dollar exchange rate. The solution proposed by the administration involves a quid pro quo which would reverse the two factors that they believe to be the source of the problem: The United States will undertake to reduce its oil import bill by means of a substantial reduction in foreign oil consumption; Japan, West Germany, and the other OECD nations will concurrently expand their markets for U.S. exports by adopting fiscal stimulus policies designed to substantially boost their GNP growth rates. The presumed result will be elimination of the U.S. payments deficit, a return to international monetary and dollar stability, and a resumption in the growth of trade, investment and output.

Unfortunately, in pursuing this grand strategy the Carter administration has presented Congress with what amounts to a fait accompli. The United States is now committed to reducing U.S. oil imports by some 2 to 3 million barrels per day, and to having in place a policy to accomplish this goal by 1980. In the months ahead the Congress will therefore be faced with increasing pressure to adopt the crude oil equalization tax (COET), or to acquiesce in the imposition of stiff oil import fees or an outright quota. In short, the administration is seeking to use the lever of solemn international commitments to effect a Lazarus-like resurrection of some version of its now discredited national energy plan.

We believe it would be a serious dereliction of duty for the Congress to bend to these misguided pressures. Oil imports are not the primary cause of our balance of payments crisis. The reduction of oil imports, as desirable as it might be on other grounds, will not necessarily ease present international payments and monetary turmoil. Moreover, adoption of draconian measures such as COET or stiff import fees will impose massive additional costs on the economy and consumers. These additional costs will retard domestic economic growth, exacerbate inflation, and require even more counterproductive regulatory management of our domestic energy supply system.

The real causes of our present balance of payments/dollar problems are to be found in misguided fiscal and monetary policies, not oil imports per se. Moreover, pressuring our allies into mimicking these imprudent policies will only compound the monetary, trade, investment and growth problems of the industrial world. We believe it is imperative, therefore, that Congress reject the costly oil import reduction expedients proposed by the administration, adopt a sensible long-range energy policy oriented to freeing-up domestic supply, and face directly the real culprit: Outmoded Keynesian demand stimulus policies that are jeopardizing not only the future economic health of the United States, but that of the entire Western world.

THERE IS A SERIOUS PROBLEM

The problem the administration addressed at the Bonn summit is indeed serious. As shown in the table below, since the second quarter of 1975, the United States has experienced a steep and nearly uninterrupted deterioration in its payments position with the rest of the world. Whether measured on a merchandise trade basis or on the more comprehensive balance on current account basis (which includes net investment and service income flows), the U.S. payments shift over the last 12 quarters has been dramatic: Nearly $60 billion on the merchandise account and $44 billion on the current account.

Deterioration of U.S. trade position, 1975–78

[Billions of dollars at annualized rate]

Quarter	Merchandise account	Balance on current account
1975—2	+$13.2	+$15.7
—3	+8.3	+12.3
—4	+8.9	+12.2
1975—1	−5.4	+2.1
—2	−6.3	+2.0
—3	−11.3	−4.2
—4	−14.4	−5.5
1977—1	−28.1	−11.0
—2	−26.5	−10.7
—3	−29.0	−11.5
—4	−40.7	−27.7
1978—1	−44.8	−27.8
Total shift, 1975—2-1978—1	−58.0	−43.5

Since the first quarter of 1976, U.S. imports have exceeded exports by nearly $60 billion. This massive outflow of payments has not been offset by net inflows of investment and service income. As a result, the supply of dollars in the hands of foreign traders has steadily increased. Under the present floating exchange rate system this inevitably leads to a decline in the exchange value of the dollar in response to an excess of dollar supply over demand.

This nearly automatic exchange rate adjustment in response to the rapid deterioration of the U.S. payments position has been substantially compounded, however, due to the dollar's role as the major reserve and transactions currency in international commerce. While the money supply of most nations is used primarily to finance domestic economic activity, the dollar plays a much broader role. Most foreign nations have substantial U.S. dollar holdings in their official reserve accounts (West Germany and Japan together currently hold nearly $70 billion in dollar reserves) and a substantial proportion of international trade is financed with dollars. For example, Japan pays Saudi Arabia for oil with U.S. dollars; Saudi Arabia in turn pays Korean construction firms in dollars to build Saudi petrochemical facilities.

Consequently, a major share of the world-wide supply of liquid dollar assets is held abroad; the Euro-currency market alone is estimated to contain nearly $650 billion in liquid dollar holdings, a level equivalent to domestically held dollar assets. As a result of this massive external dollar overhang, there is enormous potential for the rapid unloading of dollar assets on international currency markets in response to anticipated adverse trends in near-term U.S. economic performance, balance of payments position, and the dollar's exchange value.

During the last 12 months, the steadily deteriorating U.S. payments position has seriously eroded confidence in the near-term performance of the U.S. economy. As a result, there has been an accelerating flight from dollar assets, a development which has further depressed the exchange value of the dollar. The table

below demonstrates the magnitude of the dollar's decline against major currencies since 1976.

DECLINE OF DOLLAR EXCHANGE RATE SINCE 1976

Period	Deutsch-mark	Yen	Swiss franc	All currency index
1976 average	2.51	295.8	2.49	104.9
January 1978	2.12	240.9	1.97	102.2
March 1978	2.03	232.0	1.89	101.5
July 1978	2.04	189.0	1.76	98.3
Percent change from:				
1976 average	−18.7	−36.1	−29.3	−6.3
January 1978	−3.8	−21.5	−10.7	−3.8

Note: All currency index represents an index of dollar exchange value against a trade weighted basket of major currencies. July figures represent values at end of month.

If the United States does not take effective steps to reverse this trend, the economic damage will continue to mount both here and abroad. Domestically, continued depreciation of the dollar will mean accelerating inflation at a time when the rate of price increase is already nearing the double digit range. This is due to the fact that dollar depreciation increases the dollar price of imports. To the extent that imports provide the marginal source of supply for products ranging from automobiles to consumer electronics and textile, rising import prices permit similar upward adjustments in the price of domestically produced goods. This has clearly been the pattern, for example, in the automobile market during recent months. As these domestic and import price increases boost the general cost of living, wage rates and the price of other domestic production factors rise in order to maintain real incomes. These adjustments in turn mean that the price of U.S. export goods increases, thereby nullifying part or all of the price advantage to U.S. exports stemming from dollar depreciation.

In short, in the context of the present world economic system—a system in which inflows and outflows of U.S. merchandise trade, banking services, investment income, and various "invisibles" now total nearly $500 billion annually; in which hundreds of billions in liquid assets readily flow across national borders; and in which the international currency exchanges adjust currency values hourly—there is a simultaneous and continuous relationship between the international value of the dollar and the domestic price level (in effect, the domestic value of the dollar). As the dollar falls abroad, domestic prices rise. There is thus no appreciable long-run or even short-run advantage to the U.S. economy from continued dollar devaluation.

But as indicated previously, a continuation of current trends will inflict serious damage to the international trading system. A volatile dollar undermines confidence worldwide, dries up investment flows, inhibits trade, and encourages protectionism and other manifestations of economic nationalism—all of which retard the growth potential of each national economy linked to the international trading community.

OIL IMPORTS ARE NOT THE CAUSE

The proposition that oil imports are primarily responsible for the recent sharp deterioration in the U.S. balance of payments and the exchange value of the dollar is intuitively attractive, but it cannot withstand serious scrutiny.

While it is true that the U.S. oil import bill has increased fivefold since 1973—from about $8 billion annually to a $42 billion annual rate at present—increases of similar magnitude have been experienced by every major industrial country. The Japanese import bill has risen from about $6 billion in 1973 to nearly a $27 billion annual rate in 1978.

Relative oil import burdens in 1977—United States, West Germany, and Japan

Category	U.S.	West Germany	Japan
Oil imports as share of domestic energy consumption	[1] 24.3	[1] 49.9	[1] 69.9
Oil import bill as share of GNP	[1] 2.35	[1] 2.61	[1] 3.37
Actual 1977 oil import costs (in billions)	$44.4	$14.8	$26.0
Oil import cost grossed-up to U.S. GNP level (in billions)	$44.4	$50.0	$63.7

[1] Percent.

The fact of the matter is that relative to the size of its economy, the United States has the lowest oil import dependence of any major industrial nation. As shown in the table below, U.S. oil imports account for only 24 percent of total domestic energy consumption, compared to 50 percent for West Germany and nearly 70 percent for Japan. More importantly, the drain on national income to finance these imports is far less for the United States than for either West Germany or Japan. Japan's oil import bill relative to GNP is nearly 1.5 times as large as that of the United States. The last line on the table, in which actual 1977 oil import costs of Japan and West Germany have been grossed-up to what they would be if the economies of those countries were the size of the U.S. economy, clearly demonstrates that the United States bears less of an oil import burden than either of the other two major free world economies. Yet Japan and West Germany are running large balance-of-payments surpluses and their currencies are appreciating in international markets.

It must also be recalled that the U.S. balance-of-payments hemorrhage and dollar decline did not begin with the quadrupling of OPEC oil prices in January 1974. In fact, although the U.S. oil import bill increased from $8 billion in 1973 to $27 billion in 1975, the United States accumulated a $6 billion balance-of-payments surplus (current) account) during this 2-year period and the dollar generally appreciated against most major currencies. The U.S. balance of payments did not shift into a deficit position until the third quarter of 1976; as was shown previously, it has plummeted drastically in the subsequent eight quarters. Yet, aside from seasonal and weather induced fluctuations in oil demand, the volume of U.S. oil imports has remained constant since mid-1976: imports averaged 7.8 million barrels per day during the first half of 1978, the same as in 1976.

The table below shows the relatively modest role that increased oil import costs have played in the U.S. balance-of-payments deterioration since mid-1976. During a 20-month period in which the U.S. payments position has shifted from a modest and manageable deficit to one of crisis proportions, the rise in oil import costs has accounted for only 17 percent of the total increase in imports, 18 percent of the deterioration in the merchandise balance, and only one-fourth of the adverse shift in the overall balance on current account.

THE ROLE OF OIL IMPORTS IN THE DETERIORATION OF THE U.S. PAYMENTS POSITION SINCE MID-1976

Period	Change in import levels			Shift in payments balance	
	Oil	Nonoil	Total	Merchandise	Current
1976:3	$36.4	$90.8	$127.2	−$11.3	−$4.2
1978:1	42.4	119.8	162.2	−44.8	−27.8
Change	+6.0	+29.0	+35.0	−33.5	−23.6

Note: All figures in billions of dollars at annualized rates.

In the final analysis, a nation's balance of payments position expresses in a single indicator the net settlement for any period of time resulting from millions of daily transactions in goods and services with the rest of the world. These manifold transactions, and the resulting net settlement, are far more powerfully influenced by domestic output, inflation, and nominal demand (dollar GNP) trends relative to those for other economies than by the merchandise account for any single commodity in trade. Thus, in order to isolate the cause of our current payments crisis, it is necessary to examine the basic macroeconomic policies that shape our economic transactions with the rest of the world.

WORLD MARKETS INSIST ON AN HONEST DOLLAR

To grasp the real cause of the current U.S. balance of payments problem it is necessary to recall one fundamental truism about international trading relationships. No country can import for any sustained period of time in excess of its ability to pay for such imports out of the national income generated by its economy. When nations attempt to defy this rule, the world economy sooner or later invokes very powerful disciplining mechanisms.

The most common method by which nations seek to live beyond their means is to artificially inflate their national income (purchasing power) by means of monetary expansion. By rapidly increasing the growth of money supply through a combination of fiscal and monetary actions, a nation can increase its rate of nominal GNP growth substantially. In the long run, of course, most of this increase in nominal GNP will be absorbed by price increases so little is gained in

terms of real output and income. The economy just requires more paper money in order to function. But in the short run, monetary expansion can increase the ability of an economy to purchase goods on the international market. For example, if a country doubles its nominal GNP growth rate from 5 to 10 percent, its rate of import growth is also likely to double, and may accelerate even more rapidly if the import share of domestic consumption increases.

If the rest of the world fails to pursue similar expansionary monetary policies, the inflating country's import levels rise faster than its export sales and its balance of payments swings into deficit. In essence then, such monetary expansion involves borrowing from the rest of the world (the payments deficit represents overseas claims against the inflating country's national income) in order to temporarily increase domestic consumption levels. But overseas creditors are no different than the neighborhood bank: they allow credit to be extended only until they begin to lose confidence in the debtors' ability to repay. They then invoke the disciplining mechanisms that have been established to facilitate international trade and financial settlement.

Under the pre-1971 fixed exchange rate system, overseas creditors merely turned in their excess currency holdings at their own country's official reserve bank in return for a fixed amount of assets denominated in a more desirable currency. The official reserve bank would continue to accumulate such claims against the inflating nation's economy until it too lost confidence in its ability to repay. At that point, it could demand gold or other official reserve currencies in exchange for the accumulated claims.

This process invariably provoked a monetary crisis for the inflating country. Unable to pay out all of the potential claims from its official reserves, it would be forced to devalue its currency in order to protect its reserve position. Nations persistently believed that such devaluations would improve their balance of payments on the grounds that imports would subsequently be more expensive and their exports cheaper. But as was indicated previously, this cannot occur on a sustained basis. The immediate effect of devaluation is to raise import prices. Such price increases permit the price of competitive domesitc goods to rise correspondingly and, due to subsequent price adjustments to maintain real domestic factor incomes, export prices rise as well. To be sure, the devaluation process does tend to curb the inflating nation's ability to live beyond its means by borrowing from abroad to finance excessive imports. And to that extent, devaluation does cause its payments position to improve as its trade deficit diminishes and its account with the rest of the world moves back toward balance. But this does not represent an improvement in its real terms of trade with the rest of the world or an increase in its real level of national income and wealth. It represents only a disciplinary correction that returns its account with the rest of the world back to the premonetary expansion status quo.

Under the current floating exchange rate system, and in the present U.S. context, these same dynamics operate, but with two differences. First, the necessary devaluation occurs hourly and incrementally on the international currency exchanges rather than in a "lump-sum" as the result of action by the official monetary authority. Consequently, domestic price adjustments to external devaluation occur nearly simultaneously. Unlike under a fixed exchange rate system, the international and domestic value of a nation's currency tend to move in tandem even in the short run under the current monetary system.

The other difference is that the risk of holding weak currencies is shifted from official reserve banks to private traders and other nonofficial currency holders. In essence, this spreads the "work" of maintaining international monetary equilibrium from a few specialized national reserve banks to literally every participant in the international economy—including, for example, the tourist or businessman who plans a trip to Tokyo 2 months hence.

The resulting efficiency loss, together with the uncertainties created by exchange rate fluctuations, undoubtedly operate to reduce international investment, risk taking, and trade, and thereby act as a drag on world production and income growth. This is most decidedly true in the present case in which the United States is practicing such monetary inflation. Due to the dollar's central role as the major financial lubricant of international trade and commerce, the performance of the entire free world economy is being seriously impaired by our present domestic policies.

THE DISHONEST DOLLAR POLICY OF THE UNITED STATES

The fundamental cause of the current international monetary turmoil is that the United States is pumping dishonest dollars into the world economy with nearly reckless abandon. At the same time, our major trading partners, having recognized the futility of artificial monetary expansion, are exercising increasing restraint in the conduct of their fiscal and monetary policies. The resulting imbalance in the supply of dollars versus other major currencies has caused an unhealthy and unsustainable buildup of foreign claims against the U.S. economy. The turbulence in world currency markets during the last year thus reflects nothing more than the effort of overseas creditors to discipline the profligate spending spree in which the United States is currently indulging.

The growing divergence between the macroeconomic policies of the United States and those of Japan and West Germany is rooted in the post-October 1973 oil shock. In accordance with basic economic theory, a quadrupling of the supply cost of any major commodity is bound to have severe deflationary effects. This is especially the case with oil because of its relative demand inelasticity in the shortrun. Thus, in response to the dramatic leap in the relative price of oil during 1974, demand for other goods and services had to give way, causing a fall in total output in all oil-consuming industrial countries.

Every major industrial economy consequently suffered a severe recession during 1974–75. However, in an effort to cushion the deflationary blow, the United States and other industrial nations maintained rapid rates of monetary expansion even as output was falling. This caused prices throughout the industrial world to explode at a double-digit rate of increase during this period.

This concerted policy of industrial world monetary expansion had two effects. First, it stretched out the deflationary impact of the oil price increase, thereby braking the recessionary momentum generated by the original shock. To the extent that it provided a period for adjustment to the new world energy price structure, some degree of monetary expansion was unavoidable and probably helpful.

Second, it temporarily eroded the value to OPEC of the original 1974 price increases. As export prices throughout the industrial world surged during 1974–75, the international purchasing power of OPEC's oil receipts declined. But as subsequent events have shown, OPEC was not about to be bilked out of the enormous capital gain on its underground oil reserves by Western monetary depreciation. It simply raised the nominal posted price of its oil, thereby maintaining the real terms of trade. The real OPEC "take" per barrel in mid-1978 is exactly the same as in October 1974, after adjustment for inflation and dollar devaluation.

The policies of rapid monetary expansion pursued by the industrial nations between 1974 and 1976 thus could serve no useful purpose once the original deflationary shock had been absorbed and their economies had returned to an expansionary path. As is shown in the table below, between 1974 and 1976 these expansionary monetary policies resulted in nominal GNP growth rates which ranged from 7 percent for West Germany to 14 percent in the case of Japan. Since none of these economies have the capability to expand real output at such rates even for short periods of time, the difference had to be absorbed in rapid rates of price increase. Not surprisingly, therefore, the GNP deflator rates shown for each country are two to three times higher than they had been during the stable and prosperous 1960's.

Recognizing the unsustainability of these excessive rates of nominal GNP growth and the long-run economic costs of the inflation which accompanied them, Japan and West Germany have recently moved to more restrictive fiscal and monetary strategies. As a result, during the last year or so their rate of nominal GNP growth has slackened substantially: Japan's nominal GNP has increased during the last year at only 70 percent of its rate during 1974–76. Both countries have consequently reaped a substantial pay-off in reduced inflation rates. During the last four quarters,

Japan and West Germany's GNP deflators have been rising at only half the 1974–76 rate.

But during the last 18 months, U.S. macroeconomic strategy has been just the opposite. Rather than diminishing, the Federal full-employment budget deficit has been widening since fiscal year 1977. This in turn has forced the Federal Reserve to accelerate the rate of money supply growth during the past 12 months. As a consequence, U.S. nominal GNP is now growing even faster than it did during 1974–76. The United States has thus experienced no significant slackening of its inflation rate, and during the last two quarters price increases have surged back into the double-digit range.

It is this post-1976 divergence in growth rates of nominal GNP, and the accompanying inflation rates, which have created the dollar crisis. So long as all of the major industrial countries were pursuing expansionary fiscal and monetary policies and experiencing rapid rates of nominal growth, there was little effect on relative currency values. The whole industrial world debauched its currencies simultaneously as an expedient response to the OPEC oil price challenge. Only those countries such as Great Britain and Italy—who got out of line and permitted nominal GNP and inflation rates to soar above the 20 percent range—experienced balance of payments and currency depreciation difficulties. But this period of concerted monetary expansion has now ended. With U.S. nominal GNP growth rapidly accelerating and West German and Japanese growth sharply decelerating, the world market has been unavoidably burdened with a glut of excess dollars.

Post-1976 divergence in United States, West German, and Japanese GNP growth rates

[In percent]

	U.S.	West Germany	Japan
1974–76:			
Nominal GNP	9.3	7.0	14.0
GNP deflator	8.2	5.7	11.4
1977—2-1978—2			
Nominal GNP	11.4	5.9	9.8
GNP deflator	7.5	3.9	5.8

All figures at annualized rates of change.

The Keynesian economists who formulated the Carter administration summit plan recognize this growth divergence, but unfortunately they have drawn entirely the wrong conclusions from it. They focus on the divergence in real growth rates and conclude that the United States, which is growing in real terms closer to its capacity than the other two countries, is the white hat, and that Japan and West Germany must be pressured into reverting to aggressive demand stimulus policies patterned after the United States. But this viewpoint represents a fundamentally defective understanding of international monetary dynamics.

U.S. importers do not spend a statistical construct called "real dollars" when they make purchases on the international market. They spend paper dollars. And the more rapidly fiscal and monetary policies expand the supply of paper dollars, the more they pump into overseas markets. Yet, since international creditors know that the United States cannot generate income growth of 12 percent per year, to say nothing of the 18-percent nominal growth rate of the last quarter, they discount these paper dollars back to their true value through the mechanism of the daily currency auctions. Indeed, were it not for the massive dollar-propping operations of the Japanese and German central banks, this discounting over the past year would have been even more severe, and domestic inflation rates would have been even more virulent.

THE KEYNESIAN ILLUSION

The present rampant U.S. monetary expansion is a direct result of Keynesian macroeconomic policy. Its essential proposition is that the economy can be kept growing at its maximum potential rate if fiscal and monetary policies keep aggregate demand at sufficient levels: when actual output growth is below potential, demand stimulus is required; if growth exceeds sustainable potential, demand restraint is indicated.

Among the many defects in this proposition, the most important is the assumption that the economy's output growth potential is relatively fixed at about 4 percent per annum, and that in any case growth potential is not much affected by short- and medium-term changes in the economic environment, including both those resulting directly from Government policy action and those arising out of autonomous developments in the domestic and global economy.

The 4-percent growth standard in effect, represents an assumed 2-percent growth in the labor force and 2-percent growth in private sector man-hour productivity. The fatal flaw is the assumption that productivity grows automatically at 2 percent or better if the economy is operating at a high level of demand. The fact is, however, that the U.S. economy has been subjected in the last half decade to a whole range of developments which are acting to reduce the growth rate of productivity and output.

The sharp escalation of tax rates on capital gains and upper incomes resulting from both policy changes and inflation since 1970 are reducing the supply of risk capital, entreprenurial effort, technological advance, and incentives for increased output. The quadrupling of the real price of energy has drastically reduced the marginal productivity of the U.S. capital stock. The sharp tightening of pollution control, occupational health and safety and other Government standards beginning in the mid-1970's has increased the real unit cost of production, and thereby further lowered potential output (if it takes more labor, capital and material inputs to make a ton of steel, output must fall unless supply factors to the economy are increased).

Similarly, the Government claim on national output increased from 30 percent in the mid-1960's to the 37- to 39-percent range after 1975. This amounts to nearly a 25-percent rise in the Government share of national income. Since the predominant effect of Government taxing and spending activities is to redistribute income from producers to nonproducers, or from more efficient producers (computer industry) to less efficient producers (railroads), productivity, and potential output capacity have been further eroded.

The Keynesian economists currently in charge of U.S. macroeconomic policy ignore these developments or pretend that they do not matter. Consequently, their exclusive fixation on demand management strategies continues and they persist in charting a policy course premised on a 4-percent real growth capacity. The fact that U.S. productivity growth has been nearly zero during last year suggests that in the absence of productivity enhancing policy changes, the U.S. potential for output growth may only half to two-thirds of its 1960's rate at the present time.

The table below vividly demonstrates the blind alley down which present policymakers are leading the U.S. economy. Since 1974 the average output growth rate has been only 3 percent, or one-third lower than its 1960's rate. Yet instead of reducing the money supply growth rate to take account of this new reality, the trend growth rate has been increased by 40 to 50 percent on most money supply measures. With the money supply growing at twice the apparent output growth capacity of the economy, persistent, accelerating inflation is unavoidable. The resulting high rates of nominal demand growth make a balance-of-payments deficit and dollar crisis unavoidable as well.

Moreover, these policies cannot be blamed entirely upon the Federal Reserve System. The fiscal policy course recommended by the Executive and adopted by Congress since 1976 has essentially forced these policies on the Fed. The deficit during fiscal year 1978 and fiscal year 1979 will be considerably larger than that of fiscal year 1977, despite the fact that the economy is now operating at a much higher level of activity. These fiscal policies have forced the Fed to choose between a credit crunch and accelerating inflation. Thus far, it has strongly leaned toward the latter.

MONEY SUPPLY AND OUTPUT GROWTH TRENDS

[In percent]

Period	Output growth rate	Money supply growth rate			
		M_1	M_2	M_3	Monetary base
1960–68	4.5	4.3	7.4	8.0	5.6
1974–78	3.0	6.3	9.5	11.4	8.3
Change	−33.0	+47.5	+28.3	+42.5	+48.2

THE BETTER ANSWER: SUPPLY SIDE EXPANSION

The growing incongruity between U.S. macroeconomic policy and the present reality of the U.S. economy lies at the heart of the current monetary crisis.

With fiscal/monetary policies moving in an increasingly expansionary direction and the income growth capacity of the economy eroding, the only result can be an unstable world economy waterlogged with an excess of paper dollars.

Imposing a heavy tax on U.S. oil consumption (whether directly via COET or indirectly by means of import levies) will only compound this problem, because it will retard rather than enhance domestic production and income growth. Similarly, pressuring our trading partners to duplicate our excessive demand stimulus policy will only guarantee a renewed period of hyperinflation and economic instability in the entire free world economy.

Thus, the Carter administration's Bonn agenda was mistaken in nearly every particular. To stop the current international dollar hemorrhage, the United States need only stop creating so many dollars. First and foremost, achieving that goal requires rapid movement toward balancing the Federal budget so that the Federal Reserve will be in a position to reduce the money supply growth rate to a level that more closely corresponds to the present output growth capacity of the U.S. economy.

But these necessary steps are only the first component of a reoriented U.S.-macroeconomic policy. To settle for monetary restraint alone will, indeed, mean less inflation at home and less dollar induced economic hardship abroad, but it would also mean aquiesence in permanently lower national income growth rates.

There is considerable evidence, however, that the American people would not be satisfied with a permanent slowdown in the growth of their standard of living. Nor is there any reason why they should. There are ample policy options available to the Federal Government which could boost the U.S. economy back toward its historic path of economic growth. But these options involve increasing the supply of input factors to the economy, not the illusory and inflationary Keynesian policy of injecting more paper dollars.

Output growth under present conditions is far more dependent upon the availability of real economic resources—labor, capital, technology, and natural resources—than it is upon money to finance economic transactions. To the extent that the policy and economic changes of recent years have increased the cost of key inputs—energy, air and water effluent sinks, risk capital, entrepreneurial activity, labor—the total output capacity of the economy has been reduced.

The true economic policy agenda before the Congress today, therefore, is the adoption of steps to increase the supply of economic inputs and the efficiency with which they are used. A number of currently pending measures provide an important opportunity for movement in this direction.

The Steiger capital gains rollback will increase the supply of risk capital to high-technology, high-productivity industry. It will also increase the allocation of funds to the equity markets. Both of these developments would tend to raise the marginal productivity of the U.S. capital stock and thereby raise the level of output.

The Kemp-Roth personal income tax reduction will increase the after-tax rewards to labor and savings, and thereby enlarge the supply of both.

Proposals to lower the Government claim on national income through the establishment of State spending limitations and Federal GNP targets for outlays will help shift national income away from nonproductive and inefficient sectors and activities toward the more productive sectors of the economy. This will further enhance the rate of production and income growth.

Finally, there are a whole array of specific Federal policy changes—further elimination of domestic and international trade barriers, withdrawal of wasteful subsidies to inefficient domestic industries, modification of the minimum wage—that would also increase the supply and efficiency of factor inputs to the economy.

This supply side agenda offers the hope for a return to stable prosperity and maximum economic growth, because it is anchored in the unassailable truth that what an economy produces depends upon the rewards to those factors which make production possible. By contrast, the Bonn agenda, premised on the ancient illusion that men and markets do not know the value of money, can only lead to the aggravation of the economic malaise now afflicting the United States and the entire free world.

● Mr. DORNAN. Mr. Speaker, after a long and detailed consideration of this compromise, I have decided to back it as the best practical alternative available to our energy problems.

I want to make it clear that my own support for this compromise is hesitant and labored. I am not happy with the language. I am not happy with the fact that there will be an immense regulatory burden imposed on the industry. And I am not happy with the unnecessarily complicated, administrative nightmare of 20 different production categories of natural gas with 20 different price categories. I am not happy with the fact that the scope of natural gas regulation is extended far into domains normally reserved for State determinations. I am referring, in particular, to section 505 granting the Secretary of Energy the right to intervene as a matter of right in placing limitations upon natural gas production normally reserved to State agencies. And finally, I am displeased with section 504 which provides for civil penalties of up to $5,000 per day for a violation of the complex and burdensome price regulations. Such a high civil penalty proves conclusively that the economic yahoos and know-nothings have managed to insert their prejudices into the body of the bill. I am sure, so very sure, that they do it—like MacDonald's, for the good of all of us.

With all of these reservations an disappointments, I still feel compelled to support the bill. I do so, now more than ever, realizing that politics is, indeed, the art of the possible. I am not supremely confident that we are going to get a better bill next year, though I can assure every Member of this House who is in favor of even greater deregulation that I will be there to stand with them next year.

I am going to support this bill because it will give our country and my State some desperately needed relief from the inane regulations that are bogging down our economy. California cannot tolerate the current state of price regulations on natural gas. In our State a total of 55 percent of all nonvehicular energy components are dependent on clean-burning natural gas. We are not prepared to meet our energy requirements by shifting radically to other forms of energy, even if we wanted to, because the distribution systems for other than that of natural gas are simply not available. What are we to do? If the natural gas shortage continues and deepens, are we going to rely upon oil? Imported oil from a strategically vulnerable source—Saudi Arabia. Are the good people of California going to be forced to make up the difference by increasing our reliance on coal, the most plentiful but environmentally the least desirable of our energy alternatives? If the people of Los Angeles are suffering from smog and pollution now, we would be asking for pollution levels for in excess of what we are currently suffering if we were forced into a heavier reliance upon oil or the burning of coal.

Natural gas shortages in my State have become progressively more severe since the energy crisis of 1974. A study by the prestigious research firm SRI International revealed that since 1971 over 76,000 jobs in California have been lost because of the natural gas shortage in California, the most "gas dependent State," to use Senator CRANSTON's phrase, in the Union. The same researchers estimate that the loss in employment will rise astronomically if something is not done.

This measure is something. It is a halfway measure. It is not to my liking. But the costs of going with the natural gas compromise are far less than not going with it. Because rising over the national horizon there looms ever larger and larger imports of foreign oil—at fixed prices—prices set by the oil barons of OPEC. Price regulation on a gargantuan, global scale. If we dry up opportunities for domestic exploration and development, no matter how limited, then we are really asking to be pressured by the international oil powers. We are currently sending about $40 billion a year to the coffers of OPEC. We are imbalancing our payments, further jeopardizing the stability of our inflation-buffeted currency, and putting ourselves at the mercy of an increasingly vulnerable Persian Gulf region.

Once again, I must return to the conditions of my own State, California. We need this bill to liberate the energies of our private sector. We need it to etsablish the conditions in which investors can, with confidence, lend their resources to the development and completion of the transportation of natural gas from Alas-

ka. If this bill is defeated and we do not get a better bill next year then it is we, in California, who absorb the first shocks of the national loss.

I understand the reluctance of my freemarket friends who are in opposition to the gas compromise. I sympathize with my friends in Texas, Louisiana, and Oklahoma who will have to bear the burden of an unprecedented Federal regulation of intrastate gas.

The record of Federal price controls on natural gas is indisputable. If there has ever been a national folly, the pricing regulations have been the most scandalous. The impact of these regulations has been negative on the side of demand as well as on the side of supply. The low price, invariably designed to benefit consumers, has stimulated an artificially high rate of demand. This official, myopic, "cheap fuel" policy has acted as a disincentive to conservation, the very thing that the President and his advisers sternly warn us about, and has produced waste in the consumer and industrial sector of the American economy. The excessively high rate of demand, stimulated by this "cheap fuel" policy, has accelerated the need to import foreign oil and has thus contributed directly to the strengthening of the greatest price fixers in the world, the OPEC cartel. Make no mistake about it, gentlemen, this bill goes far beyond the relief of California's economy and the general welfare of our Nation. Our increased demand on the supplies of the OPEC cartel serves to insure higher and higher prices on the world market to the detriment of our friends and allies—the industrialized nations of Western Europe and Japan—as well as the less developed countries of the world struggling to feed themselves while paying higher and higher oil bills.

But consider the supply side of the equation—the side that is most often neglected by the bureaucrats ever so eager to tie our shoelaces. The artificially low prices, that is, prices fixed lower than they would have been under normal market conditions, has resulted in low, and in some cases, nonexistent profit for firms in the natural gas business. The declining rates profit returns have resulted in a flight of capital from the natural gas industry into more lucrative sectors of the economy, a drop off in returns by firms already in the natural gas business, firms already beset by higher and higher costs of exploration, drilling, and technological innovation in the development of new supplies, and a decline in the market demand for the specialists we now need most—the technicians, the specialists, and the engineers in the energy industry who can provide the expertise and know-how to get the resources available out of the ground and on line serving our industries and the homes of millions of Americans across America.

I do not know if the price regulators have ever really thought about it. But the imposition of regulations does not have a uniform effect on all the firms in the energy industry. The less well endowed firms, the marginal producers, the proverbial "little guys," the wildcat drillers, these are the people who are driven from the competition. The effect of the regulations has been to concentrate the energy market, reducing its competitive character and creating the corporate giantism that Americans justly fear.

But there is one economic rule that has followed the imposition of price regulations ever since Diolcletian imposed them on an inflationary Roman economy: High demand confronts low supply and shortages reign. It staggers the imagination that anyone could deliberately intend such a result. But history proves that the intrinsic stupidity of an idea was never an insurmountable obstacle to its success.

Mr. Speaker, once again, I express my deepest sympathies with my free market colleagues who feel that this bill contains yet too much regulation. But I fear that, for all practical purposes, we are being offered the proverbial "half a loaf" and no other practical alternative is in sight. But we should not despair. There is across the length and breadth of this country a growing recognition on the part of millions of Americans that the Government management and regulation of various sectors of our economy has proven expensive, wasteful, inefficient, and merely stupid. We can and will go further and further, chipping away at the walls of Leviathan until, like the walls of Jericho, they collapse in a thunder of public outrage.●

● Mr. SEBELIUS. Mr. Speaker, I rise in opposition to the National Energy Act.

I think everyone here would agree that Congress must take the lead in confronting our Nation's energy problems. The facts are familiar. Our dependence on imported oil is growing; consumer prices are soaring; shortages are looming in the near future; and the American economy is hurting.

Parts of the energy bill before us address these problems. For example, the conservation bill would help conserve fuel and reduce imports. There are several provisions I would like to vote for.

Unfortunately, we are forced to consider this extremely complex piece of legislation lock stock and barrel. We have no opportunity to approve the good and reject the bad.

Given this all-or-nothing situation, I am forced to vote no for in total, this is a bad piece of legislation. The natural gas section alone is deficient enough to convince me to oppose the entire bill.

I believe the people of the First District of western Kansas typify the energy needs and interest of our country as well as any district in the United States.

We have a lion's share of Kansas' 10,000 natural gas wells pumping almost a half billion dollars worth of gas per year. But we also have over 150,000 households consuming that same natural gas.

You might think these producers and consumers would have a hard time agreeing on natural gas legislation. Their interests seem no different. Yet, both the producers and consumers of western Kansas are speaking with one voice, and they are asking some pretty tough questions.

They want to know why we should pass an energy bill that will add more cost and redtape to an already bloated energy bureaucracy. Enforcement of the natural gas provisions will require 800 new regulators at an additional cost of $30 million in the first year alone. The Federal Energy Regulatory Commission's budget for natural gas regulation will increase five-fold. This does not even take into account the costs of additional personnel in the States, who will bear a great burden in administering this monster.

The people of western Kansas want to know why we should pass an energy bill that will create a regulatory nightmare. Charles Curtis of the FERC, who will have to enforce this act, recently told Kansas officials that this piece of legislation may be impossible to enforce. It would create up to 27 pricing categories for natural gas. FERC would have to rule individually on each of the 50 to 60,000 stripper wells in the country. It would also require detailed information on each of the 11,000 new completions we can expect this year. This complex regulation will increase drilling delays and uncertainty, making it even harder for the small, independent producer to survive.

Mr. SPEAKER, the people of western Kansas want to know why we should pass an energy bill that will keep natural gas pricing, and thus natural gas production, in chains until 1985, and quite possibly 1989 and beyond. This is not a meaningful framework for terminating Federal controls. Even in 1985, only 37 percent of production will be deregulated. This bill will continue the policy of keeping our most efficient fuel at artifically low prices, which only encourages waste and discourages development.

The people of western Kansas want to know why we should pass an energy bill that will extend price controls and Government regulation to the intrastate market for the first time. Sure, the present two-tiered pricing system is inefficient. But there is another way to solve that problem—remove costly Government regulations from interstate gas.

Finally, the people of western Kansas want to know why we should pass an energy bill that will result in high consumer costs without encouraging production. Some projections place the cost of this bill at $29 billion more than under present pricing provisions.

To ask these questions is to answer them. There are no good reasons.

The President says we should do all of these things to show the world we are serious about tackling our energy problems. I believe we should give the world's leaders more credit than that. It does not take much horse sense to see that this bill will only increase our dependence on foreign oil.

The President says we should pass this bill to stop the dollar's decline. Who are we fooling? At most, this bill will give the dollar a fleeting psychological boost. Far from solving the dollar's problems, this bill will heighten them, because it will cause oil imports to rise.

The President seems to want an energy

bill so badly he does not care what is in it, just as long as the word "energy" is on the cover. The American people deserve better than that.

The three main concerns of the American people are taxes, inflation, and regulation. If this bill passes, the American people will get more of all three—more taxes, more inflation, and more regulation. All of this without any significant increase in the amount of gas available to the consumer. That does not make much sense to me.●

● Mr. HARRIS. Mr. Speaker, the action of the House yesterday in reaffirming the Rules Committee resolution, which links the issue of natural gas pricing to the rest of the energy package, forces me to oppose H.R. 8444, the National Energy Act. This House should not be coerced into the support of higher natural gas prices.

There is no doubt that the United States needs to pursue a comprehensive, national energy policy. For too many years, the cry of energy "crises" and "emergencies" has been met with piecemeal paneceas offered to meet the exigencies of the situation. Knee-jerk reactions to our energy problems are inadequate.

I have long recognized the need for such a comprehensive program, and in the spring of 1975 I joined four other Congressmen in calling for an "Energy Fairness" program. I proposed a complete revision of utility rate structures and a crackdown on abuses of fuel adjustment rules, the closing of longstanding tax loopholes for big oil and utility companies, a rollback of domestic oil prices and tough new conservation measures. Many features of this program were enacted in the Energy Conservation and Oil Policy Act of 1975.

In April 1977, President Carter sent to Congress his comprehensive National Energy Act, designed to reduce oil imports through conservation and increase coal and domestic energy production. The package presented by the President included some highly commendable provisions calling for energy conservation incentives, utility rate reform, coal conversion, and continued natural gas regulation with the extension of controls to the intrastate market. After months of testimony and embroiled debate, the House of Representatives passed the National Energy Act. Although I felt an even tougher, consumer-oriented bill was warranted, I voted in favor of the House compromise bill, H.R. 8444. Just 2 days before that vote, we were successful in defeating a proposal to lift the lid on natural gas prices. A majority of the House, with the strong support of the administration, was able to defeat the deregulation proposal on August 3, 1977.

Since the energy bill was passed by the House, however, it has undergone an ugly metamorphosis in the Senate. A number of House-passed provisions have either been dropped or considerably weakened. For example, measures designed to reduce utility and industrial use of oil and natural gas through conversion to coal were much weakened by the Senate. The House bill required electric utilities to amend their rate structures to encourage, rather than penalize, conservation. The conference committees gave in to Senate pressures and settled for a provision requiring State regulatory bodies to take these procedures into account when setting utility rate structures.

The most important and controversial difference between the bill I supported in the House and the final conference report, however, lies in the natural gas deregulation provisions. Although the House voted against deregulation of newly discovered natural gas, a so-called "compromise" was reached whereby such gas will be free of price controls by 1985. This measure is totally unacceptable. It is a boom to the big oil companies and an incredible burden to the average working family. Estimates have it that the American consumer will pay between $9 and $55 billion more for gas between 1978 and 1985. Once price controls are lifted, nobody knows for sure what will happen to the price of gas made dependent on the world price of Arab oil. Because of its highly complex and technical nature, the bill is sure to create an administrative nightmare. Federal Energy Regulatory Commission Chairman Curtis testified that he would need an additional $30 million and 300 staff positions to administer the law.

While the Senate considered the major provisions of the National Energy Act individually, the Members of this body have to vote "yes" or "no" on the entire package. Because of the controversial nature of the gas compromise, I feel that a separate vote on that measure is warranted. I have personally urged the leaders of the House and the members of the Rules Committee to schedule such a vote, but my pleas have fallen on deaf ears.

Although the bill as originally passed by the House called for a number of progressive steps in the field of energy, that same bill has come back from the Senate in an unrecognizable form. An intense lobbying effort by selfish interests has emasculated many provisions that were originally intended to benefit the consumer.

In short, the Senate and the conference committees on energy have sacked the energy bill that passed this House last November. Four parts of this bill—coal conversion, utility rate "reform," conservation, and industrial fuels use—would provide some important steps forward in our energy policy. Added to the Energy Conservation and Oil Policy Act, the Offshore Energy Act, Strategic Petroleum Reserves Act, Public Lands Act Amendments, and other legislation which I have helped to pass, our record on energy is good. But the benefits of H.R. 8444 are not so great that I will be coerced into voting for removing the lid on natural gas prices just to get this bill passed.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I rise in support of the energy legislation package now before us.

Admittedly, there are a lot of "if's" about this package, especially that portion which includes the Natural Gas Policy Act. And the "if's" must come true if the action we take is to be a success. In my opinion, we must take the calculated risk they will come true. And then, we must all vigorously follow up to make certain they do.

As chairman of the Subcommittee on Economic Stabilization of the House Banking, Finance and Urban Affairs Committee, I was especially impressed with one key sentence in President Carter's recent letter to the Congress on this legislation. He said, and I quote:

> There is no doubt that action on the natural gas bill will have a direct impact on our trade deficit, on the value of the dollar and on the rate of inflation.

The President projects more than a million barrel-a-day cut in the need for imported oil as a result of this legislation. He described that saving as "crucial." So do I.

I also believe it is absolutely necessary to achieve this goal and highly desirable that we exceed it in a very substantial way.

That well may be quite possible. This legislation—in section 107—provides specifically for the financial incentives to develop unconventional gas production. Increases in natural gas supplies from unconventional sources may indeed be dramatic given the proper impetus.

I am referring primarily to the so-called Eastern gas or Devonian shales in the Appalachian Basin and the Tight Sandstone Reservoirs in several Western and Southern States.

Also in the picture is methane gas from coal seams in many States and the geopressured brine zones along the Gulf coast and possibly other areas.

The Department of Energy has been informed by experts that development of these and other unconventional wells and fields could double our gas reserves.

In addition, many States will benefit from section 108 where the price for gas from low-volume stripper wells will be given a premium. These wells are now uneconomic in the current price situation. Rejuvenation of these wells on a mass scale in Pennsylvania, Ohio, West Virginia, and many other States could greatly help industries worried about fuel supplies.

This legislation also has a major indirect benefit in synthetic fuels development. At present, substitute fuels made from coal and biomass cannot compete in the marketplace, and because of this, only small quantities are produced. The economies of scale are simply lacking.

The result is this: Our country has no fallback in time of domestic shortages and no alternative to much more expensive LNG imports from overseas.

In my view, we must offset this by starting to set the stage for the future. The day will come when there must be a competitive situation between substitute or synthetic fuels and those fuels produced from petroleum and natural gas.

If we do not begin to face that challenge in a meaningful way, we may someday be at the mercy of foreign imports.

So I would argue that—in terms of supply and future anti-inflationary weapons—this legislation makes good

commonsense and should be adopted forthwith.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, it is a shame that the natural gas deregulation component of the energy bill conference report had to be packaged with the other four parts to try to garner enough votes to sell the product to the House of Representatives.

Pulitzer Prize award winner and distinguished columnist, George F. Will, makes some telling points on why this so-called deregulation bill would not fly on its own:

DEREGULATION "IMPUDENCE"

(By George F. Will)

It is almost over, the spectacle of politicians legislating the value for years hence of a basic commodity, without knowing the supply of it or the demand for it. The House-Senate conference has produced and the Senate has approved a natural gas pricing bill. As this is written, only a House vote stands between that bill and the president's pen.

Natural gas would be sensibly deregulated today if candidate Carter had meant what he said when he endorsed deregulation. Or if, 22 years ago, a lobbyist had not tried to bribe Sen. Francis Case (R-S.D.). In 1956, the House having voted for deregulation, the Senate did too, 53 to 38. Case favored deregulation but voted against it, and President Eisenhower, who favored it, vetoed it anyway, because Case said a lobbyist offered him $2,500 to vote for it.

If the Carter administration succeeds in getting the current gas bill, it will owe its victory to tactics as disturbing as the one that infuriated Eisenhower.

The administration has exploited the coercive potential of the regulating state to silence or "convert" opponents. It has threatened to use supposedly independent agencies, such as the Federal Energy Regulatory Commission (FERC), to punish uncooperative companies.

Carter, who says the idea of deregulation is a song to his heart, who fancies himself a scourge and streamliner of bureaucracy and who wants to drive lawyers from the temple of democracy, favors this bill, which will extend regulation, enlarge bureaucracy and expand the wealth of the lawyers who batten on regulated industries.

The description of this as a "deregulation" bill is intellectual impudence. Today about 40 percent of natural gas is not under price regulations because it is in intrastate markets. This bill would extend regulation to that gas; would deregulate slowly, capriciously and incompletely; and would mean that in 1985, and possibly as late as 1989, it would still be the case that only about 40 percent of natural gas would be free from price controls.

FERC's Office of Enforcement has said the plan is "so complex, ambiguous and contradictory that it would be virtually impossible for this commission to enforce it in a conscientious and equitable manner." FERC's chairman disagrees, but he says he needs 300 more regulators to supplement the 500 new regulators recently approved. The bill would mean a sixfold increase in the cost of regulating natural gas—to $30 million a year. And FERC already has a backlog of 20,000 cases.

Why is a new army of regulators "necessary"? Consider the multiplied categories for pricing purposes. A well drilled 2.55 miles from an existing well has a price different from that of a well drilled 2.45 miles away. A well drilled to 15,001 feet has one price, a well drilled to 14,999 feet has another. And so it goes, with more than 20 price categories or subcategories (experts disagree about the exact number). As has been said, the bill will do more to increase the supply of gas lawyers than of gas, and the years of litigation and uncertainty will depress investment and production.

Not even the Department of Energy claims that the bill will significantly stimulate production, and continuing—expanding, really—price controls amounts to subsidizing consumption. Robert J. Samuelson, the fine economics writer for National Journal, says of this policy:

"Not the least of its liabilities is a potential stifling effect on the development of Mexico's vast gas reserves. Negotiations between the United States and Mexico over the export of 2 billion cubic feet daily to the United States (3 percent to 4 percent of total consumption) broke down early this year, in part because the Mexicans insisted on a price above the administration's regulated price."

Yet the administration says this bill will prove to Germans and other skeptics that the United States can implement a serious energy policy and so (if you will pardon the non sequitur) will strengthen the dollar. Understandably, the administration wants Congress to disregard the details of the bill and, instead, think of the bill vaguely as a geopolitical gesture.

Incredibly after 18 squandered months, the bill is the heart of the administration's "energy policy." It will become law if, but only if, most House Democrats feel as the Light Brigade felt: duty-bound not to reason why.●

● Mr. FRENZEL. Mr. Speaker, today is another one of those frequent moments of truth in energy. Like the others that have come and gone, today's moment poses difficult problems of political strategy, but offers little hope of relieving energy problems significantly.

Because the public believes that we need a congressionally passed energy policy, expectations will be overblown when this energy policy passes. Unfortunately, its real impact will be limited. Even the administration's puffed-up conservation estimates show small savings, and improvements in domestic energy supplies are not likely to occur soon.

Since the embargo in 1973, we have been aware of the nature of our energy difficulties. With the exception of funding energy research and development—spending has always been our long suite—our reaction here in Congress has not been very constructive.

The popular perception that Congress should do something—anything—provides a strong incentive to vote for this bill whether it is good, bad, or indifferent. That appealing temptation, rather than the essential merits of the bill, may be the most important reason why it will be passed.

Today we are asked to support a compromise proposal to phase-in deregulation of gas. The administration of the phase-in system is complicated and untidy. Worse, it requires so much subjective interpretation by people with an abysmal track record in interpretation, that even the most ardent fans of deregulation oppose it as unworkable.

Opposition comes from both ends of the deregulation spectrum. Consumerists, who would regulate us into using higher cost, more unreliable foreign oil and gas, do not like it. Neither do deregulationists. They believe it deregulates too slowly. Nearly everyone is appalled by the administrative mess.

But, despite its infirmities, the gas compromise is the only real energy game in town. For that reason alone, it deserves close consideration.

Also, for people like me who believe that deregulation is the single best way to expand domestic energy supplies, this proposal, however cumbersome, appeals because it could bring us to full deregulation by the mid-1980's. That is too slow, but it is a lot better than never.

Deregulation purists scoff at this conference report. They optimistically believe we can pass a bill next session that will get us to deregulation sooner than 1985. I doubt it. I will agree that the 96th Congress will be "more realistic" than the 95th, but there is no reason to believe that the Committee on Interstate and Foreign Commerce will suddenly see the light next year. The committee has been the champion of the cause of regulation this year. One can hope for an instantaneous conversion next year. I do. But there is little evidence that the personnel or the attitude of the committee will change much.

Therefore, I view the pending proposal as the only way to get from our current difficulties to deregulation. It is the hard way, and a risky way, but right now, there is no other way. If we can do better next year, I will be delighted. But, for now, one "in the hand" in 1985, is far better than a faint hope for the future.

For me there is also a local reason for support of this bill. It is possible, should this bill pass, that my State may gain extra natural gas formerly restricted to intrastate distribution. Also, Minnesota agricultural producers like the idea of a guaranteed preference for energy for agriculture.

In Minnesota we exist at the end of the pipeline. We have previously been reliant on Canadian energy sources, especially in our severe heating season. Gas has been short during hard winters, and our agriculture and our industries have been very concerned about gas shortages. This concern has inhibited plant and job growth.

If we are able to get additional gas, it will be a great relief to Minnesota. Our State energy agency believes, without much firmness, that there will be additional availabilities. So does the Department of Energy. If they are right, it will greatly aid job development in Minnesota.

Another alleged advantage of passing this bill is that it will ease concerns of our trading partners abroad. It will have a salutory, but temporary effect, but I doubt it will give much long-term comfort. Surely it alone will have no major permanent dollar-supporting effect. There is not enough "savings" of imported energy in this bill to provide other than temporary relief to the distress which is bothering our allies abroad.

There is little in this bill that will make the dollar more attractive. Until the United States puts its own economic house in order, our dollar will not inspire much confidence abroad. Therefore, I do not give great weight to the argument that this bill is needed to bolster our international stature.

In summary, it will provide a little conservation. It will, unless countermanded, deregulate natural gas in all forms by 1985. It will free gas now stuck in intrastate distribution and Minnesota may be able to get some of it. It may have some beneficial short-term effect on our allies and trading partners. It will certainly be an administrative nightmare.

I will vote for this conference report more in hope than in solid confidence.

My decision to vote for it was a close one. The bill has negatives, but I would like to accentuate the positive, and vote with optimism. Stated another way, the risks of passing it are outweighed by the risks of not doing so.●

● Mr. EDGAR. Mr. Speaker, I rise in support of H.R. 8444, the National Energy Act.

On August 5, 1977, I cast my vote with a majority of my colleagues for approval of H.R. 8444. At that time, the legislation closely resembled the proposal submitted by President Carter to the Congress on April 20, 1977. Generally, I supported that proposal, and I was pleased that as passed by the House, the legislation retained the principal components of a responsible national energy policy.

In my view, the President and the House were right in approving a crude oil equalization tax, returning the proceeds dollar-for-dollar to consumers. Such a tax would make the apparent price for oil more expensive compared to other goods and services, thus encouraging conservation. It would not have the adverse economic impact of funnelling billions of dollars from consumers to producers. The tax would also eliminate the administrative nightmare of the entitlements program, a program made necessary by the large difference between the artificial price controls of OPEC and the fair market value of domestically produced oil.

I also strongly supported the President's proposal to allow the price of new natural gas to rise to $1.75 per 1,000 cubic feet, and extending this price to the uncontrolled intrastate market. In my view, the natural gas crisis resulted not from a lack of supply, but from a market distortion caused by the high price of OPEC oil. More than 90 percent of new natural gas was being committed to the intrastate market at a time when industries which relied on interstate gas were forced to shut down during unusually harsh winters. In my view, the $1.75 price would provide additional incentives for production and exploration. This price would limit the inflationary effect of allowing prices to rise to the OPEC energy price, a price set by fiat without the competitive market that is a characteristic of a true free market.

The House endorsed the President's proposal, and I was also pleased that the House saw fit to approve many other measures proposed by the President relating to conservation, utility rate reform, coal conversion, and energy taxes. The House sent to the Senate a strong bill, one worthy of being enacted as the first step of a coherent, coordinated national energy policy.

I guess it was inevitable, Mr. Speaker, that the special interests decended upon Washington to gut the spirit of that bill. But I did not expect the final bill to be a skeleton of its former self. There are good provisions in the bill we are now considering. But there are provisions, particularly in the natural gas section, which I strongly feel are bad public policy.

The coal conversion section, for example, is much weaker than the President proposed, and a shadow of what I voted for last year. However, it will encourage the conversion by utilities and industrial plants from precious natural gas and oil to other fuel sources.

The utility rate reform section has also been weakened. Yet I feel that it is important to require the States to look at changes in rate structure to eliminate existing incentives to squander electricity.

The conservation section will also contribute to minimizing our reliance on imported energy by authorizing loans and grants to help schools, hospitals, municipal buildings, residences, and businesses maximize the potential to conserve fuel.

I support these three sections of H.R. 8444, and it is for the enactment of these three sections only that I will vote for the package.

However, I would be remiss if I did not point out the lack of merit of the fourth section of this package, natural gas pricing.

Although the administration has lobbied for approval of the natural gas bill as if the future of democracy in the world depended on it, the natural gas section before us does not resemble the original proposal in the slightest. Virtually no one is supporting this compromise as a good bill. We are being asked to vote for this abomination as the best we can get, considering that natural gas pricing has been a subject of emotional controversy and confrontation for 30 years.

The only good thing about this legislation is that it will eventually equalize the price between intrastate and interstate natural gas, removing the market distortion I referred to earlier. The price we are being asked to pay for this, however, is staggering. I do not think anyone knows for sure how much this bill will cost consumers. The estimate I have the most faith in allows for a cost to consumers of $29 billion by 1985. Increases of supply which will result, because of this price increase are negligible, perhaps 1 percent of present supply.

The provision requiring much of the price increase to be passed on to industrial users would hurt our region's industry and give advantages to industries in other regions. The reason for this is that this provision, known as incremental pricing, would affect only interstate gas and not intrastate gas. Thus, industry in our region, which depends almost entirely on interstate gas, would be forced to absorb much higher energy costs than industry which has access to intrastate gas supplies.

During this debate on natural gas pricing, we have been asked to support this to serve a signal to our allies that we are serious about conserving energy. Approval of the natural gas section, proponents have said, would strengthen the dollar abroad. I cannot understand how enacting the natural gas compromise into law would increase confidence abroad in the dollar. First of all, investors overseas are smart enough to realize that this energy bill must do something to limit inflation to have an effect upon their investment decisions. It is true that H.R. 8444 will have beneficial effects upon our ability to conserve, and make it less likely that we will require major increases in imported energy. However, the level of energy imports is only one factor in inflation. Certainly, Japan and Germany have strong currencies. There is little correlation between the strength of a currency and energy imports, since both Japan and Germany rely more heavily on energy imports than our own nation.

What is perhaps more significant is the impact of the bill on inflation. There is no doubt that increasing consumer costs for this fuel by billions of dollars will raise prices of all goods and services which depend upon natural gas for energy and for a feedstock.

I expect that approval of the natural gas section will seriously weaken the dollar. I only hope that the benefits of the first three sections will compensate for this weakening.

Mr. Speaker, perhaps the greatest proof that this natural gas compromise is bad legislation is the fact that there are not enough votes to approve this measure solely on the basis of its own merit. Those who support the bill have used heavy pressure to attach it to the first three sections in order to get approval for the natural gas compromise. They know that consumers, producers, unions, industry have had a strong voice in pointing out how this bill is administratively unworkable, and would benefit only the politicians who can brag that a compromise was reached, allowing an energy bill to be passed just prior to elections.

Although I rise in support of H.R. 8444, I want to make clear my opposition to the natural gas section. There is no doubt in my mind that the 96th Congress will be again considering the natural gas issue, and will have the opportunity to make major changes in this unworkable bill. I intend to work actively in support of changes which will provide producers with an incentive to produce more supplies, at a price which will be affordable to consumers.●

● Mr. WYDLER. Mr. Speaker, how can we defend the creation of 23 categories of natural gas when the people are really interested in increasing supply. I recall that the chart outlining the various deregulation pricing options look like the wiring diagram for a small computer.

Estimates have put the increased costs from continued regulation at interstate prices to consumers in New York State of nearly $10 billion through 1985. That means the people of Long Island will pay $2 or $3 billion. The shame is, of course,

that nationwide there cannot even be an extra trillion cubic feet of gas per year produced by that date which can be credited to this legislation. If there were real supply incentives in the bill, the residents of our State might look for prices to ultimately go down at some point as normal market forces take over. That, of course, is far too rational of a supply-demand scenario for the administration to consider.

Thus even though this so-called deregulation bill is frightening in its bureaucratic implications I find it consistent with the other bizzare measures which have been adopted by the conference on this package.

The conservation bill contains $100 million for purchase of solar cells which will be obsolete before they are even produced. It also puts utilities into the business of arranging loans or providing them for residential conservation, a most inappropriate role.

The coal conversion bill grants only temporary exemptions for the use of synthetic fuels including those derived from coal and does not even define natural gas in the same way as the natural gas act. This madness is reinforced by the fact it encourages industry to burn Arab oil over American gas.

The public utility regulatory reform bill whetted the regulatory thirst even further by proposing to bypass the existing Public Utility Regulatory Commission. Fortunately, our colleagues in the Senate "gutted" most of these abnominable provisions but the final product is hardly model legislation.

I am relieved that the crude oil equilization tax (COET) was abandoned, but, paradoxically, the administration was still pushing for an industrial oil users tax as late as last week. Also the fact that the gas bill has become the linchpin of the plan is the final irony. The energy tax bill will probably cost consumers several hundred million additional dollars between now and 1985 since provisions to allow Con Ed to replace oil-fired power with nuclear generated electricity from the State have been dropped.

The whole Byzantine package is based on several administration premises that I find alarming. It is assumed that:

First. We should regulate the most environmentally desirable fossil fuel even though it is in dwindling supply and there is much promise from unconventional sources;

Second. We should convert to a more plentiful fossil fuel, coal which is environmentally undesirable and cannot be supplied with any certainty;

Third. We should not regulate coal prices as demand increases because we can safely assume that coal prices will not increase; and

Fourth. We should not pursue the nuclear option even though it is the cheapest way of generating electricity and has proven both safe and increasingly reliable over the past two decades.

Mr. Chairman, I have abandoned hope for finding a rational basis for many of these actions. It has been very much like Alice's tea party. I leave it to you to figure out who is the March hare and who is the Cheshire cat. The net result will be to leave the American public with higher prices for less supply. What a tragic result for the country. We have given the consumer the worst of all possible worlds.●

● Mr. PRESSLER. Mr. Speaker, I rise in opposition to the conference report on H.R. 8444, the National Energy Act.

There are many provisions in this omnibus bill that I support. It is difficult for me to vote against a bill providing tax credits for home insulation as well as for the installation of wind and solar heating and cooling devices. A provision of H.R. 8444 is similar to a measure I cosponsored to provide a tax break for gasohol production. I know my constituents are eagerly awaiting the implementation of these sections of H.R. 8444.

As enticing as many portions of this bill appear to be, neither the conservation incentives nor the tax breaks will equal the hardship the natural gas and electric rate reform titles will bring to South Dakotans.

It is quite possible that the natural gas section of this bill will make life more difficult for the north central States for four reasons:

Incremental pricing: Access to intrastate gas initially sounds good for those nonproducing States where severe shortages and curtailments have been chronic problems. In the first District of South Dakota, 24 towns have had a moratorium on new natural gas hookups since 1974. Access to intrastate gas will admittedly help alleviate this situation. But one must ask: how much will it cost? Ostensibly, the incremental pricing formula says industry pays. Unfortunately, intrastate gas is not subject to the incremental pricing provisions of this measure.

This means South Dakota consumers will not be protected from sudden, and potentially dramatic, increases in their natural gas bills.

If we must have a pricing formula, we should at least demand that it be somewhat equitable. This formula guarantees that many of the coldest, nonproducing States with comparatively high percentages of gas curtailments and moratoriums will bear the highest cost. It is a discriminatory formula.

Agricultural uses of gas: Our already beleagured food and fiber producers will get another jolt under the provisions of H.R. 8444. Nowhere in this bill is language giving the Federal Energy Regulatory Commission (FERC) the authority to insure the agricultural sector with priority supplies of natural gas. Lip service is paid to the agricultural user. But if it ever gets down to the crunch, the agricultural user may not receive the gas that is supposedly priority for food and fiber producers under the bill's provisions.

Supply: I question the increased supply of natural gas that is to be produced by this bill. The independent producers in my area of the United States think they would do better if we did not pass this bill. They tell me they would be happy to keep drilling under today's controls. I suppose they do not have the battery of lawyers and accountants to steer them through the regulatory maze that will result from the passage of H.R. 8444. The large oil and gas companies do, but it is important to remember that independent producers find about 90 percent of our new gas.

Windfall profits tax: There is no provision in the natural gas title that calls for implementation of the various pricing formulas contingent upon the adoption of a windfall profits tax.

The electric rate reform title of this bill contains a provision that troubles me—section 602, seasonal diversity electricity exchange. This provision, added by the Senate, authorizes the Secretary of Energy to acquire rights-of-way for the construction of a high voltage transmission line which will pass through South Dakota. The wording of the conference report, while better than the Senate amendment authorizing use of Federal eminent domain by private parties, is less than reassuring.

This section seems to give the State some voice in the siting of the transmission line; however, it is also clear to me if the State, or an individual landowner, cannot come to terms on the route or on the sale of rights-of-way, Federal eminent domain laws will come into play. I requested the conferees to consider including language protecting South Dakota State laws regarding eminent domain from preemption. Unfortunately, I do not believe this protection was achieved by the language that was finally adopted.

I truly wish I could vote in favor of H.R. 8444 because our Nation needs a responsible, responsive national energy plan. H.R. 8444, however, is neither a responsible nor responsive solution.●

● Mr. WOLFF. Mr. Speaker, I would like to voice my support for the National Energy Act. I support it, not because it is perfect—for it is not. I support it, not because it is definitive—for it is not. Rather, I support it because it is a significant step in the direction of meeting the energy crisis, which is now real and will within a decade become critical.

This legislation will enable our Nation to utilize its present energy resources in a more efficient manner. It encourages major industries to convert from oil and natural gas to coal, our most plentiful energy resource next to the Sun. Not only will this promote the use of our most currently affordable resource, it will also allow this Nation to reduce its dependence on foreign sources of energy.

The 1973 oil embargo has already given us a glimpse of how an overdependence on foreign sources can leave our people cold, unemployed, and immobile. Encouraging the substitution of coal for foreign sources will, therefore, permit us to wisely use what we have most readily available and prevent us from being held hostage to the policy fancies of foreign leaders. It will save this Nation over 100 million barrels of oil a year, and in doing so will improve our balance of payments problem.

Furthermore, this legislation is also a utility rate reform measure which will set standards for State utilities which will greatly benefit consumers. The Fed-

eral standards will reflect the actual cost of providing service to each class of customer. As a result, homeowners will begin to pay the lower rates which in the past have gone only to large industrial users. Other standards included in this bill will guide utilities to use energy more efficiently and as a result decrease our dependence on energy imports.

In addition, the National Energy Act provides for a variety of loans and grants to low- and moderate-income families for energy saving measures. This includes significant tax credits for the installation of home heating insulation. It also makes available funds for schools and hospitals to implement conservation measures which will increase energy efficiency.

Finally, this legislation will solve after 30 years the conflicts involving the regulation of natural gas. Although I have long opposed deregulation of natural gas, and voted accordingly when this bill was first considered by the House, I believe that this legislation as finally drafted, is a reasonable compromise. It will encourage production of natural gas, and promote a freer flow through the interstate pipeline system. As a result, the shortages which afflicted parts of the country in the past can be avoided in the future. It is estimated this will increase the energy supplies to the Northeast by 20 percent. Furthermore, the increased gas production resulting from this bill could result in a savings of over 400 million barrels of oil a year by 1985, when deregulation occurs, and allow for a $6 to $8 billion improvement in our balance of payments thereby reducing the dollar drain and inflation. In addition, consumers will have this gas made available to them, due to the bill's incremental pricing provisions, at a cost well below the cost of other substitute fuels. All of this will demonstrate to the world that we are committed to taking the decisive steps necessary to reduce oil imports and to come to grips with our energy situation in a meaningful way.

Mr. Speaker, passage of the National Energy Act is necessary for the well-being of our country and our people, and for that reason I support it. I look forward, however, to working with my colleagues in the future with the goal of exploring new horizons for energy resources. When we have done this, we will have reached the dawn of a new day. A day when energy is not a source of concern, but a source of hope and opportunity for ours and future generations.●

● Mr. REUSS. Mr. Speaker, I have vigorously opposed the natural gas feature of this energy package—as inflationary, as an administrative nightmare, and as a harsh and unnecessary burden on both consumer and industry. I refused to sign the separate conference report on natural gas, and I fought for a rule that would allow separate floor consideration, and probable defeat, for the natural gas measure.

But that effort on the rule has now failed; by one vote, to be sure, but it still has failed.

The question that now confronts us is whether to vote against the whole package because of the natural gas feature. I have determined, reluctantly, to vote for the package.

The rest of the package, while weak, has many good things to be said for it—the gas guzzler tax; assistance for low-income people to insulate their homes; tax credits for residential conservation and solar investments; low interest conservation and solar loans and grants for improving energy efficiency in schools, hospitals, and local government buildings; and utility rate reform standards for the guidance of State regulatory authorities.

I have been contending, in season and out of season, that the remedy for the dollar's woes abroad is the putting into place of a credible energy program and a credible anti-inflationary package. My vote for the energy package, therefore, amounts to simply this: I do not wish to be recorded as opposing an energy package which is necessary for the international position of the dollar.●

● Mr. ASHBROOK. Mr. Speaker, I am deeply concerned over the natural gas proposal. It would add to the regulatory confusion while doing nothing to provide more gas for consumers. Controls could be stretched out all the way until 1989 under a ridiculously complex pricing system.

Ohioans would be hurt rather than helped by the new plan. The proposed act would hinder efforts in our State to expand natural gas production. It would cost us both in terms of less gas and less jobs.

Although pedaled as a deregulation bill, in reality it is a regulatory nightmare. It would create in the neighborhood of 29 different categories of gas. Each category differs as to price treatment and the time period of controls.

Let me give some idea of the distinctions drawn by this proposal. Gas from a well drilled 15,001 feet would have one price while gas from a well drilled 14,999 feet would have another. Gas in interstate commerce before 1973, in 1973–74, or after 1974 would be handled in three separate ways. A well drilled 2.51 miles from an existing well would be treated differently than one drilled 2.49 miles away.

Can you imagine such outrageous complexity? Chalk up one more victory for those who love Government regulation.

Even the Federal Energy Regulatory Commission, which would be responsible for enforcing these provisions, has labeled it a "highly complex and intricate" bill. The Chairman of the FERC has stated that he will need five times the money now being spent to administer gas regulations and 300 new staff positions. Taxpayers will be stuck paying for a new army of bureaucrats.

Although this is supposedly a decontrol bill, actually more gas would be brought under Federal regulation. For the first time Federal controls would be extended to the intrastate market.

This, of course, is the very area that has met with some success. Higher intrastate prices have led to more drilling and increased gas supplies. The proposal before us would now bring the heavy hand of Federal control over the successful intrastate market.

All these complex and confusing regulations would slow the development of new natural gas. The only real production incentive over the current situation is the promise of deregulation of some categories of gas in the distant future. The other so-called incentives must wind a difficult and uncertain path through a regulatory thicket and possible judicial challenge before they become effective.

The approximately 12,000 new gas wells drilled in the country every year would undergo a decisionmaking process involving State agencies, the Federal Energy Regulatory Commission and the courts in order to establish the price of gas from a particular well. When you consider that the FERC in administering a far less complex law has a backlog of 20,000 cases, just imagine what the situation would be like in administering the proposed natural gas bill. This regulatory uncertainly and delay makes the risk capital in drilling all the more risky. The result is less drilling and less gas for consumers.

Federal price controls have proven a disaster. Government intervention has crippled domestic natural gas production and left our Nation increasingly dependent on unreliable foreign energy sources. We need to end these controls immediately, not some 11 years down the road.

If the Federal Government stopped regulating the price of natural gas, the free enterprise system would solve the problem for us. How is this possible. Because our gas reserves are still abundant. It is estimated that the amount of undiscovered gas in the United States exceeds all the gas used in the history of the country.

Exploration and development of these reserves will not take place, however, until it is economically profitable to do so. Since most of the potential gas supplies are located in difficult to reach areas—making it more expensive to find and develop—adequately high prices must be allowed if these reserves are to be tapped. Today removal of price controls is the best way of assuring this result.

We cannot afford to continue the foolish regulatory policy that has helped create our energy problems. We must allow a profit incentive to develop our natural gas reserves. If we do, then domestic natural gas will again be in sufficient supply. Otherwise the gas we need will remain in the ground.●

● Mr. STEERS. Mr. Speaker, today the House approved, by a vote of 231 to 168 the conference committee report on the President's energy plan. I voted against this report because of the inclusion of the natural gas deregulation compromise. When the House voted on the rule of debate for the conference committee report, I voted to have each of the five parts considered separately. I felt it was important to see if each of the five parts could stand on its own merits. When this change in the rule failed, I was forced to weigh the positive aspects of the tax portions of the conference committee report, the programs for coal conversion, insulation and utility reform proposals against the negative aspects gas deregulation.

My strong support for the four parts

of the energy program other than gas deregulation is a matter of record. I voted for the energy package when it was before this House in August of 1977. It is important to keep in mind that the House passed version was a much stronger bill. In several cases it mandated change where now it is only recommended, it provided more money in tax credits for those who insulate their homes or convert to solar energy, it was stronger in its attempts to have utilities and heavy industrial users convert to coal. The House-passed version contained several provisions that mandated improved utility practices and better methods for charging consumers for energy. Of course, I opposed the Brown-Wirth amendment to deregulate the price of natural gas.

In this conference committee report, the House was faced with four sections, coal conversion, utility reform, taxes and conservation that were severely weakened by the Senate, and few if any of the stronger provisions were brought back from the House-Senate conference.

This coupled with the deregulation proposal convinced me that the sentiment of "any energy bill is better than no energy bill" is the incorrect position to take. The Congress has a responsibility to enact legislation that will meet a certain goal, I feel that the House passed version of the bill met the goal of reducing oil imports without placing additional financial burdens on the consumer/taxpayer of this country.

This was not a very easy vote to cast. I stand with all Americans who believe that there is a need for a comprehensive energy plan. I received a personal letter from President Carter and Secretary of the Treasury Blumenthal. I also talked directly with Energy Secretary Schlesinger and President Carter in the past 24 hours. In the final analysis they could not convince me that there was an adequate reason to accept higher natural gas prices or the incredibly complex administrative system which we will now face.

The Department of Energy has estimated that the natural gas bill will cost consumers about $29 billion extra over the next 5 years. The Consumer Federation of America has estimated that the cost will be about $50 billion. These additional costs will be placed on the consumers of this Nation when all sides are in agreement that there will not be any reasonable expectation of an overall increase in natural gas supplies. We should also keep in mind that any change in the supplies of natural gas between the interstate and intrastate market can be accomplished now by administrative actions taken by FERC.

The administration has claimed that passage of an "identifiable" energy bill would restore confidence in the dollar in international money exchanges. However, in an article that appeared in the Christian Science Monitor of Friday, October 13, 1978, Dr. Herbert Neil, an economist with the Harris Trust & Savings Bank of Chicago stated:

> Only as the United States begins to moderate its inflation can one expect international investors to regain confidence in the dollar and create the market for a rise in the value of the dollar relative to foreign currencies.

Therefore, the problem is inflation, and passing an inflationary natural gas deregulation problem would only compound our problems.

I remain convinced that the House-passed version of the President's energy plan is a more desirable alternative than what has passed the two Houses of Congress. I will continue to work for an energy policy that is fair to consumers and will meet our energy needs.●

● Mrs. HOLT. Mr. Speaker, I have studied many reports concerning the natural gas pricing legislation; I have heard the claims of the administration and my colleagues; I have examined the legislation. My judgment is this: it is possibly the most incredibly complicated and nonproductive contraption ever devised by legislators.

The experts do not even agree on what this bill does. The proponents say that the higher prices allowed by the legislation will stimulate exploration and production. Opponents say that the regulatory system would be so terribly complex and confusing that exploration and production would be restricted.

After reviewing this legislation and relevant data, I tend to believe the latter. There is a better than even chance that consumers would be paying higher prices without significant increase in supply.

There is disagreement on how many different kinds of natural gas prices will result from this legislation. However, Charles Curtis, Chairman of the Federal Energy Regulatory Commission, has said "there are 27 producer classifications which fall under approximately 12 different price levels."

Mr. Curtis has said he will need at least 30 additional employees to administer this act, and they get added to the 500 new positions already authorized for his agency in 1979. The first year cost of administering this legislation will run to at least $20 million.

I would also remind the House of the famous memorandum of August 14, by Sheila S. Hollis, Director of the Office of Enforcement of the Department of Energy. She described this legislation as "so complex, ambiguous, and contradictory that it would be virtually impossible for this Commission to enforce it in a conscientious and equitable manner."

She later amended this statement by saying on September 7 that—

> Administration and enforcement of this highly technical bill could be undertaken only with substantial additional staff and other resources committed to the Commission.

Mr. Speaker, there is one thing this legislation achieves—growth of bureaucracy—which we could live without. I ask you what the taxpayers are getting for the money they will be required to pour into this regulatory swamp. The obvious answer is: Nothing of value.

Some Members of Congress and many writers in the news media have described this as legislation to deregulate natural gas prices. That is precisely what it is not. It would continue price regulations for six more years, but with a vast burden of new complications and expanding bureaucracy.

This legislation will, I predict, bring forth litigation without end. It will provide work for an army of lawyers and accountants which energy companies will need to comprehend the pricing system, and even that professional expertise will be unable to understand it perfectly.

I am concerned that uncertainties about price will limit the availability of capital to producers. I am concerned that the regulatory burden will force small, independent producers out of business.

One final point I would make: this legislation provides that most of the burden of the higher gas prices will fall on industrial users in the nonproducer States. This will not be the case in the producer States, where the extra cost will be spread across all users.

This means that my own State of Maryland will face a competitive disadvantage. It probably means that Maryland would lose industries and jobs to States which produce natural gas.

Maryland's economy is already in trouble. We are losing manufacturing jobs at a rate of 10,000 a year. Maryland cannot afford this legislation, and neither can other States afflicted with the same kind of economic problems.●

● Mr. TUCKER. Mr. Speaker, I support the conference report on energy. As you know, this legislation has been marked by immense controversy. The financial stakes involved are enormous, with billions of dollars hanging on the outcome of the action of Congress. Not surprisingly, every conceivable interest group that will be affected by this bill—producers, distributors, consumers, regional interests, and so on—has fought hard to see that its own goals were incorporated into the compromise. That is the normal process for legislation. However, in this case, with so much at stake and so many vital interests involved, the result has been a lengthy stalemate on a vital piece of energy legislation at a time when this country cannot afford continued delay.

I have received letters from a large number of individuals representing the producer interests severely critical of the compromise because it does not deregulate the price of gas fast enough; and, at the same time, I have received letters from many individuals outraged at the extent to which deregulation does occur under the bill. I think it is important to remember that this compromise on natural gas is a part of a much broader package affecting electrical utilities, coal production and conversion, solar development, and various tax incentives.

The Congress and men and women of good will throughout the country have virtually torn themselves apart asking whether this compromise is good for producers, or whether it is good for consumers, or whether it is good for a particular State. Parochialism, regionalism, and just plain greed have all had a field day at the expense of the national interest.

I believe the time has come to ask one question about this legislation: Is it good for the Nation? I believe it is.

Given the economic situation in our Nation and in the world today, an immediate resolution of this gas regulation controversy is essential. I believe it is.

I believe the bill to be in the national interest for the following reasons:

First. It recognizes what has been a fact for at least 5 years—that the time of cheap energy is over. Our Nation waste an immense amount of energy every year and the replacement costs for that energy are far above what we charge for it and what is now coming right out of our financial bone and sinew. More realistic pricing will result in conservation of our natural gas resources and, very importantly, should also encourage the development of alternative technologies.

Second. Passage of the compromise will provide a degree of certainty to producers, investors, and consumers that is essential to the proper development of our national economy. It is my profound conviction that one of the greatest problems faced by our economy has been the state of complete uncertainty faced by the business community in its forward decisionmaking. This compromise should offer some certainty.

Third. The incentives contained in the conference report should result in increased production of natural gas and thus will have an effect—perhaps not a decisive effect, but an effect nonetheless, on our oil imports. Lessening our dependence on foreign sources of oil is of paramount importance to the Nation. The Department of Energy has estimated that this compromise will save 1.4 million barrels of oil a day by 1985.

Fourth. The world economic community, of which we are the most important element, but which also controls us, like it or not, perceives our failure to enact meaningful energy legislation so far as one of the root causes of the dollar's precipitous decline. Whether this foreign perception is accurate or not is debatable. But it is nonetheless a fact. The perception in the world today is that if this bill is defeated, it proves that America is unwilling, or unable, to deal with one of the principal probems we face by enacting any kind of energy program. The dollar will be affected even more unless confidence is restored in the willingness of Congress to act effectively on the problem of energy.

In my judgment, this bill offers the last prospect for meaningful action on this important aspect of our energy policy. For that reason, and all of those reasons, I have cited, I actively support the conference report and I urge my colleagues to join in this painful—but unavoidable—effort to restore the economic strength of our country.●

The SPEAKER pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ASHLEY) to close the debate.

Mr. ASHLEY. Mr. Speaker, the choice for us this morning and for the country is clear. Either we begin now of our own volition, when we have a certain amount of leadtime, to change the way Americans use energy, or the Nation can wait until the need for it is suddenly thrust upon it from external sources, with the enormous economic and political disruption that that would involve. This really is no choice at all. Clearly we must take steps now to protect and insure the energy future of our country. The only way that we can begin to accomplish this is to vote for the conference report before us.

My friend, the gentleman from Ohio, would take issue with this. He suggests that there is an alternative. There is no alternative. Either we adopt a conference report, which admittedly is not perfect but is a signally positive step in the right direction, or we are left in the posture in which we find ourselves at this time.

Either we move forward to change in our energy posture or we keep the posture that we now have. There is nothing in between. We are acting on a conference report today—now—and that conference report must be voted up or down. We are not legislating on an authorization where we have alternatives, where amendments can be offered. We have gone through that. There is no way that we can vote on a conference report any different than the conference report before us.

The forces that sought to grapple with this issue were so closely divided, as was pointed out, that only by a 13-to-12 vote did the House conferees succeeded in passing and approving the conference report on natural gas. We know that there were two 8 to 8 divisions in the Committee on Rules before we could get a rule.

On the motion on the previous question on yesterday, we know that the vote was 207 to 206.

Are we fooling ourselves that there could be a compromise any different than the one that we struck?

To be sure, the compromise has been subjected to opposition that from two directions. So by definition it is a centrist kind of compromise. Look at the vote and it becomes abundantly clear that that which we are voting on today is the only possible compromise around which we can rally, which we can defend and on which we can build. That is what we must do on this occasion.

Mr. Speaker, the time has come to put the question. I urge an "aye" vote on the conference report.

● Mr. MCKINNEY. Mr. Speaker, today I will reluctantly vote in favor of the conference report to accompany the National Energy Act. I say reluctantly, because clearly the proposal before us now is far from the vigorous and comprehensive energy legislation which the President introduced April 20 last year. What began as a worthy stride in the right direction is today not much more than a stumble forward. But, forward motion, whether striding or stumbling, is progress. And perhaps most important, Mr. Speaker, the progress we have made in energy legislation has been made over the obstacles presented by a naive White House and one of the most effective lobbying campaigns in history. The projected 4.5 million barrel per day reduction in oil consumption of the original bill has been whittled down to 2.2 million barrels per day. Realistic oil pricing changes and programs to encourage greater use of coal in industry have been eliminated. But progress has been made nonetheless; 2 years ago Congress made a commitment to initiate changes in energy management, pricing, and use. It has kept that commitment and today I am voting to endorse that accomplishment.

The enactment of some of these significant changes in domestic energy policy is a testament to the Congress endurance, if not its wisdom. The bill has survived some bad decisionmaking, not the least of which was to the decision to grant the conference report a rule under which the entire "package" will be approved in one vote. When Congress first created the House Select Committee on Energy it instructed its members to consider the bill as one package. Since that time, however, the bill has undergone some significant changes and that mandate has come back to haunt us. In fact, the changes have so altered the substance of the bill, that each of its five parts should now be considered separately and each should stand or fall on its own merits.

For those of us who spent long hours to insure the passage of the original package, the substance of the now-final product is disappointment. I used my positions as cochairman of the energy task forces of the New England Caucus and the Northeast-Midwest Economic Advancement Coalition to document the importance of the bill as introduced. The work conducted by the caucus task force included the publication of a detailed report of the regional effects of mandatory conversion to coal. According to that study, despite higher projections by the administration the New England region would gain little from coal conversion efforts. Such a program would result in only a 2- to 7-percent reduction in Northeast oil dependence. The coalition task force, like the caucus, spent months researching and publishing issue briefs on the regional effects of utility rate reform, crude oil equalization taxes, and natural gas deregulation. One of those studies demonstrated the significant contribution—$407 million—that a home heating oil rebate would have made to the Northeast region. Suffice to say that those people share my frustration over the outcome of the final product, but would be as likely to endorse the fulfillment of our commitment to a better energy future.

In several instances the fierce objection of lobbying interests and weak support by the administration resulted in the loss of worthwhile energy initiatives. The crude oil equalization tax, designed to bring the domestic price of oil in line with world costs and thereby reflect the true replacement costs of that resource, met a sound defeat in the Senate. The oil and gas users tax, the heart of the energy plan's coal conversion program, would have contributed a savings of approximately 1.5 million barrels of oil every day. But like the COET it was eliminated. The Nation's utility companies successfully reduced mandatory reforms of rate structures

and power distribution to mere recommendations that the State utility commissions will consider, we hope.

And, ironically, the one provision of the National Energy Act on which both the House and Senate totally concurred, tax credits to encourage home insulation, was cut by 25 percent in the conference committee. We have for years been encouraging the American public to heat their homes more efficiently. The National Energy Act took the first tangible step toward that goal by offering each homeowner $400 in tax credits to insulate.

But despite the two House's concurrence on substance and amount, the credit has been reduced by 25 percent. Clearly, this bill, the National Energy Act, has been battered and twisted around and yet it has sufficiently survived to warrant both a vote of support and a certain sense of satisfaction in having taken the first step toward energy reform.

Despite the obstacles faced by our first attempt at comprehensive energy legislation, we have emerged with a natural gas proposal that will contribute an estimated $6 to $8 billion annual reduction in the cost of petroleum imports to this country. The proposal will free significant additional supplies to the interstate market and do so at a cost of less then $50 more to a residential user in New England. The bill also retains financial incentives for solar and insulation applications for the homeowner.

The bill also mandates energy saving programs for public buildings and institutions. And perhaps most important, the passage of this legislation will persuade the world that this Nation is willing to redress its mistakes in energy management and use.

Finally, Mr. Speaker, this legislation, though far from the answer to our energy future, will provide us with a starting point for more vigorous energy initiatives in the 96th Congress. In May of next year domestic controls on the price of oil will expire and we will again be faced with the task of improving our artificial oil pricing system. With that expiration we will also have the opportunity to rid ourselves of the hopelessly confused entitlements program. And, after the inevitable 10-percent increase in OPEC oil costs—expected to be announced in December—we may also find ourselves addressing the need for expanded domestic refining capacity in this country.

So, I will vote for this bill today both as an endorsement of our commitment and as a starting point for more vigorous activity in the 96th Congress. However, next year we must seize the opportunity to implement the energy policies which were so skillfully eliminated from this bill.●

● Mr. DRINAN. Mr. Speaker, it is with reluctance that I rise in opposition to the conference reports accompanying H.R. 8444, the National Energy Act. Taken as a whole, these bills will do more to exacerbate than to solve the serious energy problems facing the United States.

The meager gains which will be achieved by the conservation and coal conversion provisions of these bills are completely overshadowed by the ripoffs and economic disruption which will accompany the deregulation of natural gas. The bills will collectively result in less than one-tenth of the energy conservation potential which is technically and economically achievable by 1985; they will make a mockery of the 1976 Democratic platform, which explicitly rejects deregulation and mandates horizontal divestiture of the energy industries; and they will erase 40 years of progressive energy pricing, by making every American live with higher fuel bills while the oil and gas producers enjoy windfall profits.

On Friday, without my support, the House narrowly approved a procedural resolution which virtually guaranteed enactment of the energy package before us. The rule denied Members the opportunity—otherwise guaranteed by the House rules—to record separate votes on each of the five energy conference reports: Coal conversion, utility rate reform, energy conservation, energy taxes, and natural gas policy.

As my colleagues are well aware, adoption of the rule on Friday afternoon was not just a vote on simple procedure—it was effectively an up or down vote on the deregulation of natural gas. The administration candidly admitted that it would have an almost impossible time selling the Natural Gas Policy Act to the House on its own merits. Instead, it hoped to enact the bill on the coattails of the four accompanying reports which were overwhelmingly approved by the Senate. The tactic was successful, but it is inimical to the principles of an open Congress, and an approach to public policy which this body should have emphatically rejected.

It is difficult, if not impossible, to reconcile the administration's arguments in support of the natural gas conference report with the President's unequivocal rejection of deregulation at a press conference on October 8, 1977:

> I do not support complete deregulation of natural gas prices which would provide windfall profits without significantly increasing supply. Deregulation would cost consumers an extra $70 billion by 1985 but would increase supplies very little, if any.

Since reversing its position, the White House had made three basic arguments in favor of adopting the natural gas conference report, none of which stand up to serious scrutiny.

First, proponents of the bill claim that deregulation will significantly increase natural gas production at a reasonable cost to consumers. Their own figures, however, do not support this conclusion. Secretary Schlesinger and the conference committee contend that, between now and 1985, the bill will cost consumers $9 billion more than a continuation of present policy. The Congressional Budget Office estimates a considerably higher pricetag of $16 billion over this period, even including consumer savings from increased domestic production, and the Energy Information Administration assumes as added cost to consumers of $29 billion.

The Department of Energy (DOE), it should be noted, does not quarrel with estimates that the conference report will cost consumers $50 billion more by 1985 than the administration's own proposal to Congress—a proposal which combined a continuation of price controls, a significant increase in the allowable ceiling price, and an extension of FERC jurisdiction to the glutted intrastate markets.

Mr. Speaker, we should stop to consider the context in which these massive price increases are being considered. The cost of natural gas more than quadrupled between 1970 and 1977, from an average price of 17.1 cents to 77.9 cents per thousand cubic feet (tcf). More than half of this increase occurred just between 1974 and 1977, at a time when domestic natural gas production was steadily and significantly declining.

It is reasonable for the general public to ask: What will we get in return for these inflationary, multibillion-dollar increases in consumer prices? The answer is: Very little. DOE now claims that phased deregulation will increase domestic natural gas production by 2.8 thousand cubic feet by 1985 yet declined anything more than a cursory justification of this figure in its briefing materials to Members of Congress. This reluctance is understandable, since Secretary Schlesinger's figures completely contradict statements made by President Carter at a news conference on July 16, 1977:

> We estimate that if natural gas were completely deregulated, that the increased production would be about 1.1 trillion cubic feet of natural gas at an increased cost of more than $70 billion. This means that for every additional thousand cubic feet discovered, it would cost the American consumers about $60.

By the simple laws of economics, phased deregulation cannot possibly result in more domestic production than immediate deregulation, yet this is what Mr. Schlesinger wants Congress to believe. For this reason, the veracity of the administration's statistics — and of its position — should be subject to serious question.

The Energy Information Administration independently predicts a 1 thousand cubic feet supply increase by 1985, while the Congressional Budget Office predicts that natural gas supply will increase only 0.7 thousand cubic feet as a result of the conference agreement—literally 65 percent less than projected by DOE. By these estimates, natural gas consumers will be paying somewhere between $6 and $10 for each thousand cubic feet of new production resulting from the bill, which is at least four times the current interstate price of $1.42, and which compares unfavorably with SNG and LNG costs in New England of just over $5. This is anything but a bargain for the taxpayers of the United States.

The second troubling aspect of the administration's position is the view—implicit in the support of deregulation—that the natural gas industry is willing or able to make independent marketing and investment decisions in a competitive environment. In fact, nothing could be farther from the truth.

In April 1950, at a time when the natural gas industry was far less monopolized than it is today, President Harry Truman vetoed a bill proposing the com-

plete removal of price controls from natural gas. In doing so, he cited "natural limitations upon effective competition among sellers" which presented "a clear possibility that competition will not be effective, at least in some cases, in holding prices to reasonable levels."

President Carter similarly acknowledged the monopolistic and anticompetitive structure of the natural gas industry at a news conference on October 13, 1977, warning that under present circumstances, deregulation might "develop with the passing months as the biggest ripoff in history."

In a comprehensive analysis published in 1974, the Federal Trade Commission's Bureau of Economics found that the level of concentration in natural gas production was increasing at a significant rate. Between 1960 and 1970, the report found that the share of natural gas production controlled by the 20 largest firms—all major oil companies—rose from 44 to 58 percent of production, while the control of reserves by these companies climbed to 68 percent. The Bureau warned that domination of offshore and Alaskan gas leases by a handful of large oil companies would exacerbate these monopolistic trends, and the report concluded on this somber note:

Domination of the energy market by a relatively few firms will lead to an abandonment of interfuel competition and its replacement by a coordinated policy that leads to higher prices and a retarded rate of technological advance.

Mr. Speaker, the worst fears of the Federal Trade Commission have been realized. Currently, the top 20 oil companies control 75 percent of all natural gas reserves in the United States, and the top 4 control literally 90 percent of uncommitted reserves not yet under contract. On the basis of past economic behavior, there is no indication that natural gas companies will act in a responsible or competitive manner once the Federal Government washes its hands of responsibility for natural gas prices beyond 1985.

The third, and perhaps the most absurd argument advanced in support of the conference report is that it represents the only alternative to immediate deregulation. While this might be plausible under other circumstances, it simply does not jibe with the legislative history of the National Energy Act. By a substantial margin of 199 to 227, the House voted on August 3, 1977, to completely reject the deregulation of natural gas, and I suspect we would do so again today if the rule allowed us that opportunity.

If deregulation were defeated by this House, the Nation would not be without any policy at all, but would continue to work within the framework of the Natural Gas Act of 1938 and four decades of accompanying case law. The present statute strikes a balance between guaranteeing producers a fair return on investment and protecting consumers from falling victim to monopoly prices. The equity and effectiveness of the existing statute has been clearly described in a report by the Commerce Subcommittee on Oversight and Investigations, chaired by the gentleman from California (Mr. Moss):

Theoretically the natural gas which remains to be developed will be developed as long as the price allowed for it is sufficient to cover the costs incurred by the producer who finds it and provides a profit as well. The prices allowed by the FPC [now the Federal Energy Regulatory Commission] on that basis, and producers have had ample opportunity to demonstrate to a sympathetic FPC that the prices resulting have been inadequate. They have been unable to demonstrate by evidence of costs or other evidence that the FPC's gas rates are non-renumerative.

There is not a shred of evidence to suggest that the current system has been unfair to producers or that it should be abandoned, beyond the widely acknowledged need to extend Federal authority to bring surplus intrastate gas into interstate markets.

Mr. Speaker, there are Members in this Chamber who will understandably be reluctant to vote no on what is described as "comprehensive" energy legislation, and for this reason, victory for the President is virtually assured. Several of my colleagues have never been on record on major energy legislation prior to the 95th Congress, and it is difficult indeed to vote against a bill which contains generous incentives for energy conservation and solar heating; which cracks down on gas guzzling automobiles; and which takes positive steps to reform the rate structures of electric utilities.

Fortunately, my record on energy is a bit more established, and one in which I take considerable pride. I have worked long and hard for progressive energy legislation, since long before President Carter took office, and I do not feel compelled to vote for the conference committee bill merely because of assurances that it is the best we can get.

More than 3 years ago, I introduced the first comprehensive bill to reform and restructure electric utility rates, and the concept was subsequently advanced by the gentleman from Michigan (Mr. DINGELL) and passed by the House 14 months ago as a major element of the President's energy plan. I introduced the first legislation to tap the energy potential of municipal solid waste, and through the efforts of the Commerce and Science and Technology Committees it became law as part of the Resource Conservation and Recovery Act of 1976. I joined the gentleman from Massachusetts (Mr. O'NEILL) and nine other energy leaders in drafting the Omnibus Energy Conservation Act of 1976, a major Democratic initiative providing incentives for energy conservation investments by homeowners, industry and nonprofit institutions, and many of its provisions became law immediately thereafter as the Energy Production and Conservation Act of 1976.

These efforts were not isolated ones, but reflected the concerted efforts of the 94th Congress to expand nonnuclear energy research, development, and demonstration; to provide financing and direct incentives for energy conservation in every sector of the economy; to mandate the manufacturing of energy-efficient automobiles and appliances; and to resist inflation by equitably pricing oil and natural gas to reflect the actual costs of production.

I am the first to admit that the conference reports on coal conversion, energy conservation, energy taxes, and utility rate reform will complement the progressive energy legislation which has characterized the period since the Arab oil embargo of 1973. If I had the opportunity to do so, I would vote for each of these bills and offer them my full support.

But for President Carter to support the entire package by claiming the Nation is without an energy policy is to negate more than 40 years of legislative history, and to ignore the principles of the 1976 Democratic platform. The Natural Gas Policy Act does not embody any new policy—it merely abandons an old and effective one. I urge defeat of the entire package, Mr. Speaker, so that we can vote on each individual conference report as allowed by the Rules of the House of Representatives.●

● Ms. HOLTZMAN. Mr. Speaker, I oppose the National Energy Act "package." I regret that the House of Representatives has elected to consider the several energy conference reports as a package, because my objection to the legislation is focused primarily on the conference report deregulating most U.S. natural gas by 1985. I voted against the previous question on the rule in order to allow for a separate vote on deregulating natural gas.

Natural gas deregulation is, in my judgment, a capitulation to the gas producers at the expense of American consumers, particularly those in the Northeast. Deregulation will, in effect, transfer billions of dollars from the pockets of captive consumers, who have no practical alternative to heating with gas, into the coffers of the gas producers.

People in Brooklyn and elsewhere in the Northeast are already suffering staggering increases in heating costs. Deregulation will add incalculably to their burden. The Department of Energy has estimated that deregulation will cost Americans $29 billion over the next 6 years; other estimates put the cost as high as $50 billion. And since direct heating costs for over half the Nation will rise faster than the projected rate of inflation, deregulation will fuel the inflationary fire and reduce purchasing power.

I have seen no evidence to support the argument advanced by the producers that deregulation will significantly increase the supply of natural gas by providing the incentive to seek more wells. There is an oversupply right now. Deregulation cannot be justified on the grounds that it will help develop American energy independence, which is what I believed our energy policy was seeking to do.

There has been much talk about the necessity of deregulating gas to make other fuels more competitive with gas. Whom will this so-called competition benefit? Certainly not the millions of Americans who will be paying more and more to heat their homes. This competition appears to me as simply a race to

see how fast the various segments of the oil and gas industry can raise prices.

The other portions of this package take the first steps toward meeting America's energy needs, but they are disappointingly timid. A really effective energy program would fund mass transit, revive the railroads, adequately fund research and development of alternate energy sources, drastically revise building codes to help conserve fuel, and drastically curtail the sale of gas-guzzling cars. Unfortunately, this legislation lacks these ingredients.

Because I cannot support natural gas deregulation, I cannot vote for the energy package.●

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

CALL OF THE HOUSE

Mr. DINGELL. Mr. Speaker, I move a call of the House.

The SPEAKER pro tempore. Without objection, a call of the House is ordered.

PARLIAMENTARY INQUIRY

Mr. BROWN of Ohio. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state the parliamentary inquiry.

Mr. BROWN of Ohio. Mr. Speaker, is this now a vote on the bill?

The SPEAKER pro tempore. This is a call of the House.

Mr. BROWN of Ohio. Mr. Speaker, I thought the question had been put.

The SPEAKER pro tempore. No; the Chair has not put the question.

Mr. BROWN of Ohio. Are we going to have a vote on the legislation?

The SPEAKER pro tempore. The Chair would like to advise the gentleman that after the call of the House, then we will have the final vote on these conference reports en bloc.

Mr. BROWN of Ohio. Mr. Speaker, I am confused as to why we would also have a quorum call and a regular vote of the House.

The SPEAKER pro tempore. Members will record their presence by electronic device.

Mr. BROWN of Ohio. Mr. Speaker, is it appropriate to move the previous question?

The SPEAKER pro tempore. The question is ordered under the rule. The previous question is provided for under the rule.

The Chair would like to advise the gentleman from Ohio that under the rule the previous question is ordered on said conference reports to one vote on their final adoption, and the vote on said conference reports shall not be subject to a demand for a division of the question or to a motion to reconsider.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 931]

Ammerman	Beard, Tenn.	Burton, Phillip
Andrews, N. C.	Biaggi	Caputo
Applegate	Burke, Calif.	Carney
Armstrong	Burke, Fla.	Chappell
Badham	Burton, John	Delaney
Dent	Lujan	Railsback
Dickinson	McDonald	Rudd
Diggs	McFall	Ruppe
Edwards, Calif.	McKinney	Russo
Evans, Colo.	Marlenee	Ryan
Fenwick	Mazzoli	Santini
Flynt	Mikva	Scheuer
Frey	Moffett	Shipley
Gaydos	Moorhead, Pa.	Shuster
Harsha	Moss	Sisk
Heckler	Murphy, N.Y.	Spellman
Ichord	Nedzi	Teague
Jones, Okla.	Ottinger	Vander Jagt
Kasten	Pattison	Wilson, C. H.
Kastenmeier	Pettis	Yates
Lehman	Pritchard	
Long, Md.	Quie	

The SPEAKER. On this rollcall 366 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

CONFERENCE REPORTS ON NATIONAL ENERGY ACT

PARLIAMENTARY INQUIRY

Mr. ASHLEY. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHLEY. Mr. Speaker, would the Chair be good enough to advise the question before the House?

The SPEAKER. The previous question is considered as ordered to one vote on the final adoption of the conference reports. Such conference reports shall not be subject to demand for a division of the question or a motion to reconsider. There is one vote on all five conference reports.

Mr. ASHLEY. I thank the Chair.

The SPEAKER. The question is on the conference reports.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 231, nays 168, not voting 31, as follows:

[Roll No. 932]

YEAS—231

Addabbo	Broyhill	Evans, Ind.
Akaka	Buchanan	Fary
Alexander	Burgener	Fascell
Ambro	Burlison, Mo.	Fenwick
Anderson, Calif.	Butler	Fisher
Andrews, N.C.	Carr	Fithian
Andrews, N. Dak.	Cavanaugh	Flippo
Annunzio	Chappell	Flood
Ashley	Clausen, Don H.	Flowers
Aspin	Cohen	Foley
AuCoin	Coleman	Ford, Mich.
Bafalis	Collins, Ill.	Ford, Tenn.
Baldus	Conte	Fountain
Barnard	Corman	Fowler
Baucus	Cornwell	Frenzel
Beard, Tenn.	Cotter	Fuqua
Bedell	D'Amours	Garcia
Bellenson	Daniel, Dan	Gephardt
Bennett	Danielson	Giaimo
Bevill	Delaney	Gibbons
Bingham	Derrick	Ginn
Blanchard	Dicks	Glickman
Blouin	Dingell	Gradison
Boland	Dodd	Green
Bolling	Dornan	Gudger
Bonker	Downey	Hamilton
Bowen	Duncan, Oreg.	Hanley
Brademas	Early	Hannaford
Brinkley	Eckhardt	Harrington
Brodhead	Edgar	Hawkins
Brooks	Edwards, Calif.	Heckler
Broomfield	Emery	Hefner
Brown, Calif.	Ertel	Heftel
Brown, Mich.	Evans, Del.	Hillis
	Evans, Ga.	Holland
		Hollenbeck
	Howard	Murtha
	Hughes	Myers, Gary
	Ireland	Myers, Michael
	Jeffords	Natcher
	Jenkins	Neal
	Jenrette	Nedzi
	Johnson, Calif.	Nix
	Jones, N.C.	Nowak
	Jones, Tenn.	Panetta
	Jordan	Patten
	Keys	Patterson
	Krebs	Pattison
	LaFalce	Pease
	Le Fante	Pepper
	Leach	Perkins
	Lederer	Pike
	Levitas	Poage
	Lloyd, Calif.	Preyer
	Lloyd, Tenn.	Price
	Long, Md.	Pritchard
	Lundine	Pursell
	McCloskey	Quillen
	McCormack	Rahall
	McHugh	Rangel
	McKinney	Reuss
	Mann	Richmond
	Marks	Rinaldo
	Martin	Risenhoover
	Mathis	Roe
	Mazzoli	Rogers
	Meeds	Roncalio
	Meyner	Rooney
	Mineta	Rose
	Minish	Rosenthal
	Mitchell, N.Y.	Rostenkowski
	Moakley	Roybal
	Mollohan	Russo
	Montgomery	Santini
	Moorhead, Pa.	Sawyer
	Murphy, Ill.	Scheuer
	Murphy, N.Y.	Seiberling
	Murphy, Pa.	Sharp
		Sikes
		Simon
		Skelton
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spence
		St Germain
		Staggers
		Stangeland
		Stratton
		Studds
		Thompson
		Thone
		Thornton
		Traxler
		Tsongas
		Tucker
		Udall
		Ullman
		Van Deerlin
		Volkmer
		Walgren
		Wampler
		Weaver
		Whitley
		Whitten
		Wiggins
		Wilson, Bob
		Wilson, Tex.
		Wirth
		Wolff
		Wright
		Yates
		Yatron
		Young, Alaska
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—168

Abdnor	Guyer	Myers, John
Anderson, Ill.	Hagedorn	Nichols
Archer	Hall	Nolan
Ashbrook	Hammer-schmidt	O'Brien
Bauman	Hansen	Oakar
Beard, R.I.	Harkin	Oberstar
Benjamin	Harris	Obey
Boggs	Harsha	Ottinger
Bonior	Hightower	Pickle
Breaux	Holt	Pressler
Breckinridge	Holtzman	Quayle
Brown, Ohio	Horton	Railsback
Burke, Mass.	Hubbard	Regula
Burleson, Tex.	Huckaby	Rhodes
Burton, John	Hyde	Roberts
Burton, Phillip	Jacobs	Robinson
Carter	Johnson, Colo.	Rodino
Cederberg	Jones, Okla.	Rousselot
Chisholm	Kasten	Runnels
Clawson, Del	Kastenmeier	Sarasin
Clay	Kazen	Satterfield
Cleveland	Kelly	Schroeder
Cochran	Kemp	Schulze
Collins, Tex.	Kildee	Sebelius
Conable	Kindness	Shuster
Conyers	Kostmayer	Spellman
Corcoran	Krueger	Stanton
Cornell	Lagomarsino	Stark
Coughlin	Latta	Steed
Crane	Leggett	Steers
Cunningham	Lent	Steiger
Daniel, R. W.	Livingston	Stockman
Davis	Long, La.	Stokes
de la Garza	Lott	Stump
Dellums	Luken	Symms
Dent	McClory	Taylor
Derwinski	McDade	Treen
Devine	McDonald	Trible
Drinan	McEwen	Vanik
Duncan, Tenn.	McKay	Vento
Edwards, Ala.	Madigan	Waggonner
Edwards, Okla.	Maguire	Walker
Ellberg	Mahon	Walsh
English	Markey	Watkins
Erlenborn	Marriott	Waxman
Findley	Mattox	Weiss
Fish	Michel	Whalen
Florio	Mikulski	White
Forsythe	Milford	Whitehurst
Fraser	Miller, Calif.	Winn
Gammage	Miller, Ohio	Wydler
Gaydos	Mitchell, Md.	Wylie
Gilman	Moffett	Young, Fla.
Goldwater	Moore	Young, Mo.
Gonzalez	Moorhead, Calif.	
Goodling	Mottl	
Gore		
Grassley		

NOT VOTING—31

Ammerman	Armstrong	Biaggi
Applegate	Badham	Burke, Calif.

Burke, Fla.	Lehman	Ruppe
Caputo	Lujan	Ryan
Carney	McFall	Shipley
Dickinson	Marlenee	Sisk
Diggs	Mikva	Teague
Evans, Colo.	Moss	Vander Jagt
Flynt	Pettis	Wilson, C. H.
Frey	Quie	
Ichord	Rudd	

The Clerk announced the following pairs:

On this vote:

Mr. Mikva for, with Mr. Ichord against.
Mr. Biaggi for, with Mr. Carney against.
Mr. Frey for, with Mr. Applegate against.
Mr. Caputo for, with Mr. Burke of Florida against.
Mr. Marlenee for, with Mr. Badham against.
Mr. Quie for, with Mr. Rudd against.

Until further notice:

Mr. Evans of Colorado with Mrs. Burke of California.
Mr. Flynt with Mr. Ammerman.
Mr. Moss with Mr. Lehman.
Mr. Ryan with Mr. Shipley.
Mr. McFall with Mr. Sisk.
Mr. Charles H. Wilson of California with Mr. Teague.

So the conference reports were agreed to.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in connection with the bill H.R. 13650, Uranium Mill Tailings Control Act of 1978.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference reports just agreed to, on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, and H.R. 5263.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 9937, AMENDING THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

Mr. ST GERMAIN. Mr. Speaker, by direction of the House Committee on Banking, Finance, and Urban Affairs, by a vote of 25 to 2, I move to take from the Speaker's table the bill (H.R. 9937) to amend the Bank Holding Company Act Amendments of 1970, with a Senate amendment thereto, disagree to the Senate amendment and request a conference with the Senate thereon.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. ST GERMAIN moves to take from the Speaker's table the bill H.R. 9937, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate.

The SPEAKER. Without objection, the previous question is ordered on the motion.

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. ROUSSELOT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

So the motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees: Messrs. ST GERMAIN, NEAL, HUBBARD, DERRICK, EVANS of Indiana, BARNARD, STANTON, BROWN of Michigan, and GREEN.

CONFERENCE REPORT ON H.R. 11003, WHITE HOUSE PERSONNEL AUTHORIZATION

Mrs. SCHROEDER. Mr. Speaker, I call up the conference report on the bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of September 28, 1978.)

The SPEAKER. The gentlewoman from Colorado (Mrs. SCHROEDER) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. SCHROEDER).

Mrs. SCHROEDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the White House personnel authorization bill (H.R. 11003) as agreed to in conference, reflects a constructive approach by Congress to update and clarify the authorization for the staffing and administration expenses of the White House Office and other related offices.

The joint explanatory statement of the conference committee explains the manner in which the two differences in the House and Senate bills were resolved. As the statement explains on the first Senate amendment dealing with certain types of information for employees and the coverage of detailees, the House receded, the conferees recognizing that the general title, job description, and salary of every individual employed in the White House, is contrary to Government-wide rules, developed to conform with both the Freedom of Information Act and the Privacy Act, that are tailored to provide for protection of the privacy of individuals involved. In addition, the conferees have received assurance from the administration that, as in the past, this information will be provided to the Congress upon request.

On the second Senate amendment which would terminate budget authority under the act after September 30, 1983, unless reauthorized, the Senate receded, the conferees pointing out that the detailed reporting requirements—notwithstanding Senate amendment No. 1—contained in both bills, provide an adequate basis for future congressional oversight with respect to this authorization.

The conferees stress that the decision of the conference committee on this issue should not be construed to reflect on the conferees' position with respect to general "sunset" legislation which is currently being considered by the Congress. The conferees do believe, however, that a distinction should be made between general sunset provisions which require reauthorization of programs and the "sunset" provision in this amendment which would require reenactment of budget authority for the President to hire staff.

I want to thank the other House conferees, Mr. NIX, Mr. UDALL and Mr. DERWINSKI for their efforts in the conference and Congressman HARRIS for introducing the original bill. This is an historic occasion. With passage of this bill, after many troubling years, the House of Representatives will again have a proper opportunity to work its will on annual appropriations for the President's executive offices.

Mr. Speaker, I urge adoption of the conference report.

Mr. Speaker, I think the conferees and the staff people have worked very hard on this bill, in particular the gentleman from Virginia (Mr. HARRIS).

Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, I urge my colleagues today to support the conference report on H.R. 11003, the White House staffing authorization. This legislation would place into law for the first time numerical controls on top-level staff for the five units in the Executive Office of the President—the White House Office, the Executive Residence, the Vice President's Office, the Domestic Policy Staff, and the Office of Administration. The bill updates the obsolete and ignored staffing law enacted in 1939, which authorizes the President 14 assistants. This bill provides a fundamental, overdue reform of our Government by reasserting Congress constitutional responsibility and reaffirming our Cabinet form of Government in the executive branch.

The bill has the following key provisions:

First. It authorizes specific personnel ceilings for Executive level and supergrade positions.

Second. It requires the units covered to reimburse agencies that detail employees to the units for a cumulative period of 180 days or more per year.

Third. It requires reports to Congress on the number and cost of detailees and it authorizes the General Accounting Office to verify expenses.

SIX-YEAR EFFORT

1970—THE FIRST STEP TOWARD REFORM

The bill represents a 6-year effort by the House Post Office and Civil Service Committee which began in the early 1970's and resulted in a 1972 report prepared by Congressman UDALL entitled "A Report on the Growth of the Executive Office of the President, 1955–1973."

This report notes that the Executive Office of the President was created by Reorganization Plan 1, April 25, 1939; the order implementing that plan stated, "In no event shall the Administrative Assistants—to the President—be interposed between the President and the head of any department or agency." The Executive Office of the President was in no way to subordinate or usurp the Cabinet departments. The report details the gradual growth in staffing over 18 years and notes that "over 50 percent of the increase in the Executive Office of the President has occurred since 1970."

The committee's research also revealed that the correct law is deficient and obsolete. Briefly, the "current" law, dating back to 1939, authorizes six administrative assistants and eight other secretaries or assistants to the President. There is no requirement to reimburse agencies for employees detailed to the White House and many expenses of the White House are not authorized in law.

93D AND 94TH CONGRESSES

In both the 93d and 94th Congresses, White House staffing legislation was considered. H.R. 14715 died in a conference committee; H.R. 6706 in 1975 died in the Senate. In the 94th Congress, in the Post Office and Civil Service Committee and in the House I offered a number of amendments to strengthen the bill.

On July 17, 1975, I offered an amendment to H.R. 8597 which contained appropriations for the White House; the amendments failed. However, on September 1, 1976, I offered an amendment to H.R. 14886, the Presidential Transition Act Amendments, which required that all detailees be paid from transition funds. This amendment was adopted.

Additionally, on June 14, 1976, I raised a successful point of order against the 1977 White House appropriations because I believed the appropriations violated House Rule XXI which provides that no appropriation for any expenditure not authorized in law can be in order. Similarly, on June 8, 1977, I made another successful point of order against the 1978 White House appropriation on the same ground. Both times, the Senate restored the funds. Clearly the rules of the House had been circumvented.

THE 95TH CONGRESS

Since we began the current Congress still without an authorization in law, I introduced H.R. 6326 on April 19, 1977, after seeking the views of the administration. Hearings were held on April 26, 1977, and administration officials testified that they could not address the specific provisions of the bill until the President's reorganization of the Executive Office of the President was completed. A second hearing on my bill was held on September 3, 1977. At this hearing, administration officials testified that a bill was being drafted. Reorganization Plan No. 1 was approved by the House on October 14, 1977.

Over the next 5 months I and my fellow subcommittee members met numerous times with administration representatives and gradually developed H.R. 10657, the bill which I introduced on January 31, 1978, was cosponsored by Representatives UDALL, SCHROEDER, DERWINSKI, LEHMAN, SPELLMAN, and STEED. Hearings were held on this bill on February 7 and the administration testified, "President Carter strongly supports this White House authorization bill." The subcommittee approved the bill on a 6-to-1 vote on February 16, and reported a clean bill, H.R. 11003. The full committee ordered H.R. 11003 to be reported on March 8, 1978, by a unanimous voice vote. The bill was approved by the House on April 13 on a 265-to-134 vote. The House adopted two amendments on voice votes requiring more detailed reports on personnel in these five units.

It has been an intense 6-year battle, but the time has arrived to enact this legislation into law.

STAFFING CONTROLS IN LAW

H.R. 11003 provides authorization for personnel and operations in the five units within the Executive Office of the President: The White House, the Vice President's Office, the Domestic Policy Staff, and the Office of Administration. The following requirements for the President would be placed in law:

First. It authorizes not more than 50 employees paid at the executive level, a salary range of $47,500 to $57,500. There exists a ceiling within this limit of 25 employees paid at executive level II—$57,500—and 25 employees at executive level III—$52,500.

Second. It limits to 50 the number of employees paid at supergrade levels—(GS–16, 17, and 18)—at salaries of $39,-629 to $47,000.

The staffing and salary limits for the other units are as follows:

Executive Residence of the White House: 3 GS–16–18's.

Vice President: 8 Executive levels and 3 GS–16–18's.

Domestic Policy Staff. 6 Executive levels and 18 GS–16–18's.

Office of Administration: 5 Executive levels and 5 GS–16–18's.

Additional provisions include:

First. An authorization of $1 million for the President's "unanticipated needs;"

Second. An authorization for detailing agency employees to the White House and a requirement that agencies be reimbursed for all personnel who are detailed to any of the units for over a period of 180 cumulative days per year;

Third. Varying top salary limits on the hiring of outside consultants for each unit;

Fourth. A full annual report to Congress on the number and cost of employees, detailees and consultants;

Fifth. Authorization for a variety of operations of these offices, including official expenses, assistance to spouses, travel and maintenance of the Executive Residence; and

Sixth. Authorization for the General Accounting Office to inspect documentation of expenses for the purpose of verifying that the expenditures were properly within authorized categories.

In summary, it is a clear, tough bill updating a 39-year-old law and closing loopholes in our statutes.

RESPONSIBLE GOVERNMENT FOR CONGRESS AND ADMINISTRATION

Both Congress and the administration share the responsibility for allowing the unabated growth of White House staffing. It is an area in which both branches of our Government have been negligent. The Post Office and Civil Service Committee found that under all recent administrations, there has been a gradual growth of policy advisers around the President that has at times usurped the proper functions of the Cabinet. I say that it is time to set restrictions and clear directions for hiring level policies in the White House.

Commendably, President Carter, in his campaign and early in his Presidency, enunciated his view that the White House staff should be reduced and that policymaking power should be returned to the Cabinet. After an extensive study of the Executive Office of the President, the President submitted Reorganization Plan No. 1 on July 15, 1977, which reduced full-time White House staff positions from 485 to 351—a reduction of 28 percent. This plan was approved in October 1977. H.R. 11003 further carries out the President's mandate by placing in law authority for the staffing and operations of these five Executive Offices of the President units.

Despite several attempts, the Congress has in the past failed in its duty. Funds have time after time been appropriated for the White House staff in violation of our own rules which forbid appropriations without authorization. It is time to get back on the right track and correct this situation. We have routinely approved spending measures without first determining with precision for what purposes these funds can be spent. We cannot continue to write "blank checks" with the taxpayers' money, we cannot continue to shirk our responsibility. Through this legislation, we can, and I believe that we must, get the central power base of our Government back on the right track.

NOT A STAFFING INCREASE

There has unfortunately arisen a misinterpretation regarding the purpose of this bill. The concept that it will provide for an increase in White House staffing is incorrect. The bill places tough outer limits on top staff for the first time. The current law authorizes 14 assistants to the President; however Congress has methodically appropriated funds for more than 14 staffers—in fact, Congress has been appropriating funds for an undesignated number of staffers.

The administration, in testimony and other communications without House committee has advised us that there are no plans to increase staff in the units covered by the bill. In fact, there has

been a dramatic 28 percent cut in the number of White House staffers and the House, in essence, approved this cut by approving the reorganization of the Executive Office of the President on October 14, 1977, when we approved House Resolution 688. I applaud the President for this cutback and for carrying out a campaign promise he made to the American people.

Finally, on the question of a staffing increase, I would like to note that authorization measures set outside, upper limits. Appropriations actually determine the number of staffers. The Treasury-Postal Service-General Government Appropriations Subcommittee in the House gives very close scrutiny to staffing patterns. And I am sure they and their Senate counterpart will continue to do so. And we, through our votes on appropriations can continue to exercise our judgment on whatever staff level we think is appropriate. Appropriations measures in reality are the final determinants.

COST INCREASES NOT INEVITABLE OR MANDATED

The cost estimates in the committee report, prepared by the Congressional Budget Office, warrant some explanation. The cost estimate for 1979 is $29.5 million for current staff levels in all five units. The comparable 1979 budget request is $31.7 million. CBO has also provided other estimates to show what cost increases would occur if, and only if, staffing levels were upped to the maximum limits.

Thus, a vote for this bill is not a vote to increase the White House staff. It is not a vote to increase White House spending. It is a Government reform vote, going to the very fundamental principles of our form of Government, reaffirming our Cabinet government.

WHO RUNS THE GOVERNMENT?

My 3-year effort has not been a game of pointing a finger at any President or quibbling about numbers of staffers, be they 100 or 1,000. Staff growth is not inherently bad; as the problems of the 1970's become more complex, surely staffing needs must adjust. The fundamental point here is to make sure power is in the hands of accountable people; the Cabinet. Executive advisors and special assistants to the President have their proper advisory role. But our form of Government does not vest in them unlimited powers. They are unelected and sometimes inaccessible. Quite simply, our Government should not be run by, and our President should not depend on, a "palace guard."

Power concentrated in the hands of a few "anonymous" individuals contradicts our democratic form of Government. This bill is a very fundamental policy measure reaching to the head of our Government.

STAFFING GROWTH SINCE 1934

In order to place this bill in the proper perspective, I would like to share some statistics on staffing for the President since 1934:

WHITE HOUSE STAFF, 1934 TO PRESENT

Fiscal year	Total [1]	Detailed employees	Real total
1934	45	120	165
1935	45	127	172
1936	45	115	160
1937	45	112	157
1938	45	119	164
1939	45	112	157
1940	63	114	177
1941	62	117	179
1942	47	137	184
1943	46	148	194
1944	47	145	192
1945	48	167	215
1946	51	162	213
1947	190	27	217
1948	245	23	268
1949	220	26	246
1950	223	25	248
1951	257	40	297
1952	252	31	283
1953	262	28	290
1954	250	23	273
1955	272	41	300
1956	351	59	392
1957	364	59	423
1958	352	51	403
1959	354	31	385
1960	355	33	388
1961	342	134	476
1962	309	123	432
1963	318	111	429
1964	306	125	431
1965	294	154	448
1966	256	219	475
1967	251	246	497
1968	250	206	456
1969	314	232	546
1970	345	287	632
1971	555	17	572
1972	550	34	584
1973	496	24	520
1974	506	47	553
1975	533	27	560
1976	474	25	499
1977	446	17	463
1978	351	[1] 10	361

Total employees includes full-time employees and special projects employees. Full-time employees are the average number of employees as printed in the actual budgets 1934 through 1962.

TIME HAS COME FOR ACTION

We, both bodies of Congress, have taken a historic step by passing H.R. 11003—the House on April 13, and the Senate on July 14. The time has come to take this bill a step closer to enactment into law; the time has come to reassert Congress constitutional responsibility and reaffirm our Cabinet form of Government in the executive branch.

Your vote to adopt this conference report on the White House authorization bill will establish in law for the first time specific legislative authority for the staffing of the Presidential Office. It will go a long way in protecting our constitutional form of Government. I urge its adoption by the Congress and its approval by the President.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HARRIS. I will yield whatever time I have.

Mr. SEIBERLING. Mr. Speaker, I would like to ask either the gentlewoman from Colorado or the gentleman from Virginia, are there any extraneous or nongermane amendments in this conference report that deal with other subjects?

Mr. HARRIS. Mr. Speaker, I can assure the gentleman, there are none. This is precisely the same bill we passed before.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman from Virginia.

Mr. DERWINSKI. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to join with my colleagues on the Committee on Post Office and Civil Service in supporting the conference report to accompany H.R. 11003, the White House Personnel Authorization Act.

H.R. 11003, for the first time in the history of the American Government, authorizes previously unauthorized staff for the Executive Office units—the Office of the White House, the Vice President's Office, the Office of Administration, and the Domestic Policy Staff. It also authorizes the President's unanticipated needs funds and requires the President, because of an amendment I offered in committee, to annually account for the expenditure of such funds.

Mr. Speaker, I had more than an incidental interest in the outcome of this conference because one of the only two areas of disagreement with the Senate went to the heart and substance of several amendments that I successfully offered to this legislation on the House floor.

In this instance, unlike the outcome of the conference on civil service reform, the House conferees gratifyingly refused to recede on the language of my amendments. These amendments, to indicate their significance, both strengthen the accountability of the President on the use of White House staff, and equally important, create a new section to aid the Congress in overseeing the utilization, employment, and pay of White House staff, all of which is authorized by this legislation.

Accordingly, I commend the House conferees—the chairman of the House Post Office and Civil Service Committee, the gentleman from Pennsylvania (Mr. NIX); the gentleman from Arizona (Mr. UDALL); the gentlelady from Colorado (Mrs. SCHROEDER); and last but not least the ranking minority member of our committee, the gentleman from Illinois (Mr. DERWINSKI)—for their wisdom and fortitude in protecting the House position in conference.

Mr. Speaker, not only is H.R. 11003 historic legislation, but more importantly, it is sound and meritorious legislation, which should enjoy the bipartisan support of this Congress, because it artfully balances the separation of powers doctrine with the need for checks and balances on a particular branch of Government—in this instance the executive branch—to preclude the future unfettered utilization of White House staff and funds that caused in part the problems of the Watergate era.

Mr. Speaker, I urge the adoption of the conference report.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want all the Members to know at this late hour that you are passing a monumental bit of legislation.

Mr. Speaker, the adoption of this conference report will, for the first time, clarify and fix the authority for the em-

ployment of personnel in the White House. Not only will we be serving the interests of good Government, but we will be doing future Congresses a favor by eliminating the annual charade of raising and waiving points of order against White House authorizations.

The conference agreement reflects the spoken will of the House in that it deletes a Senate amendment which would have terminated budget authority under this act after September 30, 1983 unless reauthorized by the Congress. It was this very issue—a 4-year sunset provision—which the House rejected by a vote of 171 yeas and 232 nays when the bill was considered on April 13.

Without taking any personal credit, I believe the House conferees as a whole deserve commendation for the strong position they took in defense of the House by persuading the Senate conferees to recede from a limitation which is not applicable to this type of legislation.

In a brief and harmonious conference, we came to the agreement that a distinction should be made between general "sunset" provisions which require reauthorization of programs and a sunset provision which would require reenactment of budget authority for the President to hire staff.

I urge the adoption of this conference report which the House can view as being representative of its will when the legislation was passed in this Chamber.

You know you probably gave the President a bad tax bill, but I want you to know you are taking care of his staff and you are all a great bunch of Members.

Mr. Speaker, I yield back the balance of my time.

Mrs. SCHROEDER. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The SPEAKER pro tempore. (Mr. BRADEMAS). Without objection, the previous question is ordered.

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore. Will the gentlewoman from Colorado (Mrs. SCHROEDER) withhold her motion on the previous question?

Mr. BAUMAN. No, Mr. Speaker. I have reserved the right to object.

Mrs. SCHROEDER. Mr. Speaker, my motion was on the previous question on the conference report.

The SPEAKER pro tempore. The gentleman from Maryland (Mr. BAUMAN) has reserved the right to object.

Mr. BAUMAN. Mr. Speaker, I have reserved the right to object only so I might inquire and the House could be given some information on the program for the remainder of the day and as to when we could consider leaving. I think the Members would like to have that information.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. Yes, of course, I yield to the majority leader.

Mr. WRIGHT. Mr. Speaker, it is our intention to continue as well as we can on the conference committee reports that are eligible for consideration, and then we will at some time take up the resolution for continuing appropriations.

Then, after it has become eligible under the rule requiring a 2-hour layover after filing, we shall take up the conference report on the tax reform act. We feel that will be about the last item of business, and that is about it.

I cannot give the gentleman any assurances as to how far we will get before the tax bill comes up on other matters, but it is our intention to follow the schedule, a copy of which the gentleman has in his possession.

Mr. BAUMAN. Mr. Speaker, does the gentleman know that the Committee on Rules waived the 2-hour rule so that the tax bill could be called up at any time?

Mr. WRIGHT. No, I was not aware of that. I am grateful to the gentleman for that information.

Mr. BAUMAN. The only reason I asked is, if we are going to go through the conference reports, that is one thing, but there are 20 other items on the list, with debate and amendments.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for that information, too.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tem. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SCHROEDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 11003.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

CONFERENCE REPORT ON H.R. 2329, FISH AND WILDLIFE IMPROVEMENT ACT OF 1977

Mr. MURPHY of New York. Mr. Speaker, I call up the conference report on the bill (H.R. 2329) to improve the administration of fish and wildlife programs, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule previously adopted, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 5, 1978.)

The SPEAKER pro tempore. The gentleman from New York (Mr. MURPHY will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2329 originally passed the House on January 19, 1978, by a vote of 292 to 59. The bill included a number of technical revisions of our fish and wildlife laws which will enhance the management and protection of our wildlife resources.

The Senate has amended the bill as passed by the House in a number of respects, but the House conferees recommend that the House recede from its disagreement to the Senate amendments, except for amendments numbered 19, 24, and 28, all of which are technical.

The Senate deleted all of the language in the bill consolidating the enforcement authority of the U.S. Fish and Wildlife Service. The Senate deleted the House language on the advice of the Solicitor of the Department of the Interior that these provisions were no longer necessary in light of recent legislative developments proposing the development of a uniform enforcement structure for all agencies of the Federal Government.

The Senate adopted an amendment which permits the Secretary to allow the taking of golden eagle nests which interfere with resource development activities. The Eagle Protection Act of 1940 was originally enacted to protect bald eagles, and was later amended to include golden eagles because of the resemblance of golden and bald eagle young. The law prohibits the taking of eagles, parts, nests, and eggs. However, it makes certain exceptions for golden eagles for certain specified purposes as permitted by the Secretary of the Interior. While golden eagles may be taken for livestock protection, for example, no exceptions are made to allow nest relocation or habitat manipulation when there is a conflict with mining. The Senate amendment modifies the Eagle Protection Act to allow the Secretary of the Interior to resolve anticipated conflicts while at the same time retaining complete ability to protect eagles. I understand that the administration developed the language of this amendment, and supports it since it does not include bald eagles which are endangered in most States. Golden eagles are neither endangered nor threatened.

The Senate added an amendment to H.R. 2329 to add some needed flexibility to the Migratory Bird Treaty Act to allow the Secretary to implement provisions of the recently ratified Russian Migratory Bird Treaty relating to subsistence hunting. This amendment will not result in any immediate change in our migratory bird laws. Those changes will have to await the renegotiation of several other bilateral treaties.

Finally, the Senate amended the bill so that the authorization of appropriations will take effect in fiscal year 1980 rather than fiscal year 1979, except for the interoceanic canal study, which will take effect in 1979.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Are there any extraneous or nongermane amendments that the Senate added that were not in the House-passed bill?

Mr. MURPHY of New York. These will be reported in technical disagreement.

Mr. SEIBERLING. Related to some other subject matter than the basic subject of this bill?

Mr. MURPHY of New York. As I stated, it will be a grasslands amendment, which affects the State of California and the interoceanic canal study, which will be a review of a canal study which was completed by the Congress 10 years ago.

Mr. SEIBERLING. Are there any amendments in here that repeal any laws that do not relate to the subject matter, the original subject matter of the House-passed bill?

Mr. MURPHY of New York. No.

Mr. SEIBERLING. I thank the gentleman.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 2329, the Fish and Wildlife Improvement Act of 1978. The adoption of this conference report will enable the Fish and Wildlife Service and the National Oceanic and Atmospheric Administration to more effectively implement the wildlife conservation laws of this Nation.

H.R. 2329 authorizes the Secretary of the Interior and the Secretary of Commerce to dispose of all fish, wildlife, and plants abandoned or forfeited to the United States. At the present time, the Government is storing, at an unnecessary cost to the taxpayer, almost $3 million in forfeited property. The bill before us today will permit this property to be disposed of for scientific and educational purposes.

H.R. 2329 would also permit the Secretaries of Commerce and the Interior to recruit, train, and accept the services of volunteers. In the case of the Fish and Wildlife Service, it is anticipated that up to 1,000 volunteers would be recruited to assist the Service in many areas, including projects to overcome the tremendous backlog of maintenance work which must be done in the National Wildlife Refuge System. The National Park Service has successfully utilized the services of volunteers for many years and I believe we should expand and encourage the use of volunteers in other agencies.

The bill we are considering has other important ramifications for wildlife management. H.R. 2329 amends the National Wildlife Refuge System Administration Act to permit the taking of migratory game birds on all lands set aside for the protection of migratory birds. As currently written, the law requires that 60 percent of such areas be set aside as inviolate. In recent years, the Fish and Wildlife Service has found that its flexibility to manage these areas, particularly to control the movement of birds in their migration pattern, has been inhibited by the requirement that 60 percent of the area remain closed.

Finally, H.R. 2329 clarifies the authority of the Secretary of the Interior to acquire lands for the National Wildlife Refuge System. Existing statutes have been interpreted as restricting the Secretary's acquisition authority to purchasing lands in fee simple. H.R. 2329 specifically permits the Secretary to acquire the use of property by easement, by gift, and by exchange. With these changes, the Secretary will be better able, with his limited resources, to meet our national goals of wildlife conservation and management.

Mr. Speaker, H.R. 2329 will assist the Secretary of the Interior and the Secretary of Commerce in meeting their responsibilities for wildlife conservation and I urge that the House adopt this conference report.

Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Mr. Speaker, the gentleman from Ohio (Mr. SEIBERLING) asked a moment ago whether or not there is anything nongermane in this conference report. And there most assuredly is. Amendment No. 33 that will be reported in disagreement and will be subjected to a motion to recede and concur is a brand new title II, and it creates an $8 million commission and study of the feasibility of building another Panama or Nicaraguan interoceanic sea-level canal.

Now, this idea may have some merit or it may not. But it appears to me that, at this juncture, in this session, with no implementing legislation submitted to us on the Panama Canal treaties by the administration, this entire proposition of a new study, a new commission, and $8 million to be spent on studying the possibility of building a canal when the other body just decided to give our canal away is a bit far-fetched.

I would hope that at the appropriate time that the Members, when we divide the question, will vote against the motion to recede and defeat this proposition. There is no way that this House ought to lend its support in any way.

Mr. JOHN T. MYERS. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Mr. Speaker, it was my understanding that the rules have been ordered that we cannot divide the question in these closing hours.

Mr. BAUMAN. It has not been changed, and a motion to recede and concur is subject to an absolute demand of a division.

Mr. Speaker, I am not going to say that I am the expert on this matter, but I would like to quote to the Members briefly from the remarks made by our late colleague, Ralph Metcalfe of Illinois, whose funeral services occurred only yesterday, in a statement he made June 21, 1978, before the Subcommittee on Panama Canal Affairs, of which he was the chairman. Our late colleague stated:

> Is it good timing to authorize a study before we have the comprehensive treaty implementing proposal of the administration?
>
> Is it good timing to move before we know more about the views of our new Panamanian partners on a sea-level canal?
>
> Need we expend millions of dollars to update a sea-level study when most of our preliminary data indicate such a sea-level project is not necessary?
>
> In the subcommittee's hearings last year, one expert witness called the sea-level canal idea "economic fantasy." All witnesses at that time agreed that the present canal could adequately serve our needs until the year 2000.
>
> We must also ask whether it is judicious to move when there are presently so many uncertainties that relate to the traffic for a sea-level canal. I refer to the unknown disposition of the Guatemalan oil pipeline, the so-called Mexican "dry canal," the Sohio California to Texas pipeline, and many others.
>
> Another question to be addressed is why the Congress should authorize this study before the administration has submitted the enabling legislation to the Congress. A study, in this form, it seems to me to contravene the intent of the treaty.

Now those are the words of Ralph Metcalfe.

I do not think it is too much to ask this House at this late hour to vote against this amendment and consider it in January when it can be considered in the context of all the implementing legislation.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Speaker, is it correct that the Treaty provides that we cannot build a canal anywhere else without the approval of the Panamanian Government?

Mr. BAUMAN. The gentleman has made an essential point. We granted, in effect, a veto to the Panamanian Government over the location of any additional canal, so it would seem that this study is rather pointless in one respect.

Mr. BEDELL. If the gentleman will yield further, could I have the attention of the chairman of the committee? Would the chairman of the committee tell us why we are going to spend $7 million to study the feasibility of a canal in another location if we are prohibited from building such a canal if the Panamanian Government does not agree to such a proposal?

Mr. MURPHY of New York. If the gentleman will recall the Senate debate, we are not prohibited from building any canal anyplace else because that provision was stricken from the Treaty.

In the second place, when we get to debate on this, rather than waste the time of the House at this juncture, we will see that all we are asking for in

this amendment is not $7 million at the outset. We are asking for $2 million to review a $27-million study we made 10 years ago.

Mr. BAUMAN. I reclaim my time. I refer the House to page 24 of the Senate amendment which says, "For the council, $2,500,000; for the commission—"

You get a council and a commission; the commission is $5,500,000. That adds up to $8 million in toto over a period of several years. It seems to me we can delay until January deciding the issue of whether this is necessary. Further, the Treaty does give Panama a veto over any new canal's location.

Mr. BEDELL. If the gentleman will yield further, I am most anxious to know, does the chairman tell us that the Treaty that has been negotiated and signed, does not give the Panamanian Government veto power over the construction of a canal in some other country?

The SPEAKER pro tempore. The time of the gentleman from Maryland has expired.

Mr. FORSYTHE. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I think there should be some light shed on this amendment that is not germane to this conference report.

You know that I even worked against the treaty for the Panama Canal because I think it was a travesty and a giveaway. But we also have to recognize that the consumer on the east coast right now is paying an extraordinary amount of money for Alaskan oil. That oil is being shipped down through the Panama Canal in small tankers because the Canal is out of date.

This study of $7 million is to ascertain through the study if a canal can be built, and then the commission takes place. It does not say we have to build the new canal. But we have to build something larger that will handle something larger than the Panama Canal can handle.

We have just finished a gas bill and we have been debating how it will affect the consumers, and how they are paying much higher prices for the gas. Here we are talking about an alternative of a sea level canal that can handle oil from the west coast. It is not just Prudhoe Bay, we have all of the offshore oil on the Pacific coast, and we are trying to find a way to get it to the east coast, and we can not do it without such a study unless we build pipelines which the State of California does not want us to do and some of the other Western States do not want us to do.

It boils down to this, do you want them to sell it to Japan? I do not think you want them to sell it to Japan. If you want oil in your industrial areas and in your homes, and so you can have the things you need, then I think that we had better figure out a way in which to get the oil.

I know this amendment is not germane. I know it is, but, as I say, if you are going to have a canal that can do the job, and not use the thing that is controlled by the men who control the canal now, then I think we should do this.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, let me say that I thoroughly agree with the statement made by the gentleman from Alaska (Mr. YOUNG) and with the gentleman's conviction that this conference report be adopted. I urge that we accept it.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, all we are doing here is asking to take this issue up, as I just said to the gentleman.

Mr. YOUNG of Alaska. I understand, but the gentleman from Maryland (Mr. BAUMAN) brought it up. The gentleman from New York and I discussed it before and I wanted to lay it out in the open so that we know where we are.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore. The Clerk will report the first amendment in disagreement.

Senate amendment No. 32: Page 17, after line 5, insert:

SEC. 10. WATERFOWL HABITAT CONSERVATION IN THE SAN JOAQUIN VALLEY.

The Act of August 27, 1954 (68 Stat. 879) is amended by deleting the last sentence of section 6 and inserting in lieu thereof the following: "If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis—

"(a) the public organizations or agencies contracting with the Secretary of the Interior, excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the 'Service'), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

"(b) the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in section 6(a) of this Act to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

"(c) any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to this Act shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by this Act, the rights of use of any facilities referred to in subsection (b), and the rights to all water contracted for by the organization or agency pursuant to this Act shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

"(d) in accordance with existing or future contracts the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.".

SEC. 2. The Act of August 27, 1954 (68 Stat. 879), is further amended by adding at the end thereof the following new section:

"SEC. 8. The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of this Act.".

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and agree to the same with amendments as follows:

On page 6, line 12 of the Senate engrossed amendments insert "(a)" before "The Act of August 27, 1954".

On page 8, line 12 of the Senate engrossed amendments, strike out "Sec. 2. The Act of August 27, 1954" and insert in lieu thereof "(b) The Act of August 27, 1954".

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33:

Page 17, after line 5, insert:

TITLE II—INTEROCEANIC CANAL STUDY

SEC. 201. THIS TITLE MAY BE CITED AS THE "INTEROCEANIC CANAL STUDY ACT OF 1978".

SEC. 202. FINDINGS.

The Congress finds and declares the following:

(1) The potential improvements in interoceanic transit resulting from a new Atlantic-Pacific canal are of great national and international significance.

(2) The Atlantic-Pacific Interoceanic Canal Study Commission report in 1970 concluded that there were no technical obstacles of sufficient magnitude to prevent successful construction and operation of a sea-level canal between the Atlantic and Pacific Oceans. Since the issuance of that report the political, economic, and military circumstances concerning such a canal may have changed.

(3) The effect of a sea-level canal upon the environment is unknown, but there is a possibility that substantial impacts on marine ecosystems might result from the construction and operation of such a canal.

(4) The most current information on the benefits and costs of the possible construction and operation of a sea-level canal between the Atlantic and Pacific Oceans should be available to the Congress and the public in view of the economic and national security importance of a new canal.

SEC. 203. PURPOSES.

The Congress declares that the purposes of this title are the following:

(1) To provide for the completion of the studies and investigations neceessary to make current the findings of the report of the Atlantic-Pacific Interoceanic Canal Study Commission and to determine the environmental effects of a possible sea-level between the Atlantic and Pacific Oceans.

(2) To provide for the determination, based on the best and most current information available, of the feasibility of and the most suitable site for the construction of a new interoceanic canal between the Atlantic and Pacific Oceans.

(3) To provide for study and comparison of the trade demands and economic alternatives for the transit of vessels or movement of cargoes between the Atlantic and Pacific Oceans.

SEC. 204. DEFINITIONS.

For the purposes of this title—

(1) The term "Council" means the Interoceanic Canal Study Council established by section 211.

(2) The term "Commission" means the International Sea-Level Canal Study Commission established by section 221.

(3) The term "host country" means the foreign country which, as a result of studies determining that the most advantageous route for construction of a sea-level canal lies within that nation's boundaries, undertakes to form with the United States the International Sea-Level Canal Study Commission established in part B of this title.

PART A—INTEROCEANIC CANAL STUDY COUNCIL

SEC. 211. ESTABLISHMENT.

There is hereby established the Interoceanic Canal Study Council.

SEC. 212. DUTIES.

The Council shall conduct a review and assessment of alternate routes for the construction and operation of a new interoceanic canal across the Americas. The review and assessment by the Council shall include, but not be limited to, with respect to each major alternate route—

(1) an assessment of the general environmental effects of construction and operation of a new interoceanic canal along such route;

(2) an estimation of the United States economic benefits that would be derived from construction of such a canal along such route, and an estimation of the economic benefits that would be derived from means and systems other than a new interoceanic canal for transit of cargo between the Atlantic and Pacific Oceans;

(3) an estimation of the United States national security and foreign policy benefits that would be derived from construction of such a canal along such route; and

(4) an estimation of the engineering problems entailed in the construction of such a canal along such route.

SEC. 213. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Council shall consist of five members, who are United States citizens, as follows:

(1) One member shall be appointed by the President pro tempore of the Senate.

(2) One member shall be appointed by the Speaker of the House of Representatives.

(3) Three members shall be appointed by the President.

A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—The Chairman of the Council shall be elected by the Council from among its members.

SEC. 214. POWERS.

(a) HEARINGS.—The Council or, if authorized by the Council, any committee of one or more members may, for the purpose of carrying out the provisons of this part, hold such hearings and sit and act at such times and places as the Council or such committee deems advisable.

(b) OTHER POWERS.—The Council has such other powers as are set forth in section 231.

SEC. 215. REPORT AND RECOMMENDATIONS OF COUNCIL.

COUNCIL.—Not later than one year after the date of the enactment of this title, the Council shall submit to the President and the Congress a document setting forth the results of the review and assessment carried out by it under section 212.

SEC. 216. TRANSITION.

The Council shall cease to exist on whichever of the following days first occurs after the date of the submission of its report under section 215:

(1) The last day of the six-month period beginning on the date of such submission.

(2) The day on which the Secretary of State notifies the Congress that the host country in which is deemed to be located the most advantageous route for construction of an interoceanic canal has accepted participation in the International Sea-Level Canal Study Commission.

SEC. 217. TAKING EFFECT OF PART B.

Part B shall take effect if, and only if—

(1) the Council declares in its report submitted under section 215 that the United States and the country in which the most advantageous route for construction is located both recognize that a sea-level canal may be important for international navigation in the future;

(2) the Senate and the House of Representatives have not, within sixty days of receiving the report of the Council submitted under section 215, agreed to a joint resolution stating their disapproval of such report: *Provided*, That the sixty-day period referred to in this paragraph shall be computed by excluding (i) the days on which either House is not in session because of an adjournment of the Congress sine die, and (ii) any Saturday and Sunday, not excluded under subparagraph (i), when either House is not in session; and

(3) the Congress is notified by the Secretary of State that the country in which the most advantageous route for construction is deemed to be located has accepted participation in the International Sea-Level Canal Study Commission established in part B of this title.

The effective date of such part shall be the date on which (1), (2), and (3) of this paragraph shall have occurred.

PART B—INTERNATIONAL SEA-LEVEL CANAL STUDY COMMISSION

SEC. 221. ESTABLISHMENT.

Upon the taking effect of this part, there is established the International Sea-Level Canal Study Commission.

SEC. 222. DUTIES.

(a) IN GENERAL.—The Commission shall conduct such studies and investigations as may be necessary, including onsite surveys, and including an updating of the report of the Atlantic-Pacific Interoceanic Canal Study Commission (submitted pursuant to Public Law 88-609), to assess the feasibility of a sea-level canal in the host country and to prepare an environmental report in accordance with section 102 of the National Environmental Policy Act and in connection with such studies and investigations. The results of the review and assessment by the Council under part A shall be considered by the Commission in conducting such studies and investigations.

(b) REPORT OF COMMISSION.—Within three years after the date on which the initial appointment of all members of the Commission is completed the Commission shall submit to the President, the Congress, and the host country, a report of its findings and recommendations. The report of the Commission shall include, but not be limited to—

(1) an environmental report in accordance with section 102 of the National Environmental Policy Act;

(2) an inventory and assessment of flora, fauna, and ecosystems of the host country as they relate to the construction and operation of a sea-level canal, including but not limited to—

(A) potential migration of marine organisms through a sea-level canal and the potential ecological effects of any such migration;

(B) natural or manmade barriers that might mitigate the effects of any such migration; and

(C) other potential environmental effects of a sea-level canal;

(3) an analysis of the best techniques and equipment presently available or which could be developed to excavate a sea-level canal;

(4) the preparation of alternative designs for financing the construction of a sea-level canal;

(5) an assessment of the economic feasibility of a sea-level canal, including, but not limited to—

(A) an analysis of a sea-level canal in relation to alternative transportation modes;

(B) an evaluation of the potential contribution of a sea-level canal to alleviate the problem of world energy shortages;

(C) an assessment of the impact of a sea-level canal on world commodity movements and world port development;

(D) an analysis of world ship population profiles associated with projected interoceanic trade flows;

(6) an assessment of the national security and foreign policy ramifications of a sea-level canal; and

(7) an assessment of the general interest expected by individuals, public and private organizations, and nations engaged in international commerce in connection with construction and operation of a sea-level canal.

SEC. 223. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) Except as provided in paragraph (2), the Commission shall consist of ten members as follows:

(A) One member appointed by the President pro tempore of the Senate.

(B) One member appointed by the Speaker of the House of Representatives.

(C) Three members appointed by the President.

(D) Five members appointed by the host country.

(2) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—The Chairman of the Commission shall be elected by the Commission from among its members.

SEC. 224. POWERS.

(a) HEARINGS.—The Commission or, if authorized by the Commission, any committee consisting of one or more members may, for the purpose of carrying out the provisions of this part, hold such hearings and sit and act at such times and places as the Commission or such committee deems advisable. In the conduct of hearings, testimony and evidence may be given in either English or the language of the host country, and transcripts, reports, and materials of the Commission shall be made available in both languages.

(b) OTHER POWERS.—The Commission has such other powers as are set forth in section 231.

SEC. 225. ACTION BY COUNCIL ON ENVIRONMENTAL QUALITY.

When the Commission submits the environmental report required under section 222 (b) (1), the Council on Environmental Quality shall promptly thereafter afford interested persons an opportunity to present oral and written data, views and arguments respecting the environmental impact statement included in such environmental report. Not later than ninety days after the date on which such report is so submitted, the Council on Environmental Quality shall submit to the President and the Congress a document, which shall be made available to the public at the same time, summarizing any data, views, and arguments received from the public and setting forth the views of the Council on Environmental Quality concerning the legal and factual sufficiency of such environmental impact statement.

SEC. 226. TERMINATION OF COMMISSION.

The Commission shall cease to exist sixty days following the submission of its report under section 222.

PART C—POWERS OF COUNCIL AND COMMISSION AND ADMINISTRATIVE PROVISIONS

SEC. 231. POWERS.

(a) IN GENERAL.—For purposes of carrying out its duties under this title, the Council and the Commission may each—

(1) secure directly from any department or agency of the United States information necessary to enable it to carry out such duties, and, upon request of the Chairman of the Council or the Commission, the head of such department or agency shall furnish such information to that body subject to applicable law;

(2) (i) accept, hold, administer, and utilize funds and utilize services and property, both real and personal, provided by the host country or any international organization, in which the United States and the host country are both members, for the purpose of aiding or facilitating the work of the Council or the Commission. Bequests of money shall be deposited in the Treasury in a separate fund and shall be disbursed upon order of the Council or the Commission: *Provided*, That the total amount in any year of funds and the value of services and property used may not exceed the sum appropriated for such year.

(ii) Upon request of the Council or the Commission the Secretary of the Treasury may invest and reinvest, in securities of the United States, any moneys contained in the fund authorized in subparagraph (i) of this paragraph. Income accruing from such securities, and from any other property accepted to the credit of such fund, shall be disbursed upon the order of the Council or the Commission.

(iii) Upon the termination of the Council in accordance with paragraph (2) of section 216, property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall be conveyed to the Commission. Upon the termination of the Council in accordance with paragraph (1) of section 216, or upon termination of the Commission, any property accepted under subparagraph (i) of this paragraph and not previously disposed of pursuant to the provisions of this paragraph, shall—

(A) be returned to the original donor or his designee, if so requested by the donor; or

(B) in the case of any property not otherwise disposed of, revert to the miscellaneous receipts of the Treasury or be disposed of in accordance with applicable provisions of law;

(3) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

(4) to such extent, or in such amounts, as are provided in advance in appropriation Acts, enter into contracts, agreements, or other transactions without regard to section 3709 of the Revised Statutes of the United States; and

(5) utilize, on a reimbursable basis or otherwise, the personnel and facilities of other departments and agencies of the United States, and accept and utilize the services of voluntary and uncompensated personnel.

(b) ADDITIONAL COMMISSION POWERS.—

(1) The Commission may utilize, on a reimbursable basis or otherwise, the personnel and facilities of any agency of the host country for purposes of carrying out its duties under part B.

(2) The Commission may employ non-United States citizens or nationals of the host country, notwithstanding any other provision of law.

SEC. 232. DIRECTOR AND STAFFS OF COUNCIL AND COMMISSION.

(a) DIRECTOR.—The Council and the Commission shall each appoint a Director who shall be compensated at a rate not to exceed that in effect for level II of the Executive Schedule.

(b) STAFF.—The Council and the Commission may each appoint and fix the pay of such additional personnel as it deems desirable.

(c) APPLICABILITY OF CIVIL SERVICE LAW.—The Director and staff of the Council and of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(d) FEDERAL EMPLOYEES.—Any Federal employee subject to the civil service laws and regulations who may be detailed to either the Council or the Commission shall retain civil service status without interruption or loss of status or privilege.

(e) EXPERTS AND CONSULTANTS.—The Council and the Commission may each procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

SEC. 233. PAY AND TRAVEL EXPENSES.

(a) IN GENERAL.—Except as provided in subsection (b), members (if citizens or nationals of the United States) of the Council and of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level II of the Executive Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Council or the Commission. The compensation of members of the Council or the Commission who are citizens or nationals of the host country for service thereon shall be as provided for under the law of such country.

(b) EXCEPTION.—Members of the Council and the Commission who are full-time officers or employees of the United States or Members of Congress or full-time officers or employees of the host country's government shall receive no additional pay on account of their service on the Council or the Commission.

(c) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Council or the Commission, members thereof (whether or not citizens or nationals of the United States) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

PART D—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) FOR COUNCIL.—There are authorized to be appropriated for fiscal year 1979, for purposes of carrying out part A not to exceed $2,500,000.

(b) FOR COMMISSION.—There are authorized to be appropriated, without fiscal year limitation, for purposes of carrying out part B such sums as may be necessary, but not to exceed $5,500,000.

SEC. 242. EFFECTIVE DATES.

(a) PART A.—Part A shall take effect on the date of enactment of this title.

(b) PART C.—

(1) The provisions of part C which apply with respect to the Council shall take effect on the date of the enactment of this title.

(2) The provisions of part C which apply with respect to the Commission shall take effect on the date on which part B takes effect under section 217.

MOTION OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MURPHY of New York moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and agree to the same with amendments as follows:

On page 8 of the Senate engrossed amendments strike out lines 20 and 21 and insert in lieu thereof the following:

SEC. 201. SHORT TITLE.

This title may be cited as the "Interoceanic Canal Study Act of 1978".

On page 19, line 16 of the Senate engrossed amendments strike out "(i)" and insert in lieu thereof "(A)".

On page 20, line 3 of the Senate engrossed amendments strike out "(ii)" and insert in lieu thereof "(B)".

On page 20, line 6 of the Senate engrossed amendments strike out "(i)" and insert in lieu thereof "(A)".

On page 20, line 11 of the Senate engrossed amendments strike out "(iii)" and insert in lieu thereof "(C)".

On page 20, line 13 of the Senate engrossed amendments strike out "(i)" and insert in lieu thereof "(A)".

On page 20, line 19 of the Senate engrossed amendments strike out "(i)" and insert in lieu thereof "(A)".

On page 20, line 21 of the Senate engrossed amendments strike out "(A)" and insert in lieu thereof "(i)".

On page 20, line 23 of the Senate engrossed amendments strike out "(B)" and insert in lieu thereof "(ii)".

On page 21, line 21 of the Senate engrossed amendments strike out "DIRECTOR" and insert in lieu thereof "DIRECTORS".

On page 21, line 23 of the Senate engrossed amendments strike out "Director" and insert in lieu thereof "Directors".

On page 22, line 1 of the Senate engrossed amendments, strike out "Staff" and insert in lieu thereof "Staffs".

On page 23, line 9 of the Senate engrossed amendments insert ", if any," after "compensation".

On page 23, beginning on line 11 of the Senate engrossed amendments strike out "as provided for under the law of such country" and insert in lieu thereof "the responsibility of the host country".

On page 23, line 26 of the Senate engrosed amendments strike out "5703(b)" and insert in lieu thereof "5703".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York.

There was no objection.

Mr. BAUMAN. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The question will be divided.

Mr. MURPHY of New York. Mr. Speaker, these are just technical amendments.

Mr. BAUMAN. Mr. Speaker, I ask that the question be divided.

The SPEAKER pro tempore. The question will be divided.

Does the gentleman from New York wish time for debate?

Mr. MURPHY of New York. Yes, Mr. Speaker, I do.

Mr. Speaker, a major provision of H.R. 2329 as passed by the Senate concerns updating and expanding the 1970 sea-level canal study report. This sea-level study provision, sponsored by the senior Senator from Alaska (Mr. GRAVEL), calls for an assessment of the environmental, economic, national security, and foreign policy implications of a new interoceanic canal.

There are two organizational vehicles in title II of the Senate-passed bill for completing a new study of a prospective canal and improved means of facilitating transport of cargo from ocean to ocean. These vehicles are an Interoceanic Canal Study Council—a body made up of entirely U.S. members, and an International Sea-Level Canal Study Commission, which would consist of an equal number of U.S. citizens and citizens of that country which is determined to have the best site for a new canal.

THE INTEROCEANIC STUDY COUNCIL

The Interoceanic Canal Study Council would take up to 1-year to evaluate the U.S. interest in the major alternative routes for construction and operation of a new canal. The Council would be made up of five persons, three of whom would be appointed by the President, one by the Senate pro tempore, and one by the Speaker of the House. The Council would present the results of its study to the President and the Congress.

If the Council as a result of its studies expresses interest in a new interoceanic canal and if the Congress does not disapprove the Council's report in 60 working days, and the host country wherein the best canal site is located explicitly wants to join in further study, then an International Sea-Level Canal Study Commission is established by H.R. 2329. This Commission would consist of five U.S. representatives and five representatives of the host country. The Commission's mission would be that of assessing the feasibility of a sea-level canal in the particular host country. It would, over a period not to exceed 3 years, assess the environmental, technical, economic, and national security aspects of a new canal in that country. An environmental impact statement in accordance with NEPA would be produced, and the Council on Environmental Quality and interested public parties would have an opportunity to submit to the Congress and the President their comments on the statement.

ADMINISTRATION

The sea-level provision in H.R. 2329 also authorizes both the council and the commission those administrative powers necessary for the successful accomplishment of the mission. These include, among other things, the use of information of U.S. departments and agencies, use of the U.S. mails, the power to enter into contracts, and use of Government personnel. Also, the commission can accept the services and contributions of the host country and international organizations to further their study.

RATIONALE

Several factors have prompted interest in an update and expansion of sea-level canal studies. Our energy picture has changed dramatically as Alaskan North Slope oil has begun to flow—a new, more efficient canal could be the most advantageous means to transport this oil to our energy-short east coast. Moreover, the economies generated by the use of larger ocean-going vessels unable to transit the Panama Canal are still another important reason for considering a new canal. For example, from 1960 to 1975 the number of tankers in the world fleet that were too large to transit the Panama Canal grew from 25 to 900. These facts are of course among those that need further analysis, but are indicative of the progress in ocean transportation and the need to look at the adequacy of a major waterway through which our trade flows.

AUTHORIZATION

The authorized sums contained in the sea-level provision are $2.5 million for the Interoceanic Canal Study Council for fiscal year 1979 and, without fiscal year limitation, $5.5 million for the International Sea-Level Canal Study Commission. These amounts include funds for the studies and investigations to be carried out by the two bodies, as well as the salaries and administrative expenses of these bodies. The compensation of the five commission members of the host country shall be paid by and provided under the laws of the government of the host country. These sums are small compared to what some feel may be the enormous benefits of a new canal. Let me emphasize that the sea-level study in H.R. 2329 does not involve a commitment to build a new canal and also that almost all of the engineering and surveying work for the alternate routes has already been done and need not be repeated in this study, nor is study of nuclear excavation techniques contemplated for this study because such techniques are now impossible to use.

The recently approved Panama Canal Treaty did envisage a study of a new canal. That treaty does not limit or circumscribe the authority of the United States might have over a new canal, but the neutrality treaty approved this year would apply to any canal the United States builds in Panama.

The total cost of the provision is $8 million.

The SPEAKER pro tempore. Does the gentleman from New Jersey (Mr. FORSYTHE) seek recognition?

Mr. FORSYTHE. Yes, Mr. Speaker, I wish to have some time.

I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I am not going to prolong this. The issue is clear. The gentleman from New York is right in one sense. The amendment does not prejudge by picking Panama, or picking Nicaragua, or picking Mexico. It only picks the pockets of the taxpayers of the United States to the tune of $8 million.

This proposal is not necessary at all. This amendment is nongermane and was not reported by our committee. It was tacked on in the other body as a pet project, and I think the House deserves better at this late hour. We are talking about building a possible canal that could cost in 1978 dollars $8 billion, a canal which is a fantasy. The American taxpayer would never agree to build another canal in this area under the present circumstances and to waste this money on an unnecessary Canal Commission and study, with all sorts of civil service waivers for people that can be hired at top rates of salary to me is madness. I would urge a "no" vote.

Mr. MURPHY of New York. Mr. Speaker, if the gentleman will yield, the subject matter is certainly germane to the jurisdiction of the committee.

Mr. BAUMAN. It is not germane to a fish and wildlife bill by any stretch of the imagination.

Mr. MURPHY of New York. As I pointed out, the question is a $2.5 million study in the first phase.

Mr. BAUMAN. The gentleman knows what it says here. It is $8 million total. The gentleman can read the amendment.

Mr. MURPHY of New York. I am just pointing out to the gentleman that we have divided this study and that we will only spend $2.5 million at the outset for the Interoceanic Canal Study Council, and only after approval by the Congress will we go into a second phase for the $5.5 million. That will be after the $2.5 million is spent after we have reevaluated our energy needs.

The whole energy picture has changed. We know that the west coast is sitting pretty as far as energy is concerned.

It has a glut from Alaskan North Slope oil and an improved economic picture as far as ocean-shipping is concerned. The gentleman, I am certain, agrees with me that we should not send our most precious economic resource to Japan. How do we get it back to the gulf and the east coast economically where the rest of the country so urgently needs it? It is only through the canal.

We want to study the economics at this juncture in this entirely changing environmental and economic and energy picture. We have already spent $27 million doing this study over 10 years ago. Let us merely bring it up to date, and let the House consider what the first phase of it does with a $2.5 million study.

Mr. BAUMAN. I think the issue is clear, and I urge a "no" vote on the motion to recede.

Mr. Speaker, I would suggest to the House that if we vote "no" on a division vote, it would be a lot easier than having a rollcall vote.

The SPEAKER pro tempore. (Mr. BRADEMAS). The question is on the motion to recede.

The motion to recede was rejected.

Mr. MURPHY of New York. I move that the House insist on its disagreement to the Senate amendment numbered 33.

The motion was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12250, BOUNDARY WATERS CANOE AREA WILDERNESS

Mr. PHILLIP BURTON. Mr. Speaker, I call up the conference report on the bill (H.R. 12250) to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Area Mining Protection Area, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule previously adopted, the conference report is considered as read.

(For conference report and statement see proceedings of the House of October 12, 1978.)

The SPEAKER pro tempore. The gentleman from California (Mr. PHILLIP BURTON) will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge my colleagues to join me in approving the conference report on the bill, H.R. 12250, to designate the Boundary Waters Canoe Area Wilderness. The House conferees have recommended that the House recede to the Senate amendment to H.R. 12250. The Senate amendment is modeled on the House bill and therefore, generally represents the views this body expressed when it approved this legislation by vote of 324 to 29 on June 5 of this year.

The major change in accepting the Senate amendment is to adopt a substantial compromise regarding the continuation of motorized use within the Boundary Waters area. While I would have personally preferred the stronger protection of the House-passed version, I believe the Senate Committee on Energy and Natural Resources deserves great credit for working to resolve this difficult and complex problem. Subcommittee Chairman JAMES ABOUREZK is to be commended for his initiative in bringing the two opposing sides together until a compromise position was defined. Senator WENDELL ANDERSON of Minnesota deserves our thanks for pressing forward to resolve this issue in the face of bitter and divisive opposition within his own State.

The only other changes from the House version are essentially noncontroversial refinements of our original text. Thus, we may continue to be assured that this bill will provide adequate protection to this most-visited unit of our National Wilderness and Preservation System.

Mr. Speaker, there are a number of instances in which the House has agreed to changes in the bill made by the Senate. The Senate version of the measure does not damage the work which the House has accomplished to protect this area, although it obviously does not include the amount of progress we had hoped to achieve in limiting motorized use.

As one of the principal authors of this legislation, I want to clarify several points in this matter.

The mining section in this bill is still virtually the same as in the House bill, which was rewritten following the House committee hearings as the result of concerns that the original language in the bill might constitute a taking of property.

The attorneys for the State of Minnesota advised the House committee that the national emergency exception of our committee bill was designed to provide a defense to such claims. We are convinced that Congress has authority under the property clause and the commerce clause of the constitution to regulate mining in the BWCA as set forth in the amendment. The prohibition against the use of any Federal property in connection with mining or exploration is modified by the amendment to prohibit mining which may materially affect the wilderness and natural values of the area.

This strict regulation is justified both by the need to protect the wilderness values and natural values of the area and by the fact that most private ownership resulted from a pattern of fraudulent acquisition of Government land. Later, the surface rights were sold back to the United States to be used for an area of primitive recreation, while the mineral rights were retained. Thus, when the surface rights were sold the owners had reason to know that the area would be likely to be subject to strict regulation. Of course, if a taking of property is alleged or if any litigation over these mineral rights arises, the Attorney General will assert the claim that the minerals were fraudulently acquired, assuming that the prima facie case of fraud as defined in the bill is present.

It is also my understanding that a substantial body of evidence indicates that the original patenting of public domain lands in the BWCA by alleged homesteaders was characterized by widespread fraud. Much of this evidence was presented by the Minnesota Commissioner of Natural Resources in Izaak Walton League of America against St. Clair, a suit to prevent mineral exploration within the BWCA. The U.S. District Court for the District of Minnesota found that:

> A system involving land brokers and false entries by hired or "dummy" entrymen pervaded the acquisition of public lands in the Duluth district in the period from the year 1885 through at least 1900 . . . most patents have gone unchallenged to the present day. Eventually and perhaps as a result of the widespread fraud, hundreds of thousands of acres were withdrawn from entry by the United States and later formed the nucleus of the Superior National Forest, within which lies the BWCA.
>
> The evidence in that case showed that "in 1885 a report of the Secretary of the Interior to Duluth land office showed 4,300 homestead entries had been made with less than 100 of the settlers living on the land . . . and that in 1894, a special agent on an eight-day trip in the Ely area saw no man in 150 miles of travel despite seeing many shanties; that in his opinion only one entry in 1,000 was good.

The court concluded that:

> There is no question but that the Commissioner presents a prima facie showing of fraud.

Thus, the Attorney General is directed by this bill to assert the public's right to establish constructive trusts or to recover money damages for the land procured through fraud.

This constructive trust claim is based upon the fraudulent acquisition of the original patents.

Case law establishes that where acquisition of title to land is fraudulent, the court in the exercise of its equitable jurisdiction, may order that the fraudulent purchaser merely holds the land in trust for the true owner. Here the equitable case is strengthened because not only were most of the lands fraudulently acquired in the 1800s, but also the owners later sold the surface rights to the Federal Government for wilderness, and retained the minerals free from real property taxes until very recently. If the constructive trust claim is successful, prohibition against the mining or exploration of minerals owned by the United States would then apply.

There is also the question of the statute of limitations. It is my understanding that while the 6-year statute of limitations for suits to vacate or annul patents 43 U.S.C. 1166 would not permit a direct attack upon title, it does not bar an action for damages or a constructive trust.

In addition, the 6-year statute of limitations for the bringing of actions by the United States based upon contract (28 U.S.C. 2415(a)) does not apply for three independent reasons. First, the action is not founded on contract but on fraud. Second, 28 USC 2415(c) provides that the 6-year limitation does not apply to an action to establish the right of possession to real property, which is the nature of the constructive trust action. Third, 28 U.S.C. 2415(f) provides that the 6-year statute of limitation shall

not prevent the United States from asserting a claim it may have against a party that is suing the Government, so long as it arises out of the same subject matter as the plaintiffs' claim.

Each of the additions to the wilderness made by H.R. 12250 is intended to include within the wilderness certain contiguous areas of de facto wilderness that are already largely owned by the Federal Government, for the purpose of protecting important canoe routes, lakes, streams, canoe portages, hiking trails, or ecological, and historic resources. The purpose of most of these additions is obvious from a study of the map of each area. All additions adjoin the existing wilderness, and most of them include obvious canoe routes, key lakes or streams, hiking trails, Indian pictographs, or similar wilderness resources. In 1965 Secretary of Agriculture Freeman directed the Forest Service to manage several of these areas like the BWCA. Those areas included portions of the following additions: Fourtown-Range River, North Kawishiwi River, South Lake, Moose-Pine-Fowl Lakes. H.R. 12250 places all of the significant wilderness land adjoining those units within the designated wilderness area and makes several similar additions. A few of the additions require special comment:

First. Fourtown-Range River: The purpose of this addition is to protect as wilderness the presently excluded tips of Fourtown and Horse Lakes, plus several other lakes and their connecting canoe routes, and most notably, the Range River canoe route into Jackfish Bay of Basswood Lake and adjoining lands.

This addition includes a small resort and boat landing on the Range River, owned by Mr. James Pete, which provides direct motorboat access to Basswood Lake. Several hundred acres of private land owned by Mr. Pete and others are included nearby. This is a new development which allows for the first time direct motorboat access to Basswood Lake without portages. It bisects the whole international boundary wilderness.

It is absolutely vital that this access be closed off. The addition requires acquisition of Mr. Pete's resort and lands, as well as a few other private parcels. This is the only resort taken by H.R. 12250 and the largest tract of private property included within the additions.

The committee intends that this resort and all of its roads and all other developments within the addition will be expeditiously acquired and removed by the Government upon enactment.

Second. Lakeshore Additions along partially excluded lakes: The existing BWCA boundaries exclude small portions of several significant lakes and streams. In many of these situations H.R. 12250 includes the full lake within the designated wilderness by adding the excluded lake segment and a strip of land 400 feet wide parallel to its excluded shoreline.

The purpose of these additions is to protect these lakes from future road access or cabin development and to eliminate any existing developments, without withdrawing additional timberlands from cutting. Cutting of timber within 400 feet of the lakeshore is already prohibited by the Shipstead-Newton-Nolan Act of 1930. The lakes or streams affected by such 400 foot shoreline additions include Oriniak, Parent, Delta, parts of Lake One, Kinogami, Juno, Bower Trout, Ram, Lizz, Crocodile Lake, and Crocodile River.

Certain other larger additions also include 400-foot shoreline additions along a portion of their perimeters to include all of the following lakes and river: Holy, Isabella, Brant, John, Royal Lake, and Royal River.

Our committee intends that any private inholdings within these 400-foot lakeshore additions, whether developed or not, be expeditiously acquired by the Government under the authorities prescribed in H.R. 12250.

Detailed U.S. Geological Survey quadrangle maps showing each of these 400-foot lakeshore additions have been placed on file with the Chief, U.S. Forest Service, Washington, D.C., but, of course, it was difficult to accurately depict the 400-foot strips because of the limitations of map scales. The Senate report on H.R. 12250 already mentions these additions briefly, but I think it is important to describe the rationale and records involved in more detail so that there will be no confusion about them.

I have heard that because of the BWCA logging exception in paragraph 4(d)(5) of the 1964 Wilderness Act there was some consideration given by the Forest Service to "administrative cutting" as a possible means of managing the BWCA's wilderness vegetation, even in the interior zone, in lieu of allowing natural ecological processes to function. That is not done in other wilderness areas. It is my understanding that by placing the BWCA under the full protection of the Wilderness Act, and by repealing paragraph 4(d)(5), H.R. 12250 prohibits administrative cutting for such purposes.

H.R. 12250 mandates that the vegetation of the BWCA be subject to the same policies as are other wilderness areas protected by the 1964 act. The deliberate manipulation of the natural vegetation of the BWCA by administrative cutting would be completely out of keeping with the objectives of the Wilderness Act, which defines a wilderness as "an areas where the earth and its community of life are untrammeled by man * * * retaining its primeval character and influence * * * which is protected and managed so as to preserve its natural conditions." Some cutting of vegetation is allowed at the discretion of the Secretary for the construction and maintenance of portages, hiking trails and campsites to serve permitted wilderness recreation activities, and in connection with essential fire, insect, and plant disease control work. But the wholesale manipulation of vegetation by cutting, herbiciding, landclearing, or other means is out of keeping with the purposes of the Wilderness Act, and it is our intention that such activities be prohibited in the BWCA.

H.R. 12250 allows the maintenance of the Prairie Portage Dam that preserves existing water levels on the Moose-Newfound-Sucker-Birch Lakes Chain, but it allows the maintenance of any other water level control structures within the wilderness only where such structures are necessary to protect wilderness values or public safety.

The intent of these provisions is to allow the Secretary to maintain the Prairie Portage Dam because it is important for maintaining water levels that have existed on the Moose-Birch Chain since the early part of this century, but to allow the water levels on all other lakes and streams in the wilderness to be controlled as nearly as possible by natural factors.

At one time there were some 60 very small man-made water control structures in the BWCA. These dams were built many years ago, either to facilitate stream-driving of logs or to raise water levels for boat or canoe travel.

They were all of either wooden or rock and earth construction, and most of them held back no more than 2 to 4 feet of water. They were very small—usually only 20 to 100 feet wide.

Only the Prairie Portage Dam is larger and of any real significance now. Most have already disintegrated and their waters have returned to former levels. In a few cases these structures still hold levels 1 to 3 feet above natural levels.

Where this is true, H.R. 12250 allows the Forest Service to remove those structures in such a manner that no damage to the stream channel will occur. But it permits their maintenance at existing water levels only where such work is essential to protect wilderness values or the public safety.

Since all of these dams are very small, and most are already nonfunctional, a public safety concern would seldom, if ever, arise. I see little likelihood that wilderness values would be protected by maintenance either, because most of these dams are evidence of man's imprint on the land, and the Wilderness Act specifically refers to maintaining conditions where "the imprint of man's work is substantially unnoticeable."

In most, if not all cases, the removal of the remaining evidence of these old dams would best serve the wilderness purpose that H.R. 12250 is intended to protect.

The final bill requires that the Secretary is to terminate all motorized use of the Prairie Portage from Sucker Lake to Basswood Lake, the Fourmile Portage from Fall Lake to Basswood Lake, the Trout Lake Portage from Lake Vermilion to Trout Lake on January 1, 1984, unless "no feasible nonmotorized means of transporting boats" between the lakes previously served by these portages is available.

I understand that feasible methods of transporting such boats in fact are already in use in the BWCA. I understand that during the compromise discussions

it was agreed that "feasible" meant a method involving two able-bodied resort guests and one able-bodied guide.

The compromise agreement simply requires that there be a feasible nonmotorized method of moving boats with motors no larger than 25 horsepower between the lakes in question, using three able-bodied adults. It does not require that the portage routes be the same ones now traversed by trucks.

For example, the Fourmile Portage truck trail from Fall Lake to Basswood Lake could be replaced by portaging through Newton Lake to Pipestone Bay of Basswood, and then from Pipestone Bay to Back Bay to reach the specific areas now served by the Fourmile Portage. Such a route already exists, and the portages involved are suitable for nonmotorized transport of such boats.

In fact, the Forest Service has allowed only nonmotorized transport of boats from Fall Lake to Basswood via the Newton Lake-Pipestone Bay route for several years now. The method often used for larger boats is to strap or otherwise attach a carriage with cicycle wheels beneath one end of the boat, and then simply wheel the boat across the portage—like a wheelbarrow—with motor and fishing gear, gas cans, et cetera inside the boat. This method is feasible and proven, and I would expect that the Secretary will terminate motorized use of these portages and permit that method to be used.

Some people have suggested using rollers or a hand-operated tram—on rails, but those methods require permanent structures and mechanical equipment within the wilderness. Such developments are inappropriate. Following termination of motorized used in 1984, I expect the Secretary to obliterate any unused truck trails, remove any unused docks, and otherwise eliminate as nearly as possible any evidence of man's works.

The bill authorizes the Secretary to "set forth additional standards and criteria to further define the type of motorized craft which may be permitted." This authority is intended to help the Forest Service deal with possible new types of motorized craft, and with such problems as noise levels and speed. We cannot foresee new technological developments, and this authority clearly allows the Secretary to regulate future machines that may violate the intent of the rules spelled out in H.R. 12250.

It also allows the Secretary to deal with machines that are excessively noisy by setting limits on noise emission levels, with machines capable of excessive speed by setting limits on the ratio of boat horsepower to boat length and width, or to cope with similar problems not apparent at this time.

In several of the additions to the wilderness made by H.R. 12250 there has been limited seasonal and/or year-round storage of "cached" boats on lakes or rivers at sites that will be within the wilderness upon enactment. Storage of boats of all types not being used in connection with a current visit is currently prohibited on Federal land within the BWCA by the Secretary's regulations, and on State land or water under Minnesota Department of Natural Resources regulation 1,000. Such storage of cached boats or canoes is clearly out of keeping with the purposes of the Wilderness Act, and it is our intention that such practices be prohibited within the additions to the wilderness made by H.R. 12250.

Storage of canoes just outside the wilderness boundary near certain lakes could be permitted by the Secretary as a means of facilitating appropriate wilderness use of such lakes by the guests of nearby resorts. In some cases such resort guests were the principal users of the cached boats within certain new wilderness additions.

Wood Lake and the North Kawishiwi River are examples of situations where canoe storage just outside the wilderness might help the resort economy and give resort guests an opportunity to fish in the wilderness with little portaging.

The motor use compromise allows the Secretary to issue "special use permits for the grooming by snowmobiles of specified cross-country ski trails for day use near existing resorts." This provision came directly from the negotiated compromise, and I understand that the Secretary's authority here is to be limited to issuing a very few such permits, only near specified existing resorts. In the compromise negotiations, apparently, only one resort indicated an interest in such groomed trails—Bearskin Lodge, East Bearskin Lake.

Local snowmobile interests actually opposed the provision, as did the U.S. Ski Association and Minntour—the statewide cross-country skiing organization. The actual compromise agreement used the word "limited" authority—for specified trails.

We intend that this authority be used in only a very few instances, near an existing resort that actually maintained such trails for their customers within the BWCA prior to enactment of this legislation.

Such trails should be identified on maps kept on file by the Forest Service pursuant to the requirements of the act, and no other use of snowmobiles within the wilderness by resorts is to be permitted—except for authorized emergency rescue work, et cetera.

Our work to produce a solution to the Boundary Waters issue has been long, complex, and difficult. I commend my colleagues on the Committee on Interior and Insular Affairs who have given of their time and effort in our hearings and markup sessions this Congress.

In particular, I must point out the enormous effort and dedication shown by Representative BRUCE VENTO of our committee in this legislation. Representative VENTO has committed an incalculable amount of his time and energy during the last 18 months to mastering every aspect of this legislation. The final bill before us is very much his product and one of which he should be justly proud. Representative VENTO was joined in his efforts by his able colleague in the Minnesota delegation (RICK NOLAN) who has also contributed in so many ways to this result.

Finally, I must recognize the efforts of the man who has perhaps given the most of all in this issue, Representative DONALD FRASER. DON FRASER brought the need to protect this magnificent area to the attention of the House of Representatives. He stood for the full protection he knew this resource deserves, and he has never strayed from that commitment despite personal attacks and terrible damage to his own political career. His one mission throughout this entire battle has been to see this unique water wilderness passed unimpaired to future generations. DON FRASER will not be back in this House in the 96th Congress, but his legacy for future generations will endure.

Mr. Speaker, I would also like to include in my remarks at this point, what I am certain will be an incomplete list of those countless people who have worked to resolve this issue. Their contributions have made this day possible. I must, in particular, express my deepest appreciation and respect to Dr. Miron Heinselman for his personal dedication to this work.

FRIENDS OF THE BOUNDARY WATERS WILDERNESS

Nancy Adams, Fern Arpi, Steve Apfelbaum, Barbara Bader, J. Arnold Bolz, Marvin Borell, Audubon, Gerry Brimacombe, Lucy Bruntjen, George Collier, Robert Conklin, Janice Conklin, and Calvin Dahm.

Wallace Dayton, Harry Drabik, Daniel Engstrom, Lance Feild, International Backpackers Association, Richard Flint, Ed Fisher, Nelson French, Bernard Friel, Rick Glanz, Janet Green, Fran Heinselman, Herbert Johnson, and Kathy Johnson.

Roger Johnson, Vince Kershaw, Reed Larson, Carol Lee, Wes Libbey, Mike Link, Naomi Loper, Rodney Loper, Candice Luecke, Richard Luecke, and Harriet Lykken.

Jack Maloney, the U.S. Ski Association, Mack Mauritz, Eva McGinnis, John McLaughlin, Libby Muri, William Muir, Paul Nachman, Darby Nelson, Gerry Nelson, Mary Olson, and Sigurd F. Olson.

Steven Payne, the Wilderness Society, Dave Pearsall, John Peck, Mattie Peterson, Kevin Proescholdt, Molly Redmond, and Steve Ring.

Becky Rom, Roger Rom, William Rom, Jr., Clayton Rudd, Mickie Scholtus, Jerry Seck, Erika Sitz, Paul Sitz, Carol Slothower, Steve Snyder, and Edward Solstad.

Charles Stoddard, the Wilderness Society, John Syverud, Fred Thompson, William Thompson, Paul Toren, Jon Waters, Al Waters, Melissa Watson, Bill Weller, El Winston, Fred Winston, Quetico Superior Foundation, and Herbert Wright, Friends of the Earth.

Eric Zaetsch, Dave Zentner, Brock Evans, the Sierra Club, Pat Goggin, National Wildlife Federation, Destry Jarvis, National Parks & Conservation, and Maitland Sharpe-Izaak Walton League of America.

Steve Young, Audubon, Mary Poppleton, League of Women Voters, Patricia Record, the Sierra Club, Joan Moody, National Parks and Conservation Association.

SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS

Cleve Pinnix, Nancy Drake, Judy Lemons, Dale Crane, and Clay Peters.

INTERIOR AND INSULAR AFFAIRS COMMITTEE

Fran Sheehan.

CONGRESSMAN NOLAN

Stan Mahon.

CONGRESSMAN FRASER

Richard Rapson and Mark Carlson.

CONGRESSMAN VENTO

Brenda Nelson, Larry Joe Romans, and Jon Fellows.

SENATOR ANDERSON

Peter Gove and Susan Martell.

SENATOR HUMPHREY

Gene Graves.

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Tom Williams and Tony Bevinetto.

NEGOTIATORS

Chuck Dayton and Ron Walls.

Mr. Speaker, I urge the adoption of this conference report.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. SEBELIUS. Mr. Speaker, I rise in support of the conference report. I think we did a good job, and I urge my colleagues to vote aye on the conference report.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. VENTO), a member of the committee.

Mr. VENTO. Mr. Speaker, it is with happiness that I rise to present this bill to the House. It, indeed, has the support of both the Senators from Minnesota in the other body and has the support of the majority of the members of the Minnesota delegation. It unhappily does not have everyone's support, but, nevertheless, I think it represents a compromise which, indeed, is sensitive and reasonable to the consideration and preservation of this resource and its utilization by people not just from the local region, from our State, but from the Nation. The bill passed here by a wide margin. I think many voted for it with the hope that there would be further compromise along the way and, indeed, their wish and their desire is reflected in this final product. It was developed as a result of a compromise between conservationists and a representative of local residents. While they do not accept it, I think that in time they will accept it.

It provides over half of the current motorized area for continued motorized use, which in essence was the major point of controversy that arose with regard to this 1-million-acre wilderness area, the most extensively used wilderness area in our wilderness system, and over half that area will remain open to motorized use. It expands the opportunity for resort owners to require purchase of property. It retains mining protection language which we put in with regard to corridors in this area. It retains the language with regard to enhancement and forest management to produce the softwood that is necessary for the paper sulfite industry in this industry.

I hope that those Members who voted for it and those who did not will consider giving us a vote so that we can bring a conclusion to something that we have put extensive effort into, not just in Minnesota but in this Congress in the Committee on Interior and Insular Affairs. We would appreciate that consideration. I think it is time to resolve this issue now. I will ask the Members for their support.

Mr. Speaker, I rise in support of the conference report to H.R. 12250.

In its overwhelming vote of support for the final passage of H.R. 12250, the Burton-Vento bill, the House emphasized the national significance of the Boundary Waters Canoe Area and the urgent need to protect this valuable resource.

The BWCA is the largest wilderness area east of the Rockies and, as the only lakeland canoe wilderness area, it attracts visitors from all parts of the United States. Indeed, the BWCA is the most heavily visited unit of our National Wilderness System.

Throughout its entire history, the Boundary Waters Canoe Area has been surrounded by controversy and has been threatened by conflicts in use. The legislation we are now considering does much to eliminate the controversy and alleviates the pressure on the resource.

Logging has been a very real threat to the BWCA. Currently no logging is occurring within the wilderness areas but if this bill is not passed, logging within the Boundary Waters could resume and approximately 10,000 acres of virgin forest will be threatened. All parties agree that this should not occur and the Senate compromise prohibits logging in the wilderness. Based on commitments for alternative sources of alternative timber supplies and intensive forest management by the State of Minnesota and the U.S. Forest Service, it is certain that this logging ban will not significantly affect employment in northeastern Minnesota's wood-related industries.

Mining is another real threat to the integrity of the Boundary Waters Canoe Area wilderness. To this point in time, no mining has occurred within the area, but efforts have been made to mine the BWCA. Fortunately, the State of Minnesota has thus far been successful in its efforts to prevent mining and its destructive impacts. We are grateful for those efforts but unless we act now, active mines could scar the boundary waters and pollution would destroy the lakes and rivers of the area. Again, all parties agree that legislative action is essential to prevent this and such protection is provided for in this bill.

The question of what type of use in compatible with wilderness has been central to this legislation. Historically, Congress has stated that motorized use is basically incompatible with wilderness. The only exception to this belief has been the provision in the Organic Wilderness Act which allowed for traditional use in the BWCA.

Since the passage of that act, motorized and nonmotorized uses in the BWCA have increased. That factor, plus a long history of court cases and administration rules and regulations, have created an air of uncertainty over future use of the BWCA and have exacerbated conflicts between its users.

In its consideration of H.R. 12250, the House, while trying to meet local needs, reaffirmed the concept that preservation of the resource and not economic considerations alone must determine use patterns and management policies.

The Senate motorized use provision is a compromise between the House-passed H.R. 12250, which was passed by a vote of 324 to 29 and the Oberstar substitute thereto—which the House in effect rejected by a vote of 213 to 141. This compromise was the direct result of negotiations between environmentalists and local residents conducted under the guidance of Minnesota Senators ANDERSON and HUMPHREY and the chairman of the Senate Energy and Natural Resources Subcommittee on Parks and Recreation, Senator ABOUREZK. This compromise is supported by the administration, Senators ANDERSON and HUMPHREY, and Congressmen FRASER, NOLAN, and myself.

While the Senate motorized use provision is admittedly less restrictive than we would have wished for, it does cut back considerably in the number of lakes that will be open to motorboats. It allows motorboats in wilderness on 23 peripheral lakes where use is heavy and where resorts desire motorized use. Temporary motor use is also provided on eight international boundary lakes. Under this compromise approximately 50 percent of all current motor use will continue to exist while the number of nonmotorized routes will be increased. Thus, most of the major motor lakes will still be available for motor use while the interior lakes and routes will primarily be canoe-only routes.

In the main, the Senate amendments keep faith with the goals and purposes of the House-passed measure. Much of our language is retained and serves as the framework for this proposal.

Members of the conference committee and I certainly feel that there ought to be a resolution of this issue during this Congress. This committee conference report provides a sensitive and commonsense approach to what has been devisive issue. We have done our homework, hearings have been held and the House and the Senate conducted comprehensive deliberations to produce this measure which will preserve this resource for future generations.

Mr. Speaker, the BWCA is a valuable national resource that has provided many Americans with countless hours of pleasure. I urge my colleagues to support the efforts to protect this wilderness area by voting in favor of the conference report on H.R. 12250.

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Minnesota (Mr. NOLAN).

Mr. NOLAN. Mr. Speaker, I rise in support of the conference committee report on the BWCA. The legislation before us represents the tireless and unselfish efforts of DON FRASER, BRUCE VENTO, PHILLIP BURTON, the House and Senate Interior Committees, Members of the Congress, citizens of Minnesota, and people throughout the Nation who are concerned about preserving one of our Nation's greatest and most beautiful treasures.

The bill has already been overwhelmingly passed by both Houses. The House

passed H.R. 12250 on June 5, 1978 by a vote of 324 to 29. The Senate unanimously passed the compromise bill on the BWCA.

The bill is supported by all major conservation groups.

The bill has the full support of Minnesota Senators ANDERSON and HUMPHREY.

The bill has been endorsed by the administration.

The bill is a compromise. It bans logging in the wilderness and restricts mining—a position supported by all parties. It permits motorboat use on the major routes while increasing the number of nonmotorized routes.

The bill deserves the support of the full House.

Mr. PHILLIP BURTON. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker, several years ago when my predecessor in this body and my former boss, John Blatnik, first arrived in the Congress, Speaker Sam Rayburn took him aside and taught John a very important lesson which he passed on to me. He said, "John, I have never heard a speech pass a bill." I have no illusions in this body of expert speechmakers, particularly at this hour after hearing 24 hours of speeches, that a speech is going to stop a bill either. But I cannot help musing a little bit about the futility of this conference report.

Such anxiety and such a rush to get this bill passed—probably the most unnecessary piece of legislation that we will consider in these closing hours of the 95th Congress. Nothing is going to happen in the Boundary Waters Canoe Area if we do not pass this bill. The fishing season has almost ended. The lakes are going to freeze over in a couple of weeks. There will not be any motorboats up there. Snowmobiling has been stopped, and under agreements I have worked out with the logging companies, there will not be any timber harvest either. There is not any mining because of the protection offered by the National Environmental Protection Act. We could take our time and craft a more careful and responsible piece of legislation next year.

So why pass this monstrous outrage—in haste—under pressure of bleary eyes, fatigued minds, and hearts on this floor, and—back in Minnesota—in an atmosphere of unbridled emotionalism—high tension politics that swirl around this deeply divisive issue.

Let us act responsibly and lay this bill over till next Congress, when cooler heads and clearer thinking will prevail, and we can do a more careful and thoughtful job of crafting a wise and durable solution to the BWCA dilemma.

Let me speak to you from the heart: Put yourself in my shoes:

Representing a numerically small, but beleaguered constituency:

A people whose cause is just;

Whose appeal for equity is modest;

Who desire deeply and fiercely to protect their lifestyle of generations, their trades and livelihoods passed down from their ancestors;

Whose concern to protect the well-being of this woodland waterway equals the concerns of self-appointed environmental guardians living in distant urban areas;

Isolated communities whose social fabric is close-knit and whose character is ruggedly individualistic;

People who live in a forbidding, and at times hostile, environment, yet who have made their pact with nature and learned to live in harmony with this great outdoors;

Who have been, in a sense, the custodians of this forest and lake country, and whose stewardship of the land has not been found wanting;

People who now must watch lifetimes of endeavor and decades of promises—some enshrined in the law of the land—wrenched from them, caught as they are in the unremitting crosscurrents of State and national politics, shuffled about like pawns on a chessboard.

Let me ask of you: How would you feel, if these were your constituents, your people.

You would be right down here in this well pleading with other Members not to cast the "easy" vote, the "throwaway" vote, the vote that is "good" for them politically.

That is my plea to you.

On September 12 a referendum of sorts was held in my district on the merits of this so-called Walls-Dayton, now Anderson "compromise."

The people did not feel this proposition had any merit whatever. They voted overwhelmingly in that primary election against the terms of the bill now before the House.

My district voted 71 percent overall for the winner of the senatorial primary; but the northern six counties—all heavily Democratic—no crossover—voted 73 percent. In some towns the vote was even more emphatic:

Ely: 2265–110.
Babbitt: 788–31.
Virginia: 3294–627.
Cook County: 1273–125.

The people have spoken. That is what our democratic system is all about. Majority rule. What a shame it would be and what an insult to the people of my district, for Congress—where, "Here, sir, the people rule"—to snub that vote.

Do not try to repeal the election.

Respect the decisive will of the people who know this area best and love it the most. Look into your hearts, to the merits of the case and * * *

Vote to reject the conference report.

Mr. Speaker, the Members of this House know I have devoted more time to the Boundary Waters Canoe Area issue than to any other single issue before us in the 95th Congress.

It is the issue about which the people I represent care most deeply. They await with great anxiety our action today.

The people of my district will bear the burden of the legislation which this Congress enacts. My efforts have been directed toward the enactment of legislation with which they can live, and which protects the Boundary Waters Canoe Area.

Congress can enact that kind of legislation. It is my hope that it will—but this conference report is not that legislation.

The people of northern Minnesota are not asking for something new, something that they do not now have. They are not asking that the lakes of the boundary waters be opened to motorized travel. The boundary waters has been open to motors as long as there have been motors.

The Wilderness Act of 1964 specifically permits motorized travel in the boundary waters. That provision was not added capriciously. It was included in the Wilderness Act in recognition of the unique character of the BWCA, the long-established use of motors in the area and the importance of that use to the local people, to their lifestyle and to their economy.

The people I represent have made major concessions in the interest of preserving the boundary waters. I have proposed legislation which would:

Prevent mining;

Terminate all timber harvesting; and

Reaffirm the wilderness status of the entire 1,030,000 acres of the BWCA.

Furthermore, we have made concessions on motor use to reduce the number of lakes open to motors by about 25 percent.

In short, my bill would provide greater protection for the BWCA than the area now enjoys, but without trampling on the rights and interests of the people of northeastern Minnesota.

Unfortunately, the conference report, while accomplishing major preservation goals of banning logging and mining, imposes limitations on existing motorized use of the BWCA which would cause severe hardships for the people living in the area adjacent to the BWCA.

I know what this issue means to the people of that area. I know what the access to the BWCA they now enjoy means to them.

The people living in the area of the BWCA are small resorters, outfitters, small business people, cabin owners. They are miners, steelworkers, who make their living in the rugged and forbidding environment of the area's taconite (iron ore processing) plants.

The conference report will eliminate half the existing motorized use of the area, and will reduce permanent motorized access to 23 of the BWCA's 1,060 lakes.

Mr. Speaker, the people of my district have rejected this bill decisively.

What is the origin of the Senate amendment? In July, Senator ABOUREZK, chairman of the Senate Parks Subcommittee, asked the people of northern Minnesota and the wilderness advocates to attempt to negotiate a proposal acceptable to both interests. Any agreement reached by their representatives would require the approval of both the

local people and the wilderness interests. Two attorneys representing the wilderness lobby and the local people met and developed a proposal. Under the terms of the negotiation, the proposal was put to the people and to the wilderness groups for their approval. Because their attorney had negotiated a proposal which was totally unacceptable to them, the people of northern Minnesota, in nearly unanimous votes, rejected the agreement. No wilderness groups had voted when the northern Minnesotans voted to reject the proposal.

Despite the rejection, Senator WENDELL ANDERSON decided to move that bill, rather than his original BWCA bill, which the people supported. That earlier bill would have terminated logging and mining, added 45,000 acres to the wilderness system, as the House-passed bill did, and would have reduced motorized access to the BWCA.

When the House considers the BWCA issue shortly, it is the so-called Walls-Dayton agreement, repudiated decisively by the people, upon which we will vote.

Mr. Speaker, Congress need not act in the spirit that any bill is better than no bill. Congress need not approve this conference report in the rush to adjournment.

The BWCA will not be threatened if Congress does not approve the Senate amendment and the conference report.

There will be no snowmobiling, no timber harvesting and no mining this winter if we adjourn without a bill.

The only activity which continues without a bill is motorboating—and there will be little motorboating until fishing season opens next May. Furthermore, this conference report and the House-passed bill did not prohibit motor use in the wilderness.

I must ask my colleagues to consider that it is my constituents and my constituents alone who will bear the brunt of this legislation. They are the ones whose properties may come under the right of first refusal when they wish to sell their homes.

It is their access to the BWCA which is being curtailed.

It is their small businesses which may be bought out under section 5 of this bill.

It is the promises made to them in 1964 by Senator Humphrey and the Congress which are being broken.

The boundary waters is and should be protected, but this conference report is not the way to do it. We are rushing to adjourn; there are a great many major bills we must consider and enact.

I just cannot support this conference report. And I cannot believe the House should accept a conference report which will impose so heavy a burden on the people I have the honor to represent in this House.

At this early hour of the morning we are kind of bleary-eyed and weary. Our minds are nearly wrung out. We are considering a bill that has been rushed through under the pressure of a supercharged emotional and political atmosphere in Minnesota.

I think we ought to take a little time and consider it more thoroughly in due season.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I certainly appreciate the gentleman's position. I have certainly supported him. It is a position of commonsense with respect to the Boundary Waters Canoe Area.

I would like to ask, under this legislation, will there not be a loss of some jobs in the forestry products and paper industry?

Mr. OBERSTAR. There certainly will be some loss of jobs. There was an announcement Friday of the closing of the last remaining saw mill in the fringe area of the Canoe Area Wilderness. That is the Kainz Brothers Logging Co. They are going to layoff some 20 people. That will be the last of the Ely area saw mills.

Mr. SYMMS. I asked that question, because I have never ceased to be amused, only less than an hour ago this Congress was debating the energy problem and here we have solar energy converters in the form of trees which convert the sun and water into fiber and it will do it over and over. All we have to do is have good management of these forests; yet this Congress keeps setting timber areas aside so the trees can grow old, as people do when they get old, and died and we lose a source of renewable resources, the best source of energy we could have.

Mr. Speaker, I share the gentleman's concern. I hope we have a recorded vote and I hope this conference report is voted down, so we are consistent with what the Congress was doing a few minutes ago in voting for the energy policy, which is really nonenergy, but it will be written up in the papers as a great energy policy.

I hope we can do something constructive and oriented, if you will, with respect to land acquisition and conservation of it. We can do this if we use commonsense forestry management.

The SPEAKER pro tempore (Mr. BRADEMAS). The time of the gentleman from Minnesota (Mr. OBERSTAR) has expired.

Mr. SEBELIUS. Mr. Speaker, I yield 5 more minutes to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I yield to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I would like to make one further point, that no wealth comes from anywhere except from the sea or the land, the forests, the ocean, that is where new wealth comes from, that is where the minerals are. If we keep on in this way that Congress has of removing one land area and another land area from production, we have already removed from mineral extraction a land area equal to all the land east of the Mississippi River. The day will soon come when we have a mineral shortage. If we continue on this way, we are going to have everyone running laundries, because no one will be able to make new shirts, because there are no new resources. After awhile you wear out all the shirts.

I will demand a vote on this when the time comes and I will urge all Members to vote this lousy bill down and revert to production and commonsense and use this land the way God wanted it, use and replenish.

Mr. OBERSTAR. Mr. Speaker, the gentleman speaks from the heart and speaks well. He understands the situation because he represents an area very similar to mine. The Boundary Waters Canoe Area is located entirely within my congressional district. While many people participated in the shaping of this legislation, it is the people who live in my district whose life styles and livelihoods are the most affected by what happens through this legislation.

These are people whose cause is just, whose appeal for equity is modest, but for generations have lived in this area and will now see their small businesses wiped out, their small outfitting operations eroded, and their small resort operations wiped out because of this exclusive type of legislation.

Yes, it is a forbidding environment we live in in northern Minnesota, but our people are the custodians of that environment, and they are fighting for it because they are the ones who have taken care of it and preserved the resource as it is today.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, I want to compliment the gentleman in the well for his participation and for the way he has represented his people. What the gentleman says is very true.

I think most of the Members recall that I have had the same type of experience in the past and understand the problems.

This is a committee on which the gentleman did not serve, but his deliverance of the information we needed was very valuable to me. I think the gentleman has done a yeoman job in representing his constituents, but, sadly, most of the Members do not understand the situation or know what that Member in the well knows, the one who represents the people there. This is a representative form of government, and this is a fine example of it.

Mr. Speaker, again I want to compliment the gentleman from Minnesota (Mr. OBERSTAR) for the job he has done.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

Did the gentleman say that the snowmobiles are now forbidden in the Boundary Waters Canoe Area?

Mr. OBERSTAR. Yes, by an Executive order of a previous Secretary of Agriculture.

Mr. SYMMS. They are already forbidden?

Mr. OBERSTAR. Yes, they are.

Mr. SYMMS. And this legislation will also remove powerboats?

Mr. OBERSTAR. Yes, it will over a period of time, and it will leave only a few

lakes open to motor use. There are 1,060 lakes in the Boundary Waters Canoe Area, but this bill will allow only 23 lakes permanently open to motor use.

Mr. SYMMS. So what we are doing, then, is removing the opportunity of that working man or woman who is an off-road vehicle user and who works 5 days a week and maybe has a weekend now and then access to the area? We are denying these people access to the Boundary Waters Canoe Area?

Mr. OBERSTAR. Yes.

Mr. SYMMS. Mr. Speaker, I would like to ask the gentleman this: If you run a snowmobile across part of that Boundary Waters Canoe Area when the snow melts, where are there tracks?

Mr. OBERSTAR. There are no tracks.

Mr. SYMMS. It is like some Indian rowing up a stream: after the canoe goes by, there are no tracks left?

Mr. OBERSTAR. It does not leave any tracks.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for yielding.

Mr. OBERSTAR. Mr. Speaker, I would like to ask my colleagues to put themselves in my shoes. If this were your district, you would fight for it; if these were your people, if this were your resource, you would fight for it, just as the gentleman from Alaska (Mr. YOUNG) fights for Alaska. You would defend your people to the last.

Here is an opportunity for so many Members to cast an easy vote, a throw-away vote, an environmental vote, in somebody else's backyard. It may be good for some Members politically, but it is not good for the people in the home district.

On September 12 we had a referendum of sorts in our district. It was a referendum on this legislation. The people of my district voted overwhelmingly against it. They voted 73 percent against the proposal we are considering here, and against the Senate candidate who personified and symbolized the single-use concept.

In some towns the votes were overwhelming, 10 and 20 to 1, as I pointed out earlier. They knew what they were voton.

Mr. Speaker, I just ask those Members who are here in this Chamber today to vote down this conference report. It is an injustice to the people of northeastern Minnesota.

Mr. PHILLIP BURTON. Mr. Speaker, I yield such time as he may consume to our distinguished colleague, the gentleman from Minnesota (Mr. FRASER).

Mr. FRASER. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. PHILLIP BURTON. Mr. Speaker, if I may just take 30 seconds and ask the gentleman to yield, before the gentleman speaks. The ban on lumber in this committee bill is the same as the proposal of the gentleman from Minnesota (Mr. OBERSTAR). The complete ban in the bill was also offered by the gentleman from Minnesota (Mr. OBERSTAR) in his bill.

Mr. OBERSTAR. Mr. Speaker, if the gentleman would yield on that, it is not exactly the same provision that was in my legislation, which was much more detailed as to replacement of precise volumes and species of wood fiber.

The SPEAKER pro tempore. Does the gentleman yield to the gentleman from Minnesota (Mr. OBERSTAR)?

Mr. OBERSTAR. Mr. Speaker, I think that distinction should be made.

Mr. PHILLIP BURTON. Mr. Speaker, I did not yield to the gentleman from Minnesota (Mr. OBERSTAR). I have yielded time to the gentleman from Minnesota (Mr. FRASER).

The gentleman from Minnesota (Mr. OBERSTAR) banned logging immediately. We thought that was too precipitous, and we phased it out within a year, so we were a little easier than he was.

The SPEAKER pro tempore. The gentleman from Minnesota (Mr. FRASER) is recognized.

Mr. FRASER. Mr. Speaker, I rise in support of this conference report.

Mr. Speaker, I want to underscore the amount of work that has gone on to get this final product and the efforts toward compromise that have gone on. This helps explain the degree of support the bill enjoys.

This matter has been before the Congress for a period of 2 years or more. The bill was almost ready for passage over a year ago in the House. It passed earlier this year, and it went over to the Senate. It has been compromised further since then. Both of the Minnesota Senators support this legislation, and a majority of the Minnesota House delegation supports it as well.

When this House approved this legislation by an overwhelming vote of almost 10 to 1 earlier this year, it was more restrictive than it is today. In the Senate there was a compromise agreed upon which resulted from the negotiations between the representatives of one of the affected communities and some of the conservation groups. That compromise, although not accepted by the parties involved, became the basis for the action in the Senate.

Mr. Speaker, I want to say that this is not perfect legislation. It does accomplish, on the question of timber cutting, what the gentleman from Minnesota (Mr. OBERSTAR) wanted, which is to end the timber cutting. That point has not been in controversy for the past year, and it does not make sense to raise it at this stage of consideration of this measure.

The most important point to be made about this legislation is the fact that it will bring to an end a controversy that has raged for a long, long time. There is considerable discretion now with the Secretary of Agriculture. That discretion has been exercised over the last decade in a way which has generated controversy, and now, with the passage of the conference report, we will finally bring that to an end.

So, Mr. Speaker, I hope that the conference committee report will be accepted. It is a moderate proposal. It takes into account everybody's concerns. It has been thoroughly worked over, and it should have the support of the full House.

Mr. Speaker, I just want to say one other thing. I want to commend the gentleman from California (Mr. PHILLIP BURTON) for the amount of time and effort which he has devoted to this legislation. Along with the gentleman from Arizona (Mr. UDALL), Mr. BURTON has been enormously helpful. They both have spent a great deal of time on this measure. Mr. PHILLIP BURTON personally became deeply involved to familiarize himself with all of the many details of this legislation. I am indebted to him, and I know the Minnesota delegation is indebted to him for his hard work and service on this legislation.

Let me emphasize that the BWCA is our Nation's only canoe wilderness. This legislation makes significant progress toward long-term protection of a unique wilderness area presently threatened by mining, logging, and ever-increasing motorized traffic. At the same time, it accommodates the concerns of the residents of northeastern Minnesota whose livelihood depends on a vital tourist trade in the BWCA.

The compromise nature of this bill is indicated by the partial dissatisfaction expressed by both sides of the issue. Wilderness advocates supporting the Burton-Vento bill as passed by the House in June, have made a major concession in accepting a report which allows much greater motorized usage. Likewise, multiple-use proponents, and many residents of northeastern Minnesota have indicated displeasure with some of the restrictions, but also, I believe, a willingness to move toward a proper resolution of a highly charged and emotional issue.

In indicating support of the compromise, a recent editorial in the Duluth News-Tribune, the major newspaper for northeastern Minnesota noted the bill "is loved by neither wilderness advocates nor multiple-use proponents," and calls this legislation "the best compromise between environmental and multiple-use interests which will also win the support of both the House and Senate."

I have already pointed out that this compromise bill resulted from lengthy negotiations between representatives of the wilderness advocates and the multiple-use supporters. The negotiators took considerable steps to meet the legitimate concerns of the local residents. First of all, motorized use of peripheral lakes by cabin and resort owners on those lakes would be unrestricted. The compromise allows snowmobiles until 1984 on five selected routes, even though an administrative ban is now in place. Condemnation of private property is virtually nonexistent under this report, unless voluntary agreement by the land owner is offered. Motorized use of the lakes in the BWCA increases from 5 percent of the surface area in 2010 under the House-passed bill, to a 24-percent surface area figure in 2000 under this report. The Federal Government is also authorized to develop recreational facilities outside the BWCA to assist in any transitional needs, and to provide alternative

recreational sources and facilities in nearby areas not currently available.

The ambiguities in the 1964 Wilderness Act which incorporated the BWCA need clarifying by Congress. Passage of this conference report can achieve that clarification and bring a conclusion to the long-standing debate over the proper wilderness character of this resource, while providing a necessary measure of protection to the BWCA long afforded other wilderness areas.

The debate over the BWCA has continued for three quarters of a century. Sufficient legislative consideration has been granted in recent years. By accepting this genuine compromise Congress can assure Americans access to a canoe wilderness where nature can still be observed in its untouched form.

The other day our colleague, Congressman OBERSTAR, circulated a letter to Members urging a vote against the conference report on boundary waters.

Mr. OBERSTAR stated that "The BWCA was a major issue in the recent Minnesota Democratic primary and was the deciding factor in the defeat of Representative FRASER, the party's endorsed candidate, by a narrow margin." He also noted that the people of his district voted against me by a margin of 2 to 1 and that the atmosphere is "emotionally supercharged."

There is no question that BWCA was a "deciding factor" in my defeat—as Congressman OBERSTAR has been pleased to advertise over the past month. Nor is there any question that the atmosphere is "emotionally supercharged"—particularly in Congressman OBERSTAR's district were the BWCA proposal, which I initially authored, has been misrepresented and distorted as a Federal land grab, as Federal intervention in local affairs, and as a proposal to deprive people of their homes and their livelihoods. As a result, some of my supporters have been subjected to threats and intimidation, usually by way of anonymous telephone calls suggesting personal violence and burning of homes.

But to argue that these are reasons to defer action on BWCA is to continue to miss the point. The Boundary Waters Canoe Area is a national resource, not a State or local resource as Congressman OBERSTAR and some of his constituents seem to believe. It is—and has been—Federal property that we are talking about, and it is used by people from all over the United States—not simply by the people of Mr. OBERSTAR's district. Moreover, polls have been consistent in showing that the majority of Minnesotans favor the kind of protection for BWCA that is contained in this bill.

Thus, Mr. Speaker, the fact that Mr. OBERSTAR's supporters are "emotionally supercharged" and the fact that I was defeated are irrelevant insofar as the boundary waters issue is concerned. To take these factors into consideration would be to permit the actions of a local minority to determine national policy. It would be tantamount to have permitted the people of Philadelphia, Miss. to determine national civil rights policy in the 1960's.

I therefore urge the House to accept the conference report on the Boundary Waters Canoe Area Wilderness.

Mr. SIBELIUS. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SYMMS).

Mr. SYMMS. Mr. Speaker, I think it is interesting to note that the Members of the House should know that they just took a referendum—the gentleman from Minnesota (Mr. OBERSTAR) alluded to this—in Minnesota, to the point now where the former Congressman from this district, John Blatnik, the predecessor to our dear colleague, is now supporting our other colleagues in this body, Mr. QUIE in the gubernatorial race because he is opposed to what the Congress is trying to do, in trying to shove this down the throat of Minnesota people. Our good friend, the gentleman from Minnesota (Mr. FRASER), was defeated by Mr. Short partly because of this issue. In Mr. OBERSTAR's district Short got 78 percent of the vote. What we are doing is having the U.S. Government ramming this legislation down the throat of the people of Minnesota. That is not the kind of thing that this Congress and this Government should be doing to sovereign States, and it is about time that the Congress started paying attention to what we are doing. The House rammed it to Alaska a short while ago when it tried to lock up their land, and here is another case of the Congress shoving it to the State of Minnesota. I think it is about time we defeat this conference report, take some more time, have some more hearings and do something about it next year. I can assure the Members in this House that there will be no damage done to the precious, pristine area that if this legislation is not passed. The area is now being protected.

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I simply want to state that some many, many months ago, we passed this legislation 10 to 1. This legislation is supported by both Members of the Senate from the State of Minnesota. It was joined in support by Members of the Senate ranging from Senator ABOUREZK, Senator HANSEN to Senator MCCLURE, who is one of those on the committee.

Mr. Speaker, I urge an "aye" vote.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. PHILLIP BURTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 248, nays 111, not voting 71, as follows:

[Roll No. 933]

YEAS—248

Addabbo	Fraser	Nix
Akaka	Frenzel	Nolan
Anderson, Calif.	Fuqua	Ottinger
Anderson, Ill.	Gammage	Panetta
Andrews, N.C.	Garcia	Patten
Annunzio	Gaydos	Patterson
Archer	Gephardt	Pattison
Ashley	Gibbons	Pease
Aspin	Gilman	Pepper
AuCoin	Glickman	Perkins
Bafalis	Goldwater	Pickle
Baldus	Gonzalez	Pike
Baucus	Gore	Pressler
Bauman	Gradison	Preyer
Beard, R.I.	Grassley	Pritchard
Bedell	Green	Pursell
Beilenson	Guyer	Quayle
Bennett	Hagedorn	Quillen
Bingham	Hamilton	Rahall
Blanchard	Hannaford	Railsback
Boland	Harkin	Rangel
Bonior	Harris	Regula
Brademas	Hawkins	Reuss
Breckinridge	Hightower	Richmond
Brinkley	Hillis	Rinaldo
Brodhead	Holland	Rodino
Brooks	Holt	Roe
Brown, Calif.	Holtzman	Roncalio
Brown, Mich.	Horton	Rooney
Broyhill	Howard	Rose
Buchanan	Huckaby	Rosenthal
Burgener	Hyde	Rostenkowski
Burlison, Mo.	Ireland	Roybal
Burton, Phillip	Jeffords	Runnels
Carr	Jenrette	Russo
Cavanaugh	Johnson, Calif.	Ryan
Cederberg	Johnson, Colo.	Scheuer
Chisholm	Kasten	Schroeder
Cleveland	Kastenmeier	Sebelius
Cohen	Kazen	Seiberling
Collins, Ill.	Keys	Sharp
Conable	Kildee	Simon
Conte	Kostmayer	Skelton
Conyers	Krebs	Slack
Corcoran	Krueger	Smith, Iowa
Corman	LaFalce	Solarz
Cornell	Lagomarsino	Spellman
Cornwell	Le Fante	Spence
Coughlin	Leach	St Germain
D'Amours	Lent	Staggers
Daniel, R. W.	Levitas	Stangeland
Danielson	Lloyd, Calif.	Steers
Davis	Long, La.	Steiger
de la Garza	Long, Md.	Stokes
Dellums	Luken	Stratton
Dent	Lundine	Studds
Derrick	McClory	Thompson
Derwinski	McCloskey	Thornton
Dicks	McDade	Traxler
Dodd	McHugh	Treen
Drinan	McKinney	Trible
Duncan, Tenn.	Maguire	Tsongas
Early	Mann	Tucker
Eckhardt	Markey	Udall
Edgar	Marks	Vanik
Edwards, Ala.	Marriott	Vento
Edwards, Calif.	Mattox	Waxman
Eilberg	Mazzoli	Weiss
English	Mikulski	Whalen
Evans, Del.	Miller, Calif.	White
Evans, Ind.	Mineta	Whitehurst
Fascell	Minish	Whitley
Fenwick	Mitchell, Md.	Wilson, Bob
Findley	Mitchell, N.Y.	Winn
Fish	Moore	Wirth
Fisher	Moorhead, Calif.	Wolff
Fithian	Moorhead, Pa.	Wydler
Flood	Murphy, Ill.	Wylie
Florio	Murphy, Pa.	Yates
Flowers	Myers, Gary	Yatron
Foley	Natcher	Young, Fla.
Ford, Tenn.	Neal	Young, Tex.
Fowler	Nedzi	

NAYS—111

Abdnor	Broomfield	Coleman
Alexander	Brown, Ohio	Collins, Tex.
Andrews, N. Dak.	Burke, Mass.	Cotter
Ashbrook	Burleson, Tex.	Cunningham
Barnard	Butler	Daniel, Dan
Benjamin	Carter	Delaney
Bevill	Chappell	Devine
Boggs	Clausen, Don H.	Dingell
Bowen	Clawson, Del	Dornan
Breaux	Cochran	Duncan, Oreg.
		Edwards, Okla.

Erlenborn	Latta	Price
Ertel	Lederer	Roberts
Fary	Leggett	Robinson
Flippo	Livingston	Rogers
Forsythe	Lloyd, Tenn.	Rousselot
Fountain	Lott	Sarasin
Giaimo	McCormack	Satterfield
Ginn	McDonald	Schulze
Goodling	McEwen	Shuster
Gudger	McKay	Snyder
Hall	Madigan	Stump
Hammer-schmidt	Martin	Symms
	Michel	Taylor
Hanley	Milford	Ullman
Hansen	Miller, Ohio	Van Deerlin
Harsha	Mollohan	Volkmer
Hefner	Montgomery	Waggonner
Heftel	Murphy, N.Y.	Walker
Hubbard	Murtha	Walsh
Hughes	Myers, John	Wampler
Jenkins	Myers, Michael	Watkins
Jones, N.C.	Nichols	Whitten
Jones, Okla.	Nowak	Wright
Jones, Tenn.	O'Brien	Young, Alaska
Kelly	Oakar	Young, Mo.
Kemp	Oberstar	Zablocki
Kindness	Poage	Zeferetti

NOT VOTING—71

Ambro	Ford, Mich.	Rhodes
Ammerman	Frey	Risenhoover
Applegate	Harrington	Rudd
Armstrong	Heckler	Ruppe
Badham	Hollenbeck	Santini
Beard, Tenn.	Ichord	Sawyer
Biaggi	Jacobs	Shipley
Blouin	Jordan	Sikes
Bolling	Lehman	Sisk
Bonker	Lujan	Skubitz
Burke, Calif.	McFall	Smith, Nebr.
Burke, Fla.	Mahon	Stanton
Burton, John	Marlenee	Stark
Caputo	Mathis	Steed
Carney	Meeds	Stockman
Clay	Meyner	Teague
Crane	Mikva	Thone
Dickinson	Moakley	Vander Jagt
Diggs	Moffett	Walgren
Downey	Moss	Weaver
Emery	Mottl	Wiggins
Evans, Colo.	Obey	Wilson, C. H.
Evans, Ga.	Pettis	Wilson, Tex.
Flynt	Quie	

The Clerk announced the following pairs:

Mr. Ambro with Mr. Thone.
Mr. Biaggi with Mr. Skubitz.
Mr. Flynt with Mr. Burke of Florida.
Mr. Downey with Mr. Ruppe.
Mr. Mikva with Mr. Badham.
Mr. Mahon with Mr. Smith of Nebraska.
Miss Jordan with Mr. Marlenee.
Mr. Sikes with Mrs. Heckler.
Mr. Charles Wilson of Texas with Mr. Wiggins.
Mr. Teague with Mr. Vander Jagt.
Mrs. Burke of California with Mr. Stockman.
Mr. Shipley with Mr. Stanton.
Mr. Applegate with Mr. Dickinson.
Mrs. Meyner with Mr. Bonker.
Mr. Moakley with Mr. Sawyer.
Mr. Weaver with Mr. Caputo.
Mr. John L. Burton with Mr. Beard of Tennessee.
Mr. Diggs with Mr. Crane.
Mr. McFall with Mr. Emery.
Mr. Ichord with Mr. Quie.
Mr. Carney with Mr. Lujan.
Mr. Jacobs with Mr. Hollenbeck.
Mr. Harrington with Mr. Frey.
Mr. Clay with Mr. Rudd.
Mr. Ford of Michigan with Mr. Risenhoover.
Mr. Walgren with Mr. Steed.
Mr. Stark with Mr. Mottl.
Mr. Moffett with Mr. Evans of California.
Mr. Blouin with Mr. Lehman.
Mr. Mathis with Mr. Obey.
Mr. Santini with Mr. Moss.
Mr. Evans of Georgia with Mr. Sisk.
Mr. Ammerman with Mr. Charles H. Wilson of California.
Mr. Meeds with Mrs. Pettis.

Mr. COLLINS of Texas changed his vote from "yea" to "nay".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 13500.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CONFERENCE REPORT ON S. 2493, THE AIRLINE DEREGULATION ACT OF 1978

Mr. ANDERSON of California. Mr. Speaker, I call up the conference report on the Senate bill (S. 2493) to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality. variety, and price of air services, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER pro tempore. The gentleman from California (Mr. ANDERSON) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. SNYDER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. ANDERSON).

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Can the gentleman tell me if any of the amendments that were put on in the Senate are extraneous or nongermane, or deal with subject matter quite different from this bill, or repeal some law that is different from this bill?

Mr. ANDERSON of California. The answer is "No."

Mr. SEIBERLING. I thank the gentleman.

Mr. ANDERSON of California. Mr. Speaker, I urge adoption of the conference report on the Airline Deregulation Act of 1978. The conference has reported a good bill which follows the same basic approach as the bill which the House passed on September 21, by a vote of 373 to 8.

As anyone traveling on the airlines during the past year can tell, the airlines have begun to compete vigorously and to offer greatly reduced fares. The result has been record levels of travel, to the great benefit of consumers and the airline industry itself. The Airline Deregulation Act should insure that these trends continue. The bill frees the airlines from excessive Government regulation and requires a phased and orderly transition to a more competitive system.

The conference bill follows the approach of the House in providing for a phased sunset of the Civil Aeronautics Board.

In the years before sunset, the Board is directed to establish a more competitive industry. The policy statement of the bill, which guides the Board in all its decisions, requires the Board to place maximum reliance on actual and potential competition; to encourage entry by new air carriers; to strengthen small air carriers; and to encourage low-fare service.

The conference bill follows the House approach of a limited automatic entry program. The bill establishes a 3-year program, with each carrier allowed to select one market a year, and to protect one market a year against entry.

The conference bill also follows the House approach of a strong dormant authority provision which will facilitate entry by carriers who wish to provide service in markets in which other carriers have authority, but are not using it. The bill adopts the basic House approach of encouraging suspension of dormant authority in monopoly markets, during the initial period when a new carrier is developing the market.

The fare flexibilty provisions of the bill permit carriers to raise fares by 5 percent a year or reduce them by up to 50 percent without Board approval.

The bill protects air service to small communities. All communities now listed on air carrier certificates are guaranteed continued air service for 10 years. Before the Board may allow a certificated carrier to suspend or reduce its service to a small community, the Board must find a replacement carrier. If necessary, the replacement carrier must be subsidized through a new community-based subsidy program, requiring use of aircraft appropriate for the community's needs.

The bill includes provisions protecting airline employees. This is the first time airline employees have been given these benefits. Under existing law, employment can and does fluctuate widely, and displaced employees are not given any protection by law. For example, the employees of Pan American had no protection under the Federal Aviation Act when the carrier reduced employment by 11 percent in 1975.

The recent competition among airlines has led to more business for the airlines and increased employment. For example, during the period from January 1977 to June 1978 when the airlines were competing vigorously, industry employment increased by 5 percent. I fully expect that this trend will continue under deregulation and that the new legislation will create even more jobs. But, if there are major changes in employment as a consequence of the deregulation bill, the employee protection provisions will provide displaced employees with financial benefits for up to 6 years, and a right of "first hire" on other airlines.

The bill also places substantial limits on airline mutual aid pacts, in which airlines agree to pay benefits to other airlines on strike. Under existing law, the CAB can approve these pacts even if the benefits are so substantial that they permit an airline on strike to achieve a profit. Under the conference bill this cannot occur since benefits are limited to 60 percent of the direct operating costs actually incurred during the strike. Additionally all members of a mutual aid pact must agree that they will submit the issues causing a strike to binding arbitration, if arbitration is requested by employee unions.

The House provisions on employee protection and mutual aid were stronger than those in the conference bill. However, the conference provisions are considerably stronger than the Senate bill, particularly with respect to the mutual aid pact, regarding which the Senate proposed no change in existing law. I believe that the conference report goes a long way toward the House proposals and that the conference provisions represent substantial progress for the airline employees.

Mr. Speaker, the conference has reported an excellent bill which will benefit consumers, while protecting small communities and airline employees. I urge my colleagues to adopt the conference report.

Mr. SNYDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I fully concur with what the gentleman from California (Mr. ANDERSON) has said in support of the pending conference report on S. 2493, the Airline Deregulation Act of 1978. We have worked for the better part of 2 years to perfect this legislation—and the House conferees bring it to you today with the strongest recommendation for its adoption. The bill is a consensus of the views of both bodies—and out conference committee deliberations reflected a broad range of agreement on the major issues, because resolution of the many differing provisions in the House and Senate bills was accomplished during just two relatively short sessions.

This legislation establishes a new Federal policy in the area of airline economic regulation—the beginning of a new era, if you will. In place of excessive, stifling Government involvement in the day-to-day operation of the airlines, the legislation will relax regulatory requirements and permit airline managements to exercise greater discretion in providing service and establishing fares. This inevitably will lead to greater competition among airlines—which can only serve to benefit the air traveler. Ultimately, most economic regulation of the airlines will be abolished through termination of the Civil Aeronautics Board (CAB) in 1985 under the "sunset" provisions of the bill.

The Conference Report proceeds in a variety of ways to reach the twin goals of less regulation and more competition as follows:

First, significantly reduces the tests required of applicants for new route authority and places the burden of proof on opponents of such new authority.

Second, provides for automatic market entry on the basis of one new route and one protected route per carrier per year for 3 years—at which point CAB's route authority will terminate.

Third. Authorizes airlines to serve unused routes authorized to be served by other airlines on an expedited basis.

Fourth. Establishes deadlines for CAB action, and mandates CAB to formulate simplified procedures for acting on cases of lesser import.

Fifth. New policy statement directing CAB to encourage competition and new carriers, and to avoid unreasonable industry concentration, excessive market domination, and monopoly power.

Sixth. Authorizes CAB to issue temporary experimental certificates to test new, innovative types of service and fares.

Seventh. Permits airlines to raise fares (up to 5 percent) and reduce fares (up to 50 percent) without CAB approval unless an airline carries 70 percent or more of the traffic on a given route.

Eighth. Upgrades the commuter airline segment of the industry by permitting the use of 56-seat aircraft, by guaranteeing service to communities now on airline certificates, and by providing a subsidy program based on the needs of small communities for air service.

In addition, the legislation highlights the intent of Congress that air safety not be derogated in any way as we move to a less regulated economic environment. The bill also contains significant employee protection provisions which are designed to minimize the potential impact of this legislation on airline employees. Also, airline mutual aid pacts may not be approved by CAB unless the airline members agree to certain strict limitations.

Under the so-called "sunset" provisions of the bill, CAB will be terminated effective January 1, 1985. A limited number of its functions will be transferred to other agencies of the Federal Government, but most Federal regulation of air transportation will cease on that date. Terminated prior to "sunset" of CAB itself are its route authority (effective December 31, 1981) and its fare and rate authority (effective January 1, 1983).

Mr. Speaker, I have briefly summarized the major provisions of the Airline Deregulation Act of 1978. It is sound legislation. It is farsighted legislation. It will bring about improved air service at lower fares. I urge my colleagues to adopt the conference report on S. 2493 by an overwhelming vote.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Speaker, I would like to join the gentleman from Kentucky and the gentleman from California in supporting this conference report. I think in all the 18 years I have served here and dealt with conferences, the House has maintained its position far better than most of the times we go to conference with the Senate. This bill literally represents 90 to 95 percent of what was in the House bill. I think it is good legislation and a good compromise.

Mr. Speaker, I am pleased to rise in support of this conference report on this legislation which is designed to reduce the regulation of the air transportation industry by the Civil Aeronautics Board. I strongly believe that it will be of great benefit to both consumers and the industry.

One of the major objectives of this legislation is to increase competition, thereby bringing about improved service and lower air fares for the public.

For decades the sheltered airline industry has been constrained by excessive regulation and it is time to take the bureaucracy out of the business of making management decisions, thereby providing a less restrictive climate in the marketplace.

I would like to point out that this legislation is a new mandate to the Civil Aeronautics Board and the conferees do not expect that mandate to be frustrated by any past or future policy decisions by the Board.

The conferees have agreed on what I think is a very good automatic market entry provision which allows a carrier to select one new market during 1979, 1980, and 1981 without CAB approval. The Senate bill provided for a more extensive entry program and I think the conference substitute provides a better approach, especially in light of the fact that we are phasing out the CAB over several years with final termination in 1985.

Another aspect of the market entry program relates to so-called dormant authority. Under the conference substitute, which was essentially the House position, carriers may pick up the unused authority of other carriers who are not using that authority. These two provisions taken together will stimulate more competition.

In addition to making it easier to gain new routes, the legislation also removes procedural burdens from the airline industry. Heretofore, an airline who wished to enter a market had to wade through a procedural quagmire and be subjected to delays in gaining new route authority. The bill provides that the Board must make decisions within a limited period of time and it also provides for expedited procedures within those limits.

Since the question has been raised as to whether small and medium size com-

munities would lose service under this legislation, the bill provides for a comprehensive subsidy program. Under this new subsidy program which would, in effect, guarantee service for at least 10 years to these types of communities, the subsidy would be based on the needs of the community which will reduce the current subsidy levels. Under the conference substitute, both certificated air carriers and commuter air carriers can participate in the new subsidy program. The existing local service carrier subsidy would be phased out over the next 7 years. This existing subsidy program which is based on the needs of the carriers rather than on the needs of the community is less efficient and economical.

Under the new section 408, the initial competitive test to be applied by the CAB to air carrier merges is the same as those antitrust standards traditionally applied in nonregulated industries. It is the conferees' intent that no stricter antitrust scrutiny would exist for air carrier mergers than occurs under the Clayton and Sherman Acts. If a merger satisfies these traditional standards as they have been developed by the courts, no further competitive inquiry is needed. Even if it does not pass this initial scrutiny, a merger may be approved if it meets a two-part test: First, if the transaction's anticompetitive effects are found to be outweighed by the probable effect of the merger in "meeting significant transportation needs of the community to be served," and second, there is no "reasonably available less anticompetitive alternative."

Under the statute we are about to pass, we are unleashing the air carriers to determine what markets they will enter and what prices they will charge. I strongly favor this step which arises from our traditional American belief that the consumer benefits from a free, competitive marketplace. But we must realize that because of their greater resources, the first principal beneficiaries of this unleashing may well be the larger carriers. We must insure that all carriers have a fair shake. That means that the carriers ought to be free to make the kind of adjustments permitted of nonregulated companies, within normal constraints applicable to nonregulated companies. Such adjustments may include mergers in appropriate circumstances if antitrust tests are met. Indeed, some mergers may improve the competitive climate.

I am disturbed by recent indications from the CAB that it intends to apply a stricter standard than the one I have been discussing. I want it to be made absolutely clear that it is the intent of this bill that air carrier mergers be judged under traditional Sherman and Clayton Act tests as developed by our courts, and that only if a transaction fails such a test should the CAB consider whether the anticompetitive effect is outweighed by the effect of the merger in "meeting significant transportation needs of the community to be served" and whether these needs may be "satisfied by any reasonable available less anticompetitive alternative."

I also want to be certain that it is understood that retention of the "public interest" test in section 408 is not to be interpreted as imposing on air carriers a different standard than the normal antitrust standards applicable to an unregulated industry. The "public interest" as that phrase is used under the new policy guidelines includes assuring that airline managers will be free in pricing their product, in selecting the markets they serve, and in making whatever arrangements or agreements that they believe will best serve the interests of their stockholders, employees, and the public, subject only to the normal restraints imposed by the courts on any unregulated industry. That the Board would be required to approve a merger of two smaller trunk lines, so long as they met normal antitrust standards, is also implicit from the route strengthening policy we wrote into the new declaration of policy.

I had hoped that the conferees would agree on the House position concerning the mutual aid pact. However, the Senate stood firm in its opposition to an outright prohibition for such pacts. I would like to report that the compromise that I offered and was accepted does put strict limitations on these agreements in order to make them somewhat reasonable.

We provided that benefits paid to carriers during a strike cannot exceed 60 percent of the direct operating expenses of the struck carrier; that benefits could not be paid for more than 8 weeks; that there would be no direct operating expense benefits for the first 30 days of the strike; and that the parties to such an agreement must submit to binding arbitration if requested by the striking employees.

Mr. Speaker, the labor protection provisions were very controversial in conference, and my suggested compromise makes the section more acceptable. However, I am not totally satisfied with the conference agreement on the provision for employee protection. My main objection to this section stems from the fact that benefits are not to be paid to an employee who loses his job, because of this legislation until there is at least 7½ percent employee reduction in the airline. It makes no sense to me to defer these benefits until this percentage trigger is reached, causing employees who have not found a job to suffer needlessly. However, in the spirit of compromise we managed to reduce by one-half the percentage trigger contained in the Senate bill.

Mr. Speaker, we are moving to a new era by deregulating the airline industry. I urge my colleagues to approve this conference report.

Mr. SNYDER. Mr. Speaker, I yield briefly such time as she may consume to the gentlewoman from New Jersey (Mrs. FENWICK).

Mrs. FENWICK. Mr. Speaker, I commend the committee for what has been done, and I would like to add a word about Chairman Kahn, perhaps the most brilliant appointment the President has made. We can already see the happy effects of that cooperation in the airline industry.

Mr. SNYDER. Mr. Speaker, I thank the gentlewoman.

I guess at 9 o'clock on this particular Sunday morning I will not get to church, But it is a good time for confession.

When Mr. Kahn began the implementation of his present regulatory reform program, I thought it was wrong, but I offer the confession that I think he is doing a good job.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the chairman of the full committee, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I rise in support of the conference report on the airline deregulation bill.

This is a landmark bill which eliminates excessive Government regulation and establishes an orderly transition to a fully competitive air transportation system. The basic concepts of this bill are the same as those of the bill which we passed a few weeks ago by an overwhelming vote 363 to 8. I am particularly pleased that the conferees agreed to accept the House concept of a sunset of the Civil Aeronautics Board and of an automatic entry program of limited duration.

As we know from the experience of the past year, more competition between the airlines means lower fares for consumers and higher profits for the industry. The conference bill will insure that this competition and all its benefits continue.

The bill also contains provisions which will insure that deregulation does not adversely affect air service to small communities or airline employees.

Under existing law airline employees have no protection, even though employment fluctuates widely. We expect increased competition among the airlines to result in increased business for the airlines, leading to higher employment. But if airline employees are displaced as a result of this legislation, the bill assures them substantial benefits, including a right of first employment on other airlines and financial benefits for up to 6 years.

The bill also places substantial limitations on mutual aid pacts. One important feature is that no mutual aid pact may be approved unless the airline members of the pact agree to submit disputes to binding arbitration if requested by a union. This means that airline employees will be able to end any labor dispute by requesting arbitration.

I believe that the airline deregulation bill is a good bill which is fair to all affected groups. The basic concepts of the bill have been overwhelmingly endorsed by both the House and the Senate. I urge my colleagues to join me in resolving this issue and passing this landmark legislation.

Further, Mr. Speaker, I want to make certain that congressional intent on section 408 is crystal clear. I do so since there have been some unfortunate public statements attributed to Board members and others in the administration in re-

sponse to recent merger announcements by several of the air carriers.

Let me list the points which were stressed in our adoption of the final version of section 408 of the act establishing the guidelines for Board decisions on airline mergers:

First, airline mergers are to be judged by traditional antitrust standards.

Second, the basic standards to be applied are those contained in the Clayton and Sherman Acts.

Third, the Clayton and Sherman Acts standards to be applied are those adopted by the courts, not standards which some Federal agency would like the courts to apply.

Fourth, if, and only if, a proposed airline merger does not meet traditional antitrust standards as developed by the courts, then the board is required to determine whether the merger passes the more severe test of, first, a finding that the anticompetitive effects are offset by a serious air transportation need and, further, a finding that there is no less anticompetitive alternative for meeting that need.

Fifth, retention of the "public interest" criterion is not intended to add anything to the foregoing. The public interest under the new statute is in permitting the forces of the free market place to operate as quickly as possible. That means allowing airline managements to move rapidly to make whatever adjustments they deem appropriate for entering an unregulated environment, subject only to the normal constraints of those antitrust laws applicable to other industries. This is particularly important for the smaller airlines, including the local-service carriers and the smaller trunklines. That consideration is emphasized in the new legislation by the route-strengthening provision contained in our new section 102.

In sum, Congress does not want the Civil Aeronautics Board or the Justice Department to attempt to regulate the structure of this industry beyond the purview of the antitrust laws. Such an attempt would be inconsistent with the rapid deregulation of airline routes and rates which the administration sought and the bill portends.

The argument that airline managements should be required to face the rigors of the free marketplace before being permitted to make adjustments such as mergers simply is not acceptable to Congress. We recognize that the airline networks and the financial resources which they have acquired with these networks are a product of a regulated system. To limit the smaller airlines to those characteristics of a controlled system as they move into an uncontrolled environment could doom some of them to a battle of attrition, or perhaps even to destruction.

The objective should be to create a more competitive environment. As we have learned elsewhere, competition does not always depend on the number of competitors, but rather on the vigor of those competitors which do exist. Putting a freeze or moratorium on mergers very likely would simply benefit the larger carriers which already control a disproportionate share of airline markets and revenues. Such an approach could increase concentration and decrease competition.

A wait-and-see attitude also is inconsistent with the speed of airline deregulation, which has been pressed upon us by the administration and the Civil Aeronautics Board. We have acceded to their desires. So they in turn must stop meddling with the industry structure and leave airline managers free to make adjustments within normal constraints applicable to all other unregulated industries.

Another important provision of the bill is the amendment to the policy statement dealing with secondary and satellite airports. The purpose of this amendment is to direct the CAB to take appropriate action to stimulate air service at so-called secondary and satellite airports in major metropolitan areas—such as Chicago's Midway Airport, Baltimore-Washington International Airport, Oakland, Calif., Newark, N.J., and Toledo, Ohio—when such increased use is endorsed by local, regional, and State authorities. The policy statement contemplates that CAB will employ all regulatory tools necessary to achieve these results, including, inter alia, restriction of certificates to particular airports, and interim limitations on competitive authorizations to allow selected air carriers to have appropriate incentives in developing heretofore neglected markets. We are more interested in the reality of improved service at these secondary or satellite airports than in multiple certificate awards which carry no promise for the increased use of these major underutilized facilities.

Mr. ANDERSON of California. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I rise in strong support of this conference report.

This is, indeed, landmark legislation. This bill deregulates an industry which has been under the strangling grip of total Government regulation since its infancy 50 years ago. Although we have frequently talked about sunsetting Government programs and agencies, in this bill that we have before us today we truly sunset and abolish entirely a whole agency of the Federal Government; namely, the CAB. I think that is something of which we can be very proud on the last day of this session of Congress: We are really reregulating; we are genuinely reducing Government; we are letting free enterprise work.

As the chairman and the ranking minority member have already stated, the conference report is essentially the House bill which this House overwhelmingly approved.

In the conference the remarkable cooperation between the majority and minority members on our committee showed a united front as we went to conference. I would like to take this time also to pay a special compliment to the staff, both of the minority and majority and both of House and the other body sides, because this extremely complex and technical legislation required a comprehensive rewriting of the entire body of law regulating the aviation industry and it all had to be put together, and it was done expertly so, in a matter of a few days of intensive drafting.

I would like to comment on three particular provisions in this bill and in the statement of the managers.

The first relates to the fact that this is a total and comprehensive legislation on the entire regulatory system of the aviation industry. In this regard the conference committee was mindful of the recent activities of the CAB in the direction of deregulation. However, it is made clear in the conference report that the Congress now having legislated the course of deregulation, we fully expect the CAB to continue steps toward deregulation, but solely based upon the specific provisions contained in this legislation and not upon some theory the CAB or its members might have. I am sure that the members of the CAB, being law abiding, will carry out this direction in accordance with the letter and spirit of the law. I commend to their reading a careful reading of the new law and the statement of the managers on this point.

A second provision that I think should be noted is the fact that the sunset provision and the automatic entry program are both gradual and phased for a transition of the existing highly regulated system into a totally deregulated system. The gradual and prudent phasing is the heart of this law until the final phase of total sunset of the CAB.

Finally, Mr. Speaker, I cannot let this moment go by without making this observation. While there have been several bills sent to the President this year and signed by him which contained a provision for a congressional veto, I am happy to say that this piece of legislation contains a one-House veto over the regulations which may be issued by the Secretary of Labor on the labor protection provisions, so that the Congress and not an unelected bureaucrat will have the final word on the regulations that will have the effect of law.

Mr. Speaker, I yield back the balance of my time.

Mr. ANDERSON of California. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Speaker, although I support the principle of regulatory reform and offered during subcommittee and committee deliberations stronger language relative to automatic market entry than embodied in the conference report on aviation regulatory reform, I am also compelled to rise to express my grave concern about the employee protection program included in it.

The Committee on Public Works and Transportation struggled with the problem of employee protection for quite some time before it came around to support almost unanimously the employee protection provision I offered. The committee agreed that our bill, H.R. 12611, was designed to expand and not to con-

tract employment opportunities in aviation. Yet we believed nevertheless that a meaningful labor protective provision should be included. Our reasoning was simple: If employees would be hurt as a result of this legislation, then the Congress had an obligation to redress that hurt. If there is a benefit from regulatory reform, and the public stands to realize that benefit, then certainly the public should alleviate the burden it creates.

The labor protective provisions in the House-passed bill, were reasonable, responsible legislation. These provisions were to be based on levels of protection established pursuant to section 5(2)(f) of the Interstate Commerce Act and section 405 of the Rail Passenger Service Act. The levels of protection would have assured that an affected employee would not be in a worse position with respect to his employment as a result of passage of the act. An employee who suffered a reduction in salary or who was deprived of employment would have been eligible for 100 percent of his average monthly salary for up to 6 years, with moving expenses if necessary and a 12-month lump sum separation payment option. Furthermore, an employee would have had to demonstrate a connection between his adverse affect and passage of the regulatory reform legislation.

By comparison with the House-passed provision, the conference agreement—which was based on the Senate language—is not much protection at all.

The conference agreement requires a reduction in workforce of 7½ percent in a particular airline before the rest of that airline's employees are eligible to receive its inadequate benefits. It requires that an employee be employed at least 4 years before any protection is offered. If an employee does not accept another "reasonably comparable" job, his benefits are reduced to a maximum of 3 months. Under the terms of the conference agreement, the Department of Labor is required to determine (among other things) the amounts of compensation for each class and craft, and the percentage of salary for which an employee is eligible, creating more protection for labor employees than aviation employees.

In the past the Supreme Court has upheld the necessity for employee protection programs in transportation industries, because of the importance of transportation to our Nation.

I regret that the conference committee did not share that view and report out a responsible and meaningful labor protective provision.

I do not intend to oppose the conference report, but I felt compelled to share with my colleagues my very grave concern regarding this provision and my regret that the conference committee did not accept the House-passed version of labor protection.

Mr. ANDERSON of California. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. ERTEL).

Mr. ERTEL. Mr. Speaker, this legislation achieves what many thought the Congress was incapable of achieving. It demonstrates that we can relax Government intrusion into the marketplace where that intrusion serves no sound purpose. It proves that we can lead the special interests rather than follow them. And, it shows how we can fight inflation while continuing to democratize the benefits of our economy.

Excessive and outmoded regulation has retarded growth in the airline industry. It has subsidized the interests of a few carriers serving an all too limited public. In recent months, as the CAB has adopted a procompetitive posture, we have witnessed the beginnin: of a new era in airline service—an era in which air carriers have been able to realize record profits by providing low cost service to an ever wider and more diverse clientele. No longer is air transportation a limosine service for expense account travelers. And no longer are the airlines an unattractive investment opportunity. The CAB has demonstrated that competition is good for free enterprise and this legislation will insure that future CAB's will abide by that principle.

I am proud to have served on the committee that brought this legislation to the floor. I am proud to have worked with my colleagues to arrive at a bill which will help end the yearly $1.4 billion cost of Government overregulation. And I am particularly proud to have helped shape a measure that responds to such a complex matter in such a direct yet responsible way.

This legislation makes route entry faster and easier than ever before. It places the burden of proof on those who oppose entry rather than on those who support it. It substitutes fare flexibility for the current system of government control of rates. And, at last, it provides an explicit policy to deal with the difficult problem of dormant authority. In doing these things, Mr. Speaker, this legislation takes steps to insure that small communities will not be the casualties of relocation of airline resources.

Oftentimes we here are accused of taking the easy way out. But this measure is nothing of the kind. It is a sound and progressive bill that marks the first step in the long journey toward a more general reform of government regulation of our economic life.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Speaker. I want to compliment the chairman of the subcommittee for an exceptionally fine job over months of hearings and markup sessions—and a very complicated markup session it was—and during the conference with the Senate and, particularly, for holding fast to the House position on the Mutual Aid Pact, which was my amendment in the Committee of the Whole.

The gentleman did an excellent job of winning the substance of the ban on the pact, though leaving its form kind of like a caterpillar shedding its own skin. What they got was the skin; the gentleman came back with most of what we want.

There are three points I would like to cover with the gentleman, if I may.

The first one is this:

Is the reference to "losses" in the new section 412(e)(2)(B) intended to authorize any payments at all during the first 30 days of a strike?

Mr. ANDERSON of California. If the gentleman will yield, no. A mutual aid pact carrier shall not be eligible for benefits during the first 30 days of a strike, nor shall the benefits payable during the next 8 weeks be applied to carrier operating costs or operating losses incurred during the first 30 days of the strike.

Mr. OBERSTAR. I thank the gentleman. I think that clarifies that ambiguity. I also want to clarify that the provision on mutual aid agreements does not authorize payments for any period other than a period in which an airline is on strike. Is this your understanding of the mutual aid provision?

Mr. ANDERSON of California. Yes, I agree that the mutual aid provision only permits payment during a period when an air carrier is not engaged in air transportation or is providing reduced levels of service, due to a labor strike.

Mr. OBERSTAR. I thank the gentleman for that clarification.

Finally, I want to clarify that the payments allowed are 60 percent of direct operating expenses actually incurred during a strike, not 60 percent of normal operating expenses?

Mr. ANDERSON of California. Your understanding is correct. The level of payments is 60 percent of direct operating expenses actually incurred during a strike.

Mr. OBERSTAR. I thank the gentleman for that clarification.

I think that nails it down very firmly.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

Mr. Speaker, I would like to direct my remarks to the gentleman from Minnesota (Mr. OBERSTAR) who initially offered the amendment on mutual pact aid. It was my compromise suggestion to the conferees as to what we finally came out of the conference with. And I want to outline that language.

The existing pact terminates on the date of enactment and subsequent pacts are unlawful unless approved by the CAB. The CAB may not approve a pact unless benefits would not cover more than 60 percent of actual direct operating expenses incurred during the period of the strike.

That means just exactly what the colloquy entered into between the gentleman from Minnesota (Mr. OBERSTAR) and the subcommittee chairman, Mr. ANDERSON of California explains. The 60 percent of the benefits that they do receive is actually those direct operating expenses incurred during the strike and not before and not after.

Also, benefits are payable for no more than 8 weeks. But those benefits shall not become payable until 30 days after the strike has started. In other words, absolutely no benefits are paid for the first 30 days of the strike.

The airline companies would be all on

the same basis as the employees of the airline, because the benefits under the strike provisions are not payable until 30 days after the strike begins.

Third, pact members must agree that when benefits are paid during a strike they will submit the issues causing the strike to binding arbitration if the striking employees call for binding arbitration. We did not come out with exactly what the gentlemen would prefer, but we have gone a long way from the situation that existed prior to this conference, and certainly we do not intend to do anything other than what the chairman of the subcommittee alluded to on this particular provision.

Mr. OBERSTAR. I want to thank the gentleman for that further contribution. I intended to thank him also for his contribution in the conference committee. He held firm, and he was of great assistance in holding to the principles of the House on the Mutual Aid Pact and working out this language.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of California. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, it might be a matter of interest, to further underscore what the gentleman from Ohio has just explained, to know that I asked the CAB to calculate how much money Northwest Airlines would have received under the MAP payments had this new provision been in effect during the recent strike. I was advised that during the recent strike Northwest received approximately $104 million of MAP payments. Had this new provision been in effect and operation Northwest would have received approximately $25 million. That is some indication of the significant impact the new law will have on this program.

Mr. HARSHA. Mr. Speaker, will the gentleman yield further?

Mr. ANDERSON of California. I yield.

Mr. HARSHA. Mr. Speaker, I think the gentleman is absolutely correct in his summation of the impact of the provisions in this bill. In fact, I have here the recent reports from Aviation Daily, a very reliable and authenticated publication of the industry. It quotes many officials of the industry who are involved in the Mutual Aid Pact, and they think that for all practical purposes the Mutual Aid Pact can serve no reasonable function from now on, and probably is dead. So, in the final analysis the gentleman's objectives are accomplished by this conference report.

Mr. ANDERSON of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I ask the gentleman from California (Mr. ANDERSON) to engage in a brief colloquy with me to clear up an ambiguity which does exist in the legislation.

Section 4 of the conference bill states in part:

No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to rates, routes, or services of any air carrier granted the authority under this title to provide interstate air transportation.

I am concerned that long recognized powers of the airport operators to deal with noise and other environmental problems at the local level may be inadvertantly curtailed by this section. Am I correct in stating that actions of the airport operators, accepted as valid exercises of proprietary powers, are not intended to be interpreted as "relating to—routes or services" of air carriers and are not intended to be preempted by the powers created by this section?

Mr. ANDERSON of California. That is correct. It was not the intent of the House conferees to limit in any way the normal exercise of a proprietor's powers to determine the level and nature of service to be provided at airports, subject to constitutional and statutory limitations. Further, I might add, it was not the intent of the House conferees to limit the exercise of the proprietor's established power to impose reasonable charges on tenants and users for the safe and efficient operation of facilities, subject again to constitutional and statutory limitations.

Mr. MARKEY. I thank the gentleman.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LEVITAS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 6, not voting 68, as follows:

[Roll No. 934]

YEAS—356

Addabbo	Blouin	Clausen, Don H.
Akaka	Boland	Clawson, Del
Alexander	Bolling	Clay
Ambro	Bonior	Cleveland
Anderson, Calif.	Bonker	Cochran
Anderson, Ill.	Bowen	Cohen
Andrews, N.C.	Brademas	Coleman
Andrews, N. Dak.	Breaux	Collins, Ill.
Annunzio	Breckinridge	Collins, Tex.
Archer	Brinkley	Conable
Ashbrook	Brodhead	Conte
Ashley	Brooks	Corcoran
Aspin	Broomfield	Corman
AuCoin	Brown, Calif.	Cornell
Bafalis	Brown, Mich.	Cornwell
Baldus	Brown, Ohio	Cotter
Barnard	Broyhill	Cunningham
Bauman	Buchanan	D'Amours
Beard, R.I.	Burgener	Daniel, Dan
Beard, Tenn.	Burke, Mass.	Daniel, R. W.
Bedell	Burleson, Tex.	Danielson
Beilenson	Burlison, Mo.	Davis
Benjamin	Butler	de la Garza
Bennett	Carr	Dellums
Bevill	Carter	Dent
Bingham	Cavanaugh	Derrick
Blanchard	Cederberg	Derwinski
	Chappell	Devine
	Chisholm	
Dicks	Kemp	Reuss
Dodd	Kildee	Rhodes
Dornan	Kostmayer	Richmond
Drinan	Krebs	Rinaldo
Duncan, Oreg.	Krueger	Roberts
Duncan, Tenn.	LaFalce	Robinson
Early	Lagomarsino	Rodino
Edgar	Latta	Roe
Edwards, Ala.	Le Fante	Rogers
Edwards, Calif	Leach	Roncalio
Edwards, Okla.	Lederer	Rooney
Eilberg	Leggett	Rose
Emery	Lent	Rosenthal
English	Levitas	Rostenkowski
Erlenborn	Livingston	Rousselot
Ertel	Lloyd, Calif.	Roybal
Evans, Del.	Lloyd, Tenn.	Runnels
Evans, Ind.	Long, La.	Russo
Fary	Long, Md.	Ryan
Fascell	Lott	Santini
Fenwick	Luken	Sarasin
Findley	Lundine	Satterfield
Fish	McClory	Scheuer
Fisher	McCloskey	Schroeder
Fithian	McCormack	Schulze
Flippo	McDade	Sebelius
Flood	McDonald	Seiberling
Florio	McEwen	Sharp
Flowers	McHugh	Shuster
Foley	McKay	Simon
Ford, Tenn.	McKinney	Skelton
Fountain	Madigan	Skubitz
Fowler	Maguire	Slack
Fraser	Mahon	Smith, Iowa
Frenzel	Mann	Snyder
Fuqua	Markey	Solarz
Gammage	Marks	Spellman
Garcia	Marriott	Spence
Gaydos	Martin	St Germain
Gephardt	Mathis	Staggers
Giaimo	Meyner	Stangeland
Gibbons	Michel	Stanton
Gilman	Mikulski	Steers
Ginn	Miller, Calif.	Steiger
Glickman	Miller, Ohio	Stokes
Goldwater	Mineta	Stratton
Gonzalez	Minish	Studds
Goodling	Mitchell, Md.	Symms
Gore	Mitchell, N.Y.	Taylor
Gradison	Moakley	Thompson
Grassley	Mollohan	Thornton
Green	Montgomery	Traxler
Gudger	Moore	Treen
Guyer	Moorhead, Calif.	Trible
Hagedorn	Moorhead, Pa.	Tsongas
Hall	Murphy, Ill.	Tucker
Hamilton	Murphy, N.Y.	Ullman
Hammer-schmidt	Murphy, Pa.	Van Deerlin
Hanley	Murtha	Vander Jagt
Hannaford	Myers, John	Vanik
Hansen	Myers, Michael	Vento
Harkin	Natcher	Volkmer
Harris	Neal	Waggonner
Harsha	Nichols	Walker
Hawkins	Nix	Walsh
Hefner	Nolan	Wampler
Heftel	Nowak	Watkins
Hightower	O'Brien	Waxman
Hillis	Oakar	Weiss
Holland	Oberstar	Whalen
Holt	Obey	White
Holtzman	Ottinger	Whitehurst
Horton	Panetta	Whitley
Howard	Patten	Whitten
Hubbard	Patterson	Wiggins
Huckaby	Pattison	Wilson, Bob
Hughes	Pease	Wilson, Tex.
Hyde	Pepper	Winn
Ireland	Perkins	Wirth
Jeffords	Pickle	Wolff
Jenkins	Pike	Wright
Jenrette	Preyer	Wydler
Johnson, Calif.	Price	Wylie
Johnson, Colo.	Pritchard	Yates
Jones, N.C.	Pursell	Yatron
Jones, Okla.	Quayle	Young, Alaska
Jones, Tenn.	Quillen	Young, Fla.
Kasten	Rahall	Young, Mo.
Kastenmeier	Railsback	Zablocki
Kazen	Rangel	Zeferetti
Kelly	Regula	

NAYS—6

Abdnor	Myers, Gary	Pressler
Baucus	Poage	Stump

NOT VOTING—68

Ammerman	Badham	Burke, Calif.
Applegate	Biaggi	Burke, Fla.
Armstrong	Boggs	Burton, John

Burton, Phillip	Hollenbeck	Quie
Caputo	Ichord	Risenhoover
Carney	Jacobs	Rudd
Conyers	Jordan	Ruppe
Coughlin	Keys	Sawyer
Crane	Kindness	Shipley
Delaney	Lehman	Sikes
Dickinson	Lujan	Sisk
Diggs	McFall	Smith, Nebr.
Dingell	Marlenee	Stark
Downey	Mattox	Steed
Eckhardt	Mazzoli	Stockman
Evans, Colo.	Meeds	Teague
Evans, Ga.	Mikva	Thone
Flynt	Milford	Udall
Ford, Mich.	Moffett	Walgren
Forsythe	Moss	Weaver
Frey	Mottl	Wilson, C. H.
Harrington	Nedzi	Young, Tex.
Heckler	Pettis	

The Clerk announced the following pairs:

Mr. Applegate with Mr. Badham.
Miss Jordan with Mr. Coughlin.
Mr. Ichord with Mr. Dickinson.
Mr. Delaney with Mr. Crane.
Ms. Keys with Mr. Caputo.
Mr. Dingell with Mr. Hollenbeck.
Mr. Eckhardt with Mrs. Heckler.
Mr. Jacobs with Mr. Frey.
Mr. Evans of Colorado with Mr. Burke of Florida.
Mr. Mazzoli with Mr. Marlenee.
Mr. Teague with Mr. Kindness.
Mr. Weaver with Mr. Forsythe.
Mr. Mattox with Mr. Quie.
Mr. Ammerman with Mr. Rudd.
Mr. Biaggi with Mr. Sawyer.
Mrs. Burke of California with Mr. Ruppe.
Mr. Carney with Mrs. Smith of Nebraska.
Mrs. Boggs with Mr. Stockman.
Mr. Evans of Georgia with Mr. Thone.
Mr. Downey with Mr. Sisk.
Mr. Mikva with Mr. Udall.
Mr. Mottl with Mr. Stark.
Mr. John L. Burton with Mr. Shipley.
Mr. Nedzi with Mr. Ford of Michigan.
Mr. Sikes with Mr. Walgren.
Mr. Charles H. Wilson of California with Mr. Lehman.
Mr. McFall with Mr. Lujan.
Mr. Phillip Burton with Mr. Harrington.
Mr. Steed with Mr. Flynt.
Mr. Conyers with Mr. Moss.
Mr. Diggs with Mr. Risenhoover.
Mr. Moffett with Mr. Milford.
Mr. Meeds with Mrs. Pettis.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, I inadvertently missed the vote on the conference report on H.R. 7010, victims of crime compensation, rollcall No. 927. Had I been present, I would have voted "yes."

REPORT ON HOUSE RESOLUTION 1444, WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 13511, AMENDING THE INTERNAL REVENUE CODE OF 1954

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Report No. 95–1802), on the resolution (H. Res. 1444) waiving all points of order against the conference report on the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR AGREEMENT TO THE SENATE AMENDMENTS TO H.R. 2852, AMENDING THE INTERNAL REVENUE CODE OF 1954

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Report No. 95–1803), on the resolution (H. Res. 1445) providing for the agreeing to the Senate amendments to the bill (H.R. 2852) to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 2899, ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

CONFERENCE REPORT (H. REPT. No. 95–1804)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting before paragraph (1) thereof the following new paragraph:

"(1) The term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction.

(2) by inserting after paragraph (4) as redesignated by paragraph (7) of this section the following new paragraph:

"(5)(A) The term 'critical habitat' for a threatened or endangered species means—

"(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

"(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

"(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

"(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.";

(3) by inserting after paragraph (6), as redesignated by paragraph (7) of this section the following new paragraph:

"(7) The term 'Federal agency' means any department, agency, or instrumentality of the United States.";

(4) by inserting after paragraph (10), as redesignated by paragraph (7) of this section, the following new paragraphs:

"(11) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

"(12) The term 'permit or license applicant' means, when used with respect to an action of a Federal agency for which exemption is sought under section 7, any person whose application to such agency for a permit or license has been denied primarily because of the application of section 7(a) to such agency action.";

(5) by striking out paragraph (16), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(16) The term 'species' includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.";

(6) by striking out paragraph (18), as redesignated by paragraph (7) of this section, and inserting in lieu thereof the following:

"(18) The term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State."; and

(7) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, by redesignating paragraph (4) as paragraph (6), by redesignating paragraphs (5) through (7) as paragraphs (8) through (10), respectively, and by redesignating paragraphs (8) through (16) as paragraphs (13) through (21), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by

him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

"(b) SECRETARY'S OPINION.—Consultation under subsection (a) with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary. Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. The Secretary shall suggest those reasonable and prudent alternatives which he believes would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying the critical habitat of such species, and which can be taken by the Federal agency or the permit or license applicant in implementing the agency action.

"(c) BIOLOGICAL ASSESSMENT.—To facilitate compliance with the requirements of subsection (a), each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on the date of enactment of the Endangered Species Act Amendments of 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"(d) LIMITATION ON COMMITMENT OF RESOURCES.—After initiation of consultation required under subsection (a), the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying or destroying the critical habitat of any such species.

"(e)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

"(3) The Committee shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council of Economic Advisors.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior.

"(F) The Administrator of the National Oceanic and Atmospheric Administration.

"(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

"(4)(A) (Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

"(B) The Secretary of the Interior shall be the Chairman of the Committee.

"(C) The Committee shall meet at the call of the Chairman or five of its members.

"(D) All meetings and records of the Committee shall be open to the public.

"(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a non-reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(7)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

"(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(10) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

"(f) REGULATIONS.—Not later than ninety days after the date of enactment of the Endangered Species Act Amendments of 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of the Federal agency and the Secretary; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(g) APPLICATION FOR EXEMPTION AND CONSIDERATION BY REVIEW BOARD.—(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a), the Secretary's opinion under subsection (b) indicates that the agency action may jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify the critical habitat of such species. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (h) after a report is made by the review board. The applicant for an exemption shall be referred to as the 'exemption applicant' in this section.

"(2)(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

"(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly no-

tify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application.

"(3)(A) A review board shall be established for purposes of considering an application for exemption and submitting a report to the Endangered Species Committee under this subsection as follows:

"(i) One individual shall be appointed to the board by the Secretary not later than 15 days after an application is submitted pursuant to paragraph (2).

"(ii) One individual shall be appointed to the board by the President, not later than 30 days after an application is submitted pursuant to paragraph (2) and after consideration of any recommendations received pursuant to paragraph (2)(B). An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

"(iii) One administrative law judge shall be selected to serve on the board by the Civil Service Commission in the same manner as administrative law judges are selected under section 3344 of title 5 of the United States Code to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

"(B) Members of a review board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

"(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (a), and within 60 days after its appointment or within such longer time as is mutually agreed upon between the exemption applicant and the Secretary, to make a determination, by a majority vote, (1) whether an irresolvable conflict exists and (2) whether such exemption applicant has—

"(A) carried out its consultation responsibilities as described in subsection (a) in good faith and made a reasonable and responsible effort to develop and fairly consider modifications or reasonable and prudent alternatives to the proposed agency action which will avoid jeopardizing the continued existence of an endangered or threatened species or result in the adverse modification or destruction of a critical habitat;

"(B) conducted any biological assessment required of it by subsection (c); and

"(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d).

Any determination by the review board that an irresolvable conflict does not exist or that the exemption applicant has not met the requirements of subparagraph (A), (B), or (C) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(6) If the review board determines that an irresolvable conflict exists and makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to prepare the report to be submitted under paragraph (7).

"(7) Within 180 days after making the determinations under paragraph (6), the review board shall submit to the Committee a report discussing—

"(A) the availability of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species or the critical habitat;

"(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

"(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee.

"(8) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5, United States Code.

"(9) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

"(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

"(B) subject to the Privacy Act of 1974, request of any Federal agency or applicant information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and

"(C) use the United States mails in the same manner and upon the same conditions as a Federal agency.

"(10) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carrying out its duties under this section.

"(11) The Administrator of the General Services shall provide to a review board, on a reimbursable basis, such administrative support service as the review board may request.

"(12) All meetings and records of review boards shall be open to the public.

"(h) EXEMPTION.—(1) The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the report of the review board under subsection (g)(7). The Committee shall grant an exemption from the requirements of subsection (a) for an agency action if, by a vote of not less than five of its members voting in person—

"(A) it determines on the record, based on the report of the review board and on such other testimony or evidence as it may receive, that—

"(i) there are no reasonable and prudent alternatives to the agency action;

"(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

"(iii) the action is of regional or national significance; and

"(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.

"(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under subsection (h) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action, provided that a biological assessment has been conducted under paragraph (3).

"(B) An exemption shall not be permanent under subparagraph (A) if the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of the species. If the Secretary so finds, the Committee shall determine within 30 days after such finding whether to grant an exemption for the agency action notwithstanding the Secretary's finding.

"(j) REVIEW BY SECRETARY OF STATE.—Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register. Notwithstanding any other provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

"(k) SPECIAL PROVISIONS.—An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

"(l) COMMITTEE ORDERS.—(1) If the Committee determines under subsection (h) that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) which shall be carried out and paid for by the exemption applicant in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

"(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one

year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

"(m) NOTICE.—The sixty-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a) of this section.

"(n) JUDICIAL REVIEW.—Any person, as defined by section 3(13) of this Act, may obtain judicial review, under chapter 7 of title 5 of the United States Code, of any decision of the Endangered Species Committee under subsection (h) in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the Court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112, of title 28, United States Code. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

"(o) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (h) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

"(p) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determination of the President under this subsection.

"(q) AUTHORIZATION.—There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g) and (h) of this section not to exceed $600,000 for fiscal year 1979, and not to exceed $300,000 for the period beginning October 1, 1979 and ending March 31, 1980. The Chairman of the Committee shall report to the Congress before the end of fiscal year 1979 with respect to the adequacy of the budget authority contained in this subsection.

SEC. A. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—" and by adding the following new paragraph:

"(2)(A) This section shall not apply to—

"(1) any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978; or

"(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

"(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. Section 10 of the Endangered Species Act of 1973 (16 U.S.C. 1539) is amended by adding at the end thereof the following new subsections:

"(h) CERTAIN ANTIQUE ARTICLES.—(1) Sections 4(d), 9(a), and 9(c) do not apply to any article (other than scrimshaw) which—

"(A) was made before 1830;

"(B) is composed in whole or in part of any endangered species or threatened species listed under section 4;

"(C) has not been repaired or modified with any part of any such species on or after the date of the enactment of this Act; and

"(D) is entered at a port designated under paragraph (3).

"(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1) (A), (B), and (C).

"(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs region at which articles described in paragraph (1) (A), (B), and (C) must be entered into the customs territory of the United States.

"(4) Any person who imported, after December 27, 1973, and on or before the date of the enactment of the Endangered Species Act Amendments of 1978, any article described in paragraph (1) which—

"(A) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 4;

"(B) was forfeited to the United States before such date of the enactment, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 11; and

"(C) is in the custody of the United States on such date of enactment;

may, before the close of the one year period beginning on such date of enactment, make application to the Secretary for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary prescribes. If on the basis of any such application which is timely filed, the Secretary is satisfied that the requirements of this paragraph are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after the date of return, be deemed to be a lawful importation under this Act.

"(i)(1) TELLICO AND GRAYROCKS PROJECTS.—Notwithstanding any other provision of this Act, the Committee shall, within 30 days of the date of the enactment of the Endangered Species Act Amendments of 1978, proceed to consider the exemption of the Tellico Dam and Reservoir Project and the Grayrocks Dam and Reservoir Project from the requirements of section 7(a). For the purposes of such consideration, the Committee shall grant an exemption to such projects if the criteria of section 7(h)(1)(A)(i) and 7(h)(S)(A)(ii) are met. A decision on any such exemption shall be made within 90 days after the date of the enactment of the Endangered Species Act Amendments of 1978. If no decision is made within such 90-day period, such project shall be deemed to be exempted from the requirements of section 7(a).

"(2) Following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration, the Secretary of the Interior, and the Secretary of the Army, shall require such modifications in the operation or design of the Project as they may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species or result in the destruction or adverse modification of habitat of such species which is or has been determined to be critical by the Secretary of the Interior, after consultation as appropriate with the affected States."

SEC. 6. Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended—

(1) in the first and second sentences of subsection (a)(1) by striking out "or who knowingly commits an act in the course of a commercial activity which violates" each place it appears and inserting in lieu thereof "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates";

(2) in the third sentence of subsection (a)(1) by striking out "$1,000" and inserting in lieu thereof "$500";

(3) in subsection (b)(1) by striking out "willfully commits an act which" each place it appears and inserting in lieu thereof "knowingly";

(4) in subsection (b)(2) by inserting "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" after "authorizing";

SEC. 7. Section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 8. Section 11(b) of the Endangered Species Act of 1973 (16 U.S.C. 1540) is amended by adding a new paragraph at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.".

SEC. 9. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fis-

cal year ending September 30, 1977, and the fiscal year September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, and not to exceed $12,500,000 for the period beginning October 1, 1979, and ending March 31, 1980.

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enact the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act."

SEC. 10. Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c) Cooperative Agreements.—";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E) respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident endangered or threatened species.".

SEC. 11. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by adding at the end of subsection (a)(1) the following new sentence: "At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to enactment of the Endangered Species Act Amendments of 1978.";

(2) by amending subsection (c)(1) by striking out "and shall", and by inserting immediately before the final period the following: ", and specify any critical habitat within such range";

(3) in subsection (c) by inserting at the end thereof the following new paragraph:

"(4) The Secretary shall—

"(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

"(B) determine on the basis of such review whether any such species should—

"(i) be removed from such list;

"(ii) be changed in status from an endangered species to a threatened species; or

"(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b).";

(4) by amending subsection (f)—

(A) in paragraph (2)(A) by striking out "In" and inserting in lieu thereof "Except as provided in subparagraph (B), in";

(B) by inserting after subparagraph (A) of paragraph (2) the following new subparagraph:

"(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

"(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

"(I) in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

"(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

"(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

"(iv) shall—

"(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

"(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation.";

(C) by redesignating subparagraph (B) of paragraph (2) as subparagraph (C), and by inserting "or (B)" after "Neither subparagraph (A)" in such subparagraph; and

(D) by adding at the end thereof the following new paragraphs:

"(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation.

"(5) A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before the date of the enactment of the Endangered Species Act Amendments of 1978 shall be withdrawn under this paragraph before the end of the one-year period beginning on such date of enactment."; and

(5) by adding at the end thereof the following new subsection:

"(g) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institution, and other qualified persons. Recovery teams appointed pursuant to this

subsection shall not be subject to the Federal Advisory Committee Act.";

(6) in subsection (c)(2)—

(A) by striking out "upon" and inserting in lieu thereof "within 90 days of the receipt of";

(B) by inserting "and publish in the Federal Register" after "conduct";

(C) by inserting "the stautus of" after "a review of"; and

(D) by inserting at the end thereof the following: "Such review and finding shall be made and published prior to the initiation of any procedures under subsection (b)(1).".

(7) by adding at the end of subsection (b) the following new paragraph:

"(4) In determining the critical habitat of any endangered or threatened species, the Secretary shall consider the economic impact, and any other relevant impacts, of specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species."

Sec. 12. That portion of subsection (a) of section 5 of the Endangered Species Act of 1973 (16 U.S.C. 1534) which precedes paragraph (1) is amended to read as follows:

"(a) PROGRAM.—The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such a program, the appropriate Secretary—".

Sec. 13. Paragraph (3) of section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended to read as follows:

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.".

SEC. 14. Notwithstanding any provision of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or any regulation promulgated or policy established thereunder, the Secretary of the Interior is authorized and directed to release to Doctor Eugene L. Vickery of Lena, Illinois, a narwhale (Monodon monocerus) tusk cane contained in a shipment consigned to him that was seized by agents of the United States Fish and Wildlife Service at O'Hare International Airport, Chicago, Illinois, on November 30, 1977. For purposes of section 9 and section 11 of such Act, Doctor Vickery shall be considered not to have violated any provision of such Act with respect to the importation of such narwhale tusk cane.

And the House agreed to the same.

JOHN M. MURPHY,
ROBERT L. LEGGETT,
JOHN D. DINGELL,
BO GINN,
DAVID R. BOWEN,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
MALCOLM WALLOP,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that Act should be granted for such actions, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Section 1. Short Title. The short title of the conference report is the "Endangered Species Act Amendments of 1978", which is the short title of both the Senate Act and the House amendment.

Section 2. Definitions. The following terms are defined in the conference report:

"Federal agency" is any department, agency or instrumentality of the United States, the definition contained in both versions of the bill.

"Alternative courses of action" as used in section 3(I) includes all alternatives to an agency action and is not limited to the original objectives of the action or agency jurisdiction.

The Conferees adopted a provision contained in both versions which defines "critical habitat" as specific areas within the geographical area occupied by the species at the time it is listed that is essential to the species conservation and requires special management consideration.

In addition, the Secretary may designate critical habitat outside the geographical area occupied by the species at the time it is listed, if he determines that such areas are essential to the conservation of the species.

The conferees adopted the Senate definition of "irresolvable conflict" which is a set of circumstances under which, after consultation has been concluded, completion of an agency's action would jeopardize the continued existence of a threatened or endangered species or result in the adverse modification or destruction of critical habitat. There is no similar House provision.

S. 2899 redefines the term "species" as it is used in the Act. The existing definition of "species" in the Act includes subspecies of animals and plants, taxonomic categories below subspecies in the case of animals, as well as distinct populations of vertebrate "species". The definition included within the conference report would exclude taxonomic categories below subspecies from the definition as well as distinct populations of invertebrates.

The term "State agency" as defined in the House amendment adds to the current definition in the Act the State entity responsible for the conservation of plant resources. There is no similar Senate provision.

The conferees did not accept the House definition of "species or habitat degradation" which was defined as placing in jeopardy the continued existence of, or destruction or modification of critical habitat of, an endangered or threatened species. The conferees were concerned that this provision, although merely intended to improve drafting current provision of law, might be interpreted as permitting a lesser standard of protection for threatened and endangered species. There is no similar Senate provision.

The term "permit or license applicant" was accepted from the House bill. When used with respect to an action of a Federal agency for which an exemption is sought under section 7, the term is defined as any person whose application to a Federal agency for a permit or license has been denied primarily because of the application of section 7(a) to an agency action for which an exemption is sought.

Section 3. Interagency Cooperation.

Section 3 combines provisions of both the Senate bill and the House amendment which establishes procedures for Federal agency compliance with section 7 of the Act, as well as procedures whereby Federal agencies, the Governor of a State, or an individual seeking a permit or license may seek an exemption from the requirements of section 7.

Consultation.

The basic premise of S. 2899 is that the integrity of the interagency consultation process designated under section 7 of the Act be preserved.

Many, if not most, conflicts between the Endangered Species Act and Federal actions can be resolved by full and good faith consultation between the project agency and the Fish and Wildlife Service or the National Marine Fisheries Service, as appropriate. The Committee intends that only in those instances where the consultation process has been exhausted and a conflict still exists should the Endangered Species Committee consider granting an exemption for a Federal action.

The Conferees adopted Senate language creating a new section 7(a), which essentially restates section 7 of existing law, and outlines the responsibilities of the Secretary and other Federal agencies for protecting endangered species. Conferees did restore a phrase which had been omitted from the Senate language, to clarify that Federal agencies shall consult with the Secretary to ensure that their actions do not adversely impact threatened and endangered species or their critical habitat. The Conferees felt that the Senate provision by retaining existing law, was preferable since regulations governing section 7 are now familiar to most Federal agencies and have received substantial judicial interpretation.

The Conferees did accept from the House amendments, however, four provisions designed to expedite and improve the consultation process. First, consultation would have to be completed within 90 days or such other time as it is mutually agreeable to the Secretary and the Federal agency. Second, after the conclusion of consultation the Secretary is required to provide to the Federal agency a written statement detailing whether the agency's actions are in violation of section 7 and outline any reasonable and prudent alternatives to the action. Third, a biological assessment shall be conducted for the purpose of identifying the presence of any proposed or listed species which might be affected by projects where no contracts for actual construction have been entered into and no construction has begun before the date of enactment of this bill and where the Secretary has advised that such species may be present.

Fourth, after the initiation of consultation the Federal agency is prohibited from making any irreversible or irretrievable commitment of resources which has the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives to the proposed action.

EXEMPTION PROCEDURE

The conferees adopted from the House an amended version of the provisions creating a Review Board to screen applications for exemptions from section 7. Under the new section 7, a Federal agency, the Governor of a state where the agency action, species and critical habitat are located or an individual seeking a permit or license may submit to the Secretary an application for an exemption. Such application may be submitted only if the Secretary has issued an opinion stating that the proposed action would not conform with the requirements of section 7(a). The application must be filed within 90 days after completion of consultation and must set forth a statement detailing why the agency action is qualified for an exemption. Upon receipt of the application, the Secretary must promptly notify the Governor of any State(s) in which the action is being

carried out and submit the application to the review board.

The review board will consist of three members; one appointed by the Secretary, one appointed by the President after consideration of the recommendations from the Governor(s), of the affected State(s), and an administrative law judge. Within 60 days of receiving the application, the Secretary is to submit to the review board his written views on the matter and his recommendations as to the final disposition of the matter.

Within 60 days after its appointment, or a longer period if agreed to by the Secretary and the agency, the Board must determine, by majority vote, whether the agency has (1) consulted with the Secretary in good faith and made a reasonable and responsible effort to consider modifications or alternatives to the proposed action which are consistent with conserving the endangered species, (2) has conducted a biological assessment as required in section 7 and (3) has made no irreversible or irretrievable commitment of resources as prohibited under section 7.

If the Board makes positive determinations on these three matters, it would proceed to conduct a formal adjudicatory hearing to review the question of the exemption. Within 180 days after making the above determination the Board would submit to the Committee a report discussing (a) the existence of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the action and of alternative courses of action and (b) a summary of the evidence concerning whether or not the agency action is in the public interest and is of regional or national significance. This provision differs from the House bill in that the Board would merely be summarizing testimony and evidence received during the hearings, rather than making recommendations to the Committee on compliance with specific criteria. The Board would be expected to describe the various options available to the committee.

The record of the review board's proceedings is to be transmitted to the Endangered Species Committee along with the board's report. The review board has the power to request on a non-reimbursable basis the assistance of agency personnel from the head of any Federal agency. The review board should make maximum use of this procedure and should minimize reliance on personnel provided on a reimbursable basis by the GSA. The committee intends the members of the review board to be physically present during the hearing. The committee believes that the presence of the review board during the formal hearing will assist in the development of a sound and comprehensive report to the Endangered Species Committee.

The committee does not intend that either the review board or the Endangered Species Committee should be considered as Federal agencies except as provided for in the bill. The Federal Advisory Committee Act shall not be applicable to either the review board or the Endangered Species Committee.

Section 7(e) establishes the Endangered Species Committee. The committee is to be composed of seven members: The Secretary of Agriculture; the Secretary of the Army; the Secretary of the Interior; the Administrator of the National Oceanic and Atmospheric Administration; the Chairman of the Council of Economic Advisers; the Chairman of the Council on Environmental Quality; and a person appointed by the President upon recommendation of the Governor or Governors of the State or States within which the agency action in question will occur.

The Committee is to meet at the call of its Chairman, the Secretary of the Interior. It has 90 days from the date it receives the review board's report to decide whether or not to grant the agency action an exemption from new subsection 7(c)(1).

An exemption may only be granted by five of the committee's members, voting in person, and after a determination is made on the record. The committee may base its determination on the record developed by the review board, but has the power to itself receive testimony and evidence. The committee does not expect the Endangered Species Committee to conduct a second final adjudicatory hearing. The criteria the committee is to use in making its determination are:

(1) there are no "reasonable and prudent alternatives to the agency action"; (2) the benefits of the agency action clearly outweigh the benefits of alternative course of action consistent with conserving the species or its critical habitat, and that such action is in the public interest; and (3) the action is of national or regional significance.

The committee believes that the search for alternatives before the review board, and the committee should be significantly larger than during the consultation stage. Section 7 consultation is intended to focus attention on the agency action, its objectives, and the aspects of the agency action which gave rise to the problem initially. The focus of a section 7 consultation should be on solving the problem in a way which is clearly within the jurisdiction and expertise of the consulting parties.

In contrast, the review board and the Endangered Species Committee should focus on a wider variety of alternatives. Their search should not be limited to original project objectives or the acting agency's jurisdiction. The Committee does intend that the review board should only consider alternatives which are both technically capable of being constructed and prudent to implement.

The second criteria considered involves an evaluation of the benefits of the agency action and an evaluation of the benefits associated with alternatives which would avoid an adverse impact on the species or its habitat.

In the context of this provision, the committee intends that the term "benefits" shall include, but not be limited to, ecological and economic considerations. Among the economic criteria which may be examined and considered by the Endangered Species Committee are those set forth in OMB Circular A–107 and in Executive Order 11949. These include:

(1) the cost impact on consumers, business markets, Federal, State, and local governments;

(2) the effect on productivity of wage earners, businesses and government;

(3) the effect on competition;

(4) the effect on supplies of important materials, products, and services;

(5) the effect on employment and

(6) the effect on energy supply and demand.

The committee does not intend, however, that the Endangered Species Committee evaluation should be limited to these criteria. They should also consider the national interest, including actions authorized, funded or carried out by the Secretary of Defense; the esthetic, ecological, educational, historical, recreational and scientific value of any endangered or threatened species; and any other factors deemed relevant.

The committee notes that the amendment requires the committee to balance the benefits associated with the agency action against the benefits associated with alternative courses of action. They should not balance the benefits of the action against the value associated with the listed species.

To be "in the public interest," an agency action must affect some interest, right or duty of the community at large in a way which they would perceive as positive.

The third finding required before the Committee may recommend that an exemption be granted is that the agency action be of "national or regional significance." The term "regional significance" is not intended to refer merely to projects which affect more than one State. Rather, the committee believes that the Endangered Species Committee should evaluate the nature, as well as the scope of the project, in their determination of whether an action is nationally or regionally significant. As an example, the committee believes that an action affecting the Port of Sacramento, in California, would be regionally significant.

If the committee grants an exemption, it must require reasonable mitigation and enhancement measures be taken by the successful applicant. The phrase "reasonable mitigation and enhancement measures" is used in several places in the legislation to describe actions which shall be taken by an applicant which receives an exemption. The required actions must be "reasonable" in their cost, a likelihood of protecting the listed species, and the availability of the technology required to make them effective, and other considerations deemed relevant by the Endangered Species Committee. The explanation of the phrase in new Section 7 makes it clear that "reasonable mitigation and enhancement measures" are those actions by the applicant which are necessary and appropriate "to minimize the adverse effects of the agency action" on the species or habitat in question. Live propagation, transplantation, and habitat acquisition and improvement are mentioned as specific examples of actions a successful applicant might be required to take.

The Committee's final determination is subject to judicial review in the court of appeals for any circuit where the agency action will be located. This refers to the location of the project where the project will be carried out, and not the district where a permit or license might be issued.

The Committee may not grant an exemption if the Secretary of State gives it written certification that the granting of the exemption and the resultant agency action would violate an international treaty or other international obligation of the United States. The certification must be made within 60 days after the Committee receives the application for exemption and must be published in the Federal Register. The phrase "other international obligation" should be understood to mean a formal, legal obligation of the United States Government. This provision would apply to the Agreement on the Conservation of Polar Bears, signed November 15, 1973; the U.S.-Japan Migratory Bird Convention; as well as the recently ratified U.S.-Russian Migratory Bird Treaty.

When the Committee formally issues its order exempting an agency action, any reasonable mitigation and enhancement measures must be spelled out in the document. New section 7(h) makes it clear that such measures are to be carried out and paid for by the party receiving the exemption. In the case of a Federal agency action, the mitigation and enhancement measures required must be authorized by the Congress prior to implementing the action. Such measures would also have to be funded by the Congress concurrently with all other project features. The reasonable mitigation and enhancement measures required must actually be funded and carried out for the exemption to be effective.

The costs of the mitigation and enhancement measures are to be considered project costs for all purposes except for the computation of benefit-cost or other ratios.

Agencies receiving an exemption are required to submit annual reports to the Council on Environmental Quality describing

compliance with ordered mitigation and enhancement measures.

The bill adds a new section which would allow the President to grant an exemption for replacement and repairs on public facilities necessary to prevent recurrence of a natural disaster which resulted in a Presidential declaration of a Federal disaster area.

H.R. 14104 adds a new provision which indicates that the granting of an exemption is not a major Federal action for the purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if an environmental impact statement which discusses impacts on endangered or threatened species or their critical habitats has been prepared on the agency action.

Section 4. Raptors.

During the past 15 years biologists, conservationists, and falconers have been working to produce raptors through propagation in captivity. In this work an emphasis has been placed on raptors which are now listed as endangered under the authority of the Endangered Species Act. However, prohibitions contained in section 9 of the law against commerce in endangered species have impeded these breeding activities.

S. 2899 amends section 9 of the act to clarify the situation regarding domestic, captive-produced raptors. For the purpose of this amendment, raptor means any bird of prey.

Unless specified in other laws, raptors held prior to the enactment of the act on December 28, 1973 are exempted from the provisions and prohibitions of the act. It is the intent of the committee that the domestic captive-produced progeny of any raptor which are legally held prior to enactment will also be exempt from the provisions and prohibitions of the act, even if such progeny were produced after December 28, 1973.

In order to encourage breeding of raptors in captivity, the domestic captive-produced progeny of raptors considered to be endangered, but legally taken from the wild after December 28, 1973, shall be considered for legal purposes in a like manner as the progeny of raptors captured before 1973. The committee believes this will alleviate some of the human pressures on wild raptor populations, will increase genetic diversity in captive populations, and will further encourage captive production of raptors for conservation, recreation, scientific and breeding purposes.

Further, it is the intent of the Committee that where domestic captive-bred raptors have been intentionally released and returned to a wild state for conservation and reintroduction purposes, these raptors will be considered to be fully protected under the Act. In the case of raptors, the Congress recognizes the world-wide distribution of various species, such as the Peregrine Falcon. These raptors have subtle regional differences, but constitute a single species. This amendment is intended to apply to the raptor species as inclusive of all of its subspecies or regional differences. In order to augment wild populations, the Secretary should encourage the reintroduction of captive bred raptors into the wild. To that end, it is anticipated that the Secretary, on a discretionary basis, may grant permits to qualified individuals and organizational raptor breeders to obtain additional brood stock from the wild populations, provided that offspring of such birds are reintroduced back into the wild in a manner designed to effect a net increase in the overall wild population. The procedures for granting permits and reintroducing birds into the wild shall be in accordance with regulations to be promulgated by the Secretary.

The Secretary may require, by regulation, the owners of all exempted raptors to keep records and require bands or other permanent markings to distinguish them from wild birds. The records and inventories may be inspected by agents of the Secretary at reasonable times. These records, permanent markers and inventory procedures should not unnecessarily duplicate those now required annually under the Migratory Bird Treaty Act for special purpose permits and falconer permits.

Section 5. Antique articles.

Section 11 of S. 2899 amends section 10 of the act by exempting certain antique articles other than scrimshaw art from the application of sections 4(d) and 9(a) of the act. Such articles are exempted from those sections of the law if they were made before 1830, are composed in whole or part of any listed species, have not been repaired or modified with any part or product of any listed species subsequent to the date of enactment of the act (December 28, 1973), and enter the United States through a port designated by the Secretary of the Treasury.

The date 1830 was chosen on the advice of the Customs Service. Articles produced prior to that time can apparently be readily distinguished by experts from articles made prior to that date. It is expected that the Secretary of the Treasury will see to it that the ports of entry designated under this section will be staffed with customs officers qualified to make such distinctions.

A further protection against abuse found in Section 11 of the bill provides that any person wishing to import such an antique article must submit to customs officers at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary, shall, by regulation require.

The bill extends relief to those who imported such antique articles after the date of enactment of the act (December 28, 1973) and who had such antique confiscated by the Federal government. Such individuals are given one year from the date of enactment of S. 2899 to apply to the Secretary of the Treasury for the return of such articles. The applicant has the burden of proving to the Secretary of the Treasury that the confiscated article satisfies the requirements for entry stated above. Only those items in the custody of the United States as of the date of enactment of S. 2899 are affected by this provision. "Custody" is to include those items on loan to institutions of higher learning, museums or any other party and is not limited to those items in the physical possession of officers of the United States.

TELLICO DAM AND GRAYROCKS RESERVOIR

The most difficult issue faced by the Conference Committee involved two specific exemptions to the Endangered Species Act for the Tellico Dam in Tennessee and the Grayrocks Dam and Reservoir in Wyoming. These projects posed a unique problem to the Committee in that they are two of the three projects in the country that have been enjoined as a result of the Endangered Species Act.

The House passed bill had provided specific exemptions from the Endangered Species Act for these two projects. In contrast, the Senate bill contained no specific project exemption, and the Senate had specifically rejected attempts to provide specific exemptions for projects outside of the exemption procedure provided in the bill.

The language adopted by the Conference Committee is an attempt to address the specific project concerns voiced in the House with the Senate desire to preserve the integrity of the exemption process. Essentially, the provision contained in the Conference Report would provide that these two projects are to be considered for exemption within 30 days of enactment by the Endangered Species Committee without the necessity of proceeding through the review board process. Because of the obvious regional significance of both of the projects, it was decided that there was no necessity to require that the Committee make such a finding of regional significance. If the Endangered Species Committee, in considering one of these projects, makes the findings that there are no reasonable or prudent alternatives to these projects and the benefits of the project clearly outweigh the benefits of alternative courses of action consistent with conserving the species or critical habitat involved the Committee shall grant an exemption If no decision is made within 90 days after the date of enactment of this Act, these projects would receive an automatic exemption from the requirements of section 7 of the Endangered Species Act.

In addition, the Conference Committee adopted specific provisions which relate only to the Grayrocks Dam and Reservoir Project. These provisions would first require that the U.S. Fish and Wildlife Service render a biological opinion on the effect of the operation of the Missouri Basin Power Project on endangered species or their critical habitat. After the biological opinion is rendered, the responsible officials of the Rural Electrification Administration, the Department of the Interior, and the Department of the Army shall require modification of the design or operation of the projects to insure that actions do not jeopardize the continued existence of the species or result in the adverse modification or destruction of its critical habitat. The Committee believes that this provision will insure the continued high level of protection for any endangered species involved, particularly the whooping crane.

It is the intent of the Committee that if the conflict between the parties in Nebraska vs. R.E.A. in federal district court in Nebraska is solved prior to the timetable established therein, the requirements of this provision shall be deemed to have been met. It is not the intent to establish a procedure or requirement under the Endangered Species Act that they otherwise would not have been subject to if the above conflict is resolved.

It is the strong sense of the Committee that these are the last instances when any project should receive special consideration in the exemption process. To allow any further aberrations in this process would make meaningless the work of the Congress in fashioning an orderly exemption process and encouraging those agencies that wish to evade the strict consultation provisions of this report.

Section 6. Penalty Provisions.

Both the Senate and the House amended Section 11 of the Act, the penalties and enforcement section in order to alleviate certain enforcement ambiguities of the Act. The Conferees accepted the House amendments to Section 11: All changes to this section were made after extensive consultation with the Department of Justice.

The amendment reduces the strict liability penalty for other than importers and exporters to $500, makes criminal violations of the act a general rather than a specific intent crime, and subjects importers and exporters of fish and wildlife and plants to strict liability penalties of up to $10,000.

By deleting from the civil penalty and criminal provisions of section 11 the phrase, "commits an act which violates," the Conferees intend only to make it clear that the Act's civil and criminal sanctions apply to violations involving the commission of a prohibited act. The Conferees do not intend to make knowledge of the law an element of either civil penalty or criminal violations of the Act. In furtherance of this intent, the Conferees intend that the standard for criminal violations has been reduced from "willfully" to "knowingly".

Under the amendment provided in H.R. 14104, a tourist who unknowingly imports a listed species into the United States could not be fined more than $500. The Conferees assume that in most cases, law enforcement

officials will seek the forfeiture of the item rather than impose a civil penalty. The Conferees emphasize that the strict liability provision which applies to persons engaged in the business as an importer or exporter of fish, wildlife or plants does not apply to commercial fishing operations which may import fish products into the United States for purposes of human or annual consumption as a part of their business.

Sections 7 and 8. Penalty Provision.

By deleting from the civil penalty and criminal provisions of section 11 the phrase, "commits an act which violates," the committee intends only to make it clear that the act's civil and criminal sanctions apply to violations involving an omission or failure to act as well as to violations involving the commission of a prohibited act. The committee does not intend to make knowledge of the law an element of either civil penalty or criminal violations of the Act. In furtherance of this intent, the committee has reduced the standard for criminal violations from "willfully" to "knowingly".

Section 9. Appropriations.

Section 9 of S. 2866 authorizes appropriations of $12,500,000, for the period beginning October 1, 1979 and ending March 31, 1980 to carry out the purposes of this Act.

Section 10. Plants.

The conferees adopted a provision contained in both bills which amends section 6(c) of the Act to allow the Secretary of the Interior to enter into cooperative agreements with the States for the management and conservation of listed species of plants. This amendment will permit States which develop an adequate and active program for the conservation of listed plants to receive Federal grant-in-aid in the same manner as States now receive funds for resident species of endangered and threatened fish and wildlife.

Section 11. Notification of the House amendment which adopts the provision of S. 2899.

S. 2899 amends section 4(f)(2)(A) of the Act to expand present notice requirements and to require public meetings or hearings in connection with the listing of a species and the specification of its critical habitat.

Under the Conference report, notice of a proposed regulation (including a complete text of the regulation) would have to be published in the Federal Register 60 days before its effective date. Where critical habitat is specified, such notice must also be published in a newspaper of general circulation within or adjacent to such habitat. Actual notice of the regulation and any environmental assessment or environmental impact statement prepared on it is required to be given to all general local governments within or adjacent to the proposed critical habitat at least 60 days prior to its effective date. This provision does not require actual notice to special districts such as an irrigation or school district. The committee expects that the Secretary would utilize OMB Circular A-95 or some similar device for assuring effective notice to local governments.

Where critical habitat is specified in the proposed regulation, the Secretary must promptly hold a public meeting on the proposed regulation. The meeting must be held in the area in each State where such habitat would be found. The committee intends that the meetings held pursuant to this paragraph be of an informal variety that would permit a colloquy between representatives of the Department and local citizens. If a timely request is filed with the Secretary, a public hearing must be held in the State whose citizen filed the request. It is the intent of the committee that such hearings be held in accordance with appropriate sections of the Administrative Procedures Act and near or within the proposed critical habitat. The committee does not intend that either the meetings or hearings be full adversarial proceedings with all of its inherent expenses to the parties and delays in arriving at a final regulation.

In the rather rare instances where no critical habitat is proposed concurrently with the listing, a public meeting is to be held by the Secretary if a request therefor is filed within 45 days of the publication of general notice.

If, by chance, actual notice is not given to some unit of general local government, such an unintentional and unplanned failure of the notification system shall not invalidate the proposed regulation.

The Conference Report adds a new paragraph (5) to section 4(f) which would provide that any final regulation adding a species to the list must be published within 2 years after the notice of proposed rulemaking. Any proposed listings not finalized within 2 years must be withdrawn, and cannot again be proposed unless the Secretary determines that new information is available which warrants such action. The paragraph provides that any listing which is proposed at the time of the enactment of these amendments would not have to be withdrawn until one year after the date of enactment.

The Conference Report adds a new subsection (g) to section 4 which would require the Secretary to develop and implement recovery plans for listed species. Such plans would be designed to ensure the conservation or survival of each listed species. Recovery teams may be appointed by the Secretary, where appropriate, to aid in developing or implementing a recovery plan for a particular species. Such plans shall be as long and as detailed as is necessary and consonant with their purpose of providing a framework for actions directed at conserving or, at least, insuring the survival of the subject species. Although recovery plans are implicit in the Endangered Species Act, the Act does not specifically mandate recovery plans. As a result, recovery plans have been given a low priority within the Endangered Species Act budget.

The committee intends the Secretary to establish recovery teams to assist with: (1) the development of plans; (2) periodic amendment of plans; and (3) the implementation of the plans. The committee hopes that the Secretary will appoint full-time professionals to insure that planning and implementation proceed expeditiously.

Section 12. Forest Service Authority.

The Conferees agreed to language of the House version which provides the Secretary and the Secretary of Agriculture with the authority to acquire land for the conservation of listed species including plants. The current Act limits this authority to the Secretary of the Interior.

Section 13. Publication in the Federal Register.

The Conferees adopted a provision of the House bill which amends paragraph 4(f)(3), which requires the Secretary to include with any proposed or final regulation published in the Federal Register a summary of the data on which the regulation is based.

JOHN M. MURPHY,
ROBERT L. LEGGETT,
JOHN P. DINGELL,
BO GINN,
DAVID R. BOWEN,
PHILIP E. RUPPE,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN CULVER,
EDMUND S. MUSKIE,
MALCOLM WALLOP,
JOHN H. CHAFEE,
Managers on the Part of the Senate.

REPORT ON HOUSE RESOLUTION 1446, PROVIDING FOR THE AGREEING TO THE SENATE AMENDMENTS TO H.R. 50

Mrs. CHISHOLM, from the Committee on Rules, submitted a privileged report (Rept. No. 95-1805), on the resolution (H. Res. 1446) providing for the agreeing to the Senate amendments to the bill (H.R. 50) to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short- and medium-term economic goals to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government, which was referred to the House Calendar and ordered to be printed.

CONFERENCE REPORT ON S. 3447, AGRICULTURAL TRADE ACT OF 1978

Mr. FOLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 3447) to strengthen the economy of the United States through increased sales abroad of American agricultural products.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY), will be recognized for 30 minutes, and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany the bill, S. 3447, the Agricultural Trade Act of 1978. The report contains a number of provisions which would expand exports of U.S.-produced agricultural commodities. The report strengthens and supplements the credit programs of the Commodity Credit Corporation in a number of particulars, establishes between 6 and 25 agricultural trade offices overseas and upgrades the status of U.S. Department of Agriculture representatives abroad to that of counselor in the more important posts.

Agricultural exports are particularly essential to the prosperity of farmers and the national economy at this time. Agricultural exports represent one of the most vital components of the U.S. balance for trade, and a high level of ag-

ricultural exports is especially necessary in the face of rising cost of imported petroleum products and other imported articles. Over the past 10 years the volume of U.S. farm products has doubled and it is estimated that trade of agricultural exports will contribute a net surplus of $13 billion in fiscal year 1978.

The President has recently announced the administration's strong commitment to a higher priority on exports. In the President's statement an increased emphasis on expanded agricultural exports is one of the measures which he has indicated important to this end. The conference report will assist the President in meeting his objective.

There were a number of differences between the House- and Senate-passed bills. The conference report strikes a fair compromise between these bills and contains the basic features of both measures. The conferees met in two sessions and quickly reached agreement. I wish to compliment the distinguished Senator from Florida, Senator STONE, who chaired the conference and his colleagues in the Senate for their assistance in this effort. On the House side, I wish to express my appreciation to the chairman of the International Relations Committee, Mr. ZABLOCKI, for his leadership, as well as Mr. DE LA GARZA, chairman of the Subcommittee on Department Investigations, Oversight, and Research, Messrs. MATHIS and POAGE, authors of the original bill, Mr. FINDLEY, and other members of the House Committee on Agriculture and House Committee on International Relations who contributed so much to enactment of this legislation.

Mr. Speaker, one of the major provisions in the conference substitute is to authorize a new intermediate export credit program to be made available by the Commodity Credit Corporation on export sales of agricultural commodities. Under this program credit terms of not less than 3 years and not more than 10 years would be authorized for the following uses:

First. The establishment of reserve stocks consistent with international commodity agreements or other stock building plans acceptable to the United States;

Second. The export sale of breeding animals—including but not limited to cattle, swine, sheep, poultry—including the cost of freight from the United States to designated points of entry in other nations;

Third. Where determined feasible, the establishment of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities through the use of local currency generated from the import and sale of U.S. agricultural commodities to finance all or part of such facilities; and

Fourth. To meet credit competition for agricultural export sales.

These uses are expanded somewhat over those provided for in the House-passed bill. It is intended, however, that the new authority be used with care. Intermediate credit financing cannot be used to encourage credit competition or for foreign aid or debt rescheduling. Further, the Secretary must, where feasible, obtain commitments from purchasers that prevent resale or transshipment to other countries of agricultural commodities financed under the report.

In the case of financing of export sales for establishment of reserve stocks abroad, the report requires as a prerequisite a determination by the President that the financing is not adverse to the interests of U.S. producers of agricultural commodities.

It also requires that no such agreement can be effective until the expiration of 30 days after a detailed summary has been transmitted to the two agricultural committees of the Congress or at least 60 days after such date of transmittal, if the transmittal is while Congress is not in session.

The conference report adopts a Senate provision that the cargo preference laws will not apply to export sales financed under the intermediate commercial credit program. The conferees took this position because a majority of the conferees were of the view that intermediate credit is basically an extension of CCC commercial short-term credit and not concessional assistance. It was of the view that if the cargo preference laws were made applicable, it could well result in the intermediate credit not being used because of the extra cost. The action of the conferees, however, does not change in any way the application of the cargo preference law to the concessional sales program carried out by CCC under Public Law 480.

The conference report contains additional provisions relating to the short-term credit program of CCC—involving credit terms of not to exceed 3 years. The conference substitute adopted a Senate provision authorizing short-term credit financing to be made available to exporters who provide deferred payment terms of not to exceed 3 years to buyers in other nations. This would enable exporters to meet sales commitments from other nations or to make additional export sales. This provision was included since some nations prefer to deal directly with an exporter rather than a governmental agency.

In addition, the report would make the People's Republic of China eligible for CCC credit under the existing 3-year CCC commercial credit program and under the deferred payment sales program. The conferees believe that there is a potential for a substantial expansion in export sales to the People's Republic of China which could be realized with the assistance of this provision. The House-passed bill had a comparable provision which would have made a few additional nonmarket economy countries eligible for such assistance.

Another major provision of the conference report would require establishment of from 6 to 25 agricultural trade offices in other countries by the Secretary of Agriculture after consultation with the Secretary of State. The conferees adopted the Senate provision in lieu of the House provision which required the concurrence of the Secretary of State with respect to the location of such trade offices. The trade offices would have as their primary function to increase effectiveness of agricultural export promotion efforts, provide services and facilities for foreign buyers and trade representatives and coordinate market activities sponsored by the Department of Agriculture. The President has stated in his message of September 26 that this represents one of the items which he considers important in the administration's agricultural export policy.

The conferees agreed to raise the level of our agricultural representation abroad at the more important posts from agricultural attaché to agricultural counselor. Under the bill, at least 10 senior representatives of the Secretary of Agriculture are to be appointed as counselors within 3 years after the date of enactment of the bill. However, the conferees intend that 10 counselors, as a minimum, be appointed within 1 year after the enactment of the bill. Raising the level of our agricultural representation abroad is designed to match our competitors abroad and to provide more effective representation in key importing countries.

The conferees agreed that the Department of State must concur in the designation of counselors, and the assignment abroad of the staff for the agricultural trade offices. We expect the Secretary of State to cooperate fully with the Secretary of Agriculture in the appointment of counselors and the establishment of the agricultural trade offices, as well as in implementing the other provisions of S. 3447. We will be monitoring closely administration of the program in order to assure that congressional intent is being fulfilled.

The conference substitute also retains a provision of the House bill which provides for the establishment in the Department of Agriculture of a new position of Under Secretary for International Affairs and Commodity Programs. A change is made to upgrade this function to the same level as its counterparts in the Department of State and Department of the Treasury. The conferees intend that the Under Secretary of Agriculture be appointed as expeditiously as possible. Until the appointment and qualification of the Under Secretary, the Assistant Secretary exercising the functions and performing the duties related to foreign agriculture and agricultural stabilization and conservation may continue to exercise and perform such functions and duties.

Mr. Speaker, the conference report on S. 3447 represents a positive step in expanding the Department of Agriculture's foreign market development function. I urge the Members to join me in support of this measure.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, has the Senate added any amendments that are not germane or extraneous to the original purpose of the bill as passed by the House, or that would repeal any matter that does not relate to the bill?

Mr. FOLEY. The answer is in the negative.

Mr. SEIBERLING. Mr. Speaker, I thank the gentleman.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Merchant Marine and Fisheries, the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I rise to comment on the conference report on S. 3447, the so-called Agricultural Trade Act of 1978.

Mr. Speaker, the purpose of the legislation is generally to expand U.S. agricultural exports by upgrading U.S. agricultural representatives abroad, improving U.S. agricultural promotional facilities in certain foreign markets, and providing expanded and more attractive credit terms for agricultural products through the Commodity Credit Corporation. Title I of the conference report provides for a new intermediate credit program for the export of agricultural products, and specifically excludes the application of Public Law 664 to such sales.

As chairman of the Merchant Marine and Fisheries Committee, I am compelled to comment strongly on this legislation for three fundamental reasons:

First. Public Law 664 falls within the jurisdiction of the Merchant Marine and Fisheries Committee, yet my committee has never been given the opportunity to provide input into this legislation;

Second. This legislation arbitrarily precludes the application of Public Law 664 to what are clearly concessional sales of agricultural products; and

Third. The net result of the bill would be to negate the benefits of the current application of Public Law 664 to existing programs under the Agriculture Trade Assistance Act of 1954.

Mr. Speaker, I find title I of the conference report to be most interesting.

On the one hand, it would specifically authorize the Government to finance the cost of flying all the cows, pigs, sheep, chickens, and other breeding stock sold pursuant to the intermediate credit program provided by the bill. But when it comes to ocean transportation, the same section would specifically exclude any chance U.S.-flag vessels might have to carry up to 50 percent of the grain generated by the same program pursuant to Public Law 664.

Now, there may be good reason for the U.S. Government to be flying around a bunch of cows. There is, however, no good reason for specifically excluding the application of Public Law 664. I can assure you of that, for Public Law 664 falls within the jurisdiction of my Committee on Merchant Marine and Fisheries.

Public Law 664 generally provides that—

> Whenever the United States shall advance funds or *credits* . . . in connection with the furnishing of . . . commodities, . . . at least 50 per centum of the gross tonnage of such . . . commodities . . . shall be transported on privately owned U.S.-flag commercial vessels.

The purpose of Public Law 664 is to help maintain a strong U.S.-flag merchant marine which is necessary to America's national security and defense, as well as providing a strong logistical link between the U.S. farmer and foreign importers. The compelling rationale for this act was reinforced by this House with the passage of the Merchant Marine Act of 1970.

Mr. Speaker, at the present time, the United States finances the export of U.S. commodities through Title I of the Agricultural Trade Development Assistance Act of 1954 (Public Law 480) and through Commodity Credit Corporation short-term commercial credits.

Under title I of Public Law 480, the United States finances sales on long-term credit to lesser developed countries at concessional interest rates for periods of between 20 and 40 years. As these are concessional sales, Public Law 664 applies.

Under the second existing program, the short-term Commodity Credit Corporation export credit program, the Department of Agriculture extends credit to foreign purchasers on nonconcessional terms for periods of up to 3 years. As these are nonconcessional sales, Public Law 664 does not apply.

This legislation would authorize the Commodity Credit Corporation to make credit available on so-called intermediate terms (from 3 to 10 years at commercial market interest rates) for foreign purchases of grain for a number of purposes, including that of meeting credit competition for agricultural export sales.

The question then becomes whether extending such credits for 3 to 10 years is concessional or not. If they are concessional, then Public Law 664 must apply. If they are nonconcessional, then that act should not apply.

And what is the legislative history that demonstrates that the proposed grain sales are nonconcessional so that Public Law 664 is excluded by the conference report?

On the Senate side, the report of the Committee on Agriculture, Nutrition, and Forestry (No. 95–1142, page 23) provides that—

> Since the intermediate credit program would be an extension of the CCC's established commercial short-term program . . . the provisions of the cargo preference laws would not apply.

That is not much to go on.

On the House side, we have two separate reports to give us guidance.

The report of the Committee on Agriculture (No. 95–1339, part 1) simply states:

> The provisions of the cargo preference laws shall not apply to any sales financed under the intermediate credit program.

No explanation, no nothing.

The report of the House Committee on International Relations is more enlightening. On page 19 of that report (No. 95–1338, part 2), they rely on a nonexistent 1964 ruling by the Attorney General in support of their position excluding Public Law 664. In this regard, however, I would like to mention that I have located a 1963 and 1965 ruling by the Attorney General. In my opinion, neither of these rulings support this conclusion by the International Relations Committee excluding the application of Public Law 664.

But that is not all. The same International Relations Committee report, in two instances, clearly demonstrates that sales under the intermediate export credit program are concessional in nature. I would direct the attention of the House to page 15, which provides—

> At present an international consensus exists that export credits for agriculture products with maturities beyond 3 years are concessional in nature. . . . The United States and other trading countries have accepted this definition.

And again at page 7:

> Generally, private commercial credits for agriculture commodities do not exceed 90 days.

As the sales under the intermediate export credit program are financed from 3 to 10 years, there can be no question that they are concessional in nature. And as they are concessional in nature, Public Law 664 must apply.

Indeed, when this legislation passed the House on September 25, it did not contain a provision specifically excluding the application of Public Law 664. This provision of law was inserted in Conference. And what does the conference report tell us? It provides only that the conference substitute adopts the Senate provision excluding the application of Public Law 664.

What legislative history there is clearly demonstrates that sales under the intermediate export credit program are concessional in nature so that Public Law 664 must apply. Yet in the conference report before us, it has been arbitrarily excluded. And my Committee on Merchant Marine and Fisheries never had the opportunity to provide any input into the bill.

But that is not all.

Mr. Speaker, this legislation would not only arbitrarily deny the application of Public Law 664 to what are clearly concessional sales of grain under the proposed new program, but would also seriously impact on the application of Public Law 664 to existing programs under title I of the Agriculture Trade Development Assistance Act of 1954, so-called Public Law 480.

As set forth on page 9 of the report of the House Committee on Agriculture (No. 95–1338, part 1):

> A major function of the intermediate credit program authorized by this legislation will be as an alternate export credit program to offer developing nations who have improved their economic condition sufficiently to no longer require the costly concessional credits provided under the Public Law 480 program. While these nations no longer qualify for the Public Law 480 program, they cannot easily make the large step to the short-term CCC program without significantly reducing their purchases. By extending the intermediate credit authorized by this legislation, the Department of Agriculture will be able to 'cushion' the transition from Public Law 480 credits and maintain a high level of exports to the developing countries.

I do not quarrel with the purpose of the program. However, to the extent the concessional sales under the intermediate export credit program are made in lieu of Public Law 480 sales, the arbitrary exclusion of Public Law 664 in the legislation before us will deny our vessels the cargoes necessary to maintain a strong U.S.-flag merchant marine.

Mr. Speaker, Public Law 664 falls within the jurisdiction of the Merchant Marine and Fisheries Committee, and yet my committee has not been given the opportunity to provide input into the legislation. It is small wonder then that the full significance of arbitrarily excluding Public Law 664 has been lost on my colleagues.

Public Law 664 was enacted in the same year as the Agriculture Trade Assistance Act of 1954. The purpose of Public Law 664 was to consolidate into permanent legislation the various cargo preference clauses embodied in several foreign aid statutes enacted during the preceding years, and reiterate the policy that has been proclaimed by the Congress in the Merchant Marine Acts of 1920, 1928, and 1936.

Public Law 664 is one of the very basic statutes that provide this Nation with the U.S.-flag merchant marine required by our national security, and required by the world's greatest trading Nation.

Just a few weeks ago, Adm. Isaac C. Kidd, Supreme Allied Commander, Atlantic, informed my committee in executive session that the lack of an adequate U.S.-flag merchant marine would create "mind boggling" problems for the Navy if we went to war with the Soviets. He strongly supported any and all measures to increase the size and capacity of our merchant fleet.

Public Law 664 is one such measure. If the Government can fly around cows under the bill before us, it is beyond comprehension why Public Law 664 has been arbitrarily excluded from the intermediate credit program for agricultural products also contemplated by the legislation.

Mr. Speaker, the exclusion of Public Law 664 from the conference report is not supported by the legislative history or commonsense, is not in the national interest, and would seriously damage the U.S.-flag merchant marine by creating a very dangerous precedent.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conference report on S. 3447 is generally intended to raise farm income, create a more favorable balance of trade for the United States, and promote the general economic welfare. It is also intended that the U.S. Government, in concert with private enterprise, engage in a systematic program to expand international markets for U.S. agricultural commodities.

The legislation provides, among other things, an improved financing arrangement through intermediate commercial credit for—

First. The export sale of breeding animals (including, but not limited to, cattle, swine, sheep, and poultry), including the cost of freight from the United States to designated points of entry in other nations;

Second. The establishment of reserve stocks consistent with international commodity agreements or other stock-building plans acceptable to the United States;

Third. The establishment, where feasible, of facilities in the importing nation to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities through the use of local currency generated from the sale and importation of U.S. agricultural commodities; and

Fourth. Meeting credit competition for agricultural export sales.

The thrust of the bill in providing intermediate credit is to permit the United States to meet competition and not to initiate a credit war.

I should point out that there were many of us who were conferees who expressed concern about the use of intermediate credit to establish reserve stocks in foreign nations. However, the conference committee agreed to a provision which would protect the interest of U.S. agricultural commodities. Under this provision, the President would be required to review proposed agreements for credit to establish reserves, and the President would have to make a determination that such reserve would not be adverse to U.S. producers of agricultural commodities.

In addition, no agreement to finance export sales to establish reserve stocks would become effective until notification and a layover period before the House and Senate Agriculture Committees.

One of the important differences resolved in conference would provide for the extension of CCC credit—nonconcessional sales—to the People's Republic of China. The original House version would have gone somewhat further.

Another provision added in conference (not in the original House version) would permit CCC to extend not in excess of 3 years of credit for exporters who offer deferred payment terms and who cannot meet competition or effect a sale agreement with a foreign nation or foreign purchaser without this deferred payment credit assistance.

The senior agriculture representative in at least 10 major foreign diplomatic posts will be upgraded from attaché to counselor. This should provide greater visibility and authority for our agricultural representatives in our foreign export markets.

However, in addition to this, the bill provides for the establishment of at least 6 and up to 25 Agricultural Trade Offices overseas. The offices are to be export and trade promotional oriented. The offices will in most cases be located outside the U.S. Embassy and will be located with cooperating (private or other) entities located in the foreign country for market development.

One important change has been made in the House version of this bill in conference. The conference report adopted a provision that the cargo preference laws would not apply to CCC intermediate export credit sales and shipments overseas.

I wish to point out that these credit sales through intermediate credit are nonconcessional sales. Therefore, the argument that cost of the ocean shipping charges under concessional sales such as those under Public Law 480 would not be as much a factor as they would be in nonconcessional sales is, in my opinion, readily apparent. In the opinion of many experts in export sales, the added costs of applying cargo preference laws to the intermediate sales provided for in this bill would virtually stop any sales under this law and make its enactment a nullity.

I want this law and this program to work. The farmers need it, and it is in our national interest to pass it because of the beneficial effects it will have on our balance-of-trade deficits and on the strength of the dollar overseas.

I am reliably informed that there are no U.S.-flag ships capable of moving cattle, et cetera, overseas. I doubt that there are many U.S.-flag ships available to move bulk farm commodities. Thus, I submit the effect of this provision on U.S. merchantmen will not be extensive.

While there are some costs associated with this bill (approximately $3.5 million a year when fully implemented according to the Congressional Budget Office), the short- and long-term benefits of this bill will far, far outweigh these relatively reasonable costs. Our farmers' productivity is the greatest of any sector of our economy; and for that matter, they can compete with any country in the world.

I am confident that given some promotional effort overseas by our Government, our agricultural commodities can very effectively compete in world markets: 2 or 3 or 6 million tons extra sales every year of wheat, feed grains, soybeans, rice, et cetera, will greatly enhance farm income, and our dollar will fare much better in international money markets.

I strongly urge my colleagues in the House to support this conference report. The Secretary of Agriculture will be reporting annually to Congress on the effectiveness of the foreign market development program made possible by this bill. I am confident those reports will record increased sales each year into the foreseeable future.

Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the full Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on S. 3446, the Agricultural Trade Act of 1978, which is designed to strengthen the economy of the United States through increased sales abroad of American agricultural products.

I was one of the cosponsors of the House version of this legislation (H.R. 10584) together with my colleagues from Texas, BOB POAGE and KIKA DE LA GARZA, and many other members of the House Committee on Agriculture. I want to commend Mr. MATHIS for sponsoring

this measure and giving it his strong support.

As many of you know, commencing in about 1973 the United States crossed a great economic threshold by becoming a principal supplier of food to the world through the export of nearly $20 billion in agricultural products. The last couple of years has seen the amount or total tonnage of exports increase, but the dollar value has remained fairly constant on a plateau over the $20 billion mark.

Meanwhile, U.S. Department of Agriculture outlays for agricultural product market development rose from $16.8 million in fiscal year 1970 to over $21.4 million in fiscal year 1977. However, expenditures in 1970 dollars had fallen to $13.6 million in fiscal year 1977 after giving effect to inflation.

In recent years a relatively new market has opened up in the People's Republic of China. The total million metric tons of farm exports has increased from 3.459 million tons in 1975 to 6.910 million tons in 1977. Our competitors for world farm exports captured this entire market in 1977.

Our percentage of farm exports to Eastern European countries of Bulgaria, Czechoslovakia, and East Germany have suffered a similar fate.

This is a good piece of legislation. It will help farmers who are experiencing depressed prices for their products, and it will help our balance-of-payments problems.

The conference committee on this bill has reported a good compromise for your consideration and adoption. It upgrades at least 10 U.S. agricultural attaché officers abroad to the higher diplomatic status of counselor which should enhance our agricultural presence in major overseas markets. It also establishes a minimum of 6 and up to 25 agricultural trade offices abroad. These agricultural trade offices will spur the promotional efforts overseas for our farm products.

There are at least two significant changes that were made in the House version of this bill in conference to the People's Republic of China. The House contained a somewhat broader provision that would have permitted such trade with Bulgaria, Czechoslovakia, and East Germany. The conference adopted the Senate version.

Second, the Senate bill contained a provision whereby the Commodity Credit Corporation could provide short-term financing to certain exporters of agricultural commodities—including exports to the People's Republic of China. Such financing would be available to exporters who must provide deferred payment terms of not to exceed 3 years to buyers in other nations in order to meet sales competition or to make additional sales. The conference also adopted this Senate provision.

Both of these provisions should help to increase our export of agricultural commodities.

I urge my colleagues in the House to support this conference report. It is badly needed in the farm sector, and the costs of increasing our trade representation overseas (up to $3.5 million a year) will be offset manyfold, I believe, by the sales generated for our products.

I am sure I need not remind you that the balance-of-payments problem facing this Nation must be addressed in many ways. This legislation will help moderate the great balance-of-payments deficits in forthcoming years.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on International Relations, the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield? I thank the gentleman for yielding.

I rise in support of the conference report. I commend our able colleague, the gentleman from Washington, chairman of the House Agriculture Committee for his efforts in expediting the consideration of this legislation.

I urge Members to vote in favor of the conference report on S. 3447, the Agricultural Trade Expansion Act of 1978. It is a measure which will help to increase the sales of American farm products abroad. At a time of a growing U.S. balance-of-trade deficit, it is incumbent on us to do what we can to help our exports.

The conference report on S. 3447, in my opinion, is a good bill, improved from the original draft bills and from the versions that passed the two houses last month.

The conference report adopts the provision for CCC intermediate credit financing (3 to 10 years) but restricts it to the four uses of, first, sales of commodities for reserve stocks; second, export sales of breeding livestock; third, facilities for handling agricultural commodities; and fourth, to meet credit competition. The conference committee is confident that this formulation will avoid the credit war that could have resulted from the broader proposals for the extension of intermediate credit for any agricultural commodity.

Another major feature of the conference report is that it extends eligibility for short term CCC financing for agricultural exports to the People's Republic of China. We believe this provision can be of notable benefit for our sales to this large market.

Also, the conference report authorizes the creation of Agricultural Trade Offices overseas and the designation of some agricultural representatives as counselors. The conference committee resolved the disputes over the proper role and functions of the Department of State and the Department of Agriculture and we intend that nothing in the bill alter their traditional relationship. I urge that the House pass this worthy legislation.

Mr. SEBELIUS. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. FINDLEY), who serves on both committees.

Mr. FINDLEY. Mr. Speaker, I consider this to be one of the most progressive pieces of legislation the Congress has enacted in a long time. It is notable for another personal reason, and that is that it bears the name of the distinguished gentleman from Texas (Mr. POAGE), who has served in this body for I believe 42 years. He is retiring this year and I think it quite appropriate in every sense of the word that he be recognized with this legislation that carries such promise for trade expansion in the years to come.

It typifies the great service the gentleman from Texas (Mr. POAGE) has rendered to his fellow citizens.

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, I certainly feel this is a very good conference report. The House position was sustained almost throughout the legislation. This will be of great help and assistance to the agricultural sector in the days to come. This legislation should help sell our farm products abroad in a cooperative effort between the agricultural sector and our Government. We will have more trade centers in the important countries of the world, or at least in areas of potential buyers. We also do justice to our agriculture attaches, at least in the major countries by elevating their status to counsellor. This will be extremely helpful as they negotiate or assist in negotiations with high level officials of other countries. I am happy to have been an original sponsor of this legislation and appreciate all our colleagues who support us. The benefits will far outweigh the modest costs of this legislation.

Mr. BREAUX. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Louisiana.

Mr. BREAUX. Mr. Speaker, I would also like to commend the gentleman from Texas (Mr. POAGE), the gentleman from Washington (Mr. FOLEY), and other members of the committee who have done an excellent job in bringing this legislation to the floor.

I would like to ask the distinguished chairman of the committee a question.

Is there any direction in the legislation as to the type of agricultural product which can benefit us as a result of this program? Is there any requirement or any direction as to the type of products, or is that determined perhaps by the recipient country's needs when they make the request?

Mr. FOLEY. Mr. Speaker, the gentleman is correct. The legislation generally is trying to stimulate agricultural exports. There are certain particular credit extensions that are made available for certain purposes. One is to meet stocking requirements of grain, and another is to meet certain requirements of breeding livestock.

There is a general section which deals with responding to agricultural competition with credit.

Mr. BREAUX. The third category is the one with which I am concerned. Ap-

parently there is not a great deal of latitude within a department in determining what particular type of products we are interested in. I am concerned that they would make decisions and they would eliminate through a regulation process certain commodities that are in abundant supply.

I take it by the committee chairman's statement that really the recipient country's needs and requests would be the determining factor, as well as the availability of funds; we are not giving any direction as to these particular products?

Mr. FOLEY. Not as to the character of the commodities as such, no.

Mr. Speaker, I could not, in the short time available to me, even begin to pay adequate tribute to one of the principal sponsors of this bill, the gentleman from Texas (Mr. POAGE).

He has been the greatest expert on argiculture policy in this House for so many years that it is impossible for many Members to imagine this House or its Committee on Agriculture without him. This bill is another of his countless achievements.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. ROUSSELOT) there were—yeas 90, nays 0.

Mr. ROUSSELOT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 356, nays 4, not voting 70, as follows:

[Roll No. 935]

YEAS—356

Abdnor	Bonior	Collins, Tex.
Addabbo	Bowen	Conable
Akaka	Brademas	Conte
Alexander	Breaux	Corcoran
Ambro	Breckinridge	Corman
Anderson, Calif.	Brinkley	Cornell
	Brodhead	Cornwell
Anderson, Ill.	Brooks	Cotter
Andrews, N.C.	Broomfield	Coughlin
Andrews, N. Dak.	Brown, Calif.	Cunningham
	Brown, Mich.	D'Amours
Annunzio	Brown, Ohio	Daniel, Dan
Archer	Broyhill	Daniel, R. W.
Ashbrook	Buchanan	Danielson
Ashley	Burgener	Davis
Aspin	Burke, Mass.	de la Garza
AuCoin	Burleson, Tex.	Delaney
Bafalis	Burlison, Mo.	Dellums
Baldus	Burton, Phillip	Dent
Barnard	Butler	Derrick
Baucus	Carr	Derwinski
Bauman	Carter	Devine
Beard, R.I.	Cavanaugh	Dicks
Beard, Tenn.	Cederberg	Dingell
Bedell	Chappell	Dodd
Beilenson	Chisholm	Dornan
Benjamin	Clausen, Don H.	Drinan
Bennett		Duncan, Oreg.
Bevill	Clay	Duncan, Tenn.
Bingham	Cleveland	Early
Blanchard	Cochran	Eckhardt
Blouin	Cohen	Edgar
Boland	Coleman	Edwards, Ala.
Bolling	Collins, Ill.	Edwards, Calif.
Edwards, Okla.	Krueger	Roberts
Eilberg	Lagomarsino	Robinson
Emery	Latta	Rodino
English	Le Fante	Roe
Erlenborn	Leach	Rogers
Ertel	Lederer	Roncalio
Evans, Del.	Leggett	Rooney
Evans, Ind.	Lent	Rose
Fary	Levitas	Rosenthal
Fascell	Livingston	Rostenkowski
Fenwick	Lloyd, Calif.	Rousselot
Findley	Lloyd, Tenn.	Roybal
Fish	Long, La.	Runnels
Fisher	Long, Md.	Russo
Fithian	Lott	Sarasin
Flippo	Luken	Satterfield
Flood	Lundine	Sawyer
Florio	McClory	Scheuer
Flowers	McCloskey	Schroeder
Foley	McCormack	Schulze
Ford, Tenn.	McDade	Sebelius
Forsythe	McEwen	Seiberling
Fountain	McHugh	Sharp
Fowler	McKay	Shuster
Fraser	McKinney	Simon
Frenzel	Madigan	Skelton
Fuqua	Maguire	Skubitz
Gammage	Mahon	Slack
Garcia	Mann	Smith, Iowa
Gaydos	Markey	Snyder
Gephardt	Marks	Solarz
Giaimo	Marriott	Spellman
Gibbons	Mathis	Spence
Gilman	Meyner	St Germain
Ginn	Michel	Staggers
Glickman	Mikulski	Stangeland
Gonzalez	Miller, Calif.	Steers
Gore	Miller, Ohio	Steiger
Gradison	Mineta	Stokes
Grassley	Minish	Stratton
Green	Mitchell, Md.	Studds
Gudger	Mitchell, N.Y.	Stump
Guyer	Moakley	Symms
Hagedorn	Mollohan	Taylor
Hall	Montgomery	Thompson
Hamilton	Moore	Thornton
Hammer-schmidt	Moorhead, Calif.	Traxler
		Treen
Hanley	Moorhead, Pa.	Trible
Hannaford	Murphy, Ill.	Tsongas
Hansen	Murphy, N.Y.	Tucker
Harkin	Murtha	Ullman
Harris	Myers, John	Van Deerlin
Harsha	Natcher	Vander Jagt
Hawkins	Neal	Vanik
Heckler	Nichols	Vento
Hefner	Nix	Volkmer
Heftel	Nolan	Waggonner
Hightower	O'Brien	Walker
Hillis	Oakar	Walsh
Holland	Oberstar	Wampler
Hollenbeck	Obey	Watkins
Holt	Ottinger	Waxman
Holtzman	Panetta	Weiss
Horton	Patten	Whalen
Howard	Patterson	White
Hubbard	Pattison	Whitehurst
Huckaby	Pease	Whitley
Hughes	Pepper	Whitten
Hyde	Perkins	Wilson, Bob
Jacobs	Pickle	Wilson, Tex.
Jeffords	Pike	Winn
Jenkins	Poage	Wirth
Johnson, Calif.	Pressler	Wolff
Johnson, Colo.	Price	Wright
Jones, N.C.	Pritchard	Wydler
Jones, Okla.	Pursell	Wylie
Jones, Tenn.	Quayle	Yates
Kasten	Quillen	Yatron
Kastenmeier	Rahall	Young, Alaska
Kazen	Railsback	Young, Fla.
Kelly	Rangel	Young, Mo.
Kemp	Regula	Young, Tex.
Kildee	Reuss	Zablocki
Kindness	Rhodes	Zeferetti
Kostmayer	Richmond	
Krebs	Rinaldo	

NAYS—4

McDonald	Myers, Gary	Myers, Michael
Murphy, Pa.		

NOT VOTING—70

Ammerman	Carney	Frey
Applegate	Clawson, Del	Goldwater
Armstrong	Conyers	Goodling
Badham	Crane	Harrington
Biaggi	Dickinson	Ichord
Boggs	Diggs	Ireland
Bonker	Downey	Jenrette
Burke, Calif.	Evans, Colo.	Jordan
Burke, Fla.	Evans, Ga.	Keys
Burton, John	Flynt	LaFalce
Caputo	Ford, Mich.	Lehman
Lujan	Nowak	Stanton
McFall	Pettis	Stark
Marlenee	Preyer	Steed
Martin	Quie	Stockman
Mattox	Risenhoover	Teague
Mazzoli	Rudd	Thone
Meeds	Ruppe	Udall
Mikva	Ryan	Walgren
Milford	Santini	Weaver
Moffett	Shipley	Wiggins
Moss	Sikes	Wilson, C. H.
Mottl	Sisk	
Nedzi	Smith, Nebr.	

The Clerk announced the following pairs:

Mr. John L. Burton with Mr. Quie.
Mr. Nowak with Mr. Ruppe.
Mr. Mikva with Mr. Wiggins.
Mr. Jenrette with Mr. Del Clawson.
Mr. Preyer with Mr. Rudd.
Mr. Mazzoli with Mr. Caputo.
Mr. Ichord with Mr. Badham.
Mr. Ryan with Mr. Crane.
Mr. Mattox with Mr. Burke of Florida.
Mr. Evans of Georgia with Mr. Goodling.
Mr. Downey with Mr. Lujan.
Mrs. Burke of California with Mr. Marlenee.
Mr. Evans of Colorado with Mr. Goldwater.
Mrs. Boggs with Mr. Martin.
Mr. Applegate with Mr. Frey.
Mrs. Jordan with Mr. Thone.
Mr. Biaggi with Mr. Dickinson.
Mr. Nedzi with Mr. Stanton.
Mr. Carney with Mrs. Smith of Nebraska.
Ms. Keys with Mr. Steed.
Mr. Udall with Mr. Lehman.
Mr. Sikes with Mr. Stockman.
Mr. Mottl with Mr. Flynt.
Mr. Ford of Michigan with Mr. Bonker.
Mr. Santini with Mr. Shipley.
Mr. Moffett with Mr. Risenhoover.
Mr. Sisk with Mr Teague.
Mr. Stark with Mr. Walgren.
Mr. Weaver with Mr. Meeds.
Mr. McFall with Mr. Harrington.
Mr. LaFalce with Mr. Milford.
Mr. Ammerman with Mr. Conyers.
Mr. Diggs with Mr. Moss.
Mr. Ireland with Mr. Charles H. Wilson of California.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of the conference report just agreed to.

The SPEAKER pro tempore (Mr. DANIELSON). Is there objection to the request of the gentleman from Washington?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2899) entitled "An act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain

actions to determine whether exemptions from certain requirements of that Act should be granted for such actions."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy; and

H.R. 13719. An act to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1974. An act to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purpose; and

S. 3395. An act for the relief of Jan Kutina.

CONFERENCE REPORT ON H.R. 9937, CARSON CITY SILVER DOLLAR

Mr. ST GERMAIN submitted the following conference report and statement on the bill (H.R. 9937), Carson City silver dollars:

CONFERENCE REPORT (H. REPT. No. 95–1806)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9937) having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same.

FERNAND J. ST GERMAIN,
STEPHEN L. NEAL,
CARROLL HUBBARD, Jr.,
BUTLER DERRICK,
DAVID EVANS,
DOUG BARNARD,
BILL GREEN,
Managers on the Part of the House.
ERNEST F. HOLLINGS,
ROBERT MORGAN,
Managers on the Part of the Senate.

JOINT STATEMENT OF MANAGERS

The House bill provides for the sale of Carson City Silver dollars.

The Senate amendment prohibits the reduction or elimination in trade negotiations of duties or import restrictions on certain imported textiles products pursuant to the Trade Act of 1974.

The House receded to the Senate.

FERNAND J. ST GERMAIN,
STEPHEN L. NEAL,
CARROLL HUBBARD, Jr.
BUTLER DERRICK,
DAVID EVANS,
DOUG BARNARD,
BILL GREEN,
Managers on the Part of the House.
ERNEST F. HOLLINGS,
ROBERT MORGAN,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 15, EDUCATION AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I call up the conference report on the bill (H.R. 15) to extend and amend expiring elementary and secondary education programs, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of October 10, 1978.)

The SPEAKER pro tempore. The gentleman from Kentucky (Mr. PERKINS) will be recognized for 30 minutes and the gentleman from Alabama (Mr. BUCHANAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield for a question?

Mr. PERKINS. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I just wonder if the distinguished chairman, the gentleman from Kentucky (Mr. PERKINS) could tell me whether the Senate inserted any amendments that are not germane to the subject matter of the House-passed bill.

Mr. PERKINS. There are no nongermane amendments to the Elementary and Secondary Education Act whatever.

Mr. SEIBERLING. I thank the distinguished chairman. I commend him for the work he has done on this very important bill.

Mr. PERKINS. Mr. Speaker, the conference report on H.R. 15, the Education Amendments of 1978, has been signed by all the members of the conference committee. It represents the work of many members of the committee and especially the work of many members of the Subcommittee on Elementary, Secondary, and Vocational Education, including Congressmen QUIE, FORD, ANDREWS, BLOUIN, SIMON, MOTTL, LE FANTE, WEISS, HEFTEL, CORRADA, KILDEE, MILLER, BUCHANAN, and GOODLING.

This conference report extends through fiscal year 1983 all the major Federal programs of aid to elementary and secondary education, except for the handicapped education program. These programs, which have a present appropriation of approximately $5 billion are also extensively amended.

Basically, the present structure and philosophy of Federal aid in this area is retained by this conference report, namely categorical programs for specific groups and purposes as opposed to unrestricted block grants. However, the conference report attempts to simplify these programs and to cut down on the paperwork involved in administering them. The conference report also proposes several new initiatives and expansions of present programs to meet needs not now being adequately addressed.

I would now like to briefly sketch for the Members the basic provisions of this conference report. My remarks will begin with the largest programs and conclude with the smallest.

TITLE I

The title I compensatory education program is the largest program of aid to elementary and secondary education. It affects almost all school districts in the country and has an appropriation of about $2.7 billion this year. That program was extensively amended by the conference report, but all the amendments either involved the formula, the focus of the program, or the administration of the program.

FORMULA

The title I formula for distributing funds is now based on multiplying the number of poor children in a county by 40 percent of the State's per pupil expenditure for education. The poor children counted are all those below the poverty level using the Orshansky definition of poverty as those children were counted in the 1970 census.

There are also added into this count of children two-thirds of the AFDC children in the county whose families are receiving payments in excess of the current year's level of poverty using the Orshansky index. The State's per pupil expenditure is limited to no more than 120 percent of the national average if it presently exceeds that limit, and it is increased to 80 percent of the national average if the State's expenditure falls below that amount.

The conference report includes three amendments changing this formula. The first amendment increases the number of AFDC children counted by going to a full count of such children, instead of limiting the count to only two-thirds of such children. This amendment would take effect in fiscal 1980 for the basic grants and in fiscal 1979 for the new concentration grants mentioned below.

The second amendment to the formula includes a new so-called concentration provision to focus additional funds on counties with large numbers of poor children. Counties would be eligible if they have 5,000 poor children or if the number of poor children in the county exceeds 20 percent of all of the children. The conference report proposes a new authorization of $400 million the first year for this purpose.

The third change to the formula distributes half of any new appropriations in excess of the fiscal 1979 appropriation level according to the 1975 Survey of Income and Education. This new survey data would be used instead of 1970 census and AFDC data for distributing these new funds among the States, but the present formula would be used for distributing these funds among school districts within the States. The other half of any new appropriations would be distributed using the regular formula with the one change mentioned above, namely a full count of AFDC children instead of the present two-thirds count.

FOCUS OF PROGRAM

The second major purpose of the title I amendments is to deal with the question of whether the program ought to be focused on poor children who are educationally disadvantaged or on any children who are educationally disadvantaged regardless of family income. Presently, funds in the program go to States, to school districts and to schools on the basis of their numbers of poor children; but once within the school building, funds can be used on any children who are educationally disadvantaged.

The conference committee decided to

retain the poverty orientation of the program, and to encourage the States to appropriate their own funds for educationally disadvantaged children not being reached by title I. To achieve this purpose, the conference report authorizes a grant of one extra title I dollar for every $2 of State funds which are appropriated for compensatory programs for educationally disadvantaged children. We hope that through this incentive grant States will help to "fill in" around title I so that all educationally disadvantaged children may be reached with services.

The conference report has also eased somewhat the requirements for choosing title I schools within school districts in order to include those schools which are not ranked as poor schools but which have high numbers or proportions of educationally disadvantaged children. The purpose of this limited amendment is to permit school districts to substitute one or two schools with large numbers of educationally disadvantaged children for poor schools which do not have nearly as many educationally disadvantaged children. School districts may only avail themselves of this option, pursuant to regulations of the Commissioner, if the districtwide advisory council has approved and if the State educational agency has determined that the use of this option will not substantially impair the provision of compensatory education services to educationally deprived, low-income children.

FLEXIBILITY

The third theme of the conference report's title I amendments is to try to ease the administrative complexities in the program. To accomplish this, the conference report rewrites all of the title I statute in order to clarify its provisions and to make it understandable to the lay person. The conference report also tries to spell out more clearly the respective Federal, State, and local responsibilities in administering the program.

The conference report also deletes the very cumbersome reporting presently being required to achieve "minicomparability" for handicapped and bilingual programs and does away with the annual application for assistance and substitutes instead of a 3-year application. Still another amendment permits title I teachers to be used for regular noninstructional duties, such as hall and lunchroom monitoring, as long as the time spent on such duties does not exceed the average for other teachers.

IMPACT AID

In the impact aid programs the conference report includes amendments to increase aid to heavily impacted districts, eliminate the absorption provision, and permit early payments to all impact aid school districts. The conference report also seeks to achieve more accountability for uses of funds in toally federally supported schools—so-called section 6 schools—and to ease the paperwork involved in applying for construction and disaster assistance. In addition, children living in federally assisted low-rent public housing are upgraded so that their payments will be computed exactly as for regular impact aid children.

The conference report also modifies the so-called "tier system" for payments for impact aid in three regards: First, only appropriations equal to the level of 65-percent payments under second-tier entitlements will have to be made, instead of the presently required payments for 100 percent of those entitlements; second, any additional appropriations provided for that tier above the amount needed to make those 65-percent payments must be used to pay school districts a declining 90 percent of the amount they would have otherwise received, and third, any appropriations provided for the second tier over and above the amounts needed to make the 65-percent payments and the 90-percent hold-harmless payments would be used to pay the unsatisfied entitlements remaining in the second tier, pursuant to the provisions of the appropriations acts.

CONSOLIDATED PROGRAMS

The conference report also amends the library and learning resources program—part B of title IV of ESEA—and the support and innovation program—part C of title IV. These amendments remove guidance and counseling from the part B program in order to provide it with separate funding, require funding of innovative compensatory education with new funds, strengthen the provisions for private schoolchildren's participation, and seek to encourage better management of the program.

BILINGUAL EDUCATION

The Bilingual Education Act, title VII of ESEA, is also amended by the conference report. Greater research and experimentation is required and the definition for inclusion of children to participate in the program is made more precise. Parental involvement and private schoolchildren's participation are also more heavily emphasized.

EMERGENCY SCHOOL AID ACT

The Emergency School Aid Act, which is the Federal Government's principal program to encourage integration, is also amended. Greater administrative flexibility is given to the Office of Education, and the categories of eligible school districts are broadened. The Office of Education is also required to follow a strict schedule in determining eligibility for grants and in making payments in order to avoid the unnecessary delays which have plagued the program.

ADULT EDUCATION

The Adult Education Act is extended and school districts are encouraged to broaden their outreach to include more students. Competency in dealing with daily problems is also more heavily emphasized, and research on adult education is upgraded.

MINIMUM COMPETENCY

The conference report also establishes new authority for the Commissioner of Education to make grants to State educational agencies for the implementation of minimum competency programs. Presently, several States have undertaken their own efforts; but the members felt the need to encourage more States to become involved in assuring that their students have certain minimum competencies before they graduate. The conference report, though, makes crystal clear that the Federal Government is not to impose any particular tests on any States or school districts under this authority.

INDIAN EDUCATION

The conference report proposes to increase impact aid payments to school districts for Indian children on the condition that the parents of such children have more of a voice in the educational programs being offered. The Bureau of Indian Affairs would also be reorganized to make more effective the administration of its education programs.

MISCELLANEOUS PROGRAMS

The conference report also revises and extends a number of the smaller Federal education programs. The reading program, the women's program, the community schools program, and the gifted and talented children's program are all upgraded. Administrative flexibility is also increased for HEW under the Special Projects Act; and several new programs are authorized including a new program to encourage disadvantaged high school students to enter the biomedical professions.

EQUALIZATION

The conference report proposes a limited Federal role of data collection and technical assistance to the States in order to assist them in their efforts to achieve a greater equalization of resources for elementary and secondary education. The report also requires the Secretary of HEW, with the assistance of a presidentially appointed advisory panel, to undertake a very comprehensive study to determine the present state of equalization of resources for education, and to determine whether there should be any Federal role in this area. This study will review present Federal programs of aid to education as well as consider the advisability of a new Federal program of general aid.

PAPERWORK CONTROL

The conference report proposes a whole series of amendments to the laws amended by the report in order to cut back on unnecessary paperwork. For instance, 2-, 3-, and even 5-year applications for funding are proposed instead of annual applications. Several reports are eliminated, and attempts are made to conform definitions and uses of terms.

The conference report also trys to deal with the problem of overall control of paperwork throughout the Federal Government. One central coordinating body to be established by the Secretary of HEW is proposed for all paperwork affecting educational institutions. The agency must not approve any unnecessary, duplicative, or excessively detailed requests for paperwork from any Federal agency. All requests for information must be approved by the February 15 preceding the beginning of a school year. Standard definitions and uses of terms are also newly required for all of these reports.

CONCLUSION

Mr. Speaker, this conference report is indeed a comprehensive measure. Its enactment will affect for the better the lives of millions of Americans. I urge its adoption.

TITLE I FORMULA (H.R. 15 CONFERENCE REPORT)

FISCAL YEAR 1979—LEA GRANTS

Children in poverty	Payment rate	Entitlement	Allocation
All children in families below the Federal government's definition of poverty (Orshansky Index) according to the 1970 census. Plus ⅔ of the children in families receiving AFDC payments in excess of the Federal Government's current definition of poverty.	40 percent of the State per pupil expenditure for education but any such expenditure which is below 80 percent of the national average is raised to that amount and any such expenditure in excess of 120 percent of the national average is reduced to that amount.	The total number of children times the payment rate equals a school district's maximum payment.	Each school district's maximum payment is reduced pro-ratably each year according to the level of appropriations provided by Congress, except that no school district can receive less than 85 percent of the previous year's allocation.

FISCAL YEARS 1980 AND THEREAFTER—LEA GRANTS

For all appropriations up through fiscal year 1979 level and 50 percent of funds in excess of 1979 level

Same as fiscal year 1979, except 100 percent of the children in families receiving AFDC payments in excess of the Federal Government's current definition of poverty are counted.	Same as above.	Same as above.	Same as above.

For remaining 50 percent of new appropriations in excess of fiscal year 1979 level

All children from families below 50 percent of the national median income as counted in the 1975 Survey of Income and Education (SIE) for grants to States. Grants to districts are made according to the regular formula each State uses for interdistrict allocations.	Same.	Same.	Same.

FISCAL YEARS 1979 AND THEREAFTER—CONCENTRATION GRANTS

All children counted under regular LEA formula for fiscal year 1980 base appropriations, except that 100 percent of AFDC children are counted for fiscal year 1979 and thereafter for purposes of the concentration money.	Payments are made to counties with poor children in excess of 5,000, or where over 20 percent of the total number of children in the county are poor.	A county's allocation is determined by multiplying the number of children in excess of 5,000 or 20 percent times the regular payment rate.	County allocation is divided among school districts' within county according to a weighted system, which gives the greatest weight to districts with 20 percent or more poor children.

Mr. BUCHANAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with my colleague and distinguished chairman, the gentleman from Kentucky (Mr. PERKINS) in urging that the House adopt the conference report on H.R. 15, the Education Amendments of 1978.

The bill which has been agreed upon by the conferees is perhaps the largest and most comprehensive bill dealing with elementary and secondary education which the Congress has ever considered. It literally touches upon children in every school district in the Nation, in all of the territories and possessions, on every Indian reservation and in the 267 schools around the world operated by the Department of Defense.

The centerpiece of this legislature, as it has been of Federal policy toward elementary and secondary schools for the past 13 years, is title I of the Elementary and Secondary Education Act, providing aid to school districts for the education of disadvantaged children. H.R. 15 contains a major rewrite of that act; a rewrite intended to clarify the operation and administration of title I. In addition, the revisions in title I are designed to permit greater coordination between title I and State compensatory education programs.

H.R. 15 contains 15 titles, the first 9 of which are amendments to the Elementary and Secondary Education Act of 1965. One of the outcomes of the conference is that many of the separate programs affecting elementary and secondary schools which have been scattered in a number of separate acts are now brought together under ESEA. This should make it much easier for people at the local and State level to keep track of legislative changes in these various programs.

Personally, I am particularly pleased with the inclusion in title III of a program to aid economically disadvantaged young people in obtaining an education in the biological and medical sciences and the extension of title IX of the Women's Educational Equity Act. They are both valuable programs which are targeted at the needs of a specific population with special needs. I urge the President to seek adequate appropriations for these programs and for my colleagues on the Appropriations Committees to place these two programs among their top priorities for funding.

I would also like to note that my colleague, the gentleman from Minnesota (Mr. QUIE) was the leader in seeking new legislation to deal with the unique problem faced by Native Americans and Alaska Native children in obtaining an adequate education in both Bureau of Indian Affairs and public schools. The provisions contained in title XI are truly historic with regard to the education of Indian children. The gentleman from Iowa (Mr. BLOUIN) who chaired the unit of the committee responsible for title XI deserves particular recognition for his sound and forceful leadership.

With respect to BIA schools, a particularly important provision is that which gives direct authority over all education policy formulation and implementation to the Director of the Office of Indian Education. This major policy change will permit long needed coordination of policy while permitting increased local autonomy in many areas, including the hiring of teachers.

Another major title in H.R. 15, title XIV was the product of the gentleman from Illinois (Mr. ERLENBORN) in cooperation with the gentleman from Pennsylvania (Mr. DENT). Title XIV provides a much-needed statutory framework for the schools operated overseas for military overseas for military dependent children by the Department of Defense.

Republican members of the committee made major contributions to the legislation in many, many ways in addition to those cited above. Mr. GOODLING authored the preschool partnership program in title XII and the guidance and counseling provision in title IV. Mr. ERLENBORN sponsored the population education program in title III. Mr. JEFFORDS made substantial contributions to the title I formula, to the provisions of title VII regarding bilingual education and to the Environmental Education Act. Mr. PURSELL authored the gifted and talented program in title IX.

Of course, as we have come to expect over the years I have served in this body, the most significant contributions from this side of the aisle came from the distinguished ranking minority member of the committee, the gentleman from Minnesota (Mr. QUIE). His influence, ideas, and leadership are contained in nearly every title of this bill. We will all miss the very major role that the gentleman has played in shaping the education laws of this Nation for the better. His incisiveness, wisdom, and detailed knowledge of education programs have served the Nation well. It is my hope that he will have the opportunity to serve the people of the State of Minnesota as their chief executive.

In this bill alone, the distinguished ranking minority member has been responsible for several major amendments shaping title I, for a significant portion

of title II, major parts of title III, several elements in title IV, VII, and IX and as mentioned earlier, much of title XI.

There are a number of elements of the bill which I believe may require some additional clarification. As the minority floor manager of the conference report I would like to make several comments.

First, the revisions in selecting title I schools which are contained in section 122 represent a major step in the direction of recognizing that children with educational needs should be served wherever they reside. The concept of a concentration of needy children is still maintained but we are moving toward the notion that educational need is on an equal standing with concentrations of poor children in determining where the need for compensatory programs exists.

With respect to the new title II of ESEA regarding basic skills, it should be noted that the provision of that title does keep in place the forward thrust of the right to read program. The augmentation of that program to encompass the other basic skills of mathematics and oral and written communication should in no way hamper State efforts to install successful reading programs.

The consolidation of State administrative funding in a new title V is a significant step forward. I am supportive of the flexibility that it will give to State educational agencies in dealing with Federal programs in a more rational way. I am hopeful that States will begin immediately to consolidate staff to make better use of the personnel resources in SEA's. I believe that the safeguards in the bill are such that States can be assured that title V will operate as designed and that deconsolidation is a very, very remote possibility. Just as the title IV consolidation has worked well, once fully implemented, the same will be true of title V.

Mr. Speaker, title VII of the Education Amendments of 1978 comprises the important topic of bilingual education. The conferees worked very hard to come to an agreement that was based on the common ground of the House and Senate positions. That common ground is the fact that the goal of bilingual education programs supported under this title is to help children become able to function and learn successfully in a regular English-speaking classroom. Bilingual programs should not constitute a separate, segregated school-within-a-school. Rather bilingual programs should help students become literate in English as quickly as possible. To this end, H.R. 15 incorporates three stipulations to which all bilingual education programs must adhere: Criteria of eligibility for services, a requirement that each child be evaluated at least once every 2 years to determine if there is a continued need for services, and a stipulation that assistance under title VII may be limited to 5 years if a school district cannot prove a continuing influx of non-English-speaking children, or great financial need.

The single most important criterion for eligibility set forth in H.R. 15 is the definition of children in need of services as those who would otherwise be denied "the opportunity to learn successfully in an English-language classroom."

Moreover, the conferees stipulated that services should first be provided to those most in need, based on the above criterion. This language means that children whose English skills are adequate to the requirements for successful learning in a regular classroom cannot remain in bilingual classes, but must move into the mainstream school program.

The requirement for a 2-year evaluation of every child receiving bilingual services will help insure that children who have progressed to the point of being able to function in English-speaking classrooms will not continue to be segregated into this special and expensive program, but will be able to join other children in regular classrooms.

Finally, the 5-year limitation on assistance, even though it contains exceptions and qualifications, puts school districts on notice that they must work to achieve the original goal of title VII, which was to assist school systems in building the capacity to deal with students in need of bilingual services without continued Federal support. Again, such a limitation emphasizes the fact that title VII is designed to help move students into the regular school program; it is not a means for establishing a parallel school system bent only on serving a small group.

Finally, I would note that although the conferees did drop from the bill language which had been contained in the House bill regarding the confidentiality of research studies that fact should not be interpreted as anything more than a recognition that this issue is now being determined by the courts (Forsham against Califano) and that there was in all likelihood no further need for congressional action.

I am also very pleased with the steps which have been taken in this bill to reduce paperwork. We still have a long way to go but we are making significant strides in cutting redtape for schools.

In summary, H.R. 15 is a good bill. It deserves the support of the House.

Mr. PERKINS. If the gentleman will yield, Mr. Speaker, I want to say that the gentleman from Minnesota (Mr. QUIE), worked hand in glove with the members of the committee all the way in developing this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I thank the gentleman for yielding.

I want to commend the conference committee on the very fine conference report they have brought before us. I rise in support of it.

I would like to comment on the formula. The gentleman from Michigan (Mr. FORD), myself, and others labored hard to build a more equitable formula. We failed by one vote in committee from totally reforming the formula, especially to use up-dated data. We got a compromise that gave us that new formula but only on new money. In conference committee we were forced by one vote to accept a formula relating to only one-half of that new money. It did not make me happy, but it was a start. We must look to the future for true equitable reform.

● Mr. BIAGGI. Mr. Speaker, as the ranking New York member of the House Education and Labor Committee I rise to lend my full support to the conference report which is if I may coin a phrase, the centerpiece of this Nation's policy on elementary and secondary education.

We have taken, amended, extended, but above all improved the Elementary and Secondary Education Act by virtue of this legislation. Many hours went into this legislation—compromises as always were made but the final product we can all be proud of.

I will limit my comments to a selected few portions of the legislation. I was successful in sponsoring an amendment which will provide for the first time Federal funds exclusively for establishing or maintaining programs to promote school safety and reduce crime. My amendment provides $15 million for 15 local educational agencies for this purpose. Criteria in the awarding of the funds would be based on the extent and impact of crime as well as whether an LEA had an ongoing school safety plan in effect. Other factors would include the financial need of the agency.

Funds under my amendment could be used to hire additional professional personnel, develop administrative guidelines to assure better reporting of school crime as well as dissemination of information to parents and others in the community about the school safety plan. No more than 10 percent of the funds awarded to any LEA could be used for the purchase or installation of equipment.

I am gratified that the Senate concurred with the House on this very important point. In many respects my amendment will be a type of demonstration program. By limiting the number of eligible school districts we provide ourselves with the means to conduct thorough evaluations of the viability of said programs. I point out the fact that my amendment contains specific language which calls on the Commissioner of Education to "take into full account geographical considerations in the determination of 15 agencies."

I have discussed the problem of school crime on the floor before in an effort to gain support for a legislative remedy. Tonight, I do not have to review the problem because we have enacted the first step on the road to a solution.

I intend to closely monitor the implementation of my amendment to insure it achieves its intentions, namely, to make our schools safer for learning instead of continuing to allow them to be havens for criminals.

I also call attention to the conference agreement on the extension of the ethnic heritage studies program. I sponsored an amendment in the committee extending the program for the full 5 years, the Senate language only extended the program for 4. The conference agreed to the House language and this most worthwhile program now has new life.

There are numerous other important

features in this legislation. I will not list them all. I will highlight one very essential thing H.R. 15 has accomplished. It has reformed what has been a long-standing bias directed against large city school districts in the distribution of title I funds. H.R. 15 in addition to establishing a new so-called concentration formula to provide extra funds to heavily populated districts also increases from 75 to 100 percent the numbers of AFDC children counted when determining title I eligibility. This means that title I funds will be directed as they should to help the most needy of children.

This legislation does indeed do justice to the original Elementary and Secondary Education Act. It is legislation based in logic and with the best interest of the American child. We are demonstrating our support for the rights of our children to be educated—to have opportunity later in life. This conference report merits your support and I urge it.●

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky

There was no objection.

Mr. PERKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. DAVIS) there were—ayes 133, noes 9.

Mr. DAVIS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 349, nays 18, not voting 63, as follows:

[Roll No. 936]

YEAS—349

Abdnor	Benjamin	Burke, Mass.
Addabbo	Bennett	Burlison, Mo.
Akaka	Bevill	Burton, Phillip
Alexander	Bingham	Butler
Ambro	Blanchard	Carr
Anderson, Calif.	Blouin	Carter
	Boggs	Cavanaugh
Anderson, Ill.	Boland	Cederberg
Andrews, N.C.	Bolling	Chappell
Andrews, N. Dak.	Bonior	Chisholm
	Bowen	Clausen, Don H.
Annunzio	Brademas	Clay
Ashley	Breaux	Cleveland
Aspin	Breckinridge	Cochran
AuCoin	Brinkley	Cohen
Bafalis	Brodhead	Coleman
Baldus	Brooks	Collins, Ill.
Barnard	Broomfield	Conable
Baucus	Brown, Calif.	Conte
Beard, R.I.	Brown, Mich.	Conyers
Beard, Tenn.	Broyhill	Corcoran
Bedell	Buchanan	Corman
Beilenson	Burgener	Cornell
Cotter	Jenkins	Pike
Coughlin	Johnson, Calif.	Pressler
Cunningham	Johnson, Colo.	Preyer
D'Amours	Jones, N.C.	Price
Daniel, Dan	Jones, Okla.	Pritchard
Daniel, R. W.	Jones, Tenn.	Pursell
Danielson	Jordan	Quayle
Davis	Kasten	Quillen
de la Garza	Kastenmeier	Rahall
Dellums	Kazen	Railsback
Dent	Kemp	Rangel
Derwinski	Keys	Regula
Devine	Kildee	Reuss
Dicks	Kindness	Rhodes
Dingell	Kostmayer	Richmond
Dodd	Krebs	Rinaldo
Drinan	Krueger	Roberts
Duncan, Oreg.	LaFalce	Robinson
Duncan, Tenn.	Lagomarsino	Rodino
Early	Latta	Roe
Eckhardt	Le Fante	Rogers
Edgar	Leach	Roncalio
Edwards, Ala.	Lederer	Rooney
Edwards, Calif.	Lent	Rose
Edwards, Okla.	Levitas	Rosenthal
Eilberg	Livingston	Rostenkowski
Emery	Lloyd, Calif.	Roybal
English	Lloyd, Tenn.	Runnels
Erlenborn	Long, La.	Russo
Ertel	Long, Md.	Santini
Evans, Del.	Lott	Sarasin
Evans, Ind.	Luken	Sawyer
Fary	Lundine	Scheuer
Fascell	McClory	Schroeder
Fenwick	McCloskey	Schulze
Findley	McCormack	Seiberling
Fish	McDade	Sharp
Fisher	McEwen	Shuster
Fithian	McHugh	Simon
Flippo	McKay	Skelton
Flood	McKinney	Skubitz
Florio	Madigan	Slack
Flowers	Maguire	Smith, Iowa
Foley	Mahon	Snyder
Ford, Mich.	Mann	Solarz
Ford, Tenn.	Markey	Spellman
Forsythe	Marks	Spence
Fowler	Marriott	St Germain
Fraser	Martin	Staggers
Frenzel	Mathis	Stangeland
Fuqua	Mazzoli	Stanton
Gammage	Meeds	Steers
Garcia	Meyner	Steiger
Gaydos	Michel	Stokes
Gephardt	Mikulski	Stratton
Giaimo	Milford	Studds
Gibbons	Miller, Calif.	Stump
Gilman	Mineta	Taylor
Ginn	Minish	Thompson
Glickman	Mitchell, Md.	Thornton
Gonzalez	Mitchell, N.Y.	Trible
Goodling	Moakley	Tsongas
Gore	Moffett	Tucker
Gradison	Mollohan	Ullman
Grassley	Montgomery	Van Deerlin
Green	Moore	Vander Jagt
Gudger	Moorhead, Calif.	Vanik
Guyer		Vento
Hagedorn	Moorhead, Pa.	Volkmer
Hall	Murphy, Ill.	Walker
Hamilton	Murphy, N.Y.	Walsh
Hammer-schmidt	Murphy, Pa.	Wampler
	Murtha	Watkins
Hanley	Myers, Gary	Weiss
Hannaford	Myers, John	Whalen
Harkin	Myers, Michael	White
Harris	Natcher	Whitehurst
Harsha	Neal	Whitley
Hawkins	Nichols	Whitten
Heckler	Nix	Wilson, Bob
Hefner	Nolan	Wilson, Tex.
Heftel	Nowak	Winn
Hightower	Oakar	Wirth
Hillis	Oberstar	Wolff
Holland	Obey	Wright
Hollenbeck	O'Brien	Wydler
Holtzman	Ottinger	Wylie
Horton	Panetta	Yates
Howard	Patten	Yatron
Hubbard	Patterson	Young, Alaska
Huckaby	Pattison	Young, Fla.
Hughes	Pease	Young, Mo.
Hyde	Pepper	Zablocki
Jacobs	Perkins	Zeferetti

NAYS—18

Archer	Dornan	Poage
Ashbrook	Hansen	Rousselot
Bauman	Holt	Satterfield
Brown, Ohio	Kelly	Symms
Burleson, Tex.	McDonald	Treen
Collins, Tex.	Miller, Ohio	Waggonner

NOT VOTING—63

Ammerman	Flynt	Rudd
Applegate	Fountain	Ruppe
Armstrong	Frey	Ryan
Badham	Goldwater	Sebelius
Biaggi	Harrington	Shipley
Bonker	Ichord	Sikes
Burke, Calif.	Ireland	Sisk
Burke, Fla.	Jenrette	Smith, Nebr.
Burton, John	Leggett	Stark
Caputo	Lehman	Steed
Carney	Lujan	Stockman
Clawson, Del	McFall	Teague
Cornwell	Marlenee	Thone
Crane	Mattox	Traxler
Delaney	Mikva	Udall
Derrick	Moss	Walgren
Dickinson	Mottl	Waxman
Diggs	Nedzi	Weaver
Downey	Pettis	Wiggins
Evans, Colo.	Quie	Wilson, C. H.
Evans, Ga.	Risenhoover	Young, Tex.

The Clerk announced the following pairs:

Mr. Biaggi with Mr. Quie.
Mr. Traxler with Mr. Del Clawson.
Mr. Weaver with Mr. Badham.
Mr. Sisk with Mr. Dickinson.
Mr. Ryan with Mr. Crane.
Mr. Lehman with Mr. Rudd.
Mr. Mattox with Mr. Caputo.
Mr. Mikva with Mr. Burke of Florida.
Mr. Evans of Colorado with Mr. Sebelius.
Mr. Derrick with Mr. Ruppe.
Mr. Nedzi with Mr. Wiggins.
Mr. Cornwell with Mr. Shipley.
Mr. John L. Burton with Mr. Stockman.
Mr. Downey with Mr. Teague.
Mrs. Burke of California with Mr. Steed.
Mr. Delaney with Mr. Flynt.
Mr. Bonker with Mrs. Smith of Nebraska.
Mr. Applegate with Mr. Frey.
Mr. Carney with Mr. Stark.
Mr. Diggs with Mr. Goldwater.
Mr. Ammerman with Mr. Jenrette.
Mr. Charles H. Wilson of California with Mr. Marlenee.
Mr. Udall with Mr. Thone.
Mr. Sikes with Mr. Lujan.
Mr. Ichord with Mr. Leggett.
Mr. Fountain with Mr. Mottl.
Mr. Evans of Georgia with Mr. Harrington.
Mr. Ireland with Mr. Moss.
Mr. Waxman with Mr. Walgren.
Mr. McFall with Mr. Risenhoover.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DANIELSON). Without objection, a motion to reconsider is laid on the table.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object. I object to laying the motion to reconsider on the table.

The SPEAKER pro tempore. Objection is heard.

Does the gentleman from Oklahoma (Mr. EDWARDS) move to lay the motion to reconsider on the table?

Mr. EDWARDS of Oklahoma. No, Mr. Speaker.

Mr. PHILLIP BURTON. Mr. Speaker, I move to lay the motion to reconsider on the table.

The SPEAKER pro tempore. The question is on the motion to lay on the table offered by the gentleman from California (Mr. PHILLIP BURTON).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count. Two hundred sixty-six Members are present, a quorum.

So the motion to lay on the table was agreed to.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7577) entitled "An act to amend the Economic Opportunity Act of 1964, and for other purposes."

The message also announced that the Senate agrees to the amendments of the House with amendments to a bill of the Senate of the following title:

S. 1829. An act to provide for the establishment of the Jean Lafitte National Historical Park and Preserve in the State of Louisiana, and for other purposes.

CONFERENCE REPORT ON H.R. 12467, REHABILITATION, COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

Mr. BRADEMAS. Mr. Speaker, I call up the conference on the bill (H.R. 12467) a bill to amend the Rehabilitation Act of 1973 and the Developmental Disabilities Services and Facilities Construction Act.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of Oct. 12, 1978.)

The gentleman from Indiana (Mr. BRADEMAS) will be recognized for 30 minutes, and the gentleman from Vermont (Mr. JEFFORDS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. BRADEMAS).

Mr. BRADEMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after negotiations in conference between the Committee on Human Resources of the other body and the Committees on Education and Labor and on Interstate and Foreign Commerce on H.R. 12467, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, we have reached an agreement which is embodied in the conference report now under consideration.

The bill, H.R. 12467, as agreed to by the conference committee would amend both the Rehabilitation Act of 1973, which is under the jurisdiction of the Committee on Education and Labor, and the Developmental Disabilities Services and Facilities Construction Act, which is under the jurisdiction of the Committee on Interstate and Foreign Commerce.

Let me address the provisions of the conference report on H.R. 12467 amending the Rehabilitation Act of 1973 before yielding to my distinguished colleague from Florida (Mr. ROGERS), for an explanation of the bill's amendments to the Developmental Disabilities Services and Facilities Construction Act.

Mr. Speaker, I want first to express appreciation for the efforts of the members of the committee who worked so hard to bring this matter to a successful resolution.

In particular, Mr. Speaker, I should like to thank the distinguished chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS) and the distinguished ranking minority member of the Education and Labor Committee (Mr. QUIE) for their important contributions to this bill.

Mr. Speaker, I should also like to express my appreciation for the fine work done by the members of the Subcommittee on Select Education who served as conferees on this measure, Mr. BEARD of Rhode Island, Mr. MILLER of California, Mr. KILDEE, Mr. HEFTEL, Mr. HAWKINS, Mr. BIAGGI, and Mr. JEFFORDS and Mr. ERLENBORN, who is not a member of the subcommittee.

I would be remiss, Mr. Speaker, if I did not also thank those Senate members of the conference committee, particularly Mr. RANDOLPH, who has for many years been a great champion of handicapped persons in our country, Mr. WILLIAMS, Mr. KENNEDY, Mr. CRANSTON, Mr. EAGLETON, Mr. HATHAWAY, Mr. SCHWEIKER, Mr. JAVITS, Mr. STAFFORD, and Mr. HATCH.

The conference report, Mr. Speaker, is similar in many respects to H.R. 12467, the Comprehensive Rehabilitation Services Amendments of 1978, which the House passed on May 16 by an overwhelming margin of 382 to 12.

The conference agreement would extend the Rehabilitation Act of 1972 for 4 more fiscal years and add several new programs to the act. The House bill had extended the act for 5 years. Total authorizations in addition to necessary sums would be $1.052 billion for fiscal year 1979, $1.245 billion for fiscal year 1980, $1.410 billion for fiscal year 1981, and $1.282 billion for fiscal year 1982.

Total authorizations in addition to necessary sums over the 4 years would be $4.989 billion.

Let me just add in referring to authorizations that the Senate version of H.R. 12467 was a 3-year bill. Its total authorizations were $3.735 billion.

The House bill provided for a 5-year reauthorization of the Rehabilitation Act of 1973 with a permanent authorization for the basic State vocational rehabilitation program. Total authorizations in the House bill for 5 years were $6.925 billion.

The conference report, therefore, contains authorizations $1.936 billion below what the House bill would have provided over that 5-year period and $573 million below what the House bill would have provided over the same 4-year period.

Mr. Speaker, let me now address the major features of the conference report which relate to the Rehabilitation Act. There are two provisions of paramount importance which I should like to discuss in some detail.

NATIONAL INSTITUTE OF HANDICAPPED RESEARCH

The conference report, like the House bill, would establish a National Institute of Handicapped Research within the Department of Health, Education, and Welfare.

This Institute would be headed by a director appointed by the President and confirmed by the Senate. This is as proposed in the House bill.

The position of the director would be coequal with both the status and the responsibilities of the Commissioner of the Rehabilitation Services Administration.

The responsibilities which would be assigned to the director include administering the research and training centers, the rehabilitation engineering centers, and the various research grants and contracts authorized under the Rehabilitation Act. These responsibilities can be briefly characterized as conducting or providing for demographic studies; basic and applied research in medical, vocational, and independent living rehabilitation; and development of new procedures and technological devices to assist individuals with disabling defects, diseases and injuries to live and work more independently.

In fulfilling these responsibilities, the director, through the Institute, would be required to identify those research activities in medicine, genetics, bioengineering, rehabilitation, communications, or whatever discipline as appropriate which hold promise of improving the lives of persons with disabilities. Having identified these activities, the director, through the Institute, would be required to develop a long-range plan for research to improve the lives of handicapped persons. This plan would be developed in consultation with handicapped individuals, rehabilitation professionals, the proposed National Council on the Handicapped, and Federal officials responsible for research programs.

In regard to officials of other Federal agencies conducting research, this legislation proposes a special responsibility. Any Federal entity proposing to establish projects related to the Rehabilitation Act would have to consult with the director of the institute before establishing the projects and provide the director with prior opportunity to comment on these projects. This consultation would be extended to the director as the head of a proposed Interagency Committee on Handicapped Research within the Federal Government.

For the expenses and special studies of this Institute for each of the fiscal years 1979 through 1982, the conference report would authorize such sums as necessary. For research activities under the direction of the institute, the conference report would authorize $50 million for fiscal year 1979, $75 million for fiscal year 1980, $90 million for fiscal year 1981, and $100 million for fiscal year 1982.

Mr. Speaker, the responsibilities of the National Institute of Handicapped Research described in this legislation are so broad that they must be carried out by highly qualified research professionals with wide experience in the medical, psychological, sociological, rehabilitative and, I might add, environmental aspects of disability. The director himself must combine all these qualities to be able to speak authoritatively with his peers in

the private as well as public scientific communities. His staff should not be primarily bureaucratic in orientation. The director would have special authority to hire and compensate staff exempt from civil service classification law. This authority would permit the institute to evolve the kind of special staffing patterns which other outstanding research and development agencies such as the National Science Foundation and the National Institutes of Health have found so successful in attracting outstanding researchers. For example, this exemption would allow distinguished scholars and researchers whose permanent career commitments are to universities or research centers to serve at the institute on a short-term basis.

The institute would be charged with the delicate task of planning and implementing research and development strategies designed to help solve the critical problems relating to disability. Success in carrying out this responsibility would depend in large measure on the ability of the institute to enlist the assistance of exceptionally talented individuals, whose special expertise can be brought to bear in new ways on disability problems. A variety of special personnel arrangements will be needed to attract such people on a noncareer basis. Some would work on short-term task forces, some would plan programs and return to the field to implement them, some would conduct inhouse research for a specified time. Effective research and development require the presence of people not always easily recruited to Government service: First rate, highly creative researchers.

Mr. Speaker, let me at this point compliment the efforts of our distinguished colleague, the Honorable OLIN E. TEAGUE, Democrat of Texas, who as chairman of the Committee on Science and Technology, made a valuable contribution to this effort by establishing a panel within his committee during the last Congress. That panel was most supportive of the concept of a National Institute for Handicapped Research.

Let me also express my appreciation to Dr. Howard Rusk, whose outstanding leadership on behalf of the handicapped is well known, for the encouragement he gave to the creation of the institute.

Many others have also played a significant role and I would like to express my appreciation to them.

Mr. Speaker, permit me to interject a personal note in this discussion for I am particularly pleased and proud that the conferees have accepted the kind of high-level and independent research institute on disability which, as chairman of the Subcommittee on Select Education, I have been seeking to establish for well over 5 years.

Over the years I have been, to state it mildly, dismayed by the performance of the Rehabilitation Services Administration in promoting and upgrading research. I recall vividly the hearings conducted by the subcommittee nearly 5 years ago on future directions on rehabilitation. Some of the most distinguished researchers in the Nation, persons who have devoted their lives to discovering new treatments and technologies to ameliorate disabilities, testified before the subcommittee. The witnesses demonstrated with convincing detail how devices, technological adaptations, and therapies of potential benefit to the handicapped had been neither identified nor utilized by the rehabilitation profession.

Mr. Speaker, it is my deep conviction that the NIHR will serve to upgrade research affecting disabled individuals, coordinate research throughout the Federal Government, improve the scientific base of rehabilitation, improve the skills and knowledge of rehabilitation professionals in the most modern technology available, contribute to better analysis and planning in the rehabilitation field, and in short, put research and development in the field of the handicapped on a more equitable standing with the best of research in the fields of medicine, engineering, and education.

Mr. Speaker, having advocated the creation of a National Institute of Handicapped Research for many years, I am pleased that Congress is now about to take this step which I believe will prove to be one of the most important developments in the history of rehabilitation. In embarking upon a national effort to apply the latest scientific knowledge to improve the lives of 36 million disabled Americans, this Nation would enter an exciting frontier in human development. On tomorrow's side of this frontier the treatments of disabilities will have advanced so far that the blind will see, the deaf will hear, and the crippled will walk.

NATIONAL COUNCIL ON THE HANDICAPPED

Mr. Speaker, the conference report, like the House bill, would establish a National Council on the Handicapped. This 15-member Council would be comprised of rehabilitation professionals, researchers, and persons responsible for delivering rehabilitation services and at least five handicapped persons. All members would be appointed by the President.

The Council would participate in developing policy, reviewing programs as well as advising and making recommendations with regard to the activities of both the National Institute of Handicapped Research and the Rehabilitation Services Administration.

Importantly, this Council would have authority to review and evaluate all Federal programs, policies, and activities affecting handicapped individuals and then to make recommendations to the President and Congress.

Mr. Speaker, I would like to stress that in appointing the members of this Council, the President should seek highly qualified individuals with a wide knowledge of the problems facing the handicapped. Attracting such individuals to service on the Council is the surest guarantee that the Council will be able to fulfill its important responsibilities in providing advice and recommendations on research and vocational rehabilitation services.

Mr. Speaker, this Council would link the research activities of the National Institute on Handicapped Research with the vocational rehabilitation and independent living services administered by the Rehabilitation Services Administration. In so doing, the Council would involve the constituents of these programs and handicapped persons in a strong partnership which could improve these programs as well as all Federal programs affecting handicapped individuals.

VOCATIONAL REHABILITATION

Mr. Speaker, the next feature of the report which I should like to highlight is the State-Federal vocational rehabilitation program. This program is the core of the Rehabilitation Act. It provides Federal funding to cover 80 percent of the costs of providing rehabilitation services and training and other services to assist handicapped individuals in preparing for and obtaining employment.

I might add that this is a 58-year-old program which has benefited both the handicapped and the Nation by assisting handicapped individuals to become gainfully employed and not to have to rely on income maintenance programs.

Next, it should be stressed that expenditures for vocational rehabilitation are cost-effective. By assisting handicapped individuals to be gainfully employed and not have to rely on income maintenance payments, the program not only reduces Federal expenditures on other programs, but generates new tax revenues through the income taxes of newly employed handicapped individuals.

Indeed, several cost-benefit analyses of the vocational rehabilitation program have been conducted. Although these differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1.

Furthermore, the total annual earnings of individuals rehabilitated in fiscal year 1976, for example, are estimated at $1.347 billion—a net increase of $1.101 billion over their earnings before they entered the program.

Mr. Speaker, the conference report reauthorizes this program for 4 years. The authorizations for fiscal year 1979 would be $808 million. Authorizations in the following 3 years would be based on the fiscal year 1979 authorization level adjusted to reflect changes in the Consumer Price Index. These authorizations so adjusted for costs of living, however, would not exceed $880 million in fiscal year 1980, $945 million in fiscal year 1981, and $972 million in fiscal year 1982.

I might add that the conference report changes the method of allocating Federal funds to the States for vocational rehabilitation. Presently, these funds are allocated on the basis of the Hill-Burton formula.

Under the conference agreement, 50 percent of the new moneys for the basic State grant program would be allocated on the basis of the Hill-Burton formula without the squaring factor on State per capita income.

Mr. Speaker, let me address now some of the other changes which I feel will greatly improve the delivery of services to the handicapped.

First, the conference agreement requires States to establish information and referral programs in order that handicapped individuals may better know where to obtain the services they may require. This effort can turn out to be one of the most innovative provisions of this bill.

Second, the conference report requires States to submit 3-year rather than annual plans.

Third, it requires States to insure that all facilities used in vocational rehabilitation are in fact accessible to the handicapped.

COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

Mr. Speaker, let me turn now to the other major provision of this conference report.

First, the conference report, like the House bill, would establish a new program of comprehensive services for independent living for the handicapped. These programs would be administered through the State rehabilitation agencies and would provide a variety of services necessary to allow handicapped individuals to live independently.

Presently, many severely disabled persons, both young and old, may not be receiving the kind of services they need to assist them in avoiding institutionalization. The conference report attempts to rectify this problem by permitting the delivery of services to them—such as homemaker, transportation, special training, and other services—which they may not receive elsewhere.

In addition to these State programs, the conference report provides for the establishment and operation of centers for independent living and the development and expansion of services to older blind individuals.

Total authorizations for these three independent living programs contained in the conference report are $80 million for fiscal year 1979, $150 million for fiscal year 1980, $200 million for fiscal year 1981 and such sums as necessary for fiscal year 1982.

Mr. Speaker, I would like to stress at this time that the concept of independent living rehabilitation for handicapped individuals is not a new one. It is an approach which has been tested, implemented, and proven effective. Many State rehabilitation agencies have developed and provided such services through State funds for several years. I, therefore, neither view the authority for independent living services contained in the conference report as model project authority nor do I believe that these programs should be funded at a model project level.

EMPLOYMENT OPPORTUNITIES

Second, the conference report, like the House bill, would create a community service employment program for handicapped individuals. This program would be administered by the Department of Labor and would help in reducing the high rate of unemployment of handicapped Americans.

This provision is one of the most significant additions to the Rehabilitation Act.

Under this new title, the Secretary of Labor would be authorized to establish a community service employment program—similar to that established under the Older Americans Act for older Americans—for handicapped individuals.

In addition, the conference report, like the House bill, would expand on the projects with industries authority which the 1973 act mandated and would expand this authority in order to provide on-the-job training and job placement in private industry.

Incentives would be given industry to provide work opportunities to handicapped individuals.

In addition, the bill would create a new program to assist handicapped individuals in establishing their own businesses.

Authorizations for the community service employment program contained in the conference report are $35 million for fiscal year 1979, $50 million for fiscal year 1980, $75 million for fiscal year 1981, and $100 million for fiscal year 1982.

The conference report also contains authorizations of such sums as may be necessary for each of 4 fiscal years for the projects with industries and business opportunities programs.

Mr. Speaker, so often after vocational rehabilitation a handicapped person faces dim employment prospects and difficult choices. The available employment opportunities may be incommensurate with his new training and abilities. The opportunities may offer income below what could be received through supplemental security income or social security disability insurance. The handicapped person then faces the difficult choice of relinquishing the financial support which has enabled him to survive and care for his needs and those of his family.

The proposed pilot community service employment authority would take an innovative step in removing this disincentive to employment. The authority would encourage participants in these job programs to work their way out of dependence by allowing them to retain their supplemental security income or disability insurance benefits during the short course of their employment. I might add that in order to prevent abuse of this provision the conference agreement allows the Secretary to make a case by case determination. This provision would also make it possible to monitor and learn from the experiences of handicapped individuals in these projects. These experiences could be helpful in formulating more rational Federal policies to remove these and other employment disincentives for all handicapped persons.

Mr. Speaker, these employment programs are sorely needed. For several reasons, which I should like to cite, they should be adequately funded.

First, unemployment among handicapped persons is a serious problem. A 1972 "Survey of the Disabled," conducted by the Social Security Administration, revealed that 27 percent of the disabled were unemployed.

Second, unfortunately, after rehabilitation, the jobs may not be available.

Third, our public employment programs do little in ameliorating this problem. For example, of all the participants in the titles I, II, and VI Comprehensive Employment and Training Act programs for fiscal year 1977, only about 4 percent were disabled.

Fourth, many employers in our Nation are Federal contractors. As such they are obligated to comply with the provisions of section 503 of the Rehabilitation Act. This section requires that any firm which has a Federal contract in excess of $2,500 take affirmative action in hiring the handicapped. The proposed expansion in the projects with industries program and its funding levels would greatly assist these Federal contractors in fulfilling their legal obligations by making Federal funds available to these contractors for training and hiring handicapped persons.

There is one final point I should like to stress. The jobs which would be created by the community service employment, the projects with industries, and the business opportunities programs would not segregate handicapped individuals in jobs paying subminimum wages. In fact, all of these programs would contribute to their integration into the mainstream of the American economy. Handicapped persons would be working alongside able-bodied persons in industries. The handicapped persons would be operating their own businesses. They would be working to improve their communities in a wide variety of ways.

In conclusion, these employment programs would have little difficulty in finding willing participants. The programs would most certainly begin to meet an overwhelming need for more employment opportunities for the handicapped.

COMPREHENSIVE REHABILITATION CENTERS

Third, the conference report includes authority contained in the House bill authorizing grants to State vocational rehabilitation agencies to establish and operate comprehensive rehabilitation centers. Such centers would provide a broad range of services to handicapped persons, including information and referral services, counseling services, and job placement, health, educational, social, and recreational services, as well as facilities for such activities. The centers would provide to local governmental units and to nonprofit entities such information and technical assistance, including interpreters for the deaf, as might be necessary to assist those entities in serving disabled persons. From funds received under this program, State vocational rehabilitation agencies would be able to make grants to other public agencies or private nonprofit organizations to operate such centers, or such State agencies would be able to provide directly for the operation of such centers themselves.

Mr. Speaker, these centers would provide focal points in our communities for handicapped individuals to meet with other handicapped persons, their families, friends, and community leaders. At these centers handicapped individuals would not only receive the services and

information appropriate to their needs, but they would be able to discuss their mutual problems and the problems of their communities. From these discussions with civic leaders it is hoped that handicapped persons in alliance with able-bodied persons will be able more effectively to participate in activities of community improvement.

INDIAN TRIBES

Fourth, the conference report includes authority contained in both the House and Senate bills for making grants to tribal organizations in providing vocational rehabilitation services to handicapped American Indians and Alaskan Natives living on State or Federal reservations.

Mr. Speaker, it is hoped that our State vocational rehabilitation agencies would always strive to serve all handicapped persons and would have the commitment and resources to do so effectively. This legislation, however, does permit alternatives to such State agency administration in regard to American Indians in those instances in which it can be convincingly demonstrated that disabled Indians would be better served through programs administered by their own tribal organizations.

ADVOCACY

Fifth, the conference report contains several provisions designed to assist handicapped individuals in securing equal opportunities under the law and in participating more fully in society.

The bill would require that Federal departments and agencies comply with the provisions of section 504 of the Rehabilitation Act of 1973. This section prohibits discrimination against otherwise qualified handicapped individuals by recipients of Federal financial assistance.

H.R. 12467 as agreed to by the conferees also authorizes grants to States in establishing protection and advocacy systems for handicapped individuals. These systems would be designed to assist handicapped individuals in securing rights and benefits accorded to them under numerous Federal and State laws.

SERVICES TO BLIND AND DEAF PERSONS

Sixth, the conference report contains authority for establishing new programs for the deaf and the blind. It would authorize funding for 12 programs for training interpreters for deaf individuals and would make interpreter services more available to the deaf.

The conference report would expand reading services for the blind and would provide for special independent living services for older blind persons.

Mr. Speaker, I would like to comment briefly on these new programs.

The Senate bill had provided with respect to the 12 interpreter training programs that Federal funding go to six institutions. The Senate bill specifically named these institutions. The conference report does not cite these institutions. This is the wiser approach but it should not be interpreted to reflect adversely upon the qualifications or efforts of the six institutions which the Senate bill had cited. The approach in the conference report is wiser, because it does not preempt other equally qualified interpreter training centers from applying for this funding. It provides, in short, for open competition in the selection of the most qualified applicants.

Next, the Senate bill had proposed extensive State administrative features as a prerequisite for the older blind and reader services for the blind programs. The conference report does not contain these features which were, in fact, designed to encourage the establishment of separate State vocational rehabilitation agencies for the blind.

I have long recognized the need for expanding services to older blind persons. In fact, I was the sponsor of legislation several years ago which would have provided for these services and I fought to retain these services against strong objections from a previous administration.

In rejecting the Senate's State agency administrative features for the older blind program and the reader services program, I want to make clear that I was not opposing separate and strong State vocational rehabilitation agencies for the blind. If such agencies provide the most effective method in serving the blind, then they should be established. However, I feel strongly that decisions on these matters should rest with the States rather than the Federal Government.

I might add that it has yet to be convincingly demonstrated that single State agencies for the blind, the deaf or, for that matter, for any other disability group are preferable to a single State vocational rehabilitation agency serving all disabled persons.

However, if this need is clearly demonstrated, then, as chairman of the Subcommittee on Select Education, I shall entertain requests for hearings to mandate such State agency structures in the law in order to insure effective vocational rehabilitation for our Nation's blind citizens.

ARCHITECTURAL BARRIERS

Seventh, the conference report, like the House bill, would authorize the Secretary of Health, Education, and Welfare to provide financial assistance to public and private entities in removing architectural, transportation, and communication barriers to the handicapped. This would be a particularly important provision for many of our institutions which have been attempting to make their facilities and programs more accessible to the handicapped.

Such financial assistance could be made available if approved by the President and the Architectural and Transportation Barriers Compliance Board.

OFFICE OF INFORMATION AND RESOURCES FOR THE HANDICAPPED

Eighth, the conference report would permit continuation of the information clearinghouse activities for handicapped individuals within the Department of Health, Education, and Welfare.

Presently, these functions have been assigned by the Secretary to an office which has been referred to as the Office for Handicapped Individuals. The conference report would change the title of this office to the Office of Information and Resources for the Handicapped.

Mr. Speaker, I would like to clarify that authority to conduct such information clearinghouse activities rests with the Secretary in his discretion. I make this point, because some concern has been expressed that in establishing the National Council on the Handicapped proposed in this conference report Congress would in some instances be duplicating present information distribution activities.

CONCLUSION

Mr. Speaker, in conclusion let me say that I feel that the conference bill responds to some of the concerns that have been expressed by the administration. The conferees, in my opinion, have exercised good judgment in demonstrating a conciliatory attitude to these concerns but at the same time not abandoning the needs of handicapped individuals which have been so clearly demonstrated over the years to the Committee on Education and Labor and the Committee on Human Resources of the other body.

The handicapped citizens of our Nation vividly recall the inspiring words of now President Carter who said:

> We must broaden the traditional concepts of rehabilitation to include independent living as a supportive rehabilitation objective. We must involve our disabled citizens much more thoroughly in the development and execution of important programs.

With respect to research, President Carter said:

> First, we need an increased and much better coordinated program of research and development, and we must be sure to apply the results of our knowledge. . . . We must provide for more extensive development of research on the prevention, treatment, and cure of handicapping conditions.

This bill has attempted to respond to Mr. Carter's admonitions.

Mr. Speaker, to insure that an estimated 36 million handicapped Americans have the opportunity to obtain vocational rehabilitation, independent living services, and employment opportunities appropriate to their needs, I urge Members of the House and the President to give strong support to this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS), chairman of the Committee on Education and Labor.

Mr. PERKINS. Mr. Speaker, once again I am pleased to join in support of legislation which has been one of the great success stories of this Nation's efforts to serve its people. The conference report before us today provides for the continuation of the remarkably successful vocational rehabilitation program.

At the outset, let me compliment the distinguished chairman of the subcommittee—our colleague, the gentleman from Indiana (Mr. BRADEMAS)—for his extensive work in developing what is clearly a comprehensive and far-reaching piece of legislation. He was ably assisted by the ranking minority member, JIM JEFFORDS.

I want to pay tribute also to our colleague from New York (MARIO BIAGGI) for a number of important innovations in the bill. Members of the committee

from both sides of the aisle have all worked extremely hard.

Our able and distinguished subcommittee chairman has already described the major features of the conference report. As he has indicated, virtually every important feature of the House bill has been retained in the conference report.

Unfortunately, there was considerable controversy in our conference proceedings over the formula for distributing funds among the States for the basic program. The House bill made no change in the existing formula which in my judgment has placed the money where it is most needed throughout the years.

On the other hand, the Senate amendment virtually eliminated the existing formula and proposed to allow the Secretary almost complete discretion in the allocating of millions and millions of dollars for basic rehabilitation services. The House and Senate versions were as far away from one another as they could possibly have been.

Certainly, I would have preferred to maintain without any changes the House position. We were not able, however, to do this despite repeated efforts. It was the position of the Senate conferees that there would be no conference report unless there was some movement on the formula issue.

As we tried to work this out, it seemed most important to me that we keep the existing formula for as much of the appropriation as we possibly could. In that regard we were successful. Under the agreement, 50 percent of any appropriations in excess of the fiscal year 1978 level will be allocated on a slightly modified formula. The existing formula, which will continue for all other moneys, allocates funds among the States on per capita income squared and population. With respect to the new allocation, per capita income will still be a factor as will population, but per capita income will not be squared.

What does this mean? In fiscal year 1978, if $800 million were appropriated, $780 million will be distributed under the existing formula which is the Hill-Burton formula. The remainder, $20 million, will go on a formula which still takes into account per capita income and thus reflects the greater needs in our poorer States.

Mr. Speaker, there are many, many good things in this conference report. As much as I wanted no change in the formula, we had to make some minor adjustment in order to preserve all the good work that has gone into this bill. The new program of independent living, the new National Institute on Handicapped Research, reading programs for the blind, a special program for the elderly blind, and employment programs for the handicapped—are only some of the major improvements in the act.

I do regret that we were unable to retain in total newly proposed programs from the Senate bill for the elderly blind and for reading services for the blind. The administration was deeply concerned about the establishment of new State formula grant programs and we were concerned that taking the Senate programs in their entirety would jeopardize the bill. Accordingly, we have provided for these two programs and this is most important. Unfortunately, we were not able to keep the specific administrative mechanisms of the Senate bill. It is my hope that at some early date in the future we will be able to make some adjustments in this area.

Fiscally, this is a good bill. We are above the President's budget but not by much. The original House bill was $403 million over the President's budget. That excess has been reduced so that we are just $152 million over the budget. In another effort to be fiscally responsible, we have provided for only a 4-year extension rather than 5 years for most programs and eliminated the proposed permanent authorization for the basic program. The basic program is an entitlement program and we have placed caps on the amount of the entitlement which under the original House bill would have escalated according to the Consumer Price Index without any limitation.

This is an excellent bill, Mr. Speaker, and I urge unanimous support for the conference report.

Mr. BRADEMAS. Mr. Speaker, I thank the distinguished chairman of the Committee on Education and Labor for his remarks.

Mr. Speaker, I reserve the balance of my time.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of the conference report on the Vocational Rehabilitation Act. I think the bill contains many new provisions that are so significant that they could effect and help improve the lives of many handicapped Americans. This bill represents considerable effort on the part of many House Members. Most particularly I would like to commend the chairman of the Subcommittee on Select Education, JOHN BRADEMAS with whom I worked closely to develop many of the provisions in the original bill and joined successfully to retain them in conference. I would also like to particularly commend the chairman of the committee, CARL PERKINS, and the ranking member, AL QUIE, for their significant efforts in helping us to develop the original bill and keep those fine features in conference. I would also particularly like to commend the committee staff members, Marty LaVor, Jack Duncan, and Bill Gaul for their dedicated efforts and outstanding contributions in helping to make this legislation truly meaningful.

Mr. Speaker, there are so many provisions in this bill that are significant that it is difficult for me to know where to begin. I think the primary new initiatives were the creation of the National Institute of Handicapped Research and the independent living title for the severely handicapped. These two items reflect the combined efforts of JOHN BRADEMAS and I and the concern that we had in addressing two very significant problems. The first, because research in the field of rehabilitation has been at a low level for many years. It was downgraded by the last administration and was pushed even lower by this one. It just appeared to us as we reviewed the activities in the field of research within RSA that it did not appear to be a coherent research and evaluation strategy but most importantly there was a lack of commitment within the agency. In establishing independently an Institute patterned after the National Institute of Education it is our expectation that research activities, both domestic and foreign, which seek answers to improving the lives of handicapped individuals will be upgraded and will provide new breakthroughs.

The new Independent Living title also reflects something that we started years ago in the House. In the last 2 or 3 years the term independent living for the handicapped has been tossed around like it was a new concept and yet the Select Education Subcommittee has been looking at and addressing this problem since early 1970. In fact, the rehabilitation bill that came out of the subcommittee in 1972 had the first major program of independent living for the severely handicapped. The subcommittee created a new title of that legislation. Unfortunately, the bill was vetoed and when the new bill was redrafted the provision had to be dropped. The new title that we have in this bill before us took the concepts of that original title and expanded them. I believe that if we can get funding for this new title that millions of people who are so severely handicapped that they cannot go to work and therefore not qualify for services under this bill will have their lives altered and improved so that they will be more able to function within their homes and their communities.

There are several provisions which I developed that were accepted by the conference that I think will also help many handicapped people. Many of those amendments stem from section 504 of the act, and address 504, and needs which come as a result of that section of the act. As a result of section 504 it has become clear to many that 504 means more than just removing architectural barriers for the physically handicapped. While this is certainly a priority goal, there are many other types of disabilities to which 504 applies and to which attention must be paid. People who are deaf face communication barriers which are just as great as the architectural barriers faced by those in wheelchairs. People who are blind face problems not encountered by either group and so some of the provisions that I helped develop were addressed specifically to these groups. One of the biggest problems facing the deaf throughout the country is the lack of interpreters to allow them to function within a hearing society. Not only are there not enough interpreters, there are specifically not enough trained interpreters. The provision in this conference report will establish 12 interpreter-training centers and interpreter pools within each State and help to alleviate these problems and make section 504's nondiscrimination policies meaningful as well as applicable to them.

Coupled with the provisions for the deaf is another set of provisions which I believe are as valuable. They will provide reader services for blind individuals who need a reader in order for them to do their work. I believe blind people who overcome the obstacles that they face and want to work should have available to them the means to allow them to do so. A reader is a small investment to help tap the rich talents that many blind people have. Services for the older blind does not particularly come from section 504 but we recognized that once individuals reach old age and lose their sight there usually is nobody to help them adjust to life and help them function. Some services and training for older blind people will go a long way toward bringing meaning and value to their lives.

On section 504 itself, the conferees accepted a provision that I offered calling for a study within each State to find out what the actual costs of implementing section 504 of this act will be. We keep hearing that section 504 is going to be so expensive to implement, but every time I or any other Member of Congress try to get money to carry out 504, somebody comes back to say that they do not know what the costs are and nobody has done a study. Hopefully, a study will be done in the next year and we should have the cost projections and answers we require. Another provision which I authored could be brought into effect and that would be to get the Federal Government to provide money to help States and localities implement section 504. I must emphasize so that there is no misunderstanding that my insistence that the Federal Government pay part of the costs is in no way to negate or minimize the removal of barriers for the handicapped, or in any way to halt or delay action until the Federal Government puts up some money. My goal is clear and it is to get the Federal Government, which made the law, which wrote the regulations, to pay for at least part of the costs so that the full burden does not fall on the State or local governments or on public or private institutions throughout the country.

Finally, under section 504, Mr. Speaker, the conferees accepted a provision which I authored which I think brings fairness and equity to the entire picture in eliminating discrimination against the handicapped wherever it exists. In September 1977 the Justice Department issued an opinion at the request of the Department of Health, Education, and Welfare, declaring that the Federal Government was exempt from section 504. Somehow it did not seem right to me that the Federal Government should require States and localities to eliminate discrimination against the handicapped wherever it exists and remain exempt themselves. So I developed a provision which is in this conference report that extends coverage of section 504 to include any function or activity in every department or agency of the Federal Government.

To get parochial for a moment, I think one of the most important steps that I was able to achieve for my State of Vermont and other small States is to get the amount that each State will receive increased from $2 million to $3 million. With the increased dollars it is my hope that no area of the State of Vermont or any individual in need of services provided under this act will not be reached. I want to take this opportunity to commend the senior Senator from Vermont ROBERT STAFFORD for getting the same provision placed on the Senate version.

Mr. Speaker, there are many other provisions that I will not bother to highlight here today. I commend this bill to my colleagues and I think that it is a significant step forward in our efforts to help upgrade the lives of handicapped individuals wherever they live throughout the Nation.

I urge my colleagues to support the conference report.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York (Mr. GILMAN).

● Mr. GILMAN. Mr. Speaker, I am pleased to support this significant legislation H.R. 12467, the Comprehensive Rehabilitation Services Amendments of 1978.

This bill passed both the House and Senate by overwhelming majorities. The legislation extends the Rehabilitation Act of 1973 for 4 years, through September 30, 1982. For the basic Federal-State vocational rehabilitation program the report authorizes $808 million in fiscal 1979, with increases for fiscal 1980–82 based on the Consumer Price Index, but with ceilings of $880 million, $945 million, and $972 million.

In addition, this legislation will:

Create a National Institute on Handicapped Research to sponsor research in improving the vocational and daily living activities of handicapped persons;

Create a National Council on the Handicapped to assist in developing policies and programs for handicapped persons;

Provide a program of comprehensive independent living services for severely handicapped individuals and provide for the establishment and operation of centers for independent living for handicapped individuals;

Create a community service employment program in the Department of Labor for handicapped individuals, authorize on-job training agreements with industry for the handicapped, and authorize assistance to handicapped setting up their own businesses;

Provide direct grants to American Indian tribes, as passed by the House, for provision of rehabilitation services, but not as in the bill originally passed by the House, for demonstration programs;

Provide that State vocational rehabilitation plans shall be for 3 years rather than the current 1 year, and that each State vocational rehabilitation agency establish information and referral programs;

Provide for increased training of interpreters for the deaf and establish deaf interpreter referral programs; and

Authorize necessary sums for the removal of architectural, transportation and communication barriers to the handicapped.

Mr. Speaker, the needs of our handicapped citizens have been shortchanged for too long. This bill passed the House last May by a vote of 382 to 12, and the Senate last month by a vote of 81 to 1. Surely, the need for this legislation is recognized by the Members of both Houses of Congress. Our committee is to be commended on ironing out a compromise conference report which contains the best features of both bills without diluting the strength of either.

Mr. Speaker, I urge speedy approval of this conference report.●

Mr. SARASIN. Mr. Speaker, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Connecticut.

Mr. SARASIN. Mr. Speaker, I rise in support of the conference report on the Vocational Rehabilitation Act. As an original cosponsor of this legislation, I am extremely pleased with the agreements reached by the conferees and by the new advances that this bill will bring to the fields of vocational rehabilitation.

There are a number of new initiatives that should bring marked improvements to our understanding of the needs of our handicapped citizens. Of particular note is the new National Institute of Handicapped Research. Research in the field of rehabilitation has been totally inadequate for a number of years. Not only was it downgraded by the last administration, but it was reduced even further by this one. Given the hope that research can bring to the lives of many handicapped citizens, this was simply not acceptable. What we really need is a consistent and progressive research and evaluation capability and strong commitment from the administering agency.

The legislation also includes an independent living title for the severely handicapped. Patterned as it is after the National Institute of Education, it should result in better and new avenues of rehabilitation for the handicapped through improved and forward-looking research. Independent living is not a new concept. Indeed, it has been of primary interest to the House for a number of years. Adequately funded, it could provide new hope for the severely handicapped—those who cannot work and consequently cannot qualify for the services in the Vocational Rehabilitation Act. By fostering independent living, we can enable the severely handicapped to fulfill expanded roles in their homes and their communities.

Of all the aspects of the legislation that were considered, perhaps the most important is section 504. We all know that 504 involves far more than merely removing architectural barriers for the physically handicapped. It must deal with the most serious intangible barriers as well.

The deaf face serious communication barriers—barriers that can be overcome but that have not been adequately addressed until this legislation. Simply stated, there is a lack of interpreters to assist them, and there is, even more so, a lack of trained interpreters. The new legislation will establish 12 interpreter-training centers and pools within each

State, thereby enabling the deaf to function fully in a hearing society.

The blind, too, face similar barriers that have been ignored far too long. Reader services can open new doors to the blind, doors to the world of work in particular. If we do not provide such services, the many talents, capabilities, and ideas of the blind that could benefit society enormously would be denied us all. The need for services to the elderly blind, too, are recognized—the need to help those whose blindness comes with age to adjust to life and learn to function without their sight. These services can insure that the lives of the elderly blind have purpose and meaning.

One of the major controversies surrounding section 504 has been the cost of implementation to the State. Efforts to fund this section have been defeated by those who say it would be too expensive or who say we do not know what we can expect in the way of costs. A new study will give us the answer we need to address this question. Also, by requiring the Federal Government to provide financial assistance to the States and local governments to implement section 504, we can better assure that our goals will be met. A Government which promulgates law and regulations must be equally sensitive to the costs attendent to those provisions and must be willing to help.

Finally, we have acknowledged, at least in this case, that if laws are necessary and good, they should also apply to us. This legislation would extend the provisions of section 504 to each department, division, and agency of the Federal Government. No one should discriminate against an individual because he or she suffers from a handicap—not private employers, not State and local governments, and most certainly, not the Federal Government.

This legislation will expand our ability to help the handicapped help themselves, to more fully integrate them into the mainstream of American society, to give them the opportunity to use their knowledge, talents and skills to benefit themselves and society as a whole.

● Mr. ROGERS. Mr. Speaker, the provisions of this conference report relating to the developmental disabilities program represent a compromise between the provisions of H.R. 12326, as passed by the House and added as an amendment to the Senate amendments to H.R. 12467, and the Senate amendments thereto.

The conference report provides for a 3-year extension of the developmental disabilities program. It provides for total authorizations of $96 million in fiscal year 1979, $113 million for fiscal year 1980, and $132 million for fiscal year 1981. While this represents reductions from the figures authorized by the House, I believe we have maintained authority for sufficient expenditures to support continuation and expansion of current programs for the developmentally disabled.

I am pleased to report that most of the provisions of the House amendment were retained intact or with minimal change in this conference agreement:

We retained requirements for States to select priority service areas for their developmental disabilities expenditures, although with an amendment requiring States to concentrate only 65 percent—rather than 70 percent—of their funds on two service areas, and allowing for a waiver of the requirement in certain circumstances;

We increased the authorizations for protection and advocacy systems substantially, and established a minimum grant.

We increased to $250,000 the minimum grants for State programs;

We secured the House provisions requiring the establishment of standards for University-affiliated facilities, and establishing a minimum grant amount; and

We strengthened the State planning councils, making them more representative of the developmentally disabled, and strengthening their role in establishing major policies and actually developing the State plan, which they carry responsibility for approving.

The conference agreement, however, did adopt the definition of a developmental disability contained in the Senate bill. This definition is a functional one and includes any severe disability, whether mental or physical or a combination thereof, which is manifested before age 22 and which results in substantial functional limitations in certain specified areas of life activity, requiring lifelong services. Members will recall that coverage in the House bill was limited to persons with conditions of mental retardation, autism, dyslexia, epilepsy, or cerebral palsy, or conditions which result in similar impairments requiring similar services.

I believe Members' support for the definition included in the conference agreement is justified. It will provide more equitable treatment under the program for persons who have heretofore found access to developmental disabilities funds blocked: Persons with osteogenesis imperfecta, tuberous sclerosis, and many other disabling conditions which do commonly occur in the developmental years. Further, we have taken care to stress our intention that persons who are now included in the program under the current definition continue to be covered and to receive equivalent commitments of services. I think this is a fair compromise and a reasonable one.

It should also be noted that the conference agreement provides for the abolition of the existing National Advisory Council on Services and Facilities for the Developmentally Disabled. The House conferees agreed to this because of the adoption of a National Council for the Handicapped. It is our expectation that that Council, with its broad mandate of concern for all of the disabled, will oversee the program carried out under the Developmental Disabilities Assistance and Bill of Rights Act, and will include developmentally disabled representatives, or their parents or guardians.

The provisions of the conference agreement relating to the developmental disability program are good ones. This is a valuable program. This is a very satisfactory conference agreement. I urge all the Members to support it.●

● Mr. CARTER. Mr. Speaker, I strongly support title V of this legislation which revises and extends the developmental disabilities program for 3 years.

I am pleased that the conference bill reflects the major provisions of our House-passed bill—H.R. 12326.

The conference version includes the priority services from our bill which are intended to help States focus on specific problem areas to meet the needs of their developmentally disabled population.

In addition—the conference bill includes the House requirement for the development of an evaluation system for State programs—and standards for university affiliated facilities.

The conferees agreed to adopt the Senate's functional definition of "developmental disabilities"—but we also included in the statement of managers a list of the specific conditions covered under current law—including dyslexia.

It is our intent that these conditions will continue to be covered as new groups of developmentally disabled persons enter the program. We do not intend in any way to diminish the support for the groups who have been previously included.

In sum—Mr. Speaker—this is a very good program. It deserves to be passed so that we may continue our support of the millions of developmentally disabled individuals in our country.

I urge adoption of this legislation.●

● Mr. BIAGGI. Mr. Speaker, as an original cosponsor and a member of the Select Education Subcommittee I rise to encourage the support today for the conference report to accompany H.R. 12467, the Rehabilitation Act Amendments of 1978.

In essence H.R. 12467 represents the type of commitment which is necessary if we are to improve our level of rehabilitation services to the handicapped and disabled of this Nation. We have provided the sufficient funding to make there programs achieve their mandate.

I was especially pleased that the conference committee on which I served approved what may be the first step in a long overdue process of reforming the formula under which rehabilitation funds are distributed. For the past 24 years the funds have been distributed under the antiquated Hill-Burton formula. It has resulted in the funds being disproportionately available to rural States disregarding the larger States where more of the service population may exist. Under the conference agreement we have agreed to set aside a portion of all new moneys authorized under this legislation to be distributed by virtue of the Hill-Burton formula but with the "square removed to better reflect population. I was a supporter of this from the outset, offered it unsuccessfully in the committee but was pleased to see it contained in the final version.

Briefly I wish to note two other significant features of this legislation. The first is the creation of the National Institute

of Handicapped Research. I also note the $240 million provided for the expansion of independent living centers.

Passage of this legislation represents the culmination of many months of work by the House Select Education Subcommittee. At this point I wish to pay special tribute to the distinguished chairman Mr. BRADEMAS for his unparalleled advocacy of the rights of handicapped and disabled citizens. He has monitored this legislation from the outset and the amendments we are proposing today really enhance this act in a substantive fashion.

The handicapped and disabled of this Nation have been shortchanged for too long in Federal programs. The process of ameliorating this discrimination has been gradual but has gained increased momentum in recent years. We have enacted section 504 of the Rehabilitation Act, we are now extending the entire act for 4 years. It is imperative that we permit the handicapped and disabled of this Nation be permitted the same opportunities as all Americans. H.R. 12467 proposes this and I am pleased to support it and to have played a major role in it.●

Mr. JEFFORDS. Mr. Speaker, I yield back the balance of my time.

Mr. BRADEMAS. Mr. Speaker, I have no further requests for time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken, and on a division (demanded by Mr. EDWARDS of Oklahoma) there were—yeas 153; nays 33.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The Chair will count.

A total of 229 Members are present, a quorum.

Mr. EDWARDS of Oklahoma. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 365, nays 2, not voting 63, as follows:

[Roll No. 937]

YEAS—365

Abdnor	Beilenson	Broyhill
Addabbo	Benjamin	Buchanan
Akaka	Bennett	Burgener
Ambro	Bevill	Burke, Mass.
Anderson, Calif.	Biaggi	Burleson, Tex.
Anderson, Ill.	Bingham	Burlison, Mo.
Andrews, N.C.	Blanchard	Burton, Phillip
Andrews, N. Dak.	Blouin	Butler
Annunzio	Boggs	Carr
Archer	Boland	Carter
Ashbrook	Bolling	Cavanaugh
Ashley	Bonior	Cederberg
Aspin	Bonker	Chappell
AuCoin	Bowen	Chisholm
Bafalis	Brademas	Clausen, Don H.
Baldus	Breaux	Clawson, Del
Barnard	Breckinridge	Clay
Baucus	Brinkley	Cleveland
Bauman	Brodhead	Cochran
Beard, R.I.	Brooks	Cohen
Beard, Tenn.	Broomfield	Coleman
Bedell	Brown, Calif.	Collins, Ill.
	Brown, Mich.	Conable
	Brown, Ohio	
Conte	Hyde	Poage
Conyers	Jacobs	Pressler
Corcoran	Jeffords	Preyer
Corman	Jenkins	Pritchard
Cornell	Johnson, Calif.	Pursell
Cotter	Johnson, Colo.	Quillen
Coughlin	Jones, Okla.	Rahall
Cunningham	Jones, Tenn.	Railsback
D'Amours	Jordan	Rangel
Daniel, Dan	Kasten	Regula
Daniel, R. W.	Kastenmeier	Reuss
Danielson	Kazen	Rhodes
Davis	Kelly	Richmond
de la Garza	Kemp	Rinaldo
Dellums	Keys	Roberts
Dent	Kildee	Robinson
Derrick	Kindness	Rodino
Derwinski	Kostmayer	Roe
Devine	Krebs	Rogers
Dicks	Krueger	Roncalio
Dingell	LaFalce	Rooney
Dodd	Lagomarsino	Rose
Dornan	Latta	Rosenthal
Drinan	Leach	Rostenkowski
Duncan, Oreg.	Lederer	Rousselot
Duncan, Tenn.	Le Fante	Roybal
Early	Lent	Runnels
Eckhardt	Levitas	Russo
Edgar	Livingston	Ryan
Edwards, Ala.	Lloyd, Calif.	Santini
Edwards, Calif.	Lloyd, Tenn.	Sarasin
Edwards, Okla.	Long, La.	Satterfield
Eilberg	Long, Md.	Sawyer
Emery	Lott	Scheuer
English	Luken	Schroeder
Erlenborn	Lundine	Schulze
Ertel	McClory	Selberling
Evans, Del.	McCloskey	Sharp
Evans, Ind.	McCormack	Shuster
Fary	McDade	Simon
Fascell	McEwen	Skelton
Fenwick	McHugh	Skubitz
Findley	McKay	Slack
Fish	McKinney	Smith, Iowa
Fisher	Madigan	Snyder
Fithian	Maguire	Solarz
Flippo	Mahon	Spellman
Flood	Mann	Spence
Florio	Markey	St Germain
Foley	Marks	Staggers
Ford, Mich.	Marriott	Stangeland
Ford, Tenn.	Martin	Stanton
Forsythe	Mathis	Steers
Fountain	Mazzoli	Steiger
Fowler	Meeds	Stokes
Fraser	Meyner	Stratton
Frenzel	Michel	Studds
Fuqua	Mikulski	Stump
Gammage	Milford	Symms
Garcia	Miller, Calif.	Taylor
Gaydos	Miller, Ohio	Thompson
Gephardt	Mineta	Thornton
Giaimo	Minish	Traxler
Gibbons	Mitchell, Md.	Treen
Gilman	Mitchell, N.Y.	Trible
Ginn	Moakley	Tsongas
Glickman	Moffett	Tucker
Goldwater	Mollohan	Vander Jagt
Gonzalez	Montgomery	Vanik
Goodling	Moore	Vento
Gore	Moorhead, Calif.	Volkmer
Gradison	Moorhead, Pa.	Waggonner
Grassley	Murphy, Ill.	Walker
Green	Murphy, Pa.	Walsh
Gudger	Murtha	Wampler
Guyer	Myers, Gary	Watkins
Hagedorn	Myers, John	Waxman
Hall	Myers, Michael	Weiss
Hamilton	Natcher	Whalen
Hammer-schmidt	Neal	White
Hansen	Nedzi	Whitehurst
Harkin	Nichols	Whitley
Harris	Nix	Whitten
Harsha	Nolan	Wilson, Bob
Hawkins	Nowak	Wilson, Tex.
Heckler	O'Brien	Winn
Hefner	Oakar	Wirth
Heftel	Oberstar	Wolff
Hightower	Obey	Wright
Hillis	Ottinger	Wydler
Holland	Panetta	Wylie
Hollenbeck	Patten	Yates
Holt	Patterson	Yatron
Holtzman	Pattison	Young, Alaska
Horton	Pease	Young, Fla.
Howard	Pepper	Young, Mo.
Hubbard	Perkins	Zablocki
Huckaby	Pickle	Zeferetti
Hughes	Pike	

NAYS—2

Collins, Tex.	McDonald

NOT VOTING—63

Alexander	Hanley	Risenhoover
Ammerman	Hannaford	Rudd
Applegate	Harrington	Ruppe
Armstrong	Ichord	Sebelius
Badham	Ireland	Shipley
Burke, Calif.	Jenrette	Sikes
Burke, Fla.	Jones, N.C.	Sisk
Burton, John	Leggett	Smith, Nebr.
Caputo	Lehman	Stark
Carney	Lujan	Steed
Cornwell	McFall	Stockman
Crane	Marlenee	Teague
Delaney	Mattox	Thone
Dickinson	Mikva	Udall
Diggs	Moss	Ullman
Downey	Mottl	Van Deerlin
Evans, Colo.	Murphy, N.Y.	Walgren
Evans, Ga.	Pettis	Weaver
Flowers	Price	Wiggins
Flynt	Quayle	Wilson, C. H.
Frey	Quie	Young, Tex.

The Clerk announced the following pairs:

Mr. Alexander with Mr. Wiggins.
Mr. Flynt with Mr. Crane.
Mr. Cornwell with Mr. Caputo.
Mr. John L. Burton with Mr. Frey.
Mr. Flowers with Mr. Burke of Florida.
Mrs. Burke of California with Mr. Mottl.
Mr. Murphy of New York with Mr. Lujan.
Mr. Shipley with Mr. Marlenee.
Mr. Udall with Mr. Quie.
Mr. Teague with Mr. Quayle.
Mr. Jones of North Carolina with Mr. Ruppe.
Mr. Sisk with Mr. Rudd.
Mr. Ullman with Mr. Sebelius.
Mr. Ichord with Mrs. Smith of Nebraska.
Mr. Hannaford with Mr. Thone.
Mr. Jenrette with Mr. Stockman.
Mr. Hanley with Mr. Weaver.
Mr. Mikva with Mr. Stark.
Mr. Price with Mr. Van Deerlin.
Mr. Delaney with Mr. Sikes.
Mr. Charles H. Wilson of California with Mr. Walgren.
Mr. Harrington with Mr. Risenhoover.
Mr. Ireland with Mr. Leggett.
Mr. Moss with Mr. Evans of Colorado.
Mr. Evans of Georgia with Mr. Lehman.
Mr. Ammerman with Mr. Mattox.
Mr. Downey with Mr. Applegate.
Mr. Diggs with Mr. Badham.
Mr. McFall with Mr. Dickinson.
Mr. Carney with Mr. Steed.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 13750, IMPLEMENTING THE INTERNATIONAL SUGAR AGREEMENT OF 1977 BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes:

CONFERENCE REPORT (H. REPT. No. 95-1807)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13750) to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domesic sugar industry, and for other

purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

TITLE I—SUGAR PROGRAM

Chapter 1—SHORT TITLE AND DEFINITIONS

SEC. 101. SHORT TITLE.

This Act may be cited as the "International Sugar Stabilization Act of 1978".

SEC. 102. DEFINITIONS.

For purposes of this title—

(1) The term "person" has the same meaning as is given to such term in section 1 of title 1 of the United States Code.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "TSUS" means the Tariff Schedules of the United States (19 U.S.C. 1202).

(4) The term "United States", when used in a geographical context, means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Chapter 2—INTERNATIONAL SUGAR AGREEMENT, 1977

SEC. 111. DEFINITIONS.

For purposes of this chapter—

(1) The term "Agreement" means the International Sugar Agreement, 1977 signed at New York City on December 9, 1977.

(2) The term "entry" means the entry for any purpose, and the withdrawal from warehouse for consumption, in the customs territory of the United States.

(3) The term "sugar" has the same meaning as is given to such term in paragraph (12) of Article 2 of the Agreement.

SEC. 112. IMPLEMENTATION OF AGREEMENT.

On and after the entering into force of the Agreement with respect to the United States, and for such period before January 1, 1983, as the Agreement remains in force, the President may, in order to carry out and enforce the provisions of the Agreement—

(1) regulate the entry of sugar by appropriate means, including, but not limited to—

(A) the imposition of limitations on the entry of sugar which is the product of foreign countries, territories, or areas not members of the International Sugar Organization, and

(B) the prohibition of the entry of any shipment or quantity of sugar not accompanied by a valid certificate of contribution or such other documentation as may be required under the Agreement;

(2) require of appropriate persons the keeping of such records, statistics, and other information, and the submission of such reports, relating to the entry, distribution, prices, and consumption of sugar and alternative sweeteners as he may from time to time prescribe; and

(3) take such other action, and issue and enforce such rules or regulations, as he may consider necessary or appropriate in order to implement the rights and obligations of the United States under the Agreement.

SEC. 113. DELEGATION OF POWERS AND DUTIES.

The President may exercise any power or duty conferred on him by this title through such agencies or officers of the United States as he shall designate.

SEC. 114. CRIMINAL OFFENSES.

Any person who—

(1) fails to keep any information, or to submit any report, required under section 112;

(2) submits any report under section 112 knowing that the report or any part thereof is false; or

(3) knowingly violates any rule or regulation issued to carry out this title;

is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

SEC. 115. REPORT TO CONGRESS.

The President shall submit to Congress, on or before April 1 of each year, a report on the operation and effect of the Agreement during the immediately preceding year. The report shall contain, but not be limited to—

(1) information with respect to world and domestic sugar demand, supplies, and prices during the year concerned;

(2) projections with respect to world and domestic sugar demand, supplies and prices; and

(3) a summary of the international and domestic actions taken during the year concerned under the Agreement and under domestic legislation to protect the interests of United States consumers and producers of sugar.

Chapter 3—IMPORT RESTRICTIONS ON SUGAR

SEC. 121. DEFINITIONS.

For purposes of this chapter—

(1) The phrase "average daily price for United States raw sugar imports" means the average of the daily market prices for sugar in pounds, raw value, in bulk, landed and delivered at Atlantic and Gulf ports, including the cost of insurance, freight, loading, unloading, and import duties.

(2) The term "entered" means entered, or withdrawn from warehouse, for consumption in the customs territory of the United States; and the term "entry" means the entry, or withdrawal from warehouse, for such consumption.

(3) The term "price objective" means the price set forth in section 122(a).

(4) The term "quantitative restriction" means the total quantity of any sugar or sugar-containing product produced in all foreign countries, territories, or areas that may be entered, without regard to source, in any sugar supply year or supply year quarter.

(5) The term "raw value" has the same meaning as is given to such term in headnote 1 to subpart A of part 10 of schedule 1 of the TSUS.

(6) The term "semiannual period" means the period beginning on October 1 and ending March 31 of any sugar supply year or on April 1 and ending on September 30 of any sugar supply year, as appropriate.

(7) The term "sugar" means any sugar, sirup, and molasses provided for in items 155.20 and 155.30 of the TSUS.

(8) The term "sugar supply year" means the 12-month period beginning on October 1 of each calendar year with each such year being designated by the year in which the beginning date occurs.

(9) The term "supply year quarter" means any of the 3-month periods beginning on October 1, January 1, April 1, or July 1 of any sugar supply year.

SEC. 122. PRICE OBJECTIONS AND AVERAGE DAILY PRICES.

(a) PRICE OBJECTIVES.—(1) The price objectives for sugar supply years beginning after September 30, 1978, are as follows:

(A) The price objective for the 1978 sugar supply year is 15 cents per pound, raw value.

(B) The price objective for the 1979 sugar supply year is 15.8 cents per pound, raw value.

(C) The price objective for each of the 1980, 1981, and 1982 sugar supply years is 15.8 cents per pound, raw value, plus one percent of the price objective for the immediately preceding sugar supply year.

(b) PAYMENTS, ASSURED RETURN.—Payments shall be made for the 1978 sugar supply year at such rate as will assure a return equivalent to 15.75 cents per pound, raw value, but in no event shall the payment exceed 0.75 cents per pound, raw value. During sugar supply years 1979 through 1982, the Secretary of Agriculture may not make payments to, or on behalf of, producers and processors of sugarcane or sugar beets under section 301 of the Agricultural Act of 1949 (7 U.S.C. 1447) or any other provision of law that authorizes payments by the Secretary of Agriculture to achieve price support levels for such commodities.

(c) AVERAGE DAILY PRICES.—(1) The Secretary shall determine on a continuing basis the average daily price for United States raw sugar imports and shall monitor the prices of sugar and sugar-containing products in the import trade of the United States.

(2) The Secretary shall publish the determinations made under paragraph (1) in the Federal Register on such periodic basis as he deems appropriate.

SEC. 123. SECRETARIAL RECOMMENDATIONS REGARDING SPECIAL IMPORT DUTIES.

(a) SPECIAL IMPORT DUTIES.—(1) Not later than 30 days before the beginning of each sugar supply year which commences after September 30, 1979, the Secretary shall—

(A) on the basis of best available information, estimate whether the average daily price for United States raw sugar imports during such sugar supply year will be below the price objective; and

(B) if the estimation under subparagraph (A) is in the affirmative, recommend to the President that he impose such special import duties on the entry of such sugar (including, but not limited to, refined sugar) and, if appropriate, such sugar-containing products as the Secretary determines to be necessary to assure that the average daily price for United States raw sugar imports will result in the price objective for such sugar supply year being achieved.

(2) With respect to the 1978 sugar supply year, the Secretary shall make the estimation described in paragraph (1)(A) and, if applicable, the recommendations described in paragraph (1)(B) not later than 30 days after the date of the enactment of this title.

(b) REVIEW AND ADJUSTMENT OF DUTIES.—The Secretary shall review, on a supply year quarter basis, the effect of all special import duties and quotas imposed as a result of recommendations made by him under subsection (a). On the basis of such review, the Secretary may recommend to the President such adjustments with respect to the amount of any such duty, or with respect to sugar or sugar-containing products to which any such duty should be extended or removed, as the Secretary determines to be necessary to achieve the price objective for the sugar supply year concerned. The Secretary shall submit a report to the President containing the results of each review conducted under this subsection, together with any adjustment recommendation the Secretary deems appropriate, not later than the 60th day after the beginning of the supply year quarter for which the review is made.

(c) PUBLICATION OF RECOMMENDATIONS AND REPORTS.—Each recommendation made by the Secretary to the President under subsection (a), and each report prepared under subsection (b), shall be promptly published by the Secretary in the Federal Register.

SEC. 124. QUANTITATIVE RESTRICTION ON IMPORTED SUGAR.

(a) BACK-UP QUOTAS.—If, at any time during any sugar supply year, the Secretary determines that the price objective for that year will not be achieved by the special import duties imposed on the basis of any recommendation made by him under section 123(a), the Secretary shall impose a quantitative restriction on the total amount of sugar which may be entered during such period. The amount of sugar permitted entry under the quantitative restriction imposed

under the preceding sentence shall be the amount the Secretary determines to be necessary to achieve, in conjunction with the special import duties imposed during the supply year concerned, the price objective for such year.

(b) REVIEW.—If a quantitative restriction is in effect under this section, the Secretary shall review, from time to time, the effect of such restriction and make such adjustments in the restriction as may be required to achieve the relevant market price objective.

(c) GLOBAL RESTRICTION.—A quantitative restriction imposed under subsection (a) shall be administered as a global quantitative restriction imposed in terms of raw values.

(d) ADJUSTMENTS.—If the Secretary determines that the average daily price for United States raw sugar imports over any 20 consecutive market day period in any sugar supply year exceeds by more than 20 percent the price objective for that sugar supply year, the Secretary shall suspend any quantitative restriction in effect under this section, or make such adjustments to such quantitative restriction as may be required to achieve the price objective. If the Secretary determines that the simple average of the daily price for United States raw sugar imports, for 20 consecutive market days in any sugar supply year is less than the price objective for that sugar supply year, the Secretary shall reimpose such quantitative restriction, or such portion thereof, as may be required to achieve such price objective.

SEC. 125. IMPOSITION BY PRESIDENT OF SPECIAL IMPORT DUTIES.

(a) IN GENERAL.—Upon receiving any recommendation of the Secretary under section 123 (a) or (b), the President shall promptly proclaim, under the authority of the headnotes to subpart A of part 10 of schedule 1 of the TSUS and subject to subsections (b) and (c), such special import duties with respect to such sugar and sugar-containing products as the President deems necessary to achieve the price objective for the sugar supply year concerned.

(b) SPECIAL PROVISIONS RELATING TO PROCLAMATIONS.—(1) Any proclamation issued by the President on the basis of any recommendation made by the Secretary under section 123(a) regarding sugar with respect to the 1978 sugar supply year shall apply with respect to articles entered on or after the date of such proclamation.

(2) Except as provided in subsection (c)(3)—

(A) any special import duty imposed by the President on the basis of any recommendation made by the Secretary under section 123(a) with respect to any sugar supply year after September 30, 1979, shall be proclaimed by the President not less than 30 days before the beginning of the sugar supply year in which such special import duties apply; and

(B) any adjustment made by the President to any special import duty on the basis of any recommendation made by the Secretary under section 123(c), shall be proclaimed by the President not less than 30 days before the beginning of the supply year quarter in which such quota or adjustment, as the case may be, first takes effect.

(c) SPECIAL RULES FOR SUGAR-CONTAINING PRODUCTS.—(1) If any recommendation is made by the Secretary under section 123 (a) or (c) with respect to the initial imposition of any special import duty on any sugar-containing product and the President has reason to believe that such product will adversely affect, or is adversely affecting, the achievement of the price objective during the sugar supply year concerned, the President may not impose any special import duty on the sugar content of such product before—

(A) requesting the United States International Trade Commission to undertake an investigation to determine whether, and to what extent, the entry of such product is adversely affecting the achievement of the price objective; and

(B) taking into consideration the results of such investigation.

The United States International Trade Commission shall submit to the President a report on any investigation requested by him under this subsection within 60 days after the date of such request.

(2) After the initial imposition of any special import duty on any sugar-containing product, no further investigation under paragraph (1) is required with respect to the adjustment of that duty pursuant to section 123(c).

(3) To the extent that the investigation requirements under paragraph (1) result in the President being unable to meet the applicable requirements under subsection (b)(2) regarding the proclamation of special import duties with respect to sugar-containing products for any sugar supply year or supply year quarter, as the case may be; the President may proclaim such duty within the applicable 30-day period referred to in subsection (b)(2) or on or after the beginning of the sugar supply year or supply year quarter concerned. Any such proclamation shall apply with respect to articles entered on or after the date of such proclamation.

SEC. 126. PROHIBITED ACTS.

(a) CERTAIN IMPORTS AND EXPORTS.—No person may—

(1) bring or import into the Virgin Islands in any sugar supply year for consumption in such Islands, any sugar in excess of one hundred pounds if such sugar was produced from sugarcane or sugar beets grown outside the United States; or

(2) export to any foreign country any suger entered under any quantitative restriction imposed under section 124.

(b) CIVIL PENALTY.—Any person who knowingly violates, knowingly attempts to violate, or knowingly participates or aids in the violation of subsection (a) shall forfeit to the United States the sum equal to three times the market value at the time of the commission of any such act, of that quantity of sugar involved in the violation, which forfeiture shall be recoverable in a civil suit brought in the name of the United States.

SEC. 127. EXEMPT ARTICLES OF SUGAR.

This chapter does not apply with respect to any sugar or sugar-containing product—

(1) of any aggregate value not exceeding $25 in any one shipment, if entered as samples for the taking of orders, for the personal use of the importer, or for research;

(2) entered for the production of alcohol, other than any alcohol or resulting by-product for human food consumption;

(3) entered for the production of yeast or citric acid; or

(4) any sugar entered for the production of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar as a sweetener in human food consumption.

SEC. 128. CERTAIN EXPORTATIONS OF SUGAR.

Sugar entered under a bond, established under rules promulgated by the Secretary, for the purpose of subsequently exporting an equivalent quantity of sugar as such, or in manufactured articles, shall not be considered to be sugar entering the United States for purposes of section 124. Sugar exported under the provisions of sections 309 and 313 of the Tariff Act of 1930 (19 U.S.C 1309 and 1313) shall be considered to be sugar entered under this section.

SEC. 129. SUSPENSION OF CHAPTER.

If the President finds that a national economic or other emergency exists with respect to sugar, the President may by proclamation suspend the operation of this chapter, and headnote 2(b) to subpart A of part 10 of schedule 1 of the TSUS to the extent that it applies with respect to this chapter, until such time as the President finds and proclaims that such emergency no longer exists. The Secretary shall make such investigations, and prepare such reports, as the President may require for purposes of carrying out this section.

SEC. 130. REGULATIONS.

The Secretary shall issue rules and regulations as he determines to be necessary or appropriate to carry out his functions and duties under section 121 and 128. Knowing violation of any rule issued by the Secretary under this section is punishable by a fine of not more than $1,000 for each violation.

SEC. 131. AMENDMENTS TO TSUS.

The headnotes to subpart A of part 10 of schedule 1 of the TSUS are amended—

(1) by amending headnote 1 to read as follows:

"1. For the purposes of this subpart—

"(i) the term 'degree', as used in the 'Rates of Duty' columns of this subpart, means sugar degree as determined by polariscopic test;

"(ii) the term 'total sugars' means the sum of the sucrose and reducing or invert sugars contained in any grade or type of sugars, sirups, and molasses; and

"(iii) the term 'raw value' means the equivalent of such articles in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury. The principal grades and types of sugar shall be translated into terms of raw value in the following manner:

"(A) For sugar described in item 155.20, by multiplying the number of pounds thereof by the greater of 0.93, or 1.07 less 0.0175 for each degree of polarization under 100 degrees (and fractions of a degree in proportion).

"(B) For sugar described in item 155.30, by multiplying the number of pounds of the total sugars thereof by 1.07.

"(C) The Secretary of the Treasury shall establish methods for translating sugar into terms of raw value for any special grade or type of sugar for which he determines that the raw value cannot be measured adequately under the above provisions.";

(2) by amending headnote 2 by inserting "(a)" immediately after "2.", and by adding at the end thereof the following:

"(b) In addition to the authority of the President under section 201 of the Trade Expansion Act of 1962 (19 U.S.C. 1821) to proclaim modifications of the rates of duty and quotas on imports of sugars, sirups, and molasses provided for in items 155.20 and 155.30, the President shall, subject to the conditions and requirements of (a)(1) and for purposes of carrying out, and subject to, chapter 3 of the International Sugar Stabilization Act of 1978, proclaim special import duties on—

"(i) imports of any such sugars, sirups, and molasses, and

"(ii) the content of any such sugars, sirups, and molasses in imported products containing such sugars, sirups, and molasses.

Any special import duty proclaimed under this subdivision on the entry of any article shall be in addition to any other duty imposed by law on such entry and may not be made the subject of any preferential concession under any law or international obligation of the United States."; and

(3) by amending headnote 3 by striking out "For purposes of this headnote," and all that follows thereafter.

Chapter 4—FARM LABOR PROVISIONS

SEC. 140. WAGE STANDARDS.

(a) IN GENERAL.—Beginning with the 1978

sugar supply year (as defined in section 121 (7)) every producer of sugar beets and sugarcane for sugar shall pay to each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane wages as follows:

(1) When employed on a time basis, the rates per hour shall be not less than the following:

Sugar supply year:	[1] *All areas except Hawaii and Puerto Rico*
1978	$3.00
[1]979	3.20
[1]980	3.40
[1]981	3.60
[1]982	3.80

[1] Hawaii and Puerto Rico: As required by labor union agreement or Federal or local law.

Rates for field equipment operators shall be not less than 10 per centum more than the above rates.

(2) When employed on a piecework basis, the rates shall be not less than the rates for the 1978 crop as published in the Federal Register of January 10, 1978 (42 F.R. 1476), increased each sugar supply year beginning October 1979 in the same proportion as the hourly rates are increased in the above table.

(b) VIOLATION OF WAGE STANDARDS.—Any producer who fails to pay the wages provided for in subsection (a) of this section shall be liable to the employee or employees affected in the amount of their unpaid wages and in an additional equal amount as liquidated damages. An action to recover such liability may be maintained against any producer in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to any plaintiff, allow a reasonable attorney's fee to be paid by the defendant, and costs of such action. The right provided by this subsection to bring an action by or on behalf of any employee, and the right of any employee to become a party plaintiff to any such action, shall terminate upon the filing of a complaint by the Secretary in any action under section 303 in which restraint is sought of any further delay in the payment of unpaid wages owing to such employee under subsection (a) of this section by a producer liable therefor under the provisions of this subsection.

(c) ADMINISTRATION.—(1) The Secretary is authorized to supervise the payment of the unpaid wages owing to any employee or employees under this section, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid wages and an additional amount as liquidated damages. Any hearing on a claim for unpaid wages shall be conducted by an attorney designated by the General Counsel of the Department of Agriculture from among the attorneys employed in the Office of the General Counsel of that Department, and the decision of such attorney shall be issued promptly thereafter, to the extent possible within thirty days after the conclusion of the hearing. Within thirty days after the issuance of such decision, any person who is adversely affected by such decision may obtain a review of such decision by filing a petition with the judicial officer appointed by the Secretary pursuant to section 3105 of title 5, United States Code. Any person who is adversely affected by a decision of the judicial officer hereunder may obtain judicial review of such decision by filing a complaint, within thirty days after such decision, with the United States district court for the district in which such person resides. Upon the filing of the complaint, the court shall have jurisdiction to affirm, set aside, or modify the decision of the judicial officer, and the findings of the judicial officer as to the facts, if supported by substantial evidence, shall be final and conclusive.

(2) The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid wages and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid wages under subsection (a) or liquidated damages provided by this subsection owing to such employee by a producer under the provisions of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary. Any sums thus recovered by the Secretary on behalf of an employee pursuant to this subsection shall be held in a special deposit account and shall be paid, on order of the Secretary, to the employee or employees affected. Any such sums not paid to an employee because of inability to do so within a period of three years shall be covered into the Treasury of the United States as miscellaneous receipts.

(d) BARRING OF ACTIONS.—Actions for unpaid wages and liquidated damages under this section shall be forever barred unless commenced within two years after the cause of action accrued.

(e) DISCRIMINATION PROHIBITED.—All producers of sugar beets and sugarcane are hereby prohibited from discharging or in any other manner discriminating against any employee engaged in the production, cultivation, and harvesting of sugar beets or sugarcane on the farm because such employee has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or litigation under this section. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(f) EXCESSIVE CHARGES PROHIBITED.—All producers of sugar beets and sugarcane are hereby prohibited from charging, or permitting to be charged, directly or indirectly, persons employed on the farm in the production, cultivation, or harvesting of sugar beets and sugarcane, any amount in excess of the reasonable cost for the furnishing to any such person of goods or services cutomarily furnished to employees engaged in the production, cultivation, or harvesting of sugar beets or sugarcane in the area. Any person knowingly violating this subsection shall, upon conviction, be punished by a fine of not more than $1,000 for each such violation.

(g) COMPENSATION INSURANCE.—The Secretary shall issue such regulations as he deems necessary to assure that the producer shall furnish each person employed on the farm in the production, cultivation, and harvesting of sugar beets and sugarcane workmen's compensation insurance during the time so employed. Such insurance coverage shall be deemed adequate if it meets the requirements of the law in States in which such insurance is mandatory, or if it meets such standards as are established by law in States in which such insurance is not mandatory.

(h) INVESTIGATIONS.—Investigations of possible violations of provisions of this section shall be conducted by the Office of Agriculture.

(i) REGULATIONS.—The Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out the provisions of this title. Any person who knowingly violates any such rule or regulation is guilty of an offense and upon conviction thereof is punishable by a fine of not more than $1,000.

Chapter 5—MISCELLANEOUS PROVISIONS

SEC. 151. DEFINITION.

As used in this chapter the term "sugar" has the same meaning as is given to such term in section 121(6).

SEC. 152. JURISDICTION OF COURTS.

The several district courts of the United States are hereby vested with jurisdiction specially to enforce, and to prevent and restrain any persons from violating, the provisions of this title or of any order or regulation made or issued pursuant thereto. If and when the Attorney General shall so request, it shall be the duty of the several district attorneys of the United States, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties, fees, and forfeitures provided for in this title. The remedies provided for in this title shall be in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity.

SEC. 153. FURNISHING OF INFORMATION TO SECRETARY.

All persons engaged in the manufacturing, marketing or transportation or industrial use of sugar and other sweeteners, including those not derived from sugar beets or sugarcane, and having information which the Secretary deems necessary to enable him to administer the provisions of this title, shall, upon the request of the Secretary, furnish him with such information. Any person willfully failing or refusing to furnish such information or furnishing willfully any false information shall upon conviction be subject to a penalty of not more than $2,000 for each such violation. All information required to be furnished to the Secretary under this section shall be kept confidential by all officers and employees of the Department of Agriculture.

SEC. 154. INVESTMENTS BY OFFICIALS PROHIBITED.

No person may, while acting in any official capacity in the administration of this title, invest or speculate in sugar, contracts relating thereto, or the stock of membership interest of any association or corporation engaged in the production or manufacturing of sugar. Any person violating this section shall upon conviction thereof be fined not more than $10,000 or imprisoned not more than two years, or both.

SEC. 155. SURVEYS AND INVESTIGATIONS.

(a) REQUIRED SURVEYS AND INVESTIGATIONS.—Whenever the Secretary determines such actions is necessary to effectuate the purposes of this title, the Secretary from time to time shall conduct such surveys and investigations as the Secretary deems necessary regarding the manufacturing, marketing, transportation, or industrial use of sugars. In carrying out the provisions of this subsection, information shall not be made public with respect to the separate operations of any person or company from whom such information has been derived.

(b) OTHER INVESTIGATIONS, SURVEYS, AND RESEARCH.—The Secretary may conduct surveys, investigations, and research relating to the conditions and factors affecting the methods of accomplishing most effectively the purposes of this title. Notwithstanding any provision of existing law, the Secretary may make available to the public such information as the Secretary deems necessary to carry out the provisions of this title.

SEC. 156. 1978 CROP PRICE SUPPORT PROGRAM.

Nothing contained in this Act shall affect the provisions of section 201(f) of the Agricultural Act of 1949 relating to the 1978 crop

of sugar beets and sugarcane; except that payments may be made under section 122. Notwithstanding any other provisions of law, the Secretary may waive a portion of the interest at such times and in such amounts as he determines necessary, in order to encourage the repayment of outstanding loans obtained from the Commodity Credit Corporation with respect to sugar produced from the 1977 and 1978 crops of sugar beets and sugarcane; except that such waiver authority shall be exercised in such manner as not to affect unduly the market prices for sugar.

SEC. 157. TERMINATION OF ACT.

Except for chapter 2, this chapter shall cease to have force and effect as of the close of September 30, 1983.

TITLE II—COUNTERVAILING DUTY WAIVER EXTENSION

SEC. 201. AMENDMENT TO TARIFF ACT OF 1930.

Subsection (d) of section 303 of the Traffic Act of 1930 (19 U.S.C. 1303) is amended by adding at the end thereof the following new paragraph:

"(4)(A) The 4-year period specified in paragraph (2) shall be extended until the date provided in subparagraph (B) if, upon the recommendation of the Special Representative for Trade Negotiations, the President determines, and notifies both Houses of Congress of his determination, on or before January 2, 1979, that—

"(i) negotiations on an agreement or agreements establishing internationally agreed rules and procedures governing the use of agricultural and industrial subsidies have been concluded,

"(ii) the Multilateral Trade Negotiations as a whole, and agreements providing for the reductions or elimination of barriers to, or other distortions of, international trade, in particular, have been substantially concluded,

"(iii) failure to extend such 4-year period would be likely to jeopardize seriously the successful conclusion of such agreements, including the agreement or agreements on subsidies, and

"(iv) the agreement or agreements on subsidies establish—

(I) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests insofar as they are adversely affected by such subsidies, and

(II) more effective provisions on notification, consultation, and dispute settlement providing for timely resolution of disputes involving the use of subsidies in international trade.

"(B) The date to which the 4-year period shall be extended under subparagraph (A) is the earliest of the following:

"(i) the date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral agreement or agreements governing the use of subsidies,

"(ii) the date of enactment of such implementing legislation, or

"(iii) February 15, 1979.

"(C) If the 4-year period specified in paragraph (2) is extended under subparagraph (A), any determination made under this subsection by the Secretary of the Treasury which is in effect on January 2, 1979, shall remain in effect until the earliest of the following:

"(i) the date to which the 4-year period is extended under subparagraph (A), notwithstanding any provision to the contrary in any such determination,

"(ii) the date such determination is revoked under paragraph (3), or

"(iii) the date of adoption of a resolution of disapproval of such determination under subsection (e)(2).".

TITLE III—INTERNATIONAL TIN AGREEMENT

SEC. 301. CONTRIBUTIONS AND OTHER ACTIONS BY UNITED STATES.

(a) The President, on behalf of the United States, is authorized to contribute, with or without monetary compensation, up to five thousand long tons of tin metal to the Tin Buffer Stock established under the Fifth International Tin Agreement.

(b) Notwithstanding any other provision of law, the Administrator of General Services is authorized to transfer to the International Tin Council such amount of tin metal not exceeding five thousand long tons as may be directed by the President for the purpose set forth in subsection (a): *Provided*, That such amount has been determined to be excess pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act.

(c) Any proceeds accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be treated in the same manner as proceeds from the disposition of materials determined to be excess pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act.

(d) Any amount of tin metal accruing to the United States as a result of liquidation of the Tin Buffer Stock or prior refund of the United States contribution to the Tin Buffer Stock shall be incorporated in the national stockpile and supplemental stockpile to the extent required to meet the objective for tin metal determined pursuant to section 2 of the Strategic and Critical Materials Stock Piling Act. Any tin metal not so incorporated shall be treated in the same manner as materials determined to be excess pursuant to section 2 of such Act.

(e) The President shall transmit to the Congress at the beginning of each fiscal year a written report detailing the activities of the Tin Buffer Stock, and such other pertinent information on its administration as will enable the Congress to evaluate the participation of the United States in the Fifth International Tin Agreement.

(f) The President shall transmit to the Congress, at least sixty days prior to any transfer or sale of tin metal by the United States as a participant in the Fifth International Tin Agreement, a report projecting the impact of such action on the economy of the United States and on the economic and political development of the major tin exporting nations.

(g)(1) The Administrator of General Services is hereby authorized to dispose of, by negotiation or otherwise, approximately thirty thousand long tons of tin now held in the national stockpile established pursuant to the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98–98h–1) and the supplemental stockpile established pursuant to section 104(b) of the Agricultural Trade Development and Assistant Act of 1954 (68 Stat. 456, as amended by 73 Stat. 607).

(2) The disposition authorized by subsection (a) may be made without regard to the requirements of section 3 of the Strategic and Critical Materials Stock Piling Act; except that the time and method of such disposition shall be fixed with due regard to the protection of the United States against avoidable loss and the protection of producers, processors, and consumers against avoidable disruption of their usual markets.

(h)(1) Any moneys received pursuant to the sales of tin from the national stockpile which are authorized by this section shall be covered into a special account which shall be established in the Treasury of the United States.

(2) Moneys covered into such account shall be available only for deposit, in accordance with legislation enacted after the enactment of this section, in a special fund in the Treasury established by such legislation as a depository for moneys derived from sales of excess materials under the Strategic and Critical Materials Stock Piling Act. If such legislation has not been enacted within 3 years after the enactment of this section, any moneys in the special account established pursuant to this subsection and any moneys thereafter received pursuant to sales of tin under this section shall be covered into the Treasury as miscellaneous receipts.

And the Senate agree to the same.

AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
SAM GIBBONS,
JAMES C. CORMAN,
THOMAS S. FOLEY,
W. R. POAGE,
E. DE LE GARZA,
RICHARD NOLAN,
DANIEL K. AKAKA,
Managers on the Part of the House.

RUSSELL B. LONG,
SPARK M. MATSUNAGA,
LLOYD BENTSEN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13750) to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report. The differences between the House bill and the Senate amendment and the substitute agreed to in conference are noted in the following outline, except for conforming, clarifying, and technical changes:

(1) U.S. MARKET PRICE OBJECTIVE

The House bill establishes a U.S. domestic market price objective of 15 cents per pound for raw sugar for sugar supply year 1978 (October 1, 1978–September 30, 1979), to be adjusted in future years.

The Senate amendment establishes a U.S. domestic market price objective of 16 cents per pound for raw sugar for sugar supply year 1978, to be adjusted in future years.

The Conference substitute adopts the House provision.

(2) U.S. MARKET PRICE ADJUSTMENTS

The House bill adjusts, beginning October 1, 1979, and each sugar supply year thereafter through sugar supply year 1982, the market price objective for the previous year to reflect the percentage change in average costs of production for the two-year period preceding the year under consideration as compared to the average for the two-year period preceding the year before the year under consideration, *e.g.*, for sugar supply year 1979, the average of 1977 and 1978 sugar supply years would be compared with the average for the 1976 and 1977 sugar supply years. For purposes of this provision, the cost of production is limited to variable cost, machinery ownership cost, and general farm overhead cost, allocated to the crop on the basis of the proportion of the value of the total production derived from such crop.

The Senate amendment adjusts the initial 16 cent price objective beginning October 1, 1979 and at six-month intervals thereafter through sugar supply year 1982, to maintain for any such period the same ratio between the market price objective and the simple average of the parity index and the wholesale price index for the three months preceding

that period as existed between the price objective for sugar supply year 1978 and that average during the 12-month period preceding July, 1978.

The Conference substitute provides that beginning October 1, 1979, the market price objective will be 15.8 cents (a figure consistent with the President's anti-inflation guideline of 5.5 percent, announced in October 1978). For each succeeding sugar supply year through 1982, the market price objective will be increased by one percent above the market price objective of the preceding sugar supply year. The Conferees are of the view that the legislation is inadequate for the years after the 1978 sugar supply year. The Conferees intend that in 1979 Congress will enact new legislation for sugar supply year 1979 and succeeding years to provide an adequate sugar program.

(3) PRICE SUPPORT PROGRAM

A. The House bill continues in effect the current mandatory price support loan program for the 1978 crop of sugar beets and sugarcane. Payments are prohibited for that year under current law. The House bill contains no provision as to the price support program for future years. Thus, present law would remain in effect for future years. Section 301 of the Agricultural Act of 1949 gives the Secretary of Agriculture discretion to support prices of sugarcane or sugar beets by way of loans, purchases, processor payments, or other means.

The Senate amendment prohibits payments to or on behalf of producers and processors of sugarcane or sugar beets for as long as the domestic program established by the legislation remains in effect.

The Conference substitute provides direct payments of up to 0.75 cents per pound, raw value, for the 1978 sugar supply in such amount as necessary to assure a total return of 15.75 cents per pound, raw value. The Conference substitute prohibits payments for subsequent sugar supply years through the 1982 sugar supply year.

B. The House bill provides that to encourage repayment of outstanding loans on the 1977 and 1978 crops of sugar beets and sugarcane the Secretary may waive a portion of principal or interest due on such loans. The waiver could not, however, be exercised in such a manner as to affect unduly sugar market prices.

The Senate amendment contains no comparable provision.

The Conference substitute adopts the House provision with an amendment prohibiting a waiver of any portion of the principal.

(4) FEES AND SPECIAL DUTIES

The House bill requires the Secretary of Agriculture to recommend special import duties which the President must impose under TSUS headnote authority in an amount necessary to achieve the market price objective. Adjustments may be recommended and made on a quarterly basis. The fees may be suspended if the President finds that a national emergency exists with respect to sugar.

The Senate amendment is the same as the House bill except: (a) the Secretary would impose a fee on imports to achieve the price objective; (b) the fee to achieve the price objective would be determined on a semi-annual basis; (c) the fee could not exceed 20 cents per pound; (d) imposition of the fee is required if prices of imports are less than the market price objective for 20 consecutive market days; relaxation of the fee is required if prices of imports exceed by 20 percent or more the market price objective for 20 market days.

The Conference substitute adopts the House provision.

(5) BACK-UP QUOTAS

The House bill provides for quotas only as a back up to special import duties to defend the U.S. price objective. Quotas could be recommended by the Secretary and proclaimed by the President under TSUS authority. Quotas would be adjusted quarterly. Quotas could be administered by auction of import licenses. If country-by-country quotas are allocated, the amount would be subject to past supply history and human rights consideration. Also, no quota could be allocated to any nation which imported more than 10,000 short tons of sugar in the previous year.

The Senate amendment is the same as the House bill except: (1) quotas would be imposed by the Secretary on a semi-annual basis; (2) adjustments would be made when necessary—not on a quarterly basis; (3) quotas would be only on a global basis; (4) quotas would be imposed if prices of imports are less than the market price objective for 20 consecutive days; mandatory relaxation is provided for if prices of imports exceed by 20 percent or more the market price objective for 20 market days.

The Conference substitute adopts the Senate provision, except that it provides that quotas may be imposed at any time during a sugar supply year when necessary to achieve the market price objective. Any import quotas must be proclaimed on a global basis and allocated on a first-come, first-served basis.

(6) REFINED SUGAR IMPORTS

The House bill contains no special restrictions on imports of refined sugar. Refined sugar imports would be subject to the same statutory requirements as raw sugar imports.

The Senate amendment prohibits entry of refined sugar unless (1) the Secretary determines that a lack of raw sugar refining capacity in the U.S. has created an imminent shortage of refined sugar for consumers; or (2) the President determines a national economic or other emergency regarding sugar or liquid sugar exists.

The Conference substitute adopts the House provision.

(7) SUGAR CONTAINING PRODUCTS

The House bill treats sugar-containing products the same as sugar, except special import duties may be imposed on sugar-containing products only after an investigation by the U.S. International Trade Commission on the extent to which the entry of sugar-containing products are affecting achievement of the price objective. There is no provision specifically restricting imports of confectionery.

The Senate amendment provides for separate import limitations on sugar-containing products if the U.S. Department of Agriculture determines they may interfere with the attainment of the objectives of this Act. Import limits must be imposed on sweetened chocolate, candy, and confectionery based on the larger of the quantities of average imports during the previous three years or five percent of the most recent U.S. production. (These imports may be allocated by country.)

The Conference substitute adopts the House provision.

(8) PROHIBITED ACTS

The House bill prohibits (a) entry of more than 100 pounds per year into the Virgin Islands for consumption during any calendar year of sugar produced outside the United States; and (b) the export of sugar entered under quota, except under limited circumstances. The House bill provides for a civil penalty for a knowing violation of the above prohibitions, the penalty equal to three times the market value of the sugar involved in the violation.

The Senate amendment contains the same provision except it does not provide for civil penalties.

The Conference substitute adopts the House provision.

(9) EXEMPTIONS AND EXCEPTIONS

The House bill provides that special duties and quotas do not apply to any sugar or sugar-containing product—(a) of aggregate value not exceeding $25 in any one shipment, if entered as samples, for personal use, or for research, (b) entered for the production of alcohol (including polyhydric alcohol) not for human food consumption, or (c) entered for the production of yeast or citric acid.

The Senate amendment provides that import fees and quotas do not apply to first 10 short tons from any country in any year of refined sugar, and of liquid sugar used for religious, educational, or experimental purposes; liquid sugar in sealed containers not in excess of four liters each; sugar or liquid sugar for production of alcohol (not for human food consumption) and livestock feed; and sugar for production of polyhydric alcohols (not for a substitute for sugar as a sweetener).

The Conference substitute adopts the House provision with an amendment clarifying the exception for polyhydric alcohols to insure that such exception shall not apply to sugar used for production of polyhydric alcohols used as a substitute for sugar as a sweetener.

(10) REGULATIONS

The House bill provides the Secretary authority for making necessary regulations to implement his authority under Title II.

The Senate amendment provides the same authority but provides for a penalty of $1,000 for violation of regulations.

The Conference substitute adopts the House provision.

(11) CIVIL PENALTY

The House bill relies on existing law for punishing violations except that a civil penalty is imposed in the limited cases indicated in item 8 above.

The Senate amendment provides for a penalty equal to three times the value of the quantity of sugar involved for a knowing violation of a quota or a knowing failure to pay an import fee.

The Conference substitute adopts the House provision.

(12) COUNTERVAILING DUTY WAIVER EXTENSION

The Senate amendment extends the authority of the Secretary of the Treasury to waive countervailing duties under the following conditions:

(1) The waiver authority would be extended if, before January 3, 1979, the President determines, upon the recommendation of the Special Representative for Trade Negotiations, and notifies Congress of his determination, that:

(a) Negotiations have been concluded establishing new international rules and procedures governing the use of internal and export subsidies which (i) adequately protect U.S. agricultural and industrial trading interests, and (ii) provide for effective enforcement of the substantive rules;

(b) The multilateral trade negotiations (MTN) as a whole have been substantially concluded; and

(c) Failure to extend the waiver will seriously jeopardize the conclusion of the MTN.

(2) The waiver authority would be extended to the earliest of the following dates:

(a) The date on which either House of Congress defeats on a vote of final passage the domestic implementing legislation on an agreement or agreements on subsidies;

(b) The date of enactment of such implementing bill; or

(c) February 15, 1979.

(3) Existing waivers, which would continue in effect, and any future waivers made during the period of the waiver authority extension are subject to the existing conditions in the law for granting waivers. All waivers are subject to the existing Congressional override

provisions under which either House of Congress by majority vote may disapprove a waiver. If an override resolution is adopted, imports covered by that resolution become subject to countervailing duties immediately.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision. The Conferees expect to review the need for a further extension of the countervailing duty waiver authority beyond the February 15, 1979 expiration date provided in this legislation and, if appropriate, seek its extension.

(13) TIN BUFFER STOCK AND TIN STRATEGIC STOCKPILE DISPOSAL

The Senate amendment authorizes the President to contribute up to 5,000 long tons of tin metal from the Strategic and Critical Materials Stockpile to the Tin Buffer Stock established under the Fifth International Tin Agreement. The Administrator of General Services is authorized to dispose of an additional 30,000 long tons of tin from the strategic stockpile. Time and method of such disposition shall be fixed to avoid loss for the U.S. or disruption of world markets.

Any revenues received from the disposition of tin under this section would be put into a special account in the Treasury until new stockpile management legislation is passed by Congress. If no such legislation has been enacted within three years, the moneys would revert to the Treasury as miscellaneous receipts.

The House bill contains no comparable provision.

The Conference substitute adopts the Senate provision with an amendment deleting a provision that the U.S. contribution to the tin buffer stock shall not prevent unilateral disposals of tin by the United States from the national stockpile.

In administering the national defense and strategic stockpile, the GSA is required by law to avoid disruption of the raw materials markets of domestic processors and producers. The Committee Report on the Strategic and Critical Materials Transaction Act emphasized the necessity for the GSA to avoid market dislocation in its materials sales program. Therefore, when the GSA sells the 35,000 tons of tin, it must do so in a manner that will not disrupt the domestic tin market.

E. DE LA GARZA,
RICHARD NOLAN,
DANIEL K. AKAKA,
AL ULLMAN,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
SAM GIBBONS,
JAMES C. CORMAN,
THOMAS S. FOLEY,
W. R. POAGE,
Managers on the Part of the House.

RUSSELL B. LONG,
SPARK M. MATSUNAGA,
LLOYD BENTSEN,
Managers on the Part of the Senate.

RESIGNATION FROM COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore laid before the House the following resignation from the Committee on Public Works and Transportation:

WASHINGTON, D.C.,
September 27, 1978.

Hon. THOMAS P. O'NEILL, JR.,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I hereby submit my resignation as a Member of the House Committee on Public Works and Transportation.

Respectfully submitted,
WILLIAM F. WALSH,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation will be accepted.

There was no objection.

ELECTION OF MEMBER TO COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. RHODES. Mr. Speaker, I offer a resolution (H. Res. 1447) and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1447

Resolved, That JOHN E. CUNNINGHAM, of Washington, be and he is hereby elected a member of the Committee on Public Works and Transportation.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 2570, COMPREHENSIVE EMPLOYMENT AND TRAINING ACT OF 1973

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the statement of the managers is considered as read.

(For conference report and statement, see proceedings of the House of October 11, 1978.)

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 30 minutes.

POINT OF ORDER

Mr. ASHBROOK. Mr. Speaker, I raise a point of order.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. ASHBROOK. Mr. Speaker, I raise a point of order with respect to the conference report on S. 2570, Comprehensive Employment and Training Act Amendments of 1978, on the grounds that the conference report contains nongermane matter. Specifically, section 6 of the report proposes to include a "Labor Management Cooperation Act of 1978."

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, I concede the point of order. I think it is valid.

The SPEAKER pro tempore. The point of order is conceded.

MOTION OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I make a motion of high privilege to reject the nongermane matter which was the subject of the point of order just sustained.

The Clerk read as follows:

Mr. ASHBROOK moves to reject section 6 of the conference report.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHBROOK) is recognized for 20 minutes.

Mr. ASHBROOK. Mr. Speaker, the point of order was conceded for obvious reasons. It is a statutory enactment.

Mr. Speaker, this section has absolutely nothing to do with the Comprehensive Employment and Training Act. Further it was not contained in the House bill H.R. 12542 nor was it contained in the amendments of the House to the bill S. 2570.

This section was added by the Senate. In examining the substance of this section, it is quite clear that it is not germane to the Comprehensive Employment and Training Act. The joint statement of managers accompanying the conference report specifically notes that it is: "a separate statute to provide for the establishment of programs to encourage the formation of joint labor management committees."

The purpose of such committees would be to improve communications between labor and management, to enhance job security and organizational effectiveness and to assist labor organizations and employers in resolving problems not susceptible to resolution within the collective bargaining process. These joint labor management committees would operate on a plant, area and industrywide basis.

Significantly, this section of the conference report amends several sections of existing law in the Labor-Management Relations Act of 1947. It amends section 203 and 205 to provide for administration of this new program by Federal mediation and conciliation services.

In addition, section 6 of the conference report amends section 203(C) of the Labor Management Relations Act. The effect of this amendment is to make employer payments to such joint labor management committees a mandatory subject of bargaining.

I believe that the precedents unequivocally establish that this section of the conference report is nongermane. For instance, under section 799 of the annotation of the Rules of the House of Representatives—on page 539—it is stated:

Generally to a bill amending one existing law, an amendment changing the provisions of another law or prohibiting assistance under any other law is not germane (May 11, 1976).

Further in Deschler's Procedure, chapter 28, section 33, precedents are cited with respect to amendments changing existing law to bills not citing the law. For instance the precedent cited at section 33.2 holds that to a bill amending two sections of the Fair Labor Standards Act an amendment proposing changes in the Tariff Act of 1930 was ruled out as nongermane (113 CONGRESSIONAL RECORD 27214, 90th Cong., 1st sess., Sept. 28, 1967).

In sum, because section 6 of the conference report amends existing law that was not the subject of the House passed bill to reauthorize the Comprehensive Employment and Training Act, such section should be ruled out as nongermane.

I therefore submit that the point of order should be sustained.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Speaker, did I understand the gentleman to say there have been no hearings in the House on the particular proposal?

Mr. ASHBROOK. On this particular proposal I am describing, I want to point out that the House has had no hearings on the proposal.

The proposal is discriminatory, unfair, and it belies its asserted purpose:

It was originally conceived as an experimental program to operate outside the collective bargaining context, to benefit workers who were neither organized nor represented by unions.

It was not intended to benefit only organized and represented employees.

It most certainly was not intended to tip the balance between organized labor and management nor alter the basic rules on bargaining over mandatory subjects.

But an examination of the terms of the Senate proposal shows that:

It allows assistance to go only to committees formed in conjunction with organized labor.

The unorganized employees; for example, those in the South, and Southwest, will not benefit one iota.

The manner in which it amends section 203(c) of the Taft-Hartley Act now makes it a mandatory subject of bargaining on whether an employer is to make contribution to such a program, even where the employer is not a participant in any plant, area, or industry-wide committee.

Mr. LUNDINE. Mr. Speaker, will the gentleman yield further?

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Speaker, is my colleague aware this is almost exactly parallel to the Human Resources Development Act, which has had not only extensive hearings held by the Committee on House Banking and Currency, but it was passed on a bipartisan vote of 37 to 1 by the House Committee on Banking and Currency, and upon which hearings have been held by the Committee on Education and Labor as well?

Mr. ASHBROOK. If the gentleman cares to refer to the RECORD of October 11, 1978, page 35806, where it was printed, if he looks at the language he would have to concede his word is a little bit in exaggeration. It is not "almost the bill" that was reported, nor almost the bill as it was heard. As I am pointing out, there are basic substantive differences over which there were no hearings. I think my colleague has his point.

Talking about the change, the Senate proposal shows that it allows assistance to go only to committees formed in conjunction with organized labor. I know my colleague will agree this was not the purpose of the original report.

The manner in which it amends section 203(c) of the Taft-Hartley Act now makes it a mandatory subject of bargaining on whether an employer is to make contribution to such a program, even where the employer is not a participant in any plant area, or industrywide committee.

For these reasons, it is so far afield from the matter that was included in the legislation offered by my colleague, the gentleman from New York (Mr. LUNDINE), that I urge my colleagues' support for my motion to strike this from the conference report.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 20 minutes.

Mr. HAWKINS. Mr. Speaker, I do not intend to take that length of time.

May I inquire as to the point of order? When we conceded, it was to the parliamentary situation in which we were involved, rather than to the merits of the case.

I think we should point out the reason why this was accepted despite the fact it was a nongermane amendment. There was never any attempt on the part of the conferees to conceal this fact. Obviously, we did not have the opportunity to indicate this an opening statement in which this matter was referred to.

The CETA conference report contains authorization for a new program to be administered by the Federal Mediation and Conciliation Service. This provision, authored by Senator JACOB JAVITS and Congressman STANLEY LUNDINE, authorizes $10 million for assistance to joint labor-management committees, organized voluntarily in a plant, community, or industry, to encourage opportunities for labor and management to work together on problems outside the scope of the collective bargaining process. Some 40 area and industry committees, and hundreds of committees in individual plants and companies are already in operation.

The original bill authored by Congressman LUNDINE, which established the labor-management cooperation program, was cosponsored by 76 Members, including myself, and was favorably reported by the Banking Committee in July 1977.

I believe that the intent of this legislation parallels the direction of the revised CETA legislation to encourage and increase private sector employment opportunities, and I urge its adoption in this conference report.

My colleague, the gentleman from New York (Mr. LUNDINE), has twice sponsored the bill. We have conducted hearings on the bill, and the bill that he presented has been included in at least one act, one bill which passed this House, the full employment bill.

So we felt that here was an instance where the idea had been supported in both Houses, and it was for that reason that I suppose our enthusiasm led us astray from the act which was being amended. I say that in defense of the idea. I still think that it is a good idea, a successful proposal, and that it certainly is in line with our encouragement of the private sector.

Mr. Speaker, I would hope, therefore, that we do not strike it from the conference report.

Mr. ASHBROOK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I must respond to the remarks of my friend and colleague, the gentleman from California (Mr. HAWKINS). First, my colleague is absolutely correct when he says there is no intention and no effort on the part of any member of the committee, majority or minority, Senate or House, to conceal what is going on. This nongermane amendment was printed in the RECORD. We knew about it, and it was given us in advance.

But I must point out most respectfully that the gentleman's statement that it basically encompasses what was in the House bill and the proposal of my colleague, the gentleman from New York (Mr. LUNDINE), is absolutely incorrect. The Lundine proposal originally endorsed the concept of experimentation and cooperation outside the collective bargaining area. It was specifically talking about unrepresented employees, meaning nonunion employees.

Then if we look at the conference report, we see there has been a loaded, double-barreled effort to make sure that no one is covered except those who are subject to a labor agreement. It is double-barreled in the sense that they are accepted and double-barreled futher in the sense that funds are withheld unless they are members of the union.

Section 205(a) says: "The service is authorized and directed to provide assistance in the establishment and operation of plant area and industrywide labor-management committees which, (a)"—and here is the first one of the double-barrels—"have been organized jointly by employers and labor organizations representing employees in that plant area or industry."

It goes on in section 2(b) to say: And this is the second part of the double-barrel—"no grant may be made, no contract may be entered into, and no other assistance may be provided under the provisions of this section to a plant labor-management committee"—and here is the operative word—"unless the employees in that plant are represented by a labor organization and there is in effect at that plant a collective bargaining agreement."

Mr. Speaker, let me appeal to the sense of fairness of the Members. My colleague, the gentleman from New York, says we see here the embodiment of a concept that had already been considered in the House. The Lundine proposal specifically was directed toward employees outside of a labor-management area. The proposal which was accepted on the Senate side in the conference mandates in a double-barreled fashion that they have to be members of a labor union, and, second, that no funds can go into the area or can go into the plant unless they are members of a labor union. There is no leeway whatsoever.

In the original Lundine concept there was leeway. It took in the broad spectrum of employees. But in the Senate version that was adopted there is absolutely no leeway. As I say, it is double-barreled. You must belong to a union, and unless you belong to a union, no funds are available for that purpose.

Mr. Speaker, because we will have this substantive issue next year before us, I suggest that we vote down this particular section, that we adopt CETA without this particular Senate amendment, and that if it is that important, the gentleman from New York (Mr.

LUNDINE) and my colleague, the gentleman from California (Mr. HAWKINS), can certainly bring it before the House next year under better circumstances.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, could the gentleman give us an explanation of the original Lundine proposal which shows it covered everybody?

Mr. ASHBROOK. I do not have the Lundine bill before me, but my colleague, the gentleman from New York, is here, and I am sure he can explain his proposal. And if I have not correctly stated first, the concept of experimentation, second, cooperative action, and third, the area outside of the area of collective bargaining, I would want to be corrected.

Mr. LUNDINE. Mr. Speaker, if the gentleman will yield, the original proposal involved those things specifically for labor-management committees. It does not seem to me to be ambiguous that labor-management committees involved labor unions. We took this up specifically, if the gentlewoman will recall, in the House Banking Committee when it passed that committee. As a matter of fact, the stated reason for Judge Kelly being the one person to vote against it at that point was that it was understood that at the plant level only—not for these areawide committees, not for the industry committees, as the coal industry or airline industry, but simply at the plant level—it would pertain to organized plants.

Mrs. FENWICK. If the gentleman will yield further, only 20 or 25 percent of the working people are in labor unions. I thought that the labor organization originally referred to might be either an organized union group as some ad hoc group of the working people in any industry who would be working out the plans under this CETA grant.

Mr. LUNDINE. If the gentleman will yield on the merits of the issue——

Mr. ASHBROOK. I yield to the gentleman from New York.

Mr. LUNDINE. I would say to the gentlewoman that across the broad spectrum of labor in this country we need to have better cooperation but it is particularly true in organized labor activities. We have seen here a promising way for labor organizations and business enterprises to come together and improve productivity and improve the quality of working life.

Mrs. FENWICK. If the gentleman will yield further, I am in favor of that concept, as the gentleman knows. It is essential for management and labor, whether organized or not, to get together, in the interest of productivity. But I think it is a grave error to exclude a whole group of working people who are not in labor unions.

Mr. LUNDINE. If the gentleman will yield further, this amendment to CETA does not restrict cooperation on an industry- or area-wide basis. It only restricts it for the in-plant committees, that there be a constitutionally recognized employee organization.

Mrs. FENWICK. Suppose they have no labor union.

Mr. LUNDINE. All it says is they are not eligible for the modest Federal assistance provided.

Mr. ASHBROOK. Mr. Speaker, if I could reclaim my time for one purpose, I will say that my colleague, the gentleman from New York, is totally honest in what he said. He said his original bill would involve—he used the word "involve"—labor unions. My problem is that we have something not involving labor unions. You have to change the verb. You got something that mandates. There is a lot of difference between a program which involves labor unions as against saying, as in the conference report, an absolute mandate that only labor unions be involved. Organized labor originally opposed the Lundine bill, and they gave about eight reasons. I will not go through all eight, but one of the reasons—this is a direct quote—is that it provides a "license for outsiders to muck around in the delicate balance of labor-management relations."

You do not have to be a Phi Beta Kappa to figure out that the original bill, because it was going to involve union and nonunion employees, hit a stone with labor unions, so obviously they wanted to switch, so they mandate only workers who are subject to a labor-negotiated contract.

For that reason, Mr. Speaker, I urge the Members to vote to sustain the motion, to reject this particular Senate amendment, because it is nongermane, in the first place. It is, as admitted, a separate total statute, and certainly needs the further exploration of the committee in the next session.

Mr. HAWKINS. Mr. Speaker, I yield one minute to the gentleman from New York (Mr. LAFALCE) in response to the issue that has been raised.

Mr. LAFALCE. Mr. Speaer, the entire thrust of this provision is to try to bring together groups that are very often in conflict with each other and who do have official organized positions. One could not get management to sit down with a group of labor people if they were not an official bargaining unit. They would be afraid that if they did sit down with them there would be the creation of a bargaining unit that would become unionized.

The only way we are going to be able to accomplish this is the way Senator JAVITS introduced it in the other body, and this is the only instance when it would be utilized. I think this is a very laudable approach. It has been successful in virtually every instance where it has been tried, and I think we would be well advised to adopt it.

Mr. HAWKINS. Mr. Speaker, may I simply state what would be the effect of approval of this motion. If the motion prevails, the House would necessarily be placed in the position of insisting on its amendment without this nongermane provision. We would then have to wait for the Senate to act on the House amendment before final action could be taken on the CETA bill in this House. In view of the lateness of the hour, I would suggest that to sustain this motion would, in effect, place us in the position of jeopardizing the Comprehensive Employment and Training Act.

I just think that situation should be faced and be considered by the Members before voting on the motion.

Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PATTISON).

Mr. PATTISON of New York. Mr. Speaker, earlier this year, my office sponsored a labor-management seminar on economic development for labor and industry in my northeastern New York district. The purpose of the seminar was to discuss the needs and problems of industry in that region. We extended an open invitation to anyone concerned with labor-management relations, and economic growth. Participants exchanged ideas and suggestions for ways to improve productivity, and generally enhance the climate for industrial development.

I am convinced that many of our recent economic problems—from skyrocketing energy costs to high unemployment, to plant closings and inflation—can be dealt with most effectively by cooperative efforts from labor and management; by labor and management sitting together, recognizing each other's problems, and working together to solve them. The labor-management seminar held in my district was a step in this direction.

STAN LUNDINE has introduced the Human Resources Development Act, providing for the creation of local labor-management committees, which would work toward improvement of local labor-management relations, productivity, job security and organizational effectiveness. Assistance would be available to these groups in the form of grants. The committee would be awarded a grant to look into suggested improvements for the area's labor and industry. The beauty of this proposal is that it does not benefit one group over another, but instead provides the incentive for all facets of industry to combine their efforts toward a common goal of economic development and improvement of working conditions.

Where these cooperative labor-management committees have been established, their value and effectiveness is clearly evident. A prime example of how their work can have a positive effect throughout the community is in Jamestown, N.Y. Over a 3-year period, the unemployment rate for the Jamestown area dropped 6 percent, and it is generally agreed that the labor-management committee is largely responsible for that decrease.

Congressman LUNDINE's legislation was accepted as an amendment during conference consideration of the CETA reauthorization. I urge my colleagues to oppose any attempts to remove this provision from the conference report.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. PATTISON of New York. I yield to the gentleman from Wisconsin.

Mr. REUSS. Mr. Speaker, I want to urge the House to support section 6 in the conference report on the CETA legislation. This section would provide some Federal assistance for the formation of joint labor-management committees to improve productivity and the quality of the workplace environment in individual plants and on a communitywide and industrywide basis.

Mr. Speaker, this provision is very similar to legislation which the House Banking Committee reported out last year by a vote of 37-to-1—the Human Resources Development Act. The testimony presented at earlier hearings conducted by the Subcommittee on Economic Stabilization persuaded the members of the committee that where these types of worker-management cooperative programs exist in various places throughout the country, they produce remarkable improvements in worker productivity, and that a Federal effort to foster more such endeavors is very much in the Nation's economic interest.

This provision in the CETA conference report represents a modest beginning to such a Federal effort. I am convinced, Mr. Speaker, that increasing productivity through initiatives which workers themselves help to develop will not only help to slow the productivity growth lag, but will lessen inflation, improve the Nation's economic performance, and in the long run provide more jobs for American workers. The members of the House Banking Committee overwhelmingly supported this proposition, and I urge the House to support it as well through the modest program provided in the CETA conference report.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. ASHBROOK) to reject section 6 of the conference report.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. SYMMS. Mr. Speaker, I demand a division.

On a division (demanded by Mr. SYMMS) there were—ayes 61, noes 96.

So the motion was rejected.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) is recognized for 30 minutes.

Mr. HAWKINS. The House and Senate conferees have agreed on a revision of the Comprehensive Employment and Training Act (CETA) and an extension of the act for 4 years, through fiscal year 1982 except for titles IV, youth programs, and VII, private sector initiatives, which are authorized for 2 years.

I feel that I can state on behalf of all the conferees that we have agreed to a balanced proposal which includes the best provisions of both bills and is a compromise on the differences which is fair and just.

The objectives of the Jeffords' substitute bill have been retained as well as the reform proposals of the original committee bill. The limitations and restrictions on duration of enrollment and level of salaries have been dealt with in an equitable fashion that all conferees agreed to and I feel that the Members of both bodies can agree to.

The agreement sets an average wage for all PSE positions of $7,200 per year in fiscal year 1979 with an indexing of that level to local average wages in future years. The maximum Federal contribution to CETA wages will vary from $10,000 to $12,000 according to an index of local average wages. The amount that local governments may supplement wages with local funds will be limited to 10 percent in title VI and disallowed in title II. The duration of a jobholder's tenure in PSE will be limited to 18 months in any 5-year period.

The conference legislation includes all the civil and criminal sanctions against fraud and abuse as well as various provisions included by both bodies on administrative requirements to improve the management of the CETA system. As the Members are aware, the President has signed into law the Inspector General Act thus rendering moot the provision in the House bill establishing an Office of Audits, Investigation, and Compliance. Nonetheless, the statement of managers refers to the need for sufficient resources from the Inspector General Office within the Labor Department to be devoted to the Employment and Training Administration and consequently to the CETA system.

The conference agreement provides a clear distinction in eligibility, program design and purpose between the employment and training for the structurally unemployed in title II and countercyclical unemployment in title VI.

The legislation authorizes a total of $5 billion for title II in fiscal year 1979: $3 billion for transitional employment opportunities and 2 billion for training. In future years, only 60 percent of the total title II appropriation may be used for PSE. Ninety percent of the PSE funds may be used for wages and benefits for PSE in fiscal year 1979—approximately 309,000 positions—the remaining funds to be used for training. The level of funds which may be used for wages and benefits declines to 78 percent in fiscal year 1982 with the remaining funds used for training.

Eligibility for public service employment under title II is restricted to individuals unemployed for 15 weeks or longer or on welfare with family income of no more than 70 percent of the BLS lower living standard. Training programs under parts A, B, and C of title II will be utilized for employability development that will prepare persons for full time unsubsidized employment. Specifically there are provisions for job search assistance, training and support services, orientation and counseling. Each job in title II must be combined with training and lead to unsubsidized employment.

Title VI of the agreement provides countercyclical PSE. The number of jobs will increase and decrease according to fluctuations in the national unemployment rate and shall equal 20 percent of the jobless over the national rate of 4 percent; but should that rate increase to 7 percent or more, the percentage of jobs would increase to 25 percent above 4 percent. With the current unemployment rate of 6 percent there are approximately 2 million unemployed by official count. Therefore, title VI would create about 400,000 jobs at a cost of approximately $3.2 billion in fiscal year 1979. If the administration's projection of a 5.7 percent rate should prevail for the coming year there would be about 346,000 positions at an approximate cost of $2.75 billion. Eligibility for title VI would be limited to individuals who have been unemployed for 10 out of the last 12 weeks or on welfare and whose family income does not exceed 100 percent of the BLS lower living standard; 50 percent of the title VI positions must be in projects of limited duration not to exceed 18 months.

The provisions of the House amendment transferring additional funds to youth programs—$400 million—the private sector initiative under title VII—$100 million—and increasing the authorization for the Young Adult Conservation Corps—title VIII—to $350 million in fiscal year 1979, prevailed in the conference agreement.

The intent of Congress to emphasize youth programs and to increase the private sector involvement through such programs as on-the-job training is very clear. This combined with the redirection of the program to serve those most in need, improved accounting and managing procedures, and improved authority of the Department to eliminate abuse will improve the CETA programs.

I hope that all Members can vote to adopt the conference agreement.

Mr. PERKINS. Mr. Speaker, will the distinguished chairman from California yield to me?

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, the conference report on S. 2570, the Comprehensive Employment and Training Act Amendments of 1978 deserves the support of every Member. It has been signed by all the conferees of both Houses and represents a fair and equitable resolution of the issues that needed resolution. Even more important, the report will make substantial improvements in the CETA program and make it a more effective instrument for serving the Nation's unemployed and poor who need jobs and training in order to achieve the decent standard of living that should be denied to no one in this country.

Let me outline briefly the highlights of the bill. First, the bill reforms and restructures the public service employment program. In line with the provisions of the House bill, it separates public service employment into two distinct parts: First, a program for the structurally unemployed, and second, a countercyclical program designed to respond to changes in the unemployment rate.

For the structural program contained in part D of title II, we have authorized $3 billion for the first year and such sums as may be necessary for the following years. Let me emphasize two important features of this new program: First, it is designed to be a transitional program to improve the skills and employability of the persons hired and to move them into unsubsidized employment. This feature is emphasized in a number of ways: The overall authorization for the program is linked to the authorization for the training program, and a specified percentage of the funds available for the program must be spent on training. The bill, of course, recognizes the realities of labor markets in which training or unsubsidized employment opportunities are not available.

The second feature I want to emphasize is, that for the first time in the history of public service employment legislation, it recognizes that an employment program for the economically disadvantaged must be targeted to areas of low income as well as to those marked by high unemployment. It does this by incorporating a "low income" factor into the distribution formula for the program.

The innovations that we have made in the program for the structurally unemployed are matched by those we have made in the countercyclical program. Again, for the first time in the history of these programs, we have stated the congressional intent that the program should reach specified percentages of the unemployed in excess of 4 percent, and we have provided a fine-tuned mechanism to translate that intent into practical reality. We have provided for an authorization level sufficient to fund jobs for 20 percent of the unemployed in excess of 4 percent of the labor force unless unemployment reached 7 percent, at which time the authorization is increased to provide jobs for 25 percent of that excess.

One of the major issues of concern to the House was the question of the maximum wages payable to public service employees and I believe we reached a fair and just compromise with the provisions in the Senate bill. Under the House bill, the maximum wage that was payable from Federal funds was $10,000 and prime sponsors were, under various conditions and limitations, permitted to supplement that wage up to a maximum of $12,000. Under the Senate bill the maximum combination wage from Federal and non-Federal funds was $14,400. The Conference report splits the difference and provides for a maximum of $13,200 with a maximum of $12,000 payable from Federal funds with a provision for a 10-percent supplementation from non-Federal funds.

The conference report also directly addresses the questions of fraud, abuse, and substitution that have cast such a cloud over the generally fine performance of the CETA program. The provisions of the House bill have been strengthened in the conference report and I can assure all Members that we have spared no effort to insure that the funds that we spend on this program will benefit the needy and reduce unemployment.

The CETA program has served us well in the past both through its training and its employment programs. It has, as we all know, been a program that was not free of problems caused by its rapid growth and some confusion in its objections. These problems have, I believe, been cured by the provisions of the conference report and I strongly urge every Member's support for the conference report.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to return to the House with this conference agreement on the Comprehensive Employment and Training Act reauthorization bill. After long hours of discussion at both the conference committee and the staff levels, we were able to reach a compromise position which preserves the most important elements of both bills. This body will be pleased to note that the public service employment jobs reduction has been preserved, training requirements have been added and strengthened, wages are lower than in the original House bill, and eligibility requirements are even stricter than in the House-passed version.

At this time, I would like to commend the staff members who worked so hard and long on this bill, especially Nat Semple, of the minority staff, who has not only done an outstanding job, but has managed to keep his excellent sense of humor throughout our work on this legislation.

On September 22, this body agreed to my substitute amendment to CETA, and passed the final bill by a vote of 284 to 50. I would like to explain the slight changes from the bill you agreed to, as well as several of the major provisions in the conference agreement.

First, let me discuss my original amendment to shift the emphasis in CETA away from PSE, and toward training programs, modified somewhat in the substitute. We have preserved the reduction of at least 100,000 PSE slots in title VI, and will have authorized approximately the same amount of money on PSE in title II as in the House-passed bill. The conferees agreed to separate the PSE program in title II into section D of that title, and to gradually increase the percentage of training required for the participants in the title II–D program. The amount will be 10 percent in 1979, 15 percent in 1980, 20 percent in 1981, and 22 percent in 1982. In addition, the ratio of funds spent on title II training programs in sections A, B, and C of title II must remain at least 40 percent of the appropriation for all of title II for the next 4 years. This requirement, plus the training component in II–D, will mean that the amount which will be available for training in title II will be 46 percent in 1979, 49 percent in 1980, 52 percent in 1981, and 53 percent in 1982. This should be compared with the original House plan which assured only 20 percent for training in 1979, 35 percent in 1980, 40 percent in 1981, and 45 percent in 1982. This will be a 26-percent increase in the percentage of title II funds which must be used for training next year.

It should be pointed out that II–D allows all the money in the title II–D program toward training. It should be further noted that the 10-percent administration funds come out of the money left over after the mandatory set-asides for training are subtracted. Translated into dollars and subtracting 10 percent for administration, this means $2.3 billion for training and $2.2 billion for PSE in fiscal year 1979. In fiscal year 1980, the amount could be $2.5 for training and $2.0 billion for PSE. In fiscal year 1980, it is $1.90 and $2.6 billion, respectively, and fiscal year 1982, it is $2.65 and $1.85 billion, respectively. Broken down as follows, it would appear as follows:

Fiscal year	House ($4 billion)		Compromise ($5 billion)	
	Percent	Amount	Percent	Amount
1979:				
PSE	65	$2.6	44	$2.2
Training	20	.8	46	2.3
Administration	15	.6	10	.5
1980:				
PSE	50	2.0	41	2.05
Training	35	1.4	49	2.45
Administration	15	.6	10	.5
1981:				
PSE	45	1.8	38	1.9
Training	40	1.6	52	2.6
Administration	15	.6	10	.5
1982:				
PSE	40	1.6	37	1.85
Training	45	2.2	53	2.65
Administration	15	.6	10	.5

This ratio is absolutely protected by the language that limits II–D funding to 60 percent of the total of A, B, C, and D.

What this chart shows is that the House passed bill would have assuredly pitted PSE against training—and specifically would have forced prime sponsors to cut back on training—now funded at $2.0 billion—to provide PSE. The conference agreement changes all that and assures that training is protected. And although the conference does allow the authorization cap to be lifted, I believe that the House position has been strongly endorsed and protected by the above set-asides for training and the 60 percent limit.

In title VI we have also added a training requirement of 10 percent in the first year and 5 percent thereafter. This is an additional shift over the existing program.

The conference retained the cap in title VI as in the House bill, with one exception—when unemployment reaches 7 percent, when the estimate for jobs shifts from one in five to one in four.

It is important to clearly understand how this process will work. Section 603 stipulated that as long as actual unemployment is below 7 percent, the authorization level for the subsequent fiscal year will be based on a projection of the President to be made on March 1 preceding that fiscal year. The President is allowed to revise his estimate every 3 months but only until the beginning of the new fiscal year. Again, the projection must be based on one in five in excess of 49. Only when unemployment actually reaches 7 percent may the President project the figure for the current fiscal year, and then such a projection will be based on one in four, not one in five.

In practical effect, this will provide

for a single appropriation based on the original estimate and a supplemental if unemployment reaches 7 percent.

A breakdown could look like this:

March 1, President reports based on one in five for next fiscal year;

June 1, President revises based on one in five for next fiscal year; and

September 1, President revises based on one in five for next fiscal year.

Subsequent fiscal years only if 7 percent, President projects one in four.

It is my understanding that the Senate intends to call for a man-year reduction of 68,000 in title VI based on a CBO estimate of unemployment 5.8 percent at the end of fiscal year 1979. In addition, the Senate expects that to reach this figure, it will require a total actual reduction of 137,000 by the end of fiscal year 1979. This total results from the fact that the phase down is gradual. This is close to my estimate as to the slots allowed under the conference report but it should again, be remembered that these are not the same slots as under existing law because of the training requirement and the more restrictive targeting.

Broken down, it looks as if 309,000 slots will be available by year end for title II–D, and 280,000 slots in title VI, for a total of 589,000 by year end, or a total reduction as noted above of 137,000. In terms of cost, this is a saving of $1.2 billion as contemplated by my original amendment.

Considerable discussion has occurred on what the conference agreement means for sustainment of PSE slots. After careful analysis, I believe it reduces the level available for existing PSE by as much as 140,000 slots. One fact is certain, there is no longer a title II PSE program as we used to know it. If anything, the new title II–D is reminiscent of the new slots provided under the title VI revisions—Public Law 94–444—enacted by Congress in 1974. It is my understanding that some of those sitting on the Senate Appropriations Committee feel that our new title II–D is so different from the old program that it cannot be funded under a continuing resolution. While this can be argued, it would be unfair to cut the program that drastically. In fact, Mr. Speaker, the nature of this program has been so changed by the conference agreement, that we also changed its title to more accurately reflect its new focus. Part D of title II is now called Transitional Employment Opportunities for the Economically Disadvantaged, and that is exactly the point: It is a program to train those unemployed people with particularly severe labor market disadvantages so that they will be able to transition into permanent unsubsidized employment. Every job funded under title II must have a training component.

My original amendment on August 9 distributed $500 million—previously spent on PSE—into the youth and private sector titles. This shift has been preserved in the authorization levels of those titles. For fiscal year 1979, the authorizations will be: Title IV, $2.25 billion; title VIII, $350 million; and title VII, $500 million. As I have stated to the Members before, the youth titles have proven successful—and the private sector initiative title is expected to be successful—in terms of targeting the economically disadvantaged, transitioning participants, and increasing the level of post-CETA earnings.

The wage levels under CETA, originally changed by the Obey amendments, were substantially preserved in conference. The original House bill mandated a national average CETA wage of $7,800, which could be indexed by the CPI. This amount was reduced on the floor to $7,000, and this amount would automatically be indexed by the changes in the local average wage rates. The average CETA wage was only increased by the conference committee to $7,200, and the Obey indexing was preserved.

The maximum wage which could be paid out of CETA funds was reduced by the House to $10,000 per year. This amount could be supplemented by other sources up to 20 percent, depending on the local wage rates—Alaska was granted a discretionary waiver because of their exceptionally high wage rates. In conference, the maximum CETA salary was held at $10,000, but that amount can be supplemented upward by 20 percent out of CETA funds. This amount may also be supplemented from other funds by 10 percent; with waivers for two exceptionally high areas.

The length of projects under title VI is only 1 year in current law. There was no limit on project duration when the bill came out of committee, and a 2-year limit was agreed to on the floor. This was changed to 18 months in conference, to bring it into line with the amount of time a participant can remain in a PSE job in any 5 years. In addition, we were able to maintain the House version of 50-percent projects required under title VI, as opposed to the version of the other body, which mandated that all title VI moneys be spent in projects. We saw this as unnecessarily restrictive and inflexible, especially for nonurban areas, where projects are extremely difficult to design because of the low concentration of people, small size of community organizations and municipal offices, and often-restrictive weather conditions in rural areas.

On the issue of the use of CETA funds for contributions to retirement plans, the conferees agreed to the proposal adopted by the Senate The House receded, by a 9-to-4 vote along party lines. The Senate proposal, which was similar to the one offered by Congressman KREBS and rejected by the House, embraces the basic premise that contributions from CETA funds should be reasonably related to the benefits which participants can expect to enjoy.

Experience under the original act showed that enormous sums of money—money which could be used to provide jobs—were being diverted toward pension funds. The problem was that practically no CETA workers will ever realize the benefits from these contributions. Given the temporary nature of their CETA employment, they never fulfilled the minimum service requirements for vesting.

Under the agreed conference language, CETA contributions to retirement plans should be dramatically reduced. The conferees were advised that the Department of Labor last year promulgated regulations (29 CFR sec. 98.25 (1977)) to implement this policy. The Senate proposal and now the conference report reflect congressional endorsement of the policy.

The regulations authorize several alternative methods by which to restrict CETA contributions. One method is to develop actuarial data showing the number of participants who can reasonably be expected to receive benefits reflecting accredited service during their CETA employment. The feasibility of this method was, of course, the point of contention when the issue was originally considered in the House. It appears that this method presents the greatest potential for mischief. The experience base for making actuarial calculations is quite limited, if not nonexistent.

Therefore, the Department of Labor will probably have great difficulty in determining whether the actuarial assumptions make for inflated contributions.

The conferees were advised, however, that the regulations also authorize the use of a buyback method of pension contributions. CETA-derived contributions would not be made until an individual moves into unsubsidized employment and then only if the latter employer's plan gives credit for the CETA service. This may be a preferred method over the previously described actuarial one, in that it operates on an individual basis as each worker leaves the CETA roles.

The Senate conferees, together with the House conferees who supported the Senate language, clearly have relied upon the representations of the Department of Labor as to the feasibility of the various methods implementing "reasonable cost" approach. All the conferees intend that the Department vigorously enforce the intent of the proposal. This will entail continual evaluation of the success of the various methods set forth in the regulations and, if necessary, make changes or adopt new methods.

As a final note on this issue, the conference language contemplates that many State and local governmental units will have to change their laws to allow for separate classifications of regular workers and CETA workers for pension purposes. In promulgating regulations, the Secretary is to give consideration to efforts by States and local governments to change their laws. In this regard, it bears emphasizing that section 98.25, of title 29, CFR, was just proposed on May 1, 1977 and became effective on October 1, 1977.

The Department of Labor advised that it has afforded States an adequate opportunity to comply with the regulations. It has given them in many instances up to 1 year that is until October 1, 1978, to make the necessary changes. In view of this, I believe that the conferees would look with strong disfavor upon any further delays in implementing the regulations.

Another provision that needs further explanation is the action of the conferees on this National Commission on Employment Policy. Frankly, I believe the House lost a bit on this one. The addition of

four voting members from the administration seems excessive. But the Senate insisted that good communications require having these individuals. It would appear to me that if four votes will be cast for administration policy on all issues that the independence of the Commission will be difficult. I for one, with Mrs. FENWICK, will carefully look over the activities and recommendations of the Commission and particularly note their comparison to the recommendations of the administration. And if it fails to show some independence, I am certain an amendment will be offered in the regular fiscal year 1979 appropriations to cut out funding for the Commission altogether. This is fair warning.

Other provisions need further explanation. A little discussed provision was an amendment deleting from the Senate bill provisions allowing the Secretary to include "such other information as the Secretary may require" and "such other conditions, consistent with the purposes of this act, as the Secretary by regulation may require." This was not done lightly. The fact is that over the past 4 years since CETA's enactment in 1973, the single most pervasive complaint this committee has received has been the number of arbitrary regulations issued by the Secretary that have no basis in law, and negate the intent of the Congress. Time and again, we have had to devote a large amount of time insuring that regulations issued by the Secretary are within the scope of the law. Admittedly, it is difficult when the law itself is often obtuse. But the fact is we have had too many instances where the regulations are clearly contradicting congressional intent. This we must not tolerate.

Another conference provision deals with the waiver to the on-the-job duration requirements contained in section 122. Under the conference agreement, waivers on duration may be granted only to those hired before the date of enactment of this act and on board September 30, 1979, and for those residing in areas where unemployed exceeds 7 percent. The waiver in the first instance is to be set by the Secretary, in the latter it is a one-time waiver of up to 12 months.

There was considerable concern on the Senate side that this first waiver which was contained in the House-passed version, gutted the bill and the combination of the two waivers made matters worse. I agree that if the Secretary of Labor uses those waivers indiscriminately, it could destroy the essential reforms which have been so carefully developed.

But we expect the Secretary to use the first waiver only in the most extreme circumstances, and I would be disturbed to see more than one such waiver granted. As for the second waiver, it can be set by the Secretary up to 12 months. But I see no reason to do so, unless, again, it is in extreme circumstances.

Let me clarify another provision. As you recall, the Honorable BARRY GOLDWATER added an amendment to the House bill which stipulated that:

No funds under this Act shall be used directly or indirectly to assist any person who is an alien, not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

The conference agreement states that:

No recipent shall knowingly use any funds under this Act to enroll or serve any person who is an alien not lawfully admitted for permanent residence or who has not been authorized by the Attorney General to accept employment.

The only difference in the two provisions is the words "no recipient shall knowingly". This language was agreed to when the Senate agreed that the bill, in section 3 made it a criminal offense "to knowingly hire an ineligible individual", the first such provision ever included in an employment and training program. The conferees feel that such a sanction combined with the conditions of the original Goldwater amendment would prevent anyone from being hired. Without some protection intake workers would not hire anyone, since they would be responsible for all the applicant's fraudulent statements. I believe the inclusion of the word "knowingly" provides an important test.

Second, it should be pointed out that no CETA funds can be used for aliens who do not have permanent residence or have not been approved by the Attorney General for employment. Thus no alien can be assisted who is in this country temporarily unless specifically approved by the Attorney General. This applies to all aspects of the program including all title III grants.

A further clarification of the conference report is in order, specifically on the amendment offered by Ms. HOLTZMAN and contained, for the most part, in the conference report. As originally presented, Ms. HOLTZMAN's amendment, contained in section 121 of the general provisions, required that every organization, association, firm or other entity, submit a "meritorious plan" for every program and contract. This amendment, I suspect, was directed to a group of nonprofit subgrantees in New York, and was looked on by the House as a worthwhile attempt to control abuse by subgrantees. Unfortunately, as Senator CRANSTON pointed out during the conference, this provision is a bit of a meat ax when a stilletto would be appropriate. More specifically, it would certainly complicate one of the major stated objectives of the bill—to bring the private sector into the program, and would effectively put an end to the OJT program.

Currently, the Department of Labor is developing regulations to reduce the burden of paperwork. I do not believe this amendment should interfere with this process. Although OJT and title VII recipients should be relieved of the general spirit of this amendment, these programs require a special approach if they are to work.

Finally, concerning the formula, we were able to reach a compromise which combined the best elements of the House and Senate versions. For the funding for parts A, B, and C of title II for next year, we have adopted the Senate formula, which represents existing law. The factors are 50 percent prior year funding, 37½ percent total unemployment, 12½ percent low-income adults. In the second year, and for the subsequent years, we add a 3 month ASU factor for one-third of the funding. There is a 90 percent hold-harmless for parts A, B, and C of title II for the next 4 years.

For title II–D, we have adopted a formula which contains the following factors: 25 percent total unemployment, 25 percent unemployed over 4.5 percent, 25 percent ASU 3-month high, and 25 percent low-income adults. After 1979, however, the ASU factor changes to a 12 month average.

For title VI, the Senate receded to the House formula, with the ASU factor being a high 3 month in 1979, and changing to a 12-month average in the following years. The factors are: 50 percent total unemployment, 25 percent unemployment over 4.5 percent, and 25 percent ASU.

Mr. Speaker, you can see the major provisions of the House bill have been preserved, and in some cases improved upon. The final result of our negotiations has been a much-improved CETA bill, which should go a long way in improving this program and in restoring people's confidence in CETA. I urge the Members to pass this conference report.

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. HAWKINS. I yield 2 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. As I understand, Mr. Speaker, this conference report is approximately $1 billion higher than the bill that passed the House. I know there must be an explanation as to why it is $1 billion higher. The Members will remember that we knocked out $500 million in title VI, and directed it to youth and to the private sector training. Now the bill comes back to us approximately $1 billion more.

I understand it is a very complicated formula and I do not expect a detailed explanation, but I would like to have some satisfaction, as one who supports the CETA program, as to why this amount has been increased. If the gentleman on either side can explain that, I know the Members of the House would appreciate that explanation.

Mr. JEFFORDS. I understand that the gentleman desires an explanation of the shift in funds?

Mr. PICKLE. Yes.

Mr. JEFFORDS. In the House bill?

Mr. PICKLE. Not only a shift in funds, but the authorization which made up $1 billion more than when it left the House.

Mr. JEFFORDS. Right. It is difficult to do it in that in one area we are talking about, job slots. So when you shift from the Obey formula you put $200 per slot, we really increase the rate significantly, the amount of money which would be available for public service employment, but the job slots are the same.

The other increase came due to the fact that the Senate put an extra $1 billion into title II, but that is not for purposes of employment.

However, that is not for public service employment, so there is an additional $1 billion. That, of course, will be up to the Committee on Appropriations as to whether or not to fully fund that title II with the extra $1 billion in it. I would suggest that they probably will not do that, but when we realize that the Senate bill had no caps at all, no authorization levels at all, then we had at least brought it within those bounds. The important area with which I was concerned, as I am sure the gentleman was, was public service employment for which we have provided job slots.

The SPEAKER pro tempore. The time of the gentleman from Texas (Mr. PICKLE) has expired.

Mr. HAWKINS. Mr. Speaker, I yield 1 additional minute to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this additional time.

I understand that there are no additional funds in this title II for public service employment. What are the funds for, just for the increased number of slots?

Mr. JEFFORDS. The increase in the work service programs; that has been increased by $1 billion.

The public service employment aspect has not been increased in that area, except for $100 million. In addition to that, we phase down the number of public service jobs in that title II over a course of time by 22 percent, which is another part of the bill we were successful on.

Mr. PICKLE. I assume that this is an authorization level and that the appropriation will come back before this body, in the first part of the next session; and the House will be able to work its will as to whether it will confirm that total amount or not; is that correct?

Mr. JEFFORDS. That is correct. We will be going on a continuing resolution through the first part of the year, and then the appropriation will be considered.

Mr. JEFFORDS. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Speaker, I thank the gentleman from Vermont (Mr. JEFFORDS) for yielding me this time.

Mr. Speaker, I rise in support of the conference report on the Comprehensive Employment and Training Act. It is not only the culmination of 6 years of serious and conscientious study of the unemployment problems facing so many of our citizens, it is also a reflection of the will of this body—of our desire for a fair measure that would not only provide for the long-range needs of today's unemployed but that would also give the American taxpayers a fair return on their tax dollars.

During our field hearings and testimony taken in Washington, we learned that CETA was basically well received, but that there were also areas of serious abuse. Fraud occasionally occurred, but we witnessed an even more frequent problem—substitution. This meant that not only were new jobs not being created, but that the "temporary" nature of the program was also being lost.

The work of the House, of the Senate, and finally of the conference committee has corrected many of these problems. Strong antifraud and abuse provisions have been added. Reasonable reporting requirements exist. The Department of Labor has been provided with new capabilities to identify problems early and to work with prime sponsors to correct them.

Even more important, though, is the fact that our desire to place public service employment in a proper perspective has been honored. The House-passed reductions have been preserved. Our commitment to greater emphasis on training—in both titles II and VI—has been preserved. Wage levels are now realistic—providing CETA workers with fair wages which, at the same time, provide an incentive to seek unsubsidized employment and which do not compete with the private sector. Eligibility requirements adopted in the conference are even stricter than those we sought to impose in the House version.

Training is undoubtedly one of the most important components of any national manpower program. Without adequate skills, training, and development, most of our unskilled or underskilled citizens would never be able to compete in today's labor market. The changes adopted by the conference committee could well make the difference for many Americans—the difference between years of idleness and frustration or years during which a career can be developed.

For example, the conference placed all PSE under title II into section D. Even in this subpart, however, some training is required. We have proposed to gradually increase training—10 percent in 1979; 15 percent in 1980; 20 percent in 1981; and 22 percent in 1982. Combined with the requirement that the ratio of funds spent on title II training programs in section A, B, and C of title II must remain at a minimum of 40 percent of the appropriation for the entire title for the next 4 years, we have guaranteed that most structurally unemployed citizens will have an opportunity to develop new and promising skills.

Title II public service employment has, in fact, been changed so much that a new title was even adopted. There is technically no more PSE under title II. Instead it is called transitional employment opportunities for the economically disadvantaged. No one can mistake our intent now. We want to train unemployed citizens with chronic labor market disadvantages so that they can have a chance to enter the American labor force.

In title VI, we have also added a training requirement—10 percent for the first year and 5 percent for each year thereafter. This will insure that many Americans who are cyclically unemployed can be given an opportunity to develop new skills or improve upon existing ones.

Title VI is also now tied more realistically to our current economic conditions. The conferees have agreed to maintain the House version's cap—unless unemployment exceeds 7 percent at which time the estimate for jobs would shift from one in five to one in four.

Other changes in title VI are equally important. Most of us have heard from CETA employees who work in the projects authorized by our 1974 amendments. These projects were limited to 1 year, quite often not long enough to really develop a concept or to complete the types of work that need to be done. We have provided more flexibility for projects in the conference report by allowing them to last 18 months. This is important to the participants in particular since this corresponds directly with the 18-month limitation on duration provided in the bill.

The House provision that projects constitute only 50 percent of the activities under title VI was maintained as well, instead of the other body's requirements that all title VI moneys be spent in projects. A 100-percent mandate simply would not have lent itself to the composition of many communities in this country—communities with low concentrations of people, small CBO's and Government offices. Our provision now lends itself well to both the urban and nonurban areas of the country.

One of the major consequences of the House version of CETA was its additional funding for youth employment and for private industry councils. This was particularly important to me for two reasons. First, the Youth Employment and Demonstration Projects Act, including my entitlements section, have been extremely effective in addressing the critical problem of youth unemployment. Reports from all over the country indicate that young people under this program are enjoying themselves, are learning to appreciate what the world of work is all about and what career opportunities might be available to them. Early in the entitlements program's history, there was at least one city where there were more employers interested in hiring young people than there were disadvantaged youth. This is certainly the mark of a program that is achieving its goals with the support of both participants and the private sector.

The increased funding for the private sector title is extremely important because it reflects awareness in the Congress: A truly successful manpower program must enjoy healthy ties and maximum cooperation with the private sector. This will help us insure that our manpower programs are more closely tied to realities of the labor force, to the demands and needs of the Nation's primary employers.

Many of us were also in a quandry as to how to best address the issue of using CETA funds to pay for retirement benefits—benefits that few "temporary" employees would ever receive but that were nonetheless required by State law. On this issue, the Senate version—which closely parallels Congressman KREB's amendment—was accepted. In other words, contributions from CETA funds must be related to the benefits which a

participant can expect to enjoy. Consequently, under the new language we should be able to expect significant reductions in the amount of CETA moneys expended for this purpose, and we have also congressionally endorsed the Department of Labor's recommendations as stated in their recommendations.

We have also protected the employee in this case by allowing the use of the buyback method of pension contributions. Under this plan, contributions would not be made until an employee moves into unsubsidized employment in which the employer's plan gives recognition to CETA service.

Other reforms made have been a clarification of our view of the role of the National Commission on Employment Policy. While the conference agreement provides for four administration members and could, therefore, undermine some of the independence we had hoped for, the Commission is at least now on notice that we do not expect rubberstamps of administration policy and direction.

We have also protected areas of substantial unemployment by allowing the Secretary to grant waivers of up to 12 months on the duration of participation requirements. Areas with unemployment in excess of 7 percent certainly do deserve special consideration, although we do not expect this consideration to be given lightly. We do not, under any circumstances, want the reforms of this measure to be undermined.

The final major point that must be mentioned is the formula. For some of us, it is not the optimum funding formula of the options that were available. However, it is reasonable, it is one with which we can live, and it is the only formula upon which agreement could be reached. It will insure continuity of our programs and will be responsive to our economic conditions and the plight of our unemployed citizens.

I am extremely pleased with the changes we have made in the Comprehensive Employment and Training Act. I sincerely believe that the changes adopted in conference will answer many of the criticisms that have been leveled at the program in the past, will more suitably meet the needs of our country's unemployed, and will provide a framework for the type of national employment program we all want.

Mr. JEFFORDS. Mr. Speaker, I yield back the balance of my time.

Mr. PERKINS. Mr. Speaker, I rise in support of the Humphrey-Hawkins bill, H.R. 50, the Full Employment and Balanced Growth Act of 1978.

Full employment has been a cherished hope ever since the Congress enacted the Employment Act of 1946, and today we can help to fulfill that dream by voting for final passage of the Humphrey-Hawkins bill.

Most of the Members of the House are familiar with this bill.

The House spent 4 full days debating this bill on the floor this year, and the other body has spent numerous days debating every aspect of it thoroughly.

This is a bill which commits the Government of the United States of America to reach a critical national goal; the achievement of a full employment economy while maintaining reasonable price stability.

The last time our Nation's unemployment rate was below 5 percent was in 1973. In the past few years it has hovered at 8 and 9 percent, and only in the last few months have we been able to bring the figure down to 6 percent. But 6 percent unemployment means that over 6 million Americans are out of work and looking for jobs.

We are saying tonight in this bill that we will no longer tolerate a situation where millions of Americans are chronically unemployed and looking for jobs. This bill simply says that we are going to at least have a system of intelligent economic planning to try to deal with this problem.

Let me conclude by saying that this bill represents a tribute to one of the finest Members of Congress it has ever been my privilege to serve with. There are few Members of the House as beloved and respected as GUS HAWKINS. This is a bill he has pursued for 6 years in the face of dogged opposition and innumerable setbacks. It is a bill which millions of people in this country have looked upon as a symbol of hope for the future in a country which in the past few years has seemed to lose faith in itself and its ability to deal with the problems which press upon us. Last night, by a vote of 70 to 19, the Senate of the United States passed the Humphrey-Hawkins bill. Let us tonight keep faith with the American people, and honor our colleague GUS HAWKINS and pass this bill by an overwhelming majority.

● Mr. PURSELL. Mr. Speaker, I want to go on record today as supporting the final version of the Humphrey-Hawkins bill, H.R. 50.

Originally I had opposed H.R. 50 since it lacked any meaningful comprehensive tools and goals to provide any jobs for the unemployed either through the private or public sector.

The original H.R. 50 as passed by the House was not a meaningful bill. I voted "No" on this bill. The Sarasin amendment on setting inflation goals were not adopted.

However, the Senate did add the Sarasin amendments. Most Americans consider "inflation" as the major problem in our society. It robs every consumer and working men and women alike of true purchasing power.

Since the conference committee representing Mr. HAWKINS and Senate leaders agreed to the Senate version gave America a more balanced piece of legislation.

We should not fool the unemployed worker however to suggest that this bill provides real jobs. It does not. It does say we have an American dream of some day achieving a goal of no inflation and no unemployment. Those goals are worthy ideals and therefore I voted "Yes" on the conference report on a division vote.

I personally congratulate Mr. HAWKINS, my distinguished subcommittee chairman, who is a gentleman and conducted fair hearings for both the minority and the majority.

I want to also associate myself with the remarks of my subcommittee chairman, Mr. SARASIN, who also supported this final version.●

● Mr. LUNDINE. Mr. Speaker, this legislation is the most thorough restructuring of our Federal job and training programs since the passage of CETA, and deserves our full support. In addition to major revisions of existing programs, the CETA reauthorization contains promising new initiatives intended to place greater numbers of people in permanent, private sector jobs.

One especially innovative program, provided in section 6 of the bill, gives us the opportunity to encourage a constructive new approach to labor-management relations. Traditionally, this country has viewed workers and employers as adversaries. Our system of collective bargaining offers a solid framework for resolving conflicts that inevitably develop between these two sides.

While I feel this process has generally worked well, we have paid comparatively little attention to the many areas where business and labor have common objectives. Both have obvious stakes in the economic vitality of their companies and communities: Labor must have jobs, and business must have a trained and competent work force. Neither can prosper in unproductive and unrewarding work situations, or under conditions of economic decline.

In my area of the country, we have suffered heavily from job losses, experienced the pain of plant closures, and watched the erosion of our production capability in key manufacturing industries. Reversing this pattern requires major investments in human as well as capital resources, to make our workers and our products competitive with other parts of the country and the world.

On a small scale, I have seen labor and management work together to accomplish these fundamental changes. Labor-management committees, formed voluntarily to tackle problems of mutual concern, have brought about substantial improvements in productivity and the quality of working life. Cooperative labor-management activities have helped individual plants adapt to changing skill requirements and helped localities cope with a variety of troubling social and economic conditions. In general, these initiatives have meant considerable economic benefits for labor, industry, and the community as a whole.

At the plant level, one particularly successful project was organized jointly by Harman International Industries and the United Auto Workers in Bolivar, Tenn. Conditions there were hardly auspicious: The plant, which produces auto mirrors, was a rundown, physically unpleasant place to work. Labor-management relations were exceptionally strained and hostile, due to the workers' rejection of the latest contract offer and other crises. And Bolivar itself suffered from racial tension and the general problems of rural poverty.

The Bolivar project, begun in 1973, sparked dramatic changes in conditions at the plant. With expert help, Harman and the UAW were able to design a path-

breaking program, emphasizing human development and the contribution of each individual to the production process. Assembly lines were reorganized to permit workers to vary their tasks and learn new skills. In addition to giving workers more authority over their own jobs, the project encouraged creative uses of spare time, and made arrangements for various sorts of classes and training.

As a result, productivity at the plant has increased enormously since 1973, from a daily output figure of $132 to $170 per employee, enabling the company to increase employment despite a major slump in the automobile industry at the time. The project's success also strengthened the collective-bargaining relationship, culminating in the amicable approval of a new contract in 1976 several months ahead of schedule.

As mayor of Jamestown, N.Y., I saw firsthand how much this approach can accomplish on an areawide basis. Jamestown's communitywide committee, comprised of labor and management representatives from nearly all its major employers and unions literally turned the local economy around. Unemployment fell from 10.2 to 4.2 percent within 3 years, as existing firms expanded and new industries—for the first time in decades—began moving in.

Crucial to Jamestown's success was the development of inplant labor-management committees to improve the quality of work life in member industries. As in Bolivar, these committees focused on noncontractual issues, such as skills development and better work systems. While activities varied from plant to plant, the committees basically strove to increase worker participation, and give individuals more say over how their jobs are done.

Jamestown and Bolivar are not isolated examples. Active communitywide committees have formed in large manufacturing centers like Buffalo, N.Y., and South Bend, Ind.; in rural areas like Cumberland, Md., and the Upper Peninsula of Michigan. Industrywide committees have helped the food, airlines, and construction industries. Giant corporations as well as small businesses have grown interested in the concepts: General Motors, for example, is currently engaged in numerous labor-management projects to improve job opportunities and working conditions in plants around the country.

Despite these achievements, Federal support for cooperative labor-management activities remains limited. Funds are scattered through several departments and agencies, and technical assistance has been especially difficult to obtain.

Section 6 of this legislation establishes a new program of Federal assistance to labor-management committees, organized voluntarily on a plant, community, or industrywide basis. Its purpose is to encourage labor and management to work together on problems outside the scope of the collective bargaining process, and jointly seek more effective ways of utilizing human resources. The provision, offered in the Senate by my distinguished and able colleague from New York, Mr. JAVITS, closely parallels my human resources development bill, which passed the House Banking Committee last year by a vote of 37 to 1.

Under section 6, $10 million is authorized for the program for fiscal 1979. We anticipate that most of this funding would be distributed in modest grants to the committees, to cover the cost of obtaining expert assistance. It is further intended that projects become self-supporting within a few years, and that priority be given to committees with some non-Federal source of funds.

Program administration is placed in the Federal Mediation and Conciliation Service, an agency with extremely good credentials for this type of work. Most important, the Service—because of its reputation for fairness and neutrality—commands the trust and respect of both business and labor. The agency further seems ideally structured to provide technical assistance to committees and serve as a central source of information.

In implementing this program, we consider it critical that the new functions remain separate from the agency's regular mediation activities, to avoid any suggestion of interference with collective bargaining. The Service will clearly need specially trained personnel whose sole job is providing assistance to labor-management committees.

This decade has taught us that we urgently require new economic policies if we are ever to achieve full employment and stable prices at the same time. I see this $10 million program as an important alternative to discredited macroeconomic remedies to continued spending of billions every year on public service jobs to provide work for our unemployed. By supporting the activities of a labor-management committee and making work more efficient and rewarding, we can create the kinds of local conditions that foster expansion of private sector employment without adding to inflation. I urge your support for section 6 of this bill, to broaden our experience with cooperative labor-management activities and give promising new projects a chance to work.●

Mr. HAWKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question is ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 117, noes 28.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON S. 3084, THE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ASHLEY. Mr. Speaker, I call up the conference report on the Senate bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule, the statement of the managers is considered as read.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER. The gentleman from Ohio (Mr. ASHLEY) will be recognized for 30 minutes, and the gentleman from Michigan (Mr. BROWN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ASHLEY).

Mr. ASHLEY. Mr. Speaker, I rise in support of the conference report on S. 3084, the Housing and Community Development Amendments of 1978.

Mr. Speaker, when we went to conference some 3½ months ago, we took a strong bill passed by a substantial margin of this House and although our road has been rough and hard since that time. I believe that this bill, which I present to you today, is stronger for the effort and more than meets the demands of this House.

I wish to thank my fellow House conferees for their dedicated efforts to shape this conference agreement. They worked into the early hours of the morning to resolve the final issues and it is they who deserve the credit for our success. I wish to thank the distinguished chairman of the Banking Committee, Mr. REUSS, and the distinguished ranking minority, Mr. STANTON, for their contribution and I particularly wish to single out the significant contribution of my colleague and friend Mr. BROWN of Michigan.

We had more than 200 items in disagreement with the Senate and each has been in turn resolved in a way which I feel confident in defending to my colleagues. I do not wish to imply that the House and Senate were all that far apart. In fact, we agreed substantially on many of the most important matters of national housing and community development policy. Both the House and Senate had reaffirmed in their bills their strong desire to encourage the rehabilitation and rejuvenation of our cities. We both had renewed our commitment to the assisted housing programs and to their proper and efficient mangement and we both took special note of the housing needs of our elderly and handicapped citizens.

But to be frank, we had substantial differences which, with great difficulty, were finally resolved. This body asked us to take to conference a one house legislative veto and while we were in conference this body reaffirmed its commitment to legislative review of agency

regulations. As you know, I personally spoke on this floor in opposition to the legislative veto because of my grave concern over the constitutional confrontation which it portends between the Congress and the Executive. But recognizing the direction of this House we have brought back a legislative review procedure of agency regulations which I believe should more than satisfy those desirous of a legislative veto. It is a substantial and powerful tool with which this body and its Committee on Banking, Finance and Urban Affairs can assure that departmental regulations are consistent with the intent of Congress.

There were also substantial issues with regard to the direction that the community development block grant program should take. In the end, the conferees reaffirmed that this program is one oriented towards local control and local conditions while making it clear to all that its purpose is to develop viable urban communities principally for the benefit of low- and moderate-income persons. It is a resolution of an issue of which I think we should be proud.

Obviously, any hard fought conference leaves some bruises but I think this conference will leave no scars. In fact, this conference report is a good, solid, and useful piece of legislation and I urge my colleagues to support it.

Mr. BROWN of Michigan. Mr. Speaker, I would urge my colleagues to be at least a little docile, because I will not take more than 2½ minutes.

Rarely, if ever before, in my career in Congress have I so reluctantly agreed to support a conference report on housing and community development legislation. What remains in this bill can best be described as marginally acceptable.

In the final analysis I have decided to support it because some remedial changes are dictated in the way the Department of Housing and Urban Development must administer the Community Development Block Grant program, necessary and desirable laws are continued, and the groundwork is for making the HUD bureaucracy more responsive to the Congress and more attentive to demonstrated and documented legislative intent.

It is this final point that I would like to elaborate on for a minute. As the House knows, our bill contained a one-house congressional veto. That provision was adopted by this body on an overwhelming bipartisan vote of 244 to 140. The conference report does not contain a veto provision per se. Instead, it includes a regulation deferral process. Under this procedure, either House, working through the authorizing committee, will have an opportunity to obtain, study, delay, and initiate a rejection of, if need be, proposed regulations before they go into effect. Final rejection would however, require concurrence by the other body and approval by the President.

This conference compromise is not enthusiastically embraced by me since the way in which the Department has conducted its relations with the Congress justifies the original veto language. The procedure provided in the compromise, however will provide a good opportunity to determine whether the Department will mend its ways.

In recognition of the fact that Congress has this new authority, I would hope and expect that the Department will abandon its past practice of legislating by regulation. I would hope and expect that in the future regulations will truly attempt to reflect congressional intent and not Executive self-expression irrespective of congressional will as expressed in the law and in legislative history.

I must warn the Department, however, that if this hope and these expectations are not fulfilled, just as surely as night follows day, the next HUD authorization bill will contain a full blown one-house veto. I know how this body feels about regulations and congressional vetoes. It has been demonstrated not only in the vote on this legislation, but on the FTC conference report.

I share that feeling. Nevertheless, in the interest of comity between the legislative and executive branches, I have agreed to try this milder procedure. It is essential that the same spirit of cooperation be reflected by the Department.

Unfortunately, I must say I did not discern such a spirit in the negotiations over this conference report. The posturing by the Department and its Senate allies did little to promote a cooperative attitude on the part of the House and came perilously close to killing the FHA programs.

Mr. Speaker, before concluding these remarks I would be remiss if I did not express some concern over statements and attitudes attributed to me and others who have generally supported my position on this legislation. Several, without any basis in fact, have suggested that those of us who have been unhappy with HUD's administration of the Housing and Community Development Act, are conducting a vendetta against the Secretary. Nothing could be further from the truth. In fact, if I were asked to cite the source of decisions and direction which cause me discomfort, I would point the finger of blame not so much at the Secretary as at those who surround her and necessarily have a tremendous impact upon that which eminates from the Secretary and the Department as departmental policy.

That the Secretary is an ambitious, aggressive administrator, no one can deny; but these characteristics are not to be condemned—no one worth his salt would want it otherwise, even with respect to an adversary. And even I have been described as being "feisty" on occasions.

So it is not the personality, the style or what have you of the Secretary that disturbs me, rather, it is the manifestation by the Department of attitude, which I might describe in an oversimplified way, as being anti-Congress, or at least anti-House of Representatives.

I may be wrong, but there is every indication that there are many within the Department who do not like the way the Congress, especially the House of Representatives, has dealt with a problem or formulated a program in the legislation it has enacted. Since they cannot change the statutes, they do that which they feel they can do namely, rewrite the law through the issuance of interpretive regulations.

This should not be and the step we take today in adopting this conference report should convey that message.

Mr. Speaker, if you feel this is less than a ringing endorsement of the conference report on S. 3084, you are correct; however, as is always true, we must look at the desirable and undesirable consequences of the adoption or defeat of this conference report, and, applying that test, I conclude the report should be adopted.

Mr. Speaker, I would like to address just a couple questions to the gentleman from Ohio (Mr. ASHLEY), since I think it is terribly important to our Members here who supported the House position on this bill when it passed this House.

At this time, I would like to ask the chairman of the subcommittee about his understanding of the conferees' resolution of several issues of great interest to me.

First, with respect to my amendment concerning administration by HUD of the Community Development Block Grant program, am I not correct that during the conference the Senate proposed report language to the House which agreed with the House position that percentage requirements in program regulations, I repeat program regulations, are "not consistent" with the intent of Congress.

Mr. ASHLEY. The gentleman from Michigan is absolutely correct. The statement of the managers, though not containing this specific language, makes clear the position of the conferees that those regulations must be changed. On the other hand, we ourselves do not want to be rigid. Certainly the Secretary can, for her own purposes, use a variety of means to effect her review of an application. However, I do not want any ambiguity here. The Department can in no way use a percent review guideline to pressure a community into modifying its application.

Mr. BROWN of Michigan. I thank the chairman for his clear and unequivocal response. I totally concur in his statement of what is intended by the statutory change and the statement of managers. It would be totally unacceptable for the Department to attempt to argue that under the adopted language it could retain its current percentage requirements in the regulations and its instructions to the field offices as to how to implement those regulations.

I would also like to verify with the chairman that the statement of managers makes clear that the strategy for obtaining the primary objective of the act is to be developed by the community and that HUD should view this strategy over the long term and not restrict the community's efforts because HUD believes a single year's application is not addressing the overall objective in the manner the Department would prefer.

Mr. ASHLEY. The gentleman's observations are correct. In fact, the statement of managers states, in several

places, that the Secretary's review of each application should at least look to the 3-year period of the summary CD plan for an overview of the community's efforts to achieve the overall objective of the program. This is not meant to imply that the primary objective is expected to be fully achieved in this 3-year period, but since that is the period reflected in the summary plan it can serve as a useful guidepost for determining the appropriateness of the community's efforts toward that ultimate goal.

Mr. BROWN of Michigan. Mr. Speaker, I thank the gentleman from Ohio for his response.

Mr. Speaker, I would be remiss if I did not take this opportunity to commend the gentleman from Ohio (Mr. ASHLEY) for the tremendous work and cooperation he has always given to the minority with respect to housing and community legislation.

I would be similarly remiss if I did not take this opportunity to commend him for the tremendous burden he carried in getting the energy program through this House. I may not have agreed totally with it, but I commend him for his extreme ability to carry it out.

Mr. ASHLEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Speaker, let us be clear that this conference report would not be back before the House on this occasion if it were not for the gentleman from Michigan; so I reciprocate the kind feelings that the gentleman from Michigan has expressed. My colleague from Michigan has been a stalwart proponent of the legislative history of the 1974 act. Not only has he represented the House position on the 1974 act, but more importantly he has represented the views of our city and community officials who run the CDBG program. It is the position of the House that the local officials in Kalamazoo and Battle Creek whose position he has stood firm for, for which I commend him. The citizens of Michigan have, indeed, sent us a Member whose contributions are invaluable.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Michigan. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, as a passing observation, is it correct that this bill contains approximately $30 billion in total authorizations?

Mr. BROWN of Michigan. If the gentleman from Maryland is talking about budget authority, yes. I think any time we get into these commitments for housing assistance, down the road you have tremendous budget authority and we have a tremendous commitment in the future.

Mr. Speaker, I reserve the balance of my time.

Mr. ASHLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I rise in support of the conference report on S. 3084, the Housing and Community Development Amendments of 1978, and wish to commend my good friend and distinguished colleague, chairman of the Housing Subcommittee, LUD ASHLEY, for finally producing this conference report.

It is my understanding that the conference on this report was difficult and protracted, involving over 200 items in disagreement, as well as numerous major differences.

The Members of the House should be aware by this time that our distinguished colleague from Ohio only takes on the most difficult chores as we have seen with the energy bill and with this year's and last year's housing bills. Serving with him on the Banking Committee I am fully aware of his great legislative talent, his persistence and his ability to get results.

Mr. Speaker, I have had particular interest in this conference because of a series of provisions included in the Senate-passed bill which, if it had been adopted, would in my opinion have completely gutted the Interstate Land Sales Full Disclosure Act. I make reference to the so-called Nelson amendment which would have effectively exempted from the disclosure provisions of the act almost all intrastate land sales activities. My Subcommittee on General Oversight of the Banking Committee has been reviewing the operations of the Interstate Land Sales Full Disclosure Act for almost a year and a half and in our investigation and review of the existing law has led me to introduce a bill which would revamp the act and considerably strengthen the way we attempt to help our citizens who are being defrauded by land sales schemes.

The gentleman from Ohio withstood enormous pressure from the Senate and considerable pressure from our colleagues in the House to take the Nelson amendment. But since the House Banking Committee has not had an opportunity to review the implications of the Nelson amendment and because of my subcommittee's oversight responsibilities with regard to this act, I am extremely pleased that this conference report does not contain the Nelson interstate land sales amendment. Mr. Speaker, I would urge the prompt adoption of this conference report and again commend my good friend LUD ASHLEY.

Mr. ASHLEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Speaker, this is a good bill. We have a good committee and a good chairman. I hope we vote for it.

Mr. Speaker, included in the conference report to S. 3084, Housing and Community Development Amendments of 1978, is a definition of the phrase "expected to reside." I would like to take this opportunity to describe to my colleagues the reason this definition was necessary.

When the community development block grant program was enacted in 1974, it required communities to provide the Federal Government with a housing assistance plan or HAP as one of the prerequisites for receiving funds. It was further required that the community put into its HAP its assessment of the housing assistance needs of lower income persons residing in or "expected to reside in" the community.

The legislative history on the "expected to reside" requirement is clear. Originating when the community development program was drafted by the House Banking Committee in 1974, colloquies in the RECORD of the House markups of the 1974 act clearly indicate that it was the intent of the House and the intent of Congress in passing the 1974 act that the calculation for "expected to reside" figures should be based solely on current or projected employment opportunities in the applicant community.

Since the passage of the original community development law, the Department of Housing and Urban Development has consistently promulgated regulations that have ignored the legislative history of the term "expected to reside" and ignored good sense. This year, a bipartisan effort to clarify the intent of Congress in this matter led to the inclusion of an amendment—sponsored jointly by the Honorable GARRY BROWN and myself and supported by the distinguished chairman of the Subcommittee on Housing and Community Development (Mr. ASHLEY) into this year's housing and community development bill. After negotiations with Senate conferees, the final form of this amendment, as it appears in the conference report that is before us today, is in the proper context as follows:

* * * expected to reside in the community *as a result of existing or projected employment opportunities in the community (and those elderly persons residing in or expected to reside in the community) or as estimated in a community accepted State or regional housing opportunity plan approved by the Secretary.* (New language in ital.)

The inclusion of this provision marks a legislative reversal of HUD's regulations on "expected to reside" and provides clear direction that new regulations on "expected to reside" must be consistent with the intent of Congress. The previous and current HUD regulations were without basis, given both the legislative history of the community development block grant program, and good sense.

To be sure, any new HUD regulations on "expected to reside" should be promulgated without the rigidity that marked its previous and current regulations. Communities which with integrity, reasons, and sound judgment provide calculations on the number of persons expected to reside in the community on the basis of employment-related factors should be presumed by HUD to have met this particular requirement of the law. There should be no argument over whether HUD can come up with better figures. Under the law, HUD has the authority to reject applications only when they are plainly inconsistent with generally available facts and data.

The conference report before us today also provides for congressional review of the regulations proposed by HUD. This provision will insure effective congressional oversight of admin-

istration interpretations of the 1974 Community Development Act and all other housing laws enacted by Congress. The provision assures a constructive consultative relationship with the executive branch. It allows for a deferral for 90 days under certain circumstances of regulations that either the House or Senate Banking Committee finds improper. The entire procedure is a clear signal to the executive branch that all of its future regulations on "expected to reside" or regarding programs within the jurisdiction of HUD generally, should be consistent with the intent of Congress. I intend to carefully monitor any such regulations.

On balance the conference report to S. 3084 is a document that the House of Representatives can be proud of. With regard to those sections of special interest to me, I can say that it reflects the House position reasonably well and provides for adequate mechanisms for the views of the House to be heard and to have impact as community development programs are administered by HUD in the months and years to come. At the same time it insures that the Secretary has flexibility to see that the community development block grant program be used in a manner consistent with its primary objective, that being "the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities principally for persons of low and moderate income." For these reasons, I urge my colleagues to vote in favor of the conference report to S. 3084 and I commend our chairman for his leadership.

Mr. BLANCHARD. Mr. Speaker, I need not remind the House of the outstanding performance that our subcommittee chairman has performed in bringing to the House the many outstanding provisions contained in the act for improving our housing and community development programs. LUD ASHLEY performed in the finest tradition of the House. He achieved compromise from all factions without losing sight of the essentials. Indeed, Mr. Speaker, it is an honor to serve with Chairman ASHLEY, and I want to personally commend him. I want to speak to one particular provision in the act which concerns the requirements in the housing assistance plans for estimating those who are expected to reside in a community. I call to the Members' attention the fact that just as business and industry have decentralized, so have many hospitals, health treatment centers and related facilities.

These service centers and facilities are often essential to the well being of our elderly households just as jobs are essential to younger households. And as with workers, the elderly who depend on these services should have an opportunity to live in the communities in which these facilities are located. I would expect that housing assistance plans would take the housing needs of these elderly persons into account when determining those who are expected to reside in a community. Therefore, Mr. Speaker, I am particularly pleased that this provision is included in the act before us.

Mr. ASHLEY. I thank the gentleman for his compliments. I think that he is entirely correct in pointing out that the expected to reside requirements will take into account the fact that health, hospitals and related facilities are often decentralized and the elderly who depend on them are at a considerable disadvantage if they cannot live in the communities where these facilities are located. By requiring that these households be included in the expected to reside estimates, I think we can make the housing assistance plan more effective. This should result in taking a major step toward meeting the housing needs of the elderly. I might add here that Mr. BLANCHARD, my colleague and a member of our subcommittee, was especially helpful in this particular matter. I want to commend him for the yeoman service he performed throughout our deliberations on the bill and in our conference with the Senate. JIM BLANCHARD is a hard and as effective a Member as I have seen and am honored to serve with him.

● Mr. REUSS. Mr. Speaker, I rise in support of this report. It is the product of a lengthy, difficult, even arduous conference, and it represents a very good bill.

Over the past year, our committee has commenced a thorough examination of the Federal housing and community development policies and programs. This bill represents the first results of that continuing examination. It will make a significant contribution to the restoration and preservation of our housing stock and our neighborhoods. It addresses the needs of our elderly and handicapped and our rural poor.

Finally, it addresses itself squarely to the management and operations of the Department of HUD. For some time, we have been committed to the restoration and preservation of the existing housing stock. This bill strengthens and continues that commitment through a number of significant program changes and additions. We greatly expanded the section 312 loan program to aid in the rehabilitation of the homes of low- and moderate-income families, and make extensive revisions to the section 203(k) rehabilitation loan insurance program to facilitate investment in the rehabilitation of homes by more affluent families.

In a variety of ways, we have acted to assist in the preservation of neighborhoods. We strengthen the urban insurance programs and institutionalize the successful urban reinvestment task force into a new neighborhood reinvestment corporation.

Equally important, we have included two new programs recommended by the President as part of his urban policy—the neighborhood self-help development program and the livable cities program. The neighborhood program will make grants to qualified neighborhood organizations to undertake community based and supported conservation and revitalization projects. The livable cities program will provide important assistance to States, cities, neighborhoods, and nonprofit groups to help them expand cultural opportunities and improve the living environment through community-based arts programs, historic preservation, music festivals, and the like.

We have expressed our concern about displacement—the fear that the return of the affluent to our cities does not leave those current residents to be moved like pawns on a chessboard. Accordingly, we have directed the Secretary to address this problem immediately and provide us specific recommendations on how best to balance our competing and sometimes conflicting objectives in this area.

The needs of the elderly and the handicapped have been of great concern. To assist them in living in a noninstitutional setting, we would permit the Secretary of HUD to make grants to provide services to the residents of congregate housing operated by public housing authorities or nonprofit owners of section 202 projects. In addition, the section 232 mortgage insurance program is expanded to permit insurance on nursing home facilities, which would be available for the daytime use of nonresident elderly persons. Finally, the specific housing needs of the handicapped have been addressed by providing a minimum of $50 million of section 202 lending authority be employed annually to meet those needs, and added a public housing security program which should benefit so many of our elderly who are often plagued by crime and burglary in their homes.

At the same time, not ignoring the needs of our rural poor, we have approved a new farmers' home program aimed at providing housing for families not served by existing programs, and made numerous specific program improvements.

Finally, we have addressed specific operations of the department with a view toward improving the efficiency of the department in delivery of existing programs—refining the condominium insurance program and requiring a simplification of needless paperwork requirements, and a cost-benefit analysis of departmental reorganizations.

Mr. Speaker, as I stated at the outset, I am pleased to bring back to the House a conference report which will benefit all Americans—rural and urban, coldbelt and sunbelt, rich and poor. I urge your support.●

● Ms. HOLTZMAN. Mr. Speaker, I strongly urge the adoption of the conference report on the Housing and Community Development Amendments of 1978 (S. 3084). It is a sound report, largely similar to the bill which passed the House in July, and its provisions are a tribute to the diligence and dedication of the distinguished subcommittee chairman (Mr. ASHLEY) and the chairman of the full Banking Committee (Mr. REUSS).

I am particularly pleased that the conferees agreed to accept the so-called Holtzman amendment, which would dramatically help victims of property insurance redlining. This provision requires that rates in FAIR plans—State pools which provide property insurance to those who have been denied coverage—be no higher than rates in the conventional insurance market.

I originally offered the provision as an amendment to the 1977 housing bill. Al-

though it passed the House, it was deleted during last year's conference after an intense lobbying campaign by the insurance industry. This year, after the Housing Subcommittee held 2 days of hearings on the redlining issue, my FAIR plan proposal was again included in the House bill. Although the insurance industry once more mounted a massive campaign to eliminate the provision, their attemps were defeated overwhelmingly in subcommittee, in full committee and on the floor. My good friend from New York (Mr. LUNDINE) is particularly to be commended for his extraordinary efforts in the Banking Committee in behalf of this legislation. Although the Senate bill did not contain a companion provision, the Senate Banking Committee did hold hearings on the redlining issue subsequent to the passage of S. 3084, and the conferees receded to the House on inclusion of the Holtzman amendment without debate.

My legislation is of critical importance to victims of redlining forced into FAIR plans in my own State of New York, and throughout the Nation. State FAIR plans were authorized by Congress in 1968 as part of the Urban Riot Reinsurance Act to make certain that insurance was available at "reasonable cost" to property owners refused insurance by companies who would not write policies in certain urban neighborhoods. The Holtzman amendment will finally assure that the intent of Congress in authorizing FAIR plans will not be undermined by misguided State policies and insurance company greed.

Unfortunately, despite the explicit language of the 1968 act, New York and numerous other States have raised FAIR plan rates to exorbitant levels, making insurance unaffordable and therefore unavailable. Ten States have insurance rates that are higher in FAIR plans than in the private market. Among those, New York's FAIR plan is the most unconscionable, with rates often ranging up to 500 percent over the private market. Indeed, the trend is clearly toward higher FAIR plan rates nationwide. In 1975 there were only 3 States which had FAIR plan rates higher than the private market; now there are 10 States. Furthermore, within the last year and a half increases were sought in FAIR plans in 7 States. In one of those States, Illinois, an increase of 157 percent was requested on certain properties.

This is not a problem the States can solve themselves. Even in cases where State insurance commissioners have rejected FAIR plan increases, the industry has often gone to court to reverse the State determination. In Maryland, for example, a circuit court recently overruled the denial of a 35-percent increase, claiming nothing in Federal or State law prohibited such exorbitant rates. In Massachusetts an industry court appeal of the State insurance commissioner's denial of a 50-percent increase is pending.

Importantly, inclusion of the Holtzman amendment in the conference report is an absolute prerequisite to an effective urban policy. Insurance has been called the cornerstone of credit, and if it is not available, mortgage financing is unobtainable and people cannot buy, improve, or expand homes or businesses. In short, without passage of my proposal, the commitment of billions of dollars in funding and mortgage financing to our urban areas would be meaningless.

This provision will not result in significant cost increases in the private insurance market. In 9 of the 10 States with FAIR plan rates in excess of the private market, it will cost the average policyholder only 25 cents per year to make FAIR plan rates the same as those in the conventional market. In New York, private rates will rise about $3 when this provision is enacted, but, according to the Department of Housing and Urban Development, FAIR plan premiums will be reduced by about 60 percent or $160 on the average dwelling.

The fact of redlining is indisputable. It has been documented in HUD reports. It has been documented in other reports throughout the Nation—in Michigan, in Illinois, in New York. Redlining is often done by ZIP code, and it often has a racial component.

Redlining means the doom of urban areas. It means widespread building abandonment and neighborhood deterioration. It means that people cannot get mortgages to rebuild properties, to improve properties, or to purchase properties. It means the cycle of urban decay cannot be broken.

I urge my colleagues to approve this conference report including the Holtzman amendment as the first step in a meaningful urban policy and as protection against the exploitation of innocent victims of redlining.●

Mr. ASHLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—yeas 117, nays 6.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 calendar days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

DIRECTING THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN ENROLLMENT OF S. 2570, COMPREHENSIVE EMPLOYMENT AND TRAINING ACT AMENDMENTS OF 1978

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate concurrent resolution (S. Con. Res. 114) authorizing and directing the Secretary of the Senate to make corrections in the enrollment of the Senate bill, S. 2570.

The Clerk read the Senate concurrent resolution as follows:

S. CON. RES. 114

Resolved by the Senate (the House of Representatives concurring), That the Secretary of the Senate, in the enrollment of the bill (S. 2570) to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes, is hereby authorized and directed to make the following corrections:

(1) In section 3(7)(B)(ii) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "but is within 6 months of no longer being eligible for such assistance".

(2) In section 3(11) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "(A)".

(3) In section 3(27)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "below" and insert "not in excess of".

(4) In section 103(a)(21) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the semicolon at the end thereof and insert a period.

(5) In section 103(b)(9) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "and" at the end thereof.

(6) In section 103(b)(15)(B) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "each of the preceding two years" and insert "in the preceding year".

(7) In section 104(a)(2)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "designated" and insert "appropriate".

(8) In section 104 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate the second subsection (c) as subsection (e).

(9) In section 105(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "308" and insert "307".

(10) In section 106(1)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "Act" and insert "subsection".

(11) In section 122(d) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "not" before "subsidized".

(12) In section 122(h)(3) of the Compresive Employment and Training Act, as proposed by section 2 of the bill, strike out "subparagraph" and insert "paragraph".

(13) In section 122 (i)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "that" in the second sentence.

(14) In section 123(c)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(15) In section 123(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(1)" and insert in lieu thereof "3".

(16) In section 124(a)(3) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "part A of" before "title IV".

(17) In section 127(a) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "Act" before "Amendments".

(18) In section 127(e)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "126(c)" and insert "126(d)".

(19) In section 133(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "128" and insert "127".

(20) In section 202(a)(1)(A)(i) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out the period at the end thereof and insert a semicolon.

(21) In section 204(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "title" and insert "Act".

(22) In section 212(b)(2) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, insert "and section 121(i)" after "121(c)(2)".

(23) In section 233(b) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "pursuant to section 232" and insert "for this part".

(24) In section 233 of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, redesignate subsections (e) and (f) as subsections (d) and (e), respectively.

(25) In section 301(b)(1)(C) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "section" and insert "subsection".

(26) In sections 308(e) and 308(g) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "forty" and insert "55".

(27) In section 311(f) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "132(a)(7) of the Vocational Educational Amendments of 1976" and insert "section 134(a)(7) of the Vocational Education Act of 1963".

(28) In section 433(a)(4) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "subpart" and insert "part".

(29) In section 503(5) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "(i)" and insert "(A)".

(30) In section 602(c) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike out "proposed appropriation" and insert "estimated allocation".

(31) In section 604(a)(1) of the Comprehensive Employment and Training Act, as proposed by section 2 of the bill, strike "pursuant to section 602" and insert "for this title".

Mr. HAWKINS (during the reading). Mr. Speaker, I ask unanimous consent that the Senate concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the gentleman from California?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, I make that reservation only for the purpose of asking my colleague, the gentleman from California (Mr. HAWKINS), to verify that these are technical corrections to be made in the conference report.

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, that is correct. The Senate has already passed the resolution. We are simply concurring in it. It is confined merely to making the corrections.

Mr. ASHBROOK. Mr. Speaker, we have reviewed those corrections, and I have no objection on my side.

Mr. JEFFORDS. Mr. Speaker, I have reviewed the corrections that are contained in the Senate concurrent resolution, and we have no objection on this side.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Is there objection to the initial request of the gentleman from California?

There was no objection.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 995, PROHIBITING DISCRIMINATION BASED ON PREGNANCY

Mr. HAWKINS. Mr. Speaker, I call up the conference report on the Senate bill (S. 995) to amend title 7 of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Pursuant to the rule previously adopted, the conference report is considered as read.

(For conference report and statement, see proceedings of the House of October 10, 1978.)

The SPEAKER. The gentleman from California (Mr. HAWKINS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the conference report on the bill, S. 995, to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy.

Yesterday, the House and Senate conferees reached agreement on a final version of the legislation which will go a long way toward insuring the equal treatment of women in the workplace with respect to fringe benefit programs.

The need for this legislation arose as a result of the Supreme Court's ruling in General Electric against Gilbert on December 7, 1976, that the exclusion of pregnancy from an employer's disability benefit plan did not constitute sex discrimination under title VII of the Civil Rights Act of 1964.

This legislation merely clarifies congressional intent that sex discrimination includes discrimination based on pregnancy, childbirth, or related medical conditions.

The major provisions of the conference agreement are as follows:

A new subsection (k) is added to section 701 of title VII of the Civil Rights Act which clarifies the intent of the prohibitions against sex discrimination in the act to include discrimination in employment based on pregnancy and to specifically define the standards which require that pregnant workers be treated the same as other employees on the basis of their ability or inability to work.

The conference agreement also provides that this new subsection shall not require an employer to pay for health insurance benefits for abortion except where the life of the mother would be endangered if the fetus were carried to term or except where medical complications have arisen from an abortion. The amendment further provides that nothing in the subsection shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion. If a woman suffers complications from an abortion, medical payments, and disability or sick leave benefits for the treatment of the complications would be covered.

The conference agreement specifies an immediate effective date insofar as it affects employment policies. These policies include: refusal to hire or promote pregnant women; termination of pregnant women; mandatory leave for pregnant women arbitrarily established at a certain time during their pregnancy and not based on their inability to work; reinstatement rights, including credit for previous service and accrued retirement benefits and accumulated seniority.

The conference report also provides for a transition period of 180 days after enactment to allow employers to comply with the fringe benefit provisions of the act. In addition, a reduction in benefits as a means of compliance with the act for a period of 1 year is prohibited. However, benefits may be reduced at any time for reasons unrelated to compliance. Also, employers and employees who currently share the cost of existing benefits may continue to apportion additional benefit costs required as a result of this legislation.

Mr. Speaker, I wish to thank my colleagues in the House who have worked with us during the past 2 years in our attempts to insure equal treatment of men and women in the workplace, especially with respect to fringe benefit programs. I also want to express my appreciation to our Senate colleagues who made such a valuable contribution to the legislation.

Mr. Speaker, I urge my colleagues to adopt the conference report and help eliminate the unfavorable treatment of pregnant working women all across the country.

Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, I rise to record my opposition to the conference report.

This conference report provides a legislative remedy for an adverse Supreme Court decision which said that the failure to cover pregnant workers under health and disability plans did not constitute sex discrimination under title VII of the Civil Rights Act. Sadly, to achieve this noble and important goal, the conference committee accepted a provision under which women will be considered equal in pregnancy related matters but unequal regarding health benefits for abortion procedures.

Under the conference agreement, employers will have complete discretion as to whether coverage will be offered for abortion procedures; except in the sole instance where the life of the mother were endangered if she carried to full term like the House bill after which it is patterned, it treats women like children. Even if a woman worker were to contribute solely to her employee health plan, her employer would have the power to decide whether her plan could include coverage for abortion procedures. Male employees—whether they have contributed to their health plan or not—are covered for all surgical procedures. This is sex discrimination, clear and simple.

Neither House of Congress heard a shred of committee testimony calling for the abortion exclusion. Representatives of right-to-life organizations testified before the House and Senate Committees that the basic bill, without an antiabortion rider was the most effective kind of prolife legislation.

Not one employer whose religious or moral convictions would be offended by the original bill came forward to promote the antiabortion language.

The rights of American working women have been curtailed under the phony guise of protecting the rights of their employers. This is the first antiabortion language which has been adopted by Congress on a nonmoney bill.

We should be able to keep in mind that under the laws of this Nation abortion is legal. I am hopeful that in the future Congress will remember that fact and act accordingly.

Mr. JEFFORDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to accompany S. 995.

This legislation provides long overdue protection under the law to a large segment of the American work force, women of child-bearing age. Discrimination of this nature should never have been allowed to exist for this length of time and it is a natural addition to the Civil Rights Act of 1964. We seldom see legislation which enjoys such broad-based support throughout the country. It is a pro-life, pro-family bill designed to take discriminatory pressure off the millions of families in this country who want to have children, but need two incomes to survive. I personally could not countenance the death of this legislation only because of the abortion question.

We have reached what I believe to be the best possible compromise under the circumstances and it was a unanimous decision by my House colleagues on the conference committee. We have clarified the sick leave and disability benefit questions which would arise when there were complications resulting from an abortion. As it stands, if a woman chooses an abortion she does not stand to jeopardize her income due to any disabling condition which might result from complications after that abortion. This is a definite improvement over the previous language and I urge my colleagues to give this conference report their full support.

Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Speaker, I rise in support of the conference report on S. 995 and H.R. 6075, legislation which will end discrimination against millions of our Nation's working women.

The pregnancy disability legislation has been the subject of great controversy. When my Subcommittee on Employment Opportunities first began to consider the legislation, I must admit that I had serious reservations. However, as we probed the issue, as we learned of the many instances of discrimination against pregnant workers, as we learned of the hardships this discrimination brought to the women and their families, I became a convert.

This legislation really has many purposes. It is a statement of the right of American working women to equal treatment in health and disability plans, within the context of the seniority system and other employment rights. Moreso, however, it is a statement of the importance this country places on the family, of the fact that we must recognize the right of women to have families and to work.

The legal status of the past often forced women to choose between having children and working. For many, wanting children could not outweigh the economic realities that her income was essential. This legislation gives her the right to choose both, to be financially and legally protected before, during, and after her pregnancy.

The antiabortion language adopted by the House, however, threatened the passage of this important legislation. In fact, it was really down to the wire before we knew whether we would be able to secure an agreement with the Senate on the antiabortion language. We have reached what I consider to be language that should be acceptable to the House. It does not totally answer the needs of the pro-choice advocates. Neither does it meet the requirements of the pro-life advocates. However, it does provide a balance between the two positions. It protects an employer's right to his own convictions in that it does not mandate payment for health insurance covering an abortion or for sick leave. It protects a woman who elects an abortion and suffers complications by requiring health insurance coverage for those complications and by providing disability.

It is important that consensus has been reached on this controversial provision. However, it is even more important—no matter what our personal feelings on the abortion issue might be—that the rights of pregnant workers will be protected. This measure guarantees fairness and equality, and it insures that women can have families and job security. It is a marked step forward in our goal of fair and equal treatment under the law, and I urge my colleagues to vote in the affirmative.

● Ms. HOLTZMAN. Mr. Speaker, I am very troubled by the conference report on Pregnancy Disability (S. 995). Title VII of the Civil Rights Act of 1964 prohibits all discrimination in employment on the basis of sex. However, in December 1976 in the Gilbert case, the Supreme Court ruled that title VII did not prohibit discrimination based on pregnancy.

This bill was originally designed to overturn that ruling and to make it clear that discrimination on the basis of pregnancy is, in fact, sex discrimination. The conference report, however, while purporting to stop one form of sex discrimination, specifically condones another form: Discrimination against women who seek abortions.

The conference report provides that in most cases an employer need not pay for health insurance to cover abortions, even though all medical procedures for men are covered. This is clearly discriminatory. Male employees will be covered for all health problems and medical procedures; women doing the same work will not unless their employers choose. Title VII was designed to remedy precisely this kind of discrimination. I urge that this conference report be rejected.●

Mr. HAWKINS. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 11733, SURFACE TRANSPORTATION ASSISTANCE ACT OF 1978

Mr. HOWARD. Mr. Speaker, I call up the conference report on the bill (H.R. 11733) to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 14, 1978.)

The SPEAKER. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from New Jersey (Mr. HOWARD) is recognized for 30 minutes.

Mr. HOWARD. Mr. Speaker, I rise in support of the conference report on the Surface Transportation Assistance Act of 1978 and urge its adoption.

For more than 3 years now, the Committee on Public Works and Transportation has been documenting the needs of highways, highway safety, and public transportation all across this country—in our large metropolitan areas, our towns and smaller cities, and in rural areas.

Title III of the bill addresses in a responsible manner continuing public transportation needs in both urban and rural areas. The conference report expands the level of capital assistance under the basic discretionary program for all geographic areas of the country. It gives greater recognition to the needs of the larger cities for operating assistance. It creates a new expanded program of capital and operating assistance for rural and small urban areas. It provides financial assistance to help maintain viable intercity bus service to communities across the country.

The bill, as agreed upon by the conferees, provides authority for States and localities to receive Federal funds for private intercity bus terminals and the bus portions of intermodal terminals. In implementing this program, or other terminal programs in the bill, it is intended that the private intercity bus companies utilizing such terminals will pay fair and reasonable rental or fees only for the operating costs associated with such terminals.

With respect to the highway program, we came to the conclusion that a massive increase in Federal assistance is not only desirable, but critically needed and totally justifiable. Not only that, but totally within the means of the sources of revenue to finance it.

We had learned something else of equal importance, Mr. Speaker, and that is that the program which we have been developing in this country since 1916, amended over time, is a credit to those who have had a hand in the process.

The structure is sound. What is needed is a change in emphasis, expanding the program overall and putting more funding into the areas where the backlog of needs is greatest.

If any theme ran throughout our approach it is the recognition that we must do the job better, with a larger effort, a speeding up of the process, and above all, focusing greater attention on preserving and upgrading the enormous public investment we have in transportation facilities in this country. Highways and bridges.

Therefore, we came before you with a bill that reflected our recognition of needs, and we did not hesitate to tell this House that the bill came to more than $66 billion over 4 years. We were mindful of the growing restiveness among the public with respect to levels of Government spending, and of inflation. So we offered an amendment reducing the spending in the bill to under $61 billion, an annual $1.4 billion cut for 4 years. But at the same time, we refused throughout to compromise and accept changes proposed by the administration which we felt would be harmful to the program, which would distort it.

That was our responsibility as Members of the House and of the committee with jurisdiction over surface transportation, and we met it forthrightly. We did so in full knowledge of the position of the administration and the other body.

The conference report which we place before this body today merits your strong support, and I can in good conscience commend it to you. The overall 4-year spending level is down to $51 billion—actually closer to $53.8 billion in effect, if you want to include the interstate transfer authorizations reflected in the earlier House versions.

But the structure of the program is intact; we are extending the trust fund without the Conable-Gibbons amendment, or the Giaimo amendment, or the Morgan amendment, which could have crippled its operation permanently.

We retain our substantial increases in the bridge program, which we originated in the House; we retain interstate acceleration, which we originated in the House, and in a form greatly superior to the version in the Senate bill; we retain substantial increases in primary and secondary RRR programs, the need for which was first recognized in the House.

A whole range of safety programs and other individual provisions in the original House bill were retained in conference, and proposals which would have diluted trust fund spending, shortchanged highways and unfairly encouraged the abandonment of planned interstate projects were excluded.

Your House conferees remained firm on these proposals, along with others increasing the Federal share for primary and secondary highways, increasing the Federal share for Appalachian highways, increasing the Federal share for bridges.

We held our position in the face of strong opposition to the point of facing the prospect of no conference compromise or no bill the President would sign. And we brought out a bill.

That the figures are lower than we considered justified is a victory not for the American motorist, not for the American taxpayer, not for the communities and regions served by the national transportation network. It is the result of what I hope will prove a passing obsession with large numbers, coupled with an astonishing ignorance of the true capability of the trust fund, a financing mechanism in successful operation for 22 years, to maintain higher program levels at existing tax rates.

We were not about to let the conference end without a bill, not with 38 or 39 States about to run out of interstate or primary system apportionments. That would have pleased no one but the budget fanatics, to whom all is subordinate to columns of figures which are meaningless in terms of national needs.

Instead, we stuck to the House provisions, insisted on raising the other side's firmly stated maximum by a flat $1 billion, and wound up with a package significantly above both existing law and the administration's figure.

Assuming enactment of the conference report, we will have a program that will move, that will demonstrate to the American people that things that Government touches can change for the better. We will build a record of performance that will demonstrate that we were right and the opposition wrong in stating what the trust fund would support. The figures will be there on the books.

Before voting on this package, Members should be aware that we encountered logistical problems in dealing with three Senate committees in conference on a bill as comprehensive as this one. Our Senate brethren found this a particular burden. Moreover, they preferred a 3-year to a 4-year bill.

We sympathize with their position, and in an attempt to accommodate the concerns we focused the final cuts necessary to reach agreement in the fourth year of the bill. In a further spirit of compromise, we may well be back before the expiration of this bill to give our program needs some updated attention.

In sum, Mr. Speaker, we started out with existing law that was clearly inadequate to the needs of the times, confronted administration and Senate proposals which can be fairly described in the same terms, and brought them up. Not as far as we would have liked, and not as much as the House would have liked. But to a respectable level. We will be back.

I urge adoption of the conference report.

Mr. SHUSTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on H.R. 11733, the Surface Transportation Assistance Act of 1978.

This measure continues and expands highway, highway safety, and public transportation programs for 4 years, and extends the highway trust fund with no increase in gasoline taxes.

It is the product of over 3 years of hearings—here and around the country—at which we received testimony from over 400 witnesses. It is the product of give and take with State and local leaders from around the country. It is the product of 3 days of awfully tough negotiations with Senate conferees, during which we all gave up a little to get a lot.

I do not believe there is a member of the Conference Committee who can honestly say that he is totally satisfied with the bill we bring before you here tonight. I know I, for one, had to swallow hard to accept some of the Senate provisions that were retained in this bill, and I fought hard to keep the higher House funding levels. But we must live in the real world, and take what we can get. And I sincerely believe that this legislation is worthy of the support of every Member of this House.

The transportation needs of America are staggering—not only present and future needs, but backlog needs that have been ignored for too long. The General Accounting Office has estimated that backlog needs on the 8,000 miles of older interstate segments, alone, amounts to about $2.6 billion in 1975 dollars. GAO also stated that major maintenance on the Interstate System would come to roughly $950 million per year.

When you crank in the backlog needs on the other systems, take into account future needs for the constantly changing face of America, plug in the critical safety programs that are designed to save lives, and consider the capital and operating needs of public transportation in both rural and urban areas, it is easy to understand why some of us were fighting for bigger bucks in this bill.

The fact is that we have an emerging gap between needs and resources, and unless we begin to close that gap now, we may never get the opportunity in the future.

This bill is a step in the right direction. While it does not close the gap, it addresses the needs in a realistic fashion. I believe we could have dedicated even more dollars to the highway trust fund programs without jeopardizing the integrity of the fund one iota. But the funding levels in the bill, small as they may be, at least have the endorsement of those of us who struggled for days trying to reach satisfactory compromises. This measure was signed by conferees from the House and Senate representing six different legislative committees. That, Mr. Speaker, is no easy task.

I shall not go into the details of this measure, Mr. Speaker, because it has been effectively outlined by my colleague, the chairman of the Surface Transportation Subcommittee, who labored for so many hours over 3 years pointing toward this day. But I would like to summarize by making the following points:

This bill offers cohesiveness and stability to Federal transportation programs by providing long-term authorizations which the States can use to formulate and implement sound transportation plans.

This bill rewards imagination and hard work through new incentive programs.

And this bill is fiscally responsible, well within the capability of the highway trust fund to finance the highway element, with no need for an increase in gasoline taxes, which are its chief revenue source.

This bill is good public policy, Mr. Speaker. It is responsible legislation. I commend it to all my colleagues and urge its adoption. For the purpose of clarifying congressional intent with respect to section 233, I would like to make the following observations:

This section would not prohibit the legal purchase, with section 402 safety funds, of new vehicles equipped with passive restraint systems as standard equipment.

This section would prohibit the retrofiting of any vehicles with passive restraint systems using 402 funds.

This section would prohibit using 402 funds for any cost of a new vehicle purchased with other than 402 funds, even that cost that could reasonably be attributed to passive restraints.

This section also would not prohibit using 402 funds to legally purchase passive restraint equipped vehicles for use in the following educational programs:

1. Student driver training programs; and

2. Police driver training programs.

It would prohibit the use of 402 funds to purchase passive restraint equipped vehicles for any other educational-related purpose.

Mr. Speaker, I would like to pay a special tribute to my good friend, the gentleman from Florida (Mr. KELLY), for his untiring efforts on behalf of the citizens of his congressional district in solving a critical transportation problem.

Through his persistent and persuasive work with the members of the Conference Committee, U.S. 19 in Florida is identified in the statement of managers for priority funding status under the priority primary program.

This was no easy task, Mr. Speaker, because until a few days ago, this route did not qualify for inclusion in the priority primary program. Because of Mr. KELLY'S steadfast pursuit of a solution to the U.S. 19 problem, and his achievement in persuading the State of Florida to designate U.S. 19 as part of the Federal priority primary system, this important route may now be considered for discretionary funding with earmarked Federal funds.

This demonstrated ability to work effectively, not only with his colleagues in the Congress but with responsible transportation officials in his own State, is a mark of leadership in which his constituents can take pride.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Speaker, I rise in support of the conference report on H.R. 11733, the Surface Transportation Assistance Act of 1978, because I am wholeheartedly in favor of doing the things in the bill, plus a whole lot more besides.

If that sounds like a reservation, it is. This bill is great as far as it goes. But it should have gone much further toward meeting the transportation needs of the country. It should have and could have, well within the ability of the highway trust fund to support a much larger program.

But because the bill does move part way in the direction in which we should be going, because it does contain a lot of good provisions, because it does not include a number of objectionable provisions advocated by the administration, the Senate or both, I support it and strongly urge its enactment.

I was not a conferee on this bill, but I followed the progress of the conference very carefully. I would have been right in there with the gentlemen from California, the gentleman from Ohio, the gentlemen from New Jersey, the gentleman from Texas, and the gentleman from Pennsylvania, battling every inch of the way for the highest levels we could bring out of conference.

I probably would have come to the same conclusion they did in bringing down the numbers in the authorizations to get a bill out with a decent chance of not being vetoed. So I am not second-guessing my House colleagues who served on the conference. Far from it. They fought the good fight and I commend them for it.

In national terms, I particularly commend the provisions in the bill accelerating the interstate system, upgrading primary and secondary highways, and expanding the bridge replacement program by more than five times the current effort.

Also of vital significance are the bill's provisions with respect to safety—the 55-miles-per-hour speed limit and others. I particularly appreciate the conference's acceptance of my floor amendment earmarking safety program funds for State programs to encourage the use of seat belts.

In the highway program area, the conferees also accepted my provision to make the compromise for construction of a scaled-down interstate facility through Franconia Notch, N.H., really work. Funds saved as a result of I-93's being scaled down to a parkway through the notch will go to upgrade highways serving as alternative routes for traffic bypassing the notch.

Another provision of mine, which will benefit New Hampshire if the legislative history in the committee report is followed, should have nationwide application in the future. I refer to the demonstration program providing Federal assistance for retroactive imposition of access controls on certain highways built without such controls in the past.

Extensive amounts of roadway in this country fall into this category, with much of the mileage in good condition and not chopped up with development beyond redemption. At a time when we are concentrating increasingly on preservation of the existing system, it makes good sense to protect the capacity of these highways to move traffic safely and efficiently as an alternative to new construction—bypasses, new lanes, and the like.

Some construction may be needed in particular cases, service roads, access roads, alternative routings to the main roadway. Certainly some access control can be achieved in States where it is constitutionally permissible by an exercise of regulatory powers as part of the package. It may also be necessary to use public funds to acquire access rights through negotiation or eminent domain.

Unfortunately, with the pressing demand for dollars for construction, there is not much of a constituency out there, not much public support for the use of existing funds for essentially a preservationist approach, as distinguished from new construction.

But I hope that my demonstration project will refine techniques and make evident the benefits of this approach to the point where it will receive widespread acceptance.

However, I want the record to show that I consider the funding levels in this bill inadequate both in terms of our national highway and highway safety needs, and in terms of the resources we have to do the job by way of the highway trust fund, without adding a dime to the total tax take.

The fault lies partly with the administration and its totally unjustified veto treats, and partially with the other body. But it lies, too, with the Congress as a whole, to the extent to which we have allowed the budget process—misuse of the budget process—to distort the programs legislated by the authorizing committees.

I will have a great deal to say at an appropriate time in the future particularly with respect to the performance of the Congressional Budget Office from which I, as a supporter of the Congressional Budget Act, expected a higher caliber of unbiased professional work.

The fact is that we are voting on a conference report here today which provides an average $8.7 billion over 4 years from the highway trust fund. Yet even the administration's own figures show that it could be nearly $1 billion a year higher. The Committee on Public Works and Transportation has developed figures indicating that the average annual figure could be nearly $2 billion over the level in this conference report.

When this bill was in committee, which reported it out at $66 billion over 4 years, and on the floor, where it was cut to $60 billion, I was approached by many of my colleagues who felt this bill was excessive, or dangerous, or irresponsible. I attribute that to the rhetoric originating with the administration, the Oversight Subcommittee of the Committee on Ways and Means, the Congressional Budget Office, and the Budget Committee.

At my request, the committee staff obtained from the Federal Highway Administration a set of tables, updating work done earlier for the 1975 DOT report, "The Highway Capital Problem." It shows the sharp decline in authorizations and expenditures for certain highway programs in terms of both constant dollars and a percentage of the unified Federal budget.

The original data showed a striking decline in both indicators. The updated material showed that the House bill would arrest the decline somewhat, and a result in a slight turn-around; but it

would not ever get back to the levels prevailing in the late 1950's, the 1960's, and the early 1970's.

The Senate bill would merely continue the downward trend, and that is near where we came out, close to the Senate levels. So let us not congratulate ourselves over these numbers. The only good thing I can say about them is that we can easily defend them against any charge that they are excessive. (I will insert the tables at the conclusion of my prepared remarks.)

I also want the RECORD to show that our bill, as passed by the House, was fiscally responsible. It would have resulted in no danger of deficit, no need for a gas tax increase, no need for a cutback in authorized programs in subsequent authorizing legislation.

There was absolutely no reason not to do the job, and every reason to do the job.

At a time of inflation, when there is no dispute that the volume of needs greatly exceeds the resources available, when those resources already at hand cannot be used for any other purpose, it is irresponsible to hold back, pull our punches, and short-change the program.

But this indeed is what we are doing, being forced to do at the risk of no bill. I emphasize that this is not all to the discredit of the House conferees. They extracted the last ounce from the other side and can be proud of their accomplishment under the most difficult circumstances.

I urge my House colleagues to recognize that accomplishment, and send this bill to the White House with such a resounding vote that it will be signed without question.

The tables I referred to follow:

FEDERAL HIGHWAY AUTHORIZATIONS

[In millions of dollars]

Year	Interstate	ABCD	Other [1]	Total	Bid price index	Constant dollars	Index (1967 equals 100)
1955	25	550	11	586	74.3	789	19.9
1956	175	700	9	884	84.0	1,052	26.6
1957	1,175	825	12	2,012	87.7	2,294	57.9
1958	1,700	850	32	2,582	85.6	3,016	76.2
1959	2,200	1,275	24	3,499	82.0	4,267	107.8
1960	2,500	900	19	3,419	80.1	4,268	107.8
1961	1,800	925	9	2,734	80.7	3,388	85.6
1962	2,200	925	5	3,130	83.8	3,735	94.3
1963	2,400	925		3,325	86.4	3,848	97.2
1964	2,600	948		3,548	86.9	4,083	103.1
1965	2,700	953		3,653	90.3	4,045	102.1
1966	2,800	1,000	52	3,852	96.1	4,008	101.2
1967	3,000	1,000	40	4,040	100.0	3,959	100.0
1968	3,400	1,000	86	4,486	103.4	4,338	109.6
1969	3,800	1,000	78	4,878	111.8	4,363	110.2
1970	4,000	1,425	61	5,486	125.6	4,368	110.3
1971	4,000	1,425	104	5,529	131.7	4,198	106.0
1972	4,055	1,425	225	5,705	138.2	4,128	104.3
1973	4,055	1,425	237	5,717	152.4	3,751	94.7
1974	2,650	2,207	[2] 499	5,356	201.8	2,654	67.0

[1] Includes forest highways, public land highways, priority primary, Alaska assistance, national scenic highways; title II highway safety funds for railroad grade crossings, bridge replacement pavement markings, high-hazard locations, elimination of roadside obstacles, and safer roads program.

[2] Includes highway capital authorizations contained in 1974 Federal-aid amendments, i.e., FAP and FAS-rural, off systems, bridge replacement, access to recreation areas, and overseas highway (Florida).

FEDERAL-AID HIGHWAY AUTHORIZATIONS IN CURRENT DOLLARS AND ESTIMATED CONSTANT 1967 DOLLARS BASED ON THE CONSTRUCTION BID PRICE INDEX—FISCAL YEARS 1979–82 AUTHORIZATIONS ARE H.R. 11733

[In millions of dollars]

Year	Interstate	Primary secondary urban	Other [1]	Total	Bid price index [2]	Constant dollars	Index (1967=100)
1975	3,050	2,265	939	6,254	203.4	3,069	77.5
1976	3,050	2,415	1,344	6,089	199.3	3,416	86.3
1977	3,250	2,550	1,224	7,024	216.4	3,246	82.0
1978	3,516	2,550	1,227	7,293	[3] 232.6	3,135	79.2
1979	3,550	3,350	3,070	9,970	[3] 251.0	3,972	100.3
1980	4,000	3,350	2,834	10,184	[3] 271.9	3,745	94.6
1981	4,000	3,350	2,914	10,264	[3] 292.8	3,504	88.5
1982	4,100	3,350	2,813	10,263	[3] 313.6	3,272	82.6

[1] Includes all title I and II programs except funds for: 402–403 safety, speed enforcement and other safety software programs; non-DOT programs, territorial and the Marianas.

[2] Bid price estimates for fiscal years 1978–82 are based on "CPI increase in the Budget of the United States Government: Fiscal Year 1979." and the additional increase to the CPI caused by the higher funding levels in H.R. 11733 as estimated by the Congressional Budget Office in its review of H.R. 11733 contained in House Public Works and Transportation Committee report on H.R. 11733.

[3] Estimate.

FEDERAL-AID HIGHWAY AUTHORIZATIONS IN CURRENT DOLLARS AND ESTIMATED CONSTANT 1967 DOLLARS BASED ON THE CONSTRUCTION BID PRICE INDEX—FISCAL YEARS 1979–80 AUTHORIZATIONS ARE S. 3073 and FISCAL YEAR 1980 LEVELS WERE USED FOR FISCAL YEARS 1981–82

[In millions of dollars]

Year	Interstate	Primary secondary urban	Other [1]	Total	Bid price index [2]	Constant dollars	Index (1967=100)
1975	3,050	2,265	939	6,254	203.8	3,069	77.5
1976	3,050	2,415	1,344	6,809	199.3	3,416	86.3
1977	3,250	2,550	1,224	7,024	216.4	3,246	82.0
1978	3,516	2,550	1,227	7,293	[3] 232.6	3,135	79.2
1979	3,516	2,850	1,329	7,695	[3] 251.0	3,066	77.4
1980	3,800	2,850	1,368	8,018	[3] 271.3	2,955	74.6
1981	3,800	2,850	1,368	8,018	[3] 291.9	2,747	69.4
1982	3,800	2,850	1,368	8,018	[3] 310.9	2,578	65.1

[1] Includes all title I and II programs except funds for: 402–403 safety, speed enforcement and other safety software programs; non-DOT programs, territorial and the Marianas.

[2] Bid price estimates for fiscal years 1978–82 are based on "CPI Increase in the Budget of the United States Government: Fiscal Year 1979."

[3] Estimate.

COMPARISON OF EXPENDITURES FROM THE HIGHWAY TRUST FUND WITH TOTAL UNIFIED BUDGET OUTLAYS, FISCAL YEARS 1964 TO 1982

[Dollar amounts in billions]

Fiscal year	Unified budget outlays	Expenditures from highway trust fund	Highway trust fund expenditures as a percent of budget outlays
1964	$118.6	$3.645	3.07
1965	118.4	4.026	3.40
1966	134.7	3.965	2.94
1967	158.3	3.974	2.51
1968	178.8	4.171	2.33
1969	184.5	4.151	2.25
1970	196.6	4.378	2.23
1971	211.4	4.685	2.22
1972	231.9	4.690	2.02
1973	246.5	4.811	1.95
1974	268.4	4.599	1.71
1975	324.6	4.844	1.49
1976	366.5	6.520	1.78
1977	401.9	6.147	1.53
1978 (est.)	[1] 462.2	6.100	1.32
1979 (est.)	[1] 500.2	[2] 8.382	1.68
1980 (est.)	[1] 542.9	[2] 9.717	1.79
1981 (est.)	[1] 575.4	[2] 9.865	1.71
1982 (est.)	[1] 612.4	[2] 9.960	1.63

[1] The Budget of the United States Government: Fiscal Year 1979.

[2] Estimates of expenditures for fiscal years 1979–82 are based on the authorizations in H.R. 11733 as passed by the House Sept. 28, 1978.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, H.R. 11733, and the priority primary road designation of U.S. 19 in Florida, from State Road 50 in Hernando County to interstate highway 275 in Pinellas County has great significance for all motorists who must use that heavily traveled highway. Because of the importance of these actions, I want to make special recognition of the leadership of my colleague, the Honorable RICHARD KELLY, and his persistence in having U.S. 19 included as a part of this conference report. His efforts will benefit not only the people of his district, but the people of my 6th district as well. By achieving this priority primary designation, much needed improvements to U.S. 19 can now be eligible for special funding as soon as the Florida Department of Transportation is able to prepare the necessary engineering surveys. I am pleased that the survey for the Pasco County segment is already completed and assure my colleagues that we will continue our efforts to have the Florida Department of Transportation expedite and complete its survey of the Pinellas County segments as soon as possible.

Mr. SHUSTER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I would like to engage the gentleman from New Jersey in a brief clarification of one of the sections of the bill which deals with my area of California. The provision I have in mind is the bypass highway project around the Redwood National Park. The conference report has brought this project forward with a 90-10 matching ratio. The ouestion I have deals with the relationship of the Federal and State interests and how they may be comingled in a proper sequence of events which will result in benefits to

all concerned in this most famous part of America. The Redwood National Park has a meaning to everyone. The Redwoods themselves are a symbol of the golden West. The point I would like to make is that we have here a facility of natural beauty which has problems in accessibility. There is a highway, State Route 101, which proceeds through the middle of this park. It has become congested with both park traffic and regular traffic and a solution is required at a very early date. The committee and the Congress has recognized this problem both in the study placed in the 1976 Highway Act and the authorized project in the Highway Act we are considering here today. The bypass highway will be built on a right-of-way around the park which is authorized and financed under legislation which proceeded through the Interior Committee of this body. When the highway is built, the State will or could turn over to the Federal Government the State right-of-way within the park. The end result of this transaction will be that the Federal Government will or could now have land within the park and the State of California will have a highway project around the park. I would like first to ask the gentleman if he does concur that this is a very worthwhile project of national interest which will develop into a solution wherein all parties will reach their desired goal through coordinated highway and park planning.

Mr. HOWARD. I concur with the gentleman that this, indeed, is a very worthwhile way to accomplish the coordination between needs of our vastly crowded park system and the highway needs of the individual States

Mr. DON H. CLAUSEN. Further, Mr. Speaker, I would like to pursue the question of matching share in this unique situation wherein the Federal Government is providing right-of-way for a State project and the State, in turn, is relinquishing its rightful ownership of property to a park, both steps being of mutual benefit of all concerned. Is it not possible that the unique situation could be carried out in a manner such that the value of the State property could be used as the State's contribution to the Federal/State matching share?

Mr. HOWARD. The gentleman does bring up a very unique situation wherein it seems to me that the Department of the Interior and the Federal Highway Administration should be able to work out a satisfactory solution in this regard.

Mr. DON H. CLAUSEN. I thank the gentleman for his opinion. I would like to ask him just one additional question. Is it his opinion that this kind of transaction would be in keeping with the cooperative spirit of the highway program dealing with our most important natural resources?

Mr. HOWARD. I, indeed, do agree with the gentleman from California that he has come upon what seems to me a reasonable and fair solution which should be pursued to its ultimate goal with the appropriate Federal authorities.

Mr. SHUSTER. Mr. Speaker, at this point I would like to place special emphasis on the contribution to the conferees made by the gentleman from Florida (Mr. KELLY). He uncovered a very serious problem and called it to our attention. Without his leadership, we would not have been able to address that issue. I will extend my remarks further on that subject.

Mr. Speaker, at this time I yield such time as he may consume to the gentleman from Georgia (Mr. MCDONALD).

Mr. MCDONALD. Mr. Speaker, I would like to ask the distinguished chairman of the committee, Is it true that in this particular bill we are for the first time using highway trust funds for recreational purposes?

Mr. HOWARD. We have been using trust fund money for nondirect highway construction purposes in the past. This is a unique situation, I will say to the gentleman. However, these situations—and there are very few of them around the country—have arisen in good faith, and where the trust fund money is permitted to go into these projects, we have closed any loopholes and say that may only apply once. This is in the bill, not the report, and only to highways being taken off the Federal Highway System so that there will be no future action of this kind.

Every State in the Nation knows that, so yes, it is a unique situation. It is the first time and also the last time.

Mr. MCDONALD. Specifically, in the case of the park project in Atlanta known as the Grant Park, the moneys that have gone to purchase the land will not be paid back to the highway trust fund, is this correct?

Mr. HOWARD. The gentleman is correct.

Mr. SHUSTER. I yield to the gentleman from Maryland (Mr. BAUMAN) such time as he may consume.

Mr. BAUMAN. Mr. Speaker, am I correct that this bill contains $51 billion in authorizations?

Mr. SHUSTER. That is correct, and that is approximately $10 billion under the House-passed position, a position which passed overwhelmingly with only 27 votes in opposition. It is a 4-year bill. That is in the Highway Trust Fund.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. SHUSTER. I yield to the gentleman from Ohio (Mr. HARSHA), the ranking minority member of the committee.

Mr. HARSHA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in support of this conference report. I think it is a very acceptable solution to our public transportation problems. We have gone a long way on the House side in trying to resolve the differences between the House version and the Senate version and what the President wanted.

There is a particular provision in the bill dealing with the Appalachian highway system. The gentleman from Alabama is vitally interested in that and I yield to him.

Mr. BEVILL. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I certainly rise in support of this conference report. I commend the gentleman and the committee for a fine conference report. The committee did wisely put in this Appalachian road from Fulton to Memphis. For the record I would appreciate it if the gentleman would state that.

Mr. HARSHA. As the gentleman knows, when the bill passed the House we had 150 additional miles put in for the extension of the Appalachian highway system; 100 of those miles were specifically earmarked in the minds of the committee members and in the committee report it is so stated.

In the portion of the committee report relating to the Appalachian highway development program, there is language to permit construction of a development highway between Birmingham, Ala., and Fulton, Miss.—which the gentleman was specifically interested in.

When we went to conference, the other body was rather adamant about not making any extensions of the Appalachian program and in addition to the 100 miles the gentleman requested, which was in the bill, we had an additional 50 miles. So, to save as much as we could for the gentleman, we compromised and reduced the mileage to 125 miles. That appears in the joint explanatory statement of the committee of conference. It provides that there will be an additional 125 miles for the system which can be applied for by all 13 States in the Appalachian region. But it certainly was the intent of this conference and the other House conferees that 100 miles would be reserved for development of a highway between Birmingham, Ala., and Fulton, Miss.

Mr. BEVILL. And this is the intention of the conference committee?

Mr. HARSHA. I think that is a safe assumption.

Mr. BEVILL. I thank the gentleman.

Mr. HARSHA We also had considerable interest in another provision relating to the priority primary system, and one of our colleagues, the gentleman from Florida (Mr. KELLY) had talked to me a number of times about this particular provision, as well as to the ranking minority member of the subcommittee that dealt with access, which was from the State Road 50 to Interstate 75. In the conference report we retained the priority primary system and we also mentioned in that conference report that U.S. 19 from Federal 50 to Interstate 75 should be considered for funding under this provision. It is certainly the intent of the conferees that the administration should abide by that request.

I commend the distinguished gentleman from Florida for being so diligent in representing his area and his constituents in this respect.

Mr. Speaker, I yield to the gentleman from Illinois (Mr. ANDERSON.)

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman for yielding. I will take only a moment to publicly acknowledge my deep debt of gratitude to our colleague, the gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member of the subcommittee for not only working on the House position but for holding to that provision in conference. I am deeply grateful to them for it.

Mr. HARSHA. I thank the gentleman for his words. He has been very articulate

in retaining that position and we were able to retain it in the conference report.

Mr. Speaker, this conference report significantly expands our service transportation programs and makes several substantial improvements:

Accelerated completion of the Interstate System, an expanded program of bridge replacement and repair, increased funding for the rehabilitation of existing primary and secondary highways and expansion of their capacity, and several innovations in the all-important highway safety area.

Mr. Speaker, I would like to take a moment to discuss two of the major improvements which H.R. 11733 makes in the Federal-aid highway program.

In my mind the single most important feature of H.R. 11733, is the expanded program for replacement and rehabilitation of unsafe bridges.

According to the Seventh Annual Bridge Report published by the U.S. Department of Transportation, there are more than 105,000 deficient bridges in the United States. About 33,000 of these bridges are on the Federal-aid system, while the remaining 72,000 bridges are located on roads which are not on the Federal-aid highway system. The estimated cost to replace these bridges is over $25 billion. It is clear that the problem of unsafe bridges is a national problem and that the Federal effort in this area must be greatly expanded. In the State of Ohio alone, there are at least 944 deficient bridges on the Federal-aid system.

H.R. 11733 contains a number of provisions which are intended to expand the Federal efforts to rehabilitate and replace unsafe bridges:

First, funding has been substantially increased to an average of about $1 billion annually. Existing law provides $180 million per year for bridge replacement purposes. Obviously this amount is totally inadequate to deal with the bridge replacement problem, the cost of which has been estimated at more than $25 billion.

Second, the Federal share is increased from 75 percent to 80 percent in order to help State and local governments come up with their share of the funding that will be required under the expanded program.

Third, funding of off-system bridges would be permitted for the first time. At least 15 percent and up to 35 percent of a State's funds must be obligated for bridges which are not on the Federal-Aid System. This is an extremely important change since two-thirds of the unsafe bridges in this country are off-system and the estimated cost to replace them is over $12 billion. It will help to relieve the tremendous burden on local governments to rehabilitate and replace structurally deficient and functionally obsolete bridges now carrying traffic.

And fourth, $200 million would be available annually at the discretion of the Secretary for bridges which cost more than $10 million. Since construction of replacement bridges over major bodies of water is extremely costly, it is often beyond the financial capabilities of many States. The $200 million in discretionary funding in H.R. 11733 will help to alleviate this problem.

In addition to an expanded bridge program, the bill contains several provisions designed to accelerate completion of the interstate system. I support this objective. Over 92 percent of the interstate system is open to traffic. Yet the remaining 8 percent could cost as much as the 92 percent which is already completed. It is essential that we take action to expeditiously complete the Interstate Highway System which is one of the Nation's great public works achievements and is of enormous significance and benefit to every citizen and every business in this country.

Mr. Speaker, it is also important to recognize the significance of the fact that we are preserving the Highway Trust Fund intact as under existing law, without tampering with its ability to finance highway and safety programs, and extending its life for 5 years. And I think it a fair summary statement to say that we have largely excluded a number of proposed provisions which would have radically altered the structure of what has been an enormously successful program.

This conference report thus is a true compromise package. Undeniably, the House side did most of the compromising in the funding area while the Senate acceded to the House in areas of program provisions.

Both sides have now worked their will, we have come to agreement, and I urge my colleagues to approve this conference report by an overwhelming vote.

I also wish to express my satisfaction with the fact that several provisions which I authored have been incorporated into this bill.

Not only do we have a nationwide expansion of the bridge program, the conference report includes my amendment to conduct a demonstration program to devise means of accelerating projects under the program, reduce costs and hasten the time when these facilities are in place and benefiting the traveling public.

Specific projects at Portsmouth, Ohio, and Huntington, W. Va., have been selected for this important demonstration with preferential 90–10 funding.

Another amendment which I offered, and which was preserved in the conference, allows up to 35 percent of a State's bridge replacement funds to be used on projects not on Federal-Aid Systems.

Appalachian development highways are of critical importance to the transportation needs of States in the region, including my own State of Ohio where extensive mileage remains incomplete. Part of the problem is that some States have been unwilling or unable to come up with the non-Federal match. I take particular satisfaction in the fact that the final compromise package contains my recommendation that the maximum Federal share be raised from 70 to 80 percent.

Another problem dealt with by one of my amendments in the conference report results from the fact that existing law would force the abandonment of service plazas on toll roads that are part of the Interstate System once they become toll free. The Ohio Turnpike and other similarly situated facilities will benefit from the removal of that requirement under my amendment.

My package of safety amendments includes greater flexibility in requirements that the States enforce the national 55-miles-per-hour speed limit and incentives—in addition to penalties—to promote compliance. I am convinced that the 55-mile speed limit can only be retained and its life-saving potential realized if the program is reasonably administered.

Other elements of my package of amendments include a requirement that 50 percent of the off-system roads program be spent on safety projects, continuation of the pavement-marking program, and a study of the motorcycle helmet issue.

The conference agreement also contains an amendment that consolidates the high hazard and roadside obstacle programs into one hazards elimination program. This is an extremely important step forward in the area of highway safety.

Prior to 1973, there was no systematic effort underway by the States to identify and correct hazardous locations. In order to launch a major national highway safety improvement program, the Congress, in the Highway Safety Act of 1973, mandated a series of categorical road safety improvement programs, each with established quantifiable goals. As a result of Congress action, over the past 5 years, progress has been made in launching a national program.

But there have been problems as well, some of them serious. For example, many States have yet to complete or use the inventories mandated by the 1973 Safety Act. Thus, it is impossible for them to set priorities based upon the cost-benefits likely to be realized from improvements. And in over half the States, evaluation has been unsatisfactory or nonexistent.

The purpose of my amendment is to further clarify what Congress desires to accomplish through the road safety improvements programs and to incorporate in the program what has been learned since 1973.

Under the hazards elimination program each State will be required to conduct an engineering survey of all public roads to compile a full and complete inventory of all hazards to motorists and pedestrians. A hazard would include any road or roadside condition which has, in the past, or may, in the future, cause or contribute to an accident or increase the severity of an accident, on the traveled right-of-way, at an intersection, on a roadside, on a bridge or its approaches, at a railroad crossing, on an unmarked or poorly marked road or on an inadequately signed or signaled road.

In compiling the inventory, the best available data, information, techniques, and devices should be used, including, but not limited to, accident, police and citizen reports, and on-site inspections by qualified engineering personnel. The inventory should also be continuously updated and should serve as the basis for

establishing priorities for each State's hazards elimination program.

Hazards would then be ranked in order of risk or danger to the traveling public, taking into account accident frequency or potential at identified locations, and the cost benefits likely to be realized from removal or correction of the hazards based upon evaluation of hazards removed or corrected at similar locations. A schedule of improvements based upon these priorities would be established and a program to systematically remove or correct the hazards would then be implemented. At a minimum, each State program should include the following: Replacement of existing signs and light supports which are not designed to yield or breakaway on impact with yielding or breakaway sign and light supports; the removal or, where appropriate, relocation or replacement, of roadside obstacles, both natural and manmade, when located within 10 feet of the traveled right-of-way; and the installation of appropriate signs, markings, and other warning devices at curves, blind intersections and narrow bridges and their approaches.

In addition to conducting the inventory and setting priorities, each State would be required to establish an evaluation process to analyze and assess results achieved by safety improvement projects. The evaluation process would develop cost-benefit data and safety payoff projections for various types of corrections and treatments which would be taken into account in setting priorities for safety improvement projects. At a minimum, whenever a fatal accident occurs, the accident location should be inspected by qualified engineering personnel to ascertain whether road conditions at the location warrant inclusion in the State inventory and priority consideration for correction.

The purpose of the hazards elimination program is to further clarify what Congress desires to accomplish through the road safety improvements programs and to incorporate in our mandate what has been learned since 1973. This runs directly counter to the Senate approach which, in large measure, would have turned back to the States almost total authority and responsibility for carrying out this program and would have provided very little in the way of guidance.

By establishing the hazards elimination program, I believe we have set the stage for the implementation of a national highway safety improvement program which, over the course of the next decade, will reduce fatalities by 10,000 lives or more each year.

Mr. Speaker, I can say with total conviction that this bill is a good piece of legislation, moving in the proper direction in terms of the national program, and responsive to particular regional or local problems that are bound to arise as a general program matures.

It does not go as far as I would have preferred in some areas, but it does represent solid, significant improvement, and deserves an overwhelming vote of support here today.

Since this is the concluding session of this Congress, I certainly would be remiss if I did not take the time of my colleagues in the House to inform them of the tremendously distinctive, effective, compassionate, and very forthright leadership of the distinguished chairman of the Committee on Public Works, the gentleman from California (Mr. JOHNSON) in this particular legislation, as he has exhibited in all others. The gentleman has provided us with very meritorious leadership. He has understanding and compassion. He worked very well with us, as has the distinguished gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member of the Subcommittee on Surface Transportation. Together they made a very significant contribution to the transportation bill. Further, I think particular emphasis and particular credit goes to the chairman of the conference committee, the distinguished gentleman from New Jersey (Mr. HOWARD) who was chairman of the subcommittee and who has an amazing understanding of our national transportation polices. I do not know of anyone in the Congress who is more informed than the distinguished chairman of the subcommittee, Mr. HOWARD, of New Jersey, and I congratulate him.

Mr. HOWARD. I thank the gentleman, and I now yield such time as he may consume to the distinguished chairman of the Committee on the Budget, the gentleman from Connecticut (Mr. GIAIMO).

Mr. GIAIMO. Mr. Speaker, I rise in support of this legislation. I want to commend the gentleman from New Jersey (Mr. HOWARD) and all members of the Subcommittee on Surface Transportation for bringing in this bill in the fiscally responsible manner which they have. Even though they have provided for about $51 billion in budget authority over the course of the 4-year life of this bill, it is a reduction of about $15 billion from what was carried in the legislation when the bill originally came out of the committee. I think the efforts of the gentleman from New Jersey are to be commended. He has brought about reduced expenditures in this bill, so that it is fiscally sound, and can be paid for out of available trust funds which will be available, rather than the danger which existed in the original bill of borrowing against future revenues. I commend the gentleman and the rest of the members of the committee and urge the adoption of the conference report.

Mr. HOWARD. Mr. Speaker, I thank the gentleman from Connecticut (Mr. GIAIMO) for his remarks.

I yield such time as he may consume to the gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I thank the distinguished chairman, the gentleman from New Jersey (Mr. HOWARD) for yielding to me.

I would like to take just a few moments to engage in a colloquy with the distinguished chairman of the Subcommittee on Surface Transportation with regard to the provisions relating to transportation research centers.

In my congressional district, we are justly proud of the Polytechnic Institute of New York, a private institution which is one of the largest engineering schools in the Nation.

The Polytechnic Institute has a distinct academic department of transportation and engineering, the only one of its kind, serving the largest metropolitan region in the United States. Its graduate programs provide trained professionals to the region and the Nation with concentrations in transportation planning; traffic engineering, public transportation; transportation safety and engineering; and other areas. About 70 percent of the graduates of these programs are employed by Federal, State, local, and regional governmental agencies.

In addition to its many graduate training programs in transportation, Polytechnic has an ongoing major research effort in its Associated Transportation Training and Research Center—larger by far than most comparable institutions. It has assisted the FAA in Concorde noise measurements; developed a systems safety methodology for the Department of Transportation; and improved the planning process for New York State's Department of Transportation.

The center, which has been operating since 1965, is currently studying and evaluating alcohol blends in gasoline for New York State; assessing public transportation energy alternatives for UMTA; and aiding in meeting the transportation needs of the handicapped for the Department of Transportation and the city of New York.

Clearly, this program at Polytechnic Institute of New York is in a position to contribute to the academic and research goals of the Nation from a firm foundation, and I recommend it most highly.

I, therefore, ask the distinguished chairman of the subcommittee if there is anything in this legislation which might hinder the Polytechnic Institute from competing for the transportation research grant program with as much of a chance of success as any other public or private institution in the State or region.

Mr. HOWARD. In reply to the inquiry of the gentleman from New York (Mr. RICHMOND) let me say that the answer is nothing at all. I would presume their record would indicate that they should continue.

Mr. RICHMOND. I thank my good friend and commend him, the distinguished committee chairman and my colleagues of the Public Works and Transportation Committee for the hard work and long hours spent in fashioning this excellent legislation.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I thank the distinguished chairman, the gentleman from New Jersey (Mr. HOWARD) for yielding, and I commend him on the conference report he has brought to us. But again I want to ask the usual question and that is. Is there anything in here at all that the Senate added that is not germane to the bill as it passed the House?

Mr. HOWARD. I would say to the gentleman that the answer is "No."

Mr. SEIBERLING. I thank the gentleman and again I compliment him on the conference report.

Mr. RAHALL. Mr. Speaker, will the gentleman yield?

Mr. HOWARD. I yield to the gentleman from West Virginia.

Mr. RAHALL. Mr. Speaker, I thank the gentleman for yielding and I compliment him on his work and the time and effort the gentleman has given to the conference report, and particularly in view of the fact that it is a public works bill that has the approval of the President on the legislation.

In addition, Mr. Speaker, I am a bit concerned with one provision that was in the House passed bill which was deleted, which authorized $50 million for coal haul roads, and I would ask the gentleman if that is something that he might take a look at next year in regard to our Nation's energy policy to secure a provision for money for coal haul roads?

Mr. HOWARD. The gentleman from West Virginia, Mr. RAHALL is correct.

I would add that the study with relation to the coal haul roads did not reach our committee until after the bill was reported out. That bill will be one of the first items of business that we will take up when we return in the next Congress.

Mr. RAHALL. I thank the gentleman.

Mr. HOWARD. Mr. Speaker, at this time I yield such time as he may consume to the chairman of the full committee, the gentleman from California (Mr. JOHNSON).

Mr. JOHNSON of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the conference report on H.R. 11733 is a solid piece of work that reflects credit on the House and the House Members who handled the legislation in the conference.

The chairman of our Surface Transportation Subcommittee, who served as chairman of the conference, fought all the way down the line for the House position, and it is to the credit of him and the other House conferees that we were able to bring out a bill.

I do not have to tell you that it was a tough conference, with the administration siding with the Senate side both on matters of funding and specific program changes they wanted in the bill.

We started out far apart and we came together, winding up with most of the provisions in the House bill, a sizable cut in the funding, yet with a package that represents a solid increase over existing law and the administration's proposal.

The needs of highways and public transportation which our subcommittee documented over the past 3 years are still out there. This bill will make it possible to do a better job than we have in the past in taking care of some of those needs.

As the idea that Congress is an independent branch of Government takes hold more firmly on the other side of Capitol Hill, we will have the basis to build on to come back in 3 or 4 years and do even more of the catching up that has to be done if the Federal Government is going to do its share in surface transportation.

Meanwhile, we have a bill that I personally feel the President should have no hesitancy about signing. I know there are still strong feelings downtown about some of the provisions in it, completely separate from the issue of funding. But a strong send-off in the form of a solid vote in support of the conference report should help put any doubts on the part of the Office of Management and Budget in perspective.

I urge the adoption of the conference report.

● Mr. MINETA. Mr. Speaker, I rise to discuss the surface transportation conference report. I shall be brief. This is exceedingly complex legislation which for the first time treats mass transportation and highway programs in one bill. The bill also takes another major progressive step by providing for a 4-year authorization. The House Public Works Committee worked on this legislation for 3½ years with the one goal of providing for the Nation's growing mass transportation and highway requirements.

The major debate regarding the surface transportation bill centered on the overall funding levels contained in the bill. When the House considered the bill, the chairman of the Budget Committee, Mr. GIAIMO, proposed an amendment which would have significantly reduced the highway trust fund program levels from the original levels in H.R. 11733. The Giaimo amendment and the related Senate amendment, the so-called Morgan amendment, reflected a concern that the programs were growing too much, too fast.

I believe that the conference report reflects a compromise which, while providing for the Nation's mass transportation and highway needs, reflects a responsible level of funding with a responsible program expansion over the 4-year life of the bill.

Furthermore, I want to inform my colleagues that the chairman of the Budget Committee, on which I serve as well, is urging support of the surface transportation conference report. I believe that the gentleman from Connecticut (Mr. GIAIMO) recognizes the significant funding level changes which were agreed to in the conference. For instance, the highway trust fund authorization for fiscal year 1979 is now $8.4 billion which is roughly equivalent to the amount assumed in the budget resolution. The Public Works Committee has managed to walk a fine line which, while providing for necessary and growing mass transportation and highway needs, maintains a responsible level of program increase which each year provides the necessary increase to maintain program levels in the face of increasing program requirements.

This is a responsible conference report which deserves the support of all parties. The transportation programs involved in this report, the highway construction and safety programs, the mass transit construction, safety and subsidy programs are all basic local and national needs. A surface transportation bill with adequate funding is absolutely essential to the safety, economic viability, and general progress of our Nation. I strongly urge your support of the conference report and the responsible funding levels contained therein.●

Mr. HOWARD. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HOWARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9937) entitled "An act to amend the Bank Holding Company Act Amendments of 1970."

CONFERENCE REPORT ON H.R. 7577, ECONOMIC OPPORTUNITY AND COMMUNITY SERVICES AMENDMENTS OF 1978

Mr. ANDREWS of North Carolina. Mr. Speaker, I call up the conference report on the bill (H.R. 7577) to extend and amend the Economic Opportunity Act of 1964, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

(For conference report and statement see proceedings of the House of October 13, 1978.)

The SPEAKER. Under the rule previously adopted, the conference report is considered as having been read.

The gentleman from North Carolina (Mr. ANDREWS) will be recognized for 30 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to report to the House that after negotiations in conference between the Committee on Human Resources of the other body and the Committee on Education and Labor on H.R. 7577, the Economic Opportunity Act of 1964, as amended, we have reached an agreement which is embodied in the conference report now under consideration.

Mr. Speaker, I want first to express appreciation for the efforts of the mem-

bers of the committee who have worked so hard to bring this matter to a successful resolution.

In particular, Mr. Speaker, I would like to thank the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS). His guidance and advice, particularly with respect to the issue of Head Start, was most helpful and instructive. I would like to also thank Mr. GOODLING, the ranking minority member of the Subcommittee on Economic Opportunity, for his assistance on this legislation.

Mr. Speaker, the conference report is similar in many respects to H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978, which the House passed on July 26 by a margin of 346 to 38. There are, however, several significant provisions which I would like to bring to the attention of my colleagues.

RESEARCH AND DEMONSTRATION PROGRAMS

The conference report provides authority to the director of the Community Services Administration to conduct research and demonstration projects designed to test the development of new approaches to particular problems of the poor. Although the current law provides for research and demonstration programs, the Congress has never authorized specific appropriations for its implementation. This report would authorize appropriations for research and demonstration programs of $5 million for fiscal year 1979, $6 million for fiscal year 1980 and $8 million for fiscal year 1981.

COMMUNITY ACTION PROGRAMS

The conference report provides for numerous amendments to existing law with respect to the development, funding, and administrative support for community action programs. Specifically, this report will restore the previous percentage ratio of 80–20 for Federal/non-Federal financial support to community action agencies. This restoration is designed to provide community action agencies with a more realistic financial assistance formula. The conference report also mandates the director of CSA to more diligently exercise appropriate executive review of programs and policies by requiring an annual review and update of all relevant regulations and guidelines applicable to programs funded under title II of the Economic Opportunity Act of 1964.

Furthermore, funding for community food and nutrition programs and rural housing development and rehabilitation programs may be provided to local public or private nonprofit organizations in addition to community action agencies. With respect to energy programs administered by CSA, the conference report provides that the Director of CSA shall utilize local public or private nonprofit organizations where feasible in the operation of programs to lessen the impact of the high cost of energy to migrants, farmworkers, and Native Americans, and further provides that eligibility for this program shall be based solely on delinquency in the payment of fuel bills.

A new program for demonstration employment training opportunities for low-income persons is established. Under this program grants are to be available to community action agencies, community development corporations and other public or private nonprofit organizations and agencies to conduct experimental programs designed to provide innovative approaches to employment, the transition from unemployment or federally subsidized employment to nonsubsidized employment, and training programs to place disadvantaged youth in private sector employment. This new program should greatly assist this Nation in dealing with the persistent and difficult problem of employment for the poor.

The committee of conference was also concerned about the issue of insuring that programs which are provided financial assistance under title II receive appropriate funds for technical assistance and training. The conference language responds to this concern by instructing the Director of CSA to make the necessary special assignment of agency personnel for technical assistance to agencies funded under title II and further provides that State agencies must give priority to programs under sections 221 and 222 of the Economic Opportunity Act of 1964 with respect to financial support for technical assistance.

This report amends the current law relating to the amount of compensation which may be provided to an employee of a program administered under the act by increasing the limitation for such compensation from $15,000 to $18,000 per year. The law retains, however, the authority for the Director to waive this limitation with respect to maximum employment compensation for those geographical areas where exceptions may be necessary because of the need for specialized personnel or prevailing local salary levels.

SPECIAL PROGRAMS TO COMBAT POVERTY IN RURAL AREAS

Poverty, of course, is not purely an urban problem. Programs to combat poverty in rural areas have been administered by CSA and other Federal agencies concerned with the poor for many years. This report continues the support for these particular programs by authorizing appropriations of $3 million for fiscal year 1979, $5 million for fiscal year 1980, and $7 million for fiscal year 1981 for special rural programs.

ASSISTANCE FOR MIGRANTS

Particular attention is also paid to the special problems relating to migrants and other seasonally employed farmworkers and their families. The conference report establishes a new title IV for the Economic Opportunity Act of 1964 by providing for special assistance for migrants and certain other farmworkers. Because of the unique nature in which poverty effects transitory people, the programs under this new title are to be administered at the national level through CSA. This new title represents a demonstration of commitment on the part of the conferees to providing adequate assistance for migrants through the principal Federal poverty agency. Appropriations for this new program are authorized at the levels of $3 million for fiscal year 1979, $5 million for fiscal year 1980, and $8 million for fiscal year 1981.

HEAD START AND FOLLOW THROUGH

Two of the most important programs authorized by the Economic Opportunity Act are Head Start and Follow Through. These programs, initially enacted in 1965 and 1967, respectively, have proved to be exceedingly valuable contributions to our effort to provide adequate compensatory educational, social, health, and nutritional services for low-income children. Adoption of this conference report will insure that these highly successful programs will continue for another 3 years.

While the conference report provides for a strengthening of the administration and development of Head Start and Follow Through by the Department of Health, Education, and Welfare, the major change to existing law recommended in this legislation is the manner in which funds are distributed to the States for Head Start programs. This conference report reflects many hours of discussion by the conferees on this different and important issue. I am pleased to report to my colleagues that the compromise reflected in this conference report is substantially similar in effect to the amendment proposed in the original House bill.

This new formula for the allocation of Head Start funds is premised on the fact, discovered during deliberations on H.R. 7577, that some States were receiving less Head Start funds than they were entitled to receive under existing law, and that other States were receiving more financial assistance than contemplated by the current act. Although this disparity is a result of unique and complex historical developments surrounding the early years of the Head Start program it is, nonetheless, an issue which must be corrected.

The proposed formula would equalize funding patterns for Head Start programs in the various States over the next several years. It is important to recognize that during the next several years, when all States will come in line with their proper entitlement, virtually all States will be protected from the possibility of little or no increase in funds which, due to inflationary factors, could drastically curtail or possibly hault an existing Head Start program. It is this possibility that my House colleagues on the committee on conference found unacceptable and I commend them for their insistence on preventing an occurrence which would ultimately disrupt the early educational advancement of thousands of children.

Some important factors reflected in this new formula include the provision that no State will receive less Head Start assistance than was received in fiscal year 1978, virtually all States will share in future increases of appropriations of the program, and an adequate amount of funds are reserved for the Secretary to use for such important special programs as those for Indians, migrants, and handicapped children.

CSA ADMINISTRATION AND COORDINATION

The conference report makes several changes with respect to the administration of poverty programs by CSA. The most important of these changes provides that CSA is authorized to carry out national responsibilities and process and

finalize grants and contracts through regional offices. The director is mandated to promulgate necessary rules and regulations for the performance of this new authority.

Much attention was paid to the National Advisory Council on Economic Opportunity. This Council, composed of private citizens who are to advise the President on the problems of the poor and issues relating to the Economic Opportunity Act, has been a subject of some discussion due to its past performance. Valid criticism has been raised regarding the Council's administrative support staff, the absence of four persons on the membership of the Council, and the failure to file a report in 1976 as required by law.

The conference report addresses these concerns by reducing the membership of the Council from 21 members to 15 members, and further provides that one-third of the membership shall include poor persons, one-third representatives of the poor and one-third representatives of the general public.

Finally, in response to criticism regarding the excessive budget of the Council, which is currently $301,000 for 1978, limitations are placed on the Council's ability to make expenditures or incur obligations which exceed $25,000 for fiscal year 1979, $250,000 for fiscal year 1980, and $275,000 for fiscal year 1981. These amendments should address many of the concerns regarding the Council so that it may become a viable and responsible component of the war on poverty.

COMMUNITY ECONOMIC DEVELOPMENT

Considerable attention was also paid to title VII of the Economic Opportunity Act dealing with community economic development. Community development corporations, funded under this title through the Office of Economic Development in CSA, have played a significant role in the effort to generate successful business ventures in depressed economic areas. This conference report will significantly strengthen and improve the administration and operation of community development corporations.

One of the reasons several community development corporations have met with difficulty in promoting successful business ventures is the absence of sound business advice and judgment from local representatives in the community where the community development corporations exists. In response to this problem, this legislation provides that the President is authorized to establish a national Advisory Community Investment Board, to be composed of 15 members appointed for staggered terms and without regard to the civil service laws by the President in consultation with the Director. Furthermore, this report provides that the governing body of each community development corporation may establish a local Advisory Community Investment Board, to be composed of not more than 15 members appointed for staggered terms by the governing body of each CDC.

In addition, financial assistance to community development corporations shall be made available for deposit to the order of a grantee who has demonstrated successful program performance in the past. It is expected that when financial assistance is made available for deposit to the order of the grantee, the grantee shall secure approval from CSA with respect to the utilization of the grantee's deposit. CSA must notify the grantee of the agency's approval or disapproval within 15 days of the grantee's request for approval.

Finally, the conference report provides adequate funding for community economic development by authorizing appropriations of $70 million for fiscal year 1979, $85 million for fiscal year 1980, and $105 million for fiscal year 1981.

Mr. Speaker, in conclusion, I would like to note that the measure before us represents many hours of hard work in resolving many important areas of concern. I urge my colleagues to adopt this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I rise in strong support of the conference report on H.R. 7577, an important bill to extend and amend the Economic Opportunity Act of 1964.

Mr. Speaker, I would like to first thank the distinguished chairman of the Subcommittee on Economic Opportunity, our colleague, IKE ANDREWS, for his responsible and dedicated work on this legislation. I am also thankful to my other colleagues on the subcommittee who worked so diligently to reach an acceptable resolution of the particularly difficult issue of providing a new formula for the funding of Head Start. I want to compliment the ranking minority member of the subcommittee, BILL GOODLING, and members of the subcommittee on both sides of the aisle for their work on the bill.

The Committee on Education and Labor has been concerned with the development and implementation of the Economic Opportunity Act since its initial passage in 1964. This important legislation has received consistent support from the Congress. The work of the committee of conference on H.R. 7577 is worthy of continued support from my colleagues.

This conference report provides for numerous improvements in the administration of programs to combat poverty at the local level. I am particularly pleased that this legislation continues programs for the elderly poor, programs for emergency energy assistance for low-income families, and programs for our poor children who greatly need help in beginning their climb out of the vicious cycle of poverty.

My colleague from North Carolina, the chairman of the subcommittee which initially reported this legislation, has adequately described the positive aspects of H.R. 7577. I would, however, like to direct my remarks to two very important issues—programs to combat poverty in rural areas, and Head Start.

I have always been deeply concerned about those programs administered by CSA to alleviate poverty in rural areas, and I am pleased that this legislation demonstrates a strong commitment to continue these efforts. This conference report will authorize special programs over the next 3 years and provide for adequate appropriations to combat rural poverty. These programs in the past have made a noticeable impact on the poor residents of eastern Kentucky and other rural areas, and this legislation will enable that worthy effort to continue.

Certainly the most important component of this conference report is the reauthorization of the Head Start program. Head Start is one of the most successful Federal programs and has done an outstanding job of meeting the needs of young children and their families. Recent evaluations have shown that Head Start has had a positive impact in the areas of health, nutrition, dental care, social services, education, child development and parental involvement.

This legislation maintains the basic characteristics of the Head Start program that have led to this success over the past 14 years, such as the delivery of comprehensive services and an extensive amount of parental involvement in local programs. These features have been the key to making Head Start a truly successful program.

This conference report provides for the resolution of the difficult issue of devising a new formula for the distribution of Head Start funds. As is frequently the case, our compromise on the formula is not all that each of us would have preferred. In my judgment, the House formula in our version of the bill is the most equitable devised. The Senate, however, was firm in its position which differed greatly from our approach. I wish we could have gotten more, but I believe we all can agree to the conference report. I say that because the compromise formula provides for a reasonable pace in redirecting appropriations for Head Start. Most importantly, it recognizes that many existing Head Start programs that have worked so long and so hard to become successful, often against numerous obstacles, must be continued. For the most part, existing programs will be guaranteed a reasonable base of support and the vast majority of all States will be able under our compromise to share in the future expansion of the program.

It is important to emphasize that all States will receive no less than the funding levels they have received in fiscal year 1978 and, furthermore, States eligible to receive increases in future years will receive those increases on top of the years.

Mr. Speaker, the formula is quite complex. I ask unanimous consent to place in the RECORD following my remarks two charts which I believe best illustrate the impact of our agreement. One chart shows in great detail how funds are to be distributed to the States in 1979 if the President's budget request of $680 million is provided. The second chart shows State allocations under the formula in fiscal year 1980 and fiscal year 1981 as-

suming a 20-percent increase in appropriations each year.

My colleagues have worked long and hard on this important issue and we have proposed a formula that resolves very difficult matters. It will lead to additional increases for Head Start in the future. A program so successful should be serving more than 20 percent of the eligible population of poor children.

At this point, Mr. Speaker, I want to take a moment to compliment Secretary Califano for his intense interest in and support for the Head Start program. He has consistently worked for the expansion of Head Start.

The formula which we have devised retains a 20-percent reserve for the Secretary's discretionary uses. Within that 20 percent there are indeed a number of mandated activities. Unfortunately, it became necessary to reduce the total amount available to the Secretary for purely discretionary purposes. If only the President's budget request is approved for fiscal year 1979, there is limited funding available to the Secretary for his discretion. In future years with increased appropriations, I feel confident that sufficient moneys will be available to the Secretary, however.

I am certainly going to work for an early supplemental for increased appropriations beyond $680 million so that: First, greater increases can be provided to the States; and second, so that the Secretary will have more money for discretionary uses.

I want also to pay tribute to the Congressional Research Service of the Library of Congress. As I have already said working out a satisfactory formula for Head Start was indeed a difficult task. We received the very best technical assistance available from the Library, and I want to compliment Jean Jones and Steve Chilton of the Library Staff for their invaluable assistance.

Mr. Speaker, let me say in conclusion that poverty is still a persistent problem in this great country of ours. The problems of the poor will not vanish by simply blinking our eyes. This legislation improves our efforts to eliminate poverty in the United States, and I urge unanimous approval of this conference report.

I urge my colleagues to approve the conference report.

The charts follow:

HOUSE-SENATE CONFERENCE FORMULA

HEAD START ALLOTMENT ESTIMATES FOR FISCAL YEARS 1979, 1980, AND 1981—BASED ON ASSUMED APPROPRIATION LEVELS OF $680,000,000, $816,000,000, AND $979,200,000

[In thousands of dollars]

	Fiscal year—					Fiscal year—			
	1978	1979	1980	1981		1978	1979	1980	1981
1. Alabama	13,619	14,446	15,890	17,479	28. Nebraska	2,618	2,777	3,055	3,360
2. Alaska	1,681	1,681	1,681	1,681	29. Nevada	796	883	1,065	1,331
3. Arizona	4,813	5,341	6,442	8,053	30. New Hampshire	1,241	1,317	1,494	1,867
4. Arkansas	6,804	7,217	7,939	9,344	31. New Jersey	16,123	17,891	21,577	26,972
5. California	51,971	57,672	69,554	86,944	32. New Mexico	3,545	3,760	4,308	5,385
6. Colorado	6,324	6,324	6,956	7,652	33. New York	41,029	45,530	54,911	68,640
7. Connecticut	5,051	5,605	6,760	8,450	34. North Carolina	13,691	14,522	15,975	17,674
8. Delaware	1,313	1,393	1,532	1,828	35. North Dakota	722	801	966	1,208
9. District of Columbia	4,263	4,522	4,974	5,472	36. Ohio	25,057	26,696	32,196	40,246
10. Florida	15,143	16,124	19,446	24,308	37. Oklahoma	7,840	7,840	8,624	9,486
11. Georgia	13,599	15,090	18,200	22,750	38. Oregon	4,497	4,991	6,019	7,524
12. Hawaii	2,295	2,434	2,677	3,190	39. Pennsylvania	23,803	26,414	31,856	39,821
13. Idaho	1,520	1,612	1,774	2,085	40. Puerto Rico	22,668	25,155	30,338	37,923
14. Illinois	29,711	32,970	39,763	49,704	41. Rhode Island	1,860	2,064	2,489	3,111
15. Indiana	7,653	8,331	10,047	12,559	42. South Carolina	8,340	8,846	9,731	11,282
16. Iowa	4,178	4,431	5,052	6,315	43. South Dakota	1,216	1,349	1,627	2,034
17. Kansas	4,132	4,383	4,821	5,304	44. Tennessee	11,513	12,212	13,433	14,777
18. Kentucky	13,226	14,029	15,432	16,975	45. Texas	23,811	26,423	31,867	39,834
19. Louisiana	11,794	12,510	14,975	18,719	46. Utah	2,024	2,246	2,708	3,386
20. Maine	2,308	2,497	3,012	3,765	47. Vermont	1,349	1,431	1,574	1,769
21. Maryland	7,423	8,238	9,935	12,419	48. Virginia	7,591	8,424	10,159	12,699
22. Massachusetts	12,968	14,390	17,355	21,694	49. Washington	5,960	6,614	7,976	9,970
23. Michigan	22,585	25,062	30,226	37,783	50. West Virginia	6,652	7,652	7,317	8,049
24. Minnesota	5,869	6,226	7,470	9,338	51. Wisconsin	7,910	8,778	10,586	13,233
25. Mississippi	43,585	43,585	43,585	43,585	52. Wyoming	912	912	912	1,003
26. Missouri	11,446	12,141	13,670	17,088					
27. Montana	1,619	1,718	1,890	2,079	Total	548,660	594,499	693,822	839,145

HOUSE-SENATE CONFERENCE FORMULA

FISCAL YEAR 1979 HEAD START ALLOTMENT ESTIMATES—BASED ON APPROPRIATION OF $680,000,000

[In thousands of dollars]

State	Fiscal year 1978 funding	Formula dollars	Dollars to fiscal year 1978 hold-harmless	Supplement over previous year	Total, fiscal year 1979	State	Fiscal year 1978 funding	Formula dollars	Dollars to fiscal year 1978 hold-harmless	Supplement over previous year	Total, fiscal year 1979
1. Alabama	13,619	10,110	3,509	827	14,446	28. Nebraska	2,618	2,170	448	159	2,777
2. Alaska	1,681	544	1,136	0	1,681	29. Nevada	796	883	0	0	883
3. Arizona	4,813	5,341	0	0	5,341	30. New Hampshire	1,241	1,239	2	75	1,317
4. Arkansas	6,804	6,198	606	413	7,217	31. New Jersey	16,123	17,891	0	0	17,891
5. California	51,971	57,672	0	0	57,672	32. New Mexico	3,545	3,572	0	188	3,760
6. Colorado	6,324	4,304	2,019	0	6,324	33. New York	41,029	45,530	0	0	45,530
7. Connecticut	5,051	5,605	0	0	5,605	34. North Carolina	13,691	11,723	1,968	831	14,522
8. Delaware	1,313	1,213	101	80	1,393	35. North Dakota	722	801	0	0	801
9. District of Columbia	4,263	3,075	1,188	259	4,522	36. Ohio	24,057	26,696	0	0	26,696
10. Florida	15,143	16,124	0	0	16,124	37. Oklahoma	7,840	5,557	2,283	0	7,840
11. Georgia	13,599	15,090	0	0	15,090	38. Oregon	4,497	4,991	0	0	4,991
12. Hawaii	2,295	2,116	179	139	2,434	39. Pennsylvania	23,803	26,414	0	0	26,414
13. Idaho	1,520	1,383	137	92	1,612	40. Puerto Rico	22,668	25,155	0	0	25,155
14. Illinois	29,711	32,970	0	0	32,970	41. Rhode Island	1,860	2,064	0	0	2,064
15. Indiana	7,653	8,331	0	0	8,331	42. South Carolina	8,340	7,484	856	506	8,846
16. Iowa	4,178	4,189	0	242	4,431	43. South Dakota	1,216	1,349	0	0	1,349
17. Kansas	4,132	3,374	758	251	4,383	44. Tennessee	11,513	9,554	1,959	699	12,212
18. Kentucky	13,226	10,149	3,077	803	14,029	45. Texas	23,811	26,423	0	0	26,423
19. Louisiana	11,794	12,416	0	93	12,510	46. Utah	2,024	2,246	0	0	2,246
20. Maine	2,308	2,497	0	0	2,497	47. Vermont	1,349	1,173	176	82	1,431
21. Maryland	7,423	8,238	0	0	8,238	48. Virginia	7,591	8,424	0	0	8,424
22. Massachusetts	12,968	14,390	0	0	14,390	49. Washington	5,960	6,614	0	0	6,614
23. Michigan	22,585	25,062	0	0	25,062	50. West Virginia	6,652	4,063	2,589	0	6,652
24. Minnesota	5,869	6,194	0	32	6,226	51. Wisconsin	7,910	8,778	0	0	8,778
25. Mississippi	43,585	9,899	33,686	0	43,585	52. Wyoming	912	494	418	0	912
26. Missouri	11,446	11,335	112	695	12,141						
27. Montana	1,619	1,293	327	98	1,718	Total	548,660	530,400	57,534	6,566	594,499

Mr. ANDREWS of North Carolina. Mr. Speaker, I am certainly grateful for the comments of my beloved chairman, the gentleman from Kentucky (Mr. PERKINS), and for his assistance all the way through. I also am grateful to the gentleman from Pennsylvania (Mr. GOODLING), the senior minority member and close friend.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I did not sign the conference report on H.R. 7577, the Economic Opportunity and Community Services Amendments of 1978, because of a decision made by the conferees on one provision. In the House-passed bill we terminated the National Advisory Council on Economic Opportunity effective 60 days after the end of the next fiscal year. We also limited the amount of funding for this Council to $175,000 per year. The House conferees not only did not stick by the House position, but accepted a figure considerably higher than this amount.

My reason for opposing the Council was that it had done little to justify its existence. I felt that their budget of $300,000 per year did not justify what the Council did. I was also concerned that this Council, whose primary responsibility is to turn out a 60-page annual report spends $300,000 per year. To put in perspective what $300,000 per year is—75 percent of the CSA grantees receive less than $300,000 each year. There are approximately 940 CSA grantees and 700 receive less than $300,000 per year. I think that this type of expenditure is ridiculous.

The thing that upset me more than anything was the number of staff that they have to turn out this report. Last September when I first objected they had five full-time employees and their salaries were: GS–15, step 7, $43,407; GS–14, step 4, $33,825; GS–11, step 4, $20,085; and GS–8, step 3, $14,572.

Taking the salaries and the office budget, the report that the Council puts out came to $5,000 per page. In the minority views I pointed out how outrageous the staff salaries are. Let me point out here the comparison of their salaries and responsibilities to personnel working in the Office of Education in programs authorized by our committee. The OE grade levels are comparable but the OE personnel responsibilities are far in excess of the Council staff:

First. In the Office of Education a GS–15 has day-to-day responsibility for the ESEA title I program which has an appropriation of $1,721,000,000;

Second. The Division Director in charge of the vocational education program which has a yearly appropriation of $535 million is a GS–15;

Third. Programs for migratory children under title I of ESEA which has a budget of $131 million has a GS–15 responsible for day-to-day operations;

Fourth. A GS–15 is the Division Director who heads the impact aid program in the Office of Education with an annual appropriation of $768 million.

When you compare these budgets and the responsibilities to those of the staff director of the Advisory Council, it is difficult, if not impossible to understand let alone justify the need for such a position or the high grade level. The No. 2 person on the staff of the Council is a GS–14. Again to compare with OE, there are many GS–14's with day-to-day responsibilities for programs in the Office of Education which have budgets of millions of dollars. GS–14's and GS–15's are usually considered management positions and it is certainly questionable as to why such grade levels are remotely needed to serve this Council.

Every Member of Congress complains about not having enough staff. You all know that each office receives $250,000 for salaries with which Members can hire a maximum of 18 people. That money covers staff for both the Washington and district offices. That includes administrative assistants, legislative assistants, caseworkers, secretaries, and press personnel. Our staff work on thousands and thousands of constituent problems and produce thousands and thousands of letters per year. They get involved in every conceivable matter from poverty and education to agriculture and defense, including such issues as abortion, gun control, and unemployment. You know what the Advisory Council pays the people on their staff for the work they do and the amount of work they produce. When you compare your office staff, the work it does and the number of people working at the Council and what it does and the money they get and the work they do, you can understand why I felt that the budget was excessive.

I tried to point all of the problems out to the conferees but the Senate apparently could not care less for substantive information and turned a deaf ear. I think this is a poor way to legislate. I think that the facts and figures that I produced clearly showed that the Council was not needed, that their budget was excessive, and although there are many fine people serving on the Council, they and their talents could be utilized by the administration and the Congress in other ways without this current expense.

I was certainly disappointed by my House colleagues with whom I and my staff had worked so cooperatively to reconcile other matters in this bill.

Finally, Mr. Speaker, I think that the Democrat Members clearly let their President down on this issue. President Carter claims to want to remove waste from Government and now many people seem to be jumping on that bandwagon. Here was a perfect opportunity to do so, but when push came to shove, they voted to continue the waste. Mr. Speaker, now that the conferees have decided to keep this Council which they feel is so important, I will continue to watch it carefully to see if there are any meaningful changes in its operation. Most important, I will watch very carefully to see how they reduce their budget and operating expenses.

● Mr. CORRADA. Mr. Speaker, I wish to support the conference report on H.R. 7577, which is the product of arduous and protracted efforts on the part of House and Senate conferees, in an effort to make these antipoverty programs more equitable and effective. The bill extends programs covering nutrition, services to the elderly, energy, rural housing, consumer, and cooperative programs, as well as technical assistance, training and research, and demonstration programs. Additionally, programs geared toward servicing migrants and seasonal farmworkers are also extended.

I would particularly like to point out the great job which numerous community action agencies, as well as nutrition advocates such as the Food Research and Action Center (FRAC) have been carrying out under the community food and nutrition program, which is contained in the bill.

I am glad that the conferees, in a true sense of compromise, and thinking of the welfare of the needy preschoolers who participate in the program, reached an accommodation with respect to the distribution of Head Start funds. This will enable numerous States to begin a slow expansion of services to a growing number of eligible children who are currently denied its many benefits.

I urge my colleagues to endorse this bill, by voting in favor of the conference report, and wish to commend my colleagues in the Subcommittee on Economic Opportunity, on both sides of the aisle, who devoted many hours and much energy in arriving at this end product.●

Mr. ANDREWS of North Carolina. Mr. Speaker, if there are no further requests, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ANDREWS of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

CONFERENCE REPORT ON H.R. 9251, THE FOREIGN EARNED INCOME ACT OF 1978

Mr. WAGGONNER. Mr. Speaker, I call up the conference report on the bill (H.R. 9251) relating to extensions of time for the existing tax treatment of certain items.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the statement of the managers is considered as read.

(For conference report and statement see proceedings of the House of October 13, 1978.)

The SPEAKER. The gentleman from Louisiana (Mr. WAGGONNER) is recognized for 30 minutes, and the gentleman

from New York (Mr. CONABLE) is recognized for 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. WAGGONNER).

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. WAGGONNER. I yield to the gentleman from Ohio.

Mr. SEIBERLING. I thank the gentleman for yielding.

Has the Senate added any amendment to this that is not germane to the House-passed bill or that would repeal any legislation, or otherwise?

Mr. WAGGONNER. Absolutely not.

Mr. SEIBERLING. I thank the gentleman.

Mr. WAGGONNER. Mr. Speaker, H.R. 9251, the Foreign Earned Income Act of 1978, substantially revises the taxation of Americans working abroad. The conference report, which earlier this morning was adopted by the Senate, establishes a new system of deductions for certain excess foreign living costs which are designed to place Americans working abroad in a position more comparable to Americans working in the United States. The bill provides an optional exclusion for certain hardship camp situations as an incentive for Americans to work abroad. The presence of Americans working abroad is important to the U.S. economy, particularly the export sector, and the changes made by the bill are necessary to enable Americans and their employers to compete effectively with foreign nationals for jobs abroad.

The Senate and House bills both provided that the law in effect prior to 1976 would apply for calendar year 1977. Beginning on January 1, 1978, the new provisions agreed to in this bill would take effect.

Because these new provisions are effective January 1 of this year, each taxpayer is given the option for calendar year 1978 of using the new provisions agreed to in this bill or using the provisions of the Tax Reform Act of 1976. In that way no provision of this law will have any mandatory retroactive effect.

The new provisions with respect to the taxation of income earned abroad are a compromise between House and Senate bills which were similar in many details but very different in a few very important respects. As a result, the Senate bill had a fiscal year 1979 cost of $163 million while the House bill cost was $458 million. The conference report has a 1979 fiscal year cost of $255 million.

The conference report adopts the position taken in the Senate bill that the flat exclusion which existed prior to 1976—of $20,000 off the top with a foreign tax credit and in the 1976 Tax Reform Act—$15,000 off the bottom with no foreign tax credit—would generally be eliminated. The exclusion would be replaced by itemized deductions.

The excess housing deduction contained in the conference report is generally similar to the provision in the Senate bill. The deduction is the excess of the taxpayer's reasonable housing expenses over his base housing amount (one-sixth of his net income).

The cost-of-living deduction is similar to the Senate bill although it is based upon a salary of someone earning the same as a GS-14 (instead of GS-12 in the Senate bill). The cost-of-living deduction is based on costs above the highest cost continental U.S. city instead of the U.S. average cost of living, as provided in the Senate bill.

The education deduction is taken from the House bill. The education deduction is generally the reasonable schooling expenses for the education of the taxpayer's dependents at the elementary and secondary levels.

The conference report provides for an annual home leave deduction similar to the deduction in the House bill. This deduction is limited to coach fare to an individual's last principal residence in the United States or, if none, the nearest port of entry into the continental United States (excluding Alaska).

Deductions for moving expenses would be liberalized as in the House bill. The moving deductions for a foreign job-related move would cover temporary living arrangements for up to 90 days with a ceiling of $4,500 on such costs. The conference report also contains minor provisions taken from both the House and Senate bills.

In addition to the deductions for excess living costs, the conference substitute provides a $5,000 deduction for individuals who live in hardship areas (defined as areas where the State Department regulations authorize a hardship allowance of 15 percent or more). This replaces the $20,000 exclusion in the House bill which was available to all those who are working outside Western Europe or Canada.

Finally, the conference report contains a provision which deals with those who live in substandard housing in camps in hardship areas. The Senate bill provided them a "phantom deduction" equal to the average deductions taken by those working in the same country who are not living in camps. The conference report instead permits those in camps to elect a $20,000 exclusion in place of all the deductions I mentioned above. Such individuals live in very difficult conditions and because of that fact, they frequently cannot have their family with them. As a consequence, they generally would not be able to utilize the education deduction and their housing and cost-of-living deductions would be affected by the fact that they live in a camp. Therefore, the conference report provides the optional $20,000 exclusion. No foreign tax credit applicable to this excluded income would be permitted.

Mr. Speaker, I urge the adoption of the conference report on H.R. 9251, the Foreign Earned Income Act of 1978.

Mr. Speaker, I reserve the remainder of my time.

The SPEAKER. The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Speaker, I, too, congratulate the gentleman from Louisiana (Mr. WAGGONNER) for his fine work on this conference report.

Mr. Speaker, I rise in support of the conference report on H.R. 9251 concerning the taxation of U.S. taxpayers employed abroad.

The conference report substantially liberalizes the provisions of the code affecting the taxation of foreign earned income. While I would have preferred a somewhat more liberal bill, especially with respect to the foreign earned income exclusion, budget restraints prevented it. Thus, the bill allows individuals employed in hardship areas, determined under tables prepared by the State Department, a $5,000 exemption in lieu of the $20,000 or $25,000 generally applicable earned income exclusions contained in the House passed bill.

The bill as agreed to by the conferees, follows the approach of the House passed bill by allowing qualifying taxpayers a deduction for various excess foreign living costs. Thus, a deduction is allowed for:

First. Excess foreign living costs.

Second. Excess foreign housing costs, including the costs for maintaining a separate household for your family in certain situations.

Third. Foreign education costs.

Fourth. Home leave expenses.

The bill also liberalizes the section 119 meal and lodging exclusions. In addition, taxpayers living in camps are allowed a $20,000 deduction in lieu of the previously described deduction for foreign excess living costs.

The bill also contains special rules in 1978 for employees of charities.

The provisions of the House bill concerning a liberalized moving expense deduction, the tax-free rollover of principal residence and requirement reports concerning the taxation of U.S. citizens employed overseas, are included in the bill approved by the conferees.

With respect to 1977, the bill approved by the conferees applies the provisions of law applicable prior to the Tax Reform Act of 1976.

It is my hope that we would review the bill's provisions should our balance of payments situation not significantly improve in the near future. I still maintain the view that whatever revenues we spend on section 911, will be more than justified by the additional exports, jobs and tax dollars that a liberalized section 911 can generate.

The other provisions of H.R. 9251 as passed by the House, have been acted on in other legislation.

While the conference report does not contain all the provisions I would prefer, I believe it is a marked improvement over current law and I urge its adoption.

Mr. WAGGONNER. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

LAFITTE NATIONAL HISTORICAL PARK AND PRESERVE

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1829) to provide for the establishment of the Jean Lafitte National Historical Park and

Preserve in the State of Louisiana, and for other purposes, with Senate amendments to the House amendments thereto and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. SKUBITZ. Mr. Speaker, I reserve the right to object. I do so simply to commend the gentleman from California for the outstanding job he has done with this legislation. But for his persistence and tenacity, this legislation would have been lost.

Mr. PHILLIP BURTON. Mr. Speaker, S. 1829, as returned to the House this morning, contains the authorization for the San Antonio Missions National Historical Park in Texas, as previously passed by the House.

The leadership in our committee of Representatives ABRAHAM KAZEN and BOB ECKHARDT was responsible for the inclusion of this important matter in the bill. Its deletion in the Senate, and failure to be included in the national parks omnibus bill which was recently sent to the President, was reversed by the diligence and tireless efforts of Representative KAZEN, and by the strenuous, articulate, and forceful persuasion brought to bear on this Member by our friend and colleague, BOB KRUEGER. Because of these efforts, I was convinced to try twice again, this being the final and successful effort to include this important addition to the National Park System.

It contains a provision authorizing a stduy of the historic qualities of the Camden, S.C., area. This provision had been inadvertently omitted from the earlier form of this legislation which passed the House of Representatives yesterday. The leadership of Senator HOLLINGS of South Carolina, and of our colleagues, Representatives MENDEL DAVIS and KEN HOLLAND, has produced this result.

It includes the extension of authority for the Pennsylvania Avenue Development Corporation which will permit the agency to continue its work in the restoration of "America's Main Street." This provision had also previously passed the House.

I am pleased to share whatever credit, in terms of the House, with our distinguished Ranking Republican, Mr. SEBELIUS of Kansas.

Finally, the legislation includes a continuation of the authorization for the disaster relief program which the Congress had previously enacted following the collapse of the Teton Dam in the State of Idaho.

Mr. Speaker, I urge my colleagues to join me in approving for transmittal to the President, S. 1829 in its final form.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California (Mr. PHILLIP BURTON)?

There was no objection.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 4, strike out lines 1 to 4, inclusive.

Page 4, line 19, strike out all after "plan." down to and including "1978.", in line 22.

Page 12, after line 20, insert:

TITLE III

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin Federal reclamation project in Idaho, and for other purposes", approved September 7, 1976 (Public Law 94-400) is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Any funds authorized to be appropriated by section 12 of this Act, which are determined under subsection (b) to be excess funds, shall be made available by the Secretary for the purpose of carrying out projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs), and such funds shall remain available until expended.

"(b) For purposes of this section, the term 'excess funds' means those funds authorized to be appropriated under section 12, and appropriated under the Act approved July 12, 1976 (Public Law 94-355) or the Act approved September 30, 1976 (Public Law 94-438), in excess of the total of—

"(1) the amount expended under this Act (including related administrative costs) prior to September 30, 1978 (or the date of the enactment of this section, if later),

"(2) the amount of outstanding claims timely filed under this Act which have not been paid as of September 30, 1978 (or the date of the enactment of this section, if later), and

"(3) the amount of the future administrative costs (as estimated by the Secretary) which will be incurred in carrying out the provisions of this Act (without regard to this section) after September 30, 1978 (or the date of the enactment of this section, if later), but the amount of excess funds as so determined shall not exceed the amount of funds required to complete the projects under the Adjustment Program for the Teton Disaster Area (including related administrative costs).

"(c) For purposes of this section, the term 'projects under the Adjustment Program for the Teton Disaster Area' means only the Federal share of those projects described in the study funded by the Economic Development Agency and specified in the document entitled 'Adjustment Program for the Teton Disaster Area, Summary of Remaining Economic Adjustment Measures,' May, 1978, which have not been otherwise funded prior to September 30, 1978 (or the date of the enactment of this section, if later).

"(d) If the amount of excess funds as determined under this section is less than the amount required to complete the projects under the Adjustment Program for the Teton Disaster Area, the Secretary shall distribute such funds among such projects in such manner as he determines, after consultation with any localities involved in the projects, will best carry out the purposes of restoration and redevelopment of the Teton disaster area.

"(e) If, at such time as all claims filed under the provisions of this Act (without regard to this section) have been finally settled, the amount actually expended under this Act (without regard to this section) is less than the total of the amounts described in paragraphs (1), (2), and (3) of subsection (b), then such lesser amount shall be deemed to be the total of the amounts described in such paragraphs.".

Page 12, after line 20, insert:

TITLE IV

SEC. 401. The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately 90 acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area.

Amend the amendment of the House to the title so as to read: "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes.".

TITLE AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON to the amendment of the House to the title: Amend the amendment of the House to the title so as to read: "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and for other purposes.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

ESTABLISHING LEGIONVILLE NATIONAL HISTORIC SITE IN PENNSYLVANIA

Mr. PHILLIP BURTON. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 1104) to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, I reserve the right to object.

Mr. Speaker, reserving the right to object, could the gentleman from California explain this?

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Yes; this is an item which the gentleman from Pennsylvania (Mr. MCDADE) discussed about the Legionville Historic Site in western Pennsylvania.

Mr. BAUMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill as follows:

S. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) in order to preserve and interpret for the bene-

fit of present and future generations the site of the first military training camp established in the United States, the Secretary of the Interior is authorized to acquire by donation, purchase, or exchange, the real property described in subsection (b) for the establishment and administration of a national historic site.

(b) The real property referred to in section (a) is that real property in Beaver County, Pennsylvania, containing twenty-two acres more or less, in the northernmost part of Harmony Township, adjacent to Baden Borough, which is bordered by Duss Avenue, State Highway 65, and Logan Lane.

SEC. 2. The property acquired under the first section of this Act shall be known as the Legionville National Historic Site, and it shall be administered by the Secretary of the Interior, acting through the National Park Service, in accordance with the Act of August 25, 1916, entitled "An Act to establish a National Park Service, and for other purposes" (16 U.S.C. 1, 2–4) and the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467).

SEC. 3. (a) The Secretary may not expend more than $500,000 from the Land and Water Conservation Fund for land acquisition nor more than $500,000 for the development of essential facilities: *Provided*, That no funds for the development of essential facilities shall be authorized prior to October 1, 1978.

(b) Within three years from the effective date of this Act the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives a general management plan for the use and development of the site consistent with the purposes of the Act, indicating—

(1) the lands and interests in lands adjacent or related to the site which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this Act and the estimated cost thereof;

(2) the number of visitors and types of public use within the site which can be accommodated in accordance with the protection of its resources; and

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses.

● Mr. PHILLIP BURTON. Mr. Speaker, S. 1104 would authorize the establishment of the Legionville National Historic Site in western Pennsylvania. This was our country's first military training camp and is an important part of our post-Revolutionary War history. I urge my colleagues to join me in the support of this measure.

The leadership of Senator HEINZ of Pennsylvania—in the Senate—and, in all candor—the advice of an old friend of mine, Gene Atkinson of Beaver County, Pa., convinced me to clear this item this year, even though our committee has not held any hearings on this measure. Then, with the assistance of Congressman MCDADE among the Republican Members of the House—resulted in the passage of this bill.●

● Mr. BUCHANAN. Mr. Speaker, on this side we strongly support and concur in the agreement represented by the substitute bill which has been offered. We think it is as reasonable and fair a compromise of all the issues as could have been achieved in conference.

The mandated breakfast program provision is dropped, but the incentives for needy schools to introduce a breakfast program have been not only retained, but strengthened. Thus we believe we can reasonably expect an expansion of the program into needy schools in particular without Federal compulsion.

The difference between the House bill and that of the other body on the funding of the WIC program for expectant mothers, infants, and young children at nutritional risk did not so much involve the two authorizing committees as it did the Budget and Appropriations Committees. In actual dollars likely to be made available the difference is minimal at best.

Both child nutrition bills as reported were referred also to the Committees on Appropriations. In the other body, the Committee on Appropriations, with the agreement of the Budget Committee, permitted the first 2 years of the extended program—fiscal years 1979 and 1980—to be treated as entitlement programs at $550 million and $800 million. The remaining 2 years would be straight authorizations at $900 and $950 million. The House figures are the same for the last 2 years. But in the House bill the Committee on Appropriations made clear that the figures for all 4 years were to be treated as authorization.

Actually, in the first year, 1979, the Agriculture Appropriations Act already provides the full amount of $550 million, which is in both bills—so that issue is moot. It is only in fiscal 1980 that any difference arises, where the bill passed by the other body with the approval of their Committees on Appropriations and Budget allows for an entitlement of $800 million, whereas the House bill contains an authorization of $850 million. Given the success and needs of this program, and the appropriations history, the $800 million is very close to the amount which would likely be appropriated for fiscal 1980. It is also very close to the best estimates we have of what it will require to meet proven needs in an orderly expansion of the program.

This is one Federal program of medically proven worth, where a dollar spent on the prevention of the irreparable damage of prenatal and postnatal malnutrition saves untold future costs in welfare, institutionalization, and other extremely costly programs. The savings in human and social terms are beyond price. This bill is designed to improve the operation of an already successful program, and we need to make these improvements, particularly to facilitate the expansion of the program into rural areas where costs tend to be higher because of distances and sparsity of population.

This substitute incorporates several amendments which would have been adopted by the House. One, which I would have offered, will preserve the place of local retailers on the WIC advisory council. They play an important part in making that program work through their willingness to deal with food coupons, and should continue to be represented.

Another amendment which I would have offered for myself and on behalf of the gentleman from Minnesota (Mr. QUIE) and the gentleman from California (Mr. PANETTA) will permit the participation in child nutrition programs of adult handicapped individuals who are enrolled in programs in facilities, mainly schools, which are serving children. These may be small in number, but any financial assistance we can give them and their families is important to them.

The substitute also incorporates an amendment of my colleague, the gentleman from Ohio (Mr. ASHBROOK), which is important to the schools partpicipating in the breakfast program in a number of major cities, including some financially hard-pressed cities in Ohio.

There are numerous provisions of this compromise bill which merit some discussion, but time is brief and the hour is late. We tried to take the best features of both versions of the bill in order to strengthen the administration of these programs. On some there may be disagreement with our actions. For example, we agreed to a provision in the Senate bill which would authorize the Secretary of Agriculture to conduct a very limited number of experiments with a universal free lunch program. There are many who regard this as a pointless experiment with something that is likely to cost more than we could ever afford in tax funds which could be better spent. I would emphasize that the authority for the experiments is purely permissive and does not constitute an order to the Secretary to conduct them. If he considers the exercise pointless, then he need not pursue the matter.

In closing, I do want to pay tribute to the leadership, through many years, of our ranking Republican member of the committee, AL QUIE, in developing these child nutrition programs. I am standing in for him now as he seeks to provide leadership in another arena, as Governor of Minnesota. But his imprint is everywhere in this legislation and he has followed its progess closely. What he has helped do in the past for the children of America will stretch far into the future. Everyone interested in and concerned about these programs acknowledge his enormous and last contribution.

Finally, I want it on the record that the next ranking Republican member of our committee, my colleague from Ohio, JOHN ASHBROOK, has played an essential and constructive leading role in making this legislation possible. It is generally easy to be liberal. But it is more difficult to be the one to say "no." JOHN ASHBROOK often must say "no" to be consistent with and true to his views. But he can also be the one best suited for constructive leadership. Once he was satisfied that the compromise worked out was a sound one, he provided the leadership necessary to make it possible. I want those concerned with this legislation to recognize his important role in it.

I urge favorable action on this bill so that this necessary legislation can be speeded to enactment.●

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AUTHORIZING PRESENTATION OF GOLD MEDAL TO MRS. ROBERT F. KENNEDY

Mr. HANLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8389) authorizing presentation by the President of a gold medal to Mrs. Robert F. Kennedy, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ASHLEY. Mr. Speaker, I reserve the right to object.

Mr. Speaker, I reserve the right to object in order that I might ask my friend and colleague from New York whether the resolution before us pertains only to the matter involving the late Robert F. Kennedy?

Mr. HANLEY. Mr. Speaker, if the gentleman will yield, no. In addition to that, it also includes the Senate amendment which incorporates the language of title XIII of the Safe Banking Act.

Mr. ASHLEY. Well, that being the case, Mr. Speaker, I am constrained to pursue my reservation and ask the gentleman whether that title XIII of the Safe Banking Act, whatever it is now called, contains a grandfathering provision as contained in the committee reported title XIII, or whether it does not.

Mr. HANLEY. Mr. Speaker, if the gentleman will yield further, the language is exactly as it was amended on the floor of the House last Thursday night.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I might explain, this matter was mentioned earlier on the floor today. Title XIII pertains to the independent insurance agents that would keep bank holding companies in about 129 different locations from going into the insurance business.

It should be pointed out that there was a vote on the floor last Thursday night adopting the Hanley amendment by 300 votes for the amendment and only 90 against. This amendment further protected insurance agents from holding companies, now we have nothing.

Mr. Speaker, I would certainly hope the gentleman would not object, because I believe the great majority of the House wants title XIII.

Mr. ASHLEY. Mr. Speaker, let me respond to the gentleman by reminding him that I said on the occasion of that debate I thought simple equity mandated that applications pending before the Federal Reserve for as long as 6 years should be grandfathered.

I did not get any sympathy on that point of view from the gentleman or from the gentleman from New York, and on that basis, Mr. Speaker, I am constrained to object.

The SPEAKER. Does the gentleman object?

Mr. ASHLEY. I object, Mr. Speaker.

The SPEAKER. Objection is heard.

DIRECTING THE CLERK OF THE HOUSE TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 4018, H.R. 5037, H.R. 5146, AND H.R. 5289

Mr. DINGELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 759) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4018, H.R. 5037, H.R. 5146, and H.R. 5289.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BROWN of Ohio. Mr. Speaker, reserving the right to object, I do so to inquire whether item I on page 3 and item K on page 3 of the original proposed draft have been removed.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, the answer to that question is yes. Both items to which the gentleman addresses himself have been removed, and the document before the House is precisely the same as that which was cleared with the staff of the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Speaker, on the basis of the comments of the gentleman from Michigan (Mr. DINGELL), who is always very cooperative, but who requires some discussion from time to time on some of these matters, it seems to me that what we are correcting here is comma errors, misspellings, and misapplications of siting locations in the legislation. Therefore, the resolution proposed is all right.

I just want to establish for my colleague and my friend, the gentleman from Michigan, how cooperative the minority can be when we are treated with equity. Sometimes when we are not, we can be somewhat more difficult. This brings to a much happier conclusion the whole energy issue from its beginnings almost 2 years ago.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, he is always outstanding, and sometimes he is more outstanding than others.

Mr. BROWN of Ohio. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so merely to ask this: I think this is rather important to the gentleman, because it corrects errors, and so on, in the energy package we just passed, but I reserve the right to object in order to inquire as to the order of the program that follows. Am I correct that other than unanimous-consent requests, the next item of business is the Humphrey-Hawkins bill, then the continuing resolution, and then the tax bill?

The SPEAKER. The gentleman is correct.

Mr. BAUMAN. Mr. Speaker, I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 759

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bills H.R. 4018, H.R. 5037, H.R. 5146, and H.R. 5289, the Clerk of the House of Representatives shall make the following corrections:

(1) In H.R. 5037, H.R. 5146, and H.R. 5289, strike out the matter which follows the enacting clause and which precedes section 1 (relating to the short title and table of contents) and any title heading relating thereto.

(2) In H.R. 4018, amend the title so as to read: "An Act providing for a national public utility regulation policy.".

(3) In H.R. 5037, amend the title so as to read: "An Act providing for a national energy conservation policy.".

(4) In H.R. 5146, amend the title so as to read: "An Act providing for a national powerplant and industrial fuel use policy.".

(5) In H.R. 5289—

(A) Amend the title so as to read: "An Act providing for a national natural gas policy.".

(B) In section 2(12), insert "the day before" after "in effect on".

(C) In sections 107(c)(4) and 110(c)(1), strike out 'and" and insert "or".

(D) In section 121(a)(3)(B), insert "which" before "would have been".

(E) In section 204(c)(5), strike out "for purposes of applying subsection (d)(2)".

(F) In section 303, strike out subsection (k), and insert at the end of section 304 the following:

(h) DEFINITION OF HIGH-PRIORITY USE.— For purposes of sections 301 through 303, the term "high-priority use" means any—

(1) use of natural gas in a residence;

(2) use of natural gas in a commercial establishment in amounts less than 50 Mcf on a peak day; and

(3) any use of natural gas the curtailment of which the President determines would endanger life, health, or maintenance of physical property.

(G) In section 315(a)(3), strike out "102(b)" and insert "102(c)".

(H) In sections 503(b)(4)(A), 503(b)(4)(B), and 506(a)(4), strike out "circuit" at the end of the first sentence thereof and insert "Circuit".

(I) In section 503(e)(2)(B), insert a comma after "title I".

(J) In section 504(b)(6)(D), insert "which" before "such statement".

(K) In section 504(c)(2), strike out "(b)(4)(E)" and insert "(b)(6)(E)".

(L) In section 601(b)(1)(A), strike out "paragraph (4)" and insert "subparagraph (E)".

Mr. DINGELL (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. SEIBERLING. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Michigan if this contains any Senate amendments or if this deals solely with the bill passed by the House.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Michigan?

Mr. DINGELL. There are no substantive amendments whatsoever.

Mr. SEIBERLING. Mr. Speaker, I

thank the gentleman and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Speaker, there are two reasons for the concurrent resolution.

First, each bill was sent over from the Senate as a nongermane amendment to a private relief bill originating in the House. This was a convenient parliamentary device for going to conference. The matter in the original House private relief bills was separately enacted long ago. However, it still remains in these bills as well. This matter should be deleted so as to avoid confusion from duplicate enactment.

Second, the Natural Gas Policy Act establishes statutory ceiling prices.

It is self-executing, unlike the other regulatory bills which largely authorize administrative action. For that reason this bill should be letter perfect upon enactment. Correction of any technical errors in the other bills can take place next Congress without posing any serious hardship. That may not be the case with the gas bill.

The following is an explanation of the typographical and other technical corrections which the concurrent resolution makes:

The matter after the enacting clause and before section 1 (relating to the short title and table of contents) should be struck. This should be done for H.R. 5037, H.R. 5146, and H.R. 5289 in order to avoid duplicative enactment of private relief measures contained in the original House bills to which the Senate added its energy bills for purposes of facilitating a conference. The matter to be deleted has already been separately enacted in other legislation. Because of the limitation of the scope of the conference, the problems could not have been addressed in the conference reports.

In section 2(12), definition of a rollover contract, the words "the day before" should be inserted after the words "in effect on" to conform with the definition of "rollover contract" with a definition of "existing contract".

In section 107(c)(4), the "and" should be an "or". Similarly, in section 110(c)(1), the "end" should be an "or". In each case, the disjunctive construction was intended.

In section 121(a)(3) the word "which" should be inserted before the phrase "would have been". This corrects a typographical omission.

In section 204(c)(5) the words "for purposes of applying subsection (d)(2)" should be struck. They add no meaning. Section 204(c)(5) is not used for that purpose, so the phrase should be deleted.

In title III, the definition of high priority user is found in section 303. That term is used in sections 301 and 302 as well. The definition was intended to apply to those sections and not merely section 303 and is therefore made applicable to those sections.

In section 315(a)(3) the cross reference to section "102(b)" should be to section "102(c)".

In sections 503(b)(4)(A), 503(b)(4)(B), and 506(a)(4), the term "circuit" in the phrase "District of Columbia circuit" should be capitalized.

In section 503(e)(2)(B), a comma should be inserted after the phrase "title I".

In section 504(b)(6)(D), the word "which" should appear before "such statement". This corrects a typographical omission.

In section 504(c)(2), the cross reference to subsection "(b)(4)(E)" is intended to be to subsection "(b)(6)(E)".

In section 601(b)(1)(A), the cross reference to "paragraph (4)" is intended to be to "subparagraph (E)".

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CHILD NUTRITION AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the Senate bill (S. 3085) to extend and amend the special supplemental food program and the child care food program, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The Clerk read the Senate bill as follows:

S. 3085

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Child Nutrition Amendments of 1978".

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary is authorized to carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term 'institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary is authorized to establish separate guidelines for institutions that provide care to school children outside of school hours. For purposes of determining eligibility—

"(1) no institution, other than a family and group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or, where State or local licensing or approval is not available, receives either referrals for placement or funds (such as funds under title XX of the Social Security Act (88 Stat. 2337)) from Federal, State, or local government agencies, or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or licensing or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of an effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"Payments to States

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section: *Provided,* That, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of the Federal funds provided by the State to participating within the State for that fiscal year and any funds used by the State under section 10 of the Child Nutrition Act of 1966.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family and group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and (C) the total number supplements served in the State in these institutions by the national average payment rate for supplements served in such institutions. For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in those institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family and group day care home sponsoring organizations, where less than two-thirds but no less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and (C) the total number of supplements served in the State in these institutions by the na-

tional average payment rate for supplements served in such institutions. For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(3) For meals served to children in institutions, other than family and group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under section (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (A) the total number of breakfasts served in the State in these institutions by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966; (B) the total number of lunches and suppers served in the State in these institutions by the national average payment rate for lunches under section 4 of this Act; and (C) the total number of supplements served in the State in these institutions by the national average payment rate for supplements in such institutions. For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent and shall be based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f)(3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals in accordance with section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (i) the number of breakfasts served by the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966, (ii) the number of lunches and suppers served by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and (iii) the number of supplements served by the national average payment rate for supplements determined under clause (C) of subsection (c)(1) of this section;

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price school meals in accordance with section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying (i) the number of breakfasts served by the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; (ii) the number of lunches and suppers served by the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and (iii) the number of supplements served by the national average payment rate for supplements determined under clause (C) of subsection (c)(2) of this section; and

"(C) for meals served to all other children in such institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying (i) the number of breakfasts served to such children by the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966; (ii) the number of lunches and suppers served to such children by the national average payment rate for lunches under section 4 of this Act; and (iii) the number of supplements served to such children by the national average payment rate for supplements determined under clause (C) of subsection (c)(3) of this section.

"(5) For meals served in family and group day care homes, each State shall receive amounts sufficient to make payments for such meals in accordance with subsection (f)(4) of this section.

"Approval of Institutions

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family and group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax-exempt status, or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within 30 days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within 15 days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

"Hearing Procedure

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution or family or group day care home aggrieved by the action of the State as it affects the participation of such institution or family or group day care home in the program authorized by this section, or its claim for reimbusement under this section.

"Payments to Institutions and Homes

"(f)(1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State in accordance with agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family and group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within 45 days of receipt by the State. The State shall notify the institution within 15 days of receipt of the claim if the claim as submitted is not valid because it is incomplete or incorrect.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c) (1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost to the institution of providing meals to such children.

"(3) Institutions, other than group and family day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on the national average payment rates for lunches under section 4 of this Act; the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; the national average payment rates for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. The value of such payments to family or group day care homes shall not be considered to be income or resources (to the family or group day care home operation) under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall

reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"Meal Service

"(g)(1) Meals served by institutions participating in the program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving a breakfast, lunch, supper, and snacks to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, by different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

"Use of Donated Foods

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year in accordance with the provisions of section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

"State Plan

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting:

"(1) the number of institutions and the number of family and group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family and group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act (88 Stat. 2337), and the number of such institutions that participate in the program authorized under this section;

"(3) the action program the State proposes to undertake to use the Federal funds provided under this section, including the State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family and group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measure progress in achieving program goals.

"Audit Expenses

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

"Agreement Between Sponsoring Organizations and Homes

"(k) The Secretary is authorized to issue regulations directing States to develop and provide for the use of a standard form of agreement between each family and group day care sponsoring organization and the family and group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

"Administrative Cost Study

"(l) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels for administrative payments that reflect the cost of institutions participating in the program.

"Food Cost Study

"(m) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination whether maximum reimbursement levels should be set for food service costs, including whether different reimbusement levels should be established for self-prepared meals and vendored meals, economies of scale, and differences between food service operations in institutions and family and group day care homes.

"Licensing Study

"(n) The Secretary shall conduct a study of licensing problems faced by institutions and family and group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"Report to Congress on Studies

"(o) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under subsection (l), (m), and (n) of this section. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

"Administration by the Secretary

"(p) In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

"Food Service Equipment Assistance

"(q)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $5,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

"(2) If any State cannot use all of the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon conditions that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State, except that this condition shall not apply to equipment obtained for institutions or family or group day care homes that are especially needy, as determined by the State.

"(3) Each State shall establish criteria for determining institutions or family or group day care homes that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteria. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within 30 days of notification by the Secretary to the State of the amount of funds available under this subsection, the State shall notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such fund and shall also prescribe a priority system to be followed by States in allocating funds under this subsection.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all requirements for participation under this section, except for licensing requirements, and (B) satisfies all requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this section.

"TRAINING AND TECHNICAL ASSISTANCE

"(r) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved or registered, or that receives funds under title XX of the Social Security Act (88 Stat. 2337), of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be avail-

able to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

"(s) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(t) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(u) There is hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the program authorized by this section.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM

"Declaration of Purpose

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

"Definitions

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status, achieve 'positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to 6 months after termination of pregnancy.

"(11) 'Pregnant women' means women determined to have one or more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"Establishment of the Program

"(c)(1) The Secretary is authorized to carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section: *Provided*, That the State of Florida may continue to determine the price of food instruments by the method in effect on May 1, 1978, at the discretion of that State. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program: *Provided*, That the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

"Eligibility of Persons

"(d)(1) Participation in the program under this section shall be limited to any of the following who are determined by a competent professional authority to be at nutritional risk: pregnant, postpartum, and breastfeeding women, infants, and children from low-income families.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced price school meals under section 9 of the National School Lunch Act.

"(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

"Nutrition Education

"(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breast-feeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

"Administration

"(f)(1) Each State agency shall annually submit to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, alcohol and drug abuse counseling, and child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section. The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct public hearings to enable the general public to participate in the development of the State agency plan.

"(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within 30 days of the approval or disapproval of the application, and any disapproval shall be accompanied by a statement of the reasons for such disapproval. Within 15 days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within 20 days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworkers organizations, Indian tribal organizations, and religious and community organizations in low income areas.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to carry out the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate: *Provided*, That upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. Use of commercially available products specifically designed for pregnant, postpartum, and breast-feeding women, infants, or children shall be available at the discretion of the Secretary.

"(13) A competent professional authority shall be responsible for (A) prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and (B) to the degree possible, assuring that the fat, sugar, and salt content of the prescribed foods is appropriate.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

"Authorization of Appropriations

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"Administrative Funds

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-fifth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies in accordance with allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"Distribution of Funds

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the States, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State's allocation, as so determined, shall constitute the State's authorized operational level for that year: *Provided*, That the Secretary shall reallocate funds periodically if the Secretary determines that a State is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians re-

siding in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State's allocation to purchase supplemental foods for donation to the State under this section.

"Annual Report on Migrants

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

"National Advisory Council on Maternal, Infant, and Fetal Nutrition

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning in the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council: *Provided*, That parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

"Purchase and Distribution of Commodities

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary is also authorized to purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.".

REDUCED-PRICE REIMBURSEMENTS

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater".

USING COMMODITY PRICES FOR COMMODITY INDEXES

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1963 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk".

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor," and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighted using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.".

(c) Section 11(a) of the National School Lunch Act is amended by inserting "for all Urban Consumers" after "Consumer Price Index".

(d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end thereof a new subsection (h) as follows:

"(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the costs incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to schools exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total income of both programs.".

Equipment Assistance

(b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out "$40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) to read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in lieu thereof "that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program";

(5) striking out "without the facilities to prepare and cook hot meals or receive hot meals" all other times that phrase appears in subsection (e) and inserting in lieu thereof "moving toward the initiation of the service of breakfasts"; and

(6) striking out "33⅓" in subsection (e) and inserting in lieu thereof "40".

Especially Needy

(c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, including those schools in which the service of breakfasts is required under State law, and those schools, as defined in section 12(d)(6)(A) of the National School Lunch Act, in which—

"(1) for the school year beginning July 1, 1979, not less than 50 percent,

"(2) for the school year beginnnig July 1, 1980, not less than 45 percent,

"(3) for the school year beginning July 1, 1981, and all school years thereafter, not less than 40 percent, of the lunches served to students, during the second preceding school year, were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with sub-

sections 2, 3, and 4 of this section. There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under such program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

"(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.".

INCOME POVERTY GUIDELINES

SEC. 8. Section 9(b)(1) of the National School Lunch Act is amended by—

(1) amending the second sentence to read as follows: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually pursuant to section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines for 1977 by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures that have been used by the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY ON FOOD CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal patterns. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.".

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f) In providing assistance for school breakfasts and lnuches served in Alaska, Guam, and American Samoa, the Secretary shall establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"(7) 'School year' means the annual period from July 1 through June 30.".

(c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

(d) Section 19 of the Child Nutrition Act is amended by adding, at the end thereof, the following:

"(k) Notwithstanding any provision in law, the Secretary is directed to review and reconsider from time to time any approvals granted for the use of alternate foods as exceptions to the basic meal pattern requirements established for the child nutrition programs pursuant to this Act and the National School Lunch Act, and, if the Secretary determines that such alternate foods no longer fulfill their original purposes, or that such foods are not an integral part of a nutritionally sound diet or contravene currently accepted nutrition education principles, the Secretary shall revoke any previous approvals of such alternate foods: *Provided*, That no alternate food item shall be presented to substitute for more than one food component in the basic meal requirement.".

EFFECTIVE DATE

SEC. 11. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective January 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979: *Provided*, That the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 1979.

IMPLEMENTATION

SEC. 12. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within ninety days of the date of enactment of this Act.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of sections 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of pursuant to the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.

SCHOOL LUNCH PROGRAMS, PILOT COST AND FEASIBILITY PROGRAMS

SEC. 13. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in up to fourteen school districts (or other appropriate units), of which not more than one may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

"(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

"(3) The Secretary shall submit to the

appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection no later than six months after the conclusion of such projects.

"(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of such pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise be expected to receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

PURCHASES FISH PRODUCTS FOR SCHOOL LUNCHES

SEC. 14. Section 6(e) of the National School Lunch Act is amended by inserting after the words "high protein foods, meat, and meat alternatives" the words "(which may include domestic seafood commodities and their products)".

PURCHASES FISH PRODUCTS FOR SCHOOL LUNCHES

SEC. 15. Section 14(a)(1) of the National School Lunch Act is amended by inserting after the words "customarily purchased under such section" the words "(which may include domestic seafood commodities and their products)".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. PERKINS: Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Child Nutrition Amendments of 1978".

CHILD CARE FOOD PROGRAM

SEC. 2. Section 17 of the National School Lunch Act is amended to read as follows:

"CHILD CARE FOOD PROGRAM

"SEC. 17. (a) The Secretary may carry out a program to assist States through grants-in-aid and other means to initiate, maintain, and expand nonprofit food service programs for children in institutions providing child care. For purposes of this section, the term "institution' means any public or private nonprofit organization providing nonresidential child care, including, but not limited to, child care centers, settlement houses, recreational centers, Head Start centers, and institutions providing child care facilities for handicapped children. In addition, the term 'institution' shall include programs developed to provide day care outside school hours for schoolchildren, and public or nonprofit private organizations that sponsor family or group day care homes. The Secretary may establish separate guidelines for institutions that provide care to schoolchildren outside of school hours. For purposes of determining eligibility—

"(1) no institution, other than a family or group day care home sponsoring organization, or family or group day care home shall be eligible to participate in the program unless it has Federal, State, or local licensing or approval, or is complying with appropriate renewal procedures as prescribed by the Secretary and the State has no information indicating that the institution's license will not be renewed; or where Federal, State, or local licensing or approval is not available, it receives funds under title XX of the Social Security Act or otherwise demonstrates that it meets either any applicable State or local government licensing or approval standards or approval standards established by the Secretary after consultation with the Secretary of Health, Education, and Welfare; and

"(2) no institution shall be eligible to participate in the program unless it satisfies the following criteria:

"(A) accepts final administrative and financial responsibility for management of an effective food service;

"(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966, for a period of time specified by the Secretary; and

"(C) will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program.

"(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals served in the manner specified in subsection (c) of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966.

"(c) The Secretary shall provide assistance to each State in the following manner:

"(1) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where no less than two-thirds of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act, and the national average payment rate for free lunches under section 11 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 23.75 cents. For supplements served in these institutions thereafter, the Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(2) For meals served to children in institutions, other than family or group day care home sponsoring organizations, where less than two-thirds but not less than one-third of the children enrolled are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the sum of the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements served in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 18 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustments shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(3) For meals served to children in institutions, other than family or group day care home sponsoring organizations and institutions electing to use the optional reimbursement procedures under subsection (f)(3) of this section, where less than one-third of the enrolled children are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(A)(i) the total number of breakfasts served in the State in these institutions by (ii) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

"(B)(i) the total number of lunches and suppers served in the State in these institutions by (ii) the national average payment rate for lunches under section 4 of this Act; and

"(C)(i) the total number of supplements served in the State in these institutions by (ii) the national average payment rate for supplements in such institutions.

For the six-month period ending June 30, 1978, the national average payment rate for supplements served in these institutions shall be 6 cents. The Secretary shall prescribe adjustments to this national average payment rate on July 1 and January 1 of each year. Such adjustment shall be computed to the nearest one-fourth cent based on changes, measured over the most recent six-month period for which data are available, in the series for food away from home of the Consumer Price Index for All Urban Consumers.

"(4) For meals served to children in institutions electing to use the reimbursement procedures under subsection (f)(3) of this section, each State shall receive assistance in the following manner:

"(A) for meals served to children who are members of families that satisfy the income standards for free school meals under section 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i)(I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for free breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii)(I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for free lunches under section 11 of this Act; and

"(iii)(I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (1) of this subsection:

"(B) for meals served to children who are members of families that satisfy the income standards for reduced-price meals under sec-

tion 9 of this Act, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i) (I) the number of breakfasts served by (II) the sum of the national average payment rate for breakfasts and the national average payment rate for reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii) (I) the number of lunches and suppers served by (II) the sum of the national average payment rate for lunches under section 4 of this Act and the national average payment rate for reduced-price lunches under section 11 of this Act;

"(iii) (I) the number of supplements served by (II) the national average payment rate for supplements determined under clause (C) of paragraph (2) of this subsection; and

"(C) for meals served to all other children in these institutions, each State shall receive an amount equal to the sum of the products obtained by multiplying—

"(i) (I) the number of breakfasts served to such children by (II) the national average payment rate for breakfasts under section 4 of the Child Nutrition Act of 1966;

"(ii) (I) the number of lunches and suppers served to such children by (II) the national average payment rate for lunches under section 4 of this Act; and

"(iii) (I) the number of supplements served to such children by (II) the national average payment rate for supplements determined under clause (C) of paragraph (3) of this subsection.

"(5) For meals served in family or group day care homes, each State shall receive amounts sufficient to make payments for such meals under subsection (f) (4) of this section.

"(d) Any eligible public institution shall be approved for participation in the child care food program upon its request. Any eligible private institution shall be approved for participation if it (1) has tax exempt status under the Internal Revenue Code of 1954 or, under conditions established by the Secretary, is moving toward compliance with the requirements for tax exempt status, or (2) is currently operating a Federal program requiring nonprofit status. Family or group day care homes need not have individual tax exempt certification if they are sponsored by an institution that has tax exempt status, or, under conditions established by the Secretary, such institution is moving toward compliance with the requirements for tax exempt status or is currently operating a Federal program requiring nonprofit status. An institution applying for participation under this section shall be notified of approval or disapproval in writing within thirty days after the date its completed application is filed. If an institution submits an incomplete application to the State, the State shall so notify the institution within fifteen days of receipt of the application, and shall provide technical assistance, if necessary, to the institution for the purpose of completing its application.

"(e) The State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

"(f) (1) Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in financing the cost of providing meals to children attending institutions, or in family or group day-care homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

"(2) The Secretary shall establish maximum per meal reimbursement rates for each of the three categories of institutions specified in subsections (c) (1), (2), and (3) of this section. Such maximum reimbursement rates for lunches and suppers shall be equal to the maximum reimbursement rates established by the Secretary for lunches served under the national school lunch program. The disbursement to any institution for meals provided under this section shall not be less, for any fiscal year, than the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rates for States for each such type of meal at that category of institution, unless the resulting sum exceeds the cost of the institution of providing such meals.

"(3) Institutions, other than family or group day care home sponsoring organizations, may elect to receive reimbursement in accordance with the eligibility of each enrolled child for free, reduced-price, or paid meals under section 9 of this Act. Such reimbursement shall be based on (A) the national average payment rates for lunches under section 4 of this Act; (B) the national average payment rates for free lunches and reduced-price lunches under section 11 of this Act; (C) the national average payment rules for breakfasts, free breakfasts, and reduced-price breakfasts under section 4 of the Child Nutrition Act of 1966; and (D) the national average payment rates for supplements under subsection (c) of this section. Reimbursements to such institutions shall be made under the same procedures for determining such reimbursement levels as were prescribed by regulations in effect on September 30, 1978.

"(4) Institutions that participate in the program under this section as family or group day care home sponsoring organizations shall be provided, for payment to such homes, a reimbursement factor in an amount determined by the Secretary to be adequate to cover the cost of obtaining and preparing food and prescribed labor costs, involved in providing meals under this section, without a requirement for documentation of such costs. Such institutions shall also receive reimbursement for their administrative expenses. Reimbursement for administrative expenses shall not exceed maximum allowable levels prescribed by the Secretary. Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program. Such start-up funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

"(5) By the first day of each month of operation, the State shall provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

"(g) (1) Meals served by institutions participating in the program under this section shall consist of a combination of foods that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. Such meals shall be served free to needy children.

"(2) No institution may be prohibited from serving breakfast, lunch, supper, and supplements to any eligible child each day, except in the case of institutions that provide care to schoolchildren outside of school hours.

"(3) No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

"(4) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

"(h) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section. The value of such commodities (or cash in lieu of commodities) donated to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during that school year by the rate for commodities or cash in lieu thereof established for that school year under section 6(e) of this Act. Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities

"(i) For the child care food program, the State plan required under section 11(e) of this Act shall provide, in addition to other information required by regulation or available from regular reporting:

"(1) the number of institutions and the number of family or group day care homes participating in the program, together with the average daily attendance in such institutions;

"(2) the number of institutions and the number of family or group day care homes in the State that are licensed, approved, or registered or that receive funds under title XX of the Social Security Act, and the number of such institutions and homes that participate in the program authorized under this section;

"(3) the action program the State proposes to undertake to use the Federal funds provided under this section, including the

State's plans to (A) extend the program to all eligible institutions (placing priority on reaching institutions in needy areas first), (B) assist family or group day care homes in obtaining sponsoring organizations, and (C) encourage eligible institutions to participate in the program;

"(4) a plan for the conduct of audits; and

"(5) a plan to monitor program performance and measure progress in achieving program goals.

"(j) The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 2 percent of the funds used by each State in the program under this section, during the second preceding fiscal year.

"(k) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

"(l)(1) The Secretary shall study the administrative costs of institutions participating in the program under this section, including the cost effect of such factors as the types of institutions, the number of children served, and the location of institutions in urban or rural areas. The Secretary may prescribe maximum allowable levels for administrative payments that reflect the costs of institutions participating in the program.

"(2) The Secretary shall conduct a study of the food service operations carried out in the program under this section. Such study shall include, but not be limited to (1) an evaluation of meal quality as related to costs; and (2) a determination of whether maximum reimbursement levels should be set for food service costs, including whether different reimbursement levels should be established for self-prepared meals and vendored meals, economics of scale, and differences between food service operations in institutions and family and group day care homes.

"(3) The Secretary shall conduct a study on licensing problems faced by institutions and family or group day care homes. Such study shall include, but not be limited to, an evaluation of the licensing requirements under this section.

"(4) Of the funds appropriated for the fiscal year ending September 30, 1979, to carry out the purposes of this section, not to exceed $2,000,000 shall be available to the Secretary for the purpose of conducting the studies required under paragraphs (1), (2), and (3) of this subsection. The Secretary shall report the results of such studies to Congress, along with any recommendations the Secretary wishes to make, not later than eighteen months after enactment of the Child Nutrition Amendments of 1978.

"(m) In any State where the State is not permitted by law or is otherwise unable to disburse the funds payable to it under this section to any institution in the State, the Secretary shall withhold all funds to which such State would be entitled and shall use such funds for the same purposes and subject to the same conditions as are required of a State.

"(n)(1) Of the sums appropriated for each fiscal year to carry out the purposes of this section, $6,000,000 shall be available to the Secretary for the purposes of providing equipment assistance to enable institutions to establish, maintain, and expand the child care food program. The Secretary shall allocate among the States during each fiscal year the funds available under this subsection. Such allocation shall be based on the ratio of the number of children below the age of six in each State who are members of families that satisfy the income standards for free and reduced-price school meals under section 9 of this Act to the number of such children in all States. In making such allocation, the Secretary shall use the most recent data available.

"(2) If any State cannot use all of the funds allocated to it under this subsection, the Secretary shall make reallocations to the remaining States in the manner set forth in paragraph (1) of this subsection for allocating funds. Payments to any State of funds allocated under this subsection for any fiscal year shall be made upon condition that at least one-fourth of the cost of equipment financed under this subsection shall be financed from sources within the State except that this condition shall not apply to equipment obtained for institutions that are especially needy, as determined by the State.

"(3) Each State shall establish criteria for determining institutions that are especially needy for purposes of this subsection and shall inform all institutions within the State of those criteira. Such criteria shall be submitted to the Secretary for approval and be included in the State plan of operation for the child care food program required by subsection (i) of this section.

"(4) Within thirty days of notification by the Secretary to the State of the amount of funds available under this subsection, the State shall notify institutions of the availability of funds for food service equipment. The Secretary shall establish standards to assure prompt action by States on requests by institutions for such funds and shall also prescribe a priority system to be followed by States in allocating funds under this subsection.

"(5) The Secretary shall issue regulations authorizing the State to disburse funds under this subsection directly to a supplier of food service equipment if the funds are used to purchase equipment for an institution that (A) meets all the requirements for participation under this section, except for the licensing requirements, and (B) satisfies all the requirements for licensing, except for a requirement for food service equipment. The State shall retain legal title to such equipment until the State and the institution sign an agreement authorizing the institution to participate in the program under this section.

"(o) States participating in the program under this section shall provide sufficient training, technical assistance, and monitoring to facilitate expansion and effective operation of the program, and shall take affirmative action to expand the availability of benefits under this section. Such action, at a minimum, shall include annual notification to each nonparticipating institution or family or group day care home within the State that is licensed, approved, or registered, or that receives funds under title XX of the Social Security Act of the availability of the program, the requirements for program participation, the availability of food service equipment funds under the program, and the application procedures to be followed in the program. The list of institutions so notified each year shall be available to the public upon request. The Secretary shall assist the States in developing plans to fulfill the requirements of this subsection.

"(p) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

"(q) States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at all times for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(r) There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.".

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 3. Section 17 of the Child Nutrition Act of 1966 is amended to read as follows:

"SPECIAL SUPPLEMENTAL FOOD PROGRAM

"SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

"(b) As used in this section—

"(1) 'Administrative costs' means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

"(2) 'Breastfeeding women' means women up to one year postpartum who are breastfeeding their infants.

"(3) 'Children' means persons who have had their first birthday but have not yet attained their fifth birthday.

"(4) 'Competent professional authority' means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

"(5) 'Infants' means persons under one year of age.

"(6) 'Local agency' means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior.

"(7) 'Nutrition education' means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

"(8) 'Nutritional risk' means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions,

including, but not limited to, alcoholism and drug addiction.

"(9) 'Plan of operation and administration' means a document that describes the manner in which the State agency intends to implement and operate the program.

"(10) 'Postpartum women' means women up to six months after termination of pregnancy.

"(11) 'Pregnant women' means women determined to have one or more fetuses in utero.

"(12) 'Secretary' means the Secretary of Agriculture.

"(13) 'State agency' means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

"(14) 'Supplemental foods' means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

"(c)(1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

"(2) Subject to the authorization levels specified in subsection (g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

"(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

"(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

"(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

"(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

"(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced price school meals under section 9 of the National School Lunch Act.

'(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

"(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

"(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

"(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

"(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

"(B) a description of the State agency's financial management system;

"(C) a description of methods used to determine nutritional risk;

"(D) a budget for administrative funds;

"(E) the staffing pattern;

"(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

"(G) plans to provide program benefits under this section to eligible migrants and Indians;

"(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

"(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program, in accordance with standards developed by the Secretary;

"(J) the State's agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

"(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

"(L) a copy of the procedure manual developed by the State agency for the program under this section.

The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agricultural Act of 1977.

"(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

'(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

"(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

"(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

"(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

"(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

"(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations,

and religious and community organizations in low income areas.

"(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

"(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

"(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

"(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed food is appropriate. Products specifically designated for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

"(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns.

"(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

"(g) There are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

"(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

"(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

"(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

"(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

"(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

"(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

"(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

"(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

"(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

"(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

"(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

"(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of their duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

"(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.".

REDUCED-PRICE REIMBURSEMENTS

SEC. 4. The fifth sentence of section 11(a) of the National School Lunch Act is amended by striking out "10" and inserting in lieu thereof "20", and by inserting immediately before the period at the end thereof the

following: ": *Provided*, That if in any State all schools charge students a uniform price for reduced-price lunches, and such price is less than 20 cents, the special assistance factor prescribed for reduced-price lunches in such State shall be equal to the special assistance factor for free lunches reduced by either 10 cents or the price charged for reduced-price lunches in such State, whichever is greater".

USING COMMODITY PRICES FOR COMMODITY INDEXES

SEC. 5. (a) Section 3 of the Child Nutrition Act of 1966 is amended by striking out "series of food away from home of the Consumer Price Index" and inserting in lieu thereof "Producer Price Index for Fresh Processed Milk" and by amending the fifth sentence thereof to read as follows: "Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) also be eligible for free milk upon their request.".

(b) Section 6(e) of the National School Lunch Act is amended by striking out "the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor." and inserting in lieu thereof the following: "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics. The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a three-month simple average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.".

(c) Section 11(a) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

(d) Section 13(b)(1) of the National School Lunch Act is amended by inserting "for All Urban Consumers" after "Consumer Price Index".

SCHOOL BREAKFAST EXPANSION PROGRAM

Combined Allocation for Breakfast and Lunch

SEC. 6. (a)(1) Section 12 of the National School Lunch Act is amended by adding at the end thereof a new subsection (h) as follows:

"(h) No provision of this Act or of the Child Nutrition Act of 1966 shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the costs incurred in the school lunch and school breakfast programs. In no event, however, shall reimbursement to school food authorities exceed the net cost of operating both the lunch and breakfast programs, taking into account the total costs and total incomes of both programs.".

Equipment Assistance

(b) Section 5 of the Child Nutrition Act of 1966 is amended by—

(1) striking out "$40,000,000" the second time it appears in subsection (a) and inserting in lieu thereof "$75,000,000";

(2) inserting after "schools without a food service program" in the fourth sentence of subsection (b) the following: ", schools that do not serve both breakfasts and lunches but that will use food service equipment to initiate the service of breakfasts or lunches,";

(3) amending the last sentence of subsection (b) to read as follows: "After making funds available to such schools, the Secretary shall make the remaining funds available to eligible schools that do not meet the priority criteria, for the purpose of purchasing needed replacement equipment.";

(4) striking out "without the facilities to prepare and cook hot meals or receive hot meals" the first time that phrase appears in subsection (e) and inserting in lieu thereof "that do not serve breakfasts or lunches but that plan to use food service equipment to initiate a breakfast or lunch program";

(5) striking out "without the facilities to prepare and cook hot meals or receive hot meals" all other times that phrase appears in subsection (e) and inserting in lieu thereof "moving toward the initiation of the service of breakfasts"; and

(6) striking out "33⅓" in subsection (e) and inserting in lieu thereof "40".

Especially Needy

(c) The first sentence of section 4(d) of the Child Nutrition Act of 1966 is amended to read as follows: "Each State educational agency shall establish eligibility standards for providing additional assistance to schools in severe need, which shall include those schools in which the service of breakfasts is required pursuant to State law and those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.".

Alternate Foods

(d) The Secretary shall not limit or prohibit, during the school year 1978–79, the use of formulated grain-fruit products currently approved for use in the school breakfast program. The Secretary shall consult experts in child nutrition, industry representatives, and school food service personnel and school administrators (including personnel and administrators in school systems using such products) with respect to the continued use of formulated grain-fruit products in the school breakfast program, and shall also take into account the findings and recommendations in the report on this subject of the General Accounting Office. The Secretary shall not promulgate a final rule disapproving the use of such products in the school breakfast program beyond the 1978–79 school year until the Secretary has notified the appropriate committees of Congress, and such rule shall not take effect until sixty days after such notification.

STATE ADMINISTRATIVE EXPENSES

SEC. 7. (a) Section 7(a) of the Child Nutrition Act of 1966 is amended to read as follows:

"SEC. 7. (a)(1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under section 4, 11, and 17 of the National School Lunch Act and 3, 4, and 5 of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

"(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs authorized under the National School Lunch Act or under this Act, except for the programs authorized under section 13 or 17 of the National School Lunch Act or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the National School Lunch Act and sections 3, 4, and 5 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1978, or $100,000, whichever is larger.

"(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the National School Lunch Act in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. The Secretary may adjust any State's allocation to reflect changes in the size of its program.

"(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the National School Lunch Act and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

"(5) Funds available to States under this subsection and under section 13(k)(1) of the National School Lunch Act shall be used for the costs of administration of the programs for which the allocations are made, except that States may transfer up to 10 percent of any of the amounts allocated among such programs.

"(6) Where the Secretary is responsible for the administration of programs under this Act or the National School Lunch Act, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the National School Lunch Act shall be retained by the Secretary for the Secretary's use in the administration of such programs.".

State Administrative Expenses for Summer Feeding

(b) Section 13(k)(1) of the National School Lunch Act is amended to read as follows:

"(k)(1) The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided*, That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year."

INCOME POVERTY GUIDELINES

SEC. 8. Section 9(b)(1) of the National School Lunch Act is amended by—

(1) amending the second sentence to read as follow: "The income poverty guidelines shall be the nonfarm income poverty guidelines prescribed by the Office of Management and Budget adjusted annually under section 625 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2971d): *Provided*, That the income poverty guidelines for the period commencing July 1, 1978, shall be made as up to date as possible by multiplying the nonfarm income poverty guidelines based on the average 1977 Consumer Price Index, by the change between the average 1977 Consumer Price Index and the Consumer Price Index of March 1978, using the most current procedures of the Office of Management and Budget. The income poverty guidelines for future periods shall be similarly adjusted."; and

(2) amending the fifth sentence to read as follows: "The income guidelines for free lunches shall be prescribed at 25 percent above the applicable family size income levels in the income poverty guidelines prescribed by the Secretary.".

STUDY OF MENU CHOICE

SEC. 9. The National School Lunch Act is amended by adding at the end thereof a new section 22 as follows:

"STUDY OF MENU CHOICE

"SEC. 22. As a means of diminishing waste of foods without endangering nutritional integrity of meals served, the Secretary shall conduct a study to determine the cost and feasibility of requiring schools to offer a choice of menu items within the required meal pattern. This study shall, as a minimum, include different needs and capabilities of elementary and secondary schools for such a requirement. The Secretary shall develop regulations designed to diminish such waste based on the results of this study.".

MISCELLANEOUS PROVISIONS

SEC. 10. (a) Section 12 of the National School Lunch Act is amended by adding at the end thereof new subsections (f) and (g) as follows:

"(f) In providing assistance for school breakfasts and lunches served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4 and 11 of this Act and section 4 of the Child Nutrition Act of 1966, to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfast in all other States.

"(g) Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966, whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.".

(b) Section 12(d)(7) of the National School Lunch Act is amended to read as follows:

"(7) 'School year' means the annual period from July 1 through June 30.".

(c) Section 15(e) of the Child Nutrition Act of 1966 is amended to read as follows:

"(e) 'School year' means the annual period from July 1 through June 30.".

(d)(1) Section 8 of the National School Lunch Act is amended by inserting after the second sentence the following new sentence: "The terms 'child' and 'children' as used in this Act shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any child care institution as defined in section 17 of this Act or any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for mentally or physically handicapped: *Provided*, That no institution that is not otherwise eligible to participate in the program under section 17 of this Act shall be deemed so eligible because of this sentence.".

(2) Section 13 (a)(1)(D)(ii) of the National School Lunch Act is amended by inserting "or nonprofit private" after "public".

(3) Section 15 of the Child Nutrition Act of 1966 is amended by adding at the end thereof a new subsection as follows:

"(f) Except as used in section 17 of this Act, the terms 'child' and 'children' as used in this Act, shall be deemed to include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to be mentally or physically handicapped and who are attending any nonresidential public or nonprofit private school of high schol grade or under for the purpose of participating in a school program established for mentally or physically handicapped.".

SCHOOL LUNCH PROGRAM PILOT PROJECTS

SEC. 11. Section 20 of the National School Lunch Act is amended by—

(1) inserting before the period at the end of the first sentence of subsection (c) the following: ", except for the pilot projects conducted under subsection (d) of this section (d) of this section"; and

(2) adding at the end thereof a new subsection (d) as follows:

"(d)(1) The Secretary may conduct pilot projects in not more than fourteen school districts (or other appropriate units), of which not more than two may be located in any administrative region of the Food and Nutrition Service of the Department of Agriculture, for the purpose of determining the feasibility, cost, and other consequences of providing lunches free to all children, without regard to the income of the children's families, during the school year beginning July 1, 1979.

"(2) The Secretary shall reimburse school food authorities participating in a pilot project under this subsection for all lunches served to children on the same basis that the Secretary normally provides for lunches served to children meeting the eligibility requirements for free lunches under section 9 of this Act.

"(3) The Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a report on the pilot projects conducted under this subsection not later than six months after the conclusion of such projects.

"(4) There are hereby authorized to be appropriated such sums as are necessary for the fiscal year beginning October 1, 1978, for the purpose of conducting an evaluation of pilot projects conducted under this subsection and for the purpose of making additional payments for lunches served to children (beyond what the school food authorities would otherwise receive under sections 4 and 11 of this Act) to school food authorities participating in pilot projects.".

PURCHASES OF SEAFOOD PRODUCTS FOR SCHOOL LUNCHES

SEC. 12. (a) Section 6(e) of the National School Lunch Act is amended by inserting in the second sentence "(which may include domestic seafood commodities and their products)" after "alternatives".

(b) Section 14(a)(1) of the National School Lunch Act is amended by inserting "(which may include domestic seafood commodities and their products)" after "such section".

IMPLEMENTATION

SEC. 13. (a) The Secretary shall promulgate regulations to implement the provisions of section 3 of this Act within one hundred and twenty days of the date of enactment of this Act.

(b) The provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966, in effect prior to the effective date of section 2 and 3 of this Act, which are relevant to current regulations of the Secretary governing the child care food program and the special supplemental food program, respectively, shall remain in effect until such regulations are revoked, superseded, amended, or modified by regulations issued under those sections as amended by sections 2 and 3 of this Act.

(c) Pending proceedings under section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall not be abated by reason of any provision of sections 2 and 3 of this Act, but shall be disposed of under the applicable provisions of section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 in effect prior to the effective date of sections 2 and 3 of this Act.

(d) Appropriations made available to carry out section 17 of the National School Lunch Act and section 17 of the Child Nutrition Act of 1966 shall be available to carry out the provisions of sections 2 and 3 of this Act.

EFFECTIVE DATE

SEC. 14. The provisions of this Act, except sections 4, 5, and 8, shall become effective October 1, 1978. The provisions of section 4 of this Act shall become effective January 1, 1979. The provisions of sections 5 and 8 of this Act shall become effective July 1, 1979, except that the Secretary may make the necessary changes in the income poverty guidelines for the special supplemental food program under section 17 of the Child Nutrition Act of 1966 not earlier than October 1, 1978, and not later than July 1, 1979.

Mr. PERKINS (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Reserving the right to object, Mr. Speaker, amendment designed to postpone an action contemplated by the Department of Agriculture which appears to be most unwise and which could have a devastating effect upon the school breakfast program which we are elsewhere in this bill attempting to assist. The language of the amendment is somewhat similar to the language of the statement of managers in the conference report on H.R. 13125, making appropriations for the Department of Agriculture. This passed the House on September 26. The purpose of the amendment is to delay for this current school year any ban on the use of so-called formulated grain-fruit products in the school breakfast program, and to encourage the Secretary of Agriculture to restudy the issue, including a consideration of the findings of a report by GAO on the subject which should be finished soon.

This controversy is particularly important to financially pressed Ohio schools, which have used these products with great success and at a considerable savings in tax dollars—estimated by the school system of Cleveland to be over $275,000 in the next school year. Ohio has a State-mandated school breakfast program for schools in which more than one-third of the students enrolled are eligible for free lunches. The formulated grain-fruit product—which, when served with a half pint of milk, meets all of the nutritional requirements set by the Secretary of Agriculture for a school breakfast—is used widely in Ohio and a num-

ber of other States. Cincinnati, Columbus, Toledo, Cleveland, Akron, Lima, Piqua, Warren, Youngstown, Washington Court House, Zenia, Dayton, and Zanesville are among the Ohio school systems using the product. School food service directors report that the product, aside from meeting nutritional standards, is convenient to serve without special kitchen facilities and has a higher acceptability by students than so-called conventional breakfast foods, which obviously results in less waste and more nutritional gain.

Yet USDA—acting through Assistant Secretary Carol Foreman—in August of last year sought to ban these products from use in the breakfast program, because some nutritionists "alleged" that the product could not be distinguished from unfortified commercial products and "alleged that the concept does not contribute to the promotion of good eating habits." At the same time the Department acknowledged that the product, served with milk, provided "nutrient levels—higher than those provided by the conventional breakfast pattern specified in the regulations." The ban was to go into effect this June, but was suspended to permit time for congressional reaction.

The sponsor of the breakfast mandate law in Ohio, Democratic State Representative Mike Stinziano, wrote every member of the Ohio delegation in the Congress to oppose USDA's action as one which "would complicate implementation of the State law and further burden the already financially troubled Ohio school systems."

After the expenditure of several hundred thousand dollars by several large firms, the "formulated grain-fruit product" was developed in several different forms and accepted by the Department. It was greeted enthusiastically by school officials who had been unable to provide a conventional breakfast meeting USDA's nutritional requirements. As I have said, the products have been widely used. The reaction to USDA's proposed ban on the products, and their reasons for it, has been unusually strong.

Cain Jones, school food service director for the Chicago school system, said:

. . . The withdrawal of authorization for use of 'formulated grain-fruit products' in the school breakfast program will, effectively, deprive more than 60,000 of our school children of a much-needed breakfast every morning.

Constance K. Gallo, school food service director for Cleveland schools stated that—

. . . Formulated grain-fruit products . . . are a nutritious and well-accepted food . . . essential to the continuation of breakfast programs in major city school systems across the country.

Joseph M. Stewart, school food director for the District of Columbia schools, questioned all of the Department's assumptions in attempting to ban the product, and particularly the notion that "conventional foods" are somehow better. He accused USDA of "a lack of proven facts" which "indicates to me that you are struggling to justify a prejudiced position." He told them their action "should be scrapped."

Dr. Paul A. Lachance, Rutgers University professor of nutrition and food science, also attacked the basis for the USDA position as follows:

Allegations as to good eating habits are meaningless when 30 to 50% of children have a very poor breakfast or no breakfast at all; and the pervasive American . . . tradition for breakfast includes formulated baked products (bread, bagels, doughnuts, pastries). Can the U.S.D.A. define breakfast? Is bacon and eggs the proper food? Are pancakes or french toast with syrup satisfactory eating habits? It appears that one allegation is as good as another.

The proposed withdrawal of the formulated grain-fruit product would be to the detriment of the nutrition (nutrient intake) of the child . . .

Even some who agreed with the USDA philosophy questioned the proposed action. Dr. John C. Stalker, Massachusetts State director of nutrition education and school food services, stated:

Although we agree with the philosophy that school breakfasts should consist of a well-balanced diet of conventional foods, we feel that the number one priority in the country is to feed all the hungry children before they start their school day. At the present time this cannot be accomplished without the use of some "formulated products."

Mr. Speaker, it is perfectly proper for the Secretary of Agriculture to set nutrition standards for school food programs heavily subsidized by Federal tax dollars. This amendment in no way challenges that authority. But it is quite another matter to exercise such authority to ban foods which meet those nutritional standards simply because of allegations" or "claims" that "conventional" foods are somehow more desirable or that "formulated" product, because a child might wrongly conclude that he can get a proper amount of vitamin D from the family cow, unaided by scientific formulation?

In my judgment, if nutritional standards are met, the kinds of foods utilized to meet them should be a decision made by State and local school food service personnel and their nutritionists. It should not be a decision based upon the personal predilections and prejudices of an Assistant Secretary of Agriculture in Washington. This is precisely the kind of "Washington knows best" attitude that is helping spread a full-fledged revolt against the Federal bureaucracy and all its works, good and bad. It is the kind of special arrogance of power—the contempt for the ability of others to make even simple decisions for themselves—which is bringing all of Government, and those connected with it, into disrepute with the American people.

My amendment would at least slow down and force a reconsideration of one instance of bad judgment and misuse of authority. It would also protect the integrity of decisionmaking at State and local levels in this one matter for just a little longer. Perhaps long enough for commonsense to prevail in the Department of Agriculture in the interest of better nutrition for schoolchildren.

Mr. PERKINS. Mr. Speaker, if the gentleman will yield, I would like to make one observation. This is a very important piece of legislation, because the WIC program expired October 1, of this year, and the child care feeding program expired October 1, this year, and that is what this is all about. I feel that everybody should support this legislation.

Mr. ASHBROOK. Mr. Speaker, I withdraw my reservation of objection.

Mr. STUDDS. Mr. Speaker, reserving the right to object, I do so solely for the purpose of asking the chairman whether or not the substitute includes the text of the amendment which I had intended to offer to make fish an eligible food commodity.

Mr. PERKINS. If the gentleman will yield, I am delighted to tell the gentleman that the substitute does include his amendment.

Mr. STUDDS. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

Mr. RICHMOND. Mr. Speaker, reserving the right to object, I wish to express my wholehearted support for H.R. 12511, the Child Nutrition Amendments of 1978, as reported by the House Education and Labor Committee. The bill will bring about many significant improvements in the school lunch, school breakfast, WIC, and child care food programs.

I fully support this vital legislation on behalf of our Nation's children and would like to highlight the school breakfast program provisions for my colleagues' particular attention. The school breakfast program is critically important for the nutritional and educational well-being of our Nation's needy youngsters—children who come to school often without any morning nourishment and who, as a result, concentrate on their empty stomachs rather than their class lessons.

As various studies have documented, children who receive school breakfasts perform much better in school. The school breakfast program has brought about: Increased school attendance, decreased disciplinary problems; enhanced student performance; and improved nutrition education opportunities to many children.

Unfortunately, the program has not been implemented in many areas that desperately need it. Out of more than 90,000 schools that operate the school lunch program, less than 21,000 operate the breakfast program. Consequently, out of 10.9 million needy children who qualify for and receive free or reduced-price lunches only 2.1 million—or 19 percent—are receiving breakfasts.

In New York State, 3,758 schools with an average daily attendance of 2,178,730 children do not participate in the school breakfasts. In addition, 1,155 schools in New York State with 25 percent or more of the students eligible to receive free or reduced-price breakfasts do not participate in the school breakfast program. The average daily attendance at these schools is 843,000 with approximately 290,000 needy children enrolled.

The Education and Labor Committee's bill, consistent with the administration's proposals, takes some modest but much-needed steps toward insuring breakfast program implementation in our Nation's neediest areas. The bill accomplishes this result through a combination of financial incentives as well as

new program requirements. I believe that these provisions, which are not costly and which are fiscally offset by cutbacks in certain obsolescent parts of the school meals programs, constitute a very effective school breakfast program legislative package.

This landmark legislation also makes significant improvements in the other child nutrition programs. Most notably, the bill provides a significant and much-needed expansion of the women's, infants', and children's supplemental feeding program (WIC). The need for this expansion is painfully clear in my own State:

No less than 25 New York counties have no WIC program;

Less than 15 percent of the persons in New York State who are eligible for WIC are receiving WIC benefits, because the appropriation level is insufficient;

The current national spending level is approximately $425 million. The Senate version of $550 million will not appreciably expand the program. An increase to $650 million will enable the program to continue expanding at close to the current rate.

For all these reasons Mr. Speaker, I urge my colleagues to wholeheartedly support this critically important legislation for the present and future welfare of our Nation's children.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS) that the amendment be considered as read and printed in the RECORD?

There was no objection.

● Mr. PERKINS. Mr. Speaker, I would like to give the Members a very short summary of the substitute which I am offering to S. 3085, the other body's child nutrition bill. This substitute has been carefully worked out with Congressman ASHBROOK and the minority, and we have reason to believe that it will be easily accepted by the other body. Our hope, of course, is to avoid a conference committee so that we can achieve enactment of this bill this year.

The substitute basically retains the provisions of H.R. 12511 with the following three major modifications:

First, the substitute deletes the committee bill's requirement that needy schools must provide breakfasts for their students. Although the Committee on Education and Labor voted 23 to 12 for this so-called breakfast mandate, there is considerable opposition to it among the membership as has already been voiced by a number of the members in letters to our offices. The other body also rejected such a mandate; and, therefore, it seems unlikely that we would be able to achieve its enactment even if the House were to ratify the committee's action. Therefore, we are in the position of having to drop that mandate in order to achieve the enactment of any child nutrition legislation this year.

Second, the substitute, includes an entitlement for the WIC program of $550 million for fiscal year 1979 and $800 million for fiscal 1980. Then $900 million would be authorized subject to appropriations for fiscal 1981 and $950 million would be authorized for fiscal 1982. Although the levels of funding for 1979 and 1980 are lower than in the committee's version of the legislation, the substitute includes entitlements for those years which thereby guarantees that the full authorized amount will be provided. I can think of no better use of funds than for the WIC program.

Third, the substitute forbids the Department of Agriculture from barring the use of formulated grain-fruit products currently approved for use in the school breakfast program during the school year 1978–79. We are including this provision because we do not want to cause disruption in local programs which are currently in operation through an administrative directive being issued in the middle of the school year. Under the substitute the Department can address this issue in the upcoming school year after it consults broadly with experts in the field.

These are the major changes in the substitute from H.R. 12511 as reported. The other provisions of the committee bill have been basically retained with small minor modifications. I urge the membership of the House to approve this substitute since it is the only way we can achieve enactment of this legislation this year.

Mr. Speaker, I would like to add one additional comment regarding the provisions in the substitute for increased reimbursements to especially needy schools in the breakfast program. It is our clear intent in enacting these provisions to provide additional funds to these schools and not to take any funds away from other schools in the process. Several years ago, the Department of Agriculture violated the law and provided extra reimbursements to needy schools by taking funds away from regular schools. Recently, the Department has stopped this practice and has come around to administering the law correctly. We do not want to the same thing to happen with these new provisions in the breakfast program. These amendments are clearly meant to provide additional assistance and not to take any funds away from other schools through such devices as "averaging" reimbursements within the States or within individual school districts.●

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 12511) was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 50, FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.

Mrs. CHISHOLM. Mr. Speaker, I call up House Resolution 1446 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1446

Resolved, That immediately upon the adoption of this resolution, the bill, H.R. 50, to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government, together with the Senate amendment thereto be, and the same is hereby taken from the Speaker's table to the end that the Senate amendment be and is hereby agreed to.

The SPEAKER. The gentlewoman from New York (Mrs. CHISHOLM) is recognized for 1 hour.

Mrs. CHISHOLM. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1446 provides for expedited consideration of H.R. 50, a bill which reiterates the Federal Government's responsibility to use programs and policies to promote full employment, production, balanced growth, and reasonable price stability.

The thrust of the measure approved by the Rules Committee today at the request of Mr. PERKINS, chairman of the Committee on Education and Labor, is to facilitate prompt consideration of H.R. 50. The rule provides that H.R. 50 be taken from the Speaker's desk, and that upon adoption of this resolution, the House accept the Senate amendments to the legislation and pass the bill.

As many of the Members of this House are aware, our consideration of this bill tonight in the twilight hours of this session, represents the climax of the very long and arduous journey of H.R. 50 through the legislative process. Perhaps some might rightfully claim that had all of our leaders in each branch of Government shown the consistent dedication toward passage of this legislation that the late Mr. Humphrey, Mr. HAWKINS, and others associated with this bill have at all times demonstrated, it probably would not be necessary for me to stand before this body tonight and seek approval of this bill under expedited procedures. After all, the bill was sent over to the Senate in April 1978; and under different circumstances, earlier consideration of the bill might have been achieved. Nevertheless, in the past few days, we have all witnessed the approval of other similar measures which restricted the ability of Members to debate and amend other important pieces of legislation. Clearly, the resolution is not without precedent.

The enactment of H.R. 50 would establish a framework for the formulation of a comprehensive national economic policy. While this bill does not attempt to specify the methods by which certain economic goals are to be achieved, the legislation does articulate a national commitment to improve coordination and integration of Federal policies and programs in order to maximize private employment, productivity, and purchasing power.

There are those who criticize this bill for not going far enough toward achieving full employment and a balanced budget. However, I believe that few persons in this Chamber would deny the wisdom and necessity of striving toward these equally important national objectives. Mr. Speaker, I urge adoption of the rule and the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides that it shall be in order to take H.R. 50, the so-called Humphrey-Hawkins bill, together with the Senate amendment to it, from the Speaker's table and agree to the bill as amended by the Senate. This means that by adopting this rule resolution we automatically will be passing the Senate's version of the Humphrey-Hawkins bill and making it ready for the President's signature.

Much has been said already about the lateness of the hour and the legislative load forced upon us here at the end of the 95th Congress. Some of the bills we are considering truly are necessary—the Revenue Act of 1978, for instance. H.R. 50 is not one of these. In fact, if you have had time to read the Senate bill yet, you will have to agree that it is not much more than symbolism. The quote from Macbeth which I used to describe H.R. 50 when the House considered it in March of this year was that the measure was "full of sound and fury, signifying nothing." Shakespeare's words are even more applicable to the Senate's bill than to ours.

Beyond a discussion of the merits or demerits of this legislation is the procedural travesty which the rule imposes upon the House. If this resolution is adopted, we are relinquishing the right and duty of the House of Representatives to go to conference with the Senate. We are saying, in effect, that although we passed H.R. 50 first, we accept whatever changes the Senate wants to make in the 11th hour to our bill; and we give up our constitutional responsibility to go to conference.

Mr. Speaker, regardless of whether one is for or against the Humphrey-Hawkins bill, one must concede that this procedure is wrong. I submit that it is doubly wrong in view of the fact that the legislation is not of an emergency nature. I am convinced that I am on the firmest of procedural grounds in opposing the rule and in urging the Members to defeat it.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, this resolution simply provides that, upon its adoption, the bill H.R. 50, the Full Employment and Balanced Growth Act, together with the Senate amendments thereto, is taken from the Speaker's table and agreed to.

My colleagues will recall that H.R. 50 passed this body last March 16 by a vote of 257 to 152 after numerous amendments were adopted. Yesterday the other body passed its version of the bill 70 to 19 after agreeing to an amendment in the nature of a substitute sponsored by the distinguished majority and minority leaders (Mr. BYRD and Mr. BAKER). While we would ordinarily go to conference on the bill at this point, I think my colleagues can appreciate that the lateness of the hour in this session requires that we at least consider this emergency procedure if the bill is to have any chance of passage.

Mr. Speaker, I think this legislation warrants our support. As the gentleman from California (Mr. HAWKINS), one of the authors of this bill, testified before the Rules Committee, this bill does not authorize or mandate any new Federal spending programs; it simply sets certain employment and economic goals and policies involving the President, the Congress, and the Board of Governors of the Federal Reserve System, with maximum reliance on the resources and ingenuity of the private sector of the economy. These goals and policies would be aimed at promoting full employment and production, increased real income, balanced growth, a balanced Federal budget, adequate productivity growth, proper attention to national priorities, achievement of an improved trade balance, and reasonable price stability

Specifically, the bill as passed by the other body would set the numerical goals of a 4-percent overall unemployment rate, a 3-percent adult unemployment rate and a 3-percent inflation rate by 1983, and a 0-percent inflation rate by 1988. The President's budget would incorporate programs and policies to achieve the medium term goals and to achieve a balanced budget and reasonable price stability. Furthermore, the bill calls for fiscal policies that would establish the share of an expanding gross national product accounted for by Federal outlays to be the lowest possible level consistent with national needs and priorities. I especially applaud this provision since it embodies the approach of my own "Limits of Government Act" which would require that Federal outlays not exceed 20 percent of the GNP.

Another commendable feature of the Senate-passed bill and one which is not contained in the House version would require the submission of an investment policy report in the President's economic report, and a requirement that the President's budget include a variety of other recommendations relating to capital formation.

Under the congressional review process of the bill, the Joint Economic Committee is to review and report to the Budget Committees on the medium term goals set forth in the President's economic report. The Budget Committees may consider the recommendations of the President and the Joint Economic Committee in connection with its consideration of the concurrent resolution on the budget. And the bill provides for up to 4 hours of debate on economic goals and policies prior to House consideration of the first budget resolution. If the budget resolution sets forth economic goals, then amendments are in order to alter such estimates, amounts, and levels consistent with the goals proposed in such amendment.

In summary, Mr. Speaker, I think this is an important commitment on the part of the Congress to achieving full employment, balanced economic growth, and reduced inflation, with primary emphasis on the expansion of private employment. I do find it a bit ironic that many of the same Members who argued against the Nunn amendment here earlier this week on the grounds that it was not realistic to set certain tax reduction and expenditure reduction goals for the future, are now embracing this bill which sets an even broader range of economic goals for the future. I happen to believe that it is in our national interest to do some orderly economic planning for the future, and that such planning should include policies for reducing taxes, deficits, inflation, and unemployment. With the kind of guidance these economic goals and policies will give us, we should be able to act more rationally and coherently on the various microeconomic decisions which confront us daily in the Congress. For these reasons I am proud to support this bill, just as I supported the Roth-Kemp and Nunn tax and spending approaches.

Mrs. CHISHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, I thank the gentlewoman for yielding.

May I be brief in my statement for this bill. Hubert Humphrey said that it is not what we have done but what remains of what we have done that matters the most. Unfortunately, as the gentleman from Illinois has so ably said, what we need to do is to have an articulate and comprehensive economic policy that we can understand and everybody can have confidence in that being the policy of this and other administrations.

This bill does not attempt, as has been said, to legislate programs or policies that are incidental to the central policy enunciated in this bill. That remains with the congressional process in conjunction with the Chief Executive to do that. But, as has been well said, it constitutes a framework.

It seems to me that with the same spirit that I think has motivated the action on this bill in the other body on a bipartisan basis, individuals who certainly ordinarily differed with each other, saw the opportunity of coming together to try to formulate an economic policy expressed in this bill. That it seems to me is exactly what we want to see continued.

To those who say that this bill does nothing, I say if it did nothing more than to have the congressional involvement in the economic policymaking of this Nation, that itself alone would be a step that I think we should applaud and certainly should approve.

I think that it is pretty obvious that when the minority does not have for itself a President in the White House, that minority is precluded completely from any policymaking involvement. I think it is also true that regardless of what President is in the White House, this Congress is not consulted in policy formulation.

I think the mechanism, therefore, in this bill of bringing these two entities together would be a great step forward in the formulation of a policy that the Nation would have to guide it.

I think furthermore that there should be no objections, it seems to me, as to

the main thrust of this bill, of providing job opportunities instead of welfare to the American public, to individuals to be productive human beings in this society of ours. Why should we continue to spend money on these income intense programs when that same amount of money could be spent in producing productive individuals who would then certainly pay taxes and increase the revenues for the Federal Treasury?

This bill has certainly emphasized from the very beginning—and I repeat that: A strong emphasis—on private sector involvement. Despite all the public media has said, this is a private sector jobs bill. It is not a bill to encourage the Federal employee expansion, but it is to encourage the private sector to produce those jobs which it has historically produced and which we hope will continue.

I certainly think that in enacting this bill, that whatever else we have done in the past matters little if we do not move ahead in the formulation of a national economic policy.

Certainly Hubert Humphrey and I tried to do that 6 years ago. I think if we had passed a bill at that time, we would have avoided the great recession that we had in 1974 and 1975.

Let us not wait until another recession comes before we face the issue and do it. We have that opportunity in this bill.

I think, therefore, we can recommend this bill to our colleagues as one which would move us forward. Certainly I think it is to the credit of this body that this bill is before us today and will give us the opportunity, no doubt, to certainly do that very thing.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Speaker, something showed up on my doorstep this morning and someone told me it was hatched in the Senate. Someone told me it was the Hatch-Humphrey-Hawkins bill. But in spite of the efforts of Senator HATCH to save the Nation from this legislation, I would simply like to point out to all Members that the Senate bill fails to include most of the amendments that were offered by the Members of this House. If Mr. REUSS is in the House, I would like to point out to him that——

Mr. ROUSSELOT. Will the gentleman yield?

Mr. ASHBROOK. I will yield to the gentleman from California.

Mr. ROUSSELOT. I have just read this resolution. Am I correct in saying that if we adopt this resolution, we accept the Senate bill and there will be no further consideration by either House.

Mr. ASHBROOK. That is correct.

Mr. ROUSSELOT. Then there will be no opportunity for a conference between both Houses to resolve differences?

Mr. ASHBROOK. That is correct. I am sure that most of the people have not ever read this bill. But that probably makes no difference, I am sure that most will vote for it.

Mr. ROUSSELOT. Is the Senate amendment in any respect similar to the House-passed H.R. 50?

Mr. ASHBROOK. We did not see a copy of this bill until this afternoon, a rather poor copy that was made by someone in the rules committee, who provided us with this opportunity to comment on this bill.

Mr. ROUSSELOT. To your knowledge has the majority and minority members on the Education and Labor Committee had a chance to review the provisions of the Senate amendment?

Mr. ASHBROOK. No.

Mr. ROUSSELOT. Are you suggesting that there has been no hearings on this bill?

Mr. ASHBROOK. There has been no hearings in the House.

Mr. ROUSSELOT. Well, have you had an opportunity to review the Senate amendment?

Mr. ASHBROOK. I would like to point out to the distinguished gentleman from California that the list of pending pieces of legislation on the Speaker's table includes at least 45 major bills which we have been asked to consider. How can any one expect a Member of Congress to have read a completely new bill which was not passed in the Senate until just before midnight last night? But in answer to your question, I have managed to find a few minutes to find the differences.

Mr. ROUSSELOT. Are these differences of a technical nature?

Mr. ASHBROOK. I would hardly characterize these differences as technical unless you want to call all of the amendments by the Members of this House technical.

Mr. ROUSSELOT. Well, I just happen to have a list here of the amendments that were adopted to the original House bill. Let me ask you this, Mr. ASHBROOK, in the original House bill there was the Jeffords truth in reporting amendment which passed on the House floor by a considerable margin. As I understand the purpose of this amendment, it specifically requires that any measure of full employment be measured in the private sector. The goal of full employment as provided by this amendment would again be 3 and 4 percent respectively but it is to be determined without the use of public service employment. As I recall, this was a very significant and substantial amendment. Let me ask the distinguished gentleman from Ohio whether this amendment was retained in the Senate-passed bill.

Mr. ASHBROOK. The answer is no, the Jeffords amendment is not in the version sent by the Senate.

Mr. ROUSSELOT. What about the Quie full parity amendment which set a goal of 100 percent of parity for farm income coequal to the unemployment goal?

Mr. ASHBROOK. That amendment was deleted by the Senate and it was shoved into an innocuous section buried in a plethora of policies and programs that have nothing to do with reality.

Mr. ROUSSELOT. What about the amendment introduced by the distinguished gentleman from Wisconsin (Mr. REUSS) concerning money policies and the responsibilities of the Federal Reserve Board?

Mr. ASHBROOK. As far as I can see it is not in the Senate bill. Perhaps someone can find it.

Mr. ROUSSELOT. And what about the Thompson, Gilman, McCormick, McCloskey, Marks, Cleveland, Simon, Pressler, Breckinridge, Brooks, Roberts, Schroeder, Glickman, and finally the Conable amendments?

Mr. ASHBROOK. Perhaps you should inquire of the distinguished subcommittee chairman, Mr. HAWKINS.

Mr. ROUSSELOT. Maybe my colleague, Mr. HAWKINS, will tell me later whether any of these amendments are in the Senate bill?

I gather from the comments of the gentleman from Ohio that he cannot favor this proposal.

Mr. ASHBROOK. The gentleman from California is correct.

Mr. ROUSSELOT. And I also gather that you find nothing good in this proposal.

Mr. ASHBROOK. The gentleman is correct.

Mr. ROUSSELOT. You mean there is nothing in this bill you can support?

Mr. ASHBROOK. Well, perhaps there is one thing.

Mr. ROUSSELOT. May I ask the gentleman from Ohio what that might be?

Mr. ASHBROOK. Well, if the gentleman will turn to the last page of the Senate bill he will find that the authorization contained in the House version is no longer there.

Mr. ROUSSELOT. Does the gentleman from Ohio mean that they have dropped the authorizations?

Mr. ASHBROOK. That is correct.

Mr. ROUSSELOT. You mean there is absolutely no money in this bill?

Mr. ASHBROOK. As far as I can see there is absolutely no money in this bill.

Mr. ROUSSELOT. But isn't that good?

Mr. ASHBROOK. You can bet on it.

Mrs. CHISHOLM. I yield 2 minutes to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I will not even take the full 2 minutes.

I rise in strong support of the rule and the bill but, my colleagues, I also want to take this opportunity to express my gratitude to the gentleman from California (Mr. HAWKINS) for his tremendous fortitude, stick-to-it-tiveness and the tenacity that he has shown in moving this particular piece of legislation.

Again I urge support of the bill and the rule.

Mr. PHILLIP BURTON. Mr. Speaker, would the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I thank the gentleman for yielding, and I would like to associate myself with the remarks of the gentleman from Maryland (Mr. MITCHELL).

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Connecticut (Mr. SARASIN).

Mr. SARASIN. Mr. Speaker, let me join those Members in this body who rise in full support of this piece of legislation.

Before continuing, Mr. Speaker, I would like to take this opportunity, since this well may be my last opportunity to address this body, to thank the members of the committee on which I have

had the pleasure to serve and particularly to the chairman of the Subcommittee on Employment Opportunities, the gentleman from California, Mr. GUS HAWKINS, not only for his work on this bill, but for his great generosity and the fairness that he has shown me as the ranking minority member of that subcommittee over the 2 years we have had the privilege of working together and for all of the 6 years in the House of Representatives where I have had the distinct honor and privilege of working with him on the Committee on Education and Labor.

Mr. Speaker, I could not be more delighted to address this body today on the Full employment and Balanced Growth Act as proposed by the Senate. It marks a major step forward in our battle against unemployment, particularly the major cause of this economic condition—the disease of inflation.

While others will focus their remarks on the bill in its entirety, I would like to address mine, instead, to the inflation language of the Senate bill. The Senate has added what the House would or could not—a numerical anti-inflation goal that would require the Congress to take serious action on the greatest threat to the well-being of the American public. They have added the Sarasin amendment.

The Senate has set an interim goal of 3-percent inflation, and a long-range goal of 0-percent inflation by 1988. I am pleased that they recognized the serious weakness in our version of the Full Employment and Balanced Growth Act, our failure to adopt my specific anti-inflation goal. Such a goal is essential to protect all Americans—those with jobs, those who are unemployed, and those who are on fixed incomes—from the ravages of inflation.

During floor consideration, I argued that to be honest with the American public, we must finally admit that we have been taking the easy way out, that we have been following policies that have taken a terrible toll on our people and on our economy. I argued:

> For instance, we have not needed a tax increase to increase revenue in recent years because inflation has pushed our citizens into higher tax brackets, increasing their tax burden while diminishing their actual purchasing power. Inflation has deprived business of the capital it needs to expand and hire more people. Inflation, straight from the hides of the taxpayers, has been funding programs that cost a fortune but have little or no return on investment.

We have an obligation to the unemployed Americans. We have an obligation to the American taxpayer. We need a national unemployment policy, one that commits us to follow a new course, one that will not allow us to rest on the glory of political rhetoric. We have to face up to the fact that inflation is a critical problem and that it directly causes unemployment.

Remember back to our debate. Many of us cited remarks by both Dr. Schultze and Ms. Rivlin. They both testified that the best way to fight unemployment is to fight inflation. We must take this advice to heart.

In my "Dear Colleague" letter to each of you prior to our vote on H.R. 50, I stated:

> You will have an opportunity this week to vote to demonstrate your opposition to inflation, the economic scourge that afflicts all 215 million Americans. (Support for the amendment) would put you on record as being concerned with the problems of the employed and the unemployed, the elderly and the handicapped, the underemployed and the unemployable—in fact everyone who is worried about not only where the money comes from, but how far it will go.

The purpose of my amendment was to make sure that this Congress, this administration, and succeeding governments, keep their eye on the ultimate result of inflation and tries to get itself to a goal over the interim period of 3 percent and, long range, to zero. It was designed to promote policies that reach to both low unemployment and low inflation. My amendment rejected the so-called trade-off philosophy and rejected any policies that advocated high unemployment and increased interest rates.

Opponents of the 3-percent interim goal argued that this would undermine our efforts to reduce unemployment. They reasoned that unemployment was the most pressing problem and that nothing should compete with it for national attention. However, this was not as tenable an argument as opponents would have liked, and we adopted an amendment that required the establishment of an anti-inflation goal by the President. It was regrettable that we did not have the courage to set a realistic goal ourselves.

We now have the opportunity to be honest with our constituents—all of our constituents. We have a chance to prove that we are interested in their concerns, that we want to minimize, if not eradicate, those problems that they view as most serious.

In this context, we must reflect back to the time of our vote on H.R. 50. It was interesting to note that less than 1 month after we rejected my specific numerical anti-inflation goal, the administration announced that in the public's perception, inflation was the No. 1 concern—and would, consequently, be the administration's. The people know that inflation is a real and serious problem which steadily robs Americans of purchasing power. They know that it most severely affects those forced to live on a fixed income or savings, such as the retired, the disabled, and the unemployed.

The Senate has accepted my anti-inflation amendment and the logic behind it. They recognize that we can fight unemployment by, and while, fighting inflation. They recognize that we can protect the limited financial resources of our senior citizens, of some of our handicapped, and of those dependent upon our Nation's social service programs. The Senate has accepted the fact that we must begin restoring our economic stability and viability, that we cannot allow ourselves to be comfortable with a 6-percent rate of inflation—and probably more.

Fighting inflation and reducing serious unemployment will not be an easy task. But we were not elected to take the easy way out—to cover our mistakes, and unavoidable situations, with more, and more costly programs. We were not elected to take the easy way out, to let inflation run away, to let our dollar sag, to let our balance of trade reach disastrous levels, simply because the solutions were complicated and to solve our problems, we would have to go out on a limb.

We were all elected to be responsible to our constituents and to the overall well-being of our country. The Full Employment and Balanced Growth Act, which we are considering today, gives us an opportunity to set this country back on productive tracks. It gives us an opportunity to vote "yes" for a numerical anti-inflation goal, to vote "yes" for policies that will lead to a balanced budget, to an improved trade balance, and to price stability.

Nationally, and internationally, we need the provisions of this measure. I urge my colleagues to vote for this legislation, to admit that the numerical anti-inflation goal I proposed and the Senate adopted, is workable because we have the ability and the dedication to get the job done and to have a better, healthier Nation because of it.

Mr. JEFFORDS. Mr. Speaker, first, I certainly want to commend the gentleman from Connecticut (Mr. SARASIN), with whom I have worked very closely on this bill and other bills. I commend him for the tremendous job he has done, and I also think he deserves the thanks of the other members of the committee. I also wish to commend the chairman of the subcommittee for the outstanding work he has done, and I thank him for the opportunity I have had to work with him this year. I have learned much from him. It grieves me for what I must say about a bill so important to him.

However now, Mr. Speaker, I must discuss the bill. I would point out that I opposed this bill when it left the House. It was H.R. 50, and it was really 50 percent of nothing, or it was 50 percent of something. I was not sure, so I voted against it.

However, now we have before us something which confuses me again because perhaps it should be H.R. 0, since, on the one hand, it is nothing. I think that is exemplified by the fact that the Senate thought so little of it that they zeroed out the authorizations. There is no money for this bill. It obviously will do nothing.

On the other hand, the bill could be 100 percent; maybe it should be H.R. 100 because it is the 100 percent American dream. Not only would we have a goal of unemployment of 4 percent and a balanced budget, but now we have a goal of zero inflation.

Mr. Speaker, all this bill does is to say to some people that they should sit down and think about economic policy. That is all it does. It creates no programs, sets no legal restrictions, and establishes no legal binding policy. It is a wishing well, but there are no coins to drop in it.

I would like to conclude by saying that the last time that dream was fulfilled was when we had a Republican President and a Republican Congress,

the Eisenhower era. Therefore, I would say that as a Republican, I may have to support it because it is a replay of a page in Republican history and a platform on which I can run.

Mr. LOTT. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN. Mr. Speaker, I call this the "Umphrey-Awkins" bill because it now knocks the "H" out of it.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mrs. CHISHOLM. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. (Mr. BOLAND). The question is on the resolution.

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 56, noes 14.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. BAUMAN. Mr. Speaker, I think that proves the point of the gentleman from Vermont (Mr. JEFFORDS) rather well.

MAKING CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1979

Mr. MAHON. Mr. Speaker, pursuant to the order of the House of Wednesday, October 11, 1978, I call up for consideration in the House the Senate amendments to the joint resolution (H.J. Res. 1139) making continuing appropriations for the fiscal year ending September 30, 1979, and for other purposes.

The Clerk read the title of the joint resolution.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the Senate amendments to House Joint Resolution 1139.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will designate the first amendment in disagreement.

Senate Amendment No. 1 is as follows: Page 1, line 9, strike out all after "(a)" over to and including "(b)" in line 4, on page 4.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 1.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 2 is as follows: Page 5, after line 18, insert:

(b) Such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1979, for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriation Act, 1979 (H.R. 12928) as enacted by the Congress: Provided, That no funds shall be available for the Narrows Unit, Colorado; Bayou Bodcau and Tributaries, Louisiana; Yatesville Lake, Kentucky; Fruitland Mesa, Colorado; Savery-Pot Hook, Colorado and Wyoming; and Lukfata Lake, Oklohama, projects: Provided further, That no funds shall be available for construction of the Animas-La Plata, Colorado; McGee Creek, Oklahoma; Uintah Unit and Upalco Unit of the Central Utah Project, Utah; Kaskaskia Island Drainage and Levee District, Illinois; Units L611–614, Missouri River Levee System, Iowa; Cedar River Harbor, Michigan; Milan, Illinois; Arcadia Lake, Oklahoma; Burlington Dam, North Dakota; and Big Pine Lake, Texas, projects; but funds shall be made available to continue planning of these projects: Provided further, That sections 201 and 305 of said Act are not applicable to the funds and authority made available by this subsection: Provided further, That the paragraph in said Act entitled "Office of the Secretary, water resources planning" is not applicable to the funds and authority made available by this subsection: Provided further, That there is hereby appropriated for the Water Resources Council for expenses necessary in carrying out the provisions of the Water Resources Planning Act of 1965 (42 U.S.C. 1962–1962d–3), as amended, including services as authorized by 5 U.S.C. 3109 and 42 U.S.C. 1962a–4(5), and hire of passenger motor vehicles (42 U.S.C. 1962a–4(6)), $12,681,900, to remain available until expended, including $2,668,000, for expenses in administering the Act (42 U.S.C. 1962d(b)), $2,480,900 for preparation of assessments and plans (42 U.S.C. 1962d(c)), $1,047,000 for preparation of plans (33 U.S.C. 1289), $2,886,000 for expenses of river basin commissions under title II of the Act (42 U.S.C. 1962d(a)), and $3,000,000 for grants to States under title III of the Act (42 U.S.C. 1962c(a)), and $600,000 for groundwater studies in the Delaware River Basin and Susquehanna River Basin.

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. JOHN T. MYERS. Reserving the right to object, Mr. Speaker, could we have a copy of the amendment in question here? We do not seem to have a copy of those amendments that are being discussed.

Mr. MAHON. Will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the chairman. I just would like to know what numbers these are. We do not have a copy of them. What is involved in each one of the amendments?

Mr. MAHON. If the gentleman will yield, of course, th's is the public works portion of the continuing resolution, and I was told it had been made available.

Mr. JOHN T. MYERS. All right. Would the gentleman yield 3 minutes to me on that?

Mr. MAHON. If the gentleman will allow me to, I have a motion I am required to offer first.

The SPEAKER. Is there objection to the request of the gentleman from Texas that the further reading of the amendment be dispensed with and that it be printed in the RECORD?

There was no objection.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 2.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. MAHON) for 1 hour.

Mr. MAHON. Mr. Speaker, this is a motion which relates to the controversy in the recent past between the Congress and the Administration with regard to public works, with regard to the bill which was vetoed by the President, the veto having been sustained. The matter was handled in the House by the subcommittee headed by the gentleman from Alabama (Mr. BEVILL).

But, Mr. Speaker, before we discuss this amendment, I wish to make a statement in regard to the weatherization program. Section 101(a) provides funds for continuing certain activities not otherwise provided for including the Community Services Administration. The Department of Energy and the CSA have shared the weatherization program in the past. The President has proposed and Congress has agreed that the entire program should be funded in the Department of Energy. The amount requested, $199,850,000 was included in the Interior appropriations bill. Therefore, there are no funds provided under the resolution to continue the weatherization program in the CSA.

I now yield to the gentleman from Alabama (Mr. BEVILL) to make any statement which he might deem appropriate in explanation of the pending amendment. As I understand it, this situation has been worked out in such a way that the appropriate committees of Congress are reasonably well satisfied. The administration is reasonably well satisfied. A lot of deletions have been made, and a more acceptable bill from the standpoint of the Administration has now been agreed upon.

Mr. Speaker, I yield 5 minutes to the gentleman from Alabama (Mr. BEVILL), chairman of the subcommittee, who has done a superb job in handling the pending measure.

Mr. BEVILL. I thank the chairman for yielding to me.

Mr. Speaker, the President vetoed the fiscal year 1979 appropriation bill for energy and water development, H.R. 12928. On October 5 this House sustained that veto. Now, in the waning hours of this Congress, we are faced with the task of providing fiscal year 1979 appropriations to continue programs for the Department of Energy, the Corps of Engineers, the Bureau of Reclamation, the Tennessee Valley Authority, the Nuclear Regulatory Commission and other agencies. Otherwise, beginning next week there will be no funds to pay Federal employees and to continue ongoing contracts for many vital energy and water development activities.

There is simply not time to enact a completely new bill. Moreover, the President supported most of the items contained in H.R. 12928, including appropriations of $6.1 billion for the Department of Energy, most of the $3.2 billion for the Corps of Engineers and Bureau of Reclamation, and $0.9 billion for other agencies. Therefore, the Senate has added a provision to the continuing resolution

(H.J. Res. 1139) to make appropriations for energy and water development for fiscal year 1979 as provided in H.R. 12928, but deleting certain items the President found most objectionable.

The provision in House Joint Resolution 1139 preserves all of the actions reflected in H.R. 12928 and its accompanying conference report, H.R. 95–1490, except for the specific modifications reflected in the joint resolution and its accompanying report. As you know, the conference report on H.R. 12928 was approved by an overwhelming margin by both Houses, passing 319 to 71 in the House and 86 to 9 in the Senate. Accordingly, we considered it very important to make sure that all of the provisions of H.R. 12928 and the conference report, H.R. 95–1490, were fully effective and applicable to the 1979 appropriations except for the specific modifications in the joint resolution. The Senate amendment does so.

Mr. Speaker, I make no apologies for H.R. 12928. It is a good bill and its enactment would have been in the Nation's best interests. In my view, it has been misunderstood and wrongly criticized with popular rhetoric. I think the President was badly advised to veto it. But, we must face the fact that this House could not obtain the necessary two-thirds to override and time has run out. Thus, I am convinced that the Senate amendment represents the best possible solution under the circumstances and urge its acceptance by this House.

Mr. Speaker, let me address the specific changes which have been made to overcome the President's objections.

First, no funding is provided for the six "hit list" projects—three studies and three construction projects.

Second, no funding is provided for construction of 11 additional projects, but funds are provided for planning of these projects. This reduces the total number of new construction starts from 53, including 8 loans, to 42 new starts compared to the 26 requested by the administration.

Third, funding is provided for the Water Resources Council, as requested by the President.

Fourth, the employment provisions for the Corps of Engineers and Bureau of Reclamation, to which the President objected, have been eliminated.

These actions in no way foreclose consideration of the deleted items by a future Congress.

The committee plans to give the President's full funding proposal thorough consideration in connection with hearings on the fiscal year 1980 budget. There simply was not time to consider this significant change in congressional procedure this year.

Mr. Speaker, I believe that the changes proposed in the Senate amendment should resolve the most significant objections by the administration and are consistent with our congressional responsibility to the American people. It is, I regret, an unhappy compromise, but the best available under the circumstances. I urge the approval by the House of the Senate amendment.

They are out. That does not mean they cannot be considered next year now, but they are out for the time being.

No. 2, there are, as you know, 53 new construction starts in this bill. I remember we did not have any last year in the bill. We have 53 this year, and 11 of those 53 are knocked out, but every one of those 11 has money in there for planning. These projects are not dead. They are just not going to be put under construction this year; so this was in accordance with White House wishes.

On the 2,300 personnel, the Congress and the committee took the position this would save money, because the U.S. Corps of Engineers and the Bureau of Reclamation can do this work cheaper themselves with their own personnel. It is going to be contracted, but that is neither here nor there; but we are knocking out the 2,300 personnel to which the White House objected.

As far as the full funding, and the White House understands this. They did not send this up here for this committee and this Congress to consider in time for this bill, so there is no full funding in this legislation. The committee will certainly hold hearings and there will not be any funding until this Congress agrees to provide funding.

The last thing is we did not put funds in for last year's Water Resources Council, but this keeps it at the present level for another year.

Mr. WHITTEN. Mr. Speaker, will the gentleman yield.

Mr. BEVILL. I yield to the gentleman from Mississippi.

Mr. WHITTEN. Mr. Speaker, as a member of the Appropriations Committee I wish to make the following statement.

This continuing resolution provides all the items in my district and in Mississippi for that matter which were in the original appropriations bill for fiscal year 1979.

Since we passed that bill questions have been raised about the available funds for the foothill area in my district. General funds are available to some degree for implementing Public Law 91–566.

Public Law 91–566 authorizes the use of Federal funds for the purchase of land rights in flood prevention watersheds and provides for cooperative efforts between the Soil Conservation Service and the Department of the Army in carrying out necessary measures for the prevention of erosion, floodwater, and sediment damages. I wish to point out that H.R. 12928, as contained in House Joint Resolution 1139, includes the following bill language:

not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District engineer and the State Conservationist.

A total of $1,500,000 is included in the resolution for streambank erosion control evaluation and demonstration in the Yazoo Basin, Miss.

Mr. Speaker, in addition to regular funds the foregoing funds shall be available for use in meeting the flood and erosion as well as bank caving of the foothill area, hill and delta from Grenada County, Mississippi to Memphis, Tenn. As the author of the foregoing law, I state this for the record.

Mr. Speaker, I am glad to see that the legislative committee has increased mileage to take care of the Appalachian Highway from Birmingham, Ala., to connect with such highway near Fulton, Miss., on to Highway 55 near Batesville, Miss., which our committee intended.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, I have conferred with the gentleman and the committee a number of times on the centrifuge add-on plant in the Portsmouth, Ohio, vicinity. At that time the subcommittee and ultimately the full committee provided $170 million for fiscal year 1979 to continue construction of that project.

Unfortunately, in the other body they only provided for $135 million, but at the insistence of my good friend, the gentleman from Alabama, the gentleman was able to bring that up to $150 million. That was in the bill, of course, that the President vetoed and we were unable to override that veto.

Now, is that full $150 million in this continuing resolution?

Mr. BEVILL. Every penny of the $150 million is in there. The gentleman has been in touch with me constantly on this. I congratulate the gentleman from Ohio for his efforts in this area. This is a good project. All the money is in there.

I might say, every energy project that this House approved at the very beginning is in here. There are thousands of energy and water projects in this bill. They are good projects, no apologies for any of them. They are still in there.

Mr. HARSHA. Mr. Speaker, if the gentleman will yield further, I want to thank the gentleman for his compassionate consideration of my pleas in this regard. This is a very important project in this area. It is highly underdeveloped. We have a lot of unemployment there. It will not only help meet the country's energy needs as far as nuclear energy, but it will go a long way to alleviate unemployment there.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, the gentleman mentioned that the 2,300 employees that have been struck and will probably be in various ways replaced by contracting out, is it possible they could end up just costing about the same?

Mr. BEVILL. It will cost more, frankly.

Mr. ROUSSELOT. It will cost more?

Mr. BEVILL. Yes. This is the testimony presented to our committee, but we are not in a position to cut that.

Mr. ROUSSELOT. I understand, we are delighted to help out the President, but it will probably cost more?

Mr. BEVILL. It will probably cost more.

Mr. ROUSSELOT. Fantastic.

Mr. Speaker, I thank the gentleman.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from New Jersey.

Mr. HUGHES. Mr. Speaker, there is in this continuing resolution, as I understand it, money for the Barneget Inlet and the Cape May, or Lower Township projects of the Corps of Engineers for the next fiscal year?

Mr. BEVILL. Yes, this is correct.

Mr. HUGHES. I understand that the 11 projects that were eliminated, in addition to the 6 hit-list projects, were just for construction. There were no planning or advanced design engineering projects eliminated?

Mr. BEVILL. The 11 construction projects eliminated, I think 53 are funded for planning.

Mr. HUGHES. Specifically with respect to Barneget Inlet, and Cape May or Lower Township, they were planned and designed.

Mr. BEVILL. They are exactly as they were. They have not been touched.

Mrs. LLOYD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. Mr. Speaker, on the relationship of House Joint Resolution 1139 and the Clinch River project (CRBR), I would like to make these points:

First. House Joint Resolution 1139, in section 101(c), as reported by the Senate Appropriations Committee, includes such amounts as may be necessary, notwithstanding any other provision of this joint resolution, for the fiscal year ending September 30, 1979, for programs, projects, and activities to the extent and in the manner provided for in the Energy and Water Development Appropriation Act, 1979 (H.R. 12928) as enacted by the Congress.

The resolution, therefore, has the effect of including expressly all of the Department of Energy (DOE) funding in H.R. 12928, as previously enacted by the Congress and vetoed by the President without an override.

Second. The Senate Appropriations Committee report on House Joint Resolution 1139, Senate Report 95–1317 of October 11, 1978, states as follows on page 5:

> The provisions of H.R. 12928, including the House and Senate reports and the conference report (House report 95–1490) shall have full force and effect unless negated by the provisions of this joint resolution.

Consequently, it is clear that the express intent of the Senate Appropriations Committee, and therefore the Senate, if that section is passed without further modification, is that the legislative history of H.R. 12928, "shall have full force and effect * * *."

Third. The conference report for the bill H.R. 12928, House Report 95–1490, states as follows on page 6:

> The conferees have provided an allowance of $172,400,000 to carry out the breeder reactor demonstration project or project alternative approved by Congress in authorizing legislation, and for no other purpose.

Since the Senate report on House Joint Resolution 1139 clearly and unambiguously states that this conference report and its direction for the use of these funds shall apply with, "full force and effect," it is absolutely clear that the $172.4 million must be used for CRBR or a "project alternative approved by Congress in authorizing legislation, and for no other purpose." There can be no possible interpretation other than the conclusion that these funds are for CRBR or for a project alternative approved by Congress in authorizing legislation.

Fourth. The legislative history associated with H.R. 12928 in the House and Senate floor debates further adds weight to the conclusion that these funds are exclusively for CRBR or a congressionally authorized alternative. For example, Senator MCCLURE's statement on the H.R. 12928 conference report, on page 31853 of the September 27, 1978 CONGRESSIONAL RECORD, discusses in great detail the use of the appropriated funds for CRBR or a congressionally authorized alternative. Similarly, the House floor debate includes a similar discussion in the statement of the floor manager and Appropriations Subcommittee chairman, Congressman BEVILL, on page 29498 of the September 14, 1978 CONGRESSIONAL RECORD.

Fifth. It is also extremely noteworthy that President Carter's veto message of October 5, 1978 on the bill H.R. 12928 includes the following statements on the CRBR issue:

> H.R. 12928 also contains energy research and development programs which are important to our Nation's energy future. These appropriations are generally in accord with national needs, and I support them.

It further states:

> I am pleased to note that the energy research and development portions of the bill are acceptable and meet important national needs. In a constructive step, this bill provides that decisions on the Clinch River Breeder Reactor project—or possible alternatives—will be determined in the Department of Energy authorization bill, the appropriate place to resolve this issue.

It is clear, therefore, that the President and the administration are fully cognizant of the clear and unambiguous legal requirements and limitations which are attached to the $172.4 million and which will require that the funds be used exclusively to continue CRBR in fiscal year 1979.

Sixth. As is obvious to the Congress and the administration, this Congress has not yet authorized any "project alternative approved by Congress in authorizing legislation," since this Congress has not yet passed any new authorization legislation for the Department of Energy, and it does not appear now that we will pass any such legislation in the 95th Congress. It is indisputably clear, therefore, that the only—I repeat, only—legally authorized use for these funds of $172.4 million can be for the CRBR. I recognize, of course, that the Budget Control and Impoundment Act of 1974 does provide procedures for deferral and rescission of these funds, but that would only be on the basis of further, future actions taken by the President and the Congress pursuant to those procedures.

Seventh. All of the rulings by the Comptroller General of the United States, since President Carter first announced on April 7, 1977, his intention to terminate CRBR, have held that any funds appropriated for the project must be used to continue the project, unless and until the Congress amends the authorizing statute for CRBR. The most recent ruling occurred on March 10, 1978, regarding the Supplemental Appropriations Act for 1978 (Public Law 95–240), in which the Comptroller General held that the $80 million for CRBR contained in that supplemental appropriations had to be used for CRBR, in the absence of a deferral or a rescission. I ask unanimous consent that a copy of the March 10, 1978, opinion be included in the RECORD at this point. It is absolutely clear under that ruling that the $172.4 million contained in this bill similarly must be used to continue CRBR.

Eighth. I, therefore, conclude that House Joint Resolution 1139 can be construed as a matter of law as only making available appropriations exclusively for CRBR at this time, and further that there can be no change in the use of these funds as a matter of law without: First, new congressional authorization in the future; second, a deferral, or third, a rescission.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 10, 1978.

Hon. JAMES R. SCHLESINGER,
Secretary, Department of Energy

DEAR MR. SCHLESINGER: We note that the President signed into law H.R. 9375, the Supplemental Appropriations Act, 1978, on March 7, 1978, Public Law 95–240. This bill, among other things, provides $80 million for the Clinch River Breeder Reactor (CRBR) project. In connection with enactment of H.R. 9375, the following statement was issued on the President's behalf by the Office of the White House Press Secretary:

"I continue to believe that the construction of the CRBR is an unproductive use of our taxpayers' dollars, which will not enhance our ability to call upon the breeder to meet our energy needs. The $80 million contained in this bill for the CRBR will be used to complete the systems design for this reactor and *to terminate further CRBR activities in an orderly way.*" (Emphasis added.)

In letters dated June 23, 1977, to the Vice Chairman of the Joint Committee on Atomic Energy, and December 5, 1977, to the Chairman of the House Committee on Science and Technology, copies enclosed, this Office concluded that appropriations for the CRBR project may only be used in accordance with the constraints of section 106 of Public Law 91–273, as amended by section 103(d) of Public Law 94–187. As stated in these letters, we believe that section 106 and the statutory criteria for the program approved by the Joint Committee on Atomic Energy require that funds available for this project be used only for the design, development, construction, and operation of a liquid metal fast breeder reactor and that they may not be used to terminate such activities. In this connection, our June 23, 1977, letter concluded that implementation of a plan to use available funds to curtail substantially the project would be without authority of law. You will note that our letter of December 5, 1977, affirmed the June 23, 1977, opinion in its consideration of the uses to which the $80 million contained in H.R. 9375 could properly be put.

If the executive branch were to use any part of the $80 million provided in Public Law 95–240 "to terminate further CRBR activities," such use would not be in accord with section 106 of Public Law 91–273, as amended. In that event any expenditures inconsistent with the enclosed opinions would be disallowed by this Office. It is re-

quested that you immediately so inform the concerned certifying officers in view of the provisions of 31 U.S.C. 82c which state, in pertinent part:

"The officer or employee certifying a voucher shall * * * be held accountable for and be required to make good to the United States the amount of any * * * payment prohibited by law * * *."

If we find payments made in disregard of our opinion on the scope and operation of section 106, you are further informed that, in light of this advance notification provided, relief from liability of the certifying officers involved will not be granted under the first proviso of 31 U.S.C. 82c.

Copies of this letter are being sent to the President of the United States, the Director of the Office of Management and Budget, the Secretary of the Treasury, and to the Chairmen of those Committees of the Congress having interest in the matter.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of this legislation. I want to commend the gentleman from Alabama for an outstanding job.

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of the amendment to add to the continuing resolution those provisions of the Energy and Public Works Appropriations bill, H.R. 12928, which have been agreed to by my colleagues in the House of Representatives and by the other body, and would like to compliment the members of the House Appropriations Committee for their untiring efforts to reach final agreement on this legislation. The gentleman from Alabama (Mr. BEVILL), the chairman of the Subcommittee on Public Works and the gentleman from Indiana (Mr. MYERS), the ranking minority member on the subcommittee, have worked long and hard to bring this bill back to the House today in an acceptable form. Their endless negotiations throughout the night have proven fruitful and I commend them for their able leadership in this matter.

I would also like to thank the gentleman from Texas (Mr. MAHON), the chairman of the Appropriation Committee, for his willingness to move ahead with the legislation. I have had the honor of working with him for many years on appropriations matters. His retirement from the Congress will certainly leave a void in the appropriations process which will not be easily filled. He has always been willing to listen to the needs of my congressional district and has always acted in complete fairness and with the highest degree of integrity in helping me to advance those projects necessary to my district.

The confrontation with the administration over this legislation could have been avoided. The fact that we are again sending this measure to the President verifies the fact that an agreement could have been reached without the need for a veto. As I have said before, the Congressional Budget Control and Impoundment Act of 1974 gives the President the tools he needs to oppose a particular project or program. Instead of using these tools, he choose to veto the entire bill. This did not have to occur.

The President criticized the original legislation which passed the House on June 16 as being inflationary despite the fact that the bill we passed was $878 million less than the budget presented by him and his administration. The agreement reached today is $1,768,000 more than the bill vetoed as a result of the direct request of the President that funding be added for the Water Resources Council and the personnel needed to operate the council. I believe the President's statements in this regard have been misleading to the American people and that these figures speak for themselves.

There is no doubt in my mind that some necessity does exist for the continuation of the Water Resources Council to enable the administration and the Congress to work together to establish a national water policy. I believe it is unfortunate that the administration did not make its request to the House Appropriations Committee in time for the committee to consider his request as part of the original legislation. We have today accommodated the President's request.

I urge my colleagues to accept this amendment.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I want to commend the gentleman for having worked out an outstanding result under very difficult circumstances.

I would just like to pin down one thing. I understand there are some nongermane amendments in the sense that the Senate has insisted on, such as $16 million for the Olympic Committee which the House knocked out 2 nights ago from another bill. I am not going to raise any point on that. I think the point has been made, and it would be useless at this time.

I would just like to ask the gentleman this question, and I am going to be very specific:

Is there anything in this bill that would repeal anything as to the State of Alaska, the Antiquities Act, any portion of the BLM Act, or any repeal in general of any other act for that matter?

Mr. BEVILL. Mr. Speaker, the only changes in this amendment that add or subtract are the ones I have mentioned. I am speaking about this amendment No. 2. That is what I am talking about. I am not talking about other portions of the resolution.

Mr. SEIBERLING. Mr. Speaker, I wonder if I might ask the distinguished chairman of the Committee on Appropriations if he can answer that question.

Mr. MAHON. Mr. Speaker, if the gentleman will yield, amendment No. 4 does repeal section 406 of Public Law 95-426. This is the so-called "high one" for Foreign Service officers which allows Foreign Service officers to count their highest 1-year salary for retirement purposes.

Mr. SEIBERLING. Is that the only repealer in this act?

Mr. MAHON. That is the only one.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. BEVILL. Mr. Speaker, I do not think I have much time left.

Mr. MAHON. Mr. Speaker, I have time, and I will yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I think the gentleman from Ohio (Mr. SEIBERLING) is trying to specify what nongermane amendments might be in here. Is that what the gentleman is discussing?

Mr. SEIBERLING. Right.

Mr. BAUMAN. I would point out to the gentleman that the bill creates two additional top level positions for the other body, for their efforts. It also has $16 million in it for the Olympic Committee that we discussed the other day.

Mr. SEIBERLING. I am aware of that, and I wanted to explore whether there were any others. The committee chairman mentioned one other. I am just trying to find out if there are any others, particularly those repealing statutes or portions thereof.

Mr. BAUMAN. The gentleman might want to read it. It is a very interesting resolution.

Mr. SEIBERLING. I have read it. I am just trying to get it on the record.

Mr. MAHON. Mr. Speaker, I am going to yield time to the gentleman from Mississippi, but first I yield 3 miinutes to the ranking minority member of the Subcommittee on Public Works the gentleman from Indiana (Mr. JOHN T. MYERS).

Mr. JOHN T. MYERS. Mr. Speaker, I thank the gentleman for yielding this time to me. I apologize for taking the time, but I think there needs to be some clarification on exactly what is taking place here because of what we read in the papers, that the President wins a "big one" and the House and the Senate lie down and play dead for the President.

I do not think there were any winners on this issue, and certainly the American people have not been winners in this instance.

The subcommittee chairman and the Members in colloquy have identified what is in this particular amendment No. 2, but there are a couple of other items that I think we should cover.

First, the six projects that were taken out on the 11th day were removed from construction status to planning, and there is no agreement apart from full funding that has been in question. There has been no commitment by either the other body or by this body about what agreement there will be between the White House and the Congress in the future.

The President thinks that last year we had an agreement with him that we would not be considering these projects in the future, but I think everyone here should understand there has been no agreement this year.

There is one other item I certainly want to speak about here, and that is what the chairman of the committee spoke about: the 2,300 jobs. The money is still in there for the jobs. The mandatory language that the President would have to hire people for dam inspection is out of it

There is no question that at least these jobs and at least the dams we

spelled out in the original bill are not to be included. According to the colloquy of the gentleman from California, there would have to be contracts, and the contracts now are more expensive than they would be in-house.

So there is no question that the bill is going to cost more.

This is my last remark: How many Members stood here in the well, and elsewhere, when we had under consideration the veto of the water energy development appropriation bill and excused their sustaining the veto on the ground that they wanted to fight inflation? And that is a worthy fight. They wanted to hold the line on expenditures, they did not want to be budget busters. I am not going to leave the 95th Congress here and not say what is in this bill. This bill, coming back as a continuing resolution, provides for $1,768,000 more than the bill vetoed by the President; $1,768,000. I know you are agonizing. I hear the agony.

Mr. ROUSSELOT. Mr. Speaker, if the gentleman will yield, what was that figure?

Mr. JOHN T. MYERS. $1,768,000 more than the President's veto bill.

Mr. ROUSSELOT. If the gentleman will yield further, the President promised us that it was going to be less.

Mr. JOHN T. MYERS. It could not be done. We told him that.

Mr. ROUSSELOT. Mirrors again.

Mr. MAHON. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 3 is as follows: Page 6, line 2, strike out "March 31, 1979," and insert: Page 6, line 2, "September 30, 1979,".

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 3.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 4 is as follows: Page 7, after line 14, insert:

SEC. 109. Section 406 of Public Law 95-426 is repealed.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 4.

The motion was agreed to.

The SPEAKER. The Clerk will designate the next amendment in disagreement.

Senate amendment No. 5 is as follows: Page 7, after line 14, insert:

SEC. 110. Title II of the Department of Transportation and Related Agencies Appropriation Act, 1979 (Public Law 95-335), is amended by striking out under the heading "UNITED STATES RAILWAY ASSOCIATION" "PAYMENTS FOR PURCHASE OF CONRAIL SECURITIES" all that follows after the last comma and inserting in lieu thereof a period.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 5.

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, this Senate amendment would amend title II of the Department of Transportation and Related Agencies Appropriation Act, 1979 (Public Law 95-335) by deleting the language which makes the appropriation for the purchase of ConRail securities contingent upon passage of authorizing legislation.

The Transportation Appropriation Act for fiscal year 1979 contained a total of $300 million for the purchase of ConRail securities. Of this amount, $226 million has not yet been authorized. The original authorization for ConRail was $2.1 billion. The Supplemental Railroad Appropriation Act, 1976 included an appropriation of $2.026 billion for ConRail. The appropriation of the remaining $74 million of the original authorization is contained in this year's Transportation Act. This leaves $226 million which is contingent upon passage of authorizing legislation.

As I understand it, the House is scheduled to consider the ConRail authorization (H.R. 12161) before we quit sine die. That bill would authorize a total of $1.2 billion for the purchase of ConRail securities. A similar authorization passed the Senate on August 1, 1978. If this authorization is enacted, this amendment, of course, would not be necessary. However, without the enactment of authorizing legislation, ConRail will be out of money by January 1979. This could result in the termination of rail service to a significant part of the country and I understand that the Secretary of DOT concurs in this statement.

Mr. MAHON. Mr. Speaker, I ask for a vote on the motion.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 6: Page 7, line 14, insert:

Section 111, for payment to Rhode Island Indian Claims Settlement Fund, $3,500,000 as authorized by Public Law 95-395, 3,500,000 to remain available until expended.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 6.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Senate Amendment numbered 7: Page 7, after line 14, insert:

SEC. 112. Section 105(e)(3) of the Legislative Branch Appropriation Act, 1968, as amended and modified (2 U.S.C. 61-1(e)(3)), is amended—

(1) by striking out "four" in subparagraph (A) and inserting in lieu thereof "two";

(2) by striking out "two such" in subparagraph (A) and inserting in lieu thereof "four such"; and

(3) by striking out "three such" in subparagraph (B) and inserting in lieu thereof "five such"."

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 7.

The motion was agreed to.

The SPEAKER. The Clerk will report the final amendment.

The Clerk read as follows: Senate amendment numbered 8:

Page 7, after line 14, insert:

SEC. 113. (a) The Secretary of Commerce (hereinafter in this section referred to as the "Secretary") is authorized to award grants to the United States Olympic Committee (hereinafter in this section referred to as "the Corporation") to assist in the development of amateur athletics in the United States. The Corporation may apply to the Secretary for funds available under this section, and shall use such funds consistent with the provisions of the Amateur Sports Act of 1978. The Secretary may approve any application which meets the requirements of this section, and award grants to the Corporation in a total sum not exceeding $16,000,000 to finance the construction, improvement, and maintenance of facilities for programs of amateur athletic activity and to defray direct operating costs of programs of amateur athletic activity, consistent with Section 104 of the Act entitled "An Act to incorporate the United States Olympic Association", approved September 1, 1950 (36 U.S.C. 371 et seq.), as amended by the Amateur Sports Act of 1978.

(b) The Corporation shall, on or before the first day of June of each year, transmit to the Congress a report which shall include a detailed accounting of the funds made available to the Corporation by the Secretary pursuant to subsection (a) and a comprehensive description of those projects which the Corporation anticipates it will finance during the next fiscal year with funds authorized by this section.

(c) Each application for funds available under this section shall be in such form as the Secretary shall provide and shall contain provisions to assure that such funds are disbursed in accordance with the provisions of this section. For the purpose of review or audit, the Secretary shall have access to any books, documents, papers, and records which are relevant to any grant received under this section.

(d) There are authorized to be appropriated to the Secretary not to exceed $16,000,000 in fiscal year 1980 such sums to remain available until expended.

Mr. MAHON (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MOTION OFFERED BY MR. MAHON

Mr. MAHON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MAHON moves that the House concur in the amendment of the Senate numbered 8.

Mr. Speaker, I ask for recognition.

The SPEAKER. The gentleman from Texas is recognized.

Mr. MAHON. Mr. Speaker, I yield to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Speaker, I thank the gentleman from Texas for yielding. The gentleman and the Members of the House know of my interest in this legislation. We just voted on it Friday and I thought we had taken care of this giveaway then, but, here it is back again.

I would like to say, though, that by reading the language that now appears in the Senate amendment, it is much improved over the language that we had in the original bill. I would first like to note that there is only $16 million rather than $30 million as in the original bill. There is only $16 million, is that correct?

Mr. MAHON. The gentleman is correct.

Mr. VOLKMER. And last night in the original bill, language that was stricken provided that the Secretary of Commerce shall approve any application for money, that he had no discretion whatsoever, and that if the Olympic Committee merely made an application for a grant, the Secretary had to approve it, because the language was, "shall approve it," and give them the money. I understand this language contains the word "may," and it is discretionary with the Secretary whether to give them a grant and discretionary with the Secretary as to the amount.

Mr. MAHON. The gentleman is entirely correct in his comment.

Mr. VOLKMER. I also note that there is improvement in the language as to the use that the money can be given for, and also as to the accountability for the funds for audit. Is that not correct?

Mr. MAHON. I believe the gentleman is correct.

Mr. VOLKMER. Well, even though as a matter of principle I still do not feel that the taxpayers' money should be used for this, I would like to say that it is much improved.

Mr. MAHON. I yield to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. I thank the chairman for yielding.

Mr. Speaker, Members will recall that when we first considered this measure it included $30 million and it was brought up under suspension of the rules. The vote was 244 for and 158 Members against. Then at 1 o'clock yesterday morning there were just a few Members present on the floor when the bill was finally read for amendment under the 5-minute rule. The gentleman from Missouri (Mr. VOLKMER) offered an amendment to strike all the funds, and I must say this Member was taken somewhat by surprise by the number of Members present who supported this extreme amendment. It was my feeling that such an amendment would have been summarily defeated and the House would then have considered the amendment proposed to be offered by the gentleman from Ohio (Mr. KINDNESS) which was to have been somewhat less drastic. So I take the responsibility for the amendments passing as I simply did not take the time to answer the questions that had been propounded. Members were shouting "Vote. Vote. Let's get on with it." and in deference to the wishes of the House I decided not to make my case as I could have done so well.

Yesterday as we were attending the funeral of Ralph Metcalfe, the priest preaching the memorial service made mention of two fields in which Ralph Metcalfe excelled, in politics and athletics and reference was made to the Second Epistle of Paul the Apostle to Timothy:

> I ran a good race.
> I have fought a good fight.
> I have finished my course.
> I have kept the faith.

That moved me so at the time when I recalled that I had not run my race really well in defending what Ralph Metcalfe would have fought hard for if he had been here, and I decided then that I would come back and if at all possible breathe new life into this measure.

Now we have this amendment coming over from the other body. It is less money than the original bill had provided, but I think it is sufficient. This is still a one-shot proposition. As the gentleman from Missouri conceded, the language is more tightly drawn and I think it is a good measure. We can all be proud of the fact that we have done something positive to help field our best team of athletes for the 1980 Olympics. Furthermore, we will have done something for women, blacks, and other minorities as well as the handicapped, in the overall field of amateur sports.

Mr. MICHEL. Mr. Speaker, I, along with the nearly 100 cosponsors of this bill, are concerned about the loss of funding from this bill. We believe the money is necessary and essential to achieve the very laudable purposes of the act.

The Senate had initially agreed on an authorization of $30 million to be given in the form of grants to the U.S. Olympic Committee. The bill minus the money has already passed the House and Senate and would restructure the USOC to make it the coordinating body for amateur athletic activity in this country; upgrade and make autonomous the sports national governing bodies; centralize sports medicine; and for the operation of national training centers for use by all Americans.

The money has now been reduced by the other body to $16 million and the language redrafted to authorize its funding for more specific purposes. This was done in an effort to accommodate the legitimate concerns of those Members who objected to the earlier funding language. Funds are now to be expended by the USOC, pursuant to the provisions of the act, to finance the construction, improvement, and maintenance of facilities for programs of amateur athletic activity, and to defray direct operating costs of programs of amateur athletic activity. The language has been tightened considerably by earmarking the use of the funds for these purposes. We feel that these changes meet the concerns of those over the funds being used for salaries or anything that would contribute to a "amateur sports bureaucracy."

By the adoption of my amendment yesterday as well as by the language of this amendment the Congress is given better oversight over the use of these funds. Before the USOC receives any money it must submit to the Congress as well as the Appropriation Committees of the two Houses a comprehensive description of those projects which the USOC anticipates it will finance during the next fiscal year, as well as a description of how moneys already received have been spent.

I feel by including these changes the other body has done a great deal to satisfy the demands of some in this body over the use of funds by the USOC. Mr. Speaker, I urge the House to overwhelmingly adopt this amendment proposed by the other body.

I would like to insert in the RECORD at this point a comparison of the financial assistance language of this amendment with that previously reported:

S. 2727—THE AMATEUR SPORTS ACT PROPOSED FUNDING AUTHORIZATION FOR THE UNITED STATES OLYMPIC COMMITTEE
COMPARISON WITH BILL AS REPORTED BY THE HOUSE JUDICIARY COMMITTEE

	House bill reported	*Proposed amendment*
1. Amount authorized.	$30,000,000.	$16,000,000.
2. Purpose.	Development and operation of programs consistent with U.S. Olympic Committee objects and purposes.	Construction, improvement and maintenance of facilities for programs of amateur athletic activity and defraying direct operating costs of programs of amateur athletic activity.
3. Secretary's discretion.	Secretary required to approve applications meeting requirements of the section.	Secretarial discretion to approve such applications.
4. Oversight.	No express provision.	Requirement that U.S. Olympic Committee report to Congress proposed expenditures of authorized funds, as well as account for past expenditures of authorized funds.
5. Appropriation year.	Fiscal year 1980.	Same.
6. Authorized secretary.	Treasury.	Commerce.
7. Audit authority of secretary.	Any books, documents, papers and records relevant to the grant.	Same.

I would like to point out for the purpose of legislative history that the report of the Senate Commerce Committee on S. 2727 states:

The Committee understands that in the sports of shooting, canoeing, and kayaking, the responsibilities of the national governing body are discharged by an independent committee acting within the framework of a larger multipurpose organization. It is not the intention of the Committee to impose the representational requirements on the board of the multipurpose organization itself, but only on the independent committee acting as the NGB in the sport.

Despite wording changes in the Judiciary Subcommittee, I believe that the interpretation in the Senate Committee report would still hold.

It is my understanding that the Senate interpretation would hold as the subcommittee changes reflect the degree and kind of representation not the level of representation.

Mr. Speaker, I would like to say at this point that if it had not been for the efforts of people like JACK KEMP and others, this proposition would never have gotten off the ground. JACK, as well as many other athletes, were in constant touch with me and my office to offer their assistance during the progress of this legislation. My hat is off to all those amateur athletes of this great country of ours as this bill is for them.

I would like to insert at this point copies of some of the telegrams I received from athletes on behalf of this legislation. I am doing this so that everyone will know of their sincere interest and concern for its passage. Most athletes do not have the financial resources that other sports organizations have to lobby for their position and were not able to saturate the 435 offices of the Members of this House as the opposition has done. So, on behalf of the athletes of America, I include the following:

TELEGRAMS

Hon. ROBERT H. MICHEL,
Rayburn House Office Building,
Washington, D.C.:

As an AAU athlete, five-time Olympian and winner of two Silver Medals in women's track and field events, I urge your support for the Amateur Sports Act (H.R. 12626) now on the floor. The fair treatment of all sports and amateur athletes depends on its passage. The AAU bureaucracy in opposition does not speak for me or the AAU athletes with whom I'm associated.

WILLYE WHITE.

As an Olympic athlete I urge the passage of the Amateur Sports bill.

BRUCE JENNER.

DEAR CONGRESSMAN ROBERT MICHEL: We urge you in the best interest of the athlete to vote for bill S. 2727—H.R. 12626 despite the negative position of the AAU Sports Federation. They do not represent the position of the athlete. This bill will greatly enhance and help the amateur athlete that is long overdue.

LEAH POULOS MUELLER.
PETER MUELLER.

We urge you in the best interest of the athletes to vote for bill S. 2727—H.R. 12626, despite the negative position of the AAU Sports Federation. They do not represent the position of the athlete. This bill will greatly enhance and help the amateur athlete and is long overdue.

SHEILA YOUNG OCHOWICZ.

DEAR CONGRESSMAN ROBERT H. MICHEL: I am writing on behalf of the AAU athletes in the sport of luge in United States. We are vitally concerned about the passage of House bill H.R. 12626. Passage of this legislation is imperative to insure the future of successful USA participation in the Olympic games. We urge your support of this legislation which will bring the United States sports program to a level with other sports powers of the world. Without it we compromise our continued excellence in world wide amateur sports. Sincerely

KATHLEEN HOMSTAD.

The athletes I represent in the sport of diving support H.R. 12626, as a charter member and former chairperson of the athletes advisory council I also represent the views of U.S. olympic athletes we wish to speak for ourselves on this issue the athletes support, repeat support H.R. 12626

Micki King Gold Metal 1972 commissioner poos 62nd Maw/Office of Information Mcchod AFB WA 98438 (Olympic House 1750 East Boulder Colorado NS C080909

Hon. ROBERT H. MICHEL,
House of Representatives

Urgent. The Amateur Basketball Association of the United States of America as the sole national governing body for basketball in the unit D States continues to strongly urge your support for S-2727 H.R. 12626. Thank you.

WILLIAM L. WALL,
Executive Director.

The Amateur Sports Act of 1978 H.R. 12626. As spokesman for Revae Scott, Ricky Davenport, Olympian Fred Newhouse, and Larry Shipp, and as a member of the USOC, AAU Track and Field, Athletic Advisory Council, President of the Baton Rouge Track Club, and most important a four time olympian, I strongly urge the passage of this proposed legislation. Time does not permit expression of the importance of this bill to our athlete ambassadors.

WILLIE D. DAVENPORT.

Please vote for the sports bill today.

DORIS BROWN HERITAGE.

We urge you in the best interest of the athletes to vote for bill S2727-H.R. 12626 despite the negative position of the AAU Sports Federation. They do not represent the position of the athlete, this bill will greatly enhance and help the amateur athletes and is long overdue.

DAN IMMERFALL MADISON.

We urge you in the best interest of the athletes to vote for bill S. 2727-H.R. 12626. Despite the negative position of the AAU Sports Federation they do not represent the position of the athlete. This bill will greatly enhance and help the amateur athletes and is long overdue.

JENNY FISH BAKER.

We urge you in the best interests of the athletes to vote for bill S. 2727-H.R. 12626 despite the negative position of the AAU Sports Federation. They do not represent the position of the athletes. This bill will greatly enhance and help the amateur athletes and is long overdue.

KEN HENRY.

As an Olympic athlete, I urge passage of the Amateur Sports bill.

KENNETH C. MOORE.

We urge you in the best interests of the athletes to vote for bill S. 2727-H.R. 12626 despite the negative position of the AAU Sports Federation. They do not represent the position of the athlete. This bill will greatly enhance and help the amateur athlete and is long overdue.

ANNE HENNING WALKER.

Vote for passage S. 2727, Amateur Sports Act of 1978 which is absolutely necessary for development of amateur sports in United States.

ANDY KNOX.

As the swimming representative to the Athletes Advisory Council of the USOC, I would like to express our support of the amateur athletes bill H.R. 12626 including the restructuring and the one time $30 million appropriation and ask for your support of this important legislation.

RICK COLELLA.

We urge you in the best interest of the athletes to vote for bill S. 2727-H.R. 12626, despite the negative position of the AAU Sport Federation. They do not represent the position of the athlete.

This bill will greatly enhance and help the amateur athlete and is long overdue.

DIANNE HOLUM.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Speaker, while I have serious reservations about the basic concept of providing this 8/6 million in funding to the U.S. Olympic Committee, I want to compliment the committee for supporting an amendment that seems to protect the taxpayers' interest unlike the prior measure we voted on.

In order to make sure that is the case, I would like to ask the chairman if it is his understanding the Secretary of Commerce before giving any grant could request a detailed description from the Olympic Committee as to how it is going to spend its money?

Mr. MAHON. The gentlewoman is absolutely correct.

Ms. HOLTZMAN. It is my understanding also in terms of what money can be spent on, that the money cannot be spent on salaries and other intangible costs.

Mr. MAHON. It cannot be spent on salaries for the United States Olympic Committee.

Ms. HOLTZMAN. I thank the gentleman for those assurances.

Mr. SEIBERLING. Mr. Speaker, will the chairman yield?

Mr. MAHON. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I would like to say this. There are two basic problems that were involved with the bill we dealt with 2 nights ago. One involved the question of whether we are going to approve another new program to extend the long arm of the Federal Government into amateur athletics and also extend it into the taxpayer's pocket to pay for the program. And the second one was whether, if we do that, we are going to require that it be done in a sound way from the standpoint of accounting and auditing and standards.

I would like to commend the committee for having in this bill made some real progress in the second matter and also for reducing the money from $30 million to $16 million.

I still feel that the concept is wrong and that we should not be undertaking it. Just because Ralph Metcalfe, who was a dear friend of mine, wanted it does not mean he was right. But I know when I am licked. I am grateful to the commit-

tee for at least cleaning up the procedure for spending this money. However, I can clearly see the camel's nose under the tent, and I am afraid it is only a matter of time before we have another huge Federal program in an area that up to now has been wholly reserved to the private sector.

Mr. MAHON. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Mr. Speaker, I thank the gentleman for yielding. I too share in the remarks that have previously been made. We fought very hard in the Committee on the Judiciary about this matter. The subcommittee did not want any funding. The full committee divided very closely. I think this is a foregone conclusion now, but at least we have some review. It would be my hope that we would do it ahead of time rather than after the fact, would review and approve, very carefully, anything that the Olympic Committee proposes to the Secretary of Commerce.

Mr. EDWARDS of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Oklahoma (Mr. EDWARDS).

Mr. EDWARDS of Oklahoma. Mr. Speaker, I thank the gentleman for yielding. I am not going to object to the bill; in fact, I will support the bill and I will vote for it.

I would like, though, to make one comment on what the distinguished gentleman from Illinois (Mr. MICHEL) said.

I was one of the Members who fought to delete the funding the other night. I was paying attention. Many Members on the floor were paying attention. I have heard funeral orations in which I was moved. I have read and heard things which moved me deeply, but that did not impel me then to want to go and turn around the clearly expressed will of the House of Representatives. And I do not really like the way this was done.

Mr. MICHEL. Mr. Speaker, will the gentleman yield further?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, may I say that I respect the gentleman's views. As I said when we were under suspension of the rules, there were 158 Members of the House who voted against the bill, but there was practically a hundred-vote margin in favor of the measure.

I do want to say to my friend, the gentleman from Ohio (Mr. SEIBERLING) that I recognize full well his strong feeling about the possibility of this not being a one-shot proposition. I have contended all along that that is exactly what it is going to be. It has got to be. I say it publicly here in front of all the Members. I will reaffirm that pledge at any time in the future because I believe that it has got to be that way.

Mr. DRINAN. Mr. Speaker, if the gentleman will yield, does the gentleman from Illinois (Mr. MICHEL) mean, when he says a one-shot deal, does he mean $16 million or $30 million?

Mr. MICHEL. It has got to be $16 million.

Mr. DRINAN. I thank the gentleman.

Mr. MICHEL. I have to abide by the will of the membership.

Mr. MAHON. Mr. Speaker, before we vote on this amendment, I wanted to take a moment to observe that this appropriation measure is the last piece of legislation which I will have the honor of handling in the House of Representatives.

I believe it is appropriate for me at this time to point out that it would not be possible for the various committees of the House to execute their responsibilities without the support, cooperation, and encouragement of the leadership. I just wish to say that the Speaker, the majority leader, the minority leader and other officials of the House have been wonderful in helping us to handle the often complex and demanding workload of the Committee on Appropriations. Through their personal interest and concern and with the understanding and constant cooperation of their staff, our work has been facilitated.

The SPEAKER. The question is on the motion offered by the gentleman from Texas, Mr. MAHON.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CONSUMER PRODUCT SAFETY ACT AUTHORIZATION ACT OF 1978

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2796) to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Consumer Product Safety Act Authorization Act of 1978".

SEC. 2. Section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended by (1) striking out "and" at the end of phrase (3); (2) striking out "1978." and inserting in lieu thereof "1978;"; and (3) inserting the following at the end thereof:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

SEC. 3. (a) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively;

(3) in subparagraph (C) as so redesignated in paragraph (2), by striking out "and" at the end thereof; and

(4) by striking out subparagraph (D), as so redesignated in paragraph (2), and the two sentences following subparagraph (D), and inserting in lieu thereof the following:

"(D) include—

"(i) an invitation for any person (other than the Commission), within 30 days after the date of publication of the notice, to submit to the Commission an existing standard as the consumer product safety standard; and

"(ii)(I) an invitation for any person (other than the Commission), within 30 days after the date of publication of the notice, to offer to develop the consumer product safety standard; or

"(II) a statement by the Commission that it has determined, in accordance with the provisions of paragraph (2)(A), that development by the Commission is a more expeditious method of developing a consumer product safety standard which would adequately protect the public from the unreasonable risk of injury associated with such product than proceeding under subclause (I), and that the Commission intends to develop the standard in accordance with the provisions of paragraph (2)(B); and

"(E) specify the period in which the offeror of an accepted offer, or the Commission, is to develop the proposed standard.".

(b) Section 7(b) of the Consumer Product Safety Act, as amended in subsection (a), is further amended by adding at the end thereof the following new paragraph:

"(2)(A) After consultation with such interested parties as the Commission shall deem necessary, the Commission may develop a consumer product safety standard without making any invitation specified in paragraph (1)(D)(ii)(I) whenever the Commission determines, taking into account—

"(i) the nature of the risk of injury associated with such product;

"(ii) the expertise of the Commission with respect to such risk of injury; and

"(iii) the resources available to the Commission and the priorities established by the Commission;

that development by the Commission is a more expeditious method of developing a consumer product safety standard which would adequately protect the public from the unreasonable risk of injury associated with such product than proceeding under paragraph (1)(D)(ii)(I). The Commission shall give interested persons opportunity to submit written comments to the Commission during the 30-day period following publication of such determination under paragraph (1).

"(B) Regulations prescribed by the Commission under subsection (d)(3)(B) and subsection (d)(3)(C) shall apply to any action by the Commission under this paragraph.

SEC. 4. (a) Section 7(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(1)) is amended by inserting "subsection (b)(2) and" after "as provided by", and by striking out "(b)(4)(B)," and inserting in lieu thereof "(b)(1)(D)".

(b) Section 7(e)(1) of the Consumer Product Safety Act (15 U.S.C. 2056(e)(1)) is amended by adding at the end thereof the following new sentences: "Regulations prescribed by the Commission under subsection (d)(3)(B) and subsection (d)(3)(C) shall apply to any action by the Commission under this paragraph resulting from the circumstances specified in subparagraph (A). The provisions of subsection (b)(2)(C) also shall apply to any such action by the Commission.".

(c) Section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) and the Commission does not publish a proposed consumer product safety standard within 45 days after the expiration of the period specified in subsection (b)(1)(E), the Commission shall—

"(1) by notice published in the Federal Register, terminate the proceeding begun by such notice published pursuant to subsection (b); or

"(2) publish in the Federal Register the

reasons for not publishing the proposed standard and specify the time period within which such standard will be published.".

SEC. 5. Section 7(c) of the Consumer Product Safety Act (15 U.S.C. 2056(c)) is amended to read as follows:

"(c) Notwithstanding subparagraph (D)(ii) of subsection (b)(1), if the Commission determines that any standard has been issued, adopted, or proposed by any other Federal agency or by any other qualified agency, organization, or institution, and that such standard, if adopted, in whole, in part, or in combination with any other such standard (or portion thereof), would eliminate or reduce the unreasonable risk of injury associated with the product, then it may in lieu of proceeding under this section, publish such standard, in whole or in part, or such combination of standards, with nonmaterial modifications as a proposed consumer product safety rule. If the Commission adopts such standard or standards in part, then it may limit any invitation or statement under subparagraphs (D)(ii) (I) and (II) of subsection (b)(1) to such appropriate material modification of the remaining provisions as would eliminate or reduce the unreasonable risk of injury associated with the product.

SEC. 6. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by striking out "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner." and inserting in lieu thereof the following: "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.".

(b) Section 4(i) of the Consumer Product Safety Act (15 U.S.C. 2053(i)) is amended by striking out "before January 1, 1978," in paragraph (1)(A) thereof; and by striking out "before January 1, 1978" in paragraph (1)(B) thereof.

SEC. 7. Section 27 of the Consumer Product Safety Commission Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"(m)(1) For purposes of this subsection:

"(a) the term 'commission' means Consumer Product Safety Commission;

"(b) the term 'rule' means

"(1) any rule prescribed by the Commission pursuant to section 9 of the Consumer Product Safety Act (15 U.S.C. 2058);

"(2) any rule prescribed by the Commission pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(B));

"(3) any rule prescribed by the Commission under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472);

"(4) any rule prescribed by the Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

"(m)(2) Within 18 months after the date of the enactment of this Act, the Commission shall conduct a study of all the rules which the Commission has issued and which are in effect on the date of the enactment of this Act. At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress which shall, to the extent practicable and appropriate—

"(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendation; and

"(B) recommend the initiation of appropriate rule-making proceedings under the Consumer Product Safety Act (15 U.S.C. 2076) to make changes or modifications in particular rules or portions of rules.

"(m)(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of Congress of such proposal at the time such proposal is published in the Federal Register.

"(m)(4)(A) To the extent practicable and appropriate, the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the date of the enactment of this Act—

"(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

"(ii) a paperwork impact analysis containing—

"(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records that are kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(III) a description of steps being taken by the Commission to insure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

"(iii) a judicial impact analysis showing the effect of such rule on the operation, workload, and efficiency of the Federal courts, including an analysis of the cost impact on and benefits to court administration changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

"(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

"(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this paragraph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

"(ii) If any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such material is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.

"(m)(5) The Committee on Commerce, Science, and Transportation of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives shall, in the exercise of their oversight responsibilities, examine, study, and take other appropriate action with respect to the report submitted to the Congress under this subsection and referred to such committees.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ECKHARDT

Mr. ECKHARDT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ECKHARDT: Strike all after the enacting clause and substitute in lieu thereof the following:

That section 32(a) of the Consumer Product Safety Act (15 U.S.C. 2081(a)) is amended—

(1) in paragraph (2), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) $55,000,000 for the fiscal year ending September 30, 1979;

"(6) $60,000,000 for the fiscal year ending September 30, 1980; and

"(7) $65,000,000 for the fiscal year ending September 30, 1981.".

SEC. 2. (a) Section 4(a) of the Consumer Product Safety Act (15 U.S.C. 2053(a)) is amended by striking out "Senate, one of whom shall be designated by the President as Chairman. The Chairman, when so designated shall act as Chairman until the expiration of his term of office as Commissioner." and inserting in lieu thereof the following: "Senate. The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, from among the members of the Commission. An individual may be appointed as a member of the Commission and as Chairman at the same time.".

(b) Section 4(i) of the Consumer Product Safety Act (15 U.S.C. 2053(i)) is amended by striking out "before January 1, 1978," in paragraph (1)(A) thereof; and by striking out "before January 1, 1978" in paragraph (1)(B) thereof.

SEC. 3. (a) Section 7(b) of the Consumer Product Safety Act (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraph (1) through paragraph (4) as subparagraph (A) through subparagraph (D), respectively;

(3) in subparagraph (C) as so redesignated in paragraph (2), by striking out "and" at the end thereof; and

(4) by striking out subparagraph (D), as so redesignated in paragraph (2), and the two sentences following subparagraph (D), and inserting in lieu thereof the following:

"(D) include—

"(i) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to submit to the Commission an existing standard as the proposed consumer product safety standard; and

"(ii)(I) an invitation for any person (other than the Commission), within thirty days after the date of publication of the notice, to offer to develop the proposed consumer product safety standard; or

"(II) a statement that the Commission intends to develop the proposed consumer product safety standard; and

"(E) specify the period of time in which the offeror of an accepted offer and the Commission, or the Commission acting by itself, is to develop the proposed standard.".

(b) Section 7(b) of the Consumer Product Safety Act, as amended in subsection (a) is further amended by adding at the end thereof the following new paragraph:

"(2) After consultation with such interested parties as the Commission shall deem necessary, the Commission may develop a consumer product safety standard without making any invitation specified in paragraph (1)(D)(ii)(I) and may publish such standard as a proposed consumer product safety rule whenever the Commission determines, taking into account—

"(i) the nature of the risk of injury associated with such product,

"(ii) the expertise of the Commission with respect to such risk of injury,

"(iii) the expertise of the Commission in developing consumer product safety standards, and

"(iv) the resources available to the Commission and the priorities established by the Commission.

that to develop a consumer product safety standard which would adequately protect the public from such risk of injury, it is more expeditious for the Commission to develop the standard than to proceed under paragraph (1)(D)(ii)(I) for its development. The Commission shall give interested persons opportunity to submit written comments to the Commission during the thirty-day period following publication of such determination under paragraph (1).".

SEC. 4. (a)(1) Section 7(d)(1) of the Consumer Product Safety Act (15 U.S.C. 2056 (d)(1)) is amended by inserting "subsection (b)(2) and by" after "as provided by"; by striking out "subsection (b)(4)(B)" and inserting in lieu thereof "subsection (b)(1)(D)(ii)(I)", and by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)(E)".

(2) The first sentence of section 7(d)(2) of the Consumer Product Safety Act (15 U.S.C. 2056(d)(2)) is amended—

(A) by inserting "or if any person participates with the Commission in the development of a consumer product safety standard under subsection (b)(2)(A) or subsection (e)," after "under this subsection";

(B) by inserting "or the person's cost with respect to such participation" after "safety standard"; and

(C) by inserting "or person" after "offeror".

(3) Section 7(d) of the Consumer Product Safety Act (15 U.S.C. 2056(d)) is amended by adding at the end thereof the following new paragraph:

"(4) The Commission shall prescribe regulations governing the development of proposed consumer product safety rules by the Commission under subsection (b)(2) and subsection (e)(1). Such regulations shall include the requirements specified in subparagraphs (B), (C), and (D) of paragraph (3)."

(b) Section 7(e) of the Consumer Product Safety Act (15 U.S.C. 2056(e)) is amended to read as follows:

"(e)(1) If the Commission publishes a notice pursuant to subsection (b)(1)(D)(ii)(I) for the development of a consumer product safety standard and if the Commission does not, within 30 days after the date of publication of such notice, accept an offer to develop such a standard, then the Commission may develop a proposed consumer safety rule with respect to such product and publish such proposed rules.

"(2) If the Commission accepts an offer to develop a proposed consumer product safety standard under subsection (b)(1)(D)(ii)(I), the Commission may not develop a proposed consumer product safety rule or publish such proposed rule unless—

"(A) the development period specified in subsection (b)(1)(E) for such standard ends;

"(B) no offeror whose offer was accepted is making satisfactory progress in the development of such proposed standard; or

"(C) the sole offer accepted under subsection (b)(1)(D)(ii)(I) is that of an offeror which is the manufacturer, distributor, or retailer of a consumer product proposed to be regulated by the consumer product safety standard.".

(c) Section 7(f) of the Consumer Product Safety Act (15 U.S.C. 2056(f)) is amended to read as follows:

"(f) If the Commission publishes a notice pursuant to subsection (b) and the Commission does not publish a proposed consumer product safety standard within forty-five days after the expiration of the period specified in subsection (b)(1)(E), the Commission shall—

"(1) by notice published in the Federal Register, terminate the proceeding begun by such notice published pursuant to subsection (b); or

"(2) publish in the Federal Register the reasons for not publishing the proposed standard, and specify the time period within which either such standard will be published or the proceeding begun by such notice published pursuant to subsection (b) will be terminated without publication of such proposed standard.

The reasons referred to in paragraph (2) may include a statement that the Commission is considering other approaches (such as a voluntary consumer safety standard adopted by persons who would be subject to such proposed standard) to eliminate the unreasonable risk of injury that is the subject of such proceeding.".

(d) Paragraphs (1) and (2) of section 9(a) of the Consumer Product Safety Act (15 U.S.C. 2058(a)) are each amended by striking out "section 7(c), (e)(1), or (f) or section 8" and inserting in lieu thereof "section 7 or 8".

SEC. 5. Section 7(c) of the Consumer Product Safety Act (15 U.S.C. 2056(c)) is amended to read as follows:

"(c) If the Commission determines—

"(1) that any standard submitted to it pursuant to an invitation made under subsection (b)(1)(D)(i), or

"(2) that any standard (other than one submitted under subsection (b)(1)(D)(i)) issued, adopted, or proposed by any Federal department or agency (other than the Commission) or by any other qualified agency, organization, or institution, if promulgated (in whole, in part, or in combination with any other standard described in paragraph (1) or (2) or any part of such a standard) as a consumer product safety rule, would eliminate or reduce an unreasonable risk of injury associated with a consumer product, the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule. In the case of a standard described in paragraph (2), the Commission may publish such standard, in whole, in part, or in such combination and with nonmaterial modifications, as a proposed consumer product safety rule without making an invitation under subsection (b)(1)(D)(i).".

SEC. 6. (a) Section 18 of the Consumer Product Safety Act (15 U.S.C. 2067) is amended—

(1) by inserting "(a)" after "SEC. 18.", by inserting "(A)" after "unless", and by inserting before ", and (2)" the following: ", or (B) the Commission determines that exportation of such product presents an unreasonable risk of injury to consumers within the United States,"; and

(2) by adding at the end thereof the following new subsection:

"(b) Not less than thirty days before any person exports to a foreign country any product—

"(1) which is not in conformity with an applicable consumer product safety standard in effect under this Act, or

"(2) which is declared to be a banned hazardous substance by a rule promulgated under section 9,

such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis for such safety standard or rule. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such product, the country and port of destination of such product, and the quantity of such product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date."

(b) Section 19(a) of the Consumer Product Safety Act (15 U.S.C. 2068 (a)) is amended—

(1) in paragraph (8), by striking out "or";

(2) in paragraph (9), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (9) the following new paragraph:

"(10) fail to file a statement with the Commission pursuant to section 18(b).".

(c) Section 20(a) of the Consumer Product Safety Act (15 U.S.C. 2069(a)) is amended in paragraph (1) by striking out "(8), or (9)" and inserting in lieu thereof "(8), (9), or (10)".

SEC. 7. (a) Section 4 of the Federal Hazardous Substances Act (15 U.S.C. 1263) is amended by adding at the end the following new subsection:

"(i) The failure to notify the Consumer Product Safety Commission with respect to exports, pursuant to section 14(d).".

(b) Clause (3) of section 5(b) of the Federal Hazardous Substances Act (15 U.S.C. 1262(b)) is amended—

(1) by striking out "in respect of" and inserting in lieu thereof "with respect to"; and

(2) by inserting before ", this clause" the following: "or if the Consumer Product Safety Commission determines that exportation of such substance presents an unreasonable risk of injury to persons residing within the United States".

(c) Section 14 of the Federal Hazardous Substances Act (15 U.S.C. 1273) is amended—

(1) in the section heading by adding "AND EXPORTS" after "IMPORTS"; and

(2) by adding at the end thereof the following new subsection:

"(d) Not less than thirty days before any person exports to a foreign country any misbranded hazardous substance or banned hazardous substance, such person shall file a statement with the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and the basis upon which such substance is considered misbranded or has been banned under this Act.

Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such substance, the country and port of destination of such substance, and the quantity of such substance that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

SEC. 8. (a) Section 15 of the Flammable Fabrics Act (15 U.S.C. 1202) is amended—

(1) in subsection (a) by inserting before "; except that" the following "; unless the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') determines that exportation of such fabric, related material, or product presents an unreasonable risk of injury to persons residing within the United States";

(2) in subsection (b) by inserting before "; except that" the following "; unless the Commission determines that exportation of such fabric, related material, or product pre-

sents an unreasonable risk of injury to persons residing within the United States"; and

(3) by adding at the end the following new subsection:

"(c) Not less than thirty days before any person exports to a foreign country any fabric, related material, or product that fails to conform to an applicable flammability standard or regulation in effect under this Act, such person shall file a statement with the Commission notifying the Commission of such exportation, and the Commission, upon receipt of such statement, shall promptly notify the government of such country of such exportation and of the basis for such flammability standard or regulation. Any statement filed with the Commission under the preceding sentence shall specify the anticipated date of shipment of such fabric, related material, or product, the country and port of destination of such fabric, related material, or product, and the quantity of such fabric, related material, or product that will be exported, and shall contain such other information as the Commission may by regulation require. Upon petition filed with the Commission by any person required to file a statement under this subsection respecting an exportation, the Commission may, for good cause shown, exempt such person from the requirement of this subsection that such a statement be filed no less than thirty days before the date of the exportation, except that in no case shall the Commission permit such a statement to be filed later than the tenth day before such date.".

(b) Section 7 of the Flammable Fabrics Act (15 U.S.C. 1196) is amended by inserting after "8(b) of this Act" the following: ", or who fails to comply with section 15(c) of this Act,".

SEC. 9. Section 2(1) of the Federal Hazardous Substances Act (15 U.S.C. 1261 (1)) is amended to read as follows:

"(1)(1) The terms 'extremely flammable', 'flammable', and 'combustible' as applied to any substance, liquid, solid, or the content of a self-pressurized container shall be defined by regulations issued by the Commission.

"(2) The test methods found by the Commission to be generally applicable for defining the flammability or combustibility characteristics of any such substance shall also be specified in such regulations.

"(3) In establishing definitions and test methods related to flammability and combustibility, the Commission shall consider the existing definitions and test methods of other Federal agencies involved in the regulation of flammable and combustible substances in storage, transportation and use; and to the extent possible, shall establish compatible definitions and test methods.

"(4) Until such time as the Commission issues a regulation under paragraph (1) defining the term 'combustible' as applied to liquids, such term shall apply to any liquid which has a flash point above eighty degrees Fahrenheit to and including one hundred and fifty degrees, as determined by the Tagliabue Open Cup Tester.".

SEC. 10. The Federal Hazardous Substances Act (15 U.S.C. 1261 et seq.) is amended by adding at the end thereof the following new section:

"TOXICOLOGICAL ADVISORY BOARD

"SEC. 20. (a)(1) Within 180 days after the date of the enactment of this section, the Consumer Product Safety Commission (hereinafter in this section referred to as the 'Commission') shall establish, in accordance with subsection (b), a Toxicological Advisory Board (hereinafter in this section referred to as the 'Board') to advise the Commission on precautionary labeling for hazardous substances. The Board shall provide scientific and technical advice to the Commission concerning—

"(A) proper labeling under sections 2(p)(1) and 3(b), with special attention to—

"(i) the description of precautionary measures required under section 2(p)(1)(F);

"(ii) the statement describing the hazards associated with a hazardous substance as required under section 2(p)(1)(E); and

"(iii) instructions for first-aid treatment under section 2(p)(1)(G); and

"(B) the exemption of certain substances from labeling requirements under this Act as permitted under section 3(c).

"(2) In carrying out its duties under paragraph (1)(A), the Board shall review any labeling requirements or guidelines which have been established by the Commission under section 2(p)(1) or 3(b). Based upon its review the Board shall develop and submit to the Commission, within one year after the date that the Board is established, any recommendations for revisions in such labeling requirements or guidelines which the Board considers to be appropriate, including any general recommendations which may be of assistance to the Commission in carrying out its responsibilities under section 2(p)(1) or section 3(b). The Board shall periodically review the labeling requirements and guidelines established by the Commission under such sections to determine whether such requirements and guidelines reflect relevant changes in scientific knowledge and shall revise any general recommendations submitted to the Commission under this paragraph to reflect such changes.

"(b)(1) The Board shall be composed of nine members appointed by the Commission. Each member of the Board shall be qualified by training and experience in one or more fields applicable to the duties of the Board, and at least three of the members of the Board shall be members of the American Board of Medical Toxicology. The Chairman of the Board shall be elected by the Board from among its members.

"(2) The members of the Board shall be appointed for terms of three years. Members of the Board may be reappointed.

"(3) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term.

"(4) The Board shall meet at such times and places as may be designated by the Commission in consultation with the Chairman, but not less than two times each year.

"(5) Members of the Board who are not officers or employees of the United States shall, while attending meetings or conferences of the Board or while otherwise engaged in the business of the Board, be entitled to receive compensation at a rate fixed by the Commission, not exceeding the daily equivalent of the annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332 of title 5, United States Code. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703(b) of such title. Individuals serving as members on the Board shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

"(c) The Board shall terminate on the date six years after the date it is established under this section.".

SEC. 11. Section 27 of the Consumer Product Safety Act (15 U.S.C. 2076) is amended by adding at the end thereof the following new subsection:

"(m)(1) For purposes of this subsection, the term 'rule' means—

"(A) any rule prescribed by the Commission pursuant to section 9;

"(B) any rule prescribed by the Commission pursuant to section 2(q)(1)(B) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(1)(B));

"(C) any rule prescribed by the Commission under section 3 of the Poison Prevention Packaging Act (15 U.S.C. 1472); and

"(D) any rule prescribed by the Commission under section 4 of the Flammable Fabrics Act (15 U.S.C. 1193).

"(2) Within 18 months after the effective date of this subsection, the Commission shall begin a study of all the rules which the Commission has issued and which are in effect on such effective date.

At the end of such 18-month period, the Chairman of the Commission shall submit a report to the Congress which shall, to the extent practicable and appropriate—(taking into account the resources and priorities of the Commission)—

"(A) recommend the deletion of particular rules and portions of rules, including reasons for such recommendations; and

"(B) recommend the initiation of appropriate rulemaking proceedings under this Act to make changes or modifications in particular rules or portions of rules.

"(3) In any case in which the Commission proposes to delete any rule or portion of a rule during the 18-month period specified in paragraph (2), the Commission shall notify each House of the Congress of such proposal at the time such proposal is published in the Federal Register.

"(4)(A) To the extent practicable and appropriate (taking into account the resources and priorities of the Commission), the Chairman of the Commission shall include in the report submitted to the Congress under this subsection, for each rule which the Commission has issued and which is in effect on the effective date of this subsection—

"(i) an economic impact analysis which takes into account, for such rule, the cost impact on and benefits to consumers and affected businesses (with particular attention to small businesses);

"(ii) a paperwork impact analysis containing—

"(I) an estimate of the numbers of, and a description of the classes of, persons who are required to file reports, maintain records, and fulfill any of the information-gathering requirements under such rule;

"(II) an estimate of the nature and amount of the information required to be filed in such reports, the frequency of such reports, the nature and number of records required to be kept by such persons, and the amount of time such persons would require, and the costs which would be incurred, to keep such records and make such reports; and

"(III) a description of steps being taken by the Commission to ensure that there is no unnecessary duplication in recordkeeping and report filing resulting from such rule;

"(iii) a judicial impact analysis showing the effect of such rule on the workload of the Federal courts; and

"(iv) such other explanatory and supporting statements and materials as the Commission determines necessary and appropriate for congressional consideration of such report.

"(B)(i) Except as provided in clause (ii), no material submitted to the Congress by the Chairman of the Commission under this paragraph shall be subject to any judicial review, including any judicial review to determine whether such material is sufficient to comply with the requirements of this paragraph. In the event the Chairman of the Commission finds that it is impractical or inappropriate to submit the information required under clauses (i) through (iii) of subparagraph (A), the Chairman of the Commission shall submit a statement as to why he cannot so comply.

"(ii) If any material submitted to the Congress by the Chairman of the Commission under this paragraph also is included in any rulemaking record of the Commission, any determination regarding whether such ma-

terial is subject to judicial review in connection with any review of such rulemaking record shall not be affected by the submission of such material to the Congress under this paragraph.".

Mr. ECKHARDT (during the reading). Mr. Speaker, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. ECKHARDT) for 1 hour.

Mr. ECKHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, the substitute amendment would strike the provisions in sections 5, 7, and 8 of the bill that require exporters to give the Consumer Product Safety Commission advance notice of the shipment of any product, substance or fabric not in compliance with a proposed safety standard. Manufacturers would still be required to give such notice with respect to products not in compliance with a final safety standard.

Several members of the committee expressed the concern that it was not appropriate to subject an exporter to these disclosure requirements until the nature and scope of the unreasonable risk were clearly defined. They noted that there are often substantial differences between the hazard as defined in a proposed rule and in a final rule. To alleviate those concerns, amendment A would strike those controversial provisions.

Second, the amendment would establish a Toxicological Advisory Board. This Board would provide the Commission with technical assistance on first-aid instructions for toxic household products. Each year an estimated 60,000 to 70,000 children under 5 are accidently poisoned by common household products. Recently, several poison control center directors warned that the first-aid instructions on many commonly used household products are inaccurate, inadequate, and, in some instances, highly dangerous. The situation has become so serious that Consumer's Union reported in January 1978 that:

> In treating any poisoning, don't place much reliance on the first-aid instructions on package labels. They're often old-fashioned and inaccurate and may increase the likelihood of serious or fatal injury. Some current labels reflect the state of the Art 20 or 30 years back.

This Advisory Board, which would be composed of experts in first-aid for poisonings, would be required to review and make recommendations on the Agency's labeling requirements and guidelines within 1 year. It would also periodically review the Commission's guidelines for 5 years and then be disbanded.

Third, the amendment would modify the Federal Hazardous Substances Act to allow the Commission to use a closed cup test in determining whether a substance should be classified as "extremely flammable," "flammable," or "combustible." Under the present law, the Commission is required to use an "open cup" test to determine flammability. However, this open cup test often produces anamolous results. In some instances, substances have been considered "flammable" under an open cup test conducted by CPSC and "combustible" under a closed cup test conducted by DOT. Thus, some substances must be marked with two different labels—one from each agency. In addition to being more accurate, the closed cup test is much cheaper than the presently mandated open cup test. This change is supported by the Commission.

Fourth, the substitute amendment makes several technical changes in the bill such as the correction of errors and the proper placement of provisions within the Consumer Product Safety Act.

Fifth, the amendment incorporates several meritorious provisions taken from the companion Senate bill. S. 2796. Although the House and Senate bills are similar, there is obviously insufficient time to hold the conference that would be required to reconcile the differences between the bills. In order to prevent this most important legislation from dying, the substitute amendment would add several provisions from the Senate bill to the House bill so that the Senate could adopt the House-passed version immediately.

The amendment would provide that the Chairman of the Commission serve at the pleasure of the President and be appointed with the advice and consent of the Senate. It would also permanently extend the so-called accountability provision, which permits suits against the Commission for misrepresentations, deceit, or gross negligence. Further, the amendment would require the Commission to study and make recommendations regarding existing rules promulgated by the Commission. It is not our intent to require the Commission to study and make recommendations regarding rules which the Commission did not itself promulgate under the cited provisions of the acts. Since the Commission reissued those rules which it inherited under section 30 of the Consumer Product Safety Act, it is my understanding that they would not fall within the purview of this amendment. The recommendations required under this amendment would include a report on the economic, paperwork, and judicial impact of each rule proposed to be retained or modified. While this is a relatively new agency, several of its regulations such as the architectural glass standard, the matchbook standard, the swimming pool slide standard, and the mattress standard require review and recodification.

Under the amendment, the Commission would be required to begin this study and submit a report to Congress within 18 months. We recognize that the evaluation process called for in the amendment will be time consuming and require a substantial commitment of Agency resources. For that reason, we have given the Agency some flexibility to determine what is practicable and appropriate for it to do in light of its resources and priorities. I do not think that we can honestly expect the Commission to complete the full study within 18 months. However, it is important that these existing rules be reviewed, and therefore we expect a good faith effort on the part of the Commission to accomplish as much as it can within the 18 months.

Finally, the substitute amendment incorporates an amendment which the gentleman from North Carolina (Mr. NEAL) planned to offer. The gentleman's amendment would clarify the Commission's authority to suspend a mandatory safety standard development effort in order to allow an industry sponsored voluntary standard development effort to procede. I support the gentleman's change and have included it in this substitute amendment.

I yield to the gentleman from North Carolina (Mr. NEAL) who has been so helpful to our subcommittee and committee in fashioning this most constructive amendment.

Mr. NEAL. Mr. Speaker, I wish to congratulate both the chairman and the ranking minority member on the effort they have made in encouraging noninflationary voluntary compliance on the part of industry and for their support of my amendment. Certainly, one very proper goal of Government ought to be to encourage constructive and proper voluntary action without intrusive governmental involvement. Federal regulations constantly bombard business and industry, costing them and the public billions of dollars every year. Recently, Federal regulation has been increasingly recognized as contributing significantly to inflation. Not only is mandatory regulation often very inflationary, but, perhaps just as important, it tends to discourage voluntary technological breakthroughs immediately after mandatory standards are set.

The purpose of my amendment is to give the Consumer Product Safety Commission (CPSC) another official option, in addition to publishing or not publishing a standard. My amendment simply tells the Commission that a suspension of regulatory involvement by the Commission in order to allow an industry to proceed with a truly voluntary program is to be considered an official and constructive position, not a do-nothing position, as it might be accused. This suspension of the regulatory proceedings would not signify official approval of voluntary standards nor would it mean that publication of such standards would follow. It would simply mean that after considering the attitude and substance demonstrated by an industry, the Commission feels it is in the best interest of all concerned to encourage voluntary action and to give industry a chance to demonstrate its program.

It is important to note that even publication of a voluntary standard tends to lock in technology and discourage research and innovation by both industry and Government. It is the intent of this amendment to help create a period of intense research and innovation by an industry, during its demonstration period, which might obviate the need to publish any standard.

Mr. Speaker, in introducing my amendment I had in mind the furniture industry which is so important to my district and to the entire State of North Caro-

lina. The CPSC is currently evolving a set of proposals designed to lower the flammability of furniture. Preliminary standards have already been suggested. All indications are that mandatory flammability standards will be recommended to the Commission by its staff. At the same time, the furniture industry is implementing its own comprehensive voluntary program designed to reduce flammability by 97 percent.

It has been estimated that the voluntary program will cost industry about $25 million a year. Any program of this nature would take up to 20 years to reach the desired goals, so the entire industry program would cost about $500 million. By contrast, it is estimated that the Government suggested mandatory flammability standards could cost the industry (and ultimately consumers) about $1 billion per year, or $20 billion over the same period. This voluntary program is scheduled to be in place within 1 year, while any Government program of this nature would take at least 3 years to implement, even without delays caused by litigation.

It is recognized that the industry's program would probably never have been instituted had it not been for the threat of mandatory standards, and the Commission should be commended for its motivating influence. However, under the current act, the Agency has only two explicit options: publish standards or terminate the proceedings. Neither choice would seem appropriate for the problem as it is. Flammability problems have been determined to exist. A voluntary program, which if successful would prove vastly superior to mandatory Government standards, has also been implemented. Yet, insufficient data is available to determine the precise suitability of the voluntary program.

Mr. Speaker, my amendment would provide CPSC with a third explicit option: temporary suspension of the proceedings, allowing the industry sufficient time to prove its program. If the industry program proved successful, it would seem both logical and desirable for the Commission to terminate proceedings without publishing either mandatory or voluntary standards.

It is important to remember that my amendment still leaves the Commission ultimately responsible for identifying and solving problems but makes clear that self-policing by industry, where possible, should be the first choice of the Federal Government.

I believe my amendment will benefit consumers, industry and those working in the Federal Government. If this approach proves to be as successful as I believe it will be, it can be a model for other Government agencies. I believe it will unleash a flood of creativity in private enterprise and the administration and will benefit the whole structure of our society.

Mr. Speaker, I urge my colleagues to adopt the amendment.

● Mr. WAXMAN. Mr. Speaker, I am delighted to rise in support of the committee amendment. The amendment provides for establishment of a Toxicological Advisory Board (TAB). The TAB is created to provide the Consumer Product Safety Commission with much needed technical advice on the preparation of precautionary labels for hazardous household products.

NEED FOR TOXICOLOGICAL ADVISORY BOARD

In recent months, medical experts and parents have expressed concern over the effectiveness and safety of first-aid instructions displayed on product labels. Poison control experts nationwide have charged that many first-aid instructions could, if followed, cause serious injury.

The situation has become so serious that Consumers Union recommended in the January 1978 issue of Consumer Reports that parents not place reliance on tne first-aid instructions of package labels. The consumer organization stressed that many first-aid instructions can be old-fashioned and inaccurate. Some instructions may actually increase the likelihood of serious or fatal injury.

For example, salt water has been recommended as an emetic for many years. But salt water is not considered acceptable treatment by most medical experts because it is relatively ineffective and can be highly toxic to young children. Several fatalities have occurred as a result of this treatment.

Neutralization is another frequently cited first-aid remedy which is largely ineffective and potentially dangerous. The treatment is usually recommended for accidental ingestions of products containing acid or lye. There is, however, little evidence that the use of fruit juice to treat a lye poisoning will mitigate the severity of the resulting burn.

In fact, some poison control experts believe neutralization can actually aggravate a poison injury by compounding the burn or causing the stomach to distend. Others believe no antidote can be administered for these caustic poisonings and that dilution with milk or water is the only possible treatment.

Tragically, the labels of some household substances continue to recommend these and other outmoded forms of first-aid treatment.

Mr. Speaker, in any poison emergency seconds count. Often first-aid instructions are a parent's only means of treating his child's suffering. Parents have a right to be assured that these instructions will be safe, effective and reflect prevailing standards of medical excellence. This degree of confidence is presently not available.

The responsibility to maintain the effectiveness of first-aid instructions lies with the Consumer Product Safety Commission.

CONGRESSIONAL OVERSIGHT

On July 21, 1978, the Commerce Subcommittee on Oversight and Investigations conducted a public meeting to receive testimony on this issue. The meeting was held at Childrens Hospital in Los Angeles, Calif.

Witnesses appearing before the subcommittee included:

Wallace D. Winters, M.D., director, Regional Poison Center, University of California, Davis, Calif.

William D. O'Riordan, M.D., past president, California Chapter of the American College of Emergency Physicians, Los Angeles, Calif.

Corrine Ray, R.N. director, Poison Information Center, Childrens Hospital of Los Angeles, Los Angeles, Calif.

Michael Brown, Executive Director, U.S. Consumer Product Safety Commission, Washington, D.C.

Fred Marozzi, Ph. D., Chief, Product Analysis Branch, Division of Safety Packaging and Scientific Coordination, U.S. Consumer Product Safety Commission, Washington, D.C.

Michael Gidding, Trial Attorney, Division of Regulatory Management, Bureau of Compliance, U.S. Consumer Product Safety Commission, Washington, D.C.

The public medical experts testified that many first-aid labels reflected antiquated medical advice. As health professionals, they expressed deep concern that first-aid instructions must reflect prevailing medical standards to be effective.

Speaking for the CPSC, Executive Director Michael Brown generally accepted as valid criticism of the Commission's first-aid labeling policy. Mr. Brown stressed that the Commission lacked the scientific expertise to properly evaluate the quality and safety of first-aid instructions listed on individual product labels. He cautioned that the preparation of first-aid instructions was a highly complex task which required a thorough knowledge of toxicology and medicine.

To correct outdated first-aid labels, the public witnesses strongly urged the creation of a board composed of medical and toxicological experts. The board would be charged with advising the Commission on standards for first-aid and other precautionary labeling of hazardous houshold products.

CPSC Executive Director Brown conceded that the lack of an expert advisory group prevented the Commission from thoroughly reviewing the adequacy of current labeling standards. He added that an advisory panel of toxicological experts would be an appropriate and welcome addition to the technical resources available to the Commission.

Mr. Speaker, I request that an article from the Los Angeles Times, which describes the July 21, 1978. subcommittee meeting, be printed in the RECORD at this point:

ANTIDOTE LABELS ON MANY TOXIC PRODUCTS INEFFECTIVE, EXPERTS SAY

Many toxic household products have incorrect antidote labels, recommending remedies that may not only be ineffective but could prove fatal, a panel of poison-control experts charged during a public hearing in Los Angeles on the causes of and treatments for accidental poisoning of children.

Testifying at Childrens Hospital before Rep. Henry A. Waxman (D-Calif.), a member of the House Committee on Oversight and Investigations, the panel said Friday many products have inaccurate first-aid instructions, no list of ingredients or labels are difficult to read because of small print.

"There's no problem reading the product name but there is in reading the first-aid instructions," said Dr. Wallace Winter, director of the regional poison center at UC Davis.

Even when instructions are legible, they may advise remedies that are outdated or ineffective, warned another panelist, Dr. William O'Riordan, former president of the California chapter of the American College of Emergency Physicians.

"The Consumer Product Safety Commission should form a board of toxicologists to review labels on containers and standardize the instructions," O'Riordan recommended.

Michael Brown, executive director of the Consumer Product Safety Commission, responded that while he agreed with the doctor's recommendation, the commission did not have enough money or staff to form a review board.

Brown said that although manufacturers were required to place cautionary labels with first-aid instructions on toxic products, medical opinion about methods of treatment varied so much that the treatment listed might not be the best available.

Waxman also heard testimony on the dangers of ingesting some common household plants. Plants like philodendrons, azaleas and poinsettias can cause choking, burning of the throat and vomiting.

Creation of the Toxicological Advisory Board is a direct response to the concerns raised at this public meeting.

TAB JURISDICTION

The TAB has broad authority to advise the Commission on labeling guidelines and requirements pursuant to sections 2(p)(1), 3(b), and 3(c) of the Federal Hazardous Substances Act (FHSA). The Board has principle authority for assisting the Commission in developing useful precautionary and first-aid labeling instructions for hazardous household products.

The TAB is specifically charged with the responsibility of reviewing and keeping current CPSC labeling guidelines and requirements. Specific emphasis will be given to the first-aid instructions required under section 2(p)(1)(G) of the FHSA.

Within 12 months following creation, the TAB will review existing Commission labeling policy and recommend necessary additions and revisions. Among their first tasks during this study should be a review of the Commission's recent policy statement on emesis and an evaluation of the safety and efficacy of acid/base neutralization as a treatment for caustic ingestions. In addition, the Board should evaluate the effectiveness of the skull and crossbones as a deterrent to accidental poisonings among children.

In reviewing first aid and precautionary labels, the Board may consider both individual chemicals as well as specific product combinations. The Board should devote its energies and resources to the labeling of hazardous products which pose the greatest risk of short-term, acute toxicity. Carcinogenic, mutagenic, or other chronic hazards are not within the competence or jurisdiction of the TAB.

In addition to general labeling responsibilities, the TAB should take an active role in advising the Commission of situations when precautionary labeling of certain hazardous products cannot be written. If the TAB determines the risk of serious injury is such that labeling is an ineffective deterrent to serious injury, it may recommend the Commission remove the product from interstate commerce. Upon receipt of such recommendation, the Commission shall consider the initiation of appropriate regulatory action.

In making general policy or labeling recommendations to the Commission, the TAB shall forward them in the form of a majority or consensus position. In addition, such recommendations should include minority opinions as well as all documentation used to formulate TAB positions.

TAB STRUCTURE

The TAB is composed of nine members qualified by experience and training in the fields of toxicology and/or medicine. TAB members are selected by the Commission.

No fewer than three TAB members shall be certified members of the American Board of Medical Toxicology (ABMT). Members of the ABMT are uniquely qualified to provide expert advice on the treatment and assessment of accidental poisoning. Many members of the ABMT are medical directors of poison control centers and are actively providing medical care for acutely poisoned patients.

Each member of the ABMT must be a licensed physician and have practiced 5 years in a capacity which emphasized clinical toxicology. Standards for certification are rigorous and successful applicants are recognized experts in the clinical aspects of acute poisoning.

By setting aside one-third of the TAB membership for physicians certified by the ABMT, it was intended to assure the TAB a high degree of professional competence and expertise. The Commission is, of course, free to appoint more than three members of the ABMT to the TAB. The Commission should also give strong consideration to individuals representing the American College of Emergency Physicians and the American Academy of Pediatrics.

TAB members are appointed for terms of 3 years and may be reappointed. Reappointment authority is intended only for recognition of exceptional performance.

The TAB will meet a minimum of two times annually. This provision is intended as a floor and not as a bar to more frequent meetings. During the TAB's first annual review of CPSC labeling guidelines and requirements, the need for more frequent meetings is anticipated. The Commission is expected to provide the TAB with adequate staff and technical support to fulfill its responsibilities.

Mr. Speaker, the creation of a Toxicological Advisory Board is a proper and deliberate way to encourage an upgrading in the labeling of hazardous household products. I urge adoption of the amendment.●

Mr. ECKHARDT. Mr. Speaker, I urge the adoption of this amendment in the nature of a substitute.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Mr. Speaker, I rise in support of the bill, H.R. 12442. This legislation would extend the authorization of appropriations for the Consumer Product Safety Commission through 1981 and would amend certain provisions in the Product Safety Act to bring about more efficient operations at the agency.

Mr. Speaker, I recognize that the Consumer Product Safety Commission has been severely criticized from many quarters since it was established in 1972. Indeed, as one who was directly involved in the efforts to establish this Agency initially, I am also quite disappointed in some of the regulatory courses it has taken over the past several years. For example, back in 1972, I envisioned that one of the main functions of the agency would be to act as a catalyst in encouraging industry to establish and implement voluntary industrywide safety standards. I do not believe that the agency has done all it should in this area for two reasons. First, the agency, as is perhaps true with any new agency, seems to perceive a need to regulate rather than to find alternative, and I might add less expensive, ways to accomplish the goal of increased product safety. Second, the Product Safety Act, as originally drafted, created an inadvertent obstacle to the Commission's putting in place as a mandatory standard a voluntary industry standard. The bill before us today seeks to correct both problems.

Not only would this bill make it easier for the Commission to adopt voluntary standards, it would also allow the agency, in certain circumstances, to write safety standards in-house. At the present time, the agency is obligated to solicit offers to write standards from outside groups. Although this so-called offeror process was put in place to guarantee input from consumer and interested industry groups, it has proved to be, burdensome, inefficient, and inordinately time-consuming as it has been implemented by the Commission to date. To correct these problems, we have given the CPSC the authority, in certain cases, to write safety standards in-house. However, input from all interested parties is guaranteed if the Commission does proceed to write standards itself. I want to emphasize that in giving the Commission this authority, we do not intend that the Commission abandon the offeror process—we are still hopeful that the offeror process can be used in the majority of cases.

The mission of the Consumer Product Safety Commission is an extremely important one—that is, to rid the marketplace of products that pose an unreasonable risk to consumers. I agree that the Commission's performance to date has been less than impressive. However, it is too soon to talk about abolishing the agency. This bill would extend the life of the Agency for 3 more years. During that time we will be carefully reviewing the Agency's performance to determine whether consumers, industry, and the taxpayers are being fully served.

The amendment in the nature of a substitute was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ECKHARDT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

AUTHORIZING PRESIDENT OF THE UNITED STATES TO PRESENT A GOLD MEDAL TO WIDOW OF ROBERT F. KENNEDY

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8389) authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, after line 8, insert:

SEC. 3. (a) Section 4(c)(8) of the Bank Holding Company Act of 1956 (12 U.S.C. §1843 (c)(8)) is amended by striking the period at the end of the first sentence thereof and adding the following: ", but for purposes of this subparagraph it is not closely related to banking or managing or controlling banks for a bank holding company to provide insurance as a principal, agent, or broker under this subsection except (i) where the insurance is limited to insuring the life of a debtor pursuant to or in connection with a specific credit transaction or providing indemnity for payments due on a specific loan or other credit transaction while the debtor is disabled; or (ii) any insurance sold in a community that (A) has a population not exceeding 5,000 (as shown by the last preceding decennial census), or for a hearing, demonstrates that a city, town, or village has inadequate insurance agency facilities; or (iii) any insurance activity engaged in by a bank holding company or any of its subsidiaries prior to June 6, 1978; or (iv) any insurance agency activity engaged in by a bank holding company, or any of its subsidiaries which bank holding company has assets of $50 million or less." And on page 184, line 14, delete the period and quotation marks after the word "less" and insert the following: ", provided, however, such bank holding company and its subsidiaries may not engage in the sale or underwriting of life insurance or annuities except as provided in (i) or (ii) above."

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. STANTON. Reserving the right to object, Mr. Speaker, will the gentleman from Ohio quickly explain what this is.

What the gentleman is doing, I say to my friend, the gentleman from Ohio, is that he is taking out the nongermane amendment which was in the original bill, is that correct?

Mr. ASHLEY. If the gentleman will yield, Mr. Speaker, my colleague, the gentleman from Ohio, is entirely right.

Mr. Speaker, I appreciate his calling my attention to the fact that this action was possible.

As I was about to say, Mr. Speaker, within the last hour it was necessary for me to object to a unanimous-consent request to take H.R. 8389 from the Speaker's table because it did contain an amendment which was not germane. Inasmuch as that purpose has been accomplished and inasmuch as H.R. 8389 has been passed by the House, I would hope that we could send it back to the Senate as proposed.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. STANTON. Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I wonder whether the gentleman from Ohio (Mr. ASHLEY) would confirm my understanding that there is nothing in this except what was in the original House bill.

Mr. ASHLEY. If the gentleman will yield, that is precisely the situation.

Mr. STANTON. That is absolutely right.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. BRADEMAS). Is there objection to the request of the gentleman from Ohio?

Mr. PICKLE. Reserving the right to object, Mr. Speaker, could I ask the gentleman from Ohio whether he has checked with the gentleman from New York (Mr. HANLEY) on this matter.

Mr. ASHLEY. If the gentleman will yield, I would say to the gentleman that only in the last few minutes did I return to the floor of the House.

Mr. PICKLE. Would the gentleman from New York have no objection to it?

Mr. ASHLEY. This is not an effort to bypass the gentleman from New York (Mr. HANLEY) in any way whatever.

The gentleman from Ohio (Mr. STANTON) advised me that this was possible under the rules. I had overlooked that fact, and we decided to proceed with the matter as expeditiously as possible.

Mr. PICKLE. I am sure that the gentleman from New York (Mr. HANLEY) would not have wanted to stop the passage of the first part of the bill. I am sure that he is interested in striking the medal, but I would have hoped that he would have been contacted so that he would know this action was taking place.

Mr. ASHLEY. I quite agree with the gentleman. The gentleman from New York (Mr. HANLEY) is of one mind with the gentleman from Ohio (Mr. STANTON) and myself in this matter.

Mr. PICKLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 13750, IMPLEMENTING THE INTERNATIONAL SUGAR AGREEMENT BETWEEN THE UNITED STATES AND FOREIGN COUNTRIES

Mr. LONG of Louisiana, from the Committee on Rules, submitted a privileged report (Report No. 95–1808) on the resolution (H. Res. 1448) waiving points of order against the conference report on the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes, which was referred to the House Calendar and ordered to be printed.

Mr. LONG of Louisiana. Mr. Speaker, I call up House Resolution 1448, and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution as follows:

H. RES. 1448

Resolved, That immediately upon adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clauses 3 and 4, rule XXVIII are hereby waived.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN). Pending that I yield myself such time as I may consume.

Mr. Speaker, the rule before us would provide for the immediate consideration of the conference report on H.R. 13750, the Sugar Stabilization Act of 1978. The rule includes waivers of any points of order against consideration. In addition, waivers are provided against points of order to comply with clauses 3 and 4 of rule XXVIII (28).

Clause 3 of rule XXVIII (28) prohibits inclusion in a conference report of any modification of any specific topic, question, issue or proposition committed to the conference committee if that modification is beyond the scope of the conference. This waiver was granted to avoid possible technical violation of the rule which would be subject to a point of order.

Clause 4 of rule XXVIII (28) prohibits inclusion of any matter which would be nongermane if offered as an amendment in the House. This waiver was granted to accommodate two Senate nongermane amendments.

The first involves section 310, a provision which authorizes the President to contribute tin from the strategic and critical materials stockpile to the tin buffer stock established under the fifth international tin agreement. This amendment is essentially identical to a House passed bill.

The second authorizes the suspension of countervailing duties on items thought to be subsidized which is the substance of title 4. It is most important to the President that this power be extended for the success of the multilateral trade negotiations. Failure to adopt this extension of the suspension authority would seriously jeopardize these negotiations.

Mr. Speaker, as I have stressed to my

colleagues in the past, it is imperative that we enact a national sugar policy this year. For far too long we have shirked our responsibility to establish proper price objectives. Domestic sugar producers have greatly suffered over the past months.

The provisions of this bill leave much to be desired. The price objectives are inadequate for Louisiana sugar farmers who find that the costs of sugar farming come to more than 17 cents a pound. But under the circumstances of our Nation's economic difficulties, and the President's veto threat, this bill was the best we could bring about.

I therefore urge my colleagues to support both the rule and the conference report. The compromise achieved brings us closer to equity for both consumer and producer, although we yet have a long way to go.

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may consume.

This rule provides that, any rule of the House to the contrary notwithstanding, it will be in order to consider the conference report on H.R. 13750, the Sugar Stabilization Act of 1978. The rule also waives all points of order against the conference report for failure to comply with clauses 3 and 4 of rule XXVIII.

Clause 3 of rule XXVIII prohibits material in a conference report which goes beyond the scope of the conference. Clause 4 of rule XXVIII deals with nongermane matter in conference reports.

Mr. LONG of Louisiana. I thank the gentleman from Maryland.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HOLLAND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 261, nays 107, not voting 62, as follows:

[Roll No. 938]

YEAS—261

Abdnor	Boggs	Chappell
Addabbo	Boland	Chisholm
Akaka	Bolling	Clausen,
Alexander	Bonior	Don H.
Ambro	Bonker	Clay
Andrews, N.C.	Bowen	Cochran
Andrews,	Brademas	Coleman
N. Dak.	Breaux	Collins, Ill.
Annunzio	Breckinridge	Collins, Tex.
Ashbrook	Brinkley	Conte
Bafalis	Brodhead	Corman
Baldus	Brooks	Cunningham
Barnard	Brown, Calif.	Daniel, Dan
Baucus	Brown, Ohio	Danielson
Bauman	Broyhill	de la Garza
Beard, R.I.	Buchanan	Delaney
Beard, Tenn.	Burgener	Dellums
Bedell	Burke, Mass.	Dent
Beilenson	Burleson, Tex.	Derrick
Bennett	Burlison, Mo.	Dicks
Bevill	Carr	Dingell
Bingham	Carter	Dodd
Blanchard	Cavanaugh	Dornan
Blouin	Cederberg	Duncan, Oreg.
Duncan, Tenn.	Krueger	Rahall
Eckhardt	LaFalce	Rangel
Edwards, Ala.	Lagomarsino	Regula
Edwards, Calif.	Latta	Reuss
Edwards, Okla.	Levitas	Richmond
English	Livingston	Robinson
Ertel	Lloyd, Calif.	Roe
Evans, Ga.	Lloyd, Tenn.	Rogers
Evans, Ind.	Long, La.	Roncalio
Fary	Lott	Rooney
Fascell	Lundine	Rostenkowski
Fisher	McCloskey	Rousselot
Flippo	McCormack	Runnels
Flood	McHugh	Satterfield
Flowers	McKay	Sawyer
Foley	Mahon	Schroeder
Ford, Mich.	Mann	Schulze
Ford, Tenn.	Markey	Sebelius
Forsythe	Marks	Seiberling
Fountain	Marriott	Shuster
Fraser	Martin	Sikes
Fuqua	Mathis	Skelton
Garcia	Mazzoli	Skubitz
Gephardt	Meeds	Slack
Giaimo	Meyner	Snyder
Gilman	Mikulski	Spellman
Glickman	Miller, Calif.	Spence
Goldwater	Miller, Ohio	Staggers
Goodling	Mineta	Stangeland
Gore	Mitchell, Md.	Stanton
Gudger	Mitchell, N.Y.	Stokes
Guyer	Moakley	Stump
Hagedorn	Moffett	Symms
Hall	Mollohan	Taylor
Hanley	Montgomery	Thompson
Hannaford	Moore	Thornton
Hansen	Moorhead,	Traxler
Harkin	Calif.	Treen
Harsha	Moorhead, Pa.	Tsongas
Hawkins	Murphy, Ill.	Tucker
Hefner	Murphy, N.Y.	Ullman
Heftel	Murtha	Vander Jagt
Hightower	Natcher	Vanik
Hillis	Neal	Vento
Hollenbeck	Nedzi	Volkmer
Holt	Nichols	Waggonner
Howard	Nix	Walgren
Hubbard	Nolan	Walsh
Huckaby	Nowak	Wampler
Hyde	Oakar	Watkins
Jeffords	Oberstar	Waxman
Johnson, Calif.	Obey	White
Johnson, Colo.	Panetta	Whitehurst
Jones, N.C.	Pattison	Whitley
Jones, Okla.	Pepper	Whitten
Jones, Tenn.	Perkins	Wilson, Tex.
Jordan	Pickle	Winn
Kasten	Pike	Wirth
Kazen	Poage	Wright
Kelly	Pressler	Yatron
Kemp	Preyer	Young, Alaska
Kildee	Price	Young, Tex.
Kindness	Pursell	Zablocki
Krebs	Quillen	Zeferetti

NAYS—107

Anderson,	Gaydos	Myers, Michael
Calif.	Gibbons	O'Brien
Anderson, Ill.	Ginn	Ottinger
Archer	Gonzalez	Patten
Benjamin	Gradison	Patterson
Biaggi	Grassley	Pease
Broomfield	Green	Pritchard
Brown, Mich.	Hamilton	Quayle
Butler	Hammer-	Railsback
Clawson, Del	schmidt	Rinaldo
Cleveland	Harris	Roybal
Cohen	Heckler	Russo
Conable	Holland	Santini
Corcoran	Holtzman	Sarasin
Cornell	Hughes	Scheuer
Cornwell	Jacobs	Sharp
Coughlin	Jenkins	Simon
D'Amours	Kastenmeier	Smith, Iowa
Daniel, R. W.	Keys	St Germain
Davis	Kostmayer	Steers
Derwinski	Le Fante	Steiger
Devine	Leach	Stockman
Drinan	Lederer	Stratton
Early	Lent	Studds
Edgar	Long, Md.	Trible
Eilberg	Luken	Van Deerlin
Emery	McClory	Walker
Erlenborn	McDade	Weiss
Evans, Del.	McDonald	Whalen
Fenwick	McKinney	Wolff
Findley	Madigan	Wydler
Fish	Maguire	Wylie
Fithian	Michel	Yates
Florio	Minish	Young, Fla.
Fowler	Murphy, Pa.	Young, Mo.
Frenzel	Myers, Gary	
Gammage	Myers, John	

NOT VOTING—62

Ammerman	Frey	Roberts
Applegate	Harrington	Rodino
Armstrong	Horton	Rose
Ashley	Ichord	Rosenthal
Aspin	Ireland	Rudd
AuCoin	Jenrette	Ruppe
Badham	Leggett	Ryan
Burke, Calif.	Lehman	Shipley
Burke, Fla.	Lujan	Sisk
Burton, John	McEwen	Smith, Nebr.
Burton, Phillip	McFall	Solarz
Caputo	Marlenee	Stark
Carney	Mattox	Steed
Conyers	Mikva	Teague
Cotter	Milford	Thone
Crane	Moss	Udall
Dickinson	Motti	Weaver
Diggs	Pettis	Wiggins
Downey	Quie	Wilson, Bob
Evans, Colo.	Rhodes	Wilson, C. H.
Flynt	Risenhoover	

The Clerk announced the following pairs:

Mr. Ashley with Mr. Frey.
Mr. Ichord with Mr. Thone.
Mr. Jenrette with Mrs. Smith of Nebraska.
Mr. Flynt with Mr. Ruppe.
Mr. Carney with Mr. Dickinson.
Mrs. Burke of California with Mr. Caputo.
Mr. Cotter with Mr. Badham.
Mr. Downey with Mr. Crane.
Mr. Mikva with Mr. Rudd.
Mr. Rosenthal with Mr. Marlenee.
Mr. Rodino with Mr. Wiggins.
Mr. John L. Burton with Mr. Horton.
Mr. Solarz with Mr. Aspin.
Mr. Rose with Mr. McEwen.
Mr. Phillip Burton with Mr. Quie.
Mr. AuCoin with Mr. Ammerman.
Mr. Udall with Mr. Burke of Florida.
Mr. Applegate with Mr. Conyers.
Mr. Lehman with Mr. Harrington.
Mr. Ireland with Mr. Lujan.
Mr. Mattox with Mr. Motti.
Mr. Teague with Mr. Steed.
Mr. Stark with Mr. Sisk.
Mr. Ryan with Mr. Leggett.
Mr. Moss with Mr. Evans of Colorado.
Mr. Roberts with Mr. McFall.
Mr. Diggs with Mr. Milford.
Mr. Shipley with Mr. Risenhoover.
Mr. Weaver with Mr. Charles H. Wilson of California.
Mr. Bob Wilson with Mrs. Pettis.

Mr. DERWINSKI changed his vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 13750, INTERNATIONAL SUGAR STABILIZATION ACT OF 1978

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 13750) to implement the International Sugar Agreement, 1977, between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the statement of the managers is considered as read.

(For conference report and statement, see Proceedings of the House of October 14, 1978.)

The SPEAKER pro tempore. The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. BAUCUS. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Montana.

Mr. BAUCUS. Mr. Speaker, I strongly support the conference report.

Mr. Speaker, I rise in reluctant support of this bill which includes provisions that are very important to Montana.

I am disappointed that the House and Senate conferees have agreed on a sugar bill that provides minimal support for growers and for only a 1-year period.

I will support this conference report—providing a price objective of 15 cents per pound plus a deficiency payment of 75 cents per pound to producers during the next sugar supply year.

I pledge to continue my support for an adequate sugar program in the next Congress. For both producers and consumers, it is essential that we have a stable, adequate support system.

This is important to the many sugar producers who are an integral part of the Nation's family farm system. It is also important because of the many jobs the sugar industry provides.

The economies of the two cities in Montana with sugar factories would be greatly disrupted if we do not establish a program that will keep Montana sugar beet producers in business.

Mr. FOLEY. Mr. Speaker, this is the conference report on the International Sugar Stabilization Act of 1978. It comes back to this House in a form slightly different than it left. This House passed a 15-cent price objective with a production cost adjustment attached to it, covering a period of 4 years. We have brought back a 1-year bill, essentially; a bill designed, I must say frankly, as a stopgap measure to allow the Committees on Agriculture and Ways and Means to consider this legislation again next year when there is more time than is now possible, given the constraints imposed by final hours of this waning session.

In a technical sense, the bill covers 5 years. In a real sense, however, the first year is the one that is relevant, the 1978–79 year. We have brought back a bill with a price objective which is exactly that which left the House, 15 cents, as recommended by Ways and Means Committee amendment. To that has been added a three-quarter of a cent direct Federal payment which was not part of the House bill, nor indeed part of the Senate bill. There is no other adjustor, escalator or price adjustment except a very symbolic one which is token and meaningless and merely fulfills a technical requirement of the Senate bill that the legislation extend over a period of 5 years.

There are those of us who object very strongly to any direct payment, and they will present their views on this subject better than I could speak for them. I want to indicate, however, that this bill is a bill which allows fees and, where necessary, quotas to be assigned to imports of sugar.

That in itself is a revenue producer for the United States, rather than a revenue expender. We earn about $430 million in the fees and duties charged on sugar imported into the United States per year at current estimates. The three-quarters of a cent will cost something over $90 million. It is designed to provide some assistance to sugar growers with less impact on consumers than would be true if that three-quarters of a cent were directly charged on the price of sugar.

I am not going to go into great detail on that, other than say that the conference report contains two important nongermane amendments for which the rule just adopted would permit consideration.

One is the tin buffer stock bill passed earlier by the House by a vote of 308 to 75 and which essentially is reported in this legislation as it left the House with the support of both the International Relations Committee and the Committee on Armed Services.

The second part of the nongermane attachments of the Senate—otherwise nongermane—is the suspension of the countervailing duties which are due to expire January 3, 1979, and are extended here to February 15, 1979, a short extension which is needed in order to accommodate final efforts at the multilateral trade negotiations we are carrying out through the Special Trade Representative's Office.

Both of these bills and the sugar bill, as reported in this conference report—and I would emphasize this—have the support of the administration. This conference report, if passed, will be signed.

Mr. Speaker, I yield to the gentleman from Ohio (Mr. VANIK), the chairman of the Subcommittee on Trade of the Committee on Ways and Means.

Mr. VANIK. Mr. Speaker, first of all I want to express my gratitude to chairman FOLEY and members of the Agriculture Committee for a very fine cooperative relationship that we have had in consideration of this legislation.

Mr. Speaker, I rise to urge the House to support the conference report on H.R. 13750, the International Sugar Stabilization Act of 1978. This bill has the support of the administration; protects the rights of the consumer, and insures that the United States will finally be in a position to implement the International Sugar Agreement negotiated last year between the world's major sugar importing and exporting nations.

Basically the bill provides a 1-year program in which the price objective for sugar is established at 15 cents. This is the price at which sugar may be imported into the United States—and thus it determines the price to which domestic sugar may rise. To cover costs of production above the 15 cents level, the bill provides for direct or deficiency payments to producers of three-fourths of a cent. This direct payment program will insure the continued survival and viability of the domestic sugar industry but will avoid burdening sugar users and consumers with higher sugar prices.

Mr. Speaker, I come from a consuming area. I do not have in my community a single producer of sugar in any form but I have come to learn a great deal about the problems of the producer and those who work the soil. The bill is fair to the consumer. While some producers may argue that it does not produce enough for them, that it is inadequate, I do hope that they will support this bill because it constitutes a bridge of understanding between the consumer community and the producers so that each may more fairly and more trustfully deal with the other in the further development of this legislation which must come in the next year.

Mr. Speaker, I wish to comment briefly on the countervailing duty waiver extension amendment to H.R. 13570.

On September 28, President Carter submitted to the Congress a proposal for legislation to extend the authority of the Secretary of the Treasury under section 303(d) of the Tariff Act of 1930 to waive the application of countervailing duties until August 1, 1979.

In his message, the President noted that the waiver authority will expire on January 2, 1979. This, he said, would seriously jeopardize satisfactory conclusion of the Multilateral Trade Negotiations underway in Geneva. Unless the waiver authority is extended to cover the period during which the results of these negotiations will be under review by the Congress as required by the Trade Act of 1974, the President and his Special Trade Representative, Ambassador Robert Strauss, believe that our ability to press ahead with the negotiations would be sharply limited.

As stipulated in the Trade Act of 1974, the United States is seeking a trade agreement which will improve discipline on the use of subsidies which adversely affect trade. Ambassador Strauss has informed President Carter that the prospects for reaching agreement by the end of the year on a subsidy and countervailing duty code which meets basic U.S. objectives are good—provided that the waiver authority can be extended until such a code has been submitted to, and is acted upon, by the Congress under the procedures of the Trade Act of 1974.

In this connection, the President proposed that the countervailing duty waiver authority will expire as scheduled on January 2, 1979, unless he is able to report to the Congress before that date that a subsidy and countervailing duty code has been negotiated among the key countries participating in the Geneva negotiations and that all other elements of the negotiations have been substantially concluded.

This countervail provision plainly ties the use of the extension to the achievement of the key U.S. objectives of an international agreement on subsidies discipline.

President Carter's need for extension of the waiver authority is convincing. No unnecessary obstacles should be allowed at this juncture of the Multilateral Trade Negotiations to endanger their successful conclusion, particularly with respect to an agreement disciplining foreign subsidy practices that adversely affect U.S. agricultural and industrial trading interests.

I hope my colleagues will agree with me that we should approve this measure.

The administration asked for an extension of the waiver until August 2, and 10 members of the Committee on Ways and Means cosponsored a bill to achieve this goal. There are problems with a February 15 terminal date on the extension, but this extension will permit the negotiators, our negotiators, our negotiating team in Geneva, to give this Congress and this House of Representatives some idea of what is going to come out of the agreements and out of the conferences in Geneva. I think that with this understanding we can determine what progress is being made and of the extent to which there may be some interference with business activity in the United States.

So I urge my colleagues in the House of Representatives to adopt this legislation. It is meritorious. It has the support of the membership of the Committee on Ways and Means. It has the support of consumers and it has the support of the administration.

Mr. TRAXLER. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Michigan.

Mr. TRAXLER. Mr. Speaker, I thank the gentleman for yielding. I would hope the gentleman early in 1979 would review the question again because I know the price levels beginning in 1980 are insufficient, in fact, they are most inadequate. There is no way the industry can survive under those levels. We must act again next year.

Mr. VANIK. With respect to the sugar bill I understand that we are going to have an opportunity, with the 1-year program, to measure the effect of the program and review it.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from New Jersey.

Mr. HUGHES. I was wondering, does the committee plan hearings the first of the year on the section on contervailing duties?

Mr. VANIK. Yes. We plan, as soon as the Congress reconvenes, to deal with the issues that are involved in the MTM negotiations and to find out from our representative, Ambassador Strauss and his staff, precisely where we are on the Tokyo round of the MTM.

Mr. HUGHES. Now, among those who voted for this bill there were a lot of no votes that were directly related to the concern of many Members of this House, such as myself, over the practice of the dumping of foreign goods in this country. I have a little constituent who is about ready to go out of business who makes the only butter cookies in this country. And even though Ambassador Strauss is trying to negotiate, I know that the Danes, in particular, have been dumping butter cookies and depriving many of my constituents of jobs, of upward of 20 percent. Still they have done nothing to stop this dumping of foreign goods.

I would hope that you are planning to hold hearings the first of the year so we can develop trade policies in this country to insure American jobs.

Mr. VANIK. We will have hearings which will address the concern you have mentioned.

Mr. HUGHES. I thank the gentleman.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from South Carolina (Mr. HOLLAND), a distinguished member of the Trade Subcommittee.

Mr. HOLLAND. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of most of this bill, as the gentleman knows, but I see the countervailing duty as being a last minute effort to force on this House a bitter pill to ask us to swallow, and as the chairman of the Subcommittee on Trade will the gentleman call those hearings early next year?

Mr. VANIK. The gentleman can be assured that those hearings will take place so that we can have a better understanding concerning what is going on in Geneva and how those decisions affect jobs and industry in America.

Mr. DE LA GARZA. Mr. Speaker, would the gentleman yield?

Mr. VANIK. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, I think it might be well, also, I would say to my colleague, the gentleman from Ohio (Mr. VANIK), in view of the fact that Senator LONG has expressed the same sentiment, and also Senator CHURCH that they were in agreement that as soon as possible this would be reconsidered.

Mr. VANIK. I thank the gentleman.

Mr. FITHIAN. Mr. Speaker, will the gentleman yield?

Mr. VANIK. I yield to the gentleman from Indiana.

Mr. FITHIAN. Mr. Speaker, it is with extreme reluctance, and even sadness, that I rise in opposition to this bill. After all the work that we have done on this bill, and I was the strongest supporter of the bill that was in the House. But this bill restores the inequities between the corn sweetener and the sugar sweetener in the United States. That is a principle with which I cannot abide. I very reluctantly must oppose the bill. It will not solve the sweetener industry problem.

Mr. VANIK. I thank the gentleman for his remarks, and I reserve the balance of my time.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am bitterly disappointed by the action of the conference committee.

This is a bill which the administration has written. In fact, it is inadequate for farmers. It calls for 15¾ cents which they would receive this year, this is better than what the House had passed for this year. Next year the payment goes to 15.8 cents, with no escalator, with no payments from the Treasury. The years after that we have an escalator of 1 percent a year.

Mr. Speaker, it is totally unfair, and it is foolish.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I think the gentleman from Colorado (Mr. JOHNSON) would want to be fair. He should know that the record discloses that the payments after 1978–79 were designed not to take effect, that they were designed to be substituted by legislation which would be considered next year. This is purely pro forma.

Mr. JOHNSON of Colorado. That is what the chairman has said, and I take him at face value, but the administration has set its limit at 15.8 cents next year and at 16 cents the year afterward.

Mr. Speaker, as far as I am concerned, the conference committee simply caved in to whatever the administration wanted. It seems to me that there is no other rationale behind what has occurred.

It is better, Mr. Speaker, to receive a fatal thrust all at one time than it is to receive a thousand cuts and slowly bleed to death. That is exactly what we are imposing upon the sugar industry.

Mr. KELLY. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Florida.

Mr. KELLY. Mr. Speaker, I thank the gentleman for yielding.

I wanted to put a question to the chairman of the Committee on Agriculture. I understood the chairman to say that this was going to be a very beneficial bill for the reason that it would be a revenue source for the Federal Government.

Did I understand that correctly?

The SPEAKER pro tempore. The time of the gentleman from Colorado (Mr. JOHNSON) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself two additional minutes.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, the duties and fees on sugar products imported into the United States are expected to realize something like $430 million in the current year, and the expenditures under the payments provided by this bill will be slightly over $90 million.

Mr. KELLY. If the gentleman will yield further, Mr. Speaker, so that will mean income to the U.S. Government and that sounds like a super grand thing, except that the bad news is that the consumers are going to pay it. The consumers of the United States are going to pay that money to the Federal Government, and that comes down to looking something like another tax and not a benefit to the people who deserve relief.

I thank the gentleman for yielding.

Mr. JOHNSON of Colorado. Mr. Speaker, passage of this bill dooms the industry to slow, lingering extinction, and I urge that we reject it.

As I say, it is unfair. It is costly to taxpayers. It is not beneficial to producers. It is not fair to producers, because it does not return their costs of production while it mandates increased labor costs. Benefits accrue mainly to the industrial users, who consume about two-third to three-quarters of the sugar that we use in this country. Furthermore, there is some interesting specula-

tion as to the influence of Coca-Cola on this particular piece of legislation.

Mr. Speaker, the chairman accepts the fact that the bill is inadequate after 1 year, and that we are going to have to go back and do something next year.

It is my position that we ought to go back and do something next year without having this hang over our head, because the administration will then have its international sugar agreement.

The administration has given no indication that it is willing to change its point of view on the 15.8 cents. It will be better to start early next year and try to develop something reasonable than accept this disastrous bill.

Mr. Speaker, I urge those Members who were in favor of the bill as it originally left the House to change their vote and to reject this conference report.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman from Colorado (Mr. JOHNSON) very much.

I share your viewpoint. I thank you for the hard work you have done on this legislation.

I am only sorry that the administration has thwarted our efforts at every turn.

The price objective is not enough—in fact to top it off it is cheap, and clothed in tin to boot.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I was one of those who helped to try to fashion a sugar bill. I thought the bill which passed the House with that 15-cent price market objective and cost adjustment based on cost of production was a rational, fair, balanced program.

What we have here is a situation in which neither the House nor Senate bill has the program that is before us. What has come to us is a program developed out of whole cloth in an effort to meet the objectives of the President of the United States. What he does is to give us the worst of both worlds.

It raises the price to the 15-cent market objective, therefore, raising the price to consumers. It gives a price support system of 75 cents to processors, and, therefore, the Treasury will not benefit as much, nor will the consumer benefit as much, nor does the producer benefit under that system.

It is a bad bill. It ought to be rejected. I find myself in the most difficult kind of position, because I believe in ratifying the International Sugar Agreement. I believe in extending the countervailing duty waiver. I believe there ought to be a sugar program, but I must say in all honesty there is no way I can accept this program at this time, and the bill ought to be voted down.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, the thought may occur to some Members that we have to enact a sugar bill before this Congress adjourns, and also that somehow we have to deal with this countervailing duty problem. The fact is that a bill is not necessary. The countervailing duty problem is meant only for a 45-day period by means of this bill, and if it proves to be all that fired important on January 3 when we reconvene, we can suspend the rules and deal with the countervailing duty problem at that point. Nor is it necessary for us to pass a bill in this Congress in order to provide protection to the sugar growers in this country. Permanent law which will not expire at the end of this calendar year will remain, enabling the administration to give producers protection up to around 13 cents a pound.

This bill is worse from the standpoint of sugar users than the existing law, the de la Garza law which is now in effect. It will inflict upon sugar users in this country approximately $107 million in additional cost, contrasted with what they paid the past year and, of course, the provision accepted in the House accounts for about $90 million of that amount in addition to the amount that would have been inflicted upon sugar users as a result of the bill that emerged from the House itself.

This bill is anticonsumer; it is antitaxpayer; it is antimarket. If the Members vote for this bill, they are voting for higher costs on sugar users to the tune of $107 million.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. STEIGER. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

It is also antiproducer.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. I yield 1 minute to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I am also one of the conferees who was unwilling to sign the conference report. We have a 1-year/5-year program, and as the gentleman from Wisconsin (Mr. STEIGER) said, it is the kind of program wth direct payments that were neither in the House bill nor in the Senate bill, and that fact alone would have made it subject to a point of order but for the rather extraordinary convenience of going to the Committee on Rules and waiving points of order.

Direct payments, of course, are the wrong way to approach the subject. It means that the Department of Agriculture once a year will flood the country with checks. The checks will go to the large and small, not the little producer. They will go to the sugar refiners, the big people, and that certainly is not the way that at least our committee thought that we should handle this business.

In my judgment, despite the fact that we need the waiver of the countervailing duty, we still should defeat this bill. It is a bad one. It is neither in the interests of producers, consumers, or of the United States of America.

Mr. JOHNSON of Colorado. I yield 1 minute to the gentleman from Louisiana (Mr. TREEN).

Mr. TREEN. I thank the gentleman for yielding.

As one who has a great deal of sugar cane production in his district, I want to express my sincere thanks to the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY), for his very diligent effort to bring us a good, workable bill, and to the gentleman from Wisconsin (Mr. STEIGER), of the Committee on Ways and Means who tried to fashion something workable here. Also, I express my appreciation to the gentleman from Colorado (Mr. JOHNSON) for his diligent and dedicated effort.

I am very disappointed at what happended in conference, but I know that our conferees, by and large, did everything that they could. But I think that we should adopt the conference report. It is of marginal value but, nevertheless, it is of some value to these producers. We know, as the gentleman from Colorado has said, that unless some support is provided—and we favored, of course, support through import controls and not through payments out of the Treasury—then our problems are not going to disappear.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota (Mr. ANDREWS).

Mr. ANDREWS of North Dakota. Mr. Speaker, I thank my colleague for yielding.

I want to also congratulate the chairman of the Committee on Agriculture, the gentleman from Washington (Mr. FOLEY) for the great work he has done for the sugar producers in this country, and to my friend, the gentleman from Texas (Mr. de la GARZA) for his most persistent efforts in this House on behalf of this much needed legislation.

I also want to commend our friends on the Committee on Ways and Means, the gentleman from Wisconsin (Mr. STEIGER) and the gentleman from Minnesota (Mr. FRENZEL), who even though they do not have sugar in their areas did yeoman service in working toward equity when they put an escalator factor for the cost of production in this bill.

I think it needs to be said why the equity lies with the escalator clause put in the bill in the House and not the substitute inserted by the conference. It is supposedly a 5-year bill, but it turns out to be a 1-year bill, because the escalator factor is now limited under the conference agreement to 1 percent per year. You have really got to have your blinders on to think the cost of production is going to go up only 1 percent per year, particularly when the bill includes provisions for producers to pay escalating annual wages and other costs of production. That is why it is not fair; but again, while saluting the gentleman from Wisconsin (Mr. STEIGER) for the escalator he wrote and put in the bill, which was a fair one, I have to go along with the suggestion of the Agricultural Commission chairman, the gentleman from Washington (Mr. FOLEY) that we need the bill this year, and his pledge and indication takes the administration's pledge that they are working to get some

equity into this act in the next session of Congress.

I hope we get a little realization from the administration that the sugar producers of this country deserve the same kind of attention that the sugar consumers seem to have down at the White House. I do not mean the small individual consumer. The bill would protect them. The large corporate consumer will be the only ones benefiting from the long-term provisions of this agreement. In support of that pledge, however, and the immediate and drastic needs of our Nation's producers, I urge the adoption of this conference report.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I rise in support of the conference report, not because it is a good conference report, but only because some producers seem to think it might be of some help. I repeat the word "some" help.

We should all understand why the conference report got in the position it is in. It is nothing close to the House version. It is nothing close to the Senate version. The reason it is the way that it is is because we were told and led to believe in the conference committee that this is what the administration would sign. The administration would not sign the Senate version. The administration would not sign the House version, so what we came up with, as the gentleman from Wisconsin pointed out a moment ago, is the worst of both versions. It was written by the administration.

The second thing that should be pointed out is the fact that no one intends this to be in reality anything more than a 1-year bill. The years 1979, 1980, 1981, and 1982 are obviously a farce. No one intends them to be a method of supporting sugar in the future.

The price escalator is 1 percent a year. The labor escalator in this bill is 7 percent a year. So you see, there is no intention that it be allowed to work. The point is that I hope all the Members listening understand that every member of the conference committee has every intention of coming back next year with another sugar bill to amend these provisions for the next 4 years, because they are totally inadequate.

Lastly, I simply want to make the point that this bill has the worst of both worlds. It has a price objective in the marketplace that is too low and has an unfortunate payment out of the Treasury that nobody particularly wanted, but we wound up with.

I hope you vote for the conference report, not because it is good, but because some of us see some value in it and hope to do better in the future.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, I thank the gentleman for pointing out that this is the worst of two worlds. It has a 1-percent escalator factor for the price objective and a 7-percent escalator on the labor-wage objective.

Mr. SEBELIUS. Mr. Speaker, will the gentleman yield?

Mr. MOORE. I yield to the gentleman from Kansas.

Mr. SEBELIUS. Mr. Speaker, I appreciate the gentleman's work in the conference and that he did not sign the report. We did not know whether to vote for it and work for something better or work for something better and vote for it.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I simply want to point out that the provisions with regard to tin in this bill are a benefit to the consumer. They are strongly supported by the steel industry. This will bring down the price of tin, and the provisions are strongly supported by the Committee on Armed Services as well as the Committee on International Relations.

Mr. FOLEY. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. LONG).

Mr. LONG of Louisiana. Mr. Speaker, I share the views of nearly everyone here today that this is really not a very good bill, but I think that it is essential that we pass it, because there are many people who are going to suffer if we do not have a vehicle for the next year that enables us to work something out that is equitable legislation.

The 15 cents called for in this bill will not cover the cost of production of sugar in the congressional district that I represent, but it will at least enable these people to stay alive and this industry to stay alive for another year so that some opportunity can be had to offer some equitable solution to this very complex problem that should be resolved.

Mr. FOLEY. Mr. Speaker, I yield 30 minutes to the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I would just like to mention, as has been said today throughout the debate, that the cost to the consumer is really not that much. This may be bitter medicine for sugar producers to take, because some of them have maybe 1 month to exist in business. That is the reason for accepting this compromise and seeing what we can do to assist them and continue working with men of good faith, as we have throughout this process, to see what we can come up with next year.

I have in my district—and I know many of the other districts do, too—people who are just on the verge of bankruptcy—maybe in 2 weeks or 1 month. This will enable them to stay in business until we can do something better for them. I know the Senate added some measures that should not be in this measure, but we cannot help that at this stage. I know some of my colleagues disagree with direct payments, but here again, the administration insists on that method. So again, this is not the perfect measure, but we cannot control this from our end, we just have to do the best we can.

● Mrs. HECKLER. Mr. Speaker, it is incredible to me that during one of the most disturbing periods of inflation in the Nation's history, we are considering one of the most inflationary pieces of legislation ever debated in this body. The Agriculture Committee bill will add $729 million to the national grocery bill, or $3.9 billion over the next 5 years. Food prices are already rising 18 percent this year—the Agriculture Committee version of this bill will add another half point of inflation to the consumer food cost index.

The Agriculture Committee version of this bill is legislation that Congress cannot accept, that the Nation cannot afford, and that our consumers will not tolerate.

The substitute that Mr. VANIK will offer, if not encumbered by other inflationary amendments, is our best alternative. It seeks to strike a reasonable balance between the proper aspirations of the sugar industry and the reasonable concerns of hard-pressed American consumers. The difference between the Ways and Means and Agriculture versions of this bill is a difference of billions of dollars over a 5-year period.

It is almost inconceivable that this esteemed body is proposing a costly inflationary policy, when Americans are outraged by inflation and unnecessary Government programs. The Agriculture version of this bill is a blatant example of special-interest legislation at the expense of the public. If we accept this kind of legislation inflation—look out: It is a formula for double-digit inflation which is undermining the value of every paycheck in America.

There are some who argue that we are singling out sugar producers as scapegoats for inflation. I would like to remind my colleagues that under present arrangements, we pay sugar producers 14.6 cents a pound, almost twice the international price, and yet sugar producers are not satisfied. They want more.

The question before the House today is, Where do we stop? To stop inflation by killing inflationary legislation is not to victimize sugar producers. It is instead a part of an enlightened public policy to halt inflation before it erodes the political stability and economic opportunity that all Americans enjoy.●

Mr. AKAKA. Mr. Speaker, as a member of the Agriculture Committee, I remember well the long hours that we put in to formulate the Sugar Stabilization Act. I believed then, and I believe now that H.R. 13750, as reported by the Agriculture Committee, was a good bill, one that would protect both the sugar industry and consumers.

Frankly, I am not pleased with the conference report on this legislation. It does not provide a long-term solution to this problem, and will force us, in all probability, to go through this entire process again in the next Congress. However, I am supporting this bill, and I urge my colleagues to join me. The conference committee version of the bill provides some measure of relief to this beleaguered industry, and I support its passage.

Mr. FOLEY. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

Mr. STEIGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 177, nays 194, not voting 59, as follows:

[Roll No. 939]

YEAS—177

Akaka	Foley	Oberstar
Alexander	Ford, Tenn.	Obey
Andrews, N.C.	Fountain	Panetta
Andrews, N. Dak.	Fraser	Patten
Annunzio	Gibbons	Patterson
Ashley	Gore	Pease
Bafalis	Gudger	Pepper
Baldus	Guyer	Pickle
Baucus	Hall	Preyer
Beard, Tenn.	Hanley	Price
Bedell	Hawkins	Quillen
Beilenson	Hefner	Rahall
Bennett	Heftel	Rangel
Bevill	Hightower	Reuss
Bingham	Holland	Rogers
Blanchard	Hollenbeck	Roncalio
Boggs	Howard	Rooney
Bolling	Hubbard	Rose
Bonior	Huckaby	Rostenkowski
Bonker	Ireland	Roybal
Bowen	Jacobs	Runnels
Breaux	Jeffords	Ryan
Brinkley	Jenkins	Schroeder
Brodhead	Johnson, Calif.	Seiberling
Brooks	Jones, N.C.	Shuster
Brown, Calif.	Jones, Okla.	Sikes
Burgener	Jones, Tenn.	Simon
Burleson, Tex.	Jordan	Skelton
Burlison, Mo.	Kazen	Slack
Carr	Keys	Snyder
Cavanaugh	Kildee	Spence
Cederberg	Krebs	Staggers
Chappell	Latta	Stangeland
Clausen, Don H.	Lederer	Stokes
Clay	Livingston	Stump
Collins, Ill.	Lloyd, Tenn.	Thompson
Corman	Long, La.	Thornton
Danielson	Lott	Traxler
Davis	McCormack	Treen
de la Garza	McKay	Tucker
Dellums	Mahon	Ullman
Dent	Mann	Vanik
Derrick	Marriott	Vento
Dicks	Meeds	Volkmer
Dingell	Miller, Calif.	Waggonner
Dornan	Miller, Ohio	Walgren
Duncan, Oreg.	Mineta	Wampler
Eckhardt	Mitchell, Md.	Watkins
Edwards, Calif.	Mollohan	Waxman
Ellberg	Montgomery	Weiss
English	Moore	White
Ertel	Moorhead, Pa.	Whitley
Evans, Ga.	Murphy, Ill.	Whitten
Fary	Murphy, Pa.	Wilson, Tex.
Fascell	Murtha	Wright
Flippo	Myers, Michael	Yatron
Flood	Neal	Young, Tex.
Flowers	Nichols	Zablocki
	Nix	Zeferetti
	Nolan	

NAYS—194

Abdnor	Burke, Mass.	Downey
Addabbo	Butler	Drinan
Ambro	Carter	Duncan, Tenn.
Anderson, Calif.	Chisholm	Early
Anderson, Ill.	Clawson, Del	Edgar
Archer	Cleveland	Edwards, Ala.
Ashbrook	Cochran	Edwards, Okla.
Aspin	Cohen	Emery
AuCoin	Coleman	Erlenborn
Barnard	Collins, Tex.	Evans, Del.
Bauman	Conable	Evans, Ind.
Beard, R.I.	Conte	Fenwick
Benjamin	Conyers	Findley
Biaggi	Corcoran	Fish
Blouin	Cornell	Fisher
Boland	Cornwell	Fithian
Brademas	Coughlin	Florio
Breckinridge	Cunningham	Forsythe
Broomfield	D'Amours	Fowler
Brown, Mich.	Daniel, Dan	Frenzel
Brown, Ohio	Daniel, R. W.	Gammage
Broyhill	Derwinski	Garcia
Buchanan	Devine	Gaydos
	Dodd	Gephardt
	Giaimo	McClory
	Gilman	McCloskey
	Ginn	McDade
	Glickman	McDonald
	Goldwater	McHugh
	Gonzalez	McKinney
	Goodling	Madigan
	Gradison	Maguire
	Grassley	Markey
	Green	Marks
	Hagedorn	Martin
	Hamilton	Mazzoli
	Hammer-schmidt	Meyner
		Michel
	Hannaford	Mikulski
	Hansen	Minish
	Harkin	Mitchell, N.Y.
	Harris	Moakley
	Harsha	Moffett
	Heckler	Moorhead, Calif.
	Hillis	
	Holt	Murphy, N.Y.
	Holtzman	Myers, Gary
	Hughes	Myers, John
	Hyde	Natcher
	Johnson, Colo.	Nedzi
	Kasten	Nowak
	Kastenmeier	O'Brien
	Kelly	Ottinger
	Kemp	Pattison
	Kindness	Perkins
	Kostmayer	Pressler
	LaFalce	Pritchard
	Lagomarsino	Pursell
	Le Fante	Quayle
	Leach	Regula
	Lent	Rhodes
	Levitas	Richmond
	Lloyd, Calif.	Rinaldo
	Long, Md.	Robinson
	Luken	Rodino
	Lundine	Roe
		Rousselot
		Russo
		Santini
		Sarasin
		Satterfield
		Sawyer
		Scheuer
		Schulze
		Sebelius
		Sharp
		Skubitz
		Smith, Iowa
		Spellman
		St Germain
		Stanton
		Stark
		Steers
		Steiger
		Stockman
		Stratton
		Studds
		Symms
		Taylor
		Trible
		Tsongas
		Van Deerlin
		Vander Jagt
		Walker
		Walsh
		Whalen
		Whitehurst
		Wilson, Bob
		Winn
		Wirth
		Wolff
		Wydler
		Wylie
		Yates
		Young, Alaska
		Young, Fla.
		Young, Mo.

NOT VOTING—59

Ammerman	Harrington	Poage
Applegate	Horton	Quie
Armstrong	Ichord	Railsback
Badham	Jenrette	Risenhoover
Burke, Calif.	Krueger	Roberts
Burke, Fla.	Leggett	Rosenthal
Burton, John	Lehman	Rudd
Burton, Phillip	Lujan	Ruppe
Caputo	McEwen	Shipley
Carney	McFall	Sisk
Cotter	Marlenee	Smith, Nebr.
Crane	Mathis	Solarz
Delaney	Mattox	Steed
Dickinson	Mikva	Teague
Diggs	Milford	Thone
Evans, Colo.	Moss	Udall
Flynt	Mottl	Weaver
Ford, Mich.	Oakar	Wiggins
Frey	Pettis	Wilson, C. H.
Fuqua	Pike	

The Clerk announced the following pairs:

On this vote:

Mr. Fuqua for, with Mr. Ammerman against.

Mr. Solarz for, with Mr. Crane against.

Mr. Lujan for, with Mr. Dickinson against.

Until further notice:

Mr. Udall with Mr. Ruppe.
Mr. Flynt with Mr. Quie.
Mr. Evans of Colorado with Mr. Railsback.
Mr. Delaney with Mr. Rudd.
Mr. John L. Burton, with Mr. Thone.
Mr. Mikva with Mr. McEwen.
Ms. Oakar with Mrs. Smith of Nebraska.
Mr. Phillip Burton with Mr. Wiggins.
Mr. Pike with Mr. Badham.
Mr. Rosenthal with Mr. Marlenee.
Mr. Poage with Mr. Horton.
Mr. Ichord with Mr. Frey.
Mr. Carney with Mr. Burke of Florida.
Mr. Jenrette with Mr. Caputo.
Mr. Harrington with Mr. Krueger.
Mr. Lehman with Mr. Sisk.
Mr. Mattox with Mr. Teague.
Mr. Mottl with Mr. Shipley.
Mr. Steed with Mr. Leggett.
Mr. Roberts with Mrs. Burke of California.
Mr. Ford of Michigan with Mr. Applegate.
Mr. Cotter with Mr. Mathis.
Mr. Moss with Mr. Risenhoover.
Mr. Weaver with Mr. Charles H. Wilson of California.
Mr. McFall with Mr. Milford.
Mr. Diggs with Mr. Armstrong.

Mr. ERTEL changed his vote from "nay" to "yea."

Mr. OTTINGER changed his vote from "yea" to "nay."

So the conference report was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 3 legislative days in which to revise and extend their remarks on the conference report just rejected.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

TO PROVIDE ASSISTANCE TO AIRPORT OPERATORS TO CARRY OUT NOISE COMPATIBILITY PROGRAMS, TO PROVIDE ASSISTANCE TO AIRCRAFT OPERATORS TO COMPLY WITH NOISE STANDARDS

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Senate amendment is as follows:

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720);

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport;

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the 12th month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the impact of noise upon individuals which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence;

(3) identify land uses which are normally compatible with various impacts of noise on individuals.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport

operator of an airport may submit to the Secretary a noise impact map which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise impact map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise impact map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise impact map and related information permitted by section 103 of the Airport and Aircraft Noise Reduction Act of 1978, including any cost associated with obtaining such information, and (B) a noise compatibility program pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713(a)) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, the Secretary may make grants of funds to sponsors of air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title for noise compatibility planning.".

(B) Section 13(b) of such Act (49 U.S.C. 1713(b)) is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant or airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent.

"(C) No more than 10 percent of the funds made available under this paragraph in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

"(2) For the purpose of carrying out subsection (a)(2) of this section, there is authorized to be appropriated, for fiscal years ending on or after September 30, 1979, out of the Airport and Airway Trust Fund, not to exceed $15,000,000.".

SEC. 104. (a) Any airport operator who has submitted a noise impact map and the related information permitted by section 103(a)(1) of this title may develop, in consultation with the officials of any unit of local government in the area surrounding such airport, the Federal officials having local responsibility for such airport, any air carrier using such airport, and any regional planning authority, and submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise impact map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of any restriction on the use of such airport by any type aircraft based on noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of single-family residences, apartment buildings, and other buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce the impact of noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, such as air rights, easements, and development rights, so as to insure the continued use of property for purposes compatible with airport operations.

(b) The Secretary may disapprove any program or part thereof submitted to him pursuant to subsection (a) of this section within 180 days after it is received by him. The Secretary may disapprove such program or part thereof (1) if the measures to be undertaken in carrying out such program (A) do not provide for the continuation of safe flight operation, (B) create an undue burden on interstate or foreign commerce, and (C) are not reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses; and (2) if the program does not provide for any revision made necessary by any revised noise impact map submitted under section 103(a)(2) of this title. Failure of the Secretary to disapprove such program within such time period shall be deemed to be an approval of such program, except that the Administrator of the Federal Aviation Administration shall be required to explicitly approve or disapprove any part of such program which relates to flight procedures referred to in subsection (a)(4) of this section, within such time period.

(c)(1) The Secretary is authorized to make grants under this Act for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 and those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) There is authorized to be obligated by the Secretary, out of the Airport and Airway Trust Fund, funds not to exceed $35,000,000 for the fiscal year ending September 30, 1979, and not to exceed $35,000,000 for the fiscal year ending September 30, 1980, to be expended, at the discretion of the Secretary, for making grants under subsection (c) of this section.

(e) The Secretary is authorized to make loans under this Act in amounts as included in appropriations Acts, upon such terms and conditions as are specified in this section and any others he considers appropriate, to airport operators and to units of local government in the area surrounding such airports, if the airport operator at a given airport approves the purchase plan of the unit of local government, for the purpose of acquiring real property impacted by aircraft noise in accordance with a noise compatibility plan not disapproved under subsection (b) of this section: *Provided*, That the aggregate amount of outstanding loans at any time shall not exceed $300,000,000. Any loan made under this Act may not exceed 80 percent of the cost of the real property acquired and may not be made for a period in excess of 5 years, and shall bear interest at a rate determined by the Secretary such that the earnings are sufficient to cover the administrative costs of the program authorized by this subsection. Real property acquired with the proceeds of a loan under this subsection may be leased for uses compatible with projected noise levels, or sold, with the approval of the Secretary, if the airport operator provides assurances considered adequate by the Secretary that future uses will be compatible with such noise levels.

(f) There is established in the Treasury of the United States a revolving fund to be known as the Aircraft Noise Impacted Real Property Acquisition Revolving Loan Fund (hereinafter referred to as the "fund"). The fund shall be administered by the Secretary and shall consist of such amounts as may be transferred, appropriated, or credited to the fund as provided in this section. At the close of fiscal year 1979, $300,000,000 shall be transferred to the fund from the Airport and Airway Trust Fund. All sums received in connection with the administration of subsection (e) of this section shall be credited to the fund. There are authorized to be appropriated to the fund such additional sums as may be required to carry out subsection (e). Amounts in the fund shall be available, as provided by appropriations Acts, for making expenditures after October 1, 1979, and before October 1, 1990, to meet those obligations of the United States incurred under subsection (e) of this section and for the administrative costs of the program. Any balances remaining in the fund after 1995 shall revert to the Airport and Airway Trust Fund. The Secretary is empowered to prescribe rules and regulations consistent with the provisions of this section.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any unit of local government in the area surrounding such airport, shall prepare and publish a noise impact map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this

Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

SEC. 106. Any noise impact map submitted to, or prepared by, the Secretary under this title and the list of land uses identified by the Secretary under this title as those which are normally compatible with various impacts of noise on individuals shall not be received in evidence in any trial, hearing, or other proceeding in or before any court in the United States.

SEC. 107. No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport for which there is in effect a noise impact map submitted under section 103(a) of this title, shall be entitled to recover damages with respect to the noise attributable to such airport unless, in addition to any other elements for recovery of damages, such person had no actual or constructive knowledge of the existence of the noise impact map in effect at such airport, and such person can show—

(1) a significant change in the type or frequency of aircraft operations at the airport;

(2) a significant change in the airport layout;

(3) a significant change in flight patterns; or

(4) a significant increase in nighttime operations, occurred after the date of the acquisition of such property or interest therein.

SEC. 108. (a) The Secretary shall study the means available for achieving maximum feasible airport noise—land use compatibility as defined in section 102(3), toward a goal of full compatibility by January 1, 2000, including, but not limited to—

(1) reductions in airport noise impact as a result of more stringent aircraft noise regulations and aircraft operating procedures; night time and early morning curfews; airport design and airport instrumentation changes; diversion of traffic from primary to secondary and satellite airports; accelerated development of more efficient and quieter aircraft powerplants; and

(2) changes in land use by means of acoustic insulation of buildings, changes in the zoning of undeveloped land, changes in the use of developed land, or by any other acceptable means.

Such study shall determine the combination of means which will achieve maximum feasible compatibility at minimum cost.

(b) The Secretary shall also determine the most efficient and effective means for obtaining funds for achieving such maximum feasible compatibility.

(c) Not later than July 1, 1979, the Secretary shall submit to Congress an interim progress memorandum detailing how such study will be carried out.

(d) Not later than January 1, 1980, the Secretary shall submit to Congress a report setting forth the determinations made pursuant to such study together with recommendations for legislation required to implement programs designed to achieve maximum feasible compatibility toward a goal of full compatibility by January 1, 2000.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(3)) is amended by striking out "$495,000,000 for fiscal year 1979, and $525,000,000 for fiscal year 1980." and inserting in lieu thereof "$538,000,000 for fiscal year 1979, and $655,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(4)) is amended by striking out "$80,000,000 for fiscal year 1979, and $85,000,000 for fiscal year 1980." and inserting in lieu thereof "$87,000,000 for fiscal year 1979, and $105,000,000 for fiscal year 1980.".

(c) Paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(b)(4)) is amended by striking out the last sentence therein.

(d) Subsection (f) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(f)) is amended by adding a new paragraph (4) to read as follows:

"(4) No provision of law, except for a statute, hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to paragraph (5) of subsection 15(a), in addition to the minimum amounts authorized for that fiscal year by subsection (a)(3) and (a)(4) of this section.".

SEC. 202. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)(2)(A)) is amended by striking out "and shall be 80 per centum" and inserting in lieu thereof "may not exceed 90 per centum"."

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, (ii) is registered in the United States, (iii) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)), and (iv) as determined by the Civil Aeronautics Board, is in service on the effective date of this section, and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction;

(3) the term "Secretary" means the Secretary of Transportation.

LIST OF NONCOMPLYING AIRCRAFT

SEC. 302. Not later than 60 days after the date of enactment of this title, the Secretary shall publish a list in the Federal Register setting forth the name of each operator of each noncomplying aircraft and the registration number of such aircraft.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 303. The Secretary shall provide a waiver for the operation of two- or three-engine noncomplying aircraft beyond January 1, 1985, if the operator has entered into a binding contract by January 1, 1983, for the purchase of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R., Vol. 43, No. 42, p. 8722 et seq.) and in accordance with a plan specified in section 91.305(c) of title 14, Code of Federal Regulations.

LIMITED WAIVER AUTHORITY

SEC 304. Notwithstanding any other provision of this or any other law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations to such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case in which the failure to grant a waiver would otherwise create burdens on an individual operator which are unreasonable in comparison to the burdens imposed on other operators of noncompliant aircraft, and if the Secretary finds such waiver to be in the public interest.

TITLE IV

CHANGE IN TAXES ON TRANSPORTATION OF PERSONS AND PROPERTY BY AIR AND TRUST FUND AUTHORIZATION

SEC. 401. Section 4261 of the Internal Revenue Code of 1954 is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) REDUCTION OF RATES.—Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980—

(1) the rate of taxes imposed by subsections (a) and (b) shall be 6 percent, and

(2) the tax imposed by subsection (c) shall be $1."

SEC. 402. Section 4271 of the Internal Revenue Code of 1954 is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) REDUCTION OF RATES.—Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980, the rate of the tax imposed by subsection (a) shall be 3 percent."

SEC. 403. AIRPORT AND AIRWAY TRUST FUND AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS TO CARRY OUT AIRCRAFT AND AIRPORT NOISE REDUCTION ACT OF 1978.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended to read as follows:

"(A) incurred under—

"(i) title I of the Airport and Airway Development Act of 1970,

"(ii) the Airport and Airway Development Act Amendments of 1976, and

"(iii) the Airport and Aircraft Noise Reduction Act.

as such Acts were in effect on the date of enactment of the Airport and Aircraft Noise Reduction Act."

TITLE V

SEC. 501. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HARSHA. Mr. Speaker, reserving the right to object, I am sure if the gentleman from California (Mr. ANDERSON) would explain what is in the bill that I will not object. Would the gentleman explain what we are trying to do, and I will

yield to the distinguished chairman of the subcommittee, the gentleman from California (Mr. ANDERSON) for his explanation?

Mr. ANDERSON of California. Mr. Speaker, I will explain the measure very briefly.

H.R. 8729, as originally passed by this body contained five titles. One for planning and programing. One for additional funding for the ADAP program. One to provide funding and a trigger mechanism for a noise program. One for a tax reduction, and one for research and development.

The Senate has modified this bill. The bill that came back from the Senate contains title I for planning and programing. Title II for ADAP acceleration. Title III contains several minor waivers, and title IV a tax reduction from 8 to 6 percent.

I would propose to accept the Senate bill with an amendment which would fund the planning at $15 million for fiscal years 1979 and 1980, provide funding for programing at the rate of $100 million for fiscal year 1980 under a grant program which would allow the Federal share to be not more than 90 percent but not less than 80 percent, and accepts titles III and IV as appeared in the Senate modifications of the House bill, and strike the Senate revolving fund.

In addition the House bill contains much needed provisions for an airport in the vicinity of Dayton, Ohio.

With these changes I would urge the House to pass this bill with the understanding that early in January both Subcommittees on Aviation of the House and Senate committees will move into extensive hearings to move this much needed legislation.

Mr. HARSHA. Mr. Speaker, further reserving the right to object, it is my understanding that what we have here is a very much watered down House bill with the authorization for expenditures in titles I and II, way below what we passed in the House, and that the procedures that were devised to help the airlines meet the regulations are completely removed.

Mr. ANDERSON of California. The gentleman is correct.

Mr. HARSHA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. MURPHY of Pennsylvania. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13511) entitled "An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 13750) entitled "An act to implement the International Sugar Agreement, 1977 between the United States and foreign countries, to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2329) entitled "An act to improve the administration of fish and wildlife programs, and for other purposes."

The message also announced that the Senate agrees to the House amendment numbered 32 and recedes from Senate amendment numbered 33.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 9911) entitled "An act to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc."

The message also announced that the Senate recedes from its amendment numbered 7, and that the Senate agrees to the House amendment to the Senate amendment numbered 8, with an amendment.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 111. Joint resolution to authorize participation by the United States in parliamentary conferences with Japan.

PROVIDING FOR CONSIDERATION OF H.R. 1444 TO CONSIDER CONFERENCE REPORT ON H.R. 13511 TO AMEND THE INTERNATIONAL REVENUE CODE OF 1954 AND TO REDUCE INCOME TAXES

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1444 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1444

Resolved, That immediately upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider the conference report on the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, and all points of order against said conference report are hereby waived.

The SPEAKER pro tempore. The gentleman from Missouri (Mr. BOLLING) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, I can see no reason to go into an extended explanation of this rule.

The rule waives all points of order on the tax bill. As to the points of order, we do not know what they are, if any. The language is just there to be careful in a bill of this magnitude.

Mr. Speaker, I would hope that we can complete the debate very quickly.

I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support the rule, although I sincerely believe that the tax reduction is not enough; and I am going to keep fighting for a 33-percent reduction over a 3-year period.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. BOLLING. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to call the attention of the Members of the House who are in such a hurry to go home that buried in this bill is a provision which robs the social security trust fund, dips into the hospital insurance fund, which robs the elderly of this country and picks the pockets of the working men and women. I refer specifically to that section of this bill which deals with independent contractors.

Mr. Speaker, that language is in the provisions of this conference report despite the fact that that provision was never debated on the floor of this House. The Constitution of this country calls for bills of revenue to originate in the House. This provision did not originate in the House. It was acted upon arbitrarily by the House Committee on Ways and Means, which completely ignored House rule XI, which calls for legislation of that type to go before the Subcommittee on Social Security, before the Health Subcommittee and before the committee which deals with unemployment compensation.

It is unfortunate that this bill is before us at this late hour. It is ironic that this type of legislation gives $450 million in tax forgiveness to independent contractors and does that in a bill which was never properly heard by the subcommittees of the House Committee on Ways and Means.

Mr. Speaker, the chairmen of committees should be held responsible to see that the rules of this House are carried out properly. I say it is outrageous, Mr. Speaker, that rules can be ignored the way the rules were ignored in this particular case.

I do not like to raise these questions at this last hour, but I would like to ask the chairman of the Committee on Ways and Means to get up and explain to this House how he could avoid upholding the rule and having this bill before an ad hoc committee that had no legislative jurisdiction, and why he failed to assign this bill to the Social Security Committee, the Health Insurance Committee, and the Unemployment Committee. I pause for an answer from the chairman.

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. BURKE of Massachusetts. I yield to the gentleman from Oregon.

Mr. ULLMAN. I thank the gentleman for yielding.

The issue the gentleman has raised is a result of tax treatment of independent contractors, and rulings by the IRS that have involved tax collections against individuals and companies who have treated contractors as independent.

Mr. BURKE of Massachusetts. I did not ask the gentleman that. I asked him to explain how he can violate the rules of the House and have this bill here.

Mr. ULLMAN. All we do here is defer those rulings so that next year we can look at that independent contractor issue. If there are any social security problems—and we do not know that there are—we will take care of Social Security Trust Fund problems early in the next Congress.

Mr. BURKE of Massachusetts. That is the type of answer you get, completely ignoring the rules of the House, completely ignoring the rules of the House and having a giveaway program here with a lot of fat cat lobbyists standing out there, outside of the hearing room at a time when the press was involved with watching the veto of the public works bill. In that little hideaway over there at H208 they had a meeting at 1 o'clock in the afternoon, and the noise outside of that room at that time by those lobbyists was the most disgraceful demonstration I have seen in my 20 years in Congress. They were cheering the members of the Committee on Ways and Means who came in who were voting for them. One lobbyist said, "Just imagine, my client is going to be forgiven $13 million in taxes." Another one over there was boasting about how much his client would benefit. We could not hear, but it was in the millions.

I am telling the Members, Mr. Speaker, that this is a disgraceful way to handle a piece of legislation, to have them make a legislative end run around the Constitution of this country and bring in this provision in this tax bill at this time.

The SPEAKER. The time of the gentleman has expired.

Mr. BOLLING. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. Mr. Speaker, I ask the indulgence of my colleagues, Mr. Speaker. I know that it is a tough order. I have been trying to stay awake for the last 4 hours by reading the conference on this tax bill. To begin with, reports are not available to the Members of this body. There is one copy for 435 people. I got a copy with the assistance of my friend and colleague, the gentleman from Missouri (Mr. GEPHARDT).

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. GORE. I will be glad to yield to the gentleman.

Mr. ULLMAN. The full report had been available down at the desk since 8 o'clock this morning. There have been numerous copies since 8 o'clock this morning, I will tell the gentleman.

Mr. GORE. I am told that there has been one copy available, Mr. Speaker. I was told repeatedly when I asked to see a copy.

Mr. ULLMAN. There were numerous copies down there, and they have been available.

Mr. GORE. If that is the case, I stand corrected and I apologize. I know numerous colleagues of mine have had the same experience.

I would like to share with my colleagues just briefly some of the things I found in the conference report. To begin with, the conferees have done some good things. They have stopped the inclusion of some provisions that the Senate had insisted upon which were clearly contrary to the public interest. I express my thanks to the chairman of the House conferees for that. But there are too many that remain.

I just want to say that not a half dozen Members of this body know the provisions that the Senate included and the House did not, that were made a part of this bill at 2 o'clock a.m., or whenever it was. I think it is poor policy to write a multibillion-dollar tax bill and have it brought up at the last minute without having any idea of what is in it.

Mr. VANIK. Mr. Speaker, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Ohio.

Mr. VANIK. I thank the gentleman for yielding.

I think the gentleman makes a very, very important point. I hold that the rules of the House should be designed that no tax bills be considered within 3 months of a political election. This is the crux of the problem.

But I want to tell the gentleman that in my experience this is the only way the tax bills seem to get here, by design or however it works. That is a very unfortunate circumstance that the last piece of legislation to be considered by a Congress that is closing up its business should be its most important and its most critical business: the tax bill.

I would hope that we can work together to try to develop a program to try to get this kind of legislation handled in a more judicious manner.

Mr. GORE. Mr. Speaker, reclaiming what time I have, I agree. I am under no illusions about the outcome of this vote. There will be about 40 votes against the tax bill.

Here are some of the provisions the Senate passed that the House did not pass at 2 a.m.

No. 67. Safe harbor rule for real estate investment trusts.

No. 23. Rollover of distributions from a tax-sheltered annuity, applying profit sharing and stock options which can be rolled over into an individual retirement account and tax sheltered.

No. 96. Tax treatment of cooperative housing corporations. Previously applicable to only the tenant stockholder. The tenant stockholder definition is included to assert banks and other lending institutions which obtain stock in a cooperating housing corporation, whether they have the right to occupy or not.

No. 106. Ten-year carry back of product liability net operating losses. I do not know whether this is the provision I heard about that applies to the Ford Motor Co. experience with the Pinto.

One question I have about it is how much do these cost?

No. 99, accounting treatment for discount coupons redeemed after the close of the taxable year.

The Senate amendment provides a special accounting rule that allows certain issuers of qualified discount coupons to elect to deduct for a taxable year the cost of redeeming qualified discount coupons at the end of the taxable year.

No. 98. This one is to publishers and distributors of magazines and paperbacks and records. They may reduce income for returns only in the year the items are returned unsold by the purchaser. They may exclude from income amounts attributable to qualifying items returned by the end of the year.

No. 68. Contributions in aid of construction. Extends the present law provision on contributions in aid of construction to water and sewerage utilities to regulated public gas and electric utilities.

No. 22. Pension plan reserves. Income of a life insurance company for reserves for an annuity contract sold to a governmental pension plan.

No. 94. Exemption from private foundation tax for failure to distribute income. It applies to nursing homes.

The SPEAKER. The time of the gentleman from Arkansas has expired.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, let me say that most of the bill that the gentleman from Arkansas related to were passed by the House, either by unanimous consent or under suspension of the rules, with virtually no objection to them. I do not know where the gentleman gets his information.

We carefully screened all the other measures. Those that were not passed by the House were supported generally by the Treasury. We did screen these very carefully and we rejected a lot of amendments. We rejected all those that we felt in any way violated a trust.

Mr. GORE. Mr. Speaker, will the gentleman yield for 1 additional minute?

Mr. BOLLING. I yield 1 additional minute to the gentleman from Tennessee.

Mr. GORE. Mr. Speaker, I want to underscore the point made by the gentleman from Ohio earlier. My intent is to focus the attention of the body, if I can, on the need in coming sessions to try to avoid this kind of treatment of tax bills at the end of the year.

I know the burden that my distinguished colleague has labored under. I know that his counterpart in the other body comes in with several wheelbarrows full of amendments and if we get only a few out of the batch, it is a success, or has been considered a success.

I hope we can change the way we consider tax legislation in the future.

Mr. LIVINGSTON. Mr. Speaker, will the gentleman yield further? I would like to address a question to the gentleman in the well.

Mr. BOLLING. The gentleman from Missouri does not yield. I suggest that the gentleman from Tennessee yield his time.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana (Mr. LIVINGSTON).

Mr. LIVINGSTON. Mr. Speaker, does the gentleman in the well recall that this body voted to recommit this rule with instructions to the conferees that the Nunn amendment be adopted?

Mr. GORE. Mr. Speaker, if my colleague will yield yes; I opposed the Nunn amendment and I urged a "no" vote on the motion to recommit.

Mr. LIVINGSTON. Were those instructions followed?

Mr. GORE. Under the current rules of the House, instructions to the conferees are not binding.

Mr. LIVINGSTON. But, the gentleman concedes then, does he not, that the instructions were not followed, and the Nunn amendment was not adopted.

Mr. GORE. The Nunn amendment, if I may be allowed to respond, is included as a statement of policy. The provisions are not included in this bill.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Speaker, I wonder if I might ask the distinguished chairman of the committee if there are any provisions in this bill that deal with matters other than tax and social security questions.

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, the only provisions other than tax provisions deal with social security and welfare.

Mr. SEIBERLING. And no substantive law is involved?

Mr. ULLMAN. Otherwise everything deals with tax matters.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I call up the conference report on the bill (H.R. 13511) to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule previously adopted, the conference report is considered as read.

(For conference report and statement, see proceedings of the House, October 14, 1978.)

The SPEAKER. The gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am not going to take the well. We have a summary of the provisions in this bill that I hope the Members will pick up. That will give them a brief synopsis of all the important provisions in the bill.

First, let me express my appreciation to the conferees and to a very excellent staff for doing a rather superhuman job of putting together a monumental piece of tax legislation in the timeframe under which we were working.

Let me make the first point: that this bill does comply with all budget requirements. For fiscal year 1979 it comes well below the budget limitations, and in out years it complies generally with all the budget requirements.

There are new cuts of $18.7 billion for calendar year 1979, compared to $16 billion in the House bill and compared to $19 billion in the Senate bill.

In this bill that we bring the Members we have gained from the Senate bill $2.5 billion in fiscal year 1979, but in calendar year 1979—and the Members should note these figures—we have reduced the revenue impact by $10.4 billion in calendar year 1979 below the Senate bill. In fiscal year 1983 we have reduced the estimated revenue impact by $21.6 billion below the Senate bill.

In individual cuts we have $13 billion. In rate relief we have increased the rate reductions below the levels of the House-passed bill. We have increased those rate reductions by about $1 billion. We put that relief in the middle brackets and in the lower middle brackets so that I think we have an excellent spread of tax relief for the taxpayers of this country.

The personal exemption is the same as the House-passed bill, increased from $750 to $1,000. The gas tax deduction is the same. The unemployment compensation, taxation for unemployment, about $20,000. The tax shelter provisions of the House bill are approximately the same dealing with the at-risk rule. The corporate rate cut, the House prevailed, and we have maintained the House position of reducing corporate rates from 48 to 46 percent.

Some additional features I should point out. For low-income workers we have expanded the earned income credit. And we have changed its posture so that it can go into the withholding tables. We have about $1 billion in increased earned income credit that impacts the low-income up to $11,000. The investment tax credit is very similar to the House provision, making the 10 percent permanent, liberalizing the treatment, adding some special provisions of the rehabilitation of industrial structures. The jobs credit provisions are approximately the same. We are replacing the general jobs credit with a designated jobs credit that I think will be very effective in penalizing its impact on the areas of chronic unemployment.

We have added a feature that was recommended by the President, dealing with entertainment facilities. Although we rejected the provision dealing with club rules, we have repealed the entertainment deductions for yachts, hunting lodges, and other entertainment facilities other than club dues. I think the biggest impact in the bill, probably, on the economy will be in the capital gains treatment. Here we have expanded the benefit from the House posture by going to a 60-percent exclusion for capital gains. The House position, of course, was the traditional 50 percent. This makes a maximum capital gains tax of 28 percent. For residences, we have adopted the House rule of a once-in-a-lifetime of $100,000 exclusion for capital gains on the sale of a home, but we have applied it to age 55 or older.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding.

The limitation was placed by the White House on the overall capital gains you could give, and you had a very difficult time compromising with the Senate. The provision reached is better than the Senate provision, not nearly as good as the House provision. I think it is very important that we provide this once-in-a-liftime capital gains relief on the sale of a principal residence for people under age 55. They, in many ways, are most in need, because these are the young people who have children at home. The economic penalty is very great when they have to move, in today's very mobile society. I would continue to fight for that. I would hope we would have the cooperation of the Committee on Ways and Means in retaining the full House provision in the next Congress.

Mr. ULLMAN. Mr. Speaker, we cut the impact almost in two, because we were operating under very tight revenue limitations. I think it is very important that we get a bill that is within the requirements of our getting a signature in the White House. We think we have that kind of a bill that will be embraced by the President. We also believe that, because we have a rollover in existing law which is continued, that most of the benefits that will be achieved from this rule may be kept in the bill. For people under 55, they continue the rollover and capital gains, without paying tax, and then when they get to be 55 or at any time beyond that, they can take a once-in-a-lifetime $100,000 tax exemption.

Another very important provision in the bill that took a great deal of our time was our minimum tax credit. We kept the basic House format of maintaining the existing minimum tax for noncapital gains preferences, with one exception. We continue with the excess items deductions and put them, together with capital gains exclusion amounts, into a new alternative minimum tax with graduated rates that go to 25 percent.

This is, I think, an eminently fair compromise. It is one, I think, that does push this bill toward a better long-term tax posture with respect to this issue. We have a number of miscellaneous provisions including three social service items that include the extension of title XX with additional funds.

Mr. KEMP. Mr. Speaker, will the gentleman yield for a question?

Mr. ULLMAN. I will be happy to yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I appreciate the chairman yielding. In section 1 it talks about individual income tax rate reductions. It mentions widening of the tax bracket. I guess that is adjusted to reconcile for 6 percent in 1979, is that correct?

Mr. ULLMAN. We followed the procedure that we had adopted in the House-passed bill, which widens the bracket in order to accommodate the inflation problem.

Mr. KEMP. And that is about what, 6 percent?

Mr. ULLMAN. Well, we have done that and we have also widened the brackets. We increased the rates. We widened the brackets, but we increased the benefits to the taxpayers by a billion dollars above the House-passed bill.

Mr. KEMP. That is what I wanted to ask the chairman about. It mentions that it lowers the rates. Can the gentleman explain to me how the rates are reduced in certain income tax brackets to lead to an aggregate tax cut of a billion dollars for middle-income people?

Mr. ULLMAN. Well, tax tables are rather complex. I can give the gentleman some figures that would indicate that in the bracket below $5,000 we have added $11 million in benefits. Between $5,000 and $10,000, we have added $174 million, and between $10,000 and $15,000, $194 million. Between $15,000 and $20,000, $213 million. Between $20,000 and $30,000, $170 million. Between $30,000 and $50,000, $70 million.

Mr. KEMP. Along that same line, the gentleman keeps talking—and I do not mean to be disrespectful—but keeps talking in terms of aggregate tax cuts in certain brackets. What I am suggesting, when the Nunn amendment passed the House and Senate, it was about a 26-percent personal income tax reduction. In other words, the 70-percent bracket was to be lowered to 57 percent in steps of about 5 percent over the next 5 years, and of course all the other rates would be lowered. The bottom rate would be lowered to about 10.

What has happened in the middle-income tax rates that in the aggregate takes a billion dollars out of the middle income, which will exacerbate the tax burden, which is raising taxes on the American people by about $15 billion a year?

Mr. ULLMAN. We have increased the tax reduction in each bracket by approximately 6 percent, so we have that 6-percent reduction in each bracket all across the board. I think it is evenly spread.

We think it is generally ready text and we think it proper.

Mr. KEMP. With two-thirds of the House and Senate voting to lower marginal tax rates right across the board, from 57 down to 35, and all the way down from 14 to 10, did the committee discuss or take into consideration that two-thirds of the House voted to lower marginal rates? And I do not see they are lowered other than these.

Mr. ULLMAN. There is not an amendment to this basic rate schedule for the basic tax cut. It has not moved according to a fixed formula into the future, but this is approximately the recommendation under the Nunn amendment.

Mr. KEMP. Will the gentleman yield further?

Mr. ULLMAN. I think we are operating under a very tight timeframe, and I have to yield to others, and I may come back to the gentleman.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the chairman of the Budget Committee.

Mr. GIAIMO. Mr. Speaker, I compliment the gentleman on completing this job, which started a long, long 10 or 11 months ago. It has been a very arduous and difficult job. I commend him for coming in with what I think is an acceptable tax bill.

Among other things let me suggest while the figures are fresh, I believe this tax bill is coming under the amount provided in our budget by about $1 billion, which would have the added effect of reducing the estimated deficit for fiscal year 1979 from $38.8 billion down to somewhere around $37.8 billion.

In view of some of the actions which have been taken here tonight on sugar and other matters which have not been acted on, we might end up with an even smaller deficit. I think the gentleman from Oregon and the committee are to be commended for that.

One question I do have on the Nunn amendment-type language in the conference report, where it is stated as a matter of national policy that we should try to get spending down to an acceptable relationship with gross national product, not only for fiscal year 1979 but in the out years: as the gentleman knows the establishment of the outlay levels and ceilings fall solely within the procedures available to the Congress through the Budget Act.

I do not consider these statements on desirable outlay figures as binding on me, the Budget Committee, or the Congress in any way—although we will keep them in mind.

I ask the gentleman whether he considers this language in any way supercedes the Budget Act or is binding upon the budget process, when Congress determines its budgets in future years—in 1980, 1981, and 1982 years?

Mr. ULLMAN. Let me say to the gentleman, they are here.

They are the same basic structures that were in the so-called Nunn amendment but they are not binding, no. They do put requirements on. We are looking at a tax cut and depending upon the budget and the economic conditions, we would move toward a tax cut.

I think that is the proper and responsible procedure and that responsibility goes not just to the tax writing committees but also to the Budget Committee.

In other words it involves the process. As one who believes in the budget procedure, I fully commend and support the gentleman for what he has done to run a program they had over there in the Budget Committee. That is a procedure incorporated here in the bill which does involve the existing procedures, the budget procedures and all the other responsibility procedures we have.

Mr. GIAIMO. This conference language then is no attempt to legislate in connection with the tax bill, the budget outlays for 1980, 1981 and 1982?

Mr. ULLMAN. That is correct.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, while here, I have one question. I think it is applicable to the discussion.

The gentleman indicated the possible deficit if we pass this bill. Could the distinguished chairman of the committee or of the Budget Committee tell us what the total reduction in revenues will be in respect to the fiscal years respectively if this bill is adopted.

Mr. ULLMAN. Mr. Speaker, let me tell the gentleman that we have in the conference provided a fiscal effect in 1979 of $19.3 billion. The calendar year effect is $18.7 billion. The reduction is according to one, from the Senate version, that we certainly have picked up in this calendar year $2½ billion in the fiscal year and in the calendar year it is $10.4 billion below the levels that came in the Senate-passed bill.

So when we compare it to that bill we have made major savings. We are within the budget, as the chairman of the Budget Committee indicated. We are about $1 billion below the levels that were authorized in the budget resolution.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield on that point?

Mr. ULLMAN. I yield.

Mr. GIAIMO. As I understand, your major tax cut is about $19.3 billion for the fiscal year?

Mr. ULLMAN. That is right.

Mr. GIAIMO. Plus about a half billion for the others, such as income earned abroad?

Mr. ULLMAN. Yes.

Mr. GIAIMO. And the other miscellaneous changes or a total schedule of about $20.8 billion?

Mr. ULLMAN. That is correct.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield, can the gentleman tell us whether the President has withdrawn his announced intentions of vetoing the tax bill?

Mr. ULLMAN. Let me say to the gentleman from Ohio (Mr. SEIBERLING) that the President did not offer a flat veto, except in the way of certain items such as regarding tuition credits and possibly the Nunn amendment.

But he has exercised a very positive posture in holding the line on revenue losses so that we can maintain our goals of a balanced budget in the next couple of years.

As the gentleman knows, the chairman of the Committee on Ways and Means took that posture long before the President did. So I have fought consistently to maintain a responsible posture on revenue reductions that would maintain control over inflation in our country.

Mr. SEIBERLING. Mr. Speaker, if the gentleman will yield still further, is the chairman, the gentleman from Oregon (Mr. ULLMAN) saying that the President will accept this bill?

Mr. ULLMAN. I am quite sure that the President will. The Secretary of the Treasury was alerted when we finally wound up the conference. Somebody said 2 o'clock, but it was around 4 o'clock this morning after long and arduous hours. So I am sure it will be acceptable to the President.

Mr. SEIBERLING. I thank the gentleman.

Mr. ULLMAN. He should embrace it because it embraces the principles that he has been talking about.

The SPEAKER pro tempore. The Chair will state that the gentleman from

Oregon (Mr. ULLMAN) has 9 minutes remaining.

Mr. TUCKER. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from Arkansas.

Mr. TUCKER. Mr. Speaker, I thank the gentleman for yielding to me. I just want to extend my congratulations to the chairman of the committee for his fine work on this bill.

The changes in capital gains taxations made by this bill are ones of which all Members of the House can be proud. The decision with regard to exempting 60 percent of a gain from taxation conforms to an amendment offered in committee by my colleague Mr. GEPHARDT and me. It offers capital gains advantages for taxpayers in every wage bracket and that is as it should be. The changes in corporate rates are sensible and in conformity with revenues. My only regret is we did not have revenue enough to extend the individual cuts to provide general revenue to offset the burden of the Social Security.

Further, Mr. Speaker, I would like to extend my thanks for the many kindnesses that the chairman and members of the committee have extended to me over the past 2 years.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are several points I would like to make about this bill. I plan to support it. There are small things in the bill, and there always are in a bill as complex and extensive as this one that is hammered out in the time constraints that are imposed on us by the other body, and the time schedules of the Congress as a whole, that one regrets. But if there is a time when some compromise is needed, it is in putting together this type of legislation. The Committee on Ways and Means has broad shoulders and is perfectly willing to take the criticism, the heat, and the tremendous lobbying that goes on. You cannot deal in taxes and you cannot deal with a wide variety of interests without engaging in a good deal of compromise about where the benefits of tax reduction go, and how you serve equity among widely diverse classes of taxpayers.

Just because a measure benefits a small group of taxpayers does not necessarily make it bad, if it is equitable, and that is one thing we have to remember when we look at tax legislation. There is a great tendency among Members in this body to think that a tax provision which benefits a few in some way is, in some way, unclean and undesirable.

I must acknowledge that some people, through the lobbying process, get better representation than others; but frankly, it is a part of the responsibility of our Committee on Ways and Means and of the Senate Finance Committee to try to straighten these matters out, to keep a perspective and a balance, and to put together a total tax bill which will be as equitable and as fair to all concerned as possible. We have tried to do this. In dealing with the other body, it serves the interests of this House to put together a package rather than sending them a larger number of individual bills.

Mr. Speaker, let us look at the overall provisions of this bill which makes it more desirable than otherwise, for the Members to want to vote for it.

First of all, there is substantial tax reduction in it. I do not think the reduction is enough. It is interesting to find Members congratulating themselves on the constraint that has been used in controlling revenue loss. In this case, what that means, Mr. Speaker, is that we have not given as big a tax cut as we might have been able to give, even within the budget constraints that were laid down to us. As a result the tax rate is creeping up relative to what it might otherwise be. However, let us not forget that while we are congratulating ourselves on that, that we are taking more away from the people, their money, and not the Government's money. We should take only what we have to. Budget constraints are something that are not there to be subverted to the purposes of a growing government.

Mr. Speaker, let me say next that the only reason we have substantial capital gains reduction in this conference report is because of the success and support of the Steiger amendment. That became a lever in the moving of the House bill. That amendment brought the change of direction built into this measure, which I think will benefit the system.

I hope that we will have good statistics on what has happened, but I regret that included among the $19.3 billion of tax reduction is $2.1 billion assumed to be revenue loss on account of reduction of capital gains.

When the returns are in, we will find that, in fact, capital gains changes have resulted in increased activity and probably in increased Government revenue far beyond the assumed ripple effect of these reductions.

Mr. BURKE of Massachusetts. Mr. Speaker, will the gentleman yield at that point?

Mr. CONABLE. I will yield to the gentleman from Massachusetts briefly.

Mr. BURKE of Massachusetts. In discussing the special interest people who are able to see through this bill, the independent contractors, would the gentleman say that they had more influence than those people who would have been affected by the disability insurance bill which we tried to bring out of the subcommittee? And would the gentleman agree that the full committee failed in wanting to take care of the lame, the halt, and the blind?

Mr. CONABLE. I see very little connection between the two. There is always going to be a difference in the access people are able to get to individual legislators and to committees.

It is part of our job to try to insure that we are fair to all. I do not believe we have been unfair in that respect in this case.

Mr. Speaker, let me deal just briefly with the Nunn amendment. I am deeply disappointed that was killed. This body does not have a fiscal policy. I wish it did. I wish our Budget Reform Act were working satisfactorily. I do not believe it is. The Nunn amendment would have improved our relationships with respect to fiscal policy. Two-thirds of each body voted for the Nunn amendment. This House did it through an instruction to the conferees. The Senate did it when the Nunn amendment was adopted in their version of the tax bill.

Despite that, the conferees felt apparently justified in ignoring these advisory instructions from the majority of both Houses. I think it is deeply regrettable. I wish that, regardless of what one thinks about the merits of the Nunn amendment, the members of our respective committees would take seriously instructions from the body as a whole.

If we are going to ignore such instructions, it is almost inevitable the Members are going to be cynical about our work. It is terribly important that we have a relationship to the other Members of the House that reflects respect for their views and for their instructions.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. OTTINGER. As the gentleman knows, I withheld an instruction on the homeowners' provision based on the commitment of his and the chairman's that they would support the House provision, and I think they did as far as they could.

Mr. CONABLE. We did the best we could.

Mr. OTTINGER. I wonder if we might get a commitment from both the gentleman from New York and the chairman that they would support such a provision in the next Congress.

Mr. CONABLE. I am not going to make such a specific commitment. It is going to have to fit into the priorities that face us at that time. I think it would be a mistake to be more specific so far in advance. I will continue to try to give desirable and equitable treatment to homeowners, since sound public policy requires us to give some recognition to the social desirability of homeownership.

Mr. OTTINGER. If the gentleman would just yield very briefly further, there are a lot of people under age 55 who do not benefit by the rollover provisions, whose children have gone to school, and they are in a separate housing group and yet have capital gains and do not benefit by these provisions. I hope we have your support in the future for them.

Mr. CONABLE. I thank the gentleman for his contribution.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Illinois.

Mr. FINDLEY. I thank the gentleman for yielding.

I have several impressions of the conference report before us. One is the enormity of it; the other is the complexity of it; and the third impression is the strained circumstances under which we as Members of this body consider the report. Even though the Xeroxed materials may well have been available since 8 o'clock this morning, very few of us have really been sufficiently alert, after the long period of

consideration of the other matters, to give this thoughtful consideration.

Mr. CONABLE. Let me interrupt at that moment. As I said, that is a matter of leadership. I do not think there is any way to avoid this sort of thing unless there is reasonable scheduling of such matters and insistence that the various institutions of the Congress do their work in timely fashion.

Mr. FINDLEY. I agree. Let me make a brief statement. It would seem to me that it would well serve the public interest for this body to have an inflexible rule under which we could never take up a tax bill of this complexity without an interval of at least 30 days elapsing from the time the printed report is available for public examination and when we pass judgment. Would the gentleman agree with me that that would be prudent policy?

Mr. CONABLE. I tend to resist inflexible rules. I want to come back to the expressed belief that it is a matter of leadership. It is extremely undesirable, however, to be considering a bill under circumstances such as we are considering this one.

Mr. KEMP. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from New York briefly.

Mr. KEMP. I appreciate my colleague's yielding.

I would like to take this time to engage the chairman of the committee in further colloquy to elaborate upon the action that the committee took in the conference. Very briefly, I just wanted to say that I support the conference's attempt to lower the capital gains tax—I think that was a very progressive thing to do—and lower the corporate rate, as our colleague, the gentleman from New York, mentioned, and which the gentleman from Oregon mentioned. Also, raising the threshold by 6 percent, or widening the bracket by 6 percent, is an attempt to make up in small part for the rate of inflation that next year is predicted to be somewhere between 7 and 8 percent. But I would remind our chairman that if we were truly to adjust everyone's personal income tax threshold for the majority just in the last 8 years, we would have to raise every bracket, we would have to raise every threshold on every income tax bracket in the country 60 percent just to make up for the level of inflation on the rise in the Consumer Price Index over the last 8 years.

Now, the gentleman from Oregon has talked about tax cuts. The chairman has talked about the revenue loss. Would the gentleman from Oregon tell this body what is his estimate of the tax increase projected next year by virtue of people being moved progressively into higher income tax brackets in the aggregate?

Mr. ULLMAN. Mr. Speaker, if the gentleman will yield, a very quick technical and I think accurate answer is about $9 billion.

Mr. KEMP. So that the gentleman suggests that even though the Joint Finance Committee said it was somewhere between $16 billion and $17 billion, it is only $9 billion as a taxflation effect?

Mr. ULLMAN. About $9 billion; again, it depends on the rate of inflation.

Mr. CONABLE. Mr. Speaker, let me reclaim my time. It is dependent on the rate of inflation. It is obvious we are going to continue to have a fiscal dividend. That is why this must be viewed as a down payment on the tax economy.

I regret that we do not deal with the out years. We should have a tax policy that assures to the American people that in the out years they will not be back in the mess caused by inflation.

This bill also is significant primarily because it represents a change in direction. In 5 of the last 8 years we have passed a tax bill essentially reflecting the American version of Sherwood Forest, where we have taken from the middle class and given to the poor. The American version is that way because we never really tax the rich heavily, as long as we have municipal bonds not subject to taxation. All we do by trying to increase their taxes for redistribution purposes is drive them into tax exempt investments of this sort.

Mr. Speaker, one last matter, that is social security. My chairman has pledged that social security will be the first order of business in the next Congress. That must prove the close attention of the House. I have myself sponsored a bill which I believe involves a possible permanent solution of the social security problem; but it is regrettable that we have not offset the increased burden of social security in this bill to the full extent we could have.

Mr. STEIGER. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. Let me yield to the gentleman from Wisconsin and acknowledge his efforts and contribution on this matter.

Mr. STEIGER. Mr. Speaker, I appreciate the gentleman yielding and his kind remarks.

Mr. Speaker, this bill does represent a fundamental change in direction. I think on balance it is a good bill. I support it and I urge its adoption.

Mr. KEMP. Mr. Speaker, will the gentleman yield for 1 additional minute?

Mr. CONABLE. I yield to the gentleman from New York.

Mr. KEMP. Mr. Speaker, I want my colleagues to understand, despite the fact this is a tax cut, it is also going to lead to a tax increase. The total tax increase to the American people in the aggregate over the next 5 years is going to be $320 billion. That is counting taxflation, increased social security taxes, revenues to the Government that increase by 12 percent every year for the next 5 years. Marginal tax rates within the next 5 years to blue-collar men and women from New York to California will be at the marginal rates of 40 to 50 percent.

I think it is intolerable that the conferees did not do as they were instructed and restore the reward for the investor, the saver and the producer.

Mr. CONABLE. Mr. Speaker, I want to yield 1 additional minute to the gentleman from Massachusetts, a man, let me say, who is a great fighter. We have enjoyed having him on the committee and are sorry he has decided to retire. I would like to pay tribute to his great devotion to duty and friendship over the years, the gentleman from Massachusetts (Mr. BURKE).

Mr. BURKE of Massachusetts. Mr. Speaker, I thank the gentleman.

Mr. CONABLE. Mr. Speaker, I would like to ask that we not take from his time that which was used in applause.

Mr. BURKE of Massachusetts. Mr. Speaker, the only difference between the gentleman from New York and me is that he was in the Marines. I was in the infantry and we carried those Marines through World War II.

Mr. ULLMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I am convinced that the American people would rather not have a tax cut if they could instead see a reduction in our national deficit or a similar cut in our national spending. These tax cuts will be helpful to some, but to the average individual it will not mean a whole lot. Tax cuts may stimulate the economy but the attainment of a balanced budget would give the American people such confidence that it would provide more stimulus to our economy than anything else.

I share the concern of all our Members that we have not had the opportunity to debate this bill in detail. Inevitably it seems that these tax bills are only produced in the fading hours of the session. At the same time, it is not all the fault of the Ways and Means Committee. First, we must expect debate and argument whenever a tax proposal is made. Secondly, this time the issue of capital gains was so strong that in order to act in a fiscally responsible manner, that too caused delay. And thirdly, we must remember, that the administration could not come to any accord in the early months. This inaction down the street caused 3 months delay. Also, we all here must take some fault for the lateness of the hour in getting this bill together.

Overall we have come out at about the right point, I believe. We have a tax cut that is not too inflationary but designed to help offset the ravages of present inflation on our taxpayers.

Mr. Speaker, the Members of the House will recall that during the debate when this bill was before us, the gentleman from Ohio (Mr. VANIK) and I offered an amendment to provide for no tax cut. I felt then and I believe now that the best thing would have been not to have a tax cut and not to add this $20 billion or $21 billion deficit to our national problem.

We were not successful in that effort. We have had a tax cut now in each of the last 3 years. This is the fourth year in a row. It becomes a pattern that we must break, no matter how difficult the inflationary problem is.

This bill is an attempt to take care, partially, of the inflationary problem we have. I must say to the gentleman from New York (Mr. KEMP), much as we agree with the fond hope for a tax cut and the incentive for workers, there is a certain amount of "pie in the sky" in this proposition (Kemp-Roth) that we just cannot ignore.

If we must have a tax cut, this is as good a bill as the committee could come up with. It is within the budget, it gives

relief to individuals, it offers personal exemptions, it gives capital gains, and it helps small business. I think it can be helpful. It is a moderate approach.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I wish my friend would not advocate tax increases. That is in effect what he is doing. We cannot load the full burden of fiscal policy on the taxapyers of this country. We have to restrain growth in Government.

Mr. PICKLE. Mr. Speaker, the other gentleman from New York (Mr. KEMP) also made that same old point. I have heard him for several months now, and I am still not convinced.

Mr. ULLMAN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. STARK).

Mr. STARK. Mr. Speaker, the tax cuts provided in the conference report on the Revenue Act of 1978 are skewed to the benefit of the well-off. The 75 percent of taxpayers who earn under $20,000 receive less than 37 percent of the total tax cut, while the top 2 percent get 15 percent of the benefits.

Distribution of individual tax cuts

[1978 income levels]

[In percent]

Expanded income class	Percent of taxpayers in class	Percent of tax cut benefits
Under $15,000	63.6	23.5
$15,000–$20,000	12.9	13.3
$20,000–$30,000	14.7	26.8
$30,000–$50,000	6.6	22.1
$50,000–$100,000	1.6	10.4
$100,000–$200,000	0.3	3.0
Over $200,000	0.1	1.0

Average dollar benefits for most middle-income taxpayers are inadequate to offset the effects of inflation and higher payroll taxes. Only the very top brackets receive adequate tax reductions.

Average tax benefits for family of four

[1978 income levels]

Adjusted gross income	*Average tax reduction*
$5,000	$100
$10,000	72
$15,000	97
$20,000	167
$25,000	249
$30,000	315
$40,000	536
$50,000	627
$100,000	1,002

The tax bill would reduce taxes on capital gains (and other sheltered income) by $2.7 billion annually. It would expand the percentage of capital gains which is tax exempt to 60 percent from the current 50 percent and would replace the existing minimum tax on sheltered income with a new, weaker minimum tax.

The wealthiest 2 percent of taxpayers receive 75 percent of the over $2 billion of capital gains relief. Families with incomes of more than $200,000 will average cuts around $15,000 per year.

In spite of the rhetoric about high capital gains rates, this proposal would reduce the effective tax rates paid on capital gains from the present 15 percent to around 10 percent.

Distribution of capital gains cuts

[1978 income levels]

[Not including residences]

Expanded income class	(1)	(2)	(3)
Less than $15,000	63.6	2.1	$89
$15,000–$20,000	12.9	2.4	102
$20,000–$30,000	14.7	5.4	114
$30,000–$50,000	6.6	11.7	137
$50,000–$100,000	1.6	22.6	463
$100,000–$200,000	0.3	14.3	293
Over $200,000	0.1	41.5	850

[1] Percent of taxpayers in class.

[2] Percent of benefits.

[3] Total amount of cut in millions.

UNDOING 1976 REFORMS ON CARRYOVER BASIS

The conference report includes a provision to delay for 3 years (until 1980) the effective date of the very important carryover basis reform adopted in 1976. This reform replaced a system under which the basis of assets held at death were stepped up to fair market value, thereby washing out forever any capital gains taxes on appreciation during the decedent's lifetime. By allowing unrealized appreciation to go completely untaxed, the step-up approach treats persons who hold assets until death far better than those who sell or give away property in their lifetimes or who earn their money in the form of wages. In 1972, the 1.8 million estates worth under $100,000 included an average of only $444 in untaxed appreciation (they would not be taxed under the reform), while the 4,000 estates worth more than $1,000,000 averaged almost $1,000,000 each in untaxed gains.

WEAKENING THE CURRENT MINIMUM TAX

The conference report would replace the present 15 percent add-on minimum tax on the sheltered half of capital gains income with a new, graduated, alternative minimum tax. For a few, very high income individuals, this new minimum tax would actually mean a tax increase, but overall it has about half the impact as the present minimum tax has on this sheltered income. For individuals with hundreds of thousands of dollars in income, it would set the maximum possible marginal rate at 25 percent—the marginal rate paid by a married wage earner with $15,000 of taxable earnings not including social security taxes).

In addition, the conference report permanently exempts oil producers from paying the minimum tax on the income they shelter with artificial "intangible drilling cost" deductions. The result is a $50 million windfall for a handful of wealthy oilmen and, in documented cases, will mean a drop in taxes for oilmen with multimillion dollar incomes from an already meager 10 percent to only 1 percent or less.

Mr. Speaker, I have written a poem, which expresses, in what I hope is good humor, the true sense of the bill:

Twas the night of adjournment
And all through the House
The buzzers were ringing
When up sprang a louse.

The Speaker had sold all the Liberals a Bill
And Good Chairman Ullman had swallowed the Pill.

The Czar and the Oil Companies were snug in their beds,
While visions of depletion danced in their heads.

The Conferees were strung by the White House with care
In hopes that Saint Teddy soon would not dare.

With loopholes for dryholes
And tax breaks for wine,
The deeds of the lobbyists
Were almost a crime.

They took care of the heirs
and built up the shelters,
But for the poor folks
Russell gave us no helpers.

The rich will have Christmas with ill-gotten gains,
While others pay taxes with annual pains.

But Scroodging the people is Washington's credo.
Now what we need, Tiny Jim, is a veto!!!

Mr. ULLMAN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. BRODHEAD).

Mr. BRODHEAD. Mr. Speaker, I rise in opposition to the bill.

I agree that this is a new departure. I think it is a new departure in the sense that for the first time in a long time it gives a disproportionate amount of tax relief to the smallest group of taxpayers.

I also think the capital gains provisions of the bill are ill advised, and I think we have not had adequate time to study the bill.

For these reasons, Mr. Speaker, I urge a no vote.

Mr. ULLMAN. Mr. Speaker, I yield myself the balance of my time.

Before I close, Mr. Speaker, I want to say that there are four very distinguished members of the committee who will not be back next year. In addition to the gentleman from Massachusetts (Mr. BURKE), we have the gentleman from Texas (Mr. BURLESON), the gentleman from Louisiana (Mr. WAGGONNER), and the gentleman from New York (Mr. PIKE). They have been great Members of this body and of the Committee on Ways and Means.

I also would like to mention the gentleman from Arkansas (Mr. TUCKER), who retired because he ran for another office.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, the gentleman failed to answer my question about supporting this provision in the future.

Mr. ULLMAN. As I indicated on the homeowner provision, we staunchly defended the House position until the bitter end, until it became obvious that, because of revenue, we had to close it off. Yes; I would support that age bracket if we can find revenue to do it.

Mr. Speaker, this is a good bill. I urge all of the Members to go home and get reelected on the basis of a fine tax bill.

● Mr. STEIGER. Mr. Speaker, the provisions of the bill on capital gains represent a fundamental new direction in tax policy. They are a reversal of a decade of inhibiting investment and savings.

I am grateful to the gentleman from New York for his comments and cooperation.

Since I have filled the pages of the

RECORD for some time with a discussion of the reasons for reducing the present heavy tax on capital gains I will not take the time now to give all the rationale. Suffice it to say that the top rate we are adopting in this conference report, while not perfect, is nonetheless a major step to correct the inequities of the present law.

There are a number of other provisions which I applaud but one major oversight which I hope will not in 1979 go without attention and action. I am referring to the provision in the Senate bill No. 18 relating to employees in qualified pension plans. Under the present law hundreds of thousands of workers are at a disadvantage since they cannot join any IRA even though no contribution is made to the plan.

The Senate bill corrected that situation under a provision authored by Senator PACKWOOD but the conferees turned this down due to cost. This is the second time this issue has come to a conference and has been lost in the crunch.

I want to make clear my intention to try to correct this glaring inequity in the next session.●

● Ms. HOLTZMAN. Mr. Speaker, I oppose the conference report on H.R. 13511, the Revenue Act of 1978.

This legislation has been widely advertised as providing tax relief for middle-income taxpayers—an example of false advertising if there ever was one. The fact is that this bill does not adequately help middle-income working taxpayers. Instead, it chiefly benefits the privileged few.

If distributed fairly, the tax reductions in the bill would protect taxpayers in all income groups from the increased tax bite caused by inflation and social security tax hikes. But the reductions are not distributed fairly. While the bill will give the less than 3 percent of taxpayers with incomes in excess of $50,000 a net tax decrease of $1.6 billion, middle-income taxpayers—the 47 percent of American taxpayers with income of between $10,000 and $50,000—will wind up with a net tax increase of $744 million, taking social security taxes and inflated taxes into account.

The reduction in the capital gains tax is, in my judgment, misguided. It has been estimated that more than 40 percent of the capital gains tax reductions in this bill will benefit the fewer than 1 percent of taxpayers who enjoy incomes of over $200,000 a year.

In addition, the bill dilutes the minimum tax requirement that Congress enacted in 1967 to insure that wealthy taxpayers pay a reasonable amount of income tax.

The bill also panders to narrow special interests. For example, it includes a provision especially designed to reduce the Gallo winery heirs' estate taxes. This kind of provision is one of the reasons this bill is so unfair. The Gallo heirs were able to hire a high-priced lobbyist with special access to the tax writing committees, but how many other Americans can afford to pay an expensive Washington lobbyist to get them out of paying taxes? Obviously, very, very few.

The bill reduces the corporate tax rate from 48 percent to 46 percent. I am unconvinced that this is necessary. Corporations actually pay taxes at a rate of only between 25 percent or 30 percent—the effective tax rate. And in 1976, some of the biggest corporations—United States Steel, Bethlehem Steel, General Dynamics, and Chase Manhattan Bank—paid no corporate income tax at all. Proponents of the corporate tax cut justify it with the trickle-down theory; the old idea that more profits for the top of the economic pyramid ultimately trickle down to the bottom. I subscribe to the trickle-up theory.

All in all, this is sadly regressive tax legislation which reverses the reforming trend of the past decade: It flies in the face of Congress efforts over the last several years to make our tax laws more equitable for middle-income and working taxpayers. Using the excuse of a need for a general tax cut, it spreads a lavish feast for a tiny minority of America's taxpayers and throws a bone to the rest. Its handful of virtues—for example, an increase in the earned income credit; an improved job tax credit—are far outweighted by its evils, and I cannot support this legislation.●

Mr. BINGHAM. Mr. Speaker, in August of this year I voted against the tax bill brought to the House floor by the Ways and Means Committee. At that time I called the bill a "sham" and "antithetical to the tradition of the Democratic Party." I expressed disbelief that a Democratic Congress would send so regressive a bill to the desk of a Democratic President. I urged my colleagues to improve the bill in House-Senate conference and added the hope that I would be able to support the conference agreement.

I am not able to do so. The conference bill, like the House version, is a regressive piece of legislation. To be sure, it cuts taxes—revenues will drop $18.7 billion next year. It does provide tax relief, but it provides most of it to the upper income taxpayers and not to the lower and lower middle-income taxpayers who need relief the most. It seems clear that the Congress had a clear choice in cutting taxes this year. Either it could ease the load for working men and women whose income derives from wages or salaries or it could gear its tax cuts to higher income taxpayers, to corporations, to businessmen, and especially to those taxpayers who derive substantial income from the sale of stocks or real estate. President Carter recommended tax cuts for the beleaguered wage earner and the Congress agreed to some extent. It reduced the number of tax brackets and widened the spread between them so that wage hikes will be less likely to push a taxpayer into a higher bracket. The average taxpayer will see some, although probably insignificant, tax reduction this year. But he or she will see nothing like the bonus awarded the wealthier taxpayers, and especially those who gain income from the sale of stocks or real estate.

According to the magazine, U.S. News & World Report, this represents "a historic shift in tax policy * * * While individuals still get the major share of the tax savings, much of that goes to people as operators of unincorporated businesses, professional, and farm enterprises, and as investors."

Never before has business and investment been so favored at tax-cutting time. The billions of dollars of tax relief in this bill go to those who need it least. Figures published by the Treasury Department show that the 63 percent of taxpayers who earn $15,000 or less would receive 21 percent of the tax relief while the 4 percent making $100,000 and more will receive 12.4 percent. As for the capital gains break, 68.2 percent of the relief would go to those earning $50,000 or more while almost 50 percent will go to those making over $100,000 a year. An $18.7 billion tax cut sounds like a great deal but this $18.7 billion cut will result in a $97 tax cut for a family of four with a $15,000 income and even that has to be reduced by a $42 hike in social security taxes voted last year. This miniscule cut for the average wage earner can be contrasted with this bill's treatment of those well off enough to derive income from the sale of stocks or real estate. This bill would allow investors to exclude completely from taxation 60 percent of their capital gain—up from 50 percent—while the maximum tax on the rest is to be cut from 49.1 to 28 percent. This is not a fair tax cut bill and this is certainly not tax reform.

I had hoped for a genuine tax reform bill this year. President Carter, calling the present system a disgrace to the human race, had recommended a progressive restructuring of the system starting with the elimination of some of the most excessive tax shelters. Unfortunately the President's views were given short shrift by the House Ways and Means and Senate Finance Committees and this year's law will still permit deductions for country club dues, first-class air travel, and the so-called three-martini lunch. This bill is also chock full of "goodies" for a wide variety of special interest groups which have made their views felt during the deliberations over this bill.

Unfortunately, there are some truly deserving "interest" groups which are left out of this bill. In all its provisions, this bill does hardly anything to improve the lot of the elderly. (An increased tax credit for those over 65 was dropped.) It will do nothing more for the handicapped. (An extra exemption for the handicapped was deleted.) It will do nothing to ease the burden of parents who choose to send their children to private, nondiscriminatory elementary and secondary schools. (Tuition tax credits were also killed.)

Mr. Chairman, I have no choice but to oppose this legislation. Since I entered Congress in 1965 I have pushed for the progressive restructuring of the tax system and the simplification of the Tax Code. I have worked to close loopholes. Primarily I have worked to see more of the tax burden shifted away from the lower and middle-income taxpayers and on to those most able to pay. This bill is not one, but many steps, in the wrong direction. I shall continue to work for progressive tax reform. One step in that direction is my vote against this bill.

● Mr. LUKEN. Mr. Speaker, while I favor the tax bill as far as it goes, I am voting

against the conference report on the Revenue Act of 1978 because it cheats the American taxpayer out of $142 billion in additional tax cuts. I want it sent back to the conference committee with clear instructions that they do what the House—by a vote of 268 to 135—and the Senate by a vote of 65 to 20—told them to do the first time—adopt the anti-spending, Nunn amendment.

The Nunn amendment, which would have provided an automatic, 4-year, across-the-board out of about 5 percent a year if the Federal Government was able to limit spending to certain specific targets, was eliminated by the conference committee. The conference report contained language to the effect that it was national policy to cut spending, and if spending was in fact limited, then Congress should consider tax cuts. Frankly, I believe that this language means nothing—perhaps less than nothing because it misleads the American People.

I voted for the Kemp-Roth, 33 percent across-the-board tax cut proposal when the Revenue Act came before this House earlier.

I favored the American Tax Reduction Act of 1979, the national proposition 13. This bill for the first time explicitly links Kemp-Roth type tax cuts with the spending limits that were, in fact, implicit in the proposal.

I was pleased, and frankly, surprised, when only days later the Senate adopted the Nunn amendment, which contained the spending limit-tax cut linkage that is the gut of the American Tax Reduction Act. When the House on October 12 directed its conferees on the tax bill to accept the Nunn amendment I was certain that this Congress was finally ready to impose upon itself the fiscal discipline without which we will never stop inflation.

Mr. Speaker, if I had voted for this conference report, I would have broken faith with my constituents. I would have been agreeing to deny them billions of dollars in tax cuts, and the limits on Federal spending, to which I, and both Houses of this Congress, had pledged our support.●

● Mr. PICKLE. Mr. Speaker, I applaud an amendment on this legislation which, for a very small revenue cost of $20 million in the first year and less than half of that thereafter, offers significant relief to thousands of taxpayers and simplifies and strengthens one of the more important new programs of the Federal Government.

I am speaking of the amendments enacting technical corrections in the individual retirement account program.

Mr. Speaker, as ranking Democrat on the Oversight Subcommittee of Ways and Means, I have had the privilege of chairing many hearings on this topic.

The individual retirement account program was created by the pension reform act (ERISA) in 1974. Unlike many other pension programs, it took off like a rocket, and became a billion-dollar operation in its first few years. But—as with any new program—there were many bugs to be worked out.

The subcommittee and the various agencies involved have worked together to enact disclosure regulations, publish consumer guides, and handle a myriad of technical problems. But many problems can be addressed only through legislation, and that is what these amendments seek to do.

The IRA program has strict rules with harsh penalties, and many taxpayers have been hurt by penalties which we now know do not "fit the crime." Some 70,000 investors have been hurt by penalties on excess contributions alone. For instance, let us suppose that a taxpayer puts $1,500 into his IRA in January. In December, he got a new job and was immediately covered by his new employer's profit-sharing plan, which made him ineligible to put even a nickel into an IRA for the whole year. Through ignorance, or some other reason, he does not cancel his IRA contributions before the end of the year. Later he finds that, first, the $1,500 is taxed as income in that year, and second, he has to pay a 6-percent excise tax on the $1,500.

He now decides he better correct the matter—and here is where the unfair penalty sets in. He takes the money out in the second year. Again, the same $1,500 will be taxed as income; again, he will have to pay a 6 percent excise tax; and, in addition, he will have to pay a 10 percent premature distribution tax.

Needless to say, an effort to provide for his own retirement in a responsible manner proved a financial disaster for this taxpayer.

The IRA amendments in this bill provide flexibility in allowing persons to correct honest mistakes or to rectify situations raised by a change of employment or other changes really beyond their vision or control.

The amendments also make significant changes to allow persons to roll lump sum distributions over into an IRA with greater ease, greatly simplify the filing requirements for IRA's, and make other needed technical changes.

The amendments also prohibit the future sale of endowment contracts and other fixed premium contracts for IRA's. These types of products were found by our subcommittee, by the American Council of Life Insurance, by the FTC, and by many other experts in this field to be unsuitable as an IRA medium. A person simply cannot know whether or not they will still be eligible for an IRA 5, 10, or 20 years down the road, but these contracts require fixed annual payments for that long or longer.

If one becomes ineligible, one is left with the harsh alternatives of continuing the contract, with severe tax penalties, or of canceling the contract and often, especially in the early years, suffering a financial loss because one has to fall back on the cash value in this case.

Having taken this step, the next question was what to do about the 300,000 persons, many of them young and of modest income, who have already purchased such contracts.

The bill allows these people to switch their contracts to a flexible premium product with no tax consequences. This would have to be done at the discretion of the insurance company which first sold the contract.

However, it may be necessary to provide alternative relief measures for these 300,000 people as well. That is something the subcommittee will have to review early next year. Our chief aim here should be to provide alternatives and relief to 300,000 people who made investments in good faith and within the confines of the Federal law. While Treasury and the companies involved have yet to find a means for relief that they can both agree upon, I would hope that with the subcommittee's help this can be accomplished soon so that action can be taken early next year.

In the meantime, the other portions of this bill will go ahead to provide much needed relief to many people and to make the IRA program a stronger, simpler proposition.

I am very glad to see its inclusion here today.●

● Mr. VANIK. Mr. Speaker, I want to take this time to express my disappointment with the tax bill which we consider today.

The conferees of the House had an extremely difficult problem since the bill which passed the other body was overburdened with unacceptable legislative morsels.

The tragedy of this bill is that it costs so much and does so little. The tax cut results in a revenue loss of almost $19 billion, all of which must be borrowed at interest rates which are almost the highest levels in history.

Those families with income less than $30,000—a family of four, two adults and two children—receive a tax cut of $315 under this bill. The inflationary impact of Treasury borrowing of the $19 billion will increase the cost of living by $450. The $300 tax cut is more than offset by an added inflation burden of $450. The tax cut to these families results in a loss of family income.

The distribution of capital gains cuts provides cruel inequities as follows:

Distribution of capital gains cuts under conference agreement—1978 levels

[Not including residences]

Expanded income class (dollars in thousands)	Amount (dollars in millions)	Percentage distribution	Percentage of taxpayers in class	Expanded income class (dollars in thousands)	Amount (dollars in millions)	Percentage distribution	Percentage of taxpayers in class
Less than $15	$89	4.3	63.6	$50–$100	463	22.6	1.6
$15–$20	102	5.0	12.9	$100–$200	293	14.3	0.3
$20–$30	114	5.6	14.7	$200 and over	850	41.5	0.1
$30–$50	137	6.7	6.6	Totals	2,049	100.0	100.0

For 88 percent of the American taxpayers, the tax cut loses more than it gains. The bill is a step backward from tax justice and completely erodes the tax reform gains of the last 8 years.●

Mr. FRENZEL. Mr. Speaker, I support the tax cut conference report. It maintains the emphasis on investment incentives that were a part of the House bill, and, in the case of capital gains tax cuts, it has even improved on our work.

Investment stimulus is a new direction in our tax policy, and it is needed and overdue. The corporate rate cut, the making permanent the investment tax credit, and the capital gains tax reductions will help generate investment necessary to create the jobs we need for the future.

The individual tax cuts are larger than the House bill, but they are still inadequate to compensate taxpayers fully for inflation-generated tax increases and social security increases. I would have preferred larger across-the-board individual tax cuts, but I am pleased that taxpayers will be saved about $13 billion by this bill.

The bill could also be greatly improved by addition of the Nunn-Chiles-Roth-Bellmon amendment which was a part of the Senate bill. It would have based future tax cuts on spending cuts and on a balanced budget by 1982. There is nothing the people in this country would like better than tax cuts accompanied by spending cuts.

But, at the insistence of the President, the Nunn, et al., amendment was dropped. In its place, the conference report contained some broad and vague language containing the pious hope for tax and spending cuts, but nothing with the force of law. Obviously, the Congress muffed another great opportunity to do something great.

In spite of missed opportunities, the tax cut ought to be celebrated and enjoyed. It is a good start. We can improve on it next year.

Mr. ULLMAN. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 337, nays 38, not voting 55, as follows:

[Roll No. 940]

YEAS—337

Abdnor	Bafalis	Bonker
Addabbo	Baldus	Bowen
Akaka	Barnard	Brademas
Alexander	Baucus	Breaux
Ambro	Bauman	Breckinridge
Anderson, Calif.	Beard, R.I.	Brinkley
	Beard, Tenn.	Brooks
Anderson, Ill.	Bellenson	Broomfield
Andrews, N. Dak.	Benjamin	Brown, Calif.
	Bevill	Brown, Mich.
Annunzio	Biaggi	Brown, Ohio
Archer	Blanchard	Broyhill
Ashbrook	Blouin	Buchanan
Ashley	Boggs	Burgener
Aspin	Boland	Burleson, Tex.
AuCoin	Bolling	Burlison, Mo.
Butler	Hefner	Panetta
Caputo	Heftel	Patten
Carr	Hightower	Patterson
Carter	Hillis	Pattison
Cavanaugh	Holland	Pease
Cederberg	Hollenbeck	Pepper
Chappell	Holt	Perkins
Clausen, Don H.	Howard	Pickle
	Hubbard	Pressler
Clawson, Del	Huckaby	Preyer
Cleveland	Hughes	Price
Cochran	Hyde	Pritchard
Cohen	Ireland	Pursell
Coleman	Jeffords	Quayle
Collins, Ill.	Jenkins	Quillen
Collins, Tex.	Johnson, Calif.	Rahall
Conable	Johnson, Colo.	Rangel
Conte	Jones, N.C.	Regula
Corcoran	Jones, Okla.	Rinaldo
Corman	Jones, Tenn.	Risenhoover
Cornell	Jordan	Robinson
Cornwell	Kasten	Rodino
Cotter	Kastenmeier	Roe
Coughlin	Kazen	Rogers
Cunningham	Kelly	Roncalio
D'Amours	Kemp	Rooney
Daniel, Dan	Keys	Rose
Daniel, R. W.	Kildee	Rostenkowski
Danielson	Kindness	Rousselot
Davis	Kostmayer	Runnels
de la Garza	Krebs	Russo
Delaney	LaFalce	Ryan
Dent	Lagomarsino	Sarasin
Derrick	Latta	Satterfield
Derwinski	Le Fante	Sawyer
Devine	Leach	Schroeder
Dicks	Lederer	Schulze
Dingell	Leggett	Sebelius
Dornan	Lent	Sharp
Downey	Levitas	Shuster
Drinan	Livingston	Sikes
Duncan, Tenn.	Lloyd, Calif.	Skelton
Early	Lloyd, Tenn.	Skubitz
Eckhardt	Long, La.	Slack
Edgar	Long, Md.	Smith, Iowa
Edwards, Ala	Lott	Snyder
Edwards, Okla	McClory	Spellman
Eilberg	McCloskey	Spence
Emery	McCormack	St Germain
English	McDade	Staggers
Erlenborn	McDonald	Stangeland
Ertel	McHugh	Stanton
Evans, Del.	McKay	Steers
Evans, Ga.	McKinney	Steiger
Evans, Ind.	Madigan	Stockman
Fary	Maguire	Stratton
Fascell	Mahon	Stump
Fenwick	Mann	Symms
Fish	Marks	Taylor
Fisher	Marriott	Thompson
Fithian	Martin	Thornton
Flippo	Mathis	Traxler
Flood	Mazzoli	Treen
Florio	Meeds	Trible
Flowers	Meyner	Tsongas
Foley	Michel	Tucker
Ford, Mich.	Mikulski	Ullman
Ford, Tenn.	Miller, Calif.	Van Deerlin
Forsythe	Miller, Ohio	Vander Jagt
Fountain	Mineta	Vanik
Fowler	Minish	Vento
Gammage	Mitchell, N.Y.	Volkmer
Gaydos	Moakley	Waggonner
Gephardt	Moffett	Walgren
Giaimo	Mollohan	Walker
Gibbons	Montgomery	Walsh
Gilman	Moore	Wampler
Ginn	Moorhead, Calif.	Watkins
Glickman		Whalen
Goldwater	Moorhead, Pa.	White
Goodling	Murphy, Ill.	Whitehurst
Gradison	Murphy, N.Y.	Whitley
Grassley	Murphy, Pa.	Whitten
Green	Murtha	Wilson, Bob
Gudger	Myers, Gary	Wilson, Tex.
Guyer	Myers, John	Winn
Hagedorn	Myers, Michael	Wirth
Hall	Natcher	Wolff
Hamilton	Neal	Wright
Hammer-schmidt	Nedzi	Wydler
	Nichols	Wylie
Hanley	Nix	Yatron
Hannaford	Nowak	Young, Alaska
Hansen	O'Brien	Young, Fla.
Harkin	Oakar	Young, Mo.
Harris	Oberstar	Young, Tex.
Harsha	Obey	Zablocki
Heckler	Ottinger	Zeferetti

NAYS—38

Bedell	Brodhead	Conyers
Bennett	Burke, Mass.	Dellums
Bingham	Chisholm	Dodd
Bonior	Clay	Duncan, Oreg.
Edwards, Calif.	Luken	Simon
Findley	Markey	Solarz
Fraser	Mitchell, Md.	Stark
Garcia	Nolan	Stokes
Gonzalez	Pike	Studds
Gore	Reuss	Waxman
Hawkins	Richmond	Weiss
Holtzman	Roybal	Yates
Jacobs	Seiberling	

NOT VOTING—55

Ammerman	Horton	Rhodes
Andrews, N.C.	Ichord	Roberts
Applegate	Jenrette	Rosenthal
Armstrong	Krueger	Rudd
Badham	Lehman	Ruppe
Burke, Calif.	Lujan	Santini
Burke, Fla.	Lundine	Scheuer
Burton, John	McEwen	Shipley
Burton, Phillip	McFall	Sisk
Carney	Marlenee	Smith, Nebr.
Crane	Mattox	Steed
Dickinson	Mikva	Teague
Diggs	Milford	Thone
Evans, Colo.	Moss	Udall
Flynt	Mottl	Weaver
Frenzel	Pettis	Wiggins
Frey	Poage	Wilson, C. H.
Fuqua	Quie	
Harrington	Railsback	

The Clerk announced the following pairs:

On this vote:

Mr. Ichord for, with Mr. John L. Burton against.

Mr. Mikva for, with Mr. Harrington against.

Until further notice:

Mr. Phillip Burton with Mr. Dickinson.

Mr. Applegate with Mr. Lujan.

Mr. Jenrette with Mr. Marlenee.

Mr. Rosenthal with Mr. Quie.

Mr. Steed with Mr. Rudd.

Mr. Udall with Mr. Wiggins.

Mr. Krueger with Mr. Thone.

Mr. Evans of Colorado with Mrs. Smith of Nebraska.

Mr. Poage with Mr. Crane.

Mr. Teague with Mr. Ruppe.

Mr. Fuqua with Mr. Badham.

Mr. Carney with Mr. Andrews of North Carolina.

Mr. Ammerman with Mr. Burke of Florida.

Mrs. Burke of California with Mr. Frey.

Mr. Lundine with Mr. Frenzel.

Mr. Lehman with Mr. McEwen.

Mr. Scheuer with Mr. Roberts.

Mr. Mattox with Mr. Mottl.

Mr. Flynt with Mr. Railsback.

Mr. Diggs with Mr. Shipley.

Mr. Santini with Mr. Weaver.

Mr. Charles H. Wilson of California with Mr. Moss.

Mr. Milford with Mr. Horton.

Mr. Sisk with Mr. McFall.

Mrs. COLLINS of Illinois changed her vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK OF THE HOUSE OF REPRESENTATIVES TO MAKE CORRECTIONS IN ENROLLMENT OF H.R. 13511

Mr. ULLMAN. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 761), and I ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 761

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of the bill H.R. 13511, to amend

the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes, the Clerk of the House of Representatives shall make the following corrections:

(1) after section 333, insert the following:

SEC. 334. ADVANCE REFUNDING OF INDUSTRIAL DEVELOPMENT BONDS FOR CERTAIN PUBLIC WORKS.

(a) IN GENERAL.—Subsection (b) of section 103 (relating to industrial development bonds) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) ADVANCE REFUNDING OF QUALIFIED PUBLIC FACILITIES.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a refunding issue if substantially all the proceeds of the refunded issue were used to provide a qualified public facility.

"(B) QUALIFIED PUBLIC FACILITY DEFINED.—For purposes of subparagraph (A), the term 'qualified public facility' means facilities described in subparagraph (C) or (D) of paragraph (4) which are generally available to the general public."

(b) OBLIGATION MAY NOT BE HELD BY SUBSTANTIAL USER.—Paragraph (8) of section 103(b) (as redesignated by subsection (a)) is amended by striking out "and (6)" and inserting in lieu thereof "(6), and (7)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to obligations issued after the date of the enactment of this Act.

(2) by inserting in the table of contents after the item relating to section 333 the following new item:

"SEC. 334. Advance refunding of industrial development bonds for qualified public facilities."

Mr. ULLMAN (during the reading). Mr. Speaker, I ask unanimous consent that the concurrent resolution be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

Mr. BAUMAN. Reserving the right to object, Mr. Speaker, the gentleman from Maryland was under the impression that the next item after the tax bill was the adjournment resolution. I understand that this is a technical matter, but is that the next matter?

The SPEAKER. The Chair will state that this resolution provides for corrections in the tax bill.

Mr. ULLMAN. If the gentleman will yield, Mr. Speaker, this relates to the bill just passed.

Mr. BAUMAN. I understand that. The only question I had was as to which item was next.

Mr. ULLMAN. It makes certain clerical and technical corrections to the bill just passed.

Mr. BAUMAN. My only question was what the next item of business is.

The SPEAKER. The Chair will be recognizing the gentleman from Texas (Mr. WRIGHT) next.

Mr. BAUMAN. I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR THE SINE DIE ADJOURNMENT OF BOTH HOUSES OF CONGRESS ON SUNDAY, OCTOBER 15, 1978

Mr. WRIGHT. Mr. Speaker, I send to the desk a concurrent resolution (H. Con. Res. 760) providing for the sine die adjournment of the two Houses of Congress on Sunday, October 15, 1978, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 760

Resolved by the House of Representatives (the Senate concurring), That the two Houses of Congress shall adjourn on Sunday, October 15, 1978, and that when they adjourn on said day, they stand adjourned sine die.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONVENING OF 1ST SESSION OF 96TH CONGRESS

Mr. WRIGHT. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 1173) relative to the convening of the 1st session of the 96th Congress, and for other purposes, and ask unanimous consent for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. BROWN of Michigan. Reserving the right to object, Mr. Speaker, and I do not like to take the time of my colleagues but I think this is a question we ought to discuss very briefly. I raised it before, and I raise it again. The Constitution, as the Members know, provides that the Congress shall convene on January 3. The Constitution then goes on to say that the Congress may set other times for reconvening. When the Constitution speaks about the Congress, I think any reasonable interpretation, if we look at the consequences of a different interpretation, would cause us to understand that the Founding Fathers contemplated that it was talking about the 1st Congress, the 2d Congress, the 3d Congress, in this case the 95th Congress at the present time, the 96th Congress when it convenes. There is no question between the 1st and 2d sessions we can set the time for reconvening, but if we can set January 15 for the 96th Congress, if we can set January 15 for the convening date for the 96th Congress, why can we not set it for December 31, 1980? For all intents and purposes the 95th Congress will have denied the 96th Congress an opportunity to sit.

Mr. Speaker, I do not intend to pursue this, but I think there should be some serious discussion.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Joint Resolution as follows:

H.J. RES. 1173

Resolved by the Senate and House of Representatives of the United States of America in Congress Assembled, That the first regular session of the Ninety-sixth Congress shall begin at 12 o'clock meridian on January 15, 1979.

SEC. 2. That (a) notwithstanding the provisions of section 201 of the Act of June 10, 1922, as amended (31 U.S.C. section 11), the President shall transmit to the Congress not later than January 22, 1979, the budget for the fiscal year 1980, and (b) notwithstanding the provisions of section 3 of the Act of February 20, 1946, as amended (15 U.S.C. section 1022), the President shall transmit to the Congress not later than January 22, 1979, the Economic Report.

SEC. 3. That (a) notwithstanding the provisions of section 605(a) of the Congressional Budget and Impoundment Control Act of 1974 (31 U.S.C. 11(a)), the President shall submit to the Senate and the House of Representatives the estimates required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the President transmits to the Congress the budget for the Fiscal Year 1980, and (b) notwithstanding the provisions of section 605(b) of the Congressional Budget and Impoundment Control Act of 1974, the Joint Economic Committee shall submit to the Committees on the Budget of both Houses the evaluation required to be submitted by said subsection for the Fiscal Year 1980 not later than the date on which the report for the Fiscal Year 1980 pursuant to section 5(b)(3) of the Employment Act of 1946 (15 U.S.C. 1024b) is filed with the Senate and House of Representatives.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS NOTWITHSTANDING ADJOURNMENT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the House, the Clerk be authorized to receive messages from the Senate and that the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WEISS. Reserving the right to object, Mr. Speaker, may I have some indication as to when the countercyclical measure is intended to be brought up and what the program for today is?

The SPEAKER. The Chair will announce the program for the remainder of the afternoon: Health services, biomedical research and training amendments, endangered species, ConRail, and textiles.

Mr. WEISS. Further reserving the right to object, is countercyclical on the schedule at all?

The SPEAKER. Countercyclical is not on the schedule at the present time. I am informed it is not intended to be called up.

Mr. WEISS. Further reserving the

right to object, given the fact that countercyclical, which seeks to benefit those cities which are suffering from the worst unemployment in the country, and which is so desperately needed, can someone explain why it is not scheduled? Can we have some explanation as to why it has been scratched?

The SPEAKER. It is not being called up by the House.

Mr. WEISS. Further reserving the right to object, would someone explain why the other matters are on the calendar if this one is not?

The SPEAKER. The gentleman reserves the right to object.

Mr. WEISS. I reserve the right to object.

The SPEAKER. The gentleman objects to what?

Mr. WEISS. I reserve the right to object.

The SPEAKER. The gentleman reserves the right to object, so he has the time, and there is no answer to his question.

Mr. WEISS. My understanding is that the Committee on Rules has already issued a rule on this matter that calls for it to be voted up or down, and that no amendments can be considered at all. It is a very brief measure with a maximum limit of 1 hour; is that correct?

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. WEISS. I reserve the right to object.

Mr. LEVITAS. I object.

The SPEAKER. Objection is heard.

Mr. LEVITAS. I withdraw my reservation of objection.

Mr. OTTINGER. Mr. Speaker, reserving the right to object, it is my understanding the water bill has not been agreed upon by the Senate, the water authorization bill?

The SPEAKER. It would have to come up by unanimous consent, or it could come up under suspension of the rules.

Mr. OTTINGER. Is it the intention of the leadership to permit it to come up?

The SPEAKER. I have not had a request from the chairman of the committee.

Mr. WRIGHT. Mr. Speaker, I renew my unanimous consent request.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read a third time, passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the tax bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to remind all Members that although we have passed a sine die resolution, it does not take effect, as Members know, until such time as it has been returned from the Senate.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

CONFERENCE REPORT ON S. 2474, HEALTH CENTERS AND HEALTH SERVICES AMENDMENTS OF 1978

Mr. ROGERS. Mr. Speaker, I call up the conference report on the Senate bill (S. 2474) to amend the Public Health Service Act to extend through the fiscal year ending September 30, 1981, the assistance program for community health centers and migrant health services; assistance to venereal disease programs; genetic diseases programs; hemophilia programs; home health programs; and to extend through the fiscal year ending September 30, 1979, the assistance programs for comprehensive public health services; hypertension programs; disease control programs; lead-based paint poisoning programs; and to establish hospital-affiliated primary care centers; to provide for research and demonstration projects in primary health care; and for other purposes.

The SPEAKER. Pursuant to the rule, the statement of the managers is considered as read.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER. The gentleman from Florida (Mr. ROGERS) will be recognized for 30 minutes, and the gentleman from Kentucky (Mr. CARTER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. ROGERS).

Mr. ROGERS. Mr. Speaker, it is a pleasure to speak in support of the conference report on the Health Centers and Services Amendments of 1978, this legislation reauthorizes and extends 16 existing programs—programs which are providing vital public health services such as childhood immunizations, home health services, grants to State health departments, and hypertension screening and referral.

This legislation passed the House as two separate bills: The health centers amendments and the health services amendments, each bill had an overwhelming majority in passage.

The House conferees have retained the major provisions of the legislation as passed by the House and have accepted several Senate provisions with amendments.

I believe that all Members can wholeheatedly support these important health service programs. I recommend this conference report to the House and strongly urge its passage.

Mr. CARTER. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this legislation.

Mr. Speaker, I rise in support of the conference report on S. 2474—Health Services and Centers Amendments of 1978.

I strongly support this legislation, because it contains many important public health services programs such as immunization and hypertension. These programs and other included in the legislation have contributed greatly to improved health of our people. This conference report also contains funds for grants to the States for the delivery of comprehensive public health services.

In addition, the conference report includes several provisions of the Senate bill not contained in the House bill which will help prevent disease and promote better health care.

For example, we adopted a demonstration program to develop and operate primary health care centers in hospitals in our Nation's medically underserved areas.

Also we adopted a "prevention package" which will increase the Federal Government's role in encouraging prevention of illness throughout the country. The programs authorized under this authority are a small but important investment of the taxpayers' dollars.

As a physician I am well aware of the critical role of preventive health care and I am pleased that this conference agreement reflects an increased emphasis in this field.

The conferees also agreed to adopt a program of adolescent pregnancy prevention and health care services—targeted at our Nation's adolescents. There are about 1 million adolescent pregnancies every year—and this legislation is intended to help this particular population which needs assistance in obtaining appropriate care.

In conclusion, Mr. Chairman, this is a very good piece of legislation which emphasizes prevention—the delivery of primary care—and important public health services.

I urge adoption of the conference report.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I must confess, I think it is unfortunate that this conference report is brought up at this time. The gentleman from Kentucky (Mr. CARTER) was good enough to provide me with a copy of this lengthy conference report about 2 hours ago. During that time I had occasion to read through it. I think the Members will be interested to know that although the continuing resolution covers almost all of the programs in this conference report, there is a new authorization for an extensive program for counseling, sex education, and various other services for teenage children, both pregnant girls and others, adolescence.

The conferees in their wisdom removed a provision that would have required that any group, that took part in these programs or projects will receive funds directly or indirectly or would be permitted to prescribe or dispense contraceptives or other devices to an uneman-

cipated child under the age of 16, would have to let the parent or guardian of this child be notified of the intent to do so.

Now, we have in this program for the first time the Federal Government getting into the business of counseling children who, indeed, may well need assistance, but we are doing so without any notice to their parents or their guardians and doing so to the tune of $50 million next year, $65 million the year after, and $75 million in 1981.

I honestly believe we ought to have a chance to discuss this in a less hectic atmosphere when we have time. I cannot believe that the mothers and fathers in this country wish us to get into this area and remove from them the right to have some knowledge of what the Federal Government might be doing in the way of providing assistance to their children.

Mr. Speaker, I urge that the conference report be rejected. All the programs contained in it except the one I described are covered in the continuing resolution, and they would not be touched. Then this matter could be considered in January.

Mr. CARTER. Mr. Speaker, I would only say that we have approximately 1 million pregnancies each year from teenagers. I think that it is both humane and humanitarian, as well as compassionate, for us to take care of them.

Furthermore, I feel that since they have a fear of telling their parents of their misdeeds, we should give them such contraceptives and counseling as they need.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were refused.

Mr. BAUMAN. Mr. Speaker, I demand a division.

On a division (demanded by Mr. BAUMAN) there were—yeas 110, nays 27.

So the conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was on objection.

COMMUNITY MENTAL HEALTH CENTERS EXTENSION ACT OF 1978

Mr. ROGERS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2450) to extend the assistance programs for community mental health centers and for biomedical research, and for other purposes, as amended.

The Clerk read as follows:

S. 2450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMMUNITY MENTAL HEALTH CENTERS EXTENSION

SHORT TITLE; REFERENCE TO ACT

SEC. 101. (a) This title may be cited as the "Community Mental Health Centers Extension Act of 1978".

(b) Whenever in this title (other than in sections 109 and 110(d)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Community Mental Health Centers Act.

EXTENSIONS OF AUTHORIZATIONS

SEC. 102. (a) Section 202(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$1,500,000 for the fiscal year ending September 30, 1979, and $1,000,000 for the fiscal year ending September 30, 1980".

(b)(1) Section 203(d)(1) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$34,500,000 for the fiscal year ending September 30, 1979, and $35,000,000 for the fiscal year ending September 30, 1980".

(2) Section 203(d)(2) is amended (A) by striking out "1978" and inserting in lieu thereof "1980", and (B) by striking out "two fiscal years" and inserting in lieu thereof "four fiscal years".

(c) Section 204(c) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$20,000,000 for the fiscal year ending September 30, 1979, and $3,000,000 for the fiscal year ending September 30, 1980".

(d) Section 205(c) is amended by striking out "and" after "1977," and inserting before the period a comma and the following: "$30,000,000 for the fiscal year ending September 30, 1979, and $25,000,000 for the fiscal year ending September 30, 1980".

(e) Section 212(c) is amended by striking out "three" and inserting in lieu thereof "five".

(f) Section 213 is amended by striking out "and" after "1977,", and inserting after "1978," the following "and $25,000,000 for the fiscal year ending September 30, 1979,".

(g) Section 231(d) is amended by striking out "and" after "1977,", and inserting before the period a comma and the following: "$8,000,000 for the fiscal year ending September 30, 1979, and $9,000,000 for the fiscal year ending September 30, 1980".

USE OF UNOBLIGATED FUNDS

SEC. 103. (a)(1) Subsection (b)(1) of section 203 is amended by adding before the period a comma and the following: "except that if at the end of such period the center or entity has not obligated all the funds allotted it under a grant, the center or entity may use such unobligated funds under the grant in the succeeding year for the same purposes for which such grant was made but only if the center or entity is eligible to receive a grant under subsection (a) for such succeeding year".

(2) Subsection (c) of such section is amended by adding at the end the following: "The amount of a grant prescribed by paragraph (1) or (2) for a community mental health center for any year shall be reduced by the amount of unobligated funds from the preceding year which the center is authorized, under subsection (b)(1), to use in that year. If in a fiscal year the sum of (I) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (II) the amount of the grant received under this section, by a center or entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (I) to expand and improve its services; (II) to increase the number of persons (eligible for services from such a center or entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.".

(b)(1) Paragraph (1)(A) of subsection (e) of such section is amended (A) by striking out "and" at the end of clause (i), (B) by redesignating clause (ii) as clause (iii), and (C) by inserting after clause (i) the following:

"(ii) the amount prescribed for a grant under the applicable repealed section for an entity for any year shall be reduced by the amount of unobligated funds from the preceding fiscal year which the entity is authorized, nuder subparagraph (B) of this paragraph, to use in that year, and".

(2) Paragraph (1)(B) of such subsection is amended by inserting before the period a comma and the following: "except that if at the end of any period for which such a grant is made an entity has not obligated all of the funds received by it under the grant, the entity may use the unobligated funds under such grant in the succeeding * * * period for the same purposes for which such * * * but only if the entity is eligible to receive * * * for such grant period".

(3) Paragraph (1) of such subsection is amended by adding at the end of the following new sentence: "If in a fiscal year the sum of (I) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and (II) the amount of the grant received under the applicable repealed section, by an entity exceeds its costs of operation for that year because such total collected was greater than expected, and if the entity is eligible to receive a grant under such an applicable repealed section in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 5 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons (eligible to receive services from such an entity) it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participtaion in program operations in future years.".

COMMUNITY MENTAL HEALTH CENTERS REQUIREMENTS

SEC. 104.(a)(1) Section 201(b)(1) is amended to read as follows:

"(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

'(A) Beginning on the date the community mental health center is established for purposes of this title, the services provided through the center shall include—

"(i) inpatient services, emergency services and outpatient services;

"(ii) assistance to courts and other public agencies in screening residents of the cen-

ter's catchment area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

"(iii) provision of followup care for residents of its catchment area who have been discharged from inpatient treatment at a mental health facility;

"(iv) consultation and education services which—

"(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

"(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop effective mental health programs in the center's catchment area, promote the coordination of the provision of mental health services among various entities serving the center's catchment area, increase the awareness of the residents of the center's catchment area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

"(v) the services described in subparagraph (B) or, in lieu of such services, providing a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

"(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

"(i) day care and other partial hospitalization services;

"(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

"(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its catchment area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

"(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's catchment area, or the need for which in the center's catchment area the Secretary determines is currently being met):

"(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

"(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.".

(2) Section 204 is amended by striking out "section 201(b)(1)(D)" each place it appears and inserting in lieu thereof "section 201(b)(1)(A)(iv)".

(b) Clause (A) of section 201(b)(2) is amended by inserting after "in the center's catchment area" the following: ", or, with the approval of the Secretary, in the case of inpatient services, emergency services, and transitional half-way house services, through appropriate arrangements with health professionals and others serving the residents of the catchment area".

(c)(1) Section 201(c)(1) is amended—

(A) by striking out "The governing board of a community mental health center (other than a center described in subparagraph (B))" and inserting in lieu thereof "Except as provided in subparagraph (B), the governing board of a community mental health center"; and

(B) by amending subparagraph (B) to read as follows:

"(B) In the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of subparagraph (A), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's catchment area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.".

(2) Section 206(e) is amended by inserting "(1)" after "(e)" and by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), not more than 5 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to provide grants under those sections to community mental health centers which do not meet the governing board requirements of section 201(c)(1)(A).

"(B) Subparagraph (A) shall not apply, during the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980, to any community mental health center which received a grant under this title in a fiscal year beginning before the date of the enactment of the Community Mental Health Centers Amendments of 1975.".

OPERATIONS GRANTS TECHNICAL ASSISTANCE AND MONITORING

SEC. 105. Section 206(e), as amended by section 104(c)(2) of this title, is amended by adding at the end the following new paragraph:

"(3) Not more than 1 per centum of the total amount appropriated under sections 203, 204, and 205 for any fiscal year shall be used by the Secretary to enter into contracts with State mental health authorities under which the authorities (A) would monitor activities of community mental health centers (other than centers operated by such authorities) receiving grants under this title to determine if the requirements of this title applicable to the receipt of such grants are being met, and (B) would be provided funds to meet the expenses of conducting such monitoring. The authority of the Secretary to enter into contracts under this paragraph shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

APPLICATIONS

SEC. 106. Section 206(c)(2) is amended—

(1) by amending the matter preceding subparagraph (A) to read as follows: "The Secretary may approve an application for a grant under section 203, 204, or 205 only if the application meets the requirements of paragraph (1) and, except as provided in paragraph (3)—";

(2) by inserting "the Secretary" before "determines" in subparagraphs (A) and (B); and

(3) by striking out "and" at the end of clause (iii) of subparagraph (B), by striking out the period at the end of clause (iv) of such subparagraph and inserting in lieu thereof a semicolon, and by adding after such subparagraph the following new subparagraphs:

"(C) in the case of an application for the first grant under section 203, 204, or 205, or an application for a grant under such section which requests a grant in an amount greater than the amount specified by the applicant in its plan and budget submitted in accordance with paragraph (1)(A)(i), the application is recommended for approval by the National Advisory Mental Health Council; and

"(D) in the case of an application of a community mental health center which does not meet the governing board requirements of section 201(c)(1)(A), the committee appointed pursuant to section 201(c)(1)(B) has approved the application or, if such committee has not approved the application, the Secretary determines that the committee's failure to approve the application was unreasonable.".

CATCHMENT AREAS

SEC. 107. Section 238(2) is amended by inserting "health service areas," after "political subdivisions,"

RAPE CONTROL

SEC. 108. Section 231(c) is amended by inserting after the first sentence the following: "The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee.".

STATE MENTAL HEALTH PROGRAMS

SEC. 109. Subsection (g) of section 314 of the Public Health Service Act is amended to read as follows:

"State Mental Health Programs

"(g)(1) From allotments made pursuant to paragraph (4), the Secretary shall make grants to State mental health authorities to assist them in meeting the costs of carrying out their functions under title XV of this Act and under section 237 of the Community Mental Health Centers Act and, after September 30, 1979, in meeting the costs of providing mental health services.

"(2) No grant may be made under paragraph (1) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary may require, and shall contain or be supported by assurances satisfactory to the Secretary that—

"(A) the mental health services provided within the State under the grant applied for will be provided in accordance with the State health plan in effect for such State under section 1524(c);

"(B) funds received under the grant applied for will (i) be used to supplement and, to the extent practical, to increase the level of non-Federal funds that would otherwise be made available for the purposes for which the grant funds are provided, and (ii) not be used to supplant such non-Federal funds;

"(C) the State mental health authority will—

"(i) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursements of and accounting for funds received under grants under paragraph (1);

"(ii) from time to time, but not less often than annually, report to the Secretary (through a uiform national reporting system and by such categories as the Secretary may prescribe) a description of the mental health services provided in the State in the fiscal yea- for which the grant applied for is made and the amount of funds obligated in such fiscal year for the provision of each such category of services; and

"(iii) make such reports (in such form and containing such information as the Sec-

retary may prescribe) as the Secretary may reasonably require, and keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness of, and to verify, such reports;

"(D) the State mental health authority will—

"(i) perform the duties prescribed by section 237 of the Community Mental Health Centers Act;

"(ii) prescribe and provide for the enforcement of minimum standards for the maintenance and operation of mental health programs and facilities (including community mental health centers) within the State;

"(iii) provide for assistance to courts and other public agencies and to appropriate private agencies to facilitate (I) screening by community mental health centers (or, if there are no such centers, other appropriate entities) of residents of the State who are being considered for inpatient care in a mental health facility to determine if such care is necessary, and (II) provision of followup care by community mental health centers (or, if there are no such centers, by other appropriate entities) for residents of the State who have been discharged from mental health facilities; and

"(iv) establish and carry out a plan which—

"(I) is designed to eliminate inappropriate placement in institutions of persons with mental health problems, to insure the availability of appropriate noninstitutional services for such persons, and to improve the quality of care for those with mental health problems for whom institutional care is appropriate, and

"(II) shall include fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions described in subclause (I), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum effort will be made to guarantee the employment of such employees.

"(3)(A) The Secretary shall review annually the activities undertaken by each State mental health authority with an approved application to determine if it complied with the assurances provided with the application. The Secretary may not approve an application submitted under paragraph (2) if the Secretary determines—

"(i) the State for which the application was submitted did not comply with assurances provided with a prior application under paragraph (2), and

"(ii) he cannot be assured that the State will comply with the assurances provided with the application under consideration.

"(B) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority of a State, finds that, with respect to funds paid to the authority under a grant under paragraph (1), there is a failure to comply substantially with assurances provided under paragraph (2) with respect to the receipt of such grant, the Secretary shall notify the authority that further payments will not be made to it under such grant (or, in his discretion, that further payments will not be made to it from such grant for activities in which there is such failure), until he is satisfied that there will no longer be such failure. Until he is so satisfied, the Secretary shall make no payment to such authority from such grant, or shall limit payment under such grant to activities in which here is no such failure.

"(4) For the purpose of determining the total amount of grants that may be made to the State mental health authorities of each State, the Secretary shall, in each fiscal year and in accordance with regulations, allot the sums appropriated for such year under paragraph (7) among the States on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the population of the States available from the Department of Commerce.

"(5)(A) The Secretary shall determine the amount of any grant under paragraph (1); but the amount of grants made in any fiscal year to the mental health authorities of any State may not exceed the amount of the State's allotment available for obligation in such fiscal year. Payments under such grants may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(B) The Secretary, at the request of a State mental health authority, may reduce the amount of the grant to the authority under paragraph (1) by—

"(i) the fair market value of any supplies or equipment furnished the State mental health authority, and

"(ii) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State mental health authority and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of the State mental health authority and for the purpose of carrying out any project with respect to which its grant under paragraph (1) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the State mental health authority.

"(6) In any fiscal year not less than 70 per centum of the amount of a State's grant shall be available only for the provision of mental health services and for the conduct of mental health planning activities in communities of the State.

"(7) For the purpose of making grants under this subsection there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30, 1980, and $25,000,000 for the fiscal year ending September 30, 1981.

"(8) Regulations (including substantive amendments to regulations) under this subsection shall be promulgated by the Secretary after consultation with a conference of State mental health authorities. The Secretary shall consult with such conference before the publication of proposals for such regulations or amendments.".

MISCELLANEOUS

SEC. 110. (a) Section 311(1)(A) is amended (1) by inserting "for compensation of personnel for its initial operation" after "1975", and (2) by inserting "for such compensation of personnel" after "under that section".

(b) Section 203(e)(1)(A)(i) is amended by striking out "unless it meets the requirements of section 201" and inserting in lieu thereof the following: "(other than section 271) unless it provides at least the comprehensive mental health services described in clauses (1) through (iv) of section 201(b)(1)(A)".

(c) Effective July 29, 1975, section 225 is amended by striking out "this part" and inserting in lieu thereof "this title".

(d) Section 504(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 is amended by adding after and below paragraph (2) the following: "Insofar as practicable, the Secretary shall approve applications under this subsection in a manner which results in an equitable geographic distribution of Centers.".

EFFECTIVE DATE

SEC. 111. The amendments made by this title (other than by section 110(c)) to the Community Mental Health Centers Act shall apply with respect to grants made under the Community Mental Health Centers Act from appropriations for fiscal years ending after September 30, 1978.

TITLE II—BIOMEDICAL RESEARCH EXTENSION AMENDMENTS

SHORT TITLE; REFERENCE TO ACT

SEC. 201. (a) This title may be cited as the "Biomedical Research and Research Training Amendments of 1978".

(b) Whenever in this title (other than in sections 267 and 268) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

PART A—LIBRARIES OF MEDICINE

EXTENSION OF AUTHORIZATIONS

SEC. 211. Section 390(c) is amended by striking out "and" after "1976," and by inserting before the period the following: ", $15,000,000 for the fiscal year ending September 30, 1979, $16,500,000 for the fiscal year ending September 30, 1980, and $18,500,000 for the fiscal year ending September 30, 1981".

BOARD OF REGENTS' APPOINTMENTS

SEC. 212. Section 383 is amended (1) by striking out "by the President, by and with the advice and consent of the Senate" in the first sentence of subsection (a) and inserting in lieu thereof "by the Secretary", and (2) by striking out "by the President" in the first sentence of subsection (c) and inserting in lieu thereof "by the Secretary".

PART B—PROGRAMS OF THE NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

EXTENSION OF AUTHORIZATIONS

SEC. 221. (a) Section 414(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $40,000,000 for the fiscal year ending September 30, 1979, and $45,000,000 for the fiscal year ending September 30, 1980".

(b) Section 419B is amended in the first sentence by striking out "and" after "1977" and by inserting before the period the following: ", $470,000,000 for the fiscal year ending September 30, 1979, and $515,000,000 for the fiscal year ending September 30 1980".

SUBMISSION OF REPORTS

SEC. 222. (a) Section 413(b)(2) is amended by striking out "submit to the President for transmittal to the Congress a report" and inserting in lieu thereof "submit a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress.".

(b) Section 418(b)(2) is amended by inserting "by the Secretary" after "transmittal".

INFORMATION PROGRAMS

SEC. 223. (a) Section 412(5) is amended by striking out "make available" and inserting in lieu thereof "make available on a timely basis".

(b) Section 413(d) is amended (1) by striking out "to provide" in the second sentence and inserting in lieu thereof "to provide on a timely basis", and (2) by striking out "diet" in the third sentence and inserting in lieu thereof "diet and nutrition, environmental pollutants".

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

SEC. 224. Section 415(a)(2) is amended by adding after subparagraph (D) the following:

"(E) Programs of continuing education for health and allied health professionals in the diagnosis, prevention, and treatment of such diseases and information programs for the public respecting the prevention and early diagnosis and treatment of such diseases."

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

Subpart I—Extension of and Substantive Changes in Programs of the National Cancer Institute

EXTENSION OF AUTHORIZATIONS

SEC. 231. (a) Section 409(b) is amended by striking out "and" after "1977," and by inserting before the period the following: ", $90,500,000 for the fiscal year ending September 30, 1979, and $103,000,000 for the fiscal year ending September 30, 1980".

(b) Section 410C is amended by striking out "and" after "1977;" and by inserting before the period the following: "$924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980".

NATIONAL CANCER ADVISORY BOARD

SEC. 232. (a)(1)(A) Subsection (a) of section 410B is amended by striking out "twenty-three" and inserting in lieu thereof "twenty-nine".

(B) Paragraph (1) of such subsection is amended by inserting after "Veterans' Administration" the following: ", the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission".

(2) The first sentence of subsection following paragraph (2) is amended (A) by striking out "and not more" and inserting in lieu thereof ", not more", and (B) by inserting before the period ", and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)".

(3) The second sentence of such subsection following paragraph (2) is amended by inserting before the period a comma and the following: "and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer".

(4) Such subsection is amended by adding at the end the following: "The ex officio members of the Board shall be nonvoting members.".

(5) Section 410B(g) is amended by striking out "a report to the President for transmittal to the Congress not later than January 31 of each year on the progress" and inserting in lieu thereof "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress, on the progress during the preceding fiscal year".

(b) The amendments made by subsection (a) of this section respecting the manner of appointing members of the National Cancer Advisory Board and the composition of such Board shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendments.

SUBMISSION OF REPORTS

SEC. 233. Section 410A(b) is amended (1) by striking out "end of each calendar year" and inserting in lieu thereof "end of each fiscal year", (2) by striking out "submit to the President for transmittal to the Congress" and inserting in lieu thereof "submit to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress,", and (3) by striking out "the preceding calendar year" and inserting in lieu thereof "the preceding fiscal year".

FUNCTIONS OF CENTERS

SEC. 234. (a) Subsections (a) and (b) of section 408 are each amended by striking out "clinical research, training, and demonstration of advanced diagnostic and treatment methods relating to cancer" and inserting in lieu thereof "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer".

(b) Clause (3) of the second sentence of section 408(b) is amended by inserting after the comma the following: "continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer,".

NATIONAL CANCER PROGRAM

SEC. 235. (a) Paragraph (1) of subsection (b) of section 407 is amended by striking out ", plan and develop" and inserting in lieu thereof "(A) plan and develop", and by inserting before the period the following: "; and (B) implement an expended and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens".

(b) Paragraph (7) of such subsection is amended to read as follows:

"(7) Support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards."

(c) The first sentence of subsection (c)(3) of such section is amended by striking out "twelve times" and inserting in lieu thereof "four times".

CANCER CONTROL PROGRAMS

SEC. 236. (a) Subsection (a) of section 409 is amended to read as follows:

"(a) The Director of the National Cancer Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this subsection shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physicians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.".

Subpart II—TECHNICAL REVISION OF THE AUTHORITY OF THE NATIONAL CANCER INSTITUTE

TECHNICAL REVISION

SEC. 241. (a)(1) Part A of title IV (as amended by subpart I of this part) is amended to read as follows:

"PART A—NATIONAL CANCER INSTITUTE

"A DIVISION OF THE NATIONAL INSTITUTES OF HEALTH

"SEC. 400. The National Cancer Institute (in this part referred to as the 'Institute') is a division of the National Institutes of Health.

"CANCER RESEARCH AND OTHER ACTIVITIES

"SEC. 401. (a) In carrying out the purposes of section 301 with respect to cancer, the Secretary, through the Institute and in cooperation with the National Cancer Advisory Board, shall—

"(1) conduct, assist, and foster research, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of cancer;

"(2) promote the coordination of research conducted by the Institute and similar research conducted by other agencies and organizations and by individuals;

"(3) provide clinical training and instruction in technical matters relating to the diagnosis and treatment of cancer;

"(4) secure for the Institute consultation services and advice of cancer experts from the United States and abroad;

"(5) cooperate with State health agencies in the prevention, control, and eradication of cancer; and

"(6) procure, use, and lend radium as provided in subsection (b).

"(b) In carrying out subsection (a), all appropriate provisions of section 301 shall be applicable to the authority of the Secretary, and the Secretary is authorized—

"(1) to purchase radium, from time to time and without regard to section 3709 of the Revised Statutes, and to make such radium available for the purposes of this part, both to the Service and by loan to other agencies and institutions for such consideration and subject to such conditions as he may prescribe; and

"(2) to provide the necessary facilities where training and instructions may be given in all technical matters relating to the diagnosis and treatment of cancer to persons found by the Secretary to have proper technical qualifications and designated by him for such training or instruction and to fix and pay them a per diem allowance during such training or instruction.

"NATIONAL CANCER PROGRAM

"SEC. 402. The National Cancer Program shall consist of (1) an expanded, intensified, and coordinated cancer research program encompassing the research programs conducted and supported by the Institute and the related research programs of the other research institutes and including an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens, and (2) the other programs and activities of the Institute.

"CANCER CONTROL PROGRAMS

"SEC. 403. The Director of the Institute shall establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. Programs established and supported under this section shall include—

"(1) locally initiated education and demonstration programs (and regional networks of such programs) to transmit research results and to disseminate information respecting the detection, diagnosis, prevention, and treatment of cancer and rehabilitation and counseling respecting cancer to physi-

cians and other health professionals who provide care to individuals who have cancer;

"(2) the demonstration of and the education of health professionals in—

"(A) effective methods for the early detection of cancer and the identification of individuals with a high risk of developing cancer, and

"(B) improved methods of patient referral to appropriate centers for early diagnosis and treatment of cancer; and

"(3) the demonstration of new methods for the dissemination of information to the general public concerning the early detection and treatment of cancer and information concerning unapproved and ineffective methods, drugs, and devices for the diagnosis, prevention, treatment, and control of cancer.

"DUTIES AND FUNCTIONS OF THE DIRECTOR

"SEC. 404. (a) The Director of the Institute in carrying out the National Cancer Program shall—

"(1) collect, analyze, and disseminate information (including information respecting nutrition programs for cancer patients and the relationship between nutrition and cancer) useful in the prevention, diagnosis, and treatment of cancer, including the establishment of an international cancer research data bank to collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country;

"(2) establish or support the large-scale production or distribution of specialized biological materials and other therapeutic substances for research and set standards of safety and care for persons using such materials;

"(3) support research in the cancer field outside the United States by highly qualified foreign nationals which research can be expected to inure to the benefit of the American people; support collaborative research involving American and foreign participants; and support the training of American scientists abroad and foreign scientists in the United States;

"(4) support appropriate programs of education (including continuing education) and training in fundamental sciences and clinical disciplines for investigators, physicians, and allied health professionals for participation in clinical programs relating to cancer, including the use of training stipends, fellowships, and career awards;

"(5) expeditiously utilize existing research facilities and personnel of the National Institutes of Health for accelerated exploration of opportunities in areas of special promise;

"(6) encourage and coordinate cancer research by industrial concerns where such concerns evidence a particular capability for such research;

"(7) provide and contract for a program to disseminate and interpret, on a current basis, for practitioners and other health professionals, scientists, and the general public scientific and other information respecting the cause, prevention, diagnosis, and treatment of cancer;

"(9)(A) prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of the number and type of personnel needed for the National Cancer Institute) for the National Cancer Program, after reasonable opportunity for comment (but without change) by the Secretary, the Director of the National Institutes of Health, and the National Cancer Advisory Board; and (B) receive from the President and the Office of Management and Budget directly all funds appropriated by Congress for obligation and expenditure by the Institute; and

"(10) as soon as practicable after the end of each fiscal year, prepare in consultation with the National Cancer Advisory Board and submit to the Secretary, for simultaneous transmittal, not later than November 30 of each year, to the President and to the Congress, a report on the activities, progress, and accomplishments under the National Cancer Program during the preceding fiscal year, which shall include a report on the progress, activities, and accomplishments of, and expenditures for, the information services of the Program, and a plan for the Program during the next five years.

"(b) The Director of the Institute (after consultation with the National Cancer Advisory Board) in carrying out his functions in administering the National Cancer Program and without regard to any other provision of this Act is authorized—

"(1) to obtain (in accordance with section 3109 of title 5, United States Code and if authorized by the National Cancer Advisory Board, but without regard to the limitation in such section on the number of days or the period of such service) the services of not more than one hundred and fifty-one experts or consultants who have scientific or professional qualifications;

"(2) to acquire, construct, improve, repair, operate, and maintain cancer centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary, and such other real or personal property (including patents) as the Director deems necessary; to acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34), by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the Institute for a period not to exceed ten years;

"(3) to appoint one or more advisory committees composed of such private citizens and officials of Federal, State, and local governments as he deems desirable to advise him with respect to his functions;

"(4) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(5) to accept voluntary and uncompensated services;

"(6) to accept unconditional gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible;

"(7) to enter into such contracts, leases, cooperative agreements, or other transactions, without regard to sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5), as may be necessary in the conduct of his functions with any public agency, or with any person, firm, association, corporation, or educational institution;

"(8) to take necessary action to insure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Institute and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally;

"(9) to award grant for new construction as well as alterations and renovations for improvement of basic research laboratory facilities, including those related to biohazard control, as deemed necessary for the National Cancer Program; and

"(10) to call special meetings of the National Cancer Advisory Board at such times and in such places as the Director deems necessary in order to consult with, obtain advice from, or to secure the approval of projects, programs, or other actions to be undertaken without delay in order to gain maximum benefit from a new scientific or technical finding.

"SCIENTIFIC REVIEW

"SEC. 405. (a) The Director of the Institute shall, by regulation, provide for proper scientific review of all research grants and programs over which he has authority (1) by utilizing, to the maximum extent possible, appropriate peer review groups established within the National Institutes of Health and composed principally of non-Federal scientists and other experts in the scientific and disease fields, and (2) when appropriate, by establishing, with the approval of the National Cancer Advisory Board and the Director of the National Institutes of Health, other formal peer review groups as may be required.

"(b) Under procedures approved by the Director of the National Institutes of Health, the Director of the National Cancer Institute may approve grants under this Act for cancer research or training—

"(1) if the direct costs of such research and training do not exceed $35,000, but only after appropriate review for scientific merit, and

"(2) if the direct costs of such research and training exceed $35,000, but only after appropriate review for scientific merit and recommendation for approval by the National Cancer Advisory Board under section 407(b)(3).

"NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS

"SEC. 406. (a) The Director of the Institute is authorized to provide for the establishment of new centers for basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention, and treatment methods for cancer. Such centers may be supported under subsection (b) or under any other applicable provision of law.

"(b) The Director of the Institute, under policies established by the Director of the National Institutes of Health and after consultation with the National Cancer Advisory Board, is authorized to enter into cooperative agreements with public or private nonprofit agencies or institutions to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for existing or new centers (including, but not limited to, centers established under subsection (a)) for basic and clinical research into, training in, and demonstration of advanced diagnostic, prevention, and treatment methods for cancer. Federal payments under this subsection in support of such cooperative agreements may be used for (1) construction (notwithstanding any limitation under section 477), (2) staffing and other basic operating costs, including such patient care costs as are required for research, (3) clinical training (including clinical training for allied health professionals), continuing education for health professionals and allied health professions personnel, and information programs for the public respecting cancer, and (4) demonstration purposes. The aggregate of payments (other than payments for construction) made to any center in support of such an agreement for its costs (other than indirect costs) described in the first sentence may not exceed $5,000,000 in any fiscal year, except that if in any fiscal year there is an increase, as reflected in the Consumer Price Index published by the Bureau of Labor Statistics, in the cost of a center for which payments may be made under such an agreement, the aggregate of payments in such year for such center may exceed $5,000,000 to include such increase and any such increase in any preceeding fiscal year for which payments were made to such center under such an agreement to the extent that such increase resulted in payments in excess of $5,000,000. As used in this section, the term 'construction' does not include the acquisition of land, and the term 'training' does not include research training for which fellowship support may be provided under section 472. Support of a center under this section may be for a period of not to exceed three years and may be extended by the Director of the Institute for additional periods of not more than three years each, after review of the operations of such center by an appropriate scientific review group established by the Director of the Institute.

"NATIONAL CANCER ADVISORY BOARD

"SEC. 407. (a)(1) There is established in the Institute a National Cancer Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty-nine members as follows:

"(A) The Secretary, the Director of the Office of Science and Technology Policy, the Director of the National Institutes of Health, the chief medical officer of the Veterans' Administration, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency, the Chairman of the Consumer Product Safety Commission (or their designees), and a medical officer designated by the Secretary of Defense shall be ex officio members of the Board.

"(B) Eighteen members appointed by the President. Not more than twelve of the appointed members of the Board shall be scientists or physicians, not more than eight of the appointed members shall be representatives from the general public, and not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors). The scientists and physicians appointed to the Board shall be appointed from persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of cancer or in fields related thereto, and at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer. Each appointed member of the Board shall be appointed from among persons who by virtue of their training, experience, and background are especially qualified to appraise the programs of the Institute. The ex officio members of the Board shall be nonvoting members.

"(2)(A) Appointed members shall be appointed for six-year terms, except that of the members first appointed six shall be appointed for a term of four years, as designated by the Secretary at the time of appointment.

"(B) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(C) A vacancy in the Board shall not affect its activities, and twelve members thereof shall constitute a quorum.

"(3) The Secretary shall designate one of the appointed members to serve as Chairman for a term of two years.

"(4) The Board shall meet at the call of the Director of the Institute or the Chairman, but not less often than four times a year and shall advise and assist the Director of the Institute with respect to the National Cancer Program.

"(5) The Director of the Institute shall designate a member of the staff of the Institute to act as Executive Secretary of the Board.

"(6) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities of the National Cancer Program.

"(7) The Board shall submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and the Congress, on the progress during the preceding fiscal year of the National Cancer Program toward the accomplishment of its objectives.

"(8) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(9) The Director of the Institute shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"(b) The Board is authorized—

"(1) to review research projects or programs conducted or authorized to be conducted under section 401 relating to the study of the cause, prevention, or methods of diagnosis and treatment of cancer, and recommend to the Secretary any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis and treatment of cancer;

"(2) to collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, and methods of diagnosis and treatment of cancer, by correspondence or by personal investigation of such studies, and with the approval of the Secretary make available such information through the appropriate publications for the benefit of health agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

"(3) to review applications for grants for research projects relating to cancer and to recommend to the Director for approval under section 405(b)(2) those applications which show promise of making valuable contributions to human knowledge with respect to the cause or prevention of cancer or to methods of diagnosis or treatment of cancer;

"(4) to recommend to the Secretary for acceptance conditional gifts pursuant to section 501 of this Act; and

"(5) to make recommendations to the Secretary with respect to carrying out the provisions of this part.

"PRESIDENT'S CANCER PANEL

"SEC. 408. (a)(1) There is established the President's Cancer Panel (hereinafter in this section referred to as the 'Panel') which shall be composed of three persons appointed by the President, who by virtue of their training, experience, and background are exceptionally qualified to appraise the National Cancer Program. At least two of the members of the Panel shall be distinguished scientists or physicians.

"(2)(A) Members of the Panel shall be appointed for three-year terms, except that (i) in the case of two of the members first appointed, one shall be appointed for a term of one year and one shall be appointed for a term of two years, as designated by the President at the time of appointment, and (ii) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(B) The President shall designate one of the members to serve as Chairman for a term of one year.

"(C) Members of the Panel shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule for each day (including traveltime) during which they are engaged in the actual performance of duties vested in the Panel, and shall be allowed travel expenses (including a per diem allowance) under section 5703(b) of title 5, United States Code.

"(3) The Panel shall meet at the call of the Chairman, but not less often than four times a year. A transcript shall be kept of the proceedings of each meeting of the Panel, and the Chairman shall make such transcript available to the public.

"(b) The Panel shall monitor the development and execution of the National Cancer Program, and shall report directly to the President. Any delays or blockages in rapid execution of the Program shall immediately be brought to the attention of the President. The Panel shall submit to the President periodic progress reports on the Program and annually an evaluation of the efficacy of the Program and suggestions for improvements, and shall submit such other reports as the President shall direct.

"GIFTS

"SEC. 409. The Secretary shall recommend acceptance of conditional gifts pursuant to section 501 for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of real property or the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Board. Donations of $50,000 or over in aid of research under this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 410. (a) For the purpose of carrying out this part (other than section 403), there are authorized to be appropriated $400,000,000 for the fiscal year ending June 30, 1972; $500,000,000 for the fiscal year ending June 30, 1973; $600,000,000 for the fiscal year ending June 30, 1974; $750,000,000 for the fiscal year ending June 30, 1975; $830,000,000 for the fiscal year ending June 30 1976; $985,000,000 for the fiscal year ending September 30, 1977; $923,590,000 for the fiscal year ending September 30, 1978; $924,500,000 for the fiscal year ending September 30, 1979; and $927,000,000 for the fiscal year ending September 30, 1980.

"(b) There are authorized to be appropriated to carry out section 403 $20,000,000 for the fiscal year ending June 30, 1972; $30,000,000 for the fiscal year ending June 30, 1973; $40,000,000 for the fiscal year ending June 30, 1974; $53,500,000 for the fiscal year ending June 30, 1975; $68,500,000 for the fiscal year ending June 30, 1976; $88,500,000 for fiscal year ending September 30, 1977; $84,560,000 for the fiscal year ending September 30, 1978; $90,500,000 for the fiscal year ending September 30, 1979; $103,000,000 for the fiscal year ending September 30, 1980.

"(c) The authority of the Secretary to enter into any contract for the conduct of a program under section 404(a)(7) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

(2) The change in the manner of appointing members of the National Cancer Advisory Board and in the composition of such Board prescribed by the amendment made by paragraph (1) shall apply with respect to appointments made to the Board after the date of the enactment of this Act, and the President shall make appointments to such Board after such date in a manner which will bring about, at the earliest feasible time, the composition prescribed by such amendment.

(b) Part I of title IV is amended by adding at the end the following:

"APPROPRIATIONS

"SEC. 477. Appropriations to carry out the purposes of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 3709 of the Revised Statutes; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Secretary); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of this title.

"OTHER AUTHORITY

"SEC. 478. This title shall not be construed as limiting (1) the functions or authority of the Secretary under any other title of this Act, or of any officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of any disease or diseases for which a separate institute is established under this Act; or (2) the expenditure of money thereof.".

CONFORMING AMENDMENTS

SEC. 242. (a) Section 415(b)(1) is amended by striking out "section 405" and inserting in lieu thereof "section 477".

(b) Section 471 is amended by striking out "section 407(b)(9)" and inserting in lieu thereof "section 404(a)(8)".

PART D—NATIONAL RESEARCH SERVICE AWARDS

EXTENSION OF AUTHORIZATIONS

SEC. 251. (a) Subsection (d) of section 472 is amended by striking out "and" after "1977," and by inserting before the period at the end of the first sentence the following: ", $197,500,000 for the fiscal year ending September 30, 1979, $210,000,000 for the fiscal year ending September 30, 1980, and $222,500,000 for the fiscal year ending September 30, 1981".

(b) Subsection (d) of such section is amended (1) by striking out "25 per centum" in the second sentence and inserting in lieu thereof "15 per centum", and (2) by inserting before the period "and not less than 50 per centum shall be made available for grants under subsection (a)(1)(B) for National Research Service Awards".

(c) Subsection (d) of such section is amended by adding at the end thereof the following new sentence: "In any fiscal year not more than 4 per centum of the amount obligated to be expended under this section may be obligated for National Research Service Awards for periods of three months or less.".

APPROVAL OF AWARDS

SEC. 252. Paragraph (2) of subsection (b) of such section is amended by striking out "The award of National Research Service Awards by the Secretary under subsection (a) and the making of grants for such Awards" and inserting in lieu thereof "The making of grants under subsection (a)(1)(B) for National Research Service Awards".

PERIOD OF AWARDS

SEC. 253. Paragraph (4) of subsection (b) of such section is amended to read as follows:

"(4) The period of any National Research Service Award made to any individual under subsection (a) may not exceed—

"(A) five years in the aggregate for predoctoral training, and

"(B) three years in the aggregate for postdoctoral training,

unless the Secretary for good cause shown waives the application of such limit to such individual."

ADJUSTMENTS IN ALLOWANCES

SEC. 254. The first sentence of subsection (b)(5) of such section is amended by inserting after "dependency allowances)" the following: ", adjusted periodically to reflect increases in the cost of living".

SERVICE OBLIGATION

SEC. 255. (a) Subparagraph (B) of subsection (c)(1) of such section is amended (1) by inserting "or" in clause (i) after "Corps,", (2) by striking out clause (ii), and (3) by redesignating clause (iii) as clause (ii).

(b)(1) Paragraph (2) of subsection (c) of such section is amended to read as follows:

"(2) For each month for which an individual receives a National Research Service Award which is made for a period in excess of three months, such individual shall—

"(A) for one month engage in health research or teaching or any combination thereof which is in accordance with the usual patterns of academic employment, or, if so authorized, serve as a member of the National Health Service Corps, or

"(B) if authorized under paragraph (1)(B) or (1)(C), for one month serve in the individual's specialty or engage in a health-related activity."

(2) Paragraph (4)(A) of such subsection is amended by striking out

$$"A=\phi\left(\frac{t-\frac{1}{2}s}{t}\right)"$$

and inserting in lieu thereof

$$"A=\phi\left(\frac{t-s}{t}\right)".$$

(3) Paragraph (5)(B) of such subsection amended by striking out "extreme hardship" and inserting in lieu thereof "substantial hardship".

(b) The amendments made by subsection (a) shall apply only with respect to National Research Service Awards made under section 472 of the Public Health Service Act after the date of the enactment of this Act.

REPORTS ON STUDIES

SEC. 256. Section 473(c) is amended by striking out "not later than September 30 of each year" and inserting in lieu thereof "at least once every two years".

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

SEC. 261. Effective October 1, 1978, section 301 is amended by adding after and below paragraph (h) the following: "The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate."

EXPANSION OF RESEARCH AND TESTING AUTHORITY

SEC. 262. Effective October 1, 1978, section 301 (as amended by section 261 of this title) is amended (1) by striking out "Surgeon General" each place it appears and inserting in lieu thereof "Secretary", (2) by striking out "Collect" in paragraph (a) and inserting in lieu thereof "collect", (3) by striking out "Make" in paragraphs (b), (c), and (f) and inserting in lieu thereof "make", (4) by striking out "Secure" in paragraph (d) and inserting in lieu thereof "secure", (5) by striking out "For" in paragraph (e) and inserting in lieu thereof "for", (6) by striking out "Enter" in paragraph (g) and inserting in lieu thereof "enter", (7) by striking out "Adopt" in paragraph (h) and inserting in lieu thereof "adopt", (8) by striking out "and" at the end of paragraph (f), (9) by redesignating paragraphs (a) through (h) as paragraphs (1) through (8), respectively, and (10) by inserting "(a)" after "301." and by adding at the end the following:

"(b)(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

"(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

"(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

"(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of informtaion respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health, Education, and Welfare and shall consult with entities of the Federal Government, outside of the Department of Health, Education, and Welfare, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

"(4) The Secretary shall publish an annual report which contains—

"(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

"(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

"(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

"(D) a description of (i) each request received during the year involved—

"(I) from a Federal agency outside the Department of Health, Education, and Welfare for the Secretary, or

"(II) from an entity within the Department of Health, Education, and Welfare to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

"(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or re-

view, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.".

NEW ARTHRITIS CENTERS

SEC. 263. Section 439(g) is amended by striking out the last sentence.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

SEC. 264. Section 475(a) is amended (1) by inserting before ", shall by regulation" the following: "and the head of the Division of Nursing of the Health Resources Administration (or the successor to either such entity)", (2) by inserting after "research" in paragraph (1) the following: "(including research under programs of such Division of Nursing)", and (3) by striking out "or the" in paragraph (2) and inserting in lieu thereof "the" and by inserting before the period in that paragraph a comma and the following: "or the Division of Nursing of the Health Resources Administration (or the successor to either such entity)".

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

SEC. 265. Title IV is amended by inserting after section 478 (as added by section 241(b) of this title) the following new section:

"EXPERTS AND CONSULTANTS

"SEC. 479. (a) The Director of the National Institutes of Health may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than two hundred experts or consultants who have scientific or professional qualifications, for the National Institutes of Health and for each of the research institutes (other than the National Cancer Institute and the National Heart, Lung, and Blood Institute).

"(b)(1) Experts and consultants whose services are obtained under subsection (a) or under section 404(b)(1) or 413(c)(1) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with section 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under this subsection, unless and until the expert or consultant agrees in writing to complete the entire period of his assignment or 1 year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for these expenses is recoverable from him as a debt due the United States. The Secretary may waive in whole or in part a right of recovery under this subsection with respect to an expert or consultant on assignment with the Secretary.".

PUBLIC HEALTH SERVICE HOSPITALS

SEC. 266. Section 321(a) is amended by striking out ", and tobacco".

EXTENSION OF DEADLINE FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

SEC. 267. Section 301(i)(1) of the Arthritis, Diabetes, and Digestive Disease Amendments of 1976 (P.L. 94-562) is amended by striking out "Within eighteen months following its initial meeting (as prescribed by subsection (d))," and inserting in lieu thereof "Not later than February 1, 1979,".

PROGRAMS FOR FAMILIES OF ALCOHOLICS AND ALCOHOL ABUSERS

SEC. 268. (a) Section 2(a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, is amended—

(1) by striking out "and" at the end of paragraph (5),

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) alcohol abuse and alcoholism have a substantial impact on the families of alcohol abusers and alcoholics; and".

(b) Section 303(a)(4)(B) of such Act is amended by inserting "and for education, counseling, and treatment of the families of alcoholic abusers and alcoholics" after "under the age of eighteen".

(c) Section 501(a) of such Act is amended—

(1) by striking out "of" each place it appears in paragraphs (1) through (4) and inserting "of" before "alcohol abuse and alcoholism";

(2) by striking out "and" at the end of paragraph (3) and inserting "and" after the comma at the end of paragraph (4); and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) the impact on families,".

(d) Section 501(b)(5) of such Act is amended by inserting "or those of their families" after "individuals suffering from alcoholism or alcohol abuse".

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

SEC. 301. The Public Health Service Act is amended by adding after title XVII the following new title:

"TITLE XVIII—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

"ESTABLISHMENT OF COMMISSION

"SEC. 1801. (a) ESTABLISHMENT.—(1) There is established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (hereinafter in this title referred to as the 'Commission') which shall be composed of eleven members appointed by the President. The members of the Commission shall be appointed as follows:

"(A) Three of the members shall be appointed from individuals who are distinguished in biomedical or behavioral research.

"(B) Three of the members shall be appointed from individuals who are distinguished in the practice of medicine or otherwise distinguished in the provision of health care.

"(C) Five of the members shall be appointed from individuals who are distinguished in one or more of the fields of ethics, theology, law, the natural sciences (other than a biomedical or behavioral science), the social sciences, the humanities, health administration, government, and public affairs.

"(2) No individual who is a full-time officer or employee of the United States may be appointed as a member of the Commission. The Secretary of Health, Education, and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to provide liaison with the Commission.

"(3) No individual may be appointed to serve as a member of the Commission if the individual has served for two terms of four years each as such a member.

"(4) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members shall be appointed for terms of four years.

"(2) Of the members first appointed—

"(A) four shall be appointed for terms of three years, and

"(B) three shall be appointed for terms of two years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

"(c) CHAIRMAN.—The Chairman of the Commission shall be appointed by the President, by and with the advice and consent of the Senate, from members of the Commission.

"(d) MEETINGS.—(1) Seven members of the Commission shall constitute a quorum for business, but a lesser number may conduct hearings.

"(2) The Commission shall meet at the call of the Chairman or at the call of a majority of its members.

"(e) COMPENSATION.—(1) Members of the Commission shall each be entitled to receive the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"DUTIES OF THE COMMISSION

"SEC. 1802. (a) STUDIES.—(1) The Commission shall undertake studies of the ethical and legal implications of—

"(A) the requirements for informed consent to participation in research projects and to otherwise undergo medical procedures;

"(B) the matter of defining death, including the advisability of developing a uniform definition of death;

"(C) voluntary testing, counseling, and information and education programs with respect to genetic diseases and conditions, taking into account the essential equality of all human beings, born and unborn;

"(D) the differences in the availability of health services as determined by the income or residence of the persons receiving the services;

"(E) current procedures and mechanisms designed (i) to safeguard the privacy of human subjects of behavioral and biomedical research, (ii) to ensure the confidentiality of individually identifiable patient records, and (iii) to ensure appropriate access of patients to information contained in such records, and

"(F) such other matters relating to medicine or biomedical or behavioral research as the President may designate for study by that Commission.

The Commission shall determine the priority and order of the studies required under this paragraph.

"(2) The Commission may undertake an investigation or study of any other appropriate matter which relates to medicine or biomedical or behavioral research (including the protection of human subjects of biomedical or behavioral research) and which is consistent with the purposes of this title on its own initiative or at the request of the head of a Federal agency.

"(3) In order to avoid duplication of effort, the Commission may, in lieu of, or as part of, any study or investigation required or otherwise conducted under this subsec-

tion, use a study or investigation conducted by another entity if the Commission sets forth its reasons for such use.

"(4) Upon the completion of each investigation or study undertaken by the Commission under this subsection (including a study or investigation which merely uses another study or investigation), it shall report its findings (including any recommendations for legislation or administrative action) to the President and the Congress and to each Federal agency to which a recommendation in the report applies.

"(b) RECOMMENDATIONS TO AGENCIES.—(1) Within 60 days of the date a Federal agency receives a recommendation from the Commission that the agency take any action with respect to its rules, policies, guidelines, or regulations, the agency shall publish such recommendation in the Federal Register and shall provide opportunity for interested persons to submit written data, views, and arguments with respect to adoption of the recommendation.

"(2) Within the 180-day period beginning on the date of such publication, the agency shall determine whether the action proposed by such recommendation is appropriate, and, to the extent that it determines that—

"(A) such action is not appropriate, the agency shall, within such time period, provide the Commission with, and publish in the Federal Register, a notice of such determination (including an adequate statement of the reasons for the determination), or

"(B) such action is appropriate, the agency shall undertake such action as expeditiously as feasible and shall notify the Commission of the determination and the action undertaken.

"(c) REPORT ON PROTECTION OF HUMAN SUBJECTS.—The Commission shall biennially report to the President, the Congress, and appropriate Federal agencies on the protection of human subjects of biomedical and behavioral research. Each such report shall include a review of the adequacy and uniformity (1) of the rules, policies, guidelines, and regulations of all Federal agencies regarding the protection of human subjects of biomedical or behavioral research which such agencies conduct or support, and (2) of the implementation of such rules, policies, guidelines, and regulations by such agencies, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(d) ANNUAL REPORT.—Not later than December 15 of each year (beginning with 1979) the Commission shall report to the President, the Congress, and appropriate Federal agencies on the activities of the Commission during the fiscal year ending in such year. Each such report shall include a complete list of all recommendations described in subsection (b)(1) made to Federal agencies by the Commission during the fiscal year and the actions taken, pursuant to subsection (b)(2), by the agencies upon such recommendations, and may include such recommendations for legislation and administrative action as the Commission deems appropriate.

"(e) PUBLICATIONS.—The Commission may at any time publish and disseminate to the public reports respecting its activities.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'Federal agency' means an authority of the government of the United States, but does not include (A) the Congress, (B) the courts of the United States, and (C) the government of the Commonwealth of Puerto Rico, the government of the District of Columbia, or the government of any territory or possession of the United States.

"(2) The term 'protection of human subjects' includes the protection of the health, safety, and privacy of individuals.

"ADMINISTRATIVE PROVISIONS

"SEC. 1803. (a) HEARINGS.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

"(b) STAFF.—(1) The Commission may appoint and fix the pay of such staff personnel as it deems desirable. Such personnel shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) The Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(3) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this title.

"(c) CONTRACTS.—The Commission, in performing its duties and functions under this title, may enter into contracts with appropriate public or nonprofit private entities. The authority of the Commission to enter into such contracts is effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

"(d) INFORMATION.—(1) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(2) The Commission shall promptly arrange for such security clearances for its members and appropriate staff as are necessary to obtain access to classified information needed to carry out its duties under this title.

"(3) The Commission shall not disclose any information reported to or otherwise obtained by the Commission which is exempt from disclosure under subsection (a) of section 552 of title 5, United States Code, by reason of paragraphs (4) and (6) of subsection (b) of such section.

"(e) SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support service as the Commission may request.

"AUTHORIZATION OF APPROPRIATIONS; TERMINATION OF COMMISSION

"SEC. 1804. (a) AUTHORIZATIONS.—To carry out this title there are authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, $5,000,000 for the fiscal year ending September 30, 1980, $5,000,000 for the fiscal year ending September 30, 1981, and $5,000,000 for the fiscal year ending September 30, 1982.

"(b) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—The Commission shall be subject to the Federal Advisory Committee Act, except that, under section 14(a)(1)(B) of such Act, the Commission shall terminate on December 31, 1982.".

MISCELLANEOUS PROVISIONS

SEC. 302. (a) The President shall initially appoint members to the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research (established under the amendment made by section 301) not later than 90 days after the date of the enactment of this title.

(b) Effective November 1, 1978, part A of title II of the National Research Act, section 213 of such Act, and subsection (f) of section 217 of the Public Health Service Act are repealed.

Amend the title so as to read: "An Act to amend the Community Mental Health Centers Act to revise and extend the programs under that Act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute and of the National Cancer Institute, and the program for National Research Service Awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes.".

The SPEAKER. Is a second demanded?

Mr. CARTER. Mr. Speaker, I demand a second.

Mr. COLLINS of Texas. Mr. Speaker, may I ask if the gentleman from Kentucky (Mr. CARTER) is opposed to the bill?

Mr. CARTER. Frankly, Mr. Speaker, I must say that I am not.

Mr. COLLINS of Texas. Then, Mr. Speaker, I demand a second.

The SPEAKER. Is the gentleman from Texas (Mr. COLLINS) opposed to the bill?

Mr. COLLINS of Texas. I am opposed to the bill, Mr. Speaker.

The SPEAKER. Without objection, a second will be considered as ordered.

Mr. BAUMAN. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. ROGERS and Mr. BAUMAN.

The House divided, and the tellers reported that there were—yeas 95, nays 5.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. The Chair will count for a quorum.

Mr. BAUMAN. Mr. Speaker, I withdraw my point or order that a quorum is not present.

The SPEAKER. The gentleman from Maryland (Mr. BAUMAN) withdraws his point of order.

The Chair recognizes the gentleman from Florida (Mr. ROGERS) for 20 minutes.

Mr. ROGERS. Mr. Speaker, today it is my pleasure to present to the House of Representatives S. 2450, the Biomedical Research and Research Training Amendments of 1978, as amended by an amendment in the nature of a substitute. This legislation has been cleared by the minority, and it is my understanding that it represents an agreement which the Senate will accept. It would amend the Community Mental Health Centers Act to revise and extend the programs of assistance for community mental health centers and the Public Health Service Act to revise and extend the programs of assistance for medical libraries, the programs of the National Heart, Lung, and Blood Institute and the National Cancer Institute, and the program for national research service awards. It also contains other amendments to the Public Health Service Act

which are intended to make the act more responsive to the national health needs. Finally, it establishes a President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

Mr. Speaker, we have made significant gains in our assault on mental illness and the Nation's leading killers—cardiovascular disease and cancer—an effort which would not have been possible without the strong commitments made by Congress to the Health Services Administration, the National Heart, Lung, and Blood Institute, and to the National Cancer Institute. However, there is still much to be accomplished. I consider it essential for the improvement of our Nation's health that we continue to support and strengthen all of our mental health services and biomedical research programs as well as training programs to provide our Nation with outstanding individuals to carry out these programs.

In general, the amendments to the Public Health Service Act contained in the substitute amendment, taken together with the proposed extension of authorizations of appropriations, underscore Congress renewed commitment to biomedical research in order that we may understand and someday effectively treat and prevent such killers as heart disease and cancer as well as the spectrum of respiratory and blood diseases. The amendment also extends Federal support to community mental health centers which each year help many thousands of troubled Americans cope with the complaints of modern society.

Included in the amendment is recognition of the new awareness that diet and environment play very important roles in both cardiovascular disease and cancer. As part of this emphasis on the recognized importance of the prevention of such diseases, the committee has strengthened programs to provide information to the public and in the continuing education of health professionals, in order that society will benefit from our research efforts as soon as possible.

The House amendment contains authorizations for community mental health centers programs of $124 million for fiscal year 1979, $93 million for fiscal year 1980, and $25 million for fiscal year 1981. It also contains authorizations of $1.737 billion for biomedical research and research training programs for fiscal year 1979, $1.816 for fiscal year 1980 and $241 million for the libraries assistance and research training programs in fiscal year 1981.

This compares to a level of $1.640 billion in fiscal year 1978 authorizations and $1.429 billion in fiscal year 1978 appropriations. It also contains $5 million in authorizations for each of the next 4 fiscal years for the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

Mr. Speaker, the following is a table of authorizations and appropriations and a joint House-Senate comparative summary and explanation of the provisions of title II of H.R. 12460 and H.R. 12347, the comparable Senate-passed bill, S. 2450, and the House amendment in the nature of a substitute, as reported by the committee.

JOINT HOUSE-SENATE COMPARATIVE SUMMARY AND EXPLANATION OF TITLE II OF H.R. 12460 AND H.R. 12347, AS REPORTED BY THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE, THE SENATE BILL, S. 2450, AND THE HOUSE AMENDMENT IN THE NATURE OF A SUBSTITUTE

TITLE I—COMMUNITY MENTAL HEALTH CENTER EXTENSION ACT OF 1978

SHORT TITLE

Senate bill

The Senate bill provided for the short title "Community Mental Health Centers Extension Act of 1978".

House bill

The House bill as reported provided for the short title "Community Mental Health Centers Amendments of 1978".

House amendment

The House substitute contains the short title "Community Mental Health Centers Extension Act of 1978".

AUTHORIZATIONS OF APPROPRIATIONS

Both the Senate bill and the House bill authorized line-item appropriations for several programs for fiscal year 1979. The House bill authorized appropriations for two additional fiscal years. The House amendment provides that authorizations for appropriations generally would be made for fiscal years 1979 and 1980. Table I sets forth the authorizations in the Senate bill, the House bill and the House amendment:

TABLE 1.—AUTHORIZATIONS OF APPROPRIATIONS

	Senate bill	House bill	House amendment
202(d) CMHC planning:			
Fiscal year 1979	1.93	1.0	1.5
Fiscal year 1980		1.0	1.0
Fiscal year 1981		1.0	.....
203(d) CMHC initial operations:			
Fiscal year 1979	38.89	30.0	34.5
Fiscal year 1980		35.0	35.0
Fiscal year 1981		40.0	.....
204(c) CMHC—Consultation and education:			
Fiscal year 1979	15.0	30.0	20.0
Fiscal year 1980		3.0	3.0
Fiscal year 1981		1.5	.....
205(c) CMHC conversion:			
Fiscal year 1979	25.0	30.0	30.0
Fiscal year 1980		25.0	25.0
Fiscal year 1981			.....
213 CMHC financial distress:			
Fiscal year 1979	13.5	25.0	25.0
Fiscal year 1980			.....
Fiscal year 1981			.....
215 Supplemental support:			
Fiscal year 1979		30.0	.....
Fiscal year 1980		45.0	.....
Fiscal year 1981		50.0	.....
228 CMHC construction:			
Fiscal year 1979	2.50	.....	.....
231(d) Rape prevention:			
Fiscal year 1979	7.88	8.0	8.0
Fiscal year 1980		9.0	9.0
Fiscal year 1981		10.0	.....
Public Health Service Act, 314(g), State mental health programs:			
Fiscal year 1979		10.0	5.0
Fiscal year 1980		25.0	20.0
Fiscal year 1981		28.0	25.0

SUPPLEMENTAL SUPPORT GRANTS

Senate bill

The Senate bill did not contain a supplemental support grant provision. Senate Report No. 95-838 to accompany S. 2450 stated "the Committee intends to address the question of funding beyond the eighth year of operation when it undertakes its detailed review of the legislation, but felt strongly that it would be inappropriate to make such a substantial change in the CMHC program in the absence of a comprehensive review of the program." The Senate bill provided for the continuation of the existing grant programs for consultation and education, conversion, and financial distress.

House bill

The House bill would provide for the replacement of three existing grant authorities—financial distress, conversion, and consultation and education—by one new authority, with an incremental repeal of those existing authorities. The new authority, Supplemental Support Grants would provide post-eighth year assistance in meeting the costs of nonreimbursable services (consultation and education; follow-up; and program administration) beginning in fiscal year 1979. The amount of each supplemental support grant to a center would be determined by the Secretary, but could not exceed $1 per capita for the catchment area served by the center. In exceptional circumstances, the Secretary would be authorized to make grants from the funds appropriated under this section to centers in their fifth through eighth year of operating to assist them in meeting the costs of providing consultation and education services.

The House bill would repeal the authorities for financial distress grants after fiscal year 1979; conversion grants after fiscal year 1980; and consultation and education grants after fiscal year 1981. This incremental repeal process would allow centers receiving, or eligible to receive such support, to continue to receive these grants until they are eligible for the new supplemental support program.

No limit has been set on the number of supplemental support grants a center may receive because the committee is desirous of assuring that those nonreimbursable services assisted by this grant be continued.

House amendment

The House amendment deletes the supplemental support grant provision of the House bill and continues the grant programs of consultation and education (C & E), conversion, and financial distress for two fiscal years. The authorization of appropriations for fiscal year 1980 for C & E was limited to $3.0 million and for financial distress was limited to zero by the nature of the Senate bill and House bill. Fiscal year 1980 authorizations of appropriations for these two grant programs will be reviewed again early in the 96th Congress.

Because of the large number of centers completing their eighth year of operations in 1978, the House substitute has authorized a significant increase in appropriations for financial distress grants to meet the needs of those centers while the larger question of post-eighth year funding is being reviewed. In addition, the House substitute extends from three to five the number of financial distress grants which may be made to any center.

ELIGIBILITY FOR FINANCIAL DISTRESS

Senate bill

No change in existing law.

House bill

The House bill included clarifying language as to the eligibility of established centers prior to the 1975 amendments to the CMHC Act for financial distress grants. The House bill intends that such centers are to be eligible to apply for and be considered for receipt of such grants upon termination of their full 8 years of operational funding based on the date that each such center received its first staffing grant. Subsequent awards for expansion of services under the old section 220 (as in effect prior to 1975) should not preclude a center from being eligible to apply for financial distress assistance once that center has received 8 years of staffing and/or operations grant support.

House amendment

The House substitute contains the language of the original House bill.

CMHC CONSTRUCTION

Senate bill

The Senate bill authorized appropriations of $2.5 million for CMHC construction for fiscal year 1979.

House bill

No provision.

House amendment

The House Amendment authorizes no funds for this purpose.

REQUIREMENTS FOR INITIAL OPERATIONS GRANTS

Senate bill

No change in existing law.

House bill

The House bill would allow new centers to begin with six basic services (inpatient; outpatient; emergency; screening and referral; follow-up; and consultation and education) and a plan, approved by the Secretary, for providing all other mandated services within a three-year period.

House amendment

The House amendment contains the language of the House bill. While the new requirements for initial operations do not specifically call for either a program of specialized services for the mental health of children or of the elderly to be in place on the first day of operations, the six services required to be provided as of day one *are* to be provided to individuals of all ages.

SHARED SERVICES BETWEEN CATCHMENT AREAS

Senate bill

No provision.

House bill

The House bill would provide for the sharing of services between and among catchment areas.

House amendment

The House amendment provides that if local conditions merit, a center wishing to use inpatient, emergency, and/or transitional halfway home services provided by facilities outside its own catchment area but within geographic proximity of and accessible to the patients it serves, may do so, contingent upon the prior approval of the Secretary of the Department of Health, Education and Welfare. It is expected that the Secretary will review each request with care, considering such factors as ease of access to services, availability of transportation, and urban density, among others.

CMHC GOVERNING BOARDS

Senate bill

No change in existing law.

House bill

The House bill would allow community mental health centers operated by hospitals or governmental agencies to have citizen advisory boards rather than governing boards. The advisory committee required for such a center would have to meet the same composition requirements as the governing board of private, nonprofit community mental health centers and would have to approve each annual renewal grant for that center's operation before the application could be approved and funded.

House amendment

The House amendment contains the provisions of the House bill; however, the amendment requires that not more than 5 percent of the funds appropriated under sections 203, 204, and 205 (initial operations, consultation and education and conversion) in any fiscal year may be used in support of CMHCs operated by hospitals or governmental agencies having citizen advisory boards in lieu of the governing board requirement. Additionally, for those community mental health centers now affiliated with hospitals, the substitute provides two additional years to come into compliance with the governing board requirements.

HEALTH PLANNING REQUIREMENTS

Senate bill

No provision.

House bill

The House bill would make several changes to formalize the integration of mental health planning into the national health planning process established under Public Law 93–641, and to reduce the number of currently required federal mental health plans.

Specifically, the proposed legislation would: (1) add two mental health goal statements to the national health planning goals; (2) provide for the inclusion of goals for the delivery of mental health services in the health systems plan (HSP) of each health systems agency (HSA); (3) provide for the establishment of an advisory group or subcommittee to each HSA to make recommendations with respect to such goals; (4) provide for the inclusion (through consumer and provider members) of individuals knowledgeable about mental health on HSA boards; (5) provide for the State Health Authority, the State Mental Health Authority, and those other agencies of State government designated by the governor for such purposes, to make recommendations on the HSPs submitted to the State agency; (6) provide that the State Agency publish written statements of its reason for not taking action on any such recommendations; (7) allow the Statewide Health Coordinating Council (SHCC) to appoint a Mental Health Advisory Committee to assist it in plan review; (8) require the State Mental Health Authority to have an advisory committee to assist it in its planning and operations, responsibilities; and (9) provide that the plans required under the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 and the Drug Abuse Office and Treatment Act of 1972 be consistent with the Title XV State Health Plan.

House amendment

Because similar provisions are contained in the 1978 amendments to the National Health Planning and Resources Development Act, the House substitute contains no such provisions.

MONITORING OF OPERATIONS GRANTS

Senate bill

No provision.

House bill

The House bill provides that up to one percent (1%) of the total amount appropriated under sections 203, 204, and 205 of the CMHC Act for any fiscal year shall be used by the Secretary to enter into contracts with State Mental Health Authorities to monitor federally funded mental health centers operations within their States.

House amendment

The House amendment contains the provisions of the House bill.

Serious concerns have been raised regarding the operational and administrative problems discussed in the September 1978 review of the CMHC Program undertaken by the General Accounting Office (GAO). It appears that responsibility for day-to-day operational aspects of the program, including the authority to award grants, is vested in the various PHS regional offices. However, these offices report only indirectly to the parent program, the National Institute of Mental Health (NIMH) which has overall responsibility for program direction and policy.

Current organizational arrangements may contribute to the problems GAO identified. Clearly, the CMHC program should be operated in a manner providing the best possible administration and accountability. Therefore, the Secretary is requested to explain the existing division of responsibilities and delegations of authority, and encouraged to take whatever steps are necessary to make the responsibilities for this program as clear and direct as possible.

By way of this comment, the Secretary is asked to report to the appropriate Committees of the Congress on this matter in 60 days.

GRANT APPLICATION REVIEW FUNCTIONS OF THE NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Senate bill

No change in existing law.

House bill

The House bill would limit the applications that the National Advisory Mental Health Council must approve to (1) initial applications for operations, conversion, and consultation and education grants and (2) subsequent applications only when a center requests greater Federal support than projected in their initial application for such assistance.

House amendment

The House amendment contains the language in the House bill.

CATCHMENT AREA BOUNDARIES

Senate bill

No change in existing law.

House bill

The House bill provides that, to the extent practicable, CMHC catchment area boundaries not cross HSA boundaries.

House amendment

The House amendment contains the provisions of the House bill. In the event that a CMHC catchment area does cross HSA boundary lines, it is the intent, for purposes of HSA project review, that the HSAs involved coordinate their reviews, to the maximum extent possible, to reduce the time requirements on the Center staff in such review.

SECTION 237—STATE PLAN

Senate bill

No change in existing law.

House bill

The House bill would amend section 237 of the Community Mental Health Centers Act by: (1) renaming that section: State Mental Health Authority; (2) prescribing functions for such authority essentially as previously delineated in the current section 237 of the Community Mental Health Centers Act (State Plan), and section 314(d) of the Public Health Service Act (comprehensive public health services); and (3) relating these prescribed functions to the Title XV State Health Plan. In addition, it would require the State Mental Authority to designate a State Advisory Council to consult with it in carrying out the functions of section 237 and Title XV of the Public Health Service Act. The Council must include representation from entities concerned with planning and mental health service delivery, and the majority must be individuals who are not providers of health care.

House amendment

The House amendment provides no change in existing law.

RAPE CONTROL

Senate bill

No change in existing law.

House bill

The House bill would amend section 231(c) of the Community Mental Health Centers Act (rape prevention and control) to require that the recommendations of the Committee established by that section be submitted directly to the Secretary without review or revision without the consent of the Committee.

House amendment

The House amendment contains the same provision as in the original House bill.

STATE MENTAL HEALTH PROGRAMS

Senate bill

No provision.

House bill

The House bill would establish a new section 314(g) of the Public Health Service Act (to be named State mental health programs (which would provide authorizations for appropriations for those mental health services previously authorized under section 314(d) of the Public Health Service Act and for assistance in meeting the costs of the planning responsibilities required under amendments to the National Health Planning and Resources Development Act.

House amendment

The House amendment contains the same provision as in the original House bill.

MISCELLANEOUS AMENDMENT

Senate bill

No provision.

House bill

The House bill would amend section 504 (a) of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 by requiring the Secretary, insofar as practicable, to approve applications for national alcohol research centers in a manner which results in an equitable geographic distribution of such centers.

House amendment

The House amendment contains the same provision as in the original House bill.

CARRYOVER OF FUNDS

Both the Senate bill and the House bill provide for the carryover of Federal funds from one fiscal year to the next in certain defined circumstances. In addition, the House amendment provides that up to 5 percent of non-Federal grant funds generated in excess of that projected for any fiscal year may be retained by the Center for expansion or improvement of services, increasing the number of persons who can be served, facility modernization, or to establish a financial reserve to offset the decrease in percentage of Federal funds in future years. The Center must provide satisfactory assurances to the Secretary that such funds will be used for such purposes.

BIOMEDICAL RESEARCH AND RESEARCH TRAINING—AUTHORIZATIONS AND APPROPRIATIONS AND OTHER BUDGETARY INFORMATION

[In millions of dollars; fiscal years]

Program	1978—Existing law		1979 authorization		1980 authorization		1981 authorization		House amendment authorization		
	Authorizations	Appropriations	H.R. 12347	S. 2450	H.R. 12347	S. 2450	H.R. 12347	S. 2450	1979	1980	1981
National Library of Medicine:											
Library assistance program	14.6	7.987	15	15	16	17	17	20	15.0	16.5	18.5
National Cancer Institute:											
Cancer control programs	(84.56)	(64.5)	(96)	(85)	(103)		(110)		(90.5)	(103.0)	
Other cancer programs	(923.59)	(782.75)	(924)	(925)	(927)		(930)		(924.5)	(927.0)	
Total, cancer programs	1,008.15	847.25	1,020	1,010	1,030		1,040		1,015.0	1,030.0	
National Heart, Lung and Blood Institute:											
Prevention and control programs	(30.0)	(30.0)	(40)	(40)	(45)		(50)		(40.0)	(45.0)	
Other NHLBI programs	(426.32)	(392.56)	(470)	(470)	(515)		(560)		(470.0)	(515.0)	
Total, NHLBI programs	456.32	422.56	510	510	560		610		510.0	560.0	
National Research Service Awards	[1] 161.39	[1] 151.03	220	175	240	180	260	185	197.5	210.0	222.5
Total	1,640.46	1,428.827	1,765	1,710	1,846	197	1,927	205	1,737.5	1,816.5	241.0

[1] Does not include +$19,900,000 under old sec. 301 authority.

TITLE II—BIOMEDICAL RESEARCH EXTENSION

SHORT TITLE

The House committee bill, H.R. 12347, provides that the short title shall be the "Biomedical Research and Research Training Amendments of 1978."

The Senate bill provides that the short title shall be the "Biomedical Research Extension Act of 1978."

The House amendment conforms to the provision of the House committee bill.

PART A—LIBRARIES OF MEDICINE EXTENSION OF AUTHORIZATIONS

The House committee bill authorizes appropriations under section 309(c) of the Public Health Service Act (hereinafter referred to as "the Act") at levels of $15,000,000 for fiscal year 1979, $16,000,000 for fiscal year 1980 and $17,000,000 for fiscal year 1981.

The Senate bill authorize appropriations for the programs of assistance to medical libraries under section 390(c) at levels of $15,000,000 for fiscal year 1979, $17,000,000 for fiscal year 1980 and $20,000,000 for fiscal year 1981.

The House amendment authorizes appropriations of $15,000,000 for fiscal year 1979, $16,500,000 for fiscal year 1980 and $18,500,000 for fiscal year 1981.

PART B—PROGRAMS OF THE NATIONAL HEART, LUNG AND BLOOD INSTITUTE

EXTENSION OF AUTHORIZATIONS

Heart, Blood Vessel, Lung, and Blood Disease Prevention and Control Program

The House committee bill extends, for three years, authorizations of appropriations for these programs. The proposed authorization levels under seciton 414(b) of the Act, are $40,000,000 fiscal year 1979, $45,000,000 for fiscal year 1980 and $50,000,000 for fiscal year 1981.

The Senate bill extends the authorization of appropriations under this section only for fiscal year 1979, and at a level of $40,000,000.

The House amendment extends authorizations for two years, and adopts the House level of $45,000,000 for fiscal year 1980.

Heart, Blood Vessel, Lung and Blood Disease Research and Other Programs

The authorization of appropriations for these programs under section 419(b) of the Act are $470,000,000 for fiscal year 1979 in both the House committee bill and Senate bill. The House committee bill further provides for authorizations of appropriations of $515,000,000 for fiscal year 1980 and $560,000,000 for fiscal year 1981.

The House amendment provides for a two year extension of authorizations under section 419(b), and adopts the House level for fiscal year 1980.

SUBMISSION OF REPORTS

The House committee bill amends section 413(b)(2) of the Act by requiring the Director of the National Heart, Lung and Blood Institute to submit a report to the Secretary for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to Congress, rather than to submit a report to the President for transmittal to the Congress, as required under current law. The House committee bill also amends section 418(b)(2) to require that the National Heart, Lung and Blood Advisory Council's annual report is to be transmitted to the Secretary for his simultaneous transmittal to the President and Congress no later than November 30 of each year.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

INFORMATION PROGRAMS

The House committee bill amends section 412(5) of the Act to require that the information now required to be provided by the National Heart, Lung and Blood Institute's information center be made available "on a timely basis".

The House committee bill also amends section 413(d) to provide that the information to be disseminated under the Institute's prevention, education and control program be done so "on a timely basis" and include information on "nutrition and environmental pollutants".

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

EDUCATION AND INFORMATION PROGRAMS OF CENTERS

The House committee bill adds a new subparagraph to section 415(a)(2) of the Act which requires heart, lung and blood centers to conduct continuing education programs for health professionals and to conduct information programs for the public.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House amendment.

PART C—PROGRAMS OF THE NATIONAL CANCER INSTITUTE

EXTENSION OF AUTHORIZATIONS

Cancer Control Programs

The House committee bill extends, for three years, authorizations of appropriations for cancer control programs under section 409(b) of the Act. Proposed levels are $96,000,000 for fiscal year 1979, $103,000,000 for fiscal year 1980 and $110,000,000 for fiscal year 1981 .

The Senate bill extends, for one year, authorizations for this program at a proposed level of $85,000,000.

The House amendment provides for a two-year authorization for the cancer control

programs, at levels of $90,500,000 in fiscal year 1979 and $103,000,000 in fiscal year 1980.

Research and Other Programs of the National Cancer Institute

The House committee bill extends, for three years, authorizations of appropriations under section 410(c) of the Act. Proposed levels are $924,000,000 for fiscal year 1979, $927,000,000 for fiscal year 1980 and $930,000,000 for fiscal year 1981.

The Senate bill extends the authorization of appropriations for these programs for one year at a proposed level of $925,000,000.

The House amendment provides for a two year extension of authorizations of appropriations under section 410(c) at levels of $924,500,000 for fiscal year 1979, and $927,000,000 for fiscal year 1980.

APPOINTMENT OF THE DIRECTOR OF THE NATIONAL CANCER INSTITUTE

The House committee bill amends section 471 of the Public Health Service Act to delete the requirement under existing law that the Director of the National Cancer Institute be appointed by the President by and with the advice and consent of the Senate. The effect of this provision is to require the Secretary of Health, Education and Welfare to appoint the Director of the National Cancer Institute.

The Senate bill contains no comparable provision.

The House amendment deletes the provisions of the House committee bill.

NATIONAL CANCER ADVISORY BOARD

Appointment of Members

The House committee bill amends section 410(B) of the Act to require that members of the National Cancer Advisory Board be appointed by the Secretary of Health, Education and Welfare, rather than by the President as under current law.

The Senate bill contains no comparable provision.

The House amendment conforms to the Senate bill.

Ex-officio Members

The House committee bill amends section 410B(a) to add, as ex-officio members of the National Cancer Advisory Board, the Director of the National Institute for Occupational Safety and Health, the Director of the National Institute of Environmental Health Sciences, the Secretary of Labor, the Commissioner of the Food and Drug Administration, the Administrator of the Environmental Protection Agency and the Chairman of the Consumer Product Safety Commission. The House committee bill further provides that all ex-officio members be non-voting.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

Qualifications of Members

The House committee bill amends section 410(B)(a)(2) to require that "not less than five of the appointed members shall be individuals knowledgeable in environmental carcinogenesis (including carcinogenesis involving occupational and dietary factors)" and that "at least two of the physicians appointed to the Board shall be physicians primarily involved in treating individuals who have cancer."

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House Committee bill.

SUBMISSION OF REPORTS

Report of the National Cancer Advisory Board

The House committee bill amends section 410B(g) by requiring the National Cancer Advisory Board to submit "a report to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to Congress, on the progress during the preceding fiscal year of the National Cancer Program." This would modify current law which requires that the above report be submitted to the President for transmittal to Congress not later than January 31 of each year. The House committee bill also amends section 410A(b) of the Act to require that the Director of the National Cancer Institute submit a report "to the Secretary, for simultaneous transmittal by the Secretary, not later than November 30 of each year, to the President and to the Congress," on the progress and accomplishments of the National Cancer Program during the previous fiscal year.

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

FUNCTIONS OF CENTERS

The House committee bill amends section 408 (a) and (b) of the Act by adding basic research and prevention to the functions of cancer centers, to provide that the centers support "basic and clinical research into, training in, and demonstration of, advanced diagnostic, prevention and treatment methods for cancer."

The Senate bill adds only the function of basic research but otherwise retains the wording of the present section, to require that centers support "basic or clinical research, training and demonstration of advanced diagnostic and treatment methods relating to cancer."

The House committee bill, also under section 408(b), adds programs for "continuing education for health professionals and allied health professionals, and information programs for the public respecting cancer."

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

NATIONAL CANCER PROGRAM

Research and Training

The House committee bill adds to the provisions of the National Cancer Program in section 407(b)(1) of the Act the requirement that the National Cancer Institute "implement an expanded and intensified research program for the prevention of cancer caused by occupational or environmental exposure to carcinogens." The House committee bill further amends section 407(b) by including programs of continuing education for health professionals in the requirement of the National Cancer Program regarding education and training programs described in paragraph (7).

The Senate bill contains no comparable provisions.

The House amendment adopts the provisions of the House committee bill.

The President's Cancer Panel

The House committee bill amends section 407(c)(3) to require the President's Cancer Panel to meet a minimum of four times per year instead of a minimum of twelve times as required under current law.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill.

CANCER CONTROL PROGRAMS

The House committee bill revises section 409(a) of the Act to require the Director of the National Cancer Institute to establish and support demonstration, education, and other programs for the detection, diagnosis, prevention, and treatment of cancer and for rehabilitation and counseling respecting cancer. The programs are required to include—

(1) locally initiated education and demonstration programs (including regional networks of such programs), for physicians and other health professionals;

(2) the demonstration of and education of health professionals in, the early detection of cancer, and improved methods of patient referral; and

(3) the demonstration of new methods for providing public information concerning early detection and effective treatment of cancer.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill.

TECHNICAL REVISION

The House committee bill includes a complete technical redrafting of Part A of title IV (which would include all amendments contained in the House amendment). This revision is intended to provide a more organized, concise and logical statement of the existing National Cancer Act (sections 401 through 410 of the Public Health Service Act).

The Senate contains no comparable provision.

The House amendment adopts this provision of the House committee bill.

PART D—NATIONAL RESEARCH SERVICE AWARDS

Authorizations of Appropriations

The House committee bill extends for three years the authorizations of appropriations for National Research Service Awards as follows: $220,000,000 for fiscal year 1979, $240,000,000 for fiscal year 1980 and $260,000,000 for fiscal year 1981.

The Senate bill also extends the authorizations of appropriations for three years but for the following figures: $175,000,000 for fiscal year 1979, $180,000,000 for fiscal year 1980 and $185,000,000 for fiscal year 1981.

PERIOD OF AWARDS

The House committee bill amends section 472(b)(4) of the Act to extend from three to five years the maximum period during which predoctoral trainees can receive these awards.

The Senate bill contains no comparable provision.

The House amendment adopts this provision of the House committee bill.

ADJUSTMENTS IN ALLOWANCES

The House committee bill amends section 472(b)(5) of the Act to require that stipends and allowances awarded under this section be "adjusted periodically to reflect increases in the cost of living."

The Senate bill provides for the inclusion of "cost of living increase allowances" in addition to travel and subsistence expenses and dependency allowances.

While we recognize that the House and Senate provisions are essentially equivalent in intent, the House amendment adopts the House provision. We believe that the use of the word "periodically" implies that stipends should be examined at reasonable intervals to consider adjustments for changes in the cost of living.

We intend that changes in the cost of living be considered among other factors in the setting of stipend levels, and do not intend cost of living increases to result automatically in proportional stipend increases.

SERVICE OBLIGATION

Alternate Service in Georgraphic Areas of Need

The Senate bill deletes the provision in section 472(c)(1)(B) of the Act which would authorize the Secretary of Health, Education and Welfare to allow recipients of awards who are physicians, dentists, nurses or otherwise trained to provide health care to individual patients, to serve in their specialty in a geographic area of need, in lieu of the research service obligation usually required under this subsection.

The House committee bill has no comparable provision.

The House amendment conforms to the

Senate bill. We note that the service option provided in the deleted section has never been usilized by NRSA recipients, nor has the Secretary issued regulations to govern the implementation of the provision.

Exemption for Service Requirement for Awards for Short Term Training

The House committee bill amends section 472(c)(2) to require service payback only for awards made for a period in excess of three months. This provision was included to exempt from the service and payback requirements the recipients of awards for short-term training courses, usually offered during the summer months, for research scientists and trainees.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House committee bill, but with an amendment limiting to four percent of appropriated funds the amounts of money which may be obligated for training grants of less than three months duration.

Relief of Service Obligation or Payback in Hardship Cases

The House committee bill amends section 472(c)(5)(B) to delete the word "extreme" before "hardship", in order to soften the standard according to which the Secretary may waive or suspend a service or payback obligation under this section.

The Senate bill has no comparable provision.

The House amendment adopts the term "substantial hardship" as a legislative standard according to which the Secretary may waive a service or payback obligation. We wish to indicate that in modifying this waiver provision, we intend to provide the Secretary with more flexibility to take into account the individual circumstances of trainees who face a payback obligation. We do not intend the payback provision to be a punitive measure, or to inflict on trainees an unreasonable or excessively harsh payback requirement. However, the modification in the waiver standard should not be construed as altering the fundamental principle that recipients of NRSA support should be required to pay back in some way the support provided by Federal taxpayers.

RETROACTIVITY OF SERVICE OBLIGATION AND PAYBACK AMENDMENTS

The House committee bill specifies that the National Research Service Awards amendments, which liberalize the service and payback requirements and were agreed upon in the House amendment, should be effective upon the date of enactment.

The Senate bill provides that these amendments be made retroactive and apply to all previous awards made prior to the date of enactment as well.

The House amendment adopts the provisions of the House committee bill.

DETERMINATION OF SUBJECT AREAS FOR AWARDS

The House committee bill amends section 472(a)(3) of the Act to require the Secretary of Health, Education, and Welfare to determine the distribution of awards in different subject areas "after review of the most recent results of the study prescribed by section 473(a) of the Act", which refers to the National Academy of Sciences study on Personnel Needs and Training for Biomedical and Behavioral Research. This provision removes the mandatory character of the training priorities as described in the National Academy of Sciences annual report.

The Senate bill contains no similar provision.

The House amendment conforms to the Senate bill.

REPORTS ON PERSONNEL TRAINING NEEDS

The House committee bill amends section 473(C) of the Act, which now requires that the report on research personnel training needs, now prepared by the National Academy of Sciences annually, be required to be submitted "at least once every three years".

The Senate bill contains no comparable provision.

The House amendment requires this report to be submitted "at least once every two years."

PART E—MISCELLANEOUS AMENDMENTS

SUBSTANCES AND ORGANISMS FOR RESEARCH

The House committee bill amends section 301(h) of the Act to authorize the Secretary to make available to individuals and entities substances and organisms for biomedical and behavioral research if the Secretary determines either that these materials are not available in sufficient quantity or, that by promoting uniformity, the quality of the research is likely to be improved. The Secretary is empowered to set the terms for supplying such material, including payment.

The Senate bill amends section 301(b) to authorize the Surgeon General to make available "research chemicals and research animals" to appropriate public authorities, and to health officials and scientists engaged in special study.

The House amendment adopts the provision of the House committee bill requiring the Secretary to provide "substances and organisms" but deletes the conditional clauses concerning availability of substances or organisms or expectation of improved research results. The provision authorizing the Secretary to determine the conditions for supplying such material is retained.

The authority for the Secretary to provide research substances and organisms is included for several reasons: 1) to permit HEW to supply identical materials to several laboratories doing comparable research so that results of experiments can be validly compared; 2) to permit the Secretary to supply materials for research which are not commercially available; 3) to permit the Secretary to supply research materials when he is able to do so at significantly lower cost than any commercial manufacturer; and 4) to permit the Secretary to supply research substances and organisms when requiring the research laboratory to do so would constitute an unreasonable drain on the resources of the individual lab.

We intend that this provision be used with appropriate discretion by the Secretary. It is not intended that this provision result in the large scale production by the Secretary of substances or living organisms for research. It is further expected that the provision be used to supply commercial laboratories only for compelling reasons and then with appropriate compensation.

EXPANSION OF RESEARCH AND TESTING AUTHORITY

Testing Program for Toxicity and Carcinogenicity of Substances

The House committee bill amends section 301 of the Act to direct the Secretary to conduct and to support through grants and contracts, studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity and other harmful biological effects.

The Senate bill contains no comparable provision.

The House amendment adopts the House bill.

Research on the Biological Effects of Low-Level Ionizing Radiation

The House-passed substitute amends section 301 of the Act to require the Secretary to establish a comprehensive program of research into the biological effects of low-level ionizing radiation.

The House amendment also directs the Secretary to conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation. Since this provision was added to the House bill for the first time as part of the House amendment, the statements of the Chairman of the Subcommittee on Health and the Environment, Paul G. Rogers, and the Chairman of the Subcommittee on Environment and the Atmosphere, George E. Brown, clarify the intent of this provision.

The Senate bill contains no comparable provision.

The House amendment adopts the provision of the House bill.

Research on Human Nutrition

The House passed substitute amends section 301 of the Public Health Service Act to direct the Secretary to conduct and authorizes him to support through grants and contracts, research and studies on human nutrition. This provision also directs the Secretary to conduct information programs on human nutrition for both health professionals and the public.

The Senate bill contains no comparable provision.

The House amendment adopts the provisions of the House passed substitute.

Annual Report on Carcinogens

The House committee bill amends section 407(b) of the National Cancer Act by adding a new paragraph (10) which would require the Director of the National Cancer Institute to publish, as part of the National Cancer Program, an annual report on carcinogens which contains—

(A) A list of all known or suspected carcinogens,

(B) information concerning the nature of exposure and the number of individuals exposed, and

(C) an evaluation of the efficacy of existing regulatory standards designed to control the exposure of individuals to carcinogens.

The Senate bill contains no comparable provision.

The House amendment reflects most of the intent of the provisions of the House committee bill, but provides that the preparation and issuance of this annual report be the responsibility of the Secretary of Health, Education, and Welfare rather than the Director of the National Cancer Institute. The provision in the House amendment is thus drafted as an amendment to section 301 of the Act, rather than as an additional element of the National Cancer Program.

We intend this study to be undertaken within HEW with considerable input from the National Cancer Institute, but also with the added expertise of such other entities as the Food and Drug Administration and the National Institute of Environmental Health Sciences. The new Toxicology Board recently created within the Department of Health, Education, and Welfare to oversee and coordinate the testing of substances for carcinogenicity and other harmful biological effects is expected to play a major role in the preparation of the report.

Other changes include a replacement of the phrase "suspected carcinogens' with "substances . . . reasonably anticipated to be carcinogens", in order to make it absolutely clear in the statute that there must be reasonable ground for designating a substance as a putative carcinogen. The provision previously requiring an evaluation of existing regulatory standards for efficacy has been modified to require a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient or exposure standards has been established by a Federal agency, and (ii) for each existing standard, the extent to which, on the basis of available data, such standard and its implementation by the appropriate agency, decreases the risk to public health. The report is also now required to include a description of each request from a Federal agency to conduct research or testing concerning the carciogenic-

ity of substances, and the response to each such request.

We wish to avoid any duplication of effort between this study and other studies supported by the Department of Health, Education and Welfare. We recognize the possibility of overlap between this study and studies required under other legislation, and intend that the Secretary take steps to prevent unnecessary duplication of effort and ensure appropriate sharing of information in the preparation of this study and report and studies and reports being conducted under other authorities. In this regard we specifically direct the Secretary to section 7 of S. 2466 requiring the Secretary to conduct a study of the costs of diseases and adverse effects on humans which are environmentally related, and expect the Secretary to avoid overlap between this study and that required under this subsection.

PEER REVIEW OF RESEARCH GRANTS UNDER THE DIVISION OF NURSING

The House committee bill amends section 472(a) of the Act which deals with peer review to include research grants under the Division of Nursing.

The Senate bill contains no comparable provision.

The House amendment adopts the provision of the House bill.

EXPERTS AND CONSULTANTS FOR THE INSTITUTES

The House committee bill adds a new section 479 to the Act which authorizes the Director of the National Institutes of Health to obtain the services of experts and consultants, which may be hired for periods in excess of one year, for any entity within the National Institutes of Health (other than the National Cancer Institute and the National Heart, Lung and Blood Institute, which are already authorized to obtain such consultants), the number of which is not to exceed four percent of the number of permanent, full time employees employed during the previous fiscal year.

The Senate bill adds a new section 477 to the Act which authorizes the Director of the National Institutes of Health to obtain the services of not more than one hundred experts and consultants only for the fiscal year 1979 (exclusive of consultants for the National Cancer Institute and the National Heart, Lung and Blood Institute).

The Senate bill further provides for travel and moving expenses of consultants to both the National Cancer Institute (by amending section 404(b)(1)) and the National Heart, Lung and Blood Institute (by amending section 413(c)(1)), but not for those consultants authorized in the new section 477.

The House amendment incorporates the features of both bills in that it provides, with no time limit on this authority, for a maximum of 200 consultants for the National Institutes of Health (other than the National Cancer Institute and the National Heart, Lung and Blood Institute). Travel and moving expenses are provided for all consultants, including those for the National Cancer Institute and the National Heart, Lung and Blood Institute, but these expenses are authorized only for those who remain for at least one year, unless separated or reassigned for reasons beyond that individual's control.

EXTENSION OF DEADLINES FOR FINAL REPORT OF NATIONAL COMMISSION ON DIGESTIVE DISEASES

The House passed substitute amends section 301(1)(1) of the Arthritis Diabetes and Digestive Disease Amendments of 1976 (P.L. 94–562) by extending the report deadline for the National Commission on Digestive Diseases to February 1, 1979.

The Senate bill contains no comparable provision.

The House amendment adopts this provision of the House amendment.

AMENDMENT TO PROGRAMS ON ALCOHOL ABUSE AND ALCOHOLISM PREVENTION TREATMENT AND REHABILITATION

The Senate bill, S. 2450 contains as Title III, an amendment to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970. The purpose of this amendment is to extend such programs, where appropriate to a consideration of the impact of alcohol abuse and alcoholism on the families of both alcoholics and those who abuse alcohol.

The House committee bill contains no comparable provision.

The House amendment adopts the substantive provisions of the Senate bill, but redrafts them with minor revisions as a new section 268 to Title II of S. 2450 under part E—Miscellaneous Provisions.

TITLE III—PRESIDENT'S COMMISSION FOR THE STUDY OF ETHICAL PROBLEMS IN MEDICINE AND BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate passed a bill, S. 2579, which would establish the "President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research." This bill amends the Public Health Service Act to create a new title XVIII. An identical provision was included as Title IV to S. 2450.

No comparable legislation was reported by the House Committee. The House Amendment retains many of the provisions of the Senate bill, modifies or deletes others and includes some new provisions.

ESTABLISHMENT OF COMMISSION

The Senate bill provides for the establishment of a Commission to be known as the President's Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

In view of the fact that the Senate bill covers many subject areas which go beyond the protection of human research subjects, the House committee members believed that the title of the Commission should be consistent with the broadened scope of its functions.

The House Amendment provides that there is to be established the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research.

Fields of Expertise Represented by Commissioners

The Senate bill provides that the President shall appoint five of the eleven members of the Commission from those who are or who have been engaged in biomedical or behavioral research involving human subjects, the remaining six being individuals distinguished in the humanities, social sciences or natural sciences who have never been engaged in research involving human subjects.

The House amendment, in keeping with the broader mandate for the Commission, provides that three members of the Commission shall be distinguished in biomedical or behavioral research, three distinguished in the practice of medicine and five distinguished in other disciplines from the humanities, social sciences and other natural sciences.

Federal Employees

The Senate bill provides that no full-time employees of the United States may be appointed as a member of the Commission.

The House amendment adopts this provision of the Senate bill.

Liaison Representatives of Federal Agencies

The Senate bill provides that the Secretary of Health, Education and Welfare, the Secretary of Defense, the Director of Central Intelligence, the Director of the Office of Science and Technology Policy, the Administrator of Veterans' Affairs, and the Director of the National Science Foundation shall each designate an individual to serve as a nonvoting, ex-officio advisor to the Commission.

The House Committee members were concerned that this provision might detract from the autonomy of the Commission.

The House amendment specifies that the cabinet and other agency heads listed above shall each designate an individual to provide liaison with the Commission.

Security Clearances

The Senate bill requires that any member of the Commission or any individual appointed or employed by the Commission must obtain the appropriate security clearances before having access to classified information.

It was agreed that the requirement for security clearances for any individual having access to classified information is already covered by executive order. However, it was felt that directions to the Commission to promptly arrange for security clearances to avoid unnecessary delays in examining pertinent classified information were appropriate.

The House amendment requires the Commission to "promptly arrange" for all appropriate security clearances of members and staff.

Interim Membership on Commission of Current Members of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

The Senate bill provides that the current members of the National Commission for the Protection of Human Subjects of Behavioral and Biomedical Research be deemed members of the Commission until the President appoints new members.

In view of the fact that the National Commission has already completed all its work and is presently disbanding, this provision was considered to be unnecessary.

The House amendment deletes this provision of the Senate bill.

Other Provisions Concerning Membership

The Senate bill contains several other provisions concerning the terms of office, the manner in which appointments are to be made, the appointment of a Chairman, and compensation.

Generally, these technical provisions were found to be acceptable.

The House amendment adopts the remainder of the provisions in the Senate bill concerning membership with the exception of the provision stating that four or fewer vacancies shall not affect the activities of the Commission, and the requirement for a Presidentially chosen Vice-Chairman, which were considered unnecessary.

DUTIES OF THE COMMISSION REPORT ON THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate bill requires that the Commission issue a report every two years on the protection of human subjects of biomedical and behavioral research. The Commission, in preparing this report, is required to periodically review the rules, policies, guidelines and regulations of each federal agency relevant to the conduct of research involving human subjects to determine their adequacy in protecting such subjects.

The Senate bill also authorizes the Comission to review in detail any program of any Federal department or agency to determine whether human research subjects are adequately protected. The Commission's report may include any appropriate recommendations for administrative or legislative action.

It was recognized that there is a need to review Federal policies concerning the protection of human research subjects and to evaluate the implementation of rules, policies, guidelines and regulations, by the various Federal agencies and departments. However, the House committee members did not believe that this should be the primary func-

tion of the Commission. They also felt that the authority to review in detail any program of any agency was inappropriate for the Commission. The Senate, however, believed that such review should be a primary function and should be required in order to determine whether implementation was adequate.

In order to meet both concerns, the House amendment adopts a provision similar to that in the Senate bill requiring that a report on the protection of human subjects be issued every two years and shall include a review of the adequacy and uniformity of (1) the rules, policies, guidelines and regulations of all Federal agencies (including the Central Intelligence Agency and the Department of Defense) regarding the protection of human subjects of biomedical and behavioral research which such agencies conduct or support, and (2) their implementation. The Commission is authorized to recommend whatever legislative or administrative action it considers to be necessary.

The House amendment deletes the provision of the Senate bill authorizing the Commission to review in detail any program of any Federal agency or department. In its place clause (2) above was included in order to retain authority to do what is necessary to evaluate the adequacy of implementation. This might from time to time require detailed review of the program in question.

FOLLOW-UP WORK OF NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

The Senate bill provides that the Commission shall complete any of the duties of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

It was noted that the National Commission has completed all of its duties as set forth in section 202 of Public Law 93–348 and that all that remains is the issuance of a report, now in the final stages of preparation. Therefore, this provision was considered to be unnecessary.

The House amendment deletes this provision of the Senate bill.

GENERAL STUDIES

The Senate bill provides that the Commission undertake studies of the ethical, social and legal implications of advances in biomedical and behavioral research and technology. This provision requires that the Commission consider a very broad spectrum of relevant issues.

It was noted that this provision is nearly identical to section 203 of the Public Law 93–348, as a directive to the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. The National Commission has completed this study, the report on which is about to be issued. Therefore, this provision of the Senate bill is considered to be unecessary.

The House amendment deletes this provision of the Senate bill.

STUDIES

The Senate bill specifies several studies in specific subject areas to be undertaken by the Commission. The subjects of these studies are:

(1) the requirements for informed consent by patients before they receive treatment;

(2) the matter of the definition of death and the development of a uniform definition of death:

(3) voluntary testing, counseling and information programs with respect to genetic diseases; and

(4) procedures and mechanisms designed to safeguard the privacy of research subjects and ensure the confidentiality of patient records.

The Senate bill also provides that the Commission may conduct any additional studies on its own initiative, at the request of the head of a federal agency or at the request of a committee of Congress. Reports to the President, appropriate federal agencies and appropriate committees of Congress, which should include any recommendations for legislative or administrative action, are required upon the completion of these studies.

The House committee members found these subject areas acceptable but wish to specify that it is the intent of Congress that the Commission's authority to conduct studies and make recommendations shall be limited to the consideration of ethical and legal problems connected with each of the subject areas to be considered by the Commission.

The House amendment adopts the provisions of the Senate bill with the limitation that all studies deal with the ethical and legal implication of the various subject areas and with the deletion of the provision that additional studies may be undertaken at the request of a Congressional committee.

The House amendment adds to the provisions of the Senate bill an additional subject area, the difference in availability of health services, as determined by the income or residence of the persons receiving such services. A study of the ethical issues raised by existing disparities in the distribution of health services was considered to be of considerable relevance to national health policy.

The House amendment also adds the provision that the President could require the Commission to conduct additional studies.

The House amendment further adds a provision that permits the Commission to utilize a study or investigation conducted by another entity, in whole or in part, in lieu of a study undertaken under this subsection, in order to avoid duplication of efforts.

RECOMMENDATIONS TO AGENCIES

The Senate bill requires that any recommendation made by the Commission to a Federal agency shall be published in the Federal Register within sixty days of the receipt of such recommendation and provide a period for the public to comment on such recommendation. Within one-hundred-eighty days from the date of the Federal Register notice, the agency must determine whether or not the proposed recommendation is appropriate. If so, it should undertake such action "as expeditiously as is feasible", if not, it must publish this determination in the Federal Register together with the reasons for its determination.

The House amendment adopts this provision of the Senate bill.

ANNUAL REPORT

The Senate bill provides that the Commission shall publish an annual report on November first of each year, to be submitted to the President and appropriate Congressional committees, which includes the President and appropriate Congressional committees, which includes:

(A) a complete list of all recommendations made to any Federal agency during the previous fiscal year;

(B) a description of subsequent administrative action taken; and

(C) a description of the reasons why an agency may have failed to take action.

The House amendment adopts the provisions of the Senate bill, with minor changes and additions. It requires that the report be on all the Commission's activities during the previous fiscal year and not limited to a discussion of the Commission's recommendations to Federal agencies. The House amendment further changes the report deadline to December 15, it being felt that one month may not allow the Commission sufficient time to prepare a thorough and competently done annual report. The report may include additional recommendations for administrative or legislative action.

ADMINISTRATIVE PROVISIONS

The Senate bill includes a number of provisions concerning the Commission's authority to hire staff and consultants, hold hearings, publish reports and disseminate information, determine the order in which studies are undertaken, and enter into contracts.

The House amendment adopts these provisions of the Senate bill, and adds the additional provision that the Commission may procure temporary and intermittent services of other appropriate Federal employees.

CONFIDENTIALITY

The Senate bill prohibits the Commission from disclosing information pertaining to trade secrets, citing the exemption from disclosure under the Freedom of Information Act (section 552(b)(4) of title V, United States Code), and information concerning "identifiable personal data", unless done under conditions which fully protect the rights of the individual. The Senate bill also prohibits the disclosure of classified information.

The House amendment adopts the first part of this provision concerning the disclosure of trade secrets, but substitutes for the remainder the prohibition to disclose information pertaining to the privacy of medical records, citing exemption of section 552(b)(6) of title V of the United States Code.

The language in the Senate bill was considered to pose some ambiguities of interpretation, particularly the definition of "identifiable personal data." However, it was believed that the intent of this provision of the Senate bill could be encompassed by prohibiting disclosure of data described in the appropriate section of the Freedom of Information Act. It was further believed that no reference to the disclosure of classified information was necessary, since by definition classified information is protected from disclosure.

AUTHORIZATION OF APPROPRIATIONS

The Senate bill authorizes appropriations of $6,000,000 per year for the four fiscal years beginning with 1979.

The House amendment authorizes $5,000,000 per year for the next four fiscal years.

TERMINATION OF COMMISSION

The Senate bill contains a so-called "sunset" provision which provides for the termination of the Commission after four years.

The House amendment adopts a provision similar to that in the Senate bill but with a drafting change to permit the Commission to complete its activities, under the authorizations provided in this bill, by December 31, 1982.

MISCELLANEOUS PROVISIONS

Initial Appointment of Members

The House amendment adds a provision not in the Senate bill requiring that the President appoint members of the Commission within ninety days of the date of enactment. Since the provision to permit present members of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research to serve until members of the new Commission were appointed was stricken, it was considered important to require the appointment of the new Commission as soon as possible.

Repeal of Existing Statutory Provisions

The Senate bill specifically repeals section 217(f) of the Public Health Service Act, which creates a National Advisory Council for the Protection of Human Subjects of Biomedical and Behavioral Research. The Senate bill also repeals sections 211 and 213 of the National Research Act.

The House amendment adopts the first provision of the Senate bill respecting repeal

of section 217(f) of the Public Health Service Act. However, the provisions of sections 211 and 213 of the National Research Act have expired. Therefore, these provisions of the Senate bill are deleted.

Mr. Speaker, the substitute amendment being presented to the House for consideration today contains three provisions in addition to H.R. 12347 as reported by the committee.

The first of these requires that the Department of HEW conduct and support research and information programs in human nutrition. This is an area vitally important to human health in which research has, in recent years, received inadequate Federal support.

The second provision is more or less a technical amendment delaying the date by which the Commission on Digestive Diseases must submit its report for about 4 months.

The third provision directs the Secretary of HEW to review Federal research programs concerned with the biological effects of ionizing radiation.

For the purpose of clarifying the legislative history, I shall summarize the background effect upon existing law and intent of these amendments.

During its hearings on biomedical research and other health issues this year, the committee has repeatedly been informed about the need for increased Federal support of basic, clinical, and applied research relating to nutrition as well as other programs to disseminate the results of this research and to assure its practical application. For years public health laws have authorized nutrition programs and activities, and entities in the Department of Health, Education, and Welfare, such as the National Institutes of Health, the Food and Drug Administration, the HEW's services agencies have taken the lead in conducting and supporting these programs and activities. Implicit in the statutory authorities underlying these programs and activities is the recognition by the Congress of the inextricable relationship between nutrition and health. Recently enacted health laws reinforce this recognition. The nutrition research information and service programs of the Department of Health, Education, and Welfare have been recognized by the Congress in recently enacted legislation as an integral part of our current inquiries and interventions into the entire spectrum of problems associated with human health and disease.

It is, therefore, appropriate that an amendment be included in the Public Health Service Act to provide more specific statutory direction and authority for the Secretary of Health, Education, and Welfare to assure that these programs and activities continue to be supported and augmented by the Department of HEW, to assure that they are coordinated among the appropriate entities within the Department of HEW, and to provide guidance to other departments and agencies outside of HEW respecting their comparable programs and activities. This amendment is intended to require the Secretary to strongly support these programs and activities and to renew the recognition of the Congress that he and the Department of HEW have the responsibility to protect and maintain the health of all citizens, including the responsibility for the nutritional aspects related to the prevention, diagnosis, and treatment of disease.

The amendment to delay the date for submission of the report of the Commission on Digestive Diseases is simply intended to provide the Commission with a sufficient opportunity to make further refinements in its draft report before it submits its final report to the Congress. The Commission was established by title III of the Arthritis, Diabetes, and Digestive Diseases Amendments of 1976, Public Law 94–562, and is required by that law to submit to Congress next month a final report containing a long-range plan and recommendations for the use and organization of national resources to effectively deal with digestive diseases.

The provision directing the Secretary of HEW to review Federal research programs into the biological effects of ionizing radiation was prompted by a number of problems in radiation safety which have come to the attention of my colleague from California, Mr. BROWN, and myself.

Over the last 9 months the Subcommittee on Health and the Environment has conducted lengthy oversight hearings on the question of the potential health dangers of low-level ionizing radiation. We have found a growing public concern about the safety of medical and dental radiation, nuclear research, and nuclear powerplants.

In investigating what we know about the effects of low-level radiation and the basis of that knowledge, the subcommittee uncovered serious problems in Federal research programs on the biological effects of ionizing radiation. Programs are spread through the Federal Government with too little emphasis on radiation health effects research in health agencies such as the Department of Health, Education, and Welfare and the Environmental Protection Agency. In the past there has been little or no interagency coordination of research and no overall central direction of where our Nation's radiation research priorities ought to be placed. Some radiation research programs are of questionable management—lacking systematic effort to solicit and fund on a competitive basis the best research projects, and plagued by inadequate peer review systems and haphazard mechanisms to assure public and professional dissemination of research results.

The substitute House amendment provides a partial response to these shortcomings by directing the Secretary of Health, Education, and Welfare to bolster his department's radiation research through a comprehensive program to investigate the biological effects of ionizing radiation. This provision would move the Department into a more appropriate position as a leader in radiation research. This is only fitting given the Department's statutory mission as guardian of public health and since as much as 90 percent of the manmade ionizing radiation to which we are exposed results from medical and dental uses of radiation.

But since last winter when the bill was fashioned in subcommittee further analysis of Federal research indicates the need for a broader response to the weaknesses of current Federal radiation research efforts. What is required is a systematic, comprehensive review of each significant Federal research program funding or supporting ionizing radiation research.

I have worked with the gentleman from Kentucky, Dr. CARTER, and the gentleman from California, Mr. GEORGE BROWN, chairman of the Committee on Science and Technology, Subcommittee on Environment and the Atmosphere, to add this amendment which would direct the Secretary of Health, Education, and Welfare to undertake such a review. We would expect it to be completed within 2 years. A final report to Congress is expected not later than December 31, 1980, with an interim report by October 31, 1979.

The committee intends that in conducting the comprehensive review of Federal research programs the Secretary shall—

First, review the history of such programs;

Second, on the basis of a management review, analyze the goals and management of research conducted under such programs and the relationship of such research to the goals and mission of the Federal agencies conducting and supporting such research;

Third, on the basis of a scientific peer review, analyze the conduct and quality of such research;

Fourth, determine whether the programs are responsive to the public health and safety needs respecting ionizing radiation, including the needs of Federal agencies in the administration of programs under which ionizing radiation is regulated;

Fifth, assess, in consultation with the National Academy of Sciences and appropriate Federal agencies, the needs and direction of future Federal research programs, including the requirements for personnel and funding; and

Sixth, consider existing and potential methods to assure rapid dissemination and informed review of findings made in research conducted or supported under such Federal research program.

Each Federal agency which administers a program of research on the biological effects of ionizing radiation shall cooperate with the Secretary, and with any entity assisting the Secretary in his review, to enable the Secretary to conduct the review.

It is our intention that the Secretary conduct the independent scientific peer review and program management review of federally supported radiation research by contract with the National Academy of Sciences. This contractual relationship, of course, assumes that terms of the study, its conduct and its financing, can be agreed upon by NAS and the Secretary. If such contractual relationship cannot be arranged with the NAS, the Secretary shall enter into a similar arrangement with another appropriate public or nonprofit private entity.

The National Academy is the preferred agency to conduct the scientific

peer review and the management review because of the clear need for totally independent review. The Secretary therefore must assure the contract provides for a full, independent review carried out by carefully selected personnel and conducted in such a way as to assure the integrity and balance of the report. We would expect that the House Commerce Committee and the House Science and Technology Committee will be advised and consulted by the Secretary on a regular basis during the development of the study proposal, negotiations on contract arrangements, and the conduct of the review.

In his arrangements with NAS, the Secretary would be expected to specify the departments and agencies whose research programs are to be included in the scientific and management review. It certainly is expected that the review will include all research on the biological effects of ionizing radiation within the Departments of Energy, Defense, and Health, Education, and Welfare, as well as within the Environmental Protection Agency and the Nuclear Regulatory Agency.

I salute the work of the Senate sponsors of S. 2584, "The Nuclear Regulatory Commission authorizations for fiscal year 1979", requiring an assessment of the research needs of radiation regulatory agencies. We expect the HEW/NAS review under this provision to take into consideration and critically evaluate the research needs assessment and study plan to be produced as a result of the implementation of S. 2584.

It is expected that all agencies and departments will extend full cooperation to the Secretary in his conduct of this review. This cooperation should include providing the Secretary with full information on the goals, scope, organization, management, funding, and results of ionizing radiation research programs and facilitating the scientific and management reviews required under this amendment.

The provisions of this amendment do not conflict in any way with the current review the Department is coordinating in response to a White House directive of May 9, 1978. That directive charged an interagency group with recommending to the President, among other things:

A study or series of studies which would determine the effects of radition exposure on participants in nuclear tests, including members of the armed forces and civilian personnel, workers at nuclear facilities and projects, and other persons as indicated.

The charge of that White House directive is totally separate from the actions required by the Secretary under this amendment. At this time, HEW has not been ordered to conduct a peer review or a management review. Nor could they be expected to do so in the time allotted for their report. Yet, it is clear that in the long run there is a clear need for a comprehensive peer review and management review.

Equally clear is that there is no need for the Secretary to delay his report and recommendations to the President until this scientific and management review is completed. Nor is there any need for the President to delay acting upon that report. One simply is not dependent upon the other.

Mr. Speaker, I want to take this opportunity to thank the chairman of the full committee, Mr. STAGGERS for his support of this legislation. I particularly want to thank the distinguished ranking minority member of the subcommittee, Dr. CARTER for his leadership and efforts in bringing this bill to the floor of the House. Finally, I want to thank all the other members of the Subcommittee on Health and the Environment—Mr. PREYER, Mr. SCHEUER, Mr. FLORIO, Mr. MAGUIRE, Mr. OTTINGER, Mr. MARKEY, Mr. WALGREN, Mr. MADIGAN, and Mr. SKUBITZ—for their support of this bill.

Mr. Speaker, I also wish to thank and commend our colleagues in the Senate: Senators KENNEDY, SCHWEIKER, WILLIAMS, NELSON, JAVITS, and the other members of the Committee on Human Resources for compromising spirit and excellent work on this legislation.

Mr. Speaker, I strongly urge you and my colleagues in the House to support this legislation for the continued authorization of biomedical research and training programs of the Medical Libraries; National Heart, Lung and Blood Institute; National Cancer Institute; and National Research Service Awards.

STATEMENT OF THE HONORABLE GEORGE E. BROWN, JR., IN SUPPORT OF AMENDMENT TO H.R. 12347

(Biomedical Research and Training Act)

One of the provisions of the substitute bill offered here today, is the result of an extensive review of research on health effects of ionizing radiation. The Subcommittee on the Environment and the Atmosphere which I chair, authorizes the budget for the Office of Environment in the Department of Energy. That Office conducts environmental and life sciences research and development. The primary objective of such research is to provide information that assures that all energy technologies are developed with minimal detrimental impact on human health and environment. The Department of Energy and its predecessor agencies have conducted much of the research on the health effects of ionizing radiation.

Recently, the conduct of this research, especially the program management, has been subject to widespread criticism. In response to those criticisms, and hearings held by my Subcommittee and Mr. Rogers' Subcommittee, I and the Gentleman from Florida (Mr. Paul Rogers) contacted a totally independent, highly respected institution—The National Academy of Science—to provide Congress with a systematic review of this research program and all Federal research programs in this area. In consultation with that group we developed a plan for a comprehensive review of existing research on health effects from ionizing radiation, with particular attention to management of an environmental R&D program, scientific peer review mechanisms and development of a comprehensive future research plan or agenda for further research in this area.

Simultaneously, a memorandum dated May 9, 1978, to various Executive Departments from the White House directed the Secretary of Health, Education, and Welfare to coordinate the formulation of a program on radiation exposures. This program was to include studies or a series of studies on the effects of radiation exposure, a public information program, a plan for ensuring that persons adversely affected by radiation exposure receive the care and benefits to which they are or may be entitled and recommendations to reduce the incidence of adverse radiation exposure, in the future. The proposed plan of action was to have been prepared by June 1, 1978, but will apparently be available December 1978.

The present amendment requires the Secretary of the Department of Health, Education, and Welfare to conduct a comprehensive review of Federal research programs on the biological effects of ionizing radiation. The review shall include a brief historical review of such programs, a review of program goals, conduct and management, a review of scientific peer review, review of the responsiveness to public health and safety needs, including the needs of regulatory agencies or departments, and an assessment of the options for future direction of such research. The review of scientific management, peer review and assessment of future research needs, is to be conducted by the National Academy of Sciences. The final report is to be submitted to Congress by December 31, 1980.

In preparation of this report it is of overriding importance that every federal agency or department that either conducts such research on the biological effects of ionizing radiation, or is charged with regulatory responsibility requiring such research, participate fully in the study. This cooperation and coordination is essential to assure that the final report fully apprise Congress. In this regard, I specifically refer to a provision in S. 2584, the Nuclear Regulatory Commission Authorization for fiscal year 1979 requiring an assessment of the research needs of the regulatory agencies and development of a research plan. I commend the Senate sponsors of that bill and their House counterparts, for inclusion of this provision and affirm my intention that those agencies and the report required of them be fully and completely integrated into the effort required by the present amendment. In a research area with such widespread implications, all involved and affected agencies must be continually involved in the on-going review and development of a research agenda that addresses future research needs, goals and options.

Mr. Speaker, I ask unanimous consent to revise and extend my remarks at this point in the RECORD.

Mr. Speaker, on July 11 through 14, 1978, the Subcommittee on Health and the Environment conducted oversight hearings on medical and dental uses of diagnostic X-rays. We found strong evidence that unnecessary X-rays and overexposure of patients may present significant public health problems. In fact, conservatively estimated, 30 percent or more of all patient radiation exposure may be unnecessary.

The causes of unnecessary radiation exposure are multiple, including:

First: Ordering of X-rays as a defense against malpractice charges;

Second: Lack of scientifically developed guidelines on when X-rays are useful and when they are not;

Third: Defective or maladjusted equipment which emits more radiation than necessary;

Fourth: Obsolete equipment which requires high dose exposures;

Fifth: Requiring of routine X-ray examinations for employment, education, admission to hospital, prior to, or as part of, routine dental examinations, or screenings of mass populations having no symptoms of disease—for example, mass chest X-ray programs, and the earlier

routine breast examinations of asymptomatic women under 50;

Sixth: Apparently frequently equipment operator error which necessitates "retaking" of X-rays.

There is growing evidence that exposure to low-level ionizing radiation, including X-radiation used in medical and dental X-rays, carries with it increased risk of cancer and genetic effects. It has become clear that the healing arts must substantially reduce unnecessary patient exposure of patients to X-rays.

At the President's direction, the Secretary of Health, Education, and Welfare is preparing recommendations for the future direction of Federal radiation health effects research and for means of reducing general public and occupational radiation exposure. We have found that medical and dental X-rays account for 90 percent of all manmade ionizing radiation exposures.

I urge the Secretary, therefore, to incorporate in his report to the President recommendations for eliminating, to the extent practicable, unnecessary exposure of Americans to diagnostic X-rays.

I am convinced that energetic leadership in this area is not only necessary but will be most fruitful. Indeed, much can be done voluntarily by the healing arts professions to reduce unnecessary X-ray exposure. They, better than anyone, understand the great benefits to patients of appropriately ordered and administered X-rays and the potential risks of unnecessary exposure.

The Federal Government has a strong responsibility, as well, and existing laws, especially the Radiation Control for Health and Safety Act of 1968—Public Law 90–602—contain authorities which have never been fully utilized to encourage and guide the healing arts and the manufacturers of radiologic equipment toward safer, more cautious practices and lower dose equipment and procedures.

The following summarizes findings and recommendations I have developed as a result of the subcommittee's hearings. It includes many professional initiatives or changes in existing departmental regulations which can be handled expeditiously under existing statute. Where additional authorities are needed, the Secretary should inform the subcommittee as quickly as possible.

Reducing unnecessary risk of cancer through reducing unnecessary X-ray exposure is the challenge. I know the professions and the Secretary will provide the necessary leadership and direction for the American people.

FINDINGS AND RECOMMENDATIONS ON INITIATIVES FOR REDUCING UNNECESSARY HUMAN EXPOSURE TO DIAGNOSTIC X-RAYS

I. General Findings—

(A) Exposure to low-level ionizing radiation, including such radiation from unnecessary diagnostic X-rays in the healing arts, potentially poses significant risks to the public health, including the increased risk of cancer and genetic defects.

(B) Appropriately ordered and conducted diagnostic X-ray examination is of substantial medical benefit to the patient and must not be discouraged.

(C) Thirty percent or more of total exposure to medical and dental X-rays is estimated to be unnecessary by reason of the X-ray procedure itself being unnecessary or the total exposure being excessive.

(D) There is a nearly total lack of empirically-based criteria for determining which patients and symptoms are most appropriately referred for diagnostic X-ray examination.

(E) Undergraduate, post-graduate and continuing medical and dental education systems frequently provide insufficient emphasis on training in the risks, appropriate uses and alternatives to diagnostic X-rays.

(F) There are significant incentives for practitioners to order X-ray examination which may not be diagnostically necessary, including the very real threat of malpractice suits where X-rays were not ordered.

(G) There is a need for increased public and private research and development on alternatives to present diagnostic X-ray technologies which entail less risk to public health, including low-dose X-ray technologies and non-radiation diagnostic techniques, and for public and private action to encourage the rapid movement into the health care system of already existing low-dose technologies.

(H) Less than 5 percent of diagnostic X-ray equipment in use in the United States today is subject to annual inspection for compliance with existing safety standards.

(I) State government lack sufficient resources to conduct the inspection programs needed to assure protection of the public from unnecessary health risks from diagnostic radiation, and increased Federal financial and technical assistance is needed to enhance their capabilities.

II. Research Recommendations—

The Secretary of the Department of Health, Education, and Welfare should support, including by grant or contract, a program of research to:

(A) Assess and quantify both individual and public health risks associated with exposure to diagnostic X-rays in the healing arts;

(B) Assess and quantify the economic costs associated with unnecessary exposure to diagnostic X-rays in the healing arts, including immediate economic costs of unneeded X-rays and the long-term economic costs of health effects associated with unneeded exposures;

(C) Determine the incentives and pressures on practitioners to overutilize X-rays, including the effect of the threat of malpractice suits on the use of X-rays.

(D) Develop empirically-based, high-yield patient selection criteria for the appropriate and efficacious use of diagnostic X-rays;

(E) Develop alternative diagnostic techniques which are non-radiation related or non-invasive;

(F) improve existing diagnostic X-ray technology so as to reduce the intensity and duration of radiation exposure necessary to produce a high quality image, including development of more sensitive X-ray receptors, films and image intensifiers, and of "fail-safe" systems to prevent unneeded or excess exposure;

(G) Develop low cost techniques and systems for the inspection of radiography systems in practitioners' offices and hospitals to assure that they conform with applicable equipment standards, operation standards and exposure standards, and that they expose patients and operators only to such levels of radiation as is necessary to assure quality images, and to guarantee quality assurance systems are being used to assure continuous conformance;

(H) Describe and assess the use of X-rays in the practice of dentistry to assist in determining the frequency of their inappropriate use and determining their quality and utility as diagnostic tools;

(I) Develop model curricula and materials and techniques which stress the appropriate and efficacious use of X-rays, the risks associated with X-rays, and alternative diagnostic techniques and tools for training undergraduate and post-gradute practitioners in the healing arts and for training radiographic technicians and assistants;

(J) Develop methods and processes, such as PSRO and utilization review, to encourage the appropriate and efficacious use of diagnostic X-rays;

(K) Evaluate the need for and develop means of continuously compiling life-time records of patient diagnostic radiation exposure.

III. Professional Education Recommendations—

(A) The Secretary should establish a National Council on Diagnostic Radiography.

(1) The membership of such Council should consist of no more than 25 individuals, including:

(a) the Secretary (who shall serve as Chairman of the Council),

(b) the Administrator of the Environmental Protection Agency,

(c) Assistant Secretary for Health (Surgeon General),

(d) Commissioner of the Food and Drug Administration,

(e) Surgeon General of the Army,

(f) Chief Medical Director—Veterans' Administration,

(g) Surgeon General of the Air Force,

(h) Chief of the Bureau of Medicine and Surgery—Department of the Navy,

(i) three directors of State Radiation Control Programs,

(j) a representative of the American College of Radiology,

(k) a representative of the American Medical Association,

(l) a representative of the American Academy of Family Physicians,

(m) a representative of the American Dental Association,

(n) a representative of the Association of American Medical Colleges,

(o) a representative of the American Association of Dental Schools,

(p) a representative of the American Society of Radiologic Technologists,

(q) five representatives of consumers, patients and the general public.

(2) The purpose of such Council should be to:

(a) discuss, evaluate and suggest means of reducing overutilization of X-rays by practitioners and of unnecessary patient exposure;

(b) discuss, evaluate and suggest means to increase practitioners awareness of the utility, limitations, risks of diagnostic X-rays and of alternative diagnostic instruments and procedures;

(c) discuss and evaluate, and seek to foster professional consensus on, high yield criteria for the selection of patients for whom referral for diagnostic X-rays is likely to be appropriate and efficacious;

(d) discuss, evaluate and foster professional consensus on and application of quality assurance measures which will promote appropriate, efficacious and low-risk use of diagnostic X-rays;

(e) foster the rapid transfer of innovative knowledge, technology and techniques in diagnostic radiography to practitioners in the healing arts;

(f) discuss, evaluate and recommend appropriate performance standards for electronic diagnostic equipment and systems which standards will assure that a patient is exposed to the minimum exposure necessary to produce the highest quality diagnostic information commensurate with the practitioners' needs;

(g) assist in the development and propagation of new curricula for education in the healing arts to assure increased emphasis on the risks and utility of diagnostic X-rays and their appropriate and efficacious use;

(h) discuss, evaluate and suggest guide-

lines for the optimum exposures needed to assure lowest patient exposure for the most diagnostically useful information;

(I) develop recommendations on methods and processes, such as PSRO and utilization review, to assure the appropriate and efficacious use of diagnostic X-rays;

(I) assess the need for and recommend methods of continuously compiling life-time patient X-ray exposure records.

(B) Legislative Recommendations on Training and Certification of Operators of Diagnostic Radiographic Equipment.

(1) Within one year of enactment of appropriate new authorities by Congress, the Secretary would, in consultation with the National Council on Diagnostic Radiography, develop and publish in the Federal Register guidelines for the testing and certification of the competency of diagnostic radiographic technicians and assistants, and all others (except licensed medical, dental and osteopathic practitioners) who operate diagnostic radiographic equipment.

(2) The Secretary's guidelines would require that beginning on January 1, 1985, no individual (except a licensed medical, dental and osteopathic practitioner) may administer diagnostic X-rays to any person unless that individual has been tested and certified in accordance with the Secretary's guidelines as competent to administer such X-rays. Furthermore, no such individual may administer diagnostic X-rays to any person unless retested and recertified as competent no less frequently than every five years.

(3) The Secretary would be authorized to enter into contracts with any state to cover the full cost of implementing within that State the Secretary's testing and certification guidelines for operators of diagnostic radiographic equipment. In any case where a State has not established a program in accordance with the Secretary's guidelines within two years after the issuance of those guidelines, or where an established program is not being conducted in accordance with the Secretary's guidelines, the Secretary would seek to contract with the appropriate professional practitioner organizations in that State, to conduct on a non-profit basis the program of testing and certification specified in the Secretary's guidelines. Where such an arrangement cannot be established the Secretary would contract with other appropriate entities to conduct such program.

(4) The guidelines issued by the Secretary would seek to assure that a certified operator of diagnostic radiographic equipment (a) thoroughly understands the known and potential risks of unnecessary patient exposure to X-rays, (b) understands the necessity and means, including full use of appropriate safety devices and techniques, of assuring production of quality radiographic images with lowest practicable exposure, and (c) has sufficient training, on a continuing basis, as to provide reasonable assurance that such knowledge and understanding will be faithfully applied during radiographic procedures administered by such operator.

IV. Public Education and Information Recommendations—

(A) The Secretary, in cooperation with professional organizations, third party payors, State or local radiation control officers or public health officers, consumer and patient groups and representatives, and other public or private entities, should develop and implement programs of public education and information on:

(1) the appropriate use of X-rays in the healing arts,

(2) the utility and benefit of their proper use,

(3) the risks and costs of unnecessary exposures, and

(4) the need for informed patient involvement in the decision to order diagnostic X-rays.

(B) Such program should focus especially on educating groups and individuals potentially at high risk from unnecessary exposure to X-rays, including:

(1) the pregnant or potentially pregnant,

(2) women considering routine mammographic screening,

(3) others who may encounter routine X-ray screening examinations in seeking dental or medical care, employment, education, etc.

(4) individuals who are exposed or who may be exposed to ionizing radiation in occupational or other non-healing arts settings.

(C) Such program should include materials for use in secondary schools, colleges, community libraries, or other community facilities which provide information on the benefits and risks of diagnostic X-rays.

V. Recommended Performance Standards for Electronic Diagnostic Radiation Equipment and Systems—

(A) The Secretary should amend the regulations prescribing performance standards for electronic diagnostic radiographic equipment to include performance standards for individual system components and for radiographic systems, including receptors, intensifiers and processors, which will assure that when the equipment is appropriately used, a patient is exposed to the minimum exposure necessary to produce the highest quality diagnostic information commensurate with the practitioners needs.

(B) Such standards should be based on the best radiographic technology the Secretary, after consultation with appropriate health care professional organizations and radiographic system manufacturers, determines to be clinically proven and commercially available, taking into consideration capital costs and operation and maintenance costs, equipment reliability, operator and patient safety, and the diagnostic information needs of the practitioners.

(C) Such standards should be reviewed by the Secretary and, if necessary, revised at intervals of no more than five years.

(D) No such standard should be applicable to any equipment or system manufactured prior to one year after the date of promulgation of the standard.

(E) The Secretary should be authorized by Congress to order an owner or operator of a diagnostic radiographic component or system to cease use of that component or system when the Secretary has determined that there is significant risk of serious overexposure to patients from the use of such equipment.

(F) The provision affecting defective electronic products (Sec. 359 of P.L. 90–602) should be made applicable by Congress to diagnostic radiographic equipment manufactured for use in the healing arts where such equipment was manufactured prior to October 18, 1968, when such equipment is determined to pose significant risk of injury to patients or operators exposed to X-rays from such equipment and when such risk is the result of failure of the equipment during its useful life to perform according to the design specification of the manufacturer, or failure to meet a national or international recommended standard or guideline which was in existence at the time the equipment or system was designed or manufactured.

(G) All standards developed under this provision should be developed in close and continuing coordination and review with health care providers and with equipment manufacturers, and after consultation with the National Council on Diagnostic Radiography.

(H) Standards developed under this provision should be administered in coordination with the unit within the Food and Drug Administration which administers the Medical Device Amendments of 1976.

VI Recommended Guidelines for Quality Assurance Programs—

(A) The Secretary should establish guidelines for quality assurance programs governing the operation and maintenance of electronic diagnostic radiography systems, so as to protect patients and the public from unnecessary exposure to ionizing radiation.

(B) The guidelines should be implemented by the states through ongoing radiation health protection programs and the Secretary should enter into contracts to cover 90 percent of the costs each state incurs in implementing these guidelines.

(C) Quality Assurance Program guidelines should

(1) apply to all electronic product radiation sources used in diagnostic radiography, receptors, processors and other components used during use of ionizing radiation for diagnostic purposes in the healing arts;

(2) require all new equipment to be certified by the installer of such equipment (after installation and prior to use on patients) as meeting all applicable performance and quality assurance standards;

(3) require that each component or system be recertified by the owner at no less than one year intervals as conforming to applicable performance and quality assurance standards;

(4) involve certification and recertification which shall include self-examination and self-certification by the assembler (in the case of certification) and by the user/owner (in the case of recertification) that the equipment and system conforms with applicable * * *

VII Recommended Legislation Governing Mass X-Ray Screening Programs—

(A) No mass X-ray screening program of asymptomatic populations shall be operated after July 1, 1980, unless it conforms with guidelines prescribed by the Secretary.

(B) The Secretary shall promulgate regulations governing proposed programs of mass X-ray screening of asymptomatic populations. Such regulations shall specify that

(1) effective January 1, 1980, no program of mass X-ray screening of asymptomatic populations may be conducted unless a complete summary and description of the proposed program has been submitted by its sponsor to the Secretary for his review and the Secretary approves such program after finding that it meets the requirements of this provision;

(2) the summary and description to be submitted to the Secretary shall demonstrate:

(a) the public health need for such screening program,

(b) that the expected yield in lives to be saved or health effects to be ameliorated or avoided outweigh the potential risks to exposed populations and their offspring which may result from increased occurrence of cancer, genetic effects or other radiation-related effects,

(c) the costs of administering the program and the long term increased costs which may result from any increased occurrence of disease relating to the program;

(d) that the program will utilize only appropriately trained (as specified by the Secretary) equipment operators; and

(e) that the program will utilize, to the extent practicable, radiographic equipment that exposes patients to the lowest radiation dose commensurate with the need for diagnostic information;

(3) each approved program shall gather and submit to the Secretary such data as shall be specified by the Secretary for the continuing evaluation of the cost-effectiveness and risk-effectiveness of such programs;

(4) the Secretary, where he determines that there is a significant risk to public health which requires immediate implementation of a proposed mass screening program, may waive all or part of these guidelines and grant a conditional approval for immediate screening, provided that such conditional approval shall expire in 60 days unless the Secretary, after completing a full review of the program, grants a non-conditional approval;

(5) the Secretary may contract with any State for implementation of this program according to the Secretary's guidelines, except that a conditional approval of a mass X-ray screening program may be granted only by the Secretary.

Mr. Speaker, this legislation certainly has the strong support on both sides of the aisle and in the Senate, and both the majority and the minority of the various committees have agreed and concurred in it. This legislation actually changes the research reorganizations from a 3-year extension until 2. So it cuts down on the money.

It makes a few minor changes in committee research provisions, and as I said, has reduced authorizations for 1979 and 1980. Finally, it includes the Commission on Bio-Ethics and incorporates a revised version of the Community Mental Health Centers, which was title II of H.R. 12462, which passed the House earlier this year under suspension.

This bill is the bill that provides the research money for cancer and for heart, for stroke and such diseases. As the Members know, we are making substantial gains against heart disease. We have had a 14-percent drop in the heart death rate in this Nation as a result of this program. Hypertension has dropped 34 percent. In cancer, we are making significant gains in certain types of the 100 cancers. It is the most feared disease in this Nation, and the American people are strongly in support of these programs.

I would urge that this bill be adopted to continue the work that is going on in biomedical research to try to find the answers and prevent and treat the dreaded diseases of cancer and heart. We know we can make progress if we continue these programs.

Mr. MAGUIRE. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Speaker, I simply want to congratulate the gentleman and his committee on what I think is a necessary piece of legislation. I do hope it will be adopted.

Mr. ROGERS. I thank the gentleman.

Mr. Speaker, I reserve the balance of my time.

Mr. COLLINS of Texas. Mr. Speaker, I yield myself such time as I may consume.

The SPEAKER. The Chair recognizes the gentleman from Texas (Mr. COLLINS).

Mr. COLLINS of Texas. Mr. Speaker, I would like to ask the gentleman, as chairman of the subcommittee, a few questions if I may. Could I have the attention of the gentleman from Florida?

The Senate has not acted on this bill yet, have they? This is just being originated right now on the House floor?

Mr. ROGERS. They have acted on a similar piece of legislation. What we bring to the Members now is the agreement compromise, so that when this bill goes back, they simply accept it. It is all agreed to. Our conferees are agreed, and I can ask the gentleman to confirm with Dr. CARTER, with Mr. BROYHILL, with Mr. SATTERFIELD, and other Members.

Mr. COLLINS of Texas. I would ask the gentleman—of course, this is a most commendable piece of legislation—but to bring it up here the last day after we have been in session nearly 30 hours, a bill of this magnitude, and talk about the conference when we could not have had conferees because we have not met on the floor ourselves.

Mr. ROGERS. May I say that we have worked out agreements so that they can accept this because of the shortness of time. These are continued programs. This is nothing new. The bill was reported out from the committee without, as I recall, a vote against it.

This is the bill that keeps our research going out at the National Institutes of Health for heart and cancer. I do not know of anyone who really is against this, so I do not think it is unreasonable to ask, in order that we can get this legislation on the books, to use the suspension process. I think we should proceed.

Mr. COLLINS of Texas. I would like to continue on my time to give a little background. The National Cancer Institute is a commendable group. In 1974, it was spending $528 million; now, it is $867 million. Heart, $286 million, and now it is $445 million.

Mr. Speaker, I have canceled three planes. but there is one thing that is not difficult in the legislative process, and that is to rush legislation through. If we are spending the money of the American people, we ought to think about it. There is a lot of this money going into health. We ought to think, is this money really delivering? Is it necessary?

What we have here is a bill providing, as I understand it, for an authorization which is far beyond what we intend to appropriate. In other words they have set up an appropriation of $1.765 billion for 1979, an authorization of $1.846 billion for 1980, and an authorization of $1.927 billion for 1981. As I understand it, these figures are far beyond what it is anticipated will be appropriated. Can I ask the chairman if that is correct or or not?

Mr. ROGERS. Mr. Speaker, if the gentleman will yield, actually the House bill originally had $6 billion in it. This bill we bring today under suspension has reduced that to $4 billion. We have reduced it $2 billion trying to satisfy the gentleman, and still he does not want even to do research to that degree, and that is in 2 years.

I am sure the gentleman knows we already have the figures that show our cancer research is paying off already, $1 billion a year and that is growing constantly, and showing that the heart research has already. just since this was enacted, saved approximately $7.5 billion, and this is an annual $1.5 billion savings. This is a 15 times cost-benefit ratio.

I do not know where the gentleman could find any money that is spent better and does more for the American people than research programs in heart and cancer that this bill does.

Mr. BRINKLEY. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

I would like to provide this bit of information for the gentleman. Two years ago the computer printout for the NCI showed they had approved but unfunded $126 million, so the money was needed but just was not there for it. In the past year the approved but unfunded projects from the computer printout showed a deficit of $100 million. So I think it is extremely important we approve this today.

Mr. COLLINS of Texas. I know everyone here is concerned about the matter of how much money Government spends. We are talking about a suspension bill of $4 billion which we are trying to run through in 10 minutes, and the Senate has not even acted on it. We have a continuing appropriation which covers this. It impresses me as most irregular for us to pass this authorization in this way.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. McDONALD. Speaking as a physician I know at this late hour we are trying to rush something through and we might feel by passing this billions of dollars we are going to solve these medical problems. But this is just letting the Members know something from a physician's standpoint. The oceans of money that have come into health research areas I think in many cases have been a hindrance and we have had certain areas of research performed as a result of massive Government grants. The particular researcher takes the grant and feels he must do a paper in order to justify the grant. That paper is then given at a medical meeting. Time and time again I have gone to the presenter of such a paper and said: "Is that really the way it worked out?" After the meeting is over, the researcher has said, "No, that is not the way it was but we had to say it that way in order to justify the grant."

And we are having gigantic research centers built up as a result of money coming in, but many times we have no way to know whether the particular research has any real value or not. I hope we can address this problem.

In many research centers we are creating gigantic grant eaters. This may make good politics but not good medicine.

Mr. ROGERS. The gentleman says it may make good politics but it does not mean much. I would like to say to the Members if they have the time to come and look at some cancer pictures we have got from the center at Roswell Park, they will see pictures such as this. Dr. Emanuel Klein, who is doing research in immunology and chemotherapy is trying to bring about cures of cancer. I will turn this picture around to show the Members. Our subcommittee went up and saw this massive cancer this woman had, and now she is cured. The cure rate is 5 years or more.

The cure rate is for 5 years or more.

Here is the cancer, and here she is, cured. And it is here to see. I have other pictures for the Members to see here and I think the Members ought to know about them. You can see the cure that has been made.

So I hope that the gentleman from Texas (Mr. COLLINS), would certainly acknowledge that the research going on is doing some good. And we know it is.

We are having 1½ million people in this Nation, who have lived 5 years past the time when they had their cancer diagnosed and treatment begun.

This picture shows what they call in the cancer circles a cure. And there are 1½ million of them. I would strongly urge the adoption of the legislation. I hope there will not be a single vote against this legislation so that we can do something for people who have cancer and who have heart disease.

I thank the gentleman for yielding.

Mr. McDONALD. Mr. Speaker, will the gentleman yield?

Mr. COLLINS of Texas. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Speaker, let me say that if we think we are going to be able to evaluate a medical case history by pictures, I will begin to think that we have been here too long and the sooner we get out and get some rest, the better off we will be.

I do not believe that we have the expertise in this body to look at a few pictures and make any sort of evaluation, and then, on that basis, to vote out millions of dollars.

Further, just as a matter for the record, on the basic figures on cancer, let me say, and to point out for the Members, that except for one or two types of cancers our rates are the same because of the great improvements that have come about, because the great improvements have come about by blood transfusions, antibiotics, better food and nutrition, but we are reaching a rigid plateau. That may or may not change your thinking about the legislation. But I would hate to be misled by pictures being held up when we have no expertise in evaluating those pictures.

I thank the gentleman for yielding.

Mr. COLLINS of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. ROGERS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina, (Mr. PREYER), a member of the subcommittee, who has studied this subject matter and knows it well.

Mr. PREYER. Mr. Speaker, I am for the bill, but I rise at this time just to say that I think this may be the last bill that our friend, the gentleman from Florida, Mr. PAUL G. ROGERS, will present, although that is a little hard to say about PAUL because he may have another billion dollar bill coming down the line someplace. But, no one who has not served on the Health Committee can know the hours that this man has put in, sitting there with our colleague, TIM LEE CARTER, the two of them working until late in the afternoon. He is truly Mr. Health and he will definitely be missed by this body and by our country.

Mr. ROGERS. Mr. Speaker, I thank the gentleman. May I just yield such time as he may require to the distinguished gentleman from Kentucky (Mr. CARTER), who has done such outstanding work.

I also thank the gentleman from North Carolina (Mr. PREYER) and all the Members for their kindness.

Mr. CARTER. Mr. Speaker, I want to echo the words of the distinguished gentleman from North Carolina (Mr. PREYER) concerning our colleague, the gentleman from Florida (Mr. ROGERS). He is one of the finest, most patient men I have ever worked with. No one is more dedicated to health that I have ever seen than he has been.

Mr. Speaker, I strongly support the amendment in the nature of a substitute offered by the distinguished subcommittee chairman.

The substitute combines key features of two measures:

The Commerce Committee reported bill—H.R. 12347—the Biomedical Research Amendments of 1978, and

The community mental health centers program as passed by the House this month as part of H.R. 12460.

We have combined these two measures so that the titles of the House and Senate bills correspond.

I am pleased to report that we have reached a very favorable agreement—reflected in this substitute—which is $1.9 billion less than the committee bill and House-passed mental health centers provisions. Thus—we are saving almost $2 billion with this substitute amendment. The substitute also includes a bioethics study commission.

These programs are essential to improving the health of our people—through research—and through mental health service delivery—and I urge adoption of the substitute.

Thank you, Mr. Speaker.

Mr. ROGERS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. ROGERS) that the House suspend the rules and pass the Senate bill S. 2450, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ROGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONFERENCE REPORT ON S. 2899, ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. MURPHY of New York, Mr. Speaker, I call up the conference report on the Senate bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee, to review certain actions to determine whether exemptions to certain requirements of that act should be granted for such actions, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER. Under the rule previously adopted, the conference report is considered as having been read.

(For conference report and statement see proceedings of the House of October 13, 1978.)

The SPEAKER. The gentleman from New York (Mr. MURPHY) will be recognized for 30 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. MURPHY).

Mr. MURPHY of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House conferees on the Endangered Species Act amendments have struggled with the Senate conferees through the evening to produce a bill which we firmly believe both Houses can live with.

We began the conference with two considerations: First, the failure to bring back a bill last night or this morning would be intolerable. The Endangered Species Act is not dead if we do not agree on this conference report. The act does not expire, merely the authorization of appropriations. The Department of the Interior appropriation bill contains a provision which provides that no funds can be used to implement the Endangered Species Act without an authorization. If some Members think that is a good thing, let me make one thing perfectly clear—several significant projects could grind to a halt without a reauthorization. The act requires Federal agencies to consult with the Department of the Interior whenever they have a problem with an endangered species. Without funds to implement the act, these agencies will not be able to consult. Therefore, projects would not be able to proceed; and

Second, the Senate and House bills were not really all that far apart. As the House bill reported off the floor yesterday, however, was considerably more developmentally oriented than the Senate bill. I can say with all frankness the guts of the House bill have been retained in the conference report. These include:

First. A procedure under which any project in the country can be considered for an exemption from the Endangered Species Act; the exemption would be considered by a seven member committee, including a representative of the Governor of the affected State or States. If two States are involved, however, the Governors' representatives would only have one vote.

Second. A special exemption for Defense activities. The Secretary of Defense makes the determination whether a military activity should be exempted from the act;

Third. An extremely narrow definition of critical habitat, virtually identical to the definition passed by the House;

Fourth. A special provision for both the Tellico Dam and Grayrocks Reservoir. Because of the importance of these

two provisions to the House, I will explain them in some detail. The House provision had provided specific exemption for these two projects. However, the Grayrocks provision as passed by the House would not succeed in having the project go forward. The provision in the conference report will. What we have provided is that these two projects will be considered by the exemption committee within 30 days of the effective date of these amendments. If the committee is unable to decide the issue within 90 days, the projects are automatically exempt from the act. In addition, we have eased the exemption criteria for these two projects;

Fifth. The Conference Report includes the House provision mandating the Secretary to consider the economic impact of designating critical habitat for any species. The Secretary is authorized to alter the critical habitat designation based on this economic evaluation. This provision is the most significant provision in the entire bill.

Mr. Speaker, I can say that literally every other provision in the House bill has been retained by the conferees. These include mandated public hearings in the local affected communities and notice to local governments on any proposed designation of critical habitat.

This is a good bill. It introduces significant flexibility into the Endangered Species Act. But, we have not gutted the act in the process.

Mr. DUNCAN of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Tennessee.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman for yielding. I will be very brief.

It is my understanding that the exemption committee or commission must consider Tellico Dam and the dam in the State of the gentleman from Wyoming within 30 days; is that correct?

Mr. MURPHY of New York. That is correct.

Mr. DUNCAN of Tennessee. And we are already in the exemption process, so they must be considered within 30 days, according to whatever the effective date is?

Mr. MURPHY of New York. It is 30 days from the effective date of this act, and they must act within 90 days thereafter.

Mr. DUNCAN of Tennessee. We are already in the exemption process, is that correct?

Mr. MURPHY of New York. Yes, within the exemption process.

Mr. DUNCAN of Tennessee. Mr. Speaker, I thank the gentleman.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, may I ask the gentleman from New York (Mr. MURPHY) whether any portions of this bill are not germane to the bill as it passed the House?

Mr. MURPHY of New York. I can assure my colleague, the gentleman from Ohio, that there are none.

Mr. DUNCAN of Oregon. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. I thank the gentleman for yielding.

I would like to thank the gentleman and to congratulate him and his colleagues for sustaining the House position. I think the gentleman and his colleagues have reached a compromise, in view of the lateness of the hour and the circumstances surrounding this matter, of which the House can be proud. I intend to vote for this bill, and to support the conference report.

I would like to say that I am relying on the gentleman's statement in the debate that the 18-month authorization here is for the purpose of giving his committee the opportunity to reexamine this next year, because I think the amendment expressed on the floor of the House at the time of the debate on the bill reflects the mood of the country. But we still have not yet reached this balance between nature and man that all of us are seeking to find. I hope that my colleagues and I on the Interior Subcommittee on Appropriations can work more closely together in the coming session of Congress so that we do not run into the problems on the floor that we did the other day.

Mr. MURPHY of New York. The gentleman has the assurance of the committee.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding.

Yesterday some of us voted against this measure because we felt the compromise agreed to prior to bringing the matter to the floor had been violated by floor amendments and that in fact the legislation had been gutted. Will the gentleman advise me that all of the amendments adopted on the floor were in fact continued in this agreement?

Mr. MURPHY of New York. Basically I would say 95 percent of those amendments were kept intact.

Mr. WEISS. On that basis, those of us who opposed the legislation yesterday I think still have to oppose it today.

Mr. CAVANAUGH. Mr. Speaker, will the gentleman yield?

Mr. MURPHY of New York. I yield to the gentleman from Nebraska.

Mr. CAVANAUGH. I thank the gentleman for yielding.

I would like to commend the chairman and the committee for the resolution of the many difficult problems in this conference report.

Mr. Speaker, I also wish to commend the action of this conference in protecting the ruling of the House regarding the germaneness of the Roncalio amendment and providing a process for full evaluation of the Grayrocks project before any determination is made to except the project from the Endangered Species Act.

This action by the conferees does not overturn the court suit which has been brought against the Grayrocks project. The district court found that the project is deficient not only under the Endangered Species Act but also under the National Environmental Policy Act and section 404 of the Federal Water Pollution Control Act. The issues raised under the latter two statutes by the suit must still be resolved through judicial and administrative procedures and are not affected by this legislation. We still must assure that water supply and other environmental benefits in Nebraska are not affected adversely by Grayrocks Dam before it can be completed.

Mr. Speaker, all factors regarding fish and wildlife effects will be closely examined before any decision is made to go forward with the Grayrocks project under S. 2899.

Mr. MURPHY of New York. I thank my colleague.

Mr. FORSYTHE. Mr. Speaker, I join the chairman in his description of what was done in what was really a very difficult conference, because the Senate really gave us some tough times. But I think we have brought back a bill that keeps faith with the action of the House last night. I truly hope that this does get the unanimous support of this body because it is so essential that we do keep the Endangered Species Act alive and make sure we can improve it again next year, as we have promised.

Mr. BUCHANAN. Mr. Speaker, will the gentleman yield?

Mr. FORSYTHE. I yield to the gentleman from Alabama.

Mr. BUCHANAN. I thank the gentleman for yielding.

I want to join in congratulating the gentleman and the members of the committee on the substantial improvement in this important legislation and urge adoption of this conference report.

Mr. FORSYTHE. Mr. Speaker, I yield back the remainder of my time.

Mr. MURPHY of New York. Mr. Speaker, at this time I would like to pay tribute to the very distinguished chairman of the subcommittee, the gentleman from California (Mr. LEGGETT) who has worked in chairing the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries. The Congress will miss the diligence and the brilliance of his work in this field, as well as in the field of national defense where he served so capably.

Mr. FORSYTHE. Mr. Speaker, if the gentleman would yield, I would like to join my chairman in high praise for the subcommittee chairman, the gentleman from California (Mr. LEGGETT). We have worked many, many hours on the legislation produced by the subcommittee together, and we, I think, have accomplished a great deal. I think it worked out very well. Once in awhile we were not always together, but by and large I think we have been able to produce some good legislation.

I thank the gentleman.

Mr. MURPHY of New York. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AIRPORT AND AIRCRAFT NOISE REDUCTION ACT

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes, and ask for its immediate consideration.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MURPHY of Pennsylvania. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

OFFSETTING LOSS IN TAX REVENUES INCURRED BY GUAM AND THE VIRGIN ISLANDS

Mr. WAGGONNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 13719) to offset the loss in tax revenues incurred by Guam and the Virgin Islands by reason of certain Federal tax reductions, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Strike out all after the enacting clause and insert: That (a) the Secretary of the Treasury is authorized to make separate payments for each of the calendar years 1978, 1979, 1980, 1981, and 1982 to the government of Guam and the government of the Virgin Islands. The payment to the government of a particular possession for any calendar year shall be in an amount equal to the loss to that possession with respect to tax returns for taxable years beginning in such calendar year by reason of the Revenue Act of 1978. Such amount shall be determined by the Secretary of the Treasury upon certification to the Secretary by the United States Government Comptrollers for Guam and the Virgin Islands.

(b) There are hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this section.

Mr. WAGGONNER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana that the Senate amendment be considered as read and printed in the RECORD.

There was no objection.

Mr. WAGGONNER. Mr. Speaker, H.R. 13719 has previously passed the House and would authorize reimbursement to Guam and the Virgin Islands for losses they sustain in the 1978–82 period as the result of the several tax cuts passed in the last 4 years. The Senate has just passed this bill, but the Senate bill only authorizes reimbursements for losses caused by the Revenue Act of 1978, to be acted on by the House later this morning. This change substantially cuts back on the benefits of the bill from $15 million a year each to Guam and the Virgin Islands to less than $5 million a year.

While the House bill is definitely far preferable, I reluctantly urge the adoption by the House of the cutback Senate version so that, in the limited time remaining in the session, we have at least some action on this matter.

Mr. Speaker, I rise in support of a measure originally introduced by our late colleague, Bill Ketchum, H.R. 13719, as amended by the Senate, making compensatory revenue adjustments to Guam and the U.S. Virgin Islands.

As it originally passed the House, it provided for transfers to offset revenue losses, for this year and for the next 4 years, to these territorial possessions, resulting from tax cuts enacted in 1975, 1976, 1977, and 1978. The Senate amendment deletes the reference to earlier years' amendments to the tax code, while agreeing to the revenue adjustment necessitated by the Revenue Act of 1978, and the fact that the tax levies of these governments are based upon the U.S. Tax Code.

The effect of the Senate amendment is to reduce the revenue loss to the U.S. Treasury in comparison with the earlier House-passed version. It is limited to only these 5 years.

Certain provisions of the earlier tax bills are picked up and extended under the Revenue Act of 1978. In some brackets the tax rates are further reduced; in others, retained. The earned income refundable credit is increased and made permanent in the 1978 act. The jobs credit is reworked. Accordingly, for these and other provisions enacted in 1975 through 1977 and made permanent or modified in 1978, the intent of H.R. 13719 as amended, would be to allow and provide the revenue adjustments so as to hold harmless Guam and the Virgin Islands.

The SPEAKER. Is there objection to the initial request of the gentleman from Louisiana (Mr. WAGGONNER)?

There was no objection.

A motion to reconsider was laid on the table.

ADJUSTMENT ASSISTANCE PROGRAMS, TRADE ACT OF 1974

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment, as follows:

Strike title IV of the matter proposed to be inserted by the Senate amendment and insert:

TITLE IV.—WATCH MOVEMENTS

General headnote 3(a) of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended—

(1) by redesignating clauses (ii) and (iii) of such headnote as clauses (iii) and (iv), respectively;

(2) by amending clause (i) of such headnote to read as follows:

"(i) Except as provided in subdivison (a) (ii) of this headnote; headnote 6 of schedule 7, part (2), subpart E; and headnote 4 of schedule 7, part 7, subpart A; articles imported from insular possessions of the United States which are outside the customs territory of the United States are subject to the rates of duty set forth in column numbered 1 of the schedules.";

(3) by inserting immediately after clause (i) of such headnote the following new clause:

"(ii) (A) Any article which is the growth or product of any insular possession referred to in subdivison (a) (i) of the headnote, or manufactured or produced in any such possession from materials the growth, product, or manufacture of any such possession or of the customs territory of the United States, or of both, coming to the customs territory of the United States directly from any such possession shall—

"(I) if such article is other than a watch or watch movement, and contains foreign materials to a value of not more than 50 percent of its total value, be exempt from duty; and

"(II) if such article is a watch or watch movement, and contains foreign material to a value of not more than 70 percent of its total value, be exempt from duty; except that any watch or watch movement containing any material which is the product of any country with respect to which column 2 rates of duty apply shall be subject to the rates of duty set forth in column numbered 2 of the schedules.

"(B) All articles previously imported into the customs territory of the United States with payment of all applicable duties and taxes imposed upon or by reason of importation which were shipped from the United States, without remission, refund, or drawback of such duties or taxes, directly to the possession from which they are being returned by direct shipment, are exempt from duty.";.

(4) by striking out "value of more than 50 percent," in clause (iii) of such headnote (as redesignated by paragraph (1) of this Act) and inserting in lieu thereof "appropriate value specified in (ii) (A) (I) and (II),".

TITLE VIII — ADOPTION AND FOSTER CARE, AND CHILD WELFARE SERVICES

FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

SEC. 801. (a) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART E—FEDERAL PAYMENTS FOR ADOPTION ASSISTANCE AND FOSTER CARE

"STATE PLAN FOR ADOPTION ASSISTANCE AND FOSTER CARE

"SEC. 470. (a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which provides—

"(1) that the State agency responsible for administering the program authorized by part B of this title shall administer the program authorized by this part;

"(2) that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

"(3) that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, or under any other appropriate provision of Federal law;

"(4) that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

"(5) that the State agency referred to in paragraph (1) (hereinafter in this part referred to as the 'State agency') will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;
carried out under this part;

"(6) that the State agency will monitor and conduct periodic evaluations of activities

"(7) safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, and the Virgin Islands), XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosure to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(8) that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(9) that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

"(10) for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(11) that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay; and

"(12) that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM

"SEC. 471. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(4)) under this part only with respect to a child who would meet the requirements of section 406(a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406(a)) if—

"(1) the removal from the home was (A) the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 470, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 470 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution as a result of such determination;

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

"(B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475(1) of this part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

"(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' (as defined in section 475(4)).

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term 'child-care institution' means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of this part.

"(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

"ADOPTION ASSISTANCE PROGRAM

"SEC. 472. (a)(1) Each State with a plan approved under this part may, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—

"(A) would meet the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child,

"(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home were initiated, or

"(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

"(C) the State has determined, pursuant to subsection (c) of this section, is a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 115 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limit specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

"(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parent (or parents) and the State or local agency administering the program under this section,

which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

"(b) Any child—

"(1) who the State determines meets the requirements of subsection (a); and

"(2) who is placed for adoption or adopted following such determination shall, with respect to any medical condition which was in existence at the time the child was adopted, retain such eligibility until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State's plan approved under title XIX.

"(c) For purposes of this section, a child shall not be considered a child with special needs unless—

"(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

"(2) the State has first determined (A) that there exists with respect to the child a specific factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except, where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoptive assistance under this section.

"(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1983.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 473. For the purpose of carrying out this part, other than section 476, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1978) such sums as may be necessary.

"PAYMENTS TO STATES

"SEC. 474. For each quarter beginning after September 30, 1978, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in foster family homes or child-care institutions; plus

"(2) an amount equal to the federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 472 pursuant to adoption assistance agreements entered into prior to October 1, 1988; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'case plan' means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 471(a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

"(2) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(3) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(4) The term 'foster care maintenance payments' means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such terms shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION

"SEC. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.".

(b)(1) Effective with respect to expenditures made after September 30, 1978, section 408 of the Social Security Act is, subject to paragraph (2), repealed.

(2) The repeal made by paragraph (1) shall not be applicable in the case of any State for any quarter prior to the first quarter, which begins after September 30, 1978, in which such State has in effect a State plan approved under part E of the Social Security Act, or (if earlier), such repeal shall be effective with respect to expenditures made after September 30, 1979.

(c) The amendments made by this section shall be effective on and after October 1, 1978.

CHILD WELFARE SERVICES GRANTS

802. (a) Section 423 of the Social Security Act (including the caption thereto) is amended to read as follows:

"FEDERAL SHARE

"SEC. 423. The 'Federal share' for any State shall, effective on and after October 1, 1978, be 75 per centum.".

(b) Section 425 of such Act is amended by adding at the end thereof the following new sentence: "Expenditures made by a State for any calendar quarter which begins after September 30, 1978, for foster care services which do not constitute child welfare services shall be treated, for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care services did constitute child welfare services; except that, the amount payable to the State with respect to expenditures made for child welfare services and for foster care services during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services as determined without regard to this sentence.".

(c) Part B of title IV of such Act is further amended by adding at the end thereof the following new section:

"LIMITATION ON PAYMENTS WITH RESPECT TO FOSTER CARE

"SEC. 427. Notwithstanding any other provision of this part, if for any fiscal year which begins after September 30, 1978, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1978, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1978".

(d) Section 425 of such Act is amended by inserting "(a)" immediately after "SEC. 425." and by adding at the end thereof the following new subsection:

"(b) Funds expended by a State for any calendar quarter to comply with the statisti-

cal report required by section 476(b), and funds expended with respect to nonrecurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.".

CASE REVIEW AND OTHER SERVICES FOR CHILDREN IN FOSTER CARE

SEC. 803. Part B of title IV of the Social Security Act is amended by adding after section 427 (as added by section 102(c) of this Act) the following new sections:

"PORTIONS OF INCREASED ALLOTMENTS TO BE USED FOR CERTAIN SERVICES

"SEC. 428. (a)(1) If, for any fiscal year after 1978, there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1978, the appropriation Act by which such sum is appropriated may set aside the amount of such excess which is necessary for the carrying out of the activities and programs described in subsections (b) and (c).

"(2) Whenever a specified amount of the sum appropriated under section 420 for any fiscal year is set aside pursuant to paragraph (1), the allotment of each State for such fiscal year shall be adjusted accordingly so as to restrict the availability of funds to the carrying out of the activities and programs described in subsections (b) and (c).

"(b) For the first year that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may, except as provided in subsection (c), be expended only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

"(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

"(2) for the purpose of designing and developing to the satisfatcion of the Secretary—

"(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

"(B) a case review system for each child receiving foster care under the supervision of the State; and

"(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

"(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may be expended only for the implementation and operation of the systems and programs descibed in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) may thereafter be used for the purposes specified in the first sentence of this subsection.

"(d)(1) As used in subsection (b)(2)(B), the term 'case review system' means a procedure for assuring that—

"(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child,

"(B) the status of each child is reviewed periodically but no less frequently than once every twelve months by either a court or by administrative review (as defined in paragraph (2)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

"(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed by the court, no later than twenty-four months after the original placement, which hearing shall determine the future status of the child; and procedural safeguards shall also be applied with respect to parental rights, to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

"(2) As used in paragraph (1)(B), the term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"PAYMENTS TO INDIAN TRIBAL ORGANIZATIONS

"SEC. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child-welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

"(b) Amounts paid under subsection (a) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

"(c) For purposes of this section—

"(1) the term 'tribal organization' means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

"(2) the term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92–203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.".

TITLE IX—SUPPLEMENTAL SECURITY INCOME PROGRAM

REMOVAL OF CERTAIN WORK DISINCENTIVES FOR THE DISABLED

SEC. 901. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

"BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

"SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability on the basis of medical severity of disability, and who ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity or because his earnings have increased his income, other than income excluded pursuant to section 1612(b), to an amount equal to or in excess of the amounts specified in section 1611(a)(1)(A) (or, in the case of an individual who has an eligible spouse, in section 1611(a)(2)(A), shall, during the period determined under subsection (c), be paid a special monthly benefit of $10, but shall not be an eligible individual or eligible spouse for purposes of payments under section 1611(b).

"(b) For purposes of titles XIX and XX of this Act, any individual receiving a special monthly benefit under subsection (a) shall be considered an individual receiving supplementary security income benefits under this title.

"(c) An individual receiving a special monthly benefit under subsection (a) shall continue to receive such benefit for so long as the Secretary determines under regulations that—

"(1) such individual continues to be under a disability on the basis of medical severity of disability and, except for his earnings, continues to meet all nondisability-related requirements for eligibility for benefits under this title; and

"(2)(A) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments), or

"(B)(i) the income of such individual would not, except for his earnings, be equal to or in excess of such amount;

"(ii) the termination of such benefits (and the loss of eligibility under titles XIX and XX which would result from such termination) would make it impossible for such individual to continue his employment; and

"(iii) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.

"(d) For purposes of this section and section 1614(a)(5), an individual shall be considered to be under a disability on the basis of medical severity of disability if his impairment is one described in the regulations of the Secretary as being of such severity (or is an impairment medically equivalent in severity to an impairment so described) as to permit a finding that he is under a disability, as defined in section 1614(a)(3), without an evaluation of his vocational capacity in the light of his age, education, and work experience.".

(b) Section 1614(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) In applying the criteria prescribed pursuant to subparagraph (D) of paragraph (3), in the case of an individual who has been determined to be an eligible individual (or eligible spouse) by reason of being under a disability on the basis of medical severity of disability, for purposes of determining

whether such individual continues to be under a disability there shall be disregarded such amounts of earned income of such individual (if such individual's disability results in a functional limitation requiring assistance in order for him to work, whether or not that assistance is also needed to carry out his normal daily functions) as may be necessary (as determined by the Secretary) to pay the costs incurred by such individual for attendant care.".

(c) The Secretary of Health, Education, and Welfare shall submit to the Congress, not later than March 15, 1979, a report containing his recommendations for actions, including recommendations for legislation, which should be taken in order to deal adequately and responsibly with disabled individuals receiving benefits under title II or title XVI of the Social Security Act who wish to engage in gainful employment.

(d) The amendments made by subsections (c) and (b) of this section shall become effective on January 1, 1979, and shall remain in effect through September 30, 1981.

PRESUMPTIVE DISABILITY IN CERTAIN CASES WHERE SSI APPLICANT WAS PREVIOUSLY ENTITLED

SEC. 902. Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(F) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the five years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

(b) The amendment made by subsection (a) shall apply with respect to applications filed on or after the first day of the month following the month in which this Act is enacted.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. TUCKER. Mr. Speaker, reserving the right to object, I would like to ask the distinguished chairman of the subcommittee whether the bill being reported contains the language adopted by the Committee on Ways and Means to H.R. 8222 relative to the importation of Soviet watches into the United States through the Virgin Islands.

Mr. VANIK. It does contain some language relative to that, but not the language adopted by the Senate committee.

Mr. TUCKER. Mr. Speaker, rather than take the time of the House, I would simply ask the chairman, the language attached by our subcommittee assured the preservation of 3,500 jobs in my district, watchmaking jobs. As the chairman knows, the State Department and the administration and the Bureau of East-West Trade had objected to the language as, indeed, the subcommittee chairman had that I attached to the bill, H.R. 8222, but I would hope that I could have the assurance of the subcommittee chairman and recognition of this problem and his assurance that next year his subcommittee will give consideration to the treatment that would assure the American workers of my district got fair treatment vis-a-vis Soviet watches.

Mr. VANIK. Mr. Speaker, I will tell the gentleman that I will be happy to study the matter. The gentleman knows we tried to do that in the subcommittee. This is the language which came from the other body.

Mr. TUCKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. HOLLAND. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

CONRAIL AUTHORIZATION ACT

Mr. ROONEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12161) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the U.S. Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ROONEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 12161, with Mr. BROWN of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Wednesday, October 11, 1978, all time for general debate on the bill had expired.

The Chair asks the indulgence of the House in dealing with this matter expeditiously at this particular time.

The Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 216(a)(2) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)(2)) is amended by striking out "$1,100,000,000" and inserting "$2,300,000,000" in lieu thereof.

(b) Section 216(b)(2) of such Act (45 U.S.C. 726(b)(2)) is amended by striking out "$1,100,000,000" and inserting "$2,300,000,000" in lieu thereof.

(c) Section 216(f) of such Act (15 U.S.C. 726(f)) is amended by striking out "$2,100,000,000" and inserting "$3,300,000,000" in lieu thereof.

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I wonder if any of the staff has copies of this bill. It has been a little bit difficult to get copies.

Mr. ROONEY. Mr. Chairman, we will make sure the gentleman has a copy.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, is this the bill that simply lists the amounts or increases the debentures and has no legislation in it?

Mr. ROONEY. No. I am about to introduce an amendment which I have at the desk which is basically the Senate version of this legislation.

Mr. BAUMAN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ROONEY

Mr. ROONEY. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ROONEY: Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "United States Railway Association Amendments Act of 1978".

SEC. 2. (a) Section 216(a) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(a)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(b) Section 216(b)(2) of such Act (45 U.S.C. 716(b)(2)) is amended by striking out "$1,100,000,000" and inserting in lieu thereof "$2,300,000,000".

(c) Section 216(f) of such Act (45 U.S.C. 726(f)) is amended by striking out "$2,100,000,000" and inserting in lieu thereof "$3,300,000,000".

SEC. 3. Section 216 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726) is further amended by redesignating subsection (f) thereof as subsection (g) and by inserting immediately after subsection (e) thereof a new subsection as follows:

"(g)(1) The Association shall not invest the final $345,000,000 of the additional investment in the Corporation authorized by the Regional Rail Reorganization Act Amendments of 1978 unless and until (A) the Corporation has in effect an employee stock ownership plan which satisfies the requirements of paragraphs (2) and (3), and (B) the requirements of the other paragraphs of this subsection have been satisfied.

"(2) The employee stock ownership plan shall:

"(A) provide:

"(i) for a transfer to the plan and allocation to the accounts of plan participants in periodic installments of Series A preferred stock of the Corporation with a stated redemption value of at least $345,000,000 or any other securities in an amount determined by the Association, with the concurrence of the Finance Committee, as constituting a meaningful interest in the Corporation, or any combination thereof so determined by the Association, with the concurrence of the Finance Committee. The use of Series A preferred stock to fund the Employee Stock Ownership Plan shall not be interpreted to relieve ConRail of the responsibility for repaying in full to the United States Railway Association its indebtedness as represented by all shares originally issued under Public Law 94-210 and this Act;

"(ii) for immediate vesting of the rights of participants to such securities upon allocation, subject to defeasance as a result of the plan's termination, which termination shall occur in the event that, by the end of the 120th month beginning after the month in which securities or interests therein are first allocated to participants' accounts, the Corporation has not attained for two consecutive quarters positive net income and a freight labor cost to freight revenue ratio equal to the average such ratio for all Class I railroads in 1977, as determined pursuant to procedures adopted by the Corporation pursuant to regulations promulgated by the Association with the concurrence of the Finance Committee;

"(B) be an employee benefit plan which is designed to invest primarily in employer securities;

"(C) meets such other requirements (similar to requirements applicable to employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Secretary of the Treasury or his delegate may describe;

"(D) have been approved by the Board of Directors of the Corporation to the extent and in the manner which may be required by the Corporation's articles of incorporation and bylaws then in effect; and

"(E) have been prepared in consultation with, and been approved by, the Association and the Finance Committee.

(3) Notwithstanding any other provision of law, if a plan does not meet the requirements of section 401 of the Internal Revenue Code of 1954—

"(A) stock transferred under paragraph (2) and allocated to the account of any participant under paragraph (2) shall not be considered income of the participant or his beneficiary under the Internal Revenue Code of 1954 until such stock or dividends are actually distributed or made available to the participant or his beneficiary and, at such time, shall be taxable under section 72 of the Internal Revenue Code of 1954 (treating the participant or his beneficiary as having a basis of 0 in the stock);

"(B) no amount shall be allocated to any participant under the plan in excess of the amount which might be allocated if the plan met the requirements of section 401 of the Internal Revenue Code of 1954; and

"(C) the plan must meet the requirements of sections 410 and 415 of the Internal Revenue Code of 1954.

"(4) The Corporation shall adopt such terms and conditions governing the securities or interests therein to be transferred to the plan (including limitations on voting rights) as the Association, with the concurrence of the Finance Committee, determines are necessary to protect reasonably the interests of the United States in the litigation pursuant to section 303(c) of this Act and in the event of any action to further reorganize or restructure the Corporation's assets or capital structure.

"(5) The Corporation, the Association, and a representative appointed by the Chairman of the Railway Labor Executives' Association as representative of all the classes or crafts of employees of the Corporation shall engage in negotiations to agree upon a plan in accordance with the provisions of this subsection. The parties shall incorporate their agreement into a written plan instrument specifying the terms and conditions set forth in this subsection and such other terms and conditions as they may decide upon, with the concurrence of the Finance Committee, unless the parties are unable to reach on an agreement on the plan following the exertion of every reasonable effort to do so, in accordance with the Railway Labor Act, in which event, the Corporation and the Association, with the concurrence of the Finance Committee, shall establish a written plan with such terms and conditions as they may agree upon in accordance with this subsection. Within one year after the effetcive date of this subsection, the Corporation shall transmit a draft of such plan to the Congress and shall report on its progress in establishing and administering the plan. The report shall include recommendations of contractual and statutory provisions necessary to reasonably (A) exempt any Trustee of the plan, the Corporation, the Association, any member of the Finance Committeee, and any other person from any fiduciary duty, responsibility or liability for the acquisition of, investment in, or retention of any security or interest therein of the Corporation or for any other transaction contemplated by this subsection and (B) provide for the United States to indemnify, defend, and hold harmless such persons against any and all liabilities, claims, actions, judgments, amounts paid in settlement, and costs and expenses actually incurred in connection with any matter so exempted in which it is determined that such persons were acting in good faith and in a manner they believed to not be opposed to the best interests of the plan.

"(6) Within fourteen months of the effective date of this subsection, the Association shall report to the Congress on the draft plan and on any legal obstacle to the ability of the Corporation to effectuate and implement an employee stock ownership plan of the nature contemplated by this subsection, including specific recommendations on amendments to this subsection and other relevant laws which would harmonize the requirements of this subsection with those other laws. The Department of Transportation and the Department of Treasury, as each finds appropriate, shall provide separate comments to the Association for inclusion with such report.

"(7) For the purposes of this subsection, the officers of each duly authorized representative of the crafts or classes of the employees of the Corporation who have been given leaves of absence by the Corporation to serve as such officers, are to be eligible to participate in such plan on the same basis as are employees whose employment is governed by a collective bargaining agreement with the Corporation."

SEC. 4. (a) The first section of the Act entitled "An Act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes", approved March 12, 1914 (38 Stat. 305; 43 U.S.C. 957), is amended by inserting after "to fix compensation of all officers, agents, or other employees designated by him;" the following: "and, notwithstanding any other provision of law or regulation, to fix relocation, travel and transportation expenses for the General Management of the railroad designated under this Act".

(b) This section shall apply to the General Manager serving on the date of enactment of this section with respect to relocation, travel, or transportation expenses were incurred before or after the date of enactment of this section.

SEC. 5. Section 505 of the Railroad Revitalization and Regulatory Reform Act (45 U.S.C. 825) is amended by (a) striking the last sentence of subsection (d)(3) thereof; and (b) striking "purchase under this title after September 30, 1978," and inserting in lieu thereof ", after September 30, 1979, make commitments to purchase under this title" in subsection (e) thereof.

SEC. 6. (a) The Consolidated Rail Corporation shall (1) carry out such reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, New York, as is necessary for the purposes of this section and make appropriate repairs and improvements in rail yards and tracks which service the rail system using such bridge, (2) restore freight service on such system at least to the extent provided prior to the fire damage to such bridge in 1974, and (3) take appropriate steps to promote the use of such system.

(b) There is authorized to be appropriated to the Secretary of Transportation not to exceed $9,000,000 for making payments to the Corporation to cover costs incurred pursuant to subsection (a)(1).

SEC. 7. Section 307 of the Regional Rail Reorganization Act is amended by inserting after subsection (b) a new subsection (c) as follows:

"(c) MONITORING OF THE CORPORATION.—(1) The Association shall also report to the Congress, in accordance with this subsection, on the policies of the Corporation and the results of such policies with respect to operations, cost containment, and marketing.

"(2) Within 90 days after the date of enactment of this subsection, the Association shall (A) subdivide each such policy area into constituent parts or groups of parts which are specific and significant, (B) identify the most appropriate indicia to reflect accurately such parts or groups of parts, and (C)(i) determine any and all deficiencies in data used to compute the values of such indicia including consistency and clarity of definitions, timeliness of data entry, editing and validation of input data, and processing, and (ii) outline the efforts of the Association and Corporation to correct the deficiencies and the results of such efforts. On or before the end of such 90-day period, the Association shall submit to the Congress such methodological information and additional information which the Association deems necessary or appropriate to further the purpose of this title.

"(3) Using such indicia, the Association shall report on (A) the relationship of each constituent part or groups of parts to the Corporation's revenue and capital and operating expenses, (B) the extent to which such parts or groups of parts contributes to profits or losses, (C) the efforts of management to contain or reduce the contribution of such part or group of parts to losses, (D) the results of such efforts, and (E) such other information as the Association deems necessary or appropriate.

"(4) The Association shall (A) transmit to the Congress the first such monitoring report pursuant to paragraph (3) at the end of the first calendar quarter which begins at the end of the 90-day period for preparation and submission of the methodological information pursuant to paragraph (2), (B) report such monitoring information to the Congress at the end of the first quarter of each calendar year thereafter, (C) update methodological and monitoring information periodically as the Association deems necessary or appropriate, but in no case less frequently than once a year, and (D) where the results of such updating are statistically significant or relevant to Congressional policymaking, report them and the reasons for their significance at the end of the calendar quarter in which the updating occurred.".

Mr. ROONEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, I would like to see a copy of the amendment.

Further reserving the right to object, I will say to the gentleman from Pennsylvania that the difficulty the gentleman from Maryland is having is that there are a number of amendments that are sought to be offered to this bill. If they are offered to the House bill, they would expand the scope but they might not be germane.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, I was just about to explain the amendment that I just requested be adopted.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, the problem that we have here is that if the particular Senate amendment, the one the gentleman is offering, is considered, it opens the bill to any other amendment, because it is legislative in nature, as opposed to a simple authorization for funding.

The gentleman can see my dilemma at this point. My understanding was that this legislation was already covered by a continuing resolution.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, 2 hours ago the Secretary of Transportation called me on the phone and told me he was enroute from his home to come to the Capitol to tell us about the dilemma of ConRail. At that time I talked with my colleague, the gentleman from Kansas (Mr. SKUBITZ), to see whether or not we could possibly pass this legislation to save ConRail and save the railroads in this last hour. This is the only reason I submitted the substitute or the Senate version.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object to dispensing the reading of a rather extensive amendment, the point the gentleman from Maryland is making is that if this amendment is offered and adopted, it opens this bill to a number of amendments, and they will be offered. Then we will be here for another hour fighting over these amendments, and Lord knows when will get out of this place.

Is it not true that we have a continuing resolution already adopted that will continue the funding of ConRail?

Mr. ROONEY. As I understand from the Secretary of Transportation, and as I understand from the officials of ConRail, there is $300 million available under the continuing resolution. Consequently, that is not enough.

Furthermore, ConRail has to negotiate contracts with other corporations with whom they are negotiating, and if they do not have the finances and if they do not have the guarantee of the Federal Government, they will not be able to go on.

Mr. BAUMAN. Mr. Chairman, further reserving the right to object, it is not the place of the gentleman from Maryland to try and hinder the progress of ConRail, but the gentleman from Pennsylvania knows there are amendments possibly from the gentleman from Connecticut and the gentleman from New York, as well as other amendments that could be offered.

Mr. ROONEY. Mr. Chairman, if the gentleman will yield, there are two pending amendments: One to cut the amount from $1.2 billion to $700 million, and I think we can vote that up or down.

If Members are going to engage in dilatory tactics and we are going to be unduly delayed, I am going to ask that the Committee rise.

I am asking for the gentleman's cooperation, and I already have the cooperation of the gentleman from Kansas (Mr. SKUBITZ).

Mr. BAUMAN. Mr. Chairman, I am still reserving the right to object, and I hope the gentleman does not employ dilatory tactics himself and we can finish here.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. ROONEY. Mr. Chairman, I would like to take this opportunity first of all to extend the congratulations of myself and my family to the gentleman from Kansas (Mr. SKUBITZ) for the outstanding job he has done on behalf of the committee. The gentleman from Kansas has served 16 years in this Congress and has spent 20 years in public service.

Mr. Chairman, I would like to explain why I have introduced this substitute and to also give some explanation about its contents. As the Members know, we are here in the closing hours of this session. I have asked that the Senate substitute be adopted. There are pending two amendments, and I hope we will be able to pass this bill in short order. I know that the time is drawing near, and I hope that there will not be any dilatory tactics. If there are, I will accede to the gentleman from Maryland. Again, I will say that, in that event, I will move that the committee do rise.

Mr. Chairman, I would like to explain why I have introduced this substitute, and to also give explanation as to its contents.

As we are all painfully aware and as has been said many times today, this Congress is about to adjourn sine die. Obviously, there is no time remaining for conferees from the House and the Senate to meet because there are differences between House and Senate versions of this bill. Therefore, the amendment that I am offering in the nature of a substitute is the exact bill which was passed by the Senate.

Significantly, the Senate bill contains the same amount of funding for capitalization as the bill reported by the committee, namely $1.2 billion. The Senate bill also includes a number of other matters which I believe are desirable and in all likelihood would have been agreed to had we passed the committee bill and gone to conference with the Senate.

The Senate included a provision to establish an employee stock ownership plan. Its proponents stated that this plan was as equally important as obtaining additional financing in order to obtain private sector confidence necessary to facilitate substantial private investment in ConRail. The bill provides that the final $345 million investment by the USRA in ConRail series A preferred stock be contingent upon the employee stock ownership plan being established and provides for immediate vesting, but contingent upon increases in productivity. In addition, within 1 year from the effective date of this provision, the corporation and the USRA are to submit to the Congress the proposed employee stock ownership plan, together with recommendations on any amendments that may be required to facilitate the final implementation of the plan. I should point out that this provision has the complete endorsement of the Treasury Department, because it protects the Government's role and interest in any future capital restructuring of ConRail, should that prove necessary.

Section 4 of the bill is a very minor provision which permits the general manager of the Alaska Railroad to be compensated for expenses for moving to Alaska to accept his new position.

Section 5 of the bill extends for 1 year the period in which the Secretary may purchase redeemable preference shares from railroads. This extension is necessary because authority to purchase these shares expired September 30, 1978. The 4–R Act authorized $600 million for the purchase of redeemable preference shares from railroads for deserving projects under stringent controls. To date, only about $320 million of this amount has been committed. I believe it is absolutely essential that this date be extended in order to permit the remaining amount of previously authorized funds for this most deserving purpose to be committed.

The Congress established a terminal date of only 2½ years after enactment of the 4–R Act because it desired that these funds be made available as soon as possible to compensate for prolonged deferred maintenance. It was intended when the 4–R Act was being considered that a long-term solution to the problem would be forthcoming in future legislation. Unfortunately, such legislation has not been developed, thus making it imperative that we retain present authority for committing these funds until it can be developed.

Section 6 authorizes $9 million for the reconstruction of the railroad bridge over the Hudson River at Poughkeepsie, N.Y. This bridge was severely damaged by a fire in 1974.

Section 7 amends the 3–R Act to impose more stringent requirements on the U.S. Railway Association in its reports to Congress on the policies of ConRail and the results of such policies with respect to operations, cost containment, and marketing.

As I indicated during the general debate, it is absolutely imperative for ConRail to receive this additional capitalization. If ConRail is going to have any chance to become viable, it must have adequate capitalization. Therefore, as I said at the outset, since there is no time remaining during this Congress, if ConRail is going to receive its funding we must approve this bill as it was passed by the Senate. If amendments are made to this bill, we will be unable to work out the differences with the Senate, and ConRail will be denied its funding.

I urge your support of this amendment.

Mr. Speaker, I would be remiss if I did not address the House today before it adjourns to say a few works to tell my good friend JOE SKUBITZ how much we will miss him.

As you all know after a distinguished career of over 30 years to Government service JOE is going to retire at the end of this Congress.

JOE has been the ranking minority member on my Subcommittee on Transportation and Commerce for more years than I have been chairman. During the period of my chairmanship during the last two Congresses JOE has been most helpful.

We have brought many bills to the floor during this time and I can recall more that were brought here without complete bipartisan agreement. Like any two people we had matters of disagreement but as he was always quick to say

"just because we disagree, we don't have to be disagreeable." It was this fine sense of humor that permeated all of our dealings and why we were always able to come to an agreement.

The fact that JOE is still with us at this late hour after so many hours of continual session is an example of his unending dedication to duty. As a retiring Member we would all have certainly understood if he had absented himself during these final hours. This dedication to duty has been his hallmark for years. He manifested this dedication on the Interstate and Foreign Commerce Committee and on the Interior Committte. JOE was able to serve those committees so well because he apparently has an unending reserve of energy.

During my years of serving together with JOE he has become a dear personal friend. We have different political philosophies but we also have an overriding bond of friendship based on basic Christian virtues.

For those of you who do not know JOE's wife Jess you are missing a real treat. I have often kidded JOE about how he could be so fortunate to have such a wonderful woman put up with him for so many years. JOE says that he has no definite plans for retirement activities but I hope it is not getting in Jess' way. As we told him the other day a man and wife marry for better or worse but not for lunch.

JOE, we hope you thoroughly enjoy many years of happy retirement. You most certainly have worked for them and deserve them. As stated in the second letter to Timothy, you have run the good race and deserving of the laurel. JOE, our prayers are with you and for you. Do not forget us as we will not forget you.

Mr. SKUBITZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it would be nice if the $2.1 billion that this Committee authorized under the 4R Act would have been sufficient to make ConRail a viable railroad. But it was not in the cards. When we were seeking to establish a viable railroad, back in 1976, we had a number of options before us, but ConRail seemed the best alternative at that time. But the minute that ConRail began operating it began running into insurmountable obstacles: Bad equipment, bad roadbeds, contracts which gave labor some unusual benefits. Last but not least, political pressures to retain lines that everyone knew should be abandoned lines. Soon after ConRail began operating, it became apparent that it would need more money, and that is why we are here today. ConRail is going to need $1.2 billion. Some will say it could get along with less, and there will be an effort made here today to probably cut the appropriation. My colleagues, just as sure as night follows day, one of the first orders of business next year will be more money for ConRail. Just let us have a severe winter during December or January or February, and the results will be disastrous. So I urge you to give ConRail the full amount, the $1.2 billion, and give ConRail a chance to succeed, without having to come back to this body early in the year and have political pressures placed upon it. Demands to do this and that or funds will be held up. I am hopeful that the amendments offered here today will be rejected. But do not permit us to go into conference now and discuss any new amendments.

Mr. Chairman, that is all I have to say about the bill. May I say one word to all of you? A month ago I was looking forward to this day, the day that we would adjourn and I could return to private life. But now that that day has come, I am not so sure. There is a feeling of sadness. I have spent 34¼ years of my life on Capitol Hill. It has been a wonderful experience. I have seen eight Presidents make their entrances and exits. But most of all it has been a privilege, my colleagues, to know you and to work with you, and that has made these years the most rewarding years of my life. And for this I feel I am a better man and a better person, and I thank you for it. This will be my last appearance in this House. From now on, I shall make no more speeches and ask for no more time, but I shall have many memories of pleasant experiences of things that have happened to me while I was associated with you here in the Congress of the United States.

And so, to you, Mr. Speaker, TIP O'NEILL, and to you, my colleagues, may the days ahead all be joyous ones. May they be happy days, and may you always have good health and peace of mind.

Thank you.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, are there any amendments or other provisions in this legislation that are not germane to the House-passed bill? Would it repeal any other nongermane laws?

Mr. ROONEY. No.

Mr. SEIBERLING. I thank the gentleman.

● Mr. DODD. Mr. Chairman, I rise in support of the amendment offered by Representative FRED ROONEY to the Regional Rail Reorganization Act Amendments of 1978, H.R. 12161. Adoption of this amendment will place the language of the Senate-passed Regional Rail Reorganization Act Amendments of 1978, S. 2788, before the House for consideration.

The primary purpose of this legislation is to authorize the purchase of an additional $1.2 billion of series A preferred stock by ConRail over the next 5 years. I am very concerned that the Congress is being requested to authorize appropriations of additional funds for ConRail. During ConRail's 2 years and 5 months of operations the Federal Government has invested about $2.1 billion. However, revenues are still not sufficient to countermounting losses. So we are faced with the decision of authorizing additional funding in order that ConRail can continue to provide rail service in the Northeast as a private carrier.

I have noted that my colleague, Representative TOBY MOFFETT intends to offer an amendment which would reduce the authorization from $1.2 billion to $700 million. This amendment would fund ConRail through 1979, preventing cutbacks in rail service.

By adopting this amendment we would be sending a message to ConRail that it must improve its performance if the system is going to continue to receive Federal funds. This action will also give the Congress a year to evaluate ConRail's performance and its financial needs. In 1 year, Congress should be in a better position to determine if it should continue to fund ConRail or seek a new solution to the Northeast's rail problem.

I compliment my colleague for raising this amendment. I urge you to join me in supporting Mr. MOFFETT's amendment.

I would like to point out that the Senate-passed legislation contains several provisions to improve ConRail's operations. For instance, to encourage profitability the Senate language requires ConRail to establish an employee stock ownership plan. To enable the Congress to make sounder budgetary projections, the Senate language directs the USRA to submit to the Congress methodological information to monitor three areas of its business: Operations, cost containment, and marketing—areas which contribute significantly to ConRail's losses.

I would further like to call your attention to a provision in the Senate language which will improve the rail freight operations in New England. I am referring to the amendment offered by Senator ABRAHAM RIBICOFF which authorizes the Department of Transportation to make available to ConRail up to $9 million for the restoration of the Poughkeepsie Bridge system. Restoration of the Poughkeepsie Bridge will provide the greatly needed rail link across the Hudson River south of Albany.

The need for the Poughkeepsie River Bridge cannot be ignored. Since 1974 all freight traffic between New England and the Mid-Atlantic States has been forced to take a 150-mile detour route via the Selkirk Yard in New York. Under this new route, it now takes 65 hours and 30 minutes to travel from New Haven to Washington, D.C., permitting fourth-morning delivery of freight. When the Poughkeepsie Bridge was operating, the fastest freight could save 102 miles traveling from New Haven to Washington, D.C. with a total travel of 17 hours and 15 minutes, permitting second-morning delivery.

The loss of travel time, and increased energy consumption, are further compounded by the conditions of the Selkirk Yard. The rail yard at Selkirk is severely overcrowded, causing more undue delays. Furthermore, the Selkirk Yard is often closed due to inclement weather.

Repair of the Poughkeepsie Bridge has received wide support from public officials and rail and transit groups in both Connecticut and New York. It is important to note in 1976 both States made offers of financial assistance to repair the bridge. However, although the repair of the Poughkeepsie Bridge is included in the final system plan, the States' offers to restore the bridge were ignored.

I am encouraged by the prospect that

after 4 long years the greatly needed repair of this bridge can get underway.

I, therefore, urge you to join me in supporting the adoption of the Rooney amendment to the Regional Rail Reorganization Act Amendments of 1978.●

● Mr. SARASIN. Mr. Chairman, I rise in support of the motion offered by the gentleman from Pennsylvania (Mr. ROONEY) to substitute the text of the Senate bill in order to avoid the necessity of a conference with the other body.

I am concerned, as I am sure other Members are, over the effectiveness of the operation of ConRail since its creation. They have demonstrated an insensitivity to the needs of the shippers and outright arrogance toward the entreaties of transportation planners and elected officials in the region.

The Senate version of the ConRail authorization contains an amendment offered by the senior Senator from Connecticut (Mr. RIBICOFF) which provides $9 million for the repair and rehabilitation of the Poughkeepsie Railroad Bridge. I strongly support the reconstruction of this vital rail link.

I introduced legislation in the 94th Congress (H.R. 10152) to provide funds for the repair of the Poughkeepsie Bridge and I have continued to work for legislation which would restore this rail connection.

By enacting this legislation we will be acting to reduce energy consumption and providing for a more environmentally sound alternative for the shipment of goods to southern New England.

Mr. Chairman, it presently takes 59 hours for a shipment to travel from Washington, D.C., to New Haven, Conn. If the Poughkeepsie Bridge were open it would take only 17 hours. This reduction in time combined with lower freight rates that would result, will be a strong incentive for shippers to utilize our railroad system and transfer their freight shipments from trucks thereby reducing the congestion and deterioration of our highway system.●

AMENDMENT OFFERED BY MR. MOFFETT TO THE SUBSTITUTE AMENDMENT

Mr. MOFFETT. Mr. Chairman, I offer an amendment to the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. MOFFETT to the substitute amendment: In section 2(a) strike out "$2,300,000,000" and insert in lieu thereof "$1,800,000,000".

In section 2(b) strike out "$2,300,000,000" and insert in lieu thereof "$1,800,000,000".

In section 2(c) strike out "$3,300,000,000" and insert in lieu thereof "$2,800,000,000".

Mr. MOFFETT. Mr. Chairman, members of the committee, this amendment is very simple. It has this effect: It cuts the amount from $1.2 billion to $700 million. I offer it for this reason: The $1.2 billion figure is not in any way a figure that was developed by us; it was a ConRail figure. This is what they said they would need at least through the next year.

Usually, when they come to us for a request—and this time is no exception—they say, "Just give us this one more amount and we will become profitable." I am sure the Members have all heard that before.

In this case, their own February 1978, projection of how much money they would need was 10 percent off. In the first half of this year alone, in other words, they underestimated by 10 percent. The GAO has recently reported a tremendous lack of accountability by ConRail. The biggest hope for ConRail to gain profitability was to turn around long-term decline in freight hauling. It did not happen, and is not likely to. They are not likely to become profitable.

As a Member from the Northeast I have voted funds before, and I will continue to vote for funds, but I think it is time that some Members in the Northeast who have gone to their colleagues in other parts of the country time and time again and said, "Please vote for this amount for ConRail; please keep our railroads running," it is time that we show some fiscal responsibility, some accountability and scrutiny of ConRail, and that we offer the amendment to cut the amount.

Every indication I have in my research, whether it has been from GAO or any other body, is that $700 million will get them through the year. If it does not, they can come back. The purpose of this amendment is not to deny them the opportunity to plan, and in no way will it deny them that opportunity to plan. The reduction does not mean that there will not be further funds for ConRail. I think most of us know that there will be further funds for ConRail, or for some other entity.

But this Congress needs to take a look at the railroad situation again in the next session. We need to probably change it. We need to probably reform it. We need to change the way ConRail operates. We need to bury this myth that they can be profitable if we give them just enough $1 or $2 billion.

This amendment puts them on a shorter leash. It does not interfere with their capital or capital improvement.

I urge its adoption.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. Mr. Chairman, I yield to the gentleman.

Mr. ROONEY. Mr. Chairman, I oppose this amendment.

The proponent of this amendment points out that the ICC, the USRA, the Department of Transportation and the General Accounting Office have all concluded that is is highly possible that ConRail will need substantial Federal funding in addition to the $1.2 billion provided in this bill. Each organization has made independent reviews and concluded, coincidentally, that about $3 billion or more would be closer to the amount actually going to be needed than the $1.2 billion provided in this bill. It is precisely for this reason that the committee and the administration have concluded that we should provide ConRail with the amount of funding it requests. Each organization has concluded that $1.2 billion is a base minimum of what could eventually be needed. I believe it is to ConRail's credit to be optimistic and request only about one-third as much as all other organizations have concluded will be required.

I further believe that the Committee is correct in recommending only the smaller amount. I am convinced that there would be resounding criticism of the committee if it chose to recommend the maximum amount of funding considered necessary by these organizations rather than as we are doing in this instance, that is, taking a very optimistic view and recommending only the smallest amount.

During our deliberations on the funding for ConRail in 1975, considerable testimony was received to the effect that ConRail would need substantially more capitalization than was being recommended by the USRA. For example, the committee commissioned Princeton University to evaluate the financial assumptions contained in the USRA final system plan. The report concluded that Federal funding for ConRail capitalization should be $6.5 billion. City Bank of New York and other financial experts testified that the initial capitalization should be about $10 billion. Again, the committee did not take the point of view that the maximum capitalization should be provided, rather a very conservative point of view was taken in recommending only $2.1 billion. The committee recommendation was based on the final system plan prepared by the USRA.

It is inconceivable to me how it can be concluded by the proponent of this amendment that since all Government organizations and a number of private financial institutions have concluded that ConRail will need more Federal funding than is being recommended, we should use this as a reason to reduce the funding to only $700 million. Capitalization of anything less than $1.2 billion would be a disservice to ConRail and would guarantee that it would not have an opportunity to become profitable.

Whereas the Congressman from Connecticut contends that the funding provided in this bill should be reduced and cites a recent GAO report to support this contention, I believe it is fair to also quote GAO's conclusion in this matter. The report states:

GAO is recommending that the ConRail chairman and chief executive officer take actions necessary to insure that: ConRail requests adequate Federal investment for all improvements contemplated in the Final System Plan, and moves ahead aggressively in planning and implementing them.

I most wholeheartedly agree with this conclusion. Moreover, it must be admitted that this report substantiates the committee action in recommending the full funding requested by ConRail in the amount of $1.2 billion.

It is contended by Mr. MOFFETT that reduced funding should be provided in order to provide Congress with an opportunity to have closer control of ConRail or in his words, to put it on a closer leash. In my opinion, ConRail is reviewed and controlled more closely than any other corporate entity imaginable. As stated, the Interstate Commerce Commission, the U.S. Railway Association, the Department of Transportation, the General Accounting Office, and the independ-

ent accountant who certifies the financial statements, are all performing continual reviews of ConRail operations. In addition, my Subcommittee on Transportation and Commerce has been diligent in its oversight responsibilities. Also, it should be noted that this bill provides even stricter reporting requirements on USRA regarding its review of ConRail operations. My subcommittee receives monthly reports, quarterly reports, semiannual reports, and annual reports regarding ConRail's operations. In short, ConRail needs a lot of assistance, but it does not need further reviews by outside interests.

In this regard, since the GAO report is being quoted, with regard to other issues in this matter, I think it fair to quote directly what the report concluded with regard to the necessity for improved monitoring of ConRail operations. I quote:

> USRA is capable of providing Congress reasonable and well-supported judgments about ConRail performance and future prospects.

Most significantly, it should be noted that despite the many difficulties and deficiencies encountered by ConRail, the general theme of the GAO report is not critical but rather that considerable improvement is recognized. Only two recommendations were made—the one I just quoted and one pertaining to retirement and title V funding. At no point was it even hinted that more control should be exercised over ConRail or that its funding should be reduced.

Finally, it is alleged that the funding should be reduced because there has been a steady deterioration in ConRail's performance since April 1976 when it began operations. This contention is supposedly supported by the previously mentioned recent GAO report, which stated that one of the reasons for ConRail's poor performance was its failure to make improvements recommended in the final system plan. May I ask how can it make these improvements if we do not want to provide adequate capitalization? Granted, all of the money is not immediately needed. Nevertheless, the entire authorization is needed now so as to give the assurance that the funds will be provided when they are needed and thus adequate planning for necessary improvements can commence immediately.

As I stated in my previous remarks, it is generally recognized that one of ConRail's difficulties is the fact that it received equipment and facilities in far worse condition than estimated in the final system plan. On the other hand, it should be recognized that ConRail has done a commendable job in attempting to improve the poor equipment and facilities it received. Its rehabilitation program has far exceeded the estimates contained in the final system plan. Since inception in April 1976, ConRail has completed heavy repairs on over 32,000 freight cars, and heavy repairs or overhauls on about 825 locomotives. In addition, it has acquired about 1,800 new freight cars, and has about 3,000 additional cars on order.

It has also purchased 166 new locomotives, and has about 160 additional locomotives on order. ConRail was quick to recognize that it had insufficient power and insufficient freight cars. It is making every attempt possible to correct this situation, as it believes, as any good railroad would, that it could not become profitable if it could not provide adequate freight cars with sufficient power to pull them.

It should be further noted with regard to the deterioration in the quality of service provided customers that GAO attributed this to conditions largely beyond ConRail's control. Again, it was a matter of receiving fewer cars and locomotives than anticipated and in worse condition than expected. I would also like to point out that the matter of deterioration of service was not quantified by GAO and is apparently a matter of opinion.

ConRail operates throughout the State of New York. It apparently is performing commendably since the State Transportation Commissioner went out of his way to publicly announce that, and I quote:

> In general, ConRail service throughout the State is good; in some instances, markedly better than that rendered by predecessor railroads.

I do not contend there have not been instances where service has been less than desirable. I do not believe, however, and have received no evidence to indicate that these instances have been frequent enough to warrant condemnation of ConRail.

In conclusion, I believe it is generally known that I have been one of ConRail's severest critics. I intend to continue to criticize ConRail in every instance where I believe it is justified. On the other hand, a critic who does not recognize achievement and who does not include constructive recommendations for improvements, is not worthy of his role. We all must recognize that there are no known alternatives to the ConRail experiment, and we must do everything possible to assure its success. We simply cannot afford to permit it to fail.

Mr. DODD. Mr. Chairman, will the gentleman yield?

Mr. MOFFETT. I yield to the gentleman from Connecticut (Mr. DODD).

Mr. DODD. Mr. Chairman, I compliment my colleague, the gentleman from Connecticut, for raising this amendment. Certainly it is one which deserves support. I do not think it would tie up this legislation.

Mr. SKUBITZ. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it is true that if ConRail did come back and time and again asked for money we would probably give them money. They have come back and the chairman of this committee and I have gone over with them and we have agreed that $2.3 billion would give them the opportunity to start working their way out of this.

If we do not give it to them, they are going to come back and what is going to happen? We are going to have political pressures brought by the Members on the floor and they will say: "If you do not do this, we will not support your authorization or appropriation." These are some of the things some of us in the West are getting tired of. We are willing to put this railroad on its feet so as to keep it viable but to cut it down constantly will not allow them to do those things that should be done.

I urge defeat of this amendment.

Mr. COLLINS of Texas. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Connecticut.

I commend the gentleman because he is from the middle of the area. He knows they have a problem and he is trying to make an improvement in it.

Everyone in the country seems to know that ConRail has a problem. Here is a clipping from the Washington Post and here is one from the New York Times. They are saying "To End ConRail Losses, Federal Officials Study a Regulatory Cutback." And a headline from another paper is "Profitability of ConRail questioned by new study."

The public sees the issue. They are raising the questions. We have a practical approach. We have a bill coming up. Previously we had set this operation up and we gave them $2 billion and they said they would do the job. Now they are in and asking for $1.2 billion in a very short time. The gentleman from Connecticut suggested a very reasonable cut. It would give us a chance to come back in the next session and look at it. I think it is the logical answer to the problem being faced today.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in support of the full $1.2 billion USRA authorization for ConRail funding without any crippling amendments.

I believe that the amendment offered by the gentleman from Connecticut, which would reduce ConRail's funding from $1.2 billion to $700 million is such an amendment.

A reduction of the magnitude proposed would hobble ConRail efforts to attain the objections of its business plan. Cutting the authorization by almost one-half would be particularly disruptive at this time. It would jeopardize ConRail's efforts at long-range corporate planning and detract from attempts at well-tailored solutions to the railroad's most pressing problems. Moreover, annual authorizations as suggested by this amendment are not adequate alternatives. ConRail must know in advance how much capital it will have available in order to make long-term commitments necessary for those investments. Moreover, private investors would be reluctant to continue to finance equipment if Federal funding is doubtful.

Full funding, plus more intensive oversight, is the best option now. The Rooney-Byrd amendment to H.R. 11261, which is now before this body, will strengthen USRA's monitoring authority. Adopted by the Senate in August, it directs the association to evaluate ConRail's operations, cost, and marketing policies. This amendment would improve ConRail's performance, minimizing ConRail's dependency on the Federal Treasury.

In addition, the appropriations drawdown schedule for ConRail funding contemplates strict budgetary oversight.

H.R. 12973, the conference approved ConRail appropriations bill, appropriates $300 million for ConRail during fiscal year 1978. As ConRail requires funds in excess of $300 million during fiscal year 1979, a supplemental appropriation must be secured. Both ConRail and USRA must justify such an appropriations request to the satisfaction of the Appropriations Committees. You can be assured that the request for extra funds will receive close scrutiny from the Transportation Appropriations Subcommittee, on which I am the ranking member.

In sum, we must recognize that ConRail, which participates in 35 percent of the Nation's rail freight movements, is a key part of our national rail freight system and makes a positive contribution to State and local economies. Its business plan to serve shippers of both the Northeast and the Nation must be assured of at least a $1.2 billion authorization in order to have a chance to meet its objectives for improved service and financial viability. The Moffett amendment provides considerably less assurance. I urge that it be soundly rejected.

Mr. STAGGERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise just briefly to say that I respect the gentleman from Connecticut (Mr. MOFFETT) as I know he does me and I know the gentleman offers this amendment in good faith. Possibly at the proper time it would be a good idea. But if this is dead, it is just that simple. The whole thing will be out the window. Then you run ConRail on what they can get until next spring, they will run out about in March, and if they have an especially bad winter, then your whole part of the country will be left without transportation.

These are the facts.

This legislation is supported by the USRA, the Department of Defense, by the administration, and by OMB, and the amount of money was supported by all of them.

So I would hope the amendment is defeated.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. STAGGERS. I would be happy to yield to the gentleman from Connecticut.

Mr. MOFFETT. I think it is inaccurate for the gentleman to say that we will not have a bill because the gentleman knows that when we sat in the Speaker's office earlier today with Secretary Adams, that the Secretary agreed he would take whatever figure we come out with, and go to the Senate with that figure.

I understand the chairman of the full committee, the gentleman from West Virginia (Mr. STAGGERS) does not support this figure, nor does the gentleman from New York (Mr. ROONEY), but they will go with that figure. But there will be some risk, and I will take my chances over there if they do not, but that is the figure that everyone is embracing.

Mr. STAGGERS. I was informed that there is not a quorum in the Senate and it is an impossibility to pass this bill if this amendment prevails. It will affect your whole section of the country, the shippers, the consumers and everyone that uses rail services.

Mr. MOFFETT. I know and I am aware of having a continuing appropriation that is much less than the amount I am offering, $300 million. I am sure of that, but I will say to the gentleman that it will kill the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Connecticut (Mr. MOFFETT).

The question was taken; and on a division (demanded by Mr. MOFFETT) there were—ayes 29, noes 58.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. MURPHY OF NEW YORK

Mr. MURPHY of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURPHY of New York: Page 2, after line 6 insert the following and renumber the remaining paragraphs as appropriate.

"SEC. II, Section 3 of the Interstate Commerce Act (49 U.S.C. 3) is amended by adding at the end thereof the following new paragraph:

"(6)(a) It shall be the duty of any Class I common carrier by railroad which handles or controls more than 75 per centum of the rail freight traffic to and from a port to establish and maintain equal rates, charges, tariffs, and classifications to and from all points served by rail within such port, and to establish and maintain equal joint routes, rates, charges, tariffs, and classifications for all types of rail freight traffic with all connecting rail carriers to and from all points served by rail within the port. It shall be the duty of each such Class I common carrier by railroad establishing through routes to provide reasonable facilities for operating such routes and to make reasonable rules and regulations with respect to their operation and providing for reasonable compensation to those entitled thereto, and, in case of joint rates, charges, or tariffs, to establish just, reasonable, and equitable divisions thereof, which shall not unduly prefer or prejudice any participating carrier.

"(b) Any person who is injured in his business or property by reason of a violation of subdivision (a) of this paragraph may sue therefor in any district court of the United States in the district where the defendant resides or is found or has an agent, without regard to the amount in controversy, and shall recover threefold the damages by him sustained, and the cost of the suit, including a reasonable attorney's fee.

"(c) Notwithstanding the provisions of section 16 of the Clayton Act (15 U.S.C. 26), any person shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of subdivision (a) of this paragraph, when and under the same conditions and principles as injunctive relief against conduct or threatened conduct that will cause loss or damage is granted by courts of equity under the rules governing such proceedings. In any such action, a preliminary injunction may issue upon the execution of a proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate In any action under this subdivision in which the plaintiff substantially prevails, the court shall award the plaintiff the cost of suit, including a reasonable attorney's fee.

"(d) Nothing in this paragraph shall be construed to affect the authority and responsibility of the Commission to guarantee the equalization of rates within the same port, pursuant to section 202(f)(4) of the Railroad Revitalization and Regulatory Reform Act of 1976 or any other provision of law.".

Mr. MURPHY of New York (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Ms. MIKULSKI. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN (Mr. BROWN of California). The gentlewoman will state her point of order.

Ms. MIKULSKI. Mr. Chairman, I make a point of order against the bill on the grounds that the amendment is not germane because the amendment amends the Interstate Commerce Act and the Clayton Antitrust Act.

Mr. Chairman, the amendment in the nature of a substitute is basically an authorization; it authorizes USRA to purchase ConRail securities. The amendment offered by the gentleman from New York (Mr. MURPHY) not only amends these two statutes, but also makes new policy concerning intraport equalization. The bill is not a policy oriented bill dealing with the Interstate Commerce Act, but is rather essentially an authorization bill, by far, and I think it is not germane.

The CHAIRMAN. Does the gentleman from New York (Mr. MURPHY) desire to be heard on the point of order?

Mr. MURPHY of New York. I do, Mr. Chairman.

The CHAIRMAN. The gentleman will proceed.

Mr. MURPHY of New York. Mr. Chairman, this amendment was adopted by this House, passed into law, and incorporated in the 4R Act of 1976.

What this amendment does is just restate the fact of the matter because the Interstate Commerce Commission and, of course, ConRail itself have failed to implement the law.

Mr. Chairman, the amendment certainly is germane. It has already been part of this act, and it is a restatement of the original amendment of 3 years ago.

Mr. BAUMAN. Mr. Chairman, may I be heard on the point of order?

The CHAIRMAN. The Chair recognizes the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I point out that the substitute amendment to which the amendment is proposed amends the Regional Rail Reorganization Act. The amendment itself, however, amends the Interstate Commerce Act, an entirely different statute; and as has been pointed out by the gentlewoman from Maryland (Ms. MIKULSKI), the Clayton Act, which is not, I understand, under the jurisdiction of this committee, but under the jurisdiction of the Committee on the Judiciary, which is a test of germaneness.

Mr. Chairman, the entire thrust of the gentleman's amendment deals with the establishment and maintenance of rates, charges, and tariffs and their classifications and divisions, whereas the bill itself deals with nothing like that, but, rather, with the funding, debentures, and stocks and other related matters dealing with ConRail.

Therefore, Mr. Chairman, the amend-

ment offered by the gentleman from New York (Mr. MURPHY) is not germane.

The CHAIRMAN. The Chair is prepared to rule.

The gentlewoman from Maryland (Ms. MIKULSKI) makes a point of order that the amendment offered by the gentleman from New York (Mr. MURPHY) is not germane to the amendment in the nature of a substitute in that the Rooney amendment in the nature of substitute amends the Regional Rail Transportation Act and provides for financial assistance to railroads in the ConRail system, while the amendment offered thereto amends the Interstate Commerce Act and also provides changes in the Clayton Act which deal with the issue of antitrust matters and railroad rates applicable not only to ConRail but to other rail systems.

The Chair, therefore, sustains the point of order.

Mr. MOFFETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, if I might for one moment engage the distinguished subcommittee chairman, the gentleman from Pennsylvania (Mr. ROONEY), in a colloquy, I would like to speak very briefly about the supplemental transfers under section 305.

Mr. Chairman, I had planned to offer an amendment which would have altered the procedure under section 305. I now understand, because of a conversation between the gentleman from Pennsylvania (Mr. ROONEY) and the Secretary of Transportation, that that will not be necessary; is that correct?

Mr. ROONEY. If the gentleman will yield, Mr. Chairman, that is correct.

I might say that Secretary Adams indicated to me that the Department of Transportation will consider the merits of any supplemental transfer proposal and will act on those proposals which have merit.

He indicated that to me today in the gentleman's presence. This section of the 3R Act will be used to effect changes in the configuration of the ConRail system where such changes are necessary.

Again, the Secretary assured me today that the Department will consider any proposal for a supplemental transfer.

Mr. MOFFETT. I thank the chairman.

I imagine I can assume that when the State of Connecticut or the State of New Jersey, for example, presents a proposal for a supplemental transfer to the Department of Transportation, it will be looked at on its merits and that if the proposal is a sound one and presents a need for a rail transportation system in a particular State, such as New Jersey, or Connecticut, it will be acted on; is that correct?

Mr. ROONEY. That is correct. The Secretary has assured me that the Department will look at the merits of all proposals for supplemental transfers.

Mr. MOFFETT. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. Are there any further amendments to the amendment in the nature of a substitute? If not, the question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. ROONEY).

The amendment in the nature of a substitute was agreed to.

● Mr. STAGGERS. Mr. Chairman, this bill authorizes additional appropriations of $1.2 billion to the U.S. Railway Association for purchase of series A preferred stock of ConRail.

As Members of Congress recall, when the giant Penn Central and other railroads in the Northeast region plunged into bankruptcy, it became apparent that the region was in danger of losing critically important rail transportation services. Responding to this crisis, the Congress created ConRail as a private, for-profit corporation with the mission of restoring adequate rail services in the region at the lowest cost to the general taxpayer. The rail properties of certain of the bankrupt railroads were conveyed to ConRail on April 1, 1976, and ConRail set about its unprecedented task. The blueprint for the rehabilitation of rail properties and the restoration of adequate rail services in the Northeast region was the final system plan, prepared by USRA. The Federal Government provided $2.1 billion of financing for ConRail, to be transferred to ConRail by USRA in payment for ConRail debentures and stock.

ConRail, of course, has had considerable difficulty in pursuing the goals set forth in the final system plan for numerous reasons. Not the least of these is the fact that final system plan itself, although extremely detailed and comprehensive, appears to have substantially overestimated the strength of the traffic base in the Northeast region and its ability to produce rail freight revenues. Moreover, the FSP appears to have seriously underestimated the extremely dilapidated condition of the locomotive and freight car fleet ConRail inherited from its predecessor railroads.

In addition, other unforeseeable setbacks such as the past two extremely harsh winters, the Johnstown flood, which wiped out part of ConRail's Pennsylvania mail line, a coal strike of unprecedented duration, and ore and dock strikes have plagued ConRail's first 2 years. This is not to imply that some fault does not rest with ConRail management. Certainly, management must improve its efforts to make ConRail a more efficient operation. In this respect, I am pleased to note that management and labor have recently concluded an agreement on freight train crews which should result in significant savings.

As I have mentioned, a number of factors have combined to make ConRail's job more difficult and impede what had been assumed would be uninterrupted progress toward the statutory goals. Thus ConRail, with the support of the administration, has requested an additional $1.2 billion of Federal financial assistance to enable it to pursue the statutory mandate with adequate funding in a vigorous manner.

In supporting this bill, I would like to emphasize two critical points. First, the Congress created ConRail as a private, for-profit corporation because we firmly believed that a private sector railroad operating under the profit motive could accomplish the job of rebuilding the northeast railroads and providing essential rail services at the cheapest cost to the taxpayer. In other words, when it created ConRail, the Congress was convinced that ConRail was the cheapest way to get the job done.

We are all too familiar with examples of cost escalations when the Government itself attempts to perform a job which could be done more efficiently by private industry. To the extent ConRail is perceived as and treated as a Government agency or a quasi-governmental corporation, the statutory goals is made more difficult. ConRail already suffers from a serious identity problem in this respect and is attempting to clarify its image and status in the minds of both the public and Congress.

I think it is also worthy of emphasis that this bill is not to be considered a precedent for an annual or periodic bailout of ConRail through a congressional authorization of funds. It represents an infusion of funds to ConRail to give it a chance to overcome problems it has encountered which were not and in some case could not have been built into the final system plan. ConRail has stated, and the Secretary of Transportation has agreed, that if progress is not made under the present statutory scheme, serious consideration will have to be given to alternatives to that scheme.

At this time, however, reexamination of the concepts underlying the establishment of ConRail is premature. The ConRail concept has not been proved a failure, on the contrary, ConRail is making significant progress on some fronts and some shippers report that service is, indeed, improving. If substantial progress is not made within the increased authorization ceiling, a reexamination of the ConRail concept would be appropriate. However, at this time such a reexamination would be wholly inappropriate, demonstrating to the public that the Federal commitment to ConRail is less than firm and impairing ConRail's ability to obtain private sector equipment financing. That financing is vital to its service-oriented plan to recapture freight traffic and generate additional revenues.

For these reasons I urge passage of the bill.●

● Mr. GILMAN. Mr. Chairman, I am supportive of this legislation, and wish to thank the members of the subcommittee especially the distinguished chairman, the gentleman from Pennsylvania (Mr. ROONEY), and the ranking minority member of the subcommittee, the gentleman from Kansas (Mr. SKUBITZ), for the diligent time they devoted to this legislation. It is a tragic shame that a so-called public corporation, which at the time of its establishment promised to return a profit by the end of 1979, now has to come hat in hand to Congress for $1.2 billion to bail them out of their ever-increasing deficits. However, as my distinguished colleague and fellow New Yorker (Mr. CONABLE) remarked on Wednesday, we currently do not have "something other than ConRail," and until we do, ConRail should have "a reasonable opportunity to show what it can do."

However, I cannot accept the objective of this legislation, to bail out ConRail one more time, unless we receive some

type of reasonable assurances that ConRail will cease once and for all to be a private country club, whose chief executive officers receive salaries in excess of that of the President of the United States, and who remain unresponsive not only to the public they are supposed to be serving, to the taxpayers who foot the bill for them, but even to the legislation which created them.

I am referring of course, Mr. Chairman to ConRail's continual desire to refuse to repair and reopen the Poughkeepsie rail bridge, despite the fact that this vital rail link was clearly spelled out in the final rail systems plan as an important rail line which was supposed to have been opened and maintained by ConRail. The fact that ConRail has arrogantly flung the rail systems plan into the face of Congress and has thus cut off southern New England, southeastern New York, and liberal swaths of the Atlantic Seaboard from efficient rail service is an arrogant abuse of power and a defiance of the laws of the land which we can not allow to go unchallenged.

With this in mind, Mr. Chairman, I am introducing an amendment which would mandate ConRail to rebuild the Poughkeepsie rail bridge, and would authorize an additional $9 million in security sales to grant them the funds to do so, and to bring the traffic on the lines up to reasonable levels. This amendment, under the sterling sponsorship of the distinguished senior Senator from the great State of Connecticut (Mr. RIBICOFF) is included in the Senate bill passed on August 1.

Accordingly, I was delighted by the passage of the motion by our distinguished colleague from Pennsylvania (Mr. ROONEY) which, by incorporating the Senate legislation, has not only precluded the need for a House-Senate conference, but has passed the Poughkeepsie rail bridge mandate on to the President for his signature.

Mr. Chairman, I am fully aware that ConRail has alleged that legislation is not the proper avenue to decide "day to day" operational decisions. I agree. However, the repair of the bridge, closed by fire since May 1974, is by no stretch of the imagination a "day-to-day" operational decision. It was a sound legislative mandate which was a part of the USRA final rail systems plan. ConRail's continued refusal to repair this bridge is an unbelievable display of arrogance. If Congress fails to act to correct this brazen defiance of the mandate approved by Congress when ConRail was established, it would set a dangerous precedent by which any public corporation chartered by Congress and funded by the taxpayers can fling its mandate to the wind. The American public can then kiss any oversight over its tax dollars goodby.

Congress has been told by ConRail that the repair of this bridge is not cost effective. In reality, studies by the Tri-State Regional Planning Commission, the federally financed planning agency for the region, estimates a return on investment of 11.4 to 22.3 percent.

ConRail has further charged that repair of the bridge will set a dangerous precedent, which supposedly would embolden our colleagues to introduce a rash of legislation requiring ConRail to repair an infinite number of bridges and tunnels across the Nation. This is demagogic poppycock, and ConRail knows it. I have asked ConRail, and will now ask again, to name any other rail link mandated in the final systems plan which ConRail refuses to repair, or for that matter, a rail link which in effect saws southern New England, southern New York State, Metropolitan New York City, and much of the rest of the Atlantic Seaboard as far as efficient rail freight service is concerned, off of the continent and floats this area to the midocean. If ConRail, or any Member, can name a parallel situation, I will gladly support legislation to force ConRail into line in those circumstances too. I do not believe that there is any other instance, however * * * I believe that the Poughkeepsie rail bridge is a unique situation which ConRail has created as symbol of their own arrogance.

Mr. Chairman, ConRail's allegations to the contrary, this bridge is the major gateway for the Northeast corridor. Only one bridge spans the Hudson at the current time. This is at Selkirk, 150 miles north of New York City. The hazards of having only one bridge across the Hudson are self-evident. In the event of national emergency or sabotage, this foolish policy of ConRail can end in calamity.

The Selkirk rail yards, described by ConRail as "an efficient yard," has "dwell times" which average 21 hours. We thus have the phenomenon of Washington to Boston service taking longer than Chicago to Boston service.

Mr. Chairman, we have done our best under the set criteria to convince Conrail to act. For the last 4½ years, we have followed the procedures which supposedly are the norm. When this line was formally proposed for abandonment, we submitted for the public record 400 pages of testimony taken at our ad hoc hearings in August 1977, and even more pages of evidence submitted by constituents and planning agencies. ConRail would not even accept this material, ignoring our entreaties, scoffing at our evidence, and mocking the pages upon pages of evidence we attempted to submit.

ConRail has continually misrepresented the facts and has, quite frankly, misled Members of this august Chamber.

Mr. Chairman, we will be ignored no more.

We will be scoffed at no more.

We will be mocked no more.

We will be misrepresented and misled by this arrogant agency no more.

Mr. Chairman, the passage of the Poughkeepsie rail bridge amendment is vital not only to rail transportation in the Northeast, but as a symbol that we are responsive to the taxpayers of this Nation, and expect the agencies we fund to do likewise.

This proposal has been endorsed by the Governors of Connecticut and New Jersey, by the departments of transportation of Pennsylvania, New York, and Connecticut, by the Northeast-Midwest Economic Coalition, comprised of our colleagues from 16 States, by the Tri-State Regional Planning Commission, by a myriad of planning agencies and chambers of commerce from throughout the stricken region.

Mr. Chairman, just this afternoon we members of the New York delegation received a memorandum from the New York State office, supporting this measure, and stating that—

> This bridge which sustained serious structural damage from a 1974 fire is owned by Conrail and has been allowed to deteriorate to the point where it has become a major safety hazard in the Mid-Hudson valley area.

The approval of this proposal is vital to the rail freight needs of the Northeast.

Mr. Chairman, I request unanimous consent at this time to have inserted into the RECORD a statement I have just received from Mr. Richard C. Carpenter, executive director of the Southwestern Regional Planning Agency of Rowayton, Conn., which has closely followed this issue. The statement is in response to the position paper which ConRail recently delivered to the House regarding the Poughkeepsie bridge amendment:

STATEMENT BY RICHARD C. CARPENTER

This is our response to ConRail's one page statement entitled "Poughkeepsie Bridge Amendment" which was delivered by hand to all Congressmen.

1. ConRail says the bridge was severely damaged. Our reply is to dispute the term severely, in light of the cost estimates that have grown in size, because the Penn Central report of the operational events of May 8, 1974, includes the following estimates of damages, made by railroad staff immediately after the fire:

Signal and communications damages	$4,400
Track damage (1,200 feet)	30,000
Bridge and building damage	163,000
Total	197,400

At the end of the report, it was further estimated that the bridge would be out of service for "approximately 90 days."

2. ConRail says that prior to the fire, the bridge was used by one train per day in each direction.

Our reply is to note that Penn Central had been deliberately reducing service prior to the fire (including the removal of the bridge watchman and a failure to repair the fire fighting water supply for the bridge!). At the same time, service on the fast, level tracks of the Northeast Corridor was shifted to the hilly grades of the Boston to Albany line, and the New York Harbor carfloats were closed.

It is interesting to note that one year before the Penn Central merger, the Poughkeepsie Bridge carried 31 percent of all New England rail freight, and when combined with the harbor floats, the total rose to 48.9 percent!

Meanwhile, the Selkirk route was carrying only 18 percent of New England's rail freight. We further say that since the merger, most of the lost freight has shifted to our highways due to railroad delays and circuity.

3. ConRail admits that the Final System Plan called for the restoration of the Poughkeepsie Bridge, but under three conditions, which they maintain have not been met.

The conditions are:

(a) if insurance proceeds and state funding commitments provided the money.

Our reply: the total of the insurance, New York State Department of Transportation, and Connecticut Department of Transportation funds were sufficient and were available, but were not used.

Those funds totaled nearly $1.3 million and would have repaired the fire damage.

(b) if rail freight traffic was eliminated from the Northeast Corridor route.

Our reply: this condition has been met, because under Penn Central (and continued by Conrail) not a single through freight train operates on the Northeast Corridor between New York and Boston—this amounts to over ½ of the corridor, or 230 miles.

(c) if a competitor to Conrail could be convinced to operate the line.

Our reply is that we find no such provision in the Final System Plan. Had Chessie taken over the Erie-Lackawanna, it would have operated to New Jersey. The bridge was clearly shown as part of the Conrail system—and it was assigned a relatively high rehabilitation priority as part of that system.

To sum up, we find none of these conditions stated in the Final System Plan. But, two of them were in fact fulfilled!

4. Conrail says the 1976 U.S.R.A. Bridge study placed the cost of restoration of the bridge alone at $3.8 million and the cost of upgrading the bridge route at $6.8 million, and concluded that there would be both an insufficient return on investment and a net detriment to service measured in car days.

Our reply is to refer to the report where it says:

Bridge repair fire damage (maximum estimate)	$1,705,000
Bridge rehabilitation	2,140,000
Total	3,845,000

Then if we do not include the cost of improvements, which while benefiting one bridge route might well be done even if the bridge is not restored, the cost of upgrading the route is: $525,000. For a total cost of: $4,370,000.

Tri-State found a return on investment of 11% to 22%, depending on the route.

5. Conrail says that in only one comparison of mileage between major gateways is the bridge a shorter route (i.e., Washington to New Haven).

Our reply is that mileage is shorter not only for New Haven but for Bridgeport, Brockton, Hartford, Middletown, New Bedford, New Haven, New London, Providence, Hicksville, and certainly New York City!

Incidentally, the figures for the bridge route from New York to Washington given by Conrail are incorrect—it is not 491 but 465 miles. (Data from "Selkirk Hurdle" report for NERCOM.)

More important, mileage alone is not the detriment, it is the grades which can slow freight trains to a crawl. Such grades exist on the Selkirk Route—to a greater extent than via the bridge—plus the Northeast Corridor can be used for some 170 miles between Devon and Boston by trains that use the Bridge route.

As you know, the Northeast Corridor will be the fastest route in the east in 1980!

6. Conrail says the bridge route is not required for national security.

Our reply is that the original 1976 Classification and Designation Report did show the Bridge route as a "Class B Mainline." We disagree with the conclusion that New York City, Long Island, and Southern New England should be dependent on two bridges no closer than 135 miles upstream from New York City. Most of our military bases are in the south, and so movements to and from New England would tend to use the Poughkeepsie Rail Bridge.

Conclusion: The Poughkeepsie Bridge route is part of a shorter, faster all rail route that will enable Conrail to compete with trucks in the Northeast Corridor. The 1978 issue of Railway Line Clearances shows a clearance of at least 16 feet from Washington, D.C. to Boston via the Bridge and the Northeast Corridor, enough for a 13 foot 6 inch trailer on an LTTX flat car.

Mr. Chairman, I also am including the following excerpts from some of the many communications which I have received in support of the Poughkeepsie rail bridge amendment into the RECORD:

EXCERPTS

Northeast-Midwest Economic Advancement Coalition: "From an environmental perspective, from a job creating perspective, from a cost savings perspective and from a regional perspective, the Gilman amendment warrants your support. We simply can no longer afford to allow our infrastructural needs—on which our economy depends—to atrophy."

Hon. Ella Grasso, Governor, State of Connecticut: "The importance of the Poughkeepsie rail bridge to the economic growth and development of the State of Connecticut cannot be underestimated."

Hon. Brendan Byrne, Governor, State of New Jersey: Has also expressed his support.

E. L. Tennyson, Deputy Secretary, Department of Transportation, Commonwealth of Pennsylvania: "My studies have shown that Conrail will save $3 million per year by effective use of the Poughkeepsie bridge and shippers will save transit time, or money if they shift to rail service, once a direct route is provided . . . direct trains can then be operated between Allentown, Pennsylvania and New Haven, Connecticut, cutting over 100 miles off the circuitous and delayed route now being followed through Selkirk. The saving in car time, fuel, wear and tear, and mileage is essential to a useful and viable rail system. . . . Passage of the Poughkeepsie bridge amendment is essential and urgent."

William C. Hennessy, Commissioner, New York State Dept. of Trans.: ". . . since the May 1974 fire, New York State has taken a strong lead in actions that would lead to restoration of service over the Poughkeepsie Bridge . . . The April of 1976 Final System Plan included the bridge route as part of the overall unified Conrail System . . . in fact, we had concluded a tentative agreement with the State of Connecticut where they, the State of New York and Conrail, would share in the cost of rehabilitation. Conrail refused to accept this agreement.

I certainly favor the responsible use of the Poughkeepsie Bridge to improve rail service in the Northeast . . ."

Tri-State Regional Planning Commission: "The Tri-State Regional Planning Commission, the Federally designated Metropolitan Planning Agency for the Tri-State region, hearby expresses its support for a full Federal financial assistance to Conrail to complete implementation of the Final System Plan, including the restoring of the Poughkeepsie Bridge Rail Freight route to service . . .

"Abandonment or curtailment of Conrail's program would cost the region and the Nation more than the anticipated public cost of full implementation of the Final System Plan . . ."

Hon. Howard T. Owens Jr., Chairman, Connecticut State Senate Committee on Transportation, and Hon. Thom Serrani, Chairman, General Assembly Subcommittee on Public Transportation: "The geography of the Northeast is such that Southern New England cannot rely on the service presently routed through the Selkirk yard in Northern New York if future growth and expansion of our rail system is considered. To allow the Poughkeepsie Bridge to deteriorate to the point where the only alternative is demolition merely forestalls the inevitability of future expenditures of a much larger nature."

William J. Wood, Executive Director, Eastern Orange County (N.Y.) Chamber of Commerce: "The Poughkeepsie Bridge is the only rail crossing over the Hudson River south of Albany, New York. The repair of the bridge is absolutely essential to maintain and develop a stronger economical base for the entire Mid-Hudson region. Loss of business as a result of the closing of the bridge is well documented . . ."

Hon. John T. Kennedy, Mayor, City of Poughkeepsie: "The Citizens of Poughkeepsie urgently request prompt action and approval by the House . . . in order to insure the repair of the Poughkeepsie Rail Road Bridge . . .

The structure is deteriorating rapidly and is, literally, falling apart above us endangering lives and property . . ."

South Western Regional Planning Agency, Rowayton, Conn.: "The real issue here is not just the repair of one bridge and some track, but whether the Northeastern Seaboard of the United States will have a fast, overnight (13–14 hours) rail freight service, or whether we shall continue to have to be content with the slow and uncompetitive 63 hour third morning delivery presently provided by Conrail.

Conrail says that if Congress passes the Gilman Amendment, it will constitute an interference with a "private management decision," and that further funding requests for other projects will result.

We totally disagree.

First, restoration of the bridge is part of the 1975 Final System Plan, as part of the Conrail system. The Plan might be characterized as the official public management plan for Conrail. Surely this is a unique case, and Congress easily can attach guidelines for future appropriations, if any are requested.

. . . For some strange and unknown reason, Conrail refuses to provide fast freight service in a north-south direction. Incredibly, it takes Conrail as long (if not longer) to go from Boston to Washington as it does for them to go from Boston to Chicago and St. Louis. Simply put, on the Northeast Seaboard, it takes Conrail twice as long to go half as far."

Eastern Connecticut Development Council, Inc.: "The restoration of the Poughkeepsie Bridge will allow the development of an east-west rail line through Connecticut. It is our position that such service will provide rail competition within the State that will result in improved service throughout the State . . . The issue is jobs."

P. T. Rasmussen, President, Middletown and New Jersey Railway: "Imperative you do all in your power to bring about the repair and reopening of the Poughkeepsie Bridge rail route between Maybrook and New England points. Heavy volume highway freight traffic through this area to and from New England endangers life and health of traveling public."

James Spangler, Personnel Manager, Reynolds Metals, Middletown, N.Y.: "We are urging the reconstruction of the Poughkeepsie Railroad bridge in order to expidite the rail service in our area which is at the present time very slow."

United Transportation Union: "The United Transportation Union is supporting your amendment for the restoration of the Poughkeepsie Bridge . . ."

John E. Mahoney, Director Public Transportation Division, Tri-State Regional Planning Commission: (In his response to the U.S.R.A. study on the bridge): "USRA rather abruptly concluded this project . . . You will find the USRA report negative in tenor and conclusions. However on further review and analysis I believe you will agree that the results of the network runs are distinctly favorable to the bridge route and that the USRA conclusions are in error . . ."

William T. Westcott, Executive Vice President, Orange County (N.Y.) Chamber of Commerce: "Rerouting of freight to and from New England through the former Penn Central yard at Selkirk has caused delay and ultimate loss of business and revenue for ConRail from Orange County shippers . . ."

Connecticut Business and Industry Association, Hartford, Conn.: "CBIA represents over 3,000 companies which employ over 600,000 men and women in the state . . . The reconstruction of the bridge would help al-

leviate existing inefficiencies and provide more reliable service . . ."●

● Mr. STAGGERS. Mr. Chairman, I rise in support of the amendment in the nature of a substitute offered by the chairman of the subcommittee, the distinguished gentleman from Pennsylvania. As he explained, the substitute is identical to the provisions of a bill already passed by the other body.

I would like to emphasize that it is absolutely essential that no further amendments to the bill be adopted if we are to have a ConRail authorization bill during the 95th Congress. Since both Houses of Congress are scheduled to adjourn very shortly, it will be impossible to schedule a conference with the other body, reconcile our differences, and file a conference report. Thus, to reiterate, adoption of further amendments will be fatal to the entire bill.

As Members are aware, the principal purpose of this bill is to authorize an additional $1.2 billion to the U.S. Railway Association for purchase of additional series A preferred stock of ConRail. This funding measure is vital to ConRail's chances for viability as a for-profit corporation in the private sector. In this regard, it is noteworthy that the total Federal investment in ConRail, including the $1.2 billion authorized in this bill, represents only a fraction of the total funds ConRail will spend from the inception of operations in April of 1976 through 1983 in pursuit of its statutory mission to restore adequate rail services in the Northeast region at the lowest possible cost to the general taxpayer. The remainder of those funds, approximately $30 billion, are expected to be generated primarily from operations and from private sector equipment financing. If we fail to authorize funds for ConRail, we will undermine public confidence in the Federal commitment to the ConRail concept and jeopardize ConRail's prospects for viability. In particular, failure to authorize the funds provided in this bill might impair ConRail's ability to obtain projected private sector financing that is vital to its service-oriented plan to attract more traffic and increased freight revenues.

The authorization in the bill is supported by the administration and by the U.S. Railway Association, which monitors ConRail's operations and acts as its banker for the Federal Government. It was recommended by the Committee on Interstate and Foreign Commerce. Therefore, I urge passage of the bill.

Mr. Chairman, I also oppose the adoption of any amendments. As I have stated previously, adoption of any amendments to the amendment in the nature of a substitute will foreclose the possibility of a ConRail authorization during the 95th Congress.

Additionally, I strongly oppose the amendment on other grounds. The $1.2 billion authorization has been recommended by the Committee on Interstate and Foreign Commerce after careful scrutiny of ConRail's financial posture. This funding level is supported by the administration and the U.S. Railway Association, ConRail's watchdog and banker. This authorization level is predicated on the amount projected as necessary in ConRail's 5-year business plan to enable the corporation to attain viability by 1982. While everyone recognizes that this represents a most optimistic projection based on a number of favorable assumptions, to authorize more funds would be to create a self-fulfilling prophecy of doom.

Reducing the $1.2 billion authorization level would be even more disastrous, demonstrating to the public that the Federal commitment to the ConRail concept is less than firm. A reduction would have the effect of drying up the private sector financing market for ConRail. ConRail has already obtained millions of dollars of such financing. It plans to seek an additional $1 billion from private sources. These funds would be spent to acquire additional locomotives and freight cars. The equipment fleet ConRail inherited from its predecessor bankrupt railroads was in far worse condition than projected in the final system plan. Acquisition of new serviceable equipment is vital to ConRail's service-oriented plan designed to attract more freight business and revenues. Achievement of this goal is paramount in ConRail's pursuit of financial viability.

To inject uncertainty into ConRail's financial situation at this time would impair its entire profitability drive, destroy a rational planning effort and place ConRail under the specter of crisis management. Communities and shippers would be forced to examine other transportation alternatives and opportunities for development of new business would undoubtedly be foreclosed.

I strongly urge the defeat of this debilitating amendment.●

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BROWN of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 12161) to amend the Regional Rail Reorganization Act of 1973 to authorize additional appropriations to the U.S. Railway Association for purposes of purchasing securities of the Consolidated Rail Corporation, pursuant to House Resolution 1365, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

Mr. ROONEY. Mr. Speaker, pursuant to the provisions of House Resolution 1365, I call up from the Speaker's table for immediate consideration the Senate bill (S. 2788) to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes.

The Clerk read the title of the Senate bill.

The Senate bill was ordered to be read the third time, was read the third time and passed.

A motion to reconsider was laid on the table.

A similar House bill, H.R. 12161, was laid on the table.

GENERAL LEAVE

Mr. ROONEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

CONFERENCE REPORT ON H.R. 9937, THE BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

Mr. ST GERMAIN. Mr. Speaker, I call up the conference report on the bill (H.R. 9937), an act to amend the Bank Holding Company Act Amendments of 1970.

The SPEAKER. Pursuant to the rule, the statement of the managers is considered as read.

The Clerk read the title of the bill.

(For conference report and statement, see proceedings of the House of October 13, 1978.)

The SPEAKER. The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 30 minutes, and the gentleman from New York (Mr. GREEN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. Mr. Speaker, I will be very brief.

The legislation before us that the conferees accepted from the Senate is the textile import amendment with over 200 cosponsors on the House side.

This amendment amends section 127 (b) of the Trade Act of 1974 (19 U.S.C. 2137) to prohibit the reduction or elimination in trade negotiations of duties or import restrictions on certain imported textiles and textile products. I feel immediate action is imperative to protect the textile and apparel industries from the growing onslaught of imports.

The textile industry employs nearly 1 million people. Another million and a quarter Americans work in apparel manufacturing. When all allied industries are included—manmade fiber, raw cotton, and wool production, transportation, machinery, and chemical manufacturing—nearly 3 million people rely on the fiber, textile, and apparel industries for employment.

The administration responded that the purpose of the tariff reductions are to increase competition and lower consumer prices. However, a recent Library of Congress study has shown that markups on import goods appear to be higher than on domestic products. In other words,

the consumer does not necessarily get a lower price, because of increased competition.

I urge that my colleagues join me in supporting this amendment to stem the loss of American textile and apparel jobs to imports, while giving no benefit to the American consumer.

We must have a textile and apparel trade policy that works to reduce the trade deficit and strengthen the U.S. dollar. We should adopt this amendment today.

Mr. Speaker, I reserve the remainder of my time.

Mr. NEAL. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from North Carolina.

Mr. NEAL. Mr. Speaker, I rise in strong support of this conference report. By its passage we will send a forceful message to our Special Trade Representative, Ambassador Strauss, that textiles and apparel products, and those who work in these industries, should not be used as "bargaining chips" as he negotiates a new round of international trade agreements at the Tokyo round of GATT, now underway in Geneva. Please note, Mr. Speaker that we are not asking here for an increase in tariffs. We are only asking that there be no reduction.

Mr. Speaker, if any American product deserves to be taken off the negotiating table at Geneva, it is textiles. This industry, which employs nearly 2.5 million American workers, is particularly vulnerable to import competition.

Over the years this country has been overly generous, I think, in our trade policies that have permitted these textile imports to penetrate the American market significantly. We certainly want an open world trading system. But there comes a time when we must see that our own interests receive fair consideration from others participating in the system. And there is strong evidence that textiles should not be required to sacrifice any further in the tariff-cutting agreements at Geneva.

An estimated 400,000 textile jobs in the United States have been eliminated by import competition over the past decade. Textile and apparel imports are now rising so rapidly that, at present rate, may exceed 50 percent of the U.S. market by 1981. Our textile and apparel trade deficit during 1977 was $3.4 billion; during 1978 it may be as much as $4.4 billion. And all this has happened without the tariff cuts contemplated by the administration.

Mr. Speaker, I am not a protectionist. As I said, I believe in an open and free world trading system and do not want to endanger that system. But Mr. Speaker, our STR must come back to the Congress for ratification of any agreement he reaches in Geneva and it would be a disaster if he did not take seriously the concerns of Congress for our textile industry. If he bargains away the jobs and futures of our textile workers, he runs the grave risk of Congress rejecting the entire GATT agreement. That would be incredibly disruptive to the open and free world trading system which we have worked so hard to create and which has been so beneficial to our country and the rest of the world.

Mr. Speaker, the measure concerning textiles we have before us has passed the Senate by a margin of 48 to 13 and we have approximately 220 cosponsors on an identical measure in the House. I am a cosponsor of the House bill and worked with my colleagues from South Carolina and Georgia and others through much of last night, to bring this measure before us now.

Mr. Speaker, I believe that passage of this conference report will send a strong message to our STR, a message which, if taken seriously, will result in a GATT agreement which can be supported by the Congress. I urge the adoption of this conference report.

Mr. HOLLAND. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from South Carolina.

Mr. HOLLAND. I thank the gentleman for yielding and for his efforts on this bill. We all thank him from the bottom of our hearts.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks on this legislation.

The SPEAKER. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

Mr. DAN DANIEL. Mr. Speaker, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Speaker, I rise in support of the legislation which has the endorsement of labor and management. Just last week, on October 12, Robert S. Small, an outstanding leader in the business community, was interviewed by the Washington Star. At that time he stated in an articulate and persuasive manner the need for action as regards the matter before us.

I am sure that most of you have had an opportunity to read his remarks, which state the case much better than I can. I ask that the text of the review be printed in the RECORD at this point.

TEXTILE OFFICIAL PLEADS FOR "FAIR COMPETITION"

(By Thomas Love)

Robert S. Small's position on the need for protection of the American textile industry from foreign competition reflects the views expressed by other executives seeking government help—his industry is somehow different.

And, like steel and copper executives, Small is adamant that he's not against free trade. He just wants what he calls "fair" competition in trade—a situation now lacking in the international textile market, he claims.

Small is not only chairman of Dan River Inc., a major textile producer, but president of the American Textile Manufacturers Institute, the industry's trade association.

Underscoring the industry's push for governmental help, the association recently closed its offices in New York and Charlotte and consolidated its operations here in Washington.

Small doesn't see the problems of his industry as basically different from those facing other industries under what he sees as a greatly anti-business climate in this country.

And, he claims, the Carter administration has backed off from promises to do something about the import situation.

"Our problems are not any different really from the problems generally throughout United States industry," he said. "I think all of the industry problems in the last 10 years have magnified through the governmental process."

He called the textile industry—both cloth manufacturing and clothing production—"the invisible industry. Our industry employs some 2.3 million to 2.4 million. That's one out of every eight industrial jobs in the United States," he said.

Moreover, some 380,000 workers are unemployed or on short time—largely due to growing imports, he charged.

Among the industry's employees are 65 percent women and 24 percent minorities, he added. "We are a tremendous employer of people who are not mobile in the sense they cannot be picked up and moved from one section of the country to another.

"We operate in 50 states. We operate in the urban problem areas of 7th Avenue in New York, yet we are the only industry in small towns throughout the South, Southeast, Maine, New Hampshire, and Massachusetts—even places like Oregon, Chicago, Atlanta, Philadelphia and New York still have a big textile industry that employs the would-be hard-core unemployed."

But "well over 60 percent—65 percent or more" of the industry is in the South," he said. "I'm talking about the Sunbelt states," he explained.

"We have a tremendous import problem. protective industry, which we are not. We don't claim to be. The fact remains you can't be a protectionist industry when you're running a deficit in balance of trade of $5 billion a year. And one of our greatest problems in the United States today is inflation and one of the greatest contributors to inflation and the cheap dollar is this terrible balance-of-trade deficit which has been running about three years and getting worse every year," Small said.

"At first, it was largely due to oil, but today, next to oil, the largest single deficit is in textiles," he continued. "We understand we must accept the import of a certain amount of textile goods and products. But what we can't accept is unrestrained, uncontrolled, disorderly imports. If we knew we were going to have a 5 percent or a 3 percent or a 6 percent increase each year, we could live with it. But during the first seven months of this year, imports increased on a dollar basis by 40 percent and on a pound basis by 27 percent," he said.

"We cannot live that way. No industry can live that way," he added.

There are international agreements to control imports—both a general agreement and individual bilateral agreements with major trading partners—but they are not working, Small said.

Although foreign products are cheaper, that savings is not passed on to consumers, he charged. Rather, the savings goes to increased profits for distributors.

The major problem of the United States textile industry comes from what he calls "the Far Eastern Cartel" of Japan, Korea, Hong Kong and Taiwan. "This year," he said, "approximately $7 billion worth of textiles will be imported, while we will export approximately $2 billion worth. Those four countries bring in about 60 percent of our imports while they take next to nothing from us. They have many means, which we call non-tariff barriers, which prevent American goods from being shipped in, although we could do it competitively."

He explained, "Japanese wages are almost as high as ours and the yen has gone up in relationship to the dollar. It's perfectly ob-

vious the Japanese government is subsidizing the industry and we have a dumping problem (the illegal sale of goods in this country below the cost of manufacturing and transportation)," he said.

To solve the problem, there must be governmental action, according to Small. Either other countries must open up for American imports, or this country should block imports from those nations, he explained.

Not only has the Carter administration failed to show any interest, but the president has failed to do what he promised during his election campaign. Small charged.

For one thing, Small said, even with the existing trade imbalance, the government is proposing to reduce tariffs on imported textile goods.

"The present administration promised the textile industry they would renew the (general) Multi-Fiber Agreement which includes a 6 percent growth factor in imports for four years, which we said was unsatisfactory because it exceeded the growth rate of our industry.

"But they went on to say they would renew that—and they did renew that—but they would take care of the American industry through bilateral agreements. But the bilateral agreements which have been negotiated so far have varied from 4.5 percent to 7.5 percent, so we can't see where there has been any improvement. They have not taken care of us in the bilateral agreements.

"More proof of that has been this tremendous surge of imports during the past seven or eight months," Small charged.

Mr. GREEN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, the gentleman from Rhode Island has fully and adequately explained the measure, so I shall not bore the House with a further recitation of the facts on this bill.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in strong support of this measure. It is desperately needed by the apparel and needle trades, as well as the whole textile industry. The issue should be of concern to every Member of the House.

Mr. GREEN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I want to urge the favorable consideration of the Holland-Broyhill bill which would provide for the exemption of textile and apparel items from tariff reductions in the "Tokyo round" of the multilateral trade negotiations.

As you know, the textile/apparel/fiber industry is the largest manufacturing employer in the United States. The industry is in deep trouble today, primarily because of the tremendous increase in the number of imports which are coming into this country.

The United States should not allow any industry to be destroyed by unfair trade competition. We are all aware that production costs are much higher in this country, primarily because we pay our employees a much higher wage than is paid in most other countries. In addition, modern equipment designed to protect our employees and the environment adds to the cost of production in the United States. Therefore, the foreign countries can sell their goods at cheaper rates and this causes unfair competition.

This vital industry has lost over 350,000 job opportunities over the past decade and is currently losing jobs at the rate of at least 20,000 annually. U.S. Department of Labor statistics show that 201,600 textile and apparel workers were unemployed in the first 5 months of this year. In addition, 156,300 people were working only part-time in textiles and apparel because full-time employment was unavailable. This does not include the number of people who are looking for jobs in the industry.

Textile imports are at record levels. In 1977, they reached an all-time high of 2.6 billion square yards equivalent. On the basis of the performance in the first third of 1978, we are heading for a new record volume of imports of approximately 3.3 billion square yards equivalent. Stated another way, textile imports came into this country at an annual rate of nearly $7 billion while our textile exports declined by 11 percent.

I firmly believe that the rising volume of textile imports is a primary cause of inflation. Our overall trade deficit in the first quarter of this year was $12.2 billion while the textile-apparel trade deficit is now running at an annual rate of $4.4 billion. It increased by 94 percent in the first 4 months of 1978. It is estimated that the trade deficit adds between one-half and 1 percent to our domestic inflation rate. This increasing national trade deficit is a major factor behind the loss of confidence in the U.S. dollar.

Mr. Speaker, I could cite more statistics but I would like for us to look at the cost in human terms for a moment. In the small town of Cramerton in Gaston County in the 10th Congressional District of North Carolina, which I represent, Burlington Industries announced in January of this year that it would close its third plant in this town. Not only did this closing result in the loss of approximately 300 jobs, but it was the third mill closing in this one town in the past 3 years.

As we all know, many textile and apparel mills are located in rural towns. These towns depend on the industry for their livelihood. Many of the employees are not trained for other jobs and two-thirds are women and 19 percent are minorities. There are also large numbers of employees who are just a few years away from retirement. Frequently there are no other job opportunities in the community and because of their age, the unemployed persons do not wish to move. So what happens? They draw unemployment and could later turn to welfare, despite the fact that they do not want to depend on the Government for their livelihood. These are proud people who want to work and pay their own way

Mr. Speaker, in a time when dissatisfaction and disillusionment in Government continues to increase, it is difficult to explain to the employees in our textile plants across this great country why their Government permits them to lose their jobs at the expense of foreign countries. I emphasize that we are not seeking to end textile imports. We are only asking that they not be allowed to continue to increase. We seek a proper share of the marketplace. Our textile industry needs the incentive to expand and improve technologically. This incentive is certainly not present now. In fact, there are many reasons for the owners to close their plants and this is happening too frequently.

In conclusion, I urge in the strongest possible terms that the Congress act immediately to remove textiles and apparels from the negotiations currently underway in Geneva. We cannot afford to sit idly by while the major industry in this country is destroyed.

Mr. GREEN. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. STEIGER).

Mr. STEIGER. Mr. Speaker, I am fascinated by the complete and full explanation that has been given of this relatively modest effort.

I am also mindful, Mr. Speaker, of the deep-felt feelings in New England, in the southeast, in Wisconsin and in other parts of the country as it relates to textiles, but I would not want this House tonight at 5:35 p.m. to assume that as we are about to vote on a recorded vote on adopting the conference report that we should be unmindful of the implications of the Hollings-Holland-Broyhill amendment.

The gentleman from South Carolina said it is time for us to send a message. I must say in all honesty, I have not seen in my 12 years in this body as many messages being sent by those in support of this as they have been sending during the efforts to get this bill to this point. I cannot stop it.

I think we can vote on it and I think this country deserves, and I think those who support it, deserve to be recorded and those who oppose it deserve to be recorded; but the issue is whether or not to exclude textiles—exclude textiles as being import-sensitive from the Tokyo Round of negotiations at the very point at which we are coming to a conclusion on the Tokyo Round.

My judgment is that this is the wrong signal at the wrong time and ought not to be adopted; but I would not want anyone to underestimate, either downtown or in this body, the depth of feeling or my own concern about how we handle textiles and a lot of other things in the multilateral trade negotiations; but to exclude this block at this point, in my view, would not be correct.

Mr. ST GERMAIN. Mr. Speaker, I must say, this is not new. I have been here 18 years. Long before I got here this began.

I have nothing further to say. I am sure the gentleman has nothing in this bill but the Carson City dollar bill and the textile amendments.

Mrs. HECKLER. Mr. Speaker, I rise in support of H.R. 9937. This act amends existing law to exempt all textiles and textile products from any negotiations in the ongoing multinational trade talks which reduce tariffs on textiles and textile products.

Negotiations now going on in Geneva will reduce tariffs on textiles, and reduced textile tariffs will destroy the competitive viability of an already vulnerable domestic industry. Increased imports will cause unemployment and major disrup-

tions in the American textile industry which employs over 2.3 million workers.

Already textile imports are expected to reach $5.2 billion this year, up from $3.5 billion last year. As of July, textile imports were up 40 percent over last year.

We have all heard the administration's eloquent arguments that the multinational trade negotiations cannot be restricted or limited in any way. I feel compelled to speak to the plight of the American textile worker. I feel especially bound by duty and compassion to speak for the 14,000 textile workers in my district. They are hard-working, honest people who ask nothing of their Government but to keep their jobs and to work in dignity.

Much is said of giving our negotiators in Geneva unlimited rights to cut tariffs. But the real truth is this: Decreased tariffs for textiles will be paid for in unemployment and human suffering.

Yet, even the tariff negotiators have admitted that textile tariffs are not a crucial item on the list of tariff items in consideration in Geneva. I believe that the President is being unreasonable in refusing to allow a more compassionate treatment for textile workers. He is insensitive to the jobs and economic security of an industry that employs one out of eight American workers.

If you want to destroy the livelihood and economic future of thousands of my constituents, vote against this bill. If you want to send a clear message to the President that the American textile worker will not be sacrificed on the negotiating table in Geneva—then I urge you to vote for H.R. 9937.

Mr. ST GERMAIN. Mr. Speaker, I have no further requests for time and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. STEIGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 198, nays 29, not voting 203, as follows:

[Roll No. 941]

YEAS—198

Abdnor	Breaux	Conte
Akaka	Brinkley	Corman
Alexander	Brooks	Cornell
Anderson, Calif.	Brown, Calif.	Cornwell
	Broyhill	Cotter
Ashbrook	Buchanan	Coughlin
Barnard	Burke, Mass.	Daniel, Dan
Bauman	Burlison, Mo.	Daniel, R. W.
Beard, R.I.	Caputo	Danielson
Benjamin	Carr	Davis
Bevill	Carter	de la Garza
Biaggi	Cavanaugh	Dellums
Bingham	Chappell	Dent
Blanchard	Chisholm	Derrick
Blouin	Clausen, Don H.	Derwinski
Boggs		Dicks
Bonior	Cochran	Dodd
Bonker	Collins, Ill.	Duncan, Tenn.
Bowen	Collins, Tex.	Edgar
Edwards, Okla.	Lederer	Pritchard
Ertel	Lent	Rahall
Evans, Del.	Levitas	Robinson
Evans, Ga.	Livingston	Roe
Evans, Ind.	Lloyd, Tenn.	Roncalio
Fary	Long, La.	Rooney
Fish	Long, Md.	Rose
Flippo	McCormack	Rostenkowski
Flood	McDade	Roybal
Florio	McDonald	Runnels
Flowers	McHugh	Satterfield
Ford, Mich.	McKay	Sawyer
Fountain	McKinney	Sebelius
Fowler	Maguire	Sharp
Garcia	Mahon	Simon
Gaydos	Mann	Skelton
Gephardt	Markey	Skubitz
Gilman	Marks	Slack
Ginn	Martin	Spellman
Glickman	Mathis	St Germain
Gonzalez	Meyner	Staggers
Goodling	Michel	Stokes
Gore	Mikulski	Studds
Gudger	Miller, Ohio	Stump
Hansen	Mineta	Symms
Harkin	Mitchell, Md.	Taylor
Harris	Mitchell, N.Y.	Thornton
Harsha	Moakley	Treen
Hawkins	Moffett	Trible
Heckler	Montgomery	Tsongas
Hefner	Moore	Tucker
Heftel	Murphy, Ill.	Vander Jagt
Holland	Murphy, N.Y.	Vanik
Holtzman	Murphy, Pa.	Volkmer
Howard	Murtha	Waggonner
Hubbard	Myers, Michael	Walker
Huckaby	Natcher	Wampler
Hughes	Neal	Watkins
Jenkins	Nowak	Weiss
Johnson, Calif.	Oberstar	White
Jones, N.C.	Obey	Whitley
Jones, Tenn.	Ottinger	Whitten
Kastenmeier	Panetta	Wilson, Bob
Kazen	Patten	Wolff
Kelly	Patterson	Yates
Kildee	Pickle	Young, Tex.
Kindness	Preyer	Zablocki
Krebs	Price	

NAYS—29

Bafalis	Fisher	McCloskey
Bedell	Foley	Myers, Gary
Bellenson	Fraser	Pease
Bennett	Goldwater	Regula
Brademas	Grassley	Rousselot
Breckinridge	Green	Smith, Iowa
Brown, Ohio	Hamilton	Steers
Clawson, Del	Kostmayer	Steiger
Conable	Lagomarsino	Van Deerlin
Eckhardt	Leach	

NOT VOTING—203

Addabbo	Devine	Horton
Ambro	Dickinson	Hyde
Ammerman	Diggs	Ichord
Anderson, Ill.	Dingell	Ireland
Andrews, N.C.	Dornan	Jacobs
Andrews, N. Dak.	Downey	Jeffords
	Drinan	Jenrette
Annunzio	Duncan, Oreg.	Johnson, Colo.
Applegate	Early	Jones, Okla.
Archer	Edwards, Ala.	Jordan
Armstrong	Edwards, Calif.	Kasten
Ashley	Eilberg	Kemp
Aspin	Emery	Keys
AuCoin	English	Krueger
Badham	Erlenborn	LaFalce
Baldus	Evans, Colo.	Latta
Baucus	Fascell	Le Fante
Beard, Tenn.	Fenwick	Leggett
Boland	Findley	Lehman
Bolling	Fithian	Lloyd, Calif.
Brodhead	Flynt	Lott
Broomfield	Ford, Tenn.	Lujan
Brown, Mich.	Forsythe	Luken
Burgener	Frenzel	Lundine
Burke, Calif.	Frey	McClory
Burke, Fla.	Fuqua	McEwen
Burleson, Tex.	Gammage	McFall
Burton, John	Giaimo	Madigan
Burton, Phillip	Gibbons	Marlenee
Butler	Gradison	Marriott
Carney	Guyer	Mattox
Cederberg	Hagedorn	Mazzoli
Clay	Hall	Meeds
Cleveland	Hammer-schmidt	Mikva
Cohen		Milford
Coleman	Hanley	Miller, Calif.
Conyers	Hannaford	Minish
Corcoran	Harrington	Mollohan
Crane	Hightower	Moorhead, Calif.
Cunningham	Hillis	
D'Amours	Hollenbeck	Moorhead, Pa.
Delaney	Holt	Moss
Mottl	Rodino	Teague
Myers, John	Rogers	Thompson
Nedzi	Rosenthal	Thone
Nichols	Rudd	Traxler
Nix	Ruppe	Udall
Nolan	Russo	Ullman
O'Brien	Ryan	Vento
Oakar	Santini	Walgren
Pattison	Sarasin	Walsh
Pepper	Scheuer	Waxman
Perkins	Schroeder	Weaver
Pettis	Schulze	Whalen
Pike	Seiberling	Whitehurst
Poage	Shipley	Wiggins
Pressler	Shuster	Wilson, C. H.
Pursell	Sikes	Wilson, Tex.
Quayle	Sisk	Winn
Quie	Smith, Nebr.	Wirth
Quillen	Snyder	Wright
Railsback	Solarz	Wydler
Rangel	Spence	Wylie
Reuss	Stangeland	Yatron
Rhodes	Stanton	Young, Alaska
Richmond	Stark	Young, Fla.
Rinaldo	Steed	Young, Mo.
Risenhoover	Stockman	Zeferetti
Roberts	Stratton	

Mr. CORMAN changed his vote from "present" to "yea."

Mr. McCLOSKEY changed his vote from "yea" to "nay".

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 10979. An act to provide emergency assistance for the repair of certain weather related damage to highways and urban mass transportation systems due to the winter of 1977–1978; and

H.R. 11711. An act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

The message also announced that the Senate had passed a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 115. Concurrent resolution authorizing the President of the Senate and the Speaker of the House to sign bills and resolutions.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE AUTHORIZED TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DULY PASSED BY THE TWO HOUSES AND FOUND TRULY ENROLLED

The SPEAKER laid before the House the following Senate concurrent resolution (S. Con. Res. 115):

S. CON. RES. 115

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the sine die adjournment of the two Houses, the Speaker of the House of Representatives and the President of the Senate, and the President pro tempore be, and they are hereby, authorized to sign enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

COMMITTEE TO NOTIFY THE PRESIDENT

Mr. BRADEMAS. Mr. Speaker, I offer a resolution (H. Res. 1449) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1449

Resolved, That a committee of two Members be appointed by the House to join a similar committee appointed by the Senate, to wait upon the President of the United States and inform him that the two Houses have completed their business of the session and are ready to adjourn, unless the President has some other communication to make to them.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints as Members on the part of the House of the Committee To Notify the President, the gentleman from Indiana (Mr. BRADEMAS) and the gentleman from Illinois (Mr. MICHEL).

REVISED EDITION OF RULES AND MANUAL OF THE HOUSE OF REPRESENTATIVES AND CONGRESS

Mr. BRADEMAS. Mr. Speaker, I offer a resolution (H. Res. 1450) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1450

Resolved, That a revised edition of the Rules and Manual of the House of Representatives for the Ninety-sixth Congress be printed as a House document, and that 2,000 additional copies shall be printed and bound for the use of the House of Representatives, of which 700 copies shall be bound in leather with thumb index and delivered as may be directed by the Parliamentarian of the House for distribution to officers and Members of Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PRINTING OF REPORTS OF COMPTROLLER GENERAL OF THE UNITED STATES AS HOUSE DOCUMENTS OF 95TH CONGRESS

Mr. BRADEMAS. Mr. Speaker, I offer a resolution (H. Res. 1451) and ask unanimous consent for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 1451

Resolved, That, notwithstanding the sine die adjournment of the House, reports of the Comptroller General of the United States made to the Congress pursuant to the Government Corporation Control Act (31 U.S.C. 841 et seq.) shall be printed during such adjournment as House documents of the second session of the Ninety-fifth Congress.

The resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING SPEAKER TO ACCEPT RESIGNATIONS AND APPOINT COMMISSIONS, BOARDS, AND COMMITTEES NOTWITHSTANDING ADJOURNMENT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that notwithstanding the sine die adjournment of the 95th Congress, the Speaker be authorized to accept resignations, and to appoint commissions, boards, and committees authorized by law or by the House.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PRINTING OF REPORTS FILED WITH CLERK FOLLOWING ADJOURNMENT, AS REPORTS OF 95TH CONGRESS

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that reports filed with the Clerk following the sine die adjournment by committees authorized by the House to conduct investigations may be printed by the clerk as reports of the 95th Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

GENERAL LEAVE FOR EXTENSION OF REMARKS UNTIL PUBLICATION OF LAST EDITION OF CONGRESSIONAL RECORD

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members of the House shall have the privilege, until the last edition authorized by the Joint Committee on Printing is published, to extend and revise their own remarks in the CONGRESSIONAL RECORD on more than one subject, if they so desire, and may also include therein such short quotations as may be necessary to explain or complete such extensions of remarks; but this order shall not apply to any subject matter which may have occurred, or to any speech delivered subsequent to the adjournment of Congress.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION FOR CHAIRMAN AND RANKING MINORITY MEMBERS OF STANDING COMMITTEES AND SUBCOMMITTEES TO EXTEND REMARKS AND INCLUDE SUMMARIES OF WORK OF COMMITTEES UNTIL PUBLICATION OF LAST RECORD

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the chairman and ranking minority member of each standing committee and each subcommittee thereof be permitted to extend their remarks in the RECORD, up to and including the last publication thereof, and to include therewith a summary of the work of that committee or subcommittee.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

TO IMPROVE OPERATION OF ADJUSTMENT ASSISTANCE PROGRAMS FOR WORKERS AND FIRMS UNDER TRADE ACT OF 1974

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 11711) to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974, with a Senate amendment thereto, concur in the Senate amendment with an amendment.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. VOLKMER. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

FEDERAL WATER POLLUTION CONTROL ACT

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12140) to amend the Federal Water Pollution Control Act, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the Senate amendment, as follows:

[For Senate amendment see prior proceeding of today's RECORD.]

Mr. BREAUX (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the Senate amendment be dispensed with and that it be printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I do so only for the purpose of asking the gentleman from Louisiana (Mr. BREAUX) whether there are any extraneous or nongermane amendments included herein.

Mr. BREAUX. In response to the inquiry of the gentleman from Maryland, let me state that the bill has already passed the House and has come back to the House with the Senate amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. BREAUX. Mr. Speaker, if the gentleman will yield.

Mr. Speaker, I rise in support of H.R. 12140 which amends the Federal Water Pollution Control Act. The bill would provide additional authorizations for fiscal year 1980 for certain operating programs such as manpower training and monitoring of water quality in the Great Lakes. In addition, the bill amends section 311 of the act to provide for a program of notification, cleanup, and penalties for the discharge of hazardous substances.

In 1972, with the enactment of the Federal Water Pollution Control Act Amendments of 1972, the Congress provided for a stringent system of regula-

tions and penalties for the discharge of hazardous substances. Six years later, there are still no regulations governing such discharges.

EPA's most recent effort to publish regulations in March 1978 has been stymied by an injunction issued by the Federal District Court for the Western District of Louisiana. H.R. 12140 would amend section 311 in such a way as to meet the court's concerns and to allow the immediate implementation of the program.

Mr. Speaker, I urge the enactment of this necessary and important legislation.

Subsection (a) of H.R. 12140 amends section 104(u) of the Federal Water Pollution Control Act to provide an additional authorization not to exceed $14,039,000 for fiscal year 1980 for certain operating programs.

Subsection (b)(1) amends section 311(a)(2) to provide that designated hazardous substances which are discharged through a point source as part of an effluent stream permitted under section 402 of the act are not subject to the notification and penalty provisions of section 311. Such discharges are subject to effluent limitations, treatment requirements, and best management practices which are to be included as conditions in the section 402 permit.

It is recognized that, during the course of an industrial process, equipment malfunctions and human error can occur such that there will be some discharge of a hazardous substance outside the permitted effluent stream. Such circumstances are to be identified by the dischargers as part of their application for a section 402 permit. In addition, procedures must be developed for controlling and mitigating the impacts of such events. These procedures are to be incorporated as conditions in the section 402 permit.

At the present time many industrial point sources have section 402 permits which do not identify or provide for the regulation of designated hazardous substances. Section 311(a)(2) would be amended to provide these sources a reasonable opportunity to identify the constituent elements of their effluent, to develop treatment and management procedures, and to apply for a new permit without being liable for section 311 penalties.

Circumstances such as the following would be regulated under sections 309 and 402, not section 311: System upsets caused by control problems or operator error, system failures or malfunctions, equipment or system startups or shutdowns, equipment washes, production schedule changes, noncontact cooling water contamination, storm water contamination, or treatment system upsets or failures.

Onsite industrial spills such as truck or rail accidents or substantial or large-scale failures or ruptures of containers or vessels shall be considered subject to section 311, unless such onsite discharges are processed through the treatment system, in which case such discharges are regulated under sections 309 and 402 of the act.

Subsection (b)(2) and (b)(7) amend section 311 to clarify that, beyond the 12-mile limit, the Federal Government cannot enforce against discharges of hazardous substances from foreign-flag vessels unless the United States otherwise has jurisdiction over them.

Subsection (b)(3) amends section 311(b)(2)(B) to provide for a study by the Administrator of EPA on all aspects of the regulation of hazardous substances. This study is to be submitted to Congress within 18 months of the enactment of this section.

Subsections (b)(4) and (b)(5) amend sections 311(b)(3) and 311(b)(4) to make it clear that the determination of reportable quantities of oil or a hazardout substances does not require an assessment of actual harm in the variety of circumstances in which such substances might be discharged.

Subsection (b)(7) amends section 311(b)(6) to establish a two-tier system of penalties. The existing section 311(b)(6) provision for assessment of an administrative penalty of up to $5,000 by the Coast Guard is not affected by this section. However, a new provision is added which would allow the Administrator to initiate a civil action in Federal district court for a penalty not to exceed $50,000 per violation, or a maximum of $50,000 per violation in cases of willful negligence or misconduct. Factors to be considered in assessing such a penalty include: The size of the business of the discharger, the effect of the penalty on the discharger's ability to stay in business, the gravity of the violation, and the success of any effects by the discharger to minimize or mitigate the effects of the discharge.

One of these factors, the gravity of the violation, would be interpreted to include the size of the discharge, the degree of danger or harm to the public health, safety, or the environment, including consideration of toxicity, degradability, and dispersal characteristics of the substance, previous spill history, if any, and violation of spill prevention regulations where appropriate. It encourages prompt mitigation of the discharge by making mitigation an important consideration in establishing the size of the penalty; this is particularly significant in discharges of hazardous substances which are capable of actual removal.

Civil penalties shall not be assessed under both section 311 and section 309 for the same discharge.

Subsection (b)(7) also amends section 311(b)(6) to provide that costs of mitigation actions taken by the Administrator are recoverable from the discharger. Also, any costs of removal action taken by the Administrator concerning the discharge of a hazardous substance from a point source with an effluent permit are recoverable under either section 309(b) or 311(f) of the act.

Mr. Chairman, it is very important that section 311 be implemented. It is one of the act's most significant provisions because it deals with the Government's ability to detect, respond to, and mitigate the effects of the discharge of hazardous substances.

I am deeply concerned that if the act is not amended, it will be years before we will be successful in getting any element of the hazardous substances spill control program in effect—a failure which would have incalculable effects on public health and safety. With this amendment, EPA can build on the rulemaking effort it conducted for the last 6 years and get a basic program—mandatory reporting, Government ability to respond, and cleanup liability—into operation now.

In these last days of the Congress, I recommend this legislation to my colleagues as a means of developing some regulation of hazardous substances while preserving the House's options to consider the entire program in depth in the next Congress.

I urge the enactment of this vital legislation.

Mr. JOHNSON of California. Mr. Speaker, I rise in support of H.R. 12140 which amends the Federal Water Pollution Control Act. As passed by the House earlier this year, H.R. 12140 provided for additional authorizations for certain operating programs such as water quality monitoring and manpower planning and training.

As amended by the Senate, in addition to providing needed authorizations, H.R. 12140 would amend section 311 of the Federal Water Pollution Control Act concerning the regulation of hazardous substances.

In March 1978, EPA published regulations implementing the hazardous substances spill program, but the Federal District Court for the Western District of Louisiana enjoined implementation and enforcement of the regulations. I would like to insert for the RECORD a letter I received from Thomas C. Jorling, Assistant Administrator of the Environmental Protection Agency, concerning the court's action and the need for legislation.

Basically, H.R. 12140 would amend section 311 to provide that the determination of harmful quantities would be based on the judgment of the Administrator of EPA as to what quantity of a substance may be harmful based on its chemical and toxic properties, not the circumstances of its release. In addition to the current statutory penalty of up to $5,000 for each violation, the Administrator would have the option of pursuing a higher penalty through civil action in a Federal district court. Also, H.R. 12140 would clarify which provisions of the Federal Water Pollution Control Act govern discharges of oil and hazardous substances from point sources with effluent permits.

Mr. Speaker, I strongly support these provisions and urge their favorable consideration by the House so that these necessary and important programs may be promptly implemented.

U.S. ENVIRONMENTAL PROTECTION AGENCY
Washington D.C., September 25, 1978.

HON. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: A federal district court recently enjoined the implementation of regulations promulgated by EPA activating the hazard substances spill portion of section 311 of the Clean Water Act. The Court's action places the future implemen-

tation of this critical portion of the statute in grave jeopardy.

It is important that you know of this situation and the circumstances surrounding it, which I will try and summarize in this letter. I would also like to offer a proposal which, in my judgment, provides the only realistic and practical way to move 311 provisions out of the present impasse in which they have been placed by the recent Court action.

When the Clean Water Act was enacted in 1972, hazardous substances were included in parallel with oil, and authority was granted to the Administrator to designate hazardous substances, to distinguish between substances on their "removal" characteristics, to remove or mitigate spilled substances, to assess liability for costs, and to impose penalties. When I assumed responsibility for the program in 1977, one of my highest priorities was to complete the rulemaking necessary to implement the hazardous spill program. In the absence of a program, EPA has had to grapple with the Hopewell kepone destruction; carbon tetrachloride emergencies on the Ohio River; a four-month closure of the Louisville sewage treatment plant because of a chemical spill; chemical contamination of primary drinking water supplies in Kernersville, North Carolina; chlorine deaths from a freight train derailment in Youngstown, Florida; and many more.

Finally, in March of this year, the four key regulations for hazardous substances (designation of 271 substances, classification of removability, rate of penalty, and harmful quantities) were promulgated and EPA and the Coast Guard allocated resources for implementation. This was the culmination of six years of activity.

Following promulgation and before the effective date of the regulations, the Federal District Court in the Western District of Louisiana, acting on a complaint filed by the Manufacturing Chemists Association, the American Waterway Operators, the American Association of Railroads, and others, enjoined the program. Three issues were brought before the Court—the harmful quantity determination, the question of removability, and the inter-relationship between sec. 311 and existing NPDES permits. The Court agreed with the complaints and the specific ruling rendered the hazardous spill program inoperative.

The future of the 311 program is now in grave uncertainty, beyond the ability of the Agency to singularly control. The courts, the Agency, and a large number of interested parties all are in a position to influence the outcome, especially to cause unending delay of any amendment or judicial action if there is not substantial agreement on the basic approach.

In the face of the injunction, the Agency has three basic options to consider. I will summarize each.

First, prosecute an appeal:

The federal district court for the Western District of Louisiana is in the 5th Circuit the Circuit subject to a split in the pending Judiciary Bill). In a review of this option, and in consultation with the Justice Department, we have reached the following conclusions: It would take a minimum of three but more likely five years to have the matter go through the court system and be resolved, ultimately by the Supreme Court. On the merits, there is greater than 75 percent chance the lower court decision that stopped the program would be upheld.

Second, attempt a rewrite of the regulations to conform to the court's order:

On the threshold issue—the determination of harmful quantities—EPA could not write rules to meet this requirement and be in any way responsive to the 311 mandate. To do so would require us to establish actual harmful effects from specific quantities covering the range of actual harmful effects from specific quantities covering the range of circumstances into which such chemicals might be discharged; this would establish a pre-1972 burden of proof of water quality impact as a precondition of environmental protection. If we tried this approach, our best estimate indicates we could determine harmful quantities at a rate of 10–15 per year, but at a very high resource cost. It would be decades before we had anything like the 271 chemicals now subject to our rules.

Moreover, since this decision was only that of one federal district court, we have no certainty of satisfying the other 91 federal district courts with this approach.

Third, legislative repair:

Two possibilities are suggested. One, a full-fledged effort to repair sec. 311 and perhaps related authority; or alternatively, a quick fix addressed to the specific problems raised by the Court.

I have reached the conclusion that it is most advisable to proceed with the latter. My reasons include the belief that the basic sec. 311 is sound. If the provision was changed—even to make it better—it would require a new rulemaking effort. This would be time consuming and given past experience, would take at least five years to achieve promulgated regulations.

Consequently, and with acknowledged risk to all parties, I have met with the litigants over the last two weeks in an attempt to determine if there was a "noncontroversial" legislative proposal that all parties in good faith could accept and allow it to be grafted onto a simple research and development authorization bill which has passed the House and is pending in the Senate Committee (H.R. 12140). This is admittedly a remote possibility, but I believe it is worth the try. I do not see the same opportunity for quick action in the next Congress. I believe the parties are participating in this effort in good faith. No one has pressed for all of their preferences. As a consequence, we have reached a position that the Agency and the litigants can support. If it is enacted we can have the 311 hazardous substances program in motion inside of a few months.

In the discussions with the parties I have been guided by the assumption that Congress and the people expect to have the following basic elements of the 311 program put into operation as soon as possible:

(1) the designation of substances and quantities, the discharge of which creates a duty on the discharging owner or operator to notify the government;

(2) response by the government to mitigate the effects of the substances and to remove the substances where appropriate;

(3) liability imposed on the owner for costs the government incurs in removal and mitigation; and

(4) penalty provision

I believe that with several amendments to sec. 311 in this Congress we can build on the rulemaking effort the Agency has conducted for all these years and we can get this basic program to operate almost immediately after enactment.

The Agency and the Coast Guard have expended great resources in training, information dissemination, and related preparations, all premised on the 271 substances and the harmful quantities now designated. Industry, similarly, even though it has litigated, has prepared to comply with the program through training of personnel and is ready to distribute materials to employees. There is a program—a very valuable program—ready to go but it is now in suspended animation. The situation is hard for me to accept; for the public, already suspicious of our ability to govern, it is impossible to understand.

The amendments we propose basically place hazardous substances on a par with oil in how they relate to the major components of sec. 311, with one major exception. The present penalty structure would be replaced by one which sets a maximum fine of $50,000 for all hazardous discharges. This represents a significant reduction from the present law (up to $5 million for vessels and $500,000 for other sources). However, with the 1977 amendments clarifying the liability for mitigation in the case of discharges of hazardous substances, we feel the reduced penalty's effect on achieving a high standard of care is offset. If experience reveals otherwise, amendments to the penalty structure could come later, but in the meantime the duty to give notice, the authority of the government to respond and act, and liability—all presently enjoined—could go into effect.

I know this is a most unusual request, and would hope I could meet with you to explain the circumstances in more detail.

I am motivated by the deepest sense of concern that if the legislative cannot be amended, we will be unsuccesful in getting any element of the hazardous substances spill program in effect for years; an inability which, when so much has been invested, does not seem to be in the public interest.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent to extend and revise and to add extraneous material.

Mr. Speaker, I rise in support of H.R. 12140 which amends the Federal Water Pollution Control Act. As passed by the House earlier this year, H.R. 12140 provided for additional authorizations for certain operating programs such as water quality monitoring and manpower planning and training.

As amended by the Senate, in addition to providing needed authorizations, H.R. 12140 would amend section 311 of the Federal Water Pollution Control Act concerning the regulation of hazardous substances. I urge enactment of this vital legislation.

In March, 1978 EPA published regulations implementing the hazardous substances spill program, but the Federal District Court for the Western District of Louisiana, enjoined implementation and enforcement of the regulations. I would like to insert for the RECORD a letter I received from Thomas C. Jorling, Assistant Administrator of the Environmental Protection Agency concerning the court's action and the need for legislation.

Basically, H.R. 12140 would amend section 311 to provide that the determination of harmful quantities would be based on the judgment of the administrator of EPA as to what quantity of a substance may be harmful based on its chemical and toxic properties, not the circumstances of its release. In addition to the current statutory penalty of up to $5,000 for each violation, the administrator would have the option of pursuing a higher penalty through civil action in a Federal district court. Also, H.R. 12140 would clarify which provisions of the Federal Water Pollution Control Act govern discharges of oil and hazardous substances from point sources with effluent permits.

Mr. Speaker, I strongly support these provisions and urge their favorable consideration by the House so that these

necessary and important programs may be promptly implemented.

U.S. ENVIRONMENTAL PROTECTION AGENCY,
Washington, D.C., September 25, 1978.

HON. HAROLD T. JOHNSON,
Chairman, Committee on Public Works, and Transportation, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: A federal district court recently enjoined the implementation of regulations promulgated by EPA activating the hazardous substances spill portion of section 311 of the Clean Water Act. The Court's action places the future implementation of this critical portion of the statute in grave jeopardy.

It is important that you know of this situation and the circumstances surrounding it, which I will try and summarize in this letter. I would also like to offer a proposal which, in my judgment, provides the only realistic and practical way to move 311 provisions out of the present impasse in which they have been placed by the recent Court action.

When the Clean Water Act was enacted in 1972, hazardous substances were included in parallel with oil, and authority was granted to the Administrator to designate hazardous substances, to distinguish between substances on their "removal" characteristics, to remove or mitigate spilled substances, to assess liability for costs, and to impose penalties. When I assumed responsibility for the program in 1977, one of my highest priorities was to complete the rulemaking necessary to implement the hazardous spill program. In the absence of a program, EPA has had to grapple with the Hopewell kepone destruction; carbon tetrachloride emergencies on the Ohio River; a four-month closure of the Louisville sewage treatment plant because of a chemical spill; chemical contamination of primary drinking water supplies in Kernersville, North Carolina; chlorine deaths from a freight train derailment in Youngstown, Florida; and many more.

Finally, in March of this year, the four key regulations for hazardous substances (designation of 271 substances, classification of removability, rate of penalty, and harmful quantities) were promulgated and EPA and the Coast Guard allocated resources for implementation. This was the culmination of six years of activitiy.

Following promulgation and before the effective date of the regulations, the Federal District Court in the Western District of Louisiana, acting on a complaint filed by the Manufacturing Chemists Association, the American Waterways Operators, the American Association of Railroads, and others, enjoined the program. Three issues were brought before the Court—the harmful quantity determination, the question of removability, and the inter-relationship between sec. 311 and existing NPDES permits. The Court agreed with the complainants and the specific ruling rendered the hazardous spill program inoperative.

The future of the 311 program is now in grave uncertainty, beyond the ability of the Agency to singularly control. The courts, the Agency, and a large number of interested parties all are in a position to influence the outcome, especially to cause unending delay of any amendment or judicial action if there is not substantial agreement on the basic approach.

In the face of the injunction, the Agency has three basic options to consider. I will summarize each.

First, prosecute an appeal:

The federal district court for the Western District of Louisiana is in the 5th Circuit (the Circuit subject to a split in the pending Judiciary Bill). In a review of this option, and in consultation with the Justice Department, we have reached the following conclusions: It would take a minimum of three but more likely five years to have the matter go through the court system and be resolved, ultimately by the Supreme Court. On the merits, there is greater than 75 percent chance the lower court decision that stopped the program would be upheld.

Second, attempt a rewrite of the regulations to conform to the court's order:

On the threshold issue—the determination of harmful quantities—EPA could not write rules to meet this requirement and be in any way responsive to the 311 mandate. To do so would require us to establish actual harmful effects from specific quantities covering the range of actual harmful effects from specific quantities covering the range of circumstances into which such chemicals might be discharged; this would establish a pre-1972 burden of proof of water quality impact as a precondition of environmental protection. If we tried this approach, our best estimate indicates we could determine harmful quantities at a rate of 10–15 per year, but at a very high resource cost. It would be decades before we had anything like the 271 chemicals now subject to our rules.

Moreover, since this decision was only that of one federal district court, we have no certainty of satisfying the other 91 federal district courts with this approach.

Third, legislative repair:

Two possibilities are suggested. One, a full-fledged effort to repair sec. 311 and perhaps related authority; or alternatively, a quick fix addressed to the specific problems raised by the Court.

I have reached the conclusion that it is most advisable to proceed with the latter. My reasons include the belief that the basic sec. 311 is sound. If the provision was changed—even to make it better—it would require a new rulemaking effort. This would be time consuming and given past experience, would take at least five years to achieve promulgated regulations.

Consequently, and with acknowledged risk to all parties, I have met with the litigants over the last two weeks in an attempt to determine if there was a "noncontroversial" legislative proposal that all parties in good faith could accept and allow it to be grafted onto a simple research and development authorization bill which has passed the House and is pending in the Senate Committee (H.R. 12140). This is admittedly a remote possibility, but I believe it is worth the try. I do not see the same opportunity for quick action in the next Congress. I believe the parties are participating in this effort in good faith. No one has pressed for all of their preferences. As a consequence, we have reached a position that the Agency and the litigants can support. If it is enacted we can have the 311 hazardous substances program in motion inside of a few months.

In the discussions with the parties I have been guided by the assumption that Congress and the people expect to have the following basic elements of the 311 program put into operation as soon as possible:

(1) The designation of substances and quantities, the discharge of which creates a duty on the discharging owner or operator to notify the government;

(2) Response by the government to mitigate the effects of the substances and to remove the substances where appropriate;

(3) Liability imposed on the owner for costs the government incurs in removal and mitigation; and

(4) A penalty provision.

I believe that with several amendments to sec. 311 in this Congress we can build on the rulemaking effort the Agency has conducted for all these years and we can get this basic program to operate almost immediately after enactment.

The Agency and the Coast Guard have expended great resources in training, information dissemination, and related preparations, all premised on the 271 substances and the harmful quantities now designated. Industry, similarly, even though it has litigated, has prepared to comply with the program through training of personnel and is ready to distribute materials to employees. There is a program—a very valuable program—ready to go but it is now in suspended animation. The situation is hard for me to accept; for the public, already suspicious of our ability to govern, it is impossible to understand.

The amendments we propose basically place hazardous substances on a par with oil in how they relate to the major components of sec. 311, with one major exception. The present penalty structure would be replaced by one which sets a maximum fine of $50,000 for all hazardous discharges. This represents a significant reduction from the present law (up to $5 million for vessels and $500,000 for other sources). However, with the 1977 amendments clarifying the liability for mitigation in the case of discharges of hazardous substances, we feel the reduced penalty's effect on achieving a high standard of care is offset. If experience reveals otherwise, amendments to the penalty structure could come later, but in the meantime the duty to give notice, the authority of the government to respond and act, and liability—all presently enjoined—could go into effect.

I know this is a most unusual request, and would hope I could meet with you to explain the circumstances in more detail.

I am motivated by the deepest sense of concern that if the legislation cannot be amended, we will be unsuccessful in getting *any* element of the hazardous substances spill program in effect for years; an inability which, when so much has been invested, does not seem to be in the public interest.

Sincerely yours,

THOMAS C. JORLING,
Assistant Administrator.

● Mr. NOWAK. Mr. Speaker, I rise in support of H.R. 12140 which includes an amendment to section 311 of the Clean Water Act Section 311 provides for the regulation and cleanup of spills of oil and hazardous substances. Despite the fact that section 311 was enacted 6 years ago, the hazardous substances spill program is nonexistent. Following promulgation by EPA of regulations implementing the hazardous substances spill program, the Federal District Court for the Western District of Louisiana enjoined implementation and enforcement of the regulations.

H.R. 12140 would enable the hazardous substances spill program to be implemented by resolving the issues raised by the court. The amendment to section 311 involves three basic areas.

First, the amendment simplifies the determination of which discharge incidents must be reported to the Federal Government. The amendment enables the Administrator to create a responsibility to report a discharge incident based upon the quantity of substance which may be harmful as a result of its chemical properties, rather than the circumstances of its release.

Second, the amendment would establish two options for penalizing discharges of hazardous substances. The first option, which already is in the act, allows an administratively assessed penalty of up to $5,000 for each violation. The second option would be a civil action in Federal district court for penalties not to exceed $50,000 per discharge of a hazardous substance, or a maximum of $250,000 per such discharge in cases of

willful negligence or misconduct. The amendment specifies the factors the court would assess in establishing the penalty. The amendment involves a significant reduction from the existing $500,000 liability for facilities and $5,000,000 for vessels.

Third, the amendment clarifies which section of the act, 311 or 402, governs discharges of oil and hazardous substances from point sources with NPDES permits. It also clarifies that the "costs of removal" of a hazardous substance discharge from a point source with a NPDES permit are recoverable from the source under either section 309(b) or section 311(f) of the act.

I consider it very important to implement section 311 of the act. It is one of the act's most significant provisions because it deals with the Government's ability to detect, respond to, and mitigate the effects of the discharge of hazardous substances. People expect quick and effective governmental response to protect public health and the environment in the event of spills of such materials. Nothing perplexes a citizen more than discovering that the Government is incapable of acting rapidly and decisively in such situations.

I am deeply concerned that, if the act is not amended, we will be unsuccessful in getting any element of the hazardous substances spill program in effect for years, a failure which would have incalculable effects on public health and safety. With this amendment EPA can build on the rulemaking effort it conducted for the last 6 years and get a basic program—mandatory reporting, Government ability to respond, and cleanup liability, all of which are now enjoined—into operation within a few months after enactment.●

Mr. BAUMAN. I withdraw by reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The SPEAKER. Is there objection to the first request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

DESIGNATING GATHRIGHT LAKE ON JACKSON RIVER, VA., AS LAKE MOOMAW

Mr. BREAUX. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12112) an act designatiing Gathright Lake on the Jackson River, Va., as Lake Moomaw, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

Page 1, line 6, strike out "Lake Moomaw" and insert "Gathright Dam and Lake Moomaw".

Page 1, line 10, strike out "Lake Moomaw" and insert "Gathright Dam and Lake Moomaw.".

Amend the title so as to read: "An Act designating Gathright Lake on the Jackson River, Virginia, as Gathright Dam and Lake Moomaw.".

The SPEAKER. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

A motion to reconsider was laid on the table.

TO PROVIDE ASSISTANCE TO AIRPORT OPERATORS TO PREPARE AND CARRY OUT NOISE COMPATIBILITY PROGRAMS, TO PROVIDE ASSISTANCE TO AIRCRAFT OPERATORS TO COMPLY WITH NOISE STANDARDS

Mr. ANDERSON of California. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8729) to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to aircraft operators to comply with noise standards, and for other purposes with a Senate amendment thereto and concur in the Senate amendment with an amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

H.R. 8729

Strike out all after the enacting clause and insert:

TITLE I

SEC. 101. For purposes of this title—

(1) the term "airport" means any air carrier airport whose projects for airport development are eligible for terminal development costs under section 20(b) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1720);

(2) the term "airport operator" means any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport;

(3) the term "Secretary" means the Secretary of Transportation.

SEC. 102. Not later than the last day of the 12th month which begins after the date of enactment of this Act, the Secretary, after consultation with the Administrator of the Environmental Protection Agency and such other Federal, State, and interstate agencies as he deems appropriate, shall by regulation—

(1) establish a single system of measuring noise to be uniformly applied in measuring the noise at airports and the areas surrounding such airports;

(2) establish a single system for determining the impact of noise upon individuals which results from the operations of an airport and which includes, but is not limited to, noise intensity, duration, frequency, and time of occurrence;

(3) identify land uses which are normally compatible with various impacts of noise on individuals.

SEC. 103. (a)(1) After the effective date of the regulations promulgated in accordance with section 102 of this title, any airport operator of an airport may submit to the Secretary a noise impact map which sets forth, in accordance with the regulations promulgated pursuant to section 102, the noncompatible uses in each area of the map, as of the date of submission of such map, a description of the projected aircraft operations at such airport during 1985, and the ways, if any, in which such operations will affect such map.

(2) If, after the submission to the Secretary of a noise impact map under paragraph (1), any change in the operation of an airport would create any substantial new noncompatible use in any area surrounding such airport, the operator of such airport shall submit a revised noise impact map showing such new noncompatible use.

(b)(1) Section 11 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1711) is amended by renumbering paragraphs (6) through (21), and all references thereto, as paragraphs (7) through (22), respectively, and by adding immediately after paragraph (5) the following new paragraph:

"(6) 'Airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise impact map and related information permitted by section 103 of the Airport and Aircraft Noise Reduction Act of 1978, including any cost associated with obtaining such information, and (B) a noise compatibility program pursuant to section 104 of such Act.".

(2)(A) Section 13(a) of the Airport and Airway Development Act of 1970 (49 U.S.C. 1713(a)) is amended by—

(i) inserting "(1)" immediately before the first sentence thereof; and

(ii) adding at the end thereof the following new paragraph:

"(2) In order to promote the development of an effective noise compatibility program, the Secretary may make grants of funds to sponsors of air carrier airports whose projects for airport development are eligible for terminal development costs under section 20(b) of this title for noise compatibility planning.".

(B) Section 13(b) of such Act (49 U.S.C. 1713(b)) is amended to read as follows:

"(b) AMOUNT AND LIMITATION OF GRANTS.—(1) The award of grants under subsection (a)(1) of this section is subject to the following limitations:

"(A) The total funds obligated for grants under subsection (a)(1) of this section may not exceed $150,000,000, and the amount obligated in any one fiscal year may not exceed $15,000,000.

"(B) The United States share of any airport master planning grant or airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 17 of this Act. In the case of any airport system planning grant under this section, the United States share shall be 75 percent.

"(C) No more than 10 percent of the funds made available under this paragraph in any fiscal year may be allocated for projects within a single State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or Guam. Grants for projects encompassing an area located in two or more States shall be charged to each State in the proportion which the number of square miles the project encompasses in each State bears to the square miles encompassed by the entire project.

(2) For the purpose of carrying out subsection (a)(2) of this section, there is authorized to be appropriated, for fiscal years ending on or after September 30, 1979, out of the Airport and Airway Trust Fund, not to exceed $15,000,000.".

SEC. 104. (a) Any airport operator who has submitted a noise impact map and the related information permitted by section 103(a)(1) of this title may develop, in consultation with the officials of any unit of local government in the area surrounding such airport, the Federal officials having local responsibility for such airport, any air carrier using such airport, and any regional planning authority, and submit a noise compatibility program to the Secretary. Such program shall set forth the measures which such operator has taken or proposes for the

reduction of existing noncompatible uses and the prevention of the introduction of additional noncompatible uses within the area covered by the noise impact map submitted by such operator. Such measures may include, but are not limited to—

(1) the implementation of any preferential runway system;

(2) the implementation of restriction on the use of such airport by any type aircraft based on noise characteristics of such aircraft;

(3) the construction of barriers and acoustical shielding, including the soundproofing of single family residences, apartment buildings, and other buildings;

(4) the use of flight procedures to control the operation of aircraft to reduce the impact of noise in the area surrounding the airport; and

(5) acquisition of land and interests therein, such as air rights, easements, and development rights, so as to insure the continued use of property for purposes compatible with airport operations.

(b) The Secretary may disapprove any program or part thereof submitted to him pursuant to subsection (a) of this section within 180 days after it is received by him. The Secretary may disapprove such program or part thereof (1) if the measures to be undertaken in carrying out such program (A) do not provide for the continuation of safe flight operation, (B) create an undue burden on interstate or foreign commerce, and (C) are not reasonably consistent with obtaining the goal of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses; and (2) if the program does not provide for any revision made necessary by any revised noise impact map submitted under section 103(a)(2) of this title. Failure of the Secretary to disapprove such program within such time period shall be deemed to be an approval of such program, except that the Administrator of the Federal Aviation Administration shall be required to explicitly approve or disapprove any part of such program which relates to flight procedures referred to in subsection (a)(4) of this section, within such time period.

(c)(1) The Secretary is authorized to make grants under this Act for any project to carry out a noise compatibility program or parts thereof not disapproved under subsection (b) of this section. Grants under this Act may be made to operators of airports submitting noise compatibility programs and to units of local government in the area surrounding such airports if the Secretary determines such units have the capability to carry out projects for which grant applications are made in accordance with such noise compatibility programs. The Federal share of any project for which a grant is made under this subsection shall be 80 percent of the cost of the project. All of the provisions of the Airport and Airway Development Act of 1970 applicable to grants made under that Act (except section 17 and those provisions relating to apportionment) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1970 is inconsistent with, or unnecessary to carry out the purposes of this Act.

(2) The Secretary, further, is authorized under this section to make grants to operators of airports for any project to carry out a noise compatibility program developed prior to the enactment of this Act or the promulgation of its implementing regulations if the Secretary determines that such prior program is substantially consistent with the purposes of reducing existing noncompatible uses and preventing the introduction of additional noncompatible uses and that the purposes of this Act would be furthered by prompt implementation of such program.

(d) There is authorized to be obligated by the Secretary, out of the Airport and Airway Trust Fund, funds not to exceed $35,000,000 for the fiscal year ending September 30, 1979, and not to exceed $35,000,000 for the fiscal year ending September 30, 1980, to be expended, at the discretion of the Secretary, for making grants under subsection (c) of this section.

(e) The Secretary is authorized to make loans under this Act in amounts as included in appropriations Acts, upon such terms and conditions are are specified in this section and any others he considers appropriate, to airport operators and to units of local government in the area surounding such airports, if the airport operator at a given airport approves the purchase plan of the unit of local government, for the purpose of acquiring real property impacted by aircraft noise in accordance with a noise compatibility plan not disapproved under subsection (b) of this section: *Provided*, That the aggregate amount of outstanding loans at any time shall not exceed $300,000,000. Any loan made under this Act may not exceed 80 percent of the cost of the real property acquired and may not be made for a period in excess of 5 years, and shall bear interest at a rate determined by the Secretary such that the earnings are sufficient to cover the administrative costs of the program authorized by this subsection. Real property acquired with the proceeds of a loan under this subsection may be leased for uses compatible with projected noise levels, or sold, with the approval of the Secretary, if the airport operator provides assurances considered adequate by the Secretary that future uses will be compatible with such noise levels.

(f) There is established in the Treasury of the United States a revolving fund to be known as the Aircraft Noise Impacted Real Property Acquisition Revolving Loan Fund (hereinafter referred to as the "fund"). The fund shall be administered by the Secretary and shall consist of such amounts as may be transferred, appropriated, or credited to the fund as provided in this section. At the close of fiscal year 1979, $300,000,000 shall be transferred to the fund from the Airport and Airway Trust Fund. All sums received in connection with the administration of subsection (e) of this section shall be credited to the fund. There are authorized to be appropriated to the fund such additional sums as may be required to carry out subsection (e). Amounts in the fund shall be available, as provided by appropriations Acts, for making expenditures after October 1, 1979, and before October 1, 1990, to meet those obligations of the United States incurred under subsection (e) of this section and for the administrative costs of the program. Any balances remaining in the fund after 1995 shall revert to the Airport and Airway Trust Fund. The Secretary is empowered to prescribe rules and regulations consistent with the provisions of this section.

SEC. 105. The Secretary, acting through the Administrator of the Federal Aviation Administration, after consultation with the officials of any unit of local government in the area surrounding such airport, shall prepare and publish a noise impact map and a noise compatibility program for the airport established by the Act of June 29, 1940 (54 Stat. 686), and the airport the construction of which was authorized by the Act of September 7, 1950 (64 Stat. 770). Such map and program shall be prepared and published in accordance with the requirements of this Act no later than 1 year after the effective date of the regulations promulgated in accordance with section 102 of this Act.

SEC. 106. Any noise impact map submitted to, or prepared by, the Secretary under this title and the list of land uses identified by the Secretary under this title as those which are normally compatible with various impacts of noise on individuals shall not be received in evidence in any trial, hearing, or other proceeding in or before any court in the United States.

SEC. 107. No person who acquires property or an interest therein after the date of enactment of this Act in an area surrounding an airport for which there is in effect a noise impact map submitted under section 103(a) of this title, shall be entitled to recover damages with respect to the noise attributable to such airport unless, in addition to any other elements for recovery of damages, such person had no actual or constructive knowledge of the existence of the noise impact map in effect at such airport, and such person can show—

(1) a significant change in the type or frequency of aircraft operations at the airport;

(2) a significant change in the airport layout;

(3) a significant change in flight patterns; or

(4) a significant increase in nighttime operations,

occurred after the date of the acquisition of such property or interest therein.

SEC. 108. (a) The Secretary shall study the means available for achieving maximum feasible airport noise-land use compatibility, as defined in section 102(3), toward a goal of full compatibility by January 1, 2000, including, but not limited to—

(1) reductions in airport noise impact as a result of more stringent aircraft noise regulations and aircraft operating procedures, night time and early morning curfews; airport design and airport instrumentation changes; diversion of traffic from primary to secondary and satellite airports; accelerated development of more efficient and quieter aircraft powerplants; and

(2) changes in land use by means of acoustic insulation of buildings, changes in the zoning of undeveloped land, changes in the use of developed land, or by any other acceptable means.

Such study shall determine the combination of means which will achieve maximum feasible compatability at minimum cost.

(b) The Secretary shall also determine the most efficient and effective means for obtaining funds for achieving such maximum feasible compatibility.

(c) Not later than July 1, 1979, the Secretary shall submit to Congress an interim progress memorandum detailing how such study will be carried out.

(d) Not later than January 1, 1980, the Secretary shall submit to Congress a report setting forth the determinations made pursuant to such study together with recommendations for legislation required to implement programs designed to achieve maximum feasible compatibility toward a goal of full compatibility by January 1, 2000.

TITLE II

SEC. 201. (a) Paragraph (3) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(3)) is amended by striking out "$495,000,000 for fiscal year 1979, and $525,000,000 for fiscal year 1980." and inserting in lieu thereof "$538,000,000 for fiscal year 1979, and $655,000,000 for fiscal year 1980.".

(b) Paragraph (4) of subsection (a) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(a)(4)) is amended by striking out "$80,000,000 for fiscal year 1979, and $85,000,000 for fiscal year 1980." and inserting in lieu thereof "$87,000,000 for fiscal year 1978, and $105,000,000 for fiscal year 1980.".

(c) Paragraph (2) of subsection (b) of section 14 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1714(b)(4)) is amended by striking out the last sentence therein.

(d) Subsection (f) of section 14 of the

Airport and Airway Development Act of 1970 (49 U.S.C. 1714(f)) is amended by adding a new paragraph (4) to read as follows:

"(4) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (4), shall impair the authority of the Secretary to obligate by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to paragraph (5) of subsection 15(a), in addition to the minimum amounts authorized for that fiscal year by subsection (a)(3) and (a)(4) of this section.".

SEC. 202. Paragraph (2)(A) of subsection (a) of section 17 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1717(a)(2)(A)) is amended by striking out "and shall be 80 per centum" and inserting in lieu thereof "may not exceed 90 per centum"."

TITLE III

DEFINITIONS

SEC. 301. For purposes of this title—

(1) the term "noncomplying aircraft" means any civil subsonic turbojet powered aircraft (A) which (i) has a maximum certificated takeoff weight of 75,000 pounds or more, (ii) is registered in the United States, (iii) has a standard airworthiness certificate issued pursuant to section 603(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1423(c)), and (iv) as determined by the Civil Aeronautics Board, is in service on the effective date of this section, and (B) which does not comply with the noise standards prescribed for new subsonic aircraft in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977;

(2) the term "retrofit" means the alteration of the engine or the engine nacelles of an aircraft with sound absorbent materials for the purpose of noise reduction;

(3) the term "Secretary" means the Secretary of Transportation.

LIST OF NONCOMPLYING AIRCRAFT

SEC. 302. Not later than 60 days after the date of enactment of this title, the Secretary shall publish a list in the Federal Register setting forth the name of each operator of each noncomplying aircraft and the registration number of such aircraft.

NEW TECHNOLOGY AIRCRAFT INCENTIVE

SEC. 303. The Secretary shall provide a waiver for the operation of two- or three-engine noncomplying aircraft beyond January 1, 1985, if the operator has entered into a binding contract by January 1, 1983, for the purchase of a replacement aircraft which meets, at a minimum, the noise standards for new type certificated aircraft set forth in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration, on March 2, 1978 (F.R., Vol. 43, No. 42, p. 8722 et seq.) and in accordance with a plan specified in section 91.305(c) of title 14, Code of Federal Regulations.

LIMITED WAIVER AUTHORITY

SEC. 304. Notwithstanding any other provision of this or any other law, the Secretary is authorized to allow any noncomplying aircraft to be operated beyond the date by which such aircraft is to be in compliance with noise standards applicable to it in regulations issued by the Secretary, acting through the Administrator of the Federal Aviation Administration (14 CFR part 36), as such regulations were in effect on January 1, 1977, by waiving the application of such regulations to such aircraft for such period beyond such date of compliance as he determines reasonable to permit compliance. No such waiver shall be granted except upon application of the operator of the noncomplying aircraft and a finding by the Secretary that such operator has made a good faith effort to comply with such regulations and that there is good cause for failure of such operator to comply with such regulations as applicable to such noncomplying aircraft. For the purpose of this section, the term "good cause" shall include the following:

(1) Any case where the supplier is unable to furnish or make available to such operator in a timely manner the necessary engine retrofit kits, replacement engines, or replacement aircraft.

(2) Any case in which the failure to grant a waiver would otherwise create burdens on an individual operator which are unreasonable in comparison to the burdens imposed on other operators of noncompliant aircraft, and if the Secretary finds such waiver to be in the public interest.

TITLE IV

CHANGE IN TAXES ON TRANSPORTATION OF PERSONS AND PROPERTY BY AIR AND TRUST FUND AUTHORIZATION

SEC. 401. Section 4261 of the Internal Revenue Code of 1954 is amended by redesignating subsection (e) as (f), and by inserting after subsection (d) the following new subsection:

"(e) REDUCTION OF RATES.—Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980—

(1) the rate of taxes imposed by subsections (a) and (b) shall be 6 percent, and

(2) the tax imposed by subsection (c) shall be $1."

SEC. 402. Section 4271 of the Internal Revenue Code of 1954 is amended by redesignating subsection (d) as (e) and by inserting after subsection (c) the following new subsection:

"(d) REDUCTION OF RATES.—Effective with respect to transportation beginning after October 1, 1979, and before July 1, 1980, the rate of the tax imposed by subsection (a) shall be 3 percent."

AIRPORT AND AIRWAY TRUST FUND AMENDMENTS

SEC. 403. (a) AUTHORIZATION OF APPROPRIATIONS TO CARRY OUT AIRCRAFT AND AIRPORT NOISE REDUCTION OF 1978.—Subparagraph (A) of section 208(f)(1) of the Airport and Airway Revenue Act of 1970 is amended to read as follows:

"(A) incurred under—

'(i) title I of the Airport and Airway Development Act of 1970,

"(ii) the Airport and Airway Development Act Amendments of 1976, and

"(iii) the Airport and Aircraft Noise Reduction Act.

as such Acts were in effect on the date of the enactment of the Airport and Aircraft Noise Reduction Act."

TITLE V

SEC. 501. Paragraph (4) of section 28(c) of the Airport and Airway Development Act of 1970 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BEDELL. Mr. Speaker, reserving the right to object, and I do so for the purpose of asking the gentleman from California (Mr. ANDERSON) some questions.

My first question is that this reduces the airport tax that is assessed on people who use air transportation from 8 percent to 6 percent. I understand that it was reduced to 6 percent in the House and the other body had ordered it restored to 8 percent, and with all the problems we are having with balancing our budgets I do not know what the purpose is for us to lower the airport tax for people who travel on airplanes and I repeat at a time we are raising the taxes for social security and other taxes. Will the gentleman give me the reason why we would do that, lower the tax on people who buy airplane tickets?

Mr. ANDERSON of California. If the gentleman will yield, yes, this measure would reduce the tax on airline tickets from 8 percent to 6 percent, with the effective date of October 1, 1979.

This is for the purpose of allowing the airlines to reduce the price of the ticket by 2 percent, which would be of benefit to the consumers.

It has been pointed out that we do have more than $2 billion in uncommitted surplus in the trust fund. Thus, this proposal will not jeopardize any existing trust fund programs. The tax cut is for 1 year because we have to look at the tax structure before it expires at the end of fiscal year 1980.

Mr. BEDELL. Is the gentleman telling me that in 1 year there will again be a vote as to whether this tax should be 6 percent or 8 percent?

Mr. ANDERSON of California. By 1980 we will have to take a look at the air transportation tax structure as I said previously.

Mr. BEDELL. If that is the situation, will the gentleman tell me why it is that we are taking that change now at the very last minute of our session rather than doing it at the beginning of the next session when there will be a chance to debate and consider whether or not this tax should be lowered?

Mr. ANDERSON of California. I believe the Senate's rationale was to pass on a tax cut to the aviation consumer for the next fiscal year in view of the large uncommitted surplus in the Airport Trust Fund. Then, when Congress looks at the issue in 1980, we could decide whether we need 6 percent or 8 percent or some other figure.

In the legislation we originally passed, the 2 percent tax reduction was made available to the airlines to assist them in complying with retroactively imposed noise standards. That is out entirely now, so there is nothing going to the airlines. This is a straight reduction of the tax.

The reason we want to get the bill passed now in its present form is that it does have a title I and a title II, which has provision for airport noise abatement planning, and increased funding for airport development. These provisions help all segments of aviation generally.

In title II, if the gentleman remembers, the House added money for general aviation airports. I do not believe there is any objection to these sections now. It is my understanding the various people who opposed the original bill now have no objections.

I think the gentleman from Ohio (Mr. VANIK), if I asked him, would verify that.

One of the Members on the other side of the aisle (Mr. SNYDER), who has led the opposition to the original bill, rose in support of it a while ago. I do not believe there is any objection to the bill in its present form. Although it does not closely resemble the bill this body passed

last month, it does give us a basis for building on and improving next year.

Mr. BEDELL. There are some of us who might want to take a look at it. I am not going to object to the bill, but I think we should have a chance to vote. Let us suppose that I think it is wrong, at the very last minute, for us to come in here and lower taxes on people who can afford to travel.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, could the gentleman explain once again what this legislation does because there was quite a bit of noise at the time the gentleman was speaking.

The tax has now been reduced from 8 percent to 6 percent; is that correct?

Mr. ANDERSON of California. If the gentleman will yield, if this bill passes, yes, it will reduce the tax from 8 percent to 6 percent.

Mr. ROUSSELOT. Yes. And the former amount that was to be devoted to the airlines is no longer there?

Mr. ANDERSON of California. That is no longer in the bill.

Mr. ROUSSELOT. They are not getting any of the "tab"?

Mr. ANDERSON of California. They are not receiving anything.

Mr. ROUSSELOT. Therefore, that objectionable feature which many people talked about before has been eliminated; is that correct?

Mr. ANDERSON of California. Yes; that is correct.

Mr. HARSHA. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I am delighted to yield to the gentleman from Ohio.

Mr. HARSHA. Mr. Speaker, none of this tax goes to the airlines, either under present law or any contemplated law that we are dealing with.

The present 8-percent tax goes into the Airport-Airway Development Trust Fund. That money the airlines collect, of course, when they sell people their tickets; but that is turned in to the trust fund, and then that money is apportioned by the Congress through normal procedures. We first have to authorize it. Then it is apportioned by the Committee on Appropriations to the airports to develop those airports and runways and to provide money for FAA to install security measures and safety measures and landing devices and all that. It has nothing to do with the airlines.

What we propose to do in this bill, because of the surplus which is in the trust fund, is to reduce the tax from 8 cents to 6 cents, giving the consumer that 2 cents, to the airlines, the consumer or customer.

Mr. ROUSSELOT. Therefore, this bill which is presently before us is a tax reduction?

Mr. HARSHA. It is, exactly.

Mr. ROUSSELOT. That is fantastic.

Mr. HARSHA. If the gentleman will yield further, in the original House version of the noise bill, that reduction of 2 percent in the tax, or, I should say, the legislation permitted the airlines to increase their charges by 2 percent and take that money and put it into an account and apply it to the problems of retrofitting, re-engining, or purchasing new capital equipment to meet the Federal Government's regulation on noise pollution abatement. None of that mechanism is in this bill.

Mr. ROUSSELOT. That was taken out.

Mr. HARSHA. That was taken out entirely, and all we are dealing with is a very modest AADA plan and a very modest AADA plan and a very modest cut in the taxes that the consumer gets the benefit of.

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, I yield to my colleague, the gentleman from California, Mr. GOLDWATER.

Mr. GOLDWATER. I address this question to my chairman, the gentleman from California (Mr. ANDERSON). He is bringing this conference report back as a Noise Reduction Act. As it passed the House, it was a program created by our subcommittee and our committee to divert a portion of that ticket tax into a fund to be used by the airline industry to quiet their aircraft and make them good neighbors. That is the whole purpose of this bill. Yet he comes back here now with just purely a Tax Reduction Act. It has nothing to do with noise. It will not impact on noise. It will not help the airline industry meet the new standards promulgated by the FAA. I do not see the purpose of allowing this particular measure to go forth. We have not even had hearings on whether we should reduce this tax, pure and simple, to reduce the tax without using it for noise reduction.

Mr. ROUSSELOT. Reserving the right to object, does the gentleman from California (Mr. ANDERSON) wish to respond?

Mr. ANDERSON of California. Yes. If the gentleman will yield, as I mentioned, the main provisions of the bill remain in title I and title II. Title I does provide noise compatability planning and money to carry out the programs developed from the planning. Title II increases funding for airport development. This House overwhelmingly supported the committee bill and even added additional money on the floor. I think we need title I and title II.

I agree there is nothing in there for the original purpose of providing money to assist airlines to comply with noise deadlines. That provision was taken out in the other body, and there is no way in the world to get it back in today.

But what remains of the bill can still be considered noise legislation, because of the provisions of title I and title II.

Mr. ROUSSELOT. Reserving the right to object, I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. I thank the gentleman for yielding. Let me point out that also in title I is a plan to implement a plan by the airport operators to reduce noise pollution around the airport and in the surrounding neighborhood. It is a voluntary plan, so there is some noise reduction program in here. In addition to that, we have several waiver provisions which would enable the airlines to seek waivers so that they do not have to comply with this regulation on the date set forth in the law, but there is no mechanism to fund their retrofitting program, so there is some element of noise abatement in this bill.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. MURTHA. I object.

The SPEAKER. Objection is heard.

IMPROVING THE OPERATION OF THE ADJUSTMENT ASSISTANCE PROGRAMS

Mr. VANIK. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 11711) an act to improve the operation of the adjustment assistance programs for workers in firms under the Trade Act of 1974, with Senate amendment thereto, and concur in the Senate amendment with amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

H.R. 11711

Page 1, strike out all after line 4 over to and including line 13 on page 34 and insert:

SEC. 101. SPECIAL TREATMENT OF CERTAIN CERTIFICATIONS AND PETITIONS.

(a)(1) This subsection applies—

(A) to any petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974—

(i) if such petition was filed with the Secretary of Labor (hereinafter in this section referred to as the "Secretary") before November 1, 1976; and

(ii) if the Secretary, on the basis of section 223(b)(1) of the Trade Act of 1974—

(I) denied issuance of such a certification

(II) refused to accept the petition,

(III) caused the petition to be withdrawn, or

(IV) terminated an investigation undertaken with respect to the petition; and

(B) to any worker covered by a certification issued under section 223 of the Trade Act of 1974 on the basis of a petition filed before January 1, 1977, if such worker was not eligible for adjustment assistance under such chapter 2 by reason of subsection (b)(1) of such section.

(2) The Secretary shall promptly reconsider any petition referred to in paragraph (1)(A) and the eligibility for adjustment assistance of any worker referred to in paragraph (1)(B). In undertaking such reconsideration, the provisions of chapter 2 of title II of the Trade Act of 1974 shall apply, except that—

(A) for purposes of section 223(b)(1) of such Act, an 18-month period shall be applied rather than a one-year period; and

(B) for purposes of section 231(1)(B) of such Act, the date of the determination, if

an affirmative determination is made incident to reconsideration, under section 223 shall be the 60th day after the date on which the petition concerned was initially filed with the Secretary, or, in the case of any petition to which paragraph (1)(A)(ii)(I) applies, the date of the initial determination by the Secretary denying certification.

(b)(1) Any group of workers separated from employment after October 3, 1974, and before November 1, 1976, may file, or have filed on their behalf (including a filing on their behalf by the Secretary), a petition for a certification of eligibility to apply for adjustment assistance under chapter 2 of title II of the Trade Act of 1974 if a petition for such a certification for such group was not filed with the Secretary after April 2, 1975, and before November 1, 1976. The Secretary may not consider any petition filed under this subsection unless the petition is filed before the close of the 6-month period beginning on the effective date of this Act.

(2) The provisions of such chapter 2 shall apply with respect to any petition filed under this subsection; except that—

(A) for purposes of section 223(b)(1) of the Trade Act of 1974, an 18-month period shall be applied rather than a one-year period,

(B) the date of the petition shall be April 3, 1975, or such other date deemed appropriate by the Secretary on the basis of the information obtained during the investigation, and

(C) for purposes of section 231(1)(B) of such Act, the date of the determination, if an affirmative determination is made, under section 223 with respect to the petition shall be the 60th day after the date of the petition established under subparagraph (B).

In carrying out subsections (a) and (b), the Secretary may not pay, or recompute the amount of, any program benefit under chapter 2 of title II of the Trade Act of 1974 for the same week of unemployment for which any worker received, or is eligible to receive, such a benefit pursuant to such chapter under other than the authority of this section.

(d) The Secretary shall provide full information to workers regarding the provisions of this section and shall provide whatever assistance is necessary to enable workers concerned to prepare petitions or applications for benefits.

SEC. 102. FILING OF WORKER PETITIONS BY SECRETARY OF LABOR.

Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

"(a) A petition for a certification of eligibility to apply for adjustment assistance under this chapter—

"(1) may be filed with the Secretary of Labor (hereinafter in this chapter referred to as the 'Secretary') by any group of workers or by their certified or recognized union or other duly authorized representative; or

"(2) may be filed by the Secretary on behalf of any group of workers.

Upon the filing of a petition under paragraph (1) or (2), the Secretary shall promptly publish notice in the Federal Register that the filing has been made and that the Secretary has initiated an investigation.".

SEC. 103. GROUP ELIGIBILITY REQUIREMENTS FOR ADJUSTMENT ASSISTANCE.

(a) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(1) by inserting "(a)" immediately before "The Secretary";

(2) by amending paragraph (2) to read as follows:

"(2) that sales or production, or both, of such firm or subdivision have decreased absolutely, or threaten to decrease absolutely," and;

(3) by inserting ", or threat thereof" immediately before the period at the end of paragraph (3);

(4) by striking out the last sentence thereof; and

(5) by adding at the end thereof the following new subsections:

"(b)(1) The Secretary shall certify a group of workers as eligible to apply for adjustment assistance under this chapter if he determines—

"(A) that not less than 35 percent of the total sales, or not less than 35 percent of the total production, of such workers' firm or an appropriate subdivision of the firm is accounted for by the provision to import-impacted firms of—

"(i) any article (including, but not limited to, any component part) which is essential to the production of any import-impacted article,

"(ii) any service which is essential to the production, storage, or transportation of any import-impacted article, or

"(iii) any article and any service described in clauses (i) and (ii),

"(B) that a significant number or proportion of the workers in such workers' firm or subdivision have become totally or partially separated, or are threatened to become totally or partially separated,

"(C) that the sales or production, or both, of such workers' firm or subdivision have decreased absolutely, or threaten to decrease absolutely, and

"(D) that the absolute decrease, or the threat thereof, in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such workers' firm or subdivision provides articles or services referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production, or the threat thereof, referred to in subparagraph (C).

"(2) For purposes of this subsection—

"(A) The term "import-impacted article" means any article produced by an import-impacted firm, if such article is one with respect to which a determination under subsection (a)(3) or section 251(c)(3) was made incident to the certification of the group of workers or firm concerned.

"(B) The term "import-impacted firm' means—

"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to subsection (a), or

"(ii) any firm which has been certified pursuant to section 251(c).

"(c) For purposes of this section, the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.".

(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 221(a) of the Trade Act of 1974 after June 30, 1979.

SEC. 104. DETERMINATIONS BY SECRETARY OF LABOR.

Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by adding immediately after subsection (c) the following new subsections:

"(d) In any case in which the Secretary of Commerce notifies the Secretary that a petition has been filed under section 251 by any firm or its representative, if a petition has been filed under section 221 regarding any group of workers of such firm, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Commerce any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Commerce in making a determination under section 251 with respect to the firm.

"(e) If any certification issued under subsection (a) is based upon a determination made pursuant to section 222(a)(2) or (b)(1)(C) that the production or sale, or both, of the firm or subdivision concerned threaten to decrease absolutely, no adjustment assistance under this chapter shall be provided to any worker covered by such certification until after the date on which the Secretary determines pursuant to such section that the production, or sales, or both, of such firm or subdivision have decreased absolutely.".

SEC. 105. PROVISION OF INFORMATION ON BENEFITS TO WORKERS.

(a) Section 224 of the Trade Act of 1974 (19 U.S.C. 2274) is amended—

(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and

(2) by striking out subsection (c) thereof.

(b) Subchapter A of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271–2274) is amended by adding at the end thereof the following new section:

"SEC. 225. BENEFIT INFORMATION TO WORKERS.

"The Secretary shall provide full information to workers about the benefit allowances, training, and other employment services available under this chapter, and under other Federal programs, which may facilitate the adjustment of such workers to import competition. The Secretary shall provide whatever assistance is necessary to enable groups of workers to prepare petitions or applications for program benefits. The Secretary shall make every effort to insure that cooperating State agencies fully comply with the agreements entered into under section 239(a) and shall periodically review such compliance.".

(c) The table of contents of the Trade Act of 1974 is amended by striking out.

"Sec. 224. Study by the Secretary of Labor when International Trade Commission begins investigation; action where there is affirmative finding."

and inserting in lieu thereof the following:

"Sec. 224. Study by Secretary of Labor when International Trade Commission begins investigation.

"Sec. 225. Benefit information to workers.".

SEC. 106. QUALIFYING EMPLOYMENT REQUIREMENTS.

Section 231(2) of the Trade Act of 1974 (19 U.S.C. 2291(2)) is amended to read as follows:

"(2) Such worker had—

"(A) in the 52 weeks immediately preceding such total or partial separation, at least 26 weeks of employment at wages of $30 or more a week; or

"(B) in the 104 weeks immediately preceding such total or partial separation, at least 40 weeks of employment at wages of $30 or more;

in one or more firms or appropriate subdivisions thereof with respect to each of which a certification has been made under section 223 and which is in effect on the date of separation; or, if data with respect to weeks of employment with a firm are not available, equivalent amounts of employment computed under regulations prescribed by the Secretary.".

SEC. 107. TIME LIMITATIONS ON READJUSTMENT ALLOWANCES.

Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) by striking out "26 additional weeks" in paragraph (1) and inserting in lieu thereof "52 additional weeks";

(2) by amending paragraph (2) to read as follows:

"(2) such payments shall be made for not more than 26 additional weeks to an adversely affected worker who is not receiving payments under paragraph (1) and has attained age 60 on or before the date of total or partial separation, except that if payment is made for the 26th additional week and such worker has not attained age 62 before the close of such week, such payments shall be made for not more than the number of weeks occurring during the period beginning with the week after such 26th additional week and ending with, but including, the week in which the worker attains age 62."; and

(3) by amending the last sentence thereof by striking out "78 weeks" and inserting in lieu thereof "104 weeks".

SEC. 108. EXPERIMENTAL TRAINING PROJECTS.

(a) Part II of subchapter B of chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2295–2296) is amended by adding at the end thereof the following new section:

"SEC. 236A. EXPERIMENTAL TRAINING PROJECTS.

"(a) The Secretary shall establish a program of experimental, developmental, demonstration, or pilot projects, through grants to, or contracts with, public agencies or private nonprofit organizations, or through contracts with other private organizations, for the purpose of improving techniques, and demonstrating the effectiveness, of specialized methods in meeting the employment and training problems of workers displaced by import competition. One such specialized method shall be the provision of certificates or vouchers to workers entitling employers and institutions to payment for on-the-job training, institutional training, or services provided by them to workers.

"(b) The Secretary shall carry out program projects under this section only within political subdivisions of States with respect to which the Secretary finds that—

"(1) a significant number or proportion of the workers within the political subdivision have become totally or partially separated, or are threatened to become totally or partially separated; and

"(2) increases in imports of articles like or directly competitive with articles produced by firms and subdivisions thereof located within the political subdivision have contributed importantly to the total or partial separations, or threats thereof, referred to in paragraph (1).

For purposes of paragraph (2), the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(c) Participation by any worker in a program project established under subsection (a) shall be on a voluntary basis; except that a worker may not be selected by the Secretary for participation unless the worker is, at the time of his application for participation—

"(1) covered by a certification issued under section 223 relating to employment or former employment within the political subdivision in which the project will be undertaken; or

"(2) if not so covered, is—

"(A) included within a group of workers for which a petition has been filed under section 221 and on which a determination under section 223 is pending, and

"(B) totally or partially separated from employment within such political subdivision.

The Secretary shall select workers for participation in a program project on such basis as the Secretary deems appropriate to carry out the purposes of this section, but such selections shall be made in a manner so as to insure that each project undertaken includes workers who represent diverse skill levels and occupations within the political subdivision concerned.

"(d) Grants made, and contracts entered into, by the Secretary under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.

"(e) Section 239(c) shall apply in the case of any individual in training under a project undertaken pursuant to this section with respect to entitlement to unemployment insurance otherwise payable to such individual. The agreement under section 239 with any State shall be modified to effect the purposes of this section, if the State deems such a modification to be necessary.

"(f) Not later than March 1, 1982, the Secretary shall submit to Congress a report setting forth a description and evaluation of the effectiveness of the projects implemented under the program established under subsection (a), together with such recommendations as the Secretary may have for implementing on a permanent basis those methods used in the program which have proven most effective.

"(g) For purposes of carrying out this section, there are authorized to be appropriated to the Department of Labor not to exceed $500,000 for each of fiscal years 1980 and 1981.".

(b) The table of contents of the Trade Act of 1974 is amended by inserting after "236. Training."

the following:

"236A. Experimental training projects.".

(c) Section 245(b)(1) of the Trade Act of 1974 (19 U.S. 2317) is amended by inserting "other than section 236A" immediately before the period.

"SEC. 109. INCREASED JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended as follows:

(1) Subsection (a) thereof is amended—

(A) by striking out "who has been totally separated";

(B) by striking out "80 percent of the cost of his necessary" and inserting in lieu thereof "100 percent of the cost of his reasonable and necessary"; and

(C) by striking out "$500" and inserting in lieu thereof "$600".

(2) Subsection (b) thereof is amended—

(A) by amending paragraph (1) to read as follows:

"(1) to assist an adversely affected worker who has been totally separated in securing a job within the United States;"; and

(B) by amending paragraph (3) to read as follows:

"(3) where the worker has filed an application for such allowance with the Secretary before—

"(A) the later of—

"(i) the 365th day after the date of the certification under which the worker is eligible, or

"(ii) the 365th day after the date of the worker's last total separation;

"(B) if such worker is age 60 or older on the date of his last total separation, the later of—

"(i) the 547th day after such date; or

"(ii) the 547th day after the date of the certification under which the worker is eligible; or

"(C) the 182d day after the concluding date of any training received by the worker, if the worker was referred to such training by the Secretary.".

SEC. 110. INCREASED RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended—

(1) by amending subsection (a)—

(A) by striking out "who has been totally separated"; and

(B) by striking out the period and inserting in lieu thereof the following:

", if such worker was, or is, entitled to trade readjustment allowances under such certification and files such applications before—

"(1) the later of—

"(A) the 425th day after the date of the certification, or

"(B) the 425th day after the date of the worker's last total separation;

"(2) if such worker is age 60 or older on the date of his last total separation, the later of—

"(A) the 547th day after such date or

"(B) the 547th day after the date of the certification; or

"(3) the 182d day after the concluding date of any training received by such worker, if the worker was referred to such training by the Secretary.";

(2) by amending subsection (c) to read as follows:

"(c) A relocation allowance shall not be granted to such worker unless his relocation occurs within 182 days before or after the filing of the application therefor or (in the case of worker who has been referred to training by the Secretary) within 182 days after the conclusion of such training."; and

(3) by amending subsection (d)—

(A) by striking out "80 percent" in paragraph (1) and inserting in lieu thereof "100 percent", and

(B) by striking out "$500" in paragraph (2) and inserting in lieu thereof "$600".

SEC. 111. DEFINITIONS.

Section 247 of the Trade Act of 1974 (19 U.S.C. 2319) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'adversely affected worker' means an individual who—

"(A) because of lack of work in adversely affected employment, has been totally or partially separated from such employment,

"(B) has been totally separated from other employment with a firm, in which adversely affected employment exists, within 190 days after being transferred from work in adversely affected employment in the firm because of lack of work, or

"(C) has been totally separated from other employment in a firm in which adversely affected employment exists as the result of—

"(i) the transfer of an individual from such adversely affected employment because of lack of work, or

"(ii) the reemployment of an individual who was totally separated from such adversely affected employment, if the reemployment occurs within the 190-day period beginning on the date of such separation.";

(2) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively, and by redesignating paragraphs (6) through (14) as paragraphs (8) through (16), respectively;

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) The term 'appropriate subdivision' means—

"(A) any establishment or, where appropriate, any group of establishments operating as an integrated production unit or engaging in an integrated process, which is within any multiestablishment firm, or

"(B) any distinct part or section of any establishment which is within any firm, whether or not such firm is a multiestablishment firm."; and

(4) by inserting immediately after paragraph (6) (as redesignated by paragraph (1) of this section) the following new paragraph:

"(7)(A) The term 'firm' includes any of the following entities (regardless whether any such entity is under a trustee in bankruptcy or receivership under court decree):

"(i) Individual proprietorship.

"(ii) Partnership.

"(iii) Joint venture.

"(iv) Association.
"(v) Corporation (including any development corporation).
"(vi) Business trust.
"(vii) Cooperative.
"(B) Any firm, together with any—
"(i) predecessor in interest,
"(ii) successor in interest, or
"(iii) other affiliated firm (if both such firms are controlled or substantially beneficially owned by substantially the same persons).
may be considered to be a single firm for the purposes of this chapter.".

TITLE II—IMPROVEMENTS IN ADJUSTMENT ASSISTANCE TO FIRMS

SEC. 201. ELIGIBILITY REQUIREMENTS OF FIRMS FOR ADJUSTMENT ASSISTANCE.

(a) Section 251 of the Trade Act of 1974 (19 U.S.C. 2341) is amended—
(1) by striking out the last sentence of subsection (c); and
(2) by striking out subsection (d) and inserting in lieu thereof the following:
"(d)(1) The Secretary shall certify a firm as eligible to apply for adjustment assistance under this chapter if the Secretary determines—
"(A) that not less than 50 percent of the total sales of such firm is accounted for by the provision to import-impacted firms of any article (including, but not limited to, any component part) which is essential to the the production of any import-impacted article,
"(B) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,
"(C) that sales or production, or both, of such firm have decreased absolutely, and
"(D) that the absolute decrease in the sales or production, or both, by import-impacted firms of import-impacted articles, with respect to which such firm provides articles referred to in subparagraph (A), contributed importantly to the total or partial separation, or threat thereof, referred to in subparagraph (B) and to the decline in sales and production referred to in subparagraph (C).
"(2) For purposes of this subsection—
"(A) The term 'import-impacted article' means any article produced by an import-impacted firm, if such article is one with respect to which a determination under section 222(a)(3) or subsection (c)(3) was made incident to the certification of the group of workers or firms concerned.
"(B) The term 'import-impacted firm' means—
"(i) any firm or appropriate subdivision thereof the workers of which have been certified pursuant to section 222(a), or
"(ii) any firm which has been certified pursuant to subsection (c).
"(e) For purposes of subsections (c) and (d) the term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.
"(f) A determination shall be made by the Secretary as soon as possible after the date on which any petition is filed under this section, but in any event not later than 60 days after that date.
"(g) In any case in which the Secretary of Labor notifies the Secretary that a petition has been filed under section 221 by any group of workers, their certified or recognized union, or other duly authorized representative, if a petition has been filed under subsection (a) regarding any firm in which such group of workers is, or was, employed, the Secretary, notwithstanding any other provision of law, shall promptly provide to the Secretary of Labor any data and other information obtained by the Secretary in taking action on the petition which would be useful to the Secretary of Labor in making a determination under section 223 with respect to the workers.".
(b) The amendments made by subsection (a) shall apply with respect to petitions filed under section 251(a) of the Trade Act of 1974 after June 30, 1979.

SEC. 202. TECHNICAL ASSISTANCE.

(a) Section 252 of the Trade Act of 1974 (19 U.S.C. 2342(a)) is amended—
(1) by striking out subsection (c); and
(2) by redesignating subsection (d) as subsection (c).
(b) Section 253 of such Act (49 U.S.C. 2343) is amended—
(1) by amending subsection (b)—
(A) by striking out "(b) The" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the"; and
(B) by adding at the end thereof the following new paragraph:
"(2) The Secretary shall provide technical assistance, on such terms and conditions as the Secretary determines to be appropriate, to any firm certified under section 251 for the purpose of assisting such firm in preparing a proposal for its economic adjustment, unless the Secretary determines, after consultation with the firm, that it is able to prepare such a proposal without such assistance. If technical assistance provided to a firm under this paragraph is furnished, pursuant to subsection (c), through any private individual, firm, or institution, the Secretary shall bear, subject to the 90 percent limitation in such subsection (c), that portion of the cost of such assistance which, in the judgment of the Secretary, the firm is unable to pay.".
(2) by striking out "75 percent" in subsection (c) and inserting in lieu thereof "90 percent".

SEC. 203. FINANCIAL ASSISTANCE.

(a) Section 254 of the Trade Act of 1974 (19 U.S.C. 2344) is amended by adding at the end thereof the following new subsection:
"(d) With respect to any loan guaranteed under this section, the Secretary may, without regard to section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a)), contract to pay annually, for not more than 10 years, to or on behalf of the borrower an amount sufficient to reduce by up to 4 percentage points the interest paid by such borrower on such guaranteed loan. No payment under this subsection shall result in the interest rate paid by a borrower on any guaranteed loan being less than the rate of interest for a direct loan made under this section. The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to such extent, and in such amounts, as are provided in appropriation Acts.".
(b) The amendment made by subsection (a) shall apply with respect to loans guaranteed under section 254 of the Trade Act of 1974 on or after the effective date of this Act.

SEC. 204. CONDITIONS FOR FINANCIAL ASSISTANCE.

(a) Section 255 of the Trade Act of 1974 (19 U.S.C. 2345) is amended—
(1) by amending subsection (b) by striking out "(i)", and by striking out ", plus" and all that follows thereafter and inserting in lieu thereof a period; and
(2) by amending subsection (h)—
(A) by amending paragraph (1) to read as follows:
"(h)(1) The outstanding aggregate liability of the United States at any time with respect to loans guaranteed under this chapter on behalf of any one firm shall not exceed $5,000,000."; and
(B) by striking out "$1,000,000" in paragraph (2) and inserting in lieu thereof "$3,000,000".
(b)(1) The amendments made by subsection (a)(1) shall apply with respect to direct loans made under section 255 of the Trade Act of 1974 on or after the effective date of this Act.
(2) With respect to any direct loan made under such section 255 before such effective date, at the request of the borrower, the Secretary of Commerce shall take such action as may be appropriate to adjust the rate of interest on such loan consistent with the amendment made by subsection (a)(1) effective with respect to the outstanding balance of the loan existing on October 31, 1977, if the loan was entered into before that date, or (B) the total amount of the loan, if the loan was entered into on or after October 31, 1977.

SEC. 205. PROVISION OF INFORMATION ON BENEFITS TO FIRMS.

(a) Section 264 of the Trade Act of 1974 (19 U.S.C. 2354) is amended—
(1) by striking out "; ACTION WHERE THERE IS AFFIRMATIVE FINDING" in the section heading thereto; and
(2) by striking out subsection (c) thereof.
(b) Chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341–2354) is amended by adding at the end thereof the following new section:
"SEC. 265. BENEFIT INFORMATION TO FIRMS.
"The Secretary shall provide full information to firms about the technical and financial assistance available under this chapter, and under other Federal programs, which may facilitate the adjustment of such firms to import competition. The Secretary shall provide whatever assistance is necessary to enable firms to prepare petitions for certifications of eligibility.".
(c) The table of contents of the Trade Act of 1974 is amended by striking out
"Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding."
and inserting in lieu thereof the following:
"Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is
"Sec. 265. Benefit information to firms."

TITLE III—GENERAL PROVISIONS

SEC. 301. ADJUSTMENT ASSISTANCE COORDINATION.

Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended to read as follows:
"SEC. 281. ADJUSTMENT ASSISTANCE COORDINATION.
"(a) There is established an Adjustment Assistance Coordinating Committee to consist of a Deputy Special Representative for Trade Negotiations as Chairman and the officials charged with adjustment assistance responsibilities of the Department of Labor, the Department of Commerce, and the Small Business Administration. It shall be the function of the Adjustment Assistance Coordinating Committee to coordinate the development and review of all policies, studies and programs of the various agencies involved pertaining to the adjustment assistance of workers, firms, and communities to import competition for the purpose of insuring prompt efficient, and effective delivery of adjustment assistance available under this title.
"(b) There is established the Commerce-Labor Adjustment Action Committee (hereinafter referred to in this subsection as the 'Committee') the members of which shall be officials charged with economic adjustment responsibilities in the Department of Commerce, the Department of Labor, and any other appropriate Federal agency. The chairmanship of the Committee shall rotate among members representing the Department of Commerce and the Department of Labor. In addition to any other function deemed appro-

priate by the Secretary of Commerce and the Secretary of Labor, the Committee shall facilitate the coordination between such departments in providing to trade-impacted workers, firms, and communities timely and effective assistance under this title (including, but not limited to, the implementation of sections 225 and 265) and under other appropriate programs administered by such departments. The Committee shall report quarterly on its activities to the Adjustment Assistance Coordinating Committee.".

SEC. 302. GRANT PROGRAMS AND STUDIES

(a) Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391–2271) is amended—

(1) by designating section 284 as section 287; and

(2) by inserting immediately after section 283 the following new sections:

"SEC. 284. GRANTS TO LABOR ORGANIZATIONS.

"(a) The Secretary of Labor may make grants to unions, employee associations, or other appropriate organizations for the purpose of enabling such organizations to carry out research on, and the development and evaluation of, issues relating to the design of an effective program of trade adjustment assistance for workers in industries in which significant numbers of the workers have been, or will likely be, certified as eligible for adjustment assistance. Such issues shall include, but not be limited to, the impact of new technologies on workers, the design of new workplace procedures to improve efficiency, the creation of new jobs to replace those eliminated by foreign imports, and worker training and skill development. Any grant made under this section shall be subject to such terms and conditions as the Secretary deems necessary and appropriate. The Secretary of Labor may not expend more than $2,000,000 in any one year for grants under this section.

"(b) There are authorized to be appropriated for fiscal years 1980 and 1981 such sums as may be necessary to carry out the purposes of this section.

"SEC. 285. INDUSTRY STUDIES BY SECRETARY OF COMMERCE.

"The Secretary of Commerce may conduct studies of those industries actually or potentially threatened by import competition. The purpose of such studies shall include—

"(1) the identification of basic industry-wide characteristics contributing to the competitive weakness of domestic firms;

"(2) the analysis of all other considerations affecting the international competitiveness of industries; and

"(3) the formulation of options for assisting trade-impacted industries and member firms, including industrywide initiatives.".

(b) The table of contents of the Trade Act of 1974 is amended—

(1) by striking out

"Sec. 281. Coordination."

and inserting in lieu thereof

"Sec. 281. Adjustment assistance coordination."; and

(2) by striking out

"Sec. 284. Effective date."

and inserting in lieu thereof

"Sec. 284. Grants to labor organizations.

"Sec. 285. Industry studies by Secretary of Commerce.

"Sec. 286. Effective date.".

SEC. 303. EFFECTIVE DATES.

(a) The amendments made by sections 106, 107(2), 109, 110, and 111(1) shall take effect on the 60th day after the effective date of this Act and shall apply with respect to workers separated from employment on or after such 60th day.

(b) The amendments made by section 107 (1) and (3) shall take effect on the effective date of this act and shall apply:

(1) with respect to workers separated from employment on or after such effective date, and,

(2) with respect to workers receiving trade readjustment allowances on the effective date to assist them in completing an approved training program as provided by section 233(a)(1) of the Trade Act of 1974.

TITLE IV—WATCH MOVEMENTS

SEC. 401. WATCH MOVEMENTS.

(a) Paragraph (b) of headnote 6 subpart E, part 2, Schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended to read as follows:

"(b) If the requirements for free entry set forth in general headnote 3(a) are complied with, watches (provided for in item 715.05) and watch movements (provided for in items 716.08 through 719.—) which are the product of the Virgin Islands, Guam, or American Samoa and which contain any foreign component may be admitted free of duty. The total quantity of such articles entered free of duty under the preceding sentence during each calendar year shall not exceed a number equal to 1/9 of the apparent United States consumption of watch movements during the preceding calendar year (as determined by the International Trade Commission), of which total quantity—

"(i) not to exceed 87.5 percent shall be the product of the Virgin Islands,

"(ii) not to exceed 8.33 percent shall be the product of Guam, and

"(iii) not to exceed 4.17 percent shall be the product of American Samoa.

The total quantity of such articles which may enter free of duty under the 1/9 limitation during each calendar year under the preceding sentences and which contain any foreign component which is the product of any country the products of which are subject to the rates of duty in column numbered 2 shall not exceed a number equal to 15 percent of 1/9 of the apparent United States consumption of watch movements during the preceding calendar year as determined under the preceding sentence."

(b) Except as provided in the next sentence, the amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse, on or after the date of enactment. The last sentence of such amendment shall apply with respect to articles entered, or withdrawn from warehouse, for consumption after December 31, 1978, and before January 1, 1982.

(c) Before July 1, 1981, the President shall prepare, with the assistance of the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of the Interior, and submit to the Congress a report on—

(1) the effect of the amendment made under the first section of this Act on the economies of the insular possessions; and

(2) the effect of such amendment on the watch industry in such possessions and in the United States.

The report shall also include an evaluation of the effect on—

(A) the economies of the insular possessions,

(B) the watch industry in such possessions, and

(C) the watch industry in the United States.

of the use of watch parts in such possessions which are the product of countries the products of which are subject to the rates of duty in column numbered 2 of the Tariff Schedules of the United States.

TITLE V—COUNTERVAILING DUTY WAIVER EXTENSION

SEC. 501. Subsection (d) of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) is amended—

(1) by striking out "the four year period beginning on January 3, 1975" and inserting in lieu thereof the following: "the period beginning on Jauary 3, 1975, and ending on October 15, 1978,", and

(2) by adding at the end thereof the following new paragraph:

"(4)(A) That period specified in paragraph (2) shall be extended with respect to determinations in effect on October 15, 1978, and which do not apply to articles which the Commission under paragraph (b) has determined to have caused or threatened injury to a domestic industry until the date provided in subparagraph (C), if, upon the recommendation of the Special Representative for Trade Negotiations, the President determines, and notifies both Houses of Congress of his determination, on or before January 2, 1979, that—

"(i) negotiations on an agreement or agreements establishing internationally agreed rules and procedures governing the use of agricultural and industrial subsidies have been concluded;

"(ii) the Multilateral Trade Negotiations as a whole, and agreements providing for the reduction or elimination of barriers to, or other distortions of, international trade, in particular, have been substantially completed;

"(iii) failure to extend such period as provided herein would be likely to seriously jeopardize the successful completion of such agreements, including the agreement or agreements on subsidies; and

"(iv) the agreement or agreements on subsidies establish (I) new substantive rules on the use of internal and export subsidies which adequately protect United States agricultural and industrial trading interests, and (II) more effective provisions on notification, resolution of disputes involving the use of subsidies in international trade.

"(B) The Secretary may make a determination under paragraph (2) after October 15, 1978, only if he certifies in addition to the requirements of paragraph (2) that waiving the imposition of additional duty under this section with respect to any article or merchandise is essential to the country in which such article or merchandise is produced becoming a signatory to the agreement or agreements governing the use of agricultural or industrial subsidies referred to in subparagraph 4(A). Such a certification shall be subject to the requirements of subsection (e) of this section.

"(C) Notwithstanding the October 15, 1978, date referred to in subsection (d) the period referred to in subparagraphs (A) and (B) shall be extended is the earliest of the following:

"(i) the date on which either House of Congress defeats on a vote of final passage, in accordance with the provisions of section 151 of the Trade Act of 1974, implementing legislation with respect to a multilateral agreement or agreements governing the use of subsidies;

"(ii) the date of the enactment of such implementing legislation; or

"(iii) February 15, 1979.

"(D) The February 15, 1979, date specified above may be further waived by the President for a period not to exceed that ending on July 30, 1979, provided that 30 days prior to February 15, 1979, the President transmits to both Houses of Congress a report on the agreement or agreements on subsidies, which includes:

"(i) a description of the new substantive rules on the use of internal and export subsidies with a statement of the reasons why such rules improve significantly the protection of United States agricultural and industry against the adverse effects of subsidies

granted by foreign governments on the commerce of the United States;

(ii) a description of the provisions governing consultation, dispute settlement, and the reasons why these provisions constitute significantly increased availability of information and assurance that there will be timely resolution of disputes involving the use of subsidies in international trade;

"(iii) a description of the provisions governing notification, including the ways in which increased transparency will be provided with respect to subsidy practices and why such provisions constitute a substantive and significant improvement in the transparency of such practices by foreign governments.

"(E) Notwithstanding the provisions of subparagraph (D) above, no determination made under this subsection by the Secretary which is in effect on January 2, 1979, shall remain in effect after February 15, 1979, if the President determines that the foreign country or instrumentality with respect to which the original waiver determination has been made, does not intend to become a signatory to the agreement or agreements on subsidies described in this subsection.

"(F) Notwithstanding the above provisions after receiving the report described in subparagraph (D) above, all determinations to waive duties by the Secretary shall terminate upon the adoption by both Houses of Congress by an affirmative vote of a majority of the Members of each House present and voting, under the procedures set forth in section 152 of the Trade Act of 1974 (19 U.S.C. 2192), of a concurrent resolution disapproving the waiver of the February 15, 1979, termination date by the President.

TITLE VI

SEC. 601. Section 455(a) of the Social Security Act is amended—

(1) by striking out the semicolon at the end of paragraph (2), and inserting in lieu of such semicolon a period, and

(2) by striking out all that follows paragraph (2).

TITLE VII

DETERMINATION OF BENEFITS IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

SEC. 701. Part A of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"DETERMINATION OF BENEFITS IN CERTAIN CASES WHERE CHILD LIVES WITH RELATIVE NOT LEGALLY RESPONSIBLE FOR HIS SUPPORT

"SEC. 412. (a) Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed under this part solely because, under such plan, in any case in which one or more children live in any household—

"(1)(A) in which the total income of such child or children and the closely related family members (as defined in subsection (b)) living in the same household equals or exceeds the standard of need under such plan for a family equal in number to the total number of such children and closely related family members in the same household, or (B) where the income of children and family members cannot be determined due to failure to cooperate, and

"(2) which (A) does not include a relative (specified in section 406(a)(1)) who is legally responsible for the support of the child or children, or (B) includes one or more such relatives but none of such relatives is eligible for aid under the State plan because such relative is being supported by another person or under another program,

the amount of aid furnished with respect to such child or children for shelter, utilities, and similar expenses, bears the same ratio to the total amount which would be furnished for such expenses, if all the closely related family members with whom such child or children are living were eligible for such aid, as the number of such children bears to the total number of such children and family members.

(b) For purposes of subsection (a), the term 'closely related family members' of a child means those relatives of his who are specified in section 406(a)(1) and any other individual for whose support such a relative is legally responsible, but does not include any such relative or other individual (1) with respect to whom benefits are provided under another public program eligibility for which is based on need, or (2) whose presence in the home would not increase the total amount which would be allowed for shelter, utilities, and similar expenses if he was eligible for aid.

"(c) The amount of aid to families with dependent children for shelter, utilities, and similar expenses shall be identified, for purposes of this section, in the following manner:

"(1) If the State plan approved under this part provides for paying 100 percent of the standard of need specified in the plan, and designates a portion of that standard, for families of specified sizes, to meet shelter, utilities, and similar expenses, then an amount equal to that portion shall be considered the total amount for such expenses for a family of the specified size.

"(2) If such plan provides for meeting less than 100 percent of such standard, and designates a portion of that standard, for families of specified sizes, to meet such expenses, then an amount equal to that portion, multiplied by the proportion of the standard of need which such State pays as aid to families with dependent children, shall be considered the total amount for such expenses for a family of the specified size.

"(3) If such plan does not designate any portion of the standard of need for meeting such expenses, then such portion shall be determined in accordance with criteria prescribed by the Secretary, but in no event shall such portion exceed 30 percent (or such greater percent as the State may show is attributable to such expenses) of the standard of need for a family of a specified size, multiplied by the proportion of such standard which the State pays as aid to families with dependent children.

"(d) For purposes of subsection (a), the total income of the child or children and the closely related family members (as defined in subsection (b)) shall be determined as it would be if all such individuals were applicants for aid under the State plan and shall not include any income which any such individual is obligated to apply to the support of any other individual not living in the household.".

TITLE VIII

"SEC. 801. (a) Section 1861(S)(3) of the Social Security Act is amended by inserting after "diagnostic laboratory testing," the words "Papanicolaou smears on a periodic basis (to the extent and under such circumstances as prescribed in regulations of the Secretary),".

(b) The amendment made by subsection (a) shall be effective with services provided on and after July 1, 1979.

Mr. VANIK (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment and the House amendments thereto be considered as read and printed in the RECORD.

REPORT OF COMMITTEE TO NOTIFY THE PRESIDENT

The SPEAKER. The Chair will receive a message.

Mr. BRADEMAS. Mr. Speaker, the committee to notify the President is ready to report.

Mr. Speaker, your committee appointed to join a committee of the Senate to inform the President that the Congress is ready to adjourn, and to ask him if he has any further communications to make to the Congress, has performed that duty. The President has advised us that, in his judgment, this Congress has been one of the most courageous and constructive that has ever served, and has directed us to say that he has no further communication to make to the Congress.

IMPROVING THE OPERATION OF THE ADJUSTMENT ASSISTANCE PROGRAMS

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

Mr. SEIBERLING. Reserving the right to object, I would like to ask the gentleman whether there are any extraneous or nongermane amendments in this?

Mr. VANIK. If the gentleman will yield, Mr. Speaker, I will explain to the gentleman the amendments include the adjustment assistance amendments that we drafted in the Committee on Ways and Means and an extension of the waiver of the President's authority with respect to countervailing duty. There is an amendment drafted by our colleague, the gentleman from Arkansas (Mr. TUCKER) to prohibit the importation of watches with Soviet parts from the Virgin Islands, and there is an amendment offered by our colleague, the gentleman from California (Mr. CORMAN) relating to medicaid changes which are essential in order to carry on the child care program.

Mr. SEIBERLING. I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

EMERGENCY HIGHWAY AND TRANSPORTATION REPAIR ACT OF 1978

Mr. ERTEL. Mr. Speaker, I move to suspend the rules and concur in Senate amendments to the bill (H.R. 10979) to provide emergency assistance for the repair of certain weather related damage to highways and urban mass transportation systems due to the winter of 1977–78.

The SPEAKER. The Clerk will report the title and the Senate amendment.

The Clerk read as follows:

H.R. 10979

Strike out all after the enacting clause and insert:

That (a) in addition to previous authorizations, there is hereby authorized to be ap-

propriated for the prosecution of the comprehensive plan of development of each river basin under the jurisdiction of the Secretary of the Army referred to in the first column below, which was basically authorized by the Act referred to by date of enactment in the second column below, an amount not to exceed that shown opposite such river basin in the third column below:

	Act of Congress	Amount
Alabama-Coosa River Basin	Mar. 2, 1945	$3,000,000
Arkansas River Basin	June 28, 1938	9,000,000
Brozos River Basin	Sept. 3, 1954	24,000,000
Central and Southern Florida	June 30, 1948	2,000,000
Columbia River Basin	June 28, 1938	53,000,000
Mississippi River and tributaries	May 15, 1928	300,000,000
Missouri River Basin	June 28, 1938	74,000,000
North Branch, Susquehanna River Basin	July 3, 1958	30,000,000
Ohio River Basin	June 22, 1936	20,000,000
Quachita River Basin	May 17, 1950	2,000,000
Red River Waterway	Aug. 13, 1968	120,000,000
San Joaquin River Basin	Dec. 22, 1944	65,000,000
Santa Ana River Basin	June 22, 1936	1,000,000
South Platte River Basin	May 17, 1950	7,000,000
Tampa Harbor	Dec. 31, 1970	21,000,000
Upper Mississippi River Basin	June 28, 1938	3,000,000

(b) Of the amount authorized for the Columbia River Basin, $1,000,000 shall be available for the local flood protection projects authorized by section 204 of the Flood Control Act of 1950, and the authorization for such local flood protection projects is hereby increased to $16,000,000.

(c) The total amount authorized to be appropriated by this section shall not exceed $734,000,000.

SEC. 2. The project for flood protection on the Sacramento River, California, authorized by the Flood Control Act approved March 1, 1917, as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project, and to include mitigation of fish and wildlife losses induced by the project. The evaluation and justification of the project shall be based on the overall benefits and costs of all project elements. In addition to previous appropriations there is hereby authorized to be appropriated the sum of $25,000,000 to carry out the purposes of this section.

SEC. 3. $591,122,000 of the amount authorized to be appropriated under the first section of this Act and the amount authorized to be appropriated under section 2 of this Act are for those fiscal years which begin on or after October 1, 1978. $142,878,000 of the amount authorized under the first section of this Act and appropriated by title II of the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978 (Public Law 95-96), shall be for the fiscal year which began October 1, 1977.

SEC. 4. (a) Sections 201 and 202 and the last three sentences in section 203 of the Flood Control Act of 1968 shall apply to all projects authorized in this section. The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended by the Chief of Engineers in the respective reports hereinafter designated.

KODIAK HARBOR

The project for navigation improvements of Kodiak Harbor, Alaska: Report of the Chief of Engineers, dated September 7, 1976, at an estimated cost of $8,597,000.

PUGET SOUND

The project for navigation on the Blair and Sitcum Waterways, Tacoma Harbor, Washington: Report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $20,497,000.

TERRITORY OF GUAM

The project for flood control on the Agana River, Territory of Guam: Report of the Chief of Engineers, dated March 14, 1977, at an estimated cost of $3,494,000.

CHETCO RIVER

The project for construction of navigation improvements at Chetco River, Oregon: Report of the Chief of Engineers, dated May 2, 1977, at an estimated cost of $4,666,000.

ROOT RIVER BASIN

The project for flood control, Root River Basin, Minnesota: Report of the Chief of Engineers, dated May 13, 1977, at an estimated cost of $4,900,000.

PANAMA CITY BEACHES

The project for beach erosion control and hurricane flood protection, Panama City Beaches, Florida: Report of the Chief of Engineers, dated July 8, 1977, at an estimated cost of $16,300,000.

DES MOINES RIVER BASIN

The project for flood control, Des Moines River Basin, Iowa and Minnesota: Report of the Chief of Engineers, dated July 22, 1977, at an estimated cost of $7,900,000.

CAZENOVIA CREEK

The project for flood control, Cazenovia Creek, Buffalo Metropolitan Area, New York: Report of the Chief of Engineers, dated September 8, 1977, at an estimated cost of $1,600,000.

LITTLE WOOD RIVER

The project for flood control, Little Wood River, vicinity of Gooding and Shoshone, Idaho: Report of the Chief of Engineers, dated November 2, 1977, at an estimated cost of $2,536,000.

GREENVILLE HARBOR

The project for navigation, Greenville Harbor, Mississippi: Report of the Chief of Engineers, dated November 15, 1977, at an estimated cost of $20,400,000.

GULFPORT HARBOR

The project for navigation, Gulfport Harbor, Mississippi: Report of the Chief of Engineers, dated January 16, 1978, at an estimated cost of $31,167,000, except that, for reasons of environmental quality, dredged spoil from such project shall be disposed of in open water in the Gulf of Mexico. For the purpose of economic evaluation of this project the benefits from such open water disposal shall be deemed to be at least equal to the costs of such disposal. If the Secretary of the Army, acting through the Chief of Engineers, determines after competitive bidding and pursuant to the provisions of Public Law 95-269 that transportation and disposal of dredged material cannot be carried out by contract at reasonable prices and in a timely manner, the Secretary, acting through the Chief of Engineers, is authorized to acquire the necessary dredged material transport equipment for the prosecution of the project.

GREAT LAKES-SAINT LAWRENCE SEAWAY

The project for extension of the navigation season on the Great Lakes and Saint Lawrence Seaway: Report of the Chief of Engineers, dated November 16, 1977, at an estimated annual cost of $6,127,000.

RAHWAY RIVER BASIN

The project for flood control on Robinson's Branch at Clark, Scotch Plains, and Rahway, New Jersey: Report of the Chief of Engineers, dated October 10, 1976, at an estimated cost of $12,650,000.

The project for flood control on the main stem of the Rahway River and Van Winkles Brook, Springfield, New Jersey: Report of the Chief of Engineers, dated October 24, 1975, at an estimated cost of $7,951,000.

CHEHALIS RIVER BASIN

The project for flood control on the Chehalis River at South Aberdeen and Cosmopolis, Washington: Report of the Chief of Engineers, dated February 8, 1977, at an estimated cost of $12,570,000.

BUSHLEY BAYOU

The project for flood control and other purposes for the Bushley Bayou area of the Red River backwater area, Louisiana: House Document Numbered 93-157, at an estimated cost of $29,300,000 except that construction shall not be initiated until a plan for mitigation of damages to fish and wildlife in connection with such project has been approved by Congress.

COLUMBIA RIVER

The project for construction of a second powerhouse at McNary Lock and Dam, Columbia River, Oregon and Washington: Senate Document Numbered 95-81, at an estimated cost of $548,000,000, except that not to exceed $75,000,000 is authorized for initiation and partial accomplishment of such project.

WEARS CREEK

The project for flood protection for Jefferson City on Wears Creek, Missouri: House Document Numbered 94-628, at an estimated cost of $32,342,000.

LIBBY REREGULATING DAM

The project for installation of power generating facilities at the Libby Reregulating Dam, Kootenai River, Montana: Report of the Chief of Engineers, dated July 18, 1977, at an estimated cost of $43,054,000.

SAN FRANCISCO HARBOR

The project for light-draft navigation in the Fishermen's Wharf area, San Francisco Harbor, California: Report of the Chief of Engineers, dated February 3, 1978, at an estimated cost of $10,710,000.

OHIO RIVER BASIN

The projects for flood control, Hocking River at Logan and Nelsonville, Ohio: Report of the Chief of Engineers, dated June 30, 1978, at an estimated cost of $7,650,000.

MIDDLE ATLANTIC COASTAL REGION

The project for beach erosion control at Coney Island, Borough of Brooklyn, New York: Report of the Chief of Engineers, dated August 18, 1976, at an estimated cost of $2,019,000.

(b) The following works of improvement for the benefit of navigation and the control of destructive flood waters and other purposes are hereby adopted and authorized to be prosecuted by the Secretary of the Army, acting through the Chief of Engineers, substantially in accordance with the plans and subject to the conditions recommended in the respective reports hereinafter designated.

HALSTEAD, KANSAS

The project for flood protection, Halstead, Kansas: Report of the Board of Engineers for Rivers and Harbors, dated June 29, 1977, at an estimated cost of $4,070,000, subject to the approval of such report by the Chief of Engineers.

CABIN CREEK

The project for Cabin Creek, West Virginia: Report of the Board of Engineers for Rivers and Harbors, dated January 17, 1978, at an estimated cost of $21,080,000, subject to the approval of such report by the Chief of Engineers.

PARKER LAKE

The project for flood control for Parker Lake, Muddy Boggy Creek, Oklahoma: Report of the Board of Engineers for Rivers and Harbors, dated November 2, 1976, at an estimated cost of $28,400,000, subject to the approval of such report by the Chief of Engineers, except that construction shall not

be initiated until a plan of mitigation of damages to fish and wildlife in connection with such project has been approved by Congress.

SAVANNAH HARBOR

The project for navigation, Savannah Harbor, Georgia: Report of the Board of Engineers for Rivers and Harbors, dated June 29, 1977, at an estimated cost of $7,312,000, subject to the approval of such report by the Chief of Engineers, except that local interests shall be reimbursed at Federal expense for moving or modifying docks, bulkheads, warehouses, and towers necessary for project construction, at an estimated cost of $2,800,000. Such reimbursement at total Federal expense shall be based on the replacement costs, exclusive of betterment, minus the fair market value of the existing structures.

BRAZOS HARBOR

The project for navigation improvement at Brazos Island Harbor, Texas: Report of the Division Engineer, Southwest Division, dated February 13, 1978, at an estimate cost of $15,900,000, subject to the approval of such report by the Chief of Engineers.

OAKLAND HARBOR

The project for navigation, Oakland Outer Harbor, California: Report of the Board of Engineers for Rivers and Harbors, dated June 21, 1978, at an estimated cost of $26,300,000, subject to the approval of such report by the Chief of Engineers.

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for navigation improvements on the Siuslaw River and Bar at Siuslaw, Oregon, in accordance with the recommendations of the Division Engineer, North Pacific Division, in the report dated June 1976, at an estimated cost of $20,291,000, except that such construction shall not begin until such recommendations have been approved by the Chief of Engineers.

SEC. 2. The Water Resources Development Act of 1976 (Public Law 94–587) is amended as follows:

(1) The first sentence of section 160 is amended by striking out all that follows after "recommendations" and inserting in lieu thereof the following: "of the Chief of Engineers in the report dated February 8, 1977, at an estimated cost of $25,000,000, including sufficient engineering design studies to provide the bases for definitive and accurate decisions on site selection, project scale and scope, and the benefits and costs of the project". The last sentence of such section 160 is hereby repealed.

(2) Section 175 is amended to read as follows:

"SEC. 175. The project for harbor modification at Cleveland Harbor, Ohio, is hereby authorized for construction, generally in accordance with the recommendations of the District Engineer contained in section M of the report of the District Engineer, dated June 1976, at an estimated cost of $30,400,000. Such construction shall be undertaken in stages. The initial stage shall consist of construction of that element of the project of deepen and widen the East Basin, at an estimated cost of $22,400,000. The existing dredged material containment site known as site 14 may be used for the containment of excavated material from such construction. Construction of the final stage shall include one or more harbor entrances, but shall not be undertaken until completion of model studies and approval by the Chief of Engineers, including his determination that such further works are engineeringly feasible, and economically justified, and environmentally acceptable.".

(3) The paragraph under the heading "PEMBINA RIVER BASIN" in section 101 is amended by striking out "Report" and all that follows down through and including "Chief of Engineers." and inserting in lieu thereof the following: 'Report of the Chief of Engineers, dated February 2, 1978, at an estimated cost of $430,000.".

SEC. 3. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resource development projects, substantially in accordance with, and subject to the conditions recommended by the Chief of Engineers in, the reports hereinafter designated.

CHEHALIS RIVER BASIN

The project for navigation at Grays Harbor, Washington: Report of the Chief of Engineers, dated December 22, 1977, at an estimated cost of $1,000,000.

JEKYLL ISLAND

The project for beach erosion at Jekyll Island, Georgia: House Document Numbered 94–533 at an estimated cost of $615,000.

(b) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of the following water resource development projects:

RED BANK AND FANCHER CREEKS

The project for improvements on Red Bank and Fancher Creeks, California: At an estimated cost of $325,000.

WESTCHESTER COUNTY STREAMS

The project for flood control Mamaroneck and Sheldrake River Basins, New York, and Byram River, Connecticut: In accordance with the recommendations of the Board of Engineers for Rivers and Harbors dated July 12, 1978, at an estimated cost of $1,140,000.

HARRISBURG, PENNSYLVANIA

The project for flood control in Harrisburg, Pennsylvania: in accordance with the recommendations of the Board of Engineers for Rivers and Harbors in its report dated June 21, 1978, at an estimated cost of $825,000.

SACRAMENTO RIVER

The project for navigation on the Sacramento River, California, from San Francisco Bay to the Port of Sacramento, at an estimated cost of $750,000.

ASHTABULA HARBOR

The project for Ashtabula Harbor, Ohio: Enlargement of the turning basin known as area G by extending it eastward not more than five hundred feet and northward to within one hundred and fifty feet of the United States east breakwater, at an estimated cost of $350,000.

CRESCENT CITY HARBOR

The project for harbor improvement at Crescent City, Del Norte County, California, for deepening and maintaining a twenty-foot channel in the outer harbor area, including a connecting channel between the harbor entrance and the outer basins and the inner harbor, and a sixteen-foot channel between the inner harbor and the inner boat basin and establishment of a sixteen-foot channel in the vicinity of the fish boat harbor, at an estimated cost of $400,000.

TENKILLER FERRY LAKE

The project for Tenkiller Ferry Lake, Arkansas River, Oklahoma: Construction of treatment facilities and a regional conveyance system of water from Tenkiller Ferry Lake, at an estimated cost of $1,000,000.

ENGLEWOOD LAKE

The project for water quality control in the Arkansas-Red River Basin, Texas, Oklahoma, and Kansas: For the Englewood Lake project, Oklahoma, at an estimated cost of $1,100,000.

(c) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to undertake the phase I design memorandum stage of advanced engineering and design of treatment facilities and a regional conveyance system for water from Kaw Lake to the town of Stillwater, Oklahoma, at $1,000,000, and is further authorized to construct treatment facilities and conveyance facilities to treat and convey water from Kaw Lake to the town of Stillwater, Oklahoma, at a cost not to exceed $27,000,000, with repayment of such construction costs and associated operation and maintenance costs to be made to the Federal Government in accordance with the provisions of the Water Supply Act of 1958 (Public Law 85–500).

(d) The Secretary of the Army is authorized to undertake advanced engineering and design for the projects in subsections (a) and (b) of this section after completion of the phase I design memorandum stage of such projects. Such advanced engineering and design may be undertaken only upon a finding by the Chief of Engineers, transmitted to the Committees on Environment and Public Works of the Senate and Public Works and Transportation of the House of Representatives, that the project is without substantial controversy, that it is substantially in accordance with and subject to the conditions recommended for such project in this section, and that the advanced engineering and design will be compatible with any project modification which may be under consideration. There is authorized to carry out this subsection not to exceed $5,000,000. No funds appropriated under this subsection may be used for land acquisition or commencement of construction.

(e) The three floodwater control structures on the Johns Creek Tributary, and the program of land treatment for erosion and sediment control in the Nonconnah Creek Basin is authorized for construction in accordance with the plans and recommendations set forth in the joint report of the District Engineer and State Conservationist contained in Senate Document 95–96 at an estimated cost of $10,000,000.

(f)(1) The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of a project for water supply within the New York Metropolitan area, substantially in accordance with the recommendations of the Board of Engineers for Rivers and Harbors report, dated January 18, 1978, titled Northeastern United States Water Supply Study. Such phase I design memorandum stage shall also include stage I, New York City Water Tunnel numbered 3. Nothing in this section shall be construed so as to authorize either the study or construction of any facility which would have, directly or indirectly, any effect on the water supply (including underground water) of Suffolk and Nassau Counties, New York. There is authorized to be appropriated to carry out the purpose of this subsection not to exceed $10,000,000.

(2) The Secretary of the Army, acting through the Corps of Engineers, is hereby authorized and directed to undertake construction of stage I, New York City Water Tunnel numbered 3, substantially in accordance with the plans contained in the appendix to the report of the Division Engineer on the Northeastern United States Water Supply Study, Part II, Technical Report, Section C, dated July 1977, subject to the review and approval of such plans by the Secretary of the Army, acting through the Chief of Engineers. There is authorized to be appropriated for initiation and partial accomplishment of this section the sum not to exceed $15,000,000.

(3) Prior to the construction of the project authorized pursuant to subsection (2) of this section, the Secretary of the Army, acting through the Corps of Engineers, shall enter into an agreement with the appropriate non-Federal interests which provides that (1) such non-Federal interests shall repay the costs of the construction of such project in accordance with the provisions of the Water Supply Act of 1958 (Public Law

85–500); (2) such non-Federal interests will provide the Secretary with the lands, easements, and right-of-way necessary for the Secretary to construct such project; and (3) after such construction is completed, all right, title, and interest of the Untied States shall be conveyed to such non-Federal interests who thereafter operate and maintain such project.

SEC. 5. (a) The authorization for the Trexler Dam and Lake project, Lehigh County, Pennsylvania, as part of the Delaware River Basin project pursuant to section 203 of the Flood Control Act of 1962, is terminated upon its removal from the comprehensive plan for the Delaware River Basin by the Delaware River Basin Commission.

(b) (1) The survey for flood control and other purposes in the Beargrass Creek Basin, Kentucky, authorized by Resolution of the Committee on Public Works, United States Senate, January 29, 1965, is not authorized after the date of enactment of this Act.

(2) No report on the basin referred to in subsection (b) (1) of this section shall be submitted to Congress.

(3) No further study of the Beargrass Creek Basin, Kentucky, shall be undertaken except as authorized by a law enacted after the date of enactment of this Act.

SEC. 6. The portion of the project for the Nansemond River, Virginia, from the United States Highway 460 Bridge at Suffolk, Virginia, to the upstream project limits at river mile 18.66, a distance of approximately two thousand five hundred feet, authorized by the first section of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 11, 1888 (25 Stat. 410), and modified by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 3, 1930 (46 Stat. 922), is not authorized after the date of enactment of this section.

SEC. 7. (a) The project for the Caesar Creek, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a public water supply system in accordance with the document entitled "Southwest Ohio Water Plan", prepared by the Ohio Department of Natural Resources (April 1976), with modifications as the Chief of Engineers deems advisable, at an estimated cost of $33,000,000.

(b) Prior to the construction of the water supply system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, (2) after such construction is completed, all right, title, and interest of the United States in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system, and (3) the costs of construction shall be repaid to the Federal Government over a period of fifty years after completion of construction of the water supply system. The first annual payment shall be a minimum of 0.1 per centum of the total amount to be repaid. The annual payments shall be increased by 0.1 per centum each year until the tenth year at which time the payment shall be 1 per centum of the total principal amount to be repaid. Subsequent annual payments for the balance of forty years shall be one-fourtieth of the balance remaining after the tenth annual payment (including interest over such fifty year period) at the rate specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85–500).

SEC. 8. The project for flood protection on the Sacramento River, California, authorized by the Flood Control Act approved March 1, 1917, as amended, is hereby further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct bank protection works along the reach of the Sacramento River and its tributaries from Red Bluff to Shasta Dam, and from Chico Landing downstream along each bank to the head of the Sacramento River Flood Control Project levees, subject to the same requirements of non-Federal cooperation applicable to other similar elements of the project, and to include mitigation of fish and wildlife losses induced by the project. The evaluation and jutsification of the project shall be based on the overall benefits and costs of all project elements. In addition to previous authorizations, there is hereby authorized to be appropriated the sum of $25,000,000 to carry out the purposes of this section.

SEC. 9. (a) The project for navigation improvements in Mobile Harbor, Theodore Ship Channel, Alabama, approved by resolutions of the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, dated December 15, 1970, and modified by section 112 of the Water Resources Development Act of 1976, is hereby further modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movements of materials therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Alabama, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 10. (a) The project for flood protection on the Saginaw River, Michigan, authorized by the Flood Control Act of 1958 (Public Law 85–500) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to implement a nonstructural project for the purposes of flood damage reduction and recreation on the Tittabawassee River at Midland, Michigan, as determined by the Chief of Engineers to be economically justified (determined using the interest rate prevailing at the time such project was first authorized). If such nonstructural project is not implemented, the project originally authorized may be implemented.

(b) Non-Federal cooperation shall be required for such project as determined by the Chief of Engineers and in accordance with the cost-sharing principles of section 73(b) of the Water Resources Development Act of 1974 (Public Law 93–251) and the Federal Water Project Recreation Act (Public Law 89–72). Prior to initiation of the project, non-Federal interests shall agree to furnish such cooperation in accordance with section 221 of the Flood Control Act of 1970 (Public Law 91–611).

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to include the costs and benefits of non-Federal improvements initiated by non-Federal interests subsequent to January 1 1978, which the Chief of Engineers determines are compatible with and constitute an integral part of the project authorized by this section. In determining the non-Federal share for the project, the Chief of Engineers may give credit for such costs incurred by non-Federal interests in carrying out such improvements.

SEC. 11. (a) The project for the East Fork Lake, Ohio River Basin, Ohio, authorized by section 4 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved June 28, 1938 (52 Stat. 1215), is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct a public water supply system substantially in accordance with the plan entitled "East Fork Lake Water Supply and Intake Plan", dated October 19, 1977, with modifications as the Chief of Engineers deems advisable, at an estimated cost of $16,500,000.

(b) Prior to the construction of the water supply system pursuant to subsection (a) of this section, the Secretary of the Army, acting through the Chief of Engineers, shall enter into an agreement with appropriate non-Federal interests which provides that (1) such non-Federal interests will provide the Secretary with the lands, easements, and rights-of-way necessary for the Secretary to construct such water supply system, (2) after such construction is completed, all right, title, and interest of the United States, in such water supply system shall be conveyed to such non-Federal interests who shall thereafter operate and maintain such water supply system, and (3) the costs of construction shall be repaid to the Federal Government over a period of fifty years after completion of construction of the water supply system. The first annual payment shall be a minimum of 0.1 per centum of the total amount to be repaid. The annual payments shall be increased by 0.1 per centum each year until the tenth year at which time the payment shall be 1 per centum of the total principal amount to be repaid. Subsequent annual payments for the balance of forty years shall be one-fortieth of the balance remaining after the tenth annual payment (including interest over such fifty year period at the rate specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85–500)).

SEC. 12. (a) The project for harbor improvement at Noyo, Mendocino County, California, authorized by the River and Harbor Act of 1962 (76 Stat. 1173), is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the cost of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movement of materials therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of California, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

(c) If, in lieu of diked disposal, the Secretary of the Army, acting through the Chief of Engineers, determines ocean disposal is necessary, the Federal share of the cost of such ocean disposal shall be 100 per centum.

SEC. 13. The navigation project for Lynnhaven Inlet, Bay, and connecting waters, Virginia, authorized by section 101 of the

River and Harbor Act of 1962 (76 Stat. 1173, 1174) is hereby modified to provide that the United States shall pay for the remedial work to Long Creek Canal which the city of Virginia Beach, Virginia, was required to carry out as a result of such navigation project, at a cost not to exceed $1,662,000.

SEC. 14. The general comprehensive plan for flood control and other purposes in the Ohio River Basin authorized by the Flood Control Act approved June 28, 1938, is hereby modified to authorize the Secretary of the Army acting through the Chief of Engineers, to reconstruct and repair the Cherry Street bridge and the Walnut Street bridge, Massillon, Ohio, at an estimated cost of $1,500,000. Non-Federal interests shall own, operate, and, upon completion of the work authorized by this section, maintain such bridges in accordance with the requirements of the Flood Control Act approved June 28, 1938.

SEC. 15. The Pick-Sloan Missouri Basin program, authorized by the Flood Control Act of 1944 (58 Stat. 887) is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct and to hydraulically, electrically, and financially integrate with the existing Missouri River basin Federal power system for operation and marketing of power, an adjacent-type pumped-storage hydroelectric facility with an estimated total capacity of 1,180 megawatts as part of the Fort Randall Dam-Lake Francis Case project, South Dakota, substantially in accordance with the plan set forth in the report of the Board of Engineers for Rivers and Harbors dated January 18, 1978, at an estimated cost of $270,000,000, except that not to exceed $30,000,000 is authorized for initiation and partial accomplishment of this section.

SEC. 16. (a) The Stamford Harbor, Connecticut, navigation project authorized by the River and Harbor Act of 1919 is hereby modified to provide that for disposal of material dredged in maintaining the project, non-Federal interests may furnish without cost to the United States an area located between the harbor's east branch channel and Kosciuszko Park which is satisfactory to the Secretary of the Army, acting through the Chief of Engineers, for the disposal of the dredged material. The Secretary of the Army, acting through the Chief of Engineers, shall construct a dike to retain the dredged material and non-Federal interests shall contribute 25 per centum of the costs of constructing such dike. Non-Federal interests shall acquire all easements and rights-of-way required for construction at the site and hold the United States free of damages incurred during construction and maintain such dike upon completion.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Connecticut, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in and in compliance with an approved plan for the Stamford Harbor area for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 17. The flood control project for Lavon Dam modification East Fork Trinity River, Texas, authorized by the Flood Control Act of 1962 is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to reimburse the Milligan Water Supply Corporation for the cost of relocating a three-inch waterline downstream, at a cost of $27,023.

SEC. 18. (a) The Galveston Channel 40-foot project for navigation in Galveston Bay, Texas, authorized in accordance with section 201 of the Flood Control Act of 1965 (Public Law 89–297), is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the costs of areas required by initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, levees, and spillways therefor. Credit shall be allowed in connection with the above project in an amount equal to the reasonable expenditure made by non-Federal interests in the acquisition of spoil areas and construction of necessary retaining dikes, bulkheads, embankments, levees, and spillways prior to the date of enactment of this section.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Texas, interstate agencies, municipalities, and other appropriate political subdivisions of the State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 19. The project for navigation at Houston Ship Channel (Greens Bayou), Texas, authorized under section 301 of the River and Harbor Act of 1965 (79 Stat. 1091) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to perform such dredging operations as are necessary to maintain a forty-foot project depth in that section of Greens Bayou from mile 0 to mile 0.34 as described in House Document Numbered 257, Eighty-ninth Congress.

SEC. 20. The navigation project at Mamaroneck Harbor, New York, authorized by the first section of the Act entitled, "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved September 22, 1922 (42 Stat. 1038), the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1029), and section 101 of the Rivers and Harbors Act of 1960 (74 Stat. 480) is hereby modified to provide that the Federal share of the additional cost of disposing in ocean waters dredged material resulting from dredging necessary to maintain the project, above the cost of disposing of such dredged material on land, shall be 80 per centum.

SEC. 21. The project for flood control, Wenatchee, Washington, canyons 1 and 2, authorized by resolution of the Committees on Public Works of the House of Representatives and Senate on December 15 and 17, 1970, respectively, is hereby modified to authorize the Secertary of the Army, acting through the Chief of Engineers, to acquire lands, easements, rights-of-way, and to carry out relocations for such project on condition that local interests enter into a legally binding agreement, prior to construction, to reimburse the United States for the total costs of such acquisitions and relocations, and to repay such costs in not more than fifty equal payments. The rate of interest on the unpaid balance shall be that specified on section 301(b) of the Water Supply Act of 1958 (Public Law 85–500).

SEC. 22. (a) The Intracoastal Waterway from Jacksonville to Miami, Florida, authorized by the River and Harbor Act of 1927 is hereby modified to provide that the non-Federal interests shall contribute 25 per centum of the cost of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, weirs, return culverts, and embankments therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies, the State of Florida, interstate agencies, municipalities and other appropriate political subdivisions of the State, and industrial concerns are participating in, and in compliance with, an approved plan for the general geographic area of the dredging activity for construction, modification, expansion or rehabilitation of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 23. The project for the Sandridge Dam and Reservoir, Ellicott Creek, New York, for flood protection and other purposes as authorized in section 201 of the Flood Control Act of 1970 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a combination of channel enlargement work and diversion channels along Ellicott Creek mostly in the Town of Amherst generally in accordance with the disdistrict engineer's recommended plan presented in the phase I general design memorandum dated February 1977 revised—April 1978, and accompanying final environmental impact statement dated January 1977 revised—April 1978; with such project refinements deemed necessary during detailed design for construction, at an estimated cost of $11,000,000.

SEC. 24. The hurricane-flood protection project for Lake Pontchartrain, Louisiana, authorized by section 204 of the Food Control Act of 1965 (Public Law 89–298) is hereby modified to provide that where the levees in Jefferson Parish in existence on the date of enactment of this section include pumping stations originally constructed by local interests, which stations form an integral part of that levee protection, the Secretary of the Army, acting through the Chief of Engineers, is authorized to construct features, such as a flood wall with sluice gates or other means, to insure that, by the most economical means, the level of protection within Jefferson Parish provided by the hurricane-flood protection project will be unimpaired. Requirements for non-Federal cooperation for the additional work authorized by this section shall be on the same basis as levee improvements for hurricane-flood protection on this project.

SEC. 25. The project for flood control in the St. Francis Basin, Mississippi River and tributaries, authorized by the Flood Control Act approved May 15, 1928, is modified to provide for improvement of the Fifteen Mile Bayou and tributaries and Eight Mile Creek, Paragould, Arkansas, as recommended by the district engineer and the Mississippi River Commission, in reports dated February 1978, and April 1977, respectively, subject to local cooperation requirements established by section 10 of the Flood Control Act approved July 24, 1946, and section 203 of the Flood Control Act approved August 13, 1968, and subject to approval of such reports, by the Chief of Engineers, at an estimated cost of $20,235,000.

SEC. 26. The Yaquina Bay and Harbor project, Oregon, authorized by the River and Harbor Act of March 2, 1919, is modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to raise the south jetty to protect vehicular access provided, at non-Federal cost, to public use areas on accreted land adjacent to the south jetty, from damaging effects of overtopping of the jetty, on condition that local interests provide the necessary lands, easements, and rights-of-way for such modification. The

estimated Federal construction cost of this modification is $2,200,000.

SEC. 27. The navigation project for Yazoo River, Mississippi, authorized by the River and Harbor Act of 1968, is hereby modified to provide that the cost of the alteration of the Shepardstown Bridge (mile 147.8) shall be entirely borne by the United States at an estimated cost to the United States of $3,600,000.

SEC. 28. The flood control project for the Skagit River Basin, Washington, authorized by section 203 of the Flood Control Act of 1966 (80 Stat. 1422) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, (1) to construct such additional flood control measures as are needed to extend flood protection upstream to and including the community of Sedro Woolley, Washington, and which the Chief of Engineers determines are engineeringly feasible, environmentally acceptable, and economically justified, and (2) to incorporate recreation facilities in the project. Construction of such additional flood control measures, at an estimated cost of $12,000,000, shall be subject to the same conditions of local cooperation as are required for the project as authorized immediately prior to the date of enactment of this Act. The cost of recreation facilities shall be shared in accordance with section 2(b) of the Federal Water Project Recreation Act (Public Law 89–72).

SEC. 29. The project for flood protection on Willow Creek, Oregon, authorized by section 204 of the Flood Control Act of 1965 is hereby modified substantially in accordance with the special report of the Chief of Engineers, dated May 15, 1974, at an estimated cost of $24,100,000.

SEC. 30. The project for flood control and other purposes on the South Platte River Basin in Colorado, authorized by the Flood Control Act of 1950 (64 Stat. 175) is hereby modified to authorize to the Secretary of the Army, acting through the Chief of Engineers, upon the request of and in coordination with the Colorado Department of Natural Resources and upon the Chief of Engineers, finding of feasibility and economic justification, to reassign a portion of the storage space in the Chatfield Lake project to joint flood control-conservation purposes, including storage for municipal and industrial water supply, agriculture, and recreation and fishery habitat protection and enhancement. Appropriate non-Federal interests shall agree to repay the cost allocated to such storage in accordance with the provisions of the Water Supply Act of 1958, the Federal Water Project Recreation Act, and such other Federal laws as the Chief of Engineers determines appropriate.

SEC. 31. (a) The project for the Barbers Point Harbor, Hawaii, authorized by the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to require a non-Federal cash contribution of 4.4 per centum of actual Federal construction costs, to be paid in estimated annual installments as construction proceeds, the final costs to be adjusted after actual costs have been determined. An additional non-Federal cash contribution shall be paid each year, equal to 50 per centum of the excess, if any, of the actual net revenue from the non-Federal sale of coral dredge material for that year over the net estimated revenue from the sale of such project material for that year as determined in the computation of the 4.4 per centum cash contribution requirement. The procedure and the unit values used for determining excess net revenues shall be approved by the Secretary of the Army.

(b) Agreement to make contributions as provided for in subsection (a) of this section shall be entered into between the non-Federal interests and the Secretary of the Army prior to initiation of construction.

SEC. 32. The plan for the harbor improvement at Honolulu Harbor, Oahu, Hawaii, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092) is hereby modified to delete the requirement that local interests contribute in cash, prior to initiation of construction, a lump sum amounting to 2.6 per centum of the estimated first cost of the general navigation facilities for the project, ascribed to land enhancement through deposition of dredged material.

SEC. 33. (a) The projects for Brunswick Harbor, Georgia, are modified to provide that non-Federal interests shall contribute 25 per centum of the costs of areas required for initial and subsequent disposal of spoil, and of necessary retaining dikes, bulkheads, embankments, and movements of material therefor.

(b) The requirements for appropriate non-Federal interests to contribute 25 per centum of the construction costs as set forth in subsection (a) shall be waived by the Secretary of the Army upon a finding by the Administrator of the Environmental Protection Agency that for the area to which such construction applies the State of Georgia, interstate agencies, municipalities, and other appropriate political subdivisions of that State and industrial concerns are participating in, and in compliance with, an approved plan for the general geographical area of the dredging activity for construction, modification, expansion, or rehabilition of waste treatment facilities and the Administrator has found that applicable water quality standards are not being violated.

SEC. 34. (a) The project for navigation of Charleston Harbor, South Carolina, authorized by the River and Harbor Act of October 17, 1940, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct a two-mile extension of the harbor navigation channel in the Wando River to the State port authority's Wando River terminal at an estimated cost of $4,500,000.

(b) The paragraph in section 101(a) of the Water Resources Development Act of 1976 under the heading "Cooper River Basin" is hereby amended by striking out "$500,000." and inserting in lieu thereof "$600,000, including the Wando River Channel Extension."

SEC. 35. The navigation project for Santa Cruz Harbor, Santa Cruz, California, authorized in section 101 of the River and Harbor Act of 1958 (Public Law 85–500) is hereby modified to provide that 100 per centum of the cost of operating and maintaining the sand bypassing facility authorized as part of such project shall be paid by the United States. In addition, such project is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct an impermeable core within the existing jetties at such harbor, and to undertake such maintenance dredging outside the boundaries of the authorized project as may be necessary to prevent or mitigate shoaling, surge, and related problems in the harbor.

SEC. 36. The project for flood control in East St. Louis and vicinity, Illinois, authorized by section 204 of the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to provide drainage channels in conjunction with the pumping plant to improve project effectiveness and the local environment, substantially in accordance with the report of the District Engineer, Saint Louis district, entitled "Revaluation Report, Bluewaters Ditch area", dated September 1976, at an estimated additional cost of $2,200,000.

SEC. 37. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed, with respect to the project for Trinity River and tributaries, Texas, authorized by the River and Harbor Act of 1965, to include estimates of net regional income benefit for the region surrounding the Trinity River using best available techniques and data to quantify such benefits, and to identify, display, and use such net regional benefits to the Trinity River region on an equal basis with national economic development benefit for the purpose of computing the economic justification of the project.

SEC. 38. The project for the mouth of the Colorado River, Texas, authorized by the River and Harbor Act of 1968, is hereby modified to provide that the diversion channel authorized as a part of such project to divert Colorado River flows into Matagorda Bay shall be constructed and maintained entirely at Federal expense and for the purpose of fish and wildlife enhancement. The benefits attributable to the diversion channel shall be deemed to at least equal its costs.

SEC. 39. The project for flood protection at Winona, Minnesota, authorized under the provisions of section 201 of the Flood Control Act of 1965, is hereby modified to provide that changes to two bridges within the limits of the city of Winona, Minnesota, made necessary by the project and its present plan of protection, shall be accomplished entirely at Federal expense, at an estimated cost of $580,000.

SEC. 40. The West Kentucky tributaries feature, Mississippi River and tributaries project (Obion Creek), Kentucky, authorized by the Flood Control Act approved October 27, 1965, is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to acquire for the United States at least 6,000 acres of woodlands for fish and wildlife management, recreation and environmental purposes in the flood plain of the Obion Creek Basin, Kentucky, at an estimated cost of $2,285,000.

SEC. 41. The project for hurricane protection and flood control at New London, Connecticut, authorized by the Flood Control Act of 1962 is hereby modified to provide that the Secretary of the Army, acting through the Chief of Engineers, is authorized to credit against the requirements for non-Federal interests those costs paid by the city of New London, Connecticut, before the date of enactment of this Act for feasibility studies and engineering design of the pressure conduit, construction costs for one hundred twenty-one and five-tenths feet of pressure conduit and construction costs for five hundred feet of dike equivalent, exclusive of cost for five hundred feet of shore edge slope protection, all a part of the authorized project.

SEC. 42. The project for navigation, Humboldt Harbor and Bay, California, authorized by section 101 of the River and Harbor Act of 1968 is hereby modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct needed protection works to prevent shoreline erosion damage to public and private facilities at and near Buhne Point, California, totally at Federal cost, at an estimated cost of $1,000,000.

SEC. 43. The project for navigation for the Atlantic Intracoastal Waterway bridges, Virginia and North Carolina, authorized by section 101 of the River and Harbor Act of 1970 (84 Stat. 1818) is hereby modified in accordance with the recommendations of the Chief of Engineers in House Document Numbered 94–597 with respect to Hobucken Core Creek, and Fairfield bridges at an estimated cost of $19,796,000.

SEC. 44. (a) The water resources development project for Harlan County Lake, on the Republican River, Nebraska, authorized by the Act of August 18, 1941 (Public Law 288, 77th Congress), is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to replace, renovate, and upgrade the existing Federal recreation facilities of the project, and to provide for maintenance and operation of such facilities.

(b) The work authorized by this section shall include purchase of a dredge, dredging of channels, construction of breakwaters, replacement and extension of outdated water access facilities, the performance of necessary

bank stabilization and appropriate filling activities, and such other items as are identified in connection with these activities located at Gremlin Cove, Patterson Harbor, Hunter Cove, and Methodist Cove/Pheasant Point in the June 1977 report of the Army Corps of Engineers.

(c) The modification authorized by this section shall be entirely at Federal expense, at an estimated cost of $4,811,000.

SEC. 45. The project for Burlington Dam and Reservoir on the Souris River, North Dakota, authorized in the Flood Control Act of 1970 is hereby modified in accordance with the recommendations of the district engineer, Saint Paul district, in the report dated December 1977, subject to approval of such recommendations by the Chief of Engineers, at an estimated cost of $92,600,000. The Secretary of the Army, acting through the Chief of Engineers, shall, within two years of the date of enactment of this Act, submit to Congress a report as to possible damages resulting from such construction and the operation of the project as modified, which shall include such recommendations as the Secretary deems necessary to mitigate damages. Not to exceed $30,000,000 is authorized for initiation and partial accomplishment of the modification authorized by this section.

SEC. 46. The project for flood control on Corte Madera Creek, Marin County, California, authorized by section 201 of the Flood Control Act of 1962 is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project for unit 4, from the vicinity of Lagunitas Road Bridge to Sir Francis Drake Boulevard, substantially in accordance with the plan, dated February 1977, on file in the office of the San Francisco district engineer. The plan is hereby further modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct such flood proofing measures as may be necessary to individual properties and other necessary structural measures in the vicinity of Lagunitas Road Bridge to insure the proper functioning of the completed portions of the authorized project. The non-Federal share of the costs of such measures shall be in accordance with the cost-sharing provisions contained in section 73(b) of the Water Resources Development Act of 1974. The project is hereby further modified to eliminate any channel modifications upstream of Sir Francis Drake Boulevard.

SEC. 47. The project for the town of Niobrara, Nebraska, authorized by section 213 of the Flood Control Act of 1970 (84 Stat. 1824, 1829) is hereby modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to relocate existing Nebraska Highway Number 12 through the relocated town of Niobrara, Nebraska, with necessary connections to Nebraska Highway Number 14, at an estimated cost of $1,600,000.

SEC. 48. The Secretary of the Army, acting through the Chief of Engineers, is authorized to perform intermittent dredging and such other work as may be required on the Yazoo River in Mississippi, from Greenwood south, to remove natural shoals as they occur, at an annual average cost of $200,000 so as to allow commerce to continue. Responsible local interests shall agree to (1) provide without cost to the United States all lands, easements, and rights-of-way required for dredging and disposal of dredged materials; (2) accomplish without cost to the United States such alterations, relocations, and rearrangement of facilities as required for dredging and disposal of dredged materials; and (3) hold and save the United States free from damages due to the dredging and disposal of dredged materials.

SEC. 49. (a) The Secretary of the Army, acting through the Chief of Engineers, shall design and construct, at full Federal expense, such flood control measures at or in the vicinity of Pikeville, Kentucky, and of Grundy, Virginia, on the Levisa Fork of the Big Sandy River; Pineville, Kentucky, on the Cumberland River; and Williamson and Matewan, West Virginia, on the Tug Fork of the Big Sandy River, as the Chief of Engineers determines necessary and advisable to afford these communities and other flood damaged localities and their immediate environs on both the Levisa and Tug Fork of the Big Sandy River and Cumberland River a level of protection against flooding at least sufficient to prevent any future losses to these communities from the likelihood of flooding such as occurred in April 1977, at an estimated cost of $100,000,000. Non-Federal interests shall hold and save the United States free from damages due to the construction works, and maintain and operate all the works after their completion in accordance with regulations prescribed by the Secretary of the Army.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake measures in the interest of flood control including, but not limited to, dredging, clearing, and snagging, in the main stems and tributaries of the Tug and Levisa Forks of the Big Sandy River, Virginia, West Virginia, and Kentucky, and the main stem and tributaries of the Cumberland River upstream of Cumberland Falls, Kentucky, at an estimated cost of $10,000,000.

(c) Congress hereby finds that the benefits attributable to the objectives set forth in section 209 of the Flood Control Act of 1970 exceed the cost of the flood control measures authorized by this section.

SEC. 50. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake the advanced engineering and design for a flood control project at Milton, Pennsylvania, including, but not limited to, final construction plans at a cost not to exceed $2,500,000.

SEC. 51. For the purposes of the Act entitled "An Act to provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes" approved June 21, 1940 (33 U.S.C. 511 et seq.), the Port of Houston Authority bridge over Greens Bayou approximately two and eight-tenths miles upstream of the confluence of Greens Bayou, Texas, and the Houston Ship Channel is hereby declared to be a lawful bridge for all purposes of such Act. The total of all Federal funds authorized to be expended under any provision of law as the result of the declaration made in the preceding sentence shall not exceed $400,000.

SEC. 52. The Secretary of the Army, acting through the Chief of Engineers, shall relocate the water supply intake facility on the Missouri River at Springfield, South Dakota, which facility is subject to severe sedimentation at an estimated cost of $2,000,000. Notwithstanding any other provision of law, the total cost of relocating such facility shall be paid by the United States.

SEC. 53. The Secretary of the Army, acting through the Chief of Engineers, shall take such action as may be necessary to correct slope failures and erosion problems along the banks of the Coosa River in order to protect the Fort Toulouse National Historic Landmark and Taskigi Indian Mound in the county of Elmore, Alabama. The Secretary of the Army, acting through the Chief of Engineers, shall coordinate any action taken under authority of this section with the Secretary of the Interior and the State of Alabama.

SEC. 54. (a) The Secretary of the Army, acting through the Chief of Engineers, shall include in the survey report on the enlargement of the navigation project for Galveston Harbor and Channel, Texas, the costs and benefits of improvements initiated by local interests after the date of enactment of this section which the Chief of Engineers determines are compatible with and constitute an integral part of his recommended plan.

(b) Upon approval by the Congress of such survey report, the Secretary of the Army, acting through the Chief of Engineers, shall reimburse the local interests, in accordance with subsection (d) of this section, for the funds expended to construct such portions of the project as are included in the approved project, if prior to such construction the detailed plans and specifications of such portions of such project were approved by the Chief of Engineers, if during such construction the Chief of Engineers inspected the work in progress, and if, after such project has been approved by Congress and after such construction has been completed, the Chief of Engineers approves such construction as in accordance with the approved project.

(c) The cost of work for which reimbursement is authorized by this section shall be determined in accordance with section 8(a) (2) of the Act of March 2, 1919 (33 U.S.C. 624).

(d) The Federal share of the cost of work for constructing the harbor and channel improvements authorized for reimbursement by this section shall be as follows:

(1) 100 per centum of the cost of a forty-foot or shallower project depth.

(2) 80 per centum of the cost of a forty-one-through forty-five-foot project depth.

(3) 66⅔ per centum of the cost of a forty-six-through fifty-foot project depth.

(4) 50 per centum of the cost of a fifty-one-foot or deeper project depth.

(e) The authorization to reimburse local interests contained in this section shall expire three years from the date of enactment of this section unless local interests begin construction of any portion of the project which is included in the approved project within such three-year period.

(f) Notwithstanding any other provision of this section, the total authorization to carry out this section shall not exceed $25,000,000.

SEC. 55. The Secretary of the Army, acting through the Chief of Engineers, shall carry out a project in the area of San Juan, Puerto Rico, extending from San Juan Bay to Pinones Lagoon along the Martin Pena Canal, providing for removal of sedimentation, silt, and other debris and objects from the canal, removal of debris and abandoned structures contiguous to the canal, and the improvement of circulation throughout the length of the canal, for the purpose of improving water quality, the environmental setting, and the quality of life in and adjacent to the canal. The estimated cost of such project is $13,500,000.

SEC. 56. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to carry out the plan for Trimble Wildlife Area replacement, in substantial accordance with the report of the Chief of Engineers dated September 22, 1976, with such changes as the Chief of Engineers determines necessary, at an estimated cost of $4,614,000.

(b) The former owner of any land acquired by the United States under authority of this section shall be permitted to harvest any annual agricultural crop planted on such land during the calendar year 1978.

SEC. 57. The Secretary of the Army, acting through the Chief of Engineers, shall take such emergency measures as may be necessary to correct slope failures and erosion problems along the banks of the Black Warrior River in order to protect the Mound State Monument near Moundville, Alabama, a National Historic Landmark. The Secretary of the Army, acting through the Chief of Engineers, shall coordinate any action taken under authority of this section with the Secretary of the Interior and the State of Alabama.

SEC. 58. The Secretary of the Army, acting through the Chief of Engineers, shall

carry out a demonstration project for the removal of silt, aquatic growth, and other material in Lake George, Hobart, Indiana, and in that part of Deep River upstream of such Lake through Lake Station, Indiana, and to construct silt traps or other devices to prevent and abate the deposit of sediment in Lake George and such part of Deep River, at an estimated cost of $3,900,000.

SEC. 59. The Secretary of the Army, acting through the Chief of Engineers, shall construct such facilities as may be necessary to protect Cox's Park, Jefferson County, Kentucky, from bank erosion, at an estimated cost of $650,000.

SEC. 60. The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide a channel four feet deep and ninety feet wide at mean low water, in Umbrella Creek, Georgia, connecting with the Atlantic Intracoastal Waterway alternate route by way of Dover Creek, a distance of approximately three miles, at an estimated cost of $1,300,000. The United States share of the construction costs of this channel and of related general navigation facilities in connection with such channel shall not exceed 50 per centum. Non-Federal interests shall provide a public wharf open to all on equal terms and such other requirements as the Secretary of the Army, acting through the Chief of Engineers, determines necessary.

SEC. 61. Those portions of the Trent River in the City of New Bern County of Craven, State of North Carolina, bounded and described in Committee Print Numbered 95–56 of the Committee on Public Works and Transportation of the House of Representatives are hereby declared to be nonnavigable waters of the United States within the meaning of the laws of the United States.

SEC. 62. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct the project for flood protection and other purposes for Saint Johns Bayou and the new Madrid Floodway, Missouri, in accordance with the recommendations of the Chief of Engineers in Senate Document 95–87 at an estimated cost of $23,700,000, except that the land for mitigation of damages to fish and wildlife shall be acquired as soon as possible after the first appropriation made to carry out this section. If the Secretary of the Army, acting through the Chief of Engineers, determines that the project authorized by this section will not be completed substantially as authorized, the land acquired for mitigation of damages to fish and wildlife shall be reconveyed to the former owners thereof in accordance with the provisions of section 11 of the River Basin Monetary Authorization Act of 1971 (Public Law 92–222), except that the purchase price to be paid by such former owners shall be a fair and equitable amount as determined by the Secretary of the Army, acting through the Chief of Engineers.

SEC. 63. The Secretary of the Army, acting through the Chief of Engineers, shall amend the contract between the State of Illinois and the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois to relieve the State of Illinois of the requirement to make annual payments for that portion of the maintenance and operation costs applicable to future use water supply storage as is consistent with the Water Supply Act of 1958 (Public Law 58–500), until such time and in such proportions as the storage is used for water supply purposes.

SEC. 64. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to construct the project for flood control and other purposes on the Zumbro River at Rochester, Minnesota, substantially in accordance with the report of the Board of Engineers for Rivers and Harbors dated April 5, 1978, subject to approval of such report by the Chief of Engineers, at an estimated cost of $50,698,000, except that changes to highway and foot bridges, including rights-of-way, changes to approaches, and relocations, made necessary by the project and its present plan of protection, shall be accomplished entirely at Federal expense at an additional estimated cost of $1,891,000.

SEC. 65. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to take such actions as may be necessary to insure that approximately four thousand feet, including bridges and approaches, of the road crossing Cottonwood Branch of Lewisville Lake, Texas, formerly designated State Highway 24T, will be above elevation five hundred and thirty-two feet above mean sea level, at an estimated cost of $2,000,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work and to accept all such work thereafter for operation and maintenance.

SEC. 66. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to take such action as may be necessary to replace the existing bridge across Cane Creek, Logan County, Arkansas, with a new bridge at an estimated cost of $350,000. Prior to the undertaking of the work authorized by this section, appropriate non-Federal interests shall agree to furnish without cost to the United States lands, easements, and rights-of-way necessary for the work, to hold and save the United States free from damages due to the work, and to accept all such work thereafter for operation and maintenance.

SEC. 67. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a demonstration project for the removal of silt and aquatic growth from Albert Lea Lake, Freeborn County, Minnesota, at an estimated cost of $4,000,000. The Secretary shall report to the Administrator of the Environmental Protection Agency the plans for and results of such project together with such recommendations as the Secretary determines necessary to carry out the program for freshwater lakes under section 314 of the Federal Water Pollution Control Act.

SEC. 68. (a) The Corps of Engineers Museum Foundation, is authorized to design and erect a memorial on public grounds in the District of Columbia, or its environs, in honor and commemoration of the service of the United States Army Corps of Engineers in war and peace.

(b) Upon request of the Secretary of the Army, the Secretary of the Interior is authorized and directed to select, with the approval of the Commission of Fine Arts and the National Capital Planning Commission, a suitable site on federally owned public grounds in the District of Columbia, or its environs, upon which may be erected the memorial authorized in subsection (a) of this section. If the site selected is on public grounds under the jurisdiction of the government of the District of Columbia, the approval of the Mayor of the District of Columbia shall also be obtained.

(c) The design and plans for such memorial shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. The United States and the District of Columbia shall be put to no expense in the erection thereof.

(d) The authority conferred pursuant to this section shall lapse unless (1) the erection of such memorial is commenced within five years from the date of enactment of this section, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial.

(e) The maintenance and care of the memorial erected under authority of this section shall be the responsibility of the head of the department, agency, or instrumentality having jurisdiction over the site of the memorial.

SEC. 69. The Secretary of the Army, acting through the Chief of Engineers, is authorized to renovate and improve the six Federal Government quarters existing at Dalecarlia Place, Dalecarlia Reservoir (Washington Aqueduct), Washington, District of Columbia, as the Secretary, acting through the Chief of Engineers, determines to be necessary, at a cost not to exceed $180,000.

SEC. 70. (a) The authorization of the Kickapoo River, Wisconsin flood control project, provided by section 203 of the Flood Control Act of 1962 (76 Stat. 1173, 1190) is hereby terminated.

(b) The Secretary of the Army, acting through the Chief of Engineers shall immediately undertake such modification and landscaping of the uncompleted project for safety, aesthetic, and ecological purposes as the Secretary deems necessary. Such modification shall include, but shall not be limited to, demolition and removal of the outlet control structure and the right abutment.

(c) The Secretary of the Army, acting through the Chief of Engineers, shall take no action to dispose of works and interests in lands related to the project which are under his jurisdiction for eighteen months following the date of enactment of this Act.

(d) If Congress, by law, has not otherwise provided for the disposal of the project lands within eighteen months of date of enactment of this Act, the Secretary of the Army, acting through the Chief of Engineers, shall immediately proceed to dispose of such lands and interests under his jurisdiction pursuant to the applicable provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

SEC. 71. After the date of the enactment of this section, the Secretary of the Army shall have all of the authority which the Secretary of the Air Force has immediately prior to such date over the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona. The Secretary of the Army, acting through the Chief of Engineers, is authorized to take necessary remedial measures to assure structural integrity and flood control capacity of the Trilby Wash Detention Basin (McMicken Dam) and Outlet Channel, Maricopa County, Gila River Basin, Arizona, constructed under authority of section 304 of Public Law 209 of the Eighty-third Congress at an estimated cost of $7,500,000.

SEC. 72. The Secretary of the Army, acting through the Chief of Engineers, is authorized to construct a water distribution system for the Island of Saint Thomas, United States Virgin Islands, including a ten-million-five-hundred-thousand-gallon storage tank in the vicinity of Krum Bay, at an estimated cost of $4,000,000. The costs of such distribution system and storage tank shall be repaid over a fifty-year period with interest at the rate established in section 301(b) of the Water Supply Act of 1958.

SEC. 73. The Secretary of the Army, acting through the Chief of Engineers, shall proceed as expenditiously as possible with the study and implementation of such flood control measures as may be feasible for Little Pigeon Creek, Indiana, in accordance with section 205 of the Flood Control Act of 1948.

SEC. 74. The project for flood control and improvement of the Lower Mississippi River, adopted by the Act of May 15, 1928 (45 Stat. 534), is modified and expanded to provide that the Secretary of the Army, acting through the Chief of Engineers, shall construct an auxiliary structure or take such other measures as the Chief of Engineers deems appropriate to insure the stability,

dependability, and safety of the Old River Control Complex, Louisiana, authorized in the Flood Control Act of 1954 and to regain the operational capabilities of such Complex, all in accordance with the plan in the report of the District Engineer, New Orleans District, dated October 14, 1977, and entitled "Flood Control, Mississippi River and Tributaries, Old River Control, Louisiana, Auxiliary Structure, Letter Report".

SEC. 75. (a) The Secretary of the Army, acting through the Chief of Engineers, shall inspect the Buckeye Lake Dam and Levee, Buckeye Lake, Ohio, to determine the structural stability of the dam and levee. A report shall be submitted to Congress, and a copy thereof furnished the Ohio Department of Natural Resources, setting forth the results of such inspection and recommendations of the Secretary of the Army of the necessary measures to assure the safety of the dam, levee, and surrounding areas.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall inspect the Lake-in-the-Hills Dam, Lake-in-the-Hills, Illinois, and perform detailed engineering studies to determine the structural integrity of the dam and spillway. A report shall be submitted to Congress, and a copy thereof furnished the Illinois Department of Transportation, Division of Water Resources, setting forth the results of such inspection and recommendations of the Secretary of the Army of the necessary measures to assure the safety of the dam, spillway, and surrounding areas.

SEC. 76. The Secretary of the Army, acting through the Chief of Engineers, shall, in cooperation with other departments, agencies, and instrumentalities of the United States, and with State and local governments, determine the extent of shoreline erosion damage in the United States causally related to the regulation of the waters of Lake Superior by the International Joint Commission—United States and Canada, in response to an emergency application by the United States made on January 26, 1973, and to report to Congress, not later than the end of the second year following the initial appropriation to carry out this section, the results of such survey, together with recommendations of a methodology for, and a determination of, the cost of indemnifying individual shoreline property owners, and a recommended schedule for such indemnification. There is authorized to be appropriated to carry out this section not to exceed $2,000,000.

SEC. 77. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct a project for flood control and other purposes for Pottstown and vicinity, Schuylkill River Basin, Pennsylvania, substantially in accordance with the plans recommended by the Chief of Engineers in House Document Numbered 93-321, at an estimated cost of $3,000,000.

(b) Congress hereby finds that the application of the provisions of section 209 of the Flood Control Act of 1970 result in the benefits from flood control measures authorized by this section exceeding their economic costs.

SEC. 78. (a) The Secretary of the Army, acting through the Chief of Engineers, shall undertake a program of research to increase his capability to control river ice and harbor ice, and to assist communities in breaking up such ice that would otherwise be likely to cause or aggravate flood or other damage or severe streambank erosion.

(b) The Secretary is further authorized to provide technical assistance to local units of government to implement local plans to control or break up river ice and harbor ice. As part of such authority, the Secretary is authorized to purchase, utilize, and, if requested by local units of government, loan any necessary ice-control or ice-break equipment to such local units of government.

(c) The sum of $5,000,000 is authorized to be appropriated to the Secretary in each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to implement this section.

SEC. 79. (a) Each resolution adopted by the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives, or their predecessors, during the Eighty-ninth Congress or any earlier Congress for review of any flood control, river and harbor, or other water resource report shall not be in effect after the date of enactment of this section unless funds were expended for carrying out such resolution during the Ninetieth Congress or any subsequent Congress prior to the Ninety-sixth Congress.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall, within one year of the date of enactment of this Act, submit a report to Congress with recommendations on the desirability and feasibility of a method of periodic termination of authorized studies when they are no longer current or needed.

SEC. 80. The laws of the United States relating to the improvement of rivers and harbors, flood control, beach erosion, and other water resource development enacted after November 8, 1966, and before January 1, 1979, shall be compiled under the direction of the Secretary of the Army and the Chief of Engineers and printed for the use of the Department of the Army.

SEC. 81. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule or regulation under authority of any law of the United States relating to rivers and harbors, flood control, beach erosion or other water resources development under the jurisdiction of the Secretary of the Army, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule or regulation shall not become effective, if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Secretary of the Army dealing with the matter of ---------- , which rule or regulation was transmitted to Congress on ---------- ", the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a days certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

SEC. 82. The Secretary of Transportation is authorized and directed to prepare and transmit to Congress a list of those bridges over the navigable waters of the United States constructed, reconstructed, or removed during the period January 1, 1948, to January 1, 1979.

SEC. 83. The Secretary of the Army, acting through the Chief of Engineers, is authorized to acquire real property by condemnation, purchase, donation, exchange, or otherwise, as a part of any water resources development project for use for public park and recreation purposes, including but not limited to, real property not contiguous to the principal part of the project.

SEC. 84. The Secretary of the Army, acting through the Chief of Engineers, is authorized to modify any water resources development project for mitigation of damages to fish and wildlife if the estimated cost of such modification does not exceed 10 per centum of the estimated total cost of such project or $7,500,000, whichever is the lesser. No appropriation shall be made for any such modification of a project if such modification has not been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. For the purpose of securing consideration of such approval, the Secretary of the Army shall transmit to Congress a report of such modification, including all relevant data and all costs.

SEC. 85. The Secretary of the Army, acting through the Chief of Engineers, is authorized to preserve, restore, interpret, and maintain those historic properties located on water resource development projects under the jurisdiction of the Department of the Army if such properties have been entered into the National Register of Historic Places.

SEC. 86. (a) If the Secretary of the Army, acting through the Chief of Engineers, determines that the construction of any identifiable segment of a major waterway constitutes the proximate cause of damage to any water well, spring, or artesian well, which is used or is susceptible for use for any beneficial purpose, then the Secretary of the Army, acting through the Chief of Engineers, is authorized to compensate any owner of such well, spring, or artesian well, or such owner's designated lessee or authorized user, for actual damage sustained, including any diminution in land value caused by such damage.

(b) The Secretary of the Army, acting through the Chief of Engineers, shall pay no claim for compensation under this section unless such claim is presented to an authorized agent of the United States Army Corps of Engineers within one year of the completion of the identifiable segment of the waterway project determined by the Secretary of the Army, acting through the Chief of Engineers, to have been the proximate cause of damage.

(c) This section shall not be construed to affect any rule of substantive law regarding rights to underground water.

(d) The Secretary of the Army, acting through the Chief of Engineers, shall report annually to Congress on payments made under this section.

SEC. 87. Section 32(e) of the Water Resources Development Act of 1974 is amended

by striking out "$50,000,000" and inserting in lieu thereof "$75,000,000".

SEC. 88. The last sentence of subsection (c) of section 101 of the Water Resources Development Act of 1976 (Public Law (94–587) is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, 1981, and 1982.".

SEC. 89. Section 181(a)(2) of the Water Resources Development Act of 1976 (Public Law 94–587) is amended by striking out "(A)" and by striking out ", and (B)" and all that follows down through and including the period at the end thereof and inserting in lieu thereof a period.

SEC. 90. The second paragraph under the center heading "BRAZOS RIVER BASIN" in section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control and for other purposes", approved July 24, 1946 (60 Stat. 649), is amended by inserting "or water supply" after "irrigation".

SEC. 91. (a) Section 3 of the Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended, is amended by striking out "$1,000,000" and inserting in lieu thereof "$2,000,000".

(b) The amendment made by this section shall not apply to any project under contract for construction on the date of enactment of this Act.

SEC. 92. (a) The Act approved March 29, 1956 (Public Law 455 of the 84th Congress, 70 Stat. 65), as amended, is further amended by striking out all after the phrase "cost of $88,000,000" and inserting in lieu thereof a period and the following: "The replacement and expansion of the existing industrial canal lock and connecting channels or the construction of an additional lock and connecting channels in the area of the existing lock is hereby authorized. The conditions of local cooperation specified in House Document Numbered 245, Eighty-Second Congress, shall apply to the construction of the replacement or additional lock and connecting channels, except that the additional costs, as determined by the Chief of Engineers, of lands, easements, and rights-of-way acquisition and relocations of residences, industries, and utilities beyond those costs at the Meraux site (Violet), including such costs attributable to the relocation, replacement, modification, or construction of bridges or tunnels, shall be borne by the United States. All other costs of relocation, replacement, modification, or construction of bridges and tunnels, (at a cost not to exceed $94,500,000) required as a result of the construction of the replacement of additional lock and connecting channels shall be borne by the United States; and before construction of bridges and tunnels may be initiated the non-Federal public bodies involved shall agree (1) to hold and save the United States free from damages resulting from construction of the bridges and tunnels and their approaches, (2) upon completion of construction, to accept title to such bridges and tunnels and approaches and thereafter to operate and maintain the bridges and tunnels and their approaches as free facilities.".

(b) The Secretary of the Army, acting through the Chief of Engineers, is directed to make a maximum effort to assure the full participation of members of minority groups, living in the affected areas, in the construction of the replacement or additional lock and connecting channels authorized by this section, including actions to encourage the use, wherever possible of minority owned firms. The Chief of Engineers is directed to report on July 1 of each year to the Congress on the implementation of this section, together with recommendation for any legislation that may be needed to assure the fuller and more equitable participation of members of minority groups in this project or others under the direction of the Secretary.

SEC. 93. Section 156 of the Water Resources Development Act of 1976 is amended by striking out "fifteenth" and inserting in lieu thereof "fiftieth".

SEC. 94. Section 54 of the Water Resources Development Act of 1974 (88 Stat. 26–28) is hereby amended as follows:

(1) Subsection (c)(1) is amended by striking out "for a period of five fiscal years" and by adding at the end thereof the following: "Such programs shall be completed by September 30, 1982.".

(2) The last sentence of subsection (d)(1) is amended by striking out "ninety days" and inserting in lieu thereof "six months" and by striking out "five-year".

(3) The last sentence of subsection (e) is amended to read as follows: "The final report shall be submitted within six months after the last fiscal year of funding and shall include a comprehensive evaluation of the national shoreline erosion control and demonstration program.".

(4) Subsection (f) is amended to read as follows:

"(f) There is authorized to be appropriated to carry out this section not to exceed $11,000,000.".

SEC. 95. Subsection (f) of section 202 of the Water Resources Development Act of 1976 is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, 1981, 1982, 1983, and 1984.".

SEC. 96. Subsection (b) of section 120 of the Water Resources Development Act of 1976 is amended by striking out "and September 30, 1979," and inserting in lieu thereof "September 30, 1979, September 30, 1980, September 30, 1981, and September 30, 1982,".

SEC. 97. The project for Helm Reservoir, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 739) as part of the Wabash River Basin Comprehensive Plan, is not authorized after the date of enactment of this Act.

SEC. 98. Section 107(b) of the River and Harbor Act of 1970 (84 Stat. 1818, 1820), as amended, is further amended by deleting in the third sentence the phrase: "to the Congress not later than September 30, 1979." and substituting in lieu thereof: "on the upper four Great Lakes and their connecting channels to the Congress not later than September 30, 1979, and on the low reach below Lake Erie not later than September 30, 1980." Such section 107(b) is further amended by striking out "$15,968,200" and inserting in lieu thereof "$17,000,000".

SEC. 99. Subsection (b) of section 94 of the Water Resources Development Act of 1974 (Public Law 93–251) is amended by striking out "$600,000" and inserting in lieu thereof "$6,300,000".

SEC. 100. Subsection (a) of section 92 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended—

(1) by inserting "(1)" immediately after "(a)";

(2) in the third sentence thereof, by striking out "Each installment" and inserting in lieu thereof "Except as provided in paragraph (2) of this subsection, each installment"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The Secretary of the Army, acting through the Chief of Engineers, shall, upon the request of Saint Bernard Parish, Louisiana, modify the agreement entered into between the Secretary and Saint Bernard Parish pursuant to this section so that each installment to be paid by Saint Bernard Parish as its part of the non-Federal cost of the hurricane-flood protection project on Lake Pontchartrain, Louisiana, shall be one-fiftieth of the remaining unpaid balance as set forth in such agreement plus interest on such balance, and the total of such installments shall be sufficient to achieve full payment of such balance, plus interest, within fifty years of the initiation of project construction.".

SEC. 101. (a) Section 4 of the Act entitled "An Act to authorize the Secretary of the Army to undertake a national program of inspection of dams", approved August 8, 1972 (Public Law 92–367; 33 U.S.C. 467c), is amended by inserting "(a)" immediately after "SEC. 4.", and by adding at the end thereof the following new subsection:

"(b) In any case where the Secretary determines that a dam inspected under this Act which is owned by a State, a political subdivision thereof, or any other such public agency or instrumentality is in such a hazardous condition that it is a danger to human life or property, the Secretary is authorized to restore such dam to a safe condition if the State, political subdivision, or other public agency or instrumentality owning such dam, agrees prior to any such restoration (1) to repay to the United States, over a period not to exceed fifty years from the date of completion of the restoration, all costs of such restoration, together with interest, at a rate computed in accordance with section 301(b) of the Water Supply Act of 1958, and (2) to maintain such dam upon completion of such restoration in a safe condition.".

(b) The first section of Public Law 92–367 is amended by repealing the final sentence.

(c) The second sentence of section 2 of Public Law 92–367 (86 Stat. 506) is amended by striking the "and" after "inspection" and striking the period after "property" and inserting in lieu thereof the following: "and (5) dams located within a State having an approved program under section 8 of this Act.".

(d) Public Law 92–376 (86 Stat. 506) is amended further by adding at the end thereof the following new sections:

"SEC. 7. There is authorized to be appropriated to the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the 'Secretary'), $15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981. Sums appropriated under this section shall be distributed annually among the States on the following basis: one-third equally among those States that have established dam safety programs approved under the terms of section 8 of this Act, and two-thirds in proportion to the number of dams located in each State that has an established dam safety program under the terms of section 8 of this Act to the number of dams in all States with such approved programs. In no event shall funds distributed to any State under this section exceed 50 per centum of the reasonable cost for implementing an approved dam safety program in such State.

"SEC. 8. (a) In order to encourage the establishment and maintenance of effective programs intended to assure dam safety to protect human life and property, the Secretary shall provide assistance under the terms of section 7 of this Act to any State that establishes and maintains a dam safety program which is approved under the section. In evaluating a State's dam safety program, under the terms of subsections (b) and (c) of this section, the Secretary shall assure himself that such program includes the following:

"(1) a procedure whereby, prior to any construction, the plans for any dam will be reviewed to provide reasonable assurance of the safety and integrity of such dam over its intended life;

"(2) a procedure to determine, during and following construction and prior to operation of each dam built in the State, that such dam will be operated in a safe and reasonable manner;

"(3) a procedure to inspect every dam within such State at least once every two years;

"(4) a procedure for more detailed and frequent safety inspections, if warranted;

"(5) the State has or can be expected to have authority to require those changes or modifications in a dam, or its operation, necessary to assure the dam's safety;

"(6) the State has or can be expected to develop a system of emergency procedures that would be utilized in the event a dam fails or for which failure is imminent together with an identification for those dams where failure could be reasonably expected to endanger human life, of the maximum area that could be inundated in the event of the failure of such dam, as well as identification of those necessary public facilities that would be affected by such inundation;

"(7) the State has or can be expected to have the authority to assure that any repairs or other changes needed to maintain the integrity of any dam will be undertaken by the dam's owner, or other responsible party; and

"(8) the State has or can be expected to have authority and necessary funds to make immediate repairs or other changes to, or removal of, a dam in order to protect human life and property, and if the owner does not take action, to take appropriate action as expeditiously as possible.

"(b) Any program which is submitted to the Secretary under the authority of this section shall be deemed approved one hundred and twenty days following its receipt by the Secretary unless the Secretary determines that such program fails to reasonably meet the requirements of subsection (a) of this section. If the Secretary determines such a program cannot be approved, he shall immediately notify such State in writing, together with his reasons and those changes needed to enable such plan to be approved.

"(c) The Secretary shall review periodically the implementation and effectiveness of approved State dam safety programs. In the event the Secretary finds that a State program under this Act has proven inadequate to reasonably protect human life and property, the Secretary shall revoke approval of such State program and withhold assistance under the terms of section 7 of this Act until such State program has been reapproved.

"SEC. 9. Not later than twelve months after enactment of this Act, the Secretary and the Secretary of the Treasury shall report jointly to the Congress with recommendations for a comprehensive dam safety program to assure the availability of insurance to owners of dams inspected under a State program approved under section 8 of this Act, in an effort to lessen or eliminate the need for any disaster assistance in the event of the failure of such a dam.

"SEC. 10. (a) There is authorized to be established in the Water Resources Council a Federal Dam Safety Review Panel (hereinafter referred to as the 'Panel'), which shall be responsible for reviewing the procedures and standards utilized in the design and safety analysis of dams constructed and operated under authority of the United States, and to monitor State implementation of this Act. The Panel shall review as expeditiously as possible the plans and specifications on all dams specifically authorized by Congress prior to initiation of construction of such dam, and file an advisory report on the safety of such dam with the appropriate agency, the appropriate State, and the Congress. The Panel is authorized to utilize the expertise of other agencies of the United States and to enter into contracts for necessary studies to carry out the requirements for this section.

"(b) The Panel shall consist of seven members selected for their expertise in dam safety, including one representative each from the Department of the Army, the Department of the Interior, and the Department of Agriculture, plus four non-Federal members, appointed by the President for periods of two years on a rotating basis at such times as the President determines appropriate, who are not employees of the United States. At least two members of the Panel shall be employees of the States having an approved program under section 8 of this Act. The Chairman of the Panel shall be selected from among those members who are not employees of the United States.

"SEC. 11. The head of any agency of the United States that owns or operates a dam, or proposes to construct a dam in any State, shall, when requested by such State, consult fully with such State on the design and safety of such dam and allow officials of such State to participate with officials of such agency in all safety inspections of such dam.

"SEC. 12. The Secretary shall, at the request of any State that has or intends to develop a dam safety program under section 8 of this Act, provide training for State dam safety inspectors. There is authorized to be appropriated to carry out this section $1,000,000 for the fiscal year ending September 30, 1979, and $500,000 during each of fiscal years ending September 30, 1980 and September 30, 1981.

"SEC. 13. The Secretary, in cooperation with the National Bureau of Standards, shall undertake a program of research in order to develop improved techniques and equipment for rapid and effective dam inspection, together with devices for the continued monitoring of dams for safety purposes. The Secretary shall provide for State participation in such research and periodically advise all States of the results of such research. There is authorized to be appropriated to carry out this section $1,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.".

(e) Public Law 92-367 (86 Stat. 506) is amended further as follows:

(1) In section 2 insert "(a)" immediately after the words "the Chief of Engineers shall carry out a national program of inspection of dams for the purpose of protecting human life and property.".

(2) Add at the end of section 2, the following new subsection:

"(b) In order to carry out the purposes of this Act, the Secretary, or his authorized representative, upon presenting appropriate credentials to the owner, operator, or agent in charge is authorized—

"(1) to enter without delay and at reasonable times any damsite, structure, appurtenance, or any work area, or other area used in connection with operation of the dam; and

"(2) to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such damsite and all pertinent conditions, structures, machinery, apparatus, devices, equipment, and materials therein or thereon; and to require any owner, operator, agent or employee, or designer, contractor or builder, to provide information regarding the design, construction, operation, and maintenance of the same; and to have access to any records, blueprints, plans, or other pertinent documents pertaining to the design, construction, operation, and maintenance of the same."

(3) Section 6 is amended by inserting a new (2) as follows and by renumbering (2) as (3)

"(2) to create any liability for agents or contractors for damages caused by such action or failure to act beyond the amount of any contract entered into pursuant to the Act;".

SEC. 102. The last sentence of subsection (d) of section 167 of the Water Resources Development Act of 1976 (Public Law 94-587) is amended by striking out "and 1979." and inserting in lieu thereof a comma and the following: "1979, 1980, and 1981.".

SEC. 103. (a) Subsection (a) of section 66 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and the following: "and thereafter to maintain such channel free of such trees, roots, silt, debris, and objects.".

(b) Section (b) of section 66 of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by adding at the end thereof the following new sentence: "Non-Federal interests shall pay 25 per centum of the cost of maintaining the channel free of such trees, roots, silt, debris, and objects.".

SEC. 104. The second sentence of subsection (b) of section 116 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended to read as follows: "The Secretary of the Army, acting through the Chief of Engineers, shall, before beginning any operation to maintain the channel authorized by this section, enter into a separate agreement with the appropriate non-Federal interests which is applicable only to that operation and which requires such non-Federal interests to pay 25 per centum of the cost of such maintenance operation.".

SEC. 105. Section 62(c) of the Water Resources Development Act of 1974 is amended by striking out "$330,000" and inserting in lieu thereof "$500,000".

SEC. 106. Section 108(k) of the Water Resources Development Act of 1974 (Public Law 93-251) is amended by striking out "$103,522,000" and inserting in lieu thereof "$140,000,000".

SEC. 107. (a) The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to cause surveys to be made at the following locations for flood control and allied purposes, and subject to all applicable provisions of section 217 of the Flood Control Act of 1970 (Public Law 91-611):

Homochitto and Buffalo Rivers, Saint Catherine and Coles Creeks, Bayou Pierre, and other major tributaries draining into the Mississippi River between Bayou Pierre and the Buffalo River, Mississippi, to recommend remedial measures for flood control, bank stabilization, sedimentation, and related purposes.

Saint Francis Lake and Floodways in Pointsett County, Arkansas.

Halifax River, Florida, to recommend remedial measures for improvement of the quality of water and related land resources with particular emphasis on the feasibility of modifying impediments interfering with the river's flow.

Illinois River in the vicinity of Hardin, Illinois, to recommend remedial measures for bank stabilization.

Kuskokwim River at Bethel, Alaska, feasibility of erosion control improvements. A report on this study shall be submitted to Congress not later than two years following the date of enactment of this Act.

Kinnickinnic River, Milwaukee County, Wisconsin, for flood control and allied purposes.

(b) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to study, the siltation problems on the Mississippi River upstream of River Mile 327, at Quincy Bay, Broad Lake, including the access channel thereto, and Triangle Lake areas located in the vicinity of Quincy, Illinois, with a view toward determining the feasibility of alleviating immediate and long-term siltation problems in the interest of navigation environmental quality, water quality, recreation, fish and wildlife, and other such water resource needs. Such study shall be conducted in cooperation with interested Federal and State agencies and the Secretary of the Army, acting through the

Chief of Engineers, shall report thereon to the Congress with his recommendations, to include proposed items of non-Federal cooperation within three years of the initial funding for the study.

(c) The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a study at an estimated cost of $135,000, of the feasibility of redeveloping the hydroelectric capacity of the Jackson Mills Dam and the Mines Falls Dam at Nashua, New Hampshire.

SEC. 108. The Secretary of the Army, acting through the Chief of Engineers is hereby authorized and directed to make studies in cooperation with the governments of the Trust Territory of the Pacific Islands and the Commonwealth of the Northern Mariana Islands for the purposes of providing plans for the development, utilization, and conservation of water and related land resources of such territory and Commonwealth. Such studies shall include appropriate consideration of the needs for flood protection, wise use of flood plain lands, navigation facilities, hydroelectric power generation regional water supply and waste water management facilities systems, general recreation facilities, enhancement and control of water quality enhancement and conservation of fish and wildlife, and other measures for environmental enhancement, economic and human resources development, and shall be compatible with comprehensive development plans formulated by local planning agencies and other interested Federal agencies.

SEC. 109. The Secretary of the Army, acting through the Chief of Engineers, shall make such studies as may be necessary to determine the feasibility of measures to prevent and abate streambank erosion along the Tensaw River, Alabama, in order to protect Blakeley, Alabama, listed on the National Register of Historic Places from such erosion. Such studies shall be made in consultation with the Historic Blakeley Foundation. The Secretary of the Army, acting through the Chief of Engineers, shall report the results of such studies to Congress, together with recommendations.

SEC. 110. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake a study of North East Texas, including, but not limited to, Grayson, Collin, and Denton Counties, to determine the need for storage of water in single and multiple-purpose projects required to meet anticipated demand in the region, at an estimated cost of $5,000,000. Such study shall include consideration of treatment facilities and such regional conveyance systems, as necessary, and the interconnection of existing and proposed water storage projects. The Chief of Engineers is authorized to undertake the phase I design memorandum stage of advanced engineering and design for separable projects as the Chief of Engineers determines appropriate. Before initiation of any such phase I stage, the Chief of Engineers shall advise Congress of the determination to do so.

SEC. 111. The Secretary of the Army, acting through the Chief of Engineers, is authorized to conduct a survey of the Buffalo Harbor, New York, to determine the feasibility of navigation improvements to support the proposed bulk commodity transshipment facility and modifications to realine the Buffalo River, New York, to accommodate passage and safe navigation of new and larger ships operating on the Great Lakes and to make recommendations in a report to be submitted to the Congress within two years of the date of enactment of this section.

SEC. 112. (a) The Secretary of the Army, acting through the Chief of Engineers, shall make a study of the possibility of rehabilitating the hydroelectric potential at former industrial sites, millraces, and similar types of facilities already constructed, of the possibility of converting such sites for use as new, small hydroelectric projects, and of expediting the licensing of such projects. The Secretary of the Army, acting through the Chief of Engineers, shall also provide technical assistance to local public agencies and cooperatives in any such rehabilitation at sites studied or qualified for study under this section.

(b) There is authorized to be appropriated to carry out this section, $5,000,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

SEC. 113. (a) Any agency of the United States with the authority and responsibility to grant or review any license or permit needed to utilize hydroelectric power at existing dams or former industrial sites shall make every effort to simplify application procedures and to expedite the consideration of any license or permit that may be necessary for the construction or operation of such facility, or for the sale of power from such facility.

(b) The Comptroller General of the United States shall report to the Congress within one year of the enactment of this Act on the implementation of this section, his evaluation of any continuing institutional problems involved in hydroelectric development at existing dams or former industrial sites, and his assessment of the need for additional congressional action to facilitate hydroelectric development at existing dams or former industrial sites.

SEC. 114. (a) The Secretary of the Army is prohibited from determining the forty-five-acre cabin site in the South Recreation Area at Conchas Lake, New Mexico, to be excess of project needs prior to 1996, unless such a determination is agreed to by the Governor of the State of New Mexico or his designee.

(b) The Secretary of the Army shall not require the removal or sale and purchase of existing cabins, cottages, or other privately owned improvements located on the site referred to in subsection (a) of this section prior to 1996, unless agreed to by the Governor of the State of New Mexico or his designee. Existing and prospective lease arrangements shall reflect the requirements of this section.

SEC. 115. Section 32 of Public Law 93-251 is amended by adding at the end thereof a new subsection:

"(f) In addition to the other authorities in this section, the Secretary of the Army, acting through the Chief of Engineers, shall provide technical assistance to retard streambank erosion to any person or agency requesting such assistance, if the applicant is experiencing, or can be expected to experience, erosion-threatening dwellings or loss of property. The Secretary may also provide assistance to an applicant who would be likely to be affected by flooding downstream from property threatened by erosion if the owner of such property agrees to allow the applicant to perform erosion-retarding work.".

SEC. 116. The project for Los Esteros Lake, Pecos River, New Mexico, authorized by section 203 of the Flood Control Act of 1954 (68 Stat. 1260), is hereby modified to authorize the expenditure of not to exceed $200,000 for the recovery of cultural resource data, in addition to any amounts authorized for this purpose pursuant to the Reservoir Salvage Act of 1960, as amended (88 Stat. 174).

SEC. 117. The project on Galveston Bay at Baytown, Texas, authorized in section 191 of the Water Resources Development Act of 1976, Public Law 94-587, is modified to provide that: (a) The price to be paid for property rendered uninhabitable due to encroachment of flood waters caused by land subsidence in the project area will be based on an appraisal at fair market value disregarding damage caused by flood waters and vandals; and (b) owners occupying their property at the time flooding rendered said property uninhabitable are eligible for all benefits under section 203 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646), without regard to any other occupancy requirements of that section. Such owners shall also be considered displaced persons for the purposes of obtaining all other benefits of said Act.

SEC. 118. Section 221 of the Flood Control Act of 1970 (Public Law 91-611), is amended as follows:

(1) Delete the period at the end of the sentence contained in section 221(f) and add the following words at the end of that sentence: "or to contracts with non-Federal interests for recreational development under the provisions of the Federal Water Project Recreation Act of 1965 (Public Law 89-72) or Section 4 of the Flood Control Act of 1944. Agreements to hold and save the United States free from damages due to the construction, operation, or maintenance of a water resources project may be made contingent upon the legislative appropriations process of the State.

(2) Insert the following new sentence at the end of section 221(b): "Where the non-Federal interest is the State, and the State's constitution does not permit the State to commit itself to future repayment in accordance with the provisions of the Water Supply Act of 1958 (Public Law 85-500), or to establish a mechanism for such repayment, the source of funds for repayment of the costs of water supply storage under such Water Supply Act may be limited to revenues received by the State from the sale of water from such storage.

SEC. 119. Section 203 of the Water Resources Development Act of 1976 (Public Law 94-587) is amended to read as follows:

"SEC. 203. (a)(1) The Congress finds that the expeditious development of hydroelectric power generating facilities that are environmentally sound to assist the Nation in meeting existing and future energy demands is in the national interest.

"(2) The Congress therefore declares that the expertise of the Chief of Engineers can and should be utilized, in accordance with this section, for the benefit of local public bodies in the development of projects in any case where the Secretary determines that 90 per centum or more of the benefits of the project are attributable to hydroelectric power generation when the project is fully operational.

"(b) There is hereby established in the Treasury of the United States a Hydroelectric Power Development Fund (hereafter in this section referred to as the 'fund') to be and remain available for expenditures authorized by this section. The fund shall consists of (1) repayments by non-Federal public authorities of expenditures made from the fund, (2) any appropriations made to the fund, and (3) interest on moneys in the fund invested in accordance with subsection (d).

"(c) There is authorized to be appropriated for deposit in the fund established by subsection (b) of this section the sum of $25,000,000.

"(d)(1) If the Secretary determines that moneys in the fund are is excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States.

"(2) With the approval of the Secretary of the Treasury, the Secretary may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States, or in such other banks and financial institutions and under such terms and conditions as the Secretary and the

Secretary of the Treasury may mutually agree.

"(e)(1) The Secretary is authorized, for any project that meets the requirements of subsection (a)(2) of this section, to obligate moneys in the fund to pay for, or reimburse expenditures for, the cost of the phase I design memorandum made by a non-Federal public authority pursuant to this subsection. The Secretary is authorized to enter into an agreement with a non-Federal public authority to pay from the fund the cost to such non-Federal authority of preparing a phase I design memorandum on condition that such non-Federal authority repay such cost to the fund if (A) the phase I design memorandum report demonstrates the feasibility of constructing the project, and (B) the non-Federal authority within 3 years of the date of completion of the report, is either able to borrow money for construction costs based upon the security of the project or its revenues or actually commences construction of such project. If either of the conditions in clause (A) or (B) is not met such costs shall be borne by the United States and the report on such project shall be submitted to Congress. The Secretary is also authorized to accept funds from a non-Federal authority for costs incurred for preparing phase I design memorandum if the Secretary first agrees with the non-Federal public authority to reimburse such costs from the fund (i) if the report demonstrates infeasibility of the project, or (ii) if the report is feasible, the non-Federal public authority is not able to borrow money to pay construction costs of the project, including the costs of the phase I design memorandum, based on the security of the project or its revenues within three years of the completion of the phase I design memorandum. Payments by the Secretary from the fund shall be subject to appropriations Act. Payments by the Secretary under this subsection for phase I reimbursement shall include reimbursement of any interest expense of the non-Federal public authority resulting from bonds or notes such authority has issued to finance the phase I design memorandum and for any other expenses normally associated with the issuance and administration of revenue bond and note financings. Failure to complete a phase I report being prepared in accordance with the provisions of this subsection within a reasonable time in accordance with the schedule fixed in the phase I design memorandum agreement entered into by the Secretary with a non-Federal public authority due to Federal actions or inactions not primarily occasioned by the actions or inactions of the non-Federal public authority, including, but not limited to, Federal inaction in failing to appropriate at any time amounts necessary to reimburse such costs and expenses in accordance with the schedule fixed in the phase I design memorandum agreement, shall also constitute a determination that such report demonstrates the project is infeasible for purposes of this subsection except that if such project is constructed within five years of the date of such determination of infeasibility, the non-Federal authority shall repay to the fund all phase I costs. The Secretary shall hold and apply any moneys in the fund available for reimbursement of the phase I costs of a particular project of a non-Federal public authority for which the Secretary has expended non-Federal funds, in accordance with the terms of a phase I design memorandum agreement entered into by the Secretary with the non-Federal public authority for the benefit of the holders of bonds or notes issued to provide such non-Federal funds. The Secretary shall transmit a copy of a completed phase I report, including a proposed agreement between the Corps of Engineers and the non-Federal public authority setting forth the terms and conditions for construction of the project, in accordance with the provisions of this section, to Congress and to the non-Federal public authority, not later than thirty days after the date of completion of the report. If the proposed agreement for construction of the project is entered into and approved pursuant to subsection (g) within two years of completion of the favorable report, the project shall be constructed in accordance with subsection (g) if the non-Federal public authority is able to borrow money to pay construction costs of the project, including the costs of the phase I design memorandum, based on the agreement and the security of the project or its revenues within three years after completion of the favorable report. The Governors of the States or their designee may use the phase I design memorandum report prepared in accordance with the provisions of this subsection as they determine necessary to undertake construction of a project by a non-Federal public authority. The United States shall not be liable for the payment of any damages resulting from a non-Federal authority's use of the phase I report and the construction of any project by a non-Federal public authority in connection therewith, other than damages due to negligence of the United States.

"(f) The Secretary, in accordance with a contract between the non-Federal public authority and the Secretary, is authorized to construct projects eligible under subsection (a)(2) of this section, including engineering and design, land acquisition, site development, and off-site improvements necessary for construction.

"(g)(1) Prior to initiating any construction work under the authority of this section, the agreement submitted to Congress in accordance with subsection (e) must be approved by resolution of the Committee on Environment and Public Works of the Senate and of the Committee on Public Works and Transportation of the House of Representatives. The non-Federal authority shall pay the full anticipated costs of constructing the project determined by the agreement at the time such costs are incurred, together with normal contingencies and related administrative expenses of the Secretary, and such payments shall be held by the Secretary for payment of obligations incurred by the Secretary on a project for construction under this section.

"(2)(A) The United States shall pay all costs over the anticipated costs fixed in the agreement with the non-Federal public authority, if such costs are (i) occasioned by acts of God, (ii) occasioned by failure on the part of the Secretary to adhere to the agreed schedule of work or a failure of design or (iii) are necessary to be paid by the United States to permit operation of the project in accordance with the initial determination of feasibility. Payments by the Secretary of such costs shall be subject to appropriations Acts.

"(B) Any Federal funds paid under subparagraph (A) of this paragraph shall be repaid to the Treasury with interest by the non-Federal public authority from revenues received from the sale of power. Payments shall commence following retirement of all bonds issued by the non-Federal public authority for the project. Interest payable under this subparagraph shall be at the rate the Federal Government must pay on such obligations at the time of payment pursuant to such subparagraph (A).

"(h) As used in this section the term 'Secretary' means the Secretary of the Army, acting through the Chief of Engineers.

"(i) This section may be cited as the 'Hydroelectric Power Development Act'.".

SEC. 120. Section 1114 of title 18, United States Code, is amended by inserting "or any uniformed civilian official or uniformed civilian employee of the Corps of Engineers of the Department of the Army assigned to perform investigations, inspections, or law or regulatory enforcement functions in connection with civil activities of the Department of the Army," immediately after "Foreign Service,".

SEC. 121. Section 104(b) of the River and Harbor Act of 1958, as amended by section 302 of the River and Harbor Act of 1965, approved October 27, 1965 (79 Stat. 1093), is amended by striking out "$5,000,000" and inserting in lieu thereof "$6,900,000".

SEC. 122. The project for Lucky Peak Lake, Idaho, authorized by the Flood Control Act of 1946, as modified by the Water Resources Development Act of 1976, is further modified to provide for an increase in the diameter of the additional dam outlet authorized in such 1976 modification to twenty-three feet and to provide that the Secretary of the Army shall (1) authorize any entity having the necessary license from the Federal Energy Regulatory Commission to construct such outlet in accordance with the said entity's plans, as approved by the Secretary of the Army, and to use such outlet for the generation of electricity, (2) provide that all property rights in such outlet, subject to the provisions of this section, shall be conveyed to and remain with the United States, and (3) reimburse such entity for an amount equal to the estimated cost, as determined by the Secretary of the Army, of the original outlet as authorized by the Water Resources Development Act of 1976. Such cost shall be determined as of the time of the construction of the twenty-three foot outlet.

SEC. 123. The authorization for the Heise-Roberts local protection project, Idaho, contained in section 10, Public Law 534, Seventy-eighth Congress, and section 204, Public Law 516, Eighty-first Congress, is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers. Local interests shall pay the first $25,000 in cash or materials of any such costs expended in any one year.

SEC. 124. The Secretary of the Army acting through the Chief of Engineers shall, in any report submitted to the Congress recommending construction of a project for flood control and other purposes, identify those nonpublic corporations and individuals whose property will receive 5 per centum or more of the anticipated increase in land value attributable to the project.

SEC. 125. Any report submitted to the Committee on Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives by the Secretary of the Army, acting through the Chief of Engineers, which includes any recommendations for construction of a water storage facility shall include information on the analytic procedures followed in assessing the safety of such facility with relation to geologic or design factors, potential impact of the failure of such facility, and information on the design features that will prevent, lessen, or mitigate such possibility of failure or the impact of failure. Nothing in this section shall be construed as requiring the recommended facility be fully designed at the time of such recommendation.

SEC. 126. Section 134(a) of the Water Resources Development Act of 1976 (Public Law 94-587, 90 Stat. 2929) is amended by striking "1977" from the last sentence and inserting in lieu thereof "1985".

SEC. 127. (a) There is hereby established in the Office, Chief of Engineers, Department of the Army, a Water Resources Advisory Panel (hereinafter referred to as the "Panel"). The Panel is authorized to evaluate complaints of any existing or potential adverse impact of any proposed or existing water resources project undertaken by the Secretary of the Army, acting through the Chief of Engineers, and to make recommendations on any requested mitigation.

(b) The Panel shall be comprised of three

members, one of whom may be a Federal employee. One member of the Panel shall be appointed by the Chief of Engineers and two members shall be appointed by the Secretary of the Army. Members of the Panel who are appointed from the general public shall serve for terms of three years. Such public members, while attending meetings of the Panel shall be entitled to receive compensation at a rate not in excess of the maximum rate pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses including per diem in lieu of subsistence as authorized by law (5 U.S.C. 73b-2) for persons in the Government service employed intermittently. Anyone who has been an employee of the United States Army Corps of Engineers shall be ineligible to serve as a public member of the Panel.

(c)(1) The Panel shall meet at least four times annually to review matters referred to it by any State or local public agency, the Chief of Engineers, the Committee on Environment and Public Works of the Senate, or the Committee on Public Works and Transportation of the House of Representatives. At such meetings, the Panel is authorized to review all information relating to any request for miligation of an authorized project, and to recommend changes in the project that can be achieved administratively or by appropriate legislation. Any recommendation by the Panel shall include a statement evaluating the equity of the mitigation request; and estimate, if appropriate, of the cost of such alteration and the effect such cost would have on the relation of total project benefits to cost; and an explanation of how the mitigation request meets or fails to meet established national water resources policy. Recommendations by the Panel are advisory and not subject to judicial review.

(2) A copy of any recommendation by the Panel under paragraph (1) of this subsection shall be transmitted to the originator of the request, the Chief of Engineers, the Secretary of the Army, and the Committee on Public Works and Transportation of the House of Representatives. Following a review of any such recommendation, the Secretary of the Army acting through the Chief of Engineers, shall notify the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives of any decision or proposal based upon such recommendation, together with a statement detailing any disagreement with the Panel's recommendation.

(d) For the purposes of this section, "mitigation" means any change in project operations, any construction of new facilities or devices that would alleviate any anticipated or actual damages, or other adverse and definable unintended effects, or any change in requirements for local interests to provide, pay for, or share in the costs of any features of any project undertaken by the Secretary of the Army, acting through the Chief of Engineers.

(e) The Panel shall, from time to time, report to the Secretary of the Army, acting through the Chief of Engineers, on issues and problem areas brought before it for advisory opinions, together with any recommended changes in the procedures or practices of the Secretary of the Army, acting through the Chief of Engineers, that would alleviate such problems in future projects. The Secretary of the Army, acting through the Chief of Engineers, shall transmit such report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the United States House of Representatives.

SEC. 128. (a) Because many regions of the Nation confront water shortages that can be expected to continue or to increase, and because such shortages are, in part, aggravated by a lack of any coordinated national policy for the efficient and productive use and reuse of water, the Congress declares that there is a national interest in the development of new water supplies, on an economical basis, for domestic, municipal, industrial, and other public purposes through Federal construction of single and multiple purpose water supply projects.

(b) In carrying out a policy to encourage a more efficient use and adequate supply of water as a way to benefit municipal, industrial, and agricultural development, wetland preservation, fish and wildlife protection, and other national purposes, the Secretary of the Army, acting through the Chief of Engineers is authorized and directed to survey, plan, and recommend to the Congress for construction, single and multiple purpose water supply projects needed to meet existing and anticipated future demand, including treatment and conveyance facilities, consistent with the policies set forth in this section. No such survey and study shall be undertaken unless approved by Resolution of the Committee on Environment and Public Works of the Senate or the Committee on Public Works and Transportation of the House of Representatives.

(c) The costs allocated to water supply, treatment and conveyance in any such project shall be repaid by the water users to the United States over a period not to exceed fifty years, with interest at the rate specified in section 301(b) of the Water Supply Act of 1958 (Public Law 85-500).

(d) The Secretary of the Army, acting through the Chief of Engineers, is authorized to recommend modified cost-sharing and repayment schedules for that portion of the water supplied under this section to a municipal system serving a rural community, whether incorporated or unincorporated, with a population of less than fifteen thousand, which is not part of a larger population center.

SEC. 129. The Secretary of the Army, acting through the Chief of Engineers, shall, in any report submitted to the Congress recommending a water resources development project involving recreation benefits, include information with regard to the recreational opportunities and usage, and the value and benefits of similar recreation facilities, within the general area of the project.

SEC. 130. Section 208 of the Flood Control Act of 1954 (68 Stat. 1256, 1266) as amended, is hereby further amended by adding "(a)" after "SEC. 208." and adding a new subsection "(b)" as follows:

"(b) Upon request of the Governor of a State, or appropriate official of local government, the Secretary of the Army, acting through the Chief of Engineers, is further authorized to provide designs, plans, and specifications, and such other technical assistance as he deems advisable, at Federal expense, to such State or political subdivision for its use in carrying out projects, for removing accumulated snags and other debris, and clearing and straightening channels in navigable streams and tributaries thereof.".

SEC. 131. (a) Section 8 of the Act entitled "An Act to authorize the Secretary of the Interior to make compensation for damages arising out of the failure of the Teton Dam a feature of the Teton Basin reclamation project in Idaho, and for other purposes" (90 Stat. 1211), approved September 7, 1976, is amended to read as follows:

"SEC. 8. (a) Beginning on December 31, 1978, and each year thereafter until the completion of the claims program, the Secretary shall make an annual report to the Congress of all claims submitted to him under this Act, listing each amount claimed, a brief description of the claim, and the status or disposition of the claim including the amount of each administrative payment and award under the Act. Such report shall not be disclosed to the public in a form which would reveal the names of the claimants and shall be maintained in such a manner as will protect the privacy of such claimants.

"(b) Information acquired by the Secretary from or about claimants under this Act (1) be maintained in such a manner as will protect the privacy of such claimants and the confidentiality of information provided by such claimants, and (2) shall not be required to be disclosed under section 552 of title 5, United States Code, but shall be deemed a record which is contained in a system of records for purposes of section 552a of such title.".

(b) The amendments made by this section shall be effective as if enacted on September 7, 1976.

SEC. 132. The project for Jackson Hole Snake River local protection and levees, Wyoming, authorized by the River and Harbor Act of 1950 (Public Law 81-516), is hereby modified to provide that the operation and maintenance of the project shall be the responsibility of the Secretary of the Army, acting through the Chief of Engineers.

SEC. 133. Section 5 of the Flood Control Act approved August 18, 1941 (33 U.S.C. 701n), is amended by inserting at the end thereof the following: "The Chief of Engineers is also authorized to accomplish advance measures using amounts in the emergency fund, when in his discretion local and State efforts are unable to complete emergency work for control of lava flow, in order to provide the minimum necessary protection to prevent loss of life and serious damages to improved property when such volcanic activity is reasonably imminent.".

SEC. 134. The Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake the phase I design memorandum stage of advanced engineering and design of the project for raising the height of levees and other associated works, as part of the project for the Rio Grande River and Tributaries, New Mexico and Colorado, in the area of Albuquerque, New Mexico, at an estimated cost of $1,000,000.

SEC. 135. (a) The Secretary of the Army shall, on or before March 1, 1979, establish an authority to be known as the Tennessee-Tombigee Human Resource Center (hereinafter referred to as the "Center").

(b)(7) The Center shall be under the direction of a Board of Directors with offices, as provided in subsection d(1) of this section, located in the vicinity of the Tennessee-Tombigbee Waterway project (hereinafter referred to as the "project").

(2)(A) The Board of Directors shall consist of nine members, one to be selected by the head of each of the following departments, agencies, instrumentalities, and organizations from among officers, employees, or members of such department, agency, instrumentality, or organization:

(i) United States Army, Corps of Engineers;

(ii) the Department of Commerce, Office of Minority Business Enterprise;

(iii) the Department of Labor;

(iv) the Tennessee-Tombigbee Waterway Development Authority;

(v) the Minority Peoples Council;

(vi) the National Association for the Advancement of Colored People;

(vii) a representative to be jointly selected by the Governors of Tennessee, Alabama, and Mississippi;

(viii) American Federation of Labor/Congress of Industrial Organizations; and

(ix) the Equal Employment Opportunity Commission.

(B) The representative selected by the Governors and the representative of the Corps of Engineers shall serve as cochairmen of the Board of Directors.

(3) The staff of the Center shall consist of an executive director selected by the Board of Directors, a majority concurring,

and such additional staff as the Board shall deem necessary to assist the Board in carrying out the purposes of this section. The executive staff shall be selected by the executive director subject to the approval of the Board of Directors. The members of such staff shall be provided compensation and other employment benefit comparable, as determined by the Board, to those provided individuals in similar positions in the Federal Civil Service.

(c) The purposes of the Center sha'l be—

(1) to monitor minority employment on the project to determine whether minority employment goals are achieved;

(2) to monitor project contracting to determine whether minority firms are afforded a reasonable opportunity to participate in project contracts and subcontracts;

(3) to monitor planning and policies which affect or control the construction, design or operation of the project to determine whether minorities are appropriately represented and whether project facilities and benefits are equitably distributed among communities affected by the project;

(4) to provide information and assistance to minorities and minority-owned firms regarding the availability of employment and construction opportunities; and

(5) to assist in the coordination of programs which affect the utilization of minority resources.

(d) The Center is authorized and directed to—

(1) establish and maintain a central office and staff as is necessary to carry out the purposes of this section, including such branch offices as are necessary to serve as information clearinghouses, all to be located within the vicinity of the project;

(2) to prepare and submit an annual report to the Secretary of the Army who shall submit such report together with the Secretary's comments to Congress, which report shall be submitted to Congress by January 1 of each year;

(3) to consult with appropriate Federal and State agencies, federally funded organizations, and private organizations, including the Federation of Southern Cooperatives, and the National Rural Center, for the purpose of determining that adequate training is available to minorities and to assist in the coordination of programs for recruitment and training; and

(4) to enter into such contracts and agreements as are necessary to carry out the purposes of the Center.

(e) The annual report of the Center shall include—

(1) an inventory of project employment indicating the proportion of minorities employed at various skill and pay levels;

(2) an inventory of project contracts indicating the proportion of contracts and subcontracts awarded to minority enterprises;

(3) a description of minority involvement in Federal, State, and local organizations which control or influence decisions regarding the design, location, or operation of facilities of the Tennessee-Tombigee Waterway project, including an analysis of the effect of such decisions upon the distribution of project benefits, including secondary benefits, among communities affected by the project;

(4) a description of policies and programs of the Corps of Engineers and other Federal and State agencies which have been undertaken or are planned for the purpose of enhancing the utilization of or which affect the utilization of minority resources in the construction of the project, including an evaluation of such programs and policies; and

(5) the findings of the Board of Directors with regard to the adequacy and effectiveness of programs and policies related to project construction and operation and planning for secondary project benefits from the standpoint of the utilization and development of minority resources.

(f)(1) The United States Army, Corps of Engineers and all other Federal or federally funded organizations shall provide the Center with such relevant information as may be requested by the Center in connection with the performance of its functions.

(2) In furtherance of purposes of this section, the Center is authorized to consult with such agencies, individuals, and organizations as the Board of Directors deems appropriate, including the Tennessee-Tombigbee Construction Assistance Center, the National Rural Center, the Federation of Southern Cooperatives, and the Southwest Tennessee Area Development Association.

(g) There is authorized to be appropriated to carry out this section, other than subsection (h), not to exceed $1,500,000 per fiscal year for the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(h) The Secretary of the Army, acting through the Chief of Engineers, is authorized to provide for training to increase skilled personnel in the crafts required for the construction of the project and to provide facilities for this training at the project area. There is authorized to be appropriated to carry out this subsection, not to exceed $1,000,000.

(i) Section 185 of the Water Resources Development Act of 1976 is hereby repealed.

SEC. 136. (a) The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct at Federal expense a public recreation area on the north shore of the Ohio River at or in the vicinity of Rockport or Grandview in Spencer County, Indiana.

(b) Prior to construction appropriate non-Federal interests shall agree to operate and maintain such structures and facilities for public park and recreation purposes.

SEC. 137. Appropriations for any project which is authorized for initial construction by this Act are authorized for those fiscal years which begin on or after October 1, 1979.

SEC. 138. This Act may be cited as the "Water Resources Development Act of 1978".

Amend the title so as to read: "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes.".

The SPEAKER. Is a second demanded?

Mr. EDGAR. Mr. Speaker, I demand a second.

The SPEAKER. The minority has the right to demand a second.

Mr. STEIGER. Mr. Speaker, I demand a second.

Mr. EDGAR. Is the gentleman opposed to the bill?

Mr. STEIGER. Yes.

Mr. EDGAR. Mr. Speaker, did the gentleman vote against the bill when it was announced?

The SPEAKER. The gentleman from Wisconsin qualifies.

Without objection, a second will be considered as ordered.

Mr. EDGAR. Mr. Speaker, I object, and on that I demand tellers.

Tellers were ordered, and the Speaker appointed as tellers Mr. ERTEL and Mr. EDGAR.

The House divided, and the tellers reported that there were—yeas 76, nays 12.

Mr. VOLKMER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. A quorum may not be present.

The Chair is sure the gentleman is aware of the problem we had the last time.

Mr. VOLKMER. Mr. Speaker, I withdraw my point of order.

The SPEAKER. The point of order is withdrawn.

So a second was ordered.

The SPEAKER. The gentleman from Wisconsin (Mr. STEIGER) will be recognized for 20 minutes.

Mr. STEIGER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in support of H.R. 10979 which reflects a compromise agreement on authorizations for the water resources development program of the Corps of Engineers. This bill was recently passed by this body as H.R. 13059, the Water Resources Development Act of 1978. However, the recent breakthrough on the waterway user charge issue, which led to the enactment of a separate bill on that one subject, has, because of parliamentary grounds, prevented a conference with the other body on H.R. 13059.

Therefore, Mr. Speaker, in order to get a bill we must take up this new initiative. The bill before us reflects a significant compromise. The House bill was estimated to authorize $1.29 billion—reflecting $762 million. In the compromise bill ing an amendment which I offered cut the House successfully reduced by nearly $1.2 billion from the Senate authorization of $3.4 billion. However, in accomplishing this we were able to preserve the House initiatives contained in H.R. 13059.

Mr. Speaker, this bill reflects both the desire to be fiscally responsible and responsive to the people in need of the authorizations contained in this measure for flood protection, hydroelectric power, navigation, water supply, recreation, and fish and wildlife mitigation and enhancement. I urge my colleagues to send this bill to the President without delay in order to begin the process to realize the benefits of these projects.

Mr. STEIGER. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Mr. Speaker, I would like to ask the gentleman from Pennsylvania (Mr. ERTEL) is this the previous pothole bill that passed the House and was amended by the Senate?

Mr. ERTEL. Yes, this is the pothole bill, but they took out the potholes and put in the water projects.

Mr. GARY A. MYERS. Mr. Speaker, as a point of clarification if the gentleman from Pennsylvania would answer, does the Senate amendment put any of the pothole money back in?

Mr. ERTEL. No.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding.

The gentleman is a member of our committee and a very good one. I appreciate the fact that he has yielded to me.

This bill has over a hundred provisions that many of us have not seen. We do not know what the cost of the bill is, we do not know what is in it, we do not know what projects have been exempted

from the benefit cost ratio, or we do not know how many projects will benefit only a few corporations.

I would urge my colleagues to think very carefully about voting for a bill that has so many provisions in it that we in the House have never seen and never looked at. The bill has only been made available in the last stages of the 95th Congress, and there are many important questions we must consider and look at.

The SPEAKER. The gentleman's time has expired.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. STEIGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Pennsylvania (Mr. ERTEL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 10979.

The question was taken.

Mr. FOLEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 129, nays 31, answered "present" 5, not voting 265, as follows:

[Roll No. 942]

YEAS—129

Abdnor	Evans, Ga.	Moakley
Akaka	Fary	Montgomery
Alexander	Flood	Moore
Anderson, Calif.	Florio	Murphy, Ill.
	Foley	Murphy, N.Y.
Andrews, N.C.	Fountain	Murphy, Pa.
Bafalis	Fowler	Murtha
Barnard	Garcia	Myers, Gary
Bauman	Gaydos	Myers, Michael
Benjamin	Ginn	Natcher
Bennett	Goldwater	Nowak
Biaggi	Gonzalez	Oberstar
Blouin	Gore	Pickle
Boggs	Grassley	Price
Bowen	Green	Pritchard
Brademas	Gudger	Rahall
Breaux	Hamilton	Regula
Breckinridge	Hansen	Robinson
Brooks	Harsha	Roe
Brown, Ohio	Heftel	Rooney
Buchanan	Holland	Rostenkowski
Burke, Mass.	Holtzman	Rousselot
Burlison, Mo.	Howard	Roybal
Caputo	Hubbard	Shuster
Carter	Huckaby	Slack
Clausen, Don H.	Johnson, Calif.	Smith, Iowa
	Jones, Tenn.	Spellman
Clawson, Del	Kazen	Stump
Conyers	Lagomarsino	Taylor
Cornwell	Leach	Thornton
Daniel, Dan	Lederer	Treen
Daniel, R. W.	Levitas	Trible
Davis	Livingston	Tucker
de la Garza	Lloyd, Tenn.	Vander Jagt
Dent	Long, Md.	Vanik
Derwinski	McCloskey	Waggonner
Dicks	McCormack	Wampler
Duncan, Oreg.	McKay	Weiss
Duncan, Tenn.	McKinney	White
Eckhardt	Mahon	Whitten
Edwards, Ala.	Mathis	Wilson, Bob
Edwards, Okla.	Michel	Young, Tex.
Ertel	Miller, Ohio	Zablocki
Evans, Del.	Mineta	

NAYS—31

Bedell	Edgar	Pease
Beilenson	Harkin	Sawyer
Blanchard	Harris	Sharp
Bonior	Hughes	Steers
Broyhill	Kelly	Steiger
Carr	Kostmayer	Studds
Conte	McDonald	Tsongas
Cornell	McHugh	Van Deerlin
Coughlin	Mann	Walker
Dellums	Moffett	
Dodd	Obey	

ANSWERED "PRESENT"—5

Danielson	Neal	Volkmer
Kildee	Patterson	

NOT VOTING—265

Addabbo	Giaimo	Pattison
Ambro	Gibbons	Pepper
Ammerman	Gilman	Perkins
Anderson, Ill.	Glickman	Pettis
Andrews, N. Dak.	Goodling	Pike
	Gradison	Poage
Annunzio	Guyer	Pressler
Applegate	Hagedorn	Preyer
Archer	Hall	Pursell
Armstrong	Hammer-schmidt	Quayle
Ashbrook		Quie
Ashley	Hanley	Quillen
Aspin	Hannaford	Railsback
AuCoin	Harrington	Rangel
Badham	Hawkins	Reuss
Baldus	Heckler	Rhodes
Baucus	Hefner	Richmond
Beard, R.I.	Hightower	Rinaldo
Beard, Tenn.	Hillis	Risenhoover
Bevill	Hollenbeck	Roberts
Bingham	Holt	Rodino
Boland	Horton	Rogers
Bolling	Hyde	Roncalio
Bonker	Ichord	Rose
Brinkley	Ireland	Rosenthal
Brodhead	Jacobs	Rudd
Broomfield	Jeffords	Runnels
Brown, Calif.	Jenkins	Ruppe
Brown, Mich.	Jenrette	Russo
Burgener	Johnson, Colo.	Ryan
Burke, Calif.	Jones, N.C.	Santini
Burke, Fla.	Jones, Okla.	Sarasin
Burleson, Tex.	Jordan	Satterfield
Burton, John	Kasten	Scheuer
Burton, Phillip	Kastenmeier	Schroeder
Butler	Kemp	Schulze
Carney	Keys	Sebelius
Cavanaugh	Kindness	Seiberling
Cederberg	Krebs	Shipley
Chappell	Krueger	Sikes
Chisholm	LaFalce	Simon
Clay	Latta	Sisk
Cleveland	Le Fante	Skelton
Cochran	Leggett	Skubitz
Cohen	Lehman	Smith, Nebr.
Coleman	Lent	Snyder
Collins, Ill.	Lloyd, Calif.	Solarz
Collins, Tex.	Long, La.	Spence
Conable	Lott	St Germain
Corcoran	Lujan	Staggers
Corman	Luken	Stangeland
Cotter	Lundine	Stanton
Crane	McClory	Stark
Cunningham	McDade	Steed
D'Amours	McEwen	Stockman
Delaney	McFall	Stokes
Derrick	Madigan	Stratton
Devine	Maguire	Symms
Dickinson	Markey	Teague
Diggs	Marks	Thompson
Dingell	Marlenee	Thone
Dornan	Marriott	Traxler
Downey	Martin	Udall
Drinan	Mattox	Ullman
Early	Mazzoli	Vento
Edwards, Calif.	Meeds	Walgren
Eilberg	Meyner	Walsh
Emery	Mikulski	Watkins
English	Mikva	Waxman
Erlenborn	Milford	Weaver
Evans, Colo.	Miller, Calif.	Whalen
Evans, Ind.	Minish	Whitehurst
Fascell	Mitchell, Md.	Whitley
Fenwick	Mitchell, N.Y.	Wiggins
Findley	Mollohan	Wilson, C. H.
Fish	Moorhead, Calif.	Wilson, Tex.
Fisher		Winn
Fithian	Moorhead, Pa.	Wirth
Flippo	Moss	Wolff
Flowers	Mottl	Wright
Flynt	Myers, John	Wydler
Ford, Mich.	Nedzi	Wylie
Ford, Tenn.	Nichols	Yates
Forsythe	Nix	Yatron
Fraser	Nolan	Young, Alaska
Frenzel	O'Brien	Young, Fla.
Frey	Oakar	Young, Mo.
Fuqua	Ottinger	Zeferetti
Gammage	Panetta	
Gephardt	Patten	

PARLIAMENTARY INQUIRY

Mr. CONTE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. CONTE. My parliamentary inquiry is that may we have regular order?

The SPEAKER pro tempore. The Chair will advise the gentleman from Massachusetts (Mr. CONTE) that we are following the regular order which is to say we are awaiting a message from the Senate, or the presence of a quorum, either or which, or both, the Chair would advise the gentleman from Massachusetts, would be satisfactory.

Mr. CONTE. I thank the Chair.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. VOLKMER. Mr. Speaker, my parliamentary inquiry is this: At this time are there any motions in order?

The SPEAKER pro tempore. The Chair will state that the answer to the gentleman's question is only a motion to adjourn.

Mr. VOLKMER. Mr. Speaker, in the event that the message from the Senate does not arrive for another 15 minutes and a quorum does not appear for another 15 minutes, are we still awaiting a quorum?

The SPEAKER pro tempore. The Chair would advise the gentleman from Missouri (Mr. VOLKMER) that the message is on its way and may be received in the absence of a quorum.

Mr. VOLKMER. I thank the Speaker.

PARLIAMENTARY INQUIRY

Mr. DANIELSON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANIELSON. Mr. Speaker, my parliamentary inquiry is this: In the event that there should not appear a quorum, I know that the House would have the right and the power to adjourn, but could the House also observe the special orders that have heretofore been ordered?

The SPEAKER pro tempore. The Chair is distressed but he will have to advise the gentleman from California that the answer to that question is no.

The Chair would further add that general leave has been granted to all Members to revise and extend their remarks.

Mr. DANIELSON. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DANIELSON. Mr. Speaker, my parliamentary inquiry is this: On a special order which may not have been requested, in the event a special order had already been requested, the usual one to honor one of our colleagues who are retiring from the House, could those proceedings still continue in the event we do not realize 218 Members?

The SPEAKER pro tempore. The Chair will advise the gentleman from California (Mr. DANIELSON) that all Members have permission to insert their remarks in the RECORD on the subject of retiring Members but it is not possible to engage in colloquy on special orders.

Mr. DANIELSON. I thank the Chair.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will further advise the Members of the House that special leave has already been granted with respect to retiring Members of the House.

STATEMENT OF MR. FORD OF MICHIGAN ON CIVIL SERVICE REFORM ACT OF 1978

(Mr. FORD of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FORD of Michigan. Mr. Speaker, yesterday, I was present with the other managers on S. 2640, the Civil Service Reform Act of 1978, as the President signed the legislation into law. The legislation is important and marks a significant accomplishment of the 95th Congress. The conferees on S. 2640 had our final meeting on October 3, and the conference report and statement of managers were completed on October 4 for Senate floor action later that day. Waiving the 3-day rule, the House completed action on the bill on October 6. Unfortunately, the complexity of the legislation and the understandable end-of-session rush to secure passage this Congress forced the conference documents to be less helpful than normal in elaborating the underlying intention of the managers on specific issues of the bill.

As a conferee on S. 2640, as a major participant in the fashioning of the House language on title VII, and as a long-time sponsor of collective-bargaining legislation for Federal employees, I would like to discuss some of the particular features of the bill signed by the President yesterday.

The approaches taken by the two Houses of Congress toward the labor-management program could not have been more divergent. As is made clear by the report of the Committee on Governmental Affairs, the Senate adopted the position that title VII should simply codify the existing practices and decisions of the current program under Executive Order 11491, Senate Report No. 95–989, at pages 99 to 114.

The House on the other hand, rejected the stifling experience under the order and its administrative entities and decreed a new beginning, free from the mistakes of the past, for labor-management relations in the Federal sector. The House approach to title VII is reflected in the substitute amendment worked out by Mr. UDALL, the administration, Mr. CLAY, and others especially interested in the title, and myself. During the House debate on September 13, Mr. CLAY and I articulated at great length the understandings embodied in and the intentions behind the Udall compromise. We did so in order that no one might claim surprise over the scope and approach implicit in the substitute language. During the debate on title VII, my colleague from Arizona noted that the House was "going to do something historic and far reaching and important for the country * * *" After full debate, and after rejecting an alternative substitute embodying the Senate's approach, the Udall substitute was adopted by the House, 381 to 0.

I am pleased to report to my colleagues that the conference report adopted by both Houses late last week contains almost intact the House provisions on title VII as outlined in the September 13 debate. During the conference, there were moments when it seemed that agreement between the conflicting views on title VII threatened to destroy the entire bill. But under the statesmanship of the chairman of the conference committee, Mr. UDALL of Arizona, mutual understanding was obtained. I share with Mr. CLAY of Missouri, with whom I have had the privilege of working shoulder-to-shoulder for collective bargaining legislation for the last several Congresses, some of his doubts about the precise tack taken in this legislation. But everyone owes Mr. CLAY a debt of gratitude for his steadfast commitment and enormous contribution he has made on behalf of the ordinary worker who happens to be a Federal employee. I would also like to acknowledge the important contributions made by Mr. SOLARZ of New York throughout consideration of the bill by the House.

The House conferees were able, after meetings even longer than normal, to persuade the Senate that the new beginning for Federal labor relations mandated by the House bill was necessary, justified, and fully appropriate. Eventually, the conference committee shared the House acknowledgement that this new labor-management program with expanded rights for employees and their representatives was an essential response to the expansion of management prerogatives in other titles of the bill. Even where changes were accepted by the House conferees, these changes also embody the basic House approach outlined on September 13.

Section 7101 establishes the basic policy of the Government on labor-management relations and representation by including the congressional finding that labor organizations and collective bargaining serve the public interest. This section also includes general language about "governmental efficiency" placed here rather than as a separate management right to maintain the efficiency of Government operations. The statement of managers makes clear that agencies may exercise their "lawful prerogatives concerning the efficiency of the Government," but under title VII as revised by the conference committee, one of the agencies' lawful prerogatives is no longer the right to declare a bargaining proposal nonnegotiable because it is barred by the management right to maintain efficiency. The conference committee, by removing one barrier to effective collective bargaining, increases the likelihood that the Government's efficiency will be enhanced. It is the intention of the conference committee that agencies and employee representatives should spend their efforts resolving mutual problems and improving performance instead of litigating over barriers to negotiation.

Section 7103(a)(3) includes the Library of Congress and the Government Printing Office among the agencies subject to title VII. Although these two agencies were not covered under the Executive order, each has had a labor-management program patterned after the order. In each instance, however, the chief management official retained final review authority over the program because of certain statutory anomalies. The temptations inherent in giving one side of the bargaining table ultimate authority proved irresistable and led the conference committee to adopt the House provision placing both agencies under title VII. It is our expectation that these agencies will now negotiate fully with their certified representatives to achieve a rapid and orderly transition to the complete enjoyment of those employee rights that led us to include them, especially the right to participate in a labor relations program that is genuinely bilateral, especially providing for third-party resolution of all negotiability disputes.

Because the Library is not subject to many personnel regulations applying to most other Federal agencies, the scope of collective bargaining at the Library has been significantly greater than that enjoyed by those other agencies under the Executive order. It is our firm intention that the Library will bargain, through impasse if necessary, over all conditions of employment except to the precise extent that the conditions are subject to specific requirements imposed on the Library by an outside agency that leaves the Library without authority to agree to a bargaining proposal.

The conference considered and rejected language aimed at narrowing the scope of bargaining from that previously existing at the Library. We noted that in over 2 years of collective bargaining, the Library has never asserted a compelling interest for any of its internal regulations.

In section 7103(a)(14) the conference committee expanded the scope of bargaining by removing an exception to the definition of "conditions of employment." As reported by the Committte on Post Office and Civil Service, conditions of employment did not include "policies, practices, and matters—relating to discrimination in employment . . ." The discussion drafts of the Udall substitute continued this limitation on the scope of collective bargaining.

During final negotiations over the Udall compromise, the language was changed to make clear that this prohibition against negotiations involving discriminatory practices did not apply to the Library of Congress, because the Library is not subject to the Equal Employment Opportunity Commission (EEOC). Instead, the Librarian has final administrative review authority in civil rights matters involving the Library.

The committee participants in the drafting of the Udall substitute discussed at length this situation and the fact that virtually the only force pushing for genuine equal opportunity for all employees has been the labor organizations, especially the union in the Con-

gressional Research Service. Although removing the Librarian's final review authority under 42 U.S.C. sec 2000e–16 was beyond the scope of the discussion, the drafters of the Udall compromise determined that the work of the Library unions in this important area should not be impeded. Hence, the language was changed in the Udall substitute as finally presented and adopted by the House.

In view of the efforts of the Library and other Federal sector unions to eliminate discrimination in employment, the conferees decided to remove the exclusion of discrimination matters from the definition of conditions of employment. The effect of the conferees' actions must be stated precisely.

The Equal Employment Opportunity Act of 1972, Public Law 92–261, codified at 42 U.S.C. sec. 2000e–16, requires that each Federal agency maintain an affirmative program of equal opportunity for all employees. Our examination of the act led to the conclusion that the act mandates a program of benefits for Federal employees. As such, the precise contours and contents of affirmative action and equal opportunity plans and programs is currently a mandatory subject of collective bargaining where employees have selected an exclusive representative. In order to avoid interference with EEOC's enforcement authority, the House originally precluded these negotiations in agencies subject to the Commission's jurisdiction.

The conferees, however, decided that under the new labor relations program, Federal sector unions should shoulder their full obligation to help achieve equality of employment opportunity in their agencies. It is the intention of the conferees that the removal of the discrimination exclusion would obligate both agencies and unions to bargain fully over the contents, procedures, and effects of affirmative action and equal opportunity plans and programs regardless of the management rights clause. Management enjoys no retained rights to continue discriminatory employment practices—or their effects—or to thwart genuine equal employment opportunity for all employees. Moreover, the primary adverse effect of a less-than-satisfactory equal opportunity program is the continuation of discrimination or its impact.

It should be stressed that the authority to bargain in this area is the authority to increase and advance, not hinder or delay, equal employment opportunity for all employees. Moreover, in agencies subject to EEOC's jurisdiction, negotiations and agreements on equal opportunity plans and programs must be consistent with EEOC requirements.

Sections 7103(a)(9), 7121(a)(1), and 7121(d) also provide for union involvement in discrimination matters because they require agencies to establish a grievance procedure covering discrimination complaints—except where a union elects not to include such complaints within the procedure. Sections 7131(c) and 7131(d) requires use of official time for such grievances as either negotiated between the parties or prescribed by the authority.

The definition of Management Official in section 7103(a)(11) is derived from the decisions of the Assistant Secretary of Labor for Labor-Management relations under Executive Order No. 11491, as amended.

The Assistant Secretary has stated that employees should not be excluded from units of exclusive recognition as management officials if their role is actually that of a professional or expert making recommendations or providing resource information with respect to the policy in question. The exclusion should only apply where the role extends beyond that to the point of active participation in the ultimate determination as to what the policy in fact will be. Any other application of this definition would result in the exclusion from bargaining units employees who merely give advice, but have no authority to make or effectively influence the making of policy.

Section 7105(a)(2) makes clear that the authority's action in prescribing criteria and resolving issues shall be consistent with title VII and the approach taken therein. Fidelity on the part of the authority to title VII is especially important in the establishment of new criteria defining "compelling need." Under no circumstances is the authority merely to "rubber stamp" the criteria earlier established by the Federal Labor Relations Council. The authority is to develop its own criteria which, after the exercise of the FLRA's independent judgment, may be similar to that of FLRC. The House committee's description of "compelling need" has continued to be the intention behind this provision. House Report No. 95–1403 at page 51. Judicial review of the authority's actions in prescribing and applying the "compelling need" criteria will assure that the intention of the conferees and the Congress will be preserved.

Section 7105(a)(2)(G) requires that the Authority "resolve complaints of unfair labor practices" and section 7118(a)(7) requires the authority to impose enumerated remedies or "such other action as will carry out the purpose" of title VII. The conferees changed somewhat the remedies specified in the section but left intact the general power under subsection 7118(a)(7)(D) in order to insure that all possible remedies, including any dropped from the enumerated list, would be employed where the purposes of the title would be served thereby. This linguistic revision of the section was acceptable because of the expectation that the courts will oversee the work of the Authority in this area (as well as others) in order to insure that the Authority vigorously enforces the purpose and provisions of title VII by adopting remedies sufficiently strong and suitable to make real the promise of the title and the obligations of its provisions. (An "aggrieved" person under 7123 includes a person aggrieved by the failure to grant appropriate remedial relief.) In this regard, it is important that subsection 7118(a)(7)(D) does not read "take such other action as may be determined by the Authority will carry out the purpose of this chapter." The mandatory nature of the remedial power in section 7118 on unfair labor practices is intentional and is in marked contrast to the general discretionary authority given the FLRA under section 7105(g)(3).

Remedies, among others, which we fully expect will be applied as when they will carry out the purpose of Title VII include, tailored to the violation, status quo ante orders as in Fibreboard Paper Products Corp.. 138 NLRB 550, 555, 51 LRRM 1191 (1962), enforced, 322 F. 2d 411, 53 LRRM 2666 (D.C. Cir. 1963), affirmed, 379 U.S. 203, 215–17, 57 LRRM 2609 (1964), Town and Country Mfg. Co., 136 NLRB 1022, 1030, 49 LRRM 1918 (1962). enforced, 316 F. 2d 846, 53 LRRM 2054 (5th Cir. 1963), North Western Publishing Co., 144 NLRB 1069, 1073, 54 LRRM 1182 (1963), enforced, 343 F. 2d 521, 58 LRRM 2759 (7th Cir. 1965), and Richland, Inc., 180 NLRB No. 2, 73 LRRM 1017 (1969); make whole orders as in Mooney Aircraft Co. 156 NLRB 326. 61 LRRM 1071 (1965), enforced, 375 F. 2d 402, 64 LRRM 2837 (5th Cir. 1967), cert. denied 389 U.S. 859, 66 LRRM 2308 (1967), Stackpole Components Co., 232 NLRB No. 117, 96 LRRM 1324 (1977), and Baptist Memorial Hospital, 229 NLRB No. 1, 95 LRRM 1043 (1977); and orders requiring. at the unions election, retroactive execution of an agreement as in Huttig Sash & Doo" Co., 151 NLRB 470, 475, 58 LRRM 1433 (1965).

In addition, the conference report specifically alloys, where title VII's purpose would be served, remedial orders like that banned under the National Labor Relations Act as interpreted by the Supreme Court in *H. K. Porter Co.* v. *NLRB*, 397 U.S. 99, 73 LRRM 2561 (1970). Where a failure to bargain in good faith has prevented agreement on a provision, the Authority is fully empowered under section 7118(a)(7)(B) to issue an order requiring the violator to agree to the provision unless the charging party waives, in whole or part, agreement on the provisions during negotiations. (The language of this subsection was revised to insure that the charging party would have the opportunity to waive agreement if it deemed such a waiver advisable in light of continued negotiations.) The conference report took this position despite the presence in both title VII and the National Labor Relations Act of the statement that the bargaining obligation "does not compel either party to agree to a proposal or require the making of a concession." By this action, we made clear our intention that remedies for employer violations under title VII (where the employer is always an official violating the policy of his employer—the Government—against unfair labor practices) will not be limited by the caseload development under the National Labor Relations Act governing private employers.

The mandatory language used in section 7118(a)(7) reflects the intention of the conferees that where a violation has been found, the Authority must issue a remedy appropriate to the violation, as in *Auto Workers* v. *NLRB* (*Omni Spectra. Inc.*), 427 F.2d 1330, 74 LRRM 2481 (7th Cir. 1970), and *United Steelworkers* v. *NLRB*. 386 F.2d 981, 66 LRRM 2417 (D.C. Cir. 1967). The conferees thus

rejected the approach reflected in Renton News Record, 136 NLRB 1294, 1297–98, 49 LRRM 1972 (1962), and New York Mirror, 151 NLRB 834, 841–42, 58 LRRM 1468 (1965).

The conferees also adopted the approach to the management rights clause taken by the House, an approach which I could just barely support but that was essential to passage of the bill. Accepting the House's clear intention that FLRC decisions interpreting the Executive order's management rights provisions were to be ignored, even where the order's language is identical to that in title VII, was an essential threshold to resolution of the differences on this title and the entire bill. (This allowed the conferees to adopt language without the interpretative gloss added by the Council.) We were able to agree on inclusion of sometimes identical language because we fully intended that the new Authority will start its interpretation of that language with a clean slate. Moreover, the provision for judicial review insures that this understanding will be implemented.

In addition, the entire structure of the management rights clause is markedly different from that in the order. By the clear language of the bill itself, any exercise of the enumerated management rights is conditioned upon the full negotiation of arrangements regarding adverse effects and procedures. As is made clear by the absence of the phrase "at the election of the agency," procedures and arrangements are mandatory subjects of collective bargaining. Only after this obligation has been completely fulfilled is an agency allowed to assert that a retained management right bars negotiations over a particular proposal. This approach was dictated both by the FLRC's history of interpretative abuse of the order's management rights provisions and by logic itself.

In negotiating appropriate arrangements for employees adversely affected by exercise of a management right, it may obviously be necessary to address the substance of the exercise itself. If, for example, an agency initially contemplates transferring 10 employees into quarters suitable for only half that number, an "appropriate arrangement" cannot be negotiated without changing (at least somewhat) the number of employees to be relocated. Thus, the need for giving first priority to negotiating the arrangements for the adversely affected employees even if these negotiations impinge on the management right to transfer. In the example cited, the agency enjoys a retained management right to transfer all 10 employees only after procedures and appropriate arrangements are agreed upon.

Because of the increased stature for "adverse effect" negotiations, and for other reasons, neither the conference report nor the statement of managers includes a de minimus proviso allowing an agency to escape from its bargaining obligation. It is fully the expectation that where the adverse effects are "de minimus" negotiations will occur but that both parties will see that they proceed with appropriate dispatch.

The House debate clearly set forth the interpretative principles embodied in the House management rights clause. Only bargaining proposals which directly related to the actual exercise of the enumerated management rights are to be ruled nonnegotiable. An indirect or secondary impact on a management right is insufficient to make a proposal nonnegotiable. This principle was followed by the Council in FLRC No. 71A–52, 1 FLRC 235, 244 (1972) and the Labor-Management Umpire in his May 17, 1978 decision at pages 5, 6–7. These cases were discussed during the House debate. 124 CONGRESSIONAL RECORD pages 29187–29188, and 29198–29200 (Sept. 13, 1978). That the conference committee adopted this approach is reflected in the statement of managers that, in negotiations, "the parties may indirectly do what the (management rights) section prohibits them from doing directly." H–Rept. No. 95–1717 at page 158.

The "to decide or act" language of the Senate bill was omitted as redundant. The management authority in section 7106(a) and 7106(b)(1) is obviously the authority "to decide or act." Equally obviously, procedures and arrangements are to be negotiated with regard to both the decisionmaking and implementation phases of any exercise of management's authority.

It should also be noted that procedures and arrangements are to be negotiated for the "permissable" subjects of bargaining in subsection 7106(b)(1), including both methods and means and the grades of employees or positions assigned to any organizational unit. This allows, for example, a labor organization to negotiate procedures insuring a fair grading of positions and employees based upon complete information as to the duties performed and qualifications required. Under section 7121(c)(1), a grievance may be filed regarding a classification that results in a reduction in pay or grade of an employee. This grievance may allege not only procedural violations but also improper classification criteria. In addition, where the criteria are applied in violation of the Equal Employment Opportunity Act of 1972, a discrimination grievance or appeal may also be filed.

The Senate version of title VII continued the order's reference to "personnel policies and practices and matters affecting working conditions." Because of council decision, virtually eliminating any obligation to bargain over "working conditions," the House framed the bargaining obligation in terms of "conditions of employment." This House expansion of bargaining beyond the limited term "working conditions" was accepted by the conferees.

Section 7112(b) in effect excludes certain employees from an appropriate unit. Subsection 7112(b)(7) excludes certain investigative (or audit) employees. Subsection 7112(b)(6) excludes employees engaged in investigation or security work which directly affects national security. It is our intention that, in order for an employee to be excluded under subsection 7112(b)(6) because of investigation work, that work must directly affect national security. (If this had not been the case then the reference in subsection 7112(b)(7) to employees engaged in certain investigation functions would have been surplusage because these employees would already have been excluded by the preceding subsection.)

The conferees agreed that the written statement required of an agency under section 7113(b)(2)(B) or under 7117(d)(3)(B) need not be detailed, although the statement must make clear from its contents that the views of an organization with consultation rights were in fact considered.

As agreed upon by the conferees, section 7114(a)(5)(A) gives employees the right to be represented by a person other than the exclusive representative unless a grievance procedure has been negotiated. Under section 7121(b)(3), an employee must either be his own representative or select the exclusive representative when a negotiated grievance procedure is in effect.

House section 7114(a)(2), which only applied to misconduct cases, was dropped in the conference report in lieu of an annual notification to employees of their rights under this section. In adopting House section 7114(a)(3), there was considerable discussion by the conferees to the effect that the (a)(3) right should similarly be limited to misconduct cases. The conferees rejected this approach and continued to apply this right in both misconduct and nonperformance cases. Furthermore, in exchange for dropping the (a)(2) right, the term "investigatory interview" in (a)(3) was replaced by the term "examination," a much broader term that will encompass more situations.

In dropping the (a)(2) right, we want to make clear, however that agencies and employee representatives can continue to negotiate stronger rights into their contracts, such as the one in AFGE Local 2752 contract with the Defense Contract Administration. The need for codifying these rights was made necessary by the fact that agencies in some circumstances may be unable to bind investigators to this right by the collective bargaining contract when the investigators are from outside that agency or from outside the level of management at which the union has exclusive representation. This codification is intended particularly to cover these situations.

Section 7114(b)(4) requires that the agency provide certain information not otherwise prohibited by law relating to negotiations. There is no exemption from this requirement for information, whether or not deemed "confidential" by the agency unless that information constitutes guidance, advice, counsel, or training, each specifically related to collective bargaining.

Section7114(c) was added to the House version of title VII by the conferees. Once again, the conferees adopted the general House approach of incorporating selected language from the Executive order while rejecting the interpretative gloss placed on that language by the Federal Labor Relations Council. This section must be read in conjunction with section 7114(b)(2) requiring that an agency be repre-

sented in collective bargaining by representatives fully prepared and empowered to negotiate. Nothing in section 7114(c) or in section 7106 gives an agency the right to frustrate negotiations by imposing a cumbersome consultation process between agency representatives and agency headquarters or by precluding negotiations in permissible areas without reference to the particularized context in which any proposal on a permissible subject is raised.

In section 7114(b)(2), agencies are placed on notice that they may not allow negotiations to proceed with untrained agency representatives while the agency relies on section 7114(c) to "save the day" by having the agency head refuse to approve the negotiated agreement. Furthermore, the agency head shall approve that agreement if it is in accordance with applicable law, rule, or regulation. Thus, the discretion to disapprove the agreement is a very limited discretion.

It is also our clear intention that agency regulations governing conditions of employment will not, as a general rule, be supported by a "compelling need" and therefore bar negotiations. The principal thrust of this title is to enlarge the rights of employees and their representative beyond that under Council interpretations of the Executive order. Since most "conditions of employment" are subjects of agency regulations—in well-managed agencies anyway—allowing most regulations to bar negotiations would totally defeat the purpose of title VII.

In general, agency negotiators are to be fully empowered to agree to exceptions to agency regulations concerning conditions of employment, including portions of agency regulations supported by compelling need where the need does not apply to the portion of the regulation. Moreover, section 7114(b)(2) requires that the agency "discuss" in the negotiations any proposal regarding conditions of employment even if that proposal is nonnegotiable. The agency is not required to "negotiate" over nonnegotiable proposals. It is, however, required to "discuss" them.

In this way, the conferees attempted to construct a statutory program where both labor and management will devote their efforts cooperatively to resolving mutual problems instead of having energies diverted into wasteful, continuous litigation of the management rights clause. Everyone—the employees, the agency, and the public—will benefit from these discussions and negotiations. Particularly in the public sector with its lack of a profit incentive, employee organizations are often the only group that effectively encourages management to rationalize its operations.

Agency management, unfortunately, is too often antiquated and satisfied to maintain the status quo. Supervisors are not asked often enough why they continue doing what they are doing—or not doing—even though the employees and the public suffer from their mismanagement. Full discussions and negotiations will help keep management "on its toes" and force it to reexamine its policies and procedures. In this way, the broadest scope of collective bargaining and discussing will facilitate the efficiency of Government operations.

Section 7116(b)(7) of the conference report adopts the House provision with respect to the circumstances under which picketing may form the basis of an unfair labor practice charge against a union. The House rejected the FLRC major policy statement on picketing and provided that only picketing which has in fact interfered with an agency's operations may be considered an unfair labor practice. There is, in other words, no "prior restraint" against proposed picketing which the agency, however reasonably, believes will interfere with its operations. Picketing is a well-recognized, long-established first amendment right. This fact must be kept in mind in assessing whether picketing has in fact "interfered" with an agency's operations. For example, embarrassment to the agency obviously does not constitute interference.

The language in section 7116(e) providing for the expression of personal views is intended to be narrowly construed. It was not the intention of the managers of this legislation to give agency management a license to become a party to an exclusive recognition election. Rather, it was intended to incorporate the policy under Executive Order 11491, as amended, which requires that agency management maintain a posture of neutrality in any representation election campaign. Antilles Consolidated School, Roosevelt Roads, Ceiba, Puerto Rico, A/SLMR No. 349 (1974).

The legislation permits agency management, acting as a neutral, to make nonpartisan statements which are intended to encourage employees to vote in elections as long as they do not attempt to coerce, or otherwise influence an employees' free choice. Moreover, they can make statements intended to clarify any misleading statements, as long as they do not use it as a means to act as a partisan. Finally, they can express the Government's view on labor-management relations which according to the statement of purpose in title VII is to recognize that collective bargaining is in the public interest.

Section 7117 of the conference report and paragraph 6 under "Additional amendments" in the statement of managers (H. Rept. No. 95–1717 at page 158) represents the final stage in the evolution of "government-wide rules and regulations" as a bar to negotiations. Throughout all versions of this section, from the House committee print, to the Udall substitute as adopted by the House and now the conference report, the intention as to the definition of "government-wide" has been constant and clear. The committee report states:

> The term "Government-wide" shall be construed literally; only those regulations which affect the Federal civilian work force as a whole are "Government-wide" regulations. H. Rept. No. 95–1403 at P. 51.

During the debate on the Udall substitute, I stressed that the definition of "government-wide" remained the same and that even greater fidelity to that definition was required in view of the larger impact on negotiations that the substitute gave to "government-wide" regulations.

The Senate approved a different definition of "government-wide," and the issue of which definition to adopt received the attention of the conferees. The statement of managers correctly notes that the "conference report follows the House approach throughout this section * * *" The Senate wished to label the Federal Personnel Manual a "government-wide regulation" even though many, if not most, of the policies in the Manual do not apply to "the Federal civilian workforce as a whole." Those policies typically do not even cover all of the agencies covered under the House and conference version of title VII, let alone civilian employees outside those agencies.

The Senate was also concerned that "binding policies" be included within the definition of "government-wide rules and regulations." Eventually, the conferees were able to agree that genuinely binding policies imposed on officials and agencies by an outside agency—as defined in section 7103(a)(3) including the Authority—would be regarded as rules and regulations. The House definition of "government-wide," however, was left untouched.

Section 7118 sets forth the procedure for Authority actions specifically relating to unfair labor practices. The General Counsel is responsible for prosecuting unfair labor practice complaints, similar to the system at the National Labor Relations Board. As at the Board, it is our expectation that the charging party will be allowed—in part—to appear, introduce evidence, question witnesses, and make and file arguments on the case. The role of the charging party is especially important in view of the likely staffing difficulties in the first few years of the Authority. Even afterward, however, the charging party will play a crucial role in assuring the diligence of the General Counsel's efforts. In most cases—based on past history—the General Counsel will be a Government official "prosecuting" other Government officials. The temptations in such situations are obvious and the role of the charging party essential.

Furthermore, I fully expect the administration to seek additional moneys in the next Congress to assure a strong and effective labor relations program. The added responsibilities of the Authority, the creation of the office of General Counsel, and the fact that support services heretofore made available to FLRC by the Civil Service Commission must now be handled internally, all place a greater financial burden on this program.

Section 7118(a)(4) provides that no complaint shall issue on an unfair labor practice charge filed more than 6 months after the occurrence of the practice. This time limit applies to unfair labor practices with a clearly definable date of occurrence; continuing unfair labor practices—much as continuing discriminatory practices under the civil rights laws—may be prosecuted upon a charge filed within 6 months of the last event in the continuing conduct.

Section 7118(a)(6) requires that a transcript be kept of the proceedings. It is our expectation that this transcript will be furnished to both the charging and responding parties without cost and in time for use in presenting post-hearing briefs.

Under section 7119(a)(5)(B)(iii), the Federal Services Impasses Panel is given full authority to resolve negotiation impasses. The conferees considered and rejected allowing appeals from the Panel to the Authority on negotiability issues. While the Panel must approve binding arbitration procedures other than those of the Panel itself, third-party mediation, including factfinding and recommendation may be entered into at the mutual agreement of the parties.

Section 7121 describes the negotiated grievance procedure that is required of the parties. The grievance procedure constitutes the single most important burden on a labor organization that has been selected as an exclusive representative. As the statement of managers makes clear, the conferees adopted the House approach requiring a broad scope for the grievance procedure through the definition of "grievance" found in section 7103(a)(9). Under the conference report, the negotiated grievance procedure replaces all statutory appeals procedures except for those concerning discrimination complaints under 2302(b)(1), adverse actions and actions based on unacceptable performance. Where a negotiated grievance procedure covers a matter which would also arise under the appeals procedures just listed, an employee has the option of which avenue to pursue.

The labor organization is required to meet a duty of fair representation for all employees, even if not dues-paying members, who use the negotiated grievance procedure. The costs involved in the procedure, which may well involve arbitration, are high. Although the basic House approach of stating in the statute the scope of the procedure was followed, the conferees also adopted a provision aimed solely at allowing the exclusive representative, at its option, to propose and agree to a reduced coverage for the negotiated grievance procedure—perhaps for financial reasons. Of course, the union may also negotiate changes in the appeals procedure to the extent that the agency has the authority to revise that procedure, instead of replacing the appeals with a negotiated procedure.

We can analogize this situation to management's "permissible" areas of bargaining under section 7106(b)(1), except that permitting the reduction in the scope of the grievance procedure was included in the conference report as a means to insure union flexibility. That is, the union is free to propose a narrowed scope of grievances, is free to withdraw that proposal at any time, and is free to insist to impasse on the narrowed scope if the agency does not agree. An agency, however, may not insist to impasse that the union agree to a reduced scope of grievances under the negotiated procedure. The unions do not have to negotiate in those statutory appeals that will be replaced by a grievance and arbitration proceedure; they may negotiate out certain or all of these appeals.

Section 7103(a)(9) includes within the definition of "grievance," "any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment." Under this definition as adopted by the conferees, so long as a rule or regulation "affects conditions of employment", infractions of that rule or regulation are fully grievable even if the rule or regulation implicates some management right. This interpretation of the definition is required both by the express language of the section and by the greater priority given the negotiability of procedures over the right of management to bar negotiations because of a retained management right.

Section 7121(d) authorizes an employee who has pursued a grievance involving discrimination to request the Equal Employment Opportunity Commission to review a final decision under the grievance procedure if the discrimination falls within the areas of EEOC enforcement. This section applies to both the so-called pure discrimination cases and the so-called mixed cases. Much of the conferees' attention was focused on the competing jurisdictional claims of EEOC and the MSPB in the "mixed" cases. In order solely to avoid an apparent denigration of the Board in the "mixed" cases, the conferees agreed in section 7702 upon an elaborate and cumbersome appeals procedure for mixed cases that begin with a hearing before the Board—House Report 95–1717 at pages 139–142.

The statement of managers notes that arbitration on matters that could have been appealed to the Board is designed to replace the Board in the resolution of the covered matters. In order to promote consistency, the arbitrator is required, where lawful, to follow the same rules governing burden of proof and standard of proof that obtain before the Board—House Report No. 95–1717 at page 157. The Government is likely to derive significant savings and other benefits from the typically expedited arbitration procedures instead of the statutory hearing. It would have vitiated these benefits if the conferees had agreed to have "mixed" cases proceed from arbitration through the Board to the EEOC and, ultimately, to court.

Since the Board has already yielded its authority to an arbitrator under a negotiated grievance procedure—except for discretionary review—the conferees' action in allowing a "mixed" case to go directly to EEOC involves no derogation of the Board's authority. Section 7121(f) reflects this understanding of the conferees by providing that judicial review of section 7702 matters decided by an arbitrator shall occur "in the same manner and under the same conditions as if the matter had been decided by the Board." Since the conferees did not have the same concerns about the arbitrator's authority as they did about that of the Board, subjecting employees to the cumbersome, multi-step appellate procedure would have achieved no reasonable goal.

Thus, the procedure in "mixed" cases under a negotiated grievance procedure is that the employee gets a final decision under that procedure, then may request the EEOC to review the decision or may invoke judicial review including the right to a trial de novo. If EEOC is requested to review the decision, the normal time-limits for seeking judicial action apply.

Section 7121(e)(1) recognizes that some agencies have internal appeals procedures similar to those applied to other agencies in sections 4303 and 7512. Section 7121(e)(1) allows an employee to raise matters under the applicable internal appeals procedure or under a negotiated grievance procedure. The Authority has implicit power under section 7105(a)(2)(I) to hear appeals from these internal procedures. Again, if a union may negotiate a complete bypass, through the grievance procedure, of the internal appeals procedure, the union may also negotiate revision of the internal appeals procedure to the extent that the revisions are within the authority of the agency to implement.

Section 7131(b) of the act requires that activities of employees solely related to the internal business of a union be conducted while the employee is in a nonduty status. The House debate on this language made clear that any activities involving an "interface" with management, including preparation for such activities, were not the "internal business" of a union and thus could be performed on official time as negotiated between the parties pursuant to section 7131(d). Although the Senate also made this distinction, the House language was adopted by the conferees. Senate Report No. 95–969 at pages 112–113, interpreting section 7232 of S. 2640 as reported by the Committee on Governmental Affairs. The section remained the same as passed by the Senate on August 24.

In adopting the House language, the conferees did so with the understanding that "contract administration" was also an activity excluded from the definition of "internal business of a labor organization." The House provision was adopted also in order to make clear that neither defining "internal business" nor agreeing to grant official time for non-internal business was a matter of agency discretion. Instead, the granting of official time is subject to negotiations between the parties.

Section 7131(a) contains a statutory grant of official time for the exclusive representative in negotiating a collective bargaining agreement. The statutory grant is limited to the same number of employees for the union as management sends to the negotiations. However, the parties may agree to provide additional official time under section 7131(d).

Section 704 relating to certain prevailing wage rate employees was added by me during committee markup and was retained in the House passed bill. There was no comparable Senate provision. After long and involved discussions with committee staff members, however, we agreed to accept the revised language in the conference report, but only after

certain assurances as to the intent of the revisions were made explicit.

Throughout the final discussions it was clearly understood that while we compromised on the cut-off date of August 19, 1972, for determining the scope of bargaining, section 704(a) in return should be read to provide that issues negotiated prior to that date would continue to be negotiated thereafter "without regard to whether any particular collective bargaining unit had bargained over all of these issues." While this specific language was in the statement of managers language submitted to me for final approval, I suspect that, along with numerous other typographical errors in the conference documents, this statement was inadvertently omitted in the rush to have the conference report prepared for Senate floor consideration a few short hours later. For example, the correct Comptroller General decisions overruled by this same section should read case numbers B–189782 and B–191520 and not as incorrectly cited in the report.

Although we understand the staffing problems involved, we have not been sanguine about the impending transfer of Council employees to the new Authority. This action increases the bureaucratic tendency, already present in any agency, simply to continue the old ways. It was this tendency in the civil service as a whole that led to the major reforms in this and other titles of the Civil Service Reform Act.

We hope that the mere existence of judicial review by the courts of appeals will encourage the new Authority to make the innovative decisions required by title VII. But if, in the beginning or later, the Authority refuses to follow its mandate, we expect the courts to vigorously defend the rights of employees and their representatives under title VII against misinterpretation or half-hearted enforcement by the Authority.

In the best sense, title VII is remedial legislation designed to give employees and their representatives rights that they have not enjoyed under the Executive order. Title VII also imposes obligations on employee representatives that serve both the public interest and the public business. The House debate makes clear that, as remedial legislation, title VII is to be construed broadly to achieve its remedial purposes. Exceptions to the legislation, such as those in the management rights clause, are to be construed narrowly. In the past, parties benefiting from remedial legislation have been able to enforce the remedial purposes even against the agency administering the legislation. We fully expect this to be the case with title VII as well. For this reason, we declined to bar judicial review of the remedial actions of the Authority.

Our ultimate hope is that, under prodding from the courts, the Authority will develop fidelity to title VII and the interpretative principles it embodied and that then, except for occasional lapses, parties will not need to seek judicial review of Authority decisions. But when a party arrives in court claiming a failure of the Authority to follow title VII, we expect the court to consider the party's claim and evaluate the Authority's decision thoroughly.

The House should be pleased by its work and that of its committee and conferees in establishing a statutory labor-management program for Federal employees. Title VII gives Federal agencies, employee representatives, the Federal Service Impasses Panel, and the new Federal Labor Relations Authority complete powers to implement a viable and productive labor relations program. We have precluded the intrusion of nonlabor relations entities, such as the Comptroller General, into the bargaining and dispute resolution process at both the agency and Authority levels. We have, in short, given Federal agencies and the new Authority the tools to get the job done. We have high hopes that the agencies and the Authority will adhere to the provisions of title VII and the legislative history interpreting those provisions.

We are, however, also realistic in our recognition that the Authority's task is far more difficult than that of the National Labor Relations Board. When the Authority is deciding an unfair labor practice charge against an employer, for example, it is weighing the possible misconduct of another Government agency. We are not blind to the sympathy that may develop between these two Federal entities. But we have made as clear as we can our expectation that the Authority is to perform vigorously its "special prosecutor" functions.

Moreover, in establishing judicial review we expect that the courts will scrutinize the actions of the Authority with less of the deference given other administrative agencies. This is especially important during the initial years of the Authority when it will have to establish superceding decisions mandated by title VII, departing from the experience with the Federal Labor Relations Council under the Executive order.

Finally, I would like to make a comment regarding title II of the act. This title sets forth procedures for disciplining and discharging employees, and for review of those actions by the MSPB. Under those procedures, if an agency charges an employee with inefficiency, it must prove that charge by substantial evidence before the Board. I emphasize, however, that the burden is on the agency to prove its case and that the employee has an absolute statutory right to a hearing, unless he or she waives that right. The conferees agreed that the term "substantial evidence" would be interpreted in light of the meaning given the term in administrative law.

Courts reviewing decisions of administrative bodies will reverse those decisions if they find that the decision is not supported by substantial evidence. In *Universal Camera* v. *NLRB*, 340 U.S. 474 (1951), the Supreme Court reversed a decision of the Board, and in so doing found that the substantial evidence standard in the National Labor Relations Act has the same meaning as that enunciated in the Administrative Procedures Act. The APA says that—

> A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts cited by a party and supported by and in accordance with the reliable, probative and substantial evidence. (Section 556(d)).

Thus substantial evidence must be reliable. It must be probative. And it must be derived from the whole record.

In another case, *Consolidated Edison* v. *NLRB*, 305 U.S. 59 (1938), the Supreme Court held that substantial evidence "means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."

Regarding the question of whether or not hearsay may constitute substantial evidence, the Fifth Circuit Court of Appeals in *Cohen* v. *Perales*, 412 F.2d 44, 53 (1969), said that such evidence must have "rational probative force" to be admissible. The Court of Claims also examined that question in *Jacobowitz* v. *U.S.*, Ct. Cl. No. 134–68, (April 17, 1970). It held the Government's case to be based on insubstantial evidence because the hearsay on which the proof was based "was uncorroborated hearsay and was objected to by the plaintiff; it was contradicted by direct legal and competent evidence at the hearing; and it was not such relevant evidence as a reasonable mind might accept to support a conclusion."

Thus hearsay, to be accepted as substantial evidence, must have rational probative force. If it is uncorroborated, objected to, contradicted or irrelevant, it may not qualify as substantial evidence.

The application of the substantial evidence standard under the civil service reform bill is distinguishable from its use by Federal courts. In the courts, the test is generally used to review an existing record developed by a lower tribunal or administrative hearing. The courts will consider the lower court's record or the record of the administrative hearing as a whole to determine whether or not the decision is supported by "such relevant evidence as a reasonable mind might accept as adequate to support the conclusion." Under this act, there will be no decision and no record for the MSPB or an arbitrator to review. Thus, it is the responsibility of an administrative law judge, hearing officer or arbitrator to apply the substantial evidence standard as an initial trier of fact. Therefore, their burden in applying the standard is greater than that of an appellate body because they are the ones responsible for developing the record.

In reaching the decision, the administrative law judge, hearing examiner or arbitrator must decide prior to admitting evidence whether the evidence offered by an agency at the hearing is reliable, probative, and relevant. Then they must determine whether this evidence is adequate to persuade them that the employee's performance is in fact below acceptable standards.

In this manner the neutral decisionmaker is to carefully weigh the evidence. "The substantiality of evidence must take into account whatever in the record fairly detracts from its weight." *Universal Camera* v. *NLRB*, 340 U.S. 474, 488 (1951).

I have not discussed other House provisions discussed during the House debate. Those provisions, as well, have been adopted in the conference report with the underlying intent as expressed in the House debate.

ANTI-INFLATION TAX REDUCTION ACT OF 1978

(Mr. FRASER asked and was given permission to extend his remarks at this point in the RECORD.)

● Mr. FRASER. Mr. Speaker, as is well known, we are in a particularly difficult period. Inflation continues without any end in sight. There is fear of another recession. There are demands for tax cuts so vast as to guarantee continued if not accelerated inflation. There are few good ideas around. It seems all but impossible to find a policy which would reduce inflation, reduce taxes, and expand employment. Perhaps it is time to try some new approaches. In the effort to make the current policy discussion more concrete I have introduced the "Anti-inflation Tax Reduction Act of 1978," H.R. 14296.

This legislation would provide tax credits to individuals and firms that cooperate in a national effort to stop the wage-price spiral. As such it appeals to self-interest rather than self-sacrifice. It may be viewed as a form of "tax-based incomes policy" or TIP proposal. However, because the tax credits involved are substantially larger than those proposed in the existing literature on TIP, I have termed it a "BIG-TIP" proposal. Another way of looking at it is as a conditional tax cut. It provides for a substantial cut in taxes, but asks for cooperation in an antiinflation effort as the condition for participation. It provides guarantees for workers, and it provides a mechanism for insuring that cost savings will be passed on to consumers. In addition, as a tax credit which lowers the cost of labor, it should result in increased employment. It does not compel anyone to participate, but for many, it provides an "offer they can't refuse."

The main features of the proposal are:

First, the establishment of a compensation restraint tax credit for employees of firms that limit the average rate of compensation rise.

Second, the establishment of a real wage insurance credit which shall provide a tax credit to employees receiving the compensation restraint tax credit, whenever the rate of inflation exceeds the sum of the compensation restraint tax credit—4 percent in the first year—and the compensation restraint standard—6 percent in the first year. Thus, the real income of participating employees would be protected against unexpected jumps in the rate of inflation.

Third, a tax credit for employers that participate in the program. This credit would be equal to one-fifth of the credit amounts provided to the firms' employees. The firm would be required to pledge not to increase its prices during the year in excess of cost increases.

Fourth, a standby tax surcharge of up to 4 percent of the tax liabilities of all individuals is established. This surcharge which could only be imposed with congressional approval would be used to partially offset the revenue reductions caused by the compensation restraint tax credit, if such offset is required by economic conditions and additional tax cuts which the Congress may enact.

Fifth, to insure that savings from reduced compensation costs are passed on to the consumer, and to motivate participation in the program, the Council on Wage and Price Stability is given the authority to require that firms with annual revenues in excess of $100 million provide the Council with advance notification of price increases. In addition, the Council is given the authority to postpone such price increases for up to 90 days. During that time, the Council would use its existing powers to hold hearings to determine the legitimacy of such price increases.

Based on the assumption that 75 percent of the work force would participate in this program, I estimate the first year impact of the program at $15 billion. The actual impact on tax liabilities would be higher, but some of this would be paid out at tax time the following year. Depending on what happens to the tax bill currently before the Congress, this $15 billion revenue reduction could be a substitute for or a supplement to the current tax cut proposal.

A section-by-section explanation follows:

TITLE I: CREDITS FOR LIMITING COMPENSATION INCREASES

Section 101. Credit to employees for limiting compensation increases and to self employed persons.

(a) SEC. 4C is introduced.

"(a) Employee eligibility for the credits is dependent upon the average rate of compensation increase applicable to the employee not exceeding that year's compensation restraint standard or may be obtained if the employer, between September 30 and December 31 of the preceding year, signs up in advance by pledging to hold average compensation increases within the restraint standard and to not raise prices more than necessary to cover increased costs.

"(b) The credit for the employee is the sum of:

1. the compensation restraint credit; and

2. the real wage insurance credit.

"(c) 1. The compensation restraint credit for a given calendar year is a given percentage of the employees qualified wages. For 1979 this is 4 percent. For 1980 and 1981, the percentage is to be determined by the President, but is limited to 5 percent.

2. The real wage insurance credit for a given year is that percentage of the employees' qualified wages by which the rate of inflation exceeds the sum of that year's compensation restraint credit plus that year's compensation restraint standard. Thus, if the rate of inflation is 11 percent and the compensation credit is 4 percent and the restraint standard is 6 percent, then the real wage insurance credit would be 1 percent (11 percent–10 percent). If inflation is below 10 percent, the real wage insurance credit would be zero.

3. "Qualified wages" is defined as wages not in excess of $25,000.

4. The term "compensation" for purposes of determining the compensation restraint standard is defined as consisting of wages, contributions by the employer to accident or health plans, contributions of the employer to stock bonus, pension or profit sharing plans, and amounts paid or accrued by the employer under deferred payment plans.

5. The term "wages" is defined as in section 3401(a) of the Internal Revenue Code.

6. The Consumer Price Index for All Urban Consumers is identified as the relevant measure of inflation.

"(d) This section provides for the reduction of credits to employees should it turn out that their employer paid a rate of compensation increase above the compensation restraint standard even though the employer signed up in advance. The reduction is achieved by establishing above the compensation restraint level a 2% marginal zone. To the extent that the average compensation increase actually paid occupies this zone, the credit to employees is reduced. Thus, if the actual level was 8% or greater in the first year, the credit would be zero. If the actual level was 7%, then the 2% zone would be half occupied, and the employee credit would be reduced by half. The purpose of this section is to avoid excessive penalties for employees that expect to receive the compensation restraint credit, in the event that the standard of restraint is not met. It seeks to encourage participation in the program by firms that may be unsure of their ability to meet the standard. On the other hand, it insures that employees in firms that do exceed the restraint standard in spite of the employer pledge, will do somewhat worse than employees in firms that do meet the standard.

"(e) The rate of compensation restraint is set as a 6% increase in 1979, and as an amount to be set by the President for 1980 and 1981.

"(f) 1. This section provides for the possibility of treating sub-groups of a firm's employees separately when calculating average compensation payments. It is designed to protect weaker groups of employees from bearing a disproportionate share of the pressure to hold compensation levels to the restraint standard.

"2. This section allows that part of compensation increases which arise from escalator clauses to be computed on the basis of the previous year's rate of inflation for the purpose of determining if the restraint standard has been met. The purpose of the section is to permit firms and employees covered by such provisions to determine in advance the level of compensation increase which would meet the restraint standard.

"(g) This section provides a 1% credit against the first $25,000 of earnings for self-employed individuals.

"(h) This section provides that the compensation restraint credit and the real wage insurance credit would be treated as income for the purpose of determining tax liability. Thus, if an individual experiences 4% less of an increase in wages because of participation in the program, the 4% credit would restore his aftertax income to the same level it would have otherwise been. Thus, the credit compensates for foregone income, but it still requires that each taxpayer pay tax on that compensation at his or her applicable tax rate.

"(i) The President shall set the applicable restraint standard and credit percentage for 1980 and 1981.

"(j) If the employee has more than 1 taxable year beginning in a calendar year, the credits shall be determined for the employee's last taxable year beginning in the calendar year.

"(k) This section limits the credits to wages paid before December 31, 1981.

(b) This section makes the credits refundable.

(c) Conforming amendment.

(d) The provisions shall apply to taxable years beginning after December 31, 1978.

Section 102: Credit for employers whose employees receive limited compensation increases.

(a) If the employer signs up in advance and meets the restraint criterion, he shall

receive a tax credit equal to 1/5 of the compensation restraint credit received by his employees.

(b) The credit is not refundable.

Section 103: Annual Report.

Not later than 30 days after the close of the year, the President shall submit a report on the effectiveness of the credits as an anti-inflationary device.

TITLE II: STANDBY TAX SURCHARGE

This title provides for a standby tax surcharge of up to 4% of the tax liabilities of all individuals. The surcharge may be imposed by the President provided that he determines that it is needed after taking into account the need to reduce inflation, the need to stimulate economic growth, and the need to partially offset the revenue loss created by the compensation restraint tax credit. Disapproval of the surcharge by either the House of Representatives or the Senate shall prevent the surcharge from taking effect.

TITLE III: PRICE STABILIZATION

Section 301: the Council on Wage and Price Stability is provided with the authority to require advance notification of price increases by companies with annual gross revenues in excess of $100 million. The Council is also given the authority to postpone for up to ninety days any such price increase. This section is designed to insure that cost savings will be passed on to the consumer. It is expected that during the ninety day period the Council will use its existing powers to hold public hearings, to subpoena records and compel testimony should this prove necessary to a determination of the legitimacy of the price increase.

Section 302: Civil penalties are established for violation of Council promulgated rules bearing on the above paragraph.

The text of the bill follows:

[Discussion Draft]

October 10, 1978

H.R. 14296

A bill to amend the Internal Revenue Code of 1954 to provide a temporary credit against income tax for employees and their employer if the average rate of compensation increase for the employees does not exceed a certain rate, to authorize the President to impose a tax surcharge and to postpone certain price increases, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Inflation Tax Reduction Act of 1978".

TITLE I—CREDITS FOR LIMITING COMPENSATION INCREASES

SEC. 101. CREDITS TO EMPLOYEES FOR LIMITING COMPENSATION INCREASES AND TO SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. CREDIT TO EMPLOYERS FOR LIMITING COMPENSATION INCREASES AND TO SELF-EMPLOYED INDIVIDUALS.

"(a) EMPLOYEES TO WHOM CREDIT APPLIES.—This section shall apply to an employee for a calendar year if—

"(1) the average rate of compensation increase applicable to the employee for such year does not exceed the rate of compensation restraint for such year, or

"(2) the employer of the employee, after September 30 and on or before December 31 of the preceding calendar year, notified the Secretary of its pledge—

"(A) to restrict the average rate of compensation increase of its employees for such year to a rate not in excess of the rate of compensation restraint for such year, and

"(B) not to increase the prices of its products during such year by any amount in excess of increases in the cost of producing such product.

"(b) ALLOWANCE OF CREDIT TO EMPLOYEES.—In the case of an employee to whom this section applies for a calendar year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year beginning in such calendar year an amount equal to the sum of—

"(1) the compensation restraint credit, and

"(2) the real wage insurance credit.

"(c) DEFINITIONS.—For purposes of this section—

"(1) COMPENSATION RESTRAINT CREDIT.—The term 'compensation restraint credit' means, with respect to an employee for the calendar year, an amount equal to the qualified wages of such employee for such year, multiplied by—

"(A) 4 percent for calendar year 1979, and

"(B) a percentage for calendar year 1980 and a percentage for calendar year 1981, not to exceed 5 percent, which is declared by the President in accordance with subsection (h).

"(2) REAL WAGE INSURANCE CREDIT.—The term 'real wage insurance credit' means, with respect to an employee for the calendar year, an amount equal to the qualified wages of such employee for such year, multiplied by a percentage equal to the excess of the price index percentage for such year over the sum of—

"(A) the percentage applicable under subparagraph (A) or (B) of paragraph (1) for such year, plus

"(B) the rate of compensation restraint for such year. This paragraph shall not apply to any individual to whom subsection (f)(2) applies for such year.

"(3) QUALIFIED WAGES.—The term 'qualified wages' means that portion of the wages of the individual which do not exceed $25,000.

"(4) COMPENSATION.—The term 'compensation' means, with respect to an employee—

"(A) wages,

"(B) amounts excluded from gross income under section 106,

"(C) amounts contributed by the employer to or under a stock bonus, pension, or profit-sharing plan, and

"(D) amounts paid or accrued by the employer under a plan for the deferral of the receipt by the employee of such amounts.

"(5) WAGES.—The term "wages" has the meaning given such term by section 3401 (a).

"(6) PRICE INDEX PERCENTAGE.—The term 'price index percentage' means, with respect to a calendar year, the percentage equal to—

"(A) the excess of the Consumer Price Index at the close of such year over the Consumer Price Index at the close of the preceding calendar year, divided by

"(B) the Consumer Price Index at the close of such preceding calendar year.

For purposes of this paragraph, the term 'CPI' means the Consumer Price Index for All Urban Consumers.

"(d) REDUCTION OF CREDIT FOR EMPLOYEES WHERE AVERAGE RATE OF COMPENSATION INCREASE EXCEEDS RATE OF COMPENSATION RESTRAINTS—

"(1) IN GENERAL.—In the case of an employee to whom this section would not apply but for subsection (a)(2), the amount of the compensation restraint credit allowable under this section for the taxable year shall be reduced by an amount equal to the amount of such credit which would (but for this subsection) be allowable to the employee under this section multiplied by the reduction percentage.

"(2) REDUCTION PERCENTAGE.—For purposes of paragraph (1), the term 'reduction percentage' means the percentage which the excess of—

"(A) the average rate of compensation increase applicable to such employee, over

"(B) the rate of compensation restraint, bears to 2 percent.

"(e) RATE OF COMPENSATION RESTRAINTS—For purposes of this section, the rate of compensation restraint shall be—

"(1) 6 percent for calendar year 1979, and

"(2) a percentage for calendar year 1980, and a percentage for calendar year 1981, which is declared by the President in accordance with subsection (h).

"(f) AVERAGE RATE OF COMPENSATION INCREASE.—

"(1) IN GENERAL.—In determining the average rate of compensation increase applicable to an employee of an employer for a calendar year—

"(A) all compensation increases of all employees of the employer shall be taken into account, but

"(B) the Secretary may, by regulation, treat as employed by a separate employer a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective-bargaining agreement between employee representatives and one or more employers.

Such average rate shall be rounded to the nearest one-tenth of 1 percent.

"(2) CERTAIN COMPENSATION INCREASES UNDER ESCALATOR CLAUSES NOT TAKEN INTO ACCOUNT.—In the case of a compensation increase which, by agreement between the employee and employer, is computed with respect to a rate of inflation for any period during the calendar year, the determination of the average rate of compensation increase for such calendar year shall be computed without regard to compensation payable under such agreements which are attributable to a rate of inflation for such year in excess of the rate of inflation for the preceding calendar year.

"(g) ALLOWANCE OF CREDIT TO SELF-EMPLOYED INDIVIDUALS.—

"(1) IN GENERAL.—In the case of an individual who has net earnings from self-employment (as defined by section 1402(a)) for the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such year an amount equal to 1 percent of such net earnings to the extent such net earnings do not exceed $25,000.

"(2) MINIMUM CREDIT.—An amount of credit shall not be allowed under this subsection for the taxable year if such amount is less than $1.

"(h) CREDIT INCLUDED IN INCOME.—The amount of credit allowed by subsection (b) for the taxable year shall be included in the gross income of the taxpayer for such year, but shall not be treated as wages.

"(i) DECLARATION BY THE PRESIDENT.—Not later than December 31 of 1979 and 1980, the President shall declare and publish in the Federal Register the applicable credit percentage and the rate of compensation restraint for 1980 and 1981, respectively. In determining the amount of such percentage and rate, the President shall take into account the need to reduce inflation and to stimulate employment.

"(j) CERTAIN SHORT TAXABLE YEARS.—If the employee has more than 1 taxable year beginning in a calendar year, the credit under subsection (b) shall be determined for the employee's last taxable year beginning in the calendar year.

"(k) TERMINATION.—This section shall not apply to wages paid after December 31, 1981."

(b) EXCESS CREDIT TREATED AS OVERPAYMENT.—Subsection (b) of section 6401 of such Code (relating to amounts treated as overpayments) is amended to read as follows:

"(b) EXCESSIVE CREDITS.—If the amount al-

lowable as credits under sections 31 (relating to tax withheld on wages), 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), 43 (relating to earned income credit), and 44C (relating to credit to employees for limiting compensation increases and to self-employed individuals) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than credits allowable under sections 31, 39, 43, and 44C), the amount of such excess shall be considered as an overpayment."

(c) CONFORMING AMENDMENTS.—The table of sections for such subpart A is amended by inserting after the item relating to section 44B the following new item:

"SEC. 44C. CREDIT TO EMPLOYEES FOR LIMITING COMPENSATION INCREASES AND TO SELF-EMPLOYED INDIVIDUALS."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 102. CREDIT FOR EMPLOYERS WHOSE EMPLOYEES RECEIVE LIMITED COMPENSATION INCREASES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"SEC. 44D. CREDIT FOR EMPLOYERS WHOSE EMPLOYEES RECEIVE LIMITED COMPENSATION INCREASES.

"(a) ALLOWANCE OF CREDIT.—In the case of an employer, if section 44C applies to the employees of the employer by reason of both paragraphs (1) and (2) of subsection (a) of such section for the calendar year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year beginning in such calendar year an amount equal to 20 percent of the amount of compensation restraint credit (as defined by section 44C(c)(1)) allowable under such subsection (a) to such employees with respect to such calendar year.

"(b) APPLICATION WITH OTHER CREDITS.—The amount of the credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, 43, and 44C.

(b) EFFECTIVE DATE.—The amendments by this section shall apply to taxable years beginning after December 31, 1978.

SEC. 103. ANNUAL REPORT.

Not later than 30 days after the close of 1979, 1980, and 1981, the President shall submit a report to the House of Representatives and to the Senate on the effectiveness of sections 44C and 44D of the Internal Revenue Code of 1954 in reducing inflation and stimulating employment during the preceding year.

TITLE II—STANDBY TAX SURCHARGE

SEC. 201. PRESIDENTIAL AUTHORITY TO IMPOSE TAX SURCHARGE.

(a) IN GENERAL.—Part I of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to tax imposed) is amended by redesignating section 5 as section 6 and by inserting after section 4 the following new section:

"SEC. 5. TAX SURCHARGE OF INDIVIDUALS.

"(a) Imposition of Tax.—In addition to the other taxes imposed by this chapter, there is hereby imposed on the income of every individual (other than an estate or trust) an amount equal to the surcharge percentage of the adjusted tax of such individual for the surcharge period.

"(b) Adjusted Tax Defined.—For purposes of this section, the term 'adjusted tax' means—

"(1) with respect to a taxable year each day of which is within a surcharge period, the tax imposed by this chapter for such taxable year, determined without regard to—

"(A) the tax imposed by this section, section 56, and 871(a), and

"(B) any increases in tax under section 47(a) (relating to dispositions, etc., of section 38 property),

and reduced by an amount equal to the amount of any credit which would be allowable under section 37 (relating to credit for the elderly) if no tax were imposed by this section for such taxable year; and

"(2) with respect to a taxable year each day of which is not within a surcharge period—

"(A) the amount determined under paragraph (1), multiplied by,

"(B) a fraction the numerator of which is the number of days in such taxable year which are within the surcharge period, and the denominator of which is the number of days in such taxable year.

"(c) SECTION TO APPLY ONLY IF PRESIDENT DECLARES SURCHARGE AND NEITHER HOUSE OF CONGRESS DISAPPROVES.—

"(1) IN GENERAL.—This section shall apply only if the President makes a declaration under paragraph (2) and neither House of Congress disapproves such declaration under paragraph (3), and only for the surcharge period declared under paragraph (2).

"(2) PRESIDENT TO DECLARE SURCHARGE PERCENTAGE AND SURCHARGE PERIOD.—If the President determines that, after taking into account—

"(A) the need to reduce inflation in the United States,

"(B) the need to stimulate economic growth in the United States, and

"(C) the need for additional Federal revenue by reason of section 44C (relating to credit to employees for limiting compensation increases and to self-employed individuals),

the President shall make a written declaration which shall contain, for purposes of this section, a surcharge percentage (but not in excess of 4 percent) and a surcharge period for such percentage.

"(3) EITHER HOUSE VETO OF IMPOSITION OF TAX.—

"(A) SUBMISSION TO CONGRESS.—Whenever the President makes a declaration under paragraph (2), a copy thereof shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

"(B) PROCEDURE FOR DISAPPROVAL.—The House of Representatives or the Senate may disapprove any declaration under paragraph (2) if it adopts a resolution disapproving such declaration—

"(i) by an affirmative vote of the majority of those present and voting in that House, and

"(ii) before the close of the 60th day after the date on which such declaration was delivered to the Congress under subparagraph (A).

"(C) SPECIAL RULES.—

"(i) As used in subparagraph (B), the term 'day' means any calendar day other than a day on which either House is not in session because of a sine die adjournment or of an adjournment of more than 3 days to a day certain.

"(ii) For purposes of this section, if any declaration is delivered to the Congress on any day on which either House is not in session, such declaration shall be treated as delivered on the first day thereafter on which both Houses are in session.

"(d) ESTIMATED TAX.—The application of this title with respect to declarations and payments of estimated tax with respect to any taxable year during which this section applies shall be in accordance with regulations prescribed by the Secretary.

"(e) SPECIAL RULE.—For purposes of this title, to the extent the tax imposed by this section is attributable (under regulations prescribed by the Secretary) to a tax imposed by another section of this chapter, such tax shall be deemed to be imposed by such other section."

(b) CLERICAL AMENDMENT.—The table of sections for such part 1 is amended by striking out the item relating to section 5 and inserting in lieu thereof the following new items:

"SEC. 5. Tax surcharge on individuals.
"SEC. 6. Cross references relating to tax on individuals."

(c) CONGRESSIONAL.—VETO ENACTED UNDER RULEMAKING POWER.—Paragraph (3) of section 44C(c) of the Internal Revenue Code of 1954 (relating to the taking effect of the discretionary tax surcharge on individuals) is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3)(B) of such section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—PRICE STABILIZATION

SEC. 301. AUTHORITY TO POSTPONE CERTAIN PRICE INCREASES.

Section 3(a) of the Council on Wage and Price Stability Act is amended by striking out "and" at the end of paragraph (7), by striking out the period at the end of paragraph (8) and inserting a semicolon in lieu thereof, and by adding at the end thereof the following new paragraphs:

"(9) have the authority to promulgate, by rule, reporting requirements which direct companies whose annual gross revenues are in excess of $100,000,000 to give prior, written notice to the Council of all price increases; and

"(10) have the authority to postpone for a period of not more than ninety days any price increase with respect to which it requires written notice under paragraph (9)."

SEC. 302. CIVIL PENALTY.

The Council on Wage and Price Stability Act (12 U.S.C. 1904 note) is amended by adding at the end thereof the following new section:

"SEC. 8. Whoever willfully violates any rule promulgated by the Council pursuant to paragraph (9) or (10) of section 3(a) shall be fined not more than $50,000 for each violation."

SEC. 303. EFFECTIVE DATE.

This title shall take effect January 1, 1979.●

POUGHKEEPSIE RAILROAD BRIDGE

● Mr. FISH. Mr. Speaker, once again my mission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FISH. Mr. Speaker, once again my colleague, BEN GILMAN and I are before the House of Representatives regarding

the disintegrating Poughkeepsie railroad bridge.

The Senate version of the ConRail Authorization Act would authorize a maximum of $9 million to repair the bridge. The Senate, under the able leadership of Senator ABRAHAM RIBICOFF of Connecticut, has passed this measure. I would hope the House would do likewise.

It has been over 4 years since the bridge was partially destroyed by fire, 4 years since shippers have had access to the most direct rail route to and from New England, 4 years that this structure has posed a serious health hazard to the residents of the first ward of the city of Poughkeepsie, N.Y.

And that is my foremost concern, the health and safety of the people in Poughkeepsie. I have been in constant contact with the mayor of Poughkeepsie, the Honorable John T. Kennedy, about his problem. Just yesterday he provided me with a statement that I would like to make a part of the official record at this time:

> The Citizens of Poughkeepsie urgently request prompt action and approval by the House of Representatives on the Gilman/Fish Amendment to the ConRail Authorization Act, H.R. 12161, in order to insure the repair of the Poughkeepsie Railroad Bridge.
>
> The repairs are needed to make the Bridge operational so as to provide an alternate route for rail traffic in the event of national emergency and as a boost to the region's economy.
>
> The structure is deteriorating rapidly and is literally "falling apart above us—endangering lives and property".
>
> The Bridge is an asset to New York State, as well as to the rest of the country, and must be repaired.

Mayor Kennedy reemphasizes the arguments that have been made time and time again in discussions on the fate of the Poughkeepsie railroad bridge. The Poughkeepsie Common Council, on June 19, 1978, and again on August 7, 1978, passed resolutions that support the funding to reconstruct the bridge—resolutions sponsored by the alderman for the first ward, Stephen Babiarz.

With every storm, pieces of the bridge fall into the Hudson River, causing a hazard to navigation. And earlier this summer, a young man fell through a weakened roadbed to his death while using the bridge for a "short cut." While the bridge remains in its present state of disrepair and unuse, it will continue to attract youngsters who want to flirt with danger.

Let me briefly reemphasize the economics involved with the Poughkeepsie railroad bridge. Before the 1974 fire, the bridge was the only viable rail link across the Hudson River south of Albany. The loss of the bridge cut off all of Connecticut and Rhode Island from rail traffic with the rest of the Nation—and drastically hurt the rail shippers in southeastern New York. The fire left only one freight rail passage across the Hudson River—located at Selkirk, about 120 miles north of New York City.

Since 1974, all freight traffic—including coal—between New England and the Mid-Atlantic States has been forced to take a 150-mile detour to the Selkirk bridge. Since part of the detour route is owned and operated by Amtrak, ConRail must pay a charge of 21 cents per mile. The annual cost for this rail use to Amtrak is estimated to be approximately $3.6 million. The use of the Selkirk detour also requires freight trains to burn an additional 3 million gallons of fuel annually.

We are also talking about a time factor. Rail freight traffic from New Haven, Conn., to Washington, D.C., now takes about 59 hours. If the Poughkeepsie rail bridge was opened, it would take 17 hours. If the bridge was opened, shippers would have effective second morning delivery instead of the present 4-day schedule. Studies have been done that show a potential reduction in annual operating expenses by $1,882,500 at current traffic levels * * * and there is every evidence that rail traffic levels would increase if we could improve on the time, and cut out the extra mileage. The delays and increased costs of today's route are what is forcing shippers to move to truck transport over rail.

Economics, expediency, and commonsense dictate that we take the lead and act to repair the Poughkeepsie railroad bridge—and remove this danger from the residents of that city.●

RETIRING MEMBERS OF 95TH CONGRESS

● Mr. JENRETTE. Mr. Speaker, in 1968, the State of Alabama gained another strong voice in Washington when the people of the Seventh District elected WALTER FLOWERS to the 91st Congress—and that voice has grown stronger with every succeeding Congress since then.

His retirement from the Congress will constitute not only a loss to Alabama, but to this Body and to the Nation which has had the benefit of his effective participation in the legislative process.

It is with a sense of remorse that we contemplate the dimensions of that loss, but somehow I harbor the hope that WALTER will choose to put his talents to good use in some other capacity in the public sector.●

● Mr. DAN DANIEL. Mr. Speaker, those of us who have served in this House with WALTER FLOWERS know of his powerful persuasive ability and his earnest search for legislative policies which are in the best interests of our great Nation.

It is with a sense of loss that we contemplate his retirement—a loss that will be felt not only by his colleagues in the House, but by his constituents in the Seventh District of Alabama, and citizens throughout the country—all of whom have benefitted from his decade of service in the Congress.

I know not what WALTER's plans are, but I hope they will include options for further public service in some capacity where his abilities can be put to good use. In that way our loss will be the gain of some other public office—one which I hope will be as worthy of WALTER's many talents.●

● Mr. GUDGER. Mr. Speaker, it is with sadness that I join my colleagues in saying goodby to our esteemed friend, JIM MANN.

The Honorable JAMES R. MANN of South Carolina is leaving a distinguished career behind him to embark on another career, which will undoubtedly be as noteworthy.

During his 10 years as a Congressman, JIM has left an indelible mark on our Nation's legislative history. His work in the field of textile legislation, as well as that of criminal justice, has always been of the highest order. His wise counsel during the House Judiciary Committee's impeachment hearings will long be remembered. His was the voice of calm among the storm.

Truly, he is leaving behind a standard by which we, as congressmen and, as human beings, can be judged. So, it is with the utmost respect and admiration that I bid farewell to the gentleman of South Carolina.●

● Mr. HOLLAND. Mr. Speaker, the distinguished career of one of the finest Members Congress has ever seen will soon draw to a close.

With the sine die adjournment of the 95th Congress, my longtime friend and respected colleague, WALTER FLOWERS, will end 10 years of dedicated service to the people of Alabama and the Nation.

During his years in the House, WALTER has served on the House Judiciary Committee, where he chaired the Subcommittee on Administrative Law and Governmental Relations, and on the Science and Technology Committee where he is the chairman of the Fossil and Nuclear Energy Research, Development, and Demonstration Subcommittee.

His marks of leadership shall remain indelibly on those committees' records and his positive influence on the legislation produced by those bodies shall have a profound influence on the day-to-day lives of millions of Americans.

WALTER's fairness and objectivity have been recognized and admired on both sides of the aisle and he has earned additional respect for his solid reputation as an energetic guardian of the interests of the American taxpayer. His dedication and great ability have made him a tremendous asset to whatever task he has set his hand in the House.

I join with those who wish WALTER well in his future pursuits whatever they might be.●

● Mr. SPENCE. Mr. Speaker, I am pleased to recognize one of our most able and distinguished colleagues whose retirement at the end of this Congress will be a tremendous loss for us all.

I will not attempt to chronicle the legislative accomplishments of Alabama's WALTER FLOWERS over his 10 years of service in Congress. Suffice it to say that he has set an example for excellence in service to his constituents, his State, and his country.

During his decade as a Member of this body, he has been in the company of many of the world's great and famous. But he has never lost sight of his purpose—to serve the working men and women of Alabama's Seventh Congressional District—a task which he performed masterfully with skill and determination.

WALTER FLOWERS, it has been an honor and privilege to have served in this legislative body with you. I wish you all the best in your future endeavors.●

● Mr. HUGHES, Mr. Speaker, it is with both pride and sorrow that I join with my colleagues today in honoring the distinguished gentleman from California (Mr. Moss), who is retiring from this body after 26 years of service to his constituents, the State of California, and the Nation.

While I have served in the House for only a relatively short time, in the few years I have known JOHN Moss, it is easy to understand why he enjoys the respect and admiration of his colleagues. In particular, his tireless work on the Commerce Subcommittee on Oversight and Investigation has earned him a reputation as a tough but fair chairman.

He has not hesitated to take on the tough issues. His interest has been especially keen in making sure that the energy and other corporations are responsive to the needs of consumers, and that Government agencies are fulfilling their mandate to serve the public interest.

Most importantly, however, JOHN Moss has set an example for congressional oversight that should guide our actions for many decades to come. His presence in this body will be sorely missed.

I am happy to join with my colleagues in extending to JOHN our best wishes for the coming years.●

● Mr. BROOKS. Mr. Speaker, GEORGE SHIPLEY was elected to the House of Representatives in 1958 and has served his district, State, and Nation in a most responsible and able manner. He will be greatly missed. As a Member of the House Committee on Appropriations he has gained the respect of his colleagues for his expertise on housing and urban development, space, agriculture, and environment programs. I want to take this opportunity to wish him well in his future endeavors.●

● Mr. SPENCE. Mr. Speaker, I rise in tribute to our colleague and friend, the Honorable JOHN JAMES FLYNT, JR., of Georgia, who is retiring after completeing 24 years of distinguished service in the House. The people of the Sixth District of Georgia have every reason to be proud of their Congressman and all Americans owe him a debt of gratitude.

All who know JACK FLYNT agree that he is a man who radiates integrity, intelligence, and good sense in the finest traditions of the House.

As ranking Republican on the Committee on Standards of Official Conduct, I have found JACK to be the ideal chairman for a job that requires the utmost in patience, sensitivity, and discretion. Each Member of this House knows that JACK has performed superbly in a thankless task. In the unremitting glare of publicity that has surrounded the work of his committee in the past year, the Nation has seen a man of calm and determined demeanor who has carried out the committe's mandate with impartiality, earning the respect of all involved.

As committee chairman, he has been solicitious of the views of every member. I believe that under his leadership we have been able to set an example of cooperation that will be a standard for the committee for years to come.

The close working relationship that JACK and I developed allowed me special insight into the fine qualities that have made him an asset to this institution. His constituents, by electing and reelecting him have demonstrated their appreciation for his fine qualities, and in so doing have permitted the whole country to share in his talent and ability.

All of us shall miss his contribution in our deliberations here. But no man is more deserving of all the opportunities that retirement can bring.

I join my colleagues in wishing him good health and happiness.●

● Mr. BROOKS. Mr. Speaker, JAMES BURKE has been a most valuable Member of this House since being elected to the 86th Congress in 1958. We have all gained from his leadership and guidance in tax and trade matters and I just want to take this opportunity to pay tribute to my good friend and colleague, JIMMY BURKE, and wish him the very best in his future pursuits. The State of Massachusetts is losing an important spokesman and I know that he will long be remembered for the many contributions and accomplishments during his tenure in the House of Representatives.●

● Mr. MARKEY. Mr. Speaker, the House is about to lose one of its most dedicated and courageous Members: JIMMY BURKE.

Congressman BURKE's work in the House has benefited millions of people across our country. JIMMY BURKE helped guide me through my first days in Congress, and he was a pillar of strength for all of us as he overcame physical pain to lead important social security financing reforms through the House this session.

As JIMMY BURKE takes his leave of the House, I want to say that I will very much miss him and that it is my hope that his influence will long be felt here. For that influence is one of courage—and conscience—and helping those most in need of help: the aged, the infirm, the defenseless.

I know that all my colleagues join me in thanking JIMMY BURKE for all he has meant to the House and our country. We with all miss him.●

● Ms. OAKAR. Mr. Speaker, it is with great personal satisfaction that I pay tribute to a distinguished colleague who is truly representative of all that is finest about this House. I am referring to my colleague, JAMES BURKE, who leaves the Congress after many years of dedicated service to his constituents and country. Massachusetts regains her native son, but the Congress loses one of its most competent and conscientious Members.

Among JAMES BURKE's many noteworthy achievements while serving in this Chamber is the skillful craftsmanship he displayed in drafting important social security legislation. JAMES BURKE offered some of the most thoughtful, original, and challenging proposals on restructuring the financing of social security so that young people would be assured of a future system of benefit payments while older people would be assured of continuing to receive those social security checks which, to many Americans, represent the sole source of income.

Perhaps that is the one quality so characteristic of JAMES BURKE the man and Congressman—his caring for other people who turned to their Government for the help they could not give themselves. Truly, JAMES BURKE taught us that a public servant's highest duty, and most sacred trust, is to serve and to care. The world changes always, generations come and go, Congresses and Presidents live in the public eye for awhile and then are replaced by new faces, but one thing does not change—and that is caring.

It is my fervent wish that JAMES BURKE has set an example of service and dedication for all of us to follow, and that we will always remember him with gratitude for the fine work he did while serving his country in the Congress.●

● Mr. LLOYD of California. Mr. Speaker, our good friend and colleague, WALTER FLOWERS, is retiring after 10 years here. Considering the pace of the last few weeks, 10 years does not seem like a very long time at all. I know it is not long enough for those of us he leaves behind who have come to know and like and respect him. But 10 years was more than enough for WALTER to establish a reputation as a man of impeccable judgment and extraordinary ability.

I knew and liked and respected WALTER FLOWERS before I even met him, when he provided the Judiciary Committee's swing vote in the Nixon impeachment proceedings, a selfless and courageous act. As a new Member in the 94th Congress, I counted myself as fortunate indeed to follow WALTER in the Science and Technology Committee. With its new jurisdiction over energy legislation, the committee was backdrop to WALTER'S genius, his ability to grasp technological and program complexities quickly, and his firm and fair leadership. I was proud to be his student.

His work on those committees, his obvious integrity and intelligence, made him the popular choice for the ethics committee and what must be the most thankless, tedious and emotionally exhausting job in Congress, overseeing the official conduct of friends and colleagues. Such a job could not be politically rewarding or personally satisfying, which is why we owe WALTER FLOWERS our greatest thanks—he served nobody but his country.

I wish him every happiness.●

● Mr. ANDERSON of California. Mr. Speaker, after 12 years of service, the House of Representatives must bid farewell to one of its most organized, articulate and dedicated Members. CHARLES WIGGINS of California's 39th District will retire at the end of this session to return to the less hectic life of a private citizen. Upon his retirement, this legislative body will have lost a man who is truly independent, individual, and stalwart in his search for truth and justice.

CHARLES will be remembered most for his spectacular defense of Richard Nixon

during the House Judiciary Committee hearings on impeachment. CHARLES stood alone in this defense, fighting against the overwhelming public and professional fever to impeach Mr. Nixon. It was without doubt a losing battle, but one which he felt needed to be fought. CHARLES' argument was effectively and articulately executed, and absolutely vital to the even-handed application of the law.

Although CHARLES and I have remained on opposite sides of many issues a good part of the time, I have immense respect and admiration both for him and for his excellent performance in Congress. His service on the House Administration Committee—not to mention the Judiciary Committee—has been superb. He is a dedicated man who, by virtue of his persuasiveness, integrity, and sincerity is destined to succeed in any endeavor he chooses to pursue. My wife, Lee and I wish him, his lovely wife Betty, and their family all the best in the future.●

● Mr. BEVILL. Mr. Speaker, during this special order, Members of the House will have an opportunity to honor the distinguished Congressman from Alabama's Seventh District for the past decade, our good friend WALTER FLOWERS.

Because of the time factor which we are forced to work under with regard to adjournment sine die of the 95th Congress, many Members have provided me with statements saluting WALTER which I will submit for inclusion in the RECORD.

For the past 10 years, WALTER FLOWERS has proven himself an outstanding Representative of the people of the Seventh District of Alabama. His actions have been marked with dignity and merit and his service to his district, State, and Nation has been unquestioned.

I got a taste of the high regard with which WALTER FLOWERS was held among the people of the Seventh District during the last House reapportionment following the 1970 census.

My district grew by two counties, one of which had previously been in WALTER's district. As I made initial stops throughout our new county, it soon became apparent that WALTER FLOWERS had earned the complete respect of his constituents in a short period of time.

WALTER has been a most effective voice for the people who sent him to Congress in 1968 and his departure will be a loss for Alabama and the Nation.

During his decade in the House, WALTER FLOWERS has been one of the most active and energetic participants in the House committee structure.

His service on the House Judiciary Committee will long be remembered by colleagues and historians alike. The courage, objectivity, and reverence for the law which characterized WALTER FLOWERS' participation in the impeachment hearings as a member of the Judiciary Committee won him national recognition and respect. It also won WALTER FLOWERS a favorable spot in history.

I am reminded of his response after casting a vote in favor of an article of impeachment in July 1974.

WALTER noted that "There are many people in my district who will disagree with my vote here. Some will say it hurts them deeply for me to vote for impeachment. I can assure them that I probably have enough pain for them and me."

The respect which WALTER FLOWERS earned for his association with the impeachment proceedings was perhaps best summed up in an editorial in the Democrat-Reporter, a newspaper in Linden, Ala., part of WALTER's congressional district.

The editorial was to the point in its praise:

> Let us now applaud WALTER FLOWERS for being a big, big man . . . a man with a compassionate heart but also a man with the fortitude to do what is right according to the letter of the law.

WALTER FLOWERS has also distinguished himself on the House Science and Technology Committee. During this session, he has chaired the Subcommittee on Fossile and Nuclear Energy Research Development and Demonstration.

His knowledge and support of nuclear energy systems have been particularly helpful to me in my work on the Appropriations Subcommittee on Energy and Water Development.

WALTER's strong participation in the committee structure was rounded out by his service on the Committee on Standards of Official Conduct and on the Select Committee on Aging.

From his committee record alone, it is evident that we are going to miss WALTER FLOWERS and his enormous capabilities. He will not be soon forgotten or replaced.

As WALTER FLOWERS leaves the House of Representatives after a decade of outstanding service, he can be content in knowing that he mastered one of the most difficult aspects of public life, that of gaining genuine respect from both the people he served and the people with whom he served.●

● Mr. CORMAN. Mr. Speaker, there will be a void in the House when JOHN DENT retires.

The Nation's working people will lose their most effective spokesman when he retires. JOHN's 46 years of dedicated public service as city councilman, State legislator, and Congressman have been devoted to addressing the plight of the worker.

Whether the issue be wage levels, employee benefits, work-place safety, occupational health, or labor law, JOHN DENT's voice was the strongest and most persuasive.

Many will follow his lead but none will surpass his record.●

● Mr. BROOKS. Mr. Speaker, I wish to pay tribute to our colleague, JOHN FLYNT, who is retiring at the end of this Congress. We are all indebted to Congressman FLYNT for his long service on the Appropriations Committee. He has served his country well. He is a man of tremendous courage and dedication and will be greatly missed. I wish him well in his future pursuits.●

● Mr. WAGGONNER. Mr. Speaker, after 34 years of distinguished service to the people of his district as well as the whole country, JIM DELANEY is making plans to leave Congress.

JIM has represented his district with distinction and dedication and recognizing this, his people have returned him to office for 16 terms; a tribute in itself. His leadership on the powerful House Rules Committee has been an inspiration, not only to his colleagues here in Congress, but to others nationwide. Always a worker, JIM strives to translate his principles into legislative action.

Whether we always agreed or not, we knew where we stood with each other. A man of great integrity and a man of his word, he has always shown himself to be courageous, forthright, and more than that, he is loyal to his principles and to his country.

I wish you a long and happy retirement, JIM, and am proud to have had you as a colleague.●

● Mr. GILMAN. Mr. Speaker, although I wish the best of luck to our good friend, the gentleman from New York, BILL WALSH, in all his future endeavors, I regret deeply that the time has come to say goodby to his great and gentle man who has chosen this year to retire after more than 35 years of public service.

Congressman WALSH and I are members of the same class—we both came to the House in 1973 in the wake of BILL's massive victory for the seat of another close friend who chose to retire that year, John Terry. Before his election to the House, BILL was mayor of the sixth largest city in New York, Syracuse, and served as Onondaga County commissioner of public welfare. The substantial vote that BILL amassed in his very first try for a House seat is vibrant testimony to the stellar service he provided as a municipal county official.

BILL was also a social worker for 15 years. His work and experience in social services brought about a great compassion and concern which has manifested itself in BILL WALSH's debates in this Chamber.

As a friend, a neighbor, and a colleague, I had come to respect BILL's maturity and ability to look at all sides of an issue. His skill as a legislator coupled with his experience as an administrator led many of us to look to BILL for guidance.

As a veteran of World War II, as a former member of New York State's commission against discrimination, as commissioner of New York State's public service commission, as an active officer in his local chamber of commerce, as an active member of both the American Legion and VFW, as an accountant and corporate vice president in private industry, as mayor of Syracuse and as a Member of Congress, BILL WALSH has led an active, dynamic, and productive life which many others only dream of.

Mr. Speaker, I ask our colleagues to join in wishing the gentleman from New York, WILLIAM F. WALSH, and his lovely wife Mary, our best wishes for health and happiness upon their long- and well-deserved retirement.●

● Mr. WYDLER. Mr. Speaker, two of my colleagues from the New York delegation, Congressmen BILL WALSH and BRUCE CAPUTO, are leaving the House at the close of this term and I wanted to take a moment to commend both of them on their record of service to their constituents and to the Nation.

BILL WALSH has represented the 33d District of New York for the past 6 years and has served with distinction on the Public Works and Transportation Committee, the Veterans' Affairs Committee and the Select Subcommittee on Aging.

BRUCE CAPUTO has represented the 23d District in Westchester County and has distinguished himself on the Standards of Official Conduct and Banking, Finance, and Urban Affairs Committees.

I am particularly grateful to BILL WALSH and BRUCE CAPUTO for their efforts on behalf of New York City in passage of the Loan Guarantee Act of 1978, which will help speed New York on the road to fiscal recovery. Although I have only been a Member of the House since February, I am honored to have had the opportunity to work with Congressman CAPUTO and Congressman WALSH.●

● Mr. HUGHES. Mr. Speaker, there are many distinguished Members of this body who made their mark on society during their careers in Congress, but there are few who made so many lasting and varied contributions as our colleague from New York, Congressman JAMES J. DELANEY.

For 32 years, this dedicated man has served in the House of Representatives and during this long career, he has pursued the goal of a better life for those who did not always have champions.

His legislative accomplishments could fill pages but two issues that Mr. DELANEY is associated with come easily to mind.

Before it was fashionable, JIM DELANEY was concerned about chemical additives to our daily food supplies. This interest and concern led to the enactment of the Delaney Act in 1958 which prohibits the addition of any chemicals to processed foods that are known to cause or induce cancer in humans or animals. All of us are in his debt for this landmark legislation. He has kept up his interest in maintaining our Nation's health against attacks on the principles behind this law.

Known for his tenancious interest in providing the best possible education for all people, he has devoted an inordinate amount of time and energy to insuring that there is freedom of choice as far as educational opportunities are concerned. This culminated in the successful adoption of tuition tax credit legislation for private and parochial schools. His influence was certainly felt when the House recommitted the tuition tax credit conference report to reflect our sentiments that there is a need for this kind of legislation to help keep our traditional freedom of choice in education.

All of us will miss JIM DELANEY's presence in the next Congress but we wish him well as he leaves the House of Representatives.●

● Mr. HAWKINS. Mr. Speaker, as one of Congressman JOHN E. Moss's longstanding advocates, friends, and admirers, I join with the many others in the House in expressing a wish for his continued success upon his retirement from the House of Representatives.

As an outstanding elected official and as the retiring Dean of the California Delegation, this tribute to "JOHN" is well deserved and timely because of his many years of distinguished and dedicated service which has been a source of inspiration to us all. The people of the Third Congressional District of California, who have also benefited from an extension of JOHN's fine spirit, will sorely miss his leadership, his resourcefulness, his creativity, and his ability to get the job done.

Because of his many years as a public servant and as a Member of the Government Operations Committee, he is widely respected. He is eminently and rightly known as the Father of Freedom of Information Act, which requires the government to open its files and records to the public. He fought to stop a national data bank with information on citizens and the passing back and forth of computer information on individuals among government agencies. And lastly, he fought the good fight to restrict Government's misuse of wiretapping. He has received many nationally recognized awards for his work on information availability.

With absolute sincerity, I express my long abiding pleasure of being able to count him as a peer, a colleague and a friend, and may he continue to be successful in whatever endeavors he may embark upon. I am confident that he will bring to his future endeavors the same dedication which he has brought to his very distinguished congressional career.●

● Mr. BRINKLEY. Mr. Speaker, I am honored to take this moment to pay tribute to our retiring colleague the Honorable ROBERT SIKES of Florida for his outstanding years of service to the U.S. House of Representatives.

We know BOB to be a sincere, conscientious, and progressive legislator. A hard worker, he possesses the ability needed to make decisions which will be beneficial to the people in his district and to the Nation. He is a man of great insight, and we have gained much from his experience and wise counsel.

I feel a close comradeship toward BOB, as the State he represents borders my own. The people of the First District of Florida, I know, will feel a great loss as he retires. When BOB campaigned for Congress, even the bobwhite quails were heard to whistle, "BOB SIKES . . . BOB SIKES . . . BOB SIKES. . . ."

A poet once wrote, "There is no chance, no destiny, no fate, can circumvent or hinder or control the firm resolve of a determined soul." BOB SIKES has been this determined soul—a patriot in the truest sense of the word. We will miss his presence, but his influence will remain.●

● Mr. WAGGONNER. Mr. Speaker, at the close of the 95th session of Congress, the long and distinguished career of OTIS PIKE will draw to a close.

Effective, persuasive, intelligent, good natured—any one of these words could describe OTIS. Occasionally he and I are on opposite sides of the fence. OTIS, however, never hesitates to listen to the other side—but brother, you had better be sure that you have got your facts straight. He does his homework and approaches each legislative issue with a technical competence as great as any Member here.

I have a great respect for OTIS' abilities and smooth-talking way of handling any situation. He refuses to be labeled, tagged, or pigeonholed as anything other than a hard-working, independent-minded man who represents his people and OTIS fills the bill on both counts.

OTIS' wit and humor are contagious, as I have found sitting beside him in Ways and Means Committee. Perhaps he had the last laugh, however, in trying to steal my thunder by announcing his retirement on the same day, at practically the same time, I made my announcement. My statement was dull reading alongside his in the newspapers!

I wish you the best, OTIS, and hope that retirement is the slow-moving pace that we both anticipate! As slow moving, that is, as life "up north" can be! When you decide to take a real rest, ya'll come on down to Louisiana.●

● Mr. GREEN. Mr. Speaker, today our colleague Congressman CHARLES W. WHALEN, JR., of the Third District of Ohio completes 12 years of continuous service in the House of Representatives.

While I have had the honor to serve with him only since February of this year, I was pleased to have the opportunity to work with him as a cosponsor of legislative initiative of his such as the Product Liability Insurance Tax Equity Act and the Individual Privacy Protection Act. As one of the newest members of the House Wednesday Group, I also have appreciated his many contributions to the activities of that organization.

CHUCK WHALEN has been one of the prime movers in shaping progressive policies. In 1967, he issued a welfare reform proposal based on the "negative income tax" concept—an approach expanded upon by subsequent administrations. That same year he coauthored a book on "How to End the Draft," which helped lead to today's all-Volunteer Army. He also wrote "Your Right To Know," a book on the issue of the press keeping its sources confidential. WHALEN later said of this book:

> It didn't make the best-seller list, but I think it was a worthwhile effort to safeguard a basic freedom.

In 1976, Jack Anderson's congressional ratings picked CHARLES WHALEN as one of 10 best Members of the House of Representatives. In selecting WHALEN, the Anderson rating made the following observations about him:

> "Chuck Whalen is about as courageous a legislator as can be found on Capitol Hill," a source remarked. Whalen, a quiet, professional man, has made a career of sticking his nose into controversial affairs that other Congressmen avoid.

One of those "controversial affairs" was the Vietnam war. In 1971, WHALEN received national attention as the cosponsor of the Nedzi-Whalen amendment to end the war in Vietnam. Although the amendment was defeated, it was the first time the House had gone on record concerning the conflict in Southeast Asia.

Whalen established a reputation for political courage early in his congressional career. In his first committee as-

signment, the House Armed Services Committee, WHALEN was one of a group of Congressmen known as "The Fearless Five." These five Armed Services Committee members earned that nickname for their courageous efforts to challenge what they considered to be wasteful or unnecessary military spending proposals. WHALEN was one of the leaders in those committee battles to save the taxpayers' money and to reorder national priorities.

CHUCK continued his role as an activist when he became a member of the House International Relations Committee. He led a bipartisan coalition on the committee that worked to restructure the foreign aid program. Long before "human rights" became a popular issue, WHALEN was offering amendments in committee to cut back aid to oppressive regimes and to emphasize development and "self-help" initiatives in U.S. assistance to Third World countries.

As the Ranking Minority Member of the Subcommittee on Africa, WHALEN was one of the first Members of Congress to call for a reappraisal of U.S. policies toward that neglected part of the world. He also took an active interest in developments in Latin America. He was one of the earliest proponents of a new partnership with Panama, and one of the most vigorous supporters of the Kissinger-Tack agreement which led to the new Panama Canal treaties. He became one of the leading advocates of the treaty negotiations, writing articles and appearing on national television to present the case for a revised U.S. relationship with Panama and with the rest of Latin America.

WHALEN also was in the national spotlight in 1975 when he was the first Congressman to visit Castro's Cuba. Following his trip to Cuba, which included a 4-hour meeting with Fidel Castro, WHALEN wrote a report for the International Relations Committee in which he outlined the prospects for U.S. trade with that country.

Our colleague from Ohio provided a special service to the House of Representatives when he recently was a Congressional Member of the U.S. Mission to the United Nations. He sent back a series of letters to all Members of the House in which he shared his insights on the activities of the United Nations and his appreciation of the U.N.'s contributions to international understanding and cooperation. As the Representative of the 18th Congressional District in which the United Nations is located, I especially commend CHUCK WHALEN for his contributions to increasing congressional awareness of the effectiveness and potential of the United Nations.

CHARLES W. WHALEN, Jr., is voluntarily leaving the House of Representatives at the peak of his career. We will miss his intelligent, progressive work in this Chamber.

However, we are fortunate that he is not retiring from public life. Indeed, he is not really leaving Capitol Hill, but moving "across the Hill" to the headquarters of New Directions. He will be the leader of that public citizens' lobbying group for enlightened international policies and international social justice.

Since he truly is a citizen of the world, it is only natural for CHUCK WHALEN to be broadening his constituency. I look forward to the contributions of his continuing public service and wish him well in his new endeavors.●

● Mr. BOLAND. Mr. Speaker, I take this time to pay tribute to one of the most courageous, warmhearted and witty Members of the House, Congressman JIMMY BURKE.

My close friendship with JIMMY BURKE goes back some 40 years, after he was elected to the Massachusetts State House of Representatives in 1938. There, as in Congress for the past 20 years, he was a determined and resourceful fighter for the little man and woman, the poor, the small businessman, the consumer, the sick and the needy, and above all, an outspoken champion of the elderly.

Our distinguished Speaker, TIP O'NEILL also served with JIMMY BURKE and me during those years. JIMMY left to become registrar of vital statistics for the city of Boston under the late Mayor Maurice J. Tobin and then entered the Army during World War II as a special agent in the counter intelligence attached to the 77th Infantry Division in the South Pacific. He was elected to the Massachusetts House after the war, and served as assistant majority leader under TIP O'NEILL, who was then Speaker of the Massachusetts House of Representatives.

JIMMY was elected to Congress in 1958 from a traditionally Republican district to succeed the late Congressman Richard Wigglesworth. He did such an outstanding job for his constituents that they reelected him by ever increasing margins.

As chairman of the Ways and Means Subcommittee on Social Security, and the ranking member on both the House Unemployment Compensation Subcommittee and the Joint Committee on Taxation, JIMMY BURKE constantly sponsored and fought for cuts in social security taxes by paying for increased benefits through general revenue taxation; extended benefits to the unemployed and tax breaks for small businessmen. As many Members of the House know, he was an able, honest, determined but smiling, friendly and witty foe on the issues that profoundly moved him.

Mr. Speaker, JIMMY BURKE said when announcing his retirement, he wanted to go out while the music was playing. And the band was blaring loudly at that moment for JIMMY because the Democratic Caucus had just adopted his long-fought-for resolution setting forth the principle of partial funding of the social security system with general revenue. This victory capped his years of service on the Ways and Means Committee, and came at a time when he was shouldering tremendous personal burdens following an operation. He carried those burdens with magnificent courage, burdens that few others could carry.

JIMMY, may I say to you that it is now time to leave us and to begin thinking of yourself and your physical condition. I know all of my colleagues agree that you leave with the tremendous satisfaction that we all hold you in the highest regard, and that you have been a great and honest servant of your district, your State, and the Nation in war and peace. I want to wish you and your lovely wife, Aileen, many years of peace and joy in retirement.●

● Mrs. PETTIS. Mr. Speaker, when OTIS PIKE first came to Washington, the story goes, his freshmen colleagues thought he had been here a long time, so naturally did he fit into the role of experienced legislator. During the 18 years since then he has challenged some of our creaking shibboleths, his delightful humor cloaking the sting of his clear-eyed criticism.

We needed his kind of prodding, and his free-swinging style—for he was truly unhampered by party considerations—to keep us on the track, and the House will not be the same without his witty, urbane commentary on the foibles of the body politic.●

● Mr. WAGGONNER. Mr. Speaker, after serving 10 terms as a Member of Congress, JOHN YOUNG has decided to return to Texas and have a little more time to call his own.

His constituents, his colleagues, and his countrymen owe JOHN a great debt of gratitude for the unswerving dedication that he has shown to the principles which our Founding Fathers established. The House Rules Committee, on which JOHN serves, will lose the services of one of its most steadfast members; however, 20 years is a long time, and looking forward to retirement myself, I can certainly understand and respect JOHN's decision.

Working closely with him since I came to Congress in 1961, I know JOHN to be a man of integrity and honor; his word is his bond. He is one who is always available when called upon for assistance and never hesitates to give unselfishly of his time and talents to help out a colleague.

The qualities that make JOHN a great legislator—courage, dedication, and genuine concern for the well-being of the country—are qualities this Congress can ill afford to lose. We need more men like JOHN YOUNG.

I know I speak for all our colleagues when I say that we wish JOHN all the best of life's bounties in the years ahead.●

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to note with great sorrow the retirement of JOHN Moss, truly one of the finest men ever to serve in the House.

As chairman of the Subcommittee on Oversight and Investigations, JOHN has consistently stood for the right of the consumer to know the quality and the safety of the product he or she buys, and JOHN's legislative skills have been responsible for a great deal of the very substantial progress our Nation has made in this area over the past two decades. His commitment to the rights of the consumer has helped to strengthen our economy and our quality of life, and the work JOHN has done should serve as a foundation for further advancements in legal protection of the Nation's consumers.

In addition, JOHN's work as chairman of the California delegation has been of immense benefit to the State of California and of great assistance to the individual members of the delegation. His

efforts on behalf of the State have been truly remarkable.

In closing, I simply want to congratulate JOHN for the legacy of integrity and of justice that he leaves to us all. Rare is the man or woman who can point to such accomplishments as he can. I know I express the feelings of the entire House in wishing him the best of luck in the years ahead.●

● Mr. WAXMAN. Mr. Speaker, although this is an occasion for us to honor JOHN MOSS, who is retiring at the end of this Congress, this is not a moment to which I have looked forward. This day has come too soon. As one who was able to serve with him only 4 short years, I feel a deep personal loss not to be able to have the benefit of his counsel in the next Congress.

The achievements accomplished during the congressional career of JOHN MOSS have and will continue to affect the lives of every American. He has worked for over two decades to open the processes of Government, to make Government accountable to the American people, and to reform its practices so that it truly serves the public interest. Could any less be said of the man who wrote the Freedom of Information Act, who authored the most comprehensive study ever undertaken of Federal regulation, and who has drafted the strongest regulatory reform legislation yet contemplated?

He has been second to none in his advocacy on behalf of consumers. Through his determined leadership, the Congress enacted the Motor Vehicle Safety Act, the Magnuson-Moss Warranty Act, and the Consumer Product Safety Act. Thousands of deaths, and millions of product-related injuries have surely been prevented because of his concern and vigilance.

No less important, he has been this body's highest defender of its rights and privileges. He has bowed to no Executive who sought to undermine the Congress role as a coordinate branch of Government. Though not a lawyer, JOHN is one of the most knowledgeable legal scholars in the country on the subject of executive privilege as well as so many other areas.

If the Congress has assumed increased leadership in national affairs, and has sought to evoke greater accountability and responsibility and responsiveness from the executive branch to meet our mandates under the law, it is due in no small measure to JOHN'S determination that the Congress fully exercise its responsibilities under the Constitution. If the Congress is a proud institution—and it is—it is because of JOHN MOSS' efforts to make it so.

Many adjectives, whether applied by friend or foe, have been used to describe JOHN MOSS. Though he has been characterized as being brilliant, proud, tough, and steadfast, I prefer to view him as a man of quality.

Over the past 4 years I have served on JOHN'S Commerce Subcommittee on Oversight and Investigations. In complete candor I can say I do not have the energy to match his pace and his wide-ranging interests. In the past 2 years alone, he has conducted hundreds of subcommittee meetings on subjects ranging from natural gas pricing to health care costs and automobile safety. His energy has no limits; the scope of his concern, no bounds.

As a subcommittee chairman, his conduct is an example of decorum; his questioning, incisive; his memory of the facts—unforgiving; his pursuit of the truth—unrelenting.

It is said a man has the right to retire when he has completed his work. Well, JOHN'S work is not completed. There remains so much to be done in the realms of individual privacy, consumer product safety, energy policy, and health care reform. The agenda before us—JOHN MOSS' agenda—is large.

JOHN may physically leave this Chamber, but he has left an indelible presence—a standard to which many will aspire and by which others will be judged.

If I had to select JOHN MOSS' finest achievement, it would not be the legislation which bears his mark or his unblemished record of public service. I would have to say it was his service as a teacher. When JOHN returns to his beloved Sacramento, he will have left behind hundreds of persons, inside and outside of government, who have been touched by his presence. At a time when it is said that idealism is a disease of youth, JOHN'S record, his personal conduct, sets this notion to rest.

In a system based on compromise, JOHN reminded us when to say enough. At a time when lesser men would decline to take up the fight, JOHN would rekindle our consciences.

What this Government needs is more men and women like JOHN MOSS. His retirement will leave a void in this institution.

I know I speak for many when I express my personal gratitude to JOHN MOSS for sharing his friendship, judgment, and integrity with us.●

● Mr. WAGGONNER. Mr. Speaker, JIMMY BURKE is retiring after 20 years. Since 1975, JIMMY has been the chairman of the Subcommittee on Social Security of the Committee on Ways and Means. He has been its only chairman and he has been the leader in the fight for the elderly, the disabled, and the working men and women of this country. He is the guy who helped shape and shepherd the really tough social security legislation. He is the mover who cut down the bureaucratic roadblocks in order to increase the number of administrative law judges and reduce the backlog of disability cases awaiting a just decision. And, he is the guy to whom all social security beneficiaries are indebted for increased benefits over the years. Not to mention medicare. Not to mention a hundred tough issues.

JIMMY BURKE has been a leader all his life. He has shown all of us the true meaning of physical and moral courage. We all remember when he came out of the hospital in July of 1978 to testify at the Rules Committee about the tax bill. If my memory serves me correct he has one of the best voting records in the Congress. And he is not a quitter. In fact, he has never quit advocating the ⅓-⅓-⅓ allocation. I have not always agreed with JIMMY and that has not stopped him either. But he has been my chairman and my friend. JIMMY BURKE loves his fellow man more than himself. He has been selfless in his service to his country. He is an intelligent and compassionate man. He is kind and considerate. If anyone has any doubts talk with his staff. Ask somebody who works for him or who has worked for him. That is the proof in the pudding.●

● Mr. PICKLE. Mr. Speaker, from Riverhead to Princeton to the District of Columbia, the people of Wading River, Shoreham, and the Quogue's, and the Shinnecock's will never have a man of greatness like OTIS PIKE serve them. And this is said without the usual end of the year tributes to retiring Members.

A man of articulation, a man of letters, and a man of wit—OTIS PIKE is this and much more.

Even more praiseworthy is that fact that this man made one of the best U.S. Representatives with whom I have ever served. A man who could walk and talk with the people of the Hampton's, and still retain a strong feel for the middle islands and its earth.

OTIS PIKE sat by me, or rather I sat by him, during this session of Congress on the Ways and Means Committee. Handling taxes and understanding our tax code can unravel the mind of anyone. But the mind of OTIS PIKE was more than equipped to cut through anyone's rhetoric to uncover the bottom line of who was going to get what. Once he found out, he did not measure the value of the proposal on that fact alone; instead he looked at the basic equity of the parties involved and cast his vote on the side of fairness.

I remember him, too, when he served so nobly on our Armed Services Committee. Back when the committee's subcommittee was just numbers, and one of those numbers belonged to Mr. PIKE of New York, he came to the aid of the 10th Congressional District in a manner we will never forget. He helped preserve a deposit on lignite for the use of our publicly owned utilities, and someday that lignite will mean more gas for New Yorkers, and perhaps cheaper electricity for Texans.

He was a Member we all respected, and who we turned to when a particularly troubling crisis was facing this body—the Pueblo Incident, and the investigation of our intelligence agencies. He served us well, and never brought any kind of shame to this body; his service in these tough assignments only brought us honor.

I think that most remembered will be his wit, which was so sharp, yet used for a purpose, not for a jest.

Not only will east Long Island miss OTIS PIKE in Congress, but also this Nation—and I will miss him very much too.●

● Mr. RAILSBACK. Mr. Speaker, the end of Congress is a period of great transition, but perhaps none of the accompanying changes is as significant as

that of the change in membership of this body. The end of the 95th Congress is no different in this respect. Many of our colleagues will not be returning next year and though we wish them well, we will miss their service and their friendship.

WALTER FLOWERS, my good friend and our distinguished colleague from Alabama, is one such Member. I have had the pleasure of serving with WALTER for 10 years, since he was first elected to Congress in 1968, and I can honestly say that during this time he served his constituents, the Congress, and his country in a manner worthy of imitition by us all.

I do not need to detail his many achievements while a Member of the House, for the record alone clearly demonstrates his strong devotion to public service, but I would like to take this opportunity to briefly offer some personal observations. As my colleague on the House Judiciary Committee, WALTER earned a reputation for dilligence, legal expertise, and political courage. The 1974 impeachment inquiry conducted by our committee tested each and every Member, but few met the test as well as the Member from Alabama. Despite strong pressures to the contrary, WALTER followed his conscience and his convictions in voting for the impeachment of a President, but only after long hours of hard work and mental torment. I shared many of these hours with WALTER when, during the final days of the inquiry, a handful of undecided Members met informally to review the evidence and the law. He made great contributions to these meetings and during the public debate that followed he demonstrated, as one newspaper reported, that he was "a man with a compassionate heart but also a man with the fortitude to do what is right according to the letter of the law." Congress will miss such a man.

Whatever the future may hold in store for our colleague from Alabama, I would like to express my hope for his success and happiness.●

● Mr. WAGGONNER. Mr. Speaker, it has been said that somehow, somewhere, and at some time all good things must come to an end and much to the dismay of his colleagues, JACK FLYNT has decided that the time has come to retire.

JACK is a good man and a good friend and although I am sorry to see Congress lose his wisdom and leadership, I can certainly understand his desire to have time for himself and his family away from the hectic day-to-day schedule that a congressional career dictates.

I have a great deal of admiration for JACK not only because of his outstanding legislative abilities, but also for the strength and leadership he has shown while serving as the chairman of the House Ethics Committee in what has been a very difficult time. He has shown wisdom in guiding the committee through a period of tough sledding.

JACK's career has been marked with long years of dedicated service to his district, his State, and his Nation. Tireless in his efforts, JACK is a legislator's legislator. He knows how to get things done—and that is the name of the game.

I wish JACK many years to enjoy this well-deserved rest, but I add that the U.S. Congress will have a great loss and will miss this outstanding American.●

● Mr. RAILSBACK. Mr. Speaker, many Members of the House are retiring at the end of the 95th Congress, but I would like to take this occasion to particularly note the retirement of my good friend and our distinguished colleague from South Carolina, JIM MANN. JIM and I have served together for 10 years, since his election in 1968, and I can say without hesitation or reservation that each Member of this body, his constituents, and the Nation will sorely miss JIM's dedicated public service.

Serving with JIM on the House Judiciary Committee and the Select Committee on Narcotics has given me the opportunity to observe closely his superb legal skills and unusual courage. No better example of both of these qualities can be found than JIM's diligent service during the 1974 impeachment inquiry conducted by the Judiciary Committee. JIM rose above the political tides of the moment and acted with the utmost responsibility in voting for the impeachment of a President. I know from my many conversations with JIM that this decision was only reached after an agonizing period of study and thought. When I met with a handful of undecided members of the Judiciary Committee to review the evidence and the law, JIM was there with his typical insight and stability. Our bonds of friendship drew strong during this period of political turmoil and will surely continue long after his departure from this body.

I will not take the time now to review all of JIM's accomplishments for the record speaks loudly and clearly on this point. It demonstrates without question that our colleague from South Carolina has worked hard during the last decade and is entitled to a period of personal life with his wife, Virginia, and his four children. I can only wish him well with his future plans and hope that he may once again return to public service as he has done so many times in the past, for a man of his dedication and skill is always an asset to the democratic process.●

● Mrs. PETTIS. Mr. Speaker, it is always difficult to bid farewell to colleagues for whom we have a high regard, and I am very sorry to see JOHN Moss leave the body he has enhanced so long. He has led the California delegation through many a legislative thicket, and we have valued his bipartisan guidance over the years.

I wish him well in his new venture, and know he will make a great contribution to the financial world when he takes up his banking assignment in California next year.●

● Mr. WYDLER. Mr. Speaker, I am sorry to see a good friend and public servant, WALTER FLOWERS, leave the House of Representatives. The service he rendered to his country was in a class that must be rated outstanding.

His services here will be missed by his constituents, and his countrymen. He will also be greatly missed by me.●

● Mr. WAGGONNER. Mr. Speaker, it is with a deep sense of loss that the Members of Congress say goodby to WALTER FLOWERS.

I knew when I first met WALT FLOWERS in 1968 that he would become, as he has, a major political force in the House. My country boy instincts told me that in WALTER you had a rare blend of a great intellect and good old commonsense. It was and is a winning combination.

WALT is a Member's Member—if you ask for his help, he is always available—if you ask for his vote you know where he stands.

WALT was one of five Members who helped set up and organize the Democratic Research Organization in the House, and he also served on the first executive board. DRO has proven an invaluable aid to Members with its option papers on every major bill before the House.

WALTER is a friendly, hardworking Member whose efforts will be sorely missed by his colleagues, his district, and the Nation.

I know that you are looking forward to being back down home, WALT, and you will enjoy having time for yourself and your family. You might even be able to squeeze in time to follow that Alabama football team a little more closely. With their game against LSU in the future, I challenge you to a standing bet. That should liven up our idle days.●

● Mr. SIKES. Mr. Speaker, perhaps as much as any other Member of Congress, I shall regret the end of my professional association with JACK FLYNT. His distinguished service in Congress will be a benchmark by which the future Members can measure their quality, their capability, and their resolve.

I am particularly sad that our Nation will no longer have JACK FLYNT reviewing its defense expenditures as a member of the Defense Appropriations Subcommittee of the House. Our service together over the past quarter century has left me with a wealth of fond memories. But none more than his unyielding endeavors for a strong national defense.

In addition to his work on the Defense Subcommittee, JACK was charged with the difficult task of leading the House Ethics Committee; and in that role his efforts have been tireless and compassionate. JACK FLYNT is a man of the highest principles.

As we both leave this House, I remain confident that the example he has shown will be more than adequate to guide future Members of this body. We are all better for having served with JACK FLYNT.

My best wishes are extended to JACK, his wife and children, all of whom we have known so closely through the years. I am grateful for the friendship we have shared.●

● Mr. UDALL. Mr. Speaker, JIMMY BURKE is leaving, and the senior citizens and ordinary working people of the United States are losing a special friend. JIMMY compiled a distinguished record during his years in the House. The people of his district can be very proud. I am sorry to see JIMMY go. I will miss him.●

● Mr. WYDLER. Mr. Speaker, we will all miss BILL WALSH. He is a fine and quiet type of man who has been extremely competent in the way he has served his constituents here in the House of Representatives. We will miss the tireless work he did in representing the people of his district and the people of the State of New York.

BILL always worked in a quiet way, but in the most effective way as well. We will all miss him greatly here in the House when the next session begins, but we wish him every happiness in the years ahead.●

● Mr. WYDLER. Mr. Speaker, our colleague, BRUCE CAPUTO, was with us but a short time and yet made a lasting impression on the Members of the House. He undertook difficult assignments and carried them out with competence.

He has left us to run for one of the most important positions in the State of New York, that of Lieutenant Governor, a position for which he is eminently qualified.

He is the type of young Congressman the people want and the country needs. I only wish he had been with us a longer period, for I know the country would have been better as a result.●

● Mr. RANGEL. Mr. Speaker, in view of the fact that ROBERT N. C. NIX will retire from Congress this year, I would like to express my appreciation for his 20 years of service as Representative of Pennsylvania's Second District. He has served ably as chairman of the House Post Office and Civil Service Committee, where he demonstrated his strong leadership in bringing civil service reform legislation to the full House for passage. As a member of the Congressional Black Caucus, he has worked with us for full employment, national health insurance, affirmative action, and other caucus priorities. I have come to know ROBERT NIX as a friend and a wise politician. I am sure all of my colleagues join me in wishing him good luck.●

● Mr. HALL. Mr. Speaker, I am pleased to have this opportunity to join in this special tribute to our friend and colleague, Congressman JACK FLYNT. Although he will be leaving Congress at the end of this session, I am sure that this will not be the end of his dedicated service to all the people in whose interests he has worked over the years.

His many friends here will remember his outstanding accomplishments and wish him the very best as he enters this next phase of his meaningful career.

Georgia, and the Nation, have every reason to be proud of what he has achieved during his 24 years of devoted service here in the House of Representatives, which should be an inspiration to all those who follow after. During the relatively short time I have been in Washington, I have enjoyed knowing and working with JACK and value his friendship highly. Certainly he is admired and respected by all who know him and he has our best wishes in all of his future undertakings.●

● Mr. ULLMAN. Mr. Speaker, I am happy to have this chance to join in paying tribute to JIM BURKE, a good friend and longtime colleague on the House Committee on Ways and Means.

There is no one of Capitol Hill who has spoken more consistently or more forcefully over the last two decades for the working men and women of the United States than JIM. His concern in this regard has been reflected in his day-to-day work as chairman of Ways and Means' important Subcommittee on Social Security, in his work on the full committee, and in his work in the full House.

I am personally grateful for his friendship and his help over the years.

I wish him the very best in the years following his retirement from congressional service.●

● Mrs. LLOYD of Tennessee. Mr. Speaker, I wish to take this opportunity to join with the many friends of JIMMY BURKE in paying tribute to the contributions he has made to this body. In the 4 years that I have been honored to serve with him, he has been both an inspiration and an example to me.

Each of us will have our special remembrances of JIMMY BURKE, he is a distinguished legislator, an accomplished campaigner, and a warm friendly human being. I think it is this last trait that I will miss most when the 96th Congress convenes. I do not believe I have known him to be discouraged, he has always had a kind word and a spirit of good fellowship for every Member of this Chamber. I wish him well in his future endeavors.●

● Mr. MANN. Mr. Speaker, in one fell swoop we are losing the distinguished dean of the House; we are losing the able chairman of the committee on Appropriations; we are losing one of the most skillful legislators ever to practice his craft in these Halls; we are losing a warm, courtly gentleman.

I speak, of course, of my esteemed friend and colleague GEORGE MAHON, who has served the 19th District of Texas for 44 years in this House. Through the administrations of Presidents Franklin Roosevelt, Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford, and now Carter, GEORGE has been a constant voice in Congress calling for governmental reason and restraint. Since 1964, he has been our keeper of the pursestrings, steering the course of the House on a path leading to fiscal discipline.

The litany of Chairman MAHON's achievements in this body is almost endless. Through his stewardship of the Appropriations Committee, he has left his hallmark on every major and minor initiative and program the Federal Government has undertaken. Through his consistently high level of integrity and dignity, he has earned the deep respect of his colleagues who seek his advice and guidance on a myriad of issues.

There seems no way, Mr. Speaker, to pay just and adequate tribute to that mountain of a man, GEORGE MAHON. Truly, the Congress will not be the same without him.

Reluctantly I will admit that the chairman's retirement has been well-earned. But with no hesitation and the utmost sincerity, I wish him many years of health, happiness, and success.●

● Mr. JENRETTE. Mr. Speaker, I rise to pay tribute to my colleague from South Carolina JIM MANN.

JIM MANN is a distinguished member of the House Judiciary Committee, where he has served during his 10 years in the Congress, and a member of the House District of Columbia Committee. He is chairman of the Judiciary's Subcommittee on Criminal Justice and until this summer was long-time chairman of the House Informal Textile Committee. He also serves on the Select Committee on Narcotics Abuse and Control.

I will not try to speak to all of JIM's legislative accomplishments—even today we are voting on legislation developed in his Criminal Justice Subcommittee. But I would like to acknowledge his special approach to legislation. JIM always does his homework, always has all the facts at hand, and always is open to discussion. It was, of course, his reasoned approach which won him national recognition during the arduous Presidential impeachment proceedings in 1974 and earned him the admiration and respect of the country at large.

JIM has served the people well. The citizens of the Fourth District of South Carolina can be proud of the job their Congressman has done and of the honored place he has won in congressional annals. We, his colleagues, are proud to have called him friend and to have had the benefit of his expertise, his enthusiasm—and his saber-like wit.

When they called the roll for the 96th Congress, JIM MANN will be missed.●

● Mr. RANGEL. Mr. Speaker, I appreciate the opportunity to submit remarks for the CONGRESSIONAL RECORD on the retirement of BILL WALSH. As a member of the New York Congressional Delegation, I would like to thank BILL for his fine service since his election to Congress in 1972. He has served his district and New York well as a member of the Committee on Public Works and Transportation, Veterans' Affairs, and Select Committee on Aging. I wish BILL much peace and relaxation in the years ahead.●

● Mr. HUGHES. Mr. Speaker, not only is WALTER FLOWERS a colleague of mine on the Judiciary and Aging Committee, he is also a good and dear friend.

It has been a rare privilege to serve with him these past 4 years and I will truly miss his presence in the 96th Congress.

Four years ago, when the country's attention was focused on the impeachment inqury, WALTER FLOWERS showed the Nation and the world his talents for deliberation and analytical thinking. In my mind, WALTER FLOWERS was a standout in a panel of outstanding men and women.

His capacity for detail and his constitutional expertise was very much in evidence during those long tortuous months of uncertainty. They were difficult days and WALTER FLOWERS rose magnificently to the occasion. But then there was no reason to think otherwise, for

WALTER has long held the reputation for doing the right thing.

I will sorely miss the presence of Congressman WALTER FLOWERS as a fellow legislator in the months ahead. I wish to add my very best wishes for his future endeavors and my congratulations for a job well done for the citizens of Alabama and the Nation during his 10 years in the House of Representatives.●

● Mr. RHODES. Mr. Speaker, when the 96th Congress convenes, we will miss one of our hard-working Members from Alabama, WALTER FLOWERS, who left this legislative body to seek other office.

It has been my pleasure to have been a colleague of WALTER FLOWERS during the decade he has served in the House. He has been a staunch supporter of the free enterprise system, and a foe of excessive and unnecessary Federal intervention in the marketplace and overregulation of business. He is one of the most knowledgeable Members on the intricacies of the Federal antitrust laws.

WALTER has earned a host of friends, on both sides of the political aisle. Although he was not successful in his foray into other political fields, I know that his experience, abilities and energies will be called upon to serve the people of Alabama somewhere down the line. I join my colleagues in wishing WALTER every success in whatever endeavor he turns his talents to pursue.●

● Mr. HUBBARD. Mr. Speaker, I would like to take this opportunity, at the close of the 95th Congress, to pay a well-deserved tribute to JOHN BRECKINRIDGE, whom I have had the privilege of serving with both as a Member of Congress and as a member of the Kentucky congressional delegation. JOHN will be leaving us at the close of this session, and his presence will be missed.

JOHN has served in this body with distinction and high stature and he deserves our respect and admiration and especially the respect of his fellow Kentuckians in the Congress and those he has represented so well in the Sixth District of Kentucky. The contributions he has made in aiding the Congress in producing effective legislation have been innumerable, and his ability and dedication to high performance serve as a lesson for all of us.

The people of the Sixth District of Kentucky who JOHN BRECKINRIDGE has represented so faithfuly and ably over the past 6 years have every right to be proud of his accomplishments in the Congress. JOHN has served as the chairman of the rural caucus, and he has done an excellent job in carrying the banner for rural America. Likewise, he is a distinguished member of the House Agriculture Committee, the Armed Services Committee and the Small Business Committee.

JOHN is the holder of one of the proudest names in the Commonwealth of Kentucky, and is the fifth Breckinridge to serve in Congress. JOHN'S namesakes have served as the Attorney General for Thomas Jefferson and as the Vice President for President James Buchanan. JOHN himself previously served two terms as attorney general of Kentucky. In the summer of 1961 he employed me as a research aide in the attorney general's office in the State capitol at Frankfort. For that and other reasons I am very fond of him.

I have no doubt that JOHN BRECKINRIDGE will continue to succeed with distinction in his future pursuits.

Those of us who live in Kentucky will always look upon Congressman JOHN BRECKINRIDGE as a great American.●

● Mr. PHILLIP BURTON. Mr. Speaker, few other Members of Congress have been blessed with the intellectual capacity that BOB LEGGETT possesses, and few Members have used their talents in the vigorous and effective manner that BOB has. He made comprehensive statements on a board range of subjects from fisheries and wildlife to the Panama Canal to sugar to rice to nuclear arms control to Vietnam war to military preparedness (and its capability) to the Federal budget to the status of the merchant marine, naval preparedness, steel industry, and agriculture.

When the debates on various issues in the last eight Congresses are read, some of the most salient statements on the major public issues of our time will be found under the name of BOB LEGGETT.

From the time he came to this Congress BOB developed a reputation of independence and competence. He was unafraid of differing with powerful chairmen in his committee assignments.

BOB'S first committee assignment in 1962 was the House Committee on Agriculture. Using the method that would stand him in good stead for 16 years, BOB immediately immersed himself in the facts of American agriculture, quickly developing a reputation as a knowledgeable legislator far beyond that which most freshman legislators ever attained. That assignment also served notice that BOB was unafraid to differ with a powerful committee chairman when he felt morally compelled to do so. Subsequent chairmen have learned that, while BOB LEGGETT is a team player, he has always insisted that the team be headed in the right direction.

He moved from the Committee on Agriculture to the Committee on Armed Services, where he has made perhaps the bulk of his public reputation in Congress. As a fellow Californian, I am proud to say that BOB was among the first members of that committee to point out the disastrous consequences of our Vietnam War policy. Despite the furious opposition of the then majority of his committee, his colleagues in the House, and three Presidents BOB persevered in advocating policies counter to the war efforts—a perseverance which was only to be vindicated many years later in a national decision to abandon the war. It is my belief that BOB can claim personal credit for speeding that decision, thereby saving untold thousands of American and Vietnamese lives. If any facet of his service can demonstrate adequately BOB'S insistence on what is right despite intense and overwhelming pressure to make a politically expedient decision, his opposition to the war in Congress makes that point. BOB'S service on the committee has been marked by the same reputation for expertise that he developed in his earlier assignments. He has been a leader in efforts to reverse the decline of effectiveness of our naval fleets through his constant efforts to insure an adequate maintenance effort for our ships. Publicly perceived as a dove, BOB has worked effectively for an adequate, lean, efficient national defense structure. The thousands of his constituents directly involved in the national defense effort from the five major military installations in his district bear constant testimony to his belief in and constant work toward maintaining an adequate national defense structure. I will not belabor the many points I could raise regarding BOB'S career on the Armed Services Committee—his work in the areas of military airlift, NATO preparedness, strategic policy, high technology research and development, and many, many others. Suffice it to say that America owes a great deal to BOB LEGGETT'S service in the area of national defense.

Four years ago BOB achieved the significant honor of being in the first group of Members of the House to serve on the Budget Committee created by the Budget and Impoundment Control Act of 1974, an act that BOB labored diligently to bring about. For the last 2 years he has served as chairman of its Task Force on National Security and International Affairs. Budget Committee service is perhaps the most demanding that the House has to offer. Members who are used to specializing discover that they must become experts in literally every facet of business conducted by the House. In BOB'S 4 years on the committee his intellectual greatness has stood him in good stead as he labored with the problem of ordering national priorities at a time when the American people needed more and more and the Government had less and less means to provide. BOB'S innate sense of humanity and justice, coupled with his excellent knowledge of economic policy, have been significant factors in guiding the committee in its first efforts to assert a congressional voice with real force into the designating of national priorities. The Budget Committee represents the strongest effort of the Congress in many years to assert its prerogatives alongside those of the executive branch in determining the overall direction our country takes. BOB'S work has provided the foundation for future members of the Budget Committee to build a strong congressional budgeting mechanism.

BOB LEGGETT'S capable and tremendous grasp of complex issues and his independent judgment were exercised especially during the 93d Congress, in the Panama Canal issue. BOB'S attitude has been, and is, that a new treaty with Panama is desirable. In that capacity he was a leader in bringing home to the House some of the realities of the Panama situation. But he opposed the Panama Canal treaties that were ultimately negotiated when he analyzed them and found them to be riddled with laws that did not protect U.S. interests. Very few other Members of Congress possessed the knowledge or the know-

how to make the careful distinctions which BOB made on this and other issues.

I know that BOB felt strongly about the improvement of equal opportunity in the Canal Zone. His work in this regard was significant. I am told, in that during his tenure as chairman, the major breakthroughs in equal opportunity proposals took shape.

During the past two Congresses, BOB LEGGETT has served as chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Merchant Marine and Fisheries Committee. This subcommittee is entrusted with the establishment and protection of National Wildlife Refuges, the promotion of our sport and commercial fisheries, and the conservation of all of America's vast wildlife resources, including endangered species and marine mammals. They have all benefited from his wise stewardship.

The actions of this subcommittee affect every State as well as other nations through international fish and wildlife agreements. But more importantly, it deals with matters which are of every day importance to the American public and which often arouse strong emotions. Their handling has taken courage as well as wisdom and a willingness to seek new ways of resolving old problems.

The Fishery Conservation and Management Act—better known as the 200-mile fishing zone act—has solved the problem of overfishing by foreign nations which was seriously decreasing our fishery resources, and has set the stage for a rejuvenation of our fishing industry.

For many years we have lived with the problem of dolphins being killed incidental to our tuna fishing operations. Passage of the Marine Mammal Protection Act in 1972 did not decrease this killing rapidly enough to prevent a public outcry for a total ban which would have put our tuna fishermen out of business. Here the answer was not legislation but a cooperative effort among Government, the industry, and environmentalists which was nurtured and prodded by BOB LEGGETT until this year the new technology which resulted is beginning to bear fruit. In 1978, America's tuna fleet has had a record harvest of tuna but the number of dolphins killed has been only a tiny fraction of previous years.

The National Wildlife Refuge System does not have the same appeal for Americans as, for instance, the National Parks. Perhaps, because it is the only place where the welfare of fish and wildlife has first priority. Whatever the reason, it has been a stepchild of our public lands system when the money is passed out. Recently, I am pleased to say, this trend has begun to be turned around and much credit goes to the persistence of BOB LEGGETT. His subcommittee has not only expanded the system through the proposed addition of priceless areas in Alaska and prodded the Fish and Wildlife Service to use its limited funds wisely, but he personally has conducted a one-man campaign at every level of the appropriation process to see that adequate funding is provided to protect these precious national assets.

Just a week or so ago, the Congress took final action on the National Aquaculture Development Act and sent it to the President for signature. Without the singleminded efforts of our colleague this important measure would never have gotten off the ground. Among fish farmers it is known as the Leggett bill and rightly so. He has said that passage of this bill, which offers new hope for a protein deficient world, was a highpoint in his 16-year career. We hope that the President will see fit to sign it as an appropriate capstone to BOB LEGGETT's long efforts to assure an abundance of natural resources for future generations. America's fish and wildlife and all those who are concerned with them will have lost a strong voice in the Halls of Congress with his departure.

With all the efforts that he has devoted to national issues, BOB has never forgotten where he came from. The people of his fourth district know that they can call on him at any hour with any problem no matter what the concern. BOB's district contains perhaps every facet of America life from agriculture to university town, from affluent suburb to urban ghetto to blue-collar communities. BOB has found a way to represent each of his constituents in Washington. The people of the fourth district have made it clear that they will miss having BOB LEGGETT in Congress as much as we will miss having BOB LEGGETT in Congress. It is with the deepest personal regret that I mark his retirement for I know what the people of the Fourth District of California know: that BOB's retirement marks the end of the legislative career of one of the most effective Representatives the country has ever seen. He will be sorely missed.●

● Mr. CLEVELAND. Mr. Speaker, it has been a great pleasure for me to have known Congressman JOHN J. FLYNT, JR., during our service in the House. JACK is a warmhearted person and my admiration for him has increased steadily as it has been my privilege to know him better.

The manner in which he has handled the work thrust upon him as chairman of the House Committee on Standards of Official Conduct has been noteworthy. This has probably been the most difficult job any person in the House has been called to perform and it is to JACK FLYNT's enduring credit that he did this in a manner which has won widespread respect. That he could accomplish this while carrying on his other important responsibilities is truly remarkable, and an enduring monument to JACK FLYNT's excellence as a legislator.●

● Mrs. LLOYD of Tennessee. Mr. Speaker, it is with the greatest deal of personal sorrow that I join with my dear friend from Alabama, Mr. BEVILL, in this special order tribute to our mutual friend and most distinguished colleague, the Honorable WALTER FLOWERS. During my short tenure in this Chamber, there is no one for whom I have developed more respect and admiration.

To the millions who watched with keen interest the impeachment hearings during the 93d Congress, the gentleman from Alabama's eloquence, sincerity, and brilliance were highlights in those memorable proceedings.

It has been my great good fortune to serve with WALTER FLOWERS on the House Science and Technology Committee. I have seen first hand the dedication, hard work and study that he brought to the task of chairing the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration.

This was an area of new jurisdiction for our committee at the outset of the 95th Congress. Certainly the subject matter of the subcommittee included the most advanced, highly technical issues upon which this Congress was to work. The chairman of the subcommittee made himself a master of those areas and has laid the foundation for our committee in the years ahead. Along with his expertise, as a member of his subcommittee, I shall continue to be grateful for his fairness in dealing with the members, even those who may have disagreed with him.

This Chamber is indeed poorer for the loss of his leadership in the 96th Congress. It is my earnest hope that he will consider remaining active in his service to this Nation.●

● Mr. CLEVELAND. Mr. Speaker, it is a pleasure to join with many of my colleagues and Congressman JIMMY BURKE's friends to pay him tribute as he concludes his outstanding public service to the Commonwealth of Massachusetts and the United States.

For 16 years I have served in Congress with JIMMY and on countless occasions have benefited from his friendship, good advice and wise perspective. JIMMY BURKE's career has been noted by his concern and compassion for the less fortunate, but tempered by realism and commonsense. On many issues he has been far ahead of his times.

We have all admired his courage in carrying on despite his recent physical disability. It is my personal hope that JIMMY BURKE will enjoy a well-deserved retirement and that he will take much deserved comfort in his many legislative attainments and the high esteem which he enjoys among his colleagues in the House.●

● Mr. HUBBARD. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to WALTER FLOWERS who will be leaving the Halls of Congress at the close of this session, though a hunch tells me that we will be seeing WALTER even after his retirement.

WALTER has served in this body with distinction and pride and he deserves our respect and admiration for the fine job he has done for his Alabama constituents over the years and the contributions he has made in aiding the Congress in producing effective legislation. His ability and dedication to high performance will remain as an example for all of us to follow.

The people of the Seventh District of Alabama whom WALTER FLOWERS has represented so faithfully and ably over the past 10 years have every right to be proud of his accomplishments, and I would sincerely add my own thanks to

him for providing strong leadership throughout his distinguished career in the Congress.

I am sure that he will continue to acquit himself with distinction in his future pursuits, whatever they may be.

Those of us who live in the First Congressional District of Kentucky will always look upon Congressman WALTER FLOWERS as a great American.●

● Mr. FOWLER. Mr. Speaker, Congressman JOHN FLYNT in retiring, leaves us a legacy: That politics should be about the cultivation of character. His years in the House of Representatives have reflected that philosophy and his unwavering adherence to duty, civility, and service to his constituents have trod the path for those of us who flail about for touchstones of personal department in our representative capacity.

In the realm of congressional ethics he will leave "the air signed with his honor." This body will be diminished by his departure. Its character will suffer the loss.●

● Mr. BURLISON of Missouri. Mr. Speaker, it is a valued pleasure and privilege to join my friends in the praise of our colleague, WALTER FLOWERS. He has been a bulwark of strength and example for me these past 10 years. It seems only yesterday that we came to Washington as classmates to the 91st Congress.

WALTER came to the Nation's Capital in time to play a monumental role in one of the hallmark sagas of American history. My reference of course, is to the House Committee on Judiciary hearing on the impeachment of President Richard M. Nixon. The legal skills and ethical strengths of WALTER FLOWERS were on nationwide display. Those unique qualities acquitted him well and brought great honor and respect to the institution of the House of Representatives at a critical time in our history.

I wish my friend health and success. His presence and influence will be sorely missed in this body.●

● Mrs. LLOYD of Tennessee. Mr. Speaker, it is with great sadness that I join with the many friends of JACK FLYNT in wishing our colleague well on this the final day of his service in the U.S. House of Representatives.

There have been very few Members of this body to serve with greater distinction and responsibility than my dear friend from Georgia. He has been generous with his time, especially to those of us who are new to service in the House. He has been willing to share of his wisdom and his experience with his colleagues, and he has always counselled wisely.

Few are as deserving of the rewards of peace and leisure as JACK FLYNT but this Chamber will most assuredly be the poorer for his absence in the 96th Congress. Although I wish him the very best in his new endeavors, I do hope that he will lend a sympathetic ear to the occasional pleas for help that are sure to come to him from his colleagues in the House.●

● Mr. HARRINGTON. Mr. Speaker, I rise in honor of a fellow retiring colleague from the Massachusetts delegation, the Honorable JAMES BURKE, who served with vigor and distinction in this Chamber for two full decades. That record of service perhaps is best exemplified by our colleague's tireless efforts this year to direct the Congress attentions to the failings of the social security financing system.

Whether in the Ways and Means Committee, in the Democratic Caucus, in the corridors or on the floor of this Chamber, JIMMY BURKE has worked unstintingly to reverse the burdensome and ill-conceived results of the social security legislation we enacted just last year. His campaign for general revenue financing of social security comes to mind especially tonight—as we move into the final, early morning hours of the 95th Congress and attempt to make the best of a bad business with a patched-up reelection year tax bill. Had this body paid more attention to the Ways and Means Subcommittee chairman, we might have had a more responsible tax reform vehicle than the disappointing bill we have acquiesced in this evening.

In the final analysis, however, JIMMY BURKE's foresight on this issue will, I am sure, be redeemed in the House just as his attempt to roll back the social security tax increase has been overwhelmingly embraced by the working men and women of this country. That he has thus served the interests of his constituents while garnering the respect of his colleagues, is perhaps the best tribute to this public servant as he prepares to retire to private life.●

● Mr. MANN. Mr. Speaker, I rise to acknowledge the retirement of an esteemed colleague and a fine gentleman. GEORGE SHIPLEY. a dedicated legislator, is retiring after 18 years of service to the people of his district and the Nation as a whole. There are not superlatives enough to describe the depth of his integrity or the breadth of his efforts in his years here.

As a member of the Appropriations Committee, the Public Works Subcommitee, and chairman of the Legislative Subcommittee, he has accomplished much. To merely list his legislative achievement would be an injustice, for it would not reveal the scope of his excellence in serving this Nation.

GEORGE's departure is a loss for this body, but a gain for those with whom he will associate in the future. We have all come to respect the wisdom and judiciousness of his subdued manner, and trust that wisdom will carry him to a future that is as bright and productive as his distinguished past.●

● Mr. BENJAMIN. Mr. Speaker, I appreciate the opportunity of addressing the House during this special order to honor my friend and colleague, the Honorable GEORGE SHIPLEY, who is now retiring following 20 years of conscientious and dedicated service to his country and this Congress.

As a loving husband and father, GEORGE SHIPLEY has always distinguished himself by his continuous concern for others. This concern was manifested in his service as a member of the U.S. Marine Corps, later as sheriff of Richland County and as a Member of this body.

While a colleague can easily extol the virtues of a departing Member, the true measure of a man is that taken by those he is charged to serve. Those people, the residents of Illinois' 22d District, have taken the measure of GEORGE SHIPLEY and returned him to this Congress nine times. Historically a swing district, these citizens did not endorse a particular party label, nor an ideology, but rather the man himself, and returned him to the national legislature since the 86th Congress.

My fond recollection is that I not only had the privilege to serve with GEORGE as a Member of the House, and as a fellow committee member, but also as a colleague who had the opportunity to work closely with him in his capacity as chairman of the Appropriations Committee's Legislative Branch Subcommittee.

During that time, no one made GEORGE SHIPLEY treat me with kindness. No one made him a patient teacher. No one made him extend himself selflessly when asked for help. advice or assistance. No one, that is, except GEORGE SHIPLEY himself. Above all things, the man of whom I speak is a gentleman in the finest sense of the word, honorable, gracious, and kind.

We will solely miss GEORGE SHIPLEY. It is always difficult to be separated from a friend. My hope and wish is that GEORGE, his wife and family have a long, joyful and healthy future life.●

● Mr. MONTGOMERY. Mr. Speaker, my greatest regret over the retirement of JACK FLYNT is that we will be losing an influential voice on the Appropriations Committee for a strong national defense in America. When the chips were down, I always knew I could count on our colleague to come down on the side of a military posture which would maintain this Nation's ability to deal from a position of strength.

I also wish to express my very sincere thanks to JACK FLYNT for serving in such an outstanding manner in the thankless position of chairman of the Committee on Ethics. This has not been an easy task, especially these last few years, but JACK FLYNT has proved himself to be the man for the job and he has conducted himself in a manner in which we can all be proud.

Mr. Speaker, I shall also miss JACK'S kindness and personal friendship. I often sought his counsel and appreciate the fact that he always willingly gave it. We wish him the best in the years ahead.●

● Mr. MURPHY of Illinois. Mr. Speaker, my good friend GEORGE SHIPLEY is retiring at the end of the 95th Congress. During his 20 years in the House, GEORGE has worked tirelessly in the interests of his constituents, who have shown their deep appreciation by reelecting him 10 times.

As a member of the Appropriations Committee, GEORGE has developed an expertise in legislative and fiscal matters that is respected by all of us in the House. We will miss his skills, as well as his warm and genial manner.

Mr. Speaker, I wish GEORGE SHIPLEY the very best as he retires from public

life. I know that whatever GEORGE does now, his talents as a legislator will be put to good use in the private sector.●

● Mr. MANN. Mr. Speaker, JACK FLYNT is an honorable man who will leave a great void in the House with his retirement. Throughout his 24-plus years of service in Congress, JACK has represented the Sixth District of Georgia with integrity, ability, and courage. His constituents, I know, share with his colleagues a pride in the manner in which he carried out his responsibilities, and a deep disappointment that the distinguished legislator has chosen to step down with the sine die adjournment of the 95th Congress.

As chairman of the House Standards of Official Conduct Committee, JACK exhibited leadership qualities rare in this day and time. Shouldering the necessary but unpleasant burden of sitting in judgment of his peers, JACK brought restraint, balance, and judicious deliberation to the committee's activities. His courage and honor were nowhere more evident than in the outstanding manner in which he handled the recent investigation and House action on the Koreagate matter. The esteem in which he is held by the leadership of this House is further illustrated by his appointment to the important Select Committee on Ethics, charged with interpreting reforms adopted by the full House.

As a senior member of the Appropriations Committee, JACK's commitment to fiscal restraint and sound economic policies was his guiding light. No free spender, he; no rubberstamping Member endorsing whatever new, expensive project might be on someone's wish list. JACK took the time to consider, to deliberate, to set priorities. We need more like him, Mr. Speaker.

JACK FLYNT will be missed by this Nation—in the Halls of Congress, certainly by his constituency, and by those of us who were proud to call him friend and colleague. I wish JACK and his lovely wife. Patricia, many years of health and happiness, and I am confident they will find success in whatever endeavors they choose to undertake.●

● Mr. RHODES. Mr. Speaker, one of the most knowledgeable Members of the House in the field of taxation, Representative JAMES BURKE, will be leaving us at the end of the 95th Congress.

He served most of his 10 terms on the Ways and Means Committee, and most recently as ranking member of the Joint Committee on Taxation. He has served during a period of considerable growth in our Nation, and in the revenue-raising process of Government.

I have been a colleague of JIMMY BURKE's during his entire service in the Congress. He has worked hard and effectively for the people of the 11th District of Massachusetts.

His experience and dedication will be missed in the 96th Congress, and I join my colleagues on both sides of the aisle in wishing him a long and happy retirement in his beloved Bay State.

●Mr. FLORIO. Mr. Speaker JOE LE FANTE's retirement from the Congress will mean that New Jersey will loose a very effective voice in Washington, and that I will see a friend less often. JOE worked diligently on the Education and Labor Committee for the Northeast and especially his States' interests. The legislation which that committee produced, because of JOE LE FANTE's efforts, provided funding formulas for distribution of more moneys than ever before to New Jersey. JOE worked so selflessly for our State that he jeopardized his own health in the process. He left his mark and leaves big shoes to fill for his successor. Former President Harry Truman in a letter to his family wrote "to do the right thing, to do the best we could, never complain, never take advantage, don't give up." JOE LE FANTE measures up to those high standards and we will miss him in the Halls of Congress.●

● Mr. JENKINS. Mr. Speaker, I rise with sadness and with great pride to remark on the long and distinguished career of Representative JOHN J. FLYNT, Jr., the respected and able dean of the Georgia House congressional delegation, who is retiring from his seat in the Congress at the end of this year. We shall miss him as a fellow Member of Congress. We share great pride in his accomplishments over the more than 24 years that he has served in the Congress of the United States.

JACK FLYNT must leave his second love, second to his wife and family, with mixed emotion because his life has been dedicated to law and service. Perhaps he has known throughout his life that there is no worthier pursuit.

Standing here today I remember that JACK FLYNT made his commitment to public service in 1949. He was appointed and served my own home area in Georgia as the assistant U.S. attorney for the northern district of Georgia. His tenure in the office of the U.S. attorney was interrupted by war in 1941. JACK FLYNT answered the call to serve in the European theater achieving a distinguished military record. Returning home in 1945 he returned to the office of the U.S. attorney but resigned to seek election to the Georgia General Assembly. He was sucessful, serving for two years in the Georgia House of Representatives.

JACK FLYNT loved the courtroom and offered successfully for the office of solocitor general—district attorney—in the Griffin Judicial Circuit. He was elected and served as a distinguished trial prosecutor.

In 1954 JACK FLYNT was elected to Congress. His record of able service from that time is familiar to all of us.

When I was elected to Congress in the late Fall of 1976, I told JACK FLYNT that I was seriously interested in serving on the House Committee on Ways and Means. I knew that election to the committee was no easy matter especially for a freshman Member of Congress. I had been told this fact by a number of able and respected leaders with whom I had discussed my interest. I shall never forget that JACK FLYNT as the dean of my delegation never offered a word of discouragement to me but told me firmly that he would help me, a new Member of his Georgia delegation, and he did. I shall always be grateful for his confidence in and help to a struggling freshman.

With JACK FLYNT and his beautiful wife Patty shall always go our love and gratitude for their dedicated service to their people of the Sixth Congressional District of Georgia, the people of Georgia and of the Nation. While JACK leaves the House of Representatives which he has loved so deeply for many years, we know that he will never retire from his active concern and commitment to his neighbors, State, and Nation. We shall miss his advice and the touch of his able staff. We wish for JACK and Patty Flynt the very best in the years ahead and great happiness at home in their native State of Georgia.●

● Mr. McCLORY. Mr. Speaker, my distinguished colleague from Illinois, Congressman GEORGE SHIPLEY of the 22d District, is among the many in this body who have elected to retire voluntarily at the end of the 95th Congress.

As the end of his public career here draws to a close, it is entirely appropriate for us to recall the many contributions which GEORGE SHIPLEY has made. As a member of the House Appropriations Committee, his leadership and influence in this body is well-known and his application to his work in the U.S. House of Representatives has gained him the respect and esteem of his colleagues on both sides of the political aisle.

Mr. Speaker, without reiterating many of the interests GEORGE SHIPLEY and I have in common, or without recounting the numerous contacts which have drawn us together throughout the years, I wish merely to add that he will be sorely missed in the U.S. House of Representatives.

I join with many other colleagues in wishing him a most rewarding and active career in whatever field he selects and for good health and happiness in the years ahead.●

● Mr. DERWINSKI. Mr. Speaker, I am pleased to pay tribute to our distinguished colleague, DON FRASER, as he leaves the House of Representatives at the close of this session.

We all share the disappointment at the outcome of the Senate primary in Minnesota, but political defeat cannot dim the impressive record that DON has compiled during his years in Congress.

It was my pleasure to have served with DON FRASER on the House International Relations Committee for 16 years. Although we had numerous differences of opinion, I will be the first to attest to his outstanding character, dedication, courage of conviction, strong support for the United Nations, and the leadership role which he so effectively filled in the field of international relations.

DON FRASER is one of our most valuable House Members. We will miss him as an outstanding colleague and as the gentleman that he is.

It is my hope that his talents will be recognized by key officials of the administration and that he will be properly considered for appointment in the executive branch should he desire to continue his career in public service.●

● Mr. RHODES. Mr. Speaker, this legislative body will be losing two decades of experience when the dean of the Georgia delegation, JOHN FLYNT, retires.

He has had a distinguished congressional career over the past 23 years, and he has served the Nation and the Sixth District of Georgia with dedication. Most recently he has exhibited a high degree of courage in fulfilling his responsibilities as chairman of the House Ethics Committee, which has had difficult challenges to meet.

It has been my privilege to have been a friend and colleague of JACK FLYNT during his entire tenure in the House. He has earned the respect of Members on both sides of the political aisle.

He will be missed in the 96th, and I join my colleagues in wishing him and his lovely wife, Patty, a long, fulfilling and enjoyable retirement in their Peach Tree State.●

● Mr. MOAKLEY. Mr. Speaker, I rise to pay tribute to my good friend and colleague from Massachusetts, JIM BURKE. As we know, JIM BURKE is retiring this year after 20 years of service in the U.S. House of Representatives.

I was privileged to know JIM while we both served in the Massachusetts State Legislature, from 1952 through 1958. JIM's experience on the State level, coupled with his military service as a special agent in military intelligence in the South Pacific during World War II propelled him to the U.S. House of Representatives as a member of the freshman class of 1958. JIM's dedication to hard work, mastery of procedure and clear sense of practicality made him a natural to be named to the House Ways and Means Committee, only the third Member of the House to be accorded such an honor after only one term in the House. JIM's track record in dealing with issues such as social security, health care, welfare and taxes as a member of Ways and Means made him a national champion of the Nation's elderly, infirm and poor. As chairman of the Committee on Social Security and as a member of the House Committee on Unemployment Compensation and Public Welfare in the 95th Congress, JIM played an instrumental role in shepherding major legislation in those areas through Congress.

It is all too seldom that a person the likes of JIM BURKE comes along. I count myself as being very privileged to have worked with JIM for so long, both in Boston and here in Washington. I count myself even more privileged to consider Jim a good friend. JIM has been a faithful public servant for many years. I take this opportunity to wish him all the best in whatever he chooses to undertake. I am confident that he will bring to it the same dedication that he has brought to his congressional career.●

● Mr. ZABLOCKI. Mr. Speaker, with adjournment of the 95th Congress, my friend and colleague from the State of Wisconsin, Representative BOB KASTEN, will be leaving public life to return to Wisconsin.

Mr. Speaker, after observing BOB KASTEN's performance here in the House of Representatives the last 4 years, I might venture to say that we may see him again some day. As a young legislator, BOB quickly learned the legislative process in the House and showed talent in getting his positions across. He is energetic, efficient, and determined.

The Ninth District of Wisconsin, which BOB KASTEN serves, is near my own Fourth District, and I have observed his responsiveness to his constituents. I believe BOB always seeks to represent the best interests of his constituency and has done so with perseverance and talent.

Mr. Speaker, as a member of the Government Operations and Small Business Committees, BOB has worked to streamline and reform our Government's responsiveness to individuals and businesses. He has also authored legislation to provide assistance to new homeowners, and to reform social security.

Mr. Speaker, I am sure that BOB KASTEN will do a fine job at whatever he chooses. He will be missed by this body. I join our colleagues in extending to him my personal and sincere best wishes for a fulfilling and happy future.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable GEORGE E. SHIPLEY, who is retiring this year at the close of the 95th Congress. I am honored to have served with him during the 14 years I have been in the House of Representatives as his colleague from Illinois.

GEORGE SHIPLEY has given 2 decades of dedicated and devoted service to his constituents of the 22d District of Illinois, and has compiled an outstanding record during his distinguished congressional career.

Elected to the 86th Congress in 1958, his diligent efforts as chairman of the Legislative Subcommittee of the House Appropriations Committee and as a member of the committee's Public Works Subcommittee have been both fruitful and beneficial to the citizens of this Nation, and indeed, these successful efforts have contributed mightily to the strength and greatness of our country.

GEORGE has a sustained record of conscientious service, and his demonstrated ability will be missed by his colleagues in the House and by his constituents. In every respect a true representative of the people, his concern for good Government and a strong America will be long remembered by all who came in contact with him and learned from him.

I extend to GEORGE my warmest best wishes for a healthy and happy retirement.●

● Mr. BARNARD. Mr. Speaker. I join with my colleagues in paying tribute to the dean of our Georgia delegation, the Honorable JOHN J. FLYNT.

It has been my privilege to know JACK FLYNT as a colleague in the House and before that, as a friend for many years.

To capsulize the life and achievements of this dynamic and complex man through his 24 years of public service in the legislative branch of our State and National Government, is difficult indeed. This I can say: America is poorer to lose such a wise elder statesman. We had hoped to have his counsel for years to come.

We know JACK as a master of the legislative process, as his effective tenure on the defense appropriation committee attests. He will long be remembered for his unfaltering support of the B–1 bomber and a strong national defense; for his early and wise challenge to our military presence in Vietnam and for his diligence in the very difficult role of chairman for the Korean investigation.

The two decades in which JOHN FLYNT has served his State and country have demanded men of strength and character. JACK has never been found lacking and yet to me the most remarkable quality of my friend is not his strength as a decisionmaker, which is undeniable, or his skill as a leader, which is unchallenged, but in the fact that I always know JACK cares about his colleagues, about his friends, about the people of Georgia's Sixth District, whom he has served with distinction. Whether large or small, their concerns were his, to which he gave his best efforts.

JACK is more than a politician, he is a very human, earthy, robust, forceful individual—a true gentleman and a memorable statesman.●

● Mr. VENTO. Mr. Speaker, it is indeed a pleasure for me to join my fellow colleagues today to pay tribute to Congressman JIMMY BURKE who will retire after serving 10 terms in this body.

JIMMY BURKE has served both his constituency and our Nation with the highest distinction since his election to Congress in 1958, and I know his presence in this Chamber will be sorely missed when the 96th Congress convenes next year.

As a first-term Congressman, I have been continually impressed with JIMMY's obvious expertise in so many areas, but particularly his knowledge of tax issues. He has ably guided the Social Security Subcommittee during the 95th session, and the many needed improvements in our social security system passed last year are the direct result of his hard work and perseverance.

It has been a personal honor and privilege to have served with Congressman BURKE during the 95th Congress. I wish him continued success in all his future endeavors.●

● Mr. ERTEL. Mr. Speaker, as we come to the final hours of the 95th Congress, it is fitting that we pay homage to two very able and distinguished Members from Pennsylvania who are leaving this great body. All of us are better for having known these two men. But, without them, this House will never be the same.

Mr. Speaker, in Pennsylvania as well as in Washington the name JOHN DENT is firmly and approvingly associated with economic justice. As floor leader in the Pennsylvania Senate and as chairman of the Labor Standards Subcommittee, JOHNNY DENT has shown us all what it means to commit one's heart and mind to the interests of working men and women.

Mr Speaker, throughout Pennsylvania JOHN DENT is known as a man who remembers where he came from and has a clear vision of where this country ought to be going. He has taught me

more than he realizes, but perhaps not so much as he had hoped.

Mr. Speaker, ROBERT N. C. NIX's career has been a pathbreaking one. From the day he became the first black man to graduate from the University of Pennsylvania Law School, through his days as one of Philadelphia's foremost trial attorneys, and throughout his career as Pennsylvania's first and, to this date, only black Congressman, BOB NIX has been able to join distinguished service with quiet dignity. He is at once a man of exceptional accomplishment and a man of compassion and restraint. He is a man of great idealism, a man who can get results, a man who has given much to this body, and a man whose presence will be sorely missed.

Mr. Speaker, I am thankful for having had the chance to work with these fine men and I give them my sincere congratulations on their fine and inspiring careers.●

● Mr. JENKINS. Mr. Speaker, this session marks the end of the congressional career of a good friend and distinguished colleague, WALTER FLOWERS.

During his decade of service to the people of Alabama and this Nation, WALTER FLOWERS has pushed for many important programs and projects to benefit our citizens. He has helped guide several pieces of legislation to passage and worked against needless Federal spending and interference.

As chairman of the subcommittee on fossil and nuclear energy research, he has dealt with several major issues, including synthetic fuels development, nuclear waste management, breeder reactor development and the impact of environental standards on new energy technologies.

His work on the Judiciary Committee, the Science and Technology Committee, and the Committee on Standards of Official Conduct have helped to shape many of our current laws.

WALTER's presence in this Chamber will be missed. I will miss his council and sound advice. I know my colleagues will join me in saying thank you to WALTER FLOWERS for 10 years of devoted service.●

● Mr. ANNUNZIO. Mr. Speaker, I rise in tribute to the Honorable JAMES A. BURKE, who is retiring this year after two decades of service to his constituents of the 11th District of Massachusetts and to the people of this Nation. JIM BURKE has been my friend since I was elected to Congress 14 years ago, and I was sorry to learn, as so many of his friends, constituents, and acquaintances were, of his decision to retire from the Congress.

JIM was first elected to the 86th Congress in 1958, after a career of outstanding service and leadership in the Massachusetts State House of Representatives and as a member of the Massachusetts General Court. He also has a fine record of gallant military service in World War II as a special agent in the counterintelligence, where he won four battle stars and other decorations.

As the ranking member of the Joint Committee on Taxation and the Subcommittee on Public Assistance and Unemployment Compensation, JIM BURKE has proven himself a capable legislator and fully worthy of the trust and confidence of his constituents.

As the distinguished chairman of the Subcommittee on Social Security of the House Ways and Means Committee, he became a self-educated expert on the social security system and has earned the respect of his colleagues as a man of outstanding ability, deep compassion, and courage.

His constituents and the people of this country can be proud of his splendid and admirable record of achievement. His compassionate devotion to hard work in dedication to the highest principles is symbolic of the greatness and strength of the people of our country.

During his lifetime of public service, Chairman BURKE witnessed some of the greatest moments in the history of mankind and he has experienced, in a very real sense, the triumphs and the tragedies of our Nation. He can retire with the assurance that through his efforts mankind has benefited, and there is no tribute higher than this.

Mr. Speaker, I am proud to have worked with JAMES A. BURKE in the Congress, and I shall always cherish the good counsel and advice that he has so generously given over the years. I extend to JIM my best wishes for a healthy and happy retirement.●

● Mr. JONES of Oklahoma. Mr. Speaker, as we prepare for adjournment, it is tempting to look back on this session and congratulate one another on the good things we have done for our country during the past 2 years.

While I certainly think we have acted responsibly on many crucial issues during this Congress, I do not think we can be completely honest with ourselves if we do not admit that many tough issues lie ahead of us in 1979.

One of those issues is social security. We must study the system in depth next year. We must take a responsible and deliberate course of action to put the trust fund on firm ground. When we do so, I know that we will all realize that we will be without the wisdom and experience of one of us who has fought long and hard to defend the system—JIM BURKE.

The social security issue is "new" to many of us. Not so to JIM BURKE. Congressman BURKE has been studying the system as the chairman of the Ways and Means Subcommittee on Social Security for a long time. He has warned us on many previous occasions of the problems we now face. In truth, Mr. Speaker, JIM BURKE and I have been on opposite sides of the social security issue on some occasions. Our differences have been procedural, rather than substantive. I know we will all miss his counsel next year when we tackle this problem head-on.

He leaves us at a time when we need our best minds and our best talents in order to take the right course of action for the immediate future and for years thereafter. I hope he will consent to share his experience and views with us next year. We will all profit from his knowledge. We shall miss his talents on the Ways and Means Committee.

The people of Massachusetts will miss his leadership and mastery of the issues. His courage and dedication in the face of physical pain has inspired us all, and made us aware of our own limitations. JIMMY BURKE will be missed by all of us, Mr. Speaker.●

● Mr. NATCHER. Mr. Speaker, a fellow Kentuckian, the Honorable JOHN BAYNE BRECKINRIDGE, is retiring from the House of Representatives, and I cannot allow this moment to pass without commenting on the excellent record of my esteemed colleague.

Before coming to the House of Representatives, Congressman BRECKINRIDGE served with distinction in the great Commonwealth of Kentucky. As the attorney general he established an outstanding and enviable record. His competence as a trial lawyer was recognized by the legal profession and the Attorneys General Association. So much so that in 1968 he was selected for the National Association of Attorneys General Wyman Award for State Attorney General.

The Sixth District of Kentucky elected him to Congress in 1972. He proved to be an able legislator and an energetic advocate of his people. He performed his duties with intelligence and compassion. This House considers Congressman BRECKINRIDGE a friend.

Mr. Speaker, the Honorable JOHN B. BRECKINRIDGE will be missed and I want to take this opportunity to wish him well in all of his future endeavors.●

● Mr. BENNETT. Mr. Speaker, we will all greatly miss the gentleman from Massachusets, JIMMY BURKE, as he retires from Congress at the end of this session. His keen mind and fine Irish wit not only endear him to us all, but were potent reasons why he has been such an effective legislator in his long and dedicated service here. We all wish for him good health and happy living in his retirement. And we hope he will often be with us in the future in visits of friendship and advice.●

● Mr. VANIK. Mr. Speaker, I want to express my gratitude for the privilege of knowing and serving with the distinguished member from Ohio, CHARLES W. WHALEN, JR., who is retiring this session.

CHARLIE WHALEN is a man who leaves a definite mark in the legends of this institution. In his ideas and in his deeds he has served as a guidepost of steadfast commitment. His great influence on the decisions that have guided America both at home and abroad will not be soon forgotten.

He is an outstanding Member of Congress highly respected by all of his peers and, to those who know him, a man overflowing with an abundance of generosity and integrity. His district, the State of Ohio, and the country is losing the services of a great American.●

● Mr. JONES of Oklahoma. Mr. Speaker, I join my colleagues in the House in honoring our good friend, WALTER FLOWERS.

The citizens of Alabama's Seventh Congressional District will miss WALTER's hard work and dedication on their

behalf. In my three terms in Congress, I have been impressed with Congressman FLOWERS' mastery of the issues, and his particular service on the House Judiciary Committee and the House Ethics Committee. He served on both panels at a time when the Nation needed Representatives with foresight and a sense of history to grapple with the issues of the day. WALTER FLOWERS did not disappoint the people of Alabama or the Nation.

His strong leadership and calm resolve to do what was right, not what was popular, was his contribution to the United States. I have no doubt that his desire to give of himself and to help others has not ended, and that the State of Alabama will continue to benefit from his wisdom and vision in the coming years.●

● Mr. ROSTENKOWSKI. Mr. Speaker, at the conclusion of this session, Congress will lose one of its most dedicated and talented Members—Congressman GEORGE E. SHIPLEY.

I want to make a few brief comments about GEORGE. The comments need not be lengthy because this is one man whose record truly speaks for itself. Over his 20-year career in the House GEORGE has brought distinction to himself and to the House of Representatives.

GEORGE has represented a district which has never been considered a democratic stronghold. In fact, upon examining Illinois' 22d District, one would ask the question of how a Democrat could consistently represent this area for two decades. GEORGE's continuous reelection is a tribute to the quality of his service. Very simply, he has won the allegiance of many independents and Republicans, as well as Democrats.

His dedication to his constituency has been consistent. GEORGE has always been attuned to the concerns of the people he represents. Knowing their problems, as he did, made him well-suited to come up with solutions.

GEORGE's service on the Committee on Appropriations has been commendable. He has served on the Agriculture Subcommittee, the HUD—Independent Agencies Subcommittee, and has served as chairman of the Legislative Subcommittee. I think my fellow Members can agree with my belief that in his service on this very difficult and demanding committee GEORGE was always fair.

Mr. Speaker, when we lose GEORGE SHIPLEY, we lose a man of character, a man who has defended the institution of the House of Representatives, a man who has improved the quality of the performance of this institution.

Personally, I will lose a friend, and a man whose wisdom has been a source of strength to the Illinois delegation. I know I join my colleagues in wishing him well. And I am confident that GEORGE, himself, can look back on his two decades of service in the House with many happy memories and the knowledge that he has achieved much.●

● Mr. BENNETT. Mr. Speaker, as this session comes to a close the knowledge is with us that the gentleman from Georgia (Mr. FLYNT) will be retiring from Congress; and none of us likes to see that occur. He has been a tower of strength for the national defense of our country and has proved himself to be a greater leader in this field, but also, in many others.

He chaired the House Committee on Standards of Official Conduct and did it excellently under very trying circumstances. I served under him on that committee and marvelled at his untiring dedicated efforts to do always what was right, unswayed by pressures of all sorts, particularly occasioned by many vastly distorted and unfounded statements which appeared in some of the media. We are lucky to have had him in this position in these trying times. Only a man with nerves of steel could have taken that strain with his demonstrated good will, which backed at all times his pursuit of the truth and justice. We will miss him greatly; and we all wish for him every happiness in his retirement from this body.●

● Mr. JONES of Oklahoma. Mr. Speaker, I am happy to join with my colleagues in honoring the gentleman from Georgia, JOHN J. FLYNT, Jr.

JACK FLYNT has given many years of distinguished service to the Appropriations Committee. In more recent years, he has been known for the fair and compassionate handling of his duties on the Ethics Committee as they undertook the difficult task of investigating ethical practices of our colleagues. Even in this difficult situation, JACK proved his ability to care for the individual and serve the Nation by carrying out his obligations on the panel.

JACK, I am sure I join with the people of Georgia's Sixth District in wishing you many happy and productive years to come. We thank you for the commendable job you have done in your many years in the Congress. Your contributions will be missed and your past contributions will be rememberd.●

● Mr. RODINO. Mr. Speaker, this, truly, is something I would rather not do. I would rather not say goodby to WALTER FLOWERS.

I will miss too sorely his counsel as a member of the Judiciary Committee. I will miss too noticeably his warmth and his good will. And I will miss his special friendship.

Mr. Speaker, WALTER FLOWERS has been a leader in this House. During the impeachment inquiry in 1974, the whole country became aware of his special talents and his great capacity as a constitutional lawyer. But WALTER FLOWERS' greatest contribution came not so much during those times of heightened national attention, but in the quieter, equally telling moments of private deliberation. His assistance to me and to the work of the Committee of the Judiciary is immeasurable.

WALTER FLOWERS is a lawyer from Tuscaloosa, Ala. But with enormous skill as a legislator and always with good judgment he was able to work closely, constructively, with lawyers from Detroit and with lawyers from Newark, with women legislators from Texas and with women legislators from Brooklyn, with Democrats and Republicans literally from Maine to California.

Mr. Speaker, we offer WALTER our very best wishes for years and years into the future and hope, truly, that he will continue his service to the Nation.●

● Mr. REUSS. Mr. Speaker, at the end of the session my distinguished friend and colleague WALTER FLOWERS leaves Congress after a decade of service to his district, to the House, and to the Nation.

It has not been an easy 10 years. And as the House has faced difficult choices, it has often looked to the leadership and counsel of WALTER FLOWERS.

The Republic has not been more severely tested than it was during the trauma of Watergate. We met that test with honor, and the role of WALTER FLOWERS was critical. His dedication to the dispassionate search for truth and to the reaching judgment based on that truth was a standard to which his colleagues, his constituents, and all the people of the country could repair.

As chairman of the Subcommittee on Energy Research (fossil fuels) he has again been at the cutting edge of one of the country's most perplexing problems. Again his intelligence and objectivity have shown his colleagues the way.

As this body has faced the challenge of putting its house in order, WALTER FLOWERS, as a member of the Committee on Standards of Official Conduct, has again been called on to lead in a tough situation. His response has been as fine as we are accustomed to from him.

WALTER FLOWERS is in his prime. I know that, in or out of public office, we will hear from him again on the issues to which he has dedicated his career.●

● Mr. RHODES. Mr. Speaker, when the 96th Congress convenes, we will miss one of our hard-working Members from Alabama, WALTER FLOWERS, who left this legislative body to seek other office.

It has been my pleasure to have been a colleague of WALTER FLOWERS during the decade he has served in the House. He has been a staunch supporter of the free enterprise system, and a foe of excessive and unnecessary Federal intervention in the marketplace and overregulation of business. He is one of the most knowledgeable Members on the intricacies of the Federal antitrust laws.

WALTER has earned a host of friends, on both sides of the political aisle. Although he was not successful in his foray into other political fields, I know that his experience, abilities, and energies will be called upon to serve the people of Alabama somewhere down the line. I join my colleagues in wishing WALTER every success in whatever endeavor he turns his talents to pursue.●

● Mr. THOMPSON. Mr. Speaker, I am pleased to join my colleagues in this expression of farewell to JOE LE FANTE, although what I am about to say is tinged with a deep regret that he will no longer be among us.

JOE came to the House after a truly distingushed record in our New Jersey House of Assembly where he served as speaker. He graced that office with a display of political courage that has rarely

been seen in the chamber at a time when our State desperately needed leadership.

JOE brought to our Committee on Education and Labor the political wisdom and maturity that he had developed in New Jersey and immediately began to make his presence felt. Although beset by illness during a portion of his tenure here, JOE made his mark within the committee and the House. We will sorely miss him.

It is my profound hope that his experience, his wit, and his judgment will be utilized in a position of high responsibility when he returns to our home State. We can ill-afford to lose a man of his caliber from the public scene. JOE, I bid you Godspeed.●

● Mr. MURPHY of Illinois. Mr. Speaker, I want to pay tribute to a fine Congressman, WALTER FLOWERS of Alabama, who will be leaving us at the end of the 95th Congress.

It has been my privilege to serve with WALTER FLOWERS during his 10 years in the House. He has ably served his constituents as a member of Judiciary and Science and Technology Committees. His expertise in these legislative areas has won him the respect of his colleagues and the admiration of his fellow Alabamians.

Mr. Speaker, I wish WALTER FLOWERS the very best as he leaves public office. His skills as a legislator are a clear indication that WALTER FLOWERS will succeed in whatever endeavors he undertakes in the private sector.●

● Mr. LEHMAN. Mr. Speaker, I was born and grew up in Selma, Ala., so I have always considered my colleague WALTER FLOWERS to by my Congressman in the House of Representatives.

WALTER was also my Congressman in another way. His level of intellectual honesty and performance and courage set a standard for which to strive, certainly for me and, I am sure, for many more of our colleagues.

This House and the Congress will miss WALTER, both for the important legislation he has worked so hard on and for his own personal qualities. I hope he will be a regular visitor on this floor; I know he will be welcome anytime.●

● Mr. TEAGUE. Mr. Speaker, I rise to pay tribute to one of the finest men in Congress who is leaving the House at the end of this term, the Honorable WALTER FLOWERS of Alabama.

As we all know, WALTER chose to seek a Senate seat during this second session of Congress, and I truly believe his decision was based on a firm belief that he could do more for the people of Alabama than he has accomplished in the House.

WALTER was first elected to the 91st Congress and served with distinction on the Committee on Science and Technology which I have the privilege to chair, as well as the Committee on the Judiciary, the Select Committee on Aging, and the Ethics Committee. He has also been active in the Democratic leadership through his service on the Democratic Steering and Policy Committee.

WALTER is a unique fellow who possesses a keen intellect, an innate sense of fairness that quickly showed itself during many tough issues in committee meetings as well as floor activities, and a fine sense of humor.

I am certain my colleagues join me in saluting him for his exemplary performance during the Judiciary Committee impeachment hearings. I feel that he brought great honor to this body as well as to the constituency he represented in the great State of Alabama.

WALTER is also a good personal friend. He always has time to discuss a problem in the calm of the evening hours and has a way about him of making the most difficult of issues appear simple. During the many years of tough issues dealing with the space program, Ethics Committee issues and the contemporary energy issues, he has displayed degree of confidence and foresight in helping the committee discharge its responsibilities not only to the House of Representatives but to the Nation as well.

His life and career have enriched the lives of many people—including mine. For this I am extremely thankful. I know WALTER will continue to distinguish himself in future endeavors and I say goodbye, and good luck to my good friends, WALTER FLOWERS—it has been my pleasure working with you, and I will always be happy you are my friend.●

● Mr. MONTGOMERY. Mr. Speaker, in rising to pay tribute to WALTER FLOWERS it is with warm personal feelings that I acknowledge his retirement from the House of Representatives. I say personal feelings because WALTER is a close, personal friend whom I shall miss being able to counsel with on a day-to-day basis.

When first elected to Congress 10 years ago, he brought to this body a drive and determination to do the best job possible for the people of Alabama's Seventh District. His record of service proves that he met his goal.

WALTER FLOWERS has been one of the harder working Members of the House in fulfilling his responsibilities as a member of the Judiciary Committee, Science and Technology Committee, Ethics Committee, Select Committee on Aging, and Select Committee on Ethics. It has not always been easy to meet the many demands placed upon him, but he always willingly served when asked and I might add served in an outstanding manner.

Mr. Speaker, we are losing many valuable colleagues at the end of the 95th Congress and one of the most valuable of these is WALTER FLOWERS. WALTER, we shall miss you, but we shall also be grateful for having been able to call you colleague and friend.●

● Mr. FLIPPO. Mr. Speaker, Congressman WALTER FLOWERS, of Tuscaloosa, has served the Nation and the people of Alabama with distinction in the U.S. House of Representatives. He has had a decade of distinguished service in the Congress. His leadership has brought him national recognition and respect. He has faced the national problem of energy and has led efforts in his subcommittee and in the Congress to reach solutions. His intelligent and thoughtful deliberations in the Judiciary Committee brought him national attention and acclaim during the impeachment crisis which troubled our country. These are important contributions which the gentleman from Alabama has made in a career of public service. WALTER FLOWERS has earned his national stature.

The people of the Seventh District of Alabama know him best and they have shown continued support for him and appreciation of his personal attention to their needs. I am one who can testify that WALTER FLOWERS is the kind of man who extends his hand of friendship willingly. He has been ready and willing to devote his time and energy to help the newest Member of the Alabama congressional delegation. His experience and expertise in the House of Representatives has made a great contribution to our delegation while it has been particularly helpful to me while I learned the ropes on the House floor. I have also had the opportunity to serve with my colleague from Tuscaloosa as a member of the House Science and Technology Committee.

I have been able to see the wisdom and hard work firsthand while serving on the Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration. This subcommittee must reach decisions on issues which are complex and controversial. These decisions play a role in determining the energy policy of our Nation. Subcommittee Chairman WALTER FLOWERS is particularly to be commended for his ability to grasp the issues and act in this critical area of public policy.

WALTER FLOWERS may retire from active service from the House of Representatives, but I am sure that this will not mean any retirement from an active life of public service to the people of Alabama or of the Nation. Leaders and future leaders in this body will seek the views of WALTER FLOWERS. Memory and history will record that WALTER FLOWERS is a man of merit who served well in the Congress of the United States.●

● Mr. RODINO. Mr. Speaker, I would like to take this opportunity to recognize a very fine Congressman and a friend of mine who is leaving Congress this year. Congressman JOSEPH LE FANTE is a man who is widely respected and admired here and in our home State of New Jersey.

During his one term in this House, he served with the same distinction which characterized his work in the New Jersey State Legislature. His outstanding leadership as speaker and majority leader of the New Jersey General Assembly and his efforts to enact legislation to reform welfare programs, reduce drug abuse, and improve law enforcement have been much admired and appreciated by all New Jersey's citizens.

JOE's devotion to his Italian heritage has been a source of pride to Americans of Italian descent from all over my home State.

Mr. Speaker, this "people's house" will miss JOE LE FANTE for he is a legislator's legislator. I wish him well in his future endeavors.●

● Mr. DUNCAN of Oregon. Mr. Speaker, I knew JOHN DENT in the early sixties

when I was in the Congress representing the Fourth District of Oregon. I left for 8 years and returned to find a JOHN DENT who was likewise 8 years older, but who had lost none of his aggressiveness, his eloquence, his integrity, or his ability.

Every candidate hears from his advisors that the voters like a fighter. JOHN DENT is a fighter who bared his sword without a moment's hesitation for those causes which too often went unrepresented in the past. The workingman, the sick, and the injured had a champion in JOHN DENT who will be hard to replace.

As a Member from Oregon, I found him as quick to help us in a cause which he found would help strengthen the Nation as he was to support one from within his own district. JOHN DENT served his district and his country well and he will be missed.●

● Mr. NICHOLS. Mr. Speaker, I take this opportunity to join with many of our colleagues in the Congress in a special tribute to our friend and colleague, the Honorable WALTER FLOWERS, who will depart the Congress at the end of the 95th Congress.

As one of the more senior members of the Alabama delegation, I well recall that day when the newly elected Congressman WALTER FLOWERS raised his hand in this very Chamber and took the oath of office and officially became a Member of this body. During the ensuing 10 years of service to his State and to the Nation, our friend, WALTER, has established a record in which he may be justifiably proud. As a member of the Committee on the Judiciary, he is indeed intellectually gifted, a man of strong convictions, and of monumental ability and a tireless worker.

As a nonlawyer, many has been the time when I sought council from my colleague on matters pertaining to the field of law and equity and justice, and he always gave me sound advice.

I admire him for his many fine qualities and he was keenly aware of the challenges of this generation. Though his voting record was strongly conservative in keeping with both the tone of the times and the wishes of his constituence, he was nevertheless progressive and farsighted and never hesitated in bucking the tide of public opinion if he thought he was right.

History will reflect that outstanding quality in his work with the Judiciary Committee in the Watergate trials when the question arose on the impeachment of former President Richard Nixon. Congressman FLOWERS, after hearing the overwhelming evidence, never waivered in his decision supporting the impeachment charges and his decision was proven correct in a later vote of the full committee and the House of Representatives.

Certainly we shall miss his abilities in the House of Representatives for he was greatly admired as a friend and colleague by virtually every Member of this body.

I recall the first day he came back to this Chamber following his defeat for the U.S. Senate and I remarked to him that I had never seen any Member better received, for virtually all of his colleagues on both sides of the House shook his hand and expressed their regrets in his loss.

Mr. Speaker, we have lost one of the really great Members of this body, but I happen to be one who firmly believes that divine guidance often plays a hand in a man's life and I am confident that WALTER FLOWERS will rise to even greater challenges in the years ahead. I know not whether he will elect to seek public office or whether he may instead choose a career in the practice of his profession, but of this I am certain—in whatever field he pursues, WALTER FLOWERS will make his mark and will be a credit to his profession and to his nation for he is indeed cut out of that sort of cloth.

My very best wishes to both he and his family as he leaves this body. ●

● Mr. ZABLOCKI. Mr. Speaker, not only will the Ninth District of Massachusetts suffer a great loss when my friend and colleague, JIM BURKE, retires, but this House will also suffer the loss of an outstanding Member and truly fine man.

For the last 20 years JIM BURKE has served with integrity and dedication. As ranking member of the House Ways and Means Committee, he developed expertise on public health and welfare issues as well as on tax and trade matters.

Mr. Speaker, JIM BURKE's leadership capabilities were learned early in his career. As a member of the Massachusetts House of Representatives, he served 4 years as assistant majority leader. During the war he was a special agent in military intelligence.

Of JIM BURKE's many legislative accomplishments, he will undoubtedly be remembered the most for his social security initiatives. It was a pleasure to join JIM BURKE in cosponsoring many of his bills which he expertly directed to the House floor. As chairman of the Social Security Subcommittee, he is responsible for the enactment of major reform measures of the Social Security Act. When he presented these bills to the House we saw his exceptional attributes as a manager and leader put in to play.

Mr. Speaker, we will miss JIM BURKE as a friend and colleague. I join my colleagues in wishing him health and happiness in his retirement. ●

● Mr. ADDABBO. Mr. Speaker, it is with distinct sadness that I watch my old friend and colleague JIMMY BURKE prepare to go into retirement with the close of the 95th session of Congress.

He has been of invaluable counsel to me so many times over the course of the 18 years I have been lucky enough to serve with him. We shall miss him here in this body, but I believe it true to say that the Nation will miss his expertise and his common sense most of all.

But beyond that, this true Irish son of Boston has always met every challenge with dignity, determination and a refusal to bow to adversity. Whether it be a personal problem or one of national import, JIMMY BURKE has always displayed courage and decency as he accepted life as it comes, for better or worse.

I have followed his lead so many times because his opinions were always based on the question of what does this bill do to the working men and women of this Nation, and he never once swayed from that commitment in all the years I have known him.

I wish JIMMY all the best in the years ahead, in whatever endeavors he might undertake, and I know I speak for all the Members in noting that with his retirement, we are all the more poor for it. ●

● Mr. JONES of Oklahoma. Mr. Speaker, I join my colleagues in congratulating GEORGE SHIPLEY for his many years of dedicated service in the U.S. Congress and in wishing him the very best for the future.

GEORGE SHIPLEY is the silent, effective type of Congressman who does not get a lot of play in the newspaper headlines. He does his legislative homework in a persistent, conscientious manner. I am sure the people of the 22d District in Illinois will long remember his faithful work on their constituent problems.

GEORGE SHIPLEY has handled the many political changes in the past 20 years in a diplomatic fashion and I know of no enemies that he has made throughout the years. He can look back on his years among us with pride, just as he can look forward to his years away from us with enthusiasm for whatever else life brings to him.

GEORGE, the best to you! ●

● Mr. BINGHAM. Mr. Speaker, I am glad of the opportunity to join in saluting WALTER FLOWERS as he leaves the House.

While I have never served on a committee with WALTER, I have been impressed with his great ability and with his statesmanlike approach on many occasions. This was illustrated just yesterday when he made some very wise comments in the course of the debate on resolutions of reprimand.

WALTER'S courage and clarity of thought were apparent to the entire country during the televised impeachment proceedings in the House Judiciary Committee.

It is a pity that some one with WALTER'S ability should have to give up his House seat in order to run for the Senate, but I suppose the Senate will never allow that arrangement to be changed.

I wish WALTER well in all his future undertakings. I have a feeling he will be back on Capitol Hill before long.●

● Mr. DERWINSKI. Mr. Speaker, I am pleased to join in this tribute to our distinguished colleague, JAMES A. BURKE. JIMMY'S achievement of high respect among his colleagues has been the result of hard and conscientious work and his devotion to the office he holds.

During the 10 terms in which JIMMY BURKE has served, he has proven himself as a dedicated leader, an effective legislator, and a man of kindness and integrity. As a member of the Ways and Means Committee and Joint Committee on Taxation, his efforts and achievements in the fields of tax legislation, social security, and unemployment compensation are of special significance.

It is not unprecedented but unusual

for a man to have had the opportunity of serving his people on the bench, in the general assembly of his State, and in the U.S. House of Representatives. In all these positions he has served with dignity and honor.

I am sure that it must give JIMMY and his family a great deal of satisfaction to realize that he is ending his political career after having performed so ably and so well in all of the public offices he has held.

My wife, Pat joins me in extending our best wishes to JIMMY and Aileen in the years ahead. As a classmate of the 86th Club, I will miss JIMMY's friendship.

● Mr. HORTON. Mr. Speaker, as the 95th Congress comes to an end, many of us who expect to return next year find that a good many of our good friends and colleagues, because they are retiring, will not be with us when the 96th Congress convenes. I would like, today, to pay tribute to one of them, Congressman JAMES A. BURKE.

JIM was elected to the 86th Congress November 4, 1958, and was reelected to each succeeding Congress. His 20 years of service to the House and to his constituents in the 11th Congressional District of Massachusetts have been noteworthy. During the 86th Congress, he was a member of the Committee on Banking and Currency and a member of the Committee on Ways and Means through this Congress. Specifically, he was a most able chairman of the Subcommittee on Social Security as well as the ranking member on both the House Unemployment Compensation Subcommittee and the Joint Committee on Taxation.

Before coming to Congress in 1959, JIM held a number of important positions. During World War II, he was a special agent in the counter-intelligence, attached to the 77th Infantry Division in the South Pacific. As a result of his service during the war, he was awarded four battle stars and other decorations for distinguished service.

His long career in public service, during the war, in the Massachusetts House of Representatives and in Congress deserves our highest regard and esteem. As he retires from Congress, I would like to join my colleagues in wishing him all the best.●

● Mr. PRICE. Mr. Speaker, I rise today to join with my colleagues in paying tribute to my good friend and colleague, Congressman WALTER FLOWERS, of Alabama. As we all know, WALTER has decided to end his career in the House at the end of this Congress.

Alabama and the Nation have had the benefit of WALTER'S experience and abilities for the past 10 years, and I can say in all sincerity that few Members of the House have represented their constituencies as well as he has done.

WALTER is best known for his work on the Judiciary, Science and Technology, and Standards of Official Conduct Committees. His work on the Committee on Standards of Official Conduct has especially been outstanding as his leadership abilities were often looked to during the past several years. I am sure that WALTER'S expertise and knowledge will be missed by the members of the committees on which he served as well as by all the Members of the House.

I would like to wish Congressman FLOWERS and his family good luck and many years of continued happiness as they begin a new life.●

● Mr. DRINAN. Mr. Speaker, everyone who knew WALTER FLOWERS in the Congress will remember his rich and delightful sense of humor. But the members of the House Judiciary Committee, the Members of Congress, and indeed the entire Nation will recall his courageous stand during the weary weeks and months of the impeachment inquiry.

As a member of the Judiciary Committee I discussed on several occasions with WALTER FLOWERS the political and other implications of a decision by a member of that committee to the effect that the evidence presented to the Judiciary Committee supported one or more of the grounds of impeachment. It was very clear that WALTER FLOWERS, by every instinct in his being and by all of the deepest moral principles in his life, would not care about any adverse political implications or consequences if in fact he came to the conclusion that the evidence presented to him as an attorney revealed an impeachable offense.

During the endless days and nights of the impeachment inquiry, WALTER FLOWERS diligently worked with his colleagues in a search for any consensus that might exist in the committee. He regularly sharpened issues, raised fundamental questions, and helped his fellow members on the Judiciary Committee to come to their eventual conclusions.

Congressman FLOWERS also did exemplary work on the House Committee on Ethics. He did not seek out a position on that panel but was asked to serve on that committee by the House leadership. He served in a thankless job with distinction and devotion.

I and every Member of the House wish WALTER FLOWERS every continued success and happiness in the years ahead. His work and efforts in the House will remain as an inspiration for many, many years to come.●

● Mr. GORE. Mr. Speaker, one of my greatest privileges as a freshman Member of Congress has been to serve and work with Congressman JOHN MOSS. He is a man of immense personal courage and towering integrity.

As a tenacious fighter for Government efficiency and accountability, he never flinches from calling the shots exactly as he sees them. Almost singlehandedly, he has given meaning and force to the often-neglected duty of congressional oversight.

It has been enormously gratifying, especially for a younger Member of Congress, to work closely with JOHN MOSS. He eagerly accepted new ideas and graciously encouraged Members to play an active role in his subcommittee proceedings.

It is difficult to express the depth of respect in which JOHN MOSS is held by all of his colleagues. The Congress is losing its premier defender of the public interest with JOHN MOSS' retirement, but I have confidence that he will continue his successes in private life. With more affection and respect than words can convey, I wish him well.●

● Mr. HORTON. Mr. Speaker, it has been an honor and a privilege for me to serve with my colleague from New York, Congressman BRUCE CAPUTO. Before his election to the 95th Congress, BRUCE was active in New York State social, political, and civil affairs. He was also a Republican member of the New York State Assembly from 1973 to 1977, up until the time he was elected to this Congress. In addition, he was director of Yonkers Big Brother-Big Sister Foundation and the Westchester Association for Retarded Children and numerous other organizations.

I know I speak for my colleagues in the delegation when I say that his active and distinguished service on the House Banking, Finance, and Urban Affairs Committee will be missed. This is especially true with regard to legislation of great importance to the State.

Although we wish he were returning to Congress next year, I believe his decision to pursue a different political course will benefit both his constituents and other residents of New York State. Therefore, I wish him the best of luck and success in the coming weeks and months.●

● Mr. DERWINSKI. Mr. Speaker, it is a special pleasure for me to join in honoring JOHN J. FLYNT, for his long and distinguished career in service to his country and to the State of Georgia. We have been fortunate to have JOHN as a colleague and to benefit from his extraordinary legislative skill.

After his Army service, which was distinguished by his being awarded the Bronze Star Medal, JOHN was elected to the Georgia House of Representatives in which he served for 4 years. Now as dean of the Georgia delegation in the House, he continues to dedicate his life and work to the people of his district and the State. He has always represented the best interests of the Sixth District, and he may step down from his duties here in Congress knowing that he has served well and contributed significantly to the legislative process.

As chairman of the Standards of Official Conduct and member of the Select Committee on Ethics, JOHN FLYNT has served as an outstanding example of an honest and honorable man who has fulfilled with great distinction his responsibilities in the Congress. He did a great job with a tough issue.

JOHN will be sorely missed when he leaves this Chamber, but his retirement leaves Congress enriched by his contributions. Mrs. Derwinski joins with me in wishing JOHN and his wife, Pat, a retirement of deserved relaxation and every happiness.●

● Mr. BINGHAM. Mr. Speaker, I am glad to have the opportunity to join in this special order to say "so long" to BILL WALSH and BRUCE CAPUTO.

It has been a pleasure serving in the House with BILL WALSH. He has been a loyal member of the New York delegation and, though an "up-stater," has

been a good friend to New York City when we needed help.

While I have not served on a committee with him, I have enjoyed my contacts with him, at delegation meetings and on other occasions. He is a warm and friendly person who has made many friends in the House. We wish him Godspeed.

BRUCE CAPUTO has represented the district just north of mine and has been in other ways a neighbor. I have known members of the Caputo family in my home community for many years.

BRUCE'S chosen role in the House—that of a stern knight on a white charger—has inevitably created some problems for him, but my own dealings with him have always been friendly and pleasant.

I cannot very well wish him luck in his present undertaking, since I support his opponent, but I can say that, in all other respects, I wish him well. With his great abilities and other assets, he is bound to make his mark.●

● Mr. CONTE. Mr. Speaker, I am pleased to join my colleagues today in saluting the congressional career of the gentleman from Pennsylvania, the Honorable JOHN H. DENT.

This certainly is not the first tribute this fine Member has received, nor will it be the last. However, because it is one delivered by his colleagues, it is one done out of intimate knowledge, great admiration, and deep respect.

I have not been privileged to serve with JOHN on any committees in the House. However, we do share a common heritage, and last month the National Italian-American Foundation, on which I am proud to serve on the Board of Directors, met and honored JOHN at our Second Biennial Tribute Dinner. We cited him at that time for "his influential leadership in initiating legislation to improve educational opportunities, to insure coal mine health and safety, to reform pension and welfare benefits, and to protect the minimum wage base for the working men and women of America." Certainly, for that record of achievement and so much more, JOHN DENT deserves all of the praise he is receiving today. May I say that it has been a pleasure to serve with him and I take this opportunity to wish him all the very best in the days ahead.●

● Mr. ADDABBO. Mr. Speaker, there is always a tug at the heart when a longtime friend decides to retire from Congress, but when you have worked as closely as I have with JACK FLYNT, it hurts considerably to know he will not be by your side in the next Congress.

We have served together on the Defense Appropriations Subcommittee for years upon years and I have long since learned to trust his judgment, his honesty, his patriotism and his good commonsense. Together, we have spent more billions of dollars on defense than any sane man can mentally visualize.

But, it is JACK'S lot in life to probably not be remembered for that dedicated work on defense matters as much as for his work during the last 2 years as chairman on Standards of Official Conduct. It has been a brutal 2 years for him as he has sought to bring order and sensibility out of hysterical chaos.

But I think the measure of the man was seen Friday when that investigation finally came to a conclusion and speaker after speaker rose to their feet to praise Mr. FLYNT for his fairness and sense of integrity during the course of that investigation.

They spoke but the simple truth which had become self-evident to those of us on the Defense Appropriations Subcommittee who make choices each year but who were faced with agonizing decision during those painful years of the Vietnam war. Those were days when JACK FLYNT underwent the first of many trials of moral strength, and he passed with flying colors. It does not surprise me, then, that to a later audience those qualities should once again stand out.

I will deeply miss JACK in the months ahead as we once more begin the task of trying to strike a reasonable balance in defense spending matters. But more than that, I shall miss a good friend and a good man. I wish only the best for him in whatever endeavors he undertakes in the years ahead.●

● Mr. HORTON. Mr. Speaker, I am honored and privileged to participate in JACK'S special order to recognize the distinguished dean of the Georgia delegation, Congressman JOHN J. FLYNT, Jr.

As we all know, JACK FLYNT is retiring this year after 24 years of dedication, hard work and devoted service to the people of Georgia's Sixth Congressional District. Jack was first elected to the 83d Congress November 2, 1954, and has been elected to each succeeding Congress.

Although his work on the Appropriations Committee has always been highly regarded, I think JACK will be best remembered for the excellent work he did in a most difficult and sensitive position, that of chairman of the House Ethics Committee. His integrity and high-minded ideals always insured that fairness would characterize the deliberations of the Ethics Committee.

As he leaves the seat in which he served with such distinction, let me again extend my best wishes for his future happiness and success.●

● Mr. DERWINSKI. Mr. Speaker, I join with my colleagues in expressing our appreciation for the effective service given this body by our distinguished colleague, GEORGE SHIPLEY. Since his election to the Congress in 1958, George has always represented his constituents, the people of Illinois, and this country in a most dedicated and capable manner. As a result, he has not only earned the respect of his constituents, but of his colleagues as well. GEORGE and I were 86th club friends.

GEORGE has been an extremely hard-working member of both the House Public Works and Appropriations Committees. His knowledge in the varied areas over which these committees have jurisdiction have contributed immensely to the formation of responsible legislation.

GEORGE is a man whose strong sense of dedication to his country is demonstrated by his conscientious work in the Congress. Being a fellow Illinoisan, I can also understand that GEORGE is justifiably proud of his district and his State. But the people of Illinois have been especially fortunate to have such a fine and responsible Representative serving them in the Congress.

I wish GEORGE and his wife, Ann, the very best in the future.●

● Mr. MITCHELL of New York. Mr. Speaker, Congressman BILL WALSH has decided to retire from the Congress. Though he will be greatly missed, he has certainly earned the right.

He has spent most of his adult life serving others. His is a long and impressive record of public service. His experience in World War II as a captain with the Air Force, his service as Commissioner of Public Welfare for Onondaga County, mayor of the city of Syracuse, Commissioner for the New York State Public Service Commission and finally a U.S. Congressman, add up to a most enviable record. An average individual would be proud to have held any one of these positions in his lifetime. But there has never been anything average about BILL WALSH.

Congressman WALSH epitomizes the finest in public servants. He has done so much for so many for so long. He is the kind of officeholder we all try to be—honest, courageous, hard working, capable, sensitive, a good leader. He is truly a Congressman's Congressman.

Because of the example he sets, we who know him, work a little harder and stand a little taller. We are proud to call him our colleague and our friend. We will miss him and the expertise and good judgment he brings to complex problems.

Exceptional as he is, he could not have compiled this outstanding record without the love and understanding of his devoted wife, Mary. The old clichet to the effect that, "behind every good man is a good woman," was never more fitting than with Mary and BILL WALSH. In honoring BILL this evening, we also honor Mary.

We thank Mary and BILL for the contribution they have made, and we wish them many years of good health, happiness and productivity.●

● Mr. HORTON. Mr. Speaker, it has been an honor and a privilege for me to serve with my able and distinguished colleague from the neighboring 33d Congressional District of New York.

Before his election to the 93d Congress, BILL held a number of important positions in New York State, including commissioner of the New York State Public Service Commission, president and member of the executive committee of the New York State Conference of Mayors and as a member of the Governor's Committee on Criminal Offenders. BILL'S service on the House Public Works and Transportation Committee has been of particular importance to both the New York delegation and the State. Through his efforts and those of his colleagues on that committee, we now have a Surface Transportation Act, which will assist the State of New York in improving and repairing highways throughout the State.

We should not forget the pivotal role BILL played on the Veterans Affairs

Committee, where he was active on the Subcommittee on Housing. Undoubtedly, his military service in the Army, from which he was honorably discharged in 1946, and his service in the Pacific with the Air Force, contributed to his understanding and sensitivity to the needs of all veterans.

The New York State congressional delegation as well as the committees on which he served will begin a new Congress without our distinguished colleague, BILL WALSH. I know I speak for all of the delegation when I say we wish him well in his new career.●

● Mr. FUQUA. Mr. Speaker, there has always existed a traditional rivalry between the State of Florida and the State of Georgia. Each State tries to outshine the other in every possible way. When it comes to matters of national importance, however, the peoples of these two States share similar views and ideals.

No one has ever represented these ideals any better than the gentleman who has served the people of Georgia's Sixth Congressional District so ably since 1954. JOHN FLYNT is a man of unquestioned integrity who has mightily stood up for that which he feels is right.

As an invaluable member of the Appropriations Committee and as chairman of the Committee on Standards of Official Conduct, JOHN FLYNT has rendered great service to his district, his State and his Nation.

He has always been a good friend to me in the Congress and certainly did everything possible to be of assistance when I first arrived in 1963. I salute him on the occasion of his retirement and wish my friend the best in the years to come.●

● Mr. HORTON. Mr. Speaker, I rise to pay tribute to my friend and colleague from the State of Illinois, Congressman GEORGE E. SHIPLEY.

GEORGE is retiring this year after 22 years of outstanding service to the people of Illinois' 22d Congressional District and to the country as well. GEORGE was first elected to the 68th Congress and has been elected to each succeeding Congress.

Throughout his years of service on the House Appropriations Committee, GEORGE has provided able leadership as the chairman of the Subcommittee on Legislative Branch Appropriations. His chairmanship has been marked by a commendable and an evenhanded approach to the matters under his subcommittee's jurisdiction. His dedication and hard work will, I know, be missed by that committee.

I join my colleagues in wishing him well as he retires from Congress to private life. I would also like to personally thank GEORGE for his many years of devoted leadership and service to the Nation.●

● Mr. JONES of Tennessee. Mr. Speaker, I rise to pay special tribute to our colleague and my friend WALTER FLOWERS. WALTER and I came to this House just a few months apart. Since then, I have come to know and respect him as a knowledgeable and hardworking Member of this body.

His service to his people in Alabama and the Nation as a whole was nothing short of outstanding. He has been a true representative of his district, and by doing so, he has contributed greatly to the democratic system of this Nation. We shall all miss him and I want to wish for him all the success and happiness possible for any endeavor he might undertake in the future.●

● Mr. CONTE. Mr. Speaker, JIM BURKE and I came to this Congress together 20 years ago. Today, he renders his last day of service in this Chamber to the people of this Nation and to Massachusetts' 11th District. It is, therefore, with a deep sense of personal regret that I rise to join my colleagues in the Massachusetts delegation to say a few words of farewell and Godspeed to my good friend, our friend, the Honorable JAMES A. BURKE.

Of course, to the American people, JIM is known as "Mister Social Security" for his efforts as chairman of that subcommittee. I think it is entirely accurate to say that JIM has dedicated his service on the House Ways and Means Committee to providing for fair and equitable tax treatment for all Americans, but especially those with low and meager incomes. He has been a true friend of the working man.

I have joined with JIM BURKE in many legislative battles over the years, not a few of which have been on behalf of our deserving and needy veterans. He has been fighting the veterans fight not only here in the Congress, but prior to that in the Massachusetts State House.

His constituent service is the stuff that legends are made of. JIM BURKE has always taken good care of his people, the people of Quincy, of Braintree, of Milton, and of all of the other communities that make up his district.

The other day, his colleagues in the Massachusetts delegation, all of whom admire him, all of whom respect him and all of whom are proud and privileged to call him their friend met to present a gift to JIM BURKE. The gift was a silver plate inscribed in honor of his service. After hours of agonizing over just what inscription would do justice to this man and his service, we decided to describe him as "the peoples' voice in the peoples' House." That really says it all. No description could be more honest and none could be more fitting.

So to my dear friend, JIM BURKE, and to his lovely wife Aileen, I extend, at this time, all of my good wishes for happy, healthy, and restful days ahead.●

● Mr. FUQUA. Mr. Speaker, the people of the 22d Congressional District of Illinois should consider themselves to have been very fortunate indeed. For the last 20 years these people have been so well represented in Congress by the gentleman we bid farewell today, GEORGE SHIPLEY.

GEORGE SHIPLEY has done yeomanlike work as a diligent member of the House Appropriations Committee and richly deserves great praise for his efforts. He is a friend on whom I have always known I could rely and I will always value the council and wisdom he has shared with me.

All Americans should have the opportunity to say "thank you" to GEORGE SHIPLEY for the work he has done on behalf of his Nation and we who have had the privilege of serving with him in the House of Representatives have been twice blessed in having the opportunity to work alongside so fine a man.

Perhaps it is we who should consider ourselves fortunate that the people of the 22d District had the wisdom to elect GEORGE SHIPLEY and then reelect him so that we might all benefit from his great service for the last 20 years.

GEORGE SHIPLEY is a rare individual whom I feel lucky to call my friend and I take this occasion to wish him the best life has to offer in the many years to come.●

● Mr. HORTON. Mr. Speaker, I rise to pay tribute to my good friend and colleague from the State of Alabama, Congressman WALTER FLOWERS.

As we all know, WALT is retiring this year after 10 years of outstanding service to the people of Alabama's Seventh Congressional District and to the Nation as well. WALT was first elected to the 91st Congress November 5, 1968, and has been elected to each succeeding Congress. I know many of my colleagues share my high regard for his accomplishments as a member of the Judiciary Committee and the Committee on Science and Technology. WALT has also distinguished himself through his service on the Select Committee on Aging. I know those committees were better for his devotion and hard work.

I join my colleagues in wishing him well as he leaves Congress for another career. I would also like to personally thank BOB for his 10 years of service.●

● Mr. MCCLORY. Mr. Speaker, one of the sad commentaries on the 95th Congress is that so many of our most able colleagues are retiring to private life—for one reason or another. In the case of the retirement of our colleague from Alabama, Mr. WALTER FLOWERS, the House is losing the talents and service of one of its most highly respected and capable Members.

I am sure we can all agree that WALTER FLOWERS would have added to the prestige and reputation of the other body, and many of us may regret his decision to abandon that plan.

Mr. Speaker, I am aware of WALTER FLOWERS' great skill and talent as a lawyer and as a most influential and diligent members of the House Judiciary Committee. I can attest firsthand to his many contributions to the work of our committee and to the House of Representatives.

Mr. Speaker, I am confident also that many other opportunities will present themselves for WALTER FLOWERS to render public service—and that an active and rewarding career lies ahead of him as he terminates his public service here—and returns however temporarily to private life.

Mr. Speaker, I wish WALTER FLOWERS every success in the days and years ahead.●

● Mr. ADDABBO. Mr. Speaker, GEORGE SHIPLEY will retire at the end of this Congress and return to his beloved State of Illinois. GEORGE and I have served together on the House Appropriations Committee and it is only fair to say that

he did not listen to my good advice then any more than he did when I urged him to remain with us here in the House. GEORGE has always been a stubborn man.

I cannot say enough nice things about GEORGE. He has been a steadfast friend through many battles, and he has served this Nation with distinction. As chairman of the Legislative Appropriations Subcommittee, he has served his House faithfully, leading his subcommittee hearings and investigations with good humor, thoroughness, and a dedication to get the budget bills out on time so that the work of the House could continue uninterrupted.

But it is the man rather than his work that I shall miss because GEORGE is a gentleman without equal, a man whose word is truly his bond and a helpmate to everyone of us who has ever needed a hand. I wish all of the best to GEORGE and his family in the years ahead.●

● Mr. MCCLORY. Mr. Speaker, among the most beloved and highly respected Members of this body is our colleague from Georgia, Representative JOHN J. FLYNT, JR. Those of us who have served with JACK FLYNT recognize him as an individual of courage and conviction who has adhered to the highest principles of public service as a Member of this body.

Mr. Speaker, it is a great loss to the U.S. House of Representatives that JACK FLYNT will terminate his service here at the end of the 95th Congress. As a friend and colleague of many years, I salute Congressman JACK FLYNT and wish for him good health, happiness, and many rewarding and productive experiences in the long years which lie ahead for him.●

● Mr. LENT. Mr. Speaker, it is with great pleasure that I join my colleagues in paying tribute today to Hon. WILLIAM WALSH upon the occasion of his retirement from this body.

It has been an honor for me to know and work with BILL WALSH. When he came to Congress in 1973, BILL immediately became deeply involved with the work being done by the New York delegation. He was soon one of its most effective members. We in the delegation had no better "lobbyist" to send into the full House to persuade our colleagues on the merits of issues important to New York. BILL's level of integrity, gentle nature, warmth and wit, combined with his ability to articulate issues, always worked magnificently.

BILL WALSH's Syracuse area constituents in the 33d District of New York owe him a debt of gratitude. Whether it be in his work on the Committees on Public Works, Veterans' Affairs or Aging, or on the House floor, BILL consistently gave his all to the duties he was sent here to fulfill, and he has compiled a record worthy of the highest tribute. While in Washington working on legislation vital to the needs of the people, BILL never forgot the folks back home. His frequent trips back to his district took him to every possible civic meeting and community activity. He held frequent office hours to counsel those constituents who were in need of his help as their Congressman. Through all of this, he kept up his volunteer activity in the many service organizations of which he was a member and a leader. BILL was truly a full-time public servant. He could have taken it easier—but did not, which is testimony to the stature of the man.

I hope that BILL WALSH's retirement years will be graced with good health, the richness of friendships, the warmth of memories, and the deep satisfaction that comes from many jobs well done.

May BILL's future with his lovely wife, Mary, be all he desires it to be. He will be very much missed.●

● Mr. MONTGOMERY. Mr. Speaker, for 20 years the people of the 22d District of Illinois have sent GEORGE SHIPLEY to Washington as their representative and the Nation is better because of it. He has proved himself to be an effective Congressman in both the legislative field and consituent services.

I personally am pleased with his reasoned approach to the Federal spending process. As a member of the House Appropriations Committee he has worked hard to hold the line on Federal expenditures and make certain that the taxpayer's dollars were being well spent.

I join with my colleagues in wishing GEORGE well in retirement and hope he will keep in touch with his colleagues and many friends on the Hill.●

● Mr. DAVIS. Mr. Speaker, words are inadequate to describe my personal sense of loss in the knowledge that my friend, my good counselor, my colleague WALTER FLOWERS will be leaving the Congress at the end of this session.

The loss is not mine alone: His district, his State and his Nation are indebted to him for the exemplary service and shining devotion to duty he has demonstrated in the Congress of the United States.

We are all indebted because he has served in this office with honor, with integrity. By his example, he has made all of us in the Congress seem the better by the light reflected from him.

In situations where others might have been tempted to seek glory or personal aggrandizement, where some might have played to the cameras, WALTER has sought but to do his work, to fulfill his obligation to duty.

I am proud to have as my friend this man who has done so much for this House. I have never seen him act out of malice or anger. His every action has brought honor to the high office he holds. He is the modern epitome of Chaucer's "very, perfect gentle knight."

WALTER, I cannot say, "Goodbye." Instead, I can only say that I am wishing you well on what we all hope will be but a brief absence from Washington.●

● Mr. HORTON. Mr. Speaker, I would like to thank the gentleman from Pennsylvania (Mr. MURTHA) for reserving this special order allowing me and my colleagues the opportunity to pay tribute to our good friend, JOHN DENT, who will be retiring this year.

JOHN first came to the Congress in 1958 after having served with distinction in the Pennsylvania Legislature for over 20 years. He has been elected to each succeeding Congress and has represented the 21st District of Pennsylvania with integrity and determination.

Through the course of his political career, JOHN has developed a keen knowledge in the areas of unemployment and workmen's compensation, international trade problems, coal mining safety and health programs. He translated this knowledge into important legislation through his strong leadership as chairman of the Subcommittee on Labor Standards of the Education and Labor Committee. His absence in the Congress will be sorely missed.

The people of the 21st District of Pennsylvania could not have had a man more dedicated to their needs, and to the needs of the Nation as well, than JOHN. I join with my colleagues in wishing him the very best in all the years that lie ahead.●

● Mr. MANN. Mr. Speaker, I am proud to recognize on the occasion of his retirement from Congress our esteemed colleague from New York, OTIS G. PIKE.

Now, after what OTIS has had to say about our foibles as an institution, it may be that I, as a fellow retiring Member, feel more kindly toward him. Perhaps what best marks OTIS is his good nature, his humor. It has been said, Mr. Speaker, that more than half his personality is comprised of his sharp wit—but knowing him as I do, I can state unequivocably that OTIS G. PIKE is much more than a half wit.

Seriously, Mr. Speaker, those of us who have had the pleasure and the privilege of working with OTIS in any of his 18 years in Congress can attest to the dedication he has shown to the people of New York and the people of the United States. With his departure, this Congress loses many things: an honest and productive member, a man of faultless integrity, a gentleman of the highest degree.

OTIS PIKE has distinguished himself in many ways. From his capable and meritorious dealings on the Armed Services Committee, including his chairmanship of the Subcommittee on Military Construction, to his work on the tax and revenue measures handled by Ways and Means, his course of action has always been prudent and judicious. He is a canny, creative legislator and a protector of the Federal purse.

There are many who are better off today for the fact that OTIS PIKE has represented them, and many of us feel we are better for having the privilege of working with him.

In saying farewell, Mr. Speaker, I feel no need to wish OTIS success, for he has shown the qualities of a man who will succeed in any endeavor. May the future bring him good luck and good health.●

● Mr. ADDABBO. Mr. Speaker, at the end of this session, my good friend WALTER FLOWERS will leave the House where he has served with such distinction for the last decade to return to the pleasures and challenges of private life.

I think it can be truthfully said that WALTER has served with distinction during his time here, that he has earned the respect of his colleagues as well as the citizens of the Seventh Congressional District of Alabama, and he leaves many friends behind in this body who wish him only the best as he begins a new career.

I shall miss him deeply, both for the

warm friendship that I have enjoyed with him, and for his good counsel on so many vital issues of the day. I am saddened for the people of Alabama that he is not moving across the Capitol to the other body where I know he would have served his State and his Nation so well.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is with great pleasure that I join in this well-deserved tribute to our retiring colleague, the distinguished gentleman from California, Representative JOHN E. MOSS.

It has been a most rewarding experience for me to serve with him for many years on the Committee on Government Operations. He has been our conscience on many controversial issues before that committee and I always have carefully considered his thoughtful and wise counsel.

JOHN MOSS is a fighter for great causes—freedom of information, the individual's right to privacy, consumer rights, and even basic land reform for poor farmers in far off lands, to name only a few.

Although not a lawyer, he is a recognized expert on American constitutional law and has lectured many a Department of Justice witness on the subject.

I had the singular honor of succeeding him as chairman of the former House Foreign Operations and Government Information Subcommittee a number of years ago. Believe me, it was a hard act to follow. JOHN MOSS had built that subcommittee brick by brick into one of the most effective investigative subcommittees of the Congress. It was universally recognized and respected because of his efforts.

It was JOHN MOSS who conducted the first meaningful and critical investigations into the weaknesses and outright scandals of the U.S. foreign aid program in South Vietnam.

It was JOHN MOSS who led the fight through the years against the use of executive privilege by Democratic and Republican presidents alike to deny information vitally needed by the Congress.

It was JOHN MOSS who demanded the American people had the right to know what their government did.

It was JOHN MOSS who became a living symbol of what a Congressman should be like. His entire span of service in the House of Representatives has been devoted to implementing by legislation and investigation the letter and spirit of our great Constitution.

Mr. Speaker, I know of no higher tribute our country can pay to any member of Congress.●

● Mr. COUGHLIN. Mr. Speaker, I am honored today, to pay tribute to an outstanding Member of Congress who is retiring after over 30 years of service to New York and the Nation. JIM DELANEY is leaving the House of Representatives and his presence will be sorely missed by all who have had the honor of serving with him.

JIM DELANEY'S congressional career has been one of unparalleled achievement. As the distinguished chairman of one of the most influential committees in the House of Representatives, the Rules Committee, JIM has maintained an open mind to conflicting legislative initiatives affecting this Nation. He nas always been extremely honest and fair in allowing all sides to present their case. I have had the pleasure of working with JIM and appearing before his committee on numerous occasions. Perhaps the most satisfying was in reference to the various proposals for tuition tax credit legislation. JIM was instrumental in securing a rule so that a tuition tax credit bill could be brought to the House floor. For this alone, Americans are grateful for his efforts.

In addition, JIM has made legislative history with his landmark amendment to the Food and Drug Act. This important measure brought national attention, for the first time, to the need for Government regulation of food additives to insure that all citizens are protected against unknown exposure to cancer agents.

The House of Representatives is losing a dear friend and an outstanding leader. His legacy of dedicated service and professional integrity will be unsurpassed for a long time. I extend to him my sincere best wishes for the future.●

● Mr. COUGHLIN. Mr. Speaker, Alexander Pope was supposed to have been thinking of Mr. Addison when he wrote, in "Moral Essays," Epistle VII—

Statesman, yet friend of truth! of soul sincere,
In action faithful, and in honor clear;
Who broke no promise, sev'd no private end,
Who gain'd no title, and who lost no friend.

However, the House will certainly agree that the model for such praise could very easily have been our distinguished colleague, the Honorable GEORGE H. MAHON of Texas. During 44 years of unparalleled service, the chairman of the Defense Appropriations Subcommittee, the chairman of the full Appropriations Committee, and the dean of the House, has been the soul of tact, justice, and firmness, and a gentleman of courtesy and integrity. It is that nice sense of personal honor which has credibly reflected, not only on Chairman MAHON, but on the House of Representatives as an institution.

A master of the Federal budget and its complexities, it is virtually impossible to measure the caliber and amount of Chairman MAHON's contributions. He is, perhaps, best identified as the champion of an adequate defense for this Nation. However, his knowledge of and participation in other areas is equally great. Chairman MAHON was exemplary in fairness to the minority and it was a privilege to serve on the Appropriations Committee with him. His labor in Congress has been work well done, and we are all the richer for it.●

● Mr. DEL CLAWSON. Mr. Speaker, no one ever questions the unusual quality of the Irish, and our friend JIM DELANEY, chairman of the House Rules Committee, has these qualities and spirit in an unusual degree with a very generous portion of some of them. His brusque manner and openness set him apart in the committee hearings. The quick wit as well as the impulsive comment and on occasion an open display of temper reveal the Irish heritage immediately. After a bit of libation and with an enthusiastic audience, there is probably no better storyteller in the House, complete with all of the necessary embellishments, than JIM DELANEY. Of course, the Speaker, under the same circumstances, is a very close competitor. It has been my privilege to enjoy both of these leaders in this type of convivial setting.

Serving on the Rules Committee with JIM as the chairman is an experience never to be forgotten. All Members should have such a pleasure. Seldom in agreement on the final vote, but almost always in agreement during the questioning and comments in the course of hearings, the chairman has provided an arena that more frequently than not produces "the best show in town," and my next comment is that the "price is right," except the room for an appropriate audience is much too small. We always perform to a "standing room" only crowd with a long queue outside the door. Yes, the Rules Committee will miss JIM DELANEY, and so will I. It is good to retire at the same time with my friend, JIM, because the committee could never be the same without him, and I might get a bit bored. As it has been, there is seldom a "dull moment" in the hearings at the Rules Committee. Goodby, JIM, good luck, and God bless.●

● Mr. BURLESON of Texas. Mr. Speaker, I would like to take this opportunity to express my sincere regret in the retirement of my colleague and friend, OTIS G. PIKE of New York. His services to our country, his State, and his district have been exemplary. His dedication to duty and his ability in performing those duties and obligations are greatly admired and appreciated. It has been a real pleasure to serve with such a distinguished and able gentleman on the Ways and Means Committee, and I am proud to call him my friend. He is greatly respected by me as well as our other colleagues who recognize his ability and dedication. I trust he will find great satisfaction in his retirement and that his path will cross with ours often in the years ahead.●

● Mr. GOLDWATER. Mr. Speaker, JACK FLYNT is a southern gentleman in the finest sense of the word. He is a man of great integrity who manifests a calm, rational approach to complex, and sometimes, emotional, issues. His retirement will affect us all in the most profound manner, and we are going to miss him.

The great State of Georgia has produced some of America's leading statesmen. In fact, I consider the late Senator Richard Russell of Georgia as one of the giants of the U.S. Senate, a man who could have been one of America's great Presidents had a bias against southerners of conservative leanings not existed during his lifetime. That bias still exists, unfortunately.

JACK FLYNT is from the same mold as Richard Russell. JACK FLYNT loves this country and the American way of life with as much intensity as any person whoever served in this body. He had a distinguished combat record in World

War II, and the same courage that he demonstrated at that critical time in America's history has also been a characteristic of his service in the House.

He has served as chairman of the Ethics Committee during an extremely difficult time for this body. He handled the job with fairness, thoroughness, and total respect for the rule of law. He did not flinch or cave in when some of the more vociferous critics of the Congress wanted a grandstand show reminiscent of the excesses of the French Revolution. He is a lawyer's lawyer who believes that no person is guilty until proven so. He loves the law, abides by it, and demands that it be applied to all persons equally.

JACK FLYNT can return to Georgia with head held high, knowing that he has done his job and has made the House a better place for us all. I like JACK FLYNT. I respect him, and I thank the people of Georgia for sending him to us. There is no question that the future will continue to find him in the forefront of actions that promote the best interests of his State and Nation.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the House of Representatives is a large place, with 435 Members to its credit. The opportunity for the individual characteristics of any given Member to shine in amongst all the other Members is correspondingly low. Yet, everyone knows of OTIS PIKE and knows the sort of person he is. As with all of us, he is many things to many people, but perhaps above all he is a man who dances to his own drummer. Independent, articulate, witty, and on an ever so rare occasion slightly irascible, his forthcoming retirement is a loss which the House will feel keenly.

Additionally and above all, OTIS PIKE is a superb legislator. Dedicated, his integrity unquestioned and unquestionabe, his efforts on behalf of the Nation and his district I believe could serve as a role model as to what a Member can do and should do in fulfilling his or her official responsibilities. OTIS, I consider you a good and trusted friend and I will miss you. I wish you well on what you do next knowing full well that whatever it is you will do it well and with style.●

● Mr. DEL CLAWSON. Mr. Speaker, with so many of our colleagues leaving the Congress this year, it becomes increasingly difficult to hold back emotions, realizing that each of us will be going our own way and following different directions in our lives.

This means, of course, that our lives have crossed for a time while serving in the House, and friendships formed that have a lasting quality and effect on each of us. JOHN FLYNT'S record speaks for itself. His mark in our history has been made. He can retire with many wonderful and cherished memories of his service to his district, State, and Nation. The country and society are better because JOHN has been here.

The very last House performance, if it can be called that, in which our colleague took a major part was one of anguish and sadness because he had the responsibility of being the chairman of the House Ethics Committee when Members were charged with serious violations of the rules of the House and unethical activities. Bringing to the House floor resolutions of "reprimand" and "censure" for some of our fellow Members is a most difficult and painful obligation. Chairman FLYNT met the task head on and measured up in every way. All of us are proud to be associated with such men. It has been a personal privilege for me to call JOHN FLYNT my friend, and Marjorie and I extend our best wishes for a continued long, happy, and successful life to JOHN and Patricia.●

● Mr. ULLMAN. Mr. Speaker, I am grateful for this opportunity to join my colleagues in paying tribute to JOHN E. Moss, dean of California congressional delegation.

As chairman of the Commerce Subcommittee on Oversight and Investigations, JOHN Moss has provided the House with exceptional, energetic leadership. As a principal author of the widely acclaimed freedom of information, he has had as much impact on the relationship between the Federal Government and the people of the United States as anyone in memory.

JOHN'S dogged pursuit of facts in his investigations, his persistent attention to detail, have helped bolster the reputation of the House of Representatives and the Congress as a whole.

I am grateful for his efforts and wish him well in the years following his retirement.●

● Mr. MONTGOMERY. Mr. Speaker, almost everyone is aware of the magnificent role that JIM MANN played in the post-Watergate scenario of 1974 when not only the conduct of a President, but the integrity of our entire system of government. was being questioned by millions of Americans.

There is no doubt in my mind but that JIM MANN was the "watchman in the night" on the House Judiciary Committee during one of our Nation's darkest hours—and that thanks to him and other men of conscience and reason—our system when put to the severest of tests was not found wanting.

His spectacular performance during that difficult period has tended to obscure many of JIM'S other contributions to his Nation during his 10 years in this body. For example, JIM was an early pioneer—a voice in the wilderness as it were—in the struggle for the institutionalization of fiscal discipline in the Congress—long before public demand for budgetary restraint forced this body to adopt the comprehensive process that is now used to set budget targets and ceilings by resolution and justify all spending measures in relation thereto.

As the chairman of the Informal House Textile Committee for the past 3 years, JIM has articulated the need for fair and realistic trade policies—and in order to insure the continuity of this effort in this as well as future Congresses—orchestrated the conversion of the committee to a permanent House Textile Caucus—thereby giving it official congressional status and access to staffing funds.

His accomplishments as chairman of the Criminal Justice Subcommittee were dramatized just this week with the adoption of legislation that provides for the appointment of a special prosecutor to investigate complaints of official misconduct on the part of high Government officials, including the President and his Cabinet. This might sound like an easy task on the surface, but anyone who has followed the history of this legislation and who heard or read the debate on the floor this week knows that it was not easy and that it was only through JIM'S skillful legislative abilities and powers of persuasion that this measure was finally brought to fruition with the adoption of title VI of the conference report on the ethics in Government bill, S. 555.

I could go on and on, but the litany of JIM MANN'S contributions is so long that it would take the publication of a part III of the CONGRESSIONAL RECORD if I were to recite them all.

Suffice it to say that JIM has been what all of us here aspire to be—a Congressman's Congressman.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, it is a special privilege for me to join with other Members of Congress in paying tribute to my colleague and friend, JOHN DENT.

It is hard for me to imagine the House of Representatives without Congressman DENT. He was here when I came to the Congress in 1959. It was quickly apparent to me that he was a man who could be counted on, a politician of unusual ability who was likely to achieve high marks as a legislator. My first impressions were indeed accurate, and through the years I discovered that he was not only an extraordinary public servant, but also a devoted and loyal friend. His warm personality and ready willingness to help never faltered during the many times I had occasion to call on him.

The amount and diversity of legislation sponsored or significantly influenced by Congressman DENT is testimony to his enormous energy and wide grasp of problems to be solved. But his passionate concern for the welfare of working people was his principal concern, and was evidenced in his successful battles for black lung reform, labor law reform, job safety legislation and countless other measures to benefit American workers.

His dedication to the interests of his constituents was only matched by his concern for the welfare of the Nation. He never wavered in his commitments to look out for the interests of his constituents, and his courage to stand up for the principles in which he believed is unrelenting.

The absence of JOHNNY DENT will be keenly felt by the Members of the Pennsylvania delegation.

I want to wish him many years of happiness and good health in his retirement.●

● Mr. ULLMAN. Mr. Speaker, I would like to join with my colleagues today in paying tribute to JOHN FLYNT, a friend, distinguished Representative and dean of the Georgia congressional delegation.

The House of Representatives has changed dramatically in recent years to a more open, publicly accountable body. As chairman of the Committee on

Standards of Official Conduct, JOHN FLYNT has had to carry tremendously heavy responsibilities. He has borne this great burden with dignity and performed his duties with a sensitivity that all Members appreciate.

I am personally grateful for JOHN's many courtesies over the years.

I wish him an enjoyable and productive retirement from Congress.●

● Mr. ULLMAN. Mr. Speaker, I am pleased to have this opportunity to join with my colleagues in paying tribute to PAUL G. ROGERS, chairman of the Commerce Subcommittee on Health and the Environment and one of the most dedicated legislative craftsmen in the House.

The importance of PAUL's work toward improving the health of the people in this country is incalculable. His work with major environmental legislation has contributed greatly to better living conditions in all sections of the country. His authorship of major key laws involving health planning, organization, and research have helped to lay a foundation on which we can build a system of health care that addresses the needs of all Americans.

I am personally grateful for his friendship and his leadership over the years. He has my best wishes for a productive and enjoyable retirement from Congress.●

● Mr. HORTON. Mr. Speaker, I would first like to thank the gentleman from Michigan (Mr. DINGELL) for reserving the special order allowing me and my colleagues the opportunity to pay tribute to our good friend, Congressman JOHN MOSS, who will be retiring this year.

JOHN, a native of Sacramento, Calif., first came to the Congress in 1952, after having served for 4 years in the California State Assembly. In his position as chairman of the Subcommittee on Oversight and Investigation of the Interstate and Foreign Commerce Committee, JOHN has been instrumental in guiding legislation of great importance to consumers. He has also served with distinction in his capacity as dean of the California delegation. His strong leadership and knowledge will be sorely missed.

It was my pleasure to serve with JOHN MOSS on the Government Operations Committee since I first came to Congress. For many years, JOHN served as chairman of the Foreign Operations and Government Information Subcommittee of the Government Operations Committee, and during his chairmanship, took the leadership in development of the Freedom of Information and Right to Privacy legislation.

I have enjoyed working with him as a Member of Congress, and I particularly enjoyed the privilege of serving with him on the Government Operations Committee.

The people of the Third District of California could not have elected a Representative more dedicated to their needs than JOHN. I join with my colleagues in extending to JOHN my very best wishes as he prepares for his retirement.●

● Mrs. LLOYD of Tennessee. Mr. Speaker, I realize that many of my colleagues have already expressed their admiration and respect for JOHN DENT, but I would like to add my own personal feelings for this dear friend of mine who has contributed so much to the House of Representatives.

JOHN DENT has been an inspiration to all of us. His undying commitment to improving coal mine safety and health standards is most commendable; and, something I hope will continue in the next Congress. JOHN': dedication to his beliefs is certainly evident through the long hours he contributed to this body.

I know that I have learned from this gentleman, and I feel that I can most definitely say that those Members who have also worked with him since the 85th Congress, will also agree with me.●

● Mr. PREYER. Mr. Speaker, one of the pleasures of serving in Congress has been the opportunity to serve on two committees with JOHN MOSS. It is a learning experience of the first order, and I shall always be grateful that this opportunity came my way.

JOHN has "afflicted the comfortable and comforted the afflicted" through many years of dedicated public service. And "dedicated" is no cliché when used about JOHN MOSS. His path has been steady, consistent, and principled. He has been a model for all of us, and an inspiration. JOHN, we are grateful to you.●

● Mr. RANGEL. Mr. Speaker, OTIS G. PIKE, Member of the House who has done so much for the State of New York, is retiring from Congress. I would like to state for the record that the New York congressional delegation will lose a great statesman. Mr. PIKE has been known for his independence, his wit, his good sense, and I would like to add to that list, his good humor. He served admirably as chairman of the House Select Committee on Intelligence in 1975 to 1976. I have been privileged to have served with him on the House Ways and Means Committee and I have appreciated his perspective on the issues. I extend my good wishes to him for a bright and successful future.●

● Mr. PREYER. Mr. Speaker, we are losing one of our finest Members in the departure of JIM MANN and it is with much regret that we see him go. I am proud to have entered the Congress in the same year with JIM and I know we are all grateful for his friendship and support through the years.

He showed us his courage and understanding of our constitutional system of government in eloquent remarks during the Judiciary impeachment hearings. He demonstrated his effectiveness as a leader and excellent representative not only for his own district, but for the entire country through tireless work as head of the House Informal Textile Group.

As the prime House sponsor of the Tris bill, JIM MANN, deserves special credit for his tireless efforts on behalf of the bill and particularly for his orchestration of the strategy by which we were able to pass this very important legislation.

It is difficult to demonstrate the value of JIM's friendship and counsel to his fellow Members, but we have valued them and his presence among us will be greatly missed. As Shakespeare said: "Thy friendship makes us pesh, and doth beget new courage in our breasts."

In the long run, whether democracy survives will depend on whether there are enough JIM MANN's in our public service and in our private life.●

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, the qualities and values of a country are often no more than the qualities and values of its people, of its leaders. By this measure, throughout the long years of public service and leadership provided by the Honorable JAMES J. DELANEY of New York, the fabric of the Nation has been strong, energetic, forthright, and sure. And, by this measure too, the Nation has been good—concerned about others, unselfish, and fair.

With Congressman DELANEY's retirement, the Nation loses a man with these qualities and more. We lose his wisdom, his experience, his steady sense of how to deal with difficult situations. The House needs him. The country needs him. It has been my honor and privilege to have been a colleague of such a man, of such a Member, of such a leader, and I know that I for one will miss that special twinkle he always seems to have in those Irish eyes of his wondering with obvious relish as to what the next day or moment may bring, what new challenges will appear. To this accomplished legislator, all I can now say is to wish him well in what he may next choose to do knowing that whatever that may be he will perform with dedication and intelligence.●

● Mr. FASCELL. Mr. Speaker, I would like to express my high regard for our colleague, OTIS G. PIKE, who is retiring from Congress at the end of his present term.

OTIS fits the ideal of a Congressman in his objective manner of voting. He has repeatedly won reelection from the First District of New York as a Democrat who votes his convictions.

The people in his district have recognized his outstanding leadership qualities, just as his congressional colleagues have. Similarly, his peers have awarded OTIS positions of great responsibility by appointing him to the Committee on Ways and Means, the Budget Committee, and the Joint Economic Committee.

The respect that OTIS has earned is due not just to his ability and unbiased perspective, but to his personality and superior capacity for communication. To his daily work on Capitol Hill, he brings wit and insight. He is effective in transmitting his views to others.

OTIS can recognize the foibles of Congress, and his wry commentary frequently serves as a prickly but friendly reminder to all of us of our own limitations or transgressions. His perspective on Capitol Hill activities will be sorely missed.

While we certainly hate to lose an individual of such high caliber as OTIS PIKE, I can understand his desire to take on new challenges. I hope that he and his family will continue to enjoy great success and happiness in the years ahead.●

● Mr. RANGEL. Mr. Speaker, one of our colleagues, JOHN H. DENT who has served in this body for over 20 years, will retire at the end of this session. His

reputation as an authority on labor, pension, and welfare issues is well known. He has been responsible for most of the initiatives in education over the last decade and has been a strong supporter of Federal aid to education. I wish JOHN and his family much peace and relaxation back in Pennsylvania.●

● Mr. PREYER. Mr. Speaker, what makes democracy work in the long run, what makes a difference, is the character and competence of the individual Representative, what he thinks, how conscientious he is in committee. Do his words come from handout from the national party or some good public relations man, or do they come from his own experience and living and beliefs? Does he outtalk or outperform his fellow Members?

WALTER FLOWERS is what the philosophers call an "autonomous" man. His actions come from what is inside him and not from some public relations man or some press account of what he "ought" to think or believe.

That is what makes him such a strong Congressman and such a good friend. WALTER, we will miss you—from the Herb Botts Library to the White House.●

● Mr. FASCELL. Mr. Speaker, I am proud to join with our colleagues in paying tribute to JAMES J. DELANEY, who will be retiring from Congress at the end of his present term.

JIM has achieved a remarkable record of service and accomplishment. First elected in 1944, he has been reelected by appreciative constituents who recognize his outstanding qualities of leadership.

As a member and chairman of the House Committee on Rules, he has played a significant role in the adoption of virtually all of the important legislation enacted over recent years.

JIM may be best remembered by the Nation for his contribution as author of the Delaney amendment, which has helped protect our people from cancer by banning cancer-producing additives in foods. His achievements, however, span the entire range of legislative action.

We know JIM DELANEY as one who can be trusted, a man with refreshing candor and directness mixed with a hearty Irish humor, and whose dedication to the public interest is an unflinching as it is long. The country has indeed been fortunate to have had the benefit of his considerable legislative skills over the last 34 years.●

● Mr. RHODES. Mr. Speaker, one our brightest young Members will be leaving our legislative body at the end of this session. LOU FREY has served the Ninth District of Florida with distinction and dedication for the past decade.

Our Republican membership recognized his hard work and talent early on, and he was selected to be chairman of our research committee, which has provided us with outstanding service during his chairmanship.

Although he was not successful in his bid for other office, I know that his experience, energy, and intelligence will again be called to serve the people of Florida at some future date. I join my colleagues, on both sides of this aisle, in wishing LOU the very best in whatever endeavor he undertakes in the future.●

● Mr. BIAGGI. Mr. Speaker, literally, New York is losing its No. 1 Congressman with the retirement of OTIS PIKE. For the first time in 18 years, New York's first Congressional District will be represented by someone other than OTIS PIKE.

We are certainly losing one of our most distinguished and distinctive colleagues. The gentleman has established himself as a man of principle unbridled by partisanship. He gave his contituents as well as the entire State of New York quality representation on the important House Ways and Means Committee. In addition he served on the House Budget Committee and established a reputation here as one of the sharpest economic minds in the House.

OTIS is a man of great personal charm and possesses a keen wit. We have worked together on many projects over the past 10 years. Some have been popular, others unpopular. We recently fought together to repeal the outside earnings limitation. OTIS made an observation that may yet come to haunt this House that the outside earnings limit was a monument to mediocrity.

I have been privileged to call OTIS a friend. He is a man of compassion, as well as conviction. He made a decision to retire which was highly personal and involved his belief that unless he could give his best to his constitutents, he would not remain. OTIS PIKE in his career has given much to his constituents to State, to his Nation, and of course to his friends. I will miss him.●

● Mr. PRICE. Mr. Speaker, I rise to join my friends in the House in honoring the dean of the California delegation, Representative JOHN MOSS.

JOHN will be retiring from the House at the end of this Congress, having served the Third District of California for 13 terms. Over a quarter of a century of dedicated service is an achievement which can be envied by every Member of this body, but even more admirable is his legislative expertise. Few of us have failed to benefit from the wisdom and timely assistance which was always ours for the asking from Congressman Moss. Knowledgeable in all fields, JOHN was particularly admired for his work on the Interstate and Foreign Commerce Committee and the Committee on Government Operations.

Mr. Speaker, I would like to wish Congressman Moss and his family good luck and many years of happiness as they leave us and begin a new life. I know JOHN will bring to whatever he does the same spirit and dedication which characterized his career in this House.●

● Mr. RHODES. Mr. Speaker, the House will lose more than two decades of experience, and one of its most knowledgeable Members in the area of health and environment, when PAUL ROGERS leaves the House at the end of this session.

He has served the Congress, the people of his 11th District in Florida, and the Nation with dedication and diligence. He has played a major role in shaping legislation that affects the health and well-being of millions of Americans.

It has been my pleasure to have been a colleague of PAUL ROGERS over the past 23 years, and I know that he has earned the friendship and respect of a host of Members on both sides of the political aisle.

Although we will miss him in the 96th Congress, I am certain that his great experience and knowledge of the Nation's health care systems will be drawn upon in some area of public endeavor in the future. I wish PAUL the very best in whatever field he bestows his talents and energies.●

● Mr. HORTON. Mr. Speaker, at the end of this session, the New York State Delegation will lose several of its most able and distinguished colleagues. I would like, today, to join with my colleagues to pay special tribute to one of my fellow delegation members, Congressman OTIS PIKE.

OTIS was first elected to the 87th Congress November 8, 1960, and was elected to each succeeding Congress thereafter. During his 18 years of service to the First Congressional District of New York, he has served with distinction on the Ways and Means Committee, the Budget Committee, and the Joint Economic Committee, and therefore, has played an extremely important role in the formulation of economic policy. He was also chairman of the House Select Committee on Intelligence, which made important contributions to needed reforms in the intelligence communities.

I also want to point out that OTIS was an outstanding Marine Corps bomber pilot in World War II and a night fighter pilot at Okinawa. As a result of his bravery and the 120 combat missions he flew, he was awarded 5 Air Medals.

The delegation, and indeed, the Congress and the Nation have been served well by our colleague, Congressman OTIS PIKE. I wish him well in his future pursuits.●

● Mr. PRICE. Mr. Speaker, I rise today to join my colleagues in the House in honoring a distinguished member of the South Carolina delegation and of this body, Representative JIM MANN.

JIM will be retiring from the House at the end of this Congress, having served the Fourth District of South Carolina for five terms. During JIM'S 10 years in Washington, we have all come to respect his dedication, intellect, and legislative abilities. Although JIM was knowledgeable in all fields, he was especially well known for his work on the Judiciary and District of Columbia Committees. On numerous occasions I have sought the advice of JIM on matters within the jurisdiction of his committee assignments.

Mr. Speaker, I would like to wish Congressman MANN and his family good luck and many years of happiness as they leave us and begin a new life. I know JIM will bring to whatever he does the same outstanding attributes that characterized his career in the House.●

● Mr. HORTON. Mr. Speaker, at the end of this session, the New York State delegation will lose several of its most able and distinguished colleagues. I would like, today, to join with my colleagues to pay special tribute to one of

my fellow delegation members, Chairman JAMES DELANEY.

There are very few Members who can make the statement that they have served in this body for more than 34 years. JIM DELANEY, distinguished chairman of the House Rules Committee, is one who can make that statement.

He was first elected to the 79th Congress on November 7, 1944 and elected to the 81st Congress in 1948 and to each succeeding Congress thereafter. Those of us in the delegation know JIM as the dean of the New York congressional delegation, and I think we all know how well he has served us in that capacity. He takes with him a very rare appreciation and understanding of the complex rules that govern the way in which we in the House conduct our business. It is hard to imagine the Rules Committee without thinking of JIM.

I wish him the very best as he retires from Congress and returns to private life.●

● Mr. IRELAND. Mr. Speaker, LOU FREY, our good friend and colleague, is leaving Congress at the end of this session after 10 years of distinguished service.

I am pleased to join with LOU's many friends to wish him all the best as he returns to private life. During his time here in Congress, LOU FREY quickly gained a well deserved reputation as one of the most creative and effective Members of the minority.

LOU has left his imprint on much legislation during his service in Congress, most especially in the field of communications policy, an area in which he is an acknowledged leader.

We will all miss his energy and enthusiasm.

Thank you, Mr. Speaker.●

● Mr. DERRICK. Mr. Speaker, it is my high honor to rise on this occasion and offer a few remarks on the retirement of my good friend JIM MANN.

I need not tell this distinguished body that it will not be easy to replace JIM MANN. For many of you here have served with South Carolina's Fourth District Representative since he first entered these historic chambers in 1968. Those of you who, like myself, have not had the opportunity for this length of service, nevertheless, know of his caliber.

It is one thing, however, to be justly reversed by one's peers and colleagues. It is quite another to be taken into the hearts of one's countrymen. This, JIM MANN has done. For his astute and noble counsel during the Watergate hearings endeared this man to the Nation and marked his congressional career for history.

I know I join you in proclaiming: JIM MANN will be soundly missed.●

● Mr. FOUNTAIN. Mr. Speaker, as the 95th Congress draws to a close, this is an appropriate time to pay tribute to one of our retiring colleagues, JAMES J. DELANEY, who has made an important contribution to protecting the health of the American people.

JIM DELANEY was first elected to the House 34 years ago. During his long congressional career, he has served this body with distinction in a number of capacities, most recently as chairman of the Rules Committee.

However, he is best known to the public as the author of the Delaney clause, a law which prohibits the use of food additives that have been shown to cause cancer in humans or laboratory animals. As chairman of the House Select Committee on Chemicals in Foods in the mid-1950's, his work was instrumental in the passage of the food additives law of which the Delaney clause is a part. JIM DELANEY's sponsorship of that provision in 1958 has undoubtedly been one of the outstanding contributions to the public health made by a layman in our time.

I became aware of the importance of the Delaney clause in connection with a series of hearings which the Intergovernmental Relations and Human Resources Subcommittee, which I chair, held in 1971 on the use of chemical additives in our food supply. The distinguished scientists who testified in those hearings were unanimous in their support of the Delaney clause as a necessary protection against the exposure of people to cancer-causing substances.

The Delaney clause has come under attack in the past few years as too rigid a restriction because increasingly sophisticated scientific tools have made possible the detection of very minute residues of cancer-related substances used as additives in food products. The critics of the Delaney clause contend that those residues are too small to be harmful. On the other hand, many of the foremost scientists continue to defend the Delaney clause on the grounds that no acceptable evidence has yet been produced to show that even the smallest amount of a carcinogen can be safely ingested. Until such a "no effect" tolerance level has been scientifically established, I do not believe that society can afford to abandon the Delaney clause.

JIM DELANEY has earned the gratitude and respect of all Americans for this important contribution, as well as for his long and dedicated service in the House. We wish him many happy and productive years as he turns his talents to other interests as a private citizen.●

● Mr. CORMAN. Mr. Speaker, I wish to give tribute to one of the House's most respected Members and a personal friend, OTIS PIKE.

OTIS and I began our congressional service together in the class of sixties and have served together on the Ways and Means Committee for the past 4 years.

The respect of his colleagues has been earned because of his high principles, commonsense, fresh and independent thought, and devotion to the public good. His witty and affable nature belies a direct and exacting style. His empassioned oratory, crystalizing difficult and complex issues, has often had a decisive impact.

No better selection could have been made for directing a congressional investigation of two very sensitive and controversial matters—CIA activities and the U.S.S. *Pueblo* seizure. OTIS' performance exceeded the high expectations of his colleagues.

OTIS has also distinguished in service by his expertise on the fiscal affairs of the U.S. Government. As a current member of the Ways and Means, Budget, and Joint Economics Committees, he has been able to exercise great influence on promoting Government efficiency and economy.

OTIS' departure will be a loss for each of us and the entire House.●

● Mr. DERRICK. Mr. Speaker, it is my privilege to come before this distinguished body and offer a few words on the retirement of WALTER FLOWERS.

I know I do not have to tell my colleagues in the Congress, the people of Alabama or the citizens of our Nation that WALTER FLOWERS' 10 years of public service have been exemplary. For his was a congressional career that included membership on the Judiciary Committee and the Select Committee on Aging as well as the chairmanship of the Subcommittee on Fossil and Nuclear Research.

WALTER FLOWERS brought to each of these assemblages and the Congress his deep ability, true compassion, and lasting insights. The rewards of such stewardship will continue to have prolonged benefits to me and all the Members of this historic Chamber. We shall miss WALTER FLOWERS very much.●

● Mr. DUNCAN of Oregon. Mr. Speaker, I wish to express my sincere appreciation to my colleague from Florida, BOB SIKES, for 38 years of dedicated service to our country. He has been a tireless champion for effective national defense and security and has demonstrated a masterful legislative ability for nearly four decades in assuring that defense. I join my colleagues in wishing him the very best in the years to come. He will be missed in Congress.●

● Mr. ZABLOCKI. Mr. Speaker, the adjournment of the 95th Congress brings the retirement of our friend and colleague, Representative OTIS PIKE.

Representative PIKE has served energetically and faithfully in the House of Representatives for 18 years. A native of Riverhead, N.Y., Representative PIKE serves the First District of New York, representing the area in which he was born and raised.

After graduating from Princeton University with honors, OTIS received his law degree from Columbia University. His many academic and civil honors include an honorary degree of law from Long Island University, the "Distinguished Citizen of the Year Award" from Southampton College of Long Island University, and the "1976 Thomas Jefferson Award" from the New York State Publishers Association.

Subsequent to a successful career as an attorney, OTIS PIKE ran for Congress in 1960 and was elected. His constituents reiterated their support by electing him to each term afterward.

Mr. Speaker, Representative PIKE leaves an impressive record of service to the House. As an influential Member of the Armed Services Committee, the Ways and Means Committee and the Budget Committee, he offered his skills and expertise to the legislative process.

Representative PIKE will certainly be missed in this House. I join our colleagues in extending my personal best wishes to OTIS PIKE for success in the future.●

● Mr. MOAKLEY. Mr. Speaker, I rise to join my colleagues in paying tribute to the distinguished gentleman from New York (Mr. DELANEY) as he prepares to retire after 34 years of dedicated service in this body.

I am now completing my second term on the Committee on Rules and consider myself very fortunate to have had an opportunity to serve on that committee under JIM DELANEY's chairmanship. He has filled this office well and exercised his vast power with integrity, fairness, and patience.

The gentleman, in this Congress, established the first subcommittee which has ever existed in the Committee on Rules. Although it is still in its formative stages, this means that the Rules of the House of Representatives, for the first time, are placed in the custody of a single entity with responsibility for managing the orderly process of reform. It is very possible that historians of the Congress will view this farsighted decision by JIM DELANEY as one of the most important steps toward reform in this era.

JIM DELANEY has frequently been the nominee of both the Democratic and Republican parties in his district. This is a just testament to the ability and dedication with which he has served the interests of his district, city, State, and the Nation.

As chairman of the committee on which I serve, JIM DELANEY has always been kind and fair to me and I will always be grateful for the opportunity to have served with him. We will all miss him greatly and I wish him the best in retirement.●

● Mr. PRICE of Illinois. Mr. Speaker, I rise today to join my colleagues in saying farewell to a great Member of this body, Congressman JIM DELANEY of New York who is, as we all know, retiring at the end of this session of Congress.

JIM has served for 16 terms as the Representative from New York's Ninth Congressional District. He has been admired for his service to his constituents, for his work as chairman of the House Rules Committee and for his leadership to the New York congressional delegation as their dean.

To discuss the legislative achievements of JIM during his tenure would take more time that I have today and would be unnecessary as my colleagues are already aware of his contributions and reputation.

I am sure that I express the feeling of the House when I say that JIM's retirement is a great loss to this body and to the entire country. I will miss the benefit of his insight and wisdom. Most of all, I will miss a good friend.

I sincerely wish JIM good luck and much happiness in his future endeavors.●

● Mr. DUNCAN of Oregon. I wish to express my sincere appreciation to my colleague from Florida, PAUL ROGERS, for 23 years of dedicated service to our country. As chairman of the Health and Environment Subcommittee, he has dedicated his life to a better and healthier America.

I became particularly aware of his leadership in the field of National Health during his long and fruitful association with the late Dr. Al Stetson, former dean of the medical school at the University of Florida, who was also my brother-in-law. Al had high regard for PAUL ROGERS. I join my colleagues in wishing him the very best in the years to come. He will be missed in Congress.●

● Mr. RHODES. Mr. Speaker, the House this year is losing a Member who has the longest service record in Congress from the State of Florida. BOB SIKES came to Washington in the pre-war days, and has served during a tumultuous time in our Nation's history.

I have been a colleague of BOB'S during the past 26 years, and I know that he has earned a host of friends over the years on both sides of the political aisle. He has obviously served the people of the First District well throughout four decades of change in Government, and in Florida. He has played a leading role in our Nation's defense legislation and we are former colleagues on the Appropriations Committee where we wrestled with the challenges of the Federal budget.

I join my colleagues in wishing BOB a long, happy, and fulfilling retirement in what we in Arizona call the other sunshine State.●

● Mr. BINGHAM. Mr. Speaker, I am glad to join with his many friends and admirers in wishing JIM MANN godspeed as he retires from the House.

While I have never had the privilege of serving with him on a committee, I have been impressed with his clarity of thought and statesmanlike demeanor on many occasions. These qualities were apparent to the entire country during the Nixon impeachment proceedings in the Judiciary Committee which reflected such credit on the Congress as a whole.

I feel sure that in the years ahead he will continue to serve his State and country with dignity and distinction.●

● Mr. DRINAN. Mr. Speaker, I came to know Congressman JIM MANN very well during the arduous weeks and months during which the House Judiciary Committee on which I serve met for the impeachment inquiry.

Congressman MANN demonstrated excellent judgment, great courage, and deep wisdom during the entire course of the impeachment proceedings. He worked closely with all members of the committee and with the staff in evaluating the enoromous amount of evidence that was presented to the committee.

Eventually Congressman MANN courageously came to the conviction that the evidence before the committee supported the charge of impeachable offenses by the President.

The same judicious judgment which characterized JIM MANN during the impeachment inquiry characterized him during the extensive hearings which his subcommittee on crime conducted on the comprehensive criminal code reform passed by the Senate in S. 1437. Congressman MANN has left a legacy of hearings and markup on this bill which places all of us in his debt for a long time to come.

The decade of his life which Congressman JIM MANN has given to the Congress of the United States have endeared him to his colleagues here, have made him highly respected and admired by his constituents and indeed by the entire Nation. His talents, his resourcefulness, and his patience will be deeply missed by all of those who have an ever-growing admiration and affection for this great jurist from South Carolina.●

● Mr. CONTE. Mr. Speaker, speaking as his coach and his friend, let me say that it is very painful for me to say "so long" to the gentleman from Florida, Congressman LOU FREY.

First off, he has been a shortstop nonpareil for our Republican congressional baseball team. He was a hustler on defense; he swung a powerful stick and he was one of the best "team players." To say that his contributions will be missed is one of those understatements that will become acutely painful next season.

His prowess on the diamond has only been eclipsed by his dedication to his constituents, the fine people of the Ninth District of Florida.

LOU's easy going manner and his ready wit belie his seriousness and dedication as a legislator. He has distinguished himself through his service on the Interstate and Foreign Commerce Committee, the Science and Technology Committee and the Select Committee on Narcotics Abuse and Control.

LOU has been a close personal friend and an excellent legislator. We will miss him here in the House.●

● Mr. JONES of Oklahoma. Mr. Speaker, we will miss the colorful gentleman from New York's First District, OTIS PIKE, when he leaves Congress this year after 18 years of notable service.

OTIS PIKE and I have served together on the Ways and Means Committee, often on opposite sides of the issue. Still, I respect his zealous, forthright pursuit of the goals he believes will best help the Nation. His tireless enthusiasm for this difficult job is uniformly respected and I gladly join my colleagues in doing just that.

Thank you, OTIS. The best of everything in the future.●

● Mr. BURLISON of Missouri. Mr. Speaker, it is a valued pleasure and privilege to join my friends in the praise of our colleague, JAMES MANN. He has been a bulwark of strength and an example for me these past 10 years. It seems only yesterday that we came to Washington as classmates to the 91st Congress.

JIM came to the Nation's Capital in time to play a monumental role in one of the hallmark pages of American history. My reference, of course, is to the House Committee on Judiciary hearing on the impeachment of President Richard M. Nixon. The legal skills and ethical strengths of JIM MANN were on nationwide display. Those unique qualities acquitted him well and brought great honor

and respect to the institution of the House of Representatives at a critical time in our history.

I wish my friend health and success. His presence and influence will be sorely missed in this body.●

● Mr. JONES of Oklahoma. Mr. Speaker, JIM MANN's 10 years in Congress have been punctuated by his desire to inform himself on the issues in order to better represent the people of South Carolina.

He has been a tireless worker on the House Judiciary Committee. His service on that panel coincided with some of the darkest days of our Republic, but throughout that time, JIM MANN's influence and leadership insured that the ship of state would remain on a steady course. JIM was not content to be merely told something; he insisted on firsthand experiences in order to better inform himself of the multitude of issues he was called upon to master.

He will be missed in January, Mr. Speaker.●

● Mr. BROYHILL. Mr. Speaker, I have known and worked with JOHN MOSS since I came to Congress 16 years ago. During that time we have served together on the Interstate and Foreign Commerce Committee and, for several terms, worked together on the old Commerce and Finance Subcommittee which JOHN chaired and on which I was the ranking minority member. During that era, we wrote some landmark legislation including the development of the Consumer Product Safety Commission, the Magnuson-Moss warranty amendments to the Federal Trade Act and subsequent amendments to the Securities and Exchange Act.

Although JOHN and I have had our disagreements on occasion, I have found that he is always willing to listen to others and to accommodate their opinions.

I extend my very best wishes to JOHN and his wife and hope that they enjoy to the very fullest the well-deserved rest JOHN has earned.●

● Mr. PRICE of Illinois. Mr. Speaker, I rise today to say goodby to a good friend and colleague, Representative OTIS PIKE of New York. As I am sure all Members are aware, OTIS is retiring at the end of this Congress.

As a nine term veteran, OTIS has distinguished himself through his work on the Budget Committee, Ways and Means Committee, and the Joint Economic Committee; however, Mr. PIKE will probably best be remembered for his outstanding leadership of the Select Committee on Intelligence. His leadership of that committee is an example that all committee chairmen should strive to obtain.

Besides his leadership, OTIS is also going to be missed for his intellect, legislative abilities and, especially, his wit. My only solace in knowing that OTIS will be leaving is the fact that I understand he will be keeping close tabs on the House through his weekly news column.

Mr. Speaker, I would like to take this opportunity to wish Congressman PIKE good luck and many years of happiness as he leaves us to begin a new life. I know OTIS will bring to his future endeavors the same spirit and dedication which has characterized his career in the House.●

● Mr. SCHEUER. Mr. Speaker, one of the House's most articulate, and surely one of our most entertaining, eloquent, witty and sardonic voices will be leaving us at the end of this session.

OTIS PIKE is a Member whose keen analysis of issues, and dry good humor in stating them, has given him a special place in our esteem.

He served with class and he has left us with class.

We wish him well.●

● Mr. BROOKS. Mr. Speaker, I wish to pay tribute to one of my colleagues who is retiring at the end of this 95th Congress, OTIS G. PIKE. The distinguished Member from the First District in New York will be sorely missed when we convene in January to begin a new Congress. His ability has shown itself in his service on the Ways and Means Committee, the Budget Committee, the Joint Economic Committee, and the Pike Select Committee on Intelligence. He has provided the House with leadership in many areas of legislation and his expertise will not be easily forgotten.

I extend to my colleague every good wish for a long and happy retirement.●

● Mr. NICHOLS. Mr. Speaker, I am pleased that our colleague from Georgia, the Honorable JACK BRINKLEY, has arranged this special order so that the many friends of our departing colleague, JACK FLYNT, may have the opportunity to express our appreciation for the services he has rendered both to the State of Georgia and to the Nation during his many years of congressional service.

Twelve years ago when I first came to the Congress I made a trip to see my colleague from across the State lines whose district joins that of my own, concerning a post office matter. I remember that the good Congressman from Georgia was understanding of my constituents' situation but it affected his own district, and he asked me point blank, "Bill, does it mean a lot to your constituents?" I applied in the affirmative and I will never forget his answer—"We will find ways to work it out to your satisfaction." I have never forgotten that favor and, although it was a small request, as a new Member it was very helpful to me in keeping some commitments I made during my first congressional campaign.

It has been my pleasure to visit in the home of Congressman FLYNT, and I count him as one of my closest friends in the Congress. His services to his State are legion and certainly there is no Member of this body who has more friends or whose services will be missed more than JACK FLYNT.

This Congress and the Nation are indeed indebted to him for accepting the chairmanship of the House Committee on Ethics—a most difficult job—a thankless job—a job in which you make no friends and try to avoid making enemies of your colleagues on whom you must pass judgment. As chairman of that committee, JACK FLYNT has been extremely fair to his colleagues, hearing testimony day after day on matters pertaining to the ethics of this great deliberative body. It was his responsibility to bring that committee report which called for punitive action against three of our colleagues—certainly a sticky, unpleasant obligation of leadership—before the Congress. Mr. Speaker, I know I speak for every Member of this body in expressing our appreciation to the gentleman from Georgia for the fair manner in which he handled the investigations and never once did he wince or retreat in his pursuit of the task assigned to him.

As JACK leaves the Congress after a distinguished career of public service, I would want to wish for him all of the joys which retirement should bring to this dedicated public servant. As he goes back to his beloved State of Georgia, he has the best wishes and the prayers of those of us who have loved him and worked with him in the Halls of Congress. Our best wishes for continued good health and happiness.●

● Mr. GINN. Mr. Speaker, I rise in tribute to one of the most distinguished Americans I know, and one of my closest friends in the Congress, the Honorable JOHN J. FLYNT, JR.

Upon JACK FLYNT's retirement this year, the House of Representatives and the American people will lose one of the most dedicated public servants in our Nation. His contribution to his country includes service as an assistant U.S. attorney, a member of the Georgia House of Representatives, a State Solicitor General, an Army officer in World War II, decorated for valor, and, for 24 years, a tireless legislator and leader in the Congress of the United States.

Though it has been my honor to know JACK FLYNT for some 18 years, I came to know him best when I began service as a newly elected Member of Congress in 1973. He became a patient counselor to me, and, on numerous occasions, he has assisted me directly in projects of vital concern to the people of my congressional district.

As JACK FLYNT has moved into positions of increasing responsibility in the Congress, with many legislative victories and achievements to his credit, a lesser man would have rested on his laurels. But he chose a different path. He has dodged no issue, left no call for service unheeded, and has given unselfishly of his time and talents.

Over the years, Congressman FLYNT has become one of our Nation's leading experts on military affairs, the appropriations process, and countless other areas of importance too great to list here. He has used his talents and his experience to enrich the quality of work in the Congress, and to make our country a finer and a more secure place for this and many generations to come.

When new challenges developed, and the call came for JACK FLYNT to assume the chairmanship of the Select Committee on Ethics, he responded without hesitation. He has carried out the thankless task of leading that important committee with the wisdom and dignity that has characterized his entire record in Washington.

As events propelled him into the national spotlight, he stood with honor as a spokesman for integrity in the Congress.

At the same time he carried out these duties, JACK FLYNT served as dean of the Georgia congressional delegation, and has found time to be an inspiration to us all, a leader for our State, and a man for whom no task has been too great or too small.

There are no accolades, no awards, and no tributes which we can bestow that are equal to the contributions of JACK FLYNT. He has built his own monument through a lifetime of personal achievement.

When he and his charming wife, Patty, return to Georgia, it will be a personal time of sadness for me. But I know that they are going home for a well-deserved rest, and I know that theirs will be an active retirement. I know that I will be calling on them often for counsel.

Mr. Speaker, I am comforted by these facts, but I must say that we are all about to suffer a great loss with the retirement of JOHN J. FLYNT, JR. The Congress is losing a great legislator, a veteran political leader, a statesman, and a spokesman for moral authority. It is a loss which we will feel for many years to come.●

Mr. BRINKLEY. Mr. Speaker, it is a pleasure to have this opportunity for a special order on the closing day of the distinguished service of the dean of the Georgia delegation, JOHN J. FLYNT, JR.

Once I made a testimonial to Congressman FLYNT, paraphrasing some words uttered by a colleague on an earlier occasion, with reference to another fine man.

Congressman FLYNT, I said, was as down to Earth as the sole of your shoes, as genuine as a 24-carat diamond, as faithful as a little sister is, and as decent as a clean, white shirt on Sunday. It is the truth.

The highest compliment you could pay to JACK was to ask him to do a favor for you.

His legacy, as chairman of the Standards of Official Conduct Committee, is a monumental one. In that significant role, he tempered the proceedings with restraint and concern for the innocent, but with vigor and tenacity toward those who had breached the standards. His hard-working performance as a member of the important Appropriations Committee is equally outstanding.

Congressman FLYNT's quarter-century of service to country is a splendid example for us all, and we shall greatly miss him and his dear wife, Patty.

● Mr. SCHEUER. Mr. Speaker, today marks the last day of a distinguished career in Congress of our esteemed chairman of the New York delegation, Congressman JIM DELANEY of Queens.

JIM DELANEY, in the few years that he has served as chairman of the New York delegation has taken the disunited, disorganized and almost totally ineffective delegation which he inherited and has welded it into a unified and cohesive body that has proved that it packs a wallop for New York City, New York State and the Nation. It is hard to believe that the delegation as it existed prior to JIM DELANEY'S chairmanship, could have reached out to the country in a smoothly organized effort to create the kind of support it succeeded in stimulating for financial assistance for New York City.

In simple fact, Mr. Speaker, JIM DELANEY has made an enormous difference in leading our delegation into "getting its act together." His avuncular good humor, his keen wit, his wisdom and sagacity have won him a special place in our hearts and we will miss him. I am sure that every member of our delegation joins me in wishing him a hearty farewell with the hope that he will return frequently to these precincts to regale us with tales of life in the sun belt under clear blue skies spotted by fleecy white clouds and the palm fronds gently swaying in the breeze.●

● Mr. DRINAN. Mr. Speaker, I remember very well the day that Congressman FLYNT courageously took the floor of the House and announced his decision to come out against the war in Vietnam.

Those of us who had come to the Congress principally over this issue were delighted that Congressman FLYNT exercised his leadership in this way.

Congressman FLYNT has been taking bold and heroic steps for many, many years. He has served the people of his district and the entire Nation in many ways, but one of the most difficult and most valuable roles which he played in the Congress was as the chairman of the House Committee on Ethics. Congressman FLYNT did magnificent work in the very difficult role as a person who had to investigate charges against his colleagues. During the last week that Congressman FLYNT served in the House he performed in a most laudable way in managing the bill that resulted in the reprimand of three Members of the House.

I and all of those who admire Congressman FLYNT wish him every continued success and happiness. He shall be missed in the House where he served so ably and so well.●

● Mr. SPENCE. Mr. Speaker, the people of the Fourth Congressional District of South Carolina have every reason to be proud of their Congressman, our colleague and friend, the Honorable JAMES ROBERT MANN. He has served his country and his constituents with distinction during a tumultous decade in the Nation's history, bringing to the House dedication, quiet competence and unfailing courtesy and reasonableness that have been steadying influences on this institution.

His career in the legal profession, both in private practice and as a circuit solicitor prepared him for his tenure on the Judiciary Committee where, as we all know, he has distinguished himself.

It is with mixed emotions that I rise in tribute to JIM MANN. His decision to retire robs this body of an invaluable Member. But each of us who has served here more than a brief time knows the pressures and weariness that bedevil conscientious men. So, we can understand his desire to step away and have time for his family and himself. No one has earned it more.

Save for one term, my service in the Congress has overlapped with JIM'S career here. In that time, I have known him to be a consummate gentleman and a valued friend. Working with him has been a constant reminder to me that it is the good fortune of our country that men of quality are willing to serve in Congress, in the white heat of politics.

We shall miss him in our deliberations here, of course, but the example he has set is a challenge to all of us and a tribute to his character, intelligence and good sense.

I join with my colleagues in wishing him all success and happiness.●

● Mr. HOLLAND. Mr. Speaker, it is with great regret that I rise to announce that next year there will be no MANN in the House. I checked with the Parliamentarian to determine if I could introduce legislation mandating that there be a Mann in the House, but he advised that there was already one Mann act and that a two-Mann act was being considered in the Subcommittee on Civil and Constitutional Rights, and that a third Mann act would be an old theme. So, a new era is almost here—a Congress without a Mann.

JIM-boy, what have you done to us?●

● Mr. DE LA GARZA. Mr. Speaker, today I rise to salute a member of Texas delegation who shall be leaving this House at the end of the 95th Congress—my friend, DALE MILFORD.

Congressman MILFORD has earned himself a reputation as a hard-working, conscientious legislator who steadfastly fights for the causes in which he believes. Such men are rare in these times, and so I am saddened to realize that we shall shortly be without him.

Nevertheless, I shall cherish the memories I have of this fine gentleman, and I will think back on these days with the pride of having known a good man.●

● Mr. DAN DANIEL. Mr. Speaker, when the history of this past decade is recorded for posterity, I am confident that it will accord JIM MANN his rightful place alongside of other South Carolina statesmen such as John C. Calhoun and Jimmy Byrnes.

Those of us here today will not have to rely on history books to remind us of the time during the 1974 impeachment hearings when JIM MANN offered us as a nation hope where before there was despair; offered us faith where before there was doubt; offered us pride where before there was shame; and, last but not least, offered us a sense of unity where before there was bitter recrimination.

Like the mountains of his beloved South Carolina, JIM MANN towered above our midst with his quiet, dignified appeal for reason and respect for the rule of law—at a time when lesser men had succumbed to political expediency.

I think Mary McGrory captured the significance of JIM'S contribution to these proceedings in an article that appeared in the August 4, 1974, edition of the Washington Star, which I would like to commend to your attention at this point in my remarks:

A MANN FOR THE AGES

(By Mary McCrory)

Once again, salvation has come with a Southern accent.

The liberals are getting used to it. A year ago, they were worshipping at the feet of Sen. Sam Ervin of North Carolina, blotting out

his civil rights record as they watched him hurl the Constitution in the face of the impervious Nixon men.

The older ones remember that it was Sen. John Stennis of Mississippi who finally put them out of their misery over Joe McCarthy.

Now they are acclaiming a representative of the Confederacy whose name was unknown to them a week ago. Yankee mail is pouring into the office of Rep. James Mann of South Carolina. Mann is bemusedly reading letters from abashed New Englanders who are apologizing for their previous harshness toward Southern politicians.

Mann was the Man on the House Judiciary Committee who spoke for the ages. People assumed he was quoting from inscriptions carved in stone. His presence filled and stilled the room. Even his pauses—which were long and frequent—carried enormous weight.

His voting record on the liberal scale of ADA is zero. As a conservative, he scores 90. He was born in South Carolina. He was educated entirely in South Carolina—at the Citadel and at the University of South Carolina Law School.

His performance on the committee, both public and off-stage, taught the country once again that when a guardian of the Constitution is required, and a master of the process by which things get done, it is necessary to go below the Mason-Dixon line.

Mann is precise in his language and rejects "middleman," "ambassador," "liaison" and similar terms to describe what he did behind the scenes. Although most sparing in his public utterance, he reverts to native circumlocution when speaking of his central role.

"We were seeking to find a consensus among those we felt were most reasonable, talking over the evidence, sorting out those allegations on which we agreed," he says.

Walter Flowers, D-Ala., Mann's closest friend on the committee, puts it another way. "We wanted to talk—we were sick of listening to people whose minds were made up."

Lonely men on the Republican side had similar aspirations. William S. Cohen of Maine, M. Caldwell Butler of Virginia, Hamilton Fish Jr. of New York, Tom Railsback of Illinois wanted also to discuss the evidence with members whose minds were not made up.

On July 18, after the last witness had been called, Cohen met Mann and Flowers in the hall and suggested they "get together."

Out of those endless meetings, joined occasionally by other nervous, shifting Republicans, evolved the first two articles of impeachment. Mann is rated by his fellow drafters as a superb legal technician. He also contributed his special, colonial quality of calm and purpose. The men writing those articles knew they were doing something dangerous. But in the company of Mann, who looks powerfully like one of the framers of the Constitution, they were sure, at least, they were not doing anything un-American.

The unofficial Democratic five-man drafting team appointed by Chairman Peter Rodino fell back. Rodino's self-effacement, now known to millions of Americans, was contagious. The militants humbly accepted back-up assignments.

As for the authors, it was understood they should not be Northerners, could not be Southerners. Two border-state men, Paul S. Sarbanes of Maryland and William L. Hungate of Missouri, put their names on Articles I and II respectively. The sponsorship, like the vote, had to come from middle ground.

Mann, Flowers and their Southern compatriot, Ray Thornton of Arkansas, had insisted with the Republicans on the last full measure of fairness. They demanded witnesses, even the mischievous and erratic Charles Colson.

What Mann thinks of Colson, who walked over the Constitution and would have over his grandmother, is between him and his Maker. But, in the opening remarks that reverberated through the nation, he gravely quoted Colson's praise of the committee as proof of its impartiality.

Mann was, perhaps, like the kingmaker. The articles were the candidate, and Mann's endorsement assured their acceptance.

The paradox is that what came out of the endless negotiations, haggling and quibbling required only a sacrifice of time and ego from the firebrands.

The Rev. Robert Drinan, D-Mass., who introduced the first impeachment resolution a year ago, said, "I didn't have to give up a thing."

Now Drinan's constituents are acclaiming Mann, even if the folks down home are not. If he has the effect on his own people that he did on the committee and the public, they will see things his way fairly soon.●

● Mr. ZABLOCKI. Mr. Speaker, with the adjournment of the 95th Congress, we will be losing one of our most versatile Members, JOHN DENT, of the 21st District of Pennsylvania.

I have always respected JOHN DENT because I believe we share a common philosophy: That is, the necessity of promoting and protecting the rights of the working man. JOHN DENT devoted the major part of his career as a public servant to helping those who work with their hands, the factory workers, the miners, the technicians.

As author of the Employment Retirement Income Security Act, he made his mark in this decade. ERISA will give millions of retired citizens a fairer break in their retirements. In addition to this landmark legislation, JOHN DENT is credited with black lung legislation and labor law reform.

Mr. Speaker, perhaps JOHN DENT's background as a newspaperman, a business executive, and a public servant at the State level have contributed to his unique ability to relate to all people and coordinate varying interests. He has a deep perception of problems and wisdom in addressing them.

Mr. Speaker, JOHN DENT's congenial personality and energetic initiatives will be sorely missed by this body. I join our colleagues in wishing him and his devoted wife a healthy, fruitful and happy retirement.●

● Mr. FORD of Michigan. Mr. Speaker, I am extremely pleased to join my colleagues in paying tribute to the distinguished Congressman from South Carolina, JIM MANN.

Throughout his 10 years of congressional service, I have admired his dedicated work on the District of Columbia Committee, Judiciary Committee, and the Select Committee on Narcotics Abuse and Control. He has a broad and encompassing knowledge of the issues, and a unique ability to cut through the nonessentials to reach the heart of the most complex matters. His diligent work to curb the drastic effects of imports on the textile/apparel/fiber industry—the largest manufacturing employer in the United States—is commendable. As one who has studied the disasterous effects of foreign imports our Nation's industries, I know that his excellent work in this area, as well as his other endeavors in Congress, will be sorely missed.

I am sure his retirement from the Congress is only the beginning of new challenges. Whatever future courses he follows, I wish him happiness and success.●

● Mr. ZEFERETTI. Mr. Speaker, with the retirement of Congressman OTIS PIKE, the House of Representatives will be losing one of its finest men.

OTIS PIKE has the distinction of having served the people of the First District of New York for nine terms. As a fellow member of the New York State congressional delegation, I have worked closely with him and have come away from our discussions with admiration and respect for his legislative ability. His expertise in the area of taxes and the budget and his seat on the House Ways and Means Committee has truly benefited all citizens.

I have always valued his wise advice and shall miss the opportunity to counsel with him on important legislative matters and decisions. In fact, few Members of Congress have failed to benefit from the experience of his 18 years in Congress.

OTIS will be leaving this great Chamber to pursue a writing career. In writing a syndicated column he will be viewing the House from a totally different angle and we still may be seeing him as we look to the press gallery. I am sure that his future endeavors will be as successful as those that have preceded him and I wish him the best in the years ahead.●

● Mr. FISH. Mr. Speaker, the adjournment of the 95th Congress reminds us of our many colleagues that have chosen not to return to the House of Representatives in order that they pursue their respective careers and lifestyles in other directions.

Along that line, I would like to pay special tribute to two Members of the New York Republican delegation—my friends BILL WALSH of Syracuse and BRUCE CAPUTO of Westchester.

BILL is leaving the House of Representatives having served three distinguished terms. He came to this body from upstate New York, where he was mayor of Syracuse from 1962 through 1969. Under his guidance, Syracuse prospered and business flourished—and he brought this same legislative and administrative skill to Congress where he has worked on behalf of the constitutents of New York's 33d Congressional District. While we will miss him, I want to take this opportunity to wish him well and I hope that his "retirement" is only temporary.

BRUCE CAPUTO has accomplished a lot in only 2 short years in the House. He has established himself as one of the hardest-working and most diligent Members of Congress and has compiled a fine record of service for those he represents. BRUCE is leaving the House to run statewide in New York for Lieutenant Governor where, hopefully, he can continue his efforts for all New York.

BRUCE and I have worked closely on many projects—most recently, the electrification of the Upper Harlem Railroad and the establishment of a courthouse in the southern judicial district in White Plains—and, at all times, he has been

aggressive and forthright in pursuing what is best for his district.

I wish BRUCE the best in his November race and look forward to working with the Duryea-Caputo administration in Albany next year and for years to come.●

● Mr. SIKES. Mr. Speaker, as the 95th Congress comes to an end, Floridians everywhere soon will be gaining a dedicated and industrious full-time addition to the Sunshine State. LOU FREY is going back to Florida after a decade of outstanding service to the State and the Nation. His shoes, as the representative of Florida's Ninth District, will be difficult to fill. I am proud to have enjoyed his friendship and I am but one of many who share that friendship.

A native of New Jersey, LOU FREY came to Orange County, Fla., after college, service in the Navy, and graduation with honors from the University of Michigan Law School. He established a law practice in Orlando, and soon his neighbors were well aware of his hard work and community involvement. In 7 short years his work was so well known that LOU FREY was elected to Congress on November 5, 1968.

Since his arrival in Washington, LOU has been one of the most industrious, hard-working and respected Members of the House. He is a highly regarded member of two major committees. He always finds time to be interested in and helpful to the Florida delegation. His constituents have been well represented. He is a good friend and trusted colleague.

As he and his family return to Florida, we all wish them well with the knowledge that LOU FREY will continue to serve as he has done since his arrival in Florida in 1961.●

● Mr. ZEFERETTI. Mr. Speaker, I rise to pay tribute today to my good friend and respected colleague, Representative JOSEPH A. LE FANTE of New Jersey.

Although JOE has served his district for one term he has left an indelible mark on us. His contributions to the House Education and Labor Committee have benefitted all of its members, including myself. His legislative abilities have grown tremendously in 2 short years and his keen awareness of critical issues have impressed many Members in this great Chamber.

A compassionate and humane man, JOE has touched all our lives. His understanding and personal friendship has made my work in Congress a little easier. The warmth that exudes from this man is so apparent to all those around him.

JOE has been a faithful public servant this term. I am confident that he will bring the same dedication to his new post in New Jersey that he has brought to his congressional career. I, for one, will be truly saddened by his leaving.

I wish JOE much success in the future and know that my colleagues join me in doing the same. He will be missed in the House of Representatives but I know that our friendship will only grow in the years to come.●

● Mr. PIKE. Mr. Speaker, about 100 years ago, when I was in college, we learned all of the bad things about southern Democrats. We learned about them from learned professors, who taught us about poll taxes and civil rights battles. We learned about them from cartoons and by listening to the radio, when Senator Claghorn epitomized the species.

The first real shock of my congressional career came when I finally got to know some southern Democratic Congressmen. I had to un-learn all I had learned, and it was pure joy. They were courteous without ever yielding, quiet without ever losing your attention, intellectual without being overbearing, humorous without harming anyone. They were great.

No one is more characteristic of the species than WALTER FLOWERS. While I have known him slightly for all of the 10 years he has been in Congress, only in the last 5 years has he become one of the best friends I have ever had in Congress or in my life. He has gotten me votes by speaking for me in my district, given me knowledge from things he has said on the floor. He can catch a fish, tie a knot, and cook anything that flies, runs, or swims. Maybe even crawls. He is, in other words, great crew. He speaks and thinks with amazing grace, and can sing the song of that name amazingly well.

He is a thoughtful, considerate, just, and compassionate man, and the fact that he is not going to be here next year makes my own leaving a great deal easier.●

● Mr. LEVITAS. Mr. Speaker, it is with both pleasure and sadness that I join in the many tributes to JACK FLYNT.

JACK FLYNT has been a friend of mine for many, many years—far longer than the 4 years that I have served with him in the U.S. Congress. He has been a person whose friendship and wisdom I prize highly.

When I was first elected to the House of Representatives, JACK FLYNT did everything in his power to make my transition from Atlanta to Washington an easy passage. His office and staff were available to me at all times. I am afraid I almost wore out my welcome in those early days when I used his office as if it were my own until my office in the Cannon House Office Building was ready.

JACK FLYNT also smoothed the way for me when I was trying to learn the House procedures. For a new Member, having a friend like JACK FLYNT, wise in the ways of the House, meant instant information and counsel during those first days and months, that saved me from much of the time-consuming processes of trial and error which all new Members suffer. JACK led me through the maze on many occasions for which I am grateful. I always knew that JACK would be ready to lend an ear and some sage advice on whatever problem arose.

One of JACK'S many duties that other Members may not be aware of, but which has been of vital importance to those of us from Georgia, has been his leadership as the dean of our delegation. JACK kept us together and in touch through delegation meetings and friendly conversations. He was able, through his leaderships, to resolve our differences and to make us into a working group in order to benefit our State's citizens and the Nation.

JACK has given service to his country in many ways: As a U.S. Attorney for the northern district of Georgia; as a member of the Georgia House of Representatives; as the Solicitor General of the Griffin Judicial Circuit and as president of the Georgia Solicitors General Association; and as president of the Georgia Bar Association.

With his firm background in the law, he came to the Congress where he has worked long and hard as a member of the Appropriations Committee. His service on the Subcommittees on Defense and Military Construction will long be remembered. His has been a voice of fiscal sanity and he has been a strong and effective advocate for maintaining a strong national defense.

Through the most difficult situations, JACK has maintained his courtly demeanor. He is truly a gentleman and a man of his word. He has drawn from his vast experience to look at all sides of issues, and his rational approach as well as the strength of his personality has resulted in calming the passions of others of us who have not yet acquired his impartiality.

We will miss JACK FLYNT in the House and his constituents will miss his representation. But I am glad to know that his counsel will still be available to us after his retirement. We expect to call upon him as freely as ever because we know that his advice will be just as valuable from his vantage point in Griffin, Ga.

JACK FLYNT will never retire from serving his country and his countrymen.●

● Mr. RICHMOND. Mr. Speaker, I am happy to join in honoring the most loyal friend a person could have and, unquestionably, one of the most dedicated, courageous and capable men ever to serve in the House of Representatives—JAMES BURKE of Massachusetts.

JIMMY BURKE has served his constituents and all the people of the United States in this House for 20 years. He has constantly demonstrated his deep concern for human rights throughout his long and distinguished career.

As one of the principal champions of the rights and dignity of America's senior citizens, JIMMY BURKE is the most knowledgeable expert on the Hill on the vitally important subject of social security.

The man we honor today is a good and true friend who shares unselfishly his expertise and wise counsel and who always has a word or two of cheer to brighten even the most hectic day. I will miss JIMMY BURKE when he goes home to Massachusetts.●

● Mr. DRINAN. Mr. Speaker, I am proud to join in this tribute to my distinguished colleague from Massachusetts, Representative JAMES A. BURKE. This dedicated man has represented the 11th Congressional District of my State for almost 20 years. During that time, JIMMY BURKE has worked tirelessly on behalf of his constituents and also on behalf of all citizens of our Nation. We will all miss his dedication, his commitment to equal treatment for all Americans, his concern for the poor and the elderly, and, of course, his good humor.

JIMMY BURKE has worked tirelessly on behalf of those he serves, and they have responded by electing him by repeated, overwhelming margains. He always has in mind the interests and concerns of working men and women. His many years in Washington served to increase, rather than reduce, his closeness to the people he represents. It is impossible to visit his district without hearing repeatedly from his constituents about the honesty, integrity, and accomplishments of their Congressman.

As chairman of the House Ways and Means Subcommittee on Social Security, JIMMY BURKE proposed many years ago that it would be necessary to use general revenues to help fund the social security program if we were to avoid disastrous shortfalls in the future. After many years, we have seen the wisdom of Representative BURKE's proposal and written it in part into law.

Mr. Speaker, JIMMY BURKE has been more than a friend; he has been an inspiration. All of his colleagues, and especially those of us from Massachusetts, will miss JIMMY. His record and his example, however, will remain with us. So while JIMMY BURKE will enjoy his well-earned retirement, he will nevertheless continue to serve by example.●

● Mr. FISH. Mr. Speaker, it is with deep regret that I find myself writing this tribute to my friend and colleague, WALTER FLOWERS, as he leaves the House of Representatives. The closing of any Congress finds us saying a reluctant goodbye to those Members who will not be returning and it is especially difficult in this ease.

WALTER and I came to Washington together—as part of the 91st Congress elected in 1968. For the past 10 years our paths have often crossed. We are both members of the House Judiciary Committee, where we shared the awesome duty of deciding on the possible trial and impeachment of a President. WALTER's sense of service to the Nation as a whole, and to the people of Alabama in specific, was well recognized during those trying months of 1973 and 1974.

We also sit together on the House Science and Technology Committee where he chairs the Subcommittee on Advanced Energy Technologies and Energy Conservation, Research, Development, and Demonstration. His in-depth knowledge of the complex problems facing us in energy-related matters and his capable leadership on legislation to advance our energy technologies is unquestioned and he will be sorely missed.

I wish him well in whatever endeavors he undertakes in future years, and I hope, selfishly, that he will remain in public service for the benefit of us all.●

● Mr. BRINKLEY. Mr. Speaker, I am pleased to take this opportunity to express appreciation to our retiring colleague, the Honorable JAMES BURKE of Massachusetts for his years of service to the Congress of the United States.

Dedicating one's life to serving the public is indeed an admirable quality, and JIMMY's years here have proved him to be a sincere and knowledgeable legislator with genuine concern for the people he represents. His leadership and friendship have made him a strong influence on this lawmaking body, and he will be missed by all of us.

JIMMY's distinguished work on the Ways and Means Committee has been especially impressive, serving as an outstanding example to us all. He will be remembered well, and we wish him much happiness in the years ahead.●

● Mr. SIKES. Mr. Speaker, seldom in a period of service in the Congress does one man stand for or have significantly greater expertise on one particular subject than do his fellow Members. Yet with the close of the 95th Congress, the legislative branch will lose one such Member. That Member is PAUL ROGERS.

Since his selection as chairman of the Health and Environment Subcommittee of the Interstate and Foreign Commerce Committee, PAUL ROGERS has come to be known as "Mr. Health" by those in the field. Whatever description is chosen for his efforts, there is little doubt that a recent description that he is "one of the major powers on health care policy in the Nation" is appropriate.

I have had an especial interest in PAUL ROGERS. His father, Dwight, and I served in the Florida Legislature at the same time. Dwight was already a respected member of the legislature when I was elected to that body. He was a strong conservative who was frequently mentioned for the speakership. The family was from Ocilla, Ga., just a few miles from my home town of Sylvester. Dwight had been among those who migrated to Florida when Florida's potential was beginning to exercise appeal to Americans everywhere.

Dwight came to Congress 2 years after my first election. Florida had gained another seat as a result of the 1940 census and our delegation grew from five to six. The fact that we now have 15 House Members attests to the phenomenal growth enjoyed by Florida. Dwight quickly made himself known by his good nature, his consistent support of sound legislation, and, in particular, his championship of the cause of the veteran and serviceman. Upon Dwight's death, PAUL was elected to succeed his father. Dwight's popularity on both sides of the aisle insured a good beginning for PAUL. As a friend of the family, I watched PAUL and his brothers grow up to manhood and observed their fine progress in their respective fields of endeavor.

PAUL has made an enduring record. His championship of legislation to improve medical facilities and care nationwide has been unexcelled in the history of Congress.

On behalf of the Florida delegation, I wish PAUL every success in his future endeavors. It has been a pleasure serving with him for the past quarter of a century.●

● Mr. LEVITAS. Mr. Speaker, I join with my colleagues in tribute to Congressman WALTER FLOWERS.

During his 10 years in the House, WALTER FLOWERS has had a distinguished career in public service to our country and his constituents. He has been fearless in pursuing issues which, though unpopular, he believed were right. He has not done so with flamboyancy, but with dogged determination, bringing with him full knowledge of the facts, sound judgment, and wisdom.

WALTER FLOWERS' leadership on the House Judiciary Committee will be long remembered, particularly during the trying days of the Nixon impeachment proceedings. He did not let partisan politics interfere with his careful consideration of perhaps the most important vote he was ever to make during his congressional career. Because of this, he earned for Congress greater nationwide respect.

Congressman FLOWERS' counsel on an issue of particular importance to me, the legislative veto, has been invaluable. He has offered me encouragement and support in pursuing efforts to provide for congressional veto of administrative rules and regulations. Without his assistance and advice, we would not have met with such success in bringing this issue to the forefront in the House and with the public.

We will miss WALTER FLOWERS in the House. He has been a faithful public servant. I wish him well in whatever endeavor he chooses to undertake. He will undoubtedly bring to it the same dedication which he has displayed during his service in the House.●

● Mr. BRINKLEY. Mr. Speaker, on the occasion of the retirement of our esteemed colleague, the Honorable GEORGE SHIPLEY of Illinois, I would like to offer words of tribute in his behalf.

GEORGE has been an outstanding example to all of us, serving with great insight and fortitude during his years in Congress. He has a clear understanding of the issues, and he has displayed sincere effort in every task he has undertaken. I am indeed grateful to have worked with him, both as colleague and friend.

His dedication to duty and to his fellow citizens has made him an admired and respected Member of the House of Representatives. Integrity, honesty and capability—all important qualities for any public servant—are the words that characterize GEORGE. We will miss him, and we will remember him.●

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to express my sadness, and that of the entire House, at the departure of JACK FLYNT from Congress.

JACK has served for many years and has always shown himself to be a hard-working, honest man who served and represented his constituents with great skill. The House will sorely miss the presence of his talents next year, and I would like to extend to him my best wishes for the future.●

● Mr. FORD of Michigan. Mr. Speaker, I join with pleasure today in honoring our good friend and the dean of the California delegation, JOHN MOSS.

JOHN MOSS has had a long and distinguished career in the House of Representatives. As chairman of the Oversight and Investigations Subcommittee of the House Interstate and Foreign Commerce Committee, he has left his imprint on many Federal programs that have effected millions of Americans. Throughout my 14 years in Congress, I have admired JOHN MOSS. The success of

many of our Nation's best Federal programs are a direct result of his work. His desire to have a Government responsive to the needs of its people goes unmatched.

In his years in the House, JOHN has become a skilled legislator, who has mastered the complexities of the legislative process. His years of dedicated service will be an example for present and future Members of Congress.

The House will surely miss his wise counsel and his strong presence, but his accomplishments will long be remembered. I wish him well in his future endeavors.●

● Mr. PANETTA. Mr. Speaker, I would like to take this opportunity to express my sorrow I know all of us feel at the retirement of JIMMY BURKE from the House.

The indomitable courage JIMMY has shown in recent months and for many years in defending the integrity of the social security trust fund and of the social security law is truly admirable. Not only senior citizens but also the young people of our Nation, who will 1 day reap the benefits of his effort, owe a debt of gratitude to JIMMY BURKE. We will all miss him and his sense of compassion and justice in the 96th Congress.

I know all my colleagues join with me in wishing the best of luck to JIMMY in the years to come.●

● Mr. FORD of Michigan. Mr. Speaker, I would like to join today in paying special tribute to my friend and colleague, OTIS PIKE, who is retiring after serving for 18 years in the House of Representatives.

During his sojourn in Congress, OTIS has served with great distinction on the Ways and Means, House Budget, and Joint Economic Committees. During the 94th Congress, he achieved special prominence as the vigorous chairman of the House Select Intelligence Committee.

Throughout his years in Congress, OTIS has been tirelessly conscientious about his duties and responsibilities as a U.S. Congressman. I know that for nearly every year he has been in Congress, his attendance record has been the best in the New York delegation, and certainly among the best in the entire Congress.

His retirement from the Congress is a loss not only for the people of the Fifth District of New York, whom he has so ably represented, but also for the Nation. I know that his departure will be deeply felt by his colleagues in the Congress, who will certainly miss his wisdom, his wit, and his leadership.●

● Mr. ROYBAL. Mr. Speaker, I would like to join with my colleagues in paying a well-deserved tribute to JIM HANLEY who will be leaving the Halls of Congress at the close of the 95th Congress. It is a pleasure and a privilege to add my words of praise for a man who has achieved so much in his lifetime and given so generously of his time and ability.

At the beginning of the 95th Congress, JIM took over as chairman of the House Rules Committee. This singularly important post carries great responsibility with it and his selection as chairman is certainly indicative of the high esteem in which he is held by his colleagues here in the House.

JIM, who has served the people of New York's Ninth Congressional District with dedication and distinction for 32 years, may step down from his duties knowing that he has served well and contributed significantly to the legislative process. It has been a true pleasure to know and work with JIM and I want to take this opportunity to wish him continued success in the future.●

● Mr. ST GERMAIN. Mr. Speaker, one of the first Members that I met and became friendly with upon my arrival in Washington was GEORGE SHIPLEY. GEORGE has an easy manner about him, even when handling very difficult legislation. For this reason it was always a pleasure to spend time with him when our tasks were seemingly insurmountable. He has enjoyed the respect of all of his colleagues over the years, and will be, as the trite expression goes, sorely missed.

GEORGE arrived in Congress 2 years before I did, and, together, we have seen changes not only in the makeup of the membership but in work of the Congress. GEORGE was responsible for many of the positive changes that have been made, and for that not only his colleagues but the American people are justifiably grateful. Now that he is retiring, the Congress will be losing a valuable and extremely able legislator.

It is a pleasure to take this opportunity to wish him much luck, happiness, and continued success in the years ahead.●

● Mr. WAGGONNER. Mr. Speaker, I am pleased to join with my colleagues in recognizing JOHN DENT upon his retirement from Congress.

I have worked closely with JOHN over the years; and, although we were not always in agreement, I always considered him a good friend and still do. He is, indeed, the friendly and formidable adversary: a colleague I knew I could reason with and talk with in an air of understanding and trust.

JOHN DENT has served with distinction on the Committee on House Administration and Education and Labor Committee. No one has had more of an impact in recent years on important legislation in the Education and Labor Committee. He has always been recognized as one of the hardest working Members who could never be caught off guard not doing his homework. In fact, hard work is his hallmark and his constituents will have a hard time finding anyone who will devote as much time in their best interest as JOHN has. However, we all look ahead at some point, to a time when we can spend more time with our family and as an expectant grandfather, I suspect that one of the reasons JOHN is retiring is so that he can spend more time with his grandchildren.

Let me join with the many others, JOHN, who wish you well in your years ahead with your family and friends.●

● Mr. FORD of Michigan. Mr. Speaker, it is with special sadness that I join in paying tribute to our colleague, JOHN H. DENT, who is retiring at the end of this session.

I have served on the Education and Labor Committee with JOHN DENT since my appointment to that committee after my election 14 years ago. He has been my friend, my adviser, and my counselor. We have worked together on a wide range of legislation, and I have found him to be knowledgeable, compassionate and dedicated.

In the fields of workers' compensation, international trade, coal mine health and safety, or unemployment, there is no Member with a better grasp of the issues and the problems. We will sorely miss his wise counsel as we continue to wrestle with these issues in coming years.

JOHN DENT's earlier career gave him an ideal background for his 20 years in Congress. He was an early member of the National Council of United Rubber Workers, including a term as local president and service on the international council; he served in the U.S. Marine Corps in the late 1920's; he was a newspaperman; he served in the Pennsylvania House of Representatives for 1 term, and then in the State Senate for 22 years, including 17 as Democratic floor leader; he was an executive with coal, coke, building and transportation companies.

Mr. Speaker, the Congress is losing one of its most valuable Members in the retirement of JOHN DENT, and the working people of America are losing one of their best spokesmen.

I know we all join in wishing JOHN success and happiness in future years.●

● Mr. ST GERMAIN. Mr. Speaker our colleague JAMES A. BURKE, who is now retiring after 20 years, preceded me in the Congress by 2 years, and we soon became especially close colleagues not only because I was assigned to the Banking and Currency Committee on which he had served, not only because we represent neighboring Rhode Island and Massachusetts districts and have many mutual interests, but also because JIM BURKE is one of the warmest, most gracious individuals I have ever met. His personality and his ability to retain a sense of humor at all times has helped me and all fellow members to get over some very difficult moments.

From the very beginning, JIMMY BURKE has given me a great deal of help in connection with our legislative duties, and as a member of the Committee on Committees he was responsible for getting my committee assignments. I have always admired JIMMY for his impressive knowledge of procedural matters, acquired from his many years of service in the Massachusetts State Legislature, and I have felt great esteem for the wisdom and integrity with which he approached his congressional responsibilities.

This is a man who will be greatly missed in the Congress, and certainly by me. It has been a fine experience to work with JIM BURKE in the House, and I hope, now that he has chosen retirement, that he will enjoy many more successes in life and full happiness.●

● Mr. WAGGONNER. Mr. Speaker, I

would like to take this opportunity to express my feelings of respect and esteem for one of our retiring colleagues. I know I speak for many of you here when when I say that JIM MANN'S retirement, however well deserved, will be a loss for the people of South Carolina, this legislative body, and anyone who has had the pleasure of knowing him during his tenure here.

Those of us who worked with him know and respect his honesty and integrity, his perserverance, his drive to keep working until a job is done right in an office where such tasks are never-ending-ending. Through 10 years of dedicated service his brilliance has shown as a leader, as a politician—in the finest sense of the word—as a legal mind. But above all, he is the finely balanced combination of all these characteristics that it takes to be a true statesman and legislator.

As a Member of Congress, JIM has not only been an asset to his constituents, but to all Americans who will remember him as the voice of reason during the chaotic and turbulent surroundings of the House Judiciary Committee's Impeachment hearings.

And so I say to JIM, thank you—and continued success, which cannot help but follow a man of such quality.●

● Mr. UDALL. Mr. Speaker, the special hallmark of JOHN Moss was a fierce, uncompromising integrity that stood out above all his other exceptional qualities.

He was one of the best friends that consumers and taxpayers ever had.

Cabinet officers and Presidents learned—many of them the hard way—that he could not be put off or put down, that he would follow any trail to the end.

JOHN is a good model for new Members of Congress.

I wish him well.●

● Mr. PRICE. Mr. Speaker, I would like to join my colleagues in the House in paying tribute to a dear friend, Congressman JAMES BURKE of Massachusetts.

As we all know, JIMMY will not be returning to the 96th Congress next January. I am sure I speak for all my colleagues when I say that we will miss his presence which has become so familar to us all. But his mere presence is not all that we have come to expect from JIMMY BURKE. His dedication to his constituency and to the Nation have been an example for all of us to follow, and his legislative work, particularly his outstanding work on the Social Security Subcommittee of which he is chairman, is without doubt among the best this House has ever seen.

JIMMY may be retiring, but he will always be with us. His ability as a Member of Congress is without equal and will not soon be forgotten by this House.●

● Mr. COUGHLIN. Mr. Speaker, my privilege and honor in paying tribute to the Honorable WALTER FLOWERS, of Alabama, is dimmed by the knowledge that our Nation will be losing a distinguished Congressman and I am losing from the House a great personal friend.

In assessing WALTER'S significant contributions in his 10 years as Congressman from Alabama's Seventh Congressional District, I want to point out that his is a record of broad accomplishment in varied fields such as law and justice, space and science, and Congressional ethics.

WALTER will be remembered as a colorful, thoughtful, and articulate legislator with great sensitivity and a knack for the jugular. That WALTER'S low-key, diffident and unassuming demeanor masked so great an intellect, ability and knowledge speaks even more for an outstanding record over the past decade.

Elected by the other party in the same year as I was, WALTER soon established himself as a legislator with a keen sense of service. We served together on the Science Committee where we sometimes clashed over programs and principles, but always with the tolerance and understanding that recognized the other's beliefs. His ever-ready sense of humor helped in difficult moments and, of course, was most enjoyable in those other moments of informality.

Never were his intelligence, perception and view of justice more apparent to the Nation than during the House Judiciary Committee's impeachment hearings. While we served on the Judiciary, I was not on the committee during those turbulent times. But, I was proud—as a Congressman and as a friend—to know that I had served with Walter and that the interests of his constituents and the country as a whole were being represented so admirably.

WALTER served on the Committee on Standards of Official Conduct and the Select Committee on Ethics. In these posts, he demonstrated the commonsense and steady temperament that enabled him to place issues in their proper perspective. WALTER never shirked the duty, as onerous as the decision had to be, yet he never exhibited a self-righteous or vindictive manner. He is the kind of man you would call upon in a tough situation, knowing his decision would be based on the facts, would consider the human element, and would render a fair but compassionate decision.

I am sure no matter what WALTER decides to do when he leaves the Congress that he will be successful. I cannot help, however, but express deep regret that the Congress will suffer the loss of a good and effective legislator. We need more of his breed in Congress, not less.●

● Mr. PERKINS. Mr. Speaker, 20 years ago last January, the good people of southwestern Pennsylvania did themselves and the country a favor. They elected JOHN H. DENT to the House of Representatives.

I am glad I have had the privilege of serving with JOHN on the Committee on Education and Labor for all of the two decades he has been with us. It is my personal loss, as well as the loss of the Congress, that he is retiring at the end of this session.

JOHN DENT is an uncommon man who has the common touch. A warm, compassionate human being, he has left his imprint on much of the great social legislation that has been before our committee during his service.

Although he brought to the Congress a national and an international view, he has never forgotten the district and the people who have elected him to Congress 11 times. The views of the 21st Pennsylvania District were made known in Congress with great effectiveness. But JOHN DENT knows instinctively, without ever having to learn, that what is good for the United States is good for the 21st District.

To catalog JOHN'S special interests and the legislation in which he has been the prime mover would take a much longer time than could be accommodated in today's special order.

I will say this, however. Wherever in this country that men and women work for a living, the service of JOHN DENT has touched their lives in a positive and constructive way. Wherever in this country children and adults go to school to further their education, the service of JOHN DENT has had a beneficial effect.

But on behalf of thousands of coal miners in my own district, I must say a special word for JOHN'S great contribution to the black lung legislation for which he bears such a large measure of responsibility. Passage of the Coal Mine Health and Safety Act of 1969 and subsequent amendments have revolutionized their lives, especially if they fell victims to the black lung disease.

JOHN DENT helped tell the Nation the story of these unfortunate victims who had until 1969 to suffer in silence if not outright poverty. It was a shocking and disgraceful story, and when the Nation knew the facts, Congress acted to correct the matter and end a long period of neglect.

The Nation's miners, or their widows and orphans, owe him a great debt, and their gratitude will always be with him.

When JOHN DENT walks out of this chamber for the last time as a Member, we shall all be the poorer.

I am happy to salute my good and close personal friend as he goes home to Ligonier after 50 years of public service. I know it is not in him to be still or be inactive, and I know that the long string of his accomplishments on behalf of the American people is going to get even longer in the years ahead.●

● Mr. PRICE. Mr. Speaker, I would like to join today with my good friend Congressman ROSTENKOWSKI and the rest of my colleagues in honoring a good friend, a fellow Democrat and a neighbor who will be retiring at the end of this Congress, Representative GEORGE SHIPLEY.

GEORGE is leaving us to return to Illinois after 20 years of service to the 20th District. Perhaps the greatest tribute given GEORGE by his constituents was their shocked disbelief when he announced his retirement. GEORGE had become an institution in his district; it will not be easy to fill his place with his constituents or with his colleagues in the House.

Everyone knows of GEORGE'S fine work on the Appropriations Committee, but my knowledge of him goes further than that. We both represent districts in downstate Illinois and have worked together on many, many projects to benefit our constituencies. I know of no one more concerned about his people, more willing to put in long hours and more dedicated to the service of his State than GEORGE SHIPLEY.

I know that I speak for all my colleagues in the delegation and indeed in the House when I say that we will miss GEORGE SHIPLEY. He is truly a statesman, a public servant and a gentleman. I know he will carry these qualities with him into whatever field he enters.●

● Mr. PERKINS. Mr. Speaker, the House of Representatives is strengthened by its traditions. But now, unfortunately, it is about to lose one of those traditions.

I speak of Representative JAMES J. DELANEY, who in his 32 years as a Member has become a House tradition. Now that he is retiring, we will miss his presence keenly.

Not only has he served his Queens County district ably and well, he has contributed greatly to the body of statute law over the past three decades. He has ably and well served the people of the entire country.

His work on the famed Delaney amendment still stands as a fortress of protection for great masses of people who may not know the man behind the title, but they are in his debt.

I have been privileged to know Mr. DELANEY for nearly 30 years, and have been influenced many times by his determination, his foresight, and his skill as a legislator.

He is a Congressman of rock-like integrity, and I appreciate the example he has set for the entire House in the conduct of his office and in his capacity as a member of the Committee on Rules.

May good luck, good fortune, and good health follow JAMES J. DELANEY as he leaves us for a well-earned retirement.●

● Mr. CARTER. Mr. Speaker, BOB SIKES leaves this body after a long and illustrious career.

He was a major general in the Army Reserve Corps and he was oriented strongly toward the defense of our country. It was my pleasure to support him, and I shall miss his good counsel.

I wish BOB well and many years to enjoy his retirement.●

● Mr. EVANS of Georgia. Mr. Speaker, I rise to join my colleagues in paying tribute to a true gentleman and outstanding legislator, Congressman JAMES MANN as he retires after 10 years of dedicated service.

It has been an honor to serve with JIM on two committees: The Judiciary and the Select Committee on Narcotics Abuse and Control. His wisdom, judgment, and leadership, as well as his calm, understanding, and stabilizing manner, have endeared him to all whose privilege it has been to know and work with him. He will be greatly missed, and I am certain we will be the better for his having come our way.

Mr. Speaker, I am sure I echo the sentiments of JIM's constituents and his many friends in wishing him Godspeed.●

● Mr. CARTER. Mr. Speaker, I deeply regret that PAUL ROGERS will be leaving the Congress of the United States.

Since I came to the Congress he has been my chairman on the Health and Environment Subcommittee, and I believe no other member has been as fortunate as I in having such a fine chairman. It was a pleasure to serve with him on that panel and that pleasure was due in no small part to his extreme intelligence and devotion to the cause of health in this country. Always a gentleman, he handled his duties with courtesy and fairness to all.

PAUL has earned a special place in the hearts of all of us who knew him, and I wish him and his charming and beautiful wife the very best as he enters private life after 23 years of unstinting public service.●

● Mr. EVANS of Georgia. Mr. Speaker, I am rising in tribute to a gentleman, statesman, colleague, and friend who is retiring after 38 years of public service, which included meritorious service during World War II.

He was first elected to the House of Representatives in 1954 and has since been reelected 12 times. He has served with distinction on several major committees in the House, and is currently chairing a standing committee Additionally, he served as an assistant Democratic whip for a number of years and is presently the dean of his delegation.

He has proven himself to be fair and capable of dealing with very trying situations. He is gifted with a quick wit, ready smile, kind word, friendly handshake and helping hand. His analytic mind and keen sense of judgment will be sorely missed. He has served his constituents, his State and his country with distinction. Although, there are those who believe he is short in stature, he is, in fact, a giant that many would do well to use as a measure.

To quote an old cliche, "Behind every good man there is a good woman." Truly, behind our colleague stands a great lady; one who has unselfishly shared not only her husband, but her family and a large part of her life with the public.

Mr. Speaker, I would like to simply and sincerely say to Congressman JACK FLYNT and his wife Patty; thank you, good luck and God bless.●

● Mr. PRICE. Mr. Speaker, I would like to join my colleagues in bidding farewell to one of our most well-known Members, who will be retiring at the end of the 95th Congress. I refer to the dean of the Georgia delegation, Congressman JOHN J. FLYNT, JR.

Congressman FLYNT is retiring after 26 years of service to his State and his district. More than a quarter of a century is a long time, but I know the people of the Sixth District are sorry to see Congressman FLYNT leave them. His place will not be easy to fill.

I have worked with Congressman FLYNT very closely for many years, and I can vouch for his integrity, his dedication to duty and his legislative ability. He succeeded me in the chairmanship of the House Committee on Standards of Official Conduct, a most difficult job as I know from personal experience. I cannot think of any other Member who could have handled this committee and its recent tough assignment any better. Indeed, I think this House owes Chairman FLYNT a debt of gratitude which it can never repay for the manner in which he conducted the committee's investigations. The new era of confidence in its elected leaders which is now evidenced in this country is largely due to the wise leadership of Chairman FLYNT and his committee.

And so, after 26 years of dedicated service, Congressman FLYNT has decided to leave this House. I will miss him, as will all his colleagues. But I wish him good luck, continued success and much happiness in his new life.●

● Mr. MANN. Mr. Speaker, WALTER FLOWERS and I came to this House together 10 years ago; with the sine die adjournment of this Congress, we will leave these Halls together. Throughout our service, we have worked closely together on matters both momentous and routine.

We braved the storms of Watergate; we slogged through the minute detail of private bills; we worried about those regional issues peculiar to the South, those national and international matters such as textile trade vital to our districts, and those policymaking decisions that steer the course of our country.

So I know WALTER's abilities, Mr. Speaker, from a firsthand perspective—and they are impressive. Not only is WALTER a top-notch attorney whose grasp of the intricacies of the law facilitated consideration of complicated proposals before the Judiciary Committee, but he is a hard-bargaining legislator who understands that compromise, within reason, is central to the art of politics.

WALTER is a person who gets things done. However popular it might be today to denigrate knowledge of the workings of government and to separate oneself from Washington, in the final analysis, the best the people of this country can ask is for a Congressman who is effective. The people of Alabama's Seventh District and this Nation are losing just such a Representative.

WALTER was in the forefront in fashioning the energy legislation singled out by the President as the No. 1 legislative priority of this Congress. Serving on the Ad Hoc Energy Committee to which he was named because of his well-known credentials in the energy area, he deserves credit for contributing reason and balance to the fragile compromise that is the 1978 Energy Policy Act. As chairman of the Science and Technology Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, WALTER has led the way in promoting rational development of nuclear power. He showed his legislative deftness in formulating the compromise, accepted by a balky administration and an enthusiastic Congress, which allows continued development of the nuclear fast-breeder reactor.

WALTER's achievements during the impeachment hearings of the House Judiciary Committee have been chronicled again and again. It is no overstatement, Mr. Speaker, that his place in history is assured. Yet, as one who suffered the pain and the glory of that tumultuous time with him, I feel compelled to offer my own comments about the brilliance of his contributions. Much was written and reported in the summer of 1974 about the behind the scenes efforts of a fragile coalition of moderate Democrats and Republicans to draft articles of im-

peachment broadly acceptable to the committee, the House, the Senate and ultimately the people of America. Much has been written too about WALTER's role in that effort. I am here to bear witness that that role was pivotal. He brought reason where there might have been passion; he brought balance where there might have been partisanship; he brought friendship and understanding where there might have been anger.

WALTER spoke at that time of the "terrible alternatives" of convulsive impeachment or wrongdoing condoned. It was no easy role that WALTER accepted, Mr. Speaker. Indeed the pain it brought him is underscored by the fact that he developed a new ulcer during this period of time. But WALTER accepted his burden, his responsibility for the best of reasons. He was not impressed with the historical record he undeniably made, but was concerned with the importance of doing his duty the best he could. Each of us owes WALTER a debt of gratitude.

But the impeachment situation was not unique. WALTER has brought a sense of responsibility to these Chambers in all his endeavors. As he said last night on the floor in carrying out another unpleasant duty, unsought but well-done, in connection with his service on the Standards of Official Conduct Committee, "It's not for the fun of it."

Mr. Speaker, WALTER FLOWERS is truly my friend. Our friendship, I know, will transcend our service here in the House. I speak today out of that friendship, but even more out of a sense of deep respect for the quality of service WALTER has rendered to his district, his State, this House, and our Nation. This is no light statement of admiration, Mr. Speaker; I speak from the depth of my heart.

It was my honor to serve with WALTER. It will be my privilege to continue our friendship in the future. To WALTER, to his lovely wife Margy, I wish the fulfillment of their dreams.●

● Mr. CARTER. Mr. Speaker, LOU FREY, JR., has been a good friend and esteemed colleague whose service to our party and to the full Congress has been exemplary.

His departure from the Congress will leave us without the good counsel he has provided these past 10 years. I regret that he will leave this Chamber but am confident that, just as he has done throughout his adult life, he will continue to serve the public good.

I wish him well.●

● Mr. STEIGER. Mr. Speaker, before this 95th Congress adjourns sine die, I want to take just a moment to pay a heartfelt tribute to our able colleague, the Honorable ROBERT W. KASTEN of Wisconsin.

Only 4 years ago, BOB KASTEN was elected to the 94th Congress at the age of 32. Although certain to be reelected by his well-served constituents, BOB decided to relinquish his seat in Congress and volunteered his candidacy for the highest office that our State has to offer. He pursued our party's nomination for Governor with characteristic purpose and vigor.

During his brief 4 years in this National Legislature, BOB KASTEN has served with energy and dedication. His work on the House Committee on Government Operations, particularly his committee work which helped to recognize the Community Service Administration, is recognized and appreciated by public servants in the executive branch as well as by his colleagues in this body.

BOB KASTEN also has served with genuine distinction on the House Committee on Small Business and as an active Member of the Environmental Study Conference.

I might add, despite his occasional claims that he really wasn't cut out to be a legislator, whether he admits it or not, BOB KASTEN is a highly constructive legislator.

He also has shown he possesses unusually good judgment in choosing his staff. I want to mention especially his able chief of staff, Jim Harff.

Mr. Speaker, this is not a farewell. Certainly not in the traditional sense of farewell. BOB KASTEN has chosen not to seek reelection. He will be missed by many Members of the 96th Congress. But I feel certain that many of us here tonight will meet him again the course of this Nation's public life.

BOB KASTEN's knowledge and experience are diverse. A public servant of such talent surely will be heard from again.●

● Mr. EVANS of Georgia. Mr. Speaker, I wish to join my colleagues in paying tribute to a great leader, outstanding legislator and personal friend, Congressman WALTER FLOWERS of Alabama, who is not seeking reelection to his House seat.

I had the privilege of serving on the Judiciary Committee with WALTER where I witnessed his superb knowledge of the law and the legislative process. His future absense will be greatly missed not only by this committee, but by the good people of the Seventh Congressional District of Alabama. I am confident in saying that we, his fellow Congressmen, will acknowledge the fact that WALTER FLOWERS many outstanding contributions while a member of this distinguished body, are self-evident.

WALTER FLOWERS has served his constituency equitably and compassionately as evidenced by his tenure in the House of Representatives.

In conclusion, Mr. Speaker, I feel that these before mentioned attributes will not be so readily replaced as they were shared.●

● Mr. BAUCUS. Mr. Speaker, I would like to take a few moments to publicly express my appreciation and best wishes to the retiring "dean of the Wyoming House delegation," TENO RONCALIO. During the course of my tenure in the House, TENO has been an inspiration, a teacher, a sage counsel and a friend.

When I arrived in Washington, TENO went out of his way to help me learn the ropes. He was never too busy to stop and share some experienced advice.

During this Congress, TENO has chaired the Indian Affairs and Public Lands Subcommittee. Under TENO's direction, it has become one of the most productive and effective House subcommittees. The numerous legislative proposals emanating from this subcommittee during the 95th Congress is a true testament to TENO's dedication and hard work. On three occasions his subcommittee conducted field hearings in Montana concerning wilderness legislation. No request for assistance was too large or too small for TENO. Recently, he gave up a weekend to chair a 9-hour Sunday hearing in Choteau, Mont., on the Great Bear Wilderness. On behalf of the people of Montana, I want to express our thanks for his patient concern and understanding of the issues important to our State and its future.

In addition to dealing with the numerous and unique problems of the West, TENO has dedicated 10 years to this institution, the House of Representatives. While many personalities compose the membership of this body, TENO would certainly be singled out as one of its most sincere and productive Members.

One measure of a Representative's effectiveness is his staff. TENO's staffers over the years have displayed loyalty, dedication and professionalism surpassed only by TENO. To Julie Archuleta, Mary Cook, Dennis Earhart, Jack Huizenga, Linda Smith, Rosemary Sullivan, Kathryn Ann White, Inez Hall, Rodger McDaniel, Bettie Streeper, Sharon Cockayne, Gunilla Foster, Frank Duchneaux and Andy Wiessner, I extend my thanks and best wishes.

TENO's presence will be sadly missed in this Chamber. I am grateful for having the opportunity to serve with him. He has accomplished much for Wyoming, the West and the Nation. He will be missed but not forgotten.

I extend my best wishes to TENO and his family. I hope that our paths will cross many times in the years ahead.●

● Mr. CARTER. Mr. Speaker, I want to join in paying tribute to my colleague on the Interstate and Foreign Commerce Committee, JOHN MOSS.

JOHN and I have served together for the past 14 years on that committee, and I can attest to his extreme diligence and high intelligence. As chairman of the Oversight and Investigations Subcommittee, he has used his special skill to the great advantage of us all. His uncommon devotion to the principles he holds dear has been an inspiration.

He has represented the people of his district well these past 24 years. I wish for him many more years in which to enjoy his retirement.●

● Mr. PERKINS. Mr. Speaker, the retirement of JOHN E. Moss robs this Chamber of enormous legislative talent in behalf of the American people.

For 26 years it has been my privilege to know and serve with JOHN, and I am sorely pained to see him leave us.

I like JOHN Moss, because he gets angry about the right things. He thinks government exists to serve people, and that it ought to operate efficiently and honestly and with a minimum of hubbub. When government and those who run it fail to live up to those simple standards, JOHN gets mad—and in doing so he is expressing the deep-seated feelings of decent people all across this land.

All of us know, and many of us have

joined with, the legislative battles he has fought in this Chamber in the past quarter century. He has the admirable quality of being a fighter of no mean skill.

I want to express to him today my thanks for all the help he has given to me, personally, and to the Committee on Education and Labor during his years among us.

As he leaves us, on his own motion and at a time of his own choosing, all of us wish him well. But we recognize that this will not be the same House without JOHN Moss.●

● Mr. WALGREN. Mr. Speaker, upon his leaving the Congress, JOHN Moss deserves real tribute. His character and personality were a living example that the clear duty of a Congressman is not to represent any particular interest, but to represent the interest of the public.

His impatience with flimsy justifications of special interests was legendary. Any measure of the man would not leave even a characteristic shadow of doubt about the standard of value he has set for his colleagues.

If measured by his own strict standards, the greatest testimony to this Congressman is that he met the highest tests for a Representative in a democracy.●

● Mr. CARTER. Mr. Speaker, it was a pleasure to serve with JOHN DENT for many years and, especially, to support his position on coal mining issues.

JOHN always had the welfare of miners in mind and yet he knew that the coal industry itself must be viable or the miners would have no jobs. In this manner he helped keep the industry healthy and the miners at work.

His appreciation for the complexities of the coal industry was but one example of how he drew upon his extremely varied personal experience to represent his district and to provide leadership to many of us on both sides of the aisle.

It was with regret that I learned of JOHNNY'S plans to retire. His friendship has been a treasure, and I wish him well.●

● Mr. LONG of Louisiana. Mr. Speaker, at the end of this session, Congressman BERNIE SISK will have completed 24 years of outstanding service in the House of Representatives. As he will be retiring, I would like to take this opportunity to congratulate our distinguished colleague from California on a job well done, and a career he can look back upon with enormous pride and satisfaction.

Those of us who have had the privilege of serving with BERNIE SISK on the Committee on Rules have come to admire and deeply respect him for his courage and forthrightness. A dedicated and well informed Member, he has consistently based his judgments on what he considers to be the most beneficial course for the Nation as a whole, despite the heavy pressures of special interest groups.

Representative SISK has worked to accomplish this in many ways. What immediately comes to mind is BERNIE SISK'S strong leadership as chairman of the Rules Committee Special Subcommittee on Legislation Reorganization which produced the Legislative Reorganization Act of 1970, as well as the beginnings of such significant legislation as the Congressional Budget and Impoundment Control Act of 1974.

Beyond his numerous legislation contributions, BERNIE SISK was a founder of the United Democrats of Congress which was established to hold a party concensus on many complex and important political issues. In addition he has been a friend and counsel to many of us here in the Congress. It is this capacity that we shall miss him most. I am certain that my colleagues join with me in wishing BERNIE SISK continued success and happiness in his future endeavors.●

● Mr. BAFALIS. Mr. Speaker, once again, I rise with a great deal of sadness to join my colleagues in saying goodby to a retiring member of the Florida delegation, the Honorable PAUL ROGERS.

For many years, Mr. Speaker, PAUL ROGERS was my Congressman. And he was an excellent one.

Then, when Florida was redistricted and I came to Washington, PAUL became my colleague, one I looked to as a model of what a Member of this body should be.

PAUL has few, if any, equals in his dedication to his constituents and his determination to serve them well. And his constituents were not just the residents of Florida.

His constituency was much greater than that. His constituency was this country, its people and their health. Long recognized as a true expert in the field of health care, PAUL ROGERS has guided us as we work to provide the medical care the people of this Nation deserve.

But PAUL ROGERS has been more than just my Congressman and then my colleague. He has been my neighbor and my friend, a close, close friend.

No one was more shocked than I when PAUL decided to retire. He has served the State of Florida and the Nation well for the past 23 years. And he doubtlessly deserves a respite.

But PAUL ROGERS is too talented, too dedicated, and too intelligent to stay away from public service for a long time.

There just are not that many dedicated men that we can afford to lose one of PAUL'S talent.

So as PAUL and his family prepare to return to private life, I can only hope this will be a short interlude—a period of rest and recuperation before rejoining the battle.

But, however long his stay away from public service, he will be sorely missed.

For PAUL ROGERS is a true servant of the people.

But he is more than that. PAUL ROGERS is a gentleman and one of the finest men I have ever had the privilege of knowing and working with.

So, PAUL, rest well.

But hurry back. We need you.●

● Mr. CLAY. Mr. Speaker, it has been a distinct honor and a pleasure to have served in the U.S. House of Representatives with the distinguished Congressman from Pennsylvania, the Honorable JOHN DENT. JOHN'S outstanding devotion to public service and the example he set as a statesman and a skilled politician provide a model for us all.

In the 20 years Representative DENT served in the U.S. Congress he has earned the trust of his constituents in Westmoreland County, Pa., and the highest respect of his colleagues in Congress.

It has been my particular privilege to have worked with JOHN on the Committee on Education and Labor and to have served under his chairmanship on the Subcommittee on Labor Standards. It was in this capacity that I developed a close working relationship with Congressman DENT and learned of the truly sterling qualities of this great American. A champion of the interests of the working American, Congressman DENT was instrumental in the crusade for employee retirement income legislation, coal mining health and safety legislation, and black lung reform legislation. JOHN'S perseverance and dedication to improving the health and safety conditions of working Americans, and providing improved income protections and pension benefits have established him as a loyal ally of all those who work for a living.

I have known Congressman DENT as a fighter and a man of principle. His devotion to his people and his country are a matter of record. I only hope that when he leaves us he will turn his great talents, in the years that follow, to some endeavor which benefits our Nation as much as his service in the U.S. Congress.

JOHN DENT is a man of great wisdom and experience. When the 95th Congress adjourns this week the citizens of Westmoreland County, Pa., will lose a trusted Congressman, the working American will lose a special friend, America will lose a true statesman, and the U.S. Congress will lose a respected and conscientious Member. We are all grateful to have benefited from his service and we will long remember him.●

● Mr. REUSS. Mr. Speaker, when JOHN E. Moss retires at the conclusion of this session, the House will lose a Member who has done more than any other to change—all for the better—the Federal Government.

His long, frequently lonely, but finally successful fight for the Freedom of Information Act is a shining example of his contribution to the Republic. In the late fifties, earlier than most others, JOHN Moss saw that unnecessary secrecy by the Federal Government deprived citizens of their right to know what their taxes were being used for, and thus deprived them of effective control of the Government.

The effect of the FOIA has been visible and dramatic. Light has been shed on old controversies. The facts behind what the Government is now doing have been made public. And much of the mischief Government might do if it could do it in secret has been forestalled because the perpetrators knew their action could not stand the bright light of public scrutiny.

JOHN Moss's fight for the Freedom of Information Act has been typical of his approach. Time and again he has seen problems before they were apparent to others and persisted with solutions in the face of indifference and opposition. After passage he has kept his weather eye open to find out how his legislation was being enforced, and he has not hesitated about pushing for the changes which experience has shown to be necessary.

On energy, on consumer protection, on product safety, and on Watergate, JOHN Moss has been right from the start—and has stayed right to the end. To have served with him on the Subcommittee on Conservation was a true privilege.

We will miss JOHN Moss in the House. For 26 years he has been a lodestar of integrity, of candor, and of public service.

But though we lose much when JOHN Moss leaves, he leaves us with much. He leaves us with an unequalled example of intelligence, persistence, and insight, against which we can measure our future efforts to carry on the good fights he fought. And he leaves with us the inspiration of his absolute and unswerving dedication to the public weal, at a time when inspiration is badly needed.●

● Mr. BAFALIS. Mr. Speaker, it is with a great deal of sadness that I rise to join my colleagues in paying tribute to the retiring Congressman from Florida's First District.

Like most Floridians, I find it difficult to think of the Congress without thinking of BOB SIKES.

For 19 terms, he has been a Member of this body, and for every day of this period, he has been a leader.

He has been a leader in the effort to see our Nation has a defense force second to none.

He has been a leader in the battle to retain those attributes our forefathers espoused and which have made our country great.

And he has been a leader of the Florida delegation.

Each of those tasks he has handled well, exceedingly well.

I know our Nation would have been weaker had it not been for BOB SIKE's persistence. It would have perhaps strayed further away from the creed of our forefathers had it not been for the gentleman from the "first and finest."

And the Florida delegation would certainly have been the worse had it not been for his leadership.

He will be missed, sorely missed.

But, as he returns to Florida to rest and to hunt and fish, I know of no man more deserving of the accolades of his colleagues and of a well-deserved respite from the rigors of congressional service.

To BOB, I say, "well done."

To both BOB and his charming wife, Inez, I say enjoy yourselves.

But I ask you both not to forget us who remain. We shall need your wise counsel in the future.●

● Mr. ZEFERETTI. Mr. Speaker, as the 95th Congress draws to a close, we are losing a great man and respected colleague, Congressman JAMES DELANEY, of New York. After 34 dedicated years of service to our country, JIM DELANEY is retiring from the House of Representatives. He has spent most of his life serving our great Nation and his presence in Congress should serve as a shining example to those who follow his footsteps. His extensive contributions to this great Chamber as well as his everlasting service to his constituents will long be remembered.

Personally, my friendship with JIM has been very special for JIM is indeed a "special" man. When I was elected to Congress in 1974 he offered me guidance and strength. He is a man well versed in the ways of our institution and is willing to share his experiences and knowledge to all those around him. The warmth that exudes from this man is so apparent yet he is also adept at attacking and pinpointing those critical issues that we sometimes miss. These qualities are certainly hard to come by.

JIM DELANEY's presence in Congress has always been an important one and I know that my feelings are shared by many today. My respect and admiration for JIM will only grow in time. I can only thank JIM DELANEY for all that he has unselfishly offered to myself and to other Members and wish him the very best in years to come. His absence will be sorely missed.●

● Mr. ROYBAL. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to LOU FREY who is retiring at the end of the 95th Congress. During his 10 years as Representative of Florida's Ninth District, LOU has served his constituents with dedication and distinction. While he will be missed by all of us who had the pleasure to know and work with him, he will be remembered for his outstanding work here in the House.

I want to take this opportunity to extend my personal best wishes to LOU for every success in the future.●

● Mr. MURPHY of Illinois. Mr. Speaker, I want to pay tribute to an outstanding Congressman, the distinguished JAMES J. DELANEY of New York, chairman of the House Rules Committee. As my colleagues know, JIM is retiring at the end of this Congress, after faithfully serving his district and the Nation for 34 years.

JIM DELANEY's most outstanding legislative contribution was his sponsoring of the well-known Delaney amendment, which prohibits the sale of food or drugs found to cause cancer in animals. This provision has undoubtedly saved the lives of an untold number of Americans, and JIM can take credit for this accomplishment.

Mr. Speaker, it has been a real pleasure to serve on the Rules Committee with as fine a gentleman as JIM DELANEY. I wish him the very best as he retires from public office and takes a well-earned rest from the rigors of congressional life.●

● Mr. DELANEY. Mr. Speaker, it has been a distinct pleasure to have served with JOHN DENT for the last 20 years in the U.S. Congress. Coming to Congress with a background in the labor movement, JOHN has always represented the interests of the working men and women of this country. He has consistently fought for, and often won, decent wages for American workers. His work on the House Committee on Education and Labor has earned him the respect of all of his colleagues.

JOHN DENT has also been a leader in his State delegation, and has stood not only for the interests of the people of Westmoreland and Allegheny Counties, but for the hopes and desires of all Pennsylvanians.

It has been an honor to have shared time with JOHN DENT in the House, and a privilege to participate in this tribute from his colleagues.●

● Mr. COLLINS of Texas. Mr. Speaker, Congress will lose a great leader when JOHN DENT hangs up his shingle and leaves the House this session. I first knew JOHN when I served with him on the Education and Labor Committee. Since then, I have watched him in the floor fights through the years.

In a hard fight on the House floor there is no one who can equal the leadership and ability of JOHN DENT. He knows where the votes are located, he knows the motivation that will bring in the key votes and he knows how to talk and persuade. JOHN DENT is the last of the old school group of political genius who learned at the statehouse in Pennsylvania and became the master with his great years in Congress.

He could get more for his constituents than any man I ever saw in Congress. The black lung bill is a memorial to JOHN DENT.●

● Mr. BAFALIS. Mr. Speaker, for the third time this week, I rise with reluctance to say goodbye to a retiring member of the Florida delegation, this time the Honorable LOU FREY.

Many of the constituents I have the honor of representing were once represented by LOU FREY, so I know firsthand of his ability as a Congressman. His have been shoes hard to fill.

During LOU's all too short career here in Washington, he has been a dedicated advocate of our Nation's space program, a strong voice for the private enterprise, and a devout believer in those precepts which made this country great.

He has also been a firm believer in the youth of our country. While a Congressman, he developed a high school intern program which brings high school juniors to Washington each year for a weeklong look at our Government.

It is not the easiest program to set up. I know, I too have one. But LOU undertook this task willingly for he knows full well the need to attract our young men and women to Government and politics.

As LOU returns to Florida—to his interrupted career as an attorney and to his family—I know he goes with all our good wishes.

He will be missed. He will be missed for his wise counsel, his dedication and his determination.

But I hope the absence will be a short one. LOU FREY is too valuable a public servant to stay away too long.●

● Mr. WALGREN. Mr. Speaker, JOHN DENT was a special friend of younger Members of Congress. His years in congressional service gave him a special wisdom that can only be acquired from long service as a representative of laboring people.

The Congress will miss his clear and direct understanding of the rights and needs of working people and the harm that foreign imports cause. Younger Members will especially miss the understanding of the value of family and the sense of history Congressman DENT made available to them. We will miss him.●

● Mr. COLLINS of Texas. Mr. Speaker, we will all miss JIM DELANEY. He is the last of the old line Democrats from New York City.

Back when I was very young, before I became an enlightened Republican, I was a Democrat. One of my great heroes was Jim Farley of New York. Recently, I was telling JIM DELANEY that he reminded me of Jim Farley. I told him he sounded like Farley and he thought like Farley. JIM DELANEY quickly told me that Jim Farley was one of his closest friends. He had been a pallbearer in Farley's funeral. We then discussed Al Smith who, I thought, was one of the greatest Democrats that ever lived. And again I found a person that DELANEY had known so well in New York.

America has been served by many great Irishmen. I take pride in seeing the Irish in leadership. When I think of the triumvirate of Al Smith, Jim Farley, and JIM DELANEY, we will always envision the three great Irish leaders of New York.

JIM is more than a prominent Democrat; he is a great American. He always stood for the fundamentals on which this country was built. I will really miss having this great Irishman with us on the Hill.●

● Mr. UDALL. Mr. Speaker, JIM DELANEY is not only a good man, but he has been a good friend and a fair and diligent chairman.

He knew how to cut through something to get to the essentials.

JIM compiled an outstanding record in these Halls. He will be missed.●

● Mr. BROOKS. Mr. Speaker, much has been said, and will continue to be said, of the outstanding contribution the Honorable JAMES J. DELANEY has made to the people of his district, State, and Nation during his illustrious legislative career.

I have had the good fortune of serving with him during 26 of the 34 years he has been here and never have I seen him more vigorous or steadfast in upholding the finest principles and integrity of the House than in these, his last 2 years in Congress as chairman of the Committee on Rules.

JIM DELANEY grows stronger with age, and my admiration for his character, dedication, fairness, and pursuit of doing what is right, has steadily enriched my understanding of his important role in our Nation's legislative accomplishments.

He has worked hard, borne many burdens, provided great insights, inspired confidence, upheld the Rules of the House and protected rights of all Members of this body.

JIM DELANEY'S sterling performance has won the respect of a wide band of colleagues on both sides of the aisle and he will be sorely missed in the coming years.●

● Mr. MIKVA. Mr. Speaker, although no one deserves the relative quiet of retirement more than JOHN MOSS, I certainly wish he was coming back. I am sure that anyone who has ever been injured by a poorly manufactured product or frustrated by a poorly designed product or just plain angry because he or she did not get what they paid for will miss JOHN even more then will we here in the House.

His tenacity on behalf of the many issues that interested him is legend, but it was exceeded by his profound concern for the health and safety of all Americans. JOHN did not tread lightly when in pursuit of a legislative goal whether the toes beneath him belonged to the president of a multinational corporation or the secretary of an executive department.

The country and the Congress need more people like that, not less. My only solace is that I know JOHN'S retirement will not be a quiet one. I am sure that when one of us starts to stray a little, he will be right there to get us back to the track.●

● Mr. RUSSO. Mr. Speaker, I want to take a moment to commend Representative JOHN DENT before he leaves here for a well-deserved retirement. I say "a moment" because JOHN DENT'S record speaks for itself. And it is as a friend that I want to thank him for the contributions he has made here.

Serving two decades, JOHN has worked diligently for the people of Pennsylvania in Congress and has fought many a battle for the working man. He has been in the right spot to do that, as a member of the Education and Labor Committee, and his credentials for championing labor's cause are beyond question.

JOHN never forgot his roots—the workers he grew up with, and the work he himself did. While working in the Senate of Pennsylvania and here in Congress, he proved to be an able spokesmen for the concerns and needs of the working people of this country. And his work for Italian-Americans has ensured him a place in the heart of countless people in the country.

We are going to miss JOHN here, and I personally am going to miss him—but I suspect as active as he is he is not going to disappear on us. I wish him continued success and much enjoyment of life.●

● Mr. MONTGOMERY. Mr. Speaker, I will be brief in my remarks because I know there are a lot of Members who want to join in paying tribute to JOHN DENT today.

In my opinion, the hallmark of JOHN DENT'S career in the Congress has been his untiring efforts on behalf of the working man and woman in this Nation and their families. And through his service on the House Education and Labor Committee he has been able to use his influence and knowledge to shape legislation beneficial to them.

The 21st District of Pennsylvania will be losing a hard working and dedicated Congressman with the retirement of JOHN DENT, but they should feel fortunate to have had the benefit of his servvices the last 22 years.

I join with my colleagues in wishing the very best for JOHN in the years ahead.●

● Mr. FUQUA. Mr. Speaker, when the 95th Congress adjourns, the distinguished career of the dean of the Florida congressional delegation, the Honorable ROBERT L. F. SIKES, will draw to a close.

BOB has represented the First District of Florida since 1940 and has distinguished himself in every endeavor he has undertaken. His voice as chairman of the Subcommittee on Military Construction for many years benefited the entire Nation and his efforts on various projects throughout the years has literally help build an America with a defense posture second to none on Earth.

If he had chosen to stay, BOB would have been the dean of the House in the 96th Congress. But he is going home to his beloved State. I join with his many friends and colleagues in wishing him many years of well-deserved relaxation.

The Congress and the Nation is losing a strong and effective legislator. His friends in the House are losing the companionship of a fine gentleman. Indeed, we will miss him.●

● Mr. QUIE. Mr. Speaker, I want to join in tribute to my friend, JOHN H. DENT, who is retiring after 20 years' service to the people of Pennsylvania's 21st Congressional District. JOHN'S people in western Pennsylvania's "black country," named for its bituminous coal deposits, are largely working men and women—miners, steel workers, and other factory workers, and members of ethnic groups, particularly Italian-Americans. Perhaps the highest tribute that can be paid a Member of this body is to say that he cared deeply for "his people" and, through serving them, he contributed to bettering the lives of all Americans. JOHN DENT has cared deeply, and this Nation is richer in its education and labor laws—and in protecting the health and welfare of its working people—because of his devotion to and dedicated work on behalf of his people.

Coincidentally, JOHN became a Member of the 85th Congress on January 21, 1958, which was 28 days before I did—in both instances by special elections held on the death of our predecessors—and we will be leaving together. JOHN DENT joined the Committee on Education and Labor in 1958, while I joined it in 1959. This has given me the opportunity, and privilege, of getting to know JOHN rather well.

We have had our party and philosophical differences, but I have known him as a forceful and highly articulate legislator, always fair and easy to work with, and always as a good friend through many happy and sometimes difficult years.

Before coming here, JOHN DENT had served 22 years in the Pennsylvania State Senate, including 17 years as Democratic floor leader, and one term in the State House of Representatives. He had been a city councilman. Those years presaged his career in Congress because he sponsored and fought for working people's legislation—for higher wages, unemployment insurance, retirement pensions, occupational disease compensation laws, mine safety laws, and more.

He had been president of a United Rubber Workers Union local, and then member of the URW National Council and URW International Council. Furthermore, he had been an executive with coal and coke, building, and transportation companies. He had been a newspaperman and writer. Thus, I think his dedication to public service, and his depth of knowledge of governmental and political processes, are understandable.

Others will remind us of JOHN DENT'S

outstanding service as chairman of the Labor Standards Subcommittee—his battles for higher minimum wages and occupational safety measures and such accomplishments of his as the Federal Coal Mine Health and Safety Act. But I want to cite some things he did in education.

Student aid is one such example. Some years ago I remember that JOHN was author of the first bill to give postsecondary vocational students equal access to the guaranteed student loan program. The committee was not strongly receptive to the idea at that time.

But I remember the dramatic scene, on the floor of the House, as Member after Member stood up to recall their own experiences in trying to acquire a trade. So the first step was taken toward the present uniform Government policy of making aid available to postsecondary vocational education students—and literally tens of thousands of students have benefited from JOHN DENT's initiative.

In about 1965, I think, JOHN was persuasive on the committee in getting it to take the first real look at the overseas school system for U.S. military dependents, and he was coauthor of the Department of Defense overseas school bill. The overseas school system, if it was in this country, would be one of the largest school systems. JOHN DENT's initiative, in that instance, has led to legislation to include these schools in a variety of Federal aid programs.

I think it characteristic of JOHN DENT that his office biography notes that, of all the recognition he has received, perhaps the thing that has meant most to him was the "Humanitarian Award" of the Westmoreland County, Pa., Conference for Economic Opportunity, Inc., which was "conferred by those who know him best."

The Congress will lose a great humanitarian, Mr. Speaker. I wish JOHN and Margaret great happiness, and also good health, in the upcoming retirement years. May they be joyful years.●

● Mr. COUGHLIN. Mr. Speaker, it is with great pride that I take this opportunity to express my respect and appreciation on behalf of my distinguished colleague and fellow Pennsylvanian, JOHN DENT. As you know, JOHN is retiring from the House this year after 20 years of unparalleled service to the people of Pennsylvania.

JOHN DENT's positive efforts as U.S. Representative from the 21st District of Pennsylvania reflect his confidence in his fellow citizens and his dedication to serving them. I first encountered this legacy when I entered the Pennsylvania State legislature where JOHN served in the State House for one term before entering the State Senate in 1936. As the Democratic floor leader for 17 years, Pennsylvania benefited from his consistency, honesty, and decisiveness, qualities which have characterized his career on the national level as well.

Through his membership on the House Education and Labor Committee, JOHN has been recognized as an expert in the fields of unemployment, workman's compensation, and coal mine safety. In addition, his position on the House Administration Committee and his leadership abilities on the House floor showed his expertise in legislative and parliamentary procedures.

However, I believe that we will miss most, JOHN's ability to ease the too often tense moments with his friendly and amiable disposition. Even after his recent eye surgery, JOHN returned to the House ready to resume work, without complaint.

JOHN DENT's cooperative spirit, leadership ability, and integrity earned him the attention and esteem of both Republicans and Democrats. For this legacy, I extend my sincere thanks and my best wishes for the future to him and his family.●

● Mr. FUQUA. Mr. Speaker, the distinguished congressional career of one of the most respected and dedicated Members ever to serve the House, PAUL G. ROGERS, will draw to a close when the 95th Congress adjourns.

PAUL, who has represented the people of the 11th District of Florida since 1955, succeeding his father, the late Dwight L. Rogers, has earned the respect of the Members of this House from both sides of the aisle.

As chairman of the Subcommittee on Health and the Environment, PAUL has been a strong and articulate spokesman for the health interests of this Nation. One of the leading congressional experts in this field, he has often been referred to by many of his colleagues as Mr. Health, a tribute to the outstanding contribution he has made in this area.

Indeed, the void left by PAUL's retirement will certainly not be easy to fill. The Congress and Nation, as well as the people of the 11th District of Florida, will lose the devoted services of an effective and forthright legislator.

As he takes leave of this House, I join with all those who wish him continued success, years of good health and happiness. We are not only losing an esteemed friend, but an inspirational colleague.●

● Mr. MURTHA. Mr. Speaker, I consider it a great privilege to say a few words about my distinguished colleague from Pennsylvania, JOHN DENT. As he retires from Congress this year JOHN DENT can look back on over 20 years of outstanding contributions to improve the lives of millions of Americans.

As chairman of the Labor Standards Subcommittee he has initiated legislation that has continually pointed the country toward social progress and better living conditions. He has led the fight to protect the health and safety of our Nation's coal miners, as well as to reform pension and welfare benefits to make them more equitable. His vigilant efforts to maintain the minimum wage base for the working men and women of America have been well appreciated over the years.

Mr. Speaker, we will sorely miss this gentleman whose quiet courage has advanced the social, political, and economic security of our Nation. He is beloved by the people of his State and by all who have been touched by his sincerity and warmth.

Mr. Speaker, JOHN DENT takes great pride in his Italian heritage, and I know of no one who has been a better example to other Americans of Italian descent than he. He has never forgotten his roots and has always been devoted to upholding the virtues of his Italian background. Americans of Italian descent from all over America look with pride on JOHN DENT's career in Congress.

Mr. Speaker, I am honored to call JOHN DENT my friend, and I wish him good health and happiness in the years ahead.●

● Mr. ADDABBO. Mr. Speaker, at the end of this session, our long-time colleague and dear friend JOHN DENT of Pennsylvania, will end his service in this House. His retirement represents a loss of experience, concern, dedication and understanding that we can ill-afford to lose.

JOHN DENT's service in Congress has been distinguished by his overriding concern for the workingman and woman. A product of the coal mines, JOHN DENT struggled hard to rise out of poverty himself as a young man, and because of that background, he has never failed to champion the cause of the poor, the oppressed and the people who work so hard with their hands.

Not once in the 20 years he has served in this body has his voice ever wavered when it came down to a gut vote on behalf of those who cannot help themselves. He has always been and he remains an inspiration to us all.

JOHN is 70 years old now and he has known in his lifetime power, affluence and acclaim. But, just recently when he was honored by the Italian-American Foundation for his years of service in this House, he recalled in vivid terms for us the discrimination and hardship that immigrant families of Italian extraction encountered when they arrived in this new land of opportunity.

We have progressed far in this Nation since the turn of the century and much of the credit of the last two decades must go to JOHN DENT, who used his seniority on the House Education and Labor Committee to undo the wrongs of so many years within those two fields.

All of us serving in this House have been a witness to this determination, and it is unlikely that any of us will forget the soaring oratory that features a JOHN DENT floor speech when he is exercised over either an education or a labor issue.

It is that intensity as well as the dedication that have made JOHN such an institution in Westmoreland County politics. He has been a fixture here too, and we hate to see him go. Nevertheless, we wish this good friend all of the best in his future endeavors. Good health, and happiness to you JOHN and your beautiful wife, "Babe", Godspeed.●

● Mr. FLOOD. Mr. Speaker, since the time I first came to this Congress three decades ago, I have been fortunate to have a friend and colleague Congressman JIM DELANEY of New York.

JIM DELANEY is a special kind of man. He has the look of a blessed Irish statesman, the soft approach of a professional diplomat, but the strength, determina-

tion, and willingness to fight within the spirit of JIM DELANEY is something that all of his colleagues have continuously admired.

Now comes the time when JIM DELANEY is leaving us, and now comes the time for many words of praise and recognition. How well he has deserved them. How diligently he has left his imprint on this House he has served so well.

The distinguished chairman of the Committee on Rules leaves the House at a time when men of the charismatic tradition are a thing of the past. His presence, his guidance, his wisdom, his leadership and all that goes with them will forever be missed.

To my friend JIM DELANEY, "Ad Multos Annos!" ●

● Mr. MURPHY of New York. Mr. Speaker, the retirement of JOHN MOSS at the end of this Congress has a special meaning for me, since Congressman Moss and I have served together on the Interstate and Foreign Commerce for the last 7 of his 13 terms in Congress. Not only his friendship, but his wise counsel and guidance have been a widely recognized asset to many of us who have fought the legislative battles, both beside him and facing him.

JOHN MOSS' great attention to detail and to reality in the legislative arena is almost legendary; he has an immense capacity for the evaluation of uncertain and conflicting information, in order to determine the most appropriate and effective means of resolving a disputed issue. It is an equal tribute to his political, as well as legislative acumen, that he was nominated early in his career by both the Democratic and Republican parties. His support was drawn from both sides of the aisle then, and continues to be a major source of strength to those of us who have come to depend upon his expertise in many fields for leadership. His has been a noncompromising dedication to the people of Sacramento and also to all Americans who have come to depend on his wisdom and knowledge in Congress to do what is necessary and what is right.

Ernest Hemingway called retirement "the ugliest word in the English language"; after 26 years of service in the House of Representatives, I can fully understand why JOHN MOSS might have a difficult time of leaving all this behind. It has been, for over a quarter of a century, his way of life, and all America is the better for it.●

● Mr. FUQUA. Mr. Speaker, when the 95th Congress draws to a close we will be losing the services of our good friend and colleague, LOU FREY, Jr., who represents the people of the Ninth Congressional District of Florida.

LOU, who served with me on the House Science and Technology Committee since he was elected to this body 10 years ago, has distinguished himself as an aggressive and devoted legislator.

He has many friends and has earned the respect of Members from both sides of the aisle. I valued his advice and his contributions to the development of this Nation's technology will long be remembered.

Not only will the State of Florida be losing a capable and valued legislator of exceptional ability, but indeed he will be missed by all of us in this House who have served with him.

I join with LOU's many friends in wishing him well and many years of health and happiness.●

● Mr. MURPHY of New York. Mr. Speaker, of all the men in the U.S. Congress who should have a lengthy biography in the CONGRESSIONAL RECORD, that of Congressman JIM DELANEY is probably the briefest: five lines. There is a certain eloquence to that brevity, just as there is a definite eloquence to the man himself.

His biography simply indicates that he has served the people of Queens County, N.Y., since November 1944: 34 years ago. That period includes service under eight Presidents, beginning with Franklin Roosevelt, and a position of leadership in 16 Congresses. If he had chosen to remain, he would have been third in seniority in the entire House, a vantage point which certainly would have increased the stature of an already great man who has served his people well.

JIM DELANEY, as chairman of the Rules Committee, has developed the reputation of one who was completely fair to all factions in bringing all legislation, both commonplace and controversial, to its rightful place of consideration before the House of Representatives. As dean of the New York delegation, JIM has been a source of extremely competent leadership for all of us in the Empire State, as well as a source of great pride to the people of Queens.

JIM DELANEY gave the Congress and the Nation a leadership of action, not position. All of us are proud to have served within him, and we will be diminished by his absence.●

● Mr. FASCELL. Mr. Speaker, I am pleased to have this opportunity to pay tribute to our esteemed colleague, PAUL ROGERS. As a member of the Florida delegation, it has been my distinct honor to serve with my friend, and I have learned much from him. My appreciation of his talents and abilities is shared, I know, by his constituents, his State, and his colleagues in Congress, all of whom he has served and aided.

Congressman ROGERS has earned the genuine respect and admiration of allies and opponents alike. His extremely capable leadership in the field of health care has resulted in the enactment of such vital measures as the National Cancer Act, the Health Maintenance Organizations Act, and the National Health Planning Act. His earnest strivings to improve our health care system have brought to him much-deserved recognition as the congressional authority in this area. He has, in fact, been acknowledged as one of the leading health and medical experts in the country and has received honorary degrees from such institutions of higher learning as New York Medical College, George Washington University, the University of Maryland, and Albany Medical College.

PAUL ROGERS has also played a major role in the enactment of vital environmental legislation. Some of his noteworthy achievements in this area include the Clean Air Act of 1970, the National Environmental Policy Act, the Endangered Species Act, and noise pollution control legislation.

His personal warmth and sincerity, his legislative skill, and his deep concern for the plight of our Nation and its people have made a lasting impact upon us all—as individuals and as Members of this great body. PAUL ROGERS is of a rare breed, and his absence will be keenly felt. While I deeply regret his retirement, I wish him the best. Jeanne-Marie joins me in extending to PAUL, Becky, and Laing our best wishes for a productive and happy new life.●

● Mr. FUQUA. Mr. Speaker, when the 95th Congress adjourns, the distinguished career of our friend and colleague, JOHN H. DENT, will draw to a close.

His service to the people of Pennsylvania and this Nation spans 20 eventful years. The void left by JOHN'S retirement will not be easy to fill. His expertise as chairman of the Subcommittee on Labor Standards has earned him respect for his forthright and effective leadership.

His wisdom and guidance will be greatly missed, but as he prepares to return to Pennsylvania, JOHN DENT can leave with tremendous satisfaction for 20 well-years in the House of Representatives.●

● Mr. FLOOD. Mr. Speaker, from the time the U.S. Department of Defense was organized, and the Appropriations Subcommittee was established, one man stood strong as the pillar of a strong and fortified United States of America. That man, who has continuously served on that committee is the Honorable ROBERT SIKES of Florida, who is leaving us at the conclusion of this Congress.

I have known BOB SIKES since that day I came to Washington at the beginning of 1945. I have known him well, I have respected him, and indeed I have been privileged to call him my friend.

The supremacy of the military might of the United States of America is of such great magnitude because we are a nation that has always been able, in the final analysis to meet its commitments for defense, and indeed for peace, at home and abroad. BOB SIKES has been an outstanding leader in that effort, and it has been my highest privilege to work with him in that endeavor.

The people of the great State of Florida who have been fortunate to have BOB SIKES as their dedicated public servant will truly miss this outstanding American, as he returns to the land he loves so well.

For the American serviceman, and for the Members of Congress, thank you, BOB SIKES, for a job well done.●

● Mr. GOODLING. Mr. Speaker, I anxiously rise to join my colleagues in saluting the outstanding congressional career of Congressman JOHN DENT. As a member of our Pennsylvania congressional delegation, JOHN has always taken an interest not only in the problems which face his congressional district, but those of the entire Commonwealth. I have also had the pleasure of serving with JOHN on the Education and Labor

Committee. Although our views have not always been the same on upcoming legislation, his commitment to his constituents and his principles must be admired.

JOHN now completes 21 years of service in Congress—service which has been filled with numerous legislative achievements. I know the entire Pennsylvania congressional delegation, along with the Pennsylvania legislature where JOHN served as floor leader, join me in wishing JOHN the best of health and happiness in the years ahead. I know they will be filled with the same kind of success which has brought my Pennsylvania colleague to this juncture.●

● Mr. GAYDOS. Mr. Speaker, as the 95th Congress comes to an end, one of our most distinguished colleagues, the Honorable JOHN H. DENT, will close his long and outstanding career as a legislative leader and champion of the workingman. His career in public service has spanned some 44 years, including service in the Pennsylvania Legislature, where he served as senate majority leader. He was first elected to the U.S. Congress in 1958 to serve an unfinished term in the 85th Congress, and since has been reelected to every Congress through the 95th.

JOHNNY DENT and I have been closely associated both at home and in Washington. We have adjacent districts in western Pennsylvania and serve together on two committees of the House—Education and Labor and House Administration. In addition, I am a member of his Subcommittee on Labor Standards, and he is a member of my Subcommittee on Compensation, Health and Safety.

Volumes could be written about his legislative accomplishments, but he is probably best known for his role as the champion of the working men and women of this country. The enactment of the Coal Mine Safety Act of 1969 was one of his major legislative feats which helped to reduce the fatalities and injuries in mines as well as provide compensation for those miners who were afflicted with the dreaded black lung disease.

JOHN's legislative skill is best evidenced by the passage of the Employee Retirement Income Security Act of 1974, a very complex piece of legislation, aimed at protecting the pension rights of the working people of this country.

He has also been a tireless overseer of the Fair Labor Standards Act, and has performed admirably in the establishment of a minimum wage for those workers in the lower economic level in this Nation. There is hardly a bill involving labor and education matters over the past 20 years in which he has not had a major role.

He had compassion for all people, especially the working person, and he used his enormous energy to turn that compassion into legislative achievements. He is truly a champion of the working people.

JOHN DENT is a man possessed of uncanny perception, especially in the field of international trade and economics. When I first came to Congress in 1968, his was a lone voice crying in the wilderness warning of the perilous path on which our international trade policy was leading us. Many of his predictions in the 1960's unfortunately came true and are plagueing us today with a flood of imported goods stealing American jobs and adding to an ever-increasing trade deficit.

I was privileged to come under his guidance in this very complicated area of international trade and had benefitted greatly from his vast knowledge and experience which he has accumulated over the years. He is one of the most respected and acknowledged experts in all aspects of international trade and has an intrinsic ability to present a very complicated subject in a clear, understandable and practical manner. I am deeply indebted to JOHN DENT for sharing with me his expertise over these past 10 years.

The people of the 21st District of Pennsylvania as well as the Nation can be justifiably proud of JOHN DENT. His service to his district and his country may be equaled but will certainly never be surpassed.

This has been one of the most difficult speeches I have ever been called upon to make. I feel that part of me goes with JOHN, since he and I have been so closely associated on a legislative and personal basis. He has truly earned the respect, admiration and esteem of all of us.

I will miss his experience, wisdom, and friendship. He has been a great friend and teacher. The Congress of the United States will lose an eminent legislator, a great American, and above all, a warm, compassionate human being.

JOHN, you leave us with a high standard of excellence to emulate. We all wish you and Mrs. Dent many years of happiness in your well-earned retirement.●

● Mr. WON PAT. Mr. Speaker, it is my pleasure to join with my colleagues in saluting our good friend and esteemed colleague, Representative JAMES MANN of South Carolina who is retiring at the end of this session.

JIM has served the residents of the Fourth Congressional District in his State since 1969 with great distinction. His service on the House Judiciary Committee is vivid testimony to his outstanding legislative skills.

We on Guam are fortunate that Congressman MANN was a member of the Select Committee on Narcotics Abuse and Control, where he was supportive of my own efforts to have the select committee hold hearings this year in Guam to determine the nature of our severe narcotics problems.

Without a doubt he will be missed by his many colleagues and friends here in the House. I wish him the best of health and good fortune in his retirement.●

● Mr. RHODES. Mr. Speaker, the gift of humor often takes the rough edges off the occurrences of life. In the House, we have been blessed with a man whose wry views of the operations of Congress and the political scene in general have kept us chuckling for years.

OTIS PIKE is perhaps one of the most widely quoted Member of this body, telling it like it is, and perhaps the way it should be. He has represented the First District of New York for eight terms, and true to his nature, he is leaving this body after expressing his views that the game no longer is worth the candle.

I have enjoyed being friend and colleague of OTIS PIKE. Behind his colorful exterior lurks a lot of serious thinking about the House and how it operates. Even those who have been nipped occasionally by "PIKE's Pique" admire him for his forthright and direct evaluations of events and institutions.

I wish him the very best for the future, even though I understand that he now is contemplating syndication of his barbs for wider distribution.●

● Mr. ROSENTHAL. Mr. Speaker, I want to join with his many colleagues and friends here in the House of Representatives in paying a richly deserved tribute to JIM DELANEY who has served so long and so honorably in the Congress.

Unfortunately for us, and for the residents of the Ninth District of New York, JIM has decided to retire from the legislative branch, and will seek a well-earned rest. A native New Yorker, he has represented the people of New York City and Queens County for many, many years. We both come from Queens and my congressional district is next to his, so we have had an extremely close relationship over the years. That he is highly respected by the voters is demonstrated by the fact that he has been given the Democratic, Republican, and conservative designations during his long political career.

I can remember when I was first elected to the House in 1962, and arrived in Washington with no legislative background at all. JIM had been in the House almost continuously since 1945, and was at the time one of the most knowledgeable and outstanding Members of Congress. He was gracious enough to extend a helping hand to me and gave unstintingly of his advice and counsel. For that I am extremely grateful, and want him to know how deeply I appreciated his assistance.

As a member of the Rules Committee, and lately as its chairman, he became one of the most powerful and influential figures in the House. He has been a highly regarded member of the New York City and New York State congressional delegations, and as chairman over the past few years he has clearly shown an enviable and uncanny ability to get things done.

JIM DELANEY will leave a void in the House of Representatives which will not be easily filled. We will all miss him, but hope that he will take with him fond memories of his many years of service, content in the knowledge that he has the admiration and affection of all those who have been privileged to serve with him.●

● Mr. HEFTEL. Mr. Speaker, no issues at the center of public attention today are more complex and controversial than health and the environment. That one national legislator might take on both those issues and seek to integrate them, and that he might succeed while at the same time inspiring a climate of harmony and purposeful movement rather than antagonism and helpless wheel-spinning, is something I did not imagine possible—until I met PAUL ROGERS. I do not need to recite his accomplishments as chairman of the House Subcommittee on Health and the Environment, for they are known to every Member of the Con-

gress and to every citizen who follows events in those critical fields. But I do think special mention should be made of the quality of the man—of the dedication, perseverance and goodwill with which PAUL ROGERS infused the issues he tackled, so that they came to bear the stamp of his inspiring personality. Now PAUL ROGERS is retiring, and we will dearly miss his counsel. But we would not miss his presence. It will remain with us in the legislation he authored and in the personal example he set for us all. For that, all America is in his debt.●

● Mr. COLLINS of Texas. Mr. Speaker, I join my colleagues in extending our best wishes to PAUL ROGERS. As chairman of the Health Committee, his record of new health legislation funding has set new vision for the future.

As I have opposed PAUL in so much of his expansive measures, I have come to admire his tremendous capacity. I always found myself in the minority when I opposed PAUL ROGERS. He is most persuasive on the floor. His enthusiasm in behalf of his causes is overwhelming.

Although in my heart I was most apprehensive about ambitious legislative programs, I always have found PAUL ROGERS to be a personal leader of strong character. I admire PAUL because he argues on issues and not on personalities. PAUL always argues with logic combined with idealism. But he presents his case in a calm and forceful manner.

Every time I see PAUL bring a bill to the floor and see him win, I am always surprised. He seems to always ask for a program that is too large and too loosely scheduled. Yet, he succeeds in his request when he puts his drive behind the bill.

In leaving Congress. I hope the PAUL ROGERS goes into the private practice of law. His thorough knowledge of the legislation should be most beneficial to the private medical resources of America, as they stagger under the load of the Government bureaucracy requirements. I would like to see him serve in the Cabinet. PAUL would be a great Ambassador. Whatever challenge faces PAUL ROGERS, we will look forward to another record of successful leadership.●

● Mr. FUQUA. Mr. Speaker, our good friend and colleague, JOHN MOSS, is retiring from Congress after 20 years of devoted and dedicated service.

JOHN, who represents the Third Congressional District of California, has served with great effectiveness as chairman of the Subcommittee on Oversight and Investigations where he has been a leader and watchdog for our national interests.

I have had the distinguished honor of serving with JOHN on the Government Operations Committee and his advice and counsel has been invaluable to me throughout the years.

The Nation is indeed indebted to him for his persistence and dedication, regardless of the task. JOHN'S valuable guidance will be greatly missed.

I join with his many friends in wishing him many years of well-deserved happiness and health.●

● Mr. ULLMAN. Mr. Speaker, I am pleased to have an opportunity today to join in paying tribute to the distinguished chairman of the Committee on Rules and dean of the New York State congressional delegation JAMES J. DELANEY.

For more than three decades, JIM DELANEY has been a key ingredient in the glue that holds the House of Representatives together. He has helped build majorities for some of the most controversial questions that have come before the Congress.

His efforts on behalf of the American consumer are legendary—who does not know of the Delaney amendment; and his work in aid to education is equally meritorious, if less widely recognized.

Sixteen terms in the House speak clearly to how effectively he has represented the citizens of New York. His role in helping to obtain adequate Federal assistance for the city of New York in her hour of most need is only the most obvious of his efforts in this regard.

As a member and now chairman of the Committee on Rules, JIM DELANEY has distinguished himself as a fair-minded, patient leader.

I am personally grateful for having had the opportunity to work with JIM, and join my colleagues and the Nation in wishing him an enjoyable, productive retirement.●

● Mr. WOLFF. Mr. Speaker, I would like to take this opportunity to commend my colleague from New York, JIM DELANEY, who is retiring from the Congress. For 30 years this Nation benefited from his service.

In his position as chairman of the Rules Committee has has handled admirably the vital role of assigning the rules under which legislation will be considered. Whether or not a bill is open to amendment, or how much debate is allowed, can be absolutely critical of the final version of the bill and to the outcome of the vote. It seems a thankless task, especially on controversial measures, for one side or another is likely to disagree as to which rules should apply.

JIM has also provided much leadership to the New York Members as dean of the New York delegation. His leadership has benefited not only his constituents in the Ninth Congressional District, but the entire State of New York.

JIM DELANEY has always been known as a Member of Congress who thinks for himself. He has taken strong positions on tough issues, always having the courage of his convictions. I must commend his courage and sincerity in dealing with difficult political issues.

We will miss JIM DELANEY in the Congress, and in the New York delegation. We have long been proud to call him colleague.●

● Mr. NOWAK. Mr. Speaker, two distinguished members of the Empire State's congressional delegation—our dean JIM DELANEY and our colleague OTIS PIKE—are completing their careers in the House at the close of the 95th Congress.

I should like to pay tribute to their significant contributions to our State, the Nation, and this body during their many years of dedicated service and to join their many friends and well-wishers in expressing the sincere hope that their futures are as bright as their pasts.

In comparison to the seniority here of JIM DELANEY and OTIS PIKE, I am a relative newcomer. However, in my two terms here I have come to know them well and have come to appreciate their friendship and counsel and to respect their wisdom and leadership capabilities.

We are all aware of JIM DELANEY'S dedication to this body and his tenure as chairman of the prestigious Rules Committee. OTIS PIKE also has made significant contributions in his service on Ways and Means, the Joint Economic, and Budget Committees.

One must view the departure of Members of this caliber with mixed emotions. There is sadness, for their learned contributions to the legislative process will be missed. Simultaneously, there is joy and pride in their accomplishments and that they have the vigor to continue to serve their communities and the Nation.

JIM and OTIS—Godspeed into the future.●

● Mr. HEFTEL. Mr. Speaker, the State of New York enjoys a well-earned reputation for producing leaders of wit, intelligence, and tolerance. Yet even among that select group as recorded through history, few can match OTIS PIKE. I need not dwell on his legislative accomplishment. They are well-known, and justly admired. But his reputation extends well beyond the legislative sphere into that critical domain of public morals and ethics that provides the cultural underpinning to political activity. And it is within that domain that OTIS PIKE has earned a special position. The standards he has set will serve as models for generations to come. In his retirement, the House has lost an invaluable Member, but we can take consolation in the knowledge that the example he set will continue to play an active part among all those who covet the finer qualities of leadership.●

● Mr. COLLINS of Texas. Mr. Speaker, I welcome the opportunity to join in expressing appreciation for the fine congressional service of LOU FREY. I have had the opportunity to sit by LOU on the Commerce Committee. He is well informed and studies all the issues very carefully. I am going to miss LOU because of his penetrating objections and questions. His views were always concise and well founded. Our strong developments in communication legislation is one of his greatest achievements.

When LOU headed up the Research Committee of the Republican Congressional Committee, he established a model of excellence that is the best job of research the Republicans have ever had.

LOU is aggressive, intelligent, and a very hard worker. Returning to the private practice of law, he will be an outstanding success. With all of the excessive Government regulations this Congress has promulgated on the American public, he has a great challenge in defending the over-burdened American businesses.

Florida has been fortunate to have LOU FREY represent them with such distinction in the Halls of Congress. We will

miss LOU on the floor, in the committee, and in all congressional activities. LOU is one of the best liked men that ever served in Congress. His dynamic, hard hitting personality will be heard from with the great future ahead for LOU FREY.●

● Mr. FLOOD. Mr. Speaker, a special meeting in the U.S. Senate prevented my rising in the well to publicly state how I feel about the departure of my dearest friend in the House, my friend and colleague from southwestern Pennsylvania, the Honorable JOHN DENT.

When the history of this Nation, and our great State is written, it shall be recorded that JOHN DENT was a giant among men, a humanitarian, and most of all, a man dedicated not only to the people who elected him, but a man dedicated to the Nation as well.

One of the greatest examples of this Congress meeting the sociological challenges of a sector of the population was the enactment of the 1969 Coal Mine Health and Safety Act. The act was known as the Dent-Flood bill, because JOHN DENT and myself each week when we returned to our districts could see the effects of the scars of the mining industry, as we heard the cough and discomfort of victims of lung disease, persons who had worked in the mines. "Black lung" was a curse, and it was a curse that JOHN DENT was not content to keep in the darkness, for truly he lit the torch that brought relief and comfort to hundreds of thousands of Americans who suffer from this disease. In reviewing a lifetime of public service, it can be said of JOHN DENT that he truly is a humanitarian.

To my dear friend who is leaving us, may I take a line from an ancient Irish prayer:

May the Road Rise Up to Meet You, and the Wind, Be ever at your Back.●

● Mr. HEFTEL. Mr. Speaker, JIM DELANEY's career in the Congress is so studded with meritorious achievement that for someone according him deserved homage, it is difficult to know where to begin. In 1978, he led the ultimately successful fight to preserve the fiscal integrity of New York City, thus averting a catastrophe that would have reverberated throughout the Nation. In so doing, he demonstrated once again his abilities to act quickly and ably to meet a crisis. That quality, and its application in so many critical instances in our recent history, would have been enough to establish his reputation on secure and lasting ground. But JIM DELANEY also has shown remarkable vision. Twenty years ago, when the subject had barely penetrated the public consciousness, he took the lead in moving against cancer-inducing chemical additives, most notably with the landmark Delaney amendment in the Food Additives Act of 1958. And he did not let up. To this day, JIM DELANEY continues to be one of the most vigilant and effective leaders in the fight for consumer protection. His retirement is not only a great loss to the Congress and to his constituents in Queens County, N.Y.; it is a great loss to the American people as a whole. For very few of us, if any, are not in some way deeply indebted to Congressman JIM DELANEY.●

● Mr. ULLMAN. Mr. Speaker, I would like to join today in paying tribute to my colleague ROBERT L. F. SIKES, dean of the Florida congressional delegation and a good and lasting friend to me and many others in this body.

A career of nearly four decades in the House is ample testimony to the effectiveness with which BOB SIKES has represented his own constituents. In my judgment, he has been equally effective in helping to provide the Congress with the sense of continuity that is so important to the business of legislating.

On a more personal level, BOB has considered Oregon problems of concern to me with an open mind and frequently provided me with wise counsel. For these courtesies and others, I am grateful.

My best wishes go with BOB as he retires from service in the House of Representatives.●

● Mr. FLOOD. Mr. Speaker, many of my dear colleagues in this House are concluding their distinguished tenures of service at the close of this 95th Congress, but I assure you that a loss which I cannot adequately describe is that of PAUL ROGERS of the great State of Florida.

PAUL ROGERS and I share a very special common concern in this Nation, the care of the health of all Americans. We have worked hand in hand for over a decade in helping to solve the research and medical care needs of this country, and although much has been accomplished, much remains to be done. PAUL ROGERS has been, as the chairman of an important health subcommittee, a truly great leader in the cause for better health for all Americans. He has deservedly won the recognition of health professionals, the health care community in its entirety and all Americans deeply committed to our health care needs.

In the southwestern end of my district, at Danville in Montour County, stands the famed Geisinger Medical Center. In 1973, when the Bush Pavillion of this Center was dedicated it was my honor to have PAUL ROGERS accept my invitation to deliver the principal address at ceremonies marking the occasion. His words of admonition on that occasion have not been forgotten.

This House will miss the charming and dedicated Member, and this country as losing one of its alltime dedicated servants. I salute PAUL ROGERS for what he has done, and we in this House, and this Nation, are better for his having served among us.●

TEXAS DELEGATION

● Mr. PRICE. Mr. Speaker, I would like to take this opportunity to extend my best wishes to four of the best-known and most esteemed Members of the House of Representatives. I refer, of course, to the senior members of the Texas delegation, Congressmen GEORGE MAHON, BILL POAGE, OLIN TEAGUE, and OMAR BURLESON, all of whom will retire at the end of this Congress.

The career of any one of these fine men is a tribute to our country's political system, but taken together their careers are astounding. Their combined congressional service totals 152 years, a record which is truly staggering. Over a century and a half of dedication to the welfare of our Nation is a remarkable achievement for four men to have earned.

To discuss the legislative achievements of each of these men would take more time than I have today and, besides, would be repetitive to my colleagues who already know the reputations these Members have made over the years. GEORGE MAHON has brought his own brand of authority to the chairmanship of the Appropriations Committee and TIGER TEAGUE has done the same in his role on the Committee on Science and Technology. The wisdom and experience of BILL POAGE and OMAR BURLESON have been continuously sought by their colleagues on their respective committees and indeed by Members of the House on both sides of the aisle.

I know I express the feelings of the House when I say that the retirement of these four men marks the end of an era in our history. I will miss the benefit of their insight and ability when this House meets again in January, as will my colleagues and the Nation as a whole. I wish them and their families good luck, and I hope that the State of Texas will continue to send to this body men of the same caliber as these four statesmen.●

● Mr. BRINKLEY. Mr. Speaker, it is with much pleasure that I pay tribute to our retiring colleague, the Honorable GEORGE MAHON of Texas. A friend to all of us, it is with great regret that we say goodby.

Through his work as chairman of the Committee on Appropriations, we have seen the ability and determination which characterize this man from Texas. As dean of his delegation, he has been a steadying and guiding influence to all his colleagues.

GEORGE has been a giant among men, with the foresight and wisdom needed to make decisions important to the Republic. A generous and kind man, his presence in the halls of Congress will be sorely missed. In the tradition of all great men, he has served his country well—the highest tribute one can receive. He will be missed, and he will be remembered.●

● Mr. CLAWSON. Mr. Speaker, come January 3, 1979, the beginning of the 96th Congress, an unfilled void will exist in the U.S. House of Representatives, a void that will never be filled because no one or group of persons could fill the shoes of the retiring members of the Texas delegation, all of whom it is my privilege to call "friend."

Thank you, JACK BROOKS, for letting some of us express our appreciation to these men and to BARBARA for their tremendous contributions to the State of Texas and our country. Their separate districts have been aware for many years of the local service to their constituencies.

It was a great personal opportunity to serve on the Appropriations Committee with Chairman GEORGE MAHON, dean of

the House, an inspiration to every Member.

Chairman POAGE has made a mark upon the agricultural industry of our Nation that will live forever.

My friend, OMAR BURLESON, is a real stalwart in the House. After electronic voting was installed, my eyes would run down the "B's" before getting to my name, and OMAR was always on "the beam."

"TIGER" TEAGUE is in a class by himself. His physical difficulties have been shared by all of us, but he will be remembered for much more in veteran's affairs, science and technology, and for his cockeyed pranks in the Members' gym when a handfull of paddle balls would be thrown on the court in the middle of a serious "money" game.

JOHN YOUNG, my colleague on the Rules Committee is a personal friend with whom I have enjoyed many hours and days of hearings. Neither of us will ever forget the "best show in town" under the production of Chairmen RAY MADDEN and JIM DELANEY. On occasion JOHN made a very valuable and real contribution to the show in both its serious and its lighter moments.

And what do you say about BARBARA JORDAN that has not already been said. A liberal, black woman who sits on the House floor among conservative white men, always present, always prepared, always pleasant and ready to make her position known with the most cogent of arguments and persuasive debate, and a very capable Member when occupying the Chair. Thank you, BARBARA, for the few short years the boundaries of our lives have been shared.

DALE MILFORD and BOB KRUEGER have not been known to me personally as well as the other Members, but their contribution to the Congress effectively represents the great State of Texas deserving of its fame and fortune.

Again, JACK, thanks for taking this special order. In a way I am glad that I also am retiring at the same time with my Texas friends. The House can never be the same without them, Democrats all, but admired and respected by this California Republican. God bless and Godspeed to everyone.●

● Mr. CONTE. Mr. Speaker, as a Member of this House, let me say that there is no man I have served with for whom I have greater respect, and, as a veteran—and on behalf of my veteran constituents—let me add that there is no man to whom we owe a greater debt of gratitude, than the distinguished gentleman from Texas, OLIN "TIGER" TEAGUE.

To say that he has devoted his life to the service of this country would be to engage in great understatement. To say that with his retirement, veterans have lost their best friend in this Congress would not be an overstatement. Quite simply put, every piece of legislation that has benefited veterans over the past quarter century has been directly due to the efforts of the gentleman from Texas.

I have been proud to serve with him and to support the legislation that his Veterans' Affairs Committee has produced. He has my every best wish for every best wish for the healthy, peaceful retirement that he so richly deserves.●

● Mr. DE LA GARZA. Mr. Speaker, I proudly rise to pay tribute to my colleague from Texas, the vice chairman of the Committee on Agriculture, W. R. "BOB" POAGE.

When I think of BOB POAGE, I think "Mr. Agriculture"—because BOB POAGE has spent a career encouraging and protecing American agriculture. To catalog all of BOB'S triumphs would take much more time than I might appropriately take right now, but it must be said that each and every American is affected—every day—by the farseeing and forceful leader from Waco.

Our country is the most productive, most efficient food producer in the world, and that is so in no small way because of BOB POAGE. This affable gentleman's mind is always thinking of better ways for the Government to help the farmers help themselves—and we see the results all around us. The supermarket shelves are bursting with products. Agricultural exports are a major reason why the dollar is not even weaker than it already is overseas.

Mr. Speaker, for all of this, we owe BOB POAGE a big "thank you."

Earlier this year, a couple of thousand of BOB POAGE'S friends staged an evening of appreciation for him here in Washington. Mr. Speaker, the fire laws forbade occupancy by more than a couple of thousand in that chamber, but we would truly need a room large enough to hold 210 million people in order to adequately thank BOB POAGE for the great work he has done for agriculture and the Nation.

It is with pride and respect, therefore, that I rise to acknowledge a debt we all owe to this great legislator. Mr. Chairman, we are going to miss you.●

● Mr. CHARLES WILSON of Texas. Mr. Speaker, the Texas delegation had a farewell luncheon on October 4 for the members of the delegation who are retiring. BOB GAMMAGE was the only freshman Congressman in attendance at the luncheon. That same day Love Pattie of the office of Congressman POAGE of Texas had a talk with him in connection with a book she is writing about Washington—a positive book on Washington called "Washington With Love."

As they were about to end the interview he told her there was something that had been hanging heavily on his mind all afternoon. He said that he has a tough race on his hands and he cannot be sure until November whether or not he will be back in Congress next session. At the luncheon when speeches were being made, he said he so much wanted to say certain things but felt that freshmen should be seen and not heard to a large extent. Love said it reminded her of Speaker Rayburn's admonitions to the freshmen Congressmen to just sit quietly and not be voicing opinions in their early years in the Congress. He said he had wanted to say the following:

I am honored that I was able to come here and serve with the people of the caliber of those Members of the Texas delegation who are retiring prior to their departure. They are institutions. I learned from them what being a member of the Texas delegation truly means. The spirit and attitude of unity and cohesiveness and hanging together make them the unique delegation they are and help them in many accomplishments. I hope future Members will learn those lessons as I have and will have the appropriate respect for their positions as members of the Texas delegation.

While I am proud of what I have done, I recognize that I could not have done it had it not been for my Texas colleagues and their unwavering support. Freshmen Members of Congress just do not accomplish many things. These are great people and they take somewhat a paternal attitude toward new Members from Texas coming in and will help them in any way they can if they are reasonable people with whom the senior members of the delegation can communicate. It is a big plus to be a Member of Congress from Texas. If I walked away from this job today, I would walk away proud of what I had been able to do while I was here and grateful I had had the opportunity to serve with these people, and learn from them.●

● Mr. BRINKLEY. Mr. Speaker, it is with great pleasure that I offer words of commendation for the Honorable JOHN YOUNG of Texas, who will retire with the adjournment of the 95th Congress. I am grateful to have had the opportunity of serving with this capable and dedicated gentleman who has represented the people of his district so well for so many years.

JOHN YOUNG has been a worthy addition to the U.S. Congress. His perspective and counsel have been valuable to all Members, and we are especially indebted to him for his guiding influence and outstanding ability on the Rules Committee.

In Isaiah 32:2 we read:

And a man shall be . . . as the shadow of a great rock in a weary land.

JOHN has been that rock, through years of genuine concern for the people of this Nation. We shall remember his name with admiration, and we wish him great happiness in the years to come.●

● Mr. DE LA GARZA. Mr. Speaker, I rise today to pay tribute to the dean of the House—my highly esteemed colleague and dear friend, GEORGE MAHON.

What can you say about a man who was first elected to this august body back in 1934? Where can you begin? Of course, Mr. Speaker, to do GEORGE MAHON justice would take days and days of testimony, and countless hundreds of pages in the RECORD. Knowing how much GEORGE MAHON hates unnecessary expenditure of tax dollars for projects not of the utmost national importance, I must resist the temptation to try to catalog his many, many fine deeds for Texas and the Nation.

As chairman of the Committe on Appropriations, GEORGE MAHON has set his imprint on just about every important bill produced by this body since 1964. Through long hours and months of work—GEORGE'S endurance and energy are legendary—the dean of the House has infused legislation which came before his committee with his special brand of political philosophy. Under the direction of this fine man, this country has directed its resources in the direction of efficiency, imagination, and commonsense.

Mr. Speaker, we as a nation have set

aside certain days to commemorate the contributions made by our ancestors to the growth of our country—Washington's Birthday, for example, or the Fourth of July. At the risk of sounding rash, I might venture to speculate that a GEORGE MAHON day may soon be included in this group. And no one deserves it more.

So sit back in your rocking chair, Mr. Chairman—enjoy and savor your rest. You have certainly earned it, and the entire country is richer for the great work you have done.●

● Mr. WAGGONNER. Mr. Speaker, seldom is a person elected to Congress, who moves right in and wins the respect of not only her colleagues, but also the American people. BARBARA JORDAN did exactly that.

BARBARA is a person of rare candor and grace. She is a lawyer's lawyer in the finest sense of the word and has proven this in her work on the House Judiciary Committee. Her tremendous knowledge and respect for the law are consistently evident in her committee work and the fairness with which she approaches the issues.

BARBARA's keen mind and oratorical abilities have earned for her the admiration of her colleagues and the love of her constituents. She is an excellent orator whose speeches on the floor are reminiscent of some of the best in the history of this body. I have great respect for her forceful and persuasive actions and let me tell you, it did not take long after BARBARA's arrival here in 1972 for these folks to learn that when BARBARA speaks, you had just better listen.

BARBARA JORDAN is a great lady and although she has made the decision to leave the U.S. Congress, I predict that she will continue to serve her State and her Nation in the same forthright and honest way that she has as a Member of the House.●

● Mr. BRINKLEY. Mr. Speaker, with the close of business, the 95th Congress will see the retirement of one of our most distinguished Members, the Honorable BARBARA JORDAN of Texas. I would like to take this moment to express my appreciation for her service to the U.S. Congress.

BARBARA JORDAN is an uncommon person—a progressive legislator with broad visions and a clear understanding of the issues. She possesses the foresight needed to make decisions which will be beneficial to the Nation for years to come, while at the same time not neglecting the all important reality of today.

We, who have been fortunate enough to serve with this dedicated and determined woman, will all gain in the years ahead from her counsel and experience. Her name, always spoken with great admiration and respect, will be remembered for as long as the Congress is here to serve the people.●

● Mr. DE LA GARZA. Mr. Speaker, at the end of this Congress, the House will lose one of its most powerful and eloquent voices—that of the Congresswoman from the 18th District of Texas, BARBARA JORDAN.

Who can forget Miss JORDAN's defense of the Constitution during the impeachment hearings in 1974? And who could fail to be stirred by her keynote address to the 1976 Democratic Convention?

During her terms in Congress, BARBARA JORDAN has come to be a champion of the poor and the downtrodden—and her diligent and untiring work has been to the benefit of all Americans. We shall be poorer without her.●

● Mr. MANN. Mr. Speaker, "TIGER" TEAGUE is leaving the halls of Congress after 33 years of exemplary service to the Sixth District of that great State of Texas. I am sorry to see him go.

TIGER TEAGUE really exemplifies the virtues of Texas—sometimes it appears he is bigger than life. Certainly his comrades in World War II, witnesses to his bravery in battle which a grateful nation recognized with 11 decorations, know he is a giant. The veterans of this country who have been able to rely on his dedication, hard work, and legislative skills in their behalf, both as chairman then senior Democrat on the Veterans' Affairs Committee, can attest to his stature. In 1973, when he assumed the chairmanship of the Science and Technology Committee, he proved his capabilities in the esoteric atmosphere of the world of outer space, nuclear energy, astronautics, and research and development. As a member of the Committee on Standards of Official Conduct, he exhibited the courage and dignity necessary to perform the unpleasant and unasked for task of judging one's peers.

Truly, Mr. Speaker, TIGER TEAGUE is "a man for all seasons," a specialist in diverse areas—bigger than life.

That success will continue to come his way is indisputable—a man who has never known failure in the myriad of jobs he has tackled is unlikely to ever know it. So, as I bid a reluctant farewell to TIGER TEAGUE, I will wish him many years of health and happiness. I am proud to call him friend and colleague.●

● Mr. SIKES. Mr. Speaker, as the 95th Congress comes to a close, the State of Texas loses several hundred years of experience and expertise with the retirement of several Members and the loss of others to pursue other goals.

Among those leaving will be the Honorable GEORGE MAHON, the dean of the House of Representatives. GEORGE has been a trusted colleague for almost four decades. I have had the pleasure of serving under his chairmanship of the Appropriations Committee and the Defense Subcommittee. No one could have done more in this position than GEORGE MAHON. His retirement leaves a position of responsibility which will not be easily filled; certainly not by a single successor.

Also leaving the House are several other notable Members with whom I have been proud to work. My friends BOB POAGE, OMAR BURLESON, and TIGER TEAGUE have each amassed a splendid record of service to their district, their State, and the Nation. I wish for each of them the most enjoyable future in the years ahead.

Also returning to a sincere and grateful constituency will be JOHN YOUNG and DALE MILFORD. Each has given his tireless efforts to their districts and their State. The House is better as a result of their membership.

Finally, two present Members are leaving the House to begin new ventures. To BARBARA JORDAN and BOB KRUEGER I extend my best wishes for success, together with bigger and more fruitful days than ever.●

● Mr. RANGEL. Mr. Speaker, much to my dismay, BARBARA JORDAN, who has gained the respect of not only the House of Representatives, but all of America, is retiring from Congress. BARBARA JORDAN has been praised time and time again for all of her accomplishments since joining this body in 1973. Her most notable achievement, her address as keynote speaker at the 1976 Democratic National Convention, has left a memorable impression in all of our minds. I am sorry to say that with BARBARA's leaving, we will lose one of our strongest advocates for the human rights of all peoples. I have found the gentlelady from Texas to be a person of strong character, integrity, and objectivity; and her participation as a member of the Congressional Black Caucus outstanding. I know that all of us in the House of Representatives wish BARBARA JORDAN much happiness and success in all future endeavors.●

● Mr. BRINKLEY. Mr. Speaker, I wish to take this opportunity to commend our retiring colleague the Honorable DALE MILFORD of Texas, for his outstanding service in the U.S. House of Representatives.

DALE has undertaken every endeavor with energy and fortitude. We have come to know him as a sincere legislator who represents the people with genuine concern. We have been privileged to serve with this esteemed gentleman, and gratefully recognize his fine service. The people of his district are fortunate to have had him represent them in the lawmaking body of our country, and they will miss him as we will. I wish him much happiness and success in the years ahead.●

● Mr. ULLMAN. Mr. Speaker, I am grateful for this opportunity to join my colleagues in paying tribute to a man who has stood tall as a leader in the House of Representatives for more than three decades, TIGER TEAGUE.

One of the most difficult things to do in a government such as ours is to keep an eye on the future while dealing with the crises of the present. Year after year TIGER TEAGUE has been able to do just that and, more important, he has enabled Congress to do the same.

His work in this regard has paved the way for breakthroughs in nearly every field of scientific endeavor and kept the United States at the forefront of efforts to better the human condition. For this and much more the Nation can be thankful.

I am personally grateful for his courtesy and friendship.

He has my very best wishes as he retires from Congress.●

● Mr. JENKINS. Mr. Speaker, I join my colleagues in tribute to an outstanding leader from the State of Texas. OMAR BURLESON who is retiring from Congress this year.

OMAR has always placed a high priority on serving his Nation. Three years of his life were devoted to active duty in the U.S. Navy. He served as a special agent in the Federal Bureau of Investigation. Before being elected to the 80th Congress, he worked for many years in Jones County, Tex., as a country lawyer and later as judge.

As a fellow member of the Ways and Means Committee, I will miss his sound judgment. He is worthy champion of many just causes. His career has been recognized by many and his presence in this Chamber will be missed.●

● Mr. JONES of Oklahoma. Mr. Speaker, from time to time, the great State of Oklahoma and our neighbor to the south have been known to disagree on some of the more important matters involving life and death: boundary locations, chili recipes, and football.

We have had our differences, and of course, Oklahoma has always won. Nevertheless, there is one thing that we can all agree upon: Texas is losing a tremendous asset in the House of Representatives with the departure of GEORGE MAHON, W. R. POAGE, OMAR BURLESON, OLIN TEAGUE, JOHN YOUNG, BARBARA JORDAN, DALE MILFORD, and BOB KRUEGER. To merely list the names is in itself an indication of the nature of the loss.

But to those of us who have served with each and everyone of our departing colleagues, we realize the true loss that has befallen both Texas and our Nation. The collective energy, leadership, and abilities of the departing members of the Texas delegation will be greatly missed by us all. They have made their imprint on virtually every issue of substance that has come before the Congress—budget, energy, defense, social programs, Government reorganization, environment, the list is endless and enviable.

I am sure that the rest of my colleagues join me in wishing each and every departing Texan the best for the future. We have not heard the last from any one of them. This is one group of Texans that can rightfully brag about their accomplishments. As coworkers and friends, I will miss them all.●

● Mr. ULLMAN. Mr. Speaker, I am grateful for this opportunity to join in paying special tribute to a special man—the dean of the House and distinguished chairman of the Committee on Appropriations, GEORGE MAHON.

When I first arrived in Washington nearly 22 years ago, GEORGE was already a leader in Congress. Throughout the course of our service together, he has continued to grow in the esteem of both his colleagues and those outside the Congress who are familiar with his work. Today, he is one of the most respected men in public service anywhere.

No one is more deserving of the designation "conscience of the House." It describes aptly the direction GEORGE has provided as chairman of the Appropriations Committee.

Even more important, in my judgment, is the leadership, he has provided by personal example. His honesty, diligence, and dedication to the State of Texas and the Nation have made him a beacon to Members in an era fraught with difficulty.

The House has been fortunate, indeed, to have such a man as its dean.

I wish him nothing but the best in the years following his retirement from Congress.●

● Mr. DE LA GARZA. Mr. Speaker, I rise today to say a few words about my neighbor down in Texas, and my good friend and distinguished colleague—JOHN YOUNG.

Half of the job up here is legislative, Mr. Speaker, and in this JOHN YOUNG is second to none. Known for his wit, his insight, and his great integrity, JOHN YOUNG is the model of an effective and responsive Congressman. I have always had the greatest respect for Members serving on the Rules Committee, for they are called upon to debate and consider such a wide scope of legislation. JOHN YOUNG has handled this task masterfully, and the generally smooth flow of legislation through this august body is due in large part to his efforts.

The other half of the job of Representative, Mr. Speaker, is the matter of dealing with others—of cajoling, explaining, recruiting, bargaining, and all the other activities associatd with deliberative assemblies. And at this activity, JOHN YOUNG is a master. Frequently, youngsters from my district come by my office to visit, and naturally I want them to get a feel for the workings of the Congress. It is no coincidence that, more often than not, I have the children meet JOHN YOUNG and have them observe his activity—for he is the master tactician, beloved by all and absolutely true to his perception of what is right.

With the retirement of JOHN YOUNG, Mr. Speaker, we lose one of the luminaries of the House. I will certainly miss your lucid counsel, JOHN, as I am sure others will too—but you have earned your rest. Enjoy your retirement, and know that your memory will remain for a long time to come.●

● Mr. BRINKLEY. Mr. Speaker, I am honored to take this moment to congratulate the Honorable ROBERT KRUEGER of Texas for his service to the U.S. House of Representatives. He has been a conscientious and faithful servant of the public and a close friend to us all.

Sweet are the uses of adversity which like the toad, ugly and venomous, wears yet a precious jewel in its head.

There were BOB KRUEGER's choice words when he was narrowly defeated in his role of leader for natural gas deregulation during his freshman term. They came following tributes to him by those who had debated so fiercely against him on the issue. We came to admire and respect this scholarly man and wish him all the best in the future.●

● Mr. CONTE. Mr. Speaker, for the 20 years that I have been a Member of this House, I have been privileged to serve on the Appropriations Committee. I have served with GEORGE MAHON, of course, during that time and I am grateful for the fact that since 1964, he has served as chairman of the Appropriations Committee. I am proud of the fact that he is my chairman.

He is and always will be to anyone who has known him, "Mr. Chairman." GEORGE MAHON, in physical stature, is a tall man, but more than that, in terms of public service, he has always been a big man in every fine sense of the term.

He is recognized, of course, as the dean of the House of Representatives. He is deserving of that title, not only because he outranks everyone else in terms of seniority, but because he is truly without peer.

During our years of service together, it is true that I have felt compelled to oppose my chairman on many issues just as I have been privileged to stand at his side on other battles. From that experience, I have learned that GEORGE MAHON is one of those rare individuals whom you can admire and respect as an adversary as much as an ally.●

● Mr. DE LA GARZA. Mr. Speaker, I rise to pay tribute to a dear friend of mine who plans to leave this body at the end of this Congress, my esteemed colleague OMAR BURLESON.

If I may, Mr. Speaker, I would like to share a couple of thoughts with the House. We are all aware of the great pressure which rests on each and every one of us—pressure to produce legislation to address the myriad of problems facing the country. And frankly, Mr. Speaker, at times the pressure is great.

At these times especially I am blessed to count as a friend and supporter the gentleman from Anson. OMAR BURLESON has made a career out of his extroardinary talents of tact, courage, and understanding—qualities in great demand in his position as a senior member of the Committees on Budget, and Ways and Means.

OMAR BURLESON is a man who carries great weight in the Texas delegation, too—and may I parenthetically remark, Mr. Speaker, that the Texas delegation is the finest delegation in the House.

In summary, OMAR has been a guiding light as a Congressman, and he will be sorely missed by his many friends. But he has established a benchmark, a yardstick after which future Members may model their own actions—and so OMAR'S influence will carry on.●

● Mr. NATCHER. Mr. Speaker, my feelings today are ambivalent. My chairman of the House Appropriations Committee, the Honorable GEORGE H. MAHON has made the decision to retire from this august body, the House of Representatives. The decision was his to make and I want to wish him every happiness. But, his absence will be felt by all of his colleagues.

Congressman MAHON possesses a long and enviable record in this House. The great State of Texas sent an energetic and vigorous young man to Congress in 1934. He served well and with distinction. His moral fiber and sound judgment in the service of his country became evident. In 1964 he became the chairman of the House Appropriations Committee.

As chairman of one of the outstanding committees in the Congress, he presided

with dignity and firmness. His unyielding adherence to the principles and policies advocated by his party for the welfare of his country never waivered. He exercised strength of purpose with intelligent concern for fiscal responsibility in the Government. This was never an easy task, but his undaunted leadership demanded fiscal accountability from his colleagues.

In all of this arduous undertaking the character of GEORGE MAHON surfaced. His people in Texas were never forgotten. He served as their Representative with complete dedication and always in their best interest. Further, at all times he displayed to his colleagues patience and consideration. He was a friend to all and a tutor to some.

Mr. Speaker, GEORGE MAHON has earned the respect and admiration of his colleagues as a legislator and as a human being. We have been enriched by knowing him. And to GEORGE, enjoy your retirement and may I wish you the very best of everything yet to come.●

● Mr. BOLAND. Mr. Speaker, I take this opportunity to join my colleagues in paying tribute to the dean of the House, GEORGE MAHON, under this special order.

We are losing a true giant in Congress with the retirement of GEORGE MAHON. He has been known as "Mr. Chairman" for as long as I have served in Congress. A list of his achievements as chairman of the Appropriations Committee and its Defense Subcommittee would fill many pages.

GEORGE MAHON has been chairman of the Defense Appropriations Subcommittee since 1949. In those 30 years, he has been a tireless supporter of a strong national defense. From the Joint Chiefs of Staff to the newest enlisted man, GEORGE MAHON is held in the very highest regard by our Armed Forces. No man has more knowledge about the defense needs of this country. All Americans can be thankful for his efforts in this area.

Mr. Speaker, the great respect GEORGE MAHON receives is as much a result of the type of man he is as it is a product of his great legislative achievements. He is the epitome of the southern gentleman. As chairman he has always been considerate, courteous and fair. These virtues are the basis of the great esteem we all feel for GEORGE MAHON.

I wish GEORGE MAHON the best of luck in all future endeavors. He and his magnificent and devoted wife, Helen, will be greatly missed in Washington.

GEORGE MAHON has been adviser to seven Presidents. He has been the top spending expert in Congress for seven Congresses. He is a tremendous man who has served his country in remarkable fashion. We suffer a great loss with his retirement. Mr. Chairman, you will be greatly missed.●

● Mr. ZABLOCKI. Mr. Speaker, I have had the honor of serving with our colleague, OLIN TEAGUE, for 30 years in the House of Representatives. I have witnessed his energetic legislative initiates. his outstanding perseverance in issues he believes in, and his candid and persuasive ability to debate. It has been a privilege to know "TIGER" TEAGUE as a man, as a colleague, and friend.

TIGER TEAGUE was certainly a servant not only to his constituents of the Sixth District of Texas, but also to our country. He was highly decorated in the war, receiving the Silver Star, Bronze Star, and Purple Heart, among others. In 1946 he was discharged from the service to take his seat in Congress.

Mr. Speaker, TIGER never forgot the valiant efforts of our American servicemen. As chairman of the House Vetans' Affairs Committee for 16 years, he championed the rights of American veterans skillfully engineering legislation through the House. One of his outstanding initiatives was his authorship of the Korean war veterans bill.

I had the privilege of serving with TIGER on the Philippine Veterans Claims Commission and grew to respect his dedication to truly helping those in need. OLIN TEAGUE is a man of high commitments. He is fair. He is just. He is truly a hardworker.

Mr. Speaker, my friend, OLIN TEAGUE, will be missed in the House. I join our colleagues in paying tribute to his excellent performance and wish him a blessed and happy retirement.●

● Mr. DE LA GARZA. Mr. Speaker, today I rise to pay tribute to ROBERT KRUEGER, a fellow member of the Texas delegation and a friend of mine.

BOB is in the thick of a hard senatorial race, so we have not had the time to sit down recently to talk about items of mutual concern. But as all Members know, a talk with this Oxford-educated scholar is always an enlightening experience.

No matter what the outcome of the election—and I certainly wish BOB KRUEGER the best of luck—the House will be losing a Member of erudition and eloquence. His absence will hurt.●

● Mr. ZABLOCKI. Mr. Speaker, unfortunately our colleague Representative GEORGE MAHON announced his intentions to retire from his service as Representative from the 19th District of Texas in the House of Representatives. He will be sorely missed by our friends and colleagues.

GEORGE MAHON has spent 44 years in service to his constituents and the American public. He left a budding law career in 1934 to come to Washington as a young politician. His constituents then elected him to every consecutive Congress.

After receiving his law degree from the University of Texas in 1925, GEORGE MAHON was elected 1 year later to the position of county attorney of Mitchell County. Subsequently, he was elected district attorney of the 32d Judicial District for the following three terms.

GEORGE MAHON served in Congress with perseverance and leadership. As chairman of the powerful House Appropriations Committee, he skillfully channeled legislation, making difficult and often controversial funding priorities.

Mr. Speaker, GEORGE MAHON is a hardworking man of strong character and integrity. It was a pleasure to serve with him over the years. We will miss him and particularly his sage advice.

I join our colleagues in wishing him a pleasant and fulfilling retirement.●

● Mr. ADDABBO. Mr. Speaker, it is not often that a single State is so terribly decimated at the end of a congressional session but that certainly is true of the Texas delegation which this year will suffer eight retirements.

When I look at the list of retirements and note the names that will be missing from the Texas delegation next year, I am amazed by the wisdom, experience and pure political muscle that will be departing this House.

Go down the list of names: GEORGE MAHON, my chairman on the House Appropriations Committee; W. R. POAGE, to many people in this country the leading authority on the Nation's agricultural needs; OMAR BURLESON, a power and influence on the Nation's tax structure as a senior member of the Ways and Means Committee; OLIN "TIGER" TEAGUE, chairman of the House Committee on Science and Technology, and one of the strongest advocates of the veterans who ever served in this House; JOHN YOUNG, one of those all-powerful members of the Rules Committee; BARBARA JORDAN, whose most powerful weapon has always been and will always be her willingness to speak up for those who cannot speak up for themselves; DALE MILFORD, with a growing seniority on Public Works; as well as BOB KRUEGER, who might well join us next year as a Member of the other body.

That is an impressive group in anyone's book. But more important, each of these good people have carried with them during their stay in Washington the inherent courtesies of the people of the Southwest. They have been honest, hardworking, dedicated Members of this House. We shall miss them but more importantly, the Nation will miss their expertise and their love of this big and wonderful Nation.

I wish my colleagues well as they move on to other endeavors, and I urge all of them to stay in touch and offer their sound counsel as we begin the 96th Congress next year without them. They will be sorely missed.●

● Mr. BRINKLEY. Mr. Speaker, with the adjournment of the 95th Congress, I am pleased to take this moment to pay tribute to our retiring colleague, the Honorable OMAR BURLESON, of Texas.

I have been particularly impressed with the steadying counsel and influence on the Ways and Means leadership by this knowledgeable legislator. Integrity and ability have made him a respected and admired Member of the House of Representatives, and we have indeed been privileged to serve with this fine gentleman.

Euripides once said, "To generous souls, every task is noble." OMAR BURLESON'S work in Congress bears this out; he has undertaken each task with unfailing energy and persistence, always willing to put forth the extra effort. He will be missed, but remembered, and we wish him much success and happiness.●

● Mr. DE LA GARZA. Mr. Speaker, I rise today to pay final tribute to my close friend and distinguished colleague from the State of Texas, OLIN TEAGUE.

"TIGER," as OLIN is known to all, has been in Congress for more than two dec-

ades, and he has come to be the champion of the American veteran, the man who risked his life for his country.

Mr. Speaker, the veteran is a person deserving as anyone of support in the Congress, and it is appropriate that the Member who is so understandably associated with the cause of the veteran is one of our finest colleagues. OLIN TEAGUE is warm, understanding, and compassionate—yet he has the backbone it takes to make the tough decisions.

Thus, it saddens me—and all of the other Members as well, I am sure—to realize that OLIN TEAGUE is leaving for good at the end of this Congress. TIGER'S judgment and counsel will be hard to replace—but I think it is fair to say that the spot in my heart reserved for him will never be empty.●

● Mr. BRINKLEY. Mr. Speaker, on the occasion of the retirement of our esteemed colleague, the Honorable WILLIAM R. POAGE of Texas, I would like to express my appreciation for his service to the Congress of the United States.

He is a good friend, and I have felt a strong comradeship toward him as we discussed his ranch in Texas and found ideas we both believe in.

His name will be remembered in these Halls of Congress. He is a man who possesses the qualities of both gentleness and determination, and the people of his district and the Nation are better for his service in the House of Representatives. We wish him all happiness in the future, and know he will be successful in any endeavor he undertakes.●

● Mr. MANN. Mr. Speaker, I join my colleagues in expressing profound regret that Congress is losing BARBARA JORDAN. My regard for BARBARA as an able colleague in these chambers and in the Committee on the Judiciary is matched only by my appreciation for her friendship. BARBARA'S integrity, her eloquence, and her brilliance have been reflected in her achievements in this House.

BARBARA will be remembered for many things: For her moving speeches during the impeachment proceedings of the Judiciary Committee, reflecting her commitment to the Constitution, her respect of the American system, her determination to hold fast to her ideals and sense of duty. She will be remembered for her keynote address at the 1976 Democratic Convention which stirred and uplifted the American people. She will be remembered for her leadership in the areas of women's and minority rights.

Yet of all among us, BARBARA JORDAN is perhaps the truest representative of "all the people." Perhaps more than any other in her time, she has set an example for achievement. It is an example that has become legend, one which has shown us how good we can be.

We are losing BARBARA JORDAN with the adjournment of this Congress through a premature, but well-deserved retirement. Yet I say with confidence that BARBARA'S contributions to this country are not yet at an end, nor even have they hardly begun. I salute you, Miss JORDAN, success in your future endeavors.●

● Mr. DRINAN. Mr. Speaker, the Congress of the United States has been fortunate to have the extraordinary talents of BARBARA JORDAN for even a short period of time.

It is certainly a great loss to the Congress that BARBARA JORDAN has decided to transfer her abilities and creativity to another arena.

During the entire impeachment inquiry BARBARA JORDAN was diligent in evaluating the evidence, prompt to speak out on the premises and principles involved in this historic inquiry and inspiring in the way in which she highlighted the issues for the American people.

The people of Massachusetts feel that they have some claim on the fame of BARBARA JORDAN since she attended law school for 3 years at Boston University.

I and everyone in the House who has admired BARBARA JORDAN wish her every continued success and happiness in her new role as a professor at the Lyndon Baines Johnson Center for Government at the University of Texas in Austin.●

● Mr. ULLMAN. Mr. Speaker, I am pleased to have an opportunity today to join with my colleagues in paying tribute to one of the fine gentlemen of the House of Representatives, OMAR BURLESON.

Sixteen terms in office is eloquent testimony to the effectiveness with which OMAR has represented the people of his congressional district in Congress.

That testimony is incomplete, however, unless it also speaks of the thoughtfulness, integrity and dedication that have characterized his career in the House.

It has been a special privilege working with OMAR on the Committee on Ways and Means in recent years. He has been a strong, insistent voice for fiscal integrity.

My best wishes go with him in the years following his retirement from Congress.●

● Mr. ZABLOCKI. Mr. Speaker, the House of Representatives is losing many dedicated and hard-working public servants as the 95th Congress draws to a close, and I would be remiss if I failed to pay tribute to the second senior Member of this body, our good friend and colleague, Representative BOB POAGE.

Having entered Congress in 1936, BOB POAGE has demonstrated those qualities and attributes which are so necessary to be a good Representative—honesty and dedication. For a job well done, he has been rewarded by having his constituency return him to office each election year, and he has justly earned the respect of the 11th District of Texas and of all our colleagues gathered here today.

Just as we know that wheat is the staff of life, it goes without saying that BOB POAGE'S tenure of service on the House Agriculture Committee will have lasting impact on our lives. Having served on the committee since 1938, first as chairman of four subcommittees, then as vice chairman until 1966, he brought with him an unquestionable wealth of knowledge and expertise in agricultural affairs when he assumed the chairmanship of the Agriculture Committee in 1967.

Mr. Speaker, having had the pleasure of serving with our esteemed colleague, Representative BOB POAGE, for the past 30 years, I take this opportunity to extend my best wishes to him for continued good health and happiness upon his retirement.●

● Mr. BRINKLEY. Mr. Speaker, on the occasion of the retirement of our distinguished colleague, the Honorable OLIN TEAGUE of Texas, I am pleased to offer words of tribute in his behalf.

I have served with "TIGER" TEAGUE on the Veterans Affairs Committee and earlier on the Science and Astronautics Committee, and I know him to be a sincere legislator and a genuine representative of the people in his district. He is an uncommon man with great strength of personal conviction, and I am grateful to have worked with him, both as colleague and friend.

OLIN TEAGUE has been a steadying influence during his years in Congress, and we have all gained much from his counsel and fine example of dedication. He will be long remembered, with admiration and appreciation.●

● Mr. ULLMAN. Mr. Speaker, I am grateful for this opportunity to join in paying tribute to W. R. (BOB) POAGE.

As one who represents a rural district, I know how much impact BOB has had on the agricultural policies of this Nation. He can justifiably take special pride in the fact that the United States continues to lead the world in providing for the most vital of human needs.

I am grateful for BOB'S courtesy and understanding over the years.

He takes my best wishes with him into retirement.●

● Mr. ZABLOCKI. Mr. Speaker, our distinguished and esteemed colleague, OMAR BURLESON has served in the House of Representatives with honor and distinction since the people of the 17th District of Texas first sent him to Washington for the 80th Congress. We regret his decision to retire, for he will be missed.

I had the good fortune of being a friend and colleague of OMAR BURLESON on the Foreign Affairs Committee, as our committee was then named. We both were appointed to the committee at approximately the same time.

OMAR was a valuable member of our committee for many years, sincere and conscientious in his work, and always generous and considerate of others. It was our loss and the Ways and Means Committee's gain when he elected to change committee assignments.

May I join in extending very best wishes to OMAR and his family for a happy and productive future, for it is richly deserved.●

TELEVISION COVERAGE OF THE HOUSE

Mr. O'NEILL. Mr. Speaker, during the period following adjournment, the work will proceed toward implementing the recommendations of House Resolution 866 to provide television coverage of the proceedings of the House. I have asked the Honorable CHARLIE ROSE to head an informal advisory group to deal with all questions concerning this subject and to advise me on the approaches that we should take on such matters as camera angles, lighting, broadcast signal, and archival. Mr. ROSE is working closely with the Architect of the Capitol and the Clerk of the House in completing the total effort. In the interim, any questions or recommendations regarding the television system should be directed to Mr. ROSE.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint and concurrent resolution of the House of the following titles:

H.J. Res. 1173. Joint resolution relative to the convening of the first session of the Ninety-sixth Congress, and for other purposes.

H. Con. Res. 760. Concurrent resolution providing for the sine die adjournment of the second session Ninety-fifth Congress.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BROWN of Ohio, to revise and extend his remarks and to include extraneous matter during general debate on the energy bill and the natural gas bill.

Mr. SYMMS, to revise and extend his remarks immediately preceding the vote on the Foley amendment.

Mr. HANSEN, to revise and extend his remarks at the close of the Foley amendment.

Mr. FOLEY, to revise and extend his remarks immediately prior to the adoption of the so-called Foley amendment in the Committee of the Whole.

Mr. BURGENER, to revise and extend his remarks in strong support of the committee amendments and of the Duncan of Tennessee amendment to H.R. 14104, with such remarks to be inserted immediately prior to the adoption of the committee amendments.

Mr. FRASER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $883.75.

Mr. SEBELIUS, on S. 2566.

Mr. PHILLIP BURTON, prior to passage of S. 1829.

Mr. UDALL, to revise and extend his remarks on the uranium bill handled by Mr. DINGELL earlier.

Mr. BINGHAM, immediately following the remarks of Mr. FORD of Michigan on H.R. 11274 in the Committee of the Whole today.

Mr. RUSSO, during debate on the conference report on H.R. 12929, Labor-HEW.

Mr. WYDLER, to revise and extend his remarks on the conference reports just agreed to on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289, and H.R. 5263.

Mr. GILMAN, to revise and extend his remarks and to include extraneous material during general debate on H.R. 12161.

Mr. FISH, to revise and extend his remarks, during debate on H.R. 12161.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's tables and, under the rule, referred as follows:

S. 695. An act to amend the Defense Production Act of 1950, as amended; to the Committees on Armed Services, Banking and Finance, Government Operations, and Post Office and Civil Service.

S. 857. An act to amend the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) to provide education programs for Native Hawaiians, and for other purposes; to the Committee on Education and Labor;

S. 876. An act to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States; to the Committee on Interior and Insular Affairs;

S. 1112. An act for the relief of Gladys Yan Chan Lu; to the Committee on the Judiciary;

S. 1631. An act for the relief of Chakrapani Sethumadhavan; to the Committee on the Judiciary;

S. 1974. An act to amend sections 551 and 553 of title 5, United States Code, to improve Federal rulemaking by creating procedures for regulatory issuance in two or more parts, and for other purposes; to the Committee on the Judiciary;

S. 3093. An act to provide for the seizure, forfeiture, and disposition of vehicles used to illegally transport persons into the United States, and for other purposes; to the Committee on the Judiciary;

S. 3395. An act for the relief of Jan Kutina; to the C mmittee on the Judiciary;

S.J. Res. 111. Joint resolution to authorize participation by the United States in parliamentary conferences with Japan; to the Committee on International Relations;

S.J. Res. 119. Joint resolution to express the appreciation of the Congress of the United States to Dr. Arthur F. Burns; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1566. An act to authorize electronic surveillance to obtain foreign intelligence information.

S. 3412. An act to provide for cost-of-living adjustments in the annuity of a retired Comptroller General, and for other purposes.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, bills of the following titles:

H.J. Res. 685. To designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim February 11, 1979, as "National Inventors' Day";

H.R. 8755. To make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes;

H.R. 10587. To improve the range conditions of the public rangelands;

H.R. 11035. To incorporate the United States Capitol Historical Society;

H.R. 11318. To amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 11445. To amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 11658. To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 11686. To authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes;

H.R. 12051. Relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions;

H.R. 12165. To extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes;

H.R. 12264. To designate certain lands in the State of Wisconsin as wilderness;

H.R. 13167. To amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purposes of satisfying unfunded future liability, and for other purposes;

H.R. 13418. To amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes;

H.R. 13635. Making appropriations for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 13767. To amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies.

SINE DIE ADJOURNMENT

Mr. YOUNG of Texas. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER. In accordance with the provisions of House Concurrent Resolution 760, the Chair declares the second session of the 95th Congress adjourned sine die.

Thereupon (at 6 o'clock and 46 minutes p.m.), pursuant to House Concurrent Resolution 760, the House adjourned sine die.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5135. A letter from the Deputy Assistant Secretary of Defense (Military Personnel Policy), transmitting a supplement to the previously submitted annual report for fiscal year 1977 on defense-related employment, pursuant to section 410(d) of Public Law 91-121; to the Committee on Armed Services.

5136. A letter from the Chairman, National Transportation Safety Board, transmitting the Board's 1979 supplemental budget submission, pursuant to section 304(b)(7) of Public Law 93-633; jointly, to the Committees on Interstate and Foreign Commerce, Public Works and Transportation, and Appropriations.

[*Submitted November 15, 1978*]

5137. A letter from the Clerk, U.S. House of Representatives, transmitting his quarterly report of receipts and expenditures for the period July 1 through September 30, 1978, pursuant to section 105(a) of Public

Law 88–454, as amended (H. Doc. No. 95–404); to the Committee on House Administration and ordered to be printed.

[*Submitted November 30, 1978*]

5138. A letter from the Comptroller General of the United States, transmitting a report on the examination of financial statements of the Panama Canal Company and the Canal Zone Government for the fiscal periods ended September 30, 1977, September 30, 1976, and June 30, 1976, pursuant to section 106 of the Government Corporation Control Act (H. Doc. No. 95–405); jointly, to the Committees on Government Operations, and Merchant Marine and Fisheries and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on allocation of budget authority and outlays for fiscal year 1979 (Rept. No. 95–1793). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. Report pursuant to section 302 (b) of the Congressional Budget Act of 1974, Rept. No. 95–1794). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Permanent Select Committee on Intelligence. Annual report of the Permanent Select Committee on Intelligence pursuant to section 3 of the House Resolution 658, 95th Congress, first session (Rept. No. 95–1795). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee of Conference. Conference report on S. 2584 (Rept. No. 95–1796). Ordered to be printed.

Mr. HOWARD: Committee of conference. Conference report on H.R. 11733 (Rept. 95–1797). Ordered to be printed.

[*Omitted from the Record of October 14, 1978*]

Mr. BROOKS: Committee on Government Operations. Report on centralized storage for the U.S. House of Representatives (Rept. No. 95–1809). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on future of small business in America (Rept. No. 95–1810). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Submitted October 15 (legislative day, October 14,) 1978*]

Mr. ULLMAN: Committee of conference. Conference report on H.R. 9251 (Rept. No. 1798). Ordered to be printed.

Mr. STAGGERS: Committee of conference. Conference report on S. 2474 (Rept. No. 95–1799). Ordered to be printed.

Mr. ULLMAN: Committee of conference. Conference report on H.R. 13511 (Rept. 95–1800). Ordered to be printed.

Mr. JOHNSON of California: Committee on Public Works and Transportation. H.R. 13387. A bill to amend the Federal Aviation Act of 1958, relating to aircraft piracy, to provide a method for combating terrorism, and for other purposes with amendment (Rept. No. 95–1801, Pt. I). Ordered to be printed.

Mr. BOLLING: Committee on Rules. House Resolution, 1444. Resolution waiving points of order against the conference report H.R. 13511. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes (Rept. No. 95–1802). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. House Resolution 1445. Resolution providing for the agreeing to the Senate amendments to H.R. 2852. An act to amend the Internal Revenue Code of 1954 to provide that refunds of the taxes on gasoline and special fuels shall be made to aerial applicators in certain cases (Rept. No. 95–1803). Referred to the House Calendar.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 2899 (Rept. No. 95–1804). Ordered to be printed.

Ms. CHISHOLM: Committee on Rules. House Resolution 1446. Resolution agreeing to the Senate amendments to H.R. 50. A bill to establish and translate into practical reality the right of all adult Americans able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to combine full employment, production, and purchasing power goals with proper attention to balanced growth and national priorities; to mandate such national economic policies and programs as are necessary to achieve full employment, production, and purchasing power; to restrain inflation; and to provide explicit machinery for the development and implementation of such economic policies and programs (Rept. No. 95–1805). Referred to the House Calendar.

Mr. ST GERMAIN: Committee of conference. Conference report on H.R. 9937 (Rept. No. 95–1806). Ordered to be printed.

Mr. FOLEY: Committee of conference. Conference report on H.R. 13750 (Rept. No. 95–1807). Ordered to be printed.

Mr. LONG of Louisiana: Committee of rules. House Resolution 1448. Resolution waiving points of order against the conference report on the bill (H.R. 13750) to implement the International Sugar Agreement between the United States and foreign countries; to protect the welfare of consumers of sugar and those engaged in the domestic sugar-producing industry; to promote the export trade of the United States; and for other purposes (Rept. No. 95–1808). Referred to the House Calendar.

[*Omitted from the Record of October 11, 1978*]

Mr. UDALL: Committee on Interior and Insular Affairs.

Report on legislative and review activities of the Committee on Interior and Insular Affairs during the 95th Congress (Rept. No. 95–1811). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following report was filed on December 15, 1978*]

Mr. SMITH of Iowa: Committee on Small Business. Report on regulatory problems of the independent owner-operator in the Nation's trucking industry (Rept. No. 95–1812). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following report was filed on December 19, 1978*]

Mr. GIAIMO: Committtee on the Budget. Report on activities and summary report of the Committee on the Budget (Rept. No. 95–1813). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following reports were filed on December 21, 1978*]

Mr. DELANEY: Committee on Rules. Report on survey of activities of the House Committee on Rules, 95th Congress (Rept. No. 95–1814). Referred to the Committee of the Whole House on the State of the Union.

Mr. TEAGUE: Committee on Science and Technology. Report on summary of the activities of the Committee on Science and Technology, U.S. House of Representatives for the 95th Congress (Rept. No. 95–1815). Referred to the Committee of the Whole House on the State of the Union.

Mr. NIX: Committee on Post Office and Civil Service. Report on legislative review by the Committee on Post Office and Civil Service for the 95th Congress (Rept. No. 95–1816). Referred to the Committee of the Whole House of the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following reports were filed on December 22, 1978*]

Mr. FLYNT: Committee on Standards of Official Conduct. Report on Korean influence investigation (Rept. No. 95–1817). Referred to the Committee of the Whole House on the State of the Union.

Mr. FLYNT: Committee on Standards of Official Conduct. Report on summary of activities, 95th Congress (Rept. No. 95–1818). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following report was filed on December 26, 1978*]

Mr. PERKINS: Committee on Education and Labor. Report on the activities of the Committee on Education and Labor during the 95th Congress (Rept. No. 95–1819). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on October 15, 1978, the following reports were filed on December 29, 1978*]

Mr. ASHLEY: Ad Hoc Committee on Energy. Report on activity of the Ad Hoc Committee on Energy (Rept. No. 95–1820). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on activities of the House Committee on Government Operations (Rept. No. 95–1821). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. Report on activities and summary report of the Committee on the District of Columbia (Rept. No. 95–1822). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. Report of committee activities, 95th Congress (Rept. No. 95–1823). Referred to the Committee of the Whole House on the State of the Union.

Mr. ZABLOCKI: Committee on International Relations. Report on legislative and review activities, (Rept. No. 95–1824). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on October 15, 1978, the following reports were filed on January 2, 1979]

Mr. ULLMAN: Committee on Ways and Means. Report on legislative review activity during the 95th Congress (Rept. No. 95–1825). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROBERTS: Committee on Veterans' Affairs. Report on the activities of the Committee on Veterans' Affairs for the 95th Congress (Rept. No. 95–1826). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee on the Judiciary.

Report on the activities of the Committee on the Judiciary (Rept. No. 95–1827). Referred to the Committee of the Whole House on the State of the Union.

Mr. STOKES: Select Committee on Assassinations. Report on summary of findings and recommendations (Rept. No. 95–1828). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on underutilization of small business in the Nation's efforts to encourage industrial innovation (Rept. No. 95–1829). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Small Business. Report on summary of activities (Rept. No. 95–1830). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. Report on the activity of the Committee on Interstate and Foreign Commerce (Rept. No. 95–1831). Referred to the Committee of the Whole House on the State of the Union.

Mr. WOLFF: Select Committee on Narcotics Abuse and Control. Annual report for the year 1978 (Rept. No. 95–1832). Referred to the Committee of the Whole House on the State of the Union.

Mr. PRICE: Committee on Armed Services. Report of the Activities of the Committee on Armed Services (Rept. No. 95–1833). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. Report on the activities of the Merchant Marine and Fisheries Committee (Rept. No. 95–1834). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Ad Hoc Select Committee on Outer Continental Shelf. Report on the activities of the Ad Hoc Select Committee on the Outer Continental Shelf (Rept. No. 95–1835). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on October 15, 1978, the following reports were filed on January 3, 1979]

Mr. THOMPSON: Committee on House Administration. Report on the activities of the Committee on House Administration during the 95th Congress (Rept. No. 95–1836). Referred to the Committee of the Whole House on the State of the Union.

Mr. PREYER: Select Committee on Ethics. Final report of the Select Committee on Ethics (Rept. No. 955–1837). Referred to the Committee of the Whole House on the State of the Union.

Mr. JOHNSON of California: Committee on Public Works and Transportation. Report on legislative history during the 95th Congress (Rept. No. 95–1838). Referred to the Committee of the Whole House on the State of the Union.

Mr. FOLEY: Committee on Agriculture. Report on activities during the 95th Congress (Rept. No. 95–1839). Referred to the Committee of the Whole House on the State of the Union.

[Pursuant to the order of the House on October 15, 1978, the following report was filed on January 5, 1979]

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. Report on summary of activities of the Committee on Banking, Finance and Urban Affairs during the 95th Congress (Rept. No. 95–1840). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Select Committee on Aging. Report on the activities in the 95th Congress of the Select Committee on Aging (Rept. No. 95–1841). Referred to the Committee of the Whole House on the State of the Union.

Mr. SCHEUER: Select Committee on Population. Final report of the Select Committee on Population for the 95th Congress (Rept. No. 95–1842). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BARNARD (for himself, Mr. SYMMS, Mr. ROBERT W. DANIEL, Jr., and Mr. EDWARDS of Oklahoma):

H.R. 14367. A bill to postpone the increase in the minimum wage and the adjustment to the tip credit under the Fair Labor Standards Act of 1938; to the Committee on Education and Labor.

By Mr. BAUCUS:

H.R. 14368. A bill to require grazing management of Charles M. Russell National Wildlife Refuge in accordance with the Taylor Grazing Act and the Federal Land Policy and Management Act; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Ohio:

H.R. 14369. A bill to modify the procedures used for the promulgation of rules or regulations by the independent regulatory agencies; to the Committee on the Judiciary.

H.R. 14370. A bill to amend the Congressional Budget Act of 1974 to require the Congress to establish, for each fiscal year, a regulatory budget for each Federal agency which sets the maximum costs of compliance with all rules and regulations promulgated by that agency, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. BROWN of Ohio (for himself, Mr. KRUEGER, and Mr. LEVITAS):

H.R. 14371. A bill to reduce duplicative and conflicting Federal, State, and local rules or regulations, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

H.R. 14372. A bill to establish a procedure to reduce by a goal of 25 percent over a 5-year period the costs of compliance with rules and regulations of Federal executive departments and independent agencies; jointly, to the Committees on Government Operations, and Rules.

By Mr. FRASER (by request):

H.R. 14373. A bill to restrict political activity of officers and employees of the District of Columbia by act of the Council of the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

H.R. 14374. A bill to insure an independent budget for the District of Columbia Courts, and for other purposes; to the Committee on the District of Columbia.

By Mr. GLICKMAN (for himself and Mr. GORE):

H.R. 14375. A bill to provide for the establishment of a National Agricultural Cost of Production Board; to the Committee on Agriculture.

By Mr. GLICKMAN (for himself, Mr. NOLAN, Mr. FORSYTHE, Mr. LAGOMARSINO, Mr. MCKINNEY, Mr. NEAL, Mr. RINALDO, Mr. SCHEUER, and Mr. CHARLES WILSON of Texas):

H.R. 14376. A bill to encourage the use of alcohol in motor vehicle fuels by requiring certain retailers to make alcohol-blended fuels available for sale, by allowing the rapid amortization of facilities producing alcohol for use in motor vehicle fuels, and by exempting alcohol-blended fuels from certain requirements of the Clean Air Act; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. GREEN:

H.R. 14377. A bill to provide for the return of federally condemned property to its former owner when the Federal Government does not use such property for the stated purposes; to the Committee on Government Operations.

By Ms. HOLTZMAN (for herself, Mr. SIMON, Mr. MINETA, Mr. LEGGETT, Mr. GEPHARDT, Mr. DERWINSKI, Mr. MARKEY, Mr. CORNWELL, Mr. KINDNESS, Mr. BENJAMIN, Mr. LAFALCE, Mr. BAUCUS, Mr. WHITEHURST, Mr. PURSELL, Mr. PANETTA, Mr. OTTINGER, Mr. MCHUGH, Mr. WOLFF, Mr. MARRIOTT, Mr. CORCORAN of Illinois, Mr. HORTON, Mr. NEAL, Mr. KREBS, Mr. FASCELL and Mr. D'AMOURS):

H.R. 14378. A bill to amend the Congressional Budget Act of 1974 to require that certain information with respect to unobligated balances of budget authority be included in the report accompanying the first concurrent resolution on the budget each year (as well as in the annual reports submitted by other committees to the Budget Committees of the House and Senate, and in the President's annual budget); jointly, to the Committees on Government Operations, and Rules.

By Ms. HOLTZMAN (for herself, Mr. DOWNEY, Mr. EILBERG, Mr. PATTISON of New York, Mr. STOKES, Mr. SEIBERLING, and Mr. WEAVER):

H.R. 14379. A bill to amend the Congressional Budget Act of 1974 to require that certain information with respect to unobligated balances of budget authority be included in the report accompanying the first concurrent resolution on the budget each year (as well as in the annual reports submitted by other committes to the Budget Committees of the House and Senate, and in the President's annual budget); jointly, to the Committees on Government Operations, and Rules.

By Mr. KINDNESS:

H.R. 14380. A bill to reorganize the executive branch of the Government to provide for the more effective and efficient utilizations of resources by small communities, and for other purposes; jointly, to the Committees on Government Operations, and Rules.

By Mr. MCKINNEY:

H.R. 14381. A bill to amend the Congressional Budget Act of 1974 to require that the public debt be paid within a period of 20 years and that the level of total budget outlays for any fiscal year not exceed the level of Federal revenues for such year, and for other purposes; jointly, to the Committees on Government Operations, Rules, and Ways and Means.

By Mr. MILLER of Ohio (for himself, Mr. PEASE, Mr. LATTA, Mr. GUYER, Mr. WYLIE, Mr. KINDNESS, and Mr. SEIBERLING):

H.R. 14382. A bill to establish a research and development effort resulting in the commercialization of alcohol fuel additives derived from sweet sorghum or other hydrocarbon-containing agricultural crops, and for other purposes; jointly, to the Committees on Agriculture, and Science and Technology.

By Mr. NATCHER:

H.R. 14383. A bill to amend section 311(b) of the Federal Water Pollution Control Act to limit liability under such section to knowing and willful discharges and to provide certain defenses to liability under such section; to the Committee on Public Works and Transportation.

By Mr. PICKLE:

H.R. 14384. A bill to provide a comprehensive program to improve cargo security for property being transported in interstate and foreign commerce; jointly, to the Committees on Interstate and Foreign Commerce, the Judiciary, Merchant Marine and Fisheries, Public Works and Transportation, and Ways and Means.

By Mr. PREYER (for himself, Mr. BROOKS, and Mr. MCCLOSKEY):

H.R. 14385. A bill to protect the privacy of correspondence in the mails; to the Committee on Post Office and Civil Service.

By Mr. ROSTENKOWSKI:

H.R. 14386. A bill to amend title 32 of the United States Code to require the National Guard to be trained in providing essential police and fire services; to the Committee on Armed Services.

By Mr. STEERS:

H.R. 14387. A bill to amend the Longshoremen's and Harbor Workers' Compensation Act to extend the increase in benefits currently applicable to individuals receiving benefits for permanent total disability to individuals receiving benefits for temporary total disability; to the Committee on Education and Labor.

By Mr. STEERS (for himself, Ms. MIKULSKI, and Mrs. SPELLMAN):

H.R. 14388. A bill to create an additional judicial district in the State of Maryland, by dividing the present single judicial district into two districts, Northern and Southern Districts of Maryland; to the Committee on the Judiciary.

By Mr. STRATTON:

H.R. 14389. A bill to amend the Economic Stabilization Act of 1970 to establish an Economic Stabilization Board, to stabilize prices, wages, rents, and interest rates at levels prevailing on the date of enactment of these amendments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

H.R. 14390. A bill to stabilize prices, rents, wages, salaries, profits, dividends, interest rates, and other economic transfers; to the Committee on Banking, Finance and Urban Affairs.

By Mr. TREEN (for himself and Mr. LIVINGSTON):

H.R. 14391. A bill to establish the St. Charles Swamp National Wildlife Refuge in Louisiana; jointly, to the Committees on Merchant Marine and Fisheries, and Public Works and Transportation.

By Mr. AMMERMAN (for himself, Mr. HARSHA, and Mr. GUYER):

H.R. 14392. A bill to establish standards of fair practices that shall be observed by handlers and associations of producers in their dealings in agricultural products; to the Committee on Agriculture.

By Mr. BRECKINRIDGE (for himself and Mr. ROSE):

H.R. 14393. A bill to establish the Congressional Casework Office; to the Committee on House Administration.

By Mr. CONABLE:

H.R. 14394. A bill to amend titles II and XVIII of the Social Security Act and chapters 2 and 21 of the Internal Revenue Code of 1954 to restore the long-range soundness of the Old Age, Survivors and Disability Insurance system, to repeal special statutory increases in the earnings base (leaving such base subject to annual adjustment as under prior law), to provide mandatory social security coverage for Federal employees, to establish a working spouse's benefit, to make appropriate adjustments in social security tax rates (generally lowering the OASDHI rate through this century) and in Disability Insurance Trust Fund allocations, and to provide for partial financing of the hospital insurance program from general revenues; jointly, to the Committees on Interstate and Foreign Commerce, and Ways and Means.

By Mr. DORNAN (for himself, Mr. KELLY, Mr. MURPHY of Pennsylvania, Mr. CHARLES H. WILSON of California, Mr. CORNWELL, Mr. BAUMAN, Mr. NICHOLS, Mrs. PETTIS, Mr. SYMMS, Mr. CUNNINGHAM, and Mr. MCDONALD):

H.R. 14395. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on International Relations.

By Mr. DORNAN (for himself, Mr. BURGENER, Mr. DE LA GARZA, Mr. STANGELAND, Mr. CORCORAN of Illinois, Mr. ROBINSON, Mr. COLLINS of Texas, Mr. STUMP, Mr. MARLENEE, Mr. GRASSLEY, Mr. CRANE, and Mr. YOUNG of Florida):

H.R. 14396. A bill to amend the Internal Revenue Code of 1954 to provide for tax reductions and reforms; to the Committee on Ways and Means.

By Mr. MILLER of Ohio (for himself, Mr. LIVINGSTON, Mr. JOHN T. MYERS, Mr. BROWN of Ohio, Mr. LONG of Maryland, Mr. COTTER, Mr. DUNCAN of Tennessee, Mr. LUKEN, Mr. EDWARDS of Oklahoma, Mr. DAN DANIEL, Mr. RINALDO, Mr. CHARLES WILSON of Texas, and Mr. WON PAT):

H.R. 14397. A bill to amend the Export Administration Act of 1969 to prevent the export to certain countries of goods or technology which have any potential application for military, law enforcement or intelligence gathering purposes; to require the President to notify the Congress of any approval of a license for the export of goods or technology to such countries; to provide for congressional disapproval of any such license application; to require the Secretary of Defense to prepare a military impact statement for the Congress with respect to certain export license applications; and for other purposes; to the Committee on International Relations.

By Mr. MITCHELL of New York:

H.R. 14398. A bill to direct the Secretary of Defense to make veterans with service-connected disabilities and their surviving spouses eligible for commissary and post exchange privileges; jointly, to the Committees on Armed Services and Veterans Affairs.

By Mr. MURPHY of New York:

H.R. 14399. A bill to amend the Ports and Waterways Safety Act of 1972 to provide for the siting and safe operations of liquefied gas facilities and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. GARY A. MYERS:

H.R. 14400. A bill to create, subject to the provisions of the District of Columbia Nonprofit Corporation Act, a corporation body to contribute to solving the world hunger problem by providing food to foreign nations and to allow the designation of contributions for that body on Federal tax forms; jointly, to the Committees on International Relations and Ways and Means.

By Mr. PANETTA:

H.R. 14401. A bill to amend the Internal Revenue Code of 1954 to exempt certain real property used in farming or in other businesses from the estate tax; to the Committee on Ways and Means.

By Mr. ROSTENKOWSKI:

H.R. 14402. A bill to authorize the Secretary of Housing and Urban Development to more effectively utilize the community development program to assist units of general local government with urgent needs relating to the repair and reconstruction of public works with major defects caused by Federal construction activity relating to such public works; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SKUBITZ:

H.R. 14403. A bill to require that a gift or decoration presented by any foreign government to the President, Vice President, Secretary of State, or the spouse thereof, be forwarded to the Smithsonian Institution for permanent public display and to require that the Secretary of the Smithsonian Institution determine whether the item so presented is in fact the gift or decoration presented by the foreign government; to the Committee on International Relations.

By Mr. SNYDER:

H.R. 14404. A bill to assure the United States of America the right to maintain a military presence in the Canal Zone; to the Committee on International Relations.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Submitted October 15 (legislative day, October 14), 1978*]

By Mr. ECKHARDT:

H.R. 14405. A bill to amend the Magnuson-Moss Federal Trade Commission Improvement Act to extend the protections contained in such act to owners of new passengers motor vehicles, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MINETA:

H.R. 14406. A bill to amend the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

H.R. 14407. A bill to provide for bicycle facilities in public buildings, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MINETA (for himself and Mr. BEDELL):

H.R. 14408. A bill to amend the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

By Mrs. SPELLMAN (for herself and Mr. LEHMAN):

H.R. 14409. A bill to assist cities and States by amending section 5136 of the Revised Statutes, as amended, with respect to the authority of national banks to underwrite and deal in securities issued by State and local governments, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

[*Submitted on Oct. 15, 1978*]

By Mr. BRADEMAS (for himself, Mr. MARKEY, and Mr. MIKVA):

H. Con. Res. 756. Concurrent resolution expressing the concern of the Congress for the safety of the residents of the South African black community known as Crossroads and urging the Government of the Republic of South Africa to reconsider its plan to destroy Crossroads and to recognize the right of residents of Crossroads to continue to live there; to the Committee on International Relations.

By Mr. DORNAN (for himself, Mr. YOUNG of Florida, Mr. BADHAM, Mr. DEVINE, Mr. DERWINSKI, Mr. YOUNG of Alaska, Mr. CARTER, Mr. LLOYD of California, Mr. STANGELAND, Mr. MOORHEAD of California, and Mr. BROOMFIELD):

H. Con. Res. 757. Concurrent resolution expressing the sense of the House with respect to the Baltic States; to the Committee on International Relations.

By Mr. DORNAN (for himself, Mr. TREEN, Mr. DUNCAN of Tennessee, Mr. LOTT, Mr. BOB WILSON, Mr. MCDONALD, and Mr. EDWARDS of Oklahoma):

H. Res. 1440. Resolution expressing the sense of the House that the United States

should maintain full diplomatic relations with the Republic of China; to the Committee on International Relations.

By Mr. FRASER (by request):

H. Res. 1441. Resolution relating to the restoration and use, as the City Museum of the District of Columbia, or a related appropriate public or commercial purpose, of the former Masonic Hall at 9th and F Streets, N.W., Washington, D.C.; to the Committee on the District of Columbia.

By Mr. GIAIMO (for himself, Mr. BEARD of Rhode Island, Mr. BOWEN, Mrs. FENWICK, Mr. JENKINS, Mr. MAGUIRE, and Mr. MOLLOHAN):

H. Res. 1442. Resolution expressing the sense of the House that the Reverend Sun Myung Moon appear before the Subcommittee on International Organizations Investigating Korean-American Relations; to the Committee on International Relations.

By Mr. GLICKMAN (for himself, Mr. CARR, Mr. EDWARDS of Oklahoma, Mrs. FENWICK, Mr. JACOBS, Mr. JENRETTE, Mr. KINDNESS, Mr. LAGOMARSINO, Mr. MARRIOTT, Mr. NOLAN, Mr. PANETTA, Mr. PURSELL, Mr. QUAYLE, Mr. STEERS, Mr. STUDDS, Mr. STUMP, Mr. THONE, and Mr. WIRTH):

H. Res. 1443. Resolution to amend the Rules of the House; to the Committee on Rules.

By Mr. FOWLER:

H. Res. 1452. Resolution providing for the reprinting of House Report 95–1090, entitled "Nuclear Power Costs"; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS:

H.R. 14410. A bill for the relief of Ernest C. Brace; to the Committee on the Judiciary.

H.R. 14411. A bill for the relief of Ernest C. Brace; to the Committee on the Judiciary.

By Mr. DAVIS:

H.R. 14412. A bill for the relief of James D. and Blanche V. Benton; to the Committee on the Judiciary.

By Mr. KRUEGER:

H.R. 14413. A bill for the relief of Anibal and Mirta Causa; to the Committee on the Judiciary.

By Mr. McDADE:

H.R. 14414. A bill to authorize the President to appoint Capt. John R. Woolley, U.S. Naval Reserve, (retired), to the grade of rear admiral on the retired list; to the Committee on Armed Services.

MESSAGES FROM THE SENATE

Pursuant to the permission granted on October 14, 1978, the Clerk on the following dates received the following messages from the Secretary of the Senate:

On October 18, 1978:

The Senate passed without amendment the following bills: H.R. 6801, H.R. 6934, H.R. 7387, H.R. 7419, H.R. 7550, H.R. 7604, H.R. 7653, H.R. 7795, H.R. 8192, H.R. 3217, H.R. 3613, H.R. 3625, H.R. 3835, H.R. 4404, H.R. 4530, H.R. 4535, H.R. 4875, H.R. 5163, H.R. 5230, H.R. 5933, H.R. 6664, H.R. 11945, H.R. 3307, H.R. 11861, H.R. 10343, H.R. 12116, H.R. 4533, H.R. 9075, H.R. 13702, H.R. 11580, H.R. 7101, H.R. 13416, H.R. 14145, H.R. 11671, H.R. 7296, H.R. 12634, H.R. 13808, H.R. 13481, H.R. 13809, H.R. 13903, H.R. 13187, H.R. 14223, H.R. 14224, H.R. 14295, H.R. 9701, H.R. 13514, H.R. 3185, H.R. 11545, H.R. 13892, H.R. 1446, H.R. 1428, H.R. 1406, H.R. 1402, H.R. 1400, H.R. 1396, H.R. 1392, H.R. 13989, H.R. 4727, H.R. 1798, H.R. 1787, H.R. 1779, H.R. 1777, H.R. 1775, H.R. 1753, H.R. 1750, H.R. 1748, H.R. 1450, H.R. 1449, H.R. 3090, H.R. 2944, H.R. 2940, H.R. 2292, H.R. 2369, H.R. 2553, H.R. 2558, H.R. 2658, H.R. 2662, H.R. 2758, H.R. 2759, H.R. 2939, H.R. 2291, H.R. 1931, H.R. 1936, H.R. 1938, H.R. 1940, H.R. 2253, H.R. 2256, H.R. 2259, H.R. 8308, H.R. 8751, H.R. 8810, H.R. 8927, H.R. 9352, H.R. 9568, H.R. 9611, H.R. 9613, H.R. 10407, H.R. 13597.

That the Senate passed without amendment H. Con. Res. 755, H. Con. Res. 761, H. Con. Res. 749, H. Con. Res. 754, and H. Con. Res. 742;

That the Senate passed without amendment H.J. Res. 747, H.J. Res. 816, H.J. Res. 1147, and H.J. Res. 489;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bills S. 2416 and S. 2899;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the bills S. 2466, S. 2534, and S. 1487;

That the Senate agree to the amendment of the House of Representatives to the following bills: S. 2796, S. 1214, S. 2474, S. 3199, S. 1503, S. 3085, S. 3112, S. 2687, S. 2349, S. 1503, S. 3371, S. 3189, S. 2820, S. 3371.

That the Senate agree to the amendments of the House of Representatives to the following bills: S. 2981, S. 2584, S. 1835, S. 274, S. 2450, S. 2727, S. 2522, S. 990, S. 2247, S. 3081, S. 2539.

That the Senate agree to the amendments of the House of Representatives to the amendment of the Senate to the bill H.R. 13650;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 12605;

That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate to the bill H.R. 5629;

That the Senate recedes from its amendment numbered 2 to the bill H.R. 10161;

That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill H.R. 11209;

That the Senate agree to the Report of the Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 12250;

That the Senate recedes from its amendment to the bill H.R. 8389;

That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate numbered 6 and 8 to the bill H.R. 7320;

That the Senate agree to the amendment of the House of Representatives to the amendments of the Senate numbered 3 and 5 to the bill H.R. 10898;

That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the bill H.R. 14279; and

That the Senate agree to the amendment of the House of Representatives to the amendment of the Senate to the amendment of the House of Representatives to the bill S. 1816.

On October 20, 1978:

The Senate agree to the amendments of the House of Representatives to the bill S. 3336.

The Senate agree to the amendment of the House of Representatives to the amendment of the Senate numbered 1 to the bill S. 2093.

On October 23, 1978:

The Senate agree to the amendment of the House of Representatives to the bill S. 2075.

On October 24, 1978:

The Senate agreed to the amendment of the House of Representatives to the bill S. 703;

And that the Senate agreed to the amendment of the House of Representatives to the bill S. 1315;

And that the Senate agreed to the amendment of the House of Representatives to the bill S. 2049;

And that the Senate agreed to the amendments of the House of Representatives to the bill S. 3083;

And that the Senate agreed to the amendment of the House of Representatives to the bill S. 3085.

SENATE ENROLLED BILLS AND JOINT RESOLUTION SIGNED AFTER SINE DIE ADJOURNMENT

The SPEAKER announced on the following dates his signature to enrolled bills and a joint resolution of the Senate of the following titles:

On October 20, 1978:

S. 391. An act for the relief of Brigette Marie Harwood;

S. 579. An act for the relief of Imelda C. Jayag Potter;

S. 612. An act for the relief of Timmy Lao Olavere;

S. 995. An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy;

S. 1006. An act for the relief of Concrete Industries (Monier), Ltd.;

S. 1104. An act to direct the Secretary of the Interior to establish the Legionville National Historic Site in the State of Pennsylvania;

S. 1110. An act for the relief of Juanita Binabise;

S. 1154. An act for the relief of Jin Syen Suh;

S. 1484. An act for the relief of Michael Bruce Holland;

S. 1562. An act for the relief of Datronics Engineers, Inc.;

S. 1563. An act for the relief of Do Sook Park;

S. 1826. An act for the relief of Kainoosh-Fard Bullock and her son, Kami Bullock;

S. 2248. An act for the relief of Susanna Shu-hui Jean;

S. 2294. An act for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley;

S. 2349. An act for the relief of Margaret Perry;

S. 2379. An act for the relief of Jesusa Navarro Romero and Antonio Angeles Romero;

S. 2446. An act for the relief of Caroline Valdez Sulfelix;

S. 2493. An act to amend the Federal Aviation Act of 1958 to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety, and price of air services, and for other purposes;

S. 2509. An act for the relief of Rudolfo N. Arriola;

S. 2687. An act for the relief of Dr. Allan Joseph Cawley;

S. 3042. An act for the relief of Mary Jo Natividad and Regina Natividad;

S. 3051. An act for the relief of Tsutomu Tanaka;

S. 3066. An act for the relief of Yom Chong Ok;

S. 3109. An act for the relief of Ricardo Rosas Salazar;

S. 3336. An act to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner;

S. 3447. An act to strengthen the economy of the United States through increased sales abroad of U.S. agricultural commodities;

S. 3540. An act to rename the U.S. Federal building in Yakima, Wash., the "Justice William O. Douglas Federal Building";

S. 3551. An act to make technical corrections in the North Pacific Fisheries Act of 1954; and

S. 3595. An act to amend section 202(d) of the Magnuson-Moss Warranty — Federal Trade Commission Improvement Act to extend the deadline for filing a report of rulemaking procedures.

On October 24, 1978:

S. 142. An act for the relief of Gasper Louis Sayoc;

S. 337. An act for the relief of Miriama Jones;

S. 464. An act for the relief of Sameek Keshary Ray;

S. 555. An act to establish certain Federal agencies, effect certain reorganizations of the Federal Government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions, and for other purposes;

S. 973. An act for the relief of Young-Shik Kim;

S. 976. An act to amend the Perishable Agricultural Commodities Act;

S. 1029. An act to authorize the Smithsonian Institution to construct museum support facilities;

S. 1165. An act for the relief of Chester Chun Ket Young (also known as Chun-Kit Yeung);

S. 1166. An act for the relief of Maria Elena Jumalon;

S. 1403. An act to provide for conveyance of certain lands near Dixon, N. Mex., to the University of New Mexico;

S. 1487. An act to amend title 18 of the United States Code to eliminate racketeering in the sale and distribution of cigarettes, and for other purposes;

S. 1618. An act for the relief of Sang Yun Yoon;

S. 1816. An act to amend the Public Works and Economic Development Act of 1965 to authorize a program of research, development, and demonstration of guayule rubber production and manufacture as an economic development opportunity for the Southwestern States;

S. 1835. An act to establish a Rural Transportation Advisory Task Force, and for other purposes;

S. 2049. An act to establish fees and allow per diem and mileage expenses for witnesses before U.S. courts;

S. 2075. An act to amend the Jury Selection and Service Act of 1968, as amended, by revising the section on fees of jurors and by providing for a civil penalty and injunctive relief in the event of a discharge or threatened discharge of an employee by reason of such employee's Federal jury service;

S. 2079. An act for the relief of Lawrence Youngman;

S. 2247. An act amending section 312 of the Immigration and Nationality Act;

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91-21;

S. 2539. An act to amend title IV of the Higher Education Act of 1965 to increase the availability of assistance to middle-income students;

S. 2570. An act to amend the Comprehensive Employment and Training Act of 1973 to provide improved employment and training services, to extend the authorization, and for other purposes;

S. 2788. An act to amend the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $1,200,000,000 of the series A preferred stock of the Corporation, and for other purposes;

S. 2820. An act to authorize the Secretary of the Interior to construct, restore, operate, and maintain new or modified features at existing Federal reclamation dams for safety of dams purposes;

S. 3081. An act to amend the Federal Railroad Safety Act of 1970 to authorize additional appropriations, and for other purposes;

S. 3106. An act for the relief of Debbie Agatta Hepburn;

S. 3371. An act to repeal certain provisions of law establishing limits on the amount of land certain religious corporations may hold in any territory of the United States; and for other purposes.

S.J. Res. 160. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to House a Museum of the Building Arts, and for other purposes.

On October 25, 1978:

S. 274. An act to amend title 10, United States Code, to prohibit union organization of the Armed Forces, membership in military labor organizations by members of the Armed Forces, and recognition of military labor organizations by the Government, and for other purposes;

S. 553. An act to amend the boundary of the Cibola National Forest, designate an intended wilderness area, and for other purposes;

S. 703. An act to improve the administration and operation of the Overseas Citizens Voting Rights Act of 1975, and for other purposes;

S. 990. An act to amend title 5, United States Code, to provide special allowances to certain physicians employed by the United States in order to enhance the recruitment and retention of such physicians;

S. 1214. An act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes;

S. 1315. An act to provide more effectively for the use of interpreters in courts of the United States, and for other purposes;

S. 1401. An act for the relief of Elvi Engelsmann Jensen.

S. 1503. An act to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn, or fiber, and for other purposes;

S. 2093. An act to provide that the Exchange Stabilization Fund shall not be available for payment of administrative expenses; and for other purposes;

S. 2584. An act to authorize appropriations to the Nuclear Regulatory Commission for fiscal year 1979, and for other purposes;

S. 2671. An act for the relief of Masami Yamada;

S. 2727. An act to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for U.S. amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes;

S. 2774. An act to extend the boundaries of Toiyabe National Forest in Nevada, and for other purposes;

S. 2981. An act to amend section 5 of the Department of Transportation Act, relating to rail service assistance, and for other purposes;

S. 3083. An act to extend provisions of the Noise Control Act of 1972 for one year, and for other purposes;

S. 3112. An act to amend the act of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building; and

S. 3189. An act to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201 (a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes.

On October 26, 1978:

S. 791. An act to authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho;

S. 1829. An act to amend the Pennsylvania Avenue Development Corporation Act of 1972 to provide for the establishment of the San Antonio Missions National Historical Park, and for other purposes;

S. 2399. An act to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 and other laws to meet obligations under the Convention on Psychotropic Substances relating to regulatory controls on the manufacture, distribution, importation, and exportation of psychotropic substances, and for other purposes;

S. 2416. An act to amend title VIII of the Public Health Service Act to extend for two fiscal years the program of assistance for nurse training;

S. 2450. An act to amend the Community Mental Health Centers Act to revise and extend the programs under that act, to amend the Public Health Service Act to revise and extend the programs of assistance for libraries of medicine, the programs of the National Heart, Lung, and Blood Institute, and of the National Cancer Institute, and the program for National Research Service awards, to establish the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research, and for other purposes;

S. 2466. An act to amend the Public Health Service Act to revise and extend the authorities under that act relating to health statistics and to establish a National Center for Health Care Technology, and for other purposes;

S. 2474. An act to amend the Public Health Service Act and related health laws to revise and extend programs of financial assistance for the delivery of health services, the provision of preventive health services, and for other purposes;

S. 2522. An act to extend the programs of assistance under title X and part B of title XI of the Public Health Service Act;

S. 2534. An act to amend the Public Health Service Act to revise and extend the program of assistance under that Act for health maintenance organizations;

S. 2796. An act to amend the Consumer Product Safety Act to extend the authorization of appropriations, and for other purposes;

S. 2899. An act to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions;

S. 3084. An act to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes;

S. 3085. An act to extend and amend the special supplemental food program and the child care food program, and for other purposes; and

S. 3151. An act to authorize appropriations for the purpose of carrying out activities of the Department of Justice for fiscal year 1979, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED AFTER SINE DIE ADJOURNMENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee on the following dates had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker.

On October 16, 1978:

H.R. 12929. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 12931. An act making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes; and

H.J. Res. 1139. Joint resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

On October 20, 1978:

H.R. 1392. An act for the relief of Maria Mirafior Carabbacan;

H.R. 1396. An act for the relief of Mrs. Sun Pok Winer;

H.R. 1400. An act for the relief of Stefan Kowalik;

H.R. 1402. An act for the relief of Rosario A. Calvin;

H.R. 1405. An act for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers);

H.R. 1406. An act for the relief of Lilia Araujo;

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 1428. An act for the relief of Mrs. Angelita Short;

H.R. 1446. An act for the relief of Lester Bruce Friday;

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 1450. An act for the relief of Hildegard G. Blakeley;

H.R. 1748. An act for the relief of Carmela Scudieri;

H.R. 1750. An act for the relief of Anthony Rogers;

H.R. 1753. An act for the relief of Marina Houghton;

H.R. 1775. An act for the relief of Karin Ehard;

H.R. 1777. An act for the relief of Cathy Gee Yuen;

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt;

H.R. 1787. An act for the relief of Paz A. Norona;

H.R. 1798. An act for the relief of Kwong Lam Yuen;

H.R. 1931. An act for the relief of Juana Todd Atherley;

H.R. 1936. An act for the relief of Lee So Ryung;

H.R. 1938. An act for the relief of Santos Marquez Arellano;

H.R. 1940. An act for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos;

H.R. 2253. An act for the relief of Ruben P. Din;

H.R. 2256. An act for the relief of Edmundo Alfredo Oreiro Espinueva;

H.R. 2259. An act for the relief of Rogelio M. Encomienda;

H.R. 2291. An act for the relief of Carmen Cecilia Blanquicett;

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H.R. 2558. An act for the relief of Dr. John Alexis L. S. Tam and Yeut Shum Tam;

H.R. 2658. An act for the relief of Nora L. Kennedy;

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H.R. 5163. An act for the relief of Marinelle Khristy Cruz;

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H.R. 7604. An act for the relief of Margaret Somerville Jefferis;

H.R. 7653. An act for the relief of Jackson Armiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy;

H.R. 7795. An act for the relief of Veronica Judity Hudson;

H.R. 8192. An act for the relief of Andrée Marie Helene Mcgiffin;

H.R. 8200. An act to establish a uniform Law on the Subject of Bankruptcies;

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H.R. 10343. An act to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967;

H.R. 10407. An act for the relief of Ling-Yung Kung;

H.R. 11002. An act to provide for the resolution to claims and disputes relating to Government contracts awarded by executive agencies;

H.R. 11003. An act to clairfy the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes;

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H.R. 12140. An act to amend the Federal Pollution Control Act to provide additional authorizations for certain programs under the act;

H.R. 12250. An act to designate the Boundary Waters Canoe Area Wilderness, to estab-

lish the Boundary Waters Canoe Mining Protection Area, and for other purposes;

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to depart from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction to the Nazi government of Germany, and for other purposes;

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H.R. 13903. An act to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed;

H.R. 13972. An act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana;

H.R. 13989. An act to amend section 1445 (b) Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research;

H.R. 14145. An act to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York;

H.R. 14223. An act to designate a certain Federal building in Bloomington, Ill., the "Leslie C. Arends Building";

H.R. 14224. An act to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

H.R. 14295. An act to designate the "Paul G. Rogers Federal Building";

H.J. Res. 489. Joint resolution granting the status of permanent residence to certain aliens;

H.J. Res. 747. Joint resolution to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed by such State;

H.J. Res. 816. Joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations; and

H.J. Res. 1147. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

On October 24, 1978:

H.R. 4319. An act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances may be eligible to retain their life and health benefits, and for other purposes;

H.R. 5029. An act to amend title 38 United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes;

H.R. 5646. An act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization;

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 7971. An act to validate certain land conveyances, and for other purposes;

H.R. 9701. An act to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a finanial aduit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes;

H.R. 10173. An act to amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes;

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services;

H.R. 11733. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes;

H.R. 12393. An act to provide for nationwide service of subpoenas in all suits involving the False Claims Act, and for other purposes.

H.R. 12467. An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Development Disabilities Services and Facilities Construction Act to revise and extend the program under that act, and for other purposes;

H.R. 12874. An act to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies;

H.R. 13500. An act to amend title 44 to insure the preservation of a public access to the official records of the President, and for other purposes; and

H.J. Res. 1173. Joint resolution relative to the convening of the 1st session of the 96th Congress, and for other purposes.

On October 25, 1978:

H.R. 50. An act to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity, growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government;

H.R. 2329. An act to improve the administration of fish and wildlife programs, and for other purposes;

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy;

H.R. 9251. An act to change the tax treatment of income earned abroad by U.S. citizens and residents, and for other purposes;

H.R. 10898. An act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979; and

H.R. 13650. An act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

On October 26, 1978:

H.R. 15. An act to extend and amend expiring elementary and secondary education programs, and for other purposes;

H.R. 4018. An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics;

H.R. 5037. An act for the relief of Jack R. Misner;

H.R. 5146. An act to amend the Tariff

Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges;

H.R. 5263. An act to provide tax incentives for the production and conservation of energy, and for other purposes;

H.R. 5289. An act for the relief of Joe Cortina of Tampa, Fla.;

H.R. 7320. An act to revise miscellaneous timing requirements of the revenue laws, and for other purposes.

H.R. 9937. An act to amend the Bank Holding Company Act Amendments of 1970.

H.R. 11545. An act to modify the method of establishing quotas on the Importation of certain meat, to include within such quotas certain meat products, and for other purposes;

H.R. 13511. An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; and

H.R. 14279. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

BILLS AND JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT AFTER SINE DIE ADJOURNMENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on the following dates present to the President, for his approval, bills and joint resolutions of the House of the following titles:

On October 16, 1978:

H.R. 12929. A bill making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purpcses; and

H.R. 12931. A bill making appropriations for foreign assistance and related programs for the fiscal year ending September 30, 1979, and for the other purposes.

On October 17, 1978:

H.J. Res. 1139. A resolution making continuing appropriations for the fiscal year 1979, and for other purposes.

On October 20, 1978:

H.R. 8533. A bill to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes; and

H.R. 12250. A bill to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Mining Protection Area, and for other purposes.

On October 24, 1978:

H.R. 1392. A bill for the relief of Maria Miraflor Carabbacan;

H.R. 1396. A bill for the relief of Mrs. Sun Pok Winer;

H.R. 1400. A bill for the relief of Stefan Kowalik;

H.R. 1402. A bill for the relief of Rosario A. Calvin;

H.R. 1405. A bill for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers);

H.R. 1406. A bill for the relief of Lilia Araujo;

HR.. 1422. A bill for the relief of Julio Ortiz-Medina;

H.R. 1428. A bill for the relief of Mrs. Angelita Short;

H.R. 1446. A bill for the relief of Lester Bruce Priday;

H.R 1449. A bill for the relief of Geoffrey Parnham;

H.R. 1450. A bill for the relief of Hildegard G. Blakeley;

H.R. 1748. A bill for the relief of Carmela Scudieri;

H.R. 1750. A bill for the relief of Anthony Rogers;

H.R. 1753. A bill for the relief of Marina Houghton;

H.R. 1775. A bill for the relief of Karin Ehard;

H.R. 1777. A bill for the relief of Cathy Gee Yuen;

H.R. 1779. A bill for the relief of Gilberto Taneo Gilberstadt;

H.R. 1787. A bill for the relief of Paz A. Norona;

H.R. 1798. A bill for the relief of Kwong Lam Yuen;

H.R. 1931. A bill for the relief of Juana Todd Atherley;

H.R. 1936. A bill for the relief of Lee So Ryung;

H.R. 1938. A bill for the relief of Santos Marquez Arellano;

H.R. 1940. A bill for the relief of Dimitrios Panoutsopoulos, Angeliki Panoutsopoulos, and Georgios Panoutsopoulos;

H.R. 2253. A bill for the relief of Ruben P. Din;

H.R. 2256. A bill for the relief of Edmundo Alfredo Oreiro Espinueva;

H.R. 2259. A bill for the relief of Rogelio M. Encomienda;

H.R. 2291. A bill for the relief of Carmen Cecilia Blanquicett;

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H.R. 13809. A bill to designate the "George Mahon Federal Building";

H.R. 13892. A bill to amend title 28 of the United States Code to provide that the requirement that each U.S. attorney and U.S. marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district;

H.R. 13903. A bill to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed;

H.R. 13972. A bill to designate the Great Bear Wilderness, Flathead National Forest and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana;

H.R. 13989. A bill to amend section 1445(b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research;

H.R. 14145. A bill to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the U.S. Courts to conduct a study of the judicial business of the Central District of California and the Eastern District of New York;

H.R. 14223. A bill to designate a certain Federal building in Bloomington, Ill., the "Leslie C. Arends Building";

H.R. 14224. A bill to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians;

H.R. 14295. A bill to designate the "Paul G. Rogers Federal Building";

H.J. Res. 489. A resolution granting the status of permanent residence to certain aliens;

H.J. Res. 747. A resolution to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to each State;

H.J. Res. 816. A resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations; and

H.J. Res. 1147. a resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week."

On October 25, 1978:

H.J. Res. 1173. A resolution relative to the convening of the first session of the 96th Congress, and for other purposes;

H.R. 4319. A bill to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes;

H.R. 5029. A bill to amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes;

H.R. 5646. A bill to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization;

H.R. 7749. A bill to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 7971. A bill to validate certain land conveyances, and for other purposes;

H.R. 8200. A bill to establish a uniform law on the subject of bankruptcies;

H.R. 9701. A bill to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes;

H.R. 10173. A bill to amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation to surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents' dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes;

H.R. 11209. A bill to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services;

H.R. 12393. A bill to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes;

H.R. 12467. A bill to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes;

H.R. 12874. A bill to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies; and

H.R. 13500. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes.

On October 26, 1978:

H.R. 50. A bill to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government;

H.R. 2329. A bill to improve the administration of fish and wildlife programs, and for other purposes;

H.R. 8389. A bill authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy;

H.R. 9251. A bill to change the tax treatment of income earned abroad by U.S. citizens and residents, and for other purposes;

H.R. 19898. A bill to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the U.S. Railway Association for fiscal year 1979;

H.R. 11733. A bill to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes; and

H.R. 13650. A bill to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

On October 31, 1978:

H.R. 15. A bill to extend and amend expiring elementary and secondary education programs, and for other purposes;

H.R. 4018. A bill to suspend until the close of June 30, 1980, the duty on certain doxorubicin Hydrochloride antibiotics;

H.R. 5037. A bill for the relief of Jack R. Misner;

H.R. 5146. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges;

H.R. 5263. A bill to provide tax incentives for the production and conservation of energy, and for other purposes;

H.R. 5289. A bill for the relief of Joe Cortina of Tampa, Fla.;

H.R. 7320. A bill to revise miscellaneous timing requirements of the revenue laws, and for other purposes;

H.R. 9937. A bill to amend the Bank Holding Company Act Amendments of 1970;

H.R. 11545. A bill to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes;

H.R. 13511. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; and

H.R. 14279. A bill to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

BILLS AND JOINT RESOLUTIONS APPROVED AFTER SINE DIE ADJOURNMENT

The President, subsequent to the sine die adjournment of the Congress, notified the Clerk of the House that on the following dates he had approved and signed bills and joint resolutions of the House of the following titles:

On October 14, 1978:

H.R. 1337. An act to amend the Internal Revenue Code of 1954 with respect to excise tax on certain trucks, buses, tractors, et cetera, home production of beer and wine, refunds of the taxes on gasoline and special fuels to aerial applicators, and partial rollovers of lump sum distributions;

H.R. 13692. An act granting the consent of Congress to the Historic Chattahoochee Compact between the States of Alabama and Georgia;

H.R. 13991. An act to provide for the United States to hold in trust, for the Susanville Indian Rancheria of Lassen County, Calif., approximately one hundred and twenty acres of land; and

H.J. Res. 685. Joint resolution to designate October 7, 1979, the Sunday of "Fire Prevention Week" as "Firefighters' Memorial Sunday"; to designate October 14, 1978, as "National Jogging Day"; and to designate and authorize the President to proclaim February 11, 1979, as "National Inventors' Day".

On October 17, 1978:

H.R. 8394. An act to provide for payments to local governments based upon the acreage of the National Wildlife Refuge System which is within their boundaries, and for other purposes;

H.R. 8811. An act to amend section 7447 of the Internal Revenue Code of 1954 with respect to the revocation of an election to receive retired pay as a judge of the Tax Court;

H.R. 10965. An act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, "Transportation"; and

H.R. 12932. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes.

On October 18, 1978:

H.J. Res. 1139. Joint resolution making continuing appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1979, and for other purposes;

H.R. 6503. An act to amend the Intercoastal Shipping Act, 1933, and for other purposes;

H.R. 9998. An act to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes;

H.R. 10600. An act for the relief of Thomas Joseph Hunter and Rose Hunter;

H.R. 11302. An act to authorize appropriations for environmental research, development, and demonstrations for the fiscal year 1979, and for other purposes;

H.R. 11886. An act to amend title 38, United State Code, to provide increases in the rates of disability and dependency and indemnity compensation for disabled veterans and their survivors, to provide for the payment of benefits to surviving spouses and children of certain totally disabled service-connected disabled veterans, to increase the amounts paid for funeral and burial expenses of deceased veterans, and for other purposes;

H.R. 12028. An act to amend title 38, United States Code, to improve the housing benefit programs of the Veterans' Administration, to authorize the Administrator of Veterans' Affairs to pay an allowance to a State for expenses incurred in the burial of eligible veterans in cemeteries owned and operated by or for such State solely for the interment of veterans, to authorize a program of grant assistance to States for the establishment, expansion, and improvement of State veterans' cemeteries, and for other purposes;

H.R. 12255. An act to amend the Older Americans Act of 1965 to provide for improved programs for older persons, and for other purposes;

H.R. 12929. An act making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending September 30, 1979, and for other purposes; and

H.R. 12931. An act making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979, and for other purposes.

On October 19, 1978:

H.R. 13797. An act to authorize establishment of the Fort Scott National Historic Site, Kans., and for other purposes;

On October 20, 1978:

H.R. 7843. An act to provide for the appointment of additional district and circuit judges, and for other purposes.

H.R. 11035. An act to incorporate the U.S. Capitol Historical Society.

H.R. 13167. An act to amend the Internal Revenue Code of 1954 to insure that the deduction for contributions to a black lung benefit trust be allowed for any such contributions which are made for the purpose of satisfying unfunded future liability, and for other purposes;

H.R. 13803. An act to terminate the authorization of the navigation project on the Columbia Slough, Oreg.; and

H.R. 14026. An act to provide means for the acquisition and retention of title to certain lands by the village corporation organized pursuant to the Alaska Native Claims Settlement Act for the Natives of the village of Kake, Alaska, and for other purposes.

On October 21, 1978;

H.R. 9533. An act to amend the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, and for other purposes;

H.R. 8755. An act to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States, and for other purposes;

H.R. 12051. An act relating to the application of certain provisions of the Internal Revenue Code of 1954 to specified transactions by certain public employee retirement systems created by the State of New York or any of its political subdivisions;

H.R. 12250. An act to designate the Boundary Waters Canoe Area Wilderness, to establish the Boundary Waters Canoe Mining Protection Area, and for other purposes;

H.R. 12264. An act to designate certain lands in the State of Wisconsin as wilderness; and

H.R. 12556. An act for relief of Batavia Turf Farms, Inc.

On October 24, 1978:

H.R. 11358. An act to amend the Small Business Act and the Small Business Investment Act of 1958;

H.R. 11658. An act to amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing Great Lakes vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel;

H.R. 11686. An act to authorize appropriations for the Department of Energy for national security programs for fiscal year 1979, and for other purposes;

H.R. 12165. An act to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal, and for other purposes;

H.R. 13418. An act to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes; and

H.R. 13767. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the recovery of replacement cost of motor vehicles and other related equipment and supplies.

October 25, 1978:

H.R. 10161. An act for the relief of Eastern Telephone Supply & Manufacturing, Inc., and for other matters;

H.R. 10587. An act to improve the range conditions of the public rangelands;

H.R. 11945. An act to authorize the Secretary of the Army to return to the Federal Republic of Germany 10 paintings of the Germany Navy seized by the U.S. Army at the end of World War II;

H.J. Res. 1147. Joint resolution authorizing and requesting the President to designate the 7-day period beginning on May 28, 1979, as "Vietnam Veterans Week"; and

H.R. 12112. An act designating Gathright Lake on the Jackson River, Va., as Gathright Dam and Lake Moomaw.

On October 26, 1978:

H.R. 5029. An act to amend title 38, United States Code, to extend certain expiring programs of the Veterans' Administration, to extend and improve the program of veterans readjustment appointments in the Federal Government, and for other purposes.

On October 27, 1978:

H.R. 50. An act to translate into practical reality the right of all Americans who are able, willing, and seeking to work to full opportunity for useful paid employment at fair rates of compensation; to assert the responsibility of the Federal Government to use all practicable programs and policies to promote full employment, production, and real income, balanced growth, adequate productivity growth, proper attention to national priorities, and reasonable price stability; to require the President each year to set forth explicit short-term and medium-term economic goals; to achieve a better integration of general and structural economic policies; and to improve the coordination of economic policymaking within the Federal Government;

H.R. 1396. An act for the relief of Mrs. Sun Pok Winer;

H.R. 1446. An act for the relief of Lester Bruce Priday;

H.R. 1449. An act for the relief of Geoffrey Parnham;

H.R. 2662. An act for the relief of Christopher Robert West;

H.R. 2940. An act for the relief of Daniel Crowley;

H.R. 4535. An act for the relief of Kazuko Nishioka Dowd;

H.R. 5230. An act for the relief of Jung In Bang;

H.R. 5933. An act for the relief of Jonathan Winston Max;

H.R. 6801. An act for the relief of Hye Jin Wilder;

H.R. 7296. An act to designate the new Terminal Radar Approach Control Federal Building in Hempstead, Long Island, New York, as the "Charles A. Lindbergh Federal Building";

H.R. 7305. An act to designate a certain Federal building in Champaign, Ill., the "William L. Springer Building";

H.R. 7604. An act for the relief of Margaret Somerville Jefferis;

H.R. 8810. An act for the relief of Kim In Hyung;

H.R. 8927. An act for the relief of Monika Grantz;

H.R. 9352. An act for the relief of James William Dibben;

H.R. 9568. An act for the relief of Renate Irene McCord;

H.R. 9610. An act for the relief of Raymond Vishnu Clemons;

H.R. 9611. An act for the relief of Craig Day;

H.R. 9613. An act for the relief of Eustace John D'Souza;

H.R. 12116. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to repeal the authority of the President to sustain vetoes by the Mayor of the District of Columbia of acts passed by the Council of the District of Columbia and repassed by two-thirds of the Council, to change the period during which acts of the Council of the District of Columbia are subject to congressional review, and for other purposes;

H.R. 13481. An act to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building";

H.R. 13808. An act to designate the "Omar Burleson Federal Building";

H.R. 13809. An act to designate the "George Mahon Federal Building";

H.R. 13892. An act to amend title 28 of the United States Code to provide that the requirement that each U.S. attorney and U.S. marshal reside in the district for which he is appointed shall not apply to an individual appointed to such a position for the Northern Mariana Islands if such individual is at the same time serving in the same capacity in another district;

H.R. 14223. An act to designate a certain Federal building in Bloomington, Ill., the "Leslie C. Arends Building";

H.R. 14295. An act to designate the "Paul G. Rogers Federal Building";

H.J. Res. 489. Joint resolution granting the status of permanent residence to certain aliens;

H.J. Res. 747. Joint resolution to consent to an amendment of the constitution of the State of New Mexico to provide a method for executing leases and other contracts for the development and operation of geothermal steam and waters on lands granted or confirmed to such State; and

H.J. Res. 816. Joint resolution to extend the authority of the Federal Reserve banks to buy and sell certain obligations.

On October 28, 1978:

H.R. 1392. An act for the relief of Maria Miraflor Carabbacan;

H.R. 1400. An act for the relief of Stefan Kowalik;

H.R. 1402. An act for the relief of Rosario A. Calvin;

H.R. 1406. An act for the relief of Lilia Araujo;

H.R. 1750. An act for the relief of Anthony Rogers;

H.R. 1779. An act for the relief of Gilberto Taneo Gilberstadt;

H.R. 1931. An act for the relief of Juana Todd Atherley;

H.R. 1936. An act for the relief of Lee So Ryung;

H.R. 1938. An act for the relief of Santos Marquez Arellano;

H.R. 2253. An act for the relief of Ruben P. Din;

H.R. 2369. An act for the relief of Natividad Casing and Myrna Casing;

H.R. 2553. An act for the relief of Young Gun Kim;

H.R. 2756. An act for the relief of Marlene Holder;

H.R. 2758. An act for the relief of Carmen Prudence Hernandez;

H.R. 2759. An act for the relief of Sealie Von Kleist Hernandez;

H.R. 2939. An act for the relief of Derrick Mariano Tan;

H.R. 2944. An act for the relief of Ricky Lee Trautvetter;

H.R. 3217. An act for the relief of Meeja Sa Foster;

H.R. 3618. An act for the relief of Martha Castro Fitz Maurice;

H.R. 3625. An act for the relief of Peter Neal Smith;

H.R. 3835. An act for the relief of Pece D. Van Arsdol;

H.R. 4727. An act to amend the Federal Rules of Evidence to provide for the protection of the privacy of rape victims;

H.R. 4875. An act for the relief of Elizabeth D. Yee Kraus;

H.R. 5163. An act for the relief of Marinelle Khristy Cruz;

H.R. 6934. An act for the relief of Donna Marainne Benney;

H.R. 7387. An act for the relief of Noel Abuez Emde;

H.R. 7419. An act for the relief of Vasilios Georgios Valcanos;

H.R. 7749. An act to implement the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and for other purposes;

H.R. 8308. An act for the relief of Jae Keun Christianson;

H.R. 10407. An act for the relief of Ling-Yung Kung;

H.R. 11671. An act to designate a certain Federal building in Big Stone Gap, Va., the "C. Bascom Slemp Building";

H.R. 12634. An act to designate a building in Pittsburg, Kans., as the "Joe Skubitz Social Security Administration Center";

H.R. 13187. An act to designate the U.S. Post Office and Federal Building in Griffin, Ga., the "John J. Flynt, Jr. Federal Building";

H.R. 13514. An act to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building";

H.R. 13972. An act to designate the Great Bear Wilderness, Flathead National Forest, and enlarge the Bob Marshall Wilderness, Flathead and Lewis and Clark National Forests, State of Montana; and

H.R. 13989. An act to amend section 1445 (b) of the Food and Agriculture Act of 1977 to modify the formula for distribution of funds authorized thereunder for agricultural research.

On October 30, 1978:

H.R. 1405. An act for the relief of Jennet Juanita Miller (also known as Jennet Juanita Flowers);

H.R. 1428. An act for the relief of Mrs. Angelita Short;

H.R. 1450. An act for the relief of Hildegard G. Blakeley;

H.R. 1777. An act for the relief of Cathy Gee Yuen;

H.R. 1798. An act for the relief of Kwong Lam Yuen;

H.R. 2256. An act for the relief of Edmund Alfredo Oreiro Espinueva;

H.R. 2292. An act for the relief of Boulos Stephan;

H.R. 2558. An act for the relief of Doctor John Alexis L. S. Tam and Shum Tam;

H.R. 2658. An act for the relief of Nora L. Kennedy;

H.R. 3090. An act for the relief of Fidel Grosso-Padilla;

H.R. 4404. An act for the relief of Susan Spurrier;

H.R. 4530. An act for the relief of Elisabetta Basso Gallizio;

H.R. 6664. An act for the relief of Lily Lirio Galindo;

H.R. 7550. An act for the relief of Johanne Lapointe;

H.R. 12509. An act to amend the Immigration and Nationality Act to exclude from admission into, and to deport from, the United States all aliens who persecuted any person on the basis of race, religion, national origin, or political opinion, under the direction of the Nazi government of Germany, and for other purposes;

H.R. 13372. An act to increase the price of migratory-bird hunting and conservation stamps and to provide for consultation by the Secretary of the Interior with State and local authorities before migratory bird areas are recommended for purchase or rental, and for other purposes; and

H.R. 13416. An act to amend title 10, United States Code, to modernize the permanent faculty structure at the U.S. Military Academy, and for other purposes.

On October 31, 1978:

H.R. 1753. An act for the relief of Marina Houghton;

H.R. 1940. An act for the relief of Dimitrios Panoutsopoulos Angeliki Panoutsopoulos, and Georgios Panoutsopoulos;

H.R. 2259. An act for the relief of Rogelio M. Encomienda;

H.R. 3613. An act for the relief of Irma Victoria Polarte Alvarado;

H.R. 7653. An act for the relief of Jackson Ormiston Edwards Cuffy and Merle Cleopatra Edwards Cuffy;

H.R. 9075. An act for the relief of John F. Johnson; and

H.R. 13702. An act to provide that the Territory of American Samoa be represented by a nonvoting Delegate to the U.S. House of Representatives, and for other purposes.

On November 1, 1978:

H.R. 15. An act to extend and amend expiring elementary and secondary education programs, and for other purposes;

H.R. 8389. An act authorizing the President of the United States to present a gold medal to the widow of Robert F. Kennedy;

H.R. 11002. An act to provide for the resolution of claims and disputes relating to Government contracts awarded by executive agencies; and

H.R. 11209. An act to provide for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services.

On November 2, 1978:

H.R. 1422. An act for the relief of Julio Ortiz-Medina;

H.R. 1748. An act for the relief of Carmela Scudieri;

H.R. 1775. An act for the relief of Karin Ehard;

H.R. 1787. An act for the relief of Paz A. Norona;

H.R. 2291. An act for the relief of Carmen Cecelia Blanquicett;

H.R. 3185. An act to amend the act commonly known as the Miller Act to raise the dollar amount of contracts to which such act applies from $2,000 to $25,000;

H.R. 3307. An act for the relief of Anthony Casamento;

H.R. 4319. An act to amend subchapter III of chapter 83 of title 5, United States Code, to provide that employees who retire after 5 years of service, in certain instances, may be eligible to retain their life and health insurance benefits, and for other purposes;

H.R. 7577. An act to amend the Economic Opportunity Act of 1964, and for other purposes;

H.R. 7795. An act for the relief of Veronica Judith Hudson;

H.R. 8192. An act for the relief of Andrée Marie Helene McGiffin;

H.R. 8751. An act for the relief of Francesco Giuttari;

H.R. 10342. An act to provide for recalculation of the retired pay of individuals who served as sergeant major of the Marine Corps before December 16, 1967;

H.R. 11003. An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes;

H.R. 12140. An act to amend the Federal Water Pollution Control Act to provide additional authorizations for certain operating programs under the act;

H.R. 12393. An act to provide for nationwide service of subpenas in all suits involving the False Claims Act, and for other purposes;

H.R. 12605. An act to amend the Communications Act of 1934 to extend and improve the provisions of such act relating to long-term financing for the Corporation for Public Broadcasting and relating to certain grant programs for public telecommunications, and for other purposes;

H.R. 13597. An act to authorize the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex No. 2, and for other purposes;

H.R. 14145. An act to amend title 28 of the United States Code to make certain changes in the divisions within judicial districts and in the places of holding court, and to require the Director of the Administrative Office of the United States Courts to conduct a study of the judicial business of the central district of California and the eastern district of New York; and

H.R. 14224. An act to authorize and direct the Secretary of the Interior to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.

On November 3, 1978:

H.R. 4533. An act for the relief of Gary Daves and Marc Cayer;

H.R. 7101. An act to amend certain provisions of law relating to land claims by the United States in Riverside County, Calif., based upon the accretion or avulsion, and for other purposes; and

H.R. 7971. An act to validate certain land conveyances, and for other purposes.

On November 4, 1978:

H.R. 5646. An act to amend the Regional Rail Reorganization Act of 1973 to require ConRail to make premium payments under certain medical and life insurance policies, to provide that ConRail shall be entitled to a loan under section 211(h) of such act in an amount required for such premium payments, and to provide that such premium payments shall be deemed to be expenses of administration of the respective railroads in reorganization;

H.R. 9701. An act to amend the Budget and Accounting Procedures Act of 1950 to require that the Comptroller General provide for a financial audit with respect to pension plans for officers and employees of the Federal Government and its agencies and instrumentalities, to require that an annual report, including a financial statement and an actuarial statement, be furnished to the Congress and the Comptroller General with respect to such plans, and for other purposes;

H.R. 10173. An act to amend title 38, United States Code, to provide improvements in the pension program for certain veterans of a period of war with non-service-connected disabilities, for certain surviving spouses of veterans of a period of war, and for certain surviving children of veterans of a period of war, to increase the rates of dependency and indemnity compensation for surviving parents of certain veterans, to provide for automatic annual cost-of-living adjustments in the rates of pension and in the rates of parents dependency and indemnity compensation, to prevent reductions in and terminations of pension and terminations of parents' dependency and indemnity compensation solely attributable to cost-of-living increases in social security benefits, and for other purposes;

H.R. 12874. An act to provide for an accelerated program of reserach, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies;

H.R. 13500. An act to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes;

H.R. 13903. An act to amend title 10, United States Code, to provide that a member of the Board of Regents of the Uniformed Services University of the Health Sciences whose term of office has expired shall continue to serve until a successor is appointed; and

H.J. Res. 1173. Joint resolution relative to the convening of the 1st session of the 96th Congress, and for other purposes.

On November 6, 1978:

H.R. 8200. An act to establish a uniform law on the subject of bankruptcies;

H.R. 11733. An act to authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes;

H.R. 12467. An act to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that act, and for other purposes; and

H.R. 13511. An act to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes.

On November 8, 1978:

H.R. 2329. An act to improve the administration of fish and wildlife programs, and for other purposes;

H.R. 9251. An act to change the tax treatment of income earned abroad by U.S. citizens and residents, and for other purposes;

H.R. 10898. An act to amend the Regional Rail Reorganization Act of 1973 to authorize appropriations for the United States Railway Association for fiscal year 1979; and

H.R. 13650. An act to authorize the Secretary of Energy to enter into cooperative agreements with certain States respecting residual radioactive material at existing sites, to provide for the regulation of uranium mill tailings under the Atomic Energy Act of 1954, and for other purposes.

On November 9, 1978:

H.R. 4018. An act to suspend until the close of June 30, 1980, the duty on certain doxorubicin hydrochloride antibiotics;

H.R. 5037. An act for the relief of Jack R. Misner;

H.R. 5146. An act to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges;

H.R. 5263. An act to provide tax incentives for the production and conservation of energy, and for other purposes; and

H.R. 5289. An act for the relief of Joe Cortina of Tampa, Fla.

On November 10, 1978:

H.R. 7320. An act to revise miscellaneous timing requirements of the revenue laws, and for other purposes; and

H.R. 14279. An act to extend the authority for the flexible regulation of interest rates on deposits and accounts in depository institutions.

BILLS DISAPPROVED AFTER SINE DIE ADJOURNMENT

The President announced his disapproval of the following bills with memorandums of disapproval as follows:

H.R. 11445

MEMORANDUM OF DISAPPROVAL

I am withholding my approval of H.R. 11445, omnibus amendments to the Small Business Act and the Small Business Investment Act. Because I recognize very personally the needs of the small business community and the dedication of Congressman NEAL SMITH and Senator GAYLORD NELSON, chairmen of the respective House and Senate Small Business Committees, in developing this legislation, it is with great regret that I must take this action.

Having spent most of my adult life as a small businessman, I share with the Congress a strong commitment to the small business people of our country and I recognize the need for greater attention to small business needs by the Federal Government. Since I took office we have reduced the burden of Federal regulations on small business, proposed significant tax reductions, and increased lending under the guaranteed loan program

by 40 percent. In May of this year I signed an Executive order calling for a White House Conference on Small Business to be held in January 1980. This Conference will involve over 25,000 small business people throughout the country helping us to develop a small business policy for this country. I intend to work with the Congress and particularly with Chairmen SMITH and NELSON to develop and implement such a policy.

This legislation does have beneficial features. However, it is precisely because of my commitment to small business and an effective Small Business Administration, that I must withhold my approval from H.R. 11445. This bill, in its present form, is not the best we can do for small business in the United States and is inconsistent with the tight budget situation we will face in the next few years. Disapproval of the bill would not interrupt any existing SBA program since SBA programs are already authorized for fiscal year 1979, nor would it interfere with administration plans regarding the White House Conference on Small Business, since $4,000,000 has already been appropriated for the Conference in fiscal year 1979. This Conference is an important priority of mine and of my administration.

The bill authorizes over $2 billion in expenditures in excess of our budget projections through 1982. It continues a duplicative program of farm disaster lending by the SBA with excessively deep interest subsidies and terms which we believe to be wasteful. This has led to an unwarranted amount of farm disaster lending which should be done by the Farmers Home Administration. This Administration has proposed that farm lending be consolidated in the Department of Agriculture which has the farm credit expertise and extensive field network necessary to operate the program effectively and efficiently. The Congress has failed to act on this recommendation.

Even more important is the effect this bill would have on the operations of the Small Business Administration. The bill virtually mandates significant staff increases. It would also interfere with the ability of the Administrator of the SBA, my primary small business advisor and representative, to effectively run that agency. The legislation imposes specific titles and responsibilities upon agency officials and specifies funding and personnel levels for activities throughout SBA down to the smallest detail. These legislative strictures run counter to my efforts to better manage the Federal government.

The bill also distorts the role of SBA's Chief Counsel for Advocacy. I supported the establishment of this office as a means to insure that the views of small business were adequately reflected in the policy-making processes of the government. But the legislation tends to move the Chief Counsel for Advocacy into policy and administrative areas more properly those of the Administrator of the SBA. This bill also might begin to isolate the Chief Counsel for Advocacy from the executive policy-making process by calling for an annual report to Congress which could not be reviewed or coordinated with any other agency of the Executive Branch. Current statutes provide the Chief Counsel with sufficient authorities to evaluate small business issues and serve as an ombudsman to small business interests.

I am also concerned by the loan pooling provision in this bill that would authorize private dealers to issue a new class of 100 percent Federally guaranteed securities which would compete directly with the Treasury and other Federally-backed securities in the bond markets.

I look forward to working with the Congress and the small business community who worked on this bill to develop a program to meet the needs of small business. It is my great hope that early in the next Congress an approach will be fashioned to meet the needs of the small business community, with the full involvement of my Administration.

JIMMY CARTER.

THE WHITE HOUSE, *October 25, 1978.*

H.R. 11092

MEMORANDUM OF DISPPROVAL

I am withholding my approval of H.R. 11092, the "Navajo and Hopi Relocation Amendments of 1978." I have no objection to the authorization in this bill to fund the important and difficult work being performed by the Relocation Commission to administer the partitioning of land which has been jointly used by the Navajo and Hopi Tribes. My failure to approve this bill will not affect the ability of the Commission to continue its work, because appropriations for this fiscal year have already been approved.

My objections to the bill center on section 4, which would provide for a one-house veto of the relocation plan which is finally adopted by the Relocation Commission. I have previously informed the Congress of my view that such legislative veto devices are unconstitutional intrusions into the day-to-day administration of the law by the Executive Branch, including independent agencies such as the Relocation Commission. Congress is constitutionally empowered to overrule agency decisions executing the law only by enacting legislation subject to the veto power of the President under Article I, section 7 of the Constitution.

Where either Congress or the President is dissatisfied with the execution of the law by an independent agency or commission, legislation agreeable to both or enacted over the President's veto is an appropriate and constitutional means for overturning the result reached by that independent agency. If the Constitution required less, there would in fact be no true independence for agencies such as the Relocation Commission. This principle was adhered to by the Ninety-third Congress when it enacted the Navajo and Hopi Indian Relocation Commission Act in 1974 and is one from which we should not depart.

The bill also contains a provision which would oust incumbent members of the Navajo and Hopi Indian Relocation Commission if they happened to be Federal, State or local elected officials. This provision in section 2 has constitutional implications since it would allow for Congressional removal of officers in the Executive Branch. Further, as a matter of fairness and equity, interruption of the tenure of appointed officials by the imposition of new "qualifications" should not be lightly undertaken. Accordingly, I would suggest that the Ninety-sixth Congress, in any consideration of a similar bill, give due consideration to these problems.

The Administration will work with the Congress next year to develop any needed legislation to improve the operations of the Relocation Commission. The Commission needs to operate more effectively and I look forward to working with Congressional leaders such as Senator DECONCINI and Congressman UDALL toward this end.

JIMMY CARTER.

THE WHITE HOUSE, *November 2, 1978.*

H.R. 11861

MEMORANDUM OF DISAPPROVAL

I am withholding my signature from H.R. 11861, which would require the Secretaries of Commerce and the Navy to meet at least four times a year with representatives of the maritime industry and to submit an annual report to the President and Congress on their activities and recommendations.

Both the Maritime Administration of the Commerce Department (MARAD) and the Navy already have numerous contacts with the maritime industry and with each other to study, develop, and implement the goals of the Merchant Marine Act. Navy and MARAD are currently working to improve their cooperation in this area by adding the Secretaries of Commerce and Navy to an existing inter-agency advisory board on maritime matters. They are also arranging to have the board meet at least four times a year, and at least one of these meetings will be open to maritime industry representatives.

In addition, in order to assure that the concerns that generated this bill are fully addressed, I am directing both Secretaries to consult regularly with maritime industry officials to discuss issues of mutual concern.

In light of these actions, I see no reason for this legislation. It is not necessary to achieve our goal of an adequate merchant marine. It would mandate a change in administrative functions which are currently satisfactory. It is an undue legislative intrusion into administrative activities which are the appropriate responsibility of the Executive Branch, and the required report would be an additional and unnecessary government expense. For these reasons, I am disapproving this bill.

JIMMY CARTER.

THE WHITE HOUSE, *November 2, 1978.*

H.R. 6536

MEMORANDUM OF DISAPPROVAL

I am withholding my approval from H.R. 6536 which would make certain changes in the retirement program for police, firefighers, teachers, and judges of the District of Columbia.

This action today in no way alters my commitment to the basic principles of fairness and self-determination which must be the cornerstone of Federal-District relations. Included among our ac-

tions to fulfill this commitment have been (1) support of full voting representation, (2) support for expansion of "Home Rule" for the District and (3) support of efforts to provide greater equity and predictability to the financial relationship between the Federal government and the District.

I have also proposed removal of the Federal government from the District's Budgetary process by 1982, as well as the development of an equitable Federal payment process on the District's revenues. This process must rest on an objective, equitable basis and not be used as a device to balance the District's budget. To achieve movement toward that goal, I recommended a Federal payment for fiscal year 1979 totaling $317 million—the highest total ever recommended by a President.

It is against that background that my Administration last year expressed its willingness to work with the Congress and the District to develop a sound, reasonable solution to the District's current financial difficulties with its pension program for police, firemen, teachers and judges. Previous Administrations have declined to acknowledge any Federal responsibility for the District's current pension funding problems. In the bill that passed the House of Representatives, my Administration announced its willingness to assume sixty percent of the cost of making a transition to an actuarially sound system. This would have obligated the Federal government to make payments of $462 million over 25 years. Instead, the Congress ultimately adopted a different method of funding which identified the Federal responsibility as that portion of the unfunded liability attributable to employees who retired prior to Home Rule. This would require the Federal government to pay more than $1.6 billion over that same period.

This proposal fails to recognize that a large part of that liability derives from abuses of the disability retirement statutes which were permitted to flourish by those responsible for their effective administration. It undervalues or ignores the significance of Federal assistance through the Federal funding of benefits for thousands of District employees who participate in the Federal Civil Service Retirement System. I am therefore of the view that the enrolled bill overstates the degree of Federal responsibility.

Although the bill's benefit and disability retirement reforms are desirable, its failure to apply these reforms to current employees constitutes a serious and costly deficiency. While the bill contains a penalty clause, the purpose of which is to reduce the Federal payment if abuse persists, the application of basic statutory reforms to all employees would be a far more effective and efficient means of preventing a recurrence of the abuses which have prevailed in recent years.

Accordingly, I am compelled to withhold my approval from this bill.

I realize that many members of Congress have worked long and hard with the Administration on this question. I agree with them that there is indeed a Federal responsibility to see that this program is converted to one which is actuarially sound and which minimizes opportunity for abuse.

I look forward with the Congress and the elected representatives of the District of Columbia early in the next session to develop acceptable retirement funding and reform legislation. We are prepared to consider a reasonable Federal financial contribution, providing that provisions are included that fully remedy the problem of retirement abuses. Working together, I am sure we can place the District retirement programs on a sound basis in a manner which both limits the extent of Federal financial responsibility, while also recognizing the Federal responsibility in this area.

JIMMY CARTER.

THE WHITE HOUSE, *November 4, 1978.*

H.R. 9518

MEMORANDUM OF DISAPPROVAL

I have decided not to sign into law H.R. 9518. This legislation, which would impose severe enforcement measures in the area of ocean shipping rebating, reflects concern with the possible disparity in enforcement of our anti-rebating laws against U.S.-flag carriers but not against foreign flag operators. I share that concern, and any disparity that exists must be eliminated.

The United States is currently engaged in important discussions with several European countries and Japan in an attempt to reach cooperative agreements involving a number of shipping problems, including rebating. Rather than taking immediate unilateral action undermining these efforts, I have directed the Secretary of State, in cooperation with the Federal Maritime Commission and other agencies to pursue these talks vigorously and to report to me on their progress. I am also directing the Administration's Maritime Policy Task Force to provide, by an early date, a set of recommendations that will address both the substance of our rebating laws as well as procedures for enforcement, taking into account the inherently international character of ocean shipping.

In the interim, I am asking the Federal Maritime Commission to step up its enforcement efforts against illegal rebating under the authority now provided in the Shipping Act of 1916. The Administration is committed to assist the FMC in these efforts, and I urge the FMC to seek the assistance of the Department of State in obtaining any necessary cooperation from foreign governments.

Although I am withholding my signature on H.R. 9518 I believe the bill represents an important signal to foreign countries that we must work together to secure a cooperative shipping regime. I commit my Administration to work with the next Congress to develop a comprehensive maritime policy for the United States, in which the concerns reflected by this bill as well as broader policy issues can be fully addressed.

JIMMY CARTER.

THE WHITE HOUSE, *November 4, 1978.*

H.R. 13719

MEMORANDUM OF DISAPPROVAL

I have withheld my approval of H.R. 13719, which would have authorized special Federal payments to Guam and the Virgin Islands to offset the local revenue losses during calendar years 1978 through 1982 caused by the Revenue Act of 1978.

Because income taxes paid by territorial residents to the governments of Guam and the Virgin Islands are based on the U.S. Internal Revenue Code, tax changes intended to reduce Federal income tax liabilities in the United States have a corresponding effect in reducing territorial tax liabilities. H.R. 13719 would have authorized direct grants to the territories to offset revenue losses associated with the 1978 tax act.

While recognizing the defects in the current territorial tax structures which H.R. 13719 was designed to alleviate, particularly the effects of periodic Federal tax reductions on local revenues, I do not believe the bill provides an acceptable long-range solution. By replacing reasonable local tax efforts with direct Federal payments, the bill is simply another attempt to manage territorial deficits without addressing the underlying economic and financial problems which have led to those deficits. We can no longer afford a piecemeal approach to the growing revenue problems of the territories.

Accordingly, although I am disapproving H.R. 13719, I am directing the Secretaries of the Interior and the Treasury to study the financial situation of both the Virgin Islands and Guam and to recommend a plan designed to help those governments achieve a higher degree of financial stability without perpetuating a piecemeal system which is costly to the Federal Government and which does not sufficiently encourage responsible financial management in these territories.

JIMMY CARTER.

H.R. 11545

MEMORANDUM OF DISAPPROVAL

I have withheld my approval of H.R. 11545, the Meat Import Act of 1978.

I do so because the bill would severely restrict Presidential authority to increase meat imports and would place a floor or minimum access level for meat imports that I believe is too low. It deprives a President of the only anti-inflationary tool available in this area.

Current law allows the President substantial flexibility to increase meat imports when, in his judgment, domestic supplies are inadquate to meet demand at reasonable prices. I am convinced that this flexibility must be preserved, as a weapon against inflation.

Under this bill, however, authority to increase meat imports would be tied to declaration of a national emergency or natural disaster, or to a restrictive price formula. Under this formula, the farm price of cattle would have to increase faster than the retail meat price by more than ten percent during the first two calendar quarters of a year. Under this

formula, quotas could have been relaxed only once in the last ten years.

I also believe that the United States must avoid imposing excessive restrictions on our trading partners who supply us with meat. H.R. 11545 would impose those restrictions by stipulating a minimum access level for meat imports of 1.2 billion pounds, instead of the 1.3 billion my Administration recommended. I am concerned that the bill's lower level could harm our trade relations with the meat exporting countries and thus impair their long-term reliability as sources of additional meat supplies when our own production is low, particularly at a time when we are negotiating for greater access to foreign markets for both our industrial and agricultural products.

If the Congress had enacted H.R. 11545 without these objectionable provisions, I would have been pleased to sign it, as my advisers make clear repeatedly. The bill would have amended the Meat Import Act of 1964 to provide a new formula for determining meat import quotas. The new formula would have adjusted meat import quotas up when domestic production of meats subject to the quota went down. Under the 1964 meat import law, quotas are adjusted in the opposite way, so that as domestic production declines, the limits on meat imports are tightened, at exactly the wrong time. This defect has often compelled Presidents to increase or suspend the meat import quota, in order to ensure supplies of meat at reasonable prices. The new counter-cyclical formula would, in most years, automatically make the necessary adjustment in the meat import quota, without involving the President in the normal operation of the meat trade.

This Administration supports such counter-cyclical management of meat imports; in fact, the Department of Agriculture was instrumental in developing the formula which the Congress approved. But for all the advantages of the new formula, it is still an untested mechanical formula which may not respond ideally to all future situations. This is why I find the restrictions on the President's discretion to increase meat imports so objectionable and why my Administration's support for H.R. 11545 was so clearly conditioned upon removal of those restrictions and on increasing the minimum access level for meat imports to 1.3 billion pounds annually.

I am prepared to work with the Congress next year to pass a counter-cyclical meat import bill which will provide the stability and certainty the cattle industry requires, while preserving the President's existing discretionary authority and setting an acceptable minimum access level for imports.

JIMMY CARTER.

THE WHITE HOUSE, *November 10, 1978.*

H.R. 9937

MEMORANDUM OF DISAPPROVAL

I have decided not to sign into law H.R. 9937. This bill is an amendment to the Bank Holding Company Act which would authorize the General Services Administration to sell certain silver dollar coins at negotiated prices. I have determined that this legislation would not be in the national interest because of an unrelated amendment which exempts all textile and apparel items from any tariff reductions in the Multilateral Trade Negotiations (MTN) now underway in Geneva.

I am determined to assist the beleaguered textile industry. We are committed to a healthy and growing textile and apparel industry. This legislation would not advance that cause, and could even harm the entire U.S. economy.

This bill would not address the real causes of the industry's difficulties. In return for any transient benefits, the bill would prompt our trading partners to retaliate by withdrawing offers in areas where our need for export markets is the greatest—products such as tobacco, grains, citrus, raw cotton, paper, machinery, poultry, and textile-related areas such as mill products and fashion clothing. The loss of these export areas is too high a price for our Nation to pay.

The cost of this bill might be even higher; at best, it would cost us many opportunities for exports; at worst, it could cause the collapse of the trade talks and further restrict the growth of the world economy. If the two and a quarter million workers in the textile and apparel industry are to survive in their jobs, we must work to keep the world economy strong and international trade free.

Just within the last year we have taken a number of steps to improve the condition of the U.S. textile and apparel industry:

—We negotiated a renewal of the international Multifiber Arrangement through 1981, providing more responsive controls over disruptive imports.

—We have negotiated 15 new bilateral export restraint agreements which are firmer and fairer than earlier versions, covering 80 percent of all imports from low-cost suppliers. And we are negotiating more.

—We have improved our monitoring of imports and implementation of restraints, through steps such as the new legislative initiatives I have approved.

—We have, despite the proposed small reduction in tariffs, the highest textile and apparel tariffs in the developed world.

—We have begun discussions with exporting countries not now under restraint to seek appropriate levels for their shipments.

—We have established a pilot program to improve productivity in the men's tailored clothing industry, and we have begun an export promotion program for the entire textile and apparel complex.

—And we have begun a review of existing and proposed Federal regulations affecting this industry to assess their impact.

This, however, is not enough. I pledge that we will do more;

—We will intensify our review of existing bilateral restraint agreements to be sure they really work, and if there are harmful surges we will work promptly to remedy them.

—We will not allow the effectiveness of our restraint agreements to be undermined by significant increases in shipments from uncontrolled suppliers, and we will maintain a worldwide evaluation of the imports of textile and apparel into the U.S. and seek appropriate action, country-by-country, where warranted.

—We will be prepared to expand the pilot project underway in the men's tailored clothing industry so that other sectors may benefit from that experience, and we will speed proposals for a similar program in the ladies apparel industry.

—We will negotiate strenuously for removal of non-tariff barriers to U.S textile and apparel exports, including restrictive "rules of origin."

—The Office of the Special Representative for Trade Negotiations will begin a new policy review and report to me quarterly on developments in the domestic textile and apparel industry, with special emphasis on imports and exports, so that appropriate actions can be taken more promptly.

These steps, like those of the past year, will not be the limit of our assistance to this vital industry. But each step that we take must be directed toward the long-term health of this industry and the United States economy as a whole—unlike H.R. 9937 which on balance is detrimental to the textile industry, to its two million workers, and to the Nation as a whole.

JIMMY CARTER.

THE WHITE HOUSE, *November 10, 1978.*

H.R. 9370

MEMORANDUM OF DISAPPROVAL

I have withheld approval from H.R. 9370, "A bill to establish new Federal programs and assistance for the development of aquaculture in the United States."

While the underlying purpose of the bill, development of an active aquaculture industry, is sound, I am concerned that the numerous broad-reaching programs established under the bill are premature. H.R. 9370 would establish a National Aquaculture Council to assess the state of aquaculture in the U.S. and to prepare a National Aquaculture Development Plan—a detailed set of Federal activities to expand the commercial potential of certain aquatic species. It would establish substantial new programs of Federal assistance to carry out the plan and undertake demonstration projects in aquaculture. The bill also would create a Federal Aquaculture Assistance Fund to provide financial assistance and support to the aquaculture industry through a new Federal loan guarantee program and a new Federal insurance program.

The Administration recognizes the importance of aquaculture, the need for effective programs to support this, and the concept of an assessment of the aquaculture industry. In fact, many of the actions that the bill would require are already underway. Federal agencies are now involved in a wide variety of aquaculture activities, and they already have the legislative authorities they need

to provide research and technical and financial assistance to the aquaculture industry. For example, the Small Business Administration can assist small business concerns which are engaged in aquaculture. The Department of Commerce, through its aquaculture research activities and the Sea Grant program, is supporting marine research, development, and advisory services. The Department of the Interior spends about $15 million yearly on freshwater aquaculture at its fish hatcheries, research and development laboratories, and cooperative fishery units. The Agriculture Department provides a complete range of information and technical assistance related to aquaculture. Additionally, the Farm Credit Administration is authorized to extend credit to harvesters of aquatic products.

We also have in place a way to coordinate the aquaculture programs of the Federal Government—namely, the Interagency Subcommittee on Aquaculture of the Federal Council on Science and Technology.

Given this array of Federal activities, I believe we should more carefully assess the need for additional programs in this area. In particular, I am concerned about offering major new government subsidies such as the loan guarantee and insurance programs unless and until a clear need for them has been established. Accordingly, I must withhold my approval of the bill.

My Administration will continue to assess the needs of aquaculture and the effectiveness and adequacy of the Federal programs in this area. We look forward to reviewing these programs next year with the sponsors of this measure in the hope we can agree on additional improvements in the government's aquaculture program.

JIMMY CARTER.

THE WHITE HOUSE, *October 18, 1978.*

APPOINTMENTS BY THE SPEAKER

Pursuant to the provisions of 22 United States Code 1928a, as amended, and the authority granted by the House on October 15, 1978, the Speaker did on Wednesday, November 15, 1978, appoint as members of the U.S. Group of the North Atlantic Assembly to be held in Lisbon, Portugal, November 25 to November 30, 1978, the following Members on the part of the House:

The gentleman from California, Mr. PHILLIP BURTON, Chairman;

The gentleman from Indiana, Mr. HAMILTON, Vice Chairman;

The gentleman from New Jersey, Mr. RODINO;

The gentleman from Texas, Mr. BROOKS;

The gentleman from Illinois, Mr. ANNUNZIO;

The gentleman from North Carolina, Mr. ROSE;

The gentleman from Florida, Mr. IRELAND;

The gentlewoman from Ohio, Ms. OAKAR;

The gentleman from Arizona, Mr. RHODES;

The gentleman from California, Mr. BOB WILSON;

The gentleman from Michigan, Mr. BROOMFIELD; and

The gentleman from Illinois, Mr. FINDLEY.

PUBLIC BILLS AND RESOLUTIONS

[*Omitted from the Record of October 14, 1978*]

Mr. PERKINS introduced a bill (H. Con. Res. 758) directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 15, which was referred to the Committee on Education and Labor.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[*Resolutions omitted from the Record of October 15, 1978*]

By Mr. PERKINS:

H. Con. Res. 758. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 15; to the Committee on Education and Labor.

By Mr. DINGELL:

H. Con. Res. 759. Concurrent resolution directing the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 4018, H.R. 5037, H.R. 5146, and H.R. 5289; considered and agreed to.

EXTENSIONS OF REMARKS

CONCENTRATION OF ECONOMIC POWER

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I would like to insert in the CONGRESSIONAL RECORD the third and concluding part of Franklin Delano Roosevelt's proposal for the creation of the Temporary National Economic Committee, sent to the Congress on April 29, 1938, to investigate the concentration of economic power and the growing influence of monopoly over the American economy and the life of its people.

The last part of President Roosevelt's proposal follows:

PATENTS

Hearings on patents demonstrated the various kinds of uses—good and bad—to which patents may be put by various industries. The automobile industry, for example, is an industry in which there has been no substantial restriction achieved through patent monopolies. Since the first cross-licensing agreement in 1915, practically all automobile patents have been readily accessible to any manufacturer, though some of them have been on a royalty basis. In sharp contrast is the use made of patents in the glass container industry in which only two firms, closely bound by cross-licensing contracts, controlled 96.6 per cent of the glass containers produced in 1937 through licensing manufacturers and leasing machinery to them.

LIFE INSURANCE

The enormity of the life insurance business is indicated by the fact that in 1937 there was $109,600,000,000 of life insurance in force, and the total income of life insurance companies was 7.5 per cent of the entire national income. The high degree of concentration in life insurance business is demonstrated by the fact that in 1937, 5 companies controlled 54.4 per cent, 16 companies controlled 80.6 per cent, and 25 companies controlled 87.2 per cent of all assets of the 308 life insurance companies. In 1937, there were $20,600,000,000 of industrial insurance in force, and of this amount ten companies had 92.04 per cent, with the two largest having 73.26 per cent between them.

HOUSING

The failure of the private construction industry in the United States to build homes in price ranges proportionate to the various income groups is demonstrated by the fact that in 1930–37 only 10.5 per cent of homes built were within the reach of those with annual incomes of $1,000 and less, while 36.5 per cent of our population is in this income group. At the other extreme, 51.3 per cent of homes built in the same period were within the reach of those with incomes of $3,000 and more, but only 8.0 per cent of the population is in this income group.

The concentration of control in the building materials industry is revealed in the attached exhibit (No. 910 before the committee), which shows the percentage of production controlled by the four leading companies.

SAVINGS AND INVESTMENT

From 1923 to 1929 business enterprise financed more than 75 per cent of their annual average expenditure of $8,500,000,000 for plant and equipment from internal sources; from 1935 to 1937 they financed 92 per cent of their annual average expenditure of $5,800,000,000 from internal sources. Total savings in the twenty years, 1910–30, increased 382 per cent, while in the same period the population of continental United States showed a growth of only 33½ per cent.

The concentration of control over this vast fund of savings in the principal reservoirs of the nation is shown by the attached exhibit (No. 611 before the committee).

PETROLEUM

Between $11,000,000,000 and $15,000,000,000 are invested in the petroleum industry in the United States. Of this total amount, only twenty of the major integrated companies had assets totaling about $8,000,000,000 in 1938; and the five largest companies alone had over 60 percent of this amount. Other evidence of concentration in the industry was: the ownership of 94.2 per cent of the stocks of crude petroleum and six selected petroleum products by the twenty major companies in 1937 (see attached committee Chart X); the fact that 71.8 per cent of crude oil pipeline mileage (trunk and gathering) and 96.1 per cent of gasoline pipeline mileage in 1938 was owned by the twenty major companies; while fifteen major companies alone owned 87.2 per cent of all the dead-weight

tonnage of oil tankers under American registry.

Chart X is particularly significant in showing how the concentration had grown in the period 1926–1937.

COPPER AND STEEL

Three companies alone in 1937 mined 77.6 per cent of all the copper produced in the United States. Their increasing share in the total production of copper from 1915 to 1937 is shown by the fact that the same three companies in 1915 had mined only about 27 per cent of such copper.

In the steel industry, concentration of capacity for making pig iron, ingots and selected steel products varies from 66.2 to 100 per cent controlled by the ten largest producers.

SECURITY UNDERWRITING

The concentration in this field is overwhelming. For example, from September, 1935, to June, 1939, one investment banking house managed 32 per cent of all the registered bond issues managed by thirty-eight leading firms. It managed all the first-grade registered bond issues of manufacturing companies; 71 per cent of all the first-grade registered bond issues of electric light and power, gas, and water companies; all the first-grade registered bond issues of transportation and communication companies, principally telephone issues; and 74 per cent of all the first-grade registered bond issues of all other issuers.

During the same period the same investment banking houses managed four-fifths of all the first-grade registered bond issues managed by the thirty-eight leading firms in the United States.

WAR AND PRICES

The hearing before the committee on war and prices compared the rise of prices during the first World War, and during the four months following the outbreak of war in September, 1939. It was shown that by the time the United States had entered the war in 1917, there had been a 25 per cent increase in the cost of living. By 1920 the average of all items in the cost of living had increased by 108 per cent; food 118 per cent, and clothing 212 per cent.

In comparison, it was shown that after the Second World War had started and by December, 1939, the all-commodity index had increased about 5 per cent, but that twenty-eight basic commodities that enter into the industrial picture had gone up 19 per cent. Competent witnesses testified to their opinion that a repetition of the World War extreme pattern was unlikely and unnecessary, because industry today generally has much greater capacity to produce, and is also much better geared to the use of substitute products in case individual prices get too high.

TNEC MONOGRAPHS

The committee designated certain agencies to conduct special studies and prepare the technical aspects of hearings. In order to obtain a well-rounded analysis and treatment of the broad subject of the concentration of economic power and its effects, not only direct testimony was elicited at the hearings, but economists and experts in particular fields made studies of problems raised in the hearings and prepared separate reports upon them.

This resulted in the publication of forty-three separate monographs, which were regarded by the committee as expert testimony presented at its hearings, and solely as the responsibility of their authors.

Some of the more outstanding monographs are listed below, and can be obtained at the Government Printing Office.

No. 1, Price Behavior and Business Policy;

No. 3, Who Pays the Taxes?

No. 8, Toward More Housing;

No. 9, Taxation of Corporate Enterprise;

No. 10, Industrial Concentration and Tariffs;

No. 12, Profits, Productive Activities and New Investment;

No. 16, Anti-trust in Action;

No. 18, Trade Association Survey;

No. 19, Government Purchasing—an Economic Commentary;

No. 20, Taxation, Recovery, and Defense;

No. 21, Competition and Monopoly in American Industry;

No. 22, Technology in Our Economy;

No. 26, Economic Power and Political Pressures;

No. 27, The Structure of Industry;

No. 28, Study of Legal Reserve Life Insurance Companies;

No. 29, The Distribution of Ownership in the Two Hundred Largest Non-financial Corporations;

No. 31, Patents and Free Enterprise;

No. 32, Economic Standards of Government Price Control;

No. 37, Savings, Investment, and National Income;

No. 38, A Study of the Construction and Enforcement of the Federal Antitrust Laws; and

No. 39, Control of the Petroleum Industry by Major Oil Companies.

PRELIMINARY REPORT

On July 17, 1939, a Preliminary Report of the Temporary National Economic Committee was presented to the President of the Senate. Some, but not all the recommendations contained therein, were:

1. A series of amendments to the patent laws and to the procedure in the Patent Office designed to reduce the delay in the Patent Office and to reduce the life of a patent; and to require filing of any assignment of a patent or any interest therein.

2. Provisions forbidding any person to assign a patent, or to grant any right or license under a patent, on any condition which restricts the assignee in respect of the amount which he may produce under the patent, the price at which he may sell any such article, the purpose for which or manner in which he may use the patent or any article produced thereunder, or the geographical area within which he may produce or sell such article; and subjecting violators to forfeiture of their patents, which would thereupon become part of the public domain.

3. New civil remedies, which would treat a violation of the antitrust laws as a kind of tort against the general public interest; which would provide for remedies in the nature of actions for damages brought by the United States against offending companies and against the responsible officers and directors thereof; and would permit actions to suspend or terminate employment by an offending company of the officers and directors responsible for the violation.

4. Amendments to section 7 of the Clayton Act, to prohibit a corporation from acquiring the assets as well as the stock or other share capital of another corporation or corporations engaged in interstate commerce under the conditions therein stated.

RECOMMENDATIONS OF REPRESENTATIVES OF VARIOUS AGENCIES

A great many separate recommendations were made by the different agencies having representations on the committee. Public sessions for the consideration of these recommendations were begun on January 15, 1941, and continued until March 11, 1941. Recommendations, for example, had been made by the antitrust division of the Department of Justice, by the Federal Trade Commission, by Commissioner Pike of the Securities and Exchange Commission, by Senator Mead, by the Department of Labor, by Senator O'Mahoney, the chairman of the committee, and by others. These separate recommendations have all been included as such in the report of the committee.

FINAL REPORT AND RECOMMENDATIONS

On March 31, 1941, the Final Report of the Temporary National Economic Committee was submitted to the Senate; and it has been printed as Senate Document 35, 77th Congress, 1st Session.

In this report, the committee reiterated the recommendations which it had made concerning patents in its preliminary report; and also called attention to the fact that some of its prior patent recommendations, contained in that preliminary report, and relating to delay in the Patent Office and the life of a patent, had been enacted into law by the Congress as Public Acts Nos. 286, 287, 288, 341, and 358 (76th Congress, 1st Session).

In addition, the majority of the committee recommended among other things:

1. Legislation making available any future patent to anyone who is willing and able to pay a fair price for the privilege.

2. Legislation requiring trade associations (whose members are engaged in interstate commerce) to register and file periodical reports of their activities.

3. Prohibition of certain specific activities of trade associations which tend to violate the antitrust laws.

4. Legislation authorizing the Federal Trade Commission to forbid corporations from acquiring the assets of competing corporations over a certain size, unless it be shown (a) that such acquisition is in the public interest and that it will promote greater efficiency and economy; (b) that it will not substantially decrease competition, or restrict trade or tend to a monopoly either in a particular section of the country or in the country as a whole; (c) that no more than certain proportions of the industry, as fixed by the Congress, may be controlled by such corporations; and (d) that the acquiring company has not been engaged in any unlawful methods of competition or any violations of the Federal Trade Commission Act in order to bring about the merger.

5. Legislation prohibiting the acquisition of stock or control of competing companies, with proper exceptions for bona fide investments and for the control of true subsidiaries by parent corporations.

6. Commendation and approval of "such efforts as the food stamp plan, slum clearance, and low-cost housing, the extension of hospital and medical facilities, and the development of vocational and cultural programs for the less privileged of our people . . ."

7. Recommendations "to all public and private bodies responsible for industry location" of "the desirability of decentralizing industry to the end that the maximum economic benefits can be secured from plants operated at their most efficient size, the depressing aspects of the factory system be prevented, and the American way of life be preserved."

8. Legislation to deal with the control now exercised by foreign governments and their industry over American concerns through patent laws.

9. Repeal of the Miller-Tydings Act legalizing resale price maintenance contracts (see Items 48, 99 and notes, 1937 volume).

10. Legislation establishing a committee on federal-state relationships, charged with the responsibility of collecting current information as to trade practices among the states, and with the duty of devising ways and means of preventing uneconomic barriers to trade.

11. Centralization of purchasing in one agency as much as possible; with purchasing planned so as to obtain the needed goods without dislocating the general economy.

12. Various recommendations to the respective states where insurance companies are domiciled, with respect to the supervision and control of such insurance com-

panies; so as to make supervision by state officials more adequate, require better equipped agents and agency practices, bring about more frequent and thorough examinations of insurance companies, standardize policies, prevent the wiping out of competition, and bring about a fundamental change in the conduct of industrial insurance.

13. Although stating that, for the present, federal regulation of the life insurance business is not required, the committee recommended (a) a federal statute preventing life insurance companies from using the mails or the radio to sell insurance in any state where they have not been lawfully admitted to do business; (b) permitting state insurance commissioners to apply under the National Bankruptcy Act to the appropriate United States Court for liquidation or reorganizaion of any life insurance company; (c) prohibiting officers and directors of insurance companies operating in more than one state from using their positions for improper personal gain directly or indirectly; (d) federal legislation making life insurance officials legal trustees to be bound by customary fiduciary standards; and (c) a thorough investigation of all forms of fire, casualty, and marine insurance.

14. Allocation of defense funds in such a way as to eliminate monopoly control of basic products.

15. Various measures designed to stimulate the investment of capital in new enterprise.

16. Expansion and development of research by the Department of Labor and the Federal Trade Commission dealing with the current functioning of our economy.

17. Legislation prohibiting the use of "basing point" and other industrial pricing systems which result in uneconomic location of plant equipment, and the elimination of price competition.

18. Additional appropriations to strengthen the machinery for enforcing the antitrust laws by the Department of Justice and the Federal Trade Commission.

All the items mentioned in my foregoing message of April 29, 1938, were covered by the TNEC either in its hearings or in the monographs above mentioned, except the subject of financial controls.

The reason for this exception was that in my message I had mentioned the fact that the Securities and Exchange Commission had been conducting a comprehensive study of investment trusts and their operations for nearly two years, and that it was going to make its own report thereon. The subject of bank holding companies was included in this study of investment trusts.

The Securities and Exchange Commission has already transmitted to the Congress, Part One, Part Two and Chapters I and II of Part Three of its over-all report on investment trusts.

Part One, which was transmitted by the Commission to the 75th Congress on June 10, 1938, consists of a discussion of the nature, classification, and origins of investment trusts and investment companies.

Part Two, the transmission of which to the 76th Congress was completed on March 10, 1939, consists of a statistical survey of investment trusts and investment companies.

The Commission has also transmitted to the Congress the following six supplemental reports:

Investment Trusts in Great Britain; Investment Counsel, Investment Management, Investment Supervisory, and Investment Advisory Services; Commingled and Common Trust Funds Administered by Banks and Trust Companies; Companies Sponsoring Installment Investment Plans; Fixed and Semi-fixed Investment Trusts; and Companies Issuing Face Amount Installment Certificates.

Many bills have been introduced in the Congress to carry out these various recommendations. The hearings and monographs and reports will form the basis of future thinking and action with respect to this great industrial and social problem of the day—monopolies and concentration of economic power.●

THE NATIONAL PORTRAIT GALLERY

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BOLAND. Mr. Speaker, the Smithsonian Institution administers what I consider to be the finest group of museums in the world. In historical terms, the Smithsonian's National Portrait Gallery is one of the most valuable American museums. The NPG has a collection of 2,000 portraits of significant Americans. It is often the only place that has portraits of certain important Americans. The NPG is also a beautiful museum that is a joy to visit.

For the past 9 years, the Director of the National Portrait Gallery has been Marvin Sadik. Mr. Sadik is a former resident of Springfield, Mass. He has done a remarkable job at the Gallery and has assembled a fascinating special exhibition for this fall and winter. The exhibition, of some of the earliest examples of portrait photography, is entitled, "Facing the Light: Historic American portrait daguerreotypes." Included are rare early portraits from the 19th century.

Mr. Speaker, I commend Marvin Sadik on his fine work at the National Portrait Gallery. Every visitor to Washington should make it a point to visit this interesting museum. I take this opportunity to include an article from the Springfield Republican by Ruth O'Brien that provides a good view of the National Portrait Gallery and the work of Director Sadik:

NATIONAL PORTRAIT GALLERY—HISTORIC EXHIBITION MARKS HIGHLIGHT OF DIRECTOR MARVIN SADIK'S CAREER

(By Ruth O'Brien)

He's an honorary citizen of the Vatican and a member of the Pope's Commission on Religion and Art.

He's been made a Knight of Denmark by Queen Margrethe ("on the royal yacht—after dinner") for mounting an exhibition of portraits by Christian Gullager, Danish painter of the American Revolution.

He's a graduate of Classical High School and the son of Mr. and Mrs. Harry B. Sadik of 132 Garland St.

We're talking about Marvin Sadik, for nine years director of the National Portrait Gallery of the Smithsonian Institution in Washington, D.C.

Sadik has put together a National Portrait Gallery (NPG) exhibition which opened Sept. 21 to sensational reviews. *Facing the Light: Historic American portrait daguerreotypes* is part of the celebration of the 10th anniversary of the National Portrait Gallery.

Throughout the year, a variety of exhibitions, lectures and special events will commemorate the NPG's first decade.

Reviews for the exhibition have been "sensational," Sadik reports. Earlier this week he heard from the Paris Herald. They were so impressed with Paul Richard's review in The Washington Post that they asked for the book on the exhibit and photographs of the portraits for their own review. "We're getting the package off to Paris now," Sadik said.

It was an exhibition, *The Art of the Dark Ages*, that Sadik saw in the Worcester Art Museum at the age of seven that would have an impact on him he will never forget.

And a course in art history at Harvard made him realize he could combine American history, his area of study, with this new area of art. "In retrospect, that's what led to my becoming a museum director," he notes.

"After graduation, I did teach but the chance to deal with works of art was too strong—it's the excitement of hunting for things and putting on exhibitions and writing catalogues," he explains.

Sadik became curatorial assistant at the Worcester Art Museum—"I'm fortunate to have been there. It has a one and only kind of training; it's a splendid museum with a first-rate professional staff." And then he adds, "We're ready for Mrs. Eisenhower every morning at 9 a.m."

He returned to Harvard as a Harris fellow, getting his master's degree in fine arts. Then he became curator, later director, of Bowdoin College Museum of Art. "They had wonderful collections, but it was a lot of work cataloguing and putting everything in proper order."

He mounted several major exhibits and attendance grew from 13,000 to 40,000 a year. And he published "Colonial and Federal Portraits at Bowdoin." "Then Homer Babbidge, at that time president of the University of Connecticut, enticed me into leaving for the Museum of Art there."

Sadik became director of the National Portrait Gallery in 1969. "I really wanted the job," he explains. "It's a great national museum and the perfect combination of history and art."

Established by an Act of Congress in 1962, the gallery was faced with the seemingly insurmountable task of building a significant collection. Its primary goal was to acquire portraits of notable Americans, preferably taken directly from life.

The National Portrait Gallery opened on Oct. 5, 1968 with borrowed art. Under Sadik's direction and through major acquisitions by purchase and by gift, it now has a permanent collection of 2,000 life portraits ranging from Pocahontas to Jimmy Carter, a budget of $3 million and a staff of 110. Attendance exceeds 500,000 a year.

Sadik attributes the increasing attention to portraiture to two trends—a return to representational art and the interest of today's young artists in art that is not abstract. He sees "a glimmering of the rebirth of the art of decent portraiture."

What is "decent?"

"A portrait must not only look like but be like the individual; it must capture his looks and spirit within the framework of the time in which he lives."

NPG exhibits in charcoal, watercolor, oil, photography, sculpture, and any print medium from 1840 to the present. Each exhibition is accompanied by a full-scale illustrated publication and often includes related objects such as documents, letters, films, voices, clothing.

The concept of a national portrait gallery is as old as the Republic. During the Revolutionary War, Charles Willson Peale took on the task of creating a gallery portraying the great men of history.

In 1857 Congress commissioned G. P. A. Healy to paint a series of presidential portraits for the Executive Mansion. Today, within the Hall of Presidents in the Gallery's second floor, portraits and related items of all the presidents show the interplay of public and private events in their lives.

Since 1968 the Gallery has presented 40

major special exhibitions and several times that number of small exhibits. Generally, there are three kinds of exhibitions:

The work of a particularly American artist, for example Saint-Gaudens or Benbridge;

An iconographical study of a historic personality, such as John Quincy Adams;

The thematic exhibition, broad in scope, that reaches into a wide range of American activities.

Of this last category, one of the most outstanding exhibitions has been *The Black Presence in the Era of the American Revolution*, put together by Sidney Kaplan of Northampton. "That was a magnificent show," recalls Sadik. "We're still proud of it here." Sadik and Kaplan have co-authored a book, "The Portrayal of the Negro in American Painting."

Early this year Sadik inaugurated a "Self-Portrait" lecture series. Noted Americans are invited to talk about the ideas which have motivated them and the events which have affected their lives. Their talks are videotaped for Gallery archives.

Next in the series will be Isaac Bashevis Singer on Oct. 30. Singer has won the 1978 Nobel Prize for Literature, the Swedish Academy announced earlier this week in Stockholm.

Leon Edel, Doris Kearns, Justin Kaplan and Barbara Tuchman will participate in the first national symposium on biography Nov. 13 and 14 at the Gallery.

A "Touch Gallery," primarily for the blind but also for the general public, will open in January, 1979 with a selected group of specially made casts of some of the sculpture in the permanent collection.

Built in the mid-19th century the NPG structure has been called by architect Philip Jonhson "the greatest building in the world." "The third oldest government building in Washington (only the White House and the Capitol are older), the structure is located at the center of urban redevelopment, on the very spot half-way between the White House and the Capitol that Pierre Charles L'Enfant designated as the site of a national pantheon "to honor those who had given their best in their country's service." It was L'Enfant who designed the federal city of Washington in the District of Columbia.

The Ntaional Portrait Gallery is located at Eighth and F Streets, N.W., at the Gallery Place metro station. It is open every day of the week from 10 a.m. to 5:30 p.m. Admission is free.

"The Faces of Freedom," a color film presenting an overview of American history told through portraiture, is shown continuously in the Galley's free film theatre.

Among amenities offered the visitor are a restaurant and a museum shop containing the range of NPG publications, biographies, inexpensive reproductions, slides and posters.

In conjunction with the NPG's 10th anniversary, the Smithsonian Press will publish three books: "Fifty American Faces from the Collection of the National Portrait Gallery" with stories of how the portraits came to be made; "A Gallery of Presidents," which portrays the personality and changing image of American leadership and democracy, and "Illustrated Checklist of the Permanent Collection," an all-inclusive fully illustrated publication of NPG holdings at the end of its first decade. This last publication is expected to become the standard reference on portraits of noted Americans.

The NPG also administers the Catalogue of American Portraits (CAP), a record of portraits of noted Americans in public and private life throughout the country. Collectors and curators, art and social historians, and writers and publishers turn to CAP for biographical and historical information in its files which contain photographs and documentation of 50,000 portraits.●

SURFACE TRANSPORTATION ACT OF 1978

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. JOHNSON of California. Mr. Speaker, in agreeing to the conference report on the bill H.R. 11733, the Surface Transportation Assistance Act of 1978, the House receded on the section which provided categorical funding for energy-impacted, rail-highway crossings. The House report on the bill contained a reference to a project in Allentown, Pa., which Mr. HOWARD discussed with Mr. ROONEY during debate on the original passage of the bill and which Mr. HOWARD identified as the Basin Street crossing of multiple ConRail tracks in Allentown.

Since the time the Committee on Public Works and Transportation was advised of this project, we have been impressed by its qualification as a project under both sections 103—energy—and 203—rail-highway crossing. In the committee report we cited this project as an outstanding example of an energy-impacted railroad crossing for the following reasons.

First of all, the Basin Street crossing demonstrates that railroad crossings impacted by energy transportation do occur in the northeastern quadrant of the country, notwithstanding the fact that the marked increase in western coal has focused so much interest on unit coal train impacts in communities west of the Mississippi River. Second, this crossing is impacted by the transportation of significant quantities of coke, as well as coal, because Bethlehem is one of the few areas that produces a surplus of coke which provides the energy component in basic steel production. Finally, the highway users in Lehigh County would achieve tremendous benefits in terms of petroleum energy saved by avoiding grade crossing delays.

However, the Basin Street crossing has impacted safety concerns as well as energy and, therefore, is certainly as qualified for immediate Federal assistance under section 203, as it was under the deleted section 103.

Although numerous examples of railroad-highway grade separation projects yielding environmental and user benefits exist throughout the country, the Basin Street Crossing of multiple tracks of the Consolidated Rail Corporation situated in Allentown, Pa., exhibits a high potential for railroad and highway safety benefits of the kind which this act seeks to achieve.

Basin Street is a two-lane highway connecting South Fourth Street and South Third Street in Allentown and serves as a major traffic artery between the south and east sides of Allentown. Traffic counts conducted by the city of Allentown in March 1970, showed a minimum 24-hour count of 19,736 vehicles and a maximum count of 21,478 vehicles. It is estimated that the 1970 traffic counts have increased by approximately 30 to 40 percent.

Approximately midway between the intersection of Third and Union Streets and the intersection of Fourth and Susquehanna Streets exists a major grade level railroad crossing. Three tracks of ConRail cross at this point near the Lehigh River. One track, formerly operated by the Reading Railroad Co. is at one level. Separate from this and at a level approximately 5 feet higher are two tracks formerly belonging to the Allentown Terminal Railroad. The crossing is protected by flashing lights and automatic gates. Presently, 24 trains cross at this intersection during a normal day. However, this problem is compounded in that 16 of the trains cross during the heaviest vehicular traffic hours. The trains are moving at a slow rate of speed as they are either entering a freight yard or departing from a freight yard. Some of the trains exceed 100 cars in length and traffic at the crossing is often halted for lengthy periods. The local governments, including Lehigh County, Pa., have developed plans for a grade separation. The expense of such a project is clearly outweighed by both the user savings and safety benefits.●

A TRIBUTE TO CONGRESSMAN JOHN DENT

HON. RICHARD H. ICHORD

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. ICHORD. Mr. Speaker, for 18 years, I have known and respected JOHN DENT as a distinguished American, a superb legislator, and as a fighter and champion of hard-working Americans everywhere.

In his distinguished career, JOHN has done much to advance the cause of the American worker. He has worked hard to improve their livelihood through fair labor standards and has done much to enhance the working conditions for miners through mine safety and health legislation. His service as chairman of the Task Force on Welfare and Pension Plans, and the Subcommittee on Labor Standards, and as a member of the Subcommittees on Compensation, Health and Safety, and on Employment Opportunities, clearly demonstrates his total commitment to the workers of Pennsylvania and throughout the country. JOHN brought with him a background both in labor and management, which he has used well over these past 21 years in advancing the cause of the common worker. He has been a leader of their cause in the Congress and his leadership, knowledge, and his dedication have been recognized by his colleagues as he has risen to positions of ever-increasing responsibility.

JOHN DENT'S contributions to the American worker are recognized and applauded in Pennsylvania, in Missouri, and throughout the country. It has been my privilege to have known JOHN and to have worked with him for these many

long years. As he leaves Congress, he does so only in person, his fighting spirit, his dedication, and his achievements will remain in our memories as a lasting tribute to a great man; an admired representative of working men and women of America.●

WALTER FLOWERS

HON. JACK EDWARDS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. EDWARDS of Alabama. Mr. Speaker for the past 10 years, this body has been fortunate to have WALTER FLOWERS of Tuscaloosa as one of its distinguished Members.

During his decade of service, WALTER FLOWERS served on three House standing committees: The Committee on Science and Technology, the Committee on the Judiciary, and the Committee on Standards of Official Conduct, and on three special committees: The Ad Hoc Committee on Energy, the Select Committee on Aging, and the Select Committee on Ethics.

Within the Science and Technology Committee, he is the current chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration. Previously he was chairman of the Judiciary Subcommittee on Administrative Law and Governmental Relations.

He also served on the House Democratic steering and policy committee and was a member of the Commission on Revision of the Federal Court Appellate System and the 1976 Democratic National Platform Committee and its drafting subcommittee.

FLOWERS was elected to Congress in 1968 in his first political race and was reelected by wide margins each congressional year thereafter.

Prior to serving in Congress, he was a practicing attorney in Tuscaloosa. He is a member of the Tuscaloosa County Bar and the Alabama, Mississippi, and American Bar Associations and is admitted to practice before the U.S. Supreme Court. He has been active in many civic and community affairs in Tuscaloosa, including Boy Scouts, Red Cross, United Appeal, YMCA, and Rotary.

FLOWERS received his bachelor's degree in political science and history from the University of Alabama in 1955 and a law degree from the university in 1957.

At the university, he was president of the Student Government Association and was a member of Phi Beta Kappa, Omicron Delta Kappa, Jasons Society, Phi Delta Phi legal fraternity, and Sigma Alpha Epsilon social fraternity.

During his service in the U.S. Congress, WALTER FLOWERS has pushed for important programs and projects benefiting the people of Alabama, helped guide to passage several pieces of major legislation and worked against needless Federal spending and interference.

Much of FLOWERS' activity has been aimed at accelerating economic development in Alabama. He has vigorously supported the development of the Tenn-Tom, Coosa-Alabama, and Warrior-Tombigbee waterways, the Port of Mobile, Marshall Space Flight Center in Huntsville, and the Tennessee Valley Authority.

As a member of the House Judiciary Committee, Congressman FLOWERS was seen on national television during the 1974 impeachment inquiry.

WALTER FLOWERS served well in the U.S. House of Representatives. He has left a record of which he and his family and friends can be proud.●

H.R. 11922, DOMESTIC VOLUNTEER SERVICE ACT AMENDMENTS OF 1978

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BINGHAM. Mr. Speaker, I am disappointed that H.R. 11922, the Domestic Volunteer Service Act Amendments of 1978 is not going to survive the end-of-session rush to adjournment.

Title V of this legislation would have authorized two small but important programs designed to provide volunteer skills and technical assistance to neighborhood groups engaged in improving their communities. These programs were requested by the President last April as integral parts of his urban policy. It is most unfortunate that opposition by only a few Members of the House has prevented their enactment into law by the 95th Congress.

One of these programs, the Urban Service Corps, would allow ACTION to provide assistance to sponsoring agencies in urban areas which would mobilize part-time, skilled volunteers to give technical and management assistance to neighborhood groups. ACTION funds would bring together volunteer accountants, planners, lawyers, teachers, businessmen, and architects, matching their skills with the needs of struggling neighborhood organizations. This expert assistance could make the difference between frustration and success for thousands of community-based initiatives and could tap the creativity, idealism, and energy of many more volunteers.

There are neighborhood and block associations in my congressional district in the Bronx which desperately need the professional advice and assistance this bill would provide in order to plan and organize community revitalization projects. At the same time, my district offices have been contacted by people with professional skills interested in offering their help to neighborhood groups. Rarely have I been able to match these offers with a current need, since neither my office nor any other organization is able to concentrate on listing neighborhood needs and recruiting relevant professional help.

ACTION, through such programs as VISTA and the University Year for Action (UYA), has considerable experience in the benefits of placing small numbers of highly trained individuals into key positions with community-based organizations. One of the most successful revitalization projects in New York is staffed at some crucial levels with VISTA and UYA volunteers. This bill would make possible the placement of a whole new range of highly qualified volunteers in organizations like this and contribute immeasurable to their success.

The second program which would have been authorized by title V, the neighborhood volunteer fund, would make small grants up to $15,000 to support neighborhood groups using local volunteers working on community improvement projects. These crucial and often unobtainable resources could be used for the out-of-pocket expenses, supplies, and equipment that would allow volunteer projects to go forward. The success of large-scale volunteer projects such as community gardens, newsletters, counseling programs, or neighborhood spruce-up campaigns often depends on the availability of relatively small resources delivered at a timely moment. ACTION already has considerable experience with a $5,000 minigrant program on which this neighborhood volunteer fund would build.

Both of these programs would work on a small scale to provide carefully targeted assistance to the thousands of urban neighborhood groups trying to save and revitalize their communities. The $40 million which title V would have authorized is an extremely modest investment in helping local communities to help themselves. I hope these proposals will be high on the agenda of the 96th Congress, and that ACTION will continue to press for their approval by the Congress early next year.●

IN HONOR OF HON. DALE MILFORD

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WAGGONNER. Mr. Speaker, it is with deep regret that this House takes time to say goodby to DALE MILFORD.

DALE is a good man who I am proud to call a friend. He has shown in his three terms of service here in the U.S. Congress, great legislative ability and leadership and I am sorry that we are losing him. His knowledge regarding defense matters and hard work as a member of the Armed Services Committee is proof of his diligence.

I have worked closely on a number of issues with DALE, but the part that impressed me was his ability on defense issues on which we have shared a mutual concern. In the years we have worked together I have admired his ability to remain calm and levelheaded in the face of challenge.

We have been fortunate to have you here in Congress, DALE, and I am proud to have been your colleague and friend.●

THE UDALL RECORD—III

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. UDALL. Mr. Speaker, this is the third, and final, listing of my votes for this session of the 95th Congress. It contains my votes on the issues which came before us in the last 3 hectic days before adjournment: October 12, 13, and 14, 1978.

The list is arranged as follows:

Official rollcall number;

Number of the bill or resolution;

Short description of the measure;

Date of the described action;

My vote on the motion (Y=yes; N=no; NV=not voting);

The overall vote of the Arizona delegation (Yeas-Nays-Not voting);

Notice whether the measure passed or failed;

The total vote.

If any of my constituents have questions on these votes, my staff or I would be happy to answer them, or to provide additional material. The vote list follows:

(892) H.R. 12929. Motion to recommit the conference report to the conference committee with instructions to the House conferees to agree to the Senate amendment to prohibit use of appropriated funds to implement admission quota policies at higher education institutions. October 12, 1978. N(2–1–1) Rejected 187–200.

(893) H.R. 12929. Motion that the House concur in the Senate amendment to the conference report to provide 788 full-time permanent positions at the National Heart, Lung and Blood Institute. October 12, 1978. Y(3–0–1) Passed 385–11.

(894) H.R. 12929. Motion that the House concur in the Senate amendment to the conference report to earmark $7.5 million for special projects for Indochinese refugees under the Indochina Migration and Refugee Assistance Act. October 12, 1978. Y(4–0–0) Passed 391–0.

(895) H.R. 12929. Motion to recede and concur to Senate amendment on funding of abortion. October 12, 1978. Y(1–3–0) Rejected 188–216.

(896) H.R. 13511. Motion to concur in Senate amendment that would provide income tax rate reductions for each of the four calendar years beginning with calendar year 1980, conditioned on the ration of outlays to the Gross National Product, the rate of growth of Federal outlays, and balancing the Federal budget for fiscal year 1982. October 12, 1978. Y(4–0–0) Passed 268–135.

(897) S. 1566. Adoption of conference report to authorize electronic surveillance to obtain foreign intelligence information. October 12, 1978. Y(1–2–1) Passed 226–176.

(898) S. 555. Motion to reject title VI (Special Prosecutor) of the conference report. October 12, 1978. N(1–2–1) Rejected 49–344.

(899) S. 555. Adoption of conference report to establish certain Federal agencies, effect certain reorganizations of the Federal government, to implement certain reforms in the operation of the Federal Government and to preserve and promote the integrity of public officials and institutions. October 12, 1978. Y(3–0–1) Passed 370–23.

(900) H.R. 9893. Amendment to the Internal Revenue Code of 1954 to increase the adjusted gross income limitation on the credit for the elderly and to increase the amount of such credit. October 12, 1978. Y(3–0–1) Passed 388–5.

(901) S. 957. Motion to suspend the rules and pass the bill to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive and expeditious mechanisms for the resolution of consumer controversies. October 12, 1978. Y(1–2–1) Rejected 244–166.

(902) S. 1503. Amendment to provide for the payment of losses incurred as a result of the ban on the use of the chemical Tris in apparel, fabric, yarn or fiber. October 12, 1978. Y(3–0–1) Passed 304–90.

(903) H.R. 12050. Motion to recommit the conference report to amend the Internal Revenue Code of 1954 to provide a Federal income tax credit for tuition. October 12, 1978. N(0–3–1) Passed 207–185.

(904) H.R. 12931. Motion to recommit the conference report to the committee of conference. October 12, 1978. N(2–1–1) Rejected 191–201.

(905) H.R. 12931. Adoption of conference report making appropriations for Foreign Assistance and related programs for the fiscal year ending September 30, 1979. October 12, 1978. Y(1–2–1) Passed 203–188.

(906) H.R. 12931. Motion to recede and concur to Senate amendment No. 63, to allow the President discretion in foreign aid to Angola and Mozambique. October 12, 1978. Y(1–2–1) Rejected 161–204.

(907) H.R. 11545. Passage of the bill to modify the method of determining quantitative limitations on the importation of certain articles of meat and meat products. October 12, 1978. NV(2–0–2) Passed 289–66.

(911) H.R. 8533. Amendment to the Internal Revenue Code of 1954 to provide that income from the conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax. October 13, 1978. Y(3–0–1) Passed 287–123.

(912) H. Res. 1434. Agreed to the consideration en bloc of the conference reports on the bills H.R. 4018, H.R. 5146, H.R. 5037, H.R. 5289 and H.R. 5263, the five sections of the National Energy Act. October 13, 1978. Y(2–1–1) 207–206.

(914) H. Res. 1414. Agreement to an official reprimand against Representative Charles H. Wilson of California. October 13, 1978. Y(3–0–1) Passed 329–41.

(915) H. Res. 1416. Agreement to an official reprimand (in place of a censure) against Representative Ed Roybal. October 13, 1978. Y(2–1–1) Passed 219–170.

(917) H.R. 12370. Motion to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith containing an amendment that would prohibit use of funds to support any family planning program which directly or indirectly provides abortion, abortion counseling or abortion referral services. October 13, 1978. N(2–1–1) Rejected 137–232.

(918) H.R. 12370. Motion to pass the bill to revise and extend the programs of financial assistance for the delivery of health services. October 13, 1978. Y(2–1–1) Passed 343–27.

(919) S. 2534. Adoption of conference to revise and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations. October 13, 1978. Y(2–1–1) Passed 309–33.

(920) H.R. 14104. Amendment to exempt the Tellico Dam and Reservoir Project from the provisions of the Act. October 14, 1978. N(2–1–1) Passed 231–157.

(921) H.R. 14104. Passage of bill to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981. October 14, 1978. Y(3–0–1) Passed 384–12.

(922) H.R. 12929. Agreed to Senate amendment to make appropriations for the Department of Labor, and Health, Education and Welfare and related agencies, for the fiscal year ending September 30, 1979. October 14, 1978. Y(1–2–1) Passed 198–195.

(924) H.R. 11274. Amendment to place a $40,000 family adjusted gross income capital for student loan interest subsidies. October 14, 1978. N(1–2–1) Passed 301–86.

(926) S. 3151. Agreed to the conference report to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1979. October 14, 1978. Y(2–1–1) Passed 271–93.

(927) H.R. 7010. Adoption of conference report on the Victims of Crime Act of 1978. October 14, 1978. Y(3–0–1) Rejected 184–199.

(928) S. 1487. Agreed to conference report to eliminate racketeering in the sale and distribution of cigarettes. October 14, 1978. NV(2–0–2) Passed 366–0.

(930) H. Res. 1439. Motion to suspend the rules and agree to H.R. 14279, with amendments, to provide for flexible regulation of interest rates. October 14, 1978. NV(1–1–2) Passed 341–32.

(932) H.R. 4018. Agreed to conference report on National Energy Act. October 14, 1978. Y(1–2–1) Passed 231–168.

(933) H.R. 12250. Agreed to conference report to designate the Boundary Waters Canoe Area Wilderness, and to establish the Boundary Waters Canoe Area Mining Protection Area. October 14, 1978. Y(1–1–2) Passed 248–111.

(934) S. 2493. Agreed to conference report to amend the Federal Aviation Act of 1958, as amended, to encourage, develop, and attain an air transportation system which relies on competitive market forces to determine the quality, variety and price of air services. October 14, 1978. NV(1–1–2) Passed 356–6.

(935) S. 3447. Agreed to the conference report to strengthen the economy of the United States through increased sales abroad of American products. October 14, 1978. NV(2–0–2) Passed 356–4.

(936) H.R. 15. Agreed to conference report to the bill to reauthorize elementary and secondary education programs. October 14, 1978. NV(2–0–2) Passed 349–18.

(937) H.R. 12467. Agreed to the conference report on the Comprehensive Rehabilitation Services Amendments of 1978. October 14, 1978. NV(2–0–2) Passed 365–2.

(939) H.R. 13750. Motion to adopt conference report to implement the International Sugar Agreement, 1977 between the United States and foreign countries, and to protect the welfare of consumers of sugar and of those engaged in the domestic sugar industry. October 14, 1978. NV(1–1–2) Rejected 177–194.

(940) H.R. 13511. Motion to adopt conference report to amend the Internal Revenue Code of 1954 to reduce income taxes. October 14, 1978. NV(1–0–3) Passed 337–38.

(941) H.R. 9937. Motion to adopt conference report to amend the Bank Holding Company Act Amendments of 1970. October 14, 1978. NV(1–0–3) Passed 198–29.

(942) H.R. 10979. Motion to suspend the rules and agree to the Senate amendments to the Emergency Highway and Transportation Repair Act of 1978. October 14, 1978. NV(1–0–3) Failed (absence of quorum) 129–31.

The U.S. House of Representatives adjourned sine die on October 14, 1978, thus effectively ending the 95th Congress. The 96th Congress will begin on January 15, 1979.●

CHRISTOPHER T. CROSS

HON. CARL D. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PERKINS. Mr. Speaker, for the past 6 years the Committee on Educa-

tion and Labor has been fortunate in having Christopher T. Cross serve as a principal staff assistant in the area of education for the Republican members of the committee. In that position Chris has provided both the Democrats and Republicans with sound advice and sage counsel on the many bills which we have considered during those years. He has been especially important to our considerations dealing with reauthorizations of the Elementary and Secondary Education Act and the Higher Education Act.

Chris will be leaving the committee staff this November 1, and I would like to take this opportunity to wish him the best of success in his future professional career. I would also like to thank him on behalf of all the members of the committee for his many years of service. He has been truly one of the outstanding staff members we have had.●

CONCENTRATION OF ECONOMIC POWER II

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to continue the observations made by former President Franklin D. Roosevelt on April 29, 1938, in his message to Congress on the creation of "The Temporary National Economic Committee" to investigate the concentration of economic power and the growing influence of monopoly over the American economy and the life of its people.

The next selection of the President's remarks follows:

A PROGRAM

The traditional approach to the problems I have discussed has been through the anti-trust laws. That approach we do not propose to abandon. On the contrary, although we must recognize the inadequacies of the existing laws, we seek to enforce them so that the public shall not be deprived of such protection as they afford. To enforce them properly requires thorough investigation not only to discover such violations as may exist but to avoid hit-and-miss prosecutions harmful to business and government alike. To provide for the proper and fair enforcement of the existing anti-trust laws I shall submit, through the budget, recommendations for a deficiency appropriation of $200,000 for the Department of Justice.

But the existing anti-trust laws are inadequate—most importantly because of new financial economic conditions with which they are powerless to cope.

The Sherman Act was passed nearly forty years ago. The Clayton and Federal Trade Commission Acts were passed over twenty years ago. We have had considerable experience under those acts. In the meantime we have had a chance to observe the practical operation of large-scale industry and to learn many things about the competitive system which we did not know in those days.

We have witnessed the merging-out of effective competition in many fields of enterprise. We have learned that the so-called competitive system works differently in an industry where there are many independent units, from the way it works in an industry where a few large producers dominate the market.

We have also learned that a realistic system of business regulation has to reach more than consciously immoral acts. The community is interested in economic results. It must be protected from economic as well as moral wrongs. We must find practical controls over blind economic forces as well as over blindly selfish men.

Government can deal and should deal with blindly selfish men. But that is a comparatively small part—the easier part—of our problem. The larger, more important and more difficult part of our problem is to deal with men who are not selfish and who are good citizens, but also who cannot see the social and economic consequences of their actions in a modern economically interdependent community. They fail to grasp the significance of some of our most vital social and economic problems because they see them only in the light of their own personal experience and not in perspective with the experience of other men and other industries. They, therefore, fail to see these problems for the nation as a whole.

To meet the situation I have described, there should be a thorough study of the concentration of economic power in American industry and the effect of that concentration upon the decline of competition. There should be an examination of the existing price system and the price policies of industry to determine their effect upon the general level of trade, upon employment, upon long-term profits and upon consumption. The study should not be confined to the traditional anti-trust field. The effects of tax, patent and other government policies cannot be ignored.

The study should be comprehensive and adequately financed. I recommend an appropriation of not less than $500,000 for the conduct of such comprehensive study by the Federal Trade Commission, the Department of Justice, the Securities and Exchange Commission, and such other agencies of government as have special experience in various phases of the inquiry.

I enumerate some of the items that should be embraced in the proposed study. The items are not intended to be all inclusive. One or two of the items, such as bank holding companies and investment trusts, have already been the subject of special study, and legislation concerning these need not be delayed.

(1) *Improvement of Anti-Trust Procedure.* A revision of the existing anti-trust laws should make them susceptible of practical enforcement by casting upon those charged with violations the burden of proving facts peculiarly within their knowledge. Proof by the Government of identical bids, uniform price increases, price leadership, higher domestic than export prices, or other specified price rigidities might be accepted as *prima facie* evidence of unlawful actions.

The Department of Justice and the Federal Trade Commission should be given more adequate and effective power to investigate whenever there is reason to believe that conditions exist or practices prevail which violate the provisions or defeat the objectives of the anti-trust laws. If investigation reveals border-line cases where legitimate cooperative efforts to eliminate socially and economically harmful methods of competition in particular industries are thwarted by fear of possible technical violations of the anti-trust laws, remedial legislation should be considered.

As a really effective deterrent to personal wrong-doing, I would suggest that where a corporation is enjoined from violating the law, the court might be empowered to enjoin the corporation for a specified period of time from giving any remunerative employment or any official position to any person who has been found to bear a responsibility for the wrongful corporate action.

As a further deterrent to corporate wrong-doing the Government might well be authorized to withhold government purchases from companies guilty of unfair or monopolistic practice.

(2) *Mergers and interlocking relationships.* More rigid scrutiny through the Federal Trade Commission and the Securities and Exchange Commission of corporate mergers, consolidations and acquisitions than that now provided by the Clayton Act to prevent their consummation when not clearly in the public interest; more effective methods for breaking up interlocking relationships and like devices for bestowing business by favor.

(3) *Financial controls.* The operations of financial institutions should be directed to serve the interests of independent business and restricted against abuses which promote concentrations of power over American industry.

(a) *Investment trusts.* Investment trusts should be brought under strict control to insure their operations in the interests of their investors rather than their managers. The Securities and Exchange Commission is to make a report to Congress on the results of a comprehensive study of investment trusts and their operations which it has carried on for nearly two years. The investment trust, like the holding company, puts huge aggregations of the capital of the public at the direction of a few managers. Unless properly restricted, it has potentialities of abuse second only to the holding company as a device for the further centralization of control over American industry and American finance.

The tremendous investment funds controlled by our great insurance companies have a certain kinship to investment trusts, in that these companies invest as trustees the savings of millions of our people. The Securities and Exchange Commission should be authorized to make an investigation of the facts relating to these investments with particular relation to their use as an instrument of economic power.

(b) *Bank Holding Companies.* It is hardly necessary to point out the great economic power that might be wielded by a group which may succeed in acquiring domination over banking resources in any considerable area of the country. That power becomes particularly dangerous when it is exercised from a distance and notably so when effective control is maintained without the responsibilities of complete ownership.

We have seen the multiplied evils which have arisen from the holding company system in the case of public utilities, where a small minority ownership has been able to dominate a far-flung system.

We do not want those evils repeated in the banking field, and we should take steps now to see that they are not.

It is not a sufficient assurance against the future to say that no great evil has yet resulted from holding company operations in this field. The possibilities of great harm are inherent in the situation.

I recommend that the Congress enact at this session legislation that will effectively control the operation of bank holding companies; prevent holding companies from acquiring control of any more banks, directly or indirectly; prevent banks controlled by holding companies from establishing any more branches; and make it illegal for a holding company, or any corporation or enterprise in which it is financially interested, to borrow from or sell securities to a bank in which it holds stock.

I recommend that this bank legislation make provision for the gradual separation of banks from holding company control or ownership, allowing a reasonable time for this accomplishment—time enough for it to be done in an orderly manner and without causing inconvenience to communities served by holding company banks.

(4) *Trade associations.* Supervision and effective publicity of the activities of trade associations, and a clarification and delineation of their legitimate spheres of activity which will enable them to combat unfair methods of competition but which will guard against their interference with legitimate competitive practices.

(5) *Patent laws.* Amendment of the patent laws to prevent their use to suppress inventions, and to create industrial monopolies. Of course such amendment should not deprive the inventor of his royalty rights, but generally speaking, future patents might be made available for use by any one upon payment of appropriate royalties. Open patent pools have voluntarily been put into effect in a number of important industries with wholesome results.

(6) *Tax correctives.* Tax policies should be devised to give affirmative encouragement to competitive enterprise.

Attention might be directed to increasing the intercorporate dividend tax to discourage holding companies and to further graduating the corporation income tax according to size. The graduated tax need not be so high as to make bigness impracticable, but might be high enough to make bigness demonstrate its alleged superior efficiency.

We have heard much about the undistributed profits tax. When it was enacted two years ago, its objective was known to be closely related to the problem of concentrated economic power and a free capital market.

Its purpose was not only to prevent individuals whose incomes were taxable in the higher surtax brackets from escaping personal income taxes by letting their profits be accumulated as corporate surplus. Its purpose was also to encourage the distribution of corporate profits so that the individual recipients could freely determine where they would reinvest in a free capital market.

It is true that the form of the 1936 tax worked a hardship on many of the smaller corporations. Many months ago I recommended that these inequities be removed.

But in the process of the removal of inequities, we must not lose sight of original objectives. Obviously the nation must have some deterrent against special privileges enjoyed by an exceedingly small group of individuals under the form of the laws prior to 1936, whether such deterrent take the form of an undistributed profits tax or some other equally or more efficient method. And obviously an undistributed profits tax has a real value in working against a further concentration of economic power and in favor of a freer capital market.

(7) *Bureau of Industrial Economics.* Creation of a Bureau of Industrial Economics which should be endowed with adequate powers to supplement and supervise the collection of industrial statistics by trade associations. Such a Bureau should perform for business men functions similar to those performed for the farmers by the Bureau of Agricultural Economics.

It should disseminate current statistical and other information regarding market conditions and be in a position to warn against the dangers of temporary overproduction and excessive inventories as well as against the dangers of shortages and bottleneck conditions, and to encourage the maintenance of orderly markets. It should study trade fluctuations, credit facilities and other conditions which affect the welfare of the average business man. It should be able to help small business men keep themselves as well-informed about trade conditions as their big competitors.

No man of good faith will misinterpret these proposals. They derive from the oldest American traditions. Concentration of economic power in the few and the resulting unemployment of labor and capital are inescapable problems for a modern "private enterprise" democracy. I do not believe that we are so lacking in stability that we shall lose faith in our own way of living just because we seek to find out how to make that way of living work more effectively.

This program should appeal to the honest common sense of every independent business man interested primarily in running his own business at a profit rather than in controlling the business of other men.

It is not intended as the beginning of any ill-considered "trust-busting" activity which lacks proper consideration for economic results.

It is a program to preserve private enterprise for profit by keeping it free enough to be able to utilize all our resources of capital and labor at a profit.

It is a program whose basic purpose is to stop the progress of collectivism in business and turn business back to the democratic competitive order.

It is a program whose basic thesis is not that the system of free private enterprise for profit has failed in this generation, but that it has not yet been tried.

Once it is realized that business monopoly in America paralyzes the system of free enterprise on which it is grafted, and is as fatal to those who manipulate it as to the people who suffer beneath its impositions, action by the government to eliminate these artificial restraints will be welcomed by industry throughout the nation.

For idle factories and idle workers profit no man.

(NOTE.—In the foregoing message, I called attention to the growing threat to democracy which was inherent in the ever-increasing concentration of economic power in the hands of a comparatively small group of corporations and individuals; and that allied with that threat was the danger which comes from a business system which does not provide employment, and produce and distribute goods in a way which provides an acceptable standard of living.

I called attention to statistics of the Bureau of Internal Revenue, showing the growing concentration of economic power as revealed in the ownership of corporate assets, in the income and profits of corporations, and in the income and property of individuals. I also pointed out the financial control which had developed over all forms of American industry.

There was also included a statement showing the effects of the decline of competition on employment and general living standards. General suggestions were made for a program of action involving: improvement of anti-trust procedure; more rigid scrutiny of mergers and interlocking relationships; restriction of abuses involved in concentrated financial controls, including investment trusts, and bank holding companies; supervision of trade associations; amendment of patent laws, to prevent the suppression of inventions and the creation of industrial monopolies; adoption of tax policies to give encouragement to competitive enterprise; and the creation of a Bureau of Industrial Economics to supplement and supervise the collection of industrial statistics by trade associations, to disseminate current statistical and market information, and perform generally for business men functions similar to those performed for the farmers by the Bureau of Agriculture Economics.

In response to the foregoing message, the Congress adopted Public Resolution No. 113, 75th Congress, approved June 16, 1938 (52 Stat. 705), creating the Temporary National Economic Committee. This was a joint legislative-executive committee, and its duties were:

"(a) To make a full and complete study and investigation with respect to the matters referred to in my message of April 29, 1938, on monopoly and the concentration of economic power in, and financial control over, production and distribution of goods and services; and to hear and receive evidence thereon, with a view to determining, but without limitation, (1) the causes of such concentration and control and their effect upon competition; (2) the effect of the existing price system and the price policies of industry upon the general level of trade, upon employment, upon long-term profits, and upon consumption; and (3) the effect of existing tax, patent, and other Government policies upon competition, price levels, unemployment, profits, and consumption; and to investigate the subject of governmental adjustment of the purchasing power of the dollar so as to attain 1926 commodity price levels; and

"(b) To make recommendation to Congress with respect to legislation upon the foregoing subjects, including the improvement of antitrust policy and procedure and the establishment of national standards for corporations engaged in commerce among the states and with foreign nations."

The committee was composed of three members of the Senate, appointed by the President of the Senate; three members of the House of Representatives, appointed by the Speaker of the House of Representatives; and one representative from each of the following departments and agencies, designated by the respective heads thereof: Department of Justic, Department of the Treasury, Department of Labor, Department of Commerce, the Securities and Exchange Commission, and the Federal Trade Commission.

The final report of the Temporary National Economic Committee pointed out that its unique character, made up, as it was, of equal numbers of legislative and administrative members of the federal government, gave it unusual opportunity for thorough study of the concentration of economic power. The close relationship which was thus provided with federal agencies served to make available well-developed research, vast collections of statistics, and much data which customarily do not become public information, and which are not systematically made available to congressional committees.

The Temporary National Economic Committee began its public hearings on December 1, 1938, with an economic prologue presented by Isador Lubin, Commissioner of Labor Statistics, Department of Labor; William L. Thorp, adviser on economic studies, Department of Commerce; and Leon Henderson, executive secretary of the Committee. Their testimony dealt with the amount of employment, salaries and wages, national and gross farm income, and dividends which had been lost during the depression; the extent of concentration in various industries by number of employees, assets, and amount of production controlled; the amount of unemployment and the size of the labor supply; the basic assumptions of the American competitive capitalistic system; and the problems confronting the Temporary National Economic Committee.

The hearings, which continued intermittently until April 29, 1940, covered a wide range of subjects including, among others: patents, monopolistic practices in industries, consumer problems, savings and investment, problems of small business, cartels, the effect of wars on prices, interstate trade barriers, the impact of technology upon the worker, and detailed studies of certain industries, including construction, petroleum, iron and steel, copper, life insurance, and investment banking.

More than thirty-one volumes of hearings were published by the Temporary National Economic Committee. Only a few of the outstanding facts elicited in some of the more important hearings can be set forth within the space limitations of this volume.●

CONGRESS IGNORED THE TAX REVOLT

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. COLLINS of Texas. Mr. Speaker, few events have shaken the political landscape as much or as quickly as did proposition 13 in California last June. With the largest voter turnout in State history, Californians fired the first shot in what has since been recognized as the "tax revolt."

More than 22 States are now considering proposition 13-type proposals to slash taxes, balance State budgets, and eliminate wasteful bureaucracies in our State capitals from Oregon to Texas and Maine to Michigan.

Unfortunately, the liberals who control taxes seem to think that if they just ignore the tax revolt long enough it will go away. Despite all their talk about cutting taxes, eliminating unneeded bureaucracies, and balancing the Federal budget, the big spenders vote for more spending, more taxes, and more bureaucracy.

For example, just 2 days after the proposition 13 quake shook California, the Congress in Washington passed—over my opposition—the latest in a series of New York City bail-out bills. This bill provided New York City's free-spending politicians with $2 billion in new loan guarantees. Thus, New York City can continue to pay its garbagemen nearly $16,000 annually and its teachers $19,000, compared to $8,600 and $13,000, respectively, in Dallas, with the taxpayers in Dallas now footing the bill for both.

Another city for which taxpayers all across America must pick up the tab is Washington, D.C., whose bureaucratic inhabitants directly benefit by expansion of the Federal work force. Let us look at another comparison between a city like Dallas, which must pay its own way and is therefore careful with spending, and a "bailed-out" city that is supported by others and thus sees nothing wrong with spending freely. An unwed mother in Texas receives $116 a month in Texas, while she is awarded $257 in Washington—more than double the Texas payment. An unwed mother with three children in D.C. gets 224 percent as much as a woman in a similar situation in Dallas.

In September of this year, Joseph Califano, Secretary of Health, Education, and Welfare, released the results of a computer matchup conducted by his Department to match lists of Government employees with lists of welfare recipients. For those of us who have observed the Washington bureaucracy at work, the results were not surprising—216 of HEW's own employees in Washington, D.C., are collecting monthly welfare checks for which they are ineligible. No wonder Secretary Califano estimated total HEW losses of $7.2 billion due to fraud, waste, and mismanagement.

Two months after proposition 13, the House had a chance to vote for the Kemp-Roth proposal for an across-the-board 30-percent cut in Federal income taxes. This major tax reform would have given back to millions of Americans a far larger portion of their earnings each week. In addition to allowing hard-working citizens to keep more of the fruits of their labor, Kemp-Roth would have created millions of new jobs, stimulated private savings and investment, and helped dampen inflation. But Congress voted "no."

Foreign aid is one of the worst offenders when it comes to wasteful Government spending. On the same weekend that Time magazine announced poll results that showed 77 percent of all Americans in favor of reducing foreign aid, Congress passed the largest foreign aid bill in American history. It provides $7.2 billion for 101 countries all over the globe, including Uganda, Cambodia, Vietnam, Cuba, and Panama. Our aid to the Marxist regime ruling Panama now totals $1,000 for every man, woman, and child in the country.

Mr. Speaker, I support measures requiring a balanced Federal budget, limitations on the taxing power of Government, and an expansion of the initiative and referendum at both the State and the Federal level. Let us return control of the Government and the economy to the people. The tax revolt has made abundantly clear the desire of the American people that their Government tax and spend wisely, frugally, and, above all, responsibly.●

DISTRIBUTIVE EDUCATION IN BRIDGEPORT

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. McKINNEY. Mr. Speaker, at a time when unemployment is a pressing national problem to which expensive solutions are constantly being proposed, it is refreshing to learn of a program which is extremely effective, yet costs the taxpayer virtually nothing. I am referring to the Distributive Education Clubs of America (DECA). Maintaining chapters in high schools nationwide, DECA provides an essential service by preparing students for gainful employment upon graduation.

One such chapter is the Lafayette Plaza Distributive Education program in Bridgeport, Conn. Under the able directorship of Mr. Bruce Dardick, the Lafayette Plaza chapter exemplifies the goals which distributive education can achieve. For example, students from Bassick, Central, and Harding High Schools in Bridgeport, who make up the Lafayette Plaza chapter, recently went to the Connecticut Career Development Conference and placed first in the Free Enterprise project and second in the Creative Marketing Research project. Projects such as these are extremely valuable because they teach DECA students about the realities of the free enterprise system and the world of work.

As a cooperative program, cosponsored by the school, community, and business sectors of Bridgeport, the Lafayette Plaza chapter has also undertaken a wide range of service projects in the city. It has raised funds for a number of worthy causes such as Easter Seals, the Heart Fund, Muscular Dystrophy, and a home for the elderly. It has also organized a Red Cross blood bank and conducted a major survey of 1,500 local firms to gather important information on the greater Bridgeport job market. These civic-minded projects instill in the students a sense of being contributing members of the community.

Distributive Education is a unique concept because it gives high school students the chance to prepare for entrance into a job market which will offer opportunities for individual achievement, growth, and advancement. I believe that it is especially significant to note the benefits of distributive education to those who are underprivileged, receive little or no motivation from home, and are largely unaware of the responsibilities of working for a living. DECA is directly involved in helping young persons who would otherwise be prime candidates for unemployment.

The Lafayette Plaza chapter works to assist students to become contributing members of society in a number of ways. The practical experience that they gain from their part-time jobs helps students to develop realistic career goals. The specialized instruction provided by merchants and businessmen who volunteer their services offers these young people the opportunity to gain the skills and knowledge within a particular area which will eventually aid them in obtaining gainful employment. And the Lafayette Plaza chapter also actively cooperates with the Bridgeport business community in providing job placement services for the students.

In my opinion, the most noteworthy aspect of DECA is that it attacks the problem of unemployment at its roots. By preparing high school students for a lifetime of fulfilling work before they leave school, Distributive Education drastically reduces the possibility of those involved in the program from becoming mere numbers in the unemployment rolls. This course of action is unquestionably far more desirable than costly Federal programs which are designed to alleviate the problem of unemployment after the fact.

Finally, I wish to urge my fellow Members to take an active interest in this worthwhile program. I commend the Lafayette Plaza chapter of DECA for their fine accomplishments; I am certain that it will continue to serve the students and community of Bridgeport in an innovative manner. Distributive Education, by assisting our young people to find satisfying employment, providing worthy services to local communities, and strengthening the national economy, is truly a program to which we should all give our wholehearted support.●

IRISH GOVERNMENT CONTINUES TO DEMONSTRATE ITS DISREGARD OF HUMAN RIGHTS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BIAGGI. Mr. Speaker, just over 3 months ago I conducted a special order to place into the RECORD, a report by Amnesty International detailing human rights violations in the prisons of Northern Ireland. A number of my colleagues joined me in this special order and on a regular basis the 78 specific cases in the report have been placed in the RECORD.

Following the submission of the amnesty report the Irish Government created an independent committee chaired by Judge Barra O'Briain to develop new safeguards to reduce the incidences of human rights violations. The committee just recently released their report accompanied by a series of recommendations. The Irish Government has virtually rejected all the recommendations. At the conclusion of my remarks I will insert the October 9, 1978, press statement by Amnesty International detailing the Government's response.

I am greatly concerned about this development and the continuing disdain which the Irish and British Government have for basic human and civil rights for the people of Northern Ireland. Detailed reports have been filed by other respected organizations including the European Courts and Commission on Human Rights as well as the Association for Legal Justice. They, too, cite rampant human rights violations and civil rights deprivations of those alleged to have committed crimes.

As chairman of the 119-member Ad Hoc Congressional Committee for Irish Affairs I will travel to Ireland during the week of November 12. In addition to meeting with a cross section of groups about their participation in a committee-sponsored peace forum. I also intend to monitor the status of selected human rights cases as provided to me by Fathers Faul and Murray of the Association for Legal Justice.

I have charged before and I do again that Northern Ireland under the direct rule of Great Britain has one of the worst human rights records of any nation. Yet absent the ad hoc committee, the reaction in this nation is non-existant. This is especially distressing as it relates to our administration which has built a solid international reputation by championing the cause of human rights around the world. Yet with Ireland, there has been a strange silence. I implore the President to break the silence, recognize the seriousness of the human rights problems in Northern Ireland, and work for their cessation. There can be no peace while the violations are ongoing. It is a challenge which must be responded to.

The Amnesty International statement follows:

AMNESTY INTERNATIONAL CRITICIZES IRISH GOVERNMENT'S REJECTION OF SAFEGUARDS AGAINST POLICE BRUTALITY

Amnesty International today (Monday 9 October 1978) strongly criticized the Irish government for rejecting the recommendations of an independent committee set up by the government to advise on safeguards for people in police custody and for the protection of the police from unfounded allegations of maltreatment.

"We are deeply disappointed." AI said. "Amidst considerable public concern, the government established a committee of inquiry and gave it a mandate to suggest practical means of preventing abuses. The government has now rejected the committee's most important recommendations and has evidently decided not to make institutional changes which would prevent recurrence of human rights violations which have taken place in the past."

The independent committee, chaired by Judge Barra O'Briain, was established in October 1977. It followed the submission of the report of an AI mission which concluded that people detained on suspicion of politically motivated crimes had been maltreated by the Irish police during 1975–77. The detainees were held for up to seven days under the Emergency Power Act. The AI mission found that they had been held in complete isolation, beaten and deprived of sleep, food and drink during interrogation.

Amnesty International had called for a "full, independent and public inquiry" into the allegations of maltreatment, but the O'Briain Committee's terms of reference excluded investigation of individual cases. AI representatives gave oral evidence to the committee.

In term of AI's statutory concerns, the most important of the committee's recommendations are that a "custodial guardian" be assigned to all persons, who would be "responsible . . . for the well-being of the person in custody and the safeguarding of his rights"; that detained persons should be allowed prompt access to their solicitors; that a solicitor should have the right to be present during interrogation; that "regulations governing questioning procedures" be drawn up, and that an independent complaints tribunal be established to investigate complaints against the police.

The committee also recommended that "reliance on confessions and self-inculpatory statements should be lessened". AI stressed that the government had made no comment on this essential issue and pointed out that in most Western European countries a conviction cannot be based on a statement made in the presence of police officers only if that statement is later denied or withdrawn by the accused.

The committee had also found that it was common for the police to take people to *Garda* (Irish police) stations "to help the police with their inquiries". According to the committee, some persons brought to *Garda* stations for questioning have erroneously believed themselves to be under detention and not free to leave at will or free to refuse to answer questions. The committee made clear that this practice had "no justification in law" and proposed it be discontinued. The government rejected this recommendation. AI said that by doing so the government appears to have condoned an unlawful practice.

The government published the committee's report on 12 September with a short accompanying statement rejecting the main recommendations and expressing reservations about others. * * *

In a memorandum to the Irish government, made public today, Amnesty International said that the committee had put forward important principles regarding protection of people in police custody and had arrived at carefully considered and practicable safeguards. The organization urged the government to reconsider its announced position and to recognize the significance of the committee's work by implementing its recommendations.

By publishing the O'Briain committee report simultaneously with the decision to reject its principal recommendations, the government has excluded the Irish parliament and people from effective public debate on this crucial issue.●

BALANCE(S) OF POWER SERIES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, while a great deal has been written on the subject of deterrence, attention lately has generally—for the most part—focused on strategic nuclear and graduated deterrence. In recent years, discussion about graduated deterrence has more and more centered on only one scenario—that of the short war with increasingly shorter notice, as Gen. Alexander Haig has emphasized—on the European central front.

Mr. Speaker, the European central front is not the only front, nor is a short-war scenario the only possibility for which deterrence must be provided. It is equally possible that conflict between NATO and Warsaw Pact forces could involve the projection of power ashore in a struggle that ancillary actions (for example, the Persian Gulf) might also erupt; and that, in any event we will need our own and not Soviet bottoms to insure our importation of critical and strategic materials would be of some duration.

Should such a situation(s) result the key to allied success and our survival would be not only our capability to reinforce and resupply existing forces, but also maintain our own foreign sources supply. In this event, maritime strength would be crucial to effective deterrence but, should deterrence fail, to NATO's and our continuing warfighting capabilities.

In an article recently published in the spring 1978 edition of the Naval War College Review, entitled "The Place of Maritime Strength in the Strategy of Deterrence," George R. Lindsey emphasizes the importance seaborne supply has for effective deterrence. He concludes that—

If the Warsaw Pact can be made to view their prospects for success in a long conventional war as minimal, another step will have been taken toward the deterrence of all forms of aggression. Such an objective coincides with the ultimate purpose of the North Atlantic Alliance.

The article follows:

THE PLACE OF MARITIME STRENGTH IN THE STRATEGY OF DETERRENCE

(By George R. Lindsey)

A great deal has been written on the subject of deterrence. However, most of the at-

tention has been concentrated on strategic nuclear deterrence and on graduated deterrence for the European Central front. There are many other forms of deterrence and the purpose of this paper is to discuss the place of maritime strength as a deterrent to all forms of aggression against the North Atlantic Alliance.

The establishment of strategic nuclear deterrence between NATO and the Warsaw Pact Organization (WPO) is one of the most important developments of the 20th century and it can be argued, through not logically proven, that it has prevented a third world war. However, now that its ultimate sanction has taken the form of mutually assured destruction of dozens of great cities on both sides, there is a real question as to just what forms of aggression are actually being deterred today. The all-out nuclear surprise attack—yes. The rapid escalation of a conflict that began in a limited way—perhaps. But the threat of mutual suicide is not very credible for any situation falling short of the deadliest of threats to national survival itself.

NATO must be in a position to deter much less serious threats, or to deal with them in an adequate manner should deterrence fail.

The Limitations of Graduate Deterrence in Central Europe. The greatest threat to NATO is considered to be on the European Central front, where the WPO is able to concentrate greatly superior armored forces in selected areas. With short overland lines of supply the WPO can reinforce faster than NATO, at least during the first few weeks of a buildup. A rapid break through could allow deep penetration into the rather narrow area bounded by the Iron Curtain to the east and the Rhine and the North Sea to the west.

NATO's means of deterring such aggression is seen as provision of frontline forces well-equipped for defense against armor, backed up by the threat of escalation through tactical use of nuclear weapons on the battlefield and against lines of supply.

It is possible that the conventional defenses or the threat of the actual use of nuclear weapons will succeed in stopping the advance early, and that military operations will cease at this point. But it seems far more probable that the WPO would only initiate an attack after careful calculation that NATO's conventional forces will be inadequate to bring it to an early halt, and that tactical nuclear weapons (TNW) will be used by both sides. In fact the WPO is very likely to initiate the use of TNW themselves. Soviet writings [1] suggest that it would be their policy to use every tactical weapon—nuclear, chemical, and conventional—in the land battle right from the beginning, aiming for rapid territorial gains before NATO can bring in reinforcements.

It is by no means certain that TNW will help the defense more than the offense. What is quite possible is that their use will destroy a large part of the main combat units of both sides, leading to a pause for negotiation or leaving the issue to be decided by those reinforcements which can get into place in adequate strength. In either case, everything will then depend on reinforcement.

Too many of the discussions of graduated deterrence have confined themselves to this one scenario—the short war on the European Central front—and have recorded a satisfactory conclusion when NATO's strategy enforces a "pause." It is the contention of this paper that such an eventuality is likely to mark the beginning of a war that may last for months, proceeding under the threat of use of strategic nuclear weapons but not in fact seeing them used.

Equally important, the short war on the European Central front is only one of many scenarioes that need to be studied and for which appropriate deterrence must be provided. The European Central front is not the only front, and the contest between NATO and the WPO is not confined to battlefronts alone. In fact, the best opportunities for deterrence to be effective may be in times of tension short of war and in areas far removed from the European Central front.

The need for deterrence of all forms of aggression. NATO has two principal objectives. The first is to deter any of the aggressions from being attempted at all. The other objective is to be able to cope with aggression should deterrence fail. The first objective, deterrence, is the more desirable but it is the obvious ability to succeed in the second which will attain the first.

In planning NATO capabilities, we should assume that the WPO will think of every form of pressure from legitimate competition upwards, plan, conduct war games and analyses, and forecast the ultimate results. If the WPO's estimate of NATO's capabilities and of its will to employ them is high enough, then the WPO will conclude that no aggression will be successful. In this event, NATO has succeeded.

The possible WPO activities can be divided into five categories as follows:

1. Legitimate competition in conditions of peaceful coexistence.
2. Harassments short of overt warfare.
3. Conventional war.
4. Tactical nuclear war.
5. Strategic nuclear war.

It is not sufficient to estimate which of these five is the most likely, and then plan our capabilities for it alone. With the advantage of the initiative, the opponent's offense will be selected after an assessment of our defense, and we must be able to deter all types of aggression in the last four categories.

Competition in conditions of peaceful coexistence. Short of actual aggression, one must expect the U.S.S.R., as a superpower of growing strength and confidence, to use the normal means of asserting its influence on the international scene. This should be accepted as a condition of peaceful coexistence and need not be deterred. But unless the West is content to see its power and influence shrink it must be prepared to compete with the Soviets, and to hold its own in a world which, though it may not be violent, will be nevertheless competitive.

Soviet prominence in the competition for world prestige extends over many fields, from space to sports, but in recent years, few, if any areas have had more attention than naval presence. The quality of the new Soviet ships and armament and the way in which their operations have been extended into new parts of the world offer a challenge to the West which has not been very effectively answered.[2]

NATO has confined its naval operations to the North Atlantic and Mediterranean theaters. But its vital interests extend to farther seas including the oil routes from the Middle East, the Caribbean, and the Indian Ocean.[3]

The establishment of Soviet bases on the African coasts represents gains for them in "peaceful coexistence." Well-conducted port visits and visible presence of impressive naval strength expand their influence in other areas and support the activities of political agents ashore.[4]

The best counteraction by NATO is offsetting naval presence. The alternative is erosion of influence, loss of prestige, and possible loss of access to ports or waters now available to NATO ships.

A dividend from effective competition in peacetime is that respect for NATO's naval forces and an appreciation of their capabilities will contribute to deterrence of all forms of aggression.

Deterrence of harassment short of war. Harassment short of overt warfare may not have the immediate dangers inherent in active combat. But it could have serious long term implications of a political, economic, and psychological nature that could undermine the North Atlantic Alliance. Any weakness in NATO's collective political will to commit our forces, as perceived by the WPO, will reduce our powers of deterrence as the latter depend on the opponent's estimate of what we will do, rather than what we can do.

Harassment of NATO countries or of alliance interests could be carried out on the oceans or in the air, and on any continent. It could be associated with conflict between countries not members of NATO, such as in the Middle East or Africa, or with economic transactions, such as the supply of oil from the Persian Gulf. It could come during bilateral negotiations, perhaps over rights around islands or coastal locations of strategic importance such as Svalbard, over rights of passage of warships, or over fishing or other exploitation of the sea. Recovery of a lost submarine, aircraft or space vehicle could easily lead to threatening manifestations, and interference with naval or air exercises or weapons trials could develop. It is quite possible that an economic blockade could be declared by some countries and opposed by others.

Most of the possibilities just mentioned are likely to involve naval forces although many of the circumstances will not necessarily call for sophisticated weapon systems. Many of the situations could involve a single NATO country in a way that would make it difficult for forces from an Allied country to be helpful. A conclusion would be that each NATO partner should maintain at least some general purpose maritime forces rather than trying to build up an Allied fleet composed of specialized national contributions. However, the cost of aircraft carriers and nuclear submarines certainly precludes their presence in most of the small navies.

Deterrence of Land/Air War in Europe. It is not the intention of this paper to criticize the priority that has been given to consideration of the first few days of the conventional land/air battle and the introduction of theater nuclear weapons into the land/air battle. From the point of view of deterrence, these probably should be the items of first priority. If NATO cannot deter a land attack, or halt one, then its prospects are bleak indeed. However, for the defender it is not enough to concentrate everything on the deterrence or defense of one or two types of attack, nor on the operations of the first few days only. Suppose that NATO can hold the Pact for 30 days without recourse to TNW. This is highly desirable but what happens next? If the Pact foresees that it can win in 60 days, 90 days, or longer, it will continue, and NATO may still have to face the option of escalation or defeat. But at this stage NATO's chances depend on reinforcement and resupply, mainly coming across the Atlantic in ships.[5] The longer the battle lasts, the greater the opportunity for NATO's superior economic, industrial and manpower potential to be brought to bear.

In addition to the land/air war in Central Europe, both conventional and nuclear, it is necessary to deter aggression on both of NATO's flanks. Although the size of the formations could be smaller the difficulties of reinforcement and supply will be considerably greater and very dependent on sealift. Timely passage and safe delivery of merchant ships crossing the North Sea, Norwegian Sea, or Mediterranean could pose particularly difficult problems of antisubmarine and

Footnotes at end of article.

especially antiaircraft protection, whereas the Pact is well placed for resupply overland.

In the United States, the objectives of naval strategy are often expressed in terms of projection of power ashore and sea control, and sea control has a number of requirements of which protection of the sea lines of communication is only one. The ability to project power ashore provides deterrence of harassment, conventional war, and all levels of nuclear war, but it probably has its greatest effect on deterrence of conventional war on the flanks of NATO. The capability of controlling key areas of the seas has an extremely important function in deterring harassment and conventional war, and while the ability to overcome Soviet surface fleets and allow the presence of NATO strike forces is a factor of some significance, the really vital capability for deterring a long war is the capability to maintain the sea lines of communication.

Deterrence of Tactical Nuclear War. To move up to the higher levels of violence, it seems difficult to identify a strategy by which NATO can deter directly the tactical use of nuclear weapons at sea other than through the general fear of widespread devastation should a conflict escalate to general nuclear war. The war at sea will be very asymmetric: NATO depends on the use of the sea, the WPO will wish to deny it. Some of the various antiship weapons, e.g., air-to-surface missiles, torpedoes, and missiles launched from submarines and surface ships, cannot carry a large enough conventional warhead to ensure sinking or even neutralization of a large warship with one hit. With a nuclear warhead they could be certain of destruction with a direct hit, and with a properly placed burst might be able to destroy or seriously damage more than one ship. Should seaports be attacked, nuclear weapons could render them unusable for extended periods.

It is true, of course, that the kill probabilities of NATO's antisubmarine and antiaircraft weapons would be enhanced by the use of nuclear warheads, provided that they can be launched and guided, but this could be more than offset by deterioration in the performance of sonar and radar following a nuclear detonation. The balance would move in favor of those wishing to render the seas impassable.

A certain element of passive deterrence is added when NATO warships are designed to operate under conditions of radioactive fallout but this is not being done for merchant ships.

Graduated deterrence in the form of the ability to attack land targets, especially on the northern flank and in the early stages of the tactical use of nuclear weapons, can make use of naval power. Carrier-based air is extremely flexible in application, well suited for surprise, able to deliver conventional or nuclear armament, and capable of defense of its base. If long-range sea-launched cruise missiles become available, they also ought to be a valuable asset for graduated deterrance.

It is sometimes suggested that there could be a war, even a nuclear war, at sea but not on land. Used at sea, nuclear weapons will not inflict collateral damage on population and are unlikely to produce excessively dangerous radioactive fallout at great distances. The scenario would be favorable to the Warsaw Pact, which can live without seaborne imports and which can supply its troops by land. If NATO's carriers and missile submarines were subject to nuclear attack at sea, but were unable to use their own nuclear weapons for projection of power ashore, the balance would be further shifted in favor of the WPO.

Deterrence of Strategic Nuclear War. At the highest level of violence—strategic nuclear war—the relative invulnerability of the current nuclear-powered ballistic missile submarines and the increasing invulnerability of those equipped with the longer-range submarine-launched ballistic missiles (SLBMs) gives them the key role in provision of assured retaliation.

The two methods of deterring the Soviets from using SLBMs against NATO's cities are by the threat of retaliation in kind, which is very effective, and by the threat of destroying the nuclear-powered ballistic missile-firing submarines (SSBNs). The latter is a less effective deterrent, especially for the nonaggressor, because of the difficulty of locating SSBNs and the very short time that it would take them to launch their missiles. An aggressor planning a surprise first strike would carry out synchronized attacks on hostile SSBNs to the extent that he was able.

An argument is sometimes offered against the desirability of developing an anti-SSBN capability. It identifies SLBMs as the weapon system contributing the most to the stability of strategic nuclear deterrence. The reasoning depends on the distinction between an offensive first strike, aimed against the opponent's weapons and intending to disarm him before he can retaliate, and a retaliatory second strike, intended to punish the aggressor by destroying his cities. For deterrance to be stable, both sides must be able to deliver the retaliatory second strike even after receiving a counterforce first strike. Submerged in the middle of the ocean, an SSBN is not likely to be vulnerable to a counterforce first strike.

Moreover, while the SLBMs of yesterday and today have an accuracy and a payload quite adequate for retaliation against population targets, they might not be very effective in an attack on buried and hardened ICBM silos. Therefore, the SSBN of the 1970s can be described as a retaliatory second strike weapon, supporting the stability of strategic nuclear deterrence. This argument concludes that an anti-SSBN capability would be destabilizing and an extension of the argument against developing an anti-SSBN capability is that any form of antisubmarine capability is undesirable and destabilizing, in case the antisubmarine forces may mistake an SSBN for an attack submarine.

There are strong counterarguments to this thesis, particularly from the point of view of a NATO participant rather than a detached neutral observer. Although the SLBM may be better designed for retaliation, it certainly could contribute to a first strike. Today's SLBMs are sufficiently powerful and accurate to attack airfields, ports, and command centers, often described as "time sensitive targets" as the exposure of valuable assets can be greatly reduced if warning is available. In a few years Soviet SLBMs are likely to have Multiple Independently Targetable Reentry Vehicles able to destroy pinpoint hard targets. Moreover, the surveillance and tracking of the movements of SSBNs provides intelligence useful for two highly stabilizing purposes: when nothing unusual is building up, the adversaries should be aware of this; and, in times of tension or crisis, balanced and sensible reactions are more probable from a participant who is confident that he has reliable knowledge regarding the activities of his opponent. These considerations support the value for stable deterrance of the ability to detect the movements of SSBNs. As regards destruction of SSBNs, there is an extraordinarily difficult time constraint—unless NATO is the aggressor, it would need to be able to carry out the destruction of Soviet SSBNs within seconds, or at most a very few minutes, of an H-hour which will remain unknown until the moment of truth.

A reason to strengthen antisubmarine capability is to protect friendly SSBNs from their chief enemy, the SSN. To the extent that anti-SSBN kill capability to be exercised in synchronism with a strategic first strike is destabilizing, a pro-SSBN protection capability is stabilizing.

Thus, the ability to conduct surveillance of the movements of submarines contributes to the stability of deterrence of nuclear war. As regards deterrence of conflicts below the nuclear level, it would be difficult to conceive of a more disastrous policy for NATO than to weaken its antisubmarine capability. It can be assumed that Soviet SSBNs placing themselves within range of NATO antisubmarine forces do so in the knowledge that they may not be distinguishable from other classes of submarines.

The Place of Maritime Strength. It is clear that all the dimensions of seapower including merchant cargo shipping, fishing fleets, icebreakers, coast guards, and other miscellaneous components in addition to naval forces, have great significance for the economic well-being of nations and alliances. In considering deterrence of war we are primarily concerned with military rather than economic contests, but in at least one case, that of the long conventional war in Europe, the success of NATO forces will depend on seaborne supply and this requires the merchant tankers and cargo ships as well as the naval escorts to protect them. To be able to deter a long war NATO needs the services of a large number of merchant ships, although they may not have to fly the flags of the member nations, and also the seaports able to load and unload them. Fortunately, adequate tonnages are available and the ports have the necessary facilities.

To the role of protection of shipping we should also add that of projecting power ashore through means such as amphibious landings and bombardment by carrierborne aircraft and gunfire.

To summarize the role of naval strength in deterrence:

Harassment short of war can occur in many forms. The sea probably offers the WPO the greatest variety of opportunity, especially if its naval forces attain local superiority over those of NATO. The most appropriate reaction is likely to be presence in adequate strength, which is also the requirement for legitimate competition in peacetime.

Although a conventional war at sea only, with no active hostilities on land, may not seem very probable it could appeal to the WPO, and is best deterred by NATO naval strength. Naval power may not have much influence on a short conventional land campaign in Europe once it has broken out and unless the region of operations permit projection of power ashore, but any contest lasting long enough to require extensive reinforcement and resupply puts a heavy requirement on NATO (though not on the Pact) for establishment and maintenance of sea lines of communication. This demands both cargo ships and forces to protect them, as well as terminals able to load, unload and deliver. For maritime deterrence of conventional war the requirement is that the enemy recognize that supplies will be delivered in spite of his attempt to cut the communications.

Deterrence of the introduction of nuclear weapons into a land battle by the WPO may depend on the ability of NATO's land and air forces to retaliate in kind, although some support for them can be provided from carrier-based and ballistic missile submarines. The main contribution of NATO maritime forces to the prevention of use of TNW is to supply and support the conventional land battle so effectively that NATO is not obligated to be the escalator.

The maritime contribution to direct deterrence of strategic nuclear war is the SSBN, arguably the most important element of the strategic nuclear triad of ICBM, bomber and submarine. And, in addition to the provision of mutual assured destruction, the deterrence is stabilized by surveillance of the movements of Soviet submarines.

Thus, naval power has a role to play across the entire spectrum of deterrence, and especially in the earlier stages of flexible response. The essential requirements are for general purpose strength to deter maritime adventures short of war, protection of the sealanes to deter a long war on land, and continued guarantee of nuclear retaliation by SSBNs to deter strategic nuclear attack.

This last capability is in a very satisfactory state and it is difficult to see what more can be done to deter strategic nuclear war. In fact, strategic nuclear war is so effectively deterred that it has become extremely unlikely to occur and correspondingly less credible as a deterrent to lesser forms of aggression. So far as maritime forces are concerned, priority for improvement should go to the second capability—guarantee of the sealanes. If the Warsaw Pact can be made to view their prospects for success in a long conventional war as minimal, another step will have been taken towards the deterrence of all forms of aggression. Such an objective coincides with the ultimate purpose of the North Atlantic Alliance.

Fortunately, most of the units of maritime power have the flexibility to be effective in the legitimate competition of peaceful coexistence, and for deterrence of most of the forms of aggression. These are the purposes for which they should be acquired and used.

FOOTNOTES

[1] Marshal V. D. Sokolovsky, *Soviet Military Strategy*, 3rd ed., edited by Harriet F. Scott (London, Macdonald and Jane's, 1975), V. Ye Sarkin, "Tactics-Characteristics of Modern Warfare," *Strategic Review*, Fall 1974, pp. 120–124. William F. Scott, "Soviet Military Doctrine and Strategy: Realities and Misunderstandings," *Strategic Review*, Summer 1975, pp. 57–66.

[2] John Moore, *The Soviet Navy Today* (London: Macdonald and Jane's, 1975); David Fairhill, *Russia Looks to the Sea* (London: Deutsch, 1971); Edward Wegoner, *The Soviet Naval Offensive* (Annapolis: U.S. Naval Institute, 1975); Wolfgang Hopner, "Soviet Global Challenge: The Great Challenge to the West at Sea," *U.S. Naval Institute Proceedings*, December 1975; J. W. Middendorf II, "American Maritime Strategy and Soviet Naval Expansion," *Strategic Review*, Winter 1976, pp. 16–25.

[3] Patrick Wall, ed., *The Indian Ocean and the Threat to the West* (London: Stacey International, 1975).

[4] Michael MacGwire, et al., *Soviet Naval Policy; Objections and Constraints* (New York: Praeger, 1974). See especially Part II, "Soviet Policy and the Third World: Case Studies." MacGwire and McDonnell, eds., "Soviet Naval Influence: Domestic and Foreign Dimensions" (New York: Praeger, 1977). See especially Part VII, "The Soviet Navy and Third World Influence Building." L. W. Martin, *The Sea in Modern Strategy* (London: Chatto and Windus, 1967). See Chapter 7, "Seapower and Non-Belligerent Action."

[5] Frank Case, "Time to Secure the Seas," *U.S. Naval Institute Proceedings*, August 1973, pp. 24–31. Hans Garde, "The Influence of Navies on the European Central Front," *U.S. Naval Institute Proceedings*, May 1976, pp. 160–175.●

TOUGH VACANCY TO FILL

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WAGGONNER. Mr. Speaker, at the close of the 95th Congress many Members will be leaving these Chambers and illustrious careers. The vacancy left by BOB POAGE's retirement will be a tough one to fill.

BOB is a good friend of mine and a good friend of my district, and has been throughout his career, both as chairman and member of the powerful House Agriculture Committee. He has done as much to help the agricultural community in this Nation as anyone and I can tell you, my district being in part agricultural, that we owe BOB a great debt of gratitude. I would like to express my sincere thanks not only for what BOB has done to help my district, but also this great country.

BOB is as well thought of as anyone in this House. He is a man of great wisdom and vision, and his leadership and guidance will be greatly missed. BOB is one of a kind; a distinguished Member and great gentleman.

I wish you many years of happy retirement to enjoy those things which bring you pleasure and thank you for your friendship, BOB.●

THE NATIONAL ENERGY ACT

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BROWN of Ohio. Mr. Speaker, as we all know, the National Energy Act has been the most bitterly controversial piece of legislation which the 95th Congress addressed. And it deserves to be. Because it may well be the worst piece of legislation this Congress has addressed.

The National Energy Act, actually five separate acts, is a travesty. The most monstrous part is the Natural Gas Conference Report. The House leadership recognized that this bill was so weak it denied Members their customary right to vote on it separately. It could not have passed independently.

On its merits, the natural gas bill has four major defects: it is hopelessly complex and confusing; it increases prices to industrial users and consumers without any assurances of significant additional supply; it will unfairly discriminate against the Midwest and Northeast industrial users who are served by interstate pipelines; and it will not contribute to the development of the sound energy policy which we so desperately need.

The 95th Congress was asked by the American people to develop a sound economic energy policy to relieve this Nation of its dependency on foreign oil. The Congress had within its grasp the surest way to accomplish this: give every incentive for the increased production of domestic energy supplies. But this body gave in to arm twisting by the administration, political maneuvers by the leadership of the House, and unfair pressure by special interest groups. In previous statements, I have already detailed the unfair lobbying tactics of the administration where they threatened, promised, and cajoled business leaders into either passive opposition or grudging support for this legislation, which is against their natural interests.

The administration and its spokesmen in the House have presented their contentions of why this bill should be passed. And we, who oppose this bill strongly, have refuted each one. But some of the administration's arguments have seemingly gained credibility by their sheer repetition. The most distressing of these is the false claim that somehow this energy bill will boost the American dollar worldwide.

This is utter nonsense. The collapse of the dollar relates to the continuing inflation of our currency, not to our energy policy. The argument relating this bill to helping the faltering dollar is based on three myths.

Myth No. 1. The dollar's decline is due simply to our balance of payments problem.

Fact. The real culprit is inflation, which this bill will not arrest. Inflation is fueled by our irresponsible Federal deficit. Domestically, inflation pushes up the cost of replacing worn-out equipment and inventory. This causes American investment and output to stagnate and makes our products less competitive, worsening our trade deficit. Internationally, inflation causes foreign financiers to unload dollars—depressing the dollar—and leading to higher prices for both U.S. imports and exports. This is the vicious circle of inflation, the cause of the battered dollar.

Myth No. 2. Energy is the cause of the balance-of-payments problem.

Fact. Oil costs did not cause the balace-of-payments deficit. The U.S. balance-of-payments deterioration and dollar decline did not begin with the quadrupling of OPEC oil prices in 1974. The U.S. trade surplus rose in 1974 from $1.7 billion to $18.4 billion in 1975, and the dollar generally rose against most currencies. The U.S. trade balance did not shift into the red until late 1976, but it deteriorated sharply thereafter. Increased oil imports costs contributed only 17 percent to the total increase in imports. Therefore, oil imports did not destroy our balance of payments.

Every other major industrialized country has the same increased oil import costs. Most of these—including Japan and West Germany—face a greater burden from high-priced oil imports than we do. How can these nations have currencies in better shape than ours? Japan and West Germany control inflation, and so their currencies rise while the dollar falls.

Myth No. 3. Any energy bill, even this counter-productive one, will either solve the balance-of-payments problem or at least fool people into thinking the dollar is sound again.

Fact. Not only is energy not the chief cause of our balance-of-payments deficit, but this bill will not cure that deficit. No energy bill can reverse inflation—but a counter-productive energy bill certainly will not.

Foreign financiers are not fools, and will not believe the United States has solved its trade deficit problems. The underlying weaknesses of the dollar will not be corrected by this bill. But this bill could lead to international distrust of America's willingness to seriously address its inflation and energy problems.

The administration, in a frantic effort to win support, has falsely claimed that this bill will somehow improve the dollar's position against foreign currencies. This is a deception, calculated to trick Members of the House into voting for this bill. Not one responsible economist has supported this argument. It is one more example of the administration's fascination with political symbolism, rather than substance.

In fact, if this bill has any economic effect, it will be the reverse of the President's prediction. Let me map out now, the more reasonable and more likely scenario: the dollar will plunge ever lower against all major currencies in all major markets. The stock market will continue its steady decline. The major private banks of this country and the Federal Reserve will begin to tamper with the prime interest rate. The rate of inflation will rise in reaction to the fall of the dollar.

This chain of events is the more likely result of this bill's passage than the one President Carter and his congressional spokesmen have offered. Traders on the major stock markets, dealers in international currencies, and worldwide bankers, are not going to be fooled by this bill. They will not believe the President's rhetoric. And how can they? Every major economic study has shown that inflation, and not our dependency on imported oil, is the chief cause of our economic woes.

The minority views of the report of the Joint Economic Committee, Review of the Economy, published October 10, 1978, concluded that high taxes, excessive money creation, and burdensome regulation are the methods by which the Federal Government contributes to inflation. How can this energy bill cure inflation, when it adds to burdensome regulation and adds to the high cost of government which leads to high taxes? It simply cannot. As the minority members of the Joint Economic Committee made clear on page 238 of that report:

> The failure to provide a solution to the problems of the dollar and the U.S. balance of payments will have serious consequences for both the U.S. and global economies. It is possible that these strains could lead to the destruction of trade, financial crises, and severe recession.

And on page 235 of that report, we cautioned against what the administration is now doing: trying to solve very real economic problems solely by "jaw boning." The reason the President's rhetoric cannot make the economy get better is because more reasoned minds know his statements to be either untrue or, at best, misleading. "Jaw boning" simply substitutes the appearance of action for action itself.

Those who know the economy know what is needed to harden the dollar, and they know that this energy bill is not it. If this bill is passed, it will prove to the world not only that we do not know anything about sound energy policy, but that we also do not know anything about international monetary policy.

I would advise my fellow Members of Congress to closely observe the behavior of the economy in the next several weeks. Watch the financial pages of your local newspaper when you return home to campaign. Do you really expect to see the dollar rise? I believe you will find evidence in the stock market and in the currency market that this bill will negatively reflect upon America's willingness to deal with its problems.

When President Carter and his spokesmen urge the House to pass this bill, they do not rely on the merits to advance their cause. Instead, they combine a heavy amount of political arm-twisting, payoffs, and threats with a series of deceptive claims such as this one. This bill has severe faults and should not be passed. Do not let the smokescreen blind your sight.

This bill will hurt America's attempt to become energy independent, and may well hurt the collapsing dollar. Our economy cannot withstand much more punishment without slipping dangerously into a recession.

When we return in January for the 96th Congress, the troubles of the economy will surely be waiting for us to solve. The White House will probably launch another moral equivalent of war—this time to curb inflation. We may safely predict, based on the President's participation in the energy debacle, that his proposal on inflation will be a massive, contradictory piece of legislation born out of economic ignorance and fostered by political desperation.

Normally, some Congressmen look toward the President and his advisers for guidance on complex economic issues. It would be wiser, however, to look the other way.●

HON. JOHN J. FLYNT, JR.

HON. WILLIAM H. HARSHA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. HARSHA. Mr. Speaker, I would like to join with my colleagues in honoring an outstanding man and an outstanding Congressman—the Honorable JOHN J. FLYNT, JR.

The residents of the Sixth District of Georgia have been extremely fortunate to be represented by such a dedicated, conscientious, and capable legislator during the past 24 years. I am sure they deeply appreciate his outstanding legislative ability and the exceptional service he has given them during his years in the House.

As a member of the prestigious Appropriations Committee, Jack has contributed significantly to the accomplishments of the committee by his sound judgment and his knowledgeability of various legislative areas. However, it was by his service as chairman of the House Committee on Standards of Official Conduct that he particularly distinguished himself. In this most sensitive position, he exhibited a high degree of responsibility and courage and discharged the duties of chairman with fairness and compassion.

It has been a genuine pleasure and privilege to serve with JACK in the Congress, and I would like to join with his many other friends in wishing him many happy and productive years to come. We will miss his wisdom and wise counsel here in the House.

I consider JACK one of my greatest personal friends and regret that he is leaving the Congress because, in my judgment, he cannot be replaced.●

AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS HEARS FROM FATHER RAYMOND MURRAY OF NORTHERN IRELAND

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BIAGGI. Mr. Speaker, on Thursday, October 12, I and some 20 of my colleagues on the Ad Hoc Congressional Committee for Irish Affairs had the honnor and privilege to hear a presentation by Father Raymond Murray of Armagh, Northern Ireland. Father Murray in collaboration with Father Denis Faul authored the Castlereagh File which provided much of the material for the celebrated Amnesty International report on inhumane conditions in Northern Ireland prisons.

Father Murray told us of the deplorable state of human rights in Northern Ireland. He confirmed much of what many of us have feared with respect to human rights violations. He came to make a plea for greater U.S. interest and concern in this matter. His speech also touched on the very serious unemployment situation facing many in the north. Perhaps one of his most gripping comments described how some families in the north were entering their fourth generation of unemployment.

Father Murray's speech came during the ad hoc committee's final Washington meeting of the 95th Congress. At the Thursday meeting I announced that I would be traveling to Ireland during the week of November 12 at the request of leading Irish American organizations to assess the sentiments in Ireland for the proposed peace forum which the ad hoc committee has been requested to conduct. While in Ireland I intend to monitor certain human rights cases as selected by Fathers Murray and Faul.

I urge my colleagues to read Father Murray's speech very carefully. It is written by a man from the north who has seen the problem firsthand. I hope it will move others in the House to join me on the ad hoc committee as we seek to advance the constructive role the United States should play in bringing peace and justice to Northern Ireland.

Father Murray's speech follows:

REMARKS OF REV. RAYMOND MURRAY BEFORE THE AD HOC CONGRESSIONAL COMMITTEE FOR IRISH AFFAIRS AND LEADERS AND MEMBERS OF THE IRISH NATIONAL CAUCUS, WASHINGTON, D.C., U.S. HOUSE OF REPRESENTATIVES, OCTOBER 12, 1978

Mr. Chairman, Honorable Members of the Ad Hoc Congressional Committee for Irish Affairs, leaders of the Irish National Caucus, I am proud and happy to be here today speaking about human rights in a country

where President, Congress, Senate and Judges are committed to the cause of human rights in theory and practice. They have proven that they can solve problems of the gravest legal and social kind by legal and political means. They have shown to the world the meaning of open and democratic government. They have reconciled the people of America around the ideal of honesty, fair-play, and civil rights for all without factional and sectional violence on any large scale.

In contrast I wish to draw your attention to the sufferings that have been endured over the past seven years by a group of up to 5,000 men and women who have been imprisoned in the north of Ireland. All of them come from the poor areas of northern Ireland. The vast majority of them are Catholic. They are the Irish poor and they have suffered gross violations of human rights. Many of them are the third and fourth generation of unemployment contrived by sectarian British Governments and bigoted Unionist Administrations. They have suffered interment, torture and the shanty-town prison huts of Long Kesh with its sewer-type H-Block. They have suffered the full vigour of emergency laws and special courts, maximum sentences. Against this whole-sale arrest and imprisonment of young Irishmen, we must set the astonishing fact that in the ten-year period—1968–1978—no British soldier or policeman in northern Ireland has served a single day in jail for shooting dead sixty innocent people, torturing eight hundred people, using inhuman and degrading treatment on arrested persons.

What can you do? I appeal to you on three counts: The Truth must be told; Justice must be done; Human Rights and Human Dignity must be respected.

THE TRUTH MUST BE TOLD

(1) Machinery should be set up so that the truth from Ireland can be circulated in Washington and read by Congressmen, Senators and key pressmen. I would urge most strongly that the media in the United States break the wall of silence on violations of human rights in N. Ireland.

(2) More Congresspeople should visit Ireland. Come officially as Mr. Joshua Eilberg and Mr. Hamilton Fish did. I welcome the news of Congressman Biaggi's coming visit and his mention of the proposed Peace Forum. Come through your Consul, Mr. Stout, in Belfast; but tour the ghettos and get the worms-eye view—Turf Lodge, Bellymurphy, the Markets, the Short Strand, the New Lodge Road.

This is not the primrose tour of Mr. Roy Mason, Secretary of State. You will not hear about H-Block prison conditions or the killings of Leo Norney, Maiella O'Hare, and Brian Stewart from the British or Irish Embassies.

JUSTICE MUST BE DONE

(1) Justice must be done. You must back up the Amnesty International Report on N. Ireland, published in June 1978, with all the power of the Congress. Call for a public inquiry into the tortures in N. Ireland, the prosecution of the torturers and the rescinding of all statements taken under oppressive circumstances and by oppressive methods in Castlereagh Police Interrogation Centre and other police centres.

(2) I am addressing many lawyers and pillars of the law steeped in the traditions of the common law. I would like your Committee to investigate the Emergency Provisions Act (N. Ireland-1973), the Diplock Courts, the Prevention of Terrorism Act, and thereby restore the rule of law to N. Ireland.

HUMAN RIGHTS AND HUMAN DIGNITY MUST BE RESPECTED

(1) The constant and particular interest of American Congressmen and Senators is necessary to scrutinize all legislation in N. Ireland in the field of human rights. This is not only to establish independent procedures to end torture and ill-treatment of persons, but to examine the whole area of jobs, housing, the routing of Orange processions, sectarianism in provincial and local government.

(2) The particular interest and assistance of American Congressmen is required to secure the full development of all our people in accordance with their human dignity so that they be allowed to enjoy true religious liberty, full development of Irish culture, and all the resources of Ireland by the Irish people.

In contrast to the number of the population in N. Ireland—which is 1½ million—or in proportion to the adult male Catholic population, the number of grave violations of human rights have been greater in N. Ireland each year since 1971 than in any other country in the world.

The United States Government has shown itself gravely concerned about human rights in Russia, Haiti, Sierra Leone, South Africa. We in Ireland find it difficult to understand why a President and his Congress refuse to make a clear and explicit statement condemning the well-documented and well-proven violations of human rights in N. Ireland over the last seven years. Have the Americans got some inferiority complex in regard to the British? Is the British influence in America so strong that it can pressure the freedom-loving Americans to ignore the catalogue of tortures? It is my opinion that the Irish people are not sufficiently united in speaking out with one voice for human rights for Irish people and for other people. We are a small race in the world compared to Arabs, Indians, Japanese, Chinese. We are sufficiently small to regard ourselves as a family. It is a poor and unworthy family that fails to defend its weaker members, those who are sick, in trouble or in prison. A family weakens itself by showing division if it fails to speak up for its members who are in need or who are experiencing violations of their basic human rights. What we want is to have the Irish in Ireland, the Irish in Britain, and the Irish in the United States of America—all thirty million of them—speaking with one united voice for human rights in Ireland and in the world. The Irish National Caucus has given us the lead—the people at home, the prisoners and underprivileged there are pinning their hopes on them. The federation of Irish in Britain are now also being inspired by their goals.

We Irish are a people dedicated to the highest spiritual and cultural values. When we speak with united voice, we will leave on one side leaders of violence who want exclusive control of prisoners and their relations for political reasons and on the other side certain Marxist elements who want to eliminate the decent middle of the road Irish family men and women and leave only a rump of wild talkers. We want the broad spectrum of Irish people and their friends, in Ireland, in Britain, and in the United States to come together as a united family demanding decent standards for all people and especially for prisoners and the poor. In saying this I do not mean that this is an exclusive American-Irish issue. It is an American issue—it is a humanitarian issue. I am heartened that this is personified in your Committee. The man who chairs this Committee has a most unusual Irish name—Mario Biaggi—and already I have experienced warmth and interest of Congressmen of Jewish, Italian and British descent, to name only a few. This is a tribute in itself to our modern world. Every man is my brother.●

VIETNAM OFFERS UNITED STATES OPPORTUNITIES

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SIMON. Mr. Speaker, shortly before the session adjourned, the 95th Congress adjourned, I received a copy of a magazine called Business Asia which goes to the businessman of Asia.

They published an article called "Indochina Conflict: Five-Year Implications For Regional Policies".

I will insert the article at the end of my remarks, but two paragraphs I will insert at this point.

First, a paragraph that points out the opportunities for the United States:

OPPORTUNITIES FOR WASHINGTON

The US, while in the short term perhaps gaining only new options, stands to reap significant long-term benefits from the 1977–78 Indochina War. Charged by Asians of various political persuasions with abandoning Asia, the US is in an ironic position: both Vietnam and China need it. This may make negotiation of US recognition of Peking easier. At the same time, the US can move more quickly to shore up relations with Vietnam in order to weaken the USSR's position and again give Washington a voice in Indochinese affairs. While substantial US economic aid is not in the cards, US companies will have some access to the Vietnamese market, spelling new competition for Japanese and European firms.

The second paragraph suggests that the United States has much to gain in the area in the long term:

A long-term gainer will be the US. Over time, the Indochina War will prove to China and Vietnam, the non-communist Asian states, and ultimately to the US itself that Washington does have an Asian role that is basically non-military but requires a reasoned display of economic, political, and even military power.

I hope some of my colleagues, as well as some people in the administration will read this article. A more rational policy toward Vietnam makes a great deal of sense for the United States.

INDOCHINA CONFLICT: FIVE-YEAR IMPLICATION FOR REGIONAL POLICIES

(NOTE—The 1977–78 Indochina conflict, which earlier this year appeared to be a relatively localized skirmish (BA '77 p. 410), is forcing a reassessment of key political and foreign policy trends in the region. While China's "solemn" proposal on July 19 to begin bilateral talks with Vietnam at the vice-foreign minister level and Hanoi's quick acceptance may mark a turning point in the conflict, events of the past three months have pushed into the open forces that will shape the Asian policies of the U.S., China, the USSR, Japan and ASEAN over the next five years. The most significant long-term development will be a new role for the US in Asia. Below, BA analyzes the events, offers a description of how the conflict has changed the foreign policymaking nexus for each of the major players, and outlines the policies likely to emerge during the next five years.)

NOT A THREAT

At the beginning of 1978, there seemed to be little danger that the collisions of Vietnam and Cambodia would do more than send ripples throughout the region. The Indo-

china conflict was ostensibly limited to these two states; China was only nominally involved as the Cambodians' chief international supporter. It was not a role that China relished, but Peking kept its word to the Pol Pot regime, aiding it politically, economically, and militarily. In the process, it antagonized Vietnam by intervening in what Hanoi considers its sphere of influence. By end-March, nothing had really changed: the conflict had not expanded, and the ASEAN nations were only mildly disturbed. The region still had not begun to feel the full impact of the discord.

Then, in late March, Vietnamese confiscation of bourgeois properties (mainly of Chinese entrepreneurs in former South Vietnam) was seen in Peking as anti-Chinese in intent. China did not openly respond for two months, even as ethnic Chinese from Vietnam began streaming into south China throughout April and May. Presumably, the hesitation was soundly based: a *volte face* in Peking's overseas Chinese policy toward neighboring Vietnam—from noninfluence to high involvement—might have caused the ASEAN states with their important Chinese communities to reassess their policies toward Peking, just when Peking had made strong and seemingly successful moves to strengthen ties with the Philippines and Thailand.

THE FUSILLADE BEGINS

However, in late May, China openly supported the Vietnamese ethnic Chinese, admitting them into China and lambasting the Vietnamese government for its treatment of them. For three weeks, Peking's propaganda focused on Vietnamese perfidy. Then, in mid-June, Peking officials and media charged that Vietnam's anti-PRC and anti-ethnic-Chinese policies were adopted at Moscow's instigation. In sum, the Vietnamese were taking several unpleasant raps: they were aggressive toward Cambodia, persecuting overseas Chinese, contributing to the worsening of relations with the PRC, and following Moscow's orders. The charges—valid or not—stung Hanoi, especially its sovereignty being called into question by the PRC's tagging it "Asia's Cuba," i.e. another Soviet satellite.

DIPLOMATIC COUNTEROFFENSIVE

The Vietnamese determined not to allow things to stop with these charges, but instead began a multifaceted round of diplomatic maneuvers showing that, if Hanoi was going to be a Soviet pawn, it would be an active and imaginative one. Since it was tied to the USSR anyway, last month it quickly obtained full membership in COMECON. Widely interpreted as evidence of Hanoi's close ties to the USSR, the move also committed COMECON to aiding Vietnam's economy. Within days, China terminated its huge aid program in Vietnam, further pushing Hanoi into Moscow's embrace.

Once the COMECON decision was taken, the Vietnamese began a set of diplomatic moves designed to mollify ASEAN, Japan, and the US—internationalizing what had once been a localized conflict. Hanoi's Japanese gambit was quite astute: following a mildly successful visit to Tokyo by a Cambodian official, Vietnamese Vice Foreign Minister Phan Hien earlier this month went there for eight days. He wooed the Japanese with offers of trade and opportunities for participation in Vietnamese economic development—forcing Japan to consider Vietnam more carefully in its talks with China. He also played Hanoi's "American card." For over three years Vietnam fruitlessly demanded compensation from the US as the price of diplomatic recognition. Phan Hien dropped that pre-condition, forcing the US to reassess its policy toward Hanoi and—indirectly—toward Peking. Finally, he put Vietnam for the first time publicly in praise of ASEAN's positive contributions to peace in Southeast Asia.

THE IMMEDIATE IMPACT

While it may be too early to sort out all the ramifications of the conflict, several are already evident:

China's foreign policy has not come off looking too well. Its support for Phnom Penh and the quick and ruthless decision to terminate aid to Vietnam did little for its image. Peking's hitherto peaceful stance in Asia now could be perceived as pushing Vietnam around, supporting the overseas Chinese, and looking as intemperate as any major power when confronted by an ungrateful smaller one. Perhaps the most serious blow to China is that strong, colluding enemies on its northern and southern frontiers weaken its negotiating position with Japan and the US.

The ASEAN countries are now once again openly worried by the ethnic Chinese issue, and PRC diplomats will have a tough job keeping overseas Chinese in ASEAN states quiet and reassuring host governments that Peking does not want the Vietnam situation repeated. For example, the new PRC ambassador to Thailand, Chang Wei-lieh, in his first interview there reportedly advised local Chinese to integrate themselves well into the local community. But it will not be easy sledding for Chang and others.

The US has new options that have emerged only because Vietnam's conflict with its neighbors got out of hand. Hanoi is now faced with the necessity to be more flexible with the US (and Japan) than was the case before the Chinese politically and economically showed their muscle and Vietnam became closely identified with the USSR. The US cannot easily and quickly accede to Vietnam's desire for normalization because of domestic opposition. Neither is settlement with Hanoi worth the danger of disturbing the Washington-Peking dialogue. Yet removal of the trade embargo, for example, may annoy Peking, but would not seriously damage relations. The US could even consider opening a diplomatic post in a friendly embassy in Hanoi—as has been done in Havana—as a first step toward eventual normalization.

In addition to these immediate implications, the region's political configuration and individual countries' foreign policies over the next five years will be shaped to some extent by the events of the past three months. First, the Sino-Vietnamese relationship will take a long time to heal; the best the upcoming talks—slated to start August 8 in Hanoi—can do is allow China to repatriate more Chinese and the two communist neighbors to restore a measure of civility to their relations. Barring a serious Soviet faux pas, China will not have much influence in Vietnam for a long time to come. It could have preserved its "in" with Hanoi at a cheaper albeit painful price—sacrifice Cambodia and continue the aid program. But now all talk of past amity between Hanoi and Peking is over. The antagonism may not become as deep as that between the USSR and China, but it will remain a strongly divisive force.

VIETNAM STAYS INDEPENDENT

Vietnam will not allow its loss of China as a balancer against the USSR to atrophy its foreign policy. The USSR has gained a client state in Indochina, but Vietnam will not be a Bulgaria, let alone a Cuba. Its nationalism is intense, its ability to maneuver internationally is high, and the USSR is far away. Moreover, unlike Cuba (circa 1961), Vietnam will find the capitalist states eager for economic relations, the US among them. Hence, over the next several years, Vietnam will become an increasingly attractive market for Japan, Europe, and the US. It is not difficult to forecast that, within five years, the Vietnamese could give the rich but heavy-handed Russians a treatment similar to that dished out in recent years by Egypt, Sudan, or Somalia. The Chinese will not be able to claim much credit for that eventuality, but they will benefit.

OPPORTUNITIES FOR WASHINGTON

The US, while in the short term perhaps gaining only new options, stands to reap significant long-term benefits from the 1977–78 Indochina War. Charged by Asians of various political persuasions with abandoning Asia, the US is in an ironic position: both Vietnam and China need it. This may make negotiation of US recognition of Peking easier. At the same time, the US can move more quickly to shore up relations with Vietnam in order to weaken the USSR's position and again give Washington a voice in Indochinese affairs. While substantial US economic aid is not in the cards, US companies will have some access to the Vietnamese market, spelling new competition for Japanese and European firms.

Relations between Vietnam and its neighbors will remain uneasy for some time to come. Laos is already too tied to Vietnam for that situation to change; but China's support for Cambodia, however costly and perhaps ill-advised, leaves the PRC with what it wanted: a pro-Peking, anti-Vietnamese client state in Indochina.

The ASEAN states will keep their guard up against Vietnam and Cambodia: both have shown enough warlike capabilities that they will not be easily welcomed by the five as a group. But bilateral ties will firm up as countries like Thailand try to preserve neutrality between Vietnam and Cambodia—the best tack for the time being. For ASEAN to try to work closely with Cambodia or Vietnam for the foreseeable future would be sheer folly—as the ASEAN leadership has realized. Both communist states (especially Cambodia) have shown they are not ready for the subtleties of ASEAN's noncommunist, nonconfrontation politics.

NEW JAPANESE ROLE

For Japan, the Indochina conflict shows how significant Tokyo's political influence and foreign support are in Southeast Asia. Neither ASEAN, Indochina, nor the PRC can afford to take the Japanese lightly—proof that military might is no longer the only factor that counts when vying for influence. Japan's diplomatic skill, economic strength, and open lines of communication make it a very attractive source of succor and support in a crisis—as Cambodia, Vietnam, and China have all discovered.

Fragmentation among the communist states will continue. The Sino-Soviet relationship has been exacerbated—as if that were possible—by the USSR's flaunting of power on China's southern frontier. But neither communist giant has gained much true support for its behavior in Indochina: China's support from Korea was late and lukewarm; East European and Cuban support for Moscow-cum-Hanoi was vocal, but tempered by the sober realization that Moscow's promises of aid to Vietnam will have to be shared among the COMECON states.

PROLONGED SINO-SOVIET SPLIT

The Indochina conflict has probably given both China and the USSR the best reason in a long time to keep their relations at a low point. Until Soviet power is diluted in the area, China will be even less willing to settle outstanding issues with the Russians, noting the danger posed to it by the Soviet-Vietnam pincer and unwilling to be militarily blackmailed. Hence, the Sino-Soviet rift has been widened at a time when no one thought it could get worse and some felt relations might even improve.

THE BOTTOM LINE

A long-term gainer will be the U.S. Over time, the Indochina War will prove to China and Vietnam, the non-communist Asian states, and ultimately to the U.S. itself that

Washington does have an Asian role that is basically nonmilitary but requires a reasoned display of economic, political, and even military power. Japan will do well, balancing its support and trading actively with all sides. Its role becomes crucial in maintaining stability in the region.

The Chinese, chastened by their mistakes, may move to recoup their losses. Having secured a client state in the area—Cambodia—thereby keeping Vietnam slightly off balance, their next best interest would appear to be to try to mend fences with Vietnam by continuing trade and allowing Soviet overland shipments to Hanoi to proceed unhindered. Finally, Peking will take urgent steps to assure ASEAN that the ethnic Chinese issue in Vietnam was a "special case" and that it will continue to urge Chinese elsewhere in Southeast Asia to integrate themselves into their local environments as best then can. China needs peace, not war or even hostility, on its southern frontier as it proceeds with its economic development plans.

The USSR, because of its early lead, will have to try to fashion a sophisticated policy to take account of its new status in the area. The Russians are unwelcome intruders in Indochina, but needed for the time being by the Vietnamese and Laotians. Chances are slim that they can finesse the situation.●

TRIBUTE TO JOHN J. FLYNT, JR.

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, I am pleased to join my colleagues in pausing on this occasion to pay tribute to the dean of the Georgia delegation, the honorable JOHN J. FLYNT.

JACK FLYNT can take great pride in the number of remarkable legislative achievements from his service on the Appropriations Committee where he has worked diligently and resourcefully for the interests of the Sixth District of Georgia. He has served his constituency and his Nation with great distinction and honor. While JACK FLYNT has been a national Democrat throughout his congressional career and has demonstrated that no Member need to be totally provincial, he has, nevertheless, consistently placed the interests of Georgia first and has done more to help the economy of that State than any other single Member of the House.

Elected to the 83d Congress in 1952, JACK FLYNT and I came to the House of Representatives together and have worked in concert on so many of the major issues that have necessitated congressional consideration and resolution over the last 25 years.

I can recall the mutual support and encouragement throughout the Vietnam era, when JACK and I stood together, sometimes alone, other times, as leading members of a vocal minority in the House which opposed the war. Through persistence, tenacity, and the courage of our strong conviction that what we were doing was the only right course for the United States, we saw our position slowly gain credibility and support until we were finally able to bring about a conclusion of that ill-advised and ill-fated period in our Nation's history.

I shall be forever grateful to JACK FLYNT for his support and assistance in helping the 95th Congress erase the blemish of KoreaGate, not with a whitewash, but with a thorough and complete investigation and for the adoption of the strongest possible code of ethics to govern present incumbents as well as future candidates for Congress, so that this unfortunate incident would not be repeated. I want to take this opportunity to say "thank you, JACK FLYNT, for a job well done." I know it was not easy, and I know the effort that Chairman FLYNT put into the investigation—the fairness of the deliberations and the importance of this institution.

Of JACK FLYNT, it can truthfully be said: He always took the high road, throughout his congressional career, following the dictates of his conscience and his convictions. Political courage, strength of conviction, integrity, and forthrightness were the hallmarks of JACK FLYNT'S political career. JACK FLYNT was a masterful politician—he understood the art of compromise; more importantly, he was a statesman who knew when to compromise and when to stand up and be counted for the strength of his convictions, even if unpopular, because he knew it was the right thing to do.

It has been a great privilege to serve with JACK FLYNT and I am honored to be a fellow member of the 83d class. The class of the 83d, the Nation, and the 96th Congress will sadly miss the competence, advice, and moral courage of JACK FLYNT.

My wife, Millie, joins me in wishing JACK FLYNT great happiness in the years ahead, and to let JACK know my door is always open to him!●

TRIBUTE TO HON. GEORGE SHIPLEY

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. COUGHLIN. Mr. Speaker, it is with a great sense of pride that I join with my colleagues today to pay tribute to GEORGE SHIPLEY, a good friend and one of the most respected Members of the House of Representatives, who is retiring after 20 years of dedicated service to the people of Illinois.

I have had the distinct privilege of working closely with GEORGE on the Legislative Subcommittee of the House Appropriations Committee and was deeply impressed by his thorough and judicious consideration of the complex fiscal and legislative matters facing him as chairman of that subcommittee.

Behind his quiet facade, GEORGE was a firm leader who never hesitated in fighting for a cause in which he believed. His devotion to the strong moral and ethical principles by which he lives, and to his constituents' welfare, provides a shining example to all Members. I will always appreciate GEORGE'S willingness to share his wisdom and guidance over the years I have known him.

The people of the 22d District of Illinois were indeed fortunate to have had for their Representative for over 20 years such an intensely dedicated man and I know that he will be sorely missed in Washington. I extend to GEORGE and his family my gratitude and my sincere best wishes for the future.●

BALANCE(S) OF POWER SERIES BOOK II (L)—PSYCHOLOGICAL WARFARE AND PROPAGANDA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the strategic position of the Soviet Union in its relation to the United States and the rest of the world cannot be considered in isolation from perceptions worldwide of that position. The Soviet Union devotes an impressive amount of attention to influencing international opinion in such a way as to receive maximum strategic benefit from the concrete gains it is also making.

This pattern is attested to by Kenneth Adelman in "Fear, Seduction and Growing Soviet Strength," which first appeared in Orbis, winter 1978.

Soviet international propaganda is a crucial part of the strategic equation, since its goal is to create a wider range of accepted, if not acceptable, Soviet behavior around the world, usually at the expense of U.S. influence and leverage in foreign countries.

This dramatic and comprehensive study powerfully suggests the need in this country to recognize the significance of Soviet propaganda and to counteract it.

The first part of Mr. Adelman's article follows:

FEAR, SEDUCTION AND GROWING SOVIET STRENGTH

(By Kenneth L. Adelman)

Recent discussions of Soviet efforts to achieve strategic superiority, of NATO's vulnerabilities, and of the Third World's flirtation with Marxist-Leninist rhetoric often seem specious. The initial sense of alarm is quickly lost. Few Americans expect Moscow suddenly to ignite a nuclear holocaust, the Warsaw Pact to spring a surprise attack, or the developing world to march obediently into the Soviet camp.

Nevertheless, contemporary world developments do portend some danger. These developments, however, are of concern as trends to be monitored, rather than as present-day threats. The trends signify growing Soviet influence around the world, owing both to *fear*—i.e., acquiescence in a more powerful and threatening force—and *seduction*—i.e., willing surrender to an enticing force. An examination of recent events within an overall framework—one which aims at synthesis than at scientific proof and one which focuses more on the psychological than on the logical—will underscore the importance of these trends.

I

Fear—particularly fear related to physical proximity and unequal military, economic and political power—has long been a power-

ful factor in relations between states. It operates quite independently of any feelings of respect, admiration or friendship. The phenomenon is best illustrated by "Finlandization," the most obvious example of Soviet influence outside the Warsaw Pact and COMECON. Since the Soviet-Finnish Treaty of 1948, relations between these unequal neighbors have been exemplary. During the 1975 Communist moves in Portugal, the Soviet press offered Finland as a shining example of friendship "between governments with different social systems."[1] It is easy to see why. Under the shadow of a determined and powerful state, Finland has all but surrendered its independence of action abroad and its freedom of choice at home.

In 1958, President Urho Kekkonen broadcasted that "the overriding question" of Finland's foreign policy was warm relations with Moscow. After meeting Khrushchev in 1961, Kekkonen addressed the Finnish nation and advised disagreeable opposition leaders (those antagonizing the Kremlin) to leave politics. When the Finnish president's term legally ended in 1974, Secretary Brezhnev publicly urged that he be retained in office. Nationwide elections were suspended, and Kekkonen's term was extended for four years by an exceptional act of Parliament, a move which required a five-sixth majority to amend the Constitution.[2] To restore the appearance of democracy, the president agreed to resume legal elections in 1978; however, all major parties, including the Conservatives, have already announced that Kekkonen alone will be their candidate. In late March 1977, Premier Kosygin visited Helsinki to hold up Soviet-Finnish relations as a model and thus deny charges of a "Soviet threat" to Europe. The Soviet press regularly states that the 1948 treaty makes Finland an ally of the same type as the East European states.

Such developments have not taken place because of the internal strength of the Finnish Communist Party, which never receives more than 25 per cent of the vote; nor because of the sentiment of the Finns, who remain staunchly democratic and anticommunist; nor because of any wish to adopt the Soviet system—with its cumbersome bureaucracy, agricultural failures, industrial constraints and human repression. The Soviet dissident Alexander Zinoviev has written in *The Age of Man* that "to think, to be talented, to act decently, to work hard have always been the achievements of a small minority. . . . In making that effort impossible or useless, Soviet society allows spontaneous degradation."

Rather, such developments have occurred in Finland because of external Soviet pressures, whether expressed bluntly by word or conveyed silently by deed. While this "neighborly" relationship is admittedly a unique one—formed by historical power relations and the characters of the leaders involved—it illustrates the possibility of outside interference without troop presence, economic domination or other formal agents of power. It stands as a symbol and a warning to other nations, in Europe and beyond, of the nature of Soviet control. The uniqueness of pure Finlandization, therefore, does not negate its possible reoccurrence elsewhere in lesser degrees or other forms.

The Soviet Union has been able to exert considerable influence abroad since it attained superpower status and a global reach. This is a recent and dramatic development. Before World War II, the USSR mattered little—even in European affairs. In 1938, no one considered inviting the Soviets to Munich to help determine the fate of Czechoslovakia, although they would control that country within a decade. Russia has been expanding its territory since the Treaty of San Stefano (1878) and seems to have been spurred on by (a) its multinational character, which can incorporate yet more nationalities without great political strain; (b) its messianic complex, which predates and is reinforced by Marxism; and (c) its desire for substantial buffer zones to ensure security and prevent freedom from infecting the Soviet populace. The Soviet Union was the only belligerent to emerge from World War II larger than when it entered. Today, it sprawls over eleven time zones: the United States and half of Canada could easily fit into Siberia alone, and Leningrad is much closer to New York than to Vladivostok.

More important than sheer size is a sense of growing strength that the Soviets seek to convey. People act not only on the basis of what is, but also on what will be. The Soviets play on this fact by claiming that the net "correlation of forces" is moving in their favor. By their definition, such "forces" run the entire gamut of military, economic, political, social and ideological factors—including technological progress, internal cohesion, external clout, relations with allies and national will.

Of all these factors, the Soviets have emphasized military power, surely their strongest suit and the one historically vital to their success. Through military force, the Bolsheviks seized power in 1917, established authority over a vast empire, defeated Hitler, and gained control over half of Europe. Since World War II, the USSR has sacrificed much for military growth, now estimated to be 4 or 5 per cent annually in real terms.[3] This growth has been steady, despite rising consumer demand and falling supplies. Poor harvests in the early 1960s coincided with the Soviets' first major strategic build-up; a weak harvest in 1972 coincided with the development of several new missile systems; and the five-year plan adopted on the heels of the disappointing 1975 harvest actually switched funds from agricultural to military machinery. Today, defense absorbs about one-third of the entire Soviet machinery output and one-fifth of the total industrial output.[4] Over the past decade, Soviet military manpower has grown twice as fast as the labor force in general. Moreover, the military has increased its share of highly skilled labor: more than half the 830,000 Soviet R&D scientists and engineers are now thought to be working on military projects.[5]

The expansion of Soviet power is recognized in the United States. According to a recent public-opinion survey, Americans believe the Soviets have made a quantum leap in power and importance over the past decade. This appraisal must chiefly reflect increased awareness, since Soviet expansion has actually been rather steady. The American public, however, is not alone in this regard: in May 1976 the CIA admitted that the Soviets' military effort (i.e., the percentage of their GNP devoted to defense) was twice what the agency had previously estimated. In any case, Americans have reversed their opinion since 1974 and now consider the Soviet Union equal in strength to the United States. They no longer believe that the United States is—or will be ten years hence—the world's premier power.[6]

The Soviet Union has indeed become militarily equal to the United States in an overall force comparison.[7] While the United States is superior in many categories, the Soviets have twice as many men under arms,[8] one-fifth more major surface combatants[9] (though ours are larger and have more staying power), and half again as many ICBMs[10] (though our missile accuracy, number of warheads and bomber force remain superior). The trends of the military balance are clearly in the Soviet Union's favor. Since 1964, Soviet defense-spending has increased more than 40 per cent in real terms, while our current defense-spending is 12 per cent lower than in 1964.[11]

Over the past four years, the Soviets have outproduced us in tanks by more than seven to one, in artillery by five to one, and in tactical aircraft by half again as many; the United States outproduced the Soviets only in the number of helicopters.[12] Since 1965, the USSR has developed seven new ICBM types to our one,[13] and according to recent remarks by Defense Secretary Harold Brown, Moscow has four ICBM systems—a new generation of missiles—now under development.[14] More important over the long run is the Soviet's expanded infrastructure for continual military build-up. Moscow currently spends (in a dollar comparison) double what we spent on military investment—i.e., construction facilities and other installations for future weapons procurement—and more than half again as much on military research and development.[15]

Such an expansion in military infrastructure and capabilities does not necessarily mean an expanded intention to use the weapons. Indeed, the Soviets give the impression of being more cautious than when they were militarily weaker. Neither, however, can the build-up be dismissed lightly. There is always the danger that availability will prompt some type of use. As Robert Tucker wrote, "The Soviet Union cannot be expected passively to sit on their arms. Having acquired them, they will be put to political use." One must assume a rationale behind the USSR's enormous allocation of resources to the military at the expense of other basic human needs. Leaders in the Soviet Union (or in any nation, for that matter) do not lightly place such an onerous burden on their economies and people.

Increased capabilities provide expanded options for military involvement. In 1975, for example, the Soviets could airlift vast supplies and troops to Angola, whereas no such option existed in the Congo in 1960. Their present defense resources will provide even greater options in the future.

Expanded power also enhances international prestige. At the Twenty-fourth Congress of the CPSU, Foreign Minister Gromyko brazenly asserted: "There is not a single question of any importance in the international arena that would at present be solved without the Soviet Union or against its will." Military strength helps avoid the humiliation of having to back down in a crisis. When they were weaker, the Soviets threatened and then backed down in Iran, Greece and Turkey, the Berlin blockade, Lebanon, and the Cuban missile crisis. Today, the Soviets consider that period a lower historical stage, which was transcended when they achieved strategic parity in the early 1970s, increased their conventional superiority, and made political gains in such areas as Indochina and Africa. Finally, the Marxist-Leninist ideology legitimizes overwhelming military strength as essential to protect the world "vanguard" when capitalism, with its last gasp of life, lashes out in a desperate attack.

Soviet actions are designed to demonstrate how the net "correlation of forces" moves in Moscow's favor and to nudge those "forces" along their "inevitable" path. While signing some fifty agreements with the United States between 1970 and 1975—well over half the total number of U.S.-Soviet agreements since diplomatic relations were opened in 1933—the Soviets have vigorously pressed their interests. After the 1972 summit agreement to "exercise restraint" and negotiate issues "in a spirit of receptivity, mutual accommodation and mutual benefit," the Soviets (1) actively supplied North Vietnam, shattering what remained of the Paris accords and finishing the war; (2) rearmed the Arabs in the October 1973 war, encouraged the oil embargo and threatened to intervene directly; and (3) financed and armed the Cubans in order to install a Marxist-Leninist regime in Angola. Moscow justifies such moves by maintaining that detente does not apply to

Footnotes at end of article.

wars of national liberation. In fact, Premier Kosygin and others have repeatedly stated that detente provides "more favorable conditions" for the success of those wars.

Soviet rhetoric about world "forces" certainly must be discounted to some degree. The Kremlin never mentions the most crucial development of the postwar era—Moscow's split with Peking. This rift shattered the image of the Soviet Union as an expanding, global political force, ended the international communist movement as the exclusive tool of Soviet foreign policy, and presented Soviet strategists with the necessity of a two-front military posture. The Soviets have also ignored reversals in the Middle East (particularly in Egypt), their lack of success in Portugal and the break of close ties with Somalia. Soviet emphasis on the utility of military force overlooks the fact that Tito, as head of a small and undeveloped nation, defied Stalin, as did Mao Tse-tung when China was militarily impotent and economically backward.

Nonetheless, defiance of powerful force has been the exception in history, possible primarily when a country is united behind a charismatic and resolved leader. Small nations, more often than not, accommodate powerful ones. Hence, the image of power that the Soviet Union conveys and its claim that history is moving in its favor are important. They enhance the element of fear, particularly where Soviet power is greatest and where the weaker states' domestic problems lead to apprehension and self-doubt.

This is the situation in Western Europe today. An atmosphere of lethargy, aimlessness and even pessimism has enveloped the region. Economically, the Europeans face high inflation, rising unemployment and mounting debt. The OECD predicts an annual European growth rate of only 2.25 per cent for the second half of 1977 and fears a recession for 1978. A sense of economic vulnerability has persisted since the 1973 oil embargo, and the economic recession has aggravated a spiritual depression. Highly skilled and professional workers are emigrating, particularly from Britain where the inflation rate is about 15 per cent and unemployment is nearly 1.5 million. Industrial investment is desperately low: private investment (other than housing) in Britain, France and Italy is down anywhere from 20 to 30 percent from previous postwar-recession recovery rates. In a nutshell, overall confidence is not vibrant enough to encourage local savings and long-term investments—the very type of confidence which Hitler, ignorant of economic laws but still an economic miracle worker, realized was the basis for rapid recovery in the early 1930s.[16]

Politically, Europe is undergoing an increase in the fragmentation of states and a decrease in cooperation among states. The political leadership has been most uninspiring, and ruling governments in key countries—Britain, France, West Germany, Italy, Belgium and the Netherlands—are facing mounting opposition. To the west, Spain and Portugal are planting the seeds of democracy after decades of dictatorship; to the east, Greece and Turkey are eyeball-to-eyeball over Cyprus and seabed mineral rights. Most other European leaders are struggling to fend off domestic opposition rather than creatively addressing deep-seated problems. Indeed, the very future of democracy is being questioned, with Willy Brandt predicting that Western Europe "has only twenty or thirty more years of democracy left in it; after that, it will slide, engineless and rudderless under the surrounding sea of dictatorship." [17] At present, only Peking's diplomats are (frantically) trying to cheer the West Europeans, emphasizing Europe's considerable wealth and its ability to preserve its independence against Soviet "hegemony," if only the Europeans could muster vitality and resolve. The interests of the new Chinese regime go far beyond Western Europe, as seen by the regal reception accorded President Tito in August 1977.

Militarily, many Europeans feel more vulnerable now than they did in 1949, when NATO began. The USSR gives first priority to Europe, and Soviet military doctrine stresses an offensive blitzkreig-type conflict. Soviet capabilities are beginning to favor tactical surprise: since the mid-1960s, Moscow has deployed an additional 140,000 troops against NATO, introduced four new types of aircraft and modernized its ground forces with a new generation of weapons in virtually every category.[18] The Soviets are now improving their tactical nuclear weapons aimed at Europe by deploying some 3,600 MIRVs on mobile SS–20 IRBMs—considerably more effective and survivable than the SS–4s and SS–5s being replaced.

FOOTNOTES

[1] *Pravda*, April 5, 1975.

[2] "It is believed that [Kekkonen's] continuation in office was at least one of the guarantees that the Soviet Union required" for increased Finnish involvement with the EEC, noted *Financial Times* (London), January 10, 1973. The *Washington Post* reported that "the law was passed despite the heated opposition of many prominent Finns and a general feeling in the country . . . that it represents a gesture of appeasement toward the Soviet Union." (January 18, 1973.)

[3] *U.S. Defense Perspectives, FY 1978* (Washington: GPO, 1977), p. 7.

[4] CIA, *Estimated Soviet Defense Spending in Rubles, 1970–1975*, May 1976, p. 16.

[5] Department of Defense, *Program of Research, Development, Test and Evaluation, FY 1978*, January 1977, pp. 11–25.

[6] *The Pursuit of National Security* (Washington: Potomac Asssociates, 1976), p. 29.

[7] Statistics on military forces and armaments, of course, describe only part of the strategic equation. Since these figures omit considerations of differing missions, deployments, technologies, alliances and interests, leadership, morale and a host of other factors, they cannot themselves constitute a definitive measure of comparative strength. They do, however, reveal levels of effort by each side—the willingness to sacrifice for military might—and they do have political importance with respect to global perceptions of power. Hence, they should be taken neither as gospel nor nonsense.

[8] *Annual Defense Report to the Congress, FY 1978*, by Donald H. Rumsfeld (Washington: GPO, 1977), p. 24.

[9] *Ibid.*, p. 110.

[10] *Ibid.*, p. 60.

[11] *U.S. Defense Perspectives, FY 1978*, p. 6.

[12] *Annual Defense Report* . . . , p. 114.

[13] *Ibid.*

[14] *Washington Post*, September 16, 1977.

[15] *U.S. Defense Perspectives, FY 1978*, p. 9.

[16] See John Lukacs, *The Last European War* (New York: Anchor, 1976), pp. 228–229.●

ACCOMPLISHMENTS OF THE COMMITTEE ON INTERNATIONAL RELATIONS—95TH CONGRESS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ZABLOCKI. Mr. Speaker, as the 95th Congress comes to a close, I want to take this opportunity to provide for the Congress and the public a brief summary of the many activities of the Committee on International Relations since this Congress convened on January 4, 1977.

The committee has reported some 32 bills and joint resolutions, of which 27 have been signed into public law by the President; and 24 concurrent or House resolutions which have been passed.

The committee's legislation has included such major measures as the authorizations for U.S. foreign affairs agencies for fiscal years 1978 and 1979; extension of the Export Administration Act, including new antiboycott provisions; economic and food-for-peace assistance to developing countries, with emphasis on helping the poor; security assistance to friends and allies, with emphasis on promoting a Middle East peace and including resumption of military cooperation with Turkey; bills to curb nuclear proliferation; reform the Trading With the Enemy Act; promote the orderly development of hard mineral resources in the deep seabed; reduce the range of diplomatic immunity for foreign diplomats in the United States; strengthen the economy of the United States through increased sales abroad of American farm products; and establish an international emergency wheat reserve. Committee resolutions have dealt with issues ranging from MIA's in Southeast Asia to the Soviet dissident trials and violations of human rights in Cambodia and Uganda.

The full committee has met over 120 times this Congress, and the subcommittees held 526 meetings, for a grand total of 646 hearings, briefings, and markups. A special investigation was also conducted on Korean-American relations. In addition to the sessions on immediately pending legislative measures, the committee held hearings on many issues, including the Panama Canal Treaties and the U.N. Law of the Sea Conference.

One of the most important parts of the committee's work is to receive distinguished visitors from abroad. The committee has received 95 distinguished visitors and 23 delegations, which have included heads of state and government, foreign ministers, and opposition leaders.

As part of the committee resonsibilities Members and staff have been sent to various countries on factfinding missions, to attend conferences, and to participate in interparliamentary meetings.

The committee has kept the Congress and the public informed of its activities through the publication of 53 reports, 117 hearings, and 99 committee prints. A "Legislative Progress Chart" and list of distinguished visitors following these remarks provides further information concerning these activities. A more extensive record of committee actions, entitled "Survey of Activities," will be published at the end of this year.

Mr. Speaker, the extensive activities and important accomplishments of the International Relations Committee would not have been possible without the fine cooperation of all members of the committee—majority and minority members alike—and of its able staff. Their diligent efforts, willingness to serve, and teamwork have been notable throughout the 95th Congress. We have a record of which we can be proud.

COMMITTEE ON INTERNATIONAL RELATIONS—LEGISLATIVE PROGRESS CHART

Title and number of legislation	Executive branch request	Subcommittee action				Committee action			Rule		House passed	Senate action		Conference				Public Law number and date
		Referred	Hearing	Markup	Reported	Hearing	Markup	Reported, No. and date	Requested	Granted		Reported	Passed	Met	Report	House agreed	Senate agreed	
To halt the importation of Rhodesian chrome (H.R. 1746) (S. 174).		Feb. 2 1977	●	●	Feb. 24 1977	●	●	95–59 Mar. 7 1977	Mar. 2 1977	Mar. 10 1977	250–146 Mar. 14 1977	95–37 Mar. 3 1977	66–26 Mar. 15 1977					Mar. 18, 1977, P.L. 95–12.
Supplemental military assistance to Portugal for FY 1977 (H.R. 3976) (S. 489).	Feb. 21 1977	Feb. 23 1977	●	●	Mar. 1 1977		●	95–81 Mar. 15 1977			Voice vote Mar. 22 1977	95–43 Mar. 9 1977	Voice vote Mar. 15 1977					Apr. 30, 1977, P.L. 95–23.
Supplemental State Department authorization, FY 1977 (H.R. 5040).	Feb. 24 1977	Feb. 25 1977	●	●	Mar. 8 1977		●	95–84 Mar. 16 1977	Mar. 16 1977	Mar. 21 1977	292–114 Mar. 24 1977	95–99 Apr. 21 1977	Voice vote May 11 1977					June 15, 1977, P.L. 95–45.
Relief and rehabilitation assistance for Romanian earthquake victims (H.R. 5717).						●	●	(1)			322–90 Apr. 5 1977		Voice vote Apr. 6 1977					Apr. 18, 1977, P.L. 95–21.
Export Administration Act amendments of 1977 (H.R. 5840) (S. 69).						●	●	95–190 Apr. 6 1977	Apr. 6 1977	Apr. 19 1977	364–43 Apr. 20 1977	95–104 Apr. 26 1977	90–1 May 5 1977	May 16 1977	95–354 May 18 1977	306–41 June 10 1977	Voice vote June 7 1977	June 22, 1977, P.L. 95–52.
Arms Control and Disarmament Act Amendments of 1977 (H.R. 6179) (S. 1042).	Mar. 14 1977	Mar. 15 1977	●	●	Apr. 6 1977		●	95–219 Apr. 25 1977	Apr. 26 1977	Apr. 28 1977	395–15 May 3 1977	95–193 May 16 1977	82–0 June 16 1977		95–563 Aug. 3 1977	Voice vote Aug. 4 1977	Voice vote Aug. 4 1977	Aug. 17, 1977, P.L. 95–108.
Foreign Relations authorization FY 1978 (H.R. 6689) (S. 1190).	Feb. 24 1977	Feb. 25 1977	●	●	Apr. 21 1977		●	95–231 Apr. 29 1977	Apr. 29 1977	May 3 1977	285–111 May 4 1977	95–194 May 16 1977	64–21 June 16 1977	July 21 1977	95–537 July 26 1977	Voice vote Aug. 3 1977	Voice vote July 28 1977	Aug. 17, 1977, P.L. 95–105.
International Development and Food Assistance Act of 1977 (H.R. 6714) (S. 1520).	Mar. 28 1977					●	●	95–240 May 3 1977	May 4 1977	May 10 1977	252–158 May 12 1977	95–161 May 13 1977	59–32 June 15 1977	June 23, 24, 29 1977	95–501 July 14 1977	254–158 July 21 1977	Voice vote July 22 1977	Aug. 3, 1977, P.L. 95–88.
ERA Authorization FY 1978 (S. 1340) (H.R. 6796)...	June 1 1977					●	●	(2)	June 9 1977	June 21 1977	317–47 Sept. 23 1977	95–328 July 1 1977	Voice vote July 12 1977	Oct. 5 1977	95–715 Oct. 20 1977	Voice vote Oct. 20 1977	Voice vote Oct. 20 1977	Feb. 25, 1978, P.L. 95–238.
International Security Assistance and Arms Export Control Act of 1977 (H.R. 6884) (S. 1160).	Mar. 28 1977					●	●	95–274 May 9 1977	May 9 1977	May 17 1977	242–163 May 24 1977	95–195 May 16 1977	67–18 June 15 1977	June 29 1977	95–503 July 15 1977	262–147 July 21 1977	Voice Vote July 22 1977	Aug. 4, 1977, P.L. 95–92.
Nuclear Antiproliferation Act (H.R. 8638) (S. 897).	Apr. 28 1977	May 10 1977	●	●	July 29 1977		●	95–587 Aug. 5 1977	Aug. 2 1977	Sept. 20 1977	411–0 Sept. 28 1977	95–467 Oct. 3 1977	88–3 Feb. 7 1978					Mar. 10, 1978, P.L. 95–242.
Peace Corps Authorization Act, FY 1978 (S. 1235) (H.R. 6967).	Mar. 15 1977	Mar. 16 1977	●	●	May 5 1977		●	95–296 May 12 1977	May 13 1977	May 24 1977	305–43 June 1 1977	95–168 May 16 1977	Voice vote May 26 1977					Aug. 15, 1977, P.L. 95–102.
Trading With the Enemy Act Reform Legislation (H.R. 7738).			(3)	(3)		●	●	95–459 June 23 1977			Voice vote 1977 July 12 1977	95–466 1977 Oct. 3 1977	Voice vote 1977 Oct. 11 1977					Dec. 28, 1977, P.L. 95–223.
Diplomatic Relations Act (H.R. 7819).....			(4)	(4)			●	95–526 July 25 1977			Voice vote July 27 1977	(10)	Voice vote Aug. 17 1978					Sept. 20, 1977, P.L. 95–393.
OPIC Amendments Act (H.R. 9179) (S. 1771).....	June 17 1977	June 20 1977	●	●	Sept. 16 1977	●	●	95–670 Oct. 7 1977	Oct. 3 1977	Oct. 18 1977	191–165 Feb. 23 1978	95–505 Oct. 19 1977	69–12 Oct. 25 1977	Mar. 22 1978	95–1043 Opr. 5 1978	216–185 Apr. 11 1978	Voice vote Apr. 6 1978	April. 24, 1978, P.L. 95–268.
Relating to the freedom of emigration (S. Con. Res. 7) (H. Con. Res. 97).							●	95–100 Mar. 21 1977			400–2 Mar. 22 1977	95–34 Mar. 1 1977	91–0 Mar. 2 1977					
Concerning the killing of newborn harp seals (H. Con. Res. 142).							●	95–99 Mar. 21 1977			Voice vote Mar. 22 1977	95–71 Mar. 29 1977	Voice vote Mar. 31 1977					

To assist the people of Romania (S. Con. Res. 12).							●	(1)			Voice vote Mar. 17 1977		Voice vote Mar. 14 1977					
Belgrade Conference on Security and Cooperation in Europe (H. Con. Res. 249).							●	(1)			Voice vote June 15 1977		Voice vote June 15 1977					
Human Rights in Cambodia (H. Res. 724)			●	●	July 26 1977		●	95-578 Aug. 5 1977			Voice vote Sept. 27 1977							
International Safe Container Act (H.R. 8159) (S. 1597).		July 6 1977						(6)			Voice vote Nov. 1 1977	95-552 Oct. 27 1977	Voice vote Nov. 1 1977					Dec. 13, 1977, P.L. 95-208.
Gen. Thaddeus Kosciuszko (H.J. Res. 573)		Aug. 9 1977	●	●	Sept. 23 1977		●	(1)			Voice vote Sept. 30 1977	95-491 Oct. 12 1977	Voice vote Oct. 17 1977					Nov. 1, 1977, P.L. 95-149.
Olympic Summer Games (H. Con. Res. 368)		Aug. 1 1977		●				(4)			Voice vote Oct. 6 1977		Voice vote Oct. 7 1977					
World Assembly on Aging (H. Res. 736) (S. Res. 238).		Aug. 9 1977					●	(1)			Voice vote Oct. 31 1977	95-458 Sept. 30 1977	Voice vote Oct. 5 1977					
Commission on Hunger and Malnutrition (H. Res. 784) (S. Res. 271).							●	(6)			364-38 Nov. 1 1977	95-503 Oct. 19 1977	Voice vote Oct. 27 1977					
Hermosillo Declaration on Drugs (H. Con. Res. 265).		July 29 1977		●	Oct. 26 1977		●	(1)			Voice vote Oct. 31 1977	95-978 July 12 1978	Voice vote July 18 1978					
George C. Marshall Statue (H.R. 9165)		June 9 1977	●	●	Sept. 13 1977		●	95-653 Oct. 3 1977			351-22 Jan. 23 1978							
Concerning Helsinki Accords (H. Con. Res. 387)		Mar. 14 1977		●	Oct. 26 1977		●	95-782 Oct. 31 1977			Voice vote Oct 31 1977							
Concerning Repression in South Africa (H. Con. Res. 388) (S. Con. Res. 60).		Oct 21 1977	●	●	Oct. 26 1977		●	95-779 Oct. 28 1977			347-54 Oct. 31 1977							
Urging Korean Cooperation (H. Res. 868)							●				407-0 Oct. 31 1977							
San Martin, Gen. Jose de, recognize contributions of (H. Res. 1033).								(1)			Voice vote Feb. 23 1978							
Deep Seabed Hard Minerals Resources Act (H.R. 3350). (S. 2053).		Nov. 11 1977	●	●	Feb. 7 1978	●	●	(7)	June 7 1978	June 8 1978	312-80 July 26 1978	95-1125 95-1180						
Contribution to Tin Buffer Stock (H.R. 9486) (S. 2181).	Sept. 23 1977	Sept. 26 1977	●	●	Mar. 1 1978		●	(5)	June 8 1978	July 26 1978	308-75 Sept. 25 1978							
Foreign Relations Authorization FY 1979 (H.R. 12598) (S. 3076).			(2)	(2)	May 2 1978		●	95-1160 May 15 1978	May 15 1978	May 24 1978	240-124 May 31 1978	95-842 May 15 1978	64-17 June 28 1978	Aug. 3, 7, 1978	95-1535 Sept. 6 1978	240-153 Sept. 19 1978	Voice vote Sept. 20 1978	Oct. 7, 1978, P.L. 95-426.
International Development Assistance Act of 1978 (H.R. 12222) (S. 3074).	Feb. 20 1978					●	●	95-1087 Apr. 25 1978	Apr. 20 1978	May 2 1978	225-148 May 15 1978	95-840 May 15 1978	49-30 June 26 1978	Aug. 8, 14, 1978	95-1545 Sept. 7 1978	232-159 Sept. 19 1978	Voice vote Sept. 20 1978	Oct. 6, 1978, P.L. 95-424.

COMMITTEE ON INTERNATIONAL RELATIONS—LEGISLATIVE PROGRESS CHART—Continued

Title and number of legislation	Executive branch request	Subcommittee action				Committee action			Rule		House passed	Senate action		Conference				Public Law number and date
		Referred	Hearing	Markup	Reported	Hearing	Markup	Reported, No. and date	Requested	Granted		Reported	Passed	Met	Report	House agreed	Senate agreed	
International Security Assistance Act of 1978 (S. 3075). (H.R. 12514).	Mar. 22 1978					●	●	95–1141 May 12 1978	July 10 1978	July 26 1978	255–156 Aug. 2 1978	95–841 May 15 1978	75–13 July 26 1978	Aug. 10, 14, 15, 1978	95–1546 Sept. 7 1978	225–126 Sept. 12 1978	Voice vote Sept. 11 1978	Sept. 26, 1978, P.L. 95–384.
Arms Control and Disarmament Agency Authorization FY 1979 (H.R. 11832) (S. 2703).	Mar. 3 1978	Mar. 10 1978	●	●	Mar. 22 1978		●	95–1048 Apr. 11 1978	Apr. 10 1978	Apr. 20 1978	332–74 Apr. 26 1978	95–843 May 15 1978	Voice vote June 8 1978					Aug. 8, 1978, P.L. 95–338.
International Investment Survey Act for FY 1979 (S. 2928) (H.R. 12589).		Apr. 25 1978	●	●	May 4		●	95–1154 May 15 1978			344–54 June 28 1978	95–863 May 15 1978	Voice vote May 22 1978					Sept. 22, 1978, P.L. 95–381.
Peace Corps Authorization Act, FY 1979 (H.R. 11877) (S. 2619).	Feb. 14 1978	Feb. 15 1978	●	●	Mar. 15 1978		●	95–1049 Apr. 11 1978	Apr. 10 1978	Apr. 20 1978	297–102 Apr. 25 1978	95–807 May 12 1978	Voice vote June 8 1978		95–1333 June 29 1978	276–120 July 25 1978	Voice vote June 29 1978	Aug. 2, 1978, P.L. 95–331.
Aldo Moro, condemnation of, kidnapping of (H.Res. 1082) (S. Res. 419).								(1)			398–0 Mar. 21 1978	95–774 May 2 1978	Voice vote May 5 1978					
Aldo Moro, denouncing assassination of (H. Con. Res. 617).								(1)			398–0 May 11 1978							
Belgrade Conference on SCE (H. Con. Res. 549).								(1)			Voice Apr 10 1978	95–773 May 2 1978	Voice May 5 1978					
MIA's Southeast Asia (H. Con. Res. 583).		Aug. 5 1977	●	●	Feb. 2 1978		●	(1)			369–0 May 8 1978							
Human Rights in Cambodia (H. Con. Res. 573).								(1)			388–0 Apr. 25 1978							
Human Rights in Uganda (H. Con. Res. 612).			●	●			●	95–1233 May 31 1978			377–0 June 12 1978							
Soviet Helsinki Groups (H. Con. Res. 624).								(1)			399–0 May 18 1978		Voice vote May 22 1978					
North Atlantic Alliance (S.J. Res. 137) (H.J. Res. 921).							●				370–0 May 25 1978		Voice vote May 24 1978					May 30, 1978. PL. 95–287.
Kim Dong Jo Testimony (H. Res. 1194).						●	●	95–1222 May 26 1978			321–46 May 31 1978							
Disapproving uranium export to India (H. Con. Res. 599).						●	●	95–1314 June 21 1978			(9)							
Soviet Dissident Trials (S. Con. Res. 95).											380–10 July 12 1978		Voice vote July 11 1978					
Agricultural Trade Act (S. 3447) (H.R. 10584).		Jan. 30 1978	●	●	July 19 1978		●	(11)	Aug. 9 1978		325–62 Sept. 25 1978	95–1142 Aug. 23 1978	65–1 Sept. 8 1978	Oct. 4, 5, 1978	(13)	356–4 Oct. 14 1978	Voice vote 1978	Oct. 21, 1978, P.L. 95–501.

International Emergency Wheat Reserve (H.R. 13835) (S. 3460).	Mar. 20 1978					●	●	(14)	Aug. 15 1978			95–1151 Aug. 24 1978							
Tanker Vessel Safety Act (S. 682) (H.R. 13311)		July 24 1978	●			●		(12)			366–6 Sept. 12 1978	95–176 May 16 1977	Voice May 26 1977						Oct. 17, 1978, P.L. 95–474.
Clayton Act Amendments of 1978 (H.R. 11942) (S. 1874).		July 27 1978	●		Aug. 7 1978		●	(12)	Aug. 11 1978			95–934 June 14 1978							
International Petroleum Exposition (S. J. Res. 154) (H.J. Res. 923).		May 26 1978	●	●	Aug. 7 1978		●	95–1501 Aug. 16 1978			Voice vote Sept. 25 1978	95–1145 Aug. 24 1978	Voice vote Sept. 7 1978						Oct. 5, 1978, P.L. 95–411.
Camp David Summit (H. Con. Res. 715).							●	(1)			Voice vote Sept. 21 1978		Voice vote Sept. 28 1978						
Nobel Peace Prize (H. Res. 1372) (S. Res. 512).		Sept. 29 1978					●				Voice vote Oct. 10 1978		90–1 July 13 1978						
South Africa Crossroads, (H. Con. Res. 720).		Sept. 29					●												
U.N. Plan for Namibia, (H. Con. Res. 729).							●												

[1] Committee discharged from further consideration.
[2] Reported by International Relations Committee June 8, 1977, H. Rept. 95-349, Pt. III; reported by Science and Technology Committee May 16, H. Rept. 95-349, Pt. I; and by Armed Services Committee June 8, H. Rept. 98-349, Pt. II.
[3] Hearings held by subcommittee on similar legislation; markup of draft legislation also held by subcommittees prior to introduction of bill.
[4] Reported by House Interstate and Foreign Commerce Committee on Oct. 5, 1977 (H. Rept. 95-665, Pt. I), by agreement with the International Relations Committee.
[5] Reported by House Merchant Marine and Fisheries Committee on Oct. 12 (H. Rept. 95-693, Pt. I), by agreement with the International Relations Committee.
[6] Reported by International Relations Committee on Oct. 31 (H. Rept. 95-780, Pt. II); and by House Agriculture Committee on Oct. 28 (H. Rept. 95-780, Pt. I).
[7] Reported by International Relations Committee Feb. 16, 1978, H. Rept. 95-588, Pt. III; reported by Merchant Marine and Fisheries Committee Aug. 9, 1977, H. Rept. 95-588 Pt. I; and by Interior and Insular Affairs Committee Nov. 7, 1977, H. Rept. 95-588, Pt. II.
[8] Reported by International Relations Committee Apr. 17, 1978, (H. Rept. 95-1057, Pt. I); reported by Armed Services Committee May 21, 1978 (H. Rept. 95-1057, Pt. II); and by Banking Committee June 1, 1978 (H. Rept. 95-1057, Pt. III).
[9] Defeated in House July 12, 1978 by a vote of 181 yeas to 227 nays.
[10] Reported by Senate Foreign Relations Committee June 26, 1978 (S. Rept. 95-958); and by Senate Judiciary Committee Aug. 11, 1978 (S. Rept. 95-1108).
[11] Reported by House Agriculture Committee July 10, 1978, (H. Rept. 95-1338, Pt. I) I.R: Sept. 14, 1978 (H. Rept. 95-1338).
[12] Reported by House Merchant Marine Committee July 21, 1978 (H. Rept. 95-1384, Pt. I); and by House International Relations Committee Aug. 3, 1978 (H. Rept. 95-1384, Pt. II).
[13] Reported by House Judiciary July 26, 1978 (H. Rept. 95-1397, Pt. I); and by House International Relations Committee Aug. 11, 1978 (H. Rept. 95-1397, Pt. II).
[14] Reported by Agriculture Committee, Sept. 12, 1978 (H. Rept. 95-1564, Pt. I). Reported by International Relations Committee, Sept. 13, 1978 (H. Rept. 95-1564, Pt. II).
[15] In Senate: 95-1315, Oct. 10, 1978. In House: 95-1755, Oct. 11, 1978.

Distinguished Visitors Received by the Committee—95th Congress

Al-Faisal, His Royal Highness Prince Turki Bin, Director General of Intelligence, Saudi Arabia, informal meeting with members of full committee, March 16, 1978.

Allon, The Hon. Yigal, former Deputy Prime Minister of Israel, informal meeting with members of SubEME, October 18, 1977.

Al-Sadat, His Excellency Mohamed Anwar, President of the Arab Republic of Egypt, informal meeting with members of full committee, April 5, 1977; February 7, 1978; September 19, 1978.

Al-Saud, His Excellency, Fahd Ibn Abdulazia, First Deputy Prime Minister of Saudi Arabia, informal meeting with members of full committee, May 25, 1977.

Al-Saud, His Royal Highness Prince Saud ibn Faisal, Minister of State for Foreign Affairs of Saudi Arabia, informal meeting with members of full committee, October 26, 1977.

Andersen, Hon. K. B., Minister for Foreign Affairs for Denmark, informal meeting with members of full committee, November 1, 1977.

Andreotti, His Excellency Giulio, President of the Council of Ministers of Italy, informal meeting with members of full committee, July 27, 1977.

Arens, Hon. Moshe, Member of the Knesset, Israel, informal meeting with members of full committee, February 9, 1978.

Averof-Tossizza, The Hon. Evangelos, Minister of the Republic of Surinam, informal meeting with members of full committee February 23, 1977.

Atashi, Natali, Member of the Israeli Knesset, informal meeting with members of the Subcommittee on Asian and Pacific Affairs, April 12, 1978.

Averof-Tossizza, The Hon. Evangelos, Minister of National Defense of Greece, informal meeting with members of full committe, March 7, 1978.

Begin, His Excellency Menachem, Prime Minister of Israel, informal meeting with members of full committee, July 20, 1977; March 21; September 19, 1978.

Berecz, Janos, Head of the International Department of the Hungarian Socialist Workers Party, informal meeting with members of SubEME, May 16, 1978.

Bongo, Hon. Omar, Chief of State of Gabon, President of Organization of African Unity, informal meeting with members of SubAF, and Senate Foreign Relations SubAF, October 17, 1977.

Callaghan, The Right Honorable James, Prime Minister of Great Britain, informal meeting with members of full committee and Senate Foreign Relations Committee, March 10, 1977.

Caramanlis, His Excellency Constantine, Prime Minister of Greece, informal meeting with members of full committee, June 2, 1978.

Carstens, Professor Karl, President of the German Bundestag, informal meeting with members of SubEME, February 8, 1978.

Carter, Mrs. Rosalynn, First Lady, informal meeting with members of full committee, June 30, 1977.

Ceausescu, His Excellency Nicolae, President of the Socialist Republic of Romania, informal meeting with members of full committee, April 13, 1978.

Cheysson, Hon. Claude, Commissioner of the European Communities responsible for Development, informal meeting with members of full committee and Senate Foreign Relations Committee, February 22, 1978.

Coore, Hon. David, Deputy Prime Minister and Minister of Finance of Jamaica, informal meeting with members of full committee, April 27, 1977.

Czernetz, Hon. Karl, Member of Parliament, Austria, and President of the Parliamentary Assembly of Europe, informal meeting with members of full committee, September 22, 1977.

Davies, The Right Honorable John, MBE, MP, British Shadow Foreign Secretary, informal meeting with members of SubEME, March 15, 1977.

Dayan, Hon. Moshe, Minister of Foreign Affairs, Israel, informal meeting with members of full committee, September 20, 1977; February 16, 1978.

de Mel, Hon. Ronnie, M.P., Minister of Finance is the New Government of Sri Lanka, informal meeting with members of subAPA, October 3, 1977; September 27, 1978.

Denktash, Honorable Rauf, leader of the Turkish Cypriot Community, Cyprus, informal meeting with members of full committee. May 25, 1978.

Desai, His Excellency Morarji, Prime Minister of India, informal meeting with members of full committee and Senate Foreign Relations Committee, June 13, 1978.

Ecevit, His Excellency Bulent, Prime Minister of Turkey, informal meeting with members of full committee, June 1, 1978.

Fahmi, His Excellency Ismail, Deputy Prime Minister and Minister for Foreign Affairs, Egypt, informal meeting with members of full committee, September 23, 1977.

Fischer, Hon. Oskar, Foreign Minister of the German Democratic Republic, informal meeting with members of SubsEPT/EME, June 6, 1978.

FitzGerald, His Excellency Dr. Garret, Foreign Minister of Ireland, informal meeting with members of full committee and Senate Foreign Relations Committee, March 17, 1977.

Freij, Hon. Elias, Mayor of Bethlehem, informal meeting with members of a study mission to the Middle East, July 19, 1978.

Fujio, Hon. Masayuki, Member of Japanese House of Representatives, informal meeting with members of SubAPA, July 15, 1977.

Fukuda, His Excellency Takeo, Prime Minister of Japan, informal meeting of members of full committee and Senate Foreign Relations Committee, March 21, 1977; with members of full committee, May 2, 1978.

Genscher, Hon. Hans Dietrich, Federal Minister of Foreign Affairs of the Federal Republic of Germany, informal meeting with members of full committee and Commission on Security and Cooperation in Europe, July 14, 1977.

Granelli, Hon. Luigi, Member of the Chamber of Deputies of Italy, informal meeting with members of full committee, October 10, 1978.

Haferkamp, Wilhelm, Vice President of Commission of the European Communities, informal meeting with members of SubEME and Ways and Means Sub on International Trade, November 8, 1977.

Huq, Prof. Muhammad Shamsul, Adviser to the President for Foreign Affairs, Bangladesh, informal meeting with members of SubAPA, October 11, 1977.

Hussein, His Majesty King of the Hashemite Kingdom of Jordan, informal meeting with members of the full committee, April 26, 1977.

Ibrahim, His Excellency Hassan, Minister of State for Foreign Affairs, Hashemite Kingdom of Jordan, informal meeting with members of full committee, September 29, 1977.

Jawara, His Excellency Sir Dawda, President of The Gambia, informal meeting with members of full committee, May 23, 1978.

Jenkins, Roy, President of Commission of European Communities, informal meeting with members of SubEME, April 19, 1977.

Judd, Honorable Frank A., MP, Minister of State of Great Britain, informal meeting with members of SubIEPT, May 16, 1978.

Kardelj, His Excellency Edvard, Member of the Presidency of Yugoslavia, informal meeting with members of full committee, September 29, 1977.

Kaunda, His Excellency Kenneth David, President of the Republic of Zambia, informal meeting with members of the full committee and Senate Foreign Relations Committee, May 18, 1978.

Kitazawa, Hon. Naokichi, Member of Japanese House of Representatives, informal meeting with members of SubAPA, July 15, 1977.

Kyprianou, Hon. Spyros, President of the House of Representatives, Cyprus, informal meeting with members of the full committee, June 28, 1977; as President of the Republic of Cyprus, informal meeting with members of the full committee, June 8, 1978.

Ljubicic, General Nikola, Yugoslav Federal Secretary for National Defense, informal meeting with members of SubEME, September 25, 1978.

Lorenz, Peter, President of West Berlin Parliament, informal meeting with members of SubEME, September 19, 1977.

Lowe, Honorable Douglas A., Deputy Premier and Minister for Industrial Relations and Health of Tasmania, Australia, informal meeting with members of SubAPA, May 9, 1978.

Luns, His Excellency Joseph, Secretary General of the North Atlantic Treaty Organization, informal meeting with members of full committee, April 12, 1977.

Manley, His Excellency Michael N., Prime Minister of Jamaica, informal meeting with members of full committee and Senate Foreign Relations Committee, December 15, 1977.

Marei, Hon. Sayed, Speaker of the Peoples' Assembly of Egypt, informal meeting with members of full committee, June 20, 1978.

Markovic, Hon. Dragoslav, President of the Federal Assembly of Yugoslavia, informal meeting with members of full committee, July 17, 1978.

Martin, Frank, Member of the United Party and Member of the Natal Provincial Council in South Africa, informal meeting with members of SubAf, June 8, 1977.

Mason, The Right Honorable Roy, MP, Secretary of State for Northern Ireland, informal meeting with members of full committee, October 17, 1977.

Nadao, Hon. Hirokichi, Member of Japanese House of Representatives, informal meeting with members of SubAPA, July 15, 1977.

Numayri, His Excellency General Ja'far Muhammad, President of The Sudan, informal meeting with members of full committee, September 22, 1978.

Nyerere, His Excellency, Julius K., President of the United Republic of Tanzania, informal meeting with members of full committee and Senate Foreign Relations Committee, August 5, 1977.

Obasanjo, His Excellency Lt. Gen. Olusegun, Head of the Federal Military Government of Nigeria, informal meeting with members of full committee, October 12, 1977.

Onn, His Excellency Datuk Hussein, Prime Minister of Malaysia, informal meeting with members of full committee, September 28, 1977.

Ortiz-Mena, Dr. Antonio, President of the Inter-American Development Bank, informal meeting with members of full committee, April 5, 1978.

Owen, Hon. David, Foreign Minister of Great Britain, informal meeting with members of full committee, March 10, 1977.

Pahlavi, His Imperial Majesty Mohammad Reza Shah, informal meeting of members of full committee and Senate Foreign Relations Committee, November 16, 1977.

Patan, His Excellency Ion, Vice Prime Minister of The Socialist Republic of Romania and Minister for Foreign Trade and International Economic Cooperation, informal meeting with members of full committee, October 28, 1977.

Patel, H. M., Minister of Finance, India, informal meeting with members of SubAPA, September 27, 1977.

Peacock, Hon. Andrew Sharp, Minister for Foreign Affairs, Australia, informal meeting with members of full committee, March 24, 1977.

Perez, His Excellency Carlos Andres, President of Venezuela, informal meeting with members of the full committee, June 28, 1977.

Portillo, His Excellency Jose Lopez, President of Mexico, informal meeting with members of full committee, February 17, 1977.

Rabin, His Excellency Itzhak, Prime Minister of Israel, informal meeting with members of full committee, March 8, 1977.

Renger, Hon. Annemarie, Vice President of the Bundestag, Federal Republic of Germany, informal meeting with members of full committee, June 26, 1978.

Rowlands, Hon. Edward (Ted), M.P., Labor, and British Minister of State for Foreign and Commonwealth Affairs, informal meeting with members of full committee, June 1, 1977.

Sadat, Anwar. (See Al-Sadat, His Excellency Mohamed Anwar.)

Salzman, Hon. Herb, U.S. Ambassador to the Organization for Economic Cooperation and Development (OECD), informal meeting with members of SubIEPT, September 30, 1977.

Senghor, His Excellency Leopold Sedar, President of the Republic of Senegal, informal meeting with members of full commitee, June 7, 1978.

Sharaf, His Excellency Sharif Abdul Hamid, Chief of the Royal Court, Hashemite Kingdom of Jordan, informal meeting with members of full committee, September 29, 1977.

Shiran, S. S., Director of the Budget for the State of Israel, informal meeting with members of full committee, March 22, 1977.

Sidi Baba, Hon. Dey Ould, President of the Parliament of Morocco, informal meeting with members of full committee, July 25, 1977.

Simonet, Hon. Henri, Foreign Minister of Belgium, informal meeting with members of the full committee, October 20, 1977.

Soares, His Excellency Mario, Prime Minister of Portugal, informal meeting with members of SubsEME/IEPT, April 21, 1977.

Soder, Mrs. Karen, Foreign Minister of Sweden, informal meeting with members of full committee, June 30, 1977.

Sole, Hon. Donald B., South African Ambassador to the U.S., informal meeting of members of SubAf, June 15, 1977.

Hassan, Prince Ibn Talal, His Royal Highness, Crown Prince of the Hashemite Kingdom of Jordan, informal meeting with members of full committee, January 18, 1978.

Talboys, The Rt. Honorable Brian Edward, Deputy Prime Minister of New Zealand, informal meeting with members of full committee, June 9, 1978.

Talhouni, His Excellency Bahjat, Speaker of the Senate,, Hashemite Kingdom of Jordan, informal meeting with members of full committee, October 11, 1978.

Thatcher, Right Honorable Margaret, MP, Leader of the Opposition in the House of Commons, Great Britain, informal meeting with members of full commitee, September 13, 1977.

Tindemans, His Excellency Leo, Prime Minister of Belgium, informal meeting with members of full committee, October 20, 1977.

Todd, Hon. Garfield, former Prime Minister of Southern Rhodesia, testimony before SubAf, June 8, 1977.

Tolbert, Hon. Adolphus Benedict, Chairman of Foreign Affairs Committee, House of Representatives, Liberia, informal meeting with Chairman Zablocki, August 31, 1977.

Trudeau, His Excellency Pierre E., Prime Minister of Canada, informal meeting with members of full committee and Senate Foreign Relations Committee, February 22, 1977.

Ungphakorn, Dr. Puey, a prominent Thai, informal meeting with members of SubID, February 17, 1977.

Van der Klaauw, Hon. Dr. Christoph A., Minister for Foreign Affairs of The Netherlands, informal meeting with members of full committee, April 11, 1978.

Van Lennep, Hon. Emile, Secretary General of the Organization for Economic Cooperation and Development (OECD), informal meeting with members of SubIEPT, September 30, 1977.

Yamani, the Hon. Sheikh, Oil Minister, Saudi Arabia, informal meeting with members of full committee, April 4, 1977.

Yew, His Excellency Lee Kuan, Prime Minister of the Republic of Singapore, informal meeting with members of full committee, October 12, 1977; October 2, 1978.

DELEGATIONS RECEIVED

Association of Southeast Asian Nations (ASEAN), informal meeting with members of full committee, August 3, 1978.

Atlantic Council, informal meeting with members of full committee, October 25; November 30, 1977.

Austrian Delegation of Parliamentarians, led by Dr. Kurt Steyrer, M.P. Socialist Party, informal meeting with members of SubIEPT, September 20, 1978.

British/American Parliamentary Group, informal meeting with members of full committee, January 28, 1977.

Canadian Parliamentarians, informal meeting with members of full committee, April 26, 1977.

Chinese People's Institute of Foreign Affairs, Peking, headed by Mr. Hao Te-ch'ing, President; accompanied by Mr. Arthur H. Rosen, President of the National Committee; and Ambassador Charles W. Yost, Chairman of the Board of Directors; and members from the Liaison Office of the People's Republic of China, Washington, D.C., informal meeting with members of full committee, June 29, 1977.

Committee of the Whole in the United Nations led by the Honorable Driss Jazairi, Assistant to the President of Algeria; His Excellency Don Mills, Jamaican Ambassador to the United Nations; and His Excellency Igbal A. Akhund, Pakistani Ambassador to the United Nations, informal meeting with members of the full committee, May 15, 1978.

Ecuadorian Delegation including the Honorable Galo Montano, Minister of Industries, Commerce and Integration, Dr. Alberto Quevedo, General Manager of Corporacion Financiera Nacional, and Dr. Antonio Teran, General Manager of Center of Industrial Development of Ecuador, informal meeting with members of SubIAA, May 15, 1978.

Egyptian Delegation, headed by Hon. Sayed Marei, informal meeting with members of full committee, June 20, 1978.

European Parliament, informal meeting with members of full committee, November 2, 1977.

Institute of Social Studies, The Hague, Netherlands, informal meeting with members of SubAf, May 19, 1977.

Japanese House of Representatives Delegation, headed by Hon. Masayuki Fujio, informal meeting with members of SubAPA July 15, 1977.

Latin American Delegation, informal meeting with members of full committee, April 25, 1977.

Latin American Parliamentarians and specialists in foreign policy, informal meeting with members of SubIAA, April 25, 1977.

Moroccan Delegation, headed by the Honorable Dey Ould Sidi Baba, President of the Parliament of Morocco, informal meeting with members of full committee and SubAf/EME, July 25, 1978.

Peoples' Assembly of Egypt Delegation, headed by the Hon. Sayed Marei, Speaker, informal meeting with members of full committee, June 20, 1978.

Soviet Delegation, led by Mr. Mikhail S. Solomentsev, Chairman of the Council of Ministers, Russian Soviet Federative Socialist Republic, and Member of the Politburo, informal meeting with members of full committee, November 28, 1977.

Soviet Parliamentary Delegation from the Supreme Soviet, headed by Boris N. Ponomarev, alternate member of the Politburo, Central Committee of the Communist Party of the Soviet Union, Chairman of the Foreign Affairs Committee of the Soviet of Nationalities, and Secretary of the Central Committee of the Communist Party, informal meeting with members of full committee and House delegation to the Parliamentary visit, January 25, 1978.

Spanish Delegation, led by Mr. Carlos Ferrer Salat, President of the Spanish Confederation of Employers' Organizations; accompanied by Mr. Max Mazin, Vice President, CEOE; Mr. Jose Antonio Seguardo, Treasurer; Mr. Jose Villa Marsan, Committee Member; and Mr. Pablo Sela Hoffman, Secretary, informal meeting with members of SubsEME/IEPT, April 13, 1978.

Syrian Parliamentarians, informal meeting with members of full committee, May 3, 1977.

U.N. Law of the Sea Conference Delegations, informal meeting with members of full committee, June 29, 1977.

Yugoslav Delegation, headed by the Hon. Dragoslav Markovic, President of the Federal Assembly of Yugoslavia, informal meeting with members of full committee, July 17, 1978.●

WINNING HIGH SCHOOL STUDENT INTERN REPORT

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. STEERS. Mr. Speaker, the following report was judged the best of the 40 submitted by the high school students who took part in an intern program on Capitol Hill sponsored by me. It indicates the high level of research and thought of Montgomery County students, in whom we take great pride. It is written by Jonathan Evans of Walter Johnson High School:

ALASKA NATIONAL INTEREST LANDS LEGISLATION: AN ENVIRONMENTAL DECISION

(By Jonathan Evans)

This year the 95th Congress and the American people are confronted with a decision of vast proportions and extraordinary possibilities: the fate of the national interest lands of our last wilderness frontier, Alaska. Derived from the Aleutian word for "Great Land", Alaska means many things to many people. For some it means big game hunting, oil reserves, hard-rock mining, and vast timber potentials. To others it means pristine beauty, virgin forests, snow-capped mountains, and untouched ecosystems. Whatever the case may be, Americans must decide this year how much of our federal land holdings in Alaska are to be conserved and how much are to be opened up for development.

The current controversy over land-use management in Alaska, though quite recent, has distinct origins in the past. Alaska, bought from Russia in 1867 for 2 cents an acre, was at first considered to be a vast frozen mistake. But slowly, through the discovery of gold in the Yukon and the realization of other natural resource potentials, Alaska came into its own as being an important American frontier. The federal government held title to practically all of the 375 million acres of Alaska up until statehood in 1959. At this point Congress, through the passage of the Alaskan Statehood Act, allowed the new state to select 104 million acres of unreserved public land and 45 million acres of tidelands and coastal shelf. The state immediately began choosing the lands with the best economic potential and is still in the process of this selection today. Then, in the early 1960's as the civil rights movement spread across the United States, the Alaskan natives began to protest that their aboriginal rights had been violated.

In 1966 the Secretary of the Interior Stewart Udall, announced an Alaskan land transfer freeze which temporarily halted the state selections and private development until the native issue could be settled fairly. Shortly afterwards, vast oil reserves were discovered in Prudhoe Bay and the natives threatened to hold up construction of the oil pipeline until their demands were met. As a result of this, Congress enacted the Alaskan Native Claims Settlement Act (ANCSA) in 1971, which allowed the Indian, Eskimo and Aleut peoples of Alaska to select 44 million acres of ancestral land and provided a cash settlement of one billion dollars, so that all previous aboriginal claims would be extinguished. This was the second major division of the state. From this same act came the provisions for a third major division and set the stage for the current controversy.

At the last minute, during the final House-Senate conference committee dispute over the bill, an amendment was tacked on which directed the Secretary of Interior to set aside up to 80 million acres of land for possible designation in the four national conservation systems: National Park System, National Wildlife Refuge System, National Forest System, and National Wild and Scenic Rivers. The amendment also made it mandatory that Congress enact legislation to give these national interest lands permanent protection by December 18, 1978. The amendment was Section 17(d)(2) of the 1971 act and therefore these controversial lands became known as the Alaskan D-2 lands.

The conflict between the developers and environmentalists and their respective proponents in Congress has erupted into the greatest conservation and land-use controversy in the history of the United States. Both sides agree that land should be set aside and conserved, but great differences in opinion exist as to how much should be conserved and in what way.

The environmentalists have been the most successful so far because of the passage by the House of Representatives of their bill, H.R. 39, written by Rep. Morris Udall. Despite several weakening amendments tacked onto the bill through compromise in the committees and on the House floor, this significant piece of legislation passed by the House would provide for and protect well over 100 million acres of new national parks, wildlife refuges, wild and scenic rivers, and forests, with approximately half of these lands designated as wilderness under the National Wilderness Preservation System. The bill, however, is expected to face a much stronger battle in the Senate because of the opposition by the two Alaskan senators. The Senate traditionally does not consider bills that affect a single state when they are opposed by the two state senators. However, because of the massive nationwide support for the bill, as well as the facts that it involves public lands belonging to all American citizens and that the bill is backed by the Carter Administration, this tradition may be inappropriate.

The opposition to H.R. 39, led by the Alaskan Congressional delegation, claims that the bill would "lock up" Alaska's vast resources and prevent important mineral deposits and timber reserves from being exploited and developed for the benefit of the American people. They also believe that the state should have more of a say in the fate of these federal lands. They have unsuccessfully proposed the creation of a fifth system for the D-2 lands, as opposed to the four conservation systems in H.R. 39.

In this "fifth system" the lands would be under the management of a joint federal-state commission and would be basically opened up for multiple uses such as timbering, hunting, development, etc.

The environmentalists strongly objected to this proposal and defeated it on the grounds that it offered little or no protection to the fragile wilderness and ecology of Alaska. They also believed that the state of Alaska, with a population about the size of Buffalo, New York, does not have a right to decide the fate of federal lands larger than the state of California and belonging

to all Americans. It is important, they believe, to set aside these lands now for our future generations to enjoy. As for the mineral resources, the environmentalists claim that, according to the state of Alaska's own computerized analysis of resources, between three-fourths and five-sixths of Alaska's potentially mineral-rich areas occur outside the boundaries of the conservation units proposed in HR 39. Furthermore, they claim that most of Alaska's oil reserves are offshore and unaffected by the bill, and even the vast majority of the reserves on land are outside the proposed conservation boundaries of the bill.

In my own opinion I am in concurrence with the environmentalists, for I believe that Alaska contains something far more important than its oil reserves, its mineral wealth, and its vast timber supply. It contains a last stand for the nation's most precious resource—its wilderness. Only in Alaska do we find the complete ecosystems and watersheds that have been all but eliminated in the lower 48 states by the relentless scourge of our nation's economic progress. There is no point in condemning our past for its misuse of America's resources.

There is no way we can bring back the unpolluted air and waters, the great herds of bison and elk, and the endless virgin forests of the East. But what we can do is to learn from our mistakes and change our ways, for this is one of the great attributes of our American system. Alaska is our last chance to do precisely this. Throughout American history we have grown by expanding onto previously undeveloped lands, which we called the frontier. In this expansion we recklessly exploited and destroyed the environment and its native inhabitants in the name of economic growth. During our first two hundred years as a nation it has been thought that our natural resources were so vast that we would always have plenty of raw materials for our growing industries and plenty of wilderness for our solace and enjoyment. We did not need to worry much about conservation, because there was always the insurance of that ever-present American frontier.

Now that frontier is gone in all the contiguous 48 states, so our developers, in the tradition of their forefathers, have turned to our last wilderness frontier, Alaska. Most of Alaska remains today just as the entire continent was before the arrival of the white man. Bears still roam their entire domain and fish in the crystal-clear streams. Thousands of caribou can still migrate hundreds of miles through wilderness areas hardly ever set foot in by man. It is up to the American people to decide this year whether or not they are willing to set aside for future generations to enjoy these last precious remnants of America as it originally was.●

PERSONAL EXPLANATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Ms. KEYS. Mr. Speaker, today, Sunday, October 15, 1978, I missed two rollcall votes on conference reports which came before the House. Had I been present, I would have voted as follows:

"Yea" on rollcall No. 934, the conference report to accompany the bill S. 2493, to amend the Federal Aviation Act of 1958;

"Yea" on rollcall No. 935, the conference report to accompany the bill S. 3447, Agricultural Trade Expansion Act of 1978.●

NO NUKES EXTREMISTS SET UP ORGANIZING NETWORK

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. McDONALD. Mr. Speaker, the August edition of the Soviet journal "USA: Economics, Politics, Ideology," published by the Institute of the U.S.A. and Canadian Studies under the auspices of the Soviet Academy of Science in Moscow, contains an interesting article analyzing the U.S. antinuclear and disarmament group, the Mobilization for Survival (MFS), and frankly discussing the collaboration of the MFS "peace movement" groups with the World Peace Council (WPC), the U.S.S.R.'s principal international propaganda network which has as its secondary function the provision of logistical support to terrorist movements.

The Soviet author notes how many of the groups in the MFS were formerly active in the anti-Vietnam movement of the 1960's and early 1970's. Now that South Vietnam has been captured by the Communists, the Soviet's chief propaganda line calls for disarmament (with checks in the open societies of the Free World and the customary lying and deceit in the U.S.S.R.). Author Yevgeny N. Yershova makes a special point how the old anti-Vietnam organizations responded to the "new conditions" required by the reheating of the disarmament campaign by "a change of name * * * which retained their previous objectives."

Examples of the name change provided include the Coalition To Stop Funding the War, now the Campaign for a New Foreign and Military Policy (CNFMP) and Business Executives Move for Peace in Vietnam, now Business Executives Move for New National Priorities (BEM); while special recognition was given to the women's auxiliary, the Women's International Democratic Federation (WIFD) including Women Strike for Peace (WSP), its California affiliate, Another Mother for Peace (AMP), and the closely alined Women's International League for Peace and Freedom (WILPF).

My colleagues interested in the vicious attacks against the U.S. intelligence community by Morton Halperin's group at the Center for National Security Studies (CNSS) may find it significant that CNSS is considered "a definite success in coordinating the work of local groups" and that it has facilitated "the reorganization of the activities of antiwar organizations" who have "created the necessary prerequisite for a new revival of the peace movement." With CNSS, other groups receiving such commendations include CNFMP, the American Friends Service Committee's power structure research group called the National Action/Research on the Military-Industrial Complex (NARMIC), the Council on Economic Priorities (CEP), War Resisters League (WRL), Fellowship of Reconciliation (FOR), SANE, Clergy and Laity Concerned (CALC), and the youth arm of a Marxist-Leninist group alined with Cuba and North Korea that supports virtually every Marxist terrorist national liberation movement in the world, the Workers World Party's Youth Against War and Fascism (YAWF).

Discussing the 1977 activities of the MFS, the Soviet journal wrote:

The Mobilization for Survival group initiated a nationwide campaign against nuclear weapons in memory of the bombing of Hiroshima. More than 100 marches, demonstrations and sit-ins took place in 36 states—most of them at military bases, enterprises connected with the Pentagon and nuclear power stations.

At the same time, demonstrations were held in many U.S. cities to protest the development of the neutron bomb as part of International Action Week, designated by the World Peace Council. At the end of last year, antiwar demonstrations were held in ten large cities, * * *. More than 200 "teach-ins" were organized at universities and colleges throughout the nation.

During all of these antiwar campaigns, signatures were gathered for the New Stockholm Appeal [a petition drive of the World Peace Council carried out in the U.S. principally by the Communist Party, U.S.A. dominated U.S. Peace Council and National Center to Slash Military Spending]. * * *

The "No Nukes" activists of the disarmament and antinuclear power movements met for a 5-day national strategy conference, held August 16 to 20, 1978, in Louisville, Ky. Dates for demonstrations, including potentially violent invasions and occupations of nuclear powerplants, were set for 1978–79; and a national network of "resource people" and local organizing contacts was established from among those attending the conference.

This network includes:

NETWORK LISTING

REGION 1

OREGON

Christie DeMoll, 447 E. 15th, Eugene, Oregon, 97401. Trojan Decommissioning Alliance.

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George A. Plummer, 348 W. 8th, Eugene, Oregon 97401. Trojan Decommissioning Alliance.

Rhys Scholes, 215 SE 9th, or 1118 SE 20th Portland, Oregon 97214. Trojan Decommissioning Alliance, Hartford Convention Pres., Mobilization for Survival, New American Movement.

Helen Vozenilek, 9214 SE 25th, Portland, Oregon 97214. Trident & TDA.

WASHINGTON

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Albert Snow, 308 N. 6th St., Yakima, Washington 98901. Hanford Conversion Project.

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REGION 2

CALIFORNIA

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Harvey Eder, 515 Broadway, Santa Cruz, Calif. 95062. Abalone Alliance.

Howard Kohn, 625 Third St., San Francisco, Calif. 94107. Facilitator—Prime Media Workshop, Rolling Stone magazine.

REGION 3

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Ted Warmbrand.

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Roy Young, 2861 LaGrange, Boulder, Colo. 80303. Rocky Flats Truth Force.

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MONTANA

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REGION 4

WYOMING

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REGION 5

MINNESTOA

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John Kearney, Minnesota, Northern Sun Alliance, General Assembly to Stop the Power Line.

WISCONSIN

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Tom Quinn, Rt. 2, Glenwood City, WI. F.U.S.E.

REGION 6

ARKANSAS

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IOWA

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REGION 6

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REGION 7

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VERMONT

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REGION 10

NEW YORK

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REGION 11—(INCLUDING VIRGINIA)

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Fred Millar, 1734 G St. N.W., Washington, D.C. 20009. Potomac Alliance.

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PENNSYLVANIA

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Peter Bradford, 2338 N. 11th St., No. 302, Arlington, VA 22201. Citizens Energy Forum. Marina G. Kelley, RX. 2, Box 170, Afton, VA 22920. SAFE (Safe Alt. for Future Energy). Steven Mason 304¼ Cherry St., Richmond, VA. Va. Sunshine Alliance; Catfish Alliance.

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Isabelle Umpleby, 17 Gallatin St., Ravensworth, WV 26164. WV Alliance; Jackson Co., Affinity.

Chuck Kelley, Earth House, 723 College Ave., Morgantown, WV 26505. Local Cit. Action; 3 Rivers Affinity.

Lolly Rice, Box 602, Spencer, WV 25276.

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Sheila O'Brien, c/o Gilliam, Box 12867, ETSU, Johnson City, TN. Franklin FOLK.

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Albert Bates, The Farm, 156 Crakes Ln., Summertown, TN 38483. Catfish Alliance; Farm Network; Plenty.

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REGION 14—FLORIDA

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GEORGIA

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Frank Sarnowski, 18 Bluff Rd., Columbia, SC 29201. Palmetto Alliance; Barnwell Project.

F. Truett Nettles, P.O. Box 303, Charleston, SC 29402. Palmetto Alliance.

Ted Harris, 1001 Woodson St., Columbia, SC 29205. Palmetto Alliance.

Brett Bursey, Rt 1 Box 93–C, Little Mt., SC 29075. Palmetto Alliance GROW.

Susan & Sathya McElhany, 2882 W. 8th Ave., Vancouver, BC, Canada. Salmon Tree Chronicles; BC Know Nuclear Coalition.

Martin Osberg, 335 8th St., New Westminster, BC, Canada V3M 3R3. Pacific Life Community; Canadian Coal. for Nuc. Responsibility.

CANADA

Bob Melcombe, 1593 DuPont St., Toronto, Ontario, Canada. Toronto Area Non-Violent Community.

Rex Weyler, 2108 W. 4th Ave., Vancouver, BC, Canada. Greenpeace.

INTERNATIONAL

Miroshi Nishimura (Japan), 4820 Windsor Ave., Philadelphia, PA 19143. Peoples Research Instit. on Energy & Environment.

Vincent Richet, 14 rue de l'Arbalet, 75005 Paris, France, PH: 707 25 23, Amis de la Terre (FOE). (NRDC, Washington, DC).

Nicky Perlas (Philippines), c/o Center for Development Policy, 225 4th St., NE., Washington, DC 20002. Philippines Movement for Environment.●

TRIBUTE TO WALTER FLOWERS

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MINETA. Mr. Speaker, I rise today to honor my colleague and good friend from Alabama, Representative WALTER FLOWERS.

Since coming to Congress in 1975, I have been impressed with WALTER's sense of leadership and his dedication to the people of Alabama and the country. I have been particularly impressed with his commitment to dealing with the long term problem of energy development. As chairman of the Science and Technology Subcommittee on Fossil and Nuclear Energy, Research, Development, and Demonstration, he has worked hard at balancing the Government's approach to developing new energy technologies. He understands that the United States must keep open as many options for energy as are available, so that we will have a choice when critical energy decisions are made in the future. WALTER understands that we cannot afford to exclude any potential energy source from our development program, just as we cannot expect any one source to supply all our energy in the future.

In WALTER's decade of service in Congress, he has served the people of Alabama's Seventh Congressional District well. His has been a voice of intelligence experience, and understanding that will be missed by us all in the House of Representatives.

Mr. Speaker, I would like to join my colleagues in expressing regret at WALTER FLOWER's departure from Congress and in wishing him well in his future endeavors.●

BALANCE(S) OF POWER SERIES: SOVIET FIRST STRIKE CAPABILITY

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the Soviet Doctrine and Intentions Series now focuses attention on a question fundamental to the security of the United States: whether or not the Soviet Union will have a first-strike capability in the near future? For nearly a decade and a half, the United States has based its security upon a strategy of "mutual assured destruction" (MAD). This strategy—in part a child of the technology of the 1960's—rests on the premise that each side would retaliate against an attack on the other's cities.

Recent advances in technology, however, have increased the accuracy of Soviet ICBM forces and make the first-strike option a viable Soviet alternative in the not too distant future.

R. J. Rummel, in an article entitled "Will the Soviet Union Soon Have a First-Strike Capability?", which first appeared in Orbis, fall 1976, argues that the Soviet Union will soon have a first-strike capability and will use this capability in its drive to achieve both military superiority over the United States and the general collapse of capitalism worldwide.

Mr. Rummel's article is as follows:

WILL THE SOVIET UNION SOON HAVE A FIRST-STRIKE CAPABILITY?

(By R. J. Rummel)

[Table does not appear in RECORD]

Since the necessary condition for the pursuit of any national priority is the continued survival and independence of the United States, national security is our highest priority. And the central question for those concerned with the security of the United States is this: does the USSR now possess, or will it soon possess, first-strike capability? If the answer is yes, then swift military victory over the United States will lie in Soviet hands.

An answer requires extreme care. We must work our way through a thicket of technical considerations; the essential information is secret and manipulated; and there are two sides to the question—one political, the other technical. The technical side concerns whether in fact it is or might soon be physically possible for the Soviets to attack our strategic forces and destroy our retaliatory capability; that is, do they or will they shortly have a preclusive first-strike capability? The political side concerns the Soviet ability to eliminate a significant portion of our strategic offensive forces while deterring us from retaliating with what is left; that is, do they have a dominant first-strike capability?

The difference between the two should be clear. A preclusive capability is a matter of relative forces and their objective characteristics: warhead yield, accuracy, hardening of silos, antiballistic missile protection, and so on. It is a matter of probabilities, reliabilities, and a mathematical model putting all the variables and parameters together. The existence of a preclusive first-strike capability thus becomes a physical problem subject to technical solution.

A dominant capability is also a question of weapons characteristics, probabilities and equations. But it is not wholly subject to technical analysis, for man's psychology, perceptions and values are also at issue. It is partly a question of what constitutes a sufficient military threat to deter American leaders from retaliation and to invoke surrender. How we answer this depends on our political wisdom.

The weapons requirements for a preclusive strike are not the same as those for a dominant first-strike; hence the basic reason for the distinction. The Soviets might not possess or might not be able to attain a preclusive first-strike capability, but at the same time they might be quite capable of obtaining a dominant one. Since a preclusive first-strike capability requires more offensive and defensive strategic power, its existence would assume a dominant capability as well.

With these considerations in mind, let us take the more demanding case first. Does the Soviet Union now have or will it soon have a preclusive first-strike capability? A full answer necessitates a technical discussion and elaboration of the factors involved, which include the characteristics of the Soviet and American offensive weapons (ICBMs, SLBMs, bombers), hardening of American missile silos, strategic defenses on both sides, missile reliability, number of warheads and yield, missile accuracy, defensive radars, and so on.

To begin the discussion, consider that the United States maintains a strategic force composed of three systems: ICBMs, bombers, and Polaris and Poseidon nuclear submarines. Nuclear deterrence rests on the ability of any one of these systems to survive an attack. I will consider each in turn, beginning with our land-based ICBMs.

THE "INVULNERABILITY OF AMERICAN ICBMs

Several facts are involved in the ability of our ICBMs to survive a surprise attack, among them the number, accuracy and yield of the warheads attacking them, the protection given the ICBMs, and the electronic interference ("fratricides") effects. In order to determine the survivability of our ICBM force, Kosta Tsipis, a senior researcher at the Stockholm International Peace Research Institute, asserted the relationships among a number of these factors.[1] Tsipis tends to underestimate the capability of the Soviet missile force, so his study provides a conservative first-approximation of the Soviet Union's first-strike ability.

In his assessment, we have 1,054 ICBMs: 54 Titans, each with a warhead greater than 5 megatons; 450 Minuteman II missiles, with a 1-megation warhead apiece; and 550 Minuteman IIIs, each with three 160-kiloton MIRV warheads. The Minuteman III ICBMs are housed underground in silos hardened to withstand an overpressure of 1,000 pounds per square inch (psi); the rest are in silos built to withstand 300 psi. Is this CLBM force invulnerable?

According to Tsipis, the USSR has available for a sudden attack the following ICBMs: 209 SS–7s, 8 of which have 5-megaton warheads; 288 of the heavy SS–9s, each

Footnotes at end of article.

with a 20-megaton warhead; and 970 SS–11s, with a 1-megaton warhead apiece. There are also the submarine-launched missiles: 528 SS–N–6s (with 1-megaton warheads) and 80 SS–N–8s (also with 1-megaton warheads). These data are for 1974 and are considerably below the current size and power of Soviet missiles. By the end of 1975 four new types of missiles were operational, including the following: the SS–18, which is a larger successor to the SS–9 and is capable of carrying a 50-megaton warhead or eight MIRVs; the SS–17, which can carry four 2-megaton MIRV warheads; and the SS–19, which can carry five 2-megaton MIRV warheads. Nonetheless, let us see where Tsipis's optimistic data lead him.

He first determined a coefficient (K), which is a function of a warhead's accuracy and yield, in order to measure, with a specific probability, how lethal a warhead must be to destroy a missile in a silo.[2] If there is S number of silos, then KS measures the lethality of opposing warheads required to destroy S silos. If there is N number of warheads, then KN measures the overall lethality of the warheads available. When KS equals KN, the number of warheads is just sufficient to destroy the number of silos.

Tsipis tabulated the number of warheads, yields, and accuracies of American and Soviet ICBMs and SLBMs together with their KS and KN values. Table I summaries his relevant data. Note that the Soviets seemed to have nowhere near the ability to destroy a high percentage of American missile silos as of 1974. Even if we were to focus on the Soviets' 288 SS–9s, the most powerful of their missiles at the time and the one provoking first-strike fears in the hearts of analysts, and even if it is assumed that 50 per cent of the USSR's warheads will fall within 1 nautical mile (i.e., CEP=1) of the silo, these SS–9s could destroy only 45 of the 504 silos hardened to withstand 300 psi, or 19 of those 550 hardened to survive 1,000 psi. And all this assumes a 100 per cent availability and launch reliability for the missiles; it also overlooks fratricide by nearby nuclear explosions.

In sum, this optimistic analysis shows a very large gap between Soviet capabilities in 1974 and what is required for a first-strike. However, this assumes a very poor accuracy for their missiles, an accuracy that may be greatly underestimated. Some, for example, have estimated the powerful SS–9 to be almost twice as accurate as Tsipis assumes.[3] Such a change in estimate can increase Tsipis's lethality coefficient for this missile from 7 to 29, or by *more than four times* the silo-killing capacity that he gives it. If the accuracy is four times that which Tsipis assumes, his lethality coefficient explodes from 7 to 116—an order-of-magnitude jump.

That this higher accuracy is not unlikely, consider the following information supplied to Congress by the Department of Defense: "We have some information that the Soviets have achieved or will soon achieve, accuracies of 500–700 meters with their ICBMs."[4] This would be about a fourth to a third of a nautical mile, or accuracies four and three times that assumed by Tsipis. If the accuracy of Soviet ICBMs were four times greater than that which Tsipis estimates, the lethality available to the Soviets (Table I) would jump from 3,864 to 64,032—enough to destroy probably 90 per cent of our ICBMs.

As a consequence, the probability values in Table I are subject to sharp increase for the Soviets if in fact their accuracies approach anything like our own, which are estimated at a CEP of 0.5 for the Titan, 0.3 for the Minuteman II, and 0.2 for the Minuteman III. But working within Tsipis's optimistic assumptions, the answer is clear: the Soviets did not have a preclusive first-strike capability as of 1974. Will they soon have one? In another analysis, Tsipis has extended his KN values for the Soviet Union into the future as "possible Russian responses" to announced U.S. progress.[5] We can take these values as representing the future Soviet kill capability.

Judging from Tsipis's plotted projections,[6] the Soviet Union will have (as a worst case estimate; i.e., the top of a range of possible capabilities) KNs of about 80,000 in 1980, 200,000 in 1981, and 800,000 in 1985. According to Table I, a KS of 54,170 could destroy about 90 per cent of our silos; a KS of 82,080 could destroy about 97 per cent. Thus, by 1981, the Soviets would have a possible 200,000 KN to a needed 82,080 KS. This disparity should compensate for the possible unreliability of some of their missiles and the fratricide effects on warheads aimed at the same or nearby targets. Moreover, we must remember that all this may be based on an estimate of Soviet warhead accuracy that is off by a factor of two, which would quadruple the KN of 200,000, or even by a factor of four, which would raise the KN to more than 3 million!

Tsipis does not indicate what Soviet responses he is plotting. We do not know whether he has taken into account their new (MIRVed and more accurate) missiles now operational: e.g., the SS–17, SS–18 and SS–19. The SS–18 and SS–19 have been estimated to have a CEP of 0.25,[7] which, if true, according to his way of calculating missile lethality, would give the Soviets an assured ability to obliterate our land-based missiles by 1980. In any case, his optimistic assumptions lead to the pessimistic conclusion that, at least by 1981, the USSR could destroy all but about a dozen of our ICBMs (i.e., 99 percent effectiveness).

What happens if our assumptions are pessimistic to begin with? Phyllis Schlafly and Chester Ward have presented data and analyses bearing on this question,[8] arguing that around 1977 the Soviet Union will be able to destroy our ICBMs. They assume that Soviets missile accuracy (CEP) will be within 1,000 feet and that the Soviets can launch 300 SS–9s, 100 SS–18s, and 20 SS–17 or SS–19 ICBMs for a total of 2,634 warheads (mainly 2 megatons apiece) in two equal waves. The second wave could be launched at the same targets after a delay of 6 minutes. The number and power of these warheads should destroy all but 6 of our ICBMs (even if the 150 ICBMs were protected by 100 ABMs at Grand Forks, North Dakota). Moreover, before the warheads impact, some 30 Yankee-class submarines could explode SLBM warheads over our silos at the moment we receive warning of an ICBM attack, through interference effect, this would pin down our ICBMs until the Soviet ICBM warheads arrive.

Another way of looking at the survivability of our ICBMs is in terms of the total throw-weight available to the Soviet Union.[9] Within the limits of the Vladivostok accord, 10 to 12 million pounds of throw-weight "can be expected" to be available to the Soviets. Compare this with a net throw-weight of only about 4 million pounds necessary to threaten the destruction _____ per cent of our ICBMs. This assumes silos hardened to withstand 1,000 psi, a CEP of 0.125 nautical mile, and two warheads targeted on a silo; it also takes into account reliability. Clearly, the Soviet Union will have enough throw-weight to destroy all but a handful of our ICBMs, and will have enough left over to threaten our cities and deal with our allies.[10]

In short, considering the data offered by Tsipis, Schlafly and Ward, and Nitze, pessimistic assumption lead to a possible destruction of our ICBMs by 1977; optimistic assumptions postpone this possibility only for a few years.

FOOTNOTES

[1] Kosta Tsipis, "Physics and Calculus of Countercity and Counterforce Attacks," Science, February 7, 1975, pp. 393–397.

[2] $K = Y^{2/3} \div CEP^2$, where Y is the yield of a warhead and the CEP (circular error probable) is its accuracy in nautical miles.

[3] See Harry Gelber, *Nuclear Weapons and Chinese Policy* (London: International Institute for Strategic Studies [IISS], Adelphi Paper 99, 1973).

[4] James R. Schlesinger, briefing on counterforce attacks before the Subcommittee on Arms Control, International Law and Organization of the Senate Committee on Foreign Relations, September 11, 1974.

[5] Kosta Tsipis, "The Accuracy of Strategic Missiles," *Scientific American*, July 1975, pp. 14–23.

[6] *Ibid.*, p. 23.

[7] William R. Van Cleave, "Soviet Doctrine and Strategy: A Developing American View," paper presented at the Conference on the Future Role of Soviet Military Power Within the East-West Political Context, Stiftung Wissenschaft und Politik, Ebenhausen, Germany, May 1–2, 1975.

[8] Phyllis Schlafly and Chester Ward, *Kissinger on the Couch* (New Rochelle, N.Y.: Arlington House, 1975), p. 64 ff. et passim.●

TRIBUTE TO YVONNE BURKE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANDERSON of California. Mr. Speaker, at the end of the 95th Congress we must bid farewell to one of the brightest, most capable Members of the House. YVONNE BURKE, of California's 28th District, is leaving Washington to seek election as State attorney general. This is clearly a case of a California gain and a Capitol loss, for this woman is a valuable asset wherever she goes. Both my wife, Lee, and I realized long before YVONNE made the decision to run for Congress that she was an extremely well-qualified public servant. Having worked hard for her first reelection to the California State Assembly and watching her development there, we knew that her election to Congress would be a gain for the Nation, and not a loss to California.

YVONNE has spent most of the past 25 years of her life in public service of one sort or another. The list of her awards and achievements is almost endless. Suffice it to say that she has performed remarkably, not only in representing the 28th district, but in insuring that all Americans have equal acces to the best elements of our society. YVONNE's membership on the House Appropriations Committee and the Select Committee on Assassinations is distinguished by her articulate manner and by her thorough knowledge of the subject at hand. Not only is she an extremely efficient and able Member of Congress; she is a very likable individual as well. As we all know, this particular blend of characteristics cannot be applied to everyone on Capitol Hill.

YVONNE's work in Washington is outstanding not only for its own sake, but for the fact that she is a wife and mother as well. Her male colleagues may not be aware of the difficulty of combining three full-time careers and managing to conduct all three successfully. But YVONNE is as devoted to her husband, William,

and her children, Autumn Roxanne and Christine as she is to the service of her country. She is truly an exceptional Member, and it has been an honor and a pleasure to serve with her. Lee and I wish her, William, Autumn Roxanne and Christine all our best wishes for their future endeavors.●

PRESIDENT HAILS OLDER AMERICANS ACT IMPROVEMENTS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PEPPER. Mr. Speaker, Congress has completed its action on extending and improving the Older Americans Act, the only Federal program aimed exclusively at delivering social, nutritional, and employment services for our country's elderly.

Now, I am pleased to say, President Carter has signed this landmark legislation into law. It contains a number of major changes in the Older Americans Act, not only to bring more and better services to older people everywhere, but also to streamline the administration, and cut through the redtape in delivering those services.

At the ceremony during which he signed this legislation into law, the President pointed out that the act was "a foundation for the security and better life" for older Americans. His remarks on that occasion were heartening to those of us committed to improving the lot of the elderly, and at this point in the RECORD I wish to insert those remarks, followed by a brief statement of my own outlining the new law's major provisions:

REMARKS OF THE PRESIDENT SIGNING CEREMONY FOR H.R. 12255, THE COMPREHENSIVE OLDER AMERICANS ACT AMENDMENTS OF 1978

THE PRESIDENT. This morning it is a great pleasure for me to sign House Bill 12255 which is the Amendments to the Comprehensive Older Americans Act, a foundation for the security and better life of Americans who reach their retirement age.

This legislation which is quite comprehensive in nature will strengthen the Federal Council on Aging on which I rely for constant advice, sometimes prodding, sometimes counsel, sometimes criticism, but which has been a very effective voice within the White House for the senior citizens of our country.

One of the things that is interesting to me, and I think will be exciting to older Americans and those who care about them, is that this bill provides for a White House conference on the aging in 1981. And, in fact, we have already begun to plan for that conference to assess where we stand in this country on meeting the needs of older Americans, and also to improve the delivery of those kinds of services and opportunities.

Another very interesting feature of this legislation is that it moves even further to terminate or to minimize at least the discrimination against Americans because of their age, because of their race or because of their ethnic background.

One of the results of a very rapid improvement in Federal programs for the aging has been confusion in administration. This bill recognizes and corrects that defect by consolidating Titles III, V, and VII of the Older Americans Act. This would provide now for a better administration in a coordinated way of social programs, housing programs, programs to deliver food, and the establishment of centers for elderly Americans.

One of the things that I hope this Act will provide and ensure is a more narrow focusing of attention and services on those who have the greatest economic and social need. We want to broaden opportunities to additional older Americans. But when there is a limited supply of funds or facilities, of course, those should be given on a top-priority basis to those who have the greatest need of all.

The bill also extends for three years the employment opportunities for older Americans under the action programs, and this I believe will be a reassuring note to older Americans who want to have at least partial or part-time employment in resolving some of the other problems in American society.

I particularly want to thank Senator Tom Eagleton, whose wife is here with us this morning and also John Brademas who is with us with his mother.

I would like to ask Congressman John Brademas if he has a comment to make before I sign the bill.

Congressman BRADEMAS. You are very kind, Mr. President. I suppose one of the reasons I was so committed to seeing the passage of this legislation is that I have a very articulate champion of it in my own family in the person of my mother, who is a 77-year-old retired school teacher, who is a great supporter of Jimmy Carter and John Brademas. (Laughter)

The PRESIDENT. John, I am affected by the same situation in my own family. (Laughter) I have a one-woman lobby in my home. (Laughter) That is a great opportunity for us both to have.

Mrs. CARTER. I am very pleased to be here and very pleased for Jimmy to have the opportunity to sign this bill.

The PRESIDENT. Thank you.

Mrs. CARTER. I, as you know, meet with Nelson every other week and stay in touch with what is going on in the Legislature with the legislation as it goes through both Houses, and it is just a great thrill for me to be here this morning to see Jimmy sign this bill.

The PRESIDENT. Thank you.

Mr. CRUIKSHANK. Thank you, Mr. President.

The course of this bill through the House and the Senate has been a little like the perils of Pauline at several points. But due to the efforts of John Brademas and Senator Eagleton, they steered through all the narrow passages and they came out with a good bill that is going to do a lot for the older people in this country. And it is going to make the administration of the program better and more effective and now the task, after you sign this, Mr. President, will be for all of us to pitch in and make it work. We will have to work as hard as the Congressional people have worked on this as we get to working on carrying out its provisions.

The PRESIDENT. I will sign it now so we can all go to work and implement the opportunities that Congress has given us.

Thank you very much. (Applause)

STATEMENT ON PRESIDENT'S SIGNING OF OLDER AMERICANS ACT AMENDMENTS BY CLAUDE PEPPER

The Older Americans Act Amendments signed into law today by President Carter mark a distinct improvement in what is the only major services program the Federal Government funds solely for the elderly. It furnishes nutrition, social services and part-time employment for millions of Americans over 60 every year.

The changes made by these amendments will not only expand and improve the programs, but they will allow the programs to run more efficiently, so that older people—and taxpayers, both young and old—get the maximum out of every dollar spent. Another important inclusion in this bill is the authorization for a 1981 White House Conference on Aging. We can expect that planning for this vital conference, in which I and the Select Committee expect to be closely involved, will begin very soon. I am gratified that the legislation as enacted reflects quite closely the recommendations made earlier this year by the Select Committee on Aging, which I have the honor to chair.

Some of the major improvements contained in the bill as enacted are as follows:

A 3-year extension of the Older Americans Act, with authorizations totalling almost $4 billion.

A major new initiative to vastly increase home-delivered meals to the homebound elderly.

A significant streamlining in the local and state administration of the Act, to cut down on red tape and paperwork.

A major new program to demonstrate better ways to match older people with the long-term care services they need—a complete continuum from senior centers to nursing homes and hospitals.

A strengthened program of legal services and nursing home ombudsmen for the elderly.

Changes in the Age Discrimination Act that will make it easier for individuals discriminated against because of their age in federal programs to get relief.

Extension of older volunteer programs in ACTION for three years, with an increase in the stipend paid to Foster Grandparents and Senior Companions.

Authorization for a White House Conference on Aging in 1981.●

THE HONORABLE W. R. "BOB" POAGE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, at the end of this session, we lose the wisdom and guidance of BOB POAGE. His retirement will cut deep in the hearts of the Texans he served with pride and distinction, as well as the colleagues he leaves behind. For 42 years he devoted his life to representing the Texas heartland and improving the quality of life for the American farmer. BOB fought for the rights of farmers from the first day he came to Congress, and helped shape this Nation's agriculture policy as the distinguished chairman of the House Agriculture Committee. Few have the knowledge of agricultural affairs BOB POAGE has shared with us. The loss of his expertise will create a void for all who sought his counsel.

BOB's able and dedicated public service will long be remembered by his friends in Texas, Congress, and across the Nation. I sincerely hope that BOB will enjoy continued good health and happiness in the years ahead.●

DISARMAMENT AND ANTINUCLEAR GROUPS SET TARGETS AND STRATEGY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. McDONALD. Mr. Speaker, since 1975, when South Vietnam, Laos, and Cambodia fell to the Communists, the prime Soviet propaganda line has been for Western disarmament. The leaders of the U.S. anti-Vietnam movement, who had been working with the World Peace Council—WPC—and other Soviet propaganda fronts against South Vietnam, smoothly shifted gears to the revived nuclear disarmament line. The lobbying arm of the anti-Vietnam effort changed its name to the Coalition for a New Foreign and Military Policy—CNFMP—and began organizing pressure on Congress to slash the defense budget, cut U.S. aid to free world countries resisting Communist subversion and terrorism as a "human rights" issue, and to withdraw as a world power and protector of the free world. In the early months of 1977, World Peace Council activists who had led the organizing of often violent anti-Vietnam street demonstrations set up a new organization, the Mobilization for Survival—MFS—to coordinate mass demonstrations for disarmament in the United States.

Both the MFS and the disarmament fronts working with the World Peace Council in Japan and Western Europe have been trying to bring into their campaign the environmentalist organizations that oppose the use of nuclear energy to generate electricity. Since the environmentalist antinuclear power movement already had a strong antibusiness, antitechnology, anticapitalist orientation, and had many leaders and activists who had also worked in the anti-Vietnam effort, this recruitment effort among the antinuclear groups has had some success.

However, serious disputes have arisen when the politically more disciplined disarmament activists have tried to impose a centralized organizational structure on the decentralized, more independent-minded, and even anarchistical ecology movement rank and file. One major complaint among antinuclear power groups has been that the disarmament activists want to allocate resources and hold mass demonstrations for their issues, but were not willing to make the same commitment to stop powerplants.

In an effort to obtain a preliminary consensus on strategy and actions for the next year, a "No Nukes Strategy Conference" attended by some 300 disarmament and antinuclear activists was held August 16–20, 1978, at the University of Louisville, a month in advance of the scheduled MFS national conference, held September 15–17, 1978, in Des Moines.

The national organizations sponsoring the "No Nukes Strategy Conference" were:

Women Strike for Peace (WSP), a group formed in the early 1960's to promote the World Peace Council's "ban the bomb" campaign. From its inception praised and penetrated thoroughly by the Communist Party, U.S.A. (CPUSA), one of WSP's first actions was to affiliate with the Women's International Democratic Federation (WIDF), the World Peace Council's de facto women's auxiliary headquartered in East Berlin.

Women's International League for Peace and Freedom (WILPF), also thoroughly penetrated by the CPUSA and having extensive overlapping membership with WSP, WILPF and its leaders such as Dorothy Steffens and Katherine Camp collaborate intimately with the WPC and WIDF.

Another Mother for Peace, the California affiliate of WSP.

American Friends Service Committee (AFSC), an organization which has excused the actions of Marxist terrorist "national liberation" forces on the grounds that the "violence of the status quo in America"—the free enterprise system and our constitutional government—are guilty of "a greater violence and terrorism than any used in the struggle against them." A pamphlet published by the AFSC in 1972 stated:

> Revolution then is needed first and foremost in the United States, thoroughgoing revolution, not a mild palliative. Specific and far-reaching changes are needed in American foreign policy, with equally specific and thoroughgoing changes in the U.S. domestic scene.

Mobilization for Survival (MFS), a disarmament coalition that works with the World Peace Council and in which the above groups are active.

Environmental Policy Center, a Washington, D.C., based group headed by Robert Alvarez, active with the MFS lobbying counterpart, the Coalition for a New Foreign and Military Policy (CNFMP).

Supporters of Silkwood (SOS), a group headed by Kitty Tucker (Mrs. Robert Alvarez) and sharing an address with the Environmental Policy Center that is publicizing and raising money around the death in a car crash in 1974 of Karen Silkwood, an employee and critic of the Kerr-McGee nuclear processing corporation in Oklahoma.

Other sponsors of the "No Nukes Strategy Conference" included Critical Mass, Ralph Nader's "citizens movement against nuclear energy" and publication edited by veteran anti-Vietnam activist Richard Pollock; Greenpeace; the Nuclear Information and Resource Service of Washington, D.C.; the Coalition Against the Clinch River Breeder Reactor, and the Citizen's Energy Project of Washington, D.C.

Organizations represented at the conference included the "Eurocommunist" alined New American Movement (NAM); the U.S. section of the Trotskyite Communist Fourth International, the Socialist Workers Party (SWP) and its Young Socialist Alliance (YSA); an independent Trotskyite organization, the International Socialists (IS); and many local affiliates of the Mobilization for Survival.

MFS affiliates participating included the Clamshell Alliance, New Hampshire; Catfish Alliance, Alabama; Armadillo Coalition, Texas; Abalone Alliance, California; Pacific Life Community; Northern Sun Alliance, Minnesota and Wisconsin; Syracuse Peace Council, New York; the Rocky Flats Action Group (RFAG); Sea Alliance, New Jersey; and Trojan Decommissioning Alliance, Oregon.

Fifteen two-part issue workshops were held to formulate programs on specific areas of antinuclear activity such as how to build coalitions with labor and what effective campaigns can be mounted against segments of the U.S. nuclear industry. The workshops offered many action proposals for demonstrations and programs which have been offered for ratification to participating groups. At its September national conference, the MFS ratified the strategy conference proposals for nationally coordinated demonstrations around November 13, the anniversary of the death of Karen Silkwood; and for an international day of antinuclear protests to be held June 3–4, 1979, in preparation for the United Nations Conference on Science and Technology to be held in August 1979, in Vienna.

The "No Nukes Strategy Conference" exhibited the growing efforts of the Socialist Workers Party to penetrate and colonize among the antinuclear movement in the same way the Fourth International parties in France, Denmark, West Germany and other Western European countries are competing with the pro-Soviet Communist parties, New Left and other revolutionary groups for control of the antinuclear power movement.

The workshop on planning a "national direct action" demonstration attracted some 100 participants including Clamshell Alliance leaders who planned the mass civil disobedience demonstrations at Seabrook, N.H., such as Guy Chichester, Renny Cushing, Harvey Wasserman, Anna Gyorgy, and the ubiquitous Sam Lovejoy. Also taking a leadership role in encouraging a mass demonstration in Washington, D.C., in the fall of 1979 was a well organized fraction of SWP members led by Fred Halstead and Doug Jenness, from the SWP National Committee, and including several SWP members active in the Boston chapter of the Clamshell Alliance, as well as SWP and YSA members from other cities.

The "direct action" workshop recommended participation in local antinuclear actions on June 3 and 4, 1979, the international protest days, to be followed by a mass national demonstration for the fall of 1979. The September Mobilization for Survival conference further refined the strategy conference call and set the demonstration for October 1979, to culminate a year-long campaign for a moratorium on production and development of nuclear weapons; transfer of the defense budget to "fund human needs;" and for halting development of nuclear power stations.

The "No Nukes" conference showed the increasing involvement of the anti-intelligence lobby in the disarmament and antinuclear organizing with a workshop on "civil liberties and nuclear power" led by Jim Garrison of Supporters of Silkwood (SOS); Sheila O'Donnell of the National Lawyers Guild

(NLG), U.S. section of the Soviet-controlled lawyers front, the International Association of Democratic Lawyers (IADL); and Donna Warnock, of the Citizens Energy Project and the Syracuse Peace Council.

Representatives of the American Indian Movement attacked the collection of intelligence on AIM activists who are coordinating antiuranium mining activities with Australian Aborigines and militants in South West Africa. NLG activist O'Donnell, also a member of the NLG's anti-intelligence Repression Information Project, gave an extensive, but speedy "rap" urging the antinulear movement to take stringent security precautions to prevent any information about them being mde public except what they want fed to the press, and to investigate each new antinuclear recruit with rigorous thoroughnes to prevent the ideologically unfit from joining.

Groups with which the antinuclear movement should work were recommended and included the Grand Jury Project, a suport group for fugitive and arrested terrorists run by the NLG and supporters of the Weather Underground; the Campaign to Stop Government Spying, a coalition headed by Morton Halperin of the Center for National Security Studies; the National Committee Against Repressive Legislation (NCARL), a Communist Party, U.S.A. (CPUSA) front; and the National Lawyers Guild's Anti-Nuclear Task Force which has been acting as a clearing house for legal arguments defending demonstrators arrested in Oregon, California, New Hampshire, and other States which is being run by Josh Epel, 62½ Chapel Street, Concord, N.H.

The workshop on the antinuclear movement's outreach to organized labor considered tactics to gain union support for closing down nuclear powerplants and other nuclear industry facilities. Proposed arguments to use with local and national labor leaders and the rank and file members centered on claims of severe health danger from low level exposure to radiation.

Outreach tactics proposed included leafletting plant sites, having local antinuclear leaders try to speak at union business meetings, and formation of antinuclear committees by activists who are already union members. Workshop "facilitatocrs" inlude Jim Benson, Council on Economic Priorities; Truett Burke, Armadillo Coalition, Texas; Gail Daneker, Environmentalists for Full Employment, Washington, D.C.; and Peter Kelman, Clamshell Alliance, New Hampshire.

The workshop against the export of nuclear technology was led by Keiki Kehoe, Center for Development Policy, Washington, D.C.; Linda Lopez, a Puerto Rican activist; Hiroshi Nishimura of the People's Research Institute on Energy and Environment in Philadelphia; Niki Perlas of the Center for Development Policy and Philippines Movement for Environment Protection; and Harvey Wasserman, a leader of the Clamshell Alliance from Montague, Massachusetts, a member of Sam Lovejoy's collective and a frequent writer of antinuclear articles.

Two targets were selected. The principal effort is to prevent the Nuclear Regulatory Commission from granting an export license to Westinghouse for a nuclear powerplant reactor in the Philippines. Perlas stated that the real consumer of the electricity produced by the proposed Philippines plant would be the big U.S. military bases—Subic Bay Naval Base and Clark Air Force Base.

The campaign against the Westinghouse reactor export has been organized by Friends of the Filipino People (FFP), a support group for Marxist revolutionary and terrorist groups, active in Boston, Washington, D.C., Seattle, Los Angeles, and San Francisco. The FFP and members of the Anti-Martial Law Coalition (AMLC), which includes Maoist supporters of the New People's Army terrorists, pro-Soviet Communists and other anti-Marcos political groups which collaborate with the Marxist-Leninists, have formed the Coalition for a Nuclear Free Philippines. Perlas is also active with the Campaign Against Runaway Reactors, also operating from the Center for Development Policy offices at 225 4th Street N.E., Washington, D.C. 20002.

Perlas said that a Day of International Protest against export of the Westinghouse reactor to the Philippines would be held at the end of November. By the time of his appearance at Ralph Nader's Critical Mass 78 conference in October, the date had been set for November 30.

A second major target of the workshop is the proposed complete nuclear facility to be built by the United States and Japan in Micronesia. According to workshop participants, the facility would include facilities for uranium enrichment, nuclear fuel reprocessing, the waste disposal. Activists denounced stories of surveillance of Micronesian activists and attacked the CIA, but made no mention that the National Lawyers Guild, a Communist front and U.S. section of the Soviet IADL, had provided advisers to the Micronesians during status discussions.

An international "Conference for a Nuclear Free Pacific" is scheduled to be held in Micronesia in February 1979. Information on the conference is being coordinated by the Micronesia Support Committee, in care of Giff Johnson, 1212 University Avenue, Honolulu, Hawaii 96826, and by Mike Malone, Box 14 Majuro, Marshall Islands, 96960.

Information on additional international coordination among antinuclear and disarmament activists was developed during a workshop on the role of American Indian militants in antinuclear movement. According to John Redhouse of the National Indian Youth Council of Albuquerque, N. Mex., not only is more than half the U.S. uranium ore on Indian reservations, but in Australia, one-third of what he termed the so-called free world's uranium ore is on Aborigine land. He stated that since the United Nations Indigenous People's conference in Geneva in 1977, U.S. Indian activists had begun to collaborate with Australian Aborigines and black groups in Southwest Africa (Namibia) is planning how to stop the mining of uranium ore in those areas.

In December 1978, a group of Australian Aborigines will commence a U.S. tour to develop U.S. support for their efforts to stop uranium mining. The tour is being coordinated by the Nautilus Alliance of Santa Cruz, Calif.

Other workshops and their leaders included:

Coalition Building: Norie Huddle, Health and Energy Learning Project; Randy Mack, Catfish Alliance of Florida; Jan Poppendeck.

Transportation of Nuclear Materials: Whitey Bluestein, attorney, Vermont; Lindsey Audin, Friends of the Earth (FOE) and Citizens Committee for the Protection of the Environment, New York; Chip Reynolds, American Friends Service Committee, Nuclear Cargo Task Force, High Point, N.C.; Richard Pollock, "Critical Mass"; and Jim Schermbeck, Armadrillo Coalition, Texas.

Decommissioning, Nuclear Waste Storage and Disposal: David Berrick, Environmental Policy Institute; Lora DelRice, Spencer, W. Va.; Judy Johnsrud, Environmental Coalition on Nuclear Power; Ron Lipshitz, Union of Concerned Scientists; and Lorna Salzman, Friends of the Earth (FOE).

Reprocessing Plants and Breeder Reactors: Brett Bursey, Palmetto Alliance, Columbia, S.C.; Eric Fersht, Clinch River Breeder Reactor Coalition, Washinton, D.C.; and Marvin Resnikoff, Sierra Club.

Reactors: June Allen, North Ann Environmental Coalition, Virginia; Renny Cushing, Clamshell Alliance; Richard Ihrig, Badger Safe Energy Alliance, Wisconsin; Jim McConaha, New England Coalition on Nuclear Energy; Mark Messing, Environmental Policy Institute, Washington, D.C.; and Eugene Rosolie, Trojan Decommissioning Alliance, Oregon.

This workshop proposed convening a people's "tribunal" to try persons for contributing to the development of nuclear power as criminals under Nuremberg principles guilty of "crimes against humanity."

Nuclear Fuel Production: Janet Heiber, Environmental Policy Center, Washington, D.C.; Roy Young, Cactus Alliance.

Alternative Energy Technology and Decentralized Systems: Ken Bossong, Citizens Energy Project, Washington, D.C.; Dick Munson, Sun Day/Solar Lobby; Fred Quivik, National Center on Appropriate Technology, Montana; Doug Smith, Upper Valley Energy Coalition; and David Whaley, Environmental Strategies, Inc., Kentucky.

Health: Robert Alvarez, Environmental Policy Center, Washington, D.C.; Albert Bates, Catfish Alliance; Mary Meredith, Citizens Energy Forum, Virginia; and Art Tamplin, Natural Resource Defense Council, Washington, D.C.

This workshop proposed a national antinuclear propaganda campaign including getting HEW to use taxpayers' money for a scare campaign among those employed in nuclear facilities; suggested "guerrilla theater" skits outside powerplants and other facilities to dramatize their antinuclear message; and considered a proposal to bring a "Nuremberg" lawsuit against Joseph Hendrie, chair-

man of the Nuclear Regulatory Commission in conjunction with the Union of Concerned Scientists.

Nuclear Power and Nuclear Weapons: Terry Provance, AFSC, International Coordinator of the MFS and WPC activist; Connie Hogarth, MFS, New York, head of the WILPF disarmament and antinuclear task force and a leader of the Westchester County Peace Action Coalition (WESPAC); Paul Mayer, SEA Alliance, New Jersey, and head of the MFS Religious Task Force; Judy Danielson, Rocky Flats Action Group (RFAG); and Mavis Belialy, Armadillo Coalition, Texas.

The speakers pointed out that uranium mining and milling is the start of both the nuclear fuel and nuclear weapons industries. Stopping the transportation of nuclear materials in the United States was considered an important priority because a large proportion of nuclear materials transported are defense related. Finally, some companies such as GE, Westinghouse, and Rockwell are involved both in defense work and in nuclear energy development, making them targets of choice for both the disarmament and antinuclear groups.

This mini-MFS convention called for the disarmament and antinuclear power groups to set up a unified speakers bureau, joint petition drive for a moratorium on all construction of nuclear weapons or nuclear reactors, for joint "power structure research" into the U.S. nuclear related industries including those involved in defense contracts, and joint actions against them.

The workshop then proposed local demonstrations to commemorate the death of Karen Silkwood on November 13 and a national "nuclear moratorium" march on Washington next October.

The Des Moines, Iowa, official convention of the mobilization for survival held September 15–17, 1978, was an anticlimax. Many of the 400 activists present there had participated in the no nukes strategy preliminary. The MFS conference had a far higher visible participation by the Communist Party, U.S.A. (CPUSA), which is beginning to become concerned over the massive Trotskyite influx of SWP/YSA cadre. CPUSA members such as Gilbert Green, head of the MFS labor task force; Jack Speigel, of the United Shoeworkers; and Abe Feinglass, president of the Amalgamated Meatcutters and a member of the presidium of the World Peace Council, (WPC), participated in leading the MFS labor outreach. A sizable delegation from the U.S. section of the World Peace Council, including CPUSA functionary, Mike Meyerson, were present, as were leading members of CPUSA fronts.

Frank Chapman, an AFSC field secretary in St. Louis and member of the executive board of the National Alliance Against Racist and Political Repression (NAARPR), a CPUSA front group, delivered a speech charging the disarmament movement with being bigoted since their members are almost all white and middle class. The U.S. Peace Council group considered this one of the two best speeches given and have announced plans to publish it.

Mr. Speaker, our Nation's urgent need to develop energy sources independent of the whims of the oil cartel and resistant to disruption or interception on the long shipping routes is obvious. Deregulation of domestic U.S. oil and gas prices would provide incentives to develop our own huge reserves of fossil fuel, but certainly we should also proceed with the secondary source, nuclear-generated electricity, which is still markedly cheaper than fossil-fuel-generated electrical energy. Obviously great care must be taken with disposal of nuclear wastes, but the record compiled by the nuclear energy industry in this country shows that we can and should proceed with development of nuclear energy. The issues are too important to be left to the extremists of the antitechnology neo-Luddites and the revolutionaries.●

TRIBUTE TO SHIRLEY PETTIS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ANDERSON of California. Mr. Speaker, 3 years ago, the House of Representatives lost Jerry Pettis, one of our most progressive, up-and-coming Members, to a tragic, untimely death. By special election, Jerry's wife, SHIRLEY, was chosen by the people of California's 37th District to fill the void caused by the death of her husband. In the face of profound grief, SHIRLEY chose to complete Jerry's unfinished term. She did such an outstanding job that she was reelected by a very wide margin to the 95th Congress. This might have come as a surprise to those who do not know SHIRLEY personally. My wife, Lee, and I have known SHIRLEY for many years, and we had no doubt about her ability to fulfill the duties once performed by her husband. She had been such a close partner with Jerry in his term of Congress that making the transition from partner to full Member was not an overwhelming move.

SHIRLEY's term of public service in the Capitol, although short, has been marked by her ability to learn new things rapidly and by her willingness to tackle any problem set before her. She has been active, efficient, and effective in her service on the House International Relations and on the Education and Labor Committees. SHIRLEY is a strong individual, capable of entering unfamiliar areas and extending her boundaries of experience while simultaneously performing an outstanding public service to the people of the 37th district.

There can be no doubt that SHIRLEY's constituents, as well as her colleagues, will miss her when the 96th Congress opens for business. Since her arrival in the Capitol, all of Washington has become fond of this remarkable woman. She has been an outstanding legislator, and all of us are sorry to have to say goodby. Lee and I would like to wish the very best to SHIRLEY and her two children, Peter and Deborah.●

BALANCE(S) OF POWER SERIES: BOOK IV (J)—SOVIET ASSESSMENT OF THE WORLD'S CORRELATION OF FORCES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, today's selection in the continuing Soviet Intentions Series focuses on the Soviet Union's assessment of the "world's correlation of forces". As Michael J. Deane explains in an article first appearing in Orbis, fall 1976, entitled "The Soviet Assessment of the 'Correlation of World Forces': Implications for American Foreign Policy", the concept of the "world's correlation of forces" is a fundamental part of the Soviet approach to international affairs.

The basic message of this concept is that competition between the United States and the Soviet Union is multidimensional and poses a grave challenge to the United States worldwide. Mr. Deane argues that U.S. policymakers are insensitive to the magnitude of this threat, and thus far have failed to utilize the heretofore unmobilized and conventional, yet substantial, assets of the West to counter the determined and deadly competition posed by world communism.

Selections from the article follow:

THE SOVIET ASSESSMENT OF THE "CORRELATION OF WORLD FORCES": IMPLICATIONS FOR AMERICAN FOREIGN POLICY

(By Michael J. Deane)

THE "CORRELATION OF WORLD FORCES": DEFINITION AND DISAGGREGATION

Historically the general concept of a "correlation of forces" (*sootnosheniye sil* in Russian) has been used since prerevolutionary days to denote the relative alignment of two opposing forces or groups of forces. It variously has reference to forces or groups of forces in the domestic arena (that is, the internal correlation of forces), on the international scene (the international correlation of forces or the correlation of world forces), and to particular types of forces (for example, the correlation of class forces, of political forces, of economic forces, and of military forces).

With the widest extension, the concept of the "correlation of world forces" subsumes all of the other individual elements. Generally, Soviet descriptions of specific factors are vague. However, in one of the most detailed disaggregations so far given in Soviet literature, G. Shakhnazarov listed four main categories, as well as specific elements within each category, which, he claimed, are given the greatest attention in calculating the correlation of world forces. They are:

Economic—per capita GNP, labor productivity, the dynamics of economic growth, the level of industrial production, especially in the leading branches, the technical equipping of labor, resources and degree of labor qualifications, the number of specialists, and the level of development of theoretical and applied science.

Military—quantity and quality of armaments, the firepower of armies, the combat and moral qualities of soldiers, the training of the command staff, the forms of troop organization and their combat experience, the character of military doctrine and methods of strategic, operational and technical thinking.

Political—breadth of the social base of the

Footnotes at end of article.

state authority and its organization, the constitutional procedure of relations between the government and legislative organs, the possibility of making operative decisions, and the degree and character of popular support of domestic and foreign policy.

International Movements — quantitative composition, influence among the masses, position in the political life of individual countries, principles and norms of relations among the component parts, and the degree of their cohesion.[1]

A review of Soviet sources indicates that calculation of the correlation of world forces is made, and has historically been made, on two levels. In a broad sense it is used to adjudge the global relationship between the capitalist and communist camps. In a narrower sense it has been applied to situations in specific regions of the world.

The global "correlation of world forces" is apparently only a rough approximation derived from the analysis of individual elements. As Shakhnazaroz conceded in his article:

"Incomparably more complex is the overall correlation of forces in the world. It is difficult to give a calculation of the number of factors partaking in its formation. Some of them have changing significance and are capable of behaving in an unpredictable manner.[2]

Thus, the global correlation seems to constitute an intuitive calculation of forces based on the Soviet leadership's "feel" for the direction of world events.

On the regional level, a different situation appears to exist. Evidence indicates that in dealing with regional or specific short-term situations, the Soviet leadership develops careful assessments of the alignment of forces insofar as it involves both local contestants and the superpowers that may be involved. This is feasible because the number of factors to be assessed under such circumstances are fewer and more easily ascertainable. Thus, the regional "correlation of forces" appears to possess operational meaning for the formulation of foreign policy actions.

Soviet literature on the correlation of world forces discusses two major problems, which make precision of analysis a complicated attainment. First, some elements are quantifiable only to a limited degree. While material—i.e., economic and military—factors can to a large extent be quantified, equally significant sociopolitical factors are less quantifiable and therefore can ultimately be estimated only qualitatively.[3] Often cited in this category are: (1) the general crisis of capitalism, (2) the struggle for national liberation, (3) the mobilization of international mass anti-Western movements, and (4) the stratification of Western leaders on the issue of cooperation with the communist community.

Second, there exist independent forces or "wandering values," which act unpredictably. These forces lack strict adherence to either the communist or the capitalist cause but may have a significant or even determining effect on a particular situation. Shakhnazarov explains:

"Finally, there are forces which have not 'defined their position,' have not taken a clearcut positions, and to a certain extent vacillate between the main participants of the class conflict. Therefore, when calculating the correlation of forces, it must be taken into consideration that the international arena has its own type of 'wandering' values, which in each concrete case can significantly influence the outcome of events." [4]

Prominent examples of vacillating independent forces include: (1) Egypt in the Middle East situation, (2) the Vietnamese Communist Party in the Sino-Soviet conflict, (3) social democrats in Western Europe, and (4) religious and pacifist groups in the West.

In complicating the analysis process, these factors inject a degree of uncertainty into the overall assessment of the correlation of world forces. Obviously, a global calculation increasingly suffers the impact of these uncertainties. In terms of international behavior, it would seem to follow that the more the Western countries can maximize the range of such uncertainties, the less assured the Soviets will be in the outcome of a particular action against, or probe into, the Western sphere of influence.

But as Soviet commentators repeatedly stress, "correlation of forces" in this sense is more than "balance of power." "Balance of power" in Western usage tends to be confined to the strictly military aspects of the equation, in accordance with military tradition. Western armies customarily operated in a familiar and relatively stable socio-economic situation in which wars were decided first and foremost by military power and skill. (In non-Western colonial areas, where the situation was quite different, the sheer military might of the West, until recent times, also made it relatively unimportant to calculate other factors.) The communists, however, being heirs of a revolutionary tradition, have for a long time had to wage war with all sorts of weapons except military ones and have developed a more comprehensive concept of what constitutes "force." They incorporate in it such factors as the social and political cohesion of the adversary, his economic power (especially as it bears on the military effort), and such imponderables as morale and will. They also consider the international implications of a given situation. In other words, they take a more inclusive view of the factors that enter into the calculation of forces than does the Western side.

THE CURRENT SOVIET ASSESSMENT

According to the Soviet historical view, the correlation of world forces has since 1917 experienced three radical shifts, each of which has resulted in a new relative alignment even more favorable for the communist side. The first shift occurred in 1917 with the emergence of the first communist state. Allegedly, the correlation of forces at that time was demonstrated by the inability of either imperial Germany or the Western Allied interventionists to overthrow the "dictatorship of the proletariat" and restore Russia to czarist rule. The second shift took place in 1954 with the defeat of Nazi Germany and the emergence of new communist states in Eastern Europe. Claiming the major role in defeating Germany, the Soviet Union asserted that its military victory was proof of further change in the correlation of world forces.

The third and most recent shift is said to have transpired about 1969–1970 and is closely connected with the attainment of strategic military parity. While they reject any suggestion that military might is the foundation or even the dominant element of their "correlation of forces" assessment, Soviet spokesmen argue that the attainment of strategic parity allowed the main competition between the two systems to be shifted away from the military confrontation toward the economic, political and ideological spheres.[5] As a result of the new shift, the capitalist states, especially the United States, were supposedly compelled to reappraise their policy of acting "from a position of strength" and to enter into "an era of negotiations." Thus, one Soviet writer observed:

"To sum it up, the balance of world forces had further shifted in socialism's favour by the early 1970s as evidenced, for example, by the attainment of Soviet-American nuclear and missile partity and the awareness by the USA of its limited possibilities to influence diverse events in the world by means of military forces. This made the U.S. ruling class start a "reappraisal of values" and acknowledge the need "to reconcile the reality of competition between the two systems with the imperative of coexistence."

"As a result of this reappraisal, the United States switched over from the policy of confrontation to a policy of negotiation with the USSR and other socialist countries." [6]

Moreover, owing to the new correlation of forces, Soviet spokesmen maintain, the capitalist states were forced to accept peaceful coexistence as the guiding principle of international relations and to enter into détente as a "relaxation of tensions" with the communist states.[7] Since peaceful coexistence in the Soviet view does not preclude intersystemic conflicts, but only transfers the struggle to areas other than direct Soviet-American military confrontation, it is a deliberate offensive policy aimed at destruction of the West. "Peaceful coexistence," stated one Soviet writer accordingly,

"is essentially a class policy conducive to the strengthening of the position and prestige of the socialist countries, while undermining the aggressive imperialist forces and narrowing their opportunities for plotting against the cause of peace and social progress." [8]

Likewise, at the Twenty-fifth CPSU Congress, General Secretary L. I. Brezhnev conceded that present peaceful relations with the West are designed to attain unilateral Soviet advantage. In Brezhnev's words, "we make no secret of the fact that we see in détente the way to create more favorable conditions for peaceful socialist and communist construction." [9]

In sum, the Soviets calculate the correlation of forces as a "two-in-one process," in which the communist side continuously wins and progresses and the capitalist side decays and disintegrates. As Boris Ponomarev, candidate member of the Politburo and secretary of the CPSU's Central Committee, has stated, "if the influence of socialism on the course of events grows, this means that the resources of the imperialist and reactionary forces will diminish correspondingly, and the resources of the forces of peace, national independence, and social progress will increase." [10] While some internal economic problems (such as recent agricultural deficiencies) and social difficulties (such as alcoholism and "hooliganism"), as well as foreign policy setbacks (such as the ouster of the Soviet-supported Allende regime in Chile) are acknowledged, the general trend is described as constantly shifting in communism's favor.

IMPACT OF THE SHIFT ON SOVIET CONDUCT OF FOREIGN POLICY

It must be emphasized that Soviet calculation of the correlation of world forces is not a mere scholarly exercise solely intended to justify and rationalize current behavior. While it undoubtedly may fulfill this function under a particular set of circumstances, historical example and contemporary writings indicate that the calculation has pertinent application in the formulation of Soviet foreign policy. According to the deputy head of the International Department of the CC/CPSU, calculation of the prevailing correlation of world forces is extremely important because in accordance with it "the Communist Parties set themselves their immediate tasks and determine the current policy or tactics," and a change in the correlation of forces "can lead to a change in the general line, in the entire strategy of the world communist movement." [11] In another place, the same high-ranking party official asserted that the new alignment of forces must be utilized to attain even more con-

Footnotes at end of article.

crete gains in foreign policy. Interpreting the significance of the 1969–1970 shift in communism's favor, V. V. Zagladin maintained: "It signifies that the possibilities of the socialist world to influence actively the policy of imperialism are growing. And it follows that the responsibility of socialism to utilize these possibilities is also growing." [12]

The differing perception of the correlation of world forces highlights the differences between the approaches of the present regime and its predecessor to the conduct of foreign policy. Broadly speaking, Khrushchev had envisioned the intersystemic conflict as a peaceful competition in which the inherent superiority of the communist system would gradually gain world prestige and influence. This belief was reflected in the declaration issued by the conference of twelve communist parties meeting in Moscow in 1957:

"In connection with the profound historic changes and fundamental shifts in the correlation of forces in the international arena in favor of socialism and as a result of the increasing power of attraction of the ideas of socialism among the working class, working peasantry, and working intelligentsia, more favorable conditions are being created for the victory of socialism." [13]

Specifically, Khrushchev viewed economics to be the dominant element in an assessment of the correlation of forces. He asserted that the attainment of economic superiority over capitalism would propel all other forces to favor communism. For example, he declared to the Twenty-first CPSU Congress that fulfillment of the new seven-year plan:

"Will increase the economic potential of the USSR to such an extent that, coupled with the growth of the economic potential of all socialist countries, it will secure a decisive preponderance in the correlation of forces in the international arena in favor of peace, and thus will come into existence new and still more favorable conditions for averting world war and preserving peace on earth." [14]

Thus, while Khrushchev was not averse to limited military adventures or "harebrain schemes," he made significant efforts to redirect a portion of Soviet budgetary allocations away from military expenditures toward greater consumer and agricultural investments.

In comparison, the Brezhnev regime has sought to broaden the front of systemic confrontation. While economics retains its former importance, relatively greater significance is now attached to other arenas of competition. According to the Soviets there are no "neutral" areas of cooperation; all are considered to be elements of struggle. An article in *Kommunist*, for example points out that:

"* * * peaceful coexistence does not remove the contradiction between socialism and capitalism—the main contradiction of the contemporary epoch. The class struggle of the two world systems continues; it is developing in three basic forms: political, economic, and ideological." [15]

The Soviets do not uniformly and consistently pursue the competition of the two systems in all these forms, however. At a particular time or under a certain set of circumstances, greater emphasis may be given to one or another form.

This is not to deny the significance of East-West agreements in the economic and military fields. Insofar as they produce mutually beneficial results, such agreements are desirable from the Western viewpoint. A problem arises, however, when some Westerners mistakenly conclude that these individual agreements will, over time, point the way to an accommodation of interests between capitalism and communism. Soviet leaders totally reject any suggestion of converging interests. Indeed, while the latest shift in the correlation of world forces has resulted in some cooperative agreements, this has been balanced by stepped-up Soviet activity in the Third World.

The Soviets consider the Third World to be a legitimate arena for superpower competition, because conflict there can be managed within acceptable limits. Traditionally fluid and unstable, the Third World with its relatively low potential for direct superpower military confrontation, as opposed to that of Europe, is viewed as a target of opportunity. Material and political support for national liberation movements is not construed by the Soviets to contradict the principle of peaceful coexistence. On the contrary, national liberation movements in the Third World are specifically excluded from the principle of peaceful coexistence and are described as allies of "world socialism" in the "joint offensive against imperialism and capitalism" for the victory of socialism.[16] Moreover, Soviet spokesmen frequently reason that the growth of Soviet influence and power, especially military power, vis-a-vis the United States, in conjunction with the present detente relationship, effectively deters Western responses to national liberation movements.[17]

Apparently, proceeding from its general assessment of the correlation of world forces since the 1969–1970 shift in communism's favor, the Moscow leadership has undertaken to increase its activity in the Third World. One manifestation of this growing involvement is the tremendous increase in Soviet economic aid extended to Third World countries in the past five years. During the period 1971–1975, Soviet economic aid increased to 1.7 times the level of the previous five-year period (1966–1970). Thus, while the earlier period represents 37 per cent of all Soviet economic aid to the Third World over the past ten years, the more recent period represents 63 per cent.

A similar sharp rise in Soviet military agreements with Third World countries can also be dated in correspondence to the shift in the correlation of world forces. Military agreements in 1971–1975 were 2.62 times greater than in 1966–1970, so that the more recent time period represents 72 per cent of all Soviet military agreements with the Third World over the past ten years.

IMPLICATIONS FOR AMERICAN FOREIGN POLICY

The concept of the correlation of world forces is without doubt a fundamental part of the Soviet approach to international affairs. Its main message is that competition proceeds along a wide front of intersystemic conflict, manifested in many spheres. This is important because until now the United States has tended to view the East-West conflict as occurring primarily in the political-military arena. Limited in this perspective, U.S. foreign policy has reacted best to military and political challenges with military and diplomatic responses.

Hence, U.S. foreign policy is ill-equipped to meet the Soviets' multidimensional, global challenge and to deal with the complexity of change as a global phenomenon—that is, as a dynamic global correlation of forces. This problem renders U.S. policymakers insensitive to the magnitude of the conflict and unprepared to cope with innovative Soviet nonmilitary actions against Western spheres of influence which pass unrecognized.

It is misleading to ask "What will happen if detente fails?" or "What alternative is there to detente?" The implication in such questions is that detente in essence is characterized by peaceful cooperation and businesslike competition and that the only alternative is total nuclear confrontation. The reality of the situation, however, is that only one side, the United States and its Western allies, looks upon detente from this perspective. As a consequence, U.S. foreign policy is self-restrained in its utilization of economic, political and political-military leverages against the Soviet Union. Indeed, U.S. policymakers appear almost embarrassed to pursue whatever advantages detente may presently possess in order to gain further mutually beneficial agreements from the Soviet Union. The Soviets, conversely, have made no such reciprocal concession to the relaxation of conflict; they continue to wage political, economic and ideological warfare on the West.

Since it appears to be impossible for the USSR to give up its systemic competition, it is necessary for the United States to find an alternative to "detente" on Moscow's terms. In our own self-interest it behooves U.S. policymakers to recognize the nature of the challenge posed by contemporary Soviet national strategy and foreign policy. This demands a broad, macropolitical perspective. The nation-state paradigm, which has for so long constituted the basis of American foreign policy formulation, is incapable of grappling with the multidimensional and truly global threat from communism. It is vital that Western policymakers develop an organizing concept that permits a holistic perspective on world politics. Such a perspective would assist them in discerning the broad scope of Soviet intersystemic conflict. It would also make more visible to them the heretofore unmobilized and unconventional, yet substantial, assets of the West, and the means to employ them effectively in the competition with world communism.

FOOTNOTES

[1] G. Shakhnazarov, "On the Problem of the Correlation of Forces," Kommunist, February, 1974, p. 86.

[2] *Ibid.*

[3] Sh. Sanakoyev, "The Problem of the Correlation of Forces in the Contemporary World," Mezhdunarodnaya zhizn', October 1974, p. 46.

[4] Shakhnazarov, p. 87.

[5] N. Inozemtsey, "Unity of Theory and Practice in the Leninist Peace Policy," Kommunist, December 1975, pp. 46–47. According to this framework, one would include under political activity such undertakings as Soviet weapons modernization programs, military construction efforts, and military aid and support to the United States' opponents. Quite plainly, the Soviet definition of the avoidance of military confrontation does not imply an end to military competition.

[6] Trofimenko, "From Confrontation to Coexistence," *International Affairs* (Moscow), October 1975, p. 38.

[7] See, for example, speech by M. A. Suslov, member of the CPSU Politburo and Secretariat, commemorating the 105th anniversary of Lenin's birth, in *Pravda*, April 23, 1975. The Nixon Doctrine and the SALT agreements are generally cited as two instances when the United States was forced to modify its policies to accord with the new correlation of world forces.

[8] N. Kapchenko, "Socialist Foreign Policy and the Restructuring of International Relations," *International Affairs* (Moscow), April 1975, p. 8.

[9] *Pravda*, February 25, 1976.

[10] Boris Ponomarev, "The Role of Socialism in Contemporary World Development," *Problemy mira i sotsializma*, January 1975, p. 11.

[11] V. V. Zagladin, editor, *The World Communist Movement: Outline of Strategy and Tactics* (Moscow: Progress Publishers, 1973), pp. 41 and 36, respectively.

[12] V. V. Zagladin, "The Revolutionary Process and International CPSU Policy," *Kommunist*, September 1972, p. 22.

[13] *Pravda*, November 22, 1957.

[14] N. S. Khrushchev, "On the Planned Figures for the Development of the USSR National Economy in 1959–1965," *Vneocherednoy XXI s''yezd Kommunisticheskoy partii Sovetskogo Soyuza Stenograficheskiy otchet* (Extraordinary 21st Congress of the Communist Party of the Soviet Union, Stenographic Record), Vol. 1 (Moscow: Politizdat, 1959), p. 72.

[15] "International Relations and the Ideological Struggle," *Kommunist*, September 1973, p. 4.

[16] V. Tyagunenko, "World Socialism and the

National Liberation Revolution," *ibid.*, May 1973, p. 52.

[17] See, for example, L. I. Brezhnev, speech at banquet for President Tito of Yugoslavia, *Pravda*, June 6, 1972; and L. I. Brezhnev, speech in Havana, *ibid.*, January 31, 1974.

SUSPENSION REFORM

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, the next Congress must put a stop to the increasing practice of considering major legislation under the suspension of the rules procedure which allows for only limited debate, no amendments and delayed voting. The Washington Post has editorially suggested that this Congress has set a record for "Most Yeas and Nays Cast Without Any Clear Idea What the Vote Is About," and the suspension procedure, with its clustered voting on several bills during the same continuous voting period, is largely responsible for this record.

This Congress has also set records for the most measures considered under suspension of the rules, 453, up 40 percent from the previous Congress; and the most suspension measures defeated, 33, up 32 percent from the last Congress. While one would expect that the number of measures considered under suspension would increase proportionate to the total number of bills considered by the House, this is not what is happening. Over the last decade, the number of measures passed by the House has remained relatively constant—around 1,600. But measures considered under suspension have made up an increasing share of the total bills passed in the House—from 10 percent of the total in the 90th Congress, to 13.3 percent in the 93d Congress when we increased suspension days from 2 to 4 a month, to 28 percent in this Congress when we again doubled suspension days, this time to 8 a month.

COMPARATIVE DATA: 90TH-95TH CONGRESSES U.S. HOUSE OF REPRESENTATIVES

	90th	91st	92d	93rd	94th	95th
Measures reported	1,745	1,542	1,401	1,363	1,495	2,331
Measures passed	1,659	1,642	1,469	1,914	1,624	1,615
Public bills enacted into law	640	695	607	651	588	(?)600+
Yea and nay votes	478	443	457	632	807	1,035
Measures considered under suspension	167	185	194	255	325	453
(a) Passed	(159)	(181)	(184)	(254)	(300)	(420)
(b) Failed	(8)	(4)	(10)	(1)	(25)	(33)
Suspensions as percent of total measures passed	10	11.3	13.2	13.3	20	28
Recorded 2d notes	0	0	0	0	0	18

Sources: Daily Digest, final issues, and Congressional Research Service.

In short, we are rapidly approaching the point at which roughly one-third of all bills passed by the House will be ill-considered under this hurry-up, no-amendment, know-nothing procedure. Indeed, one observer has estimated that—

> About a fourth of all House legislation of any consequence . . . is handled this way. (See Elizabeth Drew, "A Tendency to Legislate," the New Yorker, June 26, 1978.)

In this Congress major bills to be considered under suspension have included the $7 billion rehabilitation services authorization, and the $4 billion extension of programs under the Older Americans Act. On September 18 of this year the leadership scheduled 25 bills under suspension, seven of which authorized more than $100 million, including a $1.5 billion health planning bill and a $2 billion health centers bill.

Despite this scandalous abuse and overuse of this most undemocratic procedure to consider legislation totaling billions of dollars and affecting millions of citizens, there is little indication that the Democratic leadership intends to change its ways in the next Congress. Even the former reform-minded Democratic Study Group has recommended against "strict standards to restrict bills on suspension," despite support for such standards from 58 percent of its own membership. Terming such standard "arbitrary and inappropriate," the DSG executive committee has promised to investigate other ways to curb the sharp increase in suspensions.

In the meantime, it has come out four-square for eliminating the preliminary vote on whether a matter should even be debated under suspension—the requirement of clause 2, rule XXVII, that "all motions to suspend the rules shall, before being submitted to the House, be seconded by a majority by tellers, if demanded." It seems curious that the DSG executive committee is intent on the one hand on "curbing the sharp increase in suspensions," yet on the other wants to eliminate the right of the House to block consideration of so many measures under suspension. For once the right to demand a second or raise the question of consideration is eliminated, the House will be forced to consider and vote final passage on any and every bill the leadership wants rammed through in this manner.

Presumably, the DSG call for eliminating second votes on suspensions is motivated by a sincere desire to reduce unnecessary rollcall votes in the House. In this Congress yea and nay votes totaled 1,035, up 28 percent from the previous Congress. But recorded second votes on suspensions was hardly a major factor in this increase, accounting for only 18 or 1.7 percent of the total yea and nay votes cast.

By no stretch of the imagination can eliminating the second requirement on suspensions be considered a reform or even necessary, without the adoption of stricter standards for bringing measures up under this abbreviated procedure. This year the Rules Committee's Subcommittee on the Rules and Organization of the House reported a simple resolution eliminating the seconding requirement—House Resolution 1246—over the objections of the minority.

While the resolution was never reported from full committee due to the Speaker's announced intention to include it in next year's House rules, the minority was nevertheless prepared to offer a substitute which would have brought about some genuine reform in the suspension procedure. Our substitute would have eliminated the seconding requirement on the condition that no measures could be brought up under suspension unless specifically authorized for that procedure by the chairman and ranking minority member or a majority of the committee of jurisdiction, or without at least 1 legislative day's advance notice.

If a point of order was sustained against consideration of a measure under suspension for failure to meet either of these two conditions, a vote on consideration would be automatic. In other words, the question of consideration or second would be restored in those instances in which the strict standards were not complied with. This, it seems to me, provides a reasonable and even easily attainable escape clause, yet retains for the House the essential right and safeguard to protect itself against surprise or embarrassing votes on final passage.

Since a simple House majority can still force consideration of a measure under suspension even though it does not meet these standards, I am further proposing that an additional condition be imposed prohibiting automatic consideration under suspension if the measure involves an expenditure in excess of $50 million in any fiscal year. I am also changing 1 day's advance notice to the last legislative day of the week preceding the scheduled consideration of a measure under suspension.

These are my proposals for genuine suspension reform. I hope they will be given serious consideration by both party caucuses in December and by the full House when it considers its new rules next January 15. At this point in the RECORD I include an editorial from the October 15 Washington Star on "Suspending the Rules," and the text of my proposed amendment to the suspension rule:

SUSPENDING THE RULES

It may be months or years—perhaps never—before many congressmen and the public find out what was in all those bills passed in the House under "suspension" of the rules in the waning days of the 95th Congress.

Suspension of the rules is a House proce-

dure that is supposed to speed work on noncontroversial, usually minor, bills. But more and more, it is being used to clear the decks of accumulated legislation so members can go home on schedule. And there is evidence that the procedure is being used on occasion to slip through self-serving items that indeed would stir controversy if all members knew what they were voting on.

Last Tuesday 21 bills were brought to the floor on the "suspension" procedure, under which only 40 minutes of debate are allowed and no amendments can be offered. They ranged from several amendments to the tax code to a bill dealing with interstate betting on horse races.

According to Congressional Quarterly, 57 bills were taken up under suspension during a four-day period in late September, 24 on one day. The report said attendance averaged fewer than 25 members during the debates of bills under suspension in recent weeks, and that most members don't go to the floor at all until the votes are called. And when they vote, members often "fly by the seat of our pants," as one congressman put it, relying on committee chairmen and House leaders not to give them a bum steer.

As of the time the survey was done last month, 404 bills had been considered in the 95th Congress under suspension of the rules, and many more have been added since. That's about three times as many as were similarly processed in the 90th Congress.

Non-controversial? Take this one: In March the House leadership, trying to undercut supporters of tuition credit legislation, scheduled President Carter's alternate "education grant" bill on the suspension calendar, which prevented any amendments being attached. The ruse so infuriated House members that the Carter bill didn't even get a simple majority vote, let alone the two-thirds majority required to pass a bill under suspension.

Minor? Many of the bills considered under suspension carry price tags of millions of dollars. Two bills dealing with health planning and health centers that were considered last month involved nearly $2 billion apiece.

"It used to be the suspension calendar was used only for non-controversial items. Now it's for anything they think they can get by," said Robert Bauman, R-Md.

Some members have recommended tightening the rules on what can be brought up on the suspension calendar—putting a dollar limit on amounts of money involved, for instance—and posting the suspension calendar earlier so that members would have more time to ferret out potential hookers.

Obviously something ought to be done to cut down on the use and abuse of the suspension calendar.

It's passing strange that despite making legislative jobs nearly full-time, despite instituting committee and other reforms to make the operation more efficient, Congress continues to run into huge logjams at the end of every session. Perhaps if members didn't dawdle so much in the early part of the sessions they wouldn't have to resort to shortcuts at the end.

SUSPENSION REFORM RULE OFFERED BY MR. ANDERSON OF ILLINOIS

H. RES. —

A resolution amending the Rules of the House to require that no measure may be considered under a suspension of the rules unless certain conditions are met.

Resolved, That rule XXVII of the Rules of the House of Representatives is amended in the following ways:

SEC. 1. Rule XXVII, clause 1, is amended by designating the existing paragraph as paragraph "(a)" and by adding the following new paragraph:

"(b) It shall not be in order to consider a motion to suspend the rules and pass a bill or resolution unless—

(1) consideration of the bill or resolution under a suspension of the rules has been specifically authorized by (A) the committee having jurisdiction over the bill or resolution, by rollcall vote, in open session and with a majority present; or (B) the chairman and ranking minority member of the committee having jurisdiction over the bill or resolution in a written request to the Speaker;

(2) the House has been notified orally, while the House is in session, by at least the last legislative day of the week preceding the scheduled consideration of the bill or resolution under a suspension of the rules as to: (A) the number of the bill or resolution; (B) its short title or a brief description; (C) whether any amendments will be offered thereto; and (D) the date on which it is scheduled to be considered; and the text of any amendments to be offered thereto, together with the notice, shall be printed in the appropriate portions of the Record on the day on which such oral notice is given to the House; and

(3) the bill or resolution does not authorize, appropriate or involve a tax expenditure in excess of $50 million in any fiscal year."

SEC. 2. Rule XXVII, clause 2, is amended to read as follows:

"2. If a point of order is sustained against the consideration of any motion to suspend the rules and pass a bill or resolution for failure to comply with any provision of clause 1(b) of this rule, it shall nevertheless be in order to consider such motion if consideration is agreed to by a majority of those present and voting, a quorum being present, and such question shall not be subject to debate."

SEC. 3. Rule XXVII, clause 3(a) is amended by striking out the words "has been seconded" and inserting in lieu thereof the words "has been submitted to the House".●

THE HONORABLE OMAR BURLESON

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, over the past 10 years I have had the great pleasure to sit side by side with OMAR BURLESON on the Ways and Means Committee. During the many hours we have worked together we have built a strong and lasting friendship. I will miss him very much.

In the course of our service, OMAR and I have exchanged differing opinions on legislative matters. This may not seem like an unusual occurrence in this body, yet to me it is something quite unique. OMAR is a lighthearted and gentle man. No matter how serious and taxing an issue, OMAR always brought tranquility to a moment of tension and a clearer perspective of alternative solutions.

While I try to paint a picture of an easygoing and congenial colleague, OMAR BURLESON is a forceful and dedicated legislator. He has provided wisdom and guidance to all who have served with him. Those who follow him will gain a great deal from the standard of performance he leaves behind.

It has been a privilege to serve here with such a distinguished gentleman. I wish for OMAR, and his wife, Ruth, years of happiness, contentment, and good health.●

BALANCE(S) OF POWER SERIES: BOOK IV (I)—NATIONAL INTELLIGENCE AND THE U.S.S.R.

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, the Soviet Doctrines and Intentions Series of the Balance(s) of Series now turns to the question of National Intelligence and the U.S.S.R. In an article appearing in the June 23, 1978 edition of National Review entitled "National Intelligence and the U.S.S.R.," two members of the "B" team—William R. Van Cleave and Seymour Weiss—discuss the question: "What evidence is required to suggest to the American people and the administration that our security is in the process of being endangered?

The article is as follows:

NATIONAL INTELLIGENCE AND THE USSR

(By William R. Van Cleave and Seymour Weiss)

Toward the end of 1976, press reports revealed the existence of a presidentially approved group of outsiders selected to review U.S. intelligence on Soviet strategic programs and objectives. Working independently of the official intelligence community—the "A Team"—but with access to the same information, the group of experts—the "B Team"—was charged with the evaluation of Soviet strategic programs and of the motivations, concepts, and objectives behind those programs. The B Team analysis was in part motivated by a growing concern over the inexplicable underestimation in past National Intelligence Estimates (NIEs) of Soviet strategic programs. The independent analysis, however, was not only to determine whether raw intelligence data would support conclusions on Soviet strategic capabilities and objectives different from past official estimates, it was also an experimental effort to improve the quality of the U.S. strategic intelligence analysis and estimating process. Shortly after word of the B Team appeared in the press, highly speculative and dramatic charges were also made there concerning the presumed conclusions of the B Team study—which remains highly classified—its influence on the official NIE, and even the personal motivations of the individuals who composed the team. It was suggested, for example, that the study was designed to embarrass the incoming Carter Administration, despite the fact that the study was commissioned by an Administration that at the time hoped and expected to remain in office—an Administration that would bear the brunt of any implicit criticism of recent intelligence evaluations and processes.

There were also suggestions that the B Team somehow managed to "bully" the entire official intelligence community into concluding, for the first time in an NIE, that the Soviet strategic goal is superiority based upon nuclear-war-fighting and -winning capabilities. Yet, before the B Team effort even got under way, the CIA, which is mainly responsible for the NIE, reported to Congress: "The Soviets are committed to the acquisition of 'war-fighting capabilities,' a decision which reflects a concensus on the need to assure the survival of the Soviet Union as a national entity in case deterrence fails. It also accords with a long-standing tenet of Soviet military doctrine that a nuclear war could be fought and won, and that counterforce capabilities should be emphasized in strategic forces. Mutual assured destruction as a desirable and lasting basis for a stable strategic nuclear relationship be-

tween superpowers has never been accepted in the USSR."*

VINDICATION

Despite all the confused charges concerning both the substance of the Team B conclusions and the motivations behind the study, the team has collectively resisted publicly offering it views on these matters in the hope that the passing of time would permit a tempering of attitude, which in turn would lead to a more productive national discussion of the real problem: the Soviet threat.

However, the issue of the B Team experiment was again raised in public with the release in February of the Senate Select Committee on Intelligence report: "The National Intelligence Estimates—A–B Team Episode Concerning Soviet Strategic Capability and Objectives." We have no objections to the report. In fact, with its attached separate statements, particularly those by Senators Wallop (R., Wyo.) and Moynihan (D., N.Y.), we believe it is a vindication of the experiment, notwithstanding an apparent attempt in the majority report to disparage somewhat the B Team's conclusions through a charge of bias. (Interestingly, the accuracy of the conclusions and the soundness of the B Team report were not challenged.)

While the majority report concedes that the B Team "made some valid criticisms of the NIEs" and "some useful recommendations concerning the estimative process," it also charges that the membership of the B Team was "so structured that the outcome of the exercise was predetermined."

We have no need to defend the credentials and objectivity of our colleagues on the B Team, nor the care with which the Team conducted its study. The members made every effort to examine all the evidence objectively and to synthesize it into responsible and supportable conclusions. It was not a "worst case" report. If the thrust of the conclusions, as they have been discussed openly, seemed harsh at the time, it ought to be recognized that, for several years, each successive official estimate of Soviet strategic programs and objectives had been harsher than preceding estimates. The reason is simple: the cumulative evidence had become increasingly clear and increasingly disturbing. As Senator Moynihan put it in his separate statement, the B Team's message "that the Soviets intend to surpass the United States in strategic arms and are in the process of doing so, has gone from heresy to respectability, if not orthodoxy."

THE SOVIET BUILDUP

The B Team was selected from recognized experts known to have "more somber views" of the Soviet threat than those taken in past NIEs. Inasmuch as past NIEs failed to recognize the determination of the Soviet rulers and the ambitious goals of the Soviet strategic buildup (as a study by Professor Albert Wohlstetter of the University of Chicago showed, out of 51 median projections of Soviet strategic capabilities, 49 turned out to be substantial under-estimates), to hold more somber views would not necessarily mean bias or extremism. The evidence requires somberness. Senator Wallop, in his separate statement, summarized the problem:

"While the Soviets were beginning the biggest military buildup in history, the NIEs judged that they would not try to build as many missiles as we had. When the Soviets approached our number, the NIEs said they were unlikely to exceed it substantially; when they exceeded it substantially, the NIEs said they would not try for decisive superiority—the capability to fight and win a nuclear war. Only very recently have the NIEs admitted that possibility as an "elusive question." Now the NIEs say the Soviets may be trying for such a capability but they cannot be sure it will work."

It was on this basis that experts were chosen for the B team who had expressed, to one degree or another, concern that Soviet strategic capabilities were outrunning official intelligence acknowledgment of them.

"Inasmuch as the main purpose of the experiment was to determine why previous estimates had produced such misleading pictures of Soviet strategy developments, it was reasonable to pick Team members whose views of Soviet strategy differed from those of the official estimators. . . . Calling on outside experts from time to time is healthy corrective against the tendency of any organization to become set in its own way of thinking. The particular panel of experts chosen, however, will always be subject to charges of being "unrepresentative" or "biased" by those who do not like its findings."

If the B Team reached conclusions more sharply focused or more unambiguously expressed than the norm, it was because it had at least two major advantages over the official process.

First, it was free from bureaucratic and institutional factors that tend to reduce conclusions to the low common denominator dictated by an "agreed intelligence" report, which in the final analysis cannot remain totally insensitive to the framework of Administration policy. (This is not to say that Team B found it unnecessary to discuss and reconcile differences among its members. The Team was not as homogeneous as often pictured.)

Second, it was free to address and bring into its product the type of historical, social, and political analysis seldom found, at least explicitly, in national intelligence estimates of strategic forces.

The issue is really the correct appreciation of Soviet strategic objectives, not the "bias" of the B Team. Were its more somber conclusions justified or not? "The objective standard," Senator Moynihan insists, "will be to look at how well one institutional arrangement, or one line of argument, has predicted and explained recent events. In the current case, it would appear that the NIEs of the past dozen years have by and large failed this test." How about Team B?

To answer that question, we suggest a review of the information released about strategic efforts during the year since the conclusion of the B Team experiment. In addition, the policies of the U.S. in the face of those developments should be noted. It isn't enough that Soviet efforts validate the more somber prognostication of the B Team if it seems that the Administration ignores it.

It has been confirmed during this period that Soviet defense expenditures on strategic programs had been grossly understated in the West for years. During a period when apologists for Soviet behavior were expressing alarm over a putative strategic arms race fueled by the U.S., the Soviet Union was devoting a *far greater* percentage of its national resources to an unprecedented buildup. According to a CIA report, the Soviet Union outspent the U.S. on strategic nuclear forces by two and one-half times over the ten-year period of 1967–1977; and this doesn't include spending on civil defense, which some experts put at $2 billion to possibly $4 billion per year. The implications of this massive effort are worthy of reflection, especially in light of the fact that, arms control efforts notwithstanding, *there is still no evidence or expectation of any tapering off of this effort*. In September, the Defense Intelligence Agency reported to Congress that Soviet defense outlays for the next five years will continue to *rise* at about the same rate as over the preceding five years. Thus the explanation (or rationalizations) by some that present programs and expenditures are the results of decisions taken five or even ten years ago when the USSR was purportedly just trying to catch up to the U.S. are shown to be hollow. There facts are more impressive given recent CIA projections of serious economic difficulties in the USSR.

The Soviet Union has continued vigorously to develop and deploy new strategic forces that cannot be explained by any legitimate notion of deterrence or self-defense. Despite the enormous strategic capabilities that the Soviet Union has already achieved, Secretary of Defense Brown has said that "all of us must recognize that the Soviets have under way a number of large, impressive, and costly strategic programs to strengthen their offensive capabilities, their active defenses, and their passive defense system." Thus, they are already deploying a fourth generation of ICBMs whose numbers and counterforce potential greatly exceed our own—"first-class in terms of their accuracy and payload," as Secretary Brown puts it. Yet, it was recently revealed that the Soviets have *another* generation of four new ICBMs under development. (This would be analogous to the U.S., having deployed Minuteman plus yet another generation of larger and more modern ICBMs, embarking on still another new series of ICBM programs.) In terms only of those ICBMs being deployed, by the early 1980s—even with proposed SALT II "limitations"—the the Soviet Union may have some seven times the throw-weight (or payload potential) and up to four times the warheads of the U.S. in MIRVed ICBM forces—more than enough to place the Minuteman force in jeopardy with a fraction of the Soviet force. But this is by no means the extent of recent Soviet strategic activities. To these ICBMs can be added a new *mobile* MIRVed ballistic missile with the long range capability to target our allies and our forces overseas, and which, with relative ease, can be modified to target the U.S.

THE UNMISTAKEABLE TREND

Furthermore, having in recent years moved from the modern Yankee-class nuclear ballistic missile submarine to the larger Delta and stretched Delta, to accommodate submarine-launched missile (SLBMs) of ranges comparable to the U.S. Trident I and II (which will not be deployed for several years), it has been revealed in the past year that still a new class of submarine, named Typhoon, is under production. Numerically, these submarines and the total of deployed SLBMs have now reached the outer limits of the SALT I agreements of 62 boats and 950 modern SLBMs. And yet others are reported to be under construction. These numbers compare with 41 subs and 656 SLBMs for the U.S., numbers which may *decrease* significantly by the mid to late 1980s if the service life of the Polaris/Poseidon force and the Trident rate of production are not increased.

In bombers, the USSR has in the past year continued or increased its production and deployment of a new, sophisticated strategic bombers—the Backfire—whose intercontinental capability was at one time a matter of debate, a debate that the B Team had to confront, but which has now been resolved by the Director of the CIA himself, as well as the Secretary of Defense. In this year's report to Congress by the Chairman of the Joint Chiefs of Staff, it was said that Backfire "has characteristics and capabilities similar or superior to those aircraft which both sides agree are heavy bombers." And now the Secretary of Defense has re-

*Hearings before the Subcommittee on Priorities and Economy in Government, Joint Economic Committee, Congress of the United States, Part 2, May 24–June 15, 1976, p. 68.

vealed that another, larger heavy strategic bomber is being developed and that we expect to see the first prototype "in the near future."

In other areas, briefly: The Soviet anti-satellite capability, unmatched by the U.S., has been officially acknowledged only during the past year. Given the reliance placed by U.S. intelligence and communications on satellite systems, the potential threat posed by those Soviet capabilities is a cause of great concern. The more that is learned about Soviet civil defense, the more impressive the picture of the effort and its potential strategic significance becomes. Secretary of Defense Brown, who initially expressed great skepticism concerning this effort, details an enormous program in this year's Department of Defense Report and admits that Soviet civil defense "is more extensive than was estimated a year ago." Despite the ABM Treaty, the Soviets continue what Secretary Brown terms "a very active ABM research and development program," aimed toward a rapidly deployable ABM system. Such developments relating to strategic forces must be viewed against the background of the undisputed an massive theater and general-purpose force build-up and modernization that has proceeded unabated.

Some American commentators have attempted to explain away this massive Soviet military effort as merely an effort to "catch up" and even as a reaction to earlier American actions (despite the conscious policy of self-restraint on the part of the U.S., which contributed to opportunities seized by the USSR). Aside from the fact that more sophisticated analysts have understood for years that Soviet military actions could not be explained by a simplistic action-reaction hypothesis, the unabated Soviet effort described above strongly suggests that such an explanation of Soviet purposes can hardly stand the test of objective scrutiny. However one evaluates the current net military balance between the USSR and the U.S., surely the trend is unmistakable.

U.S. decisions during the past year—involving cancellation of the B–1 (despite the fact that earlier assurances about "essential equivalence" in the mid to late 1980s presumed the full programmed B–1 force), cancellation of production of SRAM, termination of Minuteman III production, reduction of funding for the mobile ICBM (M–X), and the measured approach to production of Trident—neither explain Soviet actions nor promise any reversal of alarming trends. Secretary of Defense Brown seemed to acknowledge this in this year's Defense Report: "To those who are convinced that the Soviets are aiming at meaningful strategic superiority, the programs and options I have provided here may seem inadequate."

Instead of moving ahead with strategic programs that might change trends, the Administration evinces great faith that continued restraint and strategic arms limitation agreements will eventually resolve the increasingly one-sided momentum, despite the resounding lack of success of such efforts to date. As the Defense Report puts it: "Appropriate restraint in our programs and actions is still warranted. But there is no evidence from past history that unilateral reductions in our posture will produce Soviet reciprocity." Ironically, some are now arguing for SALT agreements essentially *because we are already too far behind in the race to catch up!*

TESTING SALT

There is, in fact, a tendency now to use intelligence "projections" in the service of proposed SALT agreements. Inferior agreements can be infinitely rationalized on the basis that things would be even worse without them. Are the proposed agreements inequitable to the U.S.? Well, that is all right since (given continued U.S. passivity) the disparity will be worse in their absence. Secretary Brown states:

"We are uncertain as to the future course the Soviet might take with respect to their strategic offensive forces in default of a SALT II agreement. However, there is no doubt about their ability to deploy more missiles and bombers than we believe they are programming at the present time. Indeed, it is estimated that, without a SALT II agreement, the Soviets could have over 3,000 strategic delivery vehicles by 1985."

Such arguments should not blur the reality of the impact and implications of any new SALT agreements; and, since SALT is so closely related with the subject of this article we should remind ourselves of the objectives of SALT agreements. In evaluating a SALT II agreement, we must ask whether:

It *effectively* limits the ongoing Soviet strategic programs;

It *effectively* limits in particular the massive Soviet ICBM force in ways to reduce significantly its first-strike potential and to bring it closer to "essential equivalence" standards;

It places damaging restrictions on the second-strike U.S. air-launched cruise missile, such as limiting its range to a point where its viability as an effective deterrent is endangered (despite its increased importance in the wake of the abandonment of B–1), or restricting its carrier, or requiring it to count against U.S. MIRV limits;

It limits the numbers of Backfire bombers as a part of any aggregate total limit on strategic nuclear delivery vehicles, given its intercontinental range;

It places restrictions, which, though purportedly temporary, will in fact be difficult to reverse, on cruise missiles available for our allies' defense, despite our long-standing resistance to Soviet efforts to restrict unilaterally the so-called forward-based systems of the West;

It *effectively* closes the loopholes that could allow the Soviets an asymmetrical SALT advantage; e.g., through conversion of SS–20s to mobile ICBMs, exploitation of the cold-launch reload capability of Soviet missiles for a virtually unlimited number of ICBMs, or deployment of a rapidly deployable ABM system.

In a speech to the UN last fall, the President suggested that a major SALT "breakthrough" was at hand. Yet, from what has been revealed so far, it is possible to judge that this impending agreement would in *no* way reverse or even halt what is otherwise a singularly ominous trend. Its effect on Soviet programs is largely cosmetic; and it would severely limit those U.S. programs that might ease the situation.

Both with regard to the effects of SALT agreements and with regard to the implications and possible consequences of the Soviet military buildup, it is possible for reasonable people to differ on the interpretations to be applied. We see no reason at this time for optimism. Clearly, there is little reason to question the evidence of the increase in Soviet strategic capabilities, relative to those of the U.S., or the thrust of these programs toward counterforce, damage limiting, and superiority.

RIGHT YET WRONG

Events have proved the B Team right, but U.S. policy appears to assume Team B wrong. We wonder what evidence is required to suggest to the American people and to the Administration that our security is in the process of being endangered and that its preservation requires an awareness and an effort far beyond that which now exists.

If the B Team effort has served to disturb people and to draw attention to these developments, it was certainly worthwhile. In effect, it was a technique analogous to that which Winston Churchill found necessary to force political recognition of the reality and the threatening implications of the massive armament of Nazi Germany in the 1930s, at a time when the Baldwin Government resorted to optimistic projections of the balance of military power. At that time, the British Government first refused to recognize the reality of massive German armament; then it refused to acknowledge it publicly in the belief that the public could not be brought to the effort necessary to deal with it and that an appeal on these grounds would bring about domestic political defeat; and, finally, it took the position that it was too late to do anything. We fervently hope that neither the insensitivity of the first, nor the political cynicism of the second, nor the fatalism of the last ever comes to characterize an American Administration.●

COLUMBUS DAY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BIAGGI. Mr. Speaker, it was almost 500 years ago when Christopher Columbus set sail from Spain to discover the new world. It was a mission that culminated with the founding of America. It was a mission which changed the course of history for centuries to come. Each year this Nation celebrates Columbus Day by renewing our own spirit as a nation and discovering more about our identity as a people.

Columbus Day has special meaning for the millions of Italo-Americans in this Nation. Beginning with Columbus and continuing through history with men like Meucci, Marconi, Sirica, and Rodino, Italo-Americans have made diverse, constant and enduring contribution to the betterment of our great Nation.

Christopher Columbus was perhaps this Nation's first immigrant. In the succeeding years of the development of the American nation, millions of immigrants came to our shores and made significant contributions to our Nation.

Today, we continue to benefit from the contributions of immigrants, men and women who have left their homeland to make a better life in America.

Columbus Day should make us more proud of our roots and give us a greater respect for the ways of life of other people. We must insure that this Nation provides equal opportunity for all our citizens. We must fight without cessation to rid this Nation of all forms of discrimination. Above all, we must keep our Nation free.

There is another facet of Columbus Day which bears mentioning as it relates to modern-day America. Columbus symbolized a man of invention and discovery. America, too, is a land of invention and imagination. Yet, I was dis-

turbed to read recently that the number of American inventions and patents decreased again. I hope this trend can be reversed so this Nation can again move to the forefront in this area.

The Italo-American community is dynamic and ever growing. Let us further our progress both as individuals and as a community, as we salute the first Italo-American Christopher Columbus.●

THE PLIGHT OF CHILEAN SOCIAL WORKERS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. GARCIA. Mr. Speaker, last spring, Maryann Mahaffey, the immediate past president of the National Association of Social Workers, traveled to Chile to investigate the plight of the social work community under the repressive Pinochet regime. She returned to say that one not inconsiderable result of the regime was the decimation of public education, health and social programs, which is clearly creating onerous hardships upon the people of Chile.

The September issue of the National Association of Social Workers News contains a secret report that Ms. Mahaffey smuggled out of Chile. It clearly details the extent that the repressive Government is influencing every area of social policy, and its particularly severe impact on the social work profession. It is clear that American policies that seek to dissociate ourselves with the current Chilean Government must be continued and strengthened, and more than that we must actively seek an end to these criminal abuses of human rights and individual liberties.

The article follows:

THE CHILEAN REPORT: CATALOGUE OF OPPRESSION

(NOTE.—The following text is a secret report brought out of Chile by NASW's immediate past president, Maryann Mahaffey, who traveled to that country to investigate the plight of the social work community (on behalf of NASW and in cooperation with the National Coordinating Center in Solidarity with Chile and the organization of Social Service Workers for Chilean Freedom). It was prepared in Santiago in March of this year and translated for NASW upon Mahaffey's return.)

Since the initiation of the Military Government, social work in Chile has been subjected to serious limitations in its practice. Two mutually reinforcing factors are primarily responsible for these limitations: the restriction of political rights and the characteristics of the present economic model. The operation of these two factors, as well as the conditions they create for the action of the social worker, are described here.

1. The restriction of political rights arising from the state of emergency which has been maintained until now in Chile represents a serious attack on freedom, impeding or seriously affecting the development of political, union, community development; cultural, university and professional organization activities.

1.1 All non-official political activity in Chile is prohibited. All political parties being dissolved, there has developed an active campaign to discredit political activity and to persecute and antagonize the principal leaders of the center and left parties, as well as those who have been active members of these parties. In this context, all meetings at which the situation in Chile is analyzed and at which there is no participation by government representatives, or which has not been expressly authorized, are suspect. This even affects the development of social action and research activities: it is necessary to obtain government authorization to take surveys of any sort at the present time in Chile.

Hundreds of social workers who participated actively as members or sympathizers of political parties on the left have been persecuted for that alone. Two social workers were killed in the first days after the military coup; others were arrested and tortured; [1] many had to take refuge in embassies and leave the country; others have been dismissed from their jobs and are unable to work in any branch of public service. Having had any sort of leftist political participation in the past is at this time more serious than having an incurable infectious disease; no one dares hire these people, who come to be classified as suspicious or dangerous. This has forced many social workers to leave the professional field and to earn their living as salespersons, secretaries, etc., with serious repercussions to their material well-being and morale.

1.2. Union activity in Chile has been seriously harmed by the issuing of Decree 190 of 10 December 1973, which abolished the right to strike and the right of unions to elect freely their leaders; abolished the jurisdiction of union leaders; and limited the right to hold union assemblies. At the same time, it dissolved the Central Workers' Union, a representative organization of union activity at the national level; this action caused the union movement to lose all its importance as a factor influencing general labor policies.

All the above has produced a virtual paralyzation of the union movement and a gradual weakening and disintegration of its organization, a situation aggravated by the adoption of measures at the government level which contribute to the development of parallel unions.

The loss of union power has been followed in many businesses by abuse or violation of labor legislation, with an obvious deleterious effect on the rights and well-being of the workers.

The situation described in the union sector is especially serious for the large group of social workers who practice their profession in departments of welfare of business enterprises, which in many cases have had to reduce social work to the professional functions of less importance or simply to services. Social workers in these businesses are faced with the impossibility of undertaking an educative role or one which encourages the organization and participation of workers.

1.3. The possibility of undertaking effective community development work is today practically nonexistent in Chile. The fact that leaders of community-level organizations (neighborhood councils, mothers' centers) are appointed by government authorities and not elected locally has resulted in their not being true community representatives and has at the same time created a total separation between the community and its leaders. As a result, the Neighborhood Council activities which were previously of great importance are now reduced to almost nothing, especially in the low income sectors. The people therefore find themselves lacking organization.

The social workers whose focus is primarily on low income sectors are faced with serious difficulties in promoting the organization and participation of community members. The latter lack motivation and interest, distrust their leaders, and are reluctant to participate in joint activities, even when these are of obvious benefit to all.

But perhaps more serious than the above, in the long run, is the fact that government authorities are promoting a paternalistic style of social work in the low income areas, and particularly through the work of a large contingent of volunteers, composed of wives of military men who do not have the training required for such work. Lacking basic knowledge and yet very powerful, these volunteers are in many cases destroying the educational work which for years was carried out in those sectors in promoting self-management by the people. Given the presence of these volunteers, the current leaders of the Neighborhood Councils, a great many of whom are former members of the Armed Forces, cannot exercise independence or critical judgment.

1.4. Professional association activity has also been seriously hindered by restrictions on political rights. The professional societies and associations are subject to the prohibition on holding elections to select leaders, who at present are nominated by the authorities. This prohibition means that professional associations are not representative of those in the profession; the leaders are composed only of persons in whom the government has confidence.

It is for this reason that in the present College of Social Workers, the profession's highest representative organization at a professional association level, those with a position contrary to that of the government do not feel represented. These colleagues do not participate in the professional association activities, nor are they interested in participating. The College of Social Workers thus has lost its representativeness and importance for the professional association. Its leaders also lack independence of government authorities who appoint them to their posts, thus preventing them from either having a critical attitude with respect to the serious social situation in Chile or expressing their criticism openly. The professional association of social workers therefore finds itself sharply divided into two groups, one of which at present lacks all possibility for expression within the association.

1.5. Cultural activity has been so affected in Chile that there is public recognition of the existence of a "cultural blackout," which is created by the impossibility of expressing verbally or in written form any opinion or belief contrary to the present regime. In Chile there is no freedom of press, magazines are subject to self-censorship, books to prior military censorship. Given such limitations, publishing house activity, as well as theatre and artistic activity in general, have been seriously restricted.

This situation puts a brake on cultural creativity and impedes the expression of ideas and sentiments of wide sectors of the population. These sectors are also unable to enrich themselves by exposure to other schools of thought, since the importation and sale of any books or printed matter con-

[1] See Appendix.

sidered contrary to or dangerous for the government are prohibited. There has developed a cultural impoverishment which affects the entire population and all Chilean activities.

1.6. Given the above context, university life cannot be fully developed. Restrictions on political rights have seriously affected university faculty, taking the form of the dismissal of professors and students for their participation in leftist political activity; the closing of certain schools and centers considered most infiltrated by these ideas (sociology, journalism, social work, etc.); and military intervention in the universities. At present the universities are controlled strongly from within, especially through the orientation of classes in the humanities and social science sectors. In this way, the university is no longer the place which allows full expression of all ideas, and university work is increasingly limited and frustrating, given the narrow limits in which it must develop. This situation in the social sciences is dramatic due to both the lack of confidence regarding social analysis and the resulting minimization of the importance given the social sciences within the universities.

The teaching of social work has also been seriously affected by the above situation. The schools of social work had to restructure their curricula, recruit new faculty to replace those dismissed, and reorient all their activities. As a result of the above, the training in social work has become technical and professionalized, but is lacking a global critical focus on the social system and any orientation toward change. The new social workers are thus being transformed into efficient technocrats ready to offer their professional services in an uncritical manner. An attitude of professional detachment or impartiality with respect to the socioeconomic and political reality in Chile is once again being promoted as a value to be cultivated in the training of social workers. This very attitude was the subject of much debate in the reconceptualization of social work in the past.

2. In the economic model introduced by the present government, the state ceases to have a central role in the economy as has been the case for the past thirty years in Chile, and thus gives away to private initiative. Another essential characteristic of the model is its encouragement of foreign trade, with a lowering of tariffs and an end to the protection of national industry. Among the many consequences of the application of this model, it is necessary to point out, for the purposes of this analysis, two particularly negative consequences: the decrease in public spending and unemployment.

2.1. The drastic reduction in public spending achieved its objectives of reaching the desired balance of payments and reducing inflation, but at the cost of a great depression in economic activity and a reduction in the standard of living of the great majority of the population. The mechanisms used for reducing public spending have been the reduction of personnel and the reduction of operating costs in the public services. The desired decrease in personnel provoked a massive dismissal of workers in the public sector, with a reduction of 52,000 positions within the public administration and a consequent increase in the unemployment rate. The reduction in operating costs in the public services has been expressed in the reduction of the budget for public works and for public services in general. In the housing and construction sector, the situation has also led to an increase in unemployment, in the health sector, one sees a reduction in funds for programs and the termination of free services for a great many former beneficiaries, which seriously affects the lowest income sectors. In education, the reduction has been translated into the termination of free programs in state secondary education and in the self-financing of the universities, such that education in general, and especially at the university level, is becoming increasingly elitist.

As regards social work itself, the above situation has led to the reduction of professional positions and a reduction in funds for social projects. In a policy aimed at reducing public spending, such as the one implemented in Chile, social projects are especially vulnerable and, logically, have been those most damaged.

2.2 Unemployment is perhaps the most negative consequence of the present economic policy. Contributing to unemployment is not only the reduction in personnel in the public services but also the elimination of personnel in private businesses or institutions which have been affected by the economic depression and, in many cases, suffered bankruptcy. This entire situation can be traced through the increase in unemployment rates in Chile which, in 1975 and 1976, fluctuated between 15 and 20 percent and which still hold at 13 percent, according to figures released recently by the Economics Institute of the University of Chile. Not included in this last figure is the 7% of the active population included in the Minimum Employment Program. This percentage should be included if one is attempting to understand the true magnitude of the unemployment problem, since this particular program, in reality, entails an unemployment subsidy accompanied by the obligation to undertake non-productive work. Real unemployment would thus reach 20% of the active population, but this statistical average does not reflect the reality of the situation in the lowest income sectors where unemployment is even more serious.

For the social workers who struggle for the well-being of the family and of the people in general, unemployment presents an unsurmountable problem which limits all possibility of social action, and which affects in a more serious way those sectors in most need of their professional assistance.

The government has implemented a series of programs to mitigate the social consequences of the present economic policy: the program of minimum employment; the creation of nurseries; the nutrition program; etc. But together these programs constitute no more than an absolutely insufficient palliative, given the serious existing needs.

Although there are no specific studies which enable one to understand the problem in its real dimensions, the serious increase in unemployment among social workers originating from the factors enumerated above is widely recognized. The decrease in public administration positions, the restriction on possibilities of employment in the private sector, and the existing political factors have together created unemployment among social workers of a magnitude previously unknown in Chile. While this is certainly a problem affecting all professionals in Chile at this time, there is no doubt that social workers are among the most affected. At present, a joint research project by the College of Social Workers and the Chilean Association of Schools of Social Service is in progress and is aimed at measuring the magnitude of the problem.

The situation as described to this point gives us a panoramic view of the extraordinary limitations to which the profession is presently subjected, in its objectives, its functions and its organization.

Regarding its objectives, the professionals in this field recognize officially that in order to achieve the goal of the well-being and full development of the human being, social workers must set as objectives consciousness-raising, and participation and organization of the groups with which they work. But these objectives come to be classified as dangerous at the present time in Chile. All the existing social conditioning is opposed to these objectives, and there is not sufficient political clarity in the professional context to understand the reality of the situation. In these conditions, there exists a split between that which social work postulates in theory and the objectives which can be set and achieved in practice. The profession therefore is experiencing a serious retrogression in its development, since everything contributes to imposing on the professional a role of adaptation to the present social system and a return to a focus on the service objectives alone.

With respect to the practice of the profession, the social worker must confront special difficulties in work with groups and in utilizing forms of social action which encourage participation at all levels.

Finally, the professional organization finds itself seriously weakened by the above-mentioned division among its members, with a large sector of colleagues either marginated from the professional organization's activities or marginating themselves from these activities owing to lack of confidence in the present leaders.

We could say that, with exceptions, the predominant social work being carried on in Chile, while able to undertake very important endeavors in relation to a given, specific problem, lacks critical positions and plans regarding the global society. Chilean social service has not made its voice heard officially in response to any of the social consequences of the most serious economic crisis that the country has experienced since the emergence of the profession; it seems to have adapted itself with great facility to the official password on eliminating the political variable and political options.

There is only one group of committed colleagues, those working in the Vicariate of Solidarity, an organization of the Catholic Church which has taken on a significant role in the social field and in defense of human rights. Although the group is small, it carries out professional work of the greatest importance, work which is not recognized nor considered by official social work circles to be at the professional level.

To conclude this report, it seems necessary to point out the close connection between society and social work which is reflected in the situation described above. In a country which blocks the advance of social work and which retrogresses in overall social development, as has been the case in Chile in recent years, social work cannot progress. Quite to the contrary, to the extent that the newly cultivated values become predominant in the profession and the weight of the dominating ideology imposes itself with greater force, the perspectives are a continuation of the process of moving backwards until reaching a point which signifies the complete neutralization of social work as a professional activity.

SANTIAGO, *March 1978.*

LIST OF SOCIAL WORKERS AND STUDENTS OF SOCIAL WORK HAVING BEEN ARRESTED SINCE SEPTEMBER 1973[1]

Name	Category	Date of arrest	Present situation
1. Allende Celedon Mario	S.W.	1974—Arica	
2. Angulo Rolando	S.W.	1974—Chillan	Dead.
3. Araneda Alfero Luis	S.W.	1973—Santiago	Out of country.
4. Aqueveque Maria Teresa	S.W.	1977—Santiago	Released.
5. Balaguer Jose	Student	—Sn Fernando	
6. Bastidas Pinilla Max		—Osorno	
7. Benito Ines	S.W.		
8. Binfa Contreras Jacqueline	Student	1974—Santiago	Disappeared.
9. Bustillos C. Maria Teresa	Student	1974—Santiago	Disappeared.
10. Caceres Luis	Student	1973—Talca	Released.
11. Cabezas Ruby	S.W.	1974—Santiago	Released.
12. Cabrera Elizabeth	S.W.	1973—Antofagasta	Dead.
13. Carrillo Edelmira		—Valdivia	
14. Cifuentes Jara Hernan	Student	1973—Talca	Released.
15. Clemente Wanda		—Arica	
16. Compagneti Godoy Mirtha	S.W.	1975—Santiago	Released.
17. Chaigneau Amalia	S.W.	1974—Santiago	Out of country.
18. Chain Hilda	S.W.	1977—Santiago	Released.
19. Diaz Idulia	S.W.	1973—Arica	Out of country.
20. Drouilly Y. Jacqueline	Student	1974—Santiago	Disappeared.
21. Eltit Contreras M. Teresa	Student	1974—Santiago	Disappeared.
22. Falcon Vacarezza Adriana	S.W.	1973—Santiago	Out of country.
23. Fernandez David		—Temuco	
24. Franco Monica	Student	1976—Valparaiso	Released.
25. Fuenteabla Cristina		—Valparaiso	
26. Fuentes Hector	Student	—Sn Fernando	
27. Fredes Elena		—La Serena	
28. Galvez Villarroel Maria			
29. Gonzalez Hormazabal Maria		1976—Santiago	
30. Gonzalez Perez Lucia		—Santiago	
31. Henriquez Nelly		—Concepcion	
32. Hernandez Jeanette	S.W.	1973—Santiago	Out of country.
33. Juica Zorka	S.W.	1974—Santiago	Released.
34. Jorquera Iturrieta Walkiria	Student	1975—Santiago	Released.
35. Ibarra Toledo Ernesto	Student	1974—Santiago	Disappeared.
36. Labrin Sazo M. Cecilia	S.W.	1974—Santiago	Disappeared.
37. Leyton Fernandez Herta			
38. Maldonado Lina		1974—La Serena	
39. Mendez Rodriguez Francisco		—Temuco	
40. Michaud Chacon Augusto	S.W.	1973—Antofagasta	Out of country.
41. Molina Genoveva		—Curico	
42. Montes Garcia Fermin	Student	1975—Santiago	Released.
43. Olivares Norka	S.W.	1974—Santiago	Released.
44. Pinto Sonia		—La Serena	
45. Pizarro Archibaldo		—Arica	
46. Pizarro Maria Teresa	S.W.	—Santiago	Out of country.
47. Puz Acosta Ana	S.W.	1973—Arica	Released.
48. Parra Nora	S.W.	1974—Curico	Released.
49. Rekas Urra Elizabeth	S.W.	1976—Santiago	Disappeared.
50. Rodriguez Ines	S.W.	1974—Santiago	Out of country.
51. Rojo Miguel	Student	—Santiago	
52. Romo Vera Jorge		—Valparaiso	
53. Salazar Omar	S.W.	1975—Santiago	Out of country.
54. Saintard Elizabeth	S.W.	1973—Santiago	Out of country.
55. Traiguett Tatiana		—Arica	
56. Toledo Margarita		—Santiago	
57. Vidal Eliana			
58. Villavicencia Lucia	S.W.	1973—Santiago	Released.
59. Vivaldo Castro Margarita		—San Felipe	
60. Walker Betty	S.W.	—Santiago	Released.
61. Wiff Sepulveda Carolina	S.W.	1975—Santiago	Disappeared.
62. Witt Jorquera Sara de	Student		Released.
63. Zavala Alicia	Student		
64. Zuniga Serrano Patricia	Student		Released.
65. Araya Lizardo	Student	1973—Santiago	Released.

[1] This is not an official list but one that has been based on personally known cases or information given by qualified witnesses.●

TRIBUTE TO ROBERT KRUEGER

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, I welcome the opportunity to join my colleagues in paying tribute to the honorable ROBERT KRUEGER on the occasion of his retirement.

BOB KRUEGER came to the House of Representatives in the 94th Congress in 1974 and has served his constituents with distinction and devotion to duty for the last 4 years.

BOB had the unique distinction of being both an active and vocal proponent and antagonist of the national comprehensive energy conservation issue. Throughout his short congressional career, BOB has been the leading House advocate of deregulation of natural gas. On most energy matters, we have been on opposite sides of the issue, but I greatly admire BOB's sincerity, his forthrightness and the competence with which he has fought each succeeding energy issue.

BOB is not a grandstander. He is not a publicity-seeker. Yet always forcefully expressing his view, BOB understood the maxim that politics is the art of compromise and yet, he was not afraid to stand and be counted for what he believed was right, not only for his constituents, but for the entire State of Texas.

Extremely well educated, BOB has been an articulate spokesman for the causes of deregulation. BOB's short tenure in the House has demonstrated exceptional competence, thoroughness, and ingenuity. Well liked by his colleagues, he was respected and admired for his tenacity and persistence in support of the deregulation process. His profound knowledge of energy matters has made BOB a respected adversary.

BOB will be remembered by his colleagues for his conscientiousness, diligence, and for always placing the interests of his district and beloved State of Texas first.

I wish BOB KRUEGER great happiness and much success in the years ahead.●

TRIBUTE TO JOHN MOSS

HON. THOMAS A. LUKEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. LUKEN. Mr. Speaker, I would like to add a few words of praise to one of our most courageous and dedicated Members, JOHN MOSS.

As a Member who has had the privilege of serving on the Oversight and Investigations Subcommittee under JOHN'S chairmanship, I have witnessed our colleague's energetic pursuit of solutions to difficult and diverse issues facing the American public today. He has the drive, the boldness, and the depth of knowledge in a wide range of subjects to tackle our toughest problems. Indeed, it has been a challenge for all of us on his subcommittee just to keep up with the pace he set.

I have a special feeling of admiration for JOHN, a Member who commands the utmost respect from those who agree and those who disagree with him alike. More than a few Cabinet Secretaries, Presidential aides, and corporation executives have trembled at the prospect of being questioned by JOHN at an oversight hearing. All who know JOHN agree that he takes the oversight function of Congress very seriously, and require those who come before him to do so as well.

JOHN'S contributions to Congress, and to this Nation, are too lengthy to enumerate. In his 26 years on the Hill, he has established a legislative record that few will ever match. And JOHN, as a friend, a colleague, and a leader will never be matched. He will be missed tremendously.

My best wishes to our colleague in his new endeavors.●

GEORGE SHIPLEY LEAVES HIS MARK

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FORD of Michigan. Mr. Speaker, I join with our colleagues today in honoring our good friend, Congressman GEORGE SHIPLEY, who is ending a 20-year career in the House of Representatives.

It has been an honor for me to serve in this body with Congressman SHIPLEY for the past 14 years. He is an outstanding legislator who has demonstrated great courage in his approach to the crucial issues facing this Congress.

As an active member of the Appropriations Committee, and chairman of its Legislative Subcommittee, he has left his mark on many programs that will benefit Americans for years to come.

His district and his State are losing a valuable spokesman, Mr. Speaker, and we in the House are losing a colleague whom we all respect and admire.

I wish him Godspeed and many years of health, happiness, and success.●

BALANCE(S) OF POWER SERIES: SOVIET MILITARY POWER

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, to conclude the Soviet "Doctrine and Intentions Series" we point to the accelerating momentum behind the cumulative growth of Soviet military power.

In an article first appearing in Air Force magazine, March 1978, entitled, "The Accelerating Momentum of Soviet Military Might," Edgar Ulsamer argues that the Soviet Union will continue its drive toward military superiority over the United States because of its desire to acquire the political leverage that goes with strategic and tactical superiority. This leverage—in addition to an increase in the threat of nuclear war—would pave the way for a host of political, economic and psychological consequences that would frontally assault the morale of the American people and their allies. Mr. Ulsamer concludes that only a heightened Western resolve can stem the tide and keep the "nightmare" of Soviet superiority from becoming reality.

The article follows:

THE ACCELERATING MOMENTUM OF SOVIET MILITARY MIGHT

(By Edgar Ulsamer)

[Charts and table do not appear in the RECORD]

The prestigious, nonpartisan Atlantic Council of the United States capped a recent in-depth study of US vs. USSR military capabilities with these findings: "The cumulative growth of Soviet military power has not been sudden; it has occurred over a decade with various surges, lapses, and variations in perceived growth, timing, and nature. Although the Soviets have moved ahead in some areas—and can move further ahead if we do nothing about improving the quality of our forces—it is equally true that if we do improve them significantly, the trend can be reversed and a state of equilibrium preserved or restored."

The Atlantic Council's report, entitled "The Growing Dimensions of Security," concluded that the Soviet Union:

Seeks military superiority for political purposes:

Will continue to improve its armed forces, giving it the opportunities to exploit any power vacuum or relative imbalance of power if it thinks it can do so with impunity; and

Is not likely to threaten direct aggression, much less launch it, so long as its leaders do not think it has attained clear military superiority.

The Council's findings can be seen as a "middle-of-the-road" intelligence view of the Soviet challenge and where it is likely to go in the years ahead. The Soviet military colossus expands its power not precipitously but at a monotonously steady rate, estimated by the Central Intelligence Agency at between three and five percent annually. That growth, CIA witnesses have told Congress, will continue "into the 1980s," based on the escalating costs of new and more complex Russian weapon systems as well as the high levels of Soviet R&D activities.

Two of the strongest and most entrenched constituencies of the Politburo—the military and the affiliated industrial and political complexes—almost certainly can and will perpetuate military growth regardless of inevitable fairly drastic changes in the country's aging top leadership over the next few years. Further, most Sovietologists tend to believe that even extensive changes in the Soviet hierarchy will have only minimal effect on the USSR's external behavior and geopolitical ambitions. There is no evidence of any *young turks* waiting in the wings to alter the mixture of Soviet ideology and Russian power politics that shapes Moscow's global strategies. By all odds, the next generation of Soviet leaders will turn out to be more nationalistic, and more skillful and tougher practitioners of Realpolitik than their predecessors, but without diminishing the USSR's commitment to the "export" of socialism. That field of export, most likely, will be coupled to the export of more and more arms to provide Moscow with additional political leverage in the developing nations and to create new markets for the increasingly productive and qualitatively improving Russian defense industry.

The geographic orientation of Soviet military power, in the view of most US experts, also is not likely to change significantly. Trusting neither allies nor political adversaries, the USSR is bound to maintain the ability to project that power in all directions, even though the principal areas of focus will continue to be the US and NATO, on the one hand, and the People's Republic of China, on the other. A rapprochement of the world's two largest totalitarian powers—far off at the moment—probably depends more on Peking's perception of the US strategic and political position relative to that of the USSR than on Soviet policy toward China.

THE HIGH COST OF SOVIET ARMS

A recent study by the CIA's National Foreign Assessment Center, entitled "A Dollar Cost Comparison of US and Soviet Defense Activities, 1967–1977," concludes that "at about $130 billion, the estimated costs of Soviet defense activities for 1977 were forty percent higher than the US outlay of $90 billion."

In comparing the dollar costs of the two superpowers' defense activities, the CIA study concentrates on three major resource categories: military investment, meaning mainly hardware and associated logistics; operating costs associated with maintaining current forces; and research development, test, and evaluation costs.

During the 1967–77 period, the CIA finds, "the estimated dollar costs of Soviet investment were about twenty percent greater than US outlays for military investment programs. Soviet investment increased continuously over the period, driven primarily by the introduction of advanced weapon systems, particularly succeeding generations of missile programs, and, in the 1970s, introduction of a new generation of tactical aircraft. US investment declined sharply after the Vietnam buildup—to about half the 1968 level by 1975—before turning up in 1976 and 1977. As a result of these divergent trends, the estimated dollar costs of Soviet investment exceed US outlays by an increasing margin after 1970, and since 1975 have been about seventy-five percent greater than the US level."

Operating costs, according to the CIA, account for a major share of the total defense expenditures of both countries. Again, the trends over the ten-year period measured by the report are divergent, with US costs going down because of declining force levels and Soviet costs increasing because of the growth of the USSR's standing forces. By 1977, the estimated dollar costs of Soviet operating activities were more than twenty percent above the US outlays, the CIA found.

Soviet military manpower increased by more than 700,000 between 1967 and 1977, to about 4,100,000 at present. Most of the increase, the CIA report claims, "was in the ground forces, although growth occurred in the other force components as well." The Soviets, the report points out, "historically have maintained a large standing force that has a broader range of responsibilities than does the US military. Soviet military manpower in 1977 was about twice the US level . . . and includes the five armed services of the Ministry of Defense and the Soviet Border Guards who are subordinate to the Committee for State Security but have some military responsibilities. Some half million additional men serve in military construction units and the Internal Security Troops of the Ministry of Internal Affairs." The CIA tally did not include the latter because in the Agency's view "they do not fill what in the US would be considered national security roles."

Presenting its comparison of US and Soviet RDT&E dollar costs in hedged terms because of far greater uncertainties in this field—compared to the other areas of the report—the CIA concluded that "it is clear from the number and increasing complexity of the weapon systems deployed and under development that the Soviet activities were both large and growing during the period under review. US outlays for RDT&E, on the other hand, declined steadily over the period before turning up in 1977. As a result, Soviet RDT&E activities in 1977 were substantially larger than those of the United States." How much larger, the report did not say in discrete terms, but one of the Agency's visuals indicates that the Soviets lead by about seventy-five percent.

Comparing US and Soviet investments within mission areas, the CIA concludes that the USSR outspent this country on strategic forces—intercontinental and peripheral attack, strategic defense, and associated command control and communications—at a rate of almost 2.5:1 during the past ten years. In 1977, however, the Soviet spending level for strategic forces climbed to about three times that of the U.S.

In analyzing the two countries' spending on intercontinental attack forces, the report found that "almost sixty percent of the estimated dollar costs of Soviet activities . . . were for the ICBM force, compared to only about twenty percent for the US. On the other hand, outlays for the US bomber force comprised about forty percent, compared to a Soviet share of less than five percent." The latter figure doesn't make allowance for about 100 Backfire bombers, however, which are assigned to both Soviet Long-Range Aviation and the Navy.

Soviet spending on general-purpose forces—not counting pertinent R&D—exceeded U.S. outlays by about ten percent over the reporting period, but since 1973 has been fifty percent higher each year than the U.S. costs. Soviet land forces costs have registered a steady growth during the past ten years, according to the CIA, and in 1977 reached a level twice that of comparable U.S. spending.

Counting the costs of attack carriers and their aircraft, the U.S. outspent the Soviets on general-purpose naval forces over the past ten years by about twenty percent, the CIA estimates.

U.S. outlays for all its tactical air forces, including attack carriers, were more than twice the estimated dollar costs of comparable Soviet forces over the past ten years. The trends for the two countries, however,

were quite different, according to the CIA. U.S. outlays declined, with 1977 costs a third less than in 1967. The Soviet 1977 level, by comparison, was twice that of ten years earlier, with the result that "U.S. annual outlays, which once were five times that of the Soviets, were only about fifty percent greater in 1977."

The cost of U.S. support activities during the ten-year period exceeded that of the Soviets by about a third when measured in dollar terms, the study showed. In the case of the U.S., "support activities accounted for almost fifty percent of cumulative defense outlays . . . while for the Soviets the share was about thirty-five percent."

Soviet military expenditures, according to estimates by the Defense Intelligence Agency (DIA), appear to absorb between fourteen percent of that nation's gross national product (GNP). Economists of the CIA calculate a slightly smaller percentage, in the eleven-to-thirteen percent range. Either way, that value is at least twice, and possibly even three times, that of the U.S.

The disproportionately high Soviet defense spending—far in excess of what in Western perception would represent legitimate defensive capabilities—is, as USAF Chief of Staff Gen. David C. Jones points out, "not a crisis, but disquieting . . . for the 1980s, if the trend goes on."

Why the Soviet appetite for more and better weapons remains seemingly insatiable continues to baffle Western analysts, especially since the excessive growth is across the board and does not tilt consistently toward any particular area, such as strategic or tactical, offensive or defensive. Some U.S. intelligence officials have sought to explain the high momentum of the Soviet arms race in terms of Russian historic experience: the not infrequent occurrence of numerically inferior but qualitatively superior invading forces defeating much larger Russian forces. Others reject this interpretation as a risky rationalization flawed logically because such a large share of the Soviet defense effort is devoted to offensive strategic forces. Moscow, both schools of thought agree, seems not troubled by the question that bedevils Washington, *i.e.*, "What is strategic superiority, and what do you do with it if you have it?"

Over the long run—considerations of geopolitical leverage aside—there is reason to fear that the totality of power that goes with military superiority in the nuclear age tends to corrupt. The temptation to brandish if not apply such omnipotence may be more than the future masters of the Kremlin might be able to resist, notwithstanding the fact that some Western ideologues are willing already to ascribe near-angelic traits to coming generations of the Soviet hierarchy.

It is fashionable also in some quarters to depreciate straightforward comparisons of US vs. Soviet military capabilities on grounds that such a narrow focus slants and blurs the real picture. The contention is that total power is a composite of economic, political, and moral factors, in addition to purely military strength. This proposition, too, is being questioned, particularly as it pertains to major crises. It can be argued that global strategic war as well as major theater wars—and their deterrence—will be decided probably by forces and capabilities in being and not the ability to mobilize industrial resources for which there may not be time and which may no longer exist.

Equally doubtful is the contention that the Soviet psyche is being traumatized by visions of deficiencies in the USSR's ideological, political, and economic posture vis-á-vis the rest of the world and thus is in need of military superiority as a psychological prop. The ideological and political track record of global communism would not seem to support any inferiority complex. It was Communist ideology and politics that triumphed in Southeast Asia, not Western democracy. It is "Eurocommunism"—whose polycentrist image is being cultivated carefully for vote-getting reasons but which hardly represents a refusal to march dutifully to the beat of the Kremlin's drummer—that disrupts NATO; there is no evidence of a "Eurodemocracy" endangering the USSR's imperial hegemony over the Warsaw Pact. Soviet influence in the so-called third world, in spite of some setbacks, is making headway. Soviet and Cuban interventionism in Africa, in particular, seems to have assured communism of enduring political leverage on that continent.

On balance, it probably is more prudent to determine US and Western defense needs primarily on the strength of Soviet military capabilities, and their growth trends, and to allow, only in a secondary sense, for perceived shifts in Soviet policy or the undisputed economic predominance of the West.

PROMPT, SELECTIVELY USABLE FORCE

Soviet nuclear strategy, from the beginning, has been contemptuous of the notion that the uniqueness of nuclear weapons has swept away the fundamental rules governing warfare in the past. The widely held US view that what matters is deterrence rather than the ability, *in extremis*, to fight and prevail in nuclear war has failed to find disciples in Moscow.

A recent study by the staff of the House Armed Services Committee at the behest of Rep. Samuel S. Stratton (D-N.Y.) concludes that the Soviets will soon achieve the capability of destroying the bulk of the US ICBM force in a first strike and that, concomitantly, by 1980 or 1981, the United States will have lost a credible ability to deter a first strike by the USSR. Specifically, the study concludes that by 1980 or 1981 "depending upon Soviet reentry vehicle [RV] warhead yield, twelve percent to sixty percent of the land-based USSR reentry vehicles could kill at least seventy-five percent of the US silos—790. This would leave thousands of RVs for other targets." Conversely, the study finds that "through 1980, if 4,285 US RVs (100 percent of the US land- and sea-based ballistic missile forces on alert) were dispatched against USSR silo targets, as many as fifteen percent—209 out of 1,300—Soviet silos would be destroyed."

SAC's Commander in Chief, General Richard H. Ellis, disclosed recently that the Soviet Union's ICBM force, "the world's largest," has "one-third more missiles than ours, though it is presently armed with fewer warheads. The Soviets are now deploying three new ICBM systems at a rate of 100–150 per year and are developing four more ICBM models—a fifth generation. At the present rate, they can by 1985 place our own Minuteman missile force at considerable risk." This assessment parallels Secretary of Defense Harold Brown's view. He fears that the present generation of Soviet ICBMs—the SS–17s, SS–18s, and SS–19s—is "accurate enough to pose a substantial threat to our land-based ICBMs in the early 1980s." In his opinion, the fifth generation of Soviet ICBMs could "well . . . have more accuracy" than the most modern weapons now in the Soviet operational inventory.

Accuracy of the Soviet fourth-generation ICBMs, according to a recent congressional study, is thought to be in the range of 1,500 to 1,200 feet. The latter figure approximates 0.2 nautical miles, and is at least twice as accurate as the preceding generation of SS–9 and SS–11 ICBMs.

Assessing Soviet ballistic missile accuracy—and the same conditions obtain presumably in the case of Moscow's estimates of US ICBM accuracies—is a matter of both art and science, involving some observable certainties and some conjecture. As a rule, the observer does not know what the other side is aiming at. But, by carefully and systematically observing flight characteristics of the weapon's post-boost vehicle—the so-called bus that dispatches the individual MIRVs to their targets—and of the RVs themselves, reasonably reliable conclusions about improvements from one RV type to another can be drawn. Put another way, the US can, within good confidence margins, establish that the accuracy of Soviet warheads has improved by some specific value even though the accuracy of the baseline remains largely a matter of projection.

The Soviet Union, presumably, gains important knowledge about the operational accuracy of its ICBMs from frequent test firings involving operational launch sites. Congress has not permitted such "operational test launches" of US ICBMs because of environmental and other reasons. A recent Congressional Budget Office study concluded that while US test firings from test silos in California toward Kwajalein atoll in the Pacific "may give weapons designers precise knowledge of the gravitational forces that this portion of the earth exerts on ballistic missile flight, they are not necessarily accurate indicators of how a missile fired over the Arctic at the Soviet Union would perform." It is especially noteworthy, therefore, that recently some Soviet test launches from operational silos have involved firings toward the Arctic, the direction an attack on the US would have to take.

If basic US assumptions about Soviet ballistic missile accuracy are indeed correct, it is likely that the predictable improvements of the now emerging fifth-generation systems will lead to accuracy comparable to that of the Minuteman III force. A January 1978 congressional report estimates Minuteman III accuracy at a CEP (circular error probable) of 700 feet, meaning that in terms of mathematical probability half of the RVs would strike within that distance from the aimpoint.

The fifth generation of Soviet ICBMs, Air Force Magazine has learned, involves four completely new systems and a major but as yet not clearly understood modification of the mobile fourth-generation SS–X–16. Three of the new weapons appear to be successors to the SS–17, SS–18, and SS–19, respectively. The fourth, and most significant, development involves a medium-sized—the SS–17/SS–19 category—solid-fuel system. Soviet experience with solids, unlike that the US which relies on that technology for the bulk of both its ICBMs and SLBMs, has not been good as exemplified by the SS–13 whose production was terminated after fewer than seventy missiles were deployed. The basic virtue of solids is greater readiness and operational flexibility.

Following the SS–13 experience, there was a hiatus in observable Soviet work on solids until the first test flight of the SS–X–16 about four years ago. But, for reasons that are not quite clear, that weapon—thought to be Minuteman-sized and capable of both MIRVing and mobile deployment—has not yet entered the operational inventory. Since then another solid-fueled ballistic missile, the 1,500-nautical-mile-range SS–N–X–17 submarine-launched ballistic missile (SLBM) has come along. It is interesting, though, that another new Soviet SLBM, the SS–N–X–18 with a range of up to 5,000 nautical miles, is a liquid-fueled system. The advent of the as yet unnamed new medium-size solid ICBM and the SS–N–X–17, along with the modification of the SS–X–16, tend to indicate that Soviet confidence in that technology is now restored.

It may be tempting to speculate about Soviet preferences for either solid- or liquid-fueled ballistic and tactical rockets, and to theorize about shifts of emphasis between the two approaches. The bulk of the evidence, however, carries a far simpler message. Different design bureaus have been assigned

different tasks, such as the development and refinement of propulsion systems using one form of fuel or another. The Soviets simply are willing to pay the price of exploring both approaches, presumably because both offer practical advantage.●

REVENUE ACT OF 1978

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. EARLY. Mr. Speaker, in the final hours of this Congress we finally adopted a compromise tax bill. It is not the best tax bill ever passed by Congress, but it does attempt to deal forcefully with inflation and unemployment.

The Revenue Act of 1978 does substantially change the capital gains tax law and cuts individual and corporate taxes. Hopeful these reductions—$18.74 billion in 1979 and $22.28 billion in 1980—will help control inflationary pressures on the economy, stimulate new investment and produce new jobs. I voted for final passage of the conference agreement with some reservations realizing that the tax bracket revisions and reduction in tax rates does not give enough relief to the average taxpayer. Combined with the increase in social security payroll taxes effective this January 1, most Americans will obtain little tax relief by this legislation.

Those workers with a family of four earning between $10,000 and $15,000 a year will receive a slight $44 to $55 tax reduction in 1979 after absorbing the direct impact of rising social security payroll taxes. Those in the $50,000 and above range will, on the other hand, receive a generous $188 or more tax reduction under the same assumptions. Though these tax revisions maintain the concept of progressivity, they do not give sufficient tax reductions to the average wage earner. We have probably, in effect, placed a greater fiscal squeeze on the average wage earner whose discretionary spending power has already been reduced by inflation and rising taxes.

Mr. Speaker, next year Congress should take decisive steps to reduce the exorbitant level of social security payroll taxes. During this session of Congress I consistently supported attempts to reduce the impact of those future payroll tax increases. Such a reduction would be good for business, for the average taxpayer and the Nation's economy. Combined with this tax bill, and a tough inflation program, the tax pinch that all of us now feel will slowly be eliminated and the twin problems of unemployment and inflation will be reduced.

This bill, through, does have its fine points. Increasing the personal exemption from $750 to $1,000 per dependent; raising the zero bracket amount (formerly the standard deduction) from $2,200 to $2,300 for single persons and from $3,200 to $3,400 for married couples; providing homeowners a once in a lifetime chance to sell their homes tax-free on the first $100,000 profit, and extending and making permanent, the earned income credit all redound to this Congress' reputation as being fair to all taxpayers. Targeting the jobs credit primarily to urban areas with large numbers of unemployed youths and minorities, and to those on fixed income programs, such as the handicapped, are all worth the highest praise of any Member of Congress.

The business community should also be happy with the outcome of this legislation. Capital gains tax rates were reduced from a maximum of 48 percent to 28 percent. This is a tax reduction of $1.52 billion in 1979 and $1.71 billion in 1980 for businesses and investors. In my own mind, the burden of proof now rests with the business community which called for this reduction and which now has the responsibility of fulfilling promises of a predicted resurgence in capital investment and the subsequent creation of new jobs. Anything less would be an appropriate signal to Congress that additional congressional intervention in the area of capital investment and capital formation is needed if the Nation's economy is to advance from its present economic slump. It has to be noted that attempts to stampede Congress into precipitous capital gains tax cuts based on econometric studies were avoided by the Democratic Members of Congress. Consequently, Congress has demonstrated foresight in this disputed area of tax law by requiring the Treasury Department to report to Congress by September 30, 1981, on the effectiveness of the reduction in both individual and corporate capital gains tax rates. This analysis will be needed to properly assess the impact of capital gains taxes on the rate of economic growth, unemployment and on income tax revenues.

Complex and sophisticated policy decisions cannot be adequately remedied by simple and perhaps false arguments. The best solution is not necessarily the most commonly accepted or apparent solution. An analysis ignoring the tenets of tax equity, actual economic performance of the stock market, and the investment psychology motivating investors will produce untenable results and could lead to a meat-cleaver approach to future tax law revisions. This study should provide Congress with a clearer picture of what does and what does not motivate investment.

Mr. Speaker, I, and many of my colleagues, voted to instruct House conferees to accept Senate language which would have guaranteed future tax cuts if Federal spending was further reduced over the next 4 fiscal years. By a vote of 268 to 135, the House stated for the record that taxes could be reduced without jeopardizing necessary social programs benefiting low-inome, fixed-income, and disabled recipients. The instructions were fiscally responsible and sought to establish a reasonable association between Government spending and the gross national product. This provision would have reduced taxes on an annual basis through fiscal year 1983. Failure to achieve a balanced budget by 1982 would have prevented additional tax cuts. Simple commonsense tells us that you cannot cut revenues without first establishing your future spending priorities. These instructions made it clear that Congress could responsibly reduce taxes in future years if the Federal budget were balanced and deficit spending had been eliminated. This House action scarcely would qualify as a sleight-of-hand. Economic and social policy would reflect one another—social programs would have to be fiscally effective.

The final version of the bill, however, simply stated that further tax reductions should be enacted by Congress only if the rate of growth in Federal spending had been successfully restrained. This is short of the original instructions, but it does place Congress on record as recognizing the destructive forces of inflation and high taxes on the economic and social well-being of every American. It seems to me that this provision at least reinforces Congress decision to halt deficit spending.

Mr. Speaker, this legislation gives over 75 percent of the tax cuts to wage-earners making $50,000 or less. Our fight against inflation, however, is not over. This tax reduction will help, but an effort by every American, by big business and by labor unions will be needed to reduce the inflation rate and rebuild a strong economy. There is more to economics than taxes; curbing personal appetites and certain national expectations may be more beneficial than any immediate therapeutic tax reduction.●

A TRIBUTE TO THE HONORABLE GEORGE A. MAHON

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, I am honored to pay tribute to our distinguished colleague and dean of the House, GEORGE MAHON. GEORGE's retirement represents a loss of one of the most respected legislators and devoted congressional leaders to serve in the House.

GEORGE is retiring with adjournment of this Congress, having served here since the 74th Congress. In the 44 years he has spent here, GEORGE has worked diligently serving his Nation, his home State, and his constituents ably and with distinction.

GEORGE MAHON became a member of the House Appropriations Committee in 1939 and began his service on the War Department Subcommittee in 1940. In 1949, all defense appropriations were consolidated into one defense appropriations bill and he became chairman of the subcommittee. GEORGE became chairman of the Joint Senate-House Committee on Reduction of Federal Expenditures in 1966 and served in that capacity until the committee was merged with the Budget Control Committee in 1975. In 1968 he served on the President's Commission on Budget Concepts. In 1973 he was appointed to the Joint Senate-House

Study Committee on Budget Control. GEORGE was elected by the House to the position of chairman of the Committee on Appropriations on May 18, 1964.

Mr. Speaker, GEORGE MAHON'S retirement will create a void in the House. This fine gentleman will be missed by all of us for years to come. I join with all of his friends in this Chamber to wish him many years of happiness, good health and contentment.●

BALANCE(S) OF POWER SERIES: SOVIET FIRST STRIKE CAPABILITY

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in a prior CONGRESSIONAL RECORD, I inserted an article by R. J. Rummel, entitled, "Will the Soviet Union Soon Have a First-Strike Capability?" The conclusion of Mr. Rummel's article follows:

THE RETALIATORY CAPABILITY OF AMERICA'S STRATEGIC BOMBERS

[Tables not printed in RECORD]

The destruction of our ICBMs is only part of the preclusive first-strike equation. What about our long range bombers? We can assume that the Soviets will attack without warning and that, even with 30 per cent of our bombers on 15-minute alert, most would still be caught on the ground. Our SAC bases can be attacked with fractional orbital (FOB) missiles that would give no more than 3 minutes' warning to the bombers. This means that our bases would be hit more than 15 minutes earlier than our ICBMs (an ICBM warhead from the Soviet Union would take about 30 minutes from launch to impact), but pin-down nuclear explosions could be set off above our ICBM fields by FOBs and SLBMs to prevent launching of our Minuteman force. Only 92 to 138 warheads with relatively low accuracy would be needed to destroy our 46 SAC bases.

In the best case, 20 per cent of our bombers might survive.[11] (In July 1975 we had 463 long-range B–52s.) If we also optimistically assume that 300 B–52s are available and reliably on-line in the 1977–1980 period, then about 60 might survive. On flight toward the Soviet Union and as they attempt to penetrate to target, these bombers would face a swarm of 2,700 inceptors—including the latest and fastest MiG–25 Foxbat and 9,500 surface-to-air (SAM) launchers (not counting reloads). About half these SAMs are SA–2s with a slant-range of 25 miles, and many have more than double this range. Moreover, the Soviets have about 5,000 defensive radars to guide their planes and SAMs to our 60 bombers. Finally, our bombers will try to penetrate at very low altitude and may confront a Soviet AWACS/fighter air-defense system with a look-down, shoot-down capability. The United States has demonstrated that such a system is possible.[12]

Thus, on the average there are 45 interceptors and hundreds of SAMs to attack each U.S. bomber (remember, the Soviets planned the surprise attack and will be ready for our bombers): it would be remarkable if any survive. However, again to be optimistic, assume that 20 per cent make it to target or are able to fire standoff air-to-surface missiles (ASMs) with 1-megaton warheads. Of these 12 bombers surviving, assume 4 would be of the old B–52 D type, carrying perhaps four 1- to 5-megaton bombs and one ASM; the remainder would be of the G-H type and possibly could carry, in addition to the four bombs, twelve to twenty 200-kiloton SRAMs (short-range attack missiles) and two ASMs apiece.

Therefore, we could expect the following to arrive on target if all went well: 48 bombs totaling 48 to 240 megatons, 20 ASMs with 20 total megatons, and 96 to 160 SRAMs with 19.2 to 32 total megatons. If the megatonnages per weapon are converted to equivalent megatons (EMT) through the formula $EMT = NY^{2/3}$, where N equals the number of warheads (or bombs) and Y their yield, then we get 101 to 215 EMT for this surviving bomber force. This is the total optimistic retaliatory power of our surviving long range bomber force. Evaluation of the significance of this power is a problem to which we shall return after considering the U.S. submarine force.

THE RETALIATORY CAPABILITY OF THE AMERICAN SUBMARINE FORCE

Many feel that none of our bombers and few of our ICBMs could survive a nuclear attack, but that our invulnerable submarines constitute the heart of our deterrent force. In considering the deterrent effect of our Polaris, Poseidon and future Trident missiles, we must take into account the number of submarines on station, the number vulnerable to antisubmarine warfare (ASW), the number of warheads and their yields, and the possible antiballistic missile defenses of Soviet cities. This is quite an order.

Perhaps the best study of all the factors involved in an effective submarine deterrent is that provided by Geoffrey Kemp, who has developed a series of models interrelating several assumptions about these factors.[13] Before-going any further, let us first define three damage levels that range up to what the Soviets might consider unacceptable. These are presented in Table II and are based on those discussed by Kemp.[14]

A basic question concerns the psi overpressure needed to achieve these damage levels; Kemp assumes 5 psi is sufficient.[15] Civil defense, however, has been a serious concern in the Soviet Union. For more than a decade urban populations have been prepared for possible nuclear attack; shelters and evacuation plans have been arranged. The Soviets have even boasted that their civil defense can limit the mortality from a total U.S. attack on their cities to around 6 percent.[6] Since we are talking about a retaliatory attack, surely the Soviet people will be ready. For these reasons, we must consider at least a partial implementation of the USSR's civil defense resources.

The problem, then, centers on what overpressure to use in order to determine damage levels L–1 to L–3, taking civil defense into account. To severely damage a reinforced-concrete building above ground, 11 to 15 psi are required; underground shelters, available to half the urban population, can protect people from overpressures of 25 psi. Thus, taking 5 psi and 25 psi as the lower and upper bounds, 15 psi will be considered the appropriate overpressure from which to compute the number of warheads with a given yield needed to cause a specific level of damage.

Kemp provides a table [17] of the number of warheads needed to cover an area with 5, 10 and 20 psi. On the average, the warheads required to produce 10 to 20 psi are about 2.5 and 5.7 times the number necessary to produce 5 psi. Let us therefore estimate that Kemp's results should be multiplied by 4 to bring them up to a psi of about 15; that is, to compensate for a partially prepared and protected Soviet urban population.

Applying this conversion value of 4, we can then use Kemp's results to assess the retaliatory damage our missile submarines could inflict on the Soviet Union. The results (after conversion) for Poseidon submarines are shown in Table III, which indicates how many submarines would be necessary to penetrate Soviet defenses and cause specific levels of damage under various conditions. In 1980 the American strategic nuclear submarine fleet should consist of 31 Poseidon, 7 Polaris (A–3) and 3 Trident submarines. The first Trident is scheduled to enter the force in mid-1979, and thereafter 2 may be produced per year to replace the Polaris until there are 11 Tridents and 30 Poseidons in all.

Table III gives us a basic matrix for determining the American retaliatory capability under various Soviet strategic defense levels. It is obvious that in most cases our potential fleet would be inadequate to retaliate at any of these levels. If the Soviets are given an unrealistically limited ASW and only 100 ABMs around Moscow, we could achieve L–1 damage; if we have 14 MIRVs per Poseidon and Trident SLBM, then we can just reach the L–2 level. However, if the Soviets improve only their ASW, we could achieve only L–1 damage; L–2 would no longer be possible. If ASW is improved and the ABMs are upgraded to cover other major cities but P is only 0.4, we can still reach L–1; in all other cases, even L–1 is improbable.

Table III reflects an optimistic assessment from a U.S. deterrent-and-retaliatory point of view. The reliability of 0.8 for our SLBMs is much higher than we have been able to achieve thus far. Moreover, for those warheads that penetrate Soviet defenses, it is assumed that they are spread out evenly over an urban area to maximize damage. Duplicate hits or urban misses are not considered. This is an especially important assumption in view of the need for a great many 50-kiloton warheads to blanket a sprawling urban area; for example, in order to produce a 5 psi overpressure against all of Moscow (causing 50 per cent mortality of those unprotected), 43 evenly distributed, 50-kiloton warheads are required.[18]

With regard to the Soviet ABM capability, which columns in Table III are most realistic? More than likely, the USSR will have an extensive ABM system awaiting our missiles. The Soviets are defended not only by the Galosh system around Moscow, but also by the Tallinn system of radars and SAMs. They have more than 1,000 SA–5 SAMs (high ABM capability and a 100-mile range) as well as thousands of SA–2s (ABM capability, 30-mile slant range, and 100,000-foot altitude). The sophisticated SA–6, a mobile SAM, also has ABM possibilities. Moreover, the Henhouse long-range radars—up to a half-mile in length and 100 feet high—can track warheads thousands of miles away. The Soviet Doghouse network, with ranges surpassing 1,000 miles, and numerous other radars can be hooked into an ABM defense network. Thus, the rightmost columns in Table III are probably the most realistic, and these columns would require an American missile-submarine fleet much larger than the one now planned—even to achieve L–1 damage.

TOTAL RETALIATORY CAPABILITY

If we put together America's three strategic offensive systems—i.e., its ICBMs, SLBMs and bombers—does the United States have an effective (i.e., deterring) retaliatory capability? For McNamara this would require the ability to destroy from one-fifth to one-fourth of the Soviet population, and at least one-half of its industrial capacity.[19] Level–3 in Table II comes closest to McNamara's criteria, so let us take L–3 as the damage required for deterrence. The essential technical data and the criteria for determining effective deterrence thus at hand, we can return to the question of whether the Soviets will soon have a preclusive first-strike capability.

Toward answering that question, consider the following:

Footnotes at end of article.

(1) In the early 1980s the Soviets, with their improved missile systems, will probably be able to eliminate virtually all our ICBMs in a sudden strike.

(2) The Soviets will be able to destroy most of our bombers, but those that can penetrate Soviet defenses will still carry tremendous power (calculated at an EMT of 101 to 215). Using Kemp's calculations [20] on the number of 50-kiloton warheads required for given damage levels at 5 psi, we can determine the necessary EMTs (remembering to multiply by 4 to convert to 15 psi), where yield is taken to the two-thirds power. For damage levels L–1 to L–3, these EMTs are 123, 303 and 523, respectively (a 50-kiloton warhead has an EMT of 0.14).[21] Thus, a surviving EMT of 101 to 215 can achieve L–1 damage, barely; that is, it is possible to kill around 4.3 per cent of the population and put at risk 25 per cent of the industrial capacity (assuming evenly distributed warheads or bombs).

(3) There may still be some surviving American ICBMs to launch, though probably fewer than a dozen. Let us assume that there are four Minuteman IIs, each with a 2-megaton warhead, and six Minuteman IIIs, each with three 200-kiloton MIRVs. Let us also assume that all these warheads will make it through the Soviet defense network to target. Their total EMT would be 25; this added to the 101 to 215 for surviving bombers, does not change the picture. Level–1 damage is the best that can be achieved.

In 1980, then, a Soviet first-strike would risk, at most, 4.3 per cent of the USSR's population and 25 per cent of its industrial capacity. Our submarines alone (making the most optimistic assumptions about reliability, distribution of warheads, and so on) might also achieve L–1 damage, but in light of the Soviet ABM potential, this is unlikely.

Table IV illustrates all the above calculations and conclusions. When the retaliatory power of all remaining U.S. ICBMs, bombers and submarines is considered, L–1 destruction is probable, and L–2 is possible but unlikely. There is no way that these figures enable us, realistically, to expect L–3 damage.

In sum, America's total retaliation would probably kill about 4 per cent of the Soviet population, or 10 million people. This is half the cost of World War II to the USSR, and about one-sixth the estimated minimum of 25 million Soviet citizens who have died from communist terror and repression. Recall that McNamara's lower limit of assured destruction was 20 per cent of the population (49 million people), or about twelve times more than the probable capability of our retaliatory force; even if we assume an improbable level of 10 million people killed (L–2), McNamara's requirement would still be five times greater.

The conclusion is inescapable. After a surprise attack, the United States could not retaliate effectively. Our ability to deter a Soviet first-strike is deteriorating rapidly. Around 1980, perhaps as early as 1977, the Soviets will have a preclusive first-strike capability.

THE DANGER FACING THE UNITED STATES

What would the Soviets gain by a first-strike? It is believed almost universally that an all-out attack on our ICBMs and bombers would kill tens of millions of Americans and obliterate our industrial capacity. But this belief confuses an attack on our cities with one on our strategic forces.

An attack on our cities would kill some 100 million Americans from the immediate explosion and from fallout.[22] Our ICBMs, however, are removed from urban areas, as are most of our 46 SAC bases. There are exceptions, such as Whiteman Air Force Base, which is near St. Louis, but clearly an attack on our strategic forces would result in much fewer casualties than would a strike against our population centers.

Footnotes at end of article.

What would these casualties be? Former Secretary of Defense Schlesinger provided the following data on the estimated impact of an attack on our forces. If each of our 1,054 ICBMs were hit with two warheads, if each of our SAC and missile-submarine support bases were struck with one, if each warhead were detonated at optimum height to maximize lethal radius, and if the attack were to occur during March (worst winds for fallout), then from these "2,158 warheads" we would suffer 6.7 million killed and 5.1 million injured. This assumes maximum use of civil defense facilities. Almost 99 per cent of our manufacturing capacity would survive, and the effects on our agriculture and livestock would be negligible.[23] In other words, the United States would survive such an attack as a viable society. Our cities would remain largely intact, as would our industrial might. America would still be a handsome prize.

A preclusive first-strike would thus be not only possible but profitable. This conclusion is based on a pyramid of assumptions about Soviet weapons, and since we are dealing here with top-secret weapons, Soviet offensive and defensive strategic capabilities may well have been underestimated. Even within this framework of assumptions, it is predicted that the Soviets will have a preclusive first-strike capability in the near future. Given the need for one very large margin of error—on which the survival of the United States, and ultimately of liberty, are at stake—prudence demands that we act as if the Soviets will soon have a preclusive first-strike capability.

To make an even stronger case that the danger we face is real, let us turn the above argument around. Suppose that because of the number of assumptions involved in the foregoing analysis and the possibility that I have overestimated Soviet capabilities and underestimated those of the United States, the USSR is unlikely to have a preclusive first-strike capability in the foreseeable future. This has been the official American position. Moreover, it can be argued, because of the enormous risk of taking action on the basis of assumption added on assumption, that even if the Soviets felt that they had a preclusive first-strike capability, they could not trust their equations sufficiently to take action. Even a small risk in the nuclear age is a strong deterrent, in Kissinger's view.

Let us therefore assume, contrary to my results, that the Soviets will not have a preclusive first-strike capability—that we will be able to retaliate effectively. Would the Soviets have a dominant first-strike capability? In the world of politics, the game hinges not on objective capabilities alone, but on the bargaining equations in which national interest can and will play a role along with capabilities. These equations invoke the whole matrix of subjective factors that we call the political process—the balancing of power. The question, then, is reduced to whether the United States would exercise an objective capability to devastate Soviet cities.

Consider again a Soviet surprise attack on American ICBMs and SAC bases. Let survive a retaliatory force that can eliminate, say, 25 per cent of the Soviet population; this is within McNamara's level of assured destruction. Also let the USSR possess in reserve thousands of warheads (of which it is quite capable) and several hundred bombers able to hit the United States and fly on to neutral territory. Furthermore, let this attack be accompanied by the following threat: if we retaliate on Soviet cities, the USSR will immediately unleash a full-scale attack on our cities (remember, we have no ABM or significant fighter protection); if we attack Soviet military installations, the USSR will take out Chicago and New York; and if we try to attack one or two Soviet cities in a tit-for-tat manner, the USSR will unhesitatingly retaliate on every major U.S. city.

No matter what the United States might do, the Soviets would have escalation dominance. Because of our weaker strategic and conventional forces, the USSR could easily counter anything we might try (if we attempt to respond through NATO, Warsaw Pact forces could overrun Europe). Having been struck first, we would also have a few missiles and bombers left for counterthreats, or for an attack on Soviet reserves and tried to destroy them, our counterforce attack would be ineffectual, since the accuracy and yield of our warheads have been kept low in order to avoid a provocative, and thus destabilizing, first-strike capability.

Under these circumstances—arguments for "flexible response" notwithstanding—surrender is the only option. This option would be reinforced if the Soviet shrewdly make it a question not of unconditional surrender but of "keeping our hands off," say, the Middle East, and of dismantling our remaining strategic forces. Although America would keep its national integrity and apparent sovereignty for a while, and eventual consequence would be the same—a totalitarian world.

Would the president of the United States order a retaliatory blow in response to such an attack and threat? Would he destroy Soviet cities and bear responsibility for the additional annihilation of some 90 million Americans and most of our industrial capacity? Our weapons are intended to deter aggression; if deterrence fails, will a U.S. president press the button? The Soviet threat would be credible, especially after an attack, and the USSR's treatment of its own people is evidence of Soviet morality.

The button would not be pressed. Former Secretary of Defense Schlesinger, whose concern it was to maintain the credibility of deterrence, was shockingly candid on this score. The strategy of mutual assured destruction, remember, rests on the premise that each side would retaliate against an attack on the other's cities. The mutuality of this presumption supposedly provides a stable deterrence. Now along came James Schlesinger to say:

For better or for worse, the scientist in the lecture hall who announces that, in response to a Soviet attack on our nuclear forces, we should destroy a hundred Soviet cities and their populations, *is unlikely to implement that threat should the situation arise....*

[T]he reaction of the policymaker in the face of such an attack cannot be foretold. But he and his advisors will have been exposed to a number of paper wars—i.e., hypothetical cases in which deterrence has collapsed and our opponent has launched some kind of a nuclear attack. They will know from these exercises that in many circumstances *the most suicidal course for the United States—and hence the least credible course—would be to strike the population of the opponent's cities....*

While the exercises may be hypothetical, the problem is not. The Soviet Union, for example, *now deploys a strategic nuclear capability that goes far beyond anything required by the theories of minimum or finite deterrence.* Her peripheral attack forces are such as to be able to take under attack every significant target in Western Europe. Her central strategic systems are sufficiently large in numbers so that she could strike at a substantial number of military targets in the United States, and elsewhere in the world, *and still withhold a very large force whose future use we would have to consider in responding.*[24]

Thus did Schlesinger bury MAD, although its skeleton still props up detente. And thus did he also bury his idea of flexible targeting; given the Soviet Union's large reserve force, escalation dominance, and demonstration of political will (since we would already have been attacked), a Soviet threat to hit our cities if we retaliate would simply have to be believed.

The Soviets will have this dominant first-strike capability soon, if they do not have it already. We have already seen that by 1981 the USSR will have a preclusive capability. The Soviets' desire for a first-strike capability explains their intense drive toward military, especially strategic, superiority. Coupled with their zeal to bring about the final defeat of capitalism, it explains why they do not follow the action-reaction theory: As we have engaged in unilateral disarmament, they have continued a massive buildup. Also the drive for a first-strike capability explains why the Soviets have not been restrained by detente, as Kissinger would have it.

FOOTNOTES

[11] Edward Luttwak, *The Strategic Balance: 1972* (New York: The Library Press, 1972), pp. 32–34.

[12] James R. Schlesinger, *Annual Defense Department Report FY 1976 and FY 1977*, February 5, 1975, p. 11–34.

[13] Geoffrey Kemp, *Nuclear Forces for Medium Powers: Part I—Targets and Weapons Systems and Parts II and III—Strategic Requirements aand Options* (London: IISS, Adelphi Papers 106 and 107, 1974).

[14] Parts II and III, p. 5. As does Kemp, I am taking 50 per cent of the population at risk as fatalities.

[15] *Ibid.*

[16] Donald G. Brennan, "When SALT Hit the Fan," *National Review*, July 23, 1972.

[17] Part I, p. 18.

[18] Kemp, Parts II and III, p. 24.

[19] Robert S. McNamara, *The Essence of Security* (New York: Harper & Row, 1968), p. 76.

[20] See Parts II and III, Table 2 (based on warhead requirement for the Poseidon).

[21] These EMTs for L-1 to L-3 should not be confused with those in Table III, which are for the total fleet and are not on-target EMTs.

[22] Schlesinger counterforce briefing.

[23] *Ibid.*

[24] Scheslinger, *Annual Defense Department Report* . . ., pp. 11–1–11–2. (Emphasis added.)●

TRIBUTE TO OLIN E. "TIGER" TEAGUE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, I join my colleagues in paying tribute to my dear friend, OLIN "TIGER" TEAGUE. TIGER'S retirement with adjournment of the 95th Congress provokes a personal note of regret. I shall miss him very much.

TIGER TEAGUE having served since the 79th Congress, has devoted 32 years of his life to his constituency in Texas, the Nation, and as a Member of this body.

TIGER'S reputation in the Congress has not gone unnoticed. He was chairman of the Veterans Affairs Committee from the 84th Congress through the 92d Congress and chairman of the Science and Technology Committee since the 93d Congress. As the distinguished chairman of the select committee, one of his many accomplishments was investigating the shortcomings of the World War II GI bill, and authoring and sponsoring the Korean war vets bill (Public Law 550). TIGER served as chairman of the Democratic caucus, January 1971 and 1973, and has been the ranking member of the Committee on Standards of Official Conduct since it was established in 1968.

It has been a great privilege and honor to serve with TIGER and to gain his respect and friendship. TIGER will be missed by all who have known and worked with him over the years. I wish him the best of everything in his future endeavors—years of contentment, happiness and good health.●

IS ALL THE TREATMENT NECESSARY FOR THE WASTEWATER TREATMENT PLANTS?

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SIKES. Mr. Speaker, there have been many changes in this Nation since I came to Congress almost four decades ago. For the most part, they have been for the bettter. But, occasionally there can be found instances when the Federal Government's activity has gone too far, and actually made a situation worse.

This is the case with the intervention of the Environmental Protection Agency in the jurisdiction of local communities for wastewater treatment plants. The city of Pensacola, Fla., in my own district, has had representatives testify before the Investigations Subcommittee of the House Committee on Public Works and Transportation this year concerning the prohibitive operating costs of their advanced wastewater treatment facility. Although well intentioned by EPA, this program has the potential for more harm than good.

Recently, the Congress has directed EPA to review many of their projects and, hopefully, this will result in the formulation of a more realistic program. I commend the Honorable HAROLD T. (BIZZ) JOHNSON, chairman of the House Committee on Public Works, and the Honorable Bo GINN, chairman of the Subcommittee on Investigations and Review, for their intensive examinations of these problems and for determining if the agencies are indeed following a proper course of action.

An excellent assessment of the present situation recently appeared in Forbes magazine. I submit it at this point in the RECORD:

[From Forbes, Oct. 30, 1978]

THANKS A LOT, UNCLE SAM

(By James S. Byrne)

When the citizens of tiny (pop.: 1,903) Greeneville, Me. were told that their septic tanks threatened to harm Moosehead Lake, a world-renowned fishing spot, they accepted responsibility for keeping the great natural resource clean. After all, the lake is a thing of beauty. The lake, 40 miles long and 20 miles wide, is part of the famed Kennebec Watershed, about which Henry David Thoreau wrote so glowingly. A good many Greeneville folk make their living on the tourist trade the lake draws. So for a little over $3 million in federal money plus a bond issue to raise the rest of the $4.3 million cost, Greeneville built an advanced wastewater treatment (AWT) plant. They were satisfied they had done their patriotic duty.

Now, three years after construction, a disillusioned Greeneville has put the plant's equipment up for sale and switched to a less thorough but much less expensive method of cleaning up its sewage. And no wonder. Instead of an expected $28,000, operating costs of the sophisticated AWT plant, designed for a 250,000-gallon-per-day capacity and including moving vat filters that almost never worked, soared to $125,000 a year. Every family in Greeneville found itself saddled with about a $200 annual charge to meet the operating and bond costs, three times the amount they paid three years before. Moreover, like nearly half its counterparts around the country, the highly sophisticated plant never did work very well. The Moosehead Sanitary District, operator of the plant, is suing the plant designer, Wright, Pierce, Barnes & Wyman of Topsham, Me., and the filter manufacturer, Johns-Manville. Some 300 residents are now refusing to pay the fees.

And in Manassas Park, Va., a town of 9,600 half an hour southwest of Washington, D.C., the city cut off the water for more than a score of residents who refused to pay water fees that were raised fivefold to pay the costs of an AWT plant. A protest organization urged water users to fill bathtubs and storage drums and to move outhouses to their front lawns to cope with the water cutoff.

Under pressure from Congress, the Environmental Protection Agency is "reviewing" most of the 543 AWT projects that are at various stages of construction. Billions of dollars planned for construction of advanced wastewater treatment facilities now probably won't be spent. Instead, some of the funds will go for upgrading traditional primary and secondary treatment plants.

The moral? Good intentions are not enough to solve every problem that comes down the pike. Since 1972, EPA has been authorized to approve $42.5 billion in matching grants (75 percent federal, 25 percent local funds) for municipal water pollution control construction. Through the end of August, Congress had appropriated $23.9 billion and EPA had spent $9.4 billion on municipal water projects, $2.2 billion of that on AWT facilities, like those at Greeneville. That's federal funds alone. The local or state shares, of course, now stand at over $700 million.

"We have spent hundreds of millions of dollars on esoteric advanced waste treatment, often for a tiny increment of additional pollution removal," complains Representative Ronald (Bo) Ginn, the Savannah Democrat who heads the Investigations & Review subcommittee of the House Public Works & Transportation Committee, which has been prodding EPA. In Pensacola, Fla., for example, the $6 million in operating costs of its AWT facility—up from an estimated $1.5 million when the design work began in 1972—threatens the political stability of the town, whose entire budget is just $44 million.

Water pollution control legislation commits the nation to heroic cleanup goals under tight deadlines. Primary and secondary treatment facilities—themselves not cheap—currently remove about 85 percent of pollutants from the water. Is the other 15 percent worth the cost?

EPA Administrator Douglas M. Costle acknowledged in testimony before Ginn's subcommittee that there are some serious problems, but he strongly opposed halting construction for further studies. That approach, he argued, "represents a dramatic illustration of the old cliché about 'throwing out the baby with the bathwater.'"

Yet, even a group of private consultants, hired last year by EPA to study what the agency said were its six best AWT projects, told Ginn's panel in July: "We failed to find even one example that could be held up as a model."

Nevertheless, AWT construction goes on. The Blue Plains treatment plant, which handles water cleanup for Washington, D.C. and some of its suburbs, will be the largest AWT facility in the world when it is completed in 1980, handling up to 939 million gallons of

wastewater per day. But cautious local officials say they will operate the plant for two years before deciding whether one expensive AWT process, denitrification, must be added at a cost of $25 million a year to deal with the sewage.

Meanwhile, Congress has told EPA headquarters to review any AWT project costing more than $1 million, a clear sign to go slow. There's every indication that EPA Administrator Costle has got the message.●

BALANCE(S) OF POWER SERIES: BOOK II (L)—PSYCHOLOGICAL WARFARE AND PROPAGANDA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in a prior CONGRESSIONAL RECORD I inserted an article by Kenneth Adelman entitled, "Fear, Seduction and Growing Soviet Strength." A continuation of Mr. Adelman's article follows:

FEAR, SEDUCTION AND GROWING SOVIET STRENGTH

In northern and central Europe, the Soviets maintain forty divisions at the highest state of readiness, and today they have twice as many soldiers in central Europe as the United States has. (The number used to be roughly equal.) Overall, the Warsaw Pact has sixty-seven divisions (thirty-one armored) in northern and central Europe, while NATO has twenty-nine (eleven armored). Total troop strength is more balanced: 910,000 for the pact and 635,000 for NATO. The Warsaw Pact has nearly three times as many main battle tanks, although NATO is superior in heavy antitank weapons.[19] Generally, the Warsaw Pact has inferior equipment and considerable logistical problems, and the reliability of its members, particularly in an offensive operation, a questionable. NATO, however, lacks the standardization found in the pact. For example, NATO's Ace Mobile Force, a unit of some 5,000 soldiers to be deployed in time of crisis, operates with seven different types of combat aircraft, six types of recoilless rifles, four types of antitank weapons and three types each of mortars, rifles and machine guns. NATO units like these cannot count on ammunition or maintenance support from each other or from host nations as comparable Warsaw Pact units can.

The substantial Soviet build-up in Europe has continued despite a similar build-up in Asia. Over the past decade, the USSR has tripled the number of divisions facing China, but less than a third of these are combat-ready. Two-thirds of the total increase in Soviet manpower has been assigned to Europe and only one-third to Asia. Moreover, the Soviet Union's European divisions are the first to receive the newest equipment, and they get it in the greatest quantities.[20]

Soviet diplomatic proposals for an agreement on "no first use" of nuclear weapons and for a nuclear-free zone would place Western Europe at the mercy of the Warsaw Pact's superior conventional might. Moscow's public expressions of doubt over the credibility of the U.S. strategic guarantee are designed to undermine the key element of NATO deterrence. Soviet military and diplomatic postures are fashioned to separate Western Europe from the United States, to give an impression of such overwhelming superiority as to render NATO pointless.

Footnotes at end of article.

While the rhetoric can be discounted somewhat, the reality of a military build-up cannot. The secretary-general of NATO and its top military officer both consider today's threat greater than at any time in the alliance's history. The Soviet fleet has been bold of late, particularly in the seas off northern Norway (one Soviet submarine recently entered the Narvik Fjord): this does little to alleviate the concern of NATO's leaders. Though most Europeans are confident of NATO's deterrent effect, an increasing number are not so sure. Over the past seven years, those doubting NATO's effectiveness have tripled in Italy (from 10 percent to 30 percent) and have nearly doubled in West Germany (from 17 percent to 31 percent) and France (from 15 percent to 26 percent). These conclusions were reached in a U.S. government study completed in August 1976—before all the publicity on NATO vulnerabilities begun by Senators Nunn and Bartlett.[21] What the *Frankfurter Allgemeine* called a "garrison mentality" in the Western world[22] is aggravated by the extravagant language of Western defense ministers at budget time each year.

Western Europe's economic stagnation, political aimlessness and sense of vulnerability tend to reinforce one another. In a crisis of political and economic confidence, the Europeans are unlikely to bolster their security efforts; indeed, defense-spending (in real terms) by major NATO European allies dropped 5.3 percent in 1976 and .7 percent in 1977. Such an environment does not encourage stout resolve in the face of a powerful and growing force. In fact, Michel Gordey, of the liberal French weekly *L'Express*, considers that the prevailing climate has led to "a sort of moral disarmament in most of the West European allies, with the probable exception of the Federal German Republic. This is very disturbing even to France, which, despite all the government declarations, cannot go it alone." The threat from the East cannot but discourage the long-term economic measures and local investments needed to relieve Europe's economic plight.

While the sprouting of Eurocommunism is largely the result of domestic problems, the international environment has provided most fertile ground. Fear of rising Warsaw Pact strength and seduction by a mild Soviet attitude—Helsinki accords and MBFR with Western Europe, on the one hand; detente and SALT with the United States, on the other—have fostered, if not sympathy for communist leaders, then at least less hostility toward them and their views. The image of young, idealistic European Communist parties breaking away from their stodgy Kremlin elders enhances electoral prospects.

The French and Italian Communist parties increase their appeal by proclaiming strict adherence to democratic values and allegiance to national independence. Many, however, question their sincerity: this adherence to pluralism is rather new, electorally convenient and contrary to the centralized control within the parties themselves; besides, orthodox Marxist-Leninists lie just below the surface in high positions within the party hierarchies. Their leaders may be sincere in regard to preserving national independence, but their views of the world resemble those of the Soviet Union in important respects. French and Italian Communists alike call for an end to all military alliances and a halt to the spread of "American hegemony" over the continent. The two parties have limited flexibility, since each relies financially on the Soviet Union—the Italian Communist Party (PCI) through a complex arrangement among cooperatives and trade associations dealing with COMECON nations. One can only guess how the Eurocommunists might act once in power, but Raymond Aron believes their actions "depend very little on the sentiments they feel today, when they are enjoying the freedoms which their adversaries grant them. Lenin was totally sincere, when he was in opposition, and then claimed all liberties at once."[23]

The fragile coalition of French Communist and Socialist parties, despite severe and recurrent tensions between them, has made considerable gains. Expectations of a leftist victory in the 1978 elections have dampened private investment, particularly with the disclosure of a "target list" for nationalization.[24] Capital flight from France has likewise become a serious problem, hurting an economy already suffering from 10 per cent inflation and rising unemployment. Should the Left win in 1978, France (indeed, all of Europe) will face a difficult adjustment—with a falling franc, decreasing foreign investments, possible trade barriers and, almost certainly, fundamental reform of both the Common Market and the Atlantic Alliance.

The situation in Italy is even more precarious, as has been the case since World War II. In June 1976, the PCI received 34.4 per cent of the vote (versus 27.2 per cent in 1972), slightly less than 38.7 per cent going to the Christian Democrats. These two parties seem to be cooperating on the national level, while the PCI controls important urban centers. Italy's annual rate of inflation is greater than 20 per cent, and its unemployment is now 4 per cent. The outlook is no better: Italy can expect a declining GNP for 1977 and a balance-of-payments deficit in excess of $2 billion. Domestic investments from the 1950s and foreign investments from the 1960s have dried up. Dwindling confidence has spurred the flight of capital to safer havens, a recurrence of the postwar pattern in devastated Europe before NATO and the Marshall Plan were launched.

The situation to the east is more subtle and complex. Greece refuses to participate in NATO exercises, has withdrawn some of its officers from the alliance command, and no longer informs NATO headquarters of the status of its troops or intelligence findings.

The primary problem, however, lies with Turkey. The centuries-old problem of Cyprus, a recent feeling of being unappreciated as a strong NATO ally, and deep anger over Congress's 1974 cutoff of arms shipments have embittered the Turks. The Soviets have seized upon these strains, in 1975 promising half their entire foreign-aid budget to Turkey[25] as part of a $2-billion, ten-year Russian investment. The two countries' foreign ministers have exchanged visits, and these neighboring former empires (which over the past three centuries have fought numerous wars) are discussing an "agreement of friendship and cooperation."

All this Soviet courting has not gone unrequited. Against the wishes of its NATO allies, Turkey allowed the 40,000-ton *Kiev* to pass through the Bosporus and Dardanelle Straits in July 1976. The Montreux Convention (signed precisely forty years before) clearly prohibits the passage of an aircraft carrier; but, since the *Kiev* carries helicopters, V/STOL aircraft, and antisubmarine and other missiles, the issue had become a political one rather than a legal one. The Turks finally accepted the Soviet description of the ship as an "antisubmarine-defense cruiser" and let it pass.

Turkish estrangement from the West continues. Unless a new defense agreement with the United States is ratified, all remaining restrictions on arms shipments are lifted, and progress on Cyprus becomes evident, Turkey may return to neutrality. Worse yet, it could overcome its traditional suspicions and turn to the Soviets for arms. Either course would be most serious. Turkey occupies a key geostrategic position—one of only two NATO members bordering the USSR and located on the key Soviet air route to the Middle East—and its armed forces are half a million strong. (Turkish troops fought

in the Korean War, once again proving themselves among the world's best warriors.)

While the drift of events in Europe appears adverse, the scene is not entirely bleak. The Nine EEC states did adopt a common diplomatic stand for the first Conference on Security and Cooperation in Europe, and they do cooperate in UN endeavors. West Germany, the state most threatened and with the least strategic "depth," has the healthiest economy and the highest political self-assurance. Ironically, neutral Austria—a weak state bordering on Warsaw Pact nations and lying in the Soviet shadow—remains stable, free and steadfast. Its large rural population, like that of the other neutral, Switzerland, has kept staunchly anti-Communist. Austria also shares with Iran the distinction of having had first-hand experience with severe (albeit temporary) Soviet occupation over several years; since the Red Army's departure, both states have remained on guard.

Accommodation of the Soviet Union is not a danger confined to Europe. Japan is most susceptible, as demonstrated last September when a Soviet defector arrived in a MiG–25. Japanese authorities feared offending Moscow while they were negotiating over fishing rights, return of the northern islands and commercial arrangements. Against the recommendation of its Self-Defense Agency, Tokyo initially denied the United States a prized piece of intelligence—access to the Soviet high-altitude interceptor. Finally, under strong pressure from Washington, Japan relented. The Japanese still prohibited anyone to fly the aircraft—essential to determine the MiG–25s avionics, speed, stress tolerance, and performance characteristics. This stance was taken by a nation which, unlike other allies, depends almost entirely on the United States for its defense. Japan spends less than 1 percent of its GNP on security (versus 11–13 percent for the USSR and 5.5 percent for the United States), a smaller portion than nearly any nation on earth.

Besides fear, seduction is another important factor in relations among states. Leaders sometimes become infatuated with another state's political system or ideology and wish to align with or model their state after the attractive entity. Clearly, Albania's close ties with China for two decades stemmed largely from seduction. Growing Soviet influence in the developing world results less from fear than from seduction. As such, that influence is rather tenuous, ebbing and flowing over time but rising of late because of perceptions of Soviet eminence and infatuation with Marxist-Leninist rhetoric.

The Soviet Union's image as an ascending star reflects in part its improved ability to project power. The USSR's military reach now extends far beyond its traditional involvement in the Eurasian land mass. The emphasis of Soviet doctrine has shifted away from the defense of the homeland, to defense of the socialist community of nations, to support for wars of national liberation and prevention of the "export of counterrevolutionary movements." Soviet projection of power—its ability to transport forces considerable distances during a crisis, generally in the Third World—involves airlift and naval capabilities and cooperation by other states. The Soviet airlift capability has gradually expanded over a decade of crises: the 1967 Middle East war, the 1971 Indian-Pakistani conflict, the 1973 Yom Kippur War and (where the Soviets were most impressive) the 1975 Angolan operation. Since 1966, the Soviets have acquired the ability to airlift better than 50 per cent more cargo over a 2,000-mile range.[26]

Since the early 1960s, the Soviet navy has developed from a coastal-defense force to a "blue water" fleet. It has had a force in the Mediterranean since 1964 and in the Indian Ocean since 1968. Regular Caribbean deployments have been undertaken since 1969. The 1970 and 1975 OKEAN naval exercises revealed global coordination of Soviet air, surface and submarine activities through sophisticated satellite technology. Soviet amphibious forces—previously designed for use in adjacent waters—have been upgraded for extended operations and open-ocean transit.[27] Kremlin strategists appreciate the prestige earned by port visits and the pressure they can provide (without having to commit forces that are difficult to withdraw). Although the U.S. Navy is still superior, the Soviet naval mission of disrupting—rather than protecting—the sea lines of communication is far less demanding; and Soviet economic, political and strategic interests overseas are far less extensive than are those of the United States.

Projection of power is supported by a base structure, whether forma or *ad hoc*. Soviet treaties of friendship with Iraq (1972) and Somalia (1974, though recently ended) were designed to acquire port and air base facilities. Recent Soviet treaties with Angola (1976) and Mozambique (1977) may yield similar facilities: each has pledged to "continue developing cooperation [with Moscow] in the military sphere." [28]

Assistance from friendly nations where the Soviets do not have established bases can be just as important. In 1975, for example, Algeria, Mali, Benin (formerly Dahomey), Guinea, Congo-Brazzaville, Guyana and Barbados all cooperated with the Soviets to transport Cuban troops in time to win in Angola. Civil relations with Yugoslavia paid off when Moscow was granted overflight rights during the October 1973 Middle East war—when our NATO allies (excepting Portugal) denied such rights—and during the Angolan conflict in 1975. Without a formal treaty, the Soviets now seem to be constructing air bases in Mali.

Soviet advances in the ability to project trenchment. Britain has receded from a global empire to a weakening regional force; France, Portugal and the Netherlands have given up any regular overseas presence; and the United States is on a binge of disengagement. The United States presently has fewer troops abroad than at any time since World War II. President Carter plans to continue this trend by withdrawing U.S. ground forces from South Korea (approximately 32,000 men) over the next five years. Since 1965, the number of U.S. bases overseas has gone down 40 per cent as facilities in Vietnam, Thailand and Libya have been closed. Such traditional allies as Greece, Turkey and the Philippines are now more interested in securing excessive "rental" payments than in assuring strong collective security.

Still, America does maintain an impressive military force abroad, one which is needed to safeguard our extensive network of foreign interests. The United States deploys contingents of 100 soldiers or more to a greater number of nations than does any other power, but here again an ominous trend is evident: since 1966, the number of countries in which we have 100 or more soldiers has declined by one-sixth, while those in which 100 or more Red Army soldiers are deployed have nearly doubled. Since 1972—for the first time in history—the Soviets have a greater number of troops abroad than does the United States.

These trends do not spell immediate disaster, but they are cause for immediate concern. If they do not detract from deterrence in various regions—such as Northeast Asia—they at least reinforce Soviet propaganda in regard to the changing correlation of forces. This is particularly true among Third World nations, which lack sophisticated intelligence agencies but can easily perceive an increasing Soviet presence abroad, particularly at sea.

The Soviets seek to increase their influence partly through foreign assistance. From 1966 to 1975, Moscow more than doubled its military aid to developing countries in the "free world" (from $2.8 to $7.5 billion) and nearly doubled its economic assistance (from $2.6 to $4.4 billion) in the same period.[29] According to recent estimates, USSR military deliveries to the Third World rose from $1.68 billion in 1975 to $2.19 billion in 1976.[30]

The Soviets also strive to enhance their position by spreading Marxism-Leninism. The Soviet Foreign Ministry began with Trotsky reportedly saying, "I will issue a few revolutionary proclamations to the peoples of the world and then close up shop." It continues to subsidize propaganda in order to spread Marxism-Leninism, the only worldwide political movement. This continues even while Soviet citizens are increasingly bored with the ideology, becoming what journalists call "radish communists"—red on the outside, white on the inside. Even today, there are twice as many church members as there are card-carrying Communists in Russia, and George Kennan doubts that more than thirty convinced communists remain in all of Eastern Europe.

The Soviets realize the limitations of ideology and, in such areas as the Middle East, operate with an almost total disregard for "spreading the word"; in fact, over the past decade, the Soviets have entered twice as many arms agreements with noncommunist Third World states as with communist ones. Nonetheless, they recognize—far more than Westerners do—the importance of ideas. In the Soviet definition of the net correlation of forces, ideology is included as a factor equal to economic, political and military factors.

The history of Marxism-Leninism in the Third World has had many starts and stops, frequent gains and reversals. Past concerns about Marxist-Leninist leaders rising to power in Ghana, Indonesia, Burma, Somalia and elsewhere have often proved alarmist in retrospect. At present, the depth of Marxism-Leninism in developing nations is certainly not impressive, many Third World leaders having only the vaguest understanding of the ideology they may so fervently embrace. On the other hand, the extent of Marxist-Leninist rhetoric in the Third World has been considerable. Still, this does not translate directly into Soviet state power: the use of Marxist-Leninist terms does not mean that Mali will become a Soviet puppet any more than China or Albania will.

FOOTNOTES

[19] *The Military Balance, 1976–77* (London: International Institute for Strategic Studies, 1976), pp. 97–103.

[20] *Ibid.*

[21] U.S. Information Agency, *European Views of NATO*, Report R–22–76, November 1976. The report concludes (p. 2) that "doubts about NATO's military effectiveness have increased appreciably (Britain excepted) since last measured in 1969. As a result, confidence exceeds expressions of a lack of confidence only by very narrow margins in France and Italy. . . . In 1969, on the other hand, confidence outweighted pessimistic impressions much more decisively."

[22] December 21, 1976.

[23] *Le Figaro* (Paris), March 5, 1977.

[24] *New York Times*, January 30, 1977.

[25] CIA, *Handbook of Economic Statistics, 1976*, September 1976, p. 70.

[26] *Annual Defense Report* . . ., p. 87.

[27] *Ibid.*

[28] The Soviets recognize the value of collective security. On June 7, 1969, in the midst of the USSR-PRC Ussuri River incidents, Brezhnev proposed (with no success) an Asian collective-security system, which was to include states from Sri Lanka and India to Iraq and Syria. According to reports, Chinese Foreign Minister Chiao Kuan-hua disdainfully asked a Soviet diplomat, "Would

it not be more straight-forward simply to extend the Warsaw Pact?" (*German Tribune*, April 17, 1975.)

[29] CIA, *Communist Aid to Less Developed Countries of the Free World, 1975*, July 1976, pp. 1, 5.

[30] U.S. Congress, *Allocation of Resources in the Soviet Union and China—1977, Hearings* before the Joint Economic Committee, June 23, 1977, p. 52.●

FEDERAL SAVINGS AND LOAN INVESTMENT AUTHORITY OF THE FINANCIAL INSTITUTIONS REGULATORY AND INTEREST RATE CONTROL ACT

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ST GERMAIN. Mr. Speaker, title XVII is a restatement of the investment authority of Federal savings and loan associations with four substantive changes in that authority. Section 5(c) of the Home Owners' Loan Act of 1933—the basic statute governing the operation of federally chartered savings and loans—is a complex statute which has needed simplification for many years. This legislation will accomplish that goal. The changes in investment authority all relate to the Federal Home Loan Bank Board's efforts to encourage more activity by Federal savings and loans in urban areas. Three of these changes were recommended by the Federal Home Loan Bank Board

First. An updating of the authority of savings and loans to invest in community development assistance areas.

Second. A clarification and enhancement of the authority of savings and loans to invest in loans for property alteration, repair, or improvement.

Third. A revision and expansion of the authority to inve t in obligations issued by State or loca. governments for the purposes of rehabilitation, financing, or construction of residential real property.

The fourth change builds upon the Home Loan Bank Board's efforts to encourage Federal savings and loans to work in cooperation with State and local governments by placing in the unlimited investment category the authority for asociations to invest in or lend to State housing corporations provided that the obligations are secured by real estate insured under the provisions of the National Housing Act. As stated the Board recommended a change in investment authority to allow savings and loans to invest in obligations issued by State or local governments for residential housing. This authority would limit such investments to 5 percent of an association's assets subject to requirements that the obligations be rated, or have a reserve or sinking fund, or have sufficient collateralization or guarantees. There are, however, some State obligations which are similar to direct investments in National Housing Act insured mortgages already allowed by statute. These obligations are issued by State housing corporations, are fully secured by residential mortgages, have full FHA insurance, and have full protection available in the event of default. Thus, the State housing corporation is between the savings and loan and FHA, the savings and loan receives a good yield and invests in a productive community project, and the State housing corporation can more readily market its bonds. This additional authority is in conjunction with the Board's own proposals and should make more funds available for housing in our communities.

The following is a section-by-section description of the title:

SECTION-BY-SECTION DESCRIPTION OF TITLE XVII

Section 1701: Subsection (a) of this section amends § 5(c) of the Home Owners' Loan Act of 1933, with the exception of undesignated paragraphs 15, 17 and 23. Apart from making four substantive changes which shall be noted below, the section simply rewrites § 5(c), which sets forth investment authority for Federal associations, in order to make it easier to use. At present, it is a confusing accretion of unnumbered paragraphs added over a period of more than 40 years.

As is the case now, Federals are allowed to invest in, sell or otherwise deal in various loans or other investments, subject to Bank Board regulation. This general statement is at the beginning of the section, instead of being embodied in the various separate paragraphs.

PARAGRAPH (1)

Under new Paragraph (1) are listed various investments which associations can make without limitation as to percentage of assets.

Subparagraph A permits loans on the security of savings accounts. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph B allows loans on the security of first liens upon residential real property located within 100 miles of the association's home office or within the State in which the association is located. Such loans cannot be for a principal amount greater than $60,000 (except in Alaska, Hawaii and Guam, where they may be 50 percent larger) for each single family dwelling, nor exceed such amount per room within the limits allowable (at the time of the loan) in § 207(c)(3) of the National Housing Act for any other dwelling unit covered by such lien. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph C authorizes investments in obligations of, or fully guaranteed as to principal and interest by, the United States. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph D allows investments in the stock or bonds of a Federal Home Loan Bank or in the stock of the Federal National Mortgage Association. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph E permits investments in mortgages, obligations or other securities which are, or ever have been, sold by the Federal Home Loan Mortgage Corporation pursuant to § 305 or 306 of the Federal Home Loan Mortgage Corporation Act. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph F allows associations to invest in obligations, participations, securities, or other instruments of or insured by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association or any other U.S. Government Agency. Also, an association may issue and sell securities guaranteed pursuant to § 306(g) of the National Housing Act. (Source: 1st and 18th undesignated paragraphs of existing § 5(c)).

Subparagraph G authorizes investments in the time deposits, certificates or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph H allows investments in general obligations of any State or political subdivision thereof. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph I authorizes the purchase (subject to dollar amount and first lien requirements but not subject to the area restriction) of loans on residential real estate insured under the provisions of the National Housing Act, as amended, or insured as provided in the Servicemen's Readjustment Act of 1944 or chapter 37 of Title 38 of the United States Code. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph J embodies an amendment to present authority contained in existing undesignated paragraphs 2 and 3. The amendment permits associations to make loans for the repair, equipping, alteration or improvement of any real property without being subject to the current $15,000 statutory limit on such loans. The subparagraph preserves the authority to invest in mobile home loans.

Subparagraph K allows investment in loans insured under § 240 of the National Housing Act. (Source: 13th undesignated paragraph of existing § 5(c)).

Subparagraph L permits loans to Federally examined or supervised financial institutions, or to SEC—registered brokers or dealers, as long as the loans are secured by loans, obligations or investments the association could invest in directly. (Source: 14th undesignated paragraph of existing § 5(c)).

Subparagraph M allows, as permitted by Bank Board regulation, investments in assets which can be used to satisfy the Bank Board's liquidity requirement. (Source: 16th undesignated paragraph of existing § 5(c)).

Subparagraph N allows investments in shares of stock issued by a corporation created under Title IX of the Housing and Urban Development Act of 1968, and in any partnership, limited partnership or joint venture formed pursuant to § 907 (a) or (c) of that Act. (Source: 19th undesignated paragraph of existing § 5(c)).

Subparagraph O allows investment in loans guaranteed (or for which a commitment or agreement for such a guarantee has been made) under Title IV of the Housing and Urban Development Act of 1968, part B of the Urban Growth and Community Development Act of 1970, or § 802 of the Housing and Community Development Act of 1974. (Source: 12th undesignated paragraph of existing § 5(c)).

Subparagraph P represents an addition to existing authority. It allows investment in, or loans to, State housing corporations as long as the obligation or loan is secured directly or indirectly by a first lien on improved real estate insured under the National Housing Act, and the association is able to subject to the satisfaction of the obligation or loan the real estate described in the lien or the insurance proceeds.

PARAGRAPH (2)

Paragraph (2) lists the loans or investments which associations may make in amounts not greater than 20 percent of their assets.

Subparagraph A allows loans on the security of first liens on improved real estate. Only the outstanding amount in excess of dollar limitations on a single or multi-family loans would be counted in this basket. (Source: 1st undesignated paragraph of existing § 5(c)).

Subparagraph B permits (without regard to area restriction) investments for the making or purchase of participation interests in first liens on residential real property.

(Source: 1st undesignated paragraph of existing § 5(c)).

PARAGRAPH (3)

Paragraph (3) lists the loans or investments which associations may make in amounts not greater than 5 percent of their assets.

Subparagraph A allows loans for college, university or vocational education expense. (Source: 4th undesignated paragraph of existing § 5(c)).

Subparagraph B allows associations having general reserves, surplus and undivided profits amounting to more than 5 percent of their withdrawable accounts to invest in (subject to the area restrictions) loans to finance the acquisition and development of land for primarily residential usage. (Source: 5th undesignated paragraph of existing § 5 (c)).

Subparagraph C permits (subject to the area restrictions) loans secured by first liens on improved real estate used to provide housing facilities for the aging. (Source: 7th undesignated paragraph of existing § 5(c)).

Subparagraph D is an amendment allowing investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under Title I of the Housing and Community Development Act of 1974, as amended. Direct equity investments in real estate under this subparagraph could not exceed 2 percent of the assets of the association. The subparagraph would be a substitute for dormant authority to make identical investments in urban renewal areas, which, of course, are no longer designated. (Source: 8th undesignated paragraph of existing § 5(c)).

Subparagraph E allows loans (which do not otherwise comply with the limitations of this subsection) upon the security of or respecting real property or interests therein used for primarily residential or farm purposes. (Source: 22nd undesignated paragraph of existing § 5(c)).

Subparagraph F allows investments in loans (with or without security) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate. Such investments cannot exceed the greater of 5 percent of the association's assets or the sum of its surplus, undivided profits and reserves. (Source: 21st undesignated paragraph of existing § 5(c)).

PARAGRAPH (4)

Paragraph (4) authorizes additional loans and investments.

Subparagraph A allows Federal associations to make loans or commitments to, or investments in business development credit corporations located in their home States to the same extent as may associations chartered by the State—but not to exceed in the aggregate the lesser of ½ of 1 percent of the total outstanding loans of the association or $250,000. To use the authority under this subparagraph, an association must have general reserves, surplus and undivided profits aggregating a sum in excess of 5 percent of its withdrawable accounts. (Source: 9th undesignated paragraph of existing § 5(c)).

Subparagraph B allows associations to invest up to 1 percent of their assets in service corporations. Such corporations are State-chartered entities (the capital stock of which is available for purchase only by savings and loan associations) which engage in activities determined by the Bank Board to be reasonably related to the activities of Federal associations. (Source: 11th undesignated paragraph of § 5(c)).

Subparagraph C permits investment in loans insured or guaranteed (or for which there is a commitment of agreement for insurance or guarantee) under Title X of the National Housing Act, or §§ 221, 222 or 224 of the Foreign Assistance Act of 1961. It also allows investments in the share capital and capital reserves of the Inter-American Savings and Loan Bank. Except for loans under Title X, investments under this subparagraph may not exceed 1 percent of the assets of the association. (Source: 12th undesignated paragraph of existing § 5(c)).

Subparagraph D represents an amendment. It allows a Federal to invest in obligations of its State and political subdivisions thereof (including any agency, corporation or instrumentality), provided the proceeds of the obligations are to be used for rehabilitation, financing and construction of residential real estate. The obligations must be prudent investments, as defined by the Bank Board, and may only be made by an association whose general reserves, surplus and undivided profits aggregate a sum in excess of 5 percent of its withdrawable accounts. Aggregate investment under this subparagraph may not exceed the amount of the association's general reserves, surplus and undivided profits. (This section replaces the 20th undesignated paragraph of existing § 5(c)).

PARAGRAPH (5)

Paragraph (5) allows any association which is converted from a State-chartered institution to make loans in the territory in which it made loans while operating under State charter. (Source: 1st undesignated paragraph of existing § 5(c)).

PARAGRAPH (6)

Paragraph (6) contains definitions.

Subparagraph A defines residential real property or residential real estate to include leaseholds and to mean homes (including condominiums and cooperatives), combinations of homes and business property, other dwelling units, or combinations of dwelling units including homes and business property involving only minor or incidental business use. New authority is present in the authorization to make loans on individual cooperative units. The provision also eliminates the first lien requirement on such cooperative loans but provides that the Board shall by regulation require adequate security.

Subparagraph B defines "loans" to include obligations and extensions or advances of credit, and stipulates that any reference to a loan or investment includes an interest in such a loan or investment. The subparagraph is a consolidation of language used in many paragraphs in existing § 15(c) permitting investments in "loans", "obligations," "advances of credit," and "interests in loans."

Subparagraph C defines State to mean any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa and any U.S. Territory or possession. (Source: 1st undesignated paragraph of existing § 5(c)).

Section 1701(b) of Title II removes undesignated paragraphs 15, 17 and 23 from § 5(c) and redesignates them as § 5(m), §5(1) and § 5(b)(3), respectively. None of the affected paragraphs involves investment authority. Proposed § 5(m) concerns branching in the District of Columbia, § 5(e) permits associations to act as trustees for certain trusts, and § 5(b),(3) concerns borrowing from State Mortgage Finance Agencies.

Section 1702 amends section 302(h) of the Federal Home Loan Mortgage Corporation Act to include within the definition of "residential mortgage" a loan for rehabilitation, renovation, modernization, refurbishment, or improvement of properties. Such loans can then be purchased by the Mortgage Corporation. The change is designed to create a secondary market mechanism for such loans and thereby encourage neighborhood revitalization and energy conservation.

Section 1703 provides that the title will take effect upon enactment.●

BALANCE(S) OF POWER SERIES: SOVIET MILITARY POWER

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in a prior CONGRESSIONAL RECORD I inserted an article by Edgar Ulsamer, entitled, "The Accelerating Momentum of Soviet Military Might." The conclusion of Mr. Ulsamer's article follows:

THE ACCELERATING MOMENTUM OF SOVIET MILITARY MIGHT

THE STRATEGIC IMBALANCE

The massive Soviet drive toward new ICBMs of steadily improving accuracy is doubly alarming in light of other reasons: the relatively high yield of Soviet RVs—1.5 megaton for each of the eight warheads of the SS–18, and 0.8 megaton each for the six warheads of the SS–19, compared to 0.17 magatons for each of the three warheads of USAF's Minuteman III; the steadily increasing number of warheads; and the lag in U.S. silo hardness compared to that of the new Soviet launchers. Congressional testimony indicates that silos housing the new family of Soviet ICBMs are hardened to 3,000 psi (pounds of pressure per square inch) while the so-called upgraded US silos—an authorized total of 850 out of 1,000—are hardened to between 1,000 and 2,000 psi, with 1,200 thought to be the average.

For these reasons, the recently completed House Armed Services Committee Staff study on US vs. Soviet Strategic Missile Counterforce Capability concludes that the US ICBM forces "are vulnerable at this time and they will become more vunerable within the next four or five years as the accuracy of Soviet ICBMs improves. . . . Due to the high yields of Soviet missile warheads and the lack of sufficient hardening of the silos in the United States the Soviet Union could put out of action a large fraction of all United States land-based ICBMs and still have a considerable percentage of its land-based missiles and all of its sea-based missile forces available for other targets."

The congressional study concludes, therefore, that the excessive imbalance in ICBM forces may soon enable the Soviets to attack the US ICBMs while entertaining the notion that the US—because of the USSR's large reserve forces—would not dare to retaliate with its remaining strategic forces. As Representative Stratton argued, under such circumstances, "a decision to launch American SLBMs would, as a practical matter, amount to a decision to wipe out our principal cities. Hence, any rational American leader would obviously think twice before launching these SLBMs. . . . With a vulnerable ICMB force and an SLBM force incapable of silo-busting [destroying hard targets], the United States would, in fact, not have a nuclear force capable of deterring a Soviet first strike."

The Congressional Budget Office, hardly harboring alarmist views in defense matters, concluded in a recent report entitled "Counterforce Issues for the US Strategic Nuclear Forces," that the Soviet ICBM force—by 1985—could deploy 6,654 warheads with an aggregate yield of 7,131 megatons, compared to 2,154 US warheads and a yield of 1,216 megatons. The CBO report brought out also that the megatonnage carried by Soviet ICBMs will be more than twice the combined megatonnage carried by all US ICBMs, SLBMs, Air-Launched Cruise Missiles, and bombs carried by the B–52s and FB–111s. The CBO's estimate of US ICBM survivability in the mid-1980s is more sanguine than the House Armed Services Committee's prediction, but calculates nevertheless that with an

assumed 1,200-foot CEP, the Soviet ICBMs could destroy about fifty-five percent of the US ICBMs. At least three basic Soviet counterforce strategies can be postulated, according to the CPO study:

An attack on the US ICBM force designed to reduce US options in a limited nuclear war;

An attack on US strategic forces designed to shift decisively the balance of nuclear power in favor of the Soviet Union;

An attack on US strategic forces designed to limit damage to the Soviet Union in an all-out nuclear war.

Soviet aggregate strategic nuclear capabilities, according to General Ellis, "have increased roughly fivefold since 1964." In addition to the ICBMs and the SLBM force (*see p. 42*), SAC's Commander in Chief cited these highlights:

"The twin-engine supersonic Backfire bomber, capable of attack against the US, is now being deployed in operational units, and production continues at a rate of approximately two per month.

"The Soviet strategic equation also incorporates a Soviet civil defense program headed by a four-star Deputy Minister of Defense directing a full-time staff of more than 100,000; an extensive air defense system which includes some 12,000 surface-to-air missiles and 2,600 interceptor aircraft; and an operational antisatellite capability which could threaten our spaceborne warning, weather, and communications systems."

The Soviets, at present, are thought to have a force of about ten antisatellite weapons, called ASATs, in being. Their importance is major, especially if, as the US FY '79 Defense budget suggests, this nation's deterrence will have to place increasing reliance on warning. ASATs, not being direct ascent weapons, obviously will not be able to deny reasonably precise, short-term strategic warning of impending ballistic missile attacks owing to the redundancy of US systems. In the main, this means early warning satellites operating at such high altitudes that ASAT can't reach them. ASAT, on the other hand, presumably could put out of commission some of the small number of expensive intelligence and reconnaissance satellites that serve as the nation's eyes and ears in near-earth space. Activation of the Soviet civil defense apparatus, obviously a tell-tale sign of the Soviet leadership moving toward the brink, and other related warning signals could be picked up best and most rapidly—even though not exclusively—by satellites descending to lower altitudes.

Destruction of US intelligence satellites could impair this nation's powers of observation even though it is improbable that the Soviets could launch a surprise attack against US spacecraft. The advantage of limiting US warning capabilities by attacking one or more of its intelligence satellites—which of itself constitutes unambiguous warning and a serious provocation—is not clear to many US defense analysts. What is clear, however, is the need for US deterrence of ASAT by making the latter's use unattractive in the first place.

Soviet research and development work in ballistic missile defense (BMD) continues to increase and can be assumed to have reached a level where—in case of Soviet abrogation of the SALT I ABM treaty—a comprehensive BMD net of significant effectiveness could be activated in a relatively short period of time. The Soviet Galosh BMD system permitted under SALT—the US chose not to activate its 100 interceptor missile complex at Grand Forks, N. Dak.—already rings Moscow with sixty-four long-range, nuclear-armed interceptors and associated radar facilities to provide protection to the USSR's national leadership. The US Army's R&D in BMD is confined to two programs, one concentrating on advanced technology and the other on systems technology, to "avoid technological surprise by Soviet BMD developments" and to ensure "a US capability to respond" to the requirement for such defense capabilities.

A potentially important Soviet warning system is an OTH–B (over-the-horizon backscatter) radar system with installations in the Kuril Islands in the extreme eastern reaches of the USSR as well as in its western-most European area. Because of the broad geographic spread and the resultant obtuse radar angle toward the polar region—the principal area of interest—the Soviet system seems to be relatively free from the disruptions caused by Northern Lights (aurora borealis). The US, lacking the Soviets' geographic advantages, meanwhile has deferred plans to deploy OTH–B. The importance of the Soviet system stems from the ability to detect aircraft and cruise missiles approaching the Soviet landmass from the polar region.

CONVENTIONAL CAPABILITIES IN EUROPE

The NATO Defense Ministers noted at a recent meeting that ". . . the disparity in conventional military capabilities between NATO and the Warsaw Pact continues to widen . . . the [Pact's] ground forces have the capability to stage a major offensive in Europe without reinforcement." General Ellis feels that the growth in deployed Soviet ground forces "poses a real invasion threat to Western Europe." He cites these specifics:

"Their army has 300,000 more people now than it had in the early 1970s. It is very well equipped, with new tanks, new self-propelled long-range artillery, armored personnel carriers, ready to fight nuclear or conventional war and able to do so in a biological or chemical environment. . . . In tactical airpower, they have a modern capable force which exceeds ours in numbers of aircraft by about thirty percent. In Europe, they have in less than a decade turned a defensive tactical air capability into an offensive force capable of attacking any part of NATO/Europe."

Soviet production of fighters and fighter-bombers is excessive by any standard, with about 6,000 aircraft having been spewed out over the last six years. The present annual production rate is above 1,000 units and involves seven different types of fighters. By way of a benchmark, Soviet production between 1977 and 1979 will equal the fighter inventory of USAFE, TAC's reinforcements, and the Allied forces of NATO's Central Region. Put another way, one week's production equals the authorized strength of a USAF fighter squadron.

Equally significant is the fact that the new aircraft average about three times the payload of Soviet aircraft coming off the production lines in the early 1970s. Many of them, such as Su-19 and MiG-27, are equipped with laser-guided weapons and other precision-guided munitions including TV- or laser-guided bombs, as well as anti-radar weapons for defense suppression. New air-to-ground weapons range from Fuel Air Explosives to the electro-optical-guided sixty-mile-plus range AS–10. Typical of the emphasis on long-range ground attack capability of new Soviet tactical aircraft is the Su–19 Fencer, a Mach 2.3 aircraft with a mission radius of 800 miles and a 5,500-pound ordnance load.

At least five of the new aircraft types the MiG–21, MiG–23, Su–17, Su–19, and MiG–27—can carry nuclear weapons, thus further increasing the Warsaw Pact's already sizable theater nuclear capabilities residing in the Backfire and other bombers, and the new mobile, MIRVed IRBM (intermediate-range ballistic missile), the SS–20, which is being deployed in a broad belt spanning the Soviet Union.

SOVIET RESEARCH AND DEVELOPMENT

Measured by any standard, the Soviet military R&D program is the largest in the world, exceeding that of the US probably by at least seventy-five percent. Compared to the US way of doing business, the Soviet style offers both pluses and minuses. Because of the Central Committee's unwavering, historic commitment to achieving military-technological superiority, funding, continuity of support, and resources allocation rank above the US experience. Further, as last year's Library of Congress study of US and Soviet military strength by John M. Collins points out, the extreme secrecy that shrouds Soviet R&D coupled with the willingness to pirate and plagiarize foreign technology enables the Kremlin to concentrate "on carefully chosen goals that simplify the search for superiority in selected areas."

Surreptitious science, on the other hand, stunts competition and the free exchange of ideas, both strong underpinnings of the way science and technology are being pursued in the U.S. In addition, as the Library of Congress study points out, "The United States starts with the world's richest reservoir of scientific resources. Constant feedback between civil and military markets encourages entrepreneurism and technological chain reactions not remotely equaled by our Russian rival." (See the accompanying box from the Library of Congress report on where the two countries stand technologically.)

An area of considerable concern is the continuing high level of effort devoted by the Soviet Union to high-energy physics, especially particle beam technology. Originally thought to involve charged particle beam research, the latest evidence suggests that the Soviets are concentrating on directed energy weapons technology involving electrically neutral particles, such as neutrons. While the payoff from such weapons—if they turn out to be feasible—could be revolutionary, US scientists believe that operational feasibility is uncertain and at best many years away.

Adding up the scorecard of the US/USSR politico-military balance must, by necessity, make allowance for the goals and the national will of the two superpowers. This conclusion, drawn by the Atlantic Council's policy paper on "The Growing Dimensions of Security," is instructive:

"The Soviet Union, both in its weapons programs and in its stance in arms-control talks, seems bent on obtaining and retaining advantages over the West. While the West would be content with arms control arrangements which produced rough parity and stability so that mutual deterrence would result, Moscow speaks and at times acts the part of a State determined to obtain superiority, with all the opportunities for initiatives that would afford. . . . The West must view the possibilities of Soviet 'superiority' in conjunction with the basic Marxist tenet of the ultimate worldwide victory of communism and the obligation of the USSR to expedite its triumph. Apart from the nightmare possibilities of nuclear warfare, the political and psychological consequences of clear Soviet 'superiority' would be devastating on the more of the American people and their allies."

Sustained Western resolve would seem vital to keep the "nightmare" of Soviet superiority from becoming reality.●

TRIBUTE TO DALE MILFORD

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, among the Members of the Texas delegation who

will be leaving us at the end of this session of Congress is my good friend DALE MILFORD.

DALE has been a bulwark of strength in the battle for fiscal stability and military strength during his tenure here.

He has served his district, his State, and his Nation well and will be missed.

My wife Helen and I extend our best wishes to him and his wife and wish them the best as they leave the Congress.●

U.S. SPECIAL INTEREST GROUPS WORK AGAINST AMERICAN INDUSTRY

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SYMMS. Mr. Speaker, I am extremely concerned about some of the activities of the League of Women Voters which amount to lobbying against American industry. My close colleague LARRY MCDONALD has learned that the League of Women Voters received several cash contributions from the Japanese Government and that registered agents for Japan advised them on the "League of Women Voters Project To Combat Protectionism."

I wish to include an article in the RECORD written by the syndicated columnist Wendell Woodman which goes into further detail on Congressman MCDONALD's finding. I want to commend my colleague for looking into this matter.

The article reads as follows:

ARTICLE BY WENDELL H. WOODMAN

BOSTON.—President Jimmy Carter was given a polite but terse admonition on July 31 to clean up his foreign trade act. It was delivered by the House Ways and Means Subcommittee on Trade chaired by Congressman Charles Vanik of Ohio.

President Carter opted to meditate. He opted wrong.

On Sept. 6, a Democratic Congressman from Georgia, who is at least three Milky Ways removed from the Georgian Presidium occupying 1600 Pennsylvania Avenue, set in motion a mechanism that may carry Jimmy Carter back to Plains on the next plebescite.

Congressman Larry McDonald sent a letter to the Attorney General that opens a giant can of worms. He entered a copy of the letter in the Congressional Record. The danger to the President is not what the letter and documents disclose, but what they conceal.

To back up for a moment, the Vanik Committee implored the President to act under the Trade Act of 1974 to impose tariff quotas against Japanese imports, which are currently fueling a rebellion among steel workers and other labor groups. The committee told Carter that the trade deficit for the first four months of 1978 is the worst in history, with American exports in serious decline and Japanese imports up 48 percent. It said the imbalance is at the "danger point" and that international monetary stability is in imminent peril. Carter did nothing.

Subsequently, McDonald wrote to Attorney General Griffin Bell saying that he has evidence that the League of Women Voters of the United States has been acting as a foreign agent for the government of Japan, and he attached some rather compelling evidence—"evidence," ironically, that McDonald said he "gleaned" from the Justice Department's own Registry of Foreign Agents.

CONGRESS

McDonald told Congress that the evidence "leads me to believe that the leaders of the League of Women Voters may not be speaking objectively in behalf of the consumers of America. Instead, it appears they may be speaking in behalf of the interests of Japan, whose largesse they have been enjoying for some time."

The Foreign Agents Registration Act of 1938 requires that any representative of a foreign government be registered for lobbying purposes and that their employees and operatives also be registered.

The government of Japan, through such agencies as the Japan Trade Promotion Office, the U.S.-Japan Trade Council, and the Japan External Trade Organization, had failed for years to comply with this law. In September, 1976, a federal court ordered the government of Japan to comply and "truthfully disclose" its activities and expenses in the U.S.

McDonald, who said he has just come into possession of the documents, claims that the reports show that Japan made cash contributions to the League, that during one period in 1972 and 1973 the Japanese government contributed to the league as part of a "Women's Project" and an anti-Buy American campaign for which Japan invested some $69,069.60 and in which the League sympathized with and publicly testified in behalf of Japan, that extensive trips to Japan for League personnel were arranged by Japanese agents, and that registered agents for Japan advised on the "League of Women Voters Project to Combat Protectionism."

If the League accepted cash, trips, advice and in-kind gratuities as the reports state, and if the League did act to influence legislation or oppose Buy American efforts (as it did), then the League was compelled to register as a foreign agent under federal law.

McDonald wants the Attorney General to secure full explanations from the Japanese government.

To the casual reader who scanned the Congressional Record of Sept. 6, the McDonald letter might appear to be only nettlesome. But it's far more than that.

The root of Jimmy Carter's political power is the Trilateral Commission, created in 1973 by David Rockefeller to forge a political-economic triad with North America, Western Europe and Japan at its underpinnings.

Of the 60-odd North American commissioners, approximately half were absorbed into the Carter Administration. They include the President, Vice President Walter Mondale, Secretary of State Cyrus Vance, Defense Secretary Harold Brown, Treasury Secretary Michael Blumenthal, U.N. Ambassador Andrew Young, SALT negotiator Paul Warnke, Panama Canal negotiator Sol Linowitz and a host of other sub-cabinet luminaries. The Executive Director of the Trilateral Commission was Zbigniew Brzezinski, Carter's National Security Advisor.

LUCY BENSON

A charter member of the commission is Massachusetts' own Lucy Wilson Benson, Carter's Undersecretary of State for Security Affairs. At the time the commission was founded, Mrs. Benson was President of the League of Women Voters of the United States.

It is important to remember that what Cong. McDonald has latched onto thanks to the 1976 court order is a laundry list of Japanese activities designed to influence American policy—and that the policy of free trade with Japan and the obliteration of all restrictive trade barriers is an integral component of the Trilateral Commission's overall design.

It may be handier to remember that former Secretary of Defense Robert McNamara, a commission member, is head of the World Bank, and that the commission has published a scholarly blueprint called, "Towards A Renovated World Monetary System."

The larger part of the puzzle that McDonald presumably has in his possession should make the Watergate fiasco read like a kindergarten primer.

The "activities" detailed on behalf of the Embassy of Japan for compliance with the 1976 federal court order are going to tell the American public more about the reigning establishment than the public really wants to know.

They relate how foreign agents for Japan briefed and coached and tutored prominent American journalists for such publications as the Washington Post, the New York Times and The Wall Street Journal, as well as syndicated columnists. They delve into news "backgrounders" supplied on the Nixon-Tanaka summit.

One entry refers to material supplied to the author of a Reader's Digest article entitled, "We Must Stop This Isolationist Trade Bill."

The depth of Japan's activity is possibly as surprising as its success in escaping any attention in the news media.

There was a small ripple, recently, when it was disclosed that Marian Javits, wife of New York Sen. Jacob Javits, had received consultant fees from Iran National Airlines Corporation. What that news report did not mention was that Mrs. Javits was also registered as a foreign agent for the Japan External Trade Organization, an agency of the Japanese government. Her stipend for six months was $67,500.●

H.R. 13511

HON. STANLEY N. LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. LUNDINE. Mr. Speaker, I very much regret that a combination of family responsibilities and irrevocable appointments in my district prevented me from remaining in Washington for the final votes taken in the House October 15. I had intended to vote for the conference report on the tax bill and changed my schedule several times over the course of the weekend in an attempt to stay for it. Eventually, further adjustments were impossible, and my children and I left at 3:55 p.m. for upstate New York.

During the original debate on the tax bill in August, I voted in favor of the measure that passed the House, believing it offered significant tax relief and investment incentives. I made the decision to return to New York only after receiving assurances that the bill would pass easily without my vote.

I do not blame the leadership for holding a "marathon" final session, but I am increasingly troubled by the ability of a few Members to impede the legislative process with meaningless procedural votes and other harassing maneuvers. The delaying tactics which prevented the House from completing its work until late Sunday were extraordinary and unreasonable and interfered with thoughtful consideration of major pieces of legislation. My absence from the House should not have been necessary, and I feel new steps are needed to protect the majority and assure thorough debate and deliberation.●

UNION CENTRAL LIQUIDITY FACILITY

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ST GERMAIN. Mr. Speaker, Sunday morning, October 15, 1978, the Congress passed the Financial Institutions Regulatory and Interest Rate Control Act. That act contained one title which will provide credit unions with a source of liquidity similar to that available to commercial banks and savings and loans. The Senate amendments to H.R. 14279 included the Senate Banking Committee's version of the central liquidity (CLF). The House, however, substituted the House Banking Committee's CLF language which was accepted by the Senate. Your Banking Committee held hearings on this proposal and related matters on August 1, 2, 3, and September 14, 1978. The proposal was included as title III or H.R. 14044, the Community Credit Needs Act of 1978, which was reported by the Subcommittee on Financial Institutions Supervision, Regulation, and Insurance on September 22, 1978. The full Banking Committee did not complete consideration of H.R. 14044 before adjournment; therefore, there is no committee report explaining the CLF provisions. The following discussion represents language which would have been included in the House report on this significant title.

NEED FOR THE LEGISLATION

Interest in a central liquidity facility—or central bank—for credit unions is not new. Attempts at a legislative solution to the credit union liquidity problem were first made in 1934, at the time of passage of the original Federal Credit Union Act. Changing economic conditions in the 1970's have caused a renewed and heightened interest in this problem, resulting in various legislative proposals culminating with this committee's consideration of H.R. 14044. In view of factors such as the market trend toward longer maturities on consumer credit, recent changes in credit union operations, and the inherent shortcomings of the existing credit union support system, your committee believes there is now a pressing need for the passage of this legislation.

CURRENT MARKET TRENDS

Recent trends in consumer credit markets have increased the need for a central liquidity facility. First, inflationary increases in the prices of consumer goods are causing longer maturities on consumer loans. Homeowners are taking advantage of increased equity (resulting from spiraling residential prices) to obtain longer term second mortgage loans for various purposes. These trends toward longer maturities result in reduced loan turnover rates—a liquidity concern which is compounded in credit unions by their entry into unsecured line of credit and credit card lending, thereby increasing the risk inherent in their loan portfolios. Also of major importance was the passage of H.R. 3365 (Public Law 95-22) which granted Federal credit unions the authority to make long-term mortgage loans. The entry of Federal credit unions into the mortgage lending field will provide greater opportunities for new sources of mortgage credit, but will extend maturities and strain liquidity of participating credit unions. Without a central liquidity facility, an economic downturn could restrict credit unions' ability to meet this important new goal of providing a source of mortgage financing or impair the source of funds available to consumer installment borrowers who comprise the traditional backbone of credit union support.

CREDIT UNION OPERATIONS

In addition to credit market patterns, certain other trends in credit union operations demonstrate a need for the facility. Your committee has received testimony that some credit unions, in their efforts to maximize dividend payments, have increased their holdings in high yielding, but longer term Government securities, in some cases overborrowing to purchase such securities. Also, your committee is concerned over the increased proportion of large balance share accounts being placed with credit unions to take advantage of high yields and share insurance. These accounts are likely to be interest-sensitive and subject to withdrawal in the event of a dividend reduction or the availability of a higher yield at other institutions.

While the central liquidity facility is not intended as a buffer against unsound management (and the committee expects the National Credit Union Administration to continue its strong stand on administrative actions in appropriate cases) the facility will provide a necessary tool to the Administrator in meeting liquidity needs that follow from these operational problems.

EXISTING CREDIT UNION SUPPORT SYSTEM

Credit unions presently depend on the recently developed corporate central credit union system as one of their mechanisms for meeting liquidity needs. Corporate central credit unions—or credit unions that serve other credit unions—are similar to correspondent banks. Their functions, including the redistribution of liquidity, are becoming essential to their member credit unions' financial health. It is well known that correspondent banks are unable to provide for the total liquidity needs of the commercial banking system, and similarly, experience has demonstrated that corporate credits unions are presently unable to carry the full liquidity burden of its member credit unions. The National Credit Union Administration has testified concerning recent instances where large credit unions experienced sudden and unexpected share withdrawals and, finding credit unavailable from conventional sources such as banks and central credit unions, were forced to turn to the national credit union share insurance fund for credit extensions. While the Federal Credit Union Act provides limited authority for the insurance fund to perform this function, the resources of the fund are not adequate to deal with extended crises of this nature and should not be considered a liquidity source except for clearly defined emergency situations.

In summary, your committee is concerned about certain economic trends, in addition to increased responsibilities within the credit union movement which indicate continuing liquidity problems for the foreseeable future, and believes that a central liquidity facility is at this time urgently needed.

PURPOSE OF THE LEGISLATION

The purpose of title XVIII, simply stated, is to establish a central liquidity facility to meet the liquidity needs of its member credit unions. In fulfilling its purpose, your committee expects the facility to support consumer and mortgage lending, encourage savings and aid in the provision of basic financial resources to all segments of the economy.

The facility will achieve its purpose by extending credit to meet "liquidity needs," as that term is defined in the title. Certain aspects of this definition are central to an understanding of the facility's credit-granting authority. First, it is noted that liquidity needs are limited to the needs of credit unions "serving natural persons." Through use of this phrase, it is established that the facility is intended only to meet liquidity needs that derive from the circumstances of traditional credit unions, and not any distinct needs of corporate central credit unions. Thus, although corporate credit unions are eligible for membership in the facility, their borrowing from the facility must be based on documentable downstream needs of traditional credit unions predominantly serving natural persons. Your committee affirms the regulatory authority of the Administrator to charge varying rates on advances to members consistent with the reflection of actual costs incurred and with the most efficient operation of the facility.

Also, the definition of "liquidity needs" provides guidance as to the types of conditions the facility is designed to address. The facility's authority is for the most part designed to parallel the lending capabilities of the Federal Reserve and Federal Home Loan Bank Systems. As such, the facility's lending activities encompass, first, short-term adjustment credit to meet emergency outflows resulting, for example, from managerial difficulties or local economic downturns; second, seasonal credit to meet seasonal needs, such as those that may be expected to arise in a credit union whose field of membership consists of individuals in an occupation affected by seasonal patterns; and, third, long-term or protracted adjustment credit, as needed, for example, to meet the effects of disintermediation or regional economic decline.

In addition to the definition of "liquidity needs," the facility's lending authority is further circumscribed by a nonexpansionary provision which reads:

> The Administrator shall not approve an application for credit the intent of which is to expand credit union portfolios.

This provision is the result of extensive discussions among the National Credit Union Administration, Department of the Treasury, Federal Reserve Board, and House Committee on Banking, Finance and Urban Affairs. The participants in the discussions which led to

this nonexpansionary provision well recognized that the emergency, seasonal, and protracted lending authority contained in this title would necessarily cause an increase in the loan base of a credit union recipient of facility funds. The committee, nevertheless, feels that if the facility maintains a policy of lending at competitive rates with timely repayment, such loan base expansions will not constitute an unlawful pattern of facility lending; that is, a pattern of lending "the intent of which is to expand credit union portfolios."

Additionally, the committee believes the facility should be available to enhance the Federal Government's ability to improve economic well-being and expects the facility to be operated in close consultation with the Federal Reserve Board and Department of Treasury. At present, recession avoidance depends on appropriate fiscal and monetary policies and credit extensions supportive of the mortgage market by the Federal Home Loan Bank System. To assure the facility is able to contribute to national economic well-being by stimulating consumer lending when it is in the national interest, your committee expects the nonexpansionary provision not to apply if a determination is made by the Federal Reserve Board, Department of the Treasury, and National Credit Union Administration, that the national economic interest would be served by stimulating consumer buying by expanding the loan base of credit unions through expansionary facility lending. In this way, the availability of the facility to enhance economic well-being would be preserved while at the same time assuring that this capability would be exercised only with the concurrence of the Department of Treasury and the Federal Reserve Board.

Your committee expects the Administrator to promulgate regulations as necessary to give effect to the full range of lending activities that are appropriate for the facility.

Your committee recognizes one concern that has been voiced regarding the central liquidity facility's lending authority, that is, that this activity might frustrate monetary policy by insulating the consumer credit market from tight money conditions. Your committee feels this concern is unwarranted. Rather, in a monetary contraction, the facility will have to pay higher interest rates to obtain needed funds (see the discussion of funding below). This will create an effective discipline, in that advances made by the facility will be at correspondingly higher interest charges that, in turn, will be reflected in higher credit union consumer loans rates.

MEMBERSHIP

Any credit union may become a member of the central liquidity facility by subscribing to its stock as provided in section 304. That section distinguishes between credit unions serving primarily natural persons (regular members) and credit unions serving primarily other credit unions, that is, the various corporate credit unions (agent members). Any traditional credit unions (serving 75 percent natural persons) may become a regular member by purchasing stock in the amount of one-half of 1 percent of its assets. A corporate credit union may become an agent member by obtaining the Administrator's approval, agreeing to examination, reporting requirements, and regulations established by the Administrator (including such reports and examinations made by State regulatory bodies which meet requirements established by the Administrator), and purchasing stock equal to one-half of 1 percent of the assets of those traditional credit unions within its membership (or, in the case of a corporate credit union serving other corporates, by purchasing stock equal to one-half of 1 percent of the assets of those traditional credit unions served by its corporate members).

In accordance with section 305, at least one-half of a member's required stock subscription must be transferred to the facility. The remainder may be held on call and shall be invested in assets designated by the Administrator.

The scheme of dual membership classification (regular or agent) is intended to preserve the viability of the existing credit union support system, to enable traditional credit unions to deal with the facility either directly or through the central system, if so authorized by the Administrator, and to provide the National Credit Union Administration with a necessary measure of supervisory control over corporate credit unions that choose to obtain membership in the facility. No corporate central credit union shall become a member with agent classification unless the Administrator determines that any direct or indirect subsidy granted to such corporate central credit unions by any trade association or similar organization or other organizations doing business with credit unions shall not have an adverse effect upon such agent's ability to act as the official representative of the facility. It is anticipated that the Administrator will promulgate regulations which govern agent receipt and retention funds advanced to satisfy reserve requirements imposed by regulation or statute, discounting of any financial asset, extending credit, and carrying out other functions determined by the Administrator.

FUNDING

The National Credit Union Administration may obtain funding for the central liquidity facility through the following provisions:

First are the required member subscriptions to the capital stock of the facility, discussed above. Second, to meet startup costs the Administrator is authorized to borrow up to $500,000 from the national credit union share insurance fund. Third, in accordance with section 306(b), the Secretary of the Treasury is authorized to lend the facility up to $500,000,000, upon certification by the Administrator that the facility does not have sufficient funds to meet the liquidity needs of credit unions. Finally, the Administrator is authorized to issue debt obligations on behalf of the facility, in a total face value not exceeding 12 times the subscribed capital stock and surplus of the facility. Your committee estimates that if the facility were presently fully subscribed, its open market borrowing capacity would be approximately $1.2 billion.

It is not anticipated that any appropriated funds will be used to support the central liquidity facility. The facility will be part of the National Credit Union Administration (NCUA) which is supported by the fees NCUA charges the credit unions it supervises. This is comparable to the operations of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the Federal Reserve System.

Some concerns have been expressed regarding the potential impact of this open market borrowing activity on implementation of monetary policy, and regarding the magnitude of credit which the facility would as a result be able to offer. Your committee believes such concerns are unwarranted. First, the facility will have no adverse impact on monetary policy implementation in that its management will be conducted with appropriate consultation with the Department of Treasury and the Federal Reserve Board. Further, to the extent the facility does engage in external borrowing, it will carry out its activities in the open market, and will be subject to Federal Reserve monetary policy controls like any other public or private borrower. Second, in considering the proper size of the facility, it is appropriate to analyze the Federal Reserve discount window and keep in mind the distinction between capacity to lend and the actual level of lending. While your committee anticipates that actual lending levels will reflect the ordinary needs of normal economic circumstances, lending capacity must be established at a level high enough to instill confidence in the facility and to assure that the facility is able to carry out its statutory lending responsibilities even in very adverse economic circumstances.●

PERSONAL EXPLANATION

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MAZZOLI. Mr. Speaker, I was necessarily absent from the House for several votes during the last legislative day of the 95th Congress, October 14. If I had been present, I would have voted in the following manner:

"Aye" on rollcall No. 929 to order a second to H.R. 14279, the flexible regulation of interest rates bill;

"Aye" on rollcall No. 934 to the conference report to S. 2493, the Air Service Improvement Act;

"Aye" to rollcall No. 935 to approve the conference report to S. 3447, the Agriculture Trade Act;

"Aye" to rollcall No. 941 to approve the conference report to H.R. 9937, the Bank Holding Company Act amendments;

"No" to the motion to suspend the rules for consideration of H.R. 10979 with amendments, the Emergency Highway and Transportation Repair Act.●

BALANCE(S) OF POWER SERIES: BOOK II (L)—PSYCHOLOGICAL WARFARE AND PROPAGANDA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in a prior CONGRESSIONAL RECORD I inserted an article by Kenneth Adelman entitled, "Fear, Seduction and Growing Soviet Strength." A continuation of Mr. Adelman's article follows:

Neither, however, can ideology be totally dismissed: it does provide legitimacy for actions and a framework for analysis. Those holding Marxist-Leninist views of the Good Society are inclined to look to the Soviet Union as the most powerful representative of the movement; those holding the views of John Locke or Edmund Burke tend to look to America as the foremost proponent of their beliefs. When Marxism-Leninism was adopted as the sole ideology of Mozambique—only recently considered the epitome of the fiercely nationalist African state, which would never align with a superpower—President Samora Machel spoke of the Soviet Union as a "natural ally." Recently, Mozambique sealed the alliance with a treaty of friendship and cooperation. The same pattern has developed in Ethiopia since Colonel Mengistu came to power.

Marxism-Leninism's psychological appeal lies both in its "scientific" precision and its emotional fervor. It folds disparate facts into one comprehensive theory of history. This scientific veneer has appeal in our rational age, particularly for the intelligentsia who continually search for hidden causes but who discard religious explanations. The ideology's fervent followers do not seem bothered by Marx's absence of supporting evidence or his inaccurate predictions of events supposedly on the brink of occurrence in the 1850s and 1860s. Some intellectuals, often members of the upper class and from a Third World country, become enchanted with communism in Europe, while studying at the London School of Economics or, like Ho Chi Minh and Chou En-lai, at Paris.

Once enticed by Marx, they may become enamored of Lenin's emphasis on elitism, unity and iron discipline. Lenin attributed to the elites the revolutionary consciousness which, according to Marx, the proletariat should have. Consequently, Marxism-Leninism has become an elitist ideology, dependent on a disenchanted upper class, rather than an oppressed lower class, for its success. This has been true since the intellectuals joined Lenin and Mao. Elitists surrounded Fidel Castro—himself of a landowning family—and his first cabinet was entirely devoid of proletariat. So, too, did the PCI come to be led by Enrico Berlinguer, of noble, landholding stock. Lenin's stress on unity appeals to Third World leaders striving to consolidate their power and their states. His stress on iron discipline is also well received: Marxism-Leninism exalts ruthless central control, forbidding deviation by anyone lacking the party's special insight into the forces of history. Communist parties have traditionally refused to share power with other groups. This is quite evident in Angola, where the president refuses to discuss ways of including non-Marxist factions, such as UNITA, to give the government truly national support.

Marxism is attractive to the masses because it has emotional appeal and is rather easy to grasp, particularly if one avoids Marx and concentrates on popular interpretations and slogans. The belief system revolves around a simple class division and is unencumbered by elaborate definitions, classifications or matrices. Its message is more felt than comprehended and is vague enough on the future after the Glorious Revolution to enable all groups to fill in their own dreams. Marxism-Leninism cries out for action, not reflection; for revolution, not compromise. This appeals to those in the developing nations who experienced the exhilaration of independence. Marx's call for righteous violence romanticizes a central feature of the Third World milieu. Since World War II, the world's major conflicts have been fought in developing nations—Korea, the Middle East, South Asia, Vietnam, Nigeria and Angola—and military expenditures in the new states are increasing substantially faster than are those in the developed states.

The possibility of rising violence in the Third World may further advance Marxism-Leninism, which prospers during times of general misery. It thrives on depression, as in the United States in the 1930s, and on war. As Soviet rule was an outgrowth of World War I, so was Communist rule in China and Eastern Europe an outgrowth of World War II. The Marxist-Leninist states in former Portuguese territories and in Indochina also rose from the ruins of war. Marxism-Leninism promises that out of present turmoil and strife will come the classless society—characterized by harmony, solidarity and simple goodwill. Visions of such a future, whether in this world or the next, have proved potent forces throughout history, and Marx outlines a new world indeed worthy of sacrifice. Without this hope for salvation on earth, one is left only in misery and poverty; with it, as Dostoyevsky has shown, present suffering becomes laden with meaning and positively exhilarating.

More down to earth but no less enticing is Marxism-Leninism's anti-Western sentiment. It is unequaled in its protestations against Western capitalism and imperialism: Marx's descriptions of the misery of the British factory workers are among his most eloquent. Such anti-Western sentiment appeals to former colonies which presently feel exploited by Western business. Contrary to theory, Marxism-Leninism historically has come to power on its own in underdeveloped countries: in Russia and China, Albania and Yugoslavia (the least developed states in Europe), Guinea, Congo-Brazzaville and Cuba. Portugal, the poorest nation in Western Europe, found itself on the brink of Marxist-Leninist rule in 1975.

Leaders of economically backward states can find comfort today in Lenin's thesis[1] that their poverty is not of their own making. Rather, it is the result of imperialism, which is said to transfer oppression from the workers at home to the colonies abroad, and wealth from the outposts to the homeland. Hence, Western exploitation causes the old, capitalist nations to be rich and the young, socialist nations to be poor. The poorer the nation, in fact, the greater is their exploitation, either under colonialism in the past or neocolonialism in the present.

The foregoing explanation is as widely recited—particularly in international watering holes, where Third World delegates assemble for incessant conferences—as it is mistaken. The myth persists even though (a) such prosperous nations as Switzerland and Sweden never had overseas holdings; (b) former colonies such as Canada and Australia have prospered; (c) Germany grew far wealthier without its colonies after World War I, as did Japan and the Netherlands after World War II; (d) Portugal, which clung to its colonies the longest, is the poorest nation in Western Europe; and (e) Britain's terms of trade plummeted at the height of its colonial empire in the 1880s. Current research shows that colonies were more of a net drain on the metropole than a net gain, yet Lenin's view—with its blame on foreign capitalists—endures. It is far more appealing to believe Lenin than to search for causes of poverty in the developing nations themselves—in government corruption, poor financial management, a different work ethic, preference for kinship over competence, and recurrent nationalization.

Rhetoric aside, international economic relations are of utmost importance. The call for a new international economic order comes from every corner of the globe. The Soviet Union provides little concrete assistance—less than 15 percent of the total economic aid provided by the United States and less than that provided by any major West European country[2]—yet it usually escapes the bitter condemnation hurled against the West.

The antiimperialist rhetoric is loudest when the developing world assembles, as in the conferences of nonaligned countries, the most recent having been held in August 1976 in Sri Lanka. Such "nonaligned states" as Cuba, North Korea, the PLO, Vietnam, Laos, Cambodia and Angola—many of which have security treaties with Moscow, Peking or both—are now full members. The Philippines was extended only "guest" status, and South Korea was excluded altogether. In its final report, the 1976 conference called for withdrawal of all U.S. forces and termination of the UN Command in South Korea. U.S. military bases in Latin America were considered "a threat to the peace and security of the region," and U.S. support of Israel was condemned. The conference blasted Israel for its "military aggression" in the Entebbe raid, which violated Uganda's "sovereignty and territorial integrity," caused "tragic loss of human life, damage and destruction of Ugandan property," and "thwarted the humanitarian efforts by the President of Uganda to have all the hostages released." The conference, furthermore, "demanded" that Israel "meet the just claims" of Field Marshal Amin "for full compensation for the damage and destruction caused during the invasion." Finally, the report called for an end to Puerto Rico's "colonial status,"[3] without any mention of the "colonial status" of the Baltic States (under the USSR) or of Tibet (under China).

The views of the developing world are converging with those of the Soviet Union. This can be substantiated by an analysis of the recent twenty-six UN General Assembly votes that the State Department considered "key issues": only 13 states—Western Europe, Japan, Israel and Nicaragua—usually voted as we did; more than two-thirds of the total or 104 states, voted with the Soviet Union and against us more than half the time. A look at our traditional friends around the world should add to our concern. In the Western Hemisphere, Jamaica and the tiny Caribbean states increasingly echo Cuban positions. In Africa, Ethiopia and Nigeria—the twin pillars of U.S. influence on the continent during the 1960s—are now ruled by leftist regimes often hostile to the United States. In 1976, Mozambique transformed its liberation movement into a Marxist-Leninist party, something Angola did in the fall of 1977. Guinea-Bissau seems destined to follow. Mali and Congo-Brazzaville are embracing Marxist rhetoric as well as Soviet positions on international issues. Traditionally moderate, pro-Western states such as Zambia are now parroting Soviet policies on such visible issues as Rhodesia. Egypt—moving away from close ties with the Soviets and toward the West—expresses deep concern with the radical regime in Libya (where the Soviets are dramatically increasing their military advisers and arms deliveries) and with Soviet-Cuban penetration of the African continent.

In Asia, Taiwan is shivering in its boots, unable to understand the United States' infatuation with the PRC. Without continued U.S. support, Taiwan may feel that to hold off Peking some arrangement must be made with Moscow—with whom Taipei has had a

Footnotes at end of article.

close association since the Soviets trained their cadre and structured their armed forces. Personal ties are maintained, as some Chinese leaders on Taiwan speak Russian (the president, in fact, has a Russian wife). The Soviets might readily cooperate with any resolved anti-Peking group, particularly if they could gain use of the Penghu Islands (the Pescadores) for naval refueling. South Korea remains baffled as to why the United States would remove a successful deterrent force without receiving anything in return. Indonesia is avoiding any action that might offend Vietnam, and Singapore openly discusses the declining military and political balance in its area.

Just as important is a lack of rhetorical or ideological balance in the world. Freedom is a rare commodity today. According to Freedom House, a private New York research firm, only one-fifth of the world's population enjoys real civil and political freedom, while slightly under half lives under authoritarian or totalitarian regimes. In the Third World, true democracy is exceedingly rare, confined to such states as Costa Rica, Botswana and Fiji.

The seductive elements of Marxism-Leninism are not being countered by the supporters of Western democracy. Democratic freedom does not claim to be scientific; it is not described in emotional terms (except by those denied it, such as the dissidents in Russia and Eastern Europe); and it no longer seems to be the wave of the future. Instead of promising perfection, freedom promises opportunity; instead of speaking in absolutes—"total liberation from total alienation"—freedom is always couched in relative terms—"freedom for one must be balanced with the freedom of others." Freedom elicits modest praise: even Winston Churchill defined democracy as "the worst form of government, except for all those other forms that have been tried from time to time." Freedom legitimizes the individual's "pursuit of happiness" but does not guide his search or help him to define a cause more important than individual existence. Marxism-Leninism has the works of Marx and Lenin—the most influential nonreligious writings ever—while freedom lacks any established set of basic tenets. The Soviets devote considerable sums to propagate their ideology through a global party network, while the U.S. Congress is most reluctant to fund the Voice of America, Radio Free Europe or the U.S. Information Agency and help tell America's story to the world.

Karl von Clausewitz wrote that the purpose of war was not destruction of the enemy but destruction of his will to resist. Likewise, the danger of growing Soviet power is not destruction of the West or the Third World—a major war seems most unlikely—but, rather, destruction of their will to resist. Should the expansion of Soviet influence, through fear and seduction, proceed without any countervailing force, it could prove most perilous.

Such a dismal outlook need not be fulfilled. Western Europe may simply be in a slump and may have more resilience than is now evident. The recent French rescue of Zaire and the dogged British effort to achieve a peaceful transition in Rhodesia may signal the beginning of a European rejuvenation, spurred by Europe's assumption of more responsibility beyond its own back yard. In the twentieth year of the EEC, Europe may move closer to economic and monetary union; the inclusion of Greece, Spain and Portugal could enlarge such cooperation. Political cohesion might be boosted by the 1978 direct elections to the European Parliament. Still, the signs in Europe are not terribly encouraging. Just as propaganda is most effective where there is a predisposition to accept the message, so growing Soviet influence and power is most potent where there is a predisposition to pessimism and surrender. Europe, without an improvement in economic stability and political vitality, might indeed prove fertile ground.

Recent developments in the Third World, though cause for rising concern, may in fact be only a passing phenomenon. Resentment of the West for past colonialism might subside over time. Marxism-Leninism's seductive features may be overshadowed when Third World leaders cut through the rhetoric and see the disillusion, economic hardship and political oppression common in Marxist-Leninist states. Third World enchantment with the unknown may fade after direct dealings with the Soviets and their allies, as happened in Egypt and Somalia. Leaders in the developing nations may come to realize the truth of the following statement by Yugoslav author Milovan Djilas: "Eastern bureaucratic 'socialism' is in every respect inferior to democratic 'capitalism.' By virtue of its basic humanistic quality, the West is today incomparably closer to the classical—indeed Marxist, if you wish—socialist teachings than is the East."

Present concern about growing Soviet influence may be magnified by the realization that the American age has passed—and rather more abruptly than many would have wished. The time when the United States had overwhelming military-economic superiority and immense political appeal—when the nonaligned looked to America as a model and were sympathetic to its view of the world—has ended. Yet, while the world has experienced the American age, it has not seen the Soviet age. Should such an age come about, it would be fundamentally different from the world of recent decades. Soviet actions in Eastern Europe, the Middle East, Southeast Asia and Africa have been contrary to Western respect for self-determination. Present Soviet support of Qaddafi, Amin, Castro, Mengistu, PLO terrorists, Iraq and the Algerians is opposed to Western concepts of freedom and the dignity and sanctity of human life. As Professor Leszek Kolakowski, a leading Polish philosopher (now at Oxford), has said, "The concept of non-totalitarian Communism now seems to many of us like the idea of fried snowballs."

The Soviet age cannot come about on its own. The process of fear, seduction and growing influence—if it is to proceed—will be furthered as much through the actions or inactions of the Western powers as through those of the Soviet Union. What happens will depend on will rather than capability. The Western democracies and Japan account for more than half the world's GNP. If they can muster the resolve to maintain the global military balance,[4] get their own economic and political houses in order, and proclaim their values unashamedly, then present concerns will prove to have been temporary, even illusionary. Soviet claims that the net correlation of forces is moving in their favor will then be seen as empty rhetoric, and the seductions of Soviet ideology will be seen as false.

FOOTNOTES

[1] Hundreds if not thousands of authors have dealt with imperialism, but the ideas sketched here are popularly associated with Lenin, whether or not he originated them and deserves the "credit." See V. I. Lenin, *Imperialism: The Highest Stage of Capitalism* (New York: International Publishers, 1939).

[2] *Handbook of Economic Statistics*, 1976, p. 65.

[3] U.N. General Assembly, *Documents of the Fifth Conference of Non-Aligned Countries*, September 8, 1976.

[4] This appears far more likely today, at least for the United States, than in the past. According to Potomac Associates, "The nationwide extent of increased approval for military and defense spending that we have found in 1976 is little short of phenomenal." (*The Pursuit of National Security*, p. 39.)●

NATURAL GAS POTENTIAL IN NEW YORK AND THE NATION FROM UNCONVENTIONAL SOURCES IS SUBSTANTIAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. KEMP. Mr. Speaker, earlier this afternoon the House passed the so-called natural gas compromise legislation.

Much of the debate over natural gas pricing policies has focused on supply. The public has been told by the administration that such supply is limited both in the short-term and long-range. It has been told by the administration that only through the enactment of its legislation can adequate supply be assured.

Those statements are in sharp contrast to what the administration knows to be the real case.

Last year the administration suppressed a U.S. Geological Survey study showing that there would be enough domestic natural gas supply for over a thousand years if the wellhead prices were deregulated. The administration demoted the head of the survey who had been responsible for the report.

Now we know that the administration is forestalling the release of a new Department of Energy report on the enhanced recovery of unconventional sources. It shows vast supplies available also. This report, prepared through the Office of the Assistant Secretary for Energy Technology, Office of Fossil Energy Programs, has been ready for weeks but suppressed until we conclude the energy debate this weekend.

These two events constitute a deliberate misleading of the American people and their Representatives in Congress for sheer political purposes—a legislative victory for the President, continued Government regulation of the industry, greater Government intrusion into the economy.

I read into the RECORD just a few moments ago excerpts from the current issue of the National Geographic Society's magazine, from an article detailing how the United States has "enormous" domestic supplies of natural gas available from the six unconventional sources, if it would only decide to make the recovery of such supplies national policy. I implore all my colleagues to read those remarks when they are printed.

Another article, along these same lines, has come to my attention, and I wish to address its relevance to the public debate at this time.

This article appeared the day before yesterday, on Friday. It is about the extent of natural gas in New York State, in the shale underlying the southwest region of the State. This gas would lessen the dependence of our homes, schools, businesses, and industries upon supplies transported from the Southwest. This additional supply could be at less cost and not subject to the supply variations, especially in severe winter months, that we have experienced in New York over

the past two summers. It would make us less dependent on coal gasification, an experiment that seems already to be faltering in light of the prospects of today's energy bills passing. It would make us less dependent on foreign gas supplies—be they from Mexico or Algeria; we already know that, in light of the passage of today's bill, Mexicans officials will be trying to close the deal by meeting with the Secretary of Energy upon his return from China, no matter what confusion on the issue to date, and that the Algerians will be seeking wider American markets for their LNG.

Yet what does this new article tell us? It tells us that the Department of Energy has asked for less money for research in ways to recover unconventional gas from shale areas like New York State, justifying that request for less funds on very flimsy grounds. If the purpose of the energy bill we just passed is to increase supply, then why is the same administration which sought that bill's passage requesting less money to increase supply from this domestic source of such importance to energy-consuming New York State, the Northeast, and the Midwest? It does not make sense.

This article follows:

[From the Oil Daily, Oct. 13, 1978]

TECHNOLOGY WATCH: GAS POTENTIAL IN NEW YORK SHALE

(By Marvin Murphy)

Shale underlying the southwest region of New York State may yield gas in quantities four to five times greater than anticipated, a Battelle Laboratories researcher told me.

Rustu Kalyoneu, who has been working on shale research for the past two and one-half years, couldn't put an exact figure on the potential, based on results from samples tested in the lab.

The Department of Energy, however, estimates that gas trapped in shale deposits in the eastern and southwestern parts of the country may be as much as 1,300 cubic feet per ton of rock.

"This is a good figure and probably close to what we found in New York," Kalyoneu said. "I tend to think, though, that this estimate may be a little optimistic."

WITHIN APPALACHIA

The Allegheny County shale lies within the Appalachian area, which also includes parts of Pennsylvania, Ohio, Kentucky, West Virginia, and Virginia.

Columbia Gas has estimated that this region may contain 460 quadrillion cubic feet of "gas rock," of which 285 trillion cubic feet could be recovered if the economics were more favorable.

Columbia's estimate falls within the wide range of 10 to 520 tcf made by the government's recent Market Oriented Program.

Techniques for releasing the trapped gas are well-advanced but "we just don't know how much is there," a DOE spokesman told me.

LAB WORKING

Work on the Battelle study in New York was completed only a few weeks ago. Kalyoneu said. The lab, located in Columbus, Ohio, also is working with DOE on gas-bearing shale in Michigan and Pennsylvania. Previously, Battelle researchers studied shale samples from Illinois, Indiana, Kentucky, Ohio and West Virginia.

DOE recently released an additional $266,000 to finance lab work at Columbus. The department's total research budget for eastern "gas rock" is $14 million for fiscal year 1978, up from $9.5 million in FY 77.

The department has asked for less money in its request for FY 79 because most fracturing techniques for releasing gas are part of the "state of the art." Most of the research is merely refinement of known methods of recovery.

DOE requested only $12 million for eastern shale research in FY 79. The total enhanced gas recovery program went from $14.9 million in 77 to $26.8 million in 78; for FY 79, it is asking for $21.3 million.

Eastern shale also is called "Devonian shale," so to geologically designate it for the period after the Silurian and before the Carboniferous in the Paleozoic era. The formation is named after the town of Devonshire, in England, where rocks from this period were first studied.

Richard A. Struble of Ohio's Department of Natural Resources recently told a DOE symposium on enhanced gas recovery that Devonian shale has been drilled for natural gas since the 1800's.

A small patch of land close to the borders of Ohio, Kentucky, West Virginia and Virginia lies over areas of historical shale production.

"To many operators," Struble said, "the shales are just a formation which must be penetrated to get to the "Clinton" sandstone (Silurian), Ohio's primary reservoir for oil and gas."

Three coal liquefaction processes have been identified as potential sources of future utility fuel, the Electric Power Research Institute reports.

By 1990, the EPRI Journal reports, 200,000 barrels a day could come from SRC–II, 150,000 b/d from H-Coal and 100,000 b/d from Exxon Donor Solvent processes. Presently U.S. electric utilities burn more than 1.5 million barrels of oil a day, the Journal adds.

EPRI Department Director Dwain Spencer, in an editorial, notes that the utility industry will probably be the first customer for liquid fuel from the coal liquefaction processes.

"An often overlooked aspect of coal liquefaction," he said, "is that 50 to 60 percent of the raw coal liquids produced are basically utility-grade fuel oils."

With minimal additional refining, he said, coal liquids could be made useful for utility combustion turbines as well as steam boilers.

An enhanced recovery project to produce oil from shallow zones in the southwest part of Oklahoma has been approved by the state's oil and gas commission.

The project is being carried out on a 2,400 acre leasehold acquired by Petroleum Development Corp., which has corporate offices in Marina del Ray, Calif., and Bridgeport, W. Va.

Core drilling and analyses of the property indicate "substantial" reserves of high gravity oil in place, board chairman Ernest L. Linthcicum said.

I have one other point in closing my comments on natural gas supply for this Congress.

We have been told that we simply must have this natural gas bill, these five energy bills, passed earlier today. Congress has been cajoled and encouraged, threatened and intimidated, to pass the measures at the earliest possible date, so the country will have its national energy policy, the world will take note and the dollar will improve on foreign markets.

Why is it, then, that I just heard that the Secretary of Energy is taking off, after we adjourn, for an extensive trip to mainland China, and why is it that the rumor in the backroom is that the President will not sign this legislation until the day after the November 7 elections. I know the official excuses will be that the Secretary is going to look at China's oil potentials and that the trip had long been planned, and that it will take time to prepare the bills passed today for signature, enrolling, transmittal, et cetera for the President's signatures.

But isn't it that the majority party and the President see these energy bills as such potential political liabilities that they do not want the additional attention the signing ceremony will bring until after the elections are past? And doesn't that show that we did the wrong thing several hours ago in passing those bills?

The American people are looking for two signals in these closing hours of the 95th Congress—signals on taxes and regulation. Congress has sent them those two signals today, but I do not believe the people were looking for more taxes—which the tax bill will allow to go forward by not offsetting the higher social security taxes, new energy taxes and inflation-pushed higher income taxes—and for more regulation—which the energy bill certainly is. Has the Congress built confidence in the economy's future or has it eroded it further? How the stock market here and the American dollar on foreign money markets respond will tell us whether we have done the right or wrong thing in passing these two measures.●

DR. RICHARD C. HALVERSON "CLERGYMAN OF THE YEAR"

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BROWN of Ohio. Mr. Speaker, it is an honor today to bring to my colleagues' attention that Dr. Richard C. Halverson, pastor of the Fourth Presbyterian Church in Washington, has been chosen as Clergyman of the Year by the Religious Heritage of America, Inc.

This association is comprised of men and women of many faiths and occupations. It is dedicated to increasing the knowledge of religion's place in our Nation's history; to strengthening this country's religious values; and to encouraging their application on all aspects of American life.

Many of my colleagues know Dr. Halverson as their pastor at the Fourth Presbyterian Church, where he has served since 1958. Prior to that time, he served in churches in California and Kansas. And for 25 years Dr. Halverson has annually participated in pastors' and leaders' conferences throughout the world.

He holds prayer breakfasts for students, and weekly meetings with businessmen, government, and minority groups. For 30 years, Dr. Halverson has authored a biweekly devotional letter.

He presently serves as president of Concern, Inc., as well as chairman of the board of World Vision, Inc. He is also involved with numerous boards and organizations, including the Navigators, Campus Crusade for Christ, and Radio of Free Asia.

I know I join many who are grateful for the countless contributions Dr. Halverson has made to the spiritual life of his congregation, his community, and that of this Nation.●

BALANCE(S) OF POWER SERIES: PSYCHOLOGICAL WARFARE AND PROPAGANDA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in a prior CONGRESSIONAL RECORD I inserted an article by Kenneth Adelman entitled, "Fear, Seduction and Growing Soviet Strength." The conclusion of Mr. Adelman's article follows.

The Soviets also strive to enhance their position by spreading Marxism-Leninism. The Soviet Foreign Ministry began with Trotsky reportedly saying, "I will issue a few revolutionary proclamations to the peoples of the world and then close up shop." It continues to subsidize propaganda in order to spread Marxism-Leninism, the only worldwide political movement. This continues even while Soviet citizens are increasingly bored with the ideology, becoming what journalists call "radish communists"—red on the outside, white on the inside. Even today, there are twice as many church members as there are card-carrying Communists in Russia, and George Kennan doubts that more than thirty convinced communists remain in all of Eastern Europe.[1]

The Soviets realize the limitations of ideology and, in such areas as the Middle East, operate with an almost total disregard for "spreading the word"; in fact, over the past decade, the Soviets have entered twice as many arms agreements with noncommunist Third World states as with communist ones. Nonetheless, they recognize—far more than Westerners do—the importance of ideas. In the Soviet definition of the net correlation of forces, ideology is included as a factor equal to economic, political and military factors.[2]

The history of Marxism-Leninism in the Third World has had many starts and stops, frequent gains and reversals. Past concerns about Marxist-Leninist leaders rising to power in Ghana, Indonesia, Burma, Somalia and elsewhere have often proved alarmist in retrospect. At present, the *depth* of Marxism-Leninism in developing nations is certainly not impressive, many Third World leaders having only the vaguest understanding of the ideology they may so fervently embrace. One the other hand, the extent of Marxist-Leninist rhetoric in the Third World has been considerable. Still, this does not translate directly into Soviet state power: the use of Marxist-Leninist terms does not mean that Mali will become a Soviet puppet any more than China or Albania will.

Neither, however, can ideology be totally dismissed: it does provide legitimacy for actions and a framework for analysis. Those holding Marxist-Leninist views of the Good Society are inclined to look to the Soviet Union as the most powerful representative of the movement; those holding the views of John Locke or Edmund Burke tend to look to America as the foremost proponent of their beliefs. When Marxism-Leninism was adopted as the sole ideology of Mozambique—only recently considered the epitome of the fiercely nationalist African state, which would never align with a superpower—President Samora Machel spoke of the Soviet Union as a "natural ally." Recently, Mozambique sealed the alliance with a treaty of friendship and cooperation. The same pattern has developed in Ethiopia since Colonel Mengistu came to power.

Marxism-Leninism's psychological appeal lies both in its "scientific" precision and its emotional fervor. It folds disparate facts into one comprehensive theory of history. This scientific veneer has appeal in our rational age, particularly for the intelligentsia who continually search for hidden causes but who discard religious explanations. The ideology's fervent followers do not seem bothered by Marx's absense of supporting evidence or his inacurate predictions of events supposedly on the brink of occurrence in the 1850s or 1860s. Some intellectuals, often members of the upper class and from a Third World country, become enchanted with communism in Europe, while studying at the London School of Economics or, like Ho Chi Minh and Chou En-lai, at Paris.

Once enticed by Marx, they may become enamored of Lenin's emphasis on elitism, unity and iron discipline. Lenin attributed to the elites the revolutionary consciousness which, according to Marx, the proletariat should have. Consequently, Marxism-Leninism has become an elitist ideology, dependent on a disenchanted upper class, rather than an oppressed lower class, for its success. This has been true since the intellectuals joined Lenin and Mao. Elitists surrounded Fidel Castro—himself of a landowning family—and his first cabinet was entirely devoid of proletariat. So, too, did the PCI come to be led by Enrico Berlinguer, of noble, landholding stock. Lenin's stress on unity appeals to Third World leaders striving to consolidate their power and their states. His stress on iron discipline is also well received: Marxism-Leninism exalts ruthless central control, forbidding deviation by anyone lacking the party's special insight into the forces of history. Communist parties have traditionally refused to share power with other groups. This is quite evident in Angola, where the president refuses to discuss ways of including non-Marxist factions, such as UNITA, to give the government truly national support.

Marxism is attractive to the masses because it has emotional appeal and is rather easy to grasp, particularly if one avoids Marx and concentrates on popular interpretations and slogans. The belief system revolves around a simple class division and is unencumbered by elaborate definitions, classifications or matrices. Its message is more felt than comprehended and is vague enough on the future after the Glorious Revolution to enable all groups to fill in their own dreams. Marxism-Leninism cries out for action, not reflection; for revolution, not compromise. This appeals to those in the developing nations who experienced the exhilaration of independence. Marx's call for righteous violence romanticizes a central feature of the Third World milieu. Since World War II, the world's major conflicts have been fought in developing nations—Korea, the Middle East, South Asia, Vietnam, Nigeria and Angola—and military expenditures in the new states are increasing substantially faster than are those in the developed states.

The possibility of rising violence in the Third World may further advance Marxism-Leninism, which prospers during times of general misery. It thrives on depression, as in the United States in the 1930s, and on war. As Soviet rule was an outgrowth of World War I, so was Communist rule in China and Eastern Europe an outgrowth of World War II. The Marxist-Leninist states in former Portuguese territories and in Indochina also rose from the ruins of war. Marxism-Leninism promises that out of present turmoil and strife will come the classless society—characterized by harmony, solidarity and simple goodwill. Visions of such a future, whether in this world or the next, have proved potent forces throughout history, and Marx outlines a new world indeed worthy of sacrifice. Without this hope for salvation on earth, one is left only in misery and poverty; with it, as Dostoyevsky has shown, present suffering becomes laden with meaning and positively exhilarating.

More down to earth but no less enticing is Marxism-Leninism's anti-Western sentiment. It is unequaled in its protestations against Western capitalism and imperialism: Marx's descriptions of the misery of the British factory workers are among his most eloquent. Such anti-Western sentiment appeals to former colonies which presently feel exploited by Western business. Contrary to theory, Marxism-Leninism historically has come to power on its own in *underdeveloped* countries: in Russia and China, Albania and Yugoslavia (the least developed states in Europe), Guinea, Congo-Brazzaville and Cuba. Portugal, the poorest nation in Western Europe, found itself on the brink of Marxist-Leninist rule in 1975.

Leaders of economically backward states can find comfort today in Lenin's thesis[3] that their poverty is not of their own making. Rather, it is the result of imperialism, which is said to transfer oppression from the workers at home to the colonies abroad, and wealth from the outposts to the homeland. Hence, Western exploitation causes the old, capitalist nations to be rich and the young, socialist nations to be poor. The poorer the nation, in fact, the greater is their exploitation, either under colonialism in the past or neocolonialism in the present.

The foregoing explanation is as widely recited—particularly in international watering holes, where Third World delegates assemble for incessant conferences—as it is mistaken. The myth persists even though (a) such prosperous nations as Switzerland and Sweden never had overseas holdings; (b) former colonies such as Canada and Australia have prospered; (c) Germany grew far wealthier without its colonies after World War I, as did Japan and the Netherlands after World War II; (d) Portugal, which clung to its colonies the longest, is the poorest nation in Western Europe; and (e) Britain's terms of trade plummeted at the height of its colonial empire in the 1880s. Current research shows that colonies were more of a net drain on the metropole than a net gain, yet Lenin's view—with its blame on foreign capitalists—endures. It is far more appealing to believe Lenin than to search for causes of poverty in the developing nations themselves—in government corruption, poor financial management, a different work ethic, preference for kinship over competence, and recurrent nationalization.

Rhetoric aside, international economic relations are of utmost importance. The call for a new international economic order comes from every corner of the globe. The Soviet Union provides little concrete assistance—less than 15 per cent of the total economic aid provided by the United States and less than that provided by any major West European country[4]—yet it usually escapes the bitter condemnation hurled against the West.

The antiimperialist rhetoric is loudest when the developing world assembles, as in the conferences of nonaligned countries, the most recent having been held in August 1976 in Sri Lanka. Such "nonaligned states" as Cuba, North Korea, the PLO, Vietnam, Laos, Cambodia and Angola—many of which have security treaties with Moscow, Peking or both—are now full members. The Philippines was extended only "guest" status, and South Korea was excluded altogether. In its final report, the 1976 conference called for withdrawal of all U.S. forces and termination of the UN Command in South Korea. U.S. military bases in Latin America were considered "a threat to the peace and se-

Footnotes at end of article.

curity of the region," and U.S. support of Israel was condemned. The conference blasted Israel for its "military aggression" in the Entebbe raid, which violated Uganda's "sovereignty and territorial integrity," caused "tragic loss of human life, damage and destruction of Ugandan property," and "thwarted the humanitarian efforts by the President of Uganda to have all the hostages released." The conference, furthermore, "demanded" that Israel "meet the just claims" of Field Marshal Amin "for full compensation for the damage and destruction caused during the invasion." Finally, the report called for an end to Puerto Rico's "colonial status,"[5] without any mention of the "colonial status" of the Baltic States (under the USSR) or of Tibet (under China).

The views of the developing world are converging with those of the Soviet Union. This can be substantiated by an analysis of the recent twenty-six UN General Assembly votes that the State Department considered "key issues": only 13 states—Western Europe, Japan, Israel and Nicaragua—usually voted as we did; more than two-thirds of the total, or 104 states, voted with the Soviet Union and against us more than half the time. A look at our traditional friends around the world should add to our concern. In the Western Hemisphere, Jamaica and the tiny Caribbean states increasingly echo Cuban positions. In Africa, Ethiopia and Nigeria—the twin pillars of U.S. influence on the continent during the 1960s—are now ruled by leftist regimes often hostile to the United States. In 1976, Mozambique transformed its liberation movement into a Marxist-Leninist party, something Angola did in the fall of 1977. Guinea-Bissau seems destined to follow. Mali and Congo-Brazzaville are embracing Marxist rhetoric as well as Soviet positions on international issues.

Traditionally moderate, pro-Western states such as Zambia are now parroting Soviet policies on such visible issues as Rhodesia. Egypt—moving away from close ties with the Soviets and toward the West—expresses deep concern with the radical regime in Libya (where the Soviets are dramatically increasing their military advisers and arms deliveries) and with Soviet-Cuban penetration of the African continent.

In Asia, Taiwan is shivering in its boots, unable to understand the United States' infatuation with the PRC. Without continued U.S. support, Taiwan may feel that to hold off Peking some arrangement must be made with Moscow—with who Taipei has had a close association since the Soviets trained their cadre and structured their armed forces. Personal ties are maintained, as some Chinese leaders on Taiwan speak Russian (the president, in fact, has a Russian wife). The Soviets might readily cooperate with any resolved anti-Peking group, particularly if they could gain use of the Penghu Islands (the Pescadores) for naval refueling. South Korea remains baffled as to why the United States would remove a successful deterrent force without receiving anything in return. Indonesia is avoiding any action that might offend Vietnam, and Singapore openly discusses the declining military and political balance in its area.

Just as important is a lack of rhetorical or ideological balance in the world. Freedom is a rare commodity today. According to Freedom House, a private New York research firm, only one-fifth of the world's population enjoys real civil and political freedom, while slightly under half lives under authoritarian or totalitarian regimes. In the Third World, true democracy is exceedingly rare, confined to such states as Costa Rica, Botswana and Fiji.

The seductive elements of Marxism-Leninism are not being countered by the supporters of Western democracy. Democratic freedom does not claim to be scientific; it is not described in emotional terms (except by those denied it, such as the dissidents in Russia and Eastern Europe); and it no longer seems to be the wave of the future. Instead of promising perfection, freedom promises opportunity; instead of speaking in absolutes—"total liberation from total alienation"—freedom is always couched in relative terms—"freedom for one must be balanced with the freedom of others."

Freedom elicits modest praise: even Winston Churchill defined democracy as "the worst form of government, except for all those other forms that have been tried from time to time." Freedom legitimizes the individual's "pursuit of happiness" but does not guide his search or help him to define a cause more important than individual existence. Marxism-Leninism has the works of Marx and Lenin—the most influential nonreligious writings ever—while freedom lacks any established set of basic tenets. The Soviets devote considerable sums to propagate their ideology through a global party network, while the U.S. Congress is most reluctant to fund the Voice of America, Radio Free Europe or the U.S. Information Agency and help tell America's story to the world.

Karl von Clausewitz wrote that the purpose of war was not the destruction of the enemy but destruction of his will to resist. Likewise, the danger of growing Soviet power is not destruction of the West or the Third World—a major war seems most unlikely—but, rather, destruction of their will to resist. Should the expansion of Soviet influence, through fear and seduction, proceed without any countervailing force, it could prove most perilous.

Such a dismal outlook need not be fulfilled. Western Europe may simply be in a slump and may have more resilience than is now evident. The recent French rescue of Zaire and the dogged British effort to achieve a peaceful transition in Rhodesia may signal the beginning of a European rejuvenation, spurred by Europe's assumption of more responsibility beyond its own back yard. In the twentieth year of the EEC, Europe may move closer to economic and monetary union; the inclusion of Greece, Spain and Portugal could enlarge such cooperation. Political cohesion might be boosted by the 1978 direct elections to the European Parliament. Still, the signs in Europe are not terribly encouraging. Just as propaganda is most effective where there is a predisposition to accept the message, so growing Soviet influence and power is most potent where there is a predisposition to pessimism and surrender. Europe, without an improvement in economic stability and political vitality, might indeed prove fertile ground.

Recent developments in the Third World, though cause for rising concern, may in fact be only a passing phenomenon. Resentment of the West for past colonialism might subside over time. Marxism-Leninism's seductive features may be overshadowed when Third World leaders cut through the rhetoric and see the disillusion, economic hardship and political oppression common in Marxist-Leninist states. Third World enchantment with the unknown may fade after direct dealings with the Soviets and their allies, as happened in Egypt and Somalia.

Leaders in the developing nations may come to realize the truth of the following statement by Yugoslav author Milovan Djilas: "Eastern bureaucratic 'socialism' is in every respect inferior to democratic 'capitalism.' By virtue of its basic humanistic quality, the West is today incomparably closer to the classical—indeed Marxist, if you wish—socialist teachings than is the East."

Present concern about growing Soviet influence may be magnified by the realization that the American age has passed—and rather more abruptly than many would have wished. The time when the United States had overwhelming military-economic superiority and immense political appeal—when the nonaligned looked to America as a model and were sympathetic to its view of the world—has ended. Yet, while the world has experienced the American age, it has not seen the Soviet age. Should such an age come about, it would be fundamentally different from the world of recent decades. Soviet actions in Eastern Europe, the Middle East, Southeast Asia and Africa have been contrary to Western respect for self-determination. Present Soviet support of Qaddafi, Amin, Castro, Mengistu, PLO terrorists, Iraq and the Algerians is opposed to Western concepts of freedom and the dignity and sanctity of human life. As Professor Leszek Kolakowski, a leading Polish philosopher (now at Oxford), has said, "The concept of non-totalitarian Communism now seems to many of us like the idea of fried snowballs."

The Soviet age cannot come about on its own. The process of fear, seduction and growing influence—if it is to proceed—will be furthered as much through the actions or inactions of the Western powers as through those of the Soviet Union. What happens will depend on will rather than capability. The Western democracies and Japan account for more than half the world's GNP. If they can muster the resolve to maintain the global military balance,[6] get their own economic and political houses in order, and proclaim their values unashamedly, then present concerns will prove to have been temporary, even illusionary. Soviet claims that the net correlation of forces is moving in their favor will then be seen as empty rhetoric, and the seductions of Soviet ideology will be seen as false.

FOOTNOTES

[1] In Foy Kohler and Mose Harvey, eds., *The Soviet Union: Yesterday, Today, Tomorrow* (Washington: University of Miami, Center for Advanced International Studies, 1975), p. 31.

[2] G. Shakhnazarov, "On the Problem of the Correlation of Forces," *Kommunist*, February 1974, p. 86.

[3] Hundreds if not thousands of authors have dealt with imperialism, but the ideas sketched here are popularly associated with Lenin, whether or not he originated them and deserves the "credit." See V. I. Lenin, *Imperialism: The Highest Stage of Capitalism* (New York: International Publishers, 1939).

[4] *Handbook of Economic Statistics*, 1976, p. 65.

[5] UN General Assembly, *Documents of the Fifth Conference of Non-Aligned Countries*, September 8, 1976.

[6] This appears far more likely today, at least for the United States, than in the past. According to Potomac Associates, "The nationwide extent of increased approval for military and defense spending that we have found in 1976 is little short of phenomenal." (*The Pursuit of National Security*, p. 39.)●

THE HONORABLE BARBARA JORDAN

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, BARBARA JORDAN leaves this body after serving with us for only two terms. She has, however, engraved an indelible mark on the Congress and this Nation. Few who suffered the anguish of our country's

greatest tragedy will ever forget her impassioned remarks during the painstaking impeachment proceedings in 1974. Through her combined determination to find the truth and love of this Nation she helped to restore integrity to the Presidency and rekindle public trust and confidence in democracy and representative government.

BARBARA'S service in the Congress has been all too short, but she will long be remembered by all who have worked with her. It is my hope that she will have every success and happiness in her future endeavors.●

A TRIBUTE TO THE HONORABLE ERNEST L. COLUCCI, A BEACON OF JUSTICE, A FAITHFUL PUBLIC SERVANT AND FRIEND

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. KEMP. Mr. Speaker, it has long been my belief that the attributes of a strong character and sensitivity for other human beings are most often bound together in outstanding leaders.

These traits are epitomized in the person of an uncommon public servant in our western New York community, Erie County Judge Ernest L. Colucci.

At a time when there is growing and understandable concern that much of our judicial system is becoming too permissive and weighted in favor of criminals at the expense of their victims, Judge Colucci stands out as a beacon for those of us who seek a return to a more balanced system of justice.

This is not to say that Judge Colucci is unduly stern or without compassion.

What he is is eminently fair. And Judge Colucci's faithfulness to fairness is the result of his love for people.

In return, the people of the Greater Buffalo area, which I am privileged to represent in the Congress, love this unique jurist who has announced his intention to retire from the bench in December.

His service has been rare and selfless. His contributions as attorney, jurist, and civic leader are deserving of his many honors and much more. These attributes are artfully delineated in an article prepared for publication by Mike Healy in the Buffalo Courier-Express.

Mr. Speaker, in behalf of our mutual friends and my constituents, I want to say, for the record, "Thank God, for Ernest Colucci."

At this point, I should like to add Mr. Healy's article to my remarks:

JUDGE COLUCCI "PARTLY" RETIRING

(By Mike Healy)

Erie County Judge Ernest L. Colucci retires this December after 10 years on the bench. He is leaving with mixed feelings.

"I have always loved the work," Judge Colucci said. "But there have been so many changes in the legal system that have not inured to the best interests of America. I feel somewhat disenchanted with the system.

"We need a rededication to the moral fiber of America, and that has to come through the courts, the last bulwark of democracy as we know it," he said.

Judge Colucci was asked what advice he would give to the man or woman who succeeds him on the bench in January.

"Generally, the public wants a judge who is firm, who is compassionate and understanding but who knows when to be tough," he said. "The public wants a guy who'll send persons to jail when they deserve it. People are complaining about the judges who put people on probation for various crimes. Arrest, prosecute and incarcerate the criminals. It's that simple. Criminals don't belong in society."

"I don't mean the kid who does something minor, who steals a loaf of bread or who steals a car to take his girlfriend on a joyride. Sure, give him a slap on the wrist, maybe probation. I've seen kids come and thank me for putting them on probation, after they've straightened out.

"But the last two cases I had were a homicide and a rape. A 25-year-old beat an 81-year-old man to death. I gave him the limit. The same in the rape case. The limit," Judge Colucci said.

The judge's "tough-but-fair" attitude has made him one of the most respected members of the judiciary in this area, to which a list of his awards attests. Just this year he was named Judge of the year by the Italian-American Police Association, named Man of the Year by the Barnabite Fathers, and was presented with the Distinguished Service Award by the Bar Association of Erie County. He is particularly pleased with that latest honor.

"It comes from the people I worked with all my life. I've been a lucky guy, fortunate to always have good friends," he said.

Judge Colucci's earliest memories concern the law. His father, Ralph, was the Italian court interpreter in the Erie County District Attorney's office from 1914 through 1942. As a boy, Judge Colucci went to court often with his father, and always knew that his future would be there.

"I graduated from law school in 1932," he said, "and was admitted to the bar in '33. It was the depth of the Depression, and most of my clients were poor people. Most of my cases dealt with people evicted for nonpayment of rent, simple wills, and people seeking public assistance."

Judge Colucci joined numerous civic and charitable organizations, and made many friends. He was appointed to the Buffalo Municipal Civil Service Commission, and served on it from 1958 to 1968. He was the Commission's chairman from 1962 to 1968.

In 1968, Judge Colucci was appointed to his present position by Gov. Nelson A. Rockefeller, upon the death of Judge Burke I. Burke. Judge Colucci was elected to a 10-year term that November.

During our conversation, the judge put aside his mixed feelings for a moment, and said he had enjoyed the term.

"I love people, and I love the depth and warmth of the friendship I've made here. That's one thing I'll take with me. All the money in the world can't buy friendship," he said.

And the Judge's friends are not letting his retirement go unnoticed. They're throwing a testimonial dinner in his honor on Nov. 30 at the Statler Hilton Hotel, and about 1,000 people are expected to attend the $15-a-ticket affair.

And after retirement? Judge Colucci said he will "retire in name only," and plans to be as active as before in his civic and charitable work. And he plans to act as a legal adviser to a law firm, although he won't actively practice.

"I've been accused of being old-fashioned," Judge Colucci said, "and maybe that's true. But in order to be modern I have to forget the meaning of words like obedience, kindliness, consideration, respect, love for God and country—then I'd rather be old-fashioned."●

ACTIVITIES OF THE SUBCOMMITTEE ON COMPENSATION, HEALTH AND SAFETY FOR THE 95TH CONGRESS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. GAYDOS. Mr. Speaker, the subcommittee on Compensation, Health and Safety, on which I am pleased to serve as chairman, conducted extensive legislative and oversight hearings during the 95th Congress on the various matters subject to its jurisdiction.

The subcommittee jurisdiction encompasses the following public laws:

Occupational Safety and Health Act of 1970 (Public Law 91–596);

Federal Mine Safety and Health Act of 1977 (Public Law 95–164);

Federal Employees' Compensation Act (Public Law 93–416); and

Longshoremen's and Harbor Workers' Compensation Act (Public Law 92–576).

The subcommittee, during 1977 and 1978, held 43 days of oversight hearings on the following laws within its jurisdiction:

First. Occupational Safety and Health Act of 1970—14 days;

Second. Longshoremen's and Harbor Workers' Compensation Act—17 days; and

Third. Federal Employees' Compensation Act—12 days.

Additionally, the subcommittee held 13 days of legislative hearings on the following bills within the subcommittee's jurisdiction:

First. H.R. 4287, Federal Mine Safety and Health Amendments Act of 1977—6 days;

Second. H.R. 4286, Youth Camp Safety Act—5 days; and

Third. H.R. 13461, Asbestos Related Disease Screening Act of 1978—2 days.

LEGISLATIVE ACTIVITIES

A. MINE SAFETY AND HEALTH

The Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577) was enacted on September 16, 1966. It had never been amended.

The Federal Coal Mine Health and Safety Act of 1969 (Public Law 91–173) was enacted December 30, 1969. With the exception of amendments to title V, black lung benefits, this law has not been amended.

Since their enactment, both laws had received an increasing amount of criticism that they were not adequately protecting the safety and health of workers. Additionally, the Federal Metal and Nonmetallic Mine Safety Act was criticize as providing even less protection for metal and hard rock miners than was afforded coal miners under the Federal Coal Mine Health and Safety Act of 1969.

On March 2, 1977, Chairman GAYDOS

introduced H.R. 4287, the Federal Mine Safety and Health Amendments Act of 1977.

The subcommittee held 6 days of hearings in March and April 1977, at which a Member of Congress, representative of unions, employers and employer organizations, the Department of Labor, and the Department of the Interior testified.

The testimony adduced at these hearings clearly demonstrated the need for upgrading the safety and health protection afforded to all miners.

On April 5, 1977, the subcommittee reported out H.R. 4287, and on May 4, 1977, the full Committee on Education and Labor voted 19 to 9 to report the bill for House consideration.

On July 15, 1977, the House passed H.R. 4287 by a vote of 244 to 88, with 1 voting present.

A similar bill, S. 717, had passed the Senate on June 21, 1977. The differences in the respective bills were resolved in conference and the conference report was agreed to by the Senate on October 6, 1977; by the House on October 27, 1977; and signed into law by the President on November 9, 1977 (Public Law 95–164).

As enacted, the law effectuates four major changes in mine safety and health law:

First. It joins all miners, both coal and noncoal, under one law.

Second. It repeals the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89–577).

Third. It upgrades the protection afforded all miners by existing law:

All underground mines must be inspected at least four times per year, and all surface mines must be inspected at least twice a year. Previously, only underground coal mines were required to be inspected at least four times each year; underground metal and nonmetallic mines only once per year;

Authorizes miners to participate in both pre- and post-inspection conferences. Previously, miners could participate only in the actual inspection;

All miners must be given certain elementary mine safety and health training;

Provides for the assessment of mandatory civil penalties for violations. The Federal Metal and Nonmetallic Mine Safety Act only provided for withdrawal orders;

Established time limits on the procedures for promulgation of standards to prevent excessive delay, and

Creates an independent Mine Safety and Health Review Commission.

Fourth, transfers mine safety and health administrative functions from the Department of the Interior to the Department of Labor.

B. YOUTH CAMP SAFETY

On March 2, 1977, Chairman GAYDOS introduced H.R. 4286, the Youth Camp Safety Act.

The subcommittee held 5 days of hearings in March and April 1977, at which a Member of Congress, representative of the Boy Scouts, Girl Scouts, Campfire Girls, various church-related organizations, the Department of Health, Education, and Welfare, and other interested individuals testified.

The testimony adduced at the hearings established that there were very few States that had any laws affording youth campers health and safety protection.

On April 27, 1977, the subcommittee reported out a clean bill, H.R. 6761, and on May 4, 1977, the full Committee on Education and Labor voted 25 to 7 to report the bill for House consideration.

The administration's witness in testimony before the subcommittee on April 21, 1977, requested that the subcommittee defer action on youth camp safety proposals until the 2d session of the 95th Congress.

The Department of Health, Education, and Welfare did submit to the subcommittee on April 5, 1978, the administration's proposal on youth camp safety legislation. While the administration's proposal was similar to H.R. 6761, in that it would have encouraged States to assume responsibility for the development and implementation of comprehensive youth camp safety standards by providing Federal grants and technical assistance, H.R. 6761 would also have provided that where a State did not assume such responsibility, then the Office of Youth Camp Safety in the Department of HEW would be responsible for the implementation of safety standards for youth camps located in that State.

C. ASBESTOS RELATED DISEASE SCREENING ACT OF 1978

There has been an increasing concern with respect to the problem of asbestosis, and during the 95th Congress the following bills were referred to the subcommittee: H.R. 13461, H.R. 13661, H.R. 13895, the Asbestos Related Disease Screening Act of 1978. H.R. 8689, H.R. 9496, Asbestos Health Hazards Compensation Act.

The subcommittee held 2 days of hearings on October 23 and 24, 1978, in San Francisco, Calif. Testimony was heard from representatives of the following organizations. Herrick Hospital, Stanford Research Institute, Johns-Manville Corporation, Asbestos Information Association, Asbestos Workers Union, OCAW Union, Federal Employees Metal Trades Council, AFL–CIO, Permanent Medical Group, Blue Cross of Northern California, California Medical Association, as well as representatives of various state agencies, asbestos workers, and interested attorneys.

OVERSIGHT ACTIVITIES

A. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The subcommittee held three sets of hearings as follows:

First. March to May 1977: Four days of general oversight to receive testimony from the newly appointed Assistant Secretary of Labor, Dr. Eula Bingham, as well as representatives of various State gress who had introduced bills to amend or repeal OSHA.

Second. January to August 1978: Eight days of hearings on the series of grain elevator fires and/or explosions, including a field trip to Westwego, La., on February 10, 1978.

Third. July to August 1978: Two days of hearings, including a field trip to Belmont, W. Va., on the construction tower disaster at Willow Island, W. Va.

During the first set of hearings in March and May 1977, some criticism was submitted with respect to the impact of OSHA on small business. The subcommittee did hear general criticism, but information as to what were the specific problems was not provided to the subcommittee. Assistant Secretary of Labor Bingham testified before the subcommittee on May 23, 1977, and explained the commonsense approach that OSHA would pursue under her direction. This would emphasize inspection of the most serious health and safety hazards, as well as to launch an all-out effort to combat occupational illnesses and diseases.

Additionally, a program of on-site consultation would be available throughout all the States. This, along with an expanded educational program, would be of substantial assistance to small employers and their employees.

Assistant Secretary Bingham also made a commitment to undertake a revision of current OSHA standards with a view toward simplification and elimination of unnecessary ones.

During the period December 21, 1977, through January 21, 1978, there were fires and explosions at six grain elevators throughout the country, resulting in the deaths of 62 workers and injuries to 51 more.

The subcommittee commenced oversight hearings into this matter on January 24, 1978. Following hearings in Washington on January 24 and 25, 1978, field hearings and a site visit were conducted at Westwego, La., on February 10–11, 1978.

Five additional hearings were held in Washington, D.C. Witnesses representing the insurance industry, grain elevators, labor organizations, OSHA, EPA, the Department of Agriculture, State fire marshals, State EPA organizations, and members of the academic community testified before the subcommittee.

On April 27, 1978, a cooling tower under construction at Willow Island, W. Va., collapsed, resulting in the death of 51 workers.

The subcommittee conducted a field hearing at Belmont, W. Va., on June 30, 1978, and an additional hearing at Washington, D.C., on August 1, 1978.

Witnesses representing OSHA, labor organizations, and the Health Research Group testified before the subcommittee.

The subcommittee has been involved with various other matters involving OSHA, requiring a continuous involvement in conferences and discussions with OSHA, industry representatives, labor organizations, and individuals. These matters involved:

First. The annual Labor-HEW appropriations, where amendments have been offered which would seriously hamper OSHA's efforts to assure safe and healthful working conditions for workers.

Second. In the 1978 amendments to the Small Business Act, the Senate added

language which would have excluded approximately 9.5 million workers from the jurisdiction of OSHA. The provision was deleted from the bill in conference.

Third. The promulgation of the brown lung standard by OSHA.

Fourth. The proposed generic carcinogenic standard.

Fifth. The Outer Continental Shelf Lands Act Amendments of 1977 involved a question as to the extent of OSHA's jurisdiction over operations on the Outer Continental Shelf.

B. THE FEDERAL EMPLOYEES' COMPENSATION ACT

The subcommittee conducted 12 days of oversight hearings on the Federal Employees' Compensation Act.

Witnesses representing Members of Congress, the office of workers' compensation programs (OWCP), labor organizations, the General Accounting Office, various Government agencies, and Federal employees testified before the subcommittee.

Two general criticisms were lodged against the Federal employees' compensation program:

First. There are substantial delays in the processing of compensation claims, resulting in serious financial hardship to Federal employees.

Second. OWCP does not properly evaluate and monitor claims, which results in nonmeritorious claims being approved and allows employees to continue receiving compensation when they are able to return to work.

The testimony adduced at the hearings did demonstrate that some Federal employees were experiencing inordinate delays in the processing of compensation claims. Witnesses from the General Accounting Office testified that there was serious disorganization in the district offices of OWCP that they reviewed. This resulted in a lack of quality control and all absence of any systematic means of monitoring the status of claimants receiving compensation.

Additionally, the GAO representatives questioned the validity of the decision of OWCP to change its formula for establishing hearing impairments. Assistant Secretary of Labor Elisburg admitted there was a substantial backlog of cases, but stated that the agency was making a diligent effort to reduce it, and to upgrade the processing and monitoring of claims.

C. THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

The subcommittee conducted field hearings at San Francisco, Calif., on June 24–25, 1977, and 15 additional hearings at Washington, D.C.

Witnesses testifying before the subcommittee included Members of Congress, and representatives of the recreational boating industry, stevedore organizations, shipbuilders, the insurance industry, State insurance departments, labor organizations, the offshore drilling contractors, the Offshore Marine Services Association, the Associated General Contractors, the Office of Workers' Compensation Programs of the Department of Labor.

The Longshoremen's and Harbor Workers' Compensation Act was last amended in 1972. In addition to upgrading certain of the benefit provisions of the act, the jurisdiction of the act was extended from "navigable waters" to "adjoining areas."

Industry witnesses submitted the following criticisms:

First. Jurisdiction: It is alleged that the extension to "adjoining" areas leaves vague and unclear just what operations on land are covered. The small recreational boatyards, in particular, are in a state of uncertainty as to the status of their employees working at locations which are not geographically adjacent to navigable waters. The small boat and barge builders expressed concern about their employees who may be involved in nonmaritime construction during extensive periods of the year.

Second. Unrelated death benefits: The law provides that if a claimant receives compensation benefits for either permanent partial or permanent total disability and dies from any cause, his widow and/or survivors would be entitled to certain benefits. It is contended this has the effect of adding a life insurance policy to a workers' compensation law.

Third. Annual escalation of benefits: It has been contended that the unpredictability of future annual escalation of benefits makes insurance premium assessment equally unpredictable, resulting in higher insurance costs.

Fourth. No limitation on weekly benefits to widows and/or survivors in case of death: Since there is a maximum payable for total permanent disability, it is alleged that, in certain instances, a widow could receive higher benefits from the death of the employee than if he was receiving total permanent disability benefits.

Fifth. Procedure for establishing loss of wage-earning capacity: It has been stated that in some cases a claimant receives compensation in excess of his take-home wages prior to injury.

Sixth. Employers' access to an independent physical examination: It has been alleged that in certain district offices, the deputy commissioners are unwilling to order an independent medical examination at the request of an employer.

Seventh. Settlements: It has been alleged that the administrative law judges have no authority to approve settlements, which results in excessive litigation.

Assistant Secretary Elisburg testified as to the administrative problems in implementing the act, but stated he intends to substantially upgrade the administration of the act. Additionally, he informed the subcommittee that the Labor Department has authorized a study to conduct an indepth study of insurance rates and availability under the act.

I would like to take this opportunity to thank Members of Congress and others who have appeared as witnesses before the Subcommittee on Compensation, Health and Safety, and I would particularly like to thank members of the subcommittee who have been so cooperative throughout the 95th Congress.●

LET US RAISE A STANDARD: A TRIBUTE TO CHAIRMAN GEORGE MAHON

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SLACK. Mr. Speaker, during a discussion among delegates to the Constitutional Convention of 1787, on a day when there was talk of unacceptable compromise to reach agreement, Gen. George Washington is reported to have said:

> If to please the people, we offer what we ourselves disapprove, how can we afterwards defend our work? Let us raise a standard to which the wise and honest can repair.

I have been reminded of this historical event on many occasions during the years it has been my privilege to serve on the Appropriations Committee under the chairmanship of GEORGE MAHON of Texas.

General Washington referred to a code of conduct and personal conviction proper for every American, but particularly so for those who hold public office. With the adjournment of the 95th Congress, we have come to the end of the public career for Chairman GEORGE MAHON, whose discharge of his duties and responsibilities during the past 44 years would well serve as a model for the standard proposed by General Washington.

It is unnecessary for me to repeat the long list of his accomplishments during service in the House of Representatives. They are widely known, and in any case it is not just the doing, but the manner of the doing which leaves with us a lasting impression that his was indeed the way in which public affairs can and should be transacted.

He has fitted perfectly into the mold of a parliamentary chairman in a democratic society, and his accomplishments reflect a classical combination of attributes—unquestioned personal and professional integrity; patience; fairness and fearlessness of mind undeterred by the ebb and flow of controversy; command of the route to long-range objectives while dealing with immediate issues; unshakeable faith in his country and its people; and certainty that our system is equal to whatever demands history may place on it.

Those of us who have served on the committee under his chairmanship have been fortunate in every respect, and in many cases have been modified constructively by this unfailing courtesy and personal dignity.

We are all aware of the vast and complex problems placed before him for solution, but one aspect of his career deserves special emphasis.

He was a peacemaker, both among his colleagues and for his country. When he became chairman of the subcommittee handling defense appropriations in 1949, he was resolved that never again would his country be subject to attack by a foreign enemy because of unpreparedness, real or assumed. During the intervening years he has piloted through the House more than $2 trillion for national

defense, and we have indeed at all times been secure from attack.

May his departure from among us serve as an opening to a long retirement in good health and happiness, secure in the knowledge that his lifework has helped to "raise a standard" for all Americans, as General Washington suggested long ago.●

BRIEF HISTORY OF COMMITTEE ON APPROPRIATIONS

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MAHON. Mr. Speaker, we have now completed the legislative work of the 95th Congress.

As I leave the House this year after having served on the Committee on Appropriations since 1939 and as its chairman since 1964, a longer period of continuous service than any other chairman, it has been suggested to me that it would be useful to Members and the public otherwise to make some brief remarks on the history of the committee.

The Appropriations Committee came into existence on March 2, 1865. It was on that day, just before the close of the Civil War, that the House separated the appropriating and banking and currency duties from its oldest committee—the Committee on Ways and Means—and assigned them to two new committees—the Appropriations Committee and the Banking and Currency Committee.

Federal spending and taxation had not amounted to very much until the Civil War. In the first year of the Congress—1789—a single appropriations bill totaling $639,000 and covering 13 lines of print sufficed.

But by 1865 Federal spending had skyrocketed to $1,297,555,224 and tax measures had grown not only in size but also in complexity. Thus it was nearly inevitable that a change had to be made and with somewhat an air of resignation the new Committee on Appropriations was created.

The new committee was composed of six Republicans and three Democrats. Today the committee has 55 members; 37 Democrats and 18 Republicans, and is the largest committee in either the House or the Senate.

The appropriations process and the committee itself have had their ups and downs. The first 20 years of its history are rather noble ones which saw a strong committee exercising prudent restraint over the Nation's purse.

But prudence and power were perhaps mixed unwisely. And thus by 1885 there began a process that gradually placed the most important appropriations functions in the hands of the authorizing committees.

Such a chaotic system produced its inevitable result and by 1920 both political parties were calling for a return to the "former practice of initiating and preparing all appropriation bills through a single committee * * * in order that responsibility may be centered, expenditures standardized and made uniform, and waste and duplication in the public service as much as possible avoided." (From the Democratic platform of 1916)

The single appropriations system was restored through a strengthening of the rules of the House and an accompanying measure, the Budget and Accounting Act of 1921, was also enacted, which established the General Accounting Office, the Bureau of the Budget and the submission of the executive budget.

Together these two actions constituted probably the most fundamental change in the Federal fiscal process taken since the early days of the Republic.

The defined jurisdiction of the Committee on Appropriations has remained essentially unchanged since the reconstitution in 1920. It reads as it did then—rule X "Appropriation of the revenue for the support of the Government."

Since 1920 the history of the committee and the Nation has gone hand in hand. The Federal budget in the years after 1920 experienced a nearly continual growth. First the governmental measures that grew out of the Depression greatly swelled the size of the budget and subsequently the workload of the committee. Then the dark and gloomy but spirited years of World War II increased the budget to a nearly unbelievable size.

I personally did not envision the Federal budget's growing much beyond what it had been in World War II, but I had not foreseen the Great Society and its huge costs.

My own tenure as chairman of the Committee on Appropriations coincides roughly with the years of birth and growth of the programs of the Great Society and otherwise.

As great as Federal spending is today I shudder to think what it might have otherwise been if it had not been for the members of the Appropriations Committee who shared my fiscal philosophy of restraint, moderation, and discipline and my belief that new programs should not be created nor old ones expanded unless money was on hand or in sight to pay for them.

THIS YEAR'S WORK

In the session that was just completed, the Committee on Appropriations enacted the following bills totaling some $337.9 billion:

Twelve regular annual bills for FY 1979;

One regular annual bill for 1978 (District of Columbia);

Nine supplemental bills for fiscal year 1978:

Supplemental, 1978;
Second supplemental, 1978;
Urgent power supplemental;
Disaster relief supplemental;
U.S. Railway supplemental;
Disaster loan supplemental;
Black lung supplemental;
Urgent grain supplemental; and
Urgent supplemental, U.S. Department of Agriculture.

First, continuing resolution which, among other things, appropriates funds for public works and energy research, a substitute in part for the vetoed public works appropriation bill.

Overall, the entire budget for 1979 as proposed by the President amounts to some $568 billion. The Appropriations Committee normally handles about 60 to 65 percent of the overall budget, with the remainder being trust funds and permanent appropriations such as interest on the public debt, civil service retirement, social security trust fund, unemployment trust fund, highway trust fund, and railroad retirement.

COMMITTEE CHAIRMEN

Mr. Speaker, over the years a variety of men have led the Committee on Appropriations as its chairman, in many instances wielding great power and influence. To some extent, their own history is a portrait of the Nation. For the purpose of information I include their names here and the length of their terms:

Thaddeus Stevens, Pa., December 11, 1865–August 11, 1868.

Elihu B. Washburne, Ill., December 7, 1868–March 3, 1869.

Henry L. Dawes, Mass., March 15, 1869–March 3, 1871.

James A. Garfield, Ohio, December 4, 1871–March 3, 1875.

Samuel J. Randall, Pa., December 20, 1875–December 4, 1876, December 24, 1883–March 3, 1889.

William S. Holman, Ind., December 4, 1876–March 3, 1877, December 23, 1891–March 3, 1893.

John D.C. Atkins, Tenn., October 29, 1877–March 3, 1881.

Frank Hiscock, N.Y., December 21, 1881–March 3, 1883.

Joseph G. Cannon, Ill., December 10, 1889–March 3, 1891, December 21, 1895–March 3, 1903.

Joseph D. Sayers, Tex., August 21, 1893–March 3, 1895.

James A. Hemenway, Ind., December 5, 1903–March 3, 1905.

James A. Tawney, Minn., December 11, 1905–March 3, 1911.

John J. Fitzgerald, N.Y., April 10, 1911–December 31, 1917.

J. Swager Sherley, Ky., January 11, 1918–March 3, 1919.

James W. Good, Iowa, May 19, 1919–June 11, 1921.

Martin B. Madden, Ill., July 21, 1921–April 27, 1928.

Daniel R. Anthony, Jr., Kan., May 29, 1928–March 3, 1929.

William R. Wood, Ind., November 11, 1929–March 3, 1931.

Joseph W. Byrns, Tenn., December 9, 1931–March 3, 1933.

James P. Buchanan, Tex., March 14, 1933–February 22, 1937.

Edward Taylor, Colo., March 5, 1937–September 3, 1941.

Clarence Cannon, Mo., September 17, 1941–January 2, 1947, January 18, 1949–January 2, 1953, January 5, 1955–May 12, 1964.

John Taber, N.Y., January 7, 1947–January 2, 1949, January 14, 1953–January 2, 1955.

George H. Mahon, Tex., May 18, 1964–January 2, 1979.

In recent years the primary work of the Appropriations Committee has been accomplished through its 13 subcommittees. It is these subcommittees which conduct the individual hearings, make their recommendations to the full Appropriations Committee, manage the bill on the House floor, and represent the House in the conference committee with the Senate. The chairman and ranking minority member serve as ex-officio members of all subcommittees.

The following is the membership of the individual subcommittees at the conclusion of the 95th Congress:

AGRICULTURE, RURAL DEVELOPMENT AND RELATED AGENCIES

Hon. Jamie Whitten, Chairman.

Membership: Whitten, Evans, Burlison, Baucus, Traxler, Alexander, McHugh, Sikes, Natcher, Andrews, Robinson, Myers.

DEFENSE

Hon. George H. Mahon, Chairman.

Membership: Mahon, Sikes, Flood, Addabbo, McFall, Flynt, Giaimo, Chappell, Burlison, Edwards, Robinson, Kemp.

DISTRICT OF COLUMBIA

Hon. William Natcher, Chairman.

Membership: Natcher, Giaimo, McKay, Burke, Wilson, Benjamin, Burgener, Kemp.

FOREIGN OPERATIONS

Hon. Clarence Long, Chairman.

Membership: Long, Obey, Wilson, Yates, Burke, McHugh, Roybal, Stokes, Young, Conte, Smith.

HUD-INDEPENDENT AGENCIES

Hon. Edward Boland, Chairman.

Membership: Boland, Traxler, Baucus, Stokes, Bevill, Boggs, Burlison, Alexander, Coughlin, McDade, Young.

INTERIOR

Hon. Sidney Yates, Chairman.

Membership: Yates, McKay, Long, Evans, Murtha, Duncan, Dicks, Wilson, Whitten, McDade, Regula, Armstrong.

LABOR-HEALTH, EDUCATION, AND WELFARE

Hon. Daniel Flood, Chairman.

Membership: Flood, Natcher, Smith, Patten, Obey, Roybal, Stokes, Early, Michel, Conte, O'Brien.

LEGISLATIVE

Hon. George Shipley, Chairman.

Membership: Shipley, Benjamin, Giaimo, McFall, Chappell, Murtha, Armstrong, Coughlin, Cederberg.

MILITARY CONSTRUCTION

Hon. Gunn McKay, Chairman.

Membership: McKay, Sikes, Murtha, Steed, Flynt, Long, McEwen, Regula.

PUBLIC WORKS

Hon. Tom Bevill, Chairman.

Membership: Bevill, Boland, Whitten, Slack, Boggs, Dicks, Shipley, Chappell, Myers, Burgener, Smith.

STATE, JUSTICE, COMMERCE AND THE JUDICIARY

Hon. John M. Slack, Chairman.

Membership: Slack, Smith, Flynt, Alexander, Burke, Early, Cederberg, Andrews, Miller.

TRANSPORTATION

Hon. John McFall, Chairman.

Membership: McFall, Steed, Duncan, Benjamin, Smith, Addabbo, Yates, Evans, Conte, Edwards, O'Brien.

TREASURY-POSTAL SERVICE-GENERAL GOVERNMENT

Hon. Tom Steed, Chairman.

Membership: Steed, Addabbo, Roybal, Patten, Boland, Slack, Miller, McEwen.

Mr. Speaker, the following shows the list of committee members by seniority:

DEMOCRATS

George H. Mahon, Chairman.
Jamie L. Whitten, Mississippi.
Robert L. F. Sikes, Florida.
Edward P. Boland, Massachusetts.
William H. Natcher, Kentucky.
Daniel J. Flood, Pennsylvania.
Tom Steed, Oklahoma.
George E. Shipley, Illinois.
John M. Slack, West Virginia.
John J. Flynt, Jr., Georgia.
Neal Smith, Iowa.
Robert N. Giaimo, Connecticut.
Joseph P. Addabbo, New York.
John J. McFall, California.
Edward J. Patten, New Jersey.
Clarence D. Long, Maryland.
Sidney R. Yates, Illinois.
Frank E. Evans, Colorado.
David R. Obey, Wisconsin.
Edward R. Roybal, California.
Louis Stokes, Ohio.
Gunn McKay, Utah.
Tom Bevill, Alabama.
Bill Chappell, Florida.
Bill D. Burlison, Missouri.
Bill Alexander, Arkansas.
Yvonne Brathwaite Burke, California.
John P. Murtha, Pennsylvania.
Bob Traxler, Michigan.
Robert Duncan, Oregon.
Joseph D. Early, Massachusetts.
Max Baucus, Montana.
Charles Wilson, Texas.
Lindy (Mrs. Hale) Boggs, Louisiana.
Adam Benjamin, Jr., Indiana.
Norman D. Dicks, Washington.
Matthew F. McHugh, New York.

REPUBLICANS

Elford A. Cederberg, Michigan.
Robert H. Michel, Illinois.
Silvio O. Conte, Massachusetts.
Joseph M. McDade, Pennsylvania.
Mark Andrews, North Dakota.
Jack Edwards, Alabama.
Robert C. McEwen, New York.
John T. Myers, Indiana.
J. Kenneth Robinson, Virginia.
Clarence E. Miller, Ohio.
Lawrence Coughlin, Pennsylvania.
C. W. Bill Young, Florida.
Jack F. Kemp, New York.
William L. Armstrong, Colorado.
Ralph S. Regula, Ohio.
Clair W. Burgener, California.
George M. O'Brien, Illinois.
Virginia Smith, Nebraska.●

STATEMENT ON BEHALF OF ILYA LUBOVITCH CHMELNITSKY

HON. TOM RAILSBACK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. RAILSBACK. Mr. Speaker, I am today joining the "vigil for freedom," a vigil sponsored by the Union of Councils for Soviet Jewry to draw attention to the plight of many Jews in the Soviet Union who desire to be reunited with their families in Israel. I am particularly concerned about Mr. Ilya Lubovitch Chmelnitsky and his family.

According to information which I received from the Union of Councils for Soviet Jewry, Mr. Chmelnitsky is a Jewish resident of the Soviet Union who has been subjected to discriminatory treatment because of his and his wife's efforts to emigrate to Israel. His wife, Mariya Chmelitskaya, is especially determined to leave the Soviet Union as her sister, Tanya, her sister's family, and her parents were able to emigrate to Israel during 1975 and 1976. When she requested a statement of the nature of her work necessary to apply for a visa, she was dismissed from her job as an inspector in a finished goods shop. Ilya was then demoted from the position of "Senior Engineer in Air-conditioning" and assigned the job of "Blacksmith."

I feel the best plea for help is contained in excerpts from a letter written by Mariya's parents from Israel and given to me by the Union of Councils for Soviet Jewry:

Only fascists dealt with people in this manner! To kill the morale of human beings is even worse than to kill their bodies. What is exasperating is the authorities' refusal to state their reason for refusals. Our daughter and her husband, and certainly their small children, have never been connected with military or state affairs. Around them has now been created an atmosphere of condemnation.

We therefore earnestly appeal to help from people of goodwill. Hearken to the cry from parents' hearts! Help our children!

Soviet officials could only cite "state reasons" for refusing to grant a visa to the Chmelnitsky family. Although the U.S.S.R. was one of 35 countries which signed the Helsinki Final Act in 1975, its commitment to human rights, including reuniting divided families, may be theoretical only, as borne out by the Chmelnitsky family's situation. I hope that this family and the many others suffering similar treatment will be allowed to reunite with their families in Israel.●

TRIBUTE TO OMAR BURLESON

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, I welcome the opportunity to join my colleagues in saluting OMAR BURLESON on the occasion of his retirement after more than 30 years of service in the House of Representatives.

OMAR BURLESON has been a ranking member of the Ways and Means Committee, where the important issues of taxes, trade deficits and surpluses, health insurance and social security are considered each Congress. It is a member of this important and prestigious committee in the House that OMAR BURLESON has had to develop an expertise in a wide range of issues and subject matter that directly affect the lives of every American. OMAR has performed each succeeding legislative responsibility with dedication, competence and conviction. As a member of the House Budget Committee, in addition to service on Ways and Means, OMAR has had the unique opportunity to observe the national economy from both aspects of revenues and expenditures. These committee assignments have provided OMAR with an essential perspective in meeting the demands of his diverse legislative responsibilities.

Through OMAR BURLESON's devotion to duty and his commitment to public service, he has earned the respect of all his colleagues on both sides of the aisle and has brought honor and distinction to the 17th District of Texas.

We are all deeply grateful for the important contributions of OMAR BURLESON, and I wish him well in the years ahead.●

CONGRESSMAN RICHARD NOLAN'S KEYNOTE SPEECH BEFORE THE NATIONAL CONFERENCE ON ENERGY FACILITY SITING, GLENWOOD, MINN.

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. NOLAN. Mr. Speaker, I would like to submit, for the information of my colleagues, the exact text of the speech I delivered on September 16, 1978, to the National Conference on Energy Facility Siting, held in Glenwood, Minn. As you know, a version of this speech has already appeared in the RECORD. However, several significant errors in wording of that text have resulted in some confusion. The following, then, is the speech as I delivered it.

KEYNOTE SPEECH

My friends, what we are witnessing here together this weekend is the beginning of something very important.

Today we have here farmers, environmentalists, scientists, consumers, local government officials—many establishing for the first time in the field of energy a common ground for agreement and common goals and principles with which to guide yourselves.

We are here to begin what I predict will be a national debate—a national and public debate—not just on whether or not a power line in Central Minnesota or a nuclear power plant in Seabrook serves the public convenience and necessity—as the utility executives are so fond of putting it—but whether the real public interest and the real public need is served by the entire direction we are pursuing in the way we produce and transmit energy in this country.

In fact, what I see emerging from this conference and from things happening around the country is a new notion—that the term "public convenience and necessity" has got to begin to take greater account of the necessity to preserve our land in addition to the necessity to generate electricity; a greater account of the necessity to preserve our farms in addition to the need to transmit power. I see the emergence of a notion that the public convenience is also the convenience of the energy and power companies.

I see the emergence of a new set of priorities—priorities that have been overlooked and undervalued for far too long. And it's my prediction that out of all of this debate will come not only serious questions about policy—but serious questions about policymakers and serious questions about the policymaking process—questions and challenges which must ultimately and fundamentally change the way the policymakers think and act in supplying our nation's energy needs.

Many of you here today are veterans of other struggles in the past—where you've learned how terribly difficult—and how terribly necessary—it is to challenge the policymakers and to change old ways of doing things.

Farmers, for example, who continue to see family farms disappear by the tens of thousands because we waited too long to question our farm policy and our policymakers.

Environmentalists who continue to see the air polluted and the water polluted because for too long no one questioned the way that we designed our cars or the way we process our food and our goods or the way that we dispose of our waste;

And just a lot of plain ordinary citizens who became active in the anti-war movement because they realized what was happening to our country and our society in the 60's because no one was challenging our policymaking.

But whether you're a newcomer or whether you're a veteran of the energy debate, the fact is that we know that the war in Vietnam has ended;

We know that there are now laws beginning to protect our air and our water;

And our experience has proved that when committed individuals and committed organizations decide that they want to make change, they in fact can change the course of human events.

The father of our democratic society fully anticipated and expected that change should happen in this manner. Thomas Jefferson once said in talking about change—he said, "I'm not an advocate for frequent changes in laws and institutions." But he went on to say that as new discoveries are made, as new technologies unfold, as the human condition changes, and as the human mind progresses—then so too must our laws and institutions. To do otherwise, Jefferson said, would assure that we remain forever closed in the clothes of our barbarious ancestors. And I submit to you that in the field of energy we are without question locked in the clothes of our barbarious ancestors.

Never before has there been a greater need for change than in the field of energy. So in this debate—whether it's the powerline protest here in Minnesota or the Clamshell Alliance in Seabrook—whether it's those going to jail in Portland or in California—what's being said is "hold on."

People are saying "wait a minute," wait just a minute—let's pause for a while—let's examine this issue before we move any further . . . before we cover another land area the size of Connecticut with transmission right of ways—before we place any more liquified natural gas plants in highly populated areas like Staten Island or Boston—people are saying let's examine the consequences of our actions so that we stop making public policy with the idea that some sort of catastrophic damage must occur before preventative measures can be taken.

That concept is not radical. It's not unreasonable. It's not irresponsible. That, my friends, is just common sense. It's just using our heads!

The real question here posed goes beyond where we put the next high voltage transmission line, or where we put the next nuclear power plant, or where we put the next coal gassification plant. Quite frankly, no matter where we put them, someone gets angry.

The real question is whether the environment, the public health, the public safety, farmers, laborers, small businessmen, consumers—in short, whether or not the public interest—the public well-being—is being served by continuing to rely on a relatively small number of huge, centralized, monstrously expensive facilities which produce and transmit energy;

or whether we should move instead in another direction, perhaps toward a point where our future energy needs recognize the limited resources of our planet.

There are no immediate answers. But people throughout the country are beginning to recognize that priorities must change—that alternatives must be found.

People are beginning, finally, to ask the right questions.

People concerned with the public health are asking, "what are the consequences of exposing 50,000 rural citizens to 10,000 new miles of new high voltage transmission lines within the next 12 years—exposure that may well last a lifetime for those individuals.

There are those who are so ready to assume that all is safe until someone proves otherwise—no doubt many of the same individuals who were so ready to assume that kepone and thalidomide were safe as well—until thousands of (people) either lost their lives or had their lives ruined and destroyed by production and use of these products.

People inside and outside of government are asking; Does government, or does any industry have the right to allow citizens to be exposed to unknown dangers of nuclear waste and high voltage transmission radiation without the fullest disclosure and examination of the consequences . . . or an effective voice in the decisionmaking process?

Those who are concerned with how we use our land and who are recognizing the limits of this very precious resource are asking: what are the consequences of taking another 4 million acres of prime farmland out of production by 1990 for powerline right of ways when we are already losing 3 million acres of prime agricultural land each year to developers and to urban sprawl?

What are the consequences of burying 11 million cubic feet of high level nuclear waste below the ground by the year 2000? And moreover, what are are we going to do when the 50 year life expectancy of the storage tanks runs out and those poisons soak in throughout the soil and our water bins?

Those who are concerned with our national security are asking: what are the consequences of perpetuating a system of producing energy which is controlled entirely by multi-national corporations and conglomerates with no allegiance to any nation or to anything except a combined annual profit running into the 10's of billions of dollars?

If one small electrical storm can blank out and cripple New York City and vast portions of the Northeast—how in the name of reason can that kind of system be strategically safe in time of war?

And, my friends, your government by and large has not only failed to answer these kinds of questions—your government has failed time and time again to even consider these questions.

We're spending about $4 billion a year in public taxpayer money for research and development of energy to supply our needs for the future; and out of that total, only a very very miniscule percentage is going to develop any alternatives to the present system—alternatives like solar energy, wind energy, geothermal power and gasahol.

And it's no wonder—because up until a very short time ago government had no one else to listen to but the energy monopolies who spend hundreds of millions of dollars electing their friends to public office. And their friends . . . once they get to public office . . . see to it that not only are the right questions not asked . . . but that their expensive centralized systems are perpetuated.

So as you grow as a coalition and as a movement you've got to begin to demand that public money be used to develop and theorize alternatives in the public interest.

The truth is that alternatives do exist. They aren't perfect by any stretch of the imagination. But look what is happening around the country. We have the largest corporations in the world with profits in the 10's of billions of dollars—profits unparalleled in the history of the entire world—being backed up by the additional billions in public taxpayers money. Yet, the discoveries these giants are coming up with in many respects pale by comparison to what ordinary people with a little ingenuity are doing in their backyards and their barnyards and their basements—with small individualized energy collection and conversion systems. Some of these are elaborate and some are quite crude. More often than not they're costly—at least right now.

But it's unacceptable for us to do anything less than pursue every alternative. Imagine what these inventors—these brilliant people—could do with the full force and effect of the kind of public support that the big companies are getting. More often

than not, the progress we make with alternative energy is coming in spite of government policy rather than because of government policy.

It is unacceptable for the policymakers in this state—or in this country—to tell us any longer that we're wrong unless a commitment is made and we are proven wrong about the potential of individualized alternative energy systems.

Finally, let me just say that you aren't alone in your anger and your frustration. Let me tell you that the victories are few and far between. I think you know that—whether you are working in the Congress, pressing for decent progressive alternatives or whether you're working in other ways, as so many of you are.

But be that as it may, we must continue to drive home the point where ever and when ever we can—drive home the point again and again and again that the real test of public policy is not only whether or not the boards and the committees and the councils correctly follow the procedures for hearing your side of the story in any particular controversy.

The real test is whether or not the solutions are acceptable—whether or not the solutions advanced are just.

And the fact is that what has come as a result of the procedures in Minnesota and Seabrook and time and time again around the country have not been acceptable. They have not been just. Law abiding citizens don't tear down transmission towers or occupy nuclear power plants or go to jail when they're presented with just and equitable solutions.

So I challange each of you here today to in the future vent your frustrations and anger not by threatening lives and property—but by building public support for your position—as you're doing with this conference. In short, you must build public support for your position by using the tools of this democracy which are indeed here to help assure that the public will and the public interest is carried out.

I think the actions you have taken are courageous. They've caught the public's attention. And now is the time for forming organizations, joining organizations, lobbying for changes in public policy, holding conferences like this one throughout the country, doing more research, redirecting money that's now available for research, generating more news coverage, getting your story out to the degree that you're raising public awareness that generates public pressure and results in public change.

You've got to find out who your friends are. Require candidates for public office in your area to state their position on the issues that emerge. Generate the kind of support that will force your state legislators; force your Congressmen; and even force your President to sit down and not only listen to you but take action to bring about change and new directions in the field of energy. At that point, I guarantee that your government will respond and will change the way we go about supplying energy for people in America.

Believe me, it can be done and it will be done. Tax money can go to research and develop alternatives and encourge self reliance instead of public dependence.

Alternatives that respect a person's farm and a person's property;

Alternatives that respect the environment and the quality of life which we all aspire to.

Alternatives that respect the fact that our resources are limited in this world.

Those alternatives can be required. We can require the power companies to follow them and we can require government agencies to follow them.

Let me close by simply adding: please don't become discouraged or lose heart. People all over the country—believe me, people all over the country—are being inspired and enlightened by your example.

People all over the country are being strengthened and encouraged by your example.

And people are either establishing or people are renewing their own commitments as a result of seeing what you have done and what you are doing.

As you leave this conference on Sunday, I challenge you to let everyone know that you're in it for the long haul—because when commitment has no time limit, your opposition knows that if they don't deal with you today, they'll have to deal with more of you tomorrow.

So let me just close by saying that God willing, we'll be seeing each other again and I hope often and soon.

Thank you all very much.●

PERSONAL EXPLANATION

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SARASIN. Mr. Speaker, on October 13, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 911: H.R. 8533, replacement of lock and dam 23—the House agreed to the rule (H. Res. 1432) providing for agreeing to the Senate amendment to the measure to amend the Internal Revenue Code of 1954 to provide that income from conducting of certain bingo games by certain tax-exempt organizations will not be subject to tax, "yes";

Rollcall No. 912: H. Res. 1434, energy. The House agreed to order the previous question, "yes";

Rollcall No. 914: H. Res. 1414, Representative CHARLES H. WILSON, Korean influence investigations. The House agreed to H. Res. 252 in re Representative CHARLES H. WILSON of California, "yes";

Rollcall No. 915: H. Res. 1416, Representative EDWARD R. ROYBAL. The House agreed to the motion to recommit the resolution to the Committee on Standards of Official Conduct with instructions to report it back forthwith containing an amendment that Representative ROYBAL be reprimanded, "no";

Rollcall No. 916: H.R. 12370, health services amendments. The House agreed to resolve itself into the Committee of the Whole, "yes";

Rollcall No. 917: H.R. 12370, health services amendments. The House rejected a motion to recommit the bill to the Committee on Interstate and Foreign Commerce with instructions to report it back forthwith containing an amendment that would prohibit the use of funds to support any family planning program which directly or indirectly provides abortion, abortion counseling, or abortion referral services, "no";

Rollcall No. 918: H.R. 12370, health services amendments. The House passed the measure to amend the Public Health Services Act and related health laws to revise and extend the programs of financial assistance for the delivery of health services, "yes", and

Rollcall No. 919: S. 2354, health maintenance organizations. The House agreed to the conference report on the measure to review and extend the provisions of title XIII of the Public Health Service Act relating to health maintenance organizations, "yes."

Mr. Speaker, on October 14, 1978, and part of October 15, 1978, I was absent from part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 920: H.R. 14104, endangered species. The House agreed to an amendment that exempts the Tellico Dam and Reservoir project from the provisions of the act "no";

Rollcall No. 921: H.R. 14104, endangered species. The House passed the measure to authorize appropriations to carry out the Endangered Species Act of 1973 through fiscal year 1981, "yes";

Rollcall No. 941: H.R. 9937, Carson City silver dollar sales. The House agreed to the conference report on the measure to amend the Bank Holding Company Act Amedments of 1970, "yes"; and

Rollcall No. 942: H.R. 10979, highway repair. The House failed to suspend the rules and agree to the Senate amendments to the measure, Emergency Highway and Transportation Repair Act of 1978, "yes."●

TEXAS DELEGATION

HON. JAMES L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WHITTEN. Mr. Speaker, seldom, if ever, has one State lost the number of valuable Members that the State of Texas loses at the end of this session.

It is my pleasure to be a friend to each Member who is leaving, and I could on this occasion spend a reasonable amount of time describing the fine qualities that each has.

GEORGE MAHON has been chairman of the Appropriations Committee, and I have served with him for many years. Truly, he leaves a splendid mark in the Congress as a Member and as a man.

In the list of Texas leaving is W. R. "BOB" POAGE, longtime chairman of the Committee on Agriculture, and who, like GEORGE MAHON, leaves many monuments to his very successful career in Congress.

Next is OMAR BURLESON whose sound counsel and conservative voting record and contributions to the Nation are unsurpassed.

OLIN "TIGER" TEAGUE, a forthright and independent Member, leaves with the respect of all our Members. A highly decorated veteran himself, he has contributed greatly to veterans' legislation, keeping it part of our Government's obligation. His contributions through his Committee on Science and Technology are known throughout the world.

JOHN YOUNG leaves the Rules Committee where he has been a stalwart for sound principles; he, too, leaves an excellent mark.

BARBARA JORDAN, DALE MILFORD, and ROBERT KRUEGER have not served the long number of years the other Members have,

but in the rather short time they have been here each has made a name to be remembered; and along with the other Texans mentioned have represented the State of Texas on a high standard. They certainly all leave records that those who succeed them will find it most difficult to live up to.

The records of these departing Members constitute a challenge, and the country is better off by the service they have rendered here.●

ERISA

HON. JOHN H. DENT

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. DENT. Mr. Speaker, I would like to address one of the most persistent problems that has existed with regard to the Employee Retirement Income Security Act of 1974—ERISA—since its enactment—the multiplicity of Federal laws that regulate and threaten to regulate employee benefit plans.

ERISA was passed by Congress as an attempt to consolidate into one law the piecemeal regulation of private sector pension plans that had resulted from the application of certain Internal Revenue Code provisions, certain Taft-Hartley provisions, and certain Welfare and Pension Plans Disclosure Act provisions, to private sector employee benefit plans. In ERISA, Congress consciously devised a Federal regulatory scheme that was intended to fully replace the hodgepodge of reporting, disclosure, vesting, participation, and fiduciary responsibility regulation that had developed over the years. Importantly, Congress considered leaving various parts of the existing substantive regulation of retirement and welfare plans and firmly rejected this alternative. States, for instance, were broadly preempted from regulating employee benefit plans. The WPPDA, as another example, was explicitly repealed by ERISA, because Congress concluded that the reporting and disclosure requirements set forth in ERISA were fully protective of the interests of plan participants, and that any other State or Federal regulation in this area would be wasteful, confusing, and contrary to Congress intention to create a unified body of Federal regulation with regard to employee benefit plans.

It is against this background, Mr. Speaker, that I would like to draw my colleagues' attention to the Daniel case presently being considered by the Supreme Court. The issue in this case is whether an employee's mandatory participation in a noncontributory pension plan represents the sale of a security from the employer or the plan to the employee. If it does, and the U.S. District Court in Chicago and the Seventh Circuit Court of Appeals have so held then the antifraud provisions of the Securities Act apply, and presumably an entire new layer of disclosure requirements—based on the Securities Acts—would have to be met.

I hope, Mr. Speaker, that the Supreme Court will reverse the decision of the court of appeals.

First of all, Congress, in consolidating all reporting and disclosure requirements for employee benefit plans into one law—ERISA—did not intend that the antifraud provisions would apply to these ERISA-covered plans. In fact, Congress intended that no reporting or disclosure law—State or Federal—other than ERISA would apply to these plans.

Second of all, the application of the antifraud provisions to employee benefit plans is just bad public policy. Clearly, in enacting the Securities Acts, Congress did not believe that it was regulating employee benefit plans. To impose a securities law concept—antifraud—on employee benefit plans simply will not, on balance, contribute to the welfare of plan participants. If disclosure by plans should be increased, then let Congress require such additional disclosure, through ERISA, which is designed to regulate employe benefit plans.

Needless to say, I will anxiously await the decision of the Supreme Court.●

TRIBUTE TO GEORGE MAHON

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, I am honored to have the opportunity to join my colleagues in paying tribute to one of the most outstanding chairmen ever to grace the Chamber of the House of Representatives, the dean of the House, and a close, personal friend, the Honorable GEORGE MAHON of Texas.

To those of us who have served with GEORGE MAHON during his long tenure of 22 terms, 44 years, he was a great man among us.

He is the last of the pre-New Deal political leaders in the House having served as Representative from the 19th District of Texas for more than 40 years. He has been the longest chairman of the House Appropriations Committee and served in that capacity for 14 years.

GEORGE MAHON probably had more physical stamina and mental endurance than any other Member of the House. For no chairman has had greater responsibilities, more committee meetings, represented the position of the House in more conferences with the Senate and floor-managed more crucial debates than the chairman of the Appropriations Committee. Chairman MAHON has had to steer through committee, the House, and the Congress 14 different budgets annually; and if his committee failed to act on a single expenditure, thousands of employees would go unpaid, hundreds of programs would be delayed or gutted altogether; without GEORGE MAHON to guide the Appropriations Committee, the Federal Government would come to a standstill.

I am particularly grateful for the opportunity to have worked closely with GEORGE over the last 2 years as Speaker and the years before as a member of the leadership. GEORGE has been one of the most loyal Democratic Party faithfuls in the House. Though he comes from a district much anathema to mine in philosophy, ideology, and political sympathies, he and I have always worked together to achieve the best possible results for the Nation as a whole.

GEORGE is a consummate politician—he understood the art of compromise far better than most of the Members of the House—he was faced with compromise every day, and GEORGE was a fine statesman, standing up for principle and conviction. And GEORGE was a patriotic American. GEORGE MAHON is one of the most decent and honorable public servants I have ever known. GEORGE MAHON is a real southern gentleman in the finest way.

GEORGE has been an integral part of the leadership team. Without GEORGE's cooperative efforts, we could not have had the accomplishments and successes that have made the 95th Congress one of the most prodigious in the history of the Nation, and GEORGE MAHON, perhaps more than any other single Member, contributed significantly to our results.

GEORGE MAHON's dedication, friendly, yet effective and serious manner, willingness to help another Member, and conscientious service to his President, the leadership, and his constituents, have made him one of the truly outstanding legislators in American history.

Members on both sides of the aisle have loved working under the direction of GEORGE MAHON as their chairman. He always viewed himself as the coach of a football team who would give assistance and direction but recognized that he had a number of stars on the team, and was always willing to let them run with the ball whenever the opportunity presented itself to utilize their talents.

I would be remiss if I did not point out that GEORGE MAHON has been the chief architect and chief sponsor in all of the major appropriations legislation in the past four decades.

I will never forget, as long as I live, the support and understanding that GEORGE MAHON has given me, as Speaker.

I know that my colleagues are as deeply saddened as I am that GEORGE MAHON will not be with us in the 96th Congress. I will greatly miss the wise counsel and friendship of an outstanding legislator, a great human being, and a distinguished American. My wife, Millie, joins me in extending our best wishes to GEORGE MAHON in the years ahead, and remember, my door is always open.●

TRIBUTE TO JOHN YOUNG

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, I have had the opportunity of working closely with JOHN YOUNG through the years in his

capacity as a key member of the Rules Committee and previously as a senior member of the Joint Committee on Atomic Energy.

He was always most helpful to the Appropriations Committee in our appearances before the Rules Committee and to me personally.

JOHN YOUNG maintained a vital interest in the defense of his country and we worked on many defense matters over the years.

He has performed great services to his district and will be missed as he leaves the House of Representatives after having served as a Member for some 20 years.●

GENOCIDE AND PERSECUTION IN CAMBODIA

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to once again focus the attention of the House on the deplorable violation of human rights presently taking place in Cambodia.

Ever since the Khmer Rouge seized Phnom Penh on April 17, 1975, hundreds of thousands of deaths and disappearances have been reported by Cambodian refugees. From these refugee reports, we have been able to piece together a horrifying picture of the situation in Cambodia.

Only hours after occupying Phnom Penh, the Khmer Rouge expelled approximately 4 million Cambodians at gunpoint. The deserted cities were then obliterated of all materials that related to the Cambodian culture and society.

Innocent citizens were marched into the jungles and scrublands where they were destined to become slave laborers. No one was excluded from the evacuations. The young, old, and sick persons were all forced onto the roads. Anyone who refused or was simply unable to keep us with the pace was shot on the spot by soldiers who guarded the march.

The living conditions during the marches were intolerable. There was no food, shelter, or potable water available. During the day, temperatures rose to over 100 degrees and fell rapidly during the night to extreme cold levels. Many died of gastrointestinal afflictions due to the lack of medical care.

Upon arriving in the scrublands, the exiles were ordered to construct their own homes and were organized into work groups comprised of 10 families each. The exiles have since been used as agricultural slave laborers for 7 days a week for some 12 hours a day.

In late 1975, Angka Loeu, the High Organization in whose name Cambodia has been ruled since the conquest began to prepare for executions as part of a major purge. The primary targets at first were those citizens who had been associated with the previous Cambodian Government. Next, former government soldiers, civil servants, and their families were targeted in the purge. Finally, some overly enthusiastic Khmer Rouge soldiers began to massacre former teachers, village chiefs, and students.

In early 1976 another wave of exterminations began. Although the first slaughters were the result of uncontrolled excesses, those since have been the result of systematic central planning and direction. This time, anyone who had even the slightest association with the former government was targeted for death. The extent of the genocidal activities in Cambodia has reached an estimated 1 to 2 million slayings.

Today, the remaining Cambodian people are being denied even the most basic human rights. They do not possess the right to speak freely, to read what they please, assemble, to leave their land, to have a fair trial, to manage their own personal affairs, or to worship. Parents are forbidden to raise their own children as they please. Youngsters are taught at an early age to act as informants against their parents in favor of the state. Couples have been executed for merely planning to get married without the authorization of Angka.

Those who try to escape the horrors by fleeing the country rarely even reach the border. The border areas have been mined and depopulated to a depth of 25 miles. Military patrols have been ordered to shoot on sight anyone found near the frontier.

Of the 7 million Cambodians alive when these horrors began in 1975, only 15,000 have been able to escape to Thailand. The majority having arrived 3 years ago, they remain in Thai refugee camps without any offers of permanent resettlement. The fear exists that when and if Thailand seeks to establish diplomatic relations with Cambodia that these survivors will be forced to return to their certain death.

The President and the Congress have on several occasions taken verbal action to call attention to the outrages that are taking place in Cambodia. As a member of the International Relations Committee, I have participated in hearings related to this situation and have sponsored legislation condemning the activities of the present Cambodian Government. We should continue to call on all governments of the world to join in exposing this genocide and bring pressure on the leaders of that country to stop these ruthless murders and atrocities.

On September 29, 1978, the House of Representatives took an historic step toward relieving the suffering of some of the brave Cambodian people. While our ability to directly assist those Cambodians trapped within their borders is limited, the action of the House on that day expressed strong support for a special parole program that would allow some 15,000 Cambodian refugees to enter the United States over the next 2 years.

This action, in the form of an amendment to the conference report on H.R. 12934, is designed to help those survivors who remain in constant fear and danger of Communist raids across the border. Under special parole provisions, the Attorney General can grant a waiver of our immigration laws over the next 2 years for the 15,000 Cambodian exiles. As one of the original cosponsors of the House resolution that endorsed this action, I now call upon the Attorney General to grant this special parole for these innocent victims of war and terrorism.

As commendable as this action is, it remains only the first step in our efforts to aid the survivors of this "Asian holocaust." The United States by its actions has taken the lead in aiding those lucky few who have managed to escape the genocide. We must now take the lead in the effort to aid those millions of helpless Cambodians who remain entrapped in a land that has been turned into one vast concentration camp.●

SMALL BUSINESS AND JOB CREATION—PART I

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, as chairman of the House Small Business Subcommittee on Antitrust, Consumers and Employment, I initiated a year long series of hearings on the future of small business in America.

To my knowldege, these were some of the earlier and more extensive foresight hearings held by a congressional committee. These hearings produced testimony showing unequivocally the imperative need for a strong and growing small business community in our Nation's economy, and the myriad of problems—often governmentally imposed at all levels—which small businessmen must face.

The last in this series of hearings examined the role which the small business sector plays in the creation of new jobs. Subcommittee staff recently concluded a study on the employment situation in our economy and found that 96 percent of the new jobs created between 1969 and 1977 were created by businesses other than the Fortune 1,000. In fact, of 16.7 million jobs created between 1969 and 1977, only one-half million were created by these top 1,000 corporations. Testimony received at our hearings showed that the great majority of these new jobs were created by small businesses. These statistics indicate not only the source of these new jobs, but also show that, historically, small business creates the vast majority of new jobs. While public service jobs may serve a functional and useful purpose, the need for the use of these "trigger-type," deficit-funded programs will be greatly reduced if we properly and purposely direct ourselves to maximizing the possibilities offered by the small business community in solving our problems with unemployment.

Thus, to combat the twin evils of inflation and unemployment now facing our Nation we must turn our attention to the ways and means of stimulating the small business community as the principal component in any potential solutions

to these problems—infusing it with new capital, protecting it from predatory practice and underpinning it with extension services like technical and managerial assistance and advice. This is also the conclusion of testimony recently heard during our hearings on this topic, a subject on which I would like to address my colleagues.

Mr. Speaker, the area of creating and saving jobs in the small business community has long been of deep interest to me both in my capacity as chairman of the House Small Business Subcommittee on Antitrust, Consumers and Employment, and as chairman of the Congressional Rural Caucus (CRC). I have long advanced the proposition that private sector jobs, created with the assistance of federally guaranteed loans and related supporting actions in the tax and antitrust areas, could bring this Nation to full employment more quickly, and more cheaply and more lastingly than programs limited to public service jobs creation of the kind represented by CETA and Humphey-Hawkins type programs—programs which by their nature should be of last, rather than first resort. That was the basis of my amendment to Humphrey-Hawkins which was passed overwhelmingly last March. And, that proved to be the finding of my subcommittee's hearings in last September.

I followed closely the testimony of a myriad of Government officials, economists, and private business leaders—focusing on the successful SBA, FmHA and EDA's Federal guaranteed loan programs in capital formation and jobs creation—as they came forward citing statistical evidence from studies and previous hearing records that shows that small business aided by these and other programs, is and has been the chief creator of jobs in this country, and should be greatly strengthened in this activity.

In summarizing their testimony, let me first say that they were in essence singing to the choir. For I have been saying—at every opportunity—the same thing: To resolve our economic difficulties, we need to place more emphasis on increasing private sector, rather than public sector employment, particularly through the small business community which is the backbone of the American free enterprise system, providing jobs where the need is greatest in our population—amongst our minorities, youth, and women.

Given the previous testimony before my subcommittee which showed that the Federal Government not only undermines itself on inflation, but also, in effect, discriminates against small businesses in awarding research and development contracts despite small business striking record in the field of innovation, I particularly welcomed the testimony of Lester A. Fettig, Administrator for Federal Procurement Policy, Office of Management and Budget, when he appeared before the subcommittee on September 25.

Fettig expressed his "commitment to removing the inhibitors to the Government obtaining the full advantage of industry innovation especially the efforts of the small high-technology business, in meeting its needs for products and services," and added "I have formally issued the Rabinow report and directed the agencies to review and implement its recommendations." Fettig noted that his actions were based in part on the work of the previously mentioned joint House-Senate hearings on the role of small business in the scientific and technological innovative process in which the interagency, OMB commissioned study—which OMB did not see fit to publish or implement the recommendations contained therein—was brought to light.

Fettig assured our subcommittee "of OFPP's total commitment to the utilization of small business in high-technology activities to both provide needed jobs and sponsor economic growth, and to provide the Government with the benefits of industrial innovation." This was good news, indeed, considering the fact that Richard S. Morse, an observer of research and development trends and a former university professor, Government official, and corporate manager, warned us during our joint Senate-House hearings that "since 1967 almost every action taken by both the executive and legislative branches of our Government has resulted in a further deterioration of the climate for technological innovation in the United States."

As I said at that time, it is ironic that small, high-technology businesses have been receiving an average of about 3½ percent of all Government research and development contracts when these same companies have been historically responsible for more than 50 percent of all American inventions and innovations in this century and also more cost efficient in their development research. Additionally, they have been creating far more jobs than low-technology firms as evidenced by a Massachusetts Institute of Technology (MIT) study showing that high technology firms increased employment at a rate of 40 percent between 1969 and 1974.

Given this well-documented, undeniably impressive account of small business' achievement in jobs creation, cost efficiency, innovation and development, one can understand the importance of OFPP's stated commitment to implementing the recommendations contained in the Rabinow report. If the hearings produce no other results—and I sincerely hope that will not be the case—ending a decade of Federal Government discrimination in awarding research and development contracts to small business will, in and of itself, make the entire project worthwhile.

Let me move on to other, no less impressive testimony, concerning the role of small business in jobs creation.

One of the most fascinating witness to appear before us was Dr. David Birch, professor of economics at the Massachusetts Institute of Technology (MIT), who discussed MIT's program on neighborhood and regional change—a program which has initiated "the development of a (growing) file of 5.6 million U.S. business establishments including, for four different points in time in the 1970's, information on the size, age, location, line of business, and status of each establishment."

Not only was I fascinated by the capabilities of this program—I was amazed that, according to Dr. Birch, and contrary to popular opinion, firms and people do not relocate where transportation is the best, taxes the lowest, and labor the cheapest; rather, our greatest migration is taking place in eight mountain States where transportation is perhaps the poorest and taxes—like the altitude—the highest. Dr. Birch notes that the physical migration of firms and people depends more on the quality of life offered by the new location than on convenience and or particular economic factors—a flatout contradiction of the Sunbelt dichotomy. For instance, the fastest growing States east of the Mississippi happens to be in New England, viz, New Hampshire.

He also noted that "it is small and middle-sized firms that we must count on to fill most of the void caused by job loss" due to physical migration of firms. The MIT program gives assistance to areas, trying to attract new businesses, and to businesses looking for a place to go.

In areas where businesses are floundering, small business development programs in some of our universities and State colleges have been playing a significant, cost-effective but generally ignored role. The subcommittee heard such noted leaders in these programs as David Victor, the director of the University of Kentucky's business development center; Gordon Sanford, the director of the National Association of Management and Technical Assistance Centers; and, George Karras, the Deputy Assistant Secretary for Economic Development Operations at the U.S. Department of Commerce. Each of these witnesses concurred with Sanford in his view that "all of these institutions offer a very cost effective program of technical assistance to business and industry as well as community development organizations."

Sanford focused his testimony on the university technical assistance program of the Economic Development Administration (EDA), which began in 1963 under the Area Redevelopment Administration (ARA). Sanford reported that—

During the period 1963–1977, ARA and EDA have made grants to forty-one (41) universities and colleges totalling approximately $17.5 million, with matching in-kind contributions by the grantee institutions amounting to $8.9 million. The program established and supported by these funds have assisted in creating approximately 60,000 new jobs and saving 42,000 existing jobs, with the potential for creating an additional 100,000 jobs.●

TEXAS DELEGATION

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEED. Mr. Speaker, when eight Members of the Texas delegation leave

the House together at the end of this Congress it will be a loss in terms of record and service seldom if every equalled in the history of this body.

The State of Texas will sustain a tremendous blow in loss of talent and seniority, and all of us will lose the benefit of the expertise of these fine Members.

Four of the eight retiring Texans are among the top seven in the House in length of service, all with at least 32 years. These four—Mr. MAHON, Mr. POAGE, Mr. TEAGUE, and Mr. BURLESON—have a total of 150 years here.

Each of the eight is distinguished in a unique and worthy way, epitomizing dedication and integrity.

GEORGE MAHON as chairman of the Appropriations Committee for almost 15 years, some of the most difficult in our history, has discharged with unwavering honesty and dedication one of the toughest and most trying of all House assignments.

I have had the honor of working with him on the committee for 22 years. He has been my good friend and has helped me many times.

I am proud to have served with him, and wish the best to him and his wife.

Few people have carried out such heavy and onerous duties as quietly, considerately and firmly as GEORGE MAHON.

BOB POAGE is a unique champion of the farmer and agriculture. In his 42 years he has devoted himself to the people of his district in central Texas and to becoming the unchallenged master of the intricate issues affecting rural America.

Articulate, outspoken, practical—many times he has made the difference between prosperity and hardship for a segment of our basic farm economy. As one who has worked as supporter for a sound rural economy, I know he has unrivaled command of these issues. It is good to know that his papers and correspondence will be the center of the library founded in his honor at Waco.

OLIN "TIGER" TEAGUE has had the unusual distinction of leading successively two great committees, those on Veterans Affairs and on Science and Technology.

He came here almost directly from service in World War II, and for more than three decades his name has been synonymous with the welfare and interests of the veteran.

From his tremendous achievements in the field he has moved on in the last few years for final legislative contributions as chairman of the Committee on Science and Technology.

OMAR BURLESON has been a firm and consistent champion of fiscal responsibility and integrity in his assignments on the House Administration and Ways and Means Committees.

Our districts share some common economic characteristics, and he has always been an effective leader in working on their problems.

JOHN YOUNG, since coming here 22 years ago, has compiled a constructive record climaxed by his years on the powerful Rules Committee.

BARBARA JORDAN has made an impact on public opinion throughout the country that few Members of the House have ever achieved. During her 6 short years with us she proved many times over President Johnson's forecast that she would be an outstanding Member. Her early retirement from the House is a real loss.

DALE MILFORD has ably represented the Dallas-Fort Worth metroplex on the Public Works and Science and Technology Committees.

In his two terms here ROBERT KRUEGER has attained a tremendous reputation as an expert in the energy field.

I wish all these departing Members every success.●

DEPARTMENT OF EDUCATION

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SIKES. Mr. Speaker, I support the proposal to establish a separate Cabinet-level Department of Education.

I have long had concern about the role of the Federal Government in education. I have watched the Federal Government's education programs grow and expand. I still have that concern because I strongly feel that education should remain primarily a State and local matter. Despite the size of the Federal education budget, 88 percent of the total amount for public education in Florida still comes from State, local, and private sources. Nevertheless, the degree of control which the Federal Government has exercised over State and local policies in education has grown much faster and to a much greater extent than the Federal Government's share in the cost of education would justify.

However, the degree of Federal control is not a matter now under discussion. What we seek to cope with is the fact that the Federal education programs have grown to such magnitude that the time has come to consolidate them into a separate executive department. I am in agreement with the idea that the establishment of a separate Department of Education will lead to greater efficiency, less duplication, and a better managed Federal effort.

The education programs in HEW, which will be the bulk of the new department, amount to over $12 billion, yet they are only a small part, in fact less than 10 percent, of the overall HEW budget.

Separating the education division out of HEW and reorganizing Federal education in a new department will help to give education greater visibility and help the Federal Government to more clearly focus on its proper role as a partner with the State, local, and private education institutions in their efforts to provide quality education to our Nation's children. Education directly touches the lives of one-fourth of our population and is an activity too important to be relegated to a minor fraction of HEW. Moving education out of HEW might even help to make the remaining division more manageable, by freeing the Secretary to concentrate on the problems within his jurisdiction.

As we move to make the Federal Government's education programs more efficient, I think it is important to note that we are also seeking to restrict the new Secretary's interference in matters which have been traditionally left to be decided at the State and local levels. This legislation spells out that these matters include curriculum, programs of instruction, administration, personnel selection, selection of library resources, textbooks and other educational materials. Whether bureaucracy can circumvent this attempt at lesser control over State and local agencies remains to be seen.

With the restrictions which I have outlined, I am also glad to see in the proposal the establishment of an intergovernmental Advisory Council on Education to assist the new department with developing and carrying out educational policies within the intergovernmental system through which any Federal education program must be implemented. One of the problems in the past is that Federal guidelines and State guidelines have sometimes been conflicting and confusing. This council should help to clarify Federal and State responsibilities in education and provide for better coordination between Federal, State, and local programs.

The greater efficiency that should result from a separate Department of Education and better coordination of the Federal effort with State and local education agencies, which are primarily responsible for education, should go a long way toward improving the educational opportunity for all of our citizens.

I believe the establishment of a Department of Education is a step in the right direction and I support the proposal.●

TRIBUTE TO DALE MILFORD

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, I am delighted to take this opportunity at the close of the 95th Congress to say a special word of thanks for a job well done to the Honorable DALE MILFORD of Texas, on the occasion of his retirement from the Congress after 6 years of dedicated service to his constituents and the Nation.

DALE MILFORD'S devotion to duty and his commitment to public service made him a well-respected Member of the House of Representatives.

Before his election to the 93d Congress, DALE was a professional meteorologist and expert pilot, as well as a nationally recognized consultant in aviation and meteorology. This expertise enabled him to make immeasurable tactical contributions to the deliberations of the Science and Technology and Public Works and Transportation Committees, of which he was a member, and to his responsibilities as chairman of the Subcommittee on Aviation and Transportation Research and Development. His hard work on these committee as-

signments where he utilized his military and civilian professionalism serve as a testament to his notable legislative achievements.

DALE MILFORD's dedication and willingness to help his colleagues understand complex technological issues was gratefully appreciated and his conscientious service to the needs and interests of the constituents of the 24th District made him a truly outstanding Member.

I am especially grateful to DALE MILFORD for his personal support and extend my sincere best wishes for continued success and happiness in the years ahead.●

TRIBUTE TO ANTARCTIC EXPLORER DR. FRANKLIN ALTON WADE

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MAHON. Mr. Speaker, many people across our Nation and around the world know of Dr. Franklin Alton Wade. He was one of the world's foremost authorities on Antarctica, having been a member of two of Adm. Richard E. Byrd's expeditions to the continent at the South Pole. For this reason and others, I felt it appropriate to take note of his passing on October 1 in my hometown of Lubbock, Texas.

Dr. Wade's was indeed a long and distinguished career. He received a master's degree in chemistry from Kenyon College in 1926. In 1933, he went to the Antarctic for the first time with Admiral Byrd. In 1937, he earned a doctorate in geology from Johns Hopkins University, then was named chief scientist for Byrd's 1939–40 expedition. He received two special congressional medals in recognition of his contributions in Antarctic exploration.

When this country entered World War II, Wade used his valuable Antarctic experience, serving as a major in the Army Air Corps and as base commander of the Greenland Ice Cap Detachment. In the early 1950's, he continued to serve his country as operations analysis officer with the Far East Air Forces, for which he received the Meritorious Civilian Service Award.

It was in 1958 that Dr. Wade came to Texas and to Lubbock. He joined the faculty of Texas Tech University as head of the department of geology, a position he held until 1964. In the Tech community, he is renowned for his contributions toward strengthening the graduate program in geology.

But Wade's interest in the Antarctic never waned. He journeyed to the South Pole again in 1969. Using data he gathered himself and data gathered by others, he continued his studies into the 1970's. At the time of his death, Dr. Wade was working on the preparation of additional geological maps of the area.

Scientists worldwide will remember Dr. Franklin Alton Wade for his scientific contributions and for the 16,000-foot Antarctic mountain named for him; but the people of West Texas will remember Al Wade also for his enthusiasm for life, for his Christian dedication, and for his youthful spirit.●

REPORT ON RURAL AMERICA NO. 3: SOME SOCIAL AND ECONOMIC TRENDS IN NONMETROPOLITAN AMERICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 3 of the following abstract prepared by Anne M. Smith entitled "Some Social and Economic Trends in Nonmetropolitan America," as part of the Congressional Research Service Report on Rural America.

Ms. Smith's abstract follows:

SOME SOCIAL AND ECONOMIC TRENDS IN NONMETROPOLITAN AMERICA

(By Anne M. Smith)

This report presents data for selected social and economic characteristics of nonmetropolitan America. For the purposes of this report nonmetropolitan America is defined in accordance with the Census Bureau's use of Standard Metropolitan Statistical Areas (SMSA's) and non-SMSA's rather than other possible categories such as urban/rural. Unless otherwise stated the data will refer to the nonmetropolitan areas as defined in 1970.

In recent years nonmetropolitan counties have been making strong gains in many ways. As these trends are examined one should keep in mind the extreme diversity among the counties we define as nonmetropolitan. These diverse regions are subject to a broad range of influences so that recent achievements recorded in nonmetropolitan areas are not evenly distributed among nonmetropolitan counties.

During the 1960's and for many decades earlier the pervasive trend has been for metropolitan populations to increase more quickly than nonmetropolitan populations. People were moving to the cities and to the suburbs from farms and small towns searching for jobs and the metropolitan life style. Early in the 1970's there were indications that this historic trend was being reversed. As the 1970's continue nonmetropolitan areas are making strong gains in many areas, including population, income levels, and employment opportunities.

Population estimates for 1977 show that of the 216.9 million persons living in the United States, 27 percent, nearly 60 million persons, were living in nonmetropolitan areas as defined in 1977.

The data also indicate that the income level, the labor force participation rate, and the educational attainment of residents tend to increase as the size of the largest place in the nonmetropolitan county increases. Significant improvements are being made but the discrepancies in attainment between nonmetropolitan and metropolitan will continue in the foreseeable future. In part, this is due to definitional procedures. As some nonmetropolitan areas grow and become more similar to the metropolitan, these counties are reclassified as metropolitan. By the end of 1977, over 10 million persons were living in 39 Standard Metropolitan Statistical Areas (SMSA's) which had been reclassified from nonmetropolitan (non-SMSA's since 1970.

During the six years between 1970 and 1976, nonmetropolitan areas experienced a larger increase in population, 8.0 percent, than was experienced in metropolitan areas, 4.7 percent. Nonmetropolitan areas had a net gain of 2.2 million migrants during this period. In all regions except the South the nonmetropolitan areas showed substantially stronger population growth over metropolitan areas. However, nonmetropolitan population growth in the South still exceeded the U.S. average.

Some people are choosing nonmetropolitan residences while commuting to jobs in metropolitan areas. Nonmetropolitan counties with 20 percent or more commuters to SMSA's grew by 11.5 percent during 1970–1976. During the 1960's these counties increased their population by 9.6 percent. But the expansion in the nonmetropolitan population is not limited to those counties with a large percentage of commuters. Those nonmetropolitan counties with less than 3 percent of the population commuting grew by 7.4 percent from 1970 to 1976, an increase nearly five times greater than during the sixties.

More manufacturing jobs are moving to nonmetropolitan areas to make use of lower land and labor costs. Recent increases in coal production and exploration for oil and natural gas also are improving employment opportunities in nonmetropolitan areas. Other opportunities are related to service-type industries.

Nonmetropolitan families earned a median income of $13,789 in 1977 with 43 percent of all nonmetropolitan families earning less than $10,000 per year. Nonmetropolitan median family income seems to be staying at about 80 percent of the metropolitan median family income level. The dollar gap was $3,582 in 1977, which is a larger gap than in recent years. Of all families living in nonmetropolitan areas in 1977, 11.2 percent had incomes below the poverty threshold of $6,191 (based on a nonfarm family of four). In metropolitan areas the incomes of 8.3 percent of the families were below the threshold.

Federal outlays per capita in nonmetropolitan areas (for nearly 700 selected Government programs) during fiscal 1976 were about 82 percent of the metropolitan level—$1,271 and $1,555, respectively.

In summary, the emerging demographic trends are indicating strong prospects for continued nonmetropolitan growth. Effective governmental policies will be necessary to insure that the nonmetropolitan population will continue to benefit from increased employment opportunities and income gains, and that progress can be made in meeting the concomitant demands for improved public services.●

LEBANON

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BOLAND. Mr. Speaker, the country of Lebanon has been torn by conflict for a number of years. The tragic fighting in and around Beirut has disrupted life in that city and taken hundreds of lives. In early October, the latest in a series of cease-fires was declared. We all hope that this one will last and that Lebanon will be freed from further suffering.

I have always had the greatest respect for the people of Lebanon. The Lebanese are a great, strong people. They have faced many difficulties in their history and have prevailed because of their

strength. I believe they can mend the wounds of the past few years and move their country forward again. I have been in Lebanon in peaceful times and I was impressed by its great beauty. Beirut is truely the pearl of the Mediterranean Sea.

Mr. Speaker, the feeling is that perhaps this cease-fire will be different from the others. Perhaps this one will not be broken and that reconstruction can begin. My prayers for peace are with the Lebanese people. They have suffered enough.●

THE NEW ISABELLE FACILITY FOR BROOKHAVEN NATIONAL LABORATORY

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. WYDLER. Mr. Speaker, I am looking forward to speaking at the groundbreaking for the intersecting storage accelerator (Isabelle) at Brookhaven National Laboratory on October 27. This facility will be the centerpiece of the U.S. program in high-energy physics for the next decade and an important technological and economic stimulus for Long Island as well.

To me the most satisfying aspect of this effort is what Isabelle means to Long Island in terms of the overall economy and important jobs. The facility will cost $275 million and more than 55 percent of these funds will be spent in this area. The DOE will employ over 2,000 highly skilled people during the life of the project and peak employment will hit 1,200. More than 300 scientists, engineers, and technicians will be required to operate the machine and there is certain to be high technology spinoff in new products and ideas.

I think all of us on the Science and Technology Committee share the excitement about this lovely lady, Isabelle, and the fundamental discoveries that will come forth if we treat her right. But it is particularly rewarding to a legislator when he has helped serve as a catalyst in getting the executive branch to move out on a bold, new project.

It is almost 2 years since I first learned of Brookhaven's interest in having this facility. Actually, it came to my attention when I was engaged in a fight to get Dr. Seamans, then the Administrator of ERDA, to locate a material test facility at Brookhaven. At that time, there seemed a very good case for BNL to build and operate the $80 million fusion materials irradiation test facility to support the magnetic fusion program. The people at BNL had initiated the concept of bombarding a flowing column of lithium with heavy hydrogen ions. Unfortunately, ERDA decided to build that facility in the State of Washington. But, a bright side to the story is that the debate with ERDA ignited my interest in Isabelle.

By early January of 1977 it was clear to me that this was a likely budget initiative that addressed the need of the United States to retain preeminence in high-energy physics and the need to fully utilize the scientific and engineering talent at this great laboratory. It also presented the opportunity to attract international scientists of great reputations to Brookhaven to carry out the frontier investigations on a "next generation" machine.

On February 2, 1977, Dr. Vineyard and other BNL officials visited me in Washington. That meeting confirmed my feelings about the appropriateness of the timing of a funding request for Isabelle. I publicly stated at that time that I would request $10 million for Isabelle in the fiscal year 1978 ERDA authorization bill. At my request, Mr. MCCORMACK of the State of Washington, offered his support with the qualification that he would support endorsement from other leaders of the high-energy physics community in Stanford and the Fermi Laboratory in Illinois. Dr. Vineyard testified with directors of the other high-energy laboratories and an amendment for $10.5 million was ratified by our Science and Technology Committee and adopted by the whole House. The stakes in this effort were enormous in terms of Long Island's future in high-technology jobs and scientific endeavor as well as U.S. prestige in the most fundamental aspects of physical research.

Isabelle offers the opportunity to operate in an entirely new regime of high energy physics. I am told it will be a magnificent probe to better understand the so-called weak forces. Perhaps a similar order of fundamental particles will emerge from experiments where protons will strike each other at energies of hundreds of gigavolts. As the 1977 advisory panel noted in ERDA, this machine also sets the stage for later improvements at the Fermi Lab to expand the particle collision regime for the Batavia accelerator in Illinois.

As ranking minority member of the Science and Technology Committee, I am pleased to note the solid planning which has been done by the high-energy physics community with DOE. I am well aware of how painful it may be for scientists to select budget priorities but this approach appears needed and responsible.

As you know, the Department of Energy must submit environmental impact statements on all major construction projects to comply with the National Environmental Policy Act (NEPA). The final EIS (as they are called) came across my desk late last month and I could not help feeling that something was missing. Indeed, the EIS does not address the most important environmental impact of Isabelle which goes far beyond its 276-acre tract. The impact will be on the Long Island economy and the innovative climate at Brookhaven and around the world in the high-energy physics community.

Mr. Speaker, this grand machine will stretch men's minds and its experimental surprises will bend today's sacred theories right and left. The best scientists will respond with fresh theory and bold, new experiments. Long Island will benefit directly in new jobs and high technology incentives. Those will be the real environmental impacts of Isabelle.●

REPORT ON RURAL AMERICA, NO. 1

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, as chairman of the Congressional Rural Caucus I requested in November of 1976 a series of excellent reports prepared by the Congressional Research Service of the Library of Congress relating to various aspects of rural America. These reports provided the CRC, its membership, advisory teams, and the Congress, a broad overview of many of the problems facing rural areas in America.

Mr. Speaker, I would like to insert in the RECORD 1978 updates of each of the reports on rural America requested 2 years ago. These summary updates, prepared by the analysts at the Library of Congress, contain vital new information in the ever growing and important areas of rural America. I should like to insert in the RECORD abstracts containing summary information on these 1978 reports prepared by the Library. In some instances the original authors have updated their 1976 studies; in two instances the papers were reviewed and updated by two new authors. In addition there are two abstracts in preparation being updated by the Library relating to housing and labor.

Following is a list of titles and authors planned to be inserted in the RECORD:

1. *Environmental Protection and Rural Development*, by Susan R. Abbasi.
2. *Local Implementation of National Rural Development Programs and Policies*, by Sandra S. Osbourn.
3. *Report on Rural America: Transportation*, by Dr. Leon M. Cole and Dr. Stephen J. Thompson.
4. *Community Facilities in Rural Areas: The Federal Role*, by Philip Winters.
5. *Some Social and Economic Trends in Nonmetropolitan America*, by Anne M. Smith.
6. *Report on Rural America: Educational Problems and Federal Alternatives*, by Paul M. Irwin.
7. *Financing Rural Development: A Survey of Recent Research Findings and Institutional Changes*, by Walter W. Wilcox (original report by Jean Wells).
8. *Health of and Health Services for Rural People*, by Richard Price (original report by Herman Schmidt).

Mr. Speaker, I should like to insert the first selection, by Susan Abbasi entitled "Environmental Protection and Rural Development." Ms. Abbasi's abstract follows:

ENVIRONMENTAL PROTECTION AND RURAL DEVELOPMENT

(By Susan R. Abbasi, analyst, Environment and Natural Resources Division)

"Development," particularly in the context of rural development, nearly always involves environmental effects. The definition of "rural development" in the Rural Development Act of 1972 includes "the planning, development, conservation, and use of land, water and other natural resources of rural areas to maintain or enhance the quality of the environment for people and business in rural areas. . . ." The execution of programs to achieve most goals in rural development—such as employment and income objectives, community facilities, housing, education and population distribution—will always entail,

to some degree, environmental effects and consequences.

As new trends in national migration patterns reveal significant movements into rural areas, where the population is growing more rapidly than in most large cities, it becomes particularly important to deal sensitively with the environmental consequences. If environmental damage is not avoided in the process of developing our rural areas, we stand to destroy the very qualities which those migrants to rural areas—along with the existing inhabitants—find so attractive.

As Senator Herman Talmadge, Chairman of the Senate Agriculture Committee, stated in his explanation of the Rural Development Act of 1972, "Environmentally speaking . . . we must not make the same mistake in developing rural America that we did in building some of our great cities. . . . Rural America now has, very largely, clean water and clean air. We want to keep it that way."

Nevertheless, environmental concerns have been largely neglected and ignored in Federal policies on rural development. The 1977 Rural Development Progress report by the Secretary of Agriculture acknowledged this lack in its introduction: "An omission [in previous rural development reports] that has not yet been met is the absence of any statement on rural environmental policy in the reports issued thus far. The Department of Agriculture is concerned about this matter and is currently developing plans for arranging for inclusion in the upcoming Fifth Report, a paper on the subject of rural environmental policy and progress in the context of the dramatic increase in rural population growth and economic development since 1970." However, no further actions have been taken to formulate a Department statement on rural environmental policy, and the issue remains neglected.

Nevertheless, Federal programs and policies to protect the Nation's environment and its resources have been under active development during the years since 1970. Many of these Federal laws and programs have significant impacts on rural development. Some of these Federal policies and actions are summarized below.

National Environmental Policy Act.—This is the Federal "umbrella" environmental protection act, which states that it is a national policy to protect and enhance the environment. It also requires that all major Federal actions be preceded by an "environmental impact statement" (EIS) which sets forth all significant environmental consequences. Many of the programs designed to promote rural development entail activities for which an EIS is required. This does require that the adverse environmental impacts be identified in such development programs, but the law has become mainly a procedural requirement, and the preparation of an EIS alone does not guarantee that the adverse effects identified will be avoided.

Clean Air Act Amendments of 1977.—A number of requirements in the basic clean air legislation of 1970 are intended to provide safeguards for air quality. Of particular importance to rural development are the requirements in the Amendments of 1977 which would limit some types of development—including industrial, residential and other types—in order to prevent significant deterioration of air quality in areas where the air is still cleaner than is required in the primary and secondary standards of the law. Although these requirements have been opposed by development interests as a "no-growth" policy, many states and rural localities are on record in favor of the measure, which would aid in preventing in rural places the woes of air pollution now visited on many industrial areas.

Federal Water Pollution Control Act and the Clean Water Act of 1977.—The basic legislation to control water pollution and provide assistance to local governments in constructing water and waste treatment plants, the Federal Water Pollution Control Act of 1972, was also amended in 1977. The basic law provides for control of any pollution from new sources through application of best available technology, a provision which would affect any new industrial development in rural areas. In addition, the Act requires areawide land use planning and regulation of both specific sources of pollution and "non-point" sources, such as farm feedlots and fertilizer use. The 1977 amendments contain the Rural Clean Water Program, which augments control of such non-point pollution sources, and provides grants to control agricultural run-off. Funding of the rural water program was drastically cut, but if provided will add to the impact of this law in ameliorating water quality problems in rural areas.

Flood Disaster Assistance Act.—This law requires that land-use planning to avoid development in flood-prone areas be carried out by communities that wish to obtain Federal flood insurance. The law also prohibits federal or federally assisted construction loans and mortgages (such as VA or FHA) for flood-prone areas in communities that are not participating in the related land use planning program.

Preservation of Prime Agricultural Lands.—Concern over the loss of agricultural lands to other land uses, such as residential development, highways, water reservoirs, and others, emerged as a Federal issue in the 95th Congress. The Agricultural Land Retention Act was reported to the House, and similar bills were under consideration in the Senate. It would establish an Agricultural Land Review Commission to study the agricultural land situation, and make recommendation within three years on modifications in Federal, State, and local policies needed to prevent the conversion of prime agricultural lands to other uses, and for coordination of Federal activities which affect agricultural lands. Also, the Environmental Protection Agency instituted a policy in September, 1978, to coordinate and direct the agency's pollution control authorities toward the protection and preservation of environmentally significant agricultural lands. The policy is intended to "guide Agency actions, regulations, and programs to assure farmland protection and enhancement." The policy of preventing the conversion of agricultural lands to other uses could impede or raise the cost of residential development in rural areas.

Energy Impact Assistance.—Energy development in rural areas also has ramifications for rural development and for the environment. Accordingly, Congress has recently enacted a number of laws which authorize financial assistance to communities impacted by energy development. These include a coastal energy impact fund authorized by 1976 amendments to the Coastal Zone Management Act of 1972, the Federal Land Policy Management Act of 1976, and the National Energy Act of 1978. A number of other programs may provide technical assistance to areas experiencing rapid growth.

Taken together, these Federal policies and laws have considerable cumulative impact on rural development. Their effects are designed to protect the environment generally, and in some cases the rural environment specifically. What is still needed, however, is an articulated goal for protecting the rural environment—and a framework for coordinating the many laws which have both beneficial and negative impacts on it. Gaps in Federal policies could then be better perceived, and benefits from existing laws could be maximized.●

IRONWOOD

HON. PHILIP E. RUPPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. RUPPE. Mr. Speaker, as you know, I am retiring this year after 12 years as a Member of the House of Representatives. As Michigan's 11th District Representative I have learned much, not only about life on Capitol Hill, but also about the people of northern Michigan. I have gained an appreciation of my constituents for their support, friendship, and loyalty and also an increased admiration of their spirit and independence. In tribute to the citizens of the 11th District I ask that a letter to the editor of the Washington Star be printed in the RECORD. This letter is written by William D. Erickson, once a citizen of the 11th District, now a resident of Annandale, Va. While the article discusses Ironwood, a city in Michigan's Upper Peninsula, it exemplifies the spirit and values to be found throughout northern Michigan:

LETTERS TO THE EDITOR—THE WASHINGTON STAR, MAY 7, 1978

(In answer to a letter previously printed)

Yes, it is true that Ironwood uses snow where snow once was a complete liability. Ironwood has the only ski-flying slide in North America. And in 1970, the Copper Hill slide held the world's record: a 505-foot jump. World's records were held in Ironwood as far back as 1913 at 169 feet on Curry Hill. Numerous smaller jumps are in the area. At least four complete downhill ski slopes are there. They seldom have to make snow, and skiing often runs through six months of the year.

In Gogebic County, surrounding Ironwood, there are 315 named lakes, including part of the largest inland lake in Michigan. The county adjoins the largest freshwater ocean in the world: Lake Superior.

But the most astounding feature of Ironwood isn't even visible. There are huge caverns underground, and one open pit, where iron mining continued for over 80 years, shipping hundreds of millions of tons of ore a year until the mines were down to 4,000 feet and uneconomic. Today, the mines are shut down and mostly full of pure water, an enormous and unappraised asset.

But the most remarkable feature of Ironwood is the people. Ironwood is a melting pot of nationalities. It found out long ago that the way to work in the newcomers was to foster athletics where everyone could happily cheer the able. Even in the Depression, Ironwood fielded semi-pro teams in baseball (the Monarchs), football (the Polar Bears), hockey and basketball. Ironwood invested a million dollars in a high school in the 1920's, another million in a community college in the '70's, and a half a million in a community center in the 1920's. Most of these facilities were for kids, but as Estes Kefauver parrotted once, Ironwood is known mostly for talented youth who have to go somewhere else to get a job.

Ironwood is cut in half by the railroad tracks, but the right side and the wrong side of the tracks were determined by geology, not by prejudice. With the caving in of mined areas, most of the town has moved north to more stable ground.

Ironwood is a town of tolerance where there are Polish names in the Lutheran Church and Finnish names in the Catholic Church. Nobody thinks this is anything but normal. It

is also a town where people are proud enough of their national origins that good-natured fun about one's ancestry is common and quite acceptable. An adjacent town, Hurley, Wisconsin, advertises a "Dago Days" celebration every summer. There were 86 bars in Hurley when I was a kid.

Ironwood is the home of the first two soldiers to capture a German in World War I, and the two were of Polish descent. Ironwood is where you can see a real Fourth of July parade, and where the American Legion is a thoroughly respected organization, counting nearly 100 percent of eligibles as members. Patriotism and duty are still highly regarded.

And I can tell you about snow in Ironwood. I learned to fly there, and we used skis on the airplane for six months of the year and it was muddy sledding for more than that. When the winter skies were gray, one never ventured far from the airport. Snow flurries come up suddenly, and summer squalls and thunderstorms can be as violent there as anywhere in the country. Today, North Central Airlines has four flights a day to Ironwood with a 100 percent safety record and an amazingly high completion-of-flight record. Sometimes they have to look for the Convair the next morning after a snowstorm has buried it, but it always gets there. That's more than you could say for the Chicago and Northwestern Railroad's steam locomotives, because at 30 below zero Fahrenheit, they just couldn't keep up steam.

There you have it. I'm proud to have been born in a town of 7,000 that has so much.●

TRIBUTE TO JAMES A. BURKE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. O'NEILL. Mr. Speaker, it is with a great deal of sadness that I join my colleagues to pay tribute to the Honorable JAMES A. BURKE on the occasion of his retirement—sadness because I will greatly miss his close friendship and sage political counsel in the 96th Congress.

JIM BURKE and I go back a long, long way. I have known and worked closely with JIM throughout my entire political career. JIM and I first served together in the Massachusetts State House where his support helped to enable me to become the first Democratic speaker in the history of the Massachusetts general court.

JIM was a welcomed supporter and a tough legislative and political adversary. I can recall that as speaker of the Massachusetts State House of Representatives, I would ask JIM if he would support me on a particular issue—if he thought it was right, he would be with me all the way, and when he felt it was wrong, he would say emphatically with a gleam in his eyes, "No, Tip, it's not on the level," and no one was a more formidable adversary.

JIM diligently did his homework and was a real fighter for the causes in which he believed. No one represented his constituents any more conscientiously than JIMMY BURKE. When the chips were down, when I really needed his assistance, his vote or his friendship, JIM BURKE was always there, and often, before I even asked.

And so it has been the same since I became Speaker of the U.S. House of Representatives. I am deeply grateful to JIM for his encouragement, support and assistance in the 95th Congress.

We all admire JIM for his strength of character, and dedicated devotion to duty over the last 2 years: and for his efforts as the champion of the golden agers, JIM BURKE is legion. Through his tenacious insistence we were able this Congress to pass legislation that would insure financial soundness and longevity of the social security trust funds.

JIM has been a prodigious legislator, a forceful politician who knew how to accomplish his many goals, and a dear, personal friend.

To JIM and his beautiful wife, Eileen, I say from the bottom of a grateful heart, "thank you for your friendship over the years." Millie joins me in extending JIM and Eileen best wishes and remember, my door is always open! ●

THE SOVIETS ARE MOVING TO ESTABLISH NATIONAL AUDIENCE QUOTAS FOR THE 1980 MOSCOW OLYMPICS

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. KEMP. Mr. Speaker, over the past year and a half I have brought to the attention of the House a number of incidents reflecting how the Soviets intend to manipulate their hosting of the 1980 Olympic summer games for ideological and nationalistic purposes. Those incidents have included attempts to exclude certain countries from participation and to exclude reporters from certain news services from covering them.

Now comes an article which outlines the way in which the Soviets are moving to control the audience for those games by establishing national quotas on who can enter the country to attend. I quote from an article in the Christian Science Monitor by David K. Willis, entitled "1980 Olympics Visitors Limited From the West":

Many Americans and West Europeans who want to come to Moscow for the 1980 Olympic Games may have to stay home and watch them on television instead.

New information here indicates that only about 100,000 tourists from the West will be permitted to enter the Soviet Union for the 16-day games, which open July 19, 1980.

The official figure for all foreign tourists is 300,000. But it is now learned that only about one-third of these are likely to be from the West.

The other two-thirds are to come from socialist and third-world countries.

Within the 100,000 figure for Westerners, each country will be allocated quotas based on the size of its Olympic team, its population, the number of its tourists who have previously visited the Soviet Union, and other criteria.

One unofficial estimate of the U.S. quota is 10,000 (although other reports here say it could go as high as 25,000). An unofficial estimate for Western Europe as a whole is between 40,000 and 50,000.

Tickets will probably not go on sale before mid-1979, according to Viktor Boichenko, deputy head of foreign tourism, writing in a recent issue of the monthly magazine Olympaid.

Preliminary negotiations with foreign tour agents were to be held in the last half of this year to specify the "tentative number of tourists coming . . . in accordance with the quotas agreed upon by the national olympics committees concerned and the Olympaid-80 Organizing Committee."

Two reasons are seen here for restricting Westerners.

One is that, while Westerners have much-needed hard currency, they are also bigger challenges to internal control and to official ideology here.

They will walk Soviet streets and meet Soviet people and may even try to contact dissident groups.

Even the routine surveillance accorded Western tourists and residents here will be taxed by 100,000 Westerners in 16 days.

The Soviets are also most anxious to prevent any of the terrorism which marred the 1972 games in Munich.

Some sources say U.S. talk of boycotting the games in 1980 subsided after Los Angeles was awarded the games for 1984. "Americans know that if they try anything in 1980, the Soviets will try the same thing back at them four years later," one source says.

Soviet prestige is well and truly on the line in 1980. Never before has a Communist country played host to an Olympics.

The Soviets are paying much attention to having the games (and Soviet achievements in general) broadcast worldwide on television. Soviet officials estimate the global audience at more than two billion.

The Soviets feel they have more control over TV pictures than they do over thousands of tourists scattered around Moscow and the other Olympic-event cities (Tallin, Leningrad, Kiev, and Minsk.)

Prof. Jeffrey Hart of Dartmouth College, the nationally syndicated columnist, has written a comment on the Willis article and its implications, and I now bring that to the attention of my colleagues:

MOSCOW TIGHTENS OLYMPIC VISE

Just wait until you hear the latest outrage being perpetrated by the Soviets in connection with the 1980 Moscow Olympics.

It has always been perfectly clear that the Soviets intended to try for total control over the 1980 Moscow Olympic games, and over the environment in which they will take place.

Despite a series of naive pronouncements by the U.S. Olympic Committee about the "Olympic spirit," the "Olympic rules," and an "open Olympics," it was always clear that what the Soviets intend to put on is not so much a sporting event as a monster propaganda spectacle, their version of the 1936 Nazi Olympics, only on a much grander and this time electronic scale.

The Soviets are now moving to control the audience for the games. They plan to establish national quotas, the transparent goal of which is to ensure that the spectators present in Moscow in 1980 will come overwhelmingly from Third World and Communist countries.

According to an article by David K. Willis, published in the Christian Science Monitor, the Soviets have established an over-all quota of 300,000 tourists to be admitted for the Olympic games.

Of these, only 100,000 will come from the West. Within that figure, national quotas will be established by a complicated formula

involving size of the national Olympic team, the population of the country, the number of tourists who have recently visited the Soviet Union, and other criteria.

Hold your breath. The United States will be allotted only 10,000 places. Western Europe as a whole will get 40–50,000.

Some high school football games in the U.S. draw 10,000 spectators!

Explaining these restrictions, Soviet spokesmen are saying that tourist facilities are in short supply in Moscow and in the other cities where Olympic events will take place: Tallin, Leningrad, Kiev, and Minsk.

There's something to that. The Soviets, or rather the Germans under Soviet contract, have been building hotel facilities on a crash basis for the games.

But a shortage of first-class facilities is not the real reason for the Soviet imposed quotas. After all, thousands of Americans and West Europeans would be willing to endure some or a lot of inconvenience in order to see the games—doubling up in rooms, making do one way or another.

The real reason for the quotas comes in two parts.

First, even 100,000 visitors from the West will put a strain on the Soviet surveillance apparatus. Presumably, old KGB men are going to have to come out of retirement to fill the gap. From Moscow's point of view, this influx of tourists has to be kept under control. If they begin poking into the seamy and brutal sides of Soviet life, the image will be spoiled.

Even more important, however, the Soviets want it to look as if the entire world, Third World plus Communist, is overwhelming in its presence, and overwhelmingly anti-Western—and especially anti-American.

Stressing that visual message will be the small size of the audience of Americans, a mere drop in the Communist-Third World sea.

I find it absolutely incredible that this thing is going forward, will apparently take place, that Americans at all levels—the media, the U.S. Olympic Committee, and even President Carter—are doing everything they can to make it a "success." In the Kremlin, they must be laughing in their vodka.●

TRIBUTE TO BARBARA JORDAN

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, in the 6 years that BARBARA JORDAN has served in the House of Representatives, she has made a lasting impact on both her colleagues and, indeed, on the entire Nation.

It is no secret that BARBARA JORDAN quickly became a favorite of the Texas delegation in Congress and of the House of Representatives upon her arrival here. I know of no other Member who is held in higher esteem and respect than BARBARA JORDAN. She is a person of outstanding intellect and wit and her advice and counsel is frequently sought by other Members.

My wife Helen and I will always treasure the friendship of this delightful and talented person and we both wish her well as she leaves the Congress and pursues other aspects of work and service.●

REPORT ON RURAL AMERICA NO. 7: EDUCATIONAL PROBLEMS AND FEDERAL ALTERNATIVES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 7 of the following abstract prepared by Paul M. Irwin entitled "Educational Problems and Federal Alternatives," as part of the Congressional Research Service Report on Rural America.

Mr. Irwin's abstract follows:

REPORT ON RURAL AMERICA: EDUCATIONAL PROBLEMS AND FEDERAL ALTERNATIVES

I. INTRODUCTION AND SUMMARY

This paper provides a discussion of educational problems in elementary and secondary schools in rural areas, and suggests various kinds of Federal alternatives that might alleviate these problems, at the same time pointing out some of the key issues which may help guide possible Congressional efforts in improving the quality of rural education.

A. RURAL EDUCATIONAL PROBLEMS

Because education may be judged from many different perspectives, the quality or success of rural education many be difficult to determine; nevertheless, comparisons can be made with regard to certain aspects of educational opportunity in rural areas.

School enrollment figures show that rural children attend school in much the same proportions that other children do, with the exception that attendance is much lower for kindergarten and prekindergarten classes.

School finance data indicate that rural school expenditures per pupil are less than elsewhere. Lower teacher salaries seem to account for most of the difference, although pupil transportation expenses are actually higher for rural schools. Rural areas obtain proportionally more of their educational revenues from Federal and State sources, and less from local sources, possibly because property values are lower in rural areas.

Educational attainment—years of school completed—of the adult rural population is somewhat less than the attainment of people elsewhere, although this does not necessarily reflect adversely on current rural school systems. Educational performance of most rural students does not differ significantly from national averages. Performances were lower, however, for especially poor rural areas, but they were not found to be as low as those in especially poor inner-city areas.

Staffing patterns of rural schools are not much different from national averages, but rural education appears to be at a slight advantage in having smaller class sizes and at a slight disadvantage in having fewer specialized staff.

Because of the preponderance of smaller school districts in rural areas, the organization of rural education is considerably different and probably at a distinct disadvantage when compared to other localities. School districts enrolling fewer than 2,500 pupils are predominantly rural, and probably have educational problems unique to themselves.

B. FEDERAL ALTERNATIVES AND KEY ISSUES

Federal educational programs currently exist to assist many recognized areas of educational need, although the level of funding is less than 10 per cent of total elementary and secondary educational revenues. Rural schools receive assistance from most, if not all, of these Federal programs. These programs could be continued and supported at current funding levels.

Federal educational funds could be redistributed within current programs to provide additional assistance to rural areas, to increase research and development projects about rural educational problems, or to allow greater flexibility in the use of Federal funds to meet locally determined needs through the consolidation of Federal programs.

Requirements could be added to existing Federal programs to encourage or assure greater equity in State systems of school finance, so that poorer school districts would be less dependent on locally taxable wealth in providing a quality education.

New Federal programs could be designed to meet possible rural needs not already addressed by current programs, including pupil transportation assistance, sparse population assistance, school construction, and general aid to education. These programs could be limited to rural education or they might be made available to assist any school district with demonstrable need.

The level of Federal financial assistance could be decreased or increased to match any combination of suggested alternatives. Various funding changes are suggested which range from a maximum decrease of almost 8 billion dollars to a possible increase of nearly 20 billion dollars above the current level of Federal outlays for elementary and secondary education.

The key issues to be faced in examining these proposals concern the proper role of the Federal government in providing assistance to public elementary and secondary education; whether the assistance should be only financial or include standards of quality and performance of rural education; and whether the level of Federal aid for education is consistent with national priorities for Federal assistance in all areas of governmental services. Finally, there is the question of whether rural educational needs justify special treatment beyond the assistance currently provided by Federal programs.●

HON. ROBERT KRUEGER HONORED

HON. JOE D. WAGGONNER, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WAGGONNER. Mr. Speaker, I am proud to join with my many other colleagues in paying tribute to BOB KRUEGER.

BOB and I have worked closely on energy matters during the 95th Congress and I have seen his diligence and sincere concern for many of the problems we are faced with. The great work he did on natural gas deregulation only added to the respect already felt by many Members.

You have served the people of your district well and it is a pleasure for me to pay tribute to you as an outstanding man and legislator. Your service to your State and your Nation will always be a monument to your strong leadership and great character. I am sorry to see you leave the House, BOB.

Let me say, in closing, that my respect for professors has gone up considerably because of you—a practical man who knows his politics. You are a tribute to the teaching profession.●

FANNIE MAE

HON. B. F. SISK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SISK. Mr. Speaker, last February the Department of Housing and Urban Development published for comment its proposed regulations relating to the operations of the Federal National Mortgage Association.

These proposals evoked a very substantial volume of criticism, particularly the mandatory credit allocation provisions.

The final HUD regulations promulgated on August 15 differ substantially from those originally proposed. Commenting on the final regulations, the president of FNMA characterized them as "generally satisfactory."

Those of us who have followed this controversy are for the most part inclined to agree with the FNMA position. We compliment the Department for making the changes in the regulations that it did.

It is unfortunate I think that HUD, in publishing the final regulations, issued a preamble highly critical of FNMA's record. I have gone through the preamble in some detail and it contains a number of factual inaccuracies. Those interested in this matter should contact FNMA's Office of Corporate Relations and ask for a copy of FNMA's detailed response. I suggest this because it is necessary that the record be factually correct.

HUD received 1,233 comments on the proposed regulations and only 16 can be considered as supportive of HUD's position. It is significant that every major trade association which commented on the regulations was highly critical of them. Adverse comments were filed by the National Association of Home Builders, the American Bankers Association, the National Savings and Loan League, the Mortgage Bankers Association of America, the National Association of Realtors, the National Association of Mutual Savings Banks, the Chamber of Commerce of the United States, the National Association of Home Manufacturers, and the Mortgage Insurance Companies of America. In addition, adverse comments were filed by a number of local and regional trade groups.

I think of particular note is the HUD statement in the preamble that "Senators and Representatives from urban areas who submitted formal comments * * * generally approved of the thrust of the proposed regulations." In fact, only three Members of Congress submitted comments in support of HUD's original proposal. By way of contrast, 22 Members of this body, including several members of our distinguished Committee on Banking, Finance and Urban Affairs were critical of HUD's proposal. At least three U.S. Senators wrote to the Department in opposition to the proposed regulations, one of whom is a member of the Senate Banking Committee and an acknowledged expert on housing and urban affairs and an important advocate of urban interests. The Congressional Rural Caucus also opposed the HUD provisions.

The National League of Cities and the U.S. Conference of Mayors criticized the original proposals as did influential urban newspapers, including the New York Times and the Wall Street Journal.

Fortunately, however, the bellicose tone of HUD's preamble is not reflected in the final regulations themselves.

Those of us who have followed this matter certainly hope that the regulations as finally promulgated will evolve a smoothly working partnership between the Department and FNMA. They necessarily recognize the role that the Congress specifically intended for FNMA when it took FNMA out of the Government and made it the independent shareholder-controlled private corporation that it is today.●

REPORT ON RURAL AMERICA NO. 8: FINANCING RURAL DEVELOPMENT

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 8 of the following abstract prepared by Ms. Jean Wells and updated by Walter W. Wilcox entitled "Financing Rural Development," as part of the Congressional Research Service Report on Rural America.

The revised abstract by Mr. Wilcox follows:

Papers presented at a conference on nonmetropolitan community services research in January 1977, sponsored by the Economic Development Division, Economic Research Service, U.S. Dept. of Agriculture; Farm Foundation; North Central Regional Center for Rural Development, and North East Regional Center for Rural Development, added substantially to information available on financing rural development.[1]

Utilizing data from the 1970 Census, Professor Stocker of Ohio State University, concludes that per capita incomes are approximately 20 percent lower in rural than in urban areas and in that sense, the fiscal resources of rural areas are 20 percent less than those available in the urban areas. Twenty one Ohio counties with population of less than 30,000 had substantially lower effective tax rates than the 22 counties with populations greater than 100,000. From these and other data Stocker concludes, "It would appear that the resources of rural areas and small towns are generally adequate to support existing or expanded public services should the citizens desire, without getting out of line with fiscal burdens borne by their cousins in the city." [2]

Professor Hitzhusen also of Ohio State University, found that State and local collection of user charges has been growing relative to total tax revenues. In 1971–72 these charges were equal to 24 percent of the general revenues of the local governments.

The formulas used in Federal Revenues Sharing do not take account of user charges and most forms of non tax revenues. Partly because of this, per capita allocations of Federal revenue sharing funds to cities in Ohio, 1972–76 were approximately double the per capita allocations to villages and triple the allocations to townships and counties.

RURAL COMMERCIAL BANKS

Loans of insured commercial banks in non-metro areas have increased more than the bank loans in the urban areas since 1971. This is not surprising since between 1970 and 1977 population increased by 8 percent and nonfarm employment increased by 27 percent in nonmetro counties, while population increased by 4.7 percent and employment increased only 12 percent in metro counties.[3]

Nonmetro bank assets also have grown more than metro bank assets since 1971.[4] For approximately two-thirds of the nonmetro banks the proportion of commercial and industrial loans to total loans was smaller in 1977 than in 1971. It appears that consumer and housing loans have increased in relative importance in recent years.

STATE FINANCIAL SUPPORT

Direct state financial support for rural economic development most often takes the form of industrial-aid programs, aimed at promoting the location of industrial plants within the State. The main source of public funding for industrial land, buildings, and equipment has been industrial revenue bonding at the local level. However, a number of States have established direct loan and loan guarantee programs as well as their own industrial revenue bond programs.

Industrial development authorities are now operational in 22 states. All States provide some form of tax incentive for industry, although only 18 exempt from corporate taxes, only 15 allow accelerated depreciation of industrial equipment, and only 9 provide excise tax exemption.

FARMERS HOME ADMINISTRATION PROGRAMS

In 1978 Secretary Bergland combined the Rural Development Service with the Farmers Home Administration and asked Congress to change the name of the Farmers Home Administration to the Farm and Rural Development Administration. As a part of its expanding role in rural development the Farmers Home Administration is shifting some responsibility for community and industrial development activity from county offices to district offices in most states.

The district offices will process rural industrial and community facility loans and will be located adjacent to State multicounty planning offices to facilitate better cooperation with the state and local governments in planning rural development investments. The FmHA field staff in 1978 is receiving special training to increase their competence in working with State and local personnel in developing rural investment priorities.

About $8½ billion a year now flows through FmHA channels into rural America, serving a wide variety of rural development needs.

On August 4, 1978, President Carter approved the Agricultural Credit Act of 1978 which provides an economic emergency loan program for farmers, increases the funds available to the Farmers Home Administration and expands its authority to make rural grants and loans.

SMALL BUSINESS ADMINISTRATION AND ECONOMIC DEVELOPMENT ADMINISTRATION RURAL PROGRAMS

In FY 1977 the Small Business Administration made loans totaling about $3 billion; approximately 38 percent of these loans went to small businesses in nonmetropolitan counties.

In fiscal year 1977 the Economic Development Administration made grants and loans totaling about $400 million; approximately 53 percent were made to nonmetropolitan communities.

FOOTNOTES

[1] The papers presented at the conference, were published as a Committee print by the Committee on Agriculture, Nutrition, and

Forestry, United States Senate, July 12, 1977.
[2] Committee Print, p. 36.
[3] Rural America in the 1970's, appendix attached to Statement of Alex P. Mercure, Assistant Secretary of Agriculture before the Subcommittee on the city, House Committee on Banking, Finance and Urban Affairs, May 16, 1978.
[4] Information from a special tabulation supplied by Emanual Melicar, Economist, The Federal Reserve Board.●

TRIBUTE TO BARBARA JORDAN

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

Mr. O'NEILL. Mr Speaker, I welcome the opportunity to join my colleagues in pausing to pay tribute to the Honorable BARBARA JORDAN, a grand lady and distinguished legislator.

BARBARA will be sadly missed in the 96th Congress. I personally will miss her wise political counsel on the Democratic steering and policy committee where she has made innumerable contributions. BARBARA has always known how and when to get at the heart of an issue; and she was unafraid to stand up and bring the members of the Democratic leadership back to the issue in question when oftentimes we drifted astray.

BARBARA will be missed by her colleagues on both sides of the aisle for her ability and competence and her no-nonsense approach to the legislative process. BARBARA JORDAN is no ordinary human being; and the absence of her clear, concise, and poignant rhetoric stands among the finest of American orators. How many of us who served in the House with BARBARA will ever forget her ringing words of indictment during the impeachment proceedings or her cogent and powerful remarks at the Democratic Convention in 1976?

BARBARA has been an accomplished legislator. She has a brilliant legal mind, a real affinity for the legislative process, and cherishes one of the greatest documents in the history of mankind, the American Constitution. The city of Houston can take great pride in having BARBARA JORDAN representing their interests in Washington.

Though BARBARA has served for only 6 years in the House, she has earned the respect and admiration of her colleagues in a very fine way. She has been extremely had working, dedicated, and particularly attentive to district matters.

She is one of the most decent and honorable public servants I have ever known.

Intelligent, erudite, resourceful, competent, brilliant—these are the attributes that BARBARA JORDAN possesses in abundance and these admirable qualities have graced the House Chamber during her service in Congress.

BARBARA, it has been a real pleasure to have you a part of the Democratic team in the 95th Congress. BARBARA JORDAN is an outstanding public servant in every way, and I wish her great success and happiness in the years ahead.

BALANCE(S) OF POWER SERIES: BOOK I—INDEX

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I would like to insert in the CONGRESSIONAL RECORD the index of my Balance(s) of Power Series, Book I, beginning March 17, 1976, and ending December 15, 1977. The index follows:

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TRIBUTE TO DR. ISAAC CHOMSKI

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. WEISS. Mr. Speaker, on November 21, 1978, God willing, one of my most outstanding constituents, Dr. Isaac Chomski, will be celebrating his 75th birthday. I would like to take this opportunity to congratulate him and to bring his many achievements to the attention of my colleagues.

Born outside of Warsaw, Poland, Dr. Chomski emigrated to France in order to pursue his higher education. He received a degree from the University of Paris, while pursuing a successful career as a journalist in the Parisian Yiddish press. Under the adverse circumstances of the German occupation, Dr. Chomski graduated with honors from the Medical School of the University of Montpellier in 1941. The doctor and his educated, beautiful wife Masha, were then selected under an Eleanor Roosevelt program to lead the first contingent of Jewish war orphans, 111 in number, to survival and freedom in the United States. Reader's Digest published Dr. Chomski's account of this epic journey, and in 1942 the article was awarded the Eugene Field Society prize for Children's Journalism.

For the last 35 years, Dr. Chomski, with his wife Masha at his side, has served my constituents as a general practice physician. He has always symbolized the essence of family medicine, treating generation upon generation of patients with endless devotion, tireless effort, great skill, and a legendary bedside manner that always includes a joke or two. Dr. Chomski continues to practice in our community to this day.

Since 1948, Dr. Chomski has served as physician to the Israeli Government

in the United States, as well as to its United Nations delegation. In 1968, he was honored by the Israeli Government for his long service. Dr. Chomski has been personal physician to former Prime Minister Golda Meir for 25 years, and has also counted among his patients Ambassador Abba Eban, Prime Minister Moshe Sharet, Mr. Meyer Weisgal, Henry Fonda, Allen Funt, and Victor Riesel.

We wish Dr. Chomski, Mrs. Chomski, and their son Joe an extremely happy celebration, and we hope for many more to follow.●

REPORT ON RURAL AMERICA NO. 4: COMMUNITY FACILITIES IN RURAL AREAS: THE FEDERAL ROLE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 4 of the following abstract prepared by Philip Winters entitled "Community Facilities in Rural Areas: The Federal Role," as part of the Congressional Research Service Report on Rural America.

Mr. Winters abstract follows:

COMMUNITY FACILITIES IN RURAL AREAS: THE FEDERAL ROLE

Many rural communities are currently experiencing both inmigration and outmigration of their populations leading to a general overcrowding of community facilities in the first instance, and a general inability to maintain adequate community facilities in the second instance. The inmigration is a relatively recent occurrence; the outmigration is the historical pattern for rural areas. In both situations it is difficult, if not impossible, for many rural communities to provide adequate community facilities for their populations. Thus, the factors that induced the Congress to provide Federal support for community facilities still appear to be at work.

The Federal Government has created a number of programs that provide funds for the construction of community facilities. Usually these programs are part of a larger overall program aimed at the economic development of lagging or distressed regions or places. Among these programs are those of the Economic Development Administration, the Appalachian Regional Commission, and the Department of Agriculture. Other Federal programs distribute funds to communities which the communities can be used for local facilities or other community needs. These programs include the Community Development Block Grant program of the Department of Housing and Urban Development and the General Revenue Sharing program of the Treasury Department. In response to the recession of 1974–75, Congress enacted the Local Public Works program, run through the Economic Development Administration.

Of recent concern to those involved in the needs of rural communities is the strength of the Federal commitment to these needs. President Carter's desire to create a Federal urban policy has contributed to the concerns of rural organizations. Robert T. Hall, the Assistant Secretary for Economic Development in the Department of Commerce, highlighted this unease when he stated in the foreword to the Economic Development Administration 1977 Annual Report that "EDA was engaged more deeply and broadly in urban economic development, while maintaining its commitment to rural development. . . . But there would appear to be little doubt that EDA's responsibilities in the urban area will increase in the coming year."

At the same time that EDA seems to be altering its traditionally rural orientation, the more urban oriented Department of Housing and Urban Development (HUD) has been exploring ways to further assist rural and nonmetropolitan areas. In a report ordered by Secretary Harris in January of 1978 (Report of the Task Force on Rural and Nonmetropolitan Areas), the task force urged that HUD begin to target aid to the small communities and rural areas of the country.

The Department of Agriculture continues to strongly support rural development efforts. A number of programs operated by the Farmers Home Administration (FmHA) provide loan guarantees and grants to rural areas for water and waste disposal systems and other types of community facilities. The estimated obligations for the community facility portion of these programs will be slightly higher in fiscal year 1979 ($1,315 million) than they were in the fiscal years 1977 or 1978 ($1,295 and $1,250 million, respectively).

The Appalachian Regional Commission has provided funds for development projects, including various kinds of community facilities to the predominantly rural Appalachian region, since 1965. The majority of the Commission's assistance has gone for highway development, but other funds have been used for vocational and educational facilities, water and waste systems, and other forms of community improvement. Outlays for all the Commission's programs are to increase from $248 million in fiscal year 1977 to an estimated $305 million in fiscal year 1978 and an estimated $315 million in fiscal year 1979.

A number of programs have been created or redesignated in the last few years that fund community facilities in rural and urban areas. Under HUD, the Community Development Block Grant program has taken the place of a number of older categorical grant programs and allows local governments more flexibility in their use of these Federal monies. The funds for this program are allocated between metropolitan and nonmetropolitan communities on an 80–20 basis. Fiscal year 1979 estimated outlays for this program will be $2.644 billion.

The General Revenue Sharing program, begun in 1972 and administered by the Treasury Department, distributed over $4.1 billion to local government in fiscal year 1976, of which $1.1 billion went to local governments in rural areas. These funds can be used by the local governments for virtually any necessary purpose, including community facilities. Outlays for General Revenue Sharing from the State and Local Government Fiscal Assistance Trust Fund are expected to rise slightly from $6.76 billion in FY 1977 to $6.83 billion in FY 1978 and in FY 1979 to $6.85 billion.

The Economic Development Administration was given the responsibility for operating the Local Public Works Act that provided $6 billion over two years. The funds were given to local governments for use on projects the communities needed but lacked funding. Although the program's main aim was the reduction of unemployment, it also resulted in the construction or rehabilitation of a large number of community facilities in both rural and urban areas. No data are currently available on the allocation of these funds as between metropolitan and nonmetropolitan areas.●

REPORT ON RURAL AMERICA NO. 5: LOCAL IMPLEMENTATION OF NATIONAL RURAL DEVELOPMENT PROGRAMS AND POLICIES

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 5 of the following abstract by Sandra S. Osbourn entitled "Local Implementation of National Rural Development Programs and Policies," as part of the Congressional Research Service Report on Rural America.

Ms. Osbourn's abstract follows:

LOCAL IMPLEMENTATION OF NATIONAL RURAL DEVELOPMENT PROGRAMS AND POLICIES

For nearly a quarter of a century—since President Eisenhower established a rudimentary non-farm rural development program in 1955—rural development has been a national objective. The Agriculture Act of 1970 explicitly committed the nation to revitalizing and developing rural areas as a means of achieving balanced national growth. The Rural Development Act of 1972, whose purpose was "to provide for the economy and living conditions in rural America," provided a variety of tools for rural development. At least $74.8 billion in Federal outlays were directed to nonmetropolitan areas in fiscal year 1976. The success or failure of this national objective is determined, to a great extent, by various trends affecting local rural institutions, by the governmental structure and political system in rural areas, and by the structure of the Federal delivery system.

TRENDS AFFECTING RURAL INSTITUTIONS

Rural institutions, like urban institutions, are besieged with demands for new services which were previously provided by the family if at all. Many services that citizens consider essential today come through the action of groups of people or public bodies. Whether this trend will continue, in light of the current vogue for curbing government expenditures, can not be predicted, though it seems likely that public institutions will continue to be important as service providers.

Rural institutions have also been greatly affected by the technological explosion which has led to specialization and large-scale production in every phase of society. Rural economies have been particularly affected by recent technological changes in agriculture and related industries, changes which led to a decline in employment in the "natural resource" industries such as mining, farming, and forestry that formed the economic base for many local communities.

Technological advances have had a second impact on local rural institutions, one which they share in common with urban institutions but are less able to bear. At the same time that many services were being assumed by public institutions, technology made these services both more expensive and more specialized. Few rural communities can bear the costs involved in providing such services.

Greater commitment to the adaptation of technology to meet special rural needs could make technological advances a blessing rather than a bane to rural communities. For example, the Federal Government is making a concerted effort to encourage the use of appropriate technology in wastewater treatment programs in rural areas through the Clean Water Act of 1977, which offered increased grant incentives for the use of alternative technologies.

Rural non-farm interests in the past have not been as effective in influencing the de-

velopment of national policies affecting them as have farmers. In recent years, however, the non-farm rural interests have greatly strengthened their representation in Washington. A Congressional Rural Caucus was organized in July 1973 ". . . to insure the orderly growth and development of rural, nonmetropolitan areas and the plans for bringing together the maximum Federal, State, local and non-Governmental resources available to such areas." Other new organizations have sprung up (e.g., the National Rural Water Association) and existing organizations (e.g., the National Association of Counties) have added the concerns of rural areas and small cities to their agendas.

To a great extent, the new presence of rural advocates in Washington (and in State capitols as well) reflects two other trends which are affecting rural institutions: the increasing interdependence of institutions in contemporary America, and the growth of population in nonmetropolitan areas. Local governments must increasingly interact with aroused citizen groups, with neighboring jurisdictions, and with Federal and State governments. This it seems imperative to non-farm rural interests that their representation be strengthened at distant centers of influence, either to defend themselves against undesirable actions or to assure that they get what they see as their "fair share" of the resources made available by other levels of government.

The recently documented shift in population distribution away from metropolitan areas and toward nonmetropolitan areas and smaller cities frequently leads to increased service demands which the impacted community finds difficult to meet without assistance from other governments. This increases interdependence, and the necessity for advocates of rural areas.

LOCAL GOVERNMENT AND FEDERAL RURAL DEVELOPMENT ENDEAVORS

The local governments which must deal with the consequences of the trends described above are numerous, if not strong. Census Bureau figures for 1977 show that 27.4 percent of the Nation's population live in nonmetropolitan areas which contain 67.6 percent of the local governments in the Nation. These nonmetropolitan areas contain 80.5 percent of all counties, 76 percent of all townships, 65.8 percent of all municipalities, and 63.1 percent of all special districts. The 1977 Census of Governments reported a total of 79,862 units of local government; 53,993 were outside of Standard Metropolitan Statistical Areas (SMSA's). A large percentage of these governments serve small, highly dispersed populations: 69 percent of all non-SMSA counties have a population of less than 25,000, while 61 percent of all non-SMSA municipalities and 70 percent of all non-SMSA townships have populations of less than 1,000.

The purported inadequacy of these local governments has been a constant theme in public administration literature for at least twenty-five years. These views were reiterated in 1978 by the Advisory Commission on Intergovermental Relations:

"The problems of nonmetropolitan governments, then, are the problems of expense, inefficiency, and lack of progress. Compared to metropolitan governments nonmetropolitan governments provide fewer services, have less administrative leadership capacity, and tend toward diseconomies of scale, have inadequate financial bases, and use intergovernmental cooperation agreements less frequently."

If the slate could be wiped clean and a brand new system of governments could be designed to serve rural areas, it is unlikely that the existing structure would be the result. However, the slate is not likely to be wiped clean, so the designers of rural development programs must work within or around the existing structure. The existence of these thousands of units of local government, with all their varying strengths and weaknesses, must be taken into account in the design and implementation of any national rural development program.

A review of the literature on Federal attempts to act as a change agent in rural settings indicates that for a variety of reasons these efforts have not been successful. In part, this is because of local attitudes and beliefs which inhibit national policy implementation. Programs which require identification of needs, establishment of explicit goals, and a planned program for change will be unacceptable to the participants of many rural political systems, who may very well thwart all such attempts. They can do this very simply by refusing to apply for Federal assistance.

Other assessments of Federal programs for rural areas suggest that they have not been entirely successful because nationally set regulations, requirements for funding assistance, and the setting of minimum service levels may not jibe with local needs or local capabilities. This may make it impossible to generate local development strategies that are consistent with local expectations.

Rural community leaders, in their dealings with the Federal government, are frequently put off by what they perceive as attitudes of impersonality and inflexibility. Many local communities which have mobilized a rural community development process and which seek Federal assistance in meeting local goals find that the fragmentation of Federal rural development programs and policies creates a barrier to progress and a constant source of frustration.

FEDERAL RURAL DEVELOPMENT POLICIES AND PROGRAMS

Since 1955, when rural development became an objective of the Federal government, the Department of Agriculture (USDA) has been the lead agency for implementing rural development programs. This lead agency role was given legislative backing in Sec. 603 of the Rural Development Act of 1972, which directs the Secretary of Agriculture to provide leadership and coordination within the executive branch and to assume responsibility for a nationwide rural development program using all executive branch departments and agencies in coordination with rural development programs of State and local governments.

The mandate to coordinate implies that USDA is not alone in providing assistance for rural development, and this is indeed the case. A 1973 count by USDA identified 25 Federal departments or agencies operating in approximately 15 broad program areas and administering approximately 400 separately identifiable programs aimed at rural development. The Rural Development Service estimated that approximately 80 percent of Federal resources available to nonmetropolitan areas are administered by agencies, commissions, and authorities outside USDA. Each of these programs is accompanied by different regulations, guidelines, and conditions for participation. Each one is directed toward a particular clientele or type of project. The coordination and orchestration of these activities so that they impact on rural areas in a mutually supportive way has been a continuing concern of rural development advocates in both the Administration and the Congress.

The current Administration has completed several studies related to rural development, and is at work on several others. A number of bills introduced in the 95th Congress would have overhauled the rural development structure at the Federal level. These activities are likely to generate a fundamental debate over the content, development, and administration of a national rural development policy. The following issues will undoubtedly be addressed as these studies and legislative proposals are considered:

1. The relationship of rural and urban development policies, and whether there should be separate policies for rural areas.

2. The organization of the Federal Government as it relates to rural programs.

3. The Federal aid package for rural areas, which some charge is inefficient and inequitable because of the duplication and overlapping of programs, the "red tape" associated with the programs, and an urban bias in the design of some programs.●

REPORT ON RURAL AMERICA NO. 6: TRANSPORTATION

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 6 of the following abstract by Dr. Leon M. Cole entitled "Transportation," as part of the Congressional Research Service Report on Rural America.

Dr. Cole's abstract follows:

Producers and carriers of agricultural commodities were, in the past, the dominant interests concerned with the provision of rural transport services and thus it was natural to think of rural transportation in terms of transporting agricultural commodities from rural areas to urban markets. In 1920, the decennial census of population showed that rural areas were populated predominantly by persons engaged in agriculture. By 1972, however, farming accounted for only 12.4 percent of non-metropolitan earnings. Consequently, a broader range of interests of those living in open areas and towns under 2,500 population are becoming recognized. Additionally, Congress has broadened both the geographical area and the scope of rural-oriented legislation. In effect, Congress has defined rural areas, for some purposes, to be all areas outside the Standard Metropolitan Statistical Areas (SMSAs), bringing the term "rural" to mean "non-metropolitan." For some purposes, then, all areas, including urban places, which are outside SMSAs are considered rural, and "rural transportation" is the movement of all people and freight except within SMSAs.

Clearly persons and enterprises in rural areas are concerned with the cost, quality and availability of transport services. A fact sometimes overlooked, however, is that persons and enterprises within urban areas are also heavily dependent upon the efficiency and cost of rural transportation services, if desired urban lifestyles are to remain feasible. A sound and effective transportation system in rural areas seems truly in the national economic and social interest; rural transportation should not be addressed solely as an isolated set of problems. Today, the movement of materials, products, and people is critical to the functioning of our complex national production, distribution and consumption systems.

Any overview of major issues in rural transportation should warn of the diversity within rural areas, in topography, climate, economic activity, rate and nature of change, and population characteristics. Seldom is there

a single, well-defined consensus of a problem, or a position on an issue, which can be nicely represented as "the rural interest." Some of the salient problems which are mentioned and discussed most often, however, include: abandonment of unprofitable rail branch lines, prospects for rural road and bridge repair and improvements, highway safety problems and the absence of sufficient emergency medical care for accident victims in many rural areas, cost of fuel, the inadequacy of public transportation, especially for the young, elderly, poor and handicapped, the distances to airports and cost of air transportation, slower speed limits, increased truck sizes and weights, gateway route requirements for regulated motor carriers, rail car shortages, and discriminatory freight rate structures among regions and among commodities.

Improved transportation services, agricultural practices and changed plant location determinants, as well as changing life style preferences, have resulted in major changes in how population and economic activity are distributed throughout the Nation. These changes in the distribution of population, industry, and commerce could not have taken place without the increased availability of adequate and reasonably-priced transportation. In turn, the increased availability of low-cost transportation was influenced strongly by an increasing level of government support through direct and indirect subsidies.

It is the diversity of the rural United States that makes it difficult, if not impossible, to administer equitably an expression of national transportation policy through completely uniform administrative guidelines. One approach to the problem of achieving a broad national transportation objective while responding adequately to the specific and divergent circumstances of various rural areas has been the design and construction of the Appalachian Highway System. The Appalachian approach coordinated planning through a two-step process involving the Appalachian Regional Commission at the multi-State level and Local Development District organizations at the local and multi-county level.

Another approach to the problem of adapting national transportation objectives to diverse regional and local transportation needs was used in designing the Consolidated Rail Corporation (Conrail). The Congress established the national objective that was to be achieved in designing the Conrail system and created two agencies for establishing the actual design of the rail system, reserving the right of Congress to revise the plan. The United States Railway Association (USRA) designed and published a Preliminary System Plan (PSP). Then the Rail Services Planning Office (RSPO), established within the Interstate Commerce Commission, conducted its own independent analysis of the PSP, conducted numerous hearings on the PSP throughout the 17-State area now served by Conrail, and published, for public comment, its own preliminary recommendations for revising the PSP, and a summary of the hearings it had conducted. Benefitting from that public response, RSPO published its final recommendations for modifying the PSP and USRA considered those recommendations in preparing its Final System Plan (FSP). The FSP was not disapproved by Congress and thereby became the blueprint for the Conrail system. The Appalachian Regional Development Act and the Regional Rail Reorganization Act have set legal and procedural precedents and provided experience upon which to develop a process for establishing national objectives and coordinating these with local needs.●

THE FUTURE OF SMALL BUSINESS IN AMERICA

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, as chairman of the House Small Business Subcommittee on Antitrust, Consumers, and Employment, the committee and I initiated a series of hearings during the 95th Congress examining "The Future of Small Business in America." First, the committee examined the history and status of small business in the Nation's economy, and analyzed data indicating trends for the future. Second, we focused on such areas as credit and financial needs of small businesses; problems with regulatory agencies; technological development, and such tax inequities as exist between small businesses on the one hand, and big businesses on the other. Third and last, the committee explored various legislative and policy remedies deemed essential to the preservation and strengthening of the future of the small business community as such.

Testimony received at these hearings showed the small business sector encountering a variety of problems which have inhibited its growth, led to its decline and discouraged new starts within our Nation's economy. Witnesses testified that the causes for its decline include the growing monopolistic power of larger firms; unnecessary and burdensome Government regulations; excessive paperwork; an almost nonexistent antitrust enforcement policy by the Department of Justice and the Federal Trade Commission; and, ill-conceived, unfair, and discriminatory tax policies. Perhaps one of the major lessons we learned was that "equal"—or, the same treatment, to put it another way—is not "equal" treatment "necessarily." Thus, in spite of the leadership role which small business plays in such areas as jobs creation and innovation and development, shortsighted, poorly coordinated and discriminatory Government programs and policies are indeed suffocating "the goose that lays the golden egg."

Government discrimination tantamount to the oppression of small business was further driven home when, as a part of these futures hearings, the House and Senate Small Business Committees held joint hearings in August on the subject of small business's contribution to our Nation's innovation efforts and technological development, and found that Federal agencies vastly underused the capabilities of small business, despite a plethora of seemingly endless studies showing that small research firms have compiled a striking record of achievements and are more cost effective than the activities of large corporations in this area—accounting for more than half of the Nation's successes in this area of fundamental importance to our economy, balance of payments abroad and, to say nothing of the defense of the Nation.

Among the studies cited at our hearings was a previously unpublished Office of Management and Budget commissioned study, headed by Jack Rabinow, which pointed out that:

> Small firms have compiled a striking record of innovation in the private sector . . . the ratio of innovation to sales is about one-third greater in smaller firms . . . the cost per R. & D. scientist or engineer is almost twice as great in firms over 1,000 employees than in firms with less than 1,000 employees . . ., concluding that small firms are inadequately used in the Federal government's acquisition of $26 billion worth of research and development, and *that our country will lose significantly high technology capabilities in the absence of a concerted effort to increase small business research and development awards.* (emphasis added)

This state of affairs is quite contrary to the mandate set forth in the Small Business Act of 1953 (Public Law 85-536), which reads:

> It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise . . .

The important role played by the small business community in the healthy functioning of our economy was underscored by all of the witnesses who appeared. Small business has not only made incalcuable contributions to the advancement of science and technology in our country—it has also been by far the most prolific source of new jobs throughout our history. And, moreover, as the cornerstone to competition in our economy, small business acts as the deterrent to high prices that usually originate with the highly concentrated, oligopolistic sectors of our economy. In fact, small business affords the opportunity for new starts for the next generation, enhances and strengthens competition in our economy; generates the new job it needs, and affords us that strengthening and broadening of competition and our economic base that provides benefits to all within our economy, consumers and businessmen alike—the unemployed and underemployed, our youth, women and minorities.

Yet, in examining the status of small business in our economy, all of our witnesses agree in the expressed view that small business is confronted with a major threat to its present and continuing existence. This threat is reflected in a number of economic and social indexes.

During the period from 1950 to 1976 the proportion of assets controlled by the 100 largest corporations increased from 39.7 to 47.6 percent and, in the same time period, the proportion of assets controlled by the 200 largest corporations increased from 47.7 to 60 percent. The conclusion to be drawn from these data is obvious: As large firms continually enlarge their share of assets, the small business share continually contracts. This conclusion is also confirmed by data on sales: In the period from 1963 to 1972 sales for firms of 1,000 employees and less decreased by 6.6 percent while firms employing 10,000 employees or

more netted an increase in sales of 8 percent. These data on sales and assets are statistical representations of the trend underway in our economy today, toward the increased concentration of economic power in the hands of less and less big business managers. In 1963, for example, the overall average for firm concentration ratio was 37.7 percent; by 1972, that ratio had increased to 38.8 percent. In those industries where concentration is on the rise, it is entirely probable that the small business sector of those industries is diminishing.

This precipitous decline of small business is exacerbated by, and is the result of, a multitude of problems. One of the primary victims of inflation in our country, aside from the private citizen, is the small business community. Inflation increases the cost of meeting capital needs, and for the small business these needs are often desperate.

Government regulatory policies and practices also have an adverse impact on small businesses. Although all of our witnesses recognized the Government's interest in promoting the maintenance of environmental quality (NEPA), occupational safety and health (OSHA), consumer protection (CPSC, FTC), they pointed out that Federal regulatory practices and policies designed to secure these ends are often conflicting, duplicative and incomprehensible as applied to small business. The small business firm, unlike the large one, lacks the financial and human resources—legal, accounting, engineering—that would enable it to cope with the burdens imposed by these policies.

The Federal tax structure and policies also pose a serious problem for small businesses. The lack of a graduated corporate income tax, combined with the abilities of big businesses to take advantage of a variety of tax shelters—and which encourage acquisitions—place the small business community in a uniquely precarious position; the excessive capital gains tax not only drives potential investors in small business away from the market, but also thereby contracts the supply of entrepreneurs, those people who constitute the backbone of small business and the economy of this Nation. Moreover, the lack of an adequate antitrust enforcement policy, as cited by our witnesses as a major cause of the decline of small business and of the widening gap between large and small businesses, suggests a basic government failure in both a comprehension of the nature of our system, and the discharge of its responsibility in the enforcement of the law.

In examining these problems and formulating solutions to them, I propose the following recommendations, many of which are contained in a soon to be printed subcommittee report based upon the above mentioned futures hearings.

First. All branches of the Federal Government should administer and design their policies in the future as to give full effect to the congressional mandate "to aid, counsel, assist and protect small business" as embodied in the Small Busisess Act of 1953;

Second. The U.S. Department of Justice and the Federal Trade Commission should:

Develop affirmative legislative proposals in the area of antitrust laws and policy designed specifically to stop, and to reverse, the trend of continuing decline of small business;

Vigorously enforce and administer existing antitrust laws:

Develop proposals to reverse the continuing trend toward increasing aggregate concentration, through mergers;

Focus enforcement efforts on predatory marketing and advertising practices which place small business at a serious competitive disadvantage. In order to implement and effectuate this section, it is urged that if the FTC and Department of Justice should fail to properly fund their program designed to aid the small business sector, than the Appropriations Committee of the Congress should consider earmarking line items of specific amounts to be used for this purpose;

Continue and expand the practice of intervening in Federal agency proceedings on behalf of small business;

Strengthen working relationships with State attorneys general, district attorneys, and other local officials where appropriate, to insure the coordinated and comprehensive enforcement of antitrust laws at the State and Federal levels;

Request funds for adequate antitrust staffing;

Place particular emphasis on businesses basically engaged in interstate as distingiushed from intrastate commerce, while encouraging and assisting the responsible State and local authorities in increasing intrastate efforts;

Develop policy proposals calling for early intervention during the process and the evolevment of oligopolistic developments within the economy;

Given serious consideration to a revision of the penalty provisions of the antitrust laws insuring appropriate penalties of a criminal and civil nature against the responsible officials and corporate directors.

Third. The U.S. Department of the Treasury in cooperation with the Federal Trade Commission, the U.S. Department of Justice and the Small Business Administration should develop legislative proposals to amend existing tax laws which encourage and facilitate the increasing trend toward mergers and acquisitions;

Fourth. All Government agencies and departments need begin, or increase their efforts to insure that their regulations and the application thereof do not have a disproportionate economic impact on small business; it would appear that the time has come for "small business impact statements," prior to the publication of proposed rules, regulation and/or guidelines;

Fifth. All Government agencies need make a concerted effort to lessen the paperwork that is engendered by the Federal rgulatory policies and practices with particular attention focused on the simplification, standardization, nonduplication and deletion of "bureaucratese" in existing regulations and requirements;

Sixth. Federal agencies should substantially increase their allotments of procurement contracts and research and development funds to small business;

Seventh. Tax legislation should be reviewed and revised which further graduates corporate tax rates and which specifically targets small businesses and individuals as the recipients of preferential capital gains tax treatment;

Eighth. The Small Business Administration Office of Advocacy should conduct and report on its continuing studies, analyze and render reports as provided for in Public Law 94–305 in order that there might be a centralized and continuing appreciation and review of the status of small business throughout the land, as well as in its individual locales; and

Ninth. Serious consideration should be given to the establishment of the Small Business Administration as an independent commission or agency for the purpose of putting it beyond the reach of vagaries of bureaucratic lack of understanding and of shifting political philosophies and economic whimsy.●

SMALL BUSINESS AND JOB CREATION—PART II

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, emphasizing a bit more forcefully the efficiency of these programs, Sanford gave some striking statistics. In fiscal year 1977, each program was asked to report on the probable tax impact of their operations. "This was reported as $10.6 million added to Federal, State, and local taxes," Sanford said, adding that—

> In that same fiscal year the total national budget support available for the Technical Assistance Center Program was $1.6 million. For fiscal year 1977 the tax impact alone was six times greater than the federal dollars allocated to the program.

Giving a broad brush view of the nature of these programs, Sanford noted that—

> It would be hard to find a federal grant program which is more effective in returning money to the government coffers or in stimulating the economy. The pity of it lies in the relatively small, inconsequential size of the program when compared to the vast amounts spent for public works and welfare programs.

Karras pointed out that "a primary mission of the Economic Development Administration (EDA) program since its inception in 1965 has been to reduce the level of unemployment and underemployment in economically distressed local areas through the creation of permanent, private sector job opportunities," adding that the tools used to accomplish this are the business financing program authorized under the Public Works and Eco-

nomic Development Act of 1965, and university center program.

In order to qualify for EDA business development assistance, a firm must be located in, or plan to locate in, an area designated by EDA as economically distressed. With a strong focus in the business development program on the creation and saving of jobs, Karras said that the majority of their work is with firms employing fewer than 500 persons, adding that—

EDA estimates that approximately 4,350 jobs will be created and another 3,750 jobs will be saved in small businesses amounting to $23.4 million so far in fiscal year 1978.

These figures must also be compared to those of Mr. Embree Easterly of Capital Bank & Trust, Baton Rouge, La., which shows that through 317 loans, totaling $48.9 million, 4,453 jobs were created/saved.

As for the university center programs, Karras noted:

The program's track record has been good, saving 42,000 jobs and creating 60,000, and estimated the "EDA cost per job created or saved through the university center program was $170 for the period FY 1963 through FY 1977.

Representing the Small Business Administration (SBA), Milton Stewart, Chief Counsel for Advocacy, and Harold Theiste, Assistant Administrator for Planning, Research and Data Management, presented concurring testimony that "small business is the chief creator of jobs in this country," with Theiste pointing out that SBA's objective "is capital formation and jobs created are only an accompanying benefit."

Theiste pointed out that the most heavily used SBA lending program is "the so-called 7(a) program which accounts for approximately 90 percent of SBA's loan making activity," adding that "during fiscal year 1977, approximately $2.5 billion in loans were approved through the 7(a) program."

Based on a study refinement and analysis done this year in response to our subcommittee's inquiries, Theiste stated that—

SBA estimates that SBA borrowers increased (their) employment by 85,000 to 125,000 jobs during fiscal year 1977, and also estimates that during Fiscal Year 1978, 7(a) will achieve some $3 billion in lending with expected employment of gains of up to 150,000 jobs.

Please bear in mind that these are not deficit funded, revenue dollars invented in temporary public service jobs but, rather, private dollars invested in private businesses generating tax producing jobs.

He went on to say that "small business accounts for almost 97 percent of all business enterprises in the Nation," producing "43 percent of the GNP and over half the business employment."

An SBA task force surveyed borrowers to determine the relationship between business loans and job creation; according to Theiste, "the estimated job creation impact ranged from the $10,000 average of the 335 every respondents to a high of $22,000 (nonrevenue dollars) per loan," indicating that for a reasonably low amount of loan dollars, SBA borrowers experienced significant employment increases.

Recognizing that the Small Business Act underlies the policy of Congress that "the essence of the American economic system of private enterprise is free competition," Theiste noted that—

One of the major tools that SBA employs in carrying out the policy of Congress is its 7(a) program which has established a sound partnership with commercial banks and other financial institutions.

Stewart observed that data on jobs creation prepared by the subcommittee some months ago complements the data he has accumulated through the years showing that "small business has three out of four private sector jobs," and added "our conclusions are identical—small business is the chief creator of jobs in this country." Concluding his testimony, Stewart stated that—

If we are to counter inflation producing trends in the government and big business sectors, it will be by growth of price and other competition and employment opportunities in the small business sector.

Testimony was also received from the independent banking community which was represented by Glenn Swanson, manager of the Washington office of the Independent Bankers Association of America (IBAA); Edward Trautz, chairman of the Federal legislative committee, IBAA; and, J. Knox McConnell, president of the First National Bank of Keystone, W. Va. In their testimony before the subcommittee these men detailed the close relationship between IBAA members and small businesses. They lent their support to the view "that the expansion of SBA lending programs to stimulate the economy and create jobs would constitute a more desirable alternative to job creation than through public works and public work grants."

Trautz reports:

In order to obtain the employment experience of borrowers from IBAA banks under the SBA guaranteed loan program, IBAA has just completed a canvass of 377 of its member banks which, as of May 1, 1978, has outstanding SBA guaranteed loan balances of $100,000 or more. This survey was viewed by OMB as an appropriate means for obtaining job creation data for comparison with SBA survey results. Approximately 25 percent of the banks responded, reporting on 149 loans with an original loan value of $34.0 million. The borrowers indicated that 1,784 employees were added to their payrolls from the date the loan was granted as a direct result of the loan. These loans, in the aggregate, created one new job for each $19,000 borrowed under the SBA guaranteed loan program. This result approximates SBA's revised figure of $20,000 of loan funds per employee.

According to Trautz, another aspect of this survey revealed that "all but a handful of the loans reported by our banks were made to small businesses situated in small towns and villages where employment opportunities are limited"—but, it must be added, where Birch and our demographers tell people and businesses are moving.

Testimony was also received from Bruce Cotton and John Hatch, chairman and vice chairman, respectively, of the legal and legislative committee of the International Franchise Association. In their remarks, these gentlemen pointed out that "franchising is probably the only form of business entity that, by its very nature, contributes to the creation of new business units, and it follows, the creation of new job opportunities"—again, it must be added, job opportunities for that sector experiencing unemployment rates—our youth, minorities, and women. Yet, according to Cotton and Hatch, a myriad of governmental threats and problems face the franchising businesses.

Cotton reported that—

It is ironic that the small business community perceives the United States government and the fifty state governments as the greatest single threat to the future of small business in this country . . . inhibiting economic growth can only retard the number of jobs which can be provided through the franchising sector of the economy.

Both men voiced their agreement with the proposition that "in the elimination of our current high unemployment rates, the small business sector should be the employer of first resort, with the incentive being provided by a job creation tax credit."

Perhaps the most conclusive testimony came from the Farmers Home Administration (FmHA), represented by Robert Butler, the Assistant Administrator for the FmHA's business and industrial (B. & I.) loan program. In his testimony, Butler emphasized the importance of FmHA's B. & I. loan program established in 1972 under the Rural Development Act with a "mandate to operate a program to enhance economic development in rural areas," Butler said, adding "we have chosen to evidence the accomplishments of this development through measuring job creation and maintenance stemming from our B. & I. financing," using as criteria "the number of jobs created and the cost of creating those jobs—more of a cost-benefit ratio approach."

Butler went on to say:

Using more of a factual approach to the problem, what has the Government spent in actual dollars on the program against the number of jobs created or saved? The cost per job would look like this: dollars paid out from losses resulting from defaults—$11,400,000; dollars collected for reserves against loan losses (guarantee fees)—$8,800,000; the net loss on defaults—$2,600,000; estimated administrative expenses for 1974 through 1978—$7,500,000; the cost of the program to the government, which equals loan loss expenses plus administrative expenses, amounts to $10,100,000; therefore, the cost per job, which equals the cost of the program divided by the total number of jobs created or saved, is $44.00.

Again we are discussing loan dollars, that House Committee on Budget/Congressional Research Service tell us generate $8,048 per job going in in Federal, State, and local taxes and welfare savings.

Mr. Speaker, given all of these generally accepted data, which more than adequately support my contention that small business is the dynamic growth force in our economy, it is inconceivable that the bureaucracy and the Federal

Establishment continues to refuse to address themselves to our greatest tool in fighting inflation and unemployment—our small business community and its multifaceted potentials.

I hope that with the wider dissemination and implementation of the recommendations of the Rabinow reports and "it's better to lend than to spend," we will begin to end this longstanding, unconscionable, and self-defeating discrimination by the Federal Government against small businesses, at least in the area of jobs creation, research, and development contract awards.

Yet, we need to do more than that: Government discrimination and oppression of small business through taxation, regulation, the burdens of Government-imposed paperwork, and a multitude of other unnecessary impediments continue to discourage and inhibit the continuing development of entrepreneurial initiatives. Historically, the United States has been blessed with more than its share of entrepreneurs who have developed entire new industries through their hard work and genius, and data show that this spirit of entrepreneurship is both alive and again blooming throughout the United States. Yet, by our actions, and inactions, we are gradually placing that spirit, and along with it, the small business community of our Nation, on the "endangered species" list—it is upon us, and it is much, much later than we think.

Mr. Speaker, the future is now. The Congress of the United States must act immediately to recreate a national small business protection environment—in cooperation with financial institutions, our industry and our academic community—in which our small businesses can flourish, new enterprises can be generated, new jobs, revenues, and sources of capital formation created. Truly the role of small business is vital not only to our Nation's economic well-being, but also to its defense posture and position of international leadership as well. The next generation, which many point out wishes to strike out on its own, awaits us—so does a faltering future cry for new initiatives, discoveries, technologies, and resources; let us no longer turn our backs on the self-evident.●

HERO OF THE RESCUE

HON. WILLIAM R. COTTER

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. COTTER. Mr. Speaker, the heroic actions of a Hartford youth stationed on the American Navy frigate *Whipple* in Hong Kong were recently brought to my attention in a front-page story from the Hong Kong Standard newspaper.

Milton Smith is described in the article below as "hero of the rescue," involving 410 Vietnamese refugees who narrowly escaped death on a sinking boat in the South China Sea on August 24, 1978.

Dangling from a rope secured to the *Whipple*, Mr. Smith lifted more than 50 children over his head to safety on board ship while heavy rains and stormy waves beat at his back and legs.

The bravery he showed in this remarkable feat commands my admiration and respect, and I want to share Mr. Smith's heroic story with the Congress and the country:

AMERICAN WARSHIP PLUCKS 410 FROM WATERY GRAVE: 550 REFUGEES POUR INTO HONG KONG

(By K. C. Tsang)

More than 550 Vietnamese refugees arrived here in two groups yesterday, the largest arrival for a 24-hour period in the last three years.

The first group of 410 arrived on board the American navy frigate Whipple, after a dramatic rescue operation in the South China Sea three days ago.

The second group of 157 came in on a Hongkong fishing boat which had plucked them up from a sinking fishing boat about 90 miles south-southwest of Hongkong.

All the refugees were reported to be in good health.

The Whipple sailed into Junk Bay at 11 am yesterday and began transferring the refugees onto a local ferry.

According to the American rescuers, the refugees narrowly escaped death, as the frigate came to their help only a couple of hours before their vessel sank about 100 miles from the Vietnamese coast.

Commander William Francis said at a news conference on board the ship yesterday that the vessel was on its way to Hongkong for a scheduled visit after an exercise in Thailand.

"At about 1 pm on Tuesday, our guard spotted a small craft some five to eight thousand yards away, and someone was waving a white flag with an SOS sign.

"At that time, winds were at 20 to 25 knots, with heavy rains, and the small craft was having steering problem.

He thought the situation would soon worsen—so at 2 pm the rescue operation was launched.

But it was not an easy operation because of the big waves and the fragile state of the fishing boat, which prevented the use of small navy vessels in the operation.

Officers who volunteered to help were held around their waists by a rope and dangled from the side of the frigate.

They grabbed children handed to them by adult refuges when the fishing boat was lifted by the waves.

The officers then passed the children on to their colleagues, who formed lines to receive the "human cargo" until the two-hour shuttle operation was completed.

Nobody suffered severe injuries during this transfer although the waves occasionally rammed the boat against the frigate.

The hero of the rescue was apprentice fireman Milton Smith who dangled from the side of the frigate and received more than 50 children from the boat.

"Each time I received a child I lifted him over my head, and my colleagues would take him from me.

"I pressed my feet against the ship's hull, and I simply repeated this shuttle operation mechanically scores of time," he said.

"I lost count after lifting 50 children from the boat."

The operation was made more difficult because several elderly people had to be lifted on board on stretchers.

Mr. Smith and his colleagues dangling from the ropes got sore backs and were bruised as the waves time and again rammed the boat against them.

"I didn't know the risk involved at the time, but I am delighted that we saved all those on the boat," he said.

The refugees' vessel sank shortly after the rescue operation.

The refugees, aged from one to 95, include over 130 women, 95 men, and 185 children. One of the women is eight months pregnant.

Most of them come from Ho Chi Minh City, and a large number are ethnic Chinese.

After arriving at Junk Bay yesterday, the smiling refugees were transferred to the Hongkong and Yaumati ferry, Man Yick, shortly after 11 pm, where immigration officers and port health officials started processing them.

They were later taken to the Yaumati Government dockyard before moving into boarding houses arranged by the United Nations High Commission.

All the new arrivals were granted a three-month stay pending efforts to find a home for them, probably in the United States, France or Australia.

Vietnamese refugees come to Hongkong on an assortment of vessels.

The largest group of 3,743 came on May 4, 1975 on board the Danish vessel Clara Maersk, the same day as the Queen arrived here for a visit.

More than 2,700 refugees are still in Hongkong waiting for resettlement.●

ACTIVITIES OF THE SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF THE COMMITTEE ON THE JUDICIARY RELATING TO CLAIMS AGAINST THE FEDERAL GOVERNMENT, INTERSTATE COMPACTS, ADMINISTRATIVE PROCEDURE, AND FEDERAL CHARTERS

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. DANIELSON. Mr. Speaker, during the 95th Congress the Subcommittee on Administrative Law and Governmental Relations, which it is my privilege to chair, considered and reported legislation relating to claims against the Federal Government, interstate compacts, administrative procedure, and Federal charters:

PUBLIC CLAIMS LEGISLATION

Military claims settlement authority

H.R. 7201 provided for increased claims settlement authority under title 10 U.S.C., § 2737. Title 10 had authorized the Secretary of a military Department or the Department of Defense to settle, for not more than $1,000, claims for personal injury, death, or the loss or damage of property caused by civilian or military personnel incident to (1) the use of a Government vehicle or (2) the use of any other Government property on a Government installation. Such authority is available only when there is no other statute for the settlement of the claim. This bill increased the settlement limit from $100 to $2500.

The subcommittee reported the bill to the full committee on September 12, 1978. The bill was favorably reported to the House on October 2, 1978, and passed the House on October 4, 1978. The Senate did not act on this bill before adjournment.

American victims of atomic bomb explosion

The bill, H.R. 8440 and companion bills, would have authorized payment for specialized medical services to United States citizens or permanent residents of the United States who suffered physical illness or injury directly attributable to the atomic bomb explosions at Hiroshima and Nagasaki, Japan, in 1945.

The subcommittee held a hearing on those bills in Los Angeles on March 31, 1978, and in Washington, D.C. on June 8, 1978. At these hearings testimony was received from the following witnesses: Representative Mineta; Lt. Gov. Dymally of Cal.; Harry Takagi, Japanese-American Citizens League; Thomas Noguchi, M.D., Los Angeles County Coroner; Kanji Kuramoto, Committee of Atomic Bomb Survivors in the U.S.A.; Judy Aya Enseki, Committee of Atomic Bomb Survivors in U.S.A., Los Angeles; Mitsuo Inouye, M.D., President, Japanese American Medical Association, Los Angeles; Joe Yamamoto, M.D., UCLA Adult Ambulatory Care Service, Los Angeles; Mamoru Iga, California State University, Northridge; Jack Crouther, California State University, Northridge; Sam Horowitz, M.D., Los Angeles County Medical Association, Los Angeles; John Auxier, Health Physics Division, Oak Ridge National Laboratory, Oak Ridge, Tennessee; Max Mont, the Community Relations Conference of Southern California, Los Angeles; and Karl Nobuyuki, Japanese American Citizens League, San Francisco.

The subcommittee favorably reported this bill to the full committee on June 12, 1978. On September 26, 1978, the full committee considered the bill, but no favorable action was taken.

Claims resulting from Government action regarding chemical TRIS

The subcommittee considered S. 1503 and the corresponding House measures that conferred jurisdiction on the Court of Claims to consider claims by those in the children's sleepwear industry for loss incurred as a result of U.S. governmental action banning commerce in TRIS-treated sleepwear and the components thereof.

On June 15 and August 2, 1978, the subcommittee held hearings which the following witnesses testified: Representative Mann; Representative Cohen; Representative Waxman; Representative Flynt; Representative Stratton; James Merrow, Department of Justice; Richard Simpson of Simpson Associates; David Shirey, American Manufacturing Association; Leo Feuer, William Carter Company; Dan Byrd, Jr., Spring Mills, Inc.; Anita Johnson, Environmental Defense Fund; S. John Byington, Chairman, U.S. Consumer Product Safety Commission; David Moulton, Congress Watch; Stephen Schnitzer, Pajama Corporation of America, New York; Manny Kay, Top Form Mills; Byron Williams, Swanknit, Inc.; Gary Crawford, Werthan Industries; Anthony Devereux, Oneita Knitting Mills; and Evelyn Dubrow, International Ladies Garment Workers Union.

Following the hearings, the subcommittee held markup sessions and made extensive revisions to S. 1503. These amendments allowed the Court of Claims to determine on a case by case basis whether or not any claim should be approved. The subcommittee added specific guidelines for the court to use in making its determination. With these subcommittee amendments, S. 1503 was reported favorably to the full committee on August 9, 1978. On October 5, 1978, the bill was ordered reported to the House by the full committee.

The bill was considered by the House upon a motion to suspend the rules on October 10, 1978, and on October 12, 1978, the bill was passed. This bill was subject to a pocket veto.

Amendments to the Federal Tort Claims Act

H.R. 9219 was introduced on September 20, 1977, as recommended in an executive communication from the Department of Justice. The bill would amend the Federal Tort Claims Act provisions of title 28, United States Code, to create a cause of action against the United States as the exclusive remedy for those suffering injuries or damages due to acts or omissions of Federal employees within the scope of their employment and for claims arising from violations of the Constitution.

The subcommittee held hearings on the bill on February 23, 1978, April 27, 1978, and May 3, 10, 17, 1978, at which testimony was received from the following witnesses: Representative Zeferetti; Hon. Griffin Bell, Attorney General of the United States, Barbara Babcock, Assistant Attorney General, Department of Justice; William Webster, Director, Federal Bureau of Investigation; Richard Davis, Department of Treasury; Ordway P. Burden, Law Enforcement Assistance Foundation; John McNerney, Federal Criminal Investigators; Robert Gordon, International Conference of Police Associations; Glenn D. King, International Association of Chiefs of Police; R. Pat Stark, Fraternal Order of Police; Pam Horowitz and John Shattuck of the American Civil Liberties Union; and Alan Morrison, Public Citizen.

On July 20, 1978, several amendments to the bill were adopted by the subcommittee and the bill was favorably reported to the full committee with those amendments. Due to time constraints, it was not possible to schedule the bill for hearing by the full Judiciary Committee. A similar bill was also pending in the Senate at the end of the Session.

INDIAN CLAIMS LEGISLATION

The subcommittee considered two bills dealing with Indian claims.

Statute of limitations

H.R. 5023 provided for an extension of the statute of limitations for claims sounding in tort or contract that accrued prior to July 18, 1966, and which are asserted by the United States in behalf of Indians.

On May 17, 1977, the subcommittee favorably recommended the bill to the full committee. The bill was reported to the House on June 1, 1977.

On June 6, 1977, an identical Senate bill, S. 1377, failed to pass the House under suspension of the rules. In view of the fact that the statute of limitations would expire on July 18, 1977, a House joint resolution, H. Res. 539, was passed by the House and Senate and approved on July 11, 1977, as Public Law 95–64.

The bill, H.R. 5023, was then considered in the House on July 11, 1977, and July 13, 1977, and the provisions of the House bill as amended were substituted for the Senate bill, S. 1377, which was passed in lieu of the House bill. After a conference of the two Houses, the conference report providing for an extension of the statute of limitations for two and three-fourths years was approved by both bodies and was enacted as Public Law 95–103 on August 15, 1977.

Authorization of appropriations

Another bill, H.R. 4585, authorized appropriations for the Indian Claims Commission for fiscal year 1978, and amended the Indian Claims Commission Act to include provisions to facilitate the transfer of cases from that Commission to the Court of Claims to meet the increased workload incident to those transfers. On May 17, 1977, the bill was recommended to the full committee by the subcommittee with amendments and was ordered reported by the full committee in that form. The bill passed both Houses and was enacted into law as Public Law 95–69 on July 20, 1977.

ADMINISTRATIVE PROCEDURE

Attorneys' fees for public participation in Federal agency proceedings

On March 30 and 31, 1977, and on April 1, 27, and 28, 1977, hearings were held on the bill H.R. 3361, which amended the Administrative Procedure Act to provide for awards by federal agencies for reasonable attorneys fees and other expenses for public participation in agency proceedings. This bill provided that awards could be made when participation in the court action serves an important public purpose.

The following witnesses testified at the subcommittee hearings: Representative Rodino; Senator Thurmond; Senator Kennedy; Representative Koch; Representative Fish; Representative Chisholm Judge Leventhal, U.S. Court of Appeals for the District of Columbia Circuit; Judge Renfrew, U.S. District Court for the Northern District of California; Barbara Babcock, Assistant Attorney General, Department of Justice; Margery Smith, Federal Trade Commission; R. Pittle, Consumer Products Safety Commission; Mike Shulman, California Citizens Action Group; Kathleen O'Reilly, Consumer Federation of America; Robert C. Sheehan, Association of the Bar of the City of New York; Mike Cole, Common Cause; Charles Hill, American Civil Liberties Union; George Gleason, American Nuclear Energy Council; Jerome Wagshal, Esq., Joseph Swidler, Esq., Richard Leighton, Esq., Grocery Manufacturers of America, Inc., Ben Blackburn, Southeastern Legal Foundation, Inc., Atlanta, Georgia; and Robert Knickerbocker, Esq., in behalf of Edison Electric Institute.

On May 6, 1977, after four days of markup, the bill was ordered reported to the full committee with amendments. The bill was the subject of two days of full committee consideration and on May 12, 1977, the bill was recommitted to the subcommittee.

On May 17, 1977, the subcommittee approved several amendments to the bill, H.R. 3361, and on July 27, 1977, the final markup was held on the bill and a clean bill, H.R. 8798, was ordered reported to the full committee, which did not take action on that bill.

Administrative Conference of the United States

The bill, H.R. 7662 provided for the authorization of appropriations for the Administrative Conference of the United States. This legislation served as a vehicle whereby the subcommittee exercised its oversight jurisdiction in reviewing the activities, needs, and functioning of the Conference while at the same time it determined required funding in its expansion to a permanent, independent agency whose responsibility is to improve the administrative machinery of government.

On July 26, 1977, the subcommittee held hearings on H.R. 7662, and received testimony from the following witnesses: Robert A. Anthony, Chairman, Administrative Conference of the United States; Harold Leventhal, Circuit Judge, U.S. Court of Appeals; Cornelius Kennedy, Esq.; and Sheldon Cohen, Esq.

On September 27, 1977, the subcommittee approved the bill with an amendment authorizing the following authorizations: 1979—$1.7 million; 1980—$2 million; 1981—$2.3 million. On October 25, 1977, the full committee reported H.R. 7662 to the House in the form recommended by the subcommittee.

The bill passed the House on January 24, 1978. The House then passed the bill, S. 1792, amending it to include the language of H.R. 7662. The Senate agreed to the House amendments and the bill was signed by the President on June 13, 1978, as Public Law 95–293.

Oversight Hearings: Government in the Sunshine Act

In the 94th Congress the subcommittee considered and passed H.R. 11656 which became Public Law 94–409. This law added new section 552b to the Administrative Procedure Act to provide for open meetings by agencies of the government.

On February 23, 1977, the subcommittee conducted an oversight hearing on implementation of the Act. At that time, the affected departments and agencies were required to promulgate implementing regulations. The subcommittee received testimony from Richard Berg, Administrative Conference of the United States and from Harry Pitt, Security and Exchange Commission, concerning the implementation of the Act

and, in particular, the progress and status of implementing regulations.

The Justice Department, through its Office of Legal Counsel, prepared a legislative history of the Act which was distributed by the Administrative Conference to the participating agencies. In addition, draft regulations formulated by the U.S. International Trade Commission and a staff memorandum on the effect of the Act on Federal Trade Commission procedures were circulated for guidance of other agencies. The Federal Trade Commission submitted for inclusion in the record of the hearing the final rules of the Commission implementing the Act. It is expected that these actions will assist in accomplishing the intended purposes of the Government in the Sunshine Act.

INTERSTATE COMPACTS

The subcommittee's jurisdiction includes legislation concerning interstate compacts, Constitution, Article I, Section 10.

Louisiana—Mississippi

In the 95th Congress, the subcommittee considered H.R. 3662, a bill granting Congressional consent to the compact entered into between the States of Mississippi and Louisiana. This compact establishes an interstate authority to supervise the construction of a bridge connecting the two States near Natchez, Mississippi, and Vidalia, Louisiana.

At the subcommittee hearing on March 7, 1977, Representative Thad Cochran, Representative Jerry Huckaby, and Mayor Tom Byrne of Natchez, Miss. testified.

On March 22, 1977, the subcommittee approved and the full committee ordered that H.R. 3662 be reported to the House. The bill passed the House and Senate and was signed by the President on June 1, 1977, becoming Public Law 95–35.

Alabama-Georgia

The subcommittee favorably recommended another bill providing for congressional consent to an interstate compact when on August 15, 1978 it reported the bill H.R. 13692, on the Historic Chattachoochee Compact to the full committee. This compact between Alabama and Georgia provided for a joint commission to promote the history of Chattachoochee Valley and to develop historical sites and exhibits in cooperation with local, state and federal agencies. The bill passed both Houses and was enacted into law on October 14, 1978 as Public Law 95–462.

Louisiana-Texas

The bill H.R. 1551 provided for congressional consent to an amendment to the Sabine River Compact between Louisiana and Texas which removed a limitation to enable the authorities of the States to deal with problems of pollution abatement and saline intrusion with reference to water sources subject to compact jurisdiction.

A hearing was held by the subcommittee on March 7, 1977, with testimony given by Cong. Joe Waggonner and Alan Eckert, Environmental Protection Agency. The subcommittee favorably recommended the bill on the same day and on May 10, 1977, the full committee ordered it reported to the House. The bill passed the House on May 16, 1977, and the Senate on July 12, 1977. It was signed by the President on July 23, 1977 becoming Public Law 95–71.

New Hampshire—Vermont

S. 2403 modified the New Hampshire–Vermont Interstate School Compact, providing for flexibility in methods of allocating state aid and tax burdens. It was approved by both States and the consent of Congress for the amendment was provided for in the bill, S. 2403. The full committee reported the bill to the House on October 4. It passed the House and Senate and was enacted into law as Public Law 95–536 on October 27, 1978.

CHARTERS: FEDERAL NONPROFIT CORPORATIONS

U.S. Capitol Historical Society

H.R. 11035 provided for the federal incorporation of the U.S. Capitol Historical Society. On September 12, 1978 the subcommittee favorably recommended the bill with an amendment requiring the Society to maintain its incorporation in the District of Columbia, as is mandated by the standards for the federal incorporation of an organization which were approved by the subcommittee at the beginning of the 95th Congress.

The full committee ordered H.R. 11035 reported to the House on September 26, 1978. The House passed the bill on October 2, 1978, and the Senate passed it on October 5, 1978. The bill was signed by the President on October 23, 1978 and became Public Law 95–493.

Amendment of the Charter of the United States Olympic Committee

S. 2727, the Amateur Sports Act of 1978, and the corresponding House bills based on the recommendations of the President's Commission on Olympic Sports, proposed to amend the federal charter of the United States Olympic Committee (USOC) to provide that the USOC would become the coordinating body for American amateur participation in the Olympic and Pan-American Games, and other major international competitions. The bills also provided a $50 million, one-time authorization for appropriations to facilitate and encourage the reorganization of amateur sports as provided for in the charter amendments.

On June 21 and 22, 1978, the subcommittee held hearings and received testimony from the following witnesses: Senator Stevens; Representative McEwen; Representative Metcalfe; Representative Mineta; Representative Michael C. Conrad, President's Council on Physical Fitness; John Naber, Diane Holum, Willie Davenport, Panel of Athletes; David Maggard, National Collegiate Athletic Association; Joel Ferrell, Amateur Athletic Union; Olin Cassell, AAU; Jeffrey S. Darman, Roadrunners of America; Robert Kane and Donald Miller, USOC; Robert Helmick, National Governing Bodies; Edward Williams, Athletes Advisory Council; Dr. Harry G. Fritz, National Association of Intercollegiate Athletics; Carole Mushier, Association of Inter-colleagiate Athletics For Women; Dr. Scott Thomson, National Asociation of Secondary School Principals; and Joseph Peters, Real Sports, Inc.

After extensive subcommittee amendments, including the striking of the authorization for appropriations, the bill was favorably reported to the full commitee on August 16, 1978. On September 21, 1978, the full committee ordered the bill reported to the House after amending the bill to provide for a $30 million authorization.

On September 26, 1978, S. 2727 was considered under suspension of the rules, but did not pass. Thereafter, a rule was obtained and the bill passed by voice vote, after the House voted to delete the $30 million authorization. The Senate accepted the House amendments, and the bill was sent to the President in the form it passed the House. It was signed on November 8, 1978 and became Public Law.

Big Brothers of America

On September 27, 1978, the subcommittee approved H.R. 7249, the amendment of the charter of the Big Brothers of America which would permit a merger between that corporation and the Big Sisters of America. The merger permitted the single organization to serve both boys and girls to avoid duplicating costs and effort by two separate organizations that had the same essential function. On the floor of the House an identical Senate-passed bill, S. 2208, was substituted for the House bill and passed in its stead. It was enacted into law as Public Law 95–167 on November 11, 1977.

AMVETS

H.R. 1952 amended the charter of the AMVETS to provide that American veterans of service between September 15, 1940 and May 8, 1975, are to be eligible for membership. The subcommittee favorably recommended the bill on February 28, 1977 and it was reported by the full committee on May 3, 1977. The bill passed the House on August 1, 1977 and was enacted into law on August 15, 1977 as Public Law 95–98.

American Legion

The bill S. 2424 amended the charter of the American Legion by broadening the eligibility periods for membership and providing that those who served in World War II, the Korean Conflict, and during the Vietnam War Era would be eligible for membership. This bill was reported by the full committee on July 25, 1978. It was passed by the House on August 7, 1978, and enacted into law on August 17, 1978, becoming Public Law 95–346.

Boy Scouts of America

H.R. 11956 concerned printing of the annual report of the Boy Scouts of America. It was approved by the subcommittee on July 20, 1978, and by the full committee on July 25, 1978. The bill passed the House on August 7, 1978. The Senate took no favorable action on this bill.

PRIVATE CLAIMS LEGISLATION

In addition to its public legislation, the subcommittee has jurisdiction over private claims against the United States Government. 365 such bills were referred to the subcommittee during the 95th Congress, and 73 of these were acted on by the subcommittee. 38 of the bills acted on were favorably recommended by the subcommittee to the full committee, which reported them to the House. Of the bills reported, 36 passed the House, 22 of which were ultimately enacted into law.●

ITALIAN AMERICAN CULTURAL WEEK

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MINETA. Mr. Speaker, every American ethnic community has come to recognize the importance of retaining its cultural identity. As a Japanese American, I am particularly sensitive to the need for maintaining pride in one's cultural background. In many of our newer communities, cultural background offers a sense of community that can make an important contribution to the maturity of the community as a whole. The fourth annual Italian American Cultural Week, sponsored by the Italian American Heritage Foundation in Santa Clara County, is a good example of that kind of contribution.

This year's celebration included the traditional bocce ball tournament and an Italian American Downtown Festival. The festivities culminated in a concert by singer Tony Bennett on Friday, October 13, at the San Jose Center for the Performing Arts.

Mr. Speaker, I would like to congratu-

late the officers of the Italian American Heritage Foundation for their work on this year's Cultural Week, including President John De Vincenzi, First Vice President Sal Sanfilippo, Second Vice President Rocci Pisano, Corresponding Secretary Edith Bertucelli, Financial Secretary Linda Abronzino, and Treasurer Vic Coriglia.

Other members serving on the Board of Directors include Leo Agnoletti, John Di Salvo, Charles Falcone, Frank Fiscalini, Sal Flavetta, Joe Guerra, Carl Lepiane, Don Lima, Rocci Pisano, Murphy Sabatino, and Mary Jeanne Anzalone Sauerwine.

The activities of the foundation, and its affiliated Young Italian Americans, are not limited to 1 week of the year. Both organizations are now working on plans for an Italian American Cultural Center for all people in the Italian American community, as well as for all other interested persons.

Mr. Speaker, I ask the House of Representatives to join me in congratulating the Italian American Heritage Foundation for its contribution to cultural life in Santa Clara County and in wishing them continued success in the future.●

ACTIVITIES OF THE SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENT RELATIONS, COMMITTEE ON THE JUDICIARY

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. DANIELSON. Mr. Speaker, during the 95th Congress the Subcommittee on Administrative Law and Governmental Relations, which it is my privilege to chair, considered and reported legislation of major significance including ethics and financial disclosure, and regulation of lobbying activity.

In the course of its 96 meetings during this Congress, this subcommittee of the Judiciary Committee held 46 hearings at which witnesses were heard, 35 markup sessions for the amendment of public bills, and 15 additional meetings for the consideration of private bills:

ETHICS AND FINANCIAL DISCLOSURE

In the 95th Congress the subcommittee continued the work commenced in the 94th Congress on legislation relating to ethics and financial disclosure by government officials. In the previous Congress, the subcommittee conducted hearings and reported the bill, H.R. 3249 with subcommittee amendments to the full committee, but the Congress adjourned before it was possible to complete action on the bill.

On September 9 and September 13, 1977, the subcommittee held hearings on the bills, HR 1, HR 9, HR 6954 and a large number of companion bills relating to financial disclosure by government personnel. The following witnesses testified: Representative Kastenmeier, Representative Preyer, Representative Wiggins, Representative Eckhardt; Alan Campbell, Chairman, Civil Service Commission; Robert Keller, General Accounting Office; Prof. Hall and Prof. Miller of the American Bar Association; Joseph Spaniol, Administrative Office of the United States Courts; Commissioner Irving Pollock, Securities and Exchange Commission; Thomas Henderson, Department of Justice, and Fred Wertheimer, Common Cause.

The subcommittee conducted its markup sessions on HR 1 on September 12, 13, 14, 15, 16 and 20 of 1977. As a result of the hearings, the subcommittee revised HR 1 to include some of the recommendations of the President on 1) disclosure by executive and judicial branch personnel, 2) the creation of an office of ethics, and 3) amendment of section 207 of title 18, United States Code, dealing with conflict of interest and disqualification of former officers and employees from specified activity involving their former agencies. The subcommittee adopted many other amendments.

On September 20 the Subcommittee ordered the amended bill reported to the full committee. The full committee held markups on the bill as amended on September 30, and October 5, 11 and 12, 1977, and ordered the bill with committee amendments reported to the House. The report was filed on November 2, 1977, as House Report No. 95–800.

H.R. 6594 had been jointly referred to the Post Office and Civil Service Committee, the Armed Services Committee, as well as the Committee on the Judiciary, and these committees had reported the bill H.R. 6954 with their own amendments. Since each form of the bill contained similar provisions, a new bill, H.R. 13850, was introduced to combine the versions and simplify consideration by the House.

The House considered HR 1 (HR 13850) on September 20 and September 26, 1978, and the bill passed the House on September 26 by a vote of 368 ayes to 30 nays with one member voting present. The provisions of the House bill were then amended into a Senate bill dealing with the same subject. After a conference between the two Houses the conferees agreed upon a conference report which included substantially the provisions of the House-passed bill, with additional titles providing for a Senate legal counsel and a mechanism for the appointment of a special prosecutor. The conference report was approved by the Senate on October 7, 1978, and the House on October 12, 1978. The President signed the bill on October 26, 1978 as Public Law 95–521.

DISCLOSURE OF LOBBYING

On the introduction of H.R. 1180, the subcommittee initiated its consideration of disclosure of lobbying. This bill based upon extended hearings and consideration of the issue in the 94th Congress.

The subcommittee held hearings on April 4, 6, 21, 27, 28 and 29, 1977. The following witnesses testified at these hearings: Senator Thurmond, Representative Kastenmeier, Representative Railsback, Representative McClory, Representative Edwards of California, Peter Flaherty, Department of Justice; Robert Keller, General Accounting Office; Fred Wertheimer, Common Cause; Kenneth Norwich, American Civil Liberties Union; Donald Schwab, Veterans of Foreign Wars; John de Lorenzi, American Automobile Association; J. M. Lyle, National Security Industrial Association; Robert Hatfield, Business Round Table; Richard Godown, National Association of Manufacturers; Fred Krebs, U.S. Chamber of Commerce; Andrew Biemiller, AFL–CIO; Andy Feinstein, Public Citizen Congress Watch; Ruth Clusen, League of Women Voters of the U.S.; Allen Smith, Sierra Club; James Cregan, National Newspaper Association; Dick Rathbun, Christian Science Committee on Publication; R. Michael Cole, Common Cause; Charles Hill, ACLU; George Gleason, American Nuclear Energy Council; Jerome Wagshal and Joseph Swidler, Washington, D.C.; Richard Leighton, Special Counsel to Grocery Manufacturers of America; Ben Blackburn, Southeastern Legal Foundation; and Robert Knickerbocker, in behalf of Edison Electric Institute.

Markup sessions on the bill, H.R. 1180 were begun on May 23, 1977, and, after eighteen days of markup, on July 21, 1977, a revised bill, H.R. 8494 was ordered favorably reported to the full committee.

H.R. 8494 was divided into three main portions. The first portion defined what organizations should register and report. The second portion specified what information would be provided in the annual registration and quarterly reports filed by those organizations. The third portion contained provisions relating to registration, record keeping, and reports, and the administrative responsibilities of the General Accounting Office. The Department of Justice would be charged with the duty of seeking compliance wtih the provisions of the law and with civil and criminal enforcement of the law.

The full committee considered the bill on February 15, 16, 22, 1978, and ordered the bill reported to the House. The bill was considered in the House on April 19, April 20 and April 26, 1978, and passed the House on the latter date by a vote of 259 to 140. The Senate failed to act on the bill prior to adjournment of the Congress.

SOCIAL SERVICES UNDER SOCIAL SECURITY ACT

H.R. 11370 was introduced to implement agreements entered into between the federal government and the states regarding claims for reimbursement of expenditures made by the states prior to October 1, 1972 for social services under the Social Security Act. The bill further provided for the comprehensive settlement of all claims between the states and the federal government for referral of amounts previously paid in the same period. This legislation authorized the appropriation of the funds to fulfill these agreements.

On March 8, 1978, the subcommittee held hearings on H.R. 11370, H.R. 10101 and related bills, receiving the testimony of the following witnesses: Eugene Eidenberg, Department of Health, Education and Welfare; Gregory Ahart, General Accounting Office; and Charles Miller, National Governor's Association.

The subcommittee favorably reported H.R. 11370 with amendments to the full committee on April 5, 1978, and the full committee ordered that it be reported to the House on May 2, 1978.

On May 23, 1978, the House passed H.R. 11370 under suspension of the rules. An identical bill passed the Senate on May 25, 1978. The measure was approved by the President on June 12, 1978, and became Public Law 95–291. The new law finally settled disputed claims between the federal government and several states by payment of $531 million to these states which had asserted claims exceeding $1.5 billion.

CONTRACT CLAIMS AND DISPUTES ADJUSTMENT

H.R. 11002 and its companion bills contained provisions to implement some of the recommendations of the Commission of Government Procurement. These recommendations urged the establishment of a comprehensive statutory framework for the settlement of disputes and claims arising out of contracts involving the federal government and relating to procurement, construction, alteration and maintenance of real property, the procurement of services and the disposal of personal property.

The subcommittee held hearings on these bills on November 10 and November 11, 1977, and received testimony from the following witnesses: Irving Jaffe, Department of Justice; Louis Spector, Commissioner, United States Court of Claims (appearing individually); Allan Joseph, American Bar Association; C. Stanley Dees, District of Columbia Bar Integrated; John A. McWhorter, Clarence T. Kipps, and O. W. Hiestand, Bar Association of the District of Columbia; Prospere S. Virden, Honeywell, Inc.; Paul Dembling, Gen-

eral Accounting Office; Judge Russell C. Lynch, National Conference of Boards of Contract Appeals Members; William E. Neumann, Associated General Contractors; and Lawrence Caruso, Electronic Industries Association.

On February 8, 1978, the subcommittee favorably recommended the bill with subcommittee amendments to the full committee, which on September 8, 1978, ordered the bill reported to the House.

The bill passed the House on September 26, 1978. The Senate passed the bill in an amended form on October 12, 1978, and the House agreed to the Senate amendments on October 13, 1978. The bill was approved as Public Law 95–563 on November 1, 1978.

CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS

The bill, H.R. 12290, provides for the effective implementation of the Narcotic Addict Rehabilitation Act of 1966, as amended, by consolidating the authority for supervisory care for drug dependent federal offenders in a single agency, the Administrative Office of the United States Courts, instead of splitting the responsibility between the Administrative Office and the Bureau of Prisons, as had been done in the past. Services for such offenders include vocational guidance, education and training, job placement, psychological evaluation, psychotherapy, detoxification, temporary housing, residence in a community center, and emergency financial assistance.

The subcommittee held a hearing on this bill on June 8, 1978, and received the testimony of Norman A. Carlson, Bureau of Prisons, and Wayne P. Jackson, Administrative Office of the United States Courts.

On June 12, 1978, the subcommittee favorably recommended this bill to the full committee. On September 26, 1978, the full committee considered S. 3336, a Senate-passed bill identical to H.R. 12290 but with higher authorization levels. The full committee ordered S. 3336 reported to the House with an amendment to reduce the authorizations to $3.5 million in fiscal year 1979, $3.645 million in fiscal year 1980 and $3.75 million in fiscal year 1981.

S. 3336 was passed by the House on October 10, 1978 and the Senate agreed to the House amendments on October 13, 1978. The President approved this bill on October 27, 1978 as Public Law 95–537.

NATIONWIDE SERVICE OF SUBPOENAS UNDER THE FALSE CLAIMS ACT

The bill, H.R. 12393, provided for nationwide service of subpoenas in all suits involving the False Claims Act, 31 USC 231 et. seq. The previous law, Rule 45(e)(1), Federal Rules of Civil Procedure, had limited the subpoena power of the court to the confines of the issuing court's judicial district or to any place outside the district that was 100 miles within the place of trial.

On June 8, 1979, J. Rodger Edgar, Department of Justice, testified at the subcommittee hearing on the bill.

The subcommittee favorably reported the bill to the full committee on June 12, 1978, and on July 25, 1978, the full committee ordered it reported to the House.

On September 18, 1978, the bill was passed by the House. On October 15, 1978, the bill was passed by the Senate with an amendment which was agreed to by the House on October 15, 1978. The bill was signed by the President on November 2, 1978, and became Public Law 95–582.

AMENDMENT TO THE MILLER ACT

H.R. 3185 was a bill which proposed to amend the Miller Act by increasing the minimum dollar level for requiring payment and performance bonds in federal construction contracts from $2,000 to $50,000.

On June 28, 1978, the subcommittee held a hearing on this legislation and received testimony from the following witnesses: Representative Moorhead of Pennsylvania; Clyde Jackson, Greater Pittsburgh and Job Development Corporation; William H. Harrell, Coastal Construction Products, Inc.; James Kimble, American Insurance Association; C. Christopher Law, General Services Administration (GSA); and John Tresk, Small Business Administration.

On September 12, 1978, the subcommittee amended the bill by reducing the threshold from $50,000 to $25,000, as had been recommended by GSA. It then favorably reported the bill to the full committee which on September 26, 1978, ordered the bill reported to the House with the subcommittee amendment.

On October 10, 1978, the bill, as amended, was passed by the House and sent to the Senate, where it passed on October 13, 1978. H.R. 3185 was signed by the President on Nov. 2, 1978 and became Public Law 95–585.

SHIPMENT OF LOTTERY EQUIPMENT TO FOREIGN COUNTRIES

In 1978, the bill H.R. 11580 and companion measures were introduced to amend the present law to allow the shipment of lottery tickets and materials to foreign countries whose laws authorize lotteries. The purpose of these bills was to allow the export of lottery materials so American companies would not be forced to set up facilities for the manufacture of these materials in the foreign countries that constitute their market.

The subcommittee held hearings on H.R. 11580 and its companion measures on June 8, 1978, and received testimony from the following witnesses: Representative Sawyer; Representative Evans of Georgia; and Marvin Loewy, Department of Justice.

On June 12, 1978, the subcommittee favorably reported H.R. 11580 to the full committee. The full committee ordered it reported to the House on September 26, 1978.

The House passed the bill on October 2, 1978, and it was adopted by the Senate on October 13, 1978. This bill was subject to a pocket veto.

DIRECT ACTION AGAINST INSURERS INVOLVING CLAIMS AGAINST PERSONS ENTITLED TO DIPLOMATIC IMMUNITY

H.R. 7679, was introduced to complement H.R. 7819, which was reported by the International Relations Committee and passed by the House, and which amended the law concerning diplomatic immunity by requiring diplomatic personnel to carry liability insurance.

The bill, H.R. 7679, provided for direct action against insurers of diplomats and also provided that such actions would be 1) tried without a jury; 2) subject to all lawful conditions of insurance; 3) subject to the law of the place of occurrence as provided in new section 1364 of title 28; and 4) not subject to the defense that the insured is an indispensable party.

On August 1, 1977, the subcommitte held a hearing on this bill and received testimony from the following witnesses: Representative Fascell; Senator Mathias; Bruno Ristau, Department of State; Hampton Davis, Department of State; Leslie Cheek, American Insurance Association; and John J. Nangle, National Association of Independent Insurers.

On April 5, 1978 the subcommittee favorably recommended the amended bill to the full committee, which on July 11, 1978 ordered the bill reported to the House. Meanwhile, before the House acted on this bill, H.R. 7819, which had already passed the House, passed the Senate with an amendment substantially covering the contents of H.R. 7679. The House agreed to the Senate amendments and, therefore, gave no further consideration to the Judiciary Committee bill, H.R. 7679.

CONGRESSIONAL TAXATION

The bill H.R. 6893 added a new section 113 to title 4 of the United States Code. This new section provides that no state (including the District of Columbia) or state political subdivision can impose an income tax on a Member of Congress who maintains a home in such place for purposes of attending sessions of Congress unless the Member represents that State.

The bill was approved by the subcommittee on May 17, 1977, and ordered reported by the full committee on May 24, 1977. The bill passed both Houses of Congress and was approved as Public Law 95–67 on July 19, 1977.●

QUALITY AND SCOPE OF FEDERAL REGULATION

HON. JOHN E. MOSS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MOSS. Mr. Speaker, today throughout the Nation there is a deep concern about the quality and scope of Federal regulation. The American people want waste and inefficiency ended. They want Federal agencies to conduct business in a way more responsive to the public interest. The accomplishment of those objectives will be a major challenge for the next Congress.

In late 1976, the Interstate and Foreign Commerce Subcommittee on Oversight and Investigations, which I have been proud to chair over the past 4 years, issued a comprehensive report entitled "Federal Regulation and Regulatory Reform" (H. Doc. 95–134, 95th Cong., 1st sess.). The report, based upon many days of hearings and substantial staff work, was written in response to the need for ongoing review of Federal regulatory activities, and contained several major legislative proposals for reform. The first of these major proposals, which has now been crafted into legislative language, provides for the creation of a Consumer Health and Safety Commission.

This new agency will administer regulatory programs presently administered by four different agencies—the Consumer Product Safety Commission, the Food and Drug Administration, elements of the Environmental Protection Agency, and the National Highway Traffic Safety Administration. Because this proposal entails consolidation of existing programs rather than an increase in the number of regulatory agencies, no additional costs will be incurred.

Responsibility for consumer health and safety policy, research, and regulation is now fragmented among several departments and agencies. Consequently, coordinated and comprehensive action with respect to individual hazardous products or classes of products is difficult.

The present situation leads to duplication of effort, inefficiency, and avoidable costs. Formulation and prosecution of a vigorous national policy to protect the health and safety of consumers require the integration of major health and safety functions into a single inde-

pendent agency. Clearly, this logical and needed reorganization will increase the level of protection afforded consumers, but without expanding Government bureaucracy.

The reorganization proposal also includes measures both to streamline and standardize administrative procedures, and to impose stronger conflict of interest standards. One conclusion of our report was that the public is entitled to a greater level of confidence in the integrity of commissioners and their employees.

The second proposal, also based on the subcommittee's report, is designed to address a number of generic problems that plague regulatory agencies.

The proposal, entitled the "Regulatory Reform Act of 1979," contains six substantive titles, the first of which creates a Regulatory Appointments Advisory Commission to open up to public scrutiny the process by which individuals are selected for important regulatory posts. The Commission should significantly improve the quality of regulators by providing the President with lists of qualified candidates.

Title 2 seeks to eliminate undue executive branch control over regulatory agencies by prohibiting attempts to influence agency staff appointments. It also requires agency budget requests and legislative proposals to be sent simultaneously to Congress and the President.

Title 3 grants agencies the authority to litigate their own civil cases without relying on the Department of Justice.

Titles 4 and 5 would help insure that the public interest is adequately represented in agency proceedings. Title 4 establishes offices of public counsel for the Federal Communications Commission, the Nuclear Regulatory Commission, and the Federal Energy Regulatory Commission. Such offices will satisfy the need for a permanent expert able to articulate and advocate the public interest in the complex proceedings of those agencies.

Title 5 authorizes agencies to reimburse participants for the costs of participating in the regulatory process. Specific standards and funding ceilings will insure that the public interest objectives of this initiative are achieved without waste of public funds.

Title 5 requires each agency to issue an annual report concerning the administration of its regulatory programs. The specific items required in the report will greatly enhance the ability of Congress and the public to review the performance of agencies.

These two proposals are particularly timely. Their enactment will make regulation more responsive to public needs without significant cost increases.

Representative WAXMAN, who worked diligently with me on the subcommittee during our 2-year-long study of Federal regulation, has assured me of his intent to introduce both these proposals as bills at the beginning of the next Congress. However, we felt that it would be helpful to our colleagues and their constituents to make the actual text of these initiatives available at this time, so that they can be reviewed carefully over the next several months. Therefore, I would like to announce that copies of both proposals are available on request at the subcommittee's office, 2323 Rayburn House Office Building, Washington, D.C. 20515 (202/225-4441).

Thank you, Mr. Speaker.●

CONGRESSIONAL MARINES CELEBATE 25TH YEAR

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. CONABLE. Mr. Speaker, recently it was my privilege to preside over a very unusual and colorful event on the grounds of the Iwo Jima Memorial in Arlington.

The occasion was the 25th anniversary of our Congressional Marines Group, an informal organization of Members of Congress and our staff who, at one time or another, wore the globe and anchor of the U.S. Marine Corps.

Our organization had its beginning in the summer of 1953 when Joe Bartlett, who had just returned to the Capitol from his second tour of active duty with the corps, realized there were a goodly number of Marines in the Capitol community who might enjoy getting together occasionally.

Aided and abetted by then Col. Don Hittle, and supported by various Members, but especially by the late Representative Paul B. Dague of Pennsylvania and the late Senator Francis P. Case of South Dakota, the idea was a great success from its first breakfast meeting in the Speaker's Dining Room in July 1953, with a skeptical Commandant, Gen. Lemuel C. Shepherd, present and pleasantly surprised by the turnout.

The initial group included:

*Rep. Jack B. Brooks of Texas.
Sen. Francis H. Case of South Dakota.
Rep. Paul B. Dague of Pennsylvania.
Rep. James C. Davis of Georgia.
Rep. James P.S. Devereux of Maryland.
Sen. Paul H. Douglas of Illinois.
Rep. Joseph F. Holt of California.
Rep. Donald L. Jackson of California.
MGen. Melvin J. Maas of Minnesota.
Sen. Michael J. Mansfield of Montana.
Sen. Joseph R. McCarthy of Wisconsin.
Rep. James T. Patterson of Connecticut.
Hon. Ralph R. Roberts, Clerk of House.
Rep. Clark W. Thompson of Texas.
Rep. William M. Tuck of Virginia.
General Lemuel C. Shepherd, Jr., Commandant of the Marine Corps.
Colonel J. Don Hittle, Legislative Assistant to the Commandant and Joe Bartlett, then the House reading clerk and the indefatigable spirit behind the organization.

Mr. Speaker, since that time the Congressional Marines group has prospered for a quarter of a century during which an illustrious line of Marines has come to Congress. You may be interested to know they have included:

Hon. George W. Sarbacher of Pennsylvania.
Rep. James Roosevelt of California ('55).
Rep. J. T. Rutherford of Texas ('55).
*Rep. Robert C. Wilson of California ('57).
*Rep. John H. Dent of Pennsylvania ('58).
Sen. Daniel B. Brewster of Maryland ('59).
*Rep. Delbert L. Latta of Ohio ('59).
*Rep. George E. Shipley of Illinois ('59).
*Rep. James C. Corman of California ('61).
*Rep. William H. Harsha of Ohio ('61).
*Rep. Otis G. Pike of New York ('61).
Rep. Ronald B. Camerson of California ('63).
*Rep. Robert McClory of Illinois ('63).
Rep. George F. Senner, Jr. of Arizona ('63).
Rep. Wendell Wyatt of Oregon ('64).
*Rep. Barber B. Conable of New York ('65).
*Sen. John C. Culver of Iowa ('65).
*Rep. Jack Edwards of Alabama ('65).
*Rep. Andrew Jacobs, Jr. of Indiana ('65).
*Rep. Richard C. White of Texas ('65).
Rep. Robert V. Denney of Nebraska ('67).
Rep. Nick Galifianakis of North Carolina ('67).
Rep. Robert B. Mathias of California ('67).
*Rep. Paul N. McCloskey, Jr. of California ('67).
*Sen. Henry L. Bellmon of Oklahoma ('69).
*Rep. Bill D. Burlison of Missouri ('69).
*Rep. R. Lawrence Coughlin of Pennsylvania ('69).
Rep. James W. Symington of Missouri ('69).
Rep. John G. Schmitz of California ('70).
*Rep. Goodloe E. Byron of Maryland ('71).
*Rep. Ronald V. Dellums of California ('71).
*Rep. Morgan F. Murphy of Illinois ('71).
*Sen. Adlai E. Stevenson of Illinois ('71).
*Sen. Dewey F. Bartlett of Oklahoma ('73).
*Rep. Robin L. Beard of Tennessee ('73).
*Rep. James P. Johnson of Colorado ('73).
*Rep. Steven D. Symms of Idaho ('73).
*Rep. Thomas A. Luken of Ohio ('74).
*Rep. John P. Murtha of Pennsylvania ('74).
*Sen. Dale Bumpers of Arkansas ('75).
*Sen. John H. Glenn, Jr. of Ohio ('75).
*Rep. Richard Kelly of Florida ('75).
*Rep. Adam Benjamin, Jr. of Indiana ('77).
*Sen. John H. Chafee of Rhode Island ('77).
*Rep. Austin J. Murphy of Pennsylvania ('77).
*Rep. Eldon Rudd of Arizona ('77).
*Sen. James R. Sasser of Tennessee ('77).
*Rep. Jim Guy Tucker of Arkansas ('77).

Mr. Speaker, over 170 Congressional Marines and their guests gathered at this 25th anniversary reunion and took part in a memorial service during which the Commandant of the Marine Corps, Gen. Louis H. Wilson, joined me in laying a wreath at the base of the Iwo Jima Memorial. Representative JAMES C. CORMAN of California offered an inspiring prayer as Marine musicians intoned the Navy Hymn.

A field kitchen had been set up and a hearty breakfast was served as our marines moved through the chow line. It would be difficult to imagine a more beautiful setting for this significant occasion, as a panorama of the Capitol City formed a backdrop to Felix de Weldon's famed flag-raising statue. A silent drill team from Marine Barracks executed their precision maneuvers with impressive perfection.

Introduced as guests on this occasion were such distinguished marines as Chief of Staff, Lt. Gen. Larry Snowden, recently retired Gen. Sam Jaskilka, and his successor, Assistant Commandant, Gen. Bob Barrow. From the Civil Aeronautics Board, Hon. Dick O'Melia, and the Architect of the Capitol, the Honorable George M. White.

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*Member of the 95th Congress.

Other "always faithful" friends of the corps included Congressmen BOB MCEWEN of New York, CLARENCE E. MILLER of Ohio, G. V. "SONNY" MONTGOMERY of Mississippi, and J. KENNETH ROBINSON of Virginia.

Marine Members of Congress attending were Congressmen ROBIN BEARD of Tennessee, LARRY COUGHLIN of Pennsylvania, BILL BURLISON of Missouri, JOHN DENT of Pennsylvania, JIM JOHNSON of Colorado, PAUL N. "PETE" MCCLOSKEY of California, JOHN MURTHA of Pennsylvania, ELDON RUDD of Arizona, and STEVE SYMMS of Idaho, as well as Senator HENRY BELLMON of Oklahoma.

Retired Brig. Gen. J. Don Hittle, who also served as an Assistant Secretary in the Departments of Defense and Navy, shared some of his recollections of the beginnings of the Congressional Marines group.

The only Member of that original breakfast in 1953, present on this 25th anniversary, was our former colleague from Texas, Col. Clark W. Thompson, and he favored us with some inspiring observations.

The 25th Commandant of the Marine Corps, a veteran of the Iwo Jima campaign, and a great friend of the Congressional Marines group, retired Gen. Bob Cushman addressed the gathering.

A former staff member of the Senate Armed Services Committee, who earned the Nation's highest decoration, the Medal of Honor, in the battle for Iwo Jima, hard-charging Col. Joe Chambers, gave spirit to the occasion.

As the very able spokesman for the Marine Corps Reserve Officers Association, Executive Director Col. George Dodenhoff, read a resolution passed at the recent MCROA military conference in Albuquerque, N. Mex., memorializing this very occasion, and he completed some unfinished business of that conference in presenting MCROA's highest award, the "Non Sibi," to Joe Bartlett. Among his many activities of devotion to the Corps, Joe served two tours as executive director of MCROA, and nearly two decades on its National Executive Counsel. For the RECORD, I will include Colonel Dodenhoff's remarks:

Congressman Conable, General Wilson, Congressional Marines and other members of the Congress and Distinguished Guests. It is particularly significant that the Marine Corps Reserve Officers Association is here today on the 25th Anniversary of the Congressional Marines.

MGen. Melvin Maas the founder of our Association was also a charter member of the Congressional Marines having been elected member of the Congress from the 4th District of Minnesota. The Marine Corps Reserve Officers Association was established on 10 November 1926 by then 1st Lt. Maas here in Washington, DC.

During our 52nd Annual Military Conference held in May of this year a resolution was formed by the delegates that pertains to the Congressional Marine. With your permission I would like to read this resolution:

CONGRESSIONAL MARINES, 25TH ANNIVERSARY

Whereas, the Congressional Marines, composed of former Marines who are members of Congress, are celebrating their 25th anniversary this year, and

Whereas, MCROA has enjoyed close association with the Congressional Marines,

Therefore, it is resolved, that the Marine Corps Reserve Officers Association extend to the Congressional Marines its hearty congratulations for 25 years of comraderie, fellowship, and support of a strong Marine Corps; and best wishes for a continued Esprit in the future.

In addition the Association's highest award was authorized for Brig. General D. "Joe" Bartlett, USMCR (Ret), for his selfless devotion to duty and his fellow man. As is the case in all associations or organizations there is usually one individual that is instrumental in providing the driving force to make things work. To this degree General Bartlett has provided that drive. On behalf of the President of MCROA it is with great degree of personal pleasure to present the "Non Sibi Sed Patriae" award which reads as follows:

The Marine Corps Reserve Officers Association. In appreciation cites BGen. D. "Joe" Bartlett, USMCR for constant devotion to the interests of the National Defense and the US Marine Corps and the Marine Corps Reserve and takes pleasure in presenting this Association's Award. "Not for self but for Country. Non Sibi Sed Patriae," signed by the President and co-signed by the Secretary. General Bartlett, congratulations!

Mr. Speaker, in the shadow of the Iwo Jima Memorial it was particularly fascinating to have retired Maj. Gen. Fred Haynes recall the personalities involved in the flag-raising, as only he can.

Three of us who served on Iwo Jima reminisced about the battle as we remembered it. We were grateful to hear from Representative DICK WHITE of Texas and Representative JIM CORMAN of California, who made humorous of their part in that hellish campaign.

It was my privilege to summarize, and to present our most distinguished Commandant of the Marine Corps, Gen. Louis H. Wilson. It is the tradition of our group to reserve the closing remarks for our Commandant. He has a unique place in our hearts and his message is always most appreciated. On this occasion General Wilson was especially eloquent.

Each of the Commandants since General Shepherd has enjoyed this special fraternal association; Gen. Rand Pate, Gen. David Shoup, Gen. Wallace Greene, Gen. Leonard Chapman, Gen. Bob Cushman and General Wilson. And each was remembered with fond affection as we met to commemorate the 25 years we have gotten together under the auspices of our Congressional Marines group.

The late Representative Paul B. Dague often said the Congressional Marines gatherings were his very favorite congressional activity. He did so much to help make them special for all of us.

It has been an enriching, enjoyable association, and we mark this milestone with great appreciation, and the hope that we may continue this valued camaraderie for many, many years to come, "semper fidelis."

TRIBUTE TO CONGRESSMAN BOB POAGE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, with the retirement of BOB POAGE, the House of Representatives is losing one of its most dedicated and respected Members.

During his long tenure, BOB has never deviated from his policy of honesty and hard work. There is no question that he has sought to serve his Nation and his district to the very best of his ability.

In the area of agricultural policy, BOB has had a distinguished career. As vice chairman and chairman of the Agriculture Committee, BOB has demonstrated his skills as a talented architect of farm policies.

Mr. Speaker, the Nation can be thankful for the long and diligent service BOB has provided the Congress. I would like to wish BOB good luck and many years of continued happiness. We in Washington will certainly miss him.●

GEN. JOE BARTLETT AWARDED THE LEGION OF MERIT

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

Mr. BROWN of Ohio. Mr. Speaker, I do not want this session to close without taking time to congratulate, for the record, my good friend Joe Bartlett on the recent completion of his service as a U.S. Marine Corps Reserve officer.

All of us are familiar with the splendid service Joe has performed as a minority staff officer here in the House, but fewer of us are aware of the devotion he has given to his avocation as a member of the Marine Corps Reserve.

We may know that Joe began his service to the House as a page in 1941, but you may not know that when he graduated from the Page School in 1944 he immediately joined the Marines to serve the remaining months of World War II.

He was serving as our chief of pages when, in 1950, he was commissioned a second lieutenant in the Marine Corps Reserve as a "meritorious NCO," and was called back to active duty to serve a year with the Second Marine Division at Camp Lejeune.

Back at the Capitol, Joe became House Reading Clerk and earned a commendable reputation in that role, but at the same time he organized the congressional Marines fraternal group and became active in Navy-Marine Corps Composite Company 5–48.

Through that reserve unit and other special assignments, Joe became increasingly knowledgeable about U.S. defense interests around the world, and took part in active duty inspections of just about every vital area of concern. This was invaluable professional development for a Reserve officer, and Joe regularly earned promotions, known to but few outside the unit.

Some learned in 1975 when, as commanding officer of VTU 4–1, Joe was selected for promotion from colonel to brigadier general, and the President sent his nomination to the Senate for confirmation. Members of the "other body" had to explain that, yes, "Dorsey J. Bartlett" who was about to become a

general was, in fact, their old friend, Joe Bartlett, and they joined in a chorus of rare acclaim.

But this summer when Joe was about to conclude his Active Research service, I was surprised that many still did not know this side of Joe's life. Part of it is his own fault, because Joe has always felt that it was prudent to "run at periscope depth" and to "keep a low profile" as a Marine.

Joe laughed when he told me of one Member who confirmed he was going to the retirement parade, but he looked right at Joe and said:

But you know, I really don't know this "General Dorsey Bartlett," do I?

Well, the stands at Marine barracks were full of those who did know our "General Joe," and who felt very proud when he marched out there resplendent in his dress white uniform, to receive his final salute and to review the magnificent parade in his honor.

And their pride peaked when they heard the citation read:

The President of the United States takes pleasure in presenting the Legion of Merit to Brigadier General Dorsey J. Bartlett, United States Marine Corps Reserve, for service as set forth in the following citation:

"For exceptionally meritorious conduct in the performance of outstanding service as Special Assistant to the Director of Training, Headquarters, United States Marine Corps from July 1975 through March 1978.

"During his tenure, Brigadier General Bartlett rendered sound counsel and advice of inestimable value which transcended the confines of his assignment to a more direct application to all Marine Corps programs. A persuasive and dynamic leader, his innovative management style, concise analytical ability and vast experience as a public servant lent credence and authenticity to all projects with which he was associated. Directly involved in evaluations which dealt with the entire spectrum of military training, installations, and national defense interests, Brigadier General Bartlett's in-depth knowledge of the Marine Corps Reserve provided an essential perspective to the implications of "Total Force." As a seasoned practitioner of the legislative process, his astute guidance was a continuing factor in the development of Marine Corps legislative policy.

"Brigadier General Bartlett's superb accomplishments, perceptive judgment, and selfless devotion to duty reflected great credit upon himself and were in keeping with the highest traditions of the Marine Corps and the United States Naval Service.

For the President:

W. GRAHAM CLAYTOR,
Secretary of the Navy.

And the Commandant of the Marine Corps, Gen. Louis H. Wilson, stepped forward and decorated Joe with the coveted Legion of Honor Medal, a fitting tribute to his extraordinary service.

The citation folder included an official letter from Commandant General Wilson in parting gratitude to General Bartlett:

WASHINGTON, D.C.,
June 28, 1978.

Brig. Gen. D. J. "JOE" BARTLETT,
McLean, Va.

DEAR JOE: Upon your transfer to the Retired Reserve. I want to express my personal appreciation for your more than 30 years of service to Corps and Country.

No one knows better than you the demands of reserve service. You have devoted yourself fully to two professions; a citizen in the civilian community and a Marine. As a Marine you have constantly stood ready to serve our Corps.

During the years, despite your pressing responsibilities as a member of the Staff of the U.S. House of Representatives, you sought and explored every opportunity to advance the best interests of the Marine Corps and individual Marines, and you were never too busy to respond to any request to assist the Corps. As special assistant to the Director, Training and Education Division you were very instrumental in conducting several comprehensive studies on defense installations and activities around the world; the most significant of which was your excellent and in-depth report on the status of Navy/Marine Corps Activities on the islands of Culebra and Vieques. There are many more testimonials of your dedication, willingness to sacrifice, patriotism, and professional excellence, too numerous to mention here.

It has been a source of great pride that men of your caliber and ability give so freely and helpfully of their time and talents in the interest of the Corps. Most certainly you exemplify the very finest of this group whose support is so vitally important if the Corps is to continue to make its fullest contribution to our national security.

The Marine Corps has been fortunate to have you as an officer of Marines, not just because of the contributions you have made to the Corps of today, but perhaps more important, is the example you leave for Marines of tomorrow. As you depart our ranks, your many friends in the Corps join Jane and me in extending to you and Jinny our very best wishes for continued success, the best of health, and much happiness in the years to come.

Sincerely,

LOUIS H. WILSON,
General, United States Marine Corps,
Commandant of the Marine Corps.

As one who values Joe Bartlett's friendship and appreciates his service to our country, I join in this salute on the culmination of his active Reserve service, but if I know Joe, he will continue the march, and keep the creed, "always faithful."

Our heartiest congratulations to you, Joe.

PERSONAL EXPLANATION

HON. CHARLES C. DIGGS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. DIGGS. Mr. Speaker, House rule XLIII, clause 10, adopted April 16, 1975, states that—

A Member of the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each Committee in which he is a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innocence or until he is reelected to the House after the date of such conviction.

On October 7, 1978, in the case of United States against Diggs, a verdict, which is being appealed, was rendered subjecting me to the provisions of the aforementioned rule. Accordingly, I wrote to the Speaker on October 10, 1978, stating my intent to voluntarily comply with the recommendations of this rule and refrain from participation in matters before my committees and before the House.

Due to the very large number of bills, resolutions, and other issues before the House during the last few days of the 95th Congress, many recorded votes and yea-and-nay votes were recorded during the period October 12–14, 1978, some of which were on measures which I had cosponsored or supported. Other votes occurred on matters which I felt were not in the best interests of my constituency or our country.

For the record, I would like to include in the permanent CONGRESSIONAL RECORD an indication of how I would have voted on these measures:

OCTOBER 12, 1978

Rollcall No. 892, "no";
Rollcall No. 893, "yes";
Rollcall No. 894, "yes";
Rollcall No. 895, "yes";
Rollcall No. 896, "no";
Rollcall No. 897, "yes";
Rollcall No. 898, "no";
Rollcall No. 899, "yes";
Rollcall No. 900, "yes";
Rollcall No. 901, "yes";
Rollcall No. 902, "yes";
Rollcall No. 903, "no";
Rollcall No. 904, "no";
Rollcall No. 905, "yes;"
Rollcall No. 906, "yes;" and
Rollcall No. 907, "yes."

OCTOBER 13, 1978

Rollcall No. 909, "yes;"
Rollcall No. 910, "yes;"
Rollcall No. 911, "no;"
Rollcall No. 912, "yes;"
Rollcall No. 914, "present;"
Rollcall No. 915, "present;"
Rollcall No. 916, "yes;"
Rollcall No. 917, "no;"
Rollcall No. 918, "yes;" and
Rollcall No. 919, "yes."

OCTOBER 14, 1978

Rollcall No. 920, "no;"
Rollcall No. 921, "yes;"
Rollcall No. 922, "yes;"
Rollcall No. 923, "yes;"
Rollcall No. 924, "no;"
Rollcall No. 925, "yes;"
Rollcall No. 926, "yes;"
Rollcall No. 927, "yes;"
Rollcall No. 928, "yes;"
Rollcall No. 929, "yes;"
Rollcall No. 930, "yes;"
Rollcall No. 932, "yes;"
Rollcall No. 933, "yes;"
Rollcall No. 934, "yes;"
Rollcall No. 935, "yes;"
Rollcall No. 936, "yes;"
Rollcall No. 937, "yes;"
Rollcall No. 938, "yes;"
Rollcall No. 939, "yes;"
Rollcall No. 940, "yes;"
Rollcall No. 941, "yes;" and
Rollcall No. 942, "yes." ●

A SALUTE TO MY STAFF

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ROGERS. Mr. Speaker, during the 95th Congress, we faced the tension and tedium, intense negotiations and

long periods of waiting, which have traditionally characterized the end of a Congress.

I believe this is a fitting time to take a moment to commend those whose hard work has made possible the function of this institution.

I have been blessed with a congressional office staff who are devoted to public service, who care about people, and who want to get the job done. I can say of each of them that they are devoted to this institution, and to the goals of sound lawmaking and thorough and effective service.

And so I would like to offer my personal commendation and thanks to Pauline Collins, Carol Reed, Bette Anne Starkey, Jim Stuber, Kathy Wood, Jane Kinney, Cathy Johnson, Roxanne Glidden, Barbara Brown Jeff Trammell, Arthur Jackson, Mary Dinneen, Steve Scott, Helen Edge and Linda Hendrix for a job well done.

As chairman of the Subcommittee on Health and the Environment, of equal importance for me has been the staff of the Subcommittee on Health and the Environment and the Interstate and Foreign Commerce Committee.

The value and necessity of a professional, competent, and hard-working staff is all the greater when a committee's jurisdiction falls, as the Health Subcommittee's does, in technical areas of medical treatment and technology, of pure and applied scientific research, and the making of public policy in these fields.

As chairman of the Subcommittee on Health and the Environment I have had the blessing of such a staff. I take this opportunity to salute and commend them for their achievements, and to personally thank each of them for their hard work, devotion and loyalty to the public health, to our lawmaking process, and to this institution.

I have been blessed with an exceptional group, a group which has necessarily grown over the years as the Congress has developed the role of the Federal Government in seeking a healthy life for every American. I commend each of you.

I commend Steve Lawton my chief counsel, who since the outset of my chairmanship has devoted himself to meticulous and lawyerly drafting and policymaking, and who has sought to assure the best possible counsel to each member of the subcommittee.

I commend Robert Maher, who was my entire health staff in the years preceeding the chairmanship and first developed this area of interest for me, and on whom I have relied to investigate areas in need of attention by the subcommittee and to follow through with the passage of legislation, in particular in the areas of clean air and radiation health and safety.

I commend Jo Anne Glisson, who in addition to providing professional staff assistance on specific legislation, has proved to be a most competent and effective administrator for the taken responsibility for effective administration of the subcommittee.

For their outstanding contribution as professional staff on the ever-expanding areas of health law coming before the committee, I salute Don Dalrymple, Steve Connolly, Robert Crane, William Corr, and Burke Zimmerman of the subcommittee; Jeff Schwartz, Karen Nelson, and George Hardy of the Commerce Committee; Francy Depiester, and Jon Green of the Commerce Committee minority staff.

I congratulate Becky Walker, Deborah Prout, Bonny Falk, Joan Merrow, Marsha Stickle, and Rosalyn Davidson, who have handled the daily functioning of all aspects of the subcommittee in a most professional manner.

It has been the goal of the subcommittee to assure that legislation before it would be the subject of fair hearing and comment and that this Nation's health laws would be thoughfully and carefully composed. These goals have been foremost in the minds of each member of this staff, and I believe they have achieved them.

As I leave this chairmanship, I wish to personally offer my sincere and deepfelt thanks for a job well done, and I extend my best wishes for the future.●

LEGISLATIVE ACCOMPLISHMENTS OF THE 95TH CONGRESS FOR THE SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, I am submitting for the RECORD a brief summary of the legislative output of the Subcommittee on National Parks and Insular Affairs for the 95th Congress. I believe this summary will prove useful to our colleagues and other interested individuals in placing these accomplishments of the 95th Congress in their proper perspective. The nature of our subcommittee jurisdiction has permitted us to deal with a wide range of issues from providing for a nonvoting delegate to the Congress from American Samoa to insuring the protection of the tallest living things on Earth in the Redwood National Park. Our summary, as attached, notes those Members whose interest and hard work made possible these many accomplishments during the past 2 years.

Mr. Speaker, I would like to take a few minutes to explain several of the provisions of the National Parks and Recreation Act of 1978, which we have cleared for the President. Title VII of the bill deals with the National Wild and Scenic Rivers System, adding 8 rivers to the system and authorizing study of 14 others for possible inclusion.

I am proud to say that we have enacted the most important additions to the wild and scenic rivers system since its passage in 1968, or so I am told, enlarging the system by 40 percent. The wild and scenic river designations and the Middle Delaware River particularly, are clearly among the highlights of the National Parks and Recreation Act of 1978.

Title VII as passed also includes three generic changes to the Wild and Scenic Rivers Act. While these are basically technical clarifying amendments they do merit explanation. The first one, section 761, resolves one of those problems caused by overly literal interpretation of a statute. One of the main objectives of the Wild and Scenic Rivers Act was to foster river preservation efforts by the States. Under section 2(a)(ii) of the act, rivers in State protection systems can be added to the national system upon request of the Governor to the Secretary of the Interior, if they are to be managed "without expense to the United States." This phrase was interpreted to exclude any rivers flowing through Federal land areas since those lands might have to be managed differently and there might be an associated cost. Oregon and California among others have been thus thwarted from seeking national recognition and protection for rivers which were in their systems. Section 761 corrects this situation. As much as I support the national wild and scenic river system, we should encourage State action wherever possible.

Section 12 of the Wild and Scenic Rivers Act directed Federal land managing agencies to review their plans for lands adjacent to wild and scenic study rivers so as to protect the rivers' values. Section 762 of this bill clarifies that this is an ongoing responsibility and that it applies to designated rivers and proposed or designated State-administered rivers as well. Where appropriate, Federal land managing agencies are directed to enter into cooperative agreements with the States for the management of Federal lands along State-administered rivers. Such consistency objectives are inherently logical, but all too often are not the case, and we see natural areas under Federal protection being damaged by Federal programs for some other purpose. This provision provides that adjacent Federal lands be managed in accordance with the policies of the Wild and Scenic Rivers Act and will protect against roadbuilding, lumbering, or other destruction of vegetation or the natural landscape on adjacent Federal lands unless found compatible with the wild and scenic river values.

The third generic amendment, section 764; specifically recognizes the authority to purchase and then lease back to the original owner or another, lands within wild and scenic river corridors. The intent of the Wild and Scenic Rivers Act was very clearly to minimize the amount of fee simple or outright land purchase. The principal alternative given is the purchase of scenic easements. There have been problems, however, with reluctance of the agencies to use scenic easements, and there has been concern by many including myself over their frequently high costs. The purpose of this section is not to discourage the use of scenic easements, but rather to provide another alternative means of less-than-fee acquisition for situations

where scenic easements are not appropriate.

Mr. Speaker, these are relatively technical changes which are basically just refinements of the language of the act. They were selected, however, from a more extensive set of proposals which sought to clarify the act and correct problems, and to encourage river protection by the States. These proposals were elicited from State and Federal agencies as well as local and national citizen organizations concerned about rivers. While time did not allow for full consideration of such proposals this year, I was impressed by them and would like to have the National Parks Subcommittee look at them closely early next year.

A noteworthy title of the National Parks and Recreation Act of 1978 establishes a program for the renovation of urban recreation facilities which will be most important in improving the quality of life in many of our cities. In the case of my own city of San Francisco, it is hoped that the Secretary will have the ability through either his discretionary authority or through an innovation grant to insure the rehabilitation of the piers at Fort Mason as a part of this program.

The National Parks and Recreation Act of 1978 also expands the Golden Gate National Recreation Area in California which has long been of great interest to me. This legislation provides for additional acreage to better protect the important natural values of this area and provide for enhanced recreational opportunity. With respect to the land added to the recreation area at the Playland-by-the-Sea site, it is hoped that the 1.9 acres to be acquired on this block will be that which best protects and enhances the values associated with the recreation area. I am also pleased that these amendments will eliminate the entrance fee now charged at Muir Woods National Monument.

Additionally, I would like to note that the 1978 authorization bill for the insular areas includes $15 million for the Bikini people in the trust territory, $3 million of which is intended for the trust fund established for them by the Congress several years ago.

Mr. Speaker, at the conclusion of our summary is a list of all the members of the Subcommittee on National Parks and Insular Affairs during the 95th Congress. Without their hard work and that of many other Members of this body, this record of sound accomplishments would not have occurred and I am profoundly grateful to all of them for their many contributions.

MAJOR ITEMS APPROVED SEPARATELY DURING THE 95TH CONGRESS

LAND AND WATER CONSERVATION FUND

(P.L. 95–42) (Reps. Burton, Sebelius, et al)

This first major initiative of the Subcommittee in the 95th Congress established a fiscal situation that made possible the later enactment of other legislation drawing on the Land and Water Conservation Fund for other projects,

Increases the Land and Water Conservation Fund by $450 million to deal with the backlog of acquisition for areas of the National Park System and related outdoor recreation areas as they existed prior to this Congress,

Increases land acquisition authority annually by 10 percent or $1 million, whichever is greater, and

Extends the Secretary's authority to allow better cost control and protection.

REDWOOD NATIONAL PARK

(P.L. 95–250) (Reps. Burton, Miller, Krebs, Dellums, Stark, Edwards, Ryan, Mineta, Panetta, Waxman, et al; Sen. Cranston)

Expands Redwood National Park by 48,000 acres, plus an additional 30,000 acre Park Protection Zone, finally ensuring protection to the world's tallest living things,

Includes the first job and income protection plan association with an addition to National Park System, and

Imposes a trust responsibility on the Secretary of the Interior on National Park System lands the Secretary manages.

BOUNDARY WATERS CANOE AREA

(P.L. 95–495) (Reps, Burton, Vento, Fraser, Nolan, at al; Sen. Anderson)

Redesignates the existing 1,030,000 acre BWCA as wilderness, and adds approximately 45,000 additional acres to the wilderness boundaries,

Places further restrictions on mining activity within both the expanded wilderness and a additional 220,000 acre mining protection zone which links the wilderness units,

Terminates timber harvesting throughout the entire wilderness, and

Reduces motorized use from 124 to 33 of the more than 1,000 lakes in the wilderness, but still permits about half of the existing motorized use in the BWCA to continue.

LOWELL NATIONAL HISTORIAL PARK, MASSACHUSETTS

(P.L. 95–290) (Reps. Tsongas, Bingham, Boland, Burke of Massachusetts, Conte, Corrada, deLugo, Drinan, Early, Harrington, Heckler, Kostmayer, Krebs, Markey, Meeds, Miller, Moakley, Roncalio, Sebelius, Seiberling, Studds, Udall)

Establishes a national historic park to preserve and interpret the first planned industrial community in the United States,

Authorizes a unique commission to administer and redevelop the surrounding area in coordination with the park.

NATIONAL PARKS ACCESS ACT

(P.L. 95–344, Chattahoochee River NRA; also incorporated provisions of S. 975 by Senator Williams; Rep. Bingham)

Sets up a three-year program to improve public transportation systems to and within our national parks.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

(Approved as part of S. 1829)

Extends both the borrowing ability and the amounts authorized to be appropriated to support the restoration of Pennsylvania Avenue.

INCREASED PROTECTION OF THE APPALACHIAN NATIONAL SCENIC TRAIL (P.L. 95–248)

Provides $90 million for land acquisition by the federal government to insure a protection corridor for the Appalachian Trail

Provides for extension of acquisition authority to accomplish protection of trail corridor

Establishes specific planning requirement for continued management of trail

OTHER LEGISLATION RELATED TO AMERICAN HISTORY ENACTED SEPARATELY

ASSOCIATE JUSTICE WILLIAM O. DOUGLAS

(P.L. 95–11) (Sen. Eagleton; Reps. Bingham, Ottinger, Edwards of California)

Commemorates the contributions of Associate Justice William O. Douglas relating to the C&O National Historic Park in Maryland, Virginia, and the District of Columbia.

ELEANOR ROOSEVELT NATIONAL HISTORIC SITE

(P.L. 95–32) (Reps. Bingham, Burton, and Fish)

Preserves the Val-Kill estate near the Hudson River to interpret the life of Eleanor Roosevelt

LEGIONVILLE NATIONAL HISTORIC SITE

(S. 1104) (Sen. Heinz)

Commemorates site of early American military training camp in western Pennsylvania (Note: Disapproved by pocket veto—November 1978)

GENERAL THADDEUS KOSCIUSZKO

(S. Con. Res. 44) (Reps. Annunzio and Minish; Sen. Jackson)

Passed concurrent resolution recognizing the contributions of General Thaddeus Kosciuszko in the Revolutionary War.

MEMBERSHIP—SUBCOMMITTEE ON NATIONAL PARKS AND INSULAR AFFAIRS

MAJORITY

Mr. Burton, Chairman (California).
Mr. Kastenmeier (Wisconsin).
Mr. Won Pat (Guam).
Mr. deLugo (Virgin Islands).
Mr. Byron, deceased (Maryland).
Mr. Florio (New Jersey).
Mr. Mathis (Georgia).
Mr. Krebs (California).
Mr. Kostmayer (Pennsylvania).
Mr. Murphy (Pennsylvania).
Mr. Gudger (North Carolina).
Mr. Corrada (Puerto Rico).
Mr. Bingham (New York).
Mr. Eckhardt (Texas).
Mr. Tsongas (Massachusetts).
Mr. Udall (Arizona).

MINORITY

Mr. Sebelius (Kansas).
Mr. Skubitz (Kansas).
Mr. Clausen (California).
Mr. Ruppe (Michigan).
Mr. Bauman (Maryland).
Mr. Lagomarsino (California).●

ASIAN AMERICANS FOR COMMUNITY INVOLVEMENT

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MINETA. Mr. Speaker, it gives me great pleasure to rise today to honor an outstanding community group, Asian Americans for Community Involvement, as they celebrate their fifth anniversary.

AACI was officially incorporated as a nonprofit, tax exempt corporation on November 27, 1973. Since then, AACI has been active in advocating and promoting the interests and concerns of Asian Americans in Santa Clara County. AACI has also played a vital role in encouraging community development and participation.

AACI became a reality because of the hard work and dedication of Dr. Allan Seid. He was the driving force behind the recruitment of people who shared a common interest, commitment, and a sense of responsibility to promote the interests of the Asian and Pacific American community.

The purpose of the AACI is fourfold: to advance affirmative action in employment for Asian Americans; to eliminate

racial stereotypes in communication and education; to promote Asian American culture; and to provide the community with sufficient legal and social services.

The AACI advises schools, industry, and community groups on Asian American history and concerns. It acts in cases where discrimination occurs in employment, housing, education, and immigration. It helps define specific social issues that affect Asian Americans and disseminates information on relevant Asian American issues and events.

AACI members have sponsored conferences to discuss topics of interest to the Asian community and the community at large. One conference, entitled "Why America?" dealt with immigrant pioneers and why they choose to come to America. Another, entitled "Violence Hurts: You, Me, and Society," focused on prison reform, violence against women, and violence in our schools and mental institutions.

Its members have team-taught courses at San Jose City College, DeAnza College, U.C. Santa Cruz extension at Palo Alto, and Stanford University, and have sponsored three candidate forums in Palo Alto and San Jose. They have also established an Asian American Art and Culture Fair. The first fair, in May of 1978, featured the work of Asian American artists and craftpersons, as well as food booths and performances by Asian dance troupes and martial arts schools.

Mr. Speaker, on the eve of their fifth anniversary, I would like to ask you and all my colleagues to join me in congratulating the members of AACI for their contribution to community life in Santa Clara County, Calif.●

NATIONAL COMMISSION ON NEIGHBORHOODS

HON. JOEL PRITCHARD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PRITCHARD. Mr. Speaker, if anything positive has occurred on the urban scene since the late sixties, it is the self-help initiatives of neighborhood people and organizations in cities around the country.

In the early seventies, people in many urban neighborhoods initiated small-scale, self-help efforts. Some of these groups were organized originally to stop urban renewal or highway construction, and have gone on to other issues. The neighborhood movement is quite different from Government-initiated organizations like Model Cities or community action in the sixties.

Out of these self-help efforts numerous local parternships between neighborhood organizations, local mortgage leaders, and supportive city halls have evolved from confrontations and dialogs over public and private investment policies.

Though partnerships in which Government supports neighborhoods rather than imposes unwanted programs on them, many neighborhoods and blocks have thrived, turning the tide of deterioration and decay. This is happening not only in white, blue-collar neighborhoods but in black and Hispanic neighborhoods where community development corporations have been effective in housing and small business programs.

Obviously, this approach does not work for every neighborhood. America's cities cannot be revitalized by these activities alone. Many neighborhoods, or the remains of them, do not have the nucleus of committed people to initiate action. Too many people have left, too many buildings have been abandoned, and vandalism is commonplace. In such areas, housing rehabilitation and street improvements alone will not do the job.

There is the larger role in overall economic revitalization that must be taken by the private sector and by Government to create a new basis for economy activity. This gives long-range support to neighborhood preservation activity.

By establishing the National Commission on Neighborhoods, Congress has given neighborhood people access to recommend legislative and administrative reforms in programs that impact on urban neighborhoods.

The Commission includes five leaders of neighborhood organizations, five local officials and six other public representatives appointed by President Carter, as well as two U.S. Senators and two Representatives appointed by Congress. I am one of the Representatives from Congress on the National Commission on Neighborhoods.

The Neighborhood Commission's work has been guided by a congressional finding that existing neighborhoods are a national resource to be conserved and revitalized. Where public policy does not operate to promote healthy neighborhoods, the Commission has been mandated to recommend new policy incentives to encourage neighborhood vitality. This includes a search for successful strategies and partnerships to energize neighborhood self-help mechanisms. Some general areas of investigation include: new mechanisms to promote reinvestment in existing city neighborhoods; more effective means of community participation in local governance; policies to encourage the survival of economically and socially diverse neighborhoods; policies to make maintenance and rehabilitation of existing structures at least as attractive from a tax viewpoint as demolition and development of new structures; reorientation of existing housing and community development programs and other tax and subsidy policies that affect neighborhoods, to better support neighborhood preservation efforts.

The National Commission on Neighborhoods has visited dozens of neighborhoods in several metropolitan areas. Though we have seen some glaring reminders of what public policies have done in the past to undermine communities, we have also been heartened by many success stories.

Full Commission field hearings have taken us to six cities. In Baltimore, commissioners were briefed on the neighborhood housing services program, noted for its creative financing, homeownership promotion, neighborhood marketing and tenant conversion programs. Commissioners talked with representatives of the East Baltimore Community Corp. (EBCC), which services a largely black, low-income area of over 100,000 people. Originally this organization focused on health care, but has branched out into economic development. EBCC's partnership with Johns Hopkins Hospital resulted in a preventive care facility serving over 10,000 clients.

The Buckeye-Woodland Community Congress invited us to its fourth annual meeting in Cleveland. Over 1,000 people attended, representing some 180 neighborhood groups. This multi-ethnic and racial coalition works on issue such as the uses of community development block grant moneys. We saw Cleveland's Detroit Shoreway neighborhood, where low-to-moderate income Italian and Puerto Rican people are working to upgrade a viable inner city commercial strip.

One of the highlights of our trip to St. Louis was the tour of the Jeff-Vander Lou organization, which has developed over 600 housing units for low-income residents, using a combination of rehabilitation and infill new construction. Several Commissioners met with representatives of the Tenant Management Corp. which have served to encourage a sense of community and support in public housing projects through coordination of human services and building management activities.

In Chicago we heard of the difficulties of rehabilitation of existing residential units and saw some encouraging efforts on the part of community organizations in South Austin, a disinvested neighborhood. Representatives of the South Shore Bank in Chicago demonstrated what a committed group of organizations and individuals could do as a bank holding company for neighborhood development.

The Neighborhood Commission's fact-finding tour of Los Angeles focused on two community groups working to improve the quality of life in Los Angeles' low-income communities. The East Los Angeles Community Union (TELACU) has developed and implemented programs from housing to job training for its Hispanic population. The Watts Labor Community Action Committee (WLCAC) is a private, nonprofit corporation dedicated to the improvement and revitalization of the Watts community. WLCAC operates job training programs, develops housing and provides all kinds of needed services to the community. Perhaps the most unusual part of the tour was the visit to Franklin Square in Watts. Here 39 single-family homes have been moved from the Westchester area of the Los Angeles Airport. WLCAC purchased these two to four bedroom homes, assigned them by lottery to low-income occupants who will lease them for 20 years under the section 8 program. At the end of this 20-year tenancy, the occupants will receive title to the property.

Urban preservation and the effectiveness of Seattle's 130 community councils were the two major interests of the Commission's visit to my district. Commissioners found that Seattle faces a seri-

ous problem of displacement of its low-income citizens and elderly—a problem that the city's current economic well-being does not alleviate, but one that must be solved if Seattle's neighborhoods are to survive.

The Neighborhood Commission has sponsored issue conferences on fiscal and legal empowerment, HUD, and historic preservation without displacement. We are planning a national conference on citizen participation and one on neighborhood institutions.

Through our public hearings we have heard of the myriad problems facing neighborhood organizations trying to revitalize their communities. Displacement of low-income residents, abandoned housing, lack of adequate rehabilitation codes, obstacles to neighborhood-based economic development, multifamily housing, title XX regulations, the importance of capacity building, are some of the issues the Commission will address in its final report.

As we begin the writing phase of our final report, we are looking for more examples of successful strategies and partnerships which energize neighborhood self-help mechanisms. Though we have gathered much data, the National Commission on Neighborhoods needs more information about these cooperative efforts between neighborhood organizations, local government and the private sector. Our five task forces on Governance and Citizen Participation, Human Services, Economic Development, Legal and Fiscal Obstacles and Reinvestment are identifying successful neighborhood experiences, as well as failures that illustrate misplaced priorities or mistaken policies at the Federal, State, or local government level. I would ask that my colleagues contact the National Commission on Neighborhoods concerning these kinds of partnerships in their own districts, along with specific recommendations to be incorporated into our final report. Contact: Dr. James Barry, National Commission on Neighborhoods, Suite 350, 2000 K Street NW., Washington, D.C. 20006 (202) 632-5200.●

OUTSIDE EARNED INCOME RULE

HON. RICHARDSON PREYER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PREYER. Mr. Speaker, the Select Committee on Ethics has issued a formal advisory opinion interpreting House rule XLVII, the outside earned income limitation. That rule limits the amount of outside income Members may earn from personal services to 15 percent of their congressional salary, or $8,625 per year at the current salary level, beginning next January 1.

The select committee is convinced that in the overwhelming majority of cases, there will be little or no difficulty in determining whether certain income is subject to the rule. While the facts of each individual case will govern applicability of the rule, the principles set forth in this advisory opinion should be followed in making that determination.

Mr. Speaker, for the information of our colleagues, I insert in the RECORD at this point the complete text of advisory opinion No. 13:

SELECT COMMITTEE ON ETHICS, U.S. HOUSE OF REPRESENTATIVES—ADVISORY OPINION NO. 13

GENERAL INTERPRETATION OF HOUSE RULE XLVII, DEALING WITH LIMITATIONS ON MEMBERS' OUTSIDE EARNED INCOME

1. General

a) *Purpose of Rule.* House Rule XLVII, which was adopted on March 2, 1977 as part of the financial ethics code, limits both the amount of "outside earned income" a Member may have, and also the amount a Member may accept as an honorarium for any single speech, appearance, or article. Two major considerations prompted adoption of the Rule. First, substantial payments to a Member of Congress for rendering "personal services" to outside groups presents a significant and avoidable potential for conflict of interest. Second, it is inconsistent with the concept that being a Member of Congress is a full-time job to permit a Member to have substantial earnings from other employment.

b) *Annual Limitation Generally.* Clause 1 of the Rule prohibits a Member from having outside earned income attributable to any calendar year beginning after December 31, 1978 in excess of 15 percent of the Member's salary as a U.S. Representative for that year. In order for an item to be counted against this limitation for a particular year: (i) it must be "outside earned income", within the meaning of Rule XLVII, and (ii) it must be attributable to that year. The Rule defines outside earned income to mean "wages, salaries, professional fees, honorariums, and other amounts (exclusive of copyright royalties) received or to be received as compensation for personal services actually rendered, not including the Member's salary as a U.S. Representative".

Outside earned income is attributed to the year in which the Member's right to receive it becomes certain (i.e., under the accrual method) rather than to the year of receipt. Therefore, receipt of income earned during a particular year cannot be deferred to a future year in which the Member has less outside earned income, or until after the Member retires from Congress. The limitation is not applicable to compensation for personal services rendered prior to January 1, 1979, the effective date of Rule XLVII, or prior to the effective date of the Member's becoming a U.S. Representative, if later. Outside earned income is determined without regard to any community property law. That is, even though under applicable community property law, one-half of any personal service income earned by the Member is deemed to belong to the spouse, all of such income is considered earned income of the Member for purposes of the Rule.

c) *Real Facts Controlling.* The limitations imposed by Rule XLVII may not be avoided by the characterization or disposition of any payment for services rendered. In all cases, the real facts will control. For example, if a Member's spouse, child, other relative, or trust for benefit of any of them, is paid an amount, however denominated, and the true consideration for the payment is services rendered by the Member, the amount will be deemed outside earned income of the Member. Similarly, the label or charterization place on a transaction, arrangement or payment by the parties may be disregarded for purposes of the Rule. Thus, if amounts received or to be received by a Member are in fact attributable to any significant extent to services rendered by the Member, the characterization of such amounts as partnership distributive share, dividends, rent, interest, payment for a capital asset, or the like, will not serve to prevent the application of Rule XLVII to such amounts. Moreover, the Rule applies to outside earned income realized in a medium other than money, for example, in property or services or through a bargain purchase or forbearance in consideration of personal services rendered.

In short, income may not be recharacterized in order to circumvent the Rule. Indeed, characterization of income is essentially irrelevant. For purposes of this Opinion, there are two types of income—earned and unearned. If the compensation received is essentially a return on equity, then it would generally not be considered to be earned income. If the income is not a return on equity, then such income would generally be considered to be earned income and subject to the limitation.

When such amounts received or to be received by a Member are designated as salary, fees, or commissions, the overriding presumption is that such amounts, almost by definition, constitute compensation for personal services rendered. An honorarium from a speaking engagement, for example, is obviously outside earned income. With respect to income from business ventures, the Committee is convinced that in the overwhelming majority of cases, there will be little or no difficulty in determining whether certain income is subject to the Rule. Again, the facts of each individual case will govern applicability of the Rule, but the principles set forth in this Opinion should be followed in making that determination.

2. *Outside Earned Income from Business Ventures.* This Advisory Opinion differentiates between businesses in which both capital and personal services are material income-producing factors and those in which personal services is the only material income-producing factor.

(a) *Personal Service Businesses.* Where a Member owns or participates in a personal service business, such as a professional practice, in which capital is not a material income-producing factor, his entire share of the profits is deemed to be outside earned income for purposes of the Rule, except to the extent he can demonstrate that his income in fact represents a return on investment. In general, capital is not a material income-producing factor where gross income of the business consists principally of fees, commissions or other compensation for personal services performed by an individual. Thus, the practice of one's profession by a doctor, lawyer, insurance broker, or real estate agent will not, as such, be treated as a business in which capital is a material income-producing factor. Even where the practitioner may have a substantial investment in professional equipment or in the physical plant constituting the office from which he conducts his practice, the capital investment would be regarded as only incidental to the professional practice.

Moreover, the fact that the Member may not personally participate to any substantial extent in the rendering of services to the customers or clients of the business, all such services being performed by assistants or associates, would not serve to justify classification of his share of the business income as other than earned income. If a Member shares in the profits of a personal service organization without being required to perform any significant productive services, absent a strong showing to the contrary, it will be presumed that the Member is being compensated for attracting or retaining customers or clients, and such income is considered outside earned income.

Law Practices—Since there are a number of attorneys serving in the House of Representatives, for purposes of example, application of the Rule to the practice of law is specifically addressed in this Opinion. Those Members who currently maintain an active affiliation with a law firm may now wish to enter into a buy-out agreement with their partners in order to liquidate their equity in the firm. This is perfectly appropriate. Amounts received or receivable by a Member in payment for his interest in a law firm or similar organization upon his retirement from it would not constitute outside earned income so long as the amounts payable do not, in effect, represent a continuing participation in the law firm and the total amount payable is not in excess of the fair market value of the Member's interest. Normally such arrangements call for fixed payments at annual or more frequent intervals over a period of years. In some cases, however, the retiring partner and those continuing the business are unable to agree on a value for one or more assets of the business, such as contingent fee cases or accounts receivable of dubious value, and the buy-out agreement may accordingly provide that the retiring partner will be paid a share of such items, if, as and when they are collected.

Payments to a Member under a buy-out agreement will not be deemed to be outside earned income where the arrangements are entered into in good faith and agreed to by all the partners, and reflect the usual and customary value of the equity generally accorded to partners in similar law practices in the same geographic area. A buy-out agreement should also be reasonably calculated to avoid the Member's participation in post-withdrawal profits. In general, the proceeds resulting from a buy-out agreement are taxed as capital gains. If such an agreement is not limited to liquidation of the Member's equity in the firm, and includes payments which might be taxable as earned income, any such payments under the agreement might be subject to the earned income limitation.

The Committee notes that Rule XLVII does not prohibit continued affiliation with a law firm, as does the Senate Rule on outside earned income. However, those Members who wish to retain an interest in a law firm after the effective date of the Rule may be required to lessen their active involvement in the firm because of the earned income limitation.

Accordingly, the Committee makes reference to the American Bar Association Code of Ethics, which states in part: "A lawyer who assumes . . . a legislative post . . . shall not permit his name to remain in the name of a law firm or to be used in the professional notices of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm." (ABA Disciplinary Rule 2–102B). Depending upon the particular circumstances involved in each case, this provision may have some bearing on a Member's continued affiliation with a law firm.

For those Members who will choose to remain formally affiliated with a law firm, some of their income from the law firm may be in the form of return on equity. In recognition of the principle that any capital investment in a business is entitled to a reasonable return, this Opinion provides that a Member may treat as unearned income a portion of his share of the profits from the law firm, as from any other personal service business, equal to interest computed at 10 percent per annum on his investment in the business assets (after adjustment to exclude investment income and expenses, if any). For purposes of this 10 percent computation, the Member's investment in business assets will ordinarily be represented by the average balance of his capital account during the year, where the business interest is a proprietorship or partnership, or by the average book value of his stock, where the investment is in a subchapter S corporation. In general, a Member's equity in the firm would not exceed the amount he would receive pursuant to a buy-out agreement, and should be calculated to avoid any benefit accruing to the Member from increased profits subsequent to the effective date of the Rule.

b) *Businesses Where Capital Is a Material Income-Producing Factor.* Capital is a material income-producing factor if a substantial portion of the gross income of the business is attributable to the employment of capital, as reflected, for example, by a substantial investment in inventories, plant, machinery or other productive equipment. This Opinion discusses the application of the Rule in such cases to income from a fully taxable corporation and income from an unincorporated business or subchapter S corporation.

1) *Taxable Corporations.* If a Member renders services to a fully taxable business corporation, he will not be deemed to realize outside earned income from such services beyond the amount of salary or other form of extra compensation designated as consideration for the personal services rendered. In those cases where the Member's sole financial interest is stock in the corporation, an increase in the net assets of the corporation would not be considered to be subject to the limitation. An increase in the value of stock or other property is not ordinarily treated as earned income either for tax purposes or under generally accepted accounting principles; and any increase in the corporation's net profits would be subject first to corporate income tax and then to personal income tax before the Member receives any resulting increment to his wealth through a dividend or sale of his stock. The foregoing has no application, of course, to income which a Member earns through his personal efforts in dealings with third parties but causes to be paid to a corporation and then distributed to him. For example, if a Member incorporates himself for the purpose of conducting a speaking business, and all fees for his speaking engagements are paid to the corporation from which he then draws "profits", all such amounts would be considered to be outside earned income.

In sum, if a Member renders services to a taxable corporation, only the salary or other compensation he receives for those services would be subject to the limitation, but not any increase in the corporation's assets or his share of the profits. This ruling is consistent with the intent of the Commission on Administrative Review which recommended the limitation on outside earned income. In its report (Document No. 95–73), the Commission stated that ". . . Members should be able to render personal services to manage or protect their equity . . . without having to allocate these personal services toward the 15 percent limitation."

2) *Subchapter S Corporation, Partnership, Unincorporated Business.* In those cases where the Member has an ownership interest in a business for which he also performs services, as in a subchapter S corporation or a partnership, some part of his share of the profits of that business may reflect the value of his services, and thus would be considered outside earned income. The determining factor is whether the Member's personal services generate significant income for the business. Of course, if the Member receives formal compensation from the business, for example, payments designated as salary or fees, such amounts would be considered earned income. Additionally, in those cases where other partners or associates are providing capital and managerial expertise, and the Member's principal role is to refer clients to the business or to help retain existing customers or clients, the Member would be deemed to be rendering income-producing services, even though the actual time involved might be minimal. However, if the Member is engaged primarily in the general oversight and management or protection of his investment, his services would not be deemed to generate significant income. Such non-income generating services would include consultation with other management officials, analysis of financial and other reports, participation in formal meetings, and making decisions concerning the general operations and investment strategy of the business.

The application of the Rule to the various types of business organizations as discussed in this Opinion applies equally to a business owned or controlled by the Member or his family. Again, the determining factor is whether or not the personal services of the Member actually generate any significant income for the business. In those situations where the services rendered by the Member are incidental and do not generate significant income, no part of his share of the profits or any increase in the assets of the business would be deemed to be outside earned income.

The Committee emphasizes that the definition of earned income in Rule XLVII, which excludes amounts received by a Member from a family controlled business "so long as the personal services actually rendered by the Member . . . do not generate a significant amount of income," was simply intended to assure Members that they could continue to make decisions and take actions necessary to manage or protect their equity in a family trade or business, and would not be forced to divest themselves of their family business interests. As with any business, a Member would not be required to allocate his share of the profits of the business as outside earned income when the facts and circumstances show that the income is in reality a return on investment. For example, if the Member owns a hardware store and the services he renders are incidental, such as occasionally serving customers, the income received from the business is basically a return on equity, (i.e., profits from the sale of hardware goods) and is not generated by the Member's services. Similarly, if the Member's family owns a farm and the Member gives overall direction to the management of the business, the income received from the farming operations is not generated by the Member's personal services, but rather is basically a return on equity from the sale of crops or dairy products. These types of businesses are distinguishable from a personal service business where income is essentially produced by the services of the individual affiliated with the organization.

3. When Income Is Accountable

a) *Income from Pre-effective Date Services.* The Rule excludes from earned income any compensation derived by a Member for personal services actually rendered prior to the effective date of the Rule (January 1, 1979) or prior to the effective date of the Member's becoming a U.S. Representative, if later. This provision would serve to exclude from the limitation, for example, most renewal commissions paid to a Member with respect to life insurance policies sold by him prior to the effective date, or similar commissions received by a Member with respect to pre-effective date leases in which the Member was a leasing agent. In most such arrangements, payment of the commission is not contingent

upon the performance of any future services by the recipient; the only contingency is that the insured or lessee continue to pay premiums or rent, as the case may be. The pre-effective date exclusion would also apply to a fee received by a lawyer-Member after the effective date where all the work had been done prior to the effective date. However, this exclusion would not apply to income derived from the continuing or future business of clients brought into the firm prior to the effective date of the Rule.

b) *Application of Limitation to Part Years.* Where an individual becomes a Member during any calendar year beginning after December 31, 1978, the Rule applies only to outside earned income of the new Member attributable to periods after the effective date of his becoming a Member. For the balance of the calendar year in which he becomes a Member, the applicable limitation will be 15% of the Member's salary as a U.S. Representative for that part year, and only outside earned income attributable to that part year is counted against the limitation.

4. Other Provisions

a) *Payments Attributed to Deferred Compensation Plans.* Amounts received by a Member from a tax-qualified pension, profit-sharing or stock bonus plan are not treated as outside earned income, as provided in the Rule, nor are contributions to such a plan counted as outside earned income. Amounts received by a Member from a non-qualified deferred compensation plan which were earned in a year prior to the effecive date of the Rule are not outside earned income for the year received under the principle explained in Section 3(a), provided no part of the consideration for such payments is current sevices. Amounts set aside for a Member under a non-qualified deferred compensation plan for services rendered after the effective date of the Rule will generally constitute outside earned income of the Member for that year, even though they will not be received until a later year, unless receipt is subject to a substantial risk of forfeiture.

b) *Assignment of Income to Charities.* Notwithstanding the general holding of this Opinion that a Member cannot deflect the application of the Rule by assigning to another income which he in fact earned through rendering services, earned income assigned by a Member to a tax-exempt charity will not be counted as part of the Member's outside earned income, provided the Member is not a "disqualified person" with respect to the recipient organization within the meaning of section 4946(a) of the Internal Revenue Code. For purposes of the Rule, such income would not be deemed to have been "received" by the Member provided that he did not personally benefit in any way from such income.

c) *Honoraria.* Clause 2 of Rule XLVII provides that no Member may, in any calendar year beginning after December 31, 1978, accept any honorarium of more than $750 in value for any single speech, appearance, or article by the Member. In computing the amount of any honorarium for purposes of the $750 limitation, there shall not be taken into account the reimbursement of any actual and necessary travel expenses incurred by the Member in earning the honorarium. To the extent any such travel expenses are not reimbursed, the amount of the honorarium shall be reduced accordingly. Payment of actual and necessary travel expenses of a spouse (or another family member) accompanying the Member is also excluded from the limitation, consistent with the Federal Election Commission regulations governing receipt of honoraria.

Under Section 1(b) of this Opinion, outside earned income is attributed to the year in which the Member's right to receive it becomes certain rather than to the year of receipt, (i.e., the accrual method). With respect to honoraria, however, the accrual method could cause some particular confusion in the case of a Member giving a speech in December but not receiving actual payment until January. Because of the potential problems that could arise, Members would have the limited option of using a cash basis for receipt of honoraria for purposes of this Rule.●

ACTIVITIES OF THE 95TH CONGRESS

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SMITH of Iowa. Mr. Speaker, at the end of each Congress I summarize the activities of the Congress and distribute this to many of my constituents so that they may have a summary of the preceding 2 years' legislation. Under new House rules, such information could not be distributed in this way prior to the election; therefore, it was delayed.

During the 95th Congress, the House met for 323 sessions, spent 1,897 hours in deliberations, took 1,540 rollcall votes and 184 quorums, passed 1,615 measures, had 463 bills enacted into law, and sent numerous others to the President. However, these statistics do not indicate the time consumed in committee meetings where most of the time must be consumed preparing legislation and examing the administration of existing laws.

I have completed my first 2 years as chairman of the House Small Business Committee during the 95th Congress, a period of greatly expanded committee activities. In addition to serving as chairman of the full committee, I am privileged to continue to chair a small business subcommittee.

The subcommittee is engaged in a broad study and investigation of SBA loans to natural disaster victims. During the last year, SBA provided assistance to over 125,000 disaster victims in loans totaling $2.5 billion, of which $340 million was loaned to Iowans. In June the subcommittee sent a questionnaire to a representative sample of those who were approved for these loans in the past year. The returned questionnaires are now being examined and we are working with SBA to improve this program.

Extensive efforts on the part of the subcommittee resulted in numerous small business provisions being included in the Revenue Act of 1978.

One hundred and thirty-five Congressmen joined me in sponsoring a bill to shift to smaller corporations more of the benefits of a tax cut in the corporate income tax. This proposal was included in the tax bill.

We also continued to seek ways to ease the burden of the Employee Retirement Income Security Act on small business. The Internal Revenue Service and the Department of Labor have consolidated reports and employers now are required to file only one annual report and these agencies share the needed information.

The subcommittee commenced a multiyear study and investigation on impediments to marketing. The thrust of the subcommittee effort was to examine those anticompetitive restrictions and activities on the movement of goods which cause lower prices to producers, higher prices to consumers, or which limit the access of small business to goods and services.

Throughout the Nation in this multibillion dollar industry, most meat is sold at a price to be determined by prices reported in the "Yellow Sheet." Hearings and a staff study indicated that the prices were often reported incorrectly or were not of a typical or representative sale. The testimony and study revealed that we are about as far from a free market system of transactions in the meat industry as we can get because of the noncompetitive determination of basic prices.

Another major impediment uncovered in the marketing of beef is the exorbitant fees charged to truckers to unload at warehouse docks. Hearings revealed that threats of violence, harassment, and undue delays for the trucker who refuses to pay makes the practice a continuing impediment to the essential transportation of perishable and certain other commodities. The hearings also revealed that this practice allows a situation whereby untold millions of dollars in unloading charges are lost as taxable income and social security contributions by reason of fraud and deception.

Both of these problems were addressed in committee reports which include findings, conclusions, and recommendations. Also, legislation was proposed and will be pushed next year to correct this situation.

The other five small business subcommittees also were very active and have studied areas such as women in business, antitrust, science and technology, Government purchasing, OSHA, product liability, small business credit needs, trucking and Federal regulation, and paperwork. The committee will be issuing a report summarizing all of its activities during the 95th Congress. Interested individuals may obtain a copy of this committee report or other individual reports from my office.

A great deal of attention has been given to the landmark measures passed by the 95th Congress—such as civil service reform, the 1978 Tax Act, and the National Energy Act—but within this great volume of legislation are many items that are vitally important to Iowans. I have, therefore, singled out some of the measures that cannot be fully described but will be of special interest to constituents in the Fourth District of Iowa.

The articles follow:

AGRICULTURE/RURAL DEVELOPMENT

Public Law 95–113. Established a comprehensive four-year farm and food program to provide farmers with income support and also to provide food stamp benefits of $5.5 and $6 billion a year. The law sets new target and loan prices for crops, provides a farmer held grain reserve, extends the Food for Peace program and revises agricultural research, development and conservation programs. Principal food stamp reforms tighten

program administration to reduce fraud and abuse.

Public Law 95-279. Amended the previous law by authorizing increased target prices for wheat, feed grains or cotton for 1978-81 crops whenever an acreage set-aside is in effect.

Public Law 95-334. Changed the Farmers Home Administration credit program, provided up to $4 billion in emergency credit loans and extended the Emergency Livestock Act.

As a result of a conference committee agreement on a provision I authored FmHA has agreed to implement a guaranteed housing program in cities under 20,000 population and towns and rural areas. Under this arrangement, Farmers Home will guarantee loans made by commercial banks to some home buyers, who have been unable to secure Federal Housing guaranteed loans, thereby providing a boost to the housing market, some assistance to those otherwise unable to obtain financing in our tight rural money market, and a program like the one that has been available in cities for years.

Public Law 95-396. Expedited EPA's registration and reregistration of pesticides, defined trade secrets to permit public access to health and safety data, and strengthened state authority to enforce pesticide programs.

Public Law 95-405. Extended responsibility of the Commodity Futures Trading Commission through FY 1981 to protect against manipulation by speculators, prohibited commodity option transactions unless expressly permitted in rules, and authorized a one-House veto of any rules and regulations on options.

The House had included my provision requiring disclosure of large export sales within 48 hours to the CFTC. While the conference committee did not include this in the final bill, a commission at the Department of Agriculture has begun work on recommendations in this area and export sales disclosure is on the front-burner for next year.

Public Law 95-501. Provides some credit and authority to promote foreign purchases of U.S. agricultural products.

Public Law 95-460. Required foreign persons holding or acquiring interests in U.S. agricultural lands to report to the Agriculture Department.

H.R. 11545. Modifies the method of establishing quotas for the importation of certain meat, reversing the present "upside-down" formula. The formula in this bill provides that when domestic production increases and imports would be less needed by consumers and do more harm to producers, the supply of imports would be reduced; however, when domestic supply reduces, then the supply of imports may rise.

CONSUMER PROTECTION

Public Law 95-109. Provided regulation of debt collectors' activities.

Public Law 95-351. Established the National Consumer Cooperative Bank to make loans at market rates to consumer cooperatives.

Public Law 95-360. Established procedures to prevent fraudulent mail solicitation.

S. 2796. Authorized $180 million through FY 1981 for the Consumer Product Safety Commission.

ECONOMIC

Public Law 95-28. Is the Local Public Works Program which is part of the package developed by the Congress and the Administration to stimulate economy recovery. The Ottumwa School District received $294,998 for the Vocational Unit; Albia, $1,400,000 for the water treatment plant; and Polk County, $1,374,117 for the road department facility. Under P.L. 95-28, Des Moines has been allocated $2,557,000 for the Botanical Garden Center, $542,385 for the Williams Street Bridge, $187,000 for the reconstruction of the Southern Hills sanitary trunk sewer, $170,115 for street gratings for bicycle safety, and $386,000 for the sewer lagoon cell. Also, the Centerville School District, $527,000 for the buildings at Howar Junior High School; Sully $50,000 for recreation facilities; Mingo, $80,000 for water storage facilities; Monroe, $55,000 for park improvements; Newton, $55,000 for an addition to the city-county building and $75,000 to renovate the Maytag Park; Jasper County, $99,000 to enlarge the maintenance shop; and Appanoose County, $79,000 to repair the secondary roads.

Public Law 95-557. Housing & Community Development Amendments: Authorizes an increased housing program, establishes a new program in lieu of operating subsidies that emphasizes improved management as well as dollar aid for financially troubled low-and-moderate-income multi-family projects; raises authorization and loan limits for rural housing programs; and creates a new rural home ownership program.

Public Law 95-93. Establishes a year-round Young Adult Conservation Corps to provide employment for young adults (age 16-23) on Federal and non-Federal lands and waters. The law also establishes a youth employment and training program to enhance the job prospects and career opportunities for young people.

Public Law 95-151. Increases the minimum wage in stages to $3.35 by 1981, and increases the annual gross sales under which a business is exempt from minimum wage law to $362,000 in 1982.

H.R. 14279. Strengthens authority of federal regulatory agencies to supervise banks, savings and loans, mutual savings banks and credit unions.

Public Law 95-523. Known as Humphrey-Hawkins, this law asserts the federal responsibility to use all practicable means to promote full employment and balanced growth, with improved production, stronger real income and reasonable price stability. The Act mostly sets goals to reduce adult unemployment.

Public Law 95-555. Prohibits discrimination in employment based on pregnancy. This reverses a Supreme Court ruling that exclusion of pregnancy benefits from an employer's disability plan is not sex discrimination. Additionally employers cannot fire or refuse to hire or promote on the basis of pregnancy.

EDUCATION

Public Law 95-123. Extended the Library Services and Construction Act for five years and provided special assistance for urban libraries.

Public Law 95-207. Authorized grants to states over a period of five years, to be used to help local and state agencies provide career education programs in elementary and secondary schools.

Public Law 95-49. Authorized a total of $1.1 billion through FY 1982 for certain programs authorized under the Education of the Handicapped Act.

Public Law 95-166. Extended the Summer Feeding Program and revised its provisions to control fraud and abuse, extended USDA standby authority to purchase commodities under the National School Lunch Act, and extended the authorization in the food service equipment assistance program for reserved funds for needy schools.

Public Law 95-561. Extended the Elementary and Secondary Education Act (ESEA)—the major aid to education program—through FY 1983, as well as the Emergency School Aid Act, impact aid legislation, the Indian Education Act and the Adult Education Act.

Public Law 95-566. Expanded and modified five existing programs of student financial assistance—Basic Educational Opportunity Grants, the guaranteed student loan program, supplemental educational opportunity grants, the college work-study program and state student incentive grants.

ENERGY

Public Law 95-2. Authorized the President to establish a 90-day emergency natural gas allocation program, and a 180-day emergency natural gas purchase program, triggered by a declaration of a national emergency.

Public Law 95-70. Extended through December 31, FEA's authority to require power plants to convert to coal under the Energy Supply and Environmental Coordination Act.

Public Law 95-91. Established a Cabinet-level Department of Energy and consolidated in it the energy responsibilities which had been in several Departments and agencies.

Public Law 95-158. Approves the President's decision selecting the Alcan system as the means of transportation for Alaska natural gas. One spur of the system will reach Iowa.

H.R. 5289. The National Energy Act, phases out price controls on newly discovered natural gas by 1985 subject to some limitations and brought intrastate gas under federal jurisdiction. This will cause it to be available to interstate pipelines and should help to stop the flight of industry to gas producing states in order to secure gas. The bill encouraged or requires utilities and major industries to burn coals or other fuels instead of oil and natural gas, with some exemptions. A variety of incentives for the installation of alternative energy equipment was provided, as were tax credits to encourage energy conservation.

Public Law 95-238. Authorized funds for research and development for fossil, solar and geothermal energy, and conservation.

H.R. 12874. Authorized $125 million in FY 1979 for the Energy Department to conduct solar photovoltaic energy technologies research and development.

S. 1895. Amended the Natural Gas Pipeline Safety Act of 1968 to provide for the safe operation of pipelines transporting natural gas, petroleum, petroleum products and other materials.

ENVIRONMENT

Public Law 95-87. Established a federal-state program to regulate coal surface mining and required the reclamation of mined lands.

Public Law 95-217. Authorized $25.7 billion, most of which is for sewage treatment construction grants for fiscal years 1978-82, and redefined Corps of Engineers jurisdiction over dredged or fill materials, limiting this jurisdiction to traditionally navigable waters and adjcent wetlands.

Public Law 95-495. Restricted mining, logging, snowmobile and use of motorboats in the Boundary Water Canoe Area Wilderness of the Superior National Forest, Minesota.

S. 791. Provides a very substantial increase in areas in the National Park System, designated certain lands as wilderness, National Trails, and National Wild and Scenic River Systems.

Public Law 95-372. Established a policy for management of natural gas and oil in the Outer Continental Shelf, set safety and environmental regulations, created a new oil spill liability fund and a fishermen's contingency fund, and amended the Coastal Zone Management Act of 1972.

Public Law 95-95. Provides more stringent standards for automobiles and trucks to prevent air pollution.

FOREIGN AFFAIRS

Public Law 95-52. Amends laws regulating export of military and other sensitive materials.

Public Law 95–88. Authorized $1.7 billion in foreign economic aid for FY 1978, prohibited the use of funds for aid or trade with Cuba and Vietnam, concentrated more U.S. aid on the world's poorest countries and authorized assistance for the purchase of U.S. food.

Public Law 95–118. Authorized $5.2 billion through Fiscal Year 1981 for increased U.S. participation in several international development lending institutions.

Public Law 95–242. Established safeguards to reduce the possibility of diversion of nuclear fuel.

Public Law 95–412. Established a single worldwide ceiling for admission of immigrants to the U.S., combining the current, separate ceilings from the eastern and western hemispheres.

Public Law 95–384. Authorized funds for foreign military assistance programs in Fiscal Year 1979, lifted the arms embargo against Turkey and conditionally lifted economic sanctions against Rhodesia.●

ADDENDUM TO THE RECORD OF ACHIEVEMENTS OF THE 95TH CONGRESS

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRADEMAS. Mr. Speaker, the 95th will be best remembered as the Congress of historic jobs, energy, and tax cut legislation. These were the capstone of a remarkable record of achievement of the recent Congress during its 1977–78 sittings. Most of the accomplishments of the 95th Congress have already been compiled by my whip's office in a 52-page checklist, a series of 19 speech cards and three whip issue papers. All were sent to Members soon after Congress adjourned sine die. But the achievements of this Congress were prolific as well as substantial, and printing deadlines prevented us from including many bills which underwent final action in the closing days before adjournment. I am, therefore, inserting into the RECORD at this point a legislative addendum to round out the record on the outstanding accomplishments of the 95th Congress:

ADDENDUM TO ACHIEVEMENTS CHECKLIST

The following legislative summaries update the Achievements Checklist for the 95th Congress and reflect congressional actions occurring after the October 11, 1978, publication date of the checklist.

TAX REDUCTION

Congress cleared for the President the Revenue Act of 1978 which cuts taxes by $18.7 billion in 1979 rising to about $34 billion annually by 1983. Tax cuts for individuals total $12.7 billion in 1979, for business $3.7 billion and for individuals' capital gains $2.1 billion. The bill provides major benefits to homeowners, middle-income persons and small business. It liberalizes capital gains taxes in an effort to promote business investment and to stimulate capital formation. (HR 13511)

FOREIGN EARNED INCOME

A bill cleared for the President would overhaul the 1976 tax cut provisions for taxing income earned abroad, first by extending the previous tax provisions (generally, exclusion from taxation of $20,000 of income) through 1977 and for 1978 provide, in lieu of the blanket exclusion, specific deductions for excess cost-of-living, housing, education and annual home leave expenses. (Under the 1976 act, the blanket exclusion was to have been reduced to $15,000.) The new system would apply to all Americans living and working in foreign countries; those working in certain hardship locations would be allowed a special $5,000 deduction in addition. There would be special rules for employees living in camps abroad. (HR 9251)

CARSON CITY SILVER DOLLARS—TEXTILE IMPORTS

A bill cleared for the President would authorize GSA to conduct sales of the remaining inventory of approximately one million rare Carson City silver dollars using such terms, conditions and prices as the Administrator deems proper; and would prohibit the reduction or elimination of duties or import restrictions on certain imported textiles and textile products during current trade negotiations. (S 3077)

MISCELLANEOUS REVISIONS OF TIMING REQUIREMENTS OF REVENUE LAWS

A bill cleared for the President would revise the times for (1) payments of expenses owed to certain relatives, (2) election of special corporate liquidation treatment for involuntary conversions, (3) election of subchapter S status (tax treatment similar to partnerships) by corporations, (4) filing of income tax returns for tax-exempt organizations, (5) determining the status of a taxpayer as a farmer or a fisherman for estimated income tax purposes, (6) claiming credits or refunds arising from carrybacks, and (7) collection of penalty for failure to pay no withholding taxes where a bond is furnished. The bill also would provide a basis for adjustment for property distributions received by a corporation where gain is recognized by the distributing corporation, would permit a gift and estate tax deduction to nonresident aliens for contributions to a French charity created to preserve the home of General Lafayette near Paris, and would temporarily suspend the duty on imported insulation materials used in building construction. (HR 7320)

HUMPHREY-HAWKINS

A new law would translate into reality the right of all Americans to have full opportunity for gainful employment at fair rates of pay. The law asserts the federal responsibility to use all practicable means to promote full employment and balanced growth, with improved production, stronger real income and reasonable price stability. The law sets goals to reduce adult unemployment to three percent and all unemployment to four percent by 1983. The law also sets goals of reducing inflation to three percent by 1983 and to zero by 1988. Specific measures to achieve these goals must be incorporated into the President's annual budget which is presented to Congress (PL 95–523)

ECONOMIC OPPORTUNITY

A new law provides a three-year authorization for economic opportunity programs, including the Community Services Administration, Headstart and Follow Through and a new program for migrants. Federal share for community action agencies would be restored to 80 percent (from the present 60 percent). Three-year authorizations total $586 million plus necessary sums for Headstart (expected to be funded at $680 million in fiscal 1979). (PL 95–568)

HOUSING, COMMUNITY DEVELOPMENT

A new law authorizes $1.95 billion in appropriations and $1.19 billion in annual contract authority for housing and community development in fiscal 1979. The law offers training programs and financial assistance (authorized at $74 million) in an effort to improve management and reduce operating costs of certain troubled multifamily projects for low and moderate income persons and the elderly. The bill would provide guidelines for approval of projects under the Community Development Bloc Grant Program. It would increase the section 312 low-interest rehabilitation loan program to $245 million in fiscal 1979 from $60 million and give priority to low and moderate income homeowners or condominium and cooperative residents. Improvements would have to meet energy standards. (PL 95–557)

FINANCIAL REGULATORY REFORM

A bill cleared for the President would strengthen authority of federal regulatory agencies to supervise banks, savings and loans, mutual savings banks and credit unions. Agencies could assess money penalties, issue cease-and-desist orders and remove or suspend insiders. The bill would limit loans to "insiders"—executive officers, directors and 10-percent shareholders—by their own banks or correspondent banks and require reporting of such loans by banks and insiders. Certain interlocking directorates would be prohibited, and reporting of a bank's major stockholders would be required. Prior notice of a change in ownership of a financial institution must be given to the regulatory agency which could disapprove the acquisition under criteria in the bill. Financial privacy provisions would give individuals notice and a chance to challenge a federal agency's request for the individual's bank records. Credit unions would be strengthened by a central liquidity pool. The bill provides for consumer rights and safeguards in electronic fund transfers and defines liabilities and responsibilities of EFT participants. The savings and loan interest differential is eliminated if accounts are linked to a checking account through an automatic transfer of funds. NOW (checking with interest) accounts would be allowed in New York, and the FHA experimental mortgage program would be extended to Massachusetts. (H.R. 14279)

CONSUMER PRODUCT SAFETY ACT AUTHORIZATION

A bill cleared for the President would authorize $55 million, $60 million and $65 million respectively in fiscal 1979–81 for the Consumer Product Safety Commission. The bill would provide more flexibility in the procedures for developing product safety standards by permitting the commission itself to coordinate development of a standard if it finds this course more expeditious, rather than relying exclusively on outsiders. Legal liability of the commission would be permanently extended, so that the commission could be sued for misrepresentation or negligence. The bill would establish reporting requirements for persons intending to export hazardous products (but not products proposed to be declared hazardous) so that governments of importing nations may be notified. (S. 2796)

OVERSEAS VOTING RIGHTS AMENDMENTS

A new law facilitates participation in federal elections by U.S. citizens traveling or residing abroad. The law requires states to provide by law for absentee registration and voting in federal elections by members of the armed forces, merchant marine and dependents and requires the federal agency to develop a standard postcard for such registration and request for absentee ballot. The law expands coverage of the Overseas Voting Rights Act to other U.S. citizens abroad. The law provides that federal voting by citizens abroad cannot be used as a basis for federal, state or local taxation. The law permits qualified political committees to use third-class nonprofit rates. (S. 703)

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

A new law makes advance authorizations of $180 million, $200 million and $220 million

respectively in fiscal 1981–83 for the Corporation for Public Broadcasting. The law also reduces the non-federal matching requirement to $2 (from $2.50) for every federal $1 and permits a limited portion of volunteer services to count as part of the non-federal share. The law requires that a "substantial portion" of funds go for public radio expansion, limits top agency salaries to ESS level I, and retains existing law provisions prohibiting editorializing by public broadcast stations and requiring stations to keep audiotapes of programs of important public issues. (P.L. 95–567)

BIOMEDICAL RESEARCH

A bill cleared for the President authorizes over two years $2 billion for cancer research, $1 billion for research on lung and heart disease, and $242 million for mental health centers, and over three years $630 million for research service awards and $50 million for medical libraries. The bill seeks to focus research on environmental causes of cancer and circulatory diseases and provides for testing of substances for carcinogenic and other harmful properties. (S. 2450)

HEALTH SERVICES AMENDMENTS

Congress cleared for the President a comprehensive $2.9-billion, 3-year bill to extend and revise programs of financial assistance for delivery of health services. The bill contains funds for state public health services, community and migrant health centers, health in undeserved rural areas, and programs in adolescent pregnancy prevention and care, physical fitness, health education for the young regarding cigarette and alcohol use, hypertension, lead paint poisoning, venereal disease, genetic disease, home health services and rodent control. The state formula grant program would be converted to an incentive grant program in fiscal 1980 and an 18-month study leading to a national child health plan is authorized. (S. 2474)

HMO'S

A new law extends assistance for three years to health maintenance organizations with total authorizations of $164 million. The law seeks to facilitate employee participation in HMO's and increase HEW's ability to monitor HMO's and authorizes certain Blue Cross/Blue Shield and commercial insurance carriers to operate HMO's. (PL 95–559)

HEALTH SERVICES RESEARCH

A bill cleared for the President would authorize $378 million over three years for health services research, health statistics, and a new Center for Health Care Technology to study new medical technologies and their impact on HEW administration and medicare and medicaid reimbursement. (S 2466)

INDIAN CHILD WELFARE

A bill cleared for the President would establish legislative standards and an order of preference to govern the placement of Indian children in foster or adoptive care; provide that tribes may alter this statutory order and may request transfers of placement cases from state to tribal courts; permit tribes to regain jurisdiction from states by establishing tribal courts and a social welfare system; establish a right of tribes to notification and intervention in placement proceedings in state or local courts; provide that an Indian child placed in adoptive or other setting may qualify for enrollment in his or her tribe of origin and for other benefits and property rights upon reaching the age of 18; authorize grants to Indian tribes and organizations for Indian family development programs; and call for a study on the need for constructing educational facilities in areas where Indian children have to be bused many miles to school. The bill would cost an estimated $44 million over five years. (S 1214)

FAMILY PLANNING; INFANT DEATH

A bill cleared for the President authorizes $1.1 billion over three years for a services and research program in voluntary family planning and for research of sudden infant death syndrome. (S 2522)

DRUG ABUSE

A bill cleared for the President authorizes $229 million in fiscal 1979 for drug abuse prevention, treatment and rehabilitation programs. (S 2916) Another bill amends drug abuse control laws to meet obligations under the 1971 Convention on Psychotropic (mind-altering) Substances. The bill also increases penalties for illegal distribution of PCP ("angel dust"), requires reporting of transactions involving a chemical used in the manufacture of PCP, and provides for seizure and forfeiture of monies and property used in the purchase or gained from the sales of illicit drugs. (S 2399)

NURSE TRAINING

Congress cleared for the President a 2-year bill authorizing $423 million for nurse training assistance including funds for construction, capitation and training grants, practitioner programs, student loans and scholarships. (S 2416)

CHILD NUTRITION

A bill cleared for the President would make permanent the Child Care Food Program for non-residential day care institutions, thereby providing an estimated $1.4 billion to these centers over the next five years. The bill would also extend eligibility to institutions receiving funds under Title XX (Social Services) of the Social Security Act. The program would be amended to allow startup funds, advance payments for family and group day care homes and would reauthorize the Special Supplemental Program for Women, Infants and Children (WIC) at about $3 billion for fiscal 1979–82. (S 3085)

ESEA

A new law is a $50 billion, 5-year extension of most of the nation's major federal programs of aid to elementary and secondary education. This includes $28.3 billion in Title I grants for the disadvantaged to local education agencies. A revised allocation formula beginning in fiscal 1980 seeks to focus aid on the neediest. The law also includes President's Carter's request for an additional $400 million in fiscal 1979 to supplement grants to school districts with large concentrations of poor children. The impact aid program is authorized at $8.5 billion, with more funding available for children from low-rent public housing. Other authorizations include the National Institute of Education, adult and Indian education, bilingual education women's educational equity, emergency school aid for desegregation problems, and assistance to states to develop minimum competency standards in the basic skills. The law also makes a number of modifications in programs to clarify requirements, ensure better coordination and reduce paperwork. (PL 95–561)

MIDDLE-INCOME STUDENT ASSISTANCE

A new law provides major assistance to middle-income families and students facing rising college costs. The law increases funding by $1.25 billion to $1.5 billion for five existing student-aid-in-higher-education programs. It liberalizes eligibility for basic educational opportunity grants, extends the program to an additional 1.5 million students from families with incomes up to $26,000 (instead of $15,000). It also increases the number of college work study jobs by 145,000 at $590 per job; creates an additional 134,000 supplemental educational opportunity grants at $530 each; provides an extra 20,000 state incentive grants at an average $500 each; and entitles every eligible full-time or half-time student to subsidized interest payments on guaranteed loans, regardless of family income. (PL 95–566)

SURFACE TRANSPORTATION

Congress cleared for the President a four-year, $51 billion highway and mass transit bill that foreshadows completion of the Interstate system. States must submit environmental impact statements on proposed Interstate segments by 1983 or withdraw them from the system. Highway funding totals $37.4 billion. Highway safety construction jumps to an average $1.8 billion a year, including an average $1.05 billion annually for bridge repair and replacement—a program previously funded at only $180 million a year. Interstate construction will average $3.36 billion a year with additional sums for road repair; another $2.15 billion a year average is for primary and secondary highways, including $430 million a year for repairs. Mass transit funding totals $13.6 billion. It includes $1.48 billion a year average for buses, rail modernization, commuter rail car purchases and new rail starts and extensions. Another $1.15 billion a year in formula grants based on population and density will go for public transportation, including operating assistance. An additional $300 million for bus purchases and $40 million for intercity bus terminals are provided each year. Additionally, mass transit is expected to gain $700 million a year in projects substituted for highway projects. (HR 11733)

WATERWAY USERS' FUEL TAX; LOCKS AND DAM 26

A new law would levy the first ever inland waterway users' fee—a four-cent-a-gallon fuel tax for barges and other commercial inland vessels—beginning October 1, 1980, and rising in 1981, 1983 and to 10 cents in 1985. Proceeds estimated at $30 million in fiscal 1981 and $101 million by fiscal 1985 go into a trust fund for navigation construction and rehabilitation on inland waterways. The law also authorizes replacement for Locks and Dam 26 on the Mississippi at Alton, Illinois, consisting of a single 1,200-foot lock costing an estimated $421 million. (PL 95–502)

AIRLINE DEREGULATION

A new law authorizes phased air deregulation that will give airlines freedom to choose the cities they serve and the fares they will charge. CAB certificated carriers and larger intrastate carriers could have automatic entry into one market of their choice each year and they could protect one market from such entry each year. They would be free to boost fares in non-monopoly markets up to five percent a year or to reduce fares as much as 50 percent from the standard industry fare. The law also terminates the industry mutual aid pact and for the first time creates an airplane employee protection guarantee program. The law guarantees service for 10 years to cities listed on air carriers' certificates. CAB authority over domestic routes would end in 1981, over domestic fares in 1983 and CAB itself would expire in 1985. (PL 95–504)

NOISE CONTROL

A bill cleared for the President would authorize $17.8 million in fiscal 1979 for the Noise Control Act, including $3 million for noise research by the Environmental Protection Agency and $4 million for technical assistance by EPA and the Secretary of Transportation for areawide noise abatement programs; and require development and monitoring of areawide noise abatement plans for certain airports. (S 3083)

CONRAIL

A bill cleared for the President authorizes an additional $1.2 billion for ConRail operation of six bankrupt northeast and midwest railroads. (S 2788)

LOCAL RAIL SERVICE

A bill cleared for the President would extend the local rail service assistance program

to freight lines which a carrier intends to abandon with three years. The bill also streamlines the program of repayable rehabilitation assistance to private freight railroads. (S. 2981)

ENDANGERED SPECIES

Congress cleared for the President a bill creating review procedures by which construction projects may be exempted from Endangered Species Act restrictions like those that held up the TVA Tellico Dam because of the snail darter. Restrictions could be lifted if the project benefits outweigh environmental impact under standards set by the bill. (S 2899)

ANTARCTIC CONSERVATION

A bill cleared for the President provides for the conservation and protection of the animals, plants and ecosystems of Antarctica consistent with the Antarctic Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora and Recommendation VIII–3 of the Eighth Antarctic Treaty Consultative Meeting by directing the National Science Foundation to establish a permit and regulatory system to control the taking of plants and animals native to Antarctica, the introduction of nonnative species into Antarctica, the disposal of pollutants in Antarctica and the activities of U.S. citizens in certain areas of Antarctica. (HR 7749)

FISH AND WILDLIFE PROGRAMS

A bill cleared for the President provides for uniform authority for enforcement of fish and wildlife laws, and a comprehensive program for enforcement training, research and development. (HR 2329)

REBATING PRACTICES IN U.S. FOREIGN TRADE

A bill cleared for the President increases civil penalties for illegal rebating in ocean shipping, authorizes the Federal Maritime Commission to suspend tariffs if a carrier refuses to provide information and for the first time requires foreign-flag ocean carriers to comply with FMC subpoenas and discovery orders or face exclusion from U.S. ocean trades. (HR 9518)

OCEAN SHIPPING ACT

A new law provides for the regulation of rates or charges by certain waterborne carriers owned by other nations in the foreign commerce of the United States. (PL 94–483)

INTERCOASTAL SHIPPING ACT

A new law sets deadlines for Federal Maritime Commission determinations on shipping rate adjustments and restricts Commission suspensions of general rate adjustments of five percent or less. (PL 95–475)

DUCK STAMP ACT AMENDMENTS

A new law raises additional funds for the acquisition of migratory bird habitat and conditions a governor's veto authority concerning federal acquisition of such habitat in the case of a willing seller. (PL 95–552)

SOLAR COLLECTOR INSTALLATION

A new law authorizes the Architect of the Capitol to install solar collectors for furnishing a portion of the energy needs of the Rayburn House Office Building and House Office Building Annex Number 2. (PL 95–577)

BLACK LUNG TRUST CONTRIBUTIONS

A new law authorizes tax-deductible contributions to black lung benefit trusts for the financing of future benefits as well as current year obligations. (PL 95–488)

INTERNATIONAL MARITIME SATELLITE TELECOMMUNICATIONS

A new law provides for the establishment, ownership, operation, and governmental oversight and regulation of international maritime satellite telecommunications services. The law designates the Communications Satellite Corporation (COMSAT) as the U.S. participant in an international endeavor to develop satellite communications for maritime commercial and safety needs. (PL 95–564)

RECLAMATION SAFETY OF DAMS ACT

A new law authorizes $100 million without fiscal year limitation and provides permanent authority to the Secretary of the Interior to undertake modifications as he deems necessary to preserve the safety of dams under the jurisdiction of the Bureau of Reclamation. The Secretary must first submit a report to Congress on each proposed dam safety project. (PL 95–578)

DOE NATIONAL SECURITY PROGRAMS

A bill cleared for the President authorizes $2.89 billion for fiscal 1979 for the national security programs of the Department of Energy, including nuclear weapons and special reactor development; and laser and electron beam fusion research. (PL 95–509)

PRESIDENTIAL RECORDS

A bill cleared for the President declares that presidential papers (beginning with the President elected in 1980) shall be federal property. Specifically defined "personal papers" are exempt. The bill sets rules for access to presidential papers and permits an outgoing President to restrict access for up to 12 years. (HR 13500)

MEAT IMPORT QUOTAS

A bill cleared for the President would seek to tie the level of foreign beef imports to domestic supply and demand conditions. A countercyclical adjustor would be added to the import quota formula so that as U.S. production increases, imports could decrease and vice versa. The bill would set minimum meat imports of 1.2 billion pounds a year. (HR 11545)

AGRICULTURAL EXPORTS

A new law seeks to increase farm exports by upgrading U.S. agricultural representatives to counselors, establishing trade promotion offices abroad and expanding type and availability of credit to foreign buyers of U.S. products. The law makes short-term credit available to the People's Republic of China. (PL 95–501)

CIGARETTE RACKETEERING

A new law authorizes federal law enforcement officials to help states combat the bootlegging of cigarettes from low-tax to high-tax states. Such bootlegging is a major source of organized crime income. (PL 95–575)

RAPE VICTIMS PRIVACY

A new law protects privacy of rape victims by establishing rules for admission of evidence in rape trials. (PL 95–540)

MILITARY UNIONS PROHIBITION

A bill cleared for the President prohibits union organization of the armed forces. (S 274)

JURORS' FEES QUALIFICATIONS AND SERVICE

A new law increases the attendance fee for federal grand and petit jurors to $30 a day with enhanced fees for extended service, more generous commuter travel allowances for jurors, and convenience and comfort expenditures for jurors sequestered for long periods. The law provides relief for jurors against employers who discharge or threaten to discharge them for reason of jury service and would impose a civil penalty for violation of a juror's right to perform jury duty. The law also sets rules for the public drawing for jury selection by manual means and computer and makes other changes in the federal jury system. (PL 95–572)

PREGNANCY ANTI-DISCRIMINATION

A new law prohibits discrimination in employment based on pregnancy. The law reverses a Supreme Court ruling that exclusion of pregnancy benefits from an employer's disability plan is not sex discrimination. Additionally, employers could not fire or refuse to hire or promote on the basis of pregnancy. (PL 95–555)

VETERANS APPOINTMENTS

A new law extends to September 30, 1981, authority to make non-competitive federal appointments for Vietnam veterans. (PL 95–520)

JUSTICE DEPARTMENT AUTHORIZATION

A bill cleared for the President authorizes $1.68 billion for the Department of Justice for fiscal 1979. It was the first such authorization in the 108-year history of the Justice Department. The bill includes $561.3 million for the FBI, $221 million for U.S. attorneys and marshals and $362.6 million for federal prisons. The bill also authorizes acquisition or construction of a federal detention center in Los Angeles County and directs the Attorney General to develop special eligibility criteria under the current U.S. parole program for Indochina refugees to enable a larger number of refugees from Cambodia to qualify for admission to the United States. (HR 12005)

PERISHABLE AGRICULTURAL COMMODITIES ACT

A new law makes certain changes in the regulatory program established by the Perishable Agricultural Commodities Act, fosters fair trade practices in the marketing of perishable agricultural commodities in interstate and foreign commerce and aids in the enforcement of contracts for marketing these commodities. (PL 95–562)

RURAL TRANSPORTATION ADVISORY TASK FORCE

A new law establishes a Rural Transportation Advisory Task Force to study and report on the adequacy of the transportation system to meet the needs of agricultural and rural development in the United States. (PL 95–580)

FEDERAL WATER POLLUTION CONTROL ACT

A new law authorizes $14,039,000 for fiscal 1980 for certain operating EPA programs, including manpower training and monitoring of water quality in the Great Lakes. The law also overcomes a court injunction and provides for enforcement of March, 1978, EPA regulations on hazardous substances discharges. EPA is authorized to determine what quantity of a discharged substance is harmful based on the chemical and toxic properties of the substance and not upon the circumstances of its release. EPA is authorized to pursue civil actions to obtain penalties of up to $50,000 against violators, in addition to the statutory administrative penalty of up to $5,000. (PL 95–576)

RADIOACTIVE WASTE CONTROL

A bill cleared for the President would establish a program for disposal of radioactive waste from the uranium ore milling process and authorize federal assistance for cleanup of former processing sites. (HR 13650)

PARKS

A bill cleared for the President authorizes $1.25 billion for national parklands and recreation areas, including urban park rehabilitation. (S 791)

HORSERACING

A new law allows interstate off-track parimutuel wagering on horseracing under arrangements agreed to by all interested parties. (PL 95–515)

OLYMPICS

A bill cleared for the President would provide for coordination of U.S. Olympic sports and a new law appropriates $16 million for grants to the U.S. Olympics Committee. (S 2727; PL 95–482)

CIBOLA NATIONAL FOREST

Congress cleared for the President a bill to authorize $12 million from the Land and Water Conservation Fund to extend the boundaries of the Cibola National Forest in New Mexico. (S 553)

TOIYABE NATIONAL FOREST

Congress cleared for the President a bill providing for a 46-acre expansion of Toiyabe National Forest in Nevada. (S 2774)

GREAT BEAR WILDERNESS

A new law designates the Great Bear Wilderness, and enlarges the Bob Marshall Wilderness, in Montana. (PL 95-546)

In addition, HR 11445 Small Business Amendments, and HR 12467 Rehabilitation Services Amendments, listed in their conference report in the checklist, were cleared for the President and HR 11003 White House personnel authorization, listed in its conference report form, was signed into law. (PL 95-570) ●

ACCOMPLISHMENTS OF THE 95TH CONGRESS: REPORT TO THE PEOPLE OF THE FOURTH DISTRICT OF WISCONSIN

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ZABLOCKI. Mr. Speaker, on this last day of the 95th Congress I am submitting the summary of the accomplishments of the Congress which will be shared with my constituents in the Fourth Congressional District of Wisconsin, which I have the honor of representing in the House of Representatives.

While my report to the people has been an annual practice, it takes on added significance in view of the political interest in our society today. As we know, the American people are more politically active today, are demanding greater accountability from their public servants, and are more keenly aware of issues directly and indirectly affecting them as individual taxpayers and the Nation as a whole.

One year ago during a speech to a public awareness forum, I pointed to statistics indicating that individuals want to participate in community decisions that affect their lives by a margin of 73-to-23 percent. A study conducted for the House Administration Committee further indicates that 93 percent of the public think it important for Congressmen and their staffs to get back home frequently to report what Congress is really doing. Certainly, the days of patting constituents on the head and saying the government will take care of you are behind us. The taxpayers' revolt, begun this spring, is blossoming and having relevant impact on the American political system.

Mr. Speaker, beyond a doubt, this increased awareness and willingness to speak out is dramatic evidence of the strength of democracy; of the fact that no matter how developed, refined or seemingly sophisticated an ideaology becomes, the people who elect their representatives have the final say. The concept of accountability to the public has been heightened this year by more public interest in politics. The climate today calls to mind the words of the late John Kennedy:

Today, the eyes of all people are truly upon us, and our governments, in every branch, at every level, national, state, and local, must be as a city upon a hill, constructed and inhabited by men aware of their grave trust and their great responsibilities.

The rightful demands of citizens to determine how their money is spent were epitomized by the passage of proposition 13 in California. The taxpayers' messages reached the 95th Congress and significantly moved this Congress to mandate the lowest budget deficit in 5 years and to cut fiscal year 1979 outlays by more than $10 billion from the administration's request.

Obviously, the 95th Congress has not solved all of the ills of our society. Many of its legislative initiatives are, in fact, only the beginning. We passed an $18.7 billion tax cut, but we still need reform legislation to provide our middle- and lower-income citizens with a fair return for their contributions. We embarked upon a national energy policy but we need a continued and renewed commitment to reduce our dependency on foreign oil, an increase of domestic supplies, and to provide for the development of alternative energy sources on a priority basis.

The jobless were of the utmost concern to the 95th Congress. Through a working partnership with the administration, the Congress generated more than 6.4 million jobs in the 21 months since the President took office. In the Milwaukee metropolitan area alone, the unemployment figure dropped from 5.8 percent at the end of 1977 to the present 4.6 percent.

Further, the Congress sent to the President the landmark Humphrey-Hawkins full employment bill that would translate into reality the right of all Americans to have full opportunity for gainful employment at fair rates of pay.

Mr. Speaker, the scope of the 95th Congress was all encompassing. Legislation enacted ranged from a bill granting airline discounts to America's elderly citizens to one encouraging nuclear nonproliferation. In striving to reinforce public trust and confidence in our political system, we have reformed the civil service system and passed financial disclosure mandates for top Government officials.

Working within our budget limitations, with the President's recommendations and under your able leadership, Mr. Speaker, we have made strides on the long road to improving the quality of life in every aspect of our society. I am pleased to present this summary of the accomplishments of the 95th Congress.

ECONOMY

Foremost on the agenda of the 95th Congress was economic recovery. While we have more work ahead of us in the next Congress, before our economic situation is totally acceptable, we have made progress in the area of economic revitalization.

In the closing days of Congress, we passed a prudent tax bill intended to spur investment and cut individual taxes without giving rise to overburdening inflation.

The recent 6-percent national unemployment figure indicates a drop in over 1½ percent from the unemployment rate for the last quarter of 1976. When the President presented his original economic stimulus proposals, the Congress took a tough look at them, trimmed where necessary, and reshaped projects to focus directly on the heart of our economic problems. Employing our people was of prime concern. The Public Employment Act virtually tripled the authorization for Federal grants for local public works in areas of high unemployment. With the unemployment gains we have saved over $18 billion in unemployment insurance alone.

During the first session of Congress, we cleared a bill providing $4.9 billion for revenue sharing, $100 million for railroad rehabilitation, and $59 million for jobs for older Americans.

As I mentioned earlier, the second budget resolution for fiscal year 1979 sets the lowest deficit in 5 years. It represents a significant reduction in the administration's requests. The resolution sets spending levels 34 percent lower than the $60.6 billion the President requested last January, and 24 percent lower than the target Congress set for itself last May.

Included in the budget resolution is the allocation for a $1 billion cut in waste, fraud, and abuse among various social programs. At the same time, the resolution accommodates a tax cut for workers and taxpayers. The result is a balanced fiscal approach that aims to sustain economic recovery and job expansion while keeping a rein on inflationary forces.

While economic recovery is yet to be attained, indications are that it is certainly within reach. With increased fiscal responsibility and continued cooperation between our executive and legislative branches of Government, I am optimistic that we will attain our goals.

ENERGY

The 95th Congress concluded its work by clearing the most far-reaching energy program in the Nation's history. Early in the Congress, President Jimmy Carter proposed the original energy tax package, which was subsequently reviewed and revised by energy experts in both Houses of Congress, The ultimate National Energy Act changes pricing policies for natural gas, provides measures to encourage coal conversion, offers tax credits to homeowners for energy conservation, and provides utility rate reform.

While it is my position that this act has shortcomings, it does, in my opinion, strike a fair balance between producer interests and consumer concerns and is far superior to the status quo. Of particular interest to homeowners is the 15-percent tax credit for the installation of storm doors, insulation, and other energy-saving equipment. The bill also provides for a 30-percent tax credit for the installation of solar, wind, and geothermal energy equipment.

It is important to remember that the United States is presently importing foreign oil at a cost of $45 billion a year. I am hopeful that the new national energy policy will help reduce our inflationary imports of foreign oil.

In concentrating on making our Federal agencies avoid duplications of ef-

fort and unnecessary redtape, the Congress created a Cabinet-level Department of Energy. The new Department consolidates various energy agencies which were scattered throughout the bureaucracy to insure effective, coordinated energy administration and eliminate waste.

SENIOR CITIZENS AND VETERANS

Of particular interest to me, Mr. Speaker, over my years in Congress, are two important groups in our society—the elderly and our veterans. All too often it is those who are living on fixed incomes who suffer from the burdens of inflation and unemployment.

I am proud to report that the 95th Congress made strides to improve the plight of our elderly and our veterans. For the elderly we passed a 3-year, $4 billion extension of most programs under the Older Americans Act. This act is the chief vehicle for research, community services, employment and nutrition programs for the elderly. In Milwaukee County, our elderly are receiving assistance through the elderly nutrition program, which is made possible by the act. In addition, Federal funds are channeled to provide transportation, homemakers' services, health screening, and legal aid. The Milwaukee County Commission on Aging and its Project Involve offices are responsibly seeing that these funds reach our elderly.

Other important bills affecting the well-being of senior citizens include a bill shoring up the Social Security Administration so that beneficiaries need not fear any interruptions of their benefits, and passage of a bill outlawing mandatory retirement at age 65. In addition, included in the Revenue Act of 1978 is a provision offering a capital gains tax exclusion of up to $100,000 on the sale of one's principal residence for individuals 55 years of age and older. Certainly, our retired citizens deserve special consideration and should be allowed to sell their homes in their retirement years without added tax burdens.

For our Nation's veterans, who valiantly defended their country in time of need, the 95th Congress passed a major pension reform bill. The new law will raise pensions substantially in 1979 and provides for an automatic cost-of-living increase to protect the purchasing power of our veterans who meet the test of real need. An important aspect of the pension reform bill, which I was pleased to cosponsor, is the provision that mandates that when social security benefits go up, pensions will not be cut as they have in the past. It has long been my feeling that this was unfair, and I am pleased that the Congress approved this legislation allowing veterans to receive both increases. We also increased compensation to certain disabled veterans and surviving spouses.

Our younger veterans particularly will benefit from the Veterans Housing Improvement Act, which increases the veterans' loan guarantee from $17,500 to $25,000. Certainly, in today's housing market, this bill will prove advantageous. We also increased educational benefits to some 1.9 million veterans and dependents.

EDUCATION AND HEALTH

Mr. Speaker, the 95th Congress has not forgotten its commitment to our Nation's students and their parents. This Congress cleared the reauthorization and extension for 5 years of our major Federal aid to elementary and secondary education programs. Our ongoing commitment to provide quality education to those who will be leading our Nation in the future is of utmost importance. This Congress revised the allocation formula under title I, which seeks to focus aid on our poor and needy students so that they may also receive the appropriate assistance. In addition, the Congress extended the child care food program and enacted a law authorizing $1.1 billion over 5 years for the Education of the Handicapped Act.

While the tuition tax credit for parents of elementary and secondary school children did not clear the Congress, the Middle Income Student Assistance Act did pass. This bill provides major assistance to families who face rising college costs and expands the basic grant program to reach more middle-income families.

In the field of health, we passed a comprehensive reauthorization bill to provide Federal funding to many worthwhile preventive and diagnostic programs. Included under the authorization are hypertension programs, migrant health, public health services, the National Cancer Institute, the Heart, Lung and Blood Institute, and other worthy projects.

In keeping with its responsibility to assure against misuse of funds, the Congress also passed the medicare and medicaid antifraud amendments to insure that Federal resources are not squandered.

ETHICS AND REFORM

Mr. Speaker, in keeping with your mandate for ethics reform at the beginning of the 95th Congress, we have seen the enactment of responsible reformatory measures.

This Congress passed major new legislation establishing ethics and financial disclosure standards for officials of all three branches of Government. As one who has voluntarily made available to the public my State and Federal income tax returns, I believe the financial disclosure bill is a constructive measure vital to ethics in government.

In addition to carrying on the reforms that were initiated in the previous Congress, the House of Representatives also enacted various rules making our proceedings more open and democratic. In keeping with my policy of fiscal responsibility pertaining to official expenses, I voted against a resolution in this Congress to allow Members what I considered to be an excessive increase in district office rental allowance, and have returned to the Public Treasury unspent allowances for official expenses and office salaries.

INTERNATIONAL RELATIONS

Mr. Speaker, one new dimension of this annual report to my constituents relates to the honor and privilege extended to me during the 95th Congress of serving as chairman of the House International Relations Committee. My commitment from the outset of that new and expanded role was to make the committee's contribution to the process of U.S. foreign policy formulation as positive and responsible as possible.

Picking up the emphasis of the recent past, the 95th Congress continued to exert an active role in foreign policy. That effort was complemented by the regular consultative dialog undertaken by the new Carter administration built on the idea of partnership and shared responsibility. Thus, it was understandable that the International Relations Committee played a strong and significant part in the area of foreign policy.

Legislation within the committee's jurisdiction included such major measures as the authorizations for U.S. foreign affairs agencies for fiscal year 1978 and 1979; extension of the Export Administration Act, including new anti-boycott provisions; economic and Food-for-Peace assistance to developing countries, with emphasis on helping the poor; security assistance to friends and allies, with emphasis on promoting a Middle East peace and including resumption of military cooperation with Turkey; bills to curb nuclear proliferation; reform the Trading with the Enemy Act; promote the orderly development of hard mineral resources in the deep seabed; strengthen the economy of the United States through increased sales abroad of American farm products; and establish an international emergency wheat reserve.

Our resolutions have dealt with issues ranging from missing in action in Southeast Asia to the Soviet dissident trials and violations of human rights in Cambodia and Uganda. A special investigation was also conducted on Korean-American relations. In addition to the sessions on immediately pending legislative measures, we held hearings on many other issues, including the Panama Canal treaties, the U.N. Law of the Sea Conference, and oversight hearings on the War Powers Act.

That partial list reflects the necessary wide-ranging foreign policy issues on which the House International Relations Committee was required to act in the last Congress. In another important way, however, it also reflects the ever-growing complexity of an increasingly interdependent world. For example, we import 90 percent of our tin and 85 percent of our bauxite from developing nations.

In addition, few individuals realize that 75 percent of our expenditures for foreign aid are used to buy goods and services in this country.

Mr. Speaker, I would like to take this opportunity to commend our colleagues on their many efforts during this Congress. While our country is constantly in the process of nation-building, I believe that we have aggressively moved forward toward our goals. Certainly, much remains to be done. We still have an unemployment figure that must be reduced even further. We still have needy poor and elderly. As yet, we do not have a system whereby all individuals are guaranteed adequate health care regardless

of income. And, we must not forget our constant battle to protect the rights of the unborn. While the tasks ahead are many, I am confident that with continued cooperation among the branches of Government and the guidance and strength of the American people, we will succeed.●

LONG'S SUBCOMMITTEE: INITIATIVES FOR IMPROVING THE LEGISLATIVE PROCESS

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. LONG of Louisiana. Mr. Speaker, it is with great pleasure that I rise to report to the 95th Congress the activities of the Subcommittee on the Rules and Organization of the House, which I have the privilege to chair. This subcommittee was established by the House Committee on Rules on September 16, 1978. It is the first standing subcommittee in the long history of our committee.

Serving on this subcommittee, with diligence and dedication are Representative JOE MOAKLEY of Massachusetts, RICHARD BOLLING of Missouri, JOHN YOUNG of Texas, SHIRLEY CHISHOLM of New York, TRENT LOTT of Mississippi, and JOHN ANDERSON of Illinois. I am most grateful to my subcommittee colleagues for the support they have given me in the 95th Congress. It has truly been an organizational period and their guidance and assistance has been invaluable.

We have made a good beginning in our first year of operation, and we are looking forward to continuing in the 96th Congress our broad overview of the subject matter assigned to us. The jurisdiction conferred by the Committee on Rules in creating this subcommittee encompasses all matters of original jurisdiction of the committee. Thus the authority of the subcommittee extends to all rules of the House, other than those relating to the Code of Official Conduct. Subjects before us include the Congressional Budget and Impoundment Control Act, the Legislative Reorganization Act, resolutions concerning the broadcasting of House floor proceedings, the creation of congressional committees, and numerous other measures of diverse scope and effect.

More than 600 bills and resolutions of original jurisdiction have been referred to the Subcommittee on the Rules and Organization of the House during the 95th Congress. There were certain items of business which required immediate and urgent attention. The first official action of the subcommittee was to consider, markup, and approve guidelines for the establishment of select committees, a study prepared by our predecessor group, the ad hoc subcommittee on select committees, which I also chaired. This we did on September 23, 1977. These recommendations were published on October 11, 1977, as a subcommittee print, and distributed to all Members of the House, for guidance in proposing the creation of select committees.

Ten days after the subcommittee was established by the full committee, we held our first hearings. The subject was House Resolution 766, the recommendations of the Commission on Administrative Review. The resolution provided for the reform of the administrative organization and management services of the House, as well as other purposes. Had it been adopted, the resolution would have had a far-reaching effect on the House. Many of the improvements embodied in this resolution are under active discussion by various House groups, and we may yet see their implementation.

With the able assistance of a staff detail from the Congressional Research Service, associate staff of individual members of the full committee, and the Administrative Review Commission staff, we built upon the Commission's lengthy background hearings in our consideration and report to the full committee. We completed our hearings and marked up the resolution on September 26, reporting to the full committee in time to comply with the mandatory reporting date of October 5, 1977.

The subcommittee was next required to focus full attention on the issue of broadcasting the proceedings of the House. Under the provisions of House Resolution 866, the Committee on Rules was directed to study all alternative methods of providing complete and unedited audio and visual broadcasting of proceedings of the House and report to the Speaker by February 15, 1978.

This subject has been an unresolved topic before the House of Representatives in one form or another since 1944. The Committee on Rules had previously considered broadcasting on an ad hoc basis. Experimental coverage had been conducted by the Select Committee on Congressional Operations.

The subcommittee took a completely new approach. We conducted a thorough and comprehensive review of all past studies. We investigated the operational experience of more than 40 State legislatures, the United Nations, and the Canadian Parliament. These systems represented the full scope of possibilities—operation in-house, by public broadcasting, and by networks. We developed a television demonstration presentation on the basis of our review.

The conclusion of the subcommittee was that the House of Representatives should follow the successful model provided by the Canadian Parliament, developing an in-house unedited broadcasting system to provide coverage of floor proceedings that will not intrude upon the legislative process.

Our findings were ratified by the Committee on Rules and were published as House Report 95–881 on February 15, 1978. Efforts are now underway to install a House broadcasting system that will meet the requirements of House Resolution 866 to provide a complete and unedited broadcasting and recording system for House proceedings. The installation and implementation of the House broadcasting system are subject to the direction and control of the Speaker, and I am very pleased with the direction and progress in this regard.

With the advent of the 2d session of the 95th Congress, I, as chairman of the subcommittee, compiled an ambitious agenda for the remainder of the Congress. The need to establish priorities was clear, but the magnitude of our jurisdiction and the importance of giving full consideration to all consequences of the institutional reforms before us made this a difficult task. I made it my paramount concern to give comprehensive and coordinated review to proposals for more effective legislative oversight of ongoing programs and more effective control over agency rulemaking authority. This was a broad mandate, but necessarily so. Congressional procedures and operations are intricately interrelated.

Each proposal will affect many other congressional processes. In some areas, the impact of proposals may be minor or inconsequential. In other areas, however, a proposal in its effort to cure one problem may aggravate already existing problems or create new ones. If we adopt any major proposal without taking into account these complex interrelationships and their consequences, we risk severe damage to other vital congressional procedures and to the overall effectiveness of Congress as an institution.

Thus the subcommittee held several sets of hearings, which will soon be published in a single volume, "Hearings on Congressional Procedures." We conducted hearings on a set of recommended amendments to the Budget Act, the result of hearings by the task force on the budget process, as adopted by the Budget Committee. We also considered a proposal to establish the ceiling on the public debt through the concurrent budget resolution.

The Congressional Budget and Impoundment Control Act of 1974 has been a major force in setting congressional spending priorities. For the first time, the appropriation process is subject to predetermined limitations set down by Congress after full debate on our national needs and purposes. The Budget Act is not perfect, but it is a great improvement over past practice. It needs refinement, but it has only been in operation for 4 years. Only now, after four full cycles of operation, can we begin to review in a coherent and authoritative fashion its full effect on Federal spending and its interrelationship with other aspects of the legislative process.

Our initial hearings on this subject revealed the need to consider proposed amendments to the budget process in special connection with our appropriations process. These two complex systems require thorough and complete review in tandem before any modifications should be adopted.

The subcommittee also conducted detailed hearings on the various recommendations for congressional review of agency rulemaking. Imposition of a requirement on congressional committees to review agency regulations would have a serious effect on the committee system. Meaningful review would demand additional staff and space, and greatly increase the workload of individual Members, who are having difficulty meeting their committee obligations at this time. The "congressional veto" is really one single approach to congressional oversight. Thus it was necessary

to expand the focus of our hearings to alternative methods of congressional oversight, which we continue to study.

Another subject of keen interest to the subcommittee is program review. The subcommittee held hearings in which we considered a number of "sunset" measures, and other methods of program review, such as those which would establish program objectives, requirements for periodic authorization of Federal programs and reevaluation. Advocacy of new methods of program review is a response to the need to improve our control of Federal spending and our approach to program development.

The subcommittee is aware, however, that "sunset," reauthorization requirements, or program review will have a serious impact on the responsibilities of congressional committees and the Members of the House, as well as on the floor schedule. The automatic expiration or reauthorization review of legislation will have a fundamental effect on the authorization-appropriation cycle and the budget process. Institutional changes of this kind will reshape the structure of committee jurisdictions which many now feel needs to be revised for more efficient and effective processing of legislation.

The hearings we held in the 95th Congress will furnish the basis for continued review and evaluation next year. These hearings provided a valuable congressional forum for Members with diverse points of view to explain their ideas about how to make the House work better. A great variety of beneficial discussion was encouraged by the availability of this forum.

The subcommittee was especially pleased at the participation by Members first elected to the 94th and the 95th Congresses, as well as by those of lengthy experience. Many innovative suggestions came forth and will supply the foundation for our work in the next year.

Our groundwork has succeeded in identifying many of the causes and effects of problems in our current system of legislative practices. We have begun to analyze a wide range of approaches and solutions to the problems at hand. We have also recommended certain improvements to the present system.

One of these—House Resolution 86—will be implemented in the 96th Congress. Our subcommittee proposal which would remove the limitation on cosponsorship of legislation, was adopted by the full committee and agreed to by the House on October 10, 1978. It will result in significant cost savings to the House and create a more logical system of record-keeping for the House and its committees.

The subcommittee will vigorously pursue our commitment to improving the operation of the House in the 96th Congress. Both the majority and minority members of our subcommittee have a strong interest in making the legislative system work better. We shall continue our evaluation of the legislative process in our effort to develop a procedure that will result in better legislation—legislation which is thoughfully evolved and responsive to the needs and the desires of the American people.

Our agenda will be lengthy and complex, and will demand much attention to detail. We realize it would be irresponsible to recommend changes in our institution or its procedures in rapid response to political expediency. Rather, our efforts will be directed at a rational review of both long- and short-term effects of important proposals for legislative change and development. Our primary objective will continue to be fostering the development of the full potential of the House in processing legislation and conducting oversight.

The Subcommittee on the Rules and Organization of the House welcomes all suggestions and participation on the part of our colleagues as we continue to deal with the lengthy and complex agenda to which we are committed.●

LEGISLATIVE RECORD, 95TH CONGRESS

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ZABLOCKI. Mr. Speaker, the following is a summary of my attendance record, position, and voting record on the major issues considered during the 95th Congress:

ROLLCALL RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 95TH CONGRESS

[1st and 2d sessions]

	Yeas/ nays	Quorum calls	Recorded votes	Grand total
Number of calls or votes	1,035	184	505	1,724
Present responses (yea, nay, present, present-paired for or against)	1,007	174	500	1,681
Absences (absent, not voting, not voting-paired for or against)	28	10	5	43
Voting percentage (presence)	97.3	94.6	99.0	97.5

VOTING RECORD OF CONGRESSMAN CLEMENT J. ZABLOCKI, 95TH CONGRESS

Position, issue, and status

NATIONAL ECONOMY

Voted for: An $18.7 billion tax cut providing benefits for middle-income taxpayers and businesses; became law.

Voted for: Legislation creating 600,000 jobs largely in construction in areas of high unemployment; became law.

Voted for: $1 billion cut in waste and fraud in social programs; adopted.

Voted for: Resolution trimming 36 percent off the Administration's budget request; adopted.

Voted for: Extension of the Council on Wage Price Stability Act; became law.

Voted for: Banking and credit union reform; became law.

Voted for: Reduction in down-payments for new homeowners; became law.

Voted for: Economic stimulus package to fight inflation; became law.

Voted for: Legislation setting a 5-year goal of a 4 percent unemployment rate and 3 percent inflation; adopted.

ENERGY, ENVIRONMENT, AND NATURAL RESOURCES

Voted for: Legislation to increase the supply of domestic gas and reduce dependency on foreign oil; became law.

Voted against: Proposals to increase federal gas tax; defeated.

Voted for: Tax credits for home insulation; became law.

Voted for: Energy conservation programs for schools, hospitals, and public buildings; became law.

Voted to Override: Presidential veto of legislation including funding to reduce military aircraft noise; veto sustained.

Voted for: Preservation of Alaskan wilderness; House passed.

Voted for: Legislation to gradually increase the automobile emission standards to protect the environment; became law.

Introduced: Legislation providing for more efficient and effective control over the proliferation of nuclear explosive capability; became law.

Voted for: Legislation to prohibit ocean dumping of municipal sewerage sludge after 1981; became law.

Voted for: Creation of a federal-state program to regulate strip-mining and surface effects of underground mines; became law.

Voted for: Legislation for the conservation, protection and enhancement of the nation's land and water; became law.

RETIREMENT, HEALTH AND SOCIAL SERVICES

Cosponsored: Legislation to restore financial solvency to the Social Security system; became law.

Voted for: Extension of employment and nutrition benefits for the elderly; became law.

Voted for: Capital gains tax exclusion for those over 55 and over who sell their homes; became law.

Voted for: Funding for home weatherization programs for the elderly; became law.

Voted for: Elimination of mandatory retirement at age 65; became law.

Voted for: Legislation appropriating $57 million for jobs for Older Americans; became law.

Voted against: Proposals to allow federal funding of abortions; defeated.

Cosponsored: Legislation to provide a responsible National Health Insurance Program; pending.

Introduced: Right-to-Life resolution to protect the rights of the unborn; pending.

Voted for: Authorizations for rehabilitation programs and independent living programs for the handicapped; became law.

Voted for: Legislation to protect citizens from fraudulent activities under the Medicare and Medicaid programs; became law.

Voted for: Responsible CETA reform; became law.

Introduced: A bill to increase alternatives to institutionalization for Senior Citizens; pending.

Voted for: Funding for heart, lung and blood research and National Cancer Institute; became law.

Voted for: Legislation providing nurse training assistance; became law.

Voted for: Child Nutrition programs; became law.

Voted for: Drug abuse prevention, treatment and rehabilitation programs; became law.

VETERANS AND NATIONAL DEFENSE

Voted for: Increased education benefits for 1.9 million veterans including increased loan limitations; became law.

Voted for: Increased veterans home loans; became law.

Cosponsored: Legislation to provide payment of service pensions to veterans of World War I; defeated.

Cosponsored: A bill to allow the exclusion of Social Security increases in Computing veterans' pensions; became law.

Voted for: Increase in veterans' disability benefits; became law.

Voted for: Increase in veterans' and survivors' pensions; became law.

Voted for: Funding to improve state veterans' homes; became law.

Voted for: Automobile assistance allow-

ance and adaptive equipment to disabled veterans of World War I; became law.

Voted against: Administration-sponsored recission of funding for B–1 bomber; passed House.

Voted for: Final defense authorization for research, development and civil defense; became law.

Voted for: Authorizing legislation to provide for the national security programs of the Department of Energy; became law.

TRANSPORTATION, HOUSING AND CONSUMERS

Voted for: Extension of Community Development Block Program with funds for special assistance for older, declining neighborhoods; became law.

Voted for: Standards for flame resistance and corrosiveness of cellulose home insulation; became law.

Voted for: Emergency railroad operating assistance; became law.

Voted for: Airline deregulation to increase competition among airlines; became law.

Voted for: Consumer Protection Agency; defeated.

Voted for: National Consumer Cooperative Bank to make loans at market interest rates and provide technical assistance to consumer cooperatives; became law.

Voted for: Comprehensive highway and mass transit bill including funds for buses, rail modernization and highway safety construction; became law.

Voted for: Housing assistance programs for low and middle-income taxpayers; became law.

Voted for: Benefits and incentives for new single family homeowners; became law.

Voted for: Legislation to prohibit debt collectors from harassing or intimidating practices; became law.

Voted for: Resolution opposing the elimination of Saturday mail delivery service; adopted.

EDUCATION AND LABOR

Voted for: Major federal programs of aid to elementary and secondary education programs; became law.

Voted for: Assistance through HEW for middle-income students and parents; became law.

Voted for: Legislation authorizing $1.1 billion over five years for education of the handicapped; became law.

Voted for: Extension of the school lunch and child nutrition programs; became law.

Introduced: Legislation to provide a tax credit for tuition paid to elementary and secondary schools; defeated.

Voted for: Legislation prohibiting HEW-forced busing; became law.

Voted for: Legislation to provide funding to disadvantaged school children; became law.

Cosponsored: Humphrey-Hawkins Full Employment bill; became law.

Voted for: Labor Law Reform; passed House.

Voted for: Increase in the Federal minimum wage; became law.

ETHICS AND GENERAL GOVERNMENT

Introduced: Legislation providing for financial disclosure standards for top government officials and candidates; became law.

Voted for: Legislation establishing Special Prosecutors to investigate and prosecute charges against high government officials; became law.

Voted against: A resolution to increase district office expense; adopted.

Voted against: Proposal to allow $12,000 in computer allowances for each Member of Congress; defeated.

Voted for: Responsible lobby reform; passed House.

Voted for: A proposal to provide limited Public Financing of elections; defeated.

Voted for: Landmark legislation reforming and reorganizing the Civil Service system; became law.

Voted for: Legislation to allow federal workers their right to participate in political elections; passed House.

Introduced: Resolution commemorating Thaddeus Kosciuszko in Krakow, Poland; adopted.

Voted for: Reorganization of the Executive branch to lessen duplications and red-tape; became law.

Voted for: Legislation requiring audits of the Internal Revenue Service and the Bureau of Alcohol, Tobacco and Firearms; became law.

INTERNATIONAL RELATIONS

Cosponsored: Legislation providing food and economic assistance to help poor countries help themselves; became law.

Introduced: Resolution proposing an international treaty banning lethal chemical weapons; pending.

Cosponsored: Legislation to govern the export of nuclear material and technology by the U.S.; became law.

Voted for: Extension of the Peace Corps Program; became law.

Voted for: Approval of the Reciprocal Fisheries Agreement between the U.S. and Canada; became law.

Voted for: Prisoner exchanges between the United States and Mexico and Canada; became law.

Introduced: Legislation making the Arms Control and Disarmament Agency more effective; became law.

Voted for: Responsible authorizations for the Department of State, U.S. Information Agency, and Board for International Broadcasting; became law.

Voted for: Resolution expressing the concern of Congress regarding the harassment of Soviet Jews and other minorities; adopted.

Voted for: Legislation prohibiting compliance by American firms with the Arab boycott of Israel; became law.●

SUMMARY REPORT OF THE NATIONAL PARKS AND RECREATION ACT OF 1978 SUBMITTED BY CHAIRMAN PHILLIP BURTON

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, the following summary will enable our colleagues and interested parties to have available a brief guide to the contents of this landmark legislation enacted by the 95th Congress.

NATIONAL PARKS AND RECREATION ACT OF 1978

(Omnibus bill; S. 791, as amended Oct. 12)

WILD AND SCENIC RIVERS

Established eight new river designations for federal management as national wild and scenic rivers (the largest single addition since the inception of the 1968 Act). Principal sponsors are shown in parentheses:

Pere Marquette, Michigan (Reps. Carr, Vander Jagt; Sen. Riegle).

Rio Grande, Texas (Reps. Eckhardt and Mattox).

Skagit, Washington (Rep. Meeds; Sen. Jackson).

Upper Delaware, New York and Pennsylvania (Reps. McHugh, McDade).

Middle Delaware, New York, Pennsylvania and New Jersey (Reps. Kostmayer, Burton, Meyner, Fenwick, Bingham, Florio, et al.).

American, California (Rep. Harold Johnson).

Missouri, Nebraska and South Dakota (Reps. Cavanaugh, Virginia Smith; Sens. Abourezk, McGovern, Curtis and Zorinsky).

Saint Joe, Idaho (Sens. Church and McClure).

Seventeen new rivers designated for study under the terms of the Wild and Scenic Rivers Act (to determine their potential to be added to the fifteen established prior to the 95th Congress):

Kern River (North Fork), California.

Loxahatchee River, Florida (Rep. Bafalis).

Ogeechee River, Georgia.

Salt River, Arizona (Rep. Udall).

Verde River, Arizona (Rep. Udall).

San Francisco River, Arizona (Rep. Udall).

Fish Creek, New York (Rep. Mitchell of New York).

Black Creek, Mississippi (Rep. Lott).

Upper Allegheny, Pennsylvania (Sen. Heinz).

Cacapon River, West Virginia.

Escatawpa River, Alabama and Mississippi (Rep. Jack Edwards).

Myakka River, Florida (Rep. Bafalis).

Soldier Creek, Alabama (Rep. Edwards of Alabama).

Red River, Kentucky (Rep. Gradison).

Bluestone River, West Virginia.

Gauley River, West Virginia.

Greenbrier River, West Virginia.

Adopted the most important improvements in management procedures since the inception of the Wild and Scenic Rivers Act, and

Acquisition increases for five existing rivers to complete their protection under the Wild and Scenic Rivers Act: $10,407,000, Eleven Point River, Missouri; $15,147,000, Rogue River, Oregon; $21,769,000, Saint Croix River, Minnesota and Wisconsin (Rep. Kastenmeier; Sen. Nelson); $1,837,000, Salmon River, Idaho (Sen. Church); $5,200,000, Chattooga River, North Carolina, South Carolina and Georgia.

ACQUISITION CEILING INCREASES

Additional funds were authorized for acquisition in 29 units of the National Park System:

Alibates Flint Quarries National Monument, Texas.

Allegheny Portage Railroad National Historic Site, Pennsylvania.

Bent's Old Fort National Historic Site, Colorado.

Big Cypress National Preserve, Florida (Reps. Pepper, Rogers).

Buffalo National River, Arkansas (Sen. Bumpers; Rep. Hammerschmidt).

Chesapeake & Ohio Canal National Historic Park, West Virginia, Maryland, and the District of Columbia (Reps. Steers, Moore).

Chiricahua National Monument, Arizona.

Coronado National Memorial, Arizona.

Cumberland Island National Seashore, Georgia (Rep. Ginn).

Cuyahoga Valley National Recreation Area —Ohio (Reps. Seiberling and Regula; Sen. Metzenbaum).

Eisenhower National Historic Site, Pennsylvania.

Fire Island National Seashore, New York (Rep. Downey).

Fort Carolina National Memorial, Florida (Rep. Bennett).

Fort Union Trading Post National Historic Site, North Dakota and Montana (Reps. Andrews of North Dakota, Baucus, Marlenee).

George Washington's Birthplace National Monument, Virginia.

Great Sand Dunes National Monument—Colorado.

Gulf Islands National Seashore, Mississippi and Florida (Rep. Lott).

Hampton National Historic Site, Maryland.

Hawaii Volcanoes National Park, Hawaii.

John Day Fossil Beds National Monument, Oregon (Rep. Ullman; Sen. Hatfield).

Johnstown Flood National Memorial, Pennsylvania (Rep. Murtha).

Monocacy National Battlefield, Maryland (Rep. Byron).

Oregon Caves National Monument, Oregon (Rep. Weaver).

Petersburg National Battlefield, Virginia (Rep. Dan Daniel).

Salem Maritime National Historic Site, Massachusetts.

Sequoia National Park, California (Rep. Krebs).

Tumacacori National Monument, Arizona.

Tuzigott National Monument, Arizona.

Wind Cave National Park, South Dakota (Sens. Abourezk and McGovern).

A major land acquisition increase was authorized for the Sawtooth National Recreation Area, administered by the U.S. Forest Service, Idaho (Sens. Church, McClure; Reps. Dicks and Symms).

Acquisition increases for Apostle Islands National Lakeshore, Wisconsin, and Cape Cod National Seashore, Massachusetts, were deleted from the original omnibus bill, since they were eligible for automatic increases in acquisition authority made possible by the authority enacted in P.L. 95–42, initiated by this Subcommittee.

DEVELOPMENT CEILING INCREASES—1978

Increased development for 34 units of the National Park System:

Agate Fossil Beds National Monument, Nebraska.

Allegheny Portage Railroad National Historic Site, Pennsylvania (Rep. Murtha).

*Andersonville National Historic Site, Georgia (Reps. Ginn, Mathis, Brinkley).

Andrew Johnson National Historic Site, Tennessee (Rep. Quillen).

Biscayne National Monument, Florida (Rep. Fascell).

Boston National Historical Park, Massachusetts (Rep. Moakley).

*Capitol Reef National Park, Utah.

Carl Sandburg Home National Historic Site, North Carolina (Rep. Gudger).

Cowpens National Battlefield Site, South Carolina.

Cuyahoga Valley National Recreation Area, Ohio (Reps. Seiberling, Regula; Sen. Metzenbaum).

DeSoto National Memorial, Florida.

Fort Bowie National Historic Site, Arizona.

Fort Union Trading Post National Historic Site, North Dakota, Montana.

Frederick Douglass Home, District of Columbia.

*Grant Kohrs Ranch National Historic Site, Montana.

Guadalupe Mountains National Park, Texas (Rep. White).

*Gulf Islands National Seashore, Florida, Mississippi.

Harper's Ferry National Historical Park, Maryland, West Virginia.

Hubbell Trading Post National Historic Site, Arizona.

Indiana Dunes National Lakeshore, Indiana (Rep. Fithian).

John Muir National Historic Site, California (Rep. Miller of California).

Johnstown Flood National Memorial, Pennsylvania (Rep. Murtha).

*Longfellow National Historic Site, Massachusetts.

Pecos National Monument, New Mexico (Reps. Lujan and Runnels).

Perry's Victory and International Peace Memorial, Ohio (Rep. Latta).

Piscataway Park, Maryland (Rep. Skubitz).

San Juan Island National Historical Park, Washington.

*Sitka National Monument, Alaska.

Statue of Liberty National Monument, New York (Reps. Koch, Bingham, Murphy of N.Y.).

Thaddeus Kosciuszko Home National Historic Site, Pennsylvania.

Tuskegee Institute National Historic Site, Alabama.

Whiskeytown-Shasta-Trinity National Recreation Area, California (Rep. Harold Johnson).

William Howard Taft National Historic Site, Ohio (Reps. Gradison, Luken).

*Wilson's Creek National Battlefield, Missouri (Rep. Taylor).

*Indicates deletion of a previously existing escalator clause for development.

NOTE.—Development ceiling increases were deleted from the omnibus bill for the Channel Islands National Monument, California, and the Redwood National Park, California, where open-end authorizations exist, and for the Chesapeake and Ohio Canal National Historical Park, where an escalator clause in the existing law will permit needed development to go forward.

BOUNDARY ADJUSTMENTS

Changes were made to 39 units of the National Park System:

Adams National Historic Site, Massachusetts.

Alibates Flint Quarries National Monument, Texas.

Allegheny Portage Railroad National Historic Site, Pennsylvania.

Antietam National Battlefield, Maryland (Rep. Steers).

Bent's Old Fort National Historic Site, Colorado.

Boston National Historical Park, Massachusetts.

Cape Cod National Seashore, Massachusetts.

Chesapeake and Ohio Canal National Historical Park, Maryland, Virginia, District of Columbia (Rep. Steers).

Chiricahua National Monument, Arizona.

Coronado National Memorial, Arizona.

Cumberland Island National Seashore, Georgia.

Cuyahoga Valley National Recreation Area, Ohio.*

Delaware Water Gap National Recreation Area, New Jersey and Pennsylvania.

Eisenhower National Historic Site, Pennsylvania.

Fire Island National Seashore, New York.

Fort Carolina National Memorial, Florida (Rep. Bennett).

Fort Clatsop National Memorial, Oregon (Reps. AuCoin, Duncan of Oregon).

Fort Laramie National Historic Site, Wyoming.

Fort Union Trading Post National Historic Site, North Dakota, Montana.

George Washington Birthplace National Monument, Virginia.

Golden Gate National Recreation Area, California.

Great Sand Dunes National Monument, Colorado.

Gulf Islands National Seashore, Mississippi and Florida.

Hampton National Historic Site, Maryland.

Hawaii Volcanoes National Park, Hawaii.

John Day Fossil Beds National Monument, Oregon (Rep. Ullman).

Johnstown Flood National Memorial, Pennsylvania.

Monocacy National Battlefield, Maryland.

Montezuma Castle National Monument, Arizona.

Oregon Caves National Monument, Oregon.

Petersburg National Battlefield, Virginia (Rep. Robert Daniel).

Point Reyes National Seashore, California.

Salem Maritime National Historic Site, Massachusetts.

Theodore Roosevelt National Park, North Dakota.

Tumacacori National Monument, Arizona.

Tuzigoot National Monument, Arizona.

White Sands National Monument, New Mexico.

William Howard Taft National Historic Site, Ohio (Reps. Gradison, Luken).

Wind Cave National Park, South Dakota.

NOTE.—P.L. 95–42 permits the Secretary to make minor boundary adjustments in national park system units within ten years of their establishment.

PARK WILDERNESS AREAS (National Park and Recreation Act of 1978)

Name of unit	Wilderness	Potential wilderness	Total
Buffalo National River, Ark	10, 529	25, 471	36, 000
Carlsbad Caverns National Park, N. Mex	33, 125	320	33, 445
Everglades National Park, Fla	1, 296, 500	81, 900	1, 378, 400
Guadalupe Mountains National Park, Tex	46, 850	.....	46, 850
Gulf Islands National Seashore, Fla	1, 800	2, 800	4, 600
Hawaii Volcanoes National Park, Hawaii	123, 100	7, 850	130, 950
Organ Pipe Cactus National Monument, Ariz. (Representative Udall)	312, 600	1, 240	313, 840
Theodore Roosevelt National Park, N. Dak	29, 920	.....	29, 920
	1, 854, 424	119, 581	1, 974, 005

The addition of the above 8 units to the National Park Wilderness System (comprising nearly 2 million acres) exceeds the total acreage of all lands previously designated as wilderness in the National Park System.

TRAILS

The size of the National Trails System is tripled since the inception of the 1968 Act (P.L. 90–543).

A National Historic Trail category is established comprising four trails:

Oregon Trail—from Independence, Missouri to Portland, Oregon (Reps. James Johnson, Weaver, Ullman, Roncalio)

Mormon Pioneer Trail—from Nauvoo, Illinois to Salt Lake City, Utah (Reps. McKay, Marriott, Udall; Sen. Church)

Lewis and Clark Trail—Wood River, Illinois to Columbia River, Oregon (Sen. Church)

Iditarod Trail—Seward, Alaska to Nome, Alaska (Sen. Gravel)

Also established is an additional National Scenic Trail: Continental Divide Trail—from Montana/Canada border to New Mexico/Mexico (Reps. Burton and Sebelius; Sen. Hansen)

A trail study is authorized for the Overmountain Victory Trail route—Tennessee and North Carolina (Reps. Broyhill, Gudger, Andrews, Fountain, Hefner, Walter Jones, James Martin, Neal, Preyer, Charles Rose, Whitley)

The Pacific Crest National Scenic Trail, which runs through California, Oregon, and Washington, is assured of protection by restoring full acquisition authority to the Secretary of Agriculture.

*Cuyahoga Valley National Recreational Area (Reps. Seiberling, Regula, Mottl; Sen. Metzenbaum).

NEW UNITS OF THE NATIONAL PARK SYSTEM

The following 18 additions to the national park system were originally included in the omnibus bill:

New units included in the National Parks and Recreation Act of 1978:

1. Edgar Allan Poe National Historic Site, Pennsylvania (Rep. Eilberg).

2. Saint Paul's Church, Eastchester, N.Y. (Rep. Ottinger; Sens. Javits, Moynihan).

3. Kaloko-Honokohau National Historical Park, Hawaii.

4. Palo Alto Battlefield National Historic Site, Texas (Rep. de la Garza).

5. Santa Monica Mountains National Recreation Area, California (Reps. Beilenson, Burton, Goldwater, Lagomarsino; Sen. Cranston)

6. Ebey's Landing National Historical Reserve, Washington (Rep. Meeds; Sen. Jackson).

7. Friendship Hill National Historic Site, Pennsylvania (Rep. A. Murphy).

8. Thomas Stone National Historic Site, Maryland (Rep. Bauman).

9. Maggie L. Walker National Historic Site, Virginia.

10. New River Gorge National River, West Virginia (Rep. Rahall; Sens. Randolph and Robert Byrd).

11. Jean Lafitte National Historical Park and Preserve, Louisiana (Rep. Boggs; Sen. Johnston).

12. Mineral King Valley (addition to Sequoia National Park), California (Reps. Krebs, Phillip Burton, Anderson of California, Beilenson, Brown of California, John Burton, Dellums, Edwards of California, Hannaford, Lloyd of California, McCloskey, Miller of California, Mineta, Moss, Panetta, Patterson of California, Roybal, Ryan, Stark, Waxman, Wilson, Van Deerlin; Sen. Cranston).

New units earlier included in omnibus bill, but eventually approved separately:

13. San Antonio Missions National Historical Park, Texas (Reps. Kazen, Eckhardt, Krueger, Gonzalez). (Approved as part of S. 1829.)

14. Chattahoochee River National Recreation Area, Georgia (P.L. 95-344. Reps. Levitas, Mathis, Fowler, Ginn, Brinkley, Evans of Georgia, Barnard, Young of Georgia, Burton, et al).

15. Fort Scott National Historic Site, Kansas (P.L. 95-484. Rep. Skubitz).

16. War in the Pacific National Historical Park, Guam (P.L. 95-348. Reps. Burton, Won Pat, Ketchum, Clausen, Lagomarsino; Sen. Johnston).

17. American Memorial Park, Saipan (P.L. 95-348. Reps. Burton, Won Pat, Ketchum, Clausen, Lagomarsino; Sen. Johnston).

18. Hassel Island, Virgin Islands (P.L. 95-348. Reps. Burton, deLugo, Clausen, Lagomarsino; Sen. Johnston).

ALSO CONTAINED IN OMNIBUS BILL (NATIONAL PARKS AND RECREATION ACT OF 1978)

Urban recreation recovery program

Authorizes $725,000,000 over the next five years to renovate recreation facilities in urban areas. (Reps. Burton, Bingham, Seiberling; Sen. Metzenbaum)

Pine Barrens

A planning commission is established, and a framework for protection adopted, which should ultimately assure the conservation of the Pine Barrens region of New Jersey. $26 million is authorized for planning and land acquisition in the area. (Rep. Florio; Sens. Williams and Case)

STUDY PROVISIONS

Several studies were authorized for areas which will be examined by the Department of the Interior for possible future addition to the National Park System.

These include:

1. The Crow Creek Village Archeological Site, South Dakota (Sen. Abourezk)

2. The ridgelands area east of San Francisco Bay, California (Reps. Stark, Dellums, Miller of California, Edwards of California)

3. The Oak Creek Canyon area, Arizona (Rep. Udall)

4. An expansion of Chiricahua National Monument, Arizona (Rep. Udall)

5. An update of an earlier study for a national seashore, Guam (Reps. Burton, Won Pat, Ketchum, Clausen, Lagomarsino; Sen. Johnston)

6. The Mississippi River Delta Region, Louisiana (Rep. Sebelius; Sen. Johnston)

7. An extension of the New River Gorge National River, West Virginia (Rep. Rahall; Sens. Randolph and Robert Byrd)

8. The area from Newport Beach to Laguna Beach, California (Rep. Patterson)

OTHER ITEMS

(Plus other listings similar to these, but not included here)

The purchase of the concession facilities owned by the Yellowstone Park Company in Yellowstone National Park was authorized, thus clearing the way for the National Park Service to ultimately upgrade the accommodations and services for visitors to our oldest national park. (Reps. P. Burton, Sebelius, Roncalio; Sen. Hansen)

The existing federal program for the recovery of historic and archeological data is extended for an additional five years, with a total new authorization of $23,000,000. (Rep. Bennett)

The Secretary is to review all federal lands proposed for sale or other disposal, thus ensuring a review will be made of their possible value for recreation or other related purposes.

The legislation relating to the Theodore Roosevelt Inaugural National Historic Site is amended to permit federal participation to insure the protection of this property. (Rep. Nowak) ●

LEGISLATION PASSED BY THE 95TH CONGRESS

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. SMITH of Iowa. Mr. Speaker, the following are legislative matters passed by the 95th Congress which I believe will be of particular interest to many Iowans:

GOVERNMENT

H. Res. 287. Established a new code of ethics for House Members, strengthened financial disclosure requirements, prohibited unofficial office accounts and lame-duck travel, and increased restrictions on the franking privilege and outside earned income.

House Joint Resolution 554. Proposed a constitutional amendment to provide the District of Columbia with voting representation in Congress on the same basis as states.

Public Law 95-452. Established an Office of Inspector General in 12 federal departments and agencies.

Public Law 95-521. Established financial disclosure requirements for members of the executive and judicial branches, and codified in law the financial disclosure rules for Members of Congress and legislative branch personnel currently in House rules.

Public Law 95-454. Made substantial changes in the civil service system including permitting merit promotions and shifting policy making management level officials.

Public Law 95-447. Authorized the minting of a new dollar coin depicting Susan B. Anthony.

HEALTH

Public Law 95-142. Amended Medicare and Medicaid to establish stricter penalties for fraud and abuse, require greater disclosure of information from medical institutions, strengthen oversight by professional standards review organizations, and make other administrative changes which enhance monitoring efforts and cut program costs.

Public Law 95-336. Extended the Alcohol and Drug Abuse Education Act through FY 1983.

Public Law 95-210. Extended medicare and medicaid coverage to include services furnished by nurse practitioners and physician assistants in rural health clinics.

Public Law 95-239. Established an industry-financed fund to pay black lung claims filed after June 30, 1973, made working miners ineligible for compensation and permitted a claimant's physician to make the determination of the existence of black lung.

Public Law 95-2956. Raised the minimum mandatory retirement age for private sector workers to 70 barred mandatory employment and age discrimination in federal employment, and clarified existing language that prohibits the use of pension plans or seniority systems to compel retirement on account of age by workers in the protected age group.

JUDICIARY

Public Law 95-78. Approved amendments to the Federal Rules of Criminal Procedure concerning the secrecy of grand jury proceedings, cases tried by juries of less than 12 persons, and cases tried without a jury.

Public Law 95-115. Extended the Juvenile Justice and Delinquency Prevention Act for three years and authorized $125 million for FY 1978.

Public Law 95-486. Authorized 145 new federal district and circuit court judgeships, one of which is for Iowa.

H.J. Res. 638. Extended the time in which three-quarters of the states may ratify the equal rights amendments from March 22, 1979 to June 30, 1982.

Public Law 95-444. Extended the Commission on Civil Rights through FY 1983 and expanded its jurisdiction to include discrimination based on age or handicap status.

H.R. 8200. The bankruptcy reform bill which provides important new consumer protections, creates a single streamlined new commercial reorganization process for all businesses, increases the stature of bankruptcy courts and establishes a pilot U.S. trustee system to administer estates. The law defines creditors' and debtors' rights, encourages and facilitates use of debt repayment plans by individuals, and makes the plans more flexible.

Public Law 95-44. Extended the Comprehensive Employment and Training Act for four years, through FY 1982, and made significant changes to reduce abuses.

MILITARY AFFAIRS

Public Law 95-183. Authorized $2.6 billion for FY 1978 for the Energy Research and Development Administration for production and research and development on nuclear weapons, strategic and critical materials and military applications of nuclear energy. The bill also authorized previously appropriated FY 1977 funds.

Public Law 95-485. Authorized $35.2 billion for FY 1979 for production and development of weapons and equipment and set Defense Department personnel levels. This bill replaced the previous defense authorization, which was vetoed. In the original bill, a long deck carrier was authorized. The President wanted a short deck carrier. This bill does not authorize either one.

S. 274. Prohibited military personnel from joining a military labor organization and prohibited attempts to recruit military personnel into such organizations.

SMALL BUSINESS

Public Law 95-507. Revises SBA programs to assist businesses owned by socially and economically disadvantaged individuals. It also requires each Federal department to designate an individual to assist small businesses which want to sell goods or services to the Government; and it directs the Office of Federal Procurement Policy to develop a simplified procurement or purchasing regulation which recognizes the problems of small business in contracting with the Government and simplifies the procedure.

Public Law 95-89. One of the most extensive small business and disaster relief laws ever passed by Congress. In addition to authorizing the Small Business Administration's budget, this law authorizes SBA loans to natural disaster victims at a favorable interest rate; permits SBA to make loans to small homebuilders; authorizes SBA loans to small concerns suffering substantial economic injury as a result of being forced to move by a governmental program or project; and authorizes SBA loans to a small concern which must change its operations in order to comply with Federal standards. It also au-

thorizes SBA to assist small concerns in obtaining government contracts.

Public Law 95–315. Establishes a new SBA program to provide up to a $500,000 15-year loan to designers, manufacturers, distributors, marketers and servicers of solar energy and other energy conservation equipment.

H.R. 11445. This bill was vetoed after Congress had adjourned with no opportunity to vote to override the veto. It would have provided the most cmprehensive small business act ever considered by the Congress. In addition to authorizing the Small Business Administration's budget for the next three years, it extended the SBA low interest loan program for victims of natural disasters occurring in the next four years; authorized matching-grants to small business development centers which would provide management and technical assistance to small concerns; emphasized SBA's role as an advocate of small business before other Federal departments and agencies; required an inter-agency study of small business credit needs; authorized a new program to provide venture capital to small business; and authorized a White House Conference on Small Business to be held by June, 1980 (this Washington conference would be preceded by State and regional meetings to include all interested small businesses, including a conference in Des Moines next April.)

A similar bill will be introduced early next year.

Public Law 95–510. Modernizes SBA's SCORE and ACE programs under which volunteer businessmen and businesswomen counsel and advise small businesses.

SOCIAL SERVICES

Public Law 95–31. Authorized grants and loans to drought-affected areas for short term actions to mitigate the effects of water shortages. (I sponsored a provision in Public Law 95–89 making the same grants available to rural areas including towns and most Iowa cities, which many used last year.)

Public Law 95–222. Extended the Legal Services Corporation for two years, and provided for an independent hearing examiner in matters involving termination of a local legal services program.

H.R. 12467. Extends the Rehabilitation Act of 1973 for four more years, establishes a community service employment program for handicapped individuals and provide for independent living rehabilitation services for the severely handicapped.

H.R. 3553. Authorized IRS to enter into assistance agreements with nonprofit agencies to train volunteers to provide tax counseling for individuals over age 60.

Public Law 95–478. Extends the Older Americans Act for three years, consolidates the administration and planning of social services for the elderly and establishes a program of home delivered meals.

TAXES

Public Law 95–30. Eliminated the current standard deductions and replaced them with a flat standard deduction, extended the general tax and earned income credits, created a jobs tax credit, and extended the reduction in the corporate tax rate. The bill also simplified the tax tables.

Public Law 95–216. Increased the contributions to the Social Security Trust Fund to offset the amount benefits have exceeded income, provided equal treatment for both sexes, and increased the earnings ceiling.

Public Law 95–600. The Revenue Act of 1978 reduces taxes by $18.7 billion in 1979, including $12.7 billion in cuts for individuals, $3.5 billion for business, $2.1 billion in individuals' capital gains and $0.2 billion in other cuts. Among its major provisions, the Act: increases the zero bracket amount and widens the individual tax brackets; increases the personal exemption to $1,000; increases and simplifies the earned income credit; repeals the deduction for gasoline taxes; establishes a policy regarding future tax cuts and federal spending; reduces the maximum capital gains tax to 28 percent; provides a one time only election for persons age 55 and over to exclude from tax up to $100,000 profit from the sale of a home; reduces the corporate tax rate and provides a graduated tax for smaller businesses; makes permanent the investment tax credit; establishes a targeted jobs credit; postpones for three years the effective date of the carryover basis provisions of the 1976 Act; it also contains about fifty provisions designed to simplify the tax code or correct rulings which IRS has made contrary to congressional intent, including one which had excluded some specialty buildings from investment credit benefits. It also includes a provision I sponsored which would permit cooperatives the use of the investment credit generally to the same extent as corporations.

TRANSPORTATION

H.R. 8729. Authorized grants for noise abatement of Locks and Dam 26 on the Mississippi and provides for fuel taxes to be placed in a special trust fund to be spent on waterway projects. The bill also provides for a master plan for future waterway development in the Upper Mississippi River basin and a study of the economic effects of fees.

H.R. 8729. Authorized grants for noise comparability programs. The bill also increased the budget authority for airport development grants which are appropriated from the Airport and Airway Trust Fund.

Public Law 95–504. To a large extent deregulates air carriers by easing regulations pertaining to the issuance of new certificates, procedures for the disposition of applications, fare changes within specified ranges and the consolidation, merger, or acquisition of air carriers; also set a termination date for the Civil Aeronautics Board.

H.R. 11733. Extended the Federal Highway program for five years.

VETERANS

Public Law 95–62. Expands the present programs available to construct, remodel, or renovate state veteran's care facilities.

Public Law 95–117. Increased disability compensation for disabled veterans and dependency and indemnity compensation for their survivors.

Public Law 95–116. Extended eligibility for the automobile assistance allowance and automotive adaptive equipment to disabled veterans of World War I.

Public Law 95–204. Provided a 7% cost-of-living increase for veterans' and survivors' non-service-connected pensions and for parents' dependency and indemnity compensation benefits.

Public Law 95–479. Omnibus Compensation—A new omnibus veterans compensation law provides cost-of-living increases to the disabled veterans and survivors.

APPROPRIATIONS BILLS PASSED BY 2D SESSION, 95TH CONGRESS

[Calendar year 1978]

Departments or agencies	President's request	Amount approved by Congress	Amount approved compared to President's request
Agriculture and related agencies	$18,090,152,000	$18,288,201,000	+$198,049,000
Defense	119,300,283,000	117,255,621,000	−2,044,662,000
District of Columbia	460,090,000	258,200,000	−201,890,000
Foreign assistance	8,444,320,919	9,135,031,948	−1,252,728,971
HUD, independent agencies	69,517,534,000	67,911,419,000	−1,606,115,000
Interior	12,874,757,000	11,578,692,000	−1,299,775,000
Labor, HEW	57,338,938,000	56,054,029,000	−1,284,909,000
Legislative	948,149,500	1,118,244,400	−25,579,700
Military construction	4,253,000,000	3,880,863,000	−372,137,000
Public works (vetoed)	($10,368,899,000)	($10,160,483,900)	($−878,965,100)
State, Justice, Commerce, Judiciary	4,730,529,600	8,515,354,000	−144,722,000
Transportation	9,068,623,096	8,747,552,096	−521,070,000
Treasury, Postal Service, general government	8,663,161,000	8,983,261,000	−220,000,000
Continuing appropriations	11,042,949,000	10,165,751,900	−877,197,100
Total, bills for fiscal 1979	313,689,538,115	312,892,221,344	−9,652,736,771

MY 95TH CONGRESS VOTING RECORD

HON. HAROLD T. JOHNSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. JOHNSON of California. Mr. Speaker, the 95th Congress is now history, and we can now stop to look back and review what has been accomplished. It was a Congress which began with great promise and one which faced many major problems. I believe that the Congress has established a good record and has taken significant steps to improve the quality of life in our Nation.

It was a busy and hard-working Congress. The House of Representatives alone met for 1,897 hours, took 1,540 rollcall votes, and passed 1,615 measures. Statistics do not tell the whole story, however. We must also look at the type of actions taken.

At the opening of the 95th Congress in January 1977, the leadership set four major goals, all of which were reached. The first was to enact legislation to bring the country out of the then-existing recession. The second was to enact a national energy policy that would eliminate recurrent shortages and help us to conserve scarce resources. The third goal was to put into law an ethics code that would help to restore trust in Government. Finally we set as a goal the passage of legislation giving the executive branch authority to make changes in the bureaucracy to make it more responsive to the people.

Of the hundreds of votes taken over the last 2-year period some have been

extremely important and some have not been quite so crucial. Still, I firmly believe that the citizens whom I represent here in the Congress deserve to know my stand on each and every issue which has come before us. I am, therefore, again this year asking that my voting record for the entire 2-year period be placed in the CONGRESSIONAL RECORD. For each vote I have listed the issue being debated, my stand, and the final status of the question:

95TH CONG., 1ST SESS. (1977)

My stand	Issue	Status
For	To elect Thomas P. O'Neill as Speaker of the House	Approved.
For	To adopt rules for the operation of the House	Approved.
For	To establish an emergency natural gas program	Public Law 95-2.
For	To give final approval to the emergency natural gas program	Public Law 95-2.
Against	To delay the assassinations investigation	Rejected.
For	To create a Select Committee on Assassinations	Approved.
For	To provide funds for the Southwestern Power Administration	Public Law 95-3.
For	To approve implementation of the 200-mile fishing limit	Public Law 95-6.
For	To authorize an investigation of Korean influence on Congress	Approved.
For	To improve small business programs and raise loan ceilings	Public Law 95-89.
For	To adjourn the House allowing a pay increase (subsequently approved by unanimous consent).	Rejected.
For	To provide reduced air fares for the elderly and handicapped	In Senate.
For	To authorize a gold medal for presentation to Marian Anderson	Public Law 95-9.
Against	To provide for a permanent tax reduction	Rejected.
For	To revise the Federal budget to include economic recovery plans.	Approved.
For	To adjust the local public works grants formula	Rejected.
Against	To use unemployment rates in the local public works formula	Approved.
For	To increase local public works grants by $4 billion	Public Law 95-28.
For	To improve administration of fish and wildlife programs	Public Law 95-616.
For	To implement the 200-mile fishing limit	Public Law 95-8.
For	To extend flexible regulation of interest on deposits	Public Law 95-22.
Against	To allow unofficial accounts for Members of Congress	Rejected.
Against	To allow outside income for Members above 15 percent of their salary.	Rejected.
For	To establish a Code of Ethics for the House of Representatives	Approved.
For	To provide funds for disaster relief	Public Law 95-13.
Against	To restore $82 million for Nimitz-class nuclear carriers	Rejected.
Against	To restore $371 million for conversion of the U.S.S. Long Beach	Rejected.
For	To revise the Federal budget for fiscal year 1977	Approved.
Against	To cut $1.4 million for repairs of the Kennedy Center	Rejected.
For	To authorize repairs of the Kennedy Center for Performing Arts.	Public Law 95-50.
For	To create a Select Committee on Professional Sports	Rejected.
For	To accept Representative Gonzales' resignation from Assassinations Panel.	Approved.
For	To phase out $50 rebate for those earning over $25,000	Approved.
For	To increase the standard tax deduction for single persons	Approved.
For	To increase business credits for new jobs	Approved.
Against	To reduce low tax bracket rates for 2 years	Approved.
For	To pass the Tax Reduction and Simplification Act	Public Law 95-30.
For	To create a House Select Committee on Ethics	Approved.
Against	To limit funds for inetrnal security investigations	Rejected.
For	To expand HUD sec. contracts from 20 to 30 years	Approved.
For	To put an equal number of men and women on Neighborhood Commission.	Approved.
Against	To stop creation of National Commission on Neighborhoods	Approved.
For	To extend and expand housing programs	Public Law 95-24.
For	To increase the Small Business Act loan ceilings	Public Law 95-14.
Against	To block entry of chrome from nations ignoring human rights	Rejected.
Against	To delay the Rhodesian chrome ban for 30 days	Rejected.
or	To stop importation of Rhodesian chrome	Public Law 95-12.
For	To evaluate televising of House sessions	Approved.
Against	To reduce antirecession assistance by $383 million	Rejected.
Against	To require 10 percent use of residents on local public works projects.	Rejected.
For	To provide funds for economic stimulus progrrms	Public Law 95-29.
Against	To add $200 million for emergency fuel assisance	Public Law 95-26.
Against	To prohibit funds for the President's amnesty program	Approved.
Against	To prohibit funds for increased legislative salaries	Rejected.
For	To provide supplemental funds for Government programs	Public Law 95-26.
For	To authorize NASA programs	Public Law 95-76.
For	To extend library services and construction programs	Public Law 95-123.
For	To extend and revise the unemployment assistance program	Public Law 95-19.
For	To extend vocational education programs	Public Law 95-40.
For	To condemn harassment of Soviet Jews and other minorities	Approved.
Against	To limit union ability to induce a worker to strike	Approved.
Against	To limit common site picketing to construction employers	Rejected.
Against	To exempt residential and 3-story buildings from picketing	Approved.
Against	To require secret ballots before common site picketing	Rejected.
For	To revise the common site bill to include last year's language	Approved.
For	To permit common site picketing	Rejected.
For	To authorize FAA research and development	In Senate.
For	To authorize National Science Foundation program	Public Law 95-99.
For	To authorize additional State Department programs	Public Law 95-45.
For	To establish a Select Committee on Congressional Operations	Approved.
Against	To require House and Senate OK of Government reorganization plans.	Rejected.
For	To give the President Government reorganization authority	Public Law 95-17.
Against	To prohibit Assassinations Committee actions in court	Approved.
For	To continue the House Select Committee on Assassinations	Approved.
For	To provide additional personnel and equipment for House leaders.	Approved.
For	To authorize additional funds for leadership offices	Approved.
For	To allow purchases of additions to national stockpiles	In Senate.
For	To authorize biomedical research programs	Public Law 95-83.
For	To increase authorized home health services	Approved.
For	To authorize health services programs	Public Law 95-83.
For	To make minor revisions in VA medical programs	In Senate.
For	To require congressional approval of new VA medical aid sites	Public Law 95-62.
For	To delay sick pay disability tax changes until Jan. 1, 1977	In conference.
For	To extend the unemployment benefits program	Public Law 95-19.
For	To regulate debt collection practices	Public Law 95-109.
For	To provide relief for Romanian earthquake victims	Public Law 95-21.
For	To extend career education programs	Public Law 95-207.
For	To regulate petroleum marketing practices	Public Law 95-297.
For	To revise and extend water pollution control programs	Public Law 95-217.
For	To stop aid for foreign promotion of palm oil, sugar and citrus products.	Approved.
Against	To prohibit aid to Cambodia, Cuba, Laos, or Vietnam	Rejected.
For	To permit U.S. participation in international financial institutions.	Public Law 95-218.
For	To allow a business tax deduction for home day care centers	In Senate.
For	To modify the Federal Rules of Criminal Procedure	Public Law 95-78.
For	To authorize EPA research and development programs	Public Law 95-155.
For	To extend the Export Administration Act	Public Law 95-52.
For	To make additional funds available for Government programs in fiscal year 1977.	Public Law 95-26.
For	To provide funds for the Military Medical University	Approved.
Against	To provide funds for snow removal in 4 States	Rejected.
Against	To stop purchase of certain aircraft unless NATO buys them too.	Rejected.
For	To permit investment of additional Treasury-held funds	Public Law 95-147.
Against	To reduce overseas troop strength	Rejected.
Against	To put all future military enlistees under the congressional retirement program.	Rejected.
For	To prohibit funds for advertising the discharge review program	Rejected.
For	To authorize programs for the Department of Defense	Public Law 95-79.
Against	To increase revenues to offset dropping the business tax cuts	Rejected.
Against	To reduce general Government outlays by $7 million	Rejected.
Against	To reduce defense funds by $7.95 billion	Rejected.
Against	To increase defense funds by $4.1 billion	Approved.
Against	To transfer $6.5 billion from defense to domestic programs	Rejected.
Against	To restore funds for LEAA to 1977 levels	Approved.
For	To increase veterans benefits funds by $500 million	Approved.
Against	To reduce funds for water projects by $100 million	Rejected.
Against	To cut spending, cut the deficit, and permanently cut taxes	Rejected.
Against	To balance the budget and permanently cut taxes	Rejected.
For	To set target ceilings for the Federal budget	Approved.
For	To extend certain housing programs	Public Law 95-24.
For	To fund the Select Committee on Assassinations	Approved.
Against	To ban most strip mining in western alluvial valleys	Approved.
Against	To set aside OCS receipts for abandoned mine reclamation	Approved.
Against	To review the strip mining bill in light of the President's energy message.	Rejected.
Against	To regulate surface mining and reclamation	Public Law 95-87.
For	To authorize appropriations for U.S. territories	Public Law 95-134.
For	To authorize the San Luis water project	Public Law 95-46.
For	To authorize ERDA programs for fiscal year 1978	Public Law 95-39.
For	To require congressional OK on new VA medical facilities	In Senate.
For	To allow certain tax exclusions for State legislators	In Senate.
For	To extend the Defense Production Act	Public Law 95-37.
For	To fund the Select Committee on Congressional Operations	Approved.
For	To extend authorization for the Export-Import Bank	Public Law 95-143.
Against	To strike ban on funding cut for water projects	Rejected.
For	To extend and expand the local public works program	Public Law 95-28.
For	To verify arms control agreements	Approved.
For	To extend the Arms Control and Disarmament Act	Public Law 95-108.
For	To extend authorization for the U.S. Railway Association	Public Law 95-199.
For	To approve economic stimulus appropriations	Public Law 95-29.
Against	To strike $90,000 for U.N. Ambassador's Washington office	Rejected.
Against	To cut payment to the United Nations	Rejected.
For	To require any new Panama Canal Treaty to protect U.S. interests there.	Approved.
For	To prohibit use of funds for aid or reparation to Vietnam	Approved.
For	To authorize foreign assistance programs	Public Law 95-105.
Against	To increase defense spending by $2 billion	Rejected.
Against	To increase defense spending by $1 billion	Rejected.
Against	To increase defense authority and outlays by $1 billion	Rejected.
Against	To decrease defense spending by $300 million	Rejected.
For	To increase spending for veterans benefits by $175 million	Approved.
Against	To set defense spending at original budget request level	Rejected.
Against	To increase defense funding, cut other funding, reduce personal taxes and eliminate the business tax credit.	Rejected.
For	To set budget targets for the 1978 Federal budget	Approved.
For	To set up the Eleanor Roosevelt National Historic Site	Public Law 95-32.
For	To extend the Education of the Handicapped Act	Public Law 95-49.
For	To extend laws prohibiting age discrimination	Public Law 95-65.
For	To make technical changes in the Higher Education Act	Public Law 95-43.
For	To provide for special counsel in judicial proceedings involving the House Commerce Committee.	Approved.
Against	To again review the election contest against Representative Bob Gammage.	Rejected.
For	To dismiss the election contest against Representative Abner J. Mikva.	Approved.
For	To dismiss the election contest against Representative Carl D. Russell.	Approved.
Against	To prohibit exportation of Alaskan oil to Japan	Public Law 95-52.
For	To authorize additions to the Tinicum Environmental Center	Public Law 95-152.
For	To authorize funds for the Atlantic Tuna Convention Act	Public Law 95-33.
For	To authorize funds for the Commercial Fisheries R. & D. Act	Public Law 95-63.
For	To retain the present formula for community development grants.	Rejected.
For	To give 25 percent of urban development money to cities over 50,000.	Approved.
For	To make flood insurance information available	Approved.
For	To expand the housing and community development programs	Public Law 95-128.
Against	To reduce aid to international organizations by $25 million	Approved.
Against	To make tobacco ineligible for certain international sales	Approved.
Against	To prohibit funds to or trade with Cuba	Approved.
For	To pass the International Development and Food Assistance Act.	Public Law 95-88.
Against	To distribute antirecession funds based on state and local tax efforts.	Rejected.
For	To continue the antirecession assistance program	Public Law 95-30.
For	To reauthorize the Advisory Committee on Oceans and Atmosphere.	Public Law 95-63.
For	To extend the authorization for certain wildlife refuges	Public Law 95-299.
For	To increase funds for the Canal Zone Biological Area	In House.
For	To extend the Fisherman's Protective Act (2/3's needed)	Rejected.
For	To approve the Tax Reduction and Simplification Act	Public Law 95-30.

95TH CONG., 1ST SESS. (1977)—Continued

My stand	Issue	Status
For	To agree to certain Senate amendments to the tax reform bill.	Public Law 95–10.
For	To pass the Youth Employment and Training Act	Public Law 95–93.
For	To authorize funding of the Controlled Substances Act	Public Law 95–137.
For	To authorize SEC programs	Public Law 95–211.
For	To authorize water resources and saline conversion programs.	Public Law 95–84.
For	To amend the Water Resources Planning Act	PUblic Law 95–41.
For	To authorize certain river basin projects	In Senate.
For	To change certain operations in Medicine Bow National Forest.	Public Law 95–21.
For	To extend the war risk aviation insurance program	Public Law 95–163.
For	To extend the Disaster Relief Act	Public Law 95–51.
For	To extend the Deep Water Port Act	Public Law 95–36.
For	To sudy the use of solar energy in Federal buildings	Approved.
For	To provide temporary drought relief authority to EDA	Public Law 95–31.
For	To set budget targets for fiscal year 1978	Approved.
Against	To limit the number of children served under the School Lunch Act.	Rejected.
Against	To limit the number of children served in the summer under the National School Lunch Act.	Rejected.
Against	To let schools receive cash in lieu of commodities	Rejected.
For	To amend the National School Lunch Act	Public Law 95–166.
For	To guarantee a Government worker's right to refrain from political activity.	Approved.
Against	To stop Federal officials from making political job referrals	Rejected.
Against	To allow Federal employees to engage in political activity at state and local levels, but not at the Federal level.	Rejected.
Against	To prohibit union coercion of political activity	Approved.
Against	To delete penalties for extortion of political contributions	Rejected.
For	To amend the Juvenile Justice and Delinquency Prevention Act.	Public Law 95–155.
For	To extend the Privacy Protection Study Commission	Public Law 95–38.
For	To increase disability compensation for certain veterans and their survivors.	Public Law 95–117.
For	To increase compensation to veterans losing paired extremities.	In Senate.
For	To increase the auto assistance allowances for veterans	Public Law 95–116.
For	To increase funds for the U.S. Civil Rights Commission	Approved.
For	To limit access to conference meetings on H.R. 5970	Approved.
Against	To limit funds to Argentina	Rejected.
Against	To not create a Southern Africa special requirements fund	Rejected.
For	To strike certain eligibility rules for membership in the fund.	Approved.
Against	To reduce foreign military sales by $103 million	Rejected.
Against	To permit the President to suspend the Turkish embargo	Rejected.
For	To authorize international security assistance	Public Law 95–92.
Against	To allow States to grant a 5 percent variance in clean air rules.	Rejected.
For	To allow a limited variance in clean air rules in classes 1 and 2.	Approved.
For	To allow EPA to waive nonattainment rules for oxidants	Rejected.
Against	To delay enforcement of auto emission standards for 1 year	Rejected.
For	To delay enforcement of auto emission standards for 2 years	Approved.
For	To amend the Clean Air Act	Public Law 95–95.
Against	To require a 50-percent reduction in porpoise kills every 2 years.	Approved.
Against	To assess a $32 fee for each porpoise killed	Rejected.
For	To revise the law regarding porpoise and tuna	In Senate.
For	To extend the Peace Corps for 1 year	Public Law 95–102.
Against	To set up an independent energy pricing board	Rejected.
For	To let the Energy Commission regulate wellhead gas prices	Approved.
For	To prohibit Energy Department regulation of certain energy leases.	Rejected.
Against	To allow the Congress to veto Energy Department regulations.	Approved.
Against	To prohibit hiring of energy industry employees for 2 years	Rejected.
Against	To close Energy Department in 5 years if not extended by Congress.	Approved.
For	To establish a Cabinet level Department of Energy	Public Law 95–21.
For	To extend the Federal crop insurance program	Public Law 95–47.
For	To extend the soil and water resources conservation program	Public Law 95–192.
For	To extend Federal Energy Administration programs	Public Law 95–70.
For	To assure Members pay income taxes only in State where elected.	Public Law 95–67.
Against	To eliminate prevailing wage rule on military construction	Rejected.
For	To authorize military construction for fiscal year 1978	Public Law 95–82.
Against	To strike the exemption of certain employees from the Hatch Act.	Rejected.
For	To assure no changes in the Hatch Act affecting unions	Approved.
Against	To remove exceptions for certain restricted employees	Rejected.
Against	To define "extortion" under the Hatch Act	Rejected.
Against	To prohibit solicitation of campaign funds from coworkers	Rejected.
For	To revise the Hatch Act, giving civil servants political rights.	In Senate.
For	To authorize repairs to the John F. Kennedy Arts Center	Public Law 95–50.
For	To fund programs of the Postal Service and Department of Treasury.	Public Law 95–81.
Against	To stop funds for landing of the Concorde in New York City	Rejected.
For	To fund programs of the Department of Transportation	Public Law 95–85.
Against	To increase funds for ERDA by $39.8 million	Rejected.
For	To fund programs of the Department of the Interior	Public Law 95–74.
Against	To tighten rules on political activities of legal services lawyers.	Rejected.
For	To extend the Export Administration Act	Public Law 95–52.
Against	To prohibit funds for diplomatic relations with Cuba	Rejected.
Against	To increase funding for LEAA by $104.5 million	Rejected.
For	To fund programs for the Departments of State, Justice, and Commerce.	Approved.
For	To authorize Joint Economic Committee investigations	Approved.
For	To extend public assistance programs	In Senate.
Against	To delete funds for 16 water projects	Rejected.
For	To fund public works projects	Public Law 95–96
Against	To set aside 75 percent of all new Federal housing for the elderly and the handicapped.	Rejected.
For	To permit comprehensive planning grants to cities over 50,000.	Rejected.
For	To prohibit veterans benefits to those with upgraded discharges.	Approved.
Against	To reduce funds for the Department of HUD by 1 percent	Rejected.
For	To fund programs of the Department of HUD and the VA	Public Law 95–119.
Against	To reduce funds for OSHA by $6.3 million	Rejected.
Against	To cut $563.5 million for education, health and aging programs.	Rejected.
For	To prohibit funds for busing of schoolchildren	Approved.
Against	To stop international loans to nations prohibiting human rights.	Public Law 95–118
Against	To prohibit funds to perform, encourage, or promote abortions.	Approved.
Against	To prohibit funds for sugar subsidies	Rejected.
Against	To insist on dissolution of the Energy Department in 1982	Public Law 95–91.
Against	To cut food stamp funds by $673.8 million	Rejected.
For	To fund Department of Agriculture programs	Public Law 95–97.
For	To fund military construction programs	Public Law 95–101.
Against	To reduce funds for the U.N. by $31 million	Rejected.
Against	To cut $50 million for the Sahel development program	Rejected.
Against	To cut $100 million for the Southern Africa special requirements fund.	Rejected.
For	To cut military education and training funds for Argentina	Approved.
Against	To cut funds for Uganda, Cambodia, Laos, and Vietnam	Approved.
For	To cut funds for Vietnam reparations	Approved.
Against	To cut $447 million for international development programs	Rejected.
For	To reinstate aid to Nicaragua	Approved.
Against	To cut aid for production of certain crops grown in the United States	Approved.
For	To prohibit use of funds for aid or trade with Cuba	Approved.
Against	To reduce foreign aid appropriations by 5 percent	Approved.
For	To fund foreign assistance programs	Public Law 95–148
Against	To cut $65 million for production of Lance nonnuclear missiles.	Rejected.
Against	To reduce legal services funds to $175 million for next 2 years	Rejected.
Against	To require OMB approval of the Legal Services budget request.	Rejected.
For	To prohibit Legal Services help in school desegregation cases	Approved.
Against	To end the Legal Services Corporation on Sept. 30, 1979	Rejected.
Against	To stop Legal Services on homosexual controversies	Approved.
Against	To prohibit grants or contracts of legal support services	Rejected.
For	To extend the Legal Services Corporation for 2 years	Public Law 95–222
For	To omit Congressmen and other Federal officials from the next cost-of-living salary increase.	Public Law 95–66
Against	To delete $1.5 billion for the B–1 bomber	Rejected.
Against	To delete $239 million for the A–10 attack aircraft	Rejected.
Against	To delete funds for the recent congressional pay raise	Rejected.
Against	To add $225,000 for the Joint Committee on Defense Production.	Rejected.
Against	To cut $55 million for ex sion of the Capitol's west front	Rejected.
For	To fund legislative branch operations	Approved.
Against	To cut $26 million for new F–14 engine designs	Rejected.
For	To permit civilians to work for the reserves	Approved.
Against	To forbid the changing of MIA's status	Rejected.
For	To not cut military retired pay of Government workers	Approved.
For	To fund national defense programs	Public Law 95–111.
For	To establish National Lupus Week	Public Law 95–72.
For	To erect a memorial to the Declaration of Independence signers.	Public Law 95–260.
For	To provide additional housing benefits for disabled veterans	In Senate.
For	To increase veterans pensions	Public Law 95–204.
For	To extend the time limitation for filing Indian claims	Public Law 95–103.
For	To authorize defense programs for the coming year	Public Law 95–79.
Against	To prohibit aid to ships carrying grain to Russia	Rejected.
For	To authorize maritime programs for the coming year	Public Law 95–173.
Against	To set up a task force on consumer cooperatives	Rejected.
Against	To terminate the Consumer Co-op Bank on Dec. 31, 1982	Approved.
For	To establish a National Consumer Co-op Bank	Public Law 95–351.
For	To establish a House Select Committee on Intelligence	Approved.
Against	To transfer mine safety programs from Labor Department to Interior Department.	Rejected.
Against	To separate coal and noncoal safety programs	Rejected.
Against	To allow States to administer Federal mine safety programs	Rejected.
For	To improve Federal mine safety programs	Public Law 95–164.
For	To extend operation of the Federal Election Commission	Public Law 95–127.
For	To make Thanksgiving week National Family Week	Public Law 95–100.
For	To reduce paperwork requirements for the Census of Agriculture.	In Senate.
For	To increase the salaries of OMB and Federal Reserve officials (2/3's required).	Rejected.
For	To increase the number of supergrade positions for U.S. courts.	Rejected.
For	To increase the number of Civil Service hearing examiners	Public Law 95–251.
For	To revise Federal life and health insurance benefit eligibility.	Public Law 95–583.
For	To fund transportation programs for the coming year	Public Law 95–85.
For	To fund programs of the State, Justice, and Commerce Departments.	Public Law 95–86.
For	To fund HUD, space, science, and veterans programs	Public Law 95–119.
Against	To cut funds for the Jupiter orbiter program	Rejected.
Against	To stop benefits for veterans with upgraded discharges	Approved.
For	To authorize NASA space programs for the coming year	Public Law 95–76.
For	To authorize military construction programs for the coming year.	Public Law 95–82.
For	To establish youth employment programs	Public Law 95–93.
For	To approve water resources research programs	Pbulic Law 95–84.
For	To authorize biomedical research programs	Public Law 95–83.
Against	To limit payments on wheat, feed grains, rice, and upland cotton to $20,000 per year.	Rejected.
Against	To stop nonfarm corporations from receiving subsidies	Rejected.
For	To authorize international food and development programs	Public Law 95–88.
For	To authorize international security programs	Public Law 95–92.
Against	To limit sugar subsidies to $50,000 per producer per year	Rejected.
Against	To regulate surface mining and reclamation practices	Public Law 95–87.
For	To require milk content standards for ice cream	Approved.
Against	To establish mandatory grain reserves	Rejected.
For	To fund public works programs including Auburn Dam	Public Law 95–96.
For	To fund operation of the legislative branch	Public Law 95–94.
Against	To fund the Joint Committee on Defense Production	Rejected.
Against	To increase peanut support prices	Rejected.
For	To give priority to food and fiber food-for-peace program	Approved.
For	To fund agriculture programs for the coming year	Public Law 95–97.
Against	To issue food stamps only for food of nutritional value	Rejected.
Against	To reduce spending for food stamps	Rejected.
Against	To limit spending on food stamps	Approved.
Against	To exempt strikers with children under 16 from ban on food stamp eligibility of strikers.	Rejected.
Against	To exempt strikers with children under 16, or disabled or elderly dependents from ban on food stamp eligibility of strikers.	Rejected.
Against	To deny food stamps to strikers unless previously eligible	Rejected.
Against	To maintain the purchase requirement for food stamps	Rejected.
Against	To revise the food stamp allotment to those whose income is more than twice the poverty level.	Rejected.

95TH CONG., 1ST SESS. (1977)—Continued

My stand	Issue	Status
Against	To permit multiple pilot programs requiring work for food stamps.	Rejected.
Against	To limit the food stamp program	Rejected.
Against	To strike the wheat research and education program	Approved.
For	To set up a sugar beets and sugarcane support program	Approved.
For	To set up a sugar support program for the 1977 crop	Rejected.
Against	To limit support payments on most crops to $30,000 per year	Rejected.
For	To establish an agricultural program for the next 4 years	Public Law 95-113.
For	To establish two additional Capitol police positions	Approved
For	To extend FHA housing and flood insurance programs	Public Law 95-80.
For	To create a Department of Energy	Public Law 95-91.
For	To require energy conservation in existing buildings	Approved.
For	To study off-highway motor vehicle conservation possibilities	Approved.
For	To study bicycles as a means of transportation energy conservation.	Approved.
For	To require payment of prevailing wage rates on construction projects funded by energy grants.	Approved.
For	To institute energy conservation by local governments	Approved.
For	To fund programs of the Departments of Labor and HEW	In Conference.
Against	To prohibit funds for abortion except when the life of the mother is endangered by carrying the baby full term.	Approved.
Against	To remove new onshore natural gas from Federal price controls.	Rejected.
For	To strike the extension of antitrust coverage to utilities building new facilities.	Approved.
Against	To strike the Federal van pooling program	Approved.
For	To increase the gas tax by 5¢, half going to mass transit and half to highway repairs.	Rejected.
For	To increase the gas tax by 4¢, creating an energy conservation and conversion trust fund.	Rejected.
Against	To allow oil and gas producers to use tax credits for reinvestment in exploration activities.	Rejected.
For	To transfer crude oil equalization taxes to the social security fund.	Rejected.
For	To authorize funds for the House Intelligence Committee	Approved.
Against	To reduce personal taxes and raise oil equalization taxes	Rejected.
For	To grant a tax exemption for certain coal conversion plants	Approved.
Against	To deregulate some oil and natural gas and create new energy trust funds.	Rejected.
Against	To strike the Federal van pooling program	Approved.
Against	To delete the crude oil equalization tax	Rejected.
For	To enact a National Energy Policy Act	Approved.
For	To fund operations of the Department of Defense	Public Law 95-111.
Against	To stop funds for the B-1 bomber	Approved.
Against	To balance the budget, reduce taxes, and drop many services	Rejected.
For	To increase the deficit and aid higher education	Approved.
Against	To reduce commodity credits to South Korea	Rejected.
Against	To stop all defense aid to South Korea	Rejected.
For	To establish ceilings for the Federal budget for fiscal year 1978	Approved.
For	To create an earthquake hazards reduction program	Public Law 95-124.
For	To establish a national climate program	Public Law 95-367.
For	To continue National Regulatory Commission programs	Public Law 95-209.
For	To establish additional wilderness areas	Public Law 95-237.
For	To grant benefits to veterans with upgraded discharges	Public Law 95-126.
For	To improve GI education benefits	Public Law 95-202.
For	To increase VA physicians' and dentists' pay	Public Law 95-201.
For	To reduce VA mobile home inspection requirements	In Senate.
For	To create an oil pollution liability and compensation system	In Senate.
For	To improve Armed Forces survivor and retirement benefits	Public Law 95-397.
For	To modify the Federal budget for fiscal year 1978	Approved.
Against	To set specific minimum wages by year	Approved.
For	To set up a National Commission on Fair Labor Standards	Approved.
For	To index the minimum wage for the next 5 years	Rejected.
Against	To retain the present tip credit of 50 percent	Approved.
Against	To retain the present exemptions for seasonal employees	Approved.
Against	To pay a subminimum wage to youths	Rejected.
For	To permit minimum wage waiver for young children during summer months for harvesting purposes.	Approved.
Against	To raise the small business exemption to $500,000 and include all small businesses.	Rejected.
Against	To raise the small business exemption to $500,000	Approved.
For	To increase the minimum wage	Public Law 95-151.
For	To improve food and agriculture programs	Public Law 95-113.
Against	To fund international financial institutions	Public Law 95-118.
For	To fund operations of the District of Columbia government	Public Law 95-288.
Against	To allow black lung claims to be filed for 1 more year	Rejected.
Against	To let black lung benefits offset workmen's compensation	Rejected.
Against	To accept a doctor's work without proof in black lung cases	Rejected.
For	To improve black lung benefits	Public Law 95-239.
For	To temporarily increase the national debt	Rejected.
For	To increase funds for district office rentals	Approved.
Against	To reduce funds for the Clinch River breeder reactor	Rejected.
Against	To close the Clinch River breeder reactor program	Rejected.
Against	To gradually increase private funding of the reactor	Rejected.
For	To authorize procurement of solar photovoltaic equipment	Approved.
For	To authorize civilian energy research and development	Vetoed.
For	To fight abuse and fraud in medicare and medicaid programs	Public Law 95-142.
For	To stop age discrimination in employment	Public Law 95-256.
For	To improve retirement benefits for District of Columbia officials	Vetoed.
For	To restate the charter of George Washington University	Private Law 95-8.
For	To revise the Federal payments to District of Columbia for certain services.	Public Law 95-122.
Against	To prohibit District of Columbia loan authority for convention site purchase.	Rejected.
For	To redefine District of Columbia loan borrowing authority authority.	Public Law 95-131.
For	To revise District of Columbia pretrial detention regulations	In Senate.
For	To extend the Child Abuse Prevention and Treatment Act	Public Law 95-266.
For	To oppose reduction in frequency of mail delivery service	Approved.
For	To agree to Senate restriction on federally funded aboritions	Rejected.
For	To fund Civil Rights Commission programs	Approved.
Against	To provide additional staff for former Presidents (⅔'s required).	Rejected.
For	To amend the Indian Claims Commission Act	Punlic Law 95-243.
For	To establish the Montana Wilderness (⅔'s required)	Public Law 95-150.
For	To require an audit of the IRS and the BATF	Public Law 95-125.
For	To establish a Select Committee on Population	Approved.
For	To permit the Assassinations Review Committee to go to court.	Approved.
For	To increase the national debt temporarily	Public Law 95-120.
For	To stop proliferation of nuclear materials	Public Law 95-242.
Against	To prevent funds for the neutron bomb	Rejected.
For	To authorize national security energy programs	Public Law 95-183.
For	To rescind certain budget authority	Public Law 95-186.
Against	To limit crime compensation payments to the elderly only	Rejected.
Against	To limit Federal share of crime compensation payments to 25 percent.	Approved.
For	To require that profits of interviews of crime victims be placed in escrow for the victims.	Approved.
For	To set up a program of compensation to victims of crime	Rejected.
For	To increase staff for former President Ford	Public Law 95-138.
Against	To transfer Wage and Price Stability Council functions to other agencies.	Rejected.
For	To extend the Wage and Price Stability Council	Public Law 95-121.
For	To agree to the Senate Increase in the national debt	Approved.
For	To extend housing and community development programs	Public Law 95-128.
Against	To allow both sides to present information in union representation campaigns.	Rejected.
For	To expand the equal access provision of union elections	Approved.
Against	To permit review of NLRB rules by courts, promptly	Approved.
Against	To expand union election timetables	Rejected.
Against	To change union election timetables	Approved.
Against	To strike labor law reform provisions on debarment	Rejected.
For	To make labor law debarments more flexible	Approved.
Against	To award lost pay when an employer unlawfully refuses to bargain collectively.	Rejected.
Against	To permit uncontrolled distribution of information before union elections.	Rejected.
For	To reform labor laws	In Senate.
For	To send the foreign aid bill back to committee	Approved
For	To agree to Senate limits of federally funded abortions	In Conference.
Against	To revise Senate limits on federally funded abortions	Approved.
For	To fund additional Department of Defense programs	Public Law 95-184.
For	To investigate medicare and medicaid fraud and abuse	Public Law 95-142.
For	To prohibit class action suits before the FTC	Approved.
For	To allow congressional review of FTC regulations	Approved.
For	To amend Federal Trade Commission procedures	In Conference.
For	To authorize rebuilding of lock and dam 26 on the Mississippi River.	Public Law 95-502.
For	To agree to new Senate limits on federally funded abortions	Rejected.
For	To extend the Export-Import Bank	Public Law 95-143.
Against	To disapprove Reorganization Plan No. 1	Rejected.
For	To require auditing of Federal banking agencies	Public Law 95-320.
For	To amend the Marine Protection Act	Public Law 95-153.
For	To delay the ban on the use of saccharin	Public Law 95-203.
For	To change certain customs procedures	Public Law 95-410.
For	To make certain technical changes in the tax laws	In Senate.
For	To exempt disaster payments from crop payment limitations	Public Law 95-156.
For	To require a study of Montana lands for wilderness designation.	Public Law 95-150.
For	To fund foreign assistance programs	Public Law 95-148.
For	To allow direct aid to Mozambique and Angola	Rejected.
Against	To lift restrictions on which countries may receive U.S. aid	Rejected.
Against	To relate oil cargo rates to world market rates	Approved.
For	To provide that a percentage of imported oil be carried on American vessels.	Rejected.
For	To fund construction of two intercultural centers	Approved.
For	To provide $80 million for the Clinch River breeder reactor	Approved.
Against	To prohibit use of legal services funds for desegregation	Approved.
For	To increase the minimum wage	Public Law 95-151.
For	To authorize civlian energy programs	Vetoed.
For	To provide more allowances and staff for former Presidents	Approved.
For	To fund construction of five more B-1 bombers	Rejected.
For	To revise and extend the National Scenic Trails Act	Public Law 95-248.
For	To permit certain utility pole attachments	Public Law 95-234.
For	To prohibit sexual exploitation of minors	Public Law 95-225.
For	To make law school libraries Federal depository libraries	Public Law 95-261.
For	To extend tax exemption for certain moving costs	Public Law 95-615.
For	To continue the national defense reserve fleet	Public Law 95-177.
For	To continue urban mass transit assistance programs	Public Law 95-187.
For	To implement the prisoner exchange treaty with Mexico	Public Law 95-144.
For	To prohibit the sexual exploitation of children	Pbulic Law 95-225.
For	To fund continued operation of Government programs	Public Law 95-240.
For	To authorize environmental protection programs	Public Law 95-155.
For	To leave civil service out of social security system	Approved.
Against	To increase social security wage base more slowly	Rejected.
Against	To prevent social security from borrowing general revenues	Rejected.
Against	To eliminate minimum social security benefits	Rejected.
Against	To phase out social security earnings limitations	Approved.
Against	To slowly revise social security system taxes	Rejected.
For	To revise financing of the social security system	Public Law 95-216.
For	To revise Federal mine safety and health programs	Public Law 95-164.
For	To extend the school lunch program	Public Law 95-166.
For	To provide for televising of House sessions	Approved.
Against	To expand scope of bankruptcy courts and procedures	Approved.
For	To change raisin marketing procedures	Public Law 95-279.
For	To extend banking regulation Q	Public Law 95-188.
For	To extend Federal Reserve Banks' marketing authority	Public Law 95-154.
For	To extend the House Select Committee on Ethics	Approved.
For	To seek assistance of the Republic of Korea in investigating the Tongsun Park affair.	Approved.
For	To oppose acts of repression in South Africa	Approved.
For	To immediately implement the maritime antirebate provision	Public Law 95-173.
For	To extend Federal insecticide programs	Public Law 95-396.
For	To delay each congressional pay raise for one Congress	Rejected.
For	To permit exemption from union membership on religious grounds.	In Senate.
For	To extend SBA emergency drought aid	Rejected.
For	To bring House beauty shop employees under civil service	Approved.
For	To support creation of a Presidential Commission on World Hunger.	Approved.
For	To permit District of Columbia to issue certain revenue bonds	Public Law 95-218.
For	To authorize military energy programs	Public Law 95-183.
Against	To prohibit OPIC loans to Panama	Rejected.
Against	To require that U.S. small businesses get 50 percent of OPIC business.	Approved.
For	To permit Federal funds for certain abortions	Rejected.
For	To consider a resolution continuing appropriations for certain District of Columbia, Labor, HEW, and SBA programs.	Public Law 95-165.
For	To establish a program for career education	Public Law 95-207.

95TH CONG., 1ST SESS. (1977)—Continued

My stand	Issue	Status
Against	To disapprove combining international education and culturale programs into one agency.	Rejectd.
For	To agree to Senate federally funded abortions amendment	Rejected.
Against	To increase Amtrak funds from $11.5 million to $18 million	Approved.
Against	To insist on eventual repeal of the social security earnings limitation.	Rejected.
For	To provide funds for Korean influence investigations	Approved.
For	To support additional health care for rural areas	Approved.
For	To compromise with the Senate on federally funded abortions language.	Rejected.
For	To provide $200 million for inclement weather aid to poor	Approved.
Against	To delete funds for two additional B–1 bombers	Rejected.
For	To increase enrollments at American medical colleges	Public Law 95–215.
For	To authorize legal services programs	Public Law 95–222.
For	To agree to Senate amendment on federally funded abortions	Rejected.
For	To authorize SEC programs for the coming year	Public Law 95–211.
For	To further regulate certain SEC practices	Public Law 95–213.
For	To permit federally funded abortions	Approved.
For	To revise and extend water pollution control programs	Public Law 95–217.
For	To revise financing for the social security program	Public Law 95–216

95TH CONG., 2D SESS. (1978)

My stand	Issue	Status
Against	To limit law enforcement authority on wildlife preserves	Approved.
For	To improve administration of fish and wildlife programs	Public Law 95–616.
For	To acquire a statue of George C. Marshall for the State Department.	In Senate.
For	To pay benefits to former spouses of retired civil servants	Public Law 95–366.
For	To give retirement credit to Americans interned in World War II.	Public Law 95–382.
For	To authorize the fishing vessel loan guarantee program	Public Law 95–257.
For	To allow tax court judges to revoke their retired pay decision	Public Law 95–472.
For	To authorize the Administrative Conference	Public Law 95–293.
For	To prohibit the sexual exploitation of children	Public Law 95–225.
Against	To modify the Outer Continental Shelf Lands Act (Breaux bill)	Rejected.
Against	To modify the Outer Continental Shelf Lands Act (Fish bill)	Rejected.
For	To extend the Office of Rail Public Counsel	Public Law 95–231.
For	To revise medical and life insurance payments under ConRail	Public Law 95–597.
For	To improve air cargo services	Public Law 95–245.
For	To prohibit certain geological exploration on offshore lands	Approved.
Against	To modify compensation for canceled offshore land leases	Approved.
Against	To limit mandatory alternative bidding on offshore lands to 30 percent.	Rejected.
Against	To limit mandatory alternative bidding on offshore lands to 50 percent.	Rejected.
Against	To make major changes in the bankruptcy court procedures	Rejected.
For	To allow FTC 30-day review of offshore land leases	Approved.
For	To prohibit random selection of offshore lands for leasing	Approved.
For	To delete offshore lands documentation and registry rules	Rejected.
For	To require Coast Guard standards for offshore land vessels	Rejected.
For	To return up to 20 percent of OCS revenues to coastal states	Approved.
Against	To give OCS revenues to states with no coastal management plan.	Rejected.
For	To make changes in the Outer Continental Shelf Lands Act	Public Law 95–372.
For	To increase medicaid payments to U.S. territories	In Senate.
Against	To mandate sealed bidding on most timber sales	Rejected.
For	To allow oral bidding on certain timber sales	Public Law 95–233.
For	To create additional judgeships for the Federal courts	Public Law 95–486.
Against	To set up a consumer office in each of 23 Federal agencies	Rejected.
Against	To require 30-day notice of judicial review of agency action	Rejected.
Against	To allow consumer review of labor disputes and agreements	Rejected.
Against	To allow consumer review of USDA crop proceedings	Rejected.
For	To establish an Office of Consumer Representation	Rejected.
For	To reduce the Redwood National Park expansion to 14,000 acres.	Rejected.
For	To create additional wilderness areas	Public Law 95–237.
For	To require merit selection of Federal judges	Approved.
Against	To divide management of Chattahoochie River National Park	Rejected.
For	To create the Chattahoochie River National Park	Public Law 95–344.
For	To revise military officer promotion procedures	In Senate.
For	To revise black lung benefits	Public Law 95–239.
For	To develop aquaculture in the United States	Vetoed.
For	To provide assistance for repairing winter highway damage	Rejected.
For	To call a White House Conference on Arts and Humanities	Public Law 95–272.
For	To extend alcohol and drug abuse education program	Public Law 95–336.
For	To provide funds to the Hubert H. Humphrey Institute	Public Law 95–270.
For	To approve funds for 2 additional B–1 bombers	Rejected.
Against	To rescind funds for 2 additional B–1 bombers	Approved.
For	To reduce salaries of U.S. delegates to IMF meetings	Approved.
For	To provide funds to the International Monetary Fund (IMF)	Public Law 95–435.
Against	To prohibit OPIC loans to Panama	Rejected.
Against	To prohibit OPIC loans to palm oil, sugar, and citrus exporters	Approved.
For	To extend the Overseas Private Investment Corporation (OPIC)	Public Law 95–268.
For	To place a 1-year moratorium on Federal land grazing fees	Public Law 95–321.
For	To modify claims procedures for the Wichita Indian Tribe	Approved.
For	To permit Wichita Indians to file certain claims	Public Law 95–247.
For	To grant powers of initiative and referendum to the District of Columbia.	Approved.
For	To grant powers to recall elected officials of the District of Columbia.	Approved.
For	To abolish Federal jurisdiction over certain citizenship cases	In Senate.
For	To revise certain Federal Trade Commission procedures	Rejected.
For	To authorize American Folklife Preservation programs	Public Law 95–259.
For	To expand Redwood National Park by up to 48,000 acres	Public Law 95–250.
For	To provide voting representation in Congress for District of Columbia.	Approved.
For	To provide funds for the Veterans Affairs' Committee	Approved.
For	To provide funds for the District of Columbia Committee	Approved.
For	To provide funds for the Rules Committee	Approved.
For	To proclaim May 3, 1978, as National Sun Day	Public Law 95–253.
For	To waive provisions of title I, ESEA for certain schools	In Senate.
For	To prevent debt ceilings being set in budget resolutions	Approved.
For	To increse the public debt through Mar. 1, 1979	Rejected.
For	To fund Southwestern Power Administration programs	Public Law 95–246.
For	To provide funds for the Public Works Committee	Approved.
For	To set annual price stability goals	Approved.
Against	To set a 5-year goal of limiting inflation to 3 percent	Rejected.
Against	To set different unemployment goals for public and private sectors.	Approved.
For	To set a goal of 100 percent of parity for farmers	Approved.
For	To rescind certain budgeted appropriations	Public Law 95–254.
For	To increase interest rates on retirement bonds	In Senate.
For	To authorize flexible workweeks for Federal employees (two-thirds required).	Rejected.
For	To allow part-time employment careers in the Federal Government.	Public Law 95–437.
For	To permit congressional review of postal rate changes	In Senate.
Against	To earmark Judiciary Committee funds for internal security	Rejected.
Against	To cut funds for the assassinations review committee	Rejected.
For	To provide funds for the assassinations review committee	Approved.
For	To create an Absaroka-Beartooth Wilderness Area	Public Law 95–249.
For	To regulate Government travel expenses paid by private foundations.	In Senate.
For	To expand Redwood National Park by 48,000 acres	Public Law 95–250.
Against	To balance the budget before solving unemployment problems	Rejected.
For	To set balancing the budget as a national goal	Approved.
Against	To require permanent tax rate reduction	Rejected.
For	To remove architectural barriers to the handicapped	Approved.
Against	To exclude certain individuals from unemployment figures	Rejected.
Against	To consider Federal regulations' impact on unemployment	Rejected.
Against	To allow economic policy amendment to budget resolution	Approved.
Against	To terminate the Humphrey-Hawkins Act on Sept. 30, 1983	Rejected.
Against	To create a Presidential Task Force on Youth Unemployment	Rejected.
For	To enact the Full Employment and Balanced Growth Act	Public Law 95–523.
For	To consider the Middle Income Student Assistance Act	Public Law 95–566.
For	To fund the congressional investigation of Korean influence	Approved.
For	To condemn the kidnapping of the former Italian Premier	Approved.
For	To extend the public debt limit temporarily	Public Law 95–252.
For	To consider Federal election and campaign reform legislation	Rejected.
For	To eliminate age discrimination in employment	Public Law 95–256.
For	To approve funds for disaster relief	Public Law 95–255.
For	To amend the Shipping Act	Approved.
For	To disagree with Senate changes in a farmers' assistance bill	Approved.
Against	To not insist on flexible parity provision of the farm bill	Public Law 95–279.
For	To establish Friendship Hill Historic Site in Pennsylvania	In Senate.
For	To recognize the aid of General Kosciuszko in Revolutionary War.	Approved.
For	To include Oregon Historic Trail in National Trails System	In Senate.
For	To establish Lowell Historical Park in Massachusetts (two-thirds required).	Public Law 95–290.
For	To authorize existing White House personnel slots (two-thirds needed).	Public Law 95–570.
For	To prohibit setting zoned parcel post rates below private rates	Rejected.
Against	To require parcel post rates to recover all related costs	Approved.
Against	To require Congress to review postal rates and fees	Rejected.
Against	To require detail by function of postal use of public funds	Approved.
For	To restore congressional control of the Postal Service	In Senate.
For	To regulate foreign banks' actions in U.S. markets	Public Law 95–369.
For	To extend the Marine Mammal Protection Act	Public Law 95–316.
For	To provide voluntary insurance under Fishermen's Protective Act.	Public Law 95–376.
For	To continue conservation programs on military reservations	Vetoed.
For	To extend the Fishery Conservation and Management Act	Public Law 95–354.
For	To extend the Council on Environmental Quality	Public Law 95–300.
For	To extend Small Business Administration programs	Vetoed.
For	To permit Riverside County, Calif. land claims against the United States.	Public Law 95–587.
For	To officially recognize 4 Oklahoma Indian tribes	Public Law 95–281.
For	To fund the Navajo-Hopi Commission	Vetoed.
For	To establish Lowell National Historical Park in Massachusetts	Public Law 95–290.
For	To amend the Overseas Private Investment Corporation Act	Approved.
For	To provide emergency assistance and flexible parity to farmers.	Public Law 95–279.
For	To change the basic workweek for Federal firefighters	Vetoed.
Against	To cut the number of White House employees above GS–16 level.	Rejected.
Against	To require a new White House employees and funds request each term.	Rejected.
Against	To stop White House from lobbying State legislatures on amendments to the U.S. Constitution.	Rejected.
For	To authorize White House staff positions	Public Law 95–570.
Against	To close conference committee meetings on the Energy bill	Rejected.
For	To allow nominations to the Merchant Marine Academy by congressional delegates.	Public Law 95–323.
For	To authorize the sea-grant program	Public Law 95–428.
For	To extend the Advisory Committee on Oceans and Atmosphere	Public Law 95–304.
For	To authorize Coast Guard programs for fiscal year 1979	Public Law 95–308.
For	To establish an Inspector General for certain Federal agencies	Public Law 95–452.
For	To authorize funds for the Humphrey Institute and Dirksen Center.	Public Law 95–270.
For	To permit Zuni Indian claims against the United States	Public Law 95–280.
Against	To authorize $3.2 million for ocean drilling planning	Rejected.
Against	To cut NSF biological, behavioral, and social science programs	Rejected.
For	To authorize National Science Foundation programs	Approved.
Against	To exclude communications from a Member's jurisdiction or metropolitan area from lobbying regulations.	Rejected.
For	To require reporting of written lobbying solicitations	Approved.
Against	To include Federal agencies under lobbying regulations	Rejected.
Against	To require an organization to register when 1 percent or more of its budget is spent on lobbying activity.	Approved.
Against	To revise the Emergency Agricultural Credit Adjustment Act	Rejected.
For	To provide emergency loans to farmers and ranchers	Public Law 95–334.
For	To authorize NASA programs for the coming year	Public Law 95–401.
Against	To prohibit Peace Corps funds for the Central African Empire	Approved.
For	To authorize Peace Corps funds for the coming year	Public Law 95–331.
Against	To disapprove the EEOC reorganization plan	Rejected.
For	To denounce Cambodia's disregard for human rights	In Senate.
For	To authorize Arms Control and Disarmament Agency programs	Public Law 95–338.

95TH CONG., 2D SESS. (1978)—Continued

My stand	Issue	Status
For	To study and delay inclusion of State and local government officials under the lobbying disclosure regulations.	Rejected.
Against	To exempt certain communications from lobbying regulation	Approved.
For	To require public disclosure of lobbying activities	In Senate.
For	To authorize Environmental Protection Agency programs	Public Law 95-477.
For	To provide additional funds for the U.S. Railway Association	Public Law 95-282.
For	To develop fisheries in the South Pacific	Public Law 95-295.
For	To establish a Humphrey fellowship at the Smithsonian (⅗'s required).	Public Law 95-286.
For	To continue programs of the Federal Reserve System	Public Law 95-534.
Against	To omit certain imprisoned people from civil rights guarantees	Approved.
For	To provide solar loans through the SBA	Public Law 95-315.
For	To permit Ak-Chin Indian water claims (⅗'s required)	Public Law 95-328.
For	To revise the security investors protection bill	Approved.
For	To issue a contempt of Congress citation	Approved.
Against	To reduce the Federal budget targets	Rejected.
Against	To increase defense spending	Rejected.
Against	To reduce defense spending and increase social programs	Rejected.
Against	To increase tax cuts	Rejected.
For	To increase veterans benefits	Rejected.
Against	To increase funds for training and employment programs	Rejected.
Against	To reduce Federal salary increases	Rejected.
For	To provide emergency assistance to farmers	Public Law 95-279.
Against	To give a tax credit for private elementary and secondary education tuition.	Approved.
For	To authorize aid to U.S. territories (⅗'s required)	Public Law 95-348.
For	To seek U.N. help on accounting for our MIA's	In Senate.
For	To provide emergency funds for SBA programs	Public Law 95-284.
Against	To reduce funds for HEW programs	Approved.
For	To include Panama Canal revenues in the general Federal budget.	Approved.
Against	To reduce Federal spending by $7 billon	Rejected.
Against	To limit certain regulatory agencies to 1978 spending levels	Rejected.
Against	To delete funds for the food-for-peace Korean program	Rejected.
Against	To revise the budget to show a tax cut and a zero deficit	Rejected.
Against	To revise the budget to showe large tax cut and a zero deficit	Rejected.
Against	To reduce funds for HEW programs by $3.15 billion	Rejected.
For	To set budget targets for the fiscal year 1979 Federal budget	Approved.
For	To denounce the assassination of Aldo Moro	In Senate.
Against	To reduce foreign aid for population planning, disaster assistance, and economic security.	Rejected.
Against	To cut foreign aid to nations making slow agricultural progress	Rejected.
For	To limit aid to Panama to 25 percent of canal revenues	Rejected.
Against	To make tobacco ineligible for foreign food aid programs	Rejected.
For	To stop direct aid to Vietnam, Cambodia, Uganda, or Cuba	Rejected.
For	To set up a maritime satellite communications system	Public Law 95-564.
Against	To cut foreign assistance programs by 5 percent	Rejected.
For	To provide international development and food assistance	Public Law 95-424.
For	To establish a Humphrey fellowship at the Smithsonian	Public Law 95-286.
For	To extend fire prevention and control programs	Public Law 95-422.
For	To extend the Older Americans Act	Public Law 95-478.
Against	To give a tax exemption to private foundations holding public utility stock (⅗'s required).	In Senate.
For	To extend Federal rehabilitation programs	Public Law 95-602.
Against	To disagree to funding the District of Columbia Convention Center.	Rejected.
For	To fund the District of Columbia Convention Center	Approved.
Against	To prohibit development of enhanced radiation weapons	Rejected.
For	To authorize national security energy programs	Public Law 95-509.
For	To adopt budget targets for fiscal year 1979	Approved.
For	To temporarily increase the national debt limit	Rejected.
For	To express regret that the Helsinki agreement guarantees are not being observed in the U.S.S.R.	In Senate.
For	To cut proposed Alaskan lands set aside by 5 million acres	Rejected.
For	To cut proposed Alaskan wildernesses by 33 million acres	Rejected.
For	To continue mineral assessments in Alaska	Approved.
For	To reduce the proposed set aside of lands in Alaska	Rejected.
For	To set aside Alaskan lands for protection	In Senate.
For	To disapprove consolidation of education advisory councils	Approved.
For	To set up cooperative forestry programs with States	Public Law 95-313.
For	To give forest and rangeland research assistance to States	Public Law 95-307.
For	To set up a forest and rangeland extension program	Public Law 95-306.
For	To remove limits on use of volunteers in national forests	Public Law 95-289.
For	To extend Federal job opportunities for Vietnam era veterans	In Senate.
For	To extend most-favored-nation status to Hungary for trading	Approved.
For	To authorize military construction programs	Public Law 95-356.
Against	To increase ship mortgage guarantee authority by $3 billion	Rejected.
For	To grant aboriginal Hawaiian claims (2/3's required)	In House.
For	To assist victims of domestic violence (2/3's required)	Rejected.
For	To tax income from magazine sales for display purposes	In Senate.
For	To provide a tax credit for child care provided by relatives	In Senate.
For	To oppose Common Market tariffs on U.S. fruits and vegetables	Approved.
For	To reimburse States for certain social services	Public Law 95-291.
Against	To prohibit funds for certain maritime organizations	Approved.
Against	To prohibit funds for wages of new maritime workers	Rejected.
Against	To prohibit funds for carriage of grain to Russia	Rejected.
For	To authorize Federal maritime programs	Public Law 95-298.
Against	To revise research, development, testing, and evaluation by the Department of Defense.	Rejected.
Against	To accept the President's proposal on defense spending except for funds for the Trident submarine.	Rejected.
For	To delete funds for Marines' Gulfstream 2 aircraft	Approved.
Against	To substitute a medium-sized aircraft carrier for a small one	Rejected.
Against	To delete authority to build aircraft carriers	Rejected.
Against	To develop a wide-bodied cruise missile carrier	Rejected.
Against	To prohibit reduction of U.S. troops in Korea below 26,000	Rejected.
For	To authorize Department of Defense programs for fiscal year 1979.	Vetoed.
For	To reaffirm U.S. commitment to the North Atlantic Alliance	Public Law 95-287.
For	To allow flexible work weeks for Federal employees	Public Law 95-390.
For	To guarantee certain civil rights of imprisoned persons	Approved.
For	To require testimony by Korean official or stop aid to Korea	Approved.
For	To rename Cunningham and Standing Bear Lakes in Nebraska	Public Law 95-413.
For	To designate R. Shaefer Heard Park in Georgia	In Senate.
Against	To delete authorization for a Commission on Conflict Resolution.	Approved
For	To delete authorization for an Institute on International Human Rights.	Approved.
For	To stop foreign aid funds for implementing Panama Canal treaties.	Approved.
For	To authorize foreign relations programs for fiscal year 1979	Public Law 95-426.
For	To provide a tax credit for tuition at private schools, grades 1-12.	Approved.
Against	To increase the tuition tax credit from 25 percent to 50 percent of eligible costs.	Rejected.
Against	To allow 10-year tax deferral of income used for college tuition.	Rejected.
For	To provide a tax credit for tuition paid to private schools	In conference.
Against	To permit the Ex-Im Bank to extend credit to South Africa	Rejected.
Against	To prohibit the Ex-Im Bank from all action in South Africa	Rejected.
Against	To require a Presidential OK before the Ex-Im Bank can do business with the Peoples Republic of China.	Approved.
For	To authorize certain travel by Coast Guard employees	Public Law 95-362.
For	To implement the marine pollution protocol	Public Law 95-302.
For	To authorize certain water pollution control programs	Public Law 95-576.
Against	To allow some multiple uses of the Boundary Waters Canoe Area.	Approved.
For	To establish the Boundary Waters Canoe Wilderness and Recreation Area.	Public Law 95-495.
For	To authorize programs for U.S. territories	Public Law 95-348.
For	To extend the wildlife refuge revenue sharing program	Public Law 95-469.
For	To extend the North Pacific fisheries programs	Public Law 95-326.
For	To continue polar marine resource conservation programs	In Senate.
Against	To require congressional notification of the admission of certain aliens.	Rejected.
For	To authorize certain intelligence programs	Public Law 95-370.
For	To authorize the printing of "The U.S. Capitol"	Approved.
For	To authorize printing of hearings on "Korean Influence Inquiry".	Approved.
Against	To fund a computerized national gun registration system	Rejected.
For	To fund programs of the Department of Treasury and Postal Service.	Public Law 95-429.
Against	To reduce funds for OSHA to the fiscal year 1978 level	Approved.
For	To authorize a new loan to New York City	Approved.
Against	To extend the present loan to New York City	Rejected.
For	To guarantee New York City financial bonds	Public Law 95-339.
For	To cut HEW funds in programs where waste has been uncovered.	Approved.
For	To fund the black lung program	Public Law 95-332.
For	To condemn human rights violations in Uganda	In Senate.
Against	To increase funds for the toxic substance control program (two-thirds required).	Rejected.
Against	To prohibit funds for enforcing the auto air bag requirement	Approved.
For	To allow funds for research of auto air bag protection	Rejected.
For	To fund programs of the Department of Transportation	Public Law 95-335.
Against	To remove any limits on Federal funding of abortions	Rejected.
For	To adopt abortion funding restrictions enacted for last year	Rejected.
Against	To prohibit funds for enforcing quotas for Federal hiring and college admissions.	Approved.
Against	To reduce funds for the Departments of Labor and HEW by 2 percent.	Approved.
Against	To reduce funds for OSHA by $28.4 million	Rejected.
For	To fund programs of the Departments of Labor and HEW	Public Law 95-480.
Against	To prohibit funds for the promotion of trade with Cuba	Approved.
Against	To reduce legal services funds by $30 million	Rejected.
For	To prohibit lobbying by the Legal Services Corporation	Approved.
For	To fund programs of the Departments of State, Justice, and Commerce.	Public Law 95-431.
Against	To reduce legislative branch appropriations by 5 percent	Approved.
Against	To prohibit funds for color televising of the House without prior approval of the House.	Rejected.
For	To prohibit outside broadcasting of House sessions	Approved.
Against	To stop funds for House calendars, yearbooks, plants, etc	Approved.
For	To fund the programs of the legislative branch	Public Law 95-391.
Against	To delete funds for three water projects	Rejected.
Against	To delete funds for 8 water projects	Rejected.
Against	To prohibit funds for development of the neutron bomb	Rejected.
Against	To reduce funds for public works projects by 3 percent	Rejected.
For	To fund various public works projects and energy programs	Vetoed.
For	To fund military construction programs	Public Law 95-374.
Against	To decrease funds for EPA abatement and control programs	Rejected.
Against	To cut funds for the Department of HUD and other agencies by 2 percent.	Rejected.
For	To fund programs of the Department of HUD and other agencies.	Public Law 95-397.
Against	To limit Economic Regulatory Administration intervenor funds to $100,000.	Rejected.
Against	To not restrict intervenor funds for the Economic Regulatory Administration.	Rejected.
Against	To reduce funds for Department of Interior by 2 percent	Rejected.
For	To fund programs of the Department of Interior and related agencies.	Public Law 95-465.
Against	To reduce funds for the food stamp program by $390 million	Rejected.
Against	To deny funds to South Korea under the food-for-peace program.	Approved.
Against	To reduce funds for Department of Agriculture programs by 2 percent.	Rejected.
For	To fund programs of the Department of Agriculture	Public Law 95-448.
For	To authorize a solar power research satellite program	In Senate.
Against	To strike the buy American requirement placed on Amtrak	Rejected.
Against	To require Amtrak hearings on passenger route discontinuations.	Rejected.
Against	To allow Amtrak to not buy American when in the best interests of the country.	Rejected.
For	To improve Amtrak services	Public Law 95-421.
For	To pay retirement pay to reserve enlisted persons at any age upon completion of 20 years service.	In Senate.
For	To recalculate retired military pay to those returning to active duty after having been in retired status.	In Senate.
For	To give employment preference rights to certain IHS employees	Rejected.
For	To not override the Federal firefighters workweek veto	Sustained.
For	To increase veterans compensation payments	Public Law 95-479.
For	To lower the veterans disability rate for added benefits to 40 percent.	In Senate.
For	To increase veterans pension payments	Public Law 95-588.
For	To prohibit taxation of fringe benefits	Public Law 95-427.
For	To authorize an international investment survey	Public Law 95-381.
For	To create a solar photovoltaic energy research program	Public Law 95-590.
Against	To waive the prevailing wage requirement on housing rehabilitated by nonprofit organizations.	Rejected.
Against	To permit 1 House veto of HUD regulations	Approved.
Against	To require prepurchase counseling to first-time homebuyers	Rejected.

95TH CONG., 2D SESS. (1978)—Continued

My stand	Issue	Status
For	To settle water rights claims of the Ak-Chin Indians	Public Law 95-328.
For	To observe National Grandparents Day	Public Law 95-325.
For	To observe Asian/Pacific American Heritage Week	Public Law 95-419.
For	To observe National Port Week	Public Law 95-364.
For	To issue substitute Federal checks without requiring indemnity.	Public Law 95-380.
For	To authorize National Transportation Safety Board programs	Public Law 95-363.
For	To stop Delaware Wild River and Recreation Area proposals	Rejected.
For	To provide extra funds for agricultural programs	Public Law 95-330.
For	To amend the surface mining law	Public Law 95-343.
Against	To omit the Glacier National Park Wilderness proposal	Approved.
Against	To change the Hells Canyon Recreation Area boundary	Rejected.
Against	To set up a master plan for upper Mississippi River area	Approved.
Against	To maintain current limits on St. Croix River land acquisitions	Rejected.
For	To expand the National Park Wild and Scencic Rivers, and Wilderness Systems.	At White House.
For	To recall SALT negotiatiors in protest of human rights violations.	Approved.
For	To condemn Soviet trials of dissidents	Approved.
Against	To disapprove the export of uranium to India	Rejected.
Against	To allow all schools with compensatory education programs to get incentive grants.	Rejected.
Against	To limit the count of AFDC children to 2/3's for the compensatory education program formula.	Rejected.
For	To table the Andrew Young impeachment resolution	Approved.
For	To eliminate duplication of education services within a community.	Approved.
Against	To provide block grants for education programs	Rejected.
For	To extend elementary and secondary education programs	Public Law 95-561.
For	To close meetings on national security matters	Approved.
Against	To limit development of the Clinch River breeder reactor	Rejected.
For	To fund a coal liquefaction demonstration program	Approved.
For	To improve housing benefits for veterans	Public Law 95-476.
For	To set up a National Commission on Unemployment Compensation.	In conference.
For	To extend unemployment compensation eligibility	In conference.
For	To presume a disability exists for SSI when a prior one is on record.	In Senate.
Against	To complete only part of the Clinch River breeder reactor	Rejected.
For	To authorize energy research and development programs	In Senate.
For	To set new worldwide ceilings on immigration	Public Law 95-412.
For	To ease immigration of adopted children	Public Law 95-417.
For	To give funds to State cemeteries in which veterans are buried	Public Law 95-479.
For	To provide local hospital care for veterans outside the 48 States.	In Senate.
For	To give extra benefits to severely disabled veterans	Public Law 95-479.
For	To prohibit discrimination because of pregnancy disability	Public Law 95-555.
For	To reaffirm Indian religious freedom	Public Law 95-341.
For	To permit land condemnation for coal slurry pipelines	Rejected.
Against	To not provide for Federal financing of House campaigns	Approved.
For	To authorize Federal Election Commission programs	In conference.
For	To reduce the increase in the Federal debt limit by $16 billion.	Approved.
For	To temporarily increase the national debt	Public Law 95-333.
For	To provide greater credit to farmers and ranchers	Public Law 95-234.
For	To cut funds for the flu vaccination programs	Approved.
Against	To increase impact aid funds for pinpoint disaster assistance	Rejected.
Against	To increase disaster assistance to schools	Rejected.
Against	To delete funds for the U.S. Metric Board	Rejected.
Against	To reduce special appropriations by 2 percent	Approved.
For	To provide additional funds for certain programs	Public Law 95-355.
For	To prohibit transfer of multifamily housing and community planning functions within the Department of HUD.	Rejected.
Against	To allow home insurance rates for Federally assisted housing to go higher than State set rates.	Rejected.
For	To not consider social security increases when determining eligibility for public housing.	Approved.
For	To extend housing and community development programs	Public Law 95-557.
For	To fund operations of the District of Columbia city government	Public Law. 95-373.
For	To observe National Guard Day	Public Law 95-347.
For	To extend retirement benefits to certain reservists	In Senate.
For	To add the DuNoir Basin to the Washakie Wilderness Area	In Senate.
For	To revise the social services program under SSI	In Senate.
For	To increase the pension for Medal of Honor winners	Public Law 95-479.
For	To expand dependency and indemnity compensation benefits	Public Law 95-479.
For	To guarantee bonds for New York City	Public Law 95-339.
For	To authorize programs of the Peace Corps	Public Law 95-331.
Against	To allow some states to enforce Federal commodity exchange regulations.	Rejected.
Against	To require 48 hour notice of commodity exports	Approved.
For	To extend the Commodity Exchange Act	Public Law 95-405.
Against	To give the Commerce Department jurisdiction over deep seabed mining.	Approved.
Against	To require comprehensive work plans for deep seabed mining	Rejected.
For	To regulate deep seabed mining	In Conference.
Against	To retain the 60-40 funding for community service grants	Rejected.
For	To extend economic opportunity and community service programs.	Public Law 95-568.
For	To extend the adjournment date for the 95th Congress	Approved.
Against	To stop import of commodities not in surplus here	Rejected.
Against	To stop trade with countries not observing human rights	Rejected.
Against	To trade only with those observing fair employment practices	Rejected.
Against	To require special Eximbank reports on sales of nuclear reactors to foreign nations.	Rejected.
For	To extend the Export-Import Bank Act	In Senate.
For	To guarantee the civil rights of institutionalized persons	Approved.
Against	To stop study of discrimination based on age or handicap	Rejected.
Against	To ston Civil Rights Commission lobbying, except when asked for an opinion.	Approved.
For	To regulate State-owned carriers in foreign commerce	Public Law 95-483.
Against	To stop the Civil Rights Commission from collecting information on government abortion practices.	Approved.
For	To provide financial guarantees for New York City	Public Law 95-415.
Against	To allow electronic surveillance of foreigners under controlled circumstances.	Approved.
For	To give U.S. district courts jurisdiction over surveillance questions.	Approved.
For	To override the veto of the Defense authorization bill	Sustained.
Against	To prohibit imposition of oil import fees	Rejected.
Against	To require disclosure of certain legal electronic surveillance	Rejected.
Against	To allow electronic surveillance of U.S. citizens	Rejected.
Against	To permit controlled electronic surveillance of foreign persons in the United States.	Rejected.
Against	To allow warrantless surveillance of foreign powers	Rejected.
For	To permit foreign intelligence surveillance	Public Law 95-511.
Against	To restudy Hawaiian native claims legislation	In House.
For	To revise eligibility for foreign trade dislocation assistance	Approved.
Against	To require that Government personnel offices be headed by career civil servants.	Rejected.
Against	To extend only Vietnam veterans' job preference for 15 years	Rejected.
For	To retain the present veterans' job preference provisions	Approved.
Against	To set a ceiling on the total number of Federal workers	Approved.
For	To give the FBI 140 additional GS-18 positions	Rejected.
For	To improve the foreign trade dislocation assistance program	In Senate.
Against	To strike labor-management provisions of the civil service legislation.	Rejected.
Against	To not enact civil service reform legislation	Rejected.
For	To settle Rhode Island Indian claims	Public Law 95-395.
For	To improve port and tank vessel safety	Public Law 95-474.
For	To create an Indian Peaks Wilderness Area	Public Law 95-450.
Against	To temporarily suspend the duty on flourspar imports 2/3's required).	Rejected.
For	To revise the excise tax on trucks and buses	Public Law 95-458.
For	To revise when and where Federal courts may meet	Public Law 95-408.
For	To transfer certain U.S. land to the District of Columbia	Public Law 95-385.
For	To provide international security assistance	Public Law 95-384.
Against	To prohibit unionization of Federal Election Commission employees.	Rejected.
For	To revise labor-management provisions of the civil service reform bill.	Approved.
For	To limit outside income of Federal workers in GS-13 positions or higher.	Rejected.
For	To retain current veterans preference provisions	Approved.
For	To reform civil service regulations and procedures	Public Law 95-454.
Against	To require noise impact plans for certain airports	Rejected.
Against	To authorize an additional $25 million for general aviation airports.	Approved.
For	To revise taxes and credits on air transportation to cover aircraft noise control changes.	Approved.
Against	To reduce taxes on domestic flights and freight shipments	Rejected.
For	To establish an airport and aircraft noise reduction program	In Senate.
For	To fund energy and water development programs	Vetoed.
Against	To place certain limits on International Monetary Fund loans	Public Law 95-435.
Against	To disapprove the President's emergency preparedness reorganization plan.	Rejected.
For	To revise water resources planning	Public Law 95-404.
For	To cite former Korean Ambassador Kim for contempt of Congress.	Approved.
For	To amend the medicare programs	In Senate.
For	To amend social security health programs	In Senate.
For	To allow the Smithsonian Institution to acquire the Museum of African Art.	Public Law 95-414.
For	To revise diplomatic immunity laws	Public Law 95-393.
For	To improve health planning and resources development (2/3's required).	Rejected.
For	To revise development disabilities programs	Public Law 95-602.
For	To extend the nurse training program	At White House.
For	To extend the health centers program	At White House.
For	To improve overseas voting opportunities for U.S. citizens	Public Law 95-400.
For	To assist farmer-to-market direct marketing efforts (2/3's required).	Rejected.
For	To improve Amtrak operations	Public Law 95-421.
For	To authorize foreign relations programs	Public Law 95-381.
For	To support international development and food assistance programs.	Public Law 95-424.
For	To authorize funds for NASA programs	Public Law 95-401.
For	To revise custom procedures	Public Law 95-410.
Against	To exclude congressional candidates from financial reporting requirements.	Rejected.
Against	To require congressional candidates to report only source, not amount, of income.	Rejected.
Against	To repeal House limit on outside earned income	Rejected.
Against	To stop Federal workers, GS-16 or above, from dealing with their former agency within 1 year of leaving.	Rejected.
For	To revise the Federal budget ceiling for fiscal year 1979	Approved.
Against	To approve new airline routes unless clear and convincing evidence is presented telling why they should not be.	Approved.
For	To terminate the airline mutual aid pact	Approved.
For	To improve airline service	Public Law 95-504.
Against	To require annual authorization of highway programs	Rejected.
Against	To increase CETA funds by $1 billion	Rejected.
Against	To limit public employment funds to 30 percent of CETA funds	Rejected.
For	To extend and revise the CETA program	Public Law 95-524.
Against	To weaken the highway beautification program	Rejected.
For	To increase promotion of sales of American agricultural product overseas.	Public Law 95-501.
For	To promote domestic travel	In Senate.
For	To set aside additional funds for the Rail Public Counsel	Rejected.
For	To assist health maintenance organizations	Public Law 95-559.
For	To improve health services research	At White House.
Against	To assist health service programs including family planning	Rejected.
For	To make a U.S. contribution to the tin buffer stock	In Senate.
For	To install solar collectors on certain House office buildings	Public Law 95-577.
For	To revise the tax on income earned abroad	Public Law 95-615.
For	To prohibit unions in the Armed Forces	Public Law 95-610.
For	To build certain hydroelectric powerplants (⅔'s required)	Rejected.
For	To create a Susan B. Anthony dollar coin	Public Law 95-447.
For	To reorganize amateur sports (⅔'s required)	Rejected.
Against	To stop using funds to bus school children	Approved.
For	To fund government programs until new appropriation legislation is adopted for fiscal year 1979.	Public Law 95-482.
For	To provide funds for agricultural and rural development programs.	Public Law 95-448.
Against	To allow undercover agents to file false ethics reports	Rejected.

95TH CONG., 2D SESS. (1978)—Continued

My stand	Issue	Status
Against	To stop required ethics reports after 5 years unless further required by Congress.	Rejected.
Against	To strike criminal sanctions for violating ethics rules	Rejected.
Against	To exempt judicial branch personnel from ethics rules	Rejected.
For	To enact strict ethics rules for all government personnel	Public Law 95-521.
Against	To stop FAA access to national driver registration records	Rejected.
For	To extend highway and mass transit programs	Public Law 95-599.
Against	To revise Federal Trade Commission procedures	Rejected.
For	To extend U.S. membership in the International Monetary Fund.	Public Law 95-435.
Against	To require Justice Department merit recommendations for Federal judgeships.	Approved.
For	To authorize programs of the Department of Justice	At White House.
For	To fund programs of the Departments of State, Justice, and Commerce.	Public Law 95-431.
Against	To increase U.S. funds for multinational organizations	Rejected.
For	To provide for admission of additional Cambodian refugees	Approved.
Against	To delete funds for settling shipbuilding claims	Rejected.
For	To fund operations of the Postal Service and the Department of the Treasury.	Public Law 95-429.
For	To limit 1979 pay increase for Federal blue-collar workers to 5.5 percent.	Approved.
For	To extend the Older Americans Act	Public Law 95-478.
For	To authorize EPA research programs	Public Law 95-477.
For	To make changes in the Small Business Act	Vetoed.
For	To create additional Federal judegships	Public Law 95-486.
For	To improve the perishable agricultrual commodities programs	Public Law 95-562.
For	To make a rural transportation system needs study	Public Law 95-580.
For	To make a rural transportation system needs study	Public Law 95-580.
Against	To require that both Houses of Congress approve defense contract claims over $25 million.	Rejected.
For	To authorize defense programs for fiscal year 1979	Public Law 95-485.
For	To enlarge the civil and criminal jurisdictions of U.S. magistrates.	In Conference.
For	To extend the water resources development program	In Senate.
For	To fund Department of Interior and Forest Service programs	Public Law 95-465.
For	To override the veto of the energy and water development appropriations bill (⅔'s required).	Sustained.
For	To allow separate military helicopter training programs	Rejected.
For	To allow a closed conference on classified defense matters	Approved.
For	To strike requirement for a basinwide EIS on the Colorado River Basin before current projects may proceed.	Approved.
Against	To pay legal fees of persons who win appeals of certain financial court cases.	Rejected.
For	To strike the SEC exemption from financial privacy rules	Approved.
Against	To disallow protection of bank holding company insurance affiliates currently engaged in insurance activities.	Approved.
For	To establish rules for considering bills in the final days of the 95th Congress.	Approved.
For	To revise the Federal civil service programs	Public Law 95-454.
For	To consider cost of production in setting price objectives for sugar.	Approved.
For	To establish a sugar stabilization program	In Conference.
For	To set a minimum meat import level of 739 million pounds instead of 1.2 billion pounds.	Rejected.
Against	To prohibit the use of quotas for admission to colleges	Rejected.
For	To reduce the number of full time jobs at the Department of Labor.	Approved.
For	To cut funds for Indochinese refugee programs from $10 million to $7.5 million.	Approved.
For	To agree to more liberal restrictions on the use of Federal funds for abortions.	Rejected.
Against	To drastically cut taxes to achieve a balanced budget	Approved.
For	To authorize foreign intelligence surveillance	Public Law 95-511.
Against	To not create a special prosecutor for ethics questions	Rejected.
For	To set new requirements on ethics of Federal employees	Public Law 95-521
For	To extend the tax credit for the elderly	In Senate.
For	To provide for a new means of resolving consumer controversies (2/3's required).	Rejected.
For	To pay certain losses resulting from the ban on Tris	At White House.
For	To insist that tuition tax credit cover elementary and secondary schools as well as colleges.	In conference.
For	To fund foreign assistance programs	Public Law 95-481.
For	To allow the President to waive certain foreign assistance prohibitions.	Rejected.
For	To establish meat import quotas	At White House.
For	To replace lock and dam 26 on the Mississippi River and establish waterway user charges.	Public Law 95-502.
For	To consider the energy bills en bloc	Approved.
Present	To reprimand Representative Charles H. Wilson of California	Approved.
For	To reduce the censure recommendation for Representative Edward R. Roybal of California to a reprimand.	Approved.
Against	To stop Federal aid to family planning programs which directly or indirectly advocate abortion.	Rejected.
Against	To revise health services programs	Public Law 95-613.
For	To assist health maintenance organizations	Public Law 95-559.
For	To exempt the Tellico Dam project from the Endangered Species Act requirements.	Approved.
For	To extend the Endangered Species Act	At White House.
For	To extend last year's limitation on the use of Federal funds for abortions.	Approved.
Against	To place a $40,000 family income cap on eligibility for student loan interest subsidies.	Rejected.
For	To offer a new pension program for veterans and their survivors.	Public Law 95-588.
For	To authorize programs of the Department of Justice	At White House.
Against	To authorize compensation to the victims of crime	Rejected.
For	To set up a program to eliminate cigarette racketeering	Public Law 95-575.
For	To make changes in the proposed Financial Institutions Regulatory Act.	At White House.
For	To approve the national energy policy package	Approved.
For	To create the Boundary Waters Canoe Area Wilderness	Public Law 95-495.
For	To deregulate commercial airline service	Public Law 95-504.
For	To improve agricultural trade to foreign countries	Public Law 95-501.
For	To extend the Elementary and Secondary Education Act	Public Law 95-561.
For	To improve comprehensive rehabilitation services	Public Law 95-602.
For	To create a program to stabilize sugar prices	Rejected.
For	To make changes in our tax laws	Public Law 95-600.
For	To permit the sale of Carson City silver dollars	At White House.
For	To repair highways and authorize water projects (quorum of 218 members needed).	Rejected. ●

SUMMARY OF INCREASES TO NATIONAL PARK WILDERNESS SYSTEM BY THE 95TH CONGRESS

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. PHILLIP BURTON. Mr. Speaker, the following charts show the National Park Wilderness System as it existed prior to the 95th Congress, and show the additions which have been made during the session which has just ended. I am pleased to report that the hard work and cooperation of a great many of our Members have nearly tripled this important protective status within our national parks in comparison with the total enacted during previous years.

DESIGNATED WILDERNESS AREAS PRIOR TO ENACTMENT OF NATIONAL PARKS AND RECREATION ACT OF 1978

Area	Wilderness	Potential wilderness	Total
1. Badlands National Park, S. Dak	64,250	----	64,250
2. Bandelier National Monument, N. Mex	23,267	----	23,267
3. Black Canyon of the Gunnison National Monument, Colo	11,180	----	11,180
4. Chiricahua National Monument, Ariz	9,440	2	9,442
5. Craters of the Moon National Monument, Idaho	43,243	----	43,243
6. Great Sand Dunes National Monument, Colo	33,450	670	34,120
7. Haleakala National Park, Hawaii	19,270	5,500	24,770
8. Isle Royale National Park, Mich	131,880	231	132,111
9. Joshua Tree National Monument, Calif	429,690	37,550	467,240
10. Lassen Volcanic National Park, Calif	78,982	----	78,982
11. Lava Beds National Monument, Calif	28,460	----	28,460
12. Mesa Verde National Park, Colo	8,100	----	8,100
13. Petrified Forest National Park, Ariz	50,260	----	50,260
14. Pinnacles National Monument, Calif	12,952	990	13,942
15. Point Reyes National Seashore, Calif	25,370	8,003	33,373
16. Saguaro National Monument, Ariz	71,400	----	71,400
17. Shenandoah National Park, Va	79,579	----	79,579
Total	1,120,773	52,946	1,173,719
Total additions made by National Parks and Recreation Act of 1978	1,854,424	119,581	1,974,005
New total for system	2,975,197	172,527	3,147,724

PARK WILDERNESS AREAS (INCLUDING THE NATIONAL PARKS AND RECREATION ACT OF 1978)

[States ranked in order of wilderness acreage]

State: Name of unit	Wilderness	Potential wilderness	Total
Florida:			
Everglades National Park [1]	1,296,500	81,900	1,378,400
Gulf Islands National Seashore [1]	1,800	2,800	4,600
Total	1,298,300	84,700	1,383,000
California:			
Jushua Tree National Monument	429,690	37,550	467,240
Lassen Volcanic National Park	78,982	----	78,982
Lava Beds National Monument	28,460	----	28,460
Pinnacles National Monument	12,952	990	13,942

Footnote at end of table.

PARK WILDERNESS AREAS (INCLUDING THE NATIONAL PARKS AND RECREATION ACT OF 1978)—Continued

[States ranked in order of wilderness acreage]

State: Name of unit	Wilderness	Potential wilderness	Total
California:			
Point Reyes National Seashore	25,370	8,003	33,373
Total	575,454	46,543	621,997
Arizona:			
Chiricahua National Monument	9,440	2	9,442
Petrified Forest National Park	50,260		50,260
Saguaro National Monument	71,400		71,400
Organ Pipe Cactus National Monument [1]	312,600	1,240	313,840
Total	443,700	1,242	444,942
Hawaii:			
Haleakala National Park	19,270	5,500	24,770
Hawaii Volcanoes National Park [1]	123,100	7,850	130,950
Total	142,370	13,350	155,720
Michigan: Isle Royale National Park	131,880	231	132,111
Virginia: Shenandoah National Park	79,579		79,579
South Dakota: Badlands National Park	64,250		64,250
New Mexico:			
Bandelier National Monument	23,267		23,267
Carlsbad Caverns National Park [1]	33,125	320	33,445
Total	56,392	320	56,712
Colorado:			
Black Canyon of the Gunnison National Monument	11,180		11,180
Great Sand Dunes National Monument	33,450	670	34,120
Mesa Verde National Park	8,100		8,100
Total	52,730	670	53,400
Texas: Guadalupe Mountains National Park [1]	46,850		46,850
Idaho: Craters of the Moon National Monument	43,243		43,243
Arkansas: Buffalo National River [1]	10,529	25,471	36,000
North Dakota: Theodore Roosevelt National Park [1]	29,920		29,920
13 States: Total for system	2,975,197	172,527	3,147,724

[1] Wilderness designations included in the National Parks and Recreation Act of 1978.

ENDANGERED SPECIES ACT

HON. ROBERT L. LEGGETT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. LEGGETT. Mr. Speaker, a number of concerns have been raised about section 7(j) of the conference report on S. 2899, the Endangered Species Act Amendments of 1978, relating to exemptions for national security activities. I offer this explanation of section 7(j) to assist in its interpretation:

ENDANGERED SPECIES ACT

Section 7(j) grew out of the significant difference between the House and Senate bills in their treatment of Endangered Species exemptions for military activities. The Senate bill (S. 2899) originally mandated the Endangered Species Committee to immediately consider a determination made by the National Security Council that the Committee's failure to grant an exemption from section 7 of the Act, for an action involving a critical military installation, would have an adverse effect on the security of the United States. This provision merely required the Endangered Species Committee to consider the determination of the National Security Council. It did not mandate an exemption by the Committee, nor did it authorize granting an exemption outside of the normal exemption process provided in the bill.

The House bill (H.R. 14104) reported by the Committee on Merchant Marine and Fisheries contained no special provision for military activities. The Committee believed that the exemption process provided in the bill would adequately handle those situations where an exemption may be necessary for national security reasons. Nevertheless, the House adopted a floor amendment to H.R. 14104, offered by Congressman McKay, which exempted Department of Defense actions "directly related to military preparedness." This amendment was approved by the House without a recorded vote.

In developing section 7(j), the Conferees attempted to strike a balance between the House and Senate provisions relating to military activities. The reference to "national security" in this provision was intended to strengthen the criteria of the McKay amendment and conform it to the language of the Senate bill. Both the House and Senate conferees felt that the regular exemption process should be employed in virtually all instances of conflict between an endangered species and a Federal activity. The Conferees fully intended the Department of Defense to utilize the regular exemption process provided in sections 7(g) and 7(h) except in an emergency situation which threatened the national security.

Thus, we would anticipate that use of section 7(j) will be limited to those instances where an exemption is necessary for reasons of national security, and where the emergency nature of the conflict precludes the operation of the regular exemption procedure. We did intend that, whenever possible, the Secretary of Defense should utilize section 7(g) before resorting to the special process provided in section 7(j).

Although section 7(j) directs the Endangered Species Committee to grant an exemption upon a determination of the Secretary of Defense, there is nothing in the bill which precludes judicial review of the Secretary's finding. In fact, section 7(n) specifically provides for the judicial review of any decision of the Endangered Species Committee. We fully expect that if the Secretary of Defense utilizes section 7(j) he should make his finding on the basis of a full and complete administrative record which is reviewable under chapter 7 of title 5 of the United States Code.●

THE 60TH ANNIVERSARY OF COMPANY H, 3D INFANTRY REGIMENT, NEW JERSEY NATIONAL GUARD

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. HOWARD. Mr. Speaker, it is indeed a great honor—and a great pleasure—for me to bring to the attention of my colleagues the 60th anniversary of Company H, 3d Infantry Regiment, New Jersey National Guard. This group of brave men, 60 years ago, played a central role in American history which none of us will ever forget.

Six decades ago, on the battlefield of France, they fought the war which, more than any other historical event, shaped this 20th century.

In the summer and fall of 1918, each member of Company H, 3d Infantry, New Jersey National Guard, offered his country the greatest sacrifice a man can offer. The men of Company H risked their lives, and 25 gave their lives, to make the world safe for democracy—to preserve that which is at the heart of the American way of life—liberty.

The beginnings of Company H are found before the turn of the century. The earliest seed of Company H was the McKnight Rifles, the first semimilitary organization in the city of Asbury Park, N.J. Members of the group, in 1896, became Company A, 3d Infantry, the first State unit.

At the outbreak of the Spanish American War, Company A embarked for Sea Girt, N.J., to join the main regiment. These troops reached Rome, Ga., when the war ended, and returned to Sandy Hook, where they were mustered out in February 1899.

However, upon return to Asbury Park, the men of Company A reorganized and took the name which they would garnish with honor and fame: Company H, 3d Infantry, National Guard of New Jersey.

In 1915, with Europe engulfed in a bitter and growing war, Company H began an era of vigorous military preparation. The company expanded. Between 1915 and 1917 recruiting was at its peak. In those years it was the ambition of every youth of military age in the shore area to be a member of Company H.

As the flames of war raged in Europe, President Wilson tried vainly to lead the belligerent nations to peace. However, German U-boat atrocities increased and U.S. shipping was ravished on the Atlantic. Finally, after the sinking of the *Lusitania* with great loss of American lives, on April 6, 1917, with the security of the United States threatened, and with liberty in Europe at stake, the United States declared war on Germany.

Sixty years ago today, by order of the President of the United States, the men

of Company H left the armory in Asbury Park for Camp Edge, Sea Girt, for induction into Federal service. It was a proud day for the citizens of the shore area who turned out to bid their boys farewell.

The march down Lake Avenue and Cookman Avenue to the railroad station was the beginning of a journey that would end on the battlefield of France for 25 members of the company—a journey which would leave many of the others with the scars of war.

Following a training period and a sea voyage aboard the *Pastores* and *Wilhemina*, the men of Company H arrived in France. There, in a short time, they received their first casualties by poison gas—a horror spared fighting men in wars since then. In October 1918, the company suffered its heaviest casualties. I will not try to describe the battles Company H fought or try to name and list its heroes and the decorations they won. They have been inscribed on the pages of history, a testament to the men of Company H—one for their descendants to inherit with pride.

The gallantry and valor they displayed was a source of inspiration and pride to the families and friends who greeted them on their return. Every member of the company had brought distinction upon the community in which he lived, but the members of the company did not rest upon their past record. From the ranks of Company H came many of the business and political leaders of the shore area. The courage and dedication they displayed on the battlefield was transferred to combating problems which arose from a rapidly developing modern society.

I am happy to have the opportunity to commend to my colleagues this group of fine men.●

ENDANGERED SPECIES ACT AMENDMENT OF 1978

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. FORSYTHE. Mr. Speaker, there has been some lack of understanding concerning the procedures that the conferees to S. 2899, the Endangered Species Act Amendment of 1978, had in mind for exercising the so-called "military exemption" to section 7 of the Act. As a conferee and as ranking minority member of the Merchant Marine and Fisheries Subcommittee on Fisheries and Wildlife Conservation and the Environment, I would like to clarify the intent of the conferees in relation to this provision.

Section 7 of the Endangered Species Act of 1973, as amended, requires Federal agencies to insure that any action authorized, funded, or carried out by such agencies does not jeopardize the continued existence of listed species or destroy or modify the critical habitat of any endangered or threatened species. The military exemption to this requirement is found in the second paragraph of section 7(i), and reads—

Notwithstanding any provision of this Act, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

It must be stressed that the language of the section clearly provides that the Endangered Species Committee grants the exemption after receiving from the Secretary of Defense findings that such exemption is necessary for reasons of national security. Bearing this in mind, and the fact the legislation establishes an elaborate and highly structured mechanism for the committee to consider applications for exemptions, it is my view that, except in the very rare circumstance of an extreme emergency, the Secretary must follow the steps provided in section 7(a) when seeking an exemption for reasons of national security.

In other words, the Secretary of Defense must submit to the Secretary of the Interior an application for an exemption; and the application must be considered (i) initially by the Review Board, and (ii) ultimately by the Endangered Species Committee after receipt of the report of the Board stating an irresolvable conflict exists. If the committee fails to grant the application for exemption, then the Secretary could initiate a proceeding leading to findings that an exemption is necessary for reasons of national security. Under the legislation, the Secretary's findings as well as the exemption granted by the Committee would be subject to judicial review by the Court of Appeals as set forth in section 7(n).

I hope that the foregoing discussion clarifies the procedures that the conferees had in mind for exercising the military exemption in S. 2899.●

TEXAS DELEGATION HONORED

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CHARLES WILSON of Texas. Mr. Speaker, Hon. BOB GAMMAGE of Texas was interviewed by Ms. Love Pattie in connection with the book she is writing entitled "Washington With Love" on the occasion of the day of the last Texas delegation luncheon for 1978, honoring the retiring Texas Congressmen, including Hon. GEORGE MAHON, Hon. W. R. POAGE, Hon. OLIN TEAGUE, Hon. OMAR BURLESON, and Hon. BARBARA JORDAN. At the end of the interview, BOB GAMMAGE said wistfully:

All afternoon there has been something on my mind. At the Delegation luncheon today there was something I wanted very much to say but could not bring myself to do so because I was the only freshman Member of the Delegation there, and I have felt during my tenure in the House of Representatives that it was better to be seen rather than being heard most of the time.

(Mrs. Pattie said this reminded her of the admonition that Speaker Rayburn used to give to the freshmen Congressmen when they arrived on the scene.) BOB GAMMAGE said:

I might not even be here another year since I don't know what the outcome of the elections will be, but I would like for all the Congress to know that these retiring Members and the other Members of the Texas Delegation are some of the finest men I have ever known, and they were always willing to help the other Member, especially the newer Members of the Delegation. I can now understand why there is so much unity and understanding and accomplishment in the Texas Delegation. This association has meant more to me than words can express and I wish them all well in the future.

I am proud to have been associated with this outstanding Delegation which has such a unique relationship and is composed of such outstanding Members of Congress.●

WE ARE WASTING CONGRESSIONAL TIME—PART II

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. DANIELSON. Mr. Speaker, when the 95th Congress adjourns sine die and the organizing of the 96th Congress comes before us it is essential that we consider changes in the rules which will enable the House to carry out its duties more effectively.

One problem area in which changes are absolutely essential is that of making more efficient use of our time. And one aspect of that portion is the abuse, or overuse, of recorded votes.

On August 17, 1978, I reported on and criticized our recorded votes during the 1978 session through June 30, 1978. A complete analysis of rollcalls to that date appears in the CONGRESSIONAL RECORD for August 17, 1978, at pages 26848 through 26864.

I have brought the analysis of rollcalls up-to-date through October 14, 1978. This data supplements that reported on August 17, 1978.

TIME PER ROLLCALL

In calculating time I have allocated 20 minutes to each rollcall since we must consider start-up and closing time in addition to the mandatory 15 minutes required by the rules.

Also, noticed quorum are not included in the 942 rollcalls reported by the Clerk of the House. There were 103 such noticed quorum during 1978, consuming a total of 1,120 minutes, or 18 hours and 40 minutes, which time must be added into the time-cost of our voting procedures. The average time for a noticed quorum was 10.87 minutes; 20 were converted into regular quorums.

TOTAL TIME IN SESSION AND ROLL CALLS, 1978

Time in session	Rollcalls	Rollcalls per day	Number of days	Average per day	Time period
515 hr, 14 min	517	5.6	92	5 hr, 36 min	Jan. 19 to June 30.
500 hr, 43 min	425	7.5	57	8 hr, 48 min	July 1 to Oct. 14.
1,015 hr, 57 min	942	6.3	149	6 hr, 48 min	Jan. 19 to Oct. 14.

HOW MANY ROLLCALLS ON A GIVEN DAY?

Date:	No. of Rollcalls
10–14–78	23
10–12–78	17
06–28–78	15
10–04–78	15
05–23–78	12
08–09–78	12
10–13–78	12
03–14–78	11
05–22–78	11
05–31–78	11
06–01–78	11
06–14–78	11
08–02–78	11
09–07–78	11
09–13–78	11
07–17–78	10
08–14–78	10
08–17–78	10
09–19–78	10
09–25–78	10
03–08–78	9
03–16–78	9
05–15–78	9
05–17–78	9
05–24–78	9
07–18–78	9
07–19–78	9
07–26–78	9
08–10–78	9
09–11–78	9
09–12–78	9
09–14–78	9
09–26–78	9
10–05–78	9
03–07–78	8
03–13–78	8
05–03–78	8
06–05–78	8
06–06–78	8
06–07–78	8
07–12–78	8
07–25–78	8
08–08–78	8
08–16–78	8
09–28–78	8

ARE RECORDED VOTES REALLY NECESSARY?

ALWAYS?

During the entire 1978 session, from January 19, 1978, through October 14, 1978, there were 834 recorded votes—yeas and nays—plus 108 regular quorum calls, making a total of 942 rollcalls. Of those 834 recorded votes—on issues—the question carried on 618 and was defeated 216 times.

The chart below shows that 309 recorded votes on issues, which is 37.1, carried with yea votes of 90 percent or more. In those instances where the question carried, 309, or exactly 50 percent, passed with a vote of 90 percent or better. Those 309 rollcalls cost 103 hours, which is 10.1 percent of the total time spent in session by the House of Representatives in 1978.

	Jan. 19 to June 30, 1978			July 1 to Oct. 14, 1978			Jan. 19 to Oct. 14, 1978		
	Number of rollcalls	Aggregate rollcalls	Aggregate percent	Number of rollcalls	Aggregate rollcalls	Aggregate percent	Number of rollcalls	Aggregate rollcalls	Aggregate percent
Percent voting yea:									
100	42	42	9.3	16	16	4.2	58	58	7.0
99	42	84	18.7	24	40	10.4	66	124	14.9
98	15	99	22.0	30	70	18.2	45	169	20.3
97	14	113	25.1	14	84	21.9	28	197	23.6
96	20	133	29.6	7	91	23.7	27	224	26.9
95	11	144	32.0	6	97	25.3	17	241	28.4
94	13	157	34.9	8	105	27.3	21	262	31.0
93	7	164	36.4	6	111	28.9	13	275	33.7
92	8	172	38.2	6	117	30.5	14	289	34.
91	4	176	39.1	8	125	32.6	12	301	36.1
90	2	178	39.6	6	131	34.1	8	309	37.1

SUMMARY OF ROLLCALLS BY VOTE DESCRIPTION—95TH CONG., 2D SESS., 1978

Type of rollcall	Votes: Jan. 19, to June 30, 1978	Votes: July 1, to Oct. 14, 1978	1978 total	Total time consumed
Agreeing to a conference	1		1	20 min.
Agreeing to conference report	9	44	53	17 hr., 40 min.
Agreeing to conference reports		1	1	20 min.
Agreeing to the amendment	130	116	246	82 hr.
Agreeing to the amendments	12	15	27	9 hr.
Agreeing to the resolution	57	27	84	28 hr.
Approving the Journal	15	5	20	6 hr., 40 min.
Closing conference meetings		1	1	20 min.
Closing the conference		1	1	Do.
Concur in Senate amendment with amendment.	1	1	2	40 min.
Concur in Senate amendment		1	1	20 min.
Concur in Senate amendment to House amendment.	1		1	Do.
Dispense further call of House	2		2	40 min.
Motion to close conference	1		1	20 min.
Motion to instruct conferees	1	3	4	1 hr., 20 min.
Motion to limit debate	2	1	3	1 hr.
Motion to recommit		1	1	20 min.
Motion to table		2	2	40 min.
Ordering a second	12	2	14	4 hr., 40 min.
Ordering the previous question	1	7	8	2 hr., 40 min.
Passage	69	42	111	37 hr.
Presidential veto		2	2	40 min.
Previous question on R and C with amendment.		1	1	20 min.
Quorum	67	41	108	36 hr.
R and C with amendment in Senate amendment.		6	6	3 hr.
Reading Journal in full	1		1	20 min.
Recede and concur in Senate amendment.	1	2	3	1 hr.
Recede from Senate amendment		2	2	40 min.
Recommit conference report		1	1	20 min.
Recommit conference report with instructions.		2	2	40 min.
Recommit with instructions	7	7	14	4 hr., 40 min.
Refer veto to Post Office	1		1	20 min.
Reject title VI of conference report		1	1	Do.
Resolving into Committee	33	21	54	18 hr.
Strike enacting clause	1	1	2	40 min.
Suspend rules and concur in Senate amendments.		2	2	Do.
Suspend rules and pass	85	61	146	48 hr., 40 min.
Table appeal from ruling		1	1	20 min.
Table motion to instruct		1	1	Do.
Table motion to reconsider	1	3	4	1 hr., 20 min.
Table reconsider Journal vote	2		2	40 min.
Table reconsider resolving	1		1	20 min.
Table to con. in Senate amendment with/amendment.	1		1	Do.
Table to instruct conferees	1		1	Do.
Table to R and C in Senate amendment.	1		1	Do.
Total	517	425	942	314 hr.

ROLLCALL VOTES (JULY 1 THROUGH OCT. 14, 1978) LISTED ALPHABETICALLY ACCORDING TO VOTE DESCRIPTION

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Pres.	Percent Yea	Percent Nay	Day
928	Oct. 14, 1978	Agreeing to conference report	Ashbrook	S. 1487	366			100.0		Saturday.
717	Aug. 17, 1978	do	do	H.R. 12935	255	123		67.0	33.0	Thursday.
800	Sept. 19, 1978	do	do	H.R. 12222	231	159		59.0	41.0	Tuesday.
854	Sept. 28, 1978	do	Bauman	H.R. 12934	276	61		82.0	18.0	Thursday.
905	Oct. 12, 1978	do	do	H.R. 12931	203	188		52.0	48.0	Do.
596	July 25, 1978	do	Broomfield	H.R. 11877	276	120		70.0	30.0	Tuesday.
761	Sept. 12, 1978	do	do	S. 3075	225	126		64.0	36.0	Do.
933	Oct. 14, 1978	do	Burton, P	H.R. 12250	248	111		69.0	31.0	Saturday.
798	Sept. 19, 1978	do	Collins (Tex.)	S. 3040	266	127		68.0	32.0	Tuesday.
926	Oct. 14, 1978	do	do	S. 3151	271	93		74.0	26.0	Saturday.
865	Oct. 4, 1978	do	Conable	H.R. 11445	396	10		98.0	2.0	Wednesday.
940	Oct. 14, 1978	do	do	H.R. 13511	337	38		90.0	10.0	Saturday.
936	do	do	Davis	H.R. 15	349	18		95.0	5.0	Do.
783	Sept. 15, 1978	do	do	S. 2701	304	22		93.0	7.0	Friday.
720	Aug. 17, 1978	do	Derwinski	S. 9	338	18		95.0	5.0	Thursday.
919	Oct. 13, 1978	do	do	S. 2534	309	33		90.0	10.0	Friday.
850	Sept. 28, 1978	do	Eckhardt	H.R. 3816	175	214		45.0	55.0	Thursday.
937	Oct. 14, 1978	do	Edwards (Okla.)	H.R. 12467	365	2		99.0	1.0	Saturday.
777	Sept. 14, 1978	do	Evans (Colo.)	H.R. 12928	319	71	1	82.0	18.0	Thursday.
839	Sept. 26, 1978	do	Glickman	H.R. 13125	328	31		91.0	9.0	Tuesday.
595	July 25, 1978	do	Grassley	H.R. 12426	244	157		61.0	39.0	Do.
863	Oct. 4, 1978	do	Guyer	H.R. 12255	399	3		99.0	1.0	Wednesday.
851	Sept. 28, 1978	do	Harkin	H.R. 9214	238	138		63.0	37.0	Thursday.
887	Oct. 6, 1978	do	Harris	S. 2640	365	8		98.0	2.0	Friday.
934	Oct. 14, 1978	do	Levitas	S. 2493	356	6		98.0	2.0	Saturday.
573	July 19, 1978	do	Madigan	H.R. 11504	362	28		93.0	7.0	Wednesday.
897	Oct. 12, 1978	do	McClory	S. 1566	226	176		56.0	44.0	Thursday.
860	Oct. 4, 1978	do	Miller (Ohio)	H.R. 12930	247	137		64.0	36.0	Wednesday.
802	Sept. 19, 1978	do	Quillen	H.R. 8149	360	1		100.0		Tuesday.
925	Oct. 14, 1978	do	Rousselot	H.R. 10713	387	1		100.0		Saturday.
935	do	do	do	S. 3447	356	4		99.0	1.0	Do.
875	Oct. 5, 1978	do	do	H.R. 12932	382	12		97.0	3.0	Thursday.
718	Aug. 17, 1978	do	do	H.R. 12927	355	24		94.0	6.0	Do.
799	Sept. 19, 1978	do	do	H.R. 12598	239	153		61.0	39.0	Tuesday.
666	Aug. 9, 1978	do	do	H.R. 2777	236	164	3	59.0	41.0	Wednesday.
715	Aug. 17, 1978	Agreeing to conference report	Rousslot	H.R. 13467	198	191		51.0	49.0	Thursday.
719	do	do	Rudd	H.R. 13468	339	31		92.0	8.0	Do.
941	Oct. 14, 1978	do	Steiger	H.R. 9937	198	29		87.0	13.0	Saturday.
939	do	do	do	H.R. 13750	177	194		48.0	52.0	Do.
899	Oct. 12, 1978	do	Volkmer	S. 555	370	23		94.0	6.0	Thursday.
721	Aug. 17, 1978	do	Weiss	H.R. 12240	323	30	2	92.0	8.0	Do.
927	Oct. 14, 1978	do	Wiggins	H.R. 7010	184	199		48.0	52.0	Saturday.
864	Oct. 4, 1978	do	Wydler	H.R. 11302	387	15		96.0	4.0	Wednesday.
801	Sept. 19, 1978	do	Yates	H.R. 11401	321	54		86.0	14.0	Tuesday.
932	Oct. 14, 1978	Agreeing to conference reports	Anderson (Ill.)	HIR. 5289	231	168		58.0	42.0	Saturday.
582	July 21, 1978	Agreeing to the amendment	Abdnor	H.R. 12433	133	160		45.0	55.0	Friday.
680	Aug. 10, 1978	do	Archer	H.R. 13511	249	167		60.0	40.0	Thursday.
639	Aug. 2, 1978	do	Ashbrook	H.R. 12931	189	202		48.0	52.0	Wednesday.
643	Aug. 3, 1978	do	do	do	152	236		39.0	61.0	Thursday.
765	Sept. 13, 1978	do	do	H.R. 11280	134	254		35.0	65.0	Wednesday.
541	July 13, 1978	do	do	H.R. 15	79	290		21.0	79.0	Thursday.
598	July 26, 1978	do	Baldus	H.R. 10285	141	260		35.0	65.0	Wednesday.
725	Sept. 6, 1978	do	Bauman	H.R. 12432	234	131		64.0	36.0	Do.
629	Aug. 1, 1978	do	Blouin	H.R. 12514	279	117		70.0	30.0	Tuesday.
746	Sept. 11, 1978	do	Bonior	H.R. 11280	149	222		40.0	60.0	Monday
601	July 26, 1978	do	Breaux	H.R. 3350	214	184	1	54.0	46.0	Wednesday
602	do	do	do	do	199	202		49.6	50.4	Do.
583	July 21, 1978	do	Brown (Mich.)	H.R. 12433	119	185		39.0	61.0	Friday.
610	July 27, 1978	do	do	H.R. 12157	90	288		24.0	76.0	Thursday.
659	Aug. 8, 1978	do	Buchanan	H.R. 13635	72	302		19.0	81.0	Tuesday.
642	Aug. 3, 1978	do	Burton, J.	H.R. 12931	142	264		35.0	65.0	Thursday.
527	July 11, 1978	do	Burton, P	H.R. 12536	216	181		54.0	46.0	Tuesday.
529	do	do	do	do	205	192		52.0	48.0	Do.
530	do	do	do	do	175	218		45.0	55.0	Do.
528	do	do	do	do	147	249		37.0	63.0	Do.
611	July 27, 1978	do	Cavanaugh	H.R. 12157	106	266		28.0	72.0	Thursday.
764	Sept. 13, 1978	do	Collins (Tex.)	H.R. 11280	381		1	100.0		Wednesday.
750	Sept. 11, 1978	do	do	do	124	217	1	36.0	64.0	Monday.
660	Aug. 8, 1978	do	Conte	H.R. 13635	269	96		74.0	26.0	Tuesday.
683	Aug. 10, 1978	do	Corman	H.R. 13511	193	225		46.0	54.0	Thursday.
670	Aug. 9, 1978	do	Cornell	H.R. 12452	407	1		100.0		Wednesday.
578	July 20, 1978	do	Crane	H.R. 13467	75	302		20.0	80.0	Thursday.
842	Sept. 27, 1978	do	Danielson	H.R. 1	138	266		34.0	66.0	Wednesday.
809	Sept. 20, 1978	do	do	do	112	259		30.0	70.0	Do.
640	Aug. 2, 1978	do	Derwinski	H.R. 12931	280	103		73.0	27.0	Do.
653	Aug. 7, 1978	do	Dickinson	H.R. 13635	252	128		66.0	34.0	Monday.
871	Oct. 4, 1978	do	Dodd	H.R. 14042	111	275		29.0	71.0	Wednesday.
664	Aug. 9, 1978	do	Dornan	H.R. 13635	226	163		58.0	42.0	Do.
636	Aug. 2, 1978	do	Downey	H.R. 12514	166	243		41.0	59.0	Do.
859	Sept. 29, 1978	do	do	H.R. 14042	97	187	1	34.0	66.0	Friday.
584	July 21, 1978	do	Duncan (Tenn.)	H.R. 12433	256	38		87.0	13.0	Do.
882	Oct. 5, 1978	do	Eckhardt	H.R. 13471	328	26	5	93.0	7.0	Thursday.
617	July 28, 1978	do	Edwards (Calif.)	H.R. 12432	159	125		56.0	44.0	Friday.
538	July 12, 1978	do	Edwards (Okla.)	H.R. 15	175	212		45.0	55.0	Wednesday.
673	Aug. 9, 1978	do	Erlenborn	H.R. 12452	254	148	1	63.0	37.0	Do.
763	Sept. 13, 1978	do	do	H.R. 11280	166	217		43.0	57.0	.Do
751	Sept. 11, 1978	do	do	H.R. 11280	125	217		37.0	63.0	Monday.
924	Oct. 14, 1978	do	do	H.R. 11274	86	301	1	22.0	78.0	Saturday.
812	Sept. 21, 1978	do	Ertel	H.R. 12611	300	86		78.0	22.0	Thursday.
627	Aug. 1, 1978	do	Fascell	H.R. 12514	208	205		50.4	49.6	Tuesday.
890	Oct. 6, 1978	do	Findley	H.R. 11545	131	139		49.0	51.0	Friday.
634	Aug. 2, 1978	do	do	H.R. 12514	176	229		43.0	57.0	Wednesday.
817	Sept. 22, 1978	do	Flippo	H.R. 12452	1	335			100.0	Friday.
771	Sept. 13, 1978	do	Florio	H.R. 8729	127	246		34.0	56.0	Wednesday.
544	July 14, 1978	do	Flowers	H.R. 12163	142	187		43.0	7.60	Friday.
599	July 26, 1978	do	Foley	H.R. 10285	273	125		69.0	31.0	Wednesday.
708	Aug. 16, 1978	do	Giaimo	H. Con. Res. 683	271	134		67.0	33.0	Do.
815	Sept. 21, 1978	do	do	H.R. 11733	111	238		32.0	68.0	Thursday.
656	Aug. 8, 1978	do	do	H.R. 13635	107	269		28.0	72.0	Tuesday.
844	Sept. 27, 1978	do	Gonzalez	H.R. 1	129	269		32.0	68.0	Wednesday.
671	Sept. 9, 1978	do	Goodling	H.R. 12452	197	211		48.0	52.0	Do.
604	July 26, 1978	do	do	H.R. 7577	158	224		41.0	59.0	Do.
576	July 20, 1978	do	Gore	H.R. 13467	166	233		42.0	58.0	Thursday.
696	Aug. 14, 1978	do	Hansen	H.R. 12931	172	202		46.0	54.0	Monday.
661	Aug. 8, 1978	do	Harkin	H.R. 13635	136	222	1	38.0	62.0	Tuesday.

ROLLCALL VOTES (JULY 1 THROUGH OCT. 14, 1978) LISTED ALPHABETICALLY ACCORDING TO VOTE DESCRIPTION

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Pres.	Percent Yea	Percent Nay	Day
662	Aug. 8, 1978	do	do	H.R. 13635	102	252	1	29.0	71.0	Tuesday.
609	July 27, 1978	do	do	H.R. 12157	103	286	1	26.0	74.0	Thursday.
644	Aug. 3, 1978	do	do	H.R. 12931	41	360		10.0	90.0	Do.
745	Sept. 11, 1978	do	Harris	H.R. 11280	16	336		5.0	95.0	Monday.
675	Aug. 9, 1978	do	Hawkins	H.R. 12452	221	181		55.0	45.0	Wednesday.
657	Aug. 8, 1978	do	Heckler	H.R. 13635	103	277		27.0	73.0	Tuesday.
540	July 13, 1978	do	Holt	H.R. 15	197	195		50.3	49.7	Thursday.
707	Aug. 16, 1978	do	do	H. Con. Res. 683	201	206		49.0	51.0	Wednesday.
658	Aug. 8, 1978	do	Howard	H.R. 13635	165	213		44.0	56.0	Tuesday.
710	Aug. 16, 1978	do	Hughes	H. Con. Res. 683	155	241		39.0	61.0	Wednesday.
635	Aug. 2, 1978	do	Ichord	H.R. 12514	229	180		56.0	44.0	Do.
633	do	do	Jacobs	H.R. 12514	147	257		36.0	64.0	Do.
733	Sept. 7, 1978	do	Kemp	H.R. 7308	154	230		40.0	60.0	Thursday.
881	Oct. 5, 1978	do	Kindness	H.R. 13471	153	222	11	41.0	59.0	Do.
672	Aug. 9, 1978	do	Krebs	H.R. 12452	209	194		52.0	48.0	Wednesday.
709	Aug. 16, 1978	do	Latta	H. Con. Res. 683	198	204		49.0	51.0	Do.
711	do	do	Levitas	H. Con. Res. 683	187	208		47.0	53.0	Do.
646	Aug. 3, 1978	do	Long (Md.)	H.R. 12931	293	52	1	85.0	15.0	Thursday.
608	July 27, 1978	do	do	H.R. 12157	197	199		49.7	50.3	Do.
676	Aug. 9, 1978	do	Maguire	H.R. 12452	200	198		50.3	49.7	Wednesday.
695	Aug. 14, 1978	do	Mathis	H.R. 12931	143	239		37.0	63.0	Monday.
808	Sept. 20, 1978	do	Mazzoli	H.R. 1	97	290	1	25.0	75.0	Wednesday.
841	Sept. 27, 1978	do	do	H.R. 1	53	347		13.0	87.0	Do.
852	Sept. 28, 1978	do	McClory	H.R. 12005	206	151		58.0	42.0	Thursday.
734	Sept. 7, 1978	do	do	H.R. 7308	128	249		34.0	66.0	Do.
577	July 20, 1978	do	McHugh	H.R. 13467	156	237		40.0	60.0	Do.
813	Sept. 21, 1978	do	Milford	H.R. 12611	299	78		79.0	21.0	Do.
579	July 20, 1978	do	Miller (Ohio)	H.R. 13467	256	114		69.0	31.0	Do.
697	Aug. 14, 1978	do	do	H.R. 12931	184	199		48.0	52.0	Monday.
837	Sept. 26, 1978	do	Mottl	H.R. 12005	235	158		60.0	40.0	Tuesday.
807	Sept. 20, 1978	do	Myers, G. (Pa.)	H.R. 1	39	353		10.0	90.0	Wednesday.
848	Sept. 28, 1978	do	do	H.R. 11733	12	380		3.0	97.0	Thursday.
648	Aug. 4, 1978	do	Obey	H.R. 12931	300	29		91.0	9.0	Friday.
575	July 20, 1978	do	do	H.R. 13467	268	127		68.0	32.0	Thursday.
545	July 14, 1978	do	Ottinger	H.R. 12163	165	132		56.0	44.0	Friday.
537	July 12, 1978	do	Quie	H.R. 15	150	240		38.0	62.0	Wednesday.
704	Aug. 15, 1978	Agreeing to the amendments	Railsback	H.J. Res. 638	196	227		46.0	54.0	Tuesday.
712	Aug. 16, 1978	do	Rousselot	H. Con. Res. 683	153	235		39.0	61.0	Wednesday.
772	Sept. 13, 1978	do	Skubitz	H.R. 8729	213	147		59.0	41.0	Do.
774	Sept. 14, 1978	do	Snyder	H.R. 8729	266	133		67.0	33.0	Thursday.
631	Aug. 2, 1978	do	Stark	H.R. 12514	146	260		36.0	64.0	Wednesday.
742	Sept. 8, 1978	do	Steiger	H.R. 11711	206	110		65.0	35.0	Friday.
628	Aug. 1, 1978	do	Stratton	H.R. 12514	212	189		53.0	47.0	Tuesday.
920	Oct. 14, 1978	do	Studds	H.R. 14104	231	157		60.0	40.0	Saturday.
570	July 19, 1978	do	Vanik	H.R. 13385	363	37		91.0	9.0	Wednesday.
888	Oct. 6, 1978	do	do	H.R. 13750	194	164		54.0	46.0	Friday.
681	Aug. 10, 1978	do	do	H.R. 13511	57	356		14.0	86.0	Thursday.
652	Aug. 7, 1978	do	Volkmer	H.R. 13635	53	327		14.0	86.0	Monday.
845	Sept. 27, 1978	do	Wiggins	H.R. 1	75	316		19.0	81.0	Wednesday.
806	Sept. 20, 1978	do	do	H.R. 1	34	365		9.0	91.0	Do.
698	Aug. 14, 1978	do	Wilson, C. (Tex.)	H.R. 12931	289	95		75.0	25.0	Monday.
654	Aug. 7, 1978	do	Yates	H.R. 13635	156	218		42.0	58.0	Do.
699	Aug. 14, 1978	do	Young (Fla.)	H.R. 12931	341	44		89.0	11.0	Do.
694	do	do	do	H.R. 12931	234	152		61.0	39.0	Do.
638	Aug. 2, 1978	do	do	H.R. 12931	194	200		49.0	51.0	Wednesday.
645	Aug. 3, 1978	do	do	H.R. 12931	198	203		49.0	51.0	Thursday.
727	Sept. 6, 1978	Agreeing to the amendments	Ashbrook	H.R. 7308	178	176		50.3	49.7	Wednesday.
524	July 10, 1978	do	Burton, P	H.R. 12536	110	275		29.0	71.0	Monday.
616	July 28, 1978	do	Butler	H.R. 12432	87	224		28.0	72.0	Friday.
766	Sept. 13, 1978	do	Emery	H.R. 11280	327	70		82.0	18.0	Wednesday.
883	Oct. 5, 1978	do	Hanley	H.R. 13471	252	72	9	78.0	22.0	Thursday.
820	Sept. 22, 1978	do	Kostmayer	H.R. 11733	76	199		28.0	72.0	Friday.
749	Sept. 11, 1978	do	Leach	H.R. 11280	251	96		72.0	28.0	Monday.
693	Aug. 14, 1978	do	Long (Md.)	H.R. 12931	359	27		93.0	7.0	Do.
692	do	do	do	H.R. 12931	241	153		61.0	39.0	Do.
728	Sept. 6, 1978	do	Mazzoli	H.R. 7308	224	103		69.0	31.0	Wednesday.
735	Sept. 7, 1978	do	McClory	H.R. 7308	176	200		47.0	53.0	Thursday.
674	Aug. 9, 1978	do	Obey	H.R. 12452	230	175		57.0	43.0	Wednesday.
679	Aug. 10, 1978	do	Steiger	H.R. 13511	409	1	1	100.0		Thursday.
651	Aug. 7, 1978	do	Volkmer	H.R. 13635	257	121		68.0	32.0	Monday.
747	Sept. 11, 1978	do	Wilson, C. (Calif.)	H.R. 11280	281	88		76.0	24.0	Do.
606	July 27, 1978	do	Ashbrook	S. Con. Res. 98	302	44		87.0	13.0	Thursday.
885	Oct. 6, 1978	do	Bauman	H. Res. 1404	300	56		84.0	16.0	Friday.
909	Oct. 13, 1978	do	do	R. Res. 1426	260	134		66.0	34.0	Do.
785	Sept. 15, 1978	do	Davis	H. Res. 1326	318	4		99.0	1.0	Do.
923	Oct. 14, 1978	do	Erlenborn	H. Res. 1425	342	38		90.0	10.0	Saturday.
784	Sept. 15, 1978	do	Flynt	H. Res. 1350	319	2	3	99.0	1.0	Friday.
914	Oct. 13, 1978	do	do	H. Res. 1414	329	41	29	89.0	11.0	Do.
687	Aug. 11, 1978	do	Harris	H. Res. 1307	357	18		95.0	5.0	Do.
938	Oct. 14, 1978	do	Holland	H. Res. 1148	261	107		71.0	29.0	Saturday.
667	Aug. 9, 1978	do	Horton	H. Res. 1201	19	381		5.0	95.0	Wednesday.
713	Aug. 16, 1978	do	Latta	H. Con. Res. 683	217	178		55.0	45.0	Do.
554	July 17, 1978	do	Lujan	H. Res. 1252	376	7	1	98.0	2.0	Monday.
535	July 12, 1978	do	Ottinger	H. Con. Res 559	181	227		44.0	56.0	Wednesday.
722	Aug. 17, 1978	do	Rousselot	H. Con. 1321	323	6		98.0	2.0	Thursday.
886	Oct. 6, 1978	do	do	H. Res. 1410	360	6		98,0	2.0	Friday.
620	July. 31, 1978	do	do	H. Res. 1286	323	21		94,0	6.0	Monday.
858	Sept. 29, 1978	do	Ryan	H. Res. 1348	328			100,0		Friday.
769	Sept. 13, 1978	do	Snyder	H. Res. 1293	236	155		60,0	40.0	Wednesday.
668	Aug. 9, 1978	do	Symms	H. Res. 1294	376	20		95.0	5.0	Do.
569	July 19, 1978	do	do	H. Res. 1277	303	98		76.0	24.0	Do.
649	Aug. 4, 1978	do	Volkmer	H. Res. 1291	330	7		98.0	2.0	Friday.
621	July 31, 1978	do	do	H. Res. 1247	265	84		76.0	24.0	Monday.
740	Sept. 8, 1978	do	Wilson, C. (Calif.)	H. Res. 1288	333	2	3	99.0	1.0	Friday.
780	Sept. 14, 1978	do	Wydler	H. Res. 1340	344	1		100.0		Thursday.
804	Sept. 20, 1978	do	do	H. Res. 1323	331	50		87.0	13.0	Wednesday.
779	Sept. 14, 1978	do	do	H. Res. 1242	40	327		11.0	89.0	Thursday.
534	July 12, 1978	do	Zablocki	S. Con. Res. 95	380	10	6	97.0	3.0	Wednesday.
641	Aug. 3, 1978	Approving the Journal	Ashbrook		362	14	1	96.0	4.0	Thursday.
782	Sept. 15, 1978	do	Davis		293	10	3	97.0	3.0	Friday.
773	Sept. 14, 1978	do	Mottl		336	12	4	97.0	3.0	Thursday.
691	Aug. 14, 1978	do	Stangeland		321	14	1	96.0	4.0	Monday.
686	Aug. 11, 1978	do	Symms		325	13	4	96.0	4.0	Friday.
543	July 14, 1978	Closing conference meetings	Price	H. R. 10929	312	5	1	98.0	2.0	Do.
879	Oct. 5, 1978	Closing the conference	Mahon	H. R. 13635	387			100.0		Thursday.
922	Oct. 14, 1978	Concur in Senate amendment	do	H. R. 12929	198	195		50.4	49.6	Saturday.
856	Sept. 29, 1978	Concur in Senate amendment with amendment	Rousselot	H. R. 12934	143	191		43.0	57.0	Friday.
731	Sept. 7, 1978	Motion to instruct conferees	Brown (Ohio)	H. R. 12930	194	201		49.1	50.9	Thursday.

ROLLCALL VOTES (JULY 1 THROUGH OCT. 14, 1978) LISTED ALPHABETICALLY ACCORDING TO VOTE DESCRIPTION—Continued

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Pres.	Percent Yea	Percent Nay	Day
778	Sept. 14, 1978	Motion to instruct conferees	Grassley	H. R. 9214	286	91		76.0	24.0	Thursday.
896	Oct. 12, 1978	do	Ullman	H. R. 13511	268	135	1	67.0	33.0	Do.
632	Aug. 2, 1978	Motion to limit debate	Dellums	H. R. 12514	171	228		43.0	57.0	Wednesday.
741	Sept. 8, 1978	Motion to recommit	Roncalio	S. J. Res. 4	190	148		56.0	44.0	Friday.
539	July 13, 1978	Motion to table	McDonald	H. Res. 1267	293	82		78.0	22.0	Thursday.
703	Aug. 15, 1978	do	Quillen	H. Res. 1315	230	183		56.0	44.0	Tuesday.
910	Oct. 13, 1978	Ordering a second	Ashbrook	H. Res. 1432	374	4		99.0	1.0	Friday.
929	Oct. 14, 1978	do	Bauman	H. Res. 1439	331	14	6	96.0	4.0	Saturday.
557	July 18, 1978	do	Cunningham	H. J. Res. 738	396	2		99.0	1.0	Tuesday.
567	July 19, 1978	Ordering the previous question	Anderson (Ill.)	H. Res. 1172	213	196		52.0	48.0	Wednesday.
768	Sept. 13, 1978	do	do	H. Res. 1293	199	193		50.7	49.3	Do.
912	Oct. 13, 1978	do	do	H. Res. 1434	207	206	1	50.1	49.9	Friday.
572	July 19, 1978	do	Bauman	H. R. 11504	282	105		73.0	27.0	Wednesday.
678	Aug. 10, 1978	do	Bolling	H. Res. 1306	284	130	1	69.0	31.0	Thursday.
702	Aug. 15, 1978	do	Volkmer	H. Res. 1295	243	171		59.0	41.0	Tuesday.
760	Sept. 12, 1978	Passage	Ashbrook	S. 3119	354	1		99.0	1.0	Do.
838	Sept. 26, 1978	do	do	H.J. Res. 1139	349	30		92.0	8.0	Do.
605	July 26, 1978	do	do	H.R. 7577	346	38		90.0	10.0	Wednesday.
542	July 13, 1978	do	Bauman	H.R. 15	350	20		95.0	5.0	Thursday.
585	July 21, 1978	do	do	H.R. 12433	270	26		91.0	9.0	Friday.
586	do	do	do	H.R. 13468	215	32		87.0	13.0	Do.
580	July 20, 1978	do	do	H.R. 13467	311	60		84.0	16.0	Thursday.
603	July 26, 1978	do	do	H.R. 3350	312	80		80.0	20.0	Wednesday.
614	July 28, 1978	do	do	H.R. 9400	254	69		79.0	21.0	Friday.
737	Sept. 7, 1978	do	do	H.R. 11280	246	128		66.0	34.0	Thursday.
700	Aug. 14, 1978	do	do	H.R. 12931	223	167		57.0	43.0	Monday.
637	Aug. 2, 1978	do	Broomfield	H.R. 12514	255	156		62.0	38.0	Wenesday.
568	July 19, 1978	do	Burton, J.	H.R. 11983	366	37		91.0	9.0	Do.
532	July 12, 1978	do	Burton, P.	H.R. 12536	341	61		85.0	15.0	Do.
705	Aug. 15, 1978	do	Butler	H.J. Res. 638	233	189		55.0	45.0	Tuesday.
626	Aug. 1, 1978	do	Carney	H.R. 4030	317	86		79.0	21.0	Do.
571	July 19, 1978	do	Conable	H.R. 13385	205	202		50.4	49.6	Wednesday.
665	Aug. 9, 1978	do	Edwards (Al)	H.R. 13635	339	60		85.0	15.0	Do.
918	Oct. 13, 1978	do	Guyer	H.R. 12370	343	27	1	93.0	7.0	Friday.
814	Sept. 21, 1978	do	Harsha	H.R. 12611	363	8		98.0	2.0	Thursday.
566	July 19, 1978	do	do	H.R. 1609	161	246	1	40.0	60.0	Wednesday.
849	Sept. 28, 1978	do	Howard	H.R. 11733	367	28		93.0	7.0	Thursday.
921	Oct. 14, 1978	do	Hughes	H.R. 14104	384	12	1	97.0	3.0	Saturday.
819	Sept. 22, 1978	Passage	Jeffords	H.R. 12452	284	50		85.0	15.0	Friday.
690	Aug. 11, 1978	do	Quillen	H.R. 13007	314	2	2	99.0	1.0	Do.
853	Sept. 28, 1978	do	Rousselot	H.R. 12005	322	21		94.0	6.0	Thursday.
872	Oct. 4, 1978	do	do	H.R. 14042	367	22		94.0	6.0	Wednesday.
743	Sept. 8, 1978	do	do	H.R. 11711	261	24		92.0	8.0	Friday.
873	Oct. 4, 1978	do	do	S. 1613	323	49		87.0	13.0	Wednesday.
907	Oct. 12, 1978	do	do	H.R. 11545	289	66		81.0	19.0	Thursday.
723	Aug. 17, 1978	do	do	H.R. 10898	253	67		79.0	21.0	Do.
612	July 27, 1978	do	Stanton	H.R. 12157	314	47		87.0	13.0	Do.
767	Sept. 13, 1978	do	Udall	H.R. 11280	385	10		97.0	3.0	Wednesday.
685	Aug. 10, 1978	do	Ullman	H.R. 13511	362	49		88.0	12.0	Thursday.
889	Oct. 6, 1978	do	Vanik	H.R. 13750	186	159		54.0	46.0	Friday.
600	July 26, 1978	do	Volkmer	H.R. 10285	401	6		99.0	1.0	Wednesday.
874	Oct. 4, 1978	do	do	H.R. 13059	303	73		81.0	19.0	Do.
846	Sept. 27, 1978	do	Wiggins	H.R. 1	368	30	1	92.0	8.0	Do.
525	July 11, 1978	do	Wilson, C. (Calif.)	H.J. Res. 1024	340	48		88.0	12.0	Tuesday.
726	Sept. 6, 1978	do	do	H.J. Res. 1088	233	132		64.0	36.0	Wednesday.
553	July 17, 1978	do	Wydler	H.R. 12163	325	67		83.0	17.0	Monday.
776	Sept. 14, 1978	do	do	H.R. 8729	272	123		69.0	31.0	Thursday.
877	Oct. 5, 1978	Presidential veto		H.R. 12928	223	190		54.0	46.0	Do.
730	Oct. 7, 1978	do	Price	H.R. 10929	191	206		48.0	52.0	Do.
866	Oct. 4, 1978	Previous question on R and C with amendment	Jacobs	H.R. 7843	285	114		71.0	29.0	Wednesday.
655	Aug. 8, 1978	Quorum	Ashbrook				368			Tuesday.
724	Sept. 6, 1978	do	do				315			Wednesday.
753	Sept. 12, 1978	do	do				330			Tuesday.
831	Sept. 26, 1978	do	do				327			Do.
876	Oct. 5, 1978	do	do				376			Thursday.
908	Oct. 31, 1978	do	do				311			Friday.
556	July 18, 1978	do	Bauman				370			Tuesday.
701	Aug. 15, 1978	do	do				357			Do.
729	Sept. 7, 1978	do	do				331			Thursday.
821	Sept. 25, 1978	do	do				282			Monday.
884	Oct. 6, 1978	do	do				314			Friday.
891	Oct. 12, 1978	do	do				306			Thursday.
623	Aug. 1, 1978	do	Broomfield				347			Monday.
551	July 17, 1978	do	Brown (Calif.)				348			Do.
677	Aug. 10, 1978	do	Burke (Mass.)				383			Thursday.
913	Oct. 13, 1978	do	Corman				369			Friday.
669	Aug. 9, 1978	do	Cornell				354			Wednesday.
714	Aug. 17, 1978	do	Danielson				325			Thursday.
931	Oct. 14, 1978	do	Dingell				366			Saturday.
870	Oct. 4, 1978	do	Dodd				302			Wednesday.
810	Sept. 21, 1978	do	Evans (Del.)				325			Thursday.
770	Sept. 13, 1978	do	Florio				310			Wednesday.
531	July 12, 1978	do	Foley				335			Do.
843	Sept. 27, 1978	do	Gonzalez				343			Do.
732	Sept. 7, 1978	do	Kemp				327			Thursday.
748	Sept. 11, 1978	do	Leach				294			Monday.
607	July 27, 1978	do	Long (Md.)				358			Thursday.
682	Aug. 10, 1978	do	Mikva				388			Do.
618	July 31, 1978	do	Mottl				295			Monday.
836	Sept. 26, 1978	do	do				348			Tuesday.
536	July 12, 1978	do	Quie				335			Wednesday.
587	July 24, 1978	do	Slack				252			Monday.
518	July 10, 1978	do	Wilson, C. (Calif.)				305			Do.
546	July 17, 1978	do	do				332			Do.
565	July 19, 1978	do	do				330			Wednesday.
589	July 25, 1978	do	do				355			Tuesday.
706	Aug. 16, 1978	do	do				359			Wednesday.
803	Sept. 20, 1978	do	do				327			Do.
816	Sept. 22, 1978	do	do				286			Friday.
855	Sept. 29, 1978	do	do				293			Do.
787	Sept. 18, 1978	do	Yates				292			Monday.
867	Oct. 4, 1978	Recede and concur in Senate amendment with amendment.	McClory	H.R. 7843	292	112		72.0	28.0	Wednesday.
893	Oct. 12, 1978	Recede and concur with amendment in Senate amendment.	Ashbrook	H.R. 12929	385	11		97.0	3.0	Thursday.
894	do	do	Mahon	H.R. 12929	391			100.0		Do.
811	Sept. 21, 1978	do	Bauman	H. Con. Res. 683	225	162		58.0	42.0	Do.

Roll	Date	Type of vote	Requester	Bill	Yea	Nay	Pres.	Percent Yea	Percent Nay	Day
857	Sept. 29, 1978	Recede and concur wirh amendment in Senate Amendments.	Fish	H.R. 12934	231	105	1	69.0	31.0	Friday.
861	Oct. 4, 1978	do	Walker	H.R. 12930	284	111		72.0	28.0	Wednesday.
716	Aug. 17, 1978	Recede and concur in Senate Amendment 48	Symms	H.R. 13467	133	245	6	35.0	65.0	Thursday.
880	Oct. 5, 1978	Recede and concur in Senate Amendment	Yates	H.R. 12932	206	186		53.0	47.0	Do.
906	Oct. 12, 1978	Recede from Senate amendment	Bauman	H.R. 12931	161	204		44.0	56.0	Do.
895	do	do	Mahon	H.R. 12929	188	216		47.0	53.0	Do.
903	do	Recommit conference report with instructions	Frenzel	H.R. 12505	207	185		53.0	47.0	Do.
892	do	do	Walker	H.R. 12929	187	200		48.0	52.0	Do.
904	do	Recommit conference report	Watkins	H.R. 12931	191	201		49.0	51.0	Do.
818	Sept. 22, 1978	Recommit with instructions	Ashbrook	H.R. 12452	81	252		24.0	76.0	Friday.
552	July 17, 1978	do	Brown (Calif.)	H.R. 12163	157	238		40.0	60.0	Monday.
917	Oct. 13, 1978	do	Dornan	H.R. 12370	137	232		37.0	63.0	Friday.
915	do	do	Fenwick	H. Res. 1416	219	170	1	56.0	44.0	Do.
684	Aug. 10, 1978	do	Kemp	H.R. 13511	177	240		42.0	58.0	Thursday.
736	Sept. 7, 1978	do	McClory	H.R. 7308	164	207		44.0	56.0	Do.
775	Sept. 14, 1978	do	Snyder	H.R. 8729	170	227		43.0	57.0	Do.
898	Oct. 12, 1978	Reject title VI of conference report	Wiggins	S. 555	49	344		12	88	Do.
744	Sept. 11, 1978	Resolving in committee	Ashbrook	H.R. 11280	318	4	2	99	1	Monday.
762	Sept. 13, 1978	do	do	H.R. 11280	328	5		98	2	Wednesday.
916	Oct. 13, 1978	do	do	H.R. 12370	327	6	1	98	2	Friday.
805	Sept. 20, 1978	do	Danielson	H.R. 1	361	4		99	1	Wednesday.
786	Sept. 15, 1978	do	Mottl	H.R. 11733	303	6		98	2	Friday.
847	Sept. 28, 1978	do	Rostenkowski	H.R. 11733	355	6		98.0	2.0	Thursday.
840	Sept. 27, 1978	do	Wilson, C. (Calif.)	H.R. 1	365	6	3	98.0	2.0	Wednesday.
738	Sept. 7, 1978	do	do	H.R. 11280	307	10	1	97.0	3.0	Thursday.
781	Sept. 14, 1978	do	Wydler	H.R. 12611	300	8		97.0	3.0	Do.
663	Aug. 09, 1978	do	Ashbrook	H.R. 13635	367	4	1	99.0	1.0	Wednesday.
650	Aug. 07, 1978	do	do	H.R. 13635	320	6		98.0	2.0	Monday.
581	July 21, 1978	do	Bauman	H.R. 12433	268	6		98.0	2.0	Friday.
688	Aug. 11, 1978	do	Clay	H.R. 11280	340	13	1	96.0	4.0	Do.
613	July 28, 1978	do	Mottl	H.R. 9400	304	4	1	99.0	1.0	Do.
622	July 31, 1978	do	do	H.R. 12514	317	11		97.0	3.0	Monday.
615	July 28, 1978	do	Rousselot	H.R. 12432	303	5		98.0	2.0	Friday.
555	July 17, 1978	do	Symms	H.R. 1609	344	23	2	94.0	6.0	Monday.
574	July 20, 1978	do	Wilson, C. (Calif.)	H.R. 13467	357	3	1	99.0	1.0	Thursday.
597	July 26, 1978	do	do	H.R. 10285	262	2	1	99.0	1.0	Wednesday.
630	Aug. 02, 1978	do	do	H.R. 12514	372	7		98.0	2.0	Do.
647	Aug. 04, 1978	do	do	H.R. 12931	272	7	1	97.0	3.0	Friday.
752	Sept. 11, 1978	Strike enacting clause	Wilson, C. (Calif.)	H.R. 11280	46	286		14.0	86.0	Monday.
791	Sept. 18, 1978	Suspend rules and concur in Senate Amendments	Kindness	H.R. 7819	397	7		98.0	2.0	Do.
942	Oct. 14, 1978	do	Foley	H.R. 10979	129	31	5	81.0	19.0	Saturday.
911	Oct. 13, 1978	Suspend rules and pass	Edgar	H. Res. 1432	287	123		70.0	30.0	Friday.
869	Oct. 4, 1978	do	Fithian	H.R. 12917	352	49		88.0	12.0	Wednesday.
901	Oct. 12, 1978	do	Moorhead (Calif.)	S. 957	224	166		57.0	43.0	Thursday.
868	Oct. 4, 1978	do	Richmond	H.R. 13845	399	7		98.0	2.0	Wednesday.
900	Oct. 12, 1978	do	Rousselot	H.R. 9893	388	5		99.0	1.0	Thursday.
930	Oct. 14, 1978	do	do	H. Res. 1439	341		9	91.0	9.0	Saturday.
902	Oct. 12, 1978	do	Volkmer	S. 1503	304			77.0	23.0	Thursday.
519	July 10, 1978	do	Ashbrook	H.J. Res. 613	362	8		98.0	2.0	Monday.
755	Sept. 12, 1978	do	do	H.R. 13311	366	6		98.0	2.0	Tuesday.
549	July 17, 1978	do	Badham	H.R. 12380	381	4		99.0	1.0	Monday.
558	July 18, 1978	do	do	H.R. 12443	396	20		95.0	5.0	Tuesday.
563	do	do	do	H.R. 6075	376	43		90.0	10.0	Do.
624	Aug. 1, 1978	do	Bauman	H.R. 12972	399	4		99.0	1.0	Do.
758	Sept. 12, 1978	do	do	H. Res. 1342	304	69		82.0	18.0	Do.
591	July 25, 1978	do	Beard (Tenn.)	H.R. 12349	372	22		94.0	6.0	Do.
592	do	do	do	H.R. 12973	346	54		87.0	13.0	Do.
828	Sept. 25, 1978	do	Bingham	H.R. 9486	308	75		80.0	20.0	Monday.
547	July 17, 1978	do	Brinkley	H.R. 12028	373			100.0		Do.
795	Sept. 19, 1978	do	Broyhill	H.R. 12460	301	102		75.0	25.0	Tuesday.
790	Sept. 18, 1978	do	Collins (Tex.)	H.R. 10792	350	54		87.0	13.0	Monday.
564	July 18, 1978	do	Cunningham	H.J. Res. 738	337	81		81.0	19.0	Tuesday.
835	Sept. 26, 1978	do	Danielson	S. 2727	244	158	1	61.0	39.0	Do.
625	Aug. 1, 1978	do	Dornan	H.J. Res. 963	401	2		99.0	1.0	Do.
754	Sept. 12, 1978	do	Emery	H.R. 12860	249	122		67.0	33.0	Do.
759	do	do	Gephardt	H.R. 13331	362	9		98.0	2.0	Do.
797	Sept. 19, 1978	do	Grassley	H.R. 12101	236	163		59.0	41.0	Do.
561	July 18, 1978	do	Hammerschmidt	H.R. 12011	415			100.0		Do.
562	do	do	do	H.R. 11891	418			100.0		Do.
593	July 25, 1978	do	do	H.R. 11889	394	4		99.0	1.0	Do.
560	July 18, 1978	do	do	H.R. 12252	407	9		98.0	2.0	Do.
594	July 25, 1978	do	do	H.R. 11890	393	9		98.0	2.0	Do.
588	July 24, 1978	do	Harkin	H.J. Res. 946	264	10		96.0	4.0	Monday.
793	Sept. 19, 1978	do	Levitas	H.R. 12326	393	3		99.0	1.0	Tuesday.
833	Sept. 26, 1978	do	Meeds	H.R. 9333	263	143	1	65.0	35.0	Do.
829	Sept. 25, 1978	do	Mineta	H.R. 13597	332	48	1	87.0	13.0	Monday.
559	July 18, 1978	do	Mottl	H.R. 12508	413			100.0		Tuesday.
619	July 31, 1978	do	do	H.R. 9998	329	6		98.0	2.0	Monday.
550	July 17, 1978	do	do	H.R. 10848	351	32		92.0	8.0	Do.
834	Sept. 26, 1978	do	Oakar	H.R. 12728	368	38		91.0	9.0	Tuesday.
825	Sept. 25, 1978	do	Rogers	H.R. 13655	327	60		84.0	16.0	Monday.
826	do	do	do	H.R. 12584	306	77		80.0	20.0	Do.
827	do	do	do	H.R. 12370	193	193		50.0	50.0	Do.
526	July 11, 1978	do	Roncalio	H.R. 11827	323	74	1	81.0	19.0	Tuesday.
823	Sept. 25, 1978	do	Rooney	H.R. 11870	289	96		75.0	25.0	Monday.
824	do	do	do	H.R. 12162	188	196		49.0	51.0	Do.
788	Sept. 18, 1978	do	Rostenkowski	H.R. 13097	398	2		100.0		Do.
521	July 10, 1978	do	do	H.J. Res. 773	363	11	1	97.0	3.0	Do.
792	Sept. 18, 1978	do	Rousselot	H.R. 11488	261	141	1	65.0	35.0	Do.
522	July 10, 1978	do	Russo	H.R. 13087	375	0		100.0		Do.
520	do	do	do	H.J. Res. 1007	360	6	1	98.0	2.0	Do.
757	Sept. 12, 1978	do	Simon	H.R. 5265	205	166		55.0	45.0	Tuesday.
832	Sept. 26, 1978	do	Stratton	S. 274	395	12		97.0	3.0	Do.
548	July 17, 1978	do	Symms	H.R. 12232	300	81		79.0	21.0	Monday.
830	Sept. 25, 1978	do	Ullman	H.R. 13488	282	94		75.0	25.0	Do.
822	do	do	Vanik	H.R. 10584	325	62		84.0	16.0	Do.
590	July 25, 1978	do	Volkmer	H.R. 11823	390	8		98.0	2.0	Tuesday.
756	Sept. 12, 1978	do	do	H.R. 12026	360	9		98.0	2.0	Do.
523	July 10, 1978	do	do	H.R. 12106	340	32		91.0	9.0	Monday.
789	Sept. 18, 1978	do	do	H.R. 13817	359	40		90.0	10.0	Do.
794	Sept. 19, 1978	do	Weiss	H.R. 12303	392	12		97.0	3.0	Tuesday.
796	do	do	Wiggins	S. 703	326	78		81.0	19.0	Do.
533	July 12, 1978	Table appeal from ruling	Ashbrook		277	120	2	70.0	30.0	Wednesday.
878	Oct. 5, 1978	Table motion to instruct	Dickinson	H.R. 13635	165	225	1	42.0	58.0	Thursday.
689	Aug. 11, 1978	Table motion to reconsider	Clay	H.R. 11280	327	8		98.0	2.0	Friday.
739	Sept. 7, 1978	do	do	H.R. 11280	296	18		94.0	6.0	Thursday.
862	Oct. 4, 1978	do	Walker	H.R. 12930	392	4		99.0	1.0	Wednesday.

EDUCATION AMENDMENTS OF 1978

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mrs. CHISHOLM. Mr. Speaker, in the closing hours of the 95th Congress, we have enacted H.R. 15, the bill reauthorizing the Elementary and Secondary Education Act (ESEA) of 1965. H.R. 15, the Education Amendments of 1978, is the single-most significant legislative initiative in the education area since this landmark legislation was first enacted in 1965 under the stewardship of President Johnson and Education and Labor Committee Chairman Adam Clayton Powell of New York.

This legislation, the product of 75 days of hearings before the Subcommittee on Elementary, Secondary, and Vocational Education and 3 weeks of markup in the subcommittee and the full House Education and Labor Committee, represents a superior effort by the committee, its chairman, the Congress, and the administration. This bill is the outgrowth of maximum effort by the Democratic Congress and a Democratic President—the first time that combination has been present for the reauthorization of ESEA since ESEA first became law. The Congress and the President should be proud of this legislative achievement.

To a large extent, H.R. 15 contains many of the proposals made by the President. In certain critical areas, significant improvements have been fashioned by both the House and the Senate. Some important highlights of this important legislation are:

The bill contains the President's proposal for a $400 million program of grants to schools with exceptionally high concentrations of low-income children.

The bill contains a State incentive match program proposed by the President, which will provide one Federal dollar for each two State dollars spent in educating educationally deprived children.

The bill includes significant new mechanisms for providing Federal educational assistance to private schools.

The bill makes important inroads into the paperwork burdens facing local school districts and State educational agencies by providing for multiyear funding, reduced Federal reporting requirements, and a reduction in Federal data acquisition requirements.

The provisions in title I and title II of the bill will permit the Federal Government to continue its massive compensatory education program for the poor and educationally deprived and to mount a new thrust to assist the States, local school districts, and parents to improve instruction in the basic skills of reading, writing, and mathematics.

Title VII of H.R. 15 includes important revisions in the Bilingual Education Act which will insure that bilingual services will be provided to the most linguistically needy children and provide for needed research and improvement of bilingual programs.

I have a very special interest in three parts of H.R. 15—the new title III, part L, establishing a program to encourage disadvantaged youth to pursue education and careers in the biomedical sciences, the new gifted and talented program and the new parental involvement provisions in title I. Because these were the principal foci of my testimony before Chairman PERKINS and because my staff worked hard to insure their inclusion in the final bill, I am doubly pleased with H.R. 15.

The Education Amendments of 1978 are the product of 2 years of work by the House Education and Labor Committee and reflects the cooperation of the administration and the hard work of Chairman PERKINS and numerous members of the committee. It reflects reform of the impact aid program, a revised formula in title I which will distribute $3.1 billion more equitably to 14,000 of the 16,000 school districts across America, and will provide more educational services to more American schoolchildren than any bill previously enacted by the Congress. These funds are especially important to minority youngsters, school teachers, and administrators, and school board members in urban areas.

The 95th Congress and President Carter have cast an overwhelming vote of confidence in America's young people. This Congress and this President will be recorded among the best in their service to education.●

THE DOMESTIC VIOLENCE ACT OF 1978

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. OBERSTAR. Mr. Speaker, I strongly support the Domestic Violence Act of 1978. This measure is a vital first step, not only as a means of raising the level of public consciousness on the problems of domestic violence, but also as a means of initiating a systematic approach for providing assistance to the victims of physical abuse. The pervasiveness of attacks on defenseless women and children is shocking.

Consider the following examples of brutally abused individuals: one with two black eyes, a laceration on her jaw; another with a lip swollen to the size of an overripe lemon; a third permanently scarred by a bald spot where she has been dragged by the hair; and a fourth, and her 4-month-old baby, beaten with a steel belt. These are just a few cases of an ugly and perverted practice that is national in scope.

It is no exaggeration to say that domestic violence is a tacitly accepted custom in our society. In the Middle Ages men were exhorted to beat their wives, who, in turn, were expected to accept obediently. This "pre-enlightened" attitude, combined with a belief that women or children, by nature, could have no civil rights, was so ingrained that it was common for men to treat their animals better than their wives or children.

Although nobody knows the exact extent of the problem of domestic violence, some estimate that abuse of spouse or children occurs in one out of every six marriages, while others believe it involves between 50 to 70 percent of all American families. A number of researchers have conducted studies on the extent of battering or abuse.

Dr. Richard J. Geeles, a sociologist at the University of Rhode Island, produced a landmark study on physical violence between married persons. His report contained several revelations. The study of 80 middle-class Rhode Island families revealed that 55 percent engaged in one or more violent acts of spouse assaults, and 21 percent beat their spouses regularly. The frequency of assault ranged from six times a year to daily.

Another sociologist, Murray Strauss, interviewed New Hampshire college students about violence in their homes. The study results showed that 16 percent of the parents had, within the previous year, been physically abusive of their spouse.

A 1974 study in Montgomery County, Md., the richest suburb in the United States, reported that 10 percent of all domestic police calls were to investigate wife beating. Authorities feel this statistic is underestimated because domestic violence is the least reported crime. One-fourth of all persons murdered in the United States in 1975 were killed by a family member, and half of those were killed by a spouse. Maybe if we could thwart domestic violence in the earlier stage, we could prevent the greater tragedies.

The legislation we have before us will provide funding for programs designed to prevent domestic violence and to treat the victims of such violence.

The Domestic Violence Act will:

First. Establish the Office of Domestic Violence within the Office of the Secretary of Health, Education, and Welfare;

Second. Require the Administrator of the Office of Domestic Violence to coordinate Federal programs relating to domestic violence;

Third. Provide grants to community domestic violence programs and funding for services such as: Shelter, rent, counseling, job training for victims, legal services, emergency food and clothing for victims, and other follow-up services.

This worthwhile measure will touch every congressional district. In my own district, in northeastern Minnesota, there is only one battered women shelter serving eight counties. When this shelter opened its doors on March 1, 1978, 18 women were waiting to be housed. Since then, it has cared for 87 women, 110 children, and dealt with 73 women as outreach clients. But the facility is only a temporary one and cannot accommodate more than 10 women and children at any given time. Rough estimates from the Northeastern Coalition for Battered Women, Inc., show that daily 15 women are abused. The State

of Minnesota funds one-third of the shelters' annual budgets, but greater financial assistance is desperately needed. As foundation money becomes more and more scarce, Federal assistance will be necessary to supplement State assistance to these shelters. This measure will provide that monetary help.

Money, however, is not enough if we are going to make any headway in curbing domestic violence. Public awareness and sensitivity to the problem are as important as physical structures or services. It is in this area that each Member of this body can play a key role. By encouraging the local police departments in their districts to train their personnel to handle these problems, and to provide education seminars in conjunction with local shelters, advancements can be made.

The problem is a serious one affecting people of all age groups, race, and socioeconomic backgrounds. Compassion is the proper name of this legislation. Its enactment is long overdue.●

THE CASE FOR CONTROLS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. WEISS. Mr. Speaker, on October 13 I introduced legislation to give the President standby wage and price control authority. In the following article—New Republic, October 14, 1978—the distinguished economist Robert Lekachman sets forth a powerful case for such authority.

THE CASE FOR CONTROLS

(By Robert Lekachman)

Last month in the Wall Street Journal, Herbert Stein, the conservative economist who reluctantly presided over Nixon price and wage controls in 1971 and afterwards, warned President Carter that he was poised upon the slippery downward path toward the same destination. Stein sketched a strong story line. Jawboning a la Robert Strauss will be a palpable fiasco, leading to "voluntary" guideposts or—in Carter administration newspeak—"standards" for allowable wage and price hikes. As the standards predictably become items of hooting and derision, various politicians eat their previous statements in the national interest and opt for mandatory powers over refractory corporations and unions. All that separates 1978 from 1971, Stein said, is a new control gimmick. This is TIP, short for tax-based incentive schemes which either promise rewards for good behavior (the Arthur Okun model) or impose tax penalties for inflationary conduct (the Henry Willich-Sidney Weintraub variant). Otherwise, plus ca change, plus c'est la meme chose. As expected, Stein's moral is: stop right here and turn back before it is too late.

I agree with Stein that controls are in our near future. Unlike him, I consider them potentially benign, if they are appropriately designed and judiciously applied. What follows then is a minority case for controls which, the pollsters report, are favored by a majority of the public, but opposed by business, labor, and most of my colleagues. It is well to start with a practical consideration. In the absence of credible executive action against inflation, the Federal Reserve will do its thing by raising interest rates so high and reducing monetary growth so severely that our aging business cycle recovery will sputter to a halt and give way to another recession. Ominous signs are numerous that the Fed has already embarked on just such a course. Although G. William Miller is younger, brisker, and shorter of wind than the canonized Arthur Burns, he is as much imprisoned by the anti-inflation ideology of central banking as any other Federal Reserve chairman.

The latest Congressional budget resolution, it is true, can be interpreted as a sign of fiscal restraint and an excuse for the Fed to control its anti-inflationary zeal. The projected 1979 fiscal year deficit, a mere $38.7 billion, is smaller both than the current deficit and the administration's projections for the coming year. Unfortunately today's inflation has more to do with cost-push pressures and external events than with excessive total demands for goods and services. It is simply not true that too many dollars (created by federal profligates) are chasing too few goods and services. Notwithstanding popular mythology about the inevitable connection between federal deficits and inflation, a truly balanced federal budget would moderate inflation only slightly. But it certainly would precipitate a sharp contraction and sickening unemployment rates.

Still something must be done about inflation. The omniscient pollsters, once more, report that it is the most pressing of public issues. Its impact resonates in the defeat of "big-spenders" like Representative Donald Fraser in Minnesota and "big taxers" like Massachusett's Governor Michael Dukakis. Continuing inflation is certain to cause the defeat in November of more liberals and more liberal legislation. Humphrey-Hawkins has become the victim of the new conservative mood stimulated by inflation.

The outlook is anything but cheerful. The second-quarter jump in the cost of living exceeded an annual rate of 10 percent. Price increases seem to have moderated since then, but the pause is likely to be temporary. In 1979, a series of major labor contracts come up for renewal—petroleum refining in January, construction beginning in February, trucking at the end of March, rubber in April, clothing in May, electrical products in July, meatpacking in August, and autos and farm implements in September. These agreements cover nearly two million workers and exert a strong influence upon labor costs in the non-union sector. The outcome of teamster negotiations, applicable to over a half a million truck drivers, is especially important. There is not a hope in hell that any union would be allowed by its members to settle for an increase smaller than the current inflation rate plus something extra for gains, real or conjectural, in productivity.

As everybody including the Carter administration and the Fed fully realizes, unless the cost of living is somehow controlled in the next few months, a series of 1979 labor contracts will be negotiated at highly inflationary rates. In the waning months of 1978, the grim choices before the White House are a credible anti-inflation program or a presidential reelection campaign in the middle of a recession. Congressional fiscal restraint and Federal Reserve monetary policy manifestly are inadequate. All that is left is controls.

Are controls even worse than unemployment and inflation? Ask almost any economist and he or she will enthusiastically itemize the trade's bill of particulars against controls. The familiar litany goes like this. Controls rudely interfere with market haggling which generates prices and wage rates consistent with the intensity of consumer demand and the eagerness of sellers to fill it. When the customers are in an acquisitive mood, prices rise—as they should. When the merchants are hungry for sales, they slash prices and run legitimate sales—as they should. Shifting consumer tastes, changing relationships between the demand for and the supply of various skills and frequent innovations by profit-seeking business types all guarantee constant flux in myriads of individual prices. Nobody sets either prices or wage rates. They emerge from the interplay of consumers seeking to maximize their satisfactions and producers equally intent on maximizing profit, just as your introductory textbook explained these matters.

When the process works well, sellers respond alertly to the signals their customers emit. The latter evoke more supply when they buy unexpectedly large quantities. When consumers unexpectedly buy less than sellers hoped, retailers, wholesalers, and processors all reduce orders or output. The consumer is king or queen, caster of the dollar votes which enrich some businessmen and bankrupt others.

Into this competitive Eden enter the controllers equipped with a barrel of apples of discord. To set prices, wages or both is to design a multitude of regulations. As ever, hordes of bureaucrats are mobilized to compose, administer and interpret them. All bureaucracy is slow, cumbersome, inflexible and unimaginative, and public bureaucracies are the most club-footed of all. Before long, inequities begin to multiply. Evasion and black markets proliferate. At some point, controls break down as the inevitable consequence of public resentment, intolerable interferences in private decisions and sheer unworkability.

The economy is set free, wages and prices explode and the net impact of the economy's temporary captivity is some alteration of the chronology of inflation—a bit less during the controls phase and a great deal more in its aftermath. In retrospect the Nixon controls were just successful enough in 1971 and 1972 to aid the reelection of their perpetrator. When they were drastically weakened, early in 1973, inflation resumed as though nothing had happened. Thus it has been since the days of Diocletian, that pioneer Roman price controller. Never has it been possible for very long, major wars alone excepted, to maintain effective controls in market economies.

If by chance controls do persist for years or decades, they defeat their own aims. In New York City, it is frequently claimed, the net effect of rent controls is rapid housing abandonment, sluggish construction of new apartments and inadequate maintenance of existing structures. Furthermore, rent control provides inadvertent subsidies to many lucky but unneedy middle-class tenants, among them the writer of this article, the mother of a former editor of this journal and others of our like. As I shall shortly suggest, there is another side to this story.

The case for controls is much stronger than the cynical argument that presidents, contemplating the next election in fear and trembling, tend to resort to them in preference to executive inaction which opens the door to recession and involuntary retirement to civilian life. The case against controls is premised on the prevalence of free competition. Only when prices and wages are the genuine product of individual preferences, competitively exerted by buyers and sellers, do markets really operate to widen individual choice, encourage innovation, reward efficiency, and punish sluggards.

But genuine price competition occurs only when sellers are too numerous to collude tacitly or overtly to avoid such rivalry. Unhappily a very large part of the American economy is otherwise arranged. In most branches of manufacturing members of the Fortune honor roll—the mighty 500 largest corporations—play dominant roles. In 1977 the auto big three registered sales respectively

of $55 billion, $19.2 billion and $7.7 billion. The tidy total, $81.9 billion, is about five percent of GNP. Who believes that General Motors, Ford, and Chrysler engage in classic price competition? As the universe is aware, General Motors has traditionally acted as the industry's price leader. Price leadership is commonplace in industries organized in large units.

These industries are numerous and important. The seven sisters of the energy industry—Exxon, Texaco, Mobil, Standard Oil of California, Gulf, Standard Oil of Indiana, and Shell are majestic presences not only in oil extraction, transportation, refining and marketing, but also in coal, shale, solar research and a variety of activities unrelated to energy. These "rivals" are intricately associated with each other in dozens of joint ventures.

IBM of course dominates computer technology and sales. General Electric and Westinghouse lead in consumer appliances and industrial equipment. Reynolds and Kaiser share the market for light metals. General Mills, Beatrice Foods, Ralston Purina, Borden, Coca Cola and General Foods are the princes of processed foods. And so on.

Market power is concentrated in finance as well as manufacturing. In 1977 our 50 largest commercial banks enjoyed deposits of $521.2 billion and loans of $380.7 billion. By themselves, the five leaders—Bank of America, Citicorp, Chase Manhattan, Manufacturers Hanover and J. P. Morgan—presided over deposits of $219.2 billion and loans of $162.3 billion.

As those who lack the green stuff need not be reminded, money is political as well as economic power. In 1974, when New York's big banks stopped marketing municipal bonds and notes, the city teetered on the edge of default. In 1978 New Yorkers continue to live with the consequences of this financial decision, among them several levels of supervision of city affairs exercised variously by the Secretary of the Treasury, the governor of the state, the Municipal Assistance Corporation and the Emergency Financial Control Board. Services are fewer, the streets are dirtier and treatment of the poor is meaner as a consequence of essentially private decisions by those who wield great power. In its reluctant approval last summer of loan guarantees, Congress extended outside supervision of the New York budget for as long as 19 years.

Huge assets are similarly concentrated in the coffers of the larger life insurance companies. Last year the assets of the top fifty totaled $278.1 billion. As usual, in the land of giants, the tallest half dozen tower over their fellows. Prudential, Metropolitan, Equitable, New York Life, John Hancock and Aetna registered balance-sheet assets of $155.2 billion, substantially more than half of the sum for the 50 leaders. These massive organizations (dare I call them bureaucracies?) make investment decisions of tremendous community import. A discreet policy of redlining "changing" neighborhoods (read increasingly black and Hispanic) accelerates deterioration, discourages local merchants and white residents and brings to pass the prophency of decline implicit in the original redlining decision.

At the risk of becoming tedious, I must add a word about public utilities. ATT is seven times the size of General Telephone & Electronics, numbered two. Blessed as it is by profits of $4.5 billion, assets in excess of $94 billion and nearly a million empoyees, no wonder that ATT has won most of its contests with state and federal regulators. Even New York's warmly despised Con Ed ranked seventh in 1977 with assets of $6.8 billion and profits of $323.6 billion, blackout or no blackout.

I recite these dreary statistics in reiteration of a single, simple point. Over a broad expanse of the American economy, price competition is a myth. In 1974 and 1975, two bad years for auto sales, GM and its friendly rivals raised prices about $1000 per chariot. This year when the appreciation of the mark and the yen substantially increased the dollar prices of Volkswagens, Toyotas, Datsuns and Hondas, the American companies did not gratefully seize a chance to enlarge the domestic share of the rapidly growing subcompact market. Instead in the wake of each German or Japanese price advance, domestic producers raised their own prices. Somewhat similar events have occurred in steel. Over the years the companies have raised prices, lost customers to foreign producers and substitute materials, and screamed successfully for federal help. The Carter administration's trigger price system, welfare for the mighty, has allowed domestic prices and profits to rise and thus done its bit to exacerbate inflation.

These market strategies may be either intelligent or stupid from the standpoint of managers and stockholders. Here the relevant, crucial fact is the sheer capacity of a very few human beings at the head of a small number of huge private enterprises to choose pricing policies capable of either promoting or diminishing inflation. GM's Thomas Murphy might have decided to sell more units at lower average prices and unit profits. He opted for fewer units at higher prices. For all I know (or Mr. Murphy knows), this was the right way to maximize long-run profits. No one can be sure. But the process of decision is far removed from textbook expositions of how prices emerge from the interplay of supply and demand. These prices "emerge" from the deliberate meditations of a very few people. Even the textbooks concede that the normal effects of oligopoly include higher prices, smaller output and larger marketing and advertising expenditures than their parallels in competitive markets.

In passing, I should properly salute another sacred cow. Americans revere both the oldest antitrust statutes in the universe and the large corporations whose conduct they ostensibly monitor. As Thurman Arnold persuasively argued four decades ago, the major function of the Sherman and Clayton Acts is the rendition of occasional ceremonial exorcisms of monopoly that reassure the gullible and allow conglomerates to spread and multinationals to proliferate. The antitrust division of the Department of Justice celebrated a famous triumph over the oil trust—in 1911. Things have not gone so well since then.

If antitrust is a farce, inflation is a permanent menace, fiscal and monetary policy are demonstrably incapable of combining reasonably full employment with acceptable price behavior and deep recession is politically and socially unacceptable therapy, there isn't much left except some kind of incomes policy. No. wonder then that so many countries on so many occasions have ignored their economists and installed social contracts (Great Britain), price controls (Sweden), combinations of wage and price controls (the usual American preference) or national wage settlements implicitly combined with price restraint (the Netherlands and West Germany).

Our choice in 1978 and 1979 is between a good and a bad set of controls. Good controls begin with recognition that concentration of economic power, an apparently permanent characteristic of advanced industrial societies, requires an equally durable political response. President Carter ought to seek and Congress ought to grant power in appropriate circumstances to impose price controls, wage controls or both. In a democracy government can appropriately refrain from regulation of the private sector only in those industries where competition genuinely disperses economic power. In the 50 percent or more of the economy dominated by large units, substitution of public price standards for private ones is a gain in political accountability. Voters routinely evict politicans who bungle. Against private price controllers they have no practical recourse.

Controls must be equitable if widespread resistance, evasion and active sabotage are to be averted. In current conditions, there is an excellent case for accepting George Meany's challenge. Still brooding over the injustices of Nixon controls, Mr. Meany has consistently insisted that before unions can fairly be expected to restrain their demands for wage improvement, sellers must first display appropriate price discipline. Despite much political propaganda to the contrary, union settlements up to now have been generally moderate, the special case of the miners aside. Even strong unions have done little more than keep abreast of the cost of living. The Carter administration, whose relations with the unions are strained, could do worse than opt for price controls and proceed to wage controls only if price controls fail to evoke good union behavior.

Sensible controls are selective, not universal. Nixon's efforts to regulate retail prices were ill-advised on at least three grounds. They required a huge bureaucracy for effective enforcement. They generated much resentment, especially in the hearts of small merchants, crushed by new paperwork. Worst of all, they were unnecessary.

With only a few exceptions, retailing is a genuinely competitive activity. Here the general case in favor of free markets and against controls contains merit. Controls ought to be applied to the concentrated sectors in which very large private bureaucracies operate major economic units. The numbers of vised by a control bureaucracy quite modest such units are small enough to be superin size.

Here it is appropriate to return briefly to rent controls. If the New York experience of them has been one of exemplary horror, why are an increasing number of other communities reimposing or thinking of reimposing these dreadful devices? For partisans of "free" markets, the explanation is unpleasant. It is the fact that the construction industry has lamentably failed to provide anything like the needed quantities of low and moderate price housing, privately owned or rental. The average price of a home today is $63,000, and it is rising one percent monthly. This means only the top fifth of the income distribution can really afford to buy a home. Now, a combination of cash allowances for low-income families and publicly financed modestly priced apartments and homes is certainly preferable to controls on grounds of both equity and efficiency. But with all their inequities and inefficiencies, controls seem preferable to a "free market" in real estate without these added elements which do not seem to be in prospect. Thus, the cry for controls is likely to increase in intensity wherever—as in health and housing—markets fail to deliver the goods.

Ours is an inflationary world. Controls over concentrated industries, and activities like construction and health where market failure is glaring will drain only some inflation out of the American or any other economy. Harvest failures enlarge farm exports to the Russians, the Chinese and the Africans. Supermarket prices rise. Frost destroys the coffee harvest in Brazil. OPEC plans to respond to the inflation which it helped mightily to stimulate by raising 1979 prices. We are increasingly entangled in a world economy and affected by our currency and trading connections with friends, enemies and neutrals.

Controls are no panacea. Nevertheless, some restraint of inflation is preferable to none or very little. In the modern world, the giant corporation, usually global in scope, is the successor to the Holy Roman Church of the

Middle Ages and the national state which followed it. Corporate decisions affect all of us far too intimately to allow of private autonomy.

Candidate Carter had it right when he opted for standby controls. President Carter has it wrong in opposing such controls now. He should make a meal of his more recent instead of his earlier utterances.●

SEEKS TRAINING FOR GUARDSMEN IN ESSENTIAL POLICE AND FIRE SERVICES

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I am today introducing a bill to provide for training the National Guard in essential police and fire services.

Presently, there is no Federal legislation addressed to the problem a local unit of government faces if it is without the service of its police or fire department. We have available a State militia to provide a support role if the Governor were to declare a state of emergency.

However, our guardsmen do not receive specific training in police and fire duties. In fact, I am informed that the powers of the guardsmen when activated by the Governor vary from State to State. Not all States have given their National Guard the authority to arrest.

In order to establish some uniformity throughout the National Guard, I am proposing legislation to add a new section to chapter 5 of title 32, United States Code. Title 32 is entitled National Guard.

The new section, which if enacted would become section 508, would establish a mandatory requirement that the National Guard be trained in essential police and fire services. The bill is as follows:

H.R. —

A bill to amend title 32 of the United States Code to require the National Guard to be trained in providing essential police and fire services

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 32 of the United States Code is amended by inserting immediately after section 507 the following new section:

"§ 508. Training in essential police and fire services

"The training of the National Guard shall include training in providing essential police and fire services.".

SEC. 2. The section analysis of chapter 5 of title 32, United States Code, is amended by inserting immediately after the item relating to section 507 the following new item:

"508. Training in essential police and fire services.".

I think this section is necessary to assure the citizenry that they always will have the police and fire protection they need. More than anything, the people have come to depend on knowing their police and fire departments are standing ready to help them in their own personal emergencies.●

MOMENT OF SILENCE

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MARTIN. Mr Speaker, I take this time to call upon the House to observe a moment of silent meditation upon the eve of the adjournment sine die of this the 95th Congress.●

PERSONAL EXPLANATION

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. FOUNTAIN. Mr. Speaker, at the time of rollcall No. 936 on the conference on H.R. 15, ESEA amendment, I was keeping a longstanding, unbroken Sunday school and Bible class attendance at a nearby church.

Had I been present, I would have voted "yea."●

PUBLIC WORKS FUNDS IN THE AMOUNT OF $3.7 MILLION APPROVED FOR WESTERN NEW YORK

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. KEMP. Mr. Speaker, I am pleased that the continuing resolution containing $3.782 million in public works funding for western New York flood control and water projects has now passed the House and the Senate and is awaiting President Carter's signature.

Critical funds for the commencement of the Ellicott Creek flood control project had been in jeopardy because of the President's veto of the public works appropriations bill last week. However, in an admirable spirit of compromise, congressional conferees elected to eliminate funding for the 6 projects on the President's "hit list" along with moneys for 11 other projects he opposes, thereby restoring hope that funds can be obtained for vital projects such as Ellicott Creek, Scajaquada Creek, and waste water management studies for Lake Erie.

I met personally with President Carter to advise him of the urgent need for these projects to prevent possible loss of life and property due to floods along the 110-square-mile Ellicott Creek Basin. The areas affected here would be parts of Amherst, Lancaster, Cheektowaga, Kenmore, Buffalo, Tonawanda, Clarence, Newstead, and Alden.

As passed, the continuing resolution contains the following funds:

One million dollars for construction of the Ellicott Creek flood control project;

Eight hundred thousand dollars for the Lake Erie waste water management study;

Two hundred and thirty-five thousand dollars for a study of a combination ship-barge-railroad-and-truck (multimodal) transportation system from the Great Lakes to the Hudson River;

Five hundred thousand dollars for Scajaquada Creek flood control construction;

Two hundred and twenty-two thousand dollars to continue the Buffalo Metropolitan Area flood control and environment protection study; and

One million, twenty-five thousand dollars in additional funding to study the extension of the Great Lakes-St. Lawrence Seaway navigation season.

I congratulate the House and Senate conferees for acting with such speed in working out this compromise so that these vital water projects can continue on schedule.●

S. 995—PREGNANCY DISABILITY ACT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. CLAY. Mr. Speaker, on October 13, 1978, the House conferees on the Pregnancy Disability Benefits Act (S. 995) met and signed the conference report on this legislation. I refused to sign the conference report.

The original purpose of this legislation was to insure equal treatment for women workers in regard to employment-related disability plans. I was and am a strong supporter of that concept. Women work; therefore, they should have equal access to the benefits of employment which have been developed over the years to facilitate working. These include access to disability, retention of seniority and sick pay, and the right to construct their own long-range career goals.

We have seriously diluted this legislation by the adoption of an antiabortion amendment. We have usurped this aspect of family planning and therefore career planning. We have taken upon ourselves to cast the individual employers, or their insurance companies or company unions, in the position of "head of household." In short, we have reintroduced a degree of paternalism into a bill which was originally intended to give women absolute autonomy.●

HON. GEORGE SHIPLEY

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WHITTEN. Mr. Speaker, it has been my pleasure to serve with GEORGE SHIPLEY during the period of his service in Congress. We have worked quite closely on the Appropriations Commit-

tee and although he is a quiet and unassuming person, GEORGE is one of our more able Members.

He is one who can be counted on as voting for principle and one who has not waivered in that resolve. I feel that all of us who have been fortunate enough to serve with him have bettered ourselves by our association with him.

We will certainly miss his friendship and counsel but wish for him and his family many happy and prosperous years.●

JAMES A. BURKE

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CORMAN. Mr. Speaker, the House will endure a loss with the retirement this Congress of one of our most respected and loved colleagues, JIMMY BURKE. His style and service have made a major contribution to the honored traditions of the House.

JIMMY BURKE is one of the last of the legendary big city representatives who puts a premium on serving his people. As a member of the Ways and Means Committee since 1960, he has been influential in deciding many complex and controversial issues. Yet JIMMY never lost sight of the people for whom he was working. A lost social security check was as important as a social security increase and a closed factory as important as a tax cut.

For the last 10 years I have had the pleasure of working with JIMMY on that committee. His strong views had a far-reaching impact on the committee's deliberations and our Nation's policies.

Probably his most dedicated service has been as chairman of the Subcommittee on Social Security. No Member has worked harder to assure the continued strength and viability of the social security system.

JIMMY BURKE's impassioned oratory on behalf of working men and women will be long remembered as though an echoing reminder for us not to lose touch with the people we serve.●

HON. JOHN H. DENT

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. STEED. Mr. Speaker, during more than 20 years of service in the House of Representatives, our friend JOHN DENT has built a substantial record of accomplishments. He has performed ably as chairman of the Subcommittee on Labor Standards.

As one who often worked with him on the impact program of aid to education, as well as on small business issues, I have enjoyed the benefit of his zeal and dedication.

His retirement will be a loss to the House and to the public.●

TRIBUTE TO BOB POAGE

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, Texas and indeed the entire Nation will lose one of its strongest voices in support of American agriculture when BOB POAGE leaves the House of Representatives at the end of this session of Congress.

He was first elected to Congress in 1937 from the Waco, Tex., area, and since 1940 has served as a member of the Committee on Agriculture, and was chairman of that committee during the 90th through 93d Congress, 1967–74.

During this time his service to American agriculture has been of inestimable value to not only his own constituents but to all the American people.

Throughout all our years in Congress, BOB POAGE and I have shared a close and abiding friendship as well as a close friendship between our families.

BOB POAGE is one of the vanishing species of Americans who stick to their views and principles regardless of the consequences. His strength and his goodwill will sorely be missed. He has been enormously helpful to all of us who are interested in agriculture.

My wife Helen and I extend to him and his wife Frances all our good wishes and fond affection as they leave the Congress.●

TRIBUTE TO CONGRESSMAN WALTER FLOWERS

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DICKINSON. Mr. Speaker, I deeply appreciate this opportunity of joining my colleagues in paying tribute to my good friend WALTER FLOWERS. It has been a pleasure and privilege for me to work with WALTER since he first entered the House of Representatives 10 years ago.

WALTER FLOWERS has been an able and conscientious public servant who has diligently handled even the toughest of assignments through his work on the House Judiciary Committee. He has always been willing to work with the other members of the Alabama congressional delegation on activities which would benefit our State. The residents of the Seventh District of Alabama can take justified pride in WALTER's efforts on their behalf. Even though WALTER and I may have had differing views on some of the issues that have come before the Congress, he has always been friendly and helpful.

I will certainly miss my friend WALTER FLOWERS here in the House of Representatives. However, I do know that he is deeply imbued with a dedication to public service and would not be surprised to see that he resumes his endeavors in this regard some time in the near future.

In closing, I would very much like to extend my best wishes to WALTER and his family in the days ahead.●

TRIBUTE TO BOB KRUEGER

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, in the two terms that BOB KRUEGER has served in the House of Representatives, he has made a name for himself as a top flight legislator.

His special efforts in the energy legislation field have been outstanding. He has made a major contribution to the work of the House Committee on Interstate and Foreign Commerce, of which he is a member. His efforts in agriculture and in other fields have been important. He has sought diligently to serve the best interest of his district and the Nation.

During my tenure here many bright young men have come to Washington; BOB KRUEGER ranks high on that list. We have been closely associated throughout his service.

Mrs. Mahon and I wish him the best as he pursues his career of public service.●

REPRESENTATIVE WALTER FLOWERS

HON. JAMES L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. WHITTEN. Mr. Speaker, I am delighted to say a few words in honor of my friend and colleague, WALTER FLOWERS, who will not be with us next year.

Since Mississippi is often considered a sister State of Alabama, I feel that our ties are a bit closer than one would normally consider because we indeed have so many of the same interests and goals. During WALTER's tenure here, we have had the opportunity to work on several mutual projects, and I have valued his counsel and help on matters pending before the Judiciary Committee. I know there are many other Members who share this feeling.

We wish WALTER and his family much happiness and trust that he will still continue to check in with this body whose Members have tremendous respect and affection for him.●

TRIBUTE TO OLIN E. TEAGUE

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, OLIN E. "TIGER" TEAGUE, as he departs the Congress at the end of this session, leaves behind him a record of unrivaled service to his district, his State, and his Nation.

His career of public service began in

World War II where he served with such great valor and distinction that his decorations include the Silver Star, the Bronze Star, and the Purple Heart.

Immediately after his recovery from war wounds, TIGER was elected to Congress in August of 1946. Since then his service in Congress has caused him to be chairman of two major committees—Veterans Affairs and Science and Technology and also to serve as chairman of the Democratic Caucus.

In fact, I think of OLIN TEAGUE not just as OLIN TEAGUE or TIGER TEAGUE, but as Mr. Veteran, Mr. Space, Mr. Integrity and Mr. Courage.

My wife, Helen, and I will always treasure our friendship with TIGER TEAGUE and his wife Freddie and we wish him the best as he leaves the House.●

JAMES A. BURKE

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEED. Mr. Speaker, one of the most dedicated men to have served here since I have been in the House of Representatives is our friend JAMES A. BURKE of the 11th District of Massachusetts, whose retirement I much regret.

He is a sound and solid lawmaker with a grand sense of humor that enheartens those around him.

As ranking member of the Ways and Means Committee and chairman in recent years of the social security system he has made an outstanding contribution and has stood firmly for fiscal responsibility.●

JOE WAGGONNER

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, if it were possible, I would do everything in my power to bring JOE WAGGONNER back in the 96th Congress because we need his leadership. Unfortunately, under the election procedures it is too late to do that so we will have to accept his decision to retire at the end of this term.

However, the people of America should feel fortunate that they had the benefit of JOE's hard work and expertise on legislation affecting this Nation's tax policy and energy development. He has always stood for an expanding and strong program of domestic energy development and production. Likewise he has favored a responsible tax policy that would lead to less of a burden on individual Americans and the creation of new job opportunities in the private sector of our economy.

Mr. Speaker, not only has JOE WAGGONNER been a close, personal friend, he has been my leader in so many areas of legislative policy. I shall certainly miss his wise counsel in the years ahead and wish him the very best as he prepares to return to his native Louisiana.●

REPRESENTATIVE BURKE HONORED AS HE RETIRES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. FORD of Michigan. Mr. Speaker, I am honored to join in paying tribute to our friend and colleague, Representative JAMES BURKE, who is retiring from Congress at the end of this session.

Congressman BURKE has been an outstanding Member of the House, and a great fighter for the rights of working Americans. Many of the most important improvements in social security benefits stem from his efforts.

During his 20 years in this House, Congressman BURKE has served with distinction, first, on the Banking and Currency Committee for one term, and then for the past 18 years on the Ways and Means Committee. He is concluding his congressional career as chairman of the Social Security Subcommittee.

We will miss this great legislator, Mr. Speaker, but we all wish him the very best in all his future endeavors.●

TRIBUTE TO OMAR BURLESON

HON. GEORGE H. MAHON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MAHON. Mr. Speaker, after a long and distinguished career of public service that began in 1931, OMAR BURLESON will be leaving the halls of Congress at the end of this session.

OMAR has been a Member of Congress since 1947 and during that time has served as chairman of the Committee on House Administration and as a key member of the Ways and Means Committee.

OMAR BURLESON'S district adjoins mine in part and I know of no Member of Congress who has done a finer job in representing his constituency. His district is filled with patriotic, hard-working, spirited people and he stands tall as its representative.

Throughout his career OMAR BURLESON has been a bulwark of fiscal conservatism. He holds steady to the belief that the role of the Federal Government should be a limited one and his work in the Congress and particularly on the Ways and Means Committee has done much to contribute to the stability of the American economy. Fiscal discipline loses a champion as OMAR BURLESON leaves the Congress.

OMAR and I have been friends for these many years and have frequently worked together on items large and small. He is a great friend and a great American. My wife Helen and I will miss the frequent association which we have had in the past years with OMAR BURLESON and his wife Ruth.●

TRIBUTE TO CONGRESSMAN JOHN J. FLYNT, JR.

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, as the 95th Congress draws to a close, I am proud to say that I have served with a man as capable as Congressman JOHN J. FLYNT, Jr.

JACK FLYNT has served with distinction as a member of the Appropriations Committee. His knowledge of the issues of the defense community enable him to be especially effective on the Military Construction and Defense Subcommittees. His expertise in those areas was assured by virtue of his long and distinguished career in the Army Reserve, where he holds the rank of colonel.

Perhaps more than anything, JACK deserves our thanks and respect for the excellent job he did as chairman of the Committee on Standards of Official Conduct. No one envies the difficult situation JACK found himself in as chairman: Facing a public demanding a cleansing of the House and leading investigations into the activities of his colleagues. We may not envy JACK, but we all respect him because he did the impossible.

JACK has been in the House longer than I, so it will not be the same around here for me next January. I am not only losing my neighbor, but a very dear friend.●

JOE SKUBITZ

SPEECH OF

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, the House will be losing one of its more esteemed Members with the retirement of JOE SKUBITZ at the end of this year. For 16 years he has served his Nation and served it well.

As ranking minority member of the House Interior and Insular Affairs Committee, JOE has worked diligently to adopt a reasoned approach to preserving our Nation's vast amount of natural resources and large areas of natural beauty.

I particularly appreciate his understanding of the need to preserve for future generations the great unspoiled areas of this Nation and at the same time permit orderly growth and development needed by present generations.

I thank JOE for his friendship and wish him well in retirement. We shall miss

you, JOE, but thank you for having given us and the Nation the benefit of your service.●

OCCUPATIONAL HAZARD

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. GAYDOS. Mr. Speaker, the Subcommittee on Compensation, Health and Safety, of which I have the honor to serve as chairman, will conduct hearings in Honolulu, Hawaii, during the week of November 13–17, 1978, with respect to the problems engendered by occupational exposure to asbestos. The subcommittee will also conduct a general oversight hearing with respect to the Occupational Safety and Health Act. The hearings will be conducted in classrooms No. 3 and No. 4, U.S. Army Reserve Center, Fort DeRussy, 302 Maluhia Road, Kalani, Honolulu, Hawaii, between the hours of 9 a.m. and 5 p.m. on Monday, November 13, Tuesday, November 14, and Thursday, November 16. Additionally, the subcommittee will conduct onsite visits of the Pearl Harbor Navy the Matson Line Terminals on Friday, November 17.●

A TRIBUTE TO GEORGE SHIPLEY

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. SLACK. Mr. Speaker, it is with mixed emotions that I take this time to join with my colleagues in honoring our friend GEORGE SHIPLEY upon his retirement from Congress.

On the one hand, I welcome this opportunity to publicly acknowledge how fortunate I have been in having served these past 20 years with a man as competent, loyal, and dedicated as GEORGE. On the other hand, however, one cannot help but feel disappointed and sad at the departure of a long-trusted ally. Nevertheless, since it is inevitable that all good things must come to an end, I believe we would be remiss here today if we allowed our thoughts to drift to the dispiriting prospect of his impending absence, rather than focusing them upon the man's accomplishments and on the quality of his service.

As anyone who has ever had the privilege of serving in this body will affirm, no finer characteristics can be attributed to a Congressman than to say he was tirelessly dedicated, refreshingly honest, and always constructive. To know GEORGE SHIPLEY is to know that he is all of this and more. To those of us who served on the Appropriations Committee with him, it is his coolness, his candor, and his engaging wit which will be most sorely missed, while for the House as a whole it will be his quiet leadership through example that will be most notably absent.

For his constituents, the loss will probably be the greatest, for it is they who no longer can count on their interests being guarded by this fine man. And so, Mr. Speaker, I trust that I am speaking for all of us when I say I hope the future serves him well, and that whatever endeavor he chooses to involve himself in will provide fulfillment and happiness.●

GEORGE SHIPLEY

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEED. Mr. Speaker, through virtually his entire 20 years here I have been a fellow member with GEORGE SHIPLEY of the 22d District of Illinois on the Committee on Appropriations.

He has shown consistent diligence and ability, culminating in his work as chairman of the Legislative Appropriations Subcommittee, a demanding and time-consuming task as I know from having experienced it earlier.

On the occasion of his retirement I wish him all happiness.●

CHARLES W. WHALEN, JR.

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, I would like to join with my colleagues in expressing tribute to the outstanding career of CHUCK WHALEN and the many contributions he has made to this body and our Nation.

I am most mindful of CHUCK's deep and abiding interest in America's foreign policy, especially how it relates to the United Nations. He has over the years provided an invaluable service to his colleagues by keeping us informed on actions taken at the United Nations and how these actions affect the United States.

I would also like to commend the gentleman for his business like approach to legislation and his strong interest in protecting the free enterprise system in America. We need more businessmen like CHUCK WHALEN in this body.

Mr. Speaker, we shall all miss CHUCK WHALEN when the 96th Congress convenes, but we should also feel fortunate that we have been able to profit from his leadership in the last 12 years.●

JOHN J. FLYNT

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEED. Mr. Speaker, I want to join in paying tribute to the dean of the Georgia House delegation, Congressman JOHN J. FLYNT, as he completes his final term of service with us in the House.

As one who has worked with him on the Appropriations Committee I have found him a fine colleague, one who will be recalled especially as an effective champion of a strong national defense in his membership on the Defense Subcommittee.

He has done well for his State and country and will be missed here.●

REPORT ON RURAL AMERICA NO. 2: HEALTH OF AND HEALTH SERVICE FOR RURAL PEOPLE

HON. JOHN B. BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, I wish to insert No. 2 of the following abstract prepared by Herman Schmidt and updated by Richard Price entitled "Health and Health Services for Rural People" as part of the Congressional Research Service Report on Rural America.

The revised abstract by Mr. Price follows:

HEALTH AND HEALTH SERVICES FOR RURAL PEOPLE

I. INTRODUCTION

The materials contained in this paper are intended to describe health conditions in rural areas in the United States, to outline proposals which might offer some improvement in these conditions, and to identify some of the issues faced by Congress as it considers actions to effect improvements.

II. SUMMARY

The principal health problems facing rural people are the shortages of health manpower and the inability of many people to purchase adequate health care. There are proportionally more poor people and more old people in rural areas. Both of these groups require more medical care than the general population.

Surprisingly, middle and upper income persons in rural areas are about as healthy as their urban counterparts, despite a shortage of health workers in rural areas.

Most rural people appear satisfied with the medical care they receive based on surveys reported.

The greatest improvements in the health of people in rural areas could probably best be accomplished by reducing unemployment and raising incomes, better housing, nutrition, and sanitation, as well as the control of environmental hazards. Although increasing the supply of health workers would not have a dramatic effect on the health of people in rural areas, it is important for a number of reasons which are discussed in this paper.

To improve the productivity of scarce resources in rural areas, to assure that necessary services are available when needed, and to create an environment attractive to health providers, major organizational changes should be promoted. Among those that have been recommended are promotion of medical group practices, building emergency medical systems, decentralization of health professional training, and the regionalization of health services systems.

In the absence of national health insurance, the most effective way of increasing rural people's ability to purchase health service is to improve economic conditions. Other approaches to improve health insurance policies are also considered in this paper.

Major issues confronting Congress as it considers improvements in health conditions in rural areas include reaching a consensus

on the magnitude of the manpower shortage in rural areas, reversing the growth of medical specialization, dealing with disparities in payments for similar services to providers in rural and urban areas, realistically dealing with the quality issue, and the use of Federally-operated health systems.●

TRIBUTE TO THE HONORABLE WALTER FLOWERS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. DE LA GARZA. Mr. Speaker, I am pleased and honored to join with my colleagues in paying tribute to my good friend, the distinguished Congressman from Alabama's Seventh District, the honorable WALTER FLOWERS, with whom I have had the pleasure of working in Congress for the past 10 years.

Indeed, a rendition of WALTER's accomplishments in his career of public service would be both lengthy and impressive. His fine qualities of quick reasoning and unfaltering judgment have proven to be undisputable assets in his tireless work on his committee assignments in general and his work on the House Committee on the Judiciary in particular.

WALTER FLOWERS has indeed earned the respect and admiration of this Member and, I am sure, my fellow colleagues.

The loss of the Congress, though, is the gain of Mrs. Flowers and the people of Alabama.

WALTER, you have my very best wishes for continued success and happiness in the future.●

JAMES J. DELANEY

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. STEED. Mr. Speaker, the retirement of our friend JAMES J. DELANEY after 32 years as a Member of the House will leave a void for all of us.

I have served with him ever since I came to the House and have encountered few Members with a greater sense of humor. His good Irish temper and Irish wit have stimulated us all. In his work on the Rules Committee, during this Congress as chairman, I have always received fair consideration from him and a great deal of help. I wish him every good thing for the future.●

B. F. SISK

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, having known BERNIE SISK for 12 years out of the 24 he has served in this body, I can personally attest to the many contributions he has made to the House of Representatives over the years.

I would like to dwell on just one area with which I am most familiar and that is agricultural legislation. I have long admired BERNIE's knowledge and understanding of the complicated legislation brought to the floor of this House dealing with farm production.

Our colleague has always understood and appreciated the needs of our Nation's farmers, especially the small farmers. His leadership will be sorely missed in the years ahead as we have to continually grapple with the need to insure our farmers with a fair price for their product at a reasonable cost to the consumer. And, of course, to insure a sufficient production of commodities for domestic consumption and foreign export.

Mr. Speaker, BERNIE SISK has been my leader on farm problems and I appreciate the very wise advice he has given me over the years. His contributions to farm legislation have been invaluable and the agricultural industry of America has benefited from his leadership.●

SHIRLEY PETTIS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, although SHIRLEY PETTIS' term in the Congress has been short, she has made a marked impression on the Members by her sincerity and devotion to her work. Her reasoned approach in the consideration of legislation before the Congress has earned her the highest respect by her colleagues.

The people of the 37th District of California are losing a valued and effective Member of the House.

I join with my colleagues in wishing SHIRLEY the best in the years ahead.●

TRIBUTE TO TIGER TEAGUE

HON. THOMAS P. O'NEILL, JR.

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

Mr. O'NEILL. Mr. Speaker, I am delighted to join with the many friends of the Honorable OLIN "TIGER" TEAGUE in the House to pay tribute on the occasion of his retirement.

As a Member of the House of Representatives for 32 years, TIGER has served the Sixth Congressional District of Texas with great distinction and sincere dedication. He has been an exemplary public servant, a champion of America's veterans recognized by his peers for his superb constituency service. TIGER knew how and when to cut the bureaucratic redtape in Washington to obtain quickly and promptly well-deserved Government benefits for his constituents.

TIGER has been a leader among the Members of the House. He and I have often disagreed on matters of public policy but I have long admired his tenacity and perseverance in standing up and being counted for his beliefs and principles and for the courage of his convictions. Whether it was on the battlefield in World War II or in the battlegrounds of committee rooms or on the House floor, TIGER constantly worked for the benefit and interests of the American war veterans whose problems and concerns he could comprehend and with whom he had far greater empathy than any other Member of the House.

TIGER TEAGUE has served his district and the Nation with great distinction and honor. He has been an accomplished legislator and is an outstanding American. I am proud to have served with TIGER and wish him well in the years ahead.

TRIBUTE TO CONGRESSMAN JOE SKUBITZ

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to join my colleagues in paying tribute to Congressman JOE SKUBITZ who is retiring after 16 years of distinguished service to the House of Representatives.

JOE will be sorely missed when we convene in January to begin a new Congress. His ability has come forward in his work on both the Interior and Insular Affairs Committee, as well as the Interstate and Foreign Commerce Committee.

I respect his forthright pursuit of the goals he believes will best help our Nation. Further, JOE possesses a tireless enthusiasm for the tasks which have confronted him. His departure is without question a loss to this Chamber.

I would like to wish JOE good luck and many years of continued happiness. We in Washington will certainly miss him.●

HON. WALTER FLOWERS

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. PANETTA. Mr. Speaker, it is with sadness that I note the departure of WALTER FLOWERS from the House. I greatly admire WALTER, and I know we will all miss his presence in the 96th Congress.

WALTER has served his Nation in countless ways, fulfilling very important committee assignments, and carrying out his responsibilities in rare fashion. However, I think that we will all remember him best for his courageous actions on the Judiciary Committee at a most difficult time in our history. Clearly, a man of such integrity and intelligence is to be greatly respected; I know his talents will be put to great use in whatever endeavors he takes on in the future.

I am sure I express the sentiment of the entire House in wishing WALTER all of the best in the years ahead.●

TRIBUTE TO HON. ROBERT L. F. SIKES

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. ROGERS. Mr. Speaker, I wish to recognize my esteemed colleague from Florida, BOB SIKES, who is retiring from the Congress after 28 years of service. He has made a continuing contribution to this House, the State of Florida, and to the entire country.

I know that my colleagues in the House and the people of the First District of Florida will join me in saying farewell and good luck to BOB SIKES, a gentleman that has been admired and respected through the years.

He is a skilled and effective legislator and ends his career as a senior member of the prestigious House Appropriations Committee. BOB SIKES has shown himself to be especially knowledgeable in defense policy, and his commitment to a strong national defense has been a contribution toward peace throughout the world.

BOB SIKES has served the people of his district well. Before being elected to Congress in 1940, he represented Okaloosa County in the Florida Legislature for 4 years. He leaves as the dean of the Florida delegation and holds the record for longevity of service in the Congress for the State of Florida.

It has been a privilege and an honor to serve in the Congress with BOB SIKES, and I wish him and his lovely wife, Inez, much happiness and good health.●

PERSONAL EXPLANATION

HON. ABNER J. MIKVA

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MIKVA. Mr. Speaker, I was unable to be present in the House for the conclusion of the session on Saturday, October 14, because I was in Chicago attending the funeral and burial services of Congressman Ralph Metcalfe. Had I been present, I would have voted "no" on rollcall 921 to extend the Endangered Species Act through 1981.

I would have voted "yes" on rollcall 922, the vote on final passage of the fiscal year 1979 Labor-HEW appropriation; "no" on rollcall 924 to set a $40,000 income ceiling on student loans provided under the Middle Income Student Assistance Act; "yes" on rollcall 923 to permit the House to consider the bill; "yes" on rollcall 925, the vote on the final passage of Veterans' and Survivors' Pension Act; "yes" on rollcall 926, the vote on final passage of the fiscal year 1979 Department of Justice authorization; "yes" on rollcall 928. the vote on final passage of the Cigarette Racketeering Act; "yes" on rollcall vote 929; "yes" on rollcall 930, the vote on final passage of the extension of interest rate differential for savings and loans; "yes" on rollcall 933, the vote on final passage of the Boundary Waters Canoe Area Act; "yes" on rollcall 934, the vote on final passage of the conference report on the airline deregulation bill; "yes" on rollcall 935, the vote on final passage of the conference report on the Agricultural Trade Act; "yes" on rollcall 936; "yes" on rollcall 937, the vote on final passage of the conference report on the Comprehensive Rehabilitation Services Amendments of 1978; "no" on rollcall 938; "no" on rollcall 939, the vote on final passage of the conference report on the Sugar Stabilization Act; "yes" on rollcall 941, the vote on final passage of the conference report on Bank Holiday Company Amendments; and "no" on rollcall 942, the Emergency Highway and Transportation Repair Act of 1978.●

TRIBUTE TO PAUL ROGERS

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. STEED. Mr. Speaker, throughout the period of almost 24 years in which he has been a Member of the House I have known PAUL ROGERS well. I served here with his father, whom he succeeded.

No Member of the House during this period has been more industrious and devoted to his constituency and to his legislative specialty. PAUL ROGERS has deservedly won recognition as an outstanding authority in the health field and has achieved much there to the benefit of the entire country.

I am sorry to see him go, both on personal grounds, losing a near office neighbor and friend, and on those of the public interest, for the House is always in need of people of his stature.●

SUPPORT FOR PRESIDENT

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Ms. HOLTZMAN. Mr. Speaker, I strongly urge that this conference report on the public works for water and power development and energy research appropriations bill for fiscal year 1979 (H.R. 12928) be rejected and the President's veto sustained.

I support the President's position; I agree with his objections on budgetary and water resource development grounds. This bill would have created 27 unneeded new water projects at the cost of $1.2 billion. I also believe there are other important reasons for opposing this conference report.

The report's most fundamental weakness is its misallocation of funds for energy research. Too many of our eggs are still being put in the nuclear fission basket. Funding for solar energy research is too small; funding for nuclear fission too great. The total allocated for nuclear research, including light water and breeder reactor research is well over $1 billion; in comparison, only $441.9 million is allocated for solar energy research. This overfunding of nuclear fission research ignores all we have learned about nuclear energy: the possibility of lethal nuclear accidents, the problems of radioactive waste disposal, and the effect on the environment of nuclear cooling system discharge. This money would be far better spent on the development of clean and renewable energy sources.

The problem is compounded by the $2.6 billion allocated for atomic energy defense activities. Although the press reports that the United States already has approximately 30,000 nuclear weapons, nearly half of this $2.6 billion will be directed to the creation of new nuclear weapons. If we are not safe with these 30,000 weapons, how many more do we need to protect us?

I urge that this conference report be rejected. From the perspective of energy research and development, as well as for budgetary and water planning reasons, it is unsound.●

HON. JOHN E. MOSS

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. STEED. Mr. Speaker, many of the ablest Members of the House who are retiring this year can ill be spared. High on any such list is JOHN E. Moss, deservedly famed for his accomplishments as chairman of the Subcommittee on Oversight and Investigations of the House Committee on Interstate and Foreign Commerce.

I have watched his work and shared in some of the benefits of it for 26 years. JOHN Moss is a terror for the wrongdoer and a great champion of upright public service, a dedicated legislator.●

JAMES J. DELANEY

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MONTGOMERY. Mr. Speaker, for 32 years the gentleman from New Jersey has served in this body, the last few of which he filled the important position of chairman of the House Rules Committee. While Rules Committee chairmanship is considered a powerful position, and it is, it certainly cannot be considered a necessarily enviable position. The demands on one's time and pressures for one's vote would get a lesser man down. Fortunately for this body, JIM DELANEY has proved himself to be the type of leader we all knew he would be—firm and forceful, but more importantly fair.

Fairness fairly well describes JIM DELANEY because he has been consistently fair with Members who appeared before his committee, always giving everyone an opportunity to present their side of an issue. While we all might not have agreed with his final decision, we all knew everyone had been given a fair hearing.

Mr. Speaker, I shall also miss JIM DELANEY's friendliness and his willingness to always help other Members. He

always had a kind word for you and a smile on his face. We wish him well in retirement and hope he will come back to visit with his colleagues often.●

TRIBUTE TO CONGRESSMAN OMAR BURLESON

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to join my colleagues in paying tribute to Congressman OMAR BURLESON who is retiring after more than three decades of distinguished service to the House of Representatives.

OMAR has been one to assume responsibility and carry forward until its resolution is achieved. His career has witnessed his chairmanship of the House Administration Committee, service on the Ways and Means Committee, and ultimately his assignment on the newly created Budget Committee. Each task OMAR has faced with determination and much hard work.

As a fellow member of the Ways and Means Committee for the last 10 years, I have often sought OMAR's counsel on various issues. Integrity and ability have made him a respected and admired Member, not only of the committee but of the entire Chamber. I have indeed been privileged to serve with as fine a gentleman as OMAR BURLESON.

Mr. Speaker, I would like to wish OMAR good luck and many years of continued happiness. We in Washington will certainly miss him.●

FRANK EVANS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, when FRANK EVANS entered Congress in January of 1965, he came with a well-established record as an effective legislator having been named outstanding freshman representative of the Colorado Legislature and having served as Democratic floor whip in the State legislature.

Since coming to the U.S. House of Representatives, he has added to this already impressive record of service. He has been one of the more valuable members of the House Appropriations Committee and I appreciate his reasoned approach to the Federal spending process.

Mr. Speaker, I particularly want to commend FRANK for the very fair, but firm, manner in which he handled business on the floor of the House whenever he would serve as chairman of the Committee of the Whole. He was called upon often to serve in this capacity and always conducted himself in a manner which brought credit to this body and the legislative process.

I join with my colleagues in wishing FRANK EVANS well in the years ahead and also thanking him for his invaluable service to his native State of Colorado and his Nation.●

PERSONAL EXPLANATION

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Ms. HOLTZMAN. Mr. Speaker, I was unable to be present for the following votes. If I had been present, I would have voted as indicated:

JUNE 26, 1978

Rollcall 493, "yes."
Rollcall 494, "yes."
Rollcall 495, "yes."
Rollcall 496, "yes."
Rollcall 497, "yes."

AUGUST 8, 1978

Rollcall 656, "yes."
Rollcall 657, "no."
Rollcall 658, "yes."
Rollcall 659, "no."
Rollcall 660, "yes."
Rollcall 661, "no."
Rollcall 662, "yes."

SEPTEMBER 11, 1978

Rollcall 744, "yes."
Rollcall 745, "no."

SEPTEMBER 12, 1978

Rollcall 754, "yes."
Rollcall 755, "yes."
Rollcall 756, "yes."
Rollcall 757, "no."
Rollcall 758, "yes."
Rollcall 759, "yes."
Rollcall 760, "yes."
Rollcall 761, "yes." ●

TRIBUTE TO CONGRESSMAN "TIGER" TEAGUE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to join my colleagues in paying tribute to Congressman TIGER TEAGUE who is retiring after over 30 years of distinguished service to the House of Representatives.

TIGER TEAGUE has brought distinction to every endeavor he has engaged. His service in the Army infantry during World War II saw him decorated 11 times. As chairman of the Veterans' Affairs Committee, he was tireless in his efforts toward improving the plight of our Nation's former fighting men. And more recently, he has been most capable in his duties as chairman of the Science and Technology Committee.

Yet with all his major responsibilities, as well as having to endure physical disability, TIGER TEAGUE has never lost his light-hearted attitude. Very simply TIGER TEAGUE is a rare individual. Our Nation owes much to this selfless man who is a model for all of us to follow.

Mr. Speaker, I have enjoyed knowing and working with TIGER and value his friendship highly. I would like to wish him good luck and many years of continued happiness.●

BOB SIKES

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 10, 1978

● Mr. STEED. Mr. Speaker, with the retirement at the end of this Congress of our friend ROBERT SIKES of Florida, we are losing from the House one of the foremost and most diligent champions through the years of a strong America.

In my work with BOB SIKES on the Appropriations Committee I came many years ago to respect his expertise and dedication to our defense program.

With three military bases in or immediately adjoining the district I represent I have to deal with these problems constantly. He has been a valued and helpful supporter.

During the momentous years since World War II our national security has had no more able an advocate than BOB SIKES.●

TRIBUTE TO CONGRESSMAN JOHN H. DENT

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 11, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, when the House adjourns sine die, we will be losing one of the most dedicated and able Members of our body, JOHN H. DENT.

In particular, JOHN has been a most capable chairman of the Subcommittee on Labor Standards. From 1958 until the present there has been no piece of labor legislation that does not bear the careful imprint of JOHN DENT.

During his 11 terms in Congress, JOHN has served his district, State, and Nation well. There is little question that JOHN has shown a capacity for hard work and understanding that has earned the respect of his colleagues.

Mr. Speaker, I would like to wish JOHN good luck and many years of continued happiness. We in Washington will certainly miss him.●

CHARLES E. WIGGINS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, one of the most respected members of the class in which I entered in 1967 was CHARLES WIGGINS of California. The respect he has earned from both sides of the aisle has been well deserved and based on his keen insight and unfailing dedication to his legislative responsibilities.

I am particularly mindful of the contributions he has made to the House Judiciary Committee over the years and the beneficial influence he exerted in shaping legislation from that committee. And I

might add that I appreciate his willingness to consult with those of us not on the committee and explain the ramification of bills they had reported out.

The last few years I have had the privilege of having my office almost across the hall from that of the gentleman of California. I have in that time come to know CHUCK even better and have found him to be a man of high personal integrity. We shall all miss CHARLES WIGGINS and his leadership and I join my colleagues in wishing him well in the years ahead.●

TRIBUTE TO CONGRESSWOMAN BARBARA JORDAN

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, when the Congress adjourns sine die, we will be losing one of the most dedicated and articulate Members of our body, BARBARA JORDAN.

BARBARA possesses limitless capabilities. With her knowledge of the law, she has been an influential member of the Judiciary Committee. In particular, her insight is often sought as we have had to confront on the House floor, legal questions of ever-increasing complexity.

BARBARA's keen mind and skillful oratorical talents have earned her the admiration not only of her colleagues in Congress but citizens throughout the Nation. She is a superb orator whose colloquies on the floor are reminiscent of some of the great statesmen of our history. I have great personal respect for BARBARA's many talents. And since her arrival in January 1973, there is little question that BARBARA JORDAN has had significant impact upon this Chamber.

Mr. Speaker, I wish BARBARA the best of luck in her future endeavors. I am certain that she will be quite active in the years to come for a mind as keen as hers cannot remain idle. We in Washington will certainly miss her.●

JAMES A. BURKE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MONTGOMERY. Mr. Speaker. One of the many contributions of JAMES BURKE and the one which stands out in my mind was his unfailing determination to preserve the financial stability of this Nation's social security program.

He was a strong voice in this House and in the Ways and Means Committee for the financial stability of social security and at the same time he worked hard to insure that the taxes to support the system did not impact too heavily on those men and women still working.

I shall miss his reasoned counsel on social security matters and at the same time feel fortunate that this Nation has been able to benefit from JIM BURKE's service for the last 20 years.●

HON. PAUL G. ROGERS

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. CARTER. Mr. Speaker, as you know, the Honorable PAUL G. ROGERS of Florida, chairman of the House Interstate and Foreign Commerce Subcommittee on Health and the Environment, on which I serve, is retiring from Congress at the end of this session.

All of us on his subcommittee, the full committee, and in the House know the many contributions he has made to the health and welfare of the American people, and to a safer environment for us now and for our children's children as well.

Some of the highest praise paid to him comes from Douglas M. Costle, Administrator of the Environmental Protection Agency, which carries out many of the health and environmental laws which our subcommittee developed under PAUL's patient and creative leadership.

I would like to place in the RECORD the tribute paid to Chairman ROGERS by Administrator Costle during PAUL's final subcommittee hearing—oversight on the Safe Drinking Water Act, held the last week in September.

STATEMENT OF HON. DOUGLAS M. COSTLE, ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY, SEPTEMBER 25, 1978

Mr. Chairman, with your permission, and before we formally start the testimony on drinking water, I would like to take advantage of this last hearing that you will be holding as the chairman of the Subcommittee on Health and the Environment and dealing with the Environmental Protection Agency, to let you know how much we have appreciated your efforts and how much we are going to miss you.

It is no overstatement to say that the entire EPA regulatory structure will stand really as a monument to your service in Congress. Whether we look at the air pollution control laws or the Safe Drinking Water Act, your initiatives in solid waste, noise control or energy questions, we see the mark of your very special influence and concern.

We have been as you know extraordinarily grateful for your thoughtful counsel and indispensable aid in steering not only this vital legislation through the House, but in giving us patience and understanding as we attempt to implement these laws as you intended, and I might add we have also admired your very special skills and energy in pursuit of your goals. You have given us a very solid base to build on, and that is a proud and a lasting legacy.●

TRIBUTE TO CONGRESSMAN GEORGE MAHON

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I rise in tribute to the dean of the House—my highly esteemed colleague and good friend, GEORGE MAHON.

We are losing a true giant in Congress with the retirement of GEORGE MAHON.

In his 30 years of service as chairman of the Defense Appropriations Subcommittee, he has been a tireless supporter of a strong national defense. Very simply, no man has more knowledge about our national defense requirements than GEORGE MAHON. All Americans can be thankful for his efforts in this area.

Since 1964 GEORGE MAHON has served as chairman of the Appropriations Committee. During his tenure he has been skillful in channeling legislation through not only his committee but through the House. During this period of great responsibility he has never wavered in his adherence to principle. He has always been candid in his dealings with his colleagues. GEORGE MAHON assumed the appropriations chairmanship as a man of stature. He leaves this post as a man of even greater stature.

Mr. Speaker, GEORGE MAHON has left his indelible imprint on this body. I know we will all miss him. I wish him well in his future endeavors and hope he will come back often to see his many friends in this Chamber.●

JOHN MOSS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. MONTGOMERY. Mr. Speaker, the retirement of the dean of the California delegation will bring to an end the career of a man who has long sought to make Government more responsive to the people it is supposed to serve. JOHN Moss was particularly forceful in this area in his position as chairman of the Oversight and Investigations Subcommittee of the Interstate and Foreign Commerce Committee.

JOHN has always been a no nonsense individual who always worked diligently to get to the bottom of every problem brought to his attention. While some of us may not have always agreed with the conclusions he reached, we could always be fairly well assured that his investigation had been thorough.

I know the people of California's Third District will miss the service of JOHN Moss in the years to come, but we thank them for sharing him with us for the last 26 years. He has been a credit to this body.●

TRIBUTE TO CONGRESSMAN JAMES J. DELANEY

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, October 12, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to join my colleagues in paying tribute to Congressman JAMES J. DELANEY who is retiring after more than three decades of distinguished service to the House.

JIM has done much not only for his district but for the Nation as a whole. His long fight to protect the American

people from one of our major diseases. cancer, has been monumental.

As chairman of the Committee on Rules, JIM has demonstrated his capable legislative skill. JIM has been particularly effective in guiding bills to the floor and insuring well-balanced debate.

Mr. Speaker, it has been a pleasure to serve with JIM and I want to wish him continued success in his future endeavors.●

LLOYD MEEDS

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, it is not often that a Member of the House undertakes the burden of serving on more than his or her assignment to the Rules Committee. However, LLOYD MEEDS did accept the added responsibilities of continuing his invaluable service on the Interior and Insular Affairs Committee when appointed to Rules. And we can be thankful for this because the Congress has benefited from his membership on both committees.

I personally appreciate the many times LLOYD has been willing to discuss the details of legislation from the Interior Committee and provide me personal guidance. His willingness to consult with Members on a 1-to-1 basis indicates his great interest in this Nation's vast store of natural resources and beauty.

I join with my colleagues in expressing a fond farewell to LLOYD MEEDS and commend him for being an outstanding Member of this body for 14 years.●

TRIBUTE TO CONGRESSMAN PAUL ROGERS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I take this opportunity to join with my colleagues in paying tribute to a very special individual who is retiring this year. PAUL ROGERS' unexpected decision to make this, the 95th Congress, his final one took us all by surprise. As a talented professional in the prime of his legislative career, PAUL has made a most difficult decision. Today I know he not only looks back with pride at his many accomplishments in this Chamber, but already is looking ahead to new challenges.

As an individual whose career has in many ways paralleled PAUL'S, I am particularly familiar with his unique ability as a legislator. When I first came to the House 20 years ago, I served side-by-side with PAUL on the Committee on Interstate and Foreign Commerce. During the past 4 years it has been my pleasure to do the same thing as our respective Health Subcommittees worked together on much health legislation of mutual concern. With the creation of the Ways and Means Subcommittee on Health in 1974, there were those who predicted that substantive and procedural difficulties were bound to occur between our respective subcommittees. Time has shown that those concerns were unfounded. Not only have our subcommittees coexisted, we have cooperated to jointly develop many worthwhile pieces of legislation. During this time, I have learned much from "Mr. Health." His never-ending pursuit of consensus coupled with his ability to develop effective compromises has led to the enactment of many legislative milestones.

It is not necessary for me to remind my colleagues of PAUL'S particular legislative accomplishments, for they are known to all. Rather let me simply say that the next Congress will convene in January without one of its outstanding legislators and one of its finest gentlemen. We shall all miss his legislative energy, I shall also miss his friendship and his counsel.●

TRIBUTE TO CONGRESSMAN OTIS PIKE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I want to join my colleagues in paying tribute to Congressman OTIS PIKE who is retiring after 18 years of distinguished service to the House of Representatives.

OTIS will be sorely missed when we convene in January to begin a new Congress. His ability has come forward on the Select Committee on Intelligence which he chaired, as well as the Ways and Means Committee on which we have served together.

I respect his forthright pursuit of the goals he believes will best help our Nation. Further, OTIS possesses a tireless enthusiasm for the tasks which have confronted him. His departure is without question a loss to this Chamber.

I would like to wish OTIS good luck and many years of continued happiness. We in Washington will certainly miss him.●

ALBERT QUIE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, in reviewing the many accomplishments made by AL QUIE during the 22 years he served in the U.S. House of Representatives, I am particularly mindful of the contributions he was able to make for improved vocational education in America.

I have also been impressed with his insistence that Federal programs for education truly assist on the local level and not cause undue Federal interference.

Mr. Speaker, coming from a basically rural district, I am also mindful of AL QUIE'S sincere interest in agricultural legislation. Having been a farmer himself, he was well aware of the problems facing the agricultural community and constantly strived to improve this Nation's farm programs.

I join with my colleagues in wishing AL our best in the years ahead.●

IN TRIBUTE TO CONGRESSMAN JIMMY BURKE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, I rise in tribute to a man of courage, conviction, and wit, Congressman JIMMY BURKE.

My friendship with JIMMY goes back to 1959 when we both joined the Congress as new Members. Ever since then I have respected JIMMY as one who has never been afraid to speak his views on an issue. During his distinguished career, JIMMY has worked toward aiding the poor, the small businessman, the sick, and with greatest vigor, the elderly. It goes without saying that JIMMY BURKE is a fighter for what he believes.

For the last 14 years, JIMMY and I have served together on the Ways and Means Committee. In particular, as chairman of the Subcommittee on Social Security, JIMMY has demonstrated a thorough knowledge of a very difficult subject.

I know I am joined by all my fellow members of the Ways and Means Committee when I say JIMMY has shown great courage against physical affliction.

Mr. Speaker, I have enjoyed knowing and working with JIMMY and value his friendship highly. I would like to wish him good luck and many years of continued happiness.●

DEL CLAWSON

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Saturday, October 14, 1978

● Mr. MONTGOMERY. It is a privilege to rise today to pay tribute to the 16 years of service of DEL CLAWSON in the House of Representatives, plus his many years of service to the city of Compton, Calif., prior to that. And I might add they were years of outstanding service.

It goes without saying that DEL is one of the most respected Members of the House because of his intelligence and especially his high moral values. He has set an example for the rest of us to follow and I only hope we will be able to live up to DEL'S standards.

I particularly appreciate the manner in which DEL undertook his responsibilities as a member of the Rules Committee. His voice for reason and compromise on the many controversial issues which came before the committee indicates his invaluable contributions to the committee and House.

We shall certainly miss DEL when the 96th Congress convenes next January, but at the same time we feel most fortunate to have served with him and to have known him as a colleague and friend.●

PHILIP E. RUPPE

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, since PHIL RUPPE and I came to Congress together in 1967, we have come to know one another quite well and I want the gentleman from Michigan to know that my admiration and respect for him has grown with each passing year.

I have always been impressed with PHIL's intense interest and dedication to his legislative committees. He has never failed to be an effective member and contribute to the deliberation of the Interior and Insular Affairs Committee and Merchant Marine and Fisheries Committee.

I regret PHIL will be leaving this body at the end of the 95th Congress and can assure him that his expertise and leadership will be missed by those of us who have come to count on his wise counsel.●

HON. ROBERT N. C. NIX—A PRODUCTIVE CAREER

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. CHARLES H. WILSON of California. Mr. Speaker, my good friend, BOB NIX, is leaving the Congress after 20 years of service. I have had the pleasure and honor to serve with BOB on the Post Office and Civil Service Committee since I came to Congress in 1963. At that time, Congressman NIX was chairman of the Postal Facilities Subcommittee and was a recognized expert on postal facilities mechanization, and transportation as these components enabled the expeditious movement of the U.S. mails.

BOB has also served during his tenure on the International Relations Committee as chairman of the Subcommittee on International Development. In that capacity he became a recognized authority on South American governments and on the Middle East.

BOB, born in Orangeburg, S.C., graduated from Townsen Harris High School, New York City, as well as Lincoln University, Chester County, Pa., and the University of Pennsylvania Law School. As a practicing attorney, BOB was admitted to practice law in all courts of Philadelphia County, the Superior and Supreme Courts of the Commonwealth of Pennsylvania and the U.S. district and circuit courts in eastern Pennsylvania. He also served as special deputy attorney general of Pennsylvania, assigned to Escheats Division, State Department of Revenue and special assistant deputy attorney general of Commonwealth. Bob is a member of: Philadelphia Bar Association, Philadelphia Lawyers Club, Omega Psi Phi Fraternity—University of Pennsylvania Chapter—Benevolent Protective Order of Elks, NAACP, YMCA, and American Woodman. All this was accomplished with little help from other people, but through the hard work of BOB NIX.

At the beginning of the 95th Congress, Congressman NIX became chairman of the Post Office and Civil Service Committee. It is recognized by all that during his chairmanship he did an outstanding job and, in fact, seldom in the history of our committee have so many days of legislative hearings been held, has so much legislation been reported out and so many oversight investigations been initiated and completed. While all of this activity was going on, Chairman NIX captained the committee as we dealt with two major pieces of legislation, H.R. 7700, postal reform, and H.R. 11284, civil service reform. It is fair to say that the unique, tenacious and energetic manner in which Chairman NIX administered our committee resulted in this high point in the committee's history.

Mr. Speaker, I am sorry to see BOB leave the Congress and I know that all of his colleagues join me in wishing him well and hope that his retirement is as fruitful as has been his congressional career.●

ROBERT LEGGETT

Hon. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. MONTGOMERY. Mr. Speaker, the retirement of BOB LEGGETT will leave a great void on the House Armed Services Committee with the beginning of the 96th Congress. It has been my privilege to serve with him, and yes sometime spar with him, on the House Armed Services Committee in the interest of a strong national defense.

For 16 years BOB LEGGETT has been a very valuable Member of the House and we and the American people have also benefitted from his leadership on the Merchant Marine and Fisheries Committee and in more recent years the Budget Committee. I would particularly like to commend him for his unfailing willingness to accept any responsibility thrust upon his shoulders.

As BOB prepares to enter a new career and new period in his life, I join with my colleagues in wishing him the very best.●

TRIBUTE TO CONGRESSMAN CHARLES H. WIGGINS

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. ROSTENKOWSKI. Mr. Speaker, when the Congress adjourns sine die, we will be losing one of the most honest, dedicated, and articulate Members of our body, CHARLES H. WIGGINS.

CHUCK is a man of broad talents. With his vast knowledge of the law, he has been a respected Member of the Judiciary Committee. In particular, his insight is often sought as we have had to confront on the House floor legal questions of ever-increasing complexity.

CHUCK's keen mind and skillful oratorical talents have earned him the admiration of his colleagues. He is a superb orator whose colloquies have been among the finest delivered on the floor.

But of all CHUCK's qualities, his integrity and candor are most prominent. CHUCK WIGGINS has never been afraid to give an honest evaluation of a difficult issue. Honesty is a characteristic becoming ever more rare in our society. CHUCK is one of those rare individuals—he is a man of stature.

Mr. Speaker, I wish CHUCK the best of luck in his future endeavors. We in Washington will certainly miss him.●

BERNIE SISK

HON. TOM STEED

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, October 13, 1978

● Mr. STEED. Mr. Speaker, when BERNIE SISK came to the House to represent central California in 1955 he soon became a respected and sympathetic friend. Not only does he have a Southwestern background, but many of his constituents are people who formerly lived in Oklahoma, so we have many common ties of interest. He has frequently brought me messages from former Oklahoma residents.

His steady and conscientous contributions to the welfare of his district and of our entire Nation have been widely recognized, and I join in commending him on a record of solid legislative achievement.●